
CONGRESSIONAL GLOBE

AND APPENDIX;

SECOND SESSION FORTIETH CONGRESS.

PART V.

THE UNIVERSITY OF CHICAGO

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THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTIETH CONGRESS;

TOGETHER WITH

AN APPENDIX,

COMPRISING THE LAWS PASSED AT THAT SESSION;

AND

A SUPPLEMENT,

EMBRACING THE PROCEEDINGS IN THE TRIAL OF ANDREW JOHNSON.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1868.

Entered according to Act of Congress, in the year 1868, by

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In the Clerk's office of the Supreme Court of the District of Columbia.

American citizens abroad, which has been made the special order from day to day, and has given away to other business. If we are to consider that bill at all, I think we had better resolve to consider it to-day; certainly it must be considered soon if at all. It will undoubtedly be amended to some extent, and therefore it will be necessary to send it back to the other House. I would like, if the Senate would consent, to lay the unfinished business over temporarily and let us go on with this bill. I apprehend that it will not be discussed at great length, and that we shall soon arrive at the form in which it will be passed. I ask, therefore, that the unfinished business lie over informally, and that we proceed with the special order for the day.

The PRESIDING OFFICER. That requires general consent. The Senator from California asks that the unfinished business lie over for the purpose of considering the bill concerning the rights of American citizens in foreign States. Is there any objection?

Mr. HOWE. Yes, Mr. President. I think that we can dispose of the appropriation bill in less time than we can of the bill the Senator wishes to call up. I think we had better conclude the appropriation bill.

Mr. POMEROY. I suggest to the Senator from California to propose that this evening be set apart for the consideration of the bill mentioned by him.

Mr. CONNESS. You cannot have a meeting this evening to consider that bill, because you cannot get a full Senate here with the weather in its present condition.

Mr. POMEROY. It is cooler now than it has been, and I think we can meet this evening.

The PRESIDING OFFICER. The unfinished business is the Indian appropriation bill.

Mr. CONNESS. I have but to repeat only more briefly what I have said before, that the Indian appropriation bill, we all know, will be passed, and can be passed in a comparatively short time. I therefore move that it be postponed for the present, and that we proceed with the special order for to-day.

Mr. MORRILL, of Maine. It is true, as the Senator from California says, that the appropriation bills will probably pass because they must pass; but whether they will pass in a proper way will depend upon whether they are considered at the proper time. The Senate should understand that all the appropriation bills give rise to differences between the two branches which can alone be settled by conference. We have been some two or three weeks in conference on two appropriation bills, the last of which was passed yesterday by both Houses. The Indian appropriation bill involves, apparently, a great deal of difference between the two branches. It will, therefore, necessarily be the subject of conference. I hope that we shall be able to pass it in a few hours to-day, and I have no doubt we shall. There are other appropriation bills which are to follow it, not immediately, but very soon. Between the consideration of this bill and those the honorable Senator from California will have an opportunity to present his measure. I think it will be but a decent regard to what is the absolute and unqualified service of the country that the Indian appropriation bill should be considered now, and that the honorable Senator should consent to allow his bill to be postponed until that passes away from the Senate and goes to a conference committee, and then his bill can be considered before another appropriation bill is brought to the notice of the Senate.

Mr. CONNESS. If the Senate would agree to take that course, and take up this bill after the passage of the Indian appropriation bill, I would consent, but I apprehend that we can get no such agreement as that in the Senate. Now, I wish to say in connection with what I have already said that the appropriation bill will and must pass, and we will stay here until it shall pass. But, sir, the faith of the Republican party of this nation is pledged to carry-

ing out the purposes of the bill to which I have called the attention of the Senate, and so is the faith of the Democratic party of this nation. Both parties represented in this body stand pledged to that if they stand pledged to anything. They have either put that plank in their platforms for the purpose of deception, or else they mean to act upon this proposition, and I hope we shall go on with this measure.

Mr. MORRILL, of Maine. The idea of postponing the consideration of an appropriation bill, which is a measure of absolute necessity for the Government, after you have been considering it and are near its completion, to take up a measure which is of a political character, which both the great political parties of the country, the honorable Senator informs us, have indorsed to some extent, so that it becomes a political question, and, of course, one open to discussion, is a thing, I think, without precedent in the Senate. And I submit to the honorable Senator that he is not in an attitude to force such a measure as that, coming, as I understand it does, from the Committee on Foreign Relations, against a measure which has been receiving the attention of the Senate until it is in a state almost of completion. It is a singular proposition to put that aside to take up a subject which is open to discussion, which, although of importance, will give rise to extended debate and will postpone the appropriation bill to a period when it cannot be properly considered. I submit to the Senator that at this period of the session he ought not to expect the Senate to do that. I hope, therefore, he will not urge the measure at this time, and will allow the regular order to proceed. In a few hours, I think, the appropriation bill will pass away from the consideration of the Senate.

Mr. CONNESS. There is only one word that I desire to say, and that is that my friend forgets that there are some dire necessities connected with the passage of this bill. To-day while we sit here the representatives of a free people, some of the citizen-body that we represent, lie in foreign prisons. Their confederates and associates guilty of the same crime, if any, of which these persons now remaining in prison were guilty, have been discharged because they were native-American citizens, and the others have been detained and kept incarcerated because they were naturalized citizens upon the obnoxious and abominable plea that they were yet foreign subjects. That is all I desire to say.

The PRESIDING OFFICER. The question is on motion of the Senator from California, to postpone the pending and all previous orders and proceed to the consideration of the bill concerning the rights of American citizens in foreign States.

Mr. CONNESS. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOWARD. At the proper time I shall be very willing to take into consideration the bill referred to by the honorable Senator from California, but I really think we ought not to let that interfere with the regular progress of the business which is now before us. Let us finish one thing at a time so far as practicable, and then we shall know better where we stand.

The question being taken by yeas and nays, resulted—yeas 21, nays 23; as follows:

YEAS—Messrs. Conness, Cragin, Davis, Doolittle, Drake, Edmunds, Harlan, McCreery, Morgan, Morton, Nye, Osborn, Patterson of Tennessee, Ramsey, Rice, Stewart, Tipton, Welch, Whyte, Williams, and Wilson—21.

NAYS—Messrs. Anthony, Cattell, Chandler, Conkling, Corbett, Ferry, Fessenden, Fowler, Frelinghuysen, Henderson, Howard, Howe, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Pomeroy, Ross, Sherman, Sprague, Sumner, Trumbull, Vickers, and Wiley—23.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Cole, Dixon, Grimes, Hendricks, McDonald, Norton, Salisbury, Thayer, Van Winkle, Wade, and Yates—14.

Mr. CONNESS. I give notice now that I shall make a similar motion as soon as the Indian appropriation bill shall have been acted upon.

CONFERENCE REPORTS ON PENSION BILLS.

Mr. VAN WINKLE. I ask leave to submit nine reports from a committee of conference. They are on pension bills, and I ask that the vote may be taken as it was the other day on a similar occasion, collectively upon them, without reading. They are agreed to fully on both sides, and relate only to pensions.

Mr. POMEROY. The reading can be dispensed with by unanimous consent.

The PRESIDING OFFICER. The Senator from West Virginia asks that the reading of the reports be dispensed with. Is there any objection? None being made, the question is on concurring in the reports.

The reports were concurred in. The titles of the bills covered by these reports are as follows:

A bill (S. No. 175) for the relief of Joseph McGhee Cameron and Mary Jane Cameron, minor children of La Fayette Cameron, deceased;

A bill (S. No. 382) granting an increase of pension to Obadiah T. Plum;

A bill (S. No. 422) granting a pension to Maria Schweitzer and the children of Conrad Schweitzer, deceased;

A bill (S. No. 518) granting a pension to the widow and child of John P. Felty;

A bill (S. No. 547) granting a pension to John Sheets;

A bill (S. No. 314) for the relief of George T. Brien;

A bill (S. No. 383) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased;

A bill (S. No. 517) granting a pension to the widow and children of Henry Brown; and

A bill (S. No. 521) granting a pension to the children of William M. Wooten, deceased.

INDIAN APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1869.

The PRESIDING OFFICER. The Clerk will resume the reading of the amendments proposed by the Committee on Indian Affairs.

The next amendment of the Committee on Indian Affairs was to strike out in line one hundred and forty, in the appropriation for the Chasta, Scoton, and Umpqua Indians, after the word "four," "\$700," and to insert "\$1,000;" so that the clause will read:

For fourteenth of fifteen installments, for the pay of a farmer, per fifth article treaty 18th November 1854, \$1,000.

Mr. HOWE. This is a small amendment; but it is the representative of a great many which, in the aggregate, amount to a very large sum. All through this bill there are items of appropriation for the payment of employes among the different Indian tribes, farmers, millers, physicians, teachers, and people of those classes. The compensation of those employes is not fixed by law nor by treaty stipulations; but the obligation to employ them is declared by treaty stipulation or by law. Where the price to be paid is left to the discretion of the Legislature, the House of Representatives has fixed a certain rate of compensation, and, as a general thing, the Committee on Appropriations of the Senate has agreed to the terms fixed by the House. The Committee on Indian Affairs, as a general thing, propose to raise that rate of compensation. This is the first proposition of the kind. The clause which it is here proposed to amend is one appropriating for a farmer to reside among some Indians on the Pacific. The next clause proposes to raise the sum to be expended for educational purposes. The salary of the farmer is in the House bill put at \$700; the amendment proposes to raise it to \$1,000. The question for the Senate to determine is whether \$700 is enough to pay for a farmer. If the Senator from Missouri, the chairman

of the Committee on Indian Affairs, knows of any Indian who ever ate bread or meat raised by an Indian farmer he can state the fact. I do not. My understanding is that this sum is paid to a man to cultivate a farm within the Indian territory instead of cultivating one somewhere else. I do not know how the fact is; but I suppose he subsists himself and his family from the earnings of his own labors from the products of his own farming. If that is so, clearly \$700 is enough, and it will hire a farmer I suppose in any part of the country.

I call attention to the second amendment now, because having tried to divide the Senate upon these amendments several times yesterday, and the Senate having sustained every one, I only call attention to this now because it introduces a new class of amendments. I propose to divide the Senate upon this new class, and if they sustain the amendments of the Committee on Indian Affairs in these particulars, as they have in all former particulars, I shall take that as the sense of the Senate, and I shall not ask to divide the Senate again until some new proposition is introduced. The second amendment, the one next following this, provides for the support of schools. The House bill names \$400; the amendment proposes to raise that to \$1,200. The difference is considerable. Neither sum is of any importance. If it was really expended for the purpose of educating the Indian children I should think \$1,200 was quite little enough; but if the chairman of the Committee on Indian Affairs can show us that any Indian child has ever had a day's instruction from all the appropriations we have made for this purpose for these tribes he will do it. I have not seen the evidence of it. We have tabular statements of the children attending these schools on different reservations; but I believe there is no evidence that a child ever went to school a day on this reservation. I have not seen any. Under these circumstances I feel obliged to call the attention of the Senate to these amendments. If they sustain them I shall be entirely content; but I think they will take so much additional money out of the Treasury which will do the Indians no good whatever.

Mr. HENDERSON. The honorable Senator from Wisconsin thinks this is but a representative amendment of various amendments submitted by the Committee on Indian Affairs. I apprehend that the Senator does the committee a little injustice when he says that this is an extravagant proposition, and that it is but a representative of others made.

Mr. HOWE. I did not characterize this as an extravagant proposition. I say that it is a difference of opinion between the Committee on Indian Affairs and the Committee on Appropriations as to what is a reasonable sum. The Committee on Indian Affairs recommend one sum and the Committee on Appropriations another sum, generally that found in the House bill. The question whether it is extravagant or not is a question to be settled by the Senate.

Mr. HENDERSON. I really cannot state whether it is extravagant or not. As I was going to remark, the Senator from Oregon, who is a very valuable member of our committee, was absent during the consideration of this bill, and only made his appearance in the Senate yesterday morning, since the amendments were reported. I therefore do not know whether this amount is too large or not. In reference to all the changes made east of the Rocky mountains, I thought I had some personal knowledge of the wages of laborers and the prices to be paid for the farmers and mechanics under the treaties with the Indians. West of the Rocky mountains I had no knowledge at all; and the valuable services of the member from Oregon not being had upon the committee, of course in making these amendments I had to follow the recommendations of the Indian bureau. I have done so only in those cases west of the Rocky mountains. Now, turning to the treaty under which this

appropriation is made, the fifth article is as follows:

"The United States engage that the following provisions for the use and benefit of the Indians residing on the reserve shall be made: an experienced farmer shall be employed to aid and instruct the Indians in agriculture for the term of fifteen years; two blacksmith shops shall be erected at convenient points on the reserve and furnished with tools and necessary stock; two skillful smiths shall be employed for the same for five years; an hospital shall be erected, and proper provision made for medical purposes and care of the sick for ten years; school-houses shall be erected, and qualified teachers employed to instruct the children on the reserve, and books and stationery furnished for fifteen years."

I did not know how many schools there were upon the reserve, and I could not ascertain, because the member from Oregon was not with the committee. What the wages of an experienced farmer are in Oregon I could not know, except from the statement made by the Indian Bureau; but for the benefit of the Senate I will read what they say on this particular amendment.

It must be observed, before we go any further, that the House Committee on Appropriations, in order to economize—which is a very laudable principle, and I agree with it as much as any Senator—saw fit to cut down the Indian appropriations to almost one half of what they have been heretofore. Whether it is good policy just at this moment to cut these appropriations down as they have done is a question of course for the consideration of the Senate. It is my opinion that it is bad policy. I think that economy in this direction is the worst economy that could possibly be exercised. I think that we ought to carry out faithfully our treaty stipulations with the Indians and maintain peace with them, if we possibly can. All over the country, here in the Senate, and in the other House, there is very great complaint about the expenses of the War Department. It ought to be considered by members of the Senate that from fifteen to twenty millions of the expenses of the War Department annually arise from this question of Indian affairs. Now, would it not be better to save that fifteen or twenty millions by even making an appropriation of \$1,000,000 more than we ordinarily do for the Indians? I believe \$500,000 judiciously expended would accomplish the purposes better, and save this fifteen or twenty millions. It would be better to make an appropriation to the Indian Bureau of \$500,000 or \$1,000,000 than to go on as we have done and make large expenditures in another direction. However, it is a matter in which I have no more interest than other Senators.

Now, I will read what the Department say in reference to this matter, and I was guided alone by that:

"Fifth article treaty with Chastas, Scotons, and Umpquas. For pay of farmer, \$1,000, reduced to \$700; deficiency, \$300."—Vol. 10, p. 1123.

That refers to the fifth article, which I have just read:

"The amount in estimate is the same as has been appropriated for years, and considering the cost of living in Oregon, and that everything is upon a gold basis, it would seem that \$1,000 is but a reasonable sum for the services of a good farmer."

Of that the Senators from Oregon, who are present, can speak. The Senator from Oregon [Mr. CORBETT] was not present in committee, and I could not consult him; but I put it at \$1,000, the amount appropriated ever since the treaty was ratified. If it is too much, the Senate can cut it down. I thought it was large; but I have followed the recommendations, west of the Rocky mountains, of the Indian Bureau.

The next item is one that I would not have reduced one cent. In regard to that the Department says:

"The item for pay of teachers, purchase of books and stationery, per same article and treaty, is also reduced from \$1,200 to \$400; deficiency of \$800. It must be apparent to all that no teacher can be employed for the amount embraced in the bill. The sum asked for in estimate has been appropriated for years, and it has not been found too large for the purpose."

The Senator asked me if there was any school on this reservation. He says that if

any Indian child has ever been educated there it is more than he knows. The Indian Bureau reports say that ever since the ratification of this treaty this appropriation of \$1,200 has been made, and it has been expended in keeping up schools on this reservation, and it has not been found to be too large. If they have thus stated falsely, of course we cannot rely upon them for anything. They say such an appropriation has been made and they have used it for years since this treaty was ratified.

Now, Mr. President, if there are any schools there, this is the best appropriation that can possibly be made. The difficulty with the Indian is that he speaks another language. The difficulty of his civilization consists in the fact that we cannot approach him. If we can educate the children, the whole difficulty is gone; it has passed away; and the civilization of the barbarous Indian tribes will have been accomplished. There is no reasonable amount of money that I would not appropriate in order to accomplish this purpose.

So far from the Senator being correct on this subject, I understand that two teachers are employed on this reservation. The Senator from Oregon can correct me if I am in error. It must be remembered that not only are the teachers to be employed, but books have to be purchased and sent into an interior reservation in Oregon. It seems to me that \$1,200 is a very small sum for such a purpose. How many teachers can the Senator from Wisconsin employ in the State of Wisconsin, where teachers ought to be numerous, from the intelligence of the Senators sent from that State, with \$400, and how many books can he furnish to common schools for this amount of \$400? Why, sir, if any appropriation is needed we need more than \$400. If any single teacher is to be employed, we need more than that. The Senator can see that for himself. It is idle to say that the appropriation in the bill is sufficient.

The Senator asks me if I ever saw any Indians fed by corn grown by Indians. I can state to him that I have seen a thousand acres of as fine corn as I ever saw cultivated by Indians alone in one field. Why, sir, they are progressing very rapidly in the cultivation of the soil upon the Missouri river.

Mr. HOWE. The Senator misunderstood me. I did not ask if he had ever seen any Indians fed by corn grown by Indians. I asked him if he had ever seen Indians fed on corn raised by Indian farmers.

Mr. HENDERSON. Assuredly I have.

Mr. HOWE. White Indian farmers?

Mr. HENDERSON. We have Indian farmers to superintend and to instruct them in the cultivation of the soil, and those farmers that we have sent the Indians on the Missouri river have succeeded in instructing them until they are now almost self-sustaining. Last year the Indians on the Missouri river—I mean the Yanton Indians, and some of the Brulé Sioux—would have been self-sustaining but for the fact that their crops were destroyed by grasshoppers. The Senator is sadly mistaken if he supposes that these very Indians we are now speaking of, the Chastas of Oregon, are not, many of them, good farmers. Many Indians in Minnesota—the Senator from Minnesota can correct me if I am in error—are good farmers, and have succeeded admirably in cultivating the soil. This is a proper appropriation if it is a reasonable one. If it is an unreasonable one the Senators from Oregon can correct it or let it be defeated. I do not want anything but what is right.

Mr. CORBETT. I desire to state that this appropriation of \$1,000 is not more than sufficient to pay for the services of a good, capable farmer to superintend farming in Oregon. That will be, on the gold basis, about seven hundred and twenty dollars a year, and we cannot employ a good farmer for less than that. I have been upon this reservation. The agent under whom these Indians are, Mr. Simpson, is one of the most capable men that I have ever seen in the conduct of an Indian agency. Upon his agency, the Alsea

agency, which he superintends, and the Siletz agency, they raised twenty thousand bushels of potatoes last year or the year before. I went on the reservation last summer in order to ascertain for myself the condition of Indian affairs in that State. I saw there large fields of potatoes; large fields of oats, rye, peas, and barley, that the Indians were cultivating, and that showed thrift, and showed that they were making progress in the art of farming. I went also and examined their school, where they had a good, capable teacher, in my opinion, a man who was formerly a soldier, well qualified and intelligent, and the Indians who were attending school there read well, spelled well, and wrote well. They wrote upon the black-board for me; and they appeared to be possessed of general knowledge. They could talk good English; could tell who the President of the United States was, who the Senators were, members of Congress, &c.

Mr. RAMSEY. I should like to know whether they could tell who is to be the President of the United States. [Laughter.]

Mr. CORBETT. I presume they can by this time. [Laughter.] Their agent is a good Union man, and I have just received a letter from him in which he says that he thinks we can carry the State for Grant. [Laughter.] In my opinion, a teacher cannot be employed and books furnished for a less sum than \$1,200.

Mr. HOWE. Will the Senator tell me where it was he found these schools?

Mr. CORBETT. I found this school at the Siletz agency. I believe these Indians are gathered together both upon the Alsea and Siletz agencies under the superintendence of Mr. Simpson and a sub-agent, but he has a general superintendence of the whole.

Mr. HOWE. But this amendment refers to the Chastas, Seeton, and Umpqua Indians.

Mr. CORBETT. Yes, sir; they are combined. There is no appropriation for schools for some of these tribes, and they have been obliged to combine them in order to furnish schools for a number. They not only apply to those tribes, but to others. Where there has been an appropriation of money for school purposes for one tribe and there has been no appropriation for some other tribes they have allowed their children to attend those schools.

I will state to the Senator the situation of the Indians upon this reservation. There was a treaty made with these Indians combined of various tribes, some eight or ten, that are collected upon this coast reservation, to place them upon this reservation, and they were to receive a large amount of money. They have been supported annually, and an appropriation has been made for a school and school purposes, and for the general pay of teachers and support of employes. There is an amendment here that provides an appropriation of \$50,000 to be expended for the sustenance and support of the Indians with whom there are no treaty stipulations, and for the support of employes. That treaty was made in 1855 by General Palmer, but was never ratified. They were to receive a large amount of money under those treaty stipulations, but the Senate refused to ratify it; and it has been customary to appropriate \$50,000 for the Indians in Washington Territory and Oregon. It is divided, \$25,000 to Oregon and \$25,000 to Washington Territory. There are some eight or ten tribes of Indians on this reservation, and they are supported by that \$25,000 a year. It amounts to about ten dollars per head. The Indians on this reservation are supported cheaper than the Indians upon any other reservation that I know of. They raise all they want in the way of wheat, and very near everything. They are in need of some stock of various kinds, oxen and horses to plow their lands. They were formerly a fishing tribe, and were not engaged in agricultural pursuits; but they have been gathered together, and we have been obliged to supply them with agricultural implements and with oxen and horses; but they are still very destitute of those. I think if the Senator

from Wisconsin understood this matter, if he had been upon this reservation and seen just how the Indians are situated, the way they are treated, and the progress they are making, he would not object to this appropriation. They certainly cannot employ a farmer for \$700 a year, which would be about four hundred and ninety or five hundred dollars in gold, nor can they employ a teacher for less than from fifty to seventy-five dollars a month in gold. A teacher as competent as the man I saw there would get at least from sixty to seventy-five dollars a month in gold in our public schools.

Mr. HOWE. I wish to ask the Senator a question; I only want information. Does he know the farmer who resides among these Chasta Indians?

Mr. CORBETT. I have been there and seen the farmer upon this reservation who superintends the whole of the reservation.

Mr. HOWE. Does he cultivate a farm himself?

Mr. CORBETT. No, sir; I think not. The farms are laid out for the Indians. Each Indian has a house situated upon a certain piece of ground that is adjacent to his farm. They cultivate in large fields, which are fenced in, and the ground staked off in such a manner as to designate what Indian owns a certain part of the ground. They plow it with a common team belonging to the agency, and the farmer superintends the whole work. The Indians work each upon his own farm. I did not see them at work, but I saw their fields laid out there.

Mr. HOWE. But the question is, whether the farmer cultivates a farm of his own for himself?

Mr. CORBETT. I do not think he does. I did not see any farm belonging to the agent. I saw a house and a garden of about two acres, perhaps; that was all.

Mr. HOWE. Was there any farming land adjacent to it?

Mr. CORBETT. Yes, sir; but it belonged to the Indians. Off on the flat below is a fine farm laid out, as I said, planted in potatoes, where they raised twenty thousand bushels last year. Large potatoe-houses or cellars are built in the banks along, and they are put in there, and they are used in common during the winter for the Indians. They also take them on their backs down to Yaquina bay and sell them to the boats that come in there, small schooners, and a portion of them go to California. They export some potatoes. They have not got teams to take them to market, and so they take them on their backs some four or five miles. I have been to the place where they sell them.

Mr. HARLAN. I desire to ask the Senator whether heretofore the farmer has been paid \$1,000 or \$700?

Mr. CORBETT. One thousand dollars. That is the recommendation of the Department; and I understand that that has been the usual salary. It was cut down in the House without any reason, in my opinion. I do not see any reason for cutting it down. It is the usual appropriation.

Mr. HOWE. Either the Senator from Oregon or myself is talking about different tribes, or else there is a great deficiency in the reports made from these tribes. He speaks of a very advanced state of civilization among the Indians on this reservation. We looked in the reports made to the Department the other evening, and we could not find the return of a single child receiving an education on this reservation among these Indians.

Mr. CORBETT. This reservation, I will state to the Senator, is one hundred miles long, with the exception of twenty-five miles that have been lately opened by an executive proclamation, which contains what is called the Yaquina bay. The reservation has thus been cut in two, and they have been obliged to put a sub-agent upon that portion lying south, and the portion lying north is under the supervision of the agent. I understand that there

are two school-houses. There is this one that I visited and saw with my own eyes. I know that this agent is a very competent man, and is working to advance the civilization of the Indians. He is said to be the best Indian agent on the coast.

Mr. HOWE. I am not disposed to raise any question upon the correctness of the report made by the Senator from Oregon. It is a much more flattering one than the official reports made to the Department that I have seen. I supposed that the way this farmer was instructing the Indians was by carrying on a farm himself.

Mr. CORBETT. Oh, no; that is not so.

Mr. HOWE. The Senator says no. A report was read—I examined the report myself—the other evening, by the Senator from Missouri, the chairman of the Committee on Indian Affairs, showing amount of produce of different kinds raised by the farmer with the help, as I understood it, of five white employes. I supposed he was carrying on a farm for himself, and employing this labor for his own advantage. I take it, he is not employing this labor to help him in the work of instruction. I supposed he was carrying on a sort of model farm there.

Mr. CORBETT. No, sir; I will state to the Senator what that means. The five employes refer to the wagon-maker, the sawyer, and the different employes on the agency. There are not five employes for the farm. They employ but one farmer who superintends and the Indians do the work.

Mr. HOWE. The Government pays but one; but if the farmer himself sees fit to employ a dozen laborers under him he can do so undoubtedly. He is there for the purpose of instruction, and if he attends to that part of it he discharges all the duty that the law imposes on him.

Mr. CORBETT. I do not know under what appropriation he could pay for five persons.

Mr. HOWE. He could pay them out of his own pocket, and he could recompense himself out of their earnings, if they could earn enough. I do not know whether he would find it profitable or not. That is the way the report was read to me; and so I was inclined to think that this appropriation was to enable a farmer to work for himself mainly, and carry on the work of instruction at the same time. If I have been led into an error; it is from misunderstanding the official reports, and so in reference to the schools. It is a very singular fact that there should be such a flourishing school there, and no report of it made to the Department.

Mr. CORBETT. I will state to the Senator that there may be some under-farmers there. It is eight miles from where the agent is to the saw-mill, and there is a nice, fine piece of prairie land that they cultivate and where these farms are laid out. Five miles distant in another direction from the agency there is another farm laid out, and there may be some subordinate farmers who superintend those different places. I am not positive about that; but I think there was one place some eight miles distant where there was one subordinate farmer, perhaps, who superintended the Indians on that prairie land.

The amendment was agreed to.

The next amendment of the Committee on Indian Affairs was in lines one hundred and forty-three and one hundred and forty-four to strike out "\$400" and insert "\$1,200;" so that the clause will read:

For fourteenth of fifteen installments for pay of teachers and purchase of books and stationery, per fifth article treaty 13th November, 1854, \$12,000.

The amendment was agreed to.

The next amendment was to insert after line one hundred and fifty the following:

Chippewas, Menomonees, Winnebagoes, and New York Indians:
For educational purposes, \$15,000.

The amendment was agreed to.

The next amendment was in line one hun-

dred and eighty-three, to strike out "\$3,000" and to insert "\$5,762 63;" so that the clause will read:

For insurance, transportation, and necessary cost of delivery of annuities and provisions for Chippewas of Lake Superior, \$5,762 63.

The amendment was agreed to.

The CHIEF CLERK. The next amendment—

Mr. HOWE. I had not ascertained where that last amendment came in. That presents a new question on which I wish to get the views of the Committee on Indian Affairs. It raises the question whether when the Government stipulates in a treaty to furnish to a tribe of Indians and deliver a certain amount of goods, the Government is to pay the cost of transportation in addition to the value of the goods; whether when the Government stipulates to deliver to a certain tribe of Indians \$100,000 worth of goods, they are to buy those goods in Europe or in New York, and spend \$100,000 in the place of first production and pay the cost of transportation in addition? That is the question.

Mr. HENDERSON. The Senator from Wisconsin submits a question that the Senate is just as able to judge of as I am. I do not recollect the wording of this particular treaty in reference to that matter. I can refer to it if the Senator desires it. But the question he submits is one that runs clear through the bill, and has been presented in every Indian appropriation bill since the origin of the Government. Treaties sometimes provide for furnishing annuities for the Indians in money, so much money to be expended by the President of the United States in such manner as he may see fit; sometimes the treaty says for provisions and clothing, &c.; sometimes the articles are specified, sometimes they are not; but the amount in money is generally specified in the treaty; and then if it is to be otherwise delivered than in money the specification is made in the treaty. Now, the Senator from Wisconsin says if a treaty provides for the delivery of a certain amount of money to be expended in goods, should it not be understood to be the cost of the goods at the place of purchase? The usual course, in fact the uniform course of the Government has been to purchase the quantity of articles named in the treaty; that is, to expend the whole amount of money named in the treaty, and then to transport the goods at its own cost to the place of delivery. That is my understanding of the contract. Every lawyer can determine it for himself; I believe that the Senate is generally composed of lawyers. We agree to pay the Indians so much money, and in ordinary cases it is required that it shall be expended in provisions, in articles of clothing, and other articles—the articles are named generally—and to deliver those articles at a certain point. Now, the question is, how are we to get them there? Is it to be at the expense of the Indians or at our own expense? The uniform practice of the Government has been to furnish the transportation at our expense. That has been the interpretation of the contract, and I think it is rather late now to change that interpretation of it.

We have always furnished, as the Senator himself knows, transportation of articles, and in this very case I understand that the transportation is set down at what it was last year. The transportation was obtained as cheaply as it could be last year, and the same sum is set down now to a cent. That is the reason why the cents are put down. The House cut it down, we supposed, without any reason. The goods are to be delivered, as the Senator well knows, because these Indians are in his own neighborhood, at various places in the interior of the State.

Mr. HOWE. What is the amount to be delivered?

Mr. HENDERSON. It is large. For the Chippewas of Lake Superior \$5,000 in one place, \$8,000 in another, \$3,000 in another, \$3,000 in another, \$5,040 in another, \$1,320

in another, \$1,060 in another—about twenty-seven thousand dollars in all.

Mr. HOWE. In goods?

Mr. HENDERSON. Yes, sir. The Senator will remember that these Indians are at various points scattered all over the State, and that the goods have to be separated and transported by wagons over a large district of interior country. They are not all delivered at the same agency. The Indians are scattered at various agencies.

Mr. HOWE. What are the items of the \$27,000?

Mr. HENDERSON. The Senator will see them in the bill from line one hundred and fifty-one to line one hundred and eighty-three. The first item is in money. The next is in goods, household furniture, and cooking utensils.

Mr. HOWE. That is \$8,000.

Mr. HENDERSON. Yes, sir. Others are in agricultural implements, cattle, carpenters' and other tools, and building materials, which the Senator will observe will require a vast outlay for transportation in proportion to the quantity furnished. They are to be furnished according to the fourth article of the treaty of September 30, 1854. I understand the amount for transportation is fixed here at the amount we expended last year. If it should be too much the Department certainly ought not to expend it. It may be said, on the other hand, that if we appropriate it the Department will expend it; but good officers ought not to do so. They ought to obtain the transportation just as cheap as they possibly can, and not pay anything more. We ought to give some discretion, of course, to our officers, and if we have bad officers, we ought to try to get rid of them as soon as we possibly can. That is all I recommend. It certainly would be very bad policy to reduce the appropriation for transportation to an amount that will not enable the Department to supply the Indians with goods, unless, on the other hand, we take the view entertained by the Senator, perhaps—I do not know that he entertains it—that the transportation should come out of the amount of the Indian annuities, an interpretation of the contract, as I have before remarked, that has never been given, and I should dislike very much to see it adopted by the Senate.

Mr. POMEROY. While we are on this subject I should like to call the attention of the committee and of the Senate to the question of insurance, the appropriation of so much for insurance of transportation. Perhaps the committee have studied that question. I have given it considerable attention in my own affairs, and after a long series of years have come to the conclusion to pay no insurance on anything. I would not pay an insurance for goods on the Missouri river. I transported goods there for a good many years. I would not pay a cent of insurance on my house. I would not pay a cent of insurance on anything. It may be bad financiering, but I believe that any man who can afford to run the risk himself had better run it. I believe that this Government had better insure its own goods than to pay any company for insuring them. This Government of ours could very well afford to do its own insuring. If a company can afford to run, and make money by running our risks, we can run them, if we can afford to own the property.

Mr. HENDERSON. I desire to suggest to the Senator, with his permission, that if these goods should be lost, there would be an entire failure for that year in furnishing them to the Indians, because there is no other appropriation from which we could supply the Indians for the year, and unless we can get it out of the insurance company they cannot be supplied.

Mr. POMEROY. I do not know how it may be on the Missouri river, but in these remote places if goods are lost you cannot collect the insurance in season to get another purchase that year.

Mr. HENDERSON. It has been done.

Mr. POMEROY. There may be instances where it has been done; but as a general rule you cannot do it. I have no amendment to propose on this subject. I only wish to call the attention of the Senate and the committee who represent the department to the fact. I believe that the system of insuring on the part of the Government is unwise. It seems a very strange idea that this great Government of ours should intrust into the hands of a corporation made up of a few individuals its risks and pay them for running them. I am confident it would be good policy, good financiering, good management, and the Government would save money by paying its own risks, by insuring itself. Occasionally there might be something lost; but if these companies can make money and pay from seven to twenty-one per cent., as they do, for taking your risk and mine, and the risk of the Government, I ask why cannot the Government afford to run its own risks and make its own insurance. My own opinion is that the whole subject of insurance is in the interest of the parties who carry on the business, and not in the interests of the community. I have watched this question, and so far as my own affairs are concerned I practice what I teach. I am confident that a man who runs his own risks makes the money. If you allow companies and individuals to run the risk for the Government, they will make money out of the Government, and I protest against their making money out of the Government in this way.

Mr. CORBETT. That would be a very good plan if it did not interfere with our treaty stipulations. Our treaty stipulations provide that a certain amount of money and a certain amount of goods shall be supplied to these Indians annually. As I understand the idea of insuring these goods, it is to insure that the Indians get their goods as stipulated. The great complaint of the Indians is that we do not live up to our treaty stipulations and they do not get their pay promptly. If the Government loses a shipment of goods, they cannot understand why the Government cannot replace them until we assemble in Congress again and make another appropriation; which it is always difficult to obtain for anything that is lost or destroyed. There is always a great contest over such an appropriation. It is very difficult in the first place to get an appropriation, and then to get an appropriation for lost goods is like paying for a dead horse. I presume the Department have adopted the policy of insuring these goods as the only way to secure a prompt fulfillment of our treaty stipulations.

Mr. HOWE. I will only say, not with any hope of defeating the amendment or caring whether it is adopted or not, that the difference between this mode of paying goods and the mode which I suggest is very apparent. We contract to pay the Indians a certain sum, and it is agreed that the sum shall be paid in money or in goods. The theory upon which the Government has practiced is, that they must expend that amount of money in goods somewhere, and wherever they buy them they must pay for transporting them to the Indian reservation, wherever that is. The practical effect is, that instead of spending \$100,000, which the treaty calls for, we spend \$100,000 and whatever the transportation is in addition. This is a wrong to the Government. The value we got called for just so much money. The duty of the Government was to pay it in money, or, if the Indians desired to have it in goods, they should pay out of that sum the cost of transportation. The Senator says it has been the practice of the Government to deliver the goods, and to deliver the goods at the cost of the Government; and I suspect he is right; but I must say the practice is wrong. I understand that even in cases where it is at the option of the Government to pay a certain sum in money or in goods, the Government has chosen, instead of paying the money without any cost of transportation, to spend the money

in goods and pay the cost of transportation. That is a wrong to the Government.

The Senator from Kansas wants to know my opinion on the question of insurance. I have not had any practical experience on that subject. I do not know whether it is better for the Government to insure or not. I do insure myself. I have lost money so far by it, because I have never had any property burnt up that was insured but once.

Mr. POMEROY. I never knew a man but had lost money by it.

Mr. HOWE. If we did not lose money the insurance companies would not make any; that is very certain.

But the Senate is called upon to decide whether this practice is right of paying for this transportation, and if it is right then the Senate is called upon to consider whether the sum mentioned in the bill or whether the sum called for by the amendment is necessary. The amount of goods is to be \$12,020 worth, and the bill appropriates \$3,000 to transport \$12,000, and the amendment calls for over five thousand dollars. The Senator says it is at various points in the interior of Wisconsin. My judgment is that no one point is more than eighty miles from water transportation, and but few of the goods are to be delivered off from water carriage on Lake Superior.

The amendment was rejected.

The next amendment was in lines three hundred and sixty-five and three hundred and sixty-six, in the appropriations for the Chippewas in Minnesota, to strike out "\$1,500" and insert "\$1,800" for the employment of two carpenters.

The amendment was agreed to.

The next amendment was in lines three hundred and sixty-six and three hundred and sixty-seven, to strike out "\$1,500" and insert "\$1,800" for the employment of two blacksmiths.

The amendment was agreed to.

The next amendment was in line three hundred and sixty-seven, to strike out "\$2,000" and to insert "\$2,400" for four farm laborers. The amendment was agreed to.

The next amendment was in line three hundred and sixty-eight, to strike out "\$1,000" and to insert "\$1,200" for the compensation of a physician.

The amendment was agreed to.

The next amendment was in line three hundred and sixty-nine, to strike out "\$250" and to insert "\$500" for the purchase of medicine for the sick.

Mr. HOWE. That raises the question whether \$500 worth of medicines is necessary for these Indians in a single year.

The amendment was rejected.

The next amendment was after "1864," in line three hundred and seventy, to strike out "\$6,250."

Mr. HENDERSON. That is merely a recapitulation of the various amounts appropriated in the clause, and is entirely unnecessary.

The amendment was agreed to.

The next amendment was in lines three hundred and eighty-five and three hundred and eighty-six, in the appropriations for the Chippewas of the Mississippi, and Pillager, and Lake Winnebagoish bands of Chippewas in Minnesota, to strike out "\$400" and insert "\$650;" so as to make the clause read:

For pay of services and traveling expenses of a board of visitors, to consist of not more than three persons, to attend the annuity payments to the Indians, and to inspect the fields, buildings, mills, and other improvements, as stipulated in the seventh article, treaty May 7, 1864, not exceeding any one year more than twenty days service, at five dollars per day, or more than three hundred miles travel, at ten cents per mile, \$650.

The amendment was agreed to.

The next amendment was to insert after line three hundred and eighty-six:

For this amount, or so much thereof as may be necessary to defray the expenses incident to the removal of the scattering bands of Chippewa Indians in Minnesota to their reservations, \$15,000.

For this amount, or so much thereof as may be necessary in addition to the residue of funds already appropriated for the object, to subsidize the scattering bands of Chippewa Indians in Minnesota for six months after their arrival at their new reservations, \$87,398 84.

For this amount, or so much thereof as may be necessary to erect a new mill at Red Lake for the use of Chippewa Indians in Minnesota, \$10,000.

For employment of female teachers to teach domestic economy, \$1,000.

Mr. HOWE. I must ask for an explanation of that.

Mr. HENDERSON. That is rather an important amendment, and my friend from Minnesota [Mr. RAMSEY] in all probability is more familiar with the circumstances than I am. The amendment is proposed upon his suggestion or the suggestion of his friends in Minnesota. I send to the Clerk's desk the estimates and statement of the Department on this subject. It is a matter that I know but very little about. It is, however, a large appropriation, and is therefore important, and I desire the Senate to understand it thoroughly. Many of the amendments we have acted upon are mere matters of detail and of very little importance, but this is really a substantial matter. I send the documents to the desk, and ask that they be read.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., March 23, 1868.

SIR: I have the honor to transmit herewith a copy of a communication of the 18th instant, and accompanying papers, from the Commissioner of Indian Affairs, submitting an "estimate of appropriations required for the different bands of Chippewa Indians in Minnesota, in removing them to their reservations, and subsisting them for six months after their arrival; also, for the erection of a mill at Red Lake." The attention of Congress is respectfully invited to an early consideration of the subject.

Very respectfully, your obedient servant,

O. H. BROWNING, Secretary.

HON. SCHUYLER COLFAX,
Speaker of the House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., March 18, 1868.

SIR: I have the honor to inclose herewith copies of a letter from Agent Bassett, dated the 15th instant, setting forth the necessity for removing certain Indians now residing at Otter Tail lake to the reservation at White Earth lake; also of one dated the 6th instant, relative to the removal of some of the Mississippi bands of the Chippewas to their new reservations, stating the cost of such removal and of the subsistence required to feed the Indians for six months after their arrival, and recommending that funds for the purpose be appropriated at once, as the Indians will be removed early in the coming summer.

The appropriation for removing and subsisting the Indians in question, made under the treaty of May 7, 1864, with the Chippewas (see Statutes-at-Large, vol. 13, p. 561) was based upon the supposition that there were eleven hundred Indians to be removed and subsisted for six months after their arrival at their new reservation. It appears from agent Bassett's letter of the 6th instant that seven hundred and thirty-four persons have been removed, and that there are nineteen hundred and sixty-six more to be taken to said reservation. The agent thinks it will cost \$15,000 additional to remove those still remaining at their old homes, and \$87,398 84 in addition to the amount already appropriated to subsidize them for six months thereafter.

The cost of removing and subsisting the Indians now at Otter Tail lake is embraced in the foregoing amounts. These Indians are a portion of the Pillager band of Chippewas whose reservation is at Leech lake. They have expressed a desire to move to the new reservation belonging to the Mississippi bands at White Earth lake, which the Mississippi Indians—Agent Bassett says—are willing and anxious to have them do. The lands now occupied by them belong to the Government. They are being rapidly settled, and it is a matter of absolute necessity for the Indians to be removed at once or we may expect trouble and difficulty between them and the white settlers.

The amount of funds estimated by Agent Bassett to be necessary to effect the peaceable removal of all these Indians and to subsidize them for six months thereafter may appear large; but if all the bands scattered through Minnesota can be removed from the lands ceded by them to the United States to the reservations provided for them by treaty stipulations, and cared for until such time as they are able to raise a crop, at a cost of not exceeding \$102,398 84, the amount estimated by the agent to be necessary, it is the opinion of this office that the result of such removal and the benefits and advantages to be derived therefrom by the white settlers, as well as the avoidance of future troubles with the Indians in that section of the country, would be of far more value and benefit to the country at large than the sum required to accomplish the desired objects.

I inclose herewith an estimate of appropriations

required to remove the Indians in question and to subsidize them for six months thereafter; also for the erection of a mill at Red Lake, which, as will be seen by Agent Bassett's letter of the 5th, (copy herewith,) has been totally destroyed by the bursting of the boiler; and, if you concur in the views herein expressed, I respectfully request that the same be laid before Congress for such action as in its wisdom may be deemed proper and just.

Very respectfully, your obedient servant,

N. G. TAYLOR, Commissioner.

Hon. O. H. BROWNING, Secretary of the Interior.

WASHINGTON, March 5, 1868.

SIR: Referring to our conversation this day in relation to a mill at Red Lake, I would say that the mill which was built at Red Lake has been totally destroyed by the bursting of the boiler, and that the Indians are very desirous to have another built for them. They have raised this year from six to seven thousand bushels of corn, besides a good quantity of potatoes and other vegetables. The only use they can make of the corn is to boil it, which they are forced to do. The remoteness and almost inaccessibility of their location renders it very difficult to keep a steam mill in repair. I have examined a stream that flows into the lake at their settlement and find a good mill site for a water-mill. I would therefore recommend that an appropriation be made for the purpose of building them a mill at the place above referred to. I think that with an appropriation of \$10,000 I can build them a good saw-mill and grist-mill that will answer their purposes for years to come. Such a mill could be kept in repair by the employees, and would always be ready to do their work. The mill that they have had there has been of but very little use to them, having been out of repair most of the time.

Respectfully, your obedient servant,

J. B. BASSETT,

United States Indian Agent.

Hon. N. G. TAYLOR, Commissioner of Indian Affairs.

WASHINGTON, March 5, 1868.

SIR: Referring to our conversation this day, I would say that in relation to the Indians who live at Otter Tail lake, in Otter Tail county, State of Minnesota, they are a part of the Pillager bands, and number from four to five hundred; that they have always lived there, that county being a part of the country ceded by the Pillagers to the United States, those Indians never having been removed. The country is rapidly being settled by the whites, and the Indians are a great annoyance to them, numerous complaints having been made to me by the settlers and threats of open hostilities unless the Indians are removed. I have consulted the Indians, and they expressed a desire to move to the new reservation at White Earth lake if they could be treated as the Mississippi Indians were. The Mississippi Indians are willing and anxious to have them go with them. I would therefore respectfully request that I be directed to remove said Indians in accordance with their wishes to said reservation. My opinion is that unless they are removed the Government will be forced to send a military force there to keep peace between them and the settlers.

Respectfully, your obedient servant,

J. B. BASSETT,

United States Indian Agent.

Hon. N. G. TAYLOR, Commissioner of Indian Affairs.

WASHINGTON, March 6, 1868.

SIR: Referring to your letter of instructions of August, 1867, I find that additional appropriations will be necessary to carry into effect the provisions of the treaty of May 7, 1864, and February 9, 1865. Article twelve of said treaty provides that the Government of the United States shall provide the said Indians with transportation and subsistence to their new homes, and subsistence thereafter for six months.

In pursuance of your instructions I have removed seven hundred and thirty-four of said Indians to their new reservations, and they are being subsisted in accordance with your instructions and the treaty stipulations.

The appropriation heretofore made was for the removal and subsistence of eleven hundred Indians. There are of the Mississippi bands about twenty-one hundred, and of the Otter Tail bands about five hundred, making in all twenty-six hundred; from which amount deduct seven hundred and thirty-four already removed, and it will leave nineteen hundred and sixty-six still to be removed. The estimate for the removal was ten dollars per capita, which sum is as small an amount as it can be done for, and the contract for subsistence is \$34 37 per ration per day. The whole sum necessary for the removal, including the Otter Tail bands, will be \$26,000; from which deduct the amount already appropriated, (\$11,000,) and it will leave a deficiency of \$15,000. The subsistence of the aforesaid Indians upon their new reservations at the contract price will amount to the sum of \$162,638 84; from which deduct the amount already appropriated, (\$75,240,) and it will leave a deficiency of \$87,398 84 to be provided for.

I respectfully recommend that the above amounts may be appropriated, as the Indians will be removed early in the present summer. I would also earnestly recommend that the sum of \$10,000 be appropriated to build a mill for the Red Lake Indians, the reasons of which are set forth in my letter of the 5th instant.

Respectfully, your obedient servant,

J. B. BASSETT,

United States Indian Agent.

Hon. N. G. TAYLOR, Commissioner of Indian Affairs.

Estimate of appropriations required for the different bands of Chippewa Indians in Minnesota, in removing them to their reservations, and subsisting them for six months after their arrival; also, for the erection of a mill at Red Lake.

For this amount, or so much thereof as may be necessary to defray the expenses incident to the removal of the scattering bands of Chippewa Indians in Minnesota to their reservations.....	\$15,000 00
For this amount, or so much thereof as may be necessary, in addition to the residue of the funds already appropriated for the object, to subsist the scattering bands of Chippewa Indians in Minnesota for six months after their arrival at their new reservations.....	87,398 84
For this amount, or so much thereof as may be necessary, to erect a new mill at Red Lake for the use of the Chippewa Indians in Minnesota.....	10,000 00
	<hr/> \$112,398 84

Mr. RAMSEY. The chairman of the Committee on Indian Affairs has called upon me to explain more particularly than he is prepared just now to do the merits of this amendment. The Chippewa Indians are located in the northern part of the State of Minnesota. They were once the occupants of about the northern half of that State, the rest of it being owned by the Sioux Indians, their mortal enemies. In the older treaties made with the Chippewas they were recognized as distinct organizations, one branch called the Mississippi bands, of which Hole-in-the-day, who has recently been assassinated, was the head chief; and the other branch, called the Pillager Indians, from some pillage they committed on property in the early days in the history of that country, and they have ever since been called the Pillager bands, who live about Red Lake. These are the Indians referred to in this amendment. The amendment is to carry out the treaty stipulations with these Indians. The Indians, in several treaties made with them within the last three or four years, have agreed to remove from their old reservations, which are very numerous, there being some half a dozen reservations provided for them scattered over the State. It became important to absorb them in the increasing settlement of the country by the whites. The contact with the whites is in many cases demoralizing the Indians. On one reservation especially, that which is called Mille Lac, the lumbermen are about there in numbers. These lumbermen are from Maine, I will say to the chairman of the Committee on Appropriations. I do not suppose they are any worse than those from any other State; but, nevertheless, the Indians have become very much demoralized from communication with these lumbermen at Mille Lac. It is thought desirable by the department here that they shall be removed. There are two or three other such reservations where the whites are crowding around and interfering with the proper administration of Indian affairs by the department. It has been thought advisable to remove the Indians to a new reservation further away from the whites, the White Earth Lake reservation, near to the Red river, in the northwestern part of Minnesota, and to extend the reservation west of Leech Lake. Their old reservations are to be surrendered to the Government, and a new reservation provided for them. It was provided heretofore in the treaties that these Indians should be removed.

Mr. POMEROY. Have we appropriated money for the removal?

Mr. RAMSEY. No; you are called on to do it now.

Mr. HARLAN. I desire to inquire of the Senator from Minnesota if these Indians have agreed to remove?

Mr. RAMSEY. Yes; in their treaties they agreed to remove.

Mr. HARLAN. I think these Indians have agreed to remove at some time, and when they do make up their minds to start the Government is under obligations to pay the necessary transportation and subsistence for six months.

Mr. RAMSEY. On account of the demoralization of these Indians where they are in

the southern and eastern part of the State, by their contact with white settlers, it has been thought advisable to remove them, and they have now entered into a treaty to remove. They have been called on for several years to remove, but there have been influences surrounding them, petty traders and so on, those who make money by them, and enjoy this kind of demoralization, to persuade the Indians to continue on their old reservation. This is not the object of the Government or of the friends of the Indians. The Government wishes to get them away to their new homes. I know the Indians feel indisposed to go, and representations are got up that they are forced away; but they do not know their own condition, they do not know the circumstances that surround them.

Mr. FRELINGHUYSEN. With whom does it rest by the treaty?

Mr. HARLAN. The Senator from Minnesota and I do not understand the treaty in the same way, if these are the Indians I am thinking of. We persuaded them to make a treaty giving up their old reservations and stipulating that they might remain on their old reservations as long as they chose; and when they finally decided to go—

Mr. RAMSEY. I had better correct the Senator just there. There is no such provision that they shall remain on the reservation as long as they please.

Mr. HARLAN. Not in so many words; but when they do agree to go, the Government consents to pay their transportation and their subsistence for six months, I think. Some one or two of these bands did agree to go a year or two since, amounting perhaps to six or seven hundred, and have been relocated. The point I was speaking of was whether this appropriation was made with a view to coerce the removal of the rest. If it is made with a view of coercing their removal, it can be done very readily, for men can go to the Indians and say, "Your Great Father now has provided you money to subsist you six months on this new reservation; he expects you to go there;" and they will understand that it means that they are compelled to go; that if they refuse the cavalry will be sent after them and they will be forced to go. The point on which I wish to have information is whether these Indians have voluntarily agreed to go to this new reservation. If they have the appropriation ought to be made; but if it is intended to coerce their removal by means of this appropriation I doubt very much whether it ought to be made.

Mr. RAMSEY. Does the Senator mean to say that the Indians should be allowed to remain with these malign influences operating upon them until the Indians themselves consent to go? They would remain until the last remnant of them was swept off by disease.

Mr. HARLAN. I think they have reserved the right to remain on their old lands until they are ready to go. That is my impression.

Mr. RAMSEY. The Senator is mistaken. An agreement was made with these Indians, as is generally made with Indians, for the sale of their old reservation, it being deemed important that they should be removed. The Indians cannot comprehend the thing. They themselves desire to remain in their old homes. There are influences surrounding them there, small traders and others who desire to keep them there, and yet the interests of the Indians, which the Government recognize, require the removal. They should be removed. The Government feel the propriety of it, and hence purchased their old reservations and desire to get them away. There are, however, small traders, probably some of them might be properly denominated whisky traders, men who make money out of these Indians, who desire them to remain where they are.

For several years their removal has been resisted under these influences which the Senator can appreciate, and they still persist in keeping them there. It is for their interest they should be removed. The stipulation of

the treaty was that they should not be removed until the interests of the Government required it. Now the interests of the Government require that they should be removed. It is a fine country, a timber country. The woodchoppers and lumbermen are down there, and their influence upon these Indians the Senator from Iowa can very well appreciate. The Government desires them to be removed; but there are traders who are stimulating them to apply here to their friends and the Government authorities to ask a little continuance, and they are doing all that they can to remain where they are. It is proper that they should be removed. Their country has been purchased by us and a new and better reservation provided for them. They are under obligation to go. The Government is providing for them, putting up mills and breaking ground at their new reservation, and it would be a gross wrong to allow them to remain where they are.

Mr. HOWE. I believe it was stipulated that these Indians should be removed, and that they should be subsisted six months. The Government was called on to appropriate the money for removing them and for subsisting them, and did appropriate it, and I suppose came to the conclusion that the work was done; but it seems now that it was not done, although the money was expended; that there are more Indians to be removed and more to be subsisted, and more money to be required than there was in the first instance. My great objection to making this appropriation now is that from our past experience it seems that the more money we appropriate the more work we have to do in this direction. I think, therefore, the only safe way is to stop now.

Mr. RAMSEY. That is a very easy way of getting rid of a solemn treaty. You have not done what you promised to do, and all that this amendment does is to make an appropriation to enable the Government to meet its obligations under this treaty. Some of the Indians have been removed; the Indians that you have not yet removed you are under obligations to remove, and you are now simply called on to make an appropriation for the purpose. This is the provision of the treaty to which the Senator from Iowa referred:

"It shall not be obligatory upon the Indians, parties to this treaty, to remove from their present reservation until the United States shall have first complied with the stipulations of articles four and six of this treaty, when the United States shall furnish them with all necessary transportation and subsistence to their new homes, and subsistence for six months thereafter."

Here is the band of Indians from whom this application is made constantly:

"Provided, That owing to the heretofore good conduct of the Mille Lac Indians they shall not be compelled to remove so long as they shall not in any way interfere with or in any manner molest the persons or property of the whites."

The country occupied by these Indians is being settled up by the whites, who protest against their remaining there. The Governor of the State and the Legislature of the State have been for years pressing the removal of these Indians. There is every reason why they should be removed. It is for their interest, the interest of the whites, and the interest of the Government. All these appropriations are appropriations contemplated by these treaties, which the Government cannot in good faith deny. I have reference now to the two items, the \$15,000 and the balance for the removal of the Indians on Otter Tail Lake. At Otter Tail Lake there are some six hundred Pillagers. It is a beautiful country, with a very rich soil. That is a large and beautiful lake. Settlers have gone in there in great numbers, and have occupied the country, but these Indians persist in remaining on the borders of the lake in the midst of these white settlements. The Government has no means to remove them, and I think we ought not to hesitate a moment in making an appropriation to furnish the means to remove them to their reservations.

Mr. HOWE. I think the Senator ought not to accuse us of being regardless of our treaty obligations. We met the obligation of the

treaty; we made the appropriation required to carry it out, and I never heard of any deficiency in that appropriation. We supposed the work was done. Some years after that appropriation was made it is said that the work was not done, and we are told that more money is required to do it now than there was then. Of course, at that rate of experience, it is manifest that there is not money enough to execute the treaty. It seems to me good sense dictates that we should withhold this appropriation until the Indians ask us to remove them, and when the Indians ask us to remove them we shall be at liberty to ask them why they did not go when we made the former appropriation. But, sir, it is only a little over one hundred thousand dollars that is involved in this appropriation. I do not think it makes any particular difference whether the amendment is agreed to or not. I suppose there is money enough.

Mr. RAMSEY. The Senator seems to be very indifferent to the obligations of a solemn treaty made with these Indians, and ratified by the Senate. You have agreed to remove these Indians; they have a right to expect it, and the whites of that vicinity have a right to expect it. You have not appropriated money to do it, and you are now simply called upon to do that. I should think the propriety of the Government fulfilling its solemn obligations would be manifest. This removal is to be made by the officers of the Government, not by the Indians or the white people.

The question being put on the amendment, there were, on a division—ayes 12, noes 8; no quorum voting.

Mr. HENDERSON. I suggest that the amendment be passed over for the present, that we may make a further investigation. I confess that it is not a question with which I am very familiar. There has been a division of these bands of Indians, and it is a troublesome question. I would rather have more time to examine it.

The PRESIDING OFFICER. The last vote having disclosed the want of a quorum, business cannot be proceeded with until the presence of a quorum is ascertained.

Mr. HENDERSON. I have no doubt a quorum is present, as will be ascertained if the vote is taken again.

Mr. HOWE. I call for the yeas and nays. The yeas and nays were ordered.

Mr. RAMSEY. Now, I wish the Senate to understand this matter before they vote. This is not an amendment moved by me; it is an amendment reported by the Committee on Indian Affairs, who understand this subject entirely. The removal of these Indians has been provided for by treaty, and we ought not to hesitate a moment in making the necessary appropriation for their removal. Congress has appropriated a small sum—a deficient sum heretofore. A part of the Indians have been removed, and we are under obligations to remove the rest; and this amendment is to appropriate a sum sufficient to do it. It ought to be done for the interest of the Indians and of the whites in that region, as well as to carry out the treaty stipulations.

The question being taken by yeas and nays, resulted—yeas 22, nays 13; as follows:

YEAS—Messrs. Anthony, Chandler, Conkling, Conness, Corbett, Cragin, Davis, Deolittle, Fowler, Henderson, Hendricks, Howard, McDonald, Nye, Osborn, Patterson of Tennessee, Ramsey, Ross, Sprague, Thayer, Vickers, and Williams—22.

NAYS—Messrs. Cole, Ferry, Frelinghuysen, Howe, McGreevy, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Stewart, Sumner, Whyte, and Wilson—13.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Cattell, Dixon, Drake, Edwards, Fessenden, Grimes, Harlan, Morton, Norton, Pomeroy, Rice, Saulsbury, Sherman, Tipton, Trumbull, Van Winkle, Wade, Welch, Wiley, and Yates—23.

So the amendment was agreed to.

The next amendment of the Committee on Indian Affairs was to strike out "\$3,500" and insert "\$3,900," in line four hundred and twelve.

The amendment was agreed to.

The next amendment was after line four hundred and thirty-one to insert:

To replace the sum taken from the Chickasaws for expenses incident to the negotiation of a treaty by order of the Government, \$13,820 50.

For goods for Chickasaws, act of February 25, 1799, \$3,000.

Mr. HOWE. I must ask the Senator from Missouri for an explanation of that amendment. I believe the first item is not estimated for.

Mr. HENDERSON. Yes, sir, it is. The Senator will find on page 157 of the estimates:

"For this amount, to replace the sum of \$13,820 50, taken from the funds of the Chickasaw nation for expenses incurred by the Chickasaw delegation in visiting Washington city in 1866, by order of the Government, for the purpose of negotiating a treaty, \$13,820 50."

These Indians are notified to send their delegates to Washington for the purpose of effecting an amended treaty, and they appeared here by their representatives in 1866; and this was the cost and expense attending that delegation of Indians to Washington when that treaty was made. It is not necessary for me to refer to the provisions of the treaty made at that time. There are no fund out of which the expenses of the Indian delegation attending Washington could be paid, and the money was paid out of the funds of the Indians themselves, and this appropriation is to replace that amount. These are the only circumstances connected with it.

Mr. HOWE. When was it?

Mr. HENDERSON. In 1866. The Senate will find in the books now the treaty, rather a favorable treaty, made with the Indians at that time.

The amendment was agreed to.

The next amendment was to insert after line four hundred and thirty-six, among the appropriations for the Choctaws:

For permanent annuity for support of eight horsemen, \$600.

The amendment was agreed to.

The next amendment was to insert after line four hundred and fifty-eight:

To replace the sum taken from funds belonging to Choctaws for expenses incident to the negotiation of a treaty, by order of the United States Government, \$7,308 05.

To supply a deficiency in the appropriation for pay of commissioners appointed under the forty-ninth and fiftieth article of treaty of April 28, 1866, with Choctaws and Chickasaws, \$1,538 47.

Mr. HARLAN. I did not understand the explanation given by the chairman of the committee when the kindred amendment was pending, and I will inquire whether in the treaty made in 1866 the Government agreed to pay the expenses incurred by the Indian delegates?

Mr. HENDERSON. That is my recollection; but we can refer to the treaty. I am sure such is the case.

The amendment was agreed to.

The next amendment was in line four hundred and sixty-eight, to increase from \$2,400 to \$3,500 the appropriation for ninth of fifteen installments for pay and subsistence of farmers, blacksmiths, &c., for the confederated tribes and bands of Indians in Middle Oregon.

The amendment was agreed to.

The next amendment was in line four hundred and seventy-three, to increase from \$3,600 to \$5,600 the appropriation for ninth of twenty installments for pay and subsistence of a physician, sawyer, miller, &c., for these Indians.

The amendment was agreed to.

The next amendment was to insert after line five hundred and forty-six:

To defray the expenses of removing certain disaffected Creek Indians now living in the Cherokee country, and also certain refugees of the same tribe now on the Red river, to their old homes in the Creek country, and to supply them with the necessities of life until such a time as they shall be able to raise crops for their own support, \$8,000.

For expenses of taking a census, and investigating the claims of loyal Creeks, refugees, and freedmen, as per article four, treaty of June 14, 1866, \$2,000.

Mr. HARLAN. I should like to have an

explanation of the first part of that amendment:

To defray the expenses of removing certain disaffected Creek Indians now living in the Cherokee country, and also certain refugees of the same tribe now on the Red river to their old homes in the Creek country, and to supply them with the necessities of life.

The Cherokee and Creek countries lie right by the side of each other. So far as that portion of them are concerned, I think they could move themselves across the line without any expense to the Government. I do not know whether we are under any treaty obligations to support them or not. If not, I am inclined to think that item ought to be stricken out of the amendment. In order to raise the question directly, I move to amend the amendment by striking out the first paragraph.

Mr. HOWE. The question should be put on that first. That was the understanding between the Senator from Missouri and myself. I do not propose to make any objection to the last clause, but the first one I am not agreed to by any manner of means. I think we should vote on that clause separately.

Mr. HARLAN. I will adopt the suggestion of the Senator from Wisconsin and withdraw my amendment, and ask a division of the question, so as to have the question taken on the first item first.

Mr. HENDERSON. I will send to the Clerk's desk and have a letter of the Commissioner of Indian Affairs read on that subject, and also the statement of Mr. Wortham, the superintendent of Indian affairs in that superintendency, and also that of Agent Dunn.

The Chief Clerk read the following documents:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., February 18, 1868.

SIR: I have the honor to transmit herewith a copy of a communication from the Commissioner of Indian Affairs, dated the 10th instant, and accompanying papers, relative to certain disaffected and refugee Creek Indians, now living in the Cherokee nation and on Red river.

An estimate is also herewith transmitted of appropriation to defray the expenses of removing said Indians to their old homes in the Creek country, and to supply them with the necessities of life until such time as they shall be able to raise crops for their support.

The attention of Congress is respectfully and very earnestly invited to an early consideration of, and action upon, this case.

Very respectfully, your obedient servant,
O. H. BROWNING,
Secretary of the Interior.

HON. SCHUYLER COLFAX,
Speaker of the House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., February 10, 1868.

SIR: I have the honor to inclose herewith a copy of a letter from Superintendent Wortham, dated the 3d instant, and of one transmitted by the superintendent from Agent Dunn, relative to certain disaffected and refugee Creek Indians now living in the Cherokee nation and on the Red river.

Agent Dunn says that the disaffected Creeks now in the Cherokee country, owing to the want of funds, cannot be removed, and that they should be removed this winter without fail in order that they may settle in their old homes before spring and plant crops for their support during the coming year. He also states that a number of southern Creek refugees are reported on the Red river, destitute and unable to return to their homes, and thinks the sum of \$8,000 with proper economy will be sufficient to remove all to their old homes.

The superintendent says these unfortunate and misguided people should at once be restored to their homes, and urgently requests that an appropriation of \$10,000 be asked for the purpose of furnishing the Indians in question with transportation to their old homes in the Creek country, and providing them with subsistence until such time as they may be able to raise crops.

The disaffected portion of the Creeks referred to by the superintendent and agent is a small band under the leadership of Spo-ko-ke-gee-ya-hola, who has the idea that the direction of the affairs of the Creek nation properly belongs to him, and that he is the proper person to be chief of the nation. His followers at one time numbered about five hundred; but by repeated efforts of Agent Dunn the number has been reduced to, probably, about two hundred. I inclose herewith a letter from late Superintendent Byers, dated the 9th of April last, transmitting one from the agent, which gives a full and explicit history of this disaffected portion of the tribe.

As regards the number and condition of those on the Red river, I have to say that this office has no other information than that contained in the agent's letter transmitted to this office by Superintendent Wortham on the 3d instant. If there are any destitute Indians at the place named, they should be cared for and

removed to their old homes without delay, for the reasons stated by the agent; and for similar reasons, as well as to break up the disaffected clan, the followers of Spo-ko-ke-gee-ya-hola should also be removed, if possible, at the earliest day practicable. It will be necessary, if the removal is made, to supply them with subsistence until they can harvest their crops; and with this inducement I am of the opinion that the agent will be able to prevail upon the disaffected ones to return to their old homes and live in amity with the main portion of their tribe.

Should you concur in the views herein expressed, I respectfully recommend that the matter be laid before Congress for its action; and in order that this may be done, I have caused to be prepared, and inclose herewith, an estimate of appropriation necessary to accomplish the object desired.

Very respectfully, your obedient servant,

N. G. TAYLOR,
Commissioner of Indian Affairs.
Hon. O. H. BROWNING, Secretary of the Interior.

WASHINGTON, D. C., February 3, 1868.

SIR: I have the honor to inclose herewith copy of a letter from J. W. Dunn, United States Indian agent for the Creeks, and beg leave to call your attention particularly to that portion relating to the disaffected and refugee Creeks now living in the Cherokee nation and on Red river. Humanity demands for these unfortunate and misguided people that steps be taken at once to restore them to their old homes, and I would respectfully and urgently request that an appropriation of \$10,000 be asked for and placed in my hands, the whole, or so much thereof as may be strictly necessary, with judicious management, for the purpose, to be expended in furnishing these refugees with transportation to their old homes in the Creek country, and in providing them with subsistence until such time as they may be able to raise corn and vegetables for their own support.

Very respectfully, your obedient servant,

JAMES WORTHAM,
Superintendent Indian Affairs, Southern
Superintendency.
Hon. N. G. TAYLOR, Commissioner of Indian Affairs.

CREEK AGENCY, INDIAN TERRITORY,
January 1, 1868.

SIR: In making report of the condition of affairs within this agency for the month of December just past, I have to submit the following:

The new constitution and laws adopted by the Creeks in October last are now in full and successful operation. The election of one principal and one second chief provided for, resulted in the election of Samuel Shecote and Micco Hutke to these several positions by a majority as reported of over thirteen hundred! They are now duly installed and recognized as executives.

A meeting of the council is called for this day to determine for what purposes the amount turned over by yourself in the past month shall be used. It is understood that this will be made a fund for the payment of all public debts incurred since the treaty of peace of Fort Smith in 1865.

This sum, amounting to \$53,786 05, will be adequate to settle all claims, but the intention is to pay all now that can be paid, and reserve those unsettled for the future.

The weather during the past month has been mild and pleasant until toward its close, when the northers prevailed, and the snow fell in large quantities throughout the country. Their rivers are exceedingly low, and all transportation of goods, usually by water, has been made across the country from the railroads in Missouri or in Kansas.

The disaffected Creeks now located in the Cherokee country remain unswerving. Owing to the withdrawal of authority, and to the want of funds, I am unable now to act favorably to their removal. They should be removed this winter without fail, in order that they may be settled in their old homes before spring, to enable them to plant crops for their own support during the coming year. A tyrannical system, which should be suppressed, seems to prevail there that prevents any one leaving the clan without being exposed to assassination.

By all means funds should be placed at my disposal to enable me to act promptly and effectively. A number of southern Creek refugees are reported still on Red river, destitute and unable to return to their homes. As soon as I am fully informed of their numbers, &c., I will make report thereof for your information. And in the event of an appropriation being asked from Congress for return of northern disaffected Creeks, I would suggest that the expenses of these southern refugees be also authorized. I conceive that the sum of \$8,000, with proper economy, will be sufficient to effect the removal of all.

I am, sir, very respectfully,

J. W. DUNN,
United States Indian Agent for Creeks.
JAMES WORTHAM, esq.,
Superintendent Indian Affairs, Washington City.

OFFICE SUPERINTENDENT INDIAN AFFAIRS,
FORT SMITH, ARKANSAS, April 9, 1867.

SIR: I have the honor to transmit to your office a communication from Major J. W. Dunn, United States Indian agent for the Creek Indians, bearing date the 1st April, 1867, received at this office, relative to a small band of the Creeks, who refuse to acknowledge the late treaty made between the United States and the Creek nation.

This small band has given considerable trouble to the agent. I have sent from this office a number of written communications to the chief of this small band, pointing out to him the folly of opposing the late treaty, and that it was the supreme law of the

land and would be enforced by the United States, and requesting that he and his band would return to their country and become recipients of the provisions of the treaty and the bounty of the United States.

So far as I can learn, my communications had but little influence upon the chief, and he and such of his band as he can control still refuse to return to their homes, and refuse to acknowledge the binding force of the treaty.

I instructed the agent to use whatever of influence he could to have those people return to their homes and live in peace with their brethren, and I am satisfied the agent has fully discharged his duty in this respect.

I respectfully submit the communication for such consideration as you may deem it requires.

Very respectfully, your obedient servant,

W. BYERS,
Superintendent Indian Affairs.
Hon. N. G. TAYLOR,
Commissioner of Indian Affairs, Washington, D. C.

CREEK AGENCY, CHEROKEE NATION.

April 1, 1867.

SIR: In compliance with your approval and suggestion, I undertook during the last quarter to effect the removal of the destitute and disaffected Creeks located within the Cherokee country, for reasons that seemed imperative, admitting of no delay. That this subject may be brought clearly to your mind and properly understood through you to the Department, a brief review of the condition of affairs leading to my action in this matter may be necessary.

The Creeks in question are principally Tuckabatches, who were led from the Indian country to a refuge in Kansas by the lamented orator, Opothle-yahola. On the death of the orator, the direction of affairs was left to Spo-ko-ke-gee-ya-hola, who has ever since been led by an idea that the mantle of Opothle-yahola had fallen on his shoulders, and that to him properly the direction of the affairs of the Creek nation belonged. With the exception of his adherents, composed at that time of probably five hundred persons, there were none others of the Creeks who could discern his right or ability to lead the nation in its councils.

An election gave expression to this opinion. But Spo-ko-ke-gee, if he could not be chief of the Creeks, would be chief of his own people, and he accordingly separated himself with his adherents from the majority of the Creeks; and since that time referred to the Spo-ko-ke-gees have endeavored to retain an independence which has amounted to sulksiness, leading them to abstain from all share in the national councils, and to refrain from all that savored of Creek rule or authority. So far did they carry this sulky disposition that when the Creeks, together with these people, (whom for want of a more suitable name we may style Spo-ko-ke-gees), were removed from Kansas to the Indian country the Spo-ko-ke-gees would not condescend to camp upon the same side of the stream with the others. Indeed, it was this feeling that led them to stop short of the Creek country and take up their abode within the Cherokee nation, where, they probably argued, they would at least be free from Creek authority, although entitled to no rights with the Cherokees either in lands or money.

On my return from Washington last summer I noted this condition of affairs, and at once made efforts to bring about a reconciliation; but my way was clogged by fresh difficulties. The Creek delegation with whom I had been engaged in Washington in negotiations with the United States Government, had made a treaty which was made public on their arrival in the nation, and ratified at a general council, to which the Spo-ko-ke-gees were called in common with all the other Creeks. True to their disposition they remained aloof, but took care to learn of the proceedings of the council.

All Indians are opposed to the sale of their lands, for whatever purposes; so that Spo-ko-ke-gee heard that the Creeks had sold one half of their whole domain to the United States, although neither he nor his people would set foot on Creek soil, he felt that he had a newer and stronger hold on them through this action of the Creeks. And he again rallied his people, who were almost faltering in their determination, and resolved that neither he nor they should ever share in the benefits of the treaty or acknowledge it in any way.

The general council of the Creeks repeatedly sent delegates to the Spo-ko-ke-gees to confer with them, and endeavor to lead them back to their own country, and I have also made many unsuccessful efforts to the same end. I had considered that I would at least be able to procure their enrollment, in order that they might share in the *per capita* payment of \$200,000 then due the Creeks; but Spo-ko-ke-gee maintained a stubborn silence; and absolutely refused to permit the taking of the census. Such was the condition of affairs at the close of the last year, 1866.

Early in January, 1867, I was informed by Major Humphreys, United States agent for Cherokees, that his people were greatly dissatisfied with the Creeks remaining among them, and that they insisted on their removal, as they refused to come under Cherokee laws, which they were constantly violating. A general council of the Cherokees has given vent to a protest to this effect, and he, Major Humphreys, was expecting them to call upon the military to effect the removal of these people.

In view of these facts, it seemed to me eminently proper to endeavor to persuade them to remove to their former homes. I was confident that Spo-ko-ke-gee was the directing spirit of the disaffection, that his control was keeping the people from their country; that there were many among them who, from their destitution, would gladly avail themselves

of the *per capita* money could they be enrolled; and that no enrollment would be possible while Spo-ko-ke-gee retained his sway over them; that the only way to sever this control was to bring the people among the less prejudiced of their own nation, and I considered that the time was opportune for this consummation; their destitution argued well for a release therefrom that might be secured by a share in the national money about to be divided; the approach of spring suggested the planting of crops and preparation therefor; the dissatisfaction of the Cherokees indicated that their remaining longer was doubtful, and at least due to the generosity of the people among whom they were thrown; and nearest argument, the coming down of the military might suggest their being driven across the river without transportation and at the cost of all their corn, on which they alone relied for subsistence. And above all I considered that these circumstances made it my duty as their agent to use all endeavors to break up the disaffection and to secure protection to their property. To do this, I considered their removal absolutely necessary. It was impolitic at that time for me to wait authority from Washington, or even from the superintendent. The affair demanded immediate action, on account of the approach of the planting season, the threatened action of the military, and the possibility of an early payment, which once made, would no longer serve as an inducement. I accordingly invited the Spo-ko-ke-gees to meet me in council the 8th day of January, 1867. On that day I met them according to appointment, and made known the true condition of affairs; and as it was impossible for them to arrange for their own removal, I offered to furnish transportation for all those who were unable to assist themselves. My offer was very sulkily received. The people were afraid to speak, and referred everything to the chiefs, from whom I could learn nothing; they preserved a silence more dignified than satisfactory.

During the following week the chief of a little clan called Weah-golp has called on me at the agency, and made known his desire of removing his clan from the Spo-ko-ke-gees to the Creek country. I at once made preparations for their removal, together with all their corn and provisions and cooking utensils, considering these absolutely necessary for their comfort and subsistence. To meet the expenses of this removal, amounting to nearly two hundred dollars, I issued certificates payable on the receipt of money from the Government for this object. These were the only removals made up to the time of your arrival at the agency on your way to the Seminole country, when you, in view of the prospective payment to the Creeks, thought proper to suggest another attempt, which seemed necessary and possible of success. The result of this endeavor was more successful, the people being divided in their intentions. For, the military not having been called down upon them, and the fortunes of the Spo-ko-ke-gees trembling from the influence of the payment, Spo-ko-ke-gee determined to remove further into the Cherokee country with his retainers, and thus preserve his rule. But some could not go, and of these few, some were induced to return to their own country. The expense of this removal, as well as can now be ascertained, will not exceed \$400, if it reach that amount, and I have given certificates similar to those issued in the previous removal.

I am confident that if the Government will place sufficient funds in my hands I will be able to break up this clique and restore the same friendly feeling among these people as is constant with all other Creeks, and prevent any disturbance occurring by reason of a misunderstanding between the Cherokees and the Creeks. I do not think that the number of the disaffected can now exceed two hundred, and I very respectfully suggest that authority be granted me to arrange for their removal to their old homes, and that money may be furnished for the same purpose. I would also request that I may be allowed \$600 to make good the expenses already incurred, the same to be accounted for by proper vouchers.

Very respectfully, your obedient servant,

J. W. DUNN,
United States Indian Agent.
Colonel W. BYERS, Superintendent Indian Affairs,
Fort Smith, Arkansas.

Estimate of appropriation required to defray the expenses of removing certain disaffected and refugee Creek Indians to their old homes in the Creek country.

For this amount, or so much thereof as may be necessary, to defray the expenses of removing certain disaffected Creek Indians now living in the Cherokee country, and also certain refugees of the same tribe now on the Red river, to their old homes in the Creek country, and to supply them with the necessities of life until such time as they shall be able to raise crops for their own support, \$10,000.

Mr. HENDERSON. The Senate can see from those letters the reasons for the amendment.

Mr. HARLAN. I am very clear in my own mind that this appropriation ought not to be made. The Indians, of course, have their political difficulties, just as white people have. It seems from the reading of those papers that one of their leading men has become dissatisfied because he was in a minority, and has sloughed off and taken off a part of the people with him amounting to two or three hundred. These little difficulties are occurring constantly.

Mr. HENDERSON. The Senator will observe that the portion sloughed off under this chief only consists of about two hundred, and are now in the Cherokee country; but there are a large number of others down on the Red river who went off in consequence of the rebellion. Some of them were driven out from among the Creeks and have never returned. They are on the Red river. That is altogether a different band.

Mr. HARLAN. This is occurring constantly. There are Creeks going into the Cherokee country, and Cherokees going into the Creek country, and Seminoles into one or the other, and Choctaws going into the three first named. They are constantly commingling with each other, and if we undertake to compel them to live within the limits of their respective reservations when they choose to go across the lines and live for the time being with their neighbors, we shall undertake a work which can never be accomplished successfully, and will be perfectly fruitless. If this disaffected chief should go back they would drive him away, in all probability. He would go back with the idea that he was to become the principal chief, and would be constantly fomenting difficulties when he arrived at home. I think the proposition will be fruitful of evil rather than good, unless they voluntarily go back. As I understand it, they would be entitled if they go back to their proportion of annuities. The Creeks are not now poor. Since the sale of a part of their large reservation to the United States, they have a very considerable sum of money due them, on which they are receiving interest annually. They are not, therefore, poor Indians. If these people choose to go back to their homes they will have the means of going back. The Indians can travel. That portion of the Indians referred to, the Creek Indians, know how to use their natural means of locomotion. There is no difficulty in their traveling even a few hundred miles without any assistance from anybody but themselves. I do not think this appropriation ought to be made. I think it would be fruitful only of evil if it were made. It would be entering on a system of control of the local affairs of the tribe which would be unending.

Mr. HENDERSON. The Senator will observe that I entertained some of the views he now expresses in preparing the amendment. I did not include in the amendment any expenses whatever for removing that particular band that is now in the Cherokee country that went off of their own accord, but provided for removing back the refugees on the Red river. He will see that I say nothing about the Indians under the charge of this particular chief who went off voluntarily into the Cherokee country. I am disposed to defer very much to the honorable Senator's opinions in reference to these matters. Indeed I should hate very much to run counter to them, for I am satisfied that he is very well acquainted with the whole subject-matter. But my impressions upon an examination of the documents led me to suggest the amendment that is now submitted, confining it entirely to the Red river Indians.

I understand that these refugees dislike very much to return except under the authority of the Government. They are a long distance from home. They went off during the civil war, in which Creeks participated as well as the people of our own country, some taking one side and some the other; and they feel hardly authorized to return home. Those who voluntarily went off can return, but the others do not feel that they would be safe on their return back without some sanction of the Government. There is no doubt they were disloyal Indians. I understand they are committing depredations on the whites in the section of the country where they are. In fact, we have various accounts of depredations committed down on the Red river within the last few months, and it is supposed these Indians are connected with those depredations. They have not been receiving any part of the appropriations belonging to the Creeks, as I am

informed, since these political troubles, and it is highly essential that they should be brought back. The agents and the superintendent do not seem to be desirous of attempting to return them without some *quasi* authority of Congress.

There is another trouble, I understand. The white people are quite hostile to them because they have depredated upon them, and unless they have the authority or sanction of law for their return, they will probably be attacked upon their return home, as they have to pass through white settlements in order to get back. This has been suggested as one reason why a small appropriation should be made. They will have to be subsisted. If not, upon their return they will commit depredations which will cost the Government perhaps in the end much more than this small appropriation.

I suggest to the Senator that if in his judgment it be wrong as it stands, to move to amend it in some shape, either to take it out of the Creek funds or else make a smaller appropriation and attempt to get them back in some way. I am very clearly of the opinion, from an examination of the subject, that something ought to be done to remove them back.

Mr. HARLAN. I would agree to the amendment if amended as the Senator suggests, to strike out that part which refers to the Creeks in the Cherokee country, and let it apply only to those on Red river, and then reduce the appropriation to what amount he may deem necessary. The additional facts which the Senator has stated perhaps ought to control. If they are committing depredations on the white people in the Red river country, that is a reason for bringing them back to their old homes. I therefore move to amend the amendment by striking out all those words that refer to the Creeks in the Cherokee country.

Mr. HENDERSON. Strike out the words "certain disaffected Creek Indians now living in the Cherokee country, and also certain refugees of the same tribe," and insert "certain refugee Creek Indians." That is satisfactory?

Mr. HARLAN. Yes, sir.

Mr. HENDERSON. Then it will read: "To defray the expenses of certain refugee Creek Indians now on the Red river to their old homes in the Creek country, and to supply them with the necessities of life until such time as they shall be able to raise crops for their own support." I do not know that that last clause is necessary, because they will be entitled to a part of the annuities upon their return. However, that will not be objectionable. Do you propose to reduce the amount?

Mr. HARLAN. I think it would be well to strike out \$8,000 and insert a smaller sum.

Mr. HENDERSON. Four thousand dollars?

Mr. HARLAN. Four thousand dollars will, perhaps, be sufficient.

Mr. HENDERSON. I accept that.

The PRESIDING OFFICER. The amendment will be reported as modified.

The Chief Clerk read it, as follows:

To defray the expenses of removing certain refugee Creek Indians now on the Red river, to their old homes in the Creek country, and to supply them with the necessities of life until such a time as they shall be able to raise crops for their own support, \$4,000.

Mr. HOWE. I think this is decidedly improved by the amendment suggested by the Senator from Iowa, but I am still opposed to the adoption of the amendment. I shall not argue it. I think the way to send those Indians back is to tell them to go. They are just as capable of going as we are of moving them, and they will go as quick as we tell them.

The amendment, as modified, was agreed to.

The PRESIDENT *pro tempore*. The question now is on the second clause of the amendment, which will be read.

The Chief Clerk read it, as follows:

For expenses of taking a census, and investigating the claims of loyal Creeks, refugees, and freedmen, as per article four treaty of June 14, 1866, \$6,500.

The amendment was agreed to.

The next amendment was in line five hundred and eighty-two, in the appropriations for the D'Wamish and other allied tribes in Washington Territory, to strike out "\$1,500" and to insert "\$3,000," so that the clause will read:

For ninth of twenty installments for the establishment and support of an agricultural and industrial school, and to provide said school with a suitable instructor or instructors, per fourteenth article treaty 22d of January, 1855, \$3,000.

The amendment was agreed to.

The next amendment was in line five hundred and eighty-seven, to strike out "three" and insert "five;" so that the clause will read:

For ninth of twenty installments for the establishment and support of a smith and carpenter's shop, and to furnish them with the necessary tools, per fourteenth article treaty 22d January, 1855, \$500.

The amendment was agreed to.

The next amendment was in line five hundred and ninety-two, to strike out "three" and insert "four;" so that the clause will read:

For ninth of twenty installments for the employment of a blacksmith, carpenter, farmer, and physician, who shall furnish medicines for the sick, per fourteenth article treaty 22d January, 1855, \$4,600.

The amendment was agreed to.

The next amendment was in line six hundred and seven, in the appropriations for the Flatheads and other confederated tribes, to strike out "\$1,200" and insert "\$1,800;" so that the clause will read:

For ninth of twenty installments for providing suitable instructors therefor, per fifth article treaty 16th July, 1855, \$1,800.

The amendment was agreed to.

The next amendment was in line six hundred and twelve, to strike out "two" and insert "five;" so that the clause will read:

For ninth of twenty installments for keeping in repair blacksmiths', tin and gunsmiths', carpenters', and wagon and plow-makers' shops, and providing necessary tools therefor, per fifth article treaty 16th July, 1855, \$500.

The amendment was agreed to.

The next amendment was in line six hundred and seventeen, to strike out "\$5,000" and insert "\$7,400;" so that the clause will read:

For ninth of twenty installments for the employment of two farmers, two millers, one blacksmith, one tinner, one gunsmith, one carpenter, and one wagon and plow-maker, per fifth article treaty 16th July, 1855, \$7,400.

The amendment was agreed to.

The next amendment was in line six hundred and twenty-eight, to strike out "twelve" and insert "fourteen;" so as to make the pay of a physician \$1,400.

The amendment was agreed to.

The next amendment was in line six hundred and ninety-nine, in the appropriations for Makah tribe, to strike out "one" and insert "two;" so that the clause will read:

For ninth of twenty installments for the support of an agricultural and industrial school, and for pay of teachers, per eleventh article treaty 31st January, 1855, \$2,500.

The amendment was rejected.

The next amendment was in line seven hundred and three, to strike out "three" and insert "five;" so that the clause will read:

For ninth of twenty installments for support of a smith and carpenter's shop, and to provide the necessary tools therefor, per eleventh article treaty 31st January, 1855, \$500.

The PRESIDING OFFICER put the question, and declared the amendment appeared to be rejected.

Mr. HENDERSON. I cannot submit to that.

The PRESIDING OFFICER. The Chair will put the question again, if the Senator desires it.

Mr. HENDERSON. I call attention to the fact that this is under a treaty stipulation:

For ninth of twenty installments for the support of a smith and carpenter's shop, and to provide the necessary tools therefor, per eleventh article treaty 31st January, 1855.

Mr. WILLIAMS. For what tribe, and where?

Mr. HENDERSON. The Makah tribe, in

Washington Territory. It is to furnish two shops with all the necessary tools and implements to carry them on. It is an utter impossibility to do that on \$300.

The PRESIDING OFFICER. The Chair will put the question again.

The amendment was agreed to.

Mr. HARLAN. I did not understand how the previous amendment was decided.

The PRESIDING OFFICER. It was rejected.

Mr. HARLAN. Does the Senator from Missouri consent to that?

Mr. HENDERSON. I made no opposition. The Senator from Wisconsin [Mr. Howe] voted against it.

Mr. CORBETT. I voted for it.

Mr. HENDERSON. I think it ought to remain as proposed to be amended. I call for a division on that question.

The PRESIDENT *pro tempore*. Does the Senator from Missouri desire to have the question stated again?

Mr. CORBETT. Yes, sir.

Mr. HARLAN. I will ask to have it taken again. I observe that it is for the support of an industrial school, and it occurs to me that \$1,500 is not sufficient to support an industrial school.

Mr. HENDERSON. Of course not.

The PRESIDENT *pro tempore*. The question will be stated again.

Mr. HOWE. Let me say a word. The Senator well knows, as I have informed the Senate, that I disagree to the raising of all these appropriations. I believe them to be as unnecessary as fifth wheels to coaches, and I believe them as useless. I have voted steadily against them right along for a page or two, and nobody voted for them; but they have been pronounced carried, which I took as conclusive evidence that I amounted to nothing, being the only vote against them and nobody voting for them. [Laughter.] This one amendment was put, and for some reason or other, the Presiding Officer, the present President not being then in the chair, reversed his ruling. I voted against that, and nobody voted for it, and for a wonder that was declared lost. The Senator from Missouri heard it. He did not call for any division. He acquiesced in the ruling of the Chair at the time.

The Senator from Iowa says that the appropriation in the bill is not sufficient to support an industrial school. During vacation—I cannot leave just at present, at least I cannot leave until this bill is disposed of—but as soon as I am released, I will go up there and keep an industrial school for the amount of money appropriated here. If you want to appropriate more money, vote it. I object to voting it now because it has been disposed of once. There is no motion to reconsider.

Mr. HARLAN. I will move to reconsider the vote on that amendment if the Senator desires us to be perfectly formal in this matter.

Mr. HOWE. I want to be very formal about this.

Mr. HENDERSON. I can tell the Senator that they have the school in operation there. There are three hundred and twenty males and three hundred and sixty females in the tribe, and there are thirteen males and six females in the school.

Mr. HOWE. Is that in the industrial school?

Mr. HENDERSON. Yes, sir.

Mr. CORBETT. These children have to be supported. We have taken them from their parents, and they are supported and boarded in the school.

Mr. HARLAN. And clothed also.

Mr. CORBETT. And clothed. I should like to know how you can support an industrial school in that country on \$1,500 in greenbacks, at seventy cents on the dollar.

Mr. FRELINGHUYSEN. How much is the appropriation?

Mr. HENDERSON. I propose to make it \$2,500 instead of \$1,500. I cannot see how they can get along with \$1,500. There are twenty scholars in the school.

Mr. CORBETT. I desire to state, also, that I voted for the amendment, but the Chair did not appear to hear my vote.

The PRESIDENT *pro tempore*. The question is on reconsidering the vote on the amendment in line six hundred and ninety-nine, striking out \$1,500 and inserting \$2,500.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment.

The amendment was agreed to.

The next amendment was in line seven hundred and seven, to strike out "three" and insert "four," so that the clause will read:

For ninth of twenty installments for the employment of a blacksmith, carpenter, farmer, and physician who shall furnish medicines for the sick, per eleventh article treaty 31st January, 1855, \$4,600.

The amendment was agreed to.

The next amendment was in line seven hundred and twenty-three, in the appropriations for the Miamies of Kansas, to strike out "eight" and insert "nine," so that the clause will read:

For permanent provision for blacksmith and assistant, and iron and steel for shop, per fifth article treaty 6th October, 1818, and fourth article treaty June 5, 1854, \$940.

The PRESIDENT *pro tempore*. This amendment will be made unless objected to.

Mr. HOWE. I object to it.

The PRESIDENT *pro tempore*. Then the question is on the amendment.

The amendment was agreed to.

The next amendment was in line seven hundred and fifty-eight, in the appropriations for the Mole Indians, to strike out "\$1,000" and to insert "\$1,500;" so that the clause will read:

For ninth of ten installments for keeping in repair saw and flouring mills, and for the pay of necessary employes, the benefits of which to be shared alike by all the confederated bands, per second article treaty 21st December, 1855, \$1,500.

The amendment was agreed to.

The next amendment was in line seven hundred and sixty-four to strike out "one" and insert "two;" so that the clause will read:

For ninth of ten installments for the pay of a carpenter and joiner to aid in erecting buildings and making furniture for said Indians, and to furnish tools in said service, per second article treaty 21st December, 1855, \$2,000.

The amendment was agreed to.

The next amendment was in line seven hundred and sixty-eight, to strike out "\$1,200" and insert "\$3,000;" so that the clause will read:

For pay of teachers to manual labor school, for all necessary materials therefor, and for the subsistence of the pupils, per second article treaty 21st December, 1855, \$3,000.

The amendment was agreed to.

The next amendment was in line seven hundred and seventy-eight, in the appropriations for the Nisqually, Puyallup, and other tribes and bands of Indians, to strike out "\$4,000" and insert "\$6,700;" so that the clause will read:

For fourteenth of twenty installments for pay of instructor, smith, physician who shall furnish medicine to the sick, carpenter, and farmer, per tenth article treaty 26th December, 1854, \$6,700.

The amendment was agreed to.

The next amendment was in line seven hundred and eighty-four to strike out "eight" and insert "fifteen;" so that the clause will read:

For fourteenth of twenty installments for the support of an agricultural and industrial school, and support of smith and carpenter shop, and providing the necessary tools therefor, in conformity with tenth article of the treaty of December 26, 1854, \$1,500.

The amendment was agreed to.

The next amendment was in line eight hundred, in the appropriations for the Nez Perce Indians, to strike out "two" and insert "three;" so that the clause will read:

For ninth of twenty installments for the employment of one superintendent of teaching and two teachers, per fifth article treaty 11th June, 1855, \$3,200.

The amendment was agreed to.

The next amendment was in line eight hundred and ten, to strike out "\$3,000" and insert "\$9,400;" so that the clause will read:

For ninth of twenty installments for the employ-

ment of one superintendent of farming, and two farmers, two millers, two blacksmiths, one tinner, one gunsmith, one carpenter, and one wagon and plow-maker, per fifth article treaty, 11th June, 1855, \$9,400.

The amendment was agreed to.

The next amendment was in line eight hundred and twenty-two, after the word "thousand" to insert "four hundred;" so as to make the pay of a physician for the tribe, \$1,400.

The amendment was agreed to.

The next amendment was in line eight hundred and twenty-six, to strike out "two" and insert "three;" so as to appropriate \$300 for keeping in repair the buildings of employes and providing the necessary furniture therefor.

The amendment was agreed to.

The next amendment was in line eight hundred and fifty-one, to strike out "three" and insert "five;" so as to appropriate \$500 to keep the blacksmiths' shops in repair and stocked with the necessary tools and materials.

The amendment was agreed to.

The next amendment was to insert, after line nine hundred and twelve, the following:

Ottawas:

To replace a sum taken from annuities of Ottawas, &c., \$1,250 30.

The amendment was agreed to.

The next amendment was in line nine hundred and fifty-three, in the appropriations for the Poncas, to strike out "two" and insert "five;" so that the clause will read:

For last of ten installments for the establishment and maintenance of one or more manual-labor schools, under the direction of the President, per second article treaty 12th March, 1858, \$5,000.

The amendment was agreed to.

The next amendment was in line nine hundred and sixty-two, to strike out "\$3,000" and insert "\$7,500;" so that the clause will read:

For last of ten installments, or during the pleasure of the President, to be expended in furnishing said Indians with such aid and assistance in agricultural and mechanical pursuits, including the working of the mill provided for in the first part of this article, as the Secretary of the Interior may consider advantageous and necessary for them, per second article treaty 12th March, 1858, \$7,500.

The amendment was agreed to.

The next amendment was in line one thousand and one, in the appropriations for the Pottowatomies, to strike out "two" and insert "five;" so that the clause will read:

For education, during the pleasure of Congress, per third article treaty of October 16, 1828, second article treaty September 20, 1828, and fourth article treaty October 27, 1832, \$5,000.

The amendment was agreed to.

The next amendment was to insert after line one thousand and twenty-one the following:

For this amount, to be charged to the Pottowatomie fund, to enable the President of the United States to carry out the provisions of the third article treaty of November 15, 1861, with the Pottowatomie Indians, as modified by the treaty of March 29, 1866, by paying to those six hundred members of the tribe who have elected to become citizens in accordance with said article, the proportion of the cash value of the Pottowatomie annuities to which they are entitled, \$317,655 96, or so much thereof as may be necessary to comply with the provisions of said treaties; of which amount \$110,091 74 is hereby appropriated, in coin, as contemplated in treaties of November 15, 1861, and March 29, 1866; and the Secretary of the Interior is hereby authorized to sell so much of the stock held by him in trust for said Indians as will realize the sum of \$59,779 81, or so much as may be necessary under said treaties, it being the share of the above-mentioned six hundred persons in the bonds belonging to said Indians.

The amendment was agreed to.

The next amendment was in line ten hundred and thirty-six, in the appropriations for the Quapaws, after the word "dollars" to insert the following proviso:

Provided, That this sum of \$600, together with any unexpended balance heretofore appropriated for the employment of a farmer, may be used in the purchase of such articles of food and clothing as may be thought necessary in the discretion of the Secretary of the Interior.

The amendment was agreed to.

The next amendment was in line ten hundred and forty-six, in the appropriations for the Qui-nai-elt and Quil-leh-ute Indians, to strike out "one" and insert "two;" so that the clause will read:

For ninth of twenty installments for the support

of an agricultural and industrial school, and for pay of suitable instructors, per tenth article treaty July 1, 1865, \$2,500.

The amendment was agreed to.

The next amendment was in line ten hundred and fifty, to strike out "two" and insert "five;" so that the clause will read:

For ninth of twenty installments for support of smith and carpenter shop, and to provide the necessary tools therefor, per tenth article treaty July 1, 1865, \$500.

The amendment was agreed to.

The next amendment was in lines ten hundred and fifty-four and ten hundred and fifty-five, to strike out "\$3,000" and insert "\$4,500;" so that the clause will read:

For ninth of twenty installments for the employment of a blacksmith, carpenter, and farmer, and a physician, who shall furnish medicines for the sick, per tenth article treaty July 1, 1865, \$4,500.

The amendment was agreed to.

The next amendment was to insert after line ten hundred and ninety-six, in the appropriations for the Seminoles, the following:

To supply a deficiency in appropriation for subsisting Seminole Indians, \$31,083 79.

To supply a deficiency in appropriation to pay expenses of commissioners to investigate the losses of loyal Seminole Indians, \$2,316 79.

The amendment was agreed to.

The next amendment was to insert after line eleven hundred and three, in the appropriation for the Senecas:

For blacksmith, assistant, shop and tools, \$1,060.
For miller, \$600.

The amendment was agreed to.

The next amendment was to insert after line eleven hundred and ninety, in the appropriations for the Lower Brulé band of Dakota Sioux:

For the building of a saw-mill, storehouse, and for the pay of engineer and employes, \$8,240.

The amendment was agreed to.

The next amendment was to insert after line twelve hundred and forty-one, in the appropriations for the Two Kettles band of Dakota Sioux:

For the building of a saw-mill, storehouse, and for the pay of engineers and employes, \$8,240.

The amendment was agreed to.

The next amendment was after the word "dollars," in line twelve hundred and seventy, to insert:

Provided, That in delivering the annuities herein named to the Blackfeet, the Lower Brulé, the Minneconjoux, Ojapapas, Ogallallas, Sans Ares, Two Kettles, Upper Yantonnais, and Yantonnais Sioux, if any persons of the said bands shall be permanently absent, the Secretary may withhold such part of said appropriation as may be the proportionate share of said absent persons. And if such absent persons shall be found to be hostile, or provided for under other treaty stipulations with the Government, the Secretary may use the proportion of the appropriation due to such part of said bands for the benefit of other of said bands by the purchase of stock, provisions, clothing, and agricultural implements.

The amendment was agreed to.

The next amendment was to insert after line twelve hundred and seventy-four:

For furnishing the Sisseton and Wapeton Sioux, at Devil's lake, Dakota Territory, with agricultural and mechanical implements, and provide for their education, as contemplated by the sixth and seventh articles of treaty February 19, 1867, \$25,000.

For furnishing the Sisseton and Wapeton Indians, at Lake Traverse, Dakota Territory, under same treaty for the above-named purposes, \$50,000, and to pay for provisions and agricultural implements furnished said Indians during the winter of 1867 and 1868, \$7,457 25.

For deficiencies in the appropriation made for the Sioux and other Indians, of Dakota, namely: for the nine bands of Sioux, \$91 40; for the Arikarees, Gros Ventres, and Mandans, \$3,923 68; for the Poncas, \$11,900 26; and for the Crows, \$3,044 09.

The amendment was agreed to.

The next amendment was in line twelve hundred and eighty-eight, in the appropriations for the S'Klallams, to strike out "one" and insert "two;" so that the clause will read:

For ninth of twenty installments for the support of an agricultural and industrial school, and for pay for suitable teachers, per eleventh article treaty 26th October, 1865, \$2,500.

The amendment was agreed to.

The next amendment was in line twelve hun-

dred and ninety-four to strike out "\$3,000" and insert "\$4,600;" so that the clause will read:

For ninth of twenty installments for the employment of a blacksmith, carpenter, farmer, and a physician, who shall furnish medicines for the sick, per eleventh article treaty 26th October, 1865, \$4,600.

The amendment was agreed to.

The next amendment was in line thirteen hundred and sixteen, in the appropriations for the Tabeguache band of Utah Indians, to strike out "\$3,000" and insert "\$4,600;" so that the clause will read:

For insurance, transportation, and general incidental expenses of the delivery of goods, provisions, and stock, as per same article of same treaty, \$4,600.

The amendment was agreed to.

The next amendment was in line thirteen hundred and thirty-two, in the appropriations for the Umpquas and Calapooias of Umpqua Valley, Oregon, to strike out "\$1,500" and insert "\$2,000" for the pay of a physician and purchase of medicines.

The amendment was agreed to.

The next amendment was in line thirteen hundred and thirty-six, to strike out "\$1,000" and insert "\$1,450," for the pay of a teacher and purchase of books and stationery.

The amendment was agreed to.

The next amendment was to insert after line thirteen hundred and thirty-six, the following:

For Indians upon the Siletz reservation, Oregon, to provide agricultural implements, seeds, cattle, &c., to compensate them for losses sustained by reason of executive proclamation taking from them that portion of their reservation called Yaquina bay, \$6,000.

Mr. HOWE. I should like to have an explanation of that amendment.

Mr. CORBETT. I will state that these Indians were placed upon this reservation under a treaty and promised that they should be protected upon these lands and upon this bay, which is about thirty miles long, containing oysters and fish; a very desirable location for the Indians. They had made improvements upon it, built houses, and established themselves there permanently, in accordance with the treaty stipulations; but the Senate never ratified the treaty. It was made in 1855. Under that treaty, the Government was to pay them quite a sum of money. It has been customary to make an annual appropriation for the support of these Indians. They were established there, and had built houses, and this is to compensate them for their losses. This bay was opened by executive proclamation, opening a country nearly twenty-five miles square.

The Indians have become very much dissatisfied. I was upon the reservation, and they came together and had a long talk about it, and were very much dissatisfied. They said they did not want any more humbug about it. They wanted to know whether they were going to get it or not. I think that this is too small a sum of money; I think the appropriation ought to be at least \$10,000. A bill for this purpose passed the Senate once, appropriating \$10,000, and it was sent to the other House, where it has not been acted upon. I have reduced it to \$6,000, to compensate these Indians for their loss, to establish them upon new homes, to give them agricultural implements, a few cattle, &c., in place of these oyster beds that they occupied, where they were taking oysters and selling them to a vessel that was running there. It has opened up a large extent of country which the whites have settled, for which the Government receives pay from the settlers. This proposition has the recommendation of the superintendent. He has recommended it in a number of previous reports. I will read from his report in 1865:

"A special report which I made to Hon. J. P. Usher, Secretary of the Interior, under date of December 12, 1864, in reply to inquiries concerning Yaquina bay, was published in the annual report of the Commissioner of Indian Affairs for 1865, (page 105.) To that I respectfully refer you for a full description of the coast reservation.

In that report I urged the importance of providing for a removal of the Indians located upon and about the bay before the land was thrown open to settlement. My suggestions in this respect were

totally disregarded; and a district about twenty-five miles north and south, by twenty miles east and west, beginning two miles south of the Siletz agency, and including the whole of the Yaquina bay, was thrown open to settlement by an executive order."

He recommended that they be compensated, and it is proper to satisfy these Indians. It is a very small amount of money.

Mr. HENDERSON. I desire to state that this question was brought up on a separate bill by the Senator from Oregon, which was discussed fully in the Senate, and passed. That bill made a larger appropriation. I believe it was \$10,000. I have here cut down the appropriation from \$10,000 to \$6,000. There was a very thorough discussion of that bill in the Senate by the Senator from Oregon and others.

Mr. HOWE. I had no expectation of defeating the appropriation; I only wished to call attention to what seems to me to be a brand-new feature in our management of the Indians. If I understand the Senator from Oregon, here was a reservation, stretching out I do not know how far on the Pacific coast, set apart for the occupation of these Indians. In the process of opening up the immense mineral and other deposits on that coast a deposit of oysters was discovered here, and it seemed to be the gospel prevailing in that region that Indians were not entitled to oysters, and without waiting for any new treaty stipulations with the Indians by executive proclamation this portion of the reservation, which included the bay and the oyster-beds, was thrown open to settlement, and white settlers walked in and have purchased the lands of the Government, which the Government had before ceded to the Indians, have broken up the oyster trade which these cultivated Indians were prosecuting, and here is a proposition to appropriate \$6,000, which may compensate them. I do not know what the value of that tract taken out of their reservation was; I do not know what the value of these oyster-beds was; but my judgment is that if this appropriation of \$6,000 satisfies the Indians it does not satisfy justice, and will not until you appropriate a few halts to those who perpetrated this wrong on the Indians. I do not believe in that way of dealing with Indians.

Mr. CORBETT. The agent thought an appropriation of about ten thousand dollars would satisfy the Indians.

Mr. HOWE. But you have cut it down to \$6,000.

Mr. HARLAN. I happen to be personally conversant with this transaction and officially privy to it; and I do not think I deserve a halter either. A treaty had been made with these Indians settling them on this reservation around this bay many years ago, and it remained in the possession of the Senate for a series of years, never was ratified, never was acted on; just, as I may say, treaties are now lying on the desk of the Senate unacted on. It was represented to the Government by those at that time representing Oregon here that there were not very many of these Indians; that the district of country assigned to them in the treaty unratified was more than was necessary for their occupancy; that it might with great propriety be diminished; that the Indians on the residue would have access to the bay and to the oyster fisheries, and other fisheries, perhaps equally easy as they would have if they held possession of the whole. It was represented that the country immediately in the rear of the bay was settling up by white people; that a very large district of agricultural country there was being settled up, and that they had no access to the bay; that in order to get to water communication, that is, communication with the coast, they would have to travel a good way round; I do not now remember the distance. The case being thus presented to the President, he ordered, as he had a perfect right to do under the law, that a part of this land should be regarded as public land and thrown open to settlement. There was no wrong intended on the Indians. The Government may have been

to some extent misled. Those at that time representing Oregon here, in whom we confided, in whom all the Senators confided, represented that it was a proper thing to be done; that it would not result in any damage to the Indians, and was absolutely necessary for the promotion of the welfare of the settlement immediately behind this reservation, in order that the people might have access to the navigable waters of the coast. It turns out now that some of these Indians are dissatisfied, and for the purpose of satisfying them it is proposed to give them remuneration for some little property which they had in that part of the so-called reservation on which they at the time resided. It may have been a blunder; but if so, it was committed without any intention to wrong the Indians.

Mr. HOWE. I am bound to take notice of the introduction of two new facts that were not within my knowledge when I before spoke upon this question. One is that this treaty was not ratified. I did not understand that part of the statement before. I supposed this was set apart to them by a contract executed between them on the one side and the Government on the other.

Mr. CORBETT. They removed and gave up other lands, and the Government has been keeping them there by annual appropriations.

Mr. HOWE. The other fact is that the Senator from Iowa had anything to do with this provision. Of course I do not conceive that the Government owes him a halter or anything of the kind by any manner of means; but I am not any better satisfied with this way of dealing with the Indians than I was before I knew that the treaty was not ratified, or than I was before I knew that the Senator from Iowa had a hand in it. If this treaty was not ratified that was a wrong. The Indians were placed on this reservation, and they abandoned to the Government whatever they occupied before that time. I suppose that is not disputed. They gave up whatever we bargained for, and this reservation was the equivalent for that which they had surrendered. Now, without consulting the taste of the Indians or their wishes at all, the Executive withdraws from their occupation a portion of that reservation, throws it open to settlement; and now, without consulting the Indians, it is proposed to pay them off by an appropriation in this bill.

The Senator from Oregon a short time ago told us the extent to which these Indians were civilized, what schools they had there, what farms they had there, how industry is developed, how education is promoted among them, how they figure on the blackboard, how they repeat history, how they even state prophecy. I believe political prophecy, if no other. Sir, it is not the right way to treat Indian tribes to send ministers and schoolmasters to them with one hand and to take their reservations away from them with the other.

Mr. HARLAN. I inquire whether the Senator thinks the sum is too small? If he does I am willing to see it raised.

Mr. HOWE. I think it is too small or too large or I do not care which it is. The point is that you have no right to mention a sum at all until you know what will satisfy them. You ought to have obtained it by purchase from them. How can I tell whether it is too large or too small? The Senator from Oregon says that they asked \$10,000, and he thinks he is doing a handsome thing by cutting them down to \$6,000.

Mr. CORBETT. I asked \$10,000. I thought that was nothing more than reasonable; but as there appears to be so much opposition to Indian bills I thought the Senator might object or some other Senator might to an appropriation of \$10,000, and so I cut it down to \$6,000. I find it very difficult even to get the \$6,000 here.

Mr. HOWE. I think the Indians will find more difficulty than the Senator does in getting it. [Laughter.] That is my impression about it.

Mr. MORRILL, of Maine. I should like to ask the Senator from Oregon what became of these Indians?

Mr. CORBETT. They have gone back to the interior of the reservation with no money to build them houses and no money to buy medicine for their sick, with no money to buy agricultural implements with; and they are getting along, subsisting as best they can. They are at work raising potatoes, digging with the hoe. It is a very good soil there. If they can have a few cattle and a few agricultural implements to start with, it will satisfy them and they can get a living in the interior of the reservation by farming.

Mr. MORRILL, of Maine. Do I understand the Senator to say that citizens of Oregon went in and took their possessions, their houses and lands, and occupied them?

Mr. CORBETT. After the Government opened the land by executive proclamation a tract of land twenty-five miles wide was thrown open, the Indians were removed, and people went in and took possession of that country which the Indians had occupied as a fishing ground.

Mr. MORRILL, of Maine. Who took possession?

Mr. CORBETT. The whites did.

Mr. MORRILL, of Maine. By force?

Mr. CORBETT. The treaty had never been ratified and the Indians were removed.

Mr. MORRILL, of Maine. Do I understand the Senator to say the citizens of Oregon drove these Indians by force of arms out of their possessions?

Mr. CORBETT. Yes, sir; and of California.

Mr. MORRILL, of Maine. And the Senator comes now and asks that the Government of the United States shall indemnify the Indians for the losses created by taking from them their possession, by force of arms, by the people of Oregon and of California. That is rather a strong proposition.

Mr. CONNESS. I object to this stigma being put on my State. These oysters were evidently stolen by Oregonians, and I want it to stand in that way.

Mr. CORBETT. You will find them in San Francisco, in Front street, at Philips's.

The amendment was agreed to.

The next amendment was in line thirteen hundred and forty-seven, to increase from \$2,000 to \$3,000 the appropriation for ninth of twenty installments for the purchase of mill fixtures, tools, medicines, &c., for the Walla Walla, Cayuse, and Umatilla tribes.

The amendment was agreed to.

The next amendment was in line thirteen hundred and fifty-three, to increase from \$8,000 to \$11,200 the appropriation for ninth of twenty installments for pay and subsistence of one superintendent of farming operations, one farmer, two millers, &c., for the Walla Walla, Cayuse, and Umatilla tribes.

The amendment was agreed to.

The next amendment was in line thirteen hundred and eighty-six, to increase from \$300 to \$500 the appropriation for ninth of twenty installments for support of schools, books, stationery, &c., for the Yakamas.

The amendment was agreed to.

The next amendment was in line thirteen hundred and ninety, to increase from \$1,500 to \$3,200 the appropriation for ninth of twenty installments for the employment of one superintendent of teaching and two teachers for the Yakamas.

The amendment was agreed to.

The next amendment was in line thirteen hundred and ninety-six, to increase from \$8,000 to \$11,400 the appropriation for ninth of twenty installments for the employment of one superintendent of farming operations, two farmers, two millers, &c., for the Yakamas.

The amendment was agreed to.

The next amendment was in line fourteen hundred and six, to strike out "\$300" and insert "\$500."

The amendment was agreed to.

The next amendment was in line fourteen

hundred and nine, to strike out "\$300" and insert "\$500."

The amendment was agreed to.

The next amendment was in line fourteen hundred and thirty-six, to strike out "thirty-five" and insert "seventy;" so as to make the clause read:

For the general incidental expenses of the Indian service in the Territory of Arizona, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, \$70,000.

The amendment was agreed to.

The next amendment was in line fourteen hundred and forty-one, to increase from \$5,000 to \$7,500 the appropriation for general incidental expenses of the Indian service in California.

The amendment was agreed to.

The next amendment was in lines fourteen hundred and forty-eight and fourteen hundred and forty-nine, to increase from \$20,000 to \$25,000 the appropriation for the general incidental expenses of the Indian service in Colorado Territory.

The amendment was agreed to.

The next amendment was in line fourteen hundred and sixty-four, to increase from \$15,000 to \$20,000 the appropriation for the general incidental expenses of the Indian service in Idaho Territory.

The amendment was agreed to.

The next amendment was to insert after line fourteen hundred and sixty-four:

For amount found due to the United States, on the settlement of accounts of Caleb Lyon, late Governor, &c., of Idaho, claimed by him to have been stolen, \$46,418 40.

Mr. CONNESS. Let us hear something about that.

Mr. CORBETT. I know something about it. This amount of money is due to the Nez Perce Indians, and it has been withheld from them two or three years, in consequence of the shortcomings of one of the superintendents appointed for Idaho. Governor Lyon took the money, and returning here after his removal, he attempted to bring it back; and he is said to have lost it on the way. He claims that it was stolen from him. These Indians are now here, and have come here to know the reason why their treaty stipulations have not been lived up to. It is in consequence of this money having been stolen. There are many improvements, schools, and other things, that were promised to them which they have not obtained, and the young men of the tribe are becoming very much dissatisfied. The head chief, Sawyer, has always been loyal to the white people, and has fought for the whites in that country during the Indian wars, and furnished horses and men to fight the Snakes and other Indian tribes. When Governor Stevens went through that country, and it was supposed he would be cut off, Lawyer sent a messenger with horses to bring him through.

These Indians make it a matter of pride that they never have shed the blood of a white man, although many of their Indians have been killed, some ten or a dozen. They have always been very friendly, and the people there have the strongest feeling of friendship for the tribe. It is one of the most capable tribes on the Pacific coast. Lawyer is a man of considerable intelligence. He talks English. Certainly this money should be paid to the Indians.

Mr. CONNESS. I should like to have the Senator state to the Senate some of the facts and circumstances connected with the original loss of this money. It is an easy thing to take out of the Treasury any amount of money for the second time I suppose, but I should like to hear what the committee know, what they have ascertained in regard to the loss, where the money was lost, how it was lost, and what were the circumstances.

Mr. HENDERSON. We appointed Caleb Lyon Governor of the Territory of Idaho, and of course he was *ex-officio* superintendent of Indian Affairs. We put into his hands this

money; he got the money in the Territory; it was placed in his hands for a specific purpose; but he returned from the Territory without having made the expenditure and he claims to have lost the money between New York city and this town.

Mr. CONNESS. Then he brought the money back with him.

Mr. HENDERSON. Certainly. Surely he did not make the expenditure of the money in the Territory. He did not expend the money for the purpose enjoined on him at the time the money was placed in his hands. This is a proposition to reappropriate this amount of money for the benefit of the Indians.

Mr. CONNESS. Have no steps been taken to investigate the matter?

Mr. HENDERSON. I understand that the Department have taken steps, but whether they will get the money out of the securities or not is another question. The case before the Senate is this: money was placed by the Government in the hands of this man; it is an admitted fact that our agent, whom we appointed ourselves, and in whose hands we placed the money, has lost the money, and the Indians have not got the benefit of it. It is true, as the Senator from Oregon says, that the Indians are complaining, and bitterly complaining, of this alleged theft on the part of our agent. I do not know whether he took the money or not, or whether it was actually stolen from him; but the question is whether we shall reappropriate the money for the benefit of the Indians. If the Senate think we ought not to do it, of course they will vote down the proposition. We appropriated the money, and put in the hands of Governor Lyon, but it was never applied to the purpose for which we intended it. He claims that it was stolen from him; others claim that he stole the money himself. How that is I do not know. This is a proposition to reappropriate the money and place it in the hands of another agent. A part of the money belonged to the Nez Perce. Eighteen thousand six hundred and thirty-one dollars belonged to the Nez Perce, and some to the Flatheads and Yakamas, and other tribes of Idaho. It is a simple proposition to reappropriate the money for the benefit of the Indians.

Mr. HOWE. I wish to call the attention of the Senator from Missouri to the form in which this amendment is proposed. It does not appropriate any money to any tribe of Indians, but it appropriates for an amount found due to the United States, \$46,000. I understand that Mr. Caleb Lyon did lose some money placed in his hands for trust purposes. I never understood for what purpose. It is part of the history of this transaction that he had a claim pending before the Committee on Claims for this amount, and the committee reported against allowing the claim. The Senator from California [Mr. Cole] is more familiar with it than I am. He wanted us to appropriate or to give him credit for this same amount of money. As I understand the Senator from Missouri this money was due to several different tribes. If so, it seems to me it should be appropriated to those several tribes, but this amendment is appropriating money because money is due to us, not due to other folks. It is appropriating \$46,000 because Caleb Lyon owes the United States \$46,000. The language is:

For amount due to the United States on the settlement of accounts of Caleb Lyon, &c.

Mr. HENDERSON. By looking at the estimates the Senator will see that I have adopted the language there used. The Senator's comments are perfectly correct, and I will remedy the difficulty. I copied the language of the Department. I move to amend the amendment by adding "to be appropriated to the Indians to whom the funds in the hands of said Lyon belonged at the time of the loss."

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. HENDERSON. It will be impossible

to close this bill before the dinner hour; in fact, I suppose it will take us two or three hours longer. I therefore now submit a motion that at five o'clock to-day the Senate take a recess until half past seven o'clock.

The motion was agreed to.

The reading of the amendments of the Committee on Indian Affairs was resumed.

The next amendment was in line fourteen hundred and seventy-one, to increase from \$15,000 to \$20,000 the appropriation for the general incidental expenses of the Indian service in Montana Territory.

The amendment was agreed to.

The next amendment was to insert after line fourteen hundred and seventy-one:

For the purchase of a grist and saw mill, to be erected for the use of Flathead agency, &c., \$10,000.

Mr. HARLAN. I think the phraseology of that amendment ought to be changed so as to read "for the use of the Indians of the Flathead agency," and the words "and so forth" should be stricken out. I move so to amend it.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment was in line fourteen hundred and seventy-eight, to increase the appropriation for the general incidental expenses of the Indian service in Nevada from \$20,000 to \$25,000.

The amendment was agreed to.

The next amendment was in line fourteen hundred and eighty-five, to increase the appropriation for general incidental expenses of the Indian service in New Mexico from \$30,000 to \$50,000.

The amendment was agreed to.

The next amendment was in line fourteen hundred and ninety-two, to increase the appropriation for general incidental expenses of the Indian service in Oregon and Washington Territory from \$25,000 to \$35,500.

The amendment was agreed to.

The next amendment was in line fourteen hundred and ninety-nine, to increase from \$15,000 to \$25,000 the appropriation for general incidental expenses of the Indian service in Utah.

The amendment was agreed to.

The next amendment was in line fifteen hundred and three, to strike out "ten" and insert "twenty;" so as to make the clause read:

For the transportation and necessary expenses of delivery of provisions to the Indians within the Utah superintendency, \$20,000.

The amendment was agreed to.

The next amendment was in line fifteen hundred and seventeen, to strike out "\$11,000" and insert "\$22,825;" so as to make the clause read:

Miscellaneous:

For the expenses of colonizing, supporting, and furnishing agricultural implements and stock, pay of necessary employes, purchasing clothing, medicine, iron, and steel, maintenance of schools for Indians lately residing in Texas, but now residing on the Choctaw land, to be expended under direction of the Secretary of the Interior, \$22,825.

The amendment was agreed to.

The next amendment was in line fifteen hundred and twenty-four, to strike out "\$15,000" and insert "\$37,800;" so as to make the clause read:

For the Wichitas and other affiliated bands:

For the expenses of colonizing, supporting, and furnishing said bands with agricultural implements and stock, pay of necessary employes, purchase of clothing, medicines, iron and steel, and maintenance of schools, to be expended under the direction of the Secretary of the Interior, \$37,800.

The amendment was agreed to.

The next amendment was in line fifteen hundred and thirty, to insert after "carpenter" the words "and one teacher;" to strike out in lines fifteen hundred and thirty-one and fifteen hundred and thirty-two, after "California," the words "at the rate of fifty dollars per month;" to strike out in lines fifteen hundred and thirty-two and fifteen hundred and thirty-three, after the word "and," the words "for the pay of

one school teacher upon each" and insert "one herdsman, one miller, and one clerk upon each of the Round Valley and Hoopa Valley;" and in lines fifteen hundred and thirty-three and fifteen hundred and thirty-four, to strike out after the word "reservations" the words "at the rate of seventy-five dollars per month, \$15,600," and insert "\$25,920;" so as to make the clause read:

For pay of one physician, one blacksmith, one assistant blacksmith, one farmer, one carpenter, and one teacher upon each of the four reservations of California, and one herdsman, one miller, and one clerk upon each of the Round Valley and Hoopa Valley reservations, \$25,920.

The amendment was agreed to.

The next amendment was to insert after line fifteen hundred and thirty-four:

For the purchase of a grist and saw mill, Round Valley reservation, California, \$5,000.

For the purchase of the Tule river Indian farm, \$12,800.

For expense of removal and subsistence of Indians, not parties to any treaty, in Oregon and Washington Territories, and for pay of necessary employes, \$50,000.

For this amount, or so much thereof as may be necessary to pay the indebtedness incurred for the Indian service in California, in the years 1860, 1861, 1862, 1863, 1864, 1865, 1866, and 1867, \$50,000.

For surveying Indian reserves under treaty stipulations, \$60,546.

Mr. HENDERSON. Let the items for a deficiency in the Indian service in California in 1860, 1861, 1862, 1863, 1864, 1865, 1866, and 1867, be stricken out. We do not intend to have it in this bill. It is clearly a deficiency.

The PRESIDENT *pro tempore*. The amendment will be so modified.

The amendment, as modified, was agreed to.

The next amendment was to strike out lines fifteen hundred and forty, fifteen hundred and forty-one, fifteen hundred and forty-two, and fifteen hundred and forty-three, in these words:

For subsistence for the Navajo Indians, and for the purchase of sheep, seeds, agricultural implements, and other articles necessary for breaking ground on the reservation upon the Pecos river, \$100,000.

And in lieu thereof to insert:

For amount of deficiencies expended in subsisting the Navajos at the Bosque Redondo, from the 21st of February, 1863, up to the time of making their late treaty, agreeing to remove to their old homes, \$120,000.

For cost of removal of the Navajos from the Bosque Redondo to their old home, and for sheep, cattle, and corn, as provided for in article twelve of the new treaty, \$150,000, or so much thereof as may be needed.

For annuity goods, not exceeding five dollars per head, as provided in article eight of the new treaty, \$38,500.

For seeds, farming implements, work, cattle, and other stock, provided for in article seven of said treaty, \$200,000.

For constructing warehouse, as per article three, \$2,500.

For constructing agency building, \$3,000.

For constructing blacksmith and carpenter shop, \$2,000.

For constructing school-house, \$5,000.

Mr. HENDERSON. I will state for the information of the Senate that this large appropriation is proposed in consequence of letters of General Sherman and the peace commissioners who have recently made a treaty with these Indians. They have removed them back from the Bosque Redondo to their old homes. It is unnecessary to have the correspondence read. I have put down the items to the lowest possible figure. The treaty has been made, and they have been returned back. General Sherman says he feels satisfied that this is the last appropriation of any consequence that will be required except the regular annuities. It ought to be remembered that the War Department for the last four or five years has been paying for these Indians from three quarters of a million to a million dollars annually.

Mr. HOWE. The treaty has not been ratified, I believe.

Mr. HENDERSON. No, sir; it is now pending; but the military have removed the Indians.

Mr. CONNESS. I should like to know how these deficiencies occur. The deficiency is said there to be \$120,000. Who is furnishing the supplies? How has the business been carried on? Who are the parties furnishing

them, and in what manner have supplies been furnished to such an extent that \$120,000 are now due? If the Indians have been supplied by rations from the Army, then I should like to know how these deficiencies could occur?

Mr. HENDERSON. There is a document explaining the whole matter, but I can do it in a few words. The Senate will remember that last year we appropriated but \$100,000. I stated at the time the appropriation was made that it would be utterly impossible to subsist the Navajoes on any such amount. The Senator from Ohio, who was then managing the bill, agreed that in case that appropriation should run out, and the Navajoes should be in distress, should need food, the military might be authorized to subsist them from that time on after the expenditure of the \$100,000. Of course the \$100,000 were very soon expended. The military authorities then did for a very considerable time furnish them rations from the forts in the vicinity. It will be remembered, however, that at the July session last year there was an amendment put on a deficiency bill requiring that the Navajoes should be turned over again from the military authorities to the civil authorities. When they were turned over the civil authorities found themselves without a dollar to feed them, and they employed an individual to furnish the articles upon credit; and this individual went on and furnished them at very reasonable rates.

Mr. CONNESS. I saw a statement in the newspapers, I do not know whether it was true or not, that there was a contract made with Mr. Perry Fuller to furnish a certain amount, and that he sub-contracted it to another person, making forty cents on each ration. I do not know what the facts are, but these things ought to be inquired into. If any contract was made with the Department which would admit such a margin to the contractor there is something rotten about it.

Mr. HENDERSON. I will send up a letter from the Commissioner of Indian Affairs on the subject.

The Chief Clerk read the following letter:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., July 6, 1888.

Sir: Referring to office report of the 21st of February last, inviting attention to former reports, relative to feeding the Navajo Indian captives on the Bosque Redondo reservation, New Mexico, advising the Department that the funds appropriated by Congress were exhausted and setting forth the necessity of an appropriation being made to continue supplying them with food, I desire to say that the contractor, Elijah Simerly, esq., continued furnishing stores under his contract until the 22d day of May last, from which time until the Indians were taken charge of by the Indian peace commission the necessary subsistence was furnished by James Patterson, esq., of New Mexico, under a contract made with him by Agent Dodd.

There is due Mr. Simerly a balance on account, for the stores furnished by him during the month of March last, the sum of \$17,346 06, and for those furnished during the month of April and up to the 22d of May about the sum of seventy-two thousand eight hundred dollars, making in all about the sum of ninety thousand one hundred and forty-six dollars and six cents now due and owing to him. The accounts for April and May have not been presented for payment, consequently it is impossible to state the exact amount for those months; but taking the cost of the stores furnished in March as a basis and the cost of those furnished the two following months will amount to over the sum above stated \$72,800.

There will also be due Mr. Patterson on his contract from May 22 up to the time the removal of said Indians commenced, which was probably near the end of last month, not far from \$30,000. This will make the total deficiency in the appropriation for subsisting the Navajoes, amount to as near as can be calculated, about one hundred and twenty thousand dollars.

The last-mentioned sum should be appropriated and placed at the disposal of your Department at the earliest day practicable, in order that the parties to whom it is owing may be paid their just dues. I therefore respectfully request that the matter be laid before Congress for proper action by that body.

Very respectfully, your obedient servant,

N. G. TAYLOR, Commissioner.

Hon. O. H. BROWNING, Secretary of the Interior.

Mr. CONNESS. I rise to inquire of the honorable chairman whether he has knowledge of how these contracts were made? It is said that a large contract was made with Agent Dodd. Were these contracts made after advertisement and given to the lowest bidder? How were they made?

Mr. HENDERSON. The Senator from California has propounded a question that I cannot answer. I do not know how the contract was made. I do not know whether it was after advertisement or not. I understand, however, that the contract was at nineteen cents per day. I understand from the acting commissioner that these Indians were fed at nineteen cents a day, and that Mr. Fuller had nothing to do with the contract.

Mr. CONNESS. I did not state that he had; and if he had he would have a right to make the contract, of course.

Mr. HENDERSON. Of course, if it were a fair contract, he would be as much entitled to it as anybody else; but the gentlemen who made the contract at nineteen cents a day were Mr. Patterson and Mr. Simerly, and they furnished the rations, and unwillingly furnished them. They had a previous contract, I understand, and took that contract upon advertisement, and refused to furnish any more at the same price; but at the request of Mr. Dodd, who is one of our best agents, a man of undoubted integrity, as I understand, they were induced to go on and furnish at the same price after the appropriation had ceased.

Mr. HOWE. Our appropriation for subsisting these same Indians for the last year was \$100,000, and the estimate for subsisting them for the next year is precisely the same, \$100,000, and yet it is said there is a deficiency in last year's appropriation of \$120,000.

Mr. HENDERSON. Yes; but this year's appropriation was made upon the distinct understanding that the Navajoes were to be removed. It was understood that they were not to be kept at the Bosque Redondo. Indeed, the peace commission expected to make a treaty with them for their removal last fall, but were unable to reach New Mexico before the meeting of Congress.

Mr. HOWE. But the estimate is made for subsisting them "on the Pecos river," precisely where they were last year.

Mr. HENDERSON. Does the Senator say that the estimate is only \$100,000?

Mr. HOWE. So I read the estimates.

Mr. HENDERSON. That is a mistake. They never have been subsisted for any such sum. It is a notorious fact that we have never spent less than from three quarters of a million to a million on them since they have been there. The Department asked for \$600,000 when we appropriated \$100,000.

Mr. HOWE. What is the estimate on the book?

Mr. HENDERSON. I am not able to turn to it just now. Upon the other point in regard to the treaty, I will say that I have in my hands a letter from General Sherman, but I deem it unnecessary to have it read. It is a lengthy letter, addressed to me, in which he gives the reasons why the commission concluded to remove the Indians to their old country. He says that the treaty has been made in the expectation that the \$150,000 should be appropriated. "So Tappan and I acted with full confidence, presuming on the passage of the bill for \$150,000 for their removal, and therefore we will proceed for their removal and put it in immediate execution. The distance is about three hundred miles northwest." The treaty has been printed and is now before the Senate.

Mr. HOWE. I should like to have the estimate.

Mr. HENDERSON. I do not see the estimate, but I am confident it could not have been so little as \$100,000 for subsisting the Navajoes.

The amendment was agreed to.

The next amendment was in line fifteen hundred and fifty-two, after the word "Indians" to insert "known as the Santee Sioux," and in line fifteen hundred and fifty-three, after the word "homes," to insert "near the mouth of the Niobrara;" so that the clause will read:

For subsistence, clothing, and general incidental expenses of the Sisseton, Wahpeton, Medawakanton, and Waupakoota bands of Sioux or Dakota Indians,

known as the Santee Sioux, at their new homes near the mouth of the Niobrara, \$50,000.

The amendment was agreed to.

The next amendment was to insert after line fifteen hundred and fifty-three, the following:

For presents of clothing and tobacco for the Indians at Aleutian Islands, Alaska Territory, \$3,000.

The amendment was agreed to.

The next amendment was to insert after line fifteen hundred and fifty-nine the following:

To pay the expenses of a commissioner to be appointed to fix the cost of property and improvements on farms confiscated and sold by Cherokee nation, under laws of said nation made during the late rebellion, \$2,760.

The amendment was agreed to.

The next amendment was to insert after line fifteen hundred and sixty-seven the following:

For expenses of removing and subsisting destitute Cherokees, now in the State of Texas and Choctaw and Chickasaw country, to their homes in the Cherokee country, \$20,000.

To pay expenses of two commissioners appointed to appraise Cherokee neutral lands, or so much thereof as may be necessary, \$4,550, to be refunded from sales of said lands.

Mr. HARLAN. The first part of that amendment I should like to hear explained:

For expenses of removing and subsisting destitute Cherokees, now in the State of Texas, and Choctaw and Chickasaw country, to their homes in the Cherokee country, \$20,000.

These are all rich people. They have vast sums of money due them in the Treasury of the United States; and I do not understand why the Government should appropriate money to pay their traveling expenses.

Mr. HENDERSON. I have a report from the Secretary of the Interior, "relative to removing certain destitute Indians scattered through the Indian country to their homes; with estimates of appropriations needed therefor." I will send the document up to the Clerk, and he can read it, for I really know nothing about it.

Mr. SUMNER. With the permission of the Senator, before he does that, I desire to move an executive session. There is occasion for one for a few minutes before the recess.

Mr. HENDERSON. I have no objection, it is so near the time for taking the recess.

HOUSE BILL REFERRED.

The bill (H. R. No. 424) amendatory of an act entitled "An act for the relief of certain drafted men" was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

EXECUTIVE SESSION.

On motion of Mr. SUMNER, the Senate proceeded to the consideration of executive business. The doors were reopened at five o'clock, and the Senate took a recess until half past seven p. m.

EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

MANUFACTURERS' BANK OF NEW YORK.

Mr. CATTELL. I ask the Senate to take up the Senate bill No. 621. It is a bill that will create no discussion, and can be passed in a few minutes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 621) authorizing the Manufacturers' National Bank of New York to change its location. It proposes to authorize the Manufacturers' National Bank of New York, now located in the city of New York, to change its location to the city of Brooklyn. Whenever the stockholders representing three fourths of the capital of the bank, at a meeting called for that purpose, determine to make such change, the president and cashier are to execute a certificate under the corporate seal of the bank, specifying such determination, and cause the same to be recorded in the office of the Comptroller of the Currency, and thereupon such change of location is to be effected and the operations of

discount and deposit of the bank are to be carried on in the city of Brooklyn. Nothing in this act is to be construed as in any manner to release the bank from any liability, or affect any action or proceeding in law in which the bank may be a party or interested. And when such change shall have been determined upon notice thereof and of such change is to be published in at least two daily newspapers in each of the counties of New York and Kings, in the State of New York, for not less than ten days.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PETER M. CARMICHAEL.

Mr. MORGAN. The Committee on Commerce, to whom was referred the joint resolution (H. R. No. 340) for the relief of Peter M. Carmichael, surveyor of the port of Albany, have had it under consideration, and directed me to report it back without amendment and with a recommendation that it pass. It is a resolution of only eight lines, and is merely a formal matter, and I therefore ask to have it considered at this time.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It authorizes the proper accounting officers of the Treasury Department, in auditing and adjusting the accounts of Peter M. Carmichael, surveyor of the port of Albany, to admit and allow the charge of \$1,008, the same having been paid by him to John Hastings, deputy surveyor and inspector of the port.

Mr. MORGAN. Mr. Hastings was deputy surveyor, but did not think it necessary to take the oath of office for that position, he having been deputy collector. It is merely a formal matter. It is recommended by Mr. Sargent. They cannot pay the money, as he did not take the oath, because he was deputy collector.

Mr. COLE. The bill ought to pass.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

POLITICAL DISABILITIES.

Mr. STEWART. I ask the Senate to proceed to the consideration of Senate bill No. 301, authorizing the purchase of certain public lands in Alabama.

Mr. HENDRICKS. Before that is taken up I wish to make a motion to reconsider the bill which the Senator from Nevada called up the other evening before Senators generally got in, restoring certain persons in the southern States to their political rights.

The PRESIDENT *pro tempore*. That bill has been signed and enrolled, I am told.

Mr. STEWART. And was sent to the President to-day.

Mr. HENDRICKS. Then I move that it be recalled. I wish to state the reason. I understand that it restores all the rebels who participated in the war who are members of the Georgia Legislature, and who support what is called the Radical policy, and refuses to restore those persons elected to that same Legislature who hold other views. I have no objection to restoring these people on equal, fair terms. It is right. These persons are elected by the people and are restored. Then restore all that are elected by the people. They are all elected under the reconstruction law. It is but fair to let all the members of that Legislature be restored. I received a letter on the subject yesterday, but could not get the floor to make the motion to reconsider at that time, and therefore, if it be practicable, I wish to make it now.

The PRESIDENT *pro tempore*. The Chief Clerk, who is much better acquainted with the rules than I profess to be, says it is not in order to do that. However, the motion may be entered, and if we can find that it is in order, it can be entertained. I do not profess to know how that is.

Mr. HENDRICKS. Let the motion be entered, and if necessary the bill be recalled.

Until it becomes a law, I suppose, within two days after its passage it is always within the control of either House. This thing of restoring by special legislation ought to be fair, it ought to be equal.

Mr. CONNESS. The Senator will allow me to say that the cure for this case is for the Senator to introduce a bill restoring the parties he proposes and give us an opportunity to vote for it.

Mr. HENDRICKS. That is no remedy at all.

Mr. CONNESS. That is the true remedy. The passage of that bill does not prevent the restoration of others.

Mr. HENDRICKS. Let the motion be entered.

The PRESIDENT *pro tempore*. The motion can be entered, but it is doubtful whether it can be entertained.

PUBLIC LANDS IN ALABAMA.

Mr. STEWART. I now renew my motion to take up the bill I have named. It is a bill of only two lines. Let it be read.

Mr. WILLEY. Before it is read, I desire to know if it is a House bill?

Mr. STEWART. No; it is a Senate bill.

Mr. WILLEY. I think on an occasion like this, and under the circumstances, we ought to confine ourselves to House bills.

Mr. STEWART. Let it be read. There will be no objection to it.

Mr. WILLEY. There are a great many House bills that require merely formal action to perfect them.

Mr. STEWART. If the Senator will hear the bill read, that is all I ask of him.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Nevada.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 301) authorizing the purchase of certain public lands in Alabama. The preamble recites that by the act of Congress approved June 21, 1866, the disposal of lands in Alabama is now restricted to actual settlers under the homestead laws; and it is shown that such hilly, mountainous, vacant public lands are unfit for homestead purposes in the counties of Jackson, Jefferson, Shelby, and Bibb, in the State aforesaid. The bill, therefore, provides that from and after its passage, such lands in those counties shall be subject to sale as other public lands.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

POSTAL LAWS.

Mr. RAMSEY. I hold in my hand a public bill, House bill No. 1205, which I have been requested by the Committee on Post Offices and Post Roads to urge upon the early attention of the Senate. They have reported several amendments to it. It is a bill without the passage of which Congress could not very safely adjourn, and I presume they would not. It is essential to the proper administration of the Post Office Department of the Government.

Mr. EDMUNDS. Let us hear the title of it.

Mr. RAMSEY. "A bill (H. R. No. 1205) to further amend the postal laws." It is a House bill to which the Committee on Post Offices and Post Roads have reported a number of amendments. We cannot well adjourn without it; indeed, we will not. It can be passed in a short time.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1205) to further amend the postal laws. It provides that when any writer of a letter, on which the postage is prepaid, shall indorse in writing or in print upon the outside thereof his name and address, the same, after remaining uncalled for at the post office to which it is directed thirty days, or the time the writer may direct, shall be returned to the writer without additional post-

age, whether a specific request for such return be indorsed on the letter or not. No money order is to be issued for less than one dollar nor more than fifty dollars; and all persons who receive money orders are to be required to pay therefor the following charges or fees: for one dollar or any sum not exceeding twenty dollars, a fee of ten cents is to be charged and exacted by the postmaster giving the order; for all orders exceeding twenty dollars and not exceeding thirty dollars, the charge is to be fifteen cents; for all orders exceeding thirty dollars and not exceeding forty dollars, the fee is to be twenty cents; for all orders exceeding forty dollars and not exceeding fifty dollars, the fee is to be twenty-five cents.

Section thirty-five of the act of March 3, 1863, is to be so construed as to permit weekly newspapers, when sent to regular subscribers, to be delivered free of postage, when deposited at the office nearest to the office of publication; but nothing in this act is to be so construed as to require carriers to distribute the papers unless postage is paid upon them.

Mr. RAMSEY. Unless I am called upon for an explanation, I shall say nothing. The bill is very plain, and any gentleman can understand it on its reading.

The PRESIDENT *pro tempore*. The amendments reported by the Committee on Post Offices and Post Roads will be read.

The first amendment was in section two, line one, after the word "that," to strike out the words "no money order shall be issued for less than one dollar nor more than fifty dollars, and;" so that it will read:

That all persons who receive money orders shall be required to pay therefor the following charges or fees, &c.

The amendment was agreed to.

The next amendment was to insert at the end of the second section the following:

And furthermore, that the compensation of deputy postmasters for the payment of money orders is hereby increased from one eighth to one fourth of one per cent. on the gross amount of orders paid at their respective offices, and that nothing contained in any act shall be so construed as to deprive postmasters at money-order offices of the compensation for transacting the money-order business fixed by the act of May 17, 1864, and modified as stated in this section: *Provided always*, That the amount of such annual compensation, together with the postmaster's salary, shall not, in any case, exceed the salary established by law for postmasters of the first class.

The amendment was agreed to.

The next amendment was to strike out all of the third section after the enacting clause, in the following words:

That section thirty-five of the act of March 3, 1863, shall be so construed as to permit weekly newspapers, when sent to regular subscribers, to be delivered free of postage when deposited at the office nearest to the office of publication; but nothing in this act shall be so construed as to require carriers to distribute said papers, unless postage is paid upon them.

And to insert in lieu thereof:

That section thirty-five of the act of March 3, 1863, shall be so construed as to permit weekly newspapers, properly folded and addressed, when sent to regular subscribers, in the county where printed and published, to be delivered free of postage when deposited at the office nearest to the office of publication; but nothing in this act shall be so construed as to require carriers to distribute said papers unless postage is paid upon them at the rate of five cents per quarter, and such postage must be prepaid for a term not less than one quarter or more than one year, either at the office of mailing or of delivery, at the option of the subscriber.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 4. And be it further enacted, That in case of the loss of a money order, a duplicate thereof shall be issued by the superintendent of the money-order office without charge, on the application of the remitter or payee of the original: *Provided*, That the applicant furnish a certificate from the postmaster on whom the same was drawn that it had not been and would not thereafter be paid, and a similar certificate from the postmaster by whom it was issued that it had not been and would not be repaid to the purchaser; and a second fee shall not be charged for a duplicate money-order issued to replace an order that has been rendered invalid because of non-presentation for payment within one year after its date, or because of illegal indorsements.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 5. *And be it further enacted*, That if any person shall falsely forge or counterfeit, or willingly aid, assist, or abet in falsely forging or counterfeiting, or shall procure, directly or indirectly, to be falsely forged or counterfeited any postal money order, or any material signature or indorsement to any postal money order issued by the Post Office Department, or any of its agents, for the purpose and with the intent of obtaining or receiving, directly or indirectly, or of procuring or enabling others to obtain or receive, directly or indirectly, any sum or sums of money, and thereby to defraud either the United States or any person of such sum or sums of money, or any part thereof, or shall pass, utter, or publish, or attempt to pass, utter, or publish as true any such forged or counterfeited postal money order with intent to defraud either the United States or any person of any sum or sums of money, knowing such postal money order, or any signature or indorsement thereon, to be so falsely forged or counterfeited, every such person shall be deemed guilty of felony, and being thereof duly convicted shall be sentenced to be imprisoned and kept at hard labor for a period of not less than two years nor more than five years, and to be fined in a sum not exceeding \$5,000.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 6. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to appoint and employ on board of each of the mail steamers plying on the route between San Francisco, Japan, and China, and between San Francisco and Honolulu, (Hawaiian Islands), a Government agent in charge of the United States mails, at an annual salary of \$2,000 each per annum.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 7. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to establish in connection with the United States mail steamship service to Japan and China, a general postal agency at Shanghai, China, with such branch agencies at other ports in China and Japan as shall, in his judgment, be necessary for the prompt and efficient management of the postal service in those countries; and to pay the postal agents so appointed and employed a reasonable compensation for their services, in addition to the necessary expenses for rent, furniture, clerks, &c., to be allowed at each office for conducting the postal business, a report on which shall be embraced in the annual report of the Postmaster General.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 8. *And be it further enacted*, That for the more efficient management of the increased postal business connected with the foreign mail service, the Postmaster General be, and he is hereby, authorized to appoint in his Department a superintendent of foreign mails, at an annual salary of \$3,000, and also three additional clerks for that branch of the postal service, to wit: One of class four, and two of class three; and that the salary of the superintendent of the money-order system shall be \$3,000 per annum.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 9. *And be it further enacted*, That the Postmaster General be, and he is, authorized to appoint in the office of the Third Assistant Postmaster General, a chief of division for the dead-letter office at a salary of \$2,500 per annum.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 10. *And be it further enacted*, That if any person employed in any department of the Post Office establishment of the United States shall, willfully and knowingly, use or cause to be used in prepayment of postage any postage stamp or stamped envelope issued or which may hereafter be issued by authority of any act of Congress or of the Postmaster General which has already been once used for a like purpose, or shall remove or attempt to remove the canceling or defacing marks from any such postage stamp or stamped envelope with intent to use or cause the use of the same a second time, or to sell or offer to sell the same, or shall remove from letters or other mail matter deposited in or received at a post office the stamps attached to the same in payment of postage, with intent to use the same a second time for a like purpose, or to sell or offer to sell the same, every such offender shall, upon conviction thereof, be deemed guilty of felony, and shall be imprisoned for not less than one year nor more than three years.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 11. *And be it further enacted*, That if any person not employed in any department of the Post Office establishment of the United States shall commit any of the offenses described in the preceding section of this act every such person shall, on conviction thereof,

be deemed guilty of a misdemeanor and be punished by imprisonment for not less than six months nor more than one year, or by a fine of not less than \$100 nor more than \$500 for each offense, or by both such fine and imprisonment.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 12. *And be it further enacted*, That section nine of an act of Congress, approved July 1, 1864, authorizing the sales of postage stamps and stamped envelopes at a discount, be so modified that the quantities of each sold at any one time to the same party shall not exceed \$100 in value; and that such sales shall be restricted to certain designated agents who will agree to sell again without discount under rules to be fixed by the Postmaster General.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 13. *And be it further enacted*, That it shall not be lawful to deposit in a post office, to be sent by mail, any letters or circulars concerning lotteries, so-called gift concerts, or other similar enterprises offering prizes of any kind on any pretext whatever, and that postmasters receiving what they have reason to believe to be such letters or circulars, shall send them to the dead-letter office.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 14. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized and empowered to establish a blank agency for the Post Office Department, to be located in the city of Washington, District of Columbia, and to appoint one superintendent at an annual salary of \$1,800, one assistant superintendent at an annual salary of \$1,600, and three other assistants at an annual salary of \$1,000 each, and two laborers at an annual salary of \$720 each.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 15. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to conclude arrangements with the post departments of foreign countries, with which international postal conventions have been or shall be concluded, for the exchange of small sums of money by means of postal orders, the maximum amount of which shall not exceed that fixed by law for domestic money orders, at such rates of exchange and under such rules and regulations as he may deem expedient; and that the expense incurred in establishing and conducting such system of exchange may be paid out of the proceeds of the money-order business.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 16. *And be it further enacted*, That the proviso in section three of the act approved March 3, 1825, entitled "An act to reduce into one the several acts establishing and regulating the Post Office Department," be, and the same is hereby, repealed: *Provided*, That nothing herein contained shall repeal any of the provisions of the act approved July 11, 1862, entitled "An act in relation to the Post Office Department."

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 17. *And be it further enacted*, That if, on the final settlement of the account of any postmaster, it shall appear that such postmaster is indebted to the United States, and suit shall not be instituted within three years after the close of such account, then, and in that case, the sureties on the bond of such postmaster shall not be liable to the United States.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 18. *And be it further enacted*, That copies of the quarterly returns of postmasters, and of any papers pertaining to the accounts in the office of the Auditor of the Treasury for the Post Office Department, certified by him under his seal of office, shall be admitted as evidence in the court of the United States in criminal prosecutions, in the same manner as the same are now admitted in civil cases, as provided in section fifteen of an act entitled "An act to change the organization of the Post Office Department, and to provide more effectually for the settlement of the accounts thereof," approved July 2, 1836.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 19. *And be it further enacted*, That in all suits for the recovery of balances due from postmasters a copy, duly certified under the seal of the Auditor of the Treasury for the Post Office Department, of the statement of any postmaster, special agent, or other person employed by the Postmaster General or the said Auditor for that purpose, that he has mailed a letter to such delinquent postmaster at the post office where the indebtedness accrued, or at his last and

usual place of abode, and that a sufficient time has elapsed in the ordinary course of mail to have reached its destination, and has not received payment of such balance within the time designated in his instructions, shall be received as sufficient evidence in the courts of the United States or other courts that a demand has been made on such delinquent postmaster: *Provided, nevertheless*, That when the account of a late postmaster has been once adjusted and settled, and a demand made for the balance appearing to be due and afterward allowances shall be made or credits entered on the account, it shall not be necessary to make a further demand for the new balance found to be due.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 20. *And be it further enacted*, That the Postmaster General is hereby authorized to prescribe a uniform dress to be worn by the letter carriers at the several free delivery offices, and that any person not connected with this branch of the service who shall wear the uniform that may be prescribed in accordance herewith shall be deemed guilty of a misdemeanor, and being convicted thereof, shall, for every such offense, be fined not more than \$100, or imprisoned not more than six months, or both, in the discretion of the court before which such conviction shall be had.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

L. MERCHANT AND CO. AND P. ROSECRANTZ.

Mr. WILLEY. I move that the Senate proceed to the consideration of House bill No. 1320 reported to-day from the Committee on Claims.

The motion was agreed to; and the bill (H. R. No. 1320) for the relief of L. Merchant & Co. and Peter Rosecrantz was considered by the Senate as in Committee of the Whole. It directs the Secretary of the Treasury to pay to Leander Merchant, of the firm of L. Merchant & Co., the sum of \$109,412 81, the proceeds of six hundred and eighty-four bales of cotton, the private property of that firm, taken erroneously and without due authority by the agents of the United States civil and military authorities at Mobile, Alabama, in the month of April, 1865, shipped to New York, sold by the United States, and the proceeds paid into the Treasury, the charges and expenses of the United States having been deducted therefrom; and to Peter Rosecrantz the sum of \$39,253 10, the proceeds of two hundred and forty-one bales of cotton, the private property of Rosecrantz, taken, sold, and appropriated at the same time and place, and in the same manner, the charges and expenses of the United States having likewise been deducted therefrom.

Mr. HENDRICKS. I should like to inquire what rule of value has been adopted by the committee, whether the value at Mobile or the value at New York, and at what time, whether at the time the property was taken or at some other period.

Mr. WILLEY. We took the proceeds of the sale actually paid into the Treasury, deducting the expenses for transportation. The cotton was sold by the United States.

Mr. HENDRICKS. I expect that is the right rule.

Mr. WILLEY. There was a very rigid examination of this case in the House of Representatives. I have compared the evidence with the report made there. The report in the House was unanimous; the report in the Senate was unanimous. If any Senator desires the reading of the report I will send it to the desk.

The bill was reported to the Senate without amendment.

Mr. HOWARD. I inquire of the honorable Senator from West Virginia whether this bill has been examined by the Committee on Claims?

Mr. WILLEY. It comes from the Committee on Claims, reported this morning favorably, after a rigid and close examination. It is a House bill, which has been passed by the House, come here, referred to the Committee on Claims, of which the honorable Senator is a member, and examined by them this morning.

Mr. HOWARD. I have not examined this bill at all, although I am a member of the Committee on Claims. I have had no opportunity to do so. My engagements have led me in another direction. I wish to inquire of the honorable Senator where this cotton was taken, whether within the rebel lines or elsewhere?

Mr. WILLEY. No, sir; it was not within the rebel lines.

Mr. HOWE. I see this bill is leading to discussion, and I think I must call for the regular order.

Mr. WILLEY. I trust not. The case is so obviously correct that I hope it will be allowed to pass.

Mr. HOWE. I must call for the order of the evening.

Mr. WILLEY. I hope the Senator from Michigan will withdraw his objection. There can be no possible doubt about the case.

The bill was ordered to a third reading, read the third time, and passed.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, recommending an appropriation to pay the expenses incident to the recovery of certain captives in the hands of the Comanches and Kiowa Indians of the plains; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter from the Secretary of the Interior, relative to supplies furnished by J. R. Brown for Indians in the vicinity of Devil's lake, Dakota Territory; which was referred to the Committee on Indian Affairs.

INDIAN APPROPRIATION BILL.

Mr. VAN WINKLE. I do not know whether it is in order or not, but if it is I should like to take up House bill No. 1010.

The PRESIDENT *pro tempore*. The Senator from Wisconsin [Mr. Howe] calls for the regular order.

Mr. CONNESS. I hope we shall go on with the unfinished business.

Mr. HENDRICKS. I thought we came here to-night to consider the appropriation bill.

Mr. EDMUNDS. I call for the regular order.

The PRESIDENT *pro tempore*. It is pending all the time, and can only be passed over by common consent.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1869.

Mr. CORBETT. I desire to call the attention of the chairman of the committee to a small amendment which has been made through misapprehension, I think. In line fourteen hundred the appropriation should be \$500 instead of \$300, and I think that amendment was recommended by the committee; but instead of that, that change is made in line fourteen hundred and four. The clause now reads:

For ninth of twenty installments for keeping in repair saw and flouring mills, and for furnishing the necessary tools and fixtures, per fifth article treaty 9th June, 1855, \$300.

That should be \$500 there, instead of in line fourteen hundred and four. It is in the appropriations for the Yakama nation. I think the change in line fourteen hundred and four from \$300 to \$500 should not have been made.

Mr. HENDERSON. I think the Senator is right. That change can be made in lines fourteen hundred and fourteen hundred and four.

The PRESIDENT *pro tempore*. That correction will be made if there be no objection. The question now is on the amendment pending prior to the recess, which will be read.

The Chief Clerk read the amendment, which was to insert after line fifteen hundred and sixty-seven the following:

For expenses of removing and subsisting destitute

Cherokees, now in the State of Texas and Choctaw and Chickasaw country, to their homes in the Cherokee country, \$20,000.

To pay expenses of two commissioners appointed to appraise Cherokee neutral lands, or so much thereof as may be necessary, \$4,550, to be refunded from sales of said lands.

Mr. HARLAN. I ask that the vote may be taken separately on the first clause of the amendment. I think that clearly ought to be stricken out.

The PRESIDENT *pro tempore*. The question will be on the first clause of the amendment.

Mr. HENDERSON. I desire before the vote is taken on that clause that the estimate and the letter of the Department may be read.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., March 27, 1868.

SIR: I have the honor to transmit herewith a copy of a report of the Commissioner of Indian Affairs, dated the 10th instant, with accompanying papers, in relation to removing certain destitute Cherokee Indians, now scattered through the Indian territory, to their homes in the Cherokee country, together with a statement and estimate of the probable cost of removing said Indians, and of subsisting them for three months after they reach their home.

The attention of Congress is respectfully invited to the favorable consideration of the subject.

Very respectfully, your obedient servant,

O. H. BROWNING,
Secretary of the Interior.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., March 10, 1868.

SIR: I have the honor to transmit herewith copies of a letter from the principal chief and chairman of the delegation of Cherokees, dated the 28th ultimo, inclosing a copy of a communication from late Superintendent Byers, relative to the removal of certain destitute Cherokees, scattered through the Indian territory, to their homes in the Cherokee country, making a statement in regard to the matter, and submitting an estimate of the probable cost of such removal and the subsistence of the persons who are removed for three months after their arrival home.

The fact that there are many of the Cherokees who left their homes during the late war and have since been unable to return from the want of means and assistance, has long been known to this office. It has been impossible for the Department to afford any help to these destitute persons, owing to their being no funds at its disposal that could be used either for removing or subsisting them.

It is the opinion of this office that some steps should be taken to have the Indians in question returned to their homes at the earliest day practicable. To do this it will be necessary to have Congress appropriate the necessary funds. The estimates submitted by the principal chief of the nation and the chairman of the delegation is considered too high. It is thought that \$75,000 will be sufficient for the purpose, and also that the removal of the Indians and disbursement of the funds should be made under the directions of your Department instead of the nation.

If you coincide with me in the views herein expressed, I respectfully request that the matter be laid before Congress for such action as in its wisdom may be deemed necessary and proper.

Very respectfully, your obedient servant,
N. G. TAYLOR, Commissioner.

Hon. O. H. BROWNING, Secretary of the Interior.

WASHINGTON, D. C. February 29, 1868.

SIR: The undersigned, representatives of the Cherokee nation, have the honor herewith to lay before you a copy of a communication from Hon. William Byers, late superintendent of Indian affairs, marked "A," under date of January 10, 1867, asking for the removal and relief of certain absentee destitute Cherokees, who have been left, by the operation of the late war, in the Choctaw, Chickasaw, and Creek nations, as also in the States of Texas, Arkansas, Missouri, and Kansas, and elsewhere, and who desire to return to their homes in the Cherokee nation, but are unable to do so on account of their extreme destitution.

We are advised that this important matter has, from time to time, been brought to the attention of both the Interior and War Departments, since the communication of the superintendent referred to above was presented by a delegation of Cherokees, consisting of Messrs. Fields, Adair, and Seales, but without any satisfactory results. From time to time, since the war, our nation and citizens have moved a portion of these people, but, after repeated efforts, they find it impossible to effect anything further in regard to their removal, not having any means so to do; so that there are yet away from their homes, according to the best of our information, not less than one thousand Cherokees, chiefly helpless women and children. As before intimated, these people are not confined to any particular class, but are scattered from Kansas to Texas, and over different portions of the Indian territory, and are now entirely helpless, and have no effective source but the magnanimity of the Government to which to appeal as their guardian and protector. The average distance over which they will have to

be removed will be about one hundred and seventy-five miles to reach their homes. During their removal they will have to be subsisted, and, after they reach their homes, they should be sustained a short season—say three months—until by their own labor they may be able to sustain themselves. We herewith submit a statement, marked "B," showing the probable costs and expenses in removing and subsisting these people, and would respectfully request that an estimate be made and submitted by the Department of the Interior for their removal and subsistence to Congress, as we are informed has been recently done for the Creek Indians; and that the necessary appropriation be asked for, and turned over to our principal chief, to speedily restore all of our absentee Cherokees to their homes. Trusting that the Government of the United States, as the protector of the Cherokees, in its kindness, will extend to our distressed absentee people the hand of humanity and compassion, we take great pleasure in assuring the Government that the Cherokee people are now more united in sentiment and brotherly feeling toward each other than they have been for the last fifty years, and it is our earnest hope that our whole people soon may be gathered together in their own country, that they may strive to promote their happiness and prosperity, and to elevate themselves in the scale of civilization, refinement and religion, with other enlightened people, and to cultivate peaceful relations with the Government of the United States.

We have the honor to be, very respectfully, your obedient servants,

LEWIS DOWNING,

Principal Chief Cherokee Nation.

H. D. REESE,

Chairman Cherokee Delegation.

Hon. N. G. TAYLOR, Commissioner of Indian Affairs.

A.

OFFICE OF SUPERINTENDENT INDIAN AFFAIRS,
FORT SMITH, ARKANSAS, January 10, 1867.

SIR: I have the honor to transmit to you a copy of a communication from J. P. Davis, assistant and acting chief of the southern Cherokee Indians, upon the subject of removing the destitute southern Cherokees, who now are in the State of Texas and in the Choctaw and Chickasaw nations, to their homes in the Canadian district in the Cherokee nation.

Prior to the receipt of this communication I had heard that these people were in a very helpless and destitute condition—many of them women and children, without any means of subsistence or transportation. I have conversed with intelligent Choctaws and Chickasaws and others, who profess to be well acquainted with their condition, and they all give substantially the same statement. I am advised that there are delegates from the southern Cherokees and from the Choctaw and Chickasaw nations now in Washington, who, no doubt, could give you satisfactory information on this subject. I am informed that these destitute people are located at different points in the Choctaw and Chickasaw nations, and in Rusk county, Texas; that there are about four hundred in Texas, who are destitute and unable to move themselves; and that it is about four hundred miles from there to their homes in the Cherokee nation; that there are about fifteen hundred of these destitute people in the Choctaw and Chickasaw nations, and that it would average about one hundred and seventy-five miles from where they now are to their homes in the Cherokee nation. It is represented to me that the most convenient point at which these people could be delivered, in order to reach their homes, would be at or near Webber's Falls, Canadian district, in the Cherokee nation, on the Arkansas river. These people are so widely scattered, it would take time and trouble to collect them together and remove them to their own country, and their deplorably destitute and suffering condition requires that whatever the Government will do in the premises should be done as soon as practicable. I do not feel at liberty to act in the matter, either as to furnishing them subsistence or removing them; I therefore submit the subject to your consideration and advisement.

Your obedient servant,
W. BYERS,
Superintendent Indian Affairs.

Hon. LEWIS BOGGS,
Commissioner of Indian Affairs, Washington, D. C.

Statement showing the number of absentee Cherokees to be removed to their homes in the Cherokee nation, and subsisted; also probable cost of the same.

Estimated number to be removed and subsisted	1,600
Estimated number of miles to be traveled in removal	175
Estimated number of days required to remove them	60
Estimated number of wagons and teams required to remove them, allowing ten persons to one wagon	100
Estimated number of days during which they should be subsisted after reaching home	100

COSTS AND EXPENSES.

For hire of one hundred wagons at five dollars per day for sixty days, the time required for removal	\$50,000
For commutation of rations during the period of removal, sixty days, for one thousand persons, at forty cents per day each	24,000
For commutation of rations for one thousand persons, at forty cents each per day, for one hundred days, at the time during which these Cherokees should be subsisted after reaching home	40,000

Total amount required..... \$94,000

Mr. HENDERSON. It will be observed that the Department estimated \$75,000. I cut it down to \$20,000, because I believed \$75,000 was an enormous sum for the purpose; I did not believe that it ought to be appropriated, and a subsequent part of the communication shows very clearly the reason why it ought to be cut down. They estimated for removing the Indians in wagons, which is totally unnecessary. They can remove themselves much more easily and cheaply. All that will be necessary will be subsistence during the period of removal. Now, if it be true that there is a large number of Cherokees absent from their homes, it is quite essential that they should return, and the only question is whether the money should be paid out of the Treasury or paid out of the Cherokee fund. Something, I apprehend, ought to be done for the purpose of furnishing supplies during the time of removal. However, the Senator from Iowa is much more familiar with these matters than I am, and ought to speak with a larger degree of knowledge on the subject.

Mr. HARLAN. I know that the chairman of the committee would not recommend an amendment that he did not think right; but there are Cherokees scattered all around; there is a large number of them in North Carolina, and a few of them scattered in nearly all the southern States. If we enter on the system of going around and gathering up these fugitive Indians I do not see any end to it. Besides, these Cherokees who are now in the Indian country are rich, and they are selling their vast domain to other Indians in large tracts by a provision contained in the treaty made with them in 1866. When they finish those sales, as they will doubtless do before we get all the Indians out of Kansas and Nebraska down to the Indian country, they will be the richest people in the world. They have a regular legislature and courts and a regular government, and if they desire to make an appropriation out of their own funds to aid their absent people to return, it may be well enough for them to do it; but they have the power to do it without any assistance from this Government, and I doubt very much if the suggestion made by the Senator could be legally adopted to make an appropriation to be paid out of their funds. The treaties require any money due them from this Government to be paid over to their government authorities, and we have no legal right, as it seems to me, to divert it without their consent. I do not think this Government can enter into a system of this kind. It might be very humane to undertake this work; but I see no end to it, and it never has been undertaken before, to go around and gather up fugitive Indians in the Indian country, to take them from one location in the Indian country to another, when the Indians are wealthy and able to take care of themselves. If these were poor Indians, if they had nothing, if they were totally dependent on the charity of the national Government, or if they were hostile Indians, and it became necessary to remove them in order to prevent depredations, it would commend itself doubtless to a majority of the Senate; but there are no such reasons for this appropriation.

The PRESIDENT *pro tempore*. The question is on the first clause of the amendment. The clause was rejected.

The PRESIDENT *pro tempore*. The question recurs on the second clause of the amendment.

Mr. CONNESS. Let it be read.

The amendment was read, as follows:

Insert after line fifteen hundred and sixty-seven: To pay expenses of two commissioners appointed to appraise Cherokee neutral lands, or so much thereof as may be necessary, \$4,550, to be refunded from sales of said lands.

The amendment was agreed to.

The next amendment of the Committee on Indian Affairs was after line fifteen hundred and eighty to insert:

For completing the construction of irrigating canal on the Colorado reservation in Arizona, \$84,500.

For the maintenance of Indians brought by the military to the Colorado reservation, and kept there, \$20,000.

For expenses of removing Shoshones, Bannocks, Snakes; and other strolling bands of Indians in Idaho, to Fort Hall reservation, and for their support for one year thereafter, \$25,000.

Mr. HARLAN. I ask for an explanation of the first item of this amendment:

For completing the construction of irrigating canal on the Colorado reservation in Arizona, \$84,500.

It is a large sum, but doubtless there is some reason for it, possibly a sufficient reason.

Mr. HENDERSON. I have in my hand the estimate of the Department on the subject. The Senate will remember that some years ago there was an attempt made to conduct water to this Colorado reservation from the Colorado river. It became apparent that agriculture could not be carried on there with any degree of success without irrigation, and a scheme was adopted to conduct a canal some twenty-five or thirty miles to the reservation; and an appropriation was made several years ago of \$50,000 to construct that canal. I know nothing in regard to it except the statement of the superintendent and the agent upon the reservation. The Department says:

"For completing the construction of irrigating canal on the Colorado reservation in Arizona, &c., \$84,600.

"This item is omitted in bill. The work on this canal referred to in this item has been commenced and is being pushed forward as fast as possible. When completed it will be about thirty miles long, and capable of irrigating several thousand acres of good tillable land. If the appropriation is not made, the money already expended in the work will have been of no benefit. This, however, is not the most urgent reason for continuing the work to completion; there are several thousand Indians now on the reservation; they are assisting in digging the canal, with the expectation, from promises made to them, that it will be completed, and that they will be started in farming operations. Should the work now stop no white man would dare remain on the reservation. They (the Indians) are in the habit of killing persons who fail to prove what they say; and the reservation might as well be broken up and the Indians left to return to their former habits.

"Superintendent Dent is confident, if the appropriation is made, that the work can be completed this year, and that the Indians, after raising their first crops, will be able to subsist themselves."

This reservation is on the Colorado river in Arizona. We have in this bill made an appropriation of only two dollars per head for the Indians in Arizona. I think myself the appropriation ought to be larger, though we have increased it largely beyond what the House of Representatives allowed. The House in their bill allowed \$35,000, and we have increased it to \$70,000. The number of Indians in Arizona is about thirty-five thousand, making only two dollars per head. There was an attempt a few years ago to concentrate the Indians in Arizona, who have been hostile to a very large extent, upon this Colorado reservation. A great deal of difficulty has existed during the last six months with the Indians in Arizona. They were all declared hostile by military edict, except those who were on the Colorado reservation, and war was waged until General McDowell issued an order stopping it. The attempt is now to concentrate them all or as large a number as can possibly be obtained to go on the Colorado reservation, which I am told is worthless. Mr. Dent says it is utterly worthless, unless this irrigating canal shall be completed. I, like the Senator from Iowa, thought it was a very large sum; it struck me with astonishment at first; but on examination I find that all the officials concur in saying that it is essential. From all the information I can get the \$50,000 already spent on the canal will be entirely lost unless we go on with the work. The question is whether we shall abandon the reservation and abandon the \$50,000 we have put into the work, or whether we shall go on in a little farther. That is all.

Mr. CONNESS. It ought to be known to the Senate that there has been an Indian war maintained in Arizona for many years, and that we have now a very large number of our standing Army there. I think there are not less than four regiments in Arizona. The cost of maintaining them and keeping up the war that has been carried on there is very great.

It has cost a great many million dollars. The order to which the Senator from Missouri has referred was one issued by a sub-commander; and but for the judicious management of General McDowell, commanding the department, there would have been very heavy and extraordinary expenditures there. The expenditures are very heavy at best, the most that can be done. Mr. Dent, the present superintendent, is personally known to many of the Senators. I know him very well. No better man could be put there possibly. He has a field now carried on by irrigation amounting to some seventeen hundred acres, very successfully cultivated by the Indian labor. Although this is a single appropriation may seem large, yet it is but a small item compared to the gross expenditures that are constantly going on for trying to maintain peace with Indians by the application of force to them. No better appropriation than this can be made; no higher economy can be afforded than its adoption.

Mr. DOOLITTLE. In relation to this appropriation, although it seems large, I think it is wise economy on the part of the Government to make it. It will test the question whether the Colorado valley, which is a very important valley in Arizona, is really to be a valley where there can be a large amount of cultivation. The evidences are that it has been cultivated in some very distant age, because there are the remains of old acequias up and down the valley; and perhaps it was once the site of a very populous people. If it should be proved by the expenditure of this money that that valley is capable of irrigation, we may, perhaps, show that Arizona, notwithstanding what we have heard of it at the present time, is capable of great production in an agricultural way.

Mr. CONNESS. I will say to the Senator that there is no question in regard to the capacity of that land at all, if you only give it water; it is a mere question of getting water.

Mr. COLE. I would like to inquire of the chairman of the Committee on Indian Affairs what tribe or tribes are gathered on this reservation that it is proposed to irrigate, and what number of Indians are there, if he has any information on that head? There are several tribes of Indians in Arizona that are friendly and cultivating the ground in a very creditable manner; but as a general rule in that Territory the white people are on the reservation and the Indians have the country. The military authorities, though pretty strong, are unable to control the Apaches of that country, and perhaps a portion of Comanches sometimes visit that Territory. The expenses that the military department have incurred in that Territory have been exceedingly great; and I regret that the military department has not been more successful in quelling the hostile Indians. If these irrigating operations are to benefit a very considerable number of the Indians there and keep them quiet, certainly there could be no better disposition made of that amount of money. I do not know myself what tribe this is; whether the Yumas, or Pikes, or Maricopas, or what tribes are upon this reservation.

Mr. HOWARD. The amendment speaks of the completion of a certain irrigating canal. I beg to inquire whether appropriations of money have been made by Congress for the construction of such canals? Is the chairman of the Indian Committee able to answer the question?

Mr. HENDERSON. I did not hear the question.

Mr. HOWARD. The question is whether there have been appropriations by Congress for the construction of irrigating canals in Arizona?

Mr. HENDERSON. Yes, sir; for the purpose of building this canal an appropriation was made in 1866-67 of \$50,000. I hold in my hand a communication from Mr. Dent, superintendent of Indian affairs there, under date of August 5, 1867, in which he asks for this appropriation to complete the canal. We

have already invested in the canal \$50,000, and it now becomes necessary, it seems, to abandon the work or make an additional appropriation. It is like a great many other public works. When we have appropriated what we supposed was sufficient originally it turns out that it is necessary to make much larger appropriations. And I cannot promise the Senate that it will not be necessary to make another appropriation in this case. I shall make no promise about it. All I can say is that the officers in authority say they can complete the work for that amount of money, and it is the estimate. There are a large number of Indians in Arizona, as I have just stated, thirty-five thousand; and the proposition now is to get all of them on this reservation or as many as it is possible to get there.

Mr. HOWARD. Is the canal constructed on the Indian reservation?

Mr. HENDERSON. Yes, sir; the water is to be conducted a distance of thirty miles. It takes a canal or ditch thirty miles in length in order to get the water.

Mr. HOWARD. It strikes me that this is a very anomalous appropriation. Here is an Indian reservation selected, as I presume, by the Indians themselves or by their friends, for their residence and their comfort; and it so happens that in order to make it comfortable and productive to the Indians, the United States are obliged to make large appropriations of money to construct irrigating canals, solely for the benefit of the Indians.

Mr. HENDERSON. I will state to the Senator that at the time the reservation was established it was very well known that in order to carry on agricultural operations with any degree of success it was necessary to irrigate it, and an estimate was then made of \$100,000, but Congress appropriated only half that amount, \$50,000.

Mr. HOWARD. Well, Mr. President, I do not see any propriety in appropriating for such an object as this, and I think the sooner we put an end to it the better. Nobody can see the termination of this style of expenditure. We appropriate this year over \$80,000, as required by this amendment, to complete irrigating canals in a country, which, according to the information that I receive, is little better in some portions of it than an arid desert; and to what extent these measures will go it is impossible to foresee. We shall be called upon from year to year to add to the amount of money which we are thus laying out by way of experimenting for the benefit of the Indians. It will exhaust in the end nobody can tell what amount; and I think in the present feeble state of the Treasury, we may well pause in prosecuting this experiment. Let us see at all events whether the \$50,000 which have already been expended have been of the slightest benefit even to the Indians. The experiment has been going on now some two or three years, as I understand. It must be that by this time the officers in charge there are able to give us some information as to the fruits of the experiment. I am opposed to indulging this sort of experiment with irrigating canals in the Indian country and on Indian soil.

Mr. CONNESS. I wish to say to my friend from Michigan that the building of a canal for the purposes of irrigation is not an experiment at all. If he lived in the State that I represent in part here he would understand it all. Many of these canals are built in that State by private enterprise, the water being used for the benefit of both mining and agricultural purposes, at the expense, some of them, of \$1,000,000. There are not probably less than \$10,000,000 of that work in the State of California.

Mr. HOWARD. All done for the benefit of private individuals?

Mr. CONNESS. Exactly.

Mr. HENDRICKS. I should like to inquire of the Senator from California whether there are any engineer's reports about the work that has already been done, and what information we have on the subject?

Mr. CONNESS. I answer the Senator that it does not take a great deal of engineering to build a canal of that kind. Any man with a common level can build such a canal, giving it about an inch or three quarters of an inch fall. Then it is dug, and a portion of it is flumed. It is not a work of engineering to any extent. It is very commonly done. It is a question here on this reservation whether we shall ship via San Francisco, California, produce, at a cost of perhaps seven cents a pound, or enable the Indians by their own labor to raise what they consume. The land is there, and is rich; but, as my friend says, it is arid; during one half of the year the rains do not fall; but the water is by in the Colorado river, and can be brought there. The land is there, the labor is there, and there is no way so cheap to provision the Indians and take care of them as to furnish them the means of labor and water in this manner.

Mr. HOWARD. It seems that it comes to this: that the United States are really supporting the Indians on that reservation.

Mr. HENDERSON. Not by any means; they support themselves.

Mr. HOWARD. We are supporting them by way of expending money to enrich and fructify their soil, thus enabling them to make a living out of the soil. I take it that is a contribution to the support of the Indians directly.

Mr. CONNESS. What else do you do anywhere?

Mr. HOWARD. I do not know that the United States are in the habit of appropriating money simply for the support of the Indians. It is very true that we reserve lands for Indians in our treaties with them, and the Indians go upon those reservations, and there, by hunting and fishing, or by cultivating corn and other grains, support themselves. It is also true that as part of the consideration for cessions of land made to us under Indian treaties we pay the Indians annuities from year to year to enable them to live. But according to this plan these Indians are mere dependents on the Government; they are mere paupers, having not the means of supporting themselves on that spot. Now, had we not better, in order to simplify the whole proceeding, take these Indians quietly, and put them in some region of country where they will be able to support themselves either by agriculture or by their own habits of fishing and hunting? I am opposed to this appropriation of public money for the benefit of private persons as such. This case cannot be distinguished from an appropriation of money for the support of A, B, C, and D in any other part of the country.

Mr. CONNESS. My friend is opposed to aiding the Indians to build a canal as a means of living; but he is not opposed to the bill that was introduced here by himself or his colleague to make a grant of land, which is equal to a grant of money, for building a canal in Michigan for commercial purposes.

Mr. HOWARD. That is a public work.

Mr. CONNESS. Is not this?

Mr. HOWARD. It is not; because we do not support Indians out of the public purse.

Mr. CONNESS. Why, Mr. President, it is a question, as the honorable Senator states it, as to whether we shall feed these Indians or enable them to feed themselves; but a canal built in Michigan is a public work, and a canal built in Arizona is a private work! There is no such distinction.

Mr. HOWARD. Are these irrigating canals navigable waters?

Mr. CONNESS. Yes, Mr. President, they may be made navigable.

Mr. HOWARD. Are they made navigable?

Mr. CONNESS. Yes, sir, sometimes they are made navigable. They are made to transport lumber very frequently. That is a commercial purpose. There is a bill reported now to this body from the Committee on Public Lands to enable a company to build such a canal, by the aid of a grant of public lands, in the Territory of New Mexico; and such grants

must be made. These arteries are the life of these countries where they have a dry and a rainy season, but principally a dry season.

Mr. FRELINGHUYSEN. Is this canal in Arizona navigable?

Mr. CONNESS. No, sir; I apprehend not. This canal will be used for agricultural purposes. These canals are used in all such countries; they are used in Spain and Italy.

Mr. DOOLITTLE. My honorable friend from Michigan should bear in mind the difference between our Indian relations in all those countries we acquired from Mexico and what they are in other cases where we have acquired land from Indian tribes. When we acquired these territories from Mexico we adopted the Mexican law, which did not acknowledge the title to the land to be in the Indians. We have had no treaty with these Indians, and about thirty-five thousand of them are roaming over this Territory of Arizona. Unfortunately for us we have been in a state of war with these Indians a considerable portion of time. We have now four regiments in Arizona struggling with these Indians and trying to keep the peace—I do not mean the Indians on the reservation, but other Indians—costing us undoubtedly \$10,000,000 a year.

Mr. HOWARD. Do I understand the honorable Senator from Wisconsin to say that there was any difference between the principles of the Government of Spain in regard to the rights of soil on the new continent and those of England?

Mr. DOOLITTLE. Certainly, in relation to dealing with the Indian tribes.

Mr. HOWARD. As to the right of soil?

Mr. DOOLITTLE. We have always, inheriting the common law of England, treated the Indian as if he had a right in the soil, and we have made treaties with him by which he has ceded his land. Of course, however, we only acknowledge in him a possessory right, claiming on our part the preemption right, the exclusive right to purchase of the Indian. All that did not exist under the laws of Mexico, and the relations which they bore to the Indian tribes were very different.

While the military are at work in Arizona trying to keep the peace and reduce the Indians to a state of quiet, as a part of a policy of endeavoring to have peace in Arizona, the Government has sought to establish this reservation. This reservation is in the valley of the Colorado, where the ground is very rich, but you can produce nothing unless you water the ground, and the only way to get water is by conducting this canal around the base of the highlands just outside the valley, and carrying a ditch around for twenty or thirty miles, and then the water can be spread over the valley, and the greatest crops can be raised in that valley. It is a very rich, hot, and fertile valley. I have no doubt that cotton can be produced there, and sugar can be produced there. Now, this expenditure of \$80,000, to build this *acequia* for the purpose of getting these Indians to work on the ground, and raise something to live upon, is a mere bagatelle when you consider what you are spending every day there in our military operations. We must deal with Indians in one of two ways: we must either deal with them in the peaceable way, have peace with them, or fight them and kill them. It is much more expensive to fight and kill them off than it is to try and induce them to go on reservations, and become enabled to support themselves, we aiding them and doing something to their support also. That is the real truth of the situation, as I understand it.

Mr. HOWARD. All this is based on the assumption which remains yet to be established, that the Indians thus provided for will cease to be rovers, that they will cease to be mere hunters and fishermen and tribes of nomads.

Mr. CONNESS. We have proved that.

Mr. HOWARD. No, sir; that remains to be proved. I do not believe it. I do not believe that these wild rovers of the desert of Arizona will go to work and earn a living for

themselves on any soil, however rich you may make it by irrigating canals, which are navigable sometimes according to the honorable Senator from California.

Mr. CONNESS. Will my friend not permit that portion of them who are willing to live so, to live so, and will he not aid them in doing it?

Mr. HOWARD. I should want to ascertain in the first place how large a portion were willing to do so. I do not believe one out of a hundred will put his hand to the plow or the hoe, or addict himself to agriculture in such a degree as to support himself or his family. It has not been the character and history of the Indian tribes to any degree, either northern or southern. There are some exceptions, I know; but the Indian character remains the same that it was two hundred years ago substantially. He subsists by hunting and fishing, and he despises labor because he regards it as degrading. That is the universal character of the Indian tribes wherever you find them.

Mr. DOOLITTLE. I agree with the honorable Senator that some of the tribes of Arizona are as he describes, the Apaches, for instance; but in relation to other tribes in Arizona the Senator is entirely mistaken. There are the Pimas, the Zuñis, and there are the Pueblo Indians that are living there, who are living in the same places now where they were living when the Spaniards first discovered the country, and have been more staid and more settled in their habits of life than our own people are. These very classes of Indians exist in Arizona. It is true that the Apaches partake of the wild character the Senator describes; it is more difficult to tame them, I admit; but even some of the Apaches have been brought upon reservations. I have seen one band of Apaches upon a reservation in New Mexico. You must either chase and hunt them down like wolves and kill and destroy them or induce them to go upon reservations. I will say to my honorable friend that I have no doubt if you would send a commission with a few boxes of tobacco and with something with which to feed even the wildest Indians of Arizona, for one hundredth part of what it will cost to fight them with your armies you could persuade them to settle down in peace and you could make friends of them all. If you will feed them, if you will give them tobacco and make them some presents, you can make friends with them and they will stay anywhere you desire them to stay as long as you feed them.

Mr. HOWARD. And their friendship will last just as long as you feed them.

Mr. DOOLITTLE. Very likely it will last as long as you feed them and give them tobacco. But how much less expensive is that than it is to undertake to fight them with bayonets and bullets and chase them over these wild plains, where you can hardly find them to fight them, and where it costs millions upon millions of dollars? I think the peaceable way of dealing with the Indian tribes is by far the most economical and by far the most honorable, for I do not think there is much honor to be gained in Indian warfare.

Mr. HENDERSON. The Senator from California [Mr. Cole] asked me what Indians were upon this reservation. I have been unable to lay my hands on the last report, the report of Mr. Dent, the present superintendent; but I have before me the prior report made by Mr. Leihy, the former superintendent, under date of October 2, 1866. He there states the Indians upon the reservation, being the entire tribe of the Yumas and Mojaves and portions of other tribes, and he goes on to state how they were getting along, and he states in detail the productions for the past year. I cannot state how many Indians are upon the reservation, but my information is some twenty-five hundred or three thousand at present. General Gregg, it will be remembered by the Senator from California especially, during the last fall issued an order against all the Indians in Arizona not found on the reservation, declaring them hostile and giving permission to the troops to kill them wherever found. Large

numbers of Indians, of course, were forced against their will to go to the reservation under these circumstances. General McDowell, in a letter reviewing the order of General Gregg, declares that it is impossible for the Indians to live on the reservation without irrigation.

Mr. HOWARD. Allow me to ask the honorable Senator one question. It seems that this irrigating canal has been in progress for some two or three years.

Mr. CONNESS. No. The appropriation was made in 1866-67, and this is 1868.

Mr. HOWARD. Say two years.

Mr. CONNESS. One year.

Mr. HOWARD. Very well, one year, or six months, or three months, if the honorable Senator desires to narrow it down. The question to which I ask an answer, if it can be furnished, is this: this canal is made for the benefit of the Indians in order to enable them to live by agriculture. Now, can the honorable chairman of the Committee on Indian Affairs tell us whether any of the Indians have been employed in making this canal, whether they have worked at it?

Mr. CONNESS. Nobody else has.

Mr. HOWARD. I ask the chairman of the committee.

Mr. HENDERSON. I presume such is the fact; but the Senator must be aware that the Indians themselves when at work on the canal will require some pay. It is not to be expected that an Indian of one tribe for the benefit of all the tribes will go to work day by day for a year upon a canal when that canal is equally for the benefit of other tribes to be congregated on the reservation for the next ten years hence.

Mr. HOWARD. Why not, if he is paid out of money we appropriate for his labor?

Mr. HENDERSON. Of course he will have to be paid for that labor. He will not work without pay. We must pay for his work on the canal; he must have his subsistence in some way.

Mr. HOWARD. My question is based on the supposition that if the Indian works on the canal he is paid out of the public money for his labor. I suppose he would not work for nothing more than the white man.

Mr. HENDERSON. I suppose so; and hence it requires an appropriation, or else the canal cannot be made. The Senator from Michigan says that no such appropriations are made for anybody else except Indians in this country. Does the Senator remember the fact that the Indian tribes have been driven from civilization, have been driven back from year to year? They have been driven from the Senator's State as much as from any other State in the Union. This process commenced with Massachusetts, and from Massachusetts it has continued through my State and through the Senator's State; and now there is but little left for the Indian to occupy. He has been driven into a country where the soil needs irrigation or else he cannot subsist himself. The Senator, after having participated, as I have participated and as all of us have participated, in driving him back into a barren country where it is utterly impossible for any human being to live almost, denies even the bare means necessary to make it fertile. That is the truth of the matter, and the Senator need not attempt to ignore it. We all know and we all feel that such is the fact; that we have seized upon the Indians' land. The civilized world knows it, and we might as well admit it. The only way we can escape the odium of our position is by doing something for him.

There are portions of the Territory of Arizona where these Indians might live; but we have set aside this reservation for them and required them to go there. It is necessary to have irrigation in order to make the reservation productive. We have required the Indians to settle on the reservation, and ever and anon military orders go out that all Indians in the Territory—no matter where they may have lived heretofore, no matter what portion of the country they may have occupied—that all Indians not found within a given time on that

reservation, whether they can subsist themselves there or not, shall be declared hostile.

After this policy has been pursued for a couple of centuries of driving the Indians from the East into the middle States, and from the middle States to the western States, and from the rich and fertile lands of the western States, the valleys of the Ohio, of the Kentucky, of the Mississippi, and of the Missouri rivers, will the Senator pretend to say that they ought to be put upon the same footing with our own people; that because we do not appropriate annually dollars from the Treasury for the benefit of our own people therefore it ought not to be done for the Indians? Why, Mr. President, we do appropriate for our own people, and appropriate largely. We appropriate lands, and we appropriate otherwise. But these Indians are not in the attitude of our own people, because wherever their interests come in conflict with ours we know—the history of the last two centuries demonstrates—that the right of the Indian must yield to the white settlers. Why, sir, there is not an Indian reservation now in one of the western States that is coveted by the white man that the Indian will not have to leave in a few months. You have treaties pending before you for the removal of all the Indians from the State of Kansas. I can remember in my boyhood when the present State of Kansas was entirely covered by Indians, and there was not a white man in it.

Now, it becomes necessary that he shall be removed. Why? Simply because the white man wants his land. He may have the best land in the West; but the Indian must go away whether he wills or not. Where do we send him? We send him to a less fertile country; we send him further West into the boundless prairies, made so by the want of water, where it scarcely ever rains. We send him from that region of country where the clouds go charged with rain into a region of country that is barren because it is not fertilized by the rains of heaven. We require him to go; and in order to subsist, he must have irrigation; and now it is proposed to deny upon this occasion the poor pittance that is asked for irrigating purposes.

Mr. President, it is not worth while to compare our people with the Indian. He has been mistreated; we all admit and know it; and that mistreatment is continued to-day. Why, sir, but this afternoon it was demonstrated to you that a tribe of Indians in Oregon doing well, being located upon a reservation upon the seashore, being located there permanently as they supposed, having built their huts and having entered into agriculture, were treated how? In a few years it was discovered that there was an oyster-bed in the ocean, and the President was called upon to open up that particular portion of the reservation to the settlement of the white man, and it was done. Why? In consequence of the discovery of the oyster-bed, and the whites immediately rushed upon the reservation, seized the Indian habitations and drove them back; and it now becomes essential to pass a provision to pay them for damages done by the settlers. The Senator from Iowa, who was then Secretary of the Interior, tells us that he did not know that this oyster-bed, which was a mine of wealth within itself, had been discovered. That was true, but the gentlemen upon the seashore I apprehend did know that it had been discovered; and this action of the Government was sought and obtained in perfect ignorance by it of that discovery.

So it has been, and so it will be with the rights of the Indians. Mr. President, I postpone the remarks that I might make in relation to the various injuries and wrongs inflicted on this injured race. I am very well aware that when you ask for an appropriation that looks large legislators shudder; but as has been said by a great many Senators this evening, it is best, it is cheapest in the end, to make the requisite appropriation, and to do right so far as we possibly can. Why, sir, in this Territory of Arizona during the last twelve

months I have not any doubt that the Government has expended from ten to fifteen million dollars. Is the Senator aware that a war was carried on there for six months, a war of the most devastating character, and one which would have been raging to-day but for the active and direct interference of General McDowell; and the country owes him a debt of gratitude for it. General Gregg made a mistake, he committed a blunder, as a great many of our generals do. Instead of expending from fifteen to twenty or thirty millions annually, as we have been doing for the last six or eight years in trying to subjugate Indians, when we cannot subjugate them, if we would expend a few hundred thousand dollars in a peaceful and honorable way, doing partial justice when we cannot do full justice for our many wrongs to them, we should be more honorable ourselves, and we should have less trouble with the Indians.

You vote large sums of money to the quartermaster's department of the Army. Why? Because the Secretary of War makes his estimates, and you have it to do. You have a large Army. The Democratic party on this floor tell us so every day, and admonish us that that Army ought to be reduced. How can it be reduced? You dare not do it until you get rid of Indian difficulties. We had an Indian war all over the plains, upon the mountains, and up on Powder river in Montana, in Idaho, in Arizona, in New Mexico, and upon the plains of Kansas, last year. How was it quelled? Millions and millions of money had already been expended; property had been burned; stage-coaches had been seized; passengers had been killed; the border settlers had been scalped; their horses had been run off; trains had been seized upon the plains, and hundreds of horses and mules taken. How was all that stopped? It was done by presenting before the Indians a few peace commissioners who reasoned with them, and by expending perhaps \$200,000. General Sherman, who had been of the opinion that there was no other way to manage this matter except war, and war to the knife, has become a convert to the peace doctrine. He has become perfectly satisfied that it is less expensive to the country and more honorable to the nation, and so will it be with every man who has any personal experience on this question.

It is needless for us in this Chamber to attempt this penny-wise and pound-foolish policy. It will not do to adopt it. It does not do in individual transactions, and it does much worse in national legislation. Let us be honorable to the Indian. If we do not provide for his subsistence, let us at least, since we have driven him from fertile lands to those that are barren, furnish a ditch that will enable him to carry water to his reservation in order that he may subsist himself.

The Senator from Michigan is mistaken if he supposes that many of the tribes are not self-sustaining, even in the arid and barren and sterile country of Arizona. I can state to him that from thirty-five to fifty thousand bushels of wheat were raised last year by an Indian tribe in Arizona. Corn was raised also. It is not a very good country for raising Indian corn, but wheat can be raised in large quantities. This reservation we ourselves by legislation have set apart for these Indians. We did not ask their consent; we did not make any treaty with them; but we staked out our own boundary in a barren plain in its present condition, and issued an edict to the Indian that he should abandon the home of his childhood and live upon this land which we fixed for him. We did not ask his consent. We did not ask him to go, but we said to him "you shall go;" we fixed the boundaries so as to put this reservation outside of the routes of railroad lines of travel. When we have done that, let us not complain of the necessary expenses of making it fit for the residence of the Indians, but let us meet those expenses like men, and let us do whatever is necessary to give honor and credit to the nation and do

honor and credit to ourselves. If we do this, in the course of a few years these Indians will be congregated upon the reservation, and I have no doubt they will be self-sustaining.

But, sir, I have been led into these remarks by the very singular remarks of the Senator from Michigan. I have no more interest in this matter than others. If the Senate prefer that the Indians should roam over the Territory of Arizona, that General Gregg should continue this war, and that the military authorities should be in antagonism about it, and that thousands should be killed as heretofore, that the peace policy should be abandoned, and that we should be compelled in future to sustain and support these Indians in order to keep them peaceable, instead of making this reservation blossom as the rose, and thus enable them to support themselves, then let us deny the appropriation.

Mr. HOWARD. I have but a few words to say in reply to the spirited speech of the honorable Senator from Missouri. The honorable Senator from Missouri, instead of confining himself to the propriety of making the appropriation of \$84,000 contemplated in the amendment, has extended his remarks so far as to embrace the whole subject of our Indian affairs. And in the course of his observations he repeats what is so very frequently said by a certain class of persons, that the Indians have been treated with injustice and have been driven from their old homes; and he states that the Government of the United States has made itself odious by reason of the Indians being driven from their homes and the graves of their fathers. Sir, this is a very romantic view to take of the subject. It will answer very well in a newspaper poem, or in a novel of yellow cover; but in point of fact there is no reality and substantially no truth in it. Have the Indians been driven from their homes? Who has driven them, and when and in what way? Has not the Government of the United States purchased of the Indians, for prices satisfactory to the tribes, all the lands that we have acquired from the Indians? Did they not make purchase wherever there was Indian land in the Northwestern Territory? Did they not pay the Indians every cent which they stipulated to pay? Did they not give them reservations according to their own choice and according to their own notions, and have they not paid them the purchase price of those lands and the annuities which from time to time have fallen due from the Government to the Indians?

Sir, no such reproach can rest on the Government of our country as having driven the Indian from his home; that is, of having seized his lands unjustly, for that is the language which the Senator from Missouri used very frequently in the course of his remarks. No, sir; it is nothing but mere romance. The great difficulty in the case lies here: the Indian is a savage; his habits are those of a savage; he will not addict himself to industrial pursuits; he despises and contemns labor, which is the great vocation and the great destiny and the great glory of the white man and of the civilization of the white man. The white man needs the Indian lands for what? For hunting and fishing and roving and sporting? No, sir. The white man needs the land for the purpose of cultivation and use, in order to promote the arts of civilization and the prosperity of the country. The Indian has an opposite view. He uses the land only for the purposes of hunting and fishing and roving. That is the general fact about it. Now, the Indian sees as clearly as the white man that the habits of the former are such as to render it impossible, or extremely difficult and unnatural, to maintain his position in the midst of the white men and to pursue, in the midst of white civilization, those nomadic habits which have always distinguished him and his race. The two things cannot subsist together. It is contrary to nature; it is contrary to the interests of both the parties.

So much for driving the Indian from his

home, seizing his land, and thus bringing odium upon the Government of the United States! That is a tale that has been told in many and many a Fourth of July oration. It has drawn tears, also, from the eyes of the benevolent of both sexes for one hundred and fifty or two hundred years; and the affected listener has supposed when he or she has listened to the eloquent oration or the touching and pathetic sermon, that their country has really done enormous and almost unpardonable wrong to the Indian tribes. Sir, it is all a romance. Undoubtedly acts of injustice have been committed by white men toward the Indian tribes; but when those acts shall be numbered up and set down in the Great Book upon which both parties are to be judged, by the side of the innumerable volumes of crime and injustice committed by the Indian upon the white man, it is easy to see where the balance will be. And the fact accrues out of the other fact that the habits of the two races are utterly irreconcilable, that the white man is the more inclined to the arts of peace than the Indian. The Indian is a warrior; he values human life very little; his faith is of very little value; and when you speak of breaches of treaty between the white and the Indian you will discover, if you scan it closely, that in most cases the violation of treaty has been on the part of the Indian tribe. I appeal for the truth of this to the history of this country and to the history of every negotiation with the Indian tribes since the discovery of the continent.

I would treat the Indians with justice; I would pay him that which is his due; I would not encroach upon his rights; but I would enforce his treaty stipulations both for his good and for ours; and when an Indian tribe has wantonly committed a breach of treaty, where there has been a murder or a series of murders committed upon white men by Indians in violation of their treaty, I would as soon punish an Indian tribe by launching upon them the bolts of war as I would against a foreign nation whose citizens had committed the same outrages. There can be no distinction or difference in principle between the two cases.

Now, one word further as to this amendment. I am opposed to the lavish expenditures of money contemplated by it. This is a far off, distant country, where it is impossible that this work can be well understood or well inspected. It looks to me a little as if the original appropriation had in view some rich contracts for the construction of this irrigating canal. I do not remember the discussion which may have taken place upon the bill in the Senate; but I can very well imagine that the Senate was assured that \$50,000 would be abundantly sufficient to construct the contemplated irrigating canal. Who is doing it we do not know; how far the work has progressed we do not know.

Mr. CONNESS. Yes we do; we know both.

Mr. HOWARD. No, sir; we do not know both; at least I do not. I think there has been no report on the subject; no sufficient report. Now, sir, we go on and spend \$84,000 more. At the next session of Congress we shall be called upon to appropriate another \$84,000, and another, and another, and it is impossible to foresee when these so-called necessities of the Indians who are dependent on this irrigating canal for their support, these roving Indians as they have been called, will end; when the expenditure will be terminated. We are opening a channel through which the Treasury may be depleted, almost exhausted, by way of showing our humanity; and it will stand as a precedent for other schemes of the same kind. That whole country is of the same character, I take it, as this reservation; very little grain can be raised without irrigation; the country is destitute of rain or of fountains of water, destitute of rivers. Where is this thing going to end?

I object to it for another reason, that it is

expending the public money for private purposes. If these Indians cannot subsist upon that arid reservation, send them somewhere else. Why did you put them there? Who put them there? Why was this dry desert selected as the home of three or four thousand Indians, more or less, when in a few months afterwards it turns out that it is utterly impossible for them to subsist upon the soil? Who has committed the error that has brought upon us the necessity not only of removing the Indians to this desert, but of making an irrigating canal for the purpose of softening their soil, and enabling them to support themselves by agriculture? Who has committed this blunder? Who has made the mistake? Let us stop it at once. At all events let us suspend this experiment until we have reliable and exact information as to its probable success, and not launch into this scheme of expending the public money in the dark and following it up session after session without knowing what becomes of it or what is done with it or what fruits are reaped from it.

Mr. HOWE. Mr. President, no one can imagine the surprise that this debate has occasioned me. If I could have got the floor by any possibility I would have tried to arrest it when I was a young man, [laughter;] but I was unable to do so. But I desire to protest in a modest way if this is quite right. Why, sir, I have sat here for two days on this bill. All this afternoon we have been voting amendments here, amounting in the aggregate, probably, to a million or two, and it has taken the utmost authority that the Chair could exert to induce members enough to vote to cast the balance between the Senator from Missouri and myself; but this evening we come down here and on this one amendment, only appropriating a little over eighty thousand dollars, an hour and a half has been spent in the most earnest debate that I have listened to in a long time. Now, is this quite right? Of what use is it now to try to save money in this bill, especially to save it in such small sums as \$80,000? Of what consequence is it whether this will do the Indians any good or not?

The Senator from California, who ought to know, thinks it is essential to make this appropriation as a military measure; my colleague, who, I am sure, ought to know quite as well, thinks it necessary as a scientific experiment; the Senator from California to reduce the warlike Indians to peace; my colleague to demonstrate the capacities of the Colorado valley. I do not know whether it is necessary on the one account or the other or on either. I really do not think the Senate cares much about it, and I wish we would consent now to take the vote. It will either be adopted or rejected, and that will be the end of that one amendment; then we can come to another. ["Vote!" "Vote!"]

Mr. HOWARD called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 20, nays 14; as follows:

YEAS—Messrs. Conness, Corbett, Davis, Doolittle, Harlan, Henderson, Hendricks, McDonald, Morrill of Maine, Patterson of Tennessee, Pomeroy, Ramsey, Rice, Ross, Sprague, Thayer, Van Winkle, Vickers, Wade, and Wiley—20.

NAYS—Messrs. Anthony, Cattell, Chandler, Cole, Conkling, Edmunds, Frelighuysen, Howard, Howe, Morgan, Morrill of Vermont, Osborn, Tipton, and Welch—14.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Cragin, Dixon, Drake, Ferry, Fessenden, Fowler, Grimes, McCreery, Morton, Norton, Nye, Patterson of New Hampshire, Saulsbury, Sherman, Stewart, Sumner, Trumbull, Whyte, Williams, Wilson, and Yates—24.

So the amendment was agreed to.

The next amendment was to strike out in section two, line five, after the word "band," the words "in bulk and in the original package."

The amendment was agreed to.

The next amendment was to insert at the end of section two the following:

And the delivery of all such goods and merchandise, or annuities of any character, shall be made in the presence of a military officer not below the rank of captain, to be detailed for that purpose by the commander of the department in which the delivery

shall be made, which officer shall attest by his certificate the receipt thereof; and no receipt by Indians for goods or property to any superintendent or agent shall be valid to discharge such offices unless the same shall be accompanied by the certificate of such military officer, showing that said goods were actually delivered, and are of the quantity and quality stated in the invoice or bill thereof, a copy of which shall be attached to the receipt.

Mr. HARLAN. I doubt the practicability of that amendment. The chairman of the committee has told us during the examination of this bill that there are over seventy Indian agencies. This provides that no goods or money shall be paid to the Indians except in the presence of a military officer of the rank of captain at least. That will require the presence for a considerable period of time of seventy odd officers of the Army at these Indian agencies. It will be perfectly practicable where there is a military post in the vicinity of an Indian agency; but where they are remote from each other, it seems to me to be utterly impossible to carry it into effect. It may be that the members of the committee who have reported this amendment have thought of this difficulty and may know how to obviate it; but it seems to me to be utterly impracticable. If not practicable it would provide an absolute barrier to the fulfillment of our treaty obligations with many of the Indian tribes.

Mr. HENDERSON. In reference to this matter, I became perfectly satisfied last fall that the Indians in a great many respects were defrauded out of their annuities; and my impressions were that if a military officer was required to attest the delivery of the goods, even if it did not in all cases secure perfect honesty in the delivery of the goods, it would make matters much better than they now are. I am not able to say whether the amendment is entirely practicable. I do not know whether a military officer could be obtained conveniently at every point where goods are to be delivered. Perhaps it would be attended with some little difficulty.

Mr. POMEROY. The Senator might amend the amendment by inserting the words "when practicable."

Mr. HENDERSON. I think it might be done if there was a military post say within twenty-five or fifty miles of the point of delivery, and by putting in that provision it might be made practicable to a certain extent. My impression is that a good deal of difficulty arises from the fact that Indians believe anyhow that they are defrauded in the delivery of goods, and they have good reason in many cases to believe it. The military and the civil officers are in conflict wherever I have been in reference to Indian matters, and there is a great deal of that conflict existing here, some believing that it would be better to turn over the Indians to the military authorities altogether, and others believing that the civil authorities should retain jurisdiction. I am clearly of opinion that the civil authorities should retain jurisdiction; but at the same time I desire to secure, if possible, perfect integrity in the management of Indian affairs, and I thought that if, where it were practicable to do so, a military officer should be required to attest the delivery of goods, the natural enmity and jealous feeling existing between the two departments would induce a greater degree of honesty in the delivery anyhow.

However, it is a suggestion of my own; I have drawn it up and submitted it to the Senate. If the Senator from Iowa thinks it would be better to limit this requirement, it might be done by inserting the words "where such an officer can be obtained within twenty-five or fifty or one hundred miles," whatever distance may be fixed upon. Military officers can be a great deal better employed in this way than in fighting Indians, and I believe that if this scrutiny into the delivery of goods were required it would be so satisfactory to the Indians as to prevent frauds and to require the attention of the military. That is, we might have them peacefully employed in attesting the delivery of goods instead of hostilely employed in fighting Indians.

Mr. HARLAN. I approve most fully of the honorable Senator's purpose. It would certainly be some guarantee to require these payments to be made in the presence of two officers of different branches of the public service, and I would be willing to accept the amendment with the modification the Senator proposes. But to show how difficult it would be in some instances I may mention that there is a very little fragment of Indians in the State of Iowa, which I have the honor in part to represent here. There is no military post in the State; there is none within some hundreds of miles of the location of these Indians, for they are located very near the center of the State. It would cost nearly as much to send an officer from Washington city to that little fragment of a band as the money that is paid to them would amount to. With the modification the Senator proposes it probably would be practicable, and if so it ought to be adopted.

Mr. HENDERSON. I move to amend the amendment by inserting after the word "made" the words "where such officer shall be stationed within fifty miles of the place of delivery."

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The PRESIDENT *pro tempore*. The next amendment will be read.

Mr. DOOLITTLE. Before that last amendment passes from the consideration of the Senate I would suggest to the honorable Senator from Missouri that perhaps he would arrive at what he desires better if he were to provide that the commanding officer of the district should detail an officer for the purpose when he should find it practicable to do so. If you say "within fifty miles" it may not work well. There may be instances where it would be practicable for the commander to send an officer one hundred and fifty miles. Perhaps there may not be a station within fifty or one hundred miles of the Indians, but if it is left to the commanding officer, whenever he finds it practicable, to detail an officer to attend to it, let it be his duty to do it, and then he will judge of the circumstances.

Mr. CONNESS. In that case I suggest that the provision might be that before the delivery it should be the duty of the agent or superintendent to make an application to the district commander, and that would be of record as a matter of course.

Mr. HENDRICKS. My objection to this proposition would not be on the question whether it is practicable or not. I think the whole thing is vicious. I do not think a military officer ought to supervise payments made by any civil officer—it is not his business to do so. A captain of a company is not a fit man to superintend the payment out of money by a civil officer, or the delivery of property by a civil officer. It is not in the line of his business; and it is a step in a direction that I do not like. I have never made up my mind to any extent at all that Indians ought to be placed under the control and management of the Army. Thus far my judgment has been hostile to the proposition. This is a short step in that direction. I think the Senate had better reject the whole thing on principle.

Mr. HENDERSON. It has been adopted.

Mr. HENDRICKS. I move to reconsider.

The PRESIDING OFFICER. (Mr. Corbett in the chair.) The Senator from Indiana moves to reconsider the vote adopting the last amendment voted on.

Mr. HENDERSON. I hope it will not be done.

The motion to reconsider was not agreed to.

The next amendment was to add to the bill as a new section:

Sec. 3. And be it further enacted, That the sum of \$3,500 provided for in the tenth article of the treaty of March 6, 1861, with the Sacs, Foxes, and Iowas, to be expended by the Secretary of the Interior in the construction of a toll-bridge across the Great Nemaha river, may be applied to the purchase of oxen and agricultural implements, &c., for the use of said Indians, in compliance with their request.

Mr. TIPTON. Before that question is taken I should like to hear from the chairman of the committee why the stipulation of the treaty is not to be carried out in regard to the erection of a bridge over the Great Nemaha; why it is diverted for the purpose specified in the section? The bridging of that stream is a matter of the first importance to my constituents.

Mr. HENDERSON. The Indians say that they do not want a bridge over the Great Nemaha, and that they can have this money expended much more profitably to themselves in another direction, in the purchase of oxen and agricultural implements. They say that if the bridge is built it will inure entirely to the benefit of the whites. They never want to cross the river except in their canoes, and the whites will enjoy the benefit of the appropriation, which should be exclusively enjoyed by the Indians. This proposition is made at the unanimous request, I believe, of all the head men and chiefs of the tribe. They especially desire it, and they do not feel that they ought to be taxed for the construction of a bridge which will be enjoyed by the white men. I know that the Senator's constituents would be very largely benefited, but the Indians cannot see that they themselves will be benefited, and now that white men have entered the country in such large numbers the Indians have come to the conclusion that the whites ought to build a bridge, and leave the benefits of the treaty to inure to them in another direction where it can be exclusively enjoyed by them. They say the bridge will scarcely ever be crossed by them, but the whites will use it almost entirely, and the whites ought to build it if they want it. If the bridge be built by the Indians, the Indians will have a right to charge toll there, and not let the whites cross. They do not wish to keep a toll-bridge there, because they do not know but that they will be compelled to move some of these days, and then they would have to sacrifice their rights in this toll establishment.

Mr. TIPTON. I was not aware of what the language or provision of the treaty was, and therefore I desired information. I have no objection to the amendment.

The amendment was agreed to.

The next amendment was to insert:

Sec. 4. *And be it further enacted*, That the sum of \$10,356 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Interior to defray the expenses of the Cherokee delegation to Washington, District of Columbia, during the year 1867: *Provided*, That said sum be refunded to the Treasury of the United States out of that portion of the proceeds of the sale of the Cherokee neutral lands applicable to Cherokee national purposes.

The amendment was agreed to.

The next amendment was to insert:

Sec. 5. *And be it further enacted*, That to enable the Secretary of the Interior to pay the awards made to Joseph G. Heald and Reuben Wright, under the fifth article treaty of April 23, 1866, with the Choctaw and Chickasaw nations of Indians, the sum of \$90,000 be, and the same is hereby, appropriated out of the sum of \$500,000, now to the credit of the Choctaw nation in the Treasury of the United States, placed there in conformity with the tenth and thirteenth articles treaty of June 22, 1855, with the Choctaws and Chickasaws.

Mr. CONNESS. I am told that the questions involved in this amount of appropriation which it is proposed to take from a certain fund and pay to certain parties, are now undergoing special investigation in the House of Representatives as a separate measure. We cannot possibly know sufficiently about the facts to decide this question here. We are called upon to provide for paying \$90,000 out of a certain Indian fund, and without knowing much of the facts and circumstances. We are asked to be judges in the case. The case is now undergoing investigation before the House of Representatives as a special question, and I should hope that this provision should not be put upon this bill.

Mr. EDMUNDS. Shall we not be more likely to pass it if we do not know than if we do so?

Mr. CONNESS. The honorable Senator,

as Mr. Ward would say, is meaning to be sarcastical to night. I think if he will just simply put his hat out of his hand and sit down here with us we shall be more likely to do our business better than we are now doing it, for we never get along so well without my honorable friend as with him.

Mr. EDMUNDS. I have heard about as much of Indians as I care to hear to-night.

Mr. CONNESS. I hope that this section will not be adopted.

Mr. HENDERSON. I am entirely indifferent about this matter. It is no appropriation from the Treasury. It is like a great many other appropriations in this bill.

Mr. CONNESS. It is deciding an Indian question.

Mr. HENDERSON. Yes, sir; it is deciding an Indian question. If the appropriation is made, it comes out of the moneys of the Indians. It is like many other appropriations in the bill. They appear pretty large, but they do not come out of the Treasury of the United States; they come out of the funds that belong to the Indians. Many of these large appropriations are of that character. They are calculated to frighten Senators by their amount, but yet there is nothing in them so far as expense to the Treasury is concerned.

Under a treaty made in 1866 with the Choctaw and Chickasaw Indians it was provided that a commission should be appointed to investigate the claims of these traders among them, the Choctaws and Chickasaws at the beginning of the war having seized upon their property. A commission was appointed, and they have assessed this amount, and the question now is whether, in accordance with that treaty, we shall make an appropriation to pay them. I believe all parties agree that this amount is due. I know that there is some serious objection to paying it out of the funds that are now in the Treasury to the credit of the Choctaws and Chickasaws; but there is no other way of paying it. It is a treaty stipulation of the Indians that they will pay it, and I know of no other funds to pay it from.

It is true that the Choctaws and Chickasaws have a claim against the Government of \$1,800,000; but the Senate is not prepared at present, I apprehend, to make that appropriation. If the Senate will appropriate that money the Indians would much prefer paying it directly from the Treasury; but we do not exactly acknowledge our indebtedness to that extent; and we are not prepared to make the appropriation, and the creditors of the Indians demand this money. I am perfectly indifferent about it. In fact, I believe the attorneys for the Indians object to its being paid, and General Denver this evening informed me that there was some misunderstanding about the amendment. I scarcely know what course to pursue. It was a very late matter. I only saw him to-day in reference to it. He called upon me and said there was some misunderstanding in the other House. My understanding was that it was perfectly agreed upon between the counsel for the Indians and the counsel for Heald and Wright that this money should be paid and paid at once out of the Indian fund. However, the matter is before the Senate. It has been adjudicated, and it is perfectly clear that this amount is due and ought to be paid in some way, and the sooner it is paid, I apprehend, the better.

Mr. CONNESS. I only wish to say in addition that I am informed—I do not pretend, indeed I do not know enough to vote on the question, and therefore I desire it not adopted—that it is made up in part from claims purchased with confederate money, and drafts drawn upon firms that failed, and concocted and made up of various parts of that kind. I hope that we shall not vote upon it in this bill.

Mr. STEWART. One of these gentlemen called upon me with a statement, which I took the trouble to look through, from Governor Boutwell, who had been informed of the facts, and had investigated them. He had been a

citizen of Boston. From the statement I saw, the claim is for goods taken by the Choctaws and Chickasaws at the time they rebelled. Of course I do not know anything about the proof in detail except the statement that was then presented. My understanding was that the claim had been examined by a commission.

Now, I have to say this in regard to the Choctaws and Chickasaws: I think our Government was exceedingly liberal in renewing treaty stipulations with them. I do not think we should ever have agreed to pay all that might be found due under former treaties when we renewed our relations with them after the rebellion. I think we treated them with exceeding liberality, such liberality as we treated no other subjects who went into the rebellion. They were placed in a better position; and if this money is really due, as appears to be the case, and there does not appear to be any question as to the amount, I think it ought to be paid. If there is any mistake about it it can be left out in the conference committee, but I hope the amendment will not be abandoned. It can be further considered in conference, if there is any mistake about it, or if it is founded on confederate money or anything of that kind; but the statement of Governor Boutwell looked to me like a very fair statement of the case. This man was there trading, and the Indians took his property, tore down his house, and drove him out of the country. They joined the confederate forces, and he had to leave. If the amount is actually found due, they certainly ought to pay it. If there is any mistake about it, of course it can be left out in the conference.

Mr. RAMSEY. In answer to the suggestion of the Senator from California, I will say that I am told this matter has been before the committee of the House for four months past, and their conclusion is in favor of the claim; but not having been called, they have not had an opportunity to report.

Mr. CONNESS. We do not know that.

Mr. RAMSEY. I am so informed.

Mr. DOOLITTLE. I had occasion to look into this question when the treaty was under consideration. The Choctaws are not an ordinary tribe of Indians. They are very able men, and in negotiating their treaties they are as sharp in making a bargain as any white men ever have been, I believe. But in making this treaty they make this stipulation by which they agreed to pay Heald and Wright, Massachusetts men, I believe, who were in the Indian country, and who had a large amount of goods there just at the breaking out of the rebellion, and the Indians, when they rebelled, seized their goods. They agreed to pay this money as it should be ascertained by a commission. That clause is in the treaty. Precisely what the commission have found I do not know. That is news to me; but the original basis of the claim was that they agreed to pay for goods that they had seized when they went off into the rebellion, which Heald and Wright, Massachusetts men, had down in the Indian country. If the commission has been fair, and has found the amount fairly—and I know nothing to the contrary—I think it ought to be paid.

The amendment was rejected—ayes eleven, noes not counted.

The PRESIDENT *pro tempore*. There was an amendment passed over which will now be considered.

The Chief Clerk read the amendment, which was in line eleven to strike out "\$39,000" and insert "\$116,550;" so that the clause will read:

For the pay of superintendents of Indian affairs and of Indian agents, \$116,550.

Mr. HOWE. Have you made that calculation?

Mr. HENDERSON. *Yes, sir.

Mr. HOWE. How much is it?

Mr. HENDERSON. One hundred and sixteen thousand five hundred and fifty dollars.

The amendment was agreed to.

Mr. HENDERSON. I have some other amendments to offer from the Committee on Indian Affairs. I move to amend the bill by adding the following to the first section:

For the purpose of carrying out new treaty stipulations with the northern Cheyennes and Arapahoes, and for removing them from near Fort Laramie to the new reservation, as agreed by the Indian peace commission, \$30,000.

Mr. HOWE. Is that a new section?

Mr. HENDERSON. It is under the new treaty which has just been sent in, and is now pending. I regard the appropriation as absolutely essential.

The amendment was agreed to.

Mr. HENDERSON. I offer another amendment, to insert the following:

For the purpose of clothing and subsisting the Crow Indians of Montana Territory, under provisions of the treaty of 1866, and under the late treaty made by the peace commissioners at Fort Laramie, and for paying expenses for subsistence incurred at Fort Laramie, \$60,000.

The amendment was agreed to.

Mr. HENDERSON. I offer another amendment, to insert the following:

For the purpose of removing to their new reservation the Sioux Indians of the Powder river country, and for subsistence, and to enable them to commence farming, as provided in the new treaty of Fort Laramie, made with the peace commissioners, \$150,000.

The amendment was agreed to.

Mr. HENDERSON. I offer another amendment, to insert after line one hundred and ninety-three the following:

For the Chippewas of Lake Superior, to be expended in the purchase of twine for nets, kettles for making sugar, guns and ammunition, provisions, and material for blankets, clothing, &c., as estimated by the agent of said Indians, \$15,000.

The amendment was agreed to.

Mr. HENDERSON. I have another amendment, to insert after line seventy of the amendments the following:

For transportation of goods, &c., to the Kiowas, Comanches, Apaches, Cheyennes, and Arapahoes, \$12,000.

The Senate will remember that in striking out the clause in the original bill we struck out the transportation, and it was neglected to be inserted, and it is necessary to put it in. I have reduced it, however, from the estimate of \$16,000 to \$12,000. I think it may be made at that.

The amendment was agreed to.

Mr. HENDERSON. I have another amendment, to insert after the sixth line of the printed amendments the following:

The salary of said last-named superintendent shall be \$3,000.

The amendment was agreed to.

Mr. HENDERSON. I have another amendment, to insert the following:

For vaccination of Indians and furnishing vaccine matter, \$2,500.

The amendment was agreed to.

Mr. HENDERSON. I offer another amendment, to insert as an additional section the following:

And be it further enacted, That with a view and for the purpose of collecting together under the same government and control the various Indian tribes now in the State of Kansas, in the Indian territory, and on the plains south and west of said State and Territory, including the Osages, Wichitas, Kiowas, Comanches, Cheyennes, Arapahoes, and Apaches, together with such tribes or individual Indians in the State of Texas and in the Territory of New Mexico as may be induced to settle thereon, the following district of country is hereby set apart as a permanent Indian reservation, to wit: all that territory bounded north by Kansas, east by Arkansas and Missouri, south by Texas, and west by the one hundred and first meridian of west longitude; and said territory shall be known as the Territory of Cherokee. And it is hereby made the duty of the Secretary of the Interior to cause to be prepared and reported to Congress at his next session such rules and regulations as in his judgment may be proper and efficient for the government and civilization of the Indians to be collected thereon, which rules and regulations, when enacted into law by Congress, shall constitute the form of government for said Territory. Until the repeal or alteration of this section, no authority shall be exercised by any Department officer of the Government looking to the location or settlement of any of the Indians herein referred to upon any lands except those included in the reservation herein described. And

the Secretary shall immediately issue orders to all superintendents and agents in charge to give information to the tribes under their control of the passage of this act, and that they encourage said Indians to accept the purposes of the Government as herein indicated. The Secretary, by authority of the President, may also cause treaty stipulations or agreements to be entered into with the tribes referred to, providing for their removal and settlement upon the reservation herein defined, which said agreements or treaties shall not be binding until ratified by the Senate.

Mr. STEWART. I hope the amendment will not be adopted. I should like to hear something about it before it is acted upon. It seems to me that is setting apart a very large amount of country.

Mr. HENDERSON. It is the Cherokee country now.

Mr. STEWART. All of it?

Mr. HENDERSON. Every bit of it—the country of the Cherokees, Choctaws, and Chickasaws. It is the Indian territory.

Mr. STEWART. I suppose it contemplates making more Indian treaties. I am opposed to the whole treaty business, and I believe we should as soon as possible commence legislating for the Indians. I think it is a disgrace to the country to carry on this business of treating with the Indians and removing them from time to time, giving them a large tract of land, and then when civilization gets near them, and they commence to become civilized to some extent, a few of the leading Indians are bribed by the agents or speculators who desire to get the lands, and they are removed from them at enormous expense, the lands bought, and we continue treating with them. It seems to me the sooner we commence the system of legislation and protect them in their rights by legislation the better. I do not believe in these treaties. Many of them are made where there are no tribes, made with irresponsible Indians, and it is a very expensive business.

In my State we have a large number of Indians; but we have no Indian treaties, and I think we get along with the Indians better than in any other part of the United States. In this bill there is \$20,000 appropriated for the Indians in Nevada. There are as many Indians in Nevada as there are in Arizona, and I think as many as there are in California.

Mr. COLE. Oh, no.

Mr. STEWART. Perhaps not; but we have many more than there are in Idaho.

Mr. HENDERSON. How many have you?

Mr. STEWART. Nobody knows how many there are; and I suppose nobody knows definitely how many there are in any State or Territory. You can only make an estimate. The wild Indians have not been enumerated anywhere. But it is claimed there are from four to ten thousand Indians there. I cannot tell how many; nobody knows. These estimates are all very vague, particularly with regard to the wild Indians. We get along with \$20,000 a year for the Indians in Nevada; but when you pass laws and make treaties, and set apart reservations, you have a large amount of negotiation with irresponsible persons, and much more irresponsible agents.

The great evil of the treaty system is this: we have no means of investigating it. The Committee on Indian Affairs must adopt the reports from the Department, and the Department are informed by Indian agents and speculators who surround the Department. Go there on any occasion and you will see hundreds of them there with their little schemes. It is easy enough for them to make representations and get up their evidence, and there is no means of testing it. If the treaties were discussed in open Senate and in the House, and passed through the committees as other matters are, we should get information. But a treaty comes in in the hot days, and the doors are closed—for what purpose I do not know—and nobody will stay here to hear it, and nobody knows anything about it, and thus enormous abuses have grown up. Committees are imposed upon; the Senate is imposed upon; the Department is imposed upon; and very little good is done to the country by means of these Indian treat-

ties. This amendment contemplates future Indian treaties.

It seems to me that this whole Indian business could be transacted for one tenth of the money that is now appropriated. I think a simple plan might be adopted. I would suggest to have no army there and no Indian agents in the country. I would select the very best army officers that the country has; I would have their headquarters in the Indian country, in their towns; and when you wanted an Indian war you could get volunteers over night and have the war disposed of in a couple of days, and that would be the end of it. Keeping an army away in the interior to watch the Indians, and spending millions upon millions for transportation and food, is a useless expense, because they cannot do the work as well as those who are on the ground. The volunteers are the men to dispose of an Indian war under the direction of military men. These military men should also enforce the laws against the whites, make regulations, and have them understood.

As to feeding the Indians, I am opposed to it except upon the same principle that I would feed other poor people. I would make them no promises. If they have a short crop or anything happens to their means of living, if the game is scarce, or there is a hard winter, I would deal out rations to them and feed them; but I would make no previous contracts. The whole system at present, it seems to me, is complicated and a drain upon the Treasury; and if this amendment contemplates an unlimited continuance of it I am opposed to it, and if it is to be pressed to-night I have considerable to say on the subject.

Mr. HARLAN. With the Senator's leave, I will venture to suggest to the honorable chairman that perhaps it would be better not to press this amendment on this bill. It may be that a large majority of the Senate would approve it, but I should prefer to examine it as a separate measure. The treaties with the Cherokees I remember, and I think with the Choctaws and Chickasaws, negotiated in 1866, provide for the settlement of other Indians in their Territory.

Mr. HENDERSON. Yes, sir.

Mr. HARLAN. But they were very careful to stipulate that they should be civilized and friendly Indians.

Mr. HENDERSON. All that settled east of a certain line of longitude; but all that settled west of that line were not required to be civilized.

Mr. HARLAN. The Senator is probably right in that. I would make one other suggestion. This amendment provides that the agents shall notify the Indians of the various tribes west and south of the desire of the Government that they should move. The moment you begin to talk to an Indian tribe about moving it unsettles their minds and they quit work, as the Senator from Kansas can bear witness that all the tribes in Kansas with whom we have been negotiating treaties have quit work and are idle and destitute on account of not having put in any crops this year; and I think that result would follow such a notification to all the tribes referred to in this amendment. I am rather inclined to think it would be better to gather them into this Territory in detail, to make the arrangement with the several tribes tribe by tribe.

Mr. HENDERSON. That is just what this amendment does.

Mr. HARLAN. It may be that I would approve every portion of the proposed amendment, but, personally, I should prefer to examine it as a separate measure rather than to have it passed hastily as an amendment in an appropriation bill. I only make the suggestion. It may be that other Senators are willing to act upon it.

Mr. HENDERSON. I do not intend at this hour of the night to waste the time of the Senate, because I doubt whether we have a quorum present. I regret very much that any opposi-

tion should be manifested in the Senate to this amendment. It is the recommendation of the peace commissioners of last fall; it is precisely the recommendation contained in their report. We devoted a great deal of time to this subject, and came to the conclusion that for the good of the Government and for the good of the Indians we must go to work and concentrate them; and it is in accordance with the legislation of last July, twelve months ago.

Mr. CONNESS. Has it been printed?

Mr. HENDERSON. No, sir. The law organizing the Indian peace commission provided—upon the suggestion, I believe, of the Senator from Wisconsin, [Mr. DOOLITTLE]—that we should set aside a Territory or Territories or a district or districts of country upon which the Indian tribes might be concentrated. This amendment does not propose an appropriation; there is not a dollar of appropriation in it; but it sets aside a district of country, containing the country now occupied by the Cherokees, Choctaws, and Chickasaws, and it contemplates that upon this territory in process of time we shall gather all the plains Indians. The treaties at Medicine Lodge last fall carried out that idea. We have placed upon this country the Chickasaws, Arapahoes, Apaches, Kiowas, and Comanches. The Wichitas are already upon it.

Our purpose is, if the legislation of the country will permit us or require us to do it, to collect together all the Indians in that section of the country, and then to abandon the idea of treaties. That is just what the Indian peace commission have been contemplating. We want to get rid of the existing treaties and never make any more. In other words, we want to organize a Territory. All that is done in this amendment is to require the Secretary of the Interior to adopt such rules and regulations between this time and the meeting of Congress next fall as he believes sufficient and proper for the government of the Indians in this particular district who shall be collected there, and that he shall submit those rules and regulations to Congress. If Congress will take action upon them, as I hope, and organize a Territory and establish a government there, we can go to work and appoint a Governor and council, and have such legislation in this Indian territory as will in fact keep it out of Congress. We want to abolish entirely all this treaty-making power; we want to do away with it, to get rid of it in the future, and make such appropriations for this Indian territory from year to year as may be right, just as we formerly did for Nevada when it was a Territory; just as we do now for Dakota, Idaho, and Montana.

Now, sir, when we can arrive at that end we shall get rid of these Indian appropriation bills from year to year, and we shall never do it until then. My idea is to establish a Territory there; and I have an amendment in my hand establishing one north of Nebraska for the Sioux and all that body of Indians lying in Montana and on the Missouri river east of the Rocky mountains. If I had my way I would establish two or three reservations west of the Rocky mountains, one, perhaps, in Oregon; get some good agricultural country there; one in Washington Territory, one in California, and assemble upon these particular districts of country all the Indians in the immediate vicinity, and not have more than four or five Indian reservations in the entire territory of the United States. When we shall do that, \$2,000,000 dollars will cover all the Indian expenses. Five hundred thousand dollars for each of those reservations will be amply sufficient, and we shall avoid from year to year the appropriation of from four to five million dollars.

I know that Senators shrink at these appropriations; but if I know myself I have attempted to reduce them as much as I possibly could. I feel the importance of economy as much as any Senator. I am economical in my own affairs; and in legislation I think I am equally so; but I do not chaffer or shrink from an

appropriation when I believe that in the end it will save much larger expenditures by the Government; and hence it is that I have not hesitated in this bill to march right up to appropriations that are absolutely necessary.

Sir, this amendment is the very thing that the Senator from Nevada wants. It will, in the course of a year or two, do away with all these treaties, and we can abolish them entirely. All that we now need is the consent of the Indians in the vicinity to remove upon this territory. Our object was to get the Navajoes to come upon it, but they refused. They insisted upon going to their old country, and rather than have difficulty or war with them, or attempt to bring them upon the Cherokee country and have them run off, we permitted them to go back to their old country. But in the process of time we contemplate that it is possible to get the entire body of plains Indians, New Mexico Indians, and others, upon this southern reservation; and to collect the Assinaboines, Arickarees, Mandans, Gros Ventres, and all the Missouri river Indians and Montana Indians upon the north reservation. When that is done, they are in a body, and you can educate them; they are in a body, and you can teach them farming; they are in a body, and you can teach them the English language, and do away with their barbarous habits. If, however, the Senate believe in the present policy of keeping them on small reservations scattered all over the country, a tribe here and a tribe there, having a superintendent for four or five tribes, and an agent for each tribe, instead of this policy of congregating them together and having a Governor and Legislative Council for the government of the entire body upon the Territory, of course I shall withdraw the amendment; but I believe it is the most important amendment offered to-night.

Mr. CONNESS. I hope the Senator will withdraw this amendment. He has said enough to show us that we cannot discuss it; time will not permit. It is a great scheme. There may be a great deal in it. At first blush it looks to me a good deal utopian; but I am willing to take the wisdom of the peace commissioner and make the most of it. But these amendments propose great schemes. They have not been printed, and we have not considered them sufficiently. I think it will be seen that it will be impossible for us to adopt them as amendments now, at the end of a long day, to an appropriation bill. I hope they will be put in the form of a separate bill, to be well and duly considered.

Mr. HENDERSON. I will state to the Senator that I offered a bill in January last containing these provisions, and which has been on the desks of members ever since.

The PRESIDENT *pro tempore*. The question is on the amendment.

Mr. STEWART. If there is to be a vote on the amendment I am not through with my remarks upon it. I will inquire of the Senator from Missouri if he withdraws his amendment or insists upon it.

Mr. HENDERSON. I surely, against the wishes of the Senate at this hour of the night, will not press the amendment. If the Senator from Nevada insists upon making a long speech upon it, with the purpose of defeating the amendment, and says he is determined to do it, of course I must withdraw the amendment. But if Senators wish to come to a vote upon it it is easily understood; it is contained in a printed bill lying on the desks of members since January last, and the whole scheme was contained in the report of the Indian peace commission.

Mr. CONNESS. But it has never been discussed.

Mr. HENDERSON. I know it has not, because I have been engaged in other work.

Mr. HARLAN. I desire to make an inquiry of the honorable Senator for information, whether he contemplates finishing this bill to-night?

Mr. HENDERSON. Yes, sir.

Mr. HARLAN. Otherwise I would suggest that his amendment be printed, and probably we will be able to act on it more intelligently to-morrow.

Mr. HENDRICKS. I suggest that the amendment be passed by for the present until we see whether we can finish the bill.

Mr. HENDERSON. I will let it pass over.

Mr. STEWART. Very well; I do not wish to occupy time.

Mr. HENDERSON. I have one or two more amendments to offer. I move to insert as an additional section:

And be it further enacted, That the Committees on Indian Affairs of the Senate and the House of Representatives shall examine the claim of the Choctaw and Chickasaw Indians for all matters of difference between them and the Government of the United States, and shall report the result of said examination to their respective Houses at the next session of Congress.

That was a requirement in the bill of the last session, but it became impossible for me to examine it, because I was employed in other duties.

Mr. HENDRICKS. Nobody objects to it.

Mr. STEWART. I should like to know if this is not a claim for \$1,800,000?

Mr. HENDERSON. Yes, sir.

Mr. STEWART. I should like to hear the amendment again.

Mr. HENDRICKS. It merely directs the committees to examine into it and report to Congress.

Mr. STEWART. Have they not had time to examine it?

Mr. HENDERSON. No, sir. It was made my duty to do so last year, but after that I was sent out on other duty as one of the peace commission, and was occupied until the meeting of Congress. I could not do it. The attorneys for the Choctaws and Chickasaws are continually after Congress; and in fact, they have passed a bill through the lower House on the subject, and the bill is pending here in the Senate. Perhaps it will be called up to-morrow. Some member may call it up. It is insisted upon; but the Senate, I apprehend, is not prepared to pass upon a claim of such importance. The claim is for \$1,800,000. The Senator from Iowa [Mr. HARLAN] perhaps will remember the claim, for it has been pressed upon the Department, and it has been pressed upon Congress ever since I have been here. By this amendment I make it the duty of the Indian Committees of the two Houses of Congress to examine and make a full and thorough report to both Houses at the next session, so that we can act upon it, if we act upon it at all, with judgment. There is nothing wrong in it.

The amendment was agreed to.

Mr. HENDERSON. I offer another amendment, to add as an additional section the following:

And be it further enacted, That section five of the act approved March 2, 1867, entitled "An act making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1868," be, and the same is hereby, repealed.

The amendment was agreed to.

Mr. HENDERSON. I believe that concludes the amendments from the Committee on Indian Affairs, with the exception of the amendments about these new reservations.

Mr. COLE. I offer the following amendment, to come in after line fifteen hundred and eighty-three, on page 63:

For removing Indians from South river reservation to Hoopa Valley and Round Valley reservations, \$5,000, or so much thereof as may be necessary.

The amendment was agreed to.

Mr. COLE. I have another amendment to offer, to come in as an additional section:

And be it further enacted, That the Mendocino Indian reservation in California be restored to the public lands of the United States, and the Secretary of the Interior shall cause the same to be surveyed and offered for sale in legal subdivisions not less than $\frac{1}{2}$ 25 per acre, and in such manner and in such quantities as to protect persons in possession and owning improvements thereon, having reference to the character and value of such improvements, to be determined by the Commissioner of the General Land

Office: *Provided*, That any improvements of the United States on said reservation shall be appraised by the register and receiver of the land office of the district, and be paid for by the purchaser of the land on which they are located.

Mr. HARLAN. I should like to inquire what reservation this is?

Mr. COLE. It is the reservation in Mendocino county that has been abandoned for some years—two or three years at least. It extends up and down the country and back from the sea-shore about three miles, and contains altogether, according to the terms of the reservation, twenty-five thousand acres. It is not used as a reservation, and it ought to be restored to the public lands for the benefit of quite a number of persons in possession of different portions of it. They are very much annoyed and distressed that they are not able to obtain patents to their property that they have in possession. The value of the improvements that the United States have put there for Indian purposes is not great. There are some dilapidated houses, sheds, and so on, of little value.

Mr. HARLAN. If the Senator will allow me, I have an impression that this reservation was provided to be disposed of by some former law; that the land itself was to be appraised.

Mr. COLE. No, sir.

Mr. CONNESS. If my colleague will let me answer that, the Senator from Iowa refers to the Nomee Lacke reservation, which was provided to be disposed of specially, and the land of which was valuable; but this is comparatively worthless land.

Mr. HARLAN. This is a different reservation?

Mr. COLE. Yes, sir. My colleague and myself agree as to the propriety of the amendment, and I think there can be no objection to it.

Mr. HENDERSON. I should like to ask the Senator if the Indians have been removed from the reservation?

Mr. COLE. There are no Indians there. They have been removed to Round Valley, across a range of mountains or two.

Mr. CONNESS. The amendment is recommended by the Commissioner.

The amendment was agreed to.

Mr. POMEROY. I desire to call the attention of the chairman of the committee to an amendment on page 30, line seven hundred and twenty-four. I see that the Miamies in Kansas have an appropriation from year to year for a blacksmith and an assistant blacksmith, according to the provisions of a treaty, and yet they are living in a settlement of white inhabitants. There is no blacksmith furnished them, and yet the treaty provides for it, and you appropriate the money. Since this bill has been under consideration there has been sent in to me a letter on the subject, and I wish to move an amendment, if it meets the concurrence of the Senator from Missouri, to add the following proviso:

Provided, That the Secretary of the Interior, on application of the Miami council be, and he is hereby authorized to pay out to said Miamies *per capita* the above appropriation.

You appropriate \$840 for a blacksmith and assistant, but they do not have any blacksmith. They are farmers, and they get their blacksmithing done in the neighborhood; and this amendment is to allow the Secretary of the Interior to pay them this sum that you appropriate *per capita* instead of furnishing a blacksmith. If that is right, I want it put in. It has been sent to me. It is a matter that I am not very well acquainted with. You appropriate the money, but do not spend it, and this is to authorize the Secretary of the Interior to divide it among the Indians who now get their blacksmithing done in the neighborhood. Is it right?

Mr. HENDERSON. I have no objection to it if the statement made by the Senator be vouched for by himself; but it seems to be mere information coming from others. If the Senator knows the fact that there are white blacksmiths in the neighborhood, and the In-

dians living among the whites get their work done there, I suppose there is no objection to it.

Mr. POMEROY. I think I am right. The acting commissioner will inform me if I am not.

Mr. HENDERSON. I have no objection to it.

Mr. POMEROY. Then I move to insert at the end of line seven hundred and twenty-four, the provision relating to the Miamies, the following proviso:

Provided, That the Secretary of the Interior, on the application of the Miami council be, and he is hereby authorized to pay out to said Miamies *per capita* any of the above funds heretofore appropriated and not used for the purposes for which appropriated.

The amendment was agreed to.

Mr. THAYER. I move to amend the bill by inserting on page 23, after line four hundred and forty-six the following proviso:

Provided, That no moneys hereby appropriated to the Creek tribe of Indians shall be to them paid until such Creeks as were enrolled by the Creek agent previous to the 14th day of March, A. D. 1867, and who were refused any share in the moneys then distributed *per capita* under orders from Louis V. Bogy, Commissioner of Indian Affairs, for the reason that said persons were of African descent, shall first be paid therefrom a *per capita* dividend equal to that to which they were entitled in said payment of March 14, 1867, and equal to that paid to other Creek citizens at that time.

Mr. HENDERSON. I should like to have some explanation of the amendment. I do not know that I understand it exactly.

Mr. THAYER. By the orders of Mr. Bogy, the *per capita* portion of the amounts due the Creeks was withheld from those of African descent. This amendment places them on the same footing as the others.

Mr. CONNESS. On what ground withheld?

Mr. THAYER. On the ground that they were of African descent.

Mr. CONNESS. What had that to do with it?

Mr. HARLAN. This provision, if the Senator will allow me, is perfectly right. It is provided in the treaty distinctly that there shall be no distinction made between full-blood Creeks and those of African blood. The delegates who negotiated the treaty insisted on it themselves, and declared they would not sign any treaty that had not some such provision in it. In paying the first installment under the treaty, it is said—I have not looked into that personally, but it is said—the Commissioner of Indian Affairs refused to permit any part of the payment to be made to those who were of African descent. The treaty provides that they shall be put on a perfect footing with the other Creeks.

Mr. HENDRICKS. I ask the Senator from Nebraska whether it appears of record that that was the reason payment was not made?

Mr. THAYER. The Senator from Iowa can answer.

Mr. HENDRICKS. Is it a matter of record that the refusal to pay was on that ground?

Mr. HARLAN. I was so informed by the attorney for the Creek Indians. He stated to me that they had not been paid.

Mr. HENDRICKS. That is not the question. The recital made in a law ought to be based on something substantial, not upon mere rumor. It is recited here as a matter of fact that that was the ground. I want to know if that was the ground assigned in any report made by him, or in any official document?

Mr. HARLAN. I am not able to answer that question.

Mr. POMEROY. I have a communication from the agent to the Department on the subject, and a copy of a letter which states that fact. This letter is written by Mr. Dunn, who was then the agent, and addressed to the acting Commissioner of Indian Affairs.

Mr. HENDERSON. Let it be read. The objection to this amendment is this, and I will call the Senator's attention to it—

Mr. HENDRICKS. It is the first time I ever heard of an Indian of African descent.

Mr. HENDERSON. I was just going to remark that an Indian of African descent is a somewhat singular individual.

Mr. POMEROY. But they were adopted in the tribe.

Mr. HENDERSON. How adopted?

Mr. POMEROY. They married into the tribe.

Mr. HENDERSON. Suppose the Indian agent had enrolled white men and white women instead of Africans, and the Creeks had objected to dividing their annuities with white citizens because they were of Caucasian descent, and not African descent, then of course we should not allow it. Perhaps this agent, Mr. Dunn, may have put in a large number of negroes there and also whites who never sprang from the Creeks at all. I do not know how that is. But the amendment certainly goes too far. It requires that we shall now make appropriations to all these people of African descent enrolled by the agent of the Indians. I do not know who was enrolled and who was not enrolled. If the agent has enrolled people who are not entitled to the annuities of the Creeks, they ought not to have them. I would not make any objection if it included simply those entitled, but the Senator will see that the wording of this amendment is much too broad.

Mr. HARLAN. If the Senator will allow me, that difficulty might be obviated by saying "properly enrolled under the provisions," &c.

Mr. HENDERSON. I have no objection to that.

Mr. POMEROY. I send to the desk a letter on that subject. If the Clerk will read it it will explain it.

The CHIEF CLERK. This letter is dated Washington, June 1, 1868—

Mr. RAMSEY. I understand there is no objection to the amendment; and so there is no occasion to read the letter.

Mr. POMEROY. If there is no objection to the amendment I do not ask to have the letter read.

Mr. HARLAN. Let the amendment be modified so as to read "properly enrolled under the provisions of said treaty."

Mr. POMEROY. Of course they do not want to pay anybody that is not properly enrolled.

Mr. HENDERSON. I suggested that it be modified to read "until such Creeks as may have been properly enrolled by the Creek agent." That would still leave the question to be determined by the Department.

The PRESIDENT *pro tempore*. The amendment, as modified, will be read.

The Chief Clerk read as follows:

Provided, That no moneys heretofore appropriated to the Creek tribe of Indians shall be to them paid until such Creeks as may have been properly enrolled by the Creek agent, &c.

Mr. HENDRICKS. That ought to be written "paid to them" instead of "to them paid." That is rather ancient style.

The amendment, as modified, was agreed to.

Mr. RAMSEY. I move a reconsideration of the vote just taken on the amendment in relation to the case of Heald and Wright. I am afraid the Senate are doing great injustice to those parties. I have since seen the chairman of the Indian Committee of the House, who has had the matter in charge, and he informed me that I was correct in the statement I made to the Senate, that that committee had thoroughly investigated it and have not reported upon it simply because they have not been called. I think the Senate will hesitate to do this great injustice to these men in that state of the case. I move a reconsideration of the vote on that amendment.

The PRESIDENT *pro tempore*. The Senator can offer the amendment again when the bill comes into the Senate.

Mr. RAMSEY. Very well.

Mr. HOWE. I desire to ask the Senator from Missouri if he cannot afford to dispense with the appropriation of \$2,000 for transportation on the twenty-third page, line five hun-

dred and forty-six. Looking over the appropriations to the Creek Indians I do not find anything to be paid in goods; it is all to be paid in money or to be paid to employes; and yet there is \$2,000 appropriated for transportation.

Mr. POMEROY. Agricultural implements are to be purchased, and you have got to transport them.

Mr. HOWE. What agricultural implements?

Mr. POMEROY. In line five hundred and twenty-four there is an appropriation "for assistance in agricultural operations, during the pleasure of the President."

Mr. HOWE. Those are not implements.

Mr. POMEROY. You must have implements to carry on agriculture.

Mr. HENDERSON. To satisfy the Senator from Wisconsin that I am not mistaken about the necessity of the amendment, if he will look at the appropriation from line five hundred and thirty-seven to five hundred and forty-three, inclusive, he will find that we have a fund of \$775,000 to the credit of the Creeks, and five per cent. per annum is paid upon that every year, making \$38,750 40; and that is to be invested under the direction of the Secretary of the Interior in such goods as he sees fit to send out for them.

Mr. HOWE. Is that to be invested in goods?

Mr. HENDERSON. Yes, sir; it is to be expended under the direction of the Secretary of the Interior, and it is expended in that way, as I understand. This discretionary power is given to the Secretary, as I understand it, to be invested in any way he chooses. If he does not so invest it, I apprehend, of course, this other expenditure will not be made.

Mr. HOWE. You think you cannot afford to dispense with it?

Mr. HENDERSON. I think not.

Mr. HOWE. Very well; I will not move an amendment.

Mr. HARLAN. I move to amend the bill on the third page by striking out lines fifty and fifty-one, as follows:

For pay of clerk to superintendent at St. Louis, Missouri, \$1,200.

As the Senator will remember, there is no superintendency located at St. Louis.

Mr. HENDERSON. The superintendency at Omaha now is the St. Louis superintendency. It was first removed to Kansas City and then to Leavenworth, and from Leavenworth it has now been removed to Omaha.

Mr. HARLAN. That one was removed to Kansas. The St. Joseph superintendency was removed to Kansas, and the Minnesota superintendency to Nebraska.

Mr. HENDERSON. I believe the Senator is correct. It is the St. Paul superintendency that was removed to Omaha, and the St. Louis superintendency is now what is called the Central superintendency. I was under an error.

Mr. HARLAN. If this appropriation is needed, it would better to correct the phraseology and say: "For pay of clerk for the Central superintendency."

Mr. HENDERSON. No; the Northern.

Mr. POMEROY. Omaha is the Northern.

Mr. HENDERSON. That is the one we are speaking of. It is the one we intend to give the appropriation to, I believe. What line is it?

Mr. HARLAN. Page 3, lines fifty and fifty-one. "Central superintendency" is the name of that superintendency.

Mr. HENDERSON. I understand that it is intended for the Central superintendency, that it follows the St. Louis superintendency, which is now at Atchison, I believe. It went first to Kansas City, and from there to Leavenworth, and from Leavenworth to Atchison, and is now located at Atchison.

Mr. HARLAN. I move an amendment, to change the phraseology, to say "pay of clerk for the Central superintendency."

Mr. HENDERSON. I have no objection. I think that ought to be so; but the Commissioner told me this was the usual form.

Mr. POMEROY. I am informed by the

superintendent that this is for the Central superintendency. Twelve hundred dollars, I suggest, is a small salary.

The amendment, as modified, was agreed to.

Mr. POMEROY. I call attention whether that is the usual amount for the clerk, \$1,200 salary.

Mr. HENDERSON. The same amount is always paid.

Mr. POMEROY. You cannot get a good clerk for that, I think.

Mr. HENDERSON. We cannot get more appropriated.

Mr. THAYER. I offer the following amendment to come in on page 38, after line nine hundred and twelve:

For surveying into lots the reservation of the Ottos and Missourias established by the treaty 15th March, 1854, and the supplemental treaty of 9th December, 1854, as provided in sixth article treaty of 15th March, 1854, \$7,148.

Mr. HOWE. Does that come from a committee?

Mr. THAYER. Yes, sir; from the Committee on Indian Affairs, and is recommended by the Department. I hold in my hand the estimate.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

Mr. RAMSEY. I propose again the amendment for the Heald and Wright case. It is to insert as an additional section:

SEC. 5. And be it further enacted, That to enable the Secretary of the Interior to pay the awards made to Joseph G. Heald and Reuben Wright, under the fifth article treaty of April 23, 1836, with the Choctaw and Chickasaw nations of Indians, the sum of \$90,000 be, and the same is hereby, appropriated out of the sum of \$300,000, now to the credit of the Choctaw nation in the Treasury of the United States, placed there in conformity with the tenth and thirteenth articles, treaty of June 22, 1835, with the Choctaws and Chickasaws.

I am informed that this is a just claim against the Choctaws, and they are anxious that it should be paid.

Mr. POMEROY. It is a private claim.

Mr. RAMSEY. The Senator from Arkansas [Mr. McDONALD] says he knows all about it, and says that it is a just and proper claim, and a member of the House of Representatives informs me that this question has been before them for four months and thoroughly investigated, and it is a just claim, and would have been reported there but that the Indian Committee has not been called for reports.

Mr. HARLAN. That it may not be rejected without a full understanding, I will state that when the treaty of 1861 was under consideration the delegates of the Choctaws and Chickasaws considered this matter thoroughly, took ample time to do it, and were assisted by an attorney of the name of Latrobe, from Baltimore, I suppose known to many of the lawyers here as a very able man; and they made up their minds that it was just and honorable that they should provide for this claim to the amount of \$90,000. That was the minimum fixed. They agreed that they would pay that amount to gentlemen who had goods in their country when the war begun, and which they seized and appropriated to their own use after the beginning of the rebellion. The gentlemen were down there with heavy stocks of goods as traders, and their goods were taken by these Indians. They agreed, after considering it fully and thoroughly, to pay the claim. I think there was no dissenting votes among the delegates of these tribes as to the justice and propriety of their obligation in honor to meet it. They stipulated, however, that the aggregate amount should not exceed \$90,000, and that if the claim should amount to more than that sum it should be paid *pro rata*. I understand that the amount proved up and admitted to be just is much larger than that amount; but under the treaty they have not obligated themselves to pay more than \$90,000. There is no catch in it. It is a fair agreement.

Mr. CONNESS. I wish to say, as I spoke when this question was up before upon it, that since that time Governor BOWWELL, of

the other House, whose character cannot be questioned, came and informed me that the House committee had this under consideration and accepted the claim as a correct one, having investigated it fully, but that the committee could not report again at this session, and they were exceedingly desirous that it should be adopted as an amendment to this bill. He said that he had thoroughly examined it and had no doubt on the subject.

Mr. HARLAN. I ought to state further that these tribes were informed that the Government would not insist on their providing for this claim unless they themselves thought it was just and right; and with that statement made distinctly to them, and after considering it for several days, they came to the conclusion that they were in honor bound to provide for it to that extent.

Mr. POMEROY. Do I understand the Senator to say it is in the treaty?

Mr. HARLAN. Yes, sir; they agreed in the treaty to pay this claim to the amount of \$90,000 out of their own funds.

Mr. POMEROY. Then I make no objection.

Mr. HENDERSON. The Indians admit the obligation to pay; but they say that they did not understand the money was to come out of their annuities in the Treasury, which they were receiving, but they thought it ought to come out of the claim they have.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed. Its title was amended by adding the words "and for other purposes."

RIGHTS OF CITIZENS ABROAD.

Mr. CONNESS. I move now that the Senate proceed to the consideration of House bill to provide for the protection of American citizens abroad.

Mr. CONKLING. I do not know that anybody has any objection to that bill coming up; but there is not a quorum here, and not half a quorum. I think it is fair that we should adjourn with the coast clear, and let us vote with a full Senate in the morning. I therefore move that the Senate do now adjourn.

Mr. CONNESS. On that I call for the yeas and nays. It was very well understood to-day that one bill should succeed the other.

Mr. CONKLING. I did not so understand. Mr. CONNESS. Very well; we will try it by a vote.

The yeas and nays were ordered and taken. The call of the roll having been concluded,

Mr. HENDRICKS, (who had voted in the negative.) I will change my vote; there is no possibility of getting a quorum, and I vote yea. It is evident we cannot transact business.

Mr. HOWE. Mr. President, I will change my vote; I vote yea.

Mr. CONKLING. I take it there will be no difficulty in getting the bill up to-morrow. I do not see why we should stay here at eleven o'clock to-night in order to try and get a quorum.

Mr. RAMSEY. I will withdraw my vote to the affirmative.

Mr. CONNESS. I change my vote.

Mr. THAYER. I change my vote from the negative to the affirmative.

Mr. McDONALD. I change my vote to yea.

The result was announced—yeas 15, nays 7; as follows:

YEAS—Messrs. Cattell, Conkling, Conness, Frelinghuysen, Henderson, Hendricks, Howe, McDonald, Osborn, Pomerooy, Ramsey, Ross, Sprague, Thayer, and Van Winkle—15.

NAYS—Messrs. Buckalew, Cole, Corbett, Harlan, Stewart, Wade, and Wilson—7.

ABSENT—Messrs. Anthony, Bayard, Cameron, Chandler, Cragin, Davis, Dixon, Doolittle, Drake, Edmunds, Ferry, Fessenden, Fowler, Grimes, Howard, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Rice, Saulsbury, Sherman, Sumner, Tipton, Trumbull, Vickers, Welch, Whyte, Willey, Williams, and Yates—36.

So the motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, July 16, 1868.

The House met at twelve o'clock m.
The Journal of yesterday was read and approved.

CAPTURED COTTON.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, relative to certain cotton taken possession of by Colonel Jackson at or near Vicksburg, Mississippi; which was referred to the Committee of Claims.

GOVERNMENT VESSELS BOUGHT, SOLD, ETC.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in compliance with resolution of the House of January 27, 1868, reports of the Quartermaster General relative to the number of vessels bought, sold and chartered by the United States since April, 1861; which was referred to the joint select Committee on Retrenchment.

HOMESTEADS TO ACTUAL SETTLERS.

Mr. WASHBURNE, of Illinois. I rise to a correction of the Journal. The gentleman from Indiana [Mr. WASHBURN] reported yesterday, from the Committee on Military Affairs, a bill (H. R. No. 1433) to amend an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1802; which was recommitted. By the Journal it appears that a motion of the gentleman from Indiana to reconsider the reference was "passed over for the present." The fact was that I made the motion to reconsider and to lay that motion on the table, which was agreed to.

The SPEAKER. The motion of the gentleman from Illinois [Mr. WASHBURNE] was made some time afterward, and had reference to other bills. The motion to reconsider the reference of the bill (H. R. No. 1433) was made by the gentleman from Indiana, [Mr. WASHBURN,] and was entered on the Journal for future consideration.

Mr. WASHBURNE, of Illinois. The Speaker will recollect that I made the motion to cover all those cases.

The SPEAKER. But the motion to reconsider the reference of this particular bill had already been entered and passed over for the present, and could not be reached by the motion of the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. The gentleman from Wisconsin [Mr. HOPKINS] confirms my recollection. He understood that the motion to reconsider was laid on the table. If he had not so understood he would have made the motion himself.

The SPEAKER. The gentleman from Wisconsin may confirm the recollection of the gentleman from Illinois, but that does not alter the parliamentary condition of the question. The gentleman from Indiana [Mr. WASHBURN] made the motion to reconsider while other business was pending, and, as the Journal correctly states, the "motion was passed over for the present." In regard to the other bills, the gentleman from Illinois moved to reconsider the votes on reference and to lay the motion to reconsider on the table. That could be done, no separate vote being demanded on each bill. But that did not affect the motion to reconsider which had already been entered on the Journal to be called up at a future time.

Mr. WASHBURNE, of Illinois. Then I call up now that motion to reconsider, and move to lay it on the table.

The SPEAKER. The gentleman, under the rule, cannot do that. The rule provides that a motion to reconsider "shall not be withdrawn after the said succeeding day without the consent of the House, and thereafter" (that is, after the succeeding day,) "any member may call it up for consideration." After to-day the motion to reconsider can be called up by any member.

WILLIAM M. SIMPSON.

Mr. HUBBARD, of West Virginia, by unanimous consent, introduced a bill (H. R. No. 1434) granting a pension to William M. Simpson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BRIG HIGHLAND MARY.

Mr. O'NEILL, by unanimous consent, reported from the Committee on Commerce a joint resolution (H. R. No. 113) authorizing the Secretary of the Treasury to issue an American register to the British-built brig Highland Mary.

The joint resolution was read. It authorizes the Secretary of the Treasury to issue an American register to the British bark Highland Mary, owned by H. & S. French, of Sag Harbor, New York.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. O'NEILL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM SPENCE, OF TENNESSEE.

On motion of Mr. STOKES, by unanimous consent, the Committee of Claims was discharged from the further consideration of the petition of William Spence, of Tennessee, for reference to one of the Departments.

Mr. SPALDING. I call for the regular order.

ELECTION CONTEST—SWITZLER VS. ANDERSON.

The SPEAKER. The regular order is the consideration of the resolutions reported by the Committee of Elections upon the contested-election case of Switzler vs. Anderson, from the ninth congressional district of Missouri.

The Clerk read the resolutions, as follows:

Resolved, That George W. Anderson is not entitled to a seat in this House as a Representative in the Fortieth Congress from the ninth congressional district of Missouri.

Resolved, That William F. Switzler is entitled to a seat in this House as a Representative in the Fortieth Congress from the ninth congressional district of Missouri.

Mr. BENJAMIN resumed and concluded the remarks which he commenced yesterday. The entire speech is as follows:

Mr. SPEAKER: The report of the Committee of Elections in this case, I regret to say, has very much surprised the delegation from the State of Missouri. It is also true the loyal people of that State were entirely unprepared for such a result. If I am not very greatly mistaken many of the members of this House from other States—members who had made themselves conversant with the facts in the case—listened to the reading of the resolutions of the committee with perfect astonishment.

With all respect to the members of the Committee of Elections, I must be permitted to say that in my judgment they have entirely ignored and set at naught the spirit, if not the very letter, of the constitution and laws of the State of Missouri relating to elections and the qualifications of voters, and which were designed to protect the purity of the ballot-box in the hands of loyal men. I will not believe a majority of this House will ratify their recommendation until they so declare by their votes. More especially am I disinclined to believe the House will adopt the resolutions of the committee, knowing, as I do know, that its effect will be either to place the affairs of the State in the hands of the very men upon whose skirts is the blood of thousands who perished therein upholding your Constitution and defending your flag, or again compel the loyal and law-abiding people to "take care that the laws are faithfully executed" at the risk of war and

bloodshed. Establish the doctrine that all who will swear may vote, and the consequences are plainly foreseen.

This case, Mr. Speaker, involves much more than the right of any one particular individual to a seat in this House. It matters but little to the State of Missouri or the country at large whether the contestant or the sitting member represents the people of the ninth district. The legislation of Congress can in no respect be changed by unseating Mr. ANDERSON, nor will the large Radical majority in this House be sensibly affected thereby. If this were an ordinary contest, and the effect of the decision merely to confirm a particular individual in his right to a seat here, it would be comparatively insignificant, and beyond the parties to the record of but small moment. But this is not its only effect. There is a great principle in issue, and the decision upon it will be felt in Missouri from its center to its circumference. I ask the indulgence of the House while I examine this contest from the standpoint occupied by those upon whom your Government relied in the day of its trial to preserve the State to your Union.

I am aware, Mr. Speaker, that a history of Missouri politics, with a narrative of the various struggles through which we have passed, would be uninteresting to many, and perhaps unprofitable. Gentlemen whose homes have never been invaded by the spoiler, and whose ears have never been stunned with the demon yell of midnight assassins, are slow in comprehending the situation in Missouri. The gentleman from Vermont, [Mr. POLANT,] the author of this report, has never been aroused from his peaceful slumbers and compelled to flee for life by the light of his burning dwelling. His heart has never been pierced by the death-scries of those most dear to him, and himself powerless to succor or protect. The gentleman from Massachusetts, [Mr. DAVES,] chairman of the committee, has "heard a lion in the lobby roar," but he seems never to have heard of that pestilence that walked in darkness, spreading contagion far and near, murder its employment, ruin its sport. Missouri has seen it, heard it, and realized it. Tennessee has passed through this "furnace of affliction." Let her Representatives on this floor tell of the authors of her ruin and the patience and long-suffering of their loyal constituents. Listen to the experiences of the Union members who are now "coming up out of great tribulation" from States further South. They will tell you of the days when loyalty was hunted like the stag—when

"Their matrons for shelter had fled
To the mountains and deserts afar,
For their hamlets in ruins were laid,
And their tender ones victims of war."

They can tell you of the days when a despotism as terrible and oppressive as Moslem barbarism ever saw reigned throughout the South. They can tell you of the time when the cherished emblem of your country's nationality was lowered at the demand of armed traitors, and darkness had spread its mantle like a pall over half your territory. They can tell you of the scenes through which they passed, when loyalty was crushed beneath the heel of slavery's tyranny;

"When the hearts of the mighty were bowed,
When the lowly were laggard with care,
When the voices of hunger were loud
As they shrieked the wild notes of despair."

Yes, Mr. Speaker, when they tell you of all this, the half thereof has not been told. Gentlemen from New England, New York, and Pennsylvania cannot imagine nor realize the emotions that take possession of those who have thus endured for loyalty's sake, at the bare thought of being again subjected to the grinding despotism of those from whom they have been emancipated at such fearful cost. That such will be the result of a sanction of the majority report by the House is sadly apparent to the loyal people of the State of Missouri.

I have said this report and the doctrine it seeks to establish are in conflict with the consti-

tution and laws of the State. I will endeavor to make it so appear to the House, firmly believing that, aided by the light afforded by the testimony in the case and such attendant circumstances as form a part of the history of the country and are notorious everywhere, I can do so successfully.

From the day Fort Sumter fell until the day of the election in 1866 a majority of the population of the State of Missouri had either been engaged in rebellion against the Government of the United States or were aiders and comforters of those so engaged. In 1861 the Governor and other State officers, nearly every member in both Houses of the Legislature, and at least three fourths of all the county and municipal officers were either open and avowed enemies or sympathizers with treason. Of but little avail were the efforts of Union men in protecting themselves and in trying to uphold your Government so long as the laws were dictated by traitors and executed by their confederates. Hence the first step in suppressing the rebellion in that State was to depose and overthrow the traitorous State government. As one man the loyal people put themselves to the work, and with the aid of their friends from the adjoining States the task was successfully accomplished. The provisional government instituted in its stead administered the affairs of the State until at the general election in November, 1864, the direct question was submitted to the people, "Will you have a convention to amend your constitution by abolishing slavery and protecting the ballot-box in the hands of loyal men and loyal men only?" The response was "Yes," by a majority of more than thirty thousand. Delegates were elected, among whom was the contestant, he being the candidate of the disloyalists of the district in which he resides, every one of whom voted "No" on the question of calling a convention.

The convention met in January, 1865, and was by no means sluggish in doing the people's will. The third day of its session was made memorable by the passage of an ordinance which sundered the shackles that enslaved one hundred and twenty thousand human beings. This, the first practical step in the great emancipation march, received the votes of every member in the convention save the contestant and some three others. The other duty with which the convention was charged, the disfranchisement of rebels, was performed after due deliberation, and referred back to the people for their adoption or rejection in the shape of an amended constitution, and ratified in May following, after one of the most exciting political contests through which we had ever passed. That constitution is to-day the fundamental law of the State, and under it and by virtue of the laws passed in pursuance of it the election was held which gives rise to this contest.

To the convention of which I have spoken the people elected a large majority of Radicals. Indeed, I believe there were but four exceptions—the contestant and three others—one of whom, the contestant's colleague, elected by the same votes, and a resident of the county of Callaway, a county of which I shall have more to say in the course of my argument, was expelled for his disloyalty.

Is it at all strange or remarkable, Mr. Speaker, that the provisions of a constitution framed by a convention thus politically constituted, and backed by a radically-loyal constituency, many of whom were even then marching with Sherman to the sea, should be radical in their character? Would it not have been surprising had they been otherwise? The delegates were specially charged to frame such an instrument as should perpetuate the power they had sacrificed so much to attain in loyal hands. Who can, for one moment, suppose that such a people would willingly permit those whom they had vanquished in the fight to return and become the victors at the polls?

The third section of the second article in the constitution says who shall not vote nor hold office in the State. The section is long, for

we have rebels there in very great variety. I will not detain the House by reading it, for I can explain it in less time. First, all those who have been in arms against the Government or given aid and comfort to the enemy, and all those who sympathized with such enemies, being what we call the "stay-at-home" or "do-nothing" rebels, are disfranchised. This includes the great bulk of those to whom suffrage is denied. Still there are others. In the dark days of 1862, when rebel marauders swarmed in every portion of the State, the authorities called upon every able-bodied man to buckle on armor and rally in defense of their homes and firesides. There was a large force of these stay-at-home rebels who were the spies and informers for the "knights of the bush," and really the most dangerous of our enemies.

It would never do to organize and arm such men. In every case where the experiment was tried the enemy was reinforced. Therefore the enrolling officers were directed to require the party enrolled to declare himself as either loyal or disloyal, for the Union or against it. If found loyal he was armed and sent to the field. If disloyal a small commutation in money was assessed, but which in nine cases out of every ten was never paid. This third section disfranchises all those who thus voluntarily declared for the enemy. There was another class whom I will mention. They were not peculiar to Missouri. Every State had more or less of them; but they were not equally dangerous everywhere. I refer to the skeddaddlers from enrollment and draft. Missouri says to such:

"You who from fight have run away
Shant come and fight another way."

Therefore the ballot-box is closed against them.

These are the persons, Mr. Speaker, who are not permitted to take part in the affairs of government in the State of Missouri. As all know, a terrible storm was raised and still continues to rage with unabated fury. Rebels, their sympathizers and others who have made themselves the champions of their cause and expect to profit by their votes some day, have assailed this constitution with a demon-like vindictiveness, and employed every artifice the ingenuity of man can invent to evade and set at naught its provisions.

It is not my present purpose, nor is it necessary, that I should enter upon its defense in arguing this case. The character of its provisions relating to suffrage was passed upon by this House in another contested case from Missouri—the case of *Birch vs. Van Horn*—and unanimously sustained. It is not drawn in question by any issue presented in this case. I will only remind gentlemen of the fact that it was framed amid the din of battle and the clash of arms in a civil strife such as the world had never before witnessed. It was thought indispensable to the security of those "who had borne the burden in the heat of the day." Indeed, we were then engaged in a hand-to-hand conflict with an enemy whose barbarities find no parallel in the history of civilized warfare. Who would not under such circumstances employ such weapons as were at his command in his defense? To such, if any there be, who are of opinion that a spirit of persecution and vindictiveness is manifest in our dealings with traitors, let me address a single word. Your laws are regarded as humane, certainly as much so as those of other civilized nations. Had we spoken as your statute speaks we would have said, "You who have been guilty of treason shall be hung by the neck until you are dead, dead, dead." Had we spoken as your statute speaks we would have said, "You who have aided and abetted those engaged in rebellion shall be imprisoned and your property confiscated." These are the penalties your laws prescribe for the offenses of which these men were guilty. Instead of which we say, virtually, "We will restore to you the life, liberty, and property you have forfeited, and that an offended law demands; but you must not be permitted

to occupy positions that will enable you to reenact the scenes through which we have passed." If we are again to take the viper to our bosoms we must be permitted to extract his fangs. And yet for merely providing in this gentle manner for our future safety we are denounced as barbarous and vindictive.

Having thus declared who shall not vote nor hold office, it was necessary that provision be made for enforcing it and making it effective. How are we to identify them in the future? How are the sheep to be separated from the goats? The mark which Cain wore they were enabled to conceal. Upon their honor no reliance whatever could be placed. While an oath in some cases might have a restraining influence, as a safeguard it was entirely valueless. Who could suppose that he who had so often violated it before, and gloried in so doing, could be expected to acknowledge its binding force now. Often and often copies of the oath of loyalty, taken to procure their enlargement from prison, had been found in the pockets of the dead, the wounded, and the captive on the field of battle. And what wonder when the presses and politicians of the Opposition were daily proclaiming to them the unconstitutionality of requiring it, and that true patriotism demanded its violation.

Knowing these facts, as the members of the convention well knew them, they provided in the constitution that the Legislature should enact a law for the registry of the qualified voters of the State. Although the oath of loyalty must be taken in all cases before registry, that is not conclusive. If the person is really disqualified, and that fact is known to the registering officer, or proven to him by the testimony of others, the applicant must be rejected.

Acting upon these requirements of the Constitution, the Legislature at its session in 1866 passed the law which governed in the case we are now considering. It provides for a supervisor of registration for each county, who shall appoint a registering officer for each of its precincts. These registering officers hold sessions in their respective precincts for the purpose of passing upon the qualifications of persons offering to register, and upon the completion of their lists, all meet at the court-house and form a court of appeals and revision presided over by the supervisor of registration. Any person rejected may appeal to the board, and any person may challenge the qualifications of any other person whose name appears on the list. The revision being completed, a copy of the approved list is furnished the judges of election of the proper precinct, who are to receive the ballot of no person whose name does not appear on the list as a qualified voter.

Upon the passage of the registry law, in which nothing unusual appears, and to which it would seem none could possibly take exception, the entire rebel horde affected great indignation, and raised a howl that might possibly have disturbed the nerves of men less familiar with the vapors of disarmed traitors and their allies. Always fertile in invention when obstacles interposed between them and an office, they set about devising schemes whereby they might evade the law. In several of the counties the old slave aristocracy still reigns supreme. In such, the Union element is barely sufficient to save them from being Sodomized. It was arranged that in these counties, such a system of intimidation, by threatenings of personal violence, lawsuits, and proscriptions of one kind and another, should be inaugurated as should effectually prevent the carrying out of the law, and the registering officers be forced to place on the list the name of every man who would take the oath. Another plan was to permit no registry whatever to be made, and should it be attempted to seize and destroy the books and compel the officers to desist or resign. The tarring and feathering process, a manly sport and much in vogue in the good old days of their pride and power, and for which they cherished a lively recollection, was openly talked of. That institution had fallen somewhat into dis-

use since so many of the young men of the country had taken to wearing blue. "A free vote or a free fight" was everywhere proclaimed from the stump and echoed by every rebel in the State.

Under the law the judges of election certify the poll-books to the clerk of the county court, who certifies the number of votes given for each candidate to the secretary of State, from whose office the commission issues. The secretary, as the law then was, had no means of knowing how things were conducted in the different counties, and being precluded from going behind the return, must declare the result from the return itself. Once in possession of the offices the victory was complete. Although to contest is a right, yet it is no remedy whatever in such cases. Somebody must decide in the event of a contest, and generally the decision rests with men who were themselves parties to the fraud and elected by the same fraudulent means. When it is otherwise there is no difficulty in protracting the litigation and postponing the decision beyond the official life of the incumbent.

But this was not all. The judiciary was invoked to assist in thwarting the will of the people and nullifying their laws. In several of the judicial circuits the taking of the required oath on the part of the judge involved a stretch of conscience to its utmost tension. All their sympathies and associations were with the rebels. Their future hopes and aspirations were wholly dependent on the favor in which they were held by traitors. The usual seductive appliances were brought into requisition, the elastic conscience yielded readily, and these "whited sepulchers" were fast becoming more dangerous to loyalty and liberty than their accomplices who fought with the sword.

The constitution provides for the pardon and forgiveness of such rebels as "bring forth fruits meet for repentance." Whoever voluntarily entered the Federal service and received an honorable discharge therefrom may be relieved from the disqualification that attaches for his complicity with the rebellion, by a decree of the circuit court. In order that the fact may be ascertained, he must file his petition, verified by affidavit, stating the facts relating to his enlistment and discharge, and after five days the judge may investigate the case, hear the proofs, and decree a removal of the disability in cases authorized by the constitution. Here was found the means by which "loyalty was made easy," and individual reconstruction, in view of the approaching election, was carried on in two or three circuits with railroad speed. No regard whatever was paid to the requirements of the constitution in the proceedings. Having been disarmed and assigned to duty in company Q was an entering into the military service, and a release from prison upon oath and parole a sufficient discharge from the United States service, in the judgment of these Dogberrys, to authorize a decree in his favor. Large numbers were thus manufactured, that they might vote the rebel ticket. The judge, in whose circuit is the county of Callaway was very active in this labor of love. The portals of his temple were kept open night and day, his crier hourly making proclamation "whosoever will let him come." Runners were sent into the highways and the byways, into the thickets and clefts of the rocks, to inform the "chivalry" of this "straight and narrow way." Great numbers eagerly pressed forward. In many cases the burrs and leaves were still clinging to their gory locks and butternut garments, as they passed in review before these oracles. Imagine their astonishment at hearing the glad tidings, "Be of good cheer, thy sins are forgiven thee; arise, take up thy ballot and vote." The troubled waters were no more potent in their healing properties, nor their effect more speedy, than were these judicial machines in washing away the sins of murder and treason.

The Legislature had not yet adjourned. The plans of the conspirators were developed a

little too soon to be entirely successful. By a supplementary bill, passed to meet the cases I have enumerated, it is provided that the supervisors of registration shall certify copies of the registry lists, when completed, to the secretary of State, that the evidence of registry may be with him before finally canvassing the votes and declaring the result. It also provides that whenever registration is demanded by virtue of these judicial decrees, the officer shall require the applicant to produce his discharge, or failing to do so, reject him. But Callaway preferred to be a law unto herself, and the law of the State was entirely ignored. The supervisor of registration gives a list of persons registered in the town of Fulton who were thus relieved, not one of whom had ever been in the service a day. If gentlemen will look on page 88 of the testimony of the sitting member they will see the fact stated and certified to by the supervisor.

Notwithstanding this law the judges refused to stay their hands. With redoubled diligence they kept their machines running up to the last day on which the reconstructed prodigal could register. The Legislature not only endeavored to prevent these frauds, but it finally called the judges to account for this and other flagrant violations of the constitution and laws. One they caused to be removed by address. Another was impeached, convicted, removed, and forever disqualified. These prompt proceedings had a very salutary effect. It is hoped and believed these abuses are checked for the future. I entreat the House not to sanction their perpetration in the past.

Mr. Speaker, if I have succeeded in making myself understood, the House is prepared to enter understandingly upon this particular case, and which, I trust, members will consider in the light of these surroundings. As will be seen, this is not an ordinary case of contest. No precedent can be found involving the principles here in issue. Not only Missouri, but every other State having laws of a similar character, and upon the enforcement of which your own Constitution and laws are to be maintained, feels a deep interest in the precedent you are about to establish.

The ninth congressional district of Missouri is composed of ten counties, one of which is the county of Callaway. The whole case rests on the vote of that county. If counted, the contestant is elected, and if not counted, the sitting member retains his seat. The secretary of State rejected it, and gave the certificate to the sitting member. In this I am of opinion he is correct, both as to the law and the fact. A majority of the committee think otherwise, and have so reported. The reasons they give in the report are, in my judgment, untenable, unsound, and their conclusions warranted neither by the law nor the testimony.

In justification of the action of the secretary in rejecting the vote of Callaway county, the contestee pleads that such a system of intimidation and threatening was resorted to by the disloyal prior to the registration as to effectually prevent a fair registry of that county, and that the secretary had the most positive testimony on the subject before him when he cast up the votes.

Let me digress for one moment and describe Callaway county and notice the character of its inhabitants. It lies in the center of the State, borders on the Missouri river, and is fertile, populous, and wealthy. At the breaking out of the war the number of slaves held there was large, and the rule held good everywhere that the disloyalty of the inhabitants corresponded very nearly with the density of the slave population. Callaway was the most intensely disloyal and furnished more recruits to the rebel armies than any county in the State of Missouri. In the whole southern confederacy, outside of South Carolina, it was rare a community could be found in which the people were more unanimous in their hostility to the Union, or more zealous in the cause of treason. After the assault on Sumter, Unionism and Union men were placed under the ban,

and the reign of terror that prevailed there was fearful. Most of them fled to other localities. The few that remained tacitly yielded, and were bent beneath the storm. Not an echo to the shouts of the loyal and the victories of loyalty over treason that went forth from other parts of the State, was heard from Callaway during the war, nor even to the present day. The committee say, in their report, (page 8,) "during the war this county was in a more peaceful condition than many other parts of the State." Do gentlemen of the committee not know that "where there is no wood the fire goeth out?" Does the committee not know that during the war there was less commotion and internal strife in South Carolina than any of the insurgent States? There was nothing in Callaway for rebellion to feed upon. This paragraph from the report of the committee is really one of the best reasons that can be given to impeach the registry of that county, which contains more than two thousand names as legal voters. There were none to resist the onward march of treason, and it held high carnival. One single achievement of the chivalry of the county illustrates the kind of peace which reigned there. The lunatic asylum and other charitable institutions, built and supported by the munificence of the State, are located at Fulton, the county seat. Upon the first sound of the rebel tocsin the people arose *en masse*, assaulted these humane institutions, plundered them of their bedding and everything else that could be made available in the rebel army, and turned their unfortunate inmates into the streets. The adjoining county of Boone, the home of the contestant, was the theater of the most barbarous massacre of the war, not even excepting Fort Pillow. One hundred and eighty as true patriots as ever lived were butchered, scalped, and their bodies mutilated in a manner that finds no parallel in the history of savage warfare. They rest to-day in one common grave, hastily prepared by a few kind friends for their reception. "No useless coffins inclose their breasts," nor mound nor monumental stone mark their place of sepulture.

"The winds that sweep the wintry sky
No more disturb their sweet repose,
Than summer evening's latent sigh
That shuts the rose."

Their blood to-day cries to us from the ground. Unquestionably the names of many of their murderers appear on this registry list, who not only claim but find no difficulty in proving they are and at all times have been loyal to your Government and its laws.

But the committee say we have no proof of all this. In the name of God, must the history of the country be proved to the committee? Must evidence be adduced to satisfy it that we have passed through a dreadful civil war, and that the soil of Missouri was daily drinking patriotic blood from the beginning to its close? Will it not take judicial notice of what everybody knows, and history records? Surely, Mr. Speaker, such a rule cannot prevail in the Congress of the United States.

The Secretary of State well knew the character of Callaway county. From his office in the capitol at Jefferson City his eye could extend across the Missouri river and rest upon Callaway soil. He knew, what everybody knew, that Callaway no more had two thousand legal voters than it had two millions. But he was not authorized to act upon his own knowledge, nor was it necessary. The Legislature had just passed an act to meet just such cases. Its first section says:

"The supervisors of registration for the several counties and for each senatorial district in the city and county of St. Louis are hereby required to make out and forward to the secretary of state immediately after the completion of the registration in their respective counties and districts a certified copy of the registration thereof, which shall contain the names of all registered voters; which certified copy shall be evidence of the facts therein stated, and may be used as such in any contested-election case or other legal proceedings."

The supervisor in Callaway did make out and certify the list, and what does it contain?

First, there appears upon it 2,034 names of persons registered as legal voters. Second, under the head of remarks the status of 730 of that number is described, which shows that not one of them is qualified to vote under the law, and finally the following certificates of the supervisor of registration and three of the registering officers are appended, and which I will send to the Clerk's desk and have read:

The Clerk read as follows:

I hereby certify that the above and foregoing list of registration is a correct copy "as furnished me by the officers of registration" for the various election districts in and for Calloway county, Missouri. And I hereby further certify that the registration law in its letter and spirit was not carried out in any one of the election districts of said county; that such a system of intimidation and threatening was carried on by the disloyal and those opposed to the law as to deter loyal men from undertaking the registration in most of the election districts, and was consequently intrusted to men who most shamefully disregarded the law.

In the few districts where men could be had who were willing to register according to the law, there was such intimidation and threatening used as to deter those who were willing to make objections to those they knew not to be entitled to registration as qualified voters, and as a consequence the law could not and was not carried out, as the certificates hereto appended show.

Given under my hand this December 12, 1866.

WILLIAM H. THOMAS,
Supervisor of Registration for Calloway
county, Missouri.

I hereby certify that I was appointed officer of registration for Round Prairie township, Calloway county, Missouri, by Thomas Ansell; that in entering upon the duties of the office I found much stubbornness manifested. The people who made application for registration as qualified voters refused to be examined as to qualifications; and from the danger that would arise from an attempt on my part to issue compulsory process for witnesses, every one of whom were afraid to volunteer objections to persons registering, &c., I would be entirely unable to carry out the law in my district, and therefore resigned my office. I am clearly of the opinion that not one-fourth of the number registered as qualified voters in the county are legal voters according to law.

H. S. TURNER.
FULTON, MISSOURI, December 1, 1866.

I hereby certify that I was appointed by Thomas Ansell as officer of registration for Bourbon township, Calloway county, Missouri; that I entered upon my duties in compliance with the law, and that men who had been reported as the worst rebels in my district made application for registration and took the prescribed oath; that in no case was any objection made, and personally not knowing any acts of disloyalty that would debar them from registration as qualified voters, I felt bound under the law to register them as such. I am certain that the few loyal men of my district were afraid to make objections to persons who they knew were not entitled to registration as qualified voters, and I fully believe it would have been dangerous for them to have done so. I firmly believe that a great majority of those registered by me as qualified voters have been and are disloyal. I judge this from the little respect they had for Federal soldiers—the little interest they took in giving information to the Union officers during the war, and their contempt generally for the Union men of the county.

JAMES E. TURLEY,
Officer of Registration.

I hereby certify that I was appointed by Thomas Ansell as register of Cedar township, in Calloway county, Missouri; that I entered upon the discharge of my duties according to law, and rejected all persons whom I knew from my own personal knowledge to be disqualified. Many persons who were registered by me as qualified voters were reported to me by various witnesses as being guilty of many acts of disloyalty; but said witnesses informed me that if they were to come before me and testify to the facts they would be compelled to leave their homes, and rather than do so, even under compulsory process, they would get out of the way. Knowing this, I thought it useless to attempt to forcibly bring them before me, knowing also that such a proceeding would endanger their lives.

Many good Union men informed me that on account of the threats and intimidation used against them, they thought it unsafe to go to the place of registering and voting, and did not do so.

From what I know and have seen since the passage of the registry law, I am fully convinced that there could not be a legal registration made in Calloway county under the circumstances as they existed at the time of the present registration.

Given under my hand this December 8, 1866.

JOHN YOUNT.

Mr. BENJAMIN. Now, Mr. Speaker, if what is said on this list, under the head of remarks, is true, and what is said in these certificates is true, then, beyond all controversy, the vote of Calloway county should not be counted. But so far as the legality of the act of the secretary is concerned in rejecting it, it is wholly immaterial whether they are true or false. The law

says to him "what you find on the lists shall be evidence of the facts there stated." He could not inquire as to their truth any more than he could inquire if an election had been held at all, that fact being stated on the return. Suppose the election return certified the opening of the polls on a different day than that appointed by law, or was signed by an officer not authorized to make return, or was not attested with the official seal, clearly the officer must reject the vote although the facts were otherwise than as stated.

But the committee says the supervisor had no right to make these remarks, nor certify as he did. Why not? The committee assumes the "remarks were made by the supervisor on the copy, and that they are not on the originals." I deny it. There is no word of evidence justifying such an assumption. On the contrary, the certificate says it "is a correct copy as furnished by the officers of registration," and no attempt is made to disprove it. The originals were in the same office in which the depositions of the contestant were taken, could have been and undoubtedly were consulted, and if such a discrepancy exists some allusion to it would certainly have been made. I take it for granted the originals contain all the copy contains except the certificates; certainly such is the proof.

And why not make the certificate? He must certify the facts or not certify at all. Again, it is either a certificate or it is not. If a certificate the secretary was clearly right in rejecting the vote, and if not a certificate the most essential element is wanting that constitutes it a certified copy of the registration, and without which the vote could not by any possibility be legally counted. Which ever horn is taken it results that the secretary was justified, as it was his duty to reject the vote given upon such a registry.

The committee assumes that these remarks have no place on the registry lists, and say that if made by the registering officers or the board of appeals still the secretary should have disregarded them. Such is not the law. The Governor is required to cause to be prepared the form of the book of registration of voters. He did prepare such form. The form so prepared was used in the registration of Calloway, and one of the columns in the form is headed "remarks," as is shown in the testimony.

These "remarks" are set opposite the names of seven hundred and thirty persons, and if true disqualify every one of them. These lists, with the certificates that they are true, are in evidence. This certainly makes a *prima facie* case against the right of this seven hundred and thirty to register. But as the case stands it is conclusive.

The lists are given in evidence by the sitting member. The contestant nowhere attempts to impeach them, although he had nearly all the registering officers on the stand as witnesses, most of them being his party friends, and could easily have disproved them if false. Had the lists been mutilated or any statement interpolated by the supervisor, as assumed by the committee, nothing could have been easier of proof. No attempt in that direction was made. They are certainly true. There is not a word of evidence, not even a circumstance, from which the committee is justified in assuming their falsity. It may be stated further that the parties against whose names these remarks were made were all or nearly all in the vicinity of the place where the testimony was taken, and might easily have been called in to testify that they were erroneously set down as "disloyal" or "bushwhacker" if such was the fact.

Now, Mr. Speaker, there is over one third of the whole number registered, and nearly one half of all who voted proven by the lists themselves to be disqualified. They have placed their disloyalty on record. If that number is ascertained without any effort how much would it have been increased had the officers done their duty according to law and "diligently inquired and ascertained if they had not done

any of the acts specified in the constitution?" Not a question was asked for that purpose. In some cases the oath was not even administered. Several officers swear they feared to send for witnesses to ascertain the facts, and the whole proceeding may be summed up by saying what is fully proven, that all who would take the oath of loyalty were permitted without question, let, or hindrance to register and vote. And not only so, but they were persuaded, urged, and advised by the whole party, of which the contestant is one of the leaders, that the oath itself was unconstitutional, null, and void, and the taking of it falsely involved neither moral nor legal turpitude. This point is further strengthened by the fact that no person in the entire county was rejected who would take the oath. I doubt if there is another county in the State whose list of registration shows none rejected. A small list is given here called the rejected list, but it seems to be made up of those too conscientious to take the oath. An oasis in the desert is cheerful in its appearance, be it ever so small.

The committee finally comes to the conclusion there was no reasonable ground to fear personal violence, no threatenings, no intimidation, and that the registration was legal, fair, and should be sanctioned by this House. The report says the registering officers were proven to be men of upright character, truly loyal to the Government, and some of them political friends of the sitting member. But the committee does not mention what the testimony shows, that every one of those who are proven to be the friends of the sitting member swear they were prevented from carrying out the law by threatenings and intimidation, and that, so far as their precincts are concerned, the registration is illegal and void. The kind of loyalty the others profess I will describe presently. An item or two from their testimony will be sufficient to guide the House in determining the degree of credit that is due to their statements. Isaac D. Snedcor, one of the registering officers and a witness for the contestant, swears that everything was quiet; that he faithfully carried out the law, and registered no man whom he knew to be disqualified. On the other hand, it is clearly proven that a number whose names appear on his list were not sworn at all, (a fact which he admits in another part of his testimony,) and that he had the evidence in his possession, furnished him by the supervisor, that one half or more of the whole number registered by him were disqualified. On his list appears the name of T. B. Harris, who lives in the same town, with whom he was well acquainted, and who was expelled from the State convention for notorious disloyalty, after full investigation and debate. Another name on his list is that of Jesse Garner, who swears he served in the rebel army, fought and was wounded at Wilson's creek, and that he told Snedcor of these facts when he applied to be registered. Still, in the opinion of the committee, Mr. Snedcor is an upright man, and his list should be taken without further question. The committee says he was appointed by Thomas, the political friend of the sitting member, but do not say what Thomas himself says, that no person could be found who would undertake to carry out the law, and, as a last resort, he appointed Snedcor. It was a kind of Hopkin's choice—Snedcor or nobody—which of itself shows the terror that prevailed there in respect to this registration law. His district was Fulton, the county seat, and where one fourth of the vote of the entire county was polled.

The committee says, what the evidence certainly bears them out in saying and what is not denied, but admitted, that everything was quiet during the registration. Of course there was no disturbance. The registering officers permitted all to register who desired to, therefore the disloyal had nothing of which to complain. The loyal were outnumbered more than ten to one and were utterly powerless. "Order

reigned in Warsaw." But look at what was said and by whom prior to the registration. The leading paper of the party of the contestant urged the people to "organize, arm, and drill." Frank Blair and scores of others told them the oath was unconstitutional and the State had no right to impose it. A member of Congress, a leader in his party, told them to go to the registering officer and say to him, "My rights or your blood." A certain preacher of the gospel, with a very significant name—Burn-Ham—and of course all his descendants, tells you that he in a speech in the courthouse at Fulton exhorted "the people to go to the polls and demand their right to vote, and that the oath was not binding in a moral sense, but an outrage on the rights of freemen." This man of God evidently spoke by inspiration, and as "the spirit gave him utterance." The copperhead lawyers were profuse in their offers of aid should any be called to account for having sworn falsely or for otherwise violating the law. An ex-member of this House publicly proffered his services in this labor of love, "without money and without price." His puppet, a Teutonic Dogberry, whose mental caliber needs no "writing down," and who imagines that, like Selkirk, he "is monarch of all he surveys," proclaimed, *de profundis*, "Come unto me all you who are weary and heavy laden, and I will give you rest." A public meeting of confederate soldiers is called. They meet in Fulton while the registration is going on. Undoubtedly large numbers assembled, for in that county their "name is legion." They reconnoitered in force and find the work going bravely on. All is lovely and the coast is clear. No blockade, no obstructions, no man daring to dispute their onward march. The committee say they resolved not to vote. I see nothing in the testimony of any such resolve. It does say, however, they "did nothing." Of course not, for there was nothing to do. Their victory, though bloodless, was complete and decisive. The contestant comes here and demands its fruits at your hands.

Now, Mr. Speaker, we can readily account for the quiet that prevailed there during the registration. The rebels were "let alone;" therefore there was no war. Verily, the committee is fully justified in saying, "All quiet in Callaway." There is another circumstance to which the committee attaches considerable importance. William H. Bailey, candidate of the same party, and upon the same ticket with the contestant, was commissioned county clerk by the Governor. This is cited, I presume, to show that the Governor took the committee's view of the registration, and in opposition to the secretary of State. If this were so it is more than offset by the action of the Legislature, which has twice, after full consideration, refused seats to persons sent from that county as members on the ground of its fraudulent registration. But the committee are in error as to the purpose of the Governor in issuing a commission to Mr. Bailey. That he may speak for himself, I send a communication from him to be read at the Clerk's desk.

The Clerk read as follows.

WASHINGTON, D. C., April 15, 1868.

DEAR SIR: I notice in the concluding portion of the report of the majority of the Committee on Elections, in the case of Switzlers. Hon. George W. Anderson, that some stress is laid upon the fact that I gave a commission to Bailey as clerk of one of the courts in Callaway county upon a certificate of election issued to him based on the election returns in that county in 1866.

In order that the fact of the issuing of that commission may not mislead any one as to the reasons for its issue, permit me to briefly state the objects I had in view.

Every man of candor, who is at all informed as to sentiment and political status of the people of Callaway county, must admit there has at no time since 1862 been two hundred loyal men in that county. I well knew the fact in 1866 that there were not two hundred men in that county entitled to vote under the constitution and laws of Missouri. The constitution and laws of the State had been mocked and defied in that election; and as the shortest way to have it so decided by the courts, I singled out Bailey and gave him a commission for the purpose of enabling those interested to bring him by *quo warranto* into the supreme

court, and thus possess the court of the whole subject of his election, so that the legality of the registration in Callaway county could be passed upon; and that it was not so done was because there was no loyal man in the county who dared or dared to institute, or cause to be instituted, the proper proceeding.

I am, truly, yours,
Hon. J. W. McClure.

THO. C. FLETCHER.

Mr. BENJAMIN. Such, Mr. Speaker, is the opinion of the executive of the State on this question. He lives in sight of Callaway, and knows the people and their antecedents. His testimony would be corroborated by that of every loyal man in the State were they called upon for an opinion.

Mr. Speaker, I have been a citizen of Missouri for more than twenty years. I entered the military service early in the war, and was in at the death. I know something of the state of things there during the war, and something of Callaway county. It is my firm belief there are not to exceed two hundred men in the county qualified to vote under the constitution and laws of the State. It is not possible from the nature of things the number can be greater. There has been no increase in its loyal population since 1861, but rather a decrease, for loyalty flees from such associations as from a pestilence. In this opinion I am strongly fortified by the testimony of numerous witnesses. Mr. Turner, a citizen of the county for forty years, fixes the number at two hundred and eighty, the highest estimate of any witness on either side, (page 10.) Mr. William B. Miller, forty years a citizen there, says two hundred, (page 11.) Mr. Johnson says one hundred and sixty, and that he scoured the county and got but twenty soldiers for the home-guard service, (page 13.) Marcus Bird estimates the number at ten to the township, or less than one hundred in all, (page 16.) Forty years he has resided in the county; acted as enrolling officer under the conscription act during the war, a position affording him the very best means of information. Mr. Yount, who has a residence of thirty-one years in Cedar township, says not over forty or fifty in that township. The registry list contains the names of two hundred and twenty-seven. Mr. Turley, one of the registering officers, says one hundred and sixty-five in the county, (page 10.) Mr. Thomas, the supervisor, and well acquainted with the county, estimates about two hundred, (page 21.) The Governor says less than two hundred. It requires over five hundred in the county to elect the contestant, which is more than double the number testified to by any one of these numerous witnesses.

Surely, Mr. Speaker, this ought to be sufficient to convince any one that the registration of the county was but little better than a farce and entitled to no respect, especially as they stand uncontradicted by a single witness testifying on the part of the contestant. But, sir, the case is made still stronger by the opinion of the contestant himself, given at a time when there was nothing to bias his judgment, when his duties called him to serious reflection on the subject, and with the most ample means of information. In the year 1863 the contestant was provost marshal under the conscription act of the district he seeks now to represent in Congress. As such it was his duty to cause an enrollment of the arms-bearing population of Callaway. There was great delay in the enrollment. Nothing unreasonable in this, considering the character of the people. Mr. Davenport, the recorder of the board of enrollment, testifies that heavy guards were required for the defense of the enrolling officers, and that much difficulty was experienced in executing the law. The contestant was reprimanded by the provost marshal general for his tardiness.

Callaway is still unfinished, and in his correspondence with the War Department the contestant speaks of that county as the South Carolina of Missouri, and says there are not two hundred loyal men in it. In this statement the witness says he fully coincided at the time, and is still of the same opinion. This

should conclude the contestant and put at rest the character of the registry. In the face of all these facts—for such they must be held to be, for they stand uncontradicted by any witness; indeed, they proceed from the mouth of the contestant himself—how, in the name of God, can he come here and claim that a registry, the lists of which contain nearly twenty-one hundred names, is a fair, honest, and legal enrollment of the voters of the county, and should be so declared by this House? And how, Mr. Speaker, can the Election Committee reconcile their report with the precedents in more than one case when entire polls have been rejected and thrown out because the vote returned was so disproportioned to the known voting population as to stamp fraud upon it, and the legal and the illegal so intermingled as to render it impossible to separate the one from the other. I can account for it only by presuming that the onerous and important duties devolving upon the committee, and the numerous cases claiming their attention, have precluded their giving that amount of study and deliberation to this case which its importance demands.

But, Mr. Speaker, there is another light in which we must view this case. It is difficult for those not familiar with the secret history of Missouri to understand the real situation of affairs there. They ask such questions as these: Is it possible that the people of a whole community will deliberately perjure themselves for the mere privilege of voting? Will human nature so far degrade itself as to call God to witness as true what they know in their hearts is false? Can it be that in the county of Callaway "all men are liars?" Have the sensibilities of men become so callous that without a shudder or a sensation of remorse they will knowingly and purposely set at naught the laws of both God and man and glory in the act? And if so, are the courts of justice powerless to correct the evil? Is justice so perverted and the law's delay so great that any attempt at its administration and enforcement is useless? The answer to all this is easy, and the explanation furnishes the key to this whole controversy.

"Vice is a monster of so frightful mien,
That to be hated, needs but to be seen;
But, seen too oft, familiar with her face,
We first endure, then pity, then embrace."

Who can point out the man who will admit he committed treason when fighting against his country and its flag? Ask of the thousands who were bound by oath to support, protect, and defend the Constitution of the United States, and who wantonly and purposely violated it, if by so doing they committed perjury, and you all know the response you will receive. Where has one ever been convicted of treason, perjury, or anything else by the courts? Take up the numerous cases of murder, kidnapping, tarring and feathering, and assaults of various kinds throughout the entire South and point to me one single case where punishment followed. Laws for the protection of persons and property always have been and still are dead letters in such communities when sectional or party feeling prompted their violation. So it is in Callaway. The testimony of numerous witnesses in this case shows that men took the oath and registered who had been in the rebel army. In at least two cases the parties themselves testify to it; and yet it would be "easier for a camel to go through the eye of a needle" than to convict either of them. They must be tried by a jury who are birds of the same feather. The court is presided over by a judge who found no difficulty in reconstructing by the hundred in flagrant violation of the Constitution he had sworn to support. He had decided that "perjury was pious" when needed to overthrow the loyal element of the State. His courts throughout the entire circuit were engines employed in the interest of rebels and for the persecution of loyal men. But these men deny that in any sense they are or have been disloyal. From

the highest to the lowest they claim, and have at all times claimed, that the most exalted patriotism actuated them. The Radicals are the traitors. The Radicals are the revolutionists, and in putting them down the end justifies the means. This doctrine is by no means peculiar to Missouri. Our ears are familiar with such talk, even in the Congress of the United States. With the contestant and his party the provisions of the constitution of Missouri, having for their purpose the disfranchisement of the disloyal, are nullities. The oath required is absolutely void and the taking of it falsely no crime. In the same light, I presume, he regards the oath he will be required to take at the Speaker's desk, should he be so fortunate as to be permitted to do so. At home he is cheered by the multitude in his denunciations of the body of which he is now seeking to become a member.

I have said these men deny the imputation of disloyalty. Such is true. I will give you a single case, and in this you have a sample of the whole, varying not in kind, but in degree. I will take the contestant himself. I select him not in view of any peculiarity his history presents which is not common to others of his class. I call upon him because he is already before us, and the proof is at hand. I have no disposition to misrepresent or deal unfairly by him, and certainly will not do so knowingly.

The contestant has long been a citizen of the State. He is a resident of the county of Boone, which borders Callaway. Boone is another of the central Missouri river counties, and the inhabitants rolled slavery "as a sweet morsel under their tongues." The people are kindred with those of Callaway. Although largely exceeding Callaway in population it polled less than half the vote of the latter county. Judge Barkhart's patent dispensing machine was kept under full head of steam in that county also, and contributed largely to the registry lists. The contestant for nearly a quarter of a century has edited and published a newspaper at the county seat, known as the Missouri Statesman. It has been and still is a leading paper with its party, and its influence with the people of Boone and Callaway very great. He has figured largely in the political history of Missouri for many years. Upon all the great questions of the day he has never been slow in placing himself on the record. In 1861, at a "time when men's souls were tried," he spoke out, and his voice gave no uncertain sound. He not only spoke for himself, but he spoke for the party which elected him in 1866, if elected at all. I have before me the proceedings of a so-called Union meeting held at Columbia, the home of the contestant, on the 6th day of May, 1861, which was largely attended; and its proceedings, which I will ask the Clerk to read, will give an idea of the character of the Unionism of Boone and Callaway.

The Clerk read as follows:

Union Meeting in Boone County.—Pursuant to public notice, one among the largest meetings ever held in the county convened in the court-house on Monday, May 6, 1861, to express their opinions in regard to the present crisis. At one o'clock the meeting was called to order by Colonel Switzler, on whose nomination Mr. James McConathy, sr., was elected president. On taking the chair, the President requested Colonel Switzler to explain the objects of the meeting, which he proceeded to do in a speech of considerable length; whereupon, on motion of elder T. M. Allen, Dr. M. R. Arnold was elected secretary.

"F. T. Russell, esq., moved that a committee of seven be appointed to draft resolutions expressive of the sense of the meeting, and the chair appointed the following:

"F. T. Russell, Ishmael Vanhorn, David Gordon, Henry Keene, John W. Hall, Joel Palmer, Major James Brown.

"On the retirement of the committee, on motion of Colonel Switzler, Judge Curtis Field, jr., of Richmond, Ky., who was present in the audience, was requested to address the meeting. As, in his opinion, the crisis demanded that each State should decide for itself its own duty, and as he was a citizen of Kentucky he did not deem it proper to take up the time of the meeting with any remarks of his own, and therefore begged to be excused.

"Major Rollins was then loudly called for, and responded in a speech of an hour and a half, at the

conclusion of which the committee, through Mr. Russell, their chairman, reported the following preamble and resolutions:

"Whereas civil war has been inaugurated in the United States, brought about by the extreme men of the North, and the extreme men of the South; and, whereas the State of Missouri occupies a position central between the two extremes, and has hitherto earnestly opposed all hostile demonstrations on the part of either: Therefore,

"Resolved, That the true policy of Missouri, at present, is to maintain an independent position within the Union—holding her soil and institutions sacred against invasion or hostile interference from any quarter whatever.

"Resolved, That we approve and indorse the reply of the Governor of the State of Missouri to the Secretary of War, in refusing to furnish troops for the purpose of coercing our southern brethren.

"Resolved, That patriotism and policy, and the preservation of the public peace, alike require on the part of the Federal Administration a prompt and immediate recognition of the southern confederacy as a government *de facto* and forming an alliance offensive and defensive with it for mutual protection.

"Resolved, That in our opinion secessionism is a remedy for no evil, real or imaginary, but an aggravation and complication of existing difficulties; but if we are reduced to the necessity of engaging in the present war and strife, that then we will stand by and cooperate with the South.

"Resolved, That to the end that Missouri may be fully prepared for any contingency, we would have her citizens arm themselves thoroughly, at the earliest practicable moment, by regular action of the State.

"Resolved, That as we hear that the border-State convention will be held at Frankfort, Kentucky, on the 27th instant, we therefore urge the delegates from Missouri to said convention to attend the same.

"Resolved, That we approve of the course of our delegates to the State convention, Messrs. Bast and Flood, and that we believe they truly and faithfully reflected the wishes and sentiments of those by whom they were elected, and that their action upon the important measures before the convention is fully indorsed by this meeting."

Mr. BENJAMIN. Commenting on the character of the meeting and the resolutions, the contestant in the issue of his paper of May 10, 1861, said:

"Secession Squelched Out.—Union Meeting in Boone.—We recur with great pleasure to the Union peace demonstration in this place on Monday last. It was unexpectedly large, enthusiastic, and harmonious. The people were thoughtful, dispassionate, and appropriately impressed with the solemnity and perils of the crisis in which their interests and the unity of the Government are involved.

"The speeches were addressed to the judgments and the consciences of the large auditory; were designed to inform the understandings and not to inflame the passions or prejudices of the people; were the momentous deductions of reason from the rapidly occurring and pregnant events of the times; were the lessons of history uttered in earnest warning against the mad experiment of secession and war. An intelligent patriotism pervaded them all and deeply moved the people. While they sympathized with the South in all its past wrongs and present perils, neither orators nor people could see that our safety was in secession. They could not see that southern wrongs, whether real or imaginary, could be more easily or certainly redressed out of the Union than in it. They could not see that our rights, oftentimes the sneer and foot-ball of Black Republican traitors, could be more speedily or thoroughly obtained out of the Union than in it. They could not see a single reason why the peaceful homes of our people, and their fair fields, now so full of promise, should be desolated by civil war—why this State, without a regiment on duty, without arms or munitions, defenseless, and \$25,000,000 in debt, should be plunged into the direful vortex of secession and blood.

"Most nobly, therefore, and most enthusiastically did the people respond to sentiments of fealty to the Union for the sake of peace.

"We have never known a public meeting and appeals to the popular heart by public speakers to wield a more healthful influence. The old fires were awakened, and the proposition made plain to every man that our present safety was not in civil war, but in a position of neutrality within the Union. In fact, secessionism was squelched out, and Boone county to-day, if called upon to vote, would record fifteen hundred majority against it."

Here, Mr. Speaker, was a meeting of the Union loving men, loyal, patriotic citizens in the judgment of the contestant, held for the purpose of considering the situation, at a time when the contending hosts were marshaling for the conflict. Sumter had been assailed; the other forts in the South had been captured; your mints, your custom-houses, your ships, indeed everything you possessed in eleven States, had been wrested from you by armed traitors. Your army had been basely surrendered to the enemy. Your flag was torn down and insulted. Your power was scoffed at and defied. A government of traitors had been set up in your territory, and wherever one was found bold enough to raise his voice in your behalf death was his portion. Treason was

rampant everywhere, and amid the din the loyal masses of Boone, led by the contestant, met and resolved that your outrages had caused the war, "that patriotism and policy" required you promptly and immediately to recognize the southern confederacy and form an alliance with it for offensive and defensive purposes. As if this was not sufficient, they further resolve that Missouri will hold her soil sacred from the tread of your armies; that her position shall be an independent one "within the Union," and if reduced to the necessity of engaging in the conflict at all then she will stand by and cooperate with the South. Not content with laying down the law to you and threatening you with her vengeance in case you refuse to obey, this valiant set of loyal patriots taunt you by indorsing the insulting response of the traitorous Governor of the State when called upon by the Executive of the nation for troops to assist in reestablishing your authority. "The requisition upon me is unconstitutional, revolutionary, and diabolical, and there are no troops in Missouri to aid in carrying on such an unholy crusade," said Governor Jackson to the President, and to this the contestant and other loyal patriotic citizens of Boone say "amen." Who says there are not twenty-one hundred loyal men in Callaway and one thousand in Boone after sending such a noble and patriotic resolve as this to you in the hour of your trial? Who says the doors of this House should not be thrown open wide for the reception of this loyal representative of a loyal constituency, in whom there is neither "variableness nor shadow of turning."

But, Mr. Speaker, the half has not yet been told. The war was commenced and the Government had indicated its purpose to disregard the thunders from Boone and prosecute it with vigor. Millions had declared their determination to uphold it in that resolve, even to the last man and the last dollar, notwithstanding all Boone and Callaway, including the contestant, had given you warning that Missouri's soil must be regarded as sacred, and if provoked to wrath her mighty power would be displayed in cooperating with the southern confederacy. Coercion had become a fixed fact. Your armies were being moved across the Potomac, and were occupying a portion of the sacred soil of Virginia. The contestant while sitting in his sanctum is told that it is whispered he has some little sympathy with the flag under which he was born. He waxes wrath that such an imputation of disloyalty should have gained currency, and in the next issue of his paper, bearing date June 14, 1861, appears the following emphatic denial. The Clerk will please read.

The Clerk read as follows:

"No greater libel can be uttered against any public man than that we either advocate or favor coercion. We have denounced it from the start. President Lincoln's proclamation for seventy-five thousand troops was issued on the 15th of April, and on the 17th Governor Jackson responded for Missouri, 'that the requisition upon her was unconstitutional, revolutionary, and diabolical, and that there were no troops in Missouri to aid in carrying on such an unholy crusade.' We published Governor Jackson's reply, and said:

"Well done, Governor Jackson, there is not a man in Missouri untainted by the 'diabolical' heresy of Black Republicanism, who will not indorse you in this prompt and befitting refusal to respond to the unconstitutional and revolutionary call for troops by Mr. Lincoln. Hiscall, sir, is all you say it is—illegal, inhuman, and diabolical; and deserves the execrations of every true son of the South, every true friend of the Union and the public peace."

"There are no troops in Missouri, and we hope in no other southern State, to aid a Black Republican President in the butchery of the southern people. If there are in the South, and especially in Missouri, any such soldiers, they are on the wrong side of Mason and Dixon's line, and had better, for their health, take up their beds and walk—and walk fast."

"After Mr. Lincoln's perfidy to the whole southern people, and his execrable duplicity to the Union men of the border slave States, his call upon them for volunteers to aid him in blockading the ports, sackings the towns, and murdering the people of the South is most insolent and shameful."

Mr. BENJAMIN. Mr. Speaker, one more extract will suffice. In the same number of his paper, replying to an article of a contemporary which spoke of the "loyal country" as

being in deep gloom over the death of Colonel Ellsworth, the contestant says:

"We do not know what portion of the 'loyal country' is in deep gloom over the death of Colonel Ellsworth, or whether he was in truth a brave man or the contrary; nor do we know that Jackson, who slew him, was a rebel and traitor; but there is one thing we are assured of—he met a merited doom. He had no business, with a squad of armed Zouaves at his heels, to rush into Jackson's house before day, ascend to the roof of it, and tear down and attempt to carry away his secession flag. It was Jackson's private property, and was on his own house, and its being there was none of Colonel Ellsworth's business. Jackson did right in shooting him down for disturbing it; and our only regret is, that Brownell, who, from his looks, we have no doubt is a thief, was not also shot."

Extracts of a similar character I might multiply at great length; but it is not necessary, neither will my time permit. These are sufficient to show to the House and the country what loyalty means as defined by the contestant and his party friends. With few exceptions, no other kind has ever manifested itself in Boone and Callaway.

Here, Mr. Speaker, comes in a bit of history in connection with this branch of the subject. The contestant was a slaveholder at the breaking out of the rebellion and continued to hold slaves up to the time the Radicals of the State abolished the institution. At the first session of the Thirty-Eighth Congress a law was passed authorizing the enlistment of colored troops. It provided for the payment of \$800 for each slave enlisted and belonging to a loyal owner. Some of the slaves of the contestant enlisted. President Johnson appointed a commission to audit the claims and pass upon the loyalty of the claimants. The contestant prosecuted his claim, which was rejected because of his antecedents. The record I have here detailed came up in judgment against him and was fatal. The commission was unable to understand how a resolve to fight with the enemy, a proclamation to those whom patriotism impelled to share in the strife "to take up their beds and walk fast," and rejoicing at the death of one of the bravest sons of the Republic, could be reconciled with true loyalty. I have before me a letter from the president of the commission, which I will ask the Clerk to read.

The Clerk read as follows:

WASHINGTON, D. C., April 10, 1868.

DEAR SIR: In reply to your inquiries of this date I can say, that in the winter of 1866 and 1867 Mr. William F. Switzer, of Columbia, Boone county, Missouri, filed before the commission for the State of Missouri, which was then engaged in examining claims for slaves enlisted in the Union Army under the act of 1864, a claim for slaves owned by him. The question of Mr. Switzer's loyalty was considered by the commission, and it was unanimously decided that Mr. Switzer's record showed him to be a disloyal man and not entitled to recover. Major John L. Bettinger, of St. Joseph, Missouri, and Judge Roswell Marsh, of Steubenville, Ohio, were the other members of the commission of which I was president.

I am, colonel, most truly, yours,

JAMES G. MILLS.

Mr. BENJAMIN. It affords me no pleasure, Mr. Speaker, in parading so dark a page of the history of Missouri before the House and the country. Would that oblivion could cover it. I regret extremely to be obliged to confess to so loose a morality as permits a whole community to entirely disregard the laws of God and man. But more especially do I regret that any of her public men should make themselves liable to be thus held up to public gaze. But from such a record there is no escape. It will pursue them like the shadow of Nemesis. In the case of the lower classes it may be overlooked and forgotten, but never with the leaders,

"The bolt that strikes the towering cedar dead,
O'er passes harmless o'er the hazel's head."

The whole issue, Mr. Speaker, is narrowed down to the simple question, What is loyalty? If we are ready to define it as the contestant has defined it, then he is elected beyond a doubt, and Callaway is loyal and has ever been so. If you define it as the contestant has defined it, the thousands whom you sent forth to be "welcomed with bloody hands to hospitable graves," "met a merited doom." But

such is not the loyalty of the Radicals of Missouri. They have professed and acted upon a loyalty involving principles antagonistic to and inconsistent with such utterances. They have given it an entirely different definition in their constitution in its application to voters. He who "has ever by act or word manifested his adherence to the cause of the enemy" or "his sympathy with those engaged in exciting or carrying on rebellion against the United States," is not loyal according to that instrument, and therefore not a legal voter. Let the House judge between us.

Now, Mr. Speaker, I have done. I have endeavored to show, and think I have shown, that the vote of Callaway ought not to be counted. I admit the intensity of my feelings on this question, for I know the effect of its decision on the future of the State. The truly loyal struggled as none others struggled to maintain your authority and preserve Missouri to the Union. The blood of her sons has been poured out without stint, and their valor has been attested on every battle-field. She has been foremost in all the reforms that have characterized and shed luster on the age in which we live. The Radicals have the ascendancy in every department of the State government, and the future prosperity of the State depends on their ability to maintain it. During the war she was devastated and laid waste from center to circumference. Under the invigorating influence of Radical rule she has arisen like a Phoenix, and her waste places have been built up until scarcely a trace of the war remains. They have sped her on to greatness and prosperity with rapid strides. They have made her a home sacred to loyalty and freedom. They intend she shall remain as such. With such a record, animated by such a purpose, and struggling in such a cause, will you assist the enemy in accomplishing by fraud what they failed to accomplish in open fight? You will not do it. In the name of the living thousands who bore your flag and are ready to bear it again, I ask you not to do it. In the name of the

"Veteran hearts that were wasted

In strife with the storm when your battles were won,

I entreat you to spare us the infliction. In the name of that liberty for which we periled all, suffer us not to be again enslaved. We established it. We can defend it with our own strong arms. Will you permit us to do so?

I now yield to the gentleman from Iowa.

Mr. WILSON, of Iowa. If the contestant desires to be heard it is not my purpose to prevent him, but I think this House in obedience to the decision made in several other cases should have the charges which have been presented by the gentleman from Missouri examined by the committee. The question which he has presented is one which seems not to have entered into this case in the examination heretofore given it by the Committee of Elections; and I am also informed if this question now raised shall be sent to the committee for the investigation, it can also be shown a sufficient number of persons cast their votes for the contestant who were actually disqualified by the laws of Missouri to overbalance the majority of the county of Callaway. Therefore for the purpose of following the precedents the House has already established, and in order that this new feature of the case may be examined by the committee, I move that the case be recommitted to the Committee of Elections, with instructions to the committee to examine into the charges made against the contestant by the gentleman from Missouri who has just concluded his remarks, and to report thereon to the House, with leave to send for persons and papers; and in order to test the sense of the House I call for the previous question.

Mr. DAWES. I ask the gentleman from Iowa to withdraw the demand for the previous question.

Mr. WILSON, of Iowa. For a moment.

Mr. DAWES. The gentleman from Iowa means to do right; and when he knows what

the right is he is as anxious to do it as anybody. I do not know what is the wish of the contestant, but I know the gentleman from Iowa does not desire to be put in the attitude the record will show he is put in by this motion. By the law of the United States these parties were required, within sixty days of the time when the commission was issued to one or the other, to state upon paper clearly and particularly, each one of them, the grounds of their accusation against the right of the other to hold his seat. They have done it, Mr. Speaker, and the sitting member has made no charge in the papers against the loyalty of this contestant. He took not a particle of testimony touching the loyalty of this contestant. He was heard before the committee at length, and at his pleasure, and at the end in response to the inquiry of the committee he stated he had no charge to make against the loyalty of this contestant.

Now, Mr. Speaker, at the end of three months and more after the close of this hearing and this report the gentleman from Missouri who has just taken his seat has brought into this House what he calls evidence against the loyalty of this contestant, not taken according to the forms of the law, having no verification except the honor of the gentleman from Missouri, which I admit is as good as that of any gentleman. If this goes back to the committee there are no pleadings under the statute upon which this charge can be made. The gentleman from Missouri has, without the slightest hesitation, and I think without frankness—I have no doubt he thought it perfectly fair—produced here without notice to anybody, taken without any sworn verification letters that have been written to him or some friend within a few weeks, and read them here as testimony against the loyalty of this contestant, and thereupon, at a given signal, he yields the floor to my estimable friend from Iowa, who moves this be recommitted to the committee to examine into the loyalty of the contestant, and calls the previous question upon that motion.

I have no desire myself to be heard. I did not intend to be heard upon this question. The state of the thermometer and my own strength, as well as the patience of the House, forbid it. But I submit to my friend from Iowa that it is hardly fair for him to make this motion until the contestant himself has been heard. When he shall be heard upon this question, if the gentleman from Iowa shall feel it his duty then to move to recommit this case for the purpose indicated, I, for one, shall have no word to say. But there is a right and a wrong in the mode of proceeding upon this floor, and nobody would be less disposed to depart from it than my friend. Now, although he intimated in the beginning of his remarks that he did not know what was the purpose of the contestant, I submit that before insisting upon this motion he should see whether this contestant, brought up here after the sitting member has declared before the committee that he has no charge to make against his loyalty, has anything to say upon this new evidence brought up here at this time.

Mr. WILSON, of Iowa. It does seem to me, after the statement I made, that the gentleman from Massachusetts purposely puts me in a wrong position. He certainly could not have understood my position, which was that it was not my intention to cut off the contestant if he desired to be heard.

Mr. DAWES. I did not hear any such remark as that. I thought it was hardly possible for the gentleman, knowing him as I did, to entertain any such idea.

Mr. WILSON, of Iowa. If the gentleman had heard what other members around me did it would have saved him the trouble of delivering a lecture to me. Now, sir, he has made precisely the argument which supports my motion, and that is that the question of the loyalty of the contestant was not examined into by the committee at all. The case upon discussion in

the House upon the report of the committee discloses charges by a member of this House upon the floor, affecting the loyalty of the contestant.

Mr. DAWES. If the contestant does not desire to be heard I have not a word to say. I rose in behalf of what I thought was fair dealing, and that was to give him an opportunity to be heard. If my friend had no intention of cutting him off, then certainly he has no occasion to say that I wished to lecture him; which was the furthest from my intention, for I know my friend would do no unfair thing.

Mr. WILSON, of Iowa. I hold it to be the duty of this House, in view of the precedents established in other cases, when a member rises in his place and prefers charges against the loyalty of a person claiming a seat on this floor, to direct the Committee of Elections to examine into those charges; and the fact that they have been made and have not been determined upon by the committee is the only support that my motion needs.

Mr. MARSHALL. Will the gentleman yield?

Mr. WILSON, of Iowa. I wish to inquire whether the contestant desires to be heard?

Mr. POLAND. I moved yesterday that the contestant be allowed to address the House, and leave was granted. He only desired to do so in the contingency that an attack should be made upon him of which he had heard some rumor. He does desire to address the House.

The SPEAKER. The gentleman from Iowa [Mr. WILSON] has but two minutes remaining of the hour. Does he intend to move the previous question, which will cut off the contestant and any member of the House from being heard.

Mr. WILSON, of Iowa. That is not my purpose.

The SPEAKER. The gentleman having reserved the call for the previous question, the contestant is now entitled to the floor.

Mr. MARSHALL. I would like to know by what rule I am cut off. Does the previous question prevail?

The SPEAKER. It does not. The gentleman from Iowa said he would not insist upon it if the contestant desired to speak. He has not said that he yielded to any other person.

Mr. WILSON, of Iowa. If the contestant does not desire to speak I shall insist on my motion.

Mr. MARSHALL. I insist in all fairness that this extraordinary proceeding should not be upheld at this time without an opportunity of some gentleman on this side being heard. The previous question has not been sustained, and I know no reason why I should not be permitted to take the floor in my own right for a short time.

The SPEAKER. There would be no reason unless the House should second the previous question, which would cut off all members of the House.

Mr. WASHBURN, of Illinois. Does the contestant desire to be heard, either personally or through some member? If so, I am for allowing it.

Mr. MARSHALL. I ask to be heard as a member of the House.

The SPEAKER. In response to the gentleman's appeal, made three times, the Chair will state that the floor is in the possession of the gentleman from Iowa, [Mr. WILSON,] who has distinctly stated that he demands the previous question unless the contestant desires to speak.

Mr. WILSON, of Iowa. I yield to the contestant.

Mr. MARSHALL. I wish, before I take my seat, to be understood as protesting against this outrage upon justice. [Cries of "Order! Order!"]

Mr. PILE. I call the gentleman to order.

The SPEAKER. The gentleman is out of order.

Mr. SWITZLER (the contestant) then addressed the House for an hour and a half. [His speech will be published in the Appendix.]

ENROLLED BILLS SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

An act (H. R. No. 1353) for the removal of certain disabilities from the persons therein named; and

An act (H. R. No. 202) to create the office of surveyor general in the Territory of Utah, and establish a land office in said Territory and extend the homestead and preemption laws over the same.

PENSION APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts. I rise to a question of privilege. I submit the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the first amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the second amendment of the Senate, and agree to the same, with an amendment, as follows: strike out all of said amendment after the word "laws" in line eight; and the Senate agree to the same as so modified.

BENJAMIN F. BUTLER,
WILLIAM LAWRENCE,
Managers on the part of the House.
L. M. MORRILL,
GEORGE F. EDMUNDS,
T. A. HENDRICKS,
Managers on the part of the Senate.

Mr. BUTLER, of Massachusetts. If any gentleman desires any information in regard to this report I am ready to give it.

Mr. UPSON. I would inquire of the gentleman whether this bill, as agreed upon by the committee of conference, allows a pension in every case where a man has died while in the military or naval service?

Mr. BUTLER, of Massachusetts. This bill has nothing at all to do with that subject, but is a bill making appropriations for invalid pensions. The only point of disagreement between the two Houses was in regard to what should be done with the naval pension fund. We desired to have that fund put in the Treasury; the Senate desired to keep it out. We compromised by agreeing that it should remain as a fund at three per cent. interest in lawful money, which will yield just about the amount needed to pay naval pensions; so that it amounts to about the same thing.

The report of the committee of conference was then agreed to.

Mr. BUTLER, of Massachusetts, moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (S. No. 355) authorizing the construction of a bridge across the Missouri river upon the military reservation at Fort Leavenworth, Kansas; when the Speaker signed the same.

PENSION BILLS.

Mr. PERHAM, from the committee of conference on the disagreeing votes of the two Houses on sundry pension bills of the Senate, submitted reports, which were agreed to.

In reference to the following bills, the Senate recede from their disagreement to the amendments of the House and agree to the same:

An act (S. No. 382) granting an increase of pension to Obadiah T. Plum;

An act (S. No. 422) granting a pension to Maria Schweitzer and minor children of Conrad Schweitzer, deceased;

An act (S. No. 517) granting a pension to the widow and children of Henry Brown;

An act (S. No. 518) granting a pension to the widow and child of John P. Fety; and

An act (S. No. 521) granting a pension to the children of William M. Wooten, deceased.

The House recede from their amendment to the following bill:

An act (S. No. 547) granting a pension to John Sheets.

The Senate recede from their disagreement to the amendments of the House to the following bills, and agree to the same with amendments, namely:

An act (S. No. 175) for the relief of Joseph McGhee Cameron and Mary Jane Cameron, children of La Fayette Cameron, deceased;

An act (S. No. 314) for the relief of George T. Brien; and

An act (S. No. 383) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased.

Mr. PERHAM moved to reconsider the votes by which the reports of the committee of conference were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION CONTEST—SWITZLER VS. ANDERSON.

The House resumed the consideration of the report of the Committee of Elections in the contested-election case of Switzler vs. Anderson; upon which Mr. WILSON, of Iowa, was entitled to the floor.

Mr. WILSON, of Iowa. How much time is there left?

The SPEAKER. The gentleman is entitled to one hour.

Mr. WILSON, of Iowa. If the sitting member [Mr. ANDERSON] desires to be heard, I will yield to him.

Mr. ANDERSON. I would like to have about thirty minutes.

Mr. WILSON, of Iowa. I will yield to the gentleman for thirty minutes.

Mr. BENJAMIN. Will the gentleman first yield five minutes to me?

Mr. WILSON, of Iowa. Very well; I will do so.

Mr. BENJAMIN. I merely wish to notice the statements made by the contestant in regard to my record for loyalty in the earlier stages of the war. He has read here certain resolutions, or what purports to be resolutions, and he says they were reported by me as chairman of the committee on resolutions to a certain meeting held in the town of Shelbyville, the town in which I reside, in 1861.

Now, I will say right here, in the presence of this House, and that it may go to the country, that there is not one word of truth in all that statement from beginning to end; not one word. I never participated in a meeting in which such resolutions were passed. I never was the chairman of a committee from which such resolutions were reported. I never voted for such resolutions, and I never indorsed them from the beginning of this strife to the end; and I cannot but think that the contestant is fully apprised of the falsity of these charges.

I am aware that a part of these charges were made in my district last year, and these questions came before the board of registration of my county where they were judicially investigated, witnesses being brought in and testifying under oath. And I happen to have the record of those proceedings here, which I will ask the Clerk to read.

The Clerk read as follows:

"Leonard Dobbin being sworn and examined by Hale, testified as follows:

"I know General Benjamin, and have known him for many years, knew him in 1861; was present at the meeting alluded to; was secretary of the meeting and wrote out the proceedings, which were published in the Shelby County Weekly. I recollect that Mr. Benjamin spoke at the meeting a few minutes, not more than five or ten, and before the resolutions were introduced. John M. Glover was the principal speaker. Mr. Benjamin did not report the resolutions nor have anything to do with them. I heard him often, before and after that time, denounce Jackson as a traitor for refusing to furnish troops. Do not think he was present when the resolutions were reported and passed."

"William J. Holliday, county clerk, being sworn, testified as follows:

"I was not present at the meeting. Heard the resolutions talked about at the time, and often heard

General Benjamin denounced them as treasonable and unworthy the county of Shelby."

"John S. Duncan, circuit clerk, testified as follows: 'I was not present at the meeting. I was for a long time before that time, and all the time since, almost daily in his company. Heard him frequently speak of the meeting and resolutions at the time it was held. He always declared publicly and emphatically that if every man, woman, or child in Missouri voted for secession, he would still resist and fight against it. Both before and after that time, I heard him denounce Jackson as a traitor for refusing to furnish troops. He certainly, from the beginning, was the boldest and most defiant out-spoken Union man in the county. I was very decided myself, but I sometimes thought he went a little further than was prudent. The entire Union party of the county looked to him as a leader, although but few were disposed to go as far as he.'"

Mr. BENJAMIN. Now, Mr. Speaker, that testimony was published through the State of Missouri. I cannot believe but that the contestant was cognizant of the fact that those charges had been investigated, and that he saw the published refutation by the witnesses who testified on that occasion, and well knew them to be false when he made the charges here to-day. I take this occasion to say that whoever affirms that from the beginning of the rebellion or long preceding its beginning down to the present day I ever breathed a word from which the enemies of our country could take comfort, tells what is infamously false, and knows it to be so. Sir, if the contestant or any of his friends will come in here and upon their honor as members of the House or as gentlemen make any insinuation that I have at any time favored secession or hesitated to favor coercion and the complete subjugation of the enemies of our country, I desire that the charge shall be distinctly made here to-day, that it may be referred to the Committee of Elections; and if the charge should be sustained by their report I would ask this House to expel me for disloyalty to the Government of the United States.

[Here the hammer fell.]

Mr. ANDERSON addressed the House. [His remarks will be published in the Appendix.]

Mr. WILSON, of Iowa, resumed the floor.

Mr. POLAND. Will the gentleman yield to me for a few minutes?

Mr. WILSON, of Iowa. Certainly.

Mr. KERR. I hope the gentleman from Vermont [Mr. POLAND] will yield to the contestant long enough to enable him to reply to some personal assaults which have been made upon him by the sitting member.

Mr. POLAND. I hold the floor only by sufferance of the gentleman from Iowa, [Mr. WILSON.] I presume he will give the gentleman the time he desires.

Mr. Speaker, I wish to say a word in reference to the motion which has been submitted by the gentleman from Iowa. I do not now propose to answer at all anything that has been said by the sitting member in this case in reference to what may be termed the merits of the case, or as to the propriety or impropriety of adopting the report of the committee. I said yesterday nearly all that I desire to say on that subject; and if this motion to recommit the report to the committee should not prevail and there should be further debate upon the merits of the report, I suppose I shall be entitled to close that debate, and can then say anything additional which I may wish to submit upon that question. I now desire to say a word in reference to this motion to recommit and to treat it as entirely separate and distinct from what has been said on either side in relation to the legality of the registration in Callaway county.

This motion to recommit is based upon the ground that the gentleman from Missouri, [Mr. BENJAMIN,] standing here in his place and upon his responsibility as a member, makes charges of disloyalty against the contestant. Now, it is due to the House that it should understand a little of the history of this case before the committee, so that members may know how much there is of good faith in the motion which is now made.

Before the Committee of Elections the case of the sitting member was managed by the gentleman from Missouri [Mr. BENJAMIN] as

his counsel, and in the course of his argument before the committee he made very much the same statements that he has made in his speech here in the House. But in the pleadings in that case, in the allegations and answers upon the one side and upon the other, not a word nor a syllable was contained in reference to the loyalty or disloyalty either of the sitting member or of the contestant; nor was there in all the testimony that was taken in the regular way one word upon the disloyalty of the sitting member. But, in the argument of the sitting member's counsel, charges were made as they have been made here; and upon the other side the answer was made by the contestant as it has been made here. The contestant undertook to carry the war over upon the other side, making the same charge against the sitting member and his counsel that he has made here.

Mr. BENJAMIN. The gentleman will recollect that when those charges were made against me I was not present in the committee; they were made after I had left.

Mr. POLAND. I presume the gentleman may be right in reference to that; I do not profess to recollect about the matter.

After the hearing of the case before the committee had been entirely finished, the chairman of the committee [Mr. DAVES] applied to the sitting member to know whether he claimed that the case stood in such a condition that in view of anything before the committee they could be called upon to act in reference to the disloyalty of the contestant; and the answer was freely, openly, and frankly given that he, the sitting member, did not make any such claim. More than that, in the minority report made by the gentleman from Missouri [Mr. McCLURE] not a word of allusion is made to that point.

Now, I say, Mr. Speaker, that when this question is sprung upon the House here for the purpose of getting this case recommitted to the committee upon this motion, it is perfectly apparent that it is a mere pretense put forward merely for the purpose of getting the case back into the hands of the committee and throwing it over into another session of Congress.

Now, I have no feeling about this case. If I am not able to satisfy the House that the conclusions of the majority of the committee are right upon the evidence, that our findings both of law and fact are just and right, and that every member of the House, Republican as well as Democrat, ought to stand by those conclusions, I am content that the judgment of the committee shall be overruled; but I do insist that it is not fair and just to this contestant, it is not fair and just to ourselves, to throw this case back into the hands of the committee after the explanation which has been given. I do not believe myself that there has been said here upon either side anything which amounts to a charge of such disloyalty on the part of either the sitting member or the contestant as to prevent him from taking the test-oath and acting as a member of this House.

I think it does appear there has been a good deal of political advance, and a good many gentlemen in Missouri entertain very much sounder and more correct political judgments now than they did a few years ago, and I am glad of it. I like such advances in Missouri and everywhere else; but I insist there has been nothing done here, nothing which has been charged in this debate which authorizes the House, and especially after I have given the history of the case, which has been repeated by the chairman of the committee, to take this proceeding. It is apparent it is a mere pretense, a mere subterfuge, for the purpose of throwing this case over to the next session of Congress, and I protest against it.

Mr. BENJAMIN. Does the gentleman consider this a charge of disloyalty? I assert on my responsibility as a member of this House this direct charge, namely: this contestant uttered and published the words I am about to

read, and he does not deny having written them or having published them on the 14th day of June, 1861. Then, I ask the gentleman from Vermont, in view of what has taken place in the Kentucky cases, whether this is a good charge of disloyalty? These are the words of the contestant:

"There are no troops in Missouri, and we hope in no other southern State, to aid a Black Republican President in the butchery of the southern people. If there are in the South, and especially in Missouri, any such soldiers, they are on the wrong side of Mason and Dixon's line, and had better, for their health, take up their beds and walk—and walk fast."

Now, I make that distinct charge, and I am ready to prove it by the paper itself which contains this in the leading editorial article. It is in the paper published by the contestant, and he does not pretend to deny it.

Mr. WILSON, of Iowa. I have a word to say since the gentleman from Vermont [Mr. POLAND] has resumed his seat, although I had not intended to engage in this discussion. I cannot permit the charge made by the gentleman from Vermont in connection with this motion to pass without notice. He says it is perfectly apparent this motion is a mere pretense to get this case back into the hands of the committee so as to throw it over to the next Congress. Of course that attacks my motive in making it; and I wish to say, in reply to the gentleman from Vermont, while the laws of the United States exclude persons from this Hall who have given aid and comfort to the rebels, I have the right to have that law enforced; and whenever a charge is made by a member upon this floor of disloyalty I will endeavor to have that law enforced. If it is an improper thing for this House to say persons not eligible to seats here are excluded, then I have done an improper thing. I wonder the gentleman from Vermont regards this as an improper motion, and denounces as a mere pretense the effort to enforce the law in the county of Callaway, when we remember the report in the Kentucky cases. Taking the report as presented by the gentleman from Vermont, with the testimony taken before that committee, and I can come to the conclusion without difficulty that within that district were polled the votes of men disqualified under the laws of the State of Missouri from voting sufficient in number to overcome the entire majority that is reported in favor of the contestant counting in the county of Callaway; and I should like if this case should get back to the committee that the sitting member or any member of Missouri should ask to have that feature of the case reopened in order that it may be known how many of these persons not authorized to vote under the laws of Missouri did vote. I do not say whether it is a wise or unwise law, but it is the law there. I now modify my motion so as to recommit the subject, with instructions to inquire into the charges of disloyalty both against the sitting member and the contestant, and demand the previous question.

Mr. KERR. I appeal to the gentleman from Iowa that five minutes be given to the contestant to answer some personal charges made by the sitting member.

Mr. WILSON, of Iowa. I withdraw the demand for the previous question, and yield for five minutes to the contestant.

Mr. SWITZLER, (the contestant.) Mr. Speaker, first of all, then, as to the opinion which it is alleged I, as provost marshal, gave in 1864 as to the number of legal voters in Callaway county.

The sitting member has seen proper to read a portion of the testimony of one W. W. Dav-enport, the chief clerk in my office during the year 1864, wherein it is charged that in a communication to the Secretary of War I expressed the conviction that there were not two hundred and fifty loyal men in Callaway county. Now, sir, this charge is an old acquaintance of mine. I have looked upon its features long ago, seen it often, and now desire, once for all, to give it a token of recognition. In March, 1867, the counsel of the sitting member, Mr. BENJAMIN,

rose in his place in this Hall, and constituting himself a "smelling committee," to smell out letters of our officers, he offered the following resolution:

"Resolved, That the Secretary of War be directed to furnish this House with copies of any and all correspondence in his possession between Captain William F. Switzer, late provost marshal of the ninth district of Missouri, and the Provost Marshal's Bureau, in relation to the loyalty and disloyalty of the people of said ninth district or any portion thereof."

Well, sir, so far as I know the sitting member and his counsel have been "smelling" around the War Office, among the pigeon holes of that Department looking for this letter, a letter which I never wrote, and which is not to be found in my letter-book or in the archives of the War Office; and these gentlemen with all their assiduity have been unable to produce it. I deny having ever expressed such an opinion or ever having written such a letter. So much for that.

Again, the gentleman alleges that in 1864 I was removed from office by Mr. Lincoln upon charges of disloyalty. This is a new acquaintance; I never heard of it before. I was removed from office, so far as I know, without any alleged reason. I believe the reason to have been that upon the opening of the presidential canvass of that year I happened to believe, with many thousand ex-officers and soldiers of our Army, that George B. McClellan, who had exposed himself upon the tented field to the rebel hail of bullets and shells in the defense of the old flag, was as fit for the presidential office as his opponent. Because in Missouri I advocated his claim I suppose I was removed from office, and not upon any charge of disloyalty. That charge, like many other things in this case, has been hatched out here at the eleventh hour to serve a partisan purpose.

And now as to General Blair's speech. I am particularly desirous of correcting the gentleman in regard to the record of that speech, for I have it here. Once for all I desire to set the gentleman right, for I was present on the stand when General Blair made his speech in Callaway county. The speech was reported in the Missouri Democrat. The proprietors having sent to Fulton a stenographer (Mr. Wallbridge) for the special purpose of reporting it. Listen now to the counsel which General Blair gave to the people of that county pending the registration in 1866:

"I say here, in Callaway, that any man who attempts violence toward any officer of the law, no matter what he does—no matter how arbitrary and ridiculous may be his action—that any man here in Callaway, who attempts violence, is an enemy to the cause of the Conservative Union men. You never can get your rights by violence. That thing has been tried recently and has failed, and will always fail. The only way for us to obtain our rights is to abide by the law, live under the law, and make our enemies abide by it."

"I tell you that here, in Callaway, there must be no violence of any kind toward any officer of the law under any circumstances whatever."

"Now, I advise the young men of Callaway not to go round gasconading what they will do if the nigger troops come here. Let them come. They can't do any harm so long as you don't put yourselves in the wrong and give these men power over you; and don't let those leaders who misled you once before mislead you into doing anything that can't stand under the law, and I pledge you will come out triumphant under the law."

Is there any resistance to law counseled here?

[Here the hammer fell.]

Mr. WILSON, of Iowa. I now call the previous question on the motion to commit with the instructions stated.

The previous question was seconded and the main question ordered.

Mr. POLAND. I demand the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 93, nays 46, not voting 63; as follows:

YEAS—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Beatty, Benjamin, Birmingham, Boies, Bromwell, Buckland, Benjamin F. Butler, Roderick R. Butler, Calkins, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Donnelly, Driggs, Eckley, Elia, Farnsworth, Ferriss, Fields, French, Gravely, Griswold, Hamilton, Heaton, Higby, Hill, Hinds, Hooper, Hopkins, Ches-

ter D. Hubbard, Hulburt, Hunter, Alexander H. Jones, Judd, Julian, Kelsey, Kitchen, Koontz, Laffin, William Lawrence, Logan, Longbridge, Lynch, Mallory, Maynard, McCarthy, McClurg, McKee, Mercier, Miller, Moore, Morrell, Mullins, Myers, O'Neill, Orth, Perham Peters, Pile, Polesie, Pomeroy, Raum, Sawyer, Schenck, Shanks, Spalding, Starkweather, Thaddeus Stevens, Stokes, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Ward, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—93.

NAYS—Messrs. Adams, Archer, Bailey, Baker, Beck, Boyden, Boyer, Brooks, Cary, Chandler, Cook, Dawes, Dockery, Eldridge, Fox, Garfield, Getz, Glossbrenner, Golladay, Grover, Haight, Hawkins, Hotchkiss, Richard D. Hubbard, Johnson, Kerr, Ketcham, Knott, George V. Lawrence, Marshall, Moorhead, Niblack, Nicholson, Pike, Poland, Randall, Ross, Scofield, Sigreaves, Taber, Taylor, Lawrence S. Trimble, Upson, Van Aukca, Van Trump, and Elihu B. Washburne—46.

NOT VOTING—Messrs. Ames, Anderson, Axtell, Banks, Barnes, Barnum, Beaman, Benton Blaine, Boutwell, Broomall, Burr, Cornell, Delano, Deweese, Dixon, Dodge, Eggleston, Eliot, Ferry, Finney, Halsey, Harding, Holman, Asahel W. Hubbard, Humphrey, Ingersoll, Jencks, Thomas L. Jones, Kelley, Lincoln, Loan, Marvin, McCormick, McCullough, Morrissey, Mungen, Newcomb, Nunn, Paine, Phelps, Plants, Price, Pruyn, Robertson, Robinson, Roots, Selye, Shellabarger, Smith, Aaron F. Stevens, Stewart Stone, Taffe, Thomas, John Trimble, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Wood, Woodbridge, and Woodward—62.

So the motion to recommit was agreed to.

During the roll-call,

Mr. NIBLACK stated that Mr. MUNGEN was paired with Mr. VAN HORN, of Missouri.

Mr. AXTELL announced that he was paired with Mr. KELLEY, who would have voted in the affirmative, while he [Mr. AXTELL] would have voted in the negative.

The result of the vote having been announced as above recorded,

Mr. WILSON, of Iowa, moved to reconsider the vote by which the report was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that that body had passed, without amendment, a joint resolution (H. R. No. 329) to amend section fourteen of an act approved July 28, 1866, entitled "An act to protect the revenue, and for other purposes."

Also, that it had passed a bill (S. No. 619) to extend the laws of the United States relative to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes; in which the concurrence of the House was requested.

Also, that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendment of the House to the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments.

FUNDING BILL.

Mr. MOORHEAD. I move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union on the tariff bill.

Mr. SCHENCK. Will my colleague allow me to report back the funding bill and to have an order made in regard to it?

Mr. MOORHEAD. I yield for that purpose.

Mr. SCHENCK. I report back from the Committee of Ways and Means the bill (S. No. 207) for funding the national debt, and for the conversion of the notes of the United States, with sundry amendments. I desire to say that there are thirteen of these amendments. I wish to ask that the bill and amendments may be printed, and I ask unanimous consent that the bill may be considered tomorrow morning in Committee of the Whole, under the five-minutes rule, immediately after the reading of the Journal.

Mr. GARFIELD. I hope the gentleman will say after the morning hour.

The SPEAKER. The Chair will state to the House that there will probably be no more morning hours during this session.

Mr. WASHBURN, of Illinois. There ought not to be.

Mr. GARFIELD. How will the order asked by my colleague affect the rights of the Committee on Military Affairs in regard to the bill for the reduction of the Army, now pending?

The SPEAKER. The Chair will answer the gentleman, that when there is no other business before the House of a privileged character the consideration of the military bill will be resumed as the unfinished business, but when that time will arrive in the multiplicity of business the Chair cannot say.

Mr. GARFIELD. Suppose this motion carries, how will this bill stand in regard to the Army bill?

The SPEAKER. The House will go into Committee of the Whole on this bill immediately after the reading of the Journal tomorrow.

Mr. GARFIELD. I hope my colleague will not insist on his motion. The Army bill will reduce the expenses of the Government \$18,000,000.

Mr. STEVENS, of Pennsylvania. I object to this arrangement until all the appropriation bills are disposed of.

The SPEAKER. The Committee of Ways and Means have authority to report at any time, and the bill is before the House.

Mr. RANDALL. I call for the reading of the bill and amendments.

Mr. MOORHEAD. I hope my colleague will not insist on that. The bill and amendments will be printed by to-morrow morning.

Mr. RANDALL. I understand what I am about just as well as the gentleman does.

The Clerk then read the bill and amendments.

Mr. ROSS. I object to this bill being made a special order.

Mr. RANDALL. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. RANDALL. My point of order is that the second section of this bill makes an appropriation, and therefore the bill must receive its first consideration in Committee of the Whole.

The SPEAKER. The Chair sustains the point of order, that this bill makes an appropriation and must receive its first consideration in Committee of the Whole.

Mr. SCHENCK. If gentlemen object to my proposition I must move that the House now resolve itself into Committee of the Whole, for the purpose of considering this bill without being printed.

Mr. ROSS. I do not object to the bill being printed; only to its being made a special order.

ENROLLED BILL AND JOINT RESOLUTION.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and a joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 550) for the relief of Robert Ford; and

Joint resolution (S. R. No. 118) authorizing the Secretary of the Treasury to issue an American register to the British-built brig, Highland Mary.

ELECTION CONTEST—McGRORTY VS. HOOPER.

Mr. CHANLER. I desire to give notice that on Saturday next, immediately after the reading of the Journal, I propose to call up the report of the Committee of Elections in the contested-election case of McGrorty vs. Hooper, in relation to the seat of the Delegate from Utah Territory.

VACANCIES IN EXECUTIVE DEPARTMENTS.

Mr. BOUTWELL. I rise to a privileged question, I submit a report from a committee of conference.

The report was read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the amendments of the House to Senate bill No. 352, to authorize the temporary supplying of vacancies in the Executive Departments, having

met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from its disagreement to the first amendment of the Senate, and agree to the same.

That the House recede from its disagreement to the second amendment of the Senate, and agree to the same, with an amendment, as follows: strike out the word "and" after the word "first," and insert the words "and third" after the word "second;" and that the Senate agree to the same.

That the House recede from its disagreement to the third amendment of the Senate and agree to the same, with an amendment adding thereto the following words: "And in any such case it shall be the duty of the President to make such designation without delay;" and that the Senate agree to the same.

GEORGE S. BOUTWELL,

JAMES F. WILSON,

Managers on the part of the House.

LYMAN TRUMBULL,

GEORGE VICKERS,

Managers on the part of the Senate.

The question was upon agreeing to the report of the committee of conference.

Mr. MARSHALL. Will the gentleman from Massachusetts [Mr. BOUTWELL] yield to me for a few moments?

Mr. BOUTWELL. Certainly.

Mr. MARSHALL. As a member of this committee of conference I could not agree to its action in one particular, but I do not suppose that will have a moment's effect upon the action of the House. I merely wish to say that I prefer the bill as it passed the House in regard to the Patent Office. In regard to every other bureau the provision is that the chief clerk shall act in the absence of the chief of the bureau, or in case of a vacancy shall supply the place of the chief of the bureau and perform the duties of the office.

In regard to the Pension Bureau, the chief clerk has been discharging the duties of Commissioner of Pensions for a considerable time without any provision of law authorizing him to do so. But in regard to the Patent Office, there is a provision of law now in force, and has, I believe, been in force for about twenty years, that in the absence of the head of that bureau, or where there is a vacancy in the office of the head of that bureau, the chief clerk shall perform the duties of that office. Now, I take it for granted that it is a fair presumption that the chief clerk of the Patent Bureau has always been appointed and his qualifications considered in reference to the discharge of those duties. They have devolved upon him frequently during the last twenty years. I am inclined to think that at this time the officer filling that position is as well qualified as any under any previous Administration for the discharge of that duty. Yet in fact I know very little about that. But I wish to say this, that it seems to me that there is great propriety in the bill as it is now proposed to pass it. The provision is that in the absence of the Commissioner of Patents, and where there is a vacancy in that office unfilled, the President shall designate one of the examiners of the Patent Office to fill that office *ad interim*.

Now, it is known to the House that a considerable portion of the business of the Commissioner of Patents is to review decisions made by the board of examiners, and the result of the bill, as it is now proposed to pass it, is simply to allow an appeal from the board of examiners to one of the gentlemen sitting on that board. It seems to me there is an absurdity in this, and that it cannot remedy existing evils, if there are any. Under the present system, which is continued in this bill as to all the other bureaus, the discharge of the duties of the head of the bureau, in case of vacancy or absence, is left to the chief clerk. This has been the case with regard to the Patent Bureau for twenty years. This is my chief objection to the bill as proposed now to be passed.

I think that there are many difficulties growing out of the present organization of the Patent Bureau. Now, the appeal is from the board of examiners to the Commissioner of Patents, and an appeal lies from the Commissioner of Patents to any one of the judges of the supreme court of the District of Columbia, the appellant selecting the judge and being obliged to pay to him in advance twenty-five

dollars, his fee for hearing the cause. Now, the judges of the supreme court for the District of Columbia or of any other ordinary court, know little or nothing in regard to the patent laws or the practice under the patent system of our Government; but I think that we shall in fact complicate the system by the provision which is now proposed to be enacted, rather than simplify it and make it more perfect. For these reasons I have not been able to agree to the bill as reported by the committee of conference, and I have submitted these remarks for the consideration of the House with the hope that they may affect its action.

Mr. BOUTWELL. Mr. Speaker, this bill was originally passed by the Senate. The House proposed as an amendment a substitute for the entire bill, the object being to provide for the performance of the duties of the officers of the departments and bureaus of the Government whenever there should be a vacancy and that vacancy should not be filled by the President in the manner provided by the Constitution and existing law. Now, it so happens in reference to the Pension Office that the Commissioner of that bureau resigned some time since. There was no provision of law for the performance of the duties except through an appointment by the President; and the President has not made any appointment. Being at the office the other day, I asked the chief clerk of the bureau by what authority he was acting in signing pension certificates, and doing other acts imposing obligations on the Government. He said he knew of no authority whatever under existing law, but that the Commissioner had resigned and gone away; and he, the chief clerk, thought it necessary that the business of the bureau should go on, and hence he was performing the duties.

The Patent Office has not been in precisely that condition, because the law establishing that office provided that the chief clerk should perform the duties in case of the death, resignation, or absence of the Commissioner of Patents. As this bill went from the House the provision of the original law was substantially reenacted. But the Senate, taking what is, I think, upon the whole a more practical view of the business of the Patent Office, made an amendment providing that whenever the office of Commissioner of Patents shall, by death, resignation, or absence become vacant, one of the board of examiners shall perform the duties. The House will do well to observe that there are in the Patent Office examiners who have original jurisdiction of applications for patents; and a board of examiners composed of three persons, to whom appeals are made from the special examiners when the applicant is dissatisfied with the judgment of the individual examiner. The amendment of the Senate provides that the President, in case of a vacancy, shall designate one of the board of examiners, now consisting of three persons, to perform the duties of the Commissioner for the time being.

Mr. STEVENS, of Pennsylvania. Could we not insert at once the name of Mr. Foote, and be done with the matter?

Mr. BOUTWELL. Very likely the gentleman from Pennsylvania would be prepared to do that; I should not be. When the conference committee met to consider as a practical question, in reference to the Patent Office, whether the duties of that office should be devolved upon the chief clerk or one of the examiners, I, for one, had no doubt what our duty was. In the first place these examiners are appointed on account of their scientific and mechanical acquirements, while the chief clerkship is a merely executive office for the transaction of correspondence and other like duties and business of the office. In the next place the examiners are higher in point of salary, and in fact they are appointed by the President, by and with the advice and consent of the Senate, which is not the case with the chief clerk. They are ranking officers in the Patent Office as compared with the chief clerk.

As I understand the suggestion of the gentleman from Pennsylvania, [Mr. STEVENS,] he inclines to the opinion this is legislating in order to put a certain gentleman in his place. All I have to say is that, hearing this rumor, I took pains to ascertain how the amendment was introduced in the Senate, and I found it was introduced in the committee on motion of a gentleman who has no sympathy with the view of the question suggested by the remark of the gentleman from Pennsylvania, and it was carried in committee against the judgment of a gentleman on that committee who might be supposed to have an interest under the suggestion of the gentleman from Pennsylvania.

As to what will happen I cannot say. There are three examiners-in-chief. By the amendment agreed to by the committee of conference, it is made the duty of the President of the United States, having been guilty of neglect in appointing a head for the Patent Office as for other places, to designate one of these examiners for the performance of this duty. On which of these three gentlemen that designation will fall I cannot say, but I believe either of the three gentlemen—and I know only two of them—I say I believe, from the nature of the case, from the duties they have been called upon to perform, that one of these three examiners will be better qualified to perform the duties of Commissioner than the chief clerk. I say this with no disposition to bring about the condition of things suggested by the remark of the gentleman from Pennsylvania. I now demand the previous question.

Mr. McKEE. I wish to make an inquiry of the gentleman from Massachusetts.

Mr. BOUTWELL. I yield to the gentleman.

Mr. McKEE. I desire to know the reason for a different rule in regard to filling vacancies in the Patent Office from that in any other office? I see no reason for it, and the gentleman has given no satisfactory reason.

Mr. BOUTWELL. I will answer the gentleman from Kentucky. The reason why a different rule should prevail in the Patent Office is very plain. In every other bureau the duties are executive for the most part, but when a Patent-Office question is to be decided in which the public is concerned it is a decision involving a knowledge of law and of the science of mechanics and long experience. The chief clerk, from the nature of his duties is not as well trained as the examiners for this purpose. By the very nature of their duties they are constantly disciplined in the examination of these questions, inquiring on every question of a patent whether it has been anticipated by a prior invention.

Mr. McKEE. I wish to say this in regard to this proposition, and especially concerning the chief clerk now acting as the head of the bureau. So far as putting a man into the office of the Commissioner of Patents to perform its duties, no one is better qualified than the chief clerk, who is now the acting Commissioner, the duty having devolved upon him by law. He was a lawyer for twenty years in full practice until the breaking out of the war, and after the struggle was over, after he had done battle for his country—

Mr. BOUTWELL. I must resume the floor.

Mr. McKEE. How can this bill give more efficiency to the Patent Office by putting one of the board of examiners into the place when they are subordinate and their duties inferior to those of the head of the Department? They are not better qualified than the present acting Commissioner, and besides it will allow an examiner to revise his own decisions.

Mr. BOUTWELL. I do not care to go into any inquiry touching the qualification of the chief clerk. These examiners, by years of experience, have come to understand all questions of law and mechanical science, and they are better qualified to decide them than the chief clerk. I say this without any disparagement of him.

Mr. MYERS. Will the gentleman allow me a moment?

Mr. BOUTWELL. I cannot give way for a speech. I yield for a question.

Mr. MYERS. I desire to say that I have no objection to this bill, but I do not see entirely the motive for this particular change which it proposes. I know that in the selection of Commissioner of Patents neither the President nor the Senate have exercised that care which would always secure a gentleman of mechanical skill, such as one of the examiners, of whom my friend speaks, possesses, and therefore the chief clerk is as likely to be competent for the office as most of the nominees sent to the Senate. But this bill alters the whole theory and—

Mr. BOUTWELL. The gentleman's remarks are entirely aside from the question. To prove that heretofore the President has put men in that office who are not qualified is no excuse for us.

Mr. MYERS. I think my friend will allow me one word further. I have not made the assertion that hitherto there have been incompetent men appointed to that place. I simply mean to say we are as likely to get from the body of the people competent men as by taking an examiner of patents. But this bill alters the whole construction of the Patent Office hitherto, which has been satisfactory to the House. It alters the theory of the law and makes it entirely different as applicable to this office from what it is as applied to any other office.

Mr. BOUTWELL. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. MARSHALL. I demand the yeas and nays.

On seconding the demand for the yeas and nays there were—ayes twenty-two; not one-fifth of the members present.

Mr. ADAMS. I demand tellers on ordering the yeas and nays.

Tellers were ordered; and the chair appointed Messrs. BOUTWELL and MARSHALL.

The House divided; and the tellers reported ayes thirty-six.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 38, nays 96, not voting 67; as follows:

YEAS—Messrs. Ames, Delos R. Ashley, Bailey, Baker, Banks, Boutwell, Benjamin F. Butler, Cook, Dawes, Dixon, Donnelly, Ela, Eliot, French, Garfield, Griswold, Hamilton, Higby, Hinds, Chester D. Hubbard, Hulburd, Judd, Ladin, Lynch, Marvin, Moore, Moorhead, Morrell, Pike, Pomeroy, Ross, Sawyer, Spaulding, Taylor, Elihu B. Washburne, William B. Washburn, James F. Wilson, and Windom—38.

NAYS—Messrs. Adams, Allison, Archer, Axtell, Beatty, Beck, Benton, Bingham, Blair, Boies, Boyden, Boyer, Brooks, Broomall, Buckland, Roderick R. Butler, Cake, Cary, Chanler, Churchill, Reader W. Clarke, Sidney, Clarke, Cobb, Coburn, Covode, Cullom, Delano, Dockery, Eldridge, Farnsworth, Ferriss, Fields, Fox, Getz, Grossbrenner, Golladay, Grover, Haight, Hawkins, Heaton, Hill, Hopkins, Hotchkiss, Hunter, Jenckes, Johnson, Alexander H. Jones, Julian, Kelsey, Kerr, Kitchen, Knott, Koontz, George V. Lawrence, William Lawrence, Logan, Loughridge, Marshall, Maynard, McCarthy, McClurg, McKee, Mercer, Miller, Mullins, Myers, Niblack, Nicholson, O'Neill, Orth, Perham, Peters, Polsey, Randall, Raun, Robertson, Schenck, Seefeld, Selye, Shanks, Sitgreaves, Starkweather, Thaddeus Stevens, Stokes, Taber, Lawrence S. Trimble, Trowbridge, Van Auker, Van Trump, Ward, Henry D. Washburn, Welker, Thomas Williams, William Williams, John T. Wilson, and Stephen F. Wilson—96.

NOT VOTING—Messrs. Anderson, Arnell, James M. Ashley, Baldwin, Barnes, Barnum, Beaman, Benjamin, Blaine, Bromwell, Burr, Cornell, Dewesse, Dodge, Driggs, Eckley, Eggleston, Ferry, Finney, Gravely, Halsey, Harding, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Thomas L. Jones, Kelley, Ketcham, Lincoln, Loan, Mallory, McCormick, McCullough, Morrissey, Mungen, Newcomb, Nunn, Paine, Phelps, Pile, Plants, Poland, Price, Prunty, Robinson, Roots, Shellabarger, Smith, Aaron F. Stevens, Stewart, Stone, Taffe, Thomas, John Trimble, Trichell, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Wood, Woodbridge, and Woodward—67.

So the report of the committee of conference was disagreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Illinois. I move the appointment of another committee of conference, with the understanding that I shall not be put on the committee.

The motion was agreed to; and the Speaker appointed as conferees on the part of the House Messrs. POMEROY, LAWRENCE of Ohio, and ELDRIDGE.

FUNDING THE PUBLIC DEBT.

The House resumed the consideration of the bill in regard to funding the public debt.

Mr. RANDALL. I made the point of order that the second section of the bill contains an appropriation and hence ought to go to the Committee of the Whole, and the point of order was sustained. I maintain, therefore, that the bill is not now before the House.

The SPEAKER. The Chair sustained the point of order, that the bill must receive its first consideration in Committee of the Whole. That, however, does not debar the gentleman from Ohio [Mr. SCHENCK] from moving to recommit the bill to the committee. When it comes up again the same point of order will apply.

Mr. RANDALL. I give notice that I shall make the same point of order when it comes up again.

Mr. SCHENCK. I move that the bill and amendments be printed, and recommitted to the Committee of Ways and Means, giving notice that I shall exercise the power which we have to report it back at any time tomorrow morning immediately after the reading of the Journal, and I will then ask to have immediate action on it, either in Committee of the Whole or out of it, as the House may determine.

Mr. STEVENS, of Pennsylvania. I move to lay the bill on the table.

The SPEAKER. That motion is not in order. It would be considering the bill, and it cannot be considered in the House.

Mr. SCHENCK. My colleague on the Committee of Ways and Means from Indiana, [Mr. NIBLACK,] has an amendment which he desires to offer, and which I include in the motion to print, and also an amendment which I propose to offer myself in a certain contingency.

Mr. BOUTWELL. I would also like to have printed an amendment which I desire to offer.

The question was taken on Mr. SCHENCK's motion; and it was agreed to.

So the bill was recommitted to the Committee of Ways and Means, and, with the various amendments, ordered to be printed.

INDIANS AT DEVIL'S LAKE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, with a letter from John Thompson, asking an appropriation of \$17,061 43 for supplies furnished Indians in the vicinity of Devil's lake, in the winters of 1867 and 1868; which was referred to the Committee on Appropriations.

CAPTIVES AMONG THE COMANCHES.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, relative to captives in the hands of the Comanches and Kioway Indians, and asking an appropriation of \$10,000 for the recovery of said captives; which was referred to the Committee on Appropriations.

TARIFF BILL.

Mr. MOORHEAD. I now move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union on the tariff bill, and pending that motion, with a view to having an evening session for business, [series of "No!" No!"] I move that the Committee of the Whole may take a recess from such hour as it sees fit till half past seven o'clock.

The SPEAKER. The Chair will state that

the order for evening sessions for debate was made expressly so that a majority of the House might otherwise order.

Mr. CULLOM. I desire to state that many gentlemen have signified to me their desire to speak to-night and I have promised them an opportunity to do so, supposing the House would not rescind the order.

Mr. MOORHEAD. I call for the question. The gentleman had no right to make such a promise.

Mr. WASHBURN, of Illinois. I would inquire if the gentleman proposes to have an evening session for general business or for the tariff bill only?

The SPEAKER. For general business; but the business before the Committee of the Whole is the tariff bill.

Mr. WASHBURN, of Illinois. Is no other business to be done?

The SPEAKER. There might be after the House come out of committee unless an injunction to the contrary should be made now.

Mr. MOORHEAD. I will make my motion distinctly for the purpose of considering the tariff bill.

The SPEAKER. It requires unanimous consent to order that no other business shall be done.

Mr. ALLISON. I object.

Mr. CULLOM. I hope the motion will be voted down.

Mr. MOORHEAD. I hope not.

Mr. WILSON, of Iowa. I move that the House take a recess.

Mr. WASHBURN, of Illinois. That will give an evening session for debate.

The SPEAKER. An evening session for debate only.

The question was put on the motion of Mr. WILSON, of Iowa, and there were—ayes 64, noes 54.

Mr. MOORHEAD demanded the yeas and nays.

Mr. SPALDING called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. SPALDING and FOX were appointed.

The House divided; and the tellers reported forty-two in the affirmative.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 64, not voting 72; as follows:

YEAS—Messrs. Adams, Allison, Ames, Anderson, Archer, James M. Ashley, Axtell, Baker, Beatty, Beck, Benjamin, Benton, Boyden, Boyer, Brooks, Buckland, Cary, Sidney, Clarke, Cook, Cullom, Ela, Eldridge, Farnsworth, Ferriss, Fox, Grossbrenner, Golladay, Gravely, Grover, Haight, Hamilton, Hawkins, Higby, Hooper, Hulburd, Hunter, Johnson, Judd, Kerr, Kitchen, Knott, Ladin, Loughridge, Marshall, Niblack, Nicholson, Orth, Perham, Peters, Pike, Pile, Pomeroy, Raun, Ross, Sawyer, Shanks, Taber, Lawrence S. Trimble, Trichell, Upson, Van Auker, Van Trump, Elihu B. Washburne, William Williams, and James F. Wilson—65.

NAYS—Messrs. Arnell, Delos R. Ashley, Bailey, Banks, Bingham, Blair, Broomall, Roderick R. Butler, Cake, Churchill, Reader W. Clarke, Cobb, Coburn, Covode, Dawes, Delano, Dixon, Dockery, Driggs, Fields, French, Getz, Hill, Hinds, Hotchkiss, Chester D. Hubbard, Alexander H. Jones, Kelley, Ketcham, Koontz, George V. Lawrence, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, McKee, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, O'Neill, Poland, Polsey, Randall, Robertson, Schenck, Seefeld, Selye, Sitgreaves, Spaulding, Starkweather, Taylor, Trowbridge, Ward, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, and Stephen F. Wilson—64.

NOT VOTING—Messrs. Baldwin, Barnes, Barnum, Beaman, Blaine, Boies, Boutwell, Bromwell, Burr, Benjamin F. Butler, Chanler, Cornell, Dewesse, Dodge, Donnelly, Eckley, Eggleston, Eliot, Ferry, Finney, Garfield, Griswold, Halsey, Harding, Heaton, Holman, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Jenckes, Thomas L. Jones, Julian, Kelsey, William Lawrence, Lincoln, Loan, Logan, McCormick, McCullough, Morrissey, Mungen, Newcomb, Nunn, Paine, Phelps, Plants, Price, Prunty, Robinson, Roots, Shellabarger, Smith, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Stone, Taffe, Thomas, John Trimble, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, John T. Wilson, Windom, Wood, Woodbridge, and Woodward—72.

So the motion was agreed to; and thereupon (at four o'clock and fifty minutes p. m.) the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m., and according to order resolved itself into the Committee of the Whole on the state of the Union, (Mr. CULLOM in the chair,) for purposes of general debate.

The CHAIRMAN. The gentleman from Maryland [Mr. STONE] is entitled to the floor for twenty minutes.

Mr. STONE resumed and concluded his remarks begun last night. [See Appendix.]

Mr. HILL addressed the committee on the assumption by the Government of local bounty debts, and on retrenchment of public expenditures. [His remarks will be published in the Appendix.]

Mr. MAYNARD then addressed the House upon the coming presidential election and the issues therein involved. [His remarks will be published in the Appendix.]

BAY OF SAMANA.

Mr. LOGAN obtained the floor, but yielded to

Mr. STEVENS, of Pennsylvania, who said: I am indebted to my gallant friend from Illinois [Mr. LOGAN] for five or six minutes, all that I shall want. The most I have to say is in the form of resolutions which I desire to have referred to the Committee on Foreign Affairs when in order. I ask the Clerk to read them.

The Clerk read as follows:

1. Whereas it is now settled by a solemn decree of this body, that the treaty-making power is tripartite, consisting of the President, Senate, and Congress; and whereas this nation is greatly in need of a naval station and depot in the West Indies, and it is understood that several such very excellent ones could be had on reasonable terms if the fulfillment of the treaty were duly provided for beforehand, as now required by our settled policy: Therefore, the Committee on Foreign Relations be instructed to inquire into the expediency of providing for sufficient funds to purchase a convenient naval station and depot among the West India Islands, if the same can be had for a reasonable price, and to initiate a negotiation for the same.

2. And at the proper time to notify its coordinate branches of the treaty-making power, so that they may cooperate in completing the same.

Mr. STEVENS, of Pennsylvania. Mr. Chairman, it is gratifying to see by what a large majority of votes the Russian treaty was ratified by this House, although not in accordance with my judgment, who deemed it a perfect instrument before it came here; but the amendment of the sagacious gentleman from Iowa, with the concurrence of the learned chairman of the Committee on Foreign Affairs, has settled that question. I shall not complain, but hereafter conform my action to it. I know that more than one excellent naval depots of the best kind are now waiting our bid at very reasonable rates. And nothing prevents this acquisition but a doubt in the mind of our far-seeing Foreign Secretary of this ratification, and the consequent mortification of an obligation by this Government repudiated after its execution. Happily there is no such danger in the future, as the most potential part of the treaty-making power will have first assented thereto. I have said that, with some slight mortification at the adoption of the amendments, I nevertheless was highly gratified at the vote on the appropriation. To have refused to comply with the contract with such a Government as Russia would have been mortifying to every true Republican; for, besides the constant friendship which that Government has shown to ours, I look upon the rulers who have held the destinies of that great nation since the time of Peter the Great as the most remarkable race of sovereigns that ever sat upon a throne. The later members of that dynasty, for wisdom and justice, are quite equal to any of their predecessors. They had a very difficult nation to construct into an empire composed of Cossacks, Calmucks, and serfs. Of the latter kind the number was great, probably forty odd millions. That wise monarch saw that slavery, instead of forming the strength, was the weakness of a nation. He determined that every self should be free, and that in addition to their freedom their owners should do them

partial justice by giving them small freeholds. He saw that to make them independent proprietors would make them more manly and loyal citizens. To create this great revolution without civil war was a task which but few Governments could have effected; and yet, with patience, courage, and uncommon wisdom, he effected it, and made every man within his empire free. We had neither his wisdom nor his courage; when a bloody war freed our slaves we had not the justice to give them homesteads, as we had a right to do, out of the over-grown landed estates and bloated accumulations of their former masters. For ages of unrequited toil we gave them mere enforced freedom and degradation, and now prevent their acquiring means of becoming independent proprietors. Such men cannot become useful citizens; such a government cannot escape the shame of their conduct. I cannot reproach myself with any of the blame. I early adopted the Russian views, but have never been able to succeed in them.

Mr. WILLIAMS, of Pennsylvania. Will my venerable colleague [Mr. STEVENS, of Pennsylvania] allow me to ask him a question?

Mr. STEVENS, of Pennsylvania. Certainly.

Mr. WILLIAMS, of Pennsylvania. If I heard the gentleman's resolutions aright, the preamble recites that the treaty-making power is tripartite in its nature; though if I understood correctly his argument upon the Alaska appropriation, he suggested that the treaty-making power was lodged with the President and the Senate exclusively, and that they having acted, their action was perfect and the duty of the House substantially ministerial. I wish to ask my colleague whether his resolution is presented in accordance with the general idea suggested by him in the same speech—that he desired, if practicable, to comprehend within this Union "all creation;" and if so, why he has not extended his resolution to the question of a depot in the Indian sea?

Mr. STEVENS, of Pennsylvania. As to my views upon the treaty-making power, I have not entertained and do not now entertain the least doubt of their correctness. The amendment offered by the gentleman from Iowa, [Mr. LOUGHRIDGE,] with the concurrence of the chairman of the Committee on Foreign Affairs, [Mr. BANKS,] appeared to my mind as, if it were not a harsh term, I would say an absurdity. I so regard it still. But that is no longer an open question. It has been decided by this House, and I bow to its decision, however erroneous I may consider it.

As to the remark to which the gentleman refers in regard to "all creation," I do not remember what I said upon that.

Mr. WILLIAMS, of Pennsylvania. I do. Mr. STEVENS, of Pennsylvania. My colleague does. Well, he has a good memory. If I said, speaking of "all creation," that I desired all creation to be free, I have not changed my opinion. I still desire that the whole world should be as free as we are, and that we should be much freer than we are to-day. I desire that not only freedom but universal suffrage shall be declared a part of the birthright of humanity, a part of the inalienable rights of man, so that on both sides of Mason and Dixon's line every man who has a soul in his body may be recognized as entitled to the inalienable rights of "life, liberty, and the pursuit of happiness," universal suffrage being recognized as a necessary part of liberty, one of the essential ingredients of man's inalienable rights. These in brief are my views. I do not know whether I have answered the gentleman's question.

Mr. WILLIAMS, of Pennsylvania. My colleague will excuse me; but his idea was, as I understood, to comprehend not only Alaska, but "all creation," within the limits of the American Republic.

The CHAIRMAN. The gentleman from Illinois [Mr. LOGAN] is entitled to the floor unless he yields.

Mr. MULLINS. Will the gentleman from Illinois allow me to say a word?

Mr. LOGAN. I will yield for a moment. Mr. MULLINS. I trust I am mistaken in my understanding of the views which the gentleman from Pennsylvania [Mr. STEVENS] has expressed in regard to universal suffrage and universal amnesty. If he meant to say (which I can scarcely believe) that a man cannot forfeit his rights under this Government by any treason which he may commit, I beg to differ with him.

Mr. STEVENS, of Pennsylvania. The gentleman will allow me to say that I never said a word about universal amnesty. I despise the doctrine.

Mr. MULLINS. The gentleman then confined his remarks solely to universal suffrage?

Mr. STEVENS, of Pennsylvania. Yes, sir.

PRINCIPLES OF THE DEMOCRATIC PARTY

Mr. LOGAN. Mr. Chairman, the Democratic platform is a "whited sepulcher, full of dead men's bones." It is a monument which is intended to hide decay and conceal corruption. Like many other monuments it attracts attention by its vast proportions and excites disgust by the falsity of its inscriptions. The casual observer, knowing nothing of the previous life of the deceased, who reads this eulogy upon the tomb, might imagine that all the virtues, the intellect, and the genius of the age were buried there. But to him who knows that the life had been a living lie, an incessant pursuit of base ends, the stone is a mockery and the panegyric a fable.

It is my purpose to show, sir, that this Democratic platform is mockery of the past, and that its promises for the future are hollow, evasive, and fabulous; that it disregards the sanctities of truth and deals only in the language of the juggler. It is like the words of the weird witches, who wrought a noble nature to crime and ruin, and then in the hour of dire extremity—

"Kept the word of promise to the ear
And broke it to the hope."

What are the pledges of this platform, made by a party which now asks place and power for themselves and retirement and obscurity for us? They pledge peace to the country. Well, sir, the country should have peace. They pledge a uniform and valuable currency to the country. Sir, the country desires such a currency. They pledge economy in the administration of the Government. Judicious economy is among the first maxims of government. They pledge payment of the public debt and reduction of taxation. I agree that the public credit must be preserved at all hazards, and that taxation should be reduced by all means. They pledge reform of all abuses. Sir, when once an abuse is discovered no man will deny that it should be at once reformed. They pledge the observance of the laws, the guarantees of the Constitution, the rights of the people, and the promotion of the public weal. Nothing more could be asked of a party than that it should do everything which is good, and abstain from all that is bad. Happy indeed, sir, is that country whose rulers are all wise, all virtuous, all patriots, and all without ambition except to excel in worth and wisdom.

When such a party is found, Mr. Chairman, I shall support it no matter by what name it may be called; but until it is found—and I may be permitted to remark that it never yet has been found in history—I shall support that party which does the best it can for the country with what materials it has and makes up in good deeds what it may lack in polished speech.

Now, Mr. Chairman, as I am an anxious inquirer after truth, and as I agree that the promises of this platform are many and seemingly fair, and likely to catch the eye and the ear of some who are unsuspecting, I am desirous of showing the basis upon which they rest in order that I may determine first how far I may trust to their performance. It is an inquiry that concerns not only me but all of us; but more particularly does it concern those who are to come after us—the young men of this nation who are now about to cast their

first vote, and who will ultimately occupy the places we now hold, and be affected for good or for ill by the policy we may now adopt. No man has a right to treat this question lightly, and when we see a convention held by an adverse party it is our duty to criticise fairly but rigidly its acts, and to ask of what *personnel* it is composed.

If we find that its proclamations of principles are only a bait for votes; if we find that its resolutions are inconsistent, the one with the other, and all contradictory of the resolutions of previous years; if we find that instead of being a party promoting the prosperity of the country it is the party who attempted the life of the country; if we find that it is a party whose policy was suicidal in peace and fratricidal in war; if we find that it is a party which has adhered to no principle in times past except the principle of perpetuity; if we find that the men who now lift their voices as its leaders are unworthy men who bared their blades in rebellion; if we find there a gathering of all who are wildly ambitious, thoroughly unscrupulous, and dangerously discontented, then we may safely say their pledges are all false; and we may warn not only the soldiers and sailors but all good men, and particularly all young men, to avoid their snares and flee from their delusions. It requires an unusual condition of public affairs to produce such an unusual platform, and we require to know what that condition is before we can judge of it. Let us see what is the condition and what produced it. A very few years ago the Democratic party were in power. They had been in power for many, many years before. Whatever of good there was in their policy they had had time to develop it. Whatever of evil there was they had had opportunity to correct it. They did neither the one thing nor the other. There were no hostile armies then. The people imagined that there was peace. A few only believed that there could be war. But war was imminent. Under the surface of peace that party were preparing for war. In the council chambers of the nation they howled for war. In the different Departments of the Government where they were trusted and uncontrolled they were preparing for war. In the minds of the young and unsuspecting they sowed the seeds of war. In their newspapers they threatened war. In the lecture-room, in the college, from the pulpit and the rostrum they invoked war, and finally, when they judged the time had come when the nation was most helpless and the weapons of defense most useless, they made war, and war of what kind? Actual war, treasonable war, war against those who had loved and fostered them, upon codwellers under the same roof and brothers by birth and blood. How did war find us? It found us as the ship is found when pirates scuttle her, open to the mercy of the waves and ready to be ingulfed.

We had made no preparation for war. The military and naval establishments were on a peace footing, and even the skeleton had been disjointed. Treason was in the high places, and consternation pervaded everywhere else. That which might have been efficient in a pinch had been weakened by treachery or paralyzed by surprise. We had few troops, few guns, few forts, few sail, and few commanders. Scarcely a man in the North out of the regular service knew the first movements in the school of the soldier. The knowledge of arms had not been sought, and material and munition of war had sparsely been provided. We had no money to carry on a war. We had no policy declared to carry us through a war. But war, bloody, dreadful, disrupting, came upon us, and we had to meet it as best we could. The first thing was to get money. We issued the greenbacks. Whether that was the wisest thing to be done is not the question. At that time it seemed to be the only thing we could do, and therefore we did it.

But greenbacks were not sufficient. We issued the bonds of various kinds because we

needed more money and we had to offer security of some kind for it, and that seemed to be at that time the best that could be offered. Whether it was so in fact or not is not now the question. They were issued and are not yet redeemed. Spite of all this we got heavily in debt. The war was a gigantic one. Armies were raised whose numbers astounded the world. Battles were fought whose slaughter saddened the world. Destruction of property followed whose amount might bankrupt a nation. But we were fighting for the life and liberties of this people and to solve the problem of man's capability for self-government; we could not stop. We were compelled to go on; and debt followed us as fast and as far as we went—heavy, crushing, appalling debt. Laws were defied, and we compelled their obedience. When the civil power was too weak we took the strong arm with the sword. States were insurgent and the people threw off their allegiance. We took the Government from those who cast it off, and we gave it to those who fought to maintain it. Our debts were falling due and we taxed the people to pay them. The taxes were heavy; but the debts were heavy, and the Army expenses were enormous.

In so far as we could we struggled to keep down our debt and to keep up our credit. What else? We found slavery had been a cause of war; but we found also that war abolished slavery. What next? We found those who had been slaves were true; and those who should have been true were false. We gave the slave a musket because we found he was a man; and we gave him a ballot that he might be a citizen. And so, sir, under these disabilities and against all these disadvantages we fought out that fight. We subdued the rebellion, we ended the war. And then, Mr. Chairman, what was the condition of affairs? We found the South exhausted, impoverished, and starved. We found her white male population fearfully thinned by battle; her black laboring population freed, but without opportunity to labor, and no resources for a livelihood.

Everything was dark, gloomy, and dismal. There was no money, no commerce, no traffic there. The races were embittered against each other, and the whites threatened to exterminate the blacks. We gave rations to the whites, and the Freedmen's Bureau as protection to the blacks. We afforded opportunities for employment; and we regulated the relations of the employer and the laborer. We protected the one and we encouraged the other. And when we could not keep the peace by the civil arm we resorted to the military, because we have had enough of war, and we determined that the peace should be kept. What next? We found that there were no governments in the rebel States which we could recognize; and we provided plain and merciful means by which new governments could be established.

This was the condition of the South. How was it in the North? We were oppressed with our debt; we were borne down with our taxes; we were perplexed how to pay the first, and how to reduce the latter. But our hearts were all glad notwithstanding, because we had saved our country. We mourned for those we had lost, but we rejoiced for those who were to come, for we had solved the problem of liberty and the destiny of our people. We set ourselves immediately to repair the ravages of war. At the close of the war, by the official report of the Secretary of the Treasury, dated December 3, 1866, our indebtedness on the 31st day of August, 1865, was \$2,846,021,742 04; on the 1st day of June, 1868, by the report of the same official, our indebtedness was \$2,510,245,886 74, being a reduction of the national debt since August 31, 1865, to June 1, 1868, of \$335,775,855 30, showing a reduction of our national debt of over one hundred millions per annum. Under a Republican Congress could we have had an Executive and Cabinet in harmony with Congress so that frauds and robberies of the revenues could

have been stopped, in my judgment the whole country would be at peace, and our debt reduced at least \$500,000,000. We now propose to reduce the Army and Navy as rapidly as can be done with safety to the country, and all other expenses of the Government. We have also, as fast as State after State organizes its government, abolished military authority and subordinated it to the civil, and abolished the Freedmen's Bureau, to take effect the 1st of next January.

This, Mr. Chairman, is a brief statement of the condition of our country since 1860. I have been brief in stating, because I did not wish to tell an oft-told tale. I have only sketched those events which have given rise to the pledges and complaints of the Democratic platform. Now, sir, when a nation finds itself thus suddenly engaged in an unforeseen war, and thus unexpectedly is called upon for all its resources, and emerges from the struggle victorious but fatigued, strong but wearied, it is certainly entitled to some forbearance, and its supporters should meet with some encouragement and praise. This remark brings me to my first allegation against this platform. I allege against it that it makes a specious and a false complaint against us for doing the only thing which it was in our power to do, and the only thing which any other party, Republican or Democratic, could have done, unless they made an ignominious peace with the rebels! No other set of men, be their politics what they might, could have done aught other than we did do, if they were patriots and fought the battle of the country! I allege against it, also, that the very men who now make this complaint were either the identical men, or else the partisan friends and adherents of the identical men who brought on this war, who fought the flag, who caused the debt, and who were the immediate occasion of all our sorrow and of all our burdens!

It is not true, then, that the Democratic party will give peace to the country. They have been the party of war, and by the written declarations of their candidate for Vice President they propose more war unless they can undo all the victory we have achieved, and renew rebellion where we have quieted it. I read, Mr. Chairman, a letter written by Major General F. P. Blair, to Colonel Broadhead, of St. Louis:

WASHINGTON, June 30, 1868.

DEAR COLONEL: In reply to your inquiries I beg leave to say that I leave to you to determine, on consultation with my friends from Missouri, whether my name shall be presented to the Democratic convention, and to submit the following as what I consider the real and only issue in this contest:

The reconstruction policy of the Radicals will be complete before the next election; the States so long excluded will have been admitted, negro suffrage established, and the carpet-baggers installed in their seats in both branches of Congress. There is no possibility of changing the political character of the Senate, even if the Democrats should elect their President and a majority of the popular branch of Congress. We cannot, therefore, undo the Radical plan of reconstruction by congressional action; the Senate will continue a bar to its repeal. Must we submit to it? How can it be overthrown? It can only be overthrown by the authority of the Executive, who is sworn to maintain the Constitution, and who will fail to do his duty if he allows the Constitution to perish under a series of congressional enactments which are in palpable violation of its fundamental principles.

If the President elected by the Democracy enforces or permits others to enforce these reconstruction acts, the Radicals, by the accession of twenty spurious Senators and fifty Representatives, will control both branches of Congress, and his Administration will be as powerless as the present one of Mr. Johnson.

There is but one way to restore the Government and the Constitution, and that is for the President-elect to declare these acts null and void, compel the Army to undo its usurpations at the South, disperse the carpet-bag State governments, allow the white people to reorganize their own governments, and elect Senators and Representatives. The House of Representatives will contain a majority of Democrats from the North, and they will admit the Representatives elected by the white people of the South, and with the cooperation of the President it will not be difficult to compel the Senate to submit once more to the obligations of the Constitution. It will not be able to withstand the public judgment, if distinctly invoked and clearly expressed on this fundamental issue, and it is the sure way to avoid all future strife to put the issue plainly to the country.

I repeat that this is the real and only question which we should allow to control us: Shall we sub-

mit to the usurpations by which the Government has been overthrown, or shall we exert ourselves for its full and complete restoration? It is idle to talk of bonds, greenbacks, gold, the public faith, and the public credit. What can a Democratic President do in regard to any of these, with a Congress in both branches controlled by the carpet-baggers and their allies? He will be powerless to stop the supplies by which idle negroes are organized into political clubs—by which an army is maintained to protect these vagabonds in their outrages upon the ballot. These, and things like these, eat up the revenue and resources of the Government and destroy its credit—make the difference between gold and greenbacks. We must restore the Constitution before we can restore the finances, and to do this we must have a President who will execute the will of the people by tramping into dust the usurpation of Congress, known as the reconstruction acts. I wish to stand before the convention upon this issue, but it is one which embraces everything else that is of value in its large and comprehensive results. It is the one thing that includes all that is worth a contest, and without it there is nothing that gives dignity, honor, or value to the struggle.

Your friend, FRANK P. BLAIR.
Colonel JAMES O. BROADHEAD.

Is this the language of peace? Is this the pledge of security to the country? Is this the return to the settled pursuits of civil life and the calm routine of trade, which shall reassure our people and restore our prosperity? Does it not rather suggest the clarion-trump and the clash of arms—the neigh of steed and the shriek of death? Are our taxes to be lessened under these threats? Will our credit be made better by these means? Gentlemen shall not tell me that this is not an utterance of the party nor a binding declaration. The letter was written before the convention met, in view of its meeting, and in order to bring the writer and his doctrines before that convention as a candidate. Both aims were attained. The letter was published—the writer was nominated. The doctrines are his and his party's, and are embodied in the platform by the declaration that "we regard the reconstruction acts (so called) as usurpations, and unconstitutional, revolutionary, and void." It seems, then, from this that all we have done is to be undone. No matter that the voice of the country in election after election, year after year, has sanctioned it and said it was well done, the Democratic party says it must be undone, or that the sword shall be unsheathed and desolation sweep over the land.

Where, now, are the pledges of specie payment, of redeemed bonds, of equal currency, of wise legislation, of amicable feeling, of restored confidence, of judicious economy, and reduced taxation? Gone! gone! The loud note of insurrection has dispelled them all, and the possibility of our national Parliament being dissolved by the sword, as in Cromwell's day, has put all lingering hope to flight. We are promised a uniform and valuable currency—one currency—which is to be sufficient "for the Government and the people, the laborer and the office holder, the pensioner and the soldier, the producer and the bondholder." We are promised "payment of the public debt as rapidly as practicable." We are notified of "equal taxation of every species of property, including bonds and other securities." We are to expect "economy in the administration of the Government," and the "abolition of the Freedmen's Bureau." How is all this to be brought about? For fear I may do injustice to the platform, I wish to quote some extracts from the World newspaper of July 8, the day after the platform was made. I may add that the World is the authoritative exponent of the views of the distinguished gentleman Horatio Seymour, who has been nominated for President by that party, and therefore this interpretation is his interpretation:

"The declarations relating to the finances are scattered through different sections of the platform. They need to be brought together before we can get an intelligent view of their scope. The platform is explicit enough upon each particular point, but its several declarations so limit and modify one another that it would be very misleading to consider any one of them apart from the rest."

It is somewhat singular, if this document was all fairness and honesty, that its different subjects could not be put close enough together to afford an "intelligent view" of each, and "its declarations are so misleading" as to

require an expert like the World to bring them together in harmony. Why is it that "its several declarations limit and modify one another" if these are the declarations and the principles upon which our people are asked to stake their happiness?

But, says the World, this is what it means:

"Payment of the principal of the five-twenty bonds in greenbacks will easily be found in the platform, if searched for. The language is that 'when the obligations of the Government do not expressly state upon their face, or the law under which they were issued does not provide that they shall be paid in coin, they ought in right and in justice to be paid in the lawful money of the United States,' that is to say, in greenbacks. This is explicit enough so far as it relates to the medium of payment; but how does the platform propose to provide the means? In other words, where are the greenbacks to come from? On this also the platform is explicit. They are not to be manufactured by the printing-press, but to be raised by taxation. By this method the payment of the public debt cannot be very rapid. The bondholders need have no fear that their property is to be swept away by a new inundation of paper money. Payment of the public debt in greenbacks without increasing their present amount, payment in greenbacks out of the proceeds of a reduced taxation, will leave the greater portion of the debt standing for many years to come."

Two things appear from this: first, that the payment of the public debt cannot be very rapid; and second, that the greenbacks wherewith to pay it are to be raised by taxation. This is a novel way indeed to "equalize the currency" and to "reduce taxation." We are to be taxed additionally to pay the public debt, and to be taxed a long time to come before it can be discharged, and the Democracy call this "reform of an existing abuse." There is another fact concealed in this statement which it were well to bring to light. We have heard that much of our miseries are due to the "bloated bondholder." They are lepers who have infected us in our persons and tainted our financial atmosphere. But they are assured by this platform that "they need have no fears that their property is to be swept away by a new inundation of paper money."

If these bonds are vile as they say, why should they not be swept away under a Democratic dispensation? We do not think they are; but if we are to rely on Democratic testimony they are the gangrene of our body-politic. Again, if there is to be no "new inundation of paper money," how are the greenbacks to be raised, which, levied in taxation, are to pay off the national debt? First, it is said, they will raise greenbacks by taxation and pay off the bonds. It must be admitted that the greenbacks already in circulation are not adequate for this, and so more must be issued. But next it is said that there will be no more issued. Then how are the bonds to be paid? It may be that this is all clear to other eyes, and that the end will certainly be reached by the means; but I trust I may be pardoned if I confess at once that I am not able to take that "intelligent view" which shows me how it is to be done. It seems, too, that the World has the same opacity as myself if its vision is confined to this point, and so it takes another stretch:

"There is another part of the platform which has a pertinent bearing on this subject. It is the declaration in favor of 'one currency for the Government and the people, for the bondholder and the producer.' Now, although nothing is expressly said upon that point, we suppose the platform contemplates the payment of the duties on imports in coin as heretofore. This seems to us a justifiable, nay, an inevitable inference from what is said about paying in coin such obligations of the Government as stipulate for coin upon their face. The interest upon both the ten-forty and the five-twenty bonds is payable in coin by the very terms of the law, and also the principal of the ten-forties. If the Government keeps this express engagement, it must by some means raise the coin, and no other method is suggested than by collecting it, as now, at the custom-houses. Now, as the platform pledges the party to pay specie to the bondholders to meet their interest and that part of their principal which the law requires to be paid in coin, it seems evident that the 'one currency for the Government and the people, the bondholder and the producer,' must contemplate an early return to specie payments. The 'one currency' must mean either a uniform good currency or a uniform bad currency. It is inconceivable in itself and inconsistent with the platform, that the old, hard-money Democratic party should promise a uniform currency of bad money. The one currency means a sound currency; a currency equivalent to coin and at all times exchangeable for it. One currency of depreciated greenbacks would be inconsistent with the payment

in coin of that part of the public obligations which are acknowledged by the platform to be due in coin; inconsistent with the collection of the revenue from imports in gold; inconsistent with the idea that we are ever to return to specie payments.

"Another declaration, in still another section of the platform, evinces an intention to make an early return to specie payments. After calling for a reduction of the public expenses and a reform of the system of taxation, the platform proceeds thus: 'So that the burden of taxation may be equalized and lessened, the credit of the Government and the currency made good.' The credit of the Government is not 'good' so long as its promises sell for less than their face; the currency is not 'good' so long as it is inflated and irredeemable.

"The platform proposes to pay the five-twenties in greenbacks; proposes to raise the money for this purpose by taxation; promises unequivocally that 'the burden of taxation shall be lessened;' the credit of the Government made good; the currency made good; and that that good currency shall be the same for all classes, including the bondholders. We do not regard these several declarations as contradictory, but as mutually explanatory, perfectly consistent, and harmonious. The Democratic party is pledged by the platform to appreciate the greenbacks to par and use them for the payment of that part of the public debt which is not by express provision of law due in coin."

Now, having got all the light of which the subject is capable, let us see exactly what it is that is promised by these reformers. They say to the people, "The bloated bondholder is eating out your substance, and we will tax his property just as we tax yours." They say to the bondholder, "Have no fears for your bonds; we will issue no more greenbacks to depreciate them; and we will pay them in a good and lawful currency. If it is not gold it shall be as good as gold." They say to the people, "We will reduce your taxes." They say to the capitalist, "We will pay our debts by taxation." They say to the people, "We will have but one currency for all alike, and that shall be greenbacks." They say to the creditor, "We will pay you in gold, as the law requires; but we will make the greenback of the value of gold if we can." And then they say to all, to the bondholder and the people, the pensioner and the soldier, the laborer, the office-holder, and the producer, "We will reform all abuses; we will equalize taxation by a uniform currency; we will pay the bonds in gold, or greenbacks at par; and we will pay off our debts." When? After many years to come!

So, Mr. Chairmau, admitting that all this is to be brought about in the very letter and spirit of the promise, it appears that the first condition of its fulfillment is, that the Democratic party shall have unlimited power for many years to come, or else it cannot keep its word. If it should be asked what recourse or remedy will the people have if, after having given that power to that party for many years to come, those promises should not be kept, these pledges should not be fulfilled, I am at a loss to reply; I do not find any remedy stated in the platform; I am not aware of any recourse. Still, however, it may be impertinent and useless also to make the inquiry or to seek for redress. A ruined debtor, bankrupt to the last farthing, need trouble himself but very little as to the disposition of the assets which he has not got. This, then, sir, is the much-vaunted financial policy which is to be inaugurated by the Democratic party, and through which this country is to be rescued from all her present difficulties. This is the key-note of their complaint, and the battle cry of their campaign.

It is a platform which was made to suit a candidate who was defeated for the nomination. The platform was made for one man, but that man is not the one who is standing on it. The man who wanted that platform did not get the nomination, and the man who did get the nomination did not want that platform. It is not of record that like another memorable candidate of by-gone years "he spit upon it." Indeed, his well-known habits of decorum and aristocratic breeding forbid the possibility of such a thing. But it is of record that he made two earnest and powerful speeches to prevent the enunciation of a doctrine which he knew was absurd in the present and would be falsified in the future. If, then,

their financial declarations are vague and false how can we trust aught else they say? The country wants peace; through peace will come prosperity. Prosperity thrives under a Government of fixed principles, and principles are most firmly fixed when they are most generally and best understood by the people at large. If their finances fail all else fails. Now, what do they say upon another most essential and remunerative branch of the national finances—that branch which is now and must continue to be the only gold-yielding portion of our revenue—I mean the tariff? I quote again, sir, from the World:

"There is only one other subject embraced in the platform which seems to call for any remark, and that is the tariff, or 'protection.' This part of the platform is a muddle. The language is: 'a tariff for revenue upon foreign imports,' which is good sound Democratic doctrine, but it is immediately followed by this unintelligible jumble: 'and such equal taxation under the internal revenue laws as will afford incidental protection to domestic manufactures.' We are here treated to the paradox of a revenue tariff and protective internal taxes. But the wonder does not end here. A protective tariff discriminates, but internal taxes are to protect without discriminating. It is 'equal' internal taxes that are to accomplish the feat of protecting domestic manufactures. If all interests are taxed alike, how can any be protected? What are they to be protected against? Not against foreign rivals by internal taxes; not against domestic competition by equal taxes. The promise of a tariff for revenue is excellent; all beyond that is nonsense."

You will observe, Mr. Chairman, that it is not I who says that this is a muddle, an unintelligible jumble, a paradox, and nonsense, but the leading Seymour paper in the United States.

I turn now to another topic, and still I quote the "World":

"All that the Democratic party promise to do in relation to negro supremacy is comprised in these words: 'the reduction of the standing Army and Navy, the abolition of the Freedmen's Bureau, and all political instrumentalities designed to secure negro supremacy.' The Freedmen's Bureau, with the Army to back it, is a tremendous electioneering machine intended to control the negro vote. When it is abolished, the negro vote will fall under the control of the white citizens of the South, and there will then be no difficulty in carrying all the southern States for the Democratic party."

That is, the Freedmen's Bureau is an outrageous institution, because it prevents the Democratic party from controlling the negro vote and getting supremacy in every southern State; that is to say, the Freedmen's Bureau would be all right if it were in Democratic hands and the negro will be a good enough man to vote so soon as he can be got to vote the Democratic ticket. The World further adds:

"The platform promises to smash the political machine called the Freedmen's Bureau and all other Federal agencies for controlling the southern elections—but beyond this it wisely promises nothing in relation to negro suffrage. It promises that the Federal Government shall not interfere to cajole the negroes into voting against the interests of their section, and trusts to the natural ascendancy of white intelligence to accomplish whatever else may be deemed expedient. In this matter the platform is equally wise in what it promises and in what it abstains from promising."

In other words, it is admirable, because it is so happy in suppressing the truth to an extent as great as in suggesting a falsehood; and this, sir, is the whole of it beyond the usual quantity of empty phrases. "Full of sound and fury, and signifying nothing," with which from time immemorial the Democratic party have been in the habit of garnishing their platforms. I might make a closer analysis of it all; and I think I might make a stronger show of its utter worthlessness; but I am content to accept the rendition of the World, in order that I may not be charged with partisan prejudice. I take the World because it is the word.

It explains the deed for him who is to perform it; and surely where we decide evidence of intention and of faith, we can ask for nothing stronger than the word and the deed combined. But I have not done yet. I desire with your indulgence to go a little behind the promise to inquire as to the character of those who make the promise. It is an axiom with all business men that the value of a note is determined not at all by what it promises to

to pay, but wholly and exclusively by the character of the makers and indorsers. I wish to inquire, Mr. Chairman, who are the men that made up that Democratic convention, and who are the men who indorsed its candidates? I have already referred to the men who in the time of peace plotted war. I have shown how it was that this country became charged with its load of debt. I have dwelt upon the struggles and the difficulties of that hour, and the wails and the woes of our mourners. I have stated how we did all that we did, because it was the only thing to do. I have shown how we wrestled with our adversity, and finally how we overcame our enemies. We bore the brunt of arms for the sake of our country, and to uphold its Constitution, its laws, and its liberties. We had but one desire, and that was "Peace to our country." We had but one anxiety, and that was to preserve intact this chosen land. Well, sir, as I said, the war was over and the victory was ours. There was no longer a rebel in arms. They had dispersed, as we supposed, never to meet again.

But, sir, we were mistaken. They have met again. Where? Why, this time upon northern soil, and in a northern city, in the city of New York, the great metropolis of this country, in the Democratic convention. I do not say that every man who met there had been a rebel; but I do say that all the rebels met there who are now leading in public life, and who hope for public position. It was the same old story over again. The same old faces to see. The men who had held this Government for years and plotted to destroy it while they held it were there. The men who fought to destroy this Government when they could no longer hold it were there. The men who though they had never plotted to destroy it or fought against it, yet quietly acquiesced in the designs of those who did, were there. The men who have always given blind allegiance to the behest of party regardless of the good of the country, were there. The men who have always been the praters and croakers and false prophets of the country were there; and a few men who had once served their country, but were lured off by fatal ambition and the hope of spoils were there. Good men may have been there; but bad men were most certainly there; and just as certainly the bad outnumbered the good; and these are the men, sir, who complain of us. These are the men who say we have violated the law and have usurped the Constitution. We have told them to the contrary many and many a time. In these very Halls, before they deserted their places, we assured them that we desired nothing but the law and the Constitution. After they had erected their first batteries, and before they fired on Fort Sumter, they were again assured that the law and the Constitution should be kept inviolate. Even after they had waged their fiercest war upon us the President of the United States once more proclaimed that we fought only to protect the Constitution and the laws.

Again and again, by the camp-fire, under the flag of truce and in the hospitals, and in exchange of prisoners and in parleys and communications they were made acquainted with the fact that we had but one object, and that was to enforce the Constitution and the laws. And yet again, sir, when the battle was at a white heat, and strong arms and strong hearts wrought wounds and death, when the air was filled with lamentations and pierced by cries of agony, when the greedy earth drank up the gushing blood of our bravest and our best, we still advanced but the one standard, which was the old starry banner, emblematic of the Constitution, the laws, our unity and strength. Ah, sir, it must have been a humiliating scene at that convention. Were the loyal soldiers and citizens of this country looking on when the rebel General Preston nominated the former Union General Blair? Did the loyal sailors and soldiers hear the rebel Wade Hampton second the nomination? Did the rank and

file of the loyal men listen to the butcher of Fort Pillow—Forrest? Where were then the memories of former treacheries, of a nation undone and a Constitution usurped, of laws violated and civil slaughter instituted?

I have no desire to keep alive old animosities or to recall the past with a view to let it rankle. I am willing that the lessons of the war should be their own monitor to those who learned them. But when I hear those who risked their lives to save our country charged with betraying our country; when I hear those whose shorn limbs and maimed trunks are witnesses of their devotion to the laws charged with breaking the laws; when I hear those who are now lying in their premature graves for the cause of the Constitution charged with usurping that Constitution, I cannot help it if my indignant heart beats fast and my utterance grows thick, while I demand to know "Who are ye that denounce us?"

It is for this reason, Mr. Chairman, that I say the present issue is one which concerns our young men greatly, because it contains the question whether in any future war it is worth while for our young men to embark in it. Heretofore it has always been held in all ages, ancient and modern, that he who defended his country was entitled to the gratitude of his country. But if it shall be decided by this election that he who defends his country is to be aspersed by his country, then the sooner it is understood the better it will be for those who would have otherwise periled their existence at the call of their people! That issue is involved in this campaign, and no artifice or chicanery should be permitted to bury it out of sight. But what right have those to complain who were in the Democratic convention but yet were not in the rebel ranks? Did they aid us to suppress the rebellion? Were they prompt with men and money in our need? Were they hopeful in our dark days and joyful in our bright days? Did they cheer our soldiers and give them the strength of their blessings and a God speed? Did they nurse them when sick and succor them when wounded? No, sir; they did not, or else they would not be found to-day in such company. The civilian who supported the military in the day of the war has never yet complained that we have done great wrong, or never yet desired to take the reins of government from the Republican party.

This is no schism in our own ranks. This is no falling off of those who once were with us because of our misdeeds. This is no branch of the Union party saying that we are tyrants and usurpers and robbers and destroyers, and that therefore they can support us no longer. Not at all. It is simply our old enemies who have fought us in the Halls of Congress and on the battle-field and in campaigns for years, never winning, ever failing, but always fierce and hateful. It affords me sincere pleasure that I may look again upon those who met so lately in convention at the city of Chicago. What a sight was there. Mr. Chairman, there were gathered together the men who had served their country in every capacity to which duty called them. The men whose devotion had been as unswerving as their fidelity was unquestioned. Men whose sole thoughts and whose constant thoughts were for their country's good, and how best and soonest to make it manifest and permanent. Men from the closet, men from the camp, men from the public station, men from private life, men of destination, men unknown; but men, all of them, whithersoever they came and whatsoever they were, all of them men who came on the one thought of how yet to aid their country.

Whom did they select, and how were they selected? Not after days of balloting and nights of intrigue; not upon bargains by politicians and tradings by tricksters; not upon appliances of questionable morality and through stimulants of debasing tendency. In a moment, as it were, and by one spontaneous accord, the hearts of all of these men came together, and their judgments approved their instincts. With one unflinching acclaim they selected

the hero whose valor had been resplendent in the field, and the statesman whose wisdom had been acknowledged in Congress. The popular judgment is seldom wrong, but never was it so right as when it asked that this Government should be put in the hands of Grant and Colfax. They had seen Grant clothed with the powers of a dictator, and seen him use them with the moderation of a patriot. They had seen him at the head of an irresistible Army, and seen him disband it as from a dress-parade. They had watched him achieve victory after victory, and yet quietly put off all the shows and trappings of war. They had found him sagacious as a counselor and safe as a chieftain. He had proved himself to be honest, and they knew he could be trusted.

Sir, on that day three hundred thousand sainted martyrs to the cause of liberty, for whom the earth had bared her bosom to receive their manly forms, and heaven opened wide her gates to receive their noble spirits, looked down approvingly upon our action, because it was the action of true and faithful men, intending the honor, prosperity, and happiness of their country. I have no doubt, sir, of their election. To doubt it would be to impugn the judgment of my countrymen. The country demands that the political power for that "many years to come" desired by the Democrats shall be intrusted to the Republican party. They have faith in the Republican party. They judge it by what it has done, and hence they know full well what it will do. They know that the Republican party is in fact the only party of peace and prosperity. It was that party which led the hosts of the Union to the haven of peace through the red ordeal of war. These questions which now embarrass us are but the *debris* of war. We have cared for the wounded, we have buried the dead. We have disbanded our armies as part of the work remaining after the war. To give stability to the currency, to equalize taxation, to harmonize States, and to insure prosperity, is still another and probably quite as difficult a portion of that same labor. But the party which did the one is unquestionably equal to the other.

I am not an enthusiast when obstacles are to be overcome and when intricate questions are to be solved. I do not wish, therefore, to be called visionary or enthusiastic when I predict the results which will certainly follow from the administration of the Republican party in four years more. We will see, sir, then the admirable results of having all the different Departments of the Government acting in entire unison and accord. Heretofore during the eight years that our party has been in power, we have had to give four of them to stay the tide of rebellion, and the rest have been rendered nearly useless to us by the obstinacy, the perversion, and the machinations of a designing Executive. When we marched into the field our foe was before us. We knew what we had to meet. There were no surprises in store for us. It was the dread arbitrament of battle. But after that we had another foe to meet, a dangerous foe, powerful and insidious; one whose assaults were made in the garb of peace and under the pretenses of law; one who sought to check every step of our progress and retard every advance of our civilization. Our time has been occupied in detecting the hidden ambushes of this enemy, and saving ourselves from his surprises. But soon he will pass away.

Like the armed foe whose accessory he was he will disappear from the public gaze and become impotent for further harm. With the Executive to encourage the Congress, and with a Congress which will respect and hearken to the Executive; then, indeed, the fruits of our legislation will be visible and gratifying. Commerce will revive, for the country will have stability. Our ships shall once again multiply upon the seas, for our flag will denote security. Our name shall be respected abroad, for we shall have demonstrated the doctrine of self-government. Our bonds will be sought for

investment, for we shall have vindicated our integrity. Our currency shall be unsuspected at home, for we shall have proved its value. Our revenue shall be increased, for the country will have become inspired with confidence. Bad men will be hurled from power, and honest ones put in their places. Our taxes shall be diminished, for all will unite in yielding them. The southern States will be reorganized and recognized, for they will have seen that therein lays their welfare.

We will go on, sir, as a nation hand in hand, treading the broad pathway which leads us up to prosperity and progress, with our march unimpeded by the difficulties which now surround us, and posterity shall bless our work unceasingly forever.

Mr. VAN HORN, of New York. Mr. Chairman, in what I shall have to say on this occasion I shall endeavor to discuss briefly the political situation as presented to the country by the two great political parties who have joined issue before the people upon the questions which have divided them and now divide them. I shall not be able to refer to but few of these questions in the time allotted me, and shall take up only one or two vital points which seem to be the great issues that divide and disturb the country, and upon which so much discussion has already been had. Reconstruction is the one great question out of which most of our divisions have arisen, and around which have revolved the severest controversies that have grown out of the results and close of the war. Taxation, corruption in the management of public affairs, and finance are matters of great moment, and will have their full share of attention before the people in the fierce struggle upon which we are entering, and I doubt not be well understood by them; but as the peace of the country and the safety of the nation is more directly involved in the restoration of the States lately in rebellion and the success of the wise and generous policy adopted by Congress to accomplish such restoration, and which is already nearly complete, I shall confine myself to this policy, and endeavor to show its legality and the pressing necessity of its maintenance.

The peace of the country is being restored as our work of reconstruction proceeds, and if it be checked or upturned anarchy and disorder must and will follow. The Democratic party have joined issue with us especially upon this great question. It has opposed it from the first here and elsewhere, and now, with the view of appealing to the people, it has declared in national convention that all of it is unconstitutional and void, and must be overthrown. This being such a vital issue, I desire to call the attention of the country to it, its nature and character, how it is justified, and why it should be upheld and sustained by the people. I cannot dwell upon its details, and it is not necessary, for they are known to all. The nature of the work, and under what jurisdiction it rightfully belonged, and the necessities that entered into and still belong to it, will more especially engage my attention. As all this work is to pass in review before the people for their approval or disapproval it should be clearly understood by them.

While the questions submitted are so vital, and the results to follow the final decision so important and lasting—while the peace of the Republic depends upon the verdict which the people are to give—it is a consolation that lifts the heart above all despondency and doubt to know that our Government will be what the people make it, that it belongs to them and those who come after them, and who will bear their names and inherit their purposes and hopes; that in every trial in the past, however severe, they have arisen above passion, prejudice, and party even, and by patriotic devotion to country and sacrifices never before known or witnessed in the world's history have crushed the most causeless, wicked, and powerful rebellion that ever cursed our race, and planted the Government, by their devotion, courage, and virtue, upon the immutable

and imperishable foundations of equal and exact justice to all men.

The great Union party of the country and as now represented in Congress stand with firmness upon the policy of loyal reconstruction which we have inaugurated and nearly completed, and with faith in the people and confidence in their patriotism, believing that they want peace and not war, a restoration upon right principles which will stand and not have within it the seeds of treason and rebellion, and that will secure all the just fruits of the great conflict we have waged for the nation's life. It is, in a word, whether what has been accomplished since the war in the interests of loyalty and loyal reconstruction shall be maintained, or whether it shall be overthrown, and the governments set up by authority of law and under the provision of the Constitution which requires that republican governments shall be guaranteed to every State by the United States, and which can only be done by virtue of and under the authority of law, shall be overturned. These governments are now in the hands of and under the control of loyal men, and men who by their faithful adherence to our policy and earnest cooperation with us in this work of restoration have entitled themselves to and have received the exercise of the power which Congress reserves to itself of relieving all such from the disabilities which the war left upon them.

RECONSTRUCTION.

We enter the field at the close of the war, leaving the great conflict and its result an accomplished fact. No one can deny that the people of the rebel States became completely involved in the rebellion, that the governments of those States were in the interests of treason and the war against the Government, raised men, collected munitions of war, and prosecuted that war against it for four years and more with a will and determination never before equaled by any people, to overthrow and destroy our institutions and Government. Those States defied our power, resorted to every means of war, human and inhuman, to accomplish their purpose, and I take it that it can never be questioned by any one or any party or court, with any degree of self-respect or honesty, that when the war closed there were no loyal governments or organizations in any of those States known to the Constitution of the United States, or through which the Government of the United States could cooperate.

Those that existed before the war were swept away, or had taken upon themselves all the character of treason and rebellion, giving allegiance to another government formed and established for the very purpose of destroying the Government of the United States. No one has yet been able to show that those rebel States were in accord with us, or could have any claim upon us for recognition. Neither the close of the war, the collapse of the rebellion, nor the laying down of their arms by those engaged in it makes any difference in the status of those States or their people as connected with the Government of the United States, any more than would the voluntary surrender of himself of a murderer who had willfully committed the act relieve himself of the penalty of the law he had violated by such a surrender. The Constitution proclaims that levying war against the Government or giving aid and comfort to its enemies is treason, the highest crime known to our laws. This treason or crime is against the great loyal people of the country, the power they represent, the sovereignty of the nation, and those who have defied it and committed all these acts of rebellion and war cannot voluntary and of their own motion and when it suits their pleasure, upon ceasing open hostilities, lay aside for themselves all their disabilities, wash out all the stains their enormous crimes have covered themselves with, and take again upon themselves their former purity and virtue, and assume at their pleasure the power and place they threw aside to engage in the unholy war by which they are so disabled.

They have violated law, the supreme law, and can only be relieved by and through the authority of law. The people, whose authority they have defied and whose laws they have trampled under their feet, through their representatives, are alone able to reestablish those States and clothe them with loyalty and put them in a position to be again restored to a full and equal participation in the Government with the other and loyal States. Any other theory than this is a false and dangerous one. If adopted, and it becomes the settled theory of our people, our Government is but a myth, our Constitution but a rope of sand, with no inherent power or strength to save itself from overthrow and compel obedience to its Constitution and laws. Any other doctrine than this is in the interests completely of secession, and if adopted would reverse all the settlements of the war, change the decisions which have been given amid the fire and blood of a thousand battle-fields, and proclaimed at the termination of the great conflict over the graves of more than half a million of our people who fell in the controversy and whose death was the cost of the struggle. Is it not strange that any one who has a regard for his name and fame dare take issue with us on this question?

The Democratic party, in Congress and out of it, not only acts against our policy and obstructs our work in trying to reestablish and restore these States, but boldly proclaims the doctrine that the rebel States, without law in their behalf, without the action of the loyal people against whom they have offended and whose laws they have violated openly and willfully, can demand at the hands of the Government complete recognition, and can resume their former place in said Government and exercise their ancient power and control. If this can be done, then no crime has been committed by the States or people in rebellion; then secession is right and justifiable when it can secure success; then is our Government powerless and not entitled to the respect and obedience of the people, and cannot command, as it now does, the admiration of the world.

The President of the United States announced in his proclamation, issued directly after the war closed, when he began his work of reconstruction in North Carolina, the true doctrine in relation to the status of the rebellious States, and the Republican party has ever acted upon this doctrine, and upon it is based its work of reconstruction. In the preamble of that proclamation the President says:

"Whereas the fourth section of the fourth article of the Constitution of the United States declares that the United States shall guaranty to every State in the United States a republican form of government, and shall protect each of them against invasion and domestic violence; and whereas the President of the United States is by the Constitution made Commander-in-Chief of the Army and Navy, as well as chief civil executive officer of the United States, and is bound by solemn oath faithfully to execute the office of President of the United States, and to take care that the laws be faithfully executed; and whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has, in its revolutionary progress, deprived the people of the State of North Carolina of all civil government; and whereas it becomes necessary and proper to carry out and enforce the obligations of the people of the United States to the people of North Carolina in securing them in the enjoyment of a republican form of government."

Here he admits that the war, by its revolutionary progress, had deprived North Carolina of all civil government; and, of course, all the other States in rebellion occupied the same position; in fact, the same proclamation was used in relation to all the other States in question. This is the true theory and the only one that can stand any test whatever. He also says what is true, that the Constitution declares that the United States shall guaranty to every State in the Union a republican form of government. It became at once the duty of somebody or some power to execute this guarantee. No republican government existed in ten States lately in rebellion; in fact no civil government

existed at all in them. Nothing but the wrecks of rebel organizations and a treasonable confederacy lie scattered all over those once beautiful States when in accord and harmony with the Constitution and Government. They were States not out of the Union, but States in the Union with loyal civil governments overthrown and destroyed, lying in their prostration helpless and unable to restore to themselves their former position. They were States in the Union with rights that pertain to loyalty, forfeited by their acts of war, and hence of treason, and as unable to relieve themselves of the disabilities they had incurred by such acts, or to take upon themselves full powers and rights as before possessed, as a Territory would be to take upon itself the full powers of a State in the Union without the action and consent of the Government as provided by the Constitution and the laws.

Upon this doctrine the President and Congress both stood at the close of the war, and while he has departed from it the party holding the power here has carefully and faithfully adhered to it.

In the meaning of the Constitution who is the United States? Certainly not the President, not Congress, and neither is the Supreme Court. All together constitute the United States, and back and above all are the people, who make and unmake all these branches of Government at their will, and change their Constitution and laws at their pleasure in the way and manner prescribed. The war being over, the first duty was upon the President in the absence of the people or their Representatives. It was his duty to govern these States and protect the people thereof with the means provided by the Constitution until the people of the United States could be heard in their own behalf, and by and through the authority of their laws begin the work of reconstruction, and initiate the execution of the guarantees of the Constitution. The President can only act in pursuance of law, and the Constitution makes him the officer to execute the laws when made, giving him no voice in the making of them, only to approve or disapprove them as he may deem to be his duty, whose disapproval even proves of no effect when overruled by the Congress according to the Constitution.

The court cannot make a law, and can have no part in the work of restoring these revolted States, only as it is called upon to decide cases that arise under the operation of the laws already made by the people's constituted authority as I have stated. How clear, then, it is that the first step in the work of restoring these States to full relationship with the Government, and, in fact, the greater part of this work, is for Congress to do, as representing the people, the source of all power and who are eventually to decide upon all the questions involved. This work of reconstruction is purely a political one, and belongs more exclusively to Congress than to any other branch of the Government. It cannot in the very nature of the case be an executive work or a judicial one. The President cannot without law or authority from Congress restore to or build up a State government in a State where all civil government has been overthrown by war, as he says was the case in these rebellious States, any more than he can build up a State government in a Territory and demand that it be recognized by the Congress as a legitimate and legal State government. And still he proceeded to build up governments in those States, beginning with the State of North Carolina, without any law or authority from Congress, and with no power in the Constitution whatever to sanction such a course.

The eighteenth clause of section eight of the first article of the Constitution of the United States declares that—

"The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or any department or officer thereof."

The power and duty of the guarantee to which

I have referred is in the Constitution, and in this clause it is declared that the power to make all laws necessary and proper for carrying into execution this guarantee, as well as other duties and powers vested in the Government of the United States, shall be and reside with Congress and nowhere else. After declaring it to be the duty of the United States to guaranty to every State a republican form of government, the Constitution says that Congress shall see to it in so many words that laws are made to carry out this obligation imposed upon the United States. It is for Congress to say what laws are necessary and proper to execute this guarantee and for no one else, only as the President takes his share in the work of making such laws as Congress may think proper, which agency we do not deny, but recognize. That this whole subject belongs to Congress more especially than to any other branch of the Government the Supreme Court also has decided. In the celebrated Rhode Island case so often referred to, of Luther against Borden, the court speaks as follows:

"The fourth section of the fourth article of the Constitution provides that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion, and on the application of the Legislature (or the Executive when the Legislature cannot be convened) against domestic violence."

"Under this article of the Constitution it rests with Congress to decide what government is the established one in a State; for, as the United States guaranties to each State a republican form of government, Congress must necessarily decide what government is established in a State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority. And its decision is binding on every department of the Government, and not to be questioned in a judicial tribunal. The right to decide is placed there and not in the courts."

"No one, we believe, has ever doubted the proposition that, according to the institutions of this country, the sovereignty in every State resides in the people of the State; and that they may alter or change their form of government at their own pleasure. But whether they have changed it or not by abolishing an old government and establishing a new one in its place, is a question to be settled by the political power, and when that power has decided the courts are bound to take notice of that decision and to follow it."

I quote this decision of the Supreme Court here merely to show what the position of the court is on the question before us, to wit: that it belongs to Congress to decide upon the status of a State, not only to decide upon the qualifications of its representatives to this body, but to decide whether there is a State organization legally entitled to any representation at all, clearly giving, as we have before claimed, under the Constitution to Congress the control of this whole question. The court says correctly that all such questions are political in their nature, and are to be settled by the political power of the Government under the forms prescribed by the Constitution. This decision was given in connection with two conflicting governments in Rhode Island; but if this be purely political and a work for legislation wholly, how much more is it a work of legislation and congressional action to restore governments to States where they have been overthrown, and thus execute the guarantees of the Constitution. Whatever may have been the ultimate purpose of the President and his Cabinet, it is evident that it was at first intended that all his work should be temporary and subject to the action of Congress entirely and completely. This was declared by Secretary Seward in several of his dispatches to those engaged in the work of restoring governments under the policy of the President. I quote his dispatch to Mr. Marvin, provisional governor of Florida, as an example. After giving him some instructions as to his duty, he says in conclusion:

"It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress."

As the Democratic party came to the more full control of the President and his administration, this policy was departed from, and the

restoration of the rebel States under the policy of the President, which had given the power into the hands of those who had lately united to overthrow and destroy the Government, and who did secure the destruction of their own State organizations, came to be the Democratic policy, as it is now the Democratic policy, as opposed to the policy of loyal reconstruction which Congress has adopted and nearly completed, and which is now attempted to be entirely overthrown.

NEGRO SUFFRAGE.

In proceeding with this work of reconstruction, it has been found to be an absolute political necessity to give the ballot into the hand of the colored man, in order to secure loyal governments in the South. To place the power in those governments in the hands of the late leading rebels was found to be an unsafe policy, so far as the interests of the Government were concerned, and absolutely destructive of the rights and hopes of the loyal men in those States, both white and black. The leading rebels were those who had been the most active and influential characters before the war, and cooperation with them on the part of the loyal whites even could only be had by submitting to their dictation and by a complete abandonment of all loyal and patriotic purposes and efforts on their part. For the Government to have allowed this, after all the trials of the war and their steadfast devotion to the old flag, would have been a crime deserving the severest retribution, and altogether unworthy the courage and devotion which had sustained it and overthrew the rebellion. No less ungrateful and criminal would it have been to have abandoned the colored race to the cruel resentments and oppressions which must have followed and which everywhere existed in the South where the power of the Government was not felt, and the loyal element was not in the ascendancy.

The Democratic party, true to its constant opposition to our form of reconstruction upon a loyal basis, and that alone, has contested this question of suffrage in the South with us at every point, and now again in its platform recently made at New York it declares against it and would overthrow it if it attains to power. It cannot, however, destroy the right to vote of the negro in the late revolted States any more than it can any other feature of the reconstruction we have adopted; for if we are within the grant of power under the Constitution in part we are in whole, and if part of this work is to stand all of it will stand. It is a work of legislation, and belongs exclusively, as we have shown, to the political power of the Government—the legislation necessary and proper to fulfill all the guarantees of the Constitution, to be determined and judged of by Congress alone, subject to the action of the President as provided by the Constitution. The following is the second resolution of the Republican platform recently adopted at Chicago upon this subject:

"The guarantee of Congress of equal suffrage to all loyal men at the South was demanded by every consideration of public safety, of gratitude, and of justice, and must be maintained while the question of suffrage in all the loyal States properly belongs to the people of those States."

The Democratic party complain that we compel negro suffrage South and ignore it at the North. I deny it. Democracy opposes negro suffrage at the North as at the South, while if left to the votes of the Republican party North, in every northern State, I doubt not, suffrage would be universal, or at least without distinction as to race or color. We, however, leave each State North to settle that question for itself, as it has a right to, as each State South controlled its own domestic affairs while loyal and as they would to-day had they never rebelled against the Government and thus lost by their crimes and treason the right to such self-control and sovereignty. The loss of this control, of these rights, is the forfeiture they have made by going into rebellion against their Government, and we are now earnestly at work against the protest and constant opposition of the Democracy in restoring them to full relation-

ship with the Government and returning to them, as soon as may be, as many of the rights they have heretofore possessed which are consonant with the new relations they hold toward us, and safe to the Government to confer upon them. The colored man South has always been our friend, and even in the darkest days of our trial never deserted us.

The Government had never shown any sympathy for him, but had stood by and seen him and his race subjected to a most cruel bondage for many long years, still when our trial came he was our steadfast friend; and on the march, in prison, on the picket line, everywhere and at all times, hazarded everything for our cause and the safety of the nation's defenders. Side by side in the storm of battle he met the fierce charge of treason, and side by side went down to death with freedom's defenders, and with them lies in one common grave.

The Democratic party during all this controversy would have favored negro suffrage had there been any good reason to suppose that it would have resulted in strength to their cause and they could have controlled the colored vote, while Congress, representing the great loyal party charged with the works of reconstruction, has acted upon the question as involving justice and right, beside being a necessity which it was impossible to ignore or throw aside. Whatever might be the political character of that vote in the South in the end, we have acted upon a sense of duty, and leave the results to the future. In the hand of a freeman the ballot is a power. It shapes policies, makes rulers, overthrows systems, and compels protection. By it the weak are made strong, the power of the oppressor is broken down, and equal and exact justice is meted out to all in laws bearing alike upon all which they are to affect and whose obedience they demand.

CONSTITUTIONAL AMENDMENT.

Another important and vital consideration connected with our plan of reconstruction which the people are asked to overturn is the proposed constitutional amendment known as the fourteenth article. This article has been adopted by nearly all of the loyal States, and is now being ratified by the Legislatures of the States South as fast as they comply with the laws of Congress and their governments are restored. It will very soon be a part of the supreme law of the land in spite of the united opposition of Democratic rebels South and the Democracy North, both of whom from the first have acted in unison to defeat it. The following is the amendment now pending as part of our reconstruction policy, no State lately in rebellion being allowed recognition unless it adopts it, and thus each aiding to make it part of the Constitution of the United States:

ARTICLE XIV.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or

comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each House, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss of emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

It would seem that no one could object to such a salutary measure as this, in or out of Congress, rebel or loyal. And yet not a Democrat in either House of Congress voted for it, but, on the contrary, all present and voting voted and labored against it. This, too, must share the same fate as is meted out by the Democracy in its recent platform to all loyal reconstruction, and be overthrown and wiped out if they come into power. The first section of this amendment declares a self-evident truth, or what ought to be so considered by our people, that "all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside;" and hence that no State shall make or enforce any law which shall abridge the privileges or immunities of such citizens, "nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." Who cannot see that this is to enforce the determinations of the war? The equal rights of all men without crime, which was one of the things settled by the long and fiery ordeal of war, is here guaranteed and settled forever.

Again, the second section is none the less important and necessary. Heretofore the South had political power in the Government in part upon the basis of slave representation, while to that class of persons no voice whatever was given in the Government of the United States or the State governments. This was an aristocracy which built up a ruling class to trample upon labor and its representatives, which was overthrown by the war brought on and waged by itself and for the perpetuation of its power. This section provides against any such aristocracy or injustice in the future, and that the political power of any State shall be reduced in the same proportion that it is denied to any class of its male citizens twenty-one years of age. This, too, is to secure equal rights to the people and protect them against injustice and the aggressions of power.

The third section simply provides that those who have been prominent in the rebellion, and responsible for it, shall not hereafter hold any place of honor or trust in the Government of the United States unless relieved from the disabilities thus incurred by a two-thirds vote of Congress.

The fourth section is still more important if possible, and of greater interest to the taxpayer and soldier than the others. The debt incurred by law in crushing out the rebellion shall be held sacred, and that greater debt we owe to the soldiers, widows, and orphans, made so by the war, by way of pensions and bounties, shall never be questioned. And what is more important still, if possible, all the debts incurred by the rebellion, in aid of it and for its interests, whether in the loss of slaves, obligations touching pensions or bounties, shall never, in any part of them, be assumed by any State or the Government of the United States. It would seem that the propriety of this amendment could not be questioned by any voter in the land, and yet it has been constantly assailed by this Democratic party which is now in the field against us, and which has declared here upon this floor and in convention recently assembled that all this work shall be overthrown if it comes into power.

I desire to call the attention of the loyal people of the country to the startling and lamentable fact that this party is making its word good

as fast as it gets its opportunity. See how they make haste in the State of Ohio to repeal the action of its Legislature adopting this amendment as soon as they obtain control. The people of Ohio are largely in favor of the adoption of this amendment, and its Legislature, acting in accordance with the sentiment of the State a year ago, adopted it. By accident the Democratic party recently coming into power, true to their ancient devotion to the slaveocracy of the South, forgetful of the war and its results, blind to its teachings and irreversible decisions, repealed the action of the former Legislature, and disgraced itself and the country by sending to this body certified copies of such action.

Now Jersey, during the last winter, has done the same thing and helped to make this record for the Democracy. Tell me that this party has claims upon the soldier for his vote, when it refuses to sustain this amendment which is calculated to take care of him and protect his rights and all that he holds dear in life, by providing against any possible repudiation of his claims upon the Government, and the adoption of any obligations of the rebellion. How can the tax-payer support this Democratic party when it refuses in this manner to say, once for all, that no debts or obligations incurred in the interest of rebellion shall ever be assumed or paid by the Government of the United States? It is idle to answer to all this that there is no danger of such a result ever taking place if this amendment is not adopted; for these States when equal sovereign States, and again restored to their places in the Union, may, by law or by amendments to their State constitutions, do all these things in an hour of revenge or madness unless prohibited by the Constitution of the United States.

When we look over the history of this party for the last ten years and see how it has labored in the interest of the men who have for years been plotting the overthrow of the Government, who encouraged them to proceed in their bloody and wicked work by letter and by word, who in the person of many of its leaders encouraged the rebellion, giving it aid and comfort during the long and dark night of the war we waged to save the nation's life, a party who met in national convention in 1864, in the very presence of victory, and declared the war a failure, and demanded that it be closed up, which would have been but a base surrender to treason and rebellion, and who went then before the people upon this demand for indorsement; a party who, by such constant efforts in the wrong direction and in the interests of the rebellion, gave to the rebellion much of its power and hope; a party which again, after all the mistakes it has made and the evil it has done, meets as it has recently in convention, striking hands with and paying special honors to the leading spirits of the rebellion, who have opposed the work of legal reconstruction in their States, and who are to-day unchanged in their hatred to the Government and those who have saved it, as well as those who are now trying to restore it—when we examine all this record in the light of the past and the present, we wonder that they dare go before the people with such a record; and we should have but little faith in the patriotism and virtue of the people if they should be tolerated for a moment.

But in addition to all this it is now proposed to overthrow all the good work that has been done, including this constitutional amendment, which if adopted will forever shut the door against oppression, injustice, inequality, taxation for rebel indebtedness and attending obligations. These issues are so plain they need not be mistaken by any one; and I desire to call the attention of the country to them that they may not be overlooked. Dark, indeed, will be the day when the people of the country abandon all guarantee for safety and security against future rebellion and war. Dark, indeed, will be the day when they turn over again into the hands of the Democratic party the administration of the Government, and thus bring into control again the very men who in-

augurated and waged a cruel war for nearly five years to destroy it.

It cannot be. Should such a result come to pass all the prophecies and sayings of the leading spirits of secession and rebellion made before the war and during it would be made good, which were, that the people as a whole were not capable of self-government; that the power ought to rest with the few, a favored class; that capital should own labor, and that the more intelligent and wealthy should rule and all others obey. The war has swept away all such aristocratic notions, and now we are asked to turn back the great tide of progress and civilization and negative the results of the war. This will not be done save by war and revolution. Nearly three quarters of a million of native-born loyal colored citizens have been invested with the right of suffrage by law, their bondage having been swept away and their rights established by war and as one of its results; and we are told that this shall all be upturned and come to naught. These are rights which can never be taken away except by crime, and the world's history does not show an instance where so large a number of free people were ever degraded by being stripped of them after having enjoyed their benefits. It can only be done by revolution and war, and this is the entertainment which the Democratic party holds out to the people of this country in the event of success in the coming struggle.

Under our work nearly all of the southern States are restored to their places and rights in the Union, and their Representatives, in the persons of loyal men, are taking their seats in both branches of Congress. The wounds caused by the war are fast being healed up as State after State assumes the functions with which it has been invested by law in accordance with the Constitution and the will of the people, and peace and order are everywhere beginning to reign. And yet the Democratic party, in convention, tells us that this work is void and must fall. The country wants peace, but the Democracy invites it to strife and confusion. Never were graver or more important issues presented to a free people to settle than now, but they must be met and determined. A distinguished Democratic Senator, [Mr. BUCKALEW,] in discussing the political situation a day or two since, presented this issue as follows:

"I repeat that, in my judgment, for the purpose of obtaining validity to reconstruction, safety to reconstruction, continuance to it, effect for it as it has been undertaken by Congress, it is necessary that a majority of the people in the adhering States shall indorse it in the elections of 1868."

"It must be baptized with popular approval; it must get the judgment of the people, and from those whose right to vote in this Union and to control its political destinies is unquestioned. If when you carry your body of laws passed since 1863 to the people of the North and of the West and of the great central States, they say 'Well done, good and faithful servants; you have performed our will and executed our wishes, and your work shall stand,' then, and then only, will you command the situation; then, and then only, will you be entitled to ask of me and of others acquiescence in what you have done. I acknowledge a sort of common law in this country upon constitutional questions. I acknowledge that when a debate has been sent to the people and deliberately determined by them, their decision cannot be reversed or disregarded. That is a sort of 'higher law' to which I subscribe."

"Take the issue of reconstruction as it stands, and submit it to the freemen of the adhering States. If they go with you, we must acquiesce in their judgment, and your policy may stand good for the future."

"You stand or fall before that tribunal which is competent to judge us both, and whose authority we cannot question here or elsewhere, now or hereafter. Your reconstruction may stand good to you."

"If you get a verdict from the freemen of the adhering States, and then only."

"To end and to sum up the argument, reconstruction requires the support of the people. If it get it, it can stand; if it do not get it, and do not get it in the adhering States, it will fall; and all the enactments that Congress can now heap up cannot alter or control that result."

I quote this language of the Senator to call the attention of the country to the great importance that attaches itself to the decision that it is to render upon the issues presented.

But, sir, as another plank in the Democratic platform, adopted at New York, which more

fully shows the purposes and determination of that party in the event of success at the polls, I present the letter of General Blair, who was nominated by acclamation for the office of Vice President:

WASHINGTON, June 30, 1868.

DEAR COLONEL: In reply to your inquiries I beg leave to say that I leave to you to determine, on consultation with my friends from Missouri, whether my name shall be presented to the Democratic convention, and to submit the following, as what I consider the real and only issue in this contest.

The reconstruction policy of the Radicals will be complete before the next election; the States so long excluded will have been admitted; negro suffrage established and the carpet-baggers installed in their seats in both branches of Congress. There is no possibility of changing the political character of the Senate, even if the Democrats should elect their President and a majority of the popular branch of Congress. We cannot, therefore, undo the Radical plan of reconstruction by congressional action; the Senate will continue a bar to its repeal. Must we submit to it? How can it be overthrown? It can only be overthrown by the authority of the Executive who is sworn to maintain the Constitution, and who will fail to do his duty if he allows the Constitution to perish under a series of congressional enactments which are in palpable violation of its fundamental principles.

If the President elected by the Democracy enforces or permits others to enforce these reconstruction acts, the Radicals by the accession of twenty spurious Senators and fifty Representatives will control both branches of Congress, and his administration will be as powerless as the present one of Mr. Johnson.

There is but one way to restore the Government and the Constitution, and that is for the President-elect to declare these acts null and void, compel the Army to undo its usurpations at the South, disperse the carpet-bag State governments, allow the white people to reorganize their own governments, and elect Senators and Representatives. The House of Representatives will contain a majority of Democrats from the North, and they will admit the Representatives elected by the white people of the South, and with the cooperation of the President it will not be difficult to compel the Senate to submit once more to the obligations of the Constitution. It will not be able to withstand the public judgment, if distinctly invoked and clearly expressed on this fundamental issue, and it is the sure way to avoid all future strife to put the issue plainly to the country.

I repeat that this is the real and only question which we should allow to control us: shall we submit to the usurpations by which the Government has been overthrown, or shall we exert ourselves for its full and complete restoration? It is idle to talk of bonds, greenbacks, gold, the public faith, and the public credit. What can a Democratic President do in regard to any of these with a Congress in both branches controlled by the carpet-baggers and their allies? He will be powerless to stop the supplies by which the negroes are organized into political clubs, by which an army is maintained to protect these vagabonds in their outrages upon the ballot. These, and things like these, eat up the revenues and resources of the Government and destroy its credit—make the difference between gold and greenbacks. We must restore the Constitution before we can restore the finances, and to do this we must have a President who will execute the will of the people by trampling into dust the usurpation of Congress, known as the reconstruction acts. I wish to stand before the convention upon this issue, but it is one which embraces everything else that is of value in its large and comprehensive results. It is the one thing that includes all that is worth a contest, and without it there is nothing that gives dignity, honor, or value to the struggle.

Your friend,
FRANK P. BLAIR.

Colonel JAMES O. BROADHEAD.

Here is the key-note of the campaign, the rallying cry of the Democracy. Give us success, says General Blair, and we will stamp out all the work of Congress in restoring the revolted States to their places in the Union, turn out their representatives from their seats in both ends of this Capitol, and by the Army, if necessary to accomplish the work, we will call the leading spirits of the rebellion in those States to the positions of place and power, and hand over the governments and the loyal men in those States to their tender mercy and control. All questions of finances, "of greenbacks, public faith, and the public credit" are of no account whatever, says Mr. Blair, in comparison with the great question of "trampling in the dust the reconstruction acts of Congress by the President, with all the power he can control."

Mr. Chairman, no wonder Mr. Blair was nominated by acclamation by a convention composed so largely of those lately leaders in the rebellion to overthrow the Government. No wonder his nomination was applauded as no other act of the convention was, and that those leading rebels expressed themselves so delighted with it. It was, sir, an indorsement

of their rebellion, a repudiation of all the decisions of the great conflict and victory waged and won by, and an insult to the loyal people of the country who achieved them. I desire to ask the people of the country from my place here, as one of their humble Representatives, if they have not already paid enough in the past for the supremacy of the Democratic party. It was that party in the South that rebelled against the Government and caused all the desolations of a long and bloody war for its maintenance. All the millions of dollars that we have appropriated and drawn from the people and are still drawing is but part of the penalty the country is paying for having so long allowed that party to shape its policy and control its destiny. The widowhood and orphanage that fills our land with sorrow and woe and bears heavily upon the great heart of the nation still, is but another part of this same penalty we are paying for Democratic supremacy.

The broad acres all over the land filled with our noble dead and the humble testimonials raised to their memory "are sacred and affecting evidence" of the penalty which we are now paying for intrusting the destinies of the country so long to this party.

The only safety lies in continuing the power in the hands of the Union party, which has carried the country safely through our great struggle, which is now fast reestablishing the Government upon an enduring basis of loyalty and peace, which still demands that we shall continue to hold in our hands all necessary security and guarantee against a recurrence of past evils and for permanent union and loyalty in the future.

In striking contrast with the Democratic policy and candidates, General Grant, the great captain of our age, who has during all the war and still carries high the banner of the Union, says, "Let us have peace." In his election the country will have peace. It will be a sure token of peace, an unfailing guarantee that quiet and order will soon reign, and that very soon a divided and distracted people will settle down upon the basis of law and equal justice to all which we have planted in the patriotism and unconditional loyalty of the people. No threats of revolution or violence can impede our progress or turn back the tide of our advancing civilization. Those who make them, or stop to doubt and cavil over the results of the "irrepressible conflict" that is so clearly developing the great duties of the hour will either be lost sight of in the distance behind or buried up out of sight beneath the wreck of old and discarded barbarisms and condemned theories and policies. The world is moving onward, lifting itself from the dust and filth that have so long hidden the latent and undeveloped virtues and powers of its peoples, and placing higher up the standard of a common humanity, and establishing forever the equal brotherhood of all men.

America takes the lead in this great work. Our example is shaking the very foundations of empires and thrones which rest heavily upon unwilling and oppressed peoples the world over, and under our influence greater rights and privileges are being wrenched from the grasp of wealth and power and bestowed upon those who have heretofore trembled under fear and subjection. This high privilege comes to us out of the very nature of our institutions worked out and developed to their legitimate end and destiny under the direction of a Power higher than any human agency by which they were conceived and which will secure their perfection.

It comes to us, it is true, through the storm and conflicts of war, through the fire and the blood of battles, after sacrifices greater than the world's history records, but still this destiny is ours to enjoy and perfect, and we should use it as not abusing it. I warn the people of the country to look well to the situation, and remember that "eternal vigilance is the price of liberty."

Not expecting long to hold a seat upon this

floor, I can with perfect freedom enjoin upon all the people who are soon to decide the great issues pending to beware of false men who are not worthy of the confidence of a free people who have sacrificed so much for their country, and trust only those who will stand firmly by the great principles of justice and truth, and whose past fidelity gives ample guarantee for the untried future.

I cannot enlarge upon the ideas that open up to the mind as we enter this sublime field of contemplation. Give success to the doctrines and policy of the party that has saved the Republic, that is developing so rapidly its immense and varied resources, whose sublime principles of progress, justice, and national integrity and good will challenge the admiration of the world, and all the visions of the present will fall far short of the grand reality of the future. The great hero of all our wars, our standard bearer, embodies in his simple patriotism good sense and unquestioned honesty, all the elements that make him just now above all others the representative of the loyal and progressive sentiment of our times, and whose election will give the greatest security, permanency, and integrity to our cause and country. The national faith will be vindicated, its honor and patriotism maintained, and the high road to peace and prosperity be opened and unobstructed.

Mr. LOUGHBRIDGE addressed the committee in remarks which will be published in the Appendix.

Mr. COBB moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. VAN HORN, of New York, having taken the chair as Speaker *pro tempore*, Mr. CULLOM reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, had come to no resolution thereon.

And then, on motion of Mr. CULLOM, (at ten o'clock, p. m.) the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. CHANLER: The petition of officers of the Army, for the passage of a bill to equalize the pay of officers and to establish the pay of enlisted soldiers in the Army.

By Mr. SCHENCK: Three petitions of officers of the Army, asking for the passage of General Schenck's bill to fix and equalize the pay of officers, and to establish the pay of enlisted soldiers of the Army.

IN SENATE.

FRIDAY, July 17, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate of the 8th instant, information in relation to the number of persons employed in the navy-yards on the 1st day of January, 1868, and the 1st day of July, 1868; which was referred to the Committee on Naval Affairs, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of the Interior, recommending an appropriation to contractors for supplies furnished to friendly Indians; which was referred to the Committee on Indian Affairs.

SENATORS FROM NORTH CAROLINA.

Mr. WILSON presented the credentials of Joseph C. Abbott, elected a Senator in Congress by the Legislature of North Carolina, chosen under the reconstruction acts, for the term expiring on the 4th day of March, 1871; which were read.

Mr. SUMNER presented the credentials of John Pool, elected a Senator in Congress by the Legislature of North Carolina, chosen under the reconstruction acts, for the term expiring on the 4th day of March, 1873; which were read.

Mr. POMEROY. I trust that the Senators-elect will be sworn in and admitted to their seats.

Mr. SUMNER. I move that the oath be administered to these Senators.

The motion was agreed to.

Mr. ABBOTT and Mr. POOL then advanced to the desk, escorted by Mr. WILSON and Mr. SUMNER; and the oaths prescribed by law having been administered to them, they took their seats in the Senate.

COURTS IN FLORIDA.

Mr. WELCH. I ask the unanimous consent of the Senate to take up Senate bill No. 604. It is very brief, and it will take but a moment to consider it.

By unanimous consent the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 604) regulating the times and places of holding the district and circuit courts of the United States for the northern district of Florida. It provides that the times and places of holding the United States district and circuit courts for the northern district of Florida shall hereafter be as follows: at Jacksonville on the first Monday of December, at Tallahassee on the first Monday of February, and at Pensacola on the first Monday of January, and that the terms of the United States courts heretofore held at St. Augustine and at Apalachicola be hereafter discontinued.

Mr. WELCH. I move to amend the bill in line seven, by striking out "January" and inserting "March," so that it will read: "and at Pensacola on the first Monday of March."

The amendment was agreed to.

Mr. FESSENDEN. Has that bill been referred to any committee?

The PRESIDENT *pro tempore*. It is reported from the Committee on the Judiciary.

The bill was reported to the Senate, as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

TEMPORARY LOAN CERTIFICATES.

Mr. CATTELL. I move that the Senate proceed to the consideration of Senate bill No. 548, to provide for the further issue of temporary loan certificates for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes.

The PRESIDENT *pro tempore*. It requires unanimous consent to entertain the motion. The Chair hears no objection.

The motion was agreed to.

Mr. CATTELL. I am now willing to yield to morning business.

PETITIONS AND MEMORIALS.

Mr. WILSON presented a petition of officers of the United States Army, praying an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. EDMUNDS. I present the memorial of General B. S. Roberts, of the Army, addressed to the Senate, in which he sets forth that very great and gross injustice has been done to him in a letter addressed to the General-in-Chief of the Army and transmitted to the Senate, from W. B. Franklin, late major general of volunteers in the United States Army, in which General Franklin accuses General Roberts of not having a good character for truth, and refers as evidence of that to General George H. Thomas. General Roberts incloses in his memorial demanding justice a letter from General Thomas entirely repudiating any authority of his for the statement of General Franklin. As this has been sent to the Senate for some action connected with military affairs, General Roberts appeals to this body to give him an opportunity to vindicate his character. I move that the memo-

rial be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. PATTERSON, of New Hampshire, presented a petition of citizens of Philadelphia, Pennsylvania, praying that pensions be granted to the surviving soldiers and sailors of the war of 1812, and to the widows of such as may have died; which was ordered to lie on the table, the subject having been reported upon.

He also presented a petition of citizens of the United States, praying for the adoption of measures for the reduction of the taxes; which was ordered to lie on the table.

Mr. HENDRICKS presented a petition of officers of the United States Army, praying for an increase of compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. CONKLING presented a petition of citizens of the United States, praying for a special tax of fifty cents per thousand on shingles imported from Canada in addition to the present *ad valorem* tax; which was referred to the Committee on Finance.

PERSONAL EXPLANATION.

Mr. SHERMAN. I ask the unanimous consent of the Senate to make a personal explanation, or a statement in the nature of a personal explanation. There was laid on the tables of Senators yesterday, as I am told, a paper containing two extracts from the New York Herald of recent date. As the person who took the pains to print this paper did not send me a copy I am indebted to a Senator for one. There are two or three observations in this paper that I cannot allow to pass unnoticed, and I wish to call the attention of the Senate to them. This is the first time I ever deemed it necessary to refer to a newspaper article in the Senate of the United States in the nature of a personal explanation. One of these articles is headed "Sherman's Funding Bill and the Treasury Ring." It says:

"It is a monstrous job, by which a few individuals are to make millions of dollars for manipulating the Government securities, for doing what the Government clerks would do just as well at only the cost of their regular salaries."

My reply to that is that nothing is to be done under the bill except what is done by Government clerks, as they are called.

"Then the bill gives enormous power to the Secretary of the Treasury to issue bonds in such form and denomination as he may choose for the redemption, purchase, or exchange of the non-interest-bearing debt—that is, of the legal tenders—besides other powers, altogether out of character, and dangerous."

On the contrary, the bill gives to the Secretary of the Treasury no power whatever except what he possesses now, and every provision in it is a restraint upon the powers of the Secretary.

The writer further says:

"The only thing Congress should do with regard to financial matters is to tie up the hands of the Secretary in the matter of giving commissions for manipulating and exchanging securities and selling gold."

I am bound to say, in behalf of Congress, that Congress has done that twice in two bills; first by an amendment to an appropriation bill, and also by a section in this very funding bill of which the writer complains.

Then in the other article the writer says:

"The general desire of the people to lessen their burdens of taxation by reducing, if it can be done honestly, the interest on their public debt is taken advantage of by the Treasury ring to aid in getting through that gigantic job known as the Sherman funding scheme."

So far as the "Treasury ring" is concerned I do not know that anybody from the Treasury, directly or indirectly, applied for the passage of the bill. The Committee on Finance acted upon it from considerations of public policy and upon matters referred to them.

Again, the writer says:

"Though twice defeated"—

That is false, for no vote had ever been taken on the bill, and almost every amendment has been rejected—

"this precious job has altogether too much money

in it to be readily given up, and its industrious author may be expected to spring it upon the Senate when there are but a dozen or so present, and get it through without calling the yeas and nays."

The Senate knows perfectly well that early in the session I introduced the bill, supported by a report, and have never called it up except after full notice. It has been considered after the most mature consideration. But all this I would not have noticed, because it is mere general newspaper declamation, a very common way by which some people try to defeat an important measure before Congress, and but for the fact that there is a reference here to my motives in connection with Jay Cooke & Co., who, it is said, have made large sums of money, I would not have troubled the Senate with the subject. The writer goes on to say:

"Mr. SHERMAN's zeal for a funding bill is stimulated by a desire to give his friends a job rather than a wish to relieve the people from any portion of their burden of taxation."

Now, Mr. President, I feel bound to say that Jay Cooke never, so far as I now recall, alluded to this bill in connection with or in writing to me. On the contrary, my impression is—and this opinion is supported by the knowledge of other Senators—that he, like most other bankers and brokers of the country, are opposed to the bill. They are perfectly willing to stand upon existing laws. This bill tends to destroy their vocation which feeds upon the large interest paid by the United States. Jay Cooke has recently written a pamphlet, in which he expresses his views on the subject of finance and dissents strongly from my own. He does not influence my action in the least. His name is thrown in to excite an unfounded prejudice. His firm have been employed by three successive Secretaries of the Treasury, Mr. Chase, Mr. FESSENDEN, and Mr. McCulloch, to perform certain important transactions in regard to the negotiation of bonds. Whenever the conduct of those Secretaries in that particular has been assailed in the Senate, I have always defended them on the ground that the arrangement was for the public interest. I have not a doubt of this, but so far as I know I have never done anything to promote the interests, directly or indirectly, of Jay Cooke & Co. I cannot now recall in the course of legislation during their employment that I have ever done anything to promote their interests. All that can be said of me in regard to Jay Cooke & Co. is that they are my personal friends, of the highest character and honor, who conduct a great business upon the highest principles of commercial and banking credit; and if they have made a fortune they have made it by honorable means, not so much by Government employment as by the great reputation they gained by their wonderful success in negotiating popular loans as agents of the Government. I repeat, they are not responsible for this funding bill, and I have no doubt, like the great mass of bankers and brokers, are opposed to it. But here in this paper is a direct imputation that the whole funding bill, as it is called, is a mere scheme to give Jay Cooke & Co. a job; when by the terms of the bill nobody can have a job under it. All the operations of the bill must be done with the voluntary action of the bondholders in exchanging their bonds for other securities par for par, and there can be no possibility of a job or employment or profit for private persons under it. It is unfortunately a very common mode of assailing a measure to attribute personal motives as supporting it. This measure can have no support except from the common interest of all persons to relieve the burden of the public debt and to restore our currency to the solid standard of gold and silver. And it must encounter all the natural opposition of great masses of people who make their profit from high interest and an inflated currency.

I feel it due to the Senate and myself that I should call attention to this matter, as I do not wish myself nor that the Senate should labor under an imputation of this kind where each of us know there is no ground for it. It is but just to Jay Cooke & Co., as well as to each

Senator who voted for this bill, that I should make this statement. Sir, let me say to the people whom the Herald represents, and who got up this tract, that no efforts of theirs, no imputations of theirs, shall prevent me from pursuing the even tenor of my way, which leads me to compel, if I can, by honorable and fair means, a reduction of the burden of the public debt, and to lighten the load that now rests upon the people. Neither the Senate nor the Committee on Finance nor myself will support any proposition that impairs the public faith or sacrifices the public interest to "private jobs" or "Treasury rings;" nor, I trust, will we be deterred from promoting the common good of our constituents by any fear of calumny or slander.

BILL RECOMMENDED.

On motion of Mr. RAMSEY, the bill (S. No. 622) to authorize the construction of bridges across the Ohio river was recommended to the Committee on Post Offices and Post Roads.

REPORTS FROM COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, reported a bill (S. No. 624) to carry into effect the decree of the district court of the United States for the district of Louisiana in the case of the British brig *Dashing Wave* and her cargo; which was read, and passed to a second reading.

Mr. SUMNER presented a letter from the Secretary of State, addressed to the chairman of the Committee on Foreign Relations, relative to the British brig *Dashing Wave*; which was ordered to be printed.

Mr. SUMNER. The same committee, to whom was referred the bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867, have had it under consideration, and directed me to report it back with amendments. The Senate will see at once the importance of speedy action on that bill, and therefore I hope I shall not take too great a liberty if I ask action upon it at once.

Mr. WILSON. I object.

Mr. SUMNER. There will be no question about it.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the bill?

Mr. WILSON. I object.

The PRESIDENT *pro tempore*. Objection being made, it goes over under the rule.

Mr. VAN WINKLE, from the Committee on Pensions, to whom were referred the following bills, reported them without amendment:

A bill (H. R. No. 614) for the relief of Mrs. Alice A. Dryer;

A bill (H. R. No. 851) granting a pension to Ann Williams;

A bill (H. R. No. 886) for the relief of Mrs. Mary J. Trueman;

A bill (H. R. No. 991) for the relief of Zaddock T. Newman;

A bill (H. R. No. 1263) granting a pension to Joseph A. Fry;

A bill (H. R. No. 1295) granting a pension to William J. Cotty, late of the twenty-first Missouri infantry volunteers;

A bill (H. R. No. 1315) for the relief of Seth Lea;

A bill (H. R. No. 1331) for the relief of Nancy Cook, of Tennessee;

A bill (H. R. No. 1332) for the relief of Barbara Stout, of Tennessee;

A bill (H. R. No. 1352) granting a pension to Sarah E. Ball, widow of James Ball, deceased, late fireman on the steamer *Vedette*, connected with the Burnside expedition;

A bill (H. R. No. 1383) granting a pension to Miss Ann E. Hamilton, of Alleghany city, Pennsylvania, aunt and adopted mother of James E. McKillip and Charles P. McKillip, deceased, late soldiers in the Union Army;

A bill (H. R. No. 1384) granting a pension to Mrs. Elizabeth Lane, of Boston, Massachusetts, mother of John Lane, deceased, late a

private in company A, twelfth regiment Massachusetts volunteers;

A bill (H. R. No. 1385) granting a pension to Roslinda McCalee, widow of Barney McCalee, deceased, late a private in company I, tenth regiment New York cavalry volunteers;

A bill (H. R. No. 1386) granting a pension to Hiram L. Hall;

A bill (H. R. No. 1387) granting a pension to Elizabeth G. Hibben, widow of Rev. Samuel Hibben, deceased, late a chaplain in the fourth cavalry regiment, Illinois volunteers;

A bill (H. R. No. 1388) granting a pension to Kate Higgins;

A bill (H. R. No. 1389) granting a pension to Eliza Donnelly, mother of Dudley Donnelly, deceased, late colonel of the twenty-eighth regiment infantry, New York State volunteers;

A bill (H. R. No. 1390) granting a pension to Michael Reilly; and

A bill (H. R. No. 1391) granting a pension to Jane McNaughton.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Miss Sue Murphy, reported a bill (S. No. 625) for the relief of Miss Sue Murphy, of Decatur, Alabama; which was read, and passed to a second reading.

Mr. ANTHONY. I hope that bill will be put upon its passage at once. It passed the Senate unanimously at the last session, but was lost in the House for want of time.

Mr. CATTELL. The Senate have agreed to take up Senate bill No. 543.

The PRESIDENT *pro tempore*. The Senate have agreed to take up that bill, and so nothing else can be done except by common consent until that bill is disposed of.

Mr. TRUMBULL. I thought that was not in order until we got through with petitions and reports.

The PRESIDENT *pro tempore*. It was not in order except by unanimous consent, and the Senate gave unanimous consent to take it up.

Mr. TRUMBULL. I object to it until we present the morning business.

Mr. POMEROY. There were several Senators who objected to taking up that bill, but they were not able to make themselves heard, I suppose, by the Chair, on account of the noise.

The PRESIDENT *pro tempore*. The Chair certainly did not hear any objection. I wish Senators would object so that I can hear them, and keep the business in order. The bill mentioned by the Senator from New Jersey is before the Senate, as he calls it up.

TEMPORARY LOAN CERTIFICATES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 543) to provide for a further issue of temporary loan certificates for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes, the pending question being on the amendment of Mr. TRUMBULL, to add the following as an additional section:

And be it further enacted, That for the purpose of saving the unnecessary payment of interest, and reducing the public debt, the Secretary of the Treasury is hereby authorized and directed to make sale of ten millions of the surplus coin in the Treasury of the United States, on the first Monday of the month of August next, and on the first Monday of every month thereafter, till the amount of coin in the Treasury, exclusive of that for which gold certificates of deposit shall have been given, shall be reduced to the sum of \$10,000,000, the sale to be made in manner following: The Secretary shall give five days' public notice in one daily newspaper published in each of the cities of Washington and New York, that sealed proposals for ten millions of gold coin will be received at the office of the Assistant Treasurer in the city of New York, till three o'clock past meridian of the day appointed for the sale. Such proposals shall be addressed to the Assistant Treasurer at New York, and shall be opened by him in the presence of such persons as may choose to attend at the time designated in the notice. No proposals shall be received unless accompanied by a certificate of deposit in the Treasury of the United States of five per cent. in currency of the amount of coin bid for in such proposal, which shall be received in part pay for the coin bid for, in case the bid is accepted, and if not accepted shall be returned to the party who made the bid. Payments may be received for coin in currency; and with the currency received

he shall purchase and cancel any interest-bearing indebtedness of the United States, paying therefor not exceeding its current market value at the time. None but the highest bid shall be accepted for gold; and in case of different bids at the same rate, said bids shall be accepted only *pro rata*; and the Assistant Treasurer, with the approval of the Secretary of the Treasury, shall have the right to reject all or any bids, if deemed by him less than the fair value of gold at the time.

Mr. CONKLING. I wish to inquire of the Senator whether this amendment as it now stands is to be voted upon as a substitute or an additional section?

The PRESIDENT *pro tempore*. It is an additional section. It was first offered as a substitute, but subsequently as an amendment by way of addition.

Mr. CONKLING. So that by adopting it we do not impair the original bill?

Mr. TRUMBULL. No, sir; it is offered as an additional section.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered on this amendment.

The question being taken by yeas and nays, resulted—yeas 19, nays 21; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Conkling, Davis, Drake, Ferry, Howard, Howe, McGroarty, Nye, Osborn, Pomerooy, Stewart, Thayer, Trumbull, Vickers, Wade, and Welch—19.

NAYS—Messrs. Anthony, Cattell, Conness, Corbett, Cragin, Edmunds, Fessenden, Frelinghuysen, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Ross, Sherman, Sumner, Van Winkle, Willey, Williams, and Wilson—21.

ABSENT—Messrs. Abbott, Bayard, Buckalew, Dixon, Doolittle, Fowler, Grimes, Harlan, Henderson, Hendricks, Norton, Pool, Patterson of Tennessee, Ramsey, Rice, Saulsbury, Sprague, Tipton, Whyte, and Yates—20.

So the amendment was rejected.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NORTHERN MICHIGAN RAILROAD.

Mr. HOWARD. I ask the Senate to take up Senate bill No. 276.

Mr. MORRILL, of Maine. I hope we shall have an opportunity to make reports.

The PRESIDENT *pro tempore*. Reports will be received. The Chair will consider that a member offering a report while reports are in order objects to everything else.

Mr. HOWARD. I ask the Senate to take up this bill and have it read, at least, for I am very anxious to have it passed at this session. It is a bill to grant lands to the Northern Michigan Railroad Company in extension of the Northern Pacific road.

The PRESIDENT *pro tempore*. The Senator from Michigan asks unanimous consent of the Senate to take up the bill mentioned by him. Is there any objection?

Mr. EDMUNDS. I hope we shall not take it up now. I want to look at it. It is a very important bill.

The PRESIDENT *pro tempore*. Objection being made, it goes over.

REPORTS OF COMMITTEES.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, reported it with an amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, reported a bill (S. No. 627) granting an increase of pension to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the bill (S. No. 617) to reduce the military peace establishment of the United States, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1227) granting a pension to Martha Ann Wallace, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1337) granting

an increase of pension to Frances T. Richardson, widow of the late Major General Israel B. Richardson, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1363) granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell, reported it without amendment.

Mr. DAVIS, from the Committee on Claims, to whom was referred the petition of George Fuerst, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia; which was agreed to.

Mr. HOWARD, from the joint Committee on Ordnance, submitted a report, accompanied by testimony taken by the committee; which was ordered to be printed.

Mr. COLE, from the Committee on Claims, to whom was referred the petition of Margaret Doyle, submitted a report, accompanied by a bill (S. No. 628) for the relief of Margaret Doyle. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the joint resolution (H. R. No. 341) for the relief of Z. M. Hall, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 338) exonerating certain vessels of the United States from the payment of tonnage fees to consular agents in Canada, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 331) to grant an American register to the Hawaiian brig Victoria, reported it, without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 485) to aid in the improvement of the Des Moines and Rock Island rapids, in the Mississippi river, reported it without amendment.

He also, from the same committee, to whom was referred the petition of underwriters of Pittsburg, Pennsylvania, asked to be discharged from its further consideration; which was agreed to.

Mr. FRELINGHUYSEN, from the Committee on the Judiciary, to whom was referred a petition of citizens of Kentucky, praying an amendment of the judiciary acts; and the letter of C. H. Howard, assistant commissioner of refugees, freedmen, and abandoned lands, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Benjamin Cooley and James W. Boswell, submitted a report, accompanied by a joint resolution (S. R. No. 163) for the relief of Benjamin Cooley and James W. Boswell. The joint resolution was read and passed to a second reading, and the report was ordered to be printed.

Mr. MORRILL, of Vermont, from the Committee on Claims, to whom was referred the bill (H. R. No. 1081) for the relief of John A. Neustaetter, reported it without amendment.

He also, from the Committee on Finance, to whom was referred the bill (S. No. 76) providing for abatement of duties on merchandise damaged on the voyage of importation, reported it with an amendment.

Mr. RAMSEY, from the committee on Post Offices and Post Roads, to whom referred the bill (H. R. No. 1427) to establish certain post roads, reported it with amendments.

He also, from the same committee, to whom was recommended the bill (S. No. 622) to authorize the construction of bridges across the Ohio river, reported it with amendments.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the memorial of W. Scott Smith, asked to be discharged from its further consideration; which was agreed to.

EXPLORATIONS OF YELLOWSTONE RIVER.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print

the report of the Secretary of War, communicating, in compliance with a resolution of the Senate, the report of Brevet Brigadier General T. W. Reynolds on the exploration of the Yellowstone river and the country drained by that river, have had it under consideration, and direct me to report it back with an amendment, in the nature of a substitute, and I ask for its present consideration. The substitute only need be read.

There being no objection, the Senate proceeded to consider the resolution.

The amendment of the Committee on Printing was to strike out all of the resolution after the word "resolved," and to insert:

That the report proper of General Reynolds upon his explorations in the valley of the Yellowstone river be printed, with the map, but without the illustrations; and that three thousand extra copies be printed and bound for the use of the Senate; and that the Secretary of the Senate be directed to return the appendixes to General Reynolds's report to the chief engineer of the Army of the United States.

Mr. ANTHONY. This report has been lying in the hands of the committee for a great while, and a number of Senators have spoken to us about it, urging the publication; but we have declined to report in favor of its publication on account of the great cost. This is a work with a great many engravings, and an edition of it would cost not less than \$25,000. We have recommended the publication of the report proper, without any of the appendixes, the cost of which will be about twelve hundred dollars. This report is desired very much by the people of Dakota, Montana, and northern Iowa. It gives an account of a region which is very little known, and which is believed to abound in valuable minerals and in some timber that is not to be found anywhere else in that part of the country. I hope, therefore, that the resolution will pass.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee.

The amendment was agreed to.

The resolution, as amended, was adopted.

PETITION RECOMMITTED.

Mr. HOWARD. I move that the petition of E. Lockwood, agent for Charles Rosefield, which was reported upon unfavorably from the Committee on Claims, be recommitted to that committee, on the ground that further proofs have been furnished to the committee, and a new investigation ought to be made.

The motion was agreed to.

BILL INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 628) giving the right of way to certain railway companies over the military reservation at Fort Leavenworth; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the reports of the committee of conference on the disagreeing votes of the two Houses on the following bills of the Senate:

A bill (S. No. 175) for the relief of Joseph McGhee Cameron and Mary Jane Cameron, minor children of La Fayette Cameron, deceased;

A bill (S. No. 382) granting an increase of pension to Obadiah T. Plum;

A bill (S. No. 422) granting a pension to Maria Schweitzer and the children of Conrad Schweitzer, deceased;

A bill (S. No. 518) granting a pension to the widow and child of John P. Felty;

A bill (S. No. 547) granting a pension to John Sheets;

A bill (S. No. 314) for the relief of George T. Brien;

A bill (S. No. 383) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased;

A bill (S. No. 517) granting a pension to the widow and children of Henry Brown; and

A bill (S. No. 521) granting a pension to the children of William M. Wooten, deceased.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869.

VACANCIES IN EXECUTIVE DEPARTMENTS.

The message also announced that the House further insisted on its disagreement to the amendments of the Senate to the amendment of the House to the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments, further insisted upon its amendment to said bill, asked a further conference on the disagreeing votes of the two Houses on the said bill, and had appointed Mr. BENJAMIN F. BUTLER of Massachusetts, Mr. WILLIAM LAWRENCE of Ohio, and Mr. CHARLES A. ELDRIDGE of Wisconsin, managers at the same on its part.

The Senate proceeded to consider its amendments to the amendment of the House of Representatives to the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments, further disagreed to by the House; and

On motion by Mr. CONKLING, it was

Resolved, That the Senate further insist upon its amendments to the amendment of the House of Representatives to the said bill further disagreed to by the House, and agree to the further conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. CONKLING, Mr. STEWART, and Mr. MCCREERY.

LAND OFFICE REPORT.

Mr. ANTHONY. A resolution to print additional copies of the report of the Commissioner of the General Land Office was referred to the Committee on Printing, and then referred to the Committee on Public Lands, who have reported it back with an amendment, to which the Committee on Printing have no objection; and it is desirable that that report should be printed at once, if it is to be printed at all. I therefore ask that that resolution may now be acted upon.

The motion was agreed to.

The Chief Clerk read the resolution, as follows:

Resolved, That five thousand copies be printed for the use of the Senate, and two thousand copies for distribution by the General Land Office of the report of the Commissioner of the General Land Office for 1867, without the sketches or illustrations, and without the maps, except the connected map of the United States.

Resolved further, That an abridgement of the report of the Commissioner of the General Land Office for 1867, containing such portions of it as may best encourage immigration, shall be prepared by him, without sketches or illustrations, and without maps, excepting the connected map of the United States; and that two thousand copies be printed for the use of the General Land Office; and also, that two thousand copies in English, three thousand copies in German, and one thousand copies in Swedish, be printed for distribution in Europe, under the direction of the Department of State.

Mr. POMEROY. That is not the amendment of the Committee on Printing, I believe. The Committee on Printing had an amendment to that resolution, and the Committee on Public Lands moved an amendment to the amendment.

Mr. ANTHONY. That is the recommendation of the Committee on Printing that has been read.

Mr. POMEROY. The Committee on Printing struck out the number of copies in French, and the Committee on Public Lands simply recommend to restore it.

Mr. ANTHONY. I have no objection to that.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Public Lands, after the word "Ger-

man" to insert "one thousand copies in French."

The amendment was agreed to.

Mr. ANTHONY. I wish to move one other amendment to the resolution. This report has excited more interest than any one that has been presented this session, and I want the Senate to understand what we are about to do. The report came from the Commissioner of the General Land Office, with a number of maps, very valuable maps, I think, indeed, and if the Treasury was flush the Committee on Printing would have recommended their publication; but in the present condition of the Treasury we thought so large an expenditure, amounting perhaps to \$75,000, would be inexpedient, and in this the Committee on Public Lands have agreed with us.

Mr. POMEROY. The Committee on Public Lands were very desirous to have the maps published. They yielded, however, to some extent, to the pressure brought upon them by the Senate and the Committee on Printing. They did not agree unanimously on the question of the maps, but they did agree unanimously on the question of having some copies of the report printed in French. The Committee on Public Lands would recommend, if the Senate would concur, that the maps be printed. They think they are very valuable.

Mr. ANTHONY. I should consider it my duty to oppose that. The Committee on Printing recommended the printing of one map, a connected map of the United States, which was already engraved, and the cost of which would be only the paper and the printing; but upon revising the estimates I find that the publication of that map will cost so much, adding to the expense of the printing, that I think the printing of all the maps had better be postponed until some time when the Treasury is in a better condition to meet the expense. I therefore move to strike out the words "excepting the connected map of the United States;" so that no map shall be printed.

Mr. POMEROY. I hope that will not be done; we ought to send out a map of the United States anyhow.

Mr. ANTHONY. If we had money enough in the Treasury I would send abroad all the maps; but I do not think, in the present condition of the Treasury, we ought to go to such expense. The cost of printing the maps in all the editions ordered will not be less than \$10,000, to send abroad a map of the United States; and it must be folded up in a pamphlet, where it cannot be opened and folded back half a dozen times without being torn. I do not believe the map would be of very great use. I think the publication of the report in different languages may be of value. They have maps of this country everywhere. They are all over the world.

Mr. POMEROY. Any person receiving this map could take the map out of the pamphlet, and by pasting it preserve it as a very valuable map illustrating the territories of the United States. This Government is a landholder, and we cannot expect to dispose of the public lands unless we not only advertise them, but cause maps to be published showing where they lie, what is their extent, the mountains, and rivers, &c.—an outline map. That is all this is. It is not an extensive map. It is an outline map of the United States. I think it should go abroad among all the nations.

Mr. STEWART. I hope the map will be published. The report is of very little value without the map. You cannot understand what the report refers to without the map. It is not true that they have in Europe maps of our country, with the land divisions, townships, progress of the surveys, &c., that will give any idea of the country. A general map of the country without any particular localities is of no value. Our maps are extended by the survey yearly. They change almost in six months. They report merely the progress of the surveys. It is really a part of the history of the country, the most essential thing that can be published; and before this is passed

over lightly I should like to have a letter of the Commissioner of the Land Office read. There is a great demand for this report in Europe. A great deal is said about encouraging foreign immigration, but there is nothing so well calculated to help that as showing persons abroad where they can go, and on want terms they can obtain land here.

Mr. ANTHONY. If my friend will allow me to make just one observation, whenever the Committee on Printing object to the printing of an expensive work we are told there is a great call for it. Mr. President, when valuable books are printed for nothing and given away there will always be a demand for them, and the more we print the larger will be the demand. I have no doubt about the value of this work. It is a very good document. The only thing is the question of expense.

Mr. STEWART. We do print a great many documents that are not very valuable. If there is one thing that we desire to encourage especially it is immigration on the public lands. We want the immigrants to go there. We want them to leave the cities, and the best thing we can do is to spend a little money in educating those people as to where they can go. The whole theory of the Government is that they shall be protected and these settlements shall be advanced. Nothing will help that work so much as a map of the country with such explanations as the report will give. I undertake to say that it is a more useful document than any other printed by Congress. It is a better guide and contains more useful information for the purpose of settling the public lands than any document that has ever been printed.

I am seldom an advocate for the expenditure of money; but I believe this is a case where money can be well expended. There is a great demand for it, especially by the Germans. A large number of letters were before our committee. I have seen a large number that did not come before the committee, addressed to the Department of State. The Secretary of State regards this matter as of very great importance. Mr. Seward says it is the best means of conveying that kind of information that brings in immigrants from their homes and induces them to go upon the lands. He is very much in favor of it. He has been in correspondence with our ministers abroad, and every person abroad who has taken the subject into consideration regards it as the most important information that can be given to the people.

The Commissioner has given this report a great deal of attention, bestowed great labor upon it, and when you are expending your millions per year for the Indian service I think you might spend a small amount in informing immigrants from Europe, particularly Germans, where these maps go, of the resources of the West, and let them go there and take possession of the country, and thus avoid the Indian question. You put into your Indian bill \$75,000 for this and \$100,000 for that, and you have a system of having probably five Indian agents to each Indian, and how many contractors to each Indian nobody can compute. While you are upholding a system of that kind I want the people of the world to understand what we have got in the way of lands, where they can go and take possession of the country. In that way we can end many of these vexatious questions and develop the resources of the country. I believe that a little money spent in publishing these reports and maps will be of great importance to the country. Then the maps of the States are exceedingly important in showing the advance of the surveys and what has been done. If this proposition is to be voted down, before it is voted down I should like to have one or two letters read. I think this is a very important subject, and I do not like to see it slurred over in this way.

Mr. POMEROY. By the report of the committee but one map, a connected map of the United States, was to be printed, and now the

Senator from Rhode Island has moved to strike out even that. It does not include the maps of the States, to which the Senator from Nevada has referred. I agree with the Senator from Nevada that those maps are very desirable; but it is absolutely necessary to have the map of the United States, and the Senator from Rhode Island now proposes to strike out that. I hope the amendment will not be agreed to.

Mr. ANTHONY. I am not going to detain the Senate more than a minute on this subject. I merely wish the Senate to understand what the cost of this is to be, and then with whatever the Senate do I shall be satisfied. As this resolution came to the Committee on Printing the expense would have been \$88,000; and if we had directed the publication the House of Representatives would probably have printed double the number, and we should not have got off with less than an expenditure of \$300,000. The Committee on Printing reduced it to \$25,000 by their report, and that report meets the approbation of the Committee on Public Lands. I now propose—not from the Committee on Printing, but I have revised the estimates and find the map will cost more than I thought it would—to make a further reduction of about eleven thousand dollars by striking out the map of the United States. I do not estimate the value of that map so highly as my friend upon the Committee on Public Lands; but perhaps I do not understand it so well. The Senate have now all the facts before them; and it is for them to decide whether they will expend \$11,000 to distribute over Europe a map of the United States.

Mr. POMEROY. I shall be satisfied with a vote, as the morning hour has nearly expired.

Mr. MORRILL, of Vermont. The amendment, as I understand it, strikes the pictures out of the document.

Mr. ANTHONY. The map.

Mr. POMEROY. The map of the United States; nothing else.

Mr. CONNESS. It is very evident that my friend from Vermont desires to get a lick at it without knowing what it is.

Mr. SHERMAN. The Senator from Rhode Island says that his amendment strikes out simply the map of the United States.

Mr. ANTHONY. The other maps are not reported upon at all. The amendment saves \$11,000 and deprives the document of the map of the United States.

Mr. STEWART. That strikes all the maps out?

Mr. ANTHONY. Yes, sir.

Mr. MORTON. I will inquire of the chairman of the committee what the cost will be without the maps?

Mr. ANTHONY. Fourteen thousand dollars without and \$25,000 with.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Rhode Island.

Mr. STEWART. On that question I must call for the yeas and nays. I wish to see whether the Senate are not willing to let settlers and emigrants know where the public lands are.

The yeas and nays were ordered; and being taken, resulted—yeas 16, nays 24; as follows:

YEAS—Messrs. Abbott, Anthony, Chandler, Conkling, Cragin, Edmunds, Ferry, Fessenden, McDonald, Morgan, Morrill of Maine, Osborn, Rice, Sherman, Welch, and Willey—16.

NAYS—Messrs. Cole, Conness, Corbett, Davis, Fowler, Harlan, Howard, Howe, McCreery, Nye, Pomerooy, Ramsey, Ross, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Vickers, Wade, Whyte, Williams, and Wilson—24.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Cattell, Dixon, Doolittle, Drake, Frelinghuysen, Grimes, Henderson, Hendricks, Morrill of Vermont, Morton, Norton, Patterson of New Hampshire, Patterson of Tennessee, Pool, Saulsbury, Sprague, and Yates—20.

So the amendment was rejected.

The resolution was adopted.

INDIAN APPROPRIATION BILL.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced

that the House disagreed to the amendments of the Senate to the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. BENJAMIN F. BUTLER of Massachusetts, Mr. WILLIAM WINDOM of Minnesota, and Mr. P. VAN TRUMP of Ohio, managers at the same on its part.

The Senate proceeded to consider its amendments to the bill of the House (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869, disagreed to by the House of Representatives; and

On motion by Mr. MORRILL, of Maine, it was

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore* of the Senate.

The PRESIDENT *pro tempore* appointed Mr. HOWE, Mr. HENDERSON, and Mr. MORRILL of Maine.

RIGHTS OF CITIZENS ABROAD.

Mr. CONNESS. I now move that the Senate proceed to the consideration of the bill (H. R. No. 768) concerning the rights of American citizens in foreign States.

Mr. SUMNER. I simply wish to have an understanding with my friend, the Senator from Maine, [Mr. MORRILL,] as to the order of business. I shall not interpose any objection unless the Senator does.

Mr. MORRILL, of Maine. I had an understanding that was satisfactory.

Mr. CONNESS. I do not know just exactly what the Senator from Massachusetts means.

Mr. MORRILL, of Maine. Is the bill before the Senate?

The PRESIDENT *pro tempore*. The Senator from California moves to take it up for consideration.

Mr. MORRILL, of Maine. I have no objection to that motion. When it is up I wish to say a word.

Mr. CONNESS. Let us have the question.

The PRESIDENT *pro tempore*. The Chair cannot put it when Senators are on the floor.

Mr. CONNESS. I understood the Senator to say he had no objection.

Mr. MORRILL, of Maine. I have no objection to its coming up. When it comes up I wish to address a consideration to the Senate.

Mr. SUMNER. Do I understand the question is before the Senate now as to whether we shall proceed with that bill?

The PRESIDENT *pro tempore*. That is the pending question.

Mr. MORRILL, of Maine. I have no objection to the bill coming up, but when it is up I propose to address a proposition to the Senator who has charge of it, which I trust he will accept.

Mr. CONNESS. I desire in this connection to ask my friend from Massachusetts whether he is opposed to the consideration of the bill that I have called up?

Mr. SUMNER. I am perfectly ready to proceed with the consideration of that bill whenever the Senate is so disposed. Allow me to make an explanation here. It was only a moment ago that I exchanged a word with the Senator from Maine, and he told me there was an understanding between himself and the Senator from California as to the order of business. I thought the Senator was not aware that the bill was about to be called up, and it was on that account that I interposed the remark that I made.

Mr. CONNESS. I am still at a loss to know how the Senator stands affected toward

this bill. If he is in favor of it, of course he is in favor of taking it up. I hope he is.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is before the Senate.

Mr. MORRILL, of Maine. Now I desire to say to the Senator from California what I did not suppose I should feel it my duty to say at the time that I antagonized another bill, and from some remark of mine he might have inferred that on to-day I should have nothing of this character to interpose. But the deficiency bill is now ready for consideration, and it is the last bill of any importance which the Committee on Appropriations has to present to the Senate. There are some items in it which will perhaps encounter some difficulty somewhere else, at any rate of a character which should induce us to get the earliest action upon the bill. Without any further statement, I appeal, therefore, to the Senator from California to allow his bill, now that it is up, to be laid aside informally in order to proceed with the consideration of the deficiency bill, which will not occupy, in my judgment, much time.

Mr. CONNESS. I should like to inquire in this connection of the honorable Senator how long he thinks the deficiency bill will occupy?

Mr. MORRILL, of Maine. I think a very short time. I have no expectation that any items will be controverted.

Mr. CONNESS. I agree with the honorable Senator there are items in that bill which perhaps make it important to give it early consideration, and therefore I agree that the bill now before the Senate shall lie over informally, and that the appropriation bill shall be proceeded with.

The PRESIDENT *pro tempore*. The bill that is before the Senate will be passed over informally, if there be no objection, and the Senate will proceed to the consideration of the deficiency bill. The Chair hears no objection.

—SUE MURPHY.

Mr. ANTHONY. There was a bill reported from the Committee on Claims this morning, which has passed the Senate once before, and was lost in the other House for want of time. It is to provide for a very hard case, and I am sure it will create no debate. I therefore ask the Senator from Maine to be kind enough to give way while the Senate bill No 625 is passed.

Mr. MORRILL, of Maine. I am on borrowed time myself. If the Senator from California has no objection, I shall make none.

Mr. ANTHONY. There shall be no debate about it.

By unanimous consent the bill (S. No. 625) for the relief of Miss Sue Murphy, of Decatur, Alabama, was read the second time, and considered as in Committee of the Whole. It provides for the payment of \$7,000 in full compensation for damages done her farm by reason of the same being occupied for military purposes, and for the destruction of buildings and other property thereon.

Mr. FESSENDEN. Where does that bill come from?

Mr. ANTHONY. The Committee on Claims.

Mr. FESSENDEN. Do the committee introduce that principle?

Mr. HOWE. It has passed the Senate once.

Mr. FESSENDEN. I should like to have an explanation of the bill. It strikes me that it introduces a principle which, if carried out, will give us a good deal of trouble. I do not know what the circumstances are.

Mr. HOWE. It introduces no new principle, I will say. It cannot, of course, because the identical bill, word for word, has passed the Senate once. This woman owned a house, and the house was unfortunately located. An officer under General Sherman directed the town of Decatur to be taken possession of and fortified. The officer who executed the order wanted to build a fort on the site of this house,

and he took the house down and built the fort. This is to pay for that.

Mr. FESSENDEN. I should like to have it go over. I move to postpone its further consideration.

The motion was agreed to.

DEFICIENCY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes.

The PRESIDENT *pro tempore*. The bill will be read; and if there be no objection, the amendments reported by the Committee on Appropriations will be acted on as they are reached in their order in the reading of the bill. The Chief Clerk proceed to read the bill.

The first amendment of the Committee on Appropriations was to strike out lines fifty-four to sixty, as follows:

General Land Office:

For surveying the boundary line between the State of Nebraska and Territory of Colorado and the western boundary of the State of Nebraska, embraced between the forty-first and forty-third degrees of latitude, estimated two hundred and forty-three miles, at not exceeding twenty dollars per mile, \$4,860.

The amendment was agreed to.

The next amendment was to strike out lines seventy, seventy-one, and seventy-two, as follows:

For casual repairs of the Patent Office building, to complete pavement on the lower floor of the south wing, \$3,000.

Mr. MORRILL, of Maine. I am satisfied on further examination that this item ought not to be stricken out. I propose to retain it modified in the way I shall propose. It says "for casual repairs." That misled the committee. It should be "for tiles for the Patent Office building." I move to amend the clause so as to make it read:

For tiles for fifty-eight hundred feet of tiling for the basement story of the Patent Office building, to complete pavement of the lower floor of the south wing, at \$1 25 per foot, \$7,250.

The amendment was agreed to.

The motion to strike out the clause as amended was not agreed to.

The next amendment was to strike out lines eighty-four to one hundred and four, as follows:

Surveys of Indian reservations:

To enable the Secretary of the Interior to pay the balance due for surveys of lands embraced in the Osage Indian reservation and the Cherokee neutral lands, in the State of Kansas, under contracts dated respectively August 14 and 16, 1866, (the said sum to be returned to the Treasury out of proceeds of sales of said lands, as provided by treaties with said Indians,) \$27,980 51: *Provided*, That nothing in this act shall be construed to give validity to any treaty or part thereof which otherwise would be invalid.

To enable the Secretary of the Interior to pay the balance due for surveys of the Omaha and Winnebago reservations, which have been completed under contract with the General Land Office, \$3,362 62: *Provided*, That no contract for the survey of Indian lands under treaty stipulations, or for the survey of any public lands, shall hereafter be made with any person or persons until the appropriation necessary for the payment of such surveys shall have been made by Congress.

The amendment was agreed to.

The Chief Clerk continued the reading of the bill till he reached the following clause, lines one hundred and seventy-six to one hundred and seventy-nine:

For facilitating communication between the Atlantic and Pacific States by electric telegraph, (to supply deficiency for the fiscal year ending June 30, 1867,) \$40,000.

Mr. WILLIAMS. I desire to inquire of the chairman of the Committee on Appropriations if there is a necessity for continuing this subsidy to the Atlantic and Pacific Electric Telegraph Company, and how long it is to be continued?

Mr. MORRILL, of Maine. On the miscellaneous bill there was an appropriation for this service for the current year, and the character of the service was then pretty fully discussed. The Senator was not present; and for his information I will restate that this service

results from an act of Congress passed in 1857, by which the Secretary of the Treasury was authorized and directed to advertise for proposals for such a service as this, and was authorized to enter into a contract for a term of years—I think ten years, though I am not sure as to the time—and this contract is the result of it. First, the law authorized the service; in the second place, the contract provided for the service in accordance with the statute; so that it is a contract obligation resting on this statute. Now, I understand that the company have no particular desire upon this question. If the Government of the United States really thinks it is for its interest to put an end to this service, I am told, although I have no very good authority, perhaps, for saying it—I am not told directly from the managers of the company—they are not particularly solicitous on the subject, believing the contract to be a beneficial one to the Government. It is sufficient to say, to answer the inquiry, that this service is the result of a contract authorized by law, and this particular item is for a deficiency to supply that service, the appropriation for which was neglected last year.

Mr. WILLIAMS. I understand the deficiency arises from the action of Congress in striking out an appropriation of that amount for that year. Although it may be claimed that this contract is of advantage to the Government, I am quite confident that the managers of this telegraphic line are very anxious to have the subsidy continued. I know they were very anxious at the time the subject of striking it out was discussed. All that I wish to say is that the charges by this telegraph line are enormous, and it seems to be impossible to hold anybody responsible for these extravagant charges. It costs \$10 50 to send any sort of a telegram from this city to Portland, in Oregon; and yet the fees are restricted by the act under which this line of telegraph is organized, and when a claim is made to the persons who are concerned in the management of this line they claim that somebody else is responsible; and in that way immense amounts of money are accumulated, as it seems to me, by these exorbitant charges, and there ought to be some remedy somewhere.

Here is a telegraph line across the continent from the Atlantic to the Pacific States. It receives from the Government \$40,000 a year for performing, as it is alleged, services for the Government, and in addition to that it imposes these exorbitant charges. I have no desire to do the company any injury or interfere with the affairs of the Government; but it has occurred to me that while these charges were maintained there ought to be some means somewhere to correct the evil and relieve the people from these enormous burdens.

Mr. CONNESS. I wish to say that I agree entirely in what has been said by the Senator from Oregon. There is no greater monopoly in the world than exists now in the telegraph line that crosses this continent. I received the other day a comparatively short dispatch from California on public business, which cost \$175 in gold. I think a high price for sending it would have been twenty dollars. Seven dollars and eighty cents I think is charged for ten words between this place and San Francisco, and if collected there it is collected in gold; and we appropriated here annually \$40,000 as a bonus to this line without exercising any restriction whatever over them. When the line was first established it was, of course, a great venture; and high rates proportioned to those that were charged when the Atlantic cable was first a success across the Atlantic were to have been expected; but the company owning the Atlantic cable have reduced their rates, and still further reductions are in progress notwithstanding the immense capital invested in that enterprise. We should either withdraw this appropriation until some restriction is imposed upon the company as to the rates to be charged, or else we should impose

it in connection with the appropriation. I move to strike out the paragraph at present.

Mr. FESSENDEN. This matter was very thoroughly examined in the Committee on Finance at one time, and these complaints were made of overcharges to individuals. The rates, I think, from the terminus of the telegraph proper on this side to the other are fixed by law; but the line is connected with certain other companies, and the great majority of the communications go over the lines of these other companies, which are associated with them, before they reach the telegraph line proper; and although I believe they do not charge or profess to charge anything more than the rates fixed by the law for that which goes over the Atlantic and Pacific telegraph proper, yet they so manage it in reference to the other lines as to make up a very large charge for the whole. That is the exposition of the way they do it. How far that is correct or proper it is not for me to say. I know nothing about what should be the rates, but the fact is that it makes no sort of difference to us. The Senator from California is entirely mistaken in calling this appropriation a bonus. It is not a bonus, and never has been. There has not been a year since the telegraph was established that the Government messages did not amount to more than \$40,000, according to the rates fixed by law for telegraphic communications to and from the Pacific coast.

We had Mr. Orton, president of the company, before us after we struck this item out one year. He came before us and explained. He said that when he became president of the company he found that there were many abuses which they were endeavoring to correct; that they had not been able to find out exactly how they arose in all cases, but they were satisfied that they were imposed upon, and that the community were imposed upon by their own operatives. He was engaged in reforming those things as far as he could. He said, and said very properly, that it made no difference to the company whether we appropriated \$40,000 directly here, as we are obliged to do by law, or whether we paid the bills for actual messages sent over the line. To the extent of the \$40,000 they are compelled to transmit the messages of the Government at fixed rates.

Mr. ANTHONY. Does that fixed rate include the connections?

Mr. FESSENDEN. I do not know; but I have not heard of any complaints on the part of the Government. The complaints have been on the part of individuals. This contract originally was made with a view of assisting the telegraphic company. They did not know how they would come out, and we engaged by law to give them \$40,000 annually for a certain number of years, and so far the Government used the telegraph that \$40,000 were to be repaid in messages. During the war particularly the amount sent over the line, as I understand, was very considerable; I do not know how much larger than the \$40,000; so that in reality it is no bonus.

Mr. CONNESS. Forty thousand dollars at their rates would amount to very little.

Mr. FESSENDEN. I do not know how far those rates are applied to the Government; but I do not know of any complaint on the part of the Government of any imposition. Possibly they may have dealt with the Government on different terms. But it is of no use for us to strike out the appropriation, as we found. It has been appropriated this year for the current year in another bill. The striking out one year was by way of experiment, in order to get an explanation. We thought it best to strike it out and see what could be done; but it was ascertained, from the very fact that the Government had more telegraph dispatches than would amount to \$40,000, that it was no use for us to attempt to punish them by breaking our contract to give them \$40,000 a year. So far as the stipulations of the contract on their part are concerned to the Government, they have performed them. These complaints of individuals must be met by individuals as

they can; they afford no excuse, in my judgment, for the Government breaking its contract to pay them so much a year, to be repaid in telegraphic dispatches. It has been repaid, and more.

As I said before, it amounts to nothing if we refuse to make this appropriation, for we have to make it in another way, to enable the Government to pay its bills, so that nothing will be accomplished. I think, therefore, it is better to let the appropriation remain. We found by very thorough examination that nothing can be accomplished in that way.

Mr. CONNESS. I suppose that if we do not make the appropriation now it will be made in another bill.

Mr. MORRILL, of Maine. Not this year.

Mr. CONNESS. Not this year, undoubtedly, but we shall pay the amount of money. I know we refused to make the appropriation on a previous occasion.

Mr. FESSENDEN. This is the very occasion we refused it; and here is a deficiency bill brought in to make it up.

Mr. CONNESS. The case stands, nevertheless, as a great hardship; and I am not willing to admit that the Government cannot regulate the rates to be charged over this line.

Mr. FESSENDEN. Congress is to do it, if anybody; the executive Government cannot do it, and the executive Government owes this money.

Mr. CONNESS. I mean Congress when I say the Government, for I believe it has been generally acknowledged by this time that Congress at least makes up a considerable portion of the Government. I think a provision attached to this appropriation, if there was time to get it up, or if the committee's attention had been brought to it, would be a very healthy proceeding. The State of California agreed to pay \$6,000 per annum for ten years in the same way to encourage the construction of this line; but the public money they have received, and the assurances that they receive for it, have only enabled them to set up a tariff of charges on the people which are onerous and oppressive. They are thus also enabled, whenever any company undertakes to construct another line, to buy it out and suppress it.

Mr. FESSENDEN. If anything could be accomplished by it, I would be perfectly willing to try the experiment as I did once before.

Mr. CONNESS. I withdraw the amendment now.

The PRESIDENT *pro tempore*. The reading of the bill will proceed.

The Chief Clerk read the next items of the bill, as follows:

Construction branch of the Treasury Department:

For constructing the custom-house at Portland, Maine, \$50,000.

For constructing the court-house at Portland, Maine, \$50,000.

For constructing appraisers' stores at Philadelphia, \$25,000.

Mr. CONNESS. I should like to have the chairman give some information as to the two items just read in regard to Portland, Maine.

Mr. MORRILL, of Maine. Those items are for deficiencies in the appropriations for the new buildings in process of erection at Portland for a court-house and custom-house to supply those destroyed by the great fire there. The architect in his report to the Secretary of the Treasury states the necessity of it.

Mr. CONNESS. This is to replace buildings destroyed by fire in that city?

Mr. MORRILL, of Maine. Yes, sir.

Mr. CONNESS. Then it is all right.

The reading of the bill was continued. The next amendment of the Committee on Appropriations was after the appropriation of \$27,500 for completing certain portions of the Washington aqueduct to strike out the following proviso in lines two hundred and twenty-five, two hundred and twenty-six, two hundred and twenty-seven, and two hundred and twenty-eight:

Provided, That the sum shall be in full of all claims against the Government for work done or

damages incurred on the Washington aqueduct, and all work on said aqueduct shall be forthwith discontinued.

Mr. HARLAN. I desire to offer an amendment to this part of the bill.

Mr. MORRILL, of Maine. I hope the Senator will allow the question to be taken on this, and he can propose his amendment afterward.

Mr. HARLAN. Very well.

The amendment was agreed to.

Mr. HARLAN. Now I offer this amendment to come in after the lines just stricken out:

For salary of assistant engineer, superintendence, and repairs, for the year ending June 30, 1869.

The amendment was agreed to.

The reading of the bill was continued.

The next amendment was to strike out from lines two hundred and twenty-nine to two hundred and thirty-three, in the following words:

Rock Island arsenal:

For the erection of a bridge to connect Rock Island and arsenal with the city of Rock Island, Illinois, \$20,000; said bridge to be constructed and completed for the sum hereby appropriated.

The amendment was agreed to.

The next amendment was to insert after line two hundred and forty-one:

To supply a deficiency for reporting and printing the proceedings of the Senate in the Daily Globe, \$15,000.

The amendment was agreed to.

The next amendment was in lines two hundred and fifty-eight and two hundred and fifty-nine, to strike out "\$10,180 68" and insert "\$2,500;" so as to make the clause read:

To reappropriate an unexpended balance of an appropriation made by act approved August 5, 1864, "to refund to the State of California expenses incurred in suppressing Indian hostilities," said balance having lapsed and been covered into the Treasury on the 30th of June, 1863, \$2,500.

The amendment was agreed to.

The next amendment was in line two hundred and eighty-nine, to strike out the word "in" after "deficiency," and insert "for steamship mail;" so as to make the clause read:

For deficiency for steamship mail service between the United States and Brazil during the fiscal year ending June 30, 1863, \$12,500.

The amendment was agreed to.

Mr. FESSENDEN. I have an amendment, to come in after line three hundred and nineteen, to which I think there will be no objection, and I may as well offer it now:

For continuing the filling and grading of the Capitol grounds, under the direction of the architect of the Capitol extension, \$10,000.

The amendment was agreed to.

The Committee on Appropriations proposed, in the second section of the bill, after the word "Washington," in line twenty-two, to insert "any part of which is to be paid for by the United States."

The amendment was agreed to.

Mr. SHERMAN. I move to amend the second section by striking out, in lines nineteen and twenty, the words "repealed and no" and inserting "so modified that the;" by striking out in line twenty-two the words "any part of," and inserting "authorized by said act;" by striking out, in lines twenty-three and twenty-four, the words "shall hereafter be made until an appropriation shall have been made therefor, and such appropriation when made," and inserting "hereafter" after "shall," in line twenty-five;" so as to make the section read:

SEC. 2. And be it further enacted, That the chief engineer of the Army shall reimburse to the corporation of the city of Washington for expenses incurred in improving the property of the General Government in said city, under provisions of act of May 15, 1864, and in accordance with the recommendation of the Secretary of War, in book of estimates of appropriations, pages 244 and 245, \$206,943 85: *Provided*, That section fifteen of an act entitled "An act to incorporate the city of Washington and to repeal all acts heretofore passed for that purpose," approved May 15, 1820; and section three of an act approved May 5, 1864, entitled "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May 15, 1820," are hereby so modified that the improvements of the streets, alleys, avenues, or other property of the United States, in the city of

Washington, authorized by said act, which is to be paid for by the United States, shall be hereafter expended under the direction of the chief engineer of the Army.

The amendment was agreed to.

SENATORS FROM LOUISIANA.

Mr. TRUMBULL. I ask permission to interrupt the proceedings on this bill for the purpose of presenting to the Senate the ratification by the State of Louisiana of the fourteenth constitutional amendment, and the credentials of the Senators-elect from that State. I ask that they be read, and that the oaths be administered to the Senators-elect.

The Chief Clerk read the resolutions of the Legislature of Louisiana, ratifying the proposed amendment to the Constitution of the United States, to be designated the fourteenth article of amendments to the Constitution proposed to the several States by the Congress of the United States; which were ordered to lie on the table.

Mr. TRUMBULL presented the credentials of Hon. William Pitt Kellogg, elected a Senator by the Legislature of the State of Louisiana for the term expiring March 4, 1878; and the credentials of Hon. John S. Harris, elected by the Legislature of Louisiana a Senator in Congress for the term expiring March 4, 1871.

The oaths prescribed by law were administered to Messrs. HARRIS and KELLOGG, and they took their seats in the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 344) authorizing the Secretary of the Treasury to refund duties paid on a chime of bells and clock imported for St. Joseph's cathedral, Buffalo, New York, in which it requested the concurrence of the Senate.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 344) to incorporate the Washington Target-shooting Association in the District of Columbia;

A bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869;

A bill (H. R. No. 761) to construct a wagon-road from West Point to Cornwall Landing, all in the county of Orange, State of New York;

A bill (H. R. No. 1320) for the relief of L. Merchant & Co. and Peter Rosecrantz;

A joint resolution (H. R. No. 829) to amend the fourteenth section of the act approved July 28, 1868, entitled "An act to protect the revenue, and for other purposes;" and

A joint resolution (H. R. No. 340) for the relief of Peter M. Carmichael, surveyor of the port of Albany.

DEFICIENCY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes.

The third section of the bill was read, as follows:

SEC. 3. *And be it further enacted*, That hereafter no contract shall be entered into for the erection, repair, or furnishing of any public building, or for any public improvement whatever, which shall bind the Government to pay a larger sum of money than the amount in the Treasury appropriated for the specific purpose, and no person shall be employed by any Department of the Government unless an amount of money shall have been previously appropriated sufficient to pay all such persons. And if any officer of the Government shall knowingly contract for the erection, repair, or furnishing of any public building, or for any public improvement which shall bind the Government to pay a larger amount than the specific sum appropriated for such purpose, or shall knowingly employ any persons in any Department of the Government unless an appropriation sufficient to pay all such persons shall have been previously made, such officer shall be deemed guilty of a misdemeanor, and upon conviction thereof by a court

of competent jurisdiction, shall be punished by imprisonment not less than six months nor more than two years, and shall pay a fine of \$2,000, and shall thereafter be deemed incapable of holding any office of trust or profit under the Government of the United States.

The Committee on Appropriations proposed to amend the section by striking out, from lines six to nine, the following words:

And no person shall be employed by any Department of the Government unless an amount of money shall have been previously appropriated sufficient to pay all such persons.

The amendment was agreed to.

The committee further proposed to amend the section by striking out the following words from line fourteen to line seventeen:

Or shall knowingly employ any persons in any department of the Government unless an appropriation sufficient to pay all such persons shall have been previously made.

The amendment was agreed to.

The committee also proposed to strike out the following words at the close of the section: And shall thereafter be deemed incapable of holding any office of trust or profit under the Government of the United States.

Mr. HOWE. I should like to know why that amendment is recommended.

Mr. MORRILL, of Maine. The committee recommended that these words be stricken out, because it was considered that in addition to being punished by imprisonment not less than six months nor more than two years and by a fine of \$2,000 it was a little sharp to disqualify a man for holding office for life.

Mr. FESSENDEN. You thought the fine and imprisonment punishment enough?

Mr. MORRILL, of Maine. We thought that imprisonment for not less than six months nor more than two years, and a fine of not less than \$2,000, were punishment enough.

Mr. HOWE. Punishment enough?

Mr. MORRILL, of Maine. Yes.

Mr. HOWE. Then it leaves the question necessarily whether such a man as has been submitted to these penalties, has stayed in the penitentiary a year or two, should be capable of holding office.

Mr. MORRILL, of Maine. There is no objection to a man who has paid the forfeit of the law being restored to citizenship, and so entitled to his confidence and trust again. This is a perpetual disqualification.

Mr. HOWE. Yes, I see it is.

Mr. MORRILL, of Maine. The punishment itself is a disqualification. Of course a man guilty of an infamous offense would be disqualified from holding any office so long as that stain remains.

Mr. HOWE. So long as he was in the penitentiary?

Mr. MORRILL, of Maine. So long as he has not been restored.

Mr. HOWE. I do not understand that as a necessary consequence of the commission of this crime he would be rendered incapable of holding office. He is rendered incapable only by force of the judgment.

Mr. MORRILL, of Maine. I do not think of an instance in any of the States where under their constitutions and laws such a man rendered infamous by the commission of a crime is eligible to an office while that remains. Usually in the constitutions of the States there is relief for such a case through the Executive by the pardoning power; but so long as the infamy remains it is one of the features in our policy that a man who has been subjected to punishment for an infamous crime is not eligible to office.

Mr. HOWE. I think the offenses are numerous described in the statutes of all the States which do not include disqualification for office among the penalties. But if this is a disqualification by the laws of a State it does not do any harm to the individual to include it in the statute here.

Mr. MORRILL, of Maine. Would the Senator think it advisable to put in a statute of the country, a law of the land, that all Federal officers who should be subjected to the penalty of this section should be forever there-

after prohibited from holding an office of trust superadded to the penalty of imprisonment and fine.

Mr. HOWE. Yes; I should think it highly desirable.

Mr. MORRILL, of Maine. The committee did not think so. It is a question for the Senate.

Mr. SHERMAN. I trust the Senate will strike out this section. It seems to me the most extraordinary section I ever saw in an appropriation bill. I doubt very much whether Senators have read it. What does it propose? To declare that if any person shall engage any thing to be done for the Government for a larger sum of money than is appropriated by law he shall be sent to the penitentiary and be fined, and in addition thereto be forever disfranchised. I have no doubt that this is done every day, that it is necessarily done from the very nature of the business. You appropriate this year \$100,000 for carrying on a public work, with the understanding that another \$100,000 will be appropriated the next year; and contracts are every day made for the lumber or for the stone to be used in the construction of that work, and those contracts are made not only covering the present but future appropriations. As a matter of course Congress, by refusing to appropriate, can stop the work; but contracts are made with a view to future appropriations. It has been done ever since the foundation of the Government.

This section provides that "if any officer of the Government shall knowingly contract for the erection, repair, or furnishing of any public building, or for any public improvement which shall bind the Government to pay a larger amount than the specific sum appropriated for such purpose," such person shall be deemed guilty of a misdemeanor. There is no officer of the Government but what from the nature of his duties will be compelled to violate this law if it be passed, and no man will ever be prosecuted under it, because the fallacy of it is so plain. Not only that, but the language is such any lawyer can readily see that no man could be convicted under it. It is a mere snare, a mere delusion. Your Sergeant-at-Arms violates every day the provision I have just read, and his deficiencies are made up by deficiency bills. He could be sent to the penitentiary under this section for buying a chair for a committee-room until he ascertained that an appropriation had been made for that specific purpose. You cannot carry on the operations of a great Government like this in such a way. It is idle to pass it. The Committee on Appropriations have made it a little better than it was originally, but as it came from the House the section provided that "no person shall be employed by any Department of the Government unless an amount of money shall have been previously appropriated sufficient to pay all such persons," and if anybody is so employed, the man employing him is to be sent to the penitentiary. Who believes in such a provision as that in a law?

But that is not all. The first clause provides that if anybody shall do this—make any contract for furnishing any public building or improvement which shall bind the Government to pay a larger sum of money than that appropriated for the specific purpose, he shall be sent to the penitentiary. No man can bind the Government, and no man can be literally guilty under this law, and if anybody should be prosecuted under it there is not an attorney in the United States who could not clear him on the ground that the contract did not bind the Government to pay any more than was appropriated according to law, because the Constitution says that no money shall be drawn from the Treasury except in pursuance of an appropriation made by law, and consequently the contract would not be binding on the Government for an amount greater than the appropriation. Therefore, under the phraseology of this section no one could be convicted; but honest officers might be pestered and bothered

by it. I trust the Senate will strike out the section. It is something unknown and unheard of before in legislation, and totally improper, it seems to me, in connection with any appropriation bill.

Mr. FESSENDEN. This is rather the most remarkable section, take it as a whole, that I ever saw in a bill especially an appropriation bill. The part of it already stricken out provided that if anybody in any of the Departments should employ any person before an appropriation was made to pay him, he should be sent to the penitentiary. The committee very properly struck that out; and I should like to know how our Government could get along this very year under such a law? The appropriation bills for the support of the Departments have not been passed till after the expiration of the last fiscal year. Consequently, if this law had been in operation on the 1st of July, the Treasury Department would have had to discharge every one of its employés, and shut up the building, or else the Secretary would have to go to the penitentiary; and so it is of every other Department. Congress, which never passes its appropriation bills till the last moment, and in the long session frequently not until after the next fiscal year begins, here proposes to say that if it shall omit to provide by its appropriation bills for the payment of the employés in the Departments the Secretaries shall shut up the Departments or go to the penitentiary. That is about the amount of it. What a perfect absurdity on its very face in view of our practice!

The other provision is just as bad with our mode of appropriating for public buildings. We do not appropriate in any case the whole sum necessary to erect a public building. Frequently we get an estimate, and when we have the estimate, what is our course? To appropriate as much money as we think can be used the first year, and no more. That is the course of the Government. What, then, would be the result of such a provision as this? The plan of the building being agreed upon, its character being understood, estimated to cost so much, the superintending architect, instead of contracting for his material at once, making his plans and contracting for the delivery of his materials at the time he wants them, must do what? Suppose the appropriation is \$50,000, and the stone which he will want for the completion of the building will cost \$150,000. He must make his contract within the \$50,000 for the year, and then he will be at the mercy of the contractors for the excess, for they know he must go on in the same way and he must have it at any rate. The thing is an absolute absurdity on its face. The architect called my attention to it, and said to me, "I cannot make a contract for erecting a building; it is out of the question; I cannot make half a contract or quarter of a contract, because Congress appropriates only half or quarter the amount of money necessary to complete the work." Take the case of \$150,000 worth of stone being required for putting up a custom-house or any other building. Under this provision he must make his plan and specify exactly what he wants before he can make a contract. In what a situation would he be if he put out proposals for a contract for \$50,000 worth? He can get no contract upon any reasonable terms, and he must go to the penitentiary if he does not. He tells me it is impossible to erect buildings in that way without costing the Government an enormous sum.

The fact is, sir, that we must either change our own system of action or we must have some confidence in our public servants and go on in the way we have gone on, guarding it all we can. But in this case the difficulty in both instances arises from the fault of Congress itself in the mode it does business, and it is useless to attempt to embarrass the Government in this way. I hope the whole section will be struck out.

Mr. MORRILL, of Maine. There are some difficulties under the practice which has prevailed against which this section was aimed.

That an abuse has grown up in the practice which makes such a bill as this necessary at the close of every session, and I do not know but at the beginning—for I think we had a deficiency bill in the beginning and one in the middle, and now certainly one at the end of the session—cannot be denied. To a very great extent these bills grow out of a practice of persons engaged in the public service expending more money than is appropriated for the particular service, and it does not always grow out of the fact that they did not foresee what was to be the necessary expenditure. There is a case in point in this very bill on the ninth page; I only refer to it by way of illustration, because it furnishes an illustration:

For remodeling the marine hospital at Chelsea, Massachusetts, \$45,000.

That is a deficiency. How did it occur? Simply not having a sufficient appropriation the Government officer went on and spent that much more than he was authorized to spend than he had any appropriation for. It was not that the building cost any more than he had supposed it would, but he spent what he had, and then he went on and made a contract with innocent parties who knew nothing about the facts, who expended this money, and then the Government officers come here and ask for a deficiency bill. How did it come to be a deficiency? By his assuming to spend what was not appropriated for and what he had no reason to assume ever would be appropriated for. The appropriating power was never informed in regard to his purpose to spend that money. I bring this up by way of illustration only, to show that there is an abuse on the part of public officers in expending more money than is contemplated by Congress or than is asked for.

What the remedy is I do not know. I do not know that this provision is well considered, but it seemed to the Committee on Appropriations that there is an obvious distinction between the feature of the section as it now stands and those features that it contained as it came from the House of Representatives. It will be seen that now its aim is to prevent public officers from expending more money than has been appropriated for the particular purpose; that if money is appropriated to build a court-house or a custom-house the officers shall be at liberty to expend the amount appropriated and no more. I do not know what the practical inconvenience would be; those who are better acquainted with the service of the country will know better than myself; but I really see no difficulty in a public officer who has the supervision and construction of a public building informing the appropriate authority precisely what he wants, what his estimates are, how much he will want this year.

Mr. FESSENDEN. That is almost invariably done, but Congress says, "You shall have but so much this year." Suppose, for instance, a public building is to be built of a certain material and to cost \$500,000. Congress says you may build according to a specific plan. The plan is always exhibited. The estimate is made of how much that building is to cost, showing what is to be the character of the building. The stone, for instance, is to cost so much. That must be contracted for, and contracted for beforehand. Proposals must be put out to furnish the stone, and the whole of it, for that building, not a portion of it. You cannot contract for a portion of it with one quarry and a portion of it with another at different times; the contract must be made for the whole. Suppose you appropriate only \$100,000, and the stone is to cost \$150,000, what are you to do? Are you to say that the officer shall only contract for \$50,000 worth of stone during the year? What is the result of that to be? The Government will be placed in the hands of the contractor.

I have been familiar with the mode in which this business has been done, and while undoubtedly in individual cases there may have been abuse and carelessness, this is no way to

reach it, because you will by this course embarrass the transaction of business, and you will be involved in a greater expenditure than would otherwise be necessary. You must seek a remedy in another way. You must in the first place find out what your building is to cost, and appropriate at once the whole amount. That will be the better way unquestionably, and the cheaper way in the end, and save money.

Mr. HOWE. Then why not do it?

Mr. FESSENDEN. We never have done it. Ask the Committee on Appropriations in the other House why they do not do it. They never will do it, because they do not want the appropriations to look too large for this year. The system is undoubtedly a bad one, and it ought to be reformed. If you reform it you may then properly, perhaps, apply this remedy; but you cannot apply this remedy where you follow the system which has been invariably followed for a long course of years with regard to the erection of public buildings. It is because we do not want to appear to make large appropriations; we do not want to draw too heavily on the income for the year. If you have a large expenditure of public money for public buildings in a particular year, you may overrun your receipts; you may not have the money on hand. Consequently the reasoning is: draw for so much on our receipts this year, and so much next year, and so much the year after. You do not take it all at once, because if you did there would be a deficiency in the receipts. Consequently the practice has been adopted of, in the first place, having an estimate for your building, showing how much it will cost, the style of building, with drawings, &c., and when they have done that Congress appropriates as much money as it thinks can be spent in the first year. As long as you do that you necessarily impose upon the architect of the building, with a view to economy, that a contract shall be made for all the materials he may want of a particular kind. Any one of us, if he was about to build a house, would want to know what the whole of it would cost, would want to make his contract with somebody to furnish all the materials, stone or brick, or whatever it might be. That is more especially true with reference to a large public building, costing \$500,000. You cannot meet the thing in the way here proposed; for, as I said before, under this provision, if the appropriation will only allow you to get \$50,000 worth of material, when \$150,000 is needed, when you make your contract for the \$50,000 and the year expires you will be next year at the mercy of the contractor. Suppose it is stone, and you have a contract with the owner of a quarry; it must all come from the same quarry, and what will he say to you next year? "I do not care about furnishing any more; I cannot furnish any more at this price; you must give me double;" and the Government must pay him what he asks, or it will have to erect its building of different kinds of stone.

I say, then, this is impracticable; and under the present system the thing here forbidden must necessarily be done; you cannot avoid it. I hope the whole section will be stricken out, and that some proper remedy will be found.

Mr. HOWE. Mr. President, I have not heard any better remedy than this suggested, and I am unwilling to believe that some remedy may not be devised. The abuses of the present mode of doing business are manifest. The Senator from Maine [Mr. MORRILL] mentioned one patent upon the face of this bill. You had a hospital for the care of the sailors in the merchant service of the United States at Chelsea. I never saw it; but I am told it was one of the finest buildings in the country, abundantly adequate for every purpose. We find here in this bill an appropriation of \$45,000 for improvements, for remodeling that marine hospital. I tried to convince the Senate the other day that you ought never to have invested a cent in marine hospitals anywhere. You do not do it in those cities where

there is the largest commerce. The Secretary says it is unnecessary; but this was done; this building was erected. The officers in charge, it seems, thought they could make it better. We are informed by the architect that they applied for permission to make it better, to remodel it; he told them no; there was no appropriation; they applied again, he told them no. He steadfastly resisted the attempt to remodel it, but in defiance of his resistance they went on and made a contract, and the work has been done. Congress never has been consulted, never has assented; the architect was consulted and refused, but the work has been done; and here are poor mechanics clamoring at the doors of Congress to be paid. What can you do? You cannot very well refuse to pay these men; here is the appropriation to pay them; they have done the work; they have done it on your building; and so I suppose we have got to pay them; but it was the most wanton disregard of law and of official duty that I can conceive of. If you tolerate this your Treasury stands wide open to the demand of every employé you have. He can make his contracts, no matter whether they minister to the public interest or not; he makes his contracts, goes on and executes them, and you come in and pay them to save innocent men from the consequences of his wrong.

The other day we had a similar case before us. Your late Commissioner of Agriculture had certain moneys in his hands appropriated for the purpose of buying seeds. He expended that money, and when he had expended that money he went on the credit of the United States; he went into your cities and purchased on the credit of the nation. The parties with whom he dealt could not know how much money he had; they could not know how much he had expended; and he ran up bills to the amount of between forty and fifty thousand dollars, and died, and these creditors presented their bills here. The Government had got the seeds and distributed them; we could not very well refuse to pay for them, and we did appropriate the money to pay for those seeds, but we attached to that bill a provision similar to this, but not as strong as this. The Senate did not dissent from that; no man objected to it; it was acquiesced in all around as a reasonable provision.

And now, Mr. President, how will you protect the Treasury if you do not declare this to be a crime which you know in your conscience is a crime? How are you going to prevent the perpetration of it? The late Commissioner of Agriculture never would have been disturbed in the possession of his office if the Almighty had not disturbed him. The gentlemen in charge of the hospital at Chelsea will not be disturbed in the possession of their offices; why? Because they have done nothing that the law prohibits expressly. They have squandered money, to be sure, \$45,000; but that is nothing. Congress comes in and appropriates and draws on the pockets of the people for it. How shall we prevent it? How shall we protect the Treasury? What are the evils in the way of this?

The Senator from Maine [Mr. FESSENDEN] tells us that it is necessary for the architect who has charge of the construction of public buildings, when you undertake to build one, to contract for all his materials at once. I do not believe that it is always necessary to do that; but if it be necessary to do that you can provide for it very handily. I hold myself that it is essential to the welfare of the public service that the Legislature, without whose consent no dollar ought to be paid out of the Treasury, should be advised, to begin with, just the style of building that you propose to erect, and as near as calculation can attain to it, the cost of the building; and when that is done, you know the exact enterprise in which you are embarked, and you can make the appropriation this year just as well as next year and two years hence. It will not strain upon the people any harder to make it this year than to

distribute the appropriations through three years. If the building is going to occupy three years the payments will occupy the three years and you will have three years to provide for the money in the Treasury.

But this loose way of entering on these enterprises is fraught with other difficulties besides those to which I have called attention. You commenced the construction of the buildings simply by appropriating a certain sum of money. The community in which the building is to be placed may have in their mind a building that will cost one hundred and fifty or five hundred thousand dollars, and instead of informing the Legislature as to what the building is to cost, what the style of it is, out of what materials it is to be constructed, the Legislature is simply called on to make an appropriation of fifty or one hundred thousand dollars for such a work and they make the appropriation; it is spent; the work is not completed; it is only in progress, and you are asked to make an appropriation next year of \$100,000, and you make it; and so you go on till they cease to call for appropriations when you have some reason to conclude that the building is completed. That I understand to be frequently the case. I do not know that it is the practice of the present architect, but I have reason to know that a great many public buildings have been commenced and have been prosecuted in just that way. It is an unsafe and a dangerous way of managing this business. I think the Senator from Maine, I think every Senator, will concede that it is better to have a specific plan agreed upon and provided before a dollar is appropriated; and then when you know what the work is to be and the cost, there is no difficulty in making the appropriation; nor is there any difficulty in the architect's making a contract if he finds it necessary to make a contract. Inasmuch as the work of construction is to continue two or three years, he may make a contract for the whole amount of work, but to be paid for as the appropriations are made. Then he does not violate this act; then you need not make the appropriations save as the work progresses; you can continue the existing method of making appropriations.

This I think is manifest, that if you agree once that contracts in anticipation of future appropriations shall not be made, that the faith of the nation shall not be pledged by those who have no authority to plight it, then your legislation will conform to that state of things, and you may make your laws and your appropriations in harmony with it; you will do it; and there will be no danger of getting your architect or your Secretary of the Treasury, or any body else in the State prison unless he means to defy the law.

But what I protest against, Mr. President, is the disposition which seems to me too prevalent here and elsewhere to hold up these enormous abuses of official duty, of official administration, to just hold them up to the public gaze and pass them, saying, "This is improper," but take no single step to put an end to it. I think when you agree that a practice is frequent and that it is wrong, then it is the bounden duty of the Legislature to do the best it can to put an end to it. I never knew but one means for legislation to put an end to rascality, and that is to prohibit it, and prohibit it under penalties; and that is just the method suggested by this section. If the penalties are too severe make them milder; but I should rather abate something from the term of imprisonment, or a few dollars from the fine, than to strike out this last clause so as to leave the unfaithful servant qualified to hold office again if he can induce the public to trust him again and expose the public to having such servants foisted on them once more. I think we should leave that man out of the public service through the remainder of his natural life even if you do not see fit to put him in the penitentiary.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on

Appropriations to strike out the last clause of the third section.

The amendment was agreed to.

Mr. SHERMAN. Now I submit a motion that that whole section be stricken out.

Mr. HOWE. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 18; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Connors, Corbett, Cragin, Davis, Drake, Ferry, Fessenden, Fowler, Frelinghuysen, Morrill of Vermont, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Sherman, Sumner, Thayer, Van Winkle, Vickers, Welch, Whyte, Willey, and Williams—29.

NAYS—Messrs. Harlan, Howe, McDonald, Morgan, Morrill of Maine, Norton, Nye, Ross, Sprague, Tipton, Trumbull, Wade and Wilson—13.

ABSENT—Messrs. Abbott, Bayard, Buckalew, Conkling, Dixon, Doolittle, Edmunds, Grimes, Harris, Henderson, Hendricks, Howard, Kellogg, McCreery, Morton, Pool, Rice, Saulsbury, Stewart and Yates—20.

So the section was stricken out.

Mr. SHERMAN. I offer an amendment to come in on page 7, after line one hundred and thirty-nine; I am informed it has been omitted by mistake:

For expenses of detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, and other securities of the United States, as well as the coin of the United States, and other frauds on the revenue, \$25,000.

This is the usual appropriation for that purpose; I have no doubt the fact that it is not provided for is an omission.

Mr. MORRILL, of Maine. I believe it is right.

The amendment was agreed to.

Mr. CHANDLER. From the Committee on Commerce, I offer an amendment to come in after the word "dollars," in line two hundred and seven:

For the repair, preservation, and completion of certain public works on rivers and harbors heretofore commenced under authority of law, to be expended under the direction of the Secretary of War, \$1,000,000.

Mr. MORRILL, of Maine. I wish to ask the Senator from Michigan, who proposes this amendment as chairman of the Committee on Commerce, what relation it has to the bill from the House of Representatives for the improvement of rivers and harbors, &c.?

Mr. CHANDLER. I will state that the House passed a bill appropriating \$6,370,000. The bill came in at a very late day, and the Committee on Commerce hardly had time to examine the bill, and hence concluded to propose \$1,000,000 for the prosecution of those works now in process of construction, which will carry them through until the close of navigation, when work will cease. The bill has not been acted upon; but this is a substitute for that at this time.

Mr. FESSENDEN. The committee does not propose to bring that bill forward at all?

Mr. CHANDLER. Not at this session.

Mr. FESSENDEN. I think that is a great improvement.

Mr. CONNESS. It seems to me that there is one serious difficulty connected with this proposition. I rose to ask a question propounded by the chairman of the Committee on Appropriations, whether this amendment was to be in lieu of the river and harbor bill; and the chairman of the Committee on Commerce replies affirmatively. Now, then, it has this shape, that the Committee on Commerce have taken out some chosen cases from the entire river and harbor bill—

Mr. CHANDLER. The Committee on Commerce has done no such thing.

Mr. FESSENDEN. I understand it takes a round sum, \$1,000,000, to be spent by the War Department in their discretion.

Mr. CONNESS. I ask for the reading of the amendment.

The amendment was read, as follows:

For the repair, preservation, and completion of certain public works on rivers and harbors heretofore commenced under authority of law, to be expended under the direction of the Secretary of War, \$1,000,000.

Mr. CONNESS. That is it, sir; "heretofore commenced under authority of law." The

works heretofore commenced are to be prosecuted at the expense of \$1,000,000; but works not heretofore commenced but projected, and as necessary as those heretofore commenced, or more so, are to be put off. That is the case. It is simply an appropriation for a partial service, and it is therefore chosen from the river and harbor bill. That is to say, the committee decide that the works in progress shall be continued at the expense of \$1,000,000, and that the bill referred to them shall not be considered further. Well, sir, I do not think this is just. I do not think it is just what we should do. I should like to have from the Committee on Commerce or from the chairman of that committee some exposition of the special works to which this \$1,000,000 is to be applied—what are those works and where are they—so that we may have the means of judging of their importance, and whether any of them will suffer by delay? May not this appropriation of \$1,000,000 or a part of it be retained in the Treasury with as little injury to the public service as the retention as to the other works perhaps in the river and harbor bill?

Mr. CHANDLER. The Committee on Commerce has not abandoned that bill by any manner of means. The bill having passed the House is a live bill until the 4th of March next. The committee do propose to take it up at the earliest moment of the next session. The season for carrying on the works is now far advanced. It would be after the 1st of August before any new work could be commenced. There are various works—I cannot name them all—that have been commenced, which a small sum would carry through until the close of navigation or the time to close operations upon these public works. After consultation with the Secretary of War, the committee were of opinion that this \$1,000,000 would not be the appropriation requisite to go through as is customary to the end of the fiscal year, the 30th of June, but would carry the works through to the close of navigation and the close of actual operations this season. Therefore the committee agreed to defer final action upon the House bill and to propose that this \$1,000,000 be put in the hands of the Secretary of War for the judicious prosecution and preservation of the works already commenced.

Mr. MORRILL, of Maine. I think the Senator had better adhere to the amendment of which he gave the Committee on Appropriations notice. I see that the Senator's amendment to-day does not conform to the amendment of which he gave us notice; and I am led to remark that distinction by the remarks of the Senator from California; and perhaps the original amendment would obviate some of the criticisms and objections he has to this. It reads in this way:

One million dollars, to be expended under the direction of the Secretary of War, for the repair, preservation, and completion of certain public work on rivers and harbors.

I happen to be a member of the Committee on Commerce, but have been so much engaged in the duties of the Committee on Appropriations as not to be able to give much attention to that measure.

Mr. CHANDLER. I would as soon have it in that form, and will accept the modification.

Mr. MORRILL, of Maine. I want to say, in a general way, that there are difficulties at this period of the session in the way of making the appropriations presented in the river and harbor bill from the House of Representatives. As the chairman of the Committee on Commerce has stated, it appropriates between six and seven millions. It is a pretty large sum of money to appropriate just at this particular time, and in this condition of the finances of the country; and it is particularly embarrassing from the fact that when Congress met it was understood from the other branch, in which the appropriations for the public service generally originate, that this year we were to be confined to appropriations for such as were

works of necessity; that the appropriations were to be limited, and be limited to the exigencies of the service. So at a very early day the appropriation bill for works of defense, the ordinary annual appropriation for which is between two and three million dollars, was sent to this branch of the Legislature, and to its appropriate committee, with but a single \$200,000 appropriated, and that in language and in phrase which limited it simply to the repair and preservation of those works, showing that nothing was to be done even for the completion of the works unfinished. The branch gradually accepted that proposition upon the general understanding that such were the exigencies of the country this year, such were the financial exigencies of the country, that we could not even make the ordinary appropriations for the public works of defense.

Now, sir, as the chairman of the Committee on Commerce has said, at a very late day in this session, after the House of Representatives had agreed upon a day of adjournment only two weeks ahead, they sent a bill to this branch appropriating between six and seven million dollars for a great variety of purposes, not for the completion, not for the repair, not for the preservation of works already begun, but for the extension of works, for new works, new enterprises, some of them of an experimental character, and one particular item of \$2,500,000 or nearly that, altogether new. And, Mr. President, you will see that it devolved upon the Committee on Commerce at this period in the session a duty which, under the circumstances, I submit with the best efforts and the best intentions and the best purposes to subserve the public interests. It was hardly to be expected, devoting all their time and energy to it, that they could accomplish it, notwithstanding; and it was not, I need not say, quite in harmony with what had been understood, and not quite in harmony with what Congress has practiced or attempted to practice in every other branch of the service. You may have rigidly determined that this year you would raise no salaries, that you would appropriate no money for contingencies which were not absolute necessities. You have held that the defense of the country demanded this, that the public credit demanded it; and in this view I am rather of the opinion that the Committee on Commerce judged wisely that at this late period in the session of the little opportunity for examination into the great variety of subjects presented by that bill from the House. The best thing that can be done under the circumstances is to hold the bill which the House has sent for further deliberation, and in the mean time appropriate so much money at the disposal of the Secretary of War, through the engineer department, which has all the information and a great deal more than Congress could have or any of its committees on this subject, to be devoted, in the language of this amendment, to the repair, the preservation, and the completion of certain public works.

I am not particularly well informed, I am very sorry to say, about these public works in detail, but I know something from the examination of the reports of the engineers, and enough to know that there are certain public works in that condition that they may be said to create an exigency, so to speak, for some appropriation. That class, I believe, is not very large.

I know that there are a certain class of public works, harbors on the western lakes, which have been prosecuted for the last three or four years, many of which are nearly in a state of completion. There are some, perhaps twelve or fifteen according to my recollection, on the western lakes, where a very small amount is proposed to be appropriated for this year, and where that small amount would complete them. I should say that the Secretary of War would find no difficulty in discriminating in favor of such works upon the obvious ground that the materials are on the spot, and that they are in that condition of completion that it would be economy to prosecute them to final completion;

and therefore I should think that this word "completion" was an appropriate phrase; and that what is implied in it would be the exercise of a sound discretion.

But I know, Mr. President, more, and besides, that there are a class of public works contemplated by the bill which has been sent from the other House which do not stand in this relation to the Government of the country, which are not matters of exigency of to-day, in regard to which the commerce of the country and the general condition of the country will not suffer particularly if they are postponed until the next session; that if Congress believes that the public credit and the finances of the country will not admit of so large an expenditure at the present time, nothing will be lost particularly by allowing them to stand over until the next session, and that class is so obvious that the Secretary of War, under the information furnished him by the chief engineer, will have no difficulty, I think, in discriminating what the public service demands to-day, and between this time and the closing up of navigation in the fall, and what it does not.

Therefore, Mr. President, under all the circumstances, considering the finances of the country and its credit; considering the character of the bill which has come from the House of Representatives, the investigation that it necessarily involves, and considering the late period of the session at which it comes to us, I think on the whole the Committee on Commerce perhaps judged wisely in preferring to appropriate a general sum instead of undertaking themselves to discriminate between the classes of objects which were absolutely public exigencies and those which are not. In other words, I think that the public service will be better subserved at present by the appropriation now proposed. Unless the Senate shall come to the conclusion that it is worth while to accept the general bill as it comes from the House of Representatives, without much examination, I think it is the safer way on the whole to appropriate a general sum, such as is indicated by this amendment, and leave the matter to that discretion and judgment which we have reason to hope will be exercised in the Department of War, and postpone the further consideration of the general bill until December. Of course this ought to be done with the entire understanding, if it goes upon this bill, that the chairman of the Committee on Commerce has no intention of considering at the present session the House bill, which I understand him to avow; and if it is agreeable to the Senator from Michigan, I will move as a substitute for his amendment the amendment that he had referred to the Committee on Appropriations.

Mr. CHANDLER. I will accept that.

The PRESIDENT *pro tempore*. The amendment, as modified, will be read.

The Chief Clerk read the amendment, as modified, which was to insert after line two hundred and seven:

For the repair, preservation, and completion of certain public works on rivers and harbors, to be expended under the direction of the Secretary of War, \$1,000,000.

Mr. WILLIAMS. I should like to inquire of the chairman of the Committee on Appropriations why that particular part of the amendment is stricken out that required this money to be applied to those works which have been commenced under the authority of law.

Mr. MORRILL, of Maine. The Senator from California made some criticism upon the phraseology; he said that there were certain works proposed which had not been authorized in the sense of being appropriated for.

Mr. CONNESS. For instance, if the Senator will permit me, there have been surveys authorized under other acts; this would confine this appropriation to works that are being constructed. I do not desire any such restriction.

Mr. MORRILL, of Maine. "Authorized by law," when applied to these appropriations,

is not a very definite phrase and has no great meaning in it, for this reason: we make appropriations for the survey, for instance, of the rivers and lakes; as the result of those surveys we get estimates for appropriations for certain improvements in the rivers and in the lakes. In a certain sense they are authorized; those improvements have been suggested under the patronage of the Government; appropriations for their exploration and survey and estimates have been made; but still they are not, in the strict sense in which we are considering this measure, considered to be authorized by law until they are appropriated for; and they are never "authorized" in any other sense. And yet a simple appropriation for an improvement at a particular place only pledges the faith of the Government that the improvement shall be made. So that, in a certain sense, I think the phrase "authorized by law" has no precise meaning, and at the same time it might exclude several works on a certain construction; there might be a distinction between a work which had been authorized by law by an appropriation to make it and a work for which there had been appropriation simply for an exploration and survey and an estimate consequent thereon. Now, I understand the Senator from California to raise such a distinction as that and say that it is invidious. That is, I suppose he means that he can conceive of an enterprise where there has been a survey, and an estimate for the improvement based on the survey, where it may be quite as important that an expenditure should be made this year as for certain other works for which an appropriation has been heretofore made. I am therefore entirely willing myself that it should stand upon the discretion of the Secretary of War to say, looking at the condition of the work for the last three or four years, "How much will it cost here to complete this improvement; how much will it cost to put that work in good order this year and ought it to be done, or can it be postponed for another year; here is a work surveyed but not begun, ought anything to be done on that?" I am willing to leave the whole matter to his discretion to this extent.

Mr. HARLAN. Mr. President, I want to understand distinctly what is proposed by this amendment. I learn privately that the proposition is to defeat the appropriation for rivers and harbors and put this in as a substitute for that general bill.

Mr. CHANDLER. The Senator will pardon me for interrupting him. It has no such intention. It is simply to postpone the consideration of the river and harbor bill proper until December next; and this is for the continuation of works now in progress of construction, to carry them to the close of navigation, the close of work this year, and it makes no appropriation for next year; but that bill will be taken up early in December and perfected, and its passage urged.

Mr. HARLAN. Well, Mr. President, I was right practically. It postpones it one year practically.

Mr. CHANDLER. No, sir; four months.

Mr. MORRILL, of Maine. Allow me to suggest to the Senator from Iowa that there is this to be said about it: the appropriations which are made for the current year, commencing on the 1st of July, are usually expended the next year; there are surpluses, more or less, from the expenditures of last year. The service on these works commences at the opening of navigation on the lakes and on the rivers. Now, it is believed that this \$1,000,000 will be ample for that portion of the service which is absolutely deemed to be a necessity between this and the closing of navigation, leaving the Committee on Commerce to examine the general river and harbor appropriation bill, as I understand the chairman to say is his purpose, at the commencement of the next session, in season to make the appropriations after the opening of navigation next year.

Mr. HARLAN. Mr. President, I have two

objections to the proposition. The first one is, that it is unusual to place so large a sum of money at the exclusive discretion of a single officer of the Government. Heretofore Congress has been careful to provide the mode of applying the public treasure. Appropriations, to be sure, are made in gross for the support of the Army and Navy, because it is impossible to specify in advance how the money shall be applied. This proposition is, as I understand it, to place \$1,000,000 at the discretion of the Secretary of War alone, to be applied on public improvements. He may apply the whole million, if he chooses, to one work; he may divide it and subdivide it just as he chooses. This is a discretion that, in my opinion, the members of Congress have no right to transfer from themselves to the head of any executive Department.

In the second place, I am not in favor of this postponement; and I will say frankly that I would deem it ungenerous for those who are interested in another class of appropriations if they should defeat the river and harbor bill in this mode. The appropriations have been made for the light-houses and for the Coast Survey and everything of that kind in which the people of the great interior have no immediate interest; and when a bill is proposed by the Representatives of the people interesting to the great interior, where they have a fair representation, this branch of Congress, where the people are not fairly themselves represented in point of numbers, proposes to postpone it for a year. If the immediate Representatives of the people are disposed to appropriate a few million dollars for the improvement of rivers and harbors, a part of the latter being in the interior of the country, I do not think this body has a right to step in and interpose. I do not intend to consume the time of the Senate in discussing this question; but I desire to record my vote against this amendment, because, as I understand it, it is intended to be a substitute for the time being for the river and harbor improvement bill.

Mr. MORRILL, of Maine. I desire to say one word in reply to a remark which has fallen from my honorable friend which is not just, as I think he will admit. He wishes to protest against a discrimination here against an interest in which a certain section of the country has a deep concern, now that a certain other section of the country has been provided for. I think if the honorable Senator had paid a little attention to the progress at this session of the appropriations which have been made for the public service he would see no occasion to make that remark. The appropriations for the public defense, he knows, of course everybody conversant with the public service knows, are necessarily expended on the exterior. The ordinary annual appropriation for that is about three million dollars, sometimes more. What did the Representatives of the people who sent this bill here do? The Representatives of the people, who are supposed to represent the interest which the honorable Senator says is discriminated against here—what did they do? They sent to the Senate that bill saying, "For the public works we do nothing." Why? The exigencies of the country do not admit of it; the finances of the country do not admit of it; the credit of the country does not admit of it. What did this branch say, who do not represent the people as the honorable Senator thinks? They acquiesced. This branch of the Government said, "We recognize the fact that we are now embarrassed by a great public debt, by taxation, and by public burdens; we know that fact, and we know that in a certain other sense this nation is in the crisis of its affairs, and therefore we submit to the wisdom of the Representatives of the people, and we say that this year is not the year to do anything beyond"—what? Simply making repairs for preservation; do just enough to preserve, nothing for improvement. That is what the Representatives of the people said when this session began. Your public works, of course, must be repaired and prevented from going to waste;

but beyond that the exigencies of the country do not permit you to go. That is what they said, and this branch of the Government bowed in submission to that doctrine.

Now, was that sound? I think it was. I think it was wise; I think it was prudent; and although in some sense I may be supposed to have an interest in these public defenses I have never murmured. There were only \$200,000 appropriated there where it was customary to appropriate \$3,000,000. During the war it was customary to do something more. But upon the specific understanding that we were to do nothing this year beyond the preservation of the public works the Committee on Commerce, to whom that bill was sent, and to whom this information was communicated, said, "We acquiesce."

Now, sir, the river and harbor bill comes here with an appropriation beyond anything that has been done at any period in our history. Never before have we appropriated \$7,000,000, or anything like it, for this particular purpose. I am not complaining of that. I am not saying that all these enterprises are not worthy and should not meet your approbation. Not a bit of it, sir. Nor do the Committee on Commerce, as I understand, wish to be placed in the position of being obnoxious to the imputation that they intend to give this the go-by; but it is following out that line and that policy which was inaugurated when the session began that this year we should preserve our works; but it was not the year to extend improvements. That is all.

Now, sir, in harmony with that policy and in harmony with that principle, the Committee on Commerce propose an appropriation of \$1,000,000 for the preservation and for the completion of certain public works; and I accept the proposition, as far as I am concerned. My own judgment is that a certain class of these works of very great moment to the sections in which they are—and they are all on the lakes; I do not know of a dollar of this appropriation in which I have any special interest—are in such a condition that a very small amount will complete them, and it would be waste not to do it. Therefore I am perfectly willing that that completion should be made, although it is a departure from the idea, simply because I think it would be waste not to do it. For that reason I am for it.

I submit to my honorable friend, remembering that this is the last of July, remembering that the season for the expenditure of this money is far advanced anyway, that we make the appropriations now, if we make them at all, for the current year ending June 30, 1869, which extends into the next year as well as the conclusion of this, whether, in view of what I have said, in view of what has transpired, on the whole he does not think it wise to leave this discretion where it is, in the hands of the Secretary, and with the understanding that we do so much this year as the preservation of these works requires, and postponing other appropriations to another year, when we hope to be surrounded by other circumstances when we shall be more free to act than we are at the present moment?

One word more on another point, and I am done. My honorable friend says that it is not in harmony with our usage to allow so much discretion to be given to an officer. As a general principle, I agree to that. I think that is sound. If the sum is too large for his discretion, very well; it can be limited. But, sir, this is not new. Certainly within two or three years, in 1865 or 1866, I am sure, we appropriated \$500,000 in this way and left it to the discretion of the Secretary of War. No complaint ever came to my ears, certainly, that the discretion was not soundly exercised. If the honorable Senator will recollect that to the War Department, the engineer department, we are indebted for all the information and all the statistics which enable us to vote these appropriations here, he will see at once that within their reach they have the information which will enable them to judge quite as

easily as the Congress of the United States could do.

Mr. HARLAN. It is due to the Senator that I should answer his question. He asked me if I thought it would not on the whole be wise to adopt this amendment, and let the river and harbor bill for the present have the go-by. I do not think so. Nor do I agree with him that we are indebted exclusively to the information that may be derived from the engineers of the Army in relation to the propriety of making appropriations for the improvement of harbors and rivers. The members of the other branch of Congress, to say the least, know more on that subject than the engineers of the Army possibly can know.

On the other point, that it will be safe probably to intrust large sums of money to the head of the Department, I have this to say: that from my personal knowledge of the present incumbent I have no doubt that he would appropriate money as wisely and as judiciously as perhaps any other person would similarly situated. But I may say, also, that if it were always true that the wisest and the best man could be selected for an autocrat, it is probable that an absolute monarchical government would be the best for the people that could be instituted; but it is because we cannot always be sure that the wisest and best men of the nation can be thus selected that we prefer a Republic. We prefer to endure the losses that may grow out of the blunders of the people for the sake of the security in the event of the selection of a bad man to rule over the nation. And so in relation to the head of the War Department. Although there is at this moment at the head of that Department a man of great learning and discretion, a man who may with great safety be trusted, with a large degree of discretion, the Senate has no assurance that he will remain in the office one day after the adjournment of the two Houses of Congress.

Nor do I think that I was sufficiently answered by the Senator when he informed the Senate that both branches of Congress had agreed to suspend the work on fortifications. Why, sir, that is the most natural thing to be done at the close of a war. Why should we proceed in the erection of forts?

Mr. MORRILL. They are simply the appropriations necessary for their continuance. No new works are proposed, of course.

Mr. HARLAN. He tells us that both branches of Congress have concurred in the policy of limiting appropriations for the fortifications to that amount which will be barely sufficient to preserve them and keep them in repair during the present year. Well, sir, while that is true, both branches of Congress have not agreed that those improvements pertaining to the civil and industrial pursuits of human life shall be suspended. The Representatives of the people in the other branch of Congress say that the appropriations that pertain to war may be limited to that small amount necessary to preserve the works, but that which is necessary to develop the industrial resources of the country shall rather be expanded than diminished. On both of these points I agree in the wisdom of the immediate representatives of the people, that while it is proper not to expend money in the erection of new forts, or even in completing those begun beyond that amount which is merely necessary to preserve them, it does not by any means follow that it is not important to improve a river, the great artery of internal commerce, on which is borne more of the commerce of the world, in value and in tonnage, than is enumerated in the reports of the external commerce of the country. Why, sir, the commerce of the Mississippi river alone far exceeds the total external commerce of this nation; and the same is true of the great lakes. I am not willing to put all these vast internal interests into the hands of any head of a Department, nor am I willing to postpone for a year the appropriations which are necessary for their development.

Mr. FOWLER. I have a single remark to

make on this subject. It strikes me that this appropriation of \$1,000,000 to be expended by the Secretary of War as he may think proper in repairing and completing certain public works is a most extraordinary one, indeed. Indeed I think it far more extravagant than is the appropriation bill of the House of Representatives for the improvement of rivers and harbors. By that bill certain great industrial pursuits are intended to be developed and the people's representatives have defined how much money shall be appropriated for that purpose. This amendment proposes to defeat that, to postpone it for years to come; indeed to abandon to some extent the whole system of improvement of rivers and harbors, and to appropriate \$1,000,000—one-sixth of the whole sum contained in the House proposition—to be expended by the Secretary of War as he may deem proper, to be thrown away upon one, two, or three public works, as he may think best, or as those who have the greatest influence over him may induce him to do.

I was very much interested, and our people are very much interested, in the bill that came to us from the House of Representatives, inasmuch as a small sum is appropriated in that bill for the improvement of the Tennessee river. It is true that the Tennessee river has attracted but little attention and is but little known in the nation, and yet in extent it is a greater river than the Ohio. It has at least two thousand miles of navigable waters, navigable during the entire year and for the whole length with the single exception of the Muscle shoals. Several great States lie upon it and furnish a vast amount of commerce for the country. If this single improvement were made it would unlock a vast region of country and enable the people there to throw their products into the channels of commerce, which is now entirely prevented. For instance, eastern Tennessee, western North Carolina, northern Georgia, and a portion of northern Alabama, have but little access to commerce from the fact that no navigable stream reaches them except the Tennessee river, and that is so thoroughly impeded as to prevent constant commerce. A very small amount appropriated to this work would enable them to pass entirely around those obstructions. Some years ago the State of Alabama expended some three million dollars endeavoring to open up this obstruction, but their appropriations failed and the work was left unfinished. It is in a very fine state of preservation, and a small amount of money now appropriated would enable the people of that section of the country to reap the advantages of the money expended at that time; but of course it will be defeated by the operation of this amendment. Millions may be expended upon works that have already been commenced, and by the time that section of the country receives the amount of money that will be necessary for them to complete the works they have commenced, the whole system will be abandoned. This, to my mind, is nothing but the commencement of that course of proceeding.

Mr. CHANDLER. My friend from Iowa still persists in the assertion that this proposition postpones the regular appropriation bill for a year. It does nothing of the kind. As the Senator from Maine has remarked, appropriations are usually intended for the succeeding year. Some of these works have money enough already appropriated to carry them through to the close of navigation, and the Secretary of War assured me that with this \$1,000,000 he could carry them all over to the close of navigation. If we take up the river and harbor bill, as it is the intention of the committee to do in December, we can make the appropriations in season for the coming year.

It is well known to every person who is accustomed to Government contracts that it is utterly impossible to commence a reasonable amount of these new works this year if we should make the appropriation. They cannot begin them. Before all the machinery of red

tape, such as advertising for sealed proposals, opening the proposals, awarding and making the contracts can be gone through with, navigation will be closed, and nothing can be done until next year. This amendment simply postpones the matter for four months, nothing more and nothing less. Congress has reduced taxes over one hundred million dollars; there is a great cry for economy; and the committee, after some five or six extra sessions, after spending hours upon it, finally came to the conclusion, upon consultation with the Secretary of War and the chief engineer, to adopt this proposition to vote \$1,000,000 and then take up the measure at an early hour in the December session.

Mr. HOWE. Mr. President, I am sorry that the Committee on Commerce have come to the conclusion they have. I am sorry they did not conclude to report a bill making appropriations for the specific works which they think ought to be prosecuted; at least making specific appropriations for those works which are already under way, to which the Government has already dedicated the public funds. I am very sorry to see any step taken which looks even like an abandonment of anything to which the Government has already put its hand. I accept readily, with entire confidence, the declaration which the honorable Senator from Michigan makes here, that this is only a partial abandonment; it is not real; that it is the postponement of something rather than a desertion of anything which is really desirable to us. But I think it would have been better, I think it would have been wiser and more satisfactory to the people, if the committee had said to them frankly, "We cannot give you all the money you ask; we cannot give you all the money which is proposed in the bill which was sent to us from the House of Representatives; we think this is not a year in which we can commence new enterprises, new works of improvement; but it is a year in which we can stand by everything which we have already commenced, and in which we can prosecute those enterprises, and therefore we appropriate so much money as we think is necessary to carry on these specific works." I should have been better satisfied, and I believe the public would have been better satisfied with a bill of that description.

But, accepting the assurance made here that it is not the purpose of the committee, and is not supposed to be the purpose of the War Office, to abandon anything already under way, I have still two criticisms to make upon this proposition. The first is that it seems to me a little extraordinary that this appropriation, all of which is to be expended in the year ending June 30, 1869, should be moved upon a bill which makes appropriations for the year already past; that it is offered upon a deficiency bill instead of a bill making appropriations for the coming year. I suppose if the money is appropriated, unless they are prohibited from carrying it forward into next year's expenditures, they can do so, and probably will do so; still I think it is an unfortunate place to tack on an appropriation for a measure of this kind.

The next criticism I have to make seems to me of more importance. I think the sum is decidedly too small. This is to be expended under the direction of the Secretary of War. The Secretary of War, I suppose, will be advised in reference to these expenditures by the chief of the engineer department, and I suppose the chief of the engineer department must be controlled by some idea. He has taken notes of these words; he has reports in reference to them; he has plans in reference to each one of them; estimates have been made; and the estimates upon which the House of Representatives made its appropriations came from that department. It was said here just now by the Senator from Maine that they sent us a bill appropriating between six and seven million dollars. Whether that was all called for by the chief of the department of engineers I do not know.

Mr. MORRILL, of Maine. That includes,

as I understand, about two and a half millions outside for a particular work.

Mr. HOWE. Over and above the estimates?

Mr. MORRILL, of Maine. Yes; outside of any estimates.

Mr. HOWE. Then it would seem that the bill which came from the House appropriated even more, and millions more, than the chief of engineers contemplated. Then his own estimates would stand at something like \$4,000,000. This is a proposition to appropriate but twenty-five per cent. of his estimates. Now, Mr. President, when a man undertakes to tell you he can cut you a coat out of two yards of cloth, he has an idea of what kind of a coat that will produce; but if you tell him to make that coat out of a yard and a half, you must not be surprised if you get a garment that does not fit you, that does not suit you at all. The chief of engineers may know, and doubtless does, how he can go to work with an appropriation of \$4,000,000, and do work positively advantageous to the country; work which will not impoverish it, but make it rich.

Mr. MORRILL, of Maine. If the Senator will allow me, in reference to his illustration, if he desired a full suit, and the tailor should say, "I can make you pants and a vest, but the coat you had better forego for a little while," that would be this case.

Mr. HOWE. That amendment is ingenious, but I cannot accept it, because it does not fit my idea. I insist upon the idea, and I think the committee have recognized it, that the engineer is going to give us a full suit.

Mr. MORRILL, of Maine. In time.

Mr. HOWE. In time; but that he is going along with the full suit; that he is not going to turn us off with coat and vest this year, and make us go without pantaloons until the next. That is not the schedule that is submitted to us by the chairman of both these committees. I do not think that is the idea upon which the War Department would act. I think they will desire to go on, in the language of this amendment, to repair and to preserve and to complete the works already under way, the full suit.

Now, Mr. President, I think when you give to a man but a single million to go on with a work for which he asks \$4,000,000, he must work awkwardly and he must work to great disadvantage. If you give him a million and a half or two million dollars, and I think \$2,000,000 will be little enough to appropriate, that would carry him along through the recess of Congress, and carry him along without staggering. I appeal to the chairman of the Committee on Appropriations, and I would appeal to the chairman of the Committee on Commerce if he was within reach, if an addition to this million at least of half a million cannot be voted. Indeed, to try the sense of the Senate, I shall propose to raise this sum half a million, so as to make it a million and a half of dollars.

I will agree to everything that is said about the necessity of economy. I will second every wise effort at economy that I notice, let it come from what quarter it may; but I submit most respectfully that this is a very unfortunate point at which to commence the work of retrenchment.

Mr. FESSENDEN. Being out West.

Mr. HOWE. The honorable Senator from Maine says "Being out West;" and I repeat it to the Senate. "Being out West," I am naturally, constitutionally, I suppose locally, inclined to regard it so. Why so, more than if I lived in the East?

Mr. FESSENDEN. Because I notice that for everything eastern the Senator finds almost invariably that the appropriation is too much, either in whole or in part.

Mr. HOWE. Such an indictment as that I do not think is good against a general demurrer; but I do not demur to it. I plead the general issue. I call upon him to specify the instance.

Mr. FESSENDEN. I can do so.

Mr. HOWE. No, sir; you cannot.

Mr. FESSENDEN. There are the marine hospitals; you proposed to strike all those out.

Mr. HOWE. Mr. President, the Senator from Maine, one of the oldest Senators on this floor, taunts me with opposing marine hospitals because they are an eastern institution. Out West we have two to your one. I want to strike them all out, because they are not necessary for the public service, and the Senator knows it, and the Senate knows it. They are just as little needed in the West as in the East. They are not needed for the public service anywhere. I tell the Senator again, he cannot, with time nor with study, point his finger to a single expenditure that I have ever opposed here upon local grounds or local considerations.

Mr. FESSENDEN. Then I have misjudged the Senator.

Mr. HOWE. The Senator has misjudged me. I know my own record; I know my own faith; I know my own motives and theories of action; and I feel entirely confident when I challenge him to the proof of that declaration which he has made here. It is not in me. Sir, I positively do not know one single point in this whole country that I love better than another. It is not in me to love one point in this country better than another. It is not in me to know a foot of this whole country that I do not love with my whole heart, and that I will not be taxed to improve and to build up; and there is not a foot of this country where I do not hate an expenditure which is proposed for the mere purpose of benefiting that locality. I do not believe in any such local expenditure anywhere.

Mr. President, the harbors and rivers which you propose to complete with these appropriations are as essential to one part of the country as another. They are the arteries through which the blood of the nation flows. Allow them to be clogged and the circulation of the country stagnates. I say that these great water courses through which we pour the products of the West to the consumers of the East are as essential to the man who eats as to the man who raises the bread. Sir, you stop those courses; you blockade the ports which let that food out of the lakes toward the East, and the operatives of the East will be as sure to starve as the producers in the West would be to suffer. This circulation is essential, and I do not admit that I am advocating any local interest anywhere when I stand here to defend these improvements.

Mr. President, I commenced to say that I thought this was an unfortunate point, the wrong one at which to commence this work of retrenchment, for two reasons: because I think these expenditures more essential than many others you make; and for another reason: because you cannot turn back from those works without condemning yourselves. You have dedicated the nation to them; you have undertaken to build them; you have pronounced them to be essential to the public welfare, and to go back on them is to stamp your own conduct with error and stupidity. I should think that ought to be avoided if gentlemen care anything for their own consistency or for their own reputation.

But, Mr. President, we make appropriations here; we have made numberless appropriations that did not begin to compare with these in importance. Some Senator, since this debate commenced, spoke of the appropriations for the survey of the coast. Sir, you have spent about ten million dollars on that work in this country; a very essential work; I am not objecting to it. I think you have spent more than ought to have been expended. I am not sure that the work has been confined within the limits of the original conception; but you have spent these millions upon the survey of the coast, East and West. But of what possible utility is it to the country to have a survey which shall tell you where there is a shoal, which shall tell you where there is a bar, which shall tell you where there is a reef, blocking up your harbors, interfering with the navigation of your rivers, unless they are to be removed,

taken out of the way. I supposed that was the object of these very surveys. The other day we appropriated more than three million dollars in one bill to meet a deficiency in the expenditures for collecting the customs. Nobody was startled at that.

I will not take up the time of the Senate to enumerate the expenditures which, although they might be required, yet I think could be better dispensed with than the amount which is actually necessary to carry those works on upon the scale on which they are now being prosecuted; and I will now conclude with moving to increase the sum from \$1,000,000 to \$1,500,000.

Mr. FESSENDEN. I merely rise for the purpose of apologizing to my friend for making a side remark to him, which I did not suppose would be heard by anybody but himself, but which he seemed to take seriously, and called upon me for the proof of. If I had the proof I would not exhibit it, and I cannot give specific instances at this moment; nor do I feel disposed to follow up that matter. I feel, however, disposed to congratulate myself and the Senate that by insisting upon having the matter spoken of aloud, it gave an occasion to my friend for that burst of eloquence which he always has ready, in which "veins" and "arteries," and "streams," and "channels," as Junius says, "dance through" his speech "all the mazes of metaphorical confusion." So far the Senator has been the gainer, and so have all the rest of us been gainers.

But, sir, what I meant to say was, or what I was feeling at the time was, that it seems to me a little strange economy is only to be practiced on one side. My colleague alluded to the fact that at this session it was not thought to be expedient to do anything at all with reference to prosecuting the coast defenses. Sir, is not this Congress committed to that just as much as it is to the improvement of rivers and harbors? Is it not as essential, in one point of view at least, to the welfare of the country that the coast defenses should be put in proper shape and prosecuted, as it is that rivers should be cleared out and harbors made more accessible and more safe? Why, sir, if Congress is committed to one thing by its previous legislation, it is to the other.

But that is not the question. I am just as much in favor, and always have been, of the improvement of harbors and rivers everywhere within the means of the Government, as the Senator; and I have this advantage over some Senators at least, that my votes show always that I never inquire where any particular thing is to be done at the public expense, but only whether it is advisable; whether it is beneficial to the country. Senators from the western section or the new section of the country have very little reason to complain of a holding back of appropriations of all sorts, land and money, whenever a decent excuse for them can be found, however far West they may go. And yet my friend from Iowa tells us this morning, because the Committee on Commerce have proposed that the idea upon which we have gone through the Congress thus far should be extended to the bill for rivers and harbors, that it proves what? That after all the appropriations that are called for, for one section of the country have been made, the Senators from that section come forward and oppose the appropriations for the other. Is there any justice in that remark?

Mr. HARLAN. The Senator will allow me to remark that I did not say that they did come forward to do so, but I protested that they ought not to do so, and I hope they will not.

Mr. FESSENDEN. I understood it as an intimidation—and how otherwise could I understand it—that this was a step in that direction.

Mr. HARLAN. It has not been tested yet. We shall know when the vote shall be taken.

Mr. FESSENDEN. The Committee on Commerce offer this proposition. I believe the chairman of that committee is more interested, so far as his State is concerned, than any

other member of it; and yet he says he does not think it advisable to pass that bill at the present session, but deems it proper to defer action upon it for the present. Does the accusation apply to him. Sir, I do not like this kind of imputation coming from anybody whenever we begin to carry out the idea upon which gentlemen themselves have gone. Take this matter of the coast defenses. When it is a time of war we then perceive the necessity of attending to those defenses, but when it comes to a time of peace gentlemen say, "Let them stop where they are, unfinished, imperfect, useless comparatively many of them until war comes again; keep them in their unfinished state." Is that good policy? And yet that is the policy that seems to have been adopted. I made no complaint of it at the present session; and why? For the simple reason that at the present session it was thought advisable to economize in every direction, and do no more than might be thought absolutely essential to be done. We begun with that idea.

My honorable friend spoke of the appropriations for light-houses. Sir, what appropriations for light-houses have been made at this session? Has there been any appropriation for erecting new light-houses as there generally are? I believe there have been but two provided for, and those in one of the appropriation bills, and one of those I think is in California, and the other I do not know where. I succeeded in getting one into the bill for the coast of Maine, but the committee of conference would not agree to it, and it was struck out, and the others were left. So that there has been no appropriation, except simply for the purpose of keeping the light-houses in repair and in operation, in order that they may answer the purposes for which they were required—nothing more. This idea has been carried to them just as much as it has to the coast defenses, and to every other branch of the service so far as it could be carried.

Now, it so happens, although that was the full understanding, that we were to go upon that system at the present session, and defer to the next what might be necessary, at the very heel of the session comes in a bill appropriating some six or seven million dollars, and the large portion of it for new works never before heard of; for new places never before heard of, and which you cannot find the names of in any Gazetteer. I do not dispute that all these may be necessary and wise at the proper time; but I do say that it is not becoming in gentlemen under those circumstances to rise and make the intimation that, if we refuse to do that very thing, we are sectional, because it is ill-founded.

Sir, I have not examined that bill, except to cast my eye over it; and, of course, I can know nothing about the necessity of the works for which it provides; but what is proposed? In accordance with this understanding, precisely as it has been carried out, with regard to other branches of the public service, striking down, economizing, the Committee on Commerce say, "We cannot make these large appropriations at the present session, but we will make a liberal appropriation, and put it in the hands of the War Department, to do what may be necessary in order to keep our public works in repair and preservation, and to complete them, so far as it can complete them." Upon that, my friend from Wisconsin says, "I do not think it large enough." Why not? Does he give us any reason? Is it anything more than guess work? Does he tell us why; wherein? Not at all; but he would like a little more. Well, sir, I would like a good deal more than was appropriated for light-houses; I think I should like a good deal more for this purpose, if it is necessary, and I would be glad to have it this year; but what I want to call attention to is the fact that while economy has, during the session, raged upon everything else, the moment you come to touch this matter of rivers and harbors, in which my State is interested to some extent, a cry is raised at once that you cannot touch this particular thing.

Why not this as well as other things? It will take a great while before all the great rivers of this country are made perfect, and all the harbors in this country are completed. It is a question of time. Do gentlemen expect to do it at once? When we hear so much about the great West it is as well to stop and consider whether everything can be done for the great West at once. It is because of its greatness that time is required in order to do all that is necessary to be done. I cannot say it in such eloquent words as my friend has used, but I say that I fully appreciate and share with him the sentiment that we never ought to know one part of our country from another, when the question is of improvements for the general benefit; and I agree with him thoroughly that although we at the East should not starve if all these things were not done, as he seems to think we should, yet we can live a great deal better and easier from our connection with the West. We did not starve when there was not a man in the West; we made out to live. We had a hard soil, and we had a rough time of it, and expect to have in the future, but starvation did not stare us in the face; and I think even if the great West was not so great as it is, that although our comforts might be very much diminished, still we should manage to crawl upon the face of the earth living creatures.

I am very sorry, sir, that I have had occasion to say this, but it has been called out rather from my friend's insisting upon my saying out aloud what I said to him aside; and if I am mistaken with reference to my judgment of his disposition with reference to these matters I say to him that it may have arisen from the collisions I have had with him on other things; but if he says I am mistaken I apologize most distinctly for what I did say, although I did not intend it for his ear.

Mr. HOWE. Mr. President, there is a dash of personality entering into this debate that I do not altogether like, and yet that I am not particularly disturbed at. It requires first to be accounted for. The Senator from Maine did make a remark entirely aside, and in entire good nature, and I was responsible for calling attention to it. I called attention to it deliberately, because I wished to reply to it in as perfect good nature as the remark was made. All the feeling that I have about it, and which was not a feeling of anger at all, was evoked by the Senator subsequently rising in his place and reiterating the remark, intensified both in words and manner, and which did launch against me the direct charge of being influenced here by my jealousies and by my partialities touching localities. I do not recall the words; but that was the substance of the accusation. I replied, I could only reply by a direct denial; I could only plead the general issue, adding one thing to it: a challenge for him to produce his proof. The Senator attempted to produce his proof, and he cited one instance in which I had opposed the marine hospitals as an evidence of that local partiality and prejudice which he supposed influenced my action here as a Senator. The Senator now is disposed to waive the controversy, and I do not care anything about it. I certainly have nothing to make in pursuing that part of it. I hope he acquiesces in the truth of my statement, that I have not been actuated in this measure or in any other by any such local considerations as he attributes to me.

Mr. President, I not only have not been influenced by any such local feelings myself, but I do not remember the day, I cannot recall the unfortunate hour, when I have ever attributed any such motives as guiding the action of my fellows on this floor; and I hope—but knowing how infirm I am I make no promises for the future—I hope that day will never come to me that I shall charge the representative of a State upon this floor as being guided and controlled by an undue attachment to his constituents and love for his locality.

Mr. President, a parallel seems to be run between the appropriation asked for here for rivers and harbors and the appropriation made

heretofore for works of public defense; and because the appropriations for public defense have been this year less liberal than they have been in former years, two things seem to be argued: first, that the appropriations for rivers and harbors should be proportionately curtailed; and, secondly—which seems to me much more unreasonable than that—that the West is accountable for the small appropriation for works of public defense. If the West is at all accountable for the measure of those appropriations I hear it now for the first time. As an individual I have no responsibility, for I never was consulted about the amount of those appropriation. I think the chairman of the Committee on Appropriations will assent to the truth of that.

Mr. MORRILL, of Maine. Certainly. I suppose the honorable Senator has no reference to me in his remarks.

Mr. HOWE. I am not replying to anything that the Senator now on the floor has said. Mr. President, I do not think the West has any responsibility for the amount which has been appropriated for works of public defense. Applying the same rule to those works that I do to these harbors and rivers, I am free to say that I know of no interest which the East has in works of public defense, necessary works of public defense, that the West has not. The East is as essential to us as the West is to the East, and the protection and defense of the East is as essential to us as it can be to any portion of the country. I have just one word of comment to make upon the appropriations for those works, and it is this: that they seem to be proposed on the idea that as much is required one year as another. When you commence the building of a harbor, an engineer can tell you very near the amount of money he will want and when the work will be completed; but when a harbor will need to be defended, I take it, it is beyond the capacity of any engineer yet educated to foretell what amount it will take to defend it. That money has been unnecessarily appropriated on those works of public defense I suppose is very probable; that money has been unnecessarily appropriated in the work of building harbors and improving rivers I shall not undertake to deny. It is inevitable; it is an incident to these kinds of public improvements that not the whole of the money dedicated should be wisely expended.

One more remark I wish to make in reply to the comments made by the Senator from Maine, [Mr. FESSENDEN.] He speaks of "the great West" as if he had caught the words from me. He borrowed them from nothing I have said to-day; he borrowed them, I think, from nothing I ever said. It is a form of expression that I do not mean to indulge in, though it is a feeling, I admit, constantly with me, and it may have found utterance some time in expression. If it has I shall not apologize for it. Those words were never uttered as a taunt to any other portion of the country. They never were uttered as a boast in which I think I had any more right to indulge than any other man who loves our country. If the West is great, as I believe it is, its greatness is the common property of the whole country. Let no man be envious or jealous of it; it does no man hurt; and it does no section of the country any hurt. It is a part of the glory of the whole country, and I wish it might be the boast of the whole country.

But, sir, I did, when I was on the floor before, speak of the necessity of the commerce of the products of the West to the East, and I did say that but for them the East would starve. The Senator reminds me that the East lived very well before the West existed. That is true, but not the East of to-day lived then. The West has grown and the East has fed upon it, has thrived upon it, I am glad to know. You have an immense population, a consuming population, as well as a producing population, a population which consumes that which the West produces, and produces that which the West consumes; that you did not

have in that olden time to which the Senator referred. I say the East of to-day could not survive the destruction of the West, and the West could hardly survive the destruction of the East. We are essential to each other and proportioned to each other; and I hope we may still grow with the harmony of those proportions undisturbed and unbroken. I am prepared to declare one thing for the future, that I never shall be animated by any spirit of jealousy toward any portion of my country, and least of all let me say here in conclusion shall I be animated by any spirit of jealousy against that portion of the East from which the Senator himself comes, and out of which I myself am glad to know I sprang. New England never will suffer from any deliberate act of mine, whatever other sections of the country I may unhappily touch.

Mr. MORTON. Mr. President, as far as these sectional discussions are concerned I think they are vastly unprofitable, and I do not take any stock in them. In regard to this amendment I do not think it is consulting true economy or retrenchment. I am in favor of retrenchment, and I am in favor of economy; but is it economy or retrenchment, in the true sense of the word, to stop a public work that is of a national character, and that is essential to the commerce and trade of the country? Is there any economy in that? Is that the kind of retrenchment that the people demand? They do not demand the retrenchment of necessary expenses, but they demand the retrenchment of unnecessary expenses, of large expenditures that have been made, and which now can be dispensed with and ought to be dispensed with. But, sir, you take an improvement like that around the rapids of the Mississippi river, indispensable to a great national commerce, and you stop that improvement, or just appropriate enough to keep it in repair and not lose what you have done, and I ask you what economy there is in that? Is that retrenchment? Take the improvement around the falls of the Ohio river, which is indispensable to the commerce of four or five hundred million dollars every year, and you stop that improvement, or you say you will simply keep it in repair so as not to lose what you have done. I ask what kind of economy or retrenchment there is in that? I submit there is none. That is not the kind of economy that this nation ought to practice.

I have in my hand the river and harbor bill as it comes to us from the House of Representatives. This subject has always been liable to great abuses, and I find that this bill is no exception. The trouble is in confining the appropriations to works that are really of a national character instead of being local. There are some one hundred and eighty appropriations in this little bill, and I believe it would be pretty hard work to find forty or fifty of the names on the map. At least sixty or seventy of these appropriations are for places that are not national in their character, that are purely local. Here are appropriations for harbors that you cannot find on the map, I venture to say; to build harbors where there are none, for the purpose of private speculation. But, Mr. President, it is the duty of the Senate to take up the bill and go over it, use the pruning-knife, use it boldly, cut out those appropriations that are not national in character, and make those that are national and that are demanded by the commerce, the growth and trade of the country.

I think that this amendment is not wise in itself. Even if we do not appropriate more than \$1,000,000, if we cut down specific appropriations until the aggregate does not amount to more than \$1,000,000, still I think the amendment is unwise and we had better make the appropriations specific in their character. You leave it to the Secretary of War, a good man, but who has much other business on hand besides designating which are the important river and harbor improvements to make. Let this matter be determined by the Senators and Representatives in Congress assembled, who

come from all parts of the country and know more about this than the Secretary of War possibly can do.

Mr. COLE. It is quite evident that we shall not get through with the bill this afternoon, and I desire to have an executive session.

Mr. POMEROY. I think we had better agree first to take a recess from five o'clock to half past seven.

Mr. SUMNER. Had we not better go on with the bill a little longer, in the hope that we may finally dispose of it and then adjourn for the day?

The PRESIDENT *pro tempore*. Does the gentleman from California withdraw his motion to enable the Senator from Kansas to submit the motion indicated by him?

Mr. COLE. Yes, sir.

Mr. POMEROY. I move that at five o'clock to-day the Senate take a recess until half past seven.

The motion was agreed to.

VACANCIES IN EXECUTIVE DEPARTMENTS.

Mr. CONKLING submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from its disagreement to the first amendment of the Senate, and agree to the same.

That the House recede from its disagreement to the second amendment of the Senate, and agree to the same, with amendments, as follows: strike out the word "and," in line three of said amendment, and insert after the word "second," in the same line, the words "and third;" and the Senate agree to the same.

That the House recede from its disagreement to the third amendment of the Senate, and agree to the same, with an amendment, as follows: after the word "upon," in said amendment, strike out all to the end of the amendment, and insert in lieu the following words: "the examiner-in-chief oldest in length of commission;" and the Senate agree to the same.

ROSCOE CONKLING,

WM. M. STEWART,

Managers on the part of the Senate.

THEODORE M. POMEROY,

WM. LAWRENCE,

Managers on the part of the House.

The report was concurred in.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 344) authorizing the Secretary of the Treasury to refund duties paid on chime of bells and clock imported for St. Joseph's Cathedral, Buffalo, New York, was read twice by its title, and referred to the Committee on Finance.

EXECUTIVE SESSION.

On motion of Mr. COLE, the Senate proceeded to the consideration of executive business. At five o'clock the doors were reopened, and the Senate took a recess until half past seven p. m.

EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

HENRY B. STE. MARIE.

Mr. WILSON. I move to take up for consideration House joint resolution No. 326.

The motion was agreed to; and the joint resolution (H. R. No. 326) for the relief of Henry B. Ste. Marie was considered as in Committee of the Whole. It is a direction to the Secretary of State to pay out of the civil service fund of his Department the sum of \$10,000 to Henry B. Ste. Marie, for services and information in the arrest of John H. Surratt, in the kingdom of Italy, charged with the crimes of conspiracy and murder.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

TERRITORY ACQUIRED FROM RUSSIA.

Mr. SUMNER. I move that the Senate proceed to the consideration of the bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867.

Mr. CONNESS. I hope not.

Mr. SUMNER. If it gives rise to any debate I will consent that it shall go over.

Mr. CONNESS. With that understanding I have no objection.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

The Committee on Foreign Relations proposed to amend the bill by striking out the first section, after the enacting clause, as follows:

That the assent of Congress is hereby given to the stipulations of said treaty.

The amendment was agreed to.

The committee also proposed to strike out the enacting clause of the second section of the bill.

The amendment was agreed to.

The committee further proposed to strike out the preamble of the bill, in the following words:

Whereas the President of the United States, on the 30th of March, 1867, entered into a treaty with the Emperor of Russia, by the terms of which it was stipulated that, in consideration of the cession by the Emperor of Russia to the United States of certain territory therein described, the United States should pay to the Emperor of Russia the sum of \$7,200,000, in coin; and whereas it was further stipulated in said treaty that the United States shall accept of such cession, and that certain inhabitants of said territory shall be admitted to the enjoyment of all the rights and immunities of citizens of the United States; and whereas the subjects thus embraced in the stipulations of said treaty are among the subjects which, by the Constitution of the United States, are submitted to the power of Congress, and over which Congress has jurisdiction, and it being, for such reason, necessary that the consent of Congress should be given to the said stipulations before the same can have full force and effect; having taken into consideration the said treaty, and approving of the stipulations therein, to the end that the same may be carried into effect: Therefore.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill, as thus amended, reads:

Be it enacted, &c. That there be, and hereby is, appropriated from any money in the Treasury not otherwise appropriated, \$7,200,000, in coin, to fulfill stipulations contained in the sixth article of the treaty with Russia, concluded at Washington on the 30th day of March, 1867.

It was ordered that the amendments be engrossed and the bill read a third time. The bill was read the third time, and passed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 175) for the relief of Joseph McGhee Cameron, and Mary Jane Cameron, minor children of LaFayette Cameron, deceased;

A bill (S. No. 382) granting an increase of pension to Obadiah T. Plum;

A bill (S. No. 422) granting a pension to Maria Schweitzer and the children of Conrad Schweitzer, deceased;

A bill (S. No. 518) granting a pension to the widow and child of John P. Felty;

A bill (S. No. 547) granting a pension to John Sheets;

A bill (S. No. 314) for the relief of George T. Brien;

A bill (S. No. 383) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased;

A bill (S. No. 517) granting a pension to the widow and children of Henry Browne;

A bill (S. No. 521) granting a pension to the children of William M. Wooten, deceased.

JOSEPH SEGAR.

Mr. HOWE. I move that the Senate proceed to the consideration of the bill (S. No. 575) for the relief of Joseph Segar.

Mr. CONNESS. That will excite a great deal of debate.

Mr. HOWE. Does the Senator wish to debate it?

Mr. CONNESS. I do not think it a correct claim. That is my opinion about it.

Mr. HOWE. If the Senator wishes to debate it, I do not think I ought to call it up now.

Mr. CONNESS. I should not like to see it passed in a Senate of this size, and I hope it will not be considered now.

Mr. HOWE. If any Senator means to debate it, I do not think it right to call it up now; but if no Senator says that he wishes to debate it, I insist on my motion.

The motion was agreed to; and the bill (S. No. 575) for the relief of Joseph Segar was read the second time. It provides for paying to Joseph Segar the sum of \$25,000, in full satisfaction of his claim, of whatever character, for use and occupation by the United States military forces of his farm in Virginia, near Fortress Monroe, from May 24, 1861, to January 1, 1867, and also for timber cut on the farm and used by the military forces, and also for balance due him for quartermaster and subsistence supplies.

Mr. FERRY. I do not wish to see that bill pass without a division. I did not know what it was when I heard it called up first. I know something about these matters.

Mr. WILSON. I hope the bill will be postponed.

Mr. HOWE. Very well; I move that the bill be postponed until to-morrow.

The motion was agreed to.

JOHN A. NEUSTAEDTER.

Mr. MORRILL, of Vermont. I move to take up the bill I reported this morning from the Committee on Claims for the relief of John A. Neustaedter, a captain who served in the artillery service with General Frémont, in Missouri, and received his pay up to March, 1862, but did not for some subsequent months.

The motion was agreed to; and the bill (H. R. No. 1081) for the relief of John A. Neustaedter was considered as in Committee of the Whole. It is a direction to the Paymaster General of the Army to pay to John A. Neustaedter, late a captain of artillery, out of any money appropriated, or that may hereafter be appropriated for the pay of the Army, the full pay and emoluments of a captain of artillery in the Army of the United States from March 25, 1862, to August 28, 1862. There is a proviso that this act shall not be deemed a precedent for the payment of other officers holding appointment under General John C. Frémont.

Mr. MORRILL, of Vermont. I will simply say that this bill provides for the pay of a captain from March until August, 1862, when the man served as such, and was then mustered out. It is the only case I believe.

Mr. POMEROY. I should like to know what is the effect of the proviso.

Mr. MORRILL, of Vermont. It was inserted, I believe, at the instance of a member of the House of Representatives. I do not think it amounts to anything at all. It is mere slobber.

Mr. POMEROY. We had better strike it out.

Mr. MORRILL, of Vermont. No; that will defeat the bill. It is a very small claim.

Mr. POMEROY. The idea of our saying that one act shall not operate as a precedent for another is folly.

Mr. MORRILL, of Vermont. It is certainly mere slobber. [Laughter.] It does not amount to anything.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ARSENALS AT ST. LOUIS, ETC., MISSOURI.

Mr. DRAKE. I move to take up for consideration the bill (H. R. No. 451) providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

The Committee on Military Affairs and the Militia reported various amendments to the bill. The first amendment was in line eight of section one, to strike out "first;" after "Missouri;" in line nine, to insert "except the westernmost six acres thereof;" and to strike out all after line fourteen, as follows:

Second. That portion of the military reservation

known as Fort Leavenworth, which lies on the east side of the Missouri river, together with that portion of said reservation situated on the west side of the Missouri river, which lies between the city limits of Leavenworth City and a line commencing on the Missouri river at the mouth of Corral ravine, and running parallel with the south line of said reservation to its western boundary.

So as to make the section read:

That the Secretary of War be, and is hereby, authorized to sell, at such time and in such manner as he may deem most advantageous to the interests of the Government, subject to the provisions herein-after contained, the following military reservations and public property, namely:

The ground now occupied by the St. Louis arsenal, in the city of St. Louis, Missouri, except the westernmost six acres thereof, and that occupied by the United States arsenal situated at Liberty, Missouri, together with such buildings, machinery, and other property appertaining thereto as cannot be advantageously employed in the construction or improvement of other arsenals or military posts.

Mr. POMEROY. Why strike out the provision in relation to the Fort Leavenworth reservation? Why not sell it?

Mr. DRAKE. The reason is that there is another bill in regard to the reservation at Leavenworth.

Mr. WILSON. There is a separate bill on that subject.

Mr. POMEROY. I did not know anything about the other bill; I thought it a good time to sell it.

The amendment was agreed to.

The next amendment was in section two, after the word "arsenal," in line two, to insert "except the westernmost six acres thereof;" so as to make the section read:

SEC. 2. *And be it further enacted,* That the ground occupied by the St. Louis arsenal, except the westernmost six acres thereof, shall be divided into blocks and lots of convenient size for building purposes, with public streets, conforming, as near as may be without detriment to the interest of the Government in the sale, to the public streets of the city of St. Louis adjoining said grounds; a plat of this division, made in accordance with the laws of the State of Missouri, shall be filed with the proper officer in the city of St. Louis; and the said lots shall be sold separately, at public auction, to the highest bidder, after thirty days' notice by advertisement in at least three daily papers in the city of St. Louis; payment to be made one third in cash, the remainder in one and two years, with six per cent. interest per annum, secured by deed of trust on the lots sold. The stone wall surrounding said arsenal shall be sold in sections not exceeding one hundred feet in length.

The amendment was agreed to.

The next amendment was to insert, as section three:

SEC. 3. *And be it further enacted,* That the westernmost six acres of the tract of ground occupied by the said St. Louis arsenal, is hereby granted to the city of St. Louis, to be by it held as a public ground forever, open to the use of the public as a place of public resort, and for no other use whatever, and without any power in said city to make any disposition of the same, or any part thereof, for any private use whatever: *Provided, however,* That this grant is upon the express condition that the said city or the association formed and now existing in the State of Missouri for the purpose of erecting a monument to the memory of the late Brigadier General Nathaniel Lyon, shall, within three years after the passage of this act, complete the erection upon the said six acres of such a monument, upon a plan and of a character to be approved by the President of the United States; in default whereof this grant shall be null and void.

The amendment was agreed to.

The next amendment was in lines two and three of section [three] four, to strike out the words "and that part of the Fort Leavenworth reservation specified in section first;" and in lines nine, ten, eleven, and twelve to strike out the following proviso:

Provided, That no part of Fort Leavenworth reservation west of the Missouri river shall be sold in lots exceeding ten acres each, but shall be sold in lots of half an acre, separately if desired by purchasers.

So as to make it read:

SEC. [3] 4. *And be it further enacted,* That the grounds occupied by the Liberty arsenal shall be sold at public auction, after due notice by public advertisement of the time and place of said sale, in such parcels, blocks, and lots as may be deemed most advantageous to the interest of the Government, by the Secretary of War, upon the terms and conditions as to payment specified in the previous section.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be en-

grossed and the bill to be read a third time. The bill was read the third time, and passed.

MISSISSIPPI RIVER IMPROVEMENT.

Mr. CHANDLER. I move to take up House bill No. 485.

Mr. CONNESS. I hope we shall go on with the regular order.

Mr. CHANDLER. I submit the motion to take up House bill No. 485.

Mr. CONNESS. I ask the chairman of the Committee on Appropriations whether he is prepared to go on with the deficiency appropriation bill or not?

Mr. MORRILL, of Maine. Certainly; anxious to go on. I call for the regular order.

Mr. CHANDLER. I ask the chairman of the Committee on Appropriations to give me until eight o'clock in order to enable us to pass a few bills from the Committee on Commerce.

Mr. MORRILL, of Maine. If nobody else objects, I shall not.

Mr. CHANDLER. I move to take up House bill No. 485.

The motion was agreed to; and the bill (H. R. No. 485) to aid the improvement of the Des Moines and Rock Island rapids in the Mississippi river was considered as in Committee of the Whole. The bill provides that whenever, in the prosecution of the improvements of the Mississippi river at either the Des Moines or Rock Island rapids therein, it becomes necessary or proper to take possession of the right of way over any lands, or to use any earth, quarries, or other material lying adjacent or near to either of the works, and needful for its prosecution, the officer in charge of the work, or his assistant, may, in the name of the United States, take possession of and use the same, after having first paid, or secured to be paid, the value thereof, which may have been ascertained in the mode provided by the laws of the State wherein such property or material lie, for adjudging the value of private property which may be needed for any public improvement. When the owner of such property or material shall fix a price for the same which, in the opinion of the officer in charge, shall be reasonable, he may take the same at such price without further delay. A portion of the appropriations made or to be made for the prosecution of the improvements, not exceeding \$50,000 in amount, may be applied in payment of the property or material thus taken and used.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HAWAIIAN BRIG VICTORIA.

Mr. CHANDLER. I move that the Senate proceed to the consideration of House resolution No. 331.

The motion was agreed to; and the joint resolution (H. R. No. 331) to grant an American register to the Hawaiian brig Victoria was considered as in Committee of the Whole. It is a direction to the Secretary of the Treasury to issue an American register to the derelict Hawaiian brig Victoria, now owned by a citizen of San Francisco, California.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

TONNAGE FEES AT CANADIAN PORTS.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House joint resolution No. 338.

The motion was agreed to; and the joint resolution (H. R. No. 338) exonerating certain vessels of the United States from the payment of tonnage fees to consular agents in Canada was considered as in Committee of the Whole. It provides that hereafter no consul or consular agent of the United States shall exact tonnage fees from any vessel of the United States touching at or near ports in Canada, on her regular voyage from one port to another within the United States, unless the consul or consular agent shall perform some official ser-

vices, required by law, for such vessel when she shall thus touch at a Canadian port.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

Z. M. HALL.

Mr. CHANDLER. I move now to take up House joint resolution No. 341.

The motion was agreed to; and the joint resolution (H. R. No. 341) for the relief of Z. M. Hall was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury in his discretion to refund to Z. M. Hall, of Chicago, the sum of \$104 10, being the tonnage tax paid on the schooner S. B. Pomeroy in error by the master of the schooner, at the port of Bay City, on the 21st of April, 1868, the tax having been paid by Hall at Chicago on the 16th April, 1868.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

PROPERTY OF MARRIED WOMEN.

Mr. HARLAN. I move that the Senate proceed to the consideration of Senate bill No. 177.

Mr. MORRILL, of Maine. It must be with the understanding that it shall not occupy time.

Mr. HARLAN. Very well.

The motion was agreed to; and the bill (S. No. 177) regulating the rights of property of married women in the District of Columbia was considered as in Committee of the Whole, the question pending being on the amendment reported by the Committee on the Judiciary, to strike out all of the bill after the enacting clause and insert:

That in the District of Columbia the right of any married woman to any property, personal or real, belonging to her at the time of marriage or acquired during marriage in any other way than by gift or conveyance from her husband to the prejudice of his creditors, shall be as absolute as if she were *feme sole*, and shall not be subject to the disposal of her husband, nor liable for his debts; but such married woman may convey, devise, and bequeath the same, or any interest therein, in the same manner and with like effect as if she were unmarried.

SEC. 2. *And be it further enacted*, That any married woman may contract, and sue and be sued in her own name, in all matters having relation to her sole and separate property in the same manner as if she were unmarried; but neither her husband nor his property shall be bound by any such contract nor liable for any recovery against her in any such suit, but judgment may be enforced by execution against her sole and separate estate in the same manner as if she were sole.

Mr. MORTON. I do not think there is any such law as that in any State of this Union; nor do I think it good policy to authorize a married woman to sell her property without the consent of her husband, although it may be hers absolutely. I think it bad policy, public and domestic, to authorize a married woman to sell her property without the consent of her husband. He cannot sell his property so as to affect her right to dower or her right in fee, as the law may be, and if he undertakes to do it her rights remain, and on his death they are in full force. In order to sell his property in which she has a right at his death she must join in the conveyance, and so when she has property in her own right, in which he has an interest to some extent or of some kind after her death, he ought to be required to be a party to the deed. But aside from that, the character of the marriage relation and the proper protection of the wife, in my judgment, require that she should not have a right to dispose of her real estate absolutely. I do not believe there is any State in the Union that grants a right of that kind.

Mr. MORRILL, of Maine. I must interpose and call for the regular order.

Mr. HARLAN. If the vote cannot be taken immediately on this bill, of course I shall not urge its further consideration at this time. I rely on the judgment of the Senate, and am willing to take the vote. I do not wish to reply to the Senator from Indiana.

Mr. DAVIS. Mr. President—

Mr. MORRILL, of Maine. The Senator from Kentucky desires to make some observations on the bill.

Mr. HARLAN. Then, of course, I consent that it go over.

The PRESIDENT *pro tempore*. The further consideration of the bill will be postponed until to-morrow.

MILITARY PEACE ESTABLISHMENT.

Mr. WILSON. I should be obliged to the chairman of the Committee on Appropriations if he would allow me to call up the bill to reduce the military peace establishment of the United States. I do not ask for its consideration to-night, but simply that it may be read.

Mr. MORRILL, of Maine. Very well.

Mr. WILSON. I move to take up the bill (S. No. 617) to reduce the military peace establishment of the United States.

The motion was agreed to.

The bill having been read,

Mr. WILSON. I move that the further consideration of the bill be postponed until to-morrow at four o'clock, and be made the special order for that hour. I name that time because we stand committed to act upon another bill, and I wish to give an opportunity to allow it to be disposed of.

The motion was agreed to.

DEFICIENCY APPROPRIATION BILL.

The Senate, is in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1841) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes, the pending question being on the amendment of Mr. HOWE to the amendment proposed by Mr. CHANDLER from the Committee on Commerce.

The amendment of Mr. CHANDLER was to insert after line two hundred and seven:

For the repair, preservation, and completion of certain public works on rivers and harbors, to be expended under the direction of the Secretary of War, \$1,000,000.

Mr. HOWE's amendment was to add "five hundred thousand" after "million."

Mr. CONNESS. I simply wish to say that if we are going to appropriate in this way I think the smaller sum is the best sum. I hope we shall not make the increased appropriation proposed.

Mr. HOWE. I am sorry the Senator from California feels it his duty to object to this amendment. I believe it will be satisfactory to both committees, or at least to the chairmen of both committees.

Mr. CHANDLER. It is entirely satisfactory to the Committee on Commerce.

Mr. HOWE. I do not think it will be objected to by the Committee on Appropriations.

Mr. WILLIAMS. I understood the Senator from Wisconsin to argue this afternoon that it was exceedingly dangerous to invest any officer with the discretionary power to expend such a large amount of money as this amendment proposes to appropriate in the improvement of rivers and harbors. I may be mistaken; it was perhaps the Senator from Iowa [Mr. HARLAN] who made the argument; but I think the argument was one that is entitled to consideration. I suppose this to be a mere temporary expedient, an arrangement that has been proposed by the Committee on Commerce to enable the Secretary of War to repair, preserve, and if possible to complete certain public works; but it is not intended as an appropriation in the ordinary sense of a river and harbor bill; and if the chairman of the Committee on Commerce intends, as he has already signified, to bring forward the river and harbor bill at an early day in the next session of Congress, it seems to me that for mere temporary purposes, departing from the ordinary precedents in appropriations of this kind, it is enough to give to the Secretary of War \$1,000,000 to use between this time and the beginning of the next session of Congress; and for that reason I should be unwilling to agree to this amendment.

I appreciate what has been said by the chairman of the Committee on Commerce that the session is about to expire and that there is

hardly sufficient time to proceed and consider in detail the river and harbor bill. I have looked over that bill, and although I of course do not possess as much information upon the subject as some other members, it seems to me that there are many objectionable features in that bill; and I should be willing to vote for the amendment proposed by the committee under all the circumstances, for that sum of money is perhaps necessary for this purpose; but if we appropriate \$1,500,000, we might as well appropriate \$5,000,000 and be done with it, and not trouble ourselves at the next session of Congress with the river and harbor bill.

Mr. HOWE. It does seem to me that \$1,500,000 is a great deal further from \$5,000,000 than it is from \$1,000,000. Adding \$500,000 to the sum proposed here is not so very fatal a thing as the adding of \$4,000,000 would be. This only proposes an increase of \$500,000 on the sum. When I proposed that it seemed to me that we had about half the year to work in, and I understood that the estimates of the engineer department amounted to between four and five million dollars; and conceding that half the year was gone, I thought that \$2,000,000 would be about a fair sum to appropriate to carry them through this year. Supposing that we could save something or omit something from his estimates, and desirous to come as near the proposition of the Committee on Commerce as I could, I proposed \$1,500,000. I am sorry to see this objection spring up in different quarters. I have not urged the argument attributed to me by the Senator from Oregon. I should prefer, as I said, that specific appropriations should be made to specific works; but for that there does not seem to be time, and I thought the Secretary could work nearer to his plans with \$1,500,000 than he could with \$1,000,000; and it does not seem to me so fatal a thing as that it needs to call up opposition, especially if that opposition is not urged by either of the committees interested in the bill.

Mr. FRELINGHUYSEN. I understand that the appropriation in the bill that came from the House of Representatives is between six and seven millions. Now, to cut it down to \$1,500,000 is a very great reduction. I have also been informed that that sum is necessary for the proper progress and securing of the works, and I have further understood that \$1,500,000 may be satisfactory to the body that passed between six and seven millions, and therefore I think, as it meets the approbation of both committees, that we had better adopt it.

Mr. COLE. I was very much in hopes that the river and harbor appropriation bill, and everything looking in that direction, would go over for this session, and I am now of the opinion that no more should be appropriated than is absolutely necessary to prevent loss on the part of the Government from the destruction of works partially completed. Now, sir, that I am on the floor, I desire to make a single remark touching a subject referred to to-day by the Senator from Maine, [Mr. FESSENDEN.]

During his remarks he alluded to improvements in the extreme West. I presume the Senator is not aware of the fact that no appropriations have been made for many years for any improvements for rivers and harbors on the Pacific coast. I have no recollection of more than a single appropriation for that purpose, made fifteen or sixteen years ago, to improve the harbor of San Diego. There is great necessity for works of that nature on the Pacific coast; but we are willing that they shall go by for this year, and we were hopeful that all other sections of the Union might look upon our present condition in the same light. It seems to me that if \$1,000,000 are appropriated it will be ample to preserve works from injury during this coming year, and I hope no more than that will be appropriated at this time. I think the \$500,000 called for now in addition to that ought not to be granted.

The amendment to the amendment was

agreed to; there being on a division—ayes 23, noes 9.

Mr. CONKLING. I wish to move a verbal amendment, to which I think there will be no objection; to insert the word "extension" after the word "preservation;" so as to read "for the repair, preservation, extension, and completion of certain public works," &c. There is an instance or two where, in order to preserve the work, it may be necessary to make an extension of a breakwater, and to avoid technical objections I move the amendment.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment as amended.

Mr. HARLAN. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HARLAN. I desire to state distinctly that I vote against this amendment because I wish the consideration of the river and harbor bill at this session of Congress. If there are items in that bill as it came to the Senate from the House of Representatives that ought not to be concurred in by the Senate, as was intimated by the Senator from Indiana, [Mr. MORTON,] in my opinion it is the duty of this body to strike them down. If there are improvements suggested there that are not national in their character and that ought to be made by the national Government, it is the duty of the Senate and of the House of Representatives to refuse appropriations for such items. But there are items of great national importance that ought not to be permitted to suffer. Why, Mr. President, it is estimated by those who are conversant with the subject, much more so than I am, that the property afloat on the Mississippi river and its tributaries in a single year would amount to \$5,000,000,000. The whole commerce of the United States with foreign countries cannot exceed \$900,000,000, so that the property afloat on those waters for a single year will exceed our whole external commerce quite fivefold. There are improvements on that river and its tributaries that are badly needed. We are land-locked. When commerce is obstructed on that river and its tributaries, we are compelled to resort to railroads for our communication both with the Atlantic and with the South; and whenever the price of produce advances, as it does sometimes in New York and in the eastern cities, those who control railroad capital have the means of combination by which they put up freights, so that this advance never results to the advantage of the producer in the great valley of the Mississippi river.

We submitted to this during the progress of the war; we were willing to suffer this loss; we were willing to live on our crust of bread until the battle was fought; but now that peace has come, if it is now necessary to appropriate a few million dollars to remove these obstructions the people of the country, as it seems to me, will demand it.

It is said that the river and harbor bill as it came from the House of Representatives proposes to appropriate six or seven million dollars. Well, this, Mr. President, is a mere drop in the bucket. We have it on authority that I deem reliable that the British Government have advanced and secured investments in internal improvements in her East India possessions since the beginning of our civil war amounting in the aggregate to nearly four hundred million dollars. They have done this for the purpose of opening up a great agricultural country in order that they may avail themselves of the advantage of those exhaustless resources. We have a country equally rich, a country equally productive; and if it should cost six or seven million dollars to open it up and to give us the best means of communication with the trade of the world that is available, it seems to me to be the duty of the Senate to acquiesce in the proposition of the House of Representatives and make the appropriation; but I have no doubt the amount may be with great propriety reduced very

greatly. I therefore hope that every friend of the improvement of the rivers and harbors may vote against this appropriation with a view of securing action on the proper bill.

Mr. DRAKE. I am, I suppose, quite as deeply interested on account of the people whom I represent, and of their neighbors all through the valley of the Mississippi, in the improvement of the Mississippi river and other streams there as the honorable Senator from Iowa; but I am compelled to take a different course from him in regard to this matter. I am perfectly satisfied that no bill embodying appropriations for general improvements can be got through at this session of Congress. I am perfectly satisfied that those improvements will be just as well made under appropriations obtained at the next session as now. I think it is the part of wisdom to look after those improvements which have been begun, to make provision for their preservation, or for their prosecution to a point of completion, and go deliberately to work at the other bill when we come together again in December. I state this as my reason for differing from the honorable Senator from Iowa on this subject, not consenting for a moment to be thought below him or behind him in interest in the general subject of the improvement of our rivers and harbors.

Mr. CHANDLER. I object *in toto* to being placed in the list of enemies to river and harbor appropriations. There is not a member of the Committee on Commerce who is not an earnest friend of river and harbor appropriations. This bill came to us on the same day that a resolution to adjourn in two weeks came to us from the other House. A large proportion of the committee have spent five or six days upon the bill; and on the whole, as friends to river and harbor improvements, they have recommended this as the very best measure that they could recommend. Now, sir, I hope that every friend of river and harbor improvements will vote for this amendment, and that every enemy of river and harbor improvements will vote against it. That is what I hope and expect and believe.

Mr. MORTON. Mr. President, before the recess in the course of a few remarks I said that sectional discussions were vastly unimportant, and that I took no stock in them. On reflection I think I ought not to have made that remark, as it might seem disrespectful to two distinguished Senators for whom I entertain the highest respect; therefore I make this statement.

Mr. DAVIS. Mr. President I am somewhat astonished that the honorable chairman of the Committee on Commerce should think that the Treasury could spare any money for the improvement of rivers and harbors. It seems to me that he is beginning to adopt a very false political economy. Why, sir, how can any money be spared from the Treasury that is flowing toward the Freedmen's Bureau? Why, sir, can rivers and harbors measure swords with the Freedmen's Bureau? Is the improvement of rivers and harbors a subject for legislative appropriation of money and to command the enterprise and the enlightened policy of the Government, when the Freedmen's Bureau and the reconstruction laws and the standing Army of the United States require every cent, and more than every cent, that can be wrung from the hard-taxed people of the United States? My honorable friend has not taken a very deep and philosophical view of this subject. If he had he never would have thought of acting with the temerity, the wastefulness, of asking a few hundred thousand dollars to improve the great rivers of the West and the harbors of the lakes and other harbors upon the Atlantic coast. It is strange that a political economist should ask Congress to appropriate money to the amount of \$1,000,000 to those trivial objects, when the Freedmen's Bureau and the reconstruction laws and the standing Army that is to be maintained for another year in order to enable the southern people to be completely subjugated and to be driven from the

polls at the ensuing elections, and not have the meager and hard chances that your reconstruction laws even allow them! Why, my honorable friend from Michigan I must suppose upon second sober thought will take a much sounder view on this subject.

Mr. CHANDLER. If the honorable Senator from Kentucky will allow me, I will say that I think that whole subject has been settled since the nomination of Blair and Seymour in New York; and I have not taken it into consideration at all. [Laughter.]

Mr. DAVIS. Well, sir, the honorable Senator is not so deliberate and so comprehensive in his surveys of such subjects as I had taken him to be. I suppose, though, that he will improve with the course of time. In this time of party activity, when the presidential canvass is looming up in all its vast proportions, and men are looking East and North and South, and they do not know what is to befall them in the fortunes of party either North or South, the idea of diverting a million of money to cleaning out rivers and harbors seems remarkable when it is necessary to appropriate a much larger sum to meet the imperative demands of the party in the Freedmen's Bureau, and the reconstruction acts, and the maintenance of the Army at its present number of some sixty thousand, capable of being filled up to one hundred and six thousand. All these demands would require vastly more money than the Treasury of the United States can stand, and it cannot be dreamed of by the honorable Senator from Michigan that the trivial subject of the improvement of rivers and harbors shall be brought into competition at all with the great national party objects to which I have adverted!

Mr. WILSON. Mr. President, I desire to say a single word in regard to the remarks of the Senator from Kentucky about the standing Army and the support of the reconstruction policy. The Army to day numbers fifty-three thousand men; twenty-one hundred men are stationed here in this District. In nine of the rebel States there are less than fourteen thousand, and in Texas there are fifty-four hundred, most of them on the frontiers taking care of the Indians; so that there are only nineteen thousand men in all the States lately in rebellion, and at least four or five thousand of them are used on the frontiers to take care of the Indians. The rest of the Army is stationed in other parts of the country. There are fifteen or twenty thousand in the Indian country and on the plains.

A word now in regard to the cost of the Army. It was stated here the other day that the Army cost \$123,000,000 last year. To make up that amount there were included \$32,000,000 paid for bounties, \$9,250,000 paid to the States for balances due them on account of advances during the war, and between five and six million claims for damages on the Government growing out of the war; \$2,100,000 expenses of the Freedmen's Bureau, and nearly twenty million dollars expenses of the Indian war, incurred mostly the year before, bringing the expenses of the Army last year down properly to \$56,000,000.

It is estimated that this year, with the present Army, unless we have an Indian war, the expenses can be brought down to \$40,000,000, and we propose to reduce the Army a few thousand men, and expect to do it before we adjourn. There are no more troops stationed in the States lately in rebellion, in proportion to their population, than would make about a fair average of the population of the United States, and it does not cost half as much to keep the troops there as it does the troops that are out on the railway lines, and especially the troops that are in Arizona, New Mexico, and that section of country where it costs so much to feed and move them.

Mr. DAVIS. I understand the honorable chairman of the Committee on Military Affairs to state that there are about two thousand of the regular Army stationed in this District; that there are about fourteen thousand in the

rebel States, to use the term of the honorable Senator, and, did I understand him to say, in addition to that, about five thousand in Texas?

Mr. WILSON. Yes, sir; I will state it exactly. There are two thousand one hundred troops stationed in this District; in the State of Virginia, the first military district, there are two thousand four hundred and ninety-seven; in the second military district, consisting of the States of North and South Carolina, two thousand seven hundred and seventy-nine; in the third military district, consisting of the States of Florida, Georgia, and Alabama, three thousand four hundred and forty-four; in the fourth military district, consisting of Arkansas and Mississippi, three thousand one hundred and fifteen; in the State of Louisiana, two thousand and twenty-two; and in the State of Texas, five thousand four hundred. Most of the troops in Texas are stationed on the frontier.

Mr. DAVIS. What is the aggregate?

Mr. WILSON. The aggregate in all the ten rebel States, including those on the frontiers of Texas, most of them beyond the habitable portions of the State, is nineteen thousand six hundred and thirteen men out of our fifty-three thousand.

Mr. DAVIS. There ought not to be the half or the fourth of that number of men in those States, in my opinion. There is no need for any honest or patriotic purpose to maintain such a force in those ten States. Those men ought to have been disbanded long ago. So in relation to the force in this District, about twenty-one hundred men, I understand the honorable Senator. It is double the number of soldiers that ought to be in this District. A thousand men to garrison the forts in the District would be the utmost that would be needed, and three fourths of the men in the southern States ought to have been withdrawn from there long ago. This army exists only for the purposes of oppression; it is not required for any just or proper object of Government. There is no disguising that proposition.

Mr. President, the policy of our republican empire is peace, not war. The object of our Government is not national strength alone, but it is liberty in the first place, and only enough strength and force to protect the country. If a proper regard to the great objects of our scheme of Government had been adhered to in the policy of the party in power, this army last year, instead of costing \$96,000,000, independent of the bounties, would have cost not more than one third of that amount. I have not gone over the figures; I have not examined the documents with a view to ascertain; though the honorable Senator from Indiana [Mr. HENDRICKS] did some weeks since, and he presented to the Senate the figures, and showed that the cost of the Army proper last year was upward of ninety-six million dollars.

There is no necessity for any soldiers in the southern States except a few troops to garrison the different fortresses, and to take charge of them to prevent them from going to waste and dilapidation. There is no need for the maintenance of a solitary soldier in the southern States to keep the people of those States in a condition of subjection, of peace, and perfect obedience to the Government. The ground on which an army of some twenty thousand men is kept there is a mere pretext. It was a short time since much more than twenty thousand. The keeping of an army of that strength in the southern States is for no other purpose than to enslave those States to the negroes, and to enable the Freedmen's Bureau and the military satraps there to control the popular elections in those States.

Sir, I am doing what little I can to bring the attention of the country to this great abuse. It is a great abuse. The idea of a standing army in time of peace is utterly hostile and alien to our system of government. The spirit of our imperial Republic is peace. We have had peace, so far as the shock of arms is involved, for the last three years, perfect peace; and the idea of keeping up this army to consummate and complete the work of the suppres-

sion of the rebellion is altogether a pretext. If gentlemen want money, if they want the resource to raise the means to apply money to cleaning out the rivers and harbors, the resource is at hand; they have only to stretch forth their hand and seize upon it; and that is to disband one half of the Army; to withdraw the troops from the southern States; to repeal the Freedmen's Bureau. Do this, and the Treasury will have a surplus immediately of \$50,000,000, and all the sums necessary to be appropriated to works of a national character, in the nature of internal improvements, will be at hand.

But, Mr. President, the play is to be completed. It is to be enacted to its last final and closing scene. We shall not see the diminution of this Army this side of the next presidential election. There may be promises, delusive promises held out to the country and to the people, that such reduction is to take place; but it is not going to take place. The Freedmen's Bureau, a corrupt piece of political machinery, will not come to a close this side of the next presidential election. It was devised for purposes of party political machinery, and it will be retained with a view to those objects, and it will be maintained until the next presidential contest is decided. Gentlemen might as well confess the truth of the case. There is no necessity for any protestations or denials to conceal the real purpose for the maintenance of the Freedmen's Bureau, the standing Army, and the enforcement of the reconstruction acts. It all resolves itself into a question of party political power and nothing else.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Michigan, [Mr. CHANDLER,] as amended.

The question being taken by yeas and nays, resulted—yeas 29, nays 7; as follows:

YEAS—Messrs. Cattell, Chandler, Conkling, Corbett, Cragin, Doolittle, Drake, Ferry, Fessenden, Frelingshuysen, Howard, Howe, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Osborn, Ramsey, Ross, Sprague, Sumner, Tipton, Trumbull, Wade, Welch, Willey, Williams, and Wilson—29.

NAYS—Messrs. Cole, Conness, Harlan, Pomeroy, Thayer, Van Winkle, and Vickers—7.

ABSENT—Messrs. Abbott, Anthony, Bayard, Buckalove, Cameron, Davis, Dixon, Edmunds, Fowler, Grimes, Harris, Henderson, Hendricks, Kellogg, McCroery, Morton, Norton, Patterson of New Hampshire, Patterson of Tennessee, Pool, Rice, Saulsbury, Sherman, Stewart, Whyte, and Yates—26.

So the amendment was agreed to.

Mr. TRUMBULL. I offer the following amendment, to come in as an additional section:

And be it further enacted, That all laws making an appropriation for the payment of salaries of the solicitor, assistant solicitor, and deputy solicitor of the Court of Claims, and of the Assistant Attorney General, for the fiscal year ending June 30, 1863, be, and the same are hereby, repealed; and that there be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the salaries of two Assistant Attorneys General, one clerk, and two clerks of class four, for the fiscal year ending June 30, 1863, \$12,400. And for the payment of judgments rendered by the Court of Claims in favor of claimants during the fiscal year ending June 30, 1863, in addition to the sum already appropriated, \$300,000.

I will state to the Senate, if it is necessary, the reason for the first part of the amendment. We passed a law at the present session—

Mr. MORRILL, of Maine. That amendment embraces two propositions, does it not?

Mr. TRUMBULL. Yes, sir. You can divide it if you wish to do so. I presume that the Senate understand the first proposition. I will state that we passed a law on the 25th of June last, the fifth section of which reads as follows:

"SEC. 5. *And be it further enacted*, That from and after the 1st day of July, 1863, the Attorney General of the United States for the time being shall, with his assistants, attend to the prosecution and defense of all matters and suits in the Court of Claims on behalf of the United States. There shall be appointed by the President, by and with the advice and consent of the Senate, two Assistant Attorneys General, who shall hold their offices for four years respectively, unless sooner lawfully removed, and whose salaries shall be \$1,000 each per year, payable quarterly, and who shall be in lieu of the solicitor, assistant solicitor, and deputy solicitor of the Court of Claims, and of the Assistant Attorney General now provided

for by law; and the existing offices of solicitor, assistant solicitor, and deputy solicitor, of the Court of Claims, and of Assistant Attorney General, are hereby abolished from and after the 1st day of July, 1863. The Attorney General shall have power to appoint two additional clerks of the fourth class, and one clerk at a salary not exceeding \$2,000, in his office."

It will be perceived that this section of the law abolishes the office of Assistant Attorney General, and also the offices of solicitor, assistant solicitor, and deputy solicitor of the Court of Claims, and substitutes in their places two Assistant Attorneys General, one clerk with a salary of \$2,000, and two clerks of class four, and makes it the duty of the Attorney General to attend to the business of the Court of Claims. I will state to the chairman of the committee that it reduces the expenses a little. The salaries of the solicitors were \$200 more than the salaries of these officers created by this act. We passed the regular appropriation bill before we had knowledge of the fact of the passage of this law, and an appropriation was made in that bill for those solicitors of the Court of Claims, whose offices are now abolished, and also for the Assistant Attorney General, whose office is abolished. This is to pay the salaries of the new officers provided by law. The exact sum specified in the law for the salaries of these officers will be found in the amendment. That is the first part of the amendment.

Mr. MORRILL, of Maine. That is my understanding of it.

Mr. TRUMBULL. The other portion of the amendment arises, also, out of the action of Congress at its present session. In an appropriation bill which passed some days ago and is now a law, \$125,000 was appropriated for the payment of judgments to be rendered by the Court of Claims during the present year. The estimate was \$500,000, but only \$125,000 was appropriated with a limitation against the payment of more than \$5,000 upon any one judgment.

Mr. WILLIAMS. Was not that limitation stricken out?

Mr. TRUMBULL. That was subsequently stricken out, so that now the law stands as it has always stood. That was a proviso on the appropriation bill as it came from the House; but the Senate struck out that proviso, and I believe it was acquiesced in by the House; so that now we have only \$125,000 appropriated to pay the judgments of the court when the estimate is \$500,000. I have added here an appropriation of \$300,000 to meet those judgments. The estimate is still larger than that. The Senator from Maine has the estimates before him. I offered this amendment on the other bill, but I had not given the requisite day's notice, and it was not considered.

Mr. MORRILL, of Maine. I should like to have the question taken separately on these propositions. They are entirely distinct in their character. Let the question first be taken, if the Senator pleases, on the proposition to provide for the salaries. I ask for a division of the amendment so that that may be done.

The PRESIDENT *pro tempore*. A division being called for, the question will be on the first portion of the amendment relating to the salaries of officers. The question is on that portion of the amendment.

The first branch of the amendment was agreed to.

Mr. MORRILL, of Maine. Now, on the other proposition I wish to suggest to the honorable Senator that although the estimates are as he supposes, yet as it seemed in the judgment of the House \$125,000 was adequate for the present—

Mr. TRUMBULL. That was on the assumption that no judgment for more than \$5,000 would be paid.

Mr. MORRILL, of Maine. Perhaps so.

Mr. TRUMBULL. And if the Senator will recollect, it was upon my motion that that proviso was stricken out in the Senate.

Mr. MORRILL, of Maine. I remember that.

Mr. TRUMBULL. But I coupled it, also, with a motion to increase the appropriation;

but it was not in order under the rules, and was not considered. Therefore I thought it proper to bring it before the Senate now.

Mr. MORRILL, of Maine. I suggest to the Senator for his consideration, as there will undoubtedly be a reluctance on the part of the House to increase this sum, whether, after all, for present purposes, the \$125,000 is not adequate. It will be recollected that the court does not sit at this season of the year. I understand that from this period until about the time we assemble again the court will not be in session, or not much, to say the least of it; it will not be doing much; and the probability is they will render but few judgments.

Mr. TRUMBULL. I think the court meets for business in October. It meets in August, but I do not know whether it goes on with its regular business then. My impression is that it does not do much until October.

Mr. MORRILL, of Maine. Practically it does very little until fall, so that it can hardly be expected that the judgments of the court will require an appropriation beyond the \$125,000 provided for. I suggest to the Senator, therefore, whether on the whole it is not wise to let the thing stand as it does, although the estimates are larger. Undoubtedly next winter we shall be obliged to adopt the legislation he now proposes; but still, under the circumstances, I suggest to him that it may be as well to allow it to stand as it does.

Mr. TRUMBULL. It would necessarily involve a deficiency and might impair the usefulness of the court. Of course it would be folly to keep up a court at an expense, I imagine, of at least \$50,000 a year to pass upon claims only to the extent of \$125,000. I will state further to the Senator from Maine that the appropriation last year was \$700,000.

Mr. MORRILL, of Maine. I believe it was.

Mr. TRUMBULL. It is a matter of public importance, I think, that there should be a reasonable sum appropriated. It is immaterial to me and to the public interests when it is appropriated, so that it is not delayed. It is for this fiscal year, and the appropriations that we shall make next session will be for the fiscal year still. This is for the current year, the year upon which we have just entered, the year ending the 30th of June next. I do not wish to take up time upon the amendment. It is manifestly a proper appropriation, and ought to be made.

The PRESIDENT *pro tempore*. The question is on the latter clause of the amendment of the Senator from Illinois in these words:

And for the payment of judgments rendered by the Court of Claims in favor of claimants during the fiscal year ending June 30, 1869, in addition to the sum already appropriated, \$300,000.

The amendment was agreed to.

Mr. FERRY. I offer an amendment to insert on page 10, after line two hundred and nineteen, the following:

Navy Department:

For survey and incidental expenses connected with the care of property on Thames river, recently acquired from the State of Connecticut, \$3,000.

The naval appropriation bill of last session contained the following clause:

And the Secretary of the Navy is hereby authorized and directed to receive and accept a deed of gift when offered by the State of Connecticut of a tract of land, situated on Thames river, near New London, Connecticut, with a water-front of not less than one mile, to be held by the United States for naval purposes.

We received a short time ago from the Secretary of the Navy a letter containing the information that this cession of a mile of river front on the Thames river had been made and accepted, and suggesting an appropriation of \$10,000 for the purposes mentioned in the amendment. I wrote to the Navy Department. I at first gave notice of an amendment appropriating \$10,000; but upon making inquiry at the Navy Department I became satisfied that for present purposes an appropriation of \$3,000 would be sufficient. The land is a mile front on the river by some seven hundred and fifty feet in width, and will need fencing and care, and a survey particularly.

Mr. CATTELL. I do not like to oppose the amendment of the Senator from Connecticut; but the Government have accepted of the city of Philadelphia, as a gift, League Island, for which, I think, the city paid the sum of three hundred and fifty or four hundred thousand dollars, and I have been importuned by gentlemen in Philadelphia for a survey and for some care in regard to that island. I took the ground that with the present economical disposition of the Congress of the United States appropriations in that direction would not probably be listened to with favor, and therefore I declined making such a proposition. I should be very glad if the Senate is disposed to pass this amendment that they would also make a like appropriation for a survey of League Island. The circumstances are very similar in both cases.

Mr. FERRY. I do not know that there is any necessary connection between the cession of League Island and the present cession. This cession from the State of Connecticut was invited by an act of Congress passed last year, and in pursuance of that invitation the State, at considerable expense, purchased this property and donated it to the Government. It is now the property of the Government, and needs absolutely some appropriation for the purpose of taking care of it and preventing trespasses, and making the needful external inclosures. The Secretary is also desirous, as he informs us in a letter which lies before me, of making a survey to ascertain the adaptation of this land for the purposes for which the Government invited its cession, and for the purposes for which the cession was made. I had supposed from an interview which I had with the chairman of the Committee on Appropriations that there was no objection on his part to the appropriation which I had offered as an amendment.

Mr. MORRILL, of Maine. I will say one word in explanation. This amendment did not come to the committee in season to be presented by the Committee on Appropriations, but my attention was called to it by the Senator. Notice had been given to the committee so as to enable him to move it, and on a statement of the facts, and considering the moderation of the appropriation, it did not seem to me that I could very successfully oppose it. So he was right in inferring that it seemed to be proper enough.

Mr. ANTHONY. The difference between the two cases is that League Island does not need fencing, and this ground that has been accepted by the Government at New London does need fencing. There is no fencing necessary for League Island, and I suppose it could not be fenced unless you got poles fifty feet long on account of the mud there. Otherwise it would be impossible for them to remain. [Laughter.]

Mr. CATTELL. The only reply I have to make to the Senator from Rhode Island is that the State of Connecticut ought to have presented the land already fenced. I do not think they ought to have subjected the Government of the United States to the expense of fencing it. I will say further that League Island is occupied by the Government of the United States. I saw there last winter twelve or fifteen iron-clads in the back channel of League Island, and it strikes me that if there is to be an appropriation for one of these places they ought to be put on a par. Certainly if we do not need fencing at League Island we want a survey. If we could have an appropriation for a survey, perhaps my friend from Rhode Island would be able to ascertain definitely what the depth of mud is at the island without being obliged to guess at it. [Laughter.]

Mr. ANTHONY. There are not so many iron-clads there as there were, for one took fire about a year and a half ago, and there was not water enough there to put it out. [Laughter.]

The amendment was agreed to.

Mr. MORGAN. I have two amendments to offer from the Committee on Commerce. The

first is to insert after line two hundred and eight, on the ninth page, the following:

One hundred thousand dollars, or so much of the same as may be necessary, to be expended under the direction of the Secretary of War in the removal of the wreck of the iron steamship Scotland, now on the bar outside of Sandy Hook, near the entrance to the harbor of New York: *Provided*, That the Secretary of War shall, after notice given in one or more newspapers in the cities of Philadelphia, New York, and Boston, receive sealed proposals for the removal of said wreck, and make contracts for the same with the lowest bidder therefor. Said contract will in no case exceed in amount the sum herein appropriated.

In January, 1867, Congress passed an appropriation of \$100,000 for this purpose, but on representation being made that the owners of the ship had made a contract with a wrecking company it was thought best to repeal that law, and the law was repealed. The wrecking company have been at work for a year and a half, and have accomplished nothing. One hundred thousand dollars is the least sum for which this obstruction can be removed, and it is supposed that this appropriation, as it is limited, may be the means of getting the ship removed; otherwise it will cost more.

Mr. MORRILL, of Maine. I ask the Senator whether this is the same proposition which was before the Senate last year?

Mr. MORGAN. Precisely the same. It is a copy of the law that was repealed. I have it before me.

Mr. MORRILL, of Maine. That law was repealed?

Mr. MORGAN. Yes, sir.

The amendment was agreed to.

Mr. MORGAN. I have another amendment to offer reported from the Committee on Commerce, to insert after line two hundred and eight, on the ninth page, the following:

For the removal of a sunken rock in the channel of the harbor at the port of New York, \$1,530.

The amendment was agreed to.

Mr. CRAGIN. I offer an amendment to insert after line seven, on page 1, the following:

For pay of additional messengers of the Senate for the month of June, 1868, \$2,245 04.

The amendment was agreed to.

Mr. DOOLITTLE. I offer an amendment from the Committee on Indian Affairs, to insert after line three hundred and forty-eight on page 15, the following:

For deficiencies in appropriation for feeding destitute friendly Indians under act of July 20, 1867, in accordance with the recommendation of the Indian peace commission, \$172,827 11.

Mr. MORRILL, of Maine. I should like to have some explanation of that amendment.

Mr. DOOLITTLE. The honorable Senator from Missouri [Mr. HENDERSON] has been unwell during the day, and not able to come into the Senate, and in consequence of that I have offered this amendment in behalf of the Committee on Indian Affairs.

Mr. CONNESS. I should like to inquire of the honorable Senator whether a corresponding one was not offered and adopted to the Indian appropriation bill recently passed?

Mr. DOOLITTLE. This is for a deficiency; the appropriation bill is for the fiscal year ending June 30, 1869.

Mr. CONNESS. It was stated in the discussion that the appropriation was made for a deficiency for feeding the Navajo Indians.

Mr. DOOLITTLE. This has nothing to do with the Navajos.

Mr. CONNESS. Oh, this is to feed other Indians.

Mr. DOOLITTLE. Yes, sir; to feed other Indians. My honorable friend will remember that General Sherman, Mr. HENDERSON, and others went out to deal with the Sioux and the Indians on the plains who were at war, and make peace with them and feed them.

Mr. STEWART. From what time to what time was the feeding done?

Mr. DOOLITTLE. The deficiency is \$172,827 11. The Secretary states:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., July 15, 1868.

Sir: I have the honor to transmit herewith a copy of a communication of this date from the Commis-

sioner of Indian Affairs, reporting a deficiency in the appropriation made for the subsistence of friendly Indians amounting to \$172,827 11, and invite the attention of Congress to the favorable consideration of the recommendation of the Commissioner of Indian Affairs, that the above amount be appropriated to enable the Department to pay the indebtedness to contractors and special agents as indicated by that officer.

Very respectfully, your obedient servant,
O. H. BROWNING,
Secretary.

Hon. BENJAMIN F. WADE,
President pro tempore United States Senate.

Mr. STEWART. Let us have the letter of the Indian superintendent read, and hear what he says.

Mr. DOOLITTLE. I have here the letter of the Commissioner of Indian Affairs on the subject.

Mr. CONNESS. Will not the Senator send it up to the desk and have it read by the Clerk?

Mr. DOOLITTLE. Certainly.

The PRESIDENT pro tempore. The letter will be read.

The Chief Clerk read as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
July 14, 1868.

SIR: Referring to the matter of the subsistence of friendly Indians, and to the appropriation of \$300,000, made last year for that purpose, I have to say that in each of the contracts made by this bureau for supplies for such Indians there was a clause to the effect that the contractor should continue furnishing supplies for thirty days after receiving notice to cease the delivery.

Timely notice was given to the contractors to stop furnishing supplies; but, owing in a great measure to the great distance and isolated location of the points where the subsistence was being issued to the Indians the agents of the contractors continued delivering and the special agents of the Department continued receiving supplies, until the cost thereof, together with the cost of articles furnished by various parties under orders of the Indian peace commission, and the expenses incident to the delivery of the subsistence to the Indians, largely exceeded the amount of the appropriation.

There are vouchers now in this office in favor of Thomas A. Osborn for supplies furnished under his contract to the amount of \$31,042 93, and in favor of Lewis Stettauer for supplies furnished to about fifty-four hundred and seventy-nine Indians in February, March, April, and May last, to the amount of \$66,981 65. Total, \$98,024 58.

I am also advised that there are vouchers not yet presented for payment in favor of Mr. Osborn to the amount of about \$69,802 53 for supplies furnished during the month of May last to about fourteen thousand Indians. This will make about the sum of \$167,827 11 due and owing to Messrs. Osborn and Stettauer under their contracts.

In addition to this there will be required for salaries of the special agents, and to pay their necessary expenses the further sum of \$5,000, making in all a deficiency of \$172,827 11 in the appropriation for subsistence of friendly Indians.

I respectfully request that this matter be laid before Congress, with an urgent recommendation that the sum of \$172,827 11 be appropriated to enable the Department to settle up this indebtedness and to pay the balances due the special agents.

Very respectfully, your obedient servant,
N. G. TAYLOR, Commissioner.

Hon. O. H. BROWNING, Secretary of the Interior.

Mr. CONNESS. It appears to me, on the reading of that letter, that the first thing to do here is to refuse the appropriation, if we have any regard for the public service or the public money; and the next thing should be to dismiss the Commissioner from office. After that, in due time we might investigate those vouchers, and ascertain what part of them were authorized by law or ever had a reasonable appearance of equity connected with them. This statement of an official that we appoint to a high office, one of the most responsible in this Government, in point of the amount of money involved, is the most disgracefully loose one I have ever listened to. He says that Congress made an appropriation of \$300,000 to subsidize Indians, and that the Department, in accordance with their duty in the premises, made contracts with certain parties to furnish supplies to them, putting conditions in those contracts that the parties supplying should cease those supplies one month after notice was served upon them, but, very conveniently to the persons thus supplying, they did not receive the notice. The wonder is that they ever received the notice. It is said that during Tyler's administration a certain official holding a mission in one of the South American republics, I believe—he has gone now to Heaven,

I hope, consequently I do not name him—was recalled; but the letter of recall could not find him; and I do not know how many years it was in finding him. He did not turn up anywhere so that it could look at him.

Here, in this case, the \$300,000 sacredly placed with a high public official in one of the departments of this Government was not only expended, but these contractors were allowed to go on and create additional obligations, or go on and make money *ad libitum*; and we are told coolly by an official here, in a communication addressed to a Department, and now coming to Congress, that this constitutes a deficiency in appropriations.

Mr. President, we hear it stated here sometimes, and especially by my friend from Kentucky, who appears to have a Democratic nightmare, the animal that he is approached by and in such terror of being a Freedmen's Bureau, that we are cursed with military administration in this land. Notwithstanding the oppression to my honorable friend I would have a little more of it. We want some kind of administration by which some of these high officials shall be taken out and publicly executed. Let one man engaged in perpetrating these gross frauds against the public weal and interest, and thus lowering the whole standard of public morals, thus destroying the faith of the people in every official agent of the Government, be suddenly and promptly put to death, and we would have an end to it.

I have had some little acquaintance with the public business, and I never heard such a statement as this before. Hundreds of thousands of dollars are called for, and the merest pretense put in here to justify its payment. Why was not this information sent in at an earlier period of the session and examined by the proper committee? Why were not those vouchers called for? Shall we, in addition to the vouchers spoken of, appropriate money to pay for the guesses of the commissioner that he is informed that there are other vouchers, amounting to \$60,000 yet to come in? I hope this body will not appropriate a dollar to make payment for such charges against the public Treasury.

We hear very much of the peace commission. While the peace commission are going on doing their business, as we are frequently told, and with some truth, making a more economical administration by the use of money than by the use of arms, there are other commissioners in the shape of contractors who have their arms in the Treasury to the shoulder, pulling out the public money. When the bottom of the purse is reached they call for more, and it is a matter of course, for is it not a deficiency?

Mr. WILSON. It is called a deficiency.

Mr. CONNESS. Yes; it is a deficiency. It would be a wonder if there was not a deficiency in the bag from which they pull. I do not know when it will be otherwise. I have a belief that it might be otherwise; and we all know that it should be otherwise. This letter is the most curious official production, I will guarantee, that has ever yet seen the light. If there is one Government on the face of the earth, or was one even when King Theodorus was in operation, that would permit that class of administration, I should like to know where it is and what people can stand it. Surely, sir, we are a patient, forbearing, and ever-and-ever enduring people.

Now, sir, I hope this appropriation will not be made, and that these things will not be called deficiencies.

Mr. DOOLITTLE. I desire to say a few words on this subject. The Secretary of the Interior sends in this recommendation, making his statement. So far as I know, the integrity of the Secretary of the Interior has never been questioned by any human being. The Commissioner of Indian Affairs (Mr. Taylor) sends in a letter making a statement of the facts. I may not know as much of that gentleman, but I never heard Mr. Taylor's character for integrity questioned in any place or

by any person. I believe him to be a man of honor, a man of truth, a man of good character, which he has borne in the State where he lived and has borne here at Washington. I believe that the honorable Senator from California is entirely misled in his view of the case.

I regret that the honorable Senator from Missouri, who was himself one of the peace commission, is not in his place. Mr. Taylor, the Commissioner of Indian Affairs, was another of that commission. General Sherman, I believe, was another. General Sanborn was another. I cannot state the names of them all. But it will be remembered that when this commission started to go out upon the plains to make peace with the Indian tribes, with whom we were then at war, Congress made an appropriation of \$300,000 to enable the friendly Indians to be fed and taken care of. We were at war with from ten to fifteen thousand Indians—the Sioux, the Arapahoes, the Cheyennes, and the Kiowas, on both lines of the railroad, across the plains, up the Smoky Hill, and up the Platte. Sir, at this very hour there are fifteen thousand troops stationed upon those two railroad lines, costing this Government \$20,000,000 a year; and when this peace commission went upon the plain, they were at war with all those Indians, from the British possessions south and below the Arkansas river. What did the peace commission go for? They went to make peace with the Indian tribes, and Congress put at their disposal \$300,000. They went out among the Indians; they have made treaties of peace; they have made peace with those Indians; and the war is not now going on at all. In the course of their operations it was impossible for them to know in advance, for Congress to know in advance, for the Department to know in advance, how large supplies would have to be furnished to these Indians, and they overran this appropriation of \$300,000 by \$172,000, as the commissioner states. That is all there is of it.

I regret that the Senator from Missouri is not here, because he was one of the peace commissioners, to explain the matter, because he was on the ground personally. I only know of it from report. I believe that that peace commission was perfectly honorable. I believe they have accomplished a great good in making peace with those Indians. I believe they have saved millions upon millions of dollars to the Government. I have no doubt they have saved \$20,000,000 by going out there. And yet here were these expenses that they were subjected to, Mr. Taylor himself being one of that commission, and General Sherman and Mr. HENDERSON, and others acting together. It is impossible to make any treaties with Indians, and to get them together to talk with them, without having some supplies furnished, and those supplies had to be furnished at far distant points, and points distant from each other, near Fort Laramie, near some of the other forts, all the way on the plains between Powder river and Fort McPherson and Salt Lake, through that whole region of country. Medicine Lodge river, where they met a good many Indians and formed treaties, is away down below the Arkansas, if I am correctly informed as to the geography of the country, and then they had to have supplies away up by Fort Laramie.

Now, Mr. President, just look at this. Here are fifteen thousand troops; here is the expenditure of \$24,000,000 to feed those troops; but when the Senator from Massachusetts [Mr. WILSON] comes in here with a military bill, or the Committee on Appropriations with their bills for supplying deficiencies in paying the troops, who gets up here in the Senate and demands the vouchers? Where is the man that gets up here and says, "If every voucher is not presented, not a deficiency shall be paid in the War Department?" You never hear anything of that sort about those appropriations. It is because they are for the War Department, that Department which swallows and ingulfs by millions upon millions at a single

appropriation without inquiry and without question. But here comes another Department and says, "We have made peace with the Indians; to do so we have overrun our appropriation by \$172,000 to feed these friendly Indians; we ask it to be appropriated because the Department has run in debt to that amount;" and lo! and behold there is a great demonstration. It is something about Indians. It must be a fraud, of course. You may spend \$24,000,000 in fighting the Indians; you may have all the contractors from here to Kansas employed in carrying supplies to your fifteen thousand troops, and it is all right.

Mr. STEWART. They never fight the Indians.

Mr. DOOLITTLE. The Senator says the troops never fight the Indians. I agree that the troops are not of much consequence in fighting Indians. I would rather send out a peace commission with a few boxes of tobacco and a few presents; and on my life, I believe if you will withdraw every soldier from the plains, and stop the expenditure of every dollar in the support of your Indians there, and appoint six good old Quakers, whom I could find in the United States, and give them \$500,000, they would keep the peace with the Indians better than the whole of your Army.

Now, Mr. President, when this appropriation comes from the Interior Department, asking for this deficiency, I know of no reason why there should be an outcry against it any more than if it was asked for by the War Department. The War Department furnished food to the Indians sometimes from the commissary stores, and they report to Congress, "We have drawn on our commissary stores to feed Indians; we want you to supply the deficiency," and you pass a bill in five minutes. You do not ask for vouchers. You do not ask the Secretary of War to come down here with his books and all his vouchers in his hands to demonstrate and prove to you that every pound of corn and every pound of meat has been delivered. But if the Secretary of the Interior comes and tells you that he has overdrawn the appropriation, then anything connected with Indian affairs must be a fraud of course.

Mr. President, let us deal fairly with honorable men. I believe Mr. Browning and the Commissioner of Indian Affairs are honorable men, as I believe all the gentlemen connected with that peace commission are; and I believe that they have saved to the Government millions upon millions of dollars, besides saving us from war.

Mr. STEWART. I do not expect to beat an appropriation with which the word "Indian" is connected. I never have succeeded in doing so, and do not expect that I can do so now. But I fully concur with the Senator from California when he denounces this letter as the most frivolous evidence ever presented upon which an appropriation was demanded. The Commissioner of Indian Affairs tells Congress that he made a contract whereby the contractors could go on for a month after receiving notice, an indefinite contract for an indefinite time. He then tells us that they went on, and he could not get the notice to them. Further, he tells us that he is getting in some of these accounts, and he expects more. We have \$20,000 appropriated every year for the Indians in Nevada, and we have about as many Indians there as they have anywhere else, but we never supposed that we could go on and spend two or three hundred thousand dollars and call it a deficiency. Is there no limitation? Is it entirely discretionary? Has the Commissioner a right to contract all he pleases and render the Government responsible? I supposed he was to use the money appropriated. If there is no limit there is no use in appropriating money. We might as well appropriate it in gross if he has unlimited power and unlimited discretion to spend as much money as he pleases for Indians or for Indian contractors.

Mr. President, the management of our Indian affairs is the great leak of this Government.

"It is true you spend twenty-five or thirty millions to keep an army among the Indians when there is no necessity for an army in many portions of the country. You can generally get volunteers to do the duty whenever you want to fight on two hours' notice, to a great deal better advantage than hauling your Army over those plains and feeding them from year to year. You do not want money for any soldiers. You can get volunteers to do the work at the time it is needed. You do not want an Indian department working at cross purposes with the Army, and each accusing the other, and each charging the other with all blame of mishaps. The whole system is a system of mishaps, mischance, troubles, turmoils, and enormous expense. I can get abundant testimony from the Army that the peace establishment is corrupt, imbecile, and interferes with their arrangements. I can go to the peace establishment and pile up the evidence mountain high against the Army. The whole thing is at cross-purposes. There is no system, and it appears there is no responsibility. There is an unlimited discretion in the Commissioner of Indian Affairs. When \$300,000 has been appropriated and expended, he deliberately allows the contractors, for want of notice, to go on and involve the country in a debt of \$170,000; and without sending even the vouchers to a committee he tells Congress that he has contracted a debt of that amount, and calls it a deficiency!"

These deficiencies above what is appropriated for a specific purpose, where the commissioner has no discretion, no authority, to bind this Government, ought to be disregarded. The Department ought to be held to the amount appropriated. They come often enough for appropriations and get large enough appropriations, and reasonably expended they should not want any more.

The Senator says that Mr. Browning has recommended it. I do not desire to question the honesty of Mr. Browning, but I do not think he is one of the most reliable managers of Indian affairs. There is a report from the Committee on the Judiciary with regard to one of his transactions which shows a loose mode of doing business which we should stop. When you had an Indian commissioner, after the appointment of Mr. Taylor, he gave a license or an authority to Bogy to purchase a year's supplies, to go on *ad libitum*. The Committee on the Judiciary found that there was no law for it; it was done without authority of law; and so I say the indorsement of Mr. Browning to this does not give it much of credit. It was done without authority of law, and I believe in holding the Indian department to the administration of the law and holding them in the appointment of agents to the law. I would not appropriate a dollar to pay one of the contracts made by Mr. Bogy if I knew it, because Mr. Browning had no authority to appoint him. Hold them to some responsibility if there is to be any responsibility connected with Indian affairs.

But the Senator says we do not inquire into the War Department. It is true we do not; but there they have got the matter systematized; they have rules and regulations; they have machinery whereby these things are investigated. In this case the Commissioner of Indian Affairs tells us so many accounts have reached here, more than he expected, and there is a deficiency, because he has heard by letter of some other accounts that are coming, accounts that were contracted without authority of law.

Mr. DAVIS. Mr. President, I do not know the Commissioner of Indian Affairs. I am not his assailant; I am not his defender; but I agree with the Senator from California that a permission that a contract amounting in the aggregate to \$300,000 should run on until it had consumed some one hundred and seventy thousand dollars more for the want of a notice of the termination of the contract, or that the contract should not continue any longer, deserves and requires an explanation. I have

heard from every source that the Commissioner of Indian Affairs is an honest man; I have no reason to believe the contrary; but I agree with the Senator from California that this matter has been presented rather loosely and generally to the consideration of the Senate; and I think it deserves more precise and particular explanation.

The honorable Senator from California remarked that I had a great aversion to the Freedmen's Bureau. I have a greater aversion to another thing, and that is a public plunderer. I have no doubt, the mind of the people of this nation does not doubt, that a very large portion of the public debt has resulted from public plunder and public plunderers. When I see an officer of the Government who has but a moderate salary or moderate compensation getting suddenly rich, living sumptuously, expending his thousands in building fine houses, sporting fine equipages, and the indulgences of his family; when I see public contractors running their career and coming out of large contracts suddenly rich, I have no other conclusion than that in both those classes of cases there has been public plunder.

I am pleased to see the honorable Senator from California, or any other Senator, interposing for the purpose of having public plunder and public plunderers unveiled. He will never meet with any obstruction from me. Sir, if all public plunderers in this land who have amassed such sudden and princely estates could be marched out in the sunrise in the public road and be made to disgorge the vast amounts which they have stolen and plundered from the Treasury of their country, I would promote all I could such an operation. I care not who they are, whether in the Senate Chamber, in the Executive Departments, in the Army, or anywhere else; whenever you can strike the lead of a public plunderer, follow it closely and vigilantly and unveil him, and, if you can, make him disgorge, hold him up to the scorn and the reprobation of the nation and of the people.

Sir, we have had vastly too much of public plunder and vastly too many public plunderers; and ever since I have had any knowledge of our Indian affairs the whole of our Indian relations have been reeking and rotten with plunder. It is not the exception; it is the rule. Corruption in our Indian transactions is the rule. Corruption in our Army contracts has become almost a rule. Corruption in public office, civil and military, in public contracts and public jobs, has become the rule. It is time that the veil which has so long concealed this festering, enormous, expanded and expanding public plunder and public plundering should be torn aside. I tell the honorable Senator from California that, abhorrent as to me the Freedmen's Bureau is, the public plunderer is still more so. And whenever the honorable Senator interposes in relation to the supplying of the Indians, for which this deficiency has made its appearance, or in any other way, let him get upon the lead of any public plunderer and he will find that as far as I can sustain him he shall be sustained.

In making these remarks I say nothing to inculpate the Commissioner of Indian Affairs except this: that the matter upon which he asks the appropriation of this large deficiency of \$170,000 to supply the overrunning of a contract does require and ought to receive at his hands a careful and precise and truthful and clear explanation.

I rose merely to inform the honorable Senator from California that there were subjects on which I held a much deeper detestation than I do of the Freedmen's Bureau, and among them is public plunder.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Wisconsin.

Mr. STEWART called for the yeas and nays; and they were ordered.

Mr. MORRILL, of Maine. I desire to say

a word or two before the vote is taken. About this particular proposition I have very little information; but upon the general subject out of which it grows I have some distinct recollection, and I do not think from the recollection I have of the general subject that this general tone of denunciation and the cry of corruption has much application to this particular matter in hand.

I have not raised the question of the rules upon this proposition to amend, because I thought the Senator who offered it from the Committee on Indian Affairs ought to have an opportunity to explain it and the Senate ought to understand it; and I do not yield to the cry that it is to be presumed and taken for granted that it ought to be voted down. It ought to be considered fairly. That is my belief about it.

Now, sir, what is the general fact? Those who were here at the extraordinary session in July last will remember that we were told an Indian war was not only imminent, but inevitable. It was said that it was begun, and ten regiments of troops were demanded for the prosecution of an Indian war then upon us. That is fresh in the recollection of all of us, is it not? We were then smarting under the memory of an Indian war in 1861 and 1865, originating in our own usurpations, in our own wrongs, as a committee of our own body told us upon the fairest evidence they got, which had cost us \$45,000,000, and resulted, I believe, in the grand total of some few scalps, not to exceed fifty in all; and it was said that another war of like kind was inevitable, and that there was no policy which could be adopted short of the absolute extermination of the Indians which would give security on the borders.

What did Congress do? It resisted the clamor; it declined to appropriate a dollar for men and for war; but instead of that provided for a peace commission, put the Lieutenant General of the Army instead of at the head of his troops at the head of that commission, and sent them into that country with an appropriation of \$300,000 to gather these warlike bands and tribes wherever they could be found, who were willing to treat, to come together and confer with the Lieutenant General of the Army on the subject of peace and submission to the authority of the Government of the United States. They were gathered by thousands and tens of thousands. Some thirty thousand of these Indians have been gathered first and last, and have entered into treaty stipulations and friendly relations with the Government of the United States through the agency of this peace commission. War was averted. Nobody will doubt that. War was averted through this instrumentality. That appropriation of \$300,000 and the peace commission, which was inaugurated here in July last, averted an Indian war. Nobody the least acquainted with public affairs will deny that general fact.

What did we save? Saying nothing of the barbarities and cruelties that attend an Indian war, we have saved millions and millions of treasure, and we have incurred a debt of \$170,000, which we are now talking about. We have been involved in an expenditure of \$300,000, appropriated and put into the hands of the peace commission to feed the Indians, the result of which is peace, the result of which is general conciliation and treaty stipulations with the Indians by which they agree to abandon their habits, provided we keep our faith with them; and it is said as a result of this policy, growing out of it, and going up beyond the \$300,000, we have incurred a deficiency to the extent of this item.

Now, sir, I submit, if that is so, and I have very good reason to believe it is so, it is a mere bagatelle. When the Lieutenant General of the Army, who had heretofore believed that war was the only remedy the nation had against these tribes, went on to the plains with this peace proposition, with the \$300,000, to conciliate these people, and to feed them and treat them as friends, he returned, at the commence-

ment of this session, and said he himself had become a convert to a different policy.

Mr. CONNESS. Not this kind of business. Mr. MORRILL, of Maine. I am not speaking now of this particular proposition. I am only speaking of the general result, which may or may not, as the Senate shall think, include this deficiency. If it does not, then it ought not to be paid. But, sir, the Lieutenant General of the Army told me he had changed his entire opinions upon this subject; that he could do more by trifling sums—a few thousand dollars, or a few hundred thousand, if you please—in the way of food and presents to these Indians, and kind treatment, than with all the Army that could be brought into the field against them.

If that peace commission is prosecuted in the spirit in which it has been begun, if General Sherman is sustained by suitable appropriations, if you will make even decent appropriations, a few hundred thousand dollars appropriated to General Sherman to conduct these peace negotiations, where you are appropriating millions to support the Army on the frontier—and you have not less than fifteen thousand troops now on the frontier at an expense of at least a million and a half a year for each regiment—I say, if you will do this, within a very few years you will have no occasion, in my judgment, to maintain a military force on the frontier. These roaming bands will be collected on to reservations which are now being provided under the policy of this commission. They will be gathered into these general reservations and a government established over them subjecting them to the laws of the country and protecting them, giving the protection of the Constitution and the laws to them, which will enable you to dispense with all your treaty stipulations and all your annuities, and govern these people as a people with respect to their rights.

I felt called upon to say this much because this deficiency grows out of this general transaction; and there is nothing more natural in the world than that having appropriated \$300,000 in July last, considering what this peace commission has done, there should be this deficiency. It is not necessary to resort to the inference of corruption either in the Commissioner or anybody else, I submit to my honorable friend from Kentucky.

Mr. DAVIS. I have not intimated anything of the sort.

Mr. MORRILL, of Maine. Then I misunderstood the honorable Senator. He was talking so loud about corruption in some direction that I did not know but it was in this quarter.

Mr. DAVIS. I stated expressly that I had no reason to believe there was anything wrong in relation to this matter. I will say one word further, with the permission of the honorable Senator. This peace policy, which aims at feeding instead of fighting the Indians, is, I think, the wisest policy the Government ever adopted.

Mr. MORRILL, of Maine. I am very glad the honorable Senator concurs in that view. I believe the honorable Senator voted for it.

Mr. DAVIS. To be sure I did.

Mr. MORRILL, of Maine. Now, Mr. President, I hold in my hand a letter which explains something about it and perhaps may throw some light on this transaction. It seems that after the appropriation had been made of \$300,000 to aid the peace commissioners, they went into the Indian country. It seems that a contract was made with certain parties to feed these Indians.

Mr. CONNESS. Who are they?

Mr. MORRILL, of Maine. I only know from what I see here, Messrs Stettauer and Osborn: this is a document "relative to furnishing supplies to destitute friendly Indians." That was the general business in which by their contract they were engaged. They were employed to feed these friendly Indians while the peace commissioners were treating with them. By the terms of the contract, these parties were to have thirty days' notice to cease

furnishing the supplies, because they were in the Indian country and it would not be a fair thing to them to give them abrupt notice to cut off supplies. Their contract provided for thirty days' notice. It seems as early as April last these parties were notified.

Mr. CONNESS. I hope the Senator will read the document before him if it relates to the case.

Mr. MORRILL, of Maine. Perhaps that is the best way:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., April 24, 1868.

SIR: Herewith I transmit a copy of a communication from the Commissioner of Indian Affairs, dated the 23d instant, inclosing to this Department the accompanying copies of letters from Messrs. Stettauer and Osborn, relative to furnishing supplies to destitute friendly Indians.

Under the circumstances, I have the honor to invite the immediate consideration of Congress to the subject, and would respectfully suggest that if the Commissioner of Indian Affairs' recommendation meets with the approval of Congress, a resolution may be passed without delay authorizing the Department to take the necessary steps to provide for the present urgent necessities of the Indians in advance of an appropriation.

I am, sir, very respectfully, your obedient servant,
O. H. BROWNING, Secretary.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

Now, I will read the letter of the Commissioner, which is dated on the day before:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., April 23, 1868.

SIR: I have the honor to inclose herewith copies of letters received from Messrs. Louis Stettauer and Thomas A. Osborn, dated yesterday and to-day, respectively, both in answer to office letters, notifying them to cease furnishing supplies under their contracts made with this bureau on the 12th of November, 1867, for friendly Indians at and near Fort Cobb, in the Indian territory, at and near the Big Bend of the Arkansas river, in Kansas, and at and near North Platte City, in Nebraska.

It will be seen that both parties offer to continue furnishing the necessary subsistence upon the terms mentioned in their respective contracts, if it is the opinion of the Department and of this office that Congress will make appropriations for the purpose.

Not being sufficiently advised respecting the intention of Congress in regard to appropriating funds to continue the feeding of such friendly Indians as may require assistance to respond to the offers made by said parties the matter is respectfully referred to your consideration, and for such instructions in the premises as may be deemed necessary.

I would suggest in this connection whether it would not be advisable, before responding to Messrs. Stettauer and Osborn, to ascertain, if possible, the views of the members of the Indian Committee in each branch of Congress regarding the probability of an appropriation being made to feed the Indians in question.

Very respectfully, your obedient servant,
N. G. TAYLOR, Commissioner.
Hon. O. H. BROWNING, Secretary of the Interior.

Then follow the letters upon which these two letters are based. This goes to show that as early as April last, while these men were furnishing supplies to the friendly Indians under this contract, they brought the subject to the attention of the Department that these supplies were running out, and that fact was communicated by the Department to Congress.

Mr. CONNESS. I should like, if it will not disturb the Senator, to ask him the date of the appropriation of \$300,000?

Mr. MORRILL, of Maine. That was last July.

Mr. CONNESS. July, 1867?

Mr. MORRILL, of Maine. That is my recollection.

Mr. CONNESS. And these letters are dated in April, 1868.

Mr. MORRILL, of Maine. It seems that the \$300,000 was running out, and the Department gave these parties notice as early as April that they must cease furnishing supplies unless Congress should make a further appropriation. Now it is said—and that is a fact that I suppose the Committee on Indian Affairs have examined; the honorable Senator from Wisconsin says he presents this amendment from that committee—that this amount absolutely was expended beyond the \$300,000 in feeding the friendly Indians with whom our commissioners were negotiating for the general purpose of keeping the peace. If that is so this is an honest transaction; then this money is to be paid; then it is a deficiency in

pursuance of a policy which we established, in pursuance of a policy which was wise and sound, which did avert a general war, and which no man will doubt saved to the Treasury of the United States a great many millions of money. But whether this is precisely what it purports to be I do not know, for I have not audited it; I do not know that the Committee on Indian Affairs have audited it; and therefore it seems to me that the Senate must either reject it on the general grounds I have stated, or they must accept it upon these general grounds, putting some confidence in the Secretary of the Interior and the Commissioner of Indian Affairs.

This deficiency has resulted in this way, and the presumption of fraud does not necessarily arise on this record. If that is so the claim is a proper one, and under such circumstances I submit to the Senate whether they think I ought to raise the question of order against the Senator who moves this from the Committee on Indian Affairs.

Mr. THAYER. I desire to state that when the bill was before the Senate last July for the establishment of the peace commission, the Indian Committee of the Senate, after having given the question a very thorough consideration, asked for \$500,000, believing that to be the lowest sum with which this policy could be entered upon. It was cut down to \$300,000. We then anticipated that there would be a deficiency. It has come.

One other fact I desire to state. The General of the Army, in his estimates this present session for the next fiscal year, reduced his estimates for the expenses of the Army about fifteen million dollars from the previous year as the result of the cessation of an Indian war.

Here are these two facts in contrast: peace with the expenditure of \$500,000, or an Indian war raging all over the Indian territory at an additional cost of \$15,000,000. Senators can take their choice.

Mr. CONNESS. I do not understand the mode of discussion pursued by both the honorable Senators last up. When I rose and submitted the remarks that I did it was on the official document read at the Clerk's desk; it was upon the official statement made by the head of a bureau; and I addressed myself especially to the loose and extraordinary manner in which this so-called deficiency was created. To that there is made answer that Indian wars involving sums guessed at by the twenty or forty millions at the time were averted by the Indian peace commission. I did not say anything to the contrary of the good service rendered by the peace commission. I did not bring the character of the Lieutenant General of the Army into the question, and it was not necessary to parade it at all. That has been done here fifty times at least in connection with this discussion. Nobody questions it; and therefore there is no necessity for putting his high and great character on the side of public expenditure. Senators had better address themselves to the special issue made by the commissioner in his own statement than a general issue of whether war with its attendant expenditures or peace at \$500,000 is to be chosen. Mr. President, if we can have peace without paying any money we are entitled to it. Whom shall we pay for peace? Pay these contractors for peace made by the Indian commissioners? Is that a policy for a Government? Listen to the language of these letters and see how your public expenditures are created; but I will say before reading them and calling more special attention to them that I am told, and upon good authority, too, that \$80,000 of the amount of the \$300,000 appropriated was all that was expended by the peace commission; the rest went into the hands of contractors for feeding friendly Indians.

And the case is discussed, too, sir, as if there were no other expenditures resulting from the Indian treaties thus made, though Senators know well that obligations amounting to millions of dollars have been created

and are created when treaties are made with Indians. But I do not complain of that; I am willing to submit to the general plans and the result of those plans that are entered into by the Government in the management of its affairs; and I should not complain, if it were before us, that \$10,000,000 had been expended by this Indian peace commission. But, sir, I do complain that any bureau or Department of this Government shall permit public expenditures to grow up in this loose and unqualified manner.

I will not call for the reading again of the letter of the Commissioner, though it is a perfect answer to all that my honorable friend from Maine has said, because it is upon the special issue and not upon the general issue, but I will read the letter of these contractors addressed to the Commissioner of Indian Affairs, and see how "Barkis was willin'" in this case:

WASHINGTON, D. C., April 23, 1868.

SIR: Your letter of yesterday is received, in which you inform me that the appropriations for feeding friendly Indians are now nearly exhausted, and that I will, therefore, cease feeding under my two contracts of 12th November last, within thirty days from the date of the receipt of your letter.

You further inform me that this action is rendered necessary by the fact that, although you have recommended Congress to appropriate funds to continue feeding the Indians, it has not yet done so.

If you think that Congress will make appropriations for this purpose, and desire me to do so, I will go on feeding under my contracts until Congress shall have had time to act on the recommendation for further appropriations.

Please advise me what are your views and wishes on the subject.

Very respectfully, your obedient servant,

THOMAS A. OSBORN.

Hon. N. G. TAYLOR, Commissioner of Indian Affairs.

"Barkis was willin'," sir! Then here is a letter from the other contractor; for that matter they might have saved by simply duplicating the first letter:

WASHINGTON, D. C., April 22, 1868.

SIR: I have to acknowledge the receipt of your letter of this date informing me that the appropriations for feeding the friendly Indians, under my contract with the Department of 12th November last, are nearly exhausted, and although further appropriations have been asked for they have not yet been made; and directing me, therefore, to cease furnishing supplies under said contract within thirty days from the date of the receipt of your letter.

If the Department thinks that Congress will make the appropriations I am willing to go on feeding the Indians under my contract until Congress shall act on the recommendation referred to.

Very respectfully, yours,

LOUIS STETTAUER.

Hon. N. G. TAYLOR,

Commissioner of Indian Affairs.

Well, sir, there is another case of willingness to go on feeding friendly Indians, but Congress did not make the appropriations. If the case had been stated by a Department of this Government, and it was founded upon the statement of the peace commission, with General Sherman at its head, Congress would have made the appropriation promptly; but there is no such paper here, there is no such authority for the continuance of this contract. All I have to say in conclusion is, that if you go on making appropriations for such violations of the public service and such an abuse, and call them deficiencies, they deserve another and a worse name.

Mr. FESSENDEN. I should like to inquire of somebody what the legal obligation was, if any, to feed these Indians any further, and if there was no legal obligation, what particular necessity there was for it in April?

Mr. MORRILL, of Maine. The peace commission, as we call it, was appointed to go out upon the plains and meet the Indians who were threatening war, and invite them to a friendly conference, and \$300,000 were appropriated to feed them.

Mr. FESSENDEN. I am speaking of last April. It seems that up to last April the appropriation was sufficient.

Mr. MORRILL, of Maine. A portion of the deficiency had occurred prior to that. We have had within a week or ten days some of the results of this negotiation in the shape of treaties. They are still negotiating with the Indians.

Mr. FESSENDEN. Then do I understand that this was continuing an arrangement made with the peace commission before?

Mr. MORRILL, of Maine. That is my understanding. While, of course, I have no information on this particular item, my understanding is that it grows out of that general fact.

Mr. HARLAN. I do not know personally anything about this transaction. I wish I did. If the chairman of the Committee on Indian Affairs were present he doubtless could give all the information we so much need. I have attempted to pick up some information since this discussion began, from an officer of the Indian Bureau, the chief clerk; I wish to give my authority as I proceed; and I learn from him that this state of things existed.

During the July session of 1867 Congress authorized this peace commission, and made a small appropriation to be used by them personally in giving presents and supplying food to Indians, and made an appropriation of \$300,000 to be applied in procuring food for the friendly Indians that might separate themselves from the hostile Indians. That is, where bands of any tribe were inclined to be peaceable, but were being drawn into a hostile organization to make war on the settlements, if the peace commissioners could induce them to separate from the hostile tribes, this money was to be used to feed them, for it was known to every one conversant with the subject that if a band should separate from the tribe after the tribe had declared their purpose to make war, the hostile part would make war on the peaceable portion, and thus compel them to fight if they were not able in some way to escape. To meet that difficulty, this appropriation of \$300,000 was made to provide for those who might separate from the hostile tribes and cluster around the settlements and live quietly until peace should be made with the principal portions of the bands.

Before the Indian department applied any money they turned over to this peace commission \$80,000 of the \$300,000, which was applied directly by the members of the peace commission in person on their personal view of the necessity for its use. This left, as will be seen, \$220,000 of the \$300,000. They induced the Indians to collect at Fort Cobb in what is called the leased district of the Indian country, down near the border of Texas, bands from the Kiowas and Comanches and Apaches, bands of Indians in connection with tribes who were making war. The number collected there is represented to me by the chief clerk to have amounted to something over seven thousand, who were induced to come in by the peace commission; and as they came in the Department was notified by the peace commission of their assembling at that point and was advised to send food to them at that fort. They also notified the Department that other bands had been collecting at the north bend of the Arkansas river under the advice of the peace commission in order to get away from the hostile portions of the tribes. Under their advice the Department sent food to those collected at that point. They were also requested to send a large amount of rations to Fort Laramie northwest toward the Rocky mountains; and perhaps about fifty or sixty thousand dollars were applied in sending rations up there on direct requisitions of the peace commission.

It will thus be seen that the object sought by the Department was to fulfill the arrangements made by the peace commissioners themselves. They sent this food to Indians who had separated from the hostile tribes in pursuance of an arrangement made by the peace commissioners, and I suppose they felt justifiable in exhausting all the money that was appropriated in this way, and in permitting these contractors, perhaps, to go a little beyond it. It will be seen by the Senate that of the one hundred and seventy odd thousand dollars asked for here, \$80,000 were applied by the peace commissioners directly, leaving less than

\$100,000, and of that nearly one hundred thousand dollars of excess about fifty or sixty thousand dollars were in pursuance of direct requisitions made on the Department by the peace commissioners to supply Indians collected at Fort Laramie to make treaties between themselves and the United States.

Then it appears from these letters that when the appropriations were about exhausted the Department notified the contractors, and they, of course, if they supplied anything beyond that, did it at their own hazard. Congress may appropriate it or not as they see proper. Of course no one here can know, nor can any Senator ever know, whether every dollar's worth of these provisions was applied as it ought to have been. It is unfortunately true that human nature is sometimes weak, and all men are not honest, as we have learned to our sorrow; but I do not believe that there is in any department of the Government that amount of fraud and corruption which we might be induced to believe by some of the speeches that have been made here to-night. I believe that a majority of mankind are honest and disposed to do right; and I think this remark is as applicable to the Interior Department as to any other Department of the Government. Moreover, perhaps I ought to remark that all these accounts will be examined in the usual way. They will have to be first tested by the officers of the Government in the immediate vicinity, and under whose eyes these provisions were supplied.

Mr. CONNESS. What officers?

Mr. HARLAN. The superintendents of Indian affairs and the Indian agents, frail men, of course, like the rest of us. They may do wrong; perhaps some of them have done wrong. Then they go to the Indian Bureau, and there they are subjected to all the tests that any vouchers are subjected to in relation to expenditures under any department of the Government. From that bureau they go to one of the Comptrollers of the Treasury, where they undergo his supervision. So that I think it is stretching a little to suppose that this is, in the first place, a gigantic fraud, or if there have been some irregularities, that they will not be ferreted out, and that in a majority of cases any transaction connected with this service that has been wrong will not be exposed.

As I before remarked, I do not know personally whether this is right or not; but the facts I have submitted I have derived from the source I have named, and on the whole I feel inclined to vote for the amendment.

Mr. STEWART. The argument so far proves that it is possible that there may have been a necessity for this expenditure, and that it may have been all right. It does not go further than that. Gentlemen simply undertake to make out a case showing that it may be possible that this is right. I undertake to say that there is no affirmative proof that it is. There is nothing here to show that the peace commission ever ordered these supplies, and I do not believe they did. If General Sherman stated that this was necessary, and that he had ordered it to be done, I would vote for the appropriations with as much confidence as I would for an appropriation in any part of the country where it was subject to tests.

Mr. HARLAN. I have it from the source I have referred to that these contracts were made in pursuance of a recommendation made by the peace commissioners, and that the letters are on file in the Department recommending it, and notifying them of the probable number of Indians that would need to be provided for at each of these points, and that the contracts were given out after due advertisement under the law as other contracts are, to the lowest bidder.

Mr. STEWART. That matter has not been examined by any committee. It seems to me the expenditure was inspired by the letter of the contractor to the Commissioner.

Mr. FRELINGHUYSEN. No. The statement is that nothing has been furnished since.

Mr. CONNESS. If the case were as now

stated, I should vote for the appropriation myself; but I desire to have the Commissioner's letter read again.

The Chief Clerk read the following letter:

DEPARTMENT INTERIOR,
OFFICE INDIAN AFFAIRS, July 14, 1868.

SIR: Referring to the matter of the subsistence of friendly Indians and to the appropriation of \$300,000, made last year for that purpose, I have to say that in each of the contracts made by this bureau for supplies for such Indians there was a clause to the effect that the contractor should continue furnishing supplies for thirty days after receiving notice to cease the delivery.

Timely notice was given to the contractors to stop furnishing supplies; but owing, in a great measure, to the great distance and isolated location of the points where the subsistence was being issued to the Indians, the agents of the contractors continued delivering, and the special agents of the Department continued receiving supplies, until the cost thereof together with the cost of articles furnished by various parties under orders of the Indian peace commission, and the expenses incident to the delivery of the subsistence to the Indians, largely exceeded the amount of the appropriation.

There are vouchers now in this office in favor of Thomas A. Osborn, for supplies furnished under his contract to the amount of.....\$31,042 93

And in favor of Louis Stettauer for supplies furnished to about five thousand four hundred and seventy-nine Indians in February, March, April, and May last, to the amount of.....66,981 65

Total.....\$98,024 58

I am also advised that there are vouchers not yet presented for payment in favor of Mr. Osborn to the amount of about sixty-nine thousand eight hundred and two dollars and fifty-three cents for supplies furnished during month of May last to about fourteen thousand Indians. This will make about the sum of one hundred and sixty-seven thousand eight hundred and twenty-seven dollars and eleven cents, due and owing to Messrs. Osborn and Stettauer under their contracts.

In addition to this there will be required for salary of the special agents and to pay their necessary expenses the further sum of \$5,000, making in all a deficiency of \$172,827 11, in the appropriation for subsistence of friendly Indians.

I respectfully request that this matter be laid before Congress, with an urgent recommendation that the sum of \$172,827 11 be appropriated to enable the Department to settle up this indebtedness and to pay the balances due the special agents.

Very respectfully, your obedient servant,

N. G. TAYLOR, Commissioner.

Hon. O. H. BROWNING, Secretary of the Interior.

Mr. STEWART. It appears from that letter that after they got notice they delivered more than they had before they got notice. They appear to have rushed in their goods pretty rapidly—\$60,000 in one item, and \$60,000 to come in in the months of April and May, after this notice. There was \$120,000 worth rushed out there in a few days after notice was given, so that they seem to have been making hay while the sun shone.

Mr. HARLAN. The Senator will see why that would be so. No one of these men perhaps owned a very large proportion of these supplies; and they bought them of other parties with a view of furnishing the Indians, and hence the stipulation in the contract that they should have thirty days' notice in advance when they should stop sending out provisions. They had bought goods and had them on hand. The food would be of no use to them, or but little use unless they sent it to the points where it was to be consumed, and they sent it out, taking their chances with Congress for an appropriation. That is just what the Senator would have done or what I would have done under similar circumstances.

Mr. STEWART. I am tired of these Indian appropriations. I see economy on everything else but Indian affairs. I want now to say a word to my friend from Maine. He speaks of the enormous expenditure of the Army. I am as much opposed to the Army going into the Indian country as he is. As I have often remarked, I do not think we need any army in the Indian country, and I do not think we need an army of Indian agents either.

I think a few such men as General Sherman, with authority to do almost what he pleased without any Army, would be a great deal better. Let him call on the inhabitants for volunteers if he wants to do any fighting, and stop your expenditure of twenty, thirty, or forty millions a year for troops in the Indian country. Under such circumstances I would trust

the matter to his good sense. What there is of success in this mission is owing to his good sense. I do not think you want a horde of Indian agents or the Army in the Indian country. I never have believed in either. They are at war with each other, and are spending your money like water. I would not speak of it if it were this little item alone; but it is millions upon millions yearly, and when you go into the Indian country you hear nothing but allegations of bad faith. Call the Army officers together, and they will tell you that the Indians have been swindled all the time, and very likely the same story will be told you by the Indian chiefs. You find that you have appropriated for sending a certain amount of goods to the Indians; and the chiefs can prove to you that they never got them. I think there should be the most conclusive proofs whenever money is professed to have been expended for the Indians; we should have the most complete proof that it was done, and not mere letters stating this, that, and the other. That is unsatisfactory and unbusiness-like.

I think when everybody admits that there is a large amount of money appropriated for Indian purposes that does not reach the Indians, it is time some investigation was made. It ought to be somebody's duty to audit and inquire into these accounts, and I undertake to say the vouchers ought to be before the committee. There is a universal belief that the Indian agents and Indian contractors do not furnish the goods to the Indians. That being the case, mere letters from them ought not to be evidence to justify appropriations. The Commissioner says, with regard to \$60,000 of this appropriation, that the vouchers have not come in, that it has been communicated to him that that amount of money has been expended, and therefore he asks us to make an appropriation.

Thus it will be seen we are asked to make appropriations for claims the vouchers and papers for which have not even reached the Indian office, and of course there can be no investigation, and no scrutiny of them. We are to blame for the wholesale swindling of the Indians and for these wholesale appropriations of public money, because we do not examine the vouchers and require the contractors to prove their accounts. Here is a good case to begin with. Let them prove up this case. It will keep. They were anxious to continue the contract. They furnished about one hundred and thirty thousand dollars worth, as near as I can estimate, after they had notice, in the last month, one third as much as they had in the whole year previous. This shows that they were anxious to furnish the supplies. The claim is a new one. Let these parties bring their vouchers here, and let a committee examine them. It is time there was some examination made. It is time we should stop making appropriations for deficiencies, particularly when \$60,000 in this appropriation is only based on hearsay.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 30, nays 5; as follows:

YEAS—Messrs. Abbott, Buckalew, Chandler, Cole, Corbett, Davis, Doolittle, Drake, Fessenden, Frelinghuysen, Harlan, Howe, McDonald, Morrill of Maine, Nye, Osborn, Pomeroy, Ramsey, Rice, Ross, Sprague, Thayer, Tipton, Van Winkle, Vickers, Wade, Welch, Willey, Williams, and Wilson—30.

NAYS—Messrs. Conkling, Conness, Morgan, Patterson of New Hampshire, and Stewart—5.

ABSENT—Messrs. Anthony, Bayard, Cameron, Cattell, Cragin, Dixon, Edmunds, Ferry, Fowler, Grimes, Harris, Henderson, Hendricks, Howard, Kellogg, McCreery, Morrill of Vermont, Morton, Norton, Patterson of Tennessee, Pool, Saulsbury, Sherman, Sumner, Trumbull, Whyte, and Yates—27.

So the amendment was agreed to.

Mr. TIPTON. I move that the Senate do now adjourn.

The motion was not agreed to.

Mr. WILEY. I move to amend the bill by adding as an additional section:

And be it further enacted, That all moneys paid as

Patent Office fees shall be appropriated to a fund, to be known as the Patent Office fund, to be used for the payment of the salaries of the officers and employees, and all other expenses of the Patent Office, and for such other purposes as may be specially provided by law.

Mr. MORRILL, of Maine. Will the Senator be good enough to explain that? Does it come from a committee?

Mr. WILLEY. It does not come from a committee; it is not asking any appropriation.

Mr. MORRILL, of Maine. I do not quite understand it.

Mr. WILLEY. In looking over the papers the other day and reading the report of the conference committee upon House bill No. 818, making appropriations for sundry civil expenses for the year ending June 30, 1869, I was very much surprised to find that an amendment had been proposed by that committee and passed the Senate on the day before, changing the arrangements and policy of the Patent Office in a very fundamental particular. The matter had not attracted my attention at the time, because I never dreamed that a matter so foreign to the bill, so utterly outside of it, not germane to it in the least particular, would be interpolated into a bill of that character. It may be all right, nevertheless, in and of itself; but I doubt whether the practical effect of the amendment as incorporated in the bill to which I have alluded will not be disastrous in the extreme, and result in bringing the Patent Office affairs to a dead lock.

I shall not at this time take occasion particularly to animadvert upon what I think is becoming a vicious species of legislation. I allude to the fact that our conference committees very frequently incorporate fundamental provisions in a bill not germane to the bill at all, and which have a very decided and controlling effect upon the policy of the country, and of which Senators have had no notice in the world. I should not be surprised if we woke up some of these days and found that we had made a declaration of war against Great Britain or France or some other of the leading Powers of Europe, through the report of a conference committee on an appropriation bill, or something else of that character. I am not certain that the provisions of the amendment are of themselves not right. I have been of opinion, from my relations to the Patent Office for some time, that very fundamental changes ought to be made in that establishment, in its arrangements, in its management, and in its control. I think it would be good policy, if possible, to place that bureau entirely and distinctly under the control of the Secretary of the Interior. But to incorporate a little isolated amendment in an appropriation bill, fundamentally changing the operations of the Indian office as now organized, without reference to other portions of the laws that affect the operations of that department, is, in my opinion, unwise; and if this provision is allowed to remain as it is it must result disastrously to the management of that office. What is the provision to which I allude incorporated in the appropriation bill? It is:

That all the moneys standing to the credit of the Patent fund, or in the hands of the Commissioner of Patents, and all moneys hereafter received at the Patent Office for any purpose or from any source whatever, shall be paid into the Treasury as received, without any reduction whatever, and the sum of \$250,000 is hereby appropriated for salaries and miscellaneous and contingent expenses of the Patent Office, and for withdrawals and for moneys paid by mistake, to be disbursed under the direction of the Secretary of the Interior; and it shall be the duty of the Commissioner of Patents to communicate to Congress at the commencement of every December session a full and detailed account of moneys received for duties on patents.

I will not undertake to say that there is any provision in this amendment that is not of itself, perhaps, a proper one, and if it were in its proper place, and if it were made in connection with other modifications in the economy of the Patent Office department, so as to harmonize with this, then I should think it might be proper policy to adopt some such arrangement as is here prescribed. But, sir, if Senators will pay attention to the amendment they

will see that its operation must be disastrous. It takes from the control of the Patent Office all the funds with which the office is carried on and covers them into the Treasury. It is true there is a distinct appropriation made of \$250,000, out of which the expenses of the Patent Office and the salaries of the clerks, &c., are to be paid, and this fund is to be disbursed under the direction of the Secretary of the Interior; but the money is to be paid into the Treasury Department, and according to the terms of this provision it would give the Secretary of the Interior a kind of control over the Treasury Department. I suppose it is very probable the Secretary of the Treasury might demur to the interference of the Secretary of the Interior with moneys covered into his Department, unless there be some provision made in addition to those in this amendment, prescribing the mode in which requisitions shall be made upon him by the Secretary of the Interior or by the Commissioner of Patents. There are no such provisions made; and this amendment seems to have been made without reference to other rules and regulations for the management of the Department, and if allowed to remain as it is it must necessarily bring the operations of that Department into conflict and produce disaster.

If the amendment is to be insisted upon, if we are to encounter the risk of these difficulties to which I have invited the attention of the chairman of the Committee on Appropriations, I would be willing to agree to postpone this matter, and would suggest that he allow the insertion of a provision that it shall not take effect until the 1st of March next, so as to permit the Committee on Patents or some other committee to conform the other arrangements of the Patent Office to this provision. I should have no objection to that; for it has been in the contemplation of the Committee on Patents to revise the whole system of the Patent Office department; and that labor has been partially performed, performed to our hand by the commission for the codification of the laws, in an admirable analysis and adjustment of the patent laws in a very convenient bill which, by a revision upon the part of Congress, might be adapted so as to include the provisions in this amendment by harmonizing them with the other provisions required for the operation of that department.

Two hundred and fifty thousand dollars are appropriated to carry on the operations of that department. Doubtless the chairman of the committee had estimates upon which that appropriation was based, and it may possibly be amply sufficient. Doubtless, too, he was informed as to what the effect the covering of this money into the Treasury might have upon contracts already made under existing laws by the Commissioner of Patents for printing and for various expenses of the office. Unless he has taken these things into consideration, unless he has been fully informed in regard to them, he takes out of the hands of the Commissioner of Patents, who now, by law, is authorized to make these disbursements, authorized to make these contracts and to pay these expenses, all the funds in the Patent Office out of which these expenses are to be paid and these contracts to be satisfied, and has left him no means to discharge his duty in that behalf. The result will be that those with whom he has made contracts will be put to great detriment, disaster will be brought upon them; and I am satisfied from my knowledge, which is not, of course, very intimate, with the economy of the Patent Office and the laws now existing for the regulation of its affairs, that if this provision is allowed to remain without other modifications conforming it to other provisions regulating the affairs of the Patent Office, disaster must result and the operations of the Patent Office be brought for the present to a dead lock.

I throw out these suggestions to the chairman of the Committee on Appropriations, and hope he will allow either this provision to be incorporated in this bill, virtually restoring the

arrangement of the Patent Office to the condition in which it was before the passage of the appropriation bill to which I have referred, or that he will submit to the incorporation of a section in this bill postponing the operation and effect of the amendment incorporated in that appropriation bill until the 1st of March next, so as to enable the Senate Committee on Patents, or some other committee, to conform the other regulations of the Patent Office and make them harmonize with the provision of the amendment on the appropriation bill.

Mr. MORRILL, of Maine. I desire only to say a word. I suppose the Senate understands that this is a proposition to reverse the judgment of the Senate expressed a few days ago in regard to covering the Patent Office fund into the Treasury. It was not very fully considered, to be sure, before the Committee on Appropriations; but it is very difficult to conceive how it is that this department should be embarrassed, having at its disposal \$250,000 to carry on the expenditures of the office, with the provisions of law remaining as before, no change whatever being made in the powers and duties of the office. I say it is very difficult to see how, with \$250,000 at the disposal of this officer, he can be embarrassed in the discharge of his duties. I said on a former occasion all that I had to say on this subject. The Senate having acted on the former occasion, and this money having been covered into the Treasury, my own judgment is that it had better remain until December. If any evil consequences follow from it, which for myself I do not apprehend, they can then be corrected. As to the amount of appropriation made, whether it is sufficient or not I do not know. I hardly think, upon the rate of expenditure of that office for the last year, it would be sufficient for the year; but my honorable friend will agree with me, I fancy, that \$250,000 is an ample appropriation until Congress meets again in December. Under these circumstances I should hope the Senate would stand by its judgment of the other day, and vote down this amendment.

The amendment was rejected.

Mr. WILLEY. That provision incorporated in the appropriation bill to which I have referred is not yet a law, and so I think it may be in time to offer the following amendment to this bill:

And be it further enacted, That the Commissioner of Patents is hereby authorized to pay those employed in the Patent Office since the 1st day of August, 1865, as examiners and assistant examiners of patents at the rates fixed by law for these respective grades: *Provided*, That the same be paid out of the Patent Office fund, and that the compensation thus paid shall not exceed that received by those duly enrolled as examiners and assistant examiners of patents for the same period.

Mr. CONKLING. Is that in order?

Mr. WILLEY. I sent the proposition to the Committee on Appropriations at the direction of the Committee on Patents the other day.

Mr. MORRILL, of Maine. I think there was notice given of the intention to move the amendment, and I suppose it is authorized by the Committee on Patents, because it is moved by the Senator from West Virginia.

Mr. WILLEY. Yes sir.

Mr. MORRILL, of Maine. What is the Senator's view about this being paid out of the Patent Office fund?

Mr. WILLEY. Yes, sir; that is the provision.

Mr. MORRILL, of Maine. That fund having been covered into the Treasury by a former law, how does it apply?

Mr. WILLEY. It is not covered into the Treasury yet, because that bill has not become a law.

Mr. CONKLING. I submit that we do not know that, and cannot know it. As to the action of both Houses ultimately, it is a law. Whether in point of truth it has yet been signed or not we do not know. All we can say is, that we have not received notice of its signature. But so far as the action of the two Houses is concerned that money has gone into a general fund; it is covered into the Treas-

ury. Now, here is a provision in contravention of that law, proposing to treat it as a distinct fund when no such fund exists, and when we have disposed of it otherwise by legislative action. I submit that the amendment is not in order.

Mr. WILLEY. I see no inconsistency whatever. There is a certain amount of proceeds of the Patent Office which are to go into the Treasury. It is the Patent Office fund, to all intents and purposes to be paid into the Treasury. All the fees, all the proceeds of the Patent Office, are now to go into the Treasury, and there to constitute, to all intents and purposes, the Patent Office fund, and I see no incongruity or inconsistency in the form of the amendment which I offer. It may be paid out of the Treasury from the money that goes into the Treasury from the Patent Office. As far as I am concerned I desire simply to state what the facts are in the case. Some time ago, by the instruction of the Committee on Patents—

Mr. CONKLING. I do not wish to interrupt the Senator, but I wish to understand where we are. I submitted a point of order, and it ought to be decided. It is not debatable unless it is submitted to the Senate or an appeal is taken.

The PRESIDENT *pro tempore*. What is the point of order?

Mr. CONKLING. The point of order I endeavored to state before, Mr. President. It is, that having passed a law which extinguishes the patent fund and covers it into the Treasury, it is not in order now to appropriate from that fund which has ceased to be in contravention of the action of the Senate and House of Representatives.

The PRESIDENT *pro tempore*. I do not know that that involves a question of order. Congress may enact a law one day and repeal it the next, or modify it in any shape. It does not involve a question of order.

Mr. CONKLING. This does not propose to amend or repeal the law, but it proposes to make an appropriation out of a fund which has been annihilated by legislative action, and is not the subject of appropriation.

The PRESIDENT *pro tempore*. The Chair cannot know anything about those facts. The Chair does not think that there is any question of order involved. The question is on the amendment.

The amendment was rejected.

Mr. WILSON. I submit this amendment as an additional section:

And be it further enacted, That the sum of \$6,200 be, and the same is hereby, appropriated for the pay of additional clerks in the office of the Surgeon General for the year ending June 30, 1869.

Mr. CONNESS. Was that referred?

Mr. WILSON. Yes, sir; and it is right in itself. It is rather to supply an accidental omission made in a bill we passed the other day.

Mr. POMEROY. Is that a deficiency for 1869?

Mr. WILSON. No, sir. The House of Representatives made large reductions in the clerical force of all the Departments, and among others the Surgeon General's office. The Senate restored a large number of them partially; but the committee of conference adjusted the matter, and this was left out. The Committee on Military Affairs have instructed me to move it. I understand the chairman of the Committee on Appropriations to think it is right.

Mr. MORRILL, of Maine. I suggest to the Senator that it should be in a different shape, perhaps. The number of clerks authorized in that Department is not appropriated for in the legislative bill which has passed both Houses. In the committee of conference the Senate amendment was lost, so that all the clerks which the office is authorized by law to have are not appropriated for. I suppose the Senator's intention is to appropriate for that number of clerks. The object is to appropriate for the clerks that are authorized by law.

Mr. NYE. Allow me to ask a question. It is the custom, I understand, at that Department to assign what they call hospital stewards to perform clerical duties.

Mr. WILSON. They must be paid.

Mr. NYE. They are paid out of the Army appropriation. They detail a certain number of enlisted men, whom they call hospital stewards. The museum on Tenth street is full of them. It is so full of them now that they are sticking out of the windows all the time. [Laughter.] They get bright young men to enlist as soldiers in the Army, with a promise that they shall be made officers, and they have been in the habit of detailing such men and calling them hospital stewards. I will give you one little incident. A year ago we made an appropriation of \$60,000 to publish certain medical works, and \$30,000 of it was appropriated by name to the publication of the work of Dr. Baxter, which was to be independent of the direction of the Surgeon General. To save that appropriation fifteen hospital stewards were sent to Dr. Baxter as clerks, all of his clerks being dismissed save one. The pretense of the Surgeon General now is that he has exhausted the appropriation of \$30,000 made for Baxter to get out a work of his own, charging the hospital stewards' clerkships to the portion of it belonging to Baxter as absorbing the fund. Now, sir, if hospital stewards are good enough for Baxter they are good enough for the Surgeon General. I object to this proposition *in toto*. The Surgeon General does not want any more clerks. The hospital stewards are there so thick now that they are in the way.

Mr. MORRILL, of Maine. My honorable friend got up to ask me a question.

Mr. NYE. I ask why it is necessary to have \$6,200 appropriated for clerks in the Surgeon General's office when he has hospital stewards all around him?

Mr. MORRILL, of Maine. Is my friend very sure that there are any hospital stewards there at all?

Mr. NYE. Yes.

Mr. MORRILL, of Maine. I do not ask whether they are very thick, but whether there are any there at all.

Mr. NYE. There are fifteen in the employ of Baxter now.

Mr. MORRILL, of Maine. I understand that the hospital stewards all disappeared when that class of troops were dismissed. They were mustered into the service of the United States, and when the troops were mustered out they went out with them. I am told that there are no hospital stewards now in the Army. Probably those hospital stewards, which in the honorable Senator's imagination are so thick, and which as a matter of fact he must have seen, are those that linger around, and have grown to be clerks.

Mr. NYE. How have enlisted men grown to be clerks?

Mr. MORRILL, of Maine. I suppose they were mustered out of the military service, and have been employed as clerks.

Mr. NYE. I thought there might have been some medical transformation. [Laughter.]

Mr. CONKLING. I suggest that they enlisted for five years, and if enlisted as hospital stewards since the war, they can hardly have been mustered out unless it was done on purpose to turn them into clerks.

Mr. MORRILL, of Maine. I only spoke from the impression made on my mind by information I have received. I was about to say on this amendment that I think it turned out on the conference as to the disagreeing votes of the two Houses on these matters, we were a little sharp on this particular branch of the service, and the force was cut down below the demands of the service. That is my honest judgment about it, and I ought to say so much to the Senate.

Mr. NYE. I am informed that I was wrong about one point. There is a report here from the Surgeon General on this very matter, and

he does not claim that these hospital stewards are paid out of the fund appropriated to Baxter, but that that fund has been used by him for getting up pictures for his own work, and he has taken all Baxter's clerks but one, and put hospital stewards there in a clerical capacity.

Mr. MORRILL, of Maine. If the Senator has information on the subject so as to be able to state that fact, I shall make no contest about it.

Mr. NYE. There is a report here on the subject, but the Senator from Rhode Island [Mr. ANTHONY] has it, and he has left, or I would enlighten the Senator from Maine more fully on this subject. I insist upon it that these clerks will keep until morning, and it is not likely we shall get through the bill to-night.

Mr. RAMSEY. Is there any communication here from the Secretary of War on the subject?

Mr. NYE. There is.

Mr. RAMSEY. Any request for this increase of clerical force?

Mr. NYE. There is a report here upon a resolution introduced by the Senator from New York, [Mr. CONKLING,] and it is in the possession of the Senator from Rhode Island. My honorable friend from Maine said just now so triumphantly and convincingly that there was no such thing as hospital stewards any more that he almost frightened me. I tell you that the Department is full of them, and full of them by law, too. I have the law in my hand:

"The Secretary of War is hereby authorized to appoint from the enlisted men of the Army, or cause to be enlisted, as many hospital stewards as the service may require, to be permanently attached to the medical department under such regulations as the Secretary of War may prescribe."

I tell you the Department is overflowing with hospital stewards. Why do they not detail one or two to this office and save this \$6,200? If they are good enough for Baxter they are good enough for the Surgeon General. I insist upon it that the amendment should not prevail.

The amendment was rejected.

Mr. COLE. I offer an amendment to come in after line eighty-three:

For this amount, or so much thereof as may be necessary to pay the indebtedness incurred for the Indian service in California in the years 1861, 1862, 1863, 1864, 1865, 1866, and 1867, \$50,000.

Mr. CONKLING. What committee does that come from?

Mr. COLE. The Committee on Indian Affairs reported this among other amendments to the Indian appropriation bill which was under consideration yesterday; and when the chairman of the committee came to this item he passed it over of his own accord, and, as I understood him at the time, stated that he would move it upon the deficiency bill. I regret very much that the chairman of the committee is not here to-night in order that he might do that if that was his purpose. Other Senators who were here at the time may probably recollect what was then said by the chairman of the committee. I will state very briefly that—

Mr. CONKLING. Before the Senator proceeds he will allow me to suggest that I understand no notice has been given of this amendment. I have never heard of it myself, and the chairman of the Committee on Appropriations says he has never heard of it in connection with this bill.

Mr. COLE. If they were in their seats yesterday the gentlemen would have heard it.

Mr. CONKLING. No notice of such an amendment was given to the committee as an amendment to be offered to this bill. This is not the Indian bill; this is the deficiency bill.

The PRESIDENT *pro tempore*. The exception is well taken unless notice under the rule has been served upon the Committee on Appropriations.

Mr. COLE. Was it not sufficient notice for the chairman to state that he would move it upon this bill after notice had been given of it

on the Indian bill? I am not very particular about it. I have in my hand a pamphlet showing the estimate for this to be \$75,000, and every item of it is also given in this report and the persons to whom the money is due, and the manner in which the indebtedness occurred in every particular.

The PRESIDENT *pro tempore*. It is objected to on account of being out of order. The Chair will have to declare that it is out of order because the rule requires a day's notice to the Committee on Appropriations of the bill you intend to apply your appropriation to.

Mr. COLE. I will give notice now, then, as suggested by a Senator behind me, that I will move it to-morrow. The bill will not get through to-night. I move that the Senate adjourn.

The motion to adjourn was not agreed to.

Mr. VICKERS. I offer the amendment of which I have given notice relative to the allowances of civil employes.

Mr. CONKLING. From what committee?

Mr. VICKERS. No committee. It was offered and referred on the 13th of July.

Mr. CONKLING. That will not do if it is not from a committee.

Mr. MORRILL, of Maine. I raise the point.

Mr. CONNESS. Let it be read.

The PRESIDENT *pro tempore*. The Chair understands that the amendment does not come from a committee.

Mr. VICKERS. I submitted it on the 18th of July and had it referred to the Committee on Appropriations, and had it printed.

Mr. CONKLING. Not as an amendment to this bill.

Mr. VICKERS. Yes, sir.

Mr. CONKLING. But it is not from a committee. No committee proposes it as an amendment to this bill.

Mr. RAMSEY. It is not necessary that it should come from a committee.

Mr. VICKERS. A number of amendments have been offered this evening in the same way.

The PRESIDENT *pro tempore*. Does the Chair understand that this is sanctioned by a committee of the Senate?

Mr. MORRILL, of Maine. My honorable friend from Maryland is under a misapprehension. He gave the proper notice, but he was not authorized to move the amendment by any committee of the Senate, and therefore it is not in order.

The PRESIDENT *pro tempore*. There are two things necessary on these bills. The old rule is that the amendment must come from a committee, and the new rule is that if it does come from a committee notice must be given to the Committee on Appropriations a day before it is offered.

Mr. HOWE. Will the Chair allow the thirtieth rule to be read?

The Chief Clerk read the thirtieth rule, as follows:

"30. No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, unless it be to carry out the provisions of an existing law or a treaty stipulation.

"All amendments to general appropriation bills reported from committees of the Senate, proposing new items of appropriation, shall, one day before they are offered, be referred to the Committee on Appropriations, and all general appropriation bills shall be referred to the said committee."

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole. The question will be taken on the amendments collectively with such exceptions as Senators may suggest.

Mr. HARLAN. I ask that the amendment on page 4 be excepted from the general vote.

The remaining amendments were concurred in.

The PRESIDENT *pro tempore*. The question is on the excepted amendment.

Mr. HARLAN. I now ask for an explanation of that amendment striking out this clause:

For casual repairs of the Patent Office building, to complete pavement on the lower floor of the south wing, \$8,000.

Mr. MORRILL, of Maine. That was not struck out, but the clause was amended by making the appropriation exact and specific for the object of the appropriation. I ask that that clause be read as it stands now in the bill.

The Chief Clerk read as follows:

For tiles for fifty-eight hundred feet of tiling for the basement story of the Patent Office building, to complete pavement on the lower floor of the south wing, \$7,250.

Mr. HARLAN. I was not in the Senate when that amendment was adopted. I make no objection to it.

The amendment was concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

Mr. CONKLING. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, July 17, 1868.

The House met at twelve o'clock m.

The Journal of yesterday was read.

CORRECTION OF THE JOURNAL.

Mr. BENJAMIN. I rise to a correction of the Journal in regard to the resolution of the gentleman from Iowa [Mr. WILSON] recommitting to the Committee of Elections the case of Switzler vs. Anderson, with instructions to inquire into the charge of disloyalty against the contestant by myself. The Journal there stops. It should also state that they were instructed to inquire into charges of disloyalty against the sitting member by the contestant.

The SPEAKER. The Journal will be corrected accordingly. The gentleman from Iowa did not send up his resolution in writing, and the modification which was made afterwards was not heard by the Clerk.

Mr. BENJAMIN. It is correctly reported in the Globe.

The Journal, as corrected, was then approved.

MARY JANE LIGGETT.

Mr. KOONTZ, by unanimous consent, introduced a bill (H. R. No. 1435) granting a pension to Mary Jane Liggett; which was read a first and second time, and referred to the Committee on Invalid Pensions.

REFUNDING OF DUTY ON BELLS AND CLOCK.

Mr. GRISWOLD, by unanimous consent, from the Committee of Ways and Means, reported a joint resolution (H. R. No. 344) authorizing the Secretary of the Treasury to refund duties paid on a chime of bells and clock imported for St. Joseph's cathedral, Buffalo, New York; which was read a first and second time.

The joint resolution was read. It authorizes the Secretary of the Treasury to refund the duties of a set of bells and clock imported for St. Joseph's cathedral, city of Buffalo, State of New York, paid by the administrator of the diocese of Buffalo, out of any money in the Treasury not otherwise appropriated.

The joint resolution was ordered to be engrossed and read the third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GRISWOLD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. SOPHIA BEELER.

Mr. WASHBURNE, of Illinois. I ask

unanimous consent to introduce a small pension bill; a favor I seldom ask. The bill directs that in consideration of the gallant services of Major Abram Beeler, of Illinois, late a paymaster in the United States Army, who lost his life in preventing the capture of the steamer Belle St. Louis, on the Mississippi river, in the month of October, 1864, and by which a large amount of public money was prevented from falling into the hands of the rebels, the sum of fifteen dollars per month be added to the pension of his widow, Sophia Beeler, of Carroll county, Illinois.

Mr. MILLER. Is this reported from a committee?

The SPEAKER. It is not.

Mr. MILLER. I will not object if it is referred to the Committee on Invalid Pensions.

Mr. SPALDING. I hope there will be no objection.

Mr. WASHBURNE, of Illinois. The committee will not have time to consider it. It is one of the most meritorious cases, and as my friend from Pennsylvania is constantly getting these things through I hope he will not object. It is for the widow of a most gallant officer who lost his life in the service of the country. She is left with five young children.

Mr. MAYNARD. Let it go to the committee with leave to report at any time.

Mr. MILLER. I do not object if the chairman of the Committee on Invalid Pensions does not object.

Mr. PERHAM. I do not object; but it is larger than is granted in similar cases.

Mr. BENJAMIN. I object.

Mr. WASHBURNE, of Illinois. I give notice that no other pension act shall get through; and I now demand the regular order of business.

Mr. BINGHAM. I ask consent to report from the Committee of Claims a bill for the relief of Lieutenant John H. Ossler, of Ohio.

Mr. WASHBURNE, of Illinois. I object. The gentleman from Pennsylvania [Mr. MILLER] objects to a little pension to a widow.

FUNDING BILL.

Mr. SCHENCK. I report back from the Committee of Ways and Means the bill (S. No. 207) for funding the national debt and for other purposes, of which I gave notice yesterday that I would ask its consideration this morning. It has been printed with the amendments. I wish to make a statement in relation to the business of the committee in order to submit the question of its immediate consideration to a vote of the House.

Mr. RANDALL. I object to the consideration of the bill in the House, as it contains an appropriation.

The SPEAKER. The Chair sustains the point of order.

Mr. SCHENCK. I shall then be compelled to move to refer the bill to the Committee of the Whole.

Mr. RANDALL. That is not necessary; it goes to the Committee of the Whole under the rules.

The SPEAKER. The point of order being made it must go to the Committee of the Whole.

Mr. SCHENCK. In considering the bill in Committee of the Whole, I ask that an order be made that all general debate be dispensed with, and that the bill be debated under the five-minute rule. If I may be allowed to say a word, I will state that when we get into Committee of the Whole we shall meet with this question: my colleague on the committee [Mr. MOORHEAD] has charge of the tariff bill, which has now precedence as a special order in committee, and I shall move to take up the funding bill, laying aside all other business, which will include the laying aside for the present of the tariff bill.

Mr. SPALDING. And the appropriation bills also?

Mr. SCHENCK. I am willing to submit to the House as a test question; whether it will

give precedence to the tariff bill or the funding bill, both coming from the Committee of Ways and Means.

Mr. RANDALL. I shall insist upon adhering strictly to the parliamentary rules on this question.

Mr. SCHENCK. My proposition is to postpone all other business and take up the funding bill.

Mr. STEVENS, of Pennsylvania. There is a small appropriation bill pending which will not take more than half an hour to dispose of. As soon as that is finished others will have to come in. I shall insist on considering the appropriation bills.

Mr. SCHENCK. As I understand it, only the tariff bill has precedence; none of the appropriation bills.

The SPEAKER. The tariff bill has precedence, because the Committee of the Whole have commenced its consideration, and it is now unfinished business in Committee of the Whole.

Mr. SCHENCK. The question is between the tariff and the funding bill. My motion does not affect the appropriation bills, for they will be in no better condition than if it was not made.

Mr. STEVENS, of Pennsylvania. We can pass the little appropriation bill in half an hour.

Mr. SCHENCK. I move to lay aside all other business in order to take up the funding bill; and I wish a decision of the House as between the two bills, the tariff and the funding bill, which shall have precedence.

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] makes the point of order that the bill contains an appropriation, and should go to the Committee of the Whole. The Chair sustains the point of order.

Mr. RANDALL. I am willing it should be considered in the House as in Committee of the Whole if the gentleman will not restrict debate.

Mr. SCHENCK. How long a debate does the gentleman want?

Mr. RANDALL. I withdraw my proposition.

The question was put on the motion of Mr. SCHENCK; and there were—ayes 53, noes 37.

Mr. RANDALL. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. MAYNARD. Before the yeas and nays are called I desire to ask a parliamentary question. Whether the effect of this vote, if it should prevail, to postpone prior orders, would not be to give precedence to the funding bill over the tariff bill in Committee of the Whole?

The SPEAKER. The Chair will answer the question. It will make the tariff bill secondary to the funding bill in Committee of the Whole. That is to say, the funding bill will first be disposed of.

Mr. SPALDING. And the appropriation bill also?

The SPEAKER. And all other bills.

Mr. O'NEILL. Can I ask a question?

The SPEAKER. A parliamentary question, not an argumentative one.

Mr. O'NEILL. To settle all difficulty, I would ask whether the friends of the funding bill—and I presume most of those who are in favor of that bill are in favor of the tariff bill—will not consent to let us have an evening session for the purpose of considering the tariff bill?

Mr. WASHBURN, of Illinois. Is this in order?

The SPEAKER. The gentleman from Pennsylvania is aware that that is not a question affecting parliamentary law. The Chair, therefore, declines to answer it.

Mr. O'NEILL. It is a question leading to it. I hoped my suggestion would have been accepted as a compromise.

The question was taken on Mr. SCHENCK's motion; and it was decided in the affirmative—yeas 60, nays 58, not voting 83; as follows:

YEAS—Messrs. Allison, Bailey, Baker, Beatty, Beck, Benjamin, Bingham, Boyden, Brooks, Reader

W. Clarke, Sidney Clarke, Coburn, Cook, Cullom, Dixon, Ferriss, Fields, Garfield, Golladay, Grover, Haight, Hawkins, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hulburt, Hunter, Ingersoll, Jencks, Alexander H. Jones, Judd, Kerr, Knott, Lafin, William Lawrence, Loughridge, Mallory, McClurg, McCullough, Mullins, Niblack, Nicholson, Nunn, Orth, Paine, Perham, Pile, Raum, Sawyer, Schenck, Shanks, Stewart, Stokes, Stone, Taber, Van Trump, Elihu B. Washburne, Henry D. Washburn, and William Williams—60.

NAYS—Messrs. Delos R. Ashley, James M. Ashley, Blair, Boutwell, Boyer, Bromwell, Broomall, Buckland, Benjamin F. Butler, Cake, Cary, Covode, Dawes, Driggs, Eckley, Getz, Glossbrenner, Griswold, Hamilton, Higby, Hotchkiss, Kelsey, Koontz, George V. Lawrence, Loan, Maynard, McCarthy, McKee, Mercier, Miller, Moore, Moorhead, Morrell, Myers, O'Neill, Plants, Poland, Polsley, Pomeroy, Randall, Scofield, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Taylor, Lawrence S. Trimble, Trowbridge, Upson, Van Aernam, Van Wyck, William B. Washburn, Welker, Thomas Williams, John T. Wilson, Stephen F. Wilson, and Woodward—58.

NOT VOTING—Messrs. Adams, Ames, Anderson, Archer, Arnell, Axtell, Baldwin, Banks, Barnes, Barnum, Beaman, Benton, Blaine, Boles, Burr, Rodrick R. Butler, Chandler, Churchill, Cobb, Cornell, Delano, Deweese, Dockery, Dodge, Donnelly, Eggleston, Ela, Eldridge, Eliot, Farnsworth, Ferry, Finney, Fox, French, Gravelly, Halsey, Harding, Heaton, Hill, Holman, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Thomas L. Jones, Julian, Kelley, Ketcham, Kitchen, Lincoln, Logan, Lynch, Marshall, Marvin, McCormick, Morrissey, Mungen, Newcomb, Peters, Phelps, Pike, Price, Pruyn, Robertson, Robinson, Root, Ross, Selye, Shellabarger, Aaron F. Stevens, Taffe, Thomas, John Trimble, Twitshell, Van Auken, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, James F. Wilson, Windom, Wood, and Woodbridge—83.

So the motion was agreed to.

ENROLLED BILLS AND RESOLUTION SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 344) to incorporate the Washington Target-Shooting Association, in the District of Columbia;

An act (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869;

An act (H. R. No. 761) to construct a wagon-road from West Point to Cornwall Landing, all in the county of Orange, State of New York; and

Joint resolution (H. R. No. 329) to amend the fourteenth section of the act approved July 28, 1866, entitled "An act to protect the revenue, and for other purposes."

REPRESENTATIVES-ELECT FROM ALABAMA.

Mr. DAWES. I rise to a question of privilege. I present the credentials of Francis W. Kellogg, Charles W. Buckley, Charles W. Pierce, and Thomas Haughey, claiming to be elected Representatives from the first, second, fourth, and sixth congressional districts respectively of the State of Alabama, and I move their reference to the Committee of Elections.

Mr. BROOKS. Would it be in order to ask the chairman of the Committee of Elections to see if there was any contesting vote in the case of these members from Alabama, or if only one side voted, and to get a return of the votes from the State of Alabama in these particular districts?

Mr. DAWES. I am unable to answer, because nothing has been communicated to the Committee of Elections except the naked credentials.

Mr. BROOKS. I hope the committee will ascertain whether there has been any election in Alabama or not for members of Congress except by one side, by one set of men only, or a mere primary meeting of the people altogether on one side, holding one set of opinions—whether, in fact, there has been what, in the language of the law, is known as an election or only primary meetings.

Mr. PAINE. Perhaps the people are all on one side.

Mr. DAWES. The Committee of Elections, as well as they may be able, discharge any duty imposed upon them by the House. Thus far their duty has been simply to ascertain whether

a *prima facie* case exists, whether the credentials are in due form of law.

Mr. CULLOM. I would inquire of the gentleman from New York [Mr. BROOKS] if he knows of any law in Alabama or in the United States to prevent the people voting all on one side if they desire to do so?

Mr. BROOKS. The act of Congress forbade any election except under certain circumstances. Yet in violation of that act of Congress, in force at the time the vote was taken, certain persons are here from Alabama claiming seats on this floor.

Mr. DAWES. That is a little premature. Nothing appears as yet before the House, or has been referred to the Committee of Elections, except certain papers purporting to be credentials. If the committee should report them to be in due form they will, as thus far instructed, have performed their duty.

FUNDING THE NATIONAL DEBT.

Mr. SCHENCK. I move that the rules be now suspended, and that the House resolve itself into Committee of the Whole on the state of the Union upon the special order.

Mr. RANDALL. I desire to ask a parliamentary question. Can a majority suspend the rules to-day?

The SPEAKER. The rule states that a majority can suspend the rules for the purpose of going into Committee of the Whole. The rule, which is to be found on page 57 of the Digest, is as follows:

"The House may at any time, by a vote of a majority of the members present, suspend the rules and orders for the purpose of going into Committee of the Whole House on the state of the Union."

Mr. DONNELLY. I rise to make a privileged report from a committee of conference.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] has moved to suspend the rules for the purpose of going into Committee of the Whole on the funding bill.

Mr. DAWES. I desire the gentleman from Ohio to withdraw his motion until I can make a report from the Committee of Elections.

The SPEAKER. If the gentleman from Ohio withdraws his motion the Chair will have to recognize the gentleman from Minnesota, [Mr. DONNELLY,] who desires to make a report from a committee of conference, a matter of the very highest privilege.

Mr. SCHENCK. I would have no objection to yielding to the gentleman from Massachusetts, [Mr. DAWES,] but I do not want to open the door so as to allow the gentleman from Minnesota [Mr. DONNELLY] to come in also.

Mr. DONNELLY. My report will take but a minute or two.

Mr. MULLINS. I insist that the business be carried right along direct.

The question was taken upon the motion of Mr. SCHENCK; and upon a division there were—ayes seventy, noes not counted.

So the motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair.)

The CHAIRMAN. By order of the House the committee will proceed to the consideration of Senate bill No. 207, for funding the national debt and for the conversion of the notes of the United States, all other business in Committee of the Whole having been laid aside for that purpose.

The bill was then read at length, together with the amendments reported from the Committee of Ways and Means.

The CHAIRMAN. The bill will now be read by sections for amendment, the first amendments in order being those reported from the Committee of Ways and Means.

The first section was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States in such form and of such denominations as he may prescribe, redeemable in coin at the pleasure of the United States after twenty, thirty, and forty years, respectively, and bearing the following

rates of yearly interest, payable semi-annually in coin, that is to say: the issue of bonds falling due in twenty years shall bear interest at five per cent.; bonds falling due in thirty years shall bear interest at four and a half per cent.; and bonds falling due in forty years shall bear interest at four per cent., which said bonds shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom shall be exempt from the payment of all taxes or duties to the United States other than such income tax as may be assessed upon other incomes; and the said bonds and the proceeds thereof shall be exclusively used for the redemption or payment, at the option of the holder, or purchase of, or exchange for, an equal amount of any of the present interest-bearing debt of the United States other than the existing five per cent. bonds and the three per cent. certificates, and may be issued to an amount, in the aggregate, sufficient to cover the principal of all outstanding or existing obligations as limited herein, and no more, but not to exceed \$700,000,000 shall be of the issue redeemable in twenty years.

The first amendment reported from the Committee of Ways and Means was to the first clause of the section, to insert the words "not less than fifty dollars" after the words "The Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States in such form and of such denominations."

Mr. SCHENCK. It is so late in the session, and so much opportunity for general debate has already been had by members of the House, in and out of committee, for the last seven or eight months, that I am admonished to ask the House to let all debate upon this bill be a mere business discussion. For that purpose I now move that the committee rise, in order to close all general debate on this bill, and leave it subject only to the five-minutes' business discussion.

Mr. BROOKS. I hope not. I think the fairest way will be to confine the debate strictly to the subject of the bill and allow no political discussion. This is the most important bill that has come before Congress.

The CHAIRMAN. No debate is now in order.

The question was taken on the motion that the committee rise; and upon a division there were—ayes 65, noes 36.

So the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole, pursuant to order, had had under consideration the Union generally, and particularly Senate bill No. 207, for funding the national debt and for the conversion of the notes of the United States, and had come to no resolution thereon.

Mr. SCHENCK. I move that when the House again resolve itself into Committee of the Whole on the special order all general debate shall cease in two hours.

Mr. FARNSWORTH. Less than that will be enough.

Mr. SCHENCK. Very well; I will say one hour.

Mr. SCOFIELD. I would suggest to the gentleman from Ohio [Mr. SCHENCK] that if we are not going into general debate on this bill there is no fairness or justice in limiting general debate to one hour or two hours; there should not be one minute allowed for general debate. Let there be no limit to general discussion, or let all the discussion be under the five-minute rule.

Mr. SCHENCK. That will entirely suit my ideas. I am willing to modify my motion to conform to that suggestion.

Mr. GARFIELD. If we are going to have two hours of general debate it should be on the condition that each speaker shall be limited to twenty minutes. It would not be fair that two members should occupy the whole of the two hours.

Mr. STEVENS, of Pennsylvania. I shall move to amend the motion of the gentleman from Ohio [Mr. SCHENCK] so as to restrict general debate to half an hour.

Mr. SCHENCK. By way of testing the sense of the House I will move that all general debate in Committee of the Whole on this bill be limited to two hours, each speech to be limited to twenty minutes. The gentleman

from Pennsylvania can now move his amendment to confine debate to half an hour.

The SPEAKER. The limitation of speeches to twenty minutes will require unanimous consent, as it changes the rule.

Mr. FARNSWORTH. I object.

Mr. STEVENS, of Pennsylvania. I move to amend the motion of the gentleman from Ohio so as to restrict debate to half an hour. I think we can all understand the bill well enough in that time.

Mr. SCHENCK. As there is objection to limiting speeches to twenty minutes, I withdraw my motion allowing two hours for general debate, and move that all general debate in Committee of the Whole be limited to ten minutes.

Mr. STEVENS, of Pennsylvania. I withdraw my amendment.

Mr. WASHBURN, of Illinois. I renew the amendment of the gentleman from Pennsylvania so as to allow half an hour for general debate.

The amendment was not agreed to.

The question recurred on the motion of Mr. SCHENCK.

Mr. BROOKS. Upon an important bill like this, involving so many million dollars, I feel it my duty to demand the yeas and nays on limiting debate.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 70, nays 69, not voting 62; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, Bailey, Banks, Beatty, Benjamin, Bingham, Broomall, Churchill, Reuder W. Clarke, Sidney Clarke, Covode, Daves, Dixon, Donnelly, Driggs, Eckley, Elna, Farnsworth, Ferriss, Fields, Getz, Griswold, Hamilton, Hill, Hinds, Hopkins, Chester D. Hubbard, Hubbard, Hunter, Ingersoll, Koontz, Laflin, Mallory, Marvin, Maynard, McCarthy, McGurg, McKee, Miller, Moore, Morrell, Mullins, O'Neill, Orth, Paine, Perham, Peters, Plants, Polsey, Pomeroy, Sawyer, Schenck, Seofield, Shanks, Spalding, Starkweather, Thaddeus Stevens, Stokes, Taylor, Upson, Van Aernam, Burt Van Horn, Van Wyck, Henry D. Washburn, William B. Washburn, William Williams, James F. Wilson, and Stephen F. Wilson 70.

NAYS—Messrs. Arnell, James M. Ashley, Axtell, Baker, Beck, Blair, Boutwell, Boyden, Boyer, Bromwell, Brooks, Buckland, Benjamin F. Butler, Cuke, Cary, Cobb, Coburn, Cook, Culloin, Delano, Dockery, Eldridge, Eliot, Fox, Garfield, Glossbrenner, Goldaday, Gravely, Grover, Haight, Hawkins, Heaton, Higby, Hooper, Hotchkiss, Jenckes, Alexander H. Jones, Judd, Kelsey, Kerr, William Lawrence, Loan, Logan, Lynch, Marshall, McCulloch, Mercer, Niblack, Nicholson, Nunn, Pike, Poland, Randall, Ross, Smith, Stewart, Stone, Taber, Thomas, Lawrence S. Trimble, Twichell, Van Auker, Van Trump, Ward, Elihu B. Washburne, Welker, Thomas Williams, Woodbridge, and Woodward 69.

NOT VOTING—Messrs. Adams, Ames, Aroher, Baldwin, Barnes, Barnum, Beaman, Benton, Blaine, Boies, Burr, Roderick R. Butler, Chandler, Cornell, Dewesse, Dodge, Eggleston, Perry, Finney, French, Halsey, Harding, Holman, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Thomas L. Jones, Julian, Kelley, Ketcham, Kitchen, Knott, George V. Lawrence, Lincoln, Loughridge, McCormick, Moorhead, Morrissey, Mungen, Myers, Newcomb, Phelps, Pile, Price, Prunyn, Raum, Robertson, Robinson, Roots, Selye, Shellabarger, Sigreaves, Aaron P. Stevens, Taffe, John Trimble, Trowbridge, Robert T. Van Horn, Cadwalader C. Washburn, John T. Wilson, Windom, and Wood 62.

So the motion of Mr. SCHENCK was agreed to.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union to resume the consideration of the funding bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States.

The CHAIRMAN. By order of the House all general debate has been limited to ten minutes.

Mr. SCHENCK. Mr. Chairman, as some complaint has been made in regard to the restriction of debate upon this bill, I desire to have it clearly understood how and why it is that this limitation has been enforced upon the motion I have made. It is unnecessary to speak of the necessity of limiting debate on this bill

at this stage of the session, if there is to be any positive action on the bill before Congress adjourns. Recognizing this fact I moved to allow; as an introductory debate on the bill, a larger latitude in the shape of general debate to extend over two hours of time, asking there should be a division of time allowing a speech of twenty minutes to each person engaged in that general debate. This would have given an opportunity to six gentlemen to have been heard at some reasonable length on the bill. The latter proposition I could not have acceded to without unanimous consent of the House, and although, under the rule, the debate could have been stopped in two hours, inasmuch as I could not get that unanimous consent of the House to limit the debate to twenty minutes, the consequence would have been in that two hours the whole time could have been occupied by any two gentlemen speaking an hour each. As the question, therefore, was between a general debate, which should be limited to two speeches of an hour each, or else putting all upon an equal footing, allowing an analysis of the bill by a business discussion in five minutes, although I preferred the latter, and made the motion I did, I wish to make these remarks as a reply to any complaint which may be made of any unfairness or inconsideration in the treatment of a bill so important as this, without sufficient opportunity to have it fully and completely passed under the consideration of the House in an unrestricted discussion.

The question, Mr. Chairman, will be first on the first amendment to this section proposed by the Committee of Ways and Means. I have simply to say, what will be obvious to any gentleman who will consult the Senate bill, the insertion of the words "not less than fifty dollars" is for the purpose of giving a limitation which does not exist in any form in the Senate bill. The Senate bill does not prescribe the denomination of the bonds, but leaves them to be issued in just such form and denominations as may be agreeable to the Secretary of the Treasury. This would have enabled the Secretary of the Treasury to issue bonds down to the price of five dollars or any less sum he pleases. We thought, so far as the minimum was concerned, fifty dollars, the present denomination of bonds on the market, was a fair and proper one considering those making investments in bonds, and we so acted. As a limitation it would also operate as a direction under this law, if it become a law, as heretofore under other laws, to the Secretary of the Treasury, and bonds of fifty dollars, if that is specified in the bill, would be issued under its provisions, if it became a law, and thus enable people of limited means to invest as they do now in small sums in our public securities and spread them through the land creating an interest everywhere and to a wide extent in the credit of the Government.

A gentleman has intimated to me it would be well, perhaps, the amendment should go a little further than is proposed by the Committee of Ways and Means, and the denomination of the bonds should be fixed at not less than fifty dollars, and they should also be in multiples of that sum, so as to secure uniformity. I will give an opportunity to the gentleman to move an amendment of that sort before the vote is taken on the amendment of the Committee of Ways and Means.

Mr. BUTLER, of Massachusetts. I simply desire to call the attention of the committee to an amendment to make the bill uniform, to insert after the words "fifty dollars" the words "or a multiple thereof;" so it will read:

That the Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States in such form and of such denominations not less than fifty dollars, or a multiple thereof, as he may prescribe.

Mr. SCHENCK. I have drawn an amendment which will probably accomplish the object of the gentleman from Massachusetts. Strike out and insert, so it will read:

The Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States in such form as he may prescribe of the

denomination of fifty dollars or some multiple of that sum.

Mr. BUTLER, of Massachusetts. That will be satisfactory.

The CHAIRMAN. The time allowed for general debate is not yet exhausted. If no member desires to discuss the bill further the committee will proceed to consider the amendments reported by the Committee of Ways and Means. The Clerk will report the first amendment.

The first amendment of the Committee of Ways and Means, as modified, was reported as follows:

Strike out the words "and of such denominations, not less than fifty dollars, as he may prescribe," and insert in lieu thereof the words "as he may prescribe, and of denominations of fifty dollars or some multiple of the same."

The amendment was agreed to.

The committee informally rose to receive a

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that that body had passed, without amendment, a joint resolution and a bill of the following titles:

Joint resolution (H. R. No. 340) for the relief of Peter M. Carmichael, surveyor of the port of Albany; and

An act (H. R. No. 1320) for the relief of L. Merchant & Co., and Peter Rosecrantz.

The message further announced that the Senate had passed bills of the House of the following titles, severally with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 1205) to further amend the postal laws; and

An act (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1869.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

An act (S. No. 301) authorizing the purchase of certain public lands in Alabama; and

An act (S. No. 621) authorizing the Manufacturers' National Bank of New York to change its location.

The message further announced that the Senate had indefinitely postponed bills of the House of the following titles:

An act (H. R. No. 480) in relation to the pay of grand and petit jurors in the District of Columbia;

An act (H. R. No. 387) to fix the compensation of the United States depository at Chicago;

Joint resolution (H. R. No. 337) continuing the refining of bullion in the Mint of the United States and branches;

An act (H. R. No. 145) in relation to the district court of the United States for the northern district of Ohio; and

An act (H. R. No. 2) to repeal an act entitled "An act to retrocede the county of Alexandria in the District of Columbia to the State of Virginia," and for other purposes.

INDIAN APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts. I move that the House now concur in the amendments of the Senate to the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869, and ask for a committee of conference. There are a great number of amendments, some of which strike out amendments made by the Committee on Appropriations, after very full consideration, and which will be quite sure to be non-concurred in by the House upon examination. To save time, I propose to ask for a committee of conference.

Mr. BROOKS. I want to see these amendments that have been made in the Senate before I consent to this motion.

Mr. BUTLER, of Massachusetts. It will take two or three days to consider them in the House.

Mr. BROOKS. I observe from the color of the paper that one half of the bill has been changed in the Senate.

Mr. BUTLER, of Massachusetts. That is so.

Mr. BROOKS. The whole Indian department is so corrupt in its administration that I want to see what has been done.

Mr. WASHBURN, of Illinois. Let me say to the gentleman that I think he will be opposed to every amendment made by the Senate. We propose to non-concur in all of them.

Mr. BROOKS. They can all be printed by to-morrow morning.

Mr. WASHBURN, of Illinois. The difference between the two Houses is so great that it will take two or three days to act upon them in the House.

Mr. BROOKS. I object to acting upon a report of a committee of conference agreeing or disagreeing to amendments Nos. 1, 3, 6, 7, &c.

The SPEAKER. Objection being made, the question recurs on concurring in the amendments of the Senate separately.

Mr. BROOKS. If they can be printed to-morrow morning I will not object.

Mr. BUTLER, of Massachusetts. It is impossible to have them printed. I would be glad to have the gentleman from New York on the committee of conference.

Mr. BROOKS. I do not want to be on it.

Mr. WASHBURN, of Illinois. Better let it go to a committee of conference.

Mr. BROOKS. I shall then ask for a full explanation.

Mr. BUTLER, of Massachusetts. Very well. Mr. BROOKS. I withdraw the objection, and hope we shall have the bill and amendments printed.

The amendments of the Senate were then non-concurred in and a committee of conference ordered. The Speaker appointed as the conferees on the part of the House Messrs. BUTLER of Massachusetts, WINDOM, and VAN TRUMP.

FUNDING BILL.

The Committee of the Whole resumed the consideration of the funding bill.

The next amendment reported by the Committee of Ways and Means to the first section was to strike out the words "twenty, thirty, and forty years, respectively, and bearing the following rates of yearly interest, payable semi-annually in coin, that is to say: the issue of bonds falling due in twenty years shall bear interest at five per cent.; bonds falling due in thirty years shall bear interest at four and a half per cent.; and bonds falling due in forty years shall bear interest at four per cent.;" and insert in lieu thereof the following: "Forty years, and bearing interest, payable semi-annually in coin, at the rate of three and sixty-five hundredths per cent. per annum;" so that the section will read:

That the Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States in such form as he may prescribe and of denominations of fifty dollars or some multiple of the same, redeemable in coin at the pleasure of the United States after forty years, and bearing interest, payable semi-annually in coin, at the rate of three and sixty-five hundredths per cent. per annum, which said bonds shall be exempt from taxation in any form by or under State, municipal, or local authority.

Mr. ROSS. I move to amend the amendment by striking out "sixty-five hundredths." I think three per cent. is as much as we can afford to pay on this class of bonds, if the debt is to be funded at all. But I regard the project of funding the bonds as an effort on the part of the bankers and bondholders and their friends in this Congress to put these five-twenty bonds, which we have a right to pay in lawful currency of the country, known as "greenbacks," into gold bonds, thereby placing them outside of the power of the representatives of the people in the next Congress to pay this debt in accordance with the manner of its

being contracted. The bondholders see most clearly that if this Fortieth Congress is permitted to pass away and representatives of the people are to assemble here these five-twenty bonds are to be paid according to the terms of the New York platform, and they desire now while this Congress, which they regard as their friend, is in session to fasten the debt on the country, so that it will be impossible for the representatives of the people in the Forty-First Congress to shake it off. Three per cent. is certainly sufficient to be paid upon these bonds which never cost the bondholders over forty cents on the dollar.

I desire to call the attention of the committee to the fact that English consols bearing three per cent. interest are worth twenty cents upon the dollar more than these five-twenty bonds drawing six per cent. interest. Why is this? It is because the men who deal in these bonds never understood that they were to be paid in gold. But it is now the policy of these men to manipulate the bonds and place them in a condition so that the true representatives of the people, who will represent their views upon this subject, cannot lawfully pay off this debt in the manner in which it was contracted.

I desire to call the attention of the committee and of the country to the fact that there is a persistent effort now being made in the Halls of Congress to swindle the people of this country and to prevent them from paying the debt which was contracted in five-twenties in the currency of the country, such as we pay all our individual debts in and pay our soldiers and our pensioners in.

I want gentlemen now to say whether this is "not only according to the letter but the spirit of the laws," as they say in their Chicago platform, or whether it is to be construed in different sections of the country in different ways to suit particular localities and the views of individuals residing in that portion of the country. I want a square vote upon this. If we convert these five-twenty bonds into bonds that the faith of the Government is pledged to pay principal and interest in coin, I will never consent that these bonds shall bear more than three per cent. interest. I hope, therefore, that this amendment will prevail, and that "sixty-five hundredths" will be stricken out, so as to leave the bonds three per cent. bonds. When the proper time comes I shall desire to offer other amendments to the bill.

Mr. SCHENCK. Mr. Chairman, I think it will be better that a proposition to amend such as that submitted by the gentleman from Illinois [Mr. Ross] should not prevail, offering these bonds at three per cent. Many persons think that our legislation at any rate will be fruitless, because we propose to put a bond at so low a rate of interest upon the market. I have this to say in regard to that, that if we accomplish no other object except to record a declaration upon the subject of interest in this country upon our public securities by way of an entering wedge, we shall have done very considerable if this bill shall become a law. Up to this time the United States has exhibited the spectacle among the principal commercial nations of the world of paying a higher rate of interest than any other, while at the same time it is a country and a people with more magnificent resources, not in the present only or altogether, but in the future, and with more prospect of growth than any other nation in the world. I hold, therefore, that if the time has not yet come, it is to come when this great country, with its enormous capabilities, will not be in the markets of the world paying more interest than any other commercial or manufacturing or agricultural nation occupying a high position in the civilized world.

Mr. HIGBY. Will the gentleman yield to me for a question?

Mr. SCHENCK. I cannot well do so, as I have but five minutes.

Mr. HIGBY. A short question.

Mr. SCHENCK. Very well.

Mr. HIGBY. Does the gentleman think that bonds at three and sixty-five hundredths

per cent. can be disposed of at par in this country or any other?

Mr. SCHENCK. I think they will be in time; but the question to my mind is not between three per cent. and three and sixty-five hundredths, but between three and sixty-five hundredths and four per cent. when we are beginning to establish the doctrine or attempting to establish the rule that the United States shall not pay higher interest on securities than other nations. The rate of three and sixty-five hundredths was selected by the Committee of Ways and Means as perhaps the lowest rate of interest at which we should assume to offer bonds under any circumstances, even with these pledges, and the character given to the bonds, which are contained in this bill. The rate of three and sixty-five hundredths is, in some respects, a fanciful rate of interest; but the principle was first adopted in reference to the seven and thirty hundredths bonds upon the argument of greater convenience, inasmuch as it would amount to just two cents per day on \$100; giving a rate of calculation that bankers, brokers, and all others were interested in having adopted. The Committee of Ways and Means have adopted the same rule of computation, the same economic system of regulating the interest according to the number of days in the year—three hundred and sixty-five. I hope that, whatever may be the fate of a motion which I have been advised will probably be made to increase the rate to four per cent., the motion to reduce the rate from three and sixty-five hundredths to three per cent. will not prevail; because my desire is—although it may seem to some gentlemen not to be a practical bill now—to take the principle and make it what I believe it will hereafter become, a practicable principle in the character of the securities which this country shall continue to issue to the world.

[Here the hammer fell.]

The question was upon the amendment of Mr. Ross, to strike out "three and sixty-five hundredths" and insert "three;" and being taken, upon a division there were—ayes 20, noes 52; no quorum voting.

Tellers were ordered; and Mr. HUBBARD, of West Virginia, and Mr. Ross were appointed.

The committee again divided; and the tellers reported that there were—ayes 28, noes 75.

So the amendment of Mr. Ross was not agreed to.

Mr. HUBBARD, of West Virginia. I move to amend the portion of the section proposed to be stricken out by the amendment of the Committee of Ways and Means by striking out the word "and" between the words "thirty" and "forty" and inserting after the word "forty" the words "and fifty;" so that that portion of the section will read, "redeemable in coin at the pleasure of the United States after twenty, thirty, forty, and fifty years, respectively," &c. If that amendment shall prevail, I propose to follow it up by adding to the next clause of the section the words "and bonds falling due in fifty years shall bear interest at three and sixty-five hundredths per cent. per annum;" and that the provisions of the section which the Committee of Ways and Means recommend be inserted shall be made applicable to that class of bonds. This will give us four classes of bonds, at twenty, thirty, forty, and fifty years, at rates of interest respectively of five, four and a half, four, and three and sixty-five hundredths per cent. per annum. This last class of bonds would be a class of bonds that could be purchased at any time at par for the currency of the country, and could be sold again whenever the holders of the bonds ask for currency for use in their business.

Now, the effect of reducing the rate of interest on all these bonds, as proposed by the Committee of Ways and Means, to three and sixty-five hundredths per cent., would be to render this whole bill valueless, as no holder of the present bonds would be willing to make the exchange. There being nothing in the bill

requiring the holders of the present bonds bearing interest at five and at six per cent. to exchange them, of course they would not do so, but would prefer to take the risk in regard to the Government standing by its obligations as they now exist under the law. And I want to say to the gentleman from Illinois [Mr. Ross] and to this House that the United States never yet paid a debt and never will by giving its note for it, any more than the gentleman from Illinois can pay his debts by giving his notes for them.

Mr. ROSS. Does not the gentleman pay his debts by giving notes?

Mr. HUBBARD, of West Virginia. No, sir; not my notes.

Mr. ROSS. The gentleman pays greenbacks.

Mr. HUBBARD, of West Virginia. Greenbacks are not my notes but the notes of the United States. I may extend the time of payment by giving my notes; but when the notes fall due I must pay them in values satisfactory to the creditor.

Mr. ROSS. I pay all my debts with greenbacks.

Mr. HUBBARD, of West Virginia. The United States cannot, any more than an individual, pay its debts by giving its notes; nor do we propose to do it. I am free to admit that under the law, when these bonds are due and become claims and demands these notes are receivable in payment; but these bonds, not being due, are not claims and demands, and these notes cannot be tendered to the holder of these bonds. But if, at the maturity of these bonds, when they become claims and demands against the Government, if the Government is then unable to pay the bonds in coin or its equivalent it may under the law extend the time of payment as the law now stands. Whether it would be advisable for the Government to do this—

Mr. ROSS. Do I understand the gentleman to say that the Government has not authority to pay now a portion of the five-twenty bonds?

Mr. HUBBARD, of West Virginia. It has no authority under the law to pay them now in United States notes, but only when they become claims and demands, and then it would only be an extension of the time of payment.

Mr. ROSS. My understanding is that at any time after five years we have a right to pay them.

Mr. HUBBARD, of West Virginia. No, sir; they are only redeemable, not payable, after five years. They are payable at the end of twenty years.

Mr. RANDALL. Will the gentleman explain the difference between redeeming a note and paying it? It seems to me a distinction without a difference.

Mr. HUBBARD, of West Virginia. If there is no difference in the terms why employ both in the law? It would have simplified the matter very much to have made the bonds payable after five years. As I understand there are three provisions in the law issuing United States notes. The first provision prescribes under what circumstances these notes shall be received by the United States. The law provides that they shall be received for all debts due to the United States except duties on imports. The second clause prescribes how these notes shall be received by the creditors of the United States, and that is for claims and demands against the Government. Then there is a third proviso with reference to debts within the United States.

Now, I wish the House to notice one fact in regard to these notes, that they are lawful money and payable for debts within the United States. The first two clauses make provision for cases where debts are due to and by the United States; and the third clause makes provision with reference to debts within the United States to which the United States is not a party. And the word "public" must be construed as referring to corporations or other public bodies and not to the United States.

[Here the hammer fell.]

Mr. PIKE. If it be in order, I move to amend by striking out in the fifteenth line "three and sixty-five hundredths" and inserting "four."

The CHAIRMAN. That amendment is not now in order. One amendment to the amendment of the Committee of Ways and Means is already pending.

Mr. SCHENCK. Mr. Chairman, I rise to comment on the amendment proposed by the gentleman from West Virginia, [Mr. HUBBARD.] This amendment is designed to improve that part of the text of the Senate bill which the Committee of Ways and Means recommend to strike out. I will first ask the amendment to be reported, because I think that it has not yet been reported from the Clerk's desk.

The amendment was read.

Mr. SCHENCK. Mr. Chairman, the gentleman from West Virginia indicates if that amendment shall prevail, establishing a fourth class of these bonds at a lower rate of interest, to add a corresponding clause to the language of the Senate. Now, sir, I hope the language of the Senate will be stricken out and we will have one class of bonds provided for forty years, or make it, if you will, fifty years. Forty years is what is proposed by the Committee of Ways and Means. But, sir, inasmuch as it is among the possibilities that the amendment of the Committee of Ways and Means may not succeed, I hope the amendment of the gentleman from West Virginia will prevail, as it will make the text of the bill better than it is. I do not mean to concede, when I made that remark, the language of the Senate bill should not be stricken out; but I do mean if that language of the Senate classifying the bonds is to stand, I hope the text of the bill will be modified so as to make a fourth class.

The amendment of Mr. HUBBARD, of West Virginia, was adopted.

Mr. HUBBARD, of West Virginia. I will move a further amendment. Strike out "and," and after "per cent.," insert "and bonds falling due in fifty years shall bear interest at the rate of three and sixty-five hundredths per annum." That will, in my judgment, perfect the bill. It will put the funding bill in a shape, I think, which will be acceptable to the country, and be successful in putting our debt in a shape the country will approve of.

Mr. SCHENCK. I will call the gentleman's attention to the language of the amendment. He uses the words "per cent. per annum." The Senate uses the word "yearly." They do not use the words "per annum."

Mr. HUBBARD, of West Virginia. I do not object to that modification.

Mr. SCHENCK. Leave out the words "per annum," and the word "yearly," in the preceding part of the section, will cover them.

Mr. HUBBARD, of West Virginia. I will strike out the words "per annum."

The amendment was agreed to.

Mr. PIKE. I move to strike out "three and sixty-five hundredths" and insert "four." Mr. Chairman, I join with the gentleman from Ohio that this Senate language should be stricken out. We should have bonds at forty years at four per cent. I am quite sure the whole country would be satisfied with the matter of taxation and interest if forty years' bonds be placed at four per cent. free from all taxation, even including the income tax. It cannot reasonably be expected that we can place our securities on as good a footing as those of England have been placed and funded for fifty years. We have this large mass of securities to be thrown upon the public market; and they will be gradually absorbed if we place the rate at four per cent. I know that the Committee of Ways and Means is earnest in giving the country something practicable. Instead of cheapening this bill down to three and sixty-five hundredths I hope these bonds will be placed at such a rate of interest that they can be put upon the market and a sale effected. I shall be willing to go further. I shall be will-

ing to have interminable annuities at four per cent. That is a favorite class of security in Europe, and gentlemen who know more about it than I do, say there will be no difficulty in exchanging six per cent. bonds for four per cent. interminable annuities free from all taxation. We are merely called upon now to fix some reasonable rate of interest at which there is a probability the present holders of our bonds are willing to exchange them for others. Let us come to such a point that we can reach that reasonable probability, and for that reason I move four per cent.

Mr. GRISWOLD. I am in favor of the amendment of the gentleman from Maine, provided the House shall see fit to reject the bill as prepared by the Senate. If we mean in good faith to pass a law funding our national debt two things are essential: first, to take care of our national credit; and second, to put our securities at such a rate of interest as will probably be accepted. I do not believe that the true way for the United States to secure a low rate of interest in the future is to be constantly agitating upon the floor of Congress and throughout the country the question as to our obligation or ability to pay the debt already created. Why, sir, it is with a nation as with an individual; if you expect to borrow money at a low rate you do not go upon 'Change to-day and express doubts as to whether you will ultimately pay your debt, and then to-morrow undertake to issue your notes at a reduced rate of interest. Hence the true course for the nation is the course that an individual would take; first secure your national credit, and then you may borrow money at a favorable rate compared with that paid by any other nation.

I maintain, therefore, that the true policy of the country would be, instead of introducing questions here day after day which cause distrust to the world as to our intention to pay our debt, to give expressions of a contrary character, and then when the world believes in our good faith and intention we may expect to borrow money at a lower rate of interest. The true way to lighten the taxation which now rests upon the people, the true way of funding our national debt, is to give such expression through our national councils as will assure the world that we mean to pay. Until that is done the mere passage of this funding bill or any other will never accomplish the purpose, and it is simply, in my own judgment, a waste of time to be discussing it here. We must first establish our credit and make the world believe that we will pay our debts according to the letter of the obligation.

Mr. PIKE. I withdraw the amendment.

Mr. BUTLER, of Massachusetts. I renew it. I hope this bill will be considered as a practicable measure. I believe it to be such, and if a little care is taken to perfect it and carry out what was evidently the intention of the Committee of Ways and Means, I think it may be a solution for much of our financial difficulties as to the payment of too great interest and taxation. I hope that this provision of the Senate bill which provides several classes of bonds will be stricken out. I do not want to see but one kind of funded debt. We have now nineteen different kinds of United States interest-bearing securities, and nobody can tell which is which, which is worth the most or the least, except he employs some broker, and then all he knows is what the broker says and what he says may be with a view to making the most money by selling or buying.

Now, I am in favor of but one class of securities, payable in forty or fifty years. Do not have this proposed sliding scale, but bring down the rate of interest to three and sixty-five hundredths per cent. And in order to make my amendment more perfect I shall propose to strike out the words "other than such income tax," so as to leave it a fifty-year loan at three and sixty-five hundredths per cent. without any tax whatever. I would cut down the interest so that there shall be

no occasion to tax that loan, but we shall receive the tax in the increased value of our loans. Then they will go abroad, because the rate of interest will be certain and not liable in any form to be changed.

Sir, let me tell you that exactly what the people on the other side of the water are afraid of is that our loan will be paid. They will pay more to-day for a perpetual annuity at four per cent. than for your twenty-year bonds at six per cent., or more than they will pay for forty-year bonds at five per cent. What they want is permanency of investment. The reason why your securities are not higher to-day is the danger of their being paid. In Europe there is no favorite security that is ever expected to be paid. What people want is permanent investment. Let them understand that we agree to pay the interest at a low rate, and they will take our fifty-year bonds at three and sixty-five hundredths per cent. interest, which is double the rate that money bears in Hamburg and Frankfort. Give them that kind of security, and I have no doubt, so far as my own knowledge extends, these bonds will be taken up.

I propose to move, when we come to the amendment on the fourth page, that there shall be an income tax of ten per cent. on all of our present bonds that are not so funded, and when we have got that on the one side, and a loan of fifty years, with a certain rate of interest on the other side, this funding bill will be a working actual measure, which shall reduce the burden of taxation.

I hope, therefore, while I renew the amendment, as I have promised, that the committee's rate of three and sixty-five hundredths will be sustained, the Senate classes struck out, and that we shall strike off all taxes whatever upon the securities provided for in this bill.

Mr. PAINE. I rise to oppose the amendment of the gentleman from Maine, [Mr. PIKE,] renewed by the gentleman from Massachusetts, [Mr. BUTLER.] I should be in favor of retaining this at four per cent. if I supposed that the bill would in its subsequent provisions remain as it now stands, for this bill as it now stands not only allows the income and interest upon these bonds to be taxed by the United States Government as incomes from other property and interest upon other property is taxed, but it leaves by implication, I fear, to the State governments the right to insist upon taxing the interest and income of these bonds. Now, if the State governments are to have the right to tax the incomes or interest of these bonds at their pleasure, as I think the language of this bill would clearly entitle them to do, and if, in addition to that, the United States Government is to tax the income and interest on these bonds as it taxes income from other property or interest derived from other sources, then I fear that it will be necessary for us to put the interest as high as four per cent. to induce anybody to exchange the bonds now outstanding for bonds of this form. I say I apprehend that the bill as it now stands authorizes State taxation, so far as interest and income is concerned, for this reason; I find this language in the bill:

Which said bonds shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States, other than such income tax as may be assessed upon other incomes.

Now, it is these words, "and the same and the interest thereon and the income therefrom," so far as Federal taxation goes, which lead me to suspect that the States would have a right to insist on local taxation so far as income and interest are concerned.

Now, I am in favor of striking out this whole taxation by States for local purposes, whether upon the principal or interest or income of these bonds. I am in favor of striking out that provision of the bill which retains to the Government of the United States the right to tax the income or interest of these bonds in order to bring the interest on these bonds

down to the lowest possible figure at which capitalists will take the bonds.

Now, as this bill stands, it seems to me that it authorizes the Secretary of the Treasury to sell these bonds in market, realizing what he can from them, and with the proceeds of the bonds take up the outstanding bonds of the United States as they exist at the present time, because I find in the bill these words:

And the said bonds and the proceeds thereof shall be exclusively used for the redemption or payment, at the option of the holder, or purchase of, or exchange for, an equal amount of any of the present interest-bearing debt of the United States.

Now, I propose to make sundry amendments to this part of the bill so as to leave to the Secretary of the Treasury the power which alone, as I understand the chairman of the committee, the committee meant to intrust to him, namely, the power to exchange these new bonds for old ones dollar for dollar, or, in other words, to redeem old bonds with new bonds dollar for dollar. Now, to do that, we must put the interest down to the lowest possible figure. We must offer such inducements as will be sufficient to procure from capitalists the taking of this loan to redeem the other. I am, therefore, opposed to this amendment, in favor of retaining the rate of interest proposed by the committee, namely, three and sixty-five hundredths per cent. per annum, in favor of striking out all taxation, whether Federal, State, or local, whether upon principal, interest and income, and in favor of prohibiting the Secretary of the Treasury from making any other disposition of these new bonds than to exchange them directly dollar for dollar for outstanding bonds.

Mr. BUTLER, of Massachusetts. I withdraw the amendment to the amendment.

Mr. STEVENS, of Pennsylvania. I renew the amendment to the amendment, for the purpose of saying a word in regard to what has fallen from members here. I am in favor of a funding bill which shall reduce the interest on our bonds. If no person shall choose to fund under such a bill, no harm will be done; if any person does choose to fund under it at a lower rate of interest than we now pay, we gain by it. Hence I am in favor of a bill of this kind; whether this is exactly the right kind of a bill or not I will not criticize, except that I think it is a tolerably fair one.

I think, however, that the lowest rate of interest must be four per cent.; I do not think you can get money cheaper than that. And I will go further and say that I do not think, as long as the five-twenty gold interest-bearing bonds are outstanding, that anybody will ever fund a dollar under this bill. Why should they? But when those five-twenty bonds are paid off, I have no doubt that large investments will be made both at home and abroad in a loan of this character. I think, therefore, that it is the duty of the Government, with the gold which is accumulating in its Treasury every year, to expend at least half the amount in redeeming the five-twenty bonds in advance of their falling due. After they fall due then no one can object to their redemption.

I understood the gentleman from Illinois [Mr. ROSS] who first spoke upon this subject to say that he understood that our outstanding bonds should be paid according to the principle of the New York platform. What is that platform?

Mr. ROSS. To pay the five-twenties in lawful money.

Mr. STEVENS, of Pennsylvania. You mean by "lawful money"——

Mr. ROSS. Greenbacks; that is your doctrine and mine.

Mr. STEVENS, of Pennsylvania. I hold to the Chicago platform, and, as I understand it, to the New York platform, upon these bonds; that these bonds shall be paid just according to the original contract.

Mr. PIKE. According to the spirit and letter of the contract.

Mr. FARNSWORTH. According to the law.

Mr. STEVENS, of Pennsylvania. What was that law? That bonds of a certain amount should bear five per cent. interest in gold. Now, up to the time that they fall due we must pay them faithfully. After they fall due they are payable in money, just as the gentleman understands "money," just as I understand it, just as we all understood it when we passed the law authorizing that loan; just as it was a dozen times explained upon the floor by the chairman of the Committee of Ways and Means when called upon by gentlemen to explain what it meant, and just as the whole House agreed that it meant.

[Here the hammer fell.]

Mr. O'NEILL obtained the floor.

Mr. STEVENS, of Pennsylvania. I should like to have one or two minutes more.

Mr. O'NEILL. I will yield to my colleague for one or two minutes.

Mr. STEVENS, of Pennsylvania. I want to say that if this loan was to be paid according to the intimation of the gentleman from Illinois, [Mr. ROSS;] if I knew that any party in this country would go for paying in coin that which is payable in money, thus enhancing it one half; if I knew there was such a platform and such a determination this day on the part of any party, I would vote for the other side, Frank Blair and all. I would vote for no such swindle upon the tax-payers of this country; I would vote for no such speculation in favor of the large bondholders, the millionaires, who took advantage of our folly in granting them coin payment of interest. And I declare—well, it is hard to say it—but if even Frank Blair stood upon the platform paying the bonds according to the contract, and the Republican candidates stood upon the platform of paying bloated speculators twice the amount which we agreed to pay them, then I would vote for Frank Blair, even if a worse man than Seymour headed the ticket. That is all I want to say.

Mr. ROSS. The Democratic doors are still open, and we will take the gentleman in.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. O'NEILL] has three minutes remaining.

Mr. O'NEILL. I would prefer to take the floor at some other time, when I can have my full five minutes.

Mr. STEVENS, of Pennsylvania. I will withdraw my amendment to the amendment, and my colleague [Mr. O'NEILL] can renew it.

Mr. O'NEILL. I renew the amendment to the amendment making the rate of interest four per cent., but I am of the opinion that four and a half per cent. would be better. I think such a rate would accomplish what is desired, and would attract the attention of the creditors of the Government more readily to the fact that we have funded our debt and would make the capitalists holding large amounts of our bonds more willing to surrender them and take those proposed to be issued under the provisions of this bill.

The idea of the gentleman from Massachusetts [Mr. BUTLER] is, as I understand, to fund our debt at a low rate of interest, so that after awhile if the bonds should not be brought to the Treasury for cancellation and reissue a penalty in the form of a tax may be imposed upon them. I wish it to be distinctly understood that I indorse no such idea which seems to me but an indirect way of taxing the bonds. Now, I am for consolidating our debt simply that we may have one loan only, and I would remind the committee and say to the country that the funding of the outstanding bonds not yet due must be a voluntary act on the part of the creditor. This bill gives merely a choice to those who hold the bonds. This Government would not dare to say to its creditors, "Your debt must be funded at such a rate as we may fix." In most cases the large capitalist would prefer a long loan, because thus he would have the advantage of holding a permanent security. It is not likely that many, excepting the large capitalists of the

country, would take advantage of this funding system.

Those of more limited means, the people who held bonds to the amount of a few hundred or a few thousand dollars, would not probably surrender them for securities at a smaller rate of interest, because they have a longer time to run. They will hold on until the bonds become due, and they will expect the Government to pay them principal and interest just as was promised them, in coin or otherwise, according to the conditions under which they took them and understood them to be set forth when they subscribed to them. We cannot legislate to break the faith of the Government, nor do the friends of this bill propose to do any such thing. This funding system is entirely voluntary, and while the capitalist with his many thousands of dollars in bonds of the United States may come forward and take the consolidated loan at a low rate of interest, the humblest citizen is not compelled to do the same, nor can we, or do we intend to pass any law that would put such an obligation upon either.

The funding or consolidating our loans is not because the Government is unable to pay the debt, principal and interest, dollar for dollar as was promised. The only object of this legislation being to offer an inducement to the creditor of a long loan with less interest for his shorter one with more interest. It is such a financial measure as we should have upon our statute-book, presenting a choice, and not in any way requiring it to be made.

I think the amendment of the gentleman from Maine, [Mr. PIKE,] who proposes four per cent., is much better than the proposition of the Committee of Ways and Means; but I am sure we would subvert the interests of the Government and the people to a greater extent if we would fix the rate at four and a half upon the consolidated loan, free of all taxation.

[Here the hammer fell.]

Mr. SCHENCK. Mr. Chairman, the gentleman from Maine, [Mr. PIKE,] and the gentleman from Massachusetts, [Mr. BUTLER,] do no more than justice to the Committee of Ways and Means when they express their conviction that the committee is in earnest about this bill, and pressing what we are now considering as a practical measure.

I believe, Mr. Chairman, we can consolidate our public debt, beginning now and proceeding more rapidly as time advances, at a rate of interest as low as that proposed in this bill, that is three and sixty-five hundredths.

I hope, therefore, no proposition to amend by inserting four per cent. or four and a half per cent., as the gentleman from Pennsylvania [Mr. O'NEILL] has just now proposed will prevail. Instead of raising the rate of interest, if it be possible, add to the security of the bond you offer; but let the interest remain low. For instance, I have no objection instead of being forty years, as proposed by the committee, if in the judgment of the House it will add to the bond in the market, to let it be fifty or sixty years, and if the reservation of the right to impose tax, even income tax on the bond, reduces its probable value on the market, take that off and say these bonds shall be offered free from any tax, local or municipal, State or Federal. My object is to consolidate the public debt of the country as other nations have successfully done at a low rate of interest, and thus relieve now, and still more and more hereafter, as that consolidation shall become complete, the people of this country from burdens upon labor.

I do not think with my friend from New York [Mr. GRISWOLD] that we are wasting time on these propositions or in considering this bill. On the contrary, I think it is time well employed. I do not expect any more than the gentleman from Maine we shall at once consolidate on the same terms on which Great Britain has been able to do it.

Mr. GRISWOLD. I did not say it was wasting time. I said it would be unless we took means first to preserve our credit.

Mr. SCHENCK. I was glad to be corrected. I thought at the same time I must have misunderstood the gentleman from New York. I do not expect any more than the gentleman from Maine [Mr. PIKE] we shall be able to consolidate our debt at a rate of interest so low as Great Britain can put hers. I know the advantage of old and populous Governments, with settled commercial habits, over ours. We need not go abroad for an illustration of this. Why are loans made at so much lower rate in the city of New York than in the State of Illinois? Just in proportion as population is sparse, just in proportion as the commercial habits are unsettled, is the rate of interest higher.

But this Government is advancing to that position of prosperity, founded upon its multifarious resources, that it ought to be able now to begin to enter into competition with other nations in getting whatever it needs upon its credit, by the issuing of this security at as low a rate as money can be furnished to other nations.

I would therefore, as I say, instead of raising the rate of interest above three and sixty-five hundredths per cent., prefer to accede to any of the amendments which gentlemen have suggested. Let it be understood that these bonds are not to exceed in amount the actual present indebtedness of the United States, or its future indebtedness as the bonds are placed, as represented by its outstanding securities; let it be understood that it is only an exchange that is to be made of one kind of security for the other; let it be understood that they are to be exempt from all taxation whatever by any authority whatever; let it be understood that they are to run for a long time; and then I say that what will follow—at first perhaps slowly, hesitatingly, but after a while with more rapidity and with more confidence on the part of our creditors or those who are willing to become such—will be that our bonds will be taken. At this time I am assured from undoubted authority derived from letters now in this capital from responsible sources, that men of character are ready to offer to take large amounts of bonds at four per cent. interest, provided they are secured in the manner proposed by these guarantees.

What is the difficulty about the five-twenty bonds? Suppose your law on the subject of those bonds is perfectly clear, and that it in terms provides not only that the interest shall be payable in coin but the principal, also; does any body pretend that any question would be made in this country as to their payment? It is only after all a question of construction, a question of the contemporaneous action through the agents of the Government that has raised any difficulty about them. But express clearly in the law that the principal and interest at all times are to be paid in coin and are to be free from taxation, and the people of the world will believe us; and I have too much faith in the people and the Government of the United States for one moment to doubt but that they will prove they are entitled to be so believed by keeping good faith to all.

The question was taken on the amendment of Mr. PIKE on striking out three and sixty-five hundredths and inserting four; and there were—ayes 42, noes 55; no quorum voting.

Mr. PIKE. I do not insist on tellers.

So the amendment was disagreed to.

Mr. BOUTWELL. I move to strike out "three and sixty-five hundredths," and insert "four and a half." I do this for the purpose of pressing upon the Committee of Ways and Means a remark upon the general effect which will be produced upon the finances of the country by a proposition of the sort we are now considering. Our attention is pretty exclusively directed to the rate of interest. If we were considering the question of a loan of \$100,000,000 we might very well confine our attention to that subject. But in my judgment there are more important relations which this subject assumes when we are considering a measure

involving a loan of from fifteen hundred to two thousand million dollars, and that is the permanent effect to be produced upon the business and finances of the country.

I have submitted in printed form an amendment for the division of the loan into a foreign and a domestic loan. In my judgment actual resumption of specie payment is postponed indefinitely, as an affirmative proposition, if a measure of the sort now before the committee prevails; although if it be the judgment of the committee I expect to vote for the proposition, because in a matter of this sort I am inclined to waive my own judgment to that of those about me. But when you consider that this is a proposition—as in my judgment it is—to divide this loan between a foreign loan and a circulating medium at home—for I cannot expect that in a reasonable period of time the people of this country will permanently invest their money in a security bearing three and a half per cent. interest, but fifty dollar notes, bearing interest at three and sixty-five hundredths per cent. will pass as circulating medium in this country—a loan at that rate, if our credit shall be established, as I trust it will be, is a desirable loan abroad. So that the effect of this measure, in my judgment, in the run of years will be to force the indebtedness of the country, except what may be used for purposes of circulating medium, into the hands of foreigners, the first effect of which will be to reduce the rate of gold premium and of exchange, and put the people of the country, not individually, but as a nation, in a condition to make large purchases abroad.

That is my first objection to the general policy of this bill; and I think it is a duty on the part of Congress, in providing for new loans, to devise, if possible, means by which there shall be a domestic loan bearing such a rate of interest as will secure investments here, and provide for a foreign loan at so low a rate of interest that it cannot ordinarily be sold in this country. If you provide a high rate of interest on all your loan, you force it abroad where money is worth less than it is here. What is the reason of the activity of bonds in New York and Boston and Philadelphia to the exclusion of the West? It is because capital in the East is cheap as compared with the West, and the bonds are driven out of the West to the markets of the East. Capital is cheap in London and Paris and Frankfurt as compared with New York and Boston and Philadelphia, and the same process which has forced the bonds out of the West into the East will force the bonds out of the East into Great Britain and upon the continent of Europe.

I am not desirous, for one, to bring about that state of things. There are five or six hundred millions of our securities owned abroad. In my judgment, we ought to do nothing to increase the amount owned abroad, but to do what we can to secure the retention abroad of the bonds now owned in foreign countries. Consider if in 1866 our banks had been paying specie, and there had been a panic in Europe, as there was growing out of the Prussian and Austrian war, and thirty, forty, or fifty millions had been demanded on the continent of Europe for the exigencies of that occasion, every bank in the country would have suspended specie payment. By forcing the loan abroad in great amounts we take upon the financial system of this country the panics, apprehensions, and disasters of Great Britain and the continent of Europe, and through the financial channels controlled by Great Britain the financial disasters of China and the East Indies.

[Here the hammer fell.]

Mr. MILLER. I rise to oppose the amendment. I am opposed to the change made by the Committee of Ways and Means in this part of the bill. It seems to me that the rate of interest fixed by the Senate—four per cent.—is low enough. It cannot be expected in this country that bonds of this kind will be taken at less than four per cent. With an assurance

that we will pay interest at four per cent., the principal and interest to be paid in gold, and that Congress will not be constantly attempting to tax the bonds after they have declared by act of Congress they shall not be taxed, I have no doubt we shall have the loan taken, and I have no doubt that in that case the bonds can be sold in Europe. I am in favor of striking out of this bill the taxation of these bonds in any way. Neither the income or the interest ought to be taxed. It ought to be distinctly understood that they are to be clear of taxation, and then the people will understand the value of the bonds.

I am in favor further of issuing perpetual annuities, on the English system, at a low rate of interest, and then if we want to redeem them we can go into the market and buy them. That will give us credit in this country equal to that of Europe. The bill, as reported from the Senate, proposes a rate sufficiently low. If the amendment proposed by the Committee of Ways and Means shall prevail, I do not think it will avail anything, for I do not believe you can get people in this country to take bonds at a lower rate of interest than four per cent. That is the lowest rate at which you can get the people to take these bonds, for in this country money is worth more than that.

[Here the hammer fell.]

Mr. BOUTWELL. I withdraw the amendment to the amendment.

Mr. DELANO. I renew the amendment to the amendment. I suppose the members of this Committee of the Whole have a common desire, that is to consolidate and fund our national debt at a lower rate of interest than that which we are now paying and at the lowest practicable rate. Now, supposing that is the real purpose of persons here, we ought to endeavor to bring our minds to consider the subject, so as, if possible, to arrive at the end we aim at, or, if not, then at an end which will make the nearest possible approximation to it. That we are paying too much interest now all concede; that we should hereafter pay less, all will assent to.

Now, how shall we reach the end we desire? First and foremost of all by preserving our credit. Therefore, I consider him an enemy to his country's welfare who in any way, directly or indirectly, aims a blow at the credit of the country. We have been at work saving the life of the nation; we are at work now to save the faith and credit of the nation. Therefore I disagree with all these efforts that are made looking to any measure of legislation that is really an attack, or that will by the public be received as such attack, on the national faith and the national credit. We must stand up to our bargain, not only to the letter of it, but we must live up to the spirit of it. If we do not, then if we ever again call for loans of money we shall not find a free people so willing to devote their means to our use as they have heretofore been. I say, therefore, that first and foremost in this business of funding our national debt at a low rate of interest, it is our duty to see to it that in no way do we act as to shake the confidence of men or nations in our credit, in our fidelity to contracts. An individual whose credit is gone as a business man has lost everything, and a nation that has lost her credit has lost what there is no compensation on earth for. So much for that.

The next thing I want to consider as bearing upon this question as to how and in what way we shall accomplish this end of reducing the public debt, is this: we must offer to our creditors something that they will take, something that is practicable. For if we offer them a thing they will not take, and that the world will justify them in refusing to take, we have made no advance at all. Now, I fear that the bill as amended by the Committee of Ways and Means of the House will fail for the reasons to which I have briefly alluded; because it will not be accepted by the world and by our creditors. I do not believe—and I want to put in this negation here—I do not

believe that the Committee of Ways and Means concur with me in this, and that they offer this as a fond and delusive thing; far from it, I give them all credit for sincerity in this business. I only express it as my idea and my opinion that the rate of interest here proposed will not fund the national debt; we are not plethoric of money in America, but we are plethoric of undeveloped resources. We are not like old nations that have existed for hundreds of years with money and capital and resources; we want capital here to develop the immense resources in all the great West, to build up the avenues of the nation, and we must therefore offer a rate of interest that has reference to this state of things. The time may come when a three per cent. loan will be taken; but that time has not arrived yet.

And I want to say in conclusion—for I see by the tremulous movements of the hammer in your hand, Mr. Chairman, that my time is nearly out—that I prefer the Senate bill as being more likely, in this respect, to be adopted than the bill that has been reported from the Committee of Ways and Means. I now withdraw my amendment.

[Here the hammer fell.]

Mr. BENTON. Mr. Chairman, I renew the amendment to the amendment. I agree with the gentleman who has just taken his seat [Mr. DELANO] in preferring the bill as passed by the Senate to the bill with the amendments proposed here. In the first place, I think it decidedly for the interest of the country to confine its indebtedness as much as possible within its own limits or to its own citizens. This country, in my judgment, had better owe \$5,000,000,000 to its own citizens than one half that sum to persons in foreign countries; for, sir, the payment of interest on a foreign debt draws out of the country the very life-blood of our currency.

One objection which I have to the amendment proposed as well as to the bill as passed by the Senate is founded upon the clause reserving to the Government the right to impose on these bonds an income tax. I should think that the people of this country had had enough of uncertainty with regard to the taxation of bonds. If gentlemen desire that the money on these bonds shall be obtained from foreign countries, they must strike out the reservation of the right to impose an income tax. With an indefinite power of this kind reserved on the part of the Government, we cannot count on foreigners being induced to take these bonds. They will not be able to tell the amount of the tax which may be imposed.

I am aware that the question is still unsettled among members of the House and Senate whether we have the power to tax our foreign creditors; different opinions are entertained on this point. Some gentlemen honestly entertain the opinion that we can tax foreigners holding our bonds, and they have so voted, while others hold a contrary opinion.

Now, sir, it is the uncertainty with regard to the taxation of these bonds that would prevent their transfer to the hands of capitalists in foreign nations—the uncertainty as to how much tax we may impose, and hence how much income the holders may receive from their investment. If the tax on these bonds be fixed at a certain definite percentage, foreigners can then understand whether they can afford to invest their money upon the faith and integrity of this Government; and if we make the rate of interest at all reasonable they will be attracted to invest their money in our securities.

It has been said, especially by the gentleman from Ohio, who last addressed the House, that we cannot fund this debt of ours at the low rate of interest proposed. In my judgment that is true. What is the rate of interest in this country compared with the rate in foreign countries? and what is the price of labor in this country compared with the price of labor in foreign countries? We are all aware that both the rate of interest and the price of labor range at a higher rate in this country

than abroad, though the difference is greater as to the rate of wages than as to the rate of interest. I am in favor of a policy which will confine the sale of these securities to our own citizens.

[Here the hammer fell.]

Mr. LOGAN. Mr. Chairman, I believe we all desire to arrive, if possible, at the same result, and that is to secure upon our national loans the lowest possible rate of interest, at the same time accomplishing the exchange of the present outstanding bonds for those which we propose to issue. I am in favor of the principle of this bill, although I propose to offer two or three amendments. My theory is that no man will exchange a five-twenty bond, on which he is receiving six per cent. interest in gold, payable semi-annually, for a three per cent. bond or a four per cent. bond, unless there be some inducement offered for the exchange. While it is left doubtful as to what the body of the bond calls for, there will be no reason why the exchange should be made. How, under such circumstances, can we expect to induce an exchange? I believe that the only method of reaching this result is by providing a rate of taxation on all the outstanding bonds of the United States, that tax to be collectable from the interest when the payment is made; so that there may be an inducement to the bondholder to exchange such bonds for those not taxable, though paying a lower rate of interest. I think that is the only way we can arrive at it. I will illustrate this by my own case. I hold United States bonds. It is true they are but few. They are five-twenty bonds. I am satisfied with those bonds. I will not exchange the bonds I have for your funded bonds with forty years to run at three and sixty-five hundredths; and, sir, the only way you will get me to exchange what few bonds I have for bonds bearing a lower rate of interest will be to tax them, and then, fearing other taxation, I will be willing to take new bonds free from taxation. In this way we can arrive at an exchange of the bonds, and in no other way.

I am in favor of this rate of interest, three and sixty-five hundredths, one cent a day upon the hundred dollars. I think it is enough. In Massachusetts, a State smaller than many others, and certainly with less ability to pay than this great Government, borrows money from Europe to-day, and I believe she only pays three and a half per cent. I am told that I am mistaken. I had my information from a Massachusetts gentleman. If I am not correct I withdraw it as a matter of course. But, sir, I do know that we are paying a higher rate of interest than any other country, and higher than some of the States pay. I say there is no reason why this Government, with great resources, expanding in population every day, traversed by railroads, inviting investments from all the nations of the earth—there is no reason, sir, why the rate of interest should not be as low here as in any other country. In a country like this, with unsurpassed capacity for enterprise, for growth, for development in every way, shape, and form, with an invitation to all people to come and settle among us, with an unprecedented march in civilization, with the bright prospect before us, I do not see any reason why we should be called upon to pay a higher rate of interest than any other country. Let us do for the people what they desire.

[Here the hammer fell.]

The question was taken on Mr. BOUTWELL'S amendment, and it was rejected.

Mr. PILE. I move to strike out "forty" and insert "sixty." I understand the chairman of the Committee of Ways and Means will not object to this amendment.

I am asked why I do not make it "fifty." I think it is best at "sixty."

Mr. Chairman, the homely adage that "it takes two to make a bargain" is at the bottom of the whole process of funding the public debt or the principle of this bill. Those who hold

securities bearing six per cent. interest will not be willing to take for them securities bearing only three and sixty-five hundredths unless the latter have some peculiar advantage which the others do not have. Increase the length of the bonds, increase the time the securities have to run, and you will, I think offer great inducements to those who hold our securities to exchange them. Therefore I move to make the term sixty years instead of forty.

I entertain, sir, the same fear as the gentleman from Massachusetts. I am certain that throughout the whole West for long years to come there will not be money to loan at three and a half per cent. There are too many broad acres to be tilled; too many resources to be developed; too many railroads to be constructed; too many cities to be built for money to be loaned at three and a half per cent. The effect of this, then, will be to drive these securities abroad to the large cities of Europe. We will have then to send out of the country to pay the interest on our bonds. Exportation will be stimulated and we will get up a system which has prevailed to a great extent in this country, of sending more money out of the country than was brought into it. The balance of trade will be, as it has been, against us. I hope, however, for the purpose of funding the debt the time will be increased to sixty years.

Mr. SCHENCK. If the change of the term of these bonds from forty to sixty years will be likely to accomplish the object indicated by the gentlemen I do not know that it ought to be objected to. But the Committee of Ways and Means have considered the whole subject and decided upon forty years.

I wish to say a few words in continuation of what I was saying when I was up before in relation to the general principle upon which this proposition is based. I agree entirely with my colleague in regard to the importance of a nation establishing for itself a credit; and I agree with him and all others who stand by the maxim that it is confidence which begets credit and then credit which gets money. I am also of opinion that it is not necessary to pay off our public debt in order to get back to specie payment, nor to any other easier or more agreeable condition of things in this country, by simply changing the forms of our securities or by any acts of legislation such as we are pressing from time to time connected with that subject, except as these may strengthen and support the great proposition that our debt is to be paid by working it out, paid by the productions of the country, paid by what we do, by what we earn.

All this, however, is apart from the propriety of adopting a system such as we now present for the consolidation of the public securities; for this is a consolidation scheme. We propose that all the outstanding obligations shall be converted into another form to be evidenced by these bonds which we offer to the country and to the people abroad. I have already said that I believe we can offer this safely at as low an interest as is proposed in the bill. I have already said, in order that the debt may be thus taken by persons either abroad or at home, we ought to pledge ourselves, as this bill proposes to do, to give and guaranty the utmost security that we can possibly offer. Let that security, then, be within the bounds of reason, the longest time that the bonds shall run; for everybody knows that a bond which has long to run and thus takes the form of a permanent loan which may be used for various purposes in the future, is of higher value than a short bond. Let it be distinctly stated, more distinctly if you choose by amendment than is now done, that the bonds are to be exempt from all income or other tax whatever. Let every guarantee of this kind be given, and what then? Why, we shall escape the very difficulties under which we now labor, and for the existence of which difficulties gentlemen have reasoned themselves to the conclusion that we cannot get money at a low rate of interest.

They say, "Look at your five-twenties payable in gold; look at your seven-thirties; look at your present securities in the market; who is going to exchange them for a security offering a lower rate of interest." Well, sir, if the five-twenties, for instance, were given to the world with the same express conditions which we here offer, if they were issued under a statutory provision that they should under no circumstances whatever be taxed by any authority, under a provision that they could not under any circumstances be redeemed, either principal or interest, in anything but gold, and if they had as long a time to run as these bonds have, I admit that no one would exchange them for these bonds at a lower rate of interest. But the difficulty is the uncertainty, the ambiguity, which under the law and the different interpretations given to it, surrounds now that class of security. Suppose, for instance, when the five-twenties were issued it had been explicitly, clearly, and unmistakably declared in the very terms of the law that not only the interest but the principal, whenever it became due, should be paid in coin; suppose it had been in like manner explicitly and unmistakably provided that they should be subject to no taxation whatever, either by State or municipal authority, does anybody suppose we would have had our present difficulty?

[Here the hammer fell.]

Mr. PILE. I withdraw the amendment.

Mr. DAWES. Mr. Chairman, from the suggestion made by the gentleman from Illinois I desire to state what I think may perhaps throw a little light on the trouble with our bonds. The Massachusetts bonds to which the gentleman alluded are a five per cent. bond, a sterling bond. The principal and interest are paid in sterling and paid in the city of London. It is a sterling bond at five per cent., and is three per cent. above par, while United States bonds at six per cent. in the same market are twenty-eight per cent. below par. What is the reason? It is not because the London market has any more faith in Massachusetts than it has in the United States, but it is because in the London market alone will that bond stay. The five-twenties are in that market, but the slightest political trouble on that side of the water sends them all back here, or the slightest commotion here sends them all back. A variation of a fraction of a per cent. between the price on the other side of the water and here sends \$10,000,000 of them back here and throws them upon the market and takes \$10,000,000 of gold back in the next steamer. Under these circumstances there can be no health in the currency or credit of the Government.

But let this Congress authorize a foreign loan, bonds payable at three and a half and four per cent. in sterling, the interest payable in London, or in the currency of Frankfort, and the interest payable there, and I have no doubt—indeed, I have assurances which are almost authoritative—that those bonds will be taken in Frankfort in just as many millions as you will authorize; that it will stay there during the whole term of the loan, and the funds received from it can be brought back here, and these funds that are subject to all manner of constructions, to all the fluctuations of political platforms and to all the fluctuations of trade between the countries, may be taken up and we be relieved of all these difficulties.

I never could understand any other reason except pride that prevented us from authorizing the creation of a foreign loan on these terms. There is no political commotion on that side that would send the bonds back here and draw specie out of the country, and no political commotion on this side that would have that effect. It would be a permanent loan there and relieved of all this question of taxation. It seems to me that ultimately, if we can come to the conclusion that it is best to submit to a foreign loan, it will be best to adopt some such policy.

As to the Massachusetts loan already alluded to, it is not seen in any market on this side of the

water. We cannot find a single one of those bonds here. They are heard of nowhere except in the market of London, and there they stand to-day, although they pay but five per cent. interest, at three per cent. above par. I have no doubt that four per cent. Massachusetts bonds in the currency of Frankfort, and the interest payable there, would go to par at any moment; not because Massachusetts bonds would have an advantage over United States bonds, but from the fact that it would be payable there, the interest payable there. It would enter into the investments of those who seek for a permanent loan and a permanent loan only. It would be bought only by those who buy to keep and to keep it off from the market, and it would never be heard of on this side of the water until the day of its redemption came. I think that is the reason and the only reason of the difference between State bonds and United States bonds. It illustrates precisely the idea of the gentleman from Illinois, [Mr. LOGAN,] although he was mistaken in the rate of interest.

I withdraw the amendment.

Mr. BUTLER, of Massachusetts. I renew it *pro forma*. I should prefer fifty years, but that is not the point to which I wish to speak. I agree with my colleague from Massachusetts [Mr. DAWES] exactly. What we want is a bond at a rate of interest that will not come into the markets of this country. We need not make any foreign loan for that purpose, but by putting that at three and sixty-five hundredths, taking it out of all income and other taxes and giving it a long time, say fifty years, that would give it all the advantages which my colleague so well describes. It would then be a permanent loan which would not come back here, because we would not take it.

I agree, too, with the gentleman from Missouri, [Mr. PILE,] that it will be a long day, I trust a very long one, before there will be much money to be loaned at the West at three and sixty-five hundredths, because it can be occupied more profitably there in building railroads and villages and tilling the land.

But what will be the effect of this measure? It will draw money for these bonds from Frankfort, where it is now one and a half per cent.; from Vienna, where it is one and three-quarter per cent.; from London, where it is one and a half and two per cent., and bring it to this country for these great uses and benefits. And in doing that it will bring down the general rate of interest all over this country. So that instead of the rate of interest in the West being as it is now, eight, ten, and twelve per cent., it will be five and six per cent.

My friend from New Hampshire [Mr. BENTON] says that these bonds will go abroad. I am content that they shall go abroad. There are \$600,000,000 of our bonds abroad now at six per cent.; and we can send nearly \$1,200,000,000 abroad for the same amount of interest that we are now paying on the \$600,000,000. The reason why our bonds abroad are not any higher is because of two elements; first, they are liable to be paid; and secondly, they can be sent home here and realized at high rates in comparison with what they cost when purchased. Therefore they are the first things sold abroad to be sent home when their holders want money.

Now, what I would wish, looking at this matter as a financier and a legislator, is first, that there should be one class of consolidated funded securities, known of all men, known all over the world as the English consols are; secondly, that they shall bear such a rate of interest that we need not make a bad bargain should we desire to redeem them at the end of twenty-five years by purchase or otherwise; thirdly, that there should be such exact expression in the law that no man can have any doubt about its construction; and lastly, that they shall be free from all fluctuations hereafter from legislation.

I therefore shall move as soon as it is in order, unless some other member shall do so,

to strike out of this bill all provisions for income or any other tax, and let this be simply a long gold bond at three and sixty-five hundredths per cent. interest, free from all possible fluctuation.

One word in regard to this talk about our credit. There is no difficulty about the credit of this country. Whenever we make a promise, and that promise is free from all doubt, it is at a premium. Our gold certificates to-day: what are they but simply a promise of this Government to pay gold? And they are above par because they are beyond doubt.

[Here the hammer fell.]

Mr. GARFIELD. The gentleman from Massachusetts [Mr. BUTLER] has made the same point that he made the other evening in regard to the difference between Massachusetts bonds and the bonds of the United States. I desire to call attention to the statement he has just made on that subject, that the chief difference after all is in the time of payment; that our bonds are sold at a low rate, because they are liable to be paid soon; and that a bond at a low rate of interest with a long time to run, is a great deal better, other things being equal, than a short bond at a higher rate of interest—in that, of course. I agree—and that this explains the chief difference between Massachusetts bonds and the bonds of the United States.

Mr. BUTLER, of Massachusetts. I did not say the "chief difference."

Mr. GARFIELD. One of the chief differences. After charging me with not knowing anything about the Massachusetts loan, the gentleman stated the other evening, as he has also done to-day, that the Massachusetts bonds reported in the sterling market in Threadneedle street, were very long bonds; and that our bonds having a very short time to run, the difference is against us. Now, I want to call attention to the Massachusetts bonds, which for a long time have been upon the exchange boards in London. I hold in my hand the report of the auditor of the State of Massachusetts for the year 1865; and in this document there are recorded but two sterling loans of the State of Massachusetts. One is known as the Western railroad sterling bonds, and amounts to about four million one hundred and seventy-three thousand dollars; the other is a smaller loan, known as the Troy and Greenfield railroad sterling bonds, amounting to about half a million dollars. These are all the sterling bonds set down in the official report of the State for 1865.

Now, Mr. Chairman, of the chief one of these sterling loans the last installment is payable in April 1, 1871, some of them being payable this year, some in 1869, a few in 1870, and the very last installment in 1871. So that at the date of this report in 1865, not one of those loans had more than six years to run; yet the five per cent. loans of the State of Massachusetts, during almost all that period, were worth almost double any United States six per cent. bond on the market. Even those which had more time to run than the Massachusetts bonds had. I hold, therefore, that it is the credit of the two loans rather than the time of maturity that makes the difference.

Now, sir, in the last number of the London Economist, to which I referred the other evening, the Massachusetts five per cent. loan, this old loan—for the new loan is not quoted on the boards, being owned and held mainly by the Barings—is quoted at ninety cents, which, in gold, adding the sterling exchange would make it nearly at par in gold; while in the same number of the Economist the five per cent. ten-forty bonds of the United States, payable, principal and interest, in gold, are quoted at sixty-eight and a half; twenty-one and a half cents on the dollar less in gold than the longest Massachusetts loan. Thus, though the difference of time was in favor of the United States securities, the difference of credit in favor of the Massachusetts makes her bonds worth twenty-one and a half cents on the dollar more than ours.

Mr. Chairman, no amount of time can cure bad credit. It is humiliating that a great nation like this shall so conduct its affairs as to fall so far below one of the States of the Union. Let us prove to the world that we intend to keep faith in all our obligations.

[Here the hammer fell.]

The question being taken on the amendment to the amendment, it was not agreed to.

The question then recurred on the amendment of the Committee of Ways and Means.

The amendment was read, as follows:

In the first section strike out the following:

Twenty, thirty, and forty years, respectively, and bearing the following rates of yearly interest, payable semi-annually in coin, that is to say: the issue of bonds falling due in twenty years shall bear interest at five per cent.; bonds falling due in thirty years shall bear interest at four and a half per cent.; and bonds falling due in forty years shall bear interest at four per cent.

And insert in lieu thereof the following:

Forty years, and bearing interest, payable semi-annually in coin, at the rate of three and sixty-five hundredths per cent. per annum.

Mr. BROOKS. I move *pro forma* to amend the amendment by striking out "forty" and inserting "ten." I am opposed to this amendment of the Committee of Ways and Means, and I propose to vote against it, without intending to commit myself to the proposition which comes from the Senate.

We propose to issue a loan terminable in forty years, that is in the year 1908. We propose to fund over \$2,000,000,000 of debt; and during all this time we pledge ourselves to pay a certain rate of interest. If the gentleman had fully reflected on this subject he would have seen that in the year 1908 there will be one hundred million people in this country, who will consume an enormous amount of importations of all kinds, and furnish the greatest capacity of taxation for all purposes. We propose now to commit ourselves to this amount of taxation for all that time. I have lived in my brief day to see the payment of one national debt. General Jackson, during his administration, discharged the whole debt of the revolution, as well as the debt of the war of 1812. It is within the memory of man that during the administration of General Jackson the three per cent. debt of the Revolution was paid, and that because of the large surplus fund in the Treasury. If my memory serves me, it was bought at or above par. The debt was comparatively small, and only at three per cent., and with few years to run, and then the country was young. Now, when the country is great in resources, and yearly growing greater, we are asked to commit the people to paying forty years upon this vast debt the sum of three and sixty-five hundredths or four per cent. interest. I will never make such a record. I will never commit my country to this for forty years, beyond my own life, and probably beyond the lives of my children. I hope no such record will be made. Ten years is as long as it should be made by this Congress. At a future session, with the general expanding of our resources, with our country more at peace, with no future so alarming, with no presidential election to settle, I should be willing to legislate as to time, but I think it is better now to pay five or six per cent., instead of mortgaging our countrymen through all time to pay three and sixty-five hundredths or four per cent. to foreign bondholders. In less than forty years we might be able to pay it, and if not able to pay it, still the credit of the country would be such, by reason of our growth in population and the development of our resources, as to put us in a better position to make better terms than now. Therefore it is that I am opposed to this proposition.

[Here the hammer fell.]

Mr. JUDD. Whatever I may think, Mr. Chairman, of the reasons given by the honorable gentleman from New York [Mr. Brooks] for his position, it is not quite certain I will not agree with him in his conclusions. Why is all this agitation at this time throughout the country? We have no debt but what has been paid when it is due; no one has any claim

upon us, either foreign or domestic, but what the Government up to this hour has met. Why is it the country or the House is agitated on these financial questions? Why is it the entire time of this Congress is engaged in devising some means, some theory, by which they should fix and establish permanently a new policy on the part of the country. It grows first out of the uncertainty in the terms of the obligations we have issued; that is the first; and another cause operating strongly is the feeling in the country that capital is protected at the expense of labor. These two things operating together demand the matter should be met as statesmen. This Government of the United States must fix its policy in reference to the payment of interest and the tax it shall impose on its citizens. What shall that be? The gentleman from New York [Mr. Brooks] says he is not prepared to commit to mortgage posterity. If in his reading—and it has been extensive—he has found a nation paying less interest than three and a half per cent. on a permanent loan, he has traveled more into the economy of loaning money than I have. But, sir, I have no fear that forty years at three and sixty-five hundredths will be a burden upon the resources of the Government of the United States.

Mr. Chairman, I have none of these fears of being mortgaged to foreign countries. My friend from Massachusetts indulges a little of that, and tells you he desires so to frame this bill that the loan shall stay at home. Why, Mr. Chairman, this country is a borrower as a whole. The old countries have money to lend. The analogy the gentleman gave between Illinois and Massachusetts is exactly the analogy between this country as a whole and European countries where surplus capital is to be had at a cheap rate of interest. Here capital is all in active employment; and when the gentleman from Massachusetts tells you that he believes the capital of the country is so much in want of employment in the legitimate course of business that \$2,500,000,000 can be absorbed on behalf of the Government as an investment, I think there is an entire mistake in the calculation.

In relation to the bill before the committee, I am partially with the gentleman from New York [Mr. Brooks] upon the question whether we are prepared at this time to act intelligently and understandingly. Why, sir, the bill as it came from the Senate struck me simply as a bill to engage in a broker's business. If it had provided that we would create a permanent debt at the rate of five, six, four, or three and a half per cent. interest and let the creditors come and exchange securities at the Treasury, there would have been something in that. But the Senate bill puts into the hands of the Secretary of the Treasury the power to issue \$2,500,000,000 of indebtedness as he pleases. [Here the hammer fell.]

Mr. SCHENCK. I was going to propose to stop debate on this amendment. I will yield, however, a portion of my five minutes to the gentleman from New Hampshire, [Mr. BLA.] who has not been heard.

Mr. BLA. It seems to me the gentleman has not fully answered the question as to what has caused the public agitation at this time in regard to this matter of funding the debt. It seems to me it is more for this reason than for the one he has given that the Government being the great borrower and its bonds being exempt from taxation it has carried up the rate of interest which States and towns and the whole debtor portion of the community have had to pay. Now, if you can put your Government debt at a lower rate of interest your States, communities, and individuals will get the benefit of the reduction, and it will give an impetus to business and a relief from part of our taxation.

Now, I think the gentleman from New York is wrong in this particular. It is not only the Government debt that we have to take care of by taxation, but it is the State and local debts; and if you can reduce the interest on the

Government debt, then the people will be able to take care of the local debt, and pay what would be a high rate of interest for the public debt twenty years hence very much better than they can now; because we shall have cleared off our State and local debts.

Mr. SCHENCK. I believe I have a minute or two remaining, and as the gentleman from West Virginia desire to occupy a few minutes, I will give him what remains of my time.

Mr. HUBBARD, of West Virginia. I simply desire to reply to the gentleman from Illinois, [Mr. ROSS,] who asked me if I paid my debts by giving my notes. I ask him if he pays his debts by giving his notes, and if that is the doctrine of gentlemen on the other side of the House.

Mr. ROSS. Does not the gentleman pay his debts by giving greenbacks? That is the question. That is the way I pay mine, and I suppose he does the same, and I do not know that the bondholders have any better claim.

Mr. HUBBARD, of West Virginia. I do not owe the bondholders anything, nor I presume does the gentleman from Illinois.

Mr. ROSS. Our constituents owe the bondholders.

Mr. HUBBARD, of West Virginia. I regard the United States as an individual, and I make this assertion: that the United States notes are not lawful money, and cannot be used as such for the payment of the debt of the nation by the United States. If I could have three minutes I could prove it. The law does not make any such provision.

Mr. SCHENCK. I move to stop debate on this amendment and the amendments thereto. The motion was agreed to.

The committee informally rose.

ENROLLED BILLS SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 1320) for the relief of L. Merchant & Co. and Peter Rosecrantz; and Joint resolution (H. R. No. 340) for the relief of Peter M. Carmichael, surveyor of the port of Albany.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses upon bills of the following titles:

An act (S. No. 382) granting an increase of pension to Obediah T. Plum;

An act (S. No. 422) granting a pension to Maria Schweitzer, and minor children of Conrad Schweitzer, deceased;

An act (S. No. 517) granting a pension to the widow and children of Henry Brown;

An act (S. No. 518) granting a pension to the widow and child of John P. Petty;

An act (S. No. 521) granting a pension to the children of William M. Wooten, deceased;

An act (S. No. 547) granting a pension to John Sheets;

An act (S. No. 175) for the relief of Joseph McGhee Cameron and Mary Jane Cameron, children of La Fayette Cameron, deceased;

An act (S. No. 314) for the relief of George T. Brien; and

An act (S. No. 383) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 604) regulating the times and places of holding the district and circuit courts of the United States for the northern district of Florida; and

An act (S. No. 543) to provide for a further issue of temporary loan certificates for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes.

The message also announced that the Senate had insisted on its amendments, disagreed to

by the House, to the amendments of the House to the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments; had agreed to the further conference asked by the House upon the disagreeing votes of the two Houses; and had appointed Mr. CONKLING, Mr. STEWART, and Mr. McCREERY conferees on the part of the Senate.

LEAVE TO PRINT.

By unanimous consent, leave was granted to Mr. VAN WYCK to print some remarks on the rights of American citizens abroad. [See Appendix.]

LEGAL EXPENSES—WAR DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting, in compliance with a resolution of the House of February 11, a statement prepared in his office, and also of the chief of engineers and chief of ordnance, relative to the amounts paid for legal service from 1860 to 1863; which was referred to the Committee on the Judiciary, and ordered to be printed.

LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. KITCHEN on account of sickness in his family.

Indefinite leave of absence was granted to Mr. CHANLER for the same reason.

The Committee of the Whole on the state of the Union then resumed the consideration of the bill

FUNDING THE NATIONAL DEBT.

The question was taken on the amendment of the Committee of Ways and Means, and it was agreed to.

The next amendment reported by the Committee of Ways and Means was to strike out the words "the existing five per cent. bonds."

The amendment was agreed to.

The next amendment of the Committee of Ways and Means was to insert after the word "certificates," in the same clause, the words "and debts past due or maturing before the end of the present fiscal year;" so that the clause will read:

And the said bonds and the proceeds thereof shall be exclusively used for the redemption or payment, at the option of the holder, or purchase of, or exchange for, an equal amount of any of the present interest-bearing debt of the United States, other than the three per cent. certificates, and debts past due or maturing before the end of the present fiscal year, and may be issued to an amount, in the aggregate, sufficient to cover the principal of all outstanding or existing obligations as limited herein, and no more.

Mr. RANDALL. Will the chairman of the Committee of Ways and Means explain what debts that amendment refers to?

Mr. SCHENCK. There is now in the Treasury an amount of money applicable to and which we think ought to be applied to those debts that are already due, and those debts that will mature before the end of the fiscal year. We do not want to increase our bonded debt for that, and therefore we except them from the operation of this section.

The amendment was agreed to.

The next and last amendment proposed by the Committee of Ways and Means to the first section was to strike out at the end of the section the words "but not to exceed \$700,000,000 shall be of the issue redeemable in twenty years."

The amendment was agreed to.

Mr. PIKE I now move to strike out the words "from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States, other than such income tax as may be assessed upon other incomes," and to insert in lieu thereof "from all taxation whatever;" so that it will read "which said bonds shall be exempt from all taxation whatever."

Mr. Chairman, every law authorizing the issue of bonds passed since the Thirty-Seventh

Congress has contained the language that they shall be exempt from taxation by or under State, municipal, or local authority. That language has been quoted against them in popular assemblies all over the country, and has placed Congress in the position of being liable to attack as exempting bonds from that character of taxation. Now, I wish to call the attention of gentlemen, and particularly of gentlemen upon the other side of the House, who, I have no doubt, have been accustomed to use this kind of argument, to the fact that not only are such bonds by the Constitution exempt from municipal taxation, but that according to the decision of the Supreme Court Congress has no authority to confer upon the States the right to tax them.

The gentleman from Wisconsin [Mr. PAINE] a few minutes since suggested that this section conferred upon the States a right under certain circumstances to tax the bonds. I say that if it does confer such a right it is void. The Supreme Court, in the case of *Van Allen vs. The Assessors*, in 3 Wallace, gave an opinion that Congress had no right to empower the States to tax municipally or otherwise any securities issued by the General Government, and it was upon the ground of the opinion pronounced by Chief Justice Marshall in the case of *McCulloch vs. The State of Maryland* that the securities of the General Government, issued of course for the purpose of carrying on the General Government, were so far above and beyond all State control that the States had no right to attempt in any way to paralyze any means that Congress should take to carry on the Government, and that Congress had no right to confer upon the States that power. That decision was not pronounced by any Republican upon the bench; nor was it pronounced by any of the recent converts to Democracy upon the bench. It was pronounced by that long-lived and well-known Democrat, Judge Nelson, of New York; and that decision sets at rest finally and completely all question of State or municipal taxation. So that hereafter in this country there can be no further discussion upon the propriety of municipal taxation of United States bonds. That being the case, I object that Congress shall, by the presumption contained in this bill, seem to arrogate to itself any power whatever over this question of municipal taxation. It having no such power, I do not wish it to attempt to exercise it. The House having by a large vote declared that these bonds shall run forty years and shall be at the rate of three and sixty-five hundredths per cent. interest, I am willing for one to say further that there shall not only be no municipal taxation, but no national taxation, either by way of income tax or any other tax; and I would proclaim it to the world, so that if any of our creditors are willing to exchange our present securities for those which are provided by this bill, they may do so, and be subject to no taxation whatever.

[Here the hammer fell.]

Mr. PAINE. I am opposed to the amendment of the gentleman from Maine, [Mr. PIKE,] because I am afraid it will fail to accomplish the purpose he has in view. The bill, as proposed to be amended by him, will then read, "Which said bonds shall be exempt from taxation in any form whatever." Now, if the gentleman considers that form of language sufficient to accomplish the exclusion of all possible taxation of these bonds, it may be that local tribunals will entertain a different opinion of the language; because the very committee which drew this bill in the Senate, as well as the Senate itself, have put a different construction upon it, and if they have put a different construction upon it I do not think it will be surprising to find that State tribunals do.

If the gentleman will look a little further along in the bill he will find that when it is proposed to exempt not only the principal of these bonds but also the interest, or the income derived from them, from taxation by the Federal Government, with certain exceptions and limitations, a different phraseology is used.

The language is not that "these bonds shall be exempt from Federal taxation except in certain cases;" but it is that "these bonds and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States, other than such income tax as may be assessed upon other incomes."

What I fear is this, that if the amendment of the gentleman shall prevail and the section shall finally assume that shape it will by some be construed to be an exclusion of taxation upon the principal of the bonds alone, leaving the income of the bonds to be taxed by State or local authorities and to be taxed specially and differently from other incomes by Federal authority.

Now, at the conclusion of my remarks I shall offer an amendment to the amendment of the gentleman from Maine, [Mr. PIKE,] which is to insert after the words "which said bonds" the words "and the interest thereon and the income therefrom;" so that that portion of the section will read as follows:

Which said bonds and the interest thereon and the income therefrom shall be exempt from taxation in any form by or under State, municipal, or local authority.

I shall offer that as an amendment, and after it has been voted upon I will move to amend the other portion of the clause; so that the clause will read:

Which said bonds and the interest thereon and the income therefrom shall be exempt from taxation in any form by or under national, State, municipal, or local authority.

I shall offer that as a separate amendment, for the reason that while I believe most of the members of this House, who are in favor of this bill or anything like it, are in favor of the first amendment I propose to offer, preventing any taxation by State, municipal, or local authorities, either upon the principal or the income or the interest, there may be a difference of opinion in this House upon one other point; that is, whether or not the Federal Government should be allowed to tax the income derived from these bonds as it taxes income derived from other sources. I am therefore inclined to offer my proposition as an additional amendment, because I believe the first will meet with no objection. I understand there are many in this House who are disposed to allow the national Government to tax income derived from these bonds just as the income derived from other bonds is taxed. For myself, I am opposed to that, because I believe it necessary to give up even this power in order to enable the Government to secure the redemption of the bonds now outstanding.

Mr. PIKE. I will modify my amendment so that it will, I think, satisfy the gentleman from Wisconsin, [Mr. PAINE.] I move to amend by striking out the following:

Shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States, other than such income tax as may be assessed upon other incomes—and inserting in lieu thereof the following:

And the interest thereon and income therefrom shall be exempt from the payment of all taxes or duties to the United States as well as from taxation in any form by or under State, municipal, or local authority.

Mr. PAINE. In view of the modification just proposed by the gentleman from Maine, [Mr. PIKE,] I will not offer the amendment which I had proposed to offer.

Mr. GARFIELD. I entirely agree that the language adopted in the amendment just proposed by the chairman of the committee is very much better than any form of words which has been proposed. But while I agree with my colleague, the chairman of the committee, that it would be better, when negotiating the loan, to make the rate of interest as certain as possible, so that there shall be no contingencies to be taken into consideration by the man who proposes to take our loan, so that he may know exactly what return he is to receive on his investment. While I agree to all this I desire to suggest to the committee that probably there

will always be in this country, as there has been for the last four years, a feeling of opposition to any law exempting a particular class of citizens from taxation, and especially when the exempted class are capitalists. I know that these bonds are to be issued at a low rate of interest; but still there may be ground of complaint that while the laboring man is subjected to taxation, the capitalist holding these bonds is not required to pay even an income tax. Hence it seems to me it would be better to leave the exemption as stated in the original bill—an exemption of these bonds from all State taxation and from all national taxation except the general income tax. That tax, whatever its rate may be, assessed upon all incomes arising from property generally, should be imposed upon the income from the bonds as it now is. There should be at least this much of a concession to meet the popular demand which we know to exist on this subject. Let it be understood that this one tax on incomes shall apply equally to incomes from all sources, and that no other tax in any form whatever shall be imposed upon these bonds by any authority, State or national.

One word more. If there should ever be a time—and I hope it will come—when we shall have no income tax, then, as a matter of course, there would be no tax on these bonds.

[Here the hammer fell.]

Mr. ALLISON. I move *pro forma* to amend by striking out the last word in the seventeenth line, for the purpose of opposing the proposition made by the gentleman from Maine, [Mr. PIKE.] I entirely agree with what the gentleman from Ohio [Mr. GARFIELD] has said with reference to the prejudice of the people upon this question of taxing the income on United States bonds. But, sir, there is a principle which I think rises above this question of the prejudice of the people. Whenever there comes a time of great public emergency, and it is necessary to tax the income of the people of the country—in a time of war or of great public peril—the bondholder deriving income from the public funds should pay the same tax upon his income as the man deriving income from any other source. Therefore, Mr. Chairman, whatever may be the rate of interest finally agreed upon with reference to these bonds I hope we shall make no provision which will place the bondholder above the man who may hold any other form of security. And besides, Mr. Chairman, I do not believe we have the power, the constitutional power, if we would. It would certainly raise the question whether, under the Constitution, that was a uniform system of taxation. In my judgment we must leave this question in the future as now, so that we can tax the incomes of the people from whatever source they may be derived. I am, therefore, opposed to the amendment of the gentleman from Maine by which these loans are to be exempted from taxation.

Mr. BUTLER, of Massachusetts. Mr. Chairman, I desire to state a few historical facts which will answer the gentleman's argument. The first income tax in Great Britain was in 1798, and that lasted until 1816. Then that went out and there was no other income tax until 1842. If you take the proposition of the gentleman from Ohio, [Mr. GARFIELD,] the rate of interest heretofore was a calculation for the income tax, and we are to give the bondholder the lowest rate of interest when there is no tax. I hope soon in this country to see no such thing as an income tax, and then this provision will not be wanted. As soon as we bring down the rate of interest, that most obnoxious of all taxes, the income tax, will not be needed. My friend from Iowa [Mr. ALLISON] says we cannot exempt them from tax because it would be unequal taxation. We tax some incomes ten per cent. and others five per cent.

Mr. ALLISON. Does the gentleman from Massachusetts believe it is within the power of Congress to tax one class of property one tax and another class of property a different tax, as

an income tax? Is that a uniform income tax in the language of the Constitution?

Mr. BUTLER, of Massachusetts. I do not know anything in the Constitution about a uniform income tax. I know we have made the tax such as we pleased. We have taxed some incomes ten per cent., lower incomes five per cent., and still smaller incomes nothing at all. When we issued these bonds originally we taxed them only one and a half, while we taxed the other five per cent. What I desire is that the whole of our debt shall be consolidated and taken, as far as possible, out of the arena of political action, that it shall be taken from political platforms and made a business proposition.

[Here the hammer fell.]

Mr. ALLISON, by unanimous consent, withdrew his amendment.

Mr. GARFIELD. I offer the following as an amendment to the amendment:

Substitute the following:

And the interest thereon and income therefrom shall be exempt from the payment of all taxes or duties to the United States, except such income tax as may be assessed upon other incomes, and exempt from all taxation in any form by or under State, municipal, or local authority.

Mr. BENTON. I should like to inquire if these bonds are subject to a national income tax; whether the gentleman from Wisconsin holds it should be applicable to the foreign bondholder?

Mr. PAINE. I suppose a phraseology might be adopted which might tax all the bonds of the Government.

Mr. GARFIELD. I do not desire to raise the question suggested here, nor is it raised by the amendment pending. I adopt precisely the language of the chairman of the Committee of Ways and Means with the single exception of putting in a clause exempting the income tax from the general provisions of the amendment. It makes this point: that whenever the Government of the United States finds it necessary to assess a tax on the income of its citizens it will also assess it upon the income of all citizens, and not upon industrial incomes alone, while it exempts those that arise from capital invested in bonds. I say now, as I said before, that, in my judgment, that single feature is the only thing that now prevents the clamor and opposition against our public debt from being overwhelming and irresistible. It is because one great feature of our system of taxation is that the proceeds of the bonds bear exactly the same burden as all our incomes on property and labor. I am unwilling we shall exclude that element from the present law. I therefore offer my amendment as a substitute, and hope it will be adopted.

Mr. ROSS. I do not think any measure can be more unjust and odious than this proposition to exempt for forty years this entire debt from taxation. It is putting it beyond the reach of the people or their representatives, and is only carrying out the idea I enunciated in the start, that it is the object of the bondholders to get this debt outside of the reach of the people's representatives. Sir, the further we progress in the discussion of this subject the more apparent become the futile efforts of the bill now under consideration. The fact begins to impress itself upon members discussing this question that when you propose to these bondholders to take a bond bearing interest at three and sixty-five hundredths per cent. instead of a five or six per cent. bond, they will turn round and laugh in your face. How do you expect to get a ten-forty bond, principal and interest payable in gold, converted into one drawing three and sixty-five hundredths per cent.? How do you expect to get five-twenty bonds converted into this kind of security when the former draw six per cent. in coin?

No, sir; you have not commenced in the proper way. I can make a suggestion to gentlemen which I think will enable them to extricate themselves from the dilemma in which they are placed. Let them first withdraw the \$300,000,000 of national currency from the

banks and supply them with greenbacks, thereby saving eighteen or twenty million dollars in gold to the tax-payers of the country. What then? Why, sir, I would commence paying off our debt. The gentleman from New York [Mr. GRISWOLD] says we should manage our credit the same as a private individual would. I admit that principle. How would that be? Why, just as fast as his obligations became due he would meet them promptly. Now, a considerable amount of the five-twenty bonds are now due. Why not pay them? What reason is there that this Government should not pay them now, and do it in the same way that we pay our other creditors?

Mr. LYNCH. If the gentleman will allow me, he proposes to pay the bonds in greenbacks. Now, I would like to know what he proposes to pay the greenbacks in?

Mr. ROSS. Pay them in taxation; take them up by taxation. I say that we can save \$18,000,000 per annum by withdrawing the national currency and furnishing greenbacks. Can any man doubt that?

A MEMBER. Cannot you save the whole?

Mr. ROSS. If this is done then I would commence paying off the five-twenties in greenbacks, and thus maintain our credit and our honor by being found in the discharge of our debt. When the amount of greenbacks is reduced to the extent of eight or ten hundred millions, I would make provision for funding the loans into a two and a half or three per cent. bonds.

[Here the hammer fell.]

Mr. SCHENCK. I regret that the confusion around me prevented me from hearing distinctly the argument of the gentleman. I have always listened to him with interest ever since he made the proposition to pay the public debt in greenbacks and for burning greenbacks as they came in from taxes or otherwise. That proposition was made here in a controversy between the gentleman and his colleague.

Mr. ROSS. I would like to see the gentleman get somebody to take these bonds.

Mr. SCHENCK. I cannot agree with my friend from Iowa, [Mr. ALLISON], and my friend from my own State, [Mr. GARFIELD], in calling upon us to legislate because of what they themselves call prejudice and clamor.

Mr. ALLISON. I beg the gentleman will not say that I propose to legislate because of prejudice or clamor. I legislate on principle, as did the chairman of the committee when he reported this provision.

Mr. SCHENCK. Exactly; then I will acquit the gentleman from Iowa. My colleague [Mr. GARFIELD] certainly spoke of listening to the prejudices of the people.

Mr. GARFIELD rose.

Mr. SCHENCK. I will not be interrupted and lose all my five minutes. The gentleman from Iowa certainly spoke of the clamor of the people upon this subject, or of some part of the people as a reason for taking a particular course. Sir, I want to legislate and address myself to the good sense of the people, and I tell you that the people of the United States have vastly more clear comprehension of these questions than many gentlemen attribute to them.

Now, what do we propose? We say to the people, "Are you not willing to allow your legislative department to agree to the issue of bonds at a low rate of interest, three and sixty-five hundredths per cent., if they can obtain money at that price for your use and for paying off your present debt, and in consideration of their letting you have the money at so low a rate release those who advance the money from all taxation of every kind whatever?" Will you think it any argument to say that it is unjust and unfair? Why, what would the bondholder be entitled to say? He says, "I gave up my seven-thirty or five-twenty bond, bearing six per cent. interest in gold, because of the superior guarantee and pledge of security given in these long bonds at a low rate of interest, and thus I paid you my income tax and all other taxes in advance. I came to

you and offered to take your securities at half as much as you were paying, and in doing it I solemnly agreed with you that I would contract, in lieu of the taxes that might afterward be imposed upon me, to virtually satisfy all those taxes in advance by taking the bonds." Put that proposition to the people, and I tell you the people of the United States will understand it. I tell you that if you legislate in that way you address the understandings of people capable of comprehending this matter, and if after you have got securities of that kind out paying only three and sixty-five hundredths per cent. interest upon them, any man or any party attempting to raise a clamor and excite prejudice by saying that you let these people off from taxation, the people will understand as well as you can that this whole thing was fairly and squarely settled in the original contract that was made with those who advanced their money and took the securities.

My doctrine, therefore, is, in legislating on this subject, not to consider prejudice, not to consider clamor, not to consider demagogism, let it come from any quarter, but to do that which is fair and right and a good bargain and trust to the shrewd people of the United States to understand that it is a good bargain that you have made for them and I do not mistake their comprehension, I am sure, when I say that they have just as much sagacity, the great body of them, as any of us on this floor in regard to matters of this kind. Their interest has whetted their perspicacity on this subject of late, and they have looked into the matter pretty closely all over the country, and they will be well satisfied to let people off paying taxes if they can get rid of the seven-thirty bonds and bonds paying six per cent. in gold and substitute in lieu of those bonds, even if no tax is paid, bonds that will draw from their pockets hereafter only three and sixty-five hundredths per cent. per annum in the payment of interest. I now ask unanimous consent to close debate on this section.

Mr. BROOMALL. I desire to offer a substitute for the section.

The CHAIRMAN. That will still be in order.

No objection was made; and all debate on the amendment was closed.

The question was taken on Mr. GARFIELD's substitute for Mr. PIKE's amendment, and it was disagreed to—ayes twenty-seven, noes not counted.

The question recurred upon the amendment of Mr. PIKE, to strike out the words—

Shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States, other than such income tax as may be assessed upon other incomes; and insert in lieu thereof the following:

And the interest thereon, and the income therefrom shall be exempt from the payment of all taxes or duties to the United States as well as from taxation in any form by or under State, municipal, or local authority.

The question was taken; and upon a division there were—ayes 55, noes 48.

Before the result was announced, Mr. RAUM and Mr. ALLISON called for tellers.

The question was taken upon ordering tellers; and there were eleven in the affirmative.

So (the affirmative being not one-fifth of a quorum) tellers were not ordered.

The amendment of Mr. PIKE was accordingly agreed to.

Mr. NIBLACK. I now move the amendment of which I have given notice, to strike out the amendment just adopted on motion of the gentleman from Maine, [Mr. PIKE], together with the words "which said bonds," immediately preceding it, and inserting in lieu thereof the following:

Which said bonds shall be liable to taxation by or under State, municipal, or local authority to the same extent as money is taxed under such State, municipal, or local authority, and no greater.

Mr. SCHENCK. I rise to a point of order. The amendment of the gentleman is practically

to strike out what the committee has just inserted. It is true he proposes to strike out additional words "which said bonds;" but he moves to insert those very words again, in the very place they now occupy. I therefore hold that the amendment is not in order.

The CHAIRMAN. The Chair must sustain the point of order, and rule the amendment out of order in its present form.

Mr. NIBLACK. Then I will modify my amendment by substituting the word "obligations" for the word "bonds."

Mr. BUTLER, of Massachusetts. I would inquire of the Chair whether it is in order to undertake to do by law that which the Supreme Court of the United States has decided cannot be constitutionally done?

The CHAIRMAN. The Chair cannot decide that it is not in order for Congress to pass any law.

Mr. NIBLACK. This amendment does not affect existing bonds. I concede that under the decision of the Supreme Court we cannot tax existing bonds. But we propose to make a new contract and to substitute other bonds for those now outstanding. I hold it is competent for Congress to enact a provision of this sort if it sees proper to do so. If this bill shall contain a clause that these new bonds shall be exempt from taxation, then I concede that the local authorities cannot tax them. But the cases to which the gentleman from Maine [Mr. PIKE] referred a short time ago do not sustain the claim which he makes upon them. They only go to the question that when Congress declares that certain bonds or agencies of the Government shall be exempt from taxation, then the State authorities shall not tax them. Now, I hold that under those very decisions, especially the decision in the case of *McCulloch vs. The State of Maryland*, if Congress shall authorize these bonds to be taxed, it will then be perfectly competent for the State authorities to do so. I insist that is the true interpretation of the decision to which the gentleman refers.

Mr. PIKE. Will the gentleman allow me to read an extract from that decision?

Mr. NIBLACK. Not at present. At all events, this question has never been raised in this form. I venture the prediction—you may call it clamor, or what you will—that the public mind of this country will never rest satisfied so long as so large a portion of the available means of this country are exempted from local taxation as are invested in these bonds. And as we are now providing for funding all that class of bonds, I think it is a good time to settle this question. I propose this amendment in good faith, with the declaration that I will not vote for any bill that will exempt these bonds from taxation beyond the extent to which money is liable to taxation. I now yield the rest of my time to the gentleman from Maine, [Mr. PIKE.]

Mr. PIKE. I desire merely to read one passage from the decision of Judge Nelson, in the case of *Van Allen vs. The Assessors*, in 3 Wallace, page 385:

"It is said that Congress possesses no power to confer upon a State authority to be exercised which has been exclusively delegated to that body by the Constitution, and, consequently, that it cannot confer upon a State the sovereign right of taxation; nor is a State competent to receive a grant of any such power from Congress. We agree to this. But as it respects the subject-matter over which Congress and the States may exercise a concurrent power, and from the exercise of which Congress, by reason of its paramount authority, may exclude the States, there is no doubt Congress may withhold the exercise of that authority and leave the States free to act. An example of this relation existing between the Federal and State governments is found in the pilot laws of the States, and the health and quarantine laws. The power of taxation under the Constitution as a general rule, and as has been repeatedly recognized in adjudged cases in this court, is a concurrent power. The qualifications of the rule are the exclusion of the States from the taxation of the means and instruments employed in the exercise of the functions of the Federal Government."

[Here the hammer fell.]

Mr. AXTELL. It seems to me, Mr. Chairman, that the fact that it has uniformly been found necessary to insert in all the bills pro-

posed a provision that these bonds shall be exempt from taxation implies that without such a provision the bonds might be taxed by State and municipal authority. We propose now to take up our debt voluntarily, and there is no gentleman on this side of the House who proposes to tax the bonds contrary to existing law; but, in order to make taxation equal, which is a more important question to the taxpayer than the amount of taxes, we propose to allow the new bonds that are to be issued to be taxed as all other property is taxed, or as the gentleman from Indiana [Mr. NIBLACK] justly says, as money is taxed in the respective States. This should be done, not because of any "popular clamor" on this subject, but because it is just and right. Frequently a man holding money in bank or otherwise at the time of the assessment for State and county taxation converts that money into bonds with the privilege of selling them back again in a few days after the assessor has gone his rounds, and thus the property escapes taxation. A gentleman in my own State who owns a mine or a farm or a block of buildings worth \$100,000, pays his tax upon that much property to the State or to the county, and also pays his income tax upon his rents or upon the profits of his mine; but if he sells his property and puts it into United States bonds he escapes taxation.

Now, sir, while it may have been necessary at the time these bonds were issued that the Government should hold out this inducement of exemption from taxation in order to obtain money, we propose hereafter to avoid the issue of such bonds exempt from State and county taxation; and I warn the members of this House that it will not do to make these bonds a favored kind of property. We cannot force people to part with their bonds without repudiating our debt; and it seems to me, as has already been well said, that we cannot pay these bonds in greenbacks unless we first agree to pay the greenbacks and bring them up to where they ought to be, at par; and then it would be a matter of no consequence how the bonds were paid. But, sir, we must not, in issuing these new bonds, continue this favoritism to the holders of the bonds. We must allow them to be taxed as all other property is taxed; and then the burden of taxation will fall equally upon the owners of every species of property.

We are not now under the pressure of war, and there is no necessity of that kind for exempting these bonds from taxation. We are proposing to adopt means by which to reduce the amount of interest on our national indebtedness by pledging the faith of the Government that we will give to those investing in our securities a bond which shall certainly be paid in a given currency and not be taxed by the United States. In this form the bond would be sufficiently desirable to the holder without exempting it from local taxation.

Mr. BROOMALL. I desire to move the following as a substitute for the pending section:

That the Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States in such form and of such denominations not less than \$100 as he may prescribe, redeemable in coin at the pleasure of the United States after twenty, thirty, and forty years respectively, and bearing the following rates of yearly interest, payable semi-annually in coin, that is to say: the issue of bonds falling due in twenty years shall bear interest at five per cent.; bonds falling due in thirty years shall bear interest at four and a half per cent.; and bonds falling due in forty years shall bear interest at four per cent.; which said bonds shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States; and the said bonds and the proceeds thereof shall be exclusively used in exchange for an equal amount of any of the present interest-bearing debt of the United States other than the three per cent. certificates and debts past due or maturing before the present fiscal year, and may be issued to an amount, in the aggregate, sufficient to cover the principal of all outstanding or existing obligations as limited herein, and no more; but not exceeding \$700,000,000 shall be redeemable at any one time.

I suppose this substitute cannot be voted on until the section shall be perfected, and I propose to reserve what I have to say upon the question until the proposition can come up in regular order.

Mr. BINGHAM. Mr. Chairman, I move to amend the amendment by striking out the last word. I regret very much that the gentleman from Indiana [Mr. NIBLACK] has deemed it his duty to introduce this proposition. While I fully agree with what has been said by the gentleman from Maine [Mr. PIKE] as to the point of the decision in 3 Wallace, that it is utterly incompetent for the Congress of the United States to confer upon any State of this Union the power of taxation of United States securities, I desire to go still further and say that it is utterly incompetent for the Congress of the United States to surrender the power vested in it to protect the national securities against any sort of intervention on the part either of States or of local municipalities.

I desire to call the attention of the House, Mr. Chairman, to the logic of the great decision in the case of *McCulloch vs. The State of Maryland*, to which reference has been made; that is, it is essential to the self-preservation of the nation, that with or without reservation by act of Congress, these securities must be protected from any interference by either State or municipal authority. Having said this much, Mr. Chairman, I may be pardoned in saying it is the conviction of my own mind that the proposition of the gentleman from Indiana [Mr. NIBLACK] is a proposition simply to make secession and treason in this country easy, and not only so but inevitable. The power of taxation in a State is an original power. It is of the reserved powers of the State subject to the limitations of the Constitution only, and where ever they may assert it at all they may assert it to the exclusion of every dollar of property in the possession of the citizen. But, sir, for the protection of American nationality, I desire to say no State can under the Constitution rightfully impose one farthing of tax upon the national securities, for the reason that the protection of the national securities for the national defense against State intervention is essential to national existence. Yet the gentleman challenges us. I challenge him, sir, to say whether, when this nation has under the Constitution borrowed money for the national defense and issued its bonds for its repayment, a State may intervene and render those bonds useless?

Mr. AXTELL. Was not the doctrine of these decisions this: that the State ought not to tax the property of the United States above the United States rate of taxation?

Mr. BINGHAM. No, sir; the decision, the reasoning of Marshall is, that they cannot tax the securities of the nation. It is capable of mathematical demonstration, I think, that the State cannot interpose its original power of taxation against the right of sovereignty to borrow money and issue bonds for its repayment. The State cannot annihilate the power of the nation to defend itself, for money is the sinews of war. You cannot sustain armies in the field, you cannot sustain navies upon the sea without money; and your Constitution having wisely provided that for the common defense Congress shall have power to borrow money, and having the power to borrow it it has the power to protect the bond which it issues for its repayment against every power on God's earth. I denounce the proposition, sir, as a proposition in favor of future rebellion, backed by the authority of a State, and as in favor of secession and the repudiation of our national securities. I for one invoke the opportunity to record the vote by yeas and nays on such a proposition as this.

[Here the hammer fell.]

Mr. NIBLACK. I move to strike out the last word. Mr. Chairman, the gentleman from Ohio wants the vote taken on this proposition by yeas and nays. I am not afraid of the proposition. I am not afraid to stand by it here or anywhere else. And I will make another

remark. No political party can stand long in this country that opposes equal taxation. We are not to be scared by clamor about treason. That is a convenient method of disposing of the equalization of taxation on the part of certain gentlemen here to which unfortunately the gentleman from Ohio belongs. It is a plain practical business question, and it has nothing to do with loyalty or disloyalty, secession or the concentration of power in the hands of the Federal Government. It is a question of justice. It is simply that the bonds shall be taxed as money is taxed, as the article which buys them is taxed, as the article to which the gentleman refers to as one of the sinews of war is taxed. I cannot, for my life, see the injustice of taxing bonds which represent money, while we tax the money which purchases them. But I do not read the case of *McCulloch vs. The State of Maryland*, to which the gentleman refers, as he reads it. In that case the principle is laid down that the power of taxation, where the Constitution and laws are silent on the subject, is concurrently exercised both by the Federal and State authority.

Mr. AXTELL. Allow me a single question. These bonds belonged to the United States. They sold them to individuals. What is the difference between them as regards taxation when the Government owned them and when the individual owns them?

Mr. NIBLACK. I insist that the exemption of these bonds from taxation rests upon the authority of Congress alone, and the Constitution has nothing to do with it except so far as it may be held by the courts as applicable to a particular class of property. In the case of *McCulloch vs. The State of Maryland* it was decided that when certain property was declared exempt from taxation by Federal authority the State could not tax it. I concede that to be the law of this country. But it was not there decided that when Congress conferred upon the State authority to tax certain property it might not do so within the terms of the law conferring the power. Now, I do not propose to confer that power, but simply to limit taxation. And as money is taxed, what injustice there is in that I cannot apprehend.

Mr. PIKE. You cannot tax greenbacks.

Mr. NIBLACK. The gentleman says you cannot tax greenbacks. Upon that there has been no express provision that I know of.

Mr. PIKE. The statute of the United States says so expressly.

Mr. NIBLACK. In some of the States they do tax them.

Mr. KERR. The supreme court of Indiana has decided that greenbacks may be taxed.

Mr. NIBLACK. I was going to remark that the circuit court in my State decided some time ago that greenbacks might be taxed, and I learn from the newspapers that the supreme court of the State have decided that they are taxable like every other kind of property. If so, why should not, with much greater propriety, the interest-bearing bonds be taxed?

[Here the hammer fell.]

Mr. SCHENCK. I ask for a vote on this amendment.

Mr. BINGHAM. Will my colleague yield to me to make a short reply to the statement just made?

Mr. SCHENCK. This is an important debate, and I will move that the committee rise. It is now near five o'clock, and I propose when the committee rise to ask for an evening session to-night for the consideration of this bill.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being Senate bill No. 207, for funding the national debt, and for the conversion of the notes of the United States, and had come to no resolution thereon.

MEMBERS-ELECT FROM LOUISIANA.

Mr. DAWES. I rise to present the credentials of the following members-elect from the State of Louisiana: J. H. Sypher, from the first district; James Mann, from the second district; J. P. Newham, from the third district; and Michael Vidal, from the fourth district. I move that they be referred to the Committee of Elections.

The credentials were accordingly referred to the Committee of Elections.

FOURTEENTH AMENDMENT TO CONSTITUTION.

Mr. DAWES also presented a certified copy of the action of the Legislature of the State of Louisiana, ratifying the fourteenth article of amendments to the Constitution; which was referred to the same committee.

On motion of Mr. MAYNARD, the action of the Legislature was ordered to be printed in the Globe, as follows:

Joint resolution ratifying a proposed amendment to the Constitution of the United States.

Whereas the Congress of the United States has adopted a resolution proposing an amendment to the Constitution of the United States to be submitted to the Legislatures of the several States, and to be known as article fourteenth of said Constitution, as follows:

ARTICLE XIV.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of its laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State being twenty-one years of age and citizen of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall be as to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any civil or military position under the United States, or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

SEC. 4. The validity of the public debt of the United States authorized by law, including debts incurred for payment of persons and bounties for services in suppressing insurrection and rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debts or obligations incurred in aid of insurrection or rebellion against the United States or any claim for the loss or emancipation of any slave, but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

Passed June 13, 1866.

Resolved by the Senate and House of Representatives of the State of Louisiana in General Assembly convened, That the said constitutional amendment in manner and form as proposed and submitted by the Congress of the United States be, and the same is, on the part of the State of Louisiana, hereby ratified and accepted.

Adopted in General Assembly at the city of New Orleans, this 9th day of July, A. D. 1868.

CHAS. W. LOWELL,

Speaker of the House of Representatives.

OSCAR J. DUNN,

Lieutenant Governor and President of the Senate.

Approved this 9th day of July, A. D. 1868:

H. C. WARMOTH,

Governor of the State of Louisiana.

A true copy on file in this office:

GEO. E. BOVEE,

Secretary of State.

ENROLLED BILLS SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 175) for the relief of Joseph

McGhee Cameron and Mary Jane Cameron, children of Lafayette Cameron, deceased;

An act (S. No. 314) for the relief of George T. Brien;

An act (S. No. 382) granting an increase of pension to Obadiah T. Plum;

An act (S. No. 383) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert F. Weed, deceased;

An act (S. No. 422) granting a pension to Maria Schweitzer and the children of Conrad Schweitzer, deceased;

An act (S. No. 517) granting a pension to the widow and children of Henry Brown;

An act (S. No. 518) granting a pension to the widow and child of John P. Fetty;

An act (S. No. 521) granting a pension to the children of William M. Wooten, deceased; and

An act (S. No. 547) granting a pension to John Sheets.

PAPERS WITHDRAWN.

By unanimous consent leave was granted to Mr. PERHAM to withdraw from the files of the House the papers of Edward Johnson, an adverse report having been made thereon.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I ask the House to pass a little pension bill which I send to the Clerk's desk.

Mr. MAYNARD. Is it the same bill which the gentleman brought up before to-day?

Mr. WASHBURNE, of Illinois. It is.

Mr. MAYNARD. Then I must insist that it shall take the same course as other bills have taken. Let it be referred to the Committee on Invalid Pensions, with the right to report it at any time.

Mr. BENJAMIN. I object to the reporting back at any time.

Mr. WASHBURNE, of Illinois. Then I object to everything out of order.

Mr. SCHENCK. I propose that we shall have a meeting to-night at half past seven o'clock to resume the consideration of the funding bill, and do no other business; or in other words, that the evening session to-night be devoted to the consideration of the funding bill.

Mr. MYERS. I move to amend by adding, and the tariff bill.

Mr. SCHENCK. I do not think we can get through both bills to-night.

Mr. MULLINS. I hope the amendment will not be adopted.

Mr. SCHENCK. I have no objection to the tariff bill being taken up after we are through the other bill.

Mr. MULLINS. We have got more in hand now than we can get through with to-night.

Mr. ALLISON. I think we might go on with the tariff bill when we get through the funding bill.

Mr. SCHENCK. I will allow the amendment to be offered, and then if we should finish the funding bill to-night—which is not very probable—the committee may take up the tariff bill, but no other business is to be done.

Mr. WASHBURN, of Indiana. Can a call of the House be had under that order?

The SPEAKER. Of course, if a quorum should fail to be in attendance and the committee should rise, there might be a call of the House to secure a quorum to enable the committee to resume the consideration of the bill.

The question was taken on Mr. MYERS's amendment; and there were—ayes 54, noes 57.

So the amendment was rejected.

Mr. SCHENCK's motion was then agreed to.

Mr. SCHENCK. I desire to give notice that if I find we are without a quorum I shall move a call of the House.

Mr. SPALDING. I ask to be excused from attendance on the session of this evening on account of indisposition.

There was no objection, and the gentleman was excused.

By unanimous consent, Mr. PAINES was also excused from attendance on the evening session on account of indisposition.

Mr. SCHENCK. I move that the House now take a recess.

The motion was agreed to; and thereupon (at five o'clock p. m.) the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m., and resumed, in Committee of the Whole, (Mr. BROOMALL in the chair,) the consideration of Senate bill No. 207, for funding the national debt, and for the conversion of the notes of the United States.

The CHAIRMAN. The first section of the bill is under consideration, and the pending question is upon the amendment of the gentleman from Indiana, [Mr. NIBLACK.]

Mr. GARFIELD. I desire to say a word on the pending amendment, for the purpose of putting on record the opinions of one of the very ablest lawyers who ever lived in this country on the question of the right of Congress to authorize a State to tax the bonds of the United States. I had occasion two years ago, in a speech on this subject, to quote this passage from Mr. Webster.

But, before quoting that extract, I wish to state the authorities upon this subject. I take it that no lawyer in this House who has examined the authorities will assert that any State can of its own right tax the bonds of the United States. But the question has been raised whether Congress may not confer upon a State the right to tax them. I particularly desire to call attention on that question to the authorities to which I refer.

First, let me state in brief what are the authorities of the Supreme Court on the question of whether a State has the right to tax the bonds of the United States. It was decided by Chief Justice Marshall, in 1819, in the case of *McCullough vs. The State of Maryland*, (4 Wheaton, 316.) It was decided again by that same distinguished jurist in the case of *Weston vs. The City of Charleston*, (2 Peters, 449.) It was decided in the case of *Osborn vs. The United States Bank*, (9 Wheaton, 739,) in 1824, when Henry Clay, as counsel, argued other features of the cause before that court, but declined to offer any argument on the question of the power of the State to tax the bank, and alleged as a reason that the point was so well settled that argument was unnecessary. It was decided again in 1862, in the case of *The Bank of Commerce vs. New York*, (2 Black, 620.) And still later in the case of *Van Allen vs. The Assessors*, (8 Wallace, 585.)

Now, in regard to the power of Congress to authorize a State to tax the bonds of the United States, I ask the Clerk to read a passage from a speech of Daniel Webster's on the very question under discussion. It was delivered in the Senate of the United States, May 23, 1832.

The Clerk read as follows:

"The question being on the amendment offered by Mr. Moore, of Alabama, proposing, first, that the bank shall not establish or continue any office of discount or deposit, or branch bank, in any State, without the consent and approbation of the State; second, that all such offices and branches shall be subject to taxation according to the amount of their loans and issues, in like manner as other banks or other property shall be liable to taxation.

"Mr. Webster spoke as follows: Now, sir, I doubt exceedingly our power to adopt this amendment, and I pray the deliberate consideration of the Senate in regard to this point.

"In the first place, let me ask, what is the constitutional ground on which Congress created this corporation, and on which we now propose to continue it? There is no express authority to create a bank or any other corporation given to us by the Constitution. The power is derived by implication. It has been exercised, and can be exercised only on the ground of a just necessity. It is to be maintained, if at all, on the allegation that the establishment of a national bank is a just and necessary means for carrying on the Government and executing the powers conferred on Congress by the Constitution. On this ground Congress has established this bank, and on this it is now proposed to be continued. It has already been judicially decided that Congress having established a bank for these purposes, the Constitution prohibits the States from taxing it. Observe, sir, it is the Con-

stitution, not the law, which lays this prohibition on the States. The charter of the bank does not declare that the State shall not tax it. It says not one word on that subject. The restraint is imposed not by Congress, but by a higher authority, the Constitution.

"Now, sir, I ask how we can relieve the States from this constitutional prohibition? It is true that this prohibition is not imposed in express terms, but it results from the general provisions of the Constitution, and has been judicially decided to exist in full force. This is a protection, then, which the Constitution of the United States, by its own force, holds over this institution, which Congress has deemed necessary to be created in order to carry on the Government. So soon as Congress, exercising its own judgment, has chosen to create it, can we throw off from this Government this constitutional protection? I think it clear we cannot. We cannot repeal the Constitution. We cannot say that every power, every branch, every institution, and every law of this Government shall not have all the force, all the sanction, and all the protection which the Constitution gives it."

Mr. GARFIELD. Such was the opinion of the great "Defender of the Constitution." He believed that the power of a State to tax the securities of the United States is prohibited by a higher authority than a statute of Congress; that it is prohibited by the Constitution itself.

The question recurred upon the amendment of Mr. NIBLACK.

Mr. NIBLACK. As the committee is not full, and I have no desire to break up the committee by calling for a division upon my amendment, I ask consent that it be reserved for a vote after the rest of the bill has been considered.

The CHAIRMAN, (Mr. POMEROY.) If no objection is made the amendment will be reserved in order to allow a vote upon it hereafter.

No objection was made.

The CHAIRMAN. The question now recurs upon the substitute for the section moved by the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. BROOMALL. I ask that that also be reserved for a vote hereafter.

No objection was made.

Mr. SCHENCK. I desire to ask that the privilege be reserved on the part of my colleague on the committee [Mr. LOGAN] to move an amendment hereafter; so that the section will read:

And the said bonds shall be exclusively used for the redemption of or in exchange for an equal amount of any of the present interest-bearing debt, &c.

No objection was made.

No further amendment was offered to the first section.

The second section was then read by the Clerk, as follows:

SEC. 2. And be it further enacted, That there is hereby appropriated out of the duties derived from imported goods the sum of \$135,000,000 annually, which sum during each fiscal year shall be applied to the payment of the interest and to the reduction of the principal of the public debt, in such a manner as may be determined by the Secretary of the Treasury, or as Congress may hereafter direct; and such reduction shall be in lieu of the sinking fund contemplated by the fifth section of the act entitled "An act to authorize the issue of United States notes, and for the redemption and funding thereof, and for funding the floating debt of the United States," approved February 25, 1862.

The first amendment reported from the Committee of Ways and Means was to strike out the words "in such a manner as may be determined by the Secretary of the Treasury, or as Congress may hereafter direct."

The amendment was agreed to.

The next amendment of the Committee of Ways and Means was to strike out the word "contemplated" and insert the word "provided" after the words "in lieu of the sinking fund."

The amendment was agreed to.

The CHAIRMAN. The Committee of Ways and Means propose to amend by inserting a new section, which will be read by the Clerk.

The Clerk read as follows:

SEC. —. And be it further enacted, That the holder of any lawful money of the United States to the amount of fifty dollars, or any multiple of fifty dol-

lars, may convert the same into bonds for an equal amount, authorized by the first section of this act, under such rules and regulations as the Secretary of the Treasury may prescribe: *Provided*, That such conversion shall not be allowed at any time when the amount of United States notes outstanding is reduced to \$300,000,000. And any holder of any of the bonds provided for in the first section of this act may present the same to the Treasurer of the United States and demand lawful money of the United States for the principal and accrued interest thereon, and the Treasurer shall redeem the same in lawful money of the United States, unless the United States notes then outstanding shall amount to \$400,000,000; and such bonds shall not be redeemable after the United States have resumed the payment of coin for their notes.

Mr. PIKE. I cannot allow this amendment to pass without at least making my protest against it. I oppose it because it is a direct allowance of an increase of United States notes. The present limit is \$356,000,000. This amendment proposes to allow an increase of \$44,000,000. For one, I will under no circumstances be willing to allow, if my vote can prevent it, an increase of the quantity of United States notes. A sufficient quantity is already issued; and the effort in my judgment should be upon all occasions to diminish the amount of currency until we can reach specie payments. The effect of this section will be this: whenever money is tight and in demand, whenever it is worth more than the bonds, the latter can be taken to the Treasury of the United States and money obtained for them until the amount of United States notes reaches \$400,000,000. Thus you increase the volume of the currency from \$356,000,000 to \$400,000,000. Now, sir, I for one believe that in a time of peace we have not the slightest right in the world to issue legal-tender notes. When the issue of these legal tenders was authorized under the act of February 25, 1862, the opinion generally expressed upon this floor was that only as a war measure could the issue of those notes be justified.

Mr. GARFIELD. I have drawn an amendment which I think may obviate the objection of the gentleman. It is to add at the end of the section the following:

Provided further, That nothing in this act shall be so construed as to authorize an increase of United States notes.

Mr. PIKE. That obviates a part of the difficulty, but only a part.

Mr. BROOMALL. I would suggest that the same result can be better reached by striking out in line fifteen the words "four hundred" and inserting "three hundred and fifty-six."

Mr. PIKE. That would much better accomplish the object.

Mr. BROOMALL. Then I move that amendment.

Mr. SCHENCK. I hope the amendment will not prevail.

Mr. MULLINS. I desire to inquire what amount of greenbacks is now authorized by law?

Mr. BROOMALL. Three hundred and fifty-six millions.

Mr. BLAIR. Mr. Chairman, I am opposed to this whole provision which it is proposed to incorporate as a new section. I believe with the gentleman from Maine [Mr. PIKE] that it is desirable that the quantity of legal-tender notes in the country shall be reduced rather than increased. One of the objections which struck me on giving a general examination to this bill was that it seemed to be aiming at increasing the legal-tender circulation instead of reducing it. It appears to me to look toward abandoning the idea of returning to specie payments.

Now, sir, I believe—and I had supposed that this had grown to be the general belief—that our legislation ought to aim toward the earliest possible resumption of specie payments; that we look to a sound, convertible currency; but I find, sir, in this section the introduction of a policy which proposes to inflate the currency and increase the amount of legal-tender notes. I have not yet heard any explanation what the idea of the committee is;

and I cannot understand anything from this section and the amendments proposed to this bill. I believe there is no power in Congress to issue such a currency at all. It was not claimed at the time this policy was adopted upon any other ground than that of necessity. It is a policy at war with sound principles in relation to currency. Upon what principle is it anybody now proposes to increase this legal-tender currency? What is the occasion for it? What do gentlemen propose to gain by it? What do they mean to say to the country is the reason for it?

I wish to say, as has been remarked in this discussion, that these small notes, or rather small bonds provided for in this bill will circulate as currency to a considerable extent. I regret this. In fact, sir, the sum of it all is that I should regret any legislation which looked in the direction of increasing our irredeemable currency at all. I am in favor of going in the opposite direction. I am in favor of the resumption of specie payments. I think the country expects it and regards it as the wiser policy. I hope this section will not be adopted. The amendment is not material one way or the other.

The CHAIRMAN. The question recurs on Mr. BROOMALL's amendment.

Mr. SCHENCK. I hope it will not be adopted.

The committee divided; and there were—ayes 19, noes 20; no quorum voting.

Mr. PIKE. This is an important matter. It is to inflate the currency. Let us have tellers.

Mr. SCHENCK. I hope the gentleman will withdraw the amendment.

Mr. BROOMALL. I will if the gentleman will renew it again, or give me an opportunity to renew it.

Mr. SCHENCK. Very well. I will propose \$3,999,000 for the purpose of making a remark. I think the gentleman from Pennsylvania has confused the number of United States Treasury notes out with the number authorized. There were \$450,000,000 United States Treasury notes authorized—\$50,000,000 for a specific purpose—leaving \$400,000,000, and of that \$400,000,000, \$356,114,212 were outstanding on the 1st of June. They are still under the law authorizing the issue. The law authorized the emission of that number of notes, and this is not an extension nor an inhibition. If they are not authorized by law to the amount of \$400,000,000 of course there is nothing in this section which authorizes it. Nothing, therefore, is more unnecessary than the provision proposed. I desire to say in reference to the history of this legislation what took place in the Senate. This section was in the original bill of the Senate. In a thin Senate by a majority of two votes it was lost. It was stricken from the bill. I have every reason to believe if restored by the House there will be a decided majority in the Senate for retaining it. That, however, is not for the consideration of the House, which must vote on the proposition itself.

Referring to the law of the 30th of June, 1864, I find the limitation is in these words:

"Provided, That the total amount of bonds and Treasury notes authorized by the first and second sections of this act shall not exceed \$100,000,000 in addition to the amounts heretofore issued; nor shall the total amount of United States notes, issued or to be issued, ever exceed \$400,000,000, and such additional sum, not exceeding \$50,000,000, as may be temporarily required for the redemption of temporary loan; nor shall any Treasury note bearing interest, issued under this act, be a legal tender in payment or redemption of any notes issued by any bank, banking association, or banker, calculated or intended to circulate as money."

Thus the restriction was to \$400,000,000, with an addition of \$50,000,000 for the temporary loan, and since the redemption of the latter there is no authority of law for the addition of \$50,000,000.

Mr. BROOMALL. I desire to ask the gentlemen this question: how, if the Government had no power to issue more than \$350,000,000, is it going on redeeming up to \$400,000,000?

Mr. SCHENCK. That is begging the question. I hold that a proper construction of the law authorizes the issue of \$400,000,000.

Mr. BROOMALL. And the reissue of those that have been canceled by authority of law?

Mr. SCHENCK. That is a question of construction.

[Here the hammer fell.]

Mr. ALLISON. I rise to oppose the amendment. I desire to call the attention of the gentleman from Pennsylvania [Mr. BROOMALL] to what I am about to say. I understand him to offer his amendment because there is no power under existing law to increase the issue of United States notes. Now, I join issue with him upon that question. I claim that under existing law the Secretary of the Treasury cannot only issue \$400,000,000 of United States notes, but he can issue \$450,000,000; because there is authority under the law of June 30, 1864, to issue \$400,000,000, and also authority, under a more recent statute, to issue an additional \$50,000,000, for the purpose of redeeming the temporary loan. During the last session of the Thirty-Ninth Congress we authorized an additional temporary loan of \$50,000,000, three per cent. certificates, so that it is within the discretion of the Secretary of the Treasury to-day to exercise that discretion, and issue not only \$400,000,000, but \$450,000,000 in addition for the redemption of the temporary loan.

Mr. HOOPER, of Massachusetts. I think my friend is mistaken. The temporary loan contemplated by the act he refers to did then exist as such, but since then it has all been redeemed. Therefore there is no authority to issue an additional \$50,000,000. The law of last year authorized the issue of three per cent. certificates to redeem the compound-interest notes. We have called that a temporary loan, but it is not so denominated in the law.

Mr. ALLISON. I may be mistaken. Of course it depends upon the proper construction of the language of the law; but I do not think it is very material, as I understand the committee has already passed section two, which authorizes and directs, if I understand it properly, the Secretary of the Treasury to appropriate \$135,000,000 in gold annually; first to the payment of the interest on the public debt, and secondly, to the redemption of the principal. So that by the adoption of the second section we require the Secretary of the Treasury to redeem any outstanding funded obligations of the Government in gold, because he is required to apply the moneys received from duties on imports to the redemption of the public debt; and therefore it seems to me he is required to redeem the five twenties that have already matured, to wit: those that were issued in 1862 in gold. I was not in when that section was passed; but I call the attention of the chairman of the committee to the fact that it requires, unless it has been amended, the Secretary of the Treasury to redeem the five-twenties of 1862 in gold. It may be that it ought to be done, but I desired to offer an amendment to the section which we require the Secretary to apply a portion of that \$135,000,000, not applicable to the payment of interest on the public debt, to purchase of United States bonds, which are only quoted at 112 to-day, in United States notes instead of redeeming them in coin. Now, of course, everything depends upon the class of loans we put out under this bill. If we put out a loan at three and sixty-five hundredths interest, then I think no harm can result to the country by the convertible provision of this bill. But if we put out a bond at a greater rate of interest than that the effect of this bill will be to reduce the amount of greenbacks or United States notes in circulation, because no one will convert these bonds again into United States notes when they are worth more than greenbacks would be.

[Here the hammer fell.]

Mr. BROOMALL. I ask the gentleman from Ohio to withdraw his amendment.

Mr. SCHENCK. I withdraw it.

Mr. BROOMALL. I move to strike out "four hundred" and insert "three hundred and fifty-six;" so that the clause will read:

And the Treasurer shall redeem the same in lawful money of the United States unless the United States notes then outstanding shall amount to \$356,000,000.

I entirely disagree with the gentleman from Iowa as to the power of the Secretary of the Treasury under existing law to issue more legal tenders. He was authorized to issue \$400,000,000 upon one occasion. That was done, and that power was exhausted. He was authorized to issue \$50,000,000 upon another. That was done, and that power was exhausted. Some of the \$400,000,000 have been canceled pursuant to existing laws which are now suspended, and the law remains just as it was, just as it would have been if his power had been limited under the original act to \$356,000,000.

Now, I offer this amendment because I am entirely opposed to any increase of the irredeemable currency of the country. My own belief is that it would have been better for the country and the people to have commenced redeeming the legal tenders immediately upon the fall of the rebellion, if it had to be done by borrowing at almost any rate of per cent. in Europe rather than to continue the evil until now. But that cannot be done, and the most that we can hope at this time is to prevent further increase.

I rather like this section, because it proposes to give an elasticity to the currency which our present currency unfortunately lacks on account of its being limited to this country alone. I agree that it is best to allow those who have more than they need of it to invest it in bonds, and to reconvert it at will if there should not be a further increase of legal-tender currency. I trust the committee will agree with me that it is about time we had put a stop to all talk of further increase. It is that that produces uncertainty in all dealings in the country and contributes very largely toward that depression that exists too frequently in various quarters. If we can only prevent increase, and fix up some means by which the amount shall be reduced and specie payment gradually approached, we will have done a great thing for the country. I think the vote upon this question will test for the country whether the Fortieth Congress is willing to go on in this inflation of the currency. If it is, then I for one will have little faith in any of the obligations of the United States, because continued inflation must undoubtedly result in this country as it has in all countries in the world, in not only repudiation of the currency but repudiation of the entire debt.

[Here the hammer fell.]

Mr. MAYNARD. I oppose the amendment for the purpose of saying that I am opposed to the section. In the first place, the proposition in this section enables any combination that can command \$50,000,000 at will to reduce the circulation to \$800,000,000 or to increase it to \$400,000,000 within twenty-four hours, a power that ought not to be given to any one. But I object to this section furthermore that it is converting non-interest-bearing notes into an interest-bearing debt; it is converting our greenbacks into bonds. So long as we are to have an irredeemable currency, United States notes, greenbacks are the best currency, the most popular currency that we have ever had or ever will have. I am in favor of retaining it. I am opposed to the whole provision of this bill. It is reversing altogether the principles of our financial policy from the beginning, which was to keep our debt subject to our own control; hence the five-twenty, ten-forty bonds. This bill proposes to make a debt upon the country of between two and three billion dollars, running forty years, at a rate of interest which now indeed seems low, but which is larger than that paid by the British nation, and which, before half the forty years have elapsed, will be regarded in this country as burdensome.

I here present to the committee the views of Mr. Jefferson on the subject of extending a debt beyond the generation for which it is contracted. I read from the letter of Mr. Jefferson to John W. Eppes, dated Monticello, June 24, 1813:

"It is a wise rule and should be fundamental in a Government disposed to cherish its credit, and at the same time to restrain the use of it within the limits of its faculties, 'never to borrow a dollar without laying a tax in the same instant for paying the interest annually, and the principal within a given term; and to consider that tax as pledged to the creditors on the public faith.' On such a pledge as this, sacredly observed, a Government may always command on a reasonable interest all the lendable money of their citizens, while the necessity of an equivalent tax is a salutary warning to them and their constituents against oppressions, bankruptcy, and its inevitable consequence, revolution. But the term of redemption must be moderate and at any rate within the limits of their rightful powers. But what limits, it will be asked, does this prescribe to their powers? What is to hinder them from creating a perpetual debt? The laws of nature, I answer. The earth belongs to the living, not to the dead. The will and the power of man expire with his life by nature's law. Some societies give it an artificial continuance for the encouragement of industry; some refuse it, as our aboriginal neighbors, whom we call barbarians. The generations of men may be considered as bodies or corporations. Each generation has the usufruct of the earth during the period of its continuance. When it ceases to exist the usufruct passes on to the succeeding generation, free and unincumbered, and so on, successively, from one generation to another, forever.

"We may consider each generation a distinct nation, with a right by the will of its majority to bind themselves, but none to bind the succeeding generation more than the inhabitants of another country. Or the case may be likened to the ordinary one of a tenant for life who may hypothecate the land for his debts during the continuance of his usufruct; but at his death the reversioner (who is also for life only) receives it exonerated for all burdens. The period of a generation, or the term of its life is determined by the laws of mortality which, varying a little only in different climates, offer a general average, to be found by observation. I turn, for instance, to Buffon's tables of twenty-three thousand nine hundred and ninety-four deaths, and the ages at which they happened, and I find that the numbers of all ages living at one moment half will be dead in twenty-four years and eight months. But (leaving out minors, who have not the power of self-government) of the adults (of twenty-one years of age) living at one moment, a majority of whom act for the society, one half will be dead in eighteen years and eight months. At nineteen years, then, from the date of a contract the majority of the contractors are dead and their contract with them. Let this general theory be applied to a particular case. Suppose the annual births of the State of New York to be twenty-three thousand nine hundred and ninety-four, the whole number of its inhabitants, according to Buffon, will be six hundred and seventeen thousand seven hundred and three, of all ages. Of these there would constantly be two hundred and sixty-nine thousand two hundred and eighty-six minors, and three hundred and forty-eight thousand four hundred and seventeen adults, of which last one hundred and seventy-four thousand two hundred and nine will be a majority. Suppose that majority on the first day of the year 1794 had borrowed a sum of money equal to the fee simple value of the State and to have consumed it in eating, drinking, and making merry in their day; or, if you please, in quarreling and fighting with their unoffending neighbors.

"Within eighteen years and eight months one half of the adult citizens were dead. Till then, being the majority, they might rightfully levy the interest of their debt annually on themselves and their fellow-revelers or fellow-champions. But at that period, say at this moment, a new majority have come into place, in their own right, and not under the rights, the conditions, or the laws of their predecessors. Are they bound to acknowledge the debt—to consider the preceding generation as having had a right to eat up the whole soil of their country in the course of a life, to alienate it from them, (for it would be an alienation to the creditors); and would they think themselves either legally or morally bound to give up their country and emigrate to another for subsistence? Every one will say no; that the soil is the gift of God to the living as much as it had been to the deceased generation; and that the laws of nature impose no obligation on them to pay this debt. And although, like some other natural rights, this has not yet entered into any declaration of rights, it is no less a law, and ought to be acted on by honest Governments. It is at this time a salutary curb on the spirit of war and indebtedness, which, since the modern theory of the perpetuation of debt, has drenched the earth with blood and crushed its inhabitants under burdens ever accumulating. Had this principle been declared in the British Bill of Rights England would have been placed under the happy disability of waging eternal war and of contracting her thousand millions of public debt. In seeking, then, for an ultimate term for the redemption of our debts, let us rally to this principle, and provide for their payment within the term of nineteen years at the farthest.

"Our Government has not as yet begun to act on the rule of loans and taxation going hand in hand. Had any loan taken place in my time I should have strongly urged a redeeming tax. For the loan which

has been made since the last session of Congress, we should now set the example of appropriating some particular tax sufficient to pay the interest annually, and the principle within a fixed term, less than nineteen years. And I hope yourself and your committee will render the immortal service of introducing this practice. Not that it is expected that Congress should formally declare such a principle. They wisely enough avoid deciding on abstract questions. But they may be induced to keep themselves within its limits."

Again in a letter to the same gentleman dated Poplar Forest, September 11, 1813, he says:

"That we are bound to defray its expenses within our own time, and unauthorized to burden posterity with them, I suppose to have been proved in my former letter. I will place the question nevertheless in an additional point of view. The former regarded their independent right over the earth; this over their own persons. There have existed nations and civilized and learned nations who have thought that a father had a right to sell his child as a slave in perpetuity; that he could alienate his body and industry conjointly, and *à fortiori* his industry separately, and consume its fruits himself. A nation asserting this fratricidal right might well suppose they could burden with public as well as private debt their *nati natorum et qui nascentur at illis*.

"But we, in this age and in this country especially, are advanced beyond those notions of natural law. We acknowledge that our children are born free; that that freedom is the gift of nature, and not of him who begot them; that though under our care during infancy, and therefore of necessity under a duly tempered authority, that care is confided to us to be exercised for the preservation and good of the child only; and his labors during youth are given as a retribution for the charges of infancy. As he was never the property of his father, so when adult he is *sui juris*, entitled himself to the use of his own limbs and the fruits of his own exertions; so far we are advanced without mind enough, it seems, to take the whole step. We believe, or we act as if we believed, that although an individual father cannot alienate the labor of his son, the aggregate body of fathers may alienate the labor of all their sons, of their posterity in the aggregate, and oblige them to pay for all the enterprises, just or unjust, profitable or ruinous, into which our vices, our passions, or our personal interests may lead us. But I trust that this proposition needs only to be looked at by an American to be seen in its true point of view, and that we shall all consider ourselves unsaundered to saddle posterity with our debts, and morally bound to pay them ourselves; and consequently within what may be deemed the period of a generation, or the life of the majority. In my former letter I supposed this to be a little over twenty years. We must raise, then, ourselves the money for this war, either by taxes within the year or by loans; and if by loans, we must repay them ourselves, proscribing forever the English practice of perpetual funding, the ruinous consequences of which—putting right out of the question—should be a sufficient warning to a considerate nation to avoid the example."

I say, then, if any gentleman will propose a return to specie payments to-morrow he shall have my vote.

The gentleman talks about approaching specie payments gradually. Sir, when we approach specie payments we shall do so at once, whether it be sooner or whether it be later; and we may as well meet it now as to meet it next year, or to meet it ten years from this time. If we would adopt that bold financial policy which would make all our issues, all our Treasury notes, all our obligations, equal to coin, and put them upon a specie basis, in my opinion it would relieve us of all our financial troubles, embarrassments, and speculations, theoretically and practically. I know very well that in England, after specie payments had been suspended twenty years, a bold stroke of statesmanship proposed the resumption of specie payments, to the horror of all timid men. Yet experience showed that the apprehended danger was but a scarecrow that had been hanging before them for years, and the very moment they boldly met it and brushed it out of the way, all trouble vanished. A bold financial policy that will declare the convertibility of our currency issue into coin, in my opinion, will solve the financial problem, as well as the political problem that lies behind it.

But this bill, I apprehend, at least I fear, will not only give no relief, will not only not disembarass us, but will put our national debt beyond the future control of legislation; instead of making things better it will put them in such a situation that we cannot prevent their becoming worse. I am unwilling by our present legislation to fasten this debt upon the country for forty years.

[Here the hammer fell.]

The question recurred upon the amendment of Mr. BROOMALL to the amendment of the Committee on Ways and Means.

Mr. GARFIELD. I hope the gentleman will withdraw his amendment to the amendment.

Mr. BROOMALL. I will, on condition that the gentleman will renew it.

Mr. GARFIELD. I renew the amendment to the amendment for the purpose of saying that I was greatly surprised at the statement made by the chairman of the Committee of Ways and Means [Mr. SCHENCK] in regard to the law. Now, I may be wrong in my understanding of the law; but if I am, and he is right, then there is, in my mind, this fatal objection to the section, that it allows an increase of the currency, and I should use my utmost exertions to have it stricken out.

I understood the gentleman to say that the Secretary of the Treasury has power under existing law to increase the volume of currency in this country by new issues to \$450,000,000. Now, I admit that as the law originally stood, as passed June 30, 1864, the Secretary of the Treasury was authorized to issue \$400,000,000 of currency; that was the limit. There was an additional provision, however, that for the purpose of redeeming a special class of securities, temporary loans, there might be temporarily issued \$50,000,000 more. That was the law up to April 12, 1866. But on the 12th of April, 1866, a law was passed authorizing the Secretary of the Treasury to put a loan on the market, specifying what description of loan it should be. The law gave him very ample authority. Its object was expressed in these words:

"To authorize the Secretary of the Treasury, at his discretion, to receive any Treasury notes, or other obligations issued under any act of Congress, whether bearing interest or not, in exchange for any description of bonds authorized by the act to which this is an amendment; and also to dispose of any description of bonds authorized by said act, either in the United States or elsewhere, to such an amount, in such manner, and at such rates as he may think advisable, for lawful money of the United States, or for any Treasury notes, certificates of indebtedness, or certificates of deposit, or other representatives of value, which have been or which may be issued under any act of Congress, the proceeds thereof to be used only for retiring Treasury notes or other obligations issued under any act of Congress; but nothing herein contained shall be construed to authorize any increase of the public debt."

Now, notice the sweeping authority here conferred, that the Secretary may sell these bonds, and shall use the proceeds coming from their sale for the purpose, and only for the purpose, of retiring notes and other forms of indebtedness.

Mr. ALLISON. Not United States notes, but Treasury notes.

Mr. GARFIELD. I beg the gentleman's pardon; United States notes are specially named. This is the provision:

Provided, That of United States notes not more than \$10,000,000 may be retired and canceled within six months after the passage of this act, and thereafter not more than \$4,000,000 in any one month.

Mr. PIKE. It says "for lawful money."

Mr. GARFIELD. Certainly. This law authorizes the Secretary of the Treasury to sell the loan and use the proceeds for this sole purpose; and lest he should retire and cancel the Treasury notes too rapidly under this authority conferred, he was restricted to \$10,000,000 the first six months, and \$4,000,000 monthly thereafter. Now, sir, every dollar that he retired and canceled under the provisions of this act and the restriction in the proviso was absolutely retired and blotted out, and was thereafter no more a part of our currency than as though it never had been authorized. Hence all the money that was in existence when this law was passed has been reduced by the extent of the retirement and cancellation which has since taken place. The balance is the lawful money authorized by the laws of the United States, and there is not a dollar more authorized, unless it be the \$50,000,000 to which my friend from Iowa [Mr. ALLISON] has referred for the specific and temporary purpose of canceling a temporary loan.

[Here the hammer fell.]

Mr. BOUTWELL. I rise to oppose the amendment. We have provided in the first section of the bill for interest at the rate of three and sixty-five hundredths. Now, what is the effect of this proposition? The country could not stand the effect of vesting in the Secretary of the Treasury a discretion to control the currency of the country to the amount of \$4,000,000 per month; yet this proposition is to put in the hands of unknown men the power to operate upon the currency of the country to the amount of \$100,000,000 whenever they please to do so. What is the condition of things to-day? There is in the East a very large surplus of capital seeking investment. It cannot find permanent investment; and, sir, it is for the interest of the country that it should not find permanent investment, because the season of the year is approaching when this money will be needed to move the crops from the South and the West to the East and to foreign markets. Now, if these people in the East who are holding this surplus capital, and who would within the next sixty days loan it for the purpose of moving the crops of the country to market, should be induced to invest it in these securities of the Government, those who are interested in moving the crops will be obliged to pay the persons owning this capital an advance upon the interest allowed by the Government sufficient to induce them to take the money out of the hands of the Government and invest it in the necessary business of the country. Sir, I say it is suicidal to put the Government in the attitude of a borrower of money on call to the injury of all the productive interests of the country. There is no defense for such a proposition.

Sir, I am more and more satisfied as I examine this bill that it is wrong in many essential particulars. Here are the 1881s, which are covered by the language of the first section of the bill. Does any one suppose that a man who has a bond payable, principal and interest, in coin in 1881, is going to surrender that bond for the purpose of taking such a bond as is provided for in this bill? Then we have the ten-forty five per cent., liable to Government taxation upon income, as is other property of the country. Is it any advantage worth considering for us to undertake the exchange of these securities for those proposed in this section, and would any one holding a ten-forty bond make the exchange?

Another serious, and to my mind fatal, objection to the whole policy of this bill is that the hands of the Government are to be tied for forty years, so that it cannot redeem these bonds without going into the markets of the world and purchasing them. Now, no matter at what rate you may fix the interest, whenever there is a surplus of money in the Treasury of the country the holders of these bonds will demand par for the principal of them, and very likely an advance.

In 1790 we issued three per cent. bonds, and in 1831-32 we were obliged for the sake of removing that indebtedness to pay one hundred cents on the dollar. Now, if the country continues to increase in population and in the development of its resources, in the next twenty or thirty years we will have forty-five or fifty million dollars a year to devote to the public debt. The proposition I had the honor to submit contemplates the removal of this debt. At the end of ten or twenty years we begin to have \$50,000,000 a year which we can devote to the extinction of the public debt. If we have not the money at the time the credit of the country will be such that we can borrow on better terms than to-day. I am free, from my examination of the bill, to say that I condemn the entire policy of the bill as it came from the Committee of Ways and Means. As it comes from the Senate we can pay in twenty years. As it comes from the Committee of Ways and Means we cannot.

[Here the hammer fell.]

Mr. SCHENCK. I wish to make an inquiry of the Chair. Here is an amendment, and two

speeches have been made in its favor and none against it. The last speech was not on the amendment at all, but was an attack on the bill.

Mr. GARFIELD. I will withdraw the amendment if my colleague will renew it.

Mr. SCHENCK. I will yield to the gentleman from Massachusetts, my colleague on the committee.

Mr. HOOPER, of Massachusetts. I renew the amendment. Mr. Chairman, I wish to draw the attention of the House to the law as it stands. In the act of March 3, 1863, it is provided, after having provided for an additional issue of United States notes which would make the amount \$400,000,000, that for any of the said notes provided for in that bill or any other United States notes returned to the Treasury and canceled or destroyed there may be issued equal amounts of United States notes such as are authorized by this act. That law has never been repealed. It authorizes the reissue of any United States notes which have been canceled or destroyed, and at that time the amount was limited to \$400,000,000. The act of June, 1864, provided that the total amount of United States notes issued or to be issued should never exceed \$400,000,000, "and such additional sum, not exceeding \$50,000,000, as may be temporarily required for the redemption of temporary loans." The temporary loan having all been redeemed the power to issue that \$50,000,000 has ceased. Therefore the amount of United States Treasury notes authorized to be issued is limited to \$400,000,000, and any that may be redeemed or canceled may be reissued under the act I first referred to, the act of March 3, 1863.

Mr. ALLISON. I understand my friend from Massachusetts to say that the temporary loan has been redeemed, and this \$50,000,000 cannot be reissued. If he will look at the language he will see that it is not for the redemption of the temporary loan, but for the redemption of temporary loans. We may issue them, therefore, for a temporary loan. That has never been repealed.

Mr. HOOPER, of Massachusetts. The law of March, 1866, authorized the issue of certificates.

Mr. ALLISON. The law says temporary loans should be redeemed by issuing United States notes.

Mr. HOOPER, of Massachusetts. There has never been any act authorizing their cancellation but the one referred to. The act of April 12, 1866, merely limits the amount of contraction. This is the proviso in that act:

"Provided, That of United States notes not more than \$10,000,000 may be retired and canceled within six months from the passage of this act, and thereafter not more than \$4,000,000 in any one month: And provided further, That the act to which this is an amendment shall continue in full force in all its provisions, except as modified by this act."

But there is no law that prevents the reissue of these notes which may have been so retired, not exceeding so much per annum. There is no law authorizing the redemption and cancellation of any United States notes. There is only a law limiting the amount that may be retired and canceled, and the authority under the original act that authorized the issue could reissue them again when the needs of the Government require it.

Mr. GARFIELD. Do I understand the gentleman to say that the Secretary of the Treasury might now go and on issue notes to the amount of all that have been hitherto retired, canceled, or burned during the last several years.

Mr. HOOPER, of Massachusetts. I think so.

Mr. GARFIELD. Then what is the meaning of the law authorizing him to retire and cancel notes now outstanding, or the law that authorizes him to destroy them?

Mr. HOOPER, of Massachusetts. The law limits him so that he shall not retire beyond a certain amount.

Mr. GARFIELD. If there were no other

words, is not that a very clear implication that he may retire and cancel just that number. But right above these words, in the body of the section, it is declared that the proceeds of all he shall sell shall be retired.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I did not propose to take part in this discussion, and would not had it not been for some observations that fell from my colleague, [Mr. BOUTWELL,] to which I wish to draw his attention and the attention of the House. He is usually so correct and just in his views that his remarks deserve careful attention. He objects to this whole bill. Why? Because, he says, under it we never shall be able to pay any part of our debt for forty years. He starts off with saying that nobody expects the bonds of 1881 to be funded under this bill.

Mr. BOUTWELL. I said the terms of the bill covered the entire interest-bearing indebtedness of the United States, but that nobody could expect that the 1881 ten-forty bonds would be exchanged for such bonds as are here proposed.

Mr. BUTLER, of Massachusetts. I have not mistaken my colleague's meaning. He says nobody expects the 1881 bonds or the ten-forty bonds will be exchanged under this bill. I agree to that. I do not think they will at present, if ever. The gentleman then further says we shall have all our indebtedness so locked up by this bill that we cannot pay it. But there are \$283,000,000 of ten-forties coming due in less than ten years, which will be quite as much as we can pay by that time. Then there are \$204,000,000 of five per cent. bonds which become due, and then there are the six per cent. bonds, which are due in 1881. All these together make enough for the next twenty years.

Mr. BOUTWELL. I agree to that; but if the gentleman will hear me, that is the force of necessity imposed upon us by the circumstances, not due to the policy of the bill, and we are accustomed to provide in such bills as this for a practical solution of difficulties.

Mr. BUTLER, of Massachusetts. There is no difficulty at all. There are certain moneys due from us as fast as we can pay them. They will not come under this bill. There are certain other debts which we want to fund by this bill. There is one third or one fourth of our debt that will not come under this bill until we get ready to pay it. Then under the second section we provide for a sinking fund.

Mr. ALLISON. Do we pay these bonds in gold?

Mr. BUTLER, of Massachusetts. Certainly; because the ten-forties and the 1881's are payable in gold; therefore they will be paid in gold. We have got enough to do with our gold for the next twenty years. Do not let anybody trouble himself about that matter. We have enough to do with all the gold we have got, or shall get; and then we have got all our currency to take care of besides. I want to get that funded if I can; and in order to do so I am willing to put it into bonds bearing three and sixty-five hundredths interest. My friend is afraid we shall not be able to get the money away from this investment to move the crops at the West. This is only three and sixty-five hundredths per cent. interest. Does he not know that now all banks take money on call at four per cent?

Mr. BOUTWELL. They can use it by taking it on call, but the Government cannot go into that sort of business.

Mr. BUTLER, of Massachusetts. I beg the gentleman's pardon. The Government is not going into any such business at all. The Government has for many years been a borrower. There will be an exact business ratio established in this matter as there is in all others, so that there will always be a permanent amount thus deposited for the use of the Government. This is no new thing. Gentlemen think it is to be so. Why, there has been a like practice in Belgium, where they have the steadiest money

market in the world and have had for a long series of years. The Government has a regular system of deposits like this upon bonds. Bank deposits do not run up to an immense amount one day and down the next, but have a steady average. When a man has currency that he does not want, he may, under the provisions of this bill, put it into the fund; when he wants currency and has these bonds, he goes and gives up the bonds and gets currency.

[Here the hammer fell.]

Mr. HOOPER, of Massachusetts. I withdraw the amendment to the amendment.

Mr. BINGHAM. I renew the proposition of the gentleman. It strikes me, Mr. Chairman, if there is any advantage to be gained by this proposed legislation, it must be derived from the sections preceding the one now under consideration. The purpose entertained by the friends of this bill, as I understand it, is contained in the sections which precede this one. The great financial want of the country is to have settled now, once for all, so that the world will understand it, the purpose of the American people to pay its indebtedness according to the spirit as well as the letter of their subsisting contracts. The first section of this bill provides for funding the outstanding debt of this country upon terms therein named; that is, the principal and the interest at the rate of three and sixty-five hundredths per cent. to be payable in coin and to be exempt from all taxation, Federal, State, and municipal. I do not pretend to say that if this bill were to pass in the form in which it now stands, the debt of the nation would be very rapidly funded. But I do say that a great object would be attained, namely, an act of solemn legislation proclaiming to the world the purpose of the American people to keep their integrity inviolate, to put it beyond the reach of question or challenge hereafter. We would go to the country upon it, and if the action of Congress should be sustained by the people at the polls in the coming election, as I believe it would, the credit of the country would be established beyond the power of designing men to shake or impair it.

As for the suggestion which has been made here, that you could not redeem this debt until the expiration of forty years, what is that to the American people compared to the great good to be attained, the establishment of their good faith before the nations of the earth? Before the end of forty years the increase of the population of this country, the great increase of the national wealth from the increased productive power and development of our national resources, would be such, if the integrity of the nation is maintained, if the pledged faith of the nation is preserved, that the \$2,000,000,000 of the national debt contemplated to be funded by this bill would be as nothing to the people, who long before that period will number sixty millions.

One other remark. The extension of this credit for forty years, with a reduction of two and one third per cent. semi-annually in the interest upon the whole debt, would enable us to save, in the time named, an amount equal to the entire principal of the debt.

Now, as to the section under consideration, I desire to say that it does not stand with the general purpose and policy of the bill. That section proposes the funding of the non-interest-bearing debt, thereby converting it into an interest-bearing debt. I am opposed to that, and trust that the section will be rejected. There is no occasion for it; there is no occasion for new legislation to provide for the redemption of our outstanding legal-tender notes, nor for withdrawing them at present from circulation. I ventured to say on this floor in 1862, when the legal-tender bill was pending, and no man challenged the statement, it was assented to by every member present, that the legal effect of the legal-tender act was that the Government of the United States should ultimately redeem every dollar of the legal-tender notes in coin; that it was the obligation of the sovereignty, unless it was otherwise nominated in the bond, that when the

Government issued its legal-tender notes, promising the payment of a specific sum in dollars, nothing else appearing in the obligation or the statute, it implied that when the Government had the means to resume specie payment it would redeem its legal-tender notes to the uttermost farthing in coin. That is the law to-day; it needs no further legislation to impose this obligation upon the Government. No further legislation can add to the obligation of the United States so to redeem its promise to pay in dollars every legal-tender note. I have never heard from any quarter of this country, either in the platform of any party or in the speech of any partisan, any intimation that the Government of the United States, under existing law, is not under obligation, whenever its means will enable it so to do, to redeem its outstanding legal-tender notes in coin. That being so, there is no necessity for further legislation to assure the world of our purpose to fulfill our obligation in that respect.

[Here the hammer fell.]

Mr. LOGAN. Mr. Chairman, I differ with the gentleman from Ohio in reference to the effect of this section of the bill. I believe there is a portion of our debt which by law is not payable otherwise than in lawful money of the United States, whether that be at the time of payment gold or silver or greenbacks. That I understood to be the language of the statute under which the debt was created. That being the case, I deem it essentially necessary that a provision of this kind should be inserted in this bill. The question is not whether our credit is bad or good; but if the money of the United States known as legal tender is lawful money of the United States, it is nothing but proper and just that this money should be, according to the provisions of this section, convertible into bonds, and these bonds convertible again into money. Such a provision will not have a tendency to depreciate our credit or to affect the value of the lawful money of the United States; it will have the diametrically opposite effect. It will tend to advance the value of our lawful money. When a man understands that his bonds are convertible into money, or his money into bonds at the Treasury of the Government, to the extent of \$100,000,000, as provided in this section, the effect will be to depreciate the price of gold and to advance the value of our legal-tender currency.

Now, sir, I have many times on this floor heard it maintained (and I have sometimes felt chagrined by such remarks) that those persons who entertained the views which I now express are nothing more than repudiators of the public debt. Sir, I am tired of hearing this kind of talk. A proposition of this kind contains none of the elements of repudiation. The effect of such a law would not be detrimental either to the bondholder or to the people of the country. But it is said our credit should be maintained. Certainly it should. I am in favor of maintaining the credit of the United States. I am in favor of maintaining it, as the gentleman from Ohio says, by letting the world know that we are honest, and not only that we are honest but that we are determined to pay our whole indebtedness in good faith though it takes the utmost farthing. The question is as to the means by which we are to do this. In my view the best policy is the reduction of the interest upon our now outstanding debt. In order to accomplish this we must, as I have already remarked, appreciate our currency; we must adopt some measure under which gold will not be kept up constantly at 140, while our greenbacks continue depreciated as they are at the present time. I believe that the effect of this section would be to enhance the value of our currency and to depreciate gold.

I am aware, sir, that much interest is felt in regard to another part of this bill; and while up I may as well say a word or two on that point. I refer to the provision that all contracts made after the passage of this bill for the payment of obligations in gold may be enforced by the courts. That provision has been stricken

out by the Committee of Ways and Means. Why? Its effect would be to give to the moneyed man the power of saying to the man indebted to him, "I will change the debt, but you shall pay me gold." It would compel the poor men of this country to act as pioneers in the resumption of specie payments. I am opposed to any proposition of that kind. I am in favor of reducing, if possible, the interest on our bonds. I am in favor of a system which would go even further than this bill proposes. I would go beyond the amount of \$300,000,000, and would authorize to the extent of \$450,000,000 this exchange of bonds into greenbacks and greenbacks into bonds.

[Here the hammer fell.]

Mr. BINGHAM, by unanimous consent, withdrew his amendment.

Mr. SCHENCK. I renew it. I move to strike out \$400,000,000 and insert \$356,000,000, very little less than the present outstanding United States notes, upon the assumption that there is no authority for issuing \$400,000,000. I do not, by moving the amendment, concede any such thing. I deny the proposition. And, sir, I will not talk about other sections of this bill, or what other nations have done, but about this particular section now before us. Mr. Chairman, what is the history of this issue of United States notes? We find by the act of March 3, 1863, it was provided—

"There may be issued on the credit of the United States the sum of \$50,000,000 of United States notes, including the amount of such notes heretofore authorized by the joint resolution approved January 17, 1863, in such form as he may deem expedient, not bearing interest, payable to bearer, and of such denominations, not less than one dollar, as he may prescribe, which notes so issued shall be lawful money and a legal tender in payment of all debts, public and private, within the United States, except for duties on imports and interest on the public debt; and any of the said notes when returned to the Treasury may be reissued from time to time as the exigencies of the public service may require. And in lieu of any of said notes, or any other United States notes returned to the Treasury and canceled or destroyed, there may be issued equal amounts of United States notes such as are authorized by this act."

By the act of June 30, 1864, there was an increase authorized with this restriction, that the total amount of United States notes issued, or to be issued, shall never exceed \$400,000,000, and such additional sum not exceeding \$50,000,000 as may be temporarily required for the redemption of temporary loans. So far as that is concerned the question arises whether temporary loans meant temporary loans in the future, or the temporary loan authorized by that act. If it means that temporary loan, then it has done its office; but I make no question about that \$50,000,000. What does my colleague say as to the authority to issue \$400,000,000? That it is inferred, that it is established by fair implication when the Secretary of the Treasury was prohibited from reducing at the rate of more than \$10,000,000 the first six months after April, 1866, or more than \$4,000,000 in any one month thereafter, and when the provision was made that on the sale of securities the money should only be used for retiring notes, they never could be reissued. I deny any such implication. I deny any such conclusion from the fair construction of the law. I deny the Committee on Finance in the Senate, the Committee of Ways and Means in the House, and all others have been so long mistaken about the authority to issue \$400,000,000 which led to this provision in the Senate bill and its retention here.

What is the law? We are told that the Secretary of the Treasury cannot go up to \$400,000,000, but he can go down, with the provision he shall never contract except at such a rate. The gentleman admits it is only by implication. He assumes there is no such provision in the law which will allow the Secretary of the Treasury to go up to \$400,000,000, and he rules this inference because it is provided the Secretary of the Treasury shall not go downward except at a certain rate, although he may go down to \$1,000,000, yet he could never go up to \$400,000,000. But we are not left to inference, for it is provided in the act to

which I have first referred for \$150,000,000 what these rates shall be and for what they shall be receivable:

"And any of the said notes, when returned to the Treasury, may be reissued from time to time as the exigencies of the public service may require. And in lieu of any of said notes, or any other United States notes, returned to the Treasury, or canceled or destroyed, there may be issued equal amounts of United States notes, such as are authorized by this act."

[Here the hammer fell.]

Mr. HOOPER, of Massachusetts, rose—
Mr. SCHENCK. The gentleman will oppose my amendment, as I have made a very bad one.

Mr. HOOPER, of Massachusetts. I rise merely to call the attention of the House to the \$50,000,000 additional issue authorized by the act of June 30, 1864, which is in these words:

"That the Secretary of the Treasury may authorize the receipt, as a temporary loan of United States notes or the notes of national banking associations, on deposit for not less than thirty days, in sums not less than fifty dollars, by any Assistant Treasurer of the United States," "who shall issue certificates of deposit in such form as the Secretary of the Treasury shall prescribe, bearing interest not exceeding six per cent."

It then goes on to provide that for the payment of such deposit of United States notes not exceeding \$50,000,000, including the amount already applied for any such payment, the United States notes held in reserve shall be used only when wanted, in his judgment, for the payment of said deposit on demand. I think my friend from Iowa does not claim that this provision is applicable to the \$50,000,000 of certificates authorized to be issued three years afterward for the redemption of the compound-interest notes.

Mr. WELKER. Will the gentleman allow me to ask a question? He concludes that the law authorized the issue of \$400,000,000 of greenbacks, as I understand.

Mr. HOOPER, of Massachusetts. Yes, sir.

Mr. WELKER. I see by the provisions of this section that it authorizes the decrease of the greenback circulation \$100,000,000 and the substitution of interest-bearing notes in place of them, and also authorized an increase of greenbacks and a decrease of the bonded debt to the same amount.

[Here the hammer fell.]

Mr. GARFIELD. I desire to say in answer to what my colleague has said that if the law is as he alleges, it presents this peculiar, and, as it seems to me, absurd result: that the Secretary of the Treasury is authorized by law to retire, cancel, and destroy from forty to one hundred million dollars of United States notes, and the next week or the next day may print and issue just the same amount again, and all this by authority of law. If anybody can see any reason in such a law he is more astute than I am. I know there is a provision of the law that he may destroy mutilated notes and issue new ones.

Mr. SCHENCK. I would ask whether something must not be left to the discretion and sense of decent propriety of the Secretary of the Treasury?

Mr. BROOMALL. Not much; as little as possible.

Mr. SCHENCK. But in this particular matter the law of 1863 provided that in lieu of said notes or any other United States notes returned to the Treasury and canceled or destroyed, there might be issued equal amounts, without any of the restrictions the gentleman speaks of. It is only left to his good sense not to take them one day and put them out again the next.

Mr. GARFIELD. That is the best reason for my position. That law appears to me to refer to the notes that had theretofore been destroyed. Under that law the Secretary was authorized to reissue notes to the amount that had been authorized by law, but which by another law had been canceled and destroyed. But it seems to me it would be a very violent construction of the law to hold that the law of 1863 had a prospective application and applies for all time to come to all notes that may be

authorized by any law to be redeemed and destroyed. Now, all I have to say in conclusion, is that if my colleague's construction is correct, it proves to me the absolute necessity of amending this section so as to prevent an increase of the present volume of the currency. Rather than authorize an increase I would lose the section altogether.

[Here the hammer fell.]

The question being put on the amendment of Mr. BROOMALL, there were—ayes 35, noes 60; no quorum voting.

Mr. BROOMALL. I do not insist upon tellers.

So the amendment was disagreed to.

Mr. GARFIELD. I move to amend by adding to the section the following, which I hope will be adopted:

Provided further, That nothing in this act shall be so construed as to authorize an increase of United States notes above the amount now outstanding.

The question being put on the amendment, there were—ayes 51, noes 57.

Mr. GARFIELD. I demand tellers.

Tellers were ordered; and the Chair appointed Messrs. GARFIELD and BUTLER of Massachusetts.

The committee divided; and the tellers reported—ayes 41, noes 62.

So the amendment was rejected.

Mr. LYNCH. I offer the amendment which I send to the Clerk's desk as a substitute for the section.

The Clerk read as follows:

Be it further enacted, That the Secretary of the Treasury be, and is hereby, authorized and directed to issue United States coupon bonds to an amount not exceeding \$300,000,000, of such denominations, not less than \$100, or the multiple of \$100, as the Secretary shall prescribe, payable in lawful money, on demand, bearing interest at the rate of three per cent. per annum, payable quarterly yearly in lawful money, and subject to State, municipal, and local taxation; said bonds to be issued to any person paying therefor the par value thereof in lawful money at the Treasury of the United States, and shall be redeemed by the United States at any time twenty years after their first issue and not earlier, except at the option of the holder, as hereinafter provided, and at the expiration of said twenty years shall be paid in coin.

SEC. 3. And be it further enacted, That the Secretary of the Treasury shall take up said bonds whenever presented for that purpose at the Treasury of the United States, paying therefor, in lawful money, the par value thereof and the accrued interest thereon, to the amount of any matured and unpaid coupon thereto attached; and the bonds so taken up may be reissued in manner provided for their first issue, the interest which may have accrued on any coupon thereto attached, at the time of said reissue, being paid by the purchaser in addition to the par value of the bonds; and said bonds may continue to be reissued as before at any time or times during the period of ten years, after which they shall not be again reissued.

Mr. LYNCH. The first section of this bill provides for funding the entire debt of the United States in bonds running for forty years, to be coupon or registered bonds, bearing the rate of interest of three and sixty-five hundredths per cent., payable in coin, to be exempt from all taxation; and this third section provides that United States notes, circulating notes may be changed into these bonds at par and reexchanged for notes at the option of the holder. The effect of this is that the United States would pay for money on call five and eleven hundredths per cent. on currency, while the banks of the country pay nothing whatever. With \$200,000,000 on deposit in the banks of New York to-day, I ask gentlemen if they suppose that under this provision \$100,000,000 of that money would not immediately go into the United States Treasury, where their money would be kept for them and they would be paid five and eleven hundredths per cent. and it would be exempt from taxation? I want to call the attention of the committee to the effect of the exemption from taxation under this section. Whenever the time for the assessment of local taxation came round, every man would put his money into these United States bonds for a week and draw the interest on it and be released from all taxation, getting it back again as soon as he required it.

Mr. BUTLER, of Massachusetts. How can you tax greenbacks in a man's pocket now?

Mr. LYNCH. By the law which was passed

to tax them in the last Congress. They were exempt from taxation under the first law as all other United States notes and bonds were exempt, but in the last Congress or in the present Congress, we have passed a law subjecting them to taxation.

Mr. ELDRIDGE. What law is that?

Mr. LYNCH. The bill passed through this House. Whether it has become a law or not I do not know.

Mr. LOGAN. There is no such law as that.

Mr. ELDRIDGE. Will the gentlemen refer to the act?

Mr. LYNCH. I cannot refer to it. But such a bill was reported and passed the House. I do not know whether it became a law or not.

Mr. PIKE. It ought to have.

Mr. LOGAN. There is no such law in existence.

Mr. LYNCH. There are not more than two States, one of which is Ohio, where money is not taxed and where the tax is not collected. I understand that the bill to which I refer has not passed. It ought to have passed, if it has not.

Mr. HOOPER, of Massachusetts. It is on our Calendar now.

Mr. LYNCH. I supposed it had passed. I supposed the House had sense enough to pass such a bill.

[Here the hammer fell.]

Mr. SCHENCK. The gentleman from Maine has repeated the argument against the section reported by the Committee of Ways and Means, but has told us nothing about the features of his own substitute. I rise for the purpose of putting my opposition to his amendment into practical shape. I propose that by unanimous consent all debate on this section be now closed.

Mr. PIKE. I hope that will be done. Debate is very damaging to the section. [Laughter.]

Mr. COBURN. I object.

Mr. SCHENCK. Then I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and Mr. BOWWELL having taken the Chair as Speaker *pro tempore*, Mr. POMEROY reported that the Committee of the Whole on the State of the Union had had under consideration the state of the Union generally, and particularly the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States, and had come to no resolution thereon.

Mr. SCHENCK. I move that all debate in Committee of the Whole on the State of the Union on the pending section of the funding bill be closed in half a minute after the Committee of the Whole shall resume the consideration of the bill.

Mr. ELDRIDGE. If the gentleman will give half a minute longer I will not object.

The question was put; and there were—ayes 77, noes 28.

So the motion was agreed to.

Mr. SCHENCK. I move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the bill (S. No. 207) for funding the national debt, and for the conversion of the notes of the United States, the pending question being on the substitute offered by Mr. LYNCH for the amendment as an additional section reported by the Committee of Ways and Means.

Mr. BUTLER, of Massachusetts. Before that question is put, I move to amend the section by inserting after the word "Treasurer," in line eleven, the words "or any Assistant Treasurer;" and by striking out in line thirteen the words "the Treasurer" and inserting "such officer;" so that it will read:

And any holder of any of the bonds provided for in the first section of this act may present the same

to the Treasurer of the United States or any Assistant Treasurer and demand lawful money of the United States for the principal and accrued interest thereon, and such officer shall redeem the same in lawful money of the United States, &c.

The question was put; and the amendment was disagreed to—ayes twenty-nine, noes not counted.

Mr. INGERSOLL. I move to strike out the proviso as follows:

Provided, That such conversion shall not be allowed at any time when the amount of United States notes outstanding is reduced to \$300,000,000.

And also the following words:

Unless the United States notes then outstanding shall amount to \$400,000,000; and such bond shall not be so redeemable after the United States have resumed the payment of coin for their notes.

The section will then read:

SEC. —. *And be it further enacted*, That the holder of any lawful money of the United States to the amount of fifty dollars, or any multiple of fifty dollars, may convert the same into bonds for an equal amount, authorized by the first section of this act, under such rules and regulations as the Secretary of the Treasury may prescribe. And any holder of any of the bonds provided for in the first section of this act may present the same to the Treasurer of the United States and demand lawful money of the United States for the principal and accrued interest thereon, and the Treasurer shall redeem the same in lawful money of the United States.

The question was put; and the amendment was disagreed to.

The question recurred on Mr. LYNCH's substitute.

Mr. LYNCH. I withdraw the substitute. It has not been printed, and is evidently not understood.

Mr. COBURN. I move to strike out the following:

The holder of any lawful money of the United States to the amount of fifty dollars, or any multiple of fifty dollars, may convert the same into bonds for an equal amount, authorized by the first section of this act, under such rules and regulations as the Secretary of the Treasury may prescribe: *Provided*, That such conversion shall not be allowed at any time when the amount of United States notes outstanding is reduced to \$300,000,000. And.

So that the section will read:

SEC. —. *And be it further enacted*, That any holder of any of the bonds provided for in the first section of this act may present the same to the Treasurer of the United States and demand lawful money of the United States for the principal and accrued interest thereon, and the Treasurer shall redeem the same in lawful money of the United States, unless the United States notes then outstanding shall amount to \$400,000,000; and such bond shall not be so redeemable after the United States have resumed the payment of coin for their notes.

The amendment was disagreed to.

Mr. INGERSOLL. I move to insert after the words "three hundred" the words "and fifty-five;" so that the proviso will read:

Provided, That such conversion shall not be allowed at any time when the amount of United States notes outstanding is reduced to \$355,000,000.

The amendment was disagreed to.

Mr. LYNCH. I move to insert after the word "into" the words "any coupon;" so that it will read:

That the holder of any lawful money of the United States to the amount of fifty dollars, or any multiple of fifty dollars, may convert the same into any coupon bonds for an equal amount, &c.

The amendment was disagreed to.

Mr. INGERSOLL. I move to strike out "four," in line fifteen, and insert "five;" so that it will read:

Unless the United States notes then outstanding shall amount to \$500,000,000.

The amendment was disagreed to.

Mr. ROSS. I move to strike out "four" and insert "eight."

The amendment was disagreed to—ayes nineteen, noes not counted.

Mr. ELDRIDGE. I move to strike out the word "not" before "shall," on the sixteenth line; so that it will read: "and such bond shall be so redeemable after the United States have resumed the payment of coin for their notes."

The question was put; and the amendment was disagreed to.

The question recurred on the amendment reported by the Committee of Ways and Means as an additional section; and being put there were—ayes 35, noes 61.

Mr. SCHENCK demanded tellers.

Tellers were ordered; and Mr. SCHENCK and Mr. RANDALL were appointed.

The committee divided; and the tellers reported—ayes 40, noes 62.

So the amendment was rejected.

The next section was read, as follows:

SEC. 3. *And be it further enacted*, That any contract hereafter made specifically payable in coin shall be legal and valid, and may be enforced according to its terms, anything in the several acts relating to United States notes to the contrary notwithstanding: *Provided*, That this section shall not apply to contracts for the borrowing of currency or the removal or extension of an indebtedness under a contract already entered into, unless such contract originally required payment in coin.

The CHAIRMAN. The Committee of Ways and Means report in favor of striking out this section.

Mr. AXTELL. I hope the section will not be stricken out. The lawyers in the House, of course, understand that these contracts for gold payments are legal contracts; the difficulty is in enforcing them. In California we have empowered the common-law courts to enforce these contracts, when made in writing, the same that courts of equity enforce specific contracts. If a man agrees to deliver so much gold, he is to be held bound to deliver it. If a man agrees to pay for a certain article in gold, thereby avoiding the fluctuations of Government paper, the courts of California are authorized to enforce that contract.

Mr. ELDRIDGE. Will my friend permit me to ask him a question?

Mr. AXTELL. Certainly.

Mr. ELDRIDGE. I desire to inquire of my friend, the gentleman from California, [Mr. AXTELL,] if I promise to pay him any given sum in money, is not that, in his judgment, a constitutional and legal obligation on my part to pay him in gold or silver coin if he demands it? I understand that to have been the doctrine of this Government ever since its organization, that when I agree to pay a dollar I agree to pay that dollar in the gold or silver coin of the country, and that all this humbug talk of the right to pay in horses, sheep, or cattle, or in rags, in the absence of any agreement or understanding at the time the contract is made, is foreign to the Constitution and laws of the country. The only right which we have to pay the five-twenties in greenbacks is because those bonds were issued with that understanding and agreement; that is a part of the contract under which the bonds were created.

Mr. INGERSOLL. I would like to know what the gentleman refers to when he talks about paying in rags. Does he call greenbacks rags? That is not the doctrine of the New York platform.

Mr. AXTELL. The question of the gentleman from Wisconsin [Mr. ELDRIDGE] is somewhat too long for me to answer at this time. I do not suppose this Congress could empower the State courts in any way to enforce contracts specifically; but it could empower the United States courts to do so. By that means we would come back to the proper standard of money, to wit: gold. The expression "gold is rising" or "gold is falling" is incorrect, and misleads the public mind. Gold is the unit of the proper monetary standard, and it is the securities of the Government that rise and fall in the market, and not gold.

Allowing contracts for payment in gold to be made and enforced, we will be taking one step toward specie payment. We do not by this means avoid the legal-tender act, which I would not do, for I believe it was a matter of great necessity to the country at the time it was made. But we have now certainly reached a time when we can assert in this act that gold and silver is money, and that alone is money. The power of the Government enables men to pay debts in a particular kind of paper; not in "rags," but in legal-tender notes. It was necessary, in the exigencies of the country, that they should be allowed to do so. By now retaining this section and saying that when a man makes a contract to pay in gold the

courts shall be authorized to enforce that contract, we will be taking one step in the right direction toward the resumption of specie payment. The contract should be made in writing. I cannot say, after a number of years' experience in the courts, and in the mining countries, that it falls more upon the poor debtor than upon any other debtor. This section does not apply to past contracts, but it relates to contracts to be made from this time forward, and will help the poor man. The poor man will contract to pay so much money for what he buys, and to receive so much money for his labor, to pay and receive it in gold, without being subject to the fluctuations of the greenback market. Gold does not fall; it remains the same all the time like the mountains from which it is obtained. It is the paper money of the country that rises and falls, that ebbs and flows like the tide, though not with the same regularity.

I hope this section will be retained in the bill. I assure the gentleman from Illinois [Mr. LOGAN] that the practical working of it will not be to injure the poor debtor, but it will prove a benefit to him.

[Here the hammer fell.]

Mr. LOGAN. Mr. Chairman, I have several objections to this proposition of the Senate, proposing to legalize contracts which may hereafter be made for the payment of obligations in gold. We have now on our statute-book a law which makes United States notes, as they are termed, a legal tender; and the effect of the proposition now before us would be to authorize by law two kinds of circulation in this country, to legalize two kinds of money for the people. I am opposed to any such policy.

Again, sir, this proposition would put the poor man in the power of the money lender. It would give to the man to whom money is owing, or the man holding a mortgage upon a house or a farm, the right to say when the debt or mortgage became due, "I must have my money, or, if you cannot pay it, I will extend the time provided you make a new contract and pay me in gold." It would thus place the poor man in the power of the man of means, allowing the former to be coerced into the payment of gold when the gold might not be in the country. It would compel such men to become the gold purchasers in this country, instead of the money lenders transacting that business. Again, sir, by the adoption of this section legalizing contracts for payment in gold and subjecting the poor man to the mercy of the money lender, we should increase the price of gold.

Mr. BUTLER, of Massachusetts. The gentleman from Illinois will allow me to remind him that gold has gone up two and a half per cent. since the Senate adopted this provision.

Mr. LOGAN. Yes; and it would go up ten per cent. if the House should adopt it and the President sign the bill. Now, sir, the gentleman from California [Mr. AXTELL] is a lawyer, and I would like to put to him or any other lawyer a question. We have now upon our statute-book a law called the legal-tender act. Suppose that under the provision now proposed, a man should make a gold contract upon which suit should be brought. The judgment, I suppose, would be payable in gold. Now, I would like to know in what currency the officer who executed the judgment would get his pay, whether in gold or in legal-tender currency?

Mr. AXTELL. He would be empowered by this act to enforce the payment of the judgment in gold.

Mr. LOGAN. The law makes United States currency a legal tender, and the officer would have no contract for the payment of his fees and costs in gold. Hence the judgment would be collected in gold, and the costs in greenbacks. You might as well pass a law providing that if a man should make a contract for fifty cords of wood the judgment should be for fifty cords of wood, but that the costs should be paid in greenbacks. That is the principle precisely. I suppose the gentleman

from California would go upon the principle adopted by an old justice of the peace in my county in old times when we had a sort of law called "chimney-corner law." A man had given his note for a cow and a calf worth ten dollars. An action was brought on the note when it became due, and it was proved that there were two calves at that time. So the justice of the peace gave judgment in favor of the plaintiff for the cow and one calf, and then gave judgment in favor of the constable for the other calf, saying he should take that for his costs. [Laughter.]

Now, sir, while we have a legal-tender act on our statute-book, I am in favor of maintaining that law. If we desire to legalize gold contracts, let us repeal our legal tender act. This section is only an indirect way of repealing what, if repealed at all, should be repealed directly. Hence I am opposed to the provision. [Here the hammer fell.]

Mr. ELDRIDGE. I move to strike out the word "specifically" in the second line. Now, Mr. Chairman, I insist, according to the Constitution and laws of this country, when a man agrees to pay a debt, or any sum of money, he agrees to pay it in money, and the only money known to the law of this country, until Congress attempted to make "greenbacks" money, was the gold and silver coin of the country.

A MEMBER. Why, then, do you insist the debt of this country shall be paid in "greenbacks"?

Mr. ELDRIDGE. The reason why we insist the debt of this country should be paid in "greenbacks," is because it was contracted with the understanding, with the knowledge of the creditors of the Government, that the Government had made "greenbacks" a legal tender for such debts as we propose so to pay. The debt was contracted; the bonds issued to be paid, expressly to be paid, in greenbacks, and this is specified on the back of the greenbacks themselves. I ask the Clerk to read the condition upon which the "greenbacks" were issued. I happen yet to have a ten dollar greenback in my possession, and I ask the Clerk to read what is upon the back of it.

The Clerk read as follows:

"This note is a legal tender for all debts, public and private, except duties on imports and interest on the public debt, and is receivable in payment of all loans made to the United States."

Mr. CAVANAUGH. I object to that bill being returned to the gentleman from Wisconsin. [Laughter.]

Several MEMBERS. Let it go upon the record.

Mr. MULLINS. I make the point of order that as the bill has been offered it must go upon the Journal. [Laughter.]

Mr. ELDRIDGE. I hope not, as it would then be a constant temptation to these gentlemen to mutilate the Journal. [Renewed laughter.]

Mr. MULLINS. Not in the way he has attempted to do it.

Mr. ELDRIDGE. I say to the House, in the absence of any express provision, a contract to pay money is a contract to pay in gold and silver coin; and the reason why our debt is payable in greenbacks is that it was taken with a knowledge of the law (which was the contract) upon the statute-book making the description of notes, from which the Clerk has read, a legal tender for all debts, public and private, except as therein stated. It is not only according to the spirit, but according to the letter of the law; and if gentlemen on the other side intend to carry out their Chicago platform, it will be according to the spirit and letter of that platform as well as according to the letter and spirit of the law to pay in greenbacks. I insist, sir, there is no necessity to pass a law that when I agree to pay money I must make the agreement specific to pay in gold and silver coin in order to oblige me to do it. In the absence of any law or agreement there is no doubt it is to be paid in gold and silver. Can there be any doubt that without this law an agreement to pay in gold a specified number of dollars would be a legal and valid agreement?

Gold coin is certainly either money or merchandise. If coin, as I have contended, then there can be no question that gold or silver could be required, whether specified or not. If gold is only merchandise, then it must, like other merchandise, be the subject of sale and purchase, and any contract for the sale or purchase must be valid whether we adopt this section or not. It will be seen, therefore, that in any view this section is useless.

Mr. AXTELL. I will ask the gentleman a question which is a question. Is a tax a debt?

Mr. ELDRIDGE. I suppose a tax is a debt after it has been levied and the party upon whom it is levied has become liable to pay it. But what does the gentleman infer from that?

Mr. AXTELL. We pay our taxes in coin and insist it is a debt.

Mr. ELDRIDGE. Why pay in coin when a "greenback" is made a legal tender? The Government may, I suppose, take what it pleases in payment of itself. It may certainly take its own promise to pay in payment of a debt due it. But I insist, in the absence of any contract, I insist the law of this country is that you are to pay in gold and silver coin. The gentleman refers, I suppose, to the practice in his own State.

[Here the hammer fell.]

Mr. HIGBY. I rise to oppose the amendment of the gentleman from Wisconsin. Mr. Chairman, it was remarked a few moments ago that gold had risen two per cent.

A MEMBER. A half per cent.

Mr. HIGBY. I think he said two per cent. I am of the opinion if we continue this debate it will rise twenty per cent. The disposition in this House seems to be to drive gold and silver coin out of our midst and substitute "greenbacks" in its stead. That seems to be the great struggle. Instead of allowing the Government to return to its original and normal condition of having gold and silver as the basis of currency the disposition seems to be to bury them so it will be difficult ever to find them again. I will say to the House that if this line of argument is to be pursued here we may give up all hopes of sustaining the credit and good faith of this Government before the world. We have got to go upon a credit system. We are a debtor as a nation to the amount of over three thousand million dollars and we have not \$200,000,000 of coin in the Treasury. We are not gathering over that amount yearly, and while we are attempting to borrow gold and silver we propose to pass a law that shall lessen the rate of interest and expect bonds to be taken. God forgive us for our folly if we expect to accomplish any such purpose as that. Pass a law to-day that the Secretary of the Treasury when he has over a certain amount of gold and silver in the Treasury shall begin to redeem these Treasury notes—not authorize him but direct him to do it—then you will get back toward specie payment and you will find the greenbacks rising nearer to par in gold. That is the course we should pursue. Then we shall begin to see gold instead of burying it out of sight. Then we shall begin to establish the credit of our nation instead of destroying it, as we are doing by the arguments that are made here to day.

I hope that this section will be retained. The gentleman from Illinois [Mr. LOGAN] tells us we are going to have two kinds of currency. Well, in God's name if we cannot have but one let us have gold. Let that come to the surface as fast as it can. If two men want to stipulate that they will receive or pay gold, let their contract be executed. I apprehend no danger whatever from that. I think, on the contrary, it will be a most wholesome provision.

[Here the hammer fell.]

Mr. BOYDEN. I move to strike out the words in the third line "according to its terms" and to insert the words "in gold." I am in favor of retaining this section authorizing parties to contract to pay in gold. This talk about its putting the poor man in the power of the wealthy man I look upon as all

humbug. Sir, I suppose the opposition to this section goes upon the ground that we are more capable of making contracts for men than they are for themselves. I had supposed that we had liberty in this country to make such contracts as we pleased; to pay in gold and silver, in horses, or anything else. But it seems that we are here to assume the right to make contracts for the people of the country and deny to them the right to make them in their own way. Sir, let a man make a trade to pay in gold. It is not any more likely to prove inimical to the poor man than to the wealthy man. It is a very absurd and ridiculous proposition that we should attempt to forbid a man to make such a trade as he pleases, and especially that he shall not make a trade to pay in gold, or if he does he shall not be permitted to enforce it. I agree with the gentleman who spoke just now, that every promise to pay in money properly considered under our laws is a promise to pay in gold; but inasmuch as we have a law authorizing the payment in greenbacks there is no difficulty. One gentleman asks, "What sort of a judgment will you get? You will have the principal of your debt paid in gold and the interest paid in currency." Well, pray, what harm does that do? It does not injure anybody.

Mr. LOGAN. I would like to ask the gentleman a question if he has no objection?

Mr. BOYDEN. None at all.

Mr. LOGAN. Is there any law now against a man's paying a debt in gold if he desires to do so?

Mr. BOYDEN. That is not the point. The point is, you have a law that says every debt shall be paid in greenbacks, and when we pass this bill we repeal it so far as this section goes.

Mr. LOGAN. Does not this law indirectly repeal that law?

Mr. BOYDEN. As far as a contract is agreed to be paid in gold it does and is intended to do that. I have nothing more to say.

Mr. ALLISON. I oppose the amendment for the reason that I am opposed to any indirect way of reaching specie payment, and I am opposed to the Government enforcing contracts between individuals that it is not prepared to enforce on the part of itself. It is proposed here to allow parties to make contracts specifically payable in gold, and yet we require every man who makes a contract with the Government of the United States to take a United States note which is lawful money. We therefore place ourselves in the position of allowing parties in court to enforce a contract against an individual which cannot be enforced against the Government.

Now, I am opposed to this indirect method of reaching specie payment. If the legal tender provision of our law passed in 1862 is no longer necessary, let us be manly and repeal that provision; but let us not by this indirect legislation give the creditor class an advantage of the debtor class in this country. If we propose to do it let it be done in a direct way by repealing the legal-tender clause which makes a United States note legal tender in payment of any debt. It is not a ridiculous proposition to say that we shall have by means of this third section, if it is retained in the bill, two classes of money in this country. It will not be long before we have but one class of money, because, if this section is retained in the bill, instead of having legal tender currency as lawful money, you will find that all exchanges in the city of New York will be conducted in gold, and your "greenbacks," instead of being lawful money, will be sold and quoted at fifty, sixty, or seventy cents on the dollar, as the case may be.

I should be perfectly willing to enforce specific contracts, to require the courts where a man paid gold or loaned gold, to enforce the repayment in gold; but to enable the creditor class to control the debtor class in this country by making contracts now payable in lawful money specifically payable in gold, in my judgment, is an indirect way to reach at once a proposition which the country is not prepared for, to wit: the resumption of specie payment,

and for that reason I am opposed to any amendment which would retain this section in the bill.

Mr. BOYDEN. I withdraw my amendment.

Mr. CAVANAUGH. I move to amend the section by inserting after the word "coin," in the two places where it occurs, the words "or gold dust according to its value." I offer that amendment for the simple reason that in the country in which I live in all contracts the amounts are given in ounces, pennyweights, and grains. That is the way that we make contracts in the mountains. That is the way that contracts are made in all mining countries. I desire as an act of justice to the miners that this amendment shall be adopted, because that is the only coin we know there. The amendment is just and proper, and ought to prevail.

Mr. COBURN. Mr. Chairman, I think the adoption of this section would be most disastrous to the country. The direct result would be that all contracts would have to be made for gold. Every unscrupulous man, where a debt is due and is desired to be continued by the debtor, would compel his debtor to give a contract in gold, or refuse to renew it. Every one who owed a debt and made a contract of this kind, instead of paying greenbacks as he does now, would have to go to New York or send to the gold centers and purchase gold. There would be a demand not only for the amount of gold necessary for interest, and for the payment of duties, and for imports, but for the payment of every debt throughout the land. It would result in commercial revulsion and disaster widespread throughout the land. It would result in the enhancement of the value of gold, I will venture to say, fifty per cent. in thirty days. There would be such a scene of disaster and ruin in this country as we never have witnessed.

We had in our own State a parallel instance of this kind. During the hard times of 1837, when everybody in debt was going to the wall, there was a clause in our statutes by which debtors were relieved through appraisement and valuation laws. This was virtually a stop to the payment and collection of debts. But a year or two after those laws came in force a law was passed providing that contracts could be made without the relief of the valuation and appraisement laws. What was the result? In less than a year almost every contract and note in the State was made with the limitation, "without the relief of the valuation and appraisement laws." And although those laws are not yet directly repealed, they are practically repealed, for all the printed forms of notes, contracts, bonds, and mortgages, contain the clause, "without the relief of the valuation and appraisement laws."

And the result would be similar in this case, that all notes would be printed "payable in coin," and there would consequently be an immense rise in the value of gold. We have not more than \$200,000,000 of gold coin in this country. I know that there are estimates from the special Commissioner of the Revenue and from the Secretary of the Treasury that there are over \$300,000,000 in gold coin in this country. But that estimate is not founded upon any satisfactory basis; it is mere guess work. I do not believe the gold coin of the country exceeds the sum of \$200,000,000, and that is needed for the purpose of paying the duties on imports, the interest on the public debt, and for foreign goods, and none will be left for the use of the million of debtors. Adopt this system and there will be general derangement of business and widespread bankruptcy and ruin.

[Here the hammer fell.]

Mr. HUBBARD, of West Virginia. I move to amend this section by adding to it the following:

Provided further, That any contract made payable in coin may be paid in United States notes, by adding to the amount of the contract the amount of premium at which coin may sell in the New York market on the day the contract matures.

Mr. LOGAN. That develops exactly the

state of things which this system will bring about.

Mr. HUBBARD, of West Virginia. I am not especially anxious that this section shall be retained in the bill; but if it is retained I think the proviso I have moved should be attached to it. I am in favor of reaching specie payment at some time; but I am afraid that under the bill as it now stands we should reach it too suddenly.

Mr. CAVANAUGH. I rise to a point of order. What has become of the amendment I have offered?

The CHAIRMAN. It is pending, and will be voted on when the amendment of the gentleman from West Virginia [Mr. HUBBARD] shall have been disposed of.

Mr. HUBBARD, of West Virginia. The effect of my amendment would be to make coin the standard of value. At the same time it recognizes United States notes as money by the payment of which the terms of the contract may be fulfilled, and the party required to pay coin would have the option of paying in coin or currency. But as I have stated coin would be the standard value, while the variation of value would be in United States notes. Now the standard of value is United States notes, and the variation is in the value of gold. It would be a step in the direction of specie payments, but would shorten the step so as to permit payments to be made in coin or currency at the option of the party making the payment.

Mr. LOGAN. I would inquire of the gentleman if the effect of his amendment would not be to make the legal rate of interest at least forty per cent.; that is, would not a man get \$140 for a note of \$100?

Mr. CAKE. On its first renewal?

Mr. LOGAN. Certainly.

Mr. HUBBARD, of West Virginia. I do not so understand it. If the effect of this measure be as some suppose, to render United States notes less valuable compared with coin, in my judgment it would not make any difference; present contracts which are payable in United States notes could be paid at a less cost to the debtor. It is true the debtor might be compelled to pay his debt, but he would have the option of borrowing money elsewhere on perhaps more favorable terms.

Mr. LOGAN. Certainly.

Mr. HUBBARD, of West Virginia. The present condition of the business of the country is such that dealers in all foreign commodities, teas, coffees, spices, &c., are obliged to contract to pay in coin. All those commodities are to-day in all our commercial sea-ports bought and sold in coin, and in no other way. The man who purchases these articles of the importer must make an arrangement to pay for them in coin, either at sight, or in thirty, sixty, or ninety days, as the case may be. My amendment merely proposes to legalize transactions which are now sustained by commercial honor and commercial integrity. I therefore trust that if this section of the bill is retained my amendment may be adopted.

Mr. SCHENCK. I rise for the purpose of moving that the committee rise, to terminate debate on this section.

Mr. BINGHAM. I would like to say a few words.

Mr. SCHENCK. I will yield to my colleague [Mr. BINGHAM] four minutes of my time, reserving to myself one minute in which to make the proposition to stop debate.

Mr. BINGHAM. Mr. Chairman, I hope that this section will be struck out as recommended by the Committee of Ways and Means. The views expressed by the gentleman from Wisconsin [Mr. ELDRIDGE] ought to impel him and every gentleman on that side who agrees with him to vote to strike out the section, which, if he be right in his assumption, is but a lame and impotent attempt to reenact in this bill a provision of the Constitution of the United States. If under the Constitution, as he claims, every monetary contract in this coun-

try is dischargeable alone in gold and silver, any law of Congress to the contrary notwithstanding, then the legislation here proposed is a work of supererogation.

Mr. ELDRIDGE. Will the gentleman allow me a question?

Mr. BINGHAM. The gentleman must excuse me; I have but four minutes. I have stated the gentleman's position, and have said all I desire to say on that subject.

One word further as to the effect which this section must have if enacted into a law. There are now owing by the people of the United States debts to the amount of hundreds of millions, I venture to say thousands of millions of dollars. This section is simply an enactment to crush the debtor part of the community; an enactment in the interest of the money-monger; an enactment in the interest of the usurer; and for that reason I am opposed to it.

Again, sir, it is an enactment against the interests of the Republic. I have no objection to gentlemen ringing the changes upon the old cry which they raised when the nation was struggling for its existence, that nothing can be a legal tender in this country but gold and silver. Sir, every well-informed man knows that nothing was ever a legal tender of universal application in the United States save in so far as it was made such by an act of Congress. Your Constitution is silent on the subject, save in the limitation which it imposes on the several States, not upon Congress.

Again, sir, all the debts of the United States owing at the time of the enactment of the legal-tender law of 1862 were by the then existing laws payable in gold and silver. Those debts have been discharged to the amount of thousands of millions of dollars, and I tell gentlemen that when they undertake to pass this section they reopen this question and say that all the decisions pronounced heretofore upon preëxisting contracts of the United States in your own Court of Claims against creditors demanding payment in gold and silver or its equivalent are to be set aside, the accounts readjusted, and these parties paid the difference between what was understood at the time of the settlement of the claim to be the value of legal tenders and that of coin. No more destructive or injurious legislation than this could, in my judgment, be enacted by Congress.

Again, sir, the people of the United States have no security against that calamity which sooner or later overtakes all nations; and this legislation is calculated to induce the holders of money, in case the great calamity of war should again fall upon this country, to say to the Government bound by your own statute, if you could so bind it, "We loan you not a dollar except upon the condition of your law, that we shall be paid in gold and silver." I deny the power of Congress thus to fetter the sovereignty of the American people by any sort of legislation. Every man makes his contract within the jurisdiction of every sovereignty upon the face of the earth, subject to the condition, and it is of the essence of the contract when it comes to be enforced in the tribunals of the country in which the contract is made, that whatever shall be the legal tender on the day of judgment by the law of the sovereignty in which his contract is made, shall discharge the judgment. That, sir, is the law of every civilized country on the globe to-day. The Constitution is silent, as I said before, on the subject of legal tender, and as to the nationality, for the reason that it is the right of every nationality to change what shall be legal tender from day to day, within its own jurisdiction, as to contracts made within its jurisdiction at its pleasure, because the nation alone can by law declare what shall be a legal tender in every State and Territory of the Union, while the States alone are restricted to gold and silver as a legal tender. If the States were not so restricted, they might by law declare that the coin of the United States should not be a legal tender in discharge of debts, and thereby

render void the express grant of power that Congress may coin money and fix its value and the value of all foreign coin.

[Here the hammer fell.]

Mr. SCHENCK. I rise now to move to close the debate.

Mr. GARFIELD. I ask my colleague to give me five minutes.

Mr. SCHENCK. I will give the gentleman five minutes, as this happens to be a provision that he originally introduced. After he has had five minutes I then hope it will be agreed, by unanimous consent, that debate shall be terminated.

There was no objection, and it was ordered accordingly.

Mr. GARFIELD. Mr. Chairman, it seems to me that the great consideration which underlies this section has not been touched, and I cannot but feel that the objection raised against it, that it is a dangerous law in aid of the debtor as against the creditor is entirely removed by the amendment proposed by the chairman of the Committee of Ways and Means and printed on the fifth page. I hope that amendment will be offered. I will offer it myself by the permission of my colleague.

Let me suggest to the House some of the considerations which led me to introduce on the 10th of February a bill almost identical with the language of this section. I desired that some steps should be taken toward the resumption of specie payment; and as part of the plan something should be done to keep our gold at home, and to permit the importation of foreign gold. Let me call attention to the following statement of the recent movement of gold:

Statement of the export of specie from the port of New York since January 1, 1868.

	Amount.
January.....	\$7,399,825
February.....	4,203,829
March.....	3,694,912
April.....	6,095,179
May.....	15,936,231
June.....	11,383,031
July (two weeks).....	6,321,338

Total..... 55,378,860
Export for same period 1867..... 31,964,569

Excess of export this year..... \$24,414,291

The export of gold from the port of New York for the fiscal year ending June 30, 1868..... \$76,236,594
Same for 1867..... 41,366,932

Increase of export for the year..... \$34,869,662

Delivery of gold from the State of California for the year ending June 30, 1868..... \$36,726,370
Ditto for 1867..... 38,385,562

Decrease for 1868..... \$1,659,192

The export of gold from the port of New York the present fiscal year will fully equal (if it can be had) \$100,000,000; or \$60,000,000 more than the receipts from the mines.

Now, consider the movement of gold in Europe:

"At the close of April bullion and specie had accumulated in the eight leading European national banks to the vast amount of £89,719,862. Of this amount the Bank of France alone held £45,613,238, and the Bank of England £20,632,886. A month later the stock of bullion and specie held by the Bank of France had further increased to £47,910,840."

A London circular, dated June 27, says of the accumulation of the precious metals in the banks of France and England:

"The unusual spectacle is presented of the Bank of France having a larger amount of coin and bullion in its possession than the notes in circulation. Not only are these sums enormously greater than anything the Bank of England has to show, but they are remarkable as having been reached without any of those restrictions and limitations which are imposed by the English system. The Bank of England is also nearing an equality in the amount of bullion with the notes in circulation. The latter amount to £23,687,000, and the former (inclusive of the coin in the banking department) to £22,962,000. In the two great banking establishments a sum of £71,000,000 in gold and silver coin and bars is now stored, a collection of the precious metals such as have never hitherto been deemed possible. What the result may be upon monetary and commercial affairs it would be difficult to forecast. As such an equality of the metallic basis with its representative notes in cir-

lation is not at all necessary for perfect security, the natural result would be a gradual expansion of the currency in both countries, and thus a powerful stimulus would be given to speculative activity. This presupposes, however, a condition of confidence in the public mind which, neither politically nor commercially, is yet visible. It must come, however, with a good harvest and the disappearance of war rumors."

In the Bank of France there is an amount of gold far in excess of the circulation of that country, and the rate of interest is two and a half per cent. at the bank, and from one and a half to one and three quarters on the street. In eight kingdoms of Europe to-day there are \$485,000,000 of idle gold waiting to be invested, if we will only make it lawful for it to be invested here without being tossed into the uncertain chances which are inseparable from our greenback currency. Every time we pay out fifty or one hundred million dollars of gold interest it immediately goes across the sea. A hundred thousand of our business men would immediately begin to transact their business on a gold basis if they were permitted to do so by the law, and by the amendment proposed by my colleague as a proviso to this section, I do not see how there could be oppression. Gentlemen speak as though it had never before been heard that a party should reckon interest beforehand in giving a note, and thus evade the usury laws. Gentlemen talk as if this was the first time there could be frauds committed and wrongs done to people who are debtors. This bill is not an instrument of oppression; but will lead us toward the firm ground of fixed values. I hope that the strange fear of gold which seems to have taken possession of many gentlemen here will not prevent the adoption of this section.

[Here the hammer fell.]

Mr. SCHENCK. I ask that the debate be considered as closed on the pending amendments to the section and on striking out the section.

The CHAIRMAN. Debate was ordered to be closed in five minutes; there are two minutes remaining.

Mr. SCHENCK. I do not desire to occupy them.

The question was taken on the amendment of Mr. HUBBARD, of West Virginia; and it was disagreed to.

The question recurred on the amendment of Mr. CAVANAUGH, to insert the words "or in gold dust according to its value."

Mr. INGERSOLL. I move to amend the amendment by adding "and brick dust." [Laughter.]

Mr. CAVANAUGH. Perhaps the gentleman had better go out there and dig.

The amendment to the amendment was disagreed to.

The amendment of Mr. CAVANAUGH was then disagreed to.

Mr. GARFIELD. I move to amend by striking out the proviso now in the section, as follows:

Provided, That this section shall not apply to contracts for the borrowing of currency or the removal or extension of an indebtedness under a contract already entered into, unless such contract originally required payment in coin.

And inserting in lieu thereof the following: *Provided, however, That the consideration for any such contract made payable in coin shall be matter arising after the passage of this act, and no part of such consideration shall, in any case, be founded directly or indirectly on any previous indebtedness not payable in coin existing prior to, or at the date of, the passage of this act. And any evasion of, or attempt to evade this provision shall work a forfeiture of every such contract made under the authority of this section; but this shall not contravene any statute of any State or Territory relating to usury.*

The question being put, there were—ayes 51, noes 48; no quorum voting.

Tellers were ordered; and Messrs. GARFIELD and BINGHAM were appointed.

The committee divided; and the tellers reported—ayes 53, noes 52.

So the amendment was agreed to.

The question recurred on striking out the section as amended.

Mr. PETERS. I move to amend the section by inserting in the line after the word "contract" the words "in writing;" so that it will read "any contract in writing hereafter made," &c.

The amendment was agreed to.

Mr. INGERSOLL. I move to add the following proviso to the section:

And provided further that this section is enacted for the special benefit of the gold operators of Wall street.

Mr. PIKE. There ought to be another proviso "that this section is in anticipation of a decision of the Supreme Court next winter declaring the legal-tender act void." I would like to prepare for it in advance.

The CHAIRMAN. No debate is in order.

The amendment of Mr. INGERSOLL was disagreed to.

The question recurring on the amendment of the committee to strike out the section, it was agreed to—ayes eighty-one; noes not counted.

Mr. BINGHAM. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union, pursuant to the order of the House, had had under consideration the Union generally, and particularly the special order, being Senate bill No. 207, for funding the national debt, and for the conversion of the notes of the United States, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had agreed to the committee of conference asked for on the disagreeing votes of the two Houses on the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1869, and had appointed Mr. HENDERSON, Mr. HOWE, and Mr. MORRILL of Maine, managers of said conference on its part.

And then, on motion of Mr. SCHENCK, (at ten o'clock and thirty minutes p. m.) the House adjourned.

PETITION.

The following petition was presented under the rule, and referred to the appropriate committee:

By Mr. STOKES: The petition of John E. Pyatt, J. C. Mason, W. N. Ault, and J. S. Abernethy, of Rhea county, Tennessee, to be relieved of political disabilities.

IN SENATE.

SATURDAY, July 18, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. HOWARD, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented a memorial of citizens of New York, composing the United States Indian commission, a voluntary association recently formed, praying the adoption of measures for the better treatment of the Indians; which was referred to the Committee on Indian Affairs.

He also presented a petition of citizens of New York, praying an appropriation for the removal of rocks and other obstructions which impede the navigation of the East river entrance to New York harbor at Hell Gate, and for the removal of the rocks known as "Battery," "Diamond," and "Coenties" reefs; which was ordered to lie on the table.

Mr. SHERMAN presented a petition of officers of the United States Army, praying an increase of compensation; which was referred

to the Committee on Military Affairs and the Militia.

Mr. WILSON presented three petitions of officers of the United States Army, praying an increase of compensation; which were referred to the Committee on Military Affairs and the Militia.

Mr. POMEROY presented a memorial of Fisk Mills, in relation to the cancel abolishing return postage stamp or envelope currency; which was referred to the Committee on Post Offices and Post Roads.

Mr. MORRILL, of Vermont, presented a petition of citizens of New York, praying the adoption of measures for the better treatment of the Indians; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom were referred the following petitions, memorials, and resolutions, asked to be discharged from their further consideration; which was agreed to:

A petition of presidents and officers of various railroads;

A memorial of the Memphis, El Paso, and Pacific Railroad Company;

A memorial of the Philadelphia Board of Trade;

A memorial of the Chamber of Commerce of St. Paul, Minnesota;

A memorial of the Legislative Assembly of the Territory of New Mexico, in favor of a wagon-road;

A memorial of the Legislative Assembly of the Territory of New Mexico, in favor of a telegraph line;

A memorial of Israel Hall, Egbert Judson, and others;

A memorial of the Legislature of Arkansas;

Six joint resolutions of the Legislature of Kansas, relating to the Pacific railroad and its branches;

Resolutions of the Legislature of California;

Resolutions of the constitutional convention of Georgia;

Resolutions of the Board of Trade of St. Louis, Missouri;

Resolutions of the Legislature of Minnesota; and

Resolutions of citizens of northern Minnesota.

Mr. WILLIAMS, from the Committee on Private Land Claims, to whom was referred the bill (H. R. No. 1206) to restore to certain parties their rights under the laws and treaties of the United States, reported it with amendments.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the memorial of the St. Louis Board of Trade, asking the removal of the United States arsenal at that place, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 1279) in relation to additional bounties, and for other purposes, reported it without amendment.

He also, from the same committee, reported a bill (S. No. 629) granting a pension to Mrs. Sallie Griffin; which was read, and passed to a second reading.

Mr. CATTELL, from the Committee on Finance, to whom were referred resolutions of the constitutional convention of Georgia in favor of aid to southern planters, and resolutions of the constitutional convention of Mississippi, relative to the Freedmen's Bureau, asked to be discharged from their further consideration; which was agreed to.

Mr. SHERMAN, from the Committee on Finance, to whom were referred petitions of mechanics of New York; a petition of mechanics and laboring men; and a petition of citizens of Ohio, in favor of the passage of the eight-hour law, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 343) to admit free of duty certain statuary, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 103) constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States, asked to be discharged from its further consideration; which was agreed to.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the following bills, reported them without amendment:

A bill (H. R. No. 1302) granting a pension to Chauncey D. Rose, father of Alvin J. Rose, late a sergeant-veteran in company A, second regiment of Ohio cavalry volunteers, who was killed in action at Five Forks, Virginia, April 1, 1865;

A bill (H. R. No. 1393) granting a pension to Hugo Eichholtz;

A bill (H. R. No. 1394) granting a pension to Daniel Sheets;

A bill (H. R. No. 1395) granting a pension to Esther C. C. Vangilder, widow of Charles F. Vangilder, deceased, late a private in company M, first regiment Vermont heavy artillery volunteers;

A bill (H. R. No. 1396) granting a pension to Stephen T. Carver;

A bill (H. R. No. 1397) granting a pension to Prescott Y. Howland;

A bill (H. R. No. 1398) granting a pension to Martin Burke;

A bill (H. R. No. 1399) granting increased pension to William B. Edwards;

A bill (H. R. No. 1400) granting a pension to Jonathan H. Perry;

A bill (H. R. No. 1401) granting a pension to John La Marsh;

A bill (H. R. No. 1402) granting a pension to Catharine Skinner;

A bill (H. R. No. 1403) granting a pension to Helen L. Wolf;

A bill (H. R. No. 1404) granting a pension to William Smith;

A bill (H. R. No. 1405) granting a pension to Elizabeth Lamar;

A bill (H. R. No. 1406) granting a pension to Patrick Collins;

A bill (H. R. No. 1407) granting a pension to John Gridley;

A bill (H. R. No. 1408) granting a pension to Catherine Gensler;

A bill (H. R. No. 1409) granting a pension to Asa F. Holcomb;

A bill (H. R. No. 1410) granting back pension to the minor children of Joseph Berry;

A bill (H. R. No. 1411) granting a pension to Polly W. Cotton;

A bill (H. R. No. 1412) granting a pension to the children of William B. Silvey;

A bill (H. R. No. 1413) granting a pension to Jane Rook;

A bill (H. R. No. 1414) granting a pension to Sarah K. Johnson; and

A bill (H. R. No. 1420) directing the Commissioner of Pensions to proceed to hear evidence and determine the right of W. H. Cox, deceased, late a sergeant in company F, second regiment Pennsylvania artillery, to a pension in same manner as if he was still living, he having died of disease contracted while a prisoner of war at Andersonville, Georgia, and if found to be entitled to a pension, then the same, from time of his discharge till death, to be paid over to his father, Charles D. Cox.

He also, from the same committee, to whom was referred the petition of Nancy A. Stocks, submitted a report, accompanied by a bill (S. No. 630) granting increase of pension to Nancy A. Stocks. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 606) granting a pension to Robert Watson, reported it without amendment, and submitted a report; which was ordered to be printed.

COMMANDER A. K. HUGHES.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 164) for the restoration of Commander Aaron K. Hughes, United States Navy, to the active list from the retired list; which was read twice by its title.

Mr. NYE. That is a report of the Committee on Naval Affairs, on which all agree, and I should like its present consideration.

No objection being made, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It proposes to authorize the President to nominate, and by and with the advice and consent of the Senate to appoint, Commander Aaron K. Hughes to the active list of the Navy, with the rank to which he may be entitled thereon.

Mr. FESSENDEN. That is a very important matter; it ought to be understood. Is it reported from the Committee on Naval Affairs?

Mr. NYE. Yes, sir; I have the papers here.

Mr. FESSENDEN. Is it consented to by the Navy Department and by the Naval Committee unanimously.

Mr. NYE. Yes, sir.

Mr. FESSENDEN. I make no objection.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS INTRODUCED.

Mr. TIPTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 631) granting lands to aid in the construction of a railroad from Nebraska City, in the State of Nebraska, to intersect with the Union Pacific railroad; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 165) authorizing the Commissioner of Indian Affairs to appoint guardians or trustees for minor Indian children who may be entitled to pensions or bounties under the existing laws; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 166) declaring the ratification of the fourteenth article of amendment of the Constitution of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CATTELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 632) authorizing the Secretary of the Treasury to refund penalty, interest, and costs illegally assessed and collected under direct tax laws; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

PRINTING OF TAX BILL.

Mr. CORBETT submitted the following resolution; which was referred to the Committee on Printing:

Resolved. That there be printed for the use of the Senate five thousand copies of the tax bill recently passed at the present session, as the same became a law.

SUITS AGAINST CORPORATIONS.

On motion of Mr. TRUMBULL, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 610) in relation to corporations created by laws of the United States, which had been reported by the Committee on the Judiciary with amendments.

The first amendment was in line three, after the word "corporation" to insert "other than a banking corporation."

The amendment was agreed to.

The next amendment was after "therefor," in line nine, to insert "verified by oath."

The amendment was agreed to.

The next amendment was after the words "issue joined," in line ten, to insert "show-

ing a defense arising under or by virtue of the Constitution of the United States, or any treaty or law of the United States."

Mr. TRUMBULL. I move to amend that amendment of the committee by striking out the word "showing" and inserting in lieu of it "stating that the party has."

The amendment to the amendment was adopted.

The amendment, as amended, was agreed to.

The bill, as amended, reads thus:

Be it enacted, &c., That any corporation, other than a banking corporation, organized under a law of the United States, and against which a suit at law or in equity has been or may be commenced in any court other than a circuit or district court of the United States, may have such suit removed from the court in which it may be pending to the proper circuit or district court of the United States, upon filing a petition therefor, verified by oath, either before or after issue joined, stating that the party has a defense arising under or by virtue of the Constitution of the United States, or any treaty or law of the United States, and offering good and sufficient surety for entering in such court on the first day of its session, copies of all process, pleadings, depositions, testimony, and other proceedings in said suit, and doing such other appropriate acts as are required to be done by the act entitled "An act for the removal of causes in certain cases from State courts," approved July 27, 1866, and it shall be thereupon the duty of the court to accept the surety and proceed no further in the suit; and the said copies being entered as aforesaid in such court of the United States, the suit shall then proceed in the same manner as if it had been brought there by original process, and all the provisions of said act in this section referred to, respecting any bail, attachment, injunction, or other restraining process, and respecting any bond of indemnity or other obligation, given upon the issuing or granting of any attachment, injunction, or other restraining process, shall apply with like force and effect in all respects to similar matters, process, or things in the suits for the removal of which this act provides.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. EDMUNDS. I merely wish to say that while I do not oppose the passage of this bill I think the law ought to regulate all such questions in one act. As I was not present when this bill was considered in the committee, I think it right to say that I do not wish to be considered as either approving or disapproving of the special object which this bill is supposed to have in view.

Mr. COLE. Mr. President, I desire to inquire of the chairman of the committee if this bill makes any further provision for the transfer of cases than is authorized or appears on the face of the Constitution? The jurisdiction of the United States courts seems to be confined there. I do not know the purport of the amendment the committee have offered.

Mr. TRUMBULL. Certainly not. We do not suppose that Congress has any authority to confer any other jurisdiction than such as is warranted by the Constitution; but the understanding of the committee was that corporations created by act of Congress had a right to be heard in the United States courts in cases arising under the laws of the United States, where it is shown that a defense arises under the laws of the United States.

Mr. COLE. Does this preclude parties from litigating with such companies in any of the State or territorial courts?

Mr. TRUMBULL. Not at all. It merely provides for a transfer on the fact being alleged, verified by the oath of the party, showing the fact on the part of a corporation created by the laws of the United States, that it has a defense arising under or by virtue of the Constitution of the United States or some treaty or law of the United States.

Mr. HOWARD. I wish to put a question to the honorable chairman of the Committee on the Judiciary. Does this bill, which I have not had time to read, apply to the branches of the Union Pacific railroad as well as to the main corporation known as the Union Pacific railroad? There are the Kansas branch, the Sioux City branch, and various other branches, and branches in California. Does it apply to all those branches?

Mr. TRUMBULL. That would be a matter of construction dependent on a matter of fact as to whether they are incorporated by the United States. The bill is general in its terms and applies to any corporation other than a banking corporation organized under a law of the United States. I do not understand that those branches are organized under a law of the United States, but if they are they would come within the purview of the bill.

Mr. HOWARD. They do not exist by virtue of charters granted by the United States, but their charters are either territorial or State charters, and they receive subsidies in lands or money from the United States, and there is a vast body of legislation applicable to them. Now, I submit to the honorable Senator whether it is best to apply this statute to the branches as well as to the main trunk. I would not leave that doubtful, it seems to me.

Mr. COLE. Almost all the litigation that can arise in reference to matters pertaining to the Pacific railroad must arise out of a law passed by Congress; and if all such cases may be transferred to the United States courts it amounts, in my judgment, to denying a remedy to parties living in the Territories. If any person having a cause of action against a railroad company in the Territories of the United States is obliged to be transferred for his litigation to the United States courts he certainly will find it very difficult to prosecute his rights, or to get his remedy. I do not know what the particular reason for the passage of this bill is; but if it amounts to this, that persons are to be denied their right to litigate in the territorial courts or the State courts it seems to me to be going altogether too far; it virtually denies the right to bring suits against railroad corporations when they are incorporated by the United States, because all their suits spring out of the law of Congress, or may be alleged to spring from causes existing in the law of Congress.

Mr. TRUMBULL. I should be as averse as the Senator from California to increasing the jurisdiction of the United States courts unnecessarily. I think it bad legislation to be crowding those courts with business that can be as well done in the State tribunals; and as an individual member of the Judiciary Committee I have always resisted all legislation of this kind, unless there seemed to be a necessity to answer the ends of justice that parties should have an opportunity to take cases to the courts of the United States. Of the constitutionality of a law that authorizes a transfer of a cause from a State to a United States court, where a right is claimed under the Constitution of the United States, or some treaty or law of Congress, there can, I think, be no doubt. But this jurisdiction is not exclusive; the State courts may still entertain jurisdiction of cases by and against corporations organized under the laws of the United States, notwithstanding the passage of this bill; but a corporation thus organized would have the right, on showing by affidavit that it had a defense based upon a law or treaty of the United States or the Constitution, to remove the cause into the United States courts.

It has no reference in terms to the Pacific railroad or any other railroad, but I suppose it had its origin, perhaps, in suits that are being instituted against the Pacific Railroad Company in the city of New York or elsewhere, by way of injunction, restraining their operations. This has become a great evil in the country. The directors of our great lines of railroad, like the Erie road, like the road stretching from Chicago by way of Rock Island to Omaha, and other large roads, are being frequently enjoined by some inferior judge in the city of New York against going on with these great works; and though this bill does not reach to the cases of corporations created by the States, we did suppose that it was competent for the United States to protect its own corporations organized under its authority from injunctions granted by some recorder or in-

ferior judge in the city of New York, by authorizing the company to take such causes into the United States courts for adjudication. That is the extent of this bill, and it goes so far and no farther, to protect corporations organized by authority of Congress, by allowing them to appeal to the courts organized under authority of Congress for redress.

Mr. COLE. Mr. President, after all I do not see that the remedy that the honorable chairman of the committee speaks of will be effected by the passage of this bill, because in case an injunction is sought in the city of New York in a State court it will only amount to a privilege of transferring it to a United States court.

Mr. TRUMBULL. That is all.

Mr. COLE. Wherein, then, is the company better off in the United States courts than in the State courts? Let me suppose there is a cause of action arising in Utah against a railroad company for some cause, no matter what, it is within the power of that company to transfer that case a thousand miles—any distance if you please—away from where the cause of action arose, and the party can only reach it over the railroad of the company itself. It gives them very great advantages in litigation.

Mr. TRUMBULL. The case can only be taken to the proper district. It can only be removed to the United States court for the proper district where it arises; and in the Territories no such question will arise, because the Territories have no United States circuit and district courts; the territorial courts are United States courts themselves. This bill does not authorize the removal of a cause from the Territory of Utah to the United States court in the State of New York. Every case in the Territory of Utah is tried in a United States court there, and you may go by appeal directly from the territorial courts to the Supreme Court of the United States. The trouble does not arise there; it arises from actions brought in the States.

Mr. COLE. In my judgment this is virtually denying to any person having a cause of action against a railroad company chartered by the United States his remedy in any State court, and it seems to me that it will be an outrage upon any person that has a cause of action against one of these railroad companies. I wish the bill would be allowed to go over until it can have further consideration. It has been on our tables for a day or two; and I do not think it ought to pass thus hastily. It is a matter of great deal more importance, in my judgment, than appears on its face or than is illustrated by the example stated by the honorable chairman of the committee. It is broader in its operations, I believe, than appears from what has been stated.

Mr. TRUMBULL. There is nothing covert in the bill, so far as I am advised.

Mr. COLE. They have a right now in certain cases to transfer their causes to the United States courts under existing statutes, and they are sufficiently protected, in my opinion, by laws already in existence. This bill gives them much more than they are entitled to now. They have a right now to go into the United States courts in certain cases; this is a proposition to extend that right beyond what is now provided by law.

Mr. HENDRICKS. I think the importance of this bill will depend to some extent upon one question: how far we have created corporations within the District of Columbia which corporations may exercise their powers in the States with the consent of the States. If all these corporations, insurance companies, and manufacturing companies, and mining companies, can go out into the States and exercise their powers there, with the assent of the States, then I suppose that whole class of corporations will fall under the operation of this bill.

I cannot fail to be impressed with the suggestion of the Senator from California, that in regard to these railroad companies it is giving to them a very dangerous right when they

come in litigation and competition with the citizen. Suppose a citizen sues for material taken off his land, wood taken, stock killed, or any of those little cases that arise in the neighborhood where he ought to have his remedy at once convenient to his witnesses, the railroad company for the purpose of vexing him may take a transfer to the United States court. Is not that a substantial denial of justice to the party?

Mr. COLE. Of course it is.

Mr. HENDRICKS. It certainly is known to Senators that in a controversy of that sort the citizen has no equal chance in the courts of the United States with these corporations. A few years of litigation there would eat up a small estate. And, sir, I say that it is a dangerous thing to extend the jurisdiction of the United States courts. We have been doing it from session to session at a very dangerous rate, in my judgment. They are necessarily very expensive courts in which to litigate between parties; and especially dangerous when you give the right to one side to take his case to the Federal court and deny it to the other, as in this bill, the one party being a strong, powerful corporation, the other, perhaps a poor citizen, who may not be able to follow his case from court to court in the Federal judicial system.

So far as the constitutional question suggested by the chairman of the committee is concerned, I do not doubt that the right of transfer may be given where the question involves a right that is conferred by a law of the United States; but how far is that to be construed as extending? If the courts will stand by the letter of that provision there is not so much danger to be apprehended; but if the courts shall go so far as is suggested by the Senator from Illinois, the chairman of the Judiciary Committee, if they go so far as to say that this law is intended to protect corporations created by the laws of the United States in all of their litigation; in other words, that simply because a corporation has been created by the United States, therefore its cause may go to the courts of the United States, it will be a very dangerous construction.

Mr. TRUMBULL. That is not the bill as the Senator will see, if he will look at it.

Mr. HENDRICKS. I do not think it is; but I understood the argument of the Senator to be that Congress had the right to provide so as to protect its own corporations.

Mr. TRUMBULL. I think so, so far as its laws go. Of course it would not protect them in regard to matters not arising under its own laws. But the bill was amended in the Judiciary Committee—I am not sure whether the Senator from Indiana was present or not—for the very purpose of carrying out his suggestion. If he will look at the amended bill he will see that it requires that a petition shall be filed, verified by oath, stating that the case does arise under some law of Congress or a treaty or the Constitution of the United States.

Mr. HENDRICKS. I have no question that, the letter of this law being adhered to by the courts, the danger is not so great as I apprehended, when you take that in connection with the former provision, that it must be a corporation created by the laws of the United States. I think any one may safely have the right to transfer a cause to the United States courts where his right depends upon a law of the United States. We have gone much further than that, and have provided that where his defense rests not upon a law, but upon an order or authority of any officer of the United States, there may be a transfer. So far as the constitutional question is concerned this bill is not so objectionable, in my judgment, as many bills we have already passed; but I think it is liable to that construction which is hurtful to the cause of justice.

The PRESIDENT *pro tempore*. The question is, on the passage of the bill.

Mr. COLE and Mr. HENDRICKS called for the yeas and nays, and they were ordered;

and being taken, resulted—yeas 30, nays 12; as follows:

YEAS—Messrs. Cameron, Cattell, Conkling, Conness, Cragin, Doolittle, Drake, Edmunds, Fessenden, Frelinghuysen, Harris, Howard, Howe, McDonald, Morgan, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Ramsey, Sherman, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Welch, Wiley, Wilson, and Yates—30.

NAYS—Messrs. Cole, Davis, Harlan, Hendricks, McCreery, Morton, Pomeroy, Ross, Sprague, Vickers, Wade, and Williams—12.

ABSENT—Messrs. Abbott, Anthony, Bayard, Buckalew, Chandler, Corbett, Dixon, Ferry, Fowler, Grimes, Henderson, Kellogg, Morrill of Maine, Norton, Patterson of Tennessee, Pool, Rice, Saulsbury, Stewart, and Whyte—29.

So the bill was passed.

PRINTING OF THE TAX BILL.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print five thousand copies of the tax bill, have instructed me to report it back, with an amendment, and I ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That there be printed for the use of the Senate five thousand copies of the tax bill recently passed at the present session, as the same became a law.

The amendment of the Committee on Printing was to add the words "with the index prepared for the edition ordered by the House of Representatives."

The amendment was agreed to.

The resolution, as amended, was adopted.

A message from the House of Representatives, by Mr. McPHERSON, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1284) to change and more effectually secure the collection of internal taxes on distilled spirits and tobacco, and to amend the tax on banks.

BRIDGES ACROSS THE OHIO RIVER.

Mr. MORTON. I move to take up Senate bill No. 622 to authorize the construction of bridges across the Ohio river.

Mr. VAN WINKLE. I object to the taking up of that bill at this time. I understood yesterday that that bill had been recommitted to the Committee on Post Offices and Post Roads, and I was not aware that it had been reported again. Accompanying the bill was quite an extensive report prepared under the superintendence of a distinguished engineer in the Government service, and that I believe was ordered to be printed, but has not been laid on our tables. This is a matter of great interest to my constituents, and I should prefer that the bill should lie over until that report can be seen. The reading of it was commenced in committee, but it was obliged to be laid aside in consequence of other business, and I have not been able to see it. I hope the bill will not be taken up at this time. I desire to take up a bill of much more general interest if I can get an opportunity to do so.

Mr. MORTON. It is not possible for the Senate to take up a bill of more general interest than this, because there is no such bill pending before the Senate, in my opinion. The report to which the Senator refers has been printed. This measure has been before the committee to which the Senator belongs for a long time, and he understands it exactly. It is in regard to bridging the Ohio river, about which there is a good deal of interest felt, and in regard to which there are great interests depending. It ought to be considered at this session of Congress for the reason that there are two or three bridges which will be built, perhaps, this summer, unless action is taken, which will be an obstruction to navigation and which the Government will undoubtedly have to pull down hereafter and pay for as in the case of the Rock Island bridge. It is a matter of the utmost importance that this bill should be considered, and if it is not done to-day it will be too late. I ask that the bill may be taken up.

Mr. HOWARD. I shall be very happy to

consider the bill of the Senator from Indiana at some other time. I have made repeated efforts to get up the Central Branch Union Pacific railroad bill, which has been discussed so much, and I was in hopes this forenoon that I should be able to succeed in obtaining the final action of the Senate upon it. I hope, therefore, that the Senate will consent to take it up. I do not think it will occupy much time. I think we shall be able to dispose of it in the course of twenty minutes or half an hour.

Mr. MORRILL, of Vermont. No; not in two hours.

Mr. HOWARD. I think we can. I dislike very much to antagonize my bill against that of the Senator from Indiana; but I announce to him that I shall move to take up this one if the motion to take up his fails.

Mr. CAMERON. I trust we shall take up the bill mentioned by the Senator from Indiana. It is one of vast importance to my constituents, and it will take but a few minutes to pass it. There can hardly be an objection to it except from some little interest at the headwaters of the stream; but to the people below it is a question of great magnitude, because the whole commerce of the river is now very much in danger by these bridges. I trust the bill will be taken up.

Mr. POMEROY. The last action I know anything about of the Committee on Post Offices and Post Roads, of which I am a member, and I have attended all the meetings, was that we voted to report this bill in order that the report accompanying it might be printed for the use of the Senate, and then to have it recommitted to the committee. I do not know of any action beyond that. If the bill is before the Senate for any action by any report of the committee, it is unknown to me. The report to which reference has been made is said to be very elaborate. I have never read it, but I intended to read it whenever it was printed. The Senator from Indiana says it is printed. The order to print was made yesterday, and if it is printed I have not seen it.

Mr. MORTON. It is here to-day.

Mr. POMEROY. Perhaps other Senators have it. I have not seen a copy of it. I should be glad to have a portion of that report read when the bill is considered. I shall place no obstacle in the way of considering the bill, but it is pretty early to consider it before we have had an opportunity to see the report in print.

Mr. RAMSEY. In answer to the Senator with reference to the recommitment of the bill to the committee I have this to say: the parties in interest were so very anxious to have a report, that we reported the bill leaving one or two blanks in it, those blanks being as to the size of the spans of the bridges, with the understanding that after the bill was printed it should be recommitted to the committee for the purpose of filling those blanks.

Mr. POMEROY. So I understood.

Mr. RAMSEY. Upon my motion it was recommitted to the committee, and upon a consultation with a majority of the members of the committee they directed the size of the spans which the Senator will find in the bill as read.

Mr. POMEROY. When was it recommitted?

Mr. RAMSEY. Recommitted yesterday, and reported back yesterday.

Mr. POMEROY. Did the committee have any meeting in the mean time?

Mr. RAMSEY. Not a formal meeting, but such a meeting as we usually have at this late day of the session.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana.

The motion was agreed to; there being on a division—yeas 26, nays 15; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 622) to authorize the construction of bridges across the Ohio river. The bill provides that any bridge hereafter erected across the Ohio river shall be made

with continuous or unbroken spans, and the span across the main low-water channel shall not be of less elevation than ninety feet above low-water mark, nor less than forty feet above extreme high-water mark, as understood at the point of location, measuring for such elevation to the bottom chord of the bridge. All the spans other than the one over the main low-water channel are to be at least — feet in length in the clear, and the span covering the main low-water channel of the river is to be of such length as to leave at least — hundred feet of unobstructed passage-way for navigation at all stages; but the Secretary of War, after a full examination of each case, is to determine this width of passage adequate to the wants of navigation.

A bridge built under the provisions of the act is to be located in such places and in such manner as to be at right angles with the direction of the current in the main channel of the river at all stages, so that the piers of the bridge may be always parallel to the current in the main channel; and the location of the bridge is also to be such that the current of the main channel shall move in a straight line from a point at least one thousand feet above the bridge to a point five hundred feet below the bridge. And no rip-rap or other material is to be placed around the bases of the piers or abutments to compensate for inadequate foundations, which material shall contract the passage-way hereinbefore provided, or which shall injuriously affect the regimen of the river. Any person, company, or corporation, authorized to construct a bridge across the Ohio river by the States upon whose territory the bridge will abut, is to submit to the Secretary of War, for his examination, a design of the bridge and piers, and a map of the location, giving for the space of at least one mile above and one mile below the proposed location, the topography of the banks of the river, the shore lines at high and low water, the direction of the current at all stages, and the soundings accurately showing the bed of the stream, and furnish such other information as may be required for a full and satisfactory understanding of the subject by the Secretary of War; and if the Secretary of War is satisfied that the provisions of the law have been complied with in regard to location, the building of the piers may be at once commenced; but if it shall appear that the conditions prescribed can not be complied with at the location where it is desired to construct the bridge, the Secretary of War shall detail a board, composed of three experienced officers of the corps of engineers, to examine the case, and may, on their recommendation, authorize the building of the bridge at the proposed location on such increased length of spans across the channel-way as the board may deem sufficient to secure a passage-way that shall not unnecessarily obstruct the navigation of the river. Any person, company, or corporation constructing a bridge under the act is to take all necessary measures to prevent any change occurring in the river bed, after work shall have been commenced, that would injuriously affect the navigation of the river, and shall not, during the construction of the bridge, obstruct the navigation of the river in any way that will not at all times leave a passage-way equivalent to that heretofore provided in the act. Any bridge constructed under the act, and according to its limitations, is to be a lawful structure, and to be recognized and known as a post route, upon which also no higher charge is to be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States than the rate per mile paid for their transportation over the railroads or public highways leading to the bridge; and in case of any litigation arising from any obstruction or alleged obstruction to the navigation of the river created by the construction of any bridge under the act the cause or question arising may be tried before the district court of the United States of any State in which any portion of the obstruction

or bridge touches. The right to alter or amend the act so as to prevent or remove all material obstructions to the navigation of the river by the construction of bridges is expressly reserved.

The Committee on Post Offices and Post Roads reported the bill with amendments. The first amendment was in section one, line ten, to fill the blank by inserting the words "two hundred and fifty;" so that the clause will read:

All the spans other than the one over the main low-water channel shall be at least two hundred and fifty feet length in the clear.

Mr. VAN WINKLE. I feel myself placed in a somewhat embarrassing position on account of what I have already stated. I expected to receive the report of the committee and learn from that why two hundred and fifty feet exactly in this case should be necessary. I have heard no reason for it, and do not expect to hear any satisfactory one. It appears that this bill, according to the confession of the Senator from Indiana, is aimed at two bridges now in process of construction in which my constituents are deeply interested. It appears that those bridges are to be sacrificed; for what object I am unable to tell. If there is any reason, such as General Warren, United States engineer, upon whose authority I understand this report is based, could give, why these spans should be two hundred and fifty feet, no more and no less, I should like to hear it. This is the first time, I believe, that such a provision was ever introduced into a bridge bill. The bill upon which my friends are acting and upon which those bridges are being built only requires the span over the main channel to be of a certain length, leaving them to construct the spans that are erected in the lowest water near the shores at such lengths as suit their convenience.

But, sir, this amendment alone does not present the whole question that will be agitated in this bill. I understand that the other blank is to be filled with "five hundred," which is to be the length of a single span across the Ohio river, where the channel is never half that width.

The bridges that I speak of have been proceeding under an act of Congress passed in July, 1862, defining as particularly as it could all the matters in relation to those bridges, how they were to be constructed, what width their spans were to be, how high the structure was to be above low water, and how high above high water. Every particular that could be ascertained at the time was put into the bill. It is as particular as this, at least, although it differs from it in one or two respects. Under that law some two or three hundred thousand dollars have already been expended; indeed, a great deal has been expended, for one bridge has been entirely built and is now in operation under that law, namely, the bridge at Steubenville, and two others are in process of construction. They are now about, while the water is low, to commence the structure of piers in the river. This bill is brought forward just in time, if it should be passed, even if you make the spans less than is proposed, to create a delay in the construction of those bridges, because they will be required to obtain the opinion of the Secretary of War and of a board of engineers to be selected by him, and thus the building of the bridges will be put back at least one year, and the interest on the money already expended will be lost, and probably the materials collected for the purpose will greatly deteriorate.

It is very easy for the Chamber of Commerce or the Board of Trade of Cincinnati to take a notion that they know all about bridges and say that bridges must have five hundred feet span over the main low-water channel above Parkersburg as well as at Cincinnati, where it is wider. But in the narrow channel between Parkersburg and Pittsburg I doubt very much if there is a channel of the river itself which is over three hundred feet in width.

The law of which I have spoken was passed by Congress after the deliberations of a board of civil engineers from every part of the United States convened at St. Louis to consider the subject. Among them was Mr. McAlpine, from Boston, an engineer from Rhode Island, several engineers from New York, and from the western States, consisting, I think, of twenty-five in all. This board considered all these questions about the river, about the navigation, about the kind of craft used upon it, and they solemnly determined that three hundred feet were sufficient for the main span, and determined that the adjoining span should be two hundred and twenty feet, leaving to the companies constructing the bridges to make the others as they saw fit. I have here a copy of their report, and I wish to call the attention of the Senate to some extracts from it.

These gentlemen were among the most distinguished engineers in the United States, and on taking his seat Mr. McAlpine, of Massachusetts, who had been elected their president, spoke of the gentlemen of whom the board was composed in high terms. He said they were engineers who had already made their names in the United States and who had a national reputation. I merely wish to show by these remarks that this was not a set of engineers gathered together for the purpose of accomplishing a single project or carrying out the views of a single bridge company; but they were engineers selected for their eminence from every part of the United States, to whom was referred the decision of this question. They did decide it; and as I have already stated, under their decision and the good faith of the United States pledged by the act of 1862, one bridge has been already constructed and two others are in process of construction, and against those two this bill is aimed. It is not a regard, I am afraid, for the navigation of the river, but it is a regard to the interests of different railroad companies. Continue the bridge at Steubenville and stop the bridges below it, and the fate of the railroads running through West Virginia and Maryland is very distinctly known.

I ask leave to read a few extracts from the conclusions of this board, which will explain this subject better than I can. They also considered all the questions involved in the construction of a bridge at St. Louis over the Mississippi, I believe. The bridge company there had the privilege of erecting one span of five hundred feet in length or two spans of three hundred and eighty-four feet in length, and the decision of the board was decidedly against the erection of the span of five hundred feet.

Mr. CONNESS. I rise to call for the special order.

The PRESIDENT *pro tempore*. The morning hour having expired, the special order, being the bill (H. R. No. 768) concerning the rights of American citizens in foreign States, is before the Senate.

Mr. MORTON. I hope we shall be allowed to finish this bridge bill. It is a very important bill, and will have to go to the House.

Mr. STEWART. It will be debated all day.

Mr. MORTON. I think not. I do not think it will take over an hour. I am very anxious to take up the bill which is the special order, but I hope we shall be allowed to dispose of this bill.

Mr. CONNESS. I have only a general interest, the interest of all other Senators in the special order. The Senator knows how long and how often it has been postponed. I know the interest felt in the pending measure, and I know, too, how near we are to the close of the session; and if the bridge bill can be passed in a comparatively short time, and the Senate will agree to it, I will consent to let it go on, if it will not occupy more than half an hour or an hour.

Mr. MORTON. I do not think it will. Mr. CONNESS. The special order can lie over informally for that time.

The PRESIDENT *pro tempore*. By unanimous consent the special order can be passed over informally. The Chair hears no objection.

Mr. CAMERON. I ask the Senate to take up House joint resolution, No. 343, allowing a cap for a monument about being erected in the city of Harrisburg to the slain of the Mexican war to be admitted free of duty. It will not take a moment. It has passed the other House.

The PRESIDENT *pro tempore*. It can only be done by unanimous consent.

Mr. MORTON. I cannot consent to that. I am going upon borrowed time myself.

The PRESIDENT *pro tempore*. The bill (S. No. 622) to authorize the construction of bridges across the Ohio river is before the Senate, and the Senator from West Virginia has the floor upon it.

Mr. VAN WINKLE. Mr. President, I was adverting to the report of the board of engineers, on which the law I have already spoken of was passed, and under which the bridges that I represent here in my locality are being constructed. I wish to read a few short extracts from a longer report now in the hands of the Senator from Indiana. As we cannot get any other reports to know whether this is right or wrong I shall be inclined to rely on this report of twenty-five civil engineers; one of them, however, being from the United States Army.

I have already stated that the question first presented to them was as to the feasibility and propriety of erecting a single span of five hundred feet, or two separate spans of three hundred and eighty-four feet, and the decision was in favor of two spans of three hundred and eighty-four feet. If I can have the attention of the Senate, I desire to read a few passages from their report:

"Resolved, That we, as practical engineers, cannot conscientiously recommend to the parties in interest, to venture upon the construction of spans of as great length as the maximum one prescribed by law—

That is, five hundred feet—

"and that, therefore, we do recommend for adoption the minimum spans allowed by the law, as more economical, less hazardous in construction and maintenance, and affording ample accommodation to the commerce of the river at the port of St. Louis."

It was also—

"Resolved, That in view of all the circumstances of this case, we would recommend spans of less than three hundred and fifty feet in the clear, if the Federal law permitted of such reduction."

The report of another committee of that body says:

"That under the circumstances of the case, it is expedient to construct the spans over the main channel of three hundred and fifty feet in the clear."

And they expressed by resolution—

"Their unqualified disapprobation of spans of five hundred feet."

Now, sir, I should like to call attention to this paragraph to show how private property may be destroyed for a mere notion, as I think this idea of a five hundred feet span is:

"It was proved in joint committee that the cost of a span of five hundred and twenty feet (five hundred feet in the clear,) will be more than twice as great per foot of bridge as a span of three hundred and sixty-eight feet (three hundred and fifty feet in the clear) and not less than three times as great as a span of three hundred and four feet; consequently, the cost of one span of five hundred and twenty feet will be equal to two spans of three hundred and sixty-eight feet, and one and a half spans of two hundred and sixty-four feet; that is, for the cost of one span of five hundred and twenty feet, no less than eleven hundred and fifty feet of bridge in spans of three hundred and sixty-eight feet and two hundred and sixty-four feet may be built."

Mr. President, I have said, and I am bound to believe until I see something to the contrary from some authoritative source, that this idea of a five hundred feet span is a mere notion gotten up by one opposing interest against another; and I should like to call the attention of the Senate for a few moments to something practical on the subject. Four hundred feet is six times the length of this Senate Chamber, and five hundred feet in the clear would be about seven times as long as this Senate Chamber. I ask Senators to imagine that the space

from one extreme of the gallery across to the other was seven times as long without any intermediate support whatever, and a railroad train of some three or four hundred tons were to be placed upon it. It is almost utterly impossible to find any material that will be strong enough to bear such a weight for such a span at anything like a reasonable expense, or any expense which could be well incurred in this country. I know that the tubular bridge is nearly five hundred feet in its span; but we all know that is a work erected where money was not scarce as it is here. That it is practicable to do it, there can be no question. That a five hundred feet span may be constructed, I have no doubt. Sir, there is no doubt that a ten thousand feet span could be constructed if we could find material that would not crush itself to destruction by its own weight. We are limited in these things by the nature of the materials we are to work with; and I believe a five hundred feet span bridge comes very near the limit of our materials. There is no bridge in this country of that span, and all the manufacturers of bridges that I have seen recommend that it should not be so long; and I know there was a doubt when the law was passed requiring the spans to be three hundred feet about their stability if built in the ordinary way; but unquestionably they can be built.

Now, sir, what are we subjected to? Now that we, relying on the faith of this law, passed after such deliberation as it received, and the views of skillful and competent engineers, have commenced these bridges, and spent perhaps two or three hundred thousand dollars upon them, they are to be arbitrarily charged at an immense expense to those engaged in the work. I have no hesitation in saying that between the three and five hundred feet span—I say it on the authority of engineers and upon what must be reasonable to everybody—whether that bridge is built of wood or iron, or compounded of both, the necessary and unavoidable consequence is that the long span will cost more than three times as much as the short one. It is true two hundred feet more will be covered; but in every way the expense must be very great. In the first place, the piers that are to be built to support the longer span must be stouter in every way, and heavier than those built to sustain a span of three hundred feet, and, as I have already said, the materials must be heavier. Every rod that is used in its construction must be more than double the weight. This whole chord has to go for five hundred feet, and yet it must be so managed that it is as strong in the center as in the ends where it rests on the piers. Every one must see that it is a mechanical impossibility to construct such a bridge at anything like the rate it would take for a three hundred feet span.

I will also advert to the fact that probably the navigation of the river would be much more damaged by the increased size of the piers which a five hundred feet span would render necessary than it would be by the narrow span. I have very little doubt of this in such a river as the Ohio where the natural channel is very narrow.

Sir, I should like to know what is to be gained by this; and I should like to have some scientific answer at least to that question, not mere notions of people who do not live on that river and know nothing about it. I want to know what is to be gained by it. All I hear in reference to that is that it is to permit the boats towing barges of coal from Pittsburg to go down the river without having a very good pilot I suppose. Mr. Roberts, the United States engineer now in charge of the Ohio river, came before the Committee on Post Offices and Post Roads, and I had a conversation with him. I learned from him that a steamboat with her barges loaded with coal will occupy a front of one hundred and forty feet. The information in this report is that they occupy one hundred and twenty-five feet. But take it the one or the other, I ask whether, with skillful pilotage, such a raft might not be got

through a span of three hundred feet without accident, under ordinary circumstances? The thing is palpable, or ought to be palpable, to the judgment of every man. But I asked Mr. Roberts further whether it was necessary to the safe navigation of the river, or to the convenience even of those engaged in it, that those rafts or boats should be so wide, and he said no. I asked him if it was not easy for them to adapt themselves to the three hundred feet span, and he said it was. Because it would be more convenient for a few coal boatmen living at Pittsburg, who are careless and reckless, and whose boats lie scattered at all times all along the Ohio river wherever there is a shoal or a dangerous place, to save them a little effort of rigging their boats together in a different way, this great evil to those whom I represent is to be incurred.

It appears to me that the object to be attained by this measure does not warrant subjecting us to so great an expense. If the Senator from Indiana chooses to except my part of the river from the operation of his bill I have nothing more to say except in reference to what I consider the folly and the danger of constructing a span of five hundred feet. Say as you will, put all the science you can on it, put all the skill in construction you can on it, increase the weight of your material as much as it will possibly bear, and yet it must stand evident to every one that it must be dangerous for a rolling train, impelled by an engine composed of different pieces, that is, of different cars and the engine, to cross any bridge of an elevation of ninety feet with a five hundred feet span. Let me read a little further from this report:

"The joint committee on the regimen of the river, on the foundations and piers, and on the superstructure, discussed the alternate proviso of the law in regard to the length of the spans across the main channel, and unanimously agreed that it was inadvisable to adopt the span of five hundred feet clear opening, on account of the difficulty of procuring suitable materials of the proper form, size, and workmanship required to meet the extraordinary strains to which some of the members of the truss would be subjected; the increased hazard of its construction and maintenance; the large additional cost of the whole structure by the use of the long span, and because the necessities of this case do not require the use of one of such great length, for which there is no engineering precedent."

Under all these circumstances, having acted under the faith of the law provided under the circumstances this law was, we are now called upon to build our bridges against our own will, against our own convictions of a length of span which is said here, almost in so many words, to be dangerous, and of which it is said there is no engineering precedent. Let me read a little further:

"The report gives the dimensions of a number of steamboats, varying from two hundred and thirty-five feet length over all, by sixty-one feet breadth of beam over all, to the Great Republic, the largest steamer afloat on the western rivers, which measures three hundred and thirty-six feet length over all, by ninety-six feet breadth of beam, and proceeds as follows:

"The principal spans, as determined by the law of Congress, are established at either five hundred feet, or three hundred and fifty feet; now a comparison of the foregoing data with these lengths of span shows that the largest boat on the river would not occupy one quarter of the width of even the smallest span allowed by law, or with a tow of barges, less than one-half the width."

"We think there can hardly be a doubt in the mind of any intelligent man, but that the span of three hundred and fifty feet is abundantly large to enable a free and unrestricted passage at all times."

I wish the Senate particularly to consider what is the object to be attained by this measure and what is the injury to be done. The object to be attained is a very uncertain one. We have some practical knowledge of a bridge of three hundred feet span. The bridge at Steubenville, on the line now of the Pennsylvania Central railroad, connecting with Columbus and other places West, has been built, and has a three hundred feet span. A great outcry has been made about the damage done at that bridge. No steamboat has ever struck on that bridge. A few coal boats have been wrecked there, not exceeding fifteen in all. It is ascertained that approaching the bridge from above the current appears to deflect, when in fact it goes straight

on. It is only an act of time for these raft-men to become acquainted with it, and they can go through that just as well as if it had a five hundred feet span. That is the whole mystery of the Steubenville bridge. That is the whole injury that has been accomplished thus far. As I said before, and as anybody traveling on the upper Ohio will know, these coal boatmen have a sort of faculty of running their boats aground. In fact they are steered with difficulty. They have an oar sticking out at the stern, which they call a steering oar, but the vessel could not very well get around a few feet without the use of a long sweep at the bow. They are generally square at both ends, with a flat bottom, and such a thing as steering them would not be attempted perhaps anywhere else.

I asked this engineer from Pittsburg, who came here to represent, as I understood, the interest of Pittsburg, although he was in the employ of the Government of the United States in charge of the improvements going on upon the Ohio river, how these coal barges were built. I asked him if they could not be made to steer better, and he confessed that they could. So it seems that even if this is the evil that is to be guarded against, if it is simply to let these coal barges down without unlashing their boats or without lashing them properly before they start, even that can be avoided, because if they can get steering-way on them it is certainly possible for them to pass this bridge without injury. This bill, I see, requires that the channel shall run in a straight line for one thousand feet before it approaches the bridge, and that the piers of the bridge shall be built parallel with the channel; and such is the former law. Well, sir, with a great wind we know that even steamboats themselves cannot navigate well; but in ordinary circumstances it appears to me that a fleet of coal boats with a steamboat in the center of the breadth stated as the maximum by Mr. Roberts, one hundred and forty-two feet, can, without injury, be got through a span of three hundred feet.

We had before the Senate a year or two ago the case of the Clinton bridge across the Mississippi. That bridge had been built before the passage of the bridge law. It is a draw-bridge, and the opening between the pivot of the draw and the pier is a great deal less than three hundred feet. Efforts were made to prove that that was a most dangerous place, but the evidence brought before the committee fully disproved that assertion, although it was stated that the channel above, owing to a point of land, which I suppose could be removed, was curved; and yet a rigid account kept of all the accidents at that bridge showed that what had occurred were the result of carelessness of the parties or certain circumstances that were unavoidable; as, for instance, on a dark, foggy morning some boats attempted to pass the bridge from above, and they were injured; but the damage was not extensive.

Now, sir, I ask Senators to reflect that what is possible elsewhere will be possible on the Ohio river. I ask them also to reflect that at the ordinary stage of water it is exceedingly doubtful to my mind whether there is in the Ohio river, that is in the coal-boat stage, any natural channel over three hundred feet; and why five hundred feet is required to strike the channel they must keep is more than I can imagine. In several of the dangerous places on that river, the shoal places, where boats are compelled to go through a much narrower space than three hundred feet, they do it a great part of the time, but by carelessness sometimes run their boats ashore. I do not believe the danger from a two hundred feet span bridge would be as great to these coal boats as the natural obstructions to the river now at the stage of water in which they use it.

Mr. President, I think I am all alone in this matter. I do not know anybody that possesses the same interest in it. I do not know that I have even the sympathy of any others with me; but I think the case is one of great injustice toward these bridges. I shall offer an

amendment to the effect, at least, that these bridges shall be exempt; that so much of the Ohio river as is above the Little Kanawha, immediately above which is the first bridge that is constructing, be excluded from the operations of this bill.

Mr. MORTON. I confess no little surprise at the statement which has been made by the honorable Senator from West Virginia. In the first place, I am surprised that he has read, not from an official report, but a report of a number of engineers collected in the interest of what was called the Boomer Company, of Chicago. There were companies competing for the right to build a bridge across the Mississippi river at St. Louis. One was called the Eads Company, proposing to build a five hundred feet span, and the other called the Boomer Company, proposing to build a three hundred feet span, and each company had engineers in its own interest. The Senator reads from the report of the Boomer Company proposing to build a bridge with a three hundred feet span. The Senator ought to know that that report has been repudiated by the Boomer Company itself; that that plan has been abandoned; that the five hundred feet span has been adopted; that the Boomer Company has come in and consolidated with the Eads Company on the five hundred feet span, agreeing to build a bridge with one span of five hundred feet, and the other two four hundred and ninety-seven feet each. Only the other day the Senate was called upon to pass a bill authorizing the consolidation of those two companies on the plan of the Eads bridge. The same company that published this report he reads from, repudiating that report, came forward and accepted the other plan, and have been consolidated with the other company by an act of the Senate not more than five days old. Was not the Senator advised of that when he read from that report, a partial report? for if he will read the whole of it he will find that they had not the Eads plan before them at all.

Mr. VAN WINKLE. The gentleman will permit me to state that I read from the report of twenty-five distinguished civil engineers. In whose interest they made the report, I do not know, and I do not care.

Mr. MORTON. They made the report simply on the plan submitted by Boomer, and the same Boomer Company, abandoning that plan, has been consolidated by Congress with the other company, and now a new bridge is being built with one span of five hundred feet, and the other two spans of four hundred and ninety-seven feet. The Senator reads from this old repudiated report.

Now, Mr. President, there is no opposition to this measure, I believe, except on the part of two railroad companies who want the privilege of building two cheap bridges at the expense of the navigation of the Ohio river. They are willing to imperil navigation for all time to come, and make it costly for the sake of building cheap bridges, and to save those railroad companies a little expense. Why, sir, it should make no difference if the expense was twice, thrice, or four times what it is. What is the increased expense of building a long-span bridge compared with the interests of commerce on that great river, second only to the Mississippi; that commerce estimated by the Treasury Department at over four hundred millions annually; a trade almost equal to our entire commerce with all the world beside? And yet that is to be imperiled for the purpose of enabling a couple of railroad companies to build cheap bridges. They, no doubt, expect these bridges to be pulled down, and then that we shall rebuild them with long spans, as we are now doing at Rock Island, where the Government is pulling down one bridge for the purpose of building another.

I have no time to go over the evidence in this case. I submitted to the Senate some weeks ago the testimony of the Chamber of Commerce of Cincinnati; I submitted the testimony of the Chamber of Commerce of Pittsburg; I sub-

mitted the testimony of some sixty Ohio river pilots with an average service of over twenty years; I submitted the testimony of some four hundred merchants in the city of Cincinnati and of some five hundred merchants in Pittsburg, comprising nearly all the business men of that city; I submitted the testimony of some two or three hundred steamboat captains and steamboat owners and men engaged in the manufacture of salt and sending it down the river, and men engaged in shipping coal; I submitted all testimony; I cannot read it over again. The entire business population of the Ohio river valley is on one side of this question, and stands against the interest of a couple of railroad companies who want the privilege of building cheap bridges.

The Senator wants his two bridges, the one at Parkersburg and the other at Bellair. Here is this bridge at Steubenville. It was built at first as an experiment. Time has shown, since it was built, within the last three years, that it is a nuisance and an obstruction to navigation. It has already cost more to the interests of navigation than the bridge itself cost. Then, if you get two bridges of the same kind that will be double the obstruction; three bridges will be three times the obstruction, each one going on until finally the navigation of the river is destroyed. I submitted the testimony of forty-two insurance companies of Cincinnati and below there, showing that the building of these bridges would increase the rates of insurance. I submitted the testimony of the chief of the Board of Underwriters at Pittsburg, representing all the insurance companies of that city, saying they must increase the rates of insurance on account of the existence of these bridges. And yet, in the face of all this overwhelming testimony, we are asked, for the sake of enabling two railroad companies to build cheap bridges, that they shall be allowed to go on and put up these bridges and obstruct the navigation.

But the Senator from West Virginia says he asked Colonel Roberts whether these tows, coal boats and salt barges, could not adjust themselves to the bridges. Why, of course they could. They could build the steamboats half the size. They could employ canoes, and adjust themselves in that way to all matters of that sort.

Mr. VAN WINKLE. I asked if the existing boats could not be adapted to the bridge, and I have a letter here showing that it could be done very easily.

Mr. MORTON. I will not reread what I have read to the Senate once before. I have here a number of affidavits from those engaged in the coal business at Pittsburg, showing the width of tows that are employed there. These tows are on an average from one hundred and twenty-five to two hundred and fifty feet. Here is the testimony of T. & J. Watson, a coal firm of Pittsburg. They say in reply to an inquiry as to the regular width of the steamer Ajax:

"Length of tow, six hundred feet; width two hundred and fifty feet; contents, three hundred and thirty-six thousand bushels of coal, equal to thirteen thousand four hundred and forty tons."

Or that which would take thirteen hundred and forty-four railroad cars. I have other evidence here showing that the transportation of coal from Pittsburg to Cincinnati by the Ohio river is a cent and a half per bushel, and by railroad twenty-one cents and a quarter. Let me refer to that to show how much difference there is in value in preserving this channel of trade without injury:

"Two hundred thousand bushels of coal by river cost \$3,000; by rail \$42,500."

And so in regard to the salt and the iron. The navigation of the Ohio river is increasing from year to year as the country develops. The navigation of the Upper Mississippi is a mere bagatelle compared with it now. The lower Mississippi with all its tributaries has greater navigation, because that of the Ohio is a part of it, and this vast trade, which is equal to the trade perhaps of all European rivers that

are navigable, is to be imperiled and obstructed by narrow bridges.

Now, Mr. President, instead of reading from the repudiated report of the Boomer Company, who have come up to the five hundred feet span, and are now a part of the corporation building it, I will read from the report made by Colonel Roberts, the officer now in charge of the Ohio river removing obstructions. You have appropriated in years past \$8,000,000 to remove obstructions in the Ohio river, and now we are asked to allow other obstructions to be put in it. What does this officer say? This report is just made. He understands this question. Here is what his conclusion is, and there is not a more distinguished man in the engineer corps than Colonel Roberts. He says:

"My convictions on this important subject are based on a thorough acquaintance with it. I have no interest whatever but the public interest to subserve, and I do most emphatically give it as my opinion that Congress will do a lasting benefit to the American people by now establishing the limit of space between piers over the main channel of the Ohio river at not less than five hundred feet."

And that is the conclusion of the Committee on Post Offices and Post Roads, a conclusion that is forced by the evidence, for I submit that no man can read this testimony and not agree to that conclusion. What do the committee say? They sum up in this way:

"The committee conclude from the information before them—

"1. That five hundred feet clear span across the channel-way will accommodate existing navigation on the Ohio, and that less than five hundred feet clear span will not.

"2. That such spans are practicable, and can be built at a less cost than bridges already constructed in this country and across the Ohio river."

The science of bridge building has grown in the last few years. Bridges are now built from year to year that were regarded as impossibilities some few years ago. Those who say that a five hundred feet span cannot be made practicable are made old fogies in the bridge building business. Here is the report of General Warren, in charge of the Mississippi river, who has been making surveys for bridges and for improvements around the rapids, an officer standing almost at the head of the engineer department in the employ of the Government.

What does he say about it? I will read a very brief extract from what he says. He sums up in this way:

"My investigation satisfies me that railroad bridges spans can be built of five hundred or even six hundred feet in length, without resorting to the suspension plan, against which, however, I think only unreasonable objections exist."

He says that they can be built of five or six hundred feet without resorting to the suspension plan, and he says the objection to that plan is unreasonable. Again, he says:

"In the last few years a great increase in our knowledge and means of building piers and long spans enables us to build them now with a much longer span and less expense than those built before."

Now, I call the attention of the Senate to the question of cost. General Warren here goes on to give an estimate of the cost of a bridge across the Ohio river at Steubenville with a span of five hundred feet which will cost \$400,000 less than the Steubenville bridge actually did cost. I assert that the best evidence is to the effect that long-span bridges of five and six hundred feet can be built at the same cost, or at a less cost than bridges with the three hundred feet span. You save one pier in the river, and that is a very expensive thing; and then the suspension plan is cheaper than the truss bridge or any other bridge. The Senator says there is no example of this kind. Why, sir, there is the bridge at Cincinnati of ten hundred and fifty-eight feet span which it is estimated can carry fifteen thousand tons.

Mr. VAN WINKLE. Is the Senator able to state whether that is a railroad bridge?

Mr. MORTON. It is able, I understand, to hold upon it at one time three hundred locomotives, if they could be piled on. It is not a railroad bridge; but the bridge at Niagara is, with a span of eight hundred and seventy-

eight feet. That bridge has been in operation thirteen years, and it is said to be now the strongest and best bridge in the United States. Here is the testimony showing that suspension bridges can be built cheaper than any other form of bridge, and there is no doubt of it. Here is the opinion of General Warren, standing at the head of your engineer department, just rendered before a committee of the Senate, that you can build bridges with a span of five or six hundred feet perfectly safe, without resorting to suspension bridges at all, by a combination of the arch and the truss. There is no doubt upon the question of practicability. There is no engineering difficulty in the way.

So far as the cost is concerned, I will say to my friend from West Virginia that the best evidence is that they can build a bridge of five hundred feet span cheaper than they can build the little bridge he is proposing to build at Parkersburg. But let me say again, the question of cost can scarcely be mentioned in this connection.

Let me give the Senate for one moment, especially those who are not familiar with Cincinnati, some idea of the commerce of that city. The number of steamboats running from the city of Cincinnati, doing business between that point and other points, is three hundred and sixty-six; actual tonnage in tons, one hundred and fifty-six thousand eight hundred and thirty-two. The number of what they call model barges, not including coal barges at all, not including flat-boats, is ninety-one. The actual tonnage in tons of the barges is twenty-six thousand five hundred and forty; total in tons one hundred and eighty-three thousand three hundred and seventy-two. The average number of trips annually is eighteen, the total tonnage in tons annually is three million three hundred thousand six hundred and ninety-six. That is the commerce of the city of Cincinnati, a city now with not less than two hundred and fifty thousand inhabitants, and with an immense commerce that the world scarcely knows anything about. I have not got the data here in regard to Pittsburg; but Pittsburg has as many steamers, and she has an infinitely larger number of barges. Let me make a statement now in regard to one item, and I will make it from Colonel Roberts's report. I call the attention of the Senate to what Colonel Roberts, the engineer, says in regard to the business of the Ohio on one point. I refer to the question of coal:

"The quantity shipped from Pittsburg alone now exceeds forty million bushels."

Then from Pomeroy and the towns below there are certainly forty million more; making eighty million bushels of coal, an article of prime necessity. Of the single item of coal, eighty million bushels come from the upper end of that river, supplying all the towns and country down to the city of New Orleans, a distance, I believe, of some twenty-two or twenty-three hundred miles. Then there are three million bushels of salt. They start from Pomeroy and in that neighborhood. Besides all that, there is the great commerce of the Ohio, estimated at \$400,000,000 annually; and yet this is to be obstructed and to be diminished for the sake of allowing two railroad companies to build cheap bridges below Wheeling, at Bellair, and at Parkersburg. I do not know that it is necessary for me to say anything more. The evidence, except of those interested in the construction of these two roads, is entirely on one side.

My friend from West Virginia thinks these immense tows can pass through the short span bridges. They have to wait and pass in the day time. The delays are great and costly. I have the affidavit of one coal dealer of Pittsburg who says that the delays at the Steubenville bridge simply, without reference to the boats that have been destroyed, in one year cost him \$8,000; and the same rule applied to other dealers would make the cost of delays in one year from Pittsburg and Pomeroy and along there about three hundred thousand dollars. Now, sir, what does Colonel Roberts

say in regard to the Steubenville bridge? He says:

"An ordinary tow of twelve barges, with six in front, has a frontage of one hundred and forty to one hundred and fifty feet, and a length, including steamer, of four hundred to four hundred and fifty feet. The piers of the Steubenville bridge are three hundred feet apart. In daylight, with an experienced pilot who understands the river at that particular point, in its different stages, it can be safely passed. When it is passed, however, telegrams are sent back announcing the fact, because it is a constant source of anxiety to the coal merchants of Pittsburg."

Why, sir, when a tow passes the bridge it is telegraphed back to Pittsburg that the tow is below the bridge, that being an assurance of safety to the owner of the tow. It is a great thing to pass that bridge in safety, and, as Colonel Roberts says, they send dispatches back to the owners notifying them that they have passed the point of danger.

One word more. My friend says that the channel of the Ohio is only one hundred and fifty or two hundred and fifty feet wide. I am sorry that my friend's statements are in direct conflict with the report of the engineers. It may be that at low water, when these boats are not running at all, the channel may be said to be only one hundred and fifty or two hundred and fifty feet wide; but at certain stages of the water that last about six or seven months in the year, there is a clear waterway the whole way down of about eleven hundred feet. At that stage of water when these boats float, there is a clear waterway from Pittsburg down to the falls of the Ohio river of about eleven hundred feet. Why, sir, the very tow that I refer to is two hundred and fifty feet wide, and would never get through a channel such as the Senator from West Virginia has described.

Mr. VAN WINKLE. Did the Senator say there was a fall of eleven hundred feet?

Mr. MORTON. No, sir. I say that according to Colonel Roberts and General Warren there is a clear waterway of eleven hundred feet all the way.

Mr. VAN WINKLE. Whereabouts is the eleven hundred feet?

Mr. MORTON. The whole way as a general thing. The deepest part may be only one hundred and fifty or two hundred and fifty feet wide. It is when the water rises and covers the surrounding bars that we have a clear waterway of eleven hundred to twelve hundred feet. That is the testimony, and that is the way we get these enormous tows down. They do not navigate the river as they used to do a few years ago. It is not by flatboats, but it is done by placing these great coal boats and salt boats together, and then putting a stern-wheel steamer behind them.

Now, sir, the whole country is interested in this subject. It is a matter of vast interest not only to those living in the valley of the Ohio, but to the whole nation. The Ohio river is not local; it is not sectional. It belongs to the commerce of the nation; I might say to the commerce of the world, because they have built ships of war at Pittsburg which floated down that river to the Gulf of Mexico, and went upon the ocean. The navigation of that river is national. Its value is beyond computation, increasing every year; and whatever may be the cost of building these bridges, if they should cost four times or ten times as much that is a mere bagatelle compared with the value of the navigation of that stream.

Mr. President, I have said more than I intended to do, but the interests involved are very great.

Mr. POMEROY. I feel no more particularly interested in this question than any other Senator. I have not enough interest to be very earnest or very eloquent on the question of building a bridge or bridges on the Ohio river. But I have paid this subject some attention. I did not know that the committee had reported this bill until this morning. I wish the Senate would understand distinctly what the bill is. This is not a bill proposing to give any one company the right to bridge the river at any particular place, but it is a bill providing that for all time, if it

becomes a law, and for every place, there shall be a bridge, defining the span in the main currents to be not less than five hundred feet and the approaches to that main current not less than two hundred and fifty feet. Now, I have to say this distinctly, that if there is any one company or any place that comes to Congress and asks to build such a bridge as that of course I would agree to it; but to make it compulsory, to oblige every company in every place up and down the river, where the river itself is not as wide as that, to make a span of five hundred feet, is ridiculous, not to say wicked.

In the first place, you are requiring a span of which there is not one in the United States to-day, because this is not contemplating suspension bridges. There is not a truss or arch railroad bridge in the United States with a span of five hundred feet, nor in any other country. You are requiring these people to enter upon an experiment that has never been tried. I know the other day we authorized a company at St. Louis, who asked it, to build a bridge there, a combination of the arch and the truss, where the span should be five hundred feet and to be ninety feet above low water. That is an experiment. I shall be glad to see it tried, although I said then that I had no faith in it. I have not now. The Senator says that according to the estimate made here such a bridge as that would only cost about seven hundred and ninety-six thousand dollars, and yet I notice that the engineer in his letter calling for a report from Mr. Eads makes the following remarks:

"A letter from Mr. James B. Eads, civil engineer, of St. Louis, dated April 7, 1888, concerning the bridge of five hundred feet span which he proposes to build at that place. He states that no published official report of this bridge has yet been made, but that he has one in course of preparation, which will be an elaborate one, for the use of the company, who expect to ask our (St. Louis) citizens to make a loan of the city's credit to the extent of \$4,000,000."

The builder of this cheap bridge of five hundred feet span says he expects to ask the citizens of St. Louis to aid in its construction to the extent of \$4,000,000! That does not look very much like a cheap structure, or a bridge coming within the ordinary expenses of any company.

I have no information not known to every Senator in regard to the Ohio river. I only say that where a bridge of this character is demanded let it be built; but the bill is so drawn that each case must be reported to the Secretary of War on its own merits, and if, in the opinion of the Secretary of War, a bridge of three hundred feet, or three hundred and fifty feet, as I propose to amend it, in any given case is not practicable, then he may order a board of engineers to examine and report, and he may increase the span upon the report and recommendation of the board of engineers to any extent he has a mind to do. The Secretary may order the span to be a thousand feet under this bill.

This bill proposes to begin at the maximum. As it now stands, it proposes that one span shall be five hundred feet at any rate, not allowing any discretion, because there is no need of any discretion, if you require five hundred feet on the start. That is the maximum. We begin where we should leave off. The bill should require, what has been required in other places, a span of three hundred and fifty feet; and then if the interests represented want the bridge, or think it should be more than three hundred and fifty feet, let a board of civil engineers report upon it; let the Secretary of War then order that it shall be made, as he can do under this bill; but to begin at five hundred feet is ruinous. No bridges will be built upon that plan. Why should Congress at this time undertake an experiment that has never been made a success in this or any other country?

I do not wish to interfere with the navigation of the Ohio river. They run these barges, I understand, two months in the year. About one sixth of the whole time they are able to run the barges in connection with steamboats. Now, shall the expense of bridges be placed

beyond the reach of railroad corporations for an interest that occupies the river but two months in the year? But, sir, the fact is that the great commerce of the Ohio river is not confined to barges. That is the coal trade; but the great commerce that goes in steamboats does not need any five hundred feet span to get through.

Mr. MORTON. I ask the Senator to allow me to correct him on one point. He says this coal navigation only takes place about two months in the year. I hold an affidavit in my hand showing the depth of the water and the character of the navigation for every day for three years; and this coal navigation lasts on an average about seven months.

Mr. POMEROY. I take the statement from Representatives from Ohio, and a Governor from Ohio, whose statement I have on the subject, and other citizens of Ohio.

Mr. MORTON. You take the statement of an attorney who was once Governor, but who comes here as an attorney for a railroad company—a very excellent gentleman; but he has made no affidavit about it.

Mr. POMEROY. I remember a statement in the House of Representatives some years ago that the Ohio river was a ditch, which is dry except for two months of the year, and frozen during the wet months, and I believe it has never been contradicted.

Mr. DAVIS. "Dry for half the year and frozen the other half."

Mr. POMEROY. That was it. Now, I submit to the Senate that this is an experiment. We ought not to require every company that may propose to bridge the Ohio river to put in a five hundred feet span when the experiment has never been tried, and never been made a success. Now, what I propose is that we shall require in this bill what we have required in other places, that the bridge shall have a span of three hundred and fifty feet, with authority to the Secretary of War to increase it to any extent if they can make out a case that demands it. That I think is reasonable and fair; but to require arbitrarily that in every place the span must be five hundred feet is equivalent to saying that bridges shall not be built on the Ohio river.

I only desire to say further, that the mania that seems to have taken possession of the public mind about these immense spans ought not to be yielded to until some successful experiment has been made. I know that there is one railroad suspension bridge in this country with a span of eight hundred feet; but with what care do they go over that at Niagara? If the trains are long they detach them. They run a little pony engine over, and go as carefully as a cat goes across a velvet carpet, showing that such bridges are not adapted to railroad purposes.

Mr. CONNESS. I call for the special order. It is very evident that this bill cannot pass without a long discussion, and the time granted, an hour has passed, and more.

Mr. POMEROY. I have no disposition to urge the passage of the bill at this time. I am willing to yield, of course.

Mr. CONNESS. I supposed not; I was rather addressing myself to the honorable Senator from Indiana. I rather thought from the Senator's speech that he was opposed to the bill.

Mr. POMEROY. I have no disposition to delay its passage either.

Mr. CONNESS. This bill can be taken up after we have passed the other bill, and I therefore call for the special order.

Mr. POMEROY. I have a few amendments I desire to offer, and if they are adopted I shall then urge the passage of this bill.

Mr. MORTON. I recognize the right of the bill referred to by the Senator from California, but I should be very glad to get a vote on this bill. It is very important to get a vote upon it to-day in order that it may go to the House of Representatives. I do not think it will take much longer. The Senator from Kansas says he has no objection, after speaking about half

an hour against it. I do not know how much time he intends to occupy.

Mr. POMEROY. I have a few amendments to suggest, and if I can get the Senate to adopt those amendments I shall urge the passage of the bill.

Mr. CONNESS. If the bill could be passed in any reasonable time I would give way; but it is evident that it will occupy the whole day. For three days past the bill which is the special order has gone over, giving way to others. The bill before us may be an important bill in some respects, but it bears no comparison in that regard with the bill which has been delayed, and I hope we shall now go on with it.

Mr. CAMERON. I wish the Senator from California would forbear for a few minutes longer.

Mr. VAN WINKLE. I feel bound to say that I have amendments to offer, and also two other gentlemen near me, in addition to the Senator from Kansas, and we cannot consent to let it go through in this way.

Mr. CAMERON. I shall desire to say a few words after the Senator from Kansas is through.

Mr. POMEROY. I will yield to the Senator at any time. If he desires to address the Senate he can do it now.

Mr. CAMERON. I do not, until you are through. I intend to reply to the Senator; and if the Senator from California will allow me a little time, I shall be glad to do so; but I prefer waiting until the Senator from Kansas is through.

Mr. POMEROY. The control of this matter is in the hands of the Senator from California. If he desires to call up the special order I will yield the floor.

The PRESIDENT *pro tempore*. The special order was passed over by unanimous consent.

Mr. MORTON. We can get a vote on this bill in a very short time I think, and perhaps the special order can be postponed long enough to take a vote.

Mr. CONNESS. As I said before, if there was any chance or any prospect of getting to a vote of course I would consent. I know the condition in which the Senator from Indiana is, and his relations to this bill, and I should like to accommodate him; but if Senators intend to discuss it at length, I cannot consent, of course, to that. Within any reasonable time within which this bill could be passed I would be willing to give way.

Mr. POMEROY. I believe I have never been guilty of discussing anything at great length.

Mr. CONNESS. I did not impute anything of that kind to the Senator.

Mr. POMEROY. I only want to explain certain amendments that I desire to offer.

The PRESIDENT *pro tempore*. Does the Senator insist on the special order?

Mr. CONNESS. I give way at present.

Mr. YATES. If the Senator from Kansas will yield to me I should like to speak a few minutes on this bill.

Mr. POMEROY. I have no objection.

Mr. CONNESS. I call for the special order. It is evident that this bill cannot be disposed of.

The PRESIDENT *pro tempore*. The Senator from California insists on the special order being taken up, and that bill is before the Senate.

RIGHTS OF CITIZENS ABROAD.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 768) concerning the rights of American citizens in foreign States. The bill, as passed by the House of Representatives, is as follows:

Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness, for the protection of which the Government of the United States was established; and whereas in the recognition of this principle this Government has freely received emigrants from all nations and vested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign States, owing allegiance to the Governments thereof; and whereas it is necessary to the mainte-

nance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any declaration, instruction, opinion, order, or decision of any officers of this Government which denies, restricts, impairs, or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this Government.

SEC. 2. *And be it further enacted,* That all naturalized citizens of the United States, while in foreign States, shall be entitled to and shall receive from this Government, the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances.

SEC. 3. *And be it further enacted,* That whenever it shall be duly made known to the President that any citizen of the United States has been arrested and is detained by any foreign Government in contravention of the intent and purposes of this act, upon the allegation that naturalization in the United States does not operate to dissolve his allegiance to his native sovereign; or if any citizen shall have been arrested and detained whose release upon demand shall have been unreasonably delayed or refused, the President shall be, and hereby is, empowered to suspend in part, or wholly, commercial relations with the said Government, or in case no other remedy is available, to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, and who has not declared his intention to become a citizen of the United States, except ambassadors and other public ministers and their domestics and domestic servants, and the President shall, without delay, give information to Congress of any proceedings under this act.

The Committee on Foreign Relations reported an amendment to the bill and an amendment to the preamble. The amendment to the bill was in section three, after the word "refused," in line ten, to strike out the following words:

The President shall be, and hereby is, empowered to suspend in part, or wholly, commercial relations with the said Government, or in case no other remedy is available, to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, and who has not declared his intention to become a citizen of the United States, except ambassadors and other public ministers and their domestics and domestic servants, and the President shall, without delay, give information to Congress of any proceedings under this act.

And to insert in lieu thereof:

It shall be the duty of the President forthwith to report to Congress all the circumstances of any such arrest and detention, and any proceedings for the release of the citizen so arrested and detained, that Congress may take prompt action to secure to every citizen of the United States his just rights.

MR. CONNESS. I believe it is first in order to perfect the original text before the question is taken on striking it out.

THE PRESIDENT *pro tempore*. Of course it is.

MR. DRAKE. That is a very good rule where the intention is to strike out the whole bill and move a substitute; but I suggest to the honorable Senator from California that the rule as he states it now does not cover the particular case that is now in hand.

THE PRESIDENT *pro tempore*. It is the ordinary case of an amendment to an amendment, such as any one can offer.

MR. SUMNER. I submit that the first question will be on the amendments of the committee, and after that the bill will be open to further amendment.

MR. CONNESS. We have a right first to amend by striking out those, if we choose. The amendment of the committee to the third section is a material amendment; it is a substantial amendment.

MR. SUMNER. I have not had the privilege of explaining that amendment. I rose, but did not succeed in obtaining the floor.

MR. CONNESS. If the Senator desires to address himself to the amendment, I will yield the floor to him with pleasure?

MR. SUMNER. I do.

MR. CONNESS. Very well.

MR. SUMNER. Before entering upon this discussion, I wish to read a brief telegram, which came by the cable last evening, as follows:

"LONDON, July 17.—In the House last evening, Stanley, the Secretary of Foreign Affairs, made an important statement in answer to a question asking for information. In reply he said he had already sent to the United States Government a note on the matter of naturalization, the substance of which was that the British ministry was ready to accept the Amer-

ican views of the question. He therefore thought a misunderstanding between the two nations impossible."

Add to this important information the well-known fact that the United States have already ratified treaties with North Germany and Bavaria, and that we are engaged in negotiating treaties with other Powers for the settlement of this very question; and we may surely approach this discussion without any anxiety, except for the honor of our country.

Permit me to say, at the outset, that the declared object of the present bill is all lost in certain special features, which are nothing less than monstrous, and utterly unworthy of a generous Republic, hoping to give an example to mankind. Surely, sir, it is noble to reach out and protect the rights of the citizen at home and abroad, but no zeal in this behalf should betray us into conduct which cannot be regarded without a blush.

This bill proposes to give prodigious powers to the President, such as have never been lavished before in our history. They are without precedent. On this account alone, they should be considered carefully; and they should not be granted unless on good reason. If it be shown that they are not only without precedent, but that they are inconsistent with the requirements of modern civilization; that they are of evil example; and that they tend directly to war, then, on this account, we should hesitate still more before we venture to grant them. Not lightly can a nation set itself against the requirements of civilization; not lightly can a nation do an act of evil example; not lightly can a nation take any steps toward war. The whole business is solemn. Nothing graver could challenge the attention of the Senate.

Two powers are conferred upon the President; first, to suspend commercial relations with a foreign Government, and secondly, to arrest and to detain in custody any subject of a foreign Government found within the jurisdiction of the United States. The suspension of commercial relations and the arrest of innocent foreigners, simply at the will of the President—these are the two powers. It would be difficult to imagine greater.

We have had in our own history the instance of an embargo, when all our merchant ships were kept at home and forbidden to embark in foreign commerce. That measure was intended to save our ships from insult and our sailors from impressment. This was done by act of Congress. I am not aware of any instance, in our own history or in the history of any other country, where there has been a suspension of commercial relations with any foreign Power, unless as an act of war. The moment war is declared there is, from the fact of war, a suspension of commercial relations with the hostile Power. Commerce with that Power is impossible, and there can be no contract even between the citizens or subjects of the two Powers. But this is war. It is now proposed to do this something and to call it peace. The proposition is new, absolutely new. Not an instance of history, not a phrase in the law of nations sanctions it. I need not say how little congenial it is with the age in which we live. The present object of good men is to make war difficult, if not impossible. Here is a way to make war easy. To the President is given this alarming power. In Europe war proceeds from the sovereign; in England from the queen in council; in France from Louis Napoleon. This is according to the genius of monarchies. By the Constitution of our Republic it is Congress alone that can declare war. And yet by this bill One Man, in his discretion, may do little short of declaring war. He may hurl one of the bolts of war, and sever the commercial relations of two great Powers. Consider well what must ensue. Suppose the bolt is hurled at England. All that various commerce on which so much depends; all that interchange of goods which contributes so infinitely to the wants of each; all that shipping, and all those steamers traversing the ocean between the two; all the multitudinous threads

of business by which the two peoples are woven together, warp and woof, as in a mighty loom—all these must be severed.

The next power conferred on the President is like unto the first in its abnormal character. It is nothing less than authority, in his discretion, to make reprisals by seizing innocent foreigners happening to be in the United States. The more this is considered the more it must be regarded with distrust.

Reprisals belong to the incidents of war in the earlier ages, before civilization had tempered the rudeness of mankind. All reprisals are of doubtful character. Reprisals on persons are barbarous. I do not say that according to the received rights of war some terrible occasion may not arise even for this barbarous agency; but I insist that it is frowned upon by all the best authorities even in our own country; that it is contrary to enlightened reason, and that it is utterly without any recent example. Admitting that such reprisals are not entirely discarded by the writers on the law of nations, they are nevertheless condemned. By the rights of war, as once declared, the lives of prisoners taken on the field of battle were forfeit. Early history attests the frequency of this bloody sacrifice. Who now would order the execution of prisoners of war? The day has passed when any such outrage can be tolerated. But it is hardly less barbarous to seize innocent persons whom business or pleasure has brought within your peaceful jurisdiction, under the guarantee of the Public Faith.

I am unwilling to occupy time on a matter which is so clear in the light of modern civilization, and of that enlightened reason which is the handmaid to civilization. And yet the present effort will justify me in exposing the true character of reprisals as seen in the light of history.

Reprisals were recognized by the Greeks but disowned by the Romans. According to Bynkershoeck, who is so much quoted on the Law of Nations, "there is no instance of such wickedness in the history of that magnanimous people; nor do their laws exhibit the least trace of it." (Bynkershoeck, *Questiones Juris Pub.*, chap. 24.) This is strong language, and is in itself a condemnation of this whole agency. It is of the more weight, as the author is our austere authority on questions of the Law of Nations giving to the right of war the strongest statement. According to him reprisals are nothing less than "wickedness," unworthy of a magnanimous people. During the middle ages and afterwards, reprisals were in vogue; but they have never found favor. They have been constantly reprobated. Even when formally sanctioned, they have been practically excluded by safeguards and conditions. In a treaty between Cromwell and the States General, there was a stipulation against reprisals, "unless the prince, whose subject shall conceive himself to have been injured, shall first lay his complaint before the sovereign, whose subject is supposed to have committed the tortuous act, and unless that sovereign shall not cause justice to be rendered to him within three months after his application." (Bynkershoeck, *Ibid.*) This stipulation was renewed under Charles II. The same principle was declared by the grand pensionary, De Witt, who, in the name of Holland, protested, that, "reprisals cannot be granted, except in case of an open denial of justice, and that, even in case of a denial of justice, the sovereign cannot empower his subjects to make reprisals, until he has repeatedly demanded justice for them." (Halleck, *International Law*, p. 310.) A similar rule was also declared in the famous letter to the King of Prussia, in the case of the Silesian loan, written by Murray, afterward Lord Mansfield, and so much praised by Montesquieu. Here it is said: "The Law of Nations, founded upon justice, equity, convenience, and the reason of the thing, and confirmed by long usage, does not allow of reprisals, except in case of a violent injury, direct and supported by the State, and justice absolutely denied in

re minime dubia by all tribunals and afterward by the prince. (Duponceau's Bynkershoek, p. 188, *note*.) This is clear and strong. I might quote authorities without end to the same point. I content myself with adding the words of General Halleck, who, after saying in his admirable manual that "reprisals bring us to the awful confines of actual war," proceeds to lay down the rule that reprisals, even on property, can be only "where justice has been plainly denied or unreasonably delayed." (Halleck, p. 29.) This rule commends itself as reasonable and just.

In the early days reprisals were directed against persons as well as property. Even against property it was done with hesitation, only in cases free from all doubt and after ample appeal to the sovereign for justice. Against persons it was done very rarely. Grotius, our greatest master, who brought the rules of international law to the touchstone of reason, asserts that all reprisals are vindicated by custom rather than by nature. His language is that this rule "is not indeed authorized by nature but generally received by custom." (Grotius, book iii, chap. 2, §4.) Since then the tendency has been to a constant mitigation of the rule, even as regards property. Without burdening this discussion with cases, which are numerous, I give the summary of Wheaton in these words: "It appears to be the modern rule of international usage, that property of the enemy found within the territory of the belligerent State, or debts due to his subjects by the Government or individuals at the commencement of hostilities are not liable to be seized and confiscated as prize of war." (Wheaton's Elements, Lawrence's edit., p. 629.) This rule, which is applicable to the condition of things on the breaking out of war, attests the care with which the modern law of nations watches the rights of individuals, and how it avoids making them suffer. Thus even debts are not liable to seizure. How much more should an innocent person be exempt from any such outrage?

It is when we consider the modern rule with regard to persons, instead of property, that we are impressed still more by its benignity. Here I quote, first a British authority, and then an American. Mr. Phillimore, the author of the very elaborate and candid treatise on the law of nations, so full of various learning, after admitting that reprisals "strictly speaking, affect the persons as well as the goods," proceeds to say, that "in modern times they have been chiefly confined to goods;" and he then adds in words, worthy of consideration now, that, "it is to be hoped that the reprisal of persons has fallen with other unnecessary and unchristian severities into desuetude; and certainly, to seize travelers, by way of reprisals, is a breach of the tacit faith pledged to them by the State, when they were allowed to enter her borders." (Phillimore, Law of Nations, vol. III, chap. 2.) The same enlightened conclusion is expressed by Dana in his excellent notes to Wheaton, as follows: "The right of reprisals is not limited to property, but extends to persons, still the practice of modern times discountenances the arrest and detention of innocent persons strictly in the way of reprisals." (Dana; Wheaton, p. 370, *note*.) Thus do British and American publicists concur in homage to a common civilization.

If we look at the reason of the modern rule, which spares persons, we shall find it in two different considerations, each of controlling authority; first, that an innocent person cannot be seized in a foreign country without a violation of the Public Faith; and secondly, that no private individual can be justly held responsible for the act of his Government. On the first head Vattel speaks as follows: "The sovereign declaring war can neither detain those subjects of the enemy who were within his dominions at the time of the declaration, nor their effects. They came into this country on the Public Faith. By permitting them to enter his territory and continue there he has tacitly promised them liberty and perfect

security for their return." (Vattel, book II, chap. 18, § 344; book III, chap. 4, § 63; chap. 5, § 73.) In the same sense Halleck says: "Travelers and passing guests are in general excepted from such liability." (Halleck, International Law, p. 302.) The other reason was assigned by Mr. Webster in his correspondence with the British Government in relation to the Caroline. The British Government having acknowledged the act of McLeod in burning this vessel as their act, Mr. Webster at once declared that, after this avowal, the individuals engaged in it could not be held personally responsible, and he added words worthy of memory at this juncture: "The President presumes that it can hardly be necessary to say that the American people, not distrustful of their ability to redress public wrongs by public means, cannot desire the punishment of individuals when the act complained of is declared to have been an act of the Government itself." (Phillimore, vol. III, p. 53.) Weighty words, by which our country is forever bound. The same principle is adopted by Halleck, in his text-book, when he says: "No individual is justly chargeable with the guilt of a personal crime for the act of the community of which he is a member." (Halleck, International Law, p. 296.) All these authorities furnish us the same lesson, and warn against the present proposition.

Another argument may be found in the extent to which reprisal on persons has been discarded by modern precedents. It is denounced, not only by authority, but also by practice. I have already said that the proposition to suspend commercial relations is without an example in history. The other proposition is without example since the hateful act of the first Napoleon, condemned afterward by himself, when at the breaking of the short-lived peace of Amiens, he seized innocent Englishmen who happened to be in France, and detained them as prisoners, precisely as is now proposed under the present bill. Among these Englishmen, who became the victims of this tyrannical decree, was Lord Elgin, on his return from Constantinople, where he had been ambassador; also the famous Sir Sidney Smith, the hero of Acre; both of whom at the time were passing through France. There was also an ingenious scholar, of feeble health, but exquisite attainments, Joseph Forsyth, author of one of the best books ever written on Italy. He, too, was seized. In the preface to his admirable work his family have recorded the outrage. Read it if you would know the judgment that awaits such a transaction. The English historian who has pictured the events of that time thus describes this decree:

"This declaration of war was immediately followed by an act as unnecessary as it was barbarous, and which contributed, more perhaps than any other circumstance, to produce that strong feeling of animosity against Napoleon which pervaded all classes of the English during the remainder of the contest. Two French vessels had been captured, under the English letters of marque, in the bay of Audierne, and the first consul made this a pretense for ordering the arrest of all the English then traveling in France between the ages of eighteen and sixty years. Under this savage decree, unprecedented in the annals of modern warfare, above ten thousand innocent individuals, who had repaired to France in pursuit of business, science, or amusement, on the faith of the law of nations, which never extended hostilities to persons in such circumstances, were at once thrown into prison from whence great numbers of them were never liberated until the invasion of the allies in 1814."—*Alison*, vol. II, p. 198.

Napoleon himself at a later day, when reason resumed its sway, condemned the act. In his conversations at St. Helena with Las Casas he said: "The greater part of these English were wealthy or noble persons, who were traveling for their amusement. The more novel the act, the more flagrant its injustice, the more it answered my purpose." (*Ibid.*, *note*.) Here, then, was an admission that the act was at once novel and unjust. The generals that surrounded him at the time most reluctantly enforced it. From the memoirs of the Duchess D'Abrantes, we learn how poignantly her gallant husband, Junot, took it to heart and protested. He was unwilling to have anything to

do with such an infamy. Recovering at last from the stupor caused by the order, he said: "You know not only my attentiveness to your person, but my absolute devotion to everything which concerns you. It is that devotion which induces me to hesitate at obeying your orders and imploring you to take a few hours to reflect on the measure which you have now commanded. Demand my life; demand my blood; I will surrender them without hesitation; but to ask a thing which must cover us with —, I am sure that when you come to yourself, and are no longer fascinated by those around you, who compel you to violent measures, you will be of my opinion." (*Ibid.*, *note*.) Every word of this earnest expostulation may now be justly addressed to the Senate. You, too, should you yield to those who insist upon violent measures, will regret the surrender. You will grieve that your country has been permitted through you to fall from the great example which it owes to mankind. Sir, save your country; save yourselves.

Suppose the law is passed and the authority conferred upon the President. Who shall he seize? What innocent foreigner? It may be Mr. Dickens, or Mr. Trollope, or Rev. Newman Hall; or it may be some merchant here on business, guiltless of any wrong and under the constant protection of the Public Faith. The moment you do this you will cover the country with shame, of which the present bill will be the painful prelude. You will be guilty of a barbarism kindred to that of the Abyssinian king, Theodorus. You will degrade the national name, and make it a byword of reproach. Sir, now is the time to arrest this dishonor. See to it by your votes that it is impossible forever.

Mr. CONNESS. An amendment I believe is now in order to the body of the bill, and if so, I move first to perfect the third section. I have already submitted an amendment which has been printed; but I propose a modification of that amendment as follows: by striking out from the seventh, eighth, tenth, eleventh, and twelfth lines the following words: in the seventh line, "or if any citizen shall have been arrested and;" in the eighth line by striking out the word "detained;" and inserting the word "and;" in the tenth and eleventh lines by striking out "to suspend in part, or wholly, commercial relations with the said Government, or in case no other remedy is available;" so that, if thus amended, the section will read:

That whenever it shall be duly made known to the President that any citizen of the United States has been arrested, and is detained by any foreign Government in contravention of the intent and purpose of this act, upon the allegation that naturalization in the United States does not operate to dissolve his allegiance to his native sovereign, and whose release upon demand shall have been unreasonably delayed or refused, the President shall be, and hereby is, empowered to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, &c.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. CONNESS. On that I propose to say a few words.

Mr. SUMNER. I raise a question of order, as to whether the amendment is in order. The Senator can move to amend after the amendment of the committee; but, until that is disposed of, it seems to me that any other proposition in the way of amendment is out of order.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee.

Mr. CONNESS. I propose this as an amendment to the amendment.

The PRESIDENT *pro tempore*. That is in order.

Mr. CONNESS. The honorable Senator need not be in haste to get to a first vote upon the proposition that he has submitted. He has had an opportunity to present his views, and he has given us a learned dissertation on another subject than that involved in this bill, including some translation of Latin passages, for which we feel under obligation, as usual, for otherwise we should not have understood them!

Mr. President, the history of this bill in the Senate must be well understood by every Senator before me—the reluctance of the honorable chairman of the Committee on Foreign Relations to report it to the Senate and allow us the high privilege of considering it, and the proposed action of the Senate to secure it before this body for its consideration; and, connected with this, the fortuitous and auspicious declaration of my Lord Stanley, received yesterday by the cable, which renders this bill entirely unnecessary. To which agency we should be most obliged, the graciousness of my Lord Stanley, or the utility of the cable, perhaps will be a matter of curious reflection. Probably both in this instance contributed, as stated in the opinion of the honorable Senator from Massachusetts, who conducts, so far as the head of a committee on Foreign Relations of this body can conduct, our foreign affairs.

The honorable Senator in discussing the question of reprisals, which he finds in the bill, treats us to a dissertation on the question of reprisals pending war. This does not contemplate war; it does not propose to produce war; it is not intended to regulate the action of our nation or to affect other nations in case of war; but it does propose that there shall be American statute law for the protection of naturalized citizens who shall be found in foreign States, and who shall have been arrested and imprisoned and thus deprived of their rights and liberty. What does the bill propose? Its language is very plain. The first section provides that "any declaration, instruction, opinion, order, or decision of any officers of this Government which denies, restricts, impairs, or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this Government." I understand the honorable Senator and the committee to be in favor of that section. The second section provides "that all naturalized citizens of the United States, while in foreign States, shall be entitled to and shall receive from this Government the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances." There is no objection to that. The third proposes that "whenever it shall be duly made known to the President," for it will be remembered that the Congress of the United States is not to be always in session, "that any citizen of the United States has been arrested and is detained by any foreign Government in contravention of the intent and purposes of this act, upon the allegation" by the nation arresting him "that naturalization in the United States does not operate to dissolve his allegiance to his native sovereign," then in that case certain steps are to be taken, particularly further where the release of such citizen so arrested and held shall upon demand have been unreasonably delayed or refused.

Now, Mr. President, what is the state of facts existing to-day? I suppose it is undeniable; the truth of it is not to be challenged or gainsayed, that there are many citizens of the United States in British prisons, having been arrested, tried, and convicted upon charges of having committed treason-felony, but whose trials have been conducted in that country, and whose convictions have been obtained upon testimony of words spoken or acts done by those persons within the jurisdiction of our own country.

Mr. SUMNER. Does the Senator hold that to be contrary to American law?

Mr. CONNESS. I propose, Mr. President, to make American law that shall make that impossible.

Mr. SUMNER. There is nothing of the kind in this bill.

Mr. CONNESS. Many persons, native-born American citizens, have also been arrested within the British jurisdiction in like manner as naturalized citizens, but up to this time I believe every such citizen has been discharged from confinement. I have in my possession affidavits showing that citizens of the United States have been convicted upon false

testimony in British courts, and proving without any question that the parties alleged to have committed certain offenses were not at the place charged at the time alleged; but by the system of espionage and spies; by the system of suborning testimony so readily and easily, and so constantly followed in that country, those persons have been convicted, and are now immured in foreign dungeons. The honorable Senator from Massachusetts proposes that there shall be no law for their redemption, and he says there is no necessity for a law now, for Lord Stanley has said that the British Government are ready to accede to and accept the American views upon this subject, but they are not ready yet to make a treaty. Well, Mr. President, even if they were ready to order the discharge of all these citizens of ours from prison, we should not be prepared to accept it as an act of grace in lieu of a statute on the subject by us. We owe to these citizens the same measure of protection and the same measure of defense that we do any other citizens of the United States.

We are told by the Senator that to pass an act of this kind is a declaration of war. In what manner is it a declaration of war? I ask every Senator present, and I submit to the common sense of any man on this floor with his knowledge of British blood, whether the British nation would submit for a single instant that we should treat their subjects in like manner as they have treated our citizens. The honorable Senator from Massachusetts has called our attention to the case of King Theodorus, and says that to pass this law would be imitating him. Why, sir, that case is a most special instance of the extent to which the British nation and people are prepared to go when outrages are committed against the liberties of their subjects. King Theodorus seizes half a dozen persons who have been interfering in his local affairs and places them in prison, deprive them of their liberty; and the British administration organize a formidable expedition and send it forth for the special purpose of redeeming those men and giving them that right to which they hold every British subject by nature entitled. They go there, at a cost of millions, with thousands of men, and they seize the capital and finally take the head of that nation and destroy him, and they return, received with welcome by the whole British nation; and then what follows to the commander of that expedition? The highest honors that are conferred by the British nation await him and they are immediately conferred on him. Why? Because he was the successful agent of the British Government in redeeming from unlawful detention and persecution, half a dozen British subjects.

Does this bill propose to seize any innocent British subject within our jurisdiction as Napoleon did? Why, sir, when Napoleon seized British subjects, as has been stated, it was when the nations were in a state of war. We are in a condition of peace; we are entitled to all the consideration from the Government of Great Britain that any other nation is; and yet in time of peace they seize our people and incarcerate them and punish them. What do we do? What are our processes? We propose inquiries on petition again and again and representation by these men and their friends; and our modes of inquiry are through the slow and tortuous processes of the State Department, the examination of testimony and trials, and finally representation and quiet protest. But now, Mr. President, let me say (no matter with what motive done) to the credit of the present head of the State Department that latterly a more vigorous protest has been made, a protest deserving of the nation; but it comes very late.

But when this case has been argued by the head of our State Department with foreign nations, he has been met in all instances by the fact that we had no declaration upon our own statute-books making law upon this subject. It was well stated by the honorable Sen-

ator while up, that the English authorities and our own corresponded in this regard. Why not? We derived our principles of law from them, and they did not recognize in any respect the right of expatriation. We are told that it is now being conceded by treaties made with some other Governments. Certainly, sir, it is so; but when and why has it been done? It is done because we are taking a rank that entitles us to respect among the nations; but except in the kingdom of Prussia none of our citizens have been arrested outside of Great Britain.

The honorable Senator seems to think, and he argues, that if we make this provision of law, that upon their seizing our people, restraining them of their liberties, we pointing out the illegal restraint, and asking for their dismissal from imprisonment, and still they are restrained, if we return and treat them with the same measure of justice or apply the same act to their people, that would be a cause of war. Well, Mr. President, if that should be a cause of war, in God's name what cause of war could be more holy? Where is there a man with American pride of character that would not instantly fly to the defense of the nation in the prosecution of a war for such a cause?

I do not, Mr. President, stand here as the advocate of men who have been admitted to our citizenship, and who go from our country to others with a purpose of stirring up revolt. If that can be shown in any case it justifies their detention, and we have nothing further to say. We defend our institutions against the interference of persons both at home and abroad; and as a matter of course we concede as widely that right to other nations. But, sir, it would be indeed most strange if we were not ready at this period of the world's history to stand up in defense of the great principle that a human being created in the image of his Maker and, as we say, the peer of any man, has the right to determine where his citizenship shall be, what country he shall give his allegiance to, what class of political institutions he shall accept and adopt. The monstrous plea which would deny that right at this age of the world is not to be listened to.

I know, sir, that this is an important question; I know that it involves delicate considerations. I would not for any consideration but that upon which the pride and dignity of this country rest and must rest do any act at any time to involve us in difficulties with any other nation; but if we refuse the measure of simple justice, the equal protection of all our citizens, we should then repeal our naturalization laws; we should stop inviting men to come and accept of their terms; and we should declare ourselves, as we would deserve to be, a people determined to have no intercourse with other peoples; determined not to extend our institutions nor allow others to participate in them. But, sir, while we invite them and while we offer them the means—the legal and ready means—of equal citizenship with us, we should stand ready to give them equal protection.

And, Mr. President, the performance of less than our duty in this case will not be justified by the public opinion of this country; and it is, after all, that public opinion based upon common sense, and based upon a sense of right, and with ability enough to know what is right, that governs this great land. The party that the majority of this Senate are representatives of have recently solemnly declared that the naturalized citizen is entitled to and shall receive the same measure of protection with the native citizen.

Mr. HOWARD. How have they declared it?

Mr. CONNESS. In their platform. I refer to the platform adopted by the recent Chicago convention. The Democratic party, too, going before the people of this country for their votes, have asserted the same proposition; and we stand before the people to-day asking their suffrages upon that basis; and we cannot, in sincerity or good faith, refuse the measure of protection necessary to secure the independ-

ence of the naturalized citizen. He must not be subject, when he goes abroad upon his own legitimate business, to being seized and kidnapped, or tried and thrown into prison without due cause.

Why, Mr. President, the statement found in connection with these cases should bring the blush of shame to every man's cheek who is an American. I have here the affidavit of the companion of Colonel Halpin, a man who won honor and credit in our service in the late war; the sworn statement of his companion. Going into the port of Queenstown within British jurisdiction, upon a French passenger ship, both of them were seized on the 4th day of July, and hurried off to prison. Even the certificate of naturalization that Colonel Halpin had in his trunk, and also his passport, were taken from him, and he never saw them from that day to this. The evidence of his citizenship; the evidence of his certified right to travel according to the rule and comity of nations, he was deprived of and hurried off to prison, and by, as I said before, suborned testimony he was convicted for words spoken and acts done within the United States, and sentenced to penal servitude for fifteen years. He still remains in that condition. What steps are to be taken? Are we to petition her most gracious majesty the queen for his release? Are we to ask Disraeli to cease for a moment his attempts to defeat the advance of British liberality that he may give his attention to our petitions for the release of this, our citizen, deprived of his liberty? Or are we to affirm his right, as we should, and accompany that affirmation with proper means to secure his release?

One objection is that it is conferring an extraordinary power upon the President of the United States. Who should exercise this power but the Executive? What arm should be extended, if any, but the Executive arm? Are we to be told that it is a power that the present Executive should not have conferred upon him? Why, sir, that is tantamount to the expression of opinion that those now in prison may remain there until we have a change of administration; Congress can take no act in the premises but make law and regulation. No step can be taken for their release but through an executive act.

Suppose, Mr. President, if we are to rely on the power of Congress to intervene by passing resolutions, by requesting the President of the United States, as we have in some instances in behalf of persons convicted of offenses within British jurisdiction, to ask the British Government to release them, are we to remain in inaction? If Congress be not in session, are our people to be arrested and held and confined, and no step to be taken? Are we to deny the theory of our own institutions? Is the President of the United States to be held to have sufficient power and authority to do every act within our own country necessary to carry on this great Government, but not to be invested with the power and authority to reach his hand forth to a citizen who is seized by a foreign Power and deprived of his liberty? Mr. President, I shall be much mistaken if the patriotism of this body, and if the common sense of the people outside of this Chamber, shall not demand that we have a law on this subject specifically reaching the case.

I am a little astonished that an American Senator should introduce here as a reason why we should not act a dispatch relative to the speech of a British minister who, in the same breath which states that the American views are adopted also states that they are not prepared to make a treaty while these men are in prison.

Mr. SUMNER. If the Senator will allow me, I will say that I did not assign that as a reason why we should not act. I said in view of that we might approach this discussion without any undue anxiety.

Mr. CONNESS. Mr. President, the statement of the Senator is worse than his speech. Without undue anxiety we can approach this

subject, while our people are in prison, because the British minister speaks smooth words! The words that should be spoken should be words by the authority of this people, saying, "Let those who are held in violation of the principles of natural justice, in violation of our duties to protect them, be released." It is no offense that we make this demand. No nation has a right to complain of it. Those who arrest our people and hold them in custody are the offenders. It is not we who reach our arms forth for their protection who offend; we are but in the plain line and path of duty.

Does any man suppose that if the king of the Sandwich Islands should have arrested and imprisoned a dozen or a score of our people there would not have been a frigate sent to demand their release? But Great Britain can treat us with this indignity. It is a great Power. We trade with the British people to a large extent; commerce and capital are sensitive; and human beings can languish and rot lest they be disturbed!

Nor, Mr. President, in behalf of the release of these men is one act of war or approximating to war or justifying war necessary. The case is so plain, so palpable, and the duty equally so, that we have but to ask and we shall be heard and obeyed. But, Mr. President, what can we expect but disdain, refusal, neglect, contempt, in the face of the speech that has been made here to-day by the chairman of the Committee on Foreign Relations? My Lord Stanley has said that they accept the American view and the cable has brought it to us. Halpin says, "I am for fifteen years at hard labor as a felon," a man who was yesterday a soldier of the Republic meeting its foes hand to hand and shoulder to shoulder; "I have done no act; I have committed no crime; I demand your intercession in my behalf and my release." The chairman of the Committee on Foreign Relations of the Senate of the Republic replies, "Lord Stanley says he accepts our view, but is not ready to make a treaty, and the case should create no anxiety!" That is the case stated, Mr. President. It cannot be evaded or avoided.

The honorable Senator's dissertation on international law, on the rights of belligerents in time of war, has no application to the case. When a single negro, male or female, is deprived of the high privilege of entering a common mode of conveyance on the public highways in the Republic, my honorable friend stands forth here as the exponent and defender of equal rights before the law, and I aid him. It is a big subject, Mr. President; for this nation has been agitated deeply and widely by its correlative questions. But when a foreign-born citizen, taking the responsibilities of citizenship, and bravely accepting them with all the horrors of war, takes also, as he believes, the rights of American citizenship, and is found in a foreign dungeon, there is no resolution proposed by the honorable Senator; there is no action of the Government urged by the honorable Senator; nay, he rises here and insists that it is not necessary to act, for my Lord Stanley has said, and the cable has brought it, that he accepts the American view!

Sometimes, Mr. President, I have thought that the men who entertain views might better entertain something else. They might better have blood and sympathies and courage, and let the views take care of themselves, as they would. A man starves, and the Senator does not offer him a stone, but some common air. A man is incarcerated and in a dungeon, and cries from thence and invokes a nation and a people whom he has served so well, and the Senator responds to him by offering views in a dissertation on international law that has no applicability to the case. Mr. President, this is not a period for stuff and fustian. It is not a period when stones are taken in exchange for bread, or rags for raiment, or excuses for acts.

There may be, Mr. President, within this Republic some citizens of foreign birth who do not perform their whole duties to it. It were

a great wonder if it were not so, for it is covered all over with citizens of native birth of like character and acts. The measure of human frailties is too large and extensive to shield any portion of human nature from laches in such cases. But, Mr. President, it cannot be denied that from the source of foreign immigration, that from the European nations and peoples, this Republic has drawn and drawn largely to contribute to its life, its vigor, and its power. It draws yet from the source and with the same results each year, each day, and each hour. It comes to invigorate, to supply, to maintain, and to defend when necessary; and all the boon it asks is the performance according to the rules of common sense and justice of our obligations that we have voluntarily tendered and made to them. Nor should it be forgotten that people who thus come here and make their homes among us forever are often found among our very best Americans. Those of them whom God has blessed with intellect, and there are many, understand well what American republicanism is worth; they know its value, they know what a prize they receive, and their zeal in every good work is constantly felt. But, Mr. President, this picture is not necessary to describe our duty, for we owe to the merest beggar in the land, who is one of our people, the same measure of protection that you are entitled to, sir, from your high place. It is upon that eternal principle of right and humanity that the institutions of this Republic are based broad and wide and indestructible.

I do not speak, Mr. President, for votes; let no man say so. From the first hour of my arrival in the Republic I was one of its devoted people. I have no respect for any person of foreign birth who comes among us and asks and accepts our citizenship and who does not devote himself fully and entirely to the Republic. I believe in political consecration to the great work that this nation has in hand. And now, Mr. President, when in the light of the great example that this nation has set in that greatest measure of human progress, the separation of church from State, a neighboring nation grasps up the cause, seizes the cause that we have illustrated and proved and is carrying it forward to certainty of success, let us on our part not be lacking in the demonstration that in other respects, too, our system of Government is equal to every duty.

Now, Mr. President, I ask in the name of common sense what have we done for the release of those persons who speak to us from foreign dungeons. We have written letters; we have communicated with ambassadors; we have sat in conclaves and committees; and except the release of some of our citizens by reason of the operation of the treaty recently confirmed here with the kingdom of Prussia, no act but one of disgrace to us has transpired.

Let it not be said, Mr. President, that on this subject I have any deeper feeling than I have in behalf of every other human being restricted of his or her rights. My life, such as it is, has been an illustration of my belief in the principle and in its universal application. But I do ask the law-making power to make its utterance, and make it a rule for the Executive so that these complaints shall not be made and still unheard. Let us not depend upon the grace of foreign rulers; but let us depend upon the independent, fearless, and righteous acts of our own Government.

I know, Mr. President, that I have detained the Senate very long, indeed; much longer than I had intended. I came to the subject to submit the remarks I have made without preparation. I did not intend to do my little part in this matter by the production of essays. I have never sought to make reputation in that way. Every trade has its ways and its tricks. To weave words is not one of mine; but I can understand, sir, and so can you, when one of our people is deprived of every right that makes life endurable while the power that should protect him in them all neglects him and turns away from him. I implore and beg that this shall no longer be our rule; that we

shall act in avoidance no longer; but that we shall do and perform our plain, simple duty, and let the rest take care of itself.

Mr. HOWARD obtained the floor.

The PRESIDENT *pro tempore*. Before the Senator commences, the Chair would like to present some communications which are on his table.

Mr. HOWARD. Very well.

PRESIDENT'S MESSAGE, ETC.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States; and the Chief Clerk proceeded to read it, as follows:

To the Senate and House of Representatives:

Experience has fully demonstrated the wisdom of the framers of the Federal Constitution. Under all circumstances the result of their labors was as near an approximation to perfection as was compatible with the fallibility of man. Such being the estimation in which the Constitution is and has ever been held by our countrymen, it is not surprising that any proposition for its alteration or amendment should be received with reluctance and distrust.

Several SENATORS. What is that?

The PRESIDENT *pro tempore*. A message of the President of the United States suggesting certain changes in the Constitution.

Mr. SHERMAN. Let it be printed and referred to the Committee on the Judiciary.

Mr. DRAKE. That is a message proposing four amendments to the Constitution of the United States. I have examined it at the Clerk's desk. Of course the only proper disposition of it is either to lay it on the table or refer it to the Judiciary Committee.

Mr. SUMNER. And let it be ordered to be printed.

Mr. ANTHONY. I think it ought to be read; it is a message from the President of the United States.

Mr. SHERMAN. It is not usual to read messages from the President of the United States sent to us in ordinary form. If he sends a veto message, something on which we are to vote and act, it is a different thing; but this merely initiates a proceeding, and properly goes to a committee for consideration. There is no necessity for reading it.

Mr. DRAKE. None whatever.

Mr. POMEROY. I move that it be referred to the Committee on the Judiciary, and be ordered to be printed.

Mr. CONNESS. I hope not.

The PRESIDENT *pro tempore*. The document will be printed and referred to the Committee on the Judiciary if there be no objection.

Mr. CONNESS. I object.

Mr. FESSENDEN. Then let us take the vote.

Mr. POMEROY. My motion is that the message be printed and referred to the Committee on the Judiciary.

Mr. HOWARD. Mr. President, I have the floor.

Mr. FESSENDEN. I suggest that the Senator from Michigan yielded the floor to allow the Chair to lay a message before the Senate, and therefore the Senator has not the floor until that is disposed of.

Mr. HOWARD. Mr. President, I have yielded the floor for nothing. I have but a few words to say. I am entitled to the floor.

The PRESIDENT *pro tempore*. The Chair claims the right to lay messages before the Senate when a favorable opportunity offers. He always tries to do it in such a way as to disturb the business of the Senate as little as possible. The rules give the Chair a right to place messages before the body in preference to anything else.

Mr. HOWARD. Undoubtedly; but the question is whether I have lost the floor by the presentation of the paper.

The PRESIDENT *pro tempore*. When this business is disposed of, the Senator will have the floor.

Mr. HOWARD. I understood the Senator from Maine to insist that I had lost it.

Mr. FESSENDEN. Not at all. I said the

Senator had yielded it until this matter should be disposed of.

The PRESIDENT *pro tempore*. It is moved that this document be printed and referred to the Committee on the Judiciary.

Mr. FOWLER. I should like to hear the document read. We do not all have an opportunity to go to the Clerk's desk and read it. It is not very long.

Mr. FESSENDEN and others. Let it be printed and referred.

The motion of Mr. POMEROY, that the message be printed and referred to the Committee on the Judiciary, was agreed to.

The message is as follows:

To the Senate and House of Representatives:

Experience has fully demonstrated the wisdom of the framers of the Federal Constitution. Under all circumstances the result of their labors was as near an approximation to perfection as was compatible with the fallibility of man. Such being the estimation in which the Constitution is and has ever been held by our countrymen, it is not surprising that any proposition for its alteration or amendment should be received with reluctance and distrust. While this sentiment deserves commendation and encouragement as a useful preventive of unnecessary attempt to change its provisions, it must be conceded that time has developed imperfections and omissions in the Constitution, the reformation of which has been demanded by the best interests of the country. Some of these have been remedied in the manner provided in the Constitution itself. There are others which, although heretofore brought to the attention of the people, have never been so presented as to enable the popular judgment to determine whether they should be corrected by means of additional amendments. My object in this communication is to suggest certain defects in the Constitution which seem to me to require correction, and to recommend that the judgment of the people be taken on the amendments proposed.

The first of the defects to which I desire to direct attention is in that clause of the Constitution which provides for the election of President and Vice President through the intervention of electors, and not by an immediate vote of the people.

The importance of so amending this clause as to secure to the people the election of President and Vice President, by their direct votes, was urged with great earnestness and ability by President Jackson in his first annual message, and the recommendation was repeated in five of his subsequent communications to Congress, extending through the eight years of his administration. In his message of 1829, he said:

"To the people belongs the right of electing their Chief Magistrate; it was never designed that their choice should in any case be defeated, either by the intervention of electoral colleges, or by the agency confided, under certain contingencies, to the House of Representatives."

He then proceeded to state the objections to an election of President by the House of Representatives, the most important of which was that the choice of a clear majority of the people might be easily defeated. He then closed the argument with the following recommendation:

"I would therefore recommend such an amendment of the Constitution as may remove all intermediate agency in the election of President and Vice President. The mode may be so regulated as to preserve to each State its present relative weight in the election; and a failure in the first attempt may be provided for by confining the second to a choice between the two highest candidates. In connection with such an amendment it would seem advisable to limit the service of the Chief Magistrate to a single term of four or six years. If, however, it should not be adopted it is worthy of consideration whether a provision disqualifying for office the Representatives in Congress on whom such an election may have devolved, would not be proper."

Although this recommendation was repeated with undiminished earnestness in several of his succeeding messages, yet the proposed amendment was never adopted and submitted to the people by Congress. The danger of a defeat of the people's choice in an election by the House of Representatives remains unprovided

for in the Constitution, and would be greatly increased if the House of Representatives should assume the power arbitrarily to reject the votes of a State which might not be cast in conformity with the wishes of the majority in that body.

But if President Jackson failed to secure the amendment to the Constitution which he urged so persistently, his arguments contributed largely to the formation of party organizations, which have effectually avoided the contingency of an election by the House of Representatives. These organizations, first by a resort to the caucus system of nominating candidates, and afterward to State and national conventions, have been successful in so limiting the number of candidates as to escape the danger of an election by the House of Representatives.

It is clear, however, that in thus limiting the number of candidates, the true object and spirit of the Constitution have been evaded and defeated. It is an essential feature in our republican system of government that every citizen possessing the constitutional qualifications has a right to become a candidate for the office of President or Vice President, and that every qualified elector has a right to cast his vote for any citizen whom he may regard as worthy of these offices. But under the party organizations which have prevailed for years, these asserted rights of the people have been as effectually cut off and destroyed as if the Constitution itself had inhibited their exercise. The danger of a defeat of the popular choice in an election by the House of Representatives is no greater than in an election made nominally by the people themselves, when by the laws of party organizations and by the constitutional provisions requiring the people to vote for electors instead of for the President or Vice President, it is made impracticable for any citizen to be a candidate except through the process of a party nomination, and for any voter to cast his suffrage for any other person than one thus brought forward through the manipulations of a nominating convention. It is thus apparent that by means of party organizations that provision of the Constitution which requires the election of President and Vice President to be made through the electoral colleges has been made instrumental and potential in defeating the great object of conferring the choice of these officers upon the people. It may be conceded that party organizations are inseparable from republican government, and that, when formed and managed in subordination to the Constitution, they may be valuable safeguards of popular liberty; but when they are perverted to purposes of bad ambition they are liable to become the dangerous instruments of overthrowing the Constitution itself. Strongly impressed with the truth of these views, I feel called upon by an imperative sense of duty to revive substantially the recommendation so often and so earnestly made by President Jackson, and to urge that the amendment to the Constitution herewith presented, or some similar proposition, may be submitted to the people for their ratification or rejection.

Recent events have shown the necessity of an amendment to the Constitution distinctly defining the persons who shall discharge the duties of President of the United States in the event of a vacancy in that office by the death, resignation, or removal of both the President and Vice President. It is clear that this should be fixed by the Constitution, and not be left to repealable enactments of doubtful constitutionality. It occurs to me that in the event of a vacancy in the office of President, by the death, resignation, disability, or removal of both the President and Vice President, the duties of the office should devolve upon an officer of the executive department of the Government, rather than one connected with the legislative or judicial departments. The objections to designating either the President *pro tempore* of the Senate or the Chief Justice of the Supreme Court, especially in the event of a vacancy produced by removal, are so obvious and so unanswerable that they need not be stated in detail. It is enough to state that

they are both interested in producing a vacancy, and, according to the provisions of the Constitution, are members of the tribunal by whose decree a vacancy may be produced.

Under such circumstances the impropriety of designating either of these officers to succeed the President so removed is palpable. The framers of the Constitution when they referred to Congress the settlement of the succession to the office of President in the event of a vacancy in the offices of both President and Vice President, did not, in my opinion, contemplate the designation of any other than an officer of the executive department on whom, in such a contingency, the powers and duties of the President should devolve. Until recently the contingency has been remote, and serious attention has not been called to the manifest incongruity between the provision of the Constitution on this subject and the act of Congress of 1792. Having, however, been brought almost face to face with this important question, it seems an eminently proper time for us to make the legislation conform to the language, intent, and theory of the Constitution, and thus place the executive department beyond the reach of usurpation, and remove from the legislative and judicial departments every temptation to combine for the absorption of all the powers of Government.

It has occurred to me that in the event of such a vacancy the duties of President would devolve most appropriately upon some one of the heads of the several Executive Departments; and, under this conviction, I present for your consideration an amendment to the Constitution on this subject, with the recommendation that it be submitted to the people for their action.

Experience seems to have established the necessity of an amendment of that clause of the Constitution which provides for the election of Senators to Congress by the Legislatures of the several States. It would be more consistent with the genius of our form of Government if the Senators were chosen directly by the people of the several States. The objections to the election of Senators by the Legislatures are so palpable that I deem it unnecessary to do more than submit the proposition for such an amendment, with the recommendation that it be opened to the people for their judgment.

It is strongly impressed on my mind that the tenure of office by the judiciary of the United States, during good behavior for life, is incompatible with the spirit of republican government, and in this opinion I am fully sustained by the evidence of popular judgment upon this subject in the different States of the Union. I therefore deem it my duty to recommend an amendment to the Constitution by which the terms of the judicial officers would be limited to a period of years, and I herewith present it in the hope that Congress will submit it to the people for their decision.

The foregoing views have long been entertained by me. In 1845, in the House of Representatives, and afterward, in 1860, in the Senate of the United States, I submitted substantially the same propositions as those to which the attention of Congress is herein invited.

Time, observation, and experience have confirmed these convictions; and, as a matter of public duty, and with a deep sense of my constitutional obligation, "to recommend to the consideration of Congress such measures as I deem necessary and expedient," I submit the accompanying propositions, and urge their adoption and submission to the judgment of the people. ANDREW JOHNSON.

WASHINGTON, D. C., July 18, 1868.

Joint resolution proposing amendments to the Constitution of the United States.

Whereas the fifth article of the Constitution of the United States provides for amendments thereto, in the manner following, namely:

1. Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to the Constitution, or on the application of the Legis-

tures of two thirds of the several States shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by convention in three fourths thereof, as the one or the other mode of ratification may be proposed by Congress: *Provided*, That no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate: *Therefore*,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following amendments to the Constitution of the United States be proposed to the Legislatures of the several States, which when ratified by the Legislatures of three fourths of the States, shall be valid to all intents and purposes as part of the Constitution:

That hereafter the President and Vice President of the United States shall be chosen for the term of six years by the people of the respective States, in the manner following: each State shall be divided by the Legislatures thereof in districts equal in number to the whole number of Senators and Representatives to which such State may be entitled in the Congress of the United States; the said districts to be composed of contiguous territory, and to contain, as nearly as may be, an equal number of persons entitled to be represented under the Constitution, and to be laid off, for the first time, immediately after the ratification of this amendment; that, on the first Thursday in August, in the year 18—, and on the same day every sixth year thereafter, the citizens of each State who possess the qualifications requisite for electors of the most numerous branch of the State Legislatures shall meet within their respective districts and vote for a President and Vice President of the United States; and the person receiving the greatest number of votes for President, and the one receiving the greatest number of votes for Vice President in each district, shall be held to have received one vote; which fact shall be immediately certified by the Governor of the State to each of the Senators in Congress from such State, and to the President of the Senate and the Speaker of the House of Representatives. The Congress of the United States shall be in session on the second Monday in October in the year 18—, and on the same day on every sixth year thereafter; and the President of the Senate, in the presence of the Senate and House of Representatives, shall open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President shall be President, if such number be equal to a majority of the whole number of votes given; but if no person have such a majority, then a second election shall be held on the first Thursday in the month of December then next ensuing, between the persons having the two highest numbers for the office of President, which second election shall be conducted, the result certified, and the votes counted, in the same manner as in the first, and the person having the greatest number of votes for President shall be President. But if two or more persons shall have received the greatest number of votes, at the second election, then the person who shall have received the greatest number of votes in the greatest number of States shall be President. The person having the greatest number of votes for Vice President, at the first election, shall be Vice President, if such number be equal to a majority of the whole number of votes given; and if no person have such majority, then a second election shall take place between the persons having the two highest numbers, on the same day that the second election is held for President; and the person having the highest number of votes for Vice President shall be Vice President. But if there should happen to be an equality of votes between the persons so voted for at the second election, then the person having the greatest number of States shall be Vice President. But when a second election shall be necessary in the case of Vice President, and not necessary in the case of President, then the Senate shall choose a Vice President from the persons having the two highest numbers in the first election, as is now prescribed in the Constitution: *Provided*, That after the ratification of this amendment to the Constitution, the President and Vice President shall hold their offices, respectively, for the term of six years, and that no President or Vice President shall be eligible for reelection to a second term.

And be it further resolved, That article two, section one, paragraph six, of the Constitution of the United States shall be amended so as to read as follows: "In case of the removal of the President from office, or of his death or resignation, or inability to discharge the powers and duties of said office, the same shall devolve on the Vice President, and in case of the removal, death, resignation, or inability both of the President and Vice President, the powers and duties of said office shall devolve upon the Secretary of State for the time being, and after this officer, in case of vacancy in that or in other Departments, and in the order in which they are named, on the Secretary of the Treasury, on the Secretary of War, on the Secretary of the Navy, on the Secretary of the Interior, on the Postmaster General, and on the Attorney General; and such officer on whom the powers and duties of President shall devolve, in accordance with the foregoing provisions, shall then act as President until the disability shall be removed or a President shall be elected, as is or may be provided by law."

Sec. 3. *And be it further resolved*, That article one, section three, be amended to read as follows: "The Senate of the United States shall be composed of two Senators from each State, chosen by the persons qualified to vote for the members of the most numerous

branch of the Legislature thereof, for six years, and each Senator shall have one vote."

Sec. 4. *And be it further resolved*. That article three, section one, be amended to read as follows:

ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress from time to time may ordain and establish. The judges of the Supreme and inferior courts shall hold their offices during the term of twelve years, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office. And it shall be the duty of the President of the United States, within twelve months after the ratification of this amendment by three fourths of all the States, as provided by the Constitution of the United States, to divide the whole number of judges, as near as may be practicable, into three classes. The seats of the judges of the first class shall be vacated at the expiration of the fourth year from such classification, of the second class at the expiration of the sixth year, and of the third class at the expiration of the twelfth year, so that one third may be chosen every fourth year thereafter.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in obedience to law, a statement of contracts made by the Quartermaster's department during the month ending June 30, 1868; which was referred to the Committee on Military Affairs and the Militia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following joint resolutions, in which it requested the concurrence of the Senate:

A joint resolution (H. R. No. 319) in regard to charges of desertion in cases of soldiers honorably discharged; and

A joint resolution (H. R. No. 345) relative to printing specifications of patents.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 485) to aid the improvement of the Des Moines and Rock Island rapids in the Mississippi river;

A bill (H. R. No. 1081) for the relief of John A. Neustaedter;

A bill (H. R. No. 1284) imposing taxes on distilled spirits and tobacco, and for other purposes;

A joint resolution (H. R. No. 326) for the relief of Henry B. St. Marie;

A joint resolution (H. R. No. 331) to grant American register to Hawaiian brig Victoria;

A joint resolution (H. R. No. 338) exonerating certain vessels of the United States from the payment of tonnage fees to consular agents in Canada; and

A joint resolution (H. R. No. 341) for the relief of Z. M. Hall.

FOURTEENTH CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore* laid before the Senate resolutions of the Legislature of South Carolina, ratifying the amendment to the Constitution, of the United States, proposed to the several States by a joint resolution of Congress passed on the 13th day of June, 1860, to be designated as article fourteen of amendments to the Constitution of the United States; which were referred to the Committee on the Judiciary, and ordered to be printed.

HOUSE BILLS REFERRED.

The joint resolution (H. R. No. 319) in regard to charges of desertion in cases of soldiers honorably discharged was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

The joint resolution (H. R. No. 345) relative to printing specifications of patents was read twice by its title, and referred to the Committee on Printing.

PROPOSED EVENING SESSION.

Mr. MORRILL, of Maine. Before the Senator from Michigan proceeds I wish to make a motion that the Senate take a recess to-day

from five o'clock to seven and a half. I wish this evening to pass a bill from the House of Representatives making an appropriation for the charitable institutions of this District. Those appropriations are in a separate bill, which ought to be passed before we adjourn.

Mr. SUMNER. Had we not better determine the question of a recess at a later hour? We may by sitting to six do all the work to-day that we need.

Mr. MORRILL, of Maine. I withdraw the motion for the present, but I shall renew it by and by.

RIGHTS OF CITIZENS ABROAD.

The PRESIDENT *pro tempore*. The Senator from Michigan is entitled to the floor on the bill (H. R. No. 768) concerning the rights of American citizens in foreign States.

Mr. HOWARD. Mr. President, I rise rather to indicate my own opinion in reference to the subject-matter of this bill than with the expectation of shedding any particular light on the subject. I think the bill in its preamble and in its second section lays down the true American doctrine. It declares in the preamble that "the right of expatriation is a natural and inherent right," and to this I wish to call the attention of the honorable Senator from Massachusetts. The preamble declares that the right of expatriation is an inherent and natural right. I suppose, as he has reported the bill from the Committee on Foreign Relations, that I may safely claim that he is of the same opinion.

Mr. SUMNER assented.

Mr. HOWARD. That is agreed; and then the second section declares that "all naturalized citizens of the United States in foreign States shall be entitled to and shall receive from this Government the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances." This is very clear. It is according to the recital contained in the preamble, for if the right of expatriation exists in its entirety and is inherent and natural in man as man, and a person born in a foreign land becomes naturalized under our laws, and thus a citizen of the United States, then it is perfectly logical that he should receive the same protection exactly, nothing more, nothing less than that which is due to a native born. And to this I understand the honorable Senator from Massachusetts to give his assent. The bill says so, at least, and he holds himself, I take it, responsible for the contents of the bill as amended by the committee.

The honorable Senator has also informed the Senate that the great American doctrine is already in part recognized by treaties which we have recently entered into with other nations of the world, and is about to become recognized by all the other Powers of the earth; and I suppose we may anticipate that at no distant future period a treaty will be entered into with Great Britain in which the great American principle of which he speaks will be contained. But, Mr. President, is the doctrine of this bill as announced in its preamble and in its second section in any way the doctrine of the treaties to which he refers and which he claims as being indices of the great American doctrine? Not at all, sir. They are as wide apart as the poles. The treaty to which he refers is in these words, and I may now refer to it because I suppose it is already public:

"The citizens of the Northern German Confederation who become naturalized citizens of the United States, and shall have resided uninterruptedly within the United States for five years, shall be held by the North German Confederation to be American citizens and shall be treated as such."

I do not know what may be the opinions of the honorable Senator from California on the subject of the principle thus announced, or whether he favored the ratification of the treaty or not. If he did favor it, then it is entirely clear that both he and the learned head of the Foreign Committee committed a great and marvelous error if the doctrines of this bill are the true doctrines. This great American principle, which has been heralded abroad as the panacea for all national difficulties that are likely

to arise out of the subject of naturalization, is a complete renunciation of the fundamental doctrines of the bill before us, for it asserts this principle that although a foreign-born person may be naturalized under the laws of the United States, and thus become a naturalized citizen, he is not to be entitled to the rights of a native-born citizen of the United States unless he has resided consecutively five years within the limits of the United States, and we all know that we can naturalize him whenever he applies and upon whatever length or brevity of residence we see fit.

Now, sir, I rise to say that while I favor the fundamental doctrine of the bill; while I assert in its plenitude the duty and the power of the Government of the United States to consent to extend this protection to a naturalized citizen whenever he has become naturalized, I deny that this treaty from which I have read does announce the American principle. It is an abandonment of the great leading American principle of the absolute right of expatriation; and for that reason I never have been able to bring myself to consent to the ratification of that kind of treaty, holding, as I do, that inasmuch as the Constitution gives to Congress full power over the subject of naturalization, it is the duty of the Government to protect the naturalized citizen from and after the moment of his naturalization; and if we see fit so to declare, it is not necessary that he should reside in this country but a single day.

In short, Mr. President, I hold that when Uncle Sam has said to a foreign-born person that he is and henceforth shall be treated as a citizen of the United States, from that moment forth it becomes the duty of the Government to see to it that he is as well protected and as promptly protected in all his rights as a citizen of the United States as if he were born in this country. I will not yield a particle of the constitutional power belonging to Congress upon this subject. I will not say to foreign Governments "Although the power of Congress is plenary on this subject, still you have us in your grasp; we have entered into a contract by which we are no longer at liberty to extend the rights of citizenship in cases where the party has not resided within the limits of the United States for five years." That I hold to be an abdication of one of the constitutional functions of Congress which never ought to have been recognized. I do not regard it as the American doctrine at all; it is of recent invention, and I believe it will never receive the sanction of the people of the United States.

I shall, then, sir, vote with pleasure for the second section. I should prefer not to vote for the first section, because I think it is utterly unnecessary. It declares that "any declaration, instruction, opinion, order, or decision of any officers of this Government which denies, restricts, impairs, or questions the right of expatriation is hereby declared inconsistent with the fundamental principles of this Government." I see no necessity of asserting an abstract principle in that form. It is entirely immaterial to the Government of the United States what opinions its officers at various times and in various places may have entertained or expressed on the question of expatriation, as immaterial as if expressed by a foreigner. I should choose also to strike out the whole of the third section, and even the amendment annexed to it by the Committee on Foreign Relations. I would dispense with the whole of it. It will do no good. It has in it no vitality even in the form in which it has been amended by the committee. But least of all would I place in the hands of the President of the United States an authority to make reprisals upon the persons of foreign-born subjects who may happen to be within the limits of the United States. On this subject, I think the principles asserted by the honorable gentleman from Massachusetts are entirely correct. We ought not to imperil the country by placing in the irresponsible hands of the President of the United States or of any other person the authority to commit this preliminary act of war, and we

know that it is so regarded in all the codes upon international law. It would be next to impossible in many cases which we can conceive to avoid a war in case this power now proposed to be given to the President were in his hand; and I hope it will be stricken out. I do not like, Mr. President, these continual efforts on the part of some persons to infuse more and more into the habitudes of Congress and into the minds of the American people the principle of absolutism, the one-man power; and I think, as the Senator from Massachusetts has remarked, that there is no instance in our history in which it has been proposed to place in the hands of the President so dangerous a power as this. Why, sir, if he possessed it he might in a moment of pique or ill nature, and without any real cause, involve the whole country in the flames of civil war with some foreign nation without the intervention of Congress and without any consideration on the part of the representatives of the people. That, sir, is too absolute a power entirely to be intrusted to any man in this country.

I hope, therefore, that the third section will be entirely stricken out, leaving the whole subject where it properly belongs, as a subject of negotiation between our own and foreign Governments to be conducted under the supervision of the President through our proper diplomatic agents abroad. I see no necessity for this hot haste to get into a quarrel or a dispute with some other Government; but let us carry out simply and solely the American doctrine which is so clearly stated in the bill, that expatriation is an inherent and natural right, and that the naturalized citizen has precisely the same rights as the native born. Let this be understood by the President and our diplomats abroad, and I will give my word for it, however much or however little it may be worth, that we shall put an end to all these bickerings about naturalized citizens very soon.

Mr. FERRY. I wish to ask the Senator from Michigan a question. I desire to be informed by the Senator from Michigan what he understands by the right of expatriation mentioned in the preamble to this bill. Is it a right whose exercise or enjoyment is complete in the individual himself; or must there be super-added to the act of his own the act of the country of his new domicile before the right of expatriation is complete?

Mr. HOWARD. As generally understood, I think the honorable Senator from Connecticut will concur with me in holding that expatriation is held to be an individual right of the person expatriating himself, or in other words leaving his own native country. It is the individual will of the emigrant. I so understand.

Mr. FERRY. How does the expatriation become completed so as to dissolve the original allegiance? By the act of the individual alone, or by that act concurrently with the act of the Government to which he transfers his allegiance?

Mr. HOWARD. That, of course, would be a matter of legislative arrangement. The act of expatriation in and of itself, I take it, goes only to this extent: the emigration of the foreigner from his native land to some other land *non animo revertendi*; that is, with the intention of changing his domicile and making his permanent home in the country to which he emigrates. That I understand to be expatriation.

Mr. FERRY. And that is complete without any act of the Government to whose territory he has repaired?

Mr. HOWARD. I think so.

Mr. FRELINGHUYSEN. Mr. President, I desire to say a single word in consequence of the expression of opinion just made by the distinguished Senator from Michigan. I understand him, in the opinion that he has expressed, to speak unfavorably of the treaties which have recently been made with the North German Confederation and with Bavaria, and one which is about being made with Mexico, and another soon, we trust, to be made with Great Britain. Knowing that his opinion going

out to the country will have weight, I wish simply to call attention to an answer to the objection which he makes to these treaties.

The opinion of the distinguished Senator is that these treaties violate what he calls the great American doctrine, which he alleges to be the right of expatriation, the right of any foreigner coming to this country to acquire citizenship, if in accordance with our laws, immediately. Now, I cannot conceive of any principle more certain to be injurious to the country than the foreigner comes from and to the country to which he comes, than that which the Senator avows. It is injurious, certainly, to the country that he leaves, because all that a citizen of Germany would have to do, if his principle were to be adopted, would be to come to America and here become a citizen, and then he could immediately return to Germany and for the rest of his life he would be relieved from military duty and from all obligation to that country, and this nation be under obligation all the time to protect him in that exemption from liability to that country.

And, Mr. President, it is injurious to this country, because what we want of these naturalized citizens is to have them residents here, to have their industry, their labor, to have them make this their home; but, according to the Senator's principle, they will have attained their whole object of being exempt from the exactions and tyranny of their native country by staying here for a single week, and they can return to their own country free from all liabilities there, while we gain no possible benefit by their having become our citizens. I think that the treaties which have been made with Bavaria and with North Germany, based upon the idea of five years' continuous residence, are profitable for the country from which these persons come as well as to this country.

Mr. DRAKE. Mr. President, the stress of the remarks made by the honorable Senator from California was connected almost entirely with a case which he considers one of great outrage, the case of Colonel Halpin, who, it seems, was arrested in Great Britain and convicted there and sentenced to imprisonment—

Mr. CONNESS. There are other cases. I only took that as a specimen.

Mr. DRAKE. I do not like that there should go forth from this Chamber remarks such as those made by the honorable Senator from California, which, if I understand him correctly, rested upon the allegation that the arrest, conviction, and imprisonment of Colonel Halpin in England was for words spoken and acts done by him in the United States. This is a matter of fact about which I think the honorable Senator from California should be very sure when he speaks, and should not say anything more than he knows to be the fact. In order to elicit a response from the honorable Senator I venture to deny the correctness of that statement. I venture to say that in no instance has any American citizen ever been convicted in a British court and sentenced to imprisonment merely for acts done and words spoken in the United States. I venture this upon general grounds, without having examined the case of Colonel Halpin. I do it with the express purpose of calling upon the honorable Senator from California to say here whether that was the sole ground of the conviction of Colonel Halpin?

Mr. CONNESS. Mr. President, it is a matter of even common notoriety. The Senator need not say it is not. The facts have been laid before us in a report from the State Department and the correspondence connected with this case. I mean to say that it is so patent that it is commonly known that the British Government have been in the habit, for a long time past, since the organization of what is known as the Fenian organization in the United States and in Ireland, of causing the arrest of Americans arriving in Ireland upon suspicion that they belong to that organization and party. The fact that they are found there is a *prima facie* case against them, and if in connection with that, as has been the

case on some of those trials, they can prove, as they have proved by witnesses directly from the United States, and who are employed by the British agents in the United States to collect testimony, that the parties thus arrested have made speeches implicating the British Government, and arraigning it for acts of injustice toward Ireland; that evidence has been received by the courts for their conviction; and it is a matter of belief with me, a matter of which I have no doubt, that not the case of Colonel Halpin alone, but many, many like cases have occurred where the most unjust convictions have been had.

Mr. DRAKE. And so it appears, Mr. President, just as I supposed, that the evidence that was given in the British court of the words spoken by Colonel Halpin in the United States was given merely to prove the *animus* of acts done by him upon British soil.

Mr. SUMNER. That was it.

Mr. DRAKE. Merely for that purpose?

Mr. SUMNER. And that is the American law.

Mr. DRAKE. I do not wish—I should feel humiliated as a Senator of the United States—to have it go forth from this Chamber that the United States had stood still and allowed an American citizen to be convicted in a British court and immured in a British prison merely for words that he spoke in the United States; and I wish it now to go forth to the people of the country from this place, within the very hour in which the fact has been alleged by the honorable Senator from California, that the only use made in England of the words spoken by Colonel Halpin in the United States was to illustrate and exhibit the *animus* of acts done by him upon British soil. Now, sir, I say that an American court would take that very kind of evidence with regard to any foreigner whom we might arrest here for crimes against this country. Sir, I put it to the Senator from California to say whether if during the rebellion the Atlantic cable had been in existence, and our Government had been advised through it that some prominent individual in that country had announced at a public meeting there his sympathy with the rebellion in this country and his purpose to come over here and take up arms, or commit some other crime against the Government of the United States in conspiracy with rebels, and we had met him as he entered the country to engage in the perpetration of that crime, whether the judge before whom he should be tried for the conspiracy, be he a civil or military judge, would not have received the evidence of witnesses going to show what he declared his purpose to be before he left the foreign country to come here.

Mr. President, I do not desire to see the Congress of the United States invoked to any step that will go to protect a man under such circumstances from the laws of the country in which he commits the criminal act, to illustrate the character of which his previous words in the United States are given in evidence. I do not wish this country to set such an example. What would the Senate say if a man were convicted of crime in a court in this country according to the law of the land and England should undertake to put her hand over here and wrest him from the grasp of our laws and from the just punishment of his offense? Sir, let us not do to other countries what we would not for a moment permit another country to do to us.

Mr. President, there is another thing about this matter which rather excites my curiosity. If we are to give to our citizens the unlimited protection demanded by the Senator from California of course he will not object that every other nation whose people come to our shores should give the same protection to them. And yet, sir, that Senator represents a State which brings the whole power of its laws to bear with such an oppression upon people of another nation, as he, with the sentiments expressed by him here to-day, would not for an instant tolerate when exercised by any other nation upon American citizens. Sir, what would he

say if China should demand at our doors the rights of her people as he thunders for the rights of our citizens at the doors of Great Britain to-day?

It has got into the newspapers that there is a treaty pending in this body which is intended to guaranty to Chinese subjects visiting or residing in the United States the same privileges, immunities, and exemptions in respect to travel or residence as may be here enjoyed by the citizens or subjects of the most favored nation. If that be true I would like to know what is to be the position of the Senator from California in regard to that provision in the treaty. Does he recognize the same right in China to demand the protection of her subjects here that he demands now for the protection of American citizens in England?

Mr. WILSON. Do not discuss the treaty.

Mr. DRAKE. I am not discussing the treaty. I say that it has got into the newspapers that there is such a treaty. Suppose there should be such a treaty here, where is the Senator from California to be with reference to the principle laid down in it of equality of rights in this country on the part of that race, to which the people of California deny equality of rights, taxing them as they tax no others, keeping them down, if I am correctly informed, as southern rebels would keep the negro down, denying that they are human beings, or, the next thing to it, killing them as soon, as coolly, and with as much impunity as a Texan kills a negro? Well, sir, all that I have to say is that what is just for one is just for another, and as I go for protecting American citizens, native or naturalized, all over the world, I go for allowing other nations to do for their citizens or subjects here exactly what I would have this nation do for its citizens in other countries; no more, no less.

Now, Mr. President, as to the bill before us, I am firmly and resolutely an advocate of its fundamental principles. I go for protecting the American citizen, the naturalized equally with the native, in every quarter of the globe; but I do not go for protecting an American citizen, or a hundred or a thousand of them, at the expense of the innocent. I do not go for impoverishing whole communities in England and the United States both by a suspension of commercial relations between the two countries because the Government of Great Britain may put its hand unjustly upon one individual or a hundred who are citizens of the United States; least of all do I go for any such thing as catching up innocent citizens of that country who may be traveling here under the guarantee of public faith under the laws of nations and putting them in prison and keeping them there for the act of their Government, in which they took no part. There are other and better ways of dealing with the subject. Sir, no man can stand in this land upon that principle, unless he will agree to accord the same thing to every other nation in regard to any encroachments upon or wrongs to their citizens committed in this country; and I would like to see the honorable Senator from California agreeing to let Great Britain seize upon American citizens there and imprison them because we got an Englishman, a Scotchman, a Welshman, or an Irishman here, who made himself amenable to our criminal laws, and convicted him and put him in prison. Sir, it is no use to talk of that kind of thing at all.

Mr. CONNESS. I only wish to say one word.

Mr. WILSON. We have a special order for four o'clock; and I wish to know if the Senator desires and intends to go on with his bill till he finishes it.

Mr. CONNESS. I will consent, with the consent of the Senate generally, to let this go over as unfinished business. I simply wish to say that as the honorable Senator from Missouri [Mr. DRAKE] sees fit to make up his own case he makes out a very strong one. He puts me in the attitude of defending an intentionally hostile act in a foreign State with which our nation is at peace, and he denies that this

country should be held to support any of its citizens in the perpetration of such an act. I stated that, as I understood it, when I was up; and upon that proposition there can be no difference between the honorable Senator and myself; but he went on to say that as he understood it the offense of the British Government consisted, when prosecuting these parties, in using testimony obtained in the United States to show the *animus* with which they went abroad. Mr. President, it is not difficult for the British Government to obtain testimony in Great Britain to convict persons of Irish nationality, no matter whether they remain domiciled in Ireland or have become expatriated and taken citizenship in the United States. If the case is to be thus made up that a man of Irish extraction and nativity, who returns to his native land or to any part of Great Britain, is to be held to return under the suspicion that *prima facie* he goes there to commit crime and that words spoken and acts done in the United States are to prove that that was the case, then there is but one other link in the chain of testimony necessary to convict him and deprive him of his liberty; and that is to obtain some perjured man for a price to swear that he saw him do it. That is what I allege has been done. I simply demand that our Government shall inquire and find the facts, and that finding the facts not to be as stated by the honorable Senator from Missouri, (for if they were to be so found, he and I could not disagree,) but to be that an innocent man and a citizen of ours has been deprived of liberty, it shall become the duty of this Government to demand his release; and if that be refused, and the refusal persisted in, then the highest duty of this Government consists in securing that release at any cost. That is my case.

Permit me to say on the other subject to which the Senator referred, that when the treaties come up we will discuss it.

Mr. DRAKE. I merely wish to say that the position just taken by the honorable Senator from California converts the Government of the United States in the given case into a court of errors to reverse the decision of the British courts.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, July 18, 1868.

The House met at twelve o'clock m. Prayer by Rev. H. DE HAAS, D. D., of Washington. The Journal of yesterday was read and approved.

CREDENTIALS OF MEMBERS-ELECT.

Mr. DAWES presented the credentials of John B. Callis, claiming to have been elected a Representative from the fifth congressional district of Alabama; which were referred to the Committee of Elections.

Mr. DAWES also presented the credentials of W. Jasper Blackburn, claiming to have been elected a Representative from the fifth congressional district of Louisiana; which were referred to the Committee of Elections.

Mr. DAWES. I will yield for a few moments to the gentleman from New York, [Mr. LAFLIN,] the chairman of the Committee on Printing.

INTERNAL REVENUE LAW.

Mr. LAFLIN, from the Committee on Printing reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed ten thousand copies of the internal revenue law lately passed, six thousand for the use of the House, and four thousand for the use of the Treasury Department.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RECONSTRUCTION LAWS, ETC.

Mr. LAFLIN also, from the same committee, reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed so many of the general and special orders pertaining to reconstruction transmitted from the War Department as may appear to the Committee on Printing necessary to indicate the extent of powers exercised by commanders of the military district created in the reconstruction act of March 2, 1867.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

STATIONERY BUREAU.

Mr. LAFLIN. I ask leave to offer the following resolution:

Resolved, That the Committee on Printing be requested to inquire into the expediency of establishing by law a stationery bureau from which all Departments of the Government in the District of Columbia shall obtain supplies of stationery.

Mr. JENCKES. I wish to state for the information of the House that that subject is already being considered by the Committee on Retrenchment.

Mr. LAFLIN. Then I withdraw the resolution.

PRINTING OF PATENT SPECIFICATIONS.

Mr. ELA, from the Committee on Printing, reported a joint resolution (H. R. No. 345) relative to printing specifications of patents; which was read a first and second time.

The joint resolution provides that no bills shall be paid by the Treasurer for printing specifications of patents above the contract price except that seventy cents may be added to each thousand words for the additional cost of composition occasioned by change made in printing by order of the Committee on Patents.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WASHBURNE, of Illinois. I would ask the gentleman from New Hampshire, who has been examining into the subject of printing for the Patent Office, to state the facts upon which that resolution is founded. I understand that there are some great abuses there which the House should understand at once, and I desire the gentleman from New Hampshire either to make a verbal statement or to have his report read.

Mr. ELA. I call for the reading of the report.

The Clerk read the report, as follows:

The Committee on Printing, in obedience to the resolution of the House instructing them to inquire whether the Commissioner of Patents has procured any printing, binding, or blank books except at the Government Printing Office, and if so, to what amount, of whom, and by what authority of law, report:

That they find the Commissioner of Patents is procuring printing, binding, and blank books outside the Government Printing Office, and without authority of law. The present acting commissioner temporarily in the office has made no changes, but followed the precedents and practices of the office as he found them, except that payment for printing of the specifications of patents has been suspended since February, 1868.

We have therefore confined our examination mainly to a period commencing with the printing of specifications of patents instead of having them written, in November, 1866, and extending down to the time the Commissioner (Hon. T. C. Theaker) resigned in January, 1868.

The persons employed and the amount paid to each is as follows, from November 26, 1866, to January, 1868:

To Philp & Solomons:	
Printing from November 23, 1866, to January 31, 1868.....	\$81,718 33
For paper used in printing.....	26,091 66
For blank books and binding.....	3,847 25
To Dempsey & O'Toole:	
For printing.....	26,380 50
Paper for printing.....	28,680 00
Blank books and binding.....	12,896 65
To McGill & Witherow:	
Printing.....	355 75
To William H. Nailey:	
Blank books.....	2,437 30
Total.....	\$181,810 34

The committee are of the opinion that this large sum has been expended in opposition to the law, following the practice before there was any law regu-

lating it; and which course is sought to be justified upon the ground that the expense is paid from the patent fund and not from the Treasury. It is but just to the Commissioner to say that he claims his action to have met the approval of the Secretary of the Interior.

A large part of this sum, amounting to \$74,556 58, is for composition and press-work on specifications of patents, under a contract made with Philp & Solomons on the 12th of July, 1866. This contract provided for printing ten copies of each specification for twenty-seven cents per hundred words—the Patent Office to furnish the paper—and for each additional copy one cent per hundred words. The contract provided that the type for the specifications should be set in double columns for each page. Before any were furnished under the contract specimen samples were printed and shown the Commissioner, one of which was in single column, which he considered the most “artistic,” and decided to have the work done in that form. This change added to the cost of the work only by increasing the measurement of the composition when performed by the piece, and the Commissioner without making new arrangements paid the contractors an advance of sixty-seven per cent, upon the first ten copies.

An extraordinary feature of the contract was that the Commissioner furnished the paper for this printing. It has been purchased at the cost of eighty dollars per thousand sheets, when, in the opinion of the committee, thirty dollars would have been a very liberal price and very much above what three of the four bidders agreed to contract to furnish it for in June, 1868. The amount used in printing specifications is about one thousand sheets per day, yielding a daily profit of at least fifty dollars.

The Interior Department, which contracts for the stationery for the Patent Office, invited no competition for “bond paper” until 1868, and the committee of the Department to award contracts for 1868 sits in their report to the chief clerk of the Interior Department “that, in addition to the quantity on hand, an order had been given for three hundred thousand sheets, which had been furnished when the bids were opened, and of which fact the person representing the Patent Office on the committee was aware, and which he made known to the committee.”

Of the four parties bidding to furnish the Interior Department with stationery, Blanchard & Molun bid to furnish three hundred thousand sheets of bond paper for \$2,500, Philp & Solomons for \$8,250, Coyle & Towers for \$7,000, and Dempsey & O'Toole for \$20,000; yet, “in addition to the quantity on hand, an order was given and filled” before the bids were opened “for the same amount, for \$24,000. The committee of the Interior Department go on to say “as the Patent Office would not need any more of the article in question,” the bids above named were “properly disregarded.” What will prevent the Patent Office from again paying \$24,000 for the same quantity “before the bids are opened,” and again having bids for that kind of paper “properly disregarded?”

The manner in which supplies for the whole Interior Department are estimated, when advertising for contracts, will be seen when we state that averaging the highest and the lowest bids the whole aggregate amount advertised for was offered to be furnished for \$20,758 42, while the Patent Office alone paid for paper for printing in fifteen months, \$44,474 56.

The contract for printing specifications was made without advertising for competition or furnishing written specifications of what would be required. Parties were informed verbally, and the contract was made for three years. The reason offered for this course, and for not resorting to the Government Office, was that the work was very important, intricate, and difficult, such as the Government Office would not be likely to be able to perform in the manner and at the time required; and that it was such an experiment that a failure would be disastrous, and therefore none but the most responsible parties were invited to compete. The work may have been, and probably was, fully up to the specimen which the Commissioner selected, but the committee have been unable to discover anything but an ordinary specimen of printing, which, in style, reflects no credit upon the mechanical bureau of the country, and which could be “set up” and “worked off” by most apprentices in a country printing office.

The accounting officers of the Treasury seem to have passed these bills for printing outside the Government Office because they were paid out of the patent fund, and therefore not subject to the law requiring all printing for the “executive and judicial departments to be done at the Government Printing Office.”

The amendment to the appropriation bill made during the examination has provided against the continuance of this evil by again ordering all printing to be done at the Government Office, and covering all patent funds into the Treasury as other money goes there; and no further remedy is proposed.

That legislation was required in regard to the patent fund from the above statement, taken in connection with that which follows, will not be doubted. In 1865 there were 10,664 applications and 1,937 caveats filed in the Patent Office, and 6,616 patents issued. In 1867 there were 21,276 applications and 3,597 caveats filed, and 13,015 patents issued. The cash receipts in 1865 were \$348,791 84, and in 1867 they were \$646,581 92. Expenses in 1865 were \$274,199 34, and in 1867 they were \$639,263 32. These figures show that while the business and receipts of the Patent Office for 1867 were very near twice as much as in 1865, the expenses had increased to near three times as much as in 1865, reversing the ordinary rule that increase of business does not require a proportionate increase of expenditure. While the amount of business was doubled, the profits diminished from \$74,592 50, in 1865, to \$3,318 50, in 1867.

The committee did not investigate beyond the scope of the resolution, but it came out incidentally that a "considerable amount" of expense had been incurred for furniture by direction of the Secretary of the Interior on a contract made in the same manner as that for printing, and the report of the Commissioner of Patents made to the Senate in January, 1868, shows the contingent expenses of the office for the year 1867, including printing, to have been \$260,812 85, besides \$46,301 98 for permanent improvements, \$16,819 60 for illustrations of report, and some \$3,442 48 for other expenses.

When we find forty-eight dollars per thousand paid for Manila envelopes, nine by twelve inches, including printing Commissioner's frank; forty dollars per thousand for printed cards for patents, and \$22 50 per thousand for small printed tag cards, while the best parchment paper, twenty-eight by thirty-two inches, is bid for at one cent per sheet, it would seem proper that some change should be made in the interest of the Treasury for furnishing stationery supplies for the several Departments of the Government.

No bills for printing specifications have been paid since February last, and we recommend the adoption of the accompanying resolution.

Mr. WASHBURN, of Illinois. In view of the extraordinary facts developed in that report, I ask leave to offer the preamble and resolution which I send to the Clerk's desk.

The Clerk read as follows:

Whereas the late Commissioner of Patents alleges he had the approval of the Secretary of the Treasury in relation to the expenditures referred to in the report of the Committee on Printing:

Resolved, That a copy of said report be transmitted to said Secretary, and that he be directed to communicate to Congress in relation thereto.

Mr. JENCKES. I object to that resolution at this time.

The question recurred upon the passage of the joint resolution.

Mr. JENCKES. This report relates to two subjects, while the joint resolution names but one. Now, I wish to state to this House that this subject of stationery contracts for the Department of the Interior has been for some time under investigation by the Committee on Retrenchment, the investigation being authorized by a resolution of the Senate. What has been presented to the House by the Committee on Printing is the mere surface of that transaction. The Committee on Retrenchment have found this matter of sufficient importance to lead them to call before them all the officers who have had anything to do with these contracts, and they have taken a large amount of testimony. That which has been reported from the Committee on Printing, although it may be correct in some of its statements, is yet far from the truth in its results.

Mr. ELA. In what particular is it far from the truth in its results?

Mr. JENCKES. I will state to the gentleman. The figures which the gentleman gives us in his report are not the results of the sworn statements of the parties engaged in these transactions. They have been furnished to the Committee on Printing by interested parties who have not been successful in their negotiations with the Department of the Interior.

Mr. ELA. The gentleman is entirely mistaken.

Mr. JENCKES. We have had those figures before the Committee on Retrenchment in precisely the same form, and we have found that they do not express the whole truth. We might have been misled, as the Committee on Printing seems to have been misled, if we had adopted those *ex parte* statements. But as I have said, we have called before us every officer of the Government connected with the transactions in question, and we will soon be ready to submit a report upon the whole subject of stationery contracts.

However, as the joint resolution of the Committee on Printing contemplates no action in that regard, what I have said is merely for information. As I heard the resolution read, it is not aimed at the stationery contracts, but is aimed at the printing, which is within the domain of the Committee on Printing. The stationery contracts are matters relating to the expenditures of the Government, and are within the province of the Committee on Retrenchment, and has received their consideration. There is undoubtedly great errors committed in the present mode of making those contracts. They are open to great frauds; frauds have been

committed, and committed because of the defects in the law. They have taken advantage of the errors of our legislation, and have sheltered themselves in every instance of past transactions that we have been able to find out under cover of acts of Congress and regulations framed in accordance with those acts. The remedy for those evils in the future is to strike at the root of the matter, and to so frame our acts that bids for stationery shall be received, as they are now received for other articles, in fair competition, so that we can receive exactly what we propose to pay our money for. Then there will be no occasion for this investigation.

In regard to the other part of the report, the matter of printing specifications, the gentleman from New Hampshire [Mr. ELA] seems to have overlooked the statute which expressly authorized the Secretary of the Interior to make contracts for printing these specifications. The law required them to keep fair records, and to furnish copies at the shortest possible notice. A great many copies of patents are required not only for use in this country but to be transmitted to other parts of the world. In carrying out the requirements of the law and meeting the wants of those dealing with the Patent Office the Commissioner was formerly obliged to employ a large force of copyists at a great expense, not to the office, because the expense does not ultimately fall on the patent fund but upon those requiring these copies. It was found, upon examination, that it would be much better to furnish printed copies of these specifications, much cheaper and more convenient for every one interested, than to employ a host of copyists to do poor work at a high price. But before ordering any such printing the authorization of statute law was procured. By the act of 1861 the Commissioner is authorized to have printed ten copies of every specification and two copies of a particular kind, one of them upon parchment, for reference in the office. That act was the foundation of this printing.

One word as to this patent fund, to which reference has been made. What is this patent fund? Why, sir, it is a fund by which inventors and others who have dealings with the office pay for the work which they get done there. If the gentleman from New Hampshire or I should desire a copy of a specification of a patent we would much prefer to have it in print, fair and legible, than in the careless writing and illegible characters of a bad copyist. I do not deny that in relation to the matters embraced in the report there may be a state of things requiring investigation; and this appears to have been the view of the gentleman from Illinois [Mr. WASHBURN] in offering his resolution. He proposes to ask the Secretary of the Interior to report what has been done. I can answer the gentleman, and from evidence taken before the Committee of Retrenchment the Secretary of the Interior is undoubtedly responsible for all these stationery contracts; it rests with him to say whether they shall be continued or revoked. It is, it seems to me, out of the power of this House to interfere with the matter. It is undoubtedly true that there has been done by order of the different Departments printing which, under the construction given to the law by the Committee on Printing, should have been done at the Congressional Printing Office. But that is a matter of construction. The resolution should apply to all the departments of the Government as well as to the Department of the Interior, if it is to be made available at all. But in this matter of printing these specifications it is strictly a matter of discretion. There has been no violation of the statute. There is no statute authorizing the Commissioner of Patents to procure this printing to be done at the Public Printing Office. There is a statute which the Committee on Printing regard as requiring the printing to be done at the Public Printing Office. Every head of every Department, as the committee will bear me out in saying—every head of every Department of this Government, has

construed the statute otherwise, and they have all had printing done elsewhere. Now, whether these specifications are well done or artistically done is a matter of no consequence. They are done for the convenience of parties. They are done for transmission, not only through this country, but throughout the world; and we receive in return for those we send to Europe specifications from England and France and a number of other countries which have patent laws to protect inventors.

I wish to say something about other matters incidentally referred to. It is complained of in the report that this expense was paid out of the patent fund. I wish the Committee on Printing and the members of this House to know what this fund is, how it has accumulated, whence it arose, and for what purpose it has been collected. In the early history of this Government we passed a patent law, in 1790, which requires this. From that down to 1856, when the patent laws were revised, the Government has been receiving \$350,000 from inventors in fees.

Mr. ELA. I rise to a question of order, as to whether the gentleman is debating this question?

The SPEAKER. The Chair thinks the gentleman is debating this joint resolution. It brings up the whole subject.

Mr. JENCKES. The question is whether it is payable out of the patent fund. When the Patent Office was destroyed in 1836 there was a balance to the credit of that office of \$150,000, which, by solemn statute, the Congress of the United States, and every cent to be thereafter received by the Patent Office, as a sacred fund for the use of the inventors of this country. That stands upon the statute-book unrepealed. It is as much a dedication as if property were set apart by will for a specific purpose. It is as much dedicated to that purpose as any sum voted by Congress for any special charity in the District of Columbia. From that time the revenues of that office have steadily increased. I will give the House an idea of that fund. Within the last six months the inventors of the United States have paid into the Treasury—

Mr. DAWES. The Committee of Ways and Means is indignant at me. I do not know what to do but to appeal to my friend from Rhode Island.

Mr. JENCKES. I will not abuse the courtesy of the gentleman. Within the last six months the inventors of the United States paid as patent fees more than for forty-three years previous to 1836. In this report—and I allude to it because it is in the report—it is complained the expenses have increased as the receipts have increased. Of course they have. When the receipts were fixed in 1851 they were fixed at so low a rate there could be no profit to the Patent Office. This exists simply for the purpose of encouraging the inventive genius of the country. It exists for the protection and transaction of their business. For every dollar they pay into the fund they are entitled to receive something. It is held for the purpose of promoting the useful arts. I wish to say something in regard to what was done in the committee of conference without anything said in the House and without anything in the committee upon which to hang it. That is deliberately to confiscate this entire fund, to cover it into the Treasury, and pay out how much? Why, for a year's appropriation less than half what is required for six months' business of that office. And this, too, came from the gentleman from Illinois, [Mr. WASHBURN], who has sat here ever since I have been in Congress objecting to every measure of general legislation in appropriation bills; and yet not in Committee of the Whole, but in a committee of conference, where it could not be contested, he brought into the House and had the provision put through here without a word of explanation, without even the report itself being read, and it became a law without a single member of the House of Representa-

tives, except those who constitute the committee, knowing anything about it. Here was this fund dedicated by statute, used and used well for the purposes for which it was appropriated and to which it should be applied; and now for the first time in the history of this Government, without notice, without even debate, it is undertaken to raise a revenue out of the inventive genius of the country, and yet refuse to them the business which they are entitled to have done in order that their inventions may avail them. I will not longer trespass upon the time of the gentleman from Massachusetts.

Mr. DAWES resumed the floor.

Mr. JENCKES. I give notice that I will move to refer the joint resolution to the Committee on Retrenchment.

Mr. DAWES. I yield to the gentleman from New Hampshire [Mr. ELA] for ten minutes.

Mr. ELA. The gentleman is very much mistaken when he asserts that this report is made on hearsay evidence.

Mr. JENCKES. I did not say that; I said partially so.

Mr. ELA. The report is made upon the sworn statement of the Commissioner of Patents, the acting Commissioner at present, the chief clerk, and disbursing officer of that office, and the Comptroller of the Treasury; and in addition to that it is made from a report made by a committee for the purpose of awarding the contracts from the Interior Department. And now, Mr. Speaker, one word more in regard to the law under which the gentleman says this matter has been brought in. The law the gentleman refers to in relation to the Patent Office was repealed the next year after it was passed, leaving all this matter to the general law. And yet the gentleman has argued to the House that these expenses are paid under that law. He is also mistaken in supposing all the Departments are doing printing equally without law. The Treasury Department are authorized by law to perform certain printing, such as the envelopes they manufacture, circulars, and some other kinds of printing. I have not attempted in this report to go beyond the duties imposed by the House on the Committee on Printing. But, sir, if the mere surface-skimming which the gentleman alludes to develops such a system of corruption as this report shows, I would like to know what you would find if you should probe it to the center. Why, sir, this paper which the gentleman has spoken of, upon which specifications are printed, was offered to be furnished by three bidders, the highest of the bids being for three hundred thousand sheets at \$7,000, and the lowest \$2,500. And yet your acting commissioner, before the bids were opened, contracted for an amount above what was then on hand, for three hundred thousand sheets, at an expense of \$24,000, which put into the pocket of the man who furnished the paper more than \$15,000. I have no disposition to follow this matter further, because the law upon which the gentleman from Rhode Island founded his whole argument was repealed four years ago, and because the report states the matter fully. I now call the previous question.

Mr. JENCKES. Is not my motion to refer in order?

The SPEAKER. It is not, for the gentleman was not on the floor to make that motion, the gentleman from Massachusetts [Mr. DAWES] having resumed it before that time.

On seconding the previous question there were—ayes 64, noes 30; no quorum voting.

Tellers were ordered; and Messrs. JENCKES and ELA were appointed.

The House divided; and the tellers reported—ayes seventy-two, noes not counted.

So the previous question was seconded.

The main question was then ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELA moved to reconsider the vote by which the joint resolution was passed; and also

moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PURCHASE OF ALASKA.

Mr. DAWES. I yield to my colleague to take up a matter if it does not cause debate.

Mr. BANKS. I ask to take from the Speaker's table the amendments of the Senate to the Alaska bill.

Mr. BUTLER, of Massachusetts. I object.

POSTAL LAWS.

Mr. FARNSWORTH. I ask unanimous consent to take from the Speaker's table the Senate amendments to the bill amending the postal laws for the purpose of non-concurring and having a committee of conference.

Mr. SPALDING. I object to taking any bill from the Speaker's table out of its order.

DEFICIENCY BILL.

Mr. WASHBURN, of Illinois. Will not the gentleman allow the Senate amendments to the deficiency bill to be taken up?

Mr. SPALDING. No, sir; I object to any bill being taken up out of its regular order.

CHRISTOPHER C. CAREY.

Mr. BUTLER, of Tennessee, by unanimous consent, introduced a bill (H. R. No. 1436) for the relief of Christopher C. Carey, of Tennessee; which was read a first and second time, and referred to the Committee of Claims.

CAPTAIN ISAAC A. TAYLOR.

Mr. BUTLER, of Tennessee, also, by unanimous consent, introduced a bill (H. R. No. 1437) for the relief of Captain Isaac A. Taylor, of Tennessee; which was read a first and second time, and referred to the Committee on Military Affairs.

GEORGE W. KIRK.

Mr. BUTLER, of Tennessee, also, by unanimous consent, introduced a bill (H. R. No. 1438) for the relief of Colonel George W. Kirk, of Tennessee; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. RANDALL moved to reconsider the votes by which the bills were severally referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LOYAL CITIZENS OF TENNESSEE.

Mr. BUTLER, of Tennessee. I ask unanimous consent to introduce a joint resolution pledging the faith of the nation to the loyal citizens of Tennessee.

Mr. MULLINS. I object.

CHARGES OF DESERTION.

Mr. GARFIELD. I ask unanimous consent to report back from the Committee on Military Affairs the joint resolution (H. R. No. 319) in regard to charges of desertion in cases of soldiers honorably discharged.

The joint resolution was read. It provides that in all cases where private soldiers in the late war for the Union served out the term of their enlistment and were honorably discharged from the service, or died in the service while in the line of duty, it shall be the duty of the Secretary of War upon application of the parties to remove any charges of desertion that may stand on the rolls against such soldiers where there has not been a conviction for desertion by a court-martial.

Mr. WARD objected, but subsequently withdrew his objection, and the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION CONTEST—SWITZLER VS. ANDERSON.

Mr. DAWES. The Committee of Elections, to whom was recommended the report of that

committee in the contested-election case of Switzler vs. Anderson, have instructed me to report the following resolution, upon which I demand the previous question:

Resolved, That in the matter of charges of disloyalty made by Hon. J. P. BENJAMIN against the contestant for a seat in this House from the ninth district of Missouri, and by the contestant against the sitting member, all the testimony taken in the manner prescribed in the act regulating contested elections, all the notices in each case to be served respectively upon the respondent and the person making the charge, and all the testimony to be filed with the Clerk of the House within ninety days from the passage of this resolution.

Mr. ELDRIDGE. Is this privileged?

The SPEAKER. It is.

Mr. ELDRIDGE. It seems to me that there can be no other purpose in the matter except to keep the contestant out of his seat until this Congress is ended.

The SPEAKER. The resolution, however, is privileged. It proposes to provide how the contest shall be continued.

Mr. BENJAMIN. I ask the gentleman to withdraw the previous question to enable me to offer an amendment.

Mr. DAWES. I will hear it read.

The Clerk read as follows:

Resolved further, That the sitting member and the contestant be allowed within the time and in the manner mentioned in the above resolution to take additional testimony in relation to the character of the registration of Callaway county for the election of the year 1866.

Mr. DAWES. I cannot yield for that amendment to be offered. There is no reason given on either side why they had not sufficient time to take testimony. I yield for a moment to my colleague on the committee, [Mr. KERR.]

Mr. KERR. I hope the gentleman will not yield to allow the amendment to be offered.

Mr. DAWES. I have declined to yield.

Mr. KERR. Then I have nothing further to say.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FOURTEENTH AMENDMENT TO CONSTITUTION.

Mr. DAWES. I am instructed by the Committee of Elections to report back the official notice of the ratification of the fourteenth amendment to the Constitution of the United States by the Legislature of the State of Louisiana, and to ask that they be discharged from its further consideration, and that it be referred to the Committee on Reconstruction.

The motion was agreed to.

The SPEAKER, by unanimous consent, laid before the House a communication from the Governor of the State of South Carolina, transmitting a joint resolution of the Legislature of that State, ratifying the fourteenth amendment to the Constitution of the United States; which was referred to the Committee on Reconstruction.

LOUISIANA AND SOUTH CAROLINA MEMBERS.

Mr. DAWES. I am instructed by the Committee of Elections, to which were referred the credentials of persons claiming to have been elected members of this House from the State of Louisiana, namely, J. Hale Sypher, for the first district; James Mann, for the second district; Joseph P. Newsham, for the third district; Michael Vidal, for the fourth district; and W. Jasper Blackburn, for the fifth district; and from the State of South Carolina, B. F. Whittemore, for the first district, and James H. Goss, for the fourth district, to report that they have examined those credentials and have found them in due form of law, and that the State of Louisiana and the State of South Carolina have conformed in all respects to the requirements of the laws of Congress. The committee therefore recommend that those gentlemen be admitted to seats in this House

upon taking the oath of office prescribed by the statute of July 2, 1862.

The report of the committee was agreed to. Mr. DAVES. As those gentlemen are now present, I ask that the oath be administered to them.

The following members-elect then presented themselves and took the oath prescribed by the act of July 2, 1862, namely: J. HALE SYRER, of Louisiana; JAMES MANN, of Louisiana; JOSEPH P. NEWSHAM, of Louisiana; MICHAEL VIDAL, of Louisiana; W. JASPER BLACKBURN, of Louisiana; B. F. WHITEMORE, of South Carolina; and JAMES H. GOSS, of South Carolina.

ORDER OF BUSINESS.

Mr. DAVES. There is one more matter of business that I wish to bring to the attention of the House. I refer to the contested-election case of McGroarty vs. Hooper, from the Territory of Utah. No member of the Committee of Elections desires to be heard upon the case; but the contestant desires to be heard briefly upon it, and then I propose to call the previous question.

Mr. WASHBURN, of Illinois. All right. Mr. SCHENCK. I would suggest to the gentleman to let that case go over until Monday next, when our most important matters of legislation will probably be before committees of conference.

Mr. DAVES. I have no desire to press it upon the attention of the House to the displacement of other business. But the Committee of Elections have reported adversely upon the claim of the contestant, and they do not desire to say a word upon it. I propose to call up the case in behalf of the gentleman from New York, [Mr. CHANLER,] who made the report on behalf of the committee, but who is necessarily absent from the House. He made an arrangement with the contestant to call up the case to-day, but he has been called away, and has requested me to call it up. However, I will not call up the case until Monday, provided it be understood that I shall have the right to call up this case, and also the Missouri contested-election case of Hogan vs. Pile.

The SPEAKER. The Chair understands that the gentleman from Massachusetts [Mr. DAVES] proposes, after the funding bill shall have been disposed of, to call up the contested-election case of Hogan vs. Pile; which would not prevent the introduction of reports of committees of conference, several of which are nearly ready to be reported to the House.

Mr. DAVES. I do not propose to call up either case to-day, if I can have general consent to call them up on Monday next.

No objection was made.

Mr. DAVES. I now ask unanimous consent to introduce for consideration at this time a bill for the relief of Simon Corlay, a Representative-elect from the State of South Carolina, from political disabilities. I do not think it will give rise to any debate.

Mr. MULLINS. I object. I expect to debate that bill when it is introduced; such is my intention.

Mr. SCHENCK obtained the floor.

CORRECTION.

Mr. KERR. I ask the gentleman from Ohio to yield to me for a moment that I may make an explanation in regard to a paragraph in the Globe.

Mr. SCHENCK. It is not a "personal explanation?"

Mr. KERR. No, sir; a mere correction.

Mr. SCHENCK. Then I yield to the gentleman.

Mr. KERR. I find that in the discussion which took place yesterday on the funding bill I am reported as saying, referring to the taxability of greenbacks, "the statutes of the United States say so expressly." I simply desire to say that I did not make that statement. Some other gentleman made it, and my name has accidentally been prefixed to it. The statement which I made follows immediately

the remark I have just quoted, and is correctly reported.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed a joint resolution of the following titles, in which the concurrence of the House was requested:

Joint resolution (S. No. 164) for the restoration of Commander Aaron K. Hughes, United States Navy, to the active list from the retired list.

The message further announced that the Senate had passed House bills of the following titles, with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 1096) making appropriations of money to carry into effect the treaty with Russia, of March 30, 1867;

An act (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes; and

An act (H. R. No. 451) providing for the sale of arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes.

The message also announced that the Senate had passed without amendment bills and joint resolutions of the following titles:

An act (H. R. No. 1081) for the relief of John A. Neustaedter;

An act (H. R. No. 485) to aid in the improvement of the Des Moines and Rock Island rapids in the Mississippi river;

Joint resolution (H. R. No. 331) to grant an American register to the Hawaiian brig Victoria;

Joint resolution (H. R. No. 338) exonerating certain vessels of the United States from the payment of tonnage fees to consular agents in Canada;

Joint resolution (H. R. No. 341) for the relief of Z. M. Hall; and

Joint resolution (H. R. No. 326) for the relief of Henry B. Ste. Marie.

TEMPORARY LOAN CERTIFICATES.

Mr. SCHENCK. I ask the House to take from the Speaker's table, by unanimous consent, for reference to the Committee of Ways and Means, the bill (S. No. 543) to provide for a further issue of temporary loan certificates for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes.

Mr. SPALDING. I object to taking up any bill out of its order.

TARIFF BILL.

Mr. SCHENCK. I yield to my colleague on the committee, the gentleman from Pennsylvania, [Mr. MOORHEAD,] who desires to make a statement in reference to the tariff bill.

Mr. MOORHEAD. Mr. Speaker, my usual motion has been, whenever a suitable opportunity has been presented, that the House resolve itself into the Committee of the Whole on the tariff bill. I do not propose to make that motion now. Upon consultation with my friends, and especially with the Committee of Ways and Means, this morning, (though our action was rather informal,) I have concluded that at this late stage of the session it is not best to press the tariff bill in antagonism to other business before the House, as it appears to me certain that this bill, if passed through the House, could not pass the Senate at this session. Upon consultation within the last two or three days with members of the Committee on Finance of the Senate I have become satisfied that if we should pass the bill here they would not take it up and act upon it this session. I therefore think it improper at this stage of the session to press further the tariff bill in antagonism with other business. While the tariff men of the country have reason to feel grateful to this House for the very strong support this measure has received whenever we have had a test vote, (the main test vote being

84 ayes to 57 noes,) I feel willing that the bill shall remain pending till the next meeting of Congress. And I wish to ask the Speaker to inform the House distinctly what position the bill will occupy when we meet in December next.

The SPEAKER. The tariff bill is now the unfinished business in Committee of the Whole; and when the House at the the next session of Congress shall resume the consideration in Committee of the Whole of the pending business this bill will be the first business in order unless it be set aside at that time by the vote of a majority.

Mr. RANDALL. Do I understand my colleague [Mr. MOORHEAD] to make a motion to postpone the consideration of the tariff bill?

Mr. MOORHEAD. No, sir.

Mr. RANDALL. I give notice that if such a motion be made I shall object to it.

Mr. MOORHEAD. The gentleman will not have an opportunity to object, for I do not intend to make the motion. I understand from the Speaker of the House that a motion to postpone the bill till next session or a motion to make it a special order for a certain day would not place it in any more favorable position than it now occupies; and hence I am willing to leave it just where it is. It will now be in such a position that all the tariff men of the House can prepare themselves to take it up at the next session, framing in the mean time such amendments as they may think desirable.

Mr. RANDALL. They were prepared eight months ago.

Mr. MOORHEAD. I think it better that the bill should occupy this position than that it should be lying in the Senate without action. I therefore give notice that I will not again at this session undertake to call up this bill.

Mr. BROOKS. The tariff bill is dead.

BUSINESS OF EVENING SESSION.

Mr. SCHENCK. I desire to give notice that when the House shall this afternoon come out of Committee of the Whole on the funding bill I shall move, if I can get the floor for that purpose, that the session of this evening be set apart for the consideration of business on the Speaker's table.

Mr. SPALDING. I hope that will be done.

Mr. WASHBURN, of Illinois. I hope it will not be done. I do not wish to have all those Senate bills put through without any reference or investigation.

Mr. SCHENCK. There is on the Speaker's table a large number of bills that should be disposed of in some way, by reference or otherwise.

Mr. WASHBURN, of Illinois. Under the rules of the House, can business on the Speaker's table be reached until after the morning hour?

The SPEAKER. The Chair cannot decide a point of order before it arises.

Mr. SCHENCK. I propose to move to go into Committee of the Whole on the funding bill, but I am willing to yield for ten or fifteen minutes for the transaction of business that may cause no division or debate.

DOORKEEPERS OF THE HOUSE.

Mr. LOGAN. I ask unanimous consent to submit the following resolution:

Resolved, That the Doorkeeper be instructed to retain in his service during the vacation of Congress all crippled soldiers now in his employ.

Mr. BROOMALL. I object unless it goes to the Committee on Accounts.

Mr. LOGAN. I do not object to that.

The resolution was so referred.

REMISSION OF PENALTIES.

Mr. ALLISON, from the Committee of Ways and Means, reported a bill (H. R. No. 1439) authorizing the remission of penalties in certain cases; which was read a first and second time.

The bill was read. It provides that where it shall appear to the collector of any district within the United States, upon oath or otherwise, to his satisfaction that any instrument in writing was not duly stamped at the time of

making or issuing the same, by reason of accident, mistake, inadvertence, or urgent necessity, and without willful design to defraud the United States of the stamp, or to evade or delay the payment of the tax on such instrument, then, if such instrument, or if the original be lost, a copy thereof, duly certified by the officer having charge of any records in which such original is required to be recorded, or, if not recorded, otherwise duly proved, to the satisfaction of the collector, shall within six calendar months after the 1st day of August, 1868, be brought to the said collector of revenue to be stamped, and the stamp tax chargeable thereon be paid, it shall be lawful for the said collector to remit the penalty provided by law, and to cause such instrument to be duly stamped.

Mr. ROSS. Will that cover deeds made in the southern States during the rebellion?

Mr. ALLISON. That class of cases is already covered by existing law, and this will extend the time in this and all other cases for six months.

Mr. ROSS. I have letters asking for such a law. Parties want an opportunity to affix the United States stamps to their instruments of writing.

Mr. ALLISON. This will cover all cases in every collection district of the United States.

The bill was ordered to be engrossed and read third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ALLISON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TRIAL OF BOILERS.

Mr. O'NEILL. I ask unanimous consent to report from the Committee on Commerce a joint resolution authorizing the trial of boilers for steam vessels.

The joint resolution was read. It provides that the Secretary of the Treasury shall have power to permit the trial of any boiler or boilers of any other material than charcoal plates or wrought iron upon such steamboats or steamships as the manufacturers of said boiler or boilers may furnish, provided there be no expense to the Government arising therefrom.

Mr. STEVENS, of Pennsylvania. I object.

Mr. BROOKS. I now call for the regular order of business.

FUNDING THE NATIONAL DEBT.

Mr. SCHENCK. I move that the rules be now suspended, and that the House resolve itself into Committee of the Whole on the state of the Union upon the special order.

The rules were accordingly suspended; and the House resolved itself into Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair.)

The CHAIRMAN. By order of the House the committee will resume the consideration of Senate bill No. 207, for funding the national debt and for the conversion of the notes of the United States.

The Clerk read the pending section, as follows:

SEC. 4. *And be it further enacted*, That from and after the passage of this act no percentage, deduction, commission, or compensation of any amount or kind shall be allowed to any person for the sale or negotiation or exchange of any bonds or securities of the United States, disposed of at the Treasury Department or elsewhere, on account of the United States; and all acts and parts of acts authorizing or permitting, by construction or otherwise, the Secretary of the Treasury to appoint any agent, other than some proper officer of his Department, to make such sale or negotiation of bonds and securities are hereby repealed.

Amendments of the committee:

Strike out "or negotiation" and insert "negotiation or exchange;" and insert after the words "of the United States" the words "or of any coin or bullion."

The amendments were agreed to.

Mr. RANDALL. I move the following as an additional section:

And be it further enacted, That after the passage of this act all exchange, purchases, or sales of

the bonds of the United States shall be made by inviting the competition of the public by advertising for proposals for any such exchange, purchase, or sale, which shall be awarded to the best bidder or bidders, the Secretary of the Treasury reserving the right to reject any such bids should he deem it to the public interest to do so.

I do not think the chairman of the committee will object to that. The object of the amendment is that when the exchanges of these bonds are made the public shall be made aware of exactly what is going on in the Treasury Department in that regard, so that the purchaser of a fifty-dollar bond shall know it just as a wealthy millionaire who takes his \$100,000.

The amendment was disagreed to.

The Clerk read the next and last amendment of the Committee of Ways and Means, to add the following as a new section:

SEC. —. *And be it further enacted*, That hereafter the tax on any income arising from the bonds and other interest-bearing securities of the United States, payable to any person, State, municipality, body politic or corporate, company or society, whether corporate or not corporate, out of the Treasury of the United States, shall be assessed and collected by the Treasurer or other disbursing officers of the United States, charged with paying any interest upon the debt of the United States, in the same currency in which said interest is paid, and such collection shall be made by deduction of the amount of the tax from the coupons or interest due at the time of payment of such interest.

Mr. KELSEY. I desire to offer a substitute for the whole bill.

The CHAIRMAN. That is not yet in order. There is an amendment pending.

Mr. LOGAN. Before the last section is reached I desire to offer a new section to come in after section four that has just been passed upon.

The CHAIRMAN. The question now is upon the last section which has been read.

Mr. SCHENCK. I move to add after the words "United States in the third line the words" "other than those authorized by the first section of this act."

The amendment was agreed to.

Mr. BUTLER, of Massachusetts. I move to amend the section by striking out the words "the tax on any" and inserting in lieu thereof the words "there shall be a tax of five per cent. on any profits, gains, or;" so that it will read, "that hereafter there shall be a tax of five per cent. upon any profits, gains, or income arising from the bonds," &c. The proposition I make is this: we have an income tax apparently of five per cent. upon income arising from bonds, but we do not provide that it shall be collected anywhere except upon the conscience of the person holding the bonds. Now it is found that there is only one tenth of the income returned, because men can pass the coupons from hand to hand and nobody knows whose coupons they are or to whom the money is payable. Now I have offered an amendment to put the exact tax upon income arising from bonds as upon all other property in the United States, and have it honestly collected. The honest men now do pay; the dishonest men do not. We do not get more than \$1,500,000 from the interest on bonds now; we ought to get \$20,000,000, being eight per cent. on the interest on \$2,500,000,000, taking the currency income. Now, I propose to tax this income at the source. Let every man who owns a bond pay his five per cent. precisely as we, when we go to our pay-rolls here, get our money with our five per cent. deducted, and as every other salaried officer or employé of the United States gets his money with the income tax deducted. All I desire now is to collect this at the place where it is payable, and I can see no objection to it. I moved the other day to put on a tax of ten per cent. I think it might be ten per cent. now. But I want to avoid that question now. I want simply to provide for the honest collection of the revenue from income on bonds, whoever holds them. Now, I shall be met with this objection: that this will collect the interest on bonds in the hands of foreigners. Well, sir, that is precisely what England has always done, and what precisely we do now when we order the income tax to be deducted from every railroad, canal, or other corpora-

tion bonds by the Treasurer. It was kept back and was put into the act of 1866, whether the owner is a non-resident alien or citizen.

Again, sir, with this honest collection of the tax, there will be a strong inducement for men to fund their bonds. There is no inducement now. They escape taxation now, and they have always escaped it; and the only effect of my proposition is to make men or corporations honestly pay their income tax on these bonds.

Mr. LYNCH. Suppose the income tax should be raised to ten per cent., or reduced to two and a half per cent., then will not this be a discrimination?

Mr. BUTLER, of Massachusetts. When that is done we can alter this. I am speaking of it as it is now. I do not know what it will be when it is altered.

[Here the hammer fell.]

MESSAGE FROM THE SENATE.

Here the committee rose informally; and the Speaker having resumed the Chair, a message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had agreed to the report of the second committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments.

MESSAGE FROM THE PRESIDENT.

Two messages in writing from the President of the United States were presented by Mr. W. G. MOORE, his Private Secretary, who also announced that the President had approved and signed a bill of the following title:

An act (H. R. No. 202) to create the office of surveyer general in the Territory of Utah, to establish a land office in said Territory, and extend the homestead and preemption laws over the same.

FUNDING THE NATIONAL DEBT.

The Committee of the Whole on the state of the Union then resumed the consideration of the funding bill.

Mr. ALLISON. I do not think the amendment proposed by the gentleman from Massachusetts [Mr. BUTLER] is at all necessary. The tax now upon all incomes arising from bonds of the United States and all other property is five per cent. As the section now stands the tax of five per cent. would be deducted from the interest on all bonds at the Treasury. Now the suggestion of the gentleman from Maine [Mr. LYNCH] is a very good one, that if we should reduce the income tax to three per cent. upon all other classes of incomes, then this would remain at five per cent., which would be a discriminating tax against the holders of United States bonds, or if in any emergency we should raise the tax we would be compelled to amend this law or discriminate in favor of the holders of these bonds. The Committee of Ways and Means simply provide by this section that whatever tax is charged upon other incomes shall attach to the income derived from United States bonds and be deducted from the coupons. It is a flexible section that will apply to any future law that may be made upon the subject. I yield the remainder of my time to the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. I rise to oppose the amendment of the gentleman from Massachusetts, and to say that in very adroit language the gentleman has proposed, and I was surprised that it was not objected to as out of order, to levy a tax, not an income tax, there is not a word about an income tax, but to levy a tax on all bonds.

Mr. BUTLER, of Massachusetts. I cannot stand that.

Mr. GARFIELD. I have the floor.

Mr. BUTLER, of Massachusetts. Look and see.

Mr. GARFIELD. I object to being interrupted until I have made my statement.

Mr. BUTLER, of Massachusetts. I object to having misstatements made.

Mr. GARFIELD. It is not a misstatement. The proposition of the gentleman reads, "That

hereafter there shall be a tax of five per cent. upon any profits, gains, or income arising from bonds." It does not say that the present income tax, with its exemptions and exceptions and deductions, shall be applied to the interest on bonds, but it levies a tax of five per cent., which will be in addition to and independent of the income tax. There is not a word about \$1,000 being exempted from the tax, as there is in the income law. The proposition as it stands reported by the Committee on Ways and Means is simply a mode of more certainly collecting the income tax by retaining it at the Treasury, where the citizen will have a right to the exemption if his whole income from all sources is less than \$1,000. But if the amendment shall be adopted there will be no exemption whatever, because this tax is levied, not by virtue of the general law which has the exemptions in it, but by virtue of this clause, which levies the tax directly without deduction or exemption or limitation.

Mr. BUTLER, of Massachusetts. Allow me a single question.

Mr. GARFIELD. I will.

Mr. BUTLER, of Massachusetts. Is there any exemption in the tax on bank shares, or in the tax on railroad bonds and canal bonds, let me ask?

Mr. GARFIELD. Suppose there is not. What of it? The gentleman has confessed by his question all that I charged upon him. I charged that this which he proposed was not to be in lieu of the income tax, but was to be itself an independent and additional tax, which he at first denied as a misstatement. Now he rises and asks whether I object to it as unjust or not. I was not arguing the justice or injustice of the proposition, but was only arguing that the gentleman was attempting to impose an independent tax and get it adopted under cover of the income tax. I hope his amendment will not be adopted.

[Here the hammer fell.]

Mr. PIKE. I move a substitute for the section reported from the Committee of Ways and Means, which I send up to be read.

The Clerk read as follows:

And be it further enacted, That hereafter a tax of five per cent. on incomes arising from bonds and other interest-bearing securities of the United States, except those authorized by this act, payable to any person, State, municipality, body politic or corporate, company or society, whether corporate or not corporate, out of the Treasury of the United States, shall be assessed and collected by the Treasurer or other disbursing officers of the United States charged with paying any interest upon the debt of the United States, in the same currency in which said interest is paid; and said collection shall be made by deduction of the amount of the tax from the coupons or interest due at the time of payment of such interest: *Provided,* That the sum so deducted from the interest or coupons of any person having a yearly income of less than \$1,000 shall be refunded to such person in accordance with rules and regulations to be made by the Secretary of the Treasury: *And provided further,* That this shall be in full for all income tax arising out of said public securities.

Mr. PIKE. The proposition I have made is in exact accordance with the English tax, as claimed by the gentleman from Ohio, [Mr. GARFIELD,] who disagreed with the remarks of mine published in the Globe of the 26th of June last. It is more favorable to the holders of public securities than to the holders of railroad bonds. But it is a provision similar to the English provision in their present law, although I admit that the provision of the former English income law provided that from the interest when it should be paid shall be deducted the income tax; and then if any person having an income less than the prescribed amount shall claim to be refunded, upon substantiating that fact, may be refunded. My proposition is in the interest of the holders of bonds in small quantities. It provides that this tax shall be in full of the ordinary income tax; so that it obviates the objection just made by the gentleman from Ohio, [Mr. GARFIELD,] I offer this amendment because it is in the direct line with the arguments that I have been making in relation to the taxation of these bonds. Although it is in conflict with the report made by the Committee of Ways and Means the other day, in which it was said that

no civilized country ever had such a tax as this, and that it would be a gross outrage to have any such tax; still, as the committee have introduced this section, I have only changed it in the particulars I have mentioned.

I hope my amendment will be adopted and received as a peace offering amid the contending elements here, so that we shall no longer have the question mooted in this country of the propriety of the entire practical exemption of some of the best property in the country, at a time when taxation bears so heavily upon the community generally.

Mr. SCHENCK. The questions now presented are, first the amendment of the gentleman from Massachusetts [Mr. BUTLER] to the section originally reported by the Committee of Ways and Means as an amendment to the bill of the Senate, and then the substitute for that section proposed by the gentleman from Maine, [Mr. PIKE.] Now, it is highly proper that the House should know precisely what questions are involved in the propositions respectfully submitted to them. There is one decided difference between the propositions submitted by the Committee of Ways and Means and the propositions submitted by the gentleman from Massachusetts and the gentleman from Maine; and that is in relation to the person to whom the tax will extend. Without discussing now the propriety or impropriety of taxing foreign holders of the securities of the United States, persons not citizens of the United States, it is my duty to let the House understand that those persons will not be subject to this tax under the provisions of the section submitted by the Committee of Ways and Means, but will be subject to the tax, with all other bondholders, under each of the other propositions. I will explain. The amendment of the gentleman from Massachusetts, instead of providing that "hereafter the tax on any income arising from the bonds and other interest-bearing securities shall be five per cent.," provides that "hereafter there shall be assessed a tax of five per cent. on incomes arising from bonds," &c. Well, sir, there is now a tax of five per cent. on all incomes arising from bonds, except so far as foreigners are concerned. Some gentlemen perhaps have not adverted to the language of our tax law.

Mr. WASHBURN, of Massachusetts. I would like to ask the gentleman a question. When he says there is now a tax on bonds does he mean a tax on all bonds, or only where the income is over \$1,000?

Mr. SCHENCK. I mean to say there is a tax subject to the exemption applying in all other cases of incomes.

Mr. WASHBURN, of Massachusetts. There could be no exemption under your section.

Mr. SCHENCK. The present law provides that "there shall be levied, collected, and paid annually upon the gains, profits, and income of every person residing in the United States, or of any citizen of the United States residing abroad, whether derived from any kind of property, rent, interest, dividend, or salary, or from any profession, trade, employment, or vocation carried on in the United States or elsewhere, or from any other source whatever, a tax of five per cent. on the amount so derived over \$1,000," &c.; subject, of course, to the exemptions specified in other provisions. The differences between the propositions of the gentleman from Massachusetts [Mr. BUTLER] and the gentleman from Maine [Mr. PIKE] and that of the Committee of Ways and Means must, I think, be manifest. It is for the House to decide whether the five per cent. shall be deducted from the coupon or from the amount of the interest whenever paid without regard to the question whether that coupon belongs to a foreigner or not.

I admit that while we adhere to the general provision of law taxing only our own citizens, whether residing at home or abroad, upon their incomes, there does arise a practical difficulty in reference to these coupons if foreigners are to be exempted, because there is a

great deal to be apprehended in the way of possibility that every coupon presented under such a law would be claimed to belong to a foreigner. My purpose in rising was to give exact information as to the differences between the propositions now pending. My colleague on the committee, the gentleman from Iowa, [Mr. ALLISON,] was, I think, inadvertent in conceding that there was not in the proposition of the committee this distinction as to the taxation of foreigners.

Mr. ALLISON. I had not examined the provision to which the gentleman has now called attention, and I was mistaken as to its effect. I do not think the present section will apply to foreigners.

Mr. SCHENCK. I say, therefore, that although there may be, perhaps, an implied violation of this principle in the taxation of railroad stocks and other similar interests, yet certainly the general policy of our legislation in regard to tax bills is not to attempt to tax any persons except our own citizens, although we assert the right to tax them whether they reside in this country or abroad.

[Here the hammer fell.]

Mr. WASHBURN, of Massachusetts. I move to amend the amendment by striking out "five" and inserting "one." I think an examination of the section proposed by the committee will show that while it purports to tax Government bonds just as they are taxed at the present time, it is in fact materially different from the provision of the existing law. The present law in imposing an income tax secures to each individual an exemption to the extent of \$1,000 of income. Now, I ask whether it is advisable for us in our legislation to make a discrimination against Government securities by providing that every individual who may have \$100 or \$500 invested in Government securities shall pay a tax of five per cent. on the income from those securities, though his total income may be no more than \$100 a year. If a man has his money invested in Government securities, the committee propose that he shall be taxed without regard to his income, while if his money is invested in any other securities he enjoys an exemption to the amount of \$1,000.

Mr. Chairman, it seems to me every person in the House will see when a coupon is presented to the Treasury it is not known whether it belongs to a man who has an income of \$100 or \$100,000. Five per cent is deducted. The coupons are sent through the different banks and paid by the Treasury through them. There is no way in which the Treasurers in the different sections of the country can distinguish between those which belong to the man with a large income and those which belong to the poor man. The practical result will be that the man who has only a fifty-dollar bond will be taxed five per cent., when that may be all he has, while another who has an income of \$999 will escape taxation. Is this House prepared to take this position? It seems to me the section of the Committee of Ways and Means is subject to this objection. I hope, therefore, the section will not pass.

Mr. BINGHAM. Mr. Chairman, if I understand correctly the proposition it is to discriminate against the public creditors of the United States and subject all holders of bonds of the United States to taxation without exemptions. I trust the House of Representatives, if it has any purpose at all to legislate in aid of the credit of the United States, will not adopt any legislation which discriminates against the public credit.

I desire to say further, Mr. Chairman, that the past legislation, so far as I am advised, which has been made necessary by reason of this rebellion, has discriminated all the while in favor of the poor and in favor of the producers of this country. I have heard something said here about equal taxation. These gentlemen use the term, I suppose, in its general signification which will put a like tax upon property, real, personal, or mixed, by whomsoever held within our jurisdiction. There has

never been any such taxation as that in the United States, and I trust there never will be. Your Congress never taxed the plow in the furrow; your Congress never taxed the hammer upon the anvil; your Congress never taxed the shuttle in the loom; your Congress never taxed the grain in the bushel. I trust it never will tax them.

But I come to the discrimination made here. I know of no pressure whatever that will induce me to put the crippled soldier who lost his leg at Gettysburg upon the same level as to taxation as the millionaire. The discrimination heretofore made in the legislation of this country was, in my judgment, a wise discrimination, which imposed five per cent. on incomes exceeding \$1,000, exempting those below \$1,000; yet by the amendment this is not to obtain in reference to the holder of our bonds, although it may not amount to more than \$300. If I were sure it would not work to the injury of the public creditor I believe I should not object to the substitute of the gentleman from Maine, [Mr. PIKE;] for that is the only difference at last between the substitute offered by the gentleman from Maine and the proposition reported by the Committee of Ways and Means. The proposition reported by the Committee of Ways and Means seems to infer the foreign holder of our bonds is not subject to taxation. My impression is that it is the right of every nationality to subject the holders of its securities, wherever they may be, to some rule of taxation, whether they are citizens or foreigners. That is the only difference between the substitute, so far as I can see, and the proposition of the committee.

Mr. PIKE. I except \$1,000.

Mr. BINGHAM. Certainly; they both except \$1,000. I am glad that it is so, to add a further word by way of caution, that no further income tax shall be chargeable upon the bonds than that which is herein provided.

Mr. BUTLER, of Massachusetts. I move to strike out the last word *pro forma*. I desire to call the attention of the House to this matter for the last time. We are very chary and careful whenever we come to touch the question of taxing bonds, and members say, "Oh, we must not touch the income derived from bonds belonging to the lame soldier who comes down from Gettysburg." But when that lame soldier is employed in the service of the United States at \$100 a month, we take five per cent. out of it directly, and nobody whines. Whenever he comes before us standing on one leg at the desk, or with one arm writing for his pittance for his bread as an employé of the Government, then we say you must pay each dollar of tax to be taken from your pay as you receive it.

Now, let us see what the proposition is on the part of the Committee of Ways and Means. It is to tax everybody but foreign bankers or bondholders. The gentleman from Ohio agrees that the foreign bankers or bondholders shall be exempted, and the Committee of Ways and Means also want to exempt the bankers of this country from taxation. They are careful to do that. There is no income arising from banks, and therefore they are ready to report a proposition to collect a tax on income. This proposition from the Committee of Ways and Means—undoubtedly not intended to be so—is a cheat, a snare, and a delusion; I had almost said, meant to be so. I do not, however, say anything about motives; I only say that the same committee who report this tax on incomes but not on the banks, came in the other day and reported that there was no law, human or divine, which would allow a law to be made with such a provision, and within a week they brought in the same provision; the same in substance and effect. The only difference was that one member of the committee says, "This is meant to tax everything;" and another one says, "It is not meant to do so." Now I desire the House to come to a vote and say whether they will agree honestly and fairly to tax the income from the bonds in the hands of every man alike, and not with exemptions

in favor of the rich and powerful. But the law now is however poor a soldier may be, if he holds a railroad bond, or a bank share, or a canal bond, or any other corporate bond, he has to have five per cent. taken out of the coupon or the dividend, whether he is a citizen or an alien. Let me read from the act of July, 1866:

"Pay a tax of five per cent. from the amount of such interest or coupons, or dividends or profits, whenever and wherever the same shall be payable, or by whatsoever party or person the same may be payable."

Thus our tax law on incomes now includes everybody, whether citizen or alien. You tax every railroad bond, every bank share, every canal share, or bond; you tax every corporate bond in the hands of the crippled soldier, in the hands of the foreigner, in the hands of the widow, in the hands of the orphan. You do it with an iron hand, taking the tax right from the coupon or dividend; but the moment you come to apply the same to the bonds of the United States in the hands of the banker, there is a hue and cry raised, and gentlemen shelter themselves under the widow and orphan.

Mr. O'NEILL. I desire to ask the gentleman this question: is there not some difference in the inducement which led capitalists to subscribe to railroad bonds or railroad stock and that which led them to subscribe to the bonds of the Government when it was in its hour of peril and need?

Mr. BUTLER, of Massachusetts. Yes, sir; there is a difference. I agree that the subscribers for railroad bonds did not expect to get but about ten per cent. profit, but those who subscribed for Government bonds did expect to get and did get sixty per cent. That is the only difference of inducement.

Mr. O'NEILL. One set of banks were created by the State governments and the other created by the Government of the United States when we were in the dark hours of the war—subscribed for because of patriotism.

Mr. BUTLER, of Massachusetts. Yes, the patriotism which waited till the dark hours of 1864 before they subscribed; till the country was compelled to pay them sixty per cent. in gold for the patriotism of these bondholders. I am quite well acquainted with his forty per cent. patriotism, and dear at that.

[Here the hammer fell.]

Mr. SCHENCK. I desire to say that I cannot understand the necessity of all this excitement, but I do understand, and I desire passing to comment upon the fact, that the gentleman from Massachusetts [Mr. BUTLER] somehow or other cannot speak of the argument or action of anybody or of any committee of this House without discovering in it some intrigue, some purpose founded upon a bad motive, and he never speaks of the Committee of Ways and Means except in that way. I said once before, and I now repeat, that so far as impeachment of motives is concerned, I scorn it; it is not worth reply, because if we cannot stand before this House and this country without being injured by such wholesale flings as that, when we are in the ordinary exercise of our duties here as members of the House or as members of that committee, our reputations are not worth trying to defend. But, sir, what does the gentleman say? He says that we do not hesitate to let off the foreign banks while we come down upon poor men at home. Nothing was said about foreign banks. We spoke of the foreign holders whoever they may be, poor men or rich men.

Again, he says that the law, as it now stands, does tax these foreigners, and he read from the law in relation to railroads and banks to prove it. Now, sir, according to my understanding of the law there is nothing in that at all. All these are but the details of an income tax law or of the law which provides for a tax upon incomes, which sets out the character of the persons upon whom all these taxes are to be levied, and they are taxes levied "upon the profits, gains, and income of any citizen of the United States residing abroad, whether

derived from any kind of property, rents, dividends, &c., as well as upon every person residing in the United States." The gentleman reads and perverts another section by giving it an application which it has not at all in order to make out his case. I read it:

SEC. 122. And be it further enacted, That any railroad, canal, turnpike, canal navigation, or slack-water company, indebted for any money for which bonds or other evidence of indebtedness have been issued, payable in one or more years after date, upon which interest is stipulated to be paid, or coupons representing the interest, or any such company that may have declared any dividend in scrip or money due or payable to its stockholders, including non-residents, whether citizens, or aliens, as part of the earnings, profits, income, or gains of such company, and all profits of such company carried to the account of any fund, or used for construction, shall be subject to and pay a tax of five per cent. on the amount of all such interest, or coupons, dividends, or profits, whenever and wherever the same shall be payable, and to whatsoever party or person the same may be payable, including non-residents, whether citizens or aliens, &c.

That is, it is not non-resident aliens that are to be taxed, but our people and our corporations from the gains which they derive, although those gains may be derived from that which is paid by non-residents and aliens. The gentleman has been trying to make the House believe that there is written down here in the law because these words are used a provision to tax persons of that description. Now, all that is in the law is that that which is taxable in the possession and ownership of our own citizens and corporations shall be taxed, no matter from whom they derive it.

Mr. BUTLER, of Massachusetts. Derive what?

Mr. SCHENCK. Why, derive the profits.

Mr. BUTLER, of Massachusetts. Oh, no; when an alien has a bond he has five per cent. taken off.

Mr. SCHENCK. No, sir; it is not anything about taxation of interest.

Mr. BUTLER, of Massachusetts. When they pay the bond, does he not have five per cent. taken off?

Mr. SCHENCK. There is the provision of the law which I have read to the House, and everybody is able to comprehend it. In laying down a general proposition as to who are to be taxed and proceeding to tax them there is a provision that their gains and profits, their dividends, that which they receive upon bonds issued by them, and whatever is payable to them shall first be taxed.

Mr. BUTLER, of Massachusetts. Allow me to ask what company ever received any dividend on its debts?

Mr. SCHENCK. I say that the language of the law is clear and plain, and every gentleman can judge for himself. The gentleman quotes the law and applies it by his construction in such a way as to make it appear that it is the person who is taxed when the law itself is only speaking of the person whoever he may be, at home or abroad, from whom the gains are derived. That is all I wish to correct.

[Here the hammer fell.]

Mr. BUTLER, of Massachusetts. I withdraw the amendment to the amendment.

Mr. LOGAN. I desire to move to amend this section so that it shall read:

That hereafter a tax equal to the income tax on other incomes shall be assessed on the interest arising from the bonds and other interest-bearing securities of the United States, payable to any person whatever, either foreigner, citizen, or alien, &c.

Now, I do not desire to enter into any wrangling discussion about motives or anything of that kind, but I desire to make myself understood, if I can. I say now that so far as this section is concerned I have not understood it, nor do I yet understand it, as the chairman of the Committee of Ways and Means [Mr. SCHENCK] seems to understand it. I did not intend to be understood, nor do I now intend to be understood, as being in favor of exempting foreign bondholders from paying a tax on the interest from their bonds. Then I propose, if this section shall mean what the chairman of the Committee of Ways and Means says it means, to amend it so as to provide that all

interest on bonds shall be taxable, no matter in whose hands those bonds may be.

My proposition is and has been all the time to tax all bonds except those provided for by this bill, so that we may secure the exchange of our outstanding bonds for the issue herein provided for. If we expect to secure an exchange of those bonds, we can do it by no other means save that of taxing the bonds sufficiently to induce holders to exchange them. And if we tax them, then let the tax be equal upon the citizen of the country and the foreigner. The foreigner is as much bound to pay a tax upon the interest derived from our bonds as our citizens are. Now, I say for the purpose of correcting an impression that may be upon the minds of some gentlemen here, that this thing of alluding all the time to the soldier and the sailor is sheer nonsense. This is a mere question of taxation; and the tax should fall equally upon all, whether soldier or sailor, citizen or foreigner, if we expect to do justice to the Government and to the people.

We here to-day are taxed upon our salaries. Every time one of us draws his pay the Sergeant-at-Arms deducts the five per cent. tax. It has been said here during the discussion that the soldier was not taxed unless his income is \$1,000. I beg leave to correct that impression if it exists here. Every man in the Army who received a compensation from the Government, no matter what his income was, had five per cent. deducted when the paymaster paid him. He did not, as other men did, have \$1,000 of his income exempted from the tax. And I say to those who refer here to the soldier and sailor, that they were the very persons you dealt unfairly with in your income law, because you taxed their entire income, no matter how small or how great it was, while all others were allowed an exemption of \$1,000.

Mr. BENTON. Will the gentleman allow me to ask a question?

Mr. LOGAN. Certainly.

Mr. BENTON. The remark of the gentleman is calculated to produce the impression that the common soldier paid an income tax.

Mr. LOGAN. Not at all.

Mr. BENTON. The gentleman said the soldier had five per cent. deducted from his pay by the paymaster as a tax.

Mr. LOGAN. The officer is a soldier.

Mr. BENTON. That was a tax upon his office.

Mr. LOGAN. Any one who held an office in the Army, no matter if it was only the office of first lieutenant, although he bared his breast to the steel of the enemy, was taxed; and the gentleman says he was taxed because he held an office.

Mr. HIGBY. Will the gentleman allow me to ask him a question?

Mr. LOGAN. Certainly.

Mr. HIGBY. Did the law except that class of individuals from all others, so far as the income tax was concerned?

Mr. LOGAN. I say that the law taxed them five per cent. on their salaries, whether small or large.

Mr. HIGBY. Were they taxed differently from everybody else?

Mr. LOGAN. Yes, sir; everybody else was exempted on his income to the amount of \$1,000.

Mr. HIGBY. Except the soldier?

Mr. LOGAN. There was no exception in terms; but the salary of the soldier was counted by law as income. There was no exemption whatever; and the tax was paid on the whole of it.

Mr. HIGBY. That was for want of a proper rule.

Mr. SCHENCK. Mr. Chairman, my only purpose in rising is to correct gentlemen in regard to what, with due deference to others, I think is a mistake about the existing law. Every man who is taxed five per cent. upon his salary, whether he be an officer of the Army or a member of Congress, gets his exemption to the amount of \$1,000. Salaries are regarded as income, and the only difference between

them and other incomes is that persons receiving salaries from the Government do not get the benefit of the deductions allowed to others paying a tax on income. They are allowed the exemption of \$1,000; but from the amount that remains there is no deduction for house rent, for lost debts, for destruction of property by fire, &c. The same disadvantage would be experienced in deducting a tax from the coupon upon the spot, and we have been willing that those paying income tax deducted from coupons shall be put upon the same footing as those now paying tax upon salaries received from the Government. I did not suppose there could be any doubt about this point. I cannot at this moment turn to the language of the law in relation to salaries, but I am sure it is explicit. Gentlemen are mistaken in saying that those who receive salaries from the Government have not the benefit of any exemption. A member of Congress, as well as every other public officer, gets the benefit of the exemption of \$1,000, only the surplus being taxed, but the difference is that upon this surplus a public officer or an employé of the Government does not get the benefit of deductions for house rent, losses, &c. A clerk receiving from the Government a salary of \$1,200 is taxed five per cent. upon \$200, \$1,000 being deducted. So with an officer of the Army. But either of these may pay four or five hundred dollars for house rent; he may suffer during the year losses from bad debts and otherwise, for which a deduction is allowed to those receiving income from other sources; yet he does not get the benefit of those deductions, but pays his tax, although, in fact, he may all the while have been going behind hand.

Mr. LOGAN. The gentleman has spoken of the exemption of officers' salaries to the amount of \$1,000. He will allow me to make a correction of my former statement. I was mistaken in saying that there was no exemption allowed to officers of the Army. According to the law in force during the war, there was an exemption of \$600; but all the salaries then amounted to over \$600.

Mr. SCHENCK. I have now before me the provision of the existing law, and it agrees with the statement I have already made. The language is—

"That there shall be levied, collected, and paid on all salaries of officers or payments for services to persons in the civil, military, naval, or other employment or service of the United States, including Senators and Representatives and Delegates in Congress, when exceeding the rate of \$1,000 per annum, a tax of five per cent. on the excess above said \$1,000."

Mr. LOGAN. I withdraw my amendment to the amendment.

Mr. ALLISON. I renew the amendment to the amendment. Mr. Chairman, when this section was reported from the Committee of Ways and Means, I supposed that it applied to the incomes from all bonds and securities of the United States, wherever they might be held; and I am not yet clear that that is not the correct construction of the section without any amendment. Hence, so far as any intrigue may be charged upon the Committee of Ways and Means, that charge certainly does not apply to me. If the section is not perfect it is because of an inadvertence on the part of some member of the committee in not making it perfect. And I will say, Mr. Chairman, that in drawing the section we followed substantially the language of another section introduced by the gentleman from Massachusetts [Mr. BUTLER] a day or two ago, except that we do not make the unjust discrimination which he then proposed, but which he now abandons, having either discovered that we have not the constitutional power to make the discrimination, or, having the power, that it would be bad policy to exercise it.

Now, sir, so far as I am personally concerned, if a deduction of five per cent. is to be made at the Treasury from the interest of any of these bonds, I am in favor of extending that deduction to all the bonds of the United States, and I must beg to differ with the chair-

man of the Committee of Ways and Means as to the construction of the present law so far as regards the stock of railroad companies held out of the United States. It was the intention of Congress, in passing the law of June 13, 1866, to make that provision apply to all the bonds and stock of railroad companies or other corporations. That was the intention of the Congress of the United States. It has been so interpreted by the revenue department, and if I am not mistaken the Chief Justice of the United States has so decided in a case in Baltimore. I tried to find the decision this morning, but was unable to do so, and I state the substance of it from recollection only. He declared that we had the right to pass such a law. The question arose in the circuit court of Maryland on this provision, the amount of the tax having been deducted from the interest on the coupons. I think I cannot be mistaken when I state that such decision in substance, at least, has been made by the Chief Justice.

Mr. WILSON, of Iowa. If my colleague will allow me, I think the Chief Justice decided the reverse of what he states, and hence the amendment in the law passed July 13, 1866.

Mr. ALLISON. I allude to a different decision, one made since the law of July 13, 1866, and made under the provisions of that act. I am not mistaken when I state that the interpretation I now give is the one accepted and acted upon by the executive and judicial departments of the Government, and acquiesced in by the various corporations affected by its provisions. If that law is just in its provisions I can see no objection to the provision under consideration. In my judgment there is no reason why a different rule should be applied to the holders of United States bonds than is applied to holders of railroad bonds, or bonds of other corporations. This is not a tax upon bonds; it is a tax upon incomes, and does not change the existing law upon that subject, except that it makes a different rule for the collection of the income tax derived from this source, bringing the income tax from this source within the provisions of the act of July 13, 1866, as I have before stated. The United States never has surrendered the right to tax incomes from whatever source they may be derived. And from the beginning of our legislation upon the income tax we have assessed a tax upon the incomes derived from interest upon United States bonds, and we do not propose to levy a different or other tax than that imposed by law now. If the tax is to be deducted at the Treasury it will be impossible to ascertain when the bonds are held, or who may be the owner of the coupon presented, or at least it will be impracticable to make any rule by which the ownership can be definitely ascertained. It seems to me that we must either abandon this method of collection or make it applicable to all coupons presented at the Treasury.

[Here the hammer fell.]

Mr. BINGHAM. I move to strike out the last word, and I desire the substitute of the gentleman from Maine [Mr. PIKE] may be reported, so the question may be understood.

The Clerk read as follows:

Sec. —. And be it further enacted, That hereafter a tax of five per cent. on income arising from bonds and other interest-bearing securities of the United States, except those authorized by this act, payable to any person, State, municipality, body politic, or corporate company or society, whether corporate or not corporate, out of the Treasury of the United States, shall be assessed and collected by the Treasurer or other disbursing officers of the United States charged with paying any interest upon the debt of the United States, in the same currency in which said interest is paid, and such collection shall be made by deduction of the amount of the tax from the coupons or interest due at the time of payment of such interest: *Provided*, That the sum so deducted from the interest or coupons of any person having a yearly income of less than \$1,000 shall be refunded to such person in accordance with rules and regulations to be made by the Secretary of the Treasury: *And provided further*, That this shall be in full for all income tax arising out of said public securities.

Mr. BINGHAM. I desire the committee to consider what I said before, that the substitute of the gentleman from Maine differs in

nowise from the section reported by the Committee of Ways and Means except in that it does provide the holder of the securities of the United States, whether domestic or foreign, shall be subjected to an equal tax. Now, I desire to say in this connection, Mr. Chairman, that the position I assume about this matter cannot be snuffed out by any remark about a skyrocket. The great body of landed proprietors of this country do not pay one dollar tax. After deducting costs, expenses, and exemptions there is no income left to tax. The result of the operation of the law is that the great body of landed proprietors do not pay one dollar income tax, although they hold half the fee-simple of the continent. The law is based on the American policy to encourage the productive industry of the nation, from which this provision proposes no departure, neither does that of the gentleman from Massachusetts, nor that proposed by the Committee of Ways and Means. So far gentlemen on all sides are agreed as to the general policy.

Then as to the exemption. I said before, and I repeat now, that when you exempted \$600 the exemption included every soldier, whether officer or private in the ranks; and when you exempted \$1,000 you exempted the income of the members of this House and of every other official in this country. Now, the proposition of the gentleman from Massachusetts is to cut off the exemption as to holder of bonds, and thereby discriminate against the public creditor. And further, it is a double tax upon him. It subjects him to an income tax of five per cent. and then an additional five per cent. on his gains, whatever they may be. There is nothing said in his proposition about income tax.

Mr. BUTLER, of Massachusetts. Incomes, gains, or profits.

Mr. BINGHAM. Yes, sir; incomes, gains, or profits. If the gentleman means only to tax five per cent. on the income, why does he not say so? If that is all he means, what is the objection to the substitute of the gentleman from Maine?

Mr. BUTLER, of Massachusetts. I have not any.

Mr. BINGHAM. Well, then, we are agreed, and I am glad we are agreed for once. I have come to the conclusion that it is competent for the Government of the United States to tax its securities by whomsoever held, whether at home or abroad, provided the Government shall subject non-resident and alien holders to the same rule as is applied to citizens of this country.

[Here the hammer fell.]

Mr. LOAN. I take the floor for the purpose of asking a question or two of the chairman of the Committee of Ways and Means. First, I desire to know if he believes that Congress can confer authority upon the States to tax the public securities of the Government?

Mr. SCHENCK. I have no doubt on that question. I think Congress can confer no such power to tax them.

Mr. LOAN. Then they are exempt from taxation by State authority.

Mr. SCHENCK. I do not say that I understood that applies to the tax by the United States itself upon the income from its bonds.

Mr. LOAN. That is the next question: whether the United States can tax its own securities?

Mr. SCHENCK. I believe that to be a mere question of expediency. I think the United States Government can do it if it is willing to go into the market and borrow money with the understanding declared upon its statute-book that the very interest which it contracts to pay it will take back again in the way of taxes.

Mr. LOAN. That is the point I wish to get at, whether the Federal Government has authority to tax these securities in the hands of holders. If that is the case, I would like to ask this further question, What is the limit of that right of taxation? Is it not possible to tax the bonds out of existence?

Mr. SCHENCK. I suppose this Government

could tax them to the whole extent of the interest, or more, could tax them out of existence. I hold that there is no constitutional power to give to the States, and no propriety in giving to the States under the Constitution a control over that question to overthrow the credit of the General Government. But if the General Government itself shall be mad enough to tax its own credit out of existence it has the power to do it.

Mr. LOGAN. I desire to put a question to the gentleman from Missouri. This way of putting questions and making speeches against the bill is a very good way to get off jokes in the House. There is a great deal of talk about taxing bonds in the holders' hands. I would like to be informed how many bonds the gentleman from Missouri supposes, originally issued by the Secretary of the Treasury, are now in the hands of those who contracted for them? I have got some, but I never contracted with the Government for them.

Mr. ALLISON. I desire to ask the gentleman from Missouri a question?

Mr. LOAN. Certainly.

Mr. ALLISON. Do I understand the gentleman from Missouri to assert that we propose by this bill to tax the bonds of the United States? Is that his understanding?

Mr. LOAN. That is my understanding.

Mr. ALLISON. That is not my understanding.

Mr. LOAN. It is disguised, it is true.

Mr. ALLISON. There is no disguise about it. We tax the man who receives an income from bonds of the United States the same amount that we tax the man who receives an income from tilling the soil or working in the manufactures of the country. It is a tax on the individual, not on the bonds or on the interest, but on his income, and nothing less and nothing more.

Mr. SCHENCK. I believe there is nothing before the committee, and I desire to present something. I propose to amend the original section before the vote is taken on the substitute.

The CHAIRMAN. That is not now in order, as there is an amendment pending.

Mr. PAINE. I propose to amend the amendment of the gentleman from Maine, [Mr. PIKE.] I do not desire to make any remarks.

The CHAIRMAN. The formal amendments heretofore offered will be considered as withdrawn.

Mr. PAINE. I move to amend the substitute of the gentleman from Maine, by striking out the word "hereafter," and inserting in lieu thereof the words "at the expiration of one year from and after the passage of this act."

The CHAIRMAN. The question is first on the amendment of the gentleman from Massachusetts [Mr. BUTLER] to the section reported by the Committee of Ways and Means.

Mr. BUTLER, of Massachusetts. I withdraw that amendment, being satisfied with the amendment of the gentleman from Maine, [Mr. PIKE.]

Mr. SCHENCK. I move to amend the section reported by the Committee of Ways and Means, by adding to it the following:

And the Secretary of the Treasury shall prescribe regulations for the purpose of determining in each case who is the actual owner of the coupon presented for payment or of the interest demanded, and whether any exemption to which such owner may be entitled has been already allowed or is to be deducted.

When this matter first came up I did not, nor to this moment have I indicated any feeling on the subject whether foreigners shall be taxed or not, nor had I said anything on that subject when the storm was raised. I did feel it my duty when the question was raised, and there seemed to be, as I thought, a misapprehension even among some members of my own committee, to call attention to the fact that there was a difference between the proposition made by the gentleman from Maine [Mr. PIKE] and the proposition made by the gentleman from Massachusetts [Mr. BUTLER] and the section as drafted by the Committee of Ways and Means

in its application to foreigners, and that I explained by referring to the existing income tax law. And why? Because the amendment of the Committee of Ways and Means does not undertake to levy the tax; it does not undertake to establish any system of taxation, but simply provides a mode for the collection of a particular kind of income tax. And, therefore, the amendment of the Committee of Ways and Means, not seeking to put a tax section into a bill which has nothing to do with taxes, provides only that hereafter the tax on any income arising from bonds shall be collected in a particular way. That led us back of course to see what income did arise, and looking at the income law every gentleman could see that under the existing law this tax upon income is levied upon residents or upon citizens residing abroad. That is the whole of it.

Now, sir, I am willing to submit to this House whether we ought to adhere to our existing policy, taxing income only as we have taxed it heretofore—that of residents or citizens residing abroad—or whether we shall extend it to these foreigners, so far as their bonds are concerned. It is proper that the committee should understand the difference. I admit, as this section was drafted, that it does not apply to foreigners, but only to persons residing here and citizens residing abroad. I have therefore prepared an amendment to this section, so that, if it shall ultimately prevail, it may not be defective in the respect in which I admit it is now defective.

This leaves open the question how you are to ascertain, when a coupon is presented or interest is demanded upon a bond, whether the person holding the coupon or demanding the interest is one liable to taxation, and it leaves open the question to be ascertained whether a person has or has not already had the benefit of the exemption. I shall therefore move to add to the section a provision that the Secretary of the Treasury shall prescribe regulations by which to ascertain, in every case where a coupon is presented for payment or interest is demanded upon a bond, whether the person who is the actual owner is or is not, under the existing law, and under this section, one to be taxed, and also that he shall prescribe regulations to ascertain whether he has or has not had his exemption. I think that amendment is necessary in order to perfect the section reported from the Committee of Ways and Means, whether it shall ultimately prevail or not. I hope the committee will agree to amend the section in that way, so that, if the substitute for it moved by the gentleman from Maine [Mr. PIKE] should not be adopted, it will not then be defective in the particular in which I admit it is now defective.

The amendment of Mr. SCHENCK was adopted.

Mr. SCHENCK. I am now willing that the vote shall be taken upon the substitute.

Mr. PIKE. If the committee will listen to me, I desire to say one word upon the substitute, because the question is now between my substitute and the section as reported from the Committee of Ways and Means.

Mr. LOGAN. I do not withdraw my amendment.

Mr. PIKE. I ask that my substitute may be read, so that what I say may be understood.

The Clerk read the substitute, as follows:

And be it further enacted, That hereafter a tax of five per cent. on income arising from bonds and other interest-bearing securities of the United States, except those authorized by this act, payable to any person, State, municipality, body politic or corporate company, or society, whether corporate or not corporate, out of the Treasury of the United States, shall be assessed and collected by the Treasurer or other disbursing officers of the United States charged with paying any interest upon the debt of the United States in the same currency in which said interest is paid; and such collection shall be made by deduction of the amount of the tax from the coupons or interest due at the time of payment of such interest: *Provided*, That the sum so deducted from the interest or coupons, if any person having a yearly income of less than \$1,000, shall be refunded to such person in accordance with rules and regulations to be made by the Secretary of the Treasury;

And provided further, That this shall be in full for all income taxes arising out of said public securities.

The CHAIRMAN. Debate is exhausted upon the amendments now pending.

Mr. PIKE. Then I move to strike out the last word of my substitute for the purpose of making some remarks. The question now before the committee is practically between the proposition of the Committee of Ways and Means, as explained by the chairman, [Mr. SCHENCK,] and the substitute therefor which I have submitted. The difference is in relation to the taxation of foreigners. The proposition I submit makes no distinction between residents and foreigners, so far as this tax is concerned. The proposition of the Committee of Ways and Means makes a distinction; it proposes to tax residents, but not to tax foreigners. Upon that subject I have this to say: I have examined with great care Sir Robert Peel's law of 1842; and I have examined with equal care Mr. Gladstone's law of 1853. I have here a *resumé* of both those income laws, and from end to end of either of those laws there is no exemption of foreigners. There are five exemptions in the English law. But the only foreigner exempted from the tax is the minister resident of a foreign Power. If he owns any British bonds he is exempted from taxation. But everybody else is liable to taxation under that law. I have in this substitute followed the English law in that particular, and also in another particular; and that is this: the English rule is to collect the tax at the bank of everybody when the coupon or the interest is paid. If anybody comes within the exemption he is refunded the amount; but the collection is first made, and then refunded.

Now, I have provided that the Secretary of the Treasury may make regulations for that purpose. The object of the proposition is apparent (that we shall not for the payment of the tax trust simply to the consciences of persons holding these bonds, but that the payment shall be made first, and then any man coming within the exemption may show it by some simple means and have the amount of the tax repaid to him).

Mr. MAYNARD. I desire to ask the gentleman whether during the entire war it was not the constant policy of the Government to avoid negotiating a foreign loan; whether it is not a fact that we did not negotiate any such loan, and whether all bonds held by foreigners are not now in second hands, the present holders having taken them subject to the same burdens and responsibilities to which they were subject in the hands of the original holders.

Mr. PIKE. That is quite true, and I will state another fact, that the proposition was repeatedly submitted to this House to make our bonds payable in London and Frankfurt, and the House always refused to assent to any such proposition.

Mr. MAYNARD. The point of my inquiry is this: whether the foreign holder of our bonds stands in any better attitude, is protected by any higher equity than any of our own citizens who may hold these bonds?

Mr. PIKE. Not a particle. The House will bear in mind, also, that more than one half the bonded debt of this country has been taken since Lee surrendered at Appomattox Court-House; and nine tenths of that debt—yes, more than nine tenths of it—has been taken since the rebellion was virtually overcome at Gettysburg and at Vicksburg.

Mr. LOGAN. I like very much the substitute of the gentleman from Maine, [Mr. PIKE,] but I would suggest to him that its language may be made more explicit by inserting after the word "person" the words "whatever, either citizen, alien, or foreigner."

Mr. PIKE. The gentleman from Massachusetts [Mr. BUTLER] and myself, in drawing this language originally, followed the phraseology of the English law.

Mr. LOGAN. The words I suggest will not do any harm, and will make the provision more explicit, so that the people of the country may have no difficulty in understanding its object.

Mr. ALLISON. I suggest to the gentleman from Maine the propriety of striking out "securities" and inserting "obligations," making the phrase read "interest-bearing obligations of the United States."

Mr. PIKE. I have no objection to that. I modify my amendment by striking out the word "securities" and inserting in its place the word "obligations."

[Here the hammer fell.]

Mr. BENTON. The gentleman from Maine [Mr. PIKE] maintains that, so far as this question is concerned, there should be no distinction between our own citizen and the foreign bondholder. Now, sir, as regards myself, if honorably and without exceeding our legal authority we can tax the foreigner I should be glad to make him assist in paying off our debt. But, sir, to my mind there appears to be a wide distinction between the position of our own citizen, who is in duty bound to contribute to the maintenance and support of this Government, and the position of the foreigner who merely holds the evidence of the indebtedness of the Government. I think there is a wide distinction between the taxation imposed on railroad corporations, steamboat companies, &c., whose property is within the limits of the United States, and the taxation of the mere naked obligations of the Government. The Government has issued its obligations to pay a certain amount of money and a certain rate of interest; and now it is maintained by the gentleman from Massachusetts [Mr. BUTLER] and other gentlemen, that we can turn round and say to the foreign creditor, (this is the plain English of it,) "We will pay you a portion of the interest, but another portion we will deduct and call it taxes." Gentlemen think they are going to make a good deal of popularity out of such propositions; but if I am not greatly mistaken, the high sense of honor which has always distinguished the American nation will never countenance any such picayune repudiation. If I believed that we have the right to tax the foreign creditor I would vote to tax him; but I do not believe any such thing. I believe it is true now, as it was when it was first declared in the infancy of this nation, that taxation and representation should ever be regarded as inseparable. Some gentlemen may attempt to make capital out of propositions such as that now before us; but I would not, for the sake of saving to the Government tens or hundreds or thousands of millions, sacrifice the honor, the integrity, the high standing of this Government before the nations of the world. I believe every single cent we gain by sacrificing our national honor we lose immensely, immeasurably. I do not believe in any demagogical scheme. I believe in equal, just, and impartial taxation as far as we can. I do not believe in any repudiating schemes.

Mr. LOGAN. I have heard this charge of repudiation very often in this House by gentlemen who perhaps understand it, and perhaps they do not. Does the gentleman consider taxation repudiation?

Mr. BENTON. Not at all. Now, let me ask the gentleman a question. What right has the gentleman to tax foreigners to support our Government?

[Here the hammer fell.]

Mr. SCHENCK. I ask the House to agree to stop the debate on this section. If I cannot get unanimous consent I will move that the committee rise.

Mr. INGERSOLL. I object.

Mr. SCHENCK. I move that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being Senate bill No. 207, for funding the national debt, and for the conversion of the notes of the United States, and had come to no resolution thereon.

GREAT AND LITTLE OSAGE INDIANS.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States in answer to a resolution of the House, transmitting documents in reference to the treaty with the Great and Little Osage Indians; which were referred to the Committee on Indian Affairs, and ordered to be printed.

AMENDMENTS TO THE CONSTITUTION.

The SPEAKER also laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

Experience has fully demonstrated the wisdom of the framers of the Federal Constitution. Under all circumstances the result of their labors was as near an approximation to perfection as was compatible with the fallibility of man. Such being the estimation in which the Constitution is and has ever been held by our countrymen, it is not surprising that any proposition for its alteration or amendment should be received with reluctance and distrust. While this sentiment deserves commendation and encouragement as a useful preventive of unnecessary attempt to change its provisions, it must be conceded that time has developed imperfections and omissions in the Constitution the reformation of which has been demanded by the best interests of the country. Some of these have been remedied in the manner provided in the Constitution itself. There are others which, although heretofore brought to the attention of the people, have never been so presented as to enable the popular judgment to determine whether they should be corrected by means of additional amendments. My object in this communication is to suggest certain defects in the Constitution which seem to me to require correction, and to recommend that the judgment of the people be taken on the amendments proposed.

The first of the defects to which I desire to direct attention is in that clause of the Constitution which provides for the election of President and Vice President through the intervention of electors, and not by an immediate vote of the people. The importance of so amending this clause as to secure to the people the election of President and Vice President by their direct votes was urged with great earnestness and ability by President Jackson in his first annual message, and the recommendation was repeated in five of his subsequent communications to Congress, extending through the eight years of his administration. In his message of 1829 he said:

"To the people belongs the right of electing their Chief Magistrate; it was never designed that their choice should in any case be defeated, either by the intervention of Electoral Colleges or by the agency confided, under certain contingencies, to the House of Representatives."

He then proceeded to state the objections to an election of President by the House of Representatives, the most important of which was that the choice of a clear majority of the people might be easily defeated. He then closed the argument with the following communication:

"I would therefore recommend such an amendment to the Constitution as may remove all intermediate agency in the election of President and Vice President. The mode may be so regulated as to preserve to each State its present relative weight in the election; and a failure in the first attempt may be provided for by confining the second to a choice between the two highest candidates. In connection with such an amendment it would seem advisable to limit the service of the Chief Magistrate to a single term of either four or six years. If, however, it should not be adopted it is worthy of consideration whether a provision disqualifying for office the Representatives in Congress on whom such an election may have devolved would not be proper."

Although this recommendation was repeated with undiminished earnestness in several of his succeeding messages, yet the proposed amendment was never adopted and submitted to the people by Congress. The danger of a defeat of the people's choice in an election by the House of Representatives remains unprovided

for in the Constitution, and would be greatly increased if the House of Representatives should assume the power arbitrarily to reject the votes of a State which might not be cast in conformity with the wishes of the majority in that body.

But if President Jackson failed to secure the amendment to the Constitution which he urged so persistently, his arguments contributed largely to the formation of party organizations, which have effectually avoided the contingency of an election by the House of Representatives. These organizations, first by a resort to the caucus system of nominating candidates, and afterward to State and national conventions, have been successful in so limiting the number of candidates as to escape the danger of an election by the House of Representatives.

It is clear, however, that in thus limiting the number of candidates the true object and spirit of the Constitution have been evaded and defeated. It is an essential feature in our republican system of government that every citizen possessing the constitutional qualifications has a right to become a candidate for the office of President or Vice President, and that every qualified elector has a right to cast his vote for any citizen whom he may regard as worthy of these offices. But under the party organizations which have prevailed for years, these asserted rights of the people have been as effectually cut off and destroyed as if the Constitution itself had inhibited their exercise.

The danger of a defeat of the popular choice in an election by the House of Representatives is no greater than in an election made nominally by the people themselves, when by the laws of party organizations and by the constitutional provisions requiring the people to vote for electors instead of for the President or Vice President, it is made impracticable for any citizen to be a candidate except through the process of a party nomination, and for any voter to cast his suffrage for any other person than one thus brought forward through the manipulations of a nominating convention. It is thus apparent that by means of party organizations that provision of the Constitution which requires the election of President and Vice President to be made through the Electoral Colleges has been made instrumental and potential in defeating the great object of conferring the choice of these officers upon the people. It may be conceded that party organizations are inseparable from republican government, and that, when formed and managed in subordination to the Constitution, they may be valuable safeguards of popular liberty; but when they are perverted to purposes of bad ambition they are liable to become the dangerous instruments of overthrowing the Constitution itself. Strongly impressed with the truth of these views, I feel called upon by an imperative sense of duty to revive substantially the recommendation so often and so earnestly made by President Jackson, and to urge that the amendment to the Constitution herewith presented, or some similar proposition, may be submitted to the people for their ratification or rejection.

Recent events have shown the necessity of an amendment to the Constitution distinctly defining the persons who shall discharge the duties of President of the United States in the event of a vacancy in that office by the death, resignation, or removal of both the President and Vice President. It is clear that this should be fixed by the Constitution, and not be left to repeable enactments of doubtful constitutionality. It occurs to me that in the event of a vacancy in the office of President, by the death, resignation, disability, or removal of both the President and Vice President, the duties of the office should devolve upon an officer of the executive department of the Government, rather than one connected with the legislative or judicial departments. The objections to designating either the President *pro tempore* of the Senate or the Chief Justice of the Supreme Court, especially in the event of a vacancy produced by removal, are so obvious

and so unanswerable that they need not be stated in detail. It is enough to state that they are both interested in producing a vacancy, and, according to the provisions of the Constitution, are members of the tribunal by whose decree a vacancy may be produced.

Under such circumstances the impropriety of designating either of these officers to succeed the President so removed is palpable. The framers of the Constitution, when they referred to Congress the settlement of the succession to the office of President, in the event of a vacancy in the offices of both President and Vice President, did not, in my opinion, contemplate the designation of any other than an officer of the executive department on whom, in such a contingency, the powers and duties of the President should devolve. Until recently the contingency has been remote, and serious attention has not been called to the manifest incongruity between the provisions of the Constitution on this subject and the act of Congress of 1792. Having, however, been brought almost face to face with this important question, it seems an eminently proper time for us to make the legislation conform to the language, intent, and theory of the Constitution, and thus place the executive department beyond the reach of usurpation, and remove from the legislative and judicial departments every temptation to combine for the absorption of all the powers of Government.

It has occurred to me that in the event of such a vacancy the duties of President would devolve most appropriately upon some one of the heads of the several Executive Departments; and, under this conviction, I present for your consideration an amendment to the Constitution on this subject, with the recommendation that it be submitted to the people for their action.

Experience seems to have established the necessity of an amendment of that clause of the Constitution which provides for the election of Senators to Congress by the Legislatures of the several States. It would be more consistent with the genius of our form of government if the Senators were chosen directly by the people of the several States. The objections to the election of Senators by the Legislatures are so palpable that I deem it unnecessary to do more than submit the proposition for such an amendment, with the recommendation that it be opened to the people for their judgment.

It is strongly impressed on my mind that the tenure of office by the judiciary of the United States during good behavior for life is incompatible with the spirit of republican government, and in this opinion I am fully sustained by the evidence of popular judgment upon this subject in the different States of the Union.

I therefore deem it my duty to recommend an amendment to the Constitution by which the terms of the judicial officers would be limited to a period of years, and I herewith present it in the hope that Congress will submit it to the people for their decision.

The foregoing views have long been entertained by me. In 1845, in the House of Representatives, and afterward, in 1860, in the Senate of the United States, I submitted substantially the same propositions as those to which the attention of Congress is herein invited. Time, observation, and experience have confirmed these convictions; and, as a matter of public duty and a deep sense of my constitutional obligation, "to recommend to the consideration of Congress such measures as I deem necessary and expedient," I submit the accompanying propositions, and urge their adoption and submission to the judgment of the people.

ANDREW JOHNSON.

WASHINGTON, D. C., July 18, 1868.

Joint resolution proposing amendments to the Constitution of the United States.

Whereas the fifth article of the Constitution of the United States provides for amendments thereto, in the manner following, namely:

1. Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments

to the Constitution, or on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case shall be valid to all intents and purposes as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by convention in three fourths thereof, as the one or the other mode of ratification may be proposed by Congress: *Provided*, That no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate: *Therefore*,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following amendments to the Constitution of the United States be proposed to the Legislatures of the several States, which when ratified by the Legislatures of three fourths of the States shall be valid to all intents and purposes as part of the Constitution; that hereafter the President and Vice President of the United States shall be chosen for the term of six years by the people of the respective States, in the manner following: Each State shall be divided by the Legislatures thereof into districts equal in number to the whole number of Senators and Representatives to which such State may be entitled in the Congress of the United States; the said districts to be composed of contiguous territory, and to contain, as nearly as may be, an equal number of persons entitled to be represented under the Constitution, and to be laid off, for the first time, immediately after the ratification of this amendment; that, on the first Thursday in August, in the year 18—, and on the same day, every sixth year thereafter, the citizens of each State who possess the qualifications requisite for electors of the most numerous branch of the State Legislatures shall meet within their respective districts and vote for a President and Vice President of the United States; and the person receiving the greatest number of votes for President, and the one receiving the greatest number of votes for Vice President in each district, shall be held to have received one vote; which fact shall be immediately certified by the Governor of the State to each of the Senators in Congress from such State, and to the President of the Senate and the Speaker of the House of Representatives. The Congress of the United States shall be in session on the second Monday in October, in the year 18—, and on the same day on every sixth year thereafter; and the President of the Senate, in the presence of the Senate and House of Representatives, shall open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President shall be President, if such number be equal to a majority of the whole number of votes given; but if no person have such majority, then a second election shall be held on the first Thursday in the month of December then next ensuing, between the persons having the two highest numbers for the office of President, which second election shall be conducted, the result certified, and the votes counted, in the same manner as in the first, and the person having the greatest number of votes for President shall be President. But if two or more persons shall have received the greatest, and an equal number of votes at the second election, then the person who shall have received the greatest number of votes in the greatest number of States shall be President. The person having the greatest number of votes for Vice President at the first election, shall be Vice President, if such number be equal to a majority of the whole number of votes given; and if no person have such a majority, then a second election shall take place between the persons having the two highest numbers, on the same day that the second election is held for President; and the person having the highest number of votes for Vice President shall be Vice President. But if there should happen to be an equality of votes between the persons so voted for at the second election, then the person having the greatest number of States shall be Vice President. But when a second election shall be necessary in the case of Vice President, and not necessary in the case of President, then the Senate shall choose a Vice President from the persons having the two highest numbers in the first election, as is now prescribed by the Constitution: *Provided*, That after the ratification of this amendment to the Constitution, the President and Vice President shall hold their offices, respectively, for the term of six years, and that no President or Vice President shall be eligible for reelection to a second term.

And be it further resolved, That article two, section one, paragraph six, of the Constitution of the United States shall be amended so as to read as follows: In case of the removal of the President from office, or of his death, or resignation, or inability to discharge the powers and duties of said office, the same shall devolve on the Vice President, and in case of the removal, death, resignation, or inability both of the President and Vice President, the powers and duties of said office shall devolve upon the Secretary of State for the time being, and after this officer, in case of vacancy in that or in other Departments, and in the order in which they are named, on the Secretary of the Treasury, on the Secretary of War, on the Secretary of the Navy, on the Secretary of the Interior, on the Postmaster General, and on the Attorney General; and such officer on whom the powers and duties of President shall devolve, in accordance with the foregoing provisions, shall then act as President until the disability shall be removed, or a President shall be elected, as is or may be provided for by law.

SEC. 3. *And be it further resolved*, That article one, section three, be amended to read as follows: The Senate of the United States shall be composed

of two Senators from each State, chosen by the persons qualified to vote for the members of the most numerous branch of the Legislature thereof, for six years, and each Senator shall have one vote.

SEC. 4. *And be it further resolved*, That article three, section one, be amended to read as follows:

ARTICLE III.

SECTION 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress from time to time may ordain and establish. The judges of the Supreme and inferior courts shall hold their offices during the terms of twelve years, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office. And it shall be the duty of the President of the United States, within twelve months after the ratification of this amendment by three fourths of all the States, as provided by the Constitution of the United States, to divide the whole number of judges, as near as may be practicable, into three classes. The seats of the judges of the first class shall be vacated at the expiration of the fourth year from such classification, of the second class at the expiration of the sixth year, and of the third class at the expiration of the twelfth year, so that one third may be chosen every fourth year thereafter.

Mr. WILSON, of Iowa. I move that the message be referred to the Committee on the Judiciary, and ordered to be printed.

The motion was agreed to.

QUARTERMASTER'S DEPARTMENT CONTRACTS.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a statement of contracts made by the quartermaster's department during the month of June, 1863; which were referred to the Committee on Military Affairs, and ordered to be printed.

FUNDING THE NATIONAL DEBT.

Mr. SCHENCK. I move that the rules be now suspended, and that the House resolve itself into Committee of the Whole on the state of the Union upon the special order. Pending that motion, I move that all further debate in committee be closed in five minutes. The motion was agreed to.

The rules were then accordingly suspended; and the House resolved itself into Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair.)

Mr. GARFIELD. Mr. Chairman, the proposition now pending is one of the most serious that has even been considered by this House since I have been a member. It is a proposition to change the long established policy of the Government in regard to its securities and the scope of its taxation. So far as I can learn it was never before proposed to tax securities of the United States when held in the hands of foreigners. I do not say that we have no right to impose such a tax, especially in case of bonds that were not negotiated abroad with interest payable abroad. I recognize a great difference between the legal constitutional status of a bond sold here, and its interest payable here, which may be purchased from a citizen by a foreigner, and a bond issued for a foreign loan bought from the Government by foreigners and the principal and interest made payable abroad. In the latter case it is evident that we would have no legal or equitable right to tax the foreign holder. In the former case I cannot speak with the same certainty, and I will not now go further into the question of our right to tax them than to say I seriously doubt it. I will consider only the policy of such a course. Two debtor nations have undertaken to do this thing, or something quite similar to this within the last few months. They are the kingdoms of Austria and Italy. Both have levied exceptional taxes on the interest of their bonds. The consequence is that the leading exchange boards of Europe are threatening to throw their bonds out of their markets, and both Austria and Italy have suffered measureless injury in their credit and honor.

Within the last two weeks the Prime Minister of Austria has published letters of explanation and apology for the remarkable conduct of the Reichsrath, and that apology is a confession that Austria, humbled by adverse war, overwhelmed by a rapidly increasing deficit, had

reached the verge of bankruptcy, and inexorable necessity has compelled her to adopt a measure which she could only lament but could not defend. The history of the Italian law is of the same character. When the proposition was first offered in the Legislature in March last, the leading members left the Chamber and broke up a quorum, declaring that the discussion of such a measure was dishonor. But necessity has at last compelled the Government to adopt it. I am aware that the pending section is unlike the measures to which I have just referred in this, that it does not levy an exceptional tax on the interest of our bonds, but only subjects the foreigner to the operation of our income tax law. But just at this point I desire to offer this thought for the consideration of the House. Suppose the proposition of the gentleman from Maine [Mr. PIKE] should be adopted, will all the provisions of the income law apply to the foreign holder of our bonds? Will the \$1,000 exemption apply? An American citizen, if he holds bonds, will be entitled to repayment of all the interest withheld from his coupons by the Treasury Department provided his income from all sources does not amount to \$1,000. I want to know how it will be with the foreign holder. Will the \$1,000 exemption apply to him also? If so, to what part of his income will the exemption apply? To all his income from all sources; to that arising in England, in France, in Germany, or anywhere? Or will the exemption apply only to that part of his income arising in the United States? If the exemption does not apply to the foreign holder the tax is not an income tax in his case, but is an exceptional tax on the interest of the bonds. If the exemption does apply to him you are involved in many intricate questions as to the mode of administering the law. I ask the House to consider that if this should become a law it will involve us in very many and very great difficulties.

Now, in the moment which is left me I desire to call attention to another consideration: can this country, which has now \$600,000,000 of its bonds abroad, at the very moment its Congress is attempting by law to provide for funding \$2,100,000,000 more—one of the propositions now pending is that a large share of these bonds shall be made into a foreign loan, and negotiated and paid abroad—can this country afford, as a debtor nation, to place itself even by remote analogy alongside of two bankrupt kingdoms of the Old World, whose honor has been stained and whose credit has been ruined by legislation to which this bears a close resemblance? I grant that their tax is exceptional and exorbitant, as this is not; but yet this is a step in that direction; it is a new measure in our history; a measure not recommended by any committee of this House, not recommended in the bill that came from the Senate, a measure which has never been deliberated upon, but which is sprung upon us in the heat of debate, in the closing hours of a heated term, and will be judged by the light or darkness of several other measures which have been agitated in this House. I hope the House will think carefully and act deliberately. For myself, I desire to say before closing that I do not now wish to commit my judgment on all the aspects of this case, but that I may be free hereafter to adopt whatever opinions a careful consideration of it may lead me to entertain. I cannot vote for this amendment, and I hope the House will reject it.

[Here the hammer fell.]

The CHAIRMAN. Debate is exhausted. The first question is on the amendment of the gentleman from Wisconsin [Mr. Paine] to the amendment of the gentleman from Maine, [Mr. PIKE.]

The amendment of Mr. Paine was disagreed to.

The question recurred on the amendment of Mr. PIKE; and being put, there were—ayes 17, noes 63.

Mr. ROSS demanded tellers.

Tellers were ordered; and Messrs. PIKE and GARFIELD were appointed.

The committee divided; and the tellers reported—ayes 38, noes 73.

So the amendment was disagreed to.

The question recurred on the amendment reported by the Committee of Ways and Means, to add the section; and it was agreed to.

Mr. SCHENCK. I offer the following as an additional section:

SEC. —. *And be it further enacted*, That from and after the passage of this act no association authorized and organized for banking purposes under the provisions of the act to provide a national currency, secured by the pledge of United States bonds, and to provide for the circulation and redemption thereof, approved June 3, 1864, or any act amendatory thereto, deposit, transfer, or deliver to the Treasurer of the United States as security to entitle any such association to engage in the business of banking any other bond of the United States than such as are authorized to be issued under the first section of this act.

The question was put, and the amendment was disagreed to.

Mr. SMITH. I offer the following as an additional section:

And be it further enacted, That the Secretary of the Treasury is hereby authorized and required to offer for sale the bonds herein authorized only through the proper officers of his Department, and at a rate not less than par. And the proceeds of the sales of all such bonds shall be reserved for and applied to the purchase and extinguishment of the present coin interest-bearing debt of the United States.

The question was put, and the amendment was disagreed to.

Mr. LOGAN. I offer the following as an additional section:

SEC. —. *And be it further enacted*, That on and after the passage of this act all authority under any existing law to issue bonds or interest-bearing Treasury notes or obligations of the United States shall cease and determine: *Provided*, Nothing herein shall prevent the conversion of Treasury notes known as seven-thirtieths into five-twentieths; nor the issue of the three per cent. certificates of temporary loans; nor the exchange of registered bonds for coupon bonds; nor the issue as subsidies to railroad companies as provided by law.

The question was put, and the amendment was agreed to.

Mr. SCHENCK. I offer the following as an additional section:

SEC. —. That after the passage of this act no association which shall be authorized and organized for banking purposes under the provisions of the act to provide a national currency secured by the pledge of United States bonds, and to provide for the circulation and redemption thereof, approved June 3, 1864, or any act amendatory thereto, deposit, transfer, or deliver to the Treasurer of the United States as security to entitle any such association to engage in the business of banking any other bonds of the United States than such as are authorized to be issued under the first section of this act.

Mr. BUTLER, of Massachusetts. I offer as a substitute for that amendment two sections, which I send to the Clerk's desk, providing for the same thing and for free banking hereafter so that the West can have some currency.

The Clerk read the substitute as follows:

SEC. —. *Be it further enacted*, That on or before the 1st of January, 1869, all banking associations organized under the act approved June 3, 1864, and the acts supplemental thereto or amendatory thereof, shall exchange, as by this act provided, all the registered United States bonds by them now deposited with the Treasurer of the United States, as in the aforementioned acts required, for the bonds authorized by this act; and thereafter all deposits of United States bonds now by law required to be made by banking associations with the Treasurer of the United States, shall be of the bonds authorized by this act and none other, and if any banking association shall fail to make the exchange above specified by the date mentioned, the Comptroller of the currency shall forthwith proceed to wind up the affairs of such association in the manner now by law provided.

SEC. —. *Be it further enacted*, That from and after the 1st day of January, 1869, all restriction on the amount of national bank note currency to be issued shall cease, and any association complying with the requirements of said act of June 3, 1864, and the acts amendatory thereof and supplemental thereto, shall be entitled to receive the certificate of the Comptroller of the Currency and commence the business of banking, and shall be subject to the same laws and have the same rights and franchises as the banking associations now organized under said acts.

Mr. RANDALL. I make the point of order that that amendment is not germane to the bill.

The CHAIRMAN. The Chair sustains the point of order. It is not germane to the bill. The question now recurs upon the amendment of the gentleman from Ohio, [Mr. SCHENCK.]

Mr. RANDALL. I make the same point of order upon that amendment that I did upon the amendment of the gentleman from Massachusetts, [Mr. BUTLER,] that it is not germane to the bill.

The CHAIRMAN. The Chair is of the opinion that the point of order is made too late.

Mr. RANDALL. I had no opportunity to make the point of order sooner, for the gentleman from Massachusetts [Mr. BUTLER] took the floor immediately after the amendment of the gentleman from Ohio was read.

Mr. BUTLER, of Massachusetts. My amendment is in the same line with the amendment of the gentleman from Ohio, [Mr. SCHENCK,] the chairman of the Committee of Ways and Means.

Mr. RANDALL. It proposes to amend the national banking law.

Mr. BUTLER, of Massachusetts. If the amendment of the gentleman from Ohio is germane to the bill, then why is not mine germane?

The CHAIRMAN. The Chair will state to the gentleman from Massachusetts [Mr. BUTLER] that no one raised the point of order on the amendment of the gentleman from Ohio [Mr. SCHENCK] at the time it was offered.

Mr. RANDALL. I would have raised it if I had had the opportunity, but the gentleman from Massachusetts immediately took the floor.

The CHAIRMAN. It is always in order to interrupt for the purpose of raising a point of order.

Mr. INGERSOLL. If the amendment offered by the gentleman from Ohio [Mr. SCHENCK] shall be adopted, then will not the amendment of the gentleman from Massachusetts [Mr. BUTLER] be germane to the bill as so amended?

The CHAIRMAN. The Chair will rule upon that question when it shall be raised.

The question was then taken upon the amendment of Mr. SCHENCK; and it was not agreed to.

Mr. LYNCH. I move to further amend this bill by adding the following section:

Sec. — *And be it further enacted*, That any gold coin now or hereafter in the Treasury of the United States shall not be sold or otherwise disposed of save as authorized by this section, as follows: Every sale of gold shall be advertised ten days in advance in the city of New York, and sealed proposals shall be invited, the same to be opened at the office of the Assistant Treasurer in that city. The time when these proposals shall be opened, and the day of sale and delivery, which shall be the same day or the day following that of opening the proposals, and the sum of gold to be sold shall be stated in the advertisement, as shall also be the terms of payment, which shall be made in lawful currency on delivery. At the time advertised the proposals shall be opened and read in public, and the highest bid shall be accepted for the whole sum to be sold, or so much thereof as shall be included in said highest bid. In case the highest bid does not call for the whole sum, the next highest bids shall be accepted for the sums respectively included therein, until the whole sum shall be sold. Persons offering equal prices shall be entitled to share the sum open to their bid, in proportion to the respective sums called for by each bid: *Provided*, That this section shall not prohibit the exchange of coin for bullion at the mints of the United States.

Mr. RANDALL. I raise the point of order that this amendment is not germane to the bill.

Mr. LYNCH. I understood the gentleman from Ohio [Mr. SCHENCK] to say that there is such a provision in the bill already.

Mr. SCHENCK. There is such a provision in the bill, except the details.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out of order.

The Committee of the Whole here rose informally, and the Speaker resumed the chair for the purpose of receiving a

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its Clerks, announced that the Senate had passed a bill (S. No. 610) in relation to corporations created by laws of the United States; in which the concurrence of the House was requested.

ENROLLED BILLS, ETC., SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 485) to aid the improvement of the Des Moines and Rock Island rapids in the Mississippi river;

An act (H. R. No. 1081) for the relief of John A. Neustaedter;

An act (H. R. No. 1284) imposing taxes on distilled spirits and tobacco, and for other purposes;

Joint resolution (H. R. No. 326) for the relief of Henry B. Ste. Marie;

Joint resolution (H. R. No. 331) to grant American register to Hawaiian brig Victoria;

Joint resolution (H. R. No. 338) exonerating certain vessels of the United States from the payment of tonnage fees to consular agents in Canada; and

Joint resolution (H. R. No. 341) for the relief of Z. M. Hall.

The Committee of the Whole then resumed the consideration of the bill providing for the

FUNDING OF THE NATIONAL DEBT.

Mr. MAYNARD. I move to amend the bill by adding to it the following:

Sec. — *Be it further enacted, &c.*, That on and after the 1st day of January, 1869, the Secretary of the Treasury shall provide for the redemption in coin of all United States notes which may be presented at the Treasury or to any Assistant Treasurer for that purpose. And to enable him to do so, he is authorized to sell, or negotiate, or exchange, in the United States, or elsewhere, as many as may be necessary of the bonds provided to be issued by the first section of this act. But this shall not be held to prevent the Secretary from reissuing such notes so redeemed, to an amount not exceeding \$400,000,000.

Mr. ALLISON. I move to amend the amendment by inserting after the word "negotiate" the words "at not less than par;" so that the context will read: "and to enable him to do so he is authorized to sell, negotiate at not less than par, or exchange, in the United States, or elsewhere," &c.

Mr. GARFIELD. I rise to a question of order—that the amendment of the gentleman from Tennessee [Mr. MAYNARD] is not germane to this bill.

The CHAIRMAN. The Chair decides that it is in order. It relates directly to a funding system.

The amendment to the amendment was adopted, there being—ayes sixty-four, noes not counted.

The question then recurred on the amendment of Mr. MAYNARD, as amended.

Mr. RANDALL. I ask the gentleman who offers the amendment to explain what is the practical effect of it.

Mr. INGERSOLL. I object to debate.

The CHAIRMAN. No debate is in order.

The amendment as amended was not agreed to, there being—ayes eleven, noes not counted.

Mr. ROSS. I move to amend by adding the following as a new section:

And be it further enacted, That the Secretary of the Treasury shall, as soon as practicable, withdraw from circulation the national currency furnished to banks, and supply its place by the issue of legal-tender United States Treasury notes, known as "greenbacks," under such rules and regulations as may be established by the Treasury Department.

Mr. LYNCH. I rise to a point of order, that that amendment is not germane to the bill.

The CHAIRMAN. The Chair sustains the point of order.

Mr. INGERSOLL. I move to amend by adding the following as a new section:

And be it further enacted, That section three of this act shall be construed to apply only to the bonds and securities of the United States which are expressly payable in the lawful money of the United States.

The amendment was not agreed to.

The CHAIRMAN. Last evening three amendments were by unanimous consent reserved, and they will now be acted on: The first amendment, offered by the gentleman from Illinois, [Mr. LOGAN,] will be read.

The Clerk read as follows:

In lines twenty-one and twenty-two of section one

strike out the words "and the proceeds thereof;" strike out line twenty-three and insert in lieu thereof the words "of or in;" so that the clause will read: And the said bonds shall be exclusively used for the redemption of, or in exchange for, an equal amount of any of the present interest-bearing debt of the United States, &c.

The amendment was agreed to.

The CHAIRMAN. The next amendment on which a vote was reserved was that of the gentleman from Indiana, [Mr. NIBLACK,] which will be read.

The Clerk read as follows:

Amend section one by striking out these words: Which said bonds shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon.

And inserting in lieu thereof the following: Which said obligations shall be liable to taxation by or under State, municipal, or local authority to the same extent as money is taxed under such State, municipal, or local authority, and no greater.

Mr. SCHENCK. The Committee of Ways and Means propose that these low interest bonds shall be free from taxation; but as the gentleman from Indiana [Mr. NIBLACK] proposes to tax them, will he not modify his amendment so as to provide that the tax shall not exceed three and sixty-five hundredths per cent? [Laughter.]

Mr. NIBLACK. No, sir; I cannot make that modification.

On agreeing to the amendment there were—ayes 21, noes 65; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Mr. KELSEY and Mr. NIBLACK.

The House divided; and the tellers reported—ayes 30, noes 77.

So the amendment was not agreed to.

Mr. GARFIELD. Mr. Chairman, would it be in order to put it on the Journal that the count just made by the tellers showed a strict party vote? [Laughter.]

The CHAIRMAN. It would not be. The next amendment on which a vote was reserved was offered by the gentleman from Pennsylvania, [Mr. BROOMALL,] It will be read.

The Clerk read as follows:

Strike out all of the first section after the enacting clause, and insert the following:

That the Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States in such form and of such denominations not less than \$100 as he may prescribe, redeemable in coin at the end of twenty, thirty, and forty years respectively, and bearing the following rates of yearly interest, payable semi-annually in coin, that is to say: the issue of bonds falling due in twenty years shall bear interest at five per cent.; bonds falling due in thirty years shall bear interest at four and a half per cent.; and bonds falling due in forty years shall bear interest at four per cent.; which said bonds shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States; and the said bonds and the proceeds thereof shall be exclusively used for the redemption of or in exchange for an equal amount of any of the present interest-bearing debt of the United States other than the three per cent. certificates and debts past due or maturing before the end of the present fiscal year, and may be issued to an amount, in the aggregate, sufficient to cover the principal of all outstanding or existing obligations as limited herein, and no more; but not exceeding \$700,000,000 shall be redeemable at any one time.

The question was taken; and the amendment was rejected, only twenty-one voting in the affirmative.

The CHAIRMAN stated the question next recurred on the substitute proposed by Mr. BOUTWELL.

The Clerk read as follows:

That the Secretary of the Treasury be, and he hereby is, authorized to issue coupon or registered bonds of the United States in such form as he may prescribe of the denomination of \$100, or of any multiple of \$100, redeemable in coin of the present standard value of the United States, and upon the following terms and conditions, that is to say:

First. The Secretary of the Treasury may issue bonds as aforesaid to the amount in all of \$400,000,000, redeemable at the pleasure of the Government at any time after the 1st day of July, A. D., 1883, and bearing interest yearly at the rate of five per cent. and the payable semi-annually. And such bonds and the income therefrom shall be exempt from State, municipal, or local taxation, but they shall be liable to such income tax as may be levied by the United States upon other income, not exceeding, however, five per cent. of the interest upon such bonds; and the amount of the tax shall be deducted from the

interest upon such bonds when the interest thereon is paid.

Second. The Secretary of the Treasury may also issue bonds as aforesaid to the further amount of \$400,000,000, redeemable at the pleasure of the Government at any time after the 1st day of July, A. D., 1883, and bearing interest yearly at the rate of four and a half of one per cent. in coin, payable semi-annually. And such bonds and the income therefrom shall be exempt from State, local, and municipal taxation, but they shall be liable to such income tax as may be levied by the United States upon other incomes, not exceeding, however, three per cent. of the interest upon such bonds, and the amount of the tax shall be deducted from the interest upon such bonds when the interest thereon is paid.

Third. That the Secretary of the Treasury may also issue bonds as aforesaid to the further amount of \$400,000,000, redeemable at the pleasure of the Government at any time after the 1st day of July, A. D., 1893, and bearing interest yearly at the rate of three sixty-five hundredths of one per cent. payable semi-annually in coin. The interest and principal of such bonds shall be made payable in the United States, or at London, Paris, or Frankfurt, at the option of the taker, and shall be exempt from all taxation in or by the United States, and the principal and interest thereof shall be paid as aforesaid without any abatement or deduction whatever.

Holders of bonds known as five-twenty bonds may exchange such bonds for the bonds in this section specified, applicants for an exchange of bonds may, within the limits prescribed by this act, designate the time when and the place where the new bonds issued to them shall be made payable, and nothing in this act contained shall be construed to authorize the Secretary of the Treasury to issue bonds except in exchange for five-twenty bonds.

Sec. 2. And be it further enacted, That from and after the passage of this act no percentage, deduction, commission, or compensation of any amount or kind shall be allowed to any person for the sale, negotiation, or exchange of any bonds or securities of the United States, or of any coin or bullion disposed of at the Treasury Department or elsewhere on account of the United States; and all acts and parts of acts authorizing or permitting, by construction or otherwise, the Secretary of the Treasury to appoint any agent other than some proper officer of his Department to make such sale or negotiation of bonds and securities are hereby repealed.

Sec. 3. And be it further enacted, That the Secretary of the Treasury be, and he hereby is, authorized and directed to use the sum of \$25,000,000 of coin in the Treasury, and not otherwise appropriated, in the purchase of five-twenty bonds at the market price, as hereinafter provided, the same to be held by the Treasurer of the United States as a sinking fund, in accordance with the provisions of the fifth section of an act passed February 25, 1862, entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States."

Sec. 4. And be it further enacted, That the Secretary of the Treasury, the Treasurer of the United States, and the Attorney General, be, and they hereby are, constituted a commission for the purchase of bonds as required in the preceding section. The Secretary of the Treasury shall, from time to time, give public notice for proposals for the sale of said bonds to the United States, and said commissioners may accept such proposals as they deem advantageous to the public interests. The bonds so purchased shall be legibly and indelibly marked "The property of the loan sinking fund of the United States." The Treasurer shall cause the interest to be paid upon such bonds, and the amount thereof shall in like manner be invested in the bonds of the United States.

Sec. 5. And be it further enacted, That the purchases of bonds herein authorized shall be made during the fiscal year commencing July 1, 1883.

Sec. 6. And be it further enacted, That the Secretary of the Treasury be, and he is hereby, required to give public notice whenever the amount of coin in the Treasury, belonging to the United States, exceeds \$20,000,000 in addition to the amount appropriated by the third section of this act, that he will anticipate the payment of interest then first to become due upon the bonds of the United States to an amount as near as may be of the excess over said \$20,000,000; such payments to be subject to a rebate of interest at the rate specified in the bonds.

Sec. 7. And be it further enacted, That the Secretary of the Treasury be, and he is hereby, prohibited from making sales of gold for any purpose whatsoever.

Mr. BOUTWELL. Is the question debatable?

The CHAIRMAN. It is not.

Mr. CULLOM. Cannot the gentleman be allowed to go on by unanimous consent?

The CHAIRMAN. He cannot, as the committee is acting under the order of the House.

Mr. LAWRENCE, of Ohio. I move the following amendment to the substitute:

Add to the end of section one:

Provided, That in all cases where the individual owner and holder in good faith of any of such bonds being a resident of the United States shall make it appear under oath, in such form as the Secretary of the Treasury may prescribe, that the net income of such individual from all sources, for the year preceding one month prior to the time when such interest may be payable, did not exceed two hundred

dollars—then and in all such cases the interest on such bonds so owned and held shall be paid without any deduction whatever.

The amendment was disagreed to.

Mr. INGERSOLL. I move that the committee rise, so as to allow debate on the substitute.

The committee divided; and there were—ayes 51, noes 59.

Mr. BOUTWELL demanded tellers.

Tellers were ordered; and Mr. BOUTWELL and Mr. LOGAN were appointed.

The committee again divided; and the tellers reported—ayes 55, noes 68.

So the substitute was rejected.

Mr. KELSEY. I move the following substitute.

The Clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Secretary of the Treasury is hereby authorized to issue registered or coupon bonds of the United States in such form and of such denominations as he may prescribe, not less than fifty dollars, or some multiple of that sum, payable, principal and interest, in coin, at such places in Europe or the United States as he shall designate and bearing interest at five per cent. per annum, payable semi-annually, and bearing date so as to require the payment of an equal amount of the interest quarterly; such bonds to be payable in fifty years from date, and to be redeemable in coin at the pleasure of the United States after twenty-five years from date; to be issued to an amount sufficient to cover all outstanding or existing interest-bearing obligations of the United States, and to be exchanged for such obligations or disposed of in such manner and on such terms, not less than par, as the Secretary of the Treasury may deem most conducive to the interests of the Government; and the said bonds and the proceeds thereof shall be exclusively used for the redemption of, or in exchange for, the existing interest-bearing securities of the United States.

Sec. 2. And be it further enacted, That the bonds issued under the first section of this act shall be known as the "consolidated debt of the United States," and the same shall be exempt from taxation in any form, by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States, except that there shall be deducted from the interest or coupons of said bonds, at the time of paying such interest or coupons, one half of one per cent. on said bonds semi-annually, as taxes, which taxes shall be semi-annually invested in the bonds hereby authorized to be issued, and shall, together with the interest that shall accrue upon the bonds so purchased, form a sinking fund for the payment of the national debt; and the sinking fund hereby created shall be in lieu of the sinking fund contemplated by the fifth section of the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862.

Sec. 3. And be it further enacted, That the several interest-bearing bonds of the United States that are redeemable at the pleasure of the United States after a certain number of years from their date, shall, at the option of the holder thereof, be exchanged for the bonds authorized by this act: *Provided,* That such bonds as are now redeemable shall be presented for exchange within six months after this act takes effect, and such bonds as hereafter become redeemable shall be presented for exchange within six months after the same shall become redeemable, and such exchange shall be made at such places and under such regulations as the Secretary of the Treasury may prescribe.

Sec. 4. And be it further enacted, That the bonds issued pursuant to the provisions of this act may be deposited with the Treasurer of the United States as security for the redemption of national bank notes pursuant to the provisions of an act entitled "An act to provide a national currency secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved February 25, 1863, and from and after one year from the passage of this act the bonds herein authorized to be issued shall be the only bonds deposited with the Treasurer of the United States as security for the redemption of national bank notes pursuant to said act, and all bonds now deposited with the Treasurer as security for the redemption of national bank notes shall be withdrawn and the bonds authorized by this act to be issued shall be substituted therefor.

Mr. KELSEY. I move that the committee rise.

The motion was disagreed to.

Mr. KELSEY. Is this amendment debatable?

The CHAIRMAN. It is not; debate is closed.

The question being taken on the amendment of Mr. KELSEY, it was disagreed to.

Mr. HUNTER. I offer an amendment in the nature of a substitute which I send to the Chair.

The Clerk read as follows:

Strike out all after the enacting clause and insert the following:

That the Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States in such form and of such denominations not less than fifty dollars as he may prescribe, redeemable in coin at the pleasure of the United States after forty years, and bearing interest, payable semi-annually in coin, at the rate of three and sixty-five hundredths per cent. per annum, which said bonds shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States, other than such income tax as may be assessed upon other incomes; such bond to be issued to an amount, in the aggregate, sufficient to cover the principal of all outstanding or existing obligations of the United States and no more.

Sec. 2. And be it further enacted, That immediately after the taking effect of this act the Secretary of the Treasury of the United States shall give notice to all persons holding obligations against the United States, except the holders of Treasury notes, to present the same at maturity at the Treasury of the United States for payment. That all bonds of the United States, payable at the pleasure of the Government after five years from their date, commonly known as the five-twenties, and all such as are payable at the pleasure of the Government after three years from their date, known as seven-thirties, shall each be regarded as due and payable after five and three years from their dates respectively; and such Secretary of the Treasury shall pay all such obligations and bonds in the lawful currency of the United States, except as hereinafter provided; or such person or persons holding such bonds or obligations may exchange such bonds and obligations, in amounts of fifty dollars or multiples of that sum, for an equal amount of the bonds as provided for in the first section of this act, under such rules and regulations as the Secretary of the Treasury may prescribe. That all bonds issued prior to the 25th day of February, 1862, and all bonds known as the ten-forties, and all other obligations where the United States expressly stipulated to pay the same in coin, shall be so paid in coin, or the same may, at the pleasure of the holder or holders, except the interest payable in coin on bonds, be converted in equal amounts into the bonds provided for in the first section of this act, at any time within two years after the passage of this act, under such rules and regulations as may be prescribed by such Secretary of the Treasury.

Sec. 3. And be it further enacted, That in order to enable the Secretary of the Treasury to make the payments as provided for in the second section of this act, he shall be required from time to time to issue and pay out upon such indebtedness such amount of Treasury notes, commonly known as greenbacks, as may be required to pay off such bonds and obligations of the United States, not payable in coin, as fast as the same may be presented for payment, as provided for in said second section of this act, where the person or persons presenting the same shall prefer payment in the Treasury notes of the United States to the exchange of his or their bonds or obligations for the bonds forming the funded debt, as provided for in the first section of this act; and such Treasury notes so issued and paid out as provided in this section shall have and possess all the legal qualities and be in every respect as binding upon the United States as its Treasury notes heretofore issued and known as greenbacks.

Sec. 4. And be it further enacted, That if any person or persons holding bonds or other obligations against the United States which shall be drawing interest, and such person or persons shall not present the same at such Treasury or such other place as such Secretary shall prescribe for payment or exchange, as provided in the third section of this act, within six months after such notice when the same are due, or within six months after the same shall become due, after such notice as provided in said third section, then the interest on such bond or obligation shall cease from the date of six months after such notice, or within six months after such bond or obligation shall become due after such notice as aforesaid; and such Secretary of the Treasury shall, when such bond or obligation, so drawing interest, is presented for payment or exchange, only allow interest on such bond for six months after such notice, or for six months after the same becomes due after such notice as aforesaid, as provided in this act.

Sec. 5. And be it further enacted, That all bonds or other obligations of the United States received in exchange for bonds authorized to be issued by the first section of this act, and all such as shall be paid for by such Secretary in the lawful currency of the United States, shall be canceled by cutting with canceling hammer or punch when the same are taken up. And such Secretary shall keep an accurate account of all such bonds and obligations so taken up and canceled and the amount of such as were paid for in Treasury notes, and the amounts that were received in exchange for the bonds authorized to be issued by the first section of this act, and also the number, date, and amount of each bond so issued and given out in exchange, as aforesaid, and the name of the person to whom the same was issued, which bonds and obligations so canceled, and the account of bonds so issued and amount of money so paid out shall be by such Secretary presented to the Congress of the United States upon the first day of its regular session, after the same shall have been so received and canceled as aforesaid, so that Congress shall see that all such bonds and obligations so canceled are properly destroyed, and the accounts kept by such Secretary of such cancellation, and of the

bonds and money so paid out and exchanged, as aforesaid, are correct.

Mr. HUNTER. I move that the committee rise. The bill, as amended, ought to be printed; it is so long that we cannot well understand it. The motion was disagreed to—ayes 32, noes 74.

The question being taken on the amendment of Mr. HUNTER, it was disagreed to.

Mr. SCHENCK. I move that the committee rise and report the bill and amendments to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had, according to order, had the special order under consideration, being Senate bill No. 207, for funding the national debt, and for the conversion of the notes of the United States, had made sundry amendments thereto, and had directed him to report the bill and amendments to the House.

Mr. SCHENCK. I demand the previous question on the bill and amendments.

Mr. BOUTWELL. I ask the gentleman if it is his intention to have a vote to-night on the bill.

Mr. SCHENCK. I would like to. I do not know that it will be possible, but I will try as far as I can. If the yeas and nays are to be called on the various amendments it is not likely we can get through with it to-night.

Mr. BOUTWELL. The vote was so large on my proposition in the committee that I feel bound under a sense of duty to press it in the House. I would like to have the matter go over till Monday, so that members may see the bill in print, as there will be no opportunity to discuss it.

Mr. SCHENCK. I must ask for a vote on the previous question.

On seconding the previous question there were—ayes 65, noes 60.

Mr. BOUTWELL. I call for tellers. Tellers were ordered; and the Chair appointed Messrs. BOUTWELL and SCHENCK.

The House divided; and the tellers reported—ayes 60, noes 73.

So the previous question was not seconded.

Mr. BOUTWELL. Mr. Speaker, I now move as an amendment the proposition that I submitted in Committee of the Whole. I will say that I shall want about ten or twelve minutes to explain it. Whether I shall do it to-night, whether it will please the House better that it should go over till Monday, is a matter for the judgment of the House. [Cries of "Go on now!" and "No, no!" "Let us adjourn!"] I think in a few minutes we can get rid of this business; at any rate I can so state my views as to be willing to accept the judgment of the House upon the substitute which I have proposed. I think in ten or twelve minutes I can relieve the House.

Mr. SCHENCK. Will the gentleman permit me to ask him a question?

Mr. BOUTWELL. Certainly.

Mr. SCHENCK. Do I understand that if permitted to go on now for ten or twelve minutes he then proposes to have a vote on the substitute, or to have it go over until Monday morning? I ask this question from the fact that the substitute is in manuscript. It is not the printed bill which the gentleman presented, but is different from it, and if it is to go over until Monday it had better be printed.

Mr. BOUTWELL. At the suggestion of several gentlemen, and especially of the chairman of the Committee of Ways and Means, I will move that the proposed substitute be printed; and perhaps it would be better that the bill, with the amendments reported by the Committee of the Whole, should be printed with it, and then I will yield for a motion to adjourn.

The motion to print the bill with the amendments and the substitute was agreed to.

Mr. WASHBURNE, of Illinois. I move that the House adjourn.

Mr. SCHENCK. I desire to ascertain the wish of the House in regard to meeting to-night; and I wish, with the permission of the House, to say a word in regard to the situation of business and the prospect of an adjournment.

Mr. WASHBURNE, of Illinois. Is not my motion to adjourn in order?

The SPEAKER. The Chair did not recognize the gentleman to make that motion.

Mr. WASHBURNE, of Illinois. The gentleman from Massachusetts [Mr. BOUTWELL] yielded to me.

The SPEAKER. He yielded also to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. WASHBURNE, of Illinois. Then I object to anything but the regular order.

The SPEAKER. The regular order is the consideration of the funding bill.

Mr. SCHENCK. Then I cannot say anything as to the prospect of adjournment or the condition of business?

Mr. UPSON. If the House adjourns now will there be a night session?

The SPEAKER. There is an order for an evening session for general debate, and the Chair was about to state that he is not informed that any gentlemen desire to speak this evening, and therefore an adjournment now, without dispensing with the evening session, would cause the Hall to be lit up when there would be no members here to speak.

Mr. SCHENCK. My object was to propose to go to the business on the Speaker's table to-night.

Mr. WASHBURNE, of Illinois. I call for the regular order.

Mr. BOUTWELL. Before moving to adjourn I move that the evening session be dispensed with.

Mr. SCHENCK. I ask to be permitted to make an inquiry of the Chair.

Mr. WASHBURNE, of Illinois. I object.

Mr. SCHENCK. Can I ask a parliamentary question in regard to the effect of an adjournment?

The SPEAKER. The Chair will state what the effect of an adjournment would be. If the House dispenses with the evening session and then adjourns, it will be an adjournment until Monday at twelve o'clock, and the consideration of this bill will be resumed after the morning hour. If the evening session is not dispensed with, and the House adjourns now, there will be an evening session for general debate.

Mr. ALLISON. I desire to ask the Chair a question.

The SPEAKER. The Chair cannot answer questions.

Mr. ALLISON. It is a parliamentary question.

Mr. WASHBURNE, of Illinois. I object. The motion to dispense with the evening session was then agreed to.

Mr. BOUTWELL. I move that the House do now adjourn.

The question was put; and there were—ayes 84, noes 39.

Mr. ALLISON demanded the yeas and nays. The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 92, nays 33, not voting 83; as follows:

YEAS—Messrs. Adams, Ames, Anderson, Archer, Arnell, Axtell, Bailey, Baker, Banks, Beck, Benton, Blair, Boutwell, Boyden, Boyer, Brooks, Broomall, Benjamin F. Butler, Cary, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Delano, Dixon, Dockery, Eldridge, Farnsworth, Ferriss, Fields, Fox, Garfield, Getz, Glossbrenner, Golladay, Grover, Haight, Hamilton, Higby, Hooper, Hopkins, Hunter, Jencks, Johnson, Thomas L. Jones, Judd, Kelley, Kerr, Knott, Ladin, George V. Lawrence, William Lawrence, Lincoln, Loubridge, Marshall, McCarthy, McKee, Mercer, Miller, Moore, Niblack, Nicholson, Orth, Paine, Phelps, Pile, Polsey, Randall, Sawyer, Seefeld, Shanks, Aaron F. Stevens, Stewart, Stone, Taber, Thomas, Lawrence S. Trimble, Trowbridge, Twichell, Upson, Van Aernam, Van Auken, Burt Van Horn, Vidal, Ward, Elihu B. Washburne, Henry D. Washburn, Thomas Williams, William Williams, James F. Wilson, and Woodward—82.

NAYS—Messrs. Allison, Delos R. Ashley, Beatty, Benjamin, Bingham, Buckland, Cake, Churchill, Donnelly, Ferry, French, Hill, Chester D. Hubbard, Ingersoll, Kelsey, Krontz, Logan, Lynch, Mallory,

Maynard, McClurg, Moorhead, Mullins, Myers, O'Neill, Perham, Pomeroy, Raum, Ross, Schenck, Spalding, Taylor, and William B. Washburn—33.
NOT VOTING—Messrs. James M. Ashley, Baldwin, Barnes, Barnum, Benham, Blackburn, Blaine, Boies, Bromwell, Burr, Rodrick R. Butler, Chanler, Reader W. Clarke, Cook, Cornell, Dawes, Dewesse, Dodge, Driggs, Eckley, Eggleston, Ela, Eliot, Finney, Goss, Gravelly, Griswold, Halsey, Harding, Hawkins, Heaton, Hinds, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hubbard, Humphrey, Alexander H. Jones, Julian, Ketcham, Kitchen, Loan, Mann, Marvin, McCoombe, McCullough, Morrell, Morrissey, Mungen, Newcomb, Newsham, Nunn, Peters, Pike, Plants, Poland, Price, Pruyn, Robertson, Robinson, Root, Selye, Shellabarger, Sitgreaves, Smith, Starkweather, Thaddeus Stevens, Stokes, Sypher, Taffe, John Trimble, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Welker, Whittemore, John T. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—83.

So the motion was agreed to; and accordingly (at five o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. CAKE: The petition of William Wagner, a disabled and honorably discharged Union soldier, asking an increase of pension.

Also, the petition of Captain Jacob T. Fuhrman, a disabled and honorably discharged Union soldier, asking Congress to order the payment of his claim for property destroyed.

By Mr. CHURCHILL: The petition of Captain A. M. Brown, Dr. A. A. Yeomans and others, officers of the Army, asking for passage of bill to fix and equalize pay of officers of the Army, and for other purposes.

By Mr. MYERS: The petition of Colonel Chandler Crane and 10 others, officers of the Army, asking a continuance of the increased pay voted last year.

By Mr. SCHENCK: The petition of officers of the Army, asking Congress to pass General Schenck's bill to fix and equalize the pay of officers and to establish the pay of enlisted soldiers of the Army.

By Mr. WASHBURNE, of Illinois: The petition for restoration of William Pollard, of Mobile, Alabama, late second assistant engineer United States Navy.

IN SENATE.

MONDAY, July 20, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of Saturday last was dispensed with.

COMMITTEE SERVICE.

The PRESIDENT *pro tempore* appointed Mr. HENDRICKS to fill the vacancy in the Committee on Printing, occasioned by the resignation of Mr. Johnson.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, respecting the assembling of large bodies of Indians at Fort Larned, Kansas, and the necessity of providing them with rations. The letter was read.

The PRESIDENT *pro tempore*. It will be referred to the Committee on Indian Affairs; and I hope, from the importance of it, the committee will take immediate notice of it.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of citizens of New York, praying the adoption of measures for the better treatment of the Indians; which was referred to the Committee on Indian Affairs.

Mr. WILSON presented the petition of Lewis P. Olds, of North Carolina, praying for the removal of disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a memorial of citizens of the United States, protesting against the ratification or confirmation by Congress of any con-

veyance of any part of the Yosemite valley by the State of California to individuals; which was referred to the Committee on Private Land Claims.

He also presented two petitions of officers of the United States Army, praying an increase of compensation; which were referred to the Committee on Military Affairs and the Militia.

Mr. CONNESS presented a petition of citizens of New York, praying the adoption of measures for the better treatment of Indians; which was referred to the Committee on Indian Affairs.

Mr. MORGAN presented a memorial, signed by President Barnard, of Columbia College, New York, and all the officers of the college, protesting against the ratification or confirmation by Congress of any conveyance of any part of the Yosemite valley by the State of California to individuals; which was referred to the Committee on Private Land Claims.

REPORTS OF COMMITTEES.

Mr. FERRY. I ask the unanimous consent of the Senate to put a bill on its passage. It has passed the House, and it is necessary to pass it in order to settle some accounts. It will take no time.

Mr. POMEROY. We have reports from committees to present.

Mr. FERRY. Very well; if the gentleman insists on the order I shall not press it.

The PRESIDENT *pro tempore*. Reports from committees are in order.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 907) to provide for the sale of certain lands and lots on the sea islands of Beaufort district, South Carolina, and for other purposes, reported it with an amendment.

Mr. MORGAN, from the Committee on Commerce, to whom was referred the petition of United States officers, merchants, and residents of Key West, Florida, praying that surveys may be made of the northwest channel leading from the harbor of Key West to the Gulf of Mexico, and that an appropriation may be made for removing obstructions and deepening the channel thereat, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 28th of March last, information in relation to the buoys of New York harbor, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 296) giving the assent of the United States to the construction of certain wharves in the harbor of Oswego, New York, reported it without amendment.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the bill (H. R. No. 256) for the relief of Martha E. King, reported it without amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Nancy Smith, submitted a report thereon, accompanied by a bill (S. No. 633) granting a pension to Nancy Smith. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Videt Henry, submitted a report thereon, accompanied by a bill (S. No. 634) granting a pension to Videt Henry. The bill was read and passed to a second reading, and the report was ordered to be printed.

CONSIDERATION OF INDIAN TREATIES.

Mr. DRAKE. I submit the following resolution:

Resolved, That Rule 38 be amended by adding thereto the following: treaties with Indian tribes or parts of tribes shall be considered and passed upon in open session.

Of course I do not suppose any action can be taken upon the resolution now under the rules. I merely wish to have it lie on the table.

The PRESIDENT *pro tempore*. The resolution will lie on the table.

PENSION LAWS.

Mr. VAN WINKLE. I ask the Senate to take up for consideration House bill No. 1010, relating to pensions. It is important that the bill should be passed as soon as possible.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill at this time. Is there any objection? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1010) relating to pensions.

The bill had been reported by the Committee on Pensions with amendments. The first amendment was in line five of section one to strike out the word "or" and insert "nor;" and to strike out "pension" and insert "pensions."

The amendment was agreed to.

The next amendment was in line eight of section one, after the word "sisters," to insert "under sixteen years of age."

The amendment was agreed to.

The next amendment was in line twelve, to strike out "him" and insert "them;" and in line seventeen to insert the word "such" before "pension."

The amendment was agreed to.

The first section of the bill, as amended, is as follows:

That the laws granting pensions to the hereinafter-mentioned dependent relatives of deceased persons leaving neither widow nor child entitled to pensions under existing laws shall be so construed as to give precedence to such relatives in the following order, namely: first, mothers; secondly, fathers; thirdly, orphan brothers and sisters under sixteen years of age, who shall be pensioned jointly if there be more than one; *Provided*, That if, in any case, the said persons shall have left both father and mother who were dependent upon them, then on the death of the mother the father shall become entitled to a pension commencing from and after the death of the mother; and upon the death of the mother and father the dependent brothers and sisters under sixteen years of age shall jointly become entitled to such pension until they attain the age of sixteen years, respectively, commencing from and after the death of the party who, preceding them, would have been entitled to the same: *And provided further*, That no pension heretofore awarded shall be affected by anything herein contained.

Mr. WILLIAMS. I inquire whether this bill does not propose a revision of the pension laws, and if so whether it is not a piece of legislation that ought to be considered at some other time than during the morning hour. I endeavored to attend to the bill as it was read; but it refers to so many antecedent acts, and appears to be so complicated in its references and provisions, that it will be impossible for any Senators to understand the bill or know its meaning and effect if it is pushed through at this time, except those Senators who happen to be upon the committee that reported the bill. I should like to know if there is any absolute necessity for its passage at this time. Why can it not go over until the next session? I would rather it should lie over until it can be examined.

Mr. VAN WINKLE. This bill was reported from the committee on the 13th of June, and has been before the Senate consequently for more than a month, and it appears to me not to be of a different character from the bills that are usually taken up and disposed of in the morning hour. The gentleman's objection to the bill arises from the fact that the sections are not dependent upon each other. The whole object of the bill is to correct certain misconstructions in the law, supply some omissions in the law, and make other similar corrections which can very readily and very easily and very briefly be explained, in order to prevent such a flood of pension bills being thrown upon Congress as has been at this session. There have been misconstructions of the law at the Pension Office. The law in some cases is defective, perhaps, in a single word or two, which

is now to be supplied, or some case of parallel nature to that mentioned in the law has not been mentioned. I think I am not at all out of order in asking for the consideration of the bill now, and I assure Senators that I do not think it will take a very long time. The amendments, I think, will be very generally concurred in without any difficulty, with one exception, perhaps.

Mr. DRAKE. I wish to make a motion to reconsider a bill that was passed on Saturday last for the restoration of Commander Aaron K. Hughes from the retired list of the Navy to the active list. I understand the bill has gone to the House of Representatives, and I move that a request be sent to the House of Representatives requesting its return to the Senate.

The PRESIDENT *pro tempore*. That motion will be entertained if there be no objection.

Mr. NYE. I object.

The PRESIDENT *pro tempore*. It is one of those motions that ought to be granted at once if it is to be granted at all.

Mr. DRAKE. I presume it cannot be taken over by a solitary objection.

The PRESIDENT *pro tempore*. Is there any objection?

Mr. NYE. I object to it until I can have a chance to inquire into it. I reported that bill.

Mr. DRAKE. I do not understand that a single objection will prevent the consideration of a motion of this kind.

Mr. NYE. I think it will in the morning hour.

Mr. DRAKE. I make the motion that the House of Representatives be requested to return the designated bill to the Senate.

The PRESIDENT *pro tempore*. The Chair cannot find that that is a privileged motion. If it was it could be considered; but it is not laid down as such.

Mr. NYE. I object to its consideration.

The PRESIDENT *pro tempore*. The question is on the bill before the Senate, and the Clerk will proceed with the amendments.

Mr. DRAKE. Do I understand the Chair to decide that this motion cannot be entertained because of a single objection?

The PRESIDENT *pro tempore*. Yes, sir; because there is a bill pending, and it is not a privileged motion, and if it is objected to it cannot be made, although it is one that ought to be among the privileged motions.

Mr. MORTON. The pending bill was taken up before the business of the morning hour was through—taken up out of order. There is no pressure and there is no necessity for its consideration. It is not a bill of that character which demands consideration before the end of the session. It is a very important bill proposing to revise the laws of Congress which have been enacted on the subject of pensions for the last three or four years, and it occurs to me that there is a decided impropriety in taking it up at this time and consuming the morning hour with it.

The PRESIDENT *pro tempore*. The Chair cannot guard against the effect of the rules, but can only enforce them. The Chair put it to the Senate distinctly to know if they would take up this bill, whether there was no objection to it. No objection was made, and therefore it was taken up, and of course it is before the Senate until the Senate overrules that motion. The bill will be proceeded with.

The Chief Clerk read the next amendment of the Committee on Pensions, which was to strike out the second section of the bill, in the following words:

SEC. 2. *And be it further enacted*, That an act entitled "An act to grant pensions," approved July 14, 1862, and the acts supplementary thereto or amendatory thereof, shall not be construed to authorize the allowance of a pension, or to confer a right thereto by reason of a disability incurred or disease contracted after the 1st day of January, A. D. 1863, or death resulting therefrom, but the laws in force prior to the said act of July 14, 1862, shall, except as to the rate of pension, alone govern in the adjudication of all claims which have been or shall hereafter be made to a pension by reason of a disease contracted, a disability incurred, or a casualty occurring on or after the said 1st day of January, 1863, in the military or naval service of the United States, or death resulting therefrom.

Mr. VAN WINKLE. I wish to say but a word or two on that amendment. The committee directed that section to be stricken out, in the first place because they could not understand its object, and because it seems to make two sets of laws operate together. It has since been explained that the object of it is to stop pensions in time of peace to all men, although it was admitted by the Pension Office authorities that there ought to be some provision in favor of the Navy, who are at all times exposed to casualties. I have drawn up a provision to take the place of this section if it shall be stricken out, and I suppose it can now be read for information. If the provision which I have drawn up should not be satisfactory to the Senate, I am willing that this section of the bill should be stricken out and the subject-matter of it acted on at the next session. I send my proposed amendment to the Chair.

The PRESIDENT *pro tempore*. The amendment suggested by the Senator from West Virginia in lieu of the second section will be read.

The Chief Clerk read the words proposed to be inserted, as follows:

And be it further enacted, That no person shall be entitled to a pension by reason of wounds received or disease contracted in the service of the United States subsequently to the passage of this act unless the person who was wounded or contracted disease was in the line of duty; and, if in the military service, was at the time actually in the field or on the march, or at some post, fort, or garrison, or after his muster-out or discharge for disability was returning to his usual residence in the United States; or if in the naval service, was at the time borne on the books of some ship or other vessel of the United States at sea or in harbor lately in commission, or was on his way by direction of competent authority to the United States or to some other vessel or naval station, or after his muster-out or discharge for disability, was returning to his usual residence in the United States.

Mr. VAN WINKLE. I ought to say that this amendment, as I have now proposed it, preserves the pensions to soldiers and sailors when they are in actual service, and I think as they are more liable to casualties than ordinary men this ought to be preserved. The number of the Army will be very much reduced, and the number of the Navy also; and it cannot be a great burden upon the country, and I think we owe it to these men who are exposing their lives handling fire-arms at sea, and doing other things of that kind, to preserve a pension to them, for casualties and losses of life happening even in peace.

The PRESIDENT *pro tempore*. The Chair will put the question on striking out the second section and inserting the proposition proposed by the Senator from West Virginia.

The amendment was agreed to.

The next amendment was in section three, line seven, to strike out "two" and insert "three" before "years;" so as to make the clause read:

And the failure of any pensioner to claim his or her pension for a period of three years after the same shall have become due, shall be deemed presumptive evidence that such pension has legally terminated by reason of the pensioner's death, remarriage, recovery from disability, or otherwise, and the pensioner's name shall be stricken from the rolls, subject to the right of restoration to the same on a new application, with evidence satisfactorily accounting for the failure to claim such pension.

The amendment was agreed to.

The next amendment was in section seven, after the word "amended," in line four, to insert "and reenacted;" after "evidence," in line fourteen, to insert "thereof;" in line sixteen to strike out "minor" before "child;" in line seventeen before "become" to insert "severally;" in line eighteen to strike out "minor;" and in line twenty-two to strike out "minor or minors" and insert "child or children;" so as to make the section read:

SEC. 7. *And be it further enacted*, That section eleven of an act entitled "An act supplementary to the several acts relating to pensions," approved June 6, 1866, be amended and reenacted so as to read as follows: "That if any officer, soldier, or seaman shall have died of wounds received or of disease contracted in the line of duty in the military or naval service of the United States, leaving a widow and a child or children under the age of sixteen years, and it shall be duly certified under seal, by any court having probate jurisdiction that satisfactory evi-

dence has been produced before such court that the widow aforesaid has abandoned the care of such child or children, or is an unsuitable person, by reason of immoral conduct, to have the custody of the same, or on presentation of satisfactory evidence thereof to the Commissioner of Pensions, then no pension shall be allowed to such widow until said child or children shall have severally become sixteen years of age, any previous enactment to the contrary notwithstanding; and the child or children aforesaid shall be pensioned in the same manner as if no widow had survived the said officer, soldier, or seaman, and such pension may be paid to the regularly-authorized guardian of such child or children."

The amendment was agreed to.

The next amendment was in line eight of section ten, to strike out "minor" before "child."

The amendment was agreed to.

The next amendment was in section eleven, after the word "duty," in line seven, to insert "or in consequence of wounds received or disease contracted therein;" so as to make the section read:

SEC. 11. *And be it further enacted*, That section one, of an act entitled "An act supplementary to the several acts relating to pensions," approved June 6, 1866, shall be so construed as to secure to every person entitled by law before the passage of said act to a less pension than twenty-five dollars per month, who, while in the military or naval service and in the line of duty, or in consequence of wounds received or disease contracted therein, having only one eye, shall have lost the same, a pension of twenty-five dollars per month.

The amendment was agreed to.

The next amendment was to insert after section eleven, as a new section:

SEC. 12. *And be it further enacted*, That the existing laws in relation to pensions be so construed that the lowest rate of pensions allowed to any adult person, including widows of revolutionary soldiers, and for the lowest degree of disability, shall be eight dollars per month, and for a higher degree of disability the pension allowed shall be in accordance with the first section of the act cited in section ten of this act as thereby amended.

The amendment was agreed to.

The next amendment was to insert as an additional section:

SEC. 13. *And be it further enacted*, That all officers in the military or naval service, of the rank of captain in the Army or lieutenant in the Navy, and of less rank, who have lost a leg or arm in such service and in the line of duty, or in consequence of wounds received or disease contracted therein, shall be entitled to receive an artificial limb on the same terms as privates in the Army are now entitled to receive the same.

The amendment was agreed to.

Mr. VAN WINKLE. I am instructed by the Committee on Pensions to offer some other amendments. I move this as an additional section, to come in after section three:

And be it further enacted, That in all cases where an increase of pension has been or may hereafter be granted to any widow or guardian of children under sixteen years of age of a deceased soldier or sailor under an act entitled "An act increasing the pensions of widows and orphans, and for other purposes," approved July 25, 1866, or any subsequent act, such widow or the guardian of such children shall not be deprived of such increase by reason of any child or children of such deceased soldier or sailor being the inmate of any home, orphan's asylum, or other public or private charitable institution organized for the care and education of soldiers' orphans under the laws of any of the States, or in any school or institution where such orphans may in whole or in part be maintained or educated at the expense of a State or of the public.

This amendment presents this single question, whether children who are taken into the soldiers' homes and orphan's asylums shall be deprived of the two dollars a month allowed them by the law of 1866? The law is express that it shall be paid to the children, but by a construction at the Pension Office they decline to pay those who are in these asylums. Many letters have been written to the committee in consequence of which this amendment is proposed. It appears that these children have their vacations, and they go home, so that they are part of the time burdensome to their mothers. At any rate, they have nothing from the asylums but the regulation food and the regulation dress of the institution, and it is thought that the mother ought to have it in her power to give them at their vacations, if at no other time, a little extra food and clothing. I trust there will be no objection to this amendment. It is in accordance with the law, but it

is necessary to pass it in order to correct a construction at the Pension Office.

The amendment was agreed to.

Mr. VAN WINKLE. I move to amend the bill by adding at the end of section five:

Except that applications by or on behalf of insane persons and children under sixteen years of age may be filed after the expiration of the said five years if previously thereto they were without guardians or other proper legal representatives.

This amendment explains itself. The provision is that if insane persons and children without guardians fail to apply within the time limited advantage is not to be taken of it to deprive them of their pension.

The amendment was agreed to.

Mr. VAN WINKLE. I move to amend the bill by striking out all of the sixth section after the word "practicable," in line three, and inserting:

Give public notice of the contents of the foregoing section, particularly at the offices of the several pension agencies, and upon any application by letter or otherwise for or on behalf of any person entitled to the benefit of its provisions, or upon any notification that such person is so entitled, to pay or cause to be paid to him all such arrears of pension as he may be entitled to under the provisions of the said section.

The amendment was agreed to.

Mr. VAN WINKLE. I offer the following new section, which has been agreed upon by the two committees, and will save Congress a great deal of labor. It is to come in after section eleven:

And be it further enacted, That in all cases pensions heretofore or hereafter granted by special acts of Congress shall be subject to be varied in amount according to the provisions and limitations of the pension laws.

The amendment was agreed to.

Mr. VAN WINKLE. I now move in line seven of section eight to strike out the words "and after the proof has been completed;" so as to make the section read:

SEC. 8. *And be it further enacted*, That section six of an act entitled "An act supplementary to the several acts relating to pensions," approved June 6, 1866, be and the same is hereby amended and reenacted, so as to read as follows: "That if any person entitled to a pension has died since March 4, 1861, or shall hereafter die while an application for such pension is pending, leaving no widow and no minor child under sixteen years of age, his or her heirs or legal representatives shall be entitled to receive the accrued pension to which the applicant would have been entitled had the certificate been issued before his or her death."

Mr. HENDRICKS. It seems to me that that is a very extensive proposition. How long is the pension to run in favor of the heirs?

Mr. VAN WINKLE. According as the law fixes now. It does not affect that. The section now requires that a man shall not only have made in his lifetime an application for the pension, but that the proof shall have been completed in his lifetime in order that his heirs may get it. It was thought by the committee unnecessary to exact that the proof should have been completed. They thought that if a man applied in his lifetime, though the proof should be completed afterward, the heirs ought to be entitled to the pension due him, and hence they have moved to strike out these words.

The amendment was agreed to.

Mr. WILSON. I offer this amendment as an additional section:

And be it further enacted, That the pensions for the officers in the military service and Marine corps of the United States hereinafter named and for officers of assimilated rank, shall be as follows: for a major general or officer of higher rank, fifty dollars per month; for a brigadier general, forty dollars per month; and for a colonel, thirty-five dollars per month; and for the officers in the naval service hereinafter named and officers of assimilated rank shall be as follows: for a rear admiral or officer of higher rank, fifty dollars per month; for a commodore, forty dollars per month; and for a captain, thirty-five dollars per month. And the pensions of the widows and dependent relatives of the said officers entitled to pensions by existing laws, shall be the same as those of the decedents to whom they succeed; but the increase of pension allowed by this section shall not be computed from any date previous to the approval of this act.

Mr. SHERMAN. I should like to ask the Senator how much this increases the pensions?

Mr. WILSON. By the pension laws at the present time the highest rate is thirty dollars

a month, that allowed to a lieutenant colonel, and the same for the corresponding grade in the Navy. This amendment would give a colonel an increase of five dollars per month, a brigadier general ten dollars, and a major general twenty dollars.

Mr. SHERMAN. It is a very ungracious task to object to a pension of any amount to a person who has been in the military service; but I submit to the Senate whether it is wise now, in the present condition of the public business, at this stage of the session, the attention of the Senate having scarcely been called to this bill, to raise the pensions of any portion of the Army or Navy. At a time when we are endeavoring to lower all the expenses of the Government; when we have reduced all our appropriations; when we have thrown off \$100,000,000 of taxes, and yet when taxes are still very burdensome on our people; when the pension fund now is \$33,000,000 a year—twice as much as any nation in the world ever paid before—I ask whether it is worth while for us to increase our pension lists on a mere amendment of a bill of this kind. I do not like to object to anything of this sort, because I have the same feeling that other Senators have, a feeling of kindness and commiseration for those who have been wounded in the service of the country; but if this amendment is pressed I shall have to make opposition to it and move the postponement of the bill. If the bill is only intended to remove ambiguities in existing laws I have no objection, as the Senator from West Virginia has stated, but I cannot consent to this increase of pensions.

Mr. WILSON. I will say to the Senator that I do not want to endanger the passage of the bill as reported by the committee.

Mr. SHERMAN. You had better withdraw the amendment.

Mr. WILSON. The amendment I have offered has the assent of the Military Committee and a portion certainly of the Naval Committee; but rather than endanger the passage of the bill, I will withdraw it and bring it up at some other period.

Mr. SHERMAN. It ought to go to the Pension Committee at any rate, to be there considered.

Mr. WILSON. The chairman of the Pension Committee has examined it very carefully.

Mr. SHERMAN. I know; but it ought to go to the committee, and be reported upon by them.

Mr. VAN WINKLE. With the permission of the Senators, I think the Senator from Ohio is under some misapprehension about this bill. The bill as it has been acted on will reduce pensions on the whole.

Mr. SHERMAN. I say I do not object to the bill.

Mr. VAN WINKLE. This amendment is offered simply to increase the pensions of the higher class of officers. By the law now the highest pension to the grade of lieutenant colonel of the Army and all over it, and the corresponding grades in the Navy, is thirty dollars per month. This amendment proposes that colonels shall have thirty-five dollars, the ascending grade being five dollars a grade, a brigadier general forty dollars, a major general and higher rank fifty dollars. We are constantly besieged with petitions which our committee have felt themselves bound to return here in many cases and refer them to the Military Committee, because they appeared to us simply as gratuities. We do not concede that we have any power to change the law. What we are to do, and what we set ourselves to do with a solemn feeling of duty in relation to it, is that every person who by law is entitled to a pension shall get it. I do not care about pressing this amendment upon this bill at this time, though I apprehend from the small number of these high grades the amount named upon the pensions would be inconsiderable. I leave it to the Senate.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment.

Mr. SHERMAN. I understand it is withdrawn.

Mr. WILSON. Rather than make any trouble about it, I withdraw the amendment.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

PAPERS WITHDRAWN.

On motion of Mr. SPRAGUE, it was

Ordered, That S. W. & E. R. Clarke have leave to withdraw their petition and papers from the files of the Senate.

REPORTS OF COMMITTEES.

Mr. WILLEY, from the Committee on Patents, reported a bill (S. No. 635) to extend the term of letters-patent issued to Richard M. Hoe, accompanied by a report. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. MORGAN, from the Committee on Finance, reported a bill (S. No. 636) in reference to certain accounts on the books of the Treasury Department against John A. Dix, Richard M. Blatchford, and George Opdyke; which was read, and passed to a second reading.

Mr. FERRY, from the Committee on Private Land Claims, to whom was referred the petition of Thomas H. Dowling, praying the passage of a law restoring to him the possession of his property known as the Island of Yerba Buena in the harbor of San Francisco, submitted a report, which was ordered to be printed, and asked to be discharged from the further consideration of the petition; which was agreed to.

FOURTEENTH CONSTITUTIONAL AMENDMENT.

Mr. SHERMAN. With the leave of the Senator from Illinois, [Mr. TRUMBULL,] I desire to move that the Committee on the Judiciary be discharged from the further consideration of the joint resolution (S. R. No. 166) declaring the ratification of the fourteenth article of amendment of the Constitution of the United States, which on my motion was referred to it on Saturday, and that the resolution lie on the table, as I desire to call it up. I have the leave of the Judiciary Committee to make the motion.

The PRESIDENT *pro tempore*. That order will be made if there be no objection.

PRINTING OF AGRICULTURAL REPORT.

Mr. MORTON. I move to take up Senate bill No. 622, with a view of getting a vote on it this morning.

Mr. ANTHONY. I desire to make a report. The PRESIDENT *pro tempore*. Reports are in order.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print additional copies of the report upon agriculture, have instructed me to report it back with an amendment, and I ask for its present consideration.

The PRESIDENT *pro tempore*. The Senator from Rhode Island asks the unanimous consent of the Senate to consider the resolution reported by him at this time. Is there any objection? The Chair hears none. The resolution will be read.

The Chief Clerk read as follows:

Resolved, That there be printed for the use of the Senate twenty thousand extra copies of the agricultural report for 1867, and three thousand extra copies for distribution by the Agricultural Bureau.

Mr. MORTON. I believe my motion was to take up Senate bill No. 622, with a view to getting a vote upon it.

The PRESIDENT *pro tempore*. That was so; but during the morning hour, while there is morning business, the Chair understands that when a Senator rises to present morning business he is not consenting to take up a bill which requires the unanimous consent of the Senate. Of course it cannot be understood that he is urging his proposition for the morning business, and at the same time consenting that another bill shall be taken up. Therefore

this is in order, and the question is on agreeing to the resolution, the Senate having agreed to take it up.

Mr. TRUMBULL. I understand the committee have reported an amendment, and I should like to know what it is.

Mr. ANTHONY. The amendment reduces the number.

Mr. TRUMBULL. Let us hear it.

Mr. ANTHONY. I can state it quicker than the Clerk can read it. The original resolution proposed to print twenty-five thousand copies of the report for the use of the Senate, and five thousand for the use of the Commissioner. The report of the committee reduces the number to twenty thousand and three thousand, the number that we printed last year.

Mr. POMEROY. I do not understand the Senator. What report is it proposed to publish?

Mr. ANTHONY. The report of the Commissioner of Agriculture; the regular agricultural report.

Mr. POMEROY. How many copies do you propose to print?

Mr. ANTHONY. Twenty thousand, the same as last year. The resolution as referred to the committee recommended twenty-five thousand copies, and we have cut it down to twenty thousand.

Mr. POMEROY. Is there anything in it about a map of the United States, or any maps? [Laughter.]

Mr. ANTHONY. Not that I know of. We shall not have any maps printed with our consent.

Mr. STEWART. I should like to inquire what will be the expense?

Mr. ANTHONY. About a dollar a copy.

Mr. CAMERON. This is the usual resolution ordering the usual number of the agricultural report to be printed, and of course nobody will object to that.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee.

The amendment was agreed to.

The resolution, as amended, was adopted.

ORDER OF BUSINESS.

Mr. RICE. I ask the unanimous consent of the Senate to call up for consideration House bill No. 1021.

Mr. DRAKE. I wish to make a motion that pertains to the business of the morning hour, and I object to the present consideration of the motion of the Senator from Arkansas, or that of the Senator from Indiana.

The PRESIDENT *pro tempore*. Objection being made, it goes over for the present.

PRINTING OF AN AMENDMENT.

Mr. WILSON submitted an amendment intended to be proposed to the bill (S. No. 617) to reduce the military peace establishment of the United States; which was ordered to be printed.

EVENING SESSION.

Mr. WILSON. I move that the Senate at five o'clock to-day take a recess until half past seven o'clock, for the purpose of considering certain bills reported from the Committee on Military Affairs.

Mr. RAMSEY and Mr. STEWART. Say general business.

Mr. WILSON. I desire to get through some of the business of our committee.

The PRESIDENT *pro tempore*. It is moved that at five o'clock the Senate take a recess until half past seven o'clock this evening.

Mr. MORTON. I renew my motion to take up Senate bill No. 622.

The PRESIDENT *pro tempore*. There is a motion pending.

Mr. POMEROY. If this recess is to be for the continuation of the business that is before the Senate I have no objection; but if we are to consider a bill for an hour and then lay it aside and let it go over, I object to it. We have got now as many as five or six unfinished bills that have gone over and something else been

taken up. I have no objection to a recess that will continue the business of the session; but I hope when we enter upon the consideration of a bill that we shall finish it. Unless we finish something all the bills will go over as unfinished business.

Mr. WILSON. In order to prevent the consumption of any more time I will modify the motion as suggested, and run the possible chance that of the many bills the Military Committee desire to have considered we may have the privilege of getting up one.

Mr. CONKLING. You had better stick to your original motion. You will carry that if you stick to it.

The PRESIDENT *pro tempore*. It is moved that the Senate take a recess from five o'clock until half past seven o'clock this evening.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. CAMERON. I beg the indulgence, only for a minute, of the Senator from Indiana, to pray that the Senate will take up a little resolution allowing the importation free of duty of the cap to a military monument at Harrisburg, which has passed the other House.

Mr. DRAKE. I object.

Mr. CAMERON. On what ground do you object?

Mr. DRAKE. Because this is the morning hour, and the morning business is not disposed of.

Mr. CAMERON. The Senator will see that there are just one or two minutes left of the morning hour.

Mr. DRAKE. I have been trying for some time to make a motion that belongs to the business of the morning hour. The only reason why I object to this bill, or any other, is because I wish to make a motion that is, in my opinion, a privileged question, and belongs to the morning hour. I move that the House of Representatives be requested to return to the Senate the bill looking to the restoration of Commander Aaron K. Hughes to the active list of the Navy. I made the motion some time ago, but it was carried over, because there was then a bill under consideration.

Mr. NYE. I object to the consideration of that motion.

Mr. CAMERON. Now, Mr. President, I hope you will put my motion. I pledge myself that I shall not say a word in favor of it. I merely desire to have the resolution read and considered. It is only four lines, and I ask the Senator from Indiana to give way for one minute to allow me to do so.

Mr. MORTON. It is not nearly so important as the bill I ask the Senate to take up.

Mr. HENDRICKS. This demand for the consideration of the morning business is exceedingly earnest just now. It has been customary when a bill has been called up to consider it. The bill urged upon the Senate by my colleague is one that has a claim upon the consideration of the body, for it has been very considerably discussed, and it is quite as appropriate to the morning hour as the proposition of the Senator from Missouri. It is a bill of great importance to western commerce, and I think we have a right to expect of the Senate its consideration. I ask that the motion made by him shall be put to the Senate, and then we shall know whether the bill has the favor of this body or not.

Mr. CAMERON. I am as much in favor of the passage of the bill of which the Senator from Indiana has just spoken as any gentleman here, and I shall give it my vote.

RIGHTS OF CITIZENS ABROAD.

The PRESIDENT *pro tempore*. The morning hour having expired the unfinished business of Saturday, being the bill (H. R. No. 768) concerning the rights of American citizens in foreign States, is before the Senate, superseding everything else.

Mr. CAMERON. I ask the two Senators from Indiana to give way for one moment to

pass the joint resolution to which I have referred.

Mr. CONNESS. On the bill which is the unfinished business, I desire to say that, so far as I feel interested in it, I wish the Senate would come to a vote without much further discussion. Considering the condition of the public business, I hope that that will be the case. The Senate understands the question, and I am willing that we shall come to a vote upon it, and hope we shall.

Mr. WILSON. I ask the Senator why he will not withdraw the amendment he proposes and take the vote on the amendment as reported by the Committee on Foreign Relations, and be done with it?

Mr. CONNESS. For the reason that I want a vote on my amendment. Of course, if the Senate vote that down, then they will vote on the amendment of the committee.

Mr. MORTON. I appeal to the Senator from California to allow the unfinished business to pass over informally for a short time, and see if we cannot get a vote on the bridge bill. It is very important that the vote should be taken to-day.

Mr. CONNESS. I would yield to the Senator if to anybody, as he well knows; but the importance of coming to a vote upon this bill now cannot be overstated. I think we can get a vote this morning so as to take it out of the way and let the bill of the Senator from Indiana and other pressing business be acted upon. Therefore I hope we shall go on with it and vote.

The PRESIDENT *pro tempore*. That bill is before the Senate, and the question is on the amendment offered by the Senator from California to the amendment reported by the Committee on Foreign Relations, which will be read.

The CHIEF CLERK. The amendment is in section three, line ten, to strike out the words "to suspend in part or wholly commercial relations with the said Government, or in case no other remedy is available."

Mr. PATTERSON, of New Hampshire, obtained the floor.

Mr. THAYER. The Senator from New Hampshire kindly yields to me for one moment. It will be recollected that the other day a bill of which I had charge had actually passed, at least I think the vote was taken, (H. R. No. 1376,) and the Senator from Missouri [Mr. HENDERSON] asked me to delay it a short time that he might make an inquiry in regard to it. I desire now to have the vote declared on that bill with the assent of the Senator from Missouri.

Mr. CONNESS. The honorable Senator cannot do that.

Mr. THAYER. It is simply to have the vote declared. My recollection is that it was taken and the bill was actually passed. It is necessary to have it go to the House and have the amendment concurred in. All parties are satisfied in regard to it.

Mr. CONNESS. If the Chair will decide that that may be done, I have no objection.

The PRESIDENT *pro tempore*. The Senator knows as well as the Chair does, that while this bill is before the Senate, nothing else can be done except by unanimous consent.

Mr. CONNESS. Then I hope we shall go on with it.

Mr. ANTHONY. I understand the Senator from Nebraska to move to postpone this bill with a view to taking up the one mentioned by him.

The PRESIDENT *pro tempore*. The Chair did not understand him to make any motion. If he did he will state it.

Mr. THAYER. The Senator from New Hampshire yielded to me the floor. I did not understand that the Senator from California had any control of it. I simply desire to have the vote declared. The bill did pass, and I might have insisted upon it then.

The PRESIDENT *pro tempore*. The Senator from Nebraska must understand that his

motion can only be entertained by unanimous consent of the Senate, and that the Senator from California is objecting to it. Therefore it cannot be considered.

Mr. THAYER. Then I move that the vote on that bill be declared.

The PRESIDENT *pro tempore*. Nothing can be done except to go on with the bill under consideration.

Mr. CONNESS. I wish to say to the honorable Senator from Nebraska before we go on, that I had stated that if the Chair would decide that the vote might be declared I had no objection; but I would object to anything further.

The PRESIDENT *pro tempore*. The Senator knows that the Chair cannot declare that under the rule.

Mr. PATTERSON, of New Hampshire. Mr. President, the Senator from California, after having made his speech on this subject on Saturday, seems very anxious that the vote should now be taken without any further remarks; but I think it would be well to consider a few of the points which he made on Saturday against the bill as it came from the Committee on Foreign Relations. He moves an amendment to the bill striking out the reprisal clause, so far as commerce is concerned, but retains it in reference to individuals, and that certainly is the most offensive part of that section of the bill.

I wish to say a word in relation to some strictures which he made upon the committee. He intimated that the committee had more ideas than sympathy upon this subject. I admit that they had some "views," as he expressed it, upon the subject which modified slightly their sympathies; but that any member of the committee had less sympathy with the bill or the objects to be secured by the bill than the gentleman from California, I deny. They understood what perhaps he does not understand, or at any rate what he did not intimate in any remarks which he made, that the bill immediately affects one sixth of the entire population of this country. We have six million foreigners in this country, every man, woman, and child of whom is to be affected by this bill. The committee understood perfectly well that this class of people had cast their lot among us; that we are indebted to them for wealth, for industry, for their efforts to save our Government when it has been assailed by the enemies of the country; and though the country is theirs by adoption, they have made it their own by burying their heroic dead in its bosom. These are the men who come here and ask the passage of this bill; and every member of the committee is anxious that their claims and their voices should be heard on this subject.

But the question is, whether we shall put into the hands of the President of the United States the power to make reprisals upon the commerce and the innocent subjects of foreign Governments which may have offended against our citizens. I suppose the gentleman knows perfectly well that this bill rests upon a different understanding as to the law of nations between some European Governments and our own.

The gentleman from Michigan, very much to my surprise, spoke of the "American doctrine" on Saturday. Why, sir, the idea that the right of expatriation is inalienable, natural, is not American in any peculiar sense unless it is because the American people have adopted the idea. It is older than the very existence of our Government, and the doctrine was advocated by publicists before the American continent was discovered.

Mr. HOWARD. If the honorable Senator will allow me a moment, I did not speak of the right of expatriation, which is a right as old as the Roman law, as being peculiarly an American doctrine. What I spoke of as the peculiar American doctrine was this, that when a foreigner had become naturalized under our laws, he was as much entitled to the protec-

tion of our Government abroad or elsewhere as a native-born citizen of the United States.

Mr. PATTERSON, of New Hampshire. I do not see that the gentleman's explanation makes any difference. Plato said in his day that—

"At Athens it was permitted to each person, upon examining the laws and customs of the republic, if there was nothing found to his charge, to retire, with all of his goods, wherever else it pleased him."

Again:

"The Romans obliged no person to reside in their State, and Cicero warmly praised this maxim; he said, 'that every man ought to be able to retain or renounce his right, and that this is the firmest foundation of liberty.'"

Grotius adopts the same theory, but proceeds to qualify it in this way:

"That one ought not to leave the State if the interests of civil society demand that he should remain there."

So that the doctrine is not a new doctrine; is not an American doctrine at all; but it comes in conflict with the doctrine as laid down by England and several of the European Governments. Here is an epitome of the doctrine of England on this subject of expatriation:

"The allegiance of a subject, according to the law of England, is permanent and universal; he can, by no act of his own, abjure or repudiate the duties which it involves; nor can he, by emigration, or any voluntary change of residence, escape its legal consequences."

And then it goes on to say that the doctrine is "founded in reason and the nature of government." Now, you see there is a direct conflict between the American idea, if the Senator prefers so to designate it, and the European idea on this subject of expatriation. We may pass a law through our House of Representatives and Senate, and its force cannot extend beyond our territory. No law of ours has any extra territorial power. Questions of difference upon international law must be settled by treaty and not by law. If we hold one doctrine and England holds the very opposite, and we put in the hands of the President of the United States the power to make reprisals, it is simply declaring war by an act of legislation. The committee thought it very unwise to put such powers into the hands of a single man, even the President of the United States; that it would be better to hold that matter subject to the authority and supervision of Congress. It was for this reason that the section which the gentleman has sought to amend was stricken out by the committee before it was thrust into the Senate.

But the gentleman from California said in reply to the chairman of the committee that the quotations he had made from writers upon international law did not apply to times of peace; that they referred peculiarly and solely to a period of war. He ought to know better than that. He ought to know that the question of reprisals, the *lex talionis*, refers not specially to a time of war, but a period antecedent to the declaration of war.

Mr. EDMUNDS. Always.

Mr. PATTERSON, of New Hampshire. "Always," the gentleman from Vermont says. War frequently follows when the nation upon whom we have retaliated refuses to make reparation for the wrong which they have done. So that the references made by the gentleman from Massachusetts were directly applicable to the case in hand, and not to a time of war.

Mr. CONNESS. If the Senator will permit me, surely the references made to the acts of the first Napoleon were during and pending wars.

Mr. PATTERSON, of New Hampshire. The acts of the first Napoleon were not the sole acts referred to by the gentleman from Massachusetts.

Mr. CONNESS. They were acts quoted in exposition of his doctrine.

Mr. PATTERSON, of New Hampshire. If the gentleman will refer to Vattel or to Wheaton, he will find in almost every passage in either of those authors upon this subject

reference is had, not to a time of war, but to a time of peace.

Now, let us look for a moment at the bearing of the amendment which the gentleman offers on this subject. He desires that we shall give up this reprisal upon the commerce of the offending nation, but that we shall retain the right of reprisal upon the innocent subjects of the offending nation. Let me read a passage from the notes of Mr. Dana in his last edition of Wheaton. He says:

"The right of making reprisals is not limited to property, but extends to persons. Still, the practice of modern times discountenances the arrest and detention of innocent persons, strictly in the way of reprisals."

"It is agreed that reprisals for private wrongs should never be resorted to by a Government until all reasonable appeals to the Government of the wrong-doer have been exhausted."

Now, the question is whether we shall put it into the power of the President of the United States, whenever the English Government, for instance, has seized an American citizen and cast him into prison, to retaliate upon the subjects of that Government. Why, sir, take it during the last war. Some of the rebels of the South escaped into Canada, and there they combined against the Government of this country, laid their schemes to make inroads upon our institutions and property on this side of the line. Suppose that this Government had taken offense with the English Government or the provincial government for the part which it took in the trial of those offenders, and had seized subjects of Great Britain in New York or Massachusetts and thrust them into prison, put them there, as the gentleman says, to rot; the very thing which he objects to in the English Government we should become guilty of ourselves. It would be far more honorable if the English Government seizes an American citizen unjustly and casts him into prison to use the whole power and all the resources of the nation to seek redress from the Government which has offended rather than to take innocent parties and make them accountable for the offense of their Government.

Mr. CONNESS. If the Senator will bear with me for a moment, as I do not propose to speak again, I desire to say that I do not think he has stated my position fairly.

Mr. PATTERSON, of New Hampshire. I have no wish to misrepresent the gentleman.

Mr. CONNESS. I suppose the Senator does not intend to misstate it. He has just quoted from a book which declares precisely the position stated in this bill as it will stand if amended as I propose, namely, that reprisals are not to be resorted to by any nation against another or the people of another until all reasonable modes of adjustment have been exhausted, and then it is accepted as one of the means. Now, what does this bill say as proposed to be amended:

"That whenever it shall be duly made known to the President that any citizen of the United States has been arrested, and is detained by any foreign Government in contravention of the intent and purposes of this act, upon the allegation that naturalization in the United States does not operate to dissolve his allegiance to his native sovereign, and whose release upon demand shall have been unreasonably delayed or refused."

The very acts that the authority states must be exhausted before reprisals are resorted to.

Mr. PATTERSON, of New Hampshire. The gentleman knows very well that one of the principal objects of his bill is to meet a case which is now before the public mind—the action of England in respect to our naturalized citizens from Ireland. I am fully in sympathy with the Irish people in their desire to secure justice from the English Government. I think they have been oppressed and wronged for generations; and I desire, as I think every right-minded American must desire, that that wrong should cease; that the English Government shall be brought to justice. But it is not strange when the Irish population who have been naturalized in this country are combining to secure this end, and the English Government is on the alert to counteract the influence

of those combinations, that now and then an innocent person should be arrested and cast into prison. We might have done that ourselves during the late war; and it is not right, it is not proper in any view, that in a bill of this kind, passing through the Congress of the United States, we should do anything which will commit our Government to the effort of the Irish people to secure their rights. I desire that justice shall be done to the Irish people, for I want to see that generous people lifted up to the place which is theirs by a natural right. The nation that has furnished the poets and orators and statesmen to England for half a dozen generations should have justice done to it; but do not let us here, in passing a bill of this nature through the Senate, do a wrong to our own Government through our sympathies for this oppressed people. The committee desire that justice shall be done, but they do not want that we should do a wrong to innocent parties, which might be done under this reprisal clause of the bill.

Mr. WILLIAMS. I am not fully satisfied with the amendment to the pending bill proposed by the Senator from California, although I regard it as an improvement upon the bill as it passed the House. Nor am I satisfied with this bill as the Committee on Foreign Relations proposes to amend it; and I have, with due deference to all, prepared an amendment which I shall offer in due time, and, with the consent of Senators, I will have it read now for the information of the Senate.

The Chief Clerk read the proposed amendment, which was to strike out all of the third section after the enacting clause and insert:

"That whenever it shall be made known to the President that any citizen of the United States has been deprived of his liberty by or under the authority of any foreign Government, it shall be the duty of the President forthwith to demand of that Government the reasons for such imprisonment, and if it appears to be wrongful and in violation of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused it shall be the duty of the President to use such means as he may think necessary and proper to obtain or effectuate such release; and all the facts and proceedings relative thereto shall, as soon as practicable, be communicated by the President to Congress."

Mr. WILLIAMS. Mr. President, so far as the preamble to this bill is concerned, it states some propositions which are correct, and some which, in point of fact, are not correct, and probably never will be correct in the history of the United States; and this bill, in my judgment, would be improved, would be made more consistent with the history of the country, and with the principles that we intend to establish, if the preamble was stricken out. I regard preambles as objectionable, because they sometimes by their recitals commit Congress to positions which it may not wish to occupy when future questions of legislation may arise.

Passing, however, from the preamble to section one of the bill; that simply provides that the courts and officers of the United States shall declare the law to be as defined in this bill. That is all the duty that is imposed upon the Government or any officer of the Government by the first section of the bill.

Section two proceeds to declare what the law is, so far as naturalized citizens are concerned. It is simply declaratory of the law.

A bill that undertakes simply to declare what the law is upon a given subject and does not provide any means for its enforcement, that does not provide any remedy in case the law is violated, is certainly a law of very little practical value. Section three, if I understand it as it was passed by the House, although it suggests some objectionable propositions, yet does not provide any means for the enforcement of the principle which is declared in the second section of the bill. It simply provides that whenever it is made known to the President that a naturalized citizen of the United States "is detained by any foreign Government in contravention of the intent and purposes of this act, upon the allegation that

naturalization in the United States does not operate to dissolve his allegiance to his native sovereign," then the President is "empowered" to do certain things; but he is not required to do anything. In such a case he is empowered to suspend commercial relations with the aggressive country.

He is empowered to arrest a citizen of that country who may happen to be in the United States; but whether he will do so or not is entirely left to his discretion. No duty is imposed upon the President of the United States in any way to protect any citizen in a foreign country. I concur with the committee in recommending that those portions of the bill which confer the specific powers there named upon the President should be stricken out, for the reason that they only provide two specific ways by which the rights of American citizens abroad shall be vindicated; one is by suspending commercial intercourse with the foreign country, and the other is by arresting a citizen of that country in the United States, when there may be a great variety of cases arising where other and different means would be equally effective, and where the end desired could be accomplished without resorting to such dangerous and violent measures.

Now, if I understand this bill, it only provides protection for a naturalized citizen of the United States. Although the bill would seem to convey the idea in one clause that if any citizen shall be arrested and detained abroad, and his release on demand shall be unreasonably delayed and refused, the President shall proceed as prescribed in this bill; yet that clause refers "to the said Government," and to "such foreign Government" in other clauses of the bill, implying that it must be that Government which arrests the citizen upon the allegation that naturalization in the United States does not operate to dissolve the citizen's allegiance to his native sovereign. I do not know that I fully understand the meaning of that section. I think it ought to be made clear and distinct, so that it will not be susceptible of misconception; but according to its fair interpretation, it seems to me that it only undertakes to protect naturalized citizens in foreign countries, and in that respect I think the bill is greatly defective, for it ought to provide for the protection of all American citizens in foreign countries. I can see no reason why this special protection should be extended to naturalized citizens and not extended to native-born citizens of the United States.

This bill, if I understand it, only provides a remedy where a citizen is arrested upon the mere allegation, and upon no other ground, that naturalization in the United States does not dissolve his allegiance to the Government under which he was born. If an American citizen is arrested in a foreign country upon any other ground, upon any other pretext whatever, or if he be a native citizen, then he is not, according to the terms of this bill, entitled to the protection of this Government. I insist that if we undertake to pass a bill, and engage in solemn legislation under a proclamation that we are proceeding to protect the rights of American citizens in foreign countries, we shall not reach the "lame and impotent conclusion" that no citizen is to be protected in a foreign country unless he is naturalized, and is arrested upon the mere ground or pretense by a foreign Government that naturalization does not dissolve the allegiance of a man to the Government under which he was born.

The amendment that I propose provides that whenever it shall be made known to the President of the United States that an American citizen has been deprived of his liberty in a foreign country it shall be the duty of the President to do something; not that he shall have power, if in his judgment he sees proper, to act; but he shall proceed at once and investigate the facts of the case, and he shall ascertain whether that imprisonment is rightful or wrongful, whether or not it violates the rights of American citizenship; and if he

ascertains that the imprisonment is unjust and unfounded, that it is made upon some frivolous pretext, that it is made for some alleged political opinion which the party entertains to which that Government does not give its sanction, that he shall proceed upon ascertaining the facts and demand the release of that citizen so imprisoned, and if that Government after this demand is made by the Executive shall unreasonably refuse to grant that release, then my amendment requires him to use such means as in his judgment may be necessary and proper to obtain or to effectuate the release.

There can be no possible objection to this amendment, as it seems to me, except to that portion of it which proposes to confer discretionary power upon the Executive of the United States. It will be observed that it does not require him to seize any property; it does not require him to suspend commercial relations, but he is left to exercise his judgment as the circumstances of the case may require in order to obtain the release of the American citizen who is wrongfully imprisoned in a foreign country. He may resort to all the instrumentalities of diplomacy to accomplish that purpose. He may intimate to the foreign Government that the United States will regard its acts as violative of international law, and will not submit to outrages upon the rights of its citizens; and such an intimation coming from the Executive of the nation under a law of this description will have power, will produce influence, and in many cases, I venture to say, it will result in the release of the person imprisoned.

Now, sir, if I understand the history of this subject, many grievances which our citizens suffer in foreign countries arise from inattention on the part of the American Government. I believe it is a fact that the citizens of no civilized country upon the globe receive so little attention in foreign countries from their own Government as the citizens of the United States; and this law, if it is to amount to anything at all, ought to compel the Executive to proceed forthwith to give attention to these complaints whenever it is alleged to the Executive of the country that a citizen of the United States is suffering in a foreign prison, it should be the duty of the Executive forthwith to proceed and examine into the case, otherwise the rights of American citizenship are of little value whatever in a foreign country.

I admit that this power in the hands of the Executive may be employed so as to produce mischievous effects. No the power conferred on the President by the Constitution of the United States, to be Commander-in-Chief of the Army and Navy, may be perverted and abused, and may be used for the destruction of the Government. Something must be intrusted to the Executive in reference to this matter. He is the proper department of the Government to act, and the action should be at once; because delays, under some circumstances, are dangerous and absolutely destructive of the end to be accomplished. It cannot be presumed that the President will exercise this power to the detriment of the country. Law has been read by the honorable Senator from Massachusetts, showing that a reprisal, such as is contemplated by the bill, is contrary to the usages of nations, and if the power is conferred upon the President, it is not to be presumed that the Executive will violate the law of nations or undertake to exercise any of the dangerous powers that are now specifically conferred upon him by the bill. But, sir, he may negotiate for the release of an American citizen imprisoned in a foreign country. He may use all the influences that he can to secure his restoration to liberty; and cases may arise where it would be the duty of the Executive of the nation, and where he ought to have the power at once, without any delay, to wrest an American citizen from the clutches of a despot in a foreign country. I can imagine many cases where the Executive should be invested with the power at once to proceed and vindicate the rights of

American citizenship upon foreign soil by all the power of the nation.

The idea that when an American citizen is arrested without cause in a foreign country he is to lie in a dungeon, if that be the will of the foreign Power, until the President of the United States shall communicate the matter to Congress and Congress shall proceed with its endless debates to discuss the subject before any relief shall be afforded is simply a mockery, to

"Keep the promise to our ear
And break it to our hope."

I think, therefore, that we ought to make it the positive duty of the President to act in the cases contemplated by this bill in the case of all citizens naturalized or native born who may be wrongfully imprisoned in foreign countries. We can safely intrust this discretionary power to him as we do in other cases, presuming, of course, that the President of the United States, under his responsibility to the American people, would not wantonly and wickedly involve this nation in war.

Sir, he has that power now if he sees proper to abuse and pervert it. I believe it was alleged by a great party in the country that President Polk involved the United States in a war with Mexico without any legislation or action on the part of Congress. The power that was in the hands of Polk is in the hands of every Executive, and if you proceed upon the ground that no judgment is to be given to the Executive, as proposed in my amendment, then you ought to strip him of all the discretionary power which he exercises.

Sir, without consuming more time, it appears to me that this bill, as it came from the House of Representatives, is objectionable as I have indicated, and if it is amended as proposed by the Committee on Foreign Relations it is emasculated and simply provides in effect that the President, if he ascertains certain facts, shall communicate those facts to Congress, when, perhaps, the same facts would be as well known to Congress without as with such a communication, and it amounts to nothing in a practical point of view for the protection of American citizens in foreign countries. I hope it will be amended so that it may be made effective, and so that it will reach the purposes which this legislation contemplates.

MR. MORTON. I concur very much with the remarks made by the Senator from California last Saturday upon the amendment offered by him. His speech was eloquent, and evidently came from his heart as well as from his head; and I agree with him in the sentiments he uttered and sympathize with the purpose of his speech; but I differ with him somewhat in regard to the remedy proposed for the evils to be redressed. I agree with the preamble of this bill that the right of expatriation is a natural and inherent right, because it is a part of our liberty. A man is shorn of a very important part of his liberty who has not the right to leave one country and make his home in another.

MR. FERRY. I should like to ask the Senator a question right at this place. Suppose the country to be engaged in war; has its Government a right to prevent its citizens leaving the country to avoid their duties in its defense?

MR. MORTON. The Senator from Connecticut proposes, perhaps, an extreme case, which I will not undertake to discuss just now. There may be considerations of public safety, in time of war, which overrule, for the time being, the natural rights, as such considerations do in very many other cases. I say that a man's right to withdraw from his native country and make his home in another, and thus cut himself off from all connection with his native country, is a part of his natural liberty, and without that his liberty is defective. We claim that the right to liberty is a natural, inherent, God-given right, and his liberty is imperfect unless it carries with it the right of expatriation. So I concur with the preamble of this bill; and I fully concur with the further declaration that "all naturalized citizens of the United States, while in foreign States, shall

be entitled to and shall receive from this Government the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances."

Mr. President, this may be said to be an emigrant nation; we were all emigrants but a few generations back, and the very character of the country, the way our nation has been brought into existence, makes the assertion of this principle a necessity. We invite men of foreign birth to our shores; they come; they bring to us wealth and labor and development and power, and we are bound, by every principle of natural justice and of national duty to protect these men as if they were born upon our soil wherever they may go. It is a duty incumbent upon the Government, for they are only in the assertion themselves of a natural and inherent right, and it is our duty to protect our citizens in the enjoyment of their natural inherent rights wherever they may go.

But while I agree with the Senator from California and with this bill in the declaration of principles that is made, I disagree with him in regard to the remedy; and it was upon that point that the committee amended the original bill as it came from the House of Representatives. The bill consists of two parts; first, the declaration of principles; and secondly, the remedy to be provided for a violation of those rights by a foreign Government.

The bill as proposed to be amended by the Senator from California should be somewhat differently entitled. It should be entitled "A bill for the protection of naturalized American citizens abroad," for his amendment is applicable only to cases where citizens are held in prison or arrested abroad upon the allegation that they owe allegiance to the Government that has arrested them and holds them in prison.

Mr. CONNESS. I beg to state to the Senator that that is the body of the bill as passed by the House of Representatives, not my amendment.

Mr. MORTON. As I understand the Senator, he has eliminated from the third section that part which refers to all cases, which is the second clause of the third section; but perhaps I am mistaken about it.

Mr. CONNESS. The Senator is mistaken.

Mr. MORTON. The substance of the amendment of the Senator from California is to authorize the President of the United States, in case an American citizen is arrested and held without justice or good cause, or is unreasonably detained, to seize and hold in prison or in custody a subject of the Government that has thus improperly arrested and held American citizens. For example, if the English Government has arrested and holds in custody an American citizen improperly, in the opinion of the President of the United States, then the President is to have the power to seize a subject of that Government and imprison him for the purpose of compelling the other Government to set at liberty the American citizen thus improperly imprisoned.

My objection to this clause is based upon two or three reasons. First, to seize an innocent citizen or subject of another country and hold him in prison on account of the improper arrest of an American citizen would be an act of personal injustice and outrage. I ask what subject of a foreign Government could come to this country with safety and feel that he was safe here, and in the full enjoyment of personal security as at home, if he is liable to arrest by the President of the United States because an American citizen has been improperly arrested and held in prison in England? What English subject would feel safe in visiting this country or in traveling through it? And then the personal injustice, I might say wickedness, of putting into prison an Englishman in this country who has no knowledge of the arrest that has been made in England, perhaps, has no connection with it, who is entirely innocent of the cause of trouble, is repugnant to modern civilization, and is certainly repug-

nant to all the principles of personal justice and humanity.

But, Mr. President, there is even a greater objection to this proposition than that; and it is that you put the power into the hands of the President, unrestrained except in the exercise of his judgment, to make war with any other country; you give to the President the power of peace or war. If the President thinks an American citizen has been improperly arrested and detained, he can go to war. He may get a false account. He may have been told that an American citizen has been arrested and convicted in England for words spoken in America, and it may turn out that it is a mistake; but the whole matter is left to the decision of one man, and upon that decision, perhaps, there is a war depending which may cost the lives of hundreds of thousands of men and billions of dollars. It is too great a power to place in the hands of any man. I would not give it to the best President that ever occupied the White House. I say I would not give that power to any one man that ever has occupied the White House, or ever will.

Mr. President, a matter of that kind that involves the peace of two countries ought to be referred to Congress for its determination; it ought to be fully considered and the Senators and Representatives in Congress, after full information and examination, should determine what should be the remedy for the evil, for the unjust imprisonment or detention of the American citizen abroad. Why, Mr. President, what would be the effect? I ask the Senator from California what would be the effect of the arrest and detention of a British subject or of a subject of North Germany or any other great Power if we should seize one of their citizens and imprison him upon such a pretext as that? Suppose now in consequence of the improper imprisonment, as it is alleged, of an American citizen in England we should seize Charles Dickens or any other distinguished British subject, or even a British subject of no distinction, and arrest him and hold him. The British Government has already said to our Government they had good cause for holding the American citizen. We will assume that the President has been in communication with the British Government and the British Government has said, "We had good cause for arresting this man; he has violated our law; and we are only acting in obedience to our laws." After the British Government has said that to the President of the United States, the President disagreeing with it, he is to make the arrest of a British subject here. I ask if the British Government or any other Government would in that case back down and release the American citizen in consequence of the arrest of a citizen of theirs? No, sir; it puts the remedy in the most offensive form.

Mr. CONNESS. Will my friend permit me to make a suggestion at this point?

Mr. MORTON. Yes, sir.

Mr. CONNESS. I understood my friend to use this language: what would the consequence be if we should arrest a citizen or subject of any great Power upon such a pretext as that; that is, upon a pretext that they held one of our citizens in custody and had convicted him without alleging that the cause of the conviction was for acts done or words spoken in the United States. I submit to my friend that that is not a fair statement of the case. The predicate of this act is here succinctly and plainly stated. We are to take nothing for granted. The President is first to ascertain the facts. "Whenever it shall be duly made known to the President that any citizen of the United States has been arrested, and is detained by any foreign Government, in contravention of the intent and purposes of this act upon the allegation that naturalization in the United States does not operate to dissolve his allegiance," not because he is alleged to have committed a crime there, no matter whether it is true that he committed that crime or did not; but denying this right of expatriation, denying our citizenship con-

ferred upon that man and the rights accruing to him. No man will deny, the Senator will not deny, that if there were a case of that kind, this nation must go to war.

Mr. MORTON. As to whether these facts exist on which my friend says the Government must go to war, that depends simply upon the judgment of one man, the President of the United States. Can we intrust that power to one man, a thing about which he may be mistaken? Can such a decision as that be made by anybody except Congress?

But, Mr. President, to proceed with my argument on this point, this bill presupposes that before the President shall take any action he shall have made an effort to procure the discharge of the American citizen in custody.

Mr. WILLIAMS. I submit to the Senator that it imposes no duty whatever upon the President. The bill as it passed the House does not require the President to do a single thing.

Mr. MORTON. I take it for granted that that is what it means; that the President is not to take this rash measure without first attempting by negotiation to procure a discharge of the prisoner. The bill must proceed upon the idea that the President shall first attempt to procure the discharge of the American citizen by negotiation, and after everything has failed then this is presented as the *dernier resort*, the right to arrest and hold a citizen of the foreign country in custody as a reprisal. Let us suppose that an American citizen is arrested; the President calls upon the British Government to explain the arrest and release the man. Negotiations take place. The British Government explain and say: "We arrested him for a certain cause, and tried and convicted him; we are right according to our laws, and we shall hold him." After an investigation of the question they refuse to give him up. The President says: "You refuse to surrender this man; in my judgment he is improperly detained; I will, therefore, seize and hold a British subject," and he does so. Now, I ask you whether you would expect any Power, whether first class, second class, or third class, after having put itself in this position by negotiation, to surrender the American citizen because one of their own subjects has been arrested? No, sir; no Government could do it honorably before the world, and none would do it. This would be the most offensive form in which the arrest of a citizen of a foreign country could be made by the American Government.

Mr. President, so far from the arrest of a British subject bringing about the discharge of the American citizen that the British Government has persisted in holding in custody after due explanation and negotiation, they would inevitably persist in holding him, and it would lead to war unless we abandoned our position.

Now, Mr. President, let us reverse the case for a single moment and see what we would do under those circumstances. Let us suppose we had arrested a British subject during the war for having conspired to aid the rebels and imprisoned him. The British Government demand his release. We refuse it. We say to the English Government through our minister, "We arrested this man for certain causes; we tried him and convicted him of certain acts of hostility and conspiracy to this Government, and therefore we hold him." The British Government says in reply to that, "You have no right to hold this subject of ours," and consequently they arrest an American citizen in London and put him into a dungeon. I ask you what we would do under these circumstances. Would we let the British subject go, the man convicted and imprisoned according to our laws? No; it would lead to conflict and to war between the two countries.

Mr. President, if it is desirable to get up a war between this country and any great Power I cannot conceive of a better plan of accomplishing that object than to do this. It is a remedy that is sure to bring no relief, because it is a remedy that strikes at the pride of nations,

strikes at the justness of their conclusions. As they have already said that they have a right to hold the men they have got, and as they have said that before we take one of their citizens they will say it afterward, and then what comes? They will say to us: "You have arrested a British subject without authority and without right; you must let him go immediately or it is a *casus belli*." When they say that to us we answer, "No; we will hold him, because you first arrested improperly and hold one of our citizens." What is the consequence? War; there is no other alternative unless one of the parties backs out from its position.

I agree in the necessity of asserting the rights of American citizens abroad, but I am not willing to place in the hands of the President of the United States the power to bring on war in any contingency.

PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had on this day signed and approved the following acts:

An act (S. No. 486) to facilitate the settlement of certain prize cases in the southern district of Florida;

An act (S. No. 550) for the relief of Robert Ford;

A resolution (S. R. No. 113) authorizing the Secretary of the Treasury to issue an American register to the British-built brig Highland Mary;

An act (S. No. 422) granting a pension to Maria Schweitzer and the minor children of Conrad Schweitzer, deceased;

An act (S. No. 382) granting an increase of pension to Obadiah T. Plum;

An act (S. No. 314) for the relief of George T. Brien;

An act (S. No. 383) granting a pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased;

An act (S. No. 175) for the relief of Joseph McGhee Cameron and Mary Jane Cameron, children of La Fayette Cameron, deceased;

An act (S. No. 517) granting a pension to the widow and children of Henry Brown;

An act (S. No. 518) granting a pension to the widow and child of John P. Felty;

An act (S. No. 564) concerning the tax commissioners for the State of Arkansas;

An act (S. No. 547) granting a pension to John Sheets;

An act (S. No. 521) granting a pension to the children of William M. Wooten, deceased;

An act (S. No. 454) for the relief of Samuel N. Miller; and

An act (S. No. 355) authorizing the construction of a bridge across the Missouri river upon the military reservation at Fort Leavenworth, Kansas.

ELECTORAL VOTES OF LATE REBEL STATES.

Mr. MOORE also delivered the following message:

I am directed by the President of the United States to return to the Senate, in which House it originated, the joint resolution (S. R. No. 139) "excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized," with his objections thereto in writing.

Mr. EDMUNDS. I move to lay aside the bill regularly before the Senate and take up the joint resolution returned by the President with his veto.

The motion was agreed to.

The PRESIDENT *pro tempore* presented the veto message; which was read, as follows:

To the Senate of the United States:

I have given to the joint resolution, entitled "A resolution excluding from the Electoral College votes of States lately in rebellion, which shall not have been reorganized," as careful examination as I have been able to bestow upon the subject during the few days that have intervened since the measure was submitted for my approval.

Feeling constrained to withhold my assent,

I herewith return the resolution to the Senate, in which House it originated, with a brief statement of the reasons which have induced my action.

This joint resolution is based upon the assumption that some of the States whose inhabitants were lately in rebellion are not now entitled to representation in Congress and to participate in the election of President and Vice President of the United States.

Having heretofore had occasion to give, in detail, my reasons for dissenting from this view, it is not necessary at this time to repeat them. It is sufficient to state that I continue strong in my conviction that the acts of secession, by which a number of the States sought to dissolve their connection with the other States and to subvert the Union, being unauthorized by the Constitution, and in direct violation thereof, were, from the beginning, absolutely null and void. It follows necessarily that when the rebellion terminated the several States which had attempted to secede continued to be States in the Union, and all that was required to enable them to resume their relations to the Union was that they should adopt the measures necessary to their practical restoration as States. Such measures were adopted, and the legitimate result was that those States, having conformed to all the requirements of the Constitution, resumed their former relations, and became entitled to the exercise of all the rights guaranteed to them by its provisions.

The joint resolution under consideration, however, seems to assume that by the insurrectionary acts of their respective inhabitants, those States forfeited their rights as such, and can never again exercise them except upon readmission into the Union on the terms prescribed by Congress. If this position be correct, it follows that they were taken out of the Union by virtue of their acts of secession, and hence that the war waged upon them was illegal and unconstitutional. We would thus be placed in this inconsistent attitude, that while the war was commenced and carried on upon the distinct ground that the southern States, being component parts of the Union, were in rebellion against the lawful authority of the United States, upon its termination we resort to a policy of reconstruction which assumes that it was not in fact a rebellion, but that the war was waged for the conquest of territories assumed to be outside of the constitutional Union.

The mode and manner of receiving and counting the electoral votes for President and Vice President of the United States are in plain and simple terms prescribed by the Constitution. That instrument imperatively requires that the President of the Senate "shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted." Congress has, therefore, no power under the Constitution to receive the electoral votes or reject them. The whole power is exhausted when, in the presence of the two Houses, the votes are counted and the result declared. In this respect the power and duty of the President of the Senate are, under the Constitution, purely ministerial. When, therefore, the joint resolution declares that no electoral votes shall be received or counted from States that since the 4th of March, 1867, have not "adopted a constitution of State government under which a State government shall have been organized," a power is assumed which is nowhere delegated to Congress, unless upon the assumption that the State governments organized prior to the 4th of March, 1867, were illegal and void.

The joint resolution, by implication at least, concedes that these States were States by virtue of their organization prior to the 4th of March, 1867, but denies to them the right to vote in the election of President and Vice President of the United States. It follows either that this assumption of power is wholly unauthorized by the Constitution, or that the States so excluded from voting were out of the Union by reason of the rebellion, and have

never been legitimately restored. Being fully satisfied that they were never out of the Union, and that their relations thereto have been legally and constitutionally restored, I am forced to the conclusion that the joint resolution which deprives them of the right to have their vote for President and Vice President received and counted, is in conflict with the Constitution, and that Congress has no more power to reject their votes than those of the States which have been uniformly loyal to the Federal Union.

It is worthy of remark that if the States whose inhabitants were recently in rebellion were legally and constitutionally organized and restored to their rights prior to the 4th of March, 1867, as I am satisfied they were, the only legitimate authority under which the election for President and Vice President can be held therein must be derived from the governments instituted before that period.

It clearly follows that all the State governments organized in those States under acts of Congress for that purpose and under military control are illegitimate and of no validity whatever; and, in that view, the votes cast in those States for President and Vice President, in pursuance of acts passed since the 4th of March, 1867, and in obedience to the so-called reconstruction acts of Congress, cannot be legally received and counted; while the only votes in those States that can be legally cast and counted will be those cast in pursuance of the laws in force in the several States prior to the legislation by Congress upon the subject of reconstruction.

I cannot refrain from directing your special attention to the declaration contained in the joint resolution that "none of the States whose inhabitants were lately in rebellion shall be entitled to representation in the Electoral College," &c.

If it is meant by this declaration that no State is to be allowed to vote for President and Vice President, all of whose inhabitants were engaged in the late rebellion, it is apparent that no one of the States will be excluded from voting, since it is well known that in every southern State there were many inhabitants who not only did not participate in the rebellion, but who actually took part in its suppression, or refrained from giving it any aid or countenance. I therefore conclude that the true meaning of the joint resolution is that no State a portion of whose inhabitants were engaged in the rebellion, shall be permitted to participate in the presidential election, except upon the terms and conditions therein prescribed.

Assuming this to be the true construction of the resolution, the inquiry becomes pertinent, may those northern States a portion of whose inhabitants were actually in the rebellion, be prevented at the discretion of Congress from having their electoral votes counted? It is well known that a portion of the inhabitants of New York and a portion of the inhabitants of Virginia were alike engaged in the rebellion, yet it is equally well known that Virginia, as well as New York, was at all times during the war recognized by the Federal Government as a State in the Union—so clearly that upon the termination of hostilities it was not even deemed necessary for her restoration that a provisional Governor should be appointed. Yet, according to this joint resolution, the people of Virginia, unless they comply with the terms it prescribes, are denied the right of voting for President, while the people of New York, a portion of the inhabitants of which State were also in rebellion, are permitted to have their electoral votes counted without undergoing the process of reconstruction prescribed for Virginia. New York is no more a State than Virginia; the one is as much entitled to be represented in the Electoral College as the other. If Congress has the power to deprive Virginia of this right it can exercise the same authority with respect to New York or any other of the States. Thus the result of the presidential election may be controlled and determined by

Congress, and the people be deprived of their right under the Constitution to choose a President and Vice President of the United States.

If Congress were to provide by law that the votes of none of the States should be received and counted if cast for a candidate who differed in political sentiment with a majority of the two Houses, such legislation would at once be condemned by the country as an unconstitutional and revolutionary usurpation of power. It would, however, be exceedingly difficult to find in the Constitution any more authority for the passage of the joint resolution under consideration than for an enactment looking directly to the rejection of all votes not in accordance with the political preferences of a majority of Congress. No power exists in the Constitution authorizing the joint resolution or the supposed law, the only difference being that one would be more palpably unconstitutional and revolutionary than the other. Both would rest upon the radical error that Congress has the power to prescribe terms and conditions to the right of the people of the States to cast their votes for President and Vice President.

For the reasons thus indicated, I am constrained to return the joint resolution to the Senate for such further action thereon as Congress may deem necessary.

ANDREW JOHNSON.

WASHINGTON, July 20, 1868.

The joint resolution (S. R. No. 139) was read as follows:

*Resolved, &c., That none of the States whose inhabitants were lately in rebellion shall be entitled to representation in the Electoral College for the choice of President or Vice President of the United States, nor shall any electoral votes be received or counted from any of such States, unless at the time prescribed by law for the choice of electors the people of such States, pursuant to the acts of Congress in that behalf, shall have, since the 4th day of March, 1867, adopted a constitution of State government under which a State government shall have been organized and shall be in operation, nor unless such election of electors shall have been held under the authority of such constitution and government, and such State shall have also become entitled to representation in Congress, pursuant to the acts of Congress in that behalf: *Provided, That nothing herein contained shall be construed to apply to any State which was represented in Congress on the 4th day of March, 1867.**

The PRESIDENT *pro tempore*. The question is on the passage of the joint resolution, the objections of the President of the United States to the contrary notwithstanding.

Mr. DAVIS. Mr. President, I do not rise to consume time. I have listened as well as I could at this distance from the desk to the reasoning of that message, and I believe that it is perfectly conclusive. I think that the message is one of a great deal of logical power and of truth in its interpretation of the Constitution. I do not doubt that the time will come when most of the gentlemen who will vote on the present occasion to overrule the President's veto and to pass this joint resolution against his veto will themselves subscribe to the truth of this message.

Mr. HOWARD. Mr. President, I do not propose to detain the Senate but a moment. I regard this as one of the most incendiary documents that have ever emanated from the source whence it came. It is in its purpose as well as its tone and style a direct and open declaration that the governments which have been established in the insurrectionary States under the reconstruction acts are utterly illegal and void, and that no votes given for President and Vice President in those States under those governments ought to be counted as legally given for those offices.

But I have one word of praise to utter in reference to this document. It is completely frank, open, perspicuous, and clear. It throws down the glove distinctly to the Republican party of this country upon the issue of the constitutionality and legality of the reconstructed governments of the late insurrectionary States. For one humble member of the Republican party I announce my readiness to meet this issue, and I pick up the glove and we will go to the people next November upon the issue

whether these governments shall exist or whether they shall be destroyed by revolutionary means. Let the issue come, sir; it is welcome.

The question being taken by yeas and nays, resulted as follows:

YEAS—Messrs. Abbott, Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Harris, Henderson, Howard, Howe, Kellogg, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Rice, Ross, Sherman, Sprague, Stewart, Sumner, Tipton, Trumbull, Van Winkle, Wade, Welch, Willey, Williams, Wilson, and Yates—45.

NAYS—Messrs. Buckalew, Davis, Doolittle, Hendricks, McCreery, Patterson of Tennessee, Vickers, and Whyte—8.

ABSENT—Messrs. Bayard, Dixon, Fowler, Grimes, Norton, Pool, Ramsey, Saulsbury and Thayer—9.

The PRESIDENT *pro tempore*. On this question the yeas are 45 and the nays are 8. Two thirds of the Senators present having voted in the affirmative, the joint resolution is passed, notwithstanding the objections of the President.

A message was afterward received from the House of Representatives, by Mr. McPHERSON, its Clerk, announcing that the House having proceeded, in conformity with the Constitution, to reconsider the joint resolution entitled "A resolution excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized," returned to the Senate by the President of the United States with his objections, and sent by the Senate to the House of Representatives with the message of the President returning the resolution, and the proceedings of the Senate thereon, had

Resolved, That the resolution do pass, two thirds of the House of Representatives agreeing to pass the same.

Mr. EDMUNDS submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Secretary of the Senate be directed to present to the Secretary of State the enrolled resolution entitled "A resolution excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized," together with the certificates of the Secretary of the Senate and Clerk of the House of Representatives, showing that the said resolution was passed by a vote of two thirds of both Houses of Congress after the same had been returned to the Senate by the President with his objections, and after the reconsideration of said resolution by both Houses of Congress in accordance with the Constitution.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1439) authorizing the remission of penalties in certain cases; and

A joint resolution (H. R. No. 354) admitting steam plows free of duty for one year from June 30, 1868.

AFFAIRS IN TEXAS.

The PRESIDENT *pro tempore* presented a letter of the president of the constitutional convention of Texas, communicating the report of a special committee on lawlessness and violence in that State; which was referred to the Committee on the Judiciary, and ordered to be printed.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1439) authorizing the remission of penalties in certain cases was read twice by its title, and referred to the Committee on the Judiciary.

The joint resolution (H. R. No. 354) admitting steam plows free of duty for one year from June 30, 1868, was read twice by its title, and referred to the Committee on Finance.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate of the 9th instant, information in relation to the discovery, occupation, and character of the Midway islands in the Pacific ocean;

which was referred to the Committee on Naval Affairs, and ordered to be printed.

FOURTEENTH CONSTITUTIONAL AMENDMENT.

He also laid before the Senate the following messages from the President of the United States:

To the Senate of the United States:

I transmit to the Senate, in compliance with its resolution of the 9th instant, a report from the Secretary of State, communicating a copy of a paper received by him to-day, purporting to be a resolution, ratifying on the part of the State of Louisiana the proposed amendment to the Constitution of the United States known as article fourteen.

ANDREW JOHNSON.

WASHINGTON, July 17, 1868.

To the Senate of the United States:

I transmit to the Senate, in compliance with its resolution of the 9th instant, a report from the Secretary of State, communicating a copy of a paper received by me on the 18th instant, purporting to be a resolution of the Senate and House of Representatives of the State of South Carolina, ratifying the proposed amendment to the Constitution of the United States known as article fourteen.

ANDREW JOHNSON.

WASHINGTON, July 18, 1868.

The messages were referred to the Committee on the Judiciary, and ordered to be printed.

RIGHTS OF AMERICAN CITIZENS ABROAD.

The PRESIDENT *pro tempore*. The bill (H. R. No. 768) concerning the rights of American citizens in foreign States is before the Senate.

Mr. STEWART. It seems to me that the meaning of this bill has been misapprehended, or it has been argued on a hypothesis that gives it a different meaning from what it really has. The first section declares the general doctrine of the right of expatriation. The second section declares that naturalized citizens shall be protected in foreign countries by the Government of the United States in the same manner that native-born citizens are. The third section declares that if, in contravention of the intent and meaning of the first and second propositions, a foreign Government shall detain a citizen, a certain remedy shall be applied. It is said that that leaves in the President the absolute power of peace and war. It leaves in the President no power to apply the remedy, as I understand the bill, except in a given case; and that is where the Government detaining the American citizen sets up a right to do so, because it has some claims upon his allegiance, because it sets up a right to do to him that which it would not do to a native-born citizen of the United States, because it makes a distinction between him and one of our native-born citizens, and denies our right to treat him as we would treat a native-born citizen, or to protect him as we would a native-born citizen. That presents a simple question, and it is this: does the Government of Great Britain, for example, claim to hold a citizen of the United States because he was once a subject of Great Britain? If so, in vindication of our claim that we have a right to protect our citizens everywhere, the President may do what the bill provides. It is no vague investigation that is here provided for to suppose that is doing great injustice to the bill passed by the House of Representatives; and I think the discussion has gone on a wrong hypothesis. The President can only act when the simple question is presented to him whether Great Britain will respect the citizenship of persons naturalized in the United States who were once subjects of Great Britain; whether they will respect, or whether they will deny our claim that they are entitled to the same rights as our native-born citizens. When that case is presented, the President of the United States is to be at liberty to suspend commercial relations, and if there is no other redress to make reprisals. This is simply a declaration that we mean to vindicate the right of an American who is naturalized.

I think if there is anything revolting to every sentiment of justice and honor it is the claim of a Government upon any human being who desires to leave it and become a citizen of another country. That claim of a vested right in

human nature should be repudiated indignantly by all Governments. Gentlemen say this bill means war. If Great Britain or any other country feels disposed to make war in the assertion of a right to claim the services of men who were once her subjects, or to claim the power to punish them differently from other American citizens, let her take the responsibility of making war. We have submitted too often to the idea that we must not assert our rights for fear of war. We submitted to it during the civil war; we have been humiliated by it. I am opposed to so much negotiation. I have said on this floor before that I have no faith in statecraft. I have no faith in a vindication of the rights of man over State tyranny by diplomacy. I have no faith in the ability of American diplomats to settle this question. An American diplomat cannot meet foreigners engaged in the same business with advantage; he is not as artful as a man who is trained to the business. I believe it becomes the dignity of this country to declare by law rules by which it is ready to stand, to declare by law that it will protect equally every American citizen, whether naturalized or native born.

Mr. PATTERSON, of New Hampshire. I should like to ask the Senator a question. I will suppose that we are at war with England, and an American citizen who is liable to draft passes into Canada. In the first place, I want to know if the American Government has a right to forbid its citizens from passing into Canada in time of war with England, and if it should be done, whether we should have a right to hang that American citizen, who should take part with Great Britain against his own country as a traitor or not?

Mr. STEWART. That is not the question at all. It is an extreme case. In time of war, when we enforce martial law and keep our citizens at home for the existence of the State, that is not within the ordinary rules which prevail in time of peace. Then the whole body of the laws on your statute-book disappear before the iron decrees of war, like snow before the sun. This is a declaration for ordinary times of peace by legislation. This is for the Governments of nations dealing with each other upon the terms of peace. It is an act of legislation proposed when there is a state of peace between us and foreign Governments.

Mr. PATTERSON, of New Hampshire. I should like to ask one other question. Are not the despotic Governments of Europe virtually camps, standing military camps? That being so, in order to protect their existence they must have standing armies, and the citizens of those countries must be liable to military duty on reaching a certain age. Now, I want to know if the rule, which he admits applies in time of war, does not apply as a standing rule to those military Governments of Europe, and if his objection does not lie against the forms of government which there exist, rather than against the rules of naturalization.

Mr. STEWART. I have not admitted that. The Senator simply put the question to me of a person leaving the country desiring to avoid the draft, presuming that it was not expatriation in good faith. The question put to me was whether a person leaving the country to avoid the draft, and joining the enemy, would be treated as you would treat a foreign subject. I say that is not expatriation in good faith. If, however, a man leaves the country even in time of war, and does not desert to the enemy, it is a very different question. Suppose we should be at war with Great Britain, and a citizen of the United States should remove to Mexico or to France with a view of taking up his residence there, and should become naturalized under their laws, should we have any more right over his person because he emigrated at a time when we were at war with Great Britain when he left in good faith? If he should leave to desert to the enemy it would raise a different question. I undertake to say that if we were at war with any country, citizens of the United States might emigrate in good faith, take up their residence in and become citizens

of other countries with whom we were at peace. Of course, if they deserted to the enemy they would be treated as deserters.

But, Mr. President, the general proposition presented to us is this: men have been naturalized in our country under our laws, and the question is whether we shall protect them as we would protect our native-born citizens. I say that the United States has sufficient power to do this, and it is time that their rights were declared by law, so as to have a rule for diplomacy which secret statecraft cannot break down. I do not believe there should be any secrecy about our negotiations with foreign countries. I believe secrecy in those matters is for the weak. It grew up among the weak and jealous nations of Europe when they were trying to cheat each other. We have no reason to conceal anything that this great Government desires to do in protecting its citizens in maintaining its flag. It is inconsistent with republican institutions to have so much secrecy, and if we are to carry on the present system of diplomacy; if we are to have ministers at scores of places where they are not needed, let some rule be prescribed to them which will determine this question definitely and clearly, and let American ministers know that they must protect American citizens.

What does Great Britain do? We are told on this floor this morning that if we arrest a British subject without cause she will declare war, and I believe it. Gentlemen have eulogized Great Britain this morning to an extent that I wish the United States could be eulogized. They say that if we capture a British subject by way of reprisal, in order to get justice done to an American citizen, Great Britain will declare war against us; and gentlemen bring that up as if that was the greatest calamity that could happen to the nation. I do not think it is. I think Great Britain is respected in every part of the world by reason of the manner in which she vindicates and protects the rights of her citizens. Her Abyssinian war is her greatest glory. If we would have the American flag respected at home and abroad, if we would have every American love the flag and rally to its support, let it be the emblem of power; let that flag vindicate every American citizen everywhere. That is the reason why the Roman flag was so much respected; that is why it was such a glorious thing to be a Roman citizen, because the flag of that grand old republic and empire protected its citizens everywhere. Every Briton feels proud because he is protected by the British flag. The American citizen has very frequently to disguise himself as a British subject in many parts of the world, and call himself an Englishman, that he may claim the protection of the English flag. Let the American flag be equally respected. I say that war with Great Britain is a less calamity than it is to let the American people feel that they are humiliated or their rights trampled upon.

But, sir, Great Britain will not declare war. If Great Britain wishes to declare war because she denies the right of expatriation and seeks to punish one of our citizens differently from what she would another—if she is willing to go to war for that, let it be known and she will have the worst of it. Let me tell you that there is no war in which the American people would engage with more feeling and more earnestness and more unity than a war to protect our citizens, native born and foreign alike. They would be a unit on that question, and Great Britain knows it. All we have to do is to assert by act of Congress what the law is and what the law shall be; and Great Britain will concede it, and if she does not concede it she will be in the wrong. When gentlemen tell us that we should not pass laws on this subject because Great Britain disregards the citizenship of our people, and that if we dare lay a finger on a British subject it will be a cause of war on her part, they compliment Great Britain at the expense of the United States!

I do not think there is anything objection-

able in the bill as it came from the House of Representatives. It presents the simple question, will the nations of the world acknowledge the citizenship of our naturalized citizens. If so, well; but if they dare to deny that, and to demand military service of them or to seize their persons or imprison them, it is a breach of friendly relations. Let that be understood, and you will have the doctrine vindicated. Gentlemen say Great Britain can afford to vindicate the rights of her citizens at the expense of a war with the United States. Let us make this declaration and there will be no war. This bill does not involve the question which has been presented here as to individual arrests for offenses committed in foreign countries. It does not propose to protect men who go to Great Britain and violate her laws, but it denies her right as well as that of any other foreign nation to punish Americans for acts done here.

Mr. WILLIAMS. I wish to ask the Senator to explain one clause of this bill. The third section provides that when it shall be made known to the President that any citizen of the United States has been arrested and is detained by any foreign Government "in contravention of the intent and purpose of this act upon the allegation that naturalization in the United States does not operate to dissolve his allegiance to his native sovereign," certain steps shall be taken; and then it goes on further to provide, "or if any citizen shall have been arrested and detained whose release upon demand shall have been unreasonably delayed or refused, &c." Does the expression, "any citizen" there apply to naturalized citizens or to all citizens?

Mr. STEWART. I suppose it means naturalized citizens, because the act only applies to naturalized citizens. It is laying down a rule. The arrest must be in contravention of what precedes, and what precedes only applies to naturalized citizens. I undertake to say it has no practical application to anything else. If naturalized citizens are unreasonably detained after demand for the reason that the Government holding them denies our right to naturalize them, or denies the right of expatriation, then this Government is to interfere. Any other construction would be in contravention of the intent and meaning of the first and second sections.

Mr. PATTERSON, of New Hampshire. I ask the Senator if he does not think it would be better to seize the ministers and consuls of the offending Government, inasmuch as they are connected immediately with that Government, rather than to seize private parties who are innocent.

Mr. STEWART. I would like that a little better if it were practicable. I have no respect for statecraft and diplomatic trading. I think very little comes out of it. I would not have much to do with foreign countries except in the way of direct legislation. Perhaps it would be well to take that kind of people first; but I do not believe it will ever come to a reprisal. If we say that we will protect American citizens abroad, that will be the end of it.

I think the amendment of the committee is worse than to strike out the third section altogether. It says that having made these investigations it shall be the duty of the President forthwith to report to Congress all the circumstances of any such arrest or detention, and any proceedings for the relief of the citizen so arrested and detained, that Congress may take proper action to secure to every citizen of the United States his just rights.

In the first place, these arrests may occur and the investigation go on during the session of Congress, and before action can be had Congress adjourns. Then everything must wait until Congress reassembles, and then the papers must be referred to the Committee on Foreign Relations, a very dignified, deliberate committee, pressed with a great deal of other business. This committee necessarily takes three or four months to examine such a question. By that time the party dies or is forgot-

ten and the case is not reached till Congress is about ready to adjourn, and then appropriation bills and railroad bills crowd us, and the chairman of the Committee on Foreign Relations must make a struggle to get the subject before Congress. In the meantime, the poor fellow who has been arrested, if living, is lying in jail without a remedy, and no person has heard from him for so long a time that the outrage of his arrest has been forgotten.

It is like taking a person who has a claim against the Government under an express bargain for services rendered and turning him over to Congress for relief. We all know how such relief bills are hung up here three or four years before the case is investigated and determined. So it will in these matters. Referring them to Congress without making any demand on the foreign Government for redress is no remedy. It is not Congress that administers remedies; Congress is not the Executive of the nation. We must speak to foreign Governments through the Executive. He is the organ of the nation in such matters. If there is to be any action taken it must be taken by the Executive. Here you propose to say that if foreign Governments arrest citizens of the United States in contravention of the right of expatriation, in contravention of their naturalization by the United States, we will retaliate. It places no special power in the President. It marks out a specific state of facts upon which he shall act. If you are not willing to protect naturalized citizens the same as you protect native-born citizens, if you are not prepared to adopt this principle, do not do it; but if you are, lay down the law, and let the President carry it out. There is loose discretion placed in his hands, as is claimed by those who have opposed the bill. If you are prepared to assert that doctrine you do it in this bill as it came from the other House. I am prepared to assert it.

It is unjust, it is absurd, for a Government to claim that it has any lien on a man born upon its soil. It is in contravention of human rights; it is in contravention of justice; it is a false claim. It is in contravention of the progress and civilization of the age, and it is time that we asserted the true doctrine. I think this bill is important in that respect. The decisions of our courts fall far short of coming up to our political theory, they having borrowed the English decisions. Let the law stand stating the doctrine as we understand and proclaim it. Let it be a legislative declaration. Let us stop looking over English books to find a way to vindicate American citizens against English claims. That is not a very good way to do it. You want a law, a proper law. Let Congress declare the law. Then, unless some nation wishes to do wrong to our citizens, all will be well. And if any nation wishes to make this issue with us, the quicker we meet it the stronger we shall be to meet it, because the stronger we shall be in the affections of forty million people proud and able to vindicate the right anywhere and everywhere.

I think the least calamity that could happen to America would be a war with Great Britain. I want it understood that I think a little brush with England is one of the least calamities that could happen to American civilization and progress, although I hope she will be prudent enough to avoid it, and I believe she will. I do not think there is the slightest danger of her attempting it; but if we do have it I think we shall make some reprisals on account of the Alabama; I think we shall get even with her and set international law right in regard to the capture of Mason and Slidell, whom we had to give up. I think we shall pay off some old scores. She has large possessions at the North, and I do not think that the boundaries of our country will be contracted or the area of the United States become less by reason of the conflict. Particularly shall I feel confident if she undertakes a conflict with the purpose of incarcerating American citizens against the laws of justice and right and against the advancing principles of human-

ity, which have been proclaimed by the progress of the age.

EXECUTIVE SESSION.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

Mr. CONNESS. I hope not.

Mr. ANTHONY. I will not insist on the motion if there is to be a vote on the bill; but if there is more debate I will.

Mr. CONNESS. I call for the yeas and nays, because I think this bill will stand in the way of other business.

Mr. ANTHONY. It is known that there are some very important messages which ought to be referred. If there can be a vote on this bill I certainly do not wish to prevent it; but if there is to be any further debate, and I presume there is, I move that the Senate now proceed to the consideration of executive business.

Mr. CONNESS. On that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 28, nays 12; as follows:

YEAS—Messrs. Anthony, Chandler, Cole, Conkling, Cragin, Davis, Doolittle, Edmunds, Ferry, Fessenden, Fowler, Harris, McCrocy, McDonald, Morgan, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Rice, Sherman, Sprague, Sumner, Van Winkle, Vickers, Welch, Wiley, and Yates—28.

NAYS—Messrs. Conness, Howard, Morrill of Maine, Morrill of Vermont, Morton, Stewart, Thayer, Tipton, Wade, Whyte, Williams, and Wilson—12.

ABSENT—Messrs. Abbott, Bayard, Buckalew, Cameron, Cattell, Corbett, Dixon, Drake, Frelinghuysen, Grimes, Harlan, Henderson, Hendricks, Howe, Kellogg, Norton, Nye, Patterson of Tennessee, Pool, Ross, Sausbury, and Trumbull—22.

So the motion was agreed to.

The Senate thereupon proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened.

IMPROVEMENT OF THE MISSISSIPPI RIVER.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river, and asked a further conference on the disagreeing votes of the two Houses, and had appointed Mr. I. DONNELLY of Minnesota, Mr. HORACE MAYNARD of Tennessee, and Mr. LEWIS W. ROSS of Illinois, managers at the same on its part.

The Senate proceeded to consider its amendments to the bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river, disagreed to by the House of Representatives; and

On motion by Mr. RAMSEY, it was

Resolved, That the Senate further insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the further conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. RAMSEY, Mr. HARLAN, and Mr. BUCKALEW, managers on the part of the Senate.

DEFICIENCY APPROPRIATION BILL.

The message from the House of Representatives also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. E. B. WASHBURNE of Illinois, Mr. W. H. KELSEY of New York, and Mr. G. W. WOODWARD of Pennsylvania, managers at the same on its part.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1341) making appropriations and to supply deficiencies in the

appropriations for the service of the Government for the fiscal year ending June 30, and for other purposes.

On motion of Mr. MORRILL, of Maine, it was—

Resolved, That the Senate insist upon its amendments to the said bill, disagreed to by the House of Representatives, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore* of the Senate.

The PRESIDENT *pro tempore* appointed Mr. MORRILL of Maine, Mr. CONKLING, and Mr. DOOLITTLE.

LOYAL CHOCTAWS AND CHICKASAWS.

Mr. THAYER. I ask the Senate to take up the bill (H. R. No. 1876) for the relief of the loyal Choctaw and Chickasaw Indians.

The motion was agreed to; and the Senate resumed the consideration of the bill.

The PRESIDENT *pro tempore*. The pending question is on the passage of the bill.

The bill was passed.

The PRESIDENT *pro tempore*. The hour of five o'clock having arrived, the Senate, according to order, will take a recess until half past seven o'clock this evening.

EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

MEDICAL HISTORY OF THE WAR.

Mr. ANTHONY. I move that the Committee on Printing be discharged from the further consideration of the report of the Secretary of War, communicating, in compliance with a resolution of the Senate of the 8d instant, information in relation to the condition of the appropriation for the publication of the medical and surgical history of the war, and that it be referred to the Committee on the Judiciary. It is a legal question, and we have nothing to do with it.

The motion was agreed to.

MILITARY PEACE ESTABLISHMENT.

Mr. WILSON. I move that the Senate proceed to the consideration of Senate bill No. 617.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 617) to reduce the military peace establishment of the United States.

Mr. HOWARD. Before proceeding with that bill I ask the Senator from Massachusetts to give way to a motion to take up Senate bill No. 256, for the purpose of assigning it for to-morrow at one o'clock.

Mr. DRAKE. What is it?

Mr. HOWARD. The Central Branch Union Pacific railroad bill.

Mr. MORRILL, of Vermont, and others. I object.

The PRESIDENT *pro tempore*. The bill before the Senate, on the motion of the Senator from Massachusetts, will be read.

Mr. WILSON. It is hardly necessary to read the original bill. Let the amendment which I reported this morning be read.

The Secretary read the amendment, which was to strike out all after the enacting clause of the bill and to insert the following:

That the line of the Army, as now constituted, be reduced to thirty regiments of infantry, eight regiments of cavalry, and four regiments of artillery, such reduction to be effected by consolidation of the regiments of the several arms now in the service; three of said regiments of infantry shall be composed of colored troops, and three of troops of the veteran reserve, and one of said cavalry regiments shall be composed of colored troops.

SEC. 2. And be it further enacted, That the President be, and he is hereby authorized and directed, so soon as the public interests and necessities will admit of the same being done, to order the muster out of enlisted men now in service, until the total number remaining in service shall be reduced to thirty thousand, as follows, namely: cavalry, six thousand; artillery, four thousand eight hundred; infantry, eighteen thousand five hundred: *Provided*, That of enlisted men of the engineer and ordnance departments there be allowed seven hundred, and no more: *And provided further*, That until said reduc-

tion is reached no further enlistments into the Army shall be made, and thereafter there shall be no more than thirty thousand enlisted men in service at any one time, unless otherwise authorized by law.

SEC. 3. *And be it further enacted*, That all the bands now in the service, organized under the provisions of section seven of an act entitled "An act to increase and fix the military peace establishment of the United States," approved July 28, 1866, except the band at the Military Academy, shall be honorably discharged without delay, and shall receive full pay and allowance to the date of such discharge.

SEC. 4. *And be it further enacted*, That it shall be the duty of the Secretary of War, immediately after the passage of this act, to appoint a board of competent officers, whose duty it shall be to prepare and submit to the Secretary of War a plan for the carrying into effect of the provisions of this act, specifying in detail the manner in which the consolidation of regiments herein provided for shall be effected, and designating from the officers of the line, of the several grades now in service, those to be retained on duty with the consolidated regiments, those to be wholly discharged from service, and those not retained on duty with the regiments herein authorized, whom it is deemed advisable or proper to retain in service. And it is hereby made the duty of the Secretary of War to submit said plan for the action of Congress at its next ensuing session, together with the names and rank of the officers to be retained and discharged, and until the action of Congress be had thereon no other action shall be taken on said plan.

SEC. 5. *And be it further enacted*, That from and after the passage of this act all vacancies occurring among the commissioned officers of the Army, either line or staff, of any grade, shall be left unfilled until otherwise directed by law. The grade of regimental commissary in the several cavalry regiments is hereby abolished; and the lieutenants now holding the appointments of regimental commissary may be assigned for duty to companies of their regiments, and shall fill the vacancies that may occur in their respective grades of first or second lieutenant in the regiments to which they now belong; and nothing herein contained shall affect their relative rank with other lieutenants of their grade.

SEC. 6. *And be it further enacted*, That the grades of regimental commissary sergeant, regimental hospital steward, and veterinary surgeon, are hereby abolished. The number of corporals in each company of cavalry, artillery, and infantry shall be reduced to four, and the said non-commissioned officers shall have the privilege of receiving an honorable discharge with full pay and allowances to the actual date thereof, if they shall so elect, in preference to remaining in the service in such other grades as may be assigned to them by the Secretary of War.

SEC. 7. *And be it further enacted*, That no bounty shall be paid to a deserter from the Army or the Navy in any case whatever, unless the Secretary of War or the Secretary of the Navy, as the case may be, shall previously order the charge of desertion to be annulled, solely on the ground that it had been erroneously made.

SEC. 8. *And be it further enacted*, That section six of an act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," approved March 2, 1867, is hereby repealed.

SEC. 9. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized and required to deliver to the Governor of each State represented in the Congress of the United States, at the seat of government of such State as many serviceable Springfield rifled muskets of caliber fifty-eight, with accoutrements and equipments complete, as the Governor of such State shall require for the use of the militia therein, not exceeding the number hereinafter specified for each State, namely: Maine, five thousand; New Hampshire, three thousand; Vermont, three thousand; Massachusetts, ten thousand; Rhode Island, two thousand; Connecticut, four thousand; New York, thirty-one thousand; New Jersey, five thousand; Pennsylvania, twenty-four thousand; Delaware, one thousand; Maryland, five thousand; West Virginia, three thousand; Ohio, nineteen thousand; Indiana, eleven thousand; Illinois, fifteen thousand; Michigan, six thousand; Wisconsin, six thousand; Iowa, six thousand; Minnesota, two thousand; Kansas, one thousand; Nebraska, one thousand; Nevada, one thousand; California, three thousand; Oregon, one thousand; Kentucky, nine thousand; Tennessee, eight thousand; North Carolina, seven thousand; South Carolina, four thousand; Georgia, eight thousand; Florida, one thousand; Alabama, six thousand; Arkansas, three thousand; and Louisiana, five thousand; and the same shall be delivered only upon the certificate of the Governor of such State, showing to the satisfaction of the Secretary of War that the regiments and companies for which the same are required are duly organized of loyal citizens of such State under the laws thereof; and said muskets, accoutrements, and equipments shall remain the property of the United States, subject to the control of Congress.

The amendment was agreed to.

Mr. POMEROY. I should like to call the attention of the chairman of the committee to an amendment, at least by way of suggestion, to see whether he thinks it is proper. In the fourth line of the first section, after the words "thirty regiments of infantry," I think there ought to be inserted these words: "four of which shall be the four regiments of the Veteran Reserve corps."

Mr. WILSON. The committee's amendment provides for the consolidation of the

regiments, and provides that the Veteran Reserve corps of four regiments shall be consolidated, so that we shall have three regiments instead of four, and that will be all-sufficient, and more, too, for it is very difficult to keep up the Veteran Reserve corps.

Mr. POMEROY. That may be all right. I did not know that fact. I know that a great deal of the service that the Army is rendering at present can be performed by the Veteran Reserve corps, and the men would be paid full pensions if they were not in the Veteran Reserve corps, and on account of these considerations I thought they ought to be retained.

Mr. WILSON. We retain three regiments of them.

Mr. POMEROY. If the Senator has retained three regiments, I will not move an amendment.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The PRESIDENT *pro tempore*. The question is on ordering the bill to be engrossed for a third reading.

Mr. DAVIS. Is this the bill No. 6177?

The PRESIDENT *pro tempore*. It is.

Mr. DAVIS. I thought it was another bill which the honorable chairman of the Committee on Military Affairs undertook to make a special order.

Mr. WILSON. This is the bill reducing the Army, with an amendment as a substitute.

Mr. DAVIS. When was the amendment offered?

Mr. WILSON. It was offered this morning, and ordered to be printed.

Mr. MORGAN. I think the bill had better be read a third time. We must dispose of it before we can do any other business.

Mr. DAVIS. I did not know until this moment that this amendment was offered to the bill. I knew the original bill had been presented by the honorable chairman of the Committee on Military Affairs. I did not know this amendment had been offered until this moment.

Mr. WILSON. I offered it this morning, and it was ordered to be printed with a view of moving it to-night. I will state to the Senator what the modifications are.

Mr. DAVIS. In some of its features it is a very important innovation on the other bill. I have not had an opportunity to look at the amendment.

Mr. WILSON. I will state to the Senator precisely what it is in a moment.

Mr. DAVIS. I should prefer that the Senator would agree to postpone it until to-morrow morning.

Mr. WILSON. The Committee on Military Affairs were waiting for the House of Representatives to move in this matter, but they have got into a bad condition on their bill, and my object is to pass this bill now, in the hope that we shall be able to get it through. It makes a reduction of twenty-three thousand in the Army.

Mr. DAVIS. There are some important provisions in this bill besides the reduction of the Army.

Mr. WILSON. There are one or two sections in the bill that were not in the original bill.

Mr. DAVIS. The section of the bill that distributes so many arms to the States was not in the other bill.

Mr. WILSON. At the last session we provided that certain States should not have any militia. We in this measure repeal that act, and we provide in the ninth section for allowing the Governors of all the States that are represented in Congress to call for a number of Springfield rifled muskets equal to the number of Representatives in the other House of Congress, one thousand to each Representative. The Governor of Kentucky would have the privilege of calling for nine thousand, Massachusetts would have ten thousand, according to the number of Representatives. We have two and a half millions of these arms on hand at the present time. This is a provis-

ion which will enable the States that desire to arm their militia to arm them with a good musket, with a fifty-eight caliber Springfield rifled musket. We have them in abundance on hand, and good arms and equipments.

Mr. DAVIS. I ask the Clerk to read the ninth section.

The Chief Clerk read the ninth section of the amendment.

Mr. DAVIS. I had prepared two amendments to the original bill, and I was watching it and waiting for it, expecting the honorable Senator to call it up at some convenient hour, intending to propose my amendments. The amendment that has been offered by the committee was just being acted upon as I came into the Chamber. I do not know whether it was offered as additional sections or a substitute for the original bill. I will thank the Chair to inform me.

Mr. WILSON. This was an amendment to the original bill; an entire amendment.

Mr. DAVIS. Mr. President, the provision of this was a separate measure passed by the House of Representatives eight or ten days since. It passed on a Friday or Saturday evening, as I was informed, when there was not a quorum of the members of the House present, when there were very few of the members present, without any debate, without any examination whatever. The objects and purposes of that measure from the House I think are transparent, and I suppose that the same objects and purposes exist now in making it a substitute for the original bill of the committee of the Senate which it has superseded.

Mr. President, we are to have during the coming fall a general election in the United States, a presidential election—

The PRESIDING OFFICER, (Mr. POMEROY in the Chair.) Does the Senator move an amendment to the bill?

Mr. DAVIS. I am debating the bill. I desire, and I ask earnestly, not only of the courtesy, but of the justice of the honorable chairman of the Committee on Military Affairs, that he will allow this important measure to go over until morning, that I and other members who desire to examine it, may have an opportunity of looking into it deliberately. I had no supposition when the honorable Senator moved to make his original bill a special order for this evening, that that bill would be attempted to be superseded by the measure that had passed the House. I have not had an opportunity of examining, much less to be able to proceed to the consideration of the measure that passed the House and which has been made to supersede as an amendment the original bill of the honorable Senator. I would, therefore, respectfully, but urgently appeal to his courtesy to allow me until morning to have an opportunity to examine the bill. I will be ready at any hour he may designate to-morrow to enter upon such discussion of it as I choose to subject it to. I will move, with the permission of the honorable Senator, to make it the special order for one o'clock to-morrow.

Mr. WILSON. I will say to the Senator from Kentucky that in the ordinary course of proceeding here I would most cheerfully comply with his request. I think he knows that. I am as much disposed as any Senator to give way and accommodate Senators. But at this stage of the session, and with the pressure of other matters, and with the difficulty I have had to get up this bill at all for some days, I do not see how I can consent to do so.

In regard to the section to which he refers, and which seems to be the only objection he has to the bill as far as I can hear, I will state that the House of Representatives passed a bill the other day providing, for the purpose of arming the militia, for the distribution to the States represented in Congress of two thousand stand of arms and muskets for each congressional district and two pieces of artillery with all the equipments in relation to them. I have omitted in this amendment all the artillery and all the equipments connected with the artillery and one half of the muskets, believing that the

small distribution made in this bill will be amply sufficient to accommodate the organization of the militia in all the States, and will give the militia in all the States, or most of the militia in all the States, a good first-class arm. There is no danger in it, no difficulty in it, nothing wrong intended in it in any way, I am very sure, nothing that can work any harm to any class in the community. We have a large abundance of arms on hand, and it will arm this number of the militia of the country with good arms. It applies to all the States represented in Congress. Of course, it will not reach three or four States that are not represented, and may not be at present.

Mr. DAVIS. I have a general comprehension of the ninth section which I have asked to have read to the Senate. I am exceedingly suspicious of that section. I know of no urgent reason that is a proper one in itself for the distribution of these surplus arms of the United States among the militia of the several States. I do not doubt, as the honorable Senator says, that there is a surplus of arms in the armories and arsenals of the United States, and that a very proper distribution of these surplus arms at a convenient and fit time would be to distribute them to the several States for arming their militia. I concede that there is an appearance of fairness in the general distribution that is to be made of arms among all the States; but to my mind and in my judgment it is entirely illusory; it is a mere mask. All the States are grouped together in order that the ten southern States may be more carefully and effectively covered up in the generality of the measure. To my mind it is perfectly apparent that the real object and purpose of this measure, at least of the ninth section of the bill, is to distribute arms among the southern States, to place them under the control of the Radical Governors of the southern States, to be used by those Governors and their instruments for the purpose of intimidation in the election and to control that election in all those States.

Mr. President, Congress has passed reconstruction laws against the sense of the vast majority of the white people of the southern States. It may be assumed that nine tenths of the white people of the southern States revolt at this congressional legislation. The constitutionality of that legislation has never passed the ordeal of the courts. The President dissents from Congress as to the constitutionality and validity of that legislation; and I have no doubt that a large majority of the white people of the United States are entirely opposed in their judgment to the constitutionality, the expediency, and the soundness of that system of legislation. But as that legislation has been consummated by Congress Congress ought at least to have the justice, the grace to allow to the people of the southern States a fair and free election under the system which Congress has organized and which has been carried out under congressional legislation by the establishment of new governments.

Sir, I cannot wink so hard as not to see, at least to suspect, that the true, I might say the only object of this measure is to put into the hands of negroes in the southern States arms for the purpose of intimidating and driving the white population who, under the reconstruction laws of Congress are entitled to vote, from the polls. You distrust the very system that you have organized. The power that you have created under an arbitrary and unconstitutional legislation you shrink from permitting to go fairly into operation under the deformed governments and measures which you have adopted.

We are about to enter upon a canvass which I suppose will be one of the most exciting and all-absorbing canvasses that ever occurred in the United States. Next fall, after this heated canvass, follows a presidential election, the importance of which in the judgment of both parties has never been paralleled in the history of our country. Is there any reason, are there any public considerations, that require this distribution of arms to take place just as that can-

vass is being entered upon and before the election takes place? You have your Freedmen's Bureau in full organization and operation in the southern States. In addition to that you have more than twenty thousand soldiers distributed throughout those States. So far as there is any power necessary to repress disorder, to prevent, if you please, the rising of rebels, and to arrest them in their efforts, if they should make the effort improperly to control and influence those elections, is there not an ample force and power in the Freedmen's Bureau and in the armies that are in those States to effect those objects? Why, then, at this stage of this session, without any notice, without any opportunity on the part of Senators opposed to this measure to examine it carefully, and deliberately to present it to the Senate, and to present it to the country—why at this last hour almost of the session spring it upon the Senate and urge it so precipitately through the forms of legislation? Is there any cause that requires that this legislation shall now take place? Is there any sufficient reason for it? If so, let the honorable chairman of the Committee on Military Affairs present those reasons to the Senate, and let the Senate have the benefit of his exposition of his reasons of State and State policy that require that this measure should pass.

Why, sir, can we doubt, can human incredulity doubt, that if these arms are placed in the hands of the Governors of the ten southern States, they will be distributed into the heavy Democratic sections in those States and be placed in the hands of men who will use them for the purpose of intimidating Democratic voters from coming to the polls, keeping them away from the polls, and in that way controlling and carrying the election? Are not the military commanders who now hold command in the several southern departments, with their forces, amply sufficient to take care of the peace of the country, the due enforcement of the election laws, or, if you choose, the interest of the Republican party in those States? If it is contemplated that a fair and free election, to be participated in by the persons who under the constitution and laws of those States and the laws of Congress are entitled to vote shall take place, where is the necessity of distributing these arms among the ten southern States? Take, for instance, General Meade, who commands in one of those departments. Has he not an ample force to preserve the peace, to protect the purity of the ballot-box, to keep off disturbers and persons who would bring improper influences to bear upon the election? Has he not force enough and arms enough in his department, and have not all the other generals in their respective departments enough of force and of arms to subserve these ends? Then where is the necessity for passing this measure and distributing these arms?

Mr. President, it seems to me that the leading members of the Republican party in Congress are determined that there shall be a conflict of arms. If they have decided positively and absolutely that there shall be a conflict of arms, they have determined to drive from the polls enough of legal Democratic voters to make it perfectly sure that their party shall prevail in the elections in those southern States. I cannot myself understand what other object there is or can be in the distribution of these arms, at this time, in the southern States. Why, sir, this throwing all the States into a general bill to make each of them the subject of a distribution of arms is a mere guise, a mere mask. If there was not an election coming off this fall in the southern States I have no idea that we ever should have heard of this measure. It is unnecessary for any fair purpose, even under the reconstruction laws.

Will not these military commanders in the southern States see to the interests of their party? Can we doubt that General Meade will? What have we seen in relation to his course recently? A murder occurred at a negro bagnio. General Meade immediately

offered a reward of \$20,000 for the purpose of the detection of the murderers. Where did he get his authority to offer a reward of \$20,000 for the murderers of a man at a negro bagnio? The reconstruction laws clothe him with no such power. The Rules and Articles of War, so far as I understand them, clothe him with no such power. The murderers of a man who was murdered even in such a place, I admit, should be punished; but for a military commander of one of those departments to send abroad in the public prints and on the wings of the wind a reward of \$20,000 for the purpose of detecting and punishing the murderers of a man at such a place is certainly a very extraordinary exercise of power.

Well, sir; what took place? Many of the most respectable men in the city of Columbus, Georgia, were arrested by the order of this military commander. They were permitted to go upon their parole, upon their undertaking that they would appear at Atlanta to answer before a military commission for the crime of the murder of this man. They went voluntarily to Atlanta, and surrendered themselves into military custody, and forthwith they were put in cells that were eight feet in length and three feet in width, and with no opening except in the top at this most extremely hot season of the year. Those trials have been progressing. The position of these men was changed by an order from the President and Secretary of War. They were still kept in close prison. Their trials are now progressing to a close, and I see it stated in one of the public newspapers that it is demonstrated to the satisfaction of all those who attend upon the trial or who read the evidence that all the testimony that has been advanced against them has been produced by perjury and subordination of perjury, and that they are bound to be discharged. Sir, this course of General Meade and this cruel and unusual punishment of innocent men, upon charge, before trial, and without any just grounds to impute guilt against them, is one of the remarkable features in the history of our country at this day.

Does the honorable chairman of the Committee on Military Affairs intend, and do his friends who pass such measures here design, that there shall only be an illusion, a vain and baseless hope held out to the white people of the southern States of having an election even according to the forms of the reconstruction laws and of the governments that have been framed in conformity to them? If this policy is to be persevered in; if these measures from series to series are to be continued, how long is it possible in human nature to avert again the conflict of arms and the strife of civil war? There is a point beyond which human endurance is not possible. Men even subjugated and reduced to the obedience that the rebels are, may be driven to a point when despair becomes the only impulse and force of human will and of human soul, and when driven by the extremity of their despair with the desperation of men with no hope left in life they may again strike to break the shackles that are now pressing them so cruelly. It seems to me that if it was the deliberate object and purpose of men to force another conflict of arms, a war between the races, the white and the black, the measures which they are pressing from day to day could not with more judgment be devised to bring about that result.

Sir, I raise my protest against the passage of this measure. I know it will not be heeded. Men are drunk with power and intoxicated with the dreams of power. They are wildly careering on in their way of unrestrained and resistless power, in their own judgment. But, sir, there are great laws in human affairs that cannot be always violated. These great and fundamental laws in the affairs of the people of the South have long been trampled under foot, and the step onward ceases not; it falls heavier and faster upon that prostrate people every day. Such a course of things cannot continue forever. It must have an end. It will have an end; and in proportion as it has

been pressed with extreme, vengeful, savage injustice and power, will be the recoil.

Mr. President, I have not even read the measure that is under debate. I have not had the opportunity to read it. I did not know that it was to be brought up this evening. If I had I should have devoted a few minutes to its examination, and to understand it as well as I could; but I have not had that opportunity. There has been a haste, a want of due deliberation, a want of respect for opposing political opinions and views in the legislation of this Congress beyond anything that I ever dreamed of; and the informal and hurried manner in which the present bill has been brought up, and the precipitate manner in which it is urged forward, is still an aggravation of that course of measures.

I know that I cannot get time to examine this measure. That has been demonstrated. The decree has gone forth that the measure must pass; it cannot and shall not wait. The supposed exigencies of party are too strong, too imperative to permit any pause. In the Senate of the United States men who represent States whose populations are almost wholly opposed to the measures of the majority here, crying in vain for an opportunity to examine these measures, for time to consider them, to think upon them, to summon up their objections against them, to array these objections and the reasons upon which they oppose them before the country. All this appeal is heeded not. Power, insatiable power, heedless of justice and reason, presses forward, and with inexorable fate passes measure after measure, the whole purpose of which is to enthrall and to enslave nearly one third of the white people of the United States.

Mr. President, I wish I could make a protest of sufficient power and strength against the enormity of this precipitate injustice, but with any amount of deliberation and reflection which I could give it I would be very inadequate to the task, but called upon this late and hurried hour of the session, and of the day I feel wholly incompetent to express the condemnation which my mind and my soul feels, and would desire to express against the passage of this measure.

Mr. HOWARD. Mr. President, it has been the practice of the Government from the earliest periods to distribute from time to time among the States arms for the protection and use of the States in such numbers as have been settled from time to time by the law. It is no novelty in the history of the Government; and I cannot therefore understand why it is that the honorable Senator from Kentucky has taken such alarm upon the subject. I see no occasion for alarm whatever. I see no occasion for these indignant bursts of eloquence in which the honorable Senator has indulged.

Now, sir, what can we afford to do in regard to the distribution of arms in the States? Have we on hand a surplus of arms for ourselves more than is necessary for the use of the Government at the present time? That seems to be the simple question to be solved; and in order to aid Senators in forming an opinion on the subject, I beg to state a few facts in regard to the arms we now have on hand.

The number of cannon which are marked as "serviceable" now belonging to the United States is twelve thousand six hundred and ninety-five. Of these thirty-nine hundred and twenty-five are field pieces, seventy-seven hundred and forty-three siege and garrison and sea-coast guns, and one thousand and twenty-nine mortars. The total number of serviceable rifles, muskets, and carbines now owned by the United States is one million four hundred and ninety thousand one hundred and ninety-eight. The whole number of muskets and carbines which is proposed to be distributed by the bill now before the Senate, according to the statement of the Senator from Massachusetts, would be about two hundred and fifty thousand. The simple question for the Senate is whether the

United States can spare this number of muskets, &c., to the States. I think there is no doubt about that. Why should we keep them on hand when we have no use for them, and are not likely to have any use until there is another war. And nobody but the enemies of the country, or those who are in quest of adventure or disorder or insurrection, have the slightest occasion to be afraid of the use of these arms. They will go into the hands of the States, and there they will be preserved, to be used only as occasion may require. I speak in reference to all the States, the insurrectionary States as well as those which are not insurrectionary. It is a simple question of the accommodation of the States in reference to arms. Can we spare these arms to the States? I think we can without incommencing ourselves in the slightest degree.

Mr. WILLEY. Mr. President, the Senator from Kentucky assumes the ground that the purpose of the ninth section of this bill is wholly to influence the coming election.

Mr. DAVIS. The immediate object.

Mr. WILLEY. That there is in point of fact no necessity for an organization of the militia in the southern States, and that the object and purpose designed by what he calls this hasty measure, is simply to influence the result of the coming election. Now, Mr. President, I believe there are more United States forces in Texas than in any other State. The Senator says that the United States troops now in the southern States are amply sufficient to maintain order, to preserve the peace, to secure the lives and liberty of the people of that section. I had placed in my hands this morning an authentic copy of an official report made before the convention now sitting in Texas, published by authority of that convention over the signature of seven of its members, headed by that of Judge Caldwell, whose name needs no indorsement here or elsewhere, a man of intelligence and integrity; and I propose, in reply to the argument of the Senator from Kentucky, and to show that the purpose of this bill is not what he declares it to be, to read a few short extracts from that report, and I respectfully solicit the attention of Senators to it. It is not a newspaper report; it is an authentic official report, bearing the sanction of the constitutional convention of the State. The report says:

"In our statistics we have not embraced assaults with intent to kill, rapes, robberies, whipping of freedmen, and other outrages, many of which are found to be most cruel and wanton; such a summation would impose an almost endless task. We have directed our investigations to the homicides committed during the period of time intervening between the close of the rebellion and the 1st of June, 1868; and, from the three sources of information mentioned, we present the following statistics of homicides in Texas:

	Whites.	Freedmen.	Total.
Killed in 1865.....	39	38	77
Killed in 1866.....	70	72	142
Killed in 1867.....	165	165	331
Killed in 1868.....	171	133	304
Year unknown.....	24	21	45
Of unknown race.....	-	-	40
Total.....	470	429	909

making a grand total of nine hundred and thirty-nine homicides committed in Texas since the conclusion of the war, June, 1865, to June 1, 1868, including a few cases casually reported in the present month. This gives an average of three hundred and thirteen per year.

"Of these nine hundred and thirty-nine homicides there were:

By whites—401 whites, 373 freedmen.....	833
By freedmen—10 whites, 48 freedmen.....	58
And by parties whose race is unknown.....	48

"Now, incomplete as they are, these figures tell a frightful story of blood. They represent stubborn facts, which cannot be suppressed by denials or by denouncing them as fabricated for political effect. And whoever attempts it is not only unfaithful to history, not only an apologist for crime, but may be justly charged as an accessory to the wickedness itself, as encouraging and abetting murderers, and as equally guilty with them. We cannot shut our eyes upon these appalling scenes of bloodshed; and instead of attempting to conceal them it becomes us to face them honestly, and address ourselves to the duty of discovering the cause and locating the responsibility of this slaughter of our fellow-citizens."

I shall not go into a recital of the causes

here alleged, but I will read a few further extracts:

"There is absolute freedom of speech in very few localities in Texas. Union men dare not generally avow their political convictions. In many places they can hold public meetings only when supported by troops or armed men; and in many others they dare not hold them at all. In several instances their assemblies have been broken up and fired upon, and their speakers ordered to desist. The dominant rebel element will not tolerate free discussion.

"We have been challenged to produce cases of Union men and freedmen being persecuted for their loyalty. We now do so. Judge Black was a Republican—he was murdered in 1867 in Uvalde county by a rebel. Milton Biggs was a Union man, and had been appointed county judge of Blanco county—he was murdered in 1867, while plowing in his field, before he could qualify. Judge Christian, a loyal man of Bell county, was pursued into Missouri and murdered by a party of rebels. Mr. Wade and seven other gentlemen were killed in Lamar county last year for their Unionism. Four men were recently murdered in the county of Hunt, and six in Bell county, for their loyalty. Within the present month the county judge and the district clerk of Hunt county have been driven from their homes and compelled to fly for their lives because of their unyielding attachment to the Government. Hundreds of loyal men to our knowledge are at this time forsaking their homes in Texas, fleeing from the assassin, forced away by rebel intolerance. And we here put it to record that honorable members of this convention are to-day exiles from their firesides and dare not return to their families, for the only reason that they will not forswear their principles. Now, while it remains true that the Union men of Texas constitute a very small proportion of the white population, and while it is true that they are being killed by rebels, is it impossible to escape the conclusion that they are killed for their Unionism. In other words, if they were rebels they would not be killed.

"And when we come to examine the persecutions suffered by the freed people, the mass of testimony is so overwhelming that no man of candor can for a moment question the statement that they are, in very many parts of the State, wantonly maltreated and slain, simply because they are free, and claim to exercise the rights of freemen. Some months ago, in Panola county, a party of whites rode up to a cabin wherein some freed people were dancing, and deliberately fired upon them, killing four, one a woman, and seriously wounding several others. In 1867, in De Witt county, a white man met a black man riding, and asked him what he was going to do with the whip he held in his hand, and on being answered, 'nothing,' shot the freedman, killing him instantly. In the county of Fort Bend, last year, a white man was riding through town, and on seeing a negro man standing on the steps of the office of the Freedmen's Bureau, he drew his revolver and shot him dead. The criminal had never been seen or spoken to by the freedmen before. In Newton county, 1867, a white man met a colored man driving a team; the former made the freedman get out of his wagon, and then shot him seven times in cold blood. In Fort Bend county, same year, the freed people were holding a fair to procure funds to finish their church, and while they were singing a hymn, two white men rode by and fired their pistols into the church. In October, 1867, a white man was traveling in Grayson county and met a freedman; after passing him a few yards, he turned and fired upon him, hitting in the back. The freedman died in a few hours; he had not spoken a word to the murderer—had never seen him before. But a few days ago a party of white men assaulted the family of an unoffending freedman in Falls county, killing one and dangerously wounding another freedman. In the same county a few weeks ago two armed white men, in open day, went to the house of a colored man, and without any provocation murdered him. Soon after this, a white man, in the same neighborhood, rode up to two freedmen, and, without any known cause, shot one of them dead and fired at the other. Last week the colored registrar in Burleson county was found murdered; and in January last the colored registrar of Milam county was called to his door at night and shot. And so the bloody story runs."

And I might read on *ad nauseam* instances of men seizing black women, cutting their ears off, and letting them run; and yet the Senator from Kentucky tells us that there is no need of an armed militia in Texas; that the United States troops are there in numbers and power sufficient to keep the peace; and this report shows that out of these nine hundred and thirty-nine murderers not thirty-nine of them have ever been attempted to be made amenable to the civil law, running this day at large.

Mr. SHERMAN. Has any one been punished at all?

Mr. WILLEY. Not a single one that I know of. Now, sir, I think it is time to arm the militia, to arm the lovers of order that they may put down these renegades that are ranging through the land in these districts; and there are many men who were engaged in the rebellion, many men who were rebels, who desire to have arms for their own protection

and for the protection of the order and peace of society. It is a desire not confined to the black men, not confined to the Union white men, but men of standing and character who love peace and order, and who have property in the community, desire that they may have arms put into their hands that they may maintain order and put down these renegades who are scouring the land from one end to the other, killing wherever they go, destroying property, and keeping the public peace constantly in disorder.

To some extent it is the same case doubtless in all the other States in the South; and if there is any section in the amendment to which I would give my willing assent it would be to the ninth section. I want to see arms placed in the hands of the lovers of order and the peace of society, not alone in the hands of the Union men, not in the hands of the ignorant negroes, but also in the hands of men who were engaged in the rebellion, men who submit, men who love order, men who deprecate as much as the loyal men in many instances these murders and this disorder all through that land. Sir, the United States troops have it not in their power, if they had a commander at their head who had the will to conserve the peace and protect the lives of the people of that locality.

Mr. DRAKE. Mr. President, there is a sting in this section, and I do not wonder that it creates some disturbance in this Chamber. It is not in the fact that arms are to be distributed to the different States; it is not in the number of arms to be given out to the different States; but it is in the fact that none are to be delivered to any State except "upon the certificate of the Governor of such State, showing to the satisfaction of the Secretary of War that the regiments and companies for which the same are required are duly organized of loyal citizens of such State under the laws thereof." I venture to say that if the governments of these rebel States were now in rebel hands we should hear no outcry here against the delivery of arms to those States. I venture to say that if there were nothing in the bill requiring the companies and regiments to which these arms are to be given to be certified to have been organized of loyal citizens of such State there would be no complaint.

And now, Mr. President, I say that the Congress of the United States is justified in passing such a bill as this. I say it with reference to the preservation of the lives of loyal men in those States, with reference to the preservation of order there, with reference to the keeping down of the spirit of rebellion which is as rampant there now as it was four years ago.

But, sir, even if these considerations do not justify the passage of this bill, even if the whole design of this ninth section centered, as charged by the Senator from Kentucky, in the matter of the elections in the southern States this fall, I hold that Congress would be justified in passing the bill. Let us look, sir, at the exact position that things are to assume there. The Congress of the United States has taken steps to secure the elective franchise there to all men without regard to race, color, or previous condition; and in every one of the States that have been organized under the reconstruction acts the right of suffrage in the black man is guaranteed. The white rebels of those States are determined to overthrow that right which Congress has secured to the black man. If they cannot take it from the black man constitutionally they are determined to drive him by force from the polls this fall. Everything that we hear from there, taken in connection with the outgivings of the late Democratic convention in New York, pronouncing all our reconstruction proceedings unconstitutional, null, and void, and the denunciation of those proceedings by their candidate for the Vice Presidency, and his open declaration that it is the duty of the President to overturn all the reconstructed State organizations by force, all goes to satisfy and should

satisfy the country that violence and revolution in these southern States is the determination of the Democracy. Now, sir, I say that while Congress has any power remaining over this subject, it is bound by the most sacred obligations to put in the hands of the loyal men of these southern States the means of protecting themselves against the rebel whites; and if we go hence and adjourn this Congress without doing that thing, we are recreant to the trust which the loyal people of this nation have put in us. Sir, I would just as soon, so far as I am concerned, have it written at the head of this bill that the arms to be furnished to these southern States are intended to protect the loyal men of the South at the ballot-box at the coming election, as to have it bear the title the committee has given it. For one, I do not fear to meet these issues exactly as they have been made up for us by the rebels and the Democracy. We are dealing with rebels. The world knows that we are dealing with rebels. Every Senator in this Chamber knows that we are dealing with rebels. Why should we not deal with them as rebels should be dealt with? Why should we not deal with them by force of arms, by powder and ball if need be? Sir, if I had my way I would arm every loyal man in the southern States with a Springfield rifle and all necessary equipments, and with cartridges *ad libitum*, and they should have the opportunity of teaching rebels and traitors there, though the loyal man's skin should be black and the rebel's skin white, that there is a power in this country that can keep down rebellion, not only when it is armed and organized on the field of battle, but as well when it takes the shape of the midnight murderer and the prowling assassin, dealing death in wanton malignity and cold blood to men who love their country better than the rebel cause, for which their slayers would have sacrificed that country.

Now, Mr. President, it is no use mincing words about this matter. If the Senators here from the States where they have had no rebels do not know how to deal with rebels, there are Senators here who have been among them and know all about them, and knowing them they know how to deal with them, and they know there is but one way to deal with them, and that is to crush them down under the hand of power.

I would give the loyal men of those States arms, four, five, six, eight, ten, twenty times as many as this bill provides for if there were a necessity calling for it. Then, sir, we should see how it would be, whether the whole South is to become a Texas, whether in every State in the Union it is to be a daily thing that murders most foul, such as shock the sense of humanity of the whole race of mankind, are to continue to be perpetrated.

These remarks, Mr. President, I have deemed fit to make here in regard to the general features of this ninth section. I close what I have to say with calling the attention of the honorable chairman of the committee to an omission in this ninth section which I suppose was entirely accidental. I call the honorable chairman's attention to the fact that he has not considered it worth while to give any muskets to Missouri.

Mr. WILSON. I will say in reply to that remark that since the Senator rose to his feet I have found, to my utter surprise, in glancing over the bill, Missouri was left out. I was going to move the amendment if the Senator had not discovered it.

Mr. DRAKE. I supposed it was an inadvertence. I move to amend the ninth section by inserting in the eighteenth line before the word "Kansas" the words "Missouri, nine thousand."

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The bill has been reported to the Senate, and the amendment made in Committee of the Whole as a substitute for the original bill concurred in. Amendments adding to the bill are still in order. The bill in this stage cannot be amended by taking any-

thing from it; but as this is an addition, the Chair conceives it to be in order. The question is on the amendment moved by the Senator from Missouri.

Mr. DAVIS. The Senator from West Virginia gave us a very horrid story of a most fearful number of murders that have been committed in the State of Texas. Now, the Freedmen's Bureau pervades that State, at least all portions of it where there are any considerable number of negroes. Besides that, there are in that State between five and six thousand soldiers of the United States Army, if I recollect the statement made a few days ago by the chairman of the Committee on Military Affairs.

Mr. WILLEY. I will say to the Senator that nearly all those troops are on the borders to protect the State from Indian depredations. There are very few in the inhabited part of the State.

Mr. DAVIS. There is an ample military force in the other southern States to spare as many men as may be needful for the protection of every part of Texas. The Freedmen's Bureau is a perfect organization, and it is, by the laws which organized it, sustained by the whole of the Army of the United States. The honorable Senator from West Virginia complains that there is not a proper commander for the department of Texas. Whose fault is that? The General of the Army can change the department commander at his pleasure.

Mr. NYE. I guess not.

Mr. DAVIS. Yes, he can.

Mr. WILSON. No, he cannot.

Mr. DAVIS. Well, sir, if that commander was in any degree in default in the performance of his duty, have not the Congress of the United States the power to provide a remedy? They have all power; at least they exercise all power; and the power of changing a department commander they could put into requisition about as quickly as a juggler would presto change, if necessary. Sir, I care not who is the commander of that department. The General of the Army has authority to control and give military command to any officer or soldier in the Army of the United States as well in Texas as everywhere else.

The honorable Senator runs up this bloody catalogue to between nine hundred and a thousand murders, and says that not one of the murderers has ever yet been punished.

Mr. WILLEY. To my knowledge.

Mr. DAVIS. The honorable Senator's informant, the pamphlet from which he reads, does not give him information that any single murderer or criminal has been punished. Now, Mr. President, when martial law prevails throughout Texas, when the will of the military commander is the law, when the Freedmen's Bureau is backed by that military law, by all its officers and powers, and is required by the act of Congress to be sustained in all its movements, in all its execution of the law regulating the Freedmen's Bureau by the Army, it is the height of credulity, of superstition, for human nature to believe that there could be nine or ten hundred such atrocious murders and not one of them be punished. Sir, the honorable Senator is a man of refined and noble sensibilities. A tale of horror, however fictitious and unfounded, awakens in his sensibilities so much revulsion as to run away with his judgment. It is utterly impossible, it cannot be in the nature of things, that there could have been in the State of Texas near a thousand such diabolical murders. With the Freedmen's Bureau pervading and controlling and governing the whole population wherever it was established, it being established in every portion of the State where there was a negro population; with five thousand armed soldiers there under the lead or at least subject to be instigated by all the Radicals in that State, who are spread over the whole of its surface, more or less, and who have always been ready and willing and desirous to give information to the Army and to the Freedmen's Bureau of these atrocious and bloody crimes, that there

should be near a thousand of them perpetrated and not a single offender brought to justice beggars human belief! I care not who indorses such a story, whether it be Judge Caldwell or Judge anybody else; the thing is not so; it is impossible; it cannot be; it is not within the compass of possibility, much less probability. I have acquaintances in Texas, and I have received in the course of this session of Congress three or four letters from different points in that State, and those letters uniformly represent to me that there is as much order there, as much observance of law, as much of security of person, life, and property, as prevailed in that country before the war.

Sir, I have heard a great deal of these fictions about bloody outrages upon negroes by white men during the last three or four years. My own State has been the occasion of many of them. I recollect that a certain General Clinton B. Fisk, who commanded in the city of Lexington at one time, wrote a letter and made a public speech, which was afterward published in the Gazette and Commercial in Cincinnati, who spoke of twelve negroes who had come into the city of Lexington mutilated, the ears of some cut off, their noses mutilated, their backs made raw with chastisement, they suffering an extent of cruelty that was shocking to any nature. That whole story was investigated, and it was found to be entirely destitute of every vestige of truth. There was not a fact or syllable of evidence on which to base it; it was false, unconditionally, absolutely false. I have seen accounts of these alleged acts of cruelty scattered almost epidemic over the South, more than sporadic cases, and when they came to be investigated they were found to be most immensely exaggerated.

Why, sir, if this Congress, possessing the absolute power of government in Texas and in all the southern States, the absolute command of all the armies and navies of the United States, of the military force of the Republic, of the Freedmen's Bureau, of every agency that could be commanded—if it, having the absolute and unquestioned command of the whole, permits three years of such bloody outrage to elapse in one State with one thousand victims of murder, atrocity, and bloodshed, the power ought to abdicate its throne and give up its charge into other hands; it is so inadequate, so incompetent to perform and to execute its powers that it ought no longer to be trusted with them. But, Mr. President, these tales of horror that come,

"Thick as autumn leaves
That strew the brooks in Vallambrosa,"

are nothing but the figments of excited imagination, or the diabolical machinations of adventurers, of men who wish to raise tales of horror in order to madden the mind of Congress and the country, that they may carry along that Congress and country to their own ambitious schemes of power. I know what credit to give them; they are entitled to none.

Mr. President, I knew that the veil could not be kept spread over this unholy scheme. It has been torn aside, and the audacity and the atrocity of the project are revealed to the Senate and to the nation. It is nothing more nor less than to distribute the arms of the United States over the ten southern States, to place them in the hands of negroes and the adventurers who lead the negroes, and who will marshal them at the polls on election day for the purpose of keeping away Democratic voters. You may succeed, and probably will succeed, in this next step; but outrages may become so thick and so atrocious upon human rights that common humanity will rise up in opposition to that. I think the policy and the destiny of this party is fast approaching that atrocious excess. I am in hopes that even this fall will see it brought to a close; at least I hope so, and I believe so.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Missouri.

Mr. DOOLITTLE. I understand the bill has been ordered to a third reading.

The PRESIDING OFFICER. It has not

been. The question is on its third reading. The bill is still open to amendment by way of addition.

Mr. DAVIS. My recollection is that the bill was read the third time; but I may be mistaken.

Mr. CONKLING. Oh, no; the Senator himself rose when that question was about being put.

Mr. DAVIS. I think the question was put by the preceding incumbent of the chair, and that I addressed the Senate upon the question of the passage of the bill; but in that I may be mistaken.

Mr. CONKLING. The Senator rose just before the question was to be put.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Missouri.

The amendment was agreed to.

Mr. ANTHONY. Mr. President, in all previous distributions of arms from the beginning of the Government they have been distributed according to the Federal ratio and according to the representation of the States in both Houses. This distribution is to be according to the representation of the States in the House of Representatives alone. This is a departure from the uniform custom of the Government. I move, therefore, that two thousand be added to the quota assigned to each State, the two thousand being for the two Senators of each State.

Mr. WILSON. I have no objection.

Mr. ANTHONY. It has been done always in every distribution of arms heretofore.

Mr. SHERMAN. I do not see any use in that.

Mr. ANTHONY. It has been the uniform practice of the Government, and the reasons for it are very obvious. We have our State governments to support if we are small, and we require more in proportion than larger States.

Mr. SHERMAN. If they really need them in Rhode Island to defend themselves against Dorr or anybody else, I shall not object.

Mr. ANTHONY. We made very good use of them when we had them in the Dorr rebellion and that other rebellion of which Dorr's was the prototype.

Mr. BUCKALEW. Mr. President, I have no objection to an amendment which shall introduce the Senator's rule of distribution, especially if it has been the practice of the Government heretofore; but I am opposed to his amendment as increasing the total number of muskets to be distributed.

The whole number to be distributed in the adhering States, (and by that expression I mean those which were represented in Congress during the war,) as I make it out, will be one hundred and eighty-six thousand. The number to be distributed in the States which were engaged in rebellion are, Tennessee, eight thousand; North Carolina, seven thousand; South Carolina, four thousand; Georgia, eight thousand; Florida, one thousand; Alabama, six thousand; Arkansas, three thousand; Louisiana, five thousand; making forty-two thousand to be distributed in the insurrectionary States as they were formerly known. The amendment which the Senator from Rhode Island proposes of two thousand more muskets for each State will make over seventy thousand additional to the number already contained in the amendment of the Senator from Massachusetts. The aggregate at present is two hundred and twenty-eight thousand. By the amendment proposed by the Senator from Rhode Island the number will be raised above three hundred thousand.

Now, Mr. President, one aspect of this subject has not been discussed. I suppose that these arms being once distributed by the United States will never be reclaimed, will never be restored. They are now, I suppose, under good management, in good care, in the Government arsenals, under proper officers, honorable men engaged in the public service and paid out of the Federal Treasury. They will

be preserved if kept where they now are, and will be available for public use hereafter if any emergency in our affairs should arise. By being distributed among the States in this pell-mell manner, without reference to the necessities of any State, but upon a principle of general distribution, I suppose in a great many of cases they will fall into hands that will take very bad care of them. Many of the States have but indifferent arrangements for the preservation of arms; their arsenals are badly managed. The practical result will be to turn over arms which are declared by this amendment to be "serviceable" (they must be serviceable and therefore good arms) into care and management and control much less efficient than that which they will have if retained by the United States. That ought to be considered.

Mr. WILSON. Will the Senator allow me to say that we have on hand nearly two and a half millions of arms and some thirteen or fourteen thousand cannon, and we propose to sell any quantity of these arms to anybody, and I suppose we should sell hundreds of thousands of arms if we could get three dollars apiece for them. We are going to sell what we can of such arms as will soon be useless. These arms are good arms at the present time; but we have over a million of this kind of arms. We have an immense quantity of arms, and the States, North and South, need them and desire them for the purpose of arming properly their militia. I know this to have been the case, for we have been pressed before this time for an increased distribution of arms among the States.

Mr. BUCKALEW. As I understand, a large part of the arms now held by the United States are unserviceable.

Mr. WILSON. There is a portion that are; but we have over a million of good arms on hand, and about two and a half millions of different kinds. We have seven or eight hundred thousand Enfield foreign rifles. I take it we should sell a good many of them if we had a chance.

Mr. WILEY. I ask the Senator from Pennsylvania whether his attention has been attracted to the provision in the ninth section by which these arms are to be distributed "when required" by the Governors of the States. It is not necessarily imperative.

Mr. BUCKALEW. I repeat that a large part of the arms held by the United States are unserviceable. As to those this amendment will have no effect. The distribution to be effected, as the amendment reads, is of "serviceable, Springfield rifled-muskets, caliber fifty-eight, with accouterments and equipments complete." I believe we have made some provision by law for the sale of arms. When the rebellion broke out, very suddenly, we sent abroad to foreign countries and bought arms largely. Our haste was such that we bought what we could get, and for that reason we got a considerable number that were unserviceable. I think, perhaps, much blame was attached improperly to those concerned in making foreign purchases at that time. They acted under pressure, the pressure of an unexampled emergency; there was no leisure for making careful investigation of foreign muskets, and obtaining the best article; much less was there time to wait for the manufacture of arms abroad, and thus to obtain them of a good quality. Doubtless at the end of the war the amount of arms on hand that were unserviceable was amazing in amount, considering the whole number that were purchased and in the use or under the control of the Government during the war. What we are concerned with now, however, are Springfield muskets that are serviceable and in good condition, and it is with reference to them that this amendment is to operate.

Now, if we have a large quantity of arms that are serviceable, that are marketable, that can be used in this country or in foreign countries, I take it for granted there would be no difficulty in selling them. Let the Government sell these arms abroad. If we have this supply for foreign markets, doubtless there will be demand

made on us, and we can sell any surplus or unnecessary arms we may have under our control. In fact, as I said before we have made provision by law for the sale of arms, and the War Department has now complete control over the subject and can dispose of those which need not be kept on hand.

The Senator from West Virginia says that these arms are to be distributed only when called for. As a matter of course, if you propose to distribute arms gratis to the States, if you propose to distribute valuable arms without charge to the States, I suppose they will call for them; they will be willing to accept this princely donation, to receive these arms as their property, at least for the time being. Of course they will do that; and as I said before, I take it for granted that none of these arms will ever be restored. It will be virtually so much lost to the Government of the United States. They may be used for parade purposes. We do not anticipate any war soon to come upon us. They can only be used for parade purposes, for ornamental purposes, for purposes of drill and instruction, for which very valuable arms I suppose are not indispensable; but the practical result will be that the Government will never have any of them restored. So far as we are concerned they will be an entire loss.

I do not understand that the Government prior to the war was in the habit of distributing arms among the States.

Mr. CONKLING. Always.

Mr. BUCKALEW. I may be mistaken in that. I can very well understand that when the militia are called into the service of the United States we should arm them. At all events, whatever distribution took place in former times must have been on an exceedingly small scale.

Mr. SHERMAN. I will state to the Senator that there was an annual appropriation for the distribution of arms among the States, and \$200,000 was the annual sum.

Mr. BUCKALEW. That would furnish only a small amount of valuable arms.

Mr. ANTHONY. But it was every year.

Mr. BUCKALEW. I have not heard of any demand from the States for these arms.

Mr. THAYER. If the Senator will permit me, I will state that each new Territory has received its quota of arms. I recollect that Nebraska the very first year of its organization received two thousand stand of arms before there were five hundred people in the Territory.

Mr. BUCKALEW. I can very well understand that in the Territories they had need of arms on account of Indian hostilities, besides any demand for militia drill and instruction. Mr. President, until there appears to be a demand from the States for these arms I think we had better retain them in the care of the United States, and if we have any larger number than we need let us sell the surplus. This is a pretty large distribution; and now the Senator from Rhode Island proposes to increase the number more than seventy thousand.

Mr. MORTON. The matter stands in this way in regard to the southern States: there is perhaps not a house or cabin in all the South that does not contain from one to half a dozen rifles or muskets. Every rebel down there is armed; they carried home their arms with them from the war, while the negroes are not armed as a general thing, or have but few arms. The new State governments have no arms and they have no money to buy arms with. The state of the case, then, is that the whole rebel population is armed; the loyal population is not armed, and the new State governments have no arms and have no money to buy arms with. Now, I would submit it to my fair-minded friend from Pennsylvania, whether under such circumstances the new State governments should not be provided with arms?

Mr. BUCKALEW. That is not this amendment. Here are but forty-two thousand in all those States, including Tennessee, and no pro-

vision is made for Virginia, for Mississippi, or for Texas.

Mr. MORTON. I will come to that. I am now making the point that the new State governments surrounded by a rebel hostile population that is fully armed have not a single musket or piece of artillery to protect themselves against that population. No man, it seems to me, can say that these new State governments ought not to have arms unless he desires that they shall be pulled down by the rebel population by which they are surrounded.

Now, Mr. President, the issue is made; it is made by the New York convention, and I will say with perfect respect to the distinguished and venerable Senator from Kentucky, [Mr. DAVIS,] it is made here to-night that the new State governments there shall be upturned by violence. The New York convention declared that those governments have no foundation in law, that they are not entitled to the obedience of anybody. That convention, by its platform, has in substance said that it is the right and the duty of the white people of the South to overturn those governments. We have the frank declaration of General Blair, which was indorsed by his unanimous nomination only two or three days afterward, that it is the duty of the Democratic party, if it comes into power, to overturn those State governments by force of arms. On this issue presented by the Democratic party North and South, and these new State governments being without arms, I ask if it is not the duty of this Government to arm these new State governments? Why, Mr. President, the venerable Senator from Kentucky to-night presented the same issue. He told us that the white people had borne and endured until endurance had ceased to be a virtue, and that they could not and would not submit much longer. Did not the venerable and distinguished Senator say a little while ago that they could not and they would not submit to what he calls tyranny much longer? Therefore we are informed even upon the floor of the Senate that rebellion against these new State governments is imminent down there, and being thus informed, and these new governments being unarmed, it is but the part of common, ordinary prudence to provide them with the means of defending themselves.

Mr. President, so far as sending arms to the northern States is concerned, there is not much use in that. There was much force in what the Senator from Pennsylvania said on that point. I know from observation and experience that in the northern States the arms are not taken care of to a great extent; they pass into the hands of companies and into the hands of municipal corporations, and they are suffered to become rusty, and to get out of order, and are stolen and carried off, and very little account is ever taken of them afterward. They ought not, in my judgment, to be sent in large quantities to the northern States unless the Government first has assurances that those States have arsenals in which to put them, and laws under which they will be taken care of. But so far as the southern States are concerned, the newly-constructed State governments should be armed. They will take care of the arms for their own self-protection. They will put them into the hands of the loyal militia, and they will thus protect themselves, and they will thus keep in subjection, notwithstanding what the Senator from Kentucky says, that rebel population by which they are surrounded.

The venerable Senator talked about the oppression of the white people. He described it as the most terrible oppression that any people had ever been subjected to. I inquire what that oppression is? It is this and nothing more: that a small part of the white population has been disfranchised for having committed perjury by taking an oath to support the Constitution and afterward gone into rebellion. They are not disfranchised from voting, but simply prevented from holding office. That is the terrible oppression never before equaled in the world's history which the white people

of the South are subjected to! I know it is a terrible oppression to some people if they cannot be permitted to hold office; but here is only a small number who are excluded from the right to hold office; and that is described as an oppression so terrible that they cannot and will not submit to it much longer, but will rise in open rebellion and overthrow the new State governments erected under the acts of Congress!

There is another oppression to which they are subjected that is grievous, too grievous to be borne; and what is that? That the colored people are permitted to enjoy along with the mass of the white people the right of suffrage and the right to hold office; not that it is taken from the white people, but that these men are allowed to enjoy it along with them. That is such a grievous oppression on the part of the white people that poor human nature cannot stand it much longer!

Mr. President, these things are gravely put forth upon the floor of the Senate of the United States, and we are warned that the time is rapidly approaching when there will be no longer submission to the Government of the United States, but that the people will rise up and assert the rights of the white man. In view of the declarations of the distinguished Senator from Kentucky, in view of the declarations of General Blair, his candidate for the Vice Presidency, in view of the platform laid down at New York, I submit that there is an imminent and an immediate demand that the State governments of the South shall be fully armed, and thus enabled to protect themselves.

Mr. CAMERON. I shall vote for this bill, but for reasons somewhat different from those assigned by other Senators. I do so mainly because it has been the custom of the Government for the last fifty years to furnish arms to the different States—a custom which I have always believed to be a good one in many respects. It not only furnishes our people with arms, but by this means they are taught the use of arms. I do not believe we lose anything by the distribution of the muskets and cannon that are sent forth. The consequence of doing it is to teach everybody the use of the musket, the cannon, and the rifle. After a while the weapon becomes worthless and is thrown by, but it does not become worthless until some improvement has been made in the arm, and when the old one would no longer be useful. Our arms were not scarce in our arsenals at the beginning of the war because of our militia taking them, but because the gentleman who occupied the place of Secretary of War under Mr. Buchanan rifled all the arsenals and sent the guns into the southern States to be used by the men there when they were ready to rebel. At the beginning of the war this Government had here but three hundred muskets of all kinds we have now over two millions. Every five or six years we are making improvements in that arm, and now the whole world is agitated with the improvements upon the breech-loading gun. If we send out these guns the people in the southern States will be supplied with them, the negro as well as the white man, for the negro now has become a man, and for the first time in his history he will be furnished with a gun and be enabled to learn its use. To be sure, some of them did learn its use pretty well and did pretty good execution upon the rebels during the war; but now every negro, old and young, will be permitted to use his gun and to learn its proper use, and when we have another rebellion we shall not have difficulty about men in that section of the country.

Pennsylvania has been receiving guns for more than fifty years from the General Government, and it is in some degree to that supply that she owes the martial spirit of her people. Every boy of seventeen becomes anxious to join a volunteer company; he does not consider himself a man until he has had a gun put on his shoulder, and then at once his ambition is excited, and he becomes a soldier. After a while, he becomes tired of it; but when war

comes the spirit which was taught when young is ready to induce him to serve his country. All these guns are just now useless in our arsenals, and I think we ought to supply them to the States, and we ought to treat these southern States which we have reconstructed as we have all the other States, give them a supply for their troops, and I cannot imagine why anybody should refuse to them so small a boon as that.

Mr. HOWARD. Mr. President, the honorable Senator from Kentucky stated that the veil had been torn away from this atrocious measure, and that it now stands in all its deformity before the world. Well, sir, I do not fancy that it required a very high degree of sagacity on the part of the honorable Senator from Kentucky to perceive on the reading of this bill that it really looked to certain contingencies in the future, on the happening of which it might be very proper that the loyal governments of the insurrectionary States should be provided with arms to defend themselves.

Now, sir, the issue presented to the country at the present time in the position assumed by the Democratic party is a very simple one. It has been stated and restated in this Chamber repeatedly. It is simply this: the destruction and utter overthrow of the reconstructed governments of the insurrectionary States existing under the reconstruction acts of Congress. That is the issue on which they propose to go to the people; and if I understand their policy correctly, it contemplates the violent overthrow of those governments by force of arms or by some other means.

Mr. President, let us take a practical view of this subject for a moment. Here are double governments in each one of the insurrectionary States. The elder in point of time is what is known as the Johnson governments. Those governments, as announced in the President's veto which we have had before us to-day, are recognized by him as the only legitimate and constitutional governments in the rebel States, while in this document he states with great frankness and clearness that he regards the reconstructed governments of the rebel States as utterly devoid of constitutional authority, as utterly illegal in themselves.

Now, sir, suppose this Democratic policy shall be attempted to be carried out in the insurrectionary States. Suppose that a rising shall take place in the course of the coming fall in one or more of those States on the part of the friends and abettors of the Johnson governments; suppose they really take a step toward bringing forward this war of races, of which we have heard so much; suppose they disregard entirely the reconstructed governments and refuse obedience to their laws, what then happens? The State is in a condition of insurrection; there is a rebellion existing in the State; one or the other of those two governments will necessarily apply to the Executive of the United States for aid in maintaining the peace and executing the laws of the Government. Suppose the application should be made by the Governor of a reconstructed government to Mr. Johnson, now the President of the United States. Under the doctrine which he has announced to-day in his veto message he would be under no obligation at all to employ the Army of the United States for the purpose of upholding that government. On the other hand, according to his own doctrines, here solemnly announced, he would refuse to employ the Army to put down such an insurrection; he would let it pass; he would say to the southern rebels engaged in this insurrection to overthrow the reconstructed government, "Proceed; you are acting only according to the Constitution and the laws; it is your right to hold and exercise the powers of Government there, and it is not the right of the reconstructed government to do so, and I will not interfere at all, and I will by no means afford any aid to the reconstructed government." Then, sir, what would be the condition of the latter description of government it is very easy to see. That gov-

ernment and its friends throughout the State, black and white, would be at the mercy of the insurgents, and the Government would have no remedy whatever at the hands of Johnson.

Now, sir, I propose to keep my faith toward the governments which we have launched. I propose to place in their hands the means of defending themselves; and if there shall be any attempt on the part of Johnson's governments to usurp the powers which the reconstructed governments have derived under our legislation, it is our duty by all the means in our power to enable those governments to defend themselves. Sir, it would be base, indeed, in Congress in such an exigency to withhold from the governments which they have created those means which are necessary to perpetuate their existence. I should be ashamed of myself in such an exigency not to place arms in the hands of these governments, and I would, as the Senator from Missouri has remarked, put down such an insurrection by means of powder and ball, and every other means known to the laws of war, whatever they may be.

Sir, let not the Democratic party suppose that the Republicans are so weak and feeble that they dare not stand by the creatures which they have launched into existence. Do not let them lay to their hearts the flattering fiction that there is any fear of consequences on the part of that great and patriotic party in this regard. We are prepared to meet every exigency, whatever it may be, in whatever shape it may present itself; and I hope that we shall not shrink from the plain duty which is thus imposed upon us to enable those governments to defend themselves against domestic insurgents and against the policy of Johnson, and the policy of the Democratic party as now fully revealed and understood. If they want war, they can have it; we will not shrink from the contest whatever responsibility of blood or treasure it may require. We shall stand by our policy and defend the governments which we have launched into being. For these reasons, sir, I would vote even to double the quantity of arms in the southern States. If it is desirable to launch a war of races, let those who are fond of that kind of amusement undertake it as soon as they please. I am prepared, and I think the loyal people of the United States, North and South, will be as ready for that bloody contest as those who are now attempting to promote it.

Mr. DAVIS. Mr. President, Pierce was elected in 1852, and the men who afterward seceded then held possession of the Government and of all its powers. In 1856 Buchanan was elected, and the same men continued in possession of the Government and of all its powers. In 1860, when Lincoln was elected, the people of the United States proclaimed that they intended to have a change of rulers and of men. These secessionists would not submit to the public judgment; they revolted against it; and because they could not continue in possession of the Government, with all its vast patronage, they raised rebellion, they rebelled against the judgment of the majority of the people of the United States, of their countrymen; and sooner than submit to the domination of the voice of numbers and the majority, and the transfer of power from themselves to those who had superseded them at the polls they chose to make the conflict of arms in the form of rebellion. Mr. President, the Republicans made war against the rebellion rightfully, constitutionally. They made their manifesto of war in what is called the Johnson and Crittenden resolution. That is a noble document; it is true in constitutional principle, in patriotism, and in wisdom; and it was that noble manifesto of purposes and principles that enabled the party then in power to lead captive the minds and the hearts of the American people. In pronouncing that manifesto, and in striking according to its principles for the assertion of the authority of the Government, the Republican party acted the part of true and noble patriots. If they had adhered to their plat-

form, to the immortal principles that glow and burn and illuminate the words of that resolution, they would have still held the heart and the mind of the whole country captive. But they were corrupted by power, as all parties are corrupted with the possession of power; they became selfish, ambitious, arrogant, dominating. They forgot duty to country in their devotion to self and to power; they turned upon the Constitution of their country which they had unfurled upon their banner in the onset of the battle; they struck down that Constitution and all the rights and liberties of the people under it that stood in opposition to them.

Mr. President, I am devoted to the Constitution, to order, and to law. I worship no force and no power but the force and the power that are embodied in the Constitution and in the law. When the party drew the sword to uphold what is involved in those immortal words I gave it my adhesion; but when the party who thus unfurled its banner makes it but the pretext of faction, of ambition, of party, and of personal aggrandizement; when they move forward to trample upon the great principles of the Constitution and the rights and liberties of the people as secured by that Constitution, I turn against them, I care not who they are.

Mr. President, your party in the enunciation in the Johnson and Crittenden resolution of the purposes for which it waged war against the rebellion won, as I stated, the hearts and the confidence of the country, and deserved it; but when it forgot the objects for which it was making the war against the rebellion and turned its forces upon the Constitution of its country, upon the liberties of its people, upon that heritage of freedom which was won for us by our fathers, then it was that it lost the confidence of the country. Like the secessionists when they had become unpatriotic and had forgotten public duty, and the people turned against them and demonstrated that they desired a change in their rulers, the Republican party became unwilling to surrender power, and to retain power it was guilty of usurpation, revolution, just as the secessionists had been.

In the early days of the war under the noble principles of the Johnson and Crittenden resolution, that party made secessionism and rebellion odious, hateful, detestable; but they came to commit so many enormities themselves, so many outrages upon their country and their Government, so many flagrant violations of every great principle of liberty guaranteed by the Constitution, that they are beginning to make rebellion itself comparatively respectable. Yes, Mr. President, it was your party, your leaders, your counselors, your policy that have at length made rebellion comparatively respectable. You have wrested from the hated features of secessionism much of their odium, much of the horror with which they were contemplated by the people of the country. How and why? By your own abuses of power; by your own excesses in the uses of power; and when you had thus turned the public judgment and the public voice against you as the secessionists had in 1860 and thereabouts, you, like them, became unwilling to yield power even into the hands of the people who had reposed it in you, and you, like the rebels and the secessionists, were willing to make revolution, to trample under foot the Constitution and all of its sacred principles sooner than yield up to the people that trust of power which they had reposed in you. Sir, you have become revolutionists, rebels; you have deposed from their position the secessionists; you have subrogated them, and you have done that to assume yourselves a parallel position of revolution, of oppression, and of usurped power. The voice of the reason and virtue of this nation is overwhelmingly against you, and demands of you to yield up the Government and all of its trusts. You are not willing to do so, and sooner than submit to these terms and these requisitions of the

people, you have been willing to overthrow, and you have practically overthrown, our whole system of Government; you have brought it into ruins; it is now lying around the country in disjected fragments; and when it will ever be reconstructed and rebuilt up as the sages and patriots who reared it in 1787 founded it, is a problem of the greatest difficulty.

Mr. President, I think you will find that as the people would not tolerate the secessionists in 1860, so now in 1868 they will not tolerate you, another set of revolutionists, in your great and ruinous revolution, more so than the secessionists themselves, because they sought a simple separation, a separation by a straight line, but you bring our Government and our Constitution with all its great principles, and all the partition and adjustment of sovereignty and powers between the United States Government and the States, into one common ruin. You are willing to yield up the whole, to surrender all sooner than let go your firm, as you believe, grip upon power and place and office. But I think, Mr. President, that you will find that the people will now in 1868, pass the same stern, irreversible, and inflexible judgment against you that they did against the secessionists. I hope so; I believe so.

Mr. BUCKALEW. I desire to add to what I said before a calculation of the cost of this distribution. The whole number of arms to be distributed under the amendment of the Senator from Massachusetts, with the addition of nine thousand for Missouri, since made, at fifteen dollars for each musket with accouterments, amount to \$3,420,000. I am told that the value of a Springfield musket now is about twenty-five dollars. These are required to be serviceable muskets with the fixtures and matters that go with them, but I have put the calculation at fifteen dollars. The cost of this distribution at that rate is, as I have said, \$3,420,000. Under the amendment of the Senator from Rhode Island, counting two thousand additional to each of thirty-seven States, we have seventy-four thousand, which, at fifteen dollars each, amount to \$1,110,000 more, making the aggregate \$4,530,000, carried by this amendment of the Senator from Massachusetts as it is now proposed to be amended by the Senator from Rhode Island.

Mr. President, within the insurrectionary States, as they were formerly mentioned in this amendment, forty-two thousand are to be distributed by the amendment of the Senator from Massachusetts, the value of which would be \$630,000. The Senator from Rhode Island would add to that number sixteen thousand for eight States of the South included in the amendment, which, at the same rate, would make the aggregate distributed to the southern States \$870,000. That is the cost to the United States of this amendment. Before taking the vote upon it, I thought it proper to add to what I said before this statement of the amount of cost.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Rhode Island.

The amendment was agreed to.

Mr. DOOLITTLE. I wish to offer to this bill some amendments; one to the first section of the bill to reduce the number of regiments to twelve regiments of infantry, four regiments of cavalry, and four regiments of artillery, so as to have the whole amount twenty regiments, which I think is quite enough for the peace establishment of this country. Ten regiments of United States troops are enough, so far as the disorders in the southern States are concerned, and ten regiments are enough to take care of our forts and arsenals and look after the Indians.

In relation to the third section of the bill, I think the honorable Senator from Massachusetts has gone too far in proposing to abolish all the bands.

Mr. WILSON. It only applies to brigade bands.

Mr. DOOLITTLE. The section reads:

That all the bands now in the service organized

under the provisions of section seven of an act entitled, &c.

Mr. WILSON. Those are brigade bands.

Mr. CONNESS. The regimental bands were abolished some time since, I understand.

Mr. WILSON. When the Army bill was passed in 1866, the Senate refused to allow bands, but the House of Representatives persisted in not interfering with them, and finally the Senate yielded in a committee of conference. I think at the last session we passed an act through the Senate to repeal the law authorizing bands, and I think we have done it at this session, but it has not yet become a law. They now have regimental bands, but brigade bands are entirely unnecessary, and it is proposed to repeal the law authorizing them.

Mr. DOOLITTLE. If the section simply refers to brigade bands, I shall not object to it; but I think it is going too far to abolish all bands in the military service, especially in time of peace. I desire, however, to amend the first section of the bill, so that it shall read:

That the line of the Army as now constituted be reduced to twelve regiments of infantry, four regiments of cavalry, and four regiments of artillery.

And then to go on as it now reads. Then I propose to amend the second section so as to reduce the total number in service to thirty thousand men, divided thus: cavalry, three thousand; artillery, four thousand eight hundred; infantry, twelve thousand two hundred; and to let the remainder of the section stand as it is, simply changing "thirty thousand" in the twelfth line to "twenty thousand."

This bill as it stands leaves the standing Army in time of peace at forty-two thousand men. Mr. President, this is too large an Army for any service which is required by the Government of the United States. The bill provides for thirty regiments of infantry, eight regiments of cavalry, and four regiments of artillery, making in all forty-two thousand men.

Mr. WILSON. But the bill provides that there shall be but thirty thousand men.

Mr. DOOLITTLE. Thirty thousand enlisted men. It is well known, and especially in these latter days, that our regiments cost us at the rate of about a million and a half a year, making the expense of thirty regiments about forty-five million dollars. If we have an Army of twenty thousand, it certainly is large enough in time of peace; and if any emergency should arise, war with any foreign Power or a domestic insurrection, we know with what alacrity the armed and trained soldiers of the country, for we are now a trained and military people, would fly to the standard of the Union. We could raise any amount of troops in the shortest possible time which could become necessary by any exigency, and twenty thousand are enough for any peace establishment.

Mr. President, it is not my purpose to go into the general discussion which has arisen to-night. Certainly I shall not do so at any length. I regret exceedingly that anything should be done by Congress or by anybody which would tend to bring about a war of races in the southern States. That there is great danger that such a war may arise is certain: No man can look upon the state of things at the South and not feel the danger. There are some of the States of the South where not only all the men who have held any office under the State or under the Federal Government are disfranchised, but where by the oaths which are required to be taken in the constitutions of those reconstructed governments three fourths of all the white people in those reconstructed States are disfranchised. Take the State of Alabama; the oath in the constitution requires a man to swear that he believes and accepts the political equality of whites and blacks. In Arkansas it is the same. Now, I say to the honorable Senator from Indiana, [Mr. Morton,] that a large majority of the white people of Indiana would be disfranchised if they went into either of these States to live, and so would a large majority of the people of New York, and of all the States with the exception of one

or two where they have ever been called upon to vote on that question. This must be the result unless you intend that the people shall be demoralized and shall perjure themselves and shall take oaths which they cannot take before God without taking perjury upon their souls.

But, Mr. President, when such a state of things as that exists, to suppose that it can continue for any length of time without coming to a conflict is folly. This system must give way or a conflict will inevitably ensue. Not many years ago General Grant, who is now the candidate of the Radical party, was of precisely the same opinion which I still entertain; and in the State of Wisconsin, when these questions were being discussed, he authorized me to state to a convention held in Wisconsin and to the people of Wisconsin that if this system of reconstruction was to be persevered in, the whites disfranchised and universal negro suffrage set up in the States of the South as a condition of reconstruction, it would inevitably lead to a war of races unless we maintained a standing army there to prevent it.

Mr. THAYER. What convention?

Mr. DOOLITTLE. I allude to the State convention held at Madison in the fall of 1865; and subsequently General Sherman was there at a meeting held in the assembly chamber at Madison, and General Sherman sat by my side when I addressed the people of Wisconsin assembled there and urged the same view, and stated the fact which General Grant had authorized me to state, and General Sherman authorized me to state the same thing, and he nodded his assent as he sat by my side. Gentlemen, I tell you that you feel conscious of the fact yourselves, and you believe that enforcing this reconstruction on the South in this way will bring us to a point where there may be a war of races unless you arm the negroes of the South to prevent it. You feel it; you fear it; you know it is inevitable unless the Government of the United States prevents it by the strong hand.

Now, Mr. President and fellow-Senators, I hold that it is much safer for you to rely upon the Army of the United States, commanded by the regular officers of the United States, to preserve the peace during the coming elections than it is for you to put arms into the hands of one of the parties in those States, and not put arms into the hands of the other.

Mr. MORTON. Are not the others armed?

Mr. DOOLITTLE. Not that I am aware of; no more than the opposite side. When the rebels surrendered, their arms were surrendered, for by the condition of Johnston's surrender to Sherman the arms were to be brought forward to the State arsenals and there delivered into the custody of the United States; and I have no knowledge about the other party being armed at all. There are no more arms that I am aware of on one side than the other. But what I protest is that the most dangerous of all things you can do is to put these arms into the hands of one party in the midst of an excited election and suppose that that is the way to keep the peace. No, gentlemen; let the arms which are to be held in those States in which these elections are going on be held in the hands of the United States soldiers, commanded by the United States officers, and not the officers who may be chosen by these militia or the Governors, or the men who are interested in maintaining one party to the disadvantage of the other. There is the danger; and you will find in practical experience here will be the most dangerous thing to result from arming the one side. If you do anything on the subject toward keeping the peace during the pending election let it be done by the power of the Federal Army, the officers of the Federal Army. Give your directions to them to hold an even balance, and let them hold it with a firm hand, and not arm the negroes of the South, supposing that will be the better way to preserve the peace.

Mr. President, and fellow-Senators, I do not want any blood shed in the South. I wish to

avoid it. I would plead with you and appeal to you by every consideration to prevent it; and if there is danger of a conflict in the coming elections down there, let the force which is employed to prevent it be the force of the regular Army, under the control of the officers of this militia which may be organized by a faction or a party for the purpose of preventing the other party from coming to the polls to vote. Let it be the Army of the Federal Government, holding an even balance and an even hand in those States. That is the way to prevent a conflict. But you arm one party, and what is the necessary effect? Is it not of itself one of the greatest provocations that can be conceived to arm one party—a great provocation to the other to be drawn into a conflict? These people are liable to abuse their power, to drive men from the polls who claim that they have the right to vote under the laws that are established. If they attempt to go to vote they are driven away, perhaps. In the excitement of the moment a collision occurs; and if the war begins God only knows what may be the end. My opinion is that this bill in this respect is exceedingly defective, and that if you wish to do anything for the purpose of preserving the peace at the coming elections there, it should be through the regular Army and not by any volunteer militia.

Mr. President, I do not undertake to say that the men in the South who have had control of these reconstruction measures have not done as well as human nature is capable of doing when it is clothed with such extraordinary powers as have been placed in their hands. I do not think that the generals who have been in command in the South are any worse than ordinary men. Many of them are high-minded and honorable men. But, sir, it is the system of which I complain. The system which puts absolute despotic power in the hands of any man tends, of necessity, to corrupt to a certain extent the man. The possession of absolute, unqualified power is a specific poison which works a change in the human heart itself. In consequence of the system, not that the men are worse than other men, there has grown up at the South in many of those districts a system of oppression which you cannot find paralleled in the history of civilized countries for two hundred years. The Senator from Kentucky alluded to one occurrence which has taken place in the State of Georgia. A Mr. Ashburn was murdered, murdered, I believe, in a house of ill-fame, a negro brothel in the city of Columbus.

Mr. WILSON. Oh, no.

Mr. DOOLITTLE. I state to my honorable friend from Massachusetts that he is mistaken. Such was the fact stated to me by a gentleman who resides in the town. He knows the place where this murder occurred.

Mr. CONNESS. That does not appear in the testimony at all.

Mr. DOOLITTLE. But that is not material to the point I was stating. I only state it as a fact of which I am informed by gentlemen residing there.

Mr. DAVIS. It is the fact, and I know it by men who live in Columbus and who have been here.

Mr. DOOLITTLE. On his being murdered a reward was offered of \$40,000 for the purpose of discovering the murderers; and to show you, sir, what kind of a system of oppression can grow up whenever the common law is laid aside and absolute military despotism is substituted in its place I would refer you to certain facts that have occurred there. In that city of Columbus a man when he left his home at breakfast did not know whether he would return to his home again or not. Time and again men in that city were arrested without warrant, without any charge, taken to Atlanta, thrust into dungeons but eight or ten feet long and two and a half or three feet wide, with no light and no air except what came through the grates at the top, kept in those

dungeons for a whole week without being permitted to speak to a human being, and at the end of the week taken out and by these detectives told, "Now, sir, tell us what you know about the murder of Ashburn. Forty thousand dollars reward has been offered to detect and to find out who were the murderers. If you disclose the fact you may participate in the reward." "Sir," said two or three of these gentlemen, and their names were given to me by the person who made the statement, "I know nothing of the murder of Ashburn." "Yes, you do, sir;" and thereupon they were thrust back into the cells again for another week.

One of these men, a young man residing in the city of Columbus, who was a man of full habit, quite fleshy, weighing two hundred pounds, was in this hottest weather placed in one of these cells, and when his counsel, Mr. Crawford, of Georgia, formerly a member of the House, whom the honorable Senator from Massachusetts must well know, called upon him, he found him stripped down to his undershirt, and the reason was asked why he did this. Said he, "I receive one pitcher of water in the morning; that water I pour over my floor with the exception of just enough to quench my thirst, and I take off all my clothing down to my undershirt and lie upon the floor where it is wet and damp, and put my face down to a crack beneath the door where I can catch a particle of fresh air." There he was kept suffering for a whole week, and then taken out again by these detectives and inquired of what he knew of the murder of Ashburn?

I hold in my hand an affidavit made by a colored man, who was also persecuted in the same way, in order, by this system of torment and persecution, to wring from him, if possible, something, some story, some tale in relation to the murder of Ashburn. He states the fact that he was arrested and taken from his team which he was driving through the streets; that he was hurried off from one place to another, and finally to Fort Pulaski; that in Fort Pulaski, after he had been placed in a dungeon for awhile, he was placed in that instrument of torture which is denominated a sweat-box, and kept standing in it for thirty long hours, when he was taken out and again asked, "What do you know of the murder of Ashburn?" These detectives, acting, not under the common law which gives us our liberty and secures our rights, but acting under the military despotism which grows out of this system, have in Georgia, in our own country, under the authority of the reconstruction laws of Congress, or rather by an abuse of the power which that authority has given, subjected persons to a persecution equal to the boot, equal to the thumb-screw, in order to force from them some confession of their knowledge of the murder of Ashburn. This colored man, after being blindfolded, was taken from his dungeon and led round and round until he was bewildered and lost, and was brought up at last in front of a loaded cannon with a man ready to pull the string and fire it, and threatened that it should be fired upon him if he did not disclose something about the murder of Ashburn!

Mr. President and fellow-Senators, I tell you that in the name of these military despotisms in the States of the South there have been enacted such cruelties, such oppressions, such wrongs as would make the heart weep and bleed to hear recited. I do not say that the generals in command there are not just as good men as any of us would be under the same circumstances; but when absolute, despotic power is placed in the hands of any man over the lives and property and fortunes of all the men and women around him, black and white, it is utterly impossible that this kind of oppression should not grow up. It is its natural fruit and flower, and has been from the beginning of the world. It is in human nature and human affairs that wherever this despotic power exists

and is exercised without limit and without restraint, just such oppressions as these always occur.

Mr. President, I could wish that the honorable Senator from Massachusetts had provided, if that be the object of the bill, and there are gentlemen who frankly avow that such is its object, to arm somebody in the States of the South so as to preserve the peace at the coming election, that the regular Army of the United States, under the officers of the Army, should be employed for that purpose rather than that arms should be sent to be placed in the hands of one party to keep the other party in subjection.

Mr. WILSON. Mr. President, when this bill was taken up, I certainly expected that the Senate would pass it in the course of half an hour. I am sure it entered not into my mind that we were doing anything very wicked in passing this bill, and I am not a little surprised at the tone and temper of the debate that has so unexpectedly sprung up.

What is the proposition? It is to reduce the Army from fifty-three thousand to thirty thousand men—as large a reduction as it is safe to make at this time, and in the present condition of the country. The Senator from Wisconsin desires that the Army shall be reduced to twenty thousand men. Sir, that would be a reduction quite down to the Army standard before the war. Then we had eighteen thousand men, or rather we were authorized by law to have that number. We have in nine of the rebel States about fourteen thousand men. We have in the State of Texas only fifteen companies, excepting on the frontiers. In the whole State we have fifty-four hundred, but there are only fifteen companies in the eastern part of the State. In the States of Mississippi and Arkansas we have but thirty-one hundred; only twenty companies in the State of Mississippi. Our Army is mostly west of the Mississippi river, in the Indian country, scattered all over the whole Union, and to reduce that Army from fifty three thousand to thirty thousand men is an immense reduction at this time and is all that it is now safe to make.

The Senator from Wisconsin asks why we do not rely on the regular Army to preserve the peace in these rebel States? Sir, the very proposition we have before us is to reduce the regular Army. We are completing, as we hope, reconstruction on the basis of justice. We hope to see speedily law-abiding governments established there. Most of the Army will be removed from those States. Perhaps a small portion may be retained for a time. These States desire to organize small militia forces. It is right and proper that they should do so. Everybody supposes they will do so. This distribution of arms to all the loyal States that desire those arms and have the need for them can be made by the Government without any loss to anybody. In a very short time the very best arms we have will pass out of use and new breech-loading rifled muskets will take their places. We are already arming the Army of the United States with breech-loading muskets, and these Springfield muskets will soon cease to be of any great account.

A word about the despotism in the southern section of the country. Sir, there has been more protection of the liberty of the whole people in those States within the last fifteen months than in any other period during the last twenty or thirty years; but still there are great outrages committed. Who commits them? Who murdered Ashburn? Why was he murdered? Simply because he was a member of the constitutional convention; because he was canvassing the State. He was driven out of the public hotel and was not permitted to stay there on account of the fact that he was known to be a member of the convention and an advocate of the policy of reconstruction. He went to a private house to board. Gentlemen speak disrespectfully of it. I am told by those who have investigated the subject that there is not a word of truth in the charges made that his

boarding-house was a ill-house of fame. It is, it has ever been the practice of the assassins of loyal men to assassinate the character of their victims.

In regard to the arrest of these persons charged with his murder it is possible that some things may have been done that should not have been; but I have read, within a few days, a letter signed by those prisoners held in custody at Atlanta, saying that they have been treated with the greatest kindness by the officers. That letter, signed by the men on trial, is full, ample, complete, and it gives the lie to all these charges of cruelty.

Mr. HOWE. I wish to ask the Senator from Massachusetts if any complaint has been made either to the General of the armies or to the Secretary of War of the conduct of these subaltern officers in command there?

Mr. WILSON. I have not heard of any. I do not know whether there have or have not been complaints made.

Mr. DAVIS. Complaint was made to the Secretary of War, and he sent a special messenger there.

Mr. HOWE. When was that?

Mr. DAVIS. Soon after their confinement.

Mr. HOWE. How long since?

Mr. DAVIS. A couple of weeks ago.

Mr. HOWE. And he sent a messenger there to investigate the matter?

Mr. DAVIS. Certainly he did. The father of one of the young men came here from Columbus and stated the facts.

Mr. WILSON. I remember that. The father of one of the young men asserted that he was not guilty, and that he was not treated as a gentleman should be. The truth is that it was an organized murder, in which several persons were engaged. There is no question or doubt about it at all. There is no doubt about his being murdered; there can be no doubt that several men were present and participated in the murder; there can be no doubt these men were inspired by political hate, and that they acted in concert. Some of these men have been arrested, are now on trial before a military commission at Atlanta, and it is no matter of surprise that persons in sympathy with them should seek to defame the military authorities and all those who would bring these political assassins to justice. But I am anxious for a vote, Mr. President, and will trespass no longer upon the time of the Senate.

Mr. HARKLAN. I desire to say a few words before the vote is taken on this bill. I am very much surprised at the character of the arguments that have been presented from the other side of the Chamber in opposition to this bill. I have listened here for many months to able arguments from that side of the Chamber in favor of the reduction of the standing Army and its entire withdrawal from these States South. It has been insisted upon by Senators who have participated in the discussion to-night, that only a few thousand men were needed, and they merely to garrison the principal forts and to hold in subjection the savages on the frontier. This course of reasoning has been urged with such pertinacity, and facts in favor of it have been presented with such clearness, that I had become convinced that we had more troops in the regular Army than were now needed, and I was hoping that the time would arrive previous to the adjournment of this session of Congress when the Army might safely be reduced. In conversation with members of the Committee on Military Affairs I learned that it was their purpose to introduce a bill to reduce the Army as soon as civil governments could be substituted in these States for the provisional governments previously in existence.

That time has now arrived, six or seven of these States having organized regular governments in harmony with the Constitution and the laws of the United States, when it is no longer necessary, as they think, to retain on foot so many regular troops, and they propose consequently to reduce the Army between

twenty and thirty thousand; and so soon as his proposition is introduced into the Senate every member of the Senate of opposing politics that has spoken deprecates the reduction. They have denounced the presence of the troops in those States as an organized despotism, a despotism that had grown too onerous to be borne; and when the majority of the Chamber propose to withdraw the troops, now that civil governments have been organized in harmony with the Constitution and the laws, they denounce the withdrawal of the troops. The honorable Senator from Wisconsin tells us that it is unsafe to withdraw the regular Army.

It is known to everybody that if the regular troops are withdrawn it will be necessary to have arms in the hands of the militia for the purpose of sustaining the civil officers. It frequently happens in each and all of the States that criminals organize in numbers too great to be overcome by the civil officers, the officers of the courts; that they must occasionally be sustained by a *posse* or an armed body of men in order to execute the process of the civil tribunals. The chairman of the Committee on Military Affairs, now that he is about to reduce the Army and withdraw a large proportion of the regular troops from these States, proposes to make it possible for the civil governments to execute the civil process of the civil tribunals in those States; and that has been assailed as a criminal proposition, as a proposition to arm one political party against another political party. After giving the bill as careful a reading as I am capable of giving it, I see nothing in it that tolerates such a suggestion. The bill proposes to place these arms in the control of the civil governments in those States, and not under the control of any party. They are to be delivered to the Governors regularly elected by the people and inaugurated, in the hands of the men who have become by virtue of the voice of the people of the States over which they preside the commanders-in-chief of their militia, the men who are intrusted with the execution of the State laws. All that there is in that part of the bill is to place a few thousand stand of arms in the hands of the chief Executive of each one of these States, in order that a few men may be armed to support the civil officers of the State, to make it possible to execute civil process, to overcome any small combination of criminals who may have a purpose to interfere with the private rights of citizens.

The honorable Senator from Wisconsin denounced the Army as a tyranny, as a despotism, and cited cases of despotism on the part of officers, and in the same breath told the Senate that he was in favor of continuing those same troops in those States; that it would be much safer to keep these despotisms organized in the midst of these people that have been, if we may believe these Senators, ground to the earth by this despotism. I do not understand this kind of logic. It is either wise or unwise to keep a standing army in those States. We have been told during this long session of Congress that it was unwise by every member sitting on the opposite side of the Chamber of opposing politics; it was unnecessary; that they were not needed. Some of us thought that possibly they might be necessary until civil governments should be established; but those governments having been established, we now acquiesce in the wisdom of reducing the Army, withdrawing the regular troops, and permitting the civil governments to control their own local affairs; and in order that they may be able to do this and sustain themselves it is proposed to make a general distribution of arms, to send a few thousand to each one of the States of the Union, to place them under the control of the chief Executive of each State; and now that is denounced, and each one of these able and learned Senators has been attempting to convince the Senate and the country that the majority in this Chamber are more unwise in now acceding to their

proposition to reduce the Army than we heretofore have been in maintaining a small regular force in those States.

I do not understand this kind of logic. It is incomprehensible to me. I know it is the privilege of the minority to criticize the policy adopted by the majority of a deliberative body. But it does seem to me that they ought to study a little consistency in presenting these criticisms, and not denounce to-day that which they sustained and defended yesterday.

I am willing to vote to reduce the Army to the smallest number which it is supposed will be able to maintain the peace on the frontiers, to garrison our principal forts on the two coasts, and to permit each organized State in the Union to control its own local affairs in its own way. In order that this may be done it seems to me that we ought to follow out that policy which has existed from the very beginning of the Government, to make a distribution of arms from year to year to the several States, to be placed in the hands of their local militia, in order that they may be able to enforce their local laws.

It is said that some white people have been disfranchised in the southern States, and that some colored people have been permitted to vote. Why, Mr. President, let us analyze that proposition for a moment. In the first organization of civil government there Congress provided that all loyal citizens of the proper age and proper residence should be permitted to vote, but so soon as the State organization was effected the power to control the elective franchise was remitted to the States themselves, and Congress does not now claim the right to control the elective franchise in South Carolina more than in Iowa, in Georgia more than in Wisconsin. They now have constitutional State governments. They are organized, and adopting the theory of the Democratic party, that the people of each State have the right to regulate the elective franchise for themselves, Congress permits their fundamental law to go into effect. They provide in their constitutions and in their local laws who shall vote and who shall not vote, and Congress acquiesces in it when adopted by the people of South Carolina just as Congress acquiesces in the same thing when adopted by the people of Wisconsin. If under the constitution of Wisconsin certain white men are disfranchised what right have I to complain? And some of them are disfranchised in that State by local law, as they are in mine and in every other State in this Union. Persons who have been convicted of crimes, whether white or black, are disfranchised in the most of the States. This is done by virtue of the local laws, either the fundamental law, or some statutory provision. If it is true that in South Carolina, or in Alabama, or in Georgia, or any one of these States, under the constitution of the State which the people themselves have made, certain classes of white men are disfranchised, what right have I to complain? Why should the Senator from Wisconsin feel offended? Have they not a right in those States to regulate their own local affairs in their own way? Is not that right as complete in those States as in the States North and West? If they are ever to be coequal members of this Union, they must become so the very moment they are entitled to full representation in both branches of Congress.

I repeat, then, Congress has never proposed to stand as the guardian to the people of the States that are organized and living under regular State governments. They have only maintained the right to enable the people to organize, and at the first election to be held pursuant to this attempt to organize have indicated who may vote. The people have held that election, have organized, and under that organization have made for themselves constitutions, and are enacting State laws regulating the elective franchise, as well as every other subject of local interest to themselves; and what right have we to complain if they do enact

laws that are not palatable to us? They have a right to enact those laws. We must guaranty to them the same privileges that we claim for ourselves.

But this question, as it seems to me, is not legitimately before the Senate. All that is proposed by this bill is to reduce the standing Army, to accord the very thing that our associates here of opposing politics have been demanding at our hands from the beginning of this long session of Congress up to within the last twelve hours, to reduce the Army, and to make it possible for the people of all the States to enforce their own laws by the use of their own citizens, to support the civil officers and these State governments in the execution of civil process.

Mr. DOOLITTLE. I move to amend the bill in section one, line four, by striking out "thirty" and inserting "twelve;" and also, in the same line, by striking out "eight" and inserting "four;" so that it will read:

That the line of the Army, as now constituted, be reduced to twelve regiments of infantry, four regiments of cavalry, and four regiments of artillery.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Chair will state that this bill is itself an amendment. It was considered as in Committee of the Whole. It was then reported to the Senate, and that amendment was concurred in. It is not open to amendment; but if there be no objection the Chair will not make the point of order.

Several SENATORS. There is no objection.

Mr. STEWART. The point of order is not raised.

The PRESIDING OFFICER proceeded to put the question on the amendment.

Mr. DOOLITTLE. I ask for the yeas and nays.

Mr. WILLIAMS. If the yeas and nays are insisted upon, I make the point of order on the proposition.

Mr. BUCKALEW. It is too late to make it.

Mr. CONKLING. Oh, no; it is not.

Mr. WILLIAMS. I insist that the amendment is out of order.

Mr. DOOLITTLE. It is certainly too late to raise the question of order now, after the amendment is before the Senate, and being voted upon.

Mr. BUCKALEW. If the Senator will permit me, I believe a few moments ago we voted on an amendment offered by the Senator from Rhode Island.

Mr. CONKLING. That amendment was to add to the bill. This is to strike out and change it after we have agreed to it.

Mr. DOOLITTLE. I should like to take the yeas and nays on this question. I think we may just as well take the yeas and nays upon it.

Mr. CONKLING. Let us hear what the Chair says on the point of order first.

The PRESIDING OFFICER. If the point of order is insisted upon, the Chair of course must decide—

Mr. DOOLITTLE. But the question is submitted to the Senate, and we are taking the vote upon it, and are now dividing on the question.

Mr. CONKLING. If the Senator will allow me, hardly that. Some of us sitting here for a number of hours patiently listening to speeches, all of them most pertinent to this bill, of course, were willing by unanimous consent that the sense of the Senate should be taken on that amendment, supposing it to be in the ordinary way, by voice, and the Senator was to be content with that; but now, if he wishes to divide the Senate, and show the lack of a quorum, if there is such a lack, then unanimous consent might not be given. My friend before me [Mr. WILLIAMS] makes the point of order, and I hope the Chair will decide it.

Mr. DOOLITTLE. If the gentleman assumes that there is no quorum present, then we have nothing to do but adjourn.

Mr. CONKLING. I do not say there is no quorum present. I say if it should turn out that there is no quorum.

Mr. DOOLITTLE. I am satisfied that there is a quorum.

Mr. CONKLING. Let the Chair decide the point of order.

The PRESIDING OFFICER. If the Senator from Oregon makes the point of order, of course the Chair decides that the amendment is not in order.

Mr. DOOLITTLE. The question was submitted, and the Senate was dividing upon the question; and it is too late to raise the point of order. I do not ask a division of the Senate for the purpose of showing that there is no quorum. There is evidently a quorum in the body. I wish simply to have the vote by yeas and nays. I do not wish to discuss it.

Mr. CONNESS. Has the Senator any doubt as to what the decision of the Senate was upon his amendment?

Mr. DOOLITTLE. I desire to have the yeas and nays upon it.

Mr. CONNESS. I ask if the Senator has any doubt as to the decision of the Senate?

Mr. DOOLITTLE. I ask the Senator from California if he does not wish to place himself on the record by yeas and nays!

Mr. CONNESS. I do not wish to please a Senator who is simply aiming to gain political points.

Mr. DOOLITTLE. I am not aiming at political ends. I am for reducing the Army to twenty thousand men.

Mr. CONKLING. Is this debate in order after the question has been decided?

The PRESIDING OFFICER. Does the Senator from Wisconsin appeal from the decision of the Chair?

Mr. DOOLITTLE. With all respect to the Chair, I wish to say that after the question of order was once waived and the amendment agreed to be submitted, and the vote is being taken, it is too late to raise the question of order.

Mr. STEWART. I rise to a question of order. My point of order is that discussion on this matter is not in order.

Mr. DOOLITTLE. I ask for information from the Chair if it be not too late to raise the question of order after the question has once been waived and the amendment submitted to the Senate?

Mr. CONKLING. That is just what he has decided.

Mr. DOOLITTLE. No; he has not decided that. He said the question originally was out of order.

The PRESIDING OFFICER. The Chair is of opinion that the point of order can be made at any stage. The question before the Senate is on the engrossment and third reading of the bill.

Mr. VICKERS. I wish to offer an amendment.

Mr. DOOLITTLE. The question is on the amendment I offered.

The PRESIDING OFFICER. Does the Senator appeal from the decision of the Chair? The Chair decides that the amendment is out of order.

Mr. DOOLITTLE. I do not understand the decision of the Chair upon the amendment. The Chair did not announce any vote upon it.

The PRESIDING OFFICER. The Chair announced that the amendment was not agreed to, there being no point of order made. After that the point of order was made, and the Chair decided that the amendment was not in order.

Mr. DOOLITTLE. I ask for a division of the Senate upon the question.

Mr. CONKLING. How can that be if it is out of order?

The PRESIDING OFFICER. It can be taken by unanimous consent.

Mr. NYE. The Senator from Wisconsin appears to die hard. What is the matter with him?

Mr. DOOLITTLE. It seems these gentlemen do not dare go on the record.

Mr. CONKLING. Oh, I guess they dare go on the record.

The PRESIDING OFFICER. The amendment will be entertained if there be no objection.

Mr. CONKLING. There is objection. I object.

The PRESIDING OFFICER. Objection being interposed it cannot be entertained. The Senator from Maryland offers an amendment, which will be read.

The Secretary read the amendment, which was to add to the ninth section the following proviso:

Provided, That the arms, accoutrements, and equipments provided for in this section shall not be delivered to the Governors of the States as mentioned in this section prior to the 1st day of January next, unless the President of the United States shall deem such delivery necessary for the suppression of disturbance or disorder in any of the said States.

Mr. VICKERS. Mr. President, if there is no actual disturbance in the southern States I can see no necessity for this ninth section, which provides for the distribution of arms. I have understood from Senators on the other side since I have had a seat in this body that reconstruction was all that was desired; that it was to be the panacea for everything; that there would be peace and harmony if reconstruction could take place. Reconstruction has taken place in one mode, and yet this measure is introduced, the very object of which is to arm the negroes against the whites. There can be no other purpose and no other object.

I do not understand that Senators on this side of the Chamber are opposed to the reduction of the Army, as has been suggested by the Senator from Iowa. If the Senate will disconnect this ninth section of the bill from the other portion of it, the Senators on this side of the Chamber will be found voting for the reduction of the Army. I assume that Senators were sincere when they asked for this reduction, and consequently a diminution of the expenses of the country. But connected with that measure is a section which is disapproved by Senators who think as I do, and for which they cannot vote.

Where was the necessity of adding the ninth section to this bill? Was there any? Has it any natural connection with or affinity to it? I hold in my hand a bill passed by the House of Representatives containing the very provisions of the ninth section; a bill coming from the House single and isolate, upon which the Senate expected a vote, and if the vote had been taken upon that bill, the Senators on this side would have voted against it, and still have voted for the reduction of the Army. Why has this bill which has passed the House of Representatives providing for the distribution of arms been laid aside, and its provisions incorporated into a bill for the reduction of the Army, if it has not been to force Senators on this side of the Chamber to vote against the bill itself? I shall vote against the bill as it stands, if the ninth section remains a portion of it, but I should vote for the bill if the ninth section were taken from it. The ninth section has virtually passed the House of Representatives as a separate bill, and a vote can be taken upon it in the Senate if the majority pleases.

I do not see any inconsistency in Senators voting against this bill with the ninth section in it; nor do I see that there is anything in the conduct of the Democratic and Conservative party to bring on a war of races or any collision. There is no disposition to do it. If any hostility is brought about it will be by the act of Congress itself by these reconstruction laws. The tenure-of-office bill was believed to be unconstitutional by the party to which I am attached. The Freedman's Bureau bill was deemed to be unconstitutional by the same party; and all the reconstruction acts have been liable to the same constitutional objection. Does it follow, because we consider these acts unconstitutional, that therefore it is necessary to bring on a conflict of arms? No, sir; the conflict is to be one of opinion. The voice of the people is to decide this great controversy, not a conflict of arms. It is to be determined

by the ballots, not bullets, of the American people.

The election will be passed before the electoral votes can be counted. What, then, is the object of arming the negroes, for this is virtually doing so. The Senator from West Virginia says that in Texas but a small portion of the whites were loyal to the Government, while the negroes were loyal. Then these loyal men, who are the negroes mostly, are to be armed. They are to be armed against the great majority of the whites, who constitute what are called the rebel portion of those communities.

Mr. CONNESS. With the Senator's permission I will remind him that the bill does not propose to send arms to Texas, Mississippi, or Virginia.

Mr. VICKERS. The same reason applies to the States in which it is proposed to send arms. South Carolina has a majority of negroes in it. Is not South Carolina in the bill? Is not the legislative power of that State in the hands of the negroes?

Then you propose to arm the negroes against the white population because you deem all disloyal who are opposed to your reconstruction measures. The very test of loyalty set up by Congress is an approval and support of the reconstruction laws. If that is the test, and all others are to be armed, do you not arm the negroes against the white population?

The Senator from Iowa said that the arms were to be placed in the hands of the Governors of these States. Who elected those Governors? Was it not the negro vote? Can it be questioned that those who placed the Governors in power will receive the arms from them, just as certainly as if the Senate voted that the arms should be placed in their hands? The question is now presented to the Senate, Will you arm the negroes? The Senator from Indiana says "Yes; arm the negroes; arm the loyalists for the purpose of keeping in subjection the rebels." Who are the rebels? Every one opposed to your measures of reconstruction. Every one who is opposed to that doctrine is denominated a rebel. Then you place these arms in the hands of the loyal population, consisting of a majority of negroes; and if you do so what use is to be made of them? I admired the frankness of the Senator from Missouri when he said, if necessary, to protect themselves at the ballot-box. Yes, he would do it at the ballot-box; and can there be any doubt that these arms will be used to prevent persons from voting who have the right to vote? We all know the ignorance of this portion of the people, their excitability, and we know that when they are manipulated by white agents they can be made to do almost anything.

My amendment provides that if it shall be necessary to furnish arms it shall be done by the President of the United States. Who has the authority to suppress domestic violence or repel invasion? Is it not the President of the United States? Congress does not give him the power to do so, but the Constitution itself, in the fourth section of the fourth article, provides that—

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence."

Is it not "domestic violence" that Senators say is apprehended in these reconstructed States? Is it not "domestic violence" that you say these arms are to be placed in the hands of the negroes to suppress? Is not this provision a circumvention of the section of the Constitution which I have read? The Constitution places this power in the hands of the Executive, and when the Executive, upon satisfactory information given to him, is informed of such a state of facts, he is bound by his oath of office and by his duty, as a former President did in the case of Rhode Island, to suppress the insurrection or domestic violence. The Executive has not been applied to, and, if I

understand, domestic violence does not now exist in the South to such an extent as to require any intervention on the part of the President.

Then why are these men to be armed now if it be not for the purpose of using force? Suppose these arms shall be used to prevent persons from voting who have the legal right to vote, and the election shall be carried in those States by force and violence; those votes will be sent to Washington to be counted as the electoral votes for a certain candidate, when there may not have been a single elector properly elected. Congress has no right to examine into that matter, to investigate the question of force used in the election, and when the votes come here, they will be counted, and if counted they may elect a President, when, if the vote were a full one and the voice of the people could be fairly ascertained, the decision might elect other candidates. I know of no authority in the Congress of the United States to examine a question of that character.

The amendment that I have offered will give to the Executive the power at any time to send relief to the South if the necessities of the case require it; but I have postponed the distribution of the arms until the 1st of January, in order that the election may pass in peace and quiet, that there may be no violence and no disorder. If, however, there shall be cause for interference, the amendment provides that the President may, upon application, suppress any domestic insurrection that may arise.

Mr. CONNESS. There is one little difficulty in the way of the amendment of my friend from Maryland in having these arms distributed by the order of the President of the United States. I fear the President could not find out who was Governor of South Carolina, nor of any of the other of these reconstructed States. Judging by the tenor of the proclamations that he has issued, and the messages sent in here, relative to the ratification of the constitutional amendment by those States, he evidently does not know who are the Governors of those States. He speaks of the persons that we believe are the Governors of those States as "those who write themselves Governors;" and he would make a mistake no doubt, and send the arms to Perry, in South Carolina, for he is the only man whom he knows as Governor of South Carolina. If he admitted that Governor Scott was Governor of that State I should, perhaps, be willing to trust him that the arms would reach Governor Scott; but it is very evident now from the tenor of his proclamations that he would never send them to Governor Scott. That being the case, and my friend being a sincere gentleman, I think he must have forgotten that circumstance, else he would not attempt to place the distribution of the arms in the discretion of the President.

Mr. BUCKALEW. Mr. President, I am obliged to say a few words. I shall not occupy the Senate long. I disavow entirely the position assigned me by the Senator from Iowa [Mr. HARLAN] of being opposed to the reduction of the Army. I said nothing to warrant the imputation in the course of my former remarks.

Mr. HARLAN. If the Senator will allow me, I had not the opportunity of hearing the speech of the Senator from Pennsylvania. I alluded more particularly to the remarks submitted by the honorable Senator from Kentucky, and the honorable Senator from Wisconsin, whose speeches I did hear. I was necessarily absent from the Chamber while the Senator from Pennsylvania was speaking.

Mr. BUCKALEW. I am strongly in favor of the reduction of the Army to a lower number even than that provided for by the amendment. The bill which we had under consideration before, fixed the number at twenty-six thousand. This amendment fixes the number at thirty thousand, being somewhat greater than it was before. I am for the lowest number. I am for the first proposition which was introduced from the committee, to wit, fixing the number of troops at twenty-six thou-

sand. It is my opinion that with the number fixed at that figure there would be an adequate supply for any necessity which will exist in the southern country before the meeting of Congress in December next. I believe there are no more than twelve or fifteen thousand troops now in those States. They have been found adequate to preserve order during all the exciting period during which reconstruction has been going on, in which these States have been undergoing the process of reorganization.

Now, sir, the Senator from Wisconsin, in suggesting that the officers and soldiers of the United States can preserve the peace, and can insure fairness in the elections that are to take place during the coming fall in the South much better than local militia organized under those governments, took no position inconsistent with a position for the large reduction of the Army of the United States. The two things are not at all inconsistent. There would be an adequate supply of troops for southern purposes if the number were fixed as low as twenty-six thousand, which was proposed by the bill, or of thirty thousand, which is now proposed by the amendment. There would doubtless be as large a supply then available for the purpose of preserving order as are now used or have been recently used in that section of country.

The pending amendment offered by the Senator from Maryland postponing this distribution of arms until the 1st of January next must necessarily be resisted by those who are in favor of this ninth section of the amendment, because it would obviously defeat the purpose of that section. The elections in the South have been to a great extent controlled and governed by the Army of the United States. That fact is patent to the most superficial observation. Congress has laid down the rules under which elections shall be held in that section of the Union, has prescribed the terms under which the right of suffrage shall be exercised in all those States, and has, in substance, dictated leading material, vital provisions of the southern constitutions, and has retained to itself absolute power over them after they were formed, to adopt them or to reject them. In short, and to state it all in a word, the simple truth is that those southern constitutions and governments have been prescribed by Congress, have been formed under its direction, and subject to its control. They are its work. They have not proceeded from the spontaneous action of the people in those States. It is too plain for argument; it is too plain for dispute; and yet the Senator from Iowa tells us that this subject is entirely within the control of the people of those States, and that those provisions of their constitutions which require odious oaths disfranchising large masses of the inhabitants is not the work of Congress; that Congress is not responsible for them; that they are the work of the people of those States over which we have no control, and for which no just responsibility can be imposed upon us. How clearly all that is opposed to the plain truth of history, to the facts that are known to us all. Those oaths which prevent any man holding certain opinions from voting at elections, constituting a rule or test applicable to one half or more of the population of some of those States, are the work of Congress. Why? Because those constitutions were made under the authority and dictation of Congress; because they were submitted here and accepted by Congress and pronounced by it to be republican in character, although they carried disfranchisement broadcast upon their very face, and although the argument from the beginning has been that it is the duty of Congress to guaranty republican forms of government to those States, and forms which shall permit the colored men in those States to vote, because disfranchisement is anti-republican in character. If, therefore, there be any inconsistency in position I maintain that it is with the Senator from Iowa and those who think with him, and not with

those who are resisting the passage of this measure.

A few words more and I shall leave this subject. All the elections in the States named in this amendment are under the control of a particular class or party in those States. They have the State organizations. They will have nearly all the election officers. They will have complete civil control over the holding of elections, and control, also, over the decision of contested questions regarding those elections. All the political power of those State governments is lodged in the hands of a party. Now, what does this bill propose? It proposes that as soon as the troops of the United States are withdrawn, and their influence over the elections withdrawn, there shall be substituted a local military power. For what purpose? To superintend the elections, under pretense of repressing disorder, to intimidate men from attending the polls, to drive men from the polls, and to secure, by the use of force, a result such as is desired where other and civil instrumentalities will not answer. That is it. Of course the adoption of this amendment, proposed by the Senator from Maryland, will defeat this object.

Mr. President, I have believed from the beginning—I have more than feared, I have believed—since we commenced the discussion of this subject of elections in the South at the present session, that they would be a huge and shameless fraud. After reading the papers in regard to the election in Arkansas I could come to no other conclusion; and Congress by its legislation and by its policy has not given encouragement merely to unfair, unjust, lawless, corrupt elections, but in the present measure proposes to provide the instrumentality by which elections shall be secured. For any avowed purpose this measure is unnecessary. For a few weeks or months you might permit, as your military departments exist, as your commanders are upon the spot, as an adequate military force is located there, and as you do not propose to dismiss it even by this measure of reduction and reform—I say you might permit the existing condition of things to continue until after the elections are held. If the object was only to preserve the peace, you could rely upon the officers and soldiers of the United States for fairness and faithful conduct much more than you can upon local militia gathered from the ranks of a political party and organized and directed by local political power. Greater impartiality and a higher sense of honor would be shown by the former than by the latter.

Mr. HARLAN. If the Senator will pardon me I desire to ask him a question. It is whether in the State of Pennsylvania there is at this time an organized militia.

Mr. BUCKALEW. There is a mere shell of one.

Mr. HARLAN. Then the Senator will pardon me for asking the further question whether he thinks that maintaining a fair election in Pennsylvania requires that this militia should be disbanded until after the election.

Mr. BUCKALEW. Mr. President, by law in Pennsylvania no military men in arms, none as an organized body, can approach within a certain distance of a place of election. If they do they may be arrested and punished by the criminal law. They are kept away from the elections; peace is preserved only by civil instrumentalities, by the peace officers, and so it must be always if you would preserve elections pure and free from improper interference; whereas for the South, instead of the guards which we have in Pennsylvania and other States of the North, you are proposing an election instrumentality by this bill of a military character. I dare say that you could secure your results in most of these States without it. As you control the civil governments, as you will control through your election officers the holding of elections, as you will control through other officers the returns and the contests that may take place over returns, I take it for granted that you would get

political results without this bill; but it would seem to be the purpose of the congressional majority to make their scheme of reconstruction as odious as possible, to load it down with every circumstance which can degrade its character and render hereafter the argument of its invalidity (if we shall have a fair discussion and a fair decision upon that question) most clear and manifest to the apprehension of the whole world.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maryland.

Mr. VICKERS. I ask for the yeas and nays on that amendment.

The question being put, the Chair announced that the call for the yeas and nays was not sustained, only three members rising to second the call.

Mr. VICKERS. I call for a division.

Mr. BUCKALEW. I simply want to make one remark. I do not remember before this session, during my five years of service here, that the yeas and nays were ever refused upon an important measure.

Mr. WILSON. This is not an important one. You can have them on the main question.

Mr. BUCKALEW. It is very important.

Mr. WILSON. This amendment is of no account.

The PRESIDENT *pro tempore*. A division is called for on the amendment.

Mr. CONNESS. I call for the yeas and nays.

Mr. HARLAN. I admit the propriety of the criticism of the Senator from Pennsylvania. I think any Senator has a right to record his name if he wishes.

Mr. WILSON. Well, let us have the vote.

The yeas and nays were ordered; and being taken, resulted—yeas 3, nays 29; as follows:

YEAS—Messrs. Buckalew, Doolittle, and Vickers—3.

NAYS—Messrs. Abbott, Anthony, Cameron, Cat-tell, Chandler, Cole, Conkling, Conness, Cragin, Harlan, Howard, Howe, Kellogg, McDonald, Nye, Osborn, Pomeroy, Ramsey, Rice, Ross, Sprague, Stewart, Thayer, Van Winkle, Wado, Welch, Willey, Williams, and Wilson—27.

ABSENT—Messrs. Bayard, Corbett, Davis, Dixon, Drake, Edmunds, Ferry, Fessenden, Fowler, Freling-huysen, Grimes, Harris, Henderson, Hendricks, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Norton, Patterson of New Hampshire, Patterson of Tennessee, Pool, Saulsbury, Sherman, Sumner, Tipton, Trumbull, Whyte, and Yates—30.

So the amendment was rejected.

Mr. WILSON. I ask unanimous consent to make a verbal modification in the fourth section, by striking out the words "carrying into effect of the provisions of this act, specifying in detail the manner in which the consolidation of regiments shall be provided for," and inserting "reduction of the officers of the Army."

The PRESIDENT *pro tempore*. The amendment will be made if there be no objection. The Chair hears none.

Mr. VICKERS. I offer the following amendment, to come in after the word "thereof" in line twenty-eight of the ninth section:

And provided, That the said Secretary shall be satisfied that the said arms shall be necessary to preserve peace and order in the said States.

Mr. POMEROY. I believe that changes the text we have agreed to.

Mr. WILSON. No; it is an addition.

The amendment was rejected.

Mr. VICKERS. I move to amend the bill by inserting at the end of the ninth section:

And that a bond with ample penalty and security shall be first executed and approved by the Secretary of War for the return of such arms and accouterments when called for by the War Department.

The amendment was rejected.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. VICKERS. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and the roll was called.

Mr. VAN WINKLE, (when his name was called.) I have paired off with the Senator

from Kentucky, [Mr. DAVIS.] If he were here he would vote against the bill, and I for it.

The call of the roll having been concluded, Mr. VAN WINKLE. I paired off with Mr. DAVIS early in the evening; but as I understand that my vote is necessary to make a quorum I vote nay.

The result was announced—yeas 28, nays 4; as follows:

YEAS—Messrs. Abbott, Anthony, Cameron, Cat-tell, Chandler, Cole, Conkling, Conness, Cragin, Harlan, Howard, Howe, Kellogg, McDonald, Nye, Osborn, Pomeroy, Ramsey, Rice, Ross, Sprague, Stewart, Thayer, Wado, Welch, Willey, Williams, and Wilson—28.

NAYS—Messrs. Buckalew, Doolittle, Van Winkle, and Vickers—4.

ABSENT—Messrs. Bayard, Corbett, Davis, Dixon, Drake, Edmunds, Ferry, Fessenden, Fowler, Freling-huysen, Grimes, Harris, Henderson, Hendricks, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Norton, Patterson of New Hampshire, Patterson of Tennessee, Pool, Saulsbury, Sherman, Sumner, Tipton, Trumbull, Whyte, and Yates—30.

So the bill was passed.

MRS. GENERAL RICHARDSON.

Mr. THAYER. I move that the Senate proceed to the consideration of House bill No. 1337. I simply wish to have it taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1337) granting an increase of pension to Frances T. Richardson, widow of the late Major General Israel B. Richardson. It proposes to direct the Secretary of the Interior to place on the pension-roll the name of Frances T. Richardson, widow of the late Major General Israel B. Richardson, at the rate of fifty dollars per month from the 3d day of November, 1862, on which day General Richardson died from wounds received in the battle of Antietam on the 17th of September, 1862, the pension to be continued during her widowhood, and if that should terminate, then to be continued to Israel Philip Richardson, sole surviving child of General Richardson, until he shall become sixteen years old. The pension heretofore allowed to Mrs. Richardson under general law is to be discontinued, but the sum received by her under the same is to be deducted from the pension hereby granted.

Mr. HARLAN. I am not willing to vote for that bill in its present form. If in the opinion of the Military Committee that pension ought to be raised I am perfectly willing to vote to raise it from the date of the passage of the bill; but if I heard it read correctly it goes back six years. It is a bad principle to establish.

Mr. CAMERON. I move to postpone this bill and take up the bill admitting free of duty the cap for a monument to be erected at Harrisburg. We cannot pass this bill to-night.

Mr. THAYER. I did not expect that we could; but I wish it to be left as the unfinished business for to-morrow.

Mr. CAMERON. I have no objection to that; but I wish the resolution that I have referred to be considered. I got out of bed a little while ago to come here and make a quorum.

Mr. ANTHONY. I suggest that the bill of the Senator from Nebraska be laid over informally, and that we take up the other matter.

Mr. THAYER. I will agree to that.

MONUMENT AT HARRISBURG.

Mr. CAMERON. I ask, then, that the resolution to which I have referred be taken up.

By unanimous consent, the joint resolution (H. R. No. 343) to admit free of duty certain statuary, was considered as in Committee of the Whole. It provides that the statue representing the figure of Victory, intended to surmount the monument in memory of the Pennsylvania soldiers who fell in the Mexican war, now about being erected on the capitol grounds at Harrisburg, being in marble cut in Italy, and which will soon be ready for shipment, shall be admitted free of duty.

The joint resolution was reported to the Sen-

ate without amendment, ordered to a third reading, read the third time, and passed.

On motion of Mr. CONKLING, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, July 20, 1868.

The House met at twelve o'clock m. Prayer by Rev. Dr. DE HAAS, of Washington.

The Journal of Saturday last was read and approved.

CREDENTIALS OF NEW MEMBERS.

Mr. DAWES presented the credentials of C. C. Bowen, member-elect from the eighth congressional district of South Carolina, and of Israel G. Lash, member-elect from the fifth district of North Carolina; which were referred to the Committee of Elections.

ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order during the morning hour is the call of States and Territories for bills and joint resolutions for reference to their appropriate committees, not to be brought back into the House by a motion to reconsider. During this call joint resolutions and memorials of State and territorial Legislatures are in order.

VENTILATION OF HOUSE HALL.

Mr. TABER introduced a joint resolution (H. R. No. 346) for heating and ventilating the Hall of the House of Representatives; which was read a first and second time, and referred to a select committee of five.

Mr. TABER. The following letter will explain the object of the joint resolution:

WASHINGTON, D. C., July 20, 1868.

SIR: I have had occasion during several weeks of the present summer to sit in the galleries of the House and watch its proceedings, and I take the liberty to say that the heated and impure air which the Representatives of the nation are compelled to breathe during many hours each day while in the performance of their duties is a disgrace to the country, and as it comes directly within my professional knowledge and experience to know how, instead of having the Hall filled with foul air at a temperature of ninety-five degrees, to fill it with pure air at any desired temperature, say seventy degrees, in the hottest weather, I feel that the disgrace of the present arrangement will attach somewhat to me if I do not present a proposition to effect the change.

A brief description of my plan is as follows:

I would, first, multiply by forty times the present quantity of fresh air which is thrown into the Hall in a given time. No method of ventilating can succeed without this provision for quantity.

Second, I would provide for a free egress through the glass ceiling and roof without disturbing the ornamental and appropriate appearance of the former.

Third, I would place mechanical coolers in the main flue to be used in summer, which should be upon essentially the same principle as the machines now in successful operation manufacturing ice in hot climates from warm water.

Fourth, I would enlarge the heating capacity for winter, so that the greatly increased quantity of air I propose to deliver into the Hall may still be made warm enough in extreme cold weather.

These changes, well and thoroughly executed, would render the otherwise magnificent Hall the most delightful and healthful resort members could find in hot weather.

I am prepared to enter into contract with the proper authorities and give satisfactory sureties for its faithful execution to accomplish the foregoing work.

I am, very respectfully,

ALBAN C. STIMERS.

Hon. STEPHEN TABER, M. C.,
Hall of Representatives, United States Capitol.
WILLIAM WAGNER.

Mr. CAKE introduced a bill (H. R. No. 1446) for the relief of William Wagner; which was read a first and second time, and referred to the Committee on Invalid Pensions.

JACOB S. FUHRMAN.

Mr. CAKE also introduced a joint resolution (H. R. No. 347) to pay the claim of Captain Jacob S. Fuhrman; which was read a first and second time, and referred to the Committee of Claims, and ordered to be printed.

COURT OF CLAIMS—NORTH CAROLINA.

Mr. JONES, of North Carolina, introduced a joint resolution (H. R. No. 348) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims to the loyal citizens of the State of North Carolina; which was read a first and second time,

referred to the Committee on the Judiciary, and ordered to be printed.

MARY RANDALL VARIAN.

Mr. SPALDING introduced a bill (H. R. No. 1441) granting a pension to Mary Randall Varian; which was read a first and second time, and referred to the Committee on Invalid Pensions.

POST ROUTE IN IOWA.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 1442) to establish a post route from Springfield, Iowa, to Victor, Iowa; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

PRINTING LAND OFFICE CIRCULARS IN GERMAN.

Mr. HOPKINS introduced a joint resolution (H. R. No. 349) authorizing the Congressional Printer to print land office circulars in the German language for distribution in Europe; which was read a first and second time, and referred to the Committee on Printing.

RELIEF OF CERTAIN VOLUNTEERS.

Mr. COBB introduced a joint resolution (H. R. No. 350) for the relief of certain honorably discharged soldiers of the volunteer forces of the United States Army; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

ROGUE RIVER INDIAN WAR.

Mr. MAILLORY introduced a joint resolution (H. R. No. 351) extending the act of July 17, 1854, providing for the payment of the expenses of the Rogue river Indian war to two companies of Oregon volunteers; which was read a first and second time, and referred to the Committee on Military Affairs.

MONTANA WAR CLAIMS.

Mr. CAVANAUGH introduced a bill (H. R. No. 1443) authorizing the appointment of three commissioners to examine the claims of the Territory of Montana for volunteers during the late Indian war, and to report upon the same; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

ORDNANCE FOR SOLDIERS' MONUMENTS.

Mr. HILL introduced a joint resolution (H. R. No. 352) for furnishing certain ordinance for soldiers' monuments in New Jersey; which was read a first and second time, and referred to the Committee on Military Affairs.

ORDER OF BUSINESS.

The SPEAKER. The next business in order during the morning hour is the call of States and Territories, in their inverse order, for resolutions, commencing with the State of Wisconsin, where the call rested at the expiration of the morning hour on Monday last.

LAND-GRANT RAILROADS, WISCONSIN.

Mr. HOPKINS introduced a joint resolution (H. R. No. 353) in regard to certain lands granted to the State of Wisconsin to aid in the construction of railroads in said State by an act approved May 5, 1864; which was read a first and second time.

The question being on ordering the joint resolution to be engrossed for a third reading,

Mr. HOPKINS called for the previous question.

The joint resolution was read. It provides that the Secretary of the Interior shall cause to be certified and conveyed to the West Wisconsin Railway Company, (a corporation established by the laws of Wisconsin, and which, by the laws of that State, is entitled to the land grant made in the second section of the act mentioned in the title of this act,) from time to time, as the railway of the company progresses, out of any public lands now belonging to the United States not sold, reserved, or otherwise disposed of, or to which a preemption claim or right of homestead settlement has not attached, and on which a *bona fide* settlement and improvement has not been made under color of title derived from the United

States, or from the State of Wisconsin, within the limit specified and prescribed by the act to which this act is an amendment, an amount of lands per mile equal to that mentioned in the said act as intended to aid in the construction of a railroad from the town of Tomah, in the county of Monroe, Wisconsin, to the St. Croix river or lake, between townships twenty-five and thirty-one.

The second section provides that in case it shall be found that of the lands so directed to be certified and conveyed a sufficient quantity is not contained within the limit mentioned in the preceding section of this act, then the Secretary of the Interior shall cause to be certified and conveyed to said company an amount sufficient to make up such deficiency from the odd numbered sections of lands belonging to the United States not reserved or otherwise disposed of, or to which a preemption claim or homestead right has not attached, and on which a *bona fide* settlement and improvement has not been made under color of title from the United States, or the State of Wisconsin, along the line and route of the railroad of the St. Croix and Lake Superior Railroad Company. But the lands so certified and conveyed are not to be more than twenty miles from the line of the railroad, as the same shall be fixed, established, and plat filed with land department.

The third section provides that the time fixed and limited for the completion of the railroad from Tomah, in the county of Monroe, to St. Croix river or lake, between townships twenty-five and thirty-one, in the act of May 5, 1864, shall be further extended for a period of three years. But if the railroad company shall not have completed and in operation the railroad from Tomah to Black river falls on or before one year from the passage of this act the act is to be null and void.

Mr. MAYNARD. This bill ought to go to a committee.

The SPEAKER. The gentleman from Wisconsin [Mr. HOPKINS] demands the previous question.

Mr. HOPKINS. The same bill has been before the Committee on the Public Lands, and has been agreed upon in exactly this form.

Mr. HOLMAN. Mr. Speaker, if the previous question should not be seconded, will it not be in order to move the reference of this joint resolution to the Committee on the Public Lands?

The SPEAKER. It will be.

On seconding the demand for the previous question, there were—ayes 30, noes 40.

The SPEAKER, under the rules, ordered tellers; and appointed Mr. HOPKINS and Mr. HOLMAN.

The House divided; and the tellers reported—ayes twenty-three, noes not counted.

So the previous question was not seconded.

Mr. HOLMAN. I move that the joint resolution be referred to the Committee on the Public Lands; and on that motion demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion was agreed to.

Mr. HOLMAN moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. LAWRENCE, of Pennsylvania, obtained indefinite leave of absence on account of the sickness of his daughter.

PERSONS UNDER MILITARY SENTENCE.

Mr. ELDRIDGE. I submit the following resolution, on which I demand the previous question:

Resolved, That the Secretary of War be directed to inform this House of the names of all persons now under sentence by military commissions, courts, or any other military authority at Dry Tortugas, together with the nature of the crimes charged and the term of sentence and the unexpired time now remaining. Also the same information with reference

to all persons imprisoned at Atlanta, Georgia, where it is reported some twenty persons are confined in military dungeons; also the same information with reference to all persons imprisoned at Charleston, South Carolina.

Mr. SCOFIELD. I raise the point of order that this, being a resolution calling for executive information, it must lie over one day.

The SPEAKER. The Chair sustains the point of order. The resolution cannot be considered on this day without unanimous consent.

Mr. SCOFIELD. I object.

Mr. ELDRIDGE. I withdraw the resolution.

STUDIO OF MISS VINNIE REAM.

Mr. ELDRIDGE. At the request of the gentleman from Pennsylvania [Mr. STEVENS] I offer the following resolution, on which I demand the previous question:

Whereas the rooms occupied as a studio by Miss Vinnie Ream are no longer wanted to accommodate Mr. Woolley: Therefore,

Be it resolved, That Miss Ream may continue to occupy the same until she has completed the statue of Mr. Lincoln, not exceeding the term of one year, and not using it for any other purpose than completing the model of said statue.

Mr. ELDRIDGE. I hope the House will unanimously consent to hear the gentleman from Pennsylvania [Mr. STEVENS] for a few minutes in reference to this resolution.

The SPEAKER. The call for the previous question is pending; but the Chair will not check the gentleman from Pennsylvania unless the point of order should be raised.

Mr. STEVENS, of Pennsylvania. Some time ago, when we had a rebel recusant witness, he occupied a room which had but two windows in it; and it was thought by our polite Sergeant-at-Arms that he had not sufficient light to read his literature through the day. Hence a resolution was passed by which we took away the room occupied by a girl who for two years had been at work upon the statue of Mr. Lincoln which we had intrusted to her, and which was about two thirds finished in clay; and we did this that Mr. Woolley might be accommodated with an ante-room. He was thus accommodated until he had purged his perjury. When he had purged himself he was then discharged. Since then the captain of police has occupied part of it once a day, and it has been an annoyance to this lady, who has been attempting to finish her work. To remove the statue as it is now it is agreed on all hands would destroy it. I hope the House will allow her to go on and finish it where it is. If I had the preparing of the lodgings for Mr. Woolley, instead of getting up a parlor with new carpets for him I would have thrust him into "the blackhole" rather than turn this lady out of her studio, and prevent her carrying out her aspirations for several years. I demand the previous question.

Mr. ELDRIDGE. I do not object to any of the gentleman's remarks except that about the "blackhole." [Laughter.]

Mr. STEVENS, of Pennsylvania. I did not intend to put the gentleman there.

Mr. MULLINS. He is the last man to object to a dark hole. It is the life of his party. [Laughter.]

Mr. ELDRIDGE. I would allow him to go into any dark hole he wanted to. [Renewed laughter.]

The previous question was seconded, eighty having voted in the affirmative; yeas not counted.

The main question was ordered.

Mr. EGGLESTON demanded the yeas and nays.

The House divided; and there were—yeas 18, yeas 88.

Mr. WASHBURNE, of Illinois, demanded tellers on the yeas and nays.

Tellers were not ordered.

So (one fifth of those present not having voted in the affirmative) the yeas and nays were not ordered.

The House divided; and there were—yeas seventy-seven, yeas not counted.

So the preamble and resolution were adopted.

Mr. STEVENS, of Pennsylvania, moved to

reconsider the vote by which the preamble and resolution were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PURCHASE OF MACHINERY AT PHILADELPHIA.

Mr. SAWYER submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the expenses incurred by the committee in taking testimony in the investigation ordered by resolution of July 6, 1868, into the purchase of machinery at the Philadelphia navy-yard be paid out of the contingent fund; and the committee have power to continue the investigation and report at the next session.

Mr. SAWYER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MISS VINNIE REAM—AGAIN.

The SPEAKER. The Chair will call the attention of the gentleman from Wisconsin to the fact that the resolution just passed continues Miss Vinnie Ream in the use of her studio for one year, when the jurisdiction of this House extends only until the 4th of March next—about eight months.

Mr. ELDRIDGE. The same construction will be put upon this as upon the resolution to count the electoral votes.

The SPEAKER. The Chair thinks that is not a parallel case, about the next Congress counting the electoral votes. The jurisdiction of this House as a House extends only to the expiration of the next session. The Chair has made the statement so the lady should not be surprised.

Mr. ELDRIDGE. All Miss Vinnie Ream can ask of this House is to do what it can.

NIAGARA SHIP-CANAL.

Mr. PAINE. I submit the following resolution, on which I demand the previous question:

Resolved, That the bill providing for the construction of a ship-canal around the Falls of Niagara, now in the Committee of the Whole, be postponed until the 10th of December next, and made the special order after the morning hour.

Mr. KELSEY. I object to the part making it a special order.

The SPEAKER. That part of the resolution requires unanimous consent.

Mr. PAINE. I withdraw the resolution.

CRETAN INDEPENDENCE.

Mr. LOUGHRIDGE submitted the following resolution; which was read, considered, and agreed to:

Resolved, This House view with deep interest the heroic struggle of the Cretans to free themselves from the yoke of Turkish despotism, and to achieve their independence as a people, that liberty which is the inalienable right of all men; and that we, in common with the whole American people, sympathize with them in their sufferings, and ardently wish them speedy triumph.

Mr. LOUGHRIDGE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

STEAM PLOWS FREE OF DUTY.

Mr. ALLISON introduced a joint resolution (H. R. No. 354) admitting steam plows free of duty for one year from June 30, 1868.

The joint resolution extends and continues in further force the provision of section two of the joint resolution approved March 26, 1867, respecting the importation of agricultural machinery free of duty for the period of one year from the 30th of June, 1868, and provides that any such machinery shipped before that date or which may have arrived since that date shall be exempt from duty.

Mr. MOORHEAD. Is this subject to amendment?

The SPEAKER. It would be if the previous question was not moved.

Mr. MOORHEAD. It is a part of the tariff bill now in Committee of the Whole, and I do not like to pass it piecemeal. I rise to debate it.

The SPEAKER. The gentleman has moved the previous question.

Mr. MAYNARD. Would it be in order to relieve the Committee of the Whole of the tariff bill and bring it into the House at this time?

The SPEAKER. It would not, even if the State of Pennsylvania or Tennessee was called, for any proposition which imposes a tax must receive its first consideration in Committee of the Whole.

Mr. MAYNARD. The tariff bill has been considered in Committee of the Whole.

The SPEAKER. It is unfinished business in Committee of the Whole.

Mr. MAYNARD. The amendment I would offer would be to attach the balance of the tariff bill to it.

The SPEAKER. The gentleman could attach exemptions in the tariff bill, but nothing which imposes a tax on the people, if objection is made.

Mr. MOORHEAD. This is a tax on the people as much as anything in the tariff bill.

The previous question was seconded.

On ordering the main question there were—yeas 62, yeas 43.

Mr. MOORHEAD demanded tellers.

Tellers were refused.

So the main question was ordered; and the joint resolution was read a first and second time, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ALLISON. I demand the previous question on the passage of the resolution.

The previous question was seconded and the main question ordered.

Mr. MILLER. I demand the yeas and nays.

The yeas and nays were refused.

The joint resolution was then passed.

Mr. ALLISON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RAILROAD GRANT IN FLORIDA.

Mr. HAMILTON presented a memorial of the constitutional convention of the State of Florida, praying for a grant of alternate sections of land for six miles on both sides of the road for building a railroad from Quincy, Florida, to and through Marianna, in Jackson county, to Pensacola, Florida; which was referred to the Committee on the Public Lands.

EQUAL SUFFRAGE.

Mr. HAMILTON also presented a resolution of the same convention, requesting Congress to propose an amendment to the Constitution of the United States establishing equal and uniform suffrage in all the States of the Union; which, on motion of Mr. Brooks, was referred to the Committee on Reconstruction.

FLORIDA INDIANS.

Mr. HAMILTON also presented a memorial of the same convention, in relation to the Florida Indians; which was referred to the Committee on Indian Affairs.

UNITED STATES COURT IN FLORIDA.

Mr. HAMILTON also presented a resolution of the same convention, for the removal of the United States court from St. Augustine to Jacksonville, Florida; which was referred to the Committee on the Judiciary.

PAY OF JAMES H. BURCH, CONTESTANT.

Mr. UPSON. In behalf of the gentleman from Vermont, [Mr. POLAND,] I report from the Committee of Elections the following resolution:

Resolved, That there be paid to James H. Burch, of the State of Missouri, out of the contingent fund of the House, \$2,500, in full for time spent and expenses incurred in prosecuting his claim to a seat in this House.

Mr. BENJAMIN. I move to lay the resolution on the table.

Mr. KERR. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 70, nays 76, not voting 62; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnoll, Baldwin, Beatty, Benjamin, Benton, Blair, Boles, Boutwell, Boyden, Bromwell, Broomall, Buckland, Roderick R. Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Eckley, Eggleston, Ferriss, Fields, Goss, Griswold, Hamilton, Hawkins, Heaton, Hill, Hinds, Chester D. Hubbard, Hunter, Alexander H. Jones, Judd, William Lawrence, Loan, Logan, Loughridge, Mallory, McCarthy, McKee, Mercer, Moore, Nunn, Orth, Paine, Perham, Pike, Pile, Plants, Polsley, Raum, Schenck, Shanks, Smith, Spalding, Stokes, Burt Van Horn, Van Wyck, Ward, Elihu B. Washburne, Welker, Whittemore, William Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—70.

NAYS—Messrs. Adams, Archer, James M. Ashley, Axtell, Bailey, Baker, Banks, Beck, Bingham, Brooks, Cary, Cook, Cullom, Dawes, Delano, Dixon, Dockery, Donnelly, Driggs, Eldridge, Eliot, Ferry, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Higby, Holman, Hopkins, Johnson, Thomas L. Jones, Kelley, Kelsey, Kerr, Ketchum, Knott, Koontz, Laffin, Marshall, Maynard, Miller, Moorhead, Morrell, Mullins, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Peters, Poland, Pomeroy, Randall, Robertson, Ross, Sawyer, Scofield, Sitgreaves, Starkweather, Stewart, Stone, Taber, Taffe, Taylor, Lawrence S. Trimble, Trowbridge, Twichell, Upson, Van Aernam, Van Auker, William B. Washburn, Wood, and Woodward—76.

NOT VOTING—Messrs. Delos R. Ashley, Barnes, Barnum, Beaman, Blackburn, Blaine, Boyer, Burr, Benjamin F. Butler, Calk, Chanler, Cornell, Dewesse, Dodge, Ela, Farnsworth, Finney, French, Garfield, Gravelly, Halsey, Harding, Hooper, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Jenckes, Julian, Kitchen, George V. Lawrence, Lincoln, Lynch, Mann, Marvin, McClurg, McCormick, McCullough, Morrissey, Newsham, Phelps, Price, Pruyn, Robinson, Roots, Selye, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Sypher, Thomas, John Trimble, Robert T. Van Horn, Van Trump, Vidal, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, John T. Wilson, and Windom—62.

So the House refused to lay the resolution on the table.

The previous question was then seconded and the main question ordered, being upon the adoption of the resolution.

Mr. BENJAMIN demanded the yeas and nays.

The yeas and nays were ordered.

* The question was taken; and it was decided in the negative—yeas 73, nays 75, not voting 60; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Bailey, Baker, Banks, Beck, Bingham, Boles, Boutwell, Boyer, Brooks, Calk, Cary, Cook, Dawes, Delano, Dixon, Donnelly, Driggs, Eldridge, Eliot, Ferry, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Hamilton, Higby, Holman, Hopkins, Hotchkiss, Ingersoll, Jenckes, Johnson, Kerr, Ketchum, Knott, Koontz, Laffin, Marshall, Maynard, McCullough, Miller, Moorhead, Morrell, Mungen, Myers, Niblack, Nicholson, O'Neill, Pike, Poland, Randall, Robertson, Ross, Sawyer, Scofield, Sitgreaves, Smith, Stewart, Taber, Taffe, Thomas, Lawrence S. Trimble, Twichell, Upson, Van Auker, William B. Washburn, Wood, and Woodward—73.

NAYS—Messrs. Allison, Arnoll, Delos R. Ashley, Baldwin, Beatty, Benjamin, Benton, Blair, Boyden, Broomall, Buckland, Roderick R. Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Eggleston, Ela, Farnsworth, Finney, French, French, Gravelly, Halsey, Hill, Chester D. Hubbard, Hulburd, Hunter, Alexander H. Jones, Judd, Kelley, Kelsey, William Lawrence, Loan, Logan, Loughridge, Lynch, Mallory, McCarthy, McKee, Mercer, Moore, Mullins, Nunn, Orth, Paine, Perham, Peters, Pike, Plants, Polsley, Pomeroy, Raum, Schenck, Shanks, Spalding, Starkweather, Stokes, Sypher, Taylor, Trowbridge, Van Aernam, Burt Van Horn, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, and Woodbridge—75.

NOT VOTING—Messrs. Ames, Anderson, James M. Ashley, Barnes, Barnum, Beaman, Blackburn, Blaine, Bromwell, Burr, Benjamin F. Butler, Chanler, Cornell, Cullom, Dewesse, Dockery, Dodge, Eckley, Finney, Garfield, Goss, Griswold, Halsey, Harding, Hawkins, Hinds, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Thomas L. Jones, Julian, Kitchen, George V. Lawrence, Lincoln, Mann, Marvin, McClurg, McCormick, Morrissey, Newcomb, Newsham, Phelps, Price, Pruyn, Robinson, Roots, Selye, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stone, John Trimble, Robert T. Van Horn, Van Trump, Vidal, Cadwalader C. Washburn, Thomas Williams, Stephen F. Wilson, and Windom—60.

So the resolution was rejected.

Mr. WASHBURN, of Illinois. I move to reconsider the vote by which the resolution was rejected; and also move to lay the motion to reconsider on the table.

Mr. ELDRIDGE. I demand the yeas and nays on the latter motion.

Mr. WASHBURN, of Illinois. I withdraw the motion.

FUNDING THE NATIONAL DEBT.

The SPEAKER. The morning hour has expired, and the House resumes the consideration of the bill (S. No. 207) for funding the national debt, and for the conversion of the notes of the United States, on which the gentleman from Massachusetts [Mr. BOUTWELL] is entitled to the floor.

REPRESENTATIVE FROM NORTH CAROLINA.

Mr. DAWES. The Committee of Elections have instructed me to report back the credentials of Israel G. Lash, Representative-elect from the fifth congressional district of North Carolina, with a recommendation that he be admitted to his seat upon taking the oath prescribed by act of July 2, 1862.

The report of the Committee of Elections was then agreed to.

Mr. ISRAEL G. LASH then presented himself and took the oath of office prescribed by the act of July 2, 1862.

REPRESENTATIVE FROM SOUTH CAROLINA.

Mr. DAWES. The Committee of Elections have also instructed me to report back the credentials of C. C. Bowen, Representative-elect from the eighth congressional district of the State of South Carolina, with the statement that while the credentials are in due form of law, Mr. Bowen, having participated in the rebellion, is consequently unable to take the oath of office prescribed by the act of July 2, 1862. But his disabilities having been removed by act of Congress the Committee of Elections recommend that he be admitted to his seat upon taking the oath prescribed by the act of Congress of July 11, 1863, prescribing the oath of office to be taken by those whose political disabilities have been removed by act of Congress.

Mr. MULLINS. I want to withdraw the objection I made to this man the other day, as I am told that I was mistaken—that this is not the man I thought he was.

The SPEAKER. His disabilities having been removed by act of Congress he is entitled to be sworn.

Mr. DAWES. That the gentleman from Tennessee [Mr. MULLINS] may not labor under a misapprehension, I will say to him that this Mr. Bowen is precisely the man he thought he was. But by act of Congress Mr. Bowen is entitled to his seat here, notwithstanding his participation in the rebellion, as much as the gentleman and myself are entitled to our seats.

Mr. MULLINS. Allow me to say a few words. By an understanding with different individuals in this House I did not oppose the disability bill when it passed the House the last time. But they agreed with me that they would assist in sifting this case if I would not make opposition to that bill. Now, by the members from that State I am informed that not less than twelve of every hundred persons named in that bill are opposed to you and me this day. This is the gulf, the maelstrom that is to swallow you and me up before we are done with it.

Mr. DAWES. I knew the gentleman desired to make opposition to this case, and therefore I did not want him to labor under a mistake.

Mr. MULLINS. This gentleman was originally born, as I am told, in the State of Ohio.

Mr. FARNSWORTH. The gentleman says Mr. Bowen was originally born in Ohio. Can he tell us where he was born the next time?

Mr. MULLINS. He was born here a few days ago in this House according to your construction and delivery, and a false birth, I believe it was, too.

Against this individual as a man I have nothing more than I have against you, Mr. Speaker. But upon the political issues as they present themselves here, so far as they relate to him as a man, I desire to be understood. He voluntarily went to the State of South Carolina some ten or fifteen years ago. When the war broke out he voluntarily accepted at the

hands of the rebels the office of captain. Shortly thereafter, for valiant services, I suppose, in killing Union men, and running women and children from their houses, he was promoted to the position of major. While acting as major my information is that he killed his rebel colonel. Of that I have not to complain. He was arrested, tried, and imprisoned. While he was in prison the Federal army came along, and of course broke his fetters. Then it was a dernier resort with him to take the loyal side, or go with the rebels and to the gallows. He turned to the loyal side, and while in the Federal army, acting in some capacity, as General Sickles himself told me, he did so bad that he had to be incarcerated again. Then he turned around and became a swift advocate for the black man's pay.

Now, upon this subject of pardons, God for once astonished the world by producing a son who took upon himself your sins and mine, and died that we through faith in his crucifixion might live. We have taken to pardoning men here, which is astonishing. But when we pardon can we see the heart, and see the workings of that heart? I cannot; and for one I am fearful to-day that when I pardon this man for what he has committed against the Government I may be taking to my bosom one who will draw the dagger, and with eyes red with vengeance again seek to strike a fatal blow at this Government. If he does, the sin will be upon those who to-day initiate him into this office. For one, I will never consent to make a stepping-stone of loyalty to bring up treason and bloodthirstiness to positions of responsibility. I am not the man to reward treason in that way. I trust this man may work hand in hand with us, and prove thoroughly to be converted. I would not object if he came as a returning prodigal, seeking a servant's place. But like all the others he comes here asking to be made a ruler. To this I object.

I have said all that I desire in regard to this question. I thank the chairman of the Committee of Elections [Mr. DAWES] for the time he has given me.

Mr. DAWES. As to the important question, whether this man was "originally born in Ohio," I am authorized to say that, whether born there or not, he was never in the State. [Laughter.] The argument of the gentleman from Tennessee [Mr. MULLINS] might have been in place when we had before the House the bill removing the political disabilities of Mr. Bowen; and I doubt not that if it had been delivered at that time with the same effect with which it has been delivered to-day it would doubtless have overwhelmed all the advocates of the measure, which would have gone down before the rhetoric of the eloquent gentleman. But the measure survived, and has become a law.

The constitutional amendment has provided that when by a vote of two thirds of both branches of Congress the disabilities incurred by participation in the rebellion have been removed the man thus relieved stands in all regards upon a level with the gentleman from Tennessee or myself or any other member of this House who has never had need to have such disabilities removed. It is a fact, Mr. Speaker, that this man participated in the rebellion; otherwise there would have been no need of a bill to remove his disabilities. Because of his participation in the rebellion that act was passed. In point of fact, if it were proper to go behind the act to show the propriety of its passage, I might say that, although Mr. Bowen participated technically in the rebellion, he is probably as free from guilt in that matter as any who participated in it at all. He was conscripted into the rebel army, compelled to go into it by force of public sentiment. He went into the army; but he participated in no action. Neither he nor the company which he commanded was in any of the engagements with the Union soldiers. The blood of no man is upon his skirts. On the first opportunity that presented itself he abandoned the rebel cause and joined the friends of the Union and

the Union cause, in the support of which he has been consistent from that hour to this. By his labors in that cause he has commended himself to every Union man in the State of South Carolina. He received in his district the hearty support of all the Union men, his majority being larger than that of any other man who has come here from the southern States; and that class who, though poor and ignorant and downtrodden, have instincts as true and unobscured as any other class of men in the country, gave him to a man their support. He comes here with the certificate of the Governor of his State; and under the act of Congress to which I have referred he is on a level with us all. His admission to his seat cannot justly encounter any legal objection nor any objection founded in that broad, generous, liberal statesmanship which is demanded by the necessities of the times, and which, if pursued steadily, honestly, faithfully, without malice and without favor, will bring about a healing of the wounds of the nation and restore this Union to its health and prosperity. I hope there will be no further objection to the admission of this man to his seat.

I demand the previous question on agreeing to the report of the Committee of Elections.

The previous question was seconded and the main question ordered.

Mr. WARD. Mr. Speaker, does this report embrace any other case than that of Mr. Bowen?

The SPEAKER. It does not.

The report was agreed to.

Mr. C. C. BOWEN presented himself at the Speaker's desk, and was duly qualified by taking the oath prescribed by the act of July 11, 1868.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. W. G. MOORE, his Private Secretary, announced that the President had on the 20th instant approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869;

An act (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes;

An act (H. R. No. 1353) for the removal of certain disabilities from the persons therein named;

An act (H. R. No. 676) granting a pension to Thomas Connelly;

Joint resolution (H. R. No. 201) in relation to the Rock Island bridge;

An act (H. R. No. 1119) for the registration or enrollment of certain foreign vessels;

An act (H. R. No. 662) granting a pension to the widow and children of George R. Waters;

An act (H. R. No. 938) to authorize the sale of twenty acres of land in the military reservation at Fort Leavenworth, Kansas;

Joint resolution (H. R. No. 341) for the relief of Z. M. Hall;

An act (H. R. No. 1099) for the relief of Wait Talcott;

An act (H. R. No. 550) providing for the sale of a portion of the Fort Gratiot military reservation in St. Clair county, in the State of Michigan;

An act (H. R. No. 666) granting a pension to Henry H. Hunter;

An act (H. R. No. 669) granting a pension to the widow and children of Myron Wilklow;

An act (H. R. No. 664) granting a pension to the children of Charles Gouler;

Joint resolution (H. R. No. 338) exonerating certain vessels of the United States from the payment of tonnage fees to consular agents in Canada;

Joint resolution (H. R. No. 331) to grant an American register to the Hawaiian brig Victoria;

An act (H. R. No. 677) granting a pension to the children of James Heatherly;

Joint resolution (H. R. No. 281) authorizing the issue of clothing to company F, eighteenth regiment United States infantry;

An act (H. R. No. 770) granting a pension to John H. Finlay;

Joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores;

An act (H. R. No. 201) declaratory of the law in regard to officers cashiered or dismissed from the Army by the sentence of a general court-martial;

An act (H. R. No. 485) to aid the improvement of the Des Moines and Rock Island rapids in the Mississippi river;

Joint resolution (H. R. No. 326) for the relief of Henry B. Ste. Marie;

An act (H. R. No. 1081) for the relief of John A. Neustaedt;

An act (H. R. No. 631) amendatory of an act approved July 26, 1866, entitled "An act to authorize the construction of certain bridges and to establish them as post roads;"

An act (H. R. No. 373) to place the name of Mahala M. Straight upon the pension-roll of the United States;

An act (H. R. No. 522) granting a pension to W. W. Cunningham;

An act (H. R. No. 825) granting a pension to John W. Hughes;

An act (H. R. No. 672) granting a pension to the widow and children of Charles W. Wilcox;

An act (H. R. No. 673) granting a pension to Saffrona C. Phelps, widow of John S. Phelps;

An act (H. R. No. 456) granting a pension to the children of Pleasant Stoops;

An act (H. R. No. 518) granting a pension to George F. Gorham, late a private in company B, twenty-ninth regiment Massachusetts volunteer infantry;

An act (H. R. No. 525) granting a pension to Jeremiah T. Hallett;

An act (H. R. No. 661) granting a pension to the widow and child of William Craft;

An act (H. R. No. 773) granting a pension to William H. McDonald;

An act (H. R. No. 521) granting a pension to Solomon Zachman;

An act (H. R. No. 663) granting arrears of pension to Cyrus K. Wood, legal representative of Cyrus D. Wood, deceased;

An act (H. R. No. 670) granting a pension to the widow and children of Andrew Holman;

An act (H. R. No. 771) granting a pension to John D. Lay;

An act (H. R. No. 675) granting a pension to the widow and child of Cornelius L. Rice;

An act (H. R. No. 1030) for the relief of Edward B. Allen; and

An act (H. R. No. 1234) imposing taxes on distilled spirits and tobacco, and for other purposes.

IMPROVEMENT OF FALLS OF ST. ANTHONY.

Mr. DONNELLY. I submit the following conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from its disagreement of the Senate, and agree to the same.

L. DONNELLY,
W. MUNGEN,
Managers on the part of the House.
ALEXANDER RAMSEY,
T. A. HENDRICKS,
S. C. POMEROY,
Managers on the part of the Senate.

Mr. DONNELLY. Mr. Speaker, I will detain the House but a few minutes to explain this report, so that members may vote understandingly upon it. This House passed a bill granting two hundred thousand acres of land to improve the Mississippi river between the Falls of St. Anthony and the city of St. Paul. The Senate amended the House bill by

giving one hundred thousand acres additional. The amendment was as follows:

SEC. 6. *And be it further enacted*, That there be, and hereby is, granted to the State of Minnesota, the further quantity of one hundred thousand acres of public lands, subject to the same restrictions as to selection and sale as are hereinbefore named, the proceeds whereof shall be used in making such improvements in the Mississippi river at the Falls of St. Anthony as may be deemed necessary by the Legislature of said State to protect and secure the existing navigation immediately above said falls.

This action of the Senate was based upon the report of General Warren, of the United States Army, who has been in charge of the surveys and improvements of the Upper Mississippi river. The closing words of the report are as follows:

"After the flood of July, 1867, four hundred feet having been washed away in one flood, notwithstanding the attempt to prevent it. One more like freshet would probably destroy the falls, for only one thousand feet of the magnesian limestone remains, and its thickness diminishes as the recession goes on; it was eighteen feet thick at the crest in 1866, and at the present position of the crest of the falls it is about eight feet thick; hence the present pressing emergency."

General Warren further states in this report as follows:

"So that when the action of the stream has destroyed all that remains of the hard layer but a few days will be necessary to lower the bed and produce a continuous rapid far above, not merely destroying the present water-power, but a long reach of navigable channel."

That is to say, a navigable channel, running into my State and district, eighty miles in length.

The committee of conference were appointed on the part of the House, as they necessarily had to be, in opposition to the amendment; nevertheless, when they examined into the whole subject, they concluded to recommend to the House to recede from its disagreement to the Senate amendment and agree to the same. It is on that recommendation we are now called upon to vote. The fund arising from the grant would, I am informed, be but a small amount of the sum necessary to make this improvement. By the estimate of Mr. Cook, the deputy engineering officer of General Warren, it will cost \$240,000, and this grant would yield but \$125,000. The balance will have to be supplied by the municipalities bordering on the stream, by the State itself, or by private enterprise.

Mr. Speaker, with this eighty miles of navigation involved and at stake we could properly come before the House and ask for a money grant. We have not done so. We ask simply, and I desire the House to understand the proposition, for a grant of one hundred thousand acres of land within the limits of the State of Minnesota. In the next place we provide that this land shall be distributed in one section to each township over the whole unsettled region of that State; and I may say that one half of the area of that State is yet unsettled, many millions of acres being unsurveyed. From that public land we propose to take one hundred thousand acres. We go still further; not desiring to interrupt the settlement of the country, we provide that this land shall be sold to actual settlers at \$1 25 per acre. The proceeds shall go to the company, the land shall go to the settlers. We are in favor of public improvements as well as actual settlements. We therefore provide that settlers may take this land and pay over to the State \$1 25 an acre, and the State shall pay the proceeds for this improvement. This is in conformity with that very righteous and proper policy inaugurated in this House by my friend from Ohio, [Mr. LAWRENCE.]

Mr. WELKER. Will the gentleman allow me to ask a question?

Mr. DONNELLY. Certainly.

Mr. WELKER. I want to know whether this bill which proposes to give to the State of Minnesota this large land grant to improve the Mississippi river has ever had the consideration of the Committee of Commerce of this House? It strikes me that it is a subject-matter that ought to be regulated entirely by that committee, and ought not to be presented in

the form in which it now comes before the House.

Mr. DONNELLY. I will say, in answer to the gentleman, that this bill does not propose to give money, but land. It has, therefore, been properly referred to the Committees on the Public Lands of the House and Senate. If we had referred it to the Committee on Commerce, and they had proposed to give land, the gentleman might very properly have made an objection that it should go to the Committee on the Public Lands.

One word more. I understand the chairman of the Committee on Commerce, [Mr. WASHBURN, of Illinois,] whom I do not now see in his seat, has expressed himself favorable to this grant. I speak now of the grant as it originally passed the House.

Mr. WELKER. The gentleman says that this matter was considered by the Committee on the Public Lands. I desire to ask him whether he has the concurrence of even a majority of the members of the Committee on the Public Lands for this additional one hundred thousand acres appropriated by the Senate amendment? And in regard to the gentleman's statement that this is not an appropriation of money, but of land, which, of course, we all know to be the fact, I would suggest that as this relates to the improvement of a river it ought not to be reported upon by the Committee of Commerce. It seems to me no gentleman ought to ask of this House an appropriation of either land or money, particularly for an improvement in his own district, without having the proposition examined by the Committee on Commerce, which has control of appropriations of money for such purposes.

Mr. MAYNARD. Did not this come originally from the Committee on Commerce?

Mr. DONNELLY. It came from the Committee on the Public Lands. I want it understood that this is a bill proposing a grant of public land. It was referred to the Committee on the Public Lands, and met the concurrence of every member of that committee except its chairman, [Mr. JULIAN,] and he has stated, as will be found recorded in the Globe, that it was a measure to which little objection could be made, but that he voted against it upon general principles.

Mr. WASHBURN, of Illinois. I am informed that the gentleman from Minnesota has stated that I was in favor of the original proposition. I desire to say he has no authority for quoting me in favor of it. When the bill was passed I was out of my seat, and of course did not vote for it.

Mr. DONNELLY. I may be in error, but I understood distinctly that the gentleman was in favor of that proposition; nay, that he was in favor of going further and appropriating the money of this Government to make this improvement. I believe he so stands recorded in a letter which is on the files of this House, which was written to a newspaper in my district, and that he objected, if at all, to this bill because it was not strong enough, and did not go far enough; and that it ought to have given money and not land. Now, if we came here asking money, I grant you that the objection of the gentleman from Ohio [Mr. WELKER] would be good, that the bill ought to go to the Committee on Commerce; but being a land grant, to what other committee could it properly go than to the Committee on the Public Lands?

Now, one word in regard to the objection which comes from some gentlemen against granting lands for such improvements as this. I do not wonder at it as coming from gentlemen from the eastern States, where a state of affairs is found totally different from that which exists in the West. I can only say to the gentlemen that if they lived in the undeveloped West, in a community where land is almost nothing and population is everything, they would take a different view of this question. We are not proposing this measure in the interest of speculators. This grant goes to the State of Minnesota, to be disposed of by its

Legislature. Neither I nor any of my associates on this floor, or on the floor of the Senate, have any interest in this matter except as citizens of that State. Nay more, we represent the wishes of our people in this matter, and the best proof of that is the indorsement we have received at the hands of the people. In my own case, while I have been clamoring here for years for land grants for railroads and other improvements in my State, I have been sustained by increased majorities. In two years my majority was very nearly doubled in my district. Our people who cast those votes are not speculators; they are not land sharks; they are honest settlers, farmers, men engaged in developing the country. If this policy was not wise and right, do you think we would press it here, or do you think we would be indorsed if we did press it here?

Mr. WELKER. Will the gentleman allow me to ask him another question?

Mr. DONNELLY. Yes, sir.

Mr. WELKER. Will the gentleman state to the House about how much of public lands remain unappropriated or not granted away in the State of Minnesota? I understand nearly all the good and most valuable public lands we have in that State have been granted away with the exception of about the amount proposed to be covered by this grant.

Mr. DONNELLY. The gentleman is in error. If he will come out there with his entire family I will guarantee one hundred and sixty acres for each member of it under the homestead law. We have made appropriations of seven million acres of land to railroads in the State of Minnesota. That looks like an enormous aggregate. It would be in the State of Rhode Island. But we have a State as large as Pennsylvania and New York combined, a State with fifty-three million acres.

Mr. WELKER. The gentleman does not answer my question. I speak of public lands. I know there is a great deal of land in Minnesota; I am perfectly aware of that.

Mr. DONNELLY. I speak of public lands also.

Mr. WELKER. I want to know how much unappropriated public land there is there?

Mr. DONNELLY. The unappropriated public lands in Minnesota amount to many millions of acres. Let me give an instance: it was proposed to obtain a land grant for a road running through one strip of country twenty miles wide, from Taylor's falls to the State line. I wrote to the Commissioner of Public Lands, and he wrote me that there were nearly a million acres on that route alone. Half of our State is not yet settled, and we came here asking for this pittance, this paltry amount of one hundred thousand acres taken out of our own State, for which we are answerable to our own people, and we are met with all these objections. It is not fair; it is not just. There should be some confidence reposed by members in one another, and if men come here and ask these things for their State it is fair to presume that the State indorses it and that it is right. I am unwilling further to delay the House, and I demand the previous question.

Mr. CARY. I move to lay the report of the committee of conference on the table.

Mr. PIKE. I desire to say a word upon this question.

Mr. DONNELLY. I yield to my colleague on the committee of conference.

The SPEAKER. The gentleman cannot yield after demanding the previous question.

Mr. DONNELLY. I withdraw the demand for the previous question.

The SPEAKER. Does the gentleman from Ohio [Mr. CARY] withdraw the motion to lay on the table?

Mr. CARY. I will do so for a moment to allow the gentleman from Maine to be heard, but will renew it immediately.

Mr. MULLINS. I hope not until I make a few remarks.

Mr. PIKE. I was upon this conference committee, but was unable to concur with the majority in the result to which they came; and

as the gentleman from Minnesota has given reasons why the report should be adopted, it is proper for me to say a word or two giving the reasons why I did not concur in the report. The bill originally provided for a grant to the State of Minnesota of two hundred thousand acres of land to be sold at \$1 25 an acre for the purpose of improving the Mississippi river in that State. It was passed by both branches somewhat in derogation of the ordinary rule, as the gentleman from Ohio [Mr. WELKER] has said, because all these improvements in rivers and harbors have in other instances come from the Committee on Commerce and been incorporated in the river and harbor bill.

The Senate made an amendment to the bill, granting one hundred thousand acres of land for the purpose of preventing the further wasting away of the Falls at St. Anthony. It seems that these falls have been seriously injured within the last two or three years, and there is great danger that the limestone of which they are composed will wash away and make a series of rapids for some distance down the river, and, of course, very seriously injure the water-power at St. Anthony. The question is whether the United States Government shall interpose, or whether the individuals interested in the two flourishing towns of Minneapolis and St. Anthony, and the individuals interested in the water-power and the machinery on that water-power, shall repair these damages. It is estimated that it will cost about one hundred thousand dollars to secure these falls. The river at that point—

Mr. DONNELLY. I beg to interrupt the gentleman. I have stated, upon the estimates of the deputy of General Warren, that it would cost \$240,000.

Mr. PIKE. I gave the estimate which was given to me by a party interested in this water-power. The question is whether the parties there on the spot or the General Government shall contribute. It seems to me to be but a simple private enterprise; and as private interests are to be benefited by it they should contribute to it, and not the General Government. The Mississippi river at that point is not larger than several rivers in my State, where individuals have built dams across rivers, and thereby created water-power for their own use. In this case it needs but to steady the natural water-power and to preserve the rock in its natural position, and the question before the House is whether Congress shall make a grant of land for this purpose, or whether the individuals there shall make this improvement for themselves. I have, with some reluctance, concluded to disagree with the report of the committee of conference, because several persons living in those towns were formerly constituents and good friends of mine. But it seems to me that this is a case where the General Government should not be called upon.

Mr. SCOTFIELD. Are there any precedents on file where the Government undertook to improve private property?

Mr. PIKE. I know of no such precedents.

Mr. CARY. I renew the motion to lay on the table the report of the committee of conference.

Mr. DONNELLY. Will the gentleman from Ohio [Mr. CARY] yield to me to make a brief reply to the statements of the gentleman from Maine, [Mr. PIKE?]

Mr. CARY. I prefer not to yield. I think we have had discussion enough on this subject.

Mr. DONNELLY. I desire but a moment or two to correct some misstatements.

Mr. CARY. Very well; I will withdraw the motion for that purpose.

Mr. DONNELLY. The first point I would make in reply to the gentleman is this: that this is not an appropriation to improve the navigation of a river, but it is an appropriation to preserve an existing navigation. It is, therefore, a different case from almost any that has come before this Congress.

In the next place, as to the question of private interest, it is true that private interests may be benefited by the passage of this bill.

But I would ask this House to reflect that you can pass scarcely any public measure that does not benefit private interests. If you pass a land-grant railroad bill you benefit the private property all along the line of that road. If you make an appropriation to improve a harbor you benefit the shipowners doing business in those harbors as well as the towns upon its shores.

A question has been asked as to precedents. I would say to the gentleman from Pennsylvania [Mr. SCOFIELD] that on page 573 of the acts of 1865 and 1867 will be found an absolute grant of land to Kansas to build a bridge over the Republican river. And I hold in my hand a list of grants of lands to canals, wagon-roads, and of all manner of measures of that sort.

I say again, in conclusion, that my State asks for this grant; the united delegation from my State asks for it. And I do say that the members of this House, in a matter of doubt, ought to follow the disposition and desires of those who represent the community, and who are answerable to that community.

Mr. LAWRENCE, of Ohio. I would be glad if the gentleman would inform the House whether this is of sufficient public importance to justify this grant upon the ground that it would preserve the navigation of the Mississippi river, irrespective of the interests of private mill-owners?

Mr. DONNELLY. I am glad the gentleman has asked the question. It is of the utmost importance to the people of that section of the State. If the mill-owners were too poor or too illiberal to save the falls, and if that natural dam were to be swept away, the entire community would suffer. The railroads concentrating there would find their business extinguished, and the people of those cities would have to disperse. I now call the previous question.

Mr. CARY. I renew the motion that the report be laid on the table.

Mr. HOLMAN. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 72, not voting 65; as follows:

YEAS—Messrs. Adams, Archer, Arnell, Baker, Baldwin, Barnes, Beatty, Beck, Benjamin, Benton, Boyer, Bromwell, Brooks, Broomall, Buckland, Cary, Coburn, Delano, Eggleston, Eldridge, Ferriss, Fields, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Hawkins, Holman, Hotchkiss, Hulburd, Thomas L. Jones, Kelsey, Kerr, Ketcham, Knott, Koontz, William Lawrence, Lincoln, Marshall, Maynard, McCullough, Mercer, Moore, Mullins, Niblack, Nicholson, Nunn, Phelps, Pile, Polsey, Pomeroy, Robertson, Ross, Scofield, Sitgreaves, Taylor, Thomas, Lawrence S. Trimble, Van Auker, Burt Van Horn, Van Wyck, Vidal, Ward, Elihu B. Washburne, William B. Washburn, Welker, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—78.

NAYS—Messrs. Allison, Anderson, Axtell, Bailey, Banks, Bingham, Blair, Boles, Boutwell, Boyden, Roderick R. Butler, Cake, Churchill, Reader W. Clarke, Cobb, Cook, Cullom, Dixon, Donnelly, Driggs, Eckley, Eliot, Farnsworth, French, Goss, Gravely, Hamilton, Heaton, Higby, Hinds, Hooper, Hopkins, Chester D. Hubbard, Ingersoll, Jenckes, Alexander H. Jones, Judd, Kelley, Ladin, Loan, Logan, Loughridge, Lynch, Mallory, McCarthy, McClurg, McKee, Miller, Moorhead, Morrell, Myers, O'Neill, Perham, Pile, Plants, Pomeroy, Sawyer, Schenck, Smith, Spalding, Thaddeus Stevens, Stokes, Taffe, Twichell, Upson, Van Aernam, Henry D. Washburn, Whittemore, Thomas Williams, William Williams, Windom, and Woodbridge—72.

NOT VOTING—Messrs. Ames, Delos R. Ashley, James M. Ashley, Barnum, Beaman, Blackburn, Blaine, Bowen, Burr, Benjamin F. Butler, Chanler, Sidney Clarke, Cornell, Covode, Dawes, Deweese, Dockery, Dodge, Ela, Ferry, Finney, Garfield, Griswold, Halsey, Harding, Hill, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Johnson, Julian, Kitchen, Lash, George V. Lawrence, Mann, Marvin, McCormick, Morrissey, Mungen, Newcomb, Newsham, Orth, Peters, Poland, Price, Pruyn, Raun, Robinson, Roots, Selye, Shanks, Shellabarger, Starkweather, Aaron F. Stevens, Stewart, Stone, Sypher, Taber, John Trimble, Trowbridge, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, and James F. Wilson—65.

So the report of the committee of conference was laid on the table.

Mr. HOLMAN. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

Mr. DONNELLY. I ask the gentleman

from Indiana [Mr. HOLMAN] to withdraw that motion. The original bill as passed by the House is conceded by all to have been a just measure, and—

Mr. RANDALL. I object to debate.

The SPEAKER. The motion to lay on the table the motion to reconsider is not debatable.

Mr. DONNELLY. I demand the yeas and nays. It is not fair to slaughter the whole bill in this way.

Mr. MAYNARD. I have, I believe, voted against this bill persistently throughout; but I hope that now, by general consent all round, the bill will be allowed to become a law in the shape in which it was originally passed by the House.

Mr. DONNELLY. I shall be perfectly satisfied if that shall be done.

Mr. RANDALL. I object to debate.

The yeas and nays were ordered.

Mr. PILE. I rise to a parliamentary question. If this motion to lay on the table should not prevail, would it not then be in order to reconsider the vote by which the report was laid on the table to non-concur in that report and ask another conference?

The SPEAKER. If the motion to reconsider should not be laid on the table, the next question will be on reconsidering the vote by which the report of the committee of conference was laid on the table.

Mr. DONNELLY. I desire to say that I am perfectly willing the amendment shall be receded from and the bill passed in its original form, as the vote of the House on two occasions has demonstrated that it will not accept the amendment of the Senate.

Mr. HOLMAN. I object to debate.

Mr. MAYNARD. I desire to ask a parliamentary question.

The SPEAKER. A parliamentary question is in the nature of debate, and the gentleman from Indiana [Mr. HOLMAN] persists in his objection to debate.

The question was taken on the motion of Mr. HOLMAN, to lay on the table the motion to reconsider the vote by which the report of the committee of conference was laid on the table; and it was decided in the negative—yeas 60, nays 78, not voting 72; as follows:

YEAS—Messrs. Adams, Archer, Baker, Baldwin, Barnes, Beatty, Benjamin, Boyer, Bromwell, Brooks, Buckland, Cary, Delano, Eggleston, Eldridge, Ferriss, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Hawkins, Hill, Holman, Hotchkiss, Thomas L. Jones, Kelsey, Kerr, Knott, Lash, William Lawrence, McCullough, Mercer, Moore, Mullins, Niblack, Nicholson, Nunn, Phelps, Polsey, Randall, Robertson, Ross, Scofield, Sitgreaves, Stone, Taber, Thomas, Lawrence S. Trimble, Van Auker, Robert T. Van Horn, Van Wyck, Ward, Elihu B. Washburne, Welker, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—60.

NAYS—Messrs. Anderson, Delos R. Ashley, James M. Ashley, Bailey, Banks, Benton, Bingham, Blair, Boles, Boutwell, Boyden, Roderick R. Butler, Cake, Reader W. Clarke, Sidney Clarke, Cobb, Dawes, Dixon, Donnelly, Driggs, Eliot, Farnsworth, Fields, French, Goss, Hamilton, Heaton, Higby, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Johnson, Alexander H. Jones, Judd, Kelley, Ketcham, Lincoln, Loan, Logan, Loughridge, Lynch, Maynard, McCarthy, McClurg, McKee, Miller, Moorhead, Morrell, Myers, O'Neill, Paine, Perham, Pike, Pile, Plants, Pomeroy, Raun, Sawyer, Schenck, Shanks, Smith, Spalding, Starkweather, Stokes, Taffe, Taylor, Trowbridge, Twichell, Van Aernam, Vidal, Henry D. Washburn, Thomas Williams, and Windom—78.

NOT VOTING—Messrs. Allison, Ames, Arnell, Axtell, Barnum, Beaman, Beck, Blackburn, Blaine, Bowen, Broomall, Burr, Benjamin F. Butler, Chanler, Churchill, Coburn, Cook, Cornell, Covode, Cullom, Deweese, Dockery, Dodge, Eckley, Ela, Ferry, Finney, Garfield, Gravely, Griswold, Halsey, Harding, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Julian, Kitchen, Kintz, Ladin, George V. Lawrence, Mallory, Mann, Marshall, Marvin, McCormick, Morrissey, Mungen, Newcomb, Newsham, Orth, Peters, Poland, Price, Pruyn, Robinson, Roots, Selye, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stewart, Sypher, John Trimble, Upson, Burt Van Horn, Van Trump, Cadwalader C. Washburn, William B. Washburn, Whittemore, William Williams, James F. Wilson, and Woodbridge—72.

So the motion to reconsider was not laid on the table.

The SPEAKER. The Chair will consider the motion to reconsider as having been agreed to if there is no objection.

There was no objection, and it was ordered accordingly.

The SPEAKER. The question again recurs on the motion to lay the report upon the table.

Mr. DONNELLY. Mr. Speaker, I will say, if the motion to lay upon the table does not prevail, I will ask the House to non-concur in the report and another committee of conference be appointed with a view to have the Senate amendment receded from by the Senate.

The motion to lay upon the table was disagreed to.

The question next occurred on the adoption of the conference report.

Mr. ROSS. I move that it be referred to the Committee on the Public Lands.

The SPEAKER. The gentleman from Minnesota has called for the previous question; but the Chair will state that it is not usual to refer a conference report to a committee.

Mr. ROSS. Is it not in order?

The SPEAKER. It is not in order while the previous question is pending. If the previous question be not seconded the Chair will hold the motion is in order, although he does not recollect any such case.

The House divided; and there were—yeas 56, nays 49.

So the previous question was seconded.

The main question was ordered to be now put.

The conference report was again read.

Mr. ROSS. Read the amendment of the Senate.

The SPEAKER. It will be read, although the gentleman has not the right to have it read.

The Clerk read as follows:

Add the following as an additional section: Sec. 4. And be it further enacted, That there be, and hereby is, granted to the State of Minnesota the further quantity of one hundred thousand acres of public lands, subject to the same restrictions as to selection and sale as are hereinbefore named, the proceeds whereof shall be used in making such improvements in the Mississippi river at the Falls of St. Anthony as may be deemed necessary by the Legislature of said State to protect and secure the existing navigation immediately above said falls.

Mr. WELKER. If the report of the committee of conference be rejected does not the whole matter go to another conference committee?

Mr. DONNELLY. I intend to move such a committee of conference.

Mr. SCOFIELD. That is the agreement.

Mr. WELKER. I do not know anything about any agreement.

Mr. ROSS. Is it in order to move to strike out the enacting clause of the bill?

The SPEAKER. The bill is before the House, and a motion to lay it upon the table is in order.

Mr. ROSS. I move that the Senate amendment be laid upon the table.

Mr. SCOFIELD. I hope my friend from Illinois will withdraw his motion. I have stood up with him on this question.

Mr. ROSS. If the Senate amendment be rejected it will still leave a grant of two hundred thousand acres.

Mr. DONNELLY. It is my understanding if another conference committee is appointed, so far as my vote can control it, to have the Senate amendment receded from and the bill passed as it stood originally.

Mr. ROSS. Will not that still grant two hundred thousand acres?

Mr. DONNELLY. It will; and I understand there is little objection to it.

Mr. ROSS. There is objection on this side. I insist on my motion to lay it upon the table, and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 81, not voting 72; as follows:

YEAS—Messrs. Adams, Archer, Baker, Baldwin, Barnes, Beatty, Beck, Boyer, Bromwell, Brooks, Broomall, Buckland, Cary, Eggleston, Ferriss, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Hamilton, Hawkins, Hill, Holman, Hotchkiss, Thomas L. Jones, Kelsey, Kerr, Knott, Lash, William Lawrence, Marshall, McCullough, Mercer, Moore, Mullins, Niblack, Nicholson, Nunn, Phelps, Polsey, Randall, Robertson, Ross, Scofield, Sitgreaves, Stone, Thomas, Lawrence S. Trimble, Van Auker, Vidal,

Ward, Welker, John T. Wilson, Wood, and Woodward—57.

NAYS—Messrs. Allison, Anderson Arnell, Delos R. Ashley, Axtell, Bailey, Banks, Benton, Bingham, Blair, Boies, Boyden, Rodrick R. Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Dixon, Donnelly, Driggs, Earnsworth, Fields, French, Goss, Griswold, Leaton, Higby, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jencks, Johnson, Alexander H. Jones, Judd, Kelley, Ketcham, Koontz, Lincoln, Loan, Logan, Loughbridge, Mallory, Maynard, McCarthy, McClurg, McKee, Miller, Moorhead, Morrell, Myers, O'Neill, Paine, Perham, Plants, Poland, Pomeroy, Raun, Sawyer, Smith, Starkweather, Stokes, Sypher, Taffe, Taylor, Trowbridge, Twichell, Van Aernam, Henry D. Washburn, William B. Washburn, Whittemore, Thomas Williams, William Williams, Windom, and Woodbridge—81.

NOT VOTING—Messrs. Ames, James M. Ashley, Barnum, Beaman, Benjamin, Blackburn, Blaine, Boutwell, Bowen, Burr, Benjamin F. Butler, Cake, Chautler, Coburn, Cornell, Covode, Dawes, Delano, Dewesse, Dockery, Dodge, Eekley, Ela, Eldridge, Eliot, Ferry, Finney, Garfield, Gravelly, Halsey, Harding, Asabel W. Hubbard, Richard D. Hubbard, Humphrey, Julian, Kitchen, Laffin, George V. Lawrence, Lynch, Mann, Marvin, McCormick, Morrissey, Mungen, Newcomb, Newsham, Orth, Peters, Pike, Price, Pruyn, Robinson, Root, Schenck, Selye, Shanks, Shellabarger, Spaulding, Aaron F. Stevens, Thaddeus Stevens, Stewart, Taber, John Trimble, Upson, Burt Van Horn, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, James F. Wilson, and Stephen F. Wilson—72.

So the House refused to lay the Senate amendment on the table.

Mr. **DONNELLY** moved that the House still further insist on its disagreement to the amendment, and ask for another committee of conference.

The motion was agreed to.

Mr. **DONNELLY** moved to reconsider the last vote; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The **SPEAKER** appointed Mr. **DONNELLY**, Mr. **MAYNARD**, and Mr. **ROSS**, managers of said conference on the part of the House.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. **GORHAM**, its Secretary, announced that the Senate had passed a bill (H. R. 1010) relative to pensions, with amendments, in which he was directed to ask the concurrence of the House.

The message further announced that the President of the United States having returned to the Senate, in which it originated, the joint resolution (S. No. 139) excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized, with his objections thereto, the Senate proceeded in conformity with the Constitution to reconsider the same, and had resolved that the said bill do pass, two thirds of the Senate agreeing thereto.

ELECTORAL COLLEGE.

The **SPEAKER** laid before the House the following message from the President of the United States:

To the Senate of the United States:

I have given to the joint resolution entitled "A resolution excluding from the Electoral College votes of the States lately in rebellion, which shall not have been reorganized," as careful examination as I have been able to bestow upon the subject during the few days that have intervened since the measure was submitted for my approval.

Feeling constrained to withhold my assent, I herewith return the resolution to the Senate, in which House it originated, with a brief statement of the reasons which have induced my action.

This joint resolution is based upon the assumption that some of the States whose inhabitants were lately in rebellion are not now entitled to representation in Congress and to participate in the election of President and Vice President of the United States.

Having heretofore had occasion to give in detail my reasons for dissenting from this view, it is not necessary at this time to repeat them. It is sufficient to state that I continue strong in my conviction that the acts of secession, by which a number of the States sought to dissolve their connection with the other States and sub-

vert the Union, being unauthorized by the Constitution, and in direct violation thereof, were from the beginning absolutely null and void. It follows necessarily that when the rebellion terminated the several States which had attempted to secede continued to be States in the Union, and all that was required to enable them to resume their relations to the Union was that they should adopt the measures necessary to their practical restoration as States. Such measures were adopted, and the legitimate result was that those States, having conformed to all the requirements of the Constitution, resumed their former relations, and became entitled to the exercise of all the rights guaranteed to them by its provisions.

The joint resolution under consideration, however, seems to assume that by the insurrectionary acts of their respective inhabitants, those States forfeited their rights as such, and can never again exercise them except upon readmission into the Union on the terms prescribed by Congress. If this position be correct, it follows that they were taken out of the Union by virtue of their acts of secession, and hence that the war waged upon them was illegal and unconstitutional. We would thus be placed in this inconsistent attitude, that while the war was commenced and carried on upon the distinct ground that the southern States, being component parts of the Union, were in rebellion against the lawful authority of the United States, upon its termination we resort to a policy of reconstruction which assumes that it was not in fact a rebellion, but that the war was waged for the conquest of territories assumed to be outside of the constitutional Union.

The mode and manner of receiving and counting the electoral votes for President and Vice President of the United States are in plain and simple terms prescribed by the Constitution. That instrument imperatively requires that the President of the Senate "shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted." Congress has, therefore, no power, under the Constitution, to receive the electoral votes or reject them. The whole power is exhausted when, in the presence of the two Houses, the votes are counted and the result declared. In this respect the power and duty of the President of the Senate are, under the Constitution, purely ministerial. When, therefore, the joint resolution declares that no electoral votes shall be received or counted from States that since the 4th of March, 1867, have not "adopted a constitution or State government under which a State government shall have been organized," a power is assumed which is nowhere delegated to Congress, unless upon the assumption that the State governments organized prior to the 4th of March, 1867, were illegal and void.

The joint resolution, by implication at least, concedes that these States were States by virtue of their organization, prior to the 4th of March, 1867, but denies to them the right to vote in the election of President and Vice President of the United States. It follows either that this assumption of power is wholly unauthorized by the Constitution, or that the States so excluded from voting were out of the Union by reason of the rebellion, and have never been legitimately restored. Being fully satisfied that they were never out of the Union, and that their relations thereto have been legally and constitutionally restored, I am forced to the conclusion that the joint resolution which deprives them of the right to have their vote for President and Vice President received and counted is in conflict with the Constitution, and that Congress has no more power to reject their votes than those of the States which have been uniformly loyal to the Federal Union.

It is worthy of remark that if the States whose inhabitants were recently in rebellion were legally and constitutionally organized and restored to their rights prior to the 4th of March, 1867, as I am satisfied they were the only legitimate authority under which the election for

President and Vice President can be held therein, must be derived from the governments instituted before that period.

It clearly follows that all the State governments organized in those States under acts of Congress for that purpose, and under military control, are illegitimate and of no validity whatever; and, in that view, the votes cast in those States for President and Vice President, in pursuance of acts passed since the 4th of March, 1867, and in obedience to the so-called reconstruction acts of Congress, cannot be legally received and counted; while the only votes in those States that can be legally cast and counted will be those cast in pursuance of the laws in force in the several States prior to the legislation by Congress upon the subject of reconstruction.

I cannot refrain from directing your special attention to the declaration contained in the joint resolution, that "none of the States whose inhabitants were lately in rebellion shall be entitled to representation in the Electoral College," &c.

If it is meant by this declaration that no State is to be allowed to vote for President and Vice President, all of whose inhabitants were engaged in the late rebellion, it is apparent that no one of the States will be excluded from voting, since it is well known that in every southern State there were many inhabitants who not only did not participate in the rebellion, but who actually took part in its suppression, or refrained from giving it any aid or countenance. I therefore conclude that the true meaning of the joint resolution is that no State, a portion of whose inhabitants were engaged in the rebellion, shall be permitted to participate in the presidential election, except upon the terms and conditions therein prescribed.

Assuming this to be the true construction of the resolution, the inquiry becomes pertinent, may those northern States—a portion of whose inhabitants were actually in the rebellion—be prevented at the discretion of Congress from having their electoral votes counted? It is well known that a portion of the inhabitants of New York and a portion of the inhabitants of Virginia were alike engaged in the rebellion, yet it is equally well known that Virginia, as well as New York, was at all times during the war recognized by the Federal Government as a State in the Union, so clearly that upon the termination of hostilities it was not even deemed necessary for her restoration that a provisional governor should be appointed. Yet, according to this joint resolution, the people of Virginia, unless they comply with terms it prescribes, are denied the right of voting for President, while the people of New York, a portion of the inhabitants of which State were also in rebellion, are permitted to have their electoral votes counted, without undergoing the process of reconstruction prescribed for Virginia. New York is no more a State than Virginia; the one is as much entitled to be represented in the Electoral College as the other. If Congress has the power to deprive Virginia of this right it can exercise the same authority with respect to New York or any other of the States. Thus the result of the presidential election may be controlled and determined by Congress, and the people be deprived of their right under the Constitution to choose a President and Vice President of the United States.

If Congress were to provide by law that the votes of none of the States should be received and counted if cast for a candidate who differed in political sentiment with a majority of the two Houses, such legislation would at once be condemned by the country as an unconstitutional and revolutionary usurpation of power. It would, however, be exceedingly difficult to find in the Constitution any more authority for the passage of the joint resolution under consideration than for an enactment looking directly to the rejection of all votes not in accordance with the political preferences of a majority of Congress. No power exists in the Constitution authorizing the joint resolution or the supposed law, the only difference being

that one would be more palpably unconstitutional and revolutionary than the other. Both would rest upon the radical error that Congress has the power to prescribe terms and conditions to the right of the people of the States to cast their votes for President and Vice President.

For the reasons thus indicated, I am constrained to return the joint resolution to the Senate for such further action thereon as Congress may deem necessary.

ANDREW JOHNSON.

WASHINGTON, July 20, 1868.

The SPEAKER. The question under the Constitution is, Will the House, on reconsideration, agree to the passage of this joint resolution?

Mr. BOUTWELL. I demand the previous question.

Mr. GARFIELD. I would suggest to the gentleman that perhaps it would be edifying to the gentlemen on the other side if he would explain the reference in the message to the rebellion in New York.

Mr. BOUTWELL. I suppose that part of the message is entirely understood, so that it is unnecessary for me to explain it.

Mr. WOOD. We did not hear the gentleman's remark on this side.

Mr. BROOKS. If the gentleman will permit me I will tell him what it means. It refers to Wendell Phillips, Theodore Tilton, Henry Ward Beecher, and others of that sort.

Mr. BOUTWELL. The gentleman is mistaken. I have no doubt the message refers to those persons in New York city who, in July, 1863, went into a little rebellion.

Mr. BROOKS. He refers to those who have been in rebellion for ten or twenty years.

Mr. ELDRIDGE. To those who bade the "erring sisters go in peace."

Mr. KERR. To Mr. Greeley, of the New York Tribune.

The previous question was seconded and the main question ordered.

The question was taken; and there were—yeas 134, nays 36, not voting 40; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Bently, Benjamin, Benton, Bingham, Blackburn, Blair, Boies, Boutwell, Bowen, Bromwell, Broomhall, Buckland, Roderick R. Butler, Calkins, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Coyode, Callum, Dawes, Delano, Dixon, Donnelly, Driggs, Eckley, Eggleston, Eila, Eliot, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Goss, Griswold, Hamilton, Heaton, Higby, Hill, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenekes, Alexander H. Jones, Judd, Kelley, Kelsey, Ketchum, Koontz, Laffin, Lush, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Lynch, Mallory, Maynard, McCarthy, McClurg, McKee, Mercer, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Poisley, Pomeroy, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Sypher, Taffie, Taylor, Thomas, Trowbridge, Twichell, Upton, Van Aernam, Bart Van Horn, Van Wyck, Vidal, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, Thomas Williams, William Williams, James F. Wilson, John T. Wilton, Stephen F. Wilson, Windom, and Woodbridge—134.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Boyden, Boyer, Brooks, Cary, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Johnson, Thomas L. Jones, Kerr, Knott, Marshall, McCullough, Niblack, Nicholson, Phelps, Randall, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Aiken, Wood, and Woodward—36.

NOT VOTING—Messrs. Baker, Barnum, Beaman, Blaine, Burr, Benjamin F. Butler, Chandler, Cornell, Dewese, Dockery, Dodge, Finney, Gravely, Halsey, Harding, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Julian, Kitchen, George V. Lawrence, Mann, Marvin, McCormick, Morrissey, Mungen, Newcomb, Newsham, Price, Pruyn, Robinson, Roots, Selye, Shellabarger, Aaron F. Stevens, John Trimble, Robert T. Van Horn, Van Trump, and Cadwalader C. Washburn—40.

The SPEAKER. On the question, "Will the House, on reconsideration, agree to the passage of the joint resolution?" the yeas are 134, and the nays 36. Two thirds having voted in the affirmative, and it having been certified from the Senate of the United States that upon a similar vote upon reconsideration two thirds of that body have agreed to the passage of the joint resolution, I do, by the authority of the

Constitution of the United States, declare that the joint resolution excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized has become a law notwithstanding the objections of the President.

DEFICIENCY APPROPRIATION BILL.

Mr. POMEROY. I rise to a privileged question.

Mr. WASHBURNE, of Illinois. I ask the gentleman from New York to yield to me for the purpose of moving to take from the Speaker's table the amendments of the Senate to the deficiency bill for the purpose of non-concurring in them and asking a committee of conference.

Mr. MAYNARD. I must object.

Mr. WASHBURNE, of Illinois. Will the gentleman allow me to move a suspension of the rules?

Mr. POMEROY. I yield for that purpose.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, that the amendments of the Senate to the bill (H. R. No. 1841) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes, be taken from the Speaker's table, that the amendments be non-concurred in, and a conference asked on the disagreeing votes of the two Houses.

The question was taken; and two thirds voting in favor thereof, the rules were suspended, and the motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER appointed Mr. WASHBURNE of Illinois, Mr. KELSEY, and Mr. WOODWARD managers of the conference on the part of the House.

AMENDMENT OF POSTAL LAWS.

Mr. FARNSWORTH. Will the gentleman from New York yield to me to have another bill taken up for the same purpose?

Mr. POMEROY. Is it an appropriation bill?

Mr. FARNSWORTH. It is the bill amending the postal laws.

Mr. WASHBURNE, of Illinois. The bill that makes a new office?

Mr. FARNSWORTH. That is what we want to non-concur in.

Mr. POMEROY. I cannot yield for that purpose.

SELECT COMMITTEE ON VENTILATION.

The SPEAKER. The Chair announces the following select committee ordered this morning:

Select Committee on Ventilation of the House—STEPHEN TABER, of New York; GEORGE S. BOUTWELL, of Massachusetts; JOHN COVODE, of Pennsylvania; COLUMBUS DELANO, of Ohio; and NATHANIEL BOYDEN, of North Carolina.

LEAVE OF ABSENCE.

Leave of absence was granted to Mr. BENJAMIN on account of the sickness of his wife.

VACANCIES IN EXECUTIVE DEPARTMENTS.

Mr. POMEROY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from its disagreement to the first amendment of the Senate, and agree to the same.
That the House recede from its disagreement to the second amendment of the Senate, and agree to the same with the following amendments: strike out the word "and," in line three of said amendment, and insert after the word "second," in the same line, the words "and third;" and the Senate agree to the same.

That the House recede from its disagreement to the third amendment of the Senate, and agree to the same, with an amendment as follows: after the word "upon," in said amendment, strike out all to the end of the amendment, and insert in lieu the following

words: "the examiner-in-chief in said office oldest in length of commission;" and the Senate agree to the same.

THEODORE M. POMEROY,
WILLIAM LAWRENCE,
Managers on the part of the House.
ROSCOE CONKLING,
WILLIAM M. STEWART,
Managers on the part of the Senate.

Mr. POMEROY. As this is the report of the second committee of conference on this bill, I beg the attention of the House for a very few moments to state precisely the points of difference between the different committees of conference. By the law of 1836 establishing the Patent Office as a bureau of the State Department it was provided that the principal officer of the Patent Bureau should be the Commissioner of Patents, and he was the only officer provided for by that law who was to be appointed by the President by and with the advice and consent of the Senate. All the other subordinate officers of the Patent Office were appointed solely by the Commissioner of Patents, there being none of them subject to the confirmation of the Senate. After that time the inventive genius of the American people had increased the business of the Patent Office to such an extent that in 1861 the laws relating thereto were revised. The office of Commissioner of Patents was continued. But I ask the special attention of the House to the ninth section of the law of 1861, by which it is provided that:

"For the purpose of securing greater uniformity of action in the grant and refusal of letters-patent there shall be appointed by the President, by and with the advice and consent of the Senate, three examiners-in-chief, at an annual salary of \$3,000 each, to be composed of persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the applicant for that purpose being filed, to revise and determine upon the validity of decisions made by examiners when adverse to the grant of letters-patent, &c."

Therefore, since 1861, instead of having a Patent Office with a Commissioner of Patents at the head, with all the other officers mere clerks, appointed by the Commissioner, we have had a bureau in form, but in fact an independent department with the Commissioner of Patents at the head, and next to him three examiners-in-chief, who are by law required to be nominated by the President and confirmed by the Senate, and who are to be persons of competent legal knowledge and scientific ability. Yet by inadvertence in that act of 1861, the provision of the law of 1836 in reference to the chief clerk was left in force; so that now, as before, all the functions of the office of Commissioner of Patents, in case of a vacancy, are devolved upon the chief clerk, and it has so happened that for the last eight months all of the powers of the head of that bureau have devolved upon and been exercised by the chief clerk of the Patent Office, a man, however well qualified he may be, certainly not selected for his legal knowledge and scientific ability to discharge the duties of Commissioner of Patents, but on the contrary selected simply to discharge the ordinary duties of the chief clerk of that office.

And I may say here that that chief clerk now discharging the duties of Commissioner of Patents, is every month throughout the year determining and adjudicating upon right of property greater in amount than are adjudicated upon by any court of the United States not excepting even the Supreme Court of the United States.

Mr. LOGAN. Will the gentleman allow me to ask him a question?

Mr. POMEROY. Certainly.

Mr. LOGAN. I understand the object of this bill to be to get some person of legal attainments to adjudicate upon these questions. Has not the man now holding the position of chief clerk been a practitioner at the bar for many years, and is he not a lawyer of good reputation?

Mr. FARNSWORTH. Will the gentleman also inform the House whether the present examiners are lawyers?

Mr. POMEROY. I will endeavor to state my side of the case as fully as circumstance will permit.

Mr. LOGAN. Will the gentleman answer my question?

Mr. POMEROY. I cannot answer all the gentleman's questions, for there are several questions involved in one. In answer to his first question I will say that the object of this bill is not only to get a man of legal knowledge and competent scientific ability, but something more. Under this bill, which has passed both Houses, and about which there is no disagreement except in regard to the Patent Office, whenever a vacancy occurs in any executive Department or bureau of the Government the functions of the office are to devolve upon the next officer in rank in the Department or bureau until the office is filled. These are the provisions of the bill upon which both branches of the national Legislature have now agreed. The only exception—and that is the cause of the disagreement between the two Houses—is in regard to the Commissioner of Patents; and unless some provision of law is made, either such as that recommended by the committee of conference or some other provision, the Patent Office will stand an exception to all the other Departments and all the other bureaus of the Government.

Mr. MYERS. Will the gentleman yield to me for a moment?

Mr. POMEROY. I cannot yield now. In answer to the gentleman from Illinois [Mr. LOGAN] I will say that if the report of the committee of conference shall be adopted the object of it is to make the Patent Office conform—that is the leading idea of the conferees in this case—to the other Departments and bureaus of the Government, and in case of a vacancy to devolve the duties of the office upon the officer next in rank in the Department or bureau, avoiding the incourtesy of the case, the dropping down below the three officers next in rank to the Commissioner, and devolving the duties upon a clerk who has never been appointed with reference to the duties of that office, and whose qualifications for the position have never been subjected to the scrutiny of the Senate.

Now, I will say to the gentleman from Illinois [Mr. LOGAN] that at this stage of the discussion I do not propose to raise the question whether the person now performing the duties of the Commissioner is superior or inferior in point of qualifications to him upon whom those duties will be devolved if the report of the committee of conference should be adopted. I do not propose to discuss that question, because I do not think it ought to arise in the present case. The same rule which has been applied to the other Departments should be applied to this; and upon the next ranking officer should devolve the duties. When the report of the committee of conference was presented the other day and rejected by the House, there was a misapprehension on the part of many members as to the object and effect of the recommendation of the committee. I now state from information which I know to be correct, as well as though the fact rested on my own personal knowledge, that the amendment presented by the former committee of conference had no relation whatever to the appointment of any particular one of the three examiners-in-chief; it was proposed upon the assumption that the President would select from those three the one most competent to discharge the duties of the office.

Inasmuch as the partial misapprehension of the House at that time grew out of the fact that Mr. Foote is one of the examiners, and as his name was drawn into the debate the other day I deem it but an act of justice toward a man who years ago lived in my own district and whom personally I know well, to say that if the report had been adopted, and Mr. Foote had been appointed, we should have had in the position a man of perfect integrity of character, a man of fine legal abilities, and a man most thoroughly skilled in the duties pertaining to the Patent Office.

Mr. WELKER. I desire to inquire whether the gentleman has any information that the

nomination of Mr. Foote as Commissioner of Patents has been to-day sent to the Senate?

Mr. POMEROY. I have not heard anything about that; but I can say, though I know his political views to be opposed to mine, that if he has been nominated to that office, and if he shall be confirmed, the rights of patentees and of the public as well as the interests of the Department will be maintained with justice and integrity. I have deemed it proper to say this much from my personal knowledge of this man, founded on a long acquaintance with him.

On that point I will only add that the appointment under the report of the former committee of conference would, in any event, have secured the designation of a man whose character would have been a guarantee for the proper administration of the Patent Office. But that report was rejected. In the present report we make the provision in regard to the Patent Office entirely symmetrical and consistent with the provision in regard to the other Departments and bureaus. We propose that the senior examiner-in-chief shall execute and fulfill the duties of the Commissioner in case of a vacancy until a Commissioner shall be appointed. The effect of this will be, if the report be adopted, that the duties of the Commissioner, until a successor to Mr. Theaker shall be appointed, will devolve upon Mr. Hodges.

Mr. LOGAN. I would like to ask the gentleman a question, purely for the sake of information, and without any feeling with reference to either of the gentlemen upon whom this appointment may devolve. Is not the chief clerk in any of the Departments the senior officer, next to the officer in charge of that Department?

Mr. POMEROY. No, sir; in all the Departments we have the Secretary, then the Assistant Secretary, and then comes the chief clerk.

Mr. LOGAN. Suppose the Secretary and Assistant Secretary are both out of office, who is then the ranking officer?

Mr. POMEROY. If the gentleman refers to the Patent Office, I will say that in the absence of the Commissioner the senior examiner-in-chief is the ranking officer.

Mr. LOGAN. Is that by law?

Mr. POMEROY. It is not by law, because by reason of a defect in the act of 1861 authorizing the appointment of these examiners-in-chief the provision of the act of 1836 was left in force.

Mr. LOGAN. Exactly; the chief clerk was left as the senior officer next to the Commissioner of Patents.

Mr. POMEROY. So I say, owing to an omission in the act of 1861.

Mr. LOGAN. Now, Mr. Chairman, if the gentleman will allow me, and I do not wish to make any debate about this, I will ask him this question. He speaks of the Patent Office as a department. Now, does he not know that it is a mere bureau? I ask him whether in all the bureaus and all the Departments, the chief clerk is not held to be the senior officer next to the head of that bureau?

Mr. POMEROY. I do not concede that is so, but in no other Department are there three examiners-in-chief like in the Patent Office. In the other Departments there are Secretaries and Assistant Secretaries, and when there is a vacancy in the first their places are filled temporarily by the latter.

Mr. LOGAN. For the purpose of getting the issue before the House I ask the gentleman from New York whether it is not the fact, under and by virtue of the law, every chief clerk in every bureau is the senior officer next to the chief of the bureau?

Mr. POMEROY. No, sir.

Mr. LOGAN. That is the law as I understand it.

Mr. POMEROY. In the Internal Revenue Office the Commissioner has a deputy, who takes his place in case there is a vacancy. This deputy succeeds the Commissioner, by the provision of the law, if there be a vacancy, and not the chief clerk. We wish to establish the

same uniformity in the Patent Office that exists in the other Departments, and by law to correct the error of the acts of 1836 and 1861. We wish to make the law of 1861 what it ought to have been made when that law was passed.

Mr. LOGAN. Let me ask the gentleman a question.

Mr. POMEROY. I have not got through with what I have to say.

Mr. LOGAN. Only for a question.

Mr. POMEROY. I will yield for a question.

Mr. LOGAN. In the Indian Bureau, a bureau like the Patent Office, in the Interior Department, I ask the gentleman from New York whether the chief clerk is not the next in rank to the Commissioner of Indian Affairs himself? I also ask him whether in the Pension Office, also in the Interior Department, the chief clerk is not next in rank to the head of the bureau? There are three examiners-in-chief in the Patent Office. The chief clerk, under the law, is now the acting Commissioner of the Patent Office. Why, then, adopt this and now make the Patent Office an exception to all the other departments? If it is the desire to legislate the chief clerk of this department out of existence, and put some one in his place, why is it? There must be some reason for it.

Mr. POMEROY. I must resume the floor. I will say to the gentleman from Illinois this: I propose to leave to the judgment and good sense of each member of this House whether the chief clerk of the Patent Office shall rank next to the Commissioner, and in case of a vacancy become acting Commissioner, when there are in that department, under the law, three examiners-in-chief, with a salary of \$4,000 each, who are appointed by the President of the United States and confirmed by the Senate. I wish to know whether those officers are to be held as subordinate to the chief clerk of the department, who is appointed and may be removed solely at the will of the Commissioner of Patents?

Mr. BROMWELL rose.

Mr. POMEROY. I will yield to the gentleman for a question.

Mr. BROMWELL. I wish to suggest whether the business in which these examiners are engaged, and that in which the chief clerk is engaged, do not show which is the senior in rank? Are not these examiners employed for the mere purpose of examining into the propriety of granting patents, while the chief clerk has the general superintendence, the next man after the Commissioner? It seems to me that he is the man who, after the Commissioner, should take charge of the Patent Office.

Mr. POMEROY. In answer to the gentleman from Illinois I will repeat that what we seek to do in this report is to conform the practice in the Patent Office to that which exists in the other Departments and bureaus. As I said before, the Commissioner of Patents adjudicates more millions of property every year than any court of the United States, and for a month past the duties of that office have been performed by the chief clerk. We propose that one of the examiners-in-chief, who are appointed by the President and confirmed by the Senate like the highest officers of the Government, shall perform the duties of the office in case of a vacancy. It is perfectly idle to talk to me of the rank of the chief clerk. These examiners, by their education and experience, are eminently fitted for this position.

Mr. McKEE rose.

Mr. POMEROY. I will yield to the gentleman in a moment. As I have said, each one of these examiners-in-chief of the Patent Office is required to be appointed by the President and confirmed by the Senate. And yet we are asked in case of a vacancy in the office of Commissioner of Patents whether a clerk appointed at will is not next in rank in the office? Well, if it be so, it is by a faulty law that should be remedied, and that right speedily. Now, I say the effect of this report of the committee of conference, if adopted, will be to

devolve, until a Commissioner of Patents shall be appointed according to law, the duties of the office upon the senior examiner-in-chief, who is Mr. Hodges.

Mr. SCHENCK. Will the gentleman allow me to interrupt him for a matter of business?

Mr. POMEROY. Certainly.

SESSION FOR TO-NIGHT.

Mr. SCHENCK. I ask the House to agree to a session to-night for the consideration of business on the Speaker's table. There is a vast amount of it accumulated there.

Mr. BUTLER, of Massachusetts, and Mr. WARD objected.

Mr. SCHENCK. Then I move to suspend the rules.

On suspending the rules there were—ayes 79, noes 40.

The SPEAKER. The Chair votes in the affirmative, making two thirds in favor of the motion.

Mr. WASHBURN, of Illinois. I demand the yeas and nays. I do not want to go to the Speaker's table at night.

The yeas and nays were ordered.

The question was taken; and there were—yeas 76, nays 73, not voting 61; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Axtell, Beatty, Benjamin, Blair, Boles, Boutwell, Boyden, Roderick R. Butler, Churchill, Sidney Clarke, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Donnelly, Driggs, Eckley, Elliot, Ferry, Fields, French, Garfield, Goss, Griswold, Grover, Heaton, Higby, Hinds, Hotchkiss, Chester D. Hubbard, Hulburd, Hunter, Jenckes, Alexander H. Jones, Julian, Ketcham, Lincoln, Loan, Mallory, Maynard, McCarthy, McClurg, Mercer, Miller, Moorhead, Myers, O'Neill, Perham, Peters, Pile, Poland, Polsey, Pomeroy, Raum, Robertson, Schenck, Smith, Stewart, Sypher, Taffe, Taylor, Twichell, Upson, Van Aernam, Vidal, William B. Washburn, Whittemore, William Williams, James F. Wilson, and Stephen F. Wilson—76.

NAYS—Messrs. Adams, Archer, Delos R. Ashley, Baker, Baldwin, Barnes, Beck, Benton, Boyer, Bromwell, Brooks, Buck and, Benjamin F. Butler, Cake, Cary, Reader W. Clarke, Cobb, Eggleston, Elm, Eldridge, Ferriss, Fox, Getz, Glossbrenner, Golladay, Haight, Hamilton, Hill, Holman, Hopkins, Ingersoll, Johnson, Thomas L. Jones, Kelley, Kelsey, Kerr, Knott, Koontz, William Lawrence, Logan, Loughridge, Marshall, McKee, Moore, Morrell, Mullins, Niblack, Nicholson, Nunn, Orth, Pike, Randall, Ross, Sawyer, Seefeld, Shank, Sitgreaves, Thaddeus Stevens, Stokes, Stone, Taber, Lawrence S. Trimble, Trowbridge, Van Alken, Burt Van Horn, Van Trump, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, Welker, John T. Wilson, and Woodward—73.

NOT VOTING—Messrs. James M. Ashley, Bailey, Banks, Barnum, Beaman, Bingham, Blackburn, Blaine, Bowen, Broomall, Burr, Chanler, Cornell, Delano, Dewesse, Dockery, Dodge, Farnsworth, Finney, Gravely, Halsey, Harding, Hawkins, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Judd, Kitchen, Ladin, Lash, George V. Lawrence, Lynch, Mann, Marvin, McCormick, McCullough, Morrissey, Mungen, Newcomb, Newsham, Paine, Phelps, Plants, Price, Pruyn, Robinson, Root, Solye, Shellabarger, Spalding, Starkweather, Aaron F. Stevens, Thomas, John Trimble, Robert T. Van Horn, Cadwalader C. Washburn, Thomas Williams, Windom, Wood, and Woodbridge—61.

So the rules were not suspended.

VACANCIES IN EXECUTIVE OFFICES.

Mr. POMEROY. Mr. Speaker, I had completed nearly all I had to say. I merely wish to state that the effect of the adoption of this conference report will be to confer the duties of the office of Commissioner of Patents upon Mr. Hodges. I understand he was for a long time Commissioner of Patents, being appointed by President Fillmore. He was appointed examiner-in-chief by Mr. Lincoln and confirmed by the Senate in 1861. From that time to this he has discharged the duties of that office. He was appointed with reference to the very qualifications needed to discharge the duties of the office of Commissioner of Patents. I neither know him personally nor Mr. Stout, and my action upon this report has not been based upon the personal character of these men, but upon the ground that a man occupying the position occupied by Mr. Hodges should in case of a vacancy in the office of Commissioner of Patents assume the duties of that office rather than a temporary clerk, a mere officer at will. I will now yield to my colleague on the committee of conference [Mr. ELDRIDGE] ten minutes.

Mr. ELDRIDGE. Mr. Speaker, I have sought the floor not because of any personal

interest I have in the questions involved here, but for the purpose of giving the reasons why I cannot concur with the conference committee in their report.

In the first place, as I understand this amendment, it is precisely the opposite of what the gentleman from New York [Mr. POMEROY] seems to think it is. Instead of making the practice uniform with regard to the Departments, in my judgment it creates an exception against the Commissioner of Patents. The very reading of the bill itself shows that I am right in this particular, and I ask gentlemen to listen to it:

That in case of the death, resignation, absence, or sickness of the chief of any bureau or of any office thereof, except Commissioner of Patents, whose appointment is not in the head of any executive Department, the deputy of such chief or of such officer, or if there be no deputy, then the chief clerk of such bureau shall, unless otherwise directed by the President of the United States, as is hereinafter provided, perform the duties of such office until a successor be appointed, or such absence or sickness shall cease.

Now, the language of the amendment itself makes an exception against the Commissioner of Patents. It provides that in this case the chief clerk shall not exercise the duties of the office in the absence or in case of the sickness or resignation of the Commissioner. In all other Departments where there is no deputy or chief assistant, in all those cases the chief clerk of that Department exercises the duties of the chief of the office; but in the case of the Commissioner of the Patent Office it is proposed to make an exception.

The gentleman from New York [Mr. POMEROY] tells us that the object and purpose is to provide a competent person to perform these duties, and that the chief clerk having been appointed with reference to clerical duties is not, therefore, a competent person to perform these duties. I believe that this provision of law has existed for some twenty years. Can it be possible that in the appointment of a chief clerk, the officer appointing him does not take into consideration the fact that he may have devolved upon him the duties which the chief clerk is now performing and which he must perform? Is it possible that appointments to office are made under such circumstances that the qualifications of the appointee are not considered? Does not the appointing officer select him with reference to the duties which may in any contingency be devolved upon the officer? It seems to me that that is and must be the necessary rule.

Mr. WELKER. I would ask the gentleman whether this examiner of patents, if acting as Commissioner, would not have to decide appeals from his own decisions?

Mr. ELDRIDGE. That is my next objection. I was about to remark that in case we devolve these duties on one of the examiners of patents the very argument of the gentleman from New York applies most forcibly against the propriety thereof. Let us see for a moment. These three chief examiners may have to hear appeals from all the examiners in the Patent Office, and to consider and review the decisions of those examiners. To whom can an appeal be taken from their decisions? To the Commissioner of Patents? And in case of his absence to whom? Why, if this bill passes, from the chief examiner to himself. Having these important questions to decide, involving, as the gentleman from New York says, larger amounts than are decided by any officer or court in the country, the chief examiner is to have devolved upon him the review of his own decisions, and the final determination of questions which he has himself determined. It is simply an appeal from Philip sober, it may be, to Philip drunk, or it may be exactly the opposite. But it is clear that the examiner is not the proper officer for the discharge of these duties.

Now, I come to consider the individual who occupies this position of chief clerk. I am certainly disinterested in this question so far as politics are concerned. I suppose all these men, the chief clerk and the three examiners—

in-chief, belong to the Radical party. This chief clerk is a lawyer of twenty years' standing. The only reason I have heard urged against his fitness for this position is that his salary is less than the salary of an examiner-in-chief. If that be the only objection, then why not raise his salary so as to make his position sufficiently dignified and important to make him in that respect the equal of these chief examiners, as he is already in every other respect of learning and ability to decide the questions that may come before him?

There are important reasons in favor of the gentleman who now occupies the position of chief clerk. He has been a soldier in the Army of the United States, and has been wounded in the service of his country. He has given one son to the service of his country. He served through the entire war, and was a brave, upright, and pure man, so far as any charge has been made against him. He left his profession, and when he left the service at the close of the war, broken down in health, he took the position of chief clerk in the Patent Office. And now, because, forsooth, he gets a little more salary in consequence of filling the position of acting Commissioner of Patents during the vacancy now existing, it is proposed to take this position away from a brave soldier of the United States and give it to another, a gentleman against whom I have nothing to say, one every way worthy, I suppose, but still no more worthy, capable, and entitled to the position than the gentleman occupying the position at the present time. This gentleman, the chief clerk of the Patent Office, was wounded in the battles of Fort Donaldson, Shiloh, and Chickamauga. He was complimented, as gentlemen will see by reference to the report of General Crittenden, for his bravery and decision of action, and for the manner in which he turned defeat into victory. And his record does not stop there; it continues all through the war, and he bears the marks of his service all over his person.

Now, whether this chief clerk is a Republican or not—and I understand he is—and whether the chief examiners are Republicans or not, I say to gentlemen, if you are sincere in your professions of love for the soldier, here is one without a mark or a stain on his character, and well worthy of your support. Yet you propose to take from him the difference between \$1,700 and \$3,000, and give it to one who you say has been for twenty years in the Patent Office. No one finds any fault with this man; no one speaks against his character and qualifications. It is simply because of the fact that he was appointed chief clerk that you suppose he is not competent to fill this position. Now that is no reason at all. As I remarked in the beginning of my remarks, he was appointed chief clerk with reference to the duties he might be called upon to perform under the law then and now in force. He has been a counselor and practitioner at law for twenty years. He has been active in his profession. At one time he was attorney for the city of Louisville, having all the interests of that city in his charge. That fact shows the justice and propriety of his appointment. It shows the judgment and discretion of the appointing power in selecting such a man, under such circumstances, to fill the office.

These are the reasons why I could not and did not sign the report of the committee of conference. I think this gentleman is eminently fit and qualified for the position. If there is any merit in military services for the country then give this place to him, and let him hold the office until it is filled by appointment.

Mr. MYERS. Will the gentleman from New York [Mr. POMEROY] now yield to me for a few moments?

Mr. POMEROY. I will yield to the gentleman from Pennsylvania [Mr. MYERS] for ten minutes.

Mr. MYERS. Mr. Speaker, the remarks of the gentleman from Wisconsin [Mr. ELDRIDGE] almost obviate the necessity of my saying anything upon this subject; yet there

are several matters in point which have not yet been touched; and as one having some knowledge of the construction and constitution of the Patent Office, and being somewhat familiar with the laws relating to it, I ask the attention of the House for a few moments.

Sir, if there is any objectionable feature in our mode of legislation it is the manner in which we are accustomed to pass conference reports. The other day one hundred and sixty-two Senate amendments, I believe, were reported to the tax bill, and without reading them we concurred, scarcely knowing what they were. Again, in reference to the tenure-of-office act, I believe it to be in its present terms clear and explicit enough; yet I will say that if it had not been hurriedly adopted upon the report of a committee of conference it might have been made so much clearer that those who were willing to avoid the intent of its language could not have done so. I think, sir, that in all cases where there are several amendments they should be printed, and where there is but one even it should be well discussed before final action upon it.

Now, sir, as to this particular bill, the question is not whether Mr. Hodges shall be made acting Commissioner of Patents. He may be all that is claimed; yet he may die to-morrow. Nor is the question whether General Stout, the acting chief officer of the department at present—a gallant soldier and a good lawyer—shall be continued in the performance of his present duties. General Stout may be removed by death to-morrow. The question really relates to the constitution and construction of the Patent Office, to last possibly for years to come, and at any rate until some repealing act shall be passed.

In nearly all the Departments, according to the practice heretofore, and according to the provisions of this bill, the chief clerk is the officer upon whom devolve the duties of the chief of the Department in case of a vacancy. Why should it not be so in this instance? This is a point upon which, so far as I have observed, very little argument has been given. By the third section of the act under which the chief clerk was originally appointed, and which was passed after full examination and discussion, it is provided that:

"The said Commissioner and the chief clerk shall also before entering upon their duties severally give bonds with sureties to the Treasurer of the United States, the former in the sum of \$10,000 and the latter in the sum of \$5,000."

My good friend from New York [Mr. POMEROY] says that Congress in altering that law in 1861 left an incongruity. Sir, it left no incongruity. It provided for the appointment of three examiners-in-chief, to whom were assigned certain duties not conflicting at all with those imposed upon the chief clerk. These examiners were not required to give bond, nor did the act of 1861 provide that the chief clerk should no longer give bond, and it was not intended that the section which I have just quoted should be repealed. Although this has been very clearly shown by the gentleman from Wisconsin, yet it may perhaps be shown still more forcibly by a reference to the interests of the inventor as involved in this question.

The second section of the act of 1861 provides—

"That, for the purpose of securing greater uniformity of action in the grant and refusal of letters-patent, there shall be appointed by the President, by and with the advice and consent of the Senate, three examiners-in-chief, at an annual salary of \$3,000 each, to be composed of persons of competent legal knowledge and scientific ability."

Before proceeding further, let me remark that while this requirement is made with reference to the three examiners-in-chief, it is not so made with reference to the chief clerk or the Commissioner. The argument which has been made, if it has any soundness, would go to prove that no one should hereafter be appointed and confirmed as Commissioner unless he is a person of "competent legal knowledge and scientific ability." I acknowledge that he would undoubtedly be advantageous that he should possess these qualifications; but what

is more important is that he should have a comprehensive knowledge of men and things, such as frequently fits a man better than mere book knowledge for the discharge of the supervising duties of the chief position.

The section continues:

"whose duty it shall be, on the written petition of the applicant for that purpose being filed, to revise and determine upon the validity of decisions made by examiners when adverse to the grant of letters-patent; and also to revise and determine in like manner upon the validity of the decisions of examiners in interference cases, and when required by the Commissioner in applications for the extension of patents, and to perform such other duties as may be assigned to them by the Commissioner; that from their decisions appeals may be taken to the Commissioner of Patents in person."

Now, sir, the inventor goes to the Patent Office. Suppose the examiner decides against him. He then appeals to the examiners-in-chief, and from them to the Commissioner or acting Commissioner of Patents. By this bill you will have repealed the act of July 4, 1836, making the chief clerk the acting Commissioner in case of vacancy, but not the act of March 2, 1861, defining the duties of the examiners-in-chief. You only nullify its provisions. If the senior examiner still acts as such, you will appeal from his decision as one of the board to himself as acting Commissioner—an absurdity and wrong. Of course, however, he would not act. Then, for months, perhaps, at a time, in every case of vacancy, the very provision "for the purpose of securing greater uniformity of action in the grant and refusal of letters-patent," designed to benefit inventors, is set at naught, and there will be but two examiners-in-chief.

Mark another incongruity in this report. If one of the three examiners-in-chief is taken to perform the duties of Commissioner, and of the remaining two one examiner-in-chief agrees with the examiner below and the other disagrees with him, there can be no decision from which to appeal, and many inventors of the country must go without their patents. If that is not a complete statement of the case then I do not know what is; and I hope hereafter, when a committee of conference is appointed in reference to the patent, pension, or other laws, some one shall be placed on it who has at least by his position on a committee a chance of familiarity with the workings of the department brought into question.

I hope, in conclusion, we shall not turn out a gallant, meritorious officer, who has discharged his duties efficiently, nor deprive inventors of facilities for getting their patents, which will be the case if this report be adopted, whenever and for as long a time as one of the three examiners-in-chief is taken from the performance of duties now required by law.

Mr. POMEROY. I now yield for three minutes to the gentleman from Kentucky.

Mr. McKEE. Mr. Speaker, I wish to say only one or two words. What I had intended to say has been already well said by the gentleman from Wisconsin [Mr. ELDRIDGE] and the gentleman from Pennsylvania, [Mr. MYERS,] who is on the Committee of Patents.

This report, it appears to me from the statements of the gentleman from New York, [Mr. POMEROY,] is for the express and sole purpose of insuring, in the place of the acting Commissioner of Patents, a man well qualified for the duties of the office, with a full, clear knowledge of the law on all the matters that can come before the office. Now, I intended to have put this question to the gentleman from New York when I rose before, whether at any time there have been any charges against the present acting Commissioner of Patents, either in reference to his capacity to discharge the duties of the office or his honesty as a man? If there have been I have never heard of them. Furthermore, I desire to say a word in regard to this gentleman himself. If the object is only to insure the efficiency of the office, then I have to say this House, from the knowledge it now has, must come to the conclusion the present acting Commissioner of Patents is as well qualified as any of the examiners-in-chief.

The question was asked whether he is a lawyer. Happening to come from the same State I do I happen to have personal knowledge on the subject. In 1842 he was licensed as a lawyer and continued in full practice, excepting four years when he served in the Army. I will add nothing to what has been so well said about his services by the gentleman from Wisconsin, [Mr. ELDRIDGE,] but I do fully indorse his loyalty as a man to his country. If it is really intended to promote the efficiency of the department, then we can do no better than retain him in his place.

EVENING SESSIONS.

The SPEAKER. The Chair will state that he has examined the Journal and finds the order for evening sessions expired with last week. They can be ordered, however, by a majority vote.

Mr. WASHBURN, of Illinois. We do not want them.

The SPEAKER. If evening sessions are ordered the business will proceed in regular order. If the House adjourns to-day without providing for an evening session the adjournment will be until to-morrow at twelve o'clock.

Mr. WASHBURN, of Illinois. We can have an evening session for general debate.

The SPEAKER. Does the gentleman know of any member who wishes to speak?

Mr. WASHBURN, of Illinois. The gentleman from Massachusetts has a contested-election case.

Mr. DAWES. It is in charge of my colleague on the committee, [Mr. COOK.]

Mr. FARNSWORTH. I move there be a session this evening, commencing at half past seven, for business.

The House divided; and there were—ayes 57, noes 62.

So the motion was disagreed to.

SUSPENDING THE RULES.

Mr. SCHENCK. I ask the gentleman from New York [Mr. POMEROY] to yield to me to offer a resolution.

Mr. POMEROY. Certainly.

Mr. SCHENCK. I offer the following resolution:

Resolved, That a motion to suspend the rules of the House shall be in order on any day after this until the end of the present session of this Congress.

Mr. WASHBURN, of Illinois. I ask that the rule in regard to the suspension of the rules during the last ten days be read. I do not think we need any resolution.

Mr. SCHENCK. I think we do.

Mr. WASHBURN, of Illinois. If we agree on an adjournment then we will have a right to suspend the rules.

Mr. SCHENCK. I suppose the gentleman is aware that as soon as we agree upon a time of adjournment then for the last ten days of the session we have the power to suspend the rules; but as it is not likely we shall agree to an interval of ten days' time prior to adjournment, inasmuch as we are now no doubt within less than ten days of that time, the spirit of the rule would apply if we adopt this resolution. If gentlemen object, I will move to suspend the rules in order to offer the resolution.

Mr. ELDRIDGE. I would propound an inquiry to the Chair. When a resolution similar to this was introduced last year, the Speaker construed it as allowing a suspension of the rules at any time till the end of the next session of Congress. I wish to know if this will operate during this entire Congress; because certainly we of the minority are sufficiently in the hands of the majority now without being placed any more completely there.

The SPEAKER. The Chair regrets to inform the gentleman that his memory is decidedly at fault in quoting his decision. It was unintentional, of course. The House having adopted a resolution to suspend the rules during the first session of the present Congress, the Chair held that that continued till the close of the session. The Chair could not have committed the absurdity of making any such ruling

as the gentleman stated. He ruled that that was the first session of the Fortieth Congress at which the resolution was adopted, and therefore during that session the rule would apply, that is, till the end of the first session. It is now the second session of the Fortieth Congress.

Mr. ELDRIDGE. I never doubted the wisdom of the decision of the Chair.

Mr. SCOFIELD. Mr. Speaker, I suppose this is a motion to let everything through without consideration.

The SPEAKER. It is a motion to allow two thirds of the House to control its own business.

Mr. SCOFIELD. It means to get through two thirds of its bad business—everything that could not be got through the House with fair discussion when there was time to attend to it. By a suspension of the rules till the close of the session I suppose it may now be brought in under this resolution.

The SPEAKER. The rule as adopted by the House provides that during the last ten days the rules—

Mr. SCHENCK. The suggestion of the gentleman from Pennsylvania is an unworthy one. He has no right to speak in that way of the purposes of anybody in this House. There are those who desire a proper performance of the duties here as well as those who object to everything.

The Speaker brought down the hammer two or three times during the foregoing remark as if to call the gentleman to order.

Mr. SCOFIELD. I desire to say I have not made any reference to the motives of the gentleman from Ohio that he should get up in such wrath, or of anybody else.

Mr. SCHENCK. Yes, sir.

Mr. SCOFIELD. I spoke of the construction of the motion—its parliamentary construction.

Mr. SCHENCK. It was imputing an unworthy purpose.

Mr. SCOFIELD. I simply spoke of its parliamentary effect. I did not think of imputing any unworthy purpose, and the gentleman cannot daunt me by his insolent manner of address.

Mr. SCHENCK. I am not attempting to daunt.

Mr. SCOFIELD. I never speak rudely to any man.

Mr. SCHENCK. These imputations of the motives of members is much too frequent on the part of some gentlemen here. It is indecent. [Cries of "Order!"]

The SPEAKER. Both gentlemen are out of order so far as the Chair can distinguish the language used, and on account of the excited manner in which this colloquy is carried on by them.

Mr. SCHENCK. I desire to inquire whether a resolution introduced when we are probably, as everybody knows, within less than ten days of the end of the session—

Mr. SCOFIELD. Mr. Speaker, a point of order.

Mr. SCHENCK. Whether such a resolution is not in accordance with the spirit of the rule which authorizes a suspension of the rules within ten days of the close of the session?

The SPEAKER. The Chair can only answer that the rules as adopted by the House provide that during the last ten days of the session the rules may be suspended by a two-thirds vote. The gentleman from Pennsylvania [Mr. SCOFIELD] will now state his point of order.

Mr. SCOFIELD. I was called to order and made to stop talking, and I wanted to know if the gentleman from Ohio who got up to assail me could go on?

Mr. SCHENCK. I did not get up to assail you.

Mr. ALLISON. I object to debate.

Mr. WASHBURNE, of Illinois. I rise to make a parliamentary inquiry, and it is this: after a resolution to adjourn is agreed upon by both Houses, is it not in order from that time

to the end of the session to move to suspend the rules?

The SPEAKER. It is.
Mr. WASHBURNE, of Illinois. Well, that is enough.

The SPEAKER. Provided it is within ten days of the end of the session.

The question was put on Mr. SCHENCK's motion to suspend the rules; and there were—ayes 65, noes 61.

So (two-thirds not voting in the affirmative) the rules were not suspended.

PAY OF JAMES H. BURCH, CONTESTANT.

Mr. KERR. I desire to enter a motion to reconsider the vote by which the resolution to pay Mr. Burch, a contestant from Missouri, was defeated this morning.

Mr. PILE. I move to lay the motion to reconsider upon the table.

The SPEAKER. The motion is not before the House. The House is engaged in considering the report of the committee of conference. Did the gentleman from Indiana [Mr. KERR] vote with the majority?

Mr. KERR. No, sir; I voted with the minority.

The SPEAKER. Then the gentleman cannot move to reconsider.

Mr. KERR. Then I will get some other gentleman to make the motion.

Mr. WASHBURNE, of Illinois. I voted with the majority, and I enter a motion to reconsider the vote by which the resolution was rejected.

PAY OF CERTAIN HOUSE EMPLOYÉS.

Mr. POMEROY. I now yield three minutes to the gentleman from Illinois, [Mr. LOGAN.]

Mr. LOGAN. I do not desire to take up the time of the House in discussing the report of the committee of conference. It has been discussed fully by the gentleman from Kentucky [Mr. McKEE] and others. I fully indorse their views and hope the report of the committee of conference will not be agreed to. I do not desire to say more on that subject, but will occupy the remainder of my three minutes in asking the House to pass a small resolution, if the gentleman from New York will allow me.

Mr. POMEROY. I must object to any resolution.

Mr. LOGAN. I hope the gentleman will not object. It will take less time than the three minutes he has yielded to me. Let the resolution be read.

The Clerk read the resolution, as follows:

Resolved, That the Doorkeeper be instructed to retain in his service during the vacation of Congress all the crippled soldiers now in his employ.

Mr. POMEROY. I do not object to that.

Mr. BROOMALL. I object.

Mr. LOGAN. I will move to suspend the rules, and I will take but a moment to explain. There are four men employed here.

Mr. BROOMALL. I call for the regular order.

Mr. LOGAN. Well, just sit down and I will give you the regular order.

Mr. BROOMALL. Is this the regular order?

Mr. LOGAN. I have three minutes to talk, and I propose to talk.

The SPEAKER. If the point of order is insisted on, the gentleman from Illinois will have to move to postpone the consideration of the report of the committee of conference before he can move to suspend the rules.

Mr. BROOMALL. I insist on the regular order.

Mr. LOGAN. Then I move to postpone the report of the committee of conference.

The motion was agreed to.

Mr. LOGAN. I now move to suspend the rules to enable me to offer the resolution, and I will only say that there are three men here without legs or arms, and I wish them retained.

Mr. ELDRIDGE. I desire to suggest an amendment. It is simply that the Clerk be directed to pay these men the same pay they are

now receiving during the vacation, and that they be allowed to go home during that period of time. I do not want to keep them here through the hot weather.

Mr. LOGAN. I accept that as a modification.

The question was taken on Mr. LOGAN's motion; and two thirds voting in favor thereof, the rules were suspended, and the resolution, as modified, was received and adopted.

Mr. LOGAN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

VACANCIES IN EXECUTIVE DEPARTMENTS.

The House resumed the consideration of the report of the committee of conference upon the bill in relation to vacancies in the various Executive Departments.

Mr. POMEROY. I will, after a few remarks, ask the previous question, and endeavor to obtain a vote of the House upon this report. In answer to all that has been said by gentlemen in opposition to this report, I desire to say that not one of them, so far as I have heard, has controverted in the least the facts upon which the conferees base their report. The principal fact upon which this report is based is this: there are in the Patent Office four persons appointed by the President and confirmed by the Senate for their peculiar knowledge and skill in the business of patents. The existing law provides that in case of a vacancy in the office of the principal one of those four officers his powers and duties shall devolve upon a mere clerk. That fact has not been controverted by any one.

Gentlemen ask if any accusations have been brought against the chief clerk of the Patent Office. I have brought none. Yet the House will bear me witness that within the last forty-eight hours the House has passed a resolution calling for an investigation into the matter of printing for that bureau, and that, too, upon a report made by a committee of this House. If gentlemen ask for charges, I refer them to that fact and to public rumor. Now, I do not propose in my place here, without any personal knowledge upon the subject, to charge any fault of omission or commission upon the present head of the Patent Office bureau. All I say is that he is not a man who was selected to discharge those duties, and if there have been any errors of omission or commission upon his part it is charitable to suppose that they result from his incompetency and nothing more.

Now, for the purpose of imposing the duties of this Commissionership while this vacancy shall continue upon the person who may be presumed to be best qualified of all to discharge them, and for the purpose of testing the sense of this House upon this report, I call the previous question.

The previous question was seconded and the main question ordered.

The question was taken upon agreeing to the report of the committee of conference; and upon a division there were—ayes 43, noes 70.

Before the result was announced,

Mr. POMEROY called for the yeas and nays upon agreeing to the report.

The question was taken upon ordering the yeas and nays; and upon a division there were twenty five in the affirmative.

So (the affirmative being one fifth of the last vote) the yeas and nays were ordered.

The question again recurred upon agreeing to the report of the committee of conference.

Mr. SPALDING. I move that the report be laid on the table.

The SPEAKER. The motion to lay the report on the table, if successful, will carry the bill with it.

Mr. POMEROY and Mr. WARD called for the yeas and nays upon the motion to lay the report on the table.

The question was taken upon ordering the yeas and nays, and there were twenty-seven in the affirmative.

So (the affirmative being one-fifth of the last vote) the yeas and nays were ordered.

Mr. TROWBRIDGE and Mr. EGGLESTON moved that the House adjourn.

INDIANS AT FORT LARNED.

Pending the motion to adjourn,

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a communication from E. W. Wynkoop, United States Indian agent, and the officer in command at Fort Larned, Kansas, relative to the assembling of large numbers of Indians at that post, &c.; which was referred to the Committee on Appropriations.

KICKAPOO INDIANS IN MEXICO.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, with inclosures from the Secretary of War and others, relative to certain Kickapoo Indians now in Mexico; which were referred to the Committee on Indian Affairs, and ordered to be printed.

TRIAL OF UNITED STATES STEAMERS.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Navy, transmitting, in compliance with House resolution of the 8th instant, relative to the trial of the United States steamer Wampanoag, and vessels of that class, with reports thereon; which were referred to the Committee on Naval Affairs, and ordered to be printed.

INDIAN AFFAIRS.

The SPEAKER, by unanimous consent, also laid before the House a memorial on behalf of the Indians by the Indian commission; which was referred to the Committee on Indian Affairs, and ordered to be printed.

AFFAIRS IN TEXAS.

The SPEAKER, by unanimous consent, also laid before the House resolutions of the Texas constitutional convention, providing for selecting M. C. Hamilton and C. Caldwell to proceed to Washington and lay before Congress certain matters therein specified, accompanied by a report on lawlessness, &c., in Texas; which was referred to the Committee on Reconstruction, and ordered to be printed.

The question recurred on the motion to adjourn.

The motion was agreed to; and accordingly (at five o'clock and five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. COBURN: A memorial of Thomas J. Pickett and others, citizens of Paducah, Kentucky, in relation to a claim of J. F. Wahl for damages.

By Mr. CLARKE, of Ohio: The petition of officers of the Army, asking for an increase of pay.

By Mr. EGGLESTON: A memorial of wine-growers of Ohio, protesting against a reduction of the tariff on wines.

By Mr. ELDRIDGE: Resolutions of the regents of the University of Wisconsin, for the same full pay and allowance to the Army officers detailed as teachers or instructors as they would be if on actual military duty.

By Mr. GARFIELD: The petition of R. D. Mussey, late colonel one hundredth United States colored troops, asking that the proper accounting officers be directed to settle his accounts on principles of justice and equity.

By Mr. GETZ: Two petitions from citizens of Exeter, Oley, and Pike townships, Berks county, Pennsylvania, praying for the establishment of a new post route from the city of Reading, via Black Bear tavern, Oley turnpike road, and Manataurry post office, to Pike post office, in said county.

By Mr. HUNTER: The petition of Lot North, postmaster at Patriot, Indiana, asking relief for public moneys which were stolen from him on the 28th day of March, 1867.

By Mr. LAFLIN: The petition of H. A. House and others, of Jefferson county, New York, in favor of the imposition of an additional duty upon shingles imported from Canada.

By Mr. LOAN: A remonstrance of officers in the volunteer service of the United States against the passage of a certain Senate bill.

Also, the petition of citizens of Harrison county, Missouri, for a pension to Richard Lovelace, late a private in company G, forty-third infantry Missouri volunteers.

By Mr. LYNCH: The petition of W. & J. Drumond and others, ship owners of Maine, protesting against the passage of a bill in relation to the merchant marine of the United States.

By Mr. ROSS: A memorial on behalf of the Indians by the United States Indian commission.

By Mr. WILLIAMS, of Pennsylvania: The petition of sundry officers of the Army, praying for the continuance of increased pay of thirty-three and one third per cent. or the passage of General SCHENCK's bill to fix and equalize the pay of officers, &c.

IN SENATE.

TUESDAY, July 21, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, transmitting communications in relation to certain Kickapoo Indians now in Mexico; which was referred to the Committee on Indian Affairs, and ordered to be printed.

MEMORIAL.

Mr. HOWE presented a memorial of citizens of Wisconsin, praying for the extension of the time when the fifty per cent. clause of the thirty-third section of the bankrupt law shall take effect; which was ordered to lie on the table, the Committee on the Judiciary having reported on the subject.

REPORTS OF COMMITTEES.

Mr. MORGAN, from the Committee on the Library, to whom was referred the memorial of Edward D. Neill, praying for the publication of the records of the Virginia Company of London, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred the following petitions, memorials, and resolutions, remonstrating against the passage of an international copyright law, asked to be discharged from their further consideration; which was agreed to:

Six petitions of printers of Philadelphia;

Twelve memorials of the Philadelphia Typographical Union No. 2;

A memorial of citizens of Massachusetts;

Two memorials of booksellers and paper-makers of Philadelphia;

A memorial of manufacturers and dealers in paper of the city of New York;

A memorial of paper-makers in Berks county, Pennsylvania;

A memorial of paper-makers in Manayunk, Pennsylvania;

Two memorials of Philadelphia Typographical Union No. 2;

A memorial of Boston paper manufacturers;

Two memorials of citizens of New York;

A memorial of citizens of Boston; and

Resolutions of the National Typographical Union.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 127) expressive of the thanks of Congress to Dr. Isaac S. Hayes asked to be discharged from its further consideration; which was agreed to.

Mr. MORGAN, from the Committee on Commerce, to whom the subject was referred, submitted a report accompanied by a joint resolution (S. R. No. 167) for the relief of a certain United States Coast Survey officer. The joint resolution was read, and passed to a second reading.

He also, from the same committee, to whom was referred the bill (H. R. No. 375) to repeal an act approved March 2, 1867, entitled "An act to regulate the disposition of fines, penalties, and forfeitures received under the laws relating to the customs, and for other purposes," and to amend certain acts for the prevention and punishment of frauds on the revenue, and for the prevention of smuggling, reported it without amendment.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1428) authorizing the admission in evidence of copies of certain papers, documents, and entries, reported it with amendments.

Mr. TIPTON, from the Committee on Public Lands, to whom was referred the bill (S. No. 631) granting lands to aid in the construction of a railroad from Nebraska City, in the State of Nebraska, to intersect the Union Pacific railroad, reported it without amendment.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the memorial of James C. Pickett, submitted an adverse report; which was ordered to be printed.

POST ROUTE BILL.

Mr. RAMSEY. The Committee on Post Offices and Post Roads, to whom were referred a great number of memorials, resolutions of States, &c., on the subject of post routes, have directed me to report them back, and ask to be discharged from their further consideration, inasmuch as a bill on that subject has been reported.

The PRESIDENT *pro tempore*. That order will be made.

Mr. RAMSEY. And if the Senate will indulge me, I should like to have the post route bill passed this morning. We shall have to pass it before we adjourn. It will occupy no more time than will be consumed in the reading of it. I move that the Senate proceed to the consideration of that bill.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill at the present time. Is there any objection?

Mr. MORRILL, of Maine. I should like to inquire of the Senator how much time it will occupy?

Mr. RAMSEY. Only the time spent in reading it. It is not very long. It is the usual post route bill at the end of the session, which will have to pass.

Mr. MORRILL, of Maine. Is it a House bill?

Mr. RAMSEY. Yes, sir. The committee of the Senate have reported a substitute for the House bill.

Mr. MORRILL, of Maine. I do not like to interpose, but it is absolutely necessary that I should call up an appropriation bill this morning.

Mr. RAMSEY. I shall assist the honorable Senator in getting up his bill as soon as this is disposed of. This will not occupy over fifteen minutes in reading and disposing of a few amendments that are to be offered, and it will then go to the House of Representatives.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1427) to establish certain post roads.

The Committee on Post Offices and Post Roads reported the bill with an amendment, to strike out all after the enacting clause, and to insert a substitute.

The Chief Clerk proceeded to read the amendment, but was interrupted by

Mr. MORRILL, of Maine. As that seems to be a very lengthy bill, and I suppose it has been printed and is lying on the table of every

Senator, I do not think there is any object in reading it.

Mr. CONNESS. It is not of the slightest consequence to have it read.

Mr. RAMSEY. With the consent of the Senate, I will offer a few amendments at the request of Senators, and then let the bill pass without its reading.

The PRESIDENT, *pro tempore*. The reading will be dispensed with, if there be no objection.

Mr. RAMSEY. I move to amend the amendment by inserting under the head of "Missouri" the following:

From Trenton, in Grundy county, Missouri, via Edinburg, Grubb Town and Bolton, to Bethany, in Harrison county, Missouri.

From Tinney's Grove, in Carroll county, Missouri, to Utica, in Livingston county, Missouri.

The amendment to the amendment was agreed to.

Mr. RAMSEY. I move further to amend by inserting under the head of "North Carolina" the following:

From Fair Bluff to Conwayboro', thence to Bucks-ville and Georgetown, South Carolina.

The amendment to the amendment was agreed to.

Mr. RAMSEY. I move further to amend by inserting among the post routes of Pennsylvania the following:

From Sabinsville, in the county of Tioga, via Mix-town, to Ulysses, in the county of Potter.

From English Centre, in the county of Lycoming, to Morris Post Office at W. W. Babbs', in Morris township, in Tioga county.

From Alba, in Bradford county, to Fall Brook, in the county of Tioga.

From Fallen Timber, via Gill's Mills, Glen Connel, and Elders Mills, to Carrollton.

From the city of Reading, via Black Bear tavern, Olney Turnpike road, and Maxatawny Post Office, to Pike post office, in Pike township.

The amendment to the amendment was agreed to.

Mr. RAMSEY. I move further to amend by inserting under the head of "Oregon" the following:

From Fairfield, by St. Louis, Waconda, Parkers-ville, and Monitor, to Needy, (twenty miles.)

The amendment to the amendment was agreed to.

Mr. TRUMBULL. That bill has not been read, and in my experience in the Senate it is the first bill that the Senate ever passed without being read. I think it had better be read. It has always been the practice to have every bill read.

Mr. RAMSEY. Very well; let it be read.

The PRESIDENT *pro tempore*. The reading of the bill being called for, it must be read.

The Chief Clerk read the substitute reported by the Committee on Post Offices and Post Roads, as follows:

ARKANSAS.

From Hot Springs to Mount Ida.

From Dardanelle to Fort Smith.

CALIFORNIA.

From Nevada City, via Owega and Bear Valley, to Washington.

From Capto to Round Valley.

From Latrobe to Lone City.

From Mendocina City to Noyo.

From Cisco to Meadow Lake.

From Summit, via Loyalton and Sardine Valley, to Crystal Peak, in Nevada.

From Weaverville, via Douglas City and Hay Fork, to Hydenville.

From Trinity Centre, via Summersville, Peters-burg, Cecilville, Centreville, and Black Bear, to Sawyer's Bar.

From Havilah to Independence, in the county of Inyo.

From Stockton, via French Camp, Tuolumne City, Hopeton, Welch's Store on Mariposa creek, Ap-pling's on the Chowchilla, to Millerton.

From Crystal Peak, State of Nevada, via Sardine Valley, Sierraville, and Loyalton, in Sierra county, State of California, to Summit Post Office, in Plumas county, California.

DAKOTA TERRITORY.

From Platte City, on the Union Pacific railroad, to South Pass City.

DELAWARE.

From Georgetown, via Springfield and Hollyville, to Angola.

IDAHO.

From Placerville, in Boise county, via Horseshoe Bend and Junction House, to Bluff Station.

ILLINOIS.

From Plymouth, via Fountain Green, to LaHarpe.

From Pinckneyville to Sparta.

From Serena to Ottawa.

From Auburn, via Warely and Franklin, to Alex-ander.

From Pesotum to Park's Mills.

From Clifton, via Eden and Rogers, to Pontiac.

From Golconda, via Lusk, to Equality.

INDIANA.

From Saint Mary's to Newport.

From Beck's Mills, via New Retreat, to Salem.

From Plainfield to Smootsdel.

From North Grove to Santa Fé.

From Webster to Richmond.

From Neshanic, via Pleasant Valley, to Lawrence-burg.

From Grand View, via Gentrysville, Polk Patch,

Plattsville, and Winslow, to Petersburg.

From Edwardsport, via Wheatland and Nashville,

to Hazelton.

From Washington, via Otwell, to Rockport.

IOWA.

From Unionville, via Moravia, to Iconium.

From Buckingham to Waterloo.

From Carroll City, via Grant City and Storm Lake, to Spirit Lake.

From Williamstown, via New Hampton, North

Washington, and Deerfield, to Cresco.

From Nashua, via Bradford, Chickasaw, Deerfield,

and Busti, to Cresco.

From Buckingham to Laporte City.

From Osceola, via St. Charles, to Greenbush.

From Aiton, via Winterset, Tracy, and Adel, to

New Jefferson.

KANSAS.

From Louisville, via John Collin's, to Irving.

From Waterville to Wichita.

From Fort Scott, via Cato, Crawfordville, and

Hamilton, to Monmouth.

KENTUCKY.

From Hillsborough, via Bangor, to West Liberty.

MAINE.

From Fort Fairfield to Limestone.

From Lovell, via North Fryeburg, to Fryeburg

Centre.

From Acton to South Acton.

MARYLAND.

From Wolfsville to Sabillasville.

From Ellicott City to Poplar Springs.

From Baltimore to Brooklyn.

From Huntingtown to Plumb Point.

From Pittsville to Powellville.

From Olney, via Laytonsville, to Goshen.

From Taneytown to Harney.

From Oakington Switch to Oakington.

From Havre de Grace to Hopewell Cross-roads.

From Aberdeen, by way of Churchville, to Trap.

From Clayton, via Wilna, to Fallston.

MASSACHUSETTS.

From Steventown, in New York, via Hancock, to

Williamstown, in Massachusetts.

MICHIGAN.

From Montague to Stanley.

From Hersey to mouth of Chippewa creek.

From Montague to Otto.

MINNESOTA.

From Houston, Minnesota, via Dedham, Black-

hammer, Spring Grove, Prairie Grove, Locust Lane,

and Cance, in said State, to Decorah, Iowa.

From Waseca, via Otisco, Woodville, and Rich-

land, to Albert Lea.

From Jackson, via Lake Talcott, Lake Schetek,

Saratoga, and Lynde, to Redwood Falls.

From Lime Springs, State of Iowa, via Canfield,

Cherry Grove, and Atna, to Spring Valley, Minne-

sota.

From Paynesville, via Spring Hill and Bishop's

Grove, to Sauk Centre.

From St. Cloud to Rockville.

From Twin Lakes, via Fond du Lac and Oneota,

to Du Luth.

From Sauk Rapids, via Princeton, to Taylor's

Falls.

From Moore's Prairie to Rice City.

From Afton to Stillwater.

From Mankato, via Red Jacket Mills, Castle Gar-

den, Good Thunder's Ford, and Mapleton, to Minne-

sota Lake.

From Waseca, via Isoco, Janesville, and Le Roy,

to Mankato.

MISSOURI.

From Rolla to Jefferson.

From Rolla to Rolesdale, in Arkansas.

From Salem, via Eminence, to Thomasville.

From Breckinridge to Finney's Grove.

From Carthage to Fort Scott, in Kansas.

From Rolla, via Campbell Mill, Plum Point, and

Rowden's Mill, to Rocktown.

From New Haven, via Benaf Creek and Stony

Hill, to Drake.

From St. Charles, via Portage des Sioux, to Alton,

in Illinois.

From Rolla to Forsyth.

From Rockport, via Old Franklin, Boonsboro',

and Lisbon, to Glasgow.

From Patterson, via McKenzie's Creek and Mon-

mouth Springs, to Logan's Creek.

From Pleasant Home to Wilmothville.

From Chillicothe, via School Creek, to Carrollton.

From Rockville, via West Point, Butler, and John-

ston, to Clinton.

From Rockport, via Hudson, Johnson City, and

Chalk Level, to Osceola.

From Holden, via Hughes' Store, Norrisfork, and Huntingdale, to Clinton.

From Clinton, via Belvoir and Nevada City, to

Lamar.

From Osceola, via Hudson, to Butler.

From California, via Magnolia, High Point, Rocky

Mount, and Mining, to Linn Creek.

From Cole Camp, via Lake Creek, Haw Creek, and

Byler's Mill, to Duroc.

From Bolivar, via Stockton, Virgil City, and Ne-

vada City, to Fort Scott, in Kansas.

From Butler, via West Point, to Rockville, in Kan-

sas.

From Warrensburg, via Chalybeate and Chilhowee,

to Wadesburg.

From Versailles, via Tuckerville, to Roney.

From Clinton, via Marshall Creek, Monegan, Taber-

ville, Altoona, and Blue Mounds, to Nevada City.

From Booneville, via Vandalia, Pilot Grove, Cold

Neck, and Buncombe, to Sedalia.

NEBRASKA.

From Columbus to Madison.

From Lincoln to Columbus.

From Grand Island City to Lincoln.

From Elkhorn Station, via Lincoln, to Watertown,

in Kansas.

From Dakota City, via Sagadahoe, Canton, and

York City, to Madison.

From Papillion, via Plattford, South Bend, and E.

Balls, on Stephenson Creek, to Lincoln.

From Nebraska City, via Lincoln, to Camden.

From Camden, via the west branch of Blue river,

West's Mills, Beaver crossing, and McFadden, to

Fort Kearney.

From Swan City, via Monroe, to West's Mills.

From Lincoln, via Tecumseh, Pawnee City, and

Fries Mills, to Albany.

From Fremont to Lincoln.

From Columbus to Norfolk.

NEW HAMPSHIRE.

From Plymouth to West Compton.

NEW JERSEY.

From Pomona to Port Republic.

From Sparta to Newton.

From Bricksburg to Point Pleasant.

NEVADA.

From Austin to White Pine district.

NEW YORK.

From Berkshire, via East Berkshire, to Lisle.

From Apalachin to Campville.

From Maine, via Glen Aubrey, to Whitney's Point.

From Hadley to Creek Centre.

From Rochester, via Hanford's Landing, Greece,

and West Greece, to North Greece.

From Spencerport, via Parma and Parma Center,

to North Parma.

From Lake View, via North Evans, Eden Valley,

Eden, and Collins, to Shirley.

From Springbrook, via East Elma, Manilla, to

Williston.

OHIO.

From Washington, via Bloomingsburg, Midway,

and Newport, to London.

From Broadway, via Newton, York Centre, West

Mansfield, North Greenfield, and Walnut Grove, to

Rushsylvania.

From Richmond, via Pharisburg, to Marysville.

From East Liberty, via North Greenfield, to West

Mansfield.

From Tippecanoe City, via Ginghamburg and

Fidelity, to Union.

From Genoa to Shadestown.

From Lancaster, via West Rushville, to Rushville.

From New Holland to Chillicothe.

From Troy, via Alcony, to Christiansburg.

From Croton to Johnstown.

From Pulaski, in Pennsylvania, via New Bedford,

to Youngstown, in Ohio.

OREGON.

From Portland, via Taylor's Ferry, Dayton, Amity,

Rickreal, and Monmouth, to Corvallis.

From Dallas, via Salt Creek and Halls, to Grande

Ronde.

From Astoria, via Clatsop, Summer House, Elk

Creek, Nehalem, Miami Point, Chilches Point, and

Netarch Landing, to Tillamook.

PENNSYLVANIA.

From New Wilmington to Pulaski.

From New Wilmington, via Neshannock Falls and

Volant, to Leesburg.

From Oley, via Yellow House and Amityville, to

Douglasville.

From Brodhead Station, via Hecktown, to Naz-

areth.

From London Grove to Toughkenamon.

From Oley, via Green Hill, New Jerusalem, and

Drysville, to Lyon's Station.

From Leagerstown to Blooming Valley.

From Lancaster to Liberty Square.

From Carlisle, via Stigo Furnace, to Callens-

burg.

From Montgomery Station, via Mount Zion, to

Elmsport.

From Greensburg, via Middletown, to New Stan-

ton.

From Sieg

From Garland to South West.
From Newville to Bloesville.
From Ashland, via Gordon, Taylorsville, and Wis-
hampton, to Hegins.
From Greensburg, via Middleton, to Madison.
From York, via Dover, Rossville, Wellsville, and
Mount Top, to Dillsburg.
From Mechanicsburg, via Siddonsburg, Lisburn,
Lewisberry, Newberry, and Yocumtown, to Etter's.

TENNESSEE.

From Belle Station to Dyersburg.
From Taylorsville, via Stoncy Creek, to Elizabeth-
town.

WEST VIRGINIA.

From Glengary, via Shokey's, to Unger's Store.
From Kanawha Salines to Sizemore's.

WISCONSIN.

From Westfield, via Lawrence, to Spring Bluff.
From Freeman to Lower Lynxville.
From Muscoda to Richland Centre.
From Chilton, via Bachelor Schoolhouse, Potter's
Mills, Duell's Mills, Brillion, and Holland, to Wrights-
town.
From La Crosse, via Chaseburg, Enterprise, and
Springville, to Viroqua.
From White Hall to Franklin.
From Neilsville to Dexterville.
From Mixton, via Pole Grove, to Houghtonburg.
From Garden Valley, via Augusta, to Eau Claire.
From Pine Hill, via Hop Hollow, to the St. Croix
railroad.

From Goole to Hillsboro'.
From Debillo, via Oaks and Ironton, to Barabo.

UTAH TERRITORY.

From Eagle Valley to Panacea.
From Pinto, via Hamblin and Pulsifer, to Panacea.

The amendment of the committee, as
amended, was agreed to.

The bill was reported to the Senate as amend-
ed, and the amendment was concurred in.

The amendment was ordered to be engrossed,
and the bill to be read a third time.

The bill was read the third time, and passed.

BILL INTRODUCED.

Mr. POMEROY asked, and by unanimous
consent obtained, leave to introduce a joint
resolution (S. R. No. 168) for the relief of
John Montgomery; which was read twice by
its title, referred to the Committee on Military
Affairs and the Militia, and ordered to be
printed.

FOURTEENTH CONSTITUTIONAL AMENDMENT.

Mr. SHERMAN. I move that the Senate
proceed to consider a resolution which I think
will take but a moment—Senate resolution
No. 166—declaring the ratification of the four-
teenth article of amendment of the Constitution
of the United States. It is lying upon the table.

Mr. MORTON. I hope the Senator from
Ohio will waive that for a moment to allow me
to call up the bridge bill.

Mr. SHERMAN. This resolution ought to
be considered now. It will take no time, I
think.

The PRESIDENT *pro tempore*. Is there
any objection to taking up the resolution men-
tioned by the Senator from Ohio?

Mr. TRUMBULL. I desire to offer a reso-
lution, if it is in order.

Mr. SHERMAN. Let this be taken up first.

Mr. TRUMBULL. I desire to offer a reso-
lution at some time before the morning hour
is over. I am not particular about it.

Mr. SHERMAN. This will take but a mo-
ment.

The PRESIDENT *pro tempore*. If there be
no objection, the resolution will be considered
as before the Senate.

Mr. SHERMAN. I will change the form
of the resolution, and make it a concurrent
resolution.

The Chief Clerk read the resolution, as
follows:

Whereas the Legislatures of the States of Con-
necticut, Tennessee, New Jersey, Oregon, Vermont,
West Virginia, Kansas, Missouri, Indiana, Ohio,
Illinois, Minnesota, New York, Wisconsin, Pennsylv-
ania, Rhode Island, Michigan, Nevada, New Hamp-
shire, Massachusetts, Nebraska, Maine, Iowa, Ark-
ansas, Florida, North Carolina, Alabama, South Car-
olina, and Louisiana, being three fourths and more
of the several States of the Union, have ratified the
fourteenth article of amendment to the Constitution
of the United States duly proposed by two thirds of
each House of the Thirty-Ninth Congress: Therefore,
Be it resolved by the Senate, (the House of Repre-
sentatives concurring,) That said fourteenth article
is hereby declared to be a part of the Constitution
of the United States, and it shall be duly promul-
gated as such by the Secretary of State.

The resolution was adopted.

PAY OF SOUTHERN SENATORS.

Mr. MORTON. I move that the Senate now
proceed to the consideration of Senate bill
No. 622.

The PRESIDENT *pro tempore*. It requires
unanimous consent to proceed to the consider-
ation of the bill at this time.

Mr. TRUMBULL. I ask permission to
introduce a resolution. I suppose that is in
order at this hour.

The PRESIDENT *pro tempore*. The Sen-
ator from Illinois objects.

Mr. TRUMBULL. I ask leave to offer a
resolution.

Mr. MORTON. Does the Senator object?

Mr. TRUMBULL. I object no further than
that I wish to offer a resolution, and I want
simply to do it during the morning hour. I
offer the following resolution:

Resolved, That the Secretary of the Senate be di-
rected to pay to the Senators from the States of
Arkansas, Florida, North Carolina, and Louisiana
the compensation allowed by law, to be computed
from the commencement of the Fortieth Congress.

Mr. SHERMAN. I think that ought to
be referred to the Committee on Contingent
Expenses.

Mr. TRUMBULL. If the Senator from
Ohio will indulge me one minute I will state to
him why I have offered the resolution. I find in
the Journal of the Senate for the second ses-
sion of the Thirty-Ninth Congress the follow-
ing:

"Mr. Harris, from the Committee on the Judi-
ciary, to whom was referred the letter of the Secretary
of the Senate in relation to the payment of the Sen-
ators admitted from the State of Tennessee at the
last session of Congress, reported the following reso-
lution:

Resolved, That the Secretary of the Senate be
directed to pay to the Senators from the State of
Tennessee the compensation allowed by law, to be
computed from the commencement of the Thirty-
Ninth Congress."

That resolution was offered on the 4th of
February, 1867, was considered, and post-
poned until the 2d of March, 1867. On the
2d of March, 1867, the resolution came up
again:

"On motion by Mr. SUMNER to amend the reso-
lution by striking out the words 'commencement of the
Thirty-Ninth Congress,' and inserting in lieu thereof
the words 'date of the resolution of Congress recog-
nizing Tennessee as entitled to representation,' it
was determined in the negative; and on the question
to agree to the resolution, it was determined in the
affirmative.

"So it was

Resolved, That the Secretary of the Senate be
directed to pay to the Senators from the State of
Tennessee the compensation allowed by law, to be
computed from the commencement of the Thirty-
Ninth Congress."

That is what was done in precisely an anal-
ogous case, in the case of Tennessee, and on
a report from the Judiciary Committee, which
was made by Mr. Harris, then a member of
the committee in this body, and adopted. A
motion was made by the Senator from Massa-
chusetts to limit the pay from the time the
State was entitled to representation, and it was
disagreed to by the Senate. We then passed
directly on the question; and therefore I copied
that resolution and offer it here to relieve
the Secretary from embarrassment in regard
to the pay of these Senators.

The PRESIDENT *pro tempore*. The reso-
lution is before the Senate as in Committee of
the Whole.

Mr. DAVIS. In an ordinary case I should
interpose no objection to such a resolution as
this; but I think there is some incongruity
and some absurdity in the application of that
principle to the cases that it is meant to em-
brace. According to the operation of that
resolution, it would date back to a time when
the office of Senator of those States was not in
existence. What is the principle assumed by
gentlemen? That until after the reconstruc-
tion laws were passed, and until Congress
passed a law admitting those States to rep-
resentation in Congress, there were no such
States in the Union entitled to be represented
in either House. Then it comes to this sim-
ple proposition: here are the States named
which, at the beginning of this Congress, were
not entitled to be represented in the Senate at

all. That is the principle which gentlemen
assume. When the States are afterward so
rehabilitated as to be entitled to representa-
tion, the effect can only take place from the
time that they were thus rehabilitated. When
Senators from those States are afterward chosen,
to pass a resolution declaring that those Sen-
ators shall be entitled to compensation for twelve
months or more of time when there was no
State that had a proper political being, and
when there was no State that was entitled to
representation upon the floor of the Senate, is
absurd to the extremest degree.

I propose to amend the resolution by pro-
viding that it shall take effect from the time
that the act of Congress declared those States
to be entitled to representation in the two
Houses of Congress. I propose that the oper-
ation of the resolution shall not go beyond
that time. To reach beyond that time would
violate all principle. It would violate all com-
mon sense. To be sure, it is not my common
sense, because I believed that those States were
States in the Union all the time; but then I
have this other principle, that none of these
gentlemen are the proper, constitutional Sen-
ators from those States, but that the men who
came here with their credentials about two
years ago were then, and are still, the legiti-
mate and constitutional Senators from those
States.

Mr. MORTON. I rise to a question of order.
I should like to know by what rule the con-
sideration of the motion I had made was
crowded out by the motion of the Senator from
Illinois. I object to the present consideration
of this resolution, until after the motion I
made is disposed of.

The PRESIDENT *pro tempore*. It is impos-
sible for the Chair to determine what will be
offered. The Senator from Illinois said he had
something pertaining to morning business.

Mr. TRUMBULL. The resolution does
pertain to morning business.

The PRESIDENT *pro tempore*. The intro-
duction of resolutions comes next, but not the
consideration of them, and as the Senator
from Indiana had a motion pending prior in
time I suppose it ought strictly to be first put.
The Chair did not know that this would be a
matter that did not pertain to the morning
business. I think the Senator from Indiana
is right in regard to the priority of his motion.
It is of the same class, this being entitled to
no priority over it. At first blush the Chair
supposed it had.

Mr. MORTON. Then I ask the considera-
tion of the motion I made.

The PRESIDENT *pro tempore*. The Sen-
ator from Indiana, under this ruling, asks the
unanimous consent of the Senate to take up
the bill (S. No. 622) to authorize the con-
struction of bridges across the Ohio river. Is
there any objection? No objection being made,
the bill is before the Senate.

IMPORTATION OF STEAM PLOWS.

Mr. SHERMAN. I ask leave now to make
a report from the Committee on Finance. I
did not wish to interrupt the motion of my
friend from Indiana. I am directed by the
Committee on Finance, to whom was referred
the joint resolution (H. R. No. 754) to admit
steam plows free of duty for one year from
June 30, 1868, to report it back without amend-
ment; and I am also directed by the commit-
tee to ask for its consideration. If it is to be
passed at all, it must be passed now. If any
Senator upon the reading of the resolution ob-
jects, I shall not ask for its consideration. It
simply proposes to permit steam plows to be
admitted free of duty for one year. It will
take but a moment.

The PRESIDENT *pro tempore*. It requires
unanimous consent to consider the joint reso-
lution at this time. Is there any objection?

Mr. MORTON. If there is no debate on it,
I have no objection.

By unanimous consent, the Senate, as in Com-
mittee of the Whole, proceeded to consider the
joint resolution. It proposes to extend and

continue in force the provisions of section two of the joint resolution approved March 26, 1867, respecting the importation of agricultural machinery free of duty for the further period of one year from the 30th of June, 1868, and any such machinery shipped before the 30th of June, 1868, or which may have arrived since that day, is to be exempt from duty.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the joint resolution (S. R. No. 164) for the restoration of Commander Aaron K. Hughes, United States Navy, to the active list from the retired list.

BRIDGES ACROSS THE OHIO RIVER.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 622) to authorize the construction of bridges across the Ohio river.

The PRESIDENT *pro tempore*. The pending question is on the amendment reported by the Committee on Post Offices and Post Roads, to fill the blank in line ten of section one with the words "two hundred and fifty," and the blank in line thirteen with the word "five;" so that the clause will read:

All the spans, other than the one over the main low-water channel, shall be at least two hundred and fifty feet in length in the clear, and the span covering the main low-water channel of the river shall be of such length as to leave at least five hundred feet of unobstructed passageway of navigation at all stages.

Mr. CAMERON. I have a little business belonging to the morning hour, and I have been trying to get the floor, but I cannot get it up now on account of this bill.

The PRESIDENT *pro tempore*. The Senator should have objected to the consideration of the bill. It is now too late.

Mr. MORTON. I hope that the Senate will proceed with the consideration of the bill now that it is up. The Senator's business will take no longer after this bill is disposed of than it will now.

Mr. CAMERON. I gave way yesterday, and I should like to call up a resolution.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Post Offices and Post Roads.

Mr. POMEROY. I think there is some mistake about that being offered from the committee. I think that what the committee reported was different from that.

Mr. VAN WINKLE. The committee did not report it. It is the motion of the Senator from Indiana.

The PRESIDENT *pro tempore*. Perhaps the Chair was under a mistake in saying that the amendment was the report of the committee.

Mr. MORTON. It is the report of the committee.

The PRESIDENT *pro tempore*. The Chair is informed that it is the report of the committee.

Mr. POMEROY. I move to amend the amendment by filling the blank in the tenth line by inserting "two hundred and twenty," and filling the blank in the thirteenth line with "three hundred." I will give the reasons for this proposition as briefly as I can. I am sorry to occupy any time during the morning hour on any bill. If I did not believe conscientiously that this bill was a prohibition against bridging the river I would not say a word about it. For the first time in the history of our Congress in this country it is proposed to prohibit bridge building. I regard this bill without the amendment I have suggested as a prohibition. I regard it so in the first place from the fact that a five hundred feet span is an obstacle that has never yet been overcome in this country by bridges of the character required in this bill.

The committee have drawn this bill with a view of fixing a minimum, and then allowing the Secretary of War, under the advice of a

corps of engineers, to fix the maximum; and yet—

Mr. FESSENDEN. Will the Senator be kind enough to have that clause read? I did not hear it.

Mr. POMEROY. Yes, sir; I will read it. And yet in view of that fact the Senator from Indiana has moved that the maximum be put in as the minimum; that no bridge shall be of less span than five hundred feet in the main channel, from one end of the river to the other, whether the river has that width or not. That I regard as a prohibition against bridge building. The committee prepared the bill with the view that there should be a minimum, as I will read. It provides that—

All the spans other than the one over the main low-water channel shall be at least—feet in length in the clear, and the span covering the main low-water channel of the river shall be of such length as to leave at least—hundred feet of unobstructed passage-way for navigation at all stages.

The amendment, as moved by the Senator from Indiana, is to fill the one blank with three hundred feet and the other with five hundred feet. The amendment to the amendment is to make it conform to the existing law as a minimum exactly. The present law is that the spans approaching the main channel shall be two hundred and twenty feet and in the main channel three hundred feet. There are three bridges being built under the present law with that limitation.

Mr. FESSENDEN. I thought it was two hundred and fifty for one.

Mr. POMEROY. I believe the law is three hundred feet.

Mr. MORTON. The report of the committee is that the main span shall be five hundred feet and the side spans two hundred and fifty feet.

Mr. POMEROY. The Senator from West Virginia tells me that I am right, that the law is three hundred feet for the span over the main channel and two hundred and twenty feet for the arches that approach the main channel. Now comes this proviso:

Provided, That the Secretary of War, after a full examination of each case as hereinafter provided, shall determine this width of passage adequate to the wants of navigation.

Here is a provision that allows the Secretary of War to decide each case upon its own merits. The third section reads as follows:

That any person, company, or corporation, authorized to construct a bridge across the Ohio river by the States upon whose territory said bridge will abut, shall submit to the Secretary of War, for his examination, a design of the bridge and piers, and a map of the location, giving for the space of at least one mile above and one mile below the proposed location, the topography of the banks of the river, the shore lines at high and low water, the direction of the current at all stages and the soundings accurately showing the bed of the stream, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject by the Secretary of War; and if the Secretary of War is satisfied that the provisions of the law have been complied with in regard to location, the building of the piers may be at once commenced, but if it shall appear that the conditions prescribed by this act cannot be complied with at the location where it is desired to construct the bridge, the Secretary of War shall detail a board, composed of three experienced officers of the corps of engineers, to examine the case, and may, on their recommendation, authorize the building of the bridge at the proposed location on such increased length of spans across the channel-way as the said board may deem sufficient to secure a passage-way that shall not unnecessarily obstruct the navigation of the river.

The meaning of the bill, as the committee reported it, is simply this: that the present law which requires a span of three hundred feet in the main channel, and two hundred and twenty feet in the spans that approach the main channel, shall be adhered to, unless they make out a case in each particular locality that satisfies the Secretary of War that the span ought to be longer; and if the board of engineers detailed for that purpose so report to the Secretary of War, he may increase the length of the span to any extent not limited in the bill. He may make it five hundred feet, or any other length that the board of engineers shall direct. I claim that that is a fair provision. In the first place the bridges already being constructed are being constructed under the

law. While I have no interest in them, and do not know a friend on earth who has, yet I think justice should be done to them. Companies are now constructing bridges, and some of them have completed their structures under the law. Now, what is the use of requiring other structures to be five hundred feet on the same river, where the same class of boats have to pass, when you have three bridges of these dimensions already in existence or being constructed. Why is it that Congress is required as the minimum of the lowest span to put a lighter span than is known in this country to-day in successful operation anywhere? I am not ignorant of the fact that there is a suspension bridge at Niagara, but I am talking about bridges built with the truss or any other plan approved by railroad builders. The suspension plan has never been adopted by any engineers as a good system for railroads. There is but one in operation in this country, and that is at Niagara, of eight hundred feet span, and that was erected because no other bridge could be built there. You could not build up a temporary structure to put the truss bridge on at Niagara. You could not put any abutments in the center. A suspension bridge was the only kind of bridge that could be built there, and it answers a good purpose. It is at least better than none. By having a small pony engine, as they call it, and taking the trains apart, and going very carefully, it answers a good purpose of transportation; but not one would think of running over that bridge a train at full speed, with the ordinary weight of engines. It would be hazardous; it would be presumption. No careful, good engineer would think of it.

Now, as the suspension bridges are out of the question in this controversy it becomes a question whether we shall compel the arch or any other kind of bridge known as a railroad bridge to be built of a span of five hundred feet in the clear as a minimum. I say that such a provision is an obstruction to the erection of railroad bridges never known in this country before. The whole system, I suppose, is now in its infancy. The rivers were made to run to the south, but the immigration and travel, and commerce of this country go east and west to a great extent. When we lose sight of the Niagara river nearly all our other great rivers run to the south; that is the natural channel of commerce and trade. But we have been compelled to build artificial channels. The progress of empire has been westward no more and no less than the progress of our commerce and our freights and our traffic. We have been compelled to build artificial channels from the sea-board to the West. Shall they be obstructed when they come to the Ohio river by a bridge unknown to engineering, by a bridge that has never been made a successful experiment in this country? I apprehend the time will soon come when from the tide-water here at the Potomac, or Norfolk, we shall build artificial communications in the shape of railroads to the West. They can surmount the obstacle of the Alleghenies; they can surmount every obstacle known on the route until they come to the Ohio river, but the moment they approach the Ohio river they are to be met by an act of Congress, if this bill becomes a law, stating "no matter where you reach it, at the top or bottom, high water or low, broad channel or narrow, you must at least have a span of five hundred feet."

I submit to Senators whether that is not a prohibition of bridge building. There are experiments being tried in this country of a five hundred feet span; but there are none that have succeeded. We passed a bill a few days ago giving a company an opportunity to bridge the Mississippi river at St. Louis with a five hundred feet span, but that has never been indorsed by any experienced board of engineers. It is to be built on the plan known as Colonel Eads's plan, who, by the way, has gone to Europe and left his span—

Mr. MORTON. The Senator is mistaken about that. I inquired about that statement.

I am informed that is a mistake. The bridge is going on.

Mr. POMEROY. The philosophical principle of the arch in the plan of Colonel Eads will be found to be thus: he has a steel arch of five hundred feet, and the circle, of course, is much more than five hundred feet. Put it out in the sun, build it at any season of the year you choose, let the sun of to-day shine upon it, and it will expand and rise in the center eight inches. That will bring up the whole structure with it. If you build a truss bridge in combination with it, the moment the arch expands the whole weight of the bridge is drawn up into the air with that expansion. Let a train go on that truss bridge when it is thus expanded, and the whole weight goes on the arch, not the weight of the train simply, but the weight of the train and the bridge, and if the arch is not sufficient of itself to stand the weight, both of the bridge and the train, it will be crushed. Take it at another season of the year; let the arch contract; and then the whole weight is on the truss; and what is true of the arch when expanded is true of the truss when the arch is contracted. I know you can make an arch of wood that will support a truss. You have got them near Philadelphia and at other places, not to any such extent as five hundred feet, though; but a wooden arch that will not expand in the sun will be a support to a truss bridge, I have no doubt.

Now, sir, I fear that I shall be charged with some hostility to this bill, and with trying to defeat it in the morning hour. I said I would not extend my remarks. I believe religiously and conscientiously that this is a bad system of legislation; that it is a prohibition of bridge building on the Ohio river; that it is an untried experiment; that it is subjecting companies who propose building bridges over that river to unheard of expense. They estimate the cost of the bridge at St. Louis at many millions. They have called on the city of St. Louis to issue bonds to the extent of \$4,000,000. I do not doubt that bridges of great capacity can be built if you will expend money enough; but to oblige every corporation, when there is no necessity for it, to expend from two to six millions is putting upon them a burden that they cannot and will not sustain, and it is a prohibition against the system of bridge building.

I believe that these lines of communication East and West should be fostered and encouraged by the Government, as well as the natural channels of immigration and business North and South. While I would not injure the navigation of the rivers, yet the navigation of all rivers is passing away. The steamboat business belongs to the day of the buried past. It is an antediluvian that talks about it. We have killed off nearly all the steamboats on our rivers by building railroads up and down their banks. It is the great interest of artificial commerce, that is commerce made by railroads, of which I am speaking; and I do not believe we have any right to crucify that interest for the benefit of any other, and especially for the benefit of an interest which is passing away. A few years from now and the steamboat business in this country on the rivers will hardly be recognized or heard of, except, perhaps, as floating down rivers heavy articles that cannot easily be handled in railroad cars or by railroad trains. I have only the interest in this subject that all Senators have, I suppose; but I believe we should put the minimum where the law now is, and let the Secretary of War, in each case made out on its own merits, extend the spans as high as he chooses. That is my belief.

Mr. CAMERON. Mr. President, the Senator from Kansas reminds me of an old friend of mine called Abraham Harnley. Abraham was a cousin of a distinguished individual of the last century called Rip Van Winkle. Abraham Harnley was very much in favor of a railroad from Harrisburg to Lancaster, of which I was the projector a good many years ago. I remember making a little speech in favor of railroads some thirty years ago. I said to the

multitude assembled that I had no doubt there were plenty of people listening to me then who would live to see the day when they could start from Harrisburg to Philadelphia, one hundred miles, and get their dinner, and come back the same day; and it created wonderful enthusiasm. After the meeting was over Abraham Harnley came to me and he said, "Well, Mr. CAMERON, I'm right glad as you told those fellows about going to Philadelphia in a day and back; but"—putting his finger to his eye—"you and I knows better as that." [Laughter.]

Now, the gentleman's ideas about bridges and railroads go back to the day of Abraham Harnley. Why, sir, I remember perfectly well when Theodore Burr first invented the wooden arch. Men said that it was madness to think that you could make an arch of wood that would span a river; and when the first wooden bridge in America, indeed the first in the world, which was only about fifty years ago, was made, people said, "That man is crazy, and none but madmen would give their money to make a bridge over this terrific river"—the Susquehanna, which was three quarters of a mile wide at that place. Abraham Harnley, God bless him, is dead long ago; but now we can go from Philadelphia to Harrisburg two or three times a day and back, and two or times in the night, and we have no trouble about it.

Bridges began with an arch of one hundred and fifty feet. They have run them up to two hundred and sixty, and I believe to two hundred and eighty feet; some few to three hundred, upon the truss plan; but bridge building is still in its infancy, as railroads are yet in their infancy. Why, sir, the coal trade of the Upper Alleghany twenty years ago was not five hundred thousand bushels a year. It is now forty million bushels. In 1820 the whole anthracite coal trade of Pennsylvania was three hundred and sixty-five tons. Last year it was over twelve million tons, bringing a product in money greater, I believe, than all the gold of California. This has been the result in a little over forty years. In that time our people have made a railroad running from the Delaware river into the coal mountains, on which they have expended more than fifty million dollars with its branches. They have made a canal costing twenty or thirty millions, which is now a competitor of the railroad.

The gentleman talks about canals and rivers having done their duty. It is no such thing. For all time to come they will be used for heavy freights, because they will be less expensive, and of course more profitable to the owners of the products. We have in Pennsylvania more than a thousand miles of railroad under the ground; some of it two or three hundred feet below the surface; and they are going on improving all the time.

The gentleman tries to belittle the bridge at Niagara. It is eight hundred and thirty feet long. They use a pony engine, as he calls it, and I believe that is a technical term; but it is because they have plenty of time there. There is not much trade, but a great deal of travel; and it is perfectly safe. I do not remember the length of the bridge over the Alleghany at Pittsburg, but it crosses the Alleghany river about the center of the city, not by an arch, to be sure; it is a suspension bridge, and there is no reason why you cannot make a suspension bridge as strong as any other. Indeed, bridge builders think it is the strongest kind of bridge. It is not twenty-five years since the use of wire rope was first thought of in the world. It was invented a great many years ago, but it is not twenty-five years since the wire rope has been used in the arch, and it is now the great feature in the suspension bridge. We must look ahead, not look back. Men will never improve this country, they will never do for it what God intended should be done, if we look back all the time. We must look in advance, and we must be guided by science and learning and experience; we must get the benefit of all their researches

in order to achieve the great results for which we are destined.

The PRESIDENT *pro tempore*. The morning hour having expired, it is the duty of the Chair to call the attention of the Senate to the unfinished business of yesterday.

Mr. MORTON. I would say to the Senator from California [Mr. CONNESS] that I think we can soon get a vote on this bill, and I should be glad if he would allow the regular order to be passed over informally for a time.

Mr. CONNESS. If there is any prospect of coming to a vote on this bill I shall have no objection; but if it is going to lead to great discussion, of course I want to go on with the important measure which is the regular order.

Mr. CAMERON. I wish to occupy but a minute or two further to show that bridges of long span have been made and are now in operation.

Mr. POMEROY. I shall not occupy any time unnecessarily; but I have some communications from engineers in this country and in Europe that I want to present. I shall not occupy a moment that I can get along without.

Mr. CONNESS. I wish to make a suggestion to my friend from Indiana. It is apparent that this bill cannot pass, with the opposition to it, in the morning hour; and I suggest to him that if he will move a session for this evening he can get his bill then voted upon, and I think that will be the best plan. It is apparent that even by threatening discussion of a bill of this kind it can be put over in the day now.

Mr. POMEROY. I will vote for an evening session, and shall be glad to have the bill disposed of then.

Mr. CONNESS. I hope that will be done, because then there will be a certainty of getting a vote.

Mr. MORTON. Rather than take the risk of not having a quorum to-night I would prefer to have an understanding that after we dispose of the bill of the Senator from California this bill shall then come up and succeed it.

Mr. CONNESS. I suppose there will be no objection to that.

Mr. MORTON. With an understanding of that kind I am willing that the Senate should go on with the bill of the Senator from California, and I hope it will not take a great while.

Mr. MORRILL, of Vermont. I suggest to the Senator from Indiana, that he will probably find it impracticable to carry out any such understanding, because there is a large amount of executive business, and the Senate is very likely to go into executive session at an early hour to-day.

Mr. MORRILL, of Maine. I desire to interpose here to say that the Committee on Appropriations have an appropriation bill which ought to be presented to the Senate. It will not occupy many minutes, I think, but it is absolutely necessary that it should pass.

Mr. CONNESS. Let us dispose of this understanding first. Will the Senator from Indiana now make his motion for a recess?

Mr. MORTON. Very well; I move that the Senate at five o'clock to-day take a recess to meet at half past seven for the consideration of the bill we have had up this morning.

Mr. HOWE. I must appeal to the Senate at some time to give to the Committee on Claims an evening session, and I wish to put in my petition now that the Senate may dispose of their time in reference to it. It is entirely immaterial to me when I have it, but I want one some time.

Mr. POMEROY. Next week will do.

Mr. HOWE. I am afraid the Senator is postponing it a little to satisfy the purposes of the claimants. There are quite a number of House bills pending here which have been reported by the Committee on Claims that will not occupy a great deal of time. I was advised to ask for a session this evening.

Mr. MORRILL, of Vermont. The bridge bill will probably not occupy a great while this evening, and after that the chairman of the Committee on Claims may have a chance.

Mr. HOWE. Very well.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that the Senate take a recess to-day from five o'clock to half past seven o'clock p. m., for the purpose of considering this evening Senate bill No. 622.

Mr. FESSENDEN. If the Senate will allow me, I wish to suggest that I think the first thing we ought to do is to go into executive session and dispose of the executive business as far as we can do so, if we wish to avoid being called together again after Congress has adjourned for the purpose of attending to executive business. We know that there are a great number of matters undisposed of in executive session and that may be disposed of in such a way as to require further action. There is a large mass of executive business pending, and we all know that it must be disposed of in some way before the final adjournment. If we do not dispose of the bulk of it very soon the result must necessarily be, as it seems to me, that the Senate will be obliged to stay here after the adjournment of Congress. I think, as all the bills which are absolutely necessary for carrying on the Government are either through or in their last stages, we can fix an early day for adjournment; and the first thing we should do, as I remarked before, is to attend to the executive business, and put it in such a train that it may be finished up.

With regard to these other matters that are before the Senate they are of a different character, and we may dispose of such of them as can be disposed of after we attend to the executive business. I do not feel disposed to interpose in this discussion and move an executive session; but it was my design at two o'clock to-day, unless there should be very good reason to the contrary, to move that the Senate proceed to the consideration of executive business. I only do so because, if I may be allowed to speak from the experience which I have had in this body, I think the result of delaying action on the executive business will be to protract the time that the Senate will be obliged to remain here to a period that will be disagreeable to us all. I mention now my intention to move an executive session at two o'clock so as to give fair notice.

Mr. CONNESS. I have only to say to the Senator from Maine that I am as anxious as he to do the executive business, and I believe that will be promoted by getting a few of the pending bills out of the way.

Mr. FESSENDEN. They can be got out of the way after we fix the day of adjournment, which I think we ought to do.

Mr. CONNESS. I will say in addition to the Senator, and to the Senate, that we passed a very important joint resolution this morning.

Mr. SHERMAN. A concurrent resolution.

Mr. FESSENDEN. That does not require the signature of the President, and there is nothing now, I understand, to delay us more than two or three days. I think we can adjourn on Thursday or Friday with ease if we will give our attention to business and take up first that which requires to be first attended to.

Mr. VAN WINKLE. I think this is a very proper time for me to say that the Committee on Pensions will want two hours or two hours and a half for the passage of the pension bills on the Calendar. They are about one third of all the bills that are there, but they can be got through with, I think, in that time. I should also say in reference to the bill lately pending, lest my silence should be construed to give assent to some remarks which have been made, that I have several amendments to offer to the bridge bill, let it pass in what shape it may. I also want to say that while I was speaking on Saturday the report about which so much has been said was laid on our tables, and this bill is not in accordance with the letter of General Warren contained in the report, and it has not the sanction, as to those questions that are contested, of the report of the committee.

Mr. MORTON. Is this in order? If this debate is in order I wish to be heard.

Mr. VAN WINKLE. I am stating what I

am going to do about the bill to which this motion relates.

Mr. MORTON. That is not material.

The PRESIDENT *pro tempore*. The question is on the motion for a recess.

Mr. VAN WINKLE. I have a right to show my reasons. Have I not a right to go on?

The PRESIDENT *pro tempore*. Certainly, it is debatable.

Mr. VAN WINKLE. I was about through. I only desire to say that as the letter of General Warren has been alluded to as giving sanction to this bill I want the opportunity to show the contrary.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that at five o'clock the Senate take a recess until half past seven, for the purpose of considering Senate bill No. 622 this evening.

Mr. SUMNER. Before that vote is taken, I would make an appeal in the same direction with that made by the Senator from Maine. I am anxious that we should have an executive session. It is well known to the Senate that there are important matters there, some of which are already under discussion, which ought to be brought to a vote. How they may be determined remains to be seen. Suffice it to say they ought to be brought to a vote, and any pending discussion should have its natural course. That can be only by our going into executive session. I hope the Senate will kindly bear that in mind. I do not wish to press such a motion in any adverse way against other pending propositions; but I do most earnestly suggest to the Senate that at an early moment they should take such a motion into consideration.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana.

The motion was agreed to—ayes twenty-nine, noes not counted.

MRS. GENERAL RICHARDSON.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is a bill granting a pension to the widow of General Richardson.

Mr. WILSON. I do not believe that will take five minutes, and we may as well pass it now.

Mr. THAYER. When I made the motion last evening to take up that bill, it did not occur to me that the bill for the protection of naturalized citizens abroad was the regular order. I do not wish to antagonize it against that; but there is an understanding between the Senator from California and myself which is satisfactory to him.

The PRESIDENT *pro tempore*. That being the case, the unfinished business is House bill No. 768, concerning the rights of American citizens in foreign States.

Mr. CONNESS. I consent to have that lie over informally, and proceed with the bill for the relief of Mrs. Richardson.

The PRESIDENT *pro tempore*. The Senator from Nebraska asks that the unfinished business be passed over informally for the purpose of considering the bill (H. R. No. 1337) granting an increase of pension to Frances T. Richardson, widow of the late Major General Israel B. Richardson.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1337) granting an increase of pension to Frances T. Richardson, widow of the late Major General Israel B. Richardson.

Mr. HARLAN. I desire to have the bill amended so as not to relate back, so that the increase of pension may take effect from the date of the passage of the bill.

Mr. THAYER. This is a House bill, and it is placing this widow on the same footing with several others in like cases. This amount of pension has been granted to Mrs. Baker, widow of General Baker, who was really only a colonel when he was killed, to the widow of General Whipple, and to the widow of General Berry. The House of Representatives propose to place

this case on the same footing with those, making the pension date at the same time. I hope the bill will be passed without any amendment.

The PRESIDENT *pro tempore*. The amendment of the Senator from Iowa will be reported.

The CHIEF CLERK. It is proposed to amend the bill by striking out, commencing in the seventh line, the words "3d day of November, 1862, on which day General Richardson died from wounds received in the battle of Antietam on the 17th day of September, 1862," and in lieu thereof to insert "date of the passage of this act."

Mr. VAN WINKLE. I should like to ask who reported that bill?

Mr. THAYER. It was reported unanimously from the Senate Military Committee. I desire to say that General Richardson was one of the most promising officers in the Army, and had he lived he would undoubtedly have been among the first in the Army to-day. I think this is a very slight recognition of his services, and he is lost to his widow and child.

Mr. HARLAN. I ask for the yeas and nays on my amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 8, nays 34; as follows:

YEAS—Messrs. Harlan, McCreery, Morrill of Vermont, Pomeroy, Van Winkle, Vickers, Whyte, and Williams—8.

NAYS—Messrs. Abbott, Chandler, Cole, Conkling, Connors, Corbett, Cragin, Doolittle, Ferry, Harris, Howard, Kellogg, Morgan, Morrill of Maine, Morton, Norton, Nye, Patterson of New Hampshire, Pool, Ramsey, Rice, Ross, Sherman, Sprague, Stewart, Sumner, Thayer, Tipton, Trumbull, Wade, Welch, Willey, Wilson, and Yates—34.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Cattell, Davis, Dixon, Drake, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Howe, McDonald, Osborn, Patterson of Tennessee, and Saulsbury—20.

So the amendment was rejected.

Mr. VAN WINKLE. This is one of a class of cases in regard to which several bills have been referred to the Pension Committee, and they have for the last two years uniformly reported against them, for the reason that they ask of Congress to give to the parties interested in the bills a pension larger than is allowed by law. They are confined mostly to the superior officers of the Army and Navy; and the Pension Committee have not felt it within their province to make new law; nor if the service were ever so exemplary have they felt that the means of information were within their power to determine that question. Latterly, at the request of those interested, several of these bills have been reported from the Pension Committee with a request to be discharged from their further consideration, and that they be referred to the Military Committee. That has been done, and I presume this is the first of the installment.

I call the Senate's attention to the fact that yesterday the chairman of the Military Committee offered an amendment to the bill then under discussion, the general pension bill, proposing to put all the cases of general officers and their widows on the same footing. That is to raise the rate of pension from thirty dollars, which is the highest for a lieutenant colonel and upward, in the case of a colonel five to thirty-five dollars; in the case of a brigadier general to forty dollars; and in the case of a major general to fifty dollars a month. I am willing to concede that the services of our generals, and especially of those who were killed in battle, were as meritorious as any one can claim for them; and no doubt the poor bereaved widow may consider that she has some special claim on the Government because she has lost her husband, and she may suppose that his exertions were greater than those of any one else. If it had been the pleasure of the Senate and of the other House to pass a bill increasing the pensions of the widows of general officers, I should have acquiesced, and such bills would have been attended to in the Pension Committee; but after the refusal of the Senate to do that yesterday, I must object to making fish of one and fowl of another. I must object to picking out the widows of par-

ticular officers in order that this increase of pension may be given them. I think it is unjust; it will crowd the Calendar with similar applications from others; and I would much prefer to see the amendment offered by the Senator from Massachusetts substituted for this bill than to vote for the bill as it stands.

The Pension Committee took occasion in a written report to explain their reasons pretty much as I have done now, for their action in the premises. That report was in the hurry not read to the Senate. I have thought it, therefore, due to the committee to state their reasons for this refusal. They do not believe that it was ever intended that they should make law. Their duty is and their wish is to see that every person to whom the laws intend to give a pension gets it and shall not be deprived of it by technical decisions of the Pension Office or any other outside consideration. But to take up the cases of the widows of general officers in detail, and to give to some pensions larger than the law allows, when many are content with the pension the law has given them, it appears to me is an injustice on its face, and I would rather it should not be done.

Mr. YATES. Mr. President, I wish to say a word in relation to this bill and the one which follows it that is reported by the same committee, and which I hope will be taken up as soon as this is disposed of. I have given this subject some attention. It appears that this legislation commenced by giving widows of generals who were killed on the battle-field an increase of pension of twenty dollars a month, raising their pensions from thirty to fifty dollars; and you will now find on the statute-book thirteen cases which have already been provided for. This increase of pension has been given in thirteen cases, and there are now but two or three unprovided for. The widow of General Richardson and of General Wallace, whose case comes up in the next bill, are, I believe, the only widows of generals who were killed in actual battle now unprovided for. When we shall have passed these bills, we shall only have put them on equality with widows of other generals who died in battle. This is the end of these appropriations; this equalizes them; and there certainly can be no objection to that. There can be no objection, surely, to allowing this increased pension to date from the time the officer fell on the battle-field, instead of from the passage of the act. That has been settled in several cases.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FOURTEENTH CONSTITUTIONAL AMENDMENT.

The PRESIDENT *pro tempore* laid before the Senate a telegraphic dispatch from Governor Bullock, of Georgia, announcing the ratification of the fourteenth amendment and of the fundamental conditions prescribed by Congress by the Legislature of Georgia.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. McPHERSON, its Clerk, announcing that the House had agreed to the concurrent resolution of the Senate, declaring the ratification of the fourteenth amendment of the Constitution of the United States.

MRS. GENERAL WALLACE.

Mr. YATES. I have had a consultation with the Senator from California, and I desire, with his consent, to have the Senate act on the bill for the relief of General Wallace's widow. I think it will lead to no debate. It involves the same principle as the bill just passed, and it has been reported by the Military Committee. I hope the Senate will allow it to pass.

No objection being made, the bill (H. R. No. 1227) granting a pension to Martha Ann Wallace was considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to place on the pension-roll the name of Martha Ann Wallace, widow of the late Brigadier General W. H. L. Wallace, at the rate of fifty dollars per month, from

the 10th day of April, 1862, and to discontinue the pension heretofore allowed her under general law.

Mr. CAMERON. I am opposed to the passage of this bill. It is the beginning of a great addition to our pension-list.

Mr. CONNESS. That has been settled in the other bill just passed.

Mr. CAMERON. I was not in when that was passed, and I desire to oppose the principle now. We shall have at least four hundred such cases if we pass this bill. Six have already been passed, having got through Congress by inattention or something of that kind. The pension laws already provide thirty dollars a month for the widow of every officer above the rank of major. It is now proposed to give an increase of pension on the pretext that the officers died on the battle-field. The same reason will apply, as I am informed on the best authority, to at least four hundred more cases, or perhaps eight hundred, if you include all the colonels and majors. This case ought not to be passed on by itself. There ought to be a general law on the subject of pensions. If we are going to increase the pensions of a few widows, why not give the increase to all in like position? Just now, I understand you passed a similar bill, while I was out, for a lady who is now receiving \$900 a year from the Government. You give her a pension of \$600, so that she gets \$1,500 a year from the Government.

Mr. CONNESS. I must just say enough to say that I protest against this idea. A lady who is employed every day and receives less than men who are employed in the same business, cannot be said to receive anything from the Government. She receives a small compensation for her labor, and that should not be charged to her account.

Mr. CAMERON. The policy of giving pensions is to give them to those who are unable to take care of themselves. A pension is not so much a reward for public services as it is an evidence of gratitude on the part of the Government and the people to the unprotected heirs of gallant men. I have no objection to making the pensions as high as you please; I do not care how much you give; but I want your laws to be general. I know hundreds of cases myself of gallant colonels in my own State, and the adjoining States, who died in battle, many of whom left their families poor, and their widows only get what the law allows, thirty dollars a month. Why give more in a few special cases, because the husbands happened to die on the battle-field? Every one who was wounded so as to die from the wounds received during a battle will be construed, after a while, as having died on the battle-field? We are too apt to be governed by our feelings. I do not object to that; I think it is creditable that everybody should have generous and kindly feelings; but we ought to remember, at the same time, that we are trustees here. Where is the gentleman in the Senate who would put his hand in his own pocket and give to these widows and heirs of worthy and gallant soldiers his own money? We have a right to be generous with our own, but the public money is a trust placed in hands, and it is wrong to make these invidious distinctions. I said there were four hundred such cases. There are certainly hundreds of people just as worthy as this lady is of the patronage and favor of the Government. I think we ought at least to wait awhile and think about it; and if these pensions should be increased let us do it in a general law. If this bill passes, I shall, at some proper time, move to include the widows of officers, from the rank of colonel up, who died on the battle-field. My objection is to special legislation of this kind.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CHARITABLE APPROPRIATIONS.

Mr. MORTON. There is another case reported by the same committee at the same

time. I desire to call up the bill for the relief of Mrs. Hackleman. It will take but a moment.

Mr. MORRILL, of Maine. I wish to renew my statement to the Senate. The Senate proposes to go into executive session. I understand. We have a bill here of a general character which ought to go to the other House; and I hope my honorable friend from Indiana will allow his bill to go over until the evening; he will then have the opportunity to call it up.

Mr. CONNESS. I call for the regular order. I think that is the best thing. Let us get a vote on it, and that will clear it out of the way.

Mr. MORRILL, of Maine. I move that the regular order be postponed, and that the Senate proceed to the consideration of House bill No. 541.

Mr. CONNESS. I hope the Senator will not make that motion.

Mr. MORRILL, of Maine. There is no probability of getting a vote on the bill which is the regular order.

Mr. CONNESS. I have this to say: the Senator from Maine [Mr. FESSENDEN] says, "Get a vote on the appropriation bill," and at the same time he has given us notice that he will ask for an executive session at two o'clock. If the Senate will consent to vote on the bill which I am pressing on the attention of the body I have no objection; but I hope we shall get a vote on it to-day.

Mr. FESSENDEN. I do not desire to have the whole day spent on that bill. I said in my seat that I had no objection to the appropriation bill being considered and passed.

The PRESIDENT *pro tempore*. The Senator from Maine moves that the Senate proceed to the consideration of the bill mentioned by him; but prior to that the Senator from Indiana moved to take up a bill.

Mr. MORTON. I yield to the Senator from Maine.

Mr. MORRILL, of Maine. Now, I want to say that this bill ought to pass. It must have the consideration of the House of Representatives. It ought to pass now or very soon. If the honorable Senator from California could get his bill passed at once of course I would not interpose this bill; but if that bill, having exhausted two days, is to exhaust another day, I must object.

Mr. CONNESS. Well, I reply to the Senator that I will consent to let it go over.

Mr. MORRILL, of Maine. I have not got through.

Mr. CONNESS. I say I consent to let the bill go by for the present.

Mr. MORRILL, of Maine. If that is agreeable to the Senator, I accept the proposition.

Mr. CONNESS. That will be agreeable.

Mr. MORRILL, of Maine. Very well.

Mr. CONNESS. We can pass the bill while we are talking about it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine, [Mr. MORRILL.]

The motion was agreed to; and the bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, was considered by the Senate as in Committee of the Whole. It proposes to appropriate for the support of the institution, in addition to the existing appropriation to meet the increased expense of maintaining pupils whose admission was authorized by an act of Congress approved March 2, 1867, \$3,000; for continuing the work upon buildings of the institution, in accordance with plans heretofore submitted to Congress, \$48,000. In addition to the directors whose appointment has heretofore been provided for by law, there are to be three other directors appointed, as follows: one Senator by the President of the Senate, and two Representatives by the Speaker of the House; these directors to hold their offices for the term of a single Congress, and to be eligible to a reappointment. No part of the real or personal property now held or hereafter to be acquired by the institution

is to be devoted to any other purpose than the education of the deaf and dumb, nor is any portion of the real estate to be aliened, sold, or conveyed, except under the authority of a special act of Congress. The bill further proposes to repeal so much of the act of February 16, 1857, as allows the payment of \$150 per annum for the maintenance and tuition of each pupil admitted by order of the Secretary of the Interior, and the number of students in the collegiate department from the several States, as authorized by the act of March 2, 1867, is to be increased from ten to twenty-five in number.

The Committee on Appropriations proposed to amend the bill by adding the following as an additional section:

And be it further enacted, That the following sums be, and the same are hereby, appropriated for the purposes hereinafter expressed, for the fiscal year ending June 30, 1869:

Government Hospital for the Insane in the District of Columbia:

For the support, clothing, medical, and moral treatment of the insane of the Army and Navy and revenue-cutter service, and of the indigent insane of the District of Columbia in the Government Hospital for the Insane, including \$500 for books, stationery, and incidental expenses, \$90,500.

For finishing, furnishing, lighting, and heating the unfinished part of the east wing of the main hospital edifice, \$7,000.

Columbia Institution for the Deaf and Dumb: For the support of the institution, including \$1,000 for books and illustrative apparatus, \$25,000.

For the proper inclosure, improvement, and enlargement of the grounds of the institution, in accordance with plans heretofore submitted to Congress, \$5,600.

Columbia Hospital for Women and Lying-in Asylum:

For the support of the asylum over and above the probable amount which will be received from independent or pay-patients, \$15,000.

For the completion of the Providence Hospital in Washington city, District of Columbia, \$30,000.

For the National Soldiers' and Sailors' Orphans' Home, in the city of Washington, District of Columbia, \$10,000.

For care, support, and medical treatment of sixty transient paupers, medical and surgical patients, in some proper medical institution in the city of Washington, under a contract to be formed with such institution, \$12,000, or so much thereof as may be necessary.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. FESSENDEN. I should like to inquire of the chairman of the Committee on Appropriations whether in any appropriation bill the ordinary appropriations have been made which we yearly make for Providence Hospital?

Mr. MORRILL, of Maine. The ordinary appropriation is in this bill—no extra appropriation.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time and passed, and its title was amended by adding the words "and for other purposes."

IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. RAMSEY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses upon the bill of the House (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of navigation of the Mississippi river, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from its amendment to said bill.

ALEXANDER RAMSEY,
JAMES HARLAN,
C. R. BUCKALEW,

Managers on the part of the Senate.

I. DONNELLY,
HORACE MAYNARD,
L. W. ROSS,

Managers on the part of the House.

The report was concurred in.

INDIAN APPROPRIATION BILL.

Mr. HOWE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending the 30th of June, 1869, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their amendments numbered 5, 9, 10, 11, 24, 26, 29, 33, 34, 35, 36, 37, 40, 44,

45, 47, 50, 51, 60, 62, 63, 66, 67, 69, 71, 72, 73, 75, 76, 77, 79, 88, 92, 104, 106, 109, 114, 120, 121, 123, 124, 125, 127, 128, 132, 133, 137, 139, 141, 142, 143, 148, 149, 150, 156, 158, 170, 172, 174, 175, 184, and 186.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 2, 4, 6, 7, 8, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 28, 38, 39, 46, 48, 49, 53, 54, 55, 56, 57, 58, 59, 61, 64, 65, 68, 70, 71, 80, 81, 82, 83, 84, 85, 89, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 105, 108, 110, 113, 115, 116, 117, 126, 129, 130, 131, 134, 135, 138, 140, 145, 156, 161, 162, 168, 169, 171, 176, 180, 181, 182, 183, 185, and 188, and agree to the same.

That the House recede from their disagreement to the first amendment of the Senate, and agree to the same with an amendment, as follows: strike out in line two of said amendment the word "sixteen;" and insert in lieu the word "thirteen;" and the Senate agree to the same.

That the House recede from their disagreement to the third amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "twenty-five hundred;" and insert in lieu the following words: "twelve hundred and fifty;" and the Senate agree to the same.

That the House recede from their disagreement to the twelfth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment "thirty-six thousand five hundred;" and insert in lieu "twenty-five thousand;" and the Senate agree to the same.

That the House recede from their disagreement to the thirtieth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the following words: "for the Bois-Port band;" and the Senate agree to the same.

That the House recede from their disagreement to the thirty-first amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the following words: "for the Bois-Port band;" and the Senate agree to the same.

That the House recede from their disagreement to the thirty-second amendment of the Senate, and agree to the same with an amendment, as follows: in line five of said amendment strike out the word "fifteen;" and insert in lieu the word "six;" and the Senate agree to the same.

That the House recede from their disagreement to the forty-first and forty-second amendments of the Senate, and agree to the same, with an amendment, as follows: strike out all of said amendments and insert in lieu of both amendments the following words:

"To enable the Commissioner of Indian Affairs to complete the removal of the scattering bands of Chippewa Indians in Minnesota to their reservations near White Earth lake and to assist them thereat for the period of six months, this amount is hereby appropriated, which, added to the unexpended balance of any appropriation heretofore made for the same purpose, will enable said Commissioner to pay to each member of such bands the sum of ten dollars in money and twenty dollars in rations, such as are furnished the Army of the United States; such payment and delivery to be made only to such individuals of the bands as shall remove themselves to their reservations prior to the 1st day of December next, \$40,000;" and the Senate agree to the same.

That the House recede from their disagreement to the forty-third amendment of the Senate, and agree to the same with an amendment, as follows: in line four of said amendment, strike out the word "ten;" and insert in lieu the word "six;" and the Senate agree to the same.

That the House recede from their disagreement to the fifty-second amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "five;" and insert in lieu the word "four;" and the Senate agree to the same.

That the House recede from their disagreement to the seventy-fourth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "six thousand seven hundred;" and insert in lieu the words "five thousand;" and the Senate agree to the same.

That the House recede from their disagreement to the seventy-eighth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "four;" and insert in lieu the word "two;" and the Senate agree to the same.

That the House recede from their disagreement to the eighty-sixth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "seven thousand six;" and insert in lieu "five thousand five;" and the Senate agree to the same.

That the House recede from their disagreement to the eighty-seventh amendment of the Senate, and agree to the same with an amendment, as follows: in line nine of said amendment strike out the word "four;" and insert in lieu the word "three;" and the Senate agree to the same.

That the House recede from their disagreement to the ninetyeth amendment of the Senate, and agree to the same with an amendment, as follows: in line three of said amendment strike out the words "nine hundred;" and insert in lieu "seven hundred and twenty;" and the Senate agree to the same.

That the House recede from their disagreement to the ninety-first amendment of the Senate, and agree to the same with an amendment, as follows: in line three of said amendment strike out the words "nine hundred;" and insert in lieu "seven hundred and twenty;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and seventh amendment of the Senate, and agree to the same with the following amendments: after the word "cents," in line fifteen

of said amendment, insert the following words: "or so much thereof as may be necessary;" and strike out all after the word "sell," in line twenty-one of said amendment, down to and including the word "treaties;" in line twenty-five, and insert in lieu the following words: "six hundred twenty-one hundred and eighty-eight parts of the several classes of bonds held by him in trust for said Pottawatomie Indians, and pay the proceeds thereof without any deduction, in compliance with the provisions of said treaties;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and eleventh amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words: "four thousand six;" and insert in lieu "three thousand five;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and twelfth amendment of the Senate, and agree to the same with an amendment, as follows: at the end of said amendment add the following words: "which amount shall be deducted from any money or funds belonging to said tribe of Indians;"

That the House recede from their disagreement to the one hundred and eighteenth amendment of the Senate, and agree to the same with an amendment, as follows: in line seven of said amendment strike out the words "twenty-five;" and insert in lieu the word "fifteen;" and at the end of said amendment add the following words: "to be expended under the direction of Rev. H. B. Whipple, of Faribault, in the State of Minnesota;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and nineteenth amendment of the Senate, and agree to the same with amendments, as follows: in line four of said amendment strike out the word "fifty;" and insert the word "thirty;" and after the word "dollars," in the same line, insert the following words: "to be expended under the direction of Rev. H. B. Whipple, of Faribault, in the State of Minnesota;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and twenty-second amendment of the Senate, and agree to the same with an amendment, as follows: in line two of said amendment strike out the words "four thousand six;" and insert in lieu "three thousand five;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and thirty-sixth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "seventy;" and insert in lieu the word "fifty;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and twenty-fourth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "fifty;" and insert in lieu the word "forty;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and forty-sixth amendment of the Senate and agree to the same, with an amendment as follows: strike out of said amendment the word "five," and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and forty-seventh amendment of the Senate, and agree to the same with the following amendment: strike out of said amendment the word "twenty;" and insert in lieu the word "five."

That the House recede from their disagreement to the one hundred and fifty-first amendment of the Senate, and agree to the same with the following amendment: strike out of said amendment the words "fifty-five;" and insert in lieu the word "forty;" and the Senate agree to the same.

That the House recede from their disagreement to the amendments of the Senate, numbered one hundred and fifty-two, one hundred and fifty-three, one hundred and fifty-four, and one hundred and fifty-five, and agree to the same, with the following amendments: strike out all of said four amendments, and strike out also lines twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, and twenty-six of the bill on page 54, and insert in lieu the following words: "For pay of one physician, \$1,200; one blacksmith, \$750; one assistant blacksmith, \$500; one farmer, \$720; one teacher, \$750; and one carpenter, \$720, upon each of the reservations in California; and one miller, at \$750, upon each of the Round Valley, and Hopca Valley reservations;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and fifty-seventh amendment of the Senate, and agree to the same with an amendment, as follows: in line six of said amendment, strike out the word "fifty;" and insert in lieu the word "twenty;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and fifty-ninth amendment of the Senate, and agree to the same with amendments, as follows: in line three of said amendment strike out the words "five thousand;" and insert in lieu the words "three thousand and five hundred;" and at the end of said amendment add the following words: "and the Smith river reservation is hereby discontinued;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and sixtieth amendment of the Senate, and agree to the same with an amendment, as follows: strike out all of said amendment and substitute in lieu thereof the following: "For amount of deficiency expended in subsisting the Navajoes at the Bosque Redondo, according to the contract made by Theodore H. Dodd, from the 22d of May, 1868, until their removal to their old homes, \$21,000, or so much thereof as may be necessary, at eleven cents per ration;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and sixty-third amendment of the Senate, and agree to the same with amendments, as follows: in line four of said amendment after the word "dollars" insert the following words: "to be expended under the direction of Lieutenant General Sherman, of the Indian peace commission;" and the Senate agree to the same.

That the House recede from their disagreement to the amendments of the Senate numbered 164, 165, 166, and 167, and agree to the same with an amendment, as follows: strike out all of said four amendments and insert in lieu the following words: "For constructing warehouse, agency building, blacksmith and carpenter's shop, and school-house, per article three of said treaty, \$12,500, to be expended under the direction of Lieutenant General Sherman, of the Indian peace commission;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and seventy-third amendment of the Senate and agree to the same, with an amendment as follows: in line three of said amendment strike out the words "eighty-five" and insert in lieu the word "fifty;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and seventy-seventh, one hundred and seventy-eighth, and one hundred and seventy-ninth amendments of the Senate, and agree to the same with an amendment, as follows: strike out all of said three amendments, and insert in lieu of said amendments the following words: "For this amount for the purpose of carrying out the treaty stipulations, making and preparing homes, furnishing provisions, tools, and farming utensils, and furnishing food for such bands of Indians with which treaties have been made by the Indian peace commission, and not yet ratified, and defraying the expenses of the commission in making such treaties and carrying their provisions into effect, \$500,000, to be expended under the direction of Lieutenant General Sherman of said commission, and drawn from the Treasury upon his requisition upon the Secretary of the Interior;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and eighty-seventh amendment of the Senate, and agree to the same with amendments, as follows: strike out all after the word "acres," down to and including the word "office," and at the end of said amendment add the following:

Provided further, That all improvements made by any person on said reservation before the passage of this act shall be the sole property of the person making them, who shall have priority of purchase of six hundred and forty acres of land covering and adjoining said improvements, and all said land shall be sold and disposed of for money only.

T. O. HOWE,

J. B. HENDERSON,

L. M. MORRILL,

Managers on the part of the Senate,

B. F. BUTLER,

W. WINDOM,

Managers on the part of the House.

Mr. COLE. Is it in order to move for the printing of this conference committee report, and of the bill as amended, before the Senate act upon it? If so, I make that motion.

The PRESIDENT *pro tempore*. That is in order, but the report of a committee of conference cannot be amended.

Mr. COLE. I am aware of that fact, but I should like to look over the report in order to know what we vote upon, and I am sure it is quite impossible to understand what we are doing in voting for concurrence in this conference report without seeing the bill as the report amends it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California, that the report of the conference committee, together with the bill, as amended, be printed.

Mr. HOWE. I hardly think it is worth while to make that order. It is true there were a great number of disagreements which were submitted to the committee, and I do not suppose the Senate understand very distinctly the particular action of the committee on each particular disagreement; but it must be manifest to the Senate as it was to the committee that with reference to very much the largest number of these disagreements there was no special feeling, and the disagreement was more a matter of form than anything else. I incline to think, although I do not pretend myself to be very familiar with the report we have made, that I can give to the honorable Senator from California any information he may need upon any particular question if he is in doubt.

Mr. COLE. I am satisfied that in this bill if it pass as it has been fixed by the conference committee, there will be perpetrated very great injustice, and especially gr-at injustice toward the part of the country that I have the honor in part to represent. The bill as passed by the

House of Representatives contained appropriations amounting to \$2,214,233. The Senate Committee on Appropriations changed the bill so far as to add to the gross amount \$96,790; so that the bill as reported to the Senate contained appropriations amounting to \$2,311,073. I do not assert that these figures are entirely accurate; but though going over the bill rather hastily I feel sure they will not be found far from the true amounts. Of these appropriations those that are made for the States and Territories that are still, to a great extent, under the control of the Indians—I mean the Territories and States west of the Rocky mountains, including California, Utah, Oregon, Washington Territory, Nevada, Idaho, and Arizona—the amount in all is but \$207,367, as footed up at the time the bill was in the Committee on Appropriations.

Mr. STEWART. How much of that was for Nevada?

Mr. COLE. The amount for Nevada was \$20,000. It will be seen that the total amount of appropriations for that vast country west of the Rocky mountains, in which in my estimation are to be found full half the Indians of the whole country, is only about one tenth what they are for the country this side of the Rocky mountains.

Mr. STEWART. I should like to inquire of the Senator from California if he has also a list of the number of treaties. There are a great many more treaties east than west.

Mr. COLE. This large amount of upward of two millions that is appropriated for Indians this side of the Rocky mountains is most of it obtained through the shallow pretense of Indian treaties. The first fifty or sixty pages of the bill are devoted to making appropriations under sections of particular treaties with Indians and treaties with Indian tribes of which in many instances scarcely a shadow or skeleton is left. By this shallow pretense a very large amount is appropriated for the Indians nominally this side of the Rocky mountains. For the purpose of keeping peace and protecting the white settlers, the miners and farmers, west of the Rocky mountains, there being few treaties there, a very small appropriation indeed is made. This is the injustice that I complain of, and it appears glaringly upon the face of this bill.

Mr. President, in my own State, according to the last report from the Department, I find that the Indians numbered twenty-five thousand nine hundred and sixty-two; and besides these there are many wild Indians that could not be numbered. I believe the whole number there exceeds thirty thousand Indians. Those Indians are scattered over two hundred thousand square miles, over a territory nearly five times as large as the great State of New York. The white population in that country is but sparse; they are interspersed with the Indians over the whole State. Necessarily the two races mingle with each other. The miners of our country necessarily penetrate the Indian country. They come in contact with them, and the destruction of the one race by the other is going on constantly and is the subject of daily repeated complaint from that section. These facts have been totally disregarded by the conference committee. We only asked so much as we could get along with, the least sum possible to preserve peace as we believe. We hope still that with the small appropriations that have been made, we may be able to pacify the Indians and prevent their depredations; to prevent loss of life on the part of the white race, as well as on the part of the red race; but it is hardly to be expected that this condition of peace can be maintained with the inadequate appropriations that have been made by this conference committee.

Mr. BUCKALEW. I desire to ask the Senator whether it is not true as a general statement that the Indians of the Pacific slope are much less warlike than those further east, and that there is therefore less necessity for expending funds to avoid Indian wars there?

Mr. COLE. I think that is not the case. On the contrary I believe the reverse to be the

case. I believe there are no Indians more formidable than some of the tribes in the northern part of California, none more formidable this side of the Rocky mountains than the Apaches of Arizona, none more formidable in war than some of the tribes of Oregon and Idaho. I believe that the Indians on the other side of the mountains are as a general thing quite as formidable in war as the Indians on this side of the mountains and as difficult to pacificate. There is, however, some portion of the Indian race on the other side of the mountains that are peaceful. I refer now to the Indians in the southern portion of California and in the western portion of Arizona. Those in the southern portion of California were during early times under the care of the benevolent Catholic priesthood. They belonged to the old missions of that country, and being kept under control by the priesthood were partially civilized; and at this time if they had been left alone and not interfered with by the white race, they would have been in a tolerably prosperous condition. They owned stock, horses, cattle, and sheep; they had vines and orchards planted, and were getting along with some degree of prosperity; but we in the West are too well aware of the fact that there is a class of people who have no regard whatever for the rights of the Indians, no matter how far they may have been advanced in civilization; and in California the emigrants from the western States, the southwestern States, and from Texas in particular, enter the southern portion of our State, and frequently without paying the least regard to the rights of the Indians drive them from their rancheros, drive them from their vineyards, and deprive them of their cattle and other property. The five or ten thousand Indians in the southern portion of the State of California are at this time in great distress because of this interference with them, and they receive no care, or next to no care, from the General Government.

I will add that, as might reasonably be expected, depredations are being committed by them; they are driven to it from their necessities; they are driven to it from hunger, and not unfrequently they destroy the lives of the settlers and take their property, and no protection whatever is afforded the white race as against these depredations. To be sure, some few of the white race that have thus crowded the Indians from their homes deserve no protection; but the Indians do deserve protection as well as the rest of the white people. These Indians have been grossly maltreated; they have been basely imposed upon, and they are now left without protection by Congress.

I felt bound, Mr. President, to say what I have in some degree to relieve myself from the responsibility which must fall upon somebody for what is likely to occur during the next year or until Congress does take some steps for the protection of that race as well as our own. I regret exceedingly that in the committee that has made the bill, because it is made by the conference committee, there was no one from the west side of the Rocky mountains, no one who was well acquainted with the condition of these Indians. I think such should have been the case; but it was, of course, a mere oversight. I am not finding fault with the Presiding Officer of either House by any means, because I did not apply to either of the Presiding Officers to have some one from the Pacific coast or west of the Rocky mountains put upon this committee. I am satisfied, however, that some members of the committee have but a very inadequate appreciation of the true condition of things in the land of which I speak.

The PRESIDENT *pro tempore*. The question is on ordering the amended bill, together with the report of the committee of conference, to be printed for the use of the Senate.

Mr. CORBETT. I have received a letter from one of our Indian agents, one of our best on the Pacific coast, this morning, relative to a matter in regard to which I had written him when the House of Representatives struck out

the appropriation "for expenses of removal and subsistence of Indians, not parties to any treaty, in Oregon and Washington Territory, and for pay of necessary employes, \$50,000." That was stricken out in the other House. That appropriation has been made heretofore for the subsistence of Indians with whom no treaties had been confirmed, and one half of the amount, \$25,000, has gone to the support of one Indian agency principally, the agency from which I received this letter. The conference committee have inserted \$20,000 instead of \$50,000, thus allowing only \$10,000 for this agency, with between two thousand eight hundred and three thousand Indians, or, perhaps, a larger number, because there are probably some at Klamath lake, to which it applies, which I did not mention before the conference committee. I will read the letter which I have received from this Indian agent:

"Your letter of May 30, is received and read with great interest. I confess I am very much surprised at the course pursued by the House in reference to our Indian appropriations in Oregon. While I fully appreciate the necessity of retrenchment in Government expenditures, I am equally aware of the impropriety of attempting it in the direction referred to. You are correct as stated in your letter that the amount stricken from the appropriation is the principal fund out of which I pay my employes; in fact the agency cannot be run without it. I presume of course it will or has been reinstated in the bill. I sent a dispatch inquiring whether it had passed or not, as I should of course have to stop operations and discharge my employes. I have received no reply. Now, just think for a moment of the result of such a course. The Indians of course would leave and go into the mountains and renew their old customs of stealing and killing. Then we would have another war that would likely cost \$500,000 besides the loss of many lives. I am confident that if the Siletz and Alsea Indians were turned loose that we would have serious trouble with them inside of ninety days. If they are kept where they are and treated half right for a few years more they can take care of themselves in a great measure."

I submit this letter to the Senate, as I consider it my duty to do. Not far from this agency there was formerly established a military post for keeping these Indians in subjection. They were some of the most warlike people on the Pacific coast, and the war with them cost about five million dollars. They are supported now upon this agency at an annual expense of less than twenty-five thousand dollars, because a portion of that sum goes to other Indians. If you refuse to appropriate that you will force the agent to give up this reservation and turn the Indians loose upon the whites, which will probably involve us in war at an expense of perhaps a million of dollars. I submit this to the Senate that they may take such action as they think best.

Mr. HENDERSON. I will state in a few words that there has been a reduction of the appropriations west of the mountains, but, perhaps, not to the extent thought by the Senator from California, [Mr. COLE.] I objected to that reduction. The principal reduction made in the bill is for current and contingent expenses in the different Territories and States west of the mountains. I thought that it was bad policy to do that, but I was overruled in the committee. I can appreciate very well the remarks made by the Senator from Oregon and the Senator from California; but if they will examine the bill they will find that the reduction is very small. It does not amount to much. The objection, if any, that I have to the report is that it has cut down the appropriations in small particulars where I thought it was very bad policy to do so; for instance, in the wages of teachers, of millers, of engineers, &c. I believe that those persons cannot be employed at the prices fixed in the report.

I will state, however, that the report, as it now comes in, appropriates equally as large an amount, if not a larger amount, than the bill did when it went to the committee of conference.

Mr. CORBETT. Not to the Pacific coast.

Mr. HENDERSON. No; but generally. Since the bill was sent to the committee of conference, we received information from the peace commission in regard to the treaty concluded with the Sioux Indians, twenty-five or

thirty thousand of them upon Powder river, and the Crow Indians, and the Bannocks and others of Idaho, contemplating a removal, and fixing them upon the Missouri river, where it is supposed they will be able to cultivate the land and make a living for themselves; and hence it became necessary to make a large appropriation under the advice of the Indian peace commission. I believe it will prove to be the very best possible appropriation that can be made. It has become necessary to make this large appropriation in order to keep peace upon the Powder river, and in Montana and Idaho. It is true that in reference to the western slope heretofore the Indians have been peaceable; they have not given us much trouble in warlike operations against the whites, and Indian affairs in California and in Oregon have been very well managed. We have been fortunate in getting good agents and good superintendents, and the management of affairs there has been better than it has been east of the Rocky mountains. That is my impression from a careful examination of the whole subject, and I regret very much that the appropriations in the West are reduced. They are also reduced in small matters in the East.

I beg to suggest further to Senators from the West that it will be better to adopt the report as it is. I have sympathized with their views upon the subject, as the Senate very well knows. I do not believe that it is good policy to expend eighteen or twenty million dollars in the War Department instead of expending four or five hundred thousand dollars in the civil department of the Government. I know there is a great deal of prejudice against the administration of affairs in the Interior Department. It may be corrupt, or it may not be. It is asserted to be corrupt, but I have found no evidence of this alleged corruption, and it has been my duty to give some attention to it. Although I have heard it stated over and over again, I have been utterly unable to discover it. If I could, no man would be more willing than myself to root it out, and I should be very far from granting any appropriation whatever to pass into its hands.

I know that it has been said that the committee in their report reflect upon the Interior Department by putting the appropriation for the removal of the Sioux in the hands of General Sherman. Without intending to reflect upon the Department in any way, we thought that if the removal was made at all it must be made by the military, and we simply meant to say that General Sherman can do this thing better than the Interior Department. That was the opinion of each and every member of the committee, without intending by that action to reflect at all upon the entire Department. Some other appropriations have been stricken off in the shape of deficiencies. Those appropriations will have to be made hereafter on other bills, at the next session, probably. I suppose that in a great many instances where appropriations have been stricken off we have not rid ourselves of them, but at another session, or upon a deficiency bill at the present session, we shall be compelled to appropriate for them.

Now, Mr. President, inasmuch as there is but a short time between this and the next session, I suggest to my friends that it will be better in this warm weather to let the bill pass through, and provide at the coming session of Congress for the difficulties which they present. It can be done at an early period of the session, and I promise them, so far as I am concerned, to give it early attention. I think the appropriation here made will save us from the difficulties contemplated on their part until the beginning of the next session of Congress, and perhaps it would be a great deal better to let the bill pass as it is, and not now to disagree with this report, and undertake to get a better one.

Mr. RAMSEY. Among the other extraordinary provisions of the report of this committee of conference, in addition to placing the charge of the western Sioux with a general of the Army,

and devolving on him the expenditure of a large fund which is to be placed entirely in his control, the Sioux of the East are to be placed in charge of a bishop of the Episcopal Church. Civilians seem to be entirely in the vocative in the judgment of this conference committee. I believe the officers who have charge of the Sioux at Lake Traverse and Devil's lake are honest men. Certainly they are men of very large experience in the management of Indians, and the fund for the removal is a trifling thing. We acquired from those Indians the use of an immense tract of country, and agreed to provide liberally for them in the treaty which was negotiated; but the Government said to them, "No; trust to the magnanimity of this Government; do not provide specifically for what you shall have from year to year; but the Government knows your wants and will provide for them liberally." That occurred eighteen months ago, and from that day to this those Indians have not received one cent. They believed the plausible tale you told them that you would provide for them liberally, and they relied upon it and adopted your amendments to the treaty; and yet for eighteen months you have not done a thing for them. In the midst of the extreme cold of last winter, when they were starving and freezing, I appealed to the Senate on their behalf, and at the last moment compromised upon an appropriation of \$20,000 for them, but the House of Representatives would not agree to give them a cent. That is the way you manage Indian affairs, and now in this bill of yours you make some trifling appropriation for them—I do not know what it is—and instead of leaving it in charge of those who have knowledge of these Indians and their wants and their habits and their peculiarities you take it away from them and give it to a bishop of the church.

Mr. CONKLING. The best man there is for the purpose.

Mr. RAMSEY. The Senator says he is the best man. I have a very high respect for Bishop Whipple, but there are many good men in Minnesota, though it is a new State, and these little distinctions are very invidious. Why not give the expenditure of this fund to Bishop Grace, of the Catholic church, who is a large-minded man, a man of great experience, whose followers among the Indians probably are ten times as many as those of the other bishop. I should think this matter would not be entirely acceptable to Bishop Whipple himself. I should think he would not like to be put in this position of being selected among all the religionists of Minnesota to take charge of this fund. He is a good man, an excellent man; I feel great friendship for him; but I do not like to see these invidious discriminations made by the committee in regard to the religionists of that State or any other State.

Mr. CONKLING. I desire to explain to the Senator my remark as to Bishop Whipple. I have only to say that he has given such unwearied attention to this subject, he has thought so much, he has written so much, he has done so much creditable to him that there is nothing invidious in saying that he, more than other prelates or clergymen, is a good man for this purpose.

Mr. HENDERSON. With the permission of the Senator from Minnesota, I will state in reference to that matter what I intended to state when I was up before the reason for this action of the committee. Two years ago we appropriated precisely the amount estimated by the agent, Mr. Thompson, for the removal of those Indians, and subsisting them for six months on their new reservation. He estimated the number of the Indians and the cost of the removal, and we appropriated the exact amount according to that estimate. I was then upon the committee, and caused the appropriation to be made. The agent who made that estimate now reports to us that he has removed only eleven hundred Indians, and that there are nearly two thousand yet to be removed; and that the entire amount which he estimated for and which we appropriated has been ex-

pended. That is the condition of the thing. There are nineteen hundred and sixty-six Indians to be removed, and the amount estimated for and appropriated has been entirely expended.

Mr. RAMSEY. The Senator is confounding the Chippewas with the Sioux.

Mr. HENDERSON. No, sir; I am not.

Mr. RAMSEY. No estimate was made for the removal of the Sioux at Devil's Lake and Traverse Lake.

Mr. HENDERSON. I am speaking of the Indians of whom Mr. Thompson is the agent. He is the agent of these Indians, is he not? Mr. Bassett still retains control of his own Indians.

Mr. RAMSEY. The nineteen hundred the Senator speaks of were Chippewas. We have never made any appropriation at all for the removal of the Sioux.

Mr. HENDERSON. Of course not; but it is the Indians in the charge of Mr. Benjamin Thompson that we now propose to put under the management and control of Bishop Whipple. I am satisfied that what I have stated in reference to that matter is correct. Mr. Thompson made his own estimate for the cost and expense of the removal, and having failed to do the work according to his undertaking, it was supposed by the committee that Bishop Whipple would carry it out.

Mr. HOWE. I see the Senate is impatient for a vote and I shall delay a vote but a short time. I did not intend to say a word upon this report; but there have been several complaints alleged against it already, and to a certain extent they seem to be indorsed by a member of the committee, the honorable Senator from Missouri, and I must plead that as my excuse for saying a few things.

The pending motion is that of the Senator from California to print. I think he and the Senator from Oregon have shown the Senate conclusively that there is no necessity for printing the report; that they know all about it or all they care to know about it; and every other Senator who has participated in this discussion seems to be well informed as to the state of the report. Then there is no necessity for printing it.

The great complaint urged by the Senator from California is that there is not an equal distribution of funds between the two sections of the country, between that bordering on the Pacific and that on this side of the mountains. He has taken the pains to give us the figures showing how much is appropriated to the support of the Indians west of the mountains and how much to those on this side, and he finds out that the largest amount is appropriated to those on this side. That is so. He says these large appropriations are made on this side of the mountains upon the shallow pretext—that was his language—of complying with treaty stipulations. Now, Mr. President, I have misunderstood the character of the Senator from California very much if he means really to be understood as calling the compliance with a positive national stipulation a shallow pretext. I think it is something more than that, very much more than that. Why, sir, we have agreed to pay these specific sums of money, and so we pay them, not upon shallow pretext, but we so pay them to save the national honor; and I think it is as essential to the national peace to do what we have agreed to do this side of the mountains as it is to do what we never agreed to do the other side of the mountains.

Mr. COLE. The Senator will permit me to interrupt him for a moment. Is there any greater obligation existing to take care of the Indians that are treated with than of those who have been deprived of their property, their lands, their means of living, their hunting grounds and fishing grounds, with whom there are no treaties? Is the obligation greater in the one case than in the other? If so, I do not see it.

Mr. HOWE. The Senator must remember two or three things so far as the public domain is concerned in the eastern portion of the

country. We have always conceded that the right of occupation was in the Indians, and we have proceeded to get possession of it by negotiation and purchase, and what we have agreed to pay we have paid. The territory of which the Senator speaks is the territory we purchased in fee from another Power and paid that other Power for it, and having paid once for it we do not see the obligation very clearly of paying another party.

But the Senator says that these Indians had possessions, cultivations; they had vines, fields, and white populations have moved upon them and driven the Indians off, and now he calls upon the United States to pay the Indians, as I understand him, for what his own citizens have plundered from them.

Mr. COLE. No, sir; to take care of them, since the Government has suffered them to be so outraged.

Mr. HOWE. Take care of them since the citizens of his own State have plundered them and made them poor. That I understand to be his logic; we must take care of them and support them. That is a little difficult to do. The measure of their necessities we cannot always clearly understand. The Senator undoubtedly is correct in saying that those who live on that coast understand them better than we can. That is not unnatural. He complains a little that no Senator from the Pacific coast was on the committee. Well, it is true it so happened in making up the committee that there was no Senator from that region on the committee; but the Senator, I think, must be aware that while no member of the Senate from that coast was upon the committee there were three Senators from the Pacific coast before the committee, and we had an opportunity to be told all that they cared to tell us.

Mr. COLE. And the Senator is aware, too, that the committee utterly disregarded all the representations of the three Senators from the Pacific coast who had appeared before the committee.

Mr. HOWE. I think my honorable friend does the committee great injustice in saying that they "utterly disregarded"——

Mr. COLE. I do not intend to do injustice. I will say, then, that they generally disregarded all the suggestions those Senators made.

Mr. HOWE. We did not exactly conform—I guess the Senator had better let it rest upon that—we did not exactly conform to the advice given us by them on these subjects, though we had the utmost respect for it.

Mr. COLE. I will not change my phraseology.

Mr. HOWE. But there was no advantage taken if our judgments did not happen to conform with theirs. That may be the misfortune of the country, or it may not be any misfortune to the country. We cannot tell about that. The point I make is that there was no disposition to take advantage of that section of the country.

Mr. President, the large disbursements which are made on this side are occasioned by two considerations: first, we have the whole expense of the Indian service to provide for. The salaries of all the officers, East and West, come out of the appropriations which the Senator charges to the eastern service. Second, there is the compliance with our positive obligations, the redemption of our unqualified promises. We have done these two things. Beyond that, I think there are not \$50,000 in this bill appropriated this side of the mountains; there are not \$50,000 appropriated in this bill for the purpose of keeping the peace, as the Senator calls it, or for the purpose of merely administering to poverty or necessity. That is my impression, though I have not footed up the figures. Beyond the mountains the great bulk of the appropriations are made to those to whom we are under the obligation of no promise whatever. They are charitable dispensations in the main made there. I think that is doing pretty well; and I do not think there is any disposition on the part of either of the committees or of either of the two Houses

to be niggardly in their appropriations. We know that the necessity is upon us; we have got to make provision in some way; and I have been painfully impressed with the fact that almost every man over there in the Indian service appeals to Congress with a tomahawk in his hand. The uniform argument is, "You must give us so much of money, or there is a fight." That is the appeal addressed to us from every quarter. Not "we have promised to pay it;" but "if you do not pay, you will have an Indian war."

Mr. CORBETT. Does the Senator pretend to say that with the Indians in Oregon there are no treaty stipulations, and that the same rule does not apply to the Indians in Washington and Idaho as applies to those on this side? The white people went there from this side, and acquired that country, and kept it from going into the hands of Great Britain. They have taken the same ground with the Indians there that the Senator speaks of, and have purchased the rights of the Indians as you have done on this side. So far as California is concerned it may be different; but I speak now particularly of Oregon and Washington and Idaho Territories.

Mr. HOWE. So far as we have treaties there, we meet their obligations just as we do on this side.

Mr. CORBETT. There are treaties with those Indians that I have named, and they were moved upon the reservations in conformity with the treaty. The Government, however, never ratified the treaty, and they have been living there since by virtue of an annual appropriation made for supporting them. Now you refuse to ratify the treaty, and you refuse to make the appropriation to sustain them and keep them on the reservation, and so you will turn them loose. There is one party here opposed to any treaties, and another party opposed to making appropriations unless in cases where there is a treaty, so that it cuts both ways.

Mr. HOWE. I think the Senator is a little mistaken as to the position of the Government. He says we made a treaty with some of these tribes and have refused to ratify it. We made a treaty, and we assigned to them a reservation and agreed to certain expenditures for them. If the Senate refused to ratify that treaty, I do not know the fact. My impression is that the Senate never was asked to ratify it. My impression is the people of Oregon themselves did not want it ratified; but I do not know how the fact is.

Mr. CORBETT. It was made in 1855. I do not know why it has not been ratified; but I understand from the reports that there have been appeals made by each superintendent to have it ratified or some steps taken in the premises.

Mr. HOWE. Does the Senator understand that the Senate has ever refused to ratify it?

Mr. CORBETT. I understand so; but I only have this information from the reports and the constant recommendations of the superintendents.

Mr. POMEROY. It has never been reported to the Senate from the committee.

Mr. CORBETT. It was a treaty made by General Palmer in 1855. I had a printed copy of it here yesterday.

Mr. HOWE. I have no doubt the Senator had a printed copy of the treaty, but that would not show that the Senate ever refused to ratify it unless it so stated on it. My understanding is that the Senate could not have refused to ratify it, because I do understand the Indians have received every advantage which that treaty stipulated to them, with the exception that one portion of the reservation which was set aside for their occupation was recently taken away from them by the people of Oregon. They entered into possession of it, and the President has authorized it to be sold, and in this bill we have made an appropriation to compensate the Indians for it. What objection we could have to ratifying the treaty I cannot conceive, inasmuch as we consented to let them have every advantage that the treaty gave them.

But, Mr. President, I do not suppose these Indians are particularly suffering. The difference between the Senator from Oregon and the committee was this: he asked, I believe, for \$50,000.

Mr. CORBETT. Twenty-five thousand dollars of it only goes to Oregon.

Mr. HOWE. Fifty thousand dollars for Washington and Oregon; and we have appropriated \$20,000.

Mr. CORBETT. For six thousand Indians.

Mr. HOWE. That appropriation may not be sufficient to secure peace; but inasmuch as we have promised no part of it, I should think that if the Indians were clever and were treated cleverly by the people there they would be rather thankful for getting \$20,000 than mad because they did not get \$50,000. If I were in their place I should be thankful for it.

Perhaps I have said more than need be said on this subject, but I did want to rescue the committee from the imputation of having designed any injustice to that portion of the country.

Mr. CORBETT. I wish to say that there was no desire on my part to reflect upon the committee, but I do feel that they do not understand the position of the Indian affairs of that country, the way it is situated, the manner in which the Indians are treated; and it does seem to me that by reducing the appropriations, by cutting down the salaries of the employés to a price at which they cannot be employed, by reducing the appropriations by which peace has been maintained with the Indians, we are taking a step to inaugurate another Indian war upon the Pacific coast.

When you make these reductions you disregard the treaty stipulations with the Indians with whom there are treaties, and there will be a portion of these employés who will be discharged. There will then, of course, be complaint from the Indians that the treaty stipulations have not been lived up to. There is a tribe here now that has come seven thousand miles to make these very complaints, from the fact that the appropriation for their agency was not large enough to support the proper number of employés, and the Department was compelled to combine two employés in one and take the money and apply it to one employé, where the Indians were entitled to two. The committee of conference have cut down the usual appropriations, and the result will be that the Department will have to reduce the force—to discharge a blacksmith or a farmer or a physician provided for by treaty, and the result will be dissatisfaction.

Then the amount that has annually been appropriated to those Indians with whom there are no treaty stipulations has been stricken out entirely with the exception of \$10,000 for three thousand Indians in Oregon. What would that do I should like to know to support those Indians?

I simply make these suggestions. I can do nothing more than protest. I fear it may create a great deal of difficulty, and I wish to relieve myself of the responsibility. I suppose that it is not in order to amend this report of a conference committee; if it were, I should move to amend it.

Mr. FESSENDEN. I hope we shall have a vote on this matter. All this talk is perfectly useless. If the Senators had a little more experience they would know that it is utterly useless on a bill of this kind to protest against the report being adopted. It is only spending time for nothing.

Mr. COLE. I shall detain the Senate but a very few minutes. The Senator from Wisconsin makes complaint that these demands for assistance to the Indian department in California are too importunate, and, to use his strange expression, they are made with tomahawk in hand. The Senator may not be aware of the fact that these Indians are deprived of all means of living except such as are furnished them by the whites, and unless there is some means of supporting them by the whites there must necessarily be disturbance there. The

Indian agents on the reservations in California dare not put arms into the hands of the Indians to go and hunt as they formerly did, because the moment an Indian is found outside of the reservation with a gun he is shot down by the first white man who meets him, and disarmed. The difficulty we have to contend with is that they are not allowed to get their own living in the ordinary way, the way in which they were accustomed to get it in former times. They are not allowed to go up on the streams to catch fish, because if they go off the reservations they are treated in the same harsh manner. This is the reason why perhaps some strong expressions are made use of; and I might now reiterate that difficulties are constant and of daily occurrence in that country, and the whites are suffering by reason of the want of care of the Indians.

I would make a further suggestion before I take my seat, and that is that these economical ebullitions on the part of committees and Congressmen relate too often to small matters, whereas you do not see their application to the larger matters; and to illustrate the statement I make I will point to a particular case in California. We were renting a reservation at Smith river, in the northern portion of the State at a yearly rent, I believe, of about twenty-five hundred dollars in gold. The proposition was made to break up that reservation and remove the Indians to one of the established reservations at Hoopa valley or Round valley, and the smallest amount that could possibly suffice for effecting the removal of six hundred and twenty-five Indians a distance of several hundred miles is \$5,000. That amount on the closest estimate was asked for, but the committee of conference cut it down to \$3,500, and break up the reservation. How is it expected that these Indians can be removed for that small sum of \$3,500 in greenbacks, a distance of several hundred miles, I cannot imagine. If they are taken to the Round valley reservation, where it is desirable they shall be taken, they will have to be embarked upon a steamer and taken to the nearest port on Round valley, and there disembarked. I tell the gentlemen that it cannot be done for that sum, and the present Indian reservation by their bill is broken up, and so some of these Indians must be set afloat again; and if the history of the past in regard to the Indians of that portion of the State were well known it would be appreciated that nothing but difficulty can be expected. These are the Klamath Indians who have heretofore been very hostile, and that have cost you already a large sum in the way of an Indian war.

No, sir; as an offset to this I see every little while something presented to us in the form of a congressional document showing that large sums are due by virtue of treaties running up to millions. Millions are claimed to be due to the shadows of tribes by virtue of treaties, as if the obligations made in the form of innumerable treaties with every little fragment of a tribe of savages was of more consequence than the support of these Indians with whom there have been no treaties. We have not a single treaty with any one of the one hundred or more tribes in California, because we do not regard that as the proper and economical way of getting along with the Indians. We do not ask for any treaties; but we do ask that they shall be so far cared for as to keep them peaceable and quiet.

On the other side of the mountains the Indian service costs only two or three hundred thousand dollars a year. I assert that the whole Indian service, except the department here at Washington, on this side of the mountains should not cost more than that, that instead of the two or three millions, we spend, two or three hundred thousand dollars would suffice on this as well as on the other side of the mountains; and there is no reason for expending these large sums except under the pretext—I still adhere to that language—of treaties with shadows of tribes of savages, none of whom are even able to read a treaty. Their

names are signed to the treaty with a cross; they know nothing about them. They are in most instances a mere pretext for robbing the Treasury of the United States. There is great injustice practiced toward these Indians with whom there are no treaties, and who are constantly making disturbance with the white race; I complain that proper provision is not made in that regard.

The PRESIDING OFFICER, (Mr. HARLAN in the chair.) The question is on the motion of the Senator from California, that the report of the conference committee, with the bill as amended, be printed.

The motion was not agreed to.

The PRESIDING OFFICER. The question recurs on concurring in the report of the committee of conference.

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments.

The message also announced that the House had passed a bill (H. R. No. 1444) changing the ports of entry from Plymouth to Edenton, in North Carolina, and Port Royal to Beaufort, in South Carolina, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 1227) granting a pension to Martha Ann Wallace;

A bill (H. R. No. 1837) granting an increase of pension to Frances T. Richardson, widow of the late Major General Israel B. Richardson;

A joint resolution (S. R. No. 164) for the restoration of Commander Aaron K. Hughes, United States Navy, to the active list from the retired list;

A joint resolution (H. R. No. 243) to admit free of duty certain statuary; and

A joint resolution (H. R. No. 354) admitting steam plows free of duty for one year from June 30, 1868.

LEAVE OF ABSENCE.

Mr. WILLEY. I move that leave of absence for the residue of the session be granted to the Senator from North Carolina, [Mr. POOL.] He is compelled to leave the city.

The motion was agreed to.

HOUSE BILL REFERRED.

The bill (H. R. No. 1444) changing the ports of entry from Plymouth to Edenton, in North Carolina, and Port Royal to Beaufort, in South Carolina, was read twice by its title, and referred to the Committee on Commerce.

EXECUTIVE SESSION.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of executive business.

Mr. SUMNER. I hope the Senator will give way long enough to enable me to make a report.

Mr. FESSENDEN. That will only make further debate.

Mr. CONNESS. Mr. President—

The PRESIDING OFFICER. The motion is not debatable.

Mr. CONNESS. I am aware of that, but upon this motion I call for the yeas and nays; and I wish to be permitted to suggest to the Senate that if they will give me fifteen minutes I think we can pass the bill which I have in charge and get rid of it, and I am exceedingly anxious that that shall be done. I hope it will be done. I do not think anybody will debate the bill further. We can act on the amendments and pass it, and let it go to the other

House in such shape as may be satisfactory to the Senate.

Mr. FESSENDEN. I stated this morning the reason why I thought we ought to proceed to the consideration of executive business, and gave notice that I should make the motion at two o'clock. The debate on the conference report upon the Indian appropriation bill has prevented it. The honorable Senator's bill was in order at one o'clock, but he chose to give way to pension bills.

Mr. CONNESS. The Senator knows I could not help it.

Mr. FESSENDEN. The Senator gave way, and those pension bills took up half an hour. Under these circumstances I do not think we ought now to launch again into the debate on the Senator's bill.

Mr. CONNESS. We do not propose to debate it. Just let us vote.

Mr. FESSENDEN. That cannot be done, because I know gentlemen will speak on it.

Mr. CONNESS. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. I desire before the question is taken on this motion to submit a proposition relative to adjournment.

Mr. FESSENDEN. Not now. After we go into executive session the doors can be opened for that purpose if the Senate choose.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maine, that the Senate now proceed to the consideration of executive business.

The question being taken by yeas and nays, resulted—yeas 25, nays 24; as follows:

YEAS—Messrs. Conkling, Davis, Doolittle, Edmunds, Ferry, Fessenden, Fowler, Frilinghuyson, Harlan, Harris, Henderson, Hendricks, McCreery, Morgan, Morrill of Vermont, Norton, Rice, Sherman, Sprague, Sumner, Trumbull, Van Winkle, Vickers, Whyte, and Wiley—25.

NAYS—Messrs. Buckalew, Cattell, Chandler, Cole, Connors, Corbett, Drake, Howard, Howe, Kellogg, McDonald, Morrill of Maine, Morton, Nye, Osborn, Pomeroy, Pool, Ross, Stewart, Tipton, Wade, Williams, Wilson, and Yates—24.

ABSENT—Messrs. Abbott, Anthony, Bayard, Cameron, Oranin, Dixon, Grimes, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Saulsbury, Thayer, and Welch—13.

The Senate accordingly proceeded to the consideration of executive business. After a few minutes spent in executive session the doors were reopened.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river.

FINAL ADJOURNMENT.

Mr. SHERMAN. I move to take up the resolution of the House fixing a day for the final adjournment.

The motion was agreed to; and the Senate proceeded to consider the following resolution received from the House of Representatives on the 30th of June last:

Resolved, (the Senate concurring.) That the President *pro tempore* of the Senate and the Speaker of the House of Representatives adjourn their respective Houses without day on Wednesday, the 15th of July next, at noon.

Mr. SHERMAN. I will state the reason why I have called up this resolution and desire to have action upon it. A rule of the House of Representatives authorizes a motion to suspend the rules for ten days before an adjournment, but as no time has been fixed for an adjournment, as is usually done long before the adjournment, they are embarrassed in getting at the kind of business that they want to dispose of, and therefore it is absolutely necessary that the time should be fixed or be within their power. Therefore, as I think we can dispose of all the business necessary by Thursday, I move to amend the resolution by striking out "Wednesday, the 15th of July," and inserting "Thursday, the 23d of July."

Mr. FESSENDEN. I think the Senator had better fix Friday.

Mr. CONNESS. I think we had better name Monday.

Mr. SHERMAN. That is for Senators to say.

Mr. FESSENDEN. We are so much embarrassed with treaties and other things in executive session that it will be almost impossible to get through by Thursday. However, it may be done. I think we may accomplish it by Friday.

Mr. SHERMAN. I have not the slightest care about it. If Friday is the general sentiment of the Senate I am willing to accept that.

Mr. WILLIAMS and Mr. EDMUNDS. Let us compromise on Friday.

Mr. SHERMAN. Very well; I modify my motion and say "Friday, the 24th of July."

Mr. CONNESS. Unless the Senate wish to be summoned to meet again in executive session I think they had better not fix Friday.

Mr. EDMUNDS. We may be summoned and not come.

Mr. CONNESS. If the President issues his proclamation convening us, every Senator who obeys his oath and his duty will be here. There is business enough to last until Monday. I would say Saturday rather than Friday; but Monday would be a better day on which to adjourn. The President has an opportunity to examine bills; we shall not be so crowded; the work will be better done. There is a great deal of business remaining undone still, and there is a good deal of executive business. We have passed over a great many names. The President will continue to send them in. To my knowledge there are a great many vacant places in the State I represent, for which no nominations have been made. In the case of vacant post offices the Postmaster General will exercise his power under the law of appointing special agents to take charge of them, and we shall be in a bad condition. I move to amend the motion of the Senator from Ohio by substituting Monday next, the 27th day of July. I think if we can finish up our business at that time we shall do well. If we attempt to adjourn before that time I think it is exceedingly doubtful whether we shall not get a very much longer session.

Mr. SHERMAN. I believe that every appropriation bill is now out of the way. I am so informed by the chairman of the Committee on Appropriations. The deficiency bill is now in conference, and will be agreed upon in a short time. I do not know that there is a single measure of general importance that has not been acted upon. We can dispose of the executive business, in my judgment, in four hours.

Mr. ANTHONY. There is one very important measure pending, I think, and that is the Alaska appropriation. I should feel very much mortified if that should be lost.

Mr. RAMSEY. I wish to say on this subject of adjournment, that every Senator knows that within the last ten days or two weeks of the session the Committee on Finance come in from day to day and monopolize all the hours of the day and drive out every other kind of business, and then as soon as they get through with their measures they tell us all the business is disposed of, and we are ready to adjourn at once.

Mr. POMEROY. There is no doubt that we have the power to adjourn to-morrow; but if we expect to complete the public business, we shall not be able to adjourn.

Mr. CONKLING. What is the "public business?" allow me to ask.

Mr. POMEROY. One of the most important things, in my mind, is to be sure that we make a law out of the bill that passed the Senate last night. There is not a more important measure to secure the restoration of the States and to preserve peace and order in the South than that measure. You may run off and leave it in the hands of the Executive if you choose.

Mr. CONKLING. The apprehension of the

Senator seems to be that the President may veto that bill, or that he may not return it in time. Is that it?

Mr. POMEROY. The Senator can draw his own conclusions. We have always found that it took ten days on any measure of that character.

Mr. CONKLING. I only inquire if that is it. If that is it it is answered entirely, to my mind, by this consideration: if we fix an hour of adjournment and there is an important bill that has not come back, all we need to do is that which has been done so repeatedly, even during my brief experience here, to extend for a short time the session, or if need be rescind the resolution. There is no difficulty about that in the world.

Mr. POMEROY. The next point I desire to make is this: after passing that measure, which I consider of the greatest importance of any we now have pending, the newspapers have spoken of a treaty with China. I should like to know if Senators intend to adjourn without confirming that?

Mr. SHERMAN. We can confirm that in five minutes.

Mr. CONNESS. No, sir; you cannot.

Mr. POMEROY. You cannot confirm it in three days, and begin it to-day, if Senators make the speeches they design to make upon it.

Mr. WILLIAMS. There is no necessity of confirming it.

Mr. POMEROY. Yesterday was spent on a treaty that everybody understands, and everybody knows what the executive session is for to-day. You may conclude the legislative business in ten days, but if you adjourn before that we shall be certain to have an executive session.

Mr. FESSENDEN. I think it is important to finish the business. Whether we do finish it or not will depend upon the wishes and inclinations of gentlemen of the Senate. If it is the determination of anybody, after we have fixed a day, to talk against time for the sake of defeating anything, of course we shall not get through the business. I cannot presume that that is the intention. We have got two treaties. They need not necessarily take up much time. We have got some Indian treaties beside, I suppose, which will not take up a great deal of time.

Mr. STEWART. They can go over.

Mr. HENDERSON. No; they cannot.

Mr. FESSENDEN. Some, perhaps, may be put by, and some not. Then we have the nominations, which necessarily take very little time. Therefore, if we are disposed to do the business, we can do it in a very short period. There is nothing left that is absolutely requisite. Senators need not say much about the appropriation bills, because those bills are necessary in order that the Government should go on. By common consent they are considered as the bills which take precedence. They have been disposed of substantially. Everything of that sort, except the little bill which was passed this morning is substantially out of the way, and that will require very little time.

It is quite manifest that we never can close this session until we fix a day for closing it. When we do we work with reference to the time that is left us and what we have to do, and the Senate is generally disposed to take up that which is indispensable first, and then, if there is any time left, to devote it to what they deem the next most important business. Now, I take it that what are indispensable are the appropriation bills, which are pretty much disposed of, and the executive business, which we want to dispose of for our own convenience. It may be that we shall not get through the whole of it. That will depend entirely upon Senators, and whether the President is disposed to let us go through; but the business that is on the Calendar of an executive character I suppose could be disposed of in a couple of hours if we set ourselves to work to do it. But if Senators are determined to push matters of rather a private character to

the exclusion of that kind of business of course we cannot get through; and that will be the question for the Senate to decide.

Mr. CONNESS. What does the Senator mean by "matters of a private character?"

Mr. FESSENDEN. Substantially of a private character—pension bills, for instance, such as we had up to-day.

Mr. CONNESS. They are public.

Mr. FESSENDEN. Well, everything is public in our sense.

Mr. ANTHONY. Railroad grants?

Mr. FESSENDEN. Yes, railroad grants and things of that sort. They are all public in one sense and private in another sense. I mean that they are not precisely that kind of business which it is indispensable to the welfare of the Republic between the time that can elapse between now and the next session of Congress shall be passed at this session; that is all. If Senators desire that everything that any one Senator feels an interest in shall be disposed of at this session instead of going over to the next, when it will be in order, all we have got to do is to sit straight along and not adjourn at all. That is the result inevitably; but that has never been considered the mode in which business was accomplished here, and we have necessarily to leave at the end of the long session a great deal of business to go over to the short session. And when we came to a point like this, having sat now until the 21st day of July, and being obliged to remain here a few days longer, and to meet again in so short a period, I think the majority of the Senate will be disposed to take up that business which is indispensable, do it, and adjourn, and to fix a day with reference to that; and that day may be fixed. If it become necessary, as my friend from New York said, for any particular reason to go over for a day or two longer, so be it. I have no objection to inserting Monday, as the honorable Senator from California suggests, but I do not think it is necessary.

Mr. CONNESS. I wish to say, if the honorable Senator will permit me, that there is not any Senator here who is more anxious to get away than I am; but when the Senator speaks of private legislation I do not know that he means to class the bill I have been urging upon the attention of the Senate as private legislation.

Mr. FESSENDEN. What bill does the Senator refer to?

Mr. CONNESS. The bill for the protection of American citizens abroad.

Mr. FESSENDEN. No; I do not think that is a private bill.

Mr. CONNESS. It is known that that bill is yet unacted upon and it must go back to the other House.

Mr. FESSENDEN. That is an important bill of a public character; but I do not think the world will fall if it is not passed.

Mr. CONNESS. I agree with the Senator; nor would it fall if he and I were dead and buried.

Mr. FESSENDEN. I do not think it would.

Mr. CONNESS. But still we had both better live our time out.

Mr. FESSENDEN. In order to live our time out, we had better be thinking of the day of adjournment. [Laughter.] It is with reference to that very thing that we should fix it, and fix it at some reasonable time.

Mr. MORRILL, of Maine. I think now it is rendered entirely probable that we can dispose of our public business and adjourn on Friday. I think there is an advantage in fixing Friday, even if it were probable that we should not adjourn until Monday, because if the day is fixed on Friday we shall all work up to that time; and that will be particularly the case with the President. Some bills may go to the President about which he may want some time for consideration, but if Congress indicate a desire to get away on Friday, he will work to that end; so that both branches working to that end, and the President having notice that we desire to get away on Friday, it may facilitate the dispatch of some public business.

Therefore I hope we shall agree upon that day, even though it were probable that we should be obliged on Friday to extend it to Monday, and there will be no inconvenience in doing it.

Mr. DRAKE. I do not see, for one, how the Senate can consent to fix any time for adjournment until the bill has become a law of which the Senator from Kansas spoke. In my opinion, if we leave that bill unacted on, fail to see that it is a law, it is just a question of giving up the loyal men of the South to rebel domination in the coming election and thereafter. I do not wish to stay here any more than any one else does, but I wish to stay here until we establish the work we have done or put it in the way of being established. I cannot consent, for one, to fix any day of adjournment until we know what is to become of the bill that we passed last night.

Mr. HOWARD. I concur entirely with the Senator from Missouri. I look upon the bill to which he has referred as one of the utmost importance, and I think that the peace of the country, especially of the southern States depends in a very great degree upon that bill becoming a law, and I think Congress ought not by an adjournment to enable Mr. Johnson to put that bill in his pocket, and thus suppress it forever. I look upon it as perhaps, in a certain sense, the most important bill that we have passed this session; and for one I cannot consent to the adjournment of Congress until it is certain that that bill has become a law. I have no doubt that Mr. Johnson will veto that bill for various reasons. Judging from the veto which he sent us yesterday, it is morally certain that he will veto it.

Mr. EDMUNDS. He will send it right back.

Mr. DRAKE. How do you know?

Mr. EDMUNDS. Because his friends say he will.

Mr. HOWARD. I have no sort of confidence in the assurances as to the conduct of Mr. Johnson that we derive from his so-called friends. He will take the full ten days to consider that bill as is his constitutional right. He will exhaust the whole of the time. Suppose that bill is passed by the House of Representatives to-day and delivered to him to-day, which possibly may be the case; I do not know; he would have all the rest of this week, and he would have every week day during the next week, including a week from next Saturday to consider it, and he would not be obliged to send it into Congress until the following Monday, which would be the 3d of August. I think it would be running great hazard to leave the peace of the country in so precarious a condition as we should if we should go away leaving that bill in its present condition.

Mr. HENDRICKS. Mr. President, I shall vote for the earliest day of adjournment, and one desire that I have would be, if possible, to defeat the bill passed yesterday referred to by the Senator from Kansas and the Senator from Michigan; and I think it is the duty of the President, if possible, to defeat it by any constitutional means within his power. I think that bill can promote no good to this country. I think pending a presidential election of so exciting a character as we are likely to have, it is an element of great danger to the peace and quiet of the country. It is known very well that there is a desire for the reduction of the Army. No Senator desires it more earnestly than myself. When there is a public measure of such importance as the reduction of the Army, the reduction, if possible, somewhat of the enormous expenses of the military institutions of the country, it is not right in my judgment to tack upon it a proposition so dangerous to the public peace.

I know that there is no occasion for the distribution of arms in the State of Indiana; my colleague must know that; and I believe that I know that there is no occasion for the distribution of arms in any State of the North. We are in a state of peace and quiet and harmony there so far as I know, except to the extent that the passions of the people are excited by the pend-

ing presidential contest, and those passions ought not to be increased by placing in the hands of any party of the people the public arms.

In the South, so far as it has been possible to do so, the legislation of this country has arrayed politically the white man against the black man. Now, by this measure it is proposed—I will not say it is the purpose, but it is a sure consequence of the measure—to array with military force and military power the black race against the white race. I have heard these statements about the murdering of freedmen in the southern States until they have become disgusting to me. I have information which justifies my judgment in disregarding all such rumors and reports. I do not believe a word of them. That there are disturbances in that section of the country, as there are in the North, I have no doubt. We have murderers in the North. We have public disturbances sometimes in the North. So they will occur in the South. They are always likely to occur in a country where public affairs are under the control of the people, and public passion is likely to be excited by the controversies for the control of the public judgment.

Now, sir, you propose to place in these States of the South this large amount of public arms; for what purpose? You say for the purpose of defense at the election. I say for the purpose—I will not use the word "purpose"—but to result in placing the election in these States as far as possible under the control of a military power; that we are to abandon the American idea that the intelligence of the people is to control the popular elections, and we are to resort to the worst examples that history furnishes us of controlling a popular election by military power. In neither North or South is this right.

Your presidential candidate closes his letter of acceptance by saying "let us have peace," and every heart in the land says "let us have peace;" but does any Senator believe that peace is promoted by arming one political party against the other party in a state of public sentiment such as we have at this time? In your bill you have provided that these arms are to fall into the hands of only one class of men, a class whom you denominate as "loyal;" and that simply means this much and no more: the men who support your partisan cause. The term "loyalty" in the southern States no longer means that class of white people or colored people, if you please, who, during the struggle and the controversy of arms for five years stood by the cause of the Union. It does not mean that class of men—

Mr. NYE. Will the honorable Senator allow me to ask him a question?

Mr. HENDRICKS. It would be much more agreeable if I were allowed to finish the statement of an idea before the question is asked.

By your legislation you have relieved from disability within the last month, by the hundreds men who participated in the rebellion, men who agitated it; some who left the Halls of Congress to go into secession, and others who in State convention and in State Legislature demanded to take their States out. You have clothed with loyalty by act of Congress men who rallied the southern young men under the banner of the confederate government, men who by speech and every power that they could command called out the young men of the South to fight in the cause against the Government. You have clothed with loyalty men who went with bloody hands through this war. It is no longer a definition of "loyalty" in the southern States, according to partisan language, that men even refrained from aiding the cause of the rebellion. You have added to the list those whom Congress has seen fit to pardon. They now become a portion of the "loyalty" of the southern States, and they, the men who used arms to shoot northern soldiers for four years, are to be armed by an act of Congress that they may control the popular election next fall.

So far as the party to which I belong is concerned, all that we ask, North and South, is that this great question shall be settled by the people, the men of every section coming to the polls according to law and being governed by their judgments; but do you suppose that permanently you can establish a political power in this country by arming one party against another? Does any man desire it? I say to you that this is a dangerous question.

When the Senator from Michigan, in debate, says, "if the Democracy want more war, let them have it," what sentiment expressed by any Democrat justifies the Senator in that remark? The Senator invites war, not by word, not by letter, but by arming a political party at the cost of the Government; by placing in the hands of those whom you denominate "loyal" the power by force to suppress the judgment of those who differ with them, and it may be to carry it to the most dangerous extremes at this time. For one, I want no war. For one, I honestly want peace, North, South, East, and West. I believe that in the American people there is sufficient intelligence and patriotism to enable us to work off according to the spirit of our institutions this question that is in dispute between us; that we need no strife; that we need no further bloodshed; that there ought to be no arms brought to the precincts where men cast the ballot; that military forces ought to be kept away and men allowed to come up and cast their ballots according to their judgments and their consciences.

As a matter of pretense and policy and excuse this bill proposes to distribute arms among the northern States. We do not need them. They are not wanted. They are not asked, so far as I have been informed, by a single Governor of a northern State. No Legislature of a northern State, so far as I have observed, have asked this thing at your hands. Then why do you thrust guns into the hands of the people of the North? What for? Who is to be killed? What bloody strife is to be carried on just now pending a presidential election, for which you must arm a portion of the people? In the State of Indiana you want to place arms in the hands of those whom the Governor may denominate "loyal." The Governor to-day is a candidate for reelection; and it may be so in other States, and he is to decide among the people of that State who shall be armed with these terrible weapons of death.

These arms are to be "serviceable Springfield rifled muskets of caliber fifty-eight, with accouterments and equipments complete," all ready for the work of death, and they are to be distributed according to this bill, as follows:

Maine, seven thousand; New Hampshire, five thousand; Vermont, five thousand; Massachusetts, twelve thousand.

What does Massachusetts want with the arming of twelve regiments of men?

Rhode Island, four thousand; Connecticut, six thousand; New York, thirty-three thousand; New Jersey, seven thousand; Pennsylvania, twenty-six thousand; Delaware, three thousand; Maryland, seven thousand; West Virginia, five thousand; Ohio, twenty-one thousand; Indiana, thirteen thousand; Illinois, fifteen thousand; Michigan, eight thousand; Wisconsin, eight thousand; Iowa, eight thousand; Minnesota, four thousand; Missouri, eleven thousand; Kansas, three thousand; Nebraska, three thousand; Nevada, three thousand; California, five thousand; Oregon, three thousand; Kentucky, eleven thousand; Tennessee, eight thousand.

I am astonished that any Senator should ask to send into the State of Tennessee an additional supply of arms when you are so well-informed of the transactions at the last election in that State. Now, we come to the southern States:

North Carolina, nine thousand; South Carolina, six thousand; Georgia, ten thousand; Florida, three thousand; Alabama, eight thousand; Arkansas, five thousand; and Louisiana, seven thousand; and the same shall be delivered only upon the certificate of the Governor of such State, showing to the satisfaction of the Secretary of War that the regiments and companies for which the same are required are duly organized of loyal citizens of such State.

So that when you send to Indiana your thirteen thousand Springfield rifled muskets, caliber fifty-eight, with all the accouterments

necessary for men to go into the terrible struggle and strike for death, you say to the Governor of Indiana, himself being a candidate, that he may distribute those thirteen thousand arms according to his pleasure among the people of that State; and you expect the people to say that that is just; that that is patriotic and right! They will understand it.

Mr. WILSON. There is no such provision in the bill, and the Senator, if he will read the bill, will see that no such thing as that can be done. The Senator ought to know better than to make such a statement.

Mr. HENDRICKS. I see what this bill says. I see that you say the Secretary of War shall send into the State of Indiana thirteen thousand Springfield rifled muskets, caliber fifty-eight, all ready for bloodshed, and you say in this—

Mr. WILSON. There is no such statement.

Mr. HENDRICKS. Let me finish my sentence. And you say in this bill, "You shall distribute those arms only to loyal men," giving him the judgment of that matter.

Mr. WILSON. The bill states no such thing, and the Senator knows it. The bill states that those arms shall be given for the use of the militia organized into companies and regiments; not to men, not to the people, but to the organized militia of the States.

Mr. HENDRICKS. I say to the Senator from Massachusetts that I express the sentiment of this bill accurately.

Mr. WILSON. You do not.

Mr. HENDRICKS. I do. That they are to be given to the organized militia does not change it. He is to be the judge whether the company of one hundred men who are to have one hundred rifled muskets, to shoot somebody with, are "loyal" men or not. You place in his hands the judgment of that question.

Mr. HOWARD. Who makes him the judge?

Mr. HENDRICKS. This bill makes him the judge.

Mr. HOWARD. No; by no manner of means does it make the Governor the judge. The laws provide for organizing the militia of Indiana, as of every other State, and the arms are to be placed in the hands of those who are organized into the militia by the laws of the State.

Mr. HENDRICKS. Yes, sir; I understand that very well. I understand very well this thing. Companies are organized and regiments are organized according to State laws, but men form themselves into those companies and into those regiments according to their pleasure, and when a company is satisfactory to the Governor of the State he certifies to the Secretary of War that these one hundred men are "loyal" according to his judgment, and then the Secretary of War may distribute the arms, and not till then. If that is not the language of the bill I cannot read anything. I will read it entire:

And the same shall be delivered only upon the certificate of the Governor of such State, showing to the satisfaction of the Secretary of War that the regiments and companies for which the same are required are duly organized of loyal citizens of such State under the laws thereof; and said muskets, accouterments, and equipments shall remain the property of the United States, subject to the control of Congress.

That is the whole of it. To these States are to be distributed these arms just preceding a presidential election when Senators know there ought to be no arms distributed among the people, when every admonition of the past is that we ought to avoid a military power in the presence of a popular election, when it is the true interest of this country to promote peace and harmony and to avoid the possibility of strife and bloodshed. Give us this contest according to the sentiments of the fathers; let the people come to the ballot-box and let them cast their ballots according to their judgments, and whoever is elected, whether it be General Grant or Governor Seymour, it will be satisfactory; but when it is carried by military power, and that military power organized at the expense of all the people, I say to Senators it will not be satisfactory.

Mr. CONNESS. I should like to ask the Senator, if he will permit me, what he and his friends, or the parties on the other side, are going to do about it if it is not satisfactory?

Mr. HENDRICKS. If the Senator asks that in any spirit of bravado I do not choose to answer it.

Mr. CONNESS. The Senator does not, as toward the Senator from Indiana, at all. He respects that Senator too much to do that; but he does it in the spirit of courage and patriotism against any party that dare rise against public authority.

Mr. HENDRICKS. I am against any party that undertakes to control the elections in this country by military power. I am content with an election where the people in the exercise of their rights under the Constitution of the United States and of their States shall come up and elect anybody that they please, whoever he may be. I say that the voice of the people, as expressed at the ballot-box, when they have an opportunity to express their judgment freely and fairly, must stand; but does the Senator from California ask that there shall be such elections in this country as were once held in France, where the understanding was, "It is all right that you shall vote, but you must vote for Napoleon." Is that the sentiment that is to be inaugurated?

Mr. CONNESS. No, Mr. President. I reply to the Senator that I do not accept his statement of the case. The Senator is perverting the case.

Mr. HENDRICKS. I say that this bill is so framed as to put arms in the hands of a particular class of persons in the southern States, and you say that there is excitement and hostility there already. Then you propose to put arms in the hands of an excited people and to arm one class of them against another. Sir, I hope it may be in the power of the President, under the Constitution, to defeat this bill. I cared but little for your bill that was intended to say that Virginia and Mississippi and Texas should not vote. I listened to the veto message of that bill with very little interest; but when it comes to this measure that involves the fortunes of war or peace, I should be guilty if I did not raise my voice in the Senate against the great wrong. Sir, there are three States of this Union omitted here, and only three, the States of Virginia, of Mississippi, and of Texas. Tell the country why you omitted these three States. Why do you omit Virginia and Mississippi and Texas? Because there is to be no election for President there.

Mr. WILSON. Because your Army of the United States, by the terms of the law, are to stay there and preserve the public peace, while they may be removed from these reconstructed States, where there will be no force to punish any outrage that may be perpetrated against the law.

Mr. HENDRICKS. There is no law requiring the removal of the Army from these States.

Mr. WILSON. I thought the Senator had been demanding it.

Mr. HENDRICKS. Mr. President, I shall be happy to see the day when there shall not be an armed soldier anywhere in this country to keep the people down. I believe all you have to do is to allow the people North and South to exercise their patriotic sentiment in support of this country and all will be right. I am more afraid, though, of a militia force, with arms supplied thus, than I am of the regular Army. I would rather risk the regular troops of the country, under the command of General Grant, to control the elections in these States, than this militia, which is to be made up of partisans. There is no proposition, in my judgment, so dangerous as this; and when you tell the people that you adopt the language of General Grant, and say "Let us have peace," and then pass a bill more likely to disturb the peace and bring on broil and strife and bloodshed than any that possibly can be conceived they will not believe you in the first statement that you are for peace.

Mr. PATTERSON, of New Hampshire. I

desire to ask the Senator a question. He knows very well that when the rebel army was disbanded it took home with it its arms. He knows, therefore, that those who were in the rebel army have arms in their hands at the South, while many of the loyal men of the South have no arms. This gives an advantage to the disloyal over the loyal in the coming election. Suppose that arms now are distributed to the organized militia of the South, will it not place them simply in a condition of armed neutrality? His principal objection is that these arms are to be distributed to the loyal. Would he have them distributed to the disloyal?

Mr. HENDRICKS. I would not have them distributed to anybody. I would have this election go on under the benign spirit of peace, and have the people at the ballot-box decide the question who shall be President of the United States, and I do not propose to go into the inquiry how, as between political parties, you shall balance the possession of arms. The Senator from New Hampshire knows that the arms that he speaks of are not in the hands of the people. They were surrendered and placed in arsenals, and are not in the hands of the people.

Mr. DRAKE. Do I understand the honorable Senator to say that the rebel arms were surrendered?

Mr. HENDRICKS. Yes, sir.

Mr. DRAKE. I think the honorable Senator is entirely mistaken about that.

Mr. HENDRICKS. According to the terms of the surrender they were placed in the arsenals, and not retained by the troops.

Mr. DRAKE. So many of them as they succeeded in holding at the time of the surrender; but the great mass of their armies had then dispersed and gone to their homes with their arms in their hands.

Mr. HENDRICKS. Mr. President, the great body of the arms that had been in the hands of the southern soldiers were not in existence at the time of the surrender, in my judgment. At recent elections there has been no use of arms in the southern States; there has been no parade of arms; there has been no trouble; there has been no backing down of one party by the military power of the other. There is nothing in the past which justifies the assumption that you must balance the martial power of the respective parties. Then, sir, this is simply a naked proposition, in view of a coming election, a great and a very important election, that you shall arm one political party against another; and I say that it is instructive that the States of Virginia, Mississippi, and Texas are omitted from the bill. It is not for self-protection; it is to arm men where an election is to take place, and nowhere else.

Mr. President, I conclude what I have to say by expressing the hope that the adjournment may come and that the President will exercise all the power that he possesses to defeat this most dangerous measure to the peace and quiet of the country.

Mr. WILSON and Mr. SHERMAN addressed the Chair.

Mr. WILSON. I desire to say a few words.

Mr. SHERMAN. I was about to propose that we go back into executive session.

Mr. WILSON. No; I desire this debate to go on.

Mr. DRAKE. Let us have this out.

Mr. WILSON. This debate has come up suddenly, and now I desire the floor.

Mr. SHERMAN. Very well.

Mr. WILSON. Mr. President, the Senator from Indiana seems to have lost his temper, and with it to have lost his powers of discrimination, and his fairness, too. He seizes the occasion of a motion to fix the day of adjournment to make a labored misconstruction of the bill passed by the Senate yesterday. If the Senator had been here last evening he probably would have taken part in the debate upon the passage of the bill then. Being absent then, he comes here now and holds up that measure before the country as a measure for arming a

portion of the people against another portion of the people, as arming one political party against another political party to affect the elections this autumn. Sir, that bill has nothing whatever to do with the elections in any State this autumn. No Senator who voted for that bill supposed that one of these muskets will be on the shoulder of a single man on the days of the elections this autumn. I do not know of anybody who thought of it. I say here before God that when I made that proposition I never dreamed that one of these muskets would be at the elections this autumn, or that the proposition had anything to do with the elections. I was surprised, I confess, when the allusion was first made to the elections by the Senator from Kentucky.

Mr. HENDRICKS. Will the Senator allow me to ask him a question?

Mr. WILSON. Certainly.

Mr. HENDRICKS. If these arms are not to be in the control of partisans before the election, why was the amendment of the Senator from Maryland [Mr. VICKERS] decisively voted down when he proposed that the distribution should not take place until after the election?

Mr. WILSON. I will tell the Senator why it is proposed to put these arms into the hands of the Governors of the States for the better arming of the militia. We propose to reduce our Army from fifty-three thousand to thirty thousand men. There are stationed in the rebel States nineteen thousand men, including about five thousand on the frontiers in Texas. There are only fourteen thousand men stationed in nine of the States lately in rebellion. We propose to reduce the whole Army more than twenty thousand men. We expect as the States are reconstructed that most of the military forces will be withdrawn from them, with the exception of the number necessary to hold the forts and fortifications and military points in those States. In fact, as the Senator from New York suggests to me, the reconstruction laws require the withdrawal of the troops when the States are reconstructed. These States have just been organized. Their Legislatures are in session. It is expected that they will provide for the organization of some militia forces for the purpose of maintaining the authority of the laws of those States. They have a right so to do, and it is their duty to do so in order to maintain the authority of the Government and the public peace.

Now, what is the proposition which the Senator has assailed so fiercely? It is in perfect harmony with all our history from the beginning of the Government to the present time. We have for two generations made annual distributions of arms among the States to arm the militia. These new State governments in the South propose to organize militia forces as these forces exist in the loyal States, to maintain order, law, and peace. Our proposition is simply to give the Secretary of War authority, on the requisition of the Governor of a State who can show that he has organized regiments and companies, to furnish as many thousands of arms as the State has electors for President. The Governor puts the arms into the hands of the militia of the State organized according to law. That is the proposition and all there is about it. The laws may be violated, set at defiance by lawless men too strong to be put down by the civil authority. Yes, sir, before their militia is organized there may be violations of law which will require armed forces to aid in suppressing. If they organize a militia, and that militia is well armed, the fact that such a force is embodied in the State will tend to preserve the public peace. If the new State governments are weak, that weakness invites disorder; if those governments are strong, that strength assures order. I say upon my conscience that this proposition to aid in arming the militia of the reconstructed States was made in the interests of social order, of public law and peace.

That was the object of the bill. It has no reference whatever to arming one portion of

the people against another, and no reference to the elections. It is not at all likely that on the day of the election, when the people of all parties will go to the polls, one single musket will be shouldered or any attempt made to use one unless there should be a violation of the law by powerful combinations too strong to be put down by the sheriff or constables or the civil authorities. Should there be such violence a militia force would then be called out according to law upon the order of the civil authority, simply as a posse to aid in the enforcement of the laws. That is all there is in this measure, and out of this simple measure for the security of law and order and the protection of the whole people we had last night and we have again to-day passionate denunciations of it.

Sir, the Senator from Indiana talks glibly about what the people want to know, what the people will do, and what the people will not do. Surely the Senator from Indiana should have been instructed by the events of the last seven years to be a little modest in his claims to speak for the American people. The people of the United States have not commissioned the Senator from Indiana nor those with whom he is accustomed to act to utter their sentiments or opinions, nor to announce what they will do or will not do. Claiming to speak in the name of the American people, the assembled Democracy in 1864 pronounced the war for the unity of the Republic a failure. The American people sternly rebuked that presumption. Assuming once again to speak in the name of the American people the Democratic chiefs of every hue in convention assembled pronounced the reconstruction acts that have restored seven rebel States to their practical relations as "usurpation," and as "unconstitutional," "revolutionary," and "void." It may be that the people will again sternly rebuke the leaders of the Democracy for presuming to speak the sentiments of loyal America. The lessons of the last eight years should teach the Senator from Indiana and his political associates greater caution in their assumptions to speak in the name and on behalf of the people.

A stranger listening to the Senator from Indiana could not fail to understand that the Senator was deeply impressed with the conviction that the majority in these Chambers were filled with anxiety concerning the results of the coming presidential election. I assure the Senator from Indiana, and those who act with him here or elsewhere, that I have not during the last twelve months entertained a doubt of the result of the approaching election for Chief Magistrate of the Republic. I took occasion to say in November last, when the political associates of the Senator from Indiana were jubilant over temporary victories, that nearly thirty States would vote for General Grant for President of the United States, and that the Forty-First Congress would have nearly one hundred majority in the House of Representatives to support his administration. I have more than once repeated the prediction then made. I can assure the Senator from Indiana that nothing transpired in the New York convention to shake my faith in this opinion so often expressed.

The Senator from Indiana affects to fear that the people will be overawed by armed forces at the ballot-boxes. He demands the right to vote unawed by armed men. The Senator desires fair play at the polls; so do we. The Senator's friends will have fair play at the polls, and he knows that they will have fair play. Our friends will not have fair play at the polls, and tens of thousands of his friends mean that they shall not have fair play at the polls. Tens and tens of thousands of poor men, houseless and homeless, will go to the election in which they and their race have interests of such transcendent magnitude, under menaces of being driven, they and their wives and children, from their humble cabins, of being dismissed from employment and from the fields they are cultivating on shares. Tens of thou-

sands of these poor laboring men will go to the polls to vote for the security of their own liberties and the enlargement of their own rights and privileges at the peril of personal insults and assaults endangering life itself. Upon the heads of these poor toiling men, emancipated and enfranchised by their country, will be rained down as they approach the ballot-boxes the fiercest storms of scorn, hatred, and wrath. The men who represented the southern States in the convention at New York, assured their political associates that they would carry the reconstructed States. They knew, their political friends knew, that the rebel Democracy can only carry the southern States for their greenback and grayback ticket by menace, intimidation, and violence at the polls. It is the purpose of the boldest of the rebel leaders, and in this they are sustained by many of their northern associates to seize the polls in the South and have the white vote alone cast. At the ratification meeting in New York Wade Hamilton called on his Democratic associates to register an oath that they would place Seymour and Blair in the White House in spite of all the bayonets that could be brought against them, if they received a majority of the white votes, and thousands of northern men who have not forgotten their old servility to their southern chiefs, respond with alacrity to this appeal of the Carolina rebel.

The Senator from Indiana knows too well that it is the purpose of the Democratic party if it shall win power, to undo what Congress has done, to overturn the measures of reconstruction, to strike down the power of the loyal and to put the governments of those States into the keeping of the disloyal. The President refuses to recognize the validity of the reconstruction acts or to sustain the newly reconstructed State governments. The Democracy in national convention assembled pronounced those acts unconstitutional and void. Blair is pledged to execute the will of the people by trampling into dust the usurpations of Congress known as the reconstruction acts. Ex-confederate Governor Vance, of North Carolina, announces at Richmond, that what the confederacy fought for would be won by the election of Seymour and Blair. Wise proclaims that secession is more alive than ever, that he supports the nominees because they would assume military power for the overthrow of the reconstructed governments at the South. The pirate Semmes proclaims at Mobile that he has been a Democrat all his life, before the war, during the war, and since the war, and fought the war on the principles of Democracy; that the issue will again reduce the negro to a subordinate position as the inferior race. Percy Walker, once one of the Representatives of the people, who denounces Grant as a human donkey, and Colfax as a man possessed only of low and persistent cunning, declares that the great national Democratic party has taken up our cause, that Horatio Seymour says the negro cannot rule this country, that Blair says that the white man's government should be restored by the bayonet. Toombs and Cobb and unrepentant rebeldom leap to the support of the Democratic nominees in the hope to win by the ballot what they could not win by the bullet. Pollard is writing of "The Lost Cause Regained." Wade Hampton reminds the men of Baltimore of the time when the sons of Maryland swept across the border and stood side by side with South Carolina in the glorious army of Northern Virginia. Cheers for Davis and Lee and the rebel leaders mingle with the shouts for Seymour and Blair. The Democracy, separated for four years by the bayonets of the boys in blue, rushes together, trampling alike over the graves of three hundred and fifty thousand dead heroes and of the principles for which they fell. But these now exultant and commingling hosts of the Democracy will go down beneath the aroused patriotism and withering scorn of the American people on the 3d of November, and the cause of patriotism, liberty, and justice will triumph under our great leader.

The Senator tells us that we have had here, until they have made his heart sick, stories of the outrages perpetrated upon the loyal men and upon the freedmen in the southern States. Sir, those tales of woe have made the heart of the nation sick, and I should think the heart of the Senator from Indiana would be sick, too; but when he raises doubts about their authenticity it only goes to show that the Senator has, like the men of other days, cast from him the evidence that presses upon him from every quarter of the heavens. I remember in 1855 and 1856 when the plains of Kansas were reddened with blood, when the midnight skies were illumined by the burning dwellings of the actual settlers, when the House of Representatives sent the Senator from Ohio [Mr. SHERMAN] and other members to investigate and report the facts transpiring in that then distant Territory, there were men in the House of Representatives and there were men in the Senate who scoffed and jeered and scouted at all the statements made in regard to the outrages perpetrated upon the settlers of that Territory. But their sneers, their jeers, their denials could not extinguish the truths of history. That committee reported the facts; those facts and other facts have gone into the history of the country, and men read them now and blush for those who perpetrated those crimes and for those who apologized for the perpetrators. During the last three years there have been tens of thousands of wrongs and outrages perpetrated in the States lately in rebellion. Your Freedmen's Bureau office is full of the evidences of them; General Holt's office is full of the evidences of them, enough to make the blood curdle in the veins of every human being. The Senator from West Virginia last night read us a report made in the constitutional convention of Texas showing a condition of affairs in that State which makes an American who loves his country, who respects law and order, hang his head in very shame. Has not the Senator from Indiana heard of the riots at Memphis, of the bloody massacre at New Orleans, where sixty-nine cart-loads of murdered, outraged, and wounded human beings were borne away, and where the city authorities paid for sixty-nine cart-loads of mutilated humanity?

Sir, we not only know these things to be true, but we have striven night and day, by law, by every means within our power, to protect the weak, black and white, to maintain law and order and good government, to instruct the ignorant, to lift up the poor and the lowly, to protect the defenseless and the powerless. In word and in act we have striven with all the means in our power to make the rebel States as safe for life, liberty, and property as the most favored section of our country, and every day we have been met in this Chamber and the other by misrepresentations of our motives and purposes, by denunciations of military power, by talks about despotism, when the whole people in those States—the poor and the lowly, the black and the oppressed—have had more liberty, bad as things were, than they had for years before.

Ah, sir, but the Senator tells us that we have pardoned some rebels, we have pardoned some men whose hands have been red with blood. Yes, sir, we have, and we would pardon the whole of them if they would give us evidence of repentance, if they would manifest a disposition to forget and forgive. But let me say that the men whom we have pardoned are men who were proving by their daily lives and conversation, by all the influence they could exert, that they have given up the rebellion as a lost cause, that they want peace and law and order, and the moral, intellectual, and material development of their section of country. That is what the men we have pardoned and who unite with us want. They do not want any more war; they do not want any more slavery; they do not want any more wrong and outrage; but they are willing to unite with the men who represent the higher and better sentiments of the American people, the men who have saved

this nation, emancipated a race, given rights to the poor and lowly, lifted up the oppressed, and who are striving to make every square rood of the Territory of the United States the home of liberty and peace and order and justice.

Sir, that is what we have been struggling for, and yet by day and by night in the other House and in this Chamber we have been opposed by the men who sympathized with this rebellion, this armed rebellion, this rebellion of the Democratic party. Remember that every drop of loyal blood shed in this war was shed by the apostasy of the Democratic party to the cause of patriotism and liberty. They talk to us of patriotism and liberty! Sir, the history of the last seven years is as black as midnight by the deeds and utterances of men who are ever blurring their Democracy into the ear of the country. They talk of their devotion to human rights, and yet they have fought and voted against every law that has been passed and every deed that has been wrought which tended to strike off fetters from men's limbs, to make men free, and to secure or to guard human rights. Now, because we are striving peacefully and loyally to build up the States that have been in rebellion, to build them up on the basis of liberty and justice to all men, to build them up so that God will bless and Heaven will pour its richest blessings on them, because we are striving to do right, we are held up before the country as attempting to influence the election by putting arms in the hands of a portion of our people. Sir, we have no occasion to resort to menaces. We have something stronger than the two million and a half rifled muskets or the two million and a half of glittering bayonets in the arsenals of the United States. We have justice and truth on our side. We have our grand and glorious history; a history full of deeds of patriotism and liberty and justice and humanity; a record brighter, fairer, purer, clearer, holier than the record of any political party that ever trod the universe. The world knows it; history records it, and the nations accord it while we are living. We have something stronger than bayonets; we have the cause of patriotism. We have behind us that for which the noblest and best of earth have died in the dungeon and on the scaffold and the battlefield, the cause of equal, universal, and impartial liberty. We have the cause of justice, the cause of humanity, and we bear in the western world the cause of Christian civilization. We have with us the hopes and the prayers of all the champions of human liberty throughout the globe. We have with us the utterances of the philosophers, the poets, and the statesmen of all the ages. We have with us the truths embodied in God's Holy Word, and we believe we have with us the blessings of that Being who has carried us through the fire and blood of the last seven years, who has made a mockery of the acts and professions of those who have assailed us on the battle-fields and in the councils of the nation.

Mr. SHERMAN. Mr. President, when I submitted this ordinary motion at this period of the session to provide for an adjournment on a given day, I did it in full faith that Senators on both sides of the Chamber, the House of Representatives, and the President of the United States, would in the usual way enable us to close the business of the session. I presumed that the President of the United States would, according to the established custom, appear here and sign or disapprove any bills that were sent to him, and that members on both sides would confine themselves to the necessary business of this session of Congress, and thus without unnecessary delay or political discussion, we might be able to close this session in the ordinary way on next Friday. And, sir, there is nothing in the condition of the public business that should prevent us from acting upon every bill, action on which is absolutely necessary, by next Friday. All the ordinary appropriation bills which crowd upon the attention of the Senate, are out of the way; nothing is left but a few bills considered of

vital importance, upon which we must have the assent or dissent of the President of the United States. When I submitted the motion, it was in the full faith that the President, although now spoken for here by those who did not speak for him formerly, would either approve or disapprove any bill presented for his consideration. But, sir, I never will press a motion of this kind when a declaration is made here by authority that the President intends to avail himself of a constitutional provision to defeat the will of Congress.

If the President of the United States, according to the threat now made by the Senator from Indiana, will hold our bill in his hands ten days or any indefinite time for the purpose of defeating the action of Congress, then I am willing to take him at his word, and I will stay here by him through summer's heat and through winter's cold, and never leave him until he approves or disapproves every act which the Representatives of the people, and the representatives of the States deem necessary for the public safety. This is not the kind of language to be uttered either in the Senate or in the House. If the President wishes to have us here, let us stay; and if the President will resort to the extraordinary expedient of withholding his action upon a bill which we deem vital to the peace of this country, then I, for one, will not propose an adjournment until every act which we deem necessary for the public safety has received his sanction, or meeting his disapproval, shall have had the action of Congress again.

I do think, however, that the Senator from Indiana went beyond what he was authorized to say, when he stated that the President could and would do, and what he would justify him in doing; but at present, in the face of this threat, I am not disposed to press this motion until I know whether or not the Senator from Indiana speaks in the name of the President of the United States, and for him, or merely indulges in partisan declamation.

If the Senator from Indiana had been here last night, I believe he never would have made the speech he has made to-day. I think he was not here when the bill of which he has spoken was debated at great length. The debate was led off by the honorable Senator from Kentucky, and what was the result of it? The bill enacts no new principle; nothing but what is now the law of the land. There is not a word in the section which the Senator has read that is not now in existing law except the word "loyal" is introduced as descriptive of the character of the militia organizations to whom arms are to be furnished. The provisions of law now require every year \$200,000 worth of muskets to be distributed among the States in precisely the manner pointed out in the bill. That is a permanent, standing appropriation, not depending on the annual assent of Congress.

Mr. NYE. And has been since 1808.

Mr. SHERMAN. It has been the permanent and established policy of this Government every year to distribute a certain number of arms among the different States and in the precise proportion provided in this bill. There was a departure from the precedent as it was originally drawn, and the honorable Senator from Rhode Island called attention to it and it was changed so that the section now read here is *in hæc verba* the law of the land. Indiana, if she applies, has a right to demand her share of the arms distributed according to law. This appropriation has stood for years unchallenged. Not only that, it has been considered so vital to arm the people of the United States against insurrection or invasion that it is transferred from the ordinary annual appropriations of Congress to the permanent appropriations which stand and continue year in and year out without change and without regard to the condition of the Treasury. The Governor of Indiana may this day demand Indiana's share of these arms, and so may each of the other States.

The honorable Senator from Massachusetts in opening this matter stated that we were

about to diminish the Army twenty-three thousand men, at a saving of over twenty million dollars a year; that a large portion of the troops would be withdrawn from certain of the insurrectionary States where civil authority had been again established, and he said to us that the loyal civil authorities in those States had no arms, no ammunition, no money, no means of defense. The honorable Senator from West Virginia read a statement showing that in the single State of Texas, where the rebel authorities still control matters, over nine hundred persons had been unlawfully killed in the last three years. In other States the same lawless violence prevails. A statement was made that the loyal people of the southern States had no arms, while the disloyal, those who were not satisfied with the new governments organized by law, have arms and are now murdering and robbing and plundering the people. Why, sir, who was not startled by the terrible case that occurred in the second most populous city of the State of Georgia, where young men in the highest rank of society marched at midnight, some twenty or thirty of them, and killed in cold blood a native Georgian because he was a Radical? and it appears in the testimony given on the trial of the murderers of Mr. Ashburn that the women and the men there said that what these young men did was right, although they committed what God and man in every other portion of the civilized world would pronounce willful and deliberate murder!

With such a state of opinion in the southern States is it not our duty to protect the loyal people there who have accepted the reconstruction acts of Congress, who have reorganized civil governments there? Is it not our duty when we withdraw our Army to enable them to protect themselves, to furnish them money, arms, and munitions of war for their own defense? Sir, there is no danger of these reconstructed governments being guilty of any oppression of the people among them. There is no evidence of any such intention; and if they are armed with the few muskets provided for by this bill they will scarcely be on terms of equality with those who have probably now half a million arms in their hands left as the debris of the war and scattered all over that vast region of country, and still in the possession of those who lately used them in war against the United States.

I am sure that if the Senator from Indiana had been here last night and heard the discussion he would not have objected to the bill. Why, sir, how many arms does it give to any State? Take the most powerful of them all, the State of Georgia; she gets but nine thousand stand of arms. They are to be given to whom? To companies of militia organized into regiments according to law, and that militia cannot be called into action except in case of insurrection or such riotous conduct as would overcome and subvert the officers of the law, and then these reconstructed governments ought to have the power forcibly to put down force and violence.

No increased expenditure is involved. The arms are on hand, two million of them, and this bill distributes among the States one eighth of the supply; and it may as well be understood first as last that the governments of those States now restored to their old places in the Union and controlled by those who are willing to abide by the result of the war will be maintained in spite of the muttered threats of unrepenting rebels or the demands of the Democratic party, which hopes by an alliance with the rebels of the South to regain their lost political power.

Sir, I did not dream when I submitted this motion, when I was looking to the ordinary termination of this session of Congress, that the honorable Senator from Indiana would come here and make a speech partisan in its character, the inevitable tendency of which is to prolong the session and to unjustly excite against Congress the contempt and hatred and indignation of the people of the United States. The speech was out of place and out of time. If he had

been here last night it might have been appropriate on the bill we were then considering, however unjust his reasoning; but now the question is on fixing the day of adjournment. A period of the session has arrived when it is usual for all branches of the Government to work in harmony, and yet he tells us that the President of the United States would be justified, in order to defeat an important legislative measure—one that will save \$20,000,000 a year, admitted to be constitutional and in accordance with the old policy of the Government—to refuse his assent or dissent, and thus, by his delay, to compel us to choose between neglecting a plain public duty or of prolonging the session. I can only say that if this is the game I shall vote for no adjournment until the President's ten days are exhausted on every bill we deem necessary for the public safety. Although quite exhausted by this terrible heat, and anxious to get away, I am not willing to go until I see a spirit on the part of the President of the United States, and those who are his friends here, to close this session in the ordinary way, to give us his sanction or his judgment on our action without delay. Until then I am not disposed to press any question of adjournment. But, sir, I believe the Senator merely sounds a partisan bugle. I believe the President will do what it has been usual to do, give his assent or dissent to any measure that we pass. Such has always been his practice. It was only in that belief, only with that view, that I submitted this motion, and I am now not disposed to withdraw it, but under the circumstances will allow it to stand as it is until to-morrow. I move that the Senate proceed to the consideration of executive business.

Mr. CONNESS. I hope that will not be done yet. We have not time now for an executive session before the recess.

Mr. SHERMAN. Very well. I will give way to the Senator if he wishes to speak.

Mr. CONNESS. Mr. President, I do not rise of course to extend this debate—

Mr. MORRILL, of Maine. I wish to make a report from a committee of conference.

Mr. HENDRICKS. Before this matter passes from the attention of the Senate I wish to make a few remarks in reply to the Senator from Ohio.

Mr. CONNESS. I gave way to the honorable Senator from Maine to make a report. I prefer saying a few words now myself, and a very few.

DEFICIENCY APPROPRIATION BILL.

Mr. MORRILL, of Maine. I desire to make a report from the committee of conference upon the disagreeing votes of the two Houses on the deficiency bill.

The PRESIDENT *pro tempore*. The report will be received and read.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their amendments numbered ten, nineteen, twenty-one, and twenty-two.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered one, two, three, four, five, six, eight, nine, fourteen, sixteen, seventeen, and twenty, and agree to the same.

That the House recede from their disagreement to the seventh amendment of the Senate and agree to the same with an amendment, as follows: at the end of said amendment add the following words: "Provided, That said expenditures shall not be applied to any works not mentioned in the bill making appropriations for repairs, preservation, and completion of certain public works, and for other purposes," which passed the House of Representatives June 30, 1868; and the Senate agree to the same.

That the House recede from their disagreement to the eleventh amendment of the Senate and agree to the same with an amendment, as follows: in lieu of the words stricken out by the Senate insert the following words: "Provided, That the sum shall be in full of all claims against the Government for work done or damages incurred on the Washington aqueduct;" and the Senate agree to the same.

That the House recede from their disagreement to the twelfth amendment of the Senate and agree to the same with an amendment, as follows: At the end of said amendment add the following words: "To be expended under the immediate direction of the officer detailed to act as Superintendent of Public Buildings and Grounds."

That the House recede from their disagreement to the thirteenth amendment of the Senate and agree to the same with an amendment, as follows: strike out all of said amendment and insert in lieu thereof the following:

"Rock Island arsenal:

"For the erection of a bridge to connect Rock Island arsenal with the city of Rock Island, Illinois, \$100,000, said bridge to be constructed and completed for the sum hereby appropriated;" and the Senate agree to the same.

That the House recede from their disagreement to the fifteenth amendment of the Senate, and agree to the same with an amendment as follows: strike out all of said amendment and insert in lieu of said Senate amendment the following words: "ten thousand one hundred and eighty dollars and sixty-three cents: *Provided*, That nothing shall be paid except subject to existing provisions of law, and upon the finding and certificate of the Third Auditor that the same is actually due;" and the Senate agree to the same.

That the House recede from their disagreement to the eighteenth amendment of the Senate, and agree to the same with an amendment as follows: add to said amendment the following: "*Provided*, That no part of the money appropriated for this purpose shall be paid until the accounts for feeding such destitute Indians shall be fully investigated by a commission, to consist of Lieutenant General William T. Sherman, Major General P. H. Sheridan, and Major General C. C. Augur; and the said commission is hereby authorized, for the purpose of such investigation, to call and examine witnesses in this behalf, and only the amount that said commission shall certify to be equitably and justly due shall be paid; and said commission shall sit at Leavenworth, Kansas, and shall have power to appoint a clerk at a salary of five dollars per day for the time actually employed, and the sum of \$1,000 or so much thereof as may be necessary for clerk hire, traveling and incidental expenses of said commission, is hereby appropriated;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-third amendment of the Senate, and agree to the same with an amendment, as follows: in lieu of the word stricken out by said amendment insert the following:

SEC. 3. *And be it further enacted*, That hereafter no contract shall be entered into for the erection, repair, or furnishing of any public building, or for any public improvement whatever which shall bind the Government to pay a larger sum of money than the amount in the Treasury appropriated for the specific purpose; and if any officer of the Government shall knowingly contract for the erection, repair, or furnishing of any public building, or for any public improvement which shall bind the Government to pay a larger amount than the specific sum appropriated for such purpose, such officer shall be deemed guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdiction shall be punished by imprisonment not less than six months nor more than two years, and shall pay a fine of \$2,000;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty-fourth amendment of the Senate, and agree to the same, with amendment, as follows: strike out all of said amendment after the word "dollars" in line fourteen to the end of the amendment; and the Senate agree to the same.

L. M. MORRILL,
ROSCOE CONKLING,
J. R. DOOLITTLE,
Managers on the part of the Senate.
E. B. WASHBURN,
W. H. KELSEY,
Managers on the part of the House.

The report was concurred in.

FINAL ADJOURNMENT.

The PRESIDENT *pro tempore*. The adjournment resolution is before the Senate.

Mr. HENDRICKS. Mr. President, I do not intend at this hour—

Mr. CONNESS. I believe I had the floor.

The PRESIDENT *pro tempore*. No; the Senator from Indiana was recognized by the Chair as entitled to the floor.

Mr. CONNESS. I yielded the floor for the purpose of allowing a report to be made from a conference committee.

Mr. HENDRICKS. I shall occupy but a very few minutes.

Mr. CONNESS. If I am entitled to the floor I desire to go on.

The PRESIDENT *pro tempore*. The rule is that when a Senator yields the floor he loses it at the option of anybody else who gets it, unless he yields for some specific and limited purpose.

Mr. CONNESS. Was not the matter to which I yielded a privileged matter? Now,

will the Chair be so kind as to tell me how I lost the floor?

Mr. HENDRICKS. I will have no sort of controversy about the floor. Of course the Senator can take it.

Mr. CONNESS. Ordinarily, Mr. President, I would make no contest for the floor with the honorable Senator from Indiana, but after listening to the speech that he made I did not feel that the few remaining moments of this day's session, if I was entitled to the floor, should be given to him for the purpose of mere personal explanation. I take it for granted that the speech which he made was deliberately made and for political reasons. I intended to begin by expressing my thanks to the honorable Senator from Ohio for the speech he has made, and the course he has taken in regard to this question of adjournment. I differ a little with my honorable friend from Ohio in doubting that the purpose of the Senator from Indiana, as representing the purpose of the party that he is a member of, and the President of the United States also, does not include offering all the obstructions that can now be offered to the establishment of the public peace.

It is plain to me the messages that we have been receiving from the President of the United States for the last two weeks, the proclamation which he has issued, are of such a character as to justify this conclusion. They are incendiary; they are violative of his public duty; they are a scandal, in my judgment, before the civilized world; and, sir, in place of discussing a question of adjournment at this time, they would justify rather the impeachment of that official by the other House of Congress, and his trial by this, and his expulsion from the place that he fills.

Mr. President, it is not long since he escaped conviction and expulsion from that place by the merest chance in the world. The character of his conduct in connection with these proclamations, the character of the communications that have come from the first minister of his Cabinet, the character of the political convention that he has joined his interests with, its utterances, the class of men that composed it, the letter of one of the candidates of that party, and the emanation of that convention threatening rebellion again in this country, all justify what I say, and it will become in all probability the duty of Congress to stay here until they shall be able by their action to guaranty peace to this nation.

I say to the Senator from Indiana, for one, that the threats he has made here I would meet upon the threshold. Let any party dissatisfied with the result of a popular election again in this country, as they were dissatisfied when Mr. Lincoln was first elected, renew the rebellion, and that rebellion will be fought out in a manner not characterized by the past.

The honorable Senator in discussing the utterance of General Grant in accepting the national nomination for the Presidency quoted him as saying, "Let us have peace." We all reëcho that sentiment and say, "Let us have peace." We want peace; we ask and beg and plead for peace; but we can have peace only upon condition of obedience to law. The President of the United States is amenable to law; but he sets the example here by his communications and his utterances of disorder in the country; and in my humble judgment if we shall adjourn and leave the capital it will not be long before we shall have disorder reëstablished in the country. I hope, sir, that we shall seriously consider the proposition, and I am glad that the question of adjournment is at least temporarily put off.

Mr. HENDRICKS. Mr. President, if it be the pleasure of the Senate to extend the time for taking recess for ten minutes I shall be gratified.

Mr. POMEROY. I hope it will be extended ten minutes.

Mr. CONKLING. I hope not. Under ordinary circumstances I would not object, but now I must object.

Mr. POMEROY. I move that the time be extended ten minutes.

The PRESIDENT *pro tempore*. It is moved and seconded that the time for the recess be extended ten minutes.

The question being put there were on a division—ayes 20, noes 11; not a quorum voting.

Mr. WILLIAMS. I will vote no if it is necessary to make a quorum.

Mr. CONKLING. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. I ask the Senator from Kansas to withdraw the motion if there is any disinclination to allowing me to reply in a few words to the Senator from Ohio.

Mr. POMEROY. Very well, it will come up this evening. I withdraw the motion.

The PRESIDENT *pro tempore*. The Senate, according to order, will now take a recess until half past seven o'clock.

EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments; and

A bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of navigation in the Mississippi river.

CHINA MAIL SERVICE.

Mr. RAMSEY. I move that the Senate take up for consideration Senate joint resolution No. 104. It is very brief, and the Post Office Committee request me to call the early attention of the Senate to it.

The PRESIDENT *pro tempore*. If there be no objection the joint resolution will be taken up.

By unanimous consent, the joint resolution (S. R. No. 104) relating to the ocean mail steamship service between the United States and China authorized by act of Congress, approved February 17, 1865, was considered as in Committee of the Whole. It provides that in the settlement of the quarterly accounts of the Pacific Mail Steamship Company for service performed as contractors for the ocean mail steamship service between the United States and China, authorized by act approved February 17, 1865, the full amount of the mail subsidy of \$500,000 per annum granted by the law and contract shall be paid to the company in quarterly payments during the first three years of the contract term, although the full monthly service required by the contract may not be rendered; but at least two round trips conveying the mails of the United States are hereafter to be performed in each quarter, for which such payment is authorized. The company are in advance of such payments to execute a bond to the Government, with good and sufficient sureties satisfactory to the Postmaster General, conditional that the company will well and faithfully perform the full number of round trips called for by the law and contract; that is to say, that for each monthly trip omitted during the first three years of the contract term, an additional trip, in regular monthly succession, conveying the mails of the United States, shall be performed without compensation immediately after the termination of the contract. The company is also to obligate itself to convey the mails of the United States, without claim for additional compensation, by any steamship or steamships which may, during the continuance of the contract, be placed upon the route for the performance of a more frequent service to and from

Japan and China than the monthly service stipulated by the contract.

The Committee on Post Offices and Post Roads proposed to amend the resolution by striking out in line twenty-four the words "in regular monthly succession," and inserting "beyond those now required by law and contract."

The amendment was agreed to.

The committee also proposed after the word "compensation," in line twenty-seven, to strike out "immediately after the termination of the contract," and insert:

"Within five years from the passage of this act for each of the trips already omitted, and an additional trip conveying said mails shall be performed without compensation for each trip hereafter omitted within three years from the date of each omitted trip."

The amendment was agreed to.

Mr. COLE. I was not in when this joint resolution was called up, and I should like to have the chairman of the committee explain this measure if he has not already done so.

Mr. RAMSEY. I will make the explanation if the honorable Senator desires it. The act of 1865 required this company to make twelve round trips a year, for which they were to get a subsidy of \$500,000. It was impossible for them immediately to make monthly trips, because the vessels were not all prepared. The vessels required are large and expensive; probably the largest that float on any sea in the world. They were compelled to omit two trips a quarter, making eight a year, and of course they were not paid for those trips. The proposition now is, in order to enable them to get along in this great enterprise, to pay them this money on their giving security that they will perform these trips within five years of the omission which has taken place in time past, and within three years of any omission hereafter; and they will in time to come carry a mail on every trip without additional expense to the Government. Probably they will carry a mail semi-monthly and finally weekly, and they are to carry it each time they make a trip. The Committee on Post Offices and Post Roads gave this measure a great deal of attention, and thought the Government would gain very largely by it.

Mr. HARLAN. I desire to ask the chairman of the committee if there is a provision in the joint resolution as amended requiring the company to carry the mails every trip the vessels make?

Mr. RAMSEY. Yes, sir; here it is:

That the said company shall also obligate itself to convey the mails of the United States, without claim for additional compensation, by any steamship or steamships which may, during the continuance of the contract, be placed upon the route for the performance of a more frequent service to and from Japan and China, than the monthly service stipulated by the contract.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The resolution was ordered to be engrossed for a third reading, and was read the third time, and passed.

SYMPATHY FOR CRETE.

Mr. FERRY. I ask the Senate will take up House bill No. 39. It is only seven lines long. It is to authorize the settlement of the accounts of an officer. The time occupied in reading the bill will be all that will be consumed by it.

Mr. MORTON. There are a number of Senators who have little bills that will take but a moment. This evening was set apart for a particular purpose. I do not want to engage in a struggle for the floor, and I am not going to do it. If the bill for which the evening was set apart is to be taken up, well and good; if not, I will not go into a perpetual struggle for the floor.

Mr. HENDRICKS. I believe I have the floor myself. I was entitled to it when the recess was taken.

The PRESIDENT *pro tempore*. This evening was set apart for the consideration of a bill providing for bridges across the Ohio river.

Mr. SUMNER. I wish to be allowed to make a report.

The PRESIDENT *pro tempore*. Thereport will be received if there be no objection.

Mr. SUMNER. I send to the Chair a joint resolution which I am directed to report by the Committee on Foreign Relations.

The joint resolution (S. R. No. 169) appealing to the Turkish Government in behalf of the people of Crete was read twice by its title.

Mr. SUMNER. Mr. President, this joint resolution has the unanimous recommendation of the Committee on Foreign Relations of the Senate. It will cause no debate. I believe every Senator will rejoice to have it adopted. I therefore ask that it may be passed upon now.

Mr. FERRY. I object.

Mr. SUMNER. I hope the Senator will not object.

Mr. FERRY. I endeavored to get up a bill, but objection was made.

Mr. MORTON. I ask the Senate to proceed with Senate bill No. 622.

The PRESIDENT *pro tempore*. That bill is regularly before the Senate.

Mr. SUMNER. The Senator from Connecticut withdraws his objection. I hope, therefore, that the joint resolution which I reported may be acted upon now.

Mr. HENDRICKS. It cannot be.

Mr. SUMNER. It will take only a moment.

Mr. MORTON. There are a number of Senators requesting me to yield, and if I yield to one I must yield to others.

Mr. SUMNER. I hope the Senator will allow the resolution to be read and then voted upon.

Mr. MORTON. It can be passed to-morrow without trouble.

Mr. SUMNER. I beg the Senator's pardon; it may be difficult to get the floor to-morrow. There the resolution is, and I entreat the Senate to act on it.

Mr. HENDRICKS. What is it about?

Mr. SUMNER. It is a resolution from the Committee on Foreign Relations of the Senate with reference to Crete; I know it will have the sympathy of the Senator. I ask that the resolution be proceeded with.

The PRESIDENT *pro tempore*. Is there any objection? The Chair hears none, and the resolution is before the Senate as in Committee of the Whole.

The resolution was read at length, as follows:

Be it resolved, &c., That the people of the United States renew the expression of their sympathy with the suffering people of Crete, to whom they are bound by ties of a common religion, and by the gratitude due to the Greek race, of which the Cretans are a part; that they rejoice to believe that the sufferings of this interesting people may be happily terminated by a policy of forbearance on the part of the Turkish Government, and they hereby declare their earnest hope that the Turkish Government will listen kindly to this representation, and will speedily adopt such generous steps as will secure to Crete the much-desired blessings of peace, and the advantage of autonomic government.

Sec. 2. *And be it further resolved*, That religion, civilization, and humanity require that the existing contest in Crete should be brought to a close, and to accomplish this result the civilized Powers of the world should unite in friendly influence with the Government of Turkey.

Sec. 3. *And be it further resolved*, That it shall be the duty of the President to instruct the minister of the United States at Constantinople to cooperate with the ministers of other Powers in all good offices to terminate the sufferings of the people of Crete; and that it shall be the further duty of the President to communicate a copy of this resolution to the Government of Turkey.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

BRIDGES ACROSS THE OHIO RIVER.

The PRESIDENT *pro tempore*. The bill (S. No. 622) to authorize the construction of bridges across the Ohio river is the business of the evening. That bill is before the Senate as in Committee of the Whole, and the question is on the amendment of the Senator from Kansas [Mr. POMEROY] to the amendment of the committee, proposing to fill the blanks in the first section of the bill.

Mr. VAN WINKLE. Mr. President, I feel, of course, a very strong interest in this bill, as

I have already manifested, and in the amendment that is now proposed. In such a sweltering night as this I do not know that I have either strength of body or strength of mind to make myself understood. I will endeavor to do so, however, briefly.

I stated this morning that an opinion had been insinuated here that this bill, first with its provision for five hundred and two hundred and fifty feet spans, expressed the views of the Committee on Post Offices and Post Roads; second, that the bill itself had their approbation; and thirdly, that the bill was in accordance with the suggestions of General Warren, of the engineer department of the United States. I think that neither of these is true; and I mention it lest the amendment proposed by the Senator from Indiana, or, as he says, by the committee, of which I had no knowledge, may derive some strength from such considerations.

Mr. MORTON. I call the Senator's attention to the fact that he made that statement two or three days ago, and was immediately corrected by the chairman of the committee.

Mr. VAN WINKLE. As to filling the blanks? I am not aware of any correction.

Mr. RAMSEY. What is the statement?

Mr. VAN WINKLE. I say the committee did not authorize the filling of those blanks so far as I know.

Mr. RAMSEY. The Senator is mistaken about that. The bill was reported in the first instance with the blanks, with the understanding that after the bill should be printed it should be recommitted to the committee with a view of filling the blanks. After that I consulted the members of the committee in the way we usually do at the close of the session when there is no time for a formal meeting of the committee, and had authority from the members to report that the blanks should be filled with five hundred feet and two hundred and fifty feet respectively.

Mr. VAN WINKLE. The Senator from Kansas and myself are members of the committee, and we were not consulted. However, sir, I shall not dwell upon that point. When I called on the clerk, to begin with, to know if the bill had been recommitted, he told me it had not been. It was reported on the 16th. That cannot affect the result in any way except in the way I have indicated; it might be supposed that the committee had given it a thorough examination, and had come to the conclusion that five hundred feet span was necessary.

I have said that this bill is not strictly in accordance with the recommendation of General Warren, and therefore does not derive any support from the authority of his great name. His letter to the chairman of the Post Office Committee giving his views on the subject is now before the Senate. The report reached us, I think, while I was speaking on Saturday, or at any rate I saw it as soon as I was done. General Warren does not say that a bridge should be five hundred feet span. In his recommendations as to the mode in which a bill should be framed—and he makes a great many very good suggestions on that point—he says:

"Whatever may be the least limit adopted for the width of the passage-way for boats, I would recommend that the following provisions be required in all cases to secure it."

He does not, therefore, regard a five hundred feet span as indispensable. On the contrary, there is that in his letter, or report, whichever it may be called, which goes to contradict that opinion. He speaks of the Steubenville bridge, of which so much has been said, erected under the law passed in 1862 as we supposed, but he finds that that bridge has not been erected in accordance with the requirements of the law, or rather that additions have been made to it which destroy what the law intended to secure. He says, for instance, that instead of the span being three hundred feet wide, the piers and the abutments have been ripped apart to that extent that the passage under the main channel span has been actually reduced to about two hundred and fifty feet, which is, of course,

altering it very materially. He says also that the bridge is placed very badly, so as not receive the current fairly, and he says if they had gone a mile and a half further down the river an unobjectionable place might have been secured. So that the accidents which are said to have occurred at the Steubenville bridge are not in consequence of that bridge being built on the plan prescribed by law, but of a want of integrity in following it out.

There is another departure, as I think, from General Warren's recommendation in this bill, as to which I have prepared an amendment that I will offer as soon as the pending amendment is disposed of. According to this bill as it reads all the spans clear across the river, except the middle channel span, which is to be five hundred feet, are to be two hundred and fifty feet. There is nothing of that kind in General Warren's letter. The only thing from which it can be supposed that his opinion is favorable to a five hundred feet span bridge is an estimate that he made before for such a bridge. He makes a calculation for a five hundred feet span over the main channel, and then for two spans of three hundred feet each adjoining it on each side, but he leaves the residue to be made, I suppose, at the convenience of the bridge company, as it necessarily must be, because rivers do not divide accurately into certain numbers of feet, and besides that, many of these other spans are in the water-way near the shore, where it is of no consequence as to their width. I propose to amend this bill at least in that particular, and to follow, whatever the figures may be, the plan adopted in the previous law, which requires only one span to be of great width, which is certainly sufficient for the purposes of navigation.

I must, while I am up, notice a little that has been said on the other side.

The Senator from Indiana [Mr. MORTON] is very fond of saying that we are about to build cheap bridges. Why, sir, the bridges to which he refers will cost considerably over half a million dollars apiece. They will cost, I think, almost as much as this estimate here for a bridge of five hundred feet span, which, I believe, cannot be built for less than over a million dollars. We have also had some strange stories about the navigation of the Ohio river. The Senator from Indiana has a faculty which I do not claim to possess, and therefore admire the more; he makes large assertions stand in the place of law and fact. When the last day of this month shall have arrived it will be precisely one third of a century since I went to live on the Ohio river. I have lived within sight of it. The room that I principally inhabit looks out upon it. The Senator has seen many things on the Ohio river that never yet met my eye. He has seen a fleet of coal boats six hundred feet long propelled by a little stern-wheel steamer in the rear which has not the power to steer herself and could not steer a lot of coal boats. He wants to let a fleet of coal boats six hundred feet long propelled by a little stern-wheel steamer go under the bridge. There is no necessity for that; it cannot be at all. That is not the way it is done. They take a very powerful steamer, and always a side-wheel steamer, and put that with one row of boats in front and the rest at the side and behind, and then she has some little command of her fleet; she would have none at all if she were placed at the rear, and especially a stern-wheeler that has but one wheel, and of course cannot steer with it, whereas a side-wheel boat by stopping one wheel and working the other can get her head around sometimes.

I do not know that it is of any use to dilate on this question, but there are other matters in connection with the navigation of the Ohio river stated here as absurd as that was. Gentlemen talk of a fleet of coal boats two hundred and sixty-two feet front and over six hundred feet long. I inquired of Mr. Engineer Roberts on that point. He was very kind and very polite in answering all questions. In his written report he seems to labor most, as do all these engineers, to prove the practicability of

a five hundred feet span, as if that were at least a doubtful matter. I asked him what was the greatest width of these fleets of coal boats, and he told me one hundred and forty feet. That I believe is the width with a steamer and two rows of boats on each side abreast. The body of engineers whose report I alluded to the other day fixed the greatest width at one hundred and twenty-five feet, and as I endeavored then to show three hundred feet passage-way must be enough for a fleet one hundred and forty feet wide to go through. No steamboat has ever stuck at the Steubenville bridge, but if the coal boats stick there with only two hundred and fifty feet passage-way, it is because there is not water enough on those rip-raps, according to General Warren, for anything to pass over their top until there is fifteen feet of water in the river.

There is another mistake in regard to this. Gentlemen talk of the current of the Ohio river. Parkersburg, where I live, is two thousand miles from the mouth of the Mississippi, and it is just five hundred feet above tide-water. Consequently the descent of the water in the Ohio and Mississippi rivers for two thousand miles averages but three inches a mile—not likely to produce a very strong current. The Senator says that the current at the bridge, supposing it to be somewhat increased by the narrowing of the passage, is two and three eighths miles an hour, and he does not pretend that it is any more. He says what I never heard of before, however, that at the height of a freshet the current is six miles per hour. I never before heard it estimated at more than four miles. At any rate, the fact is well known that there is no such current in the river, except at a high freshet, as would render the current any way strong. He says that makes it a source of danger because steamboats have to put on steam in order to get way enough on them to steer. I do not agree with him that that necessarily increases their danger. The fact is that no boats, and especially no coal boats, go on the top of high water. In high water the stream is always higher in the middle than on the sides, and naturally they are thrown off. But they start just as the river begins to fall. That is the case on all these rivers that are navigated by flood boats. When the water begins to fall the boats are started, and then the channel is depressed, and they stick to it without any difficulty whatever.

I have heard nothing that goes to show that there is any peculiar danger in this navigation. If the spans of the bridge are as wide as the natural channel of the river, and that is not contested at a certain stage of water, the spans are certainly wide enough for the accommodation of the boats. These long arrays of six hundred feet that are talked of are very seldom seen, and they are not adapted to the navigation of the river, because the river has sudden bends. There is quite a sharp bend at Parkersburg, and I apprehend that if the Senator's six hundred feet of coal boats with a stern-wheeler behind them come there they would go ashore on the lower side. They cannot want more accommodation at the bridge than they have in the channel of the river.

The Senator speaks of the Ohio having a width of water of eleven hundred feet. That is when the river is full to its banks. He says that this navigation is extended for seven months in the year. Sir, nobody ever saw that for more than seven days at a time. The coal boats, as this engineer told me, draw ten feet, and the steamer draws eight feet, and that is all the water they want. And when there is no more water in the river than is needed for their purpose, I apprehend the channel is not over three hundred feet, unless at very favorable places.

I do not wish to consume time, not seeing any good that is to come from it; but I should be glad if I were able to make the Senate understand this subject as it appears to me. What we offer is to go on according to the law under which the bridges now in process of construc-

tion have been commenced; and if the Steubenville bridge is not built according to the law let it be forced to conform itself to the law; but we wish to go on under the law that was passed in 1862, and under which we have been acting now for nearly two years, in preparing for this work, and be allowed to complete our bridges on that plan. That is what we ask, and I shall offer an amendment to except the bridges above Parkersburg from the operation of this bill. There is nothing in the other provisions of the bill which we should object to. Our channels are straight above and below, and there is nothing in this bill which we should not have anticipated aside from the points I have indicated. In the first place the span is broader than is necessary, and, as was remarked by the Senator from Kansas this morning, here is width, or as the engineers call it, a length of span of five hundred feet which, according to them, is yet an experiment. They have deemed it necessary in all their publications on this subject to spend much effort in arguing that it is practicable, not to use, but to build a bridge with five hundred feet span. They consider that so far a doubtful point that they expand themselves mostly upon that. As was justly observed by the Senator from Kansas, there is nothing in existence by which they can test it. There is no case in this country where any railroad company has built a bridge with five hundred feet span, unless a suspension bridge.

Now, in regard to suspension bridges, I have never seen the one at Niagara; but I know that when an ordinary wagon goes over a suspension bridge it rises right up in front of it; and to tell me that such a bridge is competent to bear railroad trains going over it at any rate of speed which is usual is more than I am inclined to believe at present. The bridge at Wheeling was built by Mr. Ellett, and it has been turned upside down. They say now they can stay such bridges by artificial stays fastened to them and to the shore. The bridge at Wheeling was fastened just in that way; and on one occasion, when a drove of cattle was crossing, something scared them when they were about one third of the way over, and they began going round and round, and piling in, as cattle will, making a perfect stampede, and the bridge was very violently agitated, and these stays of iron snapped like pipe-stems. I do not believe railroad cars can go over a suspension bridge with any speed, with any regard for safety; and I want to know whether, until that experiment has been made in some satisfactory form, the Senate is prepared to vote that railroad trains carrying four or five hundred human beings as passengers are to be put upon a structure ninety feet above the water, and extending from pier to pier five hundred feet without support. That is the question for consideration, but the question is still stronger than that: are you going to pass a bill which provides that this dangerous length shall be the minimum? That is what you are required to say when you are asked to make the span five hundred feet.

There is another thing about this matter, and I saw it treated very gingerly in some of these reports, though I had a conversation with engineer Roberts about it. He spoke of the five hundred feet span. I told him what my views were, and he declared that it would have to be much more weighty in order to obtain the required strength for the increased length. This of course would greatly enhance the cost, making it more than double. I am told, also, that the piers to sustain it at each end must be much larger than those necessary to sustain a three hundred feet span. He got over that by saying that they would not be longer in proportion; but the strength must be in proportion, and if you are going to risk the erection of such a structure I should think you would want something more than lead pencil figures on paper to know how you could make it.

I contend that in the narrow channel of the Ohio river the introduction of two large piers

must necessarily afford more obstruction to the channel than the three ordinary-sized piers would do. In fact, I do not see that anything is to be gained for anybody by this bill, except that perhaps the pilots and steersmen of the coal boats may not have to attend to their business quite as closely as they ought to attend to it. Anybody who sees coal boats stowed up along the Ohio river on almost every shoal will see that they are not very careful. It is no new thing for coal boats to be stuck. I have already described how ill adapted they are for steering, how clumsily they are built, how laboriously they are managed. They were made in that way originally, because when a boat went down the river and delivered her cargo she was sold and broken up. It did not pay at that time to construct regular coal barges or those which would steer with more ease; but it is in the power of those who have engaged in this business, now that they have introduced steamboats for tows, to build fine boats, good boats, to carry their coal, and, as they now do in many cases, to tow them back again, though they have little to bring back except their empty boats.

Now, sir, what I ask of the Senate is that they will take this subject into serious consideration. I ask them to give us a chance, according to the amendment of the Senator from Kansas, to go before the Secretary of War and his board of engineers to ascertain whether the three hundred feet span which we are already preparing to build, by getting ready the iron, the materials for the top, and by the commencement of the piers, will answer. If they are willing to give us the chance of the verdict of a board, composed as that is to be, holding that that is sufficient for the navigation of the river, then they will vote for this amendment of the Senator from Kansas, and let us have three hundred feet as a minimum span, to be increased if that shall be the view of the board of engineers appointed by the Secretary of War. I will also ask to have the other spans altered in accordance with what has been usual, not that every span across the river shall be of equal width, but that an adjoining span to the main-channel span shall be of a width suited to it.

Mr. MORTON. My friend from West Virginia thought proper to say that I had the gift of making round assertions, a gift that he was not possessed of.

Mr. VAN WINKLE. I said the Senator had the gift of making them stand in place of fact and laws.

Mr. MORTON. If the Senator is able to point to a single assertion I have made in regard to these bridges that is not sustained by the evidence I will give him the floor and let him point it out. As an illustration of my round assertions, he said that he had lived—I do not know how many years—overlooking the Ohio river, from which I suppose he would have us infer that he knows all about that river and its commerce, and all about bridging necessary; and he denied the statement I had made that these tows were pushed by stern-wheel steamboats. He said they were pushed by side-wheel steamers of powerful construction. Whether the tows are pushed by side-wheelers or stern-wheelers is not very material to this argument; but I am advised by one who certainly knows more about the river than the Senator does, as it has been his business to navigate it for many years, that he does not know of a single side-wheeled steam tow-boat on the river. They are all stern-wheelers, and powerful boats. This is not an important matter; but when my friend talks about "round assertions" and his room overlooking the Ohio river he ought to know something about it.

Mr. VAN WINKLE. Will the gentleman tell me how his assertion can be true? How does a stern-wheeler steer? Does she steer by the wheel?

Mr. MORTON. I am not a pilot; I do not know how they steer with their wheels; but the Senator said they were side-wheelers and not stern-wheelers. My friend must look a little

sharper when he looks at the river. I am told he is entirely mistaken in what he said as to the character of the boats. But that is not very important.

A word now in regard to another assertion. The Senator from Kansas to-day in his zeal said the bridge at St. Louis had been abandoned. Here I must remark that I have observed the tactics by which this bill has been kept off, first in the committee of which the Senator from Kansas and the Senator from West Virginia are members, for several months, and has been kept off now until the latest moment in the session. By these tactics the morning hour was consumed on Saturday and the morning hour was consumed to-day. I must say that these tactics are something I do not approve of. The Senator from Kansas this morning said that the five hundred feet span at St. Louis had been abandoned and Captain Eads had gone to Europe.

Mr. POMEROY. I did not say the bridge had been abandoned; I said Captain Eads had gone to Europe.

Mr. MORTON. I understood the Senator to say that the bridge had been abandoned. It was of no importance whether Captain Eads was going to Europe or not if the bridge was going on. I understood the Senator to state that the bridge had been abandoned, and that Captain Eads had gone off to Europe. We telegraphed to St. Louis to know if that statement was true, and we have received an answer saying no. The person who sent the dispatch said that he called on the secretary and the vice president of the bridge company, and they said the bridge was going on, and going on well; that Captain Eads was about to sail for Europe for a time on account of his health. That is a very different statement from the Senator's that the bridge had been abandoned.

Mr. POMEROY. I never said it.

Mr. MORTON. I understood the Senator to say that; and if that was not what he meant, it was wholly unimportant to state where Captain Eads was or where he was going.

The Senator from Kansas said in his speech to-day, and he said it the other day, and it has been repeated this evening, that five hundred feet span bridges are experiments; that they have never succeeded; that they are new things, and the Senator from Kansas went on to argue very learnedly, indeed, on the subject. I thought he certainly must be an engineer; he must have read divers old books on the subject of bridge building. He went on to prove this morning that an arch bridge with a five hundred feet span or a long span, made of iron and steel, would fail on account of expansion from heat. He said that it was a new thing which had never been done, and therefore we were advancing upon an untried experiment. That was a pretty "round assertion," but it was not made by myself; it comes from the other side, and I think they are somewhat badly off for facts and arguments when they indulge in statements of that character.

Now, I ask the attention of the Senate while I read the statement of Captain John A. Roebling, the engineer who built the bridge at Niagara, a railroad bridge of eight hundred and fifty-eight feet span. That bridge has been in operation thirteen years, and it is said that a train of cars can be run over that bridge at the rate of thirty miles an hour. They do not do it, for that would be madness over a fearful chasm like that; but that railroad bridge is perhaps the strongest in the world to-day. I have before me the statement of the engineer of that bridge, and the engineer of the Cincinnati bridge, which is ten hundred and fifty-eight feet span, and which, it is estimated, will bear a burden of fifteen thousand tons, and who is now building a bridge at the Highlands across the Hudson with a sixteen hundred feet span, a railroad bridge estimated to sustain a weight of twenty-five thousand tons when it is finished. He is now constructing that bridge, and has furnished plans, I believe, for a bridge of two thousand feet span over the East river at New York. This distinguished engineer,

whose knowledge I take to be quite equal to that of the Senator from Kansas—I should certainly take his opinion as soon as the Senator's—makes a statement, to which I ask the attention of the Senate while I read it:

OFFICE OF JOHN A. ROEBLING.
TRENTON, NEW JERSEY, April 7, 1868.

MY DEAR SIR: In your note of the 4th you request me to state some of the facts relating to the practicability of large span railroad bridges. The following railway bridges, all on leading lines and doing a heavy business, are constructed on different plans, and have all stood the test of time:

The Niagara bridge, in this country, with one clear span of eight hundred and twenty feet.

That is a suspension bridge.

The Steubenville bridge, over the Ohio, three hundred and twenty feet.

That is a truss bridge.

The Britannia bridge, in England, spans of four hundred and sixty feet.

That is the tubular bridge.

The Saltash bridge, over the Tamar, England, spans of four hundred and fifty-five feet.

That is a truss bridge.

The Rhine bridge, at Cullinburg, in Holland, spans of five hundred feet.

That is a truss and arch bridge in combination, and has been in use a number of years.

The Disnaw bridge, over the Weichsel, in Prussia, three hundred and ninety feet.

The Hogat bridge, in Prussia, three hundred and twenty feet.

The Rhine bridge, at Cologne, Prussia, three hundred and twenty feet.

The Rhine bridge, at Coblenz, Prussia, three hundred and twenty feet.

The Rhine bridge, at Mayence, Prussia, three hundred and thirty-two feet.

I might extend this list, but if this number is not sufficient to establish "practicability," no number and no argument will. When I recommended five hundred feet spans I was fully aware that bridge builders and railroad men generally would object, because the erection of large spans certainly involves a little more cost and also a little more skill. But by combining the suspension principle with the truss, as I have often recommended, a considerable saving will be effected. Spans of five hundred feet on this plan will not cost more than ordinary lattice or truss spans of three hundred and fifty feet.

For the Cincinnati and Newport bridge I would recommend a trussed suspension bridge, with a middle span of seven to eight hundred feet, and two half spans of three hundred and fifty to four hundred feet, as the best and also the cheapest in the end. The various stories circulated about the Niagara bridge are all nonsense. That bridge will admit of the highest practicable speed for passing trains, but it would be madness to permit it over that fearful chasm.

Truly yours,
THEODORE COOK, ESQ.

As I said to the Senator from West Virginia the other day, if he was only well informed he would find that he could build his bridge at five hundred feet span, thus saving one pier in the Ohio river, with less expense than his present span. I put this statement of Mr. Roebling, in regard to the existence of these wide-span bridges, against the round assertions of the Senator from Kansas and the Senator from West Virginia that they are mere experiments and that the thing has never been done. The testimony is against the Senators.

Mr. POMEROY. Will the Senator tell me of one in the United States that is not a suspension bridge?

Mr. MORTON. Suppose there are none in the United States, does that make any difference? If these bridges can be built in England and Holland and Germany, can they not be built here? If they are built successfully anywhere, as they have been in numerous instances, the building of them is not an experiment.

But the Senator from Kansas went on to show to-day that you could not build a bridge with five hundred feet span. He said that if you did, as they were going to do at St. Louis, it would have a steel arch, and that the expansion of the steel by the heat would elevate the bridge in the center, and when a train got on it would break. I was told by the Senator from Ohio this evening that when the bill was before Congress some years ago to allow the Steubenville bridge to be built with a span of three hundred feet a learned Senator, quite as learned as the Senator from Kansas, Senator Collamer, of Vermont, a distinguished man, said that an individual who would invest his money in a

bridge of three hundred feet span was a fool; that no such span could be made and stand. Mr. Collamer was a man of good sense, but his ideas were behind the times. Bridge building has made far greater advances since then than before. The Senator's argument that the heat will expand the steel, and, therefore, the bridge must break, is a good deal like the argument that was made when it was first proposed to build iron houses and iron bridges. A certain learned engineer who wrote himself down a quadruped in the Scientific American, published in New York, sent forth an argument that the expansion of the iron would be such as to break the front of the house or to break the bridge, and that no bridge or house could be constructed of iron on account of its expansion. We all know how sound the argument of that engineer was, and I must say that the argument of the Senator from Kansas is undoubtedly borrowed from that learned man's communication.

I was somewhat amused this afternoon by the argument of the Senator from Kansas that the navigation of all these rivers will cease. He says that in a few years there will be no steamboats; there will be no navigation upon any of these rivers; the railroads running by their sides will do all the business, and navigation will be abandoned. Why, Mr. President, that is information; that is news! I should like to ask the Senator from New York whether the Erie canal has been abandoned? With two or three railroads running across the State of New York, I ask if that canal is not doing more business than it has ever done before; if it was not enlarged some four or five years ago at an expense of several million dollars, and if it is not now proposed to enlarge the Erie canal again at an enormous expense? Why? Because the chief freights upon the canal are such that railroads cannot compete with it, and the freights upon the rivers are still cheaper than they are upon canals. Railroads can never compete with canals and canals can never compete with rivers in regard to some transportation. I read the affidavit the other day of a coal dealer in Pittsburgh to show that coal transported by rail to Cincinnati would cost twenty-one and a quarter cents a bushel and transported by the river a cent and a half a bushel; and yet we are told by the learned Senator from Kansas that the river navigation is about to be abandoned and steamboats will soon be a thing of the past!

Now, Mr. President, I want to submit a question or two to the Senators and to the Senate. I want to ask why it is that, with the exception of a small railroad interest, the universal wish of all the people in the Ohio river valley is that five hundred feet shall be the minimum span over the center of the river. I do not know of a newspaper from Pittsburgh to Cairo that is not in favor of the five hundred feet span. If there should happen to be a paper published at Parkersburg, as I presume there is, somewhere in the shadow of my friend's residence overlooking the Ohio river, it is possible that that newspaper may take his view of this question. I do not blame the Senator from West Virginia. He is the president of a little railroad company that has an old charter to construct a bridge across the Ohio river on a narrow span. My friend wants to get his bridge finished, and if it is to come down then it must come down at the public expense; and if a more costly one is to be built it will be built, perhaps, at the public expense. I do not, therefore, blame him for his interest in this question; it is but natural that he should take it.

But I call the attention of the Senate to the fact that the universal feeling of the merchants, manufacturers, business men up and down that valley, is in favor of five hundred feet as the minimum span, and I say that Congress ought to pay some regard to their wishes. I have furnished the evidence here of some sixty of the oldest steamboat pilots on that river, the average experience of each man among them being twenty years, and their testimony is that nothing else than a five hundred feet span will

be safe for navigation. I have presented the testimony of forty-two insurance companies at Cincinnati, and also the testimony of all the insurance companies at Pittsburgh, that putting these narrow spans on the river of only three hundred feet, for the one at Steubenville is three hundred and twenty, will increase the rate of insurance. I have presented the testimony of the coal-dealing interest at Pittsburgh, at Pomeroy, and at Wheeling. Why, sir, I have the testimony of sixty merchants of the principal town in the State where the Senator from West Virginia lives, Wheeling, urging that Congress shall not allow any less bridge to be built than five hundred feet span. I have the testimony here of some three or four hundred of the principal merchants of the city of Cincinnati, and nearly as many in the city of Pittsburgh, to the same effect. I have the names and testimony of several hundred steamboat men, steamboat captains, steamboat owners, business men of every description; and their testimony is uniform that a span of not less than five hundred feet over the center of the river is demanded by the interests of commerce.

And, sir, what is there on the other side? Where is the testimony on the other side? It is the testimony of the two Senators chiefly based upon their own statements, my friend from Kansas arguing upon his scientific knowledge that a five hundred feet span cannot be put up and sustained, and the other arguing from his observations upon the Ohio river from his look-out.

Mr. VAN WINKLE. If the Senator pleases, I should like to remark that I brought the testimony of twenty-five civil engineers who met a few years ago.

Mr. MORTON. Mr. President, I thought I disposed of that little piece of testimony the other day, and I did not suppose that anybody would have the confidence to refer to it again. The Senator did refer to the statement of some engineers, I do not know the number, but it turned out that they were in the interest of a man by the name of Boomer, in Chicago, a wealthy man who had organized a company to build a bridge across the Mississippi river at St. Louis, and he wanted to build it with a three hundred feet span, and he laid his plan before those engineers, and they gave him their opinion upon it. Captain Eads organized a company in the city of St. Louis to build a bridge there, and he proposed one span of five hundred feet and two others of four hundred and ninety-seven feet each. The result has been that Mr. Boomer has abandoned his plan and repudiated it, and joined Captain Eads's company to build a bridge with five hundred feet span. I supposed after that statement it was unnecessary again to refer to what was said by those engineers.

Mr. VAN WINKLE. The gentleman may assume that their report was got up by Mr. Boomer, for aught I know, but Mr. Boomer's name is not in it or near it. I read from the report of this board of engineers to whom plans were submitted for building bridges. One plan was for one five hundred feet span, and another for two of three hundred and eighty-four feet, and they decided that the three hundred and eighty-four feet span was sufficient.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

Mr. MORTON. I hope not.

Mr. ANTHONY. I will give way for a vote, but if debate is to go on I think we had better go into executive session and transact the business we must do.

Mr. MORTON. I do not know of any particular reason for that, or anything to justify it. This bill has been pending for some time, and it is a very important bill. I do not want to take up the time of the Senate a minute unnecessarily. The Senate have an appreciation of the character of this bill, and I trust they will dispose of it.

Mr. ANTHONY. We have had a long

debate about this bill every time it has been before the Senate. Whenever it is taken up we have the same old speeches over and over again. If we can have a vote I am willing to give way; but if we cannot have a vote I insist on my motion. The Senate can do as they choose.

Mr. SUMNER. I have great interest in the business in executive session; but I cannot forget that this evening was set apart for the consideration of the bill of the Senator from Indiana, and I am therefore disposed to proceed with its consideration so long as there is a reasonable chance.

Mr. MORTON. I have but a few more words to say. I simply wish to repeat, and it is a statement that cannot be contradicted, that when you go to the cities all along the line of this river from Cairo up to Pittsburgh, a distance of some twelve hundred miles, you find the feeling uniform. Steamboat men, flatboat men, merchants, pilots, men engaged in every kind of occupation, are denouncing narrow-span bridges, and the whole experience of the navigation of the river is upon one side of this question. There are two railroad companies that want to build narrow-span bridges, because they think they can build them a little cheaper. There is a bridge company at Cincinnati that is resisted by the whole population of that city except the men who have got the stock and want to build a narrow-span bridge. The people of that city are just as much interested in railroads as those of any city in the United States. There is no antagonism to railroads; but they are a unit in sentiment on this question. There should be no antagonism between the railroad interest and the navigating interest. Both can live and both can do well. But it is the universal sentiment of the people in the valley of the Ohio that the existence of these short span bridges will impair the navigation of the river, and that if they are increased in number they will finally destroy it. I am speaking for the inhabitants of the valley of the Ohio.

Mr. TIPTON. Mr. President—

Mr. ANTHONY. Is not my motion in order? I made a motion to go into executive session, and gave way to the Senator from Indiana.

Mr. TIPTON. Have I the floor?

The PRESIDENT *pro tempore*. The Senator from Nebraska is entitled to the floor.

Mr. ANTHONY. I made a motion which was not put.

Mr. TIPTON. I desire to say a very few words in regard to this question.

I understand, Mr. President, that unless it can be proved satisfactorily that the three hundred feet span bridge at Steubenville, Ohio, is an obstruction to the navigation of the river, there is no probability that Congress is likely to establish by law a requirement for a span of five hundred feet. The Senator from Indiana asks the question very emphatically if it is practicable to navigate the river with a bridge in the way with a span of three hundred feet. He asks why it is that men engaged in commerce upon the Ohio demand a span of five hundred feet. Now, I wish to call his attention to the fact that in this report the position is emphatically taken that where there might be one thousand feet or more in width in the channel, any pier would be an obstruction to navigation, though there was one thousand feet of space. The facts are these in regard to the navigation of that river; no interest is supposed to be paramount to the interest of the coal trade; and although no man pretends that a three hundred feet span has ever interfered with ordinary navigation, with legitimate business, by steamboats, the charge is that the transportation of coal by means of barges may be interfered with. But by this report the position is also made clear and distinct that if the location of the bridge at Steubenville had been scientifically made there would have been no trouble. I read the language of the report itself:

"Every defect"—

And I wish Senators especially to pay attention to this. This report says that—

"Every defect which this location has for navigation might have been avoided by a practicable location one and a half mile below."

There are four reasons assigned in this report why that bridge has never been condemned and why that bridge cannot be condemned. In the first place, there is no three hundred feet span about it that is practicable for navigation. By the rip-raps, or the obstructions that have been thrown around the base of the piers for the purpose of warding off the rafts, there are but two hundred and fifty feet left for the purposes of navigation. No shipping merchant of Pittsburgh, therefore, no man has ever yet had the privilege of running his rafts or of navigating there with a channel of three hundred feet. They have access to only two hundred and fifty feet, and you cannot therefore condemn a span of three hundred feet when the obstructions around the base of the piers are such as that they never did use and cannot use this day more than two hundred and fifty feet.

But there is more than that in the location of that bridge. That bridge with its three hundred feet span cannot be used as a three hundred feet span, because this report says it has been located in a bend of the river, and this report says that there is an additional drawback upon the use of three hundred feet under that bridge, and it is that before you approach it, about one mile and a half above, there is such a change in the current by virtue of a curve in the river that you have to reverse the machinery of your steamboat or your paddle wheels as you approach the bridge, and are not in condition when you reach it therefore to pass it with entire safety.

But this report further says that with all the difficulties, with all the drawbacks, with all that results from an improper and unscientific knowledge in the construction of that bridge, it is perfectly safe to pass it in the day, and that it is passed with safety.

It is further admitted in this report in regard to that bridge that if the location had been made in such a manner as that the piers should have been at right angles to the current of the river, the whole space might have been occupied which was clear; but the piers have been placed in such a manner that they do not stand at right angles to the current of the river, and on that account several feet of the space are entirely lost, and cannot be occupied.

I hold, therefore, that the bridge at Steubenville has never been condemned, and it never can be condemned until it stands upon a clear, straight, and unobstructed current with a span of three hundred feet. This report admits if it were put in such a position as that, navigation need not necessarily be impeded by the bridge. Its present location is unfortunate, and therefore there is no such thing as three hundred feet of span for the purposes of navigation, and you cannot condemn the idea of a bridge for that purpose with three hundred feet span until you change the location of that bridge, place it under other circumstances, and give it a scientific location; and that is the language of this report itself. I hold, so far as that is concerned, that the interests of commerce and the interests of travel from east to west by railroad are as great as the interests of the coal trade of the city of Pittsburgh and the shores of the Ohio. That is the only interest against it. The assumption is that with a front of barges which shall measure one hundred and fifty feet there necessarily ought to be a wider place; but there is no necessity whatever that one hundred and fifty feet should be established as the front of barges with the tow-boats in order to establish a rule upon this subject. That coal interest can be carried on, and successfully carried on.

The increase of insurance is another argument. We understand that perfectly well. Insurance companies necessarily will take advantage of whatever may be supposed to be an obstruction, and for every pier that shall be placed in the channel of the Ohio river they

will thank God and take courage and put up their rates of insurance higher. It is a godsend to them that you give them a law which will enable them to have a justifiable pretext, as they will aver, for increasing the rates of insurance, and they will give you a scale of insurance that will go up for every pier that you place in the channel of the Ohio, not necessarily, but because they may have the opportunity under the action of the bill.

I do not pretend to understand this subject scientifically, but I do pretend to understand that you cannot condemn the bridging of the Ohio in that latitude from the fact that an insufficient bridge improperly located, that never gave three hundred feet at all, and never, under any circumstances, more than two hundred feet of space, has been built.

Mr. CAMERON. Mr. President, I hope we shall take the vote at once now, and that there will be no more speaking. The friends of the measure do not desire to speak at all.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. POMEROY. I did not design to occupy any time this evening; but the Senator from Indiana seemed to have forgotten the subject, and discoursed at considerable length in regard to the capacity and qualifications of those who felt it to be proper in the discharge of their public duty to oppose this bill. When a man leaves his subject in order to discourse upon the knowledge and capacity of those who oppose him it only argues that the subject is weak, and that he thinks attention may be diverted from it to something else.

The Senator remarked that the tactics of those who opposed this bill had been peculiar. At first I did not understand that; but now I begin to see through it, and yet I do not understand precisely what tactics were alluded to. I am one of those who embraced every opportunity to investigate and understand this question and make as early a report as could be made. We heard what was presented to us as members of the committee, principally, however, from men engaged in the river traffic and trade, men who were in the habit of going up and down the river, and who regarded any kind of a bridge a great obstruction, and thought that no bridge was consistent with the public interest.

Mr. CAMERON. I beg the Senator from Kansas to allow me to make a motion to go into executive session. Have I his permission?

Mr. POMEROY. If the Senator desires an executive session, very well. I am not in any hurry.

Mr. CAMERON. I move that the Senate proceed to the consideration of executive business.

Mr. POMEROY. I thought the Senator was in favor of the passage of this bill, and on that account I did not suppose he would favor an executive session now.

Mr. DOOLITTLE. If the honorable Senator from Kansas will allow me, I desire to make a suggestion. As this bill has been discussed at considerable length, and I confess for one that my own mind has been thrown in some doubt by the discussion of the question, as I am not an engineer, the suggestion I wish to make is that we amend the bill by striking out all after the enacting clause and inserting:

That the Secretary of War, with the approval of the President, shall appoint a board of scientific engineers, to consist of not less than seven, who shall report to the next session of Congress the proper width of span in railroad bridges across the Ohio river adequate to the wants of navigation and commerce upon that river; and that until Congress shall by law take action upon said report no bridge shall be erected over said river.

Mr. CAMERON. The Senator from Kansas gave way to my motion to go into executive session.

Mr. POMEROY. I yield the floor if the Senator from Pennsylvania desires.

Mr. CAMERON. I make that motion.

Mr. DOOLITTLE. If the Senator will allow me, I will offer my amendment that it may be printed.

Mr. POMEROY. I have no objection to the amendment. I rather think it is a good one.

Mr. DOOLITTLE. I am not engineer enough to determine this question. I should like to see the report of a board of engineers appointed by the Secretary of War, and in the meanwhile suspend building bridges. Then when we have the report we can act at the next session.

Mr. CAMERON. I thought I had the floor.

Mr. DOOLITTLE. No; I have the floor.

The PRESIDENT *pro tempore*. The meeting this evening was expressly to consider this bill, and the Chair had some doubts as to whether the motion of the Senator from Pennsylvania was in order. But as the whole matter is under the control of the Senate, the Chair will put the question on the motion of the Senator from Pennsylvania, that the Senate proceed to the consideration of executive business.

The question being put, there were on a division—ayes 21, noes 16.

Mr. HENDRICKS. I ask for the yeas and nays, and desire to say just one word. My colleague has felt from the first a great deal of interest in this bill. His health does not permit him to remain constantly in the Senate without inconvenience. He has desired to leave and expected this bill to be disposed of to-night, and I think it is due to him to allow him that opportunity. He had not expected to remain until this hour of the session; but representing one of the States that is washed by the Ohio river he has felt it to be his duty to urge this measure upon the attention of the Senate. I take a great deal of interest in seeing this matter come to a vote to-night, on his account, though I have taken no leading part in it myself. I think, if the Senate will reflect a moment, they will allow this bill to come to a vote. If it is not the pleasure of the Senate to pass it, it can be rejected, and that will end it.

Mr. DOOLITTLE. If the honorable Senator will allow me, I will say I voted for an executive session because I thought the honorable Senator himself [Mr. MORRIS] voted for it.

Mr. CONNESS. Oh, no.

Mr. CONKLING. Mr. President, is this motion debatable?

Mr. HENDRICKS. I did not want to debate it, but I asked permission of the Senate to say that much of a personal sort.

Mr. ANTHONY. Although the motion is not debatable, I hope I may be allowed by general consent to say this: if the Senate is prepared to vote upon this bill, there is no difficulty in taking the vote; but if we are going to debate it for a longer time, I think there are other matters that demand the attention of the Senate.

Mr. HENDRICKS. I am sure that if the Senator from Rhode Island wished to go home, and had charge of an important bill, we would all endeavor to gratify him by disposing of it.

Mr. CAMERON. I rise to make a proposition. It is that if Senators will agree to take the vote on this bill I will withdraw my motion for an executive session. What does the Senator from Kansas say to that?

The PRESIDENT *pro tempore*. The Chair cannot understand a conditional motion. Does the Senator from Pennsylvania withdraw the motion he made?

Mr. CAMERON. Yes, sir; I withdraw it.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. POMEROY. Is that the amendment I had the honor of suggesting?

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas to the amendment of the Committee on Post Offices and Post Roads.

Mr. CONNESS. Let it be read.

The CHIEF CLERK. The Committee on Post Offices and Post Roads proposed to fill the blank in line ten of the first section by insert-

ing two hundred and fifty, and the blank in the thirteenth line by inserting five hundred. The Senator from Kansas moves to amend the amendment by inserting two hundred and twenty in place of two hundred and fifty, and three hundred in place of five hundred; so as to make the clause read:

All the spans other than the one over the main low-water channel shall be at least two hundred and twenty feet in length in the clear, and the span covering the main low-water channel of the river shall be of such length as to leave at least three hundred feet of unobstructed passage way for navigation at all stages.

Mr. MORTON. That is the amendment offered by the Senator from Kansas, which I hope will be defeated.

The PRESIDENT *pro tempore*. That is an amendment to the amendment.

Mr. POMEROY. I had not yielded the floor except for a motion to go into executive session. I did not design to make any extended remarks. I was saying that it was a very convenient and interesting thing perhaps for a Senator who has completed what he has to say to have the vote taken before any reply can be made; but it is not the usage of the Senate, and I hope it will not be insisted upon at this moment.

Mr. CAMERON. If the Senator means to allude to me, I have said but very little on this subject. I was stopped this morning by the Senator from Kansas.

Mr. POMEROY. I yielded the floor.

Mr. CAMERON. But I have given way because I did not wish to occupy the whole of the night just here at the close of the session on this measure; and I must beg the Senator's pardon for saying that all that has been said this evening has been very much repetition. It is very warm weather, and I think that we understand the subject just as well now as we shall after we hear a dozen more speeches upon it.

Mr. POMEROY. I propose to say what I choose to say on the subject.

Mr. CAMERON. Certainly the Senator will, and I shall not try to interrupt him unless he will be graceful enough to yield.

Mr. POMEROY. I yield the floor to the Senator if he desires to make any remarks.

Mr. CAMERON. No, sir.

Mr. POMEROY. I am not going to speak against time, nor to worry it out. I propose to reply in a few words as well as I can to the points made by the Senator from Indiana at the time that he referred to the tactics practiced by the members of the committee in opposing this bill, and the statements made by some members of the committee this morning. I will only add here that the statements made this morning, so far as relates to the character and capacity of bridges in this country, have not been disputed by the Senator from Indiana, and cannot be. It was said that there are no existing bridges of the character mentioned in this bill. The Senator insisted that that was a great mistake, a departure from the truth, and yet he failed to point out a single structure; and I challenge contradiction on that subject. This is an experiment. I said there was a suspension bridge at Niagara, but that is not in controversy. The bridges proposed by railroad companies are truss bridges or a combination of the truss bridge. I hold in my hand a letter from Mr. McAlpine, an engineer of such known capacity, integrity, and national reputation, that it will add nothing to him for me to speak of him, in which he says that his attention has been called to a letter in the Globe, read by the honorable Senator from Indiana, [Mr. MORRIS], in which one Mr. Eads states that—

"An arched bridge of one thousand feet span can be constructed at a cost not greatly in excess of three hundred and fifty feet trusses."

Mr. McAlpine replies to this by simply saying:

"No professional engineer will agree with this opinion."

Then he says further:

"Sixteen months since I listened to the discussion of this subject by the most eminent engineers of

England, at the Institution of Civil Engineers in London. Upward of five hundred engineers were present, among them Messrs. Barlow, Hemans, Breton, Fowler, Iaco, Gregory, Vignoles, Hawkshaw, Bidda, Lane, Bromwell, and others, all of whom joined in the discussion. I have before me a printed copy of their remarks.

"A few advocated the suspension system; others contended that it was not applicable to railway purposes; and the general conclusion was that truss or tubular bridges should be used wherever practicable."

"In the present state of knowledge of the profession I doubt whether any engineer of standing and experience would willingly recommend such a plan as Mr. Eads has proposed."

"It would be a severe blow to the railway interest if Congress should prohibit spans of less than five hundred feet. Engineers would be unwilling to recommend and railway companies slow to adopt spans of such length."

I know of no one else but Colonel Eads who proposes the span contained in this bill. If the Senator from Wisconsin had examined this bill throughout he would have seen that it provides for a board of engineers; that the minimum length of three hundred feet is provided for and secured except as there may be an appeal taken to the Secretary of War, in which case he is authorized by the third section of this bill to have it examined by engineers of the engineer corps of the Army, and then, upon their recommendation, he is authorized to make a structure of any capacity, and a span of any width that they may determine to be essential or necessary for the public interests.

Now, Mr. President, there must somewhere be a compromise. The river interest should not be sacrificed, nor should the railroad interest. They must agree upon some plan of compromise. It would be better for the river if there were no bridges; it would be better for the railroads if there were no rivers; but the thing is impossible. We are to have both railroads and rivers, and there must be a compromise somewhere upon some equitable plan. It is proposed in this bill, with my amendment, that the minimum shall be three hundred feet span, and if a case can be made out where the public interest demands it, the Secretary of War may cause it to be made five hundred feet or one thousand feet. There is no limit in that direction; but it shall begin at three hundred feet.

Personally I feel the least interest in this bill of any Senator here. I do not know that I have a friend on earth that has a dime's interest in it; but I regard it as a great blow to the railroad enterprise of this country if, when they come to the Ohio river, they are obliged to stop. This is a bill against bridging the river. It is prohibitory. It is like a tariff that we sometimes put upon articles that prevents importations. By this bill, the minimum, the lowest point of span, is required to be five hundred feet from the mouth to the summit of that river, whether the river is three hundred feet wide or not. It is a death-blow to any enterprise that proposes to bridge the Ohio river. It is requiring what has never been done. It is requiring what the best engineers say is impracticable, not impossible, but impracticable, and not within the reach of expense of ordinary corporations. Will the Senate do it? You will probably incorporate a company from Virginia that will ascend the Alleghenies, that will go west toward the Pacific until it reaches the Ohio valley, and then it must stop. You propose by this legislation to put an obstruction there insurmountable within any ordinary expense. You cannot get an engineer of known national reputation and character who will recommend a bridge of this span. You may find some man who has made his money by building gunboats during the war, and obtained some notoriety in that way, who will recommend it. But convene any board of engineers in this country, and you cannot get a recommendation of a span of this character; and yet you propose in this bill to fix it in unalterable law that the minimum, the very smallest span over the main channel, shall be five hundred feet, a space not required in any river or upon any bridge in this country. In the cases that were read from abroad,

although they were large in the extreme, one tubular bridge being over four hundred feet, yet none of them came up to five hundred.

Mr. MORTON. That is a misprint; four hundred and ninety-two feet is the length of the bridge.

Mr. POMEROY. Four hundred and ninety-two feet. I say not one of them in this country, or anywhere, save the suspension bridge of which I have spoken, has ever been made a success.

Now, I appeal to Senators not to defeat this bill, not to delay it even; but I appeal to them not to fasten in this bill a provision that shall be prohibitory, of such a character that no company can build a bridge. The progress of our commerce and trade and business is westward, and an obstruction through the length of the Ohio river would be a national calamity. It would be felt in every State of this Union. To fix in this law that no span shall be less than five hundred feet is ruinous. Not wishing to throw unnecessary obstructions in the way of the passage of this bill I have only stated the case, and so far as I am concerned I am ready to vote.

Mr. DAVIS. The honorable Senator from Kansas does not state the true question which is involved in this bill. His proposition is that the question that is presented in this bill is whether it be practicable to construct a railroad bridge of five hundred feet in span. That is an illusive presentation of the question. The question is will a bridge of a less span than five hundred feet present a serious obstruction to the navigation of the Ohio river? I understand this proposition to be true, that no bridge of a less span than five hundred feet, or of that span either, ought to be constructed across the Ohio river if it seriously obstructs the navigation of that stream. The extent of that river from Pittsburg to its mouth is nearly eleven hundred miles. The navigation of the Allegheny extends some two hundred miles in addition, and up the Monongahela about the same distance, two hundred miles. Here are fifteen hundred miles of river navigation, the greatest extent of river navigation in a connected line on the continent except the upper and lower Mississippi combined.

Now, Mr. President, here is a great natural highway of commerce that has been used from the first settlement of the country. The capacities of that river and of its navigation are well and best known to one particular class of men, and that class of men are the river navigators themselves. I should prefer their judgment and their conclusions in relation to what sort of a bridge would be or would not be a serious obstruction to the navigation of that stream to those of all the Secretaries of War, and all the engineers, and all the scientific men that live upon the face of the earth. The judgment of those men, many of whom have been navigating that stream for forty and fifty years, who are as familiar with it in the night-time as the day, and who of a moonless and perfectly cloudy night can run the channel of that river with as much certainty as men can now by the aid of all the gas-lights in this Capitol tread its mazes, their judgment in relation to what bridges form obstructions to that stream is entitled to the very highest credit and consideration from the Senate.

There are at least one hundred million bushels of coal that are floated upon the bosom of the river, either from its principal tributaries, the Allegheny and the Monongahela, or from the river below the confluence of those two streams. They pass for six or seven hundred miles along the shores of the State of Kentucky, and they then enter the Mississippi. These coal-boats, barges, &c., deposit their freights all along down to the emporium of the valley of the Mississippi, the city of New Orleans itself. There are forty million bushels of coal that are transported down that river from Pittsburg, and from Pomeroy and the points where coal is loaded below Pittsburg; there are at least sixty millions more bushels, making an aggregate of one hun-

dred million bushels of coal. There is not a bushel of coal that is freighted down the Mississippi river, I suppose, but what floats into it upon the bosom of the Ohio.

What is the cost of this transportation by river, and what would be its cost by rail? The actual cost of two hundred thousand bushels of coal by the river was \$3,000. The actual cost of the same quantity by rail was \$42,500. The increase of the cost of transportation by rail over the cost of transportation by river is about fourteenfold. The one hundred million bushels of coal which, if transported by the river, would amount to \$1,500,000 of freight, if it was transported by rail would amount to \$21,253,000. Such, sir, is the extent of tonnage of a single article of merchandise upon that river, and such the relative cost of that merchandise when transported by rail or by river.

Can a wise legislative assembly, deliberating and passing laws upon the subject of the commerce of this river, in contrast with the commerce of railroads, in view of these striking facts, hesitate for one moment in deciding the proposition whether they will allow a bridge to seriously obstruct the navigation of that river or not? I should suppose not. If the navigation of the river must cease, or the construction of railroad bridges across it must stop, the interests of the country and of all the commerce and business in the valley, not only of the Ohio but of the Mississippi river also, require that bridges shall no longer be constructed across that stream to the serious impediment of its navigation. When the alternative is offered to Congress, shall this river be seriously obstructed in its navigation, or shall there be a break and a suspension in railroads at the river, can any reasonable man hesitate to accept the last proposition?

Sir, I should be willing myself to construct bridges that would slightly impede the navigation of the river, but not materially. I should like myself that there should be no breaks in the line of railroads at the banks of the Ohio. I should like the iron car to leap across the streams and roll on in its progress and speed to its final destination; but if that cannot be effected without breaking up the navigation of the river the iron horse must stop there; he must halt on the eastern side; and another iron horse must take up his onward career on the western side.

Mr. President, I understand very little about the navigation of the Ohio river. I have been up and down it upon steamboats very frequently. I know this, and every man who knows anything of the flow of water and the laws which regulate the flow of water knows, that when abutments are set up in the middle of a river or other stream the necessary result is to create eddies and counter-currents at the abutment. That is inevitable. The business that is done upon this stream is done in the high tide of the river. At that time the current sweeps with most rapidity and strength. As it flows it strikes with more force upon the resisting abutment, and consequently the eddy and the cross-current that are hereby produced are increased in proportion to the height of the stream. To tell me that coal barges, that spread in width before a tug that impels them from two hundred and forty to two hundred and sixty feet, some of them, in a high tide of the water, can run safely under an arch of three hundred feet without imminent danger of striking into eddies and currents that would float them against the pier and wreck the boats or seriously impede their progress is to tell me that which I cannot believe.

Why, sir, I hold in my hand the report of one house trading in coal down the Ohio river, showing that in one year their losses from detentions alone, independent of the loss of boats and the sinking of coal, amounted to \$8,000.

Mr. MORTON. At a single bridge?

Mr. DAVIS. At a single bridge, the Steubenville bridge. That house did not transport one twentieth part of the coal that floats

down that river. This was only one item of injury, that which resulted from detention; and the report states that the boats and property of this company were injured by being precipitated against the piers to the extent of some considerable additional injury.

Well, sir, these evils are not to be restricted to their present number. The lines of railroad are striking the Ohio river on its different shores at many other points. In the course of twenty or thirty years there must be at least fifty of these bridges constructed between Pittsburg and the mouth of the Ohio. What a vast and injurious obstruction would be fifty bridges of three hundred feet span across that stream to its navigation, to its commercial interests, to it as a great natural highway, and the cheapest for all large and bulky articles, much cheaper than any artificial navigation or means of transportation that can be devised. It is time for the thing to cease. The Steubenville bridge ought to be abated to-morrow as a nuisance, and if there is a proper proceeding against it as a nuisance to the navigation of that stream in the United States courts, its abatement can be effected. It ought to be effected, and the construction of bridges that are so serious an obstruction to the free, safe, and commodious navigation of that stream ought to stop now. It is the interest of the railroad companies as well as the men who navigate the river that this thing should now stop.

Gentlemen need not tell me that pilots and steamboat men and the men interested in the navigation of the river are hostile to railroads. The contrary is the truth, so far as I am acquainted with the subject. In proportion as railroads intersect a stream they bring business to the river for transportation by steamboat and barges and other craft upon it. The navigators of the river, the pilots, those interested in the lines of steamboats, are interested not to the prejudice of railroads, but in favor of promoting railroads and of building railroad bridges to any extent that does not amount to a detriment to the navigation of the river.

Mr. President, at this late hour of the night I rose merely to give my few words upon this subject. I have expressed them as the subject strikes my mind. It seems to me that it would be a wanton and ungracious and ungrateful disregard of the bounty of Providence in giving this noble and beautiful river as a great highway of trade and navigation between the distant northeastern and southwestern portions of the United States to permit it to be unnecessarily obstructed by the construction of railroad bridges. If railroad bridges cannot be thrown by a practicable span across that stream so as to admit of safe transportation along the railroad across the bridge over the stream, that mode of transportation must have a break there, and must be resumed on the opposite side.

Mr. DOOLITTLE. I desire to take the sense of the Senate on the amendment which I have sent to the Chair, because that is an amendment which provides for the appointment of a board of scientific engineers by the Secretary of War, with the approval of the President, to report at the next session of Congress on this very point, the very disputed question as to what the width of these spans should be. I confess, after listening to the able gentlemen on both sides, my own mind as yet remains in doubt; and I presume what is true of myself may be true of other gentlemen around me. I am not a scientific engineer, nor have I studied bridges very much; nor have we had time since this discussion commenced to go into the examination of it for ourselves. If the amendment which I have suggested be adopted it can only work a delay until the next session of Congress in the building of any proposed bridges. It suspends all building of bridges until that report comes in. When that report comes in of these scientific men, seven in number, we shall then have information on which we can act.

It is said on one side, with great earnestness, that a railroad bridge with a span of five hundred feet would be a dangerous super-

structure, and might involve the loss of trains and the loss of thousands of lives. On the other side it is said that railroad bridges of five hundred feet span are built; that there is over the Rhine one of four hundred and ninety-two feet, and that we can build them in this country as well as they can over the Rhine. I desire to hear from scientific engineers whose attention has been brought to this subject by the authority of Congress, for it is certainly one of the most important questions that can come before Congress as to what kind of bridges shall be allowed over the Ohio river. If it were not for the navigation in these coal barges, if all the navigation on that river was simply by steamboats, you could get along with a bridge of three hundred feet span; I see that very well; but when you consider that these coal barges run, it is said, two hundred and fifty feet in width, there may be difficulty in passing through a bridge of three hundred feet span. It is a question of maximum and minimum; it is a question for scientific investigation; and if the Senate are willing to adopt the amendment I suggest we can get this information at the next session of Congress.

Mr. DAVIS. The honorable Senator will allow me to say that I am very much in favor of his proposition to have this problem tested, but I desire to bring it to the test of experience, which tests science itself. I want the bridges, so far as they can be constructed with a proper regard to the safety and facility of that navigation, to be so constructed. I think the project of a bridge with a span of five hundred feet at St. Louis across the Mississippi river will probably be in such a state of forwardness in twelve months from this time as to test the question; and with a view to have it tested in that way I like the proposition of the Senator.

Mr. YATES. Mr. President, I had intended to speak on this question at some length, but I gave up the idea long since. I did not wish to weary the Senate with any remarks which I might have to make, when there was such a strong disposition to come to a vote on the subject. I would not occupy even a moment now if I had any assurance that the time would not be occupied by others and we should not have to adjourn with this question on our hands; but as I feel peculiarly situated and related to this subject, representing a State which is interested not only in the navigation of the western rivers, but largely interested in railroad enterprises, I consider it my duty at least to refer to the importance of the question.

I will say, first, as to the amendment suggested by the Senator from Wisconsin, that if he had examined this subject, he would want no further reports, no further surveys, and would not delay the construction of these railroad bridges until these reports can be made. The Senator from Indiana has amply demonstrated by reports of competent engineers, and by the best explorers, the river pilots, for they understand more about the river than engineers, that the whole western country is in danger of having its river navigation destroyed by the construction of railroad bridges. I live in a State which is washed on the west throughout its entire length by the Mississippi, and on the southwest by the Ohio, and it is intersected by the Illinois river; so that I feel deeply interested in river navigation. It is also intersected by railroads in every direction, north and south, east and west.

But the importance of this question is presented in this aspect: railroads are now becoming so numerous that they cross through every county almost, north and west, and we are to have, within thirty and forty miles of each other, railroad bridges crossing the Mississippi, and for a distance of four hundred miles up and down the length of the Illinois river. We know that the bridges which have been constructed are a continual source of obstruction to navigation. We know that on dark nights there is the utmost danger; that steamboats must stop and lay by; that coal boats are destroyed; that lumber boats are

torn to pieces. Look at the Rock Island bridge, of which so much was said the other day. Look at the Peoria bridge, across the Illinois river, and others to which I might refer. And here, sir, in the West, with the Mississippi, the Missouri, and the Ohio, and their tributaries embracing a water navigation of twenty thousand miles, shall we not hesitate before deciding upon a policy which will obstruct the navigation of those rivers?

Mr. NYE. Will the honorable Senator allow me to ask him a question?

Mr. YATES. Certainly.

Mr. NYE. What is the average width of the channel of the Mississippi from its source to below Cairo in ordinary water?

Mr. YATES. I cannot answer that question; I do not know. I suppose the average—

Mr. NYE. I am speaking of ordinary water.

Mr. YATES. Low water?

Mr. NYE. Yes, sir.

Mr. YATES. I do not know.

Mr. NYE. It is not the half of three hundred feet on an average.

Mr. YATES. That does not answer the point I am making.

Mr. NYE. Will the honorable Senator allow me to ask you other question?

Mr. YATES. Yes, sir.

Mr. NYE. What is the object of a span bridge wider than the ordinary channel of the river? If you can run in ordinary water in a three hundred feet span, you certainly can run it in high water.

Mr. YATES. I will answer the Senator by saying that I am for some maximum and some minimum by which these bridges may be constructed without interfering materially with the navigation of the river; but I will say to the Senator that every bridge having a pier planted in a river is more or less of an obstruction. In stormy weather, in times of high floods, on dark nights, where there is unskillful navigation, and under many other circumstances, every pier in the channel of a river is more or less of an obstruction.

Now, sir; how long will it be if we leave this matter indefinite, if we leave it to the Secretary of War and to experienced and skillful engineers to say what the span of bridges shall be, before it can be properly settled? Can you trust any such reports? I care not how competent your engineers, how much of skill and standing they may possess, there are capital and power and too often corruption enough to get a bridge constructed of whatever size and whatever span they choose. The consequence will be that if there is not some maximum and some minimum fixed by law these rivers must inevitably be obstructed to the great damage of the commerce and the ruin of the country.

Mr. President, this is an interest in which all are concerned. I certainly am as much or more interested in railroad enterprises than in the navigation of our rivers. But it is for the interest of all, it is for the interest of railroad enterprises, that the bridges shall be composed of the longest span, the stoutest, the most durable. I do not suppose it is of particular benefit to the present corporators, to the men who are constructing these bridges, but for the railroad enterprises generally it is better that these bridges should be durable, and if the spans are long they must be durable. But, sir, as I desire a vote on this question, I shall make no further remarks upon it.

Mr. NYE. I think the honorable Senator from Illinois is right when he says that some proper rule for gauge of span should be adopted; but when I suggest to the honorable Senator, from all I have heard in this case, that I am at a loss to determine what that is, I presume I shall not awake his surprise. It is a subject upon which the best engineers are to-day at loggerheads; and I do not believe that the true science of that subject has been reached.

In my early life I had the honor to serve as sub-engineer under Mr. McAlpine, who is now acknowledgedly at the head of his profession in the United States. I have in my desk at home a private letter from him, in which I

place great confidence, saying that the scheme of this bill is entirely impracticable. Whether it is or not I do not know; but there are two or three things to be considered in this question which seem to me to indicate the true policy to be delay in establishing the span of these bridges across the rivers. I undertake to say that from the source of the Mississippi river, where it is navigable to St. Louis, the average width of the channel is not two thirds of three hundred feet in ordinary water.

Mr. YATES. That is in low water. That does not apply to the case of high water.

Mr. NYE. Bridges are not to be built entirely for high water, but they are to be built in regard to the channels of the streams they cross; and when I suggest from a little experience to the honorable Senator from Illinois that much more depends on the manner in which a bridge is set across the current of the river than on the width of its span I apprehend he will agree with me.

Sir, while I would by no means obstruct the navigation of these mighty rivers of the West, I would be just as careful to protect this cross-navigation or cross-commerce that finds it necessary to cross those mighty streams to reach its original market and destination. While I would be careful not to obstruct the channel of the river, I would be just as careful not to impose obligations upon these corporations whose commerce runs in a different channel, upon the land, on railroads. It is a well known fact, and the honorable Senator from Indiana and the honorable Senator from Illinois, who are most interested in this, will agree with me when I say that the natural market for all their products is not down the Mississippi river, it is across it to the waves of the Atlantic, where they find their market.

I suggest to both honorable Senators that this body is not at this moment possessed of enough scientific knowledge to determine by law what these spans shall be; and I agree with the honorable Senator from Wisconsin when he says that he thinks a board of the wisest engineers should consider the question and report at the next session of Congress. I understand it to be the fact—I do not know that it is so—that under the existing law structures have been already commenced and great outlays made. If that be true, I think the Senate should be careful how they interfere with the rights of such parties, and should at least leave them in abeyance till means are taken to determine what the true span is.

I remarked that I placed great confidence in the opinion of Mr. McAlpine. His name—and when I say that I say nothing but the truth—is coupled with all the great enterprises of the State of New York, and his name is literally inscribed upon all of the more important works of that great State. He writes me that a span of five hundred feet is impracticable. I learned in my youth that he was accurate in his science and estimates. I believe him to be so still. Admonished, therefore, by his experience, I submit as a question of great propriety that before we, with this little examination—and for one I can say with so little ability to investigate and determine this question—undertake to increase the span of bridges, we should leave it for science to determine it, to be reported within four or five months to the next session of Congress for final decision.

Now, sir, I know not what companies are engaged in the works already commenced under the former law, but whatever they may be I suggest that in deference to their opinion, in deference to the law that a former Congress has passed, in deference to the investments they have made, we should not rush on ignorantly; at least, to say that the structures they have constructed or commenced shall be demolished, and that new ones, based upon less knowledge than theirs has been, shall be commenced.

Mr. FRELINGHUYSEN. From what attention I have given to this subject I have no doubt the truth in this case, as it often does, lies in

the mean—the middle—and that the best distance as a minimum on that river is four hundred feet. It is all idle to talk about railroad travel and freightage superseding the use for transportation of the Ohio river. That is true in some places, but it never will be true of the Ohio river. You might as well talk of railroads superseding the Atlantic or the Pacific as superseding the freightage of the Ohio or Mississippi rivers.

There is, then, one fact which has not been stated in this debate. I suppose that a bridge with a span of five hundred feet would cost as much again as one with a span of four hundred feet, because the whole structure has to be made in such vastly increased proportion in order to give strength to a span of five hundred feet.

Mr. MORTON. Will the Senator allow me to interrupt him for a moment?

Mr. FRELINGHUYSEN. Certainly.

Mr. MORTON. There seems to be some division of sentiment in the Senate, and as I have entire confidence in the report of a board of engineers to be appointed by the Secretary of War, I am willing to accept the proposition made by the Senator from Wisconsin that the Secretary of War shall appoint a board of competent engineers to examine this river and determine the width of span required for the purpose of securing navigation, and that, in the meantime, the construction of bridges shall cease until that is done. I have that much confidence in it that I am willing to take that course.

Mr. FRELINGHUYSEN. I would suggest that the Senator from Wisconsin modify his amendment by adding this idea: that that board of engineers shall have regard to the location of the bridge and to the expense of the structure, because it is perfectly apparent that where the river is straight a span of three hundred feet would be all that was necessary; and if the bridge was placed where there was a crook in the river it might require a span of five or six hundred feet.

Mr. RAMSEY. I suggest in reply to the Senator from New Jersey that the bill now presented to the Senate and before them for consideration, in all these particulars is a very perfect bill, prepared under the supervision of the engineer department of the Army.

Mr. FRELINGHUYSEN. This is a matter not in the bill.

Mr. RAMSEY. All you want to determine now is the width of the spans. Although there was much information before the committee that justified us in saying that the spans might be five hundred feet long, and could be constructed economically, still we did not feel justified from the evidence before us in saying so absolutely until we were pressed to name some decisive span, and we then placed it at five hundred feet, leaving it, however, to the better judgment of the Senate to correct that if they thought otherwise. But if this matter is to come back to us, the bill had better be preserved. It is as perfect as it can be made to adapt the requirements of bridge building to the requirements of navigation. If the Senate agree with the Senator from Wisconsin that this matter had better go to the Secretary of War for further information, I suggest to him to postpone the bill until the next session, and in the mean time call for this information.

Mr. POMEROY. The amendment of the Senator from Wisconsin is entirely satisfactory to me. I only want the thing settled scientifically. I have no objection at all, as far as I am concerned, to the amendment of the Senator from Wisconsin. I will risk any board of engineers that have any national reputation. If it is the wish of the Senate to take a vote on the amendment of the Senator from Wisconsin, I will withdraw my amendment. I will do anything to get a vote.

The PRESIDENT *pro tempore*. Is the amendment withdrawn?

Mr. POMEROY. If the Senator from Wisconsin will offer his amendment, I will withdraw mine. I only want to get a vote.

The PRESIDENT *pro tempore*. That amendment being withdrawn, the question is on the amendment offered by the Senator from Wisconsin.

Mr. SHERMAN. Let it be read.

The Chief Clerk read the amendment, which was to strike out all of the bill after the enacting clause and to insert the following:

That the Secretary of War, with the approval of the President, shall appoint a board of scientific engineers, to consist of not less than five, nor more than seven, who shall report to the next session of Congress the proper width of spans in railroad bridges across the Ohio river adapted to the wants of navigation and commerce upon that river; and that until Congress shall by law take action upon said report, no bridge shall be erected over said river.

Mr. VAN WINKLE. I move to amend the substitute by adding:

Provided, That this act shall not apply to bridges already in process of construction.

If the amendment of the Senator from Wisconsin is adopted as it stands, it suspends the work on these bridges for at least a year; because we have to take advantage of the low water of this season of the year in order to do anything in the water; otherwise I should have no objection to it. But it strikes me that if the amendment of the Senator from Kansas prevails, fixing the minimum at three hundred feet, the bill already providing that the Secretary of War may convene a board of engineers to see whether that is sufficient to meet the necessities of navigation, you have the whole benefit of this amendment already in the bill by fixing the minimum instead of what will prove the maximum measure of span.

Mr. SHERMAN. I must object to the amendment proposed by the Senator from West Virginia. My people are very largely interested in the navigation of the Ohio river, and also in bridging. I have sat silent here because my mind has been in some doubt as to what ought to be done in regard to this matter. But whatever rule is adopted must apply to all bridges. There are two now being constructed, one at Bellaire and one at Parkersburg.

Mr. WILLIAMS. How far have they progressed?

Mr. SHERMAN. Only the materials are collected together.

Mr. VAN WINKLE. More than that.

Mr. SHERMAN. They have not put in the piers.

Mr. VAN WINKLE. They have not put in the piers, but they have laid the foundations for the shore piers twenty or thirty feet deep.

Mr. SHERMAN. All I ask is that whatever rule is adopted shall apply to all the bridges on the Ohio river. I have no objection then to a span of four or five hundred feet. I simply object to the amendment now proposed by the Senator from West Virginia.

Mr. HENDERSON. Before the vote is taken I will state that I had a good deal to do with a bill that passed Congress a year or two ago on the subject of bridging the Mississippi river, and I took occasion then to examine this subject thoroughly. Since that time a board of the most competent engineers has met at St. Louis in reference to the St. Louis bridge, and they have come to the conclusion that unquestionably a bridge can be built with a span of five hundred feet. One of the most competent and able engineers in this country, in my opinion—I mean Mr. Eads, of St. Louis, the gentleman who built the gunboats upon the Mississippi river—has invested a very large amount of his own private fortune, and other competent engineers have also invested money in the construction of a bridge at St. Louis with a span of five hundred feet, to be, I think, ninety feet above low-water mark.

I am satisfied that nothing will be accomplished by selecting a board of engineers under the direction of the War Department, and sending them out to the Ohio river to ascertain what sort of bridges should be constructed. The engineers will differ among themselves as they have heretofore differed. I remember perfectly well, because I was then a member of the Post Office Committee, when the Steubenville bridge was authorized, and Mr. Col-

lamer, of Vermont, was chairman of the committee, and the requisition was put upon that bridge company that they should build it with a span of three hundred feet, that Mr. Collamer after taking the testimony came to the conclusion that it was utterly impossible to build a bridge of that span that would carry safely a freight train of cars over it, and so asserted in the Senate according to my recollection. When objection was made to the bridge, he said it was nonsense to make the objection; let it pass through, because from all the testimony taken it was utterly impossible to construct that bridge. However, in the course of less than twelve months after the passage of that bill, the Steubenville bridge was constructed with a span of three hundred and twenty feet.

In my judgment there is no difficulty about bridging the Ohio river at any point with a span of five hundred feet. At almost any point where it is proposed now to bridge the Ohio river, take for instance at Bellaire, the banks on each side are very high. Take it also at Parkersburg. If I remember aright the same is the case there, and at almost every point where it is proposed to bridge this stream. It is not so on the Mississippi river. There on one side the approach is always low. A bluff bank can be found on one side of the Mississippi river, but invariably on the other, except at the rapids, the land is low and continues so for six or seven miles up.

Mr. VAN WINKLE. I wish to correct the Senator. We shall have as much or more bridge on the land than we have on the water. We have to go very far back now to the hill so as to take the rise of the bridge. The bridge by law must be ninety feet above low water and fifty feet above high water. The whole elevation of the bridge is ninety feet at low water, and we have to go away back on both shores to get to the hills and build a bridge there. The foundations for the piers on the shore are all laid.

Mr. HENDERSON. I am not speaking of that. The Senator will understand that according to my proposition he will be enabled to go on with his bridge. I do not understand him as taking the ground that it is utterly impossible to construct a bridge over the Ohio river with a span of five hundred feet.

Mr. VAN WINKLE. Without an expense that no ordinary company can stand.

Mr. HENDERSON. That is a sad mistake. There is no question about the feasibility of the construction of bridges of this character, and especially anywhere on the Ohio.

Mr. VAN WINKLE. I never denied that it was possible.

Mr. HENDERSON. I see no use of sending this matter to a board of engineers. Let us pass the bill in its present shape, and if the companies decide to go on with their bridges during the present summer and fall let them proceed; and let them proceed during the winter as they can at any point on the Ohio river. In fact, it is the best season for building bridges anyhow, because then the water is low. I see no necessity whatever of delaying the construction of bridges over the Ohio river in order that engineers may dispute over the proposition and make just such a report as has been read by the Senator from Indiana this evening. Some will say that it is feasible, others will say that it is not; and we shall be in as much doubt and hesitancy about the construction of these bridges after the reception of the report as we now are. Therefore, let the bill be passed as it is, and if the companies are willing to undertake the construction of bridges with a span of five hundred feet let them do so.

Mr. WILLEY. I have been trying to get the ear of the Chair for some time.

The PRESIDENT *pro tempore*. An amendment to an amendment is pending.

Mr. WILLEY. I was going to inquire if an amendment to the amendment of the Senator from Wisconsin was in order?

The PRESIDENT *pro tempore*. An amendment is in order to the original bill. A sub-

stitute is now offered, and an amendment to that substitute is offered by the Senator from West Virginia, [Mr. VAN WINKLE,] which will be read, as it is doubtful whether the Senate understand it.

The Chief Clerk read the amendment to the amendment, which was to add the following proviso:

Provided, That this act shall not apply to bridges already in progress of construction.

Mr. VICKERS. I desire to say a word before the vote is taken on that amendment. I hold in my hand a letter from the president of the Baltimore and Ohio Railroad Company to whom I had written on this subject to know the condition of the bridges now in progress, and I will read the portion of his letter relating to that subject:

"There is no subject before Congress in which the State of Maryland and the States through whose territory our railway and its connections pass than the bill requiring a change in the length of span upon bridges over the Ohio river. The Baltimore and Ohio Company has already expended upward of four hundred thousand dollars upon the bridges being constructed under the existing act of Congress, to connect the Parkersburg branch with the Marietta and Cincinnati and the main stem of the Baltimore and Ohio road with the Central Ohio road at Parkersburg and Bellaire, respectively. The experience of the bridge at Steubenville, built by the Pennsylvania Railway Company, proves that the three hundred feet span does not affect navigation injuriously—no accidents having occurred except those which arose from the carelessness of boatmen. Three hundred feet is as great a span, many of our best engineers affirm, as can be safely used for the great weights which will pass upon the bridges in the exchanges of the commerce of the great West.

"The western States are deeply interested in these enterprises, as the comparative economy of the use of these structures will equal three cents per one hundred pounds in transportation—thus adding that sum to the value of the provisions and cereals of the farmers of Ohio, Indiana, Illinois, and other western States. Let legislation, as to the future and other sections be what it may, clearly, when such expenditures have been made in good faith under the existing act of Congress, no change should be made in the law affecting these bridges.

"Should the change be made in the length of the spans, as required by the resolution of the House, namely, to require five hundred feet for the length of the channel span, the Baltimore and Ohio Company will be compelled to abandon the construction of both bridges for the present, and it may be years before experience elsewhere, especially in view of the great additional cost involved, will justify the works to be again undertaken. The serious losses of such a delay to the great agricultural and other interests of the West, as well as to the commerce of Baltimore, are palpable."

Mr. President, Congress passed a law in 1862 authorizing this river to be bridged by railroad companies, and providing that the minimum span should be three hundred feet. Under this existing law the companies have expended upward of four hundred thousand dollars in the construction of these bridges, which are now in process of erection. The amendment of the Senator from Wisconsin proposes to prevent them from being completed; in other words, it provides that a board of engineers shall be appointed, and if they shall report in favor of a span of five hundred feet then these bridges shall be made to conform. These companies relied upon the faith of the Government. This act of Congress is just as binding in good faith upon the Government of this country as if it had made a special contract with these companies. I can see no difference in morals between an authority given by Congress to construct bridges of certain dimensions and a contract to build bridges of the same dimensions. An incorporation is in law a contract. If Congress charters a company that charter operates as a contract, and it cannot be modified or repealed unless the power be reserved in the charter. This law is in the nature of a contract, although not so in form, between the Government and the railroad companies. Congress held out to them an inducement to build these bridges, and believing that it did not intend to change the law, and acting in good faith, they have undertaken to construct these bridges according to the provisions of the law.

Now, I ask, is it competent for Congress, when a work is half completed, to say, you shall not finish it, and all you have done shall be lost? Would it not give to these compa-

nies an equitable claim upon Congress for the injury they may have sustained, whatever that injury might be? If they shall sustain injury by this bill which it is now proposed to pass (and if they shall ultimately be prevented from constructing these bridges with a three hundred feet span, they will be materially injured) they will have a just and equitable claim upon Congress to the extent of their loss.

I take it for granted that when the act of 1862 was passed Congress had full information before it upon that subject. I assume that Congress would never have passed the act of 1862 authorizing these bridges to be built with the three hundred feet span unless they had full and ample information upon the subject to justify them in making the enactment. Having made it, and induced parties to expend their money largely in this enterprise, is Congress now to be called on so to modify this law as materially to injure those whom it has thus induced to engage in the great work? Congress would have just as much right, when three fourths or four fifths of a bridge had been completed, to say that it shall not be completed, and that the span shall be five hundred feet, as they now have to say that they shall not prosecute this work, although they have expended \$400,000 upon it, and are ready for immediate progress. I say, therefore, that it would be unjust and inequitable in Congress to pass such a law as this without the amendment of the Senator from West Virginia.

I hold in my hand a report made in August, 1867, less than twelve months ago, from twenty-eight of the most distinguished engineers in this country, and who, after a full examination, report that they cannot recommend a span of more than three hundred feet, and they assign their reasons for it. They also state that a span of five hundred feet would cost a much larger sum than one of three hundred feet. Let me read what they say on the subject:

"It was proved in joint committee that the cost of a span of five hundred and twenty feet (five hundred feet in the clear) will be more than twice as great per foot of bridge as a span of three hundred and sixty-eight feet (three hundred and fifty feet in the clear) and not less than three times as great as a span of three hundred and four feet; consequently, the cost of one span of five hundred and twenty feet will be equal to two spans of three hundred and sixty-eight feet, and one and a half spans of two hundred and sixty-four feet; that is, for the cost of one span of five hundred and twenty feet, no less than eleven hundred and fifty feet of bridge in spans of three hundred and sixty-eight feet and two hundred and sixty-four feet may be built."

The committee give the results of elaborate estimates of the weight of the bridge and the loads it will have to sustain, and of the consequent strains that will come on its several parts. They also give the spans of the various bridges in this country, as follows:

	Feet.
Longest span, Brazos river, Texas.....	250
Longest span, Big Black, Mississippi.....	162
Longest span, Tennessee river, Tennessee.....	196
Longest span, Cumberland river, Tennessee.....	209
Longest span, Duck river, Tennessee.....	200
Spans of bridges over the Penobscot river.....	209
Spans of Connecticut river bridges.....	200
Spans of Hudson river bridge.....	200
Much ice, many rafts, and large steamers.	
Spans of the Schuylkill, Philadelphia.....	196
Spans of the Susquehanna.....	250
Spans of the Mississippi at Quincy.....	250
Spans of the Missouri at Kansas City.....	250
Spans of the Missouri at St. Charles, (being commenced).....	325
Spans of the Monongahela at Pittsburg.....	150
Spans of the Alleghany at Pittsburg.....	150
Spans of the Kentucky, near mouth.....	200
Spans of the Kentucky at Frankfort.....	160
Long spans of the Ohio river, at Louisville, at low water.....	350

"At the Victoria bridge (nearly two miles in length) the largest span is three hundred and thirty feet at the bridge level, and less at low-water level."

Now, sir, these are the bridges of this country, and the span of scarcely any of them comes up to the span provided for in the act of Congress of 1862.

I find also in this report a letter from McNairy, Claffen & Co., engineers, in which they state:

"We consider bridges constructed in span greatly exceeding three hundred feet as experimental, and presenting engineering and mechanical difficulties al-

most insurmountable without sacrificing the strength of the structure, while spans of five hundred feet, although one at the present time is projected in this country, we deem decidedly impracticable, and we believe it is so considered by the best engineers in the country, not only on account of the immense cost, but also of the difficulty of procuring material of suitable character to resist the strains in such a structure."

There are other letters here to the same effect.

Now, I submit it to the justice of the Senate whether it is proper at this particular juncture to restrain these parties who have expended their money from prosecuting the work on these bridges? Why, sir, the Baltimore and Ohio Railroad Company have already built one steamer, running to Liverpool, and two large steamers, costing \$700,000 each in gold, running to Bremen every month, and the freights and emigration have so increased that they are now building two other large steamers of equal size to ply between this country and Bremen, touching at Southampton in England. Their business is increasing to a great extent, and they will need these bridges across the Ohio as soon as they can possibly be constructed, to enable them to send the immigrants and the freight brought from Europe to the far West. I submit, therefore, to the judgment of the Senate whether these bridges ought not to be excepted from the amendment offered by the Senator from West Virginia.

The *PRESIDENT pro tempore*. The question is on the amendment of the Senator from West Virginia to the amendment of the Senator from Wisconsin.

The amendment to the amendment was rejected; ayes seven, noes not counted.

Mr. WILLEY. I offer the following amendment, to come in at the end of the proposed substitute:

And the said board of engineers shall also examine the bridge across the Ohio river at Steubenville, and report whether it is any obstruction to the navigation of said river, and if so to what extent, and what should be done to remedy such obstruction.

Mr. POMEROY. I think that a very important amendment. I hope it will be adopted.

Mr. DOOLITTLE. I have no objection to that.

The amendment to the amendment was agreed to.

Mr. HENDRICKS. I have an amendment to propose, to which I suppose there will be no objection whatever. It is to add:

Provided, That the provisions of this act shall not be applicable to the bridge now in process of construction at Louisville.

That is being constructed with a four hundred feet span, and there is no question about it. No engineer has objected to it.

Mr. SHERMAN. I hope whatever rule may be adopted will be general. The same trouble occurs there. All that my constituents want is one uniform rule, applicable to Louisville, Cincinnati, Bellaire, and everywhere else. I object to the amendment.

Mr. FRELINGHUYSEN. What is the span?

Mr. HENDRICKS. I did not suppose the Senator from Ohio would make that broad statement. The facts in connection with the channel at the falls of the Ohio are entirely different from the facts at any other point of the river. A bridge is now being built of four hundred feet span, when the law required but three hundred, and it is far advanced in its construction, and is to be finished this fall. It is above the falls, and the Senator knows that the main business there is through the canal. The objection which has been urged at Steubenville and elsewhere is because barges are attached to steamboats. No such combination of boats can pass through the canal. The boat will have to be stripped of the barges. There is not the least objection to this amendment.

Mr. RAMSEY. I think that bridge is very far advanced.

Mr. HENDRICKS. It is nearly completed.

Mr. RAMSEY. It would not do to interfere with that.

Mr. HENDRICKS. And the company has

gone one hundred feet beyond what the law required.

Mr. RAMSEY. I have always understood from the friends of this proposition that the five hundred feet span people consented not to interfere with the bridge at Louisville.

Mr. POMEROY. This amendment does not interfere with it. It only requires a report.

Mr. HENDRICKS. My amendment is in accordance with the committee's report.

Mr. FRELINGHUYSEN. Four hundred feet span is enough for any bridge. That is the truth about it.

Mr. MORTON. I will say a word on this subject. I think I understand it. The chute on the Indiana side of the falls is four hundred feet in width between the rocks, as I understand it, and the bridge has been made that wide. There is a four hundred feet span there which is being built. The sweep of the current is such as to take boats into this channel; and it is estimated that the span of four hundred feet there is equal to a span of five hundred and fifty feet anywhere else on the river. That is the fact about that. They are building a four hundred feet span there. The president of the road says that he would have built it five hundred feet just as quick if he had been required. Their engineer does not think there is any trouble about making it five hundred or six hundred feet.

Mr. HENDERSON. And that includes all the channel there is.

Mr. MORTON. That includes all the channel over the falls. The bridge is being built over the falls, right where the water breaks on the rocks. That is the fact about that bridge.

Mr. HENDERSON. That is satisfactory.

The amendment to the amendment was agreed to.

The *PRESIDENT pro tempore*. The question is on the amendment as amended.

Mr. CONNESS. Let it be read as amended.

The Chief Clerk read it as follows:

That the Secretary of War, with the approval of the President, shall appoint a board of scientific engineers, to consist of not less than five nor more than seven, who shall report to the next session of Congress the proper width of spans in railroad bridges across the Ohio river adapted to the wants of navigation and commerce upon that river; and that until Congress shall by law take action upon said report no bridge shall be constructed over said river. And the said board of engineers shall also examine the bridge across the Ohio river at Steubenville and report whether it is any obstruction to the navigation of said river; and if so, to what extent, and what should be done to remedy such obstruction: *Provided*, That the provisions of this act shall not be applicable to the bridge now in process of construction at Louisville.

Mr. SHERMAN. I wish to add a few words to the last amendment, so as to make it conform to the statement made. I suppose no one will object to it. It is to add "and said bridge shall not be less than four hundred feet in the clear."

Mr. MORTON. Say "over the Indiana chute," to make it plain.

Mr. SHERMAN. I do not care what chute it is over; I mean the main span, because my information is that the same difficulty occurs there.

Mr. MORTON. That is a good suggestion to go in.

The *PRESIDENT pro tempore*. The amendment of the Senator from Ohio will be reported.

The CHIEF CLERK. It is proposed to amend the proviso so that it will read:

Provided, That the provisions of this act shall not be applicable to the bridge now in process of construction at Louisville, which bridge shall not be of less span than four hundred feet across the main channel of the river.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

On motion by Mr. POMEROY, the title of the bill was amended so as to read: "A bill in relation to bridges across the Ohio river."

FINAL ADJOURNMENT.

Mr. SHERMAN. I simply desire to move that the resolution fixing the time of adjournment be taken up so that it may come up in order to-morrow.

Mr. CONNESS. I should like to ask the Senator from Ohio whether he desires to supersede the bill that I have charge of.

Mr. SHERMAN. I will not interfere with that. All I want is a vote fixing the time of adjournment.

The PRESIDENT *pro tempore*. The question is on proceeding to the consideration of the resolution mentioned by the Senator from Ohio.

The motion was agreed to.

Mr. CONKLING. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, July 21, 1868.

The House met at twelve o'clock m.

The Journal of yesterday was partly read, when

Mr. DAWES moved that the further reading of the Journal be dispensed with.

The motion was, by unanimous consent, agreed to.

PAY OF SOUTHERN MEMBERS.

Mr. WILSON, of Iowa. I ask unanimous consent to present a report from the Committee on the Judiciary relative to the pay of the members from the reconstructed States.

There was no objection.

Mr. WILSON, of Iowa. The Committee on the Judiciary, to whom were referred a communication from certain members from Arkansas, and also a letter from the Sergeant-at-Arms addressed to the Speaker, touching the question of the pay of members from the reconstructed States, have directed me to report the following resolution, on which I demand the previous question:

Resolved, That the members of this House from the States of Arkansas, North Carolina, South Carolina, Florida, Alabama, and Louisiana, are entitled to compensation from the date of their respective elections as members of the Fortieth Congress; and the Sergeant-at-Arms be, and he hereby is, directed to pay said members in accordance with the terms of this resolution.

The previous question was seconded and the main question ordered; and under the operation thereof, the resolution was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMANDER AARON K. HUGHES.

On motion of Mr. PIKE, and by unanimous consent, the joint resolution (S. R. No. 164) for the restoration of Commander Aaron K. Hughes, United States Navy, to the active list from the retired list, was taken from the Speaker's table, and read a first and second time.

Mr. HOLMAN. Is it the purpose to put this joint resolution on its passage now?

Mr. PIKE. The House has already passed upon this question and sent to the Senate a resolution for the restoration of Commanders Hughes and Cilley. This resolution from the Senate provides simply for the restoration of Commander Hughes. The proposition has already received the favorable consideration of the House.

The joint resolution was ordered to a third reading, read the third time, and passed.

Mr. PIKE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPRESENTATIVE FROM ALABAMA.

Mr. DAWES presented the credentials of Benjamin W. Norris, claiming a seat as a Representative from the third district of Alabama;

which were referred to the Committee of Elections.

PORTS OF ENTRY, NORTH AND SOUTH CAROLINA.

Mr. O'NEILL, by unanimous consent, reported from the Committee on Commerce a bill (H. R. No. 1444) changing the ports of entry from Plymouth to Edenton, in North Carolina, and from Port Royal to Beaufort, in South Carolina; which was read a first and second time.

The bill provides that the port of entry in the Albemarle collection district be removed from Plymouth to Edenton, North Carolina, and also that Beaufort, South Carolina, be created a port of entry in lieu of Port Royal, which is abolished as a port of entry.

Mr. HOLMAN. Has this bill received the consideration of the Committee on Commerce?

Mr. O'NEILL. It has been favorably considered by that committee, who have directed me to report it. The passage of the bill is also recommended by the Treasury Department.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. O'NEILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTERNATIONAL SYSTEM OF COINAGE.

Mr. KELLEY, by unanimous consent, introduced a bill (H. R. No. 1445) to promote the establishment of an international metrical system of coinage; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

PENSIONS.

Mr. PERHAM. I ask that by unanimous consent the bill (H. R. No. 1010) relating to pensions be taken from the Speaker's table, that a committee of conference may be appointed on the Senate amendments.

Mr. SCHENCK. I object to taking anything from the Speaker's table out of its order.

Mr. WASHBURN, of Illinois. I call for the regular order.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had passed a joint resolution (H. R. No. 343) to admit free of duty certain statutes.

It also announced that the Senate had passed an act (H. R. No. 1376) for the relief of the loyal Choctaw and Chickasaw Indians, with an amendment, in which the concurrence of the House was requested.

It also announced that the Senate had passed a bill (S. No. 617) to reduce the military peace establishment of the United States, in which the concurrence of the House was requested.

It also announced that the Senate further insisted on its amendment disagreed to by the House to a bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river, and agreed to the conference asked for on the disagreeing votes of the two Houses, and had appointed Mr. RAMSEY, Mr. HARLAN, and Mr. BUCKALEW as managers of said conference on its part.

It announced, in conclusion, that the Senate insisted on its amendments to the bill (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes, disagreed to by the House, and agreed to the conference asked by the House, and had appointed Mr. MORRILL of Maine, Mr. CONKLING, and Mr. DOOLITTLE managers of said conference on its part.

REPRESENTATION OF ALABAMA.

Mr. DAWES. I rise to a question of privilege. The Committee of Elections have had before them the credentials of Francis W. Kellogg, Charles W. Buckley, Benjamin W. Nor-

ris, Charles W. Pierce, John B. Callis, and Thomas Houghy, claiming to be Representatives-elect from the State of Alabama, and have directed me to report that by the act of June 25, 1868, Alabama was admitted to representation upon this floor upon condition of ratifying the fourteenth article of the amendments to the Constitution; and by the President's proclamation of the 20th of this month it appears that ratification has taken place and that their credentials are in the form prescribed by the ordinance of the convention of Alabama, and therefore to move that they be admitted to take the oath of office of the 2d of July, 1862.

Mr. BROOKS. I could not quite hear what the gentleman from Massachusetts said.

Mr. DAWES. Then I will repeat it. I stated that by the act of June 25, 1868, Alabama was entitled to representation upon this floor on the ratification by the Legislature of that State of the fourteenth article of the amendments to the Constitution, and the proclamation of the President of the 20th of this month has announced that ratification has taken place, and that their credentials were in due form of law as prescribed by the ordinance of the convention which adopted the constitution of the State. Nothing further appearing before the Committee of Elections, of course it has instructed me to report a *prima facie* case in respect to these gentlemen, and ask that they be admitted on taking the oath of office.

Mr. BROOKS. Let me ask the gentleman from Massachusetts whether he is quite sure Alabama has ratified the constitutional amendment?

Mr. DAWES. In answer to the inquiry of the gentleman from New York, whether I am quite sure Alabama has ratified the constitutional amendment, such is my confidence in the President of the United States that I cannot believe he would make a proclamation to that effect if it were not so.

Mr. BROOKS. That proclamation has not met my eye.

Mr. DAWES. It is in the morning's papers. If it has not met the gentleman's eye it is in a paper which has his confidence, the National Intelligencer.

Mr. BROOKS. The point to which I wish to call the gentleman's attention is the act of Congress of March 23, 1867, passed when we were assembled in special session more than a year ago. The fifth section of that act is as follows:

"Sec. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, (at least one half of all the registered voters voting upon the question of such ratification,) the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall, moreover, appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided."

Mr. Speaker, that act required a majority of the registered voters of the State for the adoption of the constitution. Instead of receiving that majority, on the contrary a majority of the registered voters of the State were against its adoption. The people declared their will by absence from the polls as prescribed in this law. This fact, I believe, is not denied by any gentleman—least of all by the gentleman from Massachusetts.

Mr. DAWES. The answer which I make to the gentleman is by calling his attention to an act of Congress of June 25, 1868, which is of later date than the one he refers to. One

section of the act of June 25, 1868, is as follows:

"That each of the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida, shall be entitled and admitted to representation in Congress as States of the Union, when the Legislatures of said States shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress and known as article fourteen," &c.

This statute being of later date than the one the gentleman holds in his hand I suppose the gentleman is aware of the well-known principle of law, that if there is any conflict in the two the one I hold in my hand prevails.

Mr. BROOKS. The point to which I wish to call the attention of the House is that under the act from which the gentleman has just read no election whatsoever has taken place in Alabama. No members of Congress have been voted for under that act. The only act under which they have been voted for is the act of March 23, 1867.

Now, I put it to this House; and I put it to the country—I like to have said I put it to the common sense of this House, but that would be of no use—I put it to the party generosity of the majority of this House to say if, under the act of March 23, prescribing a certain course for election, a large majority of the people of Alabama refused or declined to vote for members of Congress, as permitted and authorized by this act, to such an extent that only one party voted, and that the negro party of the State, so that almost every white voter in the State abstained from the polls. I put it to the party generosity of this House; ay, I put it to the white men of this House, men of our race and color; ay, if the galleries were filled with negroes, I would leave it even to the negroes who so often surround us, if, when the white people of the State are thus deluded into the belief that no members of Congress were to be chosen but as the constitution was ratified, it is right, just, and honorable now to avail yourselves of a subsequent act of Congress, silent on the subject of electing members of Congress, and to take in these members thus declared to be previously elected. Sir, there is honor even in a primary meeting in the midst of party machinery; but there is no act more dishonorable than that. No greater fraud can possibly be perpetrated than by declaring members of Congress elected when they are chosen only by one party, this Congress having authorized the other party to abstain from voting at that election.

Sir, you have an ample majority in this House, and you have increased it largely in a few days past by numerous Representatives, or so-called Representatives, from that section of the country. Will you now avail yourselves of a mere technicality? No, not a technicality, for the last act of Congress in July does not say that members of Congress are elected; the phraseology, the declaration of the act is that Alabama shall be entitled to representation and shall be admitted to representation. I do not deny the effect or force of this act as understood by the majority of this House. I admit that under this act Alabama is entitled to admission and representation here. But I deny that members of Congress, or so-called members of Congress, were voted for under this act, or any other act whatsoever. No Representative from that State is entitled now to a seat on this floor. They can only be admitted here by this immense majority.

Sir, with this ample vote that you have, with the means of controlling two thirds or three fourths of this House at the present time, why not go back to the people of Alabama? Why not make an appeal to the colored voters of that State as well as to the white voters there to give them a fair and honorable representation? Why this insidious—I would use a stronger adjective if it were parliamentary upon the floor of this House—why this insidious, why this tortuous, reckless, labyrinthine way of bringing members upon the floor of this House, when by a tyrannical act you have authority to do it in a much more honorable

and far more lofty way? Sir, it would not be proper for me to pronounce this a sneaking mode of electing members of Congress from Alabama, therefore I use no such word. But I do say it is an outrage upon the white people of Alabama. It is an outrage upon the whole white race of this country to force in here members of Congress from Alabama elected only by the negroes of that State when the white people by fraud, and by fraud alone, were kept from voting on the day of the election. Sir, I call for the yeas and nays to make a record in a case like this.

Mr. DAWES. The gentleman from New York has got off his accustomed speech upon occasions of this kind. I suppose no one doubted what it would be when he obtained the floor. Nobody is more alive to the interest of representation of States upon this floor than the gentleman from New York. I am astonished to find him now struggling to keep out upon all occasions representation from the late rebellious States. I remember that at the commencement of the last Congress, and of this also, the gentleman took the first opportunity to obtain the floor and to pronounce Congress unconstitutional without representation from these States. And yet he has failed of no opportunity to thwart as well as was in his power and to throw obstacles in the way of every movement that has been made toward securing that representation upon this floor. He talks of insidious and devious ways to secure representation upon this floor. No man upon this floor on that side of the House, much less the gentleman from New York, who now brings this charge against this side of the House, has lifted his finger from the time the men who represented those States upon this floor turned their backs upon the flag of their country and walked out of that door. No man upon that side of the House, and least of all the gentleman from New York, has lifted his finger to secure peaceful representation upon this floor from one of those States. And now, when gentlemen come here with credentials such as the gentleman from New York brought here, and they are referred to the Committee of Elections, and no tittle of evidence appears but what they are just as good a title as that which the gentleman from New York brought here, he rises at the last moment to make one more final struggle against the representation of these States upon this floor. Sir, it is for the gentleman and not for this side of the House to reconcile this twisting and devious way which he has chosen to pursue while preaching representation practically denying it.

Sir, there is one other thing which is quite as consistent and quite as admirable in the gentleman from New York, this constant anxiety of his about the negro, an anxiety which troubles him by day and disturbs his sleep by night, lest by some chance the poor negro may get some advantage of him in the race of life. It gives him no peace as he comes in and goes out to his daily work and daily toil lest some poor man from that downtrodden race may, in the free race of life, get the start of him. Sir, I need not say to the House that I have no sympathy with such anxiety on the part of the gentleman from New York. If he feels it necessary that by some constitutional enactment or by some act of Congress weights or clogs or bars should be put upon the negro lest he get the upper hand of him in a fair race for the emoluments, for the comforts, and for the honors even of this life, why let him advocate that which he feels it necessary on his part to establish lest that dire result may follow? But for my part and the part of those with whom I am associated on this side of the House, they have no such apprehension. They have no apprehension that this poor downtrodden race, if they have every opportunity and every path left open to them, will get any undue advantage of the white race. I have a better opinion of the race to which I belong than the gentleman from New York seems to have. I feel no necessity pressing upon me as one of the white race in this country to seek constitutional inhi-

bitions upon any other race that God has planted upon the soil of this or any other country. Let all have a fair chance and he who can succeed let him enjoy the benefit of it. I now call the previous question.

Mr. BECK. I desire to ask the gentleman a question.

Mr. ELDRIDGE. Will the gentleman yield to me for five minutes?

Mr. DAWES. I cannot yield.

Mr. BECK. I desire to have one of the certificates read, with its date.

Mr. DAWES. They are all at the Clerk's desk.

Mr. ELDRIDGE. I hope the gentleman from Massachusetts [Mr. DAWES] will not retire under that demagogical speech he has just made.

The SPEAKER. That language is not in order.

Mr. ELDRIDGE. Why not? It is a compliment to his speech.

Mr. DAWES. Let one of the certificates be read.

The Clerk read as follows:

STATE OF ALABAMA, City and county of Montgomery, ss.

I, E. W. Peck, president of the constitutional convention of the said State of Alabama, assembled at the capitol, in the said city of Montgomery, on Tuesday, the 8th day of November, in the year of our Lord, 1867, do hereby certify that at an election, held in the several counties of said State, on the 4th, 5th, 6th, 7th, and 8th days of February, in the year 1868, for the election of State and county officers, Francis W. Kellogg, was elected Representative to Congress from the first congressional district, State of Alabama.

In testimony whereof, I do hereto set my name at Montgomery, the 22d day of February, in the year last aforesaid.

E. W. PECK,
President of said Convention.

Mr. BECK. Will the gentleman from Massachusetts [Mr. DAWES] yield to me for a moment, not to make a speech?

Mr. DAWES. I cannot; the gentleman from New York [Mr. Brooks] occupied much more time than I did.

Mr. ELDRIDGE. I do not suppose the gentleman from Massachusetts considers the New York man half his match, though I do fully.

The question was upon seconding the previous question; and being taken, there were upon a division—yeas 90, noes 22.

So the previous question was seconded.

The main question was then ordered.

The SPEAKER. The question is upon agreeing to the report of the Committee of Elections. Upon this question the gentleman from New York [Mr. Brooks] has called for the yeas and nays.

The yeas and nays were then ordered.

The question was then taken; and it was decided in the affirmative—yeas 125, nays 33, not voting 52; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Banks, Beatty, Benton Bingham, Blackburn, Blair, Boles, Boutwell, Bowen, Boyden, Bromwell, Broomall, Buckland, Benjamin F. Butler, Churchill, Rector W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Delano, Deweese, Dixon, Dockery, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Goss, Gravelly, Hamilton, Hawkins, Heaton, Higby, Hill, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hubbard, Hunter, Ingersoll, Jenckes, Judd, Kelley, Ketchum, Keotz, Laffin, Lash, William Lawrence, Lincoln, Logan, Loughbridge, Mallory, Maynard, McCarthy, McClurg, McKee, Meeker, Miller, Moore, Moorhead, Morrell, Mullins, Nunn, O'Neill, Orth, Paine, Perham Peters, Pike, Pile, Plants, Pollock, Pomeroy, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Starkweather, Thaddeus Stevens, Stewart, Stokes, Sypher, Taffie, Taylor, Thomas, Upson, Van Arnum, Burt Van Horn, Van Wyck, Vidal, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—125.

NAYS—Messrs. Adams, Archer, Axtell, Beck, Boyer, Brooks, Cary, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holtman, Hotchkiss, Johnson, Thomas L. Jones, Kerr, Knott, Marshall, McCullough, Niblack, Phelps, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—33.

NOT VOTING—Messrs. Baker, Baldwin, Barnes, Barnum, Beaman, Benjamin, Blaine, Burr, Roderick R. Butler, Cake, Chanler, Cornell, Dodge, Ela, Finney, Griswold, Halsey, Harding, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Alexander H. Jones, Julian, Kitchen, George V. Lawrence, Loan,

Lynch, Mann, Marvin, McCormick, Morrissey, Munger, Myers, Newcomb, Newsham, Nicholson, Poland, Price, Pruyn, Robinson, Roots, Shellabarger, Spalding, Aaron F. Stevens, Stone, John Trimble, Trowbridge, Twichell, Robert T. Van Horn, Cadwalader C. Washburn, Thomas Williams, and James F. Wilson—52.

So the report was agreed to.

The SPEAKER. If the members-elect from Alabama are now in the Hall they will present themselves to take the oath of office.

Mr. BROOKS. I ask for the separate administration of the oath to the members.

The SPEAKER. That is subject to the decision of the House.

Mr. BROOKS. There are three cases to which I wish to call attention. I object to one of the members, I think the one from the Mobile district, upon the ground that he is not a resident of the State of Alabama.

Mr. DAWES. The member from the Mobile district is not present.

Mr. BROOKS. Who is the gentleman from the Mobile district?

Mr. DAWES. Mr. Kellogg.

Mr. BROOKS. Oh! yes; Mr. Kellogg, of Michigan.

Mr. DAWES. No; of Alabama. The gentleman is laboring under a mistake, as he usually is.

Mr. BROOKS. And then there is another from Maine to whom I object.

Mr. BROOMALL. I call for the regular order.

The SPEAKER. The order of the House is that the Representatives from Alabama be sworn in by taking the oath prescribed by the act of July 2, 1862.

Mr. BROOKS. I do not suppose that the Speaker wants to violate the Constitution of the United States; and I ask him to read section two, article one, of that instrument.

Mr. DAWES. The gentleman from New York [Mr. Brooks] objects to one of these gentlemen because he was born in Maine. I would inquire of him where he himself was born. [Laughter.]

Mr. BROOKS. I was born in the State of Maine, and went to New York with a trunk thirty years ago; I did not go there three months ago with a carpet-bag. [Laughter.]

The SPEAKER. The Chair will decide the point raised by the gentleman from New York. The Speaker is required to execute the order of the House, which is to administer the oath of office to the members-elect from the State of Alabama. If the House should order that the oath be administered to each separately, the Speaker will, of course, obey the order of the House; but without such order he will swear them in collectively.

Mr. ROSS. One of these gentlemen is a constituent of mine; but I do not raise any objection to him on that account. He is a very good man.

Mr. CHARLES W. BUCKLEY, Mr. BENJAMIN W. NORRIS, Mr. CHARLES W. PIERCE, Mr. J. B. CALLIS, and Mr. THOMAS HOUGHY, presented themselves at the Speaker's desk, and were duly qualified by taking the oath prescribed by the act of July 2, 1862.

VACANCIES IN EXECUTIVE DEPARTMENTS.

The SPEAKER. The next business in order is the consideration of the question pending at the adjournment yesterday, being the report of the committee of conference on the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments. On the question of agreeing to the report the yeas and nays were ordered; and pending that question the gentleman from Ohio [Mr. SPALDING] moved that the report be laid on the table.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from its disagreement to the first amendment of the Senate, and agree to the same. That the House recede from its disagreement to the second amendment of the Senate, and agree to

the same, with the following amendment: strike out the word "and," in line three of said amendment, and insert after the word "second," in the same line, the words "and third;" and the Senate agree to the same.

That the House recede from its disagreement to the third amendment of the Senate, and agree to the same, with an amendment, as follows: after the word "upon" in said amendment, strike out all to the end of the amendment, and insert in lieu the following words: "the examiner-in-chief in said office oldest in length of commission;" and the Senate agree to the same.

THEODORE M. POMEROY,

WM. LAWRENCE,

Managers on the part of the House.

ROSCOE CONKLING,

WM. M. STEWART,

Managers on the part of the Senate.

Mr. SPALDING. I withdraw the motion that the report be laid on the table.

Mr. HOLMAN. I renew the motion, and call for the yeas and nays.

The yeas and nays were ordered.

Mr. MYERS. I desire to inquire of the Chair whether the effect of laying the report on the table will not be to kill the bill, while if we should simply reject the report the question of the differences between the two Houses would still be open?

The SPEAKER. That will be the effect.

The question was taken; and it was decided in the negative—yeas 35, nays 112, not voting 68; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Boyer, Cary, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Houghy, Holman, Hotchkiss, Johnson, Thomas L. Jones, Kerr, Knott, Marshall, McCullough, Niblack, Orth, Phelps, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Aukon, Van Trump, Wood, and Woodward—35.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Baker, Baldwin, Banks, Beatty, Bingham, Blair, Boles, Boutwell, Bowen, Boyden, Broomwell, Broomall, Buckland, Benjamin F. Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Delano, Deweese, Dixon, Donnelly, Driggs, Eckley, Eliot, Ferriss, Fields, Garfield, Goss, Hamilton, Hawkins, Heaton, Higby, Hill, Hinds, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Kelley, Kelsey, Ketcham, Koontz, Lash, William Lawrence, Lincoln, Loan, Loughbridge, Mallory, McCarthy, McClurg, McKee, Mercier, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Nunn, O'Neill, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Pomeroy, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Sypher, Taylor, Thomas, Twichell, Upson, Van Aernam, Burt Van Horn, Vidal, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—112.

NOT VOTING—Messrs. James M. Ashley, Bailey, Barnum, Beaman, Benjamin, Benton, Blackburn, Blaine, Brooks, Buckley, Burr, Roderick R. Butler, Cake, Callis, Chanler, Cornell, Dockery, Dodge, Eggleston, Ela, Farnsworth, Ferry, Finney, French, Gravely, Griswold, Halsey, Harding, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Alexander H. Jones, Julian, Kitchen, Laffin, George V. Lawrence, Logan, Lynch, Mann, Marvin, Maynard, McCormick, Morrissey, Munger, Newcomb, Newsham, Nicholson, Norris, Pierce, Pile, Price, Pruyn, Randall, Raum, Robinson, Roots, Selye, Shellabarger, Aaron F. Stevens, Stewart, Taft, John Trimble, Trowbridge, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, and Thomas Williams—68.

So the House refused to lay on the table the report of the committee of conference.

The question next recurred on the adoption of the report of the committee of conference.

The question was taken; and it was decided in the affirmative—yeas 80, nays 77, not voting 58; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Benton, Bingham, Blair, Boles, Boutwell, Boyden, Broomall, Benjamin F. Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Covode, Cullom, Dawes, Delano, Deweese, Dockery, Donnelly, Driggs, Ela, Eliot, Ferriss, Ferry, Fields, French, Goss, Griswold, Heaton, Hill, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Judd, Kelsey, Ketcham, Koontz, Laffin, Lash, William Lawrence, Lincoln, Loughbridge, McCarthy, Mercier, Miller, Moorhead, Mullins, Orth, Pike, Plants, Poland, Pomeroy, Robertson, Sawyer, Scofield, Selye, Smith, Spalding, Thaddeus Stevens, Thomas, Twichell, Upson, Van Aernam, Burt Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Whittemore, James F. Wilson, Windom, and Woodbridge—80.

NAYS—Messrs. Adams, Anderson, Archer, Arnell, Axtell, Baker, Barnes, Beatty, Beck, Boyer, Broomwell, Brooks, Buckland, Callis, Cary, Cobb, Dixon, Eggleston, Eldridge, Fox, Getz, Glossbrenner, Golladay, Gravely, Grover, Haight, Houghy, Hawkins, Higby, Holman, Hotchkiss, Hunter, Ingersoll, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Kerr, Knott, Loan, Logan, Mallory, Marshall,

Maynard, McClurg, McCullough, McKee, Moore, Morrell, Myers, Niblack, Nunn, O'Neill, Perham, Peters, Phelps, Polsley, Randall, Ross, Schenck, Shanks, Sitgreaves, Stewart, Stokes, Sypher, Taber, Taylor, Lawrence S. Trimble, Van Aukon, Van Trump, Henry D. Washburn, Welker, William Williams, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—77.

NOT VOTING—Messrs. Barnum, Beaman, Benjamin, Blackburn, Blaine, Bowen, Buckley, Burr, Roderick R. Butler, Cake, Chanler, Coburn, Cornell, Dodge, Eckley, Farnsworth, Finney, Garfield, Halsey, Hamilton, Harding, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Julian, Kelley, Kitchen, George V. Lawrence, Lynch, Mann, Marvin, McCormick, Morrissey, Munger, Newcomb, Newsham, Nicholson, Norris, Paine, Pierce, Pile, Price, Pruyn, Raum, Robinson, Roots, Shellabarger, Starkweather, Aaron F. Stevens, Stone, Taft, John Trimble, Trowbridge, Robert T. Van Horn, Van Wyck, Vidal, Cadwalader C. Washburn, and Thomas Williams—58.

So the report of the committee of conference was adopted.

Mr. POMEROY moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED JOINT RESOLUTION.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (S. No. 164) for the restoration of Commander Aaron K. Hughes, to the active list from the retired list; when the Speaker signed the same.

LEAVE OF ABSENCE.

Mr. LYNCH was granted leave of absence on account of the sickness of his wife.

CHARLOTTE C. REED.

On motion of Mr. PERHAM, leave was granted for the withdrawal from the files of the House of the papers in the case of Charlotte C. Reed, copies of those to be left which the Clerk deems important.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had passed a joint resolution (H. R. No. 354) admitting steam plows free of duty for one year from June 30, 1868.

It also announced that the Senate had adopted a concurrent resolution declaring the ratification of the fourteenth article of amendment to the Constitution of the United States, in which the concurrence of the House was requested.

FOURTEENTH CONSTITUTIONAL AMENDMENT.

Mr. BOUTWELL. I move to take up the concurrent resolution just received from the Senate.

There was no objection.

The Clerk read the concurrent resolution, as follows:

IN SENATE OF THE UNITED STATES,
July 21, 1868.

Whereas the Legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, West Virginia, Kansas, Missouri, Indiana, Ohio, Illinois, Minnesota, New York, Wisconsin, Pennsylvania, Rhode Island, Michigan, Nevada, New Hampshire, Massachusetts, Nebraska, Maine, Iowa, Arkansas, Florida, North Carolina, and Louisiana, being three fourths and more of the several States of the Union, have ratified the fourteenth article of amendment to the Constitution of the United States, duly proposed by two thirds of each House of the Thirty-Ninth Congress; Therefore,

Resolved by the Senate, (the House of Representatives concurring,) That said fourteenth article is hereby declared to be a part of the Constitution of the United States, and it shall be duly promulgated as such by the Secretary of State.

Attest: GEO. C. GORHAM, Secretary.

Mr. BOUTWELL. I move that it be referred to the Committee on Reconstruction, and on that I demand the previous question.

Mr. ELDRIDGE. It is an important question, and should go to the Committee on the Judiciary.

Mr. WASHBURNE, of Illinois. We will pass it now if the gentleman from Massachusetts will give way.

Mr. BOUTWELL. I withdraw the motion to refer, and move that the resolution be concurred in; and on that motion I demand the previous question.

Mr. SCOFIELD. Is there any information in the possession of the House that Georgia has ratified that fourteenth article?

The SPEAKER. The Chair has a dispatch. Mr. WASHBURNE, of Illinois. Let it be read.

Mr. BROOKS. I object unless we have read the withdrawal by Ohio and New Jersey of their assent to that amendment.

Mr. WASHBURNE, of Illinois. Let the gentleman from Massachusetts read the dispatch as part of his speech.

Mr. ELDRIDGE. Suppose the gentleman from Illinois makes the speech for him.

Mr. WASHBURNE, of Illinois. He can make a speech for the gentleman from Wisconsin much better than the gentleman can for himself.

Mr. ELDRIDGE. The gentleman does the most of the talking for him.

Mr. BOUTWELL. I withdraw the call for the previous question, and ask the Clerk to read the dispatch which I send to the desk.

The Clerk read as follows:

ATLANTA, GEORGIA, July 21, 1868.

To SCHUYLER COLFAX,

Speaker House of Representatives:

Fourteenth article and fundamental conditions adopted by majority of thirty-four on joint ballot.

RUFUS D. BULLOCK,

Governor-elect.

Mr. MAYNARD. I hope the State of Alabama will be included in the resolution.

Mr. BOUTWELL. I move to amend the resolution by inserting "Georgia."

Mr. BROOKS. On a mere private telegram? How do you know that that came over the wires?

Mr. BROOMALL. We take it on faith.

The SPEAKER. The Chair doubts whether this is an official notice such as is required. It should be sent by mail.

Mr. BOUTWELL. I withdraw the motion to amend.

Mr. ELDRIDGE. I desire to propound a question to the gentleman from Massachusetts—whether this dispatch came into his hands through the post-mortem examination committee?

Mr. BOUTWELL. I have no knowledge of it.

Mr. ELDRIDGE. Or whether it was a captured telegram that came in a legitimate way of business?

Mr. BOUTWELL. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. HOLMAN and Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

Mr. HOLMAN. I believe the proposition is divisible. I call for a separate vote on the preamble.

The SPEAKER. It is divisible; a separate vote will be taken on the preamble. The question now is on agreeing to the resolution.

The question was taken; and it was decided in the affirmative—yeas 127, nays 83, not voting 55; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Bailey, Baldwin, Banks, Beatty, Benton, Bingham, Blair, Boies, Boutwell, Bowen, Boyden, Broomall, Broomall, Buckland, Buckley, Callie, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Delano, Deweese, Dixon, Dockery, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Gravelly, Griswold, Hamilton, Houghsey, Hawkins, Heaton, Higby, Hill, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Jonckes, Alexander H. Jones, Judd, Kelley, Kelsey, Ketcham, Krontz, Lash, Lash, William Lawrence, Lincoln, Loan, Logan, Lougbridge, Mallory, Maynard, McCarthy, McClurg, McKee, Mercer, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Norris, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pierce, Pike, Pile, Plants, Polesley, Pomeroy, Raun, Robertson, Schenck, Scofield, Shanks, Smith, Spalding, Sawyer, Starkweather, Thaddeus Stevens, Stewart, Stokes, Sypher, Taffe, Thomas, Trowbridge, Twichell, Upson, Burt Van Horn, Van Wyck, Vidal, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Wood, and Woodbridge—127.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Boyer, Brooks, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Johnson, Thomas L. Jones, Kerr, Knott, Marshall, McCullough, Niblack, Phelps, Randall, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auker, Van Trump, Wood, and Woodward—35.

Johnson, Thomas L. Jones, Kerr, Knott, Marshall, McCullough, Niblack, Phelps, Randall, Ross, Stone, Taber, Lawrence S. Trimble, Van Auker, Van Trump, Wood, and Woodward—35.

NOT VOTING—Messrs. James M. Ashley, Baker, Barnum, Beaman, Benjamin, Blackburn, Blaine, Burr, Benjamin F. Butler, Roderick B. Butler, Cake, Cary, Chanler, Cornell, Dodge, Finney, Goss, Halsey, Harding, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Ingersoll, Julian, Kitchen, George V. Lawrence, Logan, Lougbridge, Lynch, Mann, Marvin, McCormick, Morrissey, Mungen, Newcomb, Newsham, Nicholson, Poland, Price, Pruyn, Robinson, Roots, Selye, Shellabarger, Sitgreaves, Aaron F. Stevens, Taylor, John Trimble, Van Aernam, Robert T. Van Horn, Cadwalader C. Washburn, Thomas Williams, Stephen F. Wilson, and Windom—55.

So the resolution was agreed to.

The question recurred on agreeing to the preamble.

Mr. BOUTWELL. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 127, nays 35, not voting 53; as follows:

YEAS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, Bailey, Baldwin, Banks, Beatty, Benton, Bingham, Blair, Boies, Boutwell, Bowen, Boyden, Broomall, Broomall, Buckland, Buckley, Roderick B. Butler, Callie, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Delano, Deweese, Dixon, Dockery, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, French, Garfield, Gravelly, Hamilton, Houghsey, Heaton, Higby, Hill, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Jonckes, Alexander H. Jones, Judd, Kelley, Kelsey, Ketcham, Krontz, Lash, Lash, William Lawrence, Lincoln, Loan, Logan, Lougbridge, Mallory, Maynard, McCarthy, McClurg, McKee, Mercer, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Norris, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pierce, Pike, Pile, Plants, Polesley, Pomeroy, Raun, Robertson, Schenck, Scofield, Shanks, Smith, Starkweather, Thaddeus Stevens, Stewart, Stokes, Sypher, Taffe, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Vidal, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, Wood, and Woodbridge—127.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Boyer, Brooks, Cary, Eldridge, Fox, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Johnson, Thomas L. Jones, Kerr, Knott, Marshall, McCullough, Niblack, Phelps, Randall, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auker, Van Trump, Wood, and Woodward—35.

NOT VOTING—Messrs. Ames, James M. Ashley, Baker, Barnum, Beaman, Benjamin, Blackburn, Blaine, Burr, Benjamin F. Butler, Cake, Chanler, Sidney Clarke, Cornell, Dodge, Finney, Goss, Griswold, Halsey, Harding, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Julian, Kitchen, George V. Lawrence, Lynch, Mann, Marvin, McCormick, Morrissey, Mungen, Newcomb, Newsham, Nicholson, Poland, Price, Pruyn, Robinson, Roots, Sawyer, Selye, Shellabarger, Spaulding, Aaron F. Stevens, Taylor, John Trimble, Robert T. Van Horn, Cadwalader C. Washburn, Thomas Williams, and Stephen F. Wilson—53.

So the preamble was agreed to.

Mr. BOUTWELL moved to amend the vote by which the preamble was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 554) making a grant of land to the State of Minnesota, to aid in the improvement of the navigation of the Mississippi river.

The message also announced that the Senate had passed, without amendment, bills of the following titles:

An act (H. R. No. 1227) granting a pension to Martha Ann Wallace; and

An act (H. R. No. 1337) granting an increase of pension to Frances T. Richardson, widow of the late Major General Israel B. Richardson.

FUNDING THE NATIONAL DEBT.

The SPEAKER. The House resumes the consideration of the bill (S. No. 507) for funding the national debt and for the conversion of the notes of the United States pending at

the adjournment on Saturday evening and now reached in the regular order. The gentleman from Massachusetts [Mr. BOUTWELL] is entitled to the floor for fifty-eight minutes of his hour.

Mr. BOUTWELL. I have made some verbal amendments in the substitute which I proposed on Saturday last, which I will send to the Clerk's desk. They do not change the substance, and it is not necessary that they should be read at present.

Mr. RANDALL. I desire to know whether there will be one vote on the entire substitute, whether it must be adopted or rejected by a single vote?

The SPEAKER. When debate closes the first question will be on the amendments reported by the Committee of the Whole to perfect the original bill, and then the question will be on striking it all out, as amended, and inserting the substitute proposed.

Mr. RANDALL. Then we shall have to take the whole of the proposition of the gentleman from Massachusetts or none of it.

The SPEAKER. Unless the previous question shall be moved amendments to the substitute will be in order, provided they shall be such as have been considered in Committee of the Whole. If they have received their first consideration in Committee of the Whole they can be offered, but not otherwise.

Mr. BOUTWELL. If the House will give me ear for ten or fifteen minutes, I will endeavor to state the features of the substitute, and especially the particulars in which it differs from the bill as it came from the Senate and from the bill which was adopted by the House in Committee of the Whole.

The Senate bill provides for the funding of the entire interest-paying debt, with the exception of the five per cent. bonds known as ten-forties and the three per cent. certificates; the new bonds to be made payable at different times and with different rates of interest, covering, considering the entire scope of the bill, \$1,800,000,000 of the public debt.

The bill reported to the House by the Committee of the Whole provides for the funding of the entire interest-bearing public debt, amounting to \$2,150,000,000, all of it payable in coin upon forty years time, and at three and sixty-five hundredths per cent. rate of interest.

The amendment to which I wish to call the attention of the House provides for the funding of \$1,200,000,000 of the public debt; \$400,000,000 payable in fifteen years at five per cent. interest; \$400,000,000 payable in twenty years at four and a half per cent. interest; and \$400,000,000 payable in twenty-five years at three and sixty-five hundredths per cent. interest; the latter sum of \$400,000,000 payable, principal and interest, at the option of the taker, either in the United States, or at London, Paris, or Frankfurt.

The latter proposition, that \$400,000,000 may be made payable abroad, is submitted upon this ground. A portion of our public debt is already due abroad; and the parties who hold that amount are subjected every six months to a pretty heavy tax, to something like one half of one per cent., I understand, in expenses incurred in the collection of the interest coupons. The Government of the United States of course could place funds in London or Paris or Frankfurt at a very much less cost than is now incurred by the holders of the bonds. By making the bonds payable abroad we induce foreigners to exchange existing bonds for those bearing a lower rate of interest, we subjecting ourselves to the expense of placing the funds there, which can be done by the Government at much less cost than the holders of bonds would be required to pay in the form of discount upon the coupons.

Therefore the advantage of this plan resolves itself into an ability on our part to obtain funds at a less rate of interest, including the expense of placing the money abroad to meet payments, than we should be obliged to pay if the parties holding the bonds, incurred the expense of col-

lecting the interest on this side of the Atlantic every six months.

I wish to call the attention of the House to some of the advantages of the amendment which I have proposed. In presenting those advantages I am obliged to state, not for the purpose of antagonism, and certainly with the desire to avoid all personal antagonism, what seems to me to be an objection to the bill reported from the Committee of the Whole. That bill, as gentlemen very well know, contemplates a postponement of the payment of any of the interest-bearing public debt for forty years. To my mind this is an insuperable objection. We shall this current year—and I state it after examination—we shall this current year, notwithstanding the changes that have been made in our system of taxation, pay the interest on the public debt, the current expenses of the Government, reduced as they have been by this Congress to something like one hundred and six million dollars, excluding bounties and pensions, and also pay \$50,000,000 of the principal of the public debt.

When we consider the rapid development of the resources of this country, its increase of population, and the augmentation of wealth, there is no hazard in the prediction that our excess of revenue to be applied to the liquidation of the public debt will not be less in any future year than it will be in the present year.

Now, sir, a nation is distinguished from individuals in its financial affairs in the particular I am now considering. If an individual owes a debt, due five or ten years hence, and has money which he could now apply to that debt, if it be not in the terms of the contract that he shall pay it immediately, he may use that money in various other pursuits, in business, in enterprises, or even hazards, and pay his debt when it matures. But a government is differently situated. Unless it be absolute poverty in the national Treasury, I know of no condition of things more disadvantageous to public credit than the possession of large funds in the Treasury without any present means of using those funds in a legitimate and proper way.

I need not state here how it is impossible for the Government to engage in any proper enterprise for the use of its funds, nor how the possession of surplus funds gives rise to schemes, speculations, and frauds, affecting perniciously the character and credit of a country. It is urged by the friends of the forty-year loan that only a part of the loan offered will be taken by the public creditors. This may be so, but I am considering not what may be funded under the system proposed by the Committee of the Whole; I am considering what is contemplated by the provisions of the bill, assuming in what I say that we do not ask the world to accept as a measure of public policy a measure which we ourselves do not favor. If we pass a bill for the funding of \$2,150,000,000 of the public debt, I suppose we do it upon the ground that we hope, if we do not absolutely expect, that the public will accept the proposition we make, and that the proposition, if accepted, would be advantageous to us.

Of course, sir, I object to this proposition, assuming that it is to be accepted, because, if accepted, it will be disadvantageous to us even at the low rate of interest proposed in the bill. In the first place it lays upon the people of this country a debt of \$2,150,000,000 which for forty years they will have no legitimate, lawful means of lifting. I think that a great evil. Not a dollar of this vast amount can be paid except by going into the markets of the world and buying up the obligations. In case of war we should have occasion to borrow money, for no nation is or ever can be wealthy enough to carry on a war without credit and without the use of its credit. With a debt of about two thousand million dollars postponed for thirty or forty years, the credit of the country would be materially affected. But in the next place, with the accumulation of revenue, we should be placed in the hands of the holders of the public funds.

In the bill which I submit to the House I have sought to accomplish three objects. The first of these is the reduction of the interest on the public debt. This is secured by the bill which I propose to the extent of \$19,400,000 a year. I have sought in the next place to put the Government out of the hands of the public creditors, so that they cannot compel us to pay, except when it is convenient for us to pay; and if \$1,200,000,000 of the public debt be funded in the manner I propose there will remain \$1,018,000,000 of the public debt, bearing interest, for which provision will not have been made. This amount I leave as it is, that we may, as we say in the country, "come and go upon it" for the next fifteen years.

Mr. Speaker, I have made no provision for \$1,018,000,000 of the interest-bearing public debt. This is made up of three hundred million dollars or thereabouts of five-twenties, which may be paid in five years or less, but which we cannot be compelled to pay before the expiration of twenty years from the issue. These five-twenties, after five years, can be taken in by the Government if it should be our interest to do so; but the public creditors cannot compel us to pay them until twenty years from date. In the next place there are of the ten-forties outstanding, for which I make no provision, \$220,000,000. These will be due in six or seven years, so that we may pay them; but the Government cannot be compelled to pay them within thirty years. Then there are \$284,000,000 of the six per cent. bonds payable absolutely in the year 1881, which, according to the terms of the contract, must then be paid. There is of the matured debt \$11,000,000. There is also the currency debt amounting to \$203,000,000. So that in the whole there will be \$1,018,000,000 which we may, if we choose, pay in the next fifteen years. But of this \$1,018,000,000 there are only \$75,000,000, which, according to the pledge we have given to the world, we can be called upon to pay before 1881; and in that year we shall be called upon to pay \$284,000,000 only. So that, as a matter of fact, we shall be left in the best possible condition with reference to the application of such revenues as may accrue during the next fifteen years. That is, we may pay \$1,000,000,000 of the public debt, if we have the means and the disposition to pay it; but if we have not, we cannot be compelled to pay but about three hundred and fifty millions of the public debt during the next fifteen years.

Mr. Speaker, I have no doubt myself that this thousand millions will be paid in the next fifteen years by the energy and by the resources of this country. And I wish to call the attention of the House to a fact deduced by careful examination of statistics obtained from the Assistant Secretary of the Treasury, showing that during the last three years we have with our resources and the revenue of this country secured a large diminution of the public debt. I confess, that after the careful examination I had made, I felt compelled to review it to see whether there was not some mistake in the premises or in the calculation, so astonishing is the evidence thus furnished of the ability of the people of the country to liquidate the public debt. From the 1st day of April, 1865, to the 1st day of January, 1868, two years and nine months, we have paid out of the public Treasury \$1,552,000,000 of money. Upon a careful analysis of the expenditures of the Government during those two years and nine months, I find that the expenses of a peace establishment, excluding interest, pensions, and bounties, upon the basis of the year 1866 and 1867, when the expenses of the Government were \$70,000,000 more than they are to be the present year amounted to \$485,000,000, showing that we paid over and above those expenses \$1,066,000,000. On the 1st day of April, 1865, the public debt, liquidated and ascertained, was \$2,866,000,000, and the \$1,066,000,000 which we paid between the 1st of April, 1865 and the 1st of January, 1868, would have been added to the public debt as proper expenses of the war if we had not out

of the public revenue from day to day liquidated it. If we add to the \$2,366,000,000 public debt on the 1st of April, 1865, \$1,066,000,000 which we paid for war expenses including interest on the war debt, pensions, and bounties between the 1st of April, 1865, and the 1st of January, 1868, we find that on the 1st of January, 1868, the public debt, if we had not paid expenses of the war out of the ordinary revenue, would have amounted to \$3,432,000,000. In the face of this great fact, that in two years and nine months, by extraordinary taxation and extraordinary efforts to be sure, we paid \$1,066,000,000 of the public debt, are we to assume that hereafter the people of this country are not annually to make considerable payments of the public debt of the country? Almost one third of the entire public debt of the country has been paid in two years and nine months, and I am not willing to stand upon the assumption that we shall not make large payments in each year hereafter.

My objection to the proposition as it comes from the Committee of the Whole is of the most serious character in this: that it puts it out of the power of the people of the country to pay the public debt unless they go into the markets of the world and buy it up. Now, there are two facts in our own history to which I wish to call the attention of the House, and which show how impolitic it would be for us to put ourselves in the hands of the public creditors. On the 4th of August, 1790, under the lead of Mr. Hamilton, there were issued three per cent. bonds. Those bonds, bearing interest of three per cent., were never worth for the purposes of investment more than sixty cents on the dollar; but in 1832, under the administration of General Jackson, the public debt had been so diminished and the public revenue so augmented that the public creditors foresaw that these three per cent. bonds would soon be taken up. What happened? They advanced in price at once, so that the last \$346,000 of those three per cent. bonds were actually redeemed by the payment of \$326,000 in gold. Are we, when we are proposing for a loan at three and sixty-five hundredths, to put ourselves in a like position? Again, during the Mexican war, we issued six per cent. bonds, but before the administration of Mr. Polk closed, the Secretary of the Treasury went into the market and bought those bonds at \$1 28 for every dollar the public creditors had loaned to the Government. In this view of the case, I say to the House that the question of interest is altogether unimportant as compared with the question I am now considering. If the public creditors would take this \$2,150,000,000 of loan without interest, I would not let them have it for the term of forty years; for within forty years they would compel the people of this country, under the circumstances which are sure to arise, to pay more premium than the accumulated interest at four or five per cent.

My third proposition is that we must keep the loan so that we can control it ourselves—pay it when we choose. First, then, the bill contemplates a reduction of interest, keeps in the possession of the Government the power to pay when it pleases, and puts it out of the power of our creditors to compel us to pay when we do not choose to pay.

Sir, this debt looks pretty large, but it is a small debt for this country when you consider that we paid \$1,000,000,000 in less than three years. What is to be said of the \$2,000,000,000 remaining? Why, sir, when the war of 1812 closed our public debt was \$127,000,000. That does not look large to us, but it was as heavy a debt for the seven millions of people in the United States at that time, considering that a day's labor would not produce more than thirty-three per cent. in gold of what it will produce now, as the \$2,000,000,000 of debt is to the people of the country at the present time.

I have still further to say in support of the measure which I have proposed, that it is in the line of the bill which came to us from the Senate, while the bill reported from the Com-

mittee of the Whole is a departure from what appears to be the policy of the Senate, a policy in which generally I concur. Inasmuch as these propositions are to go to a committee of conference, I submit to the House that the wiser way is to offer as the judgment of the House a measure which in its general policy conforms to the measure submitted by the Senate rather than to offer to the Senate a measure which, in all its substantive features, is very decidedly, if not diametrically opposed to what appears to be the policy of the Senate bill.

A MEMBER. Would you allow the Senate to legislate for both Houses?

Mr. BOUTWELL. No, sir; I would not; but if the judgment of this House on the whole is that the general policy of the Senate, not speaking of a particular provision, is a wise policy then we ought in good sense and in common fairness and with ordinary legislative wisdom to frame our bill so that it shall harmonize as far as possible with the bill of the Senate.

There is in the bill I have submitted a proposition for a sinking fund, and which I have introduced because I consider that the act of 1862 requires us to establish a sinking fund whenever the means of the Government permit. That time has already arrived. I do not object, however, if any gentleman on the floor desires to strike out the proposition for a sinking fund, to submit that question to the judgment of the House. It is no essential part of the funding system, but I consider that in good faith we are bound to establish a sinking fund for the payment of a portion of the public securities.

I have also provided in this bill a section which I do consider important. We have had in the Treasury of the United States during the last two years from seventy to one hundred million dollars in gold. No man in private life would ever allow gold or any other money to accumulate and lie without interest in the manner that the Government of this country has permitted gold to remain in the Treasury. But, sir, as a general proposition I am opposed to the sale of gold when the gold itself is already pledged to particular purposes. Some time ago, and upon my motion in this House, we gave the Secretary of the Treasury power to anticipate the payment of interest on the public debt. On one or two occasions that power has been exercised, but it never has been exercised so as to produce any considerable beneficial effect either in saving interest or in affecting the market price of gold.

The country, it seems to me, ought to be astonished by a single fact which I am about to state. In 1865, with \$900,000,000 of paper circulating medium, gold stood at about 128. We have reduced the paper circulation to \$710,000,000, a reduction of more than \$180,000,000, and gold has advanced to something like 143. I cannot explain the reason for this in full, but I do not doubt that one cause of the increased price of gold is the accumulation of gold in the Treasury of the United States. We started in 1865, I think, with about thirty million dollars of gold in the Treasury. We have gone on diminishing the amount of paper in circulation and accumulating gold in the Treasury, and the price of gold has continually advanced. If the theory is correct which was here announced three years ago that a decrease in the paper circulation of the country would produce a corresponding decrease in the price of gold, gold should be to-day at 103 instead of 143. We have produced by this process of accumulating gold in the Treasury an artificial condition of things in the country. If the General Government were to go into the purchase of wheat or cotton and accumulate, as I suppose we have accumulated of gold, one fourth or one third of the entire quantity in the country, it would not be strange to us if cotton and wheat advanced, and it is not strange to me that gold advances when we are engaged in accumulating it in the public Treasury.

I object to the sale of gold. If we require the Secretary of the Treasury to adver-

tise that he will be ready at any time to pay the interest on the debt next to become due, the public creditors abating the interest on the payments which he makes to them, there will always be an opportunity for those who own coupons, or those who choose to buy coupons, to command the gold that is in the Treasury, and at any rate the amount which he advertises that he will pay upon demand is so much gold upon the markets of the country. The difference between this proposition and the proposition to sell gold, is that we pay out gold where it is to be paid and relieve ourselves of interest becoming due next October, next November, or next January, and also improve the credit of the country. Coupled with that is a provision prohibiting all sales of gold by the Secretary of the Treasury. I need not make any suggestions to this House in the way of reasons or arguments in favor of taking from the Secretary a power which if honestly exercised can never be productive of any good whatsoever. I will now yield to the chairman of the Committee of Ways and Means. I have spoken longer than I supposed I should when I began.

Mr. SCHENCK. Mr. Speaker, I do not know whether my strength to-day will enable me to avail myself of the opportunity of speaking for a very few minutes. I am glad, however, that the gentleman who offered the substitute for the bill as it comes from the Committee of the Whole has entered into the explanation that he has, and I desire to add only to that explanation which he has given of the difference between his proposition and that presented by the Committee of Ways and Means and modified by the Committee of the Whole a general statement of a difference to which he has not particularly adverted—a difference which to me, however, I confess is everything. The bill as it went to the Committee of the Whole, as it came virtually from the Committee of Ways and Means, is a bill providing for the consolidation of the public debt of the country. The substitute offered by the gentleman from Massachusetts [Mr. BOUTWELL] is not a scheme for consolidation. The bill of the committee proposes to afford an opportunity, progressing from year to year in investments for that purpose, of converting the existing debt of the country into a long bond at low interest, thus meeting, as I think, on the one hand, public expectation, and putting the credit of the Government of the United States upon that footing which it is entitled to hold among the Governments of the world, and meeting, obviating, and dismissing the annoying question which arises in regard to the inequality in the advantages of property held by investments of public securities free from taxation and the other property of the country. I do not believe there is any other way in which that question can be so wisely and so fairly met and disposed of and the difficulties connected with it avoided.

Now, sir, the plan of the committee is for a bond at forty years with a low rate of interest at three and sixty-five hundredths, that bond to have value given to it for purposes of investment—permanent investment in one sense it may be said—by the length of time that it is to run and by its being surrounded by all the securities against taxation or burden of any kind upon the property so invested, so that the purchaser of the bond knows precisely what his property is, what he will be entitled to receive, all of which he will receive, and subject to no deductions whatever. What is the gentleman's proposition? To have three classes of bonds, one with interest payable in coin at fifteen years at a rate of five per cent. interest; another at four and a half per cent. interest, to run twenty years, and another to run twenty-five years, to be payable abroad and at a rate of interest the same that is provided in the bill from the committee, three and sixty-five hundredths.

By the very proposition which the gentleman makes he recommends the value of giving length to the time that the bond has to run, and seems to estimate that value at the rate

of one half of one per cent. variation in the interest for five years. This would of course have its limits. But starting from his initial point he allows a deduction in the rate of interest of one half of one per cent. for the five years between fifteen and twenty years; thus affording, in that indirect way, an argument in favor of the long bond which the committee proposes.

Now, my objection to all this classification arises mainly from the fact that it is after all but a continuance of the present system. We have now a variety of bonds of different classes in which investments are made, and the gentleman from Massachusetts [Mr. BOUTWELL] proposes to add three more classes to those we now have, some of them running *pari passu* with some of the classes of bonds now existing. His scheme is not one for consolidation. It is not a system by which the public debt is to be reduced to one uniform character as is proposed by the bill reported from the committee. And in this, as I said at the beginning, exists the main difference between the two plans; a difference which, in my opinion, is vital, as affording an objection against this multiplication of classes of bonds, instead of resorting at once to the scheme of consolidation.

But the gentleman objects that if you afford an opportunity by law for the consolidation of the whole public debt into a class of bonds all falling due at the same time, you do not provide for meeting the obligations of the Government from year to year; and he carried that idea so far in the first draft of his amendment—for I beg leave to say that this substitute he has now offered is very different from his original fanciful substitute—that he provided for and extended through a number of years, redeeming \$50,000,000 of the public debt in each year. And so far as his last class of bonds for \$500,000,000 were concerned, they were to begin on the thirty-sixth year, by the redemption of \$50,000 a year, and extending to the forty-fifth year, I think.

Now, I do not appreciate the force of the obligation, when practically considered, that the Government would not be able to provide from time to time and from year to year, for this debt as the debt might be falling due. It is true that by a scheme of consolidation you propose to fund the whole debt in a bond having a given time to run. But it does not follow that those bonds will all be taken in the first year, or the second year, or the third year. But it is the initial step, the entering wedge, subject to modification by subsequent legislation, providing for taking hold of the debt with a view of giving it uniformity, and with a view to establishing as a system of finance for the Government hereafter, that that debt shall be represented by bonds that shall have a long time to run, and which shall draw but a low rate of interest.

There is a provision, contained I think in the eighth section of the bill as it came from the Committee of Ways and Means—for this was an amendment added in Committee of the Whole on the recommendation of the Committee of Ways and Means—which indicates the policy the committee would have adopted in regard to this matter; that while there is to be a consolidation of the public debt, there shall not at the same time be in continuance upon the statute-book a variety of acts, under one and the other of which the Secretary of the Treasury or the financial officers of the Government may be at liberty from year to year to increase our debts in different shapes. By this section it is provided—

"That on and after the passage of this act all authority under any existing law to issue bonds or interest-bearing Treasury notes, or obligations of the United States shall cease and determine: *Provided*, That nothing herein shall prevent the conversion of Treasury notes known as seven-thirties into five-twenty bonds," &c.

The object of this was to prevent that emission of ten-forty bonds which has been taking place for some time past, in one instance to the extent of \$8,000,000, and of other bonds,

upon the faith and under the authority of laws still standing upon the statute-book, thus keeping up from year to year this variety in the forms of our public debt. The policy which I advocate is to wipe out as far as practicable all these distinctions, and come, at first gradually, afterward more rapidly, under a provision the foundation of which we propose shall be laid now, to a general consolidation of the whole debt at a low rate of interest, and with such length of time to run as will enable us to command credit in the markets of the world at that rate of interest.

I am, for one, hopeful that by commencing in this way we may bring about at no distant period such a condition of things that the United States Government, with all our immense resources, with all our extraordinary capabilities upon which to found credit, shall not be compelled to hawk its bonds around the world, seeking to make terms of payment at this, that, or the other foreign city, or upon this, that, or the other rate of high interest, in order to command that credit to which I think those resources should entitle us.

But the condition of my health admonishes me that I cannot venture to-day to continue this discussion further than to call the attention of the House to what is really the question as to the principal features of difference in the two systems presented. That question is this: shall we commence now a system of consolidation, issuing our bonds of such character and for such time as that we may command credit at a low rate of interest; or shall we go on multiplying in the securities we may put forth the varieties of shape that have heretofore been given to the evidences of our public debt, so as to keep up for an unlimited period this same system of temporary expedients for different lengths of time, and under different circumstances, and at different rates?

Mr. BOUTWELL. I yield five minutes to the gentleman from Maine, [Mr. PIKE.]

Mr. PIKE. Mr. Speaker, I do not propose to discuss the propositions which have been discussed by the gentlemen who have just spoken. I wish simply to call the attention of the House to the fact that there are three propositions now pending before the House: first, the Senate proposition; second, the proposition of the Committee of Ways and Means as modified by the Committee of the Whole; and third, the proposition of the gentleman from Massachusetts, [Mr. BOUTWELL.]

In my judgment, Mr. Speaker, the Senate bill contains provisions which are superior to either that of the Committee of Ways and Means or that of the gentleman from Massachusetts. The most important provision in this whole matter, as it seems to me, is that allowing contracts to be made in gold. The Senate adopted the provision, carefully guarded, that hereafter any person who chooses may make a contract payable in gold. It was an indication on their part that possibly at some time hereafter, however distant, gold and silver may again form a currency in this country. It was recognizing that fact in a very unobtrusive way, to say that the people of this country, who are now practically debarred from the use of gold and silver, may, if they please, make contracts payable in that currency. To me that was the attractive feature of the Senate bill. But that was struck out by the Committee of Ways and Means, and their position has been sustained by the Committee of the Whole.

Another provision in the Senate bill was for higher rates of interest than those provided by the Committee of Ways and Means. I endeavored in the Committee of the Whole to get the rate of interest fixed at a practical point. I am as desirous as any gentleman here to go home to my constituents and say that I voted for a low rate of interest; but I do not wish to be absurd about it. I wish to go home and tell them that I voted for a rate of interest at which I think these loans can be taken; but I submit, Mr. Speaker, whether it be not somewhat absurd to say to a man now holding our bonds with interest at six per cent.

payable in gold, "You may voluntarily, without the slightest compulsion, exchange those bonds which have now practically fifteen years to run for bonds with interest at three and sixty-five hundredths in gold." Would any of us be willing to make such an exchange? I desired to fix the rate of interest at four per cent., which seemed to be as low as would induce the taking of the bonds. We might try it at that rate, and if it could be done no harm would result.

The Committee of the Whole have presented to this House for its adoption the further proposition that those who took our bonds in the dark hours of war, when it was a patriotic impulse that moved them to do it, shall be taxed five per cent. upon the interest arising from them, and that the tax shall be paid when the interest is paid out to them; but that the foreigner, who bought bonds at second-hand after the war had proved that this Republic would live and would pay, and the national banks, which come into existence after this war was practically decided at Vicksburg and Gettysburg, and bought bonds as a matter of business, shall not be taxed the same as the man who took them from a patriotic purpose.

Mr. ELDRIDGE. Will the gentleman from Massachusetts allow me to ask the gentleman from Maine a question?

Mr. BOUTWELL. I will, if it does not give rise to debate.

Mr. ELDRIDGE. I desire to ask the gentleman from Maine, as it is in the line of his argument, and as he has said he would not allow the creditor, that he would not insult the public creditor to ask him to take—

Mr. PIKE. I did not say anything about insulting him, but that it was absurd to offer it to him.

Mr. ELDRIDGE. Very well. Now, is he willing and in favor of paying those creditors whose debts are now due in "greenbacks?"

Mr. PIKE. If we had the "greenbacks," I would, but we have not the "greenbacks."

Mr. ELDRIDGE. You are in favor of paying in "greenbacks?"

Mr. PIKE. Certainly I am, if we had the "greenbacks;" but I am not in favor of issuing a batch of "greenbacks" for that purpose. Is the gentleman in favor of that?

Mr. ELDRIDGE. I am in favor of paying the five-twenties now out in that way.

Mr. PIKE. Is the gentleman willing to issue "greenbacks" for that purpose?

Mr. ELDRIDGE. I want the gentleman to answer me.

Mr. PIKE. I am in favor of paying "greenbacks" if we had them, but not having them we can pay no "greenbacks." Is the gentleman in favor of issuing "greenbacks" for the purpose of paying them?

Mr. ELDRIDGE. I am in favor of withdrawing the national currency in order to supply its place with "greenbacks," and pay our debts. How is the gentleman on the subject?

Mr. PIKE. Would that give us a single dollar with which to pay the bonds if we succeeded in taking up the \$300,000,000 of national bank circulation with "greenbacks?"

Mr. ELDRIDGE. Will the gentleman answer as candidly and as fairly as I have?

Mr. PIKE. You have not answered at all.

Mr. ELDRIDGE. Is the gentleman in favor of withdrawing the national currency and supplying its place with "greenbacks?"

Mr. PIKE. I am willing to withdraw paper of every kind as soon as possible, and to go at once to a specie basis. I would make gold national and paper sectional.

Mr. ELDRIDGE. Does not the gentleman know we have not gold enough to pay our debts?

The SPEAKER. The gentleman's time has expired.

Mr. MULLINS. Regular order!

Mr. ELDRIDGE. The regular order on that side is to cut off debate on this side of the House.

Mr. MYERS. I hope the time will be ex-

tended, so as to allow the gentleman from Wisconsin to answer the question.

The SPEAKER. For how long?

Mr. MYERS. Sufficient time to answer the question.

Mr. MULLINS. I object.

Mr. PIKE. The question is, Will the gentleman from Wisconsin issue "greenbacks" for the purpose of paying the public debt?

The SPEAKER. The gentleman from Massachusetts is entitled to the floor.

Mr. ELDRIDGE. Perhaps I am practicing upon the good nature of my friend from Massachusetts.

Mr. BOUTWELL. It is the best practice the gentleman has been engaged in.

Mr. PIKE. It is difficult to get the gentleman to answer.

Mr. ELDRIDGE. I have answered without reserve, but the gentleman from Maine does not answer at all.

Mr. BOUTWELL. I only wish to say in reply to the remarks made by the chairman of the Committee of Ways and Means, that the question whether our bonds shall be all of one sort and payable at the same time is to me, and I believe to the tax-payers of the country, a very unimportant matter compared with such a disposition of the public indebtedness as shall enable us to pay our obligations when it is convenient for us to do so. I think that the point to be reached is a more important one even than the rate of interest that we pay. When the Committee of Ways and Means reported three and sixty-five hundredths interest I had doubts whether any loan would be taken anywhere at that rate; but I am pretty well satisfied that a large portion of the present securities will be exchanged early into a long loan at three and sixty-five hundredths interest, both principal and interest payable in coin, and payable abroad.

Mr. RANDALL. I would like to know what warrant the gentleman has for that statement. Where does he get his knowledge that our creditors will exchange a six per cent. bond for a bond paying only three and sixty-five hundredths interest?

Mr. BOUTWELL. There is a doubt existing as to the nature of the obligation assumed by the country in regard to the five-twenties bonds.

Mr. RANDALL. Do you think they will do that yourself?

Mr. BOUTWELL. I am of opinion that three-fourths of all the bonds held abroad will be exchanged into the bonds contemplated by the third clause of the first section of the amendment which I propose. I am of that opinion from information received from German bankers, and I am of that opinion from my own reflections as to what would be their interest.

Mr. RANDALL. I would like to ask the gentleman this question: Do you believe these five-twenties bonds are payable in gold?

Mr. BOUTWELL. Ah!

Mr. RANDALL. That is the milk in the cocoanut.

Mr. BOUTWELL. I will state exactly what my opinion is upon that subject. When we issued \$500,000,000 of five-twenties we stipulated to the public creditors that the United States notes known as greenbacks should never be issued in excess of \$400,000,000. That was the first stipulation. The second stipulation was that we would not compel payment over five years. But there was a stipulation over and above the law, inherent in the very nature of society, in the experience and tradition of all mankind, that every nation in its senses, actuated by an honest purpose, if when struggling with vicissitudes it was obliged to resort to forced loans and extraordinary means of raising money by which its credit was impaired and its securities are forced below the par value of gold; that such a nation should make every honest effort possible for the redemption of specie payments and the restoration of its public credit. That obligation rests upon us. Now, if according to the terms of the act of 1862, it does not appear beyond all cavil

that we might not pay these bonds in greenbacks, in the same act it does appear that we shall never issue more than \$400,000,000 of greenbacks.

Mr. PIKE. If the gentleman will allow me, the act of 1862 does not so provide.

Mr. BOUTWELL. I mean the act of 1864. [Here the hammer fell.]

Mr. BOUTWELL. I demand the previous question.

Mr. RANDALL. There has been no opportunity for this side to say a word.

NAVIGATION OF THE MISSISSIPPI.

Mr. DONNELLY submitted the following privileged report:

The committee of conference on the disagreeing votes of the two Houses upon the bill of the House (No. 554) making a grant of land to aid the State of Minnesota in the improvement of the navigation of the Mississippi river, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendment to said bill.

ALEXANDER RAMSEY,
JAMES HARLAN,
C. A. BUCKALEW

Managers on the part of the Senate.

I. DONNELLY,
L. W. ROSS,
HORACE MAYNARD.

Managers on the part of the House.

Mr. ARNELL. Will it be in order to move to lay the whole bill on the table?

The SPEAKER. The Senate having agreed to recede from its amendment the bill is now passed, as both branches have concurred in the remainder of the bill. Therefore the motion to lay it on the table cannot be entertained. There is no formal action required on the report. The bill is passed.

FUNDING THE NATIONAL DEBT.

The House resumed the consideration of the funding bill.

Mr. ELDRIDGE. Will the gentleman from Massachusetts now yield to me?

Mr. BOUTWELL. The gentleman from Wisconsin will understand that I have no further control of the time. I think at this period of the session, and after all the debate that has been had on the funding bill, it would not be proper for me at least to open the subject for debate. I suppose if the previous question shall be sustained under the rules the gentleman from Ohio [Mr. SCHENCK] will have an hour for debate. What will be his pleasure I cannot say.

The previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] is now entitled to the floor for one hour to close the debate.

Mr. SCHENCK. I will yield to the gentleman from Wisconsin [Mr. ELDRIDGE] what time he desires.

Mr. PIKE. I hope he will answer my question.

Mr. ELDRIDGE. I only want four or five minutes.

Mr. SCHENCK. I yield the gentleman five minutes.

Mr. RANDALL. I would like to have a few minutes.

Mr. SCHENCK. I will yield to the gentleman afterward.

Mr. ELDRIDGE. I think I answered the question of the gentleman from Maine [Mr. PIKE] most emphatically.

Mr. PIKE. That question was—

Mr. ELDRIDGE. If the gentleman will hold still a minute, I will state both his position and mine as I understand it. I asked the gentleman from Maine whether he was in favor of paying off the principal of the five-twenties now due in greenbacks. The gentleman says he is in favor of paying them in greenbacks, but that we have not greenbacks to pay them. I think that is the position of the gentleman from Maine. Now, then, the debt is due.

Mr. PIKE. I asked you the question—

Mr. ELDRIDGE. Not quite yet. If the gentleman pleases, he will hold himself in reserve for a minute. The debt is due; payment may be made, and we have not, accord-

ing to the gentleman from Maine, greenbacks to pay it. I suppose, therefore, he would pay the debt in gold.

Mr. PIKE. We have not the gold.

Mr. ELDRIDGE. Now, I ask the gentleman from Maine, and he may answer me if he will do it without much circumlocution, whether we have gold to pay that debt, and whether we could now pay that debt any better in gold than in greenbacks.

Mr. PIKE. We shall have about thirty-eight million dollars of gold left in the Treasury after paying for Alaska, and there is \$500,000,000 of five-twenties bonds redeemable.

Mr. ELDRIDGE. Then it must appear to everybody that to pay in gold is an impossibility. Now, there was a time some years ago when there was large indebtedness between individual citizens of the country, and Congress, of which the gentleman from Maine was then a component part, passed a law making greenbacks a legal tender in payment of all debts, excepting in certain specified cases—payment of customs duties, &c.—which are upon the back of the greenback itself. The gentleman and his party charge that if we undertake to pay that debt as they required citizen to pay citizen we are attempting repudiation, or acting in the way of repudiation.

Mr. PIKE. I do not charge that.

Mr. ELDRIDGE. The gentleman does not charge it. That may, perhaps, quiet some of the political papers of the country that are constantly charging upon the Democratic party that they are in favor of repudiation because they are in favor of paying precisely according to their agreement. Now, I do say, and gentlemen may make what they can of it, that that law when it was passed and took effect was to a certain extent a law by which a considerable amount of the indebtedness of this country was actually repudiated, and I charge repudiation upon the gentleman and his party in the passage of that act, and you may make the most of it. It did repudiate. Every man who owed a debt paid less than he had agreed to pay because he paid in a depreciated currency. The party who are now so sensitive on the subject of repudiation and charge that we are in favor of repudiation then passed a law by which a large proportion of the indebtedness of this country was actually repudiated.

Mr. PIKE. Now, will the gentleman answer my question?

Mr. ELDRIDGE. I say to the gentleman from Maine [Mr. PIKE] that if we have not enough greenbacks to pay the five-twenties bonds now due, just withdraw the national bank currency, for which you are paying daily a premium, and supply its place with greenbacks, and pay so much of the debt as that difference will be.

Mr. PIKE. Will the gentleman allow me a moment?

Mr. ELDRIDGE. I am told that is repudiation. Now, I think the gentleman from Maine will agree that I have answered his question.

Mr. PIKE. Will the gentleman now answer a question?

Mr. ELDRIDGE. No; I would rather the gentleman would answer the question I put to him, and I will give him the opportunity.

Mr. PIKE. The gentleman from Wisconsin [Mr. ELDRIDGE] says it is—

Mr. ELDRIDGE. No, no; answer the question.

Mr. PIKE. The gentleman said he would take \$300,000,000 of the banking currency of the country from circulation, and pay out for it \$300,000,000 of greenbacks. I then asked him, having done that, how he is going to pay the national debt with the same greenbacks which he pays to the banks?

Mr. ELDRIDGE. We take up \$300,000,000 of bonds in that way.

Mr. PIKE. No, sir. How far ahead is he after he has paid \$300,000,000 of greenbacks to the banks?

[Here the hammer fell.]

Mr. ELDRIDGE. I hope the gentleman

from Illinois [Mr. SCHENCK] will allow the gentleman from Maine [Mr. PIKE] time to answer my question.

Mr. SCHENCK. I will extend the gentleman's time five minutes longer, as he has been interrupted so much.

Mr. ELDRIDGE. All I want to get is an answer from the gentleman from Maine, if I can extract one from him, to the question I put to him.

Mr. PIKE. What is the question?

Mr. ELDRIDGE. Is the gentleman in favor of paying off the five-twenties now due in greenbacks or in gold?

Mr. PIKE. There are none of those bonds now due. If there were any of them due, and we had a surplus of greenbacks in the Treasury, to the extent of that surplus I maintain that the Government has a right to pay them in that way. Those greenbacks are a legal tender and "lawful money," and to that extent the Government has a right to pay its debts in greenbacks.

Mr. ELDRIDGE. The right of the Government to do so I have no doubt of.

Mr. PIKE. And then and thereafter it is the policy of this Government to redeem every greenback it has issued by paying dollar for dollar in gold for it.

Mr. ELDRIDGE. When will that time come?

Mr. PIKE. I am trying every day to hasten that time. I tried the other day to bring the gentleman and his party up to the position of allowing the people of this country to make contracts payable in gold; but I cannot bring them up to it.

Mr. ELDRIDGE. I must resume the floor now. In regard to the right of the people of this country to make contracts payable in gold, I expressed my views at length the other evening; I took nearly five minutes to do so. I now assert what in substance I asserted then, that we have the right to pay off our debt exactly as we have agreed to pay it, and that we are under no obligation to pay it in any other way; and that it is no repudiation to pay it as we have agreed to pay it, I do not care whether the debtor thereby gets ten cents or one hundred cents on the dollar.

Now, if I understand the platform of the gentlemen upon the other side of this House, although I admit it is somewhat ambiguous and susceptible of two or three constructions, yet if it means anything in the view the gentleman from Maine has expressed, it means simply this: we have the right to pay our debts, the five-twenties as they are called, in greenbacks to-day or whenever they shall fall due. The only objection the gentleman from Maine makes to that is that we have not the greenbacks to pay. When the debt becomes due we are certainly under obligation to pay it; and being under obligation to pay it, we must either pay in the lawful money of the country, as it is now denominated, which means greenbacks, or we must pay in gold; and the gentleman tells us that we cannot pay in gold, because there is not gold enough in the country for that purpose. Now, I ask whether there are any more greenbacks in the country than there is of gold. If there is any force in the gentleman's argument that we cannot pay the debt of the country in greenbacks, because there are not enough greenbacks to pay it, then I ask how are we to accomplish the payment of the debt in gold, when there is less gold in the country than there are greenbacks? If the gentleman will tell us how we can pay gold under such circumstances I shall be very glad to hear him.

Mr. PIKE. I will answer the gentleman; and I trust that then he will answer my question. I suppose, Mr. Speaker, that the debt is to be paid gradually, if at all.

Mr. ELDRIDGE. Yes; I guess that is so.

Mr. PIKE. I have no doubt of it. We have no real surplus in the Treasury now; for we have floating obligations to meet which will require every dollar now in the Treasury that can be spared; and this money should be

applied for that purpose without touching one dollar of the funded debt. We have not in the Treasury to-day one dollar that can properly be applied to the payment of the funded debt. Now, I want to ask the gentleman a question.

Mr. ELDRIDGE. The gentleman has not answered the question I put to him.

Mr. PIKE. The gentleman says he is in favor of issuing greenbacks for the purpose of substituting them for the national bank notes. Is he in favor further of issuing greenbacks, according to the Pendletonian plan, for the purpose of paying the public creditors?

Mr. ELDRIDGE. Well, as to the Pendletonian plan, the gentleman will excuse me from making any remark.

Mr. PIKE. Well, I withdraw that part of the question. Is he in favor of issuing greenbacks to pay the bonds?

Mr. ELDRIDGE. With regard to the other part of the question I will be more explicit than the gentleman has been in answering the question which I put to him.

Mr. PIKE. I want to know whether the gentleman is in favor of issuing greenbacks for any other purpose than for the purpose of taking up the notes of the national banks?

Mr. ELDRIDGE. Now, as the gentleman has got his question revamped, I hope he will hold himself in reserve until I have answered it. [Laughter.] I answer, as I answered before, that in my judgment there is no necessity for issuing any additional amount of greenbacks, except to supply the place now supplied by the national bank currency. The banks now receive a premium for keeping the notes of the United States upon deposit. If you withdraw those you will be able to pay every dollar of your debt as it falls due without the issue of another dollar of greenbacks.

Mr. PIKE. In what way?

Mr. ELDRIDGE. By means of the greenbacks issued to supply the place of the national currency, for supplying which you now pay a premium to the banks.

Mr. PIKE. What will you give the banks in place of those notes?

Mr. ELDRIDGE. I ask, in the name of common sense, what useful purpose is subserved, and how is the country benefited, by depositing our bonds or our bills, or our three per cent. notes, with the banks and allowing them to issue currency which circulates throughout the country, we paying the interest on those bonds, and at the same time paying six per cent. upon our national indebtedness? No man has ever given a reasonable answer to this question. The gentleman from Maine will not answer it. He seems to want to put questions to me, to see whether he cannot create some sort of suspicion that there is not integrity or honesty in the position I have taken. Now, I say to that gentleman that we can adopt the method I have indicated without any sort of difficulty. Now, I put the question back to him—is he in favor of withdrawing the national currency, so called, and supplying its place with the greenbacks of the country?

[Here the hammer fell.]

Mr. PIKE. I trust I may be allowed to answer that question?

Mr. ELDRIDGE. The gentleman from Maine must appeal to the gentleman from Ohio, [Mr. SCHENCK.]

The SPEAKER. Does the gentleman from Ohio yield any further?

Mr. SCHENCK. I have promised to yield to the gentleman from Pennsylvania. How much does he want?

Mr. RANDALL. Five minutes.

Mr. SCHENCK. I will yield to the gentleman for five minutes; but is he willing to first let the gentleman from Maine have two minutes?

Mr. RANDALL. Certainly.

Mr. PIKE. I only want two minutes for the purpose of replying to the gentleman from Wisconsin and showing how he would pay the national debt. He says the banks have \$300,000,000 of national notes. He says he would take up those \$300,000,000 of national

notes and substitute for them "greenbacks," and in that way we would pay \$300,000,000 of public debt. But having paid the national bank notes with greenbacks how is he to pay bonds with them too?

Mr. ROSS. We do not owe the banks those notes.

Mr. PIKE. Is he going to rob the banks of \$300,000,000?

Mr. ROSS. They are a gratuity.

Mr. PIKE. Unless he does so he is compelled to send out this new issue and put it in the vaults of the banks. Having taken the \$300,000,000 of national notes and destroyed them and put in the vaults of the banks the \$300,000,000 of greenbacks in the place of the notes destroyed, how is he to pay then with them a single dollar of the public debt?

Mr. ELDRIDGE. Will the gentleman permit me to answer?

Mr. PIKE. Yes, sir.

Mr. ELDRIDGE. When the "greenbacks" have passed into the national banks in place of their present currency, they will pass out and from hand to hand. When the gentleman talks about these "greenbacks" being destroyed, as valueless, as never becoming a medium of circulation, he should remember that when they take the place of the national bank notes they will pass out among the people. Why does the gentleman talk as though these "greenbacks," when we substitute them for national bank notes, are destroyed? By that substitution we will also save \$20,000,000 of interest.

Mr. PIKE. When they pass out of the Treasury they do not pass among the people, but they pass to the banks in exchange for the \$300,000,000 of national bank notes.

Mr. ELDRIDGE. Do not the banks owe debts, and have they not to circulate these "greenbacks"?

Mr. PIKE. When the banks take our greenbacks in place of their notes they do as they please; but we do not use the same money to pay the national creditor. The creditor will still hold his bonds. The gentleman's plan ought to be considered "a new way to pay old debts," and a very poor one.

Mr. RANDALL. Mr. Speaker, although I did not intend to I will endeavor to answer the question of the gentleman from Maine as the way I would pay the public debt, which is by withdrawing the national currency and substituting "greenbacks." It is simply this, and it is the same scheme as that of the gentleman from Massachusetts [Mr. BOWWELL] when he proposes the establishment of a sinking fund. I would withdraw the national bank notes from the banks, and with the "greenbacks" issued in their place I would buy the \$300,000,000 bonds owned by the banks and deposited in the Treasury to secure their circulation and dedicate the bonds as a sinking fund, and in thirty-five years I would pay the national debt without issuing another bond. That is an answer to the question of the gentleman from Maine.

Mr. PIKE. To whom do those bonds belong?

Mr. RANDALL. They belong to the banks. I would substitute for them "greenbacks," the people's money, and not the paper of these private corporations.

Mr. PIKE. How will you get your "greenbacks"?

Mr. RANDALL. By enactment.

Mr. PIKE. By a new issue?

Mr. RANDALL. Yes, sir.

Mr. PIKE. Does not the act of March, 1864, limit the issue to \$400,000,000?

Mr. RANDALL. I am ready to argue at the proper time that there is no contract between the banks and the Government that the banks should have this gratuity for all time.

Mr. PIKE. That is what I was trying to get from the gentleman from Wisconsin. The gentleman from Pennsylvania is in favor of a new issue to pay the public debt. That I am opposed to.

Mr. ELDRIDGE. I did say I was in favor of issuing greenbacks to supply the place of

the national bank currency. I said it over and over again.

Mr. RANDALL. I do not increase the circulation one dollar. I do not produce inflation. I do not raise the price of commodities in any particular. I simply relieve the people of the country from \$18,000,000 of taxes each year. I think I have fully stated my proposition, and have to my mind satisfactorily answered the question of the gentleman from Maine, [Mr. PIKE.]

However, that is rather off the point I intended to speak to. The question of funding the debt at this time in my opinion is an inopportune one, and I will briefly state the reasons which will guide me in voting as I shall hereafter, if the proposition is made, for a postponement of this subject till the next session. We have not time at this late day of the session freely and fully to discuss the question in all its multifarious shapes and aspects. Neither is the market, I may say, in that condition which warrants this Government at this time in making any attempt to fund its debt. But I will say if I am obliged to vote on the proposition before the House I much prefer the bill of the Committee of Ways and Means. I prefer it simply in a business point of view. The gentleman from Massachusetts proposes to issue three descriptions of bonds, a portion at five per cent., a portion at four and a half, and a third part at three and sixty-five hundredths per cent., whereas after due and full deliberation the Committee of Ways and Means inform us that they believe it is feasible to throw our securities upon the market at three and sixty-five hundredths. Now, there is no merchant or business man in the country who will not issue his note for three and sixty-five hundredths in preference to four or five per cent.

There is another objectionable feature in the proposition of the gentleman from Massachusetts, [Mr. BOWWELL,] in my opinion. I am opposed now and for all time to this country catering to foreign capital in any manner whatever. Why cannot these people pay the expense of transporting the gold, the interest upon these bonds, as well as this Government? Why should the Government pay for transporting it abroad? Why do foreigners come here and take our bonds? Simply because they can make more money out of them than by investing in other bonds at home. Now let us begin and make this country the money center of the world. It is fast moving in this direction, and, sir, no vote of mine here shall be given giving it a contrary direction.

[Here the hammer fell.]

Mr. SCHENCK. I yield ten minutes to my colleague.

Mr. GARFIELD. There is much in the amendment of the gentleman from Massachusetts [Mr. BOWWELL] that I cordially approve; and some of its leading features I hope will be adopted by rejecting the amendment of the Committee of Ways and Means to the first section, and preserve the Senate provision which gives us three periods in which our debt shall mature, rather than one, as in the amendment of the committee.

Before I speak generally to the bill in its present condition, I desire to call attention for a moment to that feature. I am aware that there are advantages, as my colleague, the chairman of the Committee of Ways and Means, suggests, in having the debt in one form and the bonds of one tenor; but after all it is rather an advantage that belongs to book-keeping than any real fiscal advantage to the Government itself. It was our policy during the war, and it seems to me a wise policy, to put our debt into a variety of forms, and that policy was adopted for two reasons: first, because some people like one form of security better than another; and in the next place, because we would be able to meet our obligations in that case more easily than if they all fell due at once. Some would like to take a bond that runs twenty years. He has a child a year old for which he wants to make provision, and he

desires to buy a bond that will mature about the time the child is of age. There is a reason with him for wanting a bond of that peculiar character. Another man perhaps who wants to make a donation to some benevolent institution and desires to put it into the longest possible bond. And if we had some perpetual annuities, some interminable bonds, not a great amount, at a low rate of interest, I have no doubt they would be desirable and would find takers in this country. For these reasons, therefore, it was found desirable to have bonds of different descriptions so as to meet the popular wants, and for the still stronger reason that the debt might fall due at successive periods so that we could fund it or pay it gradually. I therefore regard the clause that was stricken out in the first section of the bill as it came from the Senate as far better than the amendment offered by the Committee of Ways and Means.

Now, consider another fact. Suppose that all our debt now funded were to fall due in five years or three years from this time, and we should be compelled to pay or to loan \$2,100,000,000 in one year. We would be forced by inexorable necessity to make a loan, and every lender would take advantage of our situation and demand the hardest possible terms. But what will be the situation of this country forty years hence? Forty years from now we shall have, at the present rate of increase, a population of one hundred and thirty-five millions. Forty years from now, if our national wealth increases at the rate it has been increasing for the last fifty years, we shall be worth far more *per capita* in this country than we are worth now, and the population multiplied by the wealth *per capita* will show an enormous total of wealth. I made a calculation not long since which brought out this result: if we should hold our taxation in this country at the rate it bore in 1866, and allow that the ordinary expenditure of the Government should increase at no greater rate than they have averaged generally in time of peace, in twenty-one years the last dollar of our debt would be paid. This calculation is conclusive against this forty years' plan. We do not, of course, propose to do so, but if we should hold our taxes at the rate they were in 1866, in twenty-one years from now every dollar of our debt would be paid. I am, therefore, opposed to tying the nation down to one long term, and allowing \$2,100,000,000 of debt to fall upon us with its whole weight in one year. It is better that each decade shall bear its share of burdens and responsibilities.

I hope the House will disagree to the amendments of the Committee of the Whole, and leave the three terms twenty, thirty, and forty years, as they came from the Senate.

Let me make still another suggestion. If we pass the amendment in the nature of a substitute offered by the gentleman from Massachusetts we shall have no chance of getting the bill through within any reasonable time, and it is doubtful whether we can get it through at all. It is a new plan. It is not the Senate plan, and it is really no part of the Senate plan. It would be difficult for a conference committee to make up a report as between the two. Whereas if we pass the bill in something the same shape as it came from the Senate the conference committee can arrange matters of detail and we can get a bill through.

If the substitute of the gentleman from Massachusetts [Mr. BOUTWELL] should be adopted, one or two features of which are entirely unlike anything that is in the Senate bill, it is probable that we shall get no bill at all. For instance, the gentleman has added a new sinking-fund system, and though I do not see precisely the extent to which that system goes, yet, if it be what I understand it to be, it is a repetition of an old, and he will permit me to say, an exploded system. If anybody expects that by any trick of logarithms or compound interest the payment of the public debt can be reached will find himself disappointed.

Mr. BOUTWELL. I am not in any way responsible for that system. The gentleman himself argues, I think, that there should be a funding system for the payment of the public debt.

Mr. GARFIELD. I have no objection whatever to a sinking funding system, if it amounts simply to this: to putting a provision in the law which Congress shall make a covenant to save an annual surplus of the revenue to be applied to the redemption of the public debt; that is all. And the only thing that any Legislature can do honestly to reduce the public debt, is simply to levy such a tax that there will be a surplus over and above the annual expenditures to be applied to the redemption of the debt. From a hasty reading it appears to me that the gentleman's amendment goes further than this.

For these reasons, Mr. Speaker, I hope that the House will adhere to the bill in the main as it came from the Senate. But I most earnestly desire that we shall not agree to the amendment made in the first section, on the recommendation of the Committee of Ways and Means, which strikes out the three terms.

Now, let me say one word on another topic, and I shall conclude my remarks. On this question of paying the five-twenty bonds in greenbacks I have no concealment to make of my opinions. I am ready, for my part, to answer any of the direct questions that have been propounded here this morning. In the first place, it is worse than absurd for any one member or set of members to claim that they love the people and their interests above all others, and that they alone desire to lighten the burdens of taxation. This is a question of obligation to pay, and not a question of making burdens light or heavy. Now, I believe that when the first laws authorizing the five-twenty bonds were passed Congress intended that every dollar of them should be paid in gold. And I do not believe that any member of either House of Congress in 1862 or 1863 dreamed of paying them in any other way. I remember very well the first time that it was hinted to me that anybody thought otherwise. It was in 1864 or 1865, I forget now which; it was late in 1864 or early in 1865, when the gentleman from Pennsylvania [Mr. STEVENS] intimated one day in this House that these bonds might be paid in greenbacks; and I remember that the statement struck the House with surprise and amazement.

[Here the hammer fell.]

The SPEAKER. The time of the gentleman from Ohio [Mr. GARFIELD] has expired.

Mr. GARFIELD. I hope my colleague [Mr. SCHENCK] will allow me two minutes more to finish the statement I am making.

Mr. SCHENCK. Very well.

Mr. GARFIELD. I desire to say, however, that it seems to me that this whole greenback five-twenty bond question has reached a position of importance entirely beyond what it deserves to have.

Mr. PIKE. Allow me to say that I was a member of the Congress that passed that law, and I disagree with the gentleman entirely as to the payment in gold.

Mr. WASHBURNE, of Illinois. I was a member of that Congress, and I agree with the gentleman from Ohio, [Mr. GARFIELD.]

Mr. ELIOT. I was here at that time, and I heard not one word said in regard to anything different from what has been stated by the gentleman from Ohio.

Mr. BUTLER, of Massachusetts. I was not here; but it is very plain what the law means.

Mr. GARFIELD. Nothing but my respect for the age and sympathy for the bodily feebleness of the venerable gentleman from Pennsylvania [Mr. STEVENS] restrained me from reading what I held in my hand at the very moment he made his remarkable speech the other day, the record of his speech in 1862, on the passage of the first law authorizing five-twenty bonds, in which he declared in unequivocal terms that those bonds, both principal and interest, were payable in gold. Those re-

marks are on record, and if time allowed me I would read them. I quote this sentence as a sample. In showing that the five-twenties would be a valuable bond Mr. STEVENS said:

"A dollar in a miser's safe, unproductive, is a sore disturbance. Where could they invest it? In United States loans at six per cent., redeemable in gold in twenty years, the best and most valuable permanent investment that could be desired."

I have no doubt that he then represented the spirit and meaning of the law. I have already said that the controversy about these bonds is after all a war of words. How stands the case? What is the real question involved in the controversy? Everybody admits, I believe, that the interest on the five-twenty bonds is payable in gold. As to the currency in which the principal is payable there are but two opinions. Some say it is payable in gold; others say it is payable in greenbacks. Now, I do not think any man in this House ever has denied or ever will deny that the greenbacks are themselves payable in gold; so that it comes at last to this: we all agree that the interest of the five-twenty bonds is payable in gold; and we all agree that the principal of the five-twenty bonds is either payable directly in gold, or payable in something which is itself payable in gold. And that is the whole controversy.

[Here the hammer fell.]

Mr. SCHENCK. I yield five minutes to the gentleman from Illinois, [Mr. MARSHALL.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that that body had passed the bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, and for other purposes, with amendments, in which he was directed to ask the concurrence of the House.

The message further announced that the Senate had agreed to the second report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 352) authorizing the temporary supplying of vacancies in the Executive Departments.

Also, that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending the 30th of June, 1869.

ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 1337) granting an increase of pension to Frances T. Richardson, widow of the late Major General Israel B. Richardson;

An act (H. R. No. 1227) granting a pension to Martha Ann Wallace;

Joint resolution (H. R. No. 354) admitting steam plows free of duty for one year from June 30, 1863; and

Joint resolution (H. R. No. 343) to admit free of duty certain statuary.

MARY ANN WARD.

Mr. SAWYER, by unanimous consent, withdrew from the files of the House the pension papers in the case of Mary Ann Ward without leaving copies, the petition having been rejected.

INDIAN APPROPRIATION BILL.

Mr. BUTLER, of Massachusetts. I rise to a privileged question, and present the report of the committee of conference on the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations

with various Indian tribes, for the year ending 30th June, 1869.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending the 30th of June, 1869, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from their amendments numbered 5, 9, 10, 11, 24, 26, 29, 33, 34, 35, 36, 37, 40, 44, 45, 47, 50, 51, 60, 62, 63, 66, 67, 69, 71, 72, 73, 75, 76, 77, 78, 82, 104, 106, 109, 114, 120, 121, 123, 124, 125, 127, 128, 132, 133, 137, 139, 141, 142, 143, 148, 149, 150, 156, 158, 170, 172, 174, 175, 184, and 186.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered 2, 4, 6, 7, 8, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 27, 28, 38, 39, 46, 48, 53, 54, 55, 56, 57, 58, 59, 61, 64, 65, 68, 70, 71, 80, 81, 82, 83, 84, 85, 89, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 105, 108, 110, 113, 115, 116, 117, 126, 129, 130, 131, 134, 135, 138, 140, 145, 156, 161, 162, 168, 169, 171, 176, 180, 181, 182, 183, 185, and 188, and agree to the same.

That the House recede from their disagreement to the first amendment of the Senate, and agree to the same with an amendment, as follows: strike out in line two of said amendment the word "sixteen" and insert in lieu the word "thirteen;" and the Senate agree to the same.

That the House recede from their disagreement to the third amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "twenty-five hundred" and insert in lieu the words "twelve hundred and fifty;" and the Senate agree to the same.

That the House recede from their disagreement to the twelfth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment "thirty-six thousand five hundred" and insert in lieu "twenty-five thousand;" and the Senate agree to the same.

That the House recede from their disagreement to the thirtieth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the following words: "for the Bois Fort band;" and the Senate agree to the same.

That the House recede from their disagreement to the thirty-first amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the following words: for the "Bois Fort band;" and the Senate agree to the same.

That the House recede from their disagreement to the thirty-second amendment of the Senate, and agree to the same with an amendment, as follows: in line five of said amendment strike out the word "fifteen," and insert in lieu the word "six;" and the Senate agree to the same.

That the House recede from their disagreement to the forty-first and forty-second amendments of the Senate, and agree to the same with an amendment, as follows: strike out all of said amendments and insert in lieu of both amendments the following words: "To enable the Commissioner of Indian Affairs to complete the removal of the scattering bands of Chippewa Indians in Minnesota to their reservations near White Earth lake, and to subsidize them thereat for the period of six months, this amount is hereby appropriated which, added to the unexpended balance of any appropriation heretofore made for the same purpose, will enable said Commissioner to pay to each member of such bands the sum of ten dollars in money, and twenty dollars in rations, such as are furnished the Army of the United States; such payment and delivery to be made only to such individuals of the bands as shall remove themselves to their reservations prior to the 1st day of December next, \$40,000;" and the Senate agree to the same.

That the House recede from their disagreement to the forty-third amendment of the Senate, and agree to the same with an amendment, as follows: in line four of said amendment strike out the word "ten," and insert in lieu the word "six;" and the Senate agree to the same.

That the House recede from their disagreement to the fifty-second amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "five," and insert in lieu the word "four;" and the Senate agree to the same.

That the House recede from their disagreement to the seventy-fourth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "six thousand seven hundred," and insert in lieu the words "five thousand;" and the Senate agree to the same.

That the House recede from their disagreement to the seventy-eighth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "four," and insert in lieu the word "two;" and the Senate agree to the same.

That the House recede from their disagreement to the eighty-sixth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "seven thousand six," and insert in lieu "five thousand five;" and the Senate agree to the same.

That the House recede from their disagreement to the eighty-seventh amendment of the Senate, and agree to the same with an amendment, as follows: in line nine of said amendment strike out the word "four," and insert in lieu the word "three;" and the Senate agree to the same.

That the House recede from their disagreement to the ninetieth amendment of the Senate, and agree to the same with an amendment, as follows: in line

three of said amendment strike out the words "nine hundred," and insert in lieu "seven hundred and twenty;" and the Senate agree to the same.

That the House recede from their disagreement to the ninety-first amendment of the Senate, and agree to the same with an amendment, as follows: in line three of said amendment strike out the words "nine hundred," and insert in lieu "seven hundred and twenty;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and seventh amendment of the Senate, and agree to the same with the following amendments: after the word "cents," in line fifteen of said amendment, insert the following words: "or so much thereof as may be necessary," and strike out all after the word "sell," in line twenty-one of said amendment, down to and including the word "treaties," in line twenty-five, and insert in lieu the following words: "six hundred twenty-one hundred and eightieth parts of the several classes of bonds held by him in trust for said Pottawatomic Indians, and pay the proceeds thereof without any deduction in compliance with the provisions of said treaties;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and eleventh amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the words "four thousand six," and insert in lieu "three thousand five;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and twelfth amendment of the Senate, and agree to the same with an amendment, as follows: at the end of said amendment add the following words: "which amount shall be deducted from any money or funds belonging to said tribe of Indians."

That the House recede from their disagreement to the one hundred and eighteenth amendment of the Senate, and agree to the same with an amendment, as follows: in line seven of said amendment strike out the words "twenty-five," insert in lieu the word "fifteen," and at the end of said amendment add the following words: "to be expended under the direction of Rev. H. B. Whipple, of Faribault, in the State of Minnesota;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and nineteenth amendment of the Senate, and agree to the same with amendments, as follows: in line four of said amendment strike out the word "fifty," and insert the word "thirty;" and after the word "dollars," in the same line, insert the following words: "to be expended under the direction of Rev. H. B. Whipple, of Faribault, in the State of Minnesota;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and twenty-second amendment of the Senate, and agree to the same with an amendment, as follows: in line two of said amendment strike out the words: "four thousand six" and insert in lieu "three thousand five;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and thirty-sixth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "seventy" and insert in lieu the word "fifty;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and forty-fourth amendment, and agree to the same with an amendment, as follows: strike out of said amendment the word "fifty," and insert in lieu the word "forty;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and forty-sixth amendment of the Senate, and agree to the same with an amendment, as follows: strike out of said amendment the word "five;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and forty-seventh amendment of the Senate, and agree to the same with the following amendment: strike out of said amendment the word "twenty," and insert in lieu the word "five."

That the House recede from their disagreement to the one hundred and fifty-first amendment of the Senate, and agree to the same with the following amendment: strike out of said amendment the words "fifty-five," and insert in lieu the word "forty;" and the Senate agree to the same.

That the House recede from their disagreement to the amendments of the Senate numbered 152, 153, 154, and 155, and agree to the same, with the following amendments: strike out all of said four amendments, and strike out also lines twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, and twenty-six of the bill on page 54, and insert in lieu the following words: "For pay of one physician, \$1,200; one blacksmith, \$750; one assistant blacksmith, \$500; one farmer, \$720; one teacher, \$750; and one carpenter, \$720, upon each of the reservations in California; and one miller at \$750, upon each of the Round Valley and Hoopa Valley reservations;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and fifty-seventh amendment of the Senate, and agree to the same, with an amendment as follows: in line six of said amendment strike out the word "fifty," and insert in lieu the word "twenty;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and fifty-ninth amendment of the Senate, and agree to the same, with amendments as follows: in line three of said amendment strike out the words "five thousand" and insert in lieu the words "three thousand five hundred," and at the end of said amendment add the following words: "and the Smith river reservation is hereby discontinued;" and the Senate agree to the same.

That the House recede from their disagreement to

the one hundred and sixtieth amendment of the Senate, and agree to the same, with an amendment as follows: strike out all of said amendment, and substitute in lieu thereof the following: "for amount of deficiency expended in subsisting the Navajos at the Bosque Redondo, according to the contract made by Theodore H. Dodd, from the 22d of May, 1863, until their removal to their old homes, \$21,000, or so much thereof as may be necessary at eleven cents per ration;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and sixty-third amendment of the Senate, and agree to the same, with amendments as follows: in line four of said amendment, after the word "dollars," insert the following words: "to be expended under the direction of Lieutenant General Sherman, of the Indian peace commission;" and the Senate agree to the same.

That the House recede from their disagreement to the amendments of the Senate numbered 164, 165, 166, and 167, and agree to the same, with an amendment as follows: strike out all of said four amendments, and insert in lieu the following words: "for constructing warehouse, agency building, blacksmith and carpenter's shop, and school-house, per article three of said treaty, \$12,500, to be expended under the direction of Lieutenant General Sherman, of the Indian peace commission;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and seventy-third amendment of the Senate, and agree to the same, with an amendment as follows: in line three of said amendment strike out the words "eighty-five," and insert in lieu the word "fifty;" and the Senate agree to the same.

That the House recede from their disagreement to the one hundred and seventy-seventh, one hundred and seventy-eighth, and one hundred and seventy-ninth amendments of the Senate, and agree to the same, with an amendment as follows: strike out all of said three amendments and insert in lieu of said amendments the following words: "For this amount for the purpose of carrying out the treaty stipulations, making and preparing homes, furnishing provisions, tools, and farming utensils, and furnishing food for such bands of Indians with which treaties have been made by the Indian peace commission and not yet ratified, and defraying the expenses of the commission in making such treaties and carrying their provisions into effect, \$500,000, to be expended under the direction of Lieutenant General Sherman, of said commission, and drawn from the Treasury upon his requisition upon the Secretary of the Interior;" and the Senate agree to the same.

That the House recede from their disagreement to the amendment of the Senate numbered 187, and agree to the same, with amendments as follows: strike out of said amendment all after the word "acre," in line eight, down to and including the word "office," in line thirteen, and at the end of said amendment add the following: "Provided further, That all improvements made by any persons on said reservation before the passage of this act shall be the sole property of the person making them, who shall have priority of purchase of six hundred and forty acres of land covering and adjoining said improvements, and all said lands shall be sold and disposed of for money only;" and the Senate agree to the same.

TIMOTHY O. HOWE,
J. B. HENDERSON,
L. M. MORRILL,
Managers on the part of the Senate.
BENJAMIN F. BUTLER,
W. WINDOM,
Managers on the part of the House.

Mr. BROOKS. I would like to hear some explanation of this report from the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER, of Massachusetts. Mr. Speaker, there are but one or two matters to which I think it will be necessary to call the attention of the House. The bill as it went from the House was amended in the Senate by inserting quite a number of provisions making appropriations to carry out, as was supposed, existing treaties. In every case where the ordinary appropriations to carry out existing treaties were found to be required by positive law the House agreed to the Senate amendments.

Mr. BROOKS. Will the gentleman be kind enough to state what those treaties are?

Mr. BUTLER, of Massachusetts. I say that wherever the ordinary appropriations for the payment of annuities to Indians, and for meeting the ordinary expenses of the Indian service under the custom of the Indian department, were required by existing law, the amendments of the Senate have been agreed to. Wherever any discretion was left to Congress, and where the House bill appropriated less money than was proposed to be appropriated in the Senate amendments or in the estimates of the Interior Department, there as a rule, the Senate recedes, so as to leave the bill with reference to these matters very nearly as it left the House, except in cases where there were evidently mistakes. Thus

a very great number of amendments were settled upon an examination of the law. Then the Senate had made quite a number of large appropriations, and there are two classes of these to which I wish to call the attention of the House.

The first important item is an appropriation of \$350,000, to be expended under the direction of the Lieutenant General of the Army, in bringing in hostile tribes and putting them upon reservations under treaties and stipulations, as they are sometimes not treaties, made by the peace commissioners. A very large discretion has been given to the Lieutenant General in using that fund. He appeared before the conference committee by letter and two members of the peace commission in person, and they assured us that by the use of these funds to the amount of \$350,000, in addition to \$150,000 already appropriated, various hostile tribes will be put out of the way, and that some five or six million dollars will be saved in the expenses of the Army. We appropriate \$370,000 instead of certain specific appropriations, as in the Senate amendments.

Then there is another case where a very large appropriation was necessary to be made. The Navajo Indians were removed by a United States officer some four years ago to a reservation known as the Bosque Redondo, the Round Grove, where they had nothing to live on, where they could not raise anything, but where they were kept as prisoners of war and fed by the Army until last November, at an expense of some eight hundred thousand dollars a year. Some say the expense was much larger, but that I think may be regarded as a fair statement. The Indian peace commission have removed those Indians back to their own country, where they have tilled fields, fruit trees, and other means of living. In taking them back to their homes it becomes necessary to build huts and proper storehouses and other buildings, and to give them farming utensils and cattle, and we appropriate \$200,000 for that purpose. We also agree to pay an annuity of five dollars a head to these Indians for this year and for two years longer, although we have appropriated only for this year, to set them up in housekeeping as it were. We appropriate three hundred and twenty thousand dollars and odd to take care of these seventy-two hundred Indians and to restore to them what we have taken from them. To my mind the plan will be successful, and it will be a clear saving to the Treasury.

Mr. WARD. What is the amount of that appropriation?

Mr. BUTLER, of Massachusetts. About three hundred and twenty thousand dollars.

Mr. WARD. For this single tribe?

Mr. BUTLER, of Massachusetts. For this single tribe of seventy-two hundred Indians.

Mr. WARD. What was the original appropriation as it went from the House?

Mr. BUTLER, of Massachusetts. One hundred thousand dollars for feeding them, to the man who was feeding them where they were. By this we restore them to their homes, where they are hereafter to be self-sustaining. As I have already said the Army fed them until last November, and fed them at a ration which cost twenty-four cents. Congress having appropriated \$100,000 toward feeding them, they were fed at eighteen cents a ration by a contract with the Indian Bureau, costing about twenty-one thousand dollars a month to the Government. That appropriation was exhausted and \$80,000 had to be taken from another appropriation, they being where they could not raise anything for themselves and being prisoners of war. Finding the appropriation was exhausted, the contractor refused to go on with his contract, and the Indian peace commission found that the contract under which he had been feeding them at eighteen cents the ration was being executed by a sub-contractor at eleven cents, leaving to the contractor a clear profit of \$560 a day, and that without having anything to do except to draw the money. The peace commission made a

contract at eleven cents until they get to their homes. Then they will not want any more feeding by the Government.

There has been an amendment in the Senate of \$120,000 to supply a deficiency in the appropriation for the purpose of carrying out that contract. We put in enough at eleven cents a ration to feed them until they get to their new homes. With the exception of these two large appropriations there is substantially no other great case in this appropriation bill. Otherwise the principle of the House has been carried out.

Mr. CLEVER. I would inquire of the gentleman in regard to the appropriation for the contract for feeding the Navajo Indians in New Mexico. How do you intend to pay it?

Mr. BUTLER, of Massachusetts. I am very glad to answer the gentleman's inquiry. The Delegate from New Mexico asks me how we intend to pay it. I for one never intend to pay it. At eleven cents a ration it would come to about one hundred and thirty-eight thousand dollars. I do not mean to be held to the exact figures. But there has been paid on that contract \$180,000, leaving already about forty thousand dollars profit. By my vote the contractors never shall get any more.

Mr. CLEVER. Will the gentleman yield to me?

Mr. BUTLER, of Massachusetts. Certainly.

Mr. CLEVER. I think the gentleman is making progress in the doctrine of repudiation. Now, sir, there are \$120,000 due to the people of New Mexico for feeding the Navajo Indians. It is true contracts were made by the Indian Bureau with certain parties—I do not remember their names—to feed these Indians; but the provisions, the cattle, the flour, the salt, and everything, were purchased upon the credit of the Government from the people of New Mexico. Now there are on file in the Interior Department the vouchers showing that these supplies were delivered by citizens of New Mexico to these contractors, but here the gentleman comes in and proposes to strike out all the appropriation because, he says, the contract price was too high. Now, sir, that is not the people's fault, but the fault of the agents who made the contract. I am satisfied that the supplies were delivered to these Indians. The contract was made by Colonel Dodd, one of the best Indian agents in the United States. But be that as it may, if the contract has been made, if the people of New Mexico have delivered these supplies, if the Government has had the benefit of them, is it right that this House should refuse to pay for them? You may just as well get up and say we are not bound to pay our national debt. I say we ought to pay every debt which is fairly incurred by ourselves or our agents. They have contracted to feed these Indians during a time when there were no appropriations available; \$120,000 is the amount due, and I think some provision should be made to pay these men who have given their beef, their flour, their meal, and their food of various kinds for the subsistence of these Indians. Whether the gentleman likes the contractors or not, is not the question. The question is, is it an honest debt? I believe it is, and that Congress therefore is bound to pay it.

Mr. BUTLER, of Massachusetts. I will state, Mr. Speaker, a little at length now exactly all of this contract. One Elijah Scimerley, of Greenville, Tennessee, which is a town blessed once by the residence of our Chief Magistrate, undertook to feed the Indians on the Bosque Redondo in New Mexico. He had neither money nor credit. He sold out his contract before he had anything. He sold out three eights to C. B. Johnson, of Texas, three eights more to Perry Fuller, of Kansas, late of Washington city; one eighth he kept, and the other one eighth I have not been able to trace. Having done that, the parties carried on the contract a short time and then sold it to a man in New Mexico by the name of Patterson, a very respectable and reliable man, I am happy to say, for eleven cents a ration. The original parties were to receive nineteen cents

a ration. Mr. Patterson had a very good thing of it at eleven cents, as the rations cost about eight cents each. Under that contract there was paid to Scimerley and his assignees \$180,000 at nineteen cents a ration, whereas Patterson was willing to furnish the rations at eleven cents. Mr. Dodd, who I am happy to say also seems to be a very respectable gentleman so far as I could learn for an Indian agent, went into the business and made this contract to continue feeding the Indians, when, on the 22d day of May, after having received \$180,000, and the money not coming in quite as fast as they wanted it, these contractors broke their contract and refused to feed the Indians any further. Therefore they notified the sub-contractor, Patterson, that they would not feed them any longer, and that he must not feed them. Therefore Mr. Dodd contracted to continue the feeding, keeping the price of the rations at eleven cents until the troops should come there and remove the Indians; so that we do not owe anything to these people in New Mexico. They have done nothing on the faith of the Government. There is not a man who has ever been a citizen of New Mexico, so far as I know, that had anything to do with this contract except Mr. Patterson, and he has his remedy against the men who employed him. I say again that \$180,000 in cash have been taken out of the Treasury and paid to these contractors, when \$138,000, or about that, would have paid all they ever ought to have had.

Now, there are gentlemen from Tennessee who know about this Mr. Scimerley, and I am informed—and if I do anybody injustice I will give my authority—I am informed by gentlemen who know him that Mr. Scimerley has been employed in buying up the debts of the Indian Commissioner, Mr. Taylor, at a discount since he took that contract. I do not know that those two things have anything to do with each other, but I apply the rule of the man who said he knew the miller's hogs were fat, but he did not know on whose corn they were fattened.

I have brought this matter to the attention of the House that the House may see the difficulties under which the Committee on Appropriations labored in regard to Indian affairs. This is the great item that we have struck out.

I have been asked whether the \$1,800,000 under the Choctaw and Chickasaw treaty is in this bill. Upon examination the committee had no doubt of the justice of that claim; but as the House had refused to recognize or pass it when it was presented here, we did not feel authorized to put it in. We did, however, agree to an amendment of the Senate, that the Committees on Indian Affairs of the two Houses shall examine into the justice of the claim and report to Congress at its next session. That is all that has been done about that claim.

I now yield to my colleague on the committee of conference from Ohio, [Mr. VAN TRUMP.]

Mr. VAN TRUMP. While I agree in the main with all the provisions of this bill, and with nearly all the amendments that have been put upon it, both by the Senate and by the committee of conference, I have an objection to one of the amendments so strong that I could not bring my mind to indorse it by my signature to the report.

I agree with the gentleman from Massachusetts [Mr. BUTLER] that all this money that is spent or appropriated outside of treaty stipulations is well appropriated in regard to those Indians with whom no treaties have been made, because every dollar, in my opinion, that is thus appropriated will save not only hundreds but thousands of dollars in avoiding subsequent difficulties with the Indians unless these appropriations are made.

But my objection is to the fifty-ninth amendment, and I will thank the Clerk to read it, so that the House may understand it.

The Clerk read as follows:

For expenses of taking a census and investigating

claims of loyal Creek refugees and freedmen as per article four of the treaty of June 14, 1866, \$200,000: *Provided*, That no money herein appropriated to the Creek tribe of Indians shall be paid to them until such Creeks as may have been properly enrolled by the Creek agent previous to the 14th day of March A. D. 1867, and who were refused any share in the money then distributed *per capita*, under orders from Louis V. Boggy, Commissioner of Indian Affairs, for the reason that said persons were of African descent, shall first be paid therefrom a *per capita* dividend equal to that to which they were entitled on said payment of March 14, 1867, and equal to that paid to all Creek citizens at that time.

Mr. VAN TRUMP. Now, Mr. Speaker, I do not oppose this appropriation because they are freedmen belonging to the Creek nation, formerly their slaves. Nor do I believe for a moment that gentlemen on the other side have allowed the appropriation because of any feeling in favor of freedmen. The whole question depends upon the construction of the treaty between the United States and the Creek Indians under date of the 14th of March, 1866. Allow me to premise by saying that these Creeks were situated upon lands, the title to which in them was of a peculiar character. They were in effect a sort of communists. In other words, the lands upon which this Creek nation resided were held in common by all the Creek nation, so far as the mere question of title is concerned. And yet each Creek Indian who held a farm by occupancy held it by a title as perfectly paramount to the original nation title as though he had a perfect title in himself.

On the 14th of June, 1866, the United States entered into a treaty with these Indians, they having been in rebellion. As a result of that treaty the United States purchased of these Creek Indians the western half of their entire possessions, amounting to some three or four million acres. The true solution of this question depends upon the construction of that treaty, in regard to the right of these freedmen, formerly and prior to the rebellion slaves to these Creek Indians, I will read the second article of the treaty:

"The Creeks hereby covenant and agree that henceforth neither slavery nor involuntary servitude otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted in accordance with laws applicable to all members of said tribes, shall ever exist in said nation; and inasmuch as there are among the Creeks many persons of African descent who have no interest in the soil—

That is the point; it is declared here by the treaty between the United States and these Creek Indians that these freedmen, formerly slaves to these Indians, had no interest in the soil upon which these Indians were located—

"Inasmuch as there are among the Creeks many persons of African descent who have no interest in the soil, it is stipulated that hereafter those persons lawfully residing in said Creek country under their laws and usages, or who have been residing in said Creek country, and may return within one year from the ratification of this treaty, and their descendants, and others of the same race as may be permitted by the laws of said nation to settle within the limits of the jurisdiction of the Creek nation as descendants thereof, shall have and enjoy all the rights and privileges of native citizens, including an equal interest in the soil and national funds, and the laws of said nation shall be equally binding upon and give equal protection to all of such persons, and all others, of whatever race or color, who may be adopted as citizens or members of said tribe."

Now it is here declared that, in relation to this one half of these Indian lands, which they were then selling to the United States under this treaty, these freedmen had no interest at all. It is provided, I admit, that in regard to the other half of the lands retained by the Creek Indians these freedmen should thereafter have a common interest with the Creek Indians proper. Now what further does this treaty provide?

"In compliance with the desire of the United States to locate other Indians and freedmen thereon, the Creeks hereby cede and convey to the United States to be sold to and used as homes for such other civilized Indians as the United States may choose to settle thereon, the west half of their entire domain, to be divided by a line running north and south; the eastern half of said Creek lands being retained by them shall, except as herein otherwise stipulated, be forever set apart as a home for said Creek nation; and in consideration of said cession of the west half of their lands, estimated to contain three million two hundred and fifty thousand five hundred and sixty acres, the United States agree to pay the sum of

thirty cents per acre, amounting to \$975,108, in the manner hereinafter provided, to wit: \$200,000 shall be paid *per capita* in money, unless otherwise directed by the President of the United States, upon the ratification of this treaty, to enable the Creeks to occupy, restore, and improve their farms, and to make their nation independent and self-sustaining, and to pay the damages sustained by the mission schools on the North Fork and the Arkansas rivers." &c.

Now, this question arose before the Interior Department when the Creeks came to get this \$200,000; and these freedmen were also represented there. I believe Mr. Boggy was the Commissioner of Indian Affairs. The question was raised between these freedmen and the Creek Indians proper as to whether under the stipulations of this treaty these freedmen were interested in this sum of \$200,000. It was maintained by the attorney of the Creeks before the Commissioner that this \$200,000 in the first place was not a national fund as contemplated by the treaty, but a specific fund, to go to certain Creeks, and not to all of them; to certain Creeks who held farms by the title of occupancy, in order to enable them to repair the injury done to those farms, &c. The judgment of the Commissioner was that this \$200,000 was a payment for a specific purpose, to be paid to a portion of the Creeks only, such as were actual occupants of farms in that portion of the Territory, and consequently he directed that it should be paid over to those Creek Indians, the freedmen being excluded. That, Mr. Speaker, was a judicial proceeding, so far at least as that department acted in a judicial capacity, as all the Executive Departments must act more or less when such questions are presented to them. The question now is whether we, as a Legislature, shall assume judicial powers and undertake by this bill to adjudicate the relative claims of these Creeks proper, and these freedmen who claim a participation in this fund. The effect of this amendment is that these freedmen shall be recompensed, not out of this \$200,000, for that is already exhausted, but out of any money owing by the United States to the Creek Indians, the payment to these freedmen being made before any other payment.

This, Mr. Speaker, is simply a question of construction, about which my colleagues on the committee and myself have differed. It is a question which was more debated than perhaps any other question that came before the committee; and one of the distinguished Senators who was a member of the committee acknowledged that my presentation of the case had staggered his opinion, although he voted against me.

Now, it is observable, Mr. Speaker, that in the section appropriating this \$200,000 the word "freedmen" is not used, while in the other provisions made by the treaty for the freedmen they are designated as freedmen, in contradistinction from the Creeks proper. I have been solemnly impressed with the wrong which the amendment recommended by the report will inflict upon these Creek Indians. My firm conviction is that, sitting here as a Legislature, we have no jurisdiction to adjust this judicial question, and that it is wrong to introduce it into this bill. Everything else embraced in this report has met my hearty concurrence; but in consequence of my difference on this point with my colleagues upon the committee, I have been conscientiously constrained to withhold my signature from the report. I am not an enemy to the bill. If it be passed with this amendment, so be it. I have felt it my duty to bring to the attention of the House the facts of the case.

Mr. BUTLER, of Massachusetts. I desire to make a statement of this matter, because it raises in one view of it a pretty interesting question. I wish, in the first place, to bear testimony to the faithfulness with which my colleague, on the committee the gentleman from Ohio, [Mr. VAN TRUMP,] has aided the committee by his constant attendance and his careful examination of every question affecting the economy and prosperity of the administration of Indian affairs. We differed upon only this one question substantially, and this differ-

ence arose, perhaps, as a matter of necessity; for as the negro comes into this question, I could not expect the gentleman to agree with me. [Laughter.]

The Creeks owned a large tract of land by a title a little stronger than a mere possessory title, by which the Indians held most of their lands. They also owned slaves, negro slaves, on that land. The Creeks went into the rebellion. They forfeited to the United States their lands and their slaves. The United States, however, condoning the offenses of these red rebels, as it condoned the crimes of the white rebels, went into an arrangement with the Creeks. A treaty was made, the first article of which conceded to the United States one half of the Creek lands, on which we might put other Indians; and the United States agreed to pay to the Creeks \$975,000 in this form: \$200,000 to be distributed *per capita* one year; \$400,000 the next year; \$100,000 to the loyal Creeks to pay for losses; and \$275,000 to go into a school fund.

The Creeks sold by this treaty just one half of this land. When they made the treaty, however, they provided for all of their slaves, calling them "Creeks of African descent." They might as well, many of them, have been described as Africans of Creek descent. They provided for them all in this way. By this article they said, inasmuch as there is among the Creeks many persons of African descent who have no interest in the soil, because as slaves they had no interest in the soil, now residing in the Creek country, they and all who may come in there, having been formerly residents, shall have and enjoy all rights and privileges of native citizens, including an equal interest in the soil and the national fund. You will see by the same treaty they sold one half of their soil—the treaty in which they provided that the Creeks of African descent should have an equal interest in the soil.

Mr. VAN TRUMP. That is thereafter in the remaining soil?

Mr. BUTLER, of Massachusetts. That is the whole question.

Mr. VAN TRUMP. The construction of the treaty was after the payment by the United States.

Mr. BUTLER, of Massachusetts. These Creeks of African descent were to have the same interest in the soil and the national fund. It is a question whether this \$200,000 does not belong to the national fund. But, sir, there is a question lying deeper than that, and that is this question, whether the African slave while he is a slave has any interest in the soil he inhabits.

Mr. VAN TRUMP. My position is this: this \$200,000 is not part of the national fund as it does not apply to all the Creeks, but only to the occupants of farms.

Mr. BUTLER, of Massachusetts. The first great question is, has the African slave, when a slave, any interest in the soil he inhabits? I do not mean has he any proprietary interest in the soil, but has he the right to interfere when that soil comes to be set off to another country? That is the great question to which I wish to call the attention of the House. The Creeks have no property in severalty. They hold in common.

Mr. VAN TRUMP. They hold a common interest in the title subject to individual occupancy.

Mr. BUTLER, of Massachusetts. They hold a common interest in the soil. The title is in the Creek nation. No man owns this, that, or the other farm. In the annuities these Africans were represented as part of the families, and they received annuities in proportion to the number of Africans they had. This money was given to the Creeks by the United States for the purpose of restoring their farms and to enable them to become self-sustaining as a nation. This treaty made the Creeks of African descent a portion of the nation, and they could not be made a portion of that nation and be self-sustaining without a portion of that fund. By the treaty they have all the

rights of native citizens. They have rights in the soil which could not be taken away. Even while slaves that right was recognized by giving them all the rights of native citizens in the soil and in the national fund.

Now, sir, a census was taken of these Creeks and a division of this money was ordered *per capita*. The question was raised by some of the rebel Creeks, who had not forgotten their hostility to the Africans, as to whether these African Creeks should be counted in, and Mr. Bogy, the Commissioner of Indian Affairs, decided they should not be counted in and their portion should be distributed among the other Creeks. When it became necessary to appropriate \$400,000 to carry out the treaty and to send down a commission to examine the claim of the loyal Creeks there, the Senate put on a proviso that there should be no more money paid to the Creeks until all the Creeks should have all the rights of native citizens in the soil and national fund. It says to them that they shall not exclude the "Creeks of African descent" from their share which it is necessary they should have to make them self-sustaining. We do not mean to take anything out of the Creeks at all. We do not think it was their fault. We think it was the fault of Mr. Bogy, the Commissioner, that this fund was not fairly distributed before, but at the next payment of installment upon this very land we propose that a fair, just, and honest division shall be made with the Creeks of African descent.

My colleague puts his objection upon the ground that the Creeks say in their treaty that the Africans had no interest in the soil. Ah, the Africans were not made parties to the treaty or they might have given it an entirely different construction. They said the Africans had no interest in the soil. Hereafter we say they shall have an equal interest with native citizens in the soil and in the national fund.

Mr. VAN TRUMP. If the Creeks said that those who were not parties to the treaty had no interest in the soil, that is an allegation that the United States, as a treaty-making party, should take no advantage of.

Mr. BUTLER, of Massachusetts. The difficulty was there was nobody representing the African. He was left out as he always has been heretofore in everything. But hereafter he is to have his share in the national fund. This money to be paid by the treaty is to be divided among all the citizens of the Creek nation.

One word further. Here is \$275,000 put into the school fund. Would you provide—

Mr. VAN TRUMP. Understand me, I make no question in regard to any other fund except this specific sum of \$200,000. All the other part is to be enjoyed in common by them.

Mr. BUTLER, of Massachusetts. I agree; but if your principle is good for this \$200,000, it is good for the other \$275,000, because the school fund is part of the same payment for the same men, and makes a part of the same fund.

Mr. VAN TRUMP. However, with the same stipulation in regard to repairs to the specific farms of certain Indians of the Creek nation—

Mr. BUTLER, of Massachusetts. As my friend puts the whole stress of his argument on that, I will read it. The provision of the treaty was this:

"Shall have and enjoy all the rights and privileges of native citizens, including an equal interest in the soil and national fund; and the laws of the United States shall be equally binding and give equal protection to all such persons, and all others of whatever race or color who may be adopted as citizens or members of said tribe."

Mr. VAN TRUMP. I have no doubt the gentleman has read it right. The only question is whether this specific fund for a specific purpose, which applies only to a portion of the Creeks, can be applied to the national fund in common to all?

Mr. BUTLER, of Massachusetts. The reason I call it a national fund is that it is to be appropriated to repairs and to the restoration

of farms injured during the war, and to enable the nation to become self-sustaining. Now, I do not know any better definition of a national fund than a fund to enable a nation to become self-sustaining. I hold to that. My friend bases his argument on the first clause. I base mine on the second clause, which intends to make the Indians self-sustaining. But he agrees with me in regard to the division *per capita*, including those of African descent, so far as the other appropriations are concerned. I am able to say that every portion of the bill was discussed in committee as carefully as this has been, and that here was the only disagreement on the part of any member of the committee to the various amendments to the bill. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was agreed to.

Mr. BUTLER, of Massachusetts, moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SURVEYOR GENERAL OF LOUISIANA.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of the General Land Office, relative to the office of surveyor general of Louisiana and the archives of the office, and recommending an appropriation of \$4,500 therefor; which was referred to the Committee on Appropriations.

ELECTION IN MISSISSIPPI.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a communication from General Rawlings, chief of staff of the General of the Army, with a report from the commander of the fourth military district of the recent election in Mississippi for State constitution, &c.

The SPEAKER. The communication is quite bulky. Does the House desire to have it printed?

Mr. WASHBURN, of Illinois. I suppose the question of printing it had better be referred to the Committee on Printing.

Mr. BROOKS. I hope that part of it which relates to the election will be printed.

The SPEAKER. It appears all to relate to the election, although the Chair has not examined it very closely.

Mr. BROOKS. The Committee on Reconstruction have the subject of the Mississippi election before them, and may take some action upon it.

The SPEAKER. Ordering it to be printed at this stage of the session would delay action.

Mr. WASHBURN, of Illinois. It could not be printed in season for use at this session.

The SPEAKER. If there be no objection, the papers will all be referred to the Committee on Reconstruction with authority to have them printed if they desire. The Chair hears no objection, and it is so ordered.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments; when the Speaker signed the same.

EVENING SESSION.

Mr. SCHENCK. It is now so late that I hope the House will agree to meet at half past seven o'clock this evening to go on with the funding bill.

Mr. BROOKS. I do not think it is any use. The Senate will not agree to adjourn.

Mr. GARFIELD. I have no doubt we can adjourn this week if we finish this bill early.

Mr. SCHENCK. By way of testing the question, I move that there be a meeting this evening for business at half past seven o'clock.

Mr. BROOKS. To take up what subject?

Mr. SCHENCK. The funding bill will be the first thing in order.

The question was taken on Mr. SCHENCK's motion; and it was agreed to—ayes eighty-one, noes not counted.

RELIEF FROM DISABILITY.

Mr. DAWES. I desire to report from the Committee of Elections a bill to relieve Simeon Corley, one of the Representatives-elect from South Carolina from disability, with a view to putting it on its passage.

The SPEAKER. That will require a vote by yeas and nays.

Mr. DAWES. I withdraw the bill.

Mr. ELDRIDGE. I object to the introduction of the bill.

The SPEAKER. The gentleman has withdrawn it.

UNCONSTITUTIONAL OFFICE-HOLDING.

Mr. SHANKS. I ask unanimous consent to offer the following resolution:

Resolved, That the Committee on the Judiciary be hereby instructed to report to this House, without delay a bill providing proper penalties to be adjudged against any person who holds or attempts to hold any office in violation of the provisions of the fourteenth article of the Constitution of the United States or who shall exercise any of the functions or receive any of the perquisites of such office.

Mr. ELDRIDGE. I object.

Mr. SCHENCK. I move that the House now take a recess.

The motion was agreed to; and thereupon (at four o'clock and fifty minutes p. m.) the House took a recess till half past seven o'clock, p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

C. HANSEN.

Mr. BROOKS, by unanimous consent, presented the petition of C. Hansen, for protection as to a contract for a canal across the Isthmus of Holstein; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

The petition is as follows:

To the honorable the House of Representatives of the United States:

The undersigned, a citizen of the United States, in behalf of himself and of a company formed in the United States for the purpose of opening a ship-canal across the Isthmus of Holstein, begs leave to represent that on application to the Government of the kingdom of Denmark the canal company received on the 9th of October, 1860, from the royal ministry for the duchess of Holstein and Lauenburg, a concession for the survey of the canal, in accordance wherewith the company expended large sums of money in making the preliminary surveys and was prepared to enter upon the execution of the work, but was prevented by the war undertaken by the kingdom of Prussia and the empire of Austria against the kingdom of Denmark.

By the treaty of peace subsequently made between the kingdom of Prussia and the kingdom of Denmark, by which Prussia acquired the territory through which the canal was to run, it is provided in the seventeenth article thereof, that all concessions, grants, and contracts made by the kingdom of Denmark, shall be observed and ratified by the kingdom of Prussia.

The undersigned, on behalf of himself and the company which he represents, has under that section of the treaty applied to the royal Government of Prussia for permission to carry out the concession to the company, and to execute this important commercial work. All his efforts to that end have, however, proved fruitless, and he is now compelled to appeal to his own Government, through the House of Representatives, to assert and protect his rights.

He therefore humbly solicits that the House of Representatives shall make inquiries into the facts which he is prepared to substantiate, and that it will enact a law of Congress, directing the Secretary of State to demand and procure proper indemnification to him, and authorizing the President of the United States, in case such indemnification is refused, to take measures to enforce it.

C. HANSEN, of New York.
WASHINGTON CITY, July 19, 1868.

TAX ON MANUFACTURERS.

Mr. BROOKS also, by unanimous consent, from the Committee of Ways and Means, reported back the bill (H. R. No. 1927) to amend an act entitled "An act to exempt certain manufacturers from internal tax, and for other purposes," approved March 31, 1868.

Mr. BROOKS. As it is too late to act on the bill at this session, I move that it be re-committed to the Committee of Ways and Means and printed.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I have a little pension bill here, to which I suppose there will be no objection. I ask that it may be now considered.

Mr. SCHENCK. I object. I believe I am entitled to the floor.

Mr. WASHBURNE, of Illinois. Then I object.

Mr. RANDALL. To what?

Mr. WASHBURNE, of Illinois. To any other business than the regular order.

Mr. SCHENCK. I have agreed to yield five minutes of my time to the gentleman from Illinois, [Mr. MARSHALL.]

Mr. MAYNARD. Will the gentleman yield to me for a moment?

Mr. SCHENCK. Very well.

Mr. MAYNARD. I have a bill here which was introduced by the gentleman from Illinois [Mr. FARNSWORTH] and referred to the Committee of Ways and Means. I have been directed by that committee to report the bill to the House with an amendment in the nature of a substitute. I suppose there will be no objection to it. The bill is House bill No. 443, to authorize the Secretary of the Treasury to refund to the Illinois Iron and Bolt Company certain penalties wrongfully collected.

Mr. RANDALL. Let the substitute be read.

The substitute was read. It authorizes the Secretary of the Treasury to examine a judgment by confession rendered on the 2d day of October, 1865, in the circuit court of the northern district of Illinois, against the Illinois Iron and Bolt Company, for \$5,500 penalties for certain alleged violation of the internal revenue laws, and to refund to the company so much of the amount paid into the Treasury of the United States as upon investigation he may think it right and proper under the circumstances of the case to remit.

Mr. MAYNARD. The law would authorize the Secretary of the Treasury to do what this substitute authorizes, except for the fact that this money has already been covered into the Treasury.

Mr. WASHBURNE, of Illinois. I object to anything but the regular order of business.

Mr. MAYNARD. Very well; I have no interest in the bill. It is one introduced by the gentleman's own colleague, [Mr. FARNSWORTH.]

FUNDING THE NATIONAL DEBT.

The House resumed the consideration of the bill (S. No. 207) for funding the national debt, and for the conversion of the notes of the United States, upon which Mr. SCHENCK was entitled to the floor.

Mr. SCHENCK. I yield five minutes to the gentleman from Illinois, [Mr. MARSHALL.]

Mr. MARSHALL submitted some remarks. [See Appendix.]

Mr. SCHENCK. I now yield five minutes to the gentleman from New Hampshire, [Mr. BENTON.]

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had adopted the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1341) to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes.

It also announced that the Senate had passed the bill (H. R. No. 1427) to establish certain post roads, with an amendment, in which the concurrence of the House was requested.

DEFICIENCY BILL.

Mr. WASHBURNE, of Illinois. I submit the following conference report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. 1341) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows: That the Senate recede from their amendments numbered ten, nineteen, twenty-one, and twenty-two.

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered one, two, three, four, five, six, eight, nine, fourteen, sixteen, seventeen, and twenty; and agree to the same.

That the House recede from their disagreement to the seventh amendment of the Senate and agree to the same with an amendment, as follows: at the end of said amendment add the following words: "Provided, That said expenditures shall not be applied to any works not mentioned in the bill making appropriations for repairs, preservation, and completion of certain public works and for other purposes, which passed the House of Representatives June 30, 1868;" and the Senate agree to the same.

That the House recede from their disagreement to the eleventh amendment of the Senate, and agree to the same with an amendment, as follows: in lieu of the words stricken out by the Senate insert the following words: "Provided, That the sum shall be in full of all claims against the Government for work done or damages incurred on the Washington aqueduct;" and the Senate agree to the same.

That the House recede from their disagreement to the twelfth amendment of the Senate, and agree to the same with an amendment, as follows: at the end of said amendment add the following words: "to be expended under the immediate direction of the officer detailed to act as Superintendent of Public Buildings and Grounds."

That the House recede from their disagreement to the thirteenth amendment of the Senate, and agree to the same with an amendment as follows: strike out all of said amendment and insert in lieu the following:

"Rock Island arsenal:

"For the erection of a bridge to connect Rock Island arsenal with the city of Rock Island, Illinois, \$100,000; said bridge to be constructed and completed for the sum hereby appropriated;" and the Senate agree to the same.

That the House recede from their disagreement to the fifteenth amendment of the Senate, and agree to the same with an amendment, as follows: strike out all of said amendment and insert in lieu of said Senate amendment the following: "§10,180 63; *Provided*, That nothing shall be paid except subject to existing provisions of law, and upon the finding and certificate of the Third Auditor that the same is actually due;" and the Senate agree to the same.

That the House recede from their disagreement to the eighteenth amendment of the Senate, and agree to the same with an amendment, as follows: add to said amendment the following: "Provided, That no part of the money appropriated for this purpose shall be paid until the accounts for feeding such destitute Indians shall be fully investigated by a commission to consist of Lieutenant General William T. Sherman, Major General P. H. Sheridan, and Major General C. C. Augur, and the said commission is hereby authorized, for the purpose of such investigation, to call and examine witnesses in this behalf, and only the amount that said commission shall certify to be equitably and justly due shall be paid; and said commission shall sit at Leavenworth, Kansas, and shall have power to appoint a clerk, at a salary of five dollars per day for the time actually employed; and the sum of \$1,000, or so much thereof as may be necessary, for clerk hire, traveling and incidental expenses of said commission is hereby appropriated;" and the Senate agree to the same.

That the House recede from their disagreement to the twenty third amendment of the Senate, and agree to the same with an amendment, as follows: in lieu of the words stricken out by said amendment insert the following:

SEC. 3. And be it further enacted, That hereafter no contract shall be entered into for the erection, repair, or furnishing of any public building, or for any public improvement whatever, which shall bind the Government to pay a larger sum of money than the amount in the Treasury appropriated for the specific purpose. And if any officer of the Government shall knowingly contract for the erection, repair, or furnishing of any public building, or for any public improvement which shall bind the Government to pay a larger amount than the specific sum appropriated for such purpose, such officer shall be deemed guilty of a misdemeanor, and upon conviction thereof by a court of competent jurisdiction, shall be punished by imprisonment not less than six months nor more than two years, and shall pay a fine of \$2,000; and the Senate agree to the same.

That the House recede from their disagreement to the twenty-fourth amendment of the Senate, and agree to the same with an amendment, as follows: strike out all of said amendment after the word "dollars" in line fourteen to the end of the amendment; and the Senate agree to the same.

L. M. MORRILL,

BOSCOE CONKLING,

J. R. DOOLITTLE,

Managers on the part of the Senate.

E. B. WASHBURNE,

W. H. KELSEY,

Managers on the part of the House.

Mr. BROOKS. I hope the gentleman will explain what the Senate have added on.

Mr. WASHBURNE, of Illinois. A million and a half for rivers and harbors instead of the river and harbor bill of \$7,000,000.

Mr. BROOKS. What is the amount of the bill now?

Mr. WASHBURNE, of Illinois. Three million five hundred thousand.

Mr. RANDALL. Have they placed the river and harbor bill beyond resurrection for this session?

Mr. WASHBURNE, of Illinois. Yes, sir. With the passage of this bill it is beyond resurrection for this session, and I hope for every session.

Mr. RANDALL. I join you in that.

Mr. EGGLESTON. I understand this \$1,500,000 is not to be used for any other works than those named in the river and harbor bill which passed this House.

Mr. WASHBURNE, of Illinois. That is the proviso to the amendment. The report was adopted.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the report was adopted; and before moving to lay that motion on the table I desire to say a word.

Mr. Speaker, I am glad to say to the House that the deficiency bill just passed is the last of the appropriation bills, and the public can now figure up the entire amount of the money appropriated by Congress for the next fiscal year. The bills had been considered with the greatest care by the Appropriation Committees of both Houses, and I think there are less objectionable items in the bills than there has been for many years. The expenditures have been largely cut down and a great deal of vicious legislation that has crept in during the war has been purged from the statute-books. And I can say, too, that the bills are all through in good season and at a period anterior to the time of fixing the day of final adjournment. That is a matter, I believe, unprecedented in the history of the legislation of the House. Formerly the most of the large appropriation bills were rushed through at the very last hours of the session and in the most hurried and confused manner, but few of the members having any idea of what they contained.

As to the amount of the appropriations for the present year there is the fixed sum for interest on the public debt, for pensions, and for bounties, in the aggregate amounting to \$190,000,000. That amount cannot be lessened. It is the ordinary expense for carrying on all the operations of the Government for the present fiscal year that this Congress is responsible for, and the people will demand to know what they are. They will not reach more than one hundred and two millions, and that will be against seventy millions in gold coin in the administration of Mr. Buchanan. Considering all things, the increase of population, the natural increase of expenditures, the increased prices that everything the Government has to buy, I believe the comparison is a most favorable one, and the fact will forever stand out to the credit of this Congress. The estimates of expenditure for this year sent in by the present Democratic Administration were \$372,000,000, including all interest on public debt, pensions, and bounties; but the entire amount appropriated by this Republican Congress, including such interest, bounties, and pensions, will not amount to more than \$292,000,000, a difference of \$80,000,000 in favor of Congress. With these appropriation bills through, and without thrusting upon the country the schemes of robbery and plunder with which we are threatened, and which are now lying in wait, if we should now promptly adjourn and go home we will be welcomed by our constituents as faithful public servants.

Mr. RANDALL. The Republicans are responsible for this Administration.

Mr. NIBLACK. I wish to ask a question.

Mr. WASHBURNE, of Illinois. I move that the motion to reconsider be laid on the table.

Mr. BROOKS. After making his speech

now to move to lay upon the table without a word of reply, it is a trick.

Mr. RANDALL. A sneak.

Mr. BROOKS. I did not say it was a sneak. I said it was a trick for the gentleman to avail himself of the opportunity at the very last moment to prepare a written speech and lay down certain allegations, and then move to lay on the table the motion to reconsider, giving nobody a chance to reply.

Mr. SPALDING. I call the gentleman to order. Debate is out of order.

Mr. WASHBURN, of Illinois. I gave merely facts and figures entirely appropriate to the report I made.

Mr. BROOKS. I cannot see how the remarks were appropriate.

Mr. RANDALL. If I were to express my opinion, I would say I consider this as the most profligate Congress that ever sat.

[Cries of "Order!"]

The question being put on laying on the table the motion to reconsider the vote by which the House agreed to the report of the committee of conference, there were—ayes 64, noes 13; no quorum voting.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and RANDALL were appointed.

The House divided; and the tellers reported—ayes seventy-two, noes not counted.

So the motion to reconsider was laid on the table.

LEAVE TO PRINT REMARKS.

Mr. TRIMBLE, of Kentucky, asked and obtained leave to print a speech intended to be delivered in Committee of the Whole.

Mr. BURLEIGH asked and obtained leave to print some remarks on the subject of our Indian relations. [For these speeches see Appendix.]

FUNDING BILL—AGAIN.

The House resumed the consideration of the funding bill.

Mr. SCHENCK. I yield five minutes to the gentleman from New Hampshire, [Mr. BENTON.]

Mr. LAWRENCE, of Ohio. I shall be glad to have a moment to present a few facts connected with or illustrative of this subject. I know I cannot have time now to present my views as fully as I could desire, and I will only say a few words.

Mr. BENTON. I will yield a moment.

Mr. LAWRENCE, of Ohio. It is perfectly well understood that we must either provide for the payment of the public debt within the time limited in, and according to the terms of the existing bonds or we must extend the payment over a still greater period of time. Nearly the whole debt is payable within sixteen years. To pay this in the time limited would require us to raise by taxation \$150,000,000 a year applicable to the principal of the debt, and this is a sum which the people cannot endure. Now, sir, for the purpose of showing the expediency of extending the time of payment beyond that now provided, I have prepared a table showing the population and wealth of the United States from 1790 up to 1860, with an estimate of the wealth and population for the years 1870 and 1900 based on the ratio of increase that existed from 1790 to 1860.

Assuming that the public debt now is, and in 1870 will continue to be, \$2,600,000,000, this table shows that the debt will then be \$60 46 per capita of all the population, and to pay it would require one dollar out of every fourteen dollars of all the wealth of the country. But if the payment is deferred to the year 1900 the debt per capita will only be twenty-six dollars, and it will only take one dollar out of every \$156 15 of the wealth of the country to pay it.

The facts disclosed by this table, it seems to me, sufficiently demonstrate the expediency of extending the time of payment to a period when our wealth and population shall have so increased as that the debt will constitute but an insignificant charge upon either. At the same time it seems to me it is better that the

debt shall fall due at different periods during the next forty years, so that it may be within the control of legislation either for gradual payment or for the purpose of securing better terms if the financial condition of the country shall admit of it. I am aware that I have no time now to present my views at any length. I therefore content myself with saying that I am opposed to the third, fourth, and fifth sections of the substitute offered by the gentleman from Massachusetts, [Mr. BOUTWELL,] providing a sinking fund in the form therein authorized. I cannot say that either the original bill or the substitute contains the plan of funding which I would prefer, but it may be better to adopt one or the other of these rather than fail in getting any. They contemplate a reduction of the rate of interest paid by the people, and this is an object of no small consequence. Gentlemen who oppose all schemes of funding have failed to present any practicable plan for the management of the public debt which will relieve the people, and in the absence of any better scheme we should adopt the best which is attainable. The table is as follows:

Year.	Decades.
1790	Population United States.
1800	3,929,827
1810	5,305,337
1820	7,262,914
1830	9,653,131
1840	12,869,020
1850	17,061,453
1860	23,191,876
1870	25,413,521
1880	31,063,000
1890	35,100,000
1900	40,000,000
	Increase per cent. of population.
	35.02
	33.43
	32.13
	32.49
	32.61
	32.85
	33.56
	33.10
	Valuation of real and personal estate, including land and exclusive of State and United States property.
	\$7,135,780,228
	\$8,597,616,008
	\$9,521,600,000
	\$10,000,000,000
	Increase per cent. of valuation.
	136.45
	150.00
	Liability per capita for public debt of \$2,600,000,000.
	\$170 11
	\$236 60
	\$60 46
	\$58 00
	Capacity to pay the public debt of \$2,600,000,000.
	This column shows the number of dollars of wealth in the United States for every hundred dollars of the public debt.
	\$2 75
	\$4 20
	\$14 00
	\$56 15
	Remarks.
	This public debt, now of \$2,600,000,000, did not exist in 1850 nor in 1860, but the liability per capita and capacity to pay is stated as if the debt existed in those years merely for the purpose of illustration.
	For each dollar.
	For each dollar.
	For each dollar.

Mr. BENTON. Mr. Speaker, the subject under consideration has already, it seems to me, taken a very wide range, and although the questions that have been raised on the other side of the House may not be considered as irrelevant to the question now before us, in my judgment it can hardly be considered good policy for us to be raising questions upon which we are divided, upon which all parties are divided in this House, as to how we can pay the debt which we owe at the cheapest

rate, when we are about to issue our bonds, or when we are discussing a measure proposing to issue bonds at a very low rate of interest for the purpose of obtaining a consolidation of the public debt. I do not agree that it is good policy to extend our debt because of the increasing population of the country and its increasing ratio of resources. As all will admit, the prosperity and increase of population and resources of this country have been almost without precedent in the history of nations, and we may expect that there will be a corresponding increase for the future. But though that may be assumed as reasonable, still I apprehend it is not a wise policy for us to remain in debt one single year or day longer than it is necessary. I think it is the true policy of a nation as it is of an individual, to discharge its indebtedness as soon as it may reasonably do so, and for that reason I favor the issue of bonds coming due at different periods. It seems to me that all or almost entirely all of our indebtedness might be discharged within the period of forty years specified in the bill reported by the Committee of Ways and Means, without burdening our people.

But I wish to allude to the very remarkable argument addressed to the House by the gentleman from Wisconsin, [Mr. ELDRIDGE.] He took the position that the Government should enlist in the business of redeeming bank issues, and that the greenbacks that had been issued for that purpose should be transferred from the banks and used for the purpose of discharging bonds. What further? He took the remarkable position that the act authorizing the issue of legal-tender notes was unconstitutional, null, and void, and he stood up here before this House and asserted that he would pay off the indebtedness of the nation in a similar issue in the future. I should like to know what sort of an accommodating conscience the gentleman must have if he can work round in favor and support of an act which he declares here in his place to be unconstitutional, null, and void. It seems to me a curious kind of logic and law.

[Here the hammer fell.]

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] has now fourteen minutes remaining.

Mr. SCHENCK. In that very brief time I propose to submit a remark or two to the House.

Mr. ROSS. If the gentleman could squeeze in five minutes for me, I should like it very well.

Mr. SCHENCK. It is impossible. I have given away nearly all my time.

I have already adverted to the leading distinctions between the bill presented by the Committee of Ways and Means, modified afterward by the Committee of the Whole, and the substitute offered by the gentleman from Massachusetts, [Mr. BOUTWELL.] I have nothing that I need add to what I said in regard to the advantage of a consolidation in a long bond at a low rate of interest. But it has been objected that there will be great inconvenience in having it consolidated into a form of public securities, which will fall due all at the same time. So that I have only to reply that it gives me no apprehension whatever; if we can establish our credit so as to be able to borrow at three or four per cent. money at forty years, we give such character of permanency to the investment, it will be so sought for purposes of settlement in the future, both at home and abroad, that I do not think we shall have any difficulty as the time approaches when the forty years expire in getting whatever continuation of credit the United States may at the time seem to need. The truth is, as every one can readily understand, that a debt thus contracted, thus invested, instead of being one that the holders will be desirous to collect when the bonds fall due, will be more apt in the form which it will then assume, and constituting the kind of security which it will, to be desired by the holders themselves to be kept afloat, and they will in fact have more anxiety

Population of and wealth in the United States, together with the percentages of increase, &c.

not to be paid than they will have to demand payment at the end of that length of time.

My colleague, [Mr. GARFIELD,] in speaking of this matter, spoke of the advantage of having three classes of indebtedness provided for, as in the Senate bill, and expressed a decided preference for that over the funding of the debt in a single bond to run a long time; and he instanced the fact that we found it convenient during the war to meet the public want by putting out a variety of bonds, various forms of public securities. Now, Mr. Speaker, to that I have only to reply that we were forced to that by the expedients that we had to resort to in order to obtain money at all, and the various different expedients by which it was sought to push the public credit, sometimes in one way, sometimes in another, to meet the enormous demands made upon us. It was not so much a matter of choice as a matter of necessity during that time of high pressure in the pushing of the public credit which existed during the period of the war.

But, Mr. Speaker, if there were any one thing that more than all others illustrates the propriety of giving that sort of security to a bond such as we propose, which is to be found in a distinct declaration of precisely what the holder has when he takes such a bond, it might be found in the very debate in which we have been engaged here. What is the great source of trouble now, of difference of opinion, of distraction in council in regard to the public debt? It is the question which rises in regard to the kind of lawful money in which the principal of that debt is to be paid. The five-twenties have their interest payable in coin, and nobody raises a question as to whether that interest shall be paid otherwise than in coin. But the law providing for the five-twenties, if not altogether silent with respect to the kind of money in which the principal was to be paid, left, perhaps, too much to be inferred from the various acts of legislation, and the various circumstances attending the negotiation of the loan, as to what was intended by the Government in regard to the manner in which the principal was to be paid.

There are those who hold to what they conceive to be the very letter of the law, and claim that it is not required that the principal of these bonds shall be paid in coin. There are others who claim that the concurrent legislation of the time, the manifest intentions and declarations of Congress made contemporaneously with the contraction of the debt, and the representations made by the Secretary of the Treasury and his agents when that debt was put upon the market, rendered clear and manifest the purpose of the Government to pay, and to be understood as intending to pay, the principal as well as the interest in coin. One party, those who advocate one side of this question, insist upon payment in coin as being according to the spirit and purpose of the law. The other party insist upon payment in other money as being according to the letter of the law.

Now, does any one suppose that if it had been distinctly laid down in terms in the very body of the law itself, and if it was laid down in the very body of the bond itself, which was issued under that law, that the principal as well as the interest was to be paid in coin, there would ever have been any question made among our people or our politicians as to what was meant? I have too much faith in our American people to believe that they ever intend to repudiate, however closely they may approach it in any construction they may give to their public engagements. But let it be laid down in the law itself, in the body of the contract, in distinct, positive, unmistakable terms, that there are certain conditions attaching to the loan, and my word for it the American people will never undertake to rid themselves of the obligations of the contract into which they themselves expressly entered.

Therefore it is, among other reasons, that I find a strong argument in favor of obtaining

money upon the most favorable terms, by making a bond long to run, by reducing the interest upon it to the lowest possible rate at which we can make the funding successful, and accompanying the authority to issue bonds of this character with such clear, unmistakable provisions in regard to exemption from taxation, and in regard to the kind of money in which not only the interest but the principal shall be paid, that he who runs may read, and that we may be clear hereafter at least of those questions which now agitate the country so much. That is the kind of bonds for which this bill provides; those are the declarations to be made in the very letter of the law, commending it to all honest minds, and giving satisfaction to all who become, or are likely to become, creditors of the Government; so that hereafter no question, either with regard to the letter or the spirit of the law, can be made when we come again to consider what is the character of our public securities thus created.

This, then, is the scheme proposed—a funding for a length of time at low interest. What else is there in the bill? If gentlemen will but run their eye over it, they will find that while in the first section they have the choice between on the one hand the proposition of the Senate, embracing a clear expression of the kind of securities, classifying them into three sorts, and on the part of the House an equally clear or a clearer expression of the character of the securities, which are made to partake of but one class in the scheme upon which they are to be issued, there are in the other sections of the bill provisions which I think ought to commend themselves to the approbation of those called to legislate on this subject.

In the second section there is what is equivalent to a sinking fund provided for by an appropriation of \$135,000,000 per year out of the money received from customs, being enough to pay all the interest, and to leave in the very first year an excess of about ten million dollars, to be applied toward extinguishing the principal of the debt; and this excess must necessarily, as that debt is in process of extinguishment, increase so as to afford more and more each year to be applied to that purpose.

Mr. BOUTWELL. Upon this point, with reference to the sinking fund, the gentleman will allow me to make a single suggestion. If the bill as it stands were to become operative, the entire interest payable upon the whole public debt would be less than \$80,000,000 a year. The proposition is to postpone the payment of any part of the principal for forty years. By the sinking fund contemplated there would be set aside each year \$135,000,000, for the payment of the interest and the principal, leaving each year for the payment of the principal of the public debt, \$55,000,000, which the Government would be utterly incapable of using till the expiration of the forty years.

Mr. SCHENCK. The gentleman is arguing upon the supposition that all this is to be funded at once.

Mr. BOUTWELL. I argue upon the theory of the bill, which proposes to fund the entire interest-bearing debt of the United States.

Mr. SCHENCK. The gentleman's proposition is founded upon the supposition of the immediate funding of our debt into this forty year loan at three and sixty-five hundredths interest. The gentleman must remember that at this time we have, to start with, about one hundred and twenty-five million dollars to provide for, and that, though as I said, from year to year the amount applicable to the extinguishment of the principal will increase, thus diminishing rapidly as it progresses the amount of the public debt, yet it does not start at the point which the gentleman assumes to be the initial point.

There is but one objection which it strikes me may perhaps require some clearer expression in this section, which has been virtually adopted from the Senate bill with only some slight verbal modification. It may, perhaps, be that the section, is not drawn with sufficient clearness in reference to the question whether

as the customs are collected in coin this \$135,000,000 is a provision for the payment of all the interest in coin. If there be any question about that, it can easily be obviated in a committee of conference.

[Here the hammer fell.]

The SPEAKER. Debate is exhausted. The previous question has been seconded and the main question ordered. The first question is on concurring in the various amendments reported from the Committee of the Whole. After those shall be acted on the question will be on striking out all after the enacting clause of the bill and inserting the substitute proposed by the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. HOLMAN. I move that the bill and pending amendments be laid on the table.

Mr. RANDALL. I would like to make a motion to postpone the bill till the third Monday of December.

The SPEAKER. That motion would not now be in order, as the previous question is operating.

Mr. RANDALL. I call for the yeas and nays on the motion of the gentleman from Indiana, [Mr. HOLMAN.]

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 35, nays 100, not voting 80; as follows:

YEAS—Messrs. Adams, Archer, Beck, Boyer, Bromwell, Brooks, Cary, Dockery, Getz, Glossbrenner, Goldaday, Grover, Haight, Hill, Holman, Hotchkiss, Ingersoll, Johnson, Alexander H. Jones, Thomas L. Jones, Kerr, Knott, Marshall, McCullough, Niblack, Nicholson, Randall, Ross, Storer, Taber, Lawrence S. Trimble, Van Auker, Van Trump, Stephen F. Wilson, and Woodward—35.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Banks, Beatty, Benton, Bingham, Blair, Boutwell, Boyden, Broomal, Buckland, Buckley, Benjamin F. Butler, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Daves, Delano, DeWees, Dixon, Donnelly, Eila, Eliot, Ferriss, Fields, Garfield, Gravelly, Griswold, Higby, Hinds, Hopkins, Chester D. Hubbard, Hubard, Hunter, Jenckes, Judd, Kelley, Kelsey, Koontz, Ladin, William Lawrence, Loan, Loughridge, Mallory, Maynard, McClurg, McKee, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Norris, O'Neill, Orth, Perham, Peters, Pierce, Pike, Pile, Plants, Poland, Polsey, Pomeroy, Robertson, Sawyer, Schenck, Scofield, Smith, Spalding, Thaddeus Stevens, Stewart, Stokes, Sypher, Taffe, Taylor, Thomas, Trowbridge, Twitchell, Upson, Van Aernam, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, William Williams, John T. Wilson, and Woodbridge—100.

NOT VOTING—Messrs. Arnell, Axtell, Baldwin, Barnes, Barnum, Beaman, Benjamin, Blackburn, Blaine, Boles, Bowen, Burr, Rodrick R. Butler, Calk, Chanler, Cornell, Covode, Dodge, Driggs, Eckley, Eggleston, Eldridge, Farnsworth, Ferry, Finney, Fox, French, Goss, Halsey, Hamilton, Harding, Haughey, Hawkins, Heaton, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Julian, Ketcham, Kitchen, Lash, George V. Lawrence, Lincoln, Logan, Lynch, Mann, Marvin, McCarthy, McCormick, Mercer, Morrissey, Munger, Newcomb, Newsham, Nunn, Paine, Phelps, Price, Pruyn, Raun, Robinson, Roots, Selye, Shanks, Shellabarger, Starkweather, Aaron F. Stevens, Stone, John Trimble, Burt Van Horn, Robert T. Van Horn, Vidal, Cadwalader C. Washburn, Welker, Whittemore, Thomas Williams, James F. Wilson, Windom, and Wood—80.

So the House refused to lay the bill and amendments upon the table.

During the vote, Mr. ALLISON stated that his colleague, Mr. WILSON, was absent on account of sickness.

The vote was then announced as above recorded.

The question next recurred on the amendments of the Committee of the Whole.

First amendment:

Strike out the words "and of such denominations as he may prescribe," and insert in lieu thereof "as he may prescribe, and of denominations of fifty dollars, or some multiple of that sum;" so it will read as follows:

That the Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States in such form as he may prescribe, and of denominations of fifty dollars, or some multiple of that sum.

The amendment was agreed to.

Second amendment:

Strike out the words "twenty, thirty, and forty years, respectively, and bearing the following rates of yearly interest, payable semi-annually in coin, that is to say, the issue of bonds falling due in twenty years shall bear interest at five per cent.; bonds falling due in thirty years shall bear interest at four and

a half per cent.; and bonds falling due in forty years shall bear interest at four per cent.," and in lieu thereof insert "forty years, and bearing interest, payable semi-annually in coin, at the rate of three and sixty-five hundredths per cent. per annum; so it will read as follows:

Redeemable in coin at the pleasure of the United States after forty years, and bearing interest, payable semi-annually in coin, at the rate of three and sixty-five hundredths per cent. per annum.

Mr. BROOKS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 74, nays 61, not voting 80; as follows:

YEAS—Messrs. Adams, Allison, Delos R. Ashley, Axtell, Bailey, Baker, Beatty, Beck, Bingham, Boyden, Boyer, Buckland, Buckley, Benjamin F. Butler, Callis, Cary, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Deweese, Dockery, Eggleston, Ela, Eldridge, Getz, Glossbrenner, Gravely, Grover, Hamilton, Hinds, Holman, Hooper, Hotchkiss, Hunter, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Kelley, Kelsey, Kerr, Knott, Loan, Loughridge, Mallory, Marshall, Maynard, McClurg, McCullough, Moore, Morrell, Mullins, Myers, Niblack, Nicholson, O'Neill, Polesie, Pomeroy, Randall, Ross, Schenck, Scofield, Smith, Stokes, Sypher, Lawrence S. Trimble, Trowbridge, Van Aernam, Henry D. Washburn, Welker, William Williams, and John T. Wilson—74.

NAYS—Messrs. Ames, Anderson, Archer, James M. Ashley, Benton, Blair, Boutwell, Bromwell, Brooks, Broomall, Reader W. Clarke, Cullom, Dawes, Delano, Dixon, Donnelly, Eliot, Ferriss, Ferry, Fields, Garfield, Golladay, Griswold, Haight, Higby, Hill, Chester D. Hubbard, Hulburd, Judd, Ketcham, Koonz, Ladin, William Lawrence, McKee, Miller, Norris, Orth, Perham, Pike, Pile, Plants, Poland, Robertson, Sawyer, Sitgreaves, Spalding, Stewart, Taber, Taffe, Taylor, Thomas, Twichell, Upson, Van Auker, Van Trump, Van Wyck, Ward, Elihu B. Washburne, William B. Washburn, Stephen F. Wilson, and Woodward—61.

NOT VOTING—Messrs. Arnell, Baldwin, Banks, Barnes, Barnum, Beaman, Benjamin, Blackburn, Blaine, Boies, Bowen, Burr, Roderick B. Butler, Calk, Chanler, Cornell, Covode, Dodge, Driggs, Eckley, Earningsworth, Finney, Fox, French, Goss, Halsey, Harding, Haughey, Hawkins, Heaton, Hopkins, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Julian, Kitchen, Lash, George V. Lawrence, Lincoln, Logan, Lynch, Mann, Marvin, McCarthy, McCormick, Mercur, Moorhead, Morrissey, Mungen, Newcomb, Newsham, Nunn, Paine, Peters, Phelps, Price, Prunyn, Raum, Robinson, Roots, Selye, Shanks, Shellabarger, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stone, John Trimble, Burt Van Horn, Robert T. Van Horn, Vidal, Cadwalader C. Washburn, Whittemore, Thomas Williams, James F. Wilson, Windom, Wood, and Woodbridge—80.

So the amendment was agreed to.

Third amendment:

Strike out the words "shall be exempt from taxation in any form by or under State, municipal, or local authority, and the same and the interest thereon, and the income therefrom, shall be exempt from the payment of all taxes or duties to the United States, other than such income tax as may be assessed upon other incomes;" and in lieu thereof insert as follows: "And the interest thereon, and income therefrom, shall be exempt from the payment of all taxes or duties to the United States, as well as from taxation in any form by or under State, municipal, or local authority."

Tellers were ordered; and Messrs. HOOPER, of Massachusetts, and HOLMAN were appointed.

Mr. WARD. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 86, nays 62, not voting 67; as follows:

YEAS—Messrs. Ames, Anderson, James M. Ashley, Axtell, Banks, Beatty, Benton, Bingham, Blair, Boutwell, Bowen, Broomall, Buckland, Buckley, Benjamin F. Butler, Callis, Cary, Churchill, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Delano, Dixon, Driggs, Eckley, Eliot, Earningsworth, Ferriss, Ferry, Fields, Goss, Griswold, Haughey, Higby, Hill, Hooper, Hopkins, Hotchkiss, Hulburd, Hunter, Jenckes, Judd, Kelley, Ketcham, Koonz, Ladin, William Lawrence, Mallory, Maynard, McKee, Mercur, Miller, Moore, Morrell, Mullins, Myers, O'Neill, Pierce, Pike, Pile, Plants, Poland, Polesie, Pomeroy, Robertson, Sawyer, Schenck, Scofield, Smith, Spalding, Thaddeus Stevens, Stokes, Taylor, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, and William Williams—86.

NAYS—Messrs. Adams, Allison, Archer, Arnell, Delos R. Ashley, Axtell, Baker, Beck, Boyden, Boyer, Bromwell, Brooks, Cary, Reader W. Clarke, Deweese, Dockery, Donnelly, Eggleston, Ela, Garfield, Getz, Glossbrenner, Golladay, Grover, Haight, Hamilton, Hawkins, Hinds, Holman, Chester D. Hubbard, Ingersoll, Johnson, Alexander H. Jones, Thomas L. Jones, Kelley, Kerr, Knott, Loan, Loughridge, Mann, Marshall, McCullough, Niblack, Nicholson, Norris, Orth, Perham, Randall, Ross, Sitgreaves, Stewart, Taber, Taffe, Thomas, Lawrence S. Trimble, Trowbridge, Van Auker, Van Trump, Ward, John T. Wilson, Stephen F. Wilson, and Woodward—62.

NOT VOTING—Messrs. Baldwin, Barnes, Barnum, Beaman, Benjamin, Blackburn, Blaine, Boies, Burr,

Roderick B. Butler, Calk, Chanler, Cornell, Dodge, Eldridge, Finney, Fox, French, Gravely, Halsey, Harding, Heaton, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Julian, Kitchen, Lash, George V. Lawrence, Lincoln, Logan, Lynch, Marvin, McCarthy, McClurg, McCormick, Moorhead, Morrissey, Mungen, Newcomb, Newsham, Nunn, Paine, Peters, Phelps, Price, Prunyn, Raum, Robinson, Roots, Selye, Shanks, Shellabarger, Starkweather, Aaron F. Stevens, Stone, Sypher, John Trimble, Robert T. Van Horn, Vidal, Cadwalader C. Washburn, Whittemore, Thomas Williams, James F. Wilson, Windom, Wood, and Woodbridge—67.

So the amendment was agreed to.

Fourth amendment:

Strike out the words "and the proceeds thereof;" also the words "or payment, at the option of the holder or purchaser of," and insert the words "of or in;" so as to read:

And the said bonds shall be exclusively used for the redemption of or in exchange for an equal amount of any of the present interest-bearing debt of the United States.

The amendment was agreed to.

Fifth amendment:

Strike out the words "the existing five per cent. bonds," and so as to read, "other than the three per cent. certificates."

The amendment was agreed to.

Sixth amendment:

Insert the words "and debts past due or maturing before the end of the present fiscal year;" so as to read:

Other than the three per cent. certificates, and debts past due or maturing before the end of the present fiscal year.

The amendment was agreed to.

Seventh amendment:

Strike out the words "but not to exceed \$700,000,000 shall be of the issue redeemable in twenty years."

The amendment was agreed to.

Eighth amendment:

Strike out the words "in such a manner as may be determined by the Secretary of the Treasury, or as Congress may hereafter direct."

The amendment was agreed to.

Ninth amendment:

Strike out the word "contemplated," and insert in lieu thereof the word "provided."

The amendment was agreed to.

Tenth amendment:

Strike out the following section:
SEC. 3. And be it further enacted, That any contract hereafter made specifically payable in coin shall be legal and valid, and may be enforced according to its terms, anything in the several acts relating to United States notes to the contrary notwithstanding: *Provided*, That this section shall not apply to contracts for the borrowing of currency or the removal or extension of an indebtedness under a contract already entered into, unless such contract originally required payment in coin.

Mr. PIKE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 86, nays 49, not voting 80; as follows:

YEAS—Messrs. Allison, Bailey, Baker, Beatty, Benton, Bingham, Boies, Boutwell, Bromwell, Broomall, Buckland, Buckley, Benjamin F. Butler, Callis, Cary, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dawes, Donnelly, Eckley, Eggleston, Ela, Eldridge, Eliot, Earningsworth, Ferry, French, Getz, Goss, Haight, Hamilton, Hinds, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Hunter, Ingersoll, Thomas L. Jones, Judd, Kelley, Hunter, Koonz, William Lawrence, Loan, Logan, Loughridge, Marshall, Maynard, McClurg, Mercur, Miller, Moore, Morrell, Mullins, Myers, Niblack, O'Neill, Orth, Peters, Pierce, Polesie, Randall, Ross, Sawyer, Schenck, Scofield, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taffe, Trowbridge, Upson, Burt Van Horn, Van Trump, Van Wyck, Henry D. Washburn, Stephen F. Wilson, and John T. Wilson—86.

NAYS—Messrs. Archer, Delos R. Ashley, Axtell, Banks, Blair, Boyden, Boyer, Brooks, Churchill, Driggs, Ferriss, Fields, Garfield, Glossbrenner, Golladay, Grover, Haughey, Hawkins, Higby, Hill, Hulburd, Jenckes, Johnson, Kerr, Ketcham, Knott, Ladin, Mallory, Mann, Nicholson, Perham, Pike, Pile, Poland, Pomeroy, Robertson, Sitgreaves, Stewart, Taber, Taylor, Lawrence S. Trimble, Twichell, Van Aernam, Van Auker, Ward, Elihu B. Washburne, William B. Washburn, Stephen F. Wilson, and Woodward—49.

NOT VOTING—Messrs. Adams, Ames, Anderson, Arnell, James M. Ashley, Baldwin, Barnes, Barnum, Beaman, Beck, Benjamin, Blackburn, Blaine, Bowen, Burr, Roderick B. Butler, Calk, Chanler, Cobb, Cornell, Delano, Deweese, Dixon, Dockery, Dodge, Finney, Fox, Gravely, Griswold, Halsey, Harding, Heaton, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Alexander H. Jones, Julian, Kitchen, Lash, George V. Lawrence, Lincoln, Lynch, Marvin, McCarthy, McCormick, McCullough, McKee, Moorhead, Morrissey, Mungen,

Newcomb, Newsham, Norris, Nunn, Paine, Phelps, Plants, Price, Prunyn, Raum, Robinson, Roots, Selye, Shanks, Shellabarger, Starkweather, Stone, Sypher, Thomas, John Trimble, Robert T. Van Horn, Vidal, Cadwalader C. Washburn, Whittemore, Thomas Williams, James F. Wilson, Windom, Wood, and Woodbridge—80.

So the amendment was agreed to.

Eleventh amendment:

In section four, strike out the words "or negotiation," where they first occur, and insert in lieu thereof the words "negotiation or exchange;" so that it will read:

That from and after the passage of this act no percentage, deduction, commission, or compensation of any amount or kind shall be allowed to any person for the sale, negotiation, or exchange of any bonds or securities of the United States, &c.

The amendment was agreed to.

Twelfth amendment:

In the same section, after the words "United States," where they first occur, insert the words, "or of any coin or bullion;" so that it will read:

That from and after the passage of this act no percentage, deduction, commission, or compensation of any amount or kind shall be allowed to any person for the sale, negotiation, or exchange of any bonds or securities of the United States, or of any coin or bullion disposed of at the Treasury Department or elsewhere on account of the United States.

The amendment was agreed to.

Thirteenth amendment:

Insert the following as an additional section:

SEC. —. And be it further enacted, That after the passage of this act, all exchange, purchases, or sales of the bonds of the United States shall be made by inviting the competition of the public by advertising for proposals for any such exchange, purchases, or sales, which shall be awarded to the best bidder or bidders, the Secretary of the Treasury reserving the right to reject any such bids should he deem it to the public interest to do so.

The amendment was agreed to.

Fourteenth amendment:

Insert the following as an additional section:
SEC. —. And be it further enacted, That hereafter the tax on any income arising from the bonds and other interest-bearing securities of the United States, other than those authorized by the first section of this act, payable to any person, State, municipality, body-politic, or corporate company or society, whether corporate or not corporate, out of the Treasury of the United States, shall be assessed and collected by the Treasurer or other disbursing officers of the United States, charged with paying any interest upon the debt of the United States, in the same currency in which said interest is paid; and such collection shall be made by deduction of the amount of the tax from the coupons or interest, due at the time of payment of such interest. And the Secretary of the Treasury shall prescribe regulations for the purpose of determining in each case who is the actual owner of the coupon presented for payment of the interest demanded, and whether any exemption to which such owner may be entitled has been already allowed, or is to be deducted.

The question was put on agreeing to the amendment; and there were—yeas 63, nays 21; no quorum voting.

Mr. KELSEY called for tellers.

Tellers were ordered; and Messrs. KELSEY and LOGAN were appointed.

The House divided; and the tellers reported—yeas 90, nays 20.

So the amendment was agreed to.

ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 554) making a grant of land to the State of Minnesota, to aid in the improvement of the navigation of the Mississippi river; when the Speaker signed the same.

FUNDING THE NATIONAL DEBT.

Fifteenth and last amendment reported from the Committee of the Whole on the state of the Union:

Insert the following as an additional section:

SEC. —. And be it further enacted, That on and after the passage of this act all authority under any existing law to issue bonds or interest-bearing Treasury notes or obligations of the United States shall cease and determine: *Provided*, That nothing herein shall prevent the conversion of Treasury notes known as seven-thirties into five-twenties bonds, nor the issue of the three per cent. certificates of temporary loan, nor the exchange of registered bonds for coupon bonds, nor the issue as subsidy to railroad companies as provided by law.

The amendment was agreed to.

The SPEAKER. The amendments reported from the Committee of the Whole on the state of the Union having all been disposed of, the

question now is upon the substitute for the entire bill offered by the gentleman from Massachusetts, [Mr. BOUTWELL,] which the Clerk will read:

The Clerk read as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Secretary of the Treasury be, and he hereby is, authorized to issue coupon or registered bonds of the United States in such form as he may prescribe of the denomination of \$100, or of any multiple of \$100, redeemable in coin of the present standard value of the United States, and upon the following terms and conditions, that is to say:

First. That the Secretary of the Treasury may issue bonds as aforesaid to the amount in all of \$400,000,000, redeemable in coin at the pleasure of the Government at any time after the 1st day of July, A. D. 1883, and bearing interest yearly at the rate of five per cent. in coin, payable semi-annually. And such bonds and the income therefrom shall be exempt from State, municipal, or local taxation, but they shall be liable to such income tax as may be levied by the United States upon other income, not exceeding, however, five per cent. of the interest upon such bonds; and the amount of the tax shall be deducted from the interest upon such bonds when the interest thereon is paid.

Second. The Secretary of the Treasury may also issue bonds as aforesaid to the further amount of \$400,000,000, redeemable in coin at the pleasure of the Government at any time after the 1st day of July, A. D. 1888, and bearing interest yearly at the rate of four and one half of one per cent. in coin, payable semi-annually. And such bonds and the income therefrom shall be exempt from State, local and municipal taxation, but they shall be liable to such income tax as may be levied by the United States upon other incomes, not exceeding, however, three per cent. of the interest upon such bonds; and the amount of the tax shall be deducted from the interest upon such bonds when the interest thereon is paid.

Third. The Secretary of the Treasury may also issue bonds as aforesaid to the further amount of \$400,000,000, redeemable in coin at the pleasure of the Government at any time after the 1st day of July, A. D. 1893, and bearing interest yearly at the rate of three and sixty-five hundredths of one per cent. payable semi-annually in coin. The interest and principal of such bonds shall be made payable in the United States, or at London, Paris, or Frankfurt, at the option of the taker, and shall be exempt from all taxation in or by the United States, and the principal and interest thereof shall be paid as aforesaid without any abatement or deduction whatever.

Holders of bonds known as five-twenty bonds may exchange such bonds for the bonds in this section specified; applicants for an exchange of bonds may, within the limits prescribed by this act, designate the time when and the place where the new bonds issued to them shall be made payable, but nothing in this act contained shall be construed to authorize the Secretary of the Treasury to issue bonds except in exchange for five-twenty bonds.

SEC. 2. And be it further enacted, That from and after the passage of this act no percentage, deduction, commission, or compensation of any amount or kind shall be allowed to any person for the sale, negotiation, or exchange of any bonds or securities of the United States, or of any coin or bullion disposed of at the Treasury Department or elsewhere on account of the United States; and all acts and parts of acts authorizing or permitting, by construction or otherwise, the Secretary of the Treasury to appoint any agent, other than some proper officer of his Department, to make such sale or negotiation of bonds and securities are hereby repealed.

SEC. 3. And be it further enacted, That the Secretary of the Treasury be, and he hereby is, authorized and directed to use the sum of \$25,000,000 of coin in the Treasury, and not otherwise appropriated, in the purchase of five-twenty bonds at the market price, as hereinafter provided, the same to be held by the Treasurer of the United States as a sinking fund, in accordance with the provisions of the fifth section of an act passed February 25, 1862, entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States."

SEC. 4. And be it further enacted, That the Secretary of the Treasury, the Treasurer of the United States, and the Attorney General be, and they hereby are, constituted a commission for the purchase of bonds as required in the preceding section. The Secretary of the Treasury shall, from time to time, give public notice for proposals for the sale of said bonds to the United States, and said commissioners may accept such proposals as they deem advantageous to the public interests. The bonds so purchased shall be legibly and indelibly marked "The property of the loan sinking fund of the United States." The Treasurer shall cause the interest to be paid upon such bonds, and the amount thereof shall in like manner be invested in the bonds of the United States.

SEC. 5. And be it further enacted, That the purchases of bonds authorized in the third section of this act shall be made during the fiscal year commencing July 1, 1868.

SEC. 6. And be it further enacted, That the Secretary of the Treasury be, and he is hereby, required to give public notice, whenever the amount of coin in the Treasury belonging to the United States exceeds \$20,000,000 in addition to the amount appropriated by the third section of this act, that he will anticipate the payment of interest then first to become due upon the bonds of the United States to an amount as near as may be of the excess over said \$20,000,000; such payments to be subject to a rebate of interest at the rate specified in the bonds.

SEC. 7. And be it further enacted, That the Secretary of the Treasury be, and he is hereby, prohibited from making sales of gold for any purpose whatsoever.

Mr. HOLMAN. I call for the yeas and nays on the substitute.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 67, nays 72, not voting 76; as follows:

YEAS—Messrs. James M. Ashley, Bailey, Banks, Benton, Blair, Boies, Boutwell, Brownell, Broomall, Benjamin F. Butler, Churchill, Reader W. Clarke, Cook, Covode, Cullom, Dawes, Delano, Dixon, Donnelly, Driggs, Eckley, Eliot, Ferriss, Fields, French, Haughey, Higby, Hill, Chester D. Hubbard, Jencks, Judd, Kelley, Ketcham, Koonitz, Lafin, William Lawrence, Loan, McKee, Mercer, Moore, Morrill, Orth, Perham, Peters, Pierce, Pike, Poland, Pomeroy, Robertson, Sawyer, Spalding, Thaddeus Stevens, Stewart, Stokes, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Elisha B. Washburn, William B. Washburn, and William Williams—67.

NAYS—Messrs. Adams, Allison, Archer, Delos R. Ashley, Axtell, Baker, Beatty, Beck, Bingham, Boyden, Boyer, Brooks, Buckland, Cary, Sidney Clarke, Cobb, Coburn, Deweese, Dockery, Eggleston, Eldridge, Ferry, Garfield, Getz, Glossbrenner, Golladay, Grover, Haight, Hamilton, Hawkins, Heaton, Hinds, Holman, Hopkins, Hotchkiss, Thomas L. Hunter, Johnson, Alexander H. Jones, Thomas L. Jones, Kelsey, Kerr, Knott, Logan, Loughridge, Mallory, Mann, Marshall, Maynard, McClurg, Miller, Mullins, Myers, Niblack, Nicholson, Norris, O'Neill, Pike, Polk, Randall, Ross, Schenck, Seofield, Shanks, Smith, Lawrence S. Trimble, Van Aiken, Van Trump, Henry D. Washburn, Welker, and Woodward—72.

NOT VOTING—Messrs. Ames, Anderson, Arnell, Baldwin, Barnes, Barnum, Beaman, Benjamin Blackburn, Blaine, Bower, Buckley, Burr, Roderick B. Butler, Calkins, Callis, Chanler, Cornell, Dodge, Farnsworth, Finney, Fox, Goss, Gravely, Griswold, Halsey, Harding, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Julian, Kitchen, Lash, George V. Lawrence, Lincoln, Lynch, Marvin, McCarthy, McCormick, McCullough, Moorhead, Morrissey, Mungen, Newcomb, Newsam, Nunn, Paine, Phelps, Planis, Price, Pruyn, Raun, Robinson, Roots, Selye, Shellabarger, Sitgreaves, Starkweather, Aaron F. Stevens, Stone, Sypher, Taber, John Trimble, Robert T. Van Horn, Vidal, Cadwalader C. Washburn, Whittemore, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—76.

So the substitute was not agreed to.

Mr. ROSS. I move to postpone the further consideration of this bill until December next.

The SPEAKER. That motion is not in order while the previous question is operating.

Mr. RANDALL. Then I move to reconsider the vote by which the main question was ordered, with a view to move to postpone the further consideration of this bill until December next.

The SPEAKER. That motion cannot now be made, because the rule says that the previous question cannot be reconsidered when it is partly executed. And the previous question will not be exhausted until the third reading of the bill.

Mr. WARD. Then I move to lay the bill on the table.

The SPEAKER. That motion is in order.

Mr. WARD. And on that motion I call for the yeas and nays.

The question was taken upon ordering the yeas and nays, and there were fifteen in the affirmative.

So (the affirmative not being one fifth of the last vote) the yeas and nays were not ordered.

The question was then taken upon the motion to lay the bill on the table, and it was not agreed to; there being upon a division—ayes thirty-four, noes not counted.

The bill, as amended, was then read the third time.

The question was upon the passage of the bill.

Mr. BOUTWELL. Now, that the judgment of the House, as shown by various votes, is that if any loan bill is to pass it is one that postpones the possibility of paying any portion of the public debt for forty years, accompanied by a declaration from the chairman of the Committee of Ways and Means [Mr. SCHENCK] that he expects the public credit will then be so good that it can be extended for another period of time, which to my mind is equivalent to an indefinite postponement of all effort to pay the public debt of the country, I am constrained to say that I for one will

vote against the bill. I now demand the previous question, and call for the yeas and nays on the passage of the bill.

Mr. SCHENCK. I hope the gentleman will not demand the previous question after misrepresenting me as he has done.

Mr. BOUTWELL. Certainly not. I had no intention of misrepresenting the gentleman in any way. I withdraw the call for the previous question.

Mr. SCHENCK. What I said, Mr. Speaker, was this: that so far from being apprehensive on that account, I believed the holders of bonds running forty years at this low rate of interest would be more anxious not to have them paid than to have them paid; but at the same time I called attention to that provision of the bill for an appropriation from year to year for extinguishing the principal as well as paying the interest; and throughout I declared my belief in the capacity of the Government to meet these demands upon it. The gentleman, therefore, misapprehended my position entirely.

Mr. BOUTWELL. Undoubtedly I misunderstood the gentleman to some extent; but his explanation does not change the force of what I said. The construction which I have put upon the language of the chairman of the Committee of Ways and Means conforms, I believe, substantially to what he has now said. In the first place we are to have no means of paying any portion of the public debt for forty years. The bill provides for a sinking fund by means of which there will be applicable each year to the payment of the public debt a residuum of more than fifty million dollars, which annual residuum, if put out at interest, would pay the public debt in less than forty years, leaving an excess equal to nearly half that debt. I should be glad if the gentleman would state, as the financial organ of this House, how the people of this country are to hold an accumulation of fifty millions in gold each year for forty years. That is the question which the bill presents.

I do not desire to indulge in any debate upon this matter; but I consider the whole proposition so entirely unwise as a measure of financial policy that for one I shall feel constrained to vote against the passage of the bill. I now demand the previous question.

Mr. RANDALL. Will the gentleman yield to me for a moment?

Mr. BOUTWELL. I think the ordinary time for debate has already been exhausted, and I insist on the demand for the previous question.

The previous question was seconded and the main question ordered, which was upon the passage of the bill.

Mr. KELSEY. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 79, nays 68, not voting 68; as follows:

YEAS—Messrs. Allison, Delos R. Ashley, Bailey, Beatty, Benton, Bingham, Blair, Boies, Boyden, Broomall, Buckland, Buckley, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Dixon, Donnelly, Driggs, Eckley, Eliot, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Higby, Hill, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Hunter, Jencks, Judd, Kelley, Ketcham, Koonitz, William Lawrence, Loan, Logan, Loughridge, Mallory, Maynard, McClurg, McKee, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Norris, O'Neill, Perham, Peters, Pike, Polsey, Pomeroy, Robertson, Sawyer, Schenck, Seofield, Stokes, Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Van Wyck, Henry D. Washburn, Welker, William Williams, and John T. Wilson—79.

NAYS—Messrs. Adams, Ames, Archer, Axtell, Baker, Banks, Beck, Boutwell, Boyer, Brownell, Brooks, Benjamin F. Butler, Cary, Cullom, Dawes, Delano, Deweese, Dockery, Eggleston, Eldridge, Eliot, Getz, Glossbrenner, Golladay, Grover, Haight, Hamilton, Haughey, Hawkins, Hinds, Holman, Ingersoll, Johnson, Alexander H. Jones, Thomas L. Jones, Kelsey, Kerr, Knott, Lafin, Lane, Marshall, Mercer, Niblack, Nicholson, Orth, Pierce, Pike, Poland, Randall, Ross, Shanks, Smith, Spalding, Thaddeus Stevens, Stewart, Taber, Taffe, Thomas, Lawrence S. Trimble, Twichell, Van Aiken, Van Trump, Ward, Elisha B. Washburn, William B. Washburn, Stephen F. Wilson, Woodbridge, and Woodward—68.

NOT VOTING—Messrs. Anderson, Arnell, James M. Ashley, Baldwin, Barnes, Barnum, Beaman, Ben-

Jamin, Blackburn, Blaine, Bowen, Barr, Roderick R. Butler, Cake, Chanler, Cornell, Dodge, Farnsworth, Finney, Fox, French, Goss, Halsey, Harding, Heaton, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Julian, Kitchen, Lash, George V. Lawrence, Lincoln, Lynch, Marvin, McCarthy, McCormick, McCullough, Morrissey, Mungen, Newcomb, Newsham, Nunn, Paine, Phelps, Plants, Price, Pruyn, Raum, Robinson, Roots, Selye, Shellabarger, Sitgreaves, Starkweather, Aaron F. Stevens, Stone, Sypher, John Trimble, Robert T. Van Horn, Vidal, Cadwalader C. Washburn, Whittemore, Thomas Williams, James F. Wilson, Windom and Wood—68.

So the bill was passed.

Mr. SCHENCK. I move to reconsider the vote by which the bill was passed; and also move that the motion to reconsider be laid on the table.

Mr. ELDRIDGE. On laying on the table the motion to reconsider I call for the yeas and nays.

The yeas and nays were not ordered.

The motion to reconsider was laid on the table, there being—ayes seventy-seven, noes not counted.

CONTESTED ELECTION—HOGAN VS. PILE.

Mr. COOK. I now call up the Missouri contested-election case of Hogan vs. Pile.

Mr. WASHBURN, of Illinois. I move the House adjourn, as this case will now come up the first thing in the morning.

The motion was agreed to; and thereupon (at ten o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. GROVER: The petition of William Mangum, for additional compensation as major of the eleven Kentucky volunteers.

By Mr. O'NEILL: The petition and papers of John Carrigan, asking for pay as second lieutenant company A first New Jersey artillery, from February 10 to March 10, 1865.

By Mr. SCHENCK: The petition of officers of the Army, praying Congress to pass General SCHENCK's bill to fix and equalize the pay of officers, and to establish the pay of enlisted soldiers of the Army.

IN SENATE.

WEDNESDAY, July 22, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. FERRY, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of War, communicating a letter from Brevet Major General A. B. Dyer, chief of ordnance, asking a trial by court-martial for offenses imputed to him in a report made to Congress by the joint Committee on Ordnance; which was referred to the joint Committee on Ordnance, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes.

The message further announced that the House had passed the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for

the service of the Government for the fiscal year ending June 30, 1868, and for other purposes; and it was thereupon signed by the President *pro tempore* of the Senate.

SENATORS FROM SOUTH CAROLINA.

Mr. WILSON presented the credentials of Hon. Thomas J. Robertson, elected by the Legislature of South Carolina a Senator from that State for the term ending March 3, 1871; and of Hon. Frederick A. Sawyer, elected by the Legislature of South Carolina a Senator from that State for the term ending March 3, 1873.

The credentials were read.

Mr. HOWARD. As to one of the gentlemen named in those credentials, Mr. Sawyer, I hold in my hand a remonstrance signed by about a dozen members of the Legislature of South Carolina, protesting against his being allowed to take his seat in this body, and making various statements tending to show that in their opinion he is not entitled to the seat. I also have affidavits and various other papers which tend to establish that objection. There seems to be a good deal of opposition to allowing Mr. Sawyer to take the oath, even if he be ready to do so; and I think that in fairness to all parties the credentials ought to be referred to the Committee on the Judiciary with instructions to make investigation, and with authority to send for persons and papers. I think the public good will be promoted by such a reference. I therefore beg leave to present the protest of which I spoke, together with the affidavits, with a view to have them referred to the Committee on the Judiciary.

I also present a letter from the clerk of the senate of South Carolina showing that certain members whose seats were contested, the contest not being yet settled at the time of the election, voted for Mr. Sawyer. How much that may be worth I do not undertake to say; but I beg to present these papers, and move that the credentials be referred to the Committee on the Judiciary with power to send for persons and papers.

The PRESIDENT *pro tempore*. It is moved that the credentials of Mr. Sawyer, Senator-elect from South Carolina, together with the accompanying papers, be referred to the Committee on the Judiciary with power to send for persons and papers.

Mr. POMEROY. I notice that the credentials of the two Senators are together. I suppose Mr. Robertson can be sworn in?

Mr. HOWARD. I have no objection to Mr. Robertson being sworn in.

Mr. POMEROY. I know nothing against the other gentleman being sworn in myself; but certainly I have no objection to the oath being administered to Mr. Robertson.

Mr. HOWARD. There is no objection that I am aware of to the oath being administered to Mr. Robertson.

Mr. POMEROY. I did not know but that the credentials of both being together they would, under this motion, both have to go to the Committee on the Judiciary.

Mr. HOWE. The reference will result in a protracted inquiry upon the question of admitting one of these Representatives from that State.

Mr. HOWARD. I beg to say, if the Senator will allow me, that there is no objection to Mr. Robertson taking the oath.

Mr. HOWE. But I say it will result in excluding for a long time, during a protracted inquiry, one of the representatives from that State. It is a long time since we have had the advantage of any representative from the State of South Carolina in these seats, and unless there are grave reasons for doubting the propriety of admitting the representatives now sent to us, I would rather that we should no longer forego the privilege of having the counsels and aid of representatives from the State of South Carolina.

The charges made against this gentleman I have not listened to very carefully, for I was employed at the time the Senator from Michi-

gan was stating them. I have heard something of them outside, and have heard a good deal said in reference to the character of Mr. Sawyer and of his antecedents. The conviction left upon my mind, after all I have heard, is that we are extremely fortunate in the selection which has been made by the Legislature of South Carolina in this instance. The evidence submitted to me individually is such as leaves me no room to doubt that we shall secure by accepting Mr. Sawyer the services of a highly cultivated, a thoroughly honest, and a thoroughly patriotic man. This conviction is brought to my mind by the testimony outside of that which has been read at your desk; but I must once more submit to the Senate that that testimony ought to be conclusive upon the Senate.

The Legislature of South Carolina, which you have recently by solemn act authorized to choose two Senators to take their places here, have selected this one out of all the citizens of that State as the one they prefer. By your laws he is required to take a certain oath. Whether he can take it or not truthfully, I say now, as I have said in other similar cases, I do not know; but I wish to submit once more that the only true way to determine whether he can take it or not is to let him go to the desk and tender the oath to him. Since no allegation is made against the age of this gentleman or his citizenship, or any one of the constitutional qualifications prescribed to Senators on this floor, and since he has been chosen by a Legislature authorized to make the choice and authorized by this very Congress and only a few days since, I think it is going altogether too far for us to say now upon the protest of an insignificant minority of the members of that Legislature that this gentleman shall not be allowed to take his seat pending this investigation. I respectfully insist that he ought to be permitted to take the oath if he will, and take his seat which is assigned to him by the Legislature of the State and act as a Senator; and if it is said or believed that inquiry and investigation might disclose reasons which would authorize us to exclude him, I have no objection then to letting the credentials go to the Committee on the Judiciary and letting that investigation go on; but I think while that is pending South Carolina ought to be represented.

Mr. HARLAN. I rise to make an inquiry whether it would not be a privileged motion to move that the other Senator-elect, Mr. Robertson, be admitted to take the oath. There seems to be no objection to his being sworn in.

The PRESIDENT *pro tempore*. There is no objection to that. I do not know that this motion contemplates an objection to his being sworn in.

Mr. HOWARD. Not at all.

The PRESIDENT *pro tempore*. It is a reference of the credentials that is proposed.

Mr. HARLAN. I move that the other Senator-elect, Mr. Robertson, be permitted to take the oath.

The PRESIDENT *pro tempore*. There is no objection to either of them, as I understand.

Mr. HARLAN. I prefer to act on one at a time.

Mr. HOWARD. There is no objection to Mr. Robertson being sworn in if he chooses to be sworn in before this motion is disposed of. I shall be quite willing that he shall be sworn in.

Mr. POMEROY. I have had laid before me, as I suppose other Senators have, this case, and I do not see enough in it to justify a reference to a committee. I agree with what the Senator from Wisconsin says, that the Legislature of the State of South Carolina, knowing all the facts that the Committee on the Judiciary can know, have elected Mr. Sawyer; and if the facts be as represented to me on both sides, I can see no case in the world made out against him. I think both ought to be sworn in.

Mr. FERRY. I should be opposed to the reference of the credentials of Mr. Sawyer to

the Committee on the Judiciary. It seems to me that the proper course is to administer the oath to both the Senators-elect, and then if the Senator from Michigan has a remonstrance tending to show that either of them is not entitled to a seat, let the remonstrance be presented and referred to the Judiciary Committee for the purpose of examination; but I certainly believe that both the Senators should be sworn in on the credentials presented here, and then the remonstrance can be referred and investigated.

Mr. HOWARD. I ask that the protest and remonstrance of members of the Legislature be read by the Clerk, so that the Senate may be in possession of the facts.

Mr. CAMERON. It seems to me that this is not the time to read that remonstrance.

Mr. CONNESS. It is very short.

Mr. CAMERON. I do not care how short it is. These gentlemen come here with *prima facie* evidence of their election, and it is our duty, I think, to let them take the oaths prescribed by the Constitution and the laws, and if there be any doubt about their right to be here it can be investigated afterward. Let them come upon the floor. They are sent here by a State as sovereign as any other State represented here, and their election is certified in the same manner that ours is. How would the Senator from Michigan have felt if, when his credentials were presented, some three or four persons who did not like him personally out there in Michigan had sent a remonstrance against his taking the oath? I know I should have felt indignant if some fellow in Pennsylvania had made a difficulty about my right to a seat, and I am sure every good man here would have stood by me. I think the right way, and it is the customary way, is to let the Senators come forward with their credentials and be sworn in and take their seats, and if anybody doubts their right we can then investigate it.

Mr. DRAKE. The course suggested by the honorable Senator from Pennsylvania, and, I believe, by the honorable Senator from Connecticut and the honorable Senator from Wisconsin, is a direct abandonment of the position the Senate took in the case of Mr. Thomas, of Maryland. We sent his case to the Committee on the Judiciary because there were charges made against his loyalty, and we had those charges investigated, and the Senate finally decided that he should not be permitted to take the oath of office here, because, in the judgment of the Senate, he could not take it truly. Now, if I understand this case from South Carolina, the very same question arises here, and we are invoked now to pass over the precedent set by the Senate in the Thomas case and to admit this gentleman to be sworn and then go into an investigation of the propriety of his taking the oath. I think that we should be consistent in our action, and should do the same in every case of a like character that we did in the case of Mr. Thomas.

Mr. PATTERSON, of New Hampshire. I am surprised that there should be any objection to this gentleman. I believe he is a native of Massachusetts, and a member certainly of the loyal league in Massachusetts. He went originally from Nashua, in my State, and, as I understand, is as sound a Republican as there is on this floor. In 1864 he was in the State, I know, stumping for the Republican cause and was sound to the core at that time.

Mr. DAVIS. I ask my honorable friend whether he is a citizen of Massachusetts or of South Carolina?

Mr. PATTERSON, of New Hampshire. Not now of Massachusetts; he was at one time.

Mr. HOWARD. All I ask in behalf of the remonstrants is that we shall deal with this case on the same principles that we applied to the case of Mr. Thomas, of Maryland. There the question was whether Mr. Thomas, who offered himself here, and announced himself, through his friends, ready to take the oath required by law should be allowed to take that oath. Allegations were made against such

allowance; charges were brought against Mr. Thomas, tending to show that he was disloyal; that he had actually committed acts of disloyalty, and the Senate very properly referred the whole matter to the Judiciary Committee under precisely the same instructions which I ask in the present case.

As the honorable Senator from Pennsylvania objected to the reading of the paper which I presented, I ask that it may be returned to me, and I will read it as part of my remarks, unless it is allowed to be read at the desk.

The PRESIDENT *pro tempore*. When the reading of a paper is objected to, the rules require that the point shall be decided by the Senate.

Mr. CONNESS. I hope it will be read.

The PRESIDENT *pro tempore*. It is moved that the paper be read, which motion is objected to. The decision of it, by our rules, belongs to the Senate. The question is whether the paper shall be read.

The question being put, the reading of the paper was ordered.

Mr. FRELINGHUYSEN. Is there any objection to the other Senator being admitted to be sworn in?

The PRESIDENT *pro tempore*. None at all, and he will be when we dispose of this question.

Mr. FRELINGHUYSEN. I suppose he would have a right to vote on this very question; and I think some statements which he possibly might make might be material to his colleague.

Mr. SUMNER. I hope the oath may be administered to Mr. Robertson.

Mr. POMEROY. I move that Mr. Robertson be allowed to take the oath, which is a privileged question, and takes precedence of the motion to refer.

The PRESIDENT *pro tempore*. The question is on the motion made by the Senator from Kansas, that Mr. Robertson, Senator-elect, be permitted to take the oath.

Mr. DAVIS. There is objection to both these gentlemen being admitted to take the oath. I object myself; and I object upon the ground that I hold in my hand a return in favor of Benjamin F. Perry as one of the Senators from the State of South Carolina; and I also hold a return in favor of James B. Campbell as another Senator from the State of South Carolina.

Several SENATORS. Their time is out.

Mr. DAVIS. Oh, no; their time is out according to the rescripts of the Radical party, but not according to the Constitution of the United States. Their terms according to the Constitution have not expired; but, to be sure, the Senate may prescribe new terms for these gentlemen, as these are times of political innovation. I do not rise to make any protracted opposition, but merely that the record may be fairly made up, that it be understood that there is objection to both or either of these gentlemen being allowed to be sworn in as members of the Senate, on the ground that here is evidence of a better right in favor of other gentlemen.

The PRESIDENT *pro tempore*. It is moved that Mr. Robertson, Senator-elect, be permitted to qualify.

The motion was agreed to; and the oaths prescribed by law having been administered to Mr. ROBERTSON, he took his seat in the Senate.

The PRESIDENT *pro tempore*. The paper, the reading of which was ordered, will now be read.

The Chief Clerk read as follows:

Protest.

The undersigned, members of the senate and house of representatives of the General Assembly of South Carolina, and others, citizens of said State, do hereby solemnly protest against the admission of Frederick A. Sawyer, into the Senate of the United States, as a Senator from South Carolina; and the undersigned further declare and aver that Hon. A. G. Mackey, of Charleston, South Carolina, is legally and of right entitled to the seat in the Senate of the United States now claimed by the said Sawyer; and the undersigned present the following facts in support of their allegations, and believing them to be true they respectfully request that they may be

permitted to sustain them by good and sufficient evidence before the honorable the Senate of the United States.

First. It is credibly alleged and believed that the aforementioned F. A. Sawyer was engaged in running or in aiding and abetting the running of the blockade at the port of Charleston, South Carolina, in the years 1862, 1863, and a part of the year 1864, and that he held an office under the rebel authorities in the State of South Carolina during said period, and was a member of a military organization in the city of Charleston in the year 1864, which organization was in armed hostility to the Government of the United States.

Second. That at the election held this day for a United States Senator, for the long term, by the senate and house of representatives of the State of South Carolina, the two candidates on the final ballot were the said F. A. Sawyer and A. G. Mackey; that the total vote cast was 149, requiring 75 votes to elect; and that of the vote so cast the said A. G. Mackey received 68, and the said Sawyer received 76; and your protestants declare and believe that of the votes so cast for the said Sawyer — were illegal, the persons casting the same having their seats contested before the senate and house of representatives of said State for gross frauds in their election, the evidence in regard to which frauds was and is now being considered before the committees on elections of said senate and house; and the names and designations of said persons so illegally voting are as follows, to-wit: John B. Moore, representative, Anderson county; John Wilson, representative, Anderson county; J. H. Reid, senator, Anderson county; Joel Foster, Spartansburg; Claude A. Turner, representative, Spartansburg; W. C. Keith, representative, Anderson; O. M. Doyle, representative, Anderson.

And your protestants further declare that the representatives from the county of Lancaster and the senator from said county voted for said Sawyer, although the major general commanding the second military district had refused to recognize their election by his general order No. 120.

Wherefore your protestants pray that your honorable body will send for persons and papers in order that the facts herein stated as currently reported, and such as are known to us, may be fully proved.

JOHN B. DENNIS,

Representative from Charleston county.

J. W. WILLS,

Senator from Edgefield.

EDWARD MCKEY,

Representative, Charleston.

S. SAMUELS,

Representative from Chester.

SAMUEL NUCKLES,

Representative from Union.

WILLIAM WELGER,

Representative from Clarendon.

W. B. HOYT,

Senator from Colleton county.

LUCIUS WIMBUSH,

Senator from Chester county.

SAMUEL J. LEE,

Representative.

F. F. MILLER,

Representative, Georgetown, South Carolina.

HENRY JOHNSON,

Representative from Fairfield.

JOSEPH CREW,

Representative from Laurens county.

Mr. HOWARD. It will be noticed that a portion of the charges contained in that paper are of a grave character. They charge Mr. Sawyer with having been engaged in running the blockade, or in aiding and abetting that transaction, and also charge that he was a member of a military organization in Charleston during the years 1862, 1863, and 1864, which was acting in armed hostility against the United States, and also that he held a civil office under the rebel Government of South Carolina. I think that if Mr. Sawyer is not justly amenable to such charges, it is for his interest particularly that there should be an investigation; and that his friends here and elsewhere—and I trust we are all his friends—may be disabused, by a thorough investigation of the facts of the case, of the impressions that that paper has a tendency to create. I really can make no distinction between such a case as the present and that of Mr. Thomas, where we referred the papers with instructions to a committee to make an investigation and to send for persons and papers.

I have but one word to say in answer to the honorable Senator from Wisconsin, [Mr. Howe.] I cannot concede, as he seems to concede, that the very fact of Mr. Sawyer having received a majority of the votes of the Legislature of South Carolina is a complete shield to protect him from all inquiry being made by the Senate into the facts charged by that paper, or into the general question of his ability truthfully to take the oath prescribed by the act of 1862. We have never adopted

the principle that is laid down by the honorable Senator from Wisconsin, and we never can adopt it until that statute shall be repealed. I think that it is due to Mr. Sawyer and to ourselves and to the country generally that there should be a full and fair investigation of these charges.

Mr. HOWE. Mr. President, I see on the reading of this remonstrance that it raises the question of the election in fact.

Mr. FESSENDEN. We do not look into such questions preliminarily.

Mr. HOWE. I understand that it does put in issue the fact of this man's election.

Mr. FESSENDEN. According to my experience the Senate never preliminarily investigates the question of the regularity of an election provided the certificate submitted is in due form. The Senate never goes preliminarily into the examination of the question whether a man is elected, but admits him to his seat and investigates afterward. I think it has never happened while I have been in the Senate that that matter has been investigated preliminarily.

Mr. HOWE. The practice of the Senate upon that subject was not familiar to me. I do not know how it may be; but I conceive that the fact of election is one very proper to be inquired into. It is one of the questions which the Constitution expressly delegates to the Senate, the authority to try and determine.

Mr. CONKLING. There is no allegation of that kind.

Mr. HOWE. I may have misunderstood the remonstrance; but I rise to say that if the fact of election is put in issue by that remonstrance I think it proper that the Committee on the Judiciary should inquire and report on that subject. The Senator from Maine says that the practice is to allow the member to take his seat, and then for the question to be investigated.

Mr. SUMNER. That is so.

Mr. HOWE. I acquiesce in the propriety of that course; and if that issue, if the fact of election is allowed to be tried after the member is admitted to his seat, I do submit that the question of qualifications, of which I conceive the Legislature to be the better judge than the Senate, should also be tried in the same way and at the same time.

Mr. CONKLING. I hope this case will not be referred to the committee; and more particularly I hope it will not be referred in consequence of any supposed similarity between it and the case of Thomas, of Maryland. I venture to say, from hearing this protest, and looking at it, that there is nothing here constituting the proper foundation of any proceedings except the admission of Mr. Sawyer to his seat. I speak first of the allegations in reference to blockade-running in order to point out what I conceive to be the distinction between the case of Thomas and this case. Nobody here, no member of this body, and no person whose name is appended to this paper, undertakes to say anything against Mr. Sawyer in reference to his having been engaged in blockade-running, but the allegation is that "it is credibly alleged and believed." By whom? By nobody whose name is given here. Would the Senate have referred the case of Thomas to the Judiciary Committee upon a paper sent the Senate alleging that it was credibly believed that Mr. Thomas, as Secretary of the Treasury, had been guilty of disloyal conduct? In view of that, the Senator from Michigan presented the report of the officers of the Bank of Commerce, an official report setting out specifically facts within their own knowledge, amounting on their face to grave aspersions against the loyalty and the official integrity of Mr. Thomas. But surely this case is nothing like that. These gentlemen do not even state upon information and belief that any such thing is true; they do not aver that they are informed of these facts or that they believe them; but in phraseology particularly ambiguous and unsatisfactory they say, "it is credibly alleged and believed."

Mr. HOWARD. If the honorable Senator will allow me, I desire to suggest that there is an affidavit accompanying the papers containing the oath of respectable persons charging these facts on Mr. Sawyer.

Mr. CONKLING. I am speaking of the case which is presented. If there is any evidence that we have not heard, I am not speaking on that, of course, but I am submitting to the Senate, to the lawyers of the Senate, that it would be an unheard of act in the course of any proceeding with which I am acquainted to allow persons without even making an allegation upon information and belief, but merely by a statement that they understand that there is such a rumor—for that is all it is—to put upon his trial or defense any person whose rights are involved in the proceeding. If there is any affidavit which the Senator has to read I should be very glad to hear that.

Mr. SUMNER. I should like to hear that affidavit read.

Mr. CONKLING. So should I like to have it read.

Mr. HOWARD. I hope it will be read; the Clerk will find it among the papers.

The PRESIDENT *pro tempore*. The document will be read, if there be no objection.

The Chief Clerk read as follows:

DISTRICT OF COLUMBIA, Washington county, ss.:

Personally appeared before me, a notary public, in and for said District and county, duly authorized by law to administer oaths, C. C. BOWEN, a member of Congress from the second congressional district of South Carolina, and T. J. Mackey, a citizen of Charleston, in said State, who being duly sworn, depose and say that they are well and personally acquainted with Frederick A. Sawyer, who claims to have been elected a Senator of the United States, by virtue of an election held in the city of Columbia by the Legislature of South Carolina, on the 16th day of July, 1868, and your deponents further declare that they have good and sufficient reasons to believe, and do believe, that the said Sawyer is not eligible to hold a seat in the Senate of the United States by reason of the fact, which can be fully shown by credible witnesses whose names are hereto attached, that the said Sawyer was engaged in aiding and abetting the rebellion against the Government of the United States in the years 1862, 1863, and 1864, by being a shareholder in a blockade company engaged in running the blockade at the port of Charleston, South Carolina, and in furnishing material of war to the so-called confederate States, and aid and comfort to the supporters thereof; and in support of this averment the deponents present the following list of witnesses, to wit:

A. C. Richards, Charleston, South Carolina; Stephen W. Kirk, Charleston, South Carolina; L. F. Potter, Charleston, South Carolina; C. F. Dunham, Charleston, South Carolina; Rev. Thomas O. Rice, New York city; A. G. Mackey, Charleston, South Carolina; Theodore Wagner, Charleston, South Carolina; John Chaik, Charleston, South Carolina; Captain N. N. Coste, Charleston, South Carolina.

And the deponents further declare that they have good and sufficient reasons to believe, and do believe, that the said Sawyer was a member of a military organization in armed hostility to the Government of the United States in the city of Charleston, in the year 1864, and that he did military duty as a member of said organization known as the "Charleston Home Guard," and in proof of this allegation, which deponents verily believe to be true, deponents refer to the said Frederick A. Sawyer himself, and will bring good and credible witnesses to testify to the same.

And deponents further declare that they are informed and believe that in the investigation of the cotton claim of Charles Quinby, the United States, at the city of Charleston, South Carolina, in March, 1863, by the United States district attorney and others, the said Quinby was charged with having been engaged in running the blockade, and the evidence of the said Sawyer, who was a witness for claimant, was objected to by the United States district attorney, on the ground that the said Sawyer had been himself engaged in running the blockade, and it was then and there shown and admitted that the said Sawyer had been to some extent engaged in the shipment and receipt of goods, contraband of war, through the lines of the blockade established by the United States against the ports of the so-called confederate States; and in proof of this averment the deponents confidently appeal to the records of the United States Court of Claims as set forth in the case of said Quinby; and the deponents further declare that the United States district attorney above referred to was and is the chief political supporter of the said Sawyer, but was constrained by his official duty and by the special commissioner of the Court of Claims to except to the testimony of said Sawyer at the time and place herein alleged.

And the deponents further declare, that they are informed and believe, and have good and sufficient reasons to believe, that the said Sawyer, during the rebellion, was engaged in the purchase of confederate bonds issued for the purpose of sustaining the rebellion against the United States, and that John T. Riggs, banker, of the city of Charleston, held and now holds an order from said Sawyer, directing him

to purchase confederate bonds for him, the said Sawyer, and that he did so purchase.

And the deponents further declare that the said Sawyer held the office of principal of the State Normal School of South Carolina during the rebellion, and was paid as such by the rebel authorities of said State. And deponents further declare that they have good and sufficient reasons to believe that several of the votes cast for the said Sawyer, upon which he claims his election as United States Senator, were illegally cast, the parties casting the same having their seats contested at the time of voting, for gross frauds in their elections, and it is believed, and the deponents do believe, that one or more of said persons so illegally voting for the said Sawyer, and thereby securing his pretended election, were and are disqualified from holding seats in the Legislature of South Carolina by reason of the third section of the fourteenth amendment to the Constitution of the United States. And deponents further declare that they are informed and believe that the said Sawyer, despite the facts herein alleged, did take the oath of July 2, 1862, known as the iron-clad oath, as collector of internal revenue for the second congressional district of South Carolina in the year 1865.

C. C. BOWEN,
T. J. MACKEY.

Subscribed and sworn to before me this 20th day of July, 1868.

JOHN E. CALLAN,
Notary Public.

Mr. WILSON. I send to the Chair to be read an affidavit made by a gentleman who professes to have known all the facts in regard to the allegation of blockade running; and before it is read, I will say that I understand Mr. Sawyer went to South Carolina in 1858; that he was superintendent of the public schools in Charleston; that he was there during the rebellion, and that he was always a loyal man. There has been a very sharp contest between him and Doctor Mackey for the Senatorship, exciting the deepest interest and much spirit and feeling. I believe both of them to be loyal men. That is my judgment from what I know in regard to them. I desire to have this paper, which Mr. Sawyer has placed in my hands, read.

The Chief Clerk read as follows:

STATE OF SOUTH CAROLINA, county of Charleston, ss.:

Personally appeared, J. D. Geddings, of the State and county aforesaid, who, being duly sworn, deposes and says: that he was a resident of the city of Charleston during the entire period of the late war, and that he is at present Assistant Treasurer of the United States, which office he has held since November, 1866. Said deponent further says that he was intimately acquainted, during the whole period of the rebellion, with Frederick A. Sawyer, United States Senator-elect, and that he knows said Sawyer to have been at all times loyal to the United States in word and act. Said deponent further says, in reference to a charge alleged to have been made by certain persons that said Sawyer aided the rebellion by being engaged in blockade running, that this deponent was fully cognizant of the connection of said Sawyer with that business, and that the facts are as follows, namely:

Some time in 1863 said Sawyer became possessed of a small interest (less than \$100 in gold value) in a schooner intended to be laden with cotton to run the blockade, and this interest was taken by him on the express condition that said schooner should not return to the States in rebellion but that vessel and cargo should be sold on arrival at a foreign port and the net proceeds of sale should be returned to the shareholders in sterling exchange, said Sawyer declaring that he would have no part or lot in introducing supplies of any kind into the States in rebellion. This deponent further says that the said vessel and cargo was sold in Nassau, New Providence, and the net proceeds thereof were returned to the shareholders in sterling exchange as aforesaid. Said deponent further says that said Sawyer did, in September, 1864, succeed in a project long before entertained by him whereby he escaped from the States in rebellion, went to New England, and earnestly engaged in the campaign having for its object the reelection of Mr. Lincoln. This deponent further says that said Sawyer did carry with him to the North the entire amount of the net proceeds aforesaid as this deponent believes. Said deponent further says that he never heard, nor does he believe, that the said Sawyer had at any time any interest or share in any blockade running venture besides the one above named, and this deponent does not believe that said Sawyer would have consented at any time during the war to do an act which would aid the rebellion.

Sworn and subscribed this 18th day of July A. D. 1868, before me.

J. W. BROWNFIELD,
Clerk Common Pleas and General Sessions.

Mr. CONKLING. Mr. President, the strength of this case now, if it has any strength, is to be found in the affidavit, and not in the protest; and I think it is fair to direct the attention of Senators to some remarkable facts about that paper. The names of the affiants are not strangers to us. One of them is the namesake of the competitor of Mr. Sawyer, Mr. Mackey,

and I am told is his brother, and his name was recently before us, as was the name of the other affiant, Mr. Bowen, as petitioners to be themselves relieved from the very disabilities, in point of law, which are now alleged against Mr. Sawyer. I think I am right in my recollection that both of these men were included in the act for removing disabilities recently passed.

Mr. STEWART. Yes, sir.

Mr. CONKLING. One of them presented a case which I should think might impose upon him properly the obligations of charity and temperance, at least in making imputations upon others. It will be observed that these men, who make this affidavit here within a few days and for a purpose which is obvious, one being the near relative of the contestant of this election in South Carolina, and making it, no doubt, as strong as they could, state nothing, as I insist again, which amounts to a legal or taftable allegation. They say, using the stereotyped phrase—it becomes stereotyped by repetition—that they have "reasons to believe" so and so. What reasons? Suppose an examining magistrate is receiving a complaint for petit larceny of a complainant, does he tolerate him in a statement of that sort? Never. Certain things he may state upon information and belief; but it is not for him to state that locked up in his bosom and conviction are undisclosed reasons upon which he comes to a certain conclusion. That is the allegation here to fasten upon Mr. Sawyer a condition of facts not only extraordinary, but which, I think, not a single member of this body believes exists or can exist. I am free to say that I do not believe one word of it.

What is the difficulty? There has been a contested election, with a great deal of heat evidently on both sides. If there be a shadow of foundation for this charge, what is the difficulty in presenting it to us in the ordinary way, and at the hands of men who know something about it? This secondary evidence is suspicious. There are cases where secondary evidence is not suggestive at all of insincerity or imposition; but when you come to facts so conspicuous, so patent in their character as the facts alleged here, and when the motive for alleging the existence of those facts is so strong as it must be on the part of a large number of persons in South Carolina, I submit that it is very suspicious that no man comes before us upon paper who alleges that he knows anything about it himself, or who is willing even to mention the name of any person who informs him. These two affiants say that they understand that the following-named persons are witnesses on this subject, and they name Mr. Sawyer himself as a credible witness to one allegation. He, doubtless, knows about these other allegations, but they do not name him in regard to them, but they say they are informed that the persons named have information on the subject. I submit that it is utterly unsatisfactory and utterly inadequate, as coming up to any rule that I know of on which the Senate has heretofore acted.

Now, I wish to make a single remark about the latter part of this protest, that to which the honorable Senator from Wisconsin a moment ago directed his attention. I call his attention to the fact that the essence of the allegation is that, "the persons casting the same," that is, this number of votes referred to, had "their seats contested before the Senate and House of Representatives of said State." Now, sir, is it possible that the Senate of the United States or the House of Representatives can go behind the composition of the body which elected the Senator and investigate the question of contested elections there? The Senator from Wisconsin agrees with me that it cannot be done. If the election of a member claiming a seat in this body is contested within the provision of the Constitution, upon that we can pass, and that we can investigate. But if a man comes here saying "I should be entitled to a seat in the Senate but for the fact that in the Assembly of the State of New York certain men were sitting and voting and permitted

by that body to vote, whose seats were contested by somebody else," that question we cannot investigate, neither preliminarily nor ultimately. Never, I submit, can that question be brought into this forum.

Mr. HOWE. It that the subsisting fact upon which the allegation is made?

Mr. CONKLING. Certainly it is. I will read it:

"That the total vote cast, was one hundred and forty-nine, requiring seventy-five votes to elect, and that of the vote so cast, the said A. G. Mackey received sixty-eight and the said Sawyer received seventy-six, and your protestants declare and believe that of the votes so cast for the said Sawyer were illegal, the persons casting the same having their seats contested before the senate and house of representatives of said State."

That is the gravamen of the allegation.

Mr. HOWE. There is something beyond that about frauds.

Mr. CONKLING. Oh, yes; I see now what you mean—"of said State for gross frauds in their election"—that is, in the election of these persons voting in the Legislature of South Carolina. We shall all agree that that is entirely beyond the purview of our functions here; and therefore the sole question is whether upon vague and secondary evidence, fully met as it seems to me by the paper presented by the Senator from Massachusetts, and fully met by the personal knowledge and personal declarations of Senators here, we are to refer this case to a committee at the very expiration of this session, upon an allegation that witnesses are to be found whose whereabouts are such that these protestants perfectly well know that the inevitable result is to be, no matter how innocent and meritorious Mr. Sawyer is, to throw him over to a future session of Congress before he can qualify and take his seat. That strikes me as being, I will not say the purpose, but the obvious and inevitable effect of this proceeding.

Some man, they have heard, in Charleston has an order under which he or somebody else purchased confederate bonds, and apparently, on this day of grace, or to-morrow, we are to issue a precept, and the marshal is to be sent down into South Carolina to hunt up this individual and bring him here on some future day when we do not expect to be in session. I believe that it is a harsh and discreditable proceeding, which I think this affidavit would warrant in characterizing still more harshly than I do. The honorable Senator from Michigan felt it his duty, and naturally, upon seeing these papers, to present them. He has discharged that duty, and I trust he and all of us may assent to Mr. Sawyer being sworn in, leaving these parties at leisure, their full opportunity and day in court, to turn Mr. Sawyer out if in truth it turns out he should not be here.

Mr. POMEROY. This question, I suppose, should be disposed of by a vote of the Senate. There are two questions of privilege. The higher question of privilege is the motion which I shall make, and that is, that we proceed to swear Mr. Sawyer. If the Senate vote that down, then the next question of privilege will be on the reference. I do not propose to take any time in discussing the matter. One of the witnesses referred to by these contestants, the Rev. T. O. Rice, is a brother-in-law of mine. He stayed there during the war, and it is from him and his wife that I learn all the facts in this case. Their church was burnt down, but they kept together a band of loyal men and women, and this Mr. Sawyer was one of them, and the character given him by the very witness to whom the affiants refer, Rev. T. O. Rice, is of the highest kind.

Mr. HOWARD. It appears to me that the motion made by the honorable Senator from Kansas is not strictly in order.

Mr. POMEROY. I make it because it is the highest question of privilege. It relates to the immediate organization of the body, which takes precedence of a motion to refer.

Mr. HOWARD. It cannot take precedence of my motion.

Mr. POMEROY. Then I raise a question of order, and let us have it decided.

Mr. HOWARD. I suppose that the question of order is debatable.

Mr. POMEROY. No; it is not. I desire to have the question of order settled before the debate proceeds.

The PRESIDENT *pro tempore*. What is the question?

Mr. POMEROY. My point is that a motion to swear in the Senator-elect is of the highest privilege, and therefore must be put first.

Mr. HOWARD. My motion is under discussion.

Mr. POMEROY. I admit the Senator's motion is under discussion; but the highest question of privilege is the question of swearing in; and that is the motion I make.

Mr. HOWARD. It is quite plain that the whole question will turn upon this motion, then, for it will be impossible for the Senate to unseat the member after he shall have taken his seat under such a motion as that. The ground of my objection is based upon the statute of 1862, that he cannot take the oath. That is the point of it, and I ask an investigation in behalf of those who have signed these papers to ascertain whether he can safely and truly take the oath.

The PRESIDENT *pro tempore*. The Senator from Kansas raises a question of order.

Mr. POMEROY. I want that settled.

The PRESIDENT *pro tempore*. The rules of the Senate make no prescription on this subject. They throw no light upon it. Therefore we are brought to the principle of reason to guide us. The two motions really amount to the same thing. If these papers are not sent to the committee, then the man is to be sworn in undoubtedly. It results in the same thing. But if a distinction is to be made the first thing is probably to swear in the man if there is no objection to him; but if objection arises that should be disposed of before he can be sworn in. Objections are made to the present applicant. It strikes me that they must be disposed of before he is sworn in. Both questions are the same in effect; there does not seem practically to be any difference in result.

Mr. HOWARD. I wish to say one word in reply to the honorable Senator from New York; I will not make a large draft upon the patience of the Senate. I have presented these papers in good faith, and I have no doubt that those who have signed them have signed them in good faith, under the expectation that an investigation would be had. Now, as is generally the case with the honorable Senator from New York, he attempts to do away with the force of the affidavit which I have caused to be read here by throwing ridicule upon it, and insisting that it does not state any particular fact upon which the Senate can act. The ridicule and the contempt with which he speaks of that paper constitutes no argument whatever; and it is hardly worthy of the occasion, let me say, or the subject about which we are talking, that an attempt should be made, without cause, gratuitously, to throw ridicule and discredit upon those deponents.

It is very true that one of the affiants in that affidavit is a brother of Mr. Mackey, who was a competitor against Mr. Sawyer for an election to this body. Is he any the worse for that? Is he any the less a creditable witness because he happens to be the brother of Mr. Mackey? And who is the Mr. Mackey referred to? He was the president of the South Carolina convention that framed the present constitution of that State, and I believe by the assent of all it is admitted that he discharged his duty in the most becoming and intelligent manner; and it is admitted by those best acquainted with that convention and with affairs in South Carolina that that constitution owes much of its excellence to his intelligence, his learning, his patriotism, and his sound Republican doctrine.

Mr. CONKLING. Which one is that, A. G., or the other?

Mr. HOWARD. A. G. But what can we

expect in such an affidavit? This affidavit contains as much as is ordinarily contained in an affidavit to procure a criminal warrant against a supposed offender. The Senator shakes his head. I am at issue with him. The question has been decided over and over again by the most intelligent courts that where an affiant makes his affidavit for a warrant upon the best of his knowledge and belief, and as he does believe, they are always upheld unless there be some special statute requiring a more specific statement of his knowledge.

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. HOWARD. In one moment. This affidavit contains a specific allegation against Mr. Sawyer of having been engaged in running the blockade, and the very counter-affidavit introduced here to destroy its effect, even as a matter of fact, admits that he was so engaged. The affiants state to us by whom they can prove and establish the charges which they bring against Mr. Sawyer. The affidavit tells us where they live, so that they may be called at any moment. Could anything more be expected, in all reason? I think not. We had much less evidence before us at the time we referred the credentials in the case of Mr. Thomas. In fact, at the time the motion was made there was no showing against Mr. Thomas at all, and it was not until some days after that motion was made that the document to which the honorable Senator refers, the report of the Board of Commerce, of New York, was produced and read to the Senate.

Now, Mr. President, this Mr. A. G. Mackey was supported by a clear majority of all the Republicans in the Legislature of South Carolina. Nobody doubts that; and it is alleged in this affidavit that Mackey himself is an important witness upon the question whether or not Mr. Sawyer is liable to the charge preferred against him.

I think, under the circumstances, that we ought to do no less than to refer these papers and have a careful investigation of the whole subject made, both on Mr. Sawyer's account and on account of the Senate and the country. If he is falsely accused, if there be no rational ground for bringing these accusations against him, is it not important to him that his character should be cleared of these charges? Certainly it is. If he was guilty of running the blockade, and thus rendering aid and comfort to the enemy, we want to know that fact, and the world wants to know it. If he was actually guilty of running the blockade, of being interested in a vessel, as his own friend swears that he was, which vessel was run through our blockade and sold at Nassau, and if he afterward received a part of the purchase-money of this vessel and its cargo, for I suppose it is intended to include the cargo, then is it not perfectly clear that he was guilty of an illegal act? Certainly, I think there can be no doubt of that.

I have, thus, Mr. President, very briefly endeavored to discharge my duty. I know nothing against Mr. Sawyer myself personally; nor would I injure a hair of his head. I hope most earnestly that these charges against him are without foundation; but the only way to ascertain whether they are or not is to make an inquiry and ascertain the facts.

Mr. WILLIAMS. Mr. President, I must confess that I am somewhat surprised at this proceeding before the Senate. The State of South Carolina, by its Legislative Assembly, has elected a Senator, and he comes here with his credentials in due form, which are presented to the Senate, and we proceed to try his title to his seat in this body upon affidavits made by one party and by the other as we would try the validity of some preliminary proceeding in a justice's court. Sir, there ought to be some principle by which this body is to be governed in reference to questions of this nature. I hold the true doctrine to be that when a Senator-elect produces his credentials here in due form he is entitled to take his seat, and if there be any reason why he should be

displaced that reason can be subsequently considered by the proper committee.

All the allegations that are made against the right of Mr. Sawyer to take his seat in this body were no doubt made before the Legislature of South Carolina, and there considered. The members of that body, no doubt, were acquainted with the witnesses who, it is alleged, can testify to certain facts. No doubt many of the members of that body had personal knowledge of the history of Mr. Sawyer during the rebellion. All these things were legitimate matters for the consideration of the Legislative Assembly of the State of South Carolina, as to whether or not he was a suitable man to represent that State in the Senate, and when they decided that he was a proper man in every respect, and gave him his credentials, and he comes here, and is willing to take the oath of office, I deny the right of the Senate to say that his case shall be referred to the Committee on the Judiciary, and that the State, for an indefinite length of time, shall be deprived of its right of representation here while that committee is engaged in the consideration of the question.

I propose to vote for allowing Mr. Sawyer to take his seat upon the ground that he has a right, no matter what allegations may be made against him by individuals, to take this oath, if he can conscientiously take it, and occupy his seat in this body. Suppose this doctrine is established; then, whenever a man is elected to the Senate of the United States some of the supporters of a disappointed aspirant will find some reason for objecting to the man who has been elected. No election occurs anywhere in any State, I venture to say, where the disappointed party does not find some ground for objecting to the election. Somebody's seat in the Legislative Assembly is contested; something has been said or done by the successful candidate that is in the estimation of these persons illegal or disloyal; and they make up a statement and send it here to the Senate; and the right of that State to representation is suspended until that matter can be considered. I do not intimate that any such thing is possible, but it would be in the power of a committee opposed in politics to the person elected to withhold any report upon the question for a great length of time, if they were so disposed, and in that way the rights of the State might be prejudiced through the action of a committee opposed in politics to the man who was elected.

I therefore wish it to be understood that so far as I am concerned I make no distinction between this case and the case of Mr. Thomas. Allegations were made against his loyalty; allegations are made against the loyalty of Mr. Sawyer; and I maintain that these allegations may, with propriety, be referred to the Judiciary Committee after this man is allowed to take his seat; and if there be any law anywhere to displace him on that ground, then the committee can so report, and his seat will be vacated; but until that time it seems to me he ought to be allowed to take his seat in this body.

Mr. ROBERTSON. Mr. President, I rise very reluctantly to make an explanation in regard to my colleague. In my opinion he is entirely competent to take the test-oath. The charges against him are made by a set of men who are disappointed, by the friends of Dr. Mackey. In my opinion they are entirely unfounded. It is within my knowledge that Mr. Sawyer spoke throughout a large portion of the State of South Carolina for the ratification of our constitution. I heard him myself on several occasions. He was severe against the men who opposed reconstruction under the laws of Congress. His speeches were well received everywhere by the Republican party. I am astonished at the opposition that I find here this morning against my colleague. Sir, if he is not a Republican, I do not know where you will go to find one. According to all my information, no better Republican can be found on this floor. No one in South Carolina doubts

Mr. Sawyer's honesty in regard to his taking the test-oath. This opposition to him is gotten up on personal grounds by the friends of the defeated candidate.

I hope, from these few considerations, that Senators will vote to allow Mr. Sawyer to take his seat. He is abundantly able to satisfy any committee, or any gentleman, of his qualification to take the test-oath. I felt it my duty to make this explanation in behalf of my colleague.

Mr. DAVIS. The discussion this morning has still adhered to the modern idea that "loyalty" and "Republicanism" are synonyms.

Mr. STEWART. That is true.

Mr. DAVIS. The honorable Senator from Nevada has no doubt of the truth of that proposition, because, I suppose, he has not enough intellect to comprehend the falsehood of it. [Laughter.] But this is mere playfulness. I pay all due respect to my friend's intellect. I acknowledge it. I acknowledge that he is a lawyer, a man of mind, and that he is a man of much interest in argument, and often speaks to my instruction. I did not intend him any discourtesy.

But, sir, we are now engaged in the debate of a sort of illegitimate interlude in our legislative history. The honorable Senator from Oregon, as is his wont, has addressed himself to this subject, as he does to all others, with the precision of a lawyer, and a good lawyer. He speaks of trying the title of these gentlemen to their seats as though the question were to be decided in a court of justice. If my honorable friend would pursue his thoughts and determine in his own mind to test and decide the question by the principles of the Constitution and law, his strong sense and his clear legal knowledge would lead him inevitably to the conclusion that neither of these gentlemen has any right whatever to a seat. Being myself firmly impressed with the truth of this position, I regard this whole affair as sort of Kilkenny-cat fight, and I could wish, metaphorically and politically, that it would have just about the same termination as that famous encounter. [Laughter.]

I agree with the honorable Senator from Oregon in part, that in this preliminary inquiry there are only three propositions for the judgment of the Senate. The first is the qualifications of the gentleman who claims the senatorial seat. Another one, I conceive, is the fact of an election by the Legislature of the State of South Carolina. Whenever the inquiry is so far pursued that you come to an election by the Legislature of that State, or a body that is acting as the Legislature of that State, and you ascertain that they have voted and made an election, in this preliminary inquiry certainly, you cannot pursue the matter any further; and you must, as a matter of right, admit the party who comes here with his return where it is shown that the election has taken place in conformity with the evidence furnished by that return.

I am very much surprised, though, at the sensitiveness of gentlemen upon this subject of running the blockade or illicit traffic on the part of one of these gentlemen during the late troubles. The Senator from Massachusetts [Mr. WILSON] told us three or four years ago that there were Yankees in the southern States who had recommenced the slave trade, and were engaged in the renewal of that infamous traffic, and he invoked the action of the Senate with a view to arrest it. I was reading a few days ago the report of the testimony taken by a joint committee of Congress, and it was proved by evidence taken before that committee, if I recollect aright, that a notorious general of the Union Army and his brother, during the late war, had been engaged in the city of New Orleans in trading with the enemy beyond the lines. I have been informed upon authority which I cannot doubt, that that same notorious general, the hero of Big Bethel and of Wilmington, while he was in military command in the neighborhood of Richmond, was

engaged in carrying on an illicit traffic with the enemy across the lines; and I have no more doubt of the truth of that charge than that I am now addressing the Senate; and I have no doubt that if the Senate would give a fair, independent, vigilant committee, who would investigate the whole truth of the charge against this notorious general, they would establish that charge in hundreds of instances. Why, then, are Senators so sensitive in relation to blockade running and trading with the enemy when it is imputed against one of the claimants of a seat in the Senate from the State of South Carolina?

My honorable friend, the Senator from New Hampshire, in giving us a short sketch of this gentleman, his life and character, spoke of him in such equivocal terms as related to his residence, that I was induced to inquire whether now he was a resident of South Carolina or of Massachusetts? My honorable friend assures me that at this present writing he is a resident of the State of South Carolina. But the proofs and affidavits in this case disclose these facts: during the war and for some years of the war this gentleman had a sort of dual residence; he was alternating between Charleston and Massachusetts. In Charleston he was engaged as the superintendent of public schools or held some office connected with the educational interests of that city. In addition to that, he had taken shares in a blockade runner. I suppose no gentleman who has heard the evidence read doubts that he was concerned in blockade running, and received a portion of the profits. In the exercise of the full right of his dual residence he vibrates between Charleston and Massachusetts, and in the last presidential election we see him figuring, as a resident of the State of Massachusetts, in favor of the late lamented President of the United States, who was then a candidate for reelection.

Does the honorable Senator from Massachusetts, who based a resolution some years ago in the Senate upon the fact that the Yankee traders in the South had reopened the slave trade, expect that these keen trading men can go to the South, in war or in peace, and have an opportunity of entering into blockade running enterprises, and making large profits, and can find it in their natures to refrain from participating in such remunerative traffic? It may not be so; but I cannot doubt that this gentleman, who wants now to take a seat in the Senate, and be qualified as a member of the Senate, was concerned in blockade running during the late war. But when there are so many illustrious examples of the same character in Congress and out of Congress, in the House and out of the House, it seems to me it is a little too particular for Senators to take exception to this case. They might as well swallow this as other cases that have been swallowed.

But whether they choose to do so or not, I agree with the legal, constitutional position assumed by Senators in relation to this subject, and especially by the Senator from Oregon, that a matter of that kind cannot be inquired into on the preliminary question whether a man who has the proper legal returns of election to the Senate from a State shall take his seat or not. Whether it will be subsequently inquired into with a view to action of the Senate, which should result in the expulsion of the Senator, is a question upon which I venture no opinion; but it is wholly irregular and incompetent to enter upon that inquiry at this time. If I had not come to the conclusion that neither of these Senators was entitled to a seat I would unquestionably say that the present applicant ought to be admitted, and ought to be allowed to take the oath and his seat on the floor of the Senate; but I believe they are both interlopers; that neither of them has any right whatever to a seat; and that the time will come when both of them will be expelled if they are both admitted.

Mr. CONNESS. I only rise to say that I think it is time this habit of denouncing a dis-

tinguished member of the other House of Congress had ceased here. My friend from Kentucky might have discussed this question without indulging in those reflections upon the character of that gentleman. I do think it is not within the rules to do so; and certainly it is not within the rules of good taste. Whether General BUTLER gained laurels at Big Bethel or Wilmington or not, it is true that in the estimation of the loyal people of this country he did win laurels in support of the nation against those who attacked it. It is true that he did that to such an extent as to secure for himself the constant and persistent attacks of those who are and were rebels; and I am very sorry to find the honorable Senator from Kentucky indulging with them in these denunciations upon every occasion that he has an opportunity. If he would even divide his time, and indulge a portion of the time in denunciations of Wade Hampton and Forrest, and other rebels who violated the laws of war as well as attacked their country, it might have some show of fairness, to say the least of it; but this seeking every opportunity to attack men who, it must be said, did the most they could for their country in its greatest need, is hardly in good taste.

Mr. DAVIS. The honorable Senator from California is a most perfect pink of all the courtesies of life. He had better pull the beam out of his own eye before he attempts to pluck the mote out of mine. How often and to what extent and to what degree of violence and grossness does he indulge in denunciations of the President of the United States? Sir, I have indulged in no invective against General BUTLER. I have only stated facts. I have often stated those facts in the Senate, and I have often professed my willingness and readiness and desire to make them good if a committee was allowed me. I repeat the proposition. Let the honorable Senator and his friends who constitute the majority, if they want those reflections upon General BUTLER investigated and brought to the truth of evidence, allow an independent committee. I proposed that three or four years ago again and again, and it was always and perseveringly withheld. I do not acknowledge the right of the honorable Senator, and I do not intend to allow him, deliberately to lecture me here. I give him now to understand that I have indulged in no opprobrious language against General BUTLER; I have referred to facts that were dishonorable, degrading, disgraceful in the highest degree to the man and to the service of the country, and I offered to make them good and I will make them good whenever this Senate will give me a committee.

The PRESIDENT *pro tempore*. The question is on the motion to refer these documents to the Committee on the Judiciary with power to send for persons and papers to investigate them.

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. TRUMBULL. I should have said nothing on this question if the yeas and nays had not been called for, and I should not vote as I shall feel compelled to vote if this were a new question in the Senate. But it has been presented here a number of times, and the Senate has taken action in these cases, and I think we ought to pursue a consistent course in regard to them. We ought not to decide one way to-day and differently to-morrow. I regret very much to give any vote that will bring this matter before the Committee on the Judiciary; for if there is any thankless business a member of this body has to perform, it is that connected with the investigation of the right of members to their seats.

But, Mr. President, we have acted upon cases, it seems to me, analogous in every respect to the one under consideration. I cannot see the distinction between this case and that of Mr. Thomas, of Maryland. Mr. Thomas was elected by the State of Maryland a Senator, and came here with credentials properly certified. He was the choice of that State.

Maryland had a right to elect a Senator, had a right to choose whom she thought proper as her Senator, so that he possessed the qualifications required by the Constitution of the United States. Nobody denied that Mr. Thomas possessed all those qualifications; but it was alleged that he had been disloyal, and in consequence of those allegations a motion was made to refer his credentials to the Committee on the Judiciary. The matter was discussed in this body. It was not decided hastily and informally, but quite a protracted discussion took place, and at the close of it the credentials were referred to that committee, and an investigation took place, which resulted, as all know, in a decision by the Senate that Mr. Thomas was not entitled to a seat, and he never was sworn in as a member of the body.

Now, sir, there are presented here the credentials of a gentleman from South Carolina, a State which is entitled to representation in this body, the choice of that State as her representative, the gentleman possessing, as did Mr. Thomas, so far as I understand, all the qualifications required by the Constitution of the United States for membership upon this floor; but it is alleged that this gentleman has been engaged in giving aid and comfort to the enemy, and a motion is made to refer his credentials to the Committee on the Judiciary. I cannot distinguish this case from the other. Certainly here is enough to raise the question upon. It is quite as strong a case, in my opinion, as that presented against Mr. Thomas in the first instance. Here are statements, backed by affidavits, making distinct allegations. Although as a new question I should feel disposed to allow this gentleman to be sworn in the first instance and investigate the case afterward, yet the Senate, having adopted the other practice in other cases, I shall feel constrained to vote to refer these credentials to the Committee on the Judiciary.

Mr. MORTON. I simply desire to say a word in explanation of the vote I shall give. I voted to refer the case of Mr. Thomas to the Committee on the Judiciary. I did that because I believed that a charge of disloyalty, a charge which showed that he could not honestly take the iron-clad oath, ought to be investigated before he was allowed to take it; that a charge of disloyalty ought to be investigated before the person entered the Senate, that after he come in it would be too late. I shall vote for the sake of being consistent, and believing that the principle is right, to refer these credentials to the committee, not because I do not believe Mr. Sawyer is not entitled to admission here—from what I have heard I am prepossessed in his favor—but I believe the Senate ought to be consistent. I want to be consistent myself. I believe that whenever there is a serious charge of disloyalty preferred, going to show that the applicant for admission cannot honestly take the iron-clad oath, that charge ought to be investigated in advance, and not wait until the person is upon the floor of the Senate and clothed with the power of a Senator. This is what the Senate decided before, and it is what I think it ought to decide now, to be consistent.

Mr. DRAKE. There is one very strong reason why the Senate should be consistent, and that is, that the majority of this body should not lay itself open to the charge of sending the credentials of a Democratic Senator to the committee, and then refuse to send the credentials of a Republican Senator there, against whom the same charges are made. Sir, if it is right to do it in one case it is right to do it in another. It would be, in my opinion, unworthy of a Senate containing so large a majority of Republicans as this does to send the case of Mr. Thomas to the Judiciary Committee without an affidavit, as I believe was the case, of any kind charging him with any offense, when he was a Democrat, and the same Senate refuse to send the case now before us to the same committee when allegations are made upon oath with regard to the past acts of the individual.

Mr. HOWE. I conceive that there may be

some reason why the Senate should be consistent, and I have no objection to their being so if they can. But there is a new idea, a new interpretation of the Thomas case started here by the Senator from Illinois and the Senator from Indiana. If the Thomas case established the rule for which they now contend I did not understand it when the Thomas case was voted upon. I understand it to have established this rule: that the seal of a State amounts to nothing, not even to a *prima facie* case, when there is a charge of blockade running, or what is more indefinite than that, a charge of disloyalty; that the *prima facie* case is the allegation of any blackguard or vagabond or anything in the shape of a man who can put his name to an affidavit. That is the *prima facie* case and excludes a man.

Your Constitution makes this body, in express terms, the judge of who is or who is not elected in fact to a seat on this floor. But the Senator from Maine [Mr. FESSENDEN] reminded me just now, and he was corroborated by the Senator from Massachusetts, [Mr. SUMNER,] that the universal practice of the Senate has been to regard the certificate of the State, the broad seal of the State, as *prima facie* evidence upon the question of election, and so to admit the Senator upon that certificate to his seat and allow him to hold it pending that investigation. I have said before, and I say again, there is nothing in the Constitution that I ever saw which makes this Senate the triers of a question of blockade running, or the triers of a question of disloyalty as such; but the Senate has ruled otherwise and have undertaken to constitute themselves the triers of that question. Are they more the triers of that question than they are the triers of a question of election? And if not more, why do you reverse your rule with regard to a question of election? Why do you not hold the certificate of the State *prima facie* evidence of the qualifications as you do hold it *prima facie* evidence of the question of election?

I only suppose this to be established in the Thomas case: that there was, in the discretion of the Senate, authority to refer credentials when a case was made out which the Senate adjudged required them to do so. But I did not suppose the Thomas case went to the extent of asserting that when anybody sent a suggestion here or an affidavit that should be received as *prima facie* evidence of disqualification, and exclude the certified member from his seat pending the trial. I think that is carrying the Thomas case too far. I supposed in that case the Senate saw in the protest sufficient evidence to satisfy themselves that the question of his loyalty ought to be tried before he was admitted to his seat, and in the exercise of that discretion they referred the credentials to the Judiciary Committee. If the Senate hold that there is presented here evidence enough of the disloyalty or of the criminality of Mr. Sawyer to outweigh the certificate of his State, of its Governor, and of its Legislature, then, I suppose, consistently with the ruling in the Thomas case, they should vote to refer it to the Judiciary Committee. I do not think the remonstrance is of as much authority as the certificate of the State, and therefore I shall vote against referring the credentials, and vote to allow the man to take his seat.

Mr. FRELINGHUYSEN. There certainly is no question of consistency in the vote we are about to give. We are not affected in any degree by the action in the Thomas case. Every case that is presented here is to be judged of by itself. If a Senator comes here with the proper certificate *prima facie* he is entitled to a seat. But a case may be made out against him so strong that we may refuse to permit him to take the oath, and refer it for investigation. For instance, if John C. Breckinridge or Jefferson Davis should be returned here, who would permit them to take the oath? It would be referred. Therefore, inasmuch as every case is to be judged of by itself, the question of consistency does not arise, and we are

in no way affected by the decision which was made in the Thomas case. I certainly hope that no Senator would be influenced by the consideration of the political views entertained by this Senator. I trust that no one was so influenced in his judgment in the vote he gave in the Thomas case. I know I was not; and I trust no one will be here. That matter is not worthy of our consideration.

Mr. CRAGIN. I shall vote against referring this question to the Judiciary Committee, and I wish to state a few reasons for my vote. Probably I am as well acquainted with the facts and circumstances connected with Mr. Sawyer as any Senator on this floor. He went from my State to South Carolina in 1859, and with the exception of about four months he has been domiciled there ever since; and those four months were in 1864 when he escaped and went to New England, and there stumped several of the New England States, more or less, for the reelection of Abraham Lincoln. Is there anything in that parallel with the case of Thomas of Maryland, whose credentials were referred to the Judiciary Committee? Not at all. I have it within my personal knowledge, and from friends whom I know to be truthful, that all the time Mr. Sawyer was in Charleston during the rebellion he was a warm, earnest, devoted friend of the Union. I know that in 1863, during the darkest hours of the war, he wrote private letters, and got them through the lines in some way, to friends in New Hampshire and elsewhere urging them to remain firm, to have courage, that the rebellion was about tottering, and would fall to the ground. I know that of my own knowledge. Since the passage of the reconstruction acts he has been a leading advocate for reconstruction. By his pen, by his money, by everything that God has given him, he has devoted himself to reconstruction, and has worked earnestly and zealously. These charges that are made against him here to-day are charges that have been trumped up since his election or the day before to defeat him. He is as loyal a man as sits in this Chamber. I hope the case will not be referred to the Judiciary Committee, but that he may now be admitted to take the oath.

Mr. HENDRICKS. I listened with a great deal of interest to the very able argument made by the Senator from Wisconsin [Mr. HOWE] on the Thomas case to establish the proposition that where charges like these are preferred they ought not to be then considered, but the party ought to be admitted to his seat and the charges afterward investigated. I was not able to take that view of the subject at that time. Whatever views I may entertain in regard to the act of 1862, I cannot agree that a man shall come into this body and take what upon its face appears to be a false oath as a claim to his seat. If this party be guilty of the things charged in the remonstrance, then, taking the oath, he would have to swear falsely. I could not give any vote that would favor a false oath, even if that oath ought not to be required of him.

This case is much stronger, in my judgment, than the case of Governor Thomas. Senators will recollect that the case of Governor Thomas was referred to the Judiciary Committee upon the charge mainly of having made an imprudent speech on the night of his nomination to the office. Afterward, it came to the knowledge of the committee, as I recollect the facts, by a letter, that he had given his son \$100 to enable him to go into the southern service. That, I think, was not known to the Senate at the time the case was referred to the Judiciary Committee. My recollection is that the case was referred to that committee only on the charge of an imprudent speech made on the night of his nomination, in which he called in question the conduct and propriety of the organization of Congress, as was alleged, and that, I think, without any statement supported by oath of any party.

I am for standing by the precedent established in that case. If this party is not in a condition truthfully to take the oath then he

ought not to take it; and I can see no objection to making the inquiry in this case, as it was made in the other. The statement that the session is about to close certainly cannot control us. The objection to a man's right to a seat is not to be waived because we are approaching the close of the session. It is not probable that the majority here cannot manage without him during the few days that are remaining of this session, and even if he should be delayed his seat until the next session of Congress probably he would not lose his participation in legislation to a greater extent than must occur in all contested cases. Mr. Thomas's case, upon the weakest possible evidence in the world, was sent to the committee, although for the time being the voice of Maryland was not heard through her representative on this floor. Now, that argument ought not to have weight, as it did not have weight with Senators in that case.

Mr. SUMNER. I shall say nothing, sir, to prejudice this case. I would not in advance say one word that could have any such interpretation. Mr. Sawyer, as I understand, is from Massachusetts, and went from there to South Carolina, and now comes back with her honors and trusts. No one on this floor would be more proud to welcome him than a Senator from Massachusetts; but I am not left in this case to be governed merely by my personal desires, or by any pride that I may have in the State to which I belong. I must meet this case on the evidence before the Senate and on the precedents which the Senate has already established.

So far as I understand the case it divides itself into two parts, one of which certainly furnishes no grounds for any exclusion of Mr. Sawyer previous to the inquiry by the committee; the other, I must respectfully submit to the Senate, does furnish ground for such an exclusion. The first part to which I refer is that which is founded on the alleged incompetency of certain members of the Legislature. I am not ready to go so far as the Senator from New York, and say that that is not a fit subject of inquiry for the Senate. I am inclined to think it is; but I agree with the Senator from New York and with other Senators in saying that it is not a sufficient ground for the exclusion of the Senator from taking the oath at this time previous to an inquiry by a committee.

Sir, on this point I have a historical reminiscence. The day that I myself first entered the Senate Chamber, Henry Clay was sitting in the Senate Chamber for the last time. The seat he occupied in the other Hall corresponded to that which is now occupied by my friend the new Senator from Arkansas, [Mr. McDONALD,] and the question that arose was on the credentials of a Senator from Florida, whom it was proposed to exclude from taking the oath at the time. Mr. Clay rose from that seat, leaving it he descended to where the Senator from Connecticut [Mr. FERRY] now sits, and he there with vehement eloquence, the last time he ever spoke in this Chamber, insisted that no such question could be raised; that the Senator who had the credentials with the great seal of the State was entitled to be sworn. His influence, his argument, his powerful authority prevailed, and Mr. Mallory, of Florida, for the first time took his seat on this floor.

Now, sir, that case is completely applicable to one branch of this inquiry, that which is founded, as I have already said, on the alleged incompetency of certain members of the Legislature. We cannot now go into that. If there was nothing else, Mr. Sawyer must go to your desk and take the oaths. He has his credentials with the great seal of the State.

There is only one ground on which we can go behind that great seal, and that is the ground which has been so repeatedly recognized in the Senate since our unhappy civil war. It is the ground of loyalty. On that question we can go behind the great seal of the State. Ay, sir, if that question is raised, we must go behind the great seal of the State. Now, here is my friend

from Wisconsin, [Mr. HOWE:] I know how strongly he espouses the other side. I remember well when we were considering the case of Mr. Thomas that he more than once declared that if Jefferson Davis should come into this Chamber with a proper commission from his State he would admit him to be sworn; and it is natural, therefore, that he should apply that principle to the present case. The greater contains the less. If the Senator would admit Jefferson Davis with the great seal of a State to be sworn as a Senator, *a fortiori*, he would admit another person against whom there was only the objection that he had been a blockade runner.

That brings me to the precise nature of this objection. Here, again, let me say I do not mean to express any opinion on the facts. I know nothing about them beyond what has been read at the desk; but on those affidavits it seems to me there is a case sufficient to put the Senate on inquiry; and that is all that is needed. There are affidavits alleging that Mr. Sawyer was engaged in these illicit transactions, and there is a further tender of evidence, to the amount of twelve or fifteen witnesses, it is said, who will testify to these facts. All this may be an exaggeration; it may be a misrepresentation; but there is this in the form of affidavit on your table; and I know no other way to dispose of it than by referring it to a committee with full power to send for persons and papers in order to report on the facts. If on the inquiry it shall be found that these affidavits are entirely without support, that there is no ground to suspect the participation of Mr. Sawyer in these illicit transactions, then how gladly shall we all welcome him. And I may say that I confidently look for such a report from the committee. But it does seem to me that we are not now at liberty to take into consideration general statements with regard to the political opinions or political services of this gentleman. We must confine ourselves to the precise question before us, or the affidavits, nor more nor less.

Mr. TIPTON. From what has already been elicited in this case, I believe that the Senator who presents himself here for admission is as loyal as I am; and I think I am loyal enough for all practical purposes. So far as politics are concerned, he is as true a Republican as I am. I believe that whatever there is here against him is matter of rivalry, and that there is nothing in it. Therefore, I have no trouble whatever and I am not trammelled by any precedents on this subject. I am utterly astonished at the opposition that is made here. In all my meditations on the subject I fancied, years ago, during the progress of the war, that it would be enough to live for, if I should be permitted to have an opportunity of witnessing, not as a member of this body, but as a citizen of the United States, the return of Senators from the States so recently in rebellion. I supposed that their return would invoke a degree of enthusiasm and ardor and extending of hands and opening of hearts, and an utterance on our part that would show that the consummation was one which was worthy to have received a treasure of money and a treasure of love. And now we stand here and higgie, when South Carolina, the first to leave us, and one of the last to return, presents herself, and we ask for precedents, forsooth. Sir, I scorn the position. I stand here, therefore, heartily and freely and devotedly to welcome this additional representative from South Carolina, and the country and the Republican party of this nation will respond to our action, and will be so shocked at our standing upon fancied precedents in such an hour as this.

Mr. WILSON. I rise for the purpose of suggesting to the Senator from Michigan to modify his motion and leave it simply a motion to refer the subject to the Committee on the Judiciary. If the Committee on the Judiciary desires to send for persons and papers, to send for persons who are absent from the city they can ask leave to do it, and we shall readily grant it. Mr. Sawyer is here to speak for him-

self. There are Representatives here from South Carolina; there are persons here from Charleston; and perhaps the persons present in the city may be all whom it will be necessary to examine on the subject. Perhaps the consistency of the Senate in the past, and the anxiety of what may be in the future, will determine the Senate to refer this question. So far as I am personally concerned, I have undoubting confidence not only in the loyalty of Mr. Sawyer, but that he is a gentleman of honor and personal character.

Mr. HOWARD. I accept the amendment of my resolution as suggested by the honorable Senator from Massachusetts, leaving out the words "with power to send for persons and papers."

Mr. POMEROY. Let the resolution be read as modified.

The PRESIDENT *pro tempore*. There is no resolution offered. It is simply, as modified, a motion to refer the credentials to the Committee on the Judiciary.

Mr. DOOLITTLE. Under ordinary circumstances I should not vote to refer a question of this kind to the Judiciary Committee simply because some person had alleged that a Senator duly elected ought not to take his seat; for if he appears here with the credentials and certificate of his State, that is *prima facie* evidence of his being entitled to the seat. But, sir, there is something more in this than in an ordinary case. The files of the Senate show that another person, Benjamin F. Perry, was elected for this same term, ending on the 4th of March, 1871.

In 1862, while the war was still going on, Congress authorized the President to proclaim amnesty and pardon to persons who were participating in the existing rebellion in any State or part of a State, with such exceptions and at such times, and on such conditions as he might deem expedient for the public welfare. Pursuant to this authority and the authority of the Constitution of the United States, which clothed him as Commander-in-Chief with the power to make peace in the States, the President of the United States, after the close of the rebellion, made his proclamation of amnesty to the people of South Carolina and the people of the other States which had been in insurrection; and after this proclamation of pardon and amnesty which plighted to those men the faith of this Government, which neither Congress nor the President nor the Supreme Court nor any other power on earth has a right to take away, the people of South Carolina reorganized their government as they had a right to do under the Constitution of the United States. In pursuance of that reorganization they elected, as appears by the certificate on the files of the Senate under the seal of the State of South Carolina, Benjamin F. Perry to this place. That certificate is in the language following:

The State of South Carolina:

By his Excellency James L. Orr, Governor and commander-in-chief in and over the State aforesaid, to Benjamin F. Perry:

Whereas the senate and house of representatives of the State aforesaid did by their joint voting, in the chamber of representatives, on the 30th day of October, A. D. 1865, duly elect you, the said Benjamin F. Perry, Senator in the Congress of the United States of America;

Now be it known that, in pursuance of said election, I have commissioned, and by these presents do commission you, the said Benjamin F. Perry, Senator in the Congress of the United States of America.

This commission to continue in force until the 4th day of March, 1871.

Given under my hand, and the seal of the State in the city of Columbia, this 30th day of October, in the year of our Lord 1865, and in the ninetieth year of the independence of the United States of America.

JAMES L. ORR,
Governor of the State.

By the Governor:
W. R. HUNT, Secretary of State.

Mr. SUMNER. I should like to ask my friend whether that B. F. Perry is not the same who was commissioner of impressments in the rebel service?

Mr. DOOLITTLE. It is Benjamin F. Perry, of South Carolina.

Mr. SUMNER. That is the man.

Mr. DOOLITTLE. The point which I make, and the ground only upon which I vote to refer, is that the question has arisen—I know there are gentlemen in the Senate who take a different view of this question from what I do—and it should be referred to the committee, and the committee should pass upon it, which of these two gentlemen is entitled to the seat. This record shows that Benjamin F. Perry is entitled to the seat; but the credentials which are now presented seem to show that another gentleman is entitled to the seat; and therefore the conflict which arises between these certificates from the State of South Carolina as to which gentleman is entitled to take the seat in this body is a question which should be referred to the Judiciary Committee and determined by that committee, and reported to the Senate.

Mr. President, I have said thus much to show that I am not inconsistent in voting for the reference of this case, although in the case of Mr. Thomas, or in the case of any one else, when it does not appear that any other person claims the seat, the seal of the State is with me *prima facie* evidence that he is properly elected, and I should not vote for the reference in the first instance, but allow him to take the oath; and then if any question arose as to the regularity of the election I would allow it to be disposed of afterward by the committee.

Mr. PATTERSON, of New Hampshire. Will the Senator allow me to ask him a question?

Mr. DOOLITTLE. In relation to this new habit which has grown up in the Senate within the last few months, of catechising every Senator who rises to address the Senate, I must say, with all courtesy to my friend, that while I am willing to sit down with him and have a conversation and be questioned on all subjects in reference to this or any other matter, I protest against this practice which has arisen here of late. It is in derogation of the dignity of this body, and is not, I think, the best mode of discussing public questions. If my honorable friend wishes to make a speech I am perfectly willing to hear him.

Mr. PATTERSON, of New Hampshire. I do not. I wish merely to ask a question for information. The gentleman can instruct me in relation to it. I wish to ask him whether he regards it as the duty of the Government of the United States to overthrow the present government of South Carolina and establish that under which Mr. Perry received his credentials?

Mr. DOOLITTLE. I do not understand it to be the duty of this Government to overthrow any State government. The States make their own governments. The Federal Government does not make them for them, and one of the reasons why I protest against this reconstruction of yours is that you have undertaken to enter these States by force of arms and make governments for them, and not allow the people to make them for themselves.

The PRESIDENT *pro tempore*. The question is on referring the credentials to the Committee on the Judiciary, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 17, nays 27; as follows:

YEAS—Messrs. Corbett, Davis, Doolittle, Drake, Fowler, Harlan, Hendricks, Howard, McCreery, Morton, Sherman, Sprague, Sumner, Trumbull, Vickers, Whyte, and Wilson—17.

NAYS—Messrs. Abbott, Cattell, Cole, Conkling, Cragin, Ferry, Frelinghuysen, Howe, Kellogg, McDonald, Morgan, Morrill of Vermont, Nye, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Rice, Robertson, Ross, Stewart, Thayer, Tipton, Van Winkle, Wade, Wiley, and Williams—27.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Chandler, Conness, Dixon, Edmunds, Fessenden, Grimes, Harris, Henderson, Morrill of Maine, Norton, Pool, Ramsey, Saulsbury, Welch, and Yates—19.

So the motion was not agreed to.

Mr. SHERMAN. The next step I suppose is to swear in the member-elect.

The PRESIDENT *pro tempore*. It is moved that the Senator-elect be admitted to take the

oath with a view to taking his seat in the Senate.

The motion was agreed to.

The oaths prescribed by law were then administered by the President *pro tempore* to Mr. SAWYER, and he took his seat in the Senate.

PROPOSED EVENING SESSION.

Mr. HOWARD. I move that the Senate at five o'clock take a recess until half past seven o'clock this evening; and I make the motion for the purpose of calling up this evening sundry bills reported from the Committee on the Pacific Railroad, which have been before us for a long time, and on some of which at least I think it the duty of the Senate to act. I make the motion with a view of spending this evening on that business.

Mr. SHERMAN. I call for the regular order of business.

Mr. POMEROY. That does not displace the motion the Senator from Michigan has made.

The PRESIDENT *pro tempore*. The motion of the Senator from Michigan is before the Senate.

Mr. SUMNER. I wish to make a remark on that question. The Senator asks us to come together this evening. That proceeds on the idea that there is to be a speedy adjournment. I do not anticipate any such thing. There is every reason to believe that we must stay here some time longer, if not all the time. If we do stay here some time longer, then in the ordinary course of day sessions we shall be able to attend to all the business that any Senator may be disposed to bring forward. I therefore ask my friend why we should drive business during these hot evenings? Why not take the daylight?

Mr. HOWARD. I will answer the question of the Senator. I would not make this motion under ordinary circumstances; but the situation of my private affairs is such that I shall be compelled to ask leave of absence of the Senate on and after Monday next.

Mr. SUMNER. I hope not.

Mr. HOWARD. Yes, sir; and for that reason it is that I am anxious some of these bills may be considered before I find it necessary to leave the city. I hope the Senate will adopt the motion.

Mr. SHERMAN. I hope the Senate will come to a vote on the question of fixing the day of adjournment before anything further is done. As the Senator from Maine very properly suggests, if we fix a day of adjournment we shall work up to it, and if the Senate be of his opinion, that we ought not to fix any time, we can then work at our leisure. I desire to make this statement to the Senate: by the rules of the House of Representatives it is impossible for a majority of the House to control the order of business, or even two thirds of the House. They cannot move to suspend the rules except on Monday or within the last ten days of the session. Members of the House say that they are embarrassed in the effort to reach bills that are indispensably necessary to be acted on until the two Houses shall have acted upon the question of adjournment. A leading member of the House has just been present urging that we should expedite their business by enabling them to make these motions. I trust, therefore, that the Senate will take up the resolution fixing the day of adjournment. Let it be fixed at any time the majority see proper, and then we can proceed regularly with business. Until that is done I shall oppose any motion for an evening session or any special order. The Senator's motion will amount to a special order. The business now pending is the question of adjournment, and we ought not to lay that aside for the purpose of taking up something else.

Mr. HOWARD. I will not interfere with that.

Mr. HARLAN. If the Senator will allow me I will venture to suggest to the Senator from Ohio that I think his objection a little ungenerous. Senators have come here night

after night to consider bills under his charge, and have done it cheerfully; at least I have, and I think the majority of the Senate have, at his request.

Mr. SHERMAN. If the Senator will allow me I have no objection to an evening session or to coming here. I do not think any business ought to be made a special order; but I say that we ought to fix the time of adjournment now before further discussion, so as to enable the House to proceed with their business.

Mr. HARLAN. The adoption of this motion will not interfere with the consideration of the Senator's resolution. All that the chairman of the Pacific Railroad Committee asks is that a recess may be had with a view to consider bills from that committee. Of course a majority of the Senate may refuse when we meet, to do it. I hope they may not, however. I hope they will give the chairman the floor.

The PRESIDING OFFICER. (Mr. FERRY in the chair.) The question is on the motion of the Senator from Michigan, that the Senate take a recess from five o'clock to half past seven o'clock this evening, for the purpose of considering bills from the Committee on the Pacific Railroad.

Mr. SHERMAN. I ask the Chair whether the motion as now stated makes the railroad bills a special order over other business?

The PRESIDING OFFICER. The Chair understands that it does give them priority.

Mr. SHERMAN. Then it requires a two-thirds vote. A bill has to-day come from the House of the highest importance, the funding bill, which must be acted upon, and I trust will take but a few moments. I hope the Senate will not tie itself up in this way.

Mr. HARLAN. The Senator from Michigan, if I understood him, did not ask that those bills, or any one of them, should be made a special order, but he announced that he would attempt to call them up, and he hoped the Senate would consider them.

Mr. SHERMAN. If the Senator will modify his motion so as to provide simply for a recess from five o'clock until half past seven, I shall have no objection to it.

Mr. POMEROY. This is precisely such an order as was made on the motion of the Senator from Indiana, [Mr. MORTON] that we have an evening session to consider the bill with reference to the bridges on the Ohio. We had such a meeting. This is precisely of that character.

Mr. HOWARD. I make the motion, of course, with the expectation that those bills will receive the attention of the Senate during the evening session. That is my expectation.

The PRESIDING OFFICER. The Chair will state the motion as now modified. It is that the Senate take a recess from five o'clock until half past seven o'clock.

Mr. SHERMAN. I have no objection to that.

Mr. CONKLING. I should like to suggest to the honorable Senator from Kansas that the distinction is this: in the case of the Senator from Indiana he proposed to take up a public measure, a measure of public and general interest that was pending at the time, and in which there might not be supposed to enter any particular inducement or motive such as enters into a private claim. On the other hand, the proposition now is to take up during an evening session, when we know from experience the Senate will be thin, several bills, and among them, of course, one bill which has been somewhat discussed in the Senate, a private bill, proposing to appropriate a large sum of money and a large amount of land. I submit that there is a very great distinction between the two cases; and I hope that we shall not be compelled to vote upon the particular bill which I speak of, or, indeed, upon any bill giving subsidies to railway companies at this stage of the session unless we can do it at some hour of the day when the whole Senate is likely to be present. It seems to me to select on a night so hot as this an evening ses-

sion, knowing as we do that at evening sessions when important bills have been considered it has required an effort to keep a technical quorum—to select such an occasion as that for this purpose is giving a grace and granting a favor to a mere private interest which I hope will not be granted. If this money is to be paid and land given to these companies let it be done at least by all the representatives of the States. Do not let us select a time when it is certain to be disposed of by a comparatively small portion of the Senate.

Mr. HOWARD. I have not announced my purpose to call up the bill to which the honorable Senator has just alluded. What bill I may ask the Senate to take up I do not now mention. But there are several bills reported regularly from the Committee on the Pacific Railroad, which have been ready for the action of the Senate for months, and I have from time to time with all the diligence within my command endeavored to call up some of those bills with a view to have them acted upon, either the one way or the other, by the Senate; but not one bill from that committee has been acted upon by the Senate finally during this session, except the one relating to Goat Island, in the harbor of San Francisco.

The Senate have constituted a standing committee on the subject of the Pacific railroad, and charged them with onerous and very important duties from time to time. They have met regularly weekly, sometimes more than once a week, to take these subjects into consideration; and now we are told by the Senator from New York, by implication at least, that after all these railroad bills reported by the Committee on the Pacific Railroad are nothing but private bills, and therefore ought to have the go-by. Now, sir, that is not exactly fair. If the Senate do not intend to consider any of those bills, if they do not intend to make subsidies either in land or money, if they intend to withdraw the supporting hand of the Government from all these enterprises which they have placed under the supervision of one of their standing committees, let them disband the committee, and say "We will act no longer upon any of these subjects." But as long as the committee are continued, and their labors are performed, and additional duties from day to day imposed upon them, I ask, in courtesy and fairness, that their reports shall receive the attention and consideration of the Senate at some time. I have been watching here the whole session to get up some of these important measures, but have been unable to do so up to this time.

Mr. DOOLITTLE. I do not understand the honorable Senator from Michigan to ask us to make anything a special order, but that we have an evening session, and then the Senate will determine for themselves what measures shall be considered. If they think it proper to take up the bills to which he has referred they will take them up; if they think proper to take up something else they will do so.

The PRESIDING OFFICER. The question is on the motion to take a recess.

Mr. FESSENDEN. Before the question is taken I wish to say one word. I am perfectly willing to vote for a recess from five o'clock to half past seven after we have acted on the question of adjournment. Then we can decide what kind of business ought to have precedence when we know what time we have to do business in. But now, before we have acted on that subject, before we have fixed the day of adjournment, at this period of the session, to give precedence to any kind of business and devote our time to it may be doing wrong with reference to other business; and I hope we shall not do it until we have settled that question, because the time has arrived when we ought to agree on an adjournment.

The question being put, there were on a division—ayes 18, noes 17.

Mr. FESSENDEN and Mr. CONKLING called for the yeas and nays.

Mr. WILLIAMS. I appeal to the Senator from Michigan to withdraw this motion until

we can take a vote on the question of adjournment, and then I will vote with him for an evening session.

Mr. SHERMAN. So will I.

Mr. WILLIAMS. I am in favor of evening sessions, but I think there is great force in the suggestions that we ought to fix the time for adjournment, and then work in accordance with the time we have. If the Senate shall decide that we will not take an early adjournment, according to the suggestion of the Senator from Massachusetts, then we shall have abundance of time without night sessions.

Mr. HOWARD. I do not foresee that this will be any interference with our action on that subject.

Mr. SHERMAN. It is taking valuable time.

Mr. HOWARD. I shall be content with whatever the Senate sees fit to decide on this question; but I will not withdraw my motion.

The PRESIDING OFFICER. On this question the yeas and nays are demanded.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 24; as follows:

YEAS—Messrs. Conness, Cragin, Doolittle, Drake, Ferry, Harlan, Hendricks, Howard, Kellogg, Morton, Nye, Pomeroy, Ramsey, Rice, Ross, Sprague, Sumner, Towner, Tipton, Van Winkle, Wiley, and Wilson—22.

NAYS—Messrs. Abbott, Anthony, Cameron, Cole, Conkling, Corbett, Davis, Fessenden, Fowler, Frelinghuysen, Henderson, Howe, McCreery, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Osborn, Patterson of Tennessee, Sherman, Trumbull, Vickers, Wythe, and Williams—24.

ABSENT—Messrs. Bayard, Backalew, Cattell, Chandler, Dixon, Edmunds, Grimes, Harris, Norton, Patterson of New Hampshire, Pool, Robertson, Suisbury, Sawyer, Stewart, Wade, Welch, and Yates—18.

So the motion was agreed to.

ORDER OF BUSINESS.

Mr. SHERMAN. Now, I call for the regular order.

The PRESIDING OFFICER. It becomes the duty of the Chair to call up the unfinished business, which is the resolution fixing the day for adjournment.

Mr. CONNESS. I understand the unfinished business to be the bill for the protection of American citizens abroad. I am willing, however, that it shall go over informally to have the resolution considered.

Mr. SHERMAN. I suppose that will come up next after this.

Mr. SUMNER. I ask permission to make a report.

The PRESIDING OFFICER. The Chair will receive the report.

REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred the memorial of Captain Jonas P. Levy, for payment of money due him under a treaty of the United States and the Mexican republic, February 2, 1848, submitted an adverse report thereon; which was ordered to be printed.

Mr. FRELINGHUYSEN, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1261) amendatory of an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," reported it with an amendment.

Mr. STEWART, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1381) providing for an election in Virginia, reported it without amendment, and recommended that it lie on the table.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the message of the President of the United States of the 14th of July, in reference to the ratification of the fourteenth article of amendment to the Constitution of the United States, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a report of the Secretary of War, communicating information in relation to the publication of the medical and surgical history of the war, submitted a report, accompanied by the following resolution:

Resolved, That under existing laws the balance of

the appropriation of \$60,000, made July 28, 1866, for the preparation, under the direction of the Secretary of War, of five thousand copies of the first volume of the medical and surgical history of the rebellion, compiled by the Surgeon General, and the preparation and publication of a like number of the medical statistics of the Provost Marshal General's Bureau, compiled and to be compiled by Surgeon J. H. Baxter, to wit: the sum of \$19,736, must be applied exclusively to the latter work.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the following bills of the House:

A bill (H. R. No. 451) providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes;

A bill (H. R. No. 1376) for the loyal Choctaw and Chickasaw Indians; and

A bill (H. R. No. 1427) to establish certain post roads.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1096) making appropriations of money to carrying into effect the treaty with Russia of March 30, 1867, asked a conference on the disagreeing votes of the two Houses thereon, and appointed Mr. N. P. BANKS of Massachusetts, Mr. WILLIAM LOUGH RIDGE of Iowa, and Mr. SAMUEL J. RANDALL of Pennsylvania, managers at the same on its part.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1010) relating to pensions, asked a conference on the disagreeing vote of the two Houses thereon, and appointed Mr. S. PERHAM of Maine, Mr. D. POLSLEY of West Virginia, and Mr. WILLIAM LAWRENCE of Ohio, managers at the same on its part.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1205) to further amend the postal laws, asked a conference on the disagreeing votes of the two Houses thereon, and appointed Mr. THOMAS W. FERRY of Michigan, Mr. JOHN F. FARNSWORTH of Illinois, and Mr. J. A. JOHNSON of California, managers at the same on its part.

The message also announced that the House had passed a bill (H. R. No. 1446) to relieve from legal and political disabilities Simeon Corley, John Milledge, and Michael Hahn, in which it requested the concurrence of the Senate.

BILLS INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 637) to authorize the city of Washington to issue bonds for the purpose of paying the floating debt of the city; which was read twice by its title, and ordered to be printed.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 638) for the better organization of the district courts of the United States within the State of Louisiana; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

TERRITORY PURCHASED FROM RUSSIA.

On motion by Mr. SUMNER, the Senate proceeded to consider its amendments to the bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867, disagreed to by the House of Representatives; and,

On motion by Mr. SUMNER,

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. SUMNER, Mr. MORTON, and Mr. DOOLITTLE.

POSTAL LAWS.

On motion by Mr. RAMSEY, the Senate proceeded to consider the bill (H. R. No. 1205)

to further amend the postal laws; disagreed to by the House of Representatives; and

On motion by Mr. RAMSEY,

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. RAMSEY, Mr. HARLAN, and Mr. MCCREERY.

PENSION LAWS.

On motion by Mr. VAN WINKLE, the Senate proceeded to consider its amendments to the bill (H. R. No. 1010) relating to pensions, disagreed to by the House of Representatives; and

On motion by Mr. VAN WINKLE,

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. VAN WINKLE, Mr. RAMSEY, and Mr. FOWLER.

LIBRARY OF AGRICULTURAL DEPARTMENT.

Mr. CAMERON. I ask the unanimous consent of the Senate to introduce a joint resolution which, to be effective, should be passed immediately, and I desire it put upon its passage.

The joint resolution (S. R. No. 170) in relation to the library of the Department of Agriculture was read the first time, and passed to a second reading.

Mr. CAMERON. I have but a word to say, and then I am satisfied the Senate will let this resolution pass.

The PRESIDING OFFICER. (Mr. FERRY.) Does the Senator ask for its present consideration?

Mr. CAMERON. I do.

The PRESIDING OFFICER. Is there any objection?

Mr. SHERMAN. I object to the consideration of anything until we get rid of the adjournment resolution, which now stands in the way of the business of the two Houses. I shall have no objection to it after that.

Mr. CAMERON. If the Senator will give way for one moment I will satisfy him that this is right. The Agricultural Bureau, as everybody knows, was a portion of the Patent Office for a long while. During the time it was under the direction of the Patent Office there grew up an agricultural library. A new building for agricultural purposes entirely has now been erected, and the Commissioner of Agriculture is about removing his library, but is told by the Commissioner of Patents that it belongs to the Patent Office. All I ask is to give him the authority of Congress to remove it.

Mr. SHERMAN. I ask if this is in order. We shall never get along unless we proceed regularly with business.

The PRESIDING OFFICER. The regular order is the resolution fixing the adjournment.

Mr. CAMERON. It will not require as much time to pass this resolution as the gentleman has occupied in objecting to it. I hope he will let it go through. I am sure everybody is in favor of it.

Several SENATORS. Let it go.

Mr. SHERMAN. If there is no objection, and it is passed without debate, I shall not object.

By unanimous consent, the joint resolution was read a second time, and considered as in Committee of the Whole. It provides that the Commissioner of Agriculture shall regard the library now under his control and in his possession as part of the property of the Department of Agriculture, and that he shall retain it in his charge as directed by section three of the act approved May 15, 1862, establishing a Department of Agriculture.

The joint resolution was reported to the

Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills of the Senate:

A bill (S. No. 232) to create an additional land district in the State of Minnesota;

A bill (S. No. 286) to incorporate the National Life Insurance Company of the United States of America;

A bill (S. No. 357) to provide a temporary government for the Territory of Wyoming; and

A bill (S. No. 492) to extend the time for the construction of the Southern Pacific railroad in the State of California.

The message also announced that the House had passed the bill (S. No. 481) to confirm the title to certain lands in the State of Nebraska, with an amendment, in which it requested the concurrence of the Senate.

FINAL ADJOURNMENT.

Mr. McDONALD. I ask leave to call up the resolution I offered a few days since with regard to the pay of pages and messengers.

Mr. SHERMAN. I object. I am sorry to object to a request of my friend, but there is a resolution now pending, and I should like to have it disposed of.

The PRESIDING OFFICER. Objection being made, the resolution named by the Senator from Arkansas cannot be considered. The resolution fixing the day of adjournment is before the Senate, the pending question being on the amendment of the Senator from California [Mr. CONNESS] to the amendment offered by the Senator from Ohio, [Mr. SHERMAN].

Mr. CONNESS. For the purpose of expediting business and letting this resolution go to the other House, where they will probably materially change it, I withdraw the amendment that I offered.

The PRESIDING OFFICER. The amendment to the amendment being withdrawn, the question is on the amendment of the Senator from Ohio, to strike out "Wednesday, the 15th," and to insert "Friday, the 24th;" so that the resolution will read:

Resolved by the House of Representatives, (the Senate concurring.) That the President pro tempore of the Senate and the Speaker of the House of Representatives, adjourn their respective Houses without day on Friday, the 24th of July next, at noon.

Mr. WILSON. I move to amend the resolution by striking out all after the word "Resolved," and inserting:

That the President of the Senate and the Speaker of the House of Representatives on Monday, the 27th of July, at twelve o'clock meridian adjourn their respective Houses until the fourth Monday of September, and on that day, unless it be then otherwise ordered by the two Houses, they further adjourn their respective Houses until the first Monday of December, 1868.

The PRESIDING OFFICER. The first question will be on the amendment offered by the Senator from Ohio to the original resolution.

Mr. SUMNER. I move to amend that amendment by inserting "Monday, the 27th," instead of "Friday, the 24th."

The PRESIDING OFFICER. The question is on that amendment to the amendment.

Mr. SUMNER. I will remark that I do not think that even that amendment would make the resolution such as I should be willing to vote for now. I have an amendment which is not unlike that of my colleague, which I propose to offer. I think that we cannot adjourn permanently; we can only take a recess; and I propose in the amendment which I now have in my hand, that we adjourn on Monday at twelve o'clock to the second Wednesday of September, at noon. But my amendment is not in order at this time.

Mr. POMEROY. There are two propositions distinctly before the Senate. One is to adjourn, and the other is to take a recess.

Mr. SUMNER. But we cannot get at the question of a recess until we dispose of the intermediate question.

The PRESIDING OFFICER. The present question is on the amendment of the Senator from Massachusetts, [Mr. SUMNER,] to adjourn on Monday, the 27th.

Mr. SUMNER. That is to amend the pending proposition by substituting Monday instead of Friday. If we are to adjourn I prefer Monday rather than Friday.

Mr. POMEROY. If we are to adjourn it makes no difference whether we adjourn on Friday or Monday; but the question is whether we shall adjourn at all; and by voting down any given day, we are to vote then, if the Senate is of that opinion, for a recess.

Mr. SUMNER. I shall vote for a recess, and wish to get at that question.

Mr. POMEROY. If it is the sentiment of the Senate that we are to have a recess, then let us vote down all propositions of adjournment; it makes no difference what day.

Mr. WILSON. In the present condition of the country I hope we shall do precisely what we did last March a year ago—fix a day on which Congress can come together if the needs of the country require it; if they do not we can stay at home, and the two Presiding Officers can adjourn the two Houses of Congress.

Mr. WILLIAMS. That question is not before the Senate now.

The PRESIDING OFFICER. The question before the Senate is on the amendment offered by the Senator from Massachusetts [Mr. SUMNER] to the amendment offered by the Senator from Ohio, [Mr. SHERMAN,] substituting "Monday, the 27th" instead of "Friday, the 24th."

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. HOWE. I shall vote against this amendment of the Senator from Massachusetts, because if you are going to adjourn these two Houses, either on Friday or Monday, I see no reason why we cannot adjourn just as well on Friday as Monday. I know of no reason that should keep us here from Friday until Monday. For this reason I shall vote against this amendment.

I shall vote for the proposition of the Senator from Massachusetts [Mr. WILSON] if that motion comes before the Senate. I do not believe we ought to adjourn these two Houses either on Friday or Monday. I do not believe we ought to adjourn these two Houses until the bill which passed here two nights ago shall have become a law, and I do not believe we ought to adjourn the two Houses until one other proposition has been enacted into a law, which is now lying on my table which I propose to offer if I get an opportunity.

Mr. ANTHONY and Mr. SUMNER. What is that?

Mr. HOWE. It is a bill entitled "A bill in addition to the several acts providing for suppressing insurrections against the governments of the States." Your Constitution directs Congress to make such provisions, and the only provision which Congress has hitherto made has been in the enactment of a law which authorizes the President to call out the militia or to employ the Army and Navy in case of an insurrection against the government of a State, and when he is called upon either by the Governor or the Legislature; and perforce of those very laws you have constituted the President the judge of who is the Governor of a State, and who is the Legislature, and he has told you over and over again in the most solemn manner that he regards certain men to be Executives and certain bodies to be Legislatures whom your laws practically condemn and ignore.

Now, I do not know whether there is to be an insurrection down there in these States or not; I hope there is to be none; but we have been admonished from various quarters, and in the most solemn manner that such insurrections are imminent. One of the candidates for one of the first offices in the gift of the American people has told us over his signature that he regards it to be the duty of the day to depose the Governors and governments of those

States which have been established under your laws, to uproot them entirely. With such a notification before us that such a work is contemplated or is desired, and with this notification from the President that he does not regard those governments as valid, but that he regards other organizations as being the valid governments, for us to adjourn with a law on our statute-book vesting this discretion with the President does not seem to me to be prudent. I hope, therefore, that these two Houses will not adjourn until some new provision is enacted; and then I hope, acting upon the suggestion of the Senator from Massachusetts, they will not adjourn until December, but will adjourn until some day prior to that.

Mr. SHERMAN. So far as the particular day of adjournment is concerned I have no more feeling or interest than any other Senator. I know that since I have been in Congress the business has never been so completely ready for an adjournment forty-eight hours before the adjournment as it is to-day. Every appropriation bill has been passed, as I am informed by the chairman of the Committee on Appropriations. There are bills always pending in Congress, and there always will be; there are many bills that Senators have an interest in; and if we were to sit until we passed all the bills that Senators think are highly important to the public service we should never adjourn at all. I confess it is rather a cool proposition, with the thermometer at ninety-four, to ask us to stay here to pass a bill that has never been proposed until now; that has never been discussed; that has not yet been referred to a committee. I say it is a cool proposition to ask us to stay here until such a measure can be passed through both Houses, and then wait ten days more for a veto.

I know of no bill now among those which are indispensably necessary to carry on the operations of the Government that has not been signed by the President except the tax bill, which, I am told, is upon the President's table, and will probably be signed or disposed of in some way to-day. There is nothing to keep us here, so far as public measures of vital importance are concerned; we could adjourn to-day, but the House of Representatives are tied up by a rule which prevents them from acting on many measures unless the day of adjournment is fixed. According to their rules, within ten days before the final adjournment the rules can be suspended, so that the control of the business is within the power of a majority. Heretofore, before the last year or two, we have always fixed the day of adjournment a month ahead, and that gave the House their full ten days, during which a majority of the House could control its business; might go to the Speaker's table; might take up any bill; might lay aside any bill; but now that cannot be done even by a vote of two thirds, and therefore the very bills that Senators desire them to act upon cannot now be reached. That we can adjourn on Friday, and transact all the business that is necessary to be done, I have not a doubt; but if Senators want to stay here until Monday, in order to pass a multitude of bills which they feel an interest in, perhaps of a private character, or perhaps public bills which they think are very important, well and good.

Mr. SUMNER. I would suggest to my friend that he forgets the executive business. There is business pending in executive session.

Mr. SHERMAN. I believe we can dispose of all the business in executive session in four or five hours; but I do not know that. There is one public bill that I desire ten or fifteen minutes' time upon, the funding bill, which the other House has sent back with amendments. I do not know that it will take any time beyond what is required for a simple statement of the question. With that exception I do not know of any general public bills of an important character upon which there is any action of either House required. We could stay here for a month or two; but it seems to me we ought to adjourn.

As to the proposition for a recess, I have no

feeling about that. I stand precisely on that question now as I did before. I believe these suddenly called sessions rarely do any good. If the House of Representatives, who are the direct Representatives of the people, deem the state of public affairs in this country so imminent as to provide for the exceptional case of the recess, I am willing to agree to it, and come back here in September or October; but I do not think there is any occasion for it, nor shall I probably vote for it unless the opinion of the House is very decided, and if it were I should yield to them upon that point.

I do not think the Senate ought to provide for such a contingency unless there is strong reason given for it. I know now of no reason of a public character which should compel us to come back here in September. I know of no power that the President can exercise to interfere with the laws that will demand our coming back. If other Senators have fears on that subject, which I have not, or if the House of Representatives insist as a precaution that we should come back in September, let them demand it, and I shall be willing to yield. It will be putting us to a great deal of inconvenience, interrupting us in the campaign that is now more vitally important than the action of Congress. The action of the people this fall in passing judgment upon the candidates and platforms that are submitted to them is vitally important, transcendently more important than the action of Congress upon the multitude of bills that now lie upon our table. My own sense of duty would be best discharged by going home and sharing with the people in the great trial that they are to participate in this fall, and leave until the next session the closing of the business of the Fortieth Congress.

Mr. HOWE. The Senator from Ohio regards it as rather a cool proposition to ask the Congress of the United States to remain here to enact a law which has not yet, he says, been proposed, has not yet been discussed at all. I do not think any proposition ought to be regarded as cool made in these days, and I particularly dissent from his characterizing this as a cool proposition; and for this reason I have not offered that bill to the Senate up to the present time; I never drew it until this morning, and I never was thoroughly persuaded of the necessity of any legislation upon this subject until yesterday. I had seen this letter from one of the candidates for Vice President before; I had taken notice of the fact that the President of the United States professed to regard those organizations which he had constructed down there in the rebel States as the valid and legal governments of those States, but I supposed that that was a theory with him which he proposed to discuss rather than to act upon; and therefore I did not think it of vital importance that there should be any specific legislative direction to him or to the country in reference to that matter. But yesterday when this question of adjournment was under discussion the Senator from Indiana [Mr. HENDRICKS] took occasion to say—and every one who knows him knows he is very careful not to say any more than he means—that he should favor the earliest possible adjournment, and as I understood him assigned as a leading reason why he favored an early day of adjournment that it would aid in defeating a bill which had passed the Senate but the night before, which he characterized as a very bad measure and as a very dangerous one, as a measure threatening bloodshed and civil war.

Now, what was that measure which the cautious Senator from Indiana tells us cannot be enacted into a law without imminent danger of involving the country in bloodshed and in civil strife? It was simply a proposition to distribute certain arms to the militia of the several States. I know of a great many politicians who could tell me that that would lead to bloodshed, and I should not regard it at all; but when a Senator so cautious and so prudent as the Senator from Indiana is known to be, and whose voice is so potential in the United

States as his is known to be, tells us that we cannot put arms into the hands of the militia of the several States without involving the country in civil war, I think it is time for the country, for the Senate at least, to stop and ask the reason why. The Senator knows as the Senator knows that it has been the usage of the States from the foundation of the Government to cherish a militia organization. The Senator knows, for he is a lawyer and has read the Constitution, that that Constitution declares such an organization to be essential to the liberty of the States; and the Senator knows, for he has read the Constitution, that that instrument imposes upon Congress the obligation to provide for organizing and arming and disciplining the militia of the States; and he knows, therefore, that this measure which he denounced in such emphatic terms yesterday is but an ordinary measure repeatedly adopted by Congress in the exercise of this plain constitutional charge of legislative duty; and yet now, with the Constitution before him, he tells us we must not proceed to discharge that duty, and why? Because he tells us that an exciting election is at hand.

Why, Mr. President, we have had a great many elections, general elections, presidential elections, since this constitution was enacted. Did it ever happen before that an American Senate was told that they could not put arms into the hands of the militia of the States because a presidential election was pending? Is there more excitement about this election than there has been about many others which have preceded it? If so, I have not seen the evidence of it, and I certainly do not feel the evidences of it. I have seen many elections which interested me more deeply, or at least excited me more than the present one has up to this moment.

Mr. President, the Senator told us that it would not do to put these arms into the hands of the militia, because an election was pending. He went so far as to protest against putting arms into the hands of the militia of that great State which he himself represents here in part. He told us that Indiana did not require these arms, and he argued that it was unsafe to put these arms into the hands of the government of Indiana, and one of the reasons was because the Governor of Indiana was a candidate for reelection. Has it come to this, sir, that the militia of a State can be disbanded and be disbanded whenever the Governor happens to be a candidate for reelection? Does the honorable Senator from Indiana mean to be understood that the election is so exciting in Indiana that the government of that State is like y to be shaken by it? I hope he did not mean to tell the country so. I hope he did not mean to tell the State of Indiana so. I do not know personally the gentleman who happens to be Governor of Indiana. I suppose he was elected by the people of that State, and I suppose him to be, I feel bound to assume that he is, a gentleman of that high character who can be intrusted with the discharge of executive duties even pending an election in which he may be a candidate.

Mr. President, these arms are to go to the governments of the several States, to all the States alike. The Senator asked, with a good deal of emphasis yesterday, why, if we did not mean them to be used in influencing elections, we did not assent to the proposition of the Senator from Maryland and postpone the distribution of them until the 1st of January next. I should have supposed the Senator himself could have conceived the answer to that. To have done so would have been to admit either the purpose or the possibility of these arms being used, of that militia being employed to influence and control these elections. It would have been to admit here on this floor that the character of the governments existing within the several States was of that dubious and uncertain character which called upon the Legislature of the United States to distrust them so far as to withhold the usual complement of arms until after this election has passed over.

For one I could not afford to vote for an amendment which would impute such criminal motives to the government of any one of the States within this Union; and that was the reason why I voted against that proposition to amend.

But, sir, it was not my purpose to argue the measure which was under discussion here two nights ago; it was only my purpose to call attention to the character of it, to show how simple a thing it is in itself, and to call attention to the fact that the Senator from Indiana warns us that that measure, a measure so simple as that cannot be ventured upon at this time without danger of involving the country in civil strife and in bloodshed. Sir, these arms, as I have said, are to be put into the hands of the governments of States, and they will not be used by those governments unless those governments are assaulted. And if those governments are assaulted, then it is the purpose of arming the militia that they should have the means of defending the authority of their own States. It was for that purpose that your Constitution declared that Congress should provide for arming the militia of the several States.

Now, sir, I must insist that I had a right yesterday to take new alarm upon this subject; and it was in view and because of the declarations made yesterday following up those which I had understood to come from other quarters not more respectable at other times, that I saw fit to prepare the bill which is now on my table. Now, the Senator from Ohio says it is a cool proposition to ask Congress to wait and pass that measure now. It is never too late to ask for the enactment of a necessary law. If this is necessary to the protection and security of the country, then it is the duty of Congress to wait here and put it into a law if they can. If it is not necessary, then I admit that Congress ought not to remain here a day for the purpose of passing it. The Senator from Ohio has not undertaken to deny the necessity of the measure; he has not intimated a doubt that the discretion which I spoke of is by your existing law vested in the President. He does not profess any doubt but what the President will act upon his view so often declared in reference to these governments; and unless he feels some assurance which he has not yet expressed or knows some fact which is not known to me which should secure the confidence of the country, I hope he will not insist that these two Houses shall adjourn until some action shall be taken upon the proposition to which I have referred.

Mr. HENDRICKS. Mr. President, I do not intend to extend this debate, and I shall ask the attention of the Senate but for a few minutes. Upon the bill to which I referred yesterday I expressed my opinions decidedly, and I have seen no reason to change the views I then expressed. The Senator from Ohio felt himself authorized to say that I had spoken out of time and out of place. The Senate is the proper place for me to express my views upon any important measure here presented, whether I think its tendency is to promote the public welfare, or whether, in my judgment, it is dangerous to the public peace. As to the time when I shall address the Senate, I must beg permission of the Senator from Ohio to judge of that for myself. I did not introduce this subject into the Senate. The Senator from Kansas, [Mr. POMEROY], the Senator from Michigan, [Mr. HOWARD], and, I believe, the Senator from Missouri, [Mr. DRAKE], all alluded to the bill which had passed the night before, and spoke of it as being of such great importance to the country that no adjournment ought to take place until it had become a law. This introduced into the body that bill for discussion and consideration. The Senator from Ohio, perhaps, by virtue of his position with the majority, may have the right to say that the introduction of that subject by those three Senators was out of time and out of place; they may recognize his authority thus to criticize their conduct; but for myself I dispute his right to say that it was out of

time and out of place for me to address the Senate as I chose to address it upon that question yesterday, especially as what I said was in reply to Senators on the other side.

Allusion was made to the fact that I was not here when the bill passed. On the night when this bill was considered I was not in good health, and did not suppose that the custom and usage of the Senate to consider ordinary matters would be departed from, and extraordinary measures be pressed upon its consideration. Therefore I was not here. But, sir, when the bill came before the Senate again by the argument of the honorable Senators I have mentioned, it was not only my right, but, in my judgment, an imperative duty at the very first opportunity I could command, to admonish the country of the danger to the public peace that was involved, as I thought, in the passage of the bill.

The Senator from Ohio said that this bill did not change existing laws, but that such a distribution of arms can be made under existing laws. Sir, I am aware of the existence of a law under which from year to year arms are distributed among the States; and if this bill makes no change in the law why does the Senator from Ohio say that in order to make it a law he will stay here during the heat of summer and the cold of winter along with the President? Sir, if it be a measure of such importance in the judgment of the Senator, it must in some respect change existing law; and, as I think, it does depart from existing law in two respects. First, in regard to the number of arms that are to be distributed among the States, and in the next place it is palpable that no law heretofore existing enabled the Governors of any States to arm one political party against another. In that respect it is an innovation upon the legislation of the country.

The Senator referred again to the reports of outrages in the southern States. That story has been repeated in the Senate and elsewhere without evidence in its support until it has ceased to be valuable as a political appeal. The country understands that now; it has ceased to be sensational any more. The Senator from Ohio referred to the extraordinary statement communicated from the convention of Texas by the Senator from West Virginia; and that is an argument here, that it is stated that nine hundred people have been murdered in the State of Texas! That is an argument to pass this bill, and Texas is one of the three States that are not provided for in the bill itself. The most shocking state of society is proven to exist in the State of Texas, it is claimed, worse, perhaps, than in any of the States; and yet Texas is excluded from the bill, and why? If there is more disorder in Texas than elsewhere, if arms are to be distributed to maintain the public peace, and for no other purpose, and it be shown to you by sufficient evidence that Texas is in a worse condition than any of the States, why is Texas omitted from the bill? Why, except that there is no election to take place in Texas this fall?

Again, reference is made to the case of the murder of one man in the State of Georgia. Now, sir, it is not proper for me to discuss that case. Extraordinary things have been announced over the country in regard to that case. I hope one half we have heard is not true; and it is hardly proper that it should be discussed while the trial is going on. And a very wonderful trial it is! After the State has been reconstructed, as it is claimed, after the Legislature is in session, after the courts are supposed again to be clothed with their authority in that State, a crime is being tried by a military commission or court-martial. Sir, I will not discuss that case.

But, sir, the principal purpose I had in speaking now at all was to reply to the suggestion made by the Senator from Ohio, that I spoke by authority. I did not assume to speak by authority; and when I did not assume to speak by authority I question the right of any Senator to say that I so spoke for the President. I undertook to express no views of the

President. I did not assume to know what his views were. I expressed very earnestly my own judgment, a judgment from which I do not expect to depart: that it is the right and the duty of the President to defeat that bill by any means within his power under the Constitution. I did not say that the President contemplated a veto or a withholding of the bill or a signing of the bill; and therefore the Senator from Ohio was not authorized in saying that I spoke by authority.

In my humble judgment, the Senator from Ohio has much more intimate relations with this Administration than I am honored with; not, perhaps, directly to the President, but through the Treasury Department, owing, no doubt, to his position at the head of the Finance Committee of this body. For myself I am not responsible for what the President does, and he is not responsible for what I choose to say. I have not seen that distinguished officer for more than six weeks. I am not honored with his confidence, and I do not obtrude my views upon him.

I saw in one of the papers this morning—my attention was called to it—a statement that within a few hours before I addressed the Senate yesterday I had been in consultation with the President, and had no doubt expressed his views. I am glad that there are some newspapers that do not command public confidence, and therefore neither I nor the President can be hurt by statements of that sort. I repeat, sir, in answer to anything of that sort, that I have not had the honor of an interview with the President for more than six weeks past. I did not have occasion to call upon him, and he had no occasion, I presume, to ask my views upon any subject.

The same paper says that I declared it to be the view of the President that these reconstructed States are not to be respected or regarded as States by the Executive. I expressed no opinion upon that at all. I did not discuss that subject. I did not allude to it. I confined myself to the simple proposition that you were enacting a law whereby one political party might be armed as against another; and that you insisted that that arming should take place before the presidential election came round. That was the subject of my argument, and I did not go outside of it yesterday. What the President's views of his duty in regard to these southern States are I have no information beyond that in the possession of any other Senator. His views as expressed in his veto are known to you as well as to me. And I do not undertake upon that or any other subject to express his opinions, or to declare his purposes. While I respect his high office, while I support him in his policy in regard to the southern States, which has always recognized them as States in the Union, only awaiting the restoration of their practical relations to the Government, I am in no sense his representative in this body. I leave that, if it be necessary, to the Senators who contributed to his election.

Mr. President, having placed the President right on this question, so far as an attempt has been made to hold him responsible for my views, I have done now to-day all that I desired. I have no modification of the views I expressed yesterday to make; and I repeat the hope that that bill may never become a law. I hope it will fail in the House of Representatives; I hope if it shall pass the House that it will fail elsewhere, because I consider it dangerous to the public peace, and I am astonished that Senators should speak of threats of violence when they themselves are supporting the only measure that does endanger the public peace.

Mr. MORTON. It is proper perhaps that I should say a word, not so much upon the question of adjournment as upon the question of the distribution of arms. So far as Indiana is concerned she does not need these arms for any purpose of public safety or for any electioneering purpose. Although the present Governor of Indiana is a candidate for reelection,

yet if you were to place the whole public arsenals of the United States in his hands it is very certain they would not be used to any extent, and could not be, for the purpose of promoting his election. But, Mr. President, it having been the policy of this Government to distribute arms at stated periods to all the States in this Union, though they were at perfect peace with themselves and with the whole country, it need not excite any suspicion or create any feelings of uneasiness that arms should be sent to Indiana along with other States.

But, Mr. President, the argument adduced against this distribution of arms by my honorable colleague is that they will be used in the southern States especially for electioneering purposes to carry an election; and it is described as arming one political party against another. Is it arming a political party to arm a State government? Is that the effect always? We have always armed State governments. Can it be said with propriety that we are thereby arming a political party? It is true that that State government will be in the hands, perhaps, of one party or of another; but we must arm State governments and legal organizations. We cannot arm the mob or arm a party. So far from these arms being sent for electioneering purposes, or to carry an election, or to arm one party against another, the simple truth is that these arms ought to be sent to the reconstructed States for the purpose of protecting the State governments against revolution and destruction. They are threatened, and they are threatened boldly, with revolution. We have erected them, but so far we have not protected them. We have built them up, and to this time we have left them unprotected in the midst of their armed enemies. Sir, if it is right to have State governments at all it is right to protect them against their enemies, let them come from what party they may come.

Now, Mr. President, what is the actual state of the case in the reconstructed States? I have just inquired of the Senators recently admitted from these States, and they all tell me that there is not a musket or a piece of artillery in any of the State arsenals with which those State governments can arm the militia and protect themselves. In other words, they are perfectly unprotected, not only without arms, but without money to buy arms.

Now, sir, what is our duty? They are surrounded by a rebel and a hostile population in great part. The great body of the whites are not only hostile to them, but threatening to revolutionize them. These enemies have recently been in arms. There they are, officers and soldiers together; they can fall in line to-morrow, tried and trained soldiers many of them. These governments are surrounded by a hostile army that has just been disbanded, you may say, and that can come together any moment upon a given signal; and these hostile bands by whom they are surrounded are armed. You cannot find a rebel house hardly in the whole South that does not have its rifle and its musket.

Mr. DRAKE. Will the honorable Senator allow me just there to furnish him with some facts which I have obtained.

Mr. MORTON. Certainly, sir, with pleasure.

Mr. DRAKE. Since the debate here the day before yesterday on this subject, I have made some investigations in regard to the state of facts to which the honorable Senator from Indiana is now referring; and I learned from an officer high in command in the Union Army, who would be as likely to know as any other, that the number of rebels in the field in the last year of the rebellion was about three hundred and fifty thousand. I then made investigation to find out what quantity of small arms the Government of the United States had succeeded in capturing from the rebels, and I find that of every description of small arms, excluding those that were surrendered by Lee, the whole number captured from the fall of Vicksburg to the fall of the rebellion was only one hundred and sixty-seven thousand five

hundred and sixty seven. If you add to that the number surrendered by Lee's army and the number picked up on the field of Gettysburg, which probably belonged to the rebel army there, it appears that all descriptions of small arms, probably about two hundred thousand, were taken from the confederacy. Of this number I am not able to say what proportion would probably be muskets; nor have I any information on that point; but I doubt whether more than one half of them. If that should be true, then there were two hundred and fifty thousand rebel soldiers in the rebellion in the last war whose arms have never been got by this Government at all, and they are still in their hands at their homes.

Mr. MORTON. Mr. President, this population is armed, it is trained to war, and it is now crouched in the very attitude of springing upon these governments. Take the southern newspapers; take the declarations of their public speakers; take their expressions in meetings, and we find that they are resolving unanimously that they will not submit to and recognize these State governments. They have not as yet fixed a time for the rising; they have not yet perhaps organized for that purpose; but they have unanimously declared that they will not submit. We cannot ignore this fact.

Then, Mr. President, what are the influences bearing upon them? They are organized into a party; they are members of the Democratic party. That party has declared itself upon the question of the legality of these existing State governments. Take the Democratic press throughout the United States and it is unanimous that these governments have no legal existence in point of law, that the acts of Congress creating them are void, that there being no law to sustain them nobody is bound to yield obedience to them. This is the general teaching of the Democratic party. It was so declared in their convention at New York the other day; and their candidate for Vice President, nominated but a few days after he made the declaration in print, has declared that it is the purpose and faith of the Democratic party, when it comes into power, to overturn these governments by military force; and with that declaration still upon his lips and upon account of it, they put him in nomination. Here, then, is the Democratic party of the North uniting with the rebels of the South in the declaration that these State governments shall be overturned by military force; and, in view of that fact, I ask what reasonable man can object to having these governments armed unless he desires their overthrow. It comes right down to that point that they are threatened with destruction by military force, and we must either protect them or we must subject them to that danger.

Mr. President, the question is asked why do we not send arms to Texas and Virginia and Mississippi. The answer is that there they have no loyal State governments to receive them. Suppose you send arms to Virginia, to whom would you give them? Would you give them to the military government? That is a military government carried on by the Army of the United States; it does not need them. Would you give them to the rebels? They do not need them because they have got arms; and we certainly would not give arms to the rebels; we would only give them to the loyal. As to these three States, the answer is that there is no loyal State government to receive them; the other government being disloyal, illegal, unauthorized, and unrecognized by the Government of the United States.

Now, what is our duty? I am willing that the Senate shall fix a day for the adjournment; but I do submit as a matter of imperative justice to these State governments that we have established, and as a matter of justice and duty to the Union men of the South when they are thus threatened by their enemies, that we should not adjourn until we have placed arms in their hands with which they can defend themselves.

Mr. President, there are a number of the Senators from those States present here this afternoon. I presume they are somewhat modest and diffident as yet, having just come into this body, but they will get over that by and by. I should like to hear from these Senators upon the question of the necessity of sending arms to their State governments. If we adjourn without arming them, we know not what may happen in thirty days or sixty days from this time. Therefore it seems to me that before we shall finally adjourn there ought to be provision made for arming these State governments, not to carry elections, but to protect themselves against a revolution threatened by the Democracy both North and South. If it is expensive to arm these State governments let the responsibility rest upon those who have made it necessary.

Mr. NYE. Mr. President, I regard the question under consideration as one of much more than ordinary importance. On two former occasions when we had a similar question under consideration I took ground in opposition to what turned out to be the view of the majority of the Senate by their vote, but at that time I undertook to prophesy, and I believe the prophecy I then indulged in was soon history, and I believe that the prophecy I now indulge in will be history if the same course is pursued on this occasion.

To my mind, since the surrender of the rebel armies, the country has never been in as critical a condition as it is at this moment. There is a large, organized, thoroughly drilled party—a portion of them, I may say the leading portion, drilled in arms, and another portion long drilled in the Democratic ranks—who are determined to wrest from the hands of the ruling party in this country its political power by any means which they deem necessary, but at all hazards to wrest it. I say not too much, perhaps, when I say that the other party, so far as they can be called a party, are equally determined to uphold the rights and the liberty of the country. The means by which the party holding the majority in Congress are determined to retain this political power are means which are entirely consistent with the practices of the Government, and with peace and the highest order; and therefore I was quite surprised at the sensitiveness of the honorable Senator from Indiana, [Mr. HENDRICKS,] at his holy horror at the proposed distribution of arms. Sir, it is "the wicked that flee when no man pursueth," but it is another class that are as "bold as a lion." My friend seemed to be peculiarly sensitive on the subject of the distribution of arms in the State of Indiana, where he says the present Governor is a candidate for reelection. If my assurance would be worth anything to the honorable Senator I would administer a sedative and quiet his nerves by saying that it is not the danger of the arms that are to be distributed, but it is the danger of the other thing to him more powerful than arms. It is not fear of the bullet, but of the ballot that ails my distinguished friend, a more potent weapon in this warfare, and the one upon which we rely.

I took occasion yesterday to look at the statutes in relation to the distribution of arms, and I find that for sixty years there has been a standing appropriation of \$200,000 a year on the statute laws of the country for the distribution of arms among the States. I take it for granted, therefore, that there is nothing new in the distribution of arms to the States.

Mr. FRELINGHUYSEN. I would call the attention of my friend, also, to the Constitution, which expressly provides that Congress shall provide for organizing, arming, and disciplining the militia.

Mr. NYE. That is a part of the Constitution that the Democratic party at this time do not read; it is a part that my honorable friend from Indiana has overlooked. That portion of the Constitution is now about to be answered by the distribution of these arms; and like the scared hare, like the frightened deer, like the

crazed tiger, we see all the ears of the Democracy standing on end in view of the danger of distributing these arms; and the honorable Senator from Maryland, [Mr. VICKERS,] who is so meek and kind in his demeanor, had no objection at all if they were not delivered until after the election. Acute as he is, far seeing as he is, he saw no danger in the elements if the arms were not distributed until after election. And so with my ardent friend from Indiana; he inquired with great emphasis why it was that these arms were to be distributed before the election.

Sir, the constitutional mandate has no regard to an election. It is made the duty of the General Government to provide for the organization and arming of the militia, and the Constitution is mute upon the question of time.

Mr. CONKLING. As the honorable Senator from Nevada is referring to the Constitution, I beg to remind him of the fact that the Constitution when amended by the First Congress received as its second amendment a provision that the right of the people to bear arms should never be questioned. The Senator from New Jersey has the language before him.

Mr. NYE. I am obliged to the honorable Senator; I was about to refer to that fact myself. It is a great constitutional privilege the people have to bear arms, and it is the duty of the Government to furnish them.

Mr. FRELINGHUYSEN. I will read the exact language:

"A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed."

Mr. NYE. That is the language of the Constitution. It shows the right of the citizen to bear arms and the duty of the Government to furnish them when organized regularly as militia of States.

Mr. President, there is something portentous in the fright of my honorable friend from Indiana. I was not so much alarmed at the surprise expressed by my honorable friend from Maryland, but my friend from Indiana is a bold fighter, and I entertain no doubt that he understands the tactics of the coming canvass, for he tells us that it is to be the most exciting that there ever was. I do not believe it. It will be the most exciting canvass that there ever was in this nation if the mad-caps of his party control it; but I hope the wiser heads like his own will control it and have it peaceful.

In view of these constitutional rights and privileges and duties, I look around me to see why this alarm; and I say to this Senate and the country that I entertain no doubt that when this Congress adjourns everything possible will be done that is within the executive power and which will not incur the apprehension of impeachment, to overthrow these organized governments of the South; and I believe that the moon will not once fill her horn after this adjournment, if an adjournment be had, before the President, with the military powers at his back, if he can command it, will drive every elected Governor from his seat unless he has the means of protecting himself. We have an example of how much these States covet and need arms in the case of the State of Maryland. When she went through a great political revolution a few years since she bought ten thousand stand of arms, and that was before election and after, for there were several elections during the time. This uneasiness bespeaks trouble. This idea of placing the power of defense in the hands of these organized State governments causes a Democratic flutter that amounts to alarm. I am glad to see them alarmed.

Every Senator on this floor will agree that the first great duty of the Government is to protect its citizens; and there is no means by which we can protect them save by the arming of the organized militia of the several States in existing harmony with the Union. It is useless to shut our eyes to existing facts. My honorable friend from Indiana says that he has read the stories of wrong and outrage at the South until they have ceased to be sensational.

Sir, it is too true our ears have become too much accustomed to the tale of these wrongs and outrages to which our friends have been subjected until it has become almost an everyday story, and the dripping blood or the dying groan has ceased to excite in many even a warm gushing of sympathy; and especially is that true of the Democratic party. They gloat over it; it is only so many Republicans gone, making a Democratic triumph more sure! But Mr. President, in the day of judgment we shall be held responsible for these outrages and wrongs. To hold men to the duty of citizens and not arm them for their own defense is like leading them up to the shambles for execution and laughing as the fatal blow is struck. Against all such things I enter my solemn protest as a citizen of this great country. It is a blot upon our fair fame that she has so long countenanced it.

But my friend from Indiana says that his principal objection to this bill is that it arms only loyal men. I wish my friend were here that I might ask him if he would like to arm disloyal men with the Government's arms. I had always thought that his sympathies were with loyal men. What other men should be armed but loyal men? Loyal citizens are the support of a loyal government. "Loyal men" has a most distinctive and important meaning at the present moment with the party in power here. I know that the Democratic party have ceased to divide with any care on that subject, for in their convention you saw assembled men whose hands are yet red and whose hearts are charged with rebellion; and they are the leaders. The shouts that went up as Wade Hampton spoke made a reporter who had been in the war drop his pen and exclaim "The rebel yell," with an oath which I will not repeat. So it was the rebel yell. Why not? Their great chieftain was there, as I said the other day, a man who made a vacant seat at every hearthstone in the northern States. Men as imprudent in political action as they were rash in their military leadership are out on the stump. Governor Vance, who was a prisoner of war here, has been making a speech at Richmond, in which he declared to the people there that the election of Seymour and Blair will give them what they fought for in the rebellion. Here is another great leader, second in command of the disloyal forces of the nation, Alexander H. Stephens, who sends his resolutions to the Democratic convention, and they are received with shouts and applause.

Mr. President, it is in view of these facts and because the Democratic party is led by rebels that I think it is unsafe for this Congress to adjourn. Believe me, sir, that if this Congress lets go of itself and surrenders up its power that it holds when in session, this country will again be rocked from center to circumference with revolution. They mean it. Even the Conservatives, velvet-footed as they are, step up to the music of the hour. Hence the apprehension of scattering arms among the militia, a thing as old as the Government itself. It attracted no attention and caused no alarm before the rebellion, until every southern arsenal was full and every northern one empty at the time the rebellion broke out. There was in it no danger then. They had the Democratic Jeff. Davis at the head of the War Department. California, it was supposed, might be swung into the rebellion, and on her distant shores there were more arms than the States of New York and Pennsylvania together had. Then there was no apprehension about distributing arms *ad libitum*. It was Democratic then. It did not arouse even the apprehensions of my friend from Wisconsin; but now since he has started on this new tack he has got afraid of powder, as he ought to be. In 1861 Davis took all the arms of the Government and went off. Where was the Democratic cry of an unequal or dangerous distribution then? Oh, no; they are alarmed only when you strike the chord of loyal men. Sir, I wish the nation to understand that so far as this Congress are concerned, they are the only class of men we intend to arm.

Imagine, Mr. President, a Democratic militia. Forrest would organize it in Tennessee, a man whose name is written in eternal infamy as the coldest, bloodiest butcher of the nineteenth century. There would be no danger of putting arms in his hands, I take it, before election or after either! He would murder as coolly at one time as another. I am surprised at this Democratic sensitiveness on this subject. It is a weapon that they know well to wield. They have wielded it with tremendous power. They have clothed this nation with the habiliments of mourning. They have made more new-made graves than all parties of this nation. It is the murderer that is afraid of the sword of justice. They apprehend that arms in loyal men's hands may be used for purposes as vile as they would use them themselves; but I can give them a little comfort on that question. Arms in the hands of loyal men will only be used in the direst necessity and in defense of their individual rights, and in defense of the public liberties of the country. That is the use which will be made of them. Fear not, my Democratic friends; you have no Forrest at the head, no Wade Hampton, no Davis; but men who are scarred all over with wounds received honorably in the strife to perpetuate this country. They will use them as becomes dignified citizens and a liberty-loving people, individually and *en masse*, no matter of what color. Ay, sir, even the half barbarians that the gentlemen tell us of would not be so cruel as their intelligent whites. Sir, the charm of the measure is in the word "loyalty," and that is what excites apprehension. Hereafter, Mr. President, during all the history of this country, that word will have a peculiar and potent significance. The word and its meaning will be taught to the children of this Republic to the remotest day; and history will impress it upon us as a most important and distinctive word when we speak of citizens of this country.

Mr. President, while my friend from Indiana disclaims speaking for the President of the United States, I have noticed one thing, that almost always the President has done just about what the Senator from Indiana suggested as the rule of action. One thing this country will rely upon: he will do that which will harm the controlling power of this Government the most he can. He will overthrow these governments which have now assumed a *quasi* peaceful appearance, and he will plunge them again, if possible, into the direst anarchy that ever was seen. We owe certainly to those men who have come up and established these loyal governments through much tribulation, black and white, that protection which is due to the American citizen; and I say that it would be bad faith on the part of Congress to adjourn and leave that bill quivering in the balance of uncertainty. I regard it as far more important than some of the appropriation bills. The country would live without them; but without this the buds of liberty that are now springing forth in the southern States will never blossom.

I hope, therefore, that the longest day possible will be named, and I hope that when that day is reached we shall not adjourn. The country and the world look to the present Congress of this nation to save the country. Struggling loyalty in the southern States looks to Congress; and an anxious North, and East and West, look to Congress to sustain the principles of this Government; and above all, when the broad issue is made between the Executive and Congress, we shall be cowards to shrink from the issue which we have made. I hope, sir, that Congress will not do that. I hope Monday will be fixed; and when Monday comes, if we can get away let us go, but do not let us get away so that we cannot come back unless upon the call of the President. He would call us but under one set of circumstances, if by the call he could annihilate us.

Mr. President, I have said all that I desired to say. I hope the Senate will act prudently on this question. I hope they will take a recess, and then on the day named for reassembling

enough can come here to make a quorum, if it is necessary; but at any rate let us not adjourn finally.

Mr. CONKLING. Before the honorable Senator takes his seat I desire to ask him a question merely for information, as he has no doubt thought somewhat on the subject. No doubt the suggestion has occurred to him which occurs to me, and I beg to put to him this inquiry: suppose the President, for his allusion is to him, shall do some of these things which he deprecates: suppose a requisition is made by the Governor of one of these newly habilitated States for troops, and the President says, "Looking upon this as I do, I do not think troops are necessary, and therefore I shall send none;" in that emergency, or in any such emergency, I inquire of the Senator what we should do if we were here, to mitigate the evil or to avoid the difficulty?

Mr. NYE. I will answer the honorable Senator. I would pass a law as quick as the rules of legislation would admit, that the Governors of the several States should call out the militia upon their own responsibility and put down rebellion in their States. That is what I would do.

Mr. CONKLING. Does not the Senator know that by the constitutions which we have approved, and by the common law lying back of all constitutions, every one of those Governors has that power now in the fullest sense?

Mr. NYE. Very well; if that would not do I would have Congress introduce a resolution for the impeachment of the President, and impeach him in ten hours, if he refused to do that duty.

Mr. SUMNER. That ought to be done now.

Mr. CONKLING. I have respect for that answer of the Senator from Nevada. I think it is the answer of a lawyer and a logician. It is fair for the Senator to say that he would be here, and if this Executive, breaking through the rules of his duty, shows that he is fatally bent on mischief he would impeach and depose him. There I agree with the Senator, as I could not do if, taking the idea which I infer prevails with some other members of this body, he should suggest that it was the duty of the two Houses of Congress to crouch here like two watch-dogs, barking to prevent executive encroachment.

Mr. NYE. Mr. President, I do not like the figure of my honorable friend. I insist upon it that Congress is not crouching when it stands to its post of duty. I insist upon it that if it is necessary I would turn watch-dog to save this country; and if my honorable friend feels that he is demeaning himself when he stands here at a time when the air is full of danger, with an Executive bent upon the destruction of the liberties of his country—if he feels that he is crouching when he stands here to watch by those liberties, I do not believe he means to be so understood.

Mr. CONKLING. The Senator and I do not seem to understand the word "crouch" alike.

Mr. NYE. No, sir; I would stand here in manly erectness; I would stand here in senatorial erectness—not a dog, not crouching. I would give the world to understand and the liberty loving people of this world to know that here between the evil designs of a wicked President and the liberties of this country Congress stands like a wall of fire, and here it will stand. But, sir, I submitted these views on a former occasion, and I was beaten then, as I probably shall be now; but I do not intend that the responsibility for the consequences shall be upon me.

Mr. WILLEY. I rise, sir, not for the purpose of prolonging this discussion, but by way of personal explanation. A few evenings ago I took occasion to reply to the argument of the Senator from Kentucky, [Mr. DAVIS,] who had stated that the purpose of the bill then before the Senate was simply to have an influence on the ensuing election. To show him that there were other necessities, true necessities, in the southern States, growing out

of the disorganized state of society there and the insecurity of life and property, and in attempting to make my point in response to him I took occasion to read some extracts from a report which had been recently made before the constitutional convention now sitting in the State of Texas. Yesterday the Senator from Indiana [Mr. HENDRICKS] took occasion to animadvert upon what I said and upon the extracts which I read in terms very severe and I think in terms somewhat uncourteous. The Senator undertook to tell me and the Senate that he was tired of such recitals; that such recitals were disgusting to him, and finally concluded by saying that they were unworthy of credit, and that he believed nothing in them at all. Now, Mr. President, humble as I am upon this floor, when I feel upon my responsibility as a member of the Senate that it is my duty to give information which is in my possession, which I believe is material to the proper action of the Senate, I desire the Senator from Indiana to understand that he will have to listen to the recital and he will have to prepare himself for additional disgust. I must be allowed to be controlled by my own sense of propriety and duty.

But, sir, my main purpose in rising was to place the character of the document from which I read more distinctly before the Senate and the country. I read from an official document published by the constitutional convention now sitting in the State of Texas. That document was a report made by seven of the leading members of that convention, namely: Messrs. Caldwell, Whitmore, Sumner, Evans, Bledsoe, Cole, and Bell. With the chairman of that committee I have a personal acquaintance. Of several of the other members of that committee I have a historical knowledge. Some of them I have understood fought through the late war and made an honorable record for themselves. As I stated the other day, the chairman of that committee is a gentleman personally known to me, Judge Caldwell, long a resident of Texas, a man of southern birth, born in Tennessee, personally known to my friend from Tennessee [Mr. FOWLER] as a man of honor, a man of integrity, a man of intelligence; and I will take occasion here to say, since I have brought his name under the criticism of the honorable Senator from Indiana, that he is a man who in intelligence, in integrity, in honor, and in patriotism will receive no detriment by any comparison or by any test with the honorable Senator from Indiana himself. And, sir, I am advised that several others of that committee, who made this report over their own signatures, and which has been authorized to be published to the world, are men of equal intelligence, of equal honor, and of equal veracity. It was their report that I read to the Senate; and since the honorable Senator from Indiana has taken occasion to express himself in the manner to which I have alluded in respect to their report I will, take occasion to read from that report what they think of men who deny their allegations, and I want to place it distinctly upon the record to-day. So far as the allusion of that Senator has reference to myself, so far as his disgust was intended to be applied to me, I can as well pass any such expression from him without notice as he can afford to make it. These gentlemen say in their report, and I read it in response to what that honorable Senator said:

"Now, incomplete as they are, these figures tell a frightful story of blood. They represent stubborn facts, which cannot be suppressed by denials or by denouncing them as fabricated for political effect. And whoever attempts it is not only unfaithful to history, not only an apologist for crime, but may be justly charged as an accessory to the wickedness itself, as encouraging and abetting murderers, and as equally guilty with them. We cannot shut our eyes upon these appalling scenes of bloodshed; and instead of attempting to conceal them, it becomes us to face them honestly, and address ourselves to the duty of discovering the cause and locating the responsibility of this slaughter of our fellow-citizens."

Mr. President, I should have hesitated to introduce the names of these gentlemen before the Senate if I had supposed they would be

subjected to such passionate criticism and animadversion; but since I did it I leave their names and their statement here upon record, and they will go out to the country side by side with the name and the criticism of the Senator from Indiana; and high as that is, I venture to say that the country and history will make no comparison to the detriment of these seven honorable men of Texas.

Mr. FESSENDEN. I am indifferent whether we fix Friday or Monday as the day of adjournment. If gentlemen think we cannot well get through with business until Monday, be it so. I know nothing to prevent our getting through now except the executive business. There is considerable of that, and it may occasion some debate. There are reasons why, I think, we ought to fix one of these days as the day of adjournment, in addition to those that have been stated. One is that I am satisfied the longer we stay the more damage we do. I address myself to my friends on this side of the house. I think the recent legislation and debates, if not in this body, elsewhere, are calculated to injure us exceedingly, and the sooner we get out of this place and attend to matters at home the better. That is my judgment. Another reason is this: gentlemen have evidently been thinking of what they are going to say before the people in the coming canvass, and if we do not adjourn soon we shall have all the speeches here. We have had samples already, political speeches, evidently thought of or floating through the minds of gentlemen as fine arguments to be made when they get before the people. I think they had better be left till they get there.

The PRESIDING OFFICER. (Mr. POMEROY.) The question is on the amendment of the Senator from Massachusetts, to strike out "Friday, the 24th," and insert "Monday, the 27th," upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 26, nays 19; as follows:

YEAS—Messrs. Abbott, Cattell, Chandler, Conness, Corbett, Cragin, Fessenden, Fowler, Harlan, McDonald, Morton, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Rice, Sprague, Stewart, Sumner, Thayer, Tipton, Van Winkle, Welch, Willey, and Wilson—26.

NAYS—Messrs. Anthony, Buckalew, Cole, Conkling, Davis, Doolittle, Frelighuysen, Henderson, Hendricks, Howe, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Sherman, Trumbull, Vickers, Whyte, and Williams—19.

ABSENT—Messrs. Bayard, Cameron, Dixon, Drake, Edmunds, Ferry, Grimes, Harris, Howard, Kelogg, Norton, Nye, Pool, Robertson, Ross, Saulsbury, Sawyer, Wade, and Yates—19.

So the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Massachusetts, [Mr. WILSON,] to strike out all after the word "that" and insert a substitute.

Mr. SUMNER. I am in favor of the amendment. The only question is a practical one as to whether the time proposed for meeting is the best. It is proposed, I think, that Congress shall come together on the fourth Monday of September. I have thought that a better day would be the second Wednesday of September. I throw that out by way of suggestion rather than to make a motion.

Mr. WILSON. I have modified my amendment, and I ask that it be read as modified.

The Chief Clerk read the amendment, which was to strike out all after the word "that" and insert:

The President of the Senate and the Speaker of the House of Representatives on Monday, the 27th day of July, at twelve o'clock meridian, adjourn their respective Houses until the third Monday of September; and on that day, unless it be then otherwise ordered by the two Houses, they further adjourn their respective Houses until the first Monday in December, 1868.

Mr. SUMNER. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CONKLING. I suppose the Senator by moving this amendment intends it as a proposition providing for a conditional session if a quorum shall appear, and otherwise carrying Congress over until the settled day.

Mr. WILSON. Yes, sir; the same as the meeting in July last year.

Mr. CONKLING. Just the same as our meeting in July last year, the Senator obliges me by saying. There was a time when I should have felt entirely free to vote for such a resolution as this. I offered it several years ago in the House of Representatives as a mode of providing for an adjournment. This proposition in substance, as the Senator says, was adopted in March of last year at the end of the extra session of Congress; and when we came here in July we were met by an elaborate protest made by the colleague of the Senator, who now offers the proposition, which went so far as to declare that we had acted in derogation and violation of the Constitution of the United States in passing such a resolution. I beg to read a word or two of what the Senator [Mr. SUMNER] submitted on that occasion. The resolution having been read, the Senator said:

"I rise to a question of order on that resolution, which I submit as follows: that the resolution under which Congress is to-day assembled, so far as it undertakes to direct the adjournment of the two Houses of Congress without day, is unconstitutional and inoperative, inasmuch as the Constitution, after declaring that 'a majority of each House shall constitute a quorum to do business,' proceeds to provide that 'a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members;' and, therefore, such resolution must not be regarded by the Chair so far as it undertakes to provide for an adjournment without day. As, according to the view, there is a quorum already present, the incident contemplated by the resolution will not probably arise; but I felt it my duty, by way of precaution and caveat, to introduce now this protest, to the end that that resolution may not hereafter be drawn into a precedent so as to abridge the rights of the two Houses of Congress under the Constitution of the United States."

The debate proceeded, and this was stated more at length; but it will be seen now that under the guise of a provision for a conditional and possible session of Congress we are about to vote upon a proposition which, according to the judgment of the colleague of the mover of it, has no legal effect except to adjourn us from the day fixed until that day in September which has been named, and that the whole provision beyond that is nugatory and a violation of the Constitution. I think that it need not be drawn into a precedent, as the Senator said on that occasion. We had better vote upon the old-fashioned proposition that we understand and not be drawn into one so ambiguous as this has been rendered by the judgment pronounced upon it by the honorable Senator.

Mr. SUMNER. Mr. President, the sufficient answer to the Senator from New York is that the session of last July was held under and by virtue of a resolution identical in its terms with that on which the Senate is now about to vote. If, when Congress comes together in September, the question should arise contemplated by the point of order presented by myself last July, then will be the time to consider and decide it. If there be a quorum present, there will be no occasion. If the occasion requires a quorum it will be here in order to transact the business of this Republic. And now the practical question is whether, because of some possible question of order hereafter, we shall fail to make proper provision for a session in the coming month of September. Sir, I shall not be frightened from doing my duty in that regard by any possible question of order that may arise at that time. Should the question arise which I felt it my duty to state last July, and to which the Senator from New York has called attention, I shall be ready then to act upon it. There was no occasion at that time to act upon it, nor is there any great reason to suppose that there will be any occasion to act upon it now. If public business demands a meeting of Congress and we do not leave ourselves entirely powerless there will be a quorum here in both Houses ready for the transaction of business. At least in that confidence I am willing to make provision for the future.

Mr. CONKLING. But I insist upon having this point understood before we vote. The

Senator himself last year offered the resolution. I happen to remember that because he came to me and borrowed it of me. The Globe will show that, although I have not looked to find it. He offered the resolution; he gave it the sanction of that fact; and when we came back here in July he insisted that it was a resolution providing for an absolute session on the 3d of July, and that if there were no quorum here it would be the duty of the Sergeants-at-Arms to bring in members enough to make a quorum of both Houses. I differed with him about that; but I do not wish to be caught in such a trap a second time.

Mr. SHERMAN. And under those circumstances, less than a quorum, it was argued, could only adjourn from day to day.

Mr. CONKLING. Yes, sir; the claim was, as my friend from Ohio reminds me—that occurs in the debate which is here of record—that all we could do would be to adjourn from day to day until a quorum was brought here. I do not wish to have this added to all the other sensations, to all the other rant and fashion which are to be made use of in the country to induce an extra session of Congress. I remember very well how the session was brought about on the 3d of last July. I remember hearing a great many persons talk about it who, in my belief, did not understand more than we did here, to say the least, what the exigency was; and yet the effect was to get up a feeling in deference to which every Senator and every member who could reach the capital felt bound to come. I say I do not wish added to that as a make-weight an argument that a resolution has been adopted under which we must come in order to avoid having the Sergeants-at-Arms of the two Houses sent to assemble a quorum.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts, [Mr. WILSON.]

Mr. NYE. I desire to say that on the questions connected with the matter of adjournment I am paired with the Senator from Vermont, [Mr. EDMUNDS.]

The question being taken by yeas and nays, resulted—yeas 28, nays 20; as follows:

YEAS—Messrs. Abbott, Cattell, Chandler, Cole, Conness, Corbett, Harlan, Harris, Howe, Kellogg, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Rice, Ross, Sawyer, Sprague, Stewart, Sumner, Thayer, Tipton, Welch, and Wilson—28.

NAYS—Messrs. Anthony, Buckalew, Conkling, Cragin, Davis, Doellittle, Fessenden, Fowler, Henderson, Hendricks, McGreevy, Morton, Patterson of Tennessee, Sherman, Trumbull, Van Winkle, Vickers, Wavie, Wiley, and Williams—20.

ABSENT—Messrs. Bayard, Cameron, Dixon, Drake, Edmunds, Ferry, Flinningsen, Grimes, Howard, Norton, Nye, Pool, Robertson, Saulsbury, Wade, and Yates—16.

So the amendment was agreed to.

The resolution, as amended, was agreed to.

THE FUNDING BILL.

Mr. ANTHONY. I move that the Senate meet this evening at half past seven o'clock for the transaction of executive business.

Mr. SHERMAN. I trust my friend from Rhode Island will allow me to have the funding bill disposed of. It will take but a moment.

Mr. ANTHONY. I give way.

The PRESIDENT *pro tempore*. The bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States has been returned by the House of Representatives with amendments.

Mr. SHERMAN. The amendments need not be read. I am directed by the Committee on Finance to move that the Senate disagree to the amendments of the House of Representatives.

The motion was agreed to; and the amendments were non-concurred in.

HOUSE BILL REFERRED.

The bill (H. R. No. 1446) to relieve from legal and political disabilities Simeon Corley, John Milledge, and Michael Hahn was read twice by its title.

Mr. STEWART. There is no necessity for

referring that bill. One of the persons is a member-elect of the other House who desires to be relieved so that he can take his seat. I ask unanimous consent to put the bill on its passage.

Mr. BUCKALEW. I object.

The PRESIDENT *pro tempore*. Objection being made, the bill cannot now be considered.

Mr. STEWART. Let it be referred.

The bill was referred to the Committee on the Judiciary.

PROPOSED EVENING SESSION.

Mr. CONNESS. I move that when the Senate adjourns it adjourn to meet this evening at half past seven o'clock; and I should like to have it understood that the Senate at that time will take up for consideration the bill, which has been pressed upon their attention so long, for the protection of citizens abroad. I should like to get this evening's session to dispose of that bill; and I think the Senate will concede that. I make that motion.

Mr. ANTHONY. I humbly submit that the motion is not in order. I made a motion and gave way, if I could give way without losing the floor.

Mr. CONNESS. I do not so understand it.

Mr. ANTHONY. The President will declare.

The PRESIDING OFFICER. The Chair understood the Senator to withdraw his motion.

Mr. ANTHONY. I did not.

The PRESIDING OFFICER. The Chair may have been mistaken.

Mr. ANTHONY. Then I hope the motion of my friend from California will not prevail, but that we shall first dispose of the executive business. I am perfectly willing to take a vote now on the bill in which my friend from California has so much interest; but I am not willing to have speeches made here that had better be made on the stump, delaying us in the business that we must transact. Although I am perfectly ready to vote on that question, I cannot agree with my friend from California in the importance he ascribes to it. I think the bill as it came from the Committee on Foreign Relations, if I may say so without offense, is a stupidity, and, I think, as proposed to be amended by the Senator from California, it is an atrocity. The one is to require the Government to do what the Government always has done and always will do, and what every Government that has any sort of self respect must do, to protect its own citizens, and the other is that the Government shall adopt the policy of King Theodorus.

Mr. CONNESS. It is a great pity, Mr. President, that we are not all gifted with the same sense of propriety, the same discretion, the same regard for the economy of public time as my honorable friend from Rhode Island.

Mr. ANTHONY. I have often thought so. [Laughter.]

Mr. CONNESS. The Senator replies he has often thought so. It is very evident he has estimated his share of those great virtues very largely, and that he estimates the share possessed by others in an opposite degree.

Now, Mr. President, there is a great deal said from time to time about making speeches. I suppose that every Senator who is here has a privilege, and it does not lay with the Senator from Rhode Island to protest against the exercise of that privilege. The Senator makes the remark that he does in reference to my motion to get a session for the consideration of the bill named, notwithstanding that I have begged again and again of the Senate to vote without further discussion of that measure. Nay, sir, I believe that the Senators who desired to submit some remarks had announced that they would not do so and were ready to vote; and yet the Senator gives us this gratuitous speech. I do not know whom he means to reflect upon; but I think it were as well not made in this connection.

His summing up of the value of this bill I have not so much respect for. I usually enter-

tain the deepest consideration and respect for all that my friend thinks and says and does; but his denunciation of this measure, in my opinion, is hardly worthy of him.

I ask the Senate to give an evening session for this business. If the Senate are ready to vote now upon the question I am entirely ready to vote. I have no further remarks to submit. I did not at any time intend to submit remarks occupying five minutes of time; but the Senator charged with the conduct of foreign affairs upon this floor felt it his duty to make an extended speech, and I could not sit and listen silently to that speech without replying to it; and I do not feel that I owe an apology to my friend for having done so. It may be, and I regret that what I said in this connection was so unpalatable to my friend; but I cannot help that. It must remain, and I must remain under the ban.

Mr. ANTHONY. I made no remark on the Senator's speech certainly.

Mr. CONNESS. I hope now we shall get the vote on this motion and have this session.

Mr. WILSON. I suggest to the Senator from Rhode Island, that as there is a great storm going on of thunder and lightning and rain we might just as well take the vote on this question now.

Mr. CONNESS. If the Senator will permit me, I will move to proceed to the consideration of the bill.

Mr. WILSON. I think we can dispose of it in a few minutes.

Mr. ANTHONY. I have no sort of objection if we can get a vote; but if not, I give notice that the first time I shall be so fortunate as to get the floor I shall move to proceed to the consideration of executive business.

Mr. CONNESS. All right; upon that I shall call for the yeas and nays, and let the Senate decide.

RIGHTS OF CITIZENS ABROAD.

The PRESIDING OFFICER. The bill before the Senate as the unfinished business is the bill (H. R. No. 768) concerning the rights of American citizens in foreign States, which is before the Senate as in Committee of the Whole.

Several SENATORS. Let us have a vote.

Mr. SUMNER. We are to vote on the amendments of the committee first.

The PRESIDING OFFICER. The question is on the amendments of the committee.

Mr. CONNESS. I desire to have the amendments stated by the Chair, and read by the Clerk as they stand.

The PRESIDING OFFICER. The first amendment reported by the committee will be read to the Senate.

The Chief Clerk read the first amendment, which was after the word "retained," in the ninth line of section three, to strike out the following words:

The President shall be, and hereby is, empowered to suspend in part, or wholly, commercial relations with the said Government, or in case no other remedy is available, to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, and who has not declared his intention to become a citizen of the United States, except ambassadors and other public ministers and their domestics and domestic servants; and the President shall, without delay, give information to Congress of any proceedings under this act.

And to insert in lieu thereof:

It shall be the duty of the President forthwith to report to Congress all the circumstances of any such arrest and detention, and any proceedings for the release of the citizen so arrested and detained, that Congress may take prompt action to secure to every citizen of the United States his just rights.

Mr. CONKLING. Let us vote on that.

Mr. CONNESS. I believe I submitted an amendment to that amendment of the committee, which is before the Senate.

The PRESIDING OFFICER. The Senator from California proposes an amendment to the amendment of the committee.

Mr. CONNESS. It is now pending.

The PRESIDING OFFICER. That will be first considered.

The Chief Clerk read the amendment to the

amendment, which was to strike out in the third section, in the part proposed to be stricken out by the committee, in lines ten, eleven, and twelve, the following words:

To suspend in part, or wholly, commercial relations with the said Government in case no other remedy is available.

Mr. SUMNER. There is no objection to that amendment. That is entirely in harmony with the amendment of the committee.

Mr. CONNESS. If there be no objection to it, of course it will be adopted.

Mr. SUMNER. Let it be adopted. [A pause.] Now let the question come on the amendment of the committee.

Mr. DAVIS. We do not concede the right of the Senator from Massachusetts to accept any amendment. I suppose it is the business and duty of the Senate to vote upon every proposition of amendment, and I want the privilege of voting myself upon every proposition that is made.

The PRESIDING OFFICER. The question now is on the amendment to the amendment.

Mr. VICKERS. Mr. President, I have but a few remarks to make explanatory of the vote I am about to give on the bill now under consideration by the Senate. I understand that four treaties with foreign nations have been negotiated which secure to all persons naturalized in our country, when abroad, all the rights which belong to native American citizens, and that treaties with other nations are in process of negotiation which will doubtless produce similar results. The telegraphic information recently received from Great Britain is that she has declared her purpose to adopt the views of our Government on the subject of the rights of American naturalized citizens.

When our distinguished minister plenipotentiary shall have been presented at the Court of St. James, one of his earliest duties will be the negotiation of a treaty on this subject, which, like those alluded to, will secure to our naturalized citizens all that our Government may desire. Similar treaties with the other Governments in the world will no doubt be made and ratified by the American Senate, and thus, without threats, reprisals, or war, all that we can reasonably expect will be accomplished by diplomacy, which will better comport with the civilization of the age and the genius and spirit of our institutions.

Let us not, by passing the third section of this bill as it came from the House, embarrass our minister, who is about to enter upon the delicate and responsible duties of his embassy under auspices the most favorable, and which promise results that will be alike honorable and beneficial to two of the greatest Powers of the world.

I honor Great Britain for her just and noble conduct to recover a number of her subjects held as captives in Abyssinia after she had exhausted her long and peaceful efforts at negotiation to reclaim them; and I would honor more the acts of our own Government to defend the rights of the humblest oppressed American citizen after negotiations shall have failed to secure them, and especially when unjustly seized and imprisoned by a foreign country; but Congress, to whom the Constitution has intrusted the right to make war, will not, when an emergency shall arise, be found derelict to its high duty, but will be ready to maintain, with the power of the nation, the dignity and honor of the country, and the just rights of every American citizen, native and naturalized.

Mr. BUCKALEW. I am in favor of the general idea embodied in this bill, and I intend to vote for it if it can assume such a form as to commend itself to my judgment. But this section, in my opinion, is open to very strong objections. I doubt very much whether we can confide to the President of the United States by a general law of this kind the power of precipitating hostilities with foreign Governments. This section provides that the President, upon his own judgment, in a certain state of facts,

may arrest citizens of foreign countries and hold them in custody as enemies. Although this act upon his part may not be accompanied by any public declaration or proclamation of the intention of our Government, it is in its very nature an act of hostility; and it seems to me that inasmuch as the power to declare war is lodged exclusively with Congress by the Constitution it is very doubtful whether such authority as this should be confided to the President.

Mr. STEWART. Would it not be an act of hostility on the part of any other Government to arrest American citizens? Are they not the aggressors in an act of hostility? And can we not retaliate?

Mr. BUCKALEW. Very true, sir; but foreign Governments are not bound by the Constitution of the United States; and therefore the Senator's point has no application to the argument.

Mr. STEWART. My point in this: that being an act of hostility, Congress says in advance that the United States will resist acts of hostility from any Government in defense of our citizens.

Mr. BUCKALEW. Well, sir, the power to declare war against a particular nation is a very different thing from a power to confide in the President of the United States the authority to declare war or to commit an act of hostility, as he may think proper, in a given state of facts. It is his act, it is his discretion, it is his authority that is exercised in such a case, and not that of Congress as provided for in the Constitution.

Again, in this section it is provided:

That whenever it shall be made known to the President that any citizen of the United States has been arrested, and is detained by any foreign Government, in contravention of the intent and purposes of this act—

Then he may take the particular steps provided. By the second section, to which reference is made, it is provided that all naturalized citizens of the United States while in foreign countries shall enjoy all the privileges of native-born citizens of the United States, and shall have the same protection extended to them. We have just negotiated treaties with Prussia and with other Powers, by which it is provided that a citizen of a foreign country who emigrates to the United States shall reside here full five years before he shall be entitled in his own country, if he shall return to it, to the privileges of a citizen of the United States. By our laws we have provided that a foreigner who has performed military service for one year in the armies of the United States shall be entitled to naturalization, and we have naturalized many such persons, and under our law a great number may be naturalized hereafter.

By this bill a foreigner who has performed military service for one year in the armies of the United States and has received letters of naturalization is to be protected by the President of the United States when he goes abroad into his own former country, and the President is compelled, if he shall be called to account in that foreign country and arrested, to seize citizens of that foreign country who may be within the limits of the United States, and hold them in custody. The exercise of such a power will be in plain violation of the treaties which we have made with Prussia and with other Powers, and those treaties may be followed (because it seems now to be a system) by treaties with most, if not all, the other leading Governments in the world. In what predicament then does it place the President of the United States? He will be commanded by this law to exercise a power and an authority which will be in plain contempt and in plain violation of existing treaties which have been negotiated by him and confirmed by the Senate, in violation of the public faith?

If there were no other objections than these two which I have stated, it seems to me that this third section ought to be voted down; that we cannot adopt it without violating our public duty and without imposing upon the President of the United States the performance of a duty

which cannot be confided to him under the Constitution by Congress.

Mr. STEWART. I should like to ask the Senator before he leaves the subject, to whom would he in any event confide the duty of resisting aggressions of any kind? If the arrest of one of our citizens by a foreign Government is an act of aggression is Congress to see that wrong redressed? Is Congress to do it itself, or must it do it by the Executive?

Mr. BUCKALEW. Congress by an act may empower the President to take the necessary steps.

Mr. STEWART. That is just exactly what this bill proposes.

Mr. BUCKALEW. No, sir; this bill does not propose that in any specific case. This bill proposes to confer the power of Congress upon the President. Instead of exercising its own judgment and discretion in a case of this kind, it is to confer that power on the President. That is the very point.

Mr. STEWART. Suppose Great Britain should refuse to receive our mails, would it not be competent to pass a law saying the President should refuse to receive theirs? Suppose Great Britain should break off commercial relations, would it not be competent for Congress to say, "If Great Britain breaks off commercial relations, the President will do so on our part;" and so through the whole line of such aggressions.

Mr. BUCKALEW. Of course, in such a case the President would submit to Congress to decide whether we would go to war or not, or what other remedy we should adopt.

The PRESIDING OFFICER. The question is on the amendment to the amendment.

Mr. SUMNER. The question, Mr. President, is on the amendment of the committee.

The PRESIDING OFFICER. The Chair understands the Senator from California to move an amendment to the amendment of the committee.

Mr. SUMNER. I said there was no objection to that.

Mr. CONNESS. Then let it be adopted.

The PRESIDING OFFICER. The Senator from Massachusetts may not have any objection to it, but other Senators may have. The question is on the amendment to the amendment.

Mr. WILLIAMS. I wish to ask if the adoption of the amendment proposed by the committee will render the proposed amendment that I have submitted out of order, can I then move to substitute my amendment for the section as amended?

The PRESIDING OFFICER. The Chair understands that it will not preclude the Senator's amendment.

Mr. HARLAN. I wish to inquire whether the amendment to the amendment is merely to strike out a part of the matter which is proposed to be stricken out by the committee.

Mr. CONKLING. That is all.

The amendment to the amendment was agreed to.

Mr. SUMNER. Now, let the question be taken on the committee's amendment. The amendment of the committee is to strike out these words:

The President shall be, and hereby is, empowered to suspend in part, or wholly, commercial relations with the said Government, or in case no other remedy is available, to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, and who has not declared his intention to become a citizen of the United States, except ambassadors and other public ministers and their domestics and domestic servants, and the President shall, without delay, give information to Congress of any proceedings under this act.

And to substitute instead these words:

It shall be the duty of the President forthwith to report to Congress all the circumstances of any such arrest and detention and any proceedings for the release of the citizen so arrested and detained, that Congress may take prompt action to secure to every citizen of the United States his just rights.

Mr. STEWART. On that I ask for the yeas and nays.

Mr. SUMNER. Let us have the yeas and nays upon it.

The yeas and nays were ordered.

Mr. CONNESS. On that I desire to occupy just a minute. My objection to this amendment of the committee is in brief that it does not direct the President of the United States to do any thing whatever, no matter what the case may be, except to report to Congress. If Congress be not in session he necessarily waits until Congress shall be in session; and during that time any number of such offenses may have occurred, while it is not made his duty to do anything whatever in the premises.

Mr. SUMNER. My objection to the text of the bill which it is proposed to strike out is that it is a proposal of unutterable barbarism, which if adopted would disgrace this country.

Mr. BUCKALEW. I move to amend the amendment by inserting in the twentieth line, after the word "Congress," the words "whenever in session."

Mr. SUMNER. Let the question be taken on this amendment as it stands first.

Mr. BUCKALEW. Very well.

The PRESIDING OFFICER. The question is on the amendment of the committee, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 30, nays 7; as follows:

YEAS—Messrs. Anthony, Buckalew, Cattell, Chandler, Cole, Conkling, Corbett, Cragin, Davis, Fessenden, Harlan, Harris, Henderson, Howe, Kellogg, McDonald, Morgan, Morrill of Vermont, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pomroy, Rice, Sumner, Trumbull, Van Winkle, Vickers, Willey, Williams, and Wilson—30.

NAYS—Messrs. Conness, Nye, Sprague, Stewart, Thayer, Tipton, and Whyte—7.

ABSENT—Messrs. Abbott, Bayard, Cameron, Dixon, Doolittle, Drake, Edmunds, Ferry, Fowler, Frelinghuysen, Grimes, Hendricks, Howard, McGreevy, Morrill of Maine, Morton, Norton, Pool, Ramsey, Robertson, Ross, Saulsbury, Sawyer, Sherman, Wade, Welch, and Yates—27.

So the amendment was agreed to.

Mr. WILLIAMS. I now move—

Mr. SUMNER. There is one other amendment of the committee to be acted upon.

Mr. CONNESS. What is it?

Mr. SUMNER. In the preamble.

Mr. CONNESS. That is not in order now.

Mr. SUMNER. I beg the Senator's pardon. The first question is on the amendments of the committee.

Mr. CONNESS. I beg the Senator's pardon.

Mr. CONKLING. The preamble is voted on last.

Mr. SUMNER. I know that; but you first go through the amendments of the committee.

The PRESIDING OFFICER. The amendment to the preamble is not yet in order.

Mr. WILLIAMS. I move to strike out the third section as it has been amended, and to substitute for it the following:

That whenever it shall be made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign Government, it shall be the duty of the President forthwith to demand of that Government the reasons for such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen; and if the release so demanded is unreasonably delayed or refused, it shall be the duty of the President to use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate such release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.

I simply wish to say one word upon this amendment. Every one can see that the section as it has been amended by the committee amounts to nothing. It simply requires the President, in case he ascertains a certain fact, to communicate that fact to Congress. So far as that goes toward protecting the rights of American citizens abroad it amounts to nothing; for after this communication is made to Congress, if Congress legislates on the subject, Congress must necessarily empower the Executive to do something. Congress is not invested with any direct powers to examine into the cases of American citizens imprisoned abroad and afford the necessary relief. Congress, it

is true, might declare war against the foreign Government; but that is not necessary in ordinary cases.

Mr. HOWE. The Senator will allow me to suggest to him the propriety of striking out the word "unjustly" where it first occurs.

Mr. WILLIAMS. I drew the amendment in that way in the first place, but some Senators suggested that I had better insert the word "unjustly."

Mr. HOWE. No; because that requires the President to ascertain that it is unjust before he can inquire what it is about.

Mr. WILLIAMS. I believe it would be as well as originally drawn.

I have simply expressed my view of the section as it stands amended by the committee. It seems to me we ought not to legislate upon this subject at all, or else we ought to do something that is of practical value. Evidently there is a great feeling in the country on this question, for both of the political parties have been very particular to put in their respective platforms resolutions in reference to this identical matter; of course demanding some legislation at the hands of Congress. The amendment which I propose is entirely simple, and requires the President to take some action.

The original bill did not require the President to do anything at all. It empowered him to do certain things in case he saw proper to act; but whether he would act or not was entirely left in his discretion; and then, when he does act under the bill as amended, all that he is required to do is simply to make a report to Congress.

This amendment proposes that the President shall investigate the case of a citizen of the United States unjustly imprisoned in a foreign country; that if it appears to him that the imprisonment is wrongful or in violation of the rights of American citizenship, he shall demand his release, and if this release is unreasonably refused, then he is authorized to use such means, not amounting to acts of war, as in his judgment may be necessary either to obtain or effectuate the release of this imprisoned citizen. That seems to me to be a plain, straightforward provision. It requires action on the part of the Executive. It does not require any violent or vindictive action. It does not necessarily put in the hands of the President any power to involve the nation in war; but it simply requires the Executive, the proper department of the Government, to regard the rights of all citizens, naturalized and native born, who may be imprisoned or deprived of their liberty in foreign countries.

This discussion has been conducted altogether with reference to Great Britain, as though that was the only country upon the face of the earth; but this law is to apply to all countries everywhere. No matter where an American citizen is seized and thrust into prison, this amendment provides that the Executive of this country shall see that he is restored to his rights. The defect in our system has been inattention on the part of the American Government to the rights of its citizens in foreign countries; and this amendment that I propose devolves a duty upon the President. He cannot remain idle when complaints are made to him, but he is to act, and, if possible, act so efficiently as to restore the citizen to his liberty.

I do not wish to trespass upon the patience of the Senate, but simply to explain the amendment.

Mr. SUMNER. The amendment of the Senator and the remarks that he has made, it seems to me, go on a mistaken hypothesis. They accept the idea that there has been some failure on the part of our Government with reference to citizens abroad.

Mr. WILSON. Is not that true?

Mr. SUMNER. I think it is not true, and if time would allow now I could go into the evidence and show that it is not true. I have the documents here. But we are now entering upon this question to-night with an understanding, almost a compact, that there

shall be no debate. I do not wish to break that compact. But here are documents lying on my table giving all the facts of record with regard to every American citizen who has been taken into custody abroad. Examine that record, and you will see how strenuous and steadfast our Government has been.

Permit me to say that the argument of the Senator from Oregon proceeds on a misunderstanding of the facts. There is no occasion now for any such legislative prompting to the Government of the United States.

Mr. WILLIAMS. I should like to ask the Senator a question?

Mr. SUMNER. Certainly.

Mr. WILLIAMS. Why is it, if everything has been so smooth and so placid upon this subject, that both of the political parties of this country have seen proper to put in their platforms resolutions in reference to the rights of American citizens abroad? What do they mean? The Senator may understand that they have always, everywhere, been religiously protected; but the American people do not understand it in that way.

Mr. SUMNER. I have not said that things were placid or smooth; but I have said that our Government had been strenuous and steadfast in the maintenance of the rights of American citizens, whether native born or naturalized; and the record will show the truth of what I say. Where has there been a failure? Has it been in Germany? Read the correspondence, running now over several years, between the United States and the different Powers of Germany, and see the fidelity with which the rights of our naturalized citizens have been maintained there.

Mr. CONNESS. I should like to ask the Senator whether that fidelity that he describes in regard to the action of the Government concerning citizens arrested and imprisoned in Germany led to their release until the recent treaty was ratified?

Mr. SUMNER. I will answer the Senator. If the Senator would take the trouble to read the documents—

Mr. CONNESS. I hope the honorable Senator will answer without commenting upon my reading.

Mr. SUMNER. The Senator will allow me to answer in my own way. I wish to be as brief as possible. If the Senator will take the trouble to read the documents on the table he will see that among all the numerous applications made by the United States to the Government of Prussia, the leading Power of Germany, there is hardly an instance where this Power did not meet us kindly and generously. I speak according to the record. I have been over every one of these cases; and I must say, as I read them I felt a new gratification in the power of my country, which made itself felt for the protection of its citizens in those distant places. A letter went forth from one of our ministers, and though at that time this difficult question of expatriation was still unsettled, out of regard to our country, or out of regard it might be, sometimes, to the personal character of our minister, the claim was at once abandoned. You can hardly find an instance—

Mr. CONNESS rose.

Mr. SUMNER. Will the Senator let me finish my sentence?

Mr. CONNESS. Certainly.

Mr. SUMNER. You can hardly find an instance in that voluminous correspondence where the claim has been persisted in on the part of the Prussian Government.

Mr. CONNESS. Now, will the Senator permit me?

Mr. SUMNER. I have the floor now, and do not mean to keep it long.

The PRESIDING OFFICER. The Senator from Massachusetts cannot be interrupted without his consent.

Mr. SUMNER. But what I was speaking of was the conduct of our own Government. That was the proposition with which I began.

I said that it needed no quickening such as the Senator from Oregon proposes to apply. There is no evidence that our Government has not been persistent and earnest for the protection of its citizens abroad, whether native born or naturalized, and I alluded to Prussia only by way of illustration. Pass that by. We have then the greater case and more complex of England. But I would rather not enter upon that. Here are the documents on my table, the passages all marked, which would illustrate the conduct of the British Government and the British tribunals toward every one of these persons whose names have been brought in question. I do not wish to go into that, although all the materials are at hand. I am speaking now of the conduct of our own Government rather than of the conduct of any other Government. Mark, sir, my reply to the Senator from Oregon was that our Government did not need any additional power or any additional impulse to activity in this behalf. Our Government has already the power to do everything that can be sanctioned by the law of nations, and it ought not to do anything else.

This brings me to the precise proposition of the Senator from Oregon. He proposes to empower the President in the event of any American citizen being unlawfully detained "to use such means not amounting to acts of war, as he may think necessary and proper." The old law writers say that in these general terms there lurketh much trouble. Why use these general terms that of themselves require definition? What is the meaning of this language, "To use such means not amounting to acts of war?" The President cannot use acts of war, but he may use any means not amounting to acts of war. Pray, sir, where is the dividing line? Already in this debate the Senator from California has told us that reprisals were not acts of war, but acts of peace, and he proposes to invest the President with this hateful power. Does it not follow, then, from the very argument to which we have listened on this floor that under the proposition of the Senator from Oregon the President may have this barbarous power of reprisals which the Senate has now distinctly refused to confer, and that under these general terms, "not amounting to acts of war," he may undertake to hurl that disgraceful bolt? I entreat my friend from Oregon not to attempt to carry our country into any such dangerous position—dangerous for its character, for its honor, for its good name.

There is a proposition that I shall be willing to accept, for I see no danger in it, and I also see efficiency under the law of nations, and I believe that whatever we do in harmony with the law of nations will be done strongly, powerfully, effectively; but the moment you depart from the guidance of the law of nations while you think yourself powerful you make yourself weak.

I would propose to strike out these perilous words: "to use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate such release, and all the facts," &c., and to insert simply, "That it shall be the duty of the President to suspend diplomatic relations with such foreign Power."

Mr. ANTHONY. Shall it be his duty absolutely?

Mr. SUMNER. The clause as it stands is: The President shall forthwith demand the release of such citizen, and if the release so demanded be unreasonably delayed or refused it shall be the duty of the President, &c.

Then I propose to say:

To suspend diplomatic relations with such foreign Power.

Mr. FESSENDEN. He has that power now.

Mr. SUMNER. Unquestionably he has that power now. I will prepare the amendment that I suggest.

Mr. CONNESS. Mr. President—

Mr. SUMNER. I shall be done in one moment if the Senator please.

Mr. CONNESS. The amendment will not be in order when written. I hope the Senator

will finish his remarks, and allow other Senators to take the floor.

Mr. SUMNER. I move to strike out all after the word "President," and to insert "to suspend diplomatic relations with such foreign Power, and as soon as practicable to communicate the facts to Congress."

I will say, Mr. President, that, with the adoption of that amendment, the proposition of the Senator from Oregon would be less objectionable than it is now. I think it entirely unnecessary. The occasion does not require it. The bill does not need it. Nor would I urge my own amendment, except as a substitute. It is an improvement on the proposition of the Senator.

Mr. FESSENDEN. Mr. President, I rise simply for the purpose of trying to answer the question put by the honorable Senator from Oregon, which the chairman of the Committee on Foreign Relations did not answer, and that was why it happened, if our Government had done its duty in this regard, that there is so much of an agreement that something should be done about it among both political parties. I will state my idea of it. There has been a very considerable excitement among the Irish portion of our population on account of the Fenian troubles. A great many went over there with a design undoubtedly to stir up trouble in Ireland, and the consequence was that many of them were arrested; and probably some were arrested who had done no harm and who ought not to have been arrested. But the whole thing created an excitement in this country, especially among that part of our population, and they called for redress of what they supposed to be the grievances of that portion of the American people coming from that country who had been naturalized.

Again, the Germans were under a very considerable excitement on account of the claim of military service in different parts of Germany. They thought that having become citizens of this country when they went back there they were free from all claim of the country which they had left for military or other services; but the country to which they returned did not think so, and some were impressed into the military service. Consequently, an excitement was raised among that portion of our population which came from Germany.

While this excitement was going on, the position of both political parties was substantially this: the Republican party was very much afraid it would lose the German votes if it did not do something, and the Democratic party thought they would gain those votes if they did something; the Democratic party thought they would lose the Irish votes if they did not do something, and the Republican party hoped to get them if they did something. I take it that is the correct answer to the question.

Mr. CONNESS. Mr. President, but for one simple fact, and facts are very stubborn things, the exposition of the Senator from Maine might stand very well; and that is, that the treaty with Prussia had been made and ratified—

Mr. FESSENDEN. Not until after the excitement.

Mr. CONNESS. Yes, sir; before the convention acted. The Senator replies, not until after the excitement was over. I do not know how he fixes dates, or when the excitement is over, or when it is not.

Mr. FESSENDEN. It was before the excitement arose, I said.

Mr. CONNESS. Before the excitement arose. Now, Mr. President, it is very well to denominate this opinion as excitement. It does not concern us so much, because there is no danger of our being arrested; but it did concern some of the citizens of my State who were imprisoned in Prussia until we confirmed that treaty, a fact not stated by the chairman of the Committee on Foreign Relations. My colleague on this floor had in his hand a letter received from Mr. Bancroft, saying "confirm the treaty if you want these men out of prison."

Mr. SUMNER. It was in Bavaria, the Senator will allow me to say.

Mr. CONNESS. The honorable Senator refused to allow me to correct him when he had the floor. He is very quick to intrude his correction upon others; and he would be very quick to demand the interference of all the powers of this Government in behalf of an arrested American citizen if he were black. But, sir, those arrested happen to be of another color, not a color which appeals to his sympathies, but a color that allows him to belittle their arrest and incarceration; that enables him to say here in the Senate that our Government have done everything that they could do; all that was necessary. It is true in his judgment, I have no doubt; for if you only write letters, if you only publish and utter productions of the brain, if you only present views, the honorable Senator is satisfied. Those are his means, except when the progress through the thoroughfares of the city or the country of an American citizen of African descent is involved. Then views are at once thrown to the dogs, and he demands the interference of the Government, the police authority; if it be a railroad company, repeal their acts of incorporation. No matter how much capital stands in the way, it may be \$10,000,000 that is affected, repeal their acts at once! How dare they impiously set up their tyranny over one human being who is stamped with American citizenship?

Now, sir, I do not ask for all this on his part in behalf of American citizens of another class; but considering all that my friend has said from time to time of abolishing and abandoning all distinctions because of race or color I think he ought to be willing to come up to his own platform.

Mr. SUMNER. I am.

Mr. CONNESS. I think it ought to be conceded at this hour of the day that a white man is pretty nearly as good as a black man, behaving himself; and we are not asking the interposition of the Government in favor of those who did not behave themselves.

But I spoke of those citizens of the State of California, citizens of the United States, who were arrested and imprisoned in Germany. He tells me it is Bavaria. No, sir; the letter that I referred to was while the treaty with Prussia was pending, and if Mr. Bancroft was mistaken in his facts it is not my fault.

But, Mr. President, the question before the Senate now is exactly as stated by the Senator from Oregon. The law as proposed to be passed under the direction of the honorable chairman of the Committee on Foreign Relations amounts to nothing.

Mr. STEWART. I wish to correct the Senator. It amounts to a good deal. It takes from the President the power which he now has.

Mr. CONNESS. Very, well, sir; it amounts to this: it is an insult to every naturalized American citizen; it is an offense. My friend from Oregon proposes an amendment which would make it the duty of the Executive to take all civil means, and the chairman of the Committee on Foreign Relations proposes now to emasculate that by reducing it to a mere suspension of diplomatic relations. Why, sir, it includes that. Are we to have none of the efforts of the Government in behalf of our citizens unjustly arrested and imprisoned abroad? I hope, without detaining the Senate any longer, that we shall not add to our too great delay upon these questions the offense and insult that the passage of this act would be as proposed by the committee.

Mr. SUMNER. I hesitate very much to say another word, and yet I think the Senate will pardon me if I make a brief reply to the charge so absolutely unjust of the Senator from California. He throws upon me the reproach of indifference to foreigners. Sir, I deny the imputation, and challenge comparison on this head with any Senator on this floor. Sir, you do not forget that more than ten years ago there was a storm that passed over this

country which had a name more familiar than polite: the storm of Know-Nothingism. It was everywhere, and enveloped my own State. At that time I had the honor of holding the position which I now hold. Did I yield to this storm when it was carrying all before it? Sir, at that time I went down to Faneuil Hall, and in the presence of one of the largest audiences ever there assembled, and knowing well the prevailing sentiment, I made a speech vindicating the rights of emigrants to our country. I have that speech here now, and I will read a few sentences from it. This was on the 2d of November, 1855. Pardon me for reading this record of other days; but I am justified by the attacks to which I have been exposed. If any foreign-born citizen is disposed to hearken to the Senator from California impeaching me I ask him to bear in mind how I stood for his rights at another time, when there were fewer ready to stand for them than now. I read now from this forgotten speech, as reported at the time:

"The history of our country, in its humblest as well as most exalted spheres, testifies to the merits of foreigners. Their strong arms have helped furrow our broad territory with canals, and stretch in every direction the iron rail. They have filled our workshops, navigated our ships, and even tilled our fields. Go where you will, among the hardy sons of toil on land or sea, and there you will find industrious and faithful foreigners bending their muscles to the work. At the bar and in the high places of commerce you will find them. Enter the retreats of learning, and there you will find them, too, shedding upon our country the glory of science. Nor can any reflection be cast upon foreigners, claiming hospitality now, which will not glance at once upon the distinguished living and the illustrious dead—upon the Irish Montgomery, who perished for us at the gates of Quebec; upon Pulaski, the Pole, who perished for us at Savannah; upon De Kalb and Steuben, the generous Germans, who aided our weakness by their military experience; upon Paul Jones, the Scotchman, who lent his unsurpassed courage to the infant thunders of our Navy; also upon those great European liberators, Kosciuszko, of Poland, and La Fayette, of France, each of whom paid his earliest vows to liberty in our cause. Nor should this list be confined to military characters, so long as we gratefully cherish the name of Alexander Hamilton, who was born in the West Indies, and the name of Albert Gallatin, who was born in Switzerland, and never, to the close of his octogenarian career, lost the French accent of his boyhood—both of whom rendered civic services which may be commemorated among the victories of peace.

"Nor is the experience of our Republic peculiar. Where is the country or Power which must not inscribe the names of foreigners on its historic scroll? It was Christopher Columbus, of Genoa, who disclosed to Spain the New World; it was Magellan, of Portugal, sailing in the service of Spain, who first pressed with adventurous keel through those distant southern straits which now bear his name, and opened the way to the vast Pacific sea; and it was Cabot, the Venetian, who first conducted English enterprise to this North American continent. As in the triumph of discovery, so, also, in other fields have foreigners excelled, while serving States to which they were bound by no tie of birth. The Dutch Groenius, author of the sublime work, 'The Laws of Peace and War,' an exile from his own country, became the ambassador of Sweden; and in our own day, the Italian Pozzo di Borgo, turning his back upon his own country, has reached the most exalted diplomatic trusts in the jealous service of Russia. In the list of monarchs on the throne of England, not one has been more truly English than the Dutch William. In Holland, no ruler has equaled in renown the German William, Prince of Orange. In Russia, the German Catharine II takes a place among the most commanding sovereigns. And who of the Swedish monarchs was a better Swede than Bernadotte, the Frenchman; and what Frenchman was ever filled with aspirations for France more than the Italian Napoleon Bonaparte?"

Such was my argument for the rights of foreign-born citizens. To all of them I offered such welcome as I could:

"There are our broad lands, stretching toward the setting sun; let them come and take them. Ourselves the children of the pilgrims of a former generation, let us not turn from the pilgrims of the present. Let the home founded by our emigrant fathers continue open in its many mansions to the emigrants of to-day."

Sir, those were the words which I uttered in Faneuil Hall at a time when the opposition to foreigners was sweeping over the whole country. Others yielded to that tempest, but I did not yield. All my votes in this Chamber, from the first day that I entered it down to this time, have been in the same direction and for that welcome which I announced. Never have I missed an occasion to vote for their protection. Never shall I miss any such occasion. I am at this moment anxious that all the pending negotiations

should proceed prosperously, to the end that the rights of our naturalized citizens may find adequate safeguard everywhere. Too studious of the law of nations, perhaps, to be willing to treat it with distrust or neglect, I look to that prevailing agency rather than to the more limited instrumentality of municipal law. It is the province of municipal law to determine rights at home; how a foreign-born person may be naturalized in our country; how he may be admitted to all the transcendent privileges of American citizenship; but it belongs to another system of law to determine what shall be his privileges should he return again to the country which gave him birth. We may by our declarations, by our diplomacy, by our policy, ay, sir, much more, by our treaties, fix all those rights in adamant. But the Senator seems to have no higher idea than to write these rights in the fleeting passions of party. My vote will never be wanting to elevate them above all such fitful condition, and to place them under the safeguard of international law, the only law which can bind two different Powers. Sir, the Senator from California shall not go before me; he shall not be more swift than I; I will not allow him to take one single step in advance of me. Be the person Irish or German or Chinese he shall have from me the same equal protection. Can the Senator say as much?

Mr. CONNESS. Just a word, sir. I did not doubt that the honorable Senator from Massachusetts could find a dissertation of his own on this subject. I do not know any subject upon which he might not conveniently find it; and I am not at all surprised that he found it by reaching his arm out from where he sits. But mark you, Mr. President, it is precisely as I stated it when I had the honor to address this body a few days since on this subject. A man cries out for food, and he offered him a stone; a man cries for raiment, and he offered him rags—words.

The honorable Senator was in favor of the rights of foreigners in this country. I never described the honorable Senator as a tyrant; I never described him as an illiberal man; but in my humble judgment, without desiring to condemn him, when American matters are brought into contact and into trial with foreign Powers he is not the man that I would select in that combat on that occasion. He is too apt then to give way and to let, as is the case to-day, our citizens wail and lament in prison. He cannot blot out these facts. They do exist, and they are as I have stated them. I would continue and say a few more words, but I am urged by every consideration not to proceed.

The PRESIDING OFFICER. The question is on the amendment to the amendment.

Mr. BUCKALEW. I desire to ask a question of the chairman of the committee before I vote on the amendment. I desire to know whether, in his opinion, this bill would not stand much better with the third section omitted?

Mr. SUMNER. I think it would.

Mr. BUCKALEW. I desire to call attention to the character of that section as it now stands. It provides that in case a native or naturalized citizen of the United States is unlawfully held in a foreign country the President shall make demand for his release or for his relief; that if that release or relief shall be refused the President shall communicate the fact forthwith to Congress, in order that Congress may take such action as it chooses. That is the whole of this section. Now, what does that mean? It means that the President under this law is to do nothing, where an American citizen is unlawfully arrested or improperly held in a foreign country, except to ask for his discharge and release; and if it is refused, that he shall stand silently by until a session of Congress convenes, and then he shall send the documents to us; and I suppose we are to refer them to a committee, and after the lapse of some months, possibly, if the pressure of other business permits it, we shall take the matter up and give it due consideration; and then after Congress has laid down a rule of

action for the Executive, the President is to proceed to do something or other further in the case.

I submit that that is mere child's play; that it is something worse; that the inevitable inference to be drawn from this section is that the President in one of these cases shall do nothing more than this law prescribes. In my judgment you had best leave him to the full and complete exercise of his executive authority under the Constitution and laws of the United States. For my part, therefore, whenever it is in order, I shall move to strike out this third section and add to the end of the second (because the bill will then simply be a declaratory statute, declaring our principle) what I suppose will be sufficient to accomplish our purpose. At the end of that section, after declaring that all citizens, whether native or naturalized, shall be entitled to equal rights and equal protection from the Government, I would add these words:

"And it shall be the duty of the President of the United States to exert all his constitutional powers under the Constitution and laws for their protection and relief, and to report promptly to Congress, from time to time, all cases where justice or relief shall be refused to such citizen by the Government of any foreign country."

That will leave his whole constitutional power untouched, and it will simply be an admonition to him to act with energy to the full extent of his powers and report.

Mr. WILLIAMS. That only applies to naturalized citizens.

Mr. BUCKALEW. Both.

Mr. SUMNER. Will the Senator be good enough to read his substitute again?

Mr. BUCKALEW. "And it shall be the duty of the President."

Mr. SUMNER. You propose to strike out the whole section?

Mr. BUCKALEW. I propose to strike out the third section, and add these words at the end of the second.

Mr. SUMNER. Very well; now let me hear them.

Mr. BUCKALEW. "And it shall be the duty of the President of the United States to exert all his constitutional powers for their protection and relief, and to report promptly to Congress from time to time all cases where justice or relief shall be refused to such citizen by the Government of any foreign country."

Mr. SUMNER. That is worth all the third section many times over.

Mr. CONKLING. Is the second section confined to adopted citizens, or does it extend to all?

Mr. BUCKALEW. The second section is as follows:

"That all naturalized citizens of the United States, while in foreign States, shall be entitled to, and shall receive from this Government, the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances."

I will modify my amendment so as to apply to both.

Mr. CONKLING. Yes; make it so as to apply to both, and it will be all right.

Mr. BUCKALEW. I believe I cannot move to strike out the third section, as there is an amendment to an amendment pending.

The PRESIDING OFFICER. The Senator from Oregon moves an amendment, and to that the Senator from Massachusetts proposes an amendment, which is first in order.

Mr. WILLIAMS. I wish simply to say that this proposed amendment of the Senator from Pennsylvania, of course, is very acceptable to the chairman of the committee, because it is circumlocution and attains nothing in point of fact. Now, sir, I do not see, if we mean anything by this legislation, why we cannot provide that it shall be the duty of the President to take some specific action in case an American citizen is wrongfully imprisoned in a foreign country. If we are not willing to make any such provision as that, then, of course, we are not willing to assume the responsibility of protecting American citizens abroad. It seems as though we were frightened at something; we are afraid of somebody. There

appears to be danger that we may give offense to the governor of some little province in Europe or to some crowned head; and the American Congress puts itself in the attitude of being afraid to assert before the world that it will everywhere and under all circumstances protect the rights of its citizens.

The proposition of the Senator from Pennsylvania is simply to provide that the President shall use "all his constitutional powers." What are his constitutional powers? Are the duties of the Executive to be defined by law, or not? Are we not constantly in the practice of declaring by specific enactments what the duties of the Executive shall or shall not be in a given case? Why do we make any such laws? Why not provide in every act of legislation referring to the performance of Executive duty that he shall discharge whatever duty the Constitution devolves upon him, without pointing out specifically what he shall or shall not do?

This amendment of mine simply provides that he shall proceed to inquire into the case, and if it is ascertained that the citizen is wrongfully imprisoned make a demand for his release; and then that he shall use such means as may be necessary to obtain the release. The Senator from Massachusetts is alarmed because this amendment, as he says, proposes to put a dangerous power in the hands of the President. Are we afraid to trust the President with the power of protecting American citizens? Are we to suppose that he will wantonly and wickedly involve this nation in a war? Suppose the Senator was President and this law was in force, would he not act in accordance with the rules of international law? Does this authorize him to violate any law of nations, or to resort to any violent or forcible measures? He is to do all he can under the Constitution and laws in every way to secure the release of a citizen; and nothing more is required of him by this amendment.

Mr. CONKLING. The honorable Senator from Oregon is unjust, I think, in the strictures he applies to those who prefer the amendment proposed by the Senator from Pennsylvania to his own. I prefer that amendment, and I am sure he is unjust in applying those strictures to me. The amendment proposed by the Senator from Pennsylvania, if I comprehend it, intends to invest the President with all the authority, and to enjoin upon him all the action which fitly attend the executive office; that he shall exercise all his constitutional powers. The Senator from Oregon appeals to those around him to know what those powers are. What appeal shall I make to him to define the powers proposed by his amendment? I submit to him that he has used language unknown to the legislative phraseology with which we are familiar; "all means not amounting to acts of war." What are they, I repeat? Are they acts which according to any law the President has any right to do?

I can suppose, if it were worth while, a hundred illustrations, confessedly not amounting to acts of war, and in a certain sense adapted to this purpose, which nobody would pretend for one moment the President had a right to do unless he was armed by legislative authority with the powers. Suppose, for example, the President should take it into his head to send abroad ambassadors under the name of commissioners, as one President in one instance asserted the right to do. Suppose he should send strolling groups or strolling individuals over Europe to conduct side-bar negotiations. Suppose he should expend moneys otherwise in such modes as he might think were conducive to the harmony of the nations and the establishment of the rights of American citizenship. They would not be acts of war, and yet they would fall within the spirit and within the letter of the amendment of the honorable Senator from Oregon.

If we want definition, if we want certainty, if we want something tangible, I submit to the honorable Senator from Oregon that although there is a dubious and unascertained element,

I grant, in the amendment proposed by the Senator from Pennsylvania, it is infinitely more certain, and it is infinitely more defensible than his own proposition, because it does rest upon the Constitution of the United States, and upon functions derived from it, and definable by the analogies of the Constitution and the deductions to be drawn from it.

One word further, Mr. President, and I have done. I have a sincere wish, without yielding to the *pros* or the *cons* of sensation on this subject, to provide all that we can provide of correction for existing evils, of redress for existing grievances, of provisions against apprehensions of the future; and if I am not able to go as far as some Senators avow a willingness to go, it is because I believe the means proposed are illy or unwisely adapted to the end. I think the proposition of the Senator from Pennsylvania is wisely and appropriately adapted to the end in view; and when we have adopted it, if we shall adopt it, I think we shall have done all that by legislative means we can do in this behalf. Therefore, I hope the section as it stands may be stricken out, that the Senator from Oregon may allow the question to be put now—I know he can interpose his amendment—and that we shall adopt the amendment offered by the Senator from Pennsylvania.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Massachusetts to the amendment of the Senator from Oregon.

Mr. SUMNER. For the present I withdraw the amendment, and let the question be taken on the proposition of the Senator from Pennsylvania. I wish to get a vote directly on the proposition of the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Massachusetts withdraws his amendment, and the question now is on the amendment of the Senator from Oregon.

Mr. BUCKALEW. Now I suppose that is open to amendment. I move to strike out the third section and add to the second section the words which I send to the Chair. Perhaps the proposition should be divided.

Mr. CONNESS. That is not in order.

The PRESIDING OFFICER. It is not strictly in order.

Mr. CONNESS. I call for the yeas and nays on the amendment of the Senator from Oregon.

The yeas and nays were ordered.

The PRESIDING OFFICER. The first question is on the amendment of the Senator from Oregon.

Mr. CONKLING. I shall vote against this amendment in order that we may reach the other amendment that I think better.

Mr. SUMNER. I shall do the same.

The yeas and nays were taken.

Mr. MORRILL, of Maine, (when his name was called.) On this question I have paired with the Senator from Indiana, [Mr. MORRIS.]

Mr. WILSON, (when his name was called.) On this question, I have paired with the Senator from Vermont, [Mr. MORRILL,] otherwise I should vote for the amendment, and he against it.

The call of the roll having been concluded, The PRESIDING OFFICER. The Chair understands that there is not a quorum voting.

Mr. SUMNER. I move that the Senate adjourn.

Mr. ANTHONY. I hope not; let us get through with this bill.

Mr. SUMNER. We must adjourn.

Mr. CONNESS. I think we had better not adjourn; we can get a vote.

Mr. SPRAGUE. Is a motion to adjourn in order?

The PRESIDING OFFICER. It will be in order as soon as the vote is announced.

Mr. CONKLING. There is a quorum here.

Mr. WILSON. I agreed to pair with the Senator from Vermont, [Mr. MORRILL.] He would vote against the amendment, and in order to make a quorum I will cast my vote that way.

Mr. MORRILL, of Maine. The Senator from Indiana, [Mr. MORRIS,] if here, would vote for the amendment, and I against it. I now vote for it in order to make a quorum.

The result was announced—yeas 19, nays 15.

as follows:

YEAS—Messrs. Chandler, Cole, Conness, Cragin, Harlan, Harris, McDonald, Morgan, Morrill of Maine, Nye, Osborn, Patterson of Tennessee, Sprague, Stewart, Thayer, Tipton, Vickers, Whyte, and Williams—19.

NAYS—Messrs. Abbott, Anthony, Buckalew, Cattell, Conkling, Corbett, Doolittle, Patterson of New Hampshire, Pomeroy, Rice, Sumner, Trumbull, Van Winkle, Willey, and Wilson—15.

ABSENT—Messrs. Bayard, Cameron, Davis, Dixon, Drake, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Howard, Howe, Kellogg, McCreery, Morrill of Vermont, Morton, Norton, Pool, Ramsey, Robertson, Ross, Saulsbury, Sawyer, Sherman, Wade, Welch, and Yates—30.

So the amendment was agreed to.

Mr. BUCKALEW. I inquire whether my amendment is now in order?

Mr. SUMNER. It would be as a substitute.

The PRESIDING OFFICER. Does the Senator from Pennsylvania move to strike out the third section?

Mr. BUCKALEW. Yes, sir.

The PRESIDING OFFICER. That is in order.

Mr. BUCKALEW. I move to strike out the third section, and add to the second section the words which I send to the Chair.

Mr. CONNESS. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BUCKALEW. I ask the Clerk to read what I propose as a substitute.

The PRESIDING OFFICER. The Chair understood that the Senator proposed to add words to the second section.

Mr. BUCKALEW. Yes, sir; I desire them read.

The CHIEF CLERK. It is proposed to add to the second section of the bill, when it shall be in order, the following words:

And it shall be the duty of the President to exert all his powers under the Constitution and laws for the protection and relief of citizens of the United States abroad, and to report promptly to Congress from time to time all cases where justice or relief shall be refused to such citizens by the Government of any foreign country.

The PRESIDING OFFICER. The question is on the motion of the Senator from Pennsylvania, to strike out the third section of the bill, upon which the yeas and nays have been ordered.

The yeas and nays were taken; and on the conclusion of the roll-call there was not a quorum voting.

Mr. MORRILL, of Maine. I do not know whether I ought to vote.

Mr. DOOLITTLE. I move that the Senate adjourn.

The PRESIDING OFFICER. No motion is in order till the result of the vote be announced.

Mr. MORRILL, of Maine. I feel an embarrassment about voting under the circumstances.

The PRESIDING OFFICER. No remarks are in order.

Mr. TRUMBULL. Let us have the vote announced. There is no use in staying here. I call for the announcement of the vote.

The result was announced as follows:

YEAS—Messrs. Abbott, Buckalew, Cattell, Conkling, Corbett, Doolittle, Harris, Patterson of New Hampshire, Pomeroy, Rice, Sumner, Trumbull, Van Winkle, Vickers, and Willey—15.

NAYS—Messrs. Chandler, Cole, Conness, Cragin, Harlan, McDonald, Morgan, Nye, Osborn, Patterson of Tennessee, Sprague, Stewart, Thayer, Tipton, Whyte, Williams, and Wilson—17.

ABSENT—Messrs. Anthony, Bayard, Cameron, Davis, Dixon, Drake, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Howard, Howe, Kellogg, McCreery, Morrill of Maine, Morrill of Vermont, Morton, Norton, Pool, Ramsey, Robertson, Ross, Saulsbury, Sawyer, Sherman, Wade, Welch, and Yates—32.

The PRESIDING OFFICER. The vote discloses the want of a quorum.

Mr. SUMNER. There is no quorum, and I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, July 22, 1868.

The House met at twelve o'clock m. Prayer by Rev. MANSFIELD FRENCH.

The Journal of yesterday was read and approved.

J. W. CLIFT, OF GEORGIA.

Mr. DAWES presented the credentials of J. W. Clift, claiming to be a Representative from the State of Georgia, and moved that they be referred to the Committee of Elections.

FRANCIS W. KELLOGG, OF ALABAMA.

Mr. DAWES. Mr. Francis W. Kellogg, member-elect from Alabama, is now present, and I move that he be sworn in.

Mr. KELLOGG appeared at the Speaker's desk, and was duly qualified.

SIMEON CORLEY.

Mr. DAWES, from the Committee of Elections, reported a bill (H. R. No. 1494) to relieve Simeon Corley, of South Carolina, from legal and political disabilities; which was read a first and second time.

The bill was read. It provides that all legal and political disabilities imposed by the United States upon Simeon Corley, a citizen of South Carolina, be removed.

Mr. DAWES. I desire to put upon the record the following statement.

The Clerk read as follows:

To the Honorable Speaker and other Members of the House of Representatives of the Congress of the United States:

GENTLEMEN: This will certify that our friend and fellow-citizen, Simeon Corley, esq., of Lexington, Representative-elect from the third congressional district of South Carolina, is, and always has been, a true friend to the Union. He stands almost, or quite alone, as a native Carolinian who has a life record in opposition to slavery and secession. This, however, did not shield him from the rebel service, which he was compelled to enter as a conscript, but refused even to choose a company among friends, lest it might bear the semblance of volunteering. Being in feeble health, the hardships of the field soon reduced him to a mere skeleton, when, without his consent, his friends at home put him in nomination for a district office, in order to save his life, and at the same time take him out of the rebel service. He acquiesced in the nomination, but was defeated by a rebel preacher! This futile attempt to get out of the service shows, however, that, according to the letter of the oath of office, prescribed by the act of July 2, he has "sought office," and, therefore, he is compelled to rely upon your generosity for relief from the disability. But for that single act we know of no reason why he might not take the said oath, and we do hereby recommend him to your honorable body as a gentleman entirely worthy of your confidence and favor. Having been one of the first in the South to indorse the restoration policy of Congress, he has suffered a terrible proscription for his course, and to-day, in common with the rest of us, his property and life itself are staked upon the issue. We therefore plead with you to remove every impediment to the further prosecution of the work to which he has been called, and in the success of which the whole people are alike interested.

L. BOOZER,
Lieutenant Governor.
E. Q. HAYES,
Senator Lexington county.
G. A. LEWIS,
Representative Lexington county.
H. W. PURVIS,
Representative Lexington county.

Mr. FARNSWORTH. I ask the gentleman from Massachusetts to allow me to move an amendment including the names of Michael Hahn, of Louisiana, and John Milledge, of Augusta, Georgia. Mr. Hahn is known to all members of Congress, but in reference to Mr. Milledge I ask that a statement may be read.

Mr. MAYNARD. What is the necessity for relieving Mr. Hahn from political disabilities? He was a member of this House after the passage of the act of July 2, 1862.

Mr. DAWES. I understand charges have been made against Mr. Hahn. I do not, however, know upon what grounds. He was a member of this House after 1862. I believe he participated in the raising of a rebel flag.

Mr. MAYNARD. Has Governor Hahn asked to be relieved?

Mr. DAWES. If there be any political disability to be removed from Governor Hahn, every one who knows him, every one who

served with him here as I did, will have no objection to remove it.

Mr. WARD. Is the gentleman to whom the bill reported from the Committee of Elections refers elected as a member of Congress?

Mr. DAWES. Yes, sir. I now yield to the gentleman from Tennessee.

Mr. MULLINS. Mr. Speaker, the other day, when the credentials of gentlemen from South Carolina were presented, I stated then that I withdrew any objection I had heretofore expressed in regard to them, having been informed that I was laboring under a mistake. I was then asked the name of the individual. The gentleman from Massachusetts, the chairman of the Committee of Elections, informed me the gentleman to whom I made objection was then to be presented. Now I wish to explain in regard to the matter, and to say that the applicant who now seeks to be sworn in is the gentleman the evidence of whose participation in the rebellion I had before me; but I am perfectly satisfied in my own mind that the man had within his bosom a burning light and fire of loyalty, but was compelled under the storm and rage of secession to bow to the stubborn will of the original secessionists, and could not take the part he did. It seems clear to my mind, from the declarations of the gentleman himself to me, that he was doing all he could to preserve the life of the loyal people in every manner that suggested itself as most compatible with reason and the circumstances of the case. Under these impressions, I am now satisfied that I was then right, but was in error as to which one it was to whom this evidence applied. I return my thanks to the chairman of the Committee of Elections for the privilege of righting myself.

Mr. DAWES. I yield a moment to the gentleman from Ohio.

Mr. CARY. Mr. Speaker, I have known this Mr. Corley of South Carolina for at least twelve years. I have known him well. He was a strong and earnest Union man, and has always been such. In the midst of rebellion he was against secession and did all he could to resist it from the beginning of the war, maintaining his integrity as a Union man. I am glad to bear this testimony, and especially as he is a native of South Carolina. Those are the kind of men I like to see coming here to represent their States, and without regard to their politics, if they only love the Union and are consistent in its defense. He is a worthy and excellent man.

Mr. FARNSWORTH. I ask the Clerk to read the paper which I have sent to the desk in regard to Mr. Milledge, of Georgia. I wish it to go on record.

The Clerk read as follows:

ATLANTA, GEORGIA, July 13, 1868.

To the Chairman of the Reconstruction Committee of the Congress of the United States of America:

The undersigned, John Milledge, of Augusta, Georgia, applies for the removal of disabilities attached to him under the fourteenth amendment of the Constitution of the United States and the reconstruction acts of Congress; said disabilities arising from the fact that, having been a member of the Legislature of Georgia, he took the oath to support the Constitution of the United States, and subsequently, during the rebellion, was a member of a police company, local in its duties, and thus rendered aid to the confederate States. He was an original Union man and opposed to secession in 1860, as he was to nullification in 1832. At the close of the rebellion he took the oaths required by the United States authorities, and in good faith gave his support and influence to the restoration of peace and good will.

He is now an ardent supporter of these several reconstruction acts passed by the Congress of the United States, adheres to the principles of the new constitution of the State of Georgia, worked to secure the election of Governor Bullock, to whose administration he intends to give his support.

JOHN MILLEDGE.

We, the undersigned, respectfully recommend the above application to the favorable consideration of Congress, and request prompt action thereon.

FOSTER BLODGETT,

Chairman Republican State Committee.

RUFUS B. BULLOCK,

Governor-Elect of Georgia.

I take great pleasure, from personal knowledge of Mr. Milledge, in urgently recommending the re-

moval of the disability in his case, believing that such acts will tend greatly to produce proper sentiments, and advance the interests of reconstruction.

GEORGE G. MEADE,

Major General United States Army.

Mr. BROOKS. He ought to be pardoned.

Mr. NIBLACK. That is sufficient. We are satisfied on this side of the House.

Mr. DAWES. The occasion for removing the disability of Governor Hahn is this: he held the office of notary public before the war, and continued to hold it for some time under the confederate authorities. That brings him within the fourteenth article, and it is proper his disability should be removed. He is vouched for very strongly by my colleague [Mr. BUTLER] who commanded in that department, also by my colleague, [Mr. BOUTWELL,] and by all who knew him in this House while he was a member. I call the previous question, and also the yeas and nays.

Mr. MILLER. Did he hold any military office?

Mr. DAWES. None at all.

The SPEAKER. The fourteen amendment to the Constitution does not require the yeas and nays to be taken, only that there shall be a two-thirds vote shown by the record.

Mr. DAWES. I withdraw the call for the yeas and nays, and call for a division.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of Mr. FARNSWORTH, to include the names of Mr. Hahn and Mr. Milledge, was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was then taken on the passage of the bill, and there were—ayes 95, noes 15.

So (two thirds voting in the affirmative) the bill was passed.

The title of the bill was amended so as to read: "An act to relieve from legal and political disabilities Simeon Corley, John Milledge, and Michael Hahn."

Mr. DAWES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 1341) making appropriations and to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes; when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that that body had passed the following bill and joint resolutions, in which he was directed to ask the concurrence of the House:

An act (S. No. 622) in relation to bridges across the Ohio river;

A joint resolution (S. No. 169) appealing to the Turkish Government in behalf of the people of Crete; and

A joint resolution (S. No. 104) relative to the ocean steamship service between the United States and China, as authorized by the act of Congress approved February 17, 1865.

INTERNAL TAX BILL.

The SPEAKER. The Chair desires to state that he has been asked by many members as to whether the tax bill has been signed by the President. As there appears to be a doubt in regard to it the Chair has the official document in his hands, presented at the bar of the House day before yesterday by the President's Private Secretary, informing the House that he had signed forty-three bills, among which is the following: "House bill No. 1264, an act imposing taxes on distilled spirits and tobacco, and for other purposes, approved July 20, 1868."

Mr. COBB. I wish to state that I was informed not less than an hour ago by the Commissioner of Internal Revenue, who sent a special messenger to see whether this bill was approved, that the messenger came back and informed him that the act was not approved.

The SPEAKER. The Chair can only state that this is an official document presented by the President's Private Secretary, which is the only evidence given by the President to either branch of Congress of his signature to a bill. It is to be found in the Globe of to-day under the head of "Message from the President."

Mr. COBB. I have made the statement in order that members may understand it. It was also reported by the Secretary of the Treasury that it was not signed.

The SPEAKER. The Chair has stated what is on the official record, the Journal of the House.

Mr. COBB. It seems that there is an error somewhere in regard to it.

CHARGES AGAINST JUDGE BUSTEED.

Mr. WILSON, of Iowa. I rise to a question of privilege. I make the following report from the Committee on the Judiciary on the proposed impeachment of a judge of a United States court.

The Clerk read as follows:

The Committee on the Judiciary, to whom was referred the memorial of Henry C. Temple, of the State of Alabama, in which said Temple charges Richard Busteed, esq., judge of the district court of the United States for the district of Alabama, with official misconduct in office, report:

That the committee gave the memorialist a hearing in support of the charges made by him. The committee also gave Judge Busteed notice of the charges preferred against him, and informed him that the committee would hear him in the matter if he desired to be heard. Judge Busteed appeared before the committee, and made statements and explanations in vindication and in refutation of the charges. As the parties were not under oath the statements made are of no legal value. Judge Busteed desired an immediate investigation, but as it is impossible to enter upon it during the present session of Congress the committee recommend the passage of the accompanying resolution:

Resolved, That the Committee on the Judiciary be directed to investigate the charges against the character and official conduct of Richard Busteed, United States district judge of Alabama, with power to appoint a sub-committee, which shall have authority to administer the necessary oaths, to employ a stenographer, and send for persons and papers, and sit during the recess of Congress if deemed necessary.

Mr. WILSON, of Iowa. I demand the previous question on the resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION CONTEST—HOGAN VS. PILE.

The SPEAKER. The House now resumes the consideration of the report from the Committee of Elections in the case of Hogan vs. Pile, upon which the gentleman from Illinois [Mr. Cook] is entitled to the floor.

PERSONAL EXPLANATION.

Mr. COOK. I yield for a few minutes to the gentleman from Ohio, [Mr. SPALDING.]

Mr. SPALDING. I yield to the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. STEVENS, of Pennsylvania. I ask leave to make a personal explanation. It will only take me about four or five minutes.

No objection was made.

Mr. STEVENS, of Pennsylvania. I desire to say a few words relating to what I observe reported in the Globe of the remarks of General GARFIELD and others with regard to what I said in debate on the passage of the five-twenty bill. I find that it is all taken from the report of Secretary McCulloch, which I had never read. I am, therefore, free to presume that what those gentlemen quoted rather than said is a total perversion of the truth. Had it not been introduced from so respectable a quarter in this House, it would not be too harsh, as there presented, to call it an ab-

solute falsehood. I do not know that I should have taken any notice of what the various papers are repeating, some of them half rebel, some half secession, and more of them I suppose in the pay of the bondholders. I shall not now undertake to explain the whole of this matter, as I am too feeble, but I shall take occasion hereafter to expose the villainy of those who charge me with having said, on the passage of the five-twenty bill, that its bonds were payable in coin. The whole debate from which they quote, and all my remarks which they have cited, were made upon an entirely different bill, as might be seen by observing that I speak only of the payment of gold after twenty years, when the bill I was speaking of, as well as all other liabilities, were payable in coin, as no one doubted the resumption of specie payments. My speech was made upon the introduction of the "legal-tender bill," on which the interest for twenty years was to be paid in currency. No question of paying the interest in gold arose till some time after, when the bill had been passed by the House, sent to the Senate, returned, and went to a committee of conference, when for the first time the gold-bearing question was introduced, and yet all that these wise and truthful gentlemen have quoted from me took place in debate some weeks before the gold question, either principal or interest, had arisen in the House.

I only now wish to caution the public against putting faith in the fabrications of demagogues and usurers, and they will find that every word which I have asserted with regard to myself is true to the letter.

INSTITUTION FOR THE DEAF AND DUMB.

Mr. STEVENS, of Pennsylvania. On behalf of the gentleman from Ohio, [Mr. SPALDING,] I ask that the amendments of the Senate to the appropriation bill for the benefit of the Columbia Institution for the Deaf and Dumb be taken from the Speaker's table and referred to the Committee on Appropriations.

Mr. WASHBURNE, of Illinois. I object.

LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. WILLIAMS, of Pennsylvania, on account of ill health.

Indefinite leave of absence was granted to Mr. ANDERSON, on account of the sickness of his wife.

Mr. BROOKS asked and obtained leave of absence till September 17.

INDEX TO TAX LAW.

Mr. COOK. I yield for a moment to the gentleman from New York, [Mr. LAFLIN.]

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the clerk of the Committee of Ways and Means be directed to prepare an index to the internal revenue act lately passed, and to have the same published in connection with the law.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

LEVEES OF THE MISSISSIPPI.

Mr. SYPHER, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the propriety of making the levees of the Mississippi a national highway, or otherwise so improving them as to protect them, at the expense and to the advantage of the public.

COURT OF CLAIMS—LOUISIANA.

Mr. SYPHER, by unanimous consent, introduced a joint resolution (H. R. No. 355) to extend to the State of Louisiana the provisions of an act of Congress, approved July 4, 1864, entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the armies of the United States;"

which was read a first and second time, and referred to the Committee on the Judiciary.

ORDER OF BUSINESS.

Mr. BROOMALL. I desire to offer a privileged resolution.

Mr. SPALDING. I object, and call for the regular order.

Mr. BROOMALL. I hope the gentleman will withdraw his objection.

Mr. SPALDING. I never withdraw my objections.

Mr. BROOMALL. It is a resolution relating to adjournment.

Mr. SPALDING. I call for the regular order.

ELECTION CONTEST—HOGAN VS. PILE.

The SPEAKER. The regular order is the unfinished business pending at the adjournment last night, being the report of the Committee of Elections upon the contested-election case of John Hogan vs. William A. Pile, first congressional district of Missouri.

The resolution reported from the Committee of Elections is as follows:

Resolved, That William A. Pile is duly elected a member of this House from the first district of the State of Missouri.

Mr. KERR. I offer the following as a substitute for the resolution reported by the majority of the Committee of Elections:

Resolved, That John Hogan is duly elected a member of this House for the first district of the State of Missouri.

Resolved, That William A. Pile is not duly elected a member of this House from the first district of the State of Missouri.

The question was upon the substitute offered by Mr. KERR.

Mr. COOK. I wish to explain in a very few words the conclusions to which the Committee of Elections have arrived upon this question. I may say at the outset that the questions we have had to decide are mainly questions of fact, rather than questions of law, and they have required a very elaborate and careful investigation. And only those who have made such an investigation in regard to these questions of fact can determine as to the correctness of the conclusions of the committee. The majority for the sitting member in this district was 218 as returned by the returning officer. The election was held in certain election districts numbered from twenty-four to forty-two inclusive. The objection which was made by the contestant to the returns of the returning officer applies chiefly to districts numbered twenty-six, twenty-seven, twenty-eight, and thirty. In relation to district No. 30 the objection is first that the judges of the election used a copy of the certified list and not the certified list itself upon which to make their returns, which copy was not prepared by the proper officers, not prepared in accordance with law, and that the improper list was used for the purpose of allowing persons who were not registered nor named upon the certified list to vote fraudulently for the sitting member.

I wish to consider that question for a moment. The constitution of Missouri requires that—

"The General Assembly shall immediately provide by law for a complete and uniform registration, by election districts, of the names of qualified voters in this State; which registration shall be evidence of the qualification of all registered voters to vote at any election thereafter held." * * *

"after which no person shall vote, unless his name shall have been registered at least ten days before the day of election."

The law of Missouri provides:

"Sec. 12. Immediately after the closing of such registry the officer of registration shall make and certify two fair copies, alphabetically arranged, of the names of the qualified voters, as ascertained and determined by said board, one of which he shall deposit with the clerk of the county court on or before the next ensuing Saturday, and the other he shall deliver at or before the hour of ten o'clock a. m. of that day, to some one of the persons who shall have been appointed to act as judges of the next ensuing general election in the election district for which the list was made, and shall take his receipt therefor." * * *

"The person to whom the said list shall have been delivered shall produce the same at the place of voting, and deliver it into the possession of the judges of the election at the

time of opening the polls on the day of the ensuing general election."

"SEC. 13. The copy of said list so deposited with the clerk shall be subject to examination as other records of said court, but no such examination by any person not officially connected with the court shall be allowed, except in the presence of said clerk or his deputy."

"SEC. 14. The officers of registration shall, as soon as may be, deposit with said clerk the original books of registration, which shall be kept and preserved among the records of the court, except when otherwise disposed of as hereinafter directed."

"SEC. 17. When any person shall have voted, the judges of election shall, at the time, write opposite his name on the list the word 'voted.'"

When this registration was made it was made in the manner following: the lists were opened and the voters registered their own name in their own handwriting upon the list. A very large proportion of the voters of the thirtieth precinct were Germans, many of whom entered their names upon the lists in German script; some of them entered their names upon the list in English script, according to their idea of what their names would be in English. This list was copied by an English clerk, who made upon the certified list the nearest approach he could to the original entry made by the voter himself upon the original list. When the voting was done the voter came to the polls and announced his own name, which was taken by sound by the clerk of the elections. Hence it was impossible but that there should be variances between the original list and the certified list of voters. These variances are about as great between the voters' list and the certified list as there are between the certified list and the original list, the differences arising, undoubtedly, from the same causes.

In preparing this report I had the assistance of a German scholar, and as an illustration I have given in the report a *fac simile* of a name written upon the original registration in German script. That name is in English Helfrich. Upon the certified list it is copied according to its appearance rather than its sound, Lynfriz; and it appears on the voters' list as Helfrich. This is a sample of the manner in which many of these names were altered in being transcribed from the original list to the certified list, and from the certified list taken by sound and transcribed on the voters' list.

Now, when the election was held in precinct No. 30 it was found that the certified list was alphabetized only by the first letter of each name. Some hundreds of names beginning with a certain letter of the alphabet were arranged under that letter, with no attempt to systematize them. Hence it became apparent to the judges of election that the voting must be done very slowly if each name had to be found upon the certified list, imperfectly alphabetized as it was. They therefore caused to be prepared a copy of the certified list, but alphabetized by the two first letters of the names. It will be remembered that the certified list was numbered. By reference to this new list a name could be much sooner found than upon the certified list, and then by reference to the number it could be much more readily found upon the certified list. This list so prepared was used on the day of the election, as was also the certified list; they were used together. I am not going to refer to the testimony now to show that these were so used; but I affirm that they were so used, and that both these lists were used on the day of the election by the judges of election in precinct No. 30.

It is urged that the use of this copy of the certified list, thus alphabetized by the first two letters, was improper, and that the vote of the precinct should therefore be rejected. The committee have come to the conclusion that unless this copy of the certified list was made for purposes of fraud—if it was made only for the purpose of allowing the voting to take place with greater rapidity and in good faith, to enable the judges to find more readily the names upon the certified list—it was no more improper than it would have been to employ an expert clerk for the same purpose, and that the poll of that precinct ought not to be rejected for that reason.

But it is insisted that that new list was used for fraudulent purposes. I wish to call the attention of the House for a few moments to the testimony on that point. I have examined the testimony with great care, and I have entire confidence in the conclusion to which the committee have come upon that question. The number of names is precisely the same on each list. Hence, it is certain that the new list could not have been used for a fraudulent purpose, unless there is substituted upon the new list names which do not appear upon the certified list. Now, so far as the testimony of the witnesses goes, it appears by the testimony of three witnesses who have compared the list that they agree perfectly.

This new list, prepared on the eve of the election and alphabetized by the first two letters of each name, was never before the committee. The only manner in which we could test the question whether there were on that list names which were not upon the certified list was to see whether there were on the voters' list names which were not on the certified list and not on the original list. That examination we have made with great care, and we find that there is a variance in the spelling of 144 names, but the committee have no doubt as to 124 of these 144, that the names are identical. Sometimes the variances are very slight; sometimes they are greater; but on both the original and the certified list the residences of the voters are given; so that in cases of inconsiderable variance the residence determines the identity of the voter; and when we find that the original list and the voters' list agree, or the certified list and the voters' list agree, we can arrive with very great certainty at the identity of the individual. The committee have found 124 of these names out of the 144, leaving 20 which we have been unable to find. I find that 8 of the substitutions we made were wrong. They ought to be added to the 20, making 28. I affirm that the remaining names have been identified.

Now, sir, on the list of those voting for the contestant there were 76 names allowed, and of these names the contestant has furnished corresponding names for 67. Of those I find 8 voted in their own names; 4 are not pretended to be accounted for; 21 names are left wholly unaccounted for.

I wish, now, to refer to a statement of the minority report. It is as follows:

"But, singularly enough, they say, 'The committee are unable to find the names of those voting for the contestant.' 'German idioms,' 'bad spelling,' 'taking down names by sound,' 'copying names,' and 'consequent liability to mistake, none of these can be applied to our names voting for contestant furnished by contestant. They are all fraudulent votes, which the committee are unable to find registered, or even indicated by similar names.'"

I wish to say there is nothing in the committee's report to lead any one to the conclusion we had rejected any of these votes for the contestant; nor have we done so. What we do say is, that if the misspelled names are to be counted for contestant they should be for the sitting member. The same rule should be applied to both, and if the rule is fairly applied, whether these votes shall be counted or rejected, the sitting member is clearly elected. When you consider this poll contains 14,000 names of voters, and remember that when you change a German name into an English one by the sound merely you are liable to change the initial letter, it is not strange the sitting member or the contestant has been unable to find every name. We have found many cases where the initial letter has been changed.

The reason urged for the rejection of 18 votes for the sitting member in precinct No. 25 is that these voters were never registered. I only intend to state the conclusions of the committee, not the evidence in detail. It is alleged that this number of names on the voters' list was not found on the certified list, or on the original list. The committee have found the names of 17, from which ought to be deducted 1, which subsequent examination showed had voted in his own name, and it

is therefore used properly as a substitute, leaving 16. This leaves only 2 votes for the sitting member in this list of 18 not fully accounted for.

In precinct No. 26 the number of voters' names given by contestant which are alleged to have been unregistered is 61; corresponding names found on registry list by committee, 52; unaccounted for, 9; names on voters' list voting for contestant not found in the same form on registry list, 56; corresponding names pointed out on registered list by contestant, 32; unaccounted for, 24. Precinct No. 27, number of names in voters' list voting for contestant, claimed to be unregistered, 47; number of names found by committee on registry list, 30; unaccounted for, 17; committee show on voters' list, 47; voters for contestant not registered in some form, corresponding names found by contestant, 22; unaccounted for, 25. Precinct No. 28, contestant's list, 41; found by committee, 39; unaccounted for, 8; committee's list of unregistered voters for contestant, 52; corresponding names given by contestant, 24; unaccounted for, 28.

I am aware, sir, that exception will be taken to the conclusions of the committee on these questions of fact. I only wish to say that the committee has considered these questions with great care. I am prepared to vindicate those conclusions of the committee in relation to each particular name on the lists which have been printed by the committee if the same shall be challenged.

The next question is in relation to the thirty-seventh precinct. In that precinct the certified list of registered voters was not returned to the county clerk as it ought to have been by the law. It is in proof before the committee that on the 3d of January next after the election this certified list had not been returned. The question presented to the committee was whether this precinct should be entirely rejected because the officer had neglected to make a return to the county clerk. The committee find a case which we believe to be entirely analogous to this. In the case of *Brockenborough vs. Cabell, Contested-Election Cases*, page 86, the committee say:

"The law of Florida requires that the return of votes given for a Representative in Congress shall be returned to the secretary of State in thirty days next after an election. Your committee deem the provisions of the law only directory, and are of opinion that the votes returned after the thirty days should be counted as well as those returned within that time; a different construction might lead to bad results and tend to defeat the will of the people; a different construction would permit a corrupt officer, to defeat the voice of a majority by his refusal to make the returns. It would subject the will of the majority to be defeated by an accidental loss of the returns."

That reasoning applies precisely to this case. To allow the rule contended for by the contestant would result in this: that if for two months subsequent to the election the officer should neglect to return a certified list to the proper office the election would be nullified. That would place it in the power of an officer to defeat the will of the people; or in case of the loss of the certified copy by any means the same result would follow. This would be directly contrary to the rule always adopted by the House in relation to such questions. The committee therefore refuse to reject the vote of the thirty-seventh precinct.

It is contended that the election precincts were arbitrarily arranged by the friends of the sitting member, and thereby a fair vote was absolutely prevented. In relation to that question I am of opinion myself that four of those precincts were so arranged that the whole number of votes could not be polled. But if those four precincts were rejected the result would be that the majority of the sitting member would be increased. Nor ought they to be rejected, because there is no evidence that they were so arranged for any fraudulent purpose, or for the purpose of preventing the polling of the vote.

It will be seen that the vote was polled under circumstances of very great difficulty. Searching for the names of foreigners on the list caused great delay. If the list had been properly alpha-

betized, the names might have been found and the votes given in. The whole number of votes in these precincts was much less than is often polled in precincts where only English names are to be found, and they are properly alphabetized. It was an error of the law which has been corrected by the Legislature of Missouri, but which operated to keep out about as many men who offered to vote for the sitting member as who offered to vote for the contestant. This is known from the fact that after sundown votes were received in three of these precincts. In two of them the sitting member received a majority, and in one of them the contestant received a majority of the votes cast after sundown. It is apparent that about as many friends of the sitting member as of the contestant were prevented from voting. Be this as it may, the Legislature of the State of Missouri gave to the county the right to arrange these voting precincts. They arranged them in their discretion. That arrangement cannot be revised by this House. If, indeed, there was such a fraudulent arrangement of voting precincts as to deprive the community of the right of suffrage, it might call for the setting aside of the election in the entire district; but such a state of facts was not made to appear before the committee. It was an experiment which worked badly, perhaps, but which has been remedied by the only competent authority.

I come now to the night voting in three precincts. In two of those precincts the sitting member received a majority, and in the other the contestant received a majority. In one precinct where the sitting member received 46 majority the vote was counted by the returning officers, and in the other two precincts the vote was rejected. The law of Missouri requires that the polls shall be held open until sunset. In the two precincts where the vote was rejected the polls were regularly closed under all the forms of law at sunset and were opened again with partial notice to the voters after sunset. In the other precinct the poll was not closed at sunset, but was continued open after sunset, and the sitting member received 46 majority in that precinct.

The committee have expressly refrained from deciding whether that 46 majority ought to be credited to the sitting member or not. Nor would it make any difference in the result whether it was counted or not. But they do decide that where the polls were closed at sunset and afterward opened on partial notice to the voters, the votes taken after that time cannot in any event be counted.

But, sir, it is alleged—and that is the last point to which I shall refer—that many men who were registered were not allowed to vote because their names were not found on the registry list. Now, the reason of that is apparent in what I have heretofore stated. The fact, which is true, that many men who were registered were refused an opportunity to vote, because their names could not be found, demonstrates the other proposition that the lists were so arranged that it was difficult to find the names, and that the names were so changed in spelling and sound as to render it very difficult to find them on the certified list. The contestant has presented a list of 129 men who were properly entitled to vote, but whose votes, it is alleged, were rejected by the judges of election. In reference to that matter I have only to say that upon a careful examination I find that as to a large number of the 129 it does not appear from the testimony for whom they would have voted if they had voted at all. It appears, also, that some of the men on this list of 129 actually did vote. The number of men who, it is proved, would have voted for the contestant, but were prevented from voting, was 71. Assuming their votes to have been improperly rejected, the number is too few to overcome the majority for the sitting member, after making all deductions. The committee, therefore, conclude that in any view of the case that can possibly be taken the sitting member is entitled to his seat.

Having stated as briefly as I can the reasons

which have governed the action of the committee, I will leave the further discussion to the gentlemen personally interested.

At the conclusion of his remarks, Mr. COOK offered the following resolution; which was read, considered, and adopted:

Resolved, That the contestant be permitted to address the House in support of his claims to a seat, subject to the rules of the House.

Mr. HOGAN, (contestant.) Mr. Speaker, I am very much obliged to the House for this permission given me to vindicate, not myself only, but the right of the people of the first congressional district of Missouri to be represented here by the man of their choice. I come to the investigation of this question with a desire not to inflict upon the House at this period of this session a lengthy argument, but merely to recur to some points which have been presented by the majority of the committee, as I conceive, without any wish to derogate from their integrity or character, presented under great misapprehension. I wish to correct those statements, to present a few points, and then leave the whole matter to the decision of this House of Representatives.

There are very many points in this case that might be presented to the consideration of this House. Under existing circumstances I design to confine myself to as few of them as will possibly give a succinct and tolerably clear idea of the nature of this contest. I am amazed that the learned gentlemen who compose the Committee of Elections, lawyers as they are, should assume for one moment, in the contemplation of the law and constitution of Missouri that it is in the power of anybody except those authorized by law to make lists of voters for any purpose. The constitution of Missouri is not one of my making, nor was it made by or in the interest of the party to which I belong. Nor was this registration made by us or for our interest, but made exclusively to preclude the votes of the majority, and to put the power of allowing votes into the hands of partisans constituting only a minority of the people of the State. It was so made that we—those I mean with whom I am connected in Missouri—should have nothing to say about it. I do not so much complain of the majority for doing that, they had the power if not the right. But the gentleman from the eighth district of Missouri [Mr. BENJAMIN]—when my friend Mr. Switzler was trying, but unsuccessfully, to obtain his seat here—contended that the county of Callaway should be thrown out because the returns did not conform to the registration law of Missouri. He also arraigned the majority of the Committee of Elections for allowing a report in favor of Mr. Switzler, while the law of Missouri was not complied with.

Now, however, it is a horse of another color. There is another party now; and there is to be another tune played upon this "harp of a thousand strings." And now a palpable, direct, positive, well-known, and admitted violation of the law is merely a little bit of a matter to facilitate voting. And things are assumed in reference to which there is not one scintilla of evidence.

Now, why is it that in this thirtieth precinct such a terrible effort should be made to furnish a properly alphabetized voting list? The list furnished by the register was of just about the same character as the list furnished by the other registers of the district. So far as this book of testimony goes there is but one of them alphabetized on the second letter. There are four of them in which there were many more votes to be given than there were at this thirtieth precinct, where there is such an anxiety to get a list better alphabetized. Why was this done, and why the anxiety now to fix up this matter so as to conform to the wishes of the sitting member? The list was fixed up so that that vote could be polled in the interest of the party of the sitting member, and illegally increase his majority there.

Now, the law of the State of Missouri says that the sworn officers of the law, appointed by the Governor, shall make out this list of voters.

He comes forward and he makes it. It is furnished to these gentlemen according to the law.

Nor is it true in fact that he did not have ample time to prepare that list and to prepare it right. The election was held on the 6th of November. The certified list furnished to the county clerk is dated October 29, that is, six days before election, at least, the list was prepared. There was no time for the registrar to furnish the list; but there was ample time for outside parties to furnish it. Now, the law says explicitly that the registrar shall furnish this list and certify it. The registrar is the sworn officer whose duty it is to do this thing. No one else is allowed to do it. Will you in this House sanction the gathering together of a half dozen men in a private room a night or two before the election in order to fix up a list to vote by? By whom was this prepared? By the registrar? No, sir, not by the registrar. The registrar was not further off from the place where this private caucus was held than from here to the Senate Chamber. Yet while hours were being employed by these men in making up a voting list this sworn registering officer was not called to be present and see what was being done with his list. The House will please note this. Why the secret conclave of unknown persons for an illegal purpose? Why exclude therefrom their own partisan, their chosen sworn officer? Is it not palpable fraud and wrong were to be perpetrated by unsworn persons, hence they did not wish the presence of a lawful, a sworn officer?

But the gentleman from Illinois in his argument just now has said that there is no evidence that that list was not as fair and as complete as the one furnished by the registrar; but in the very same argument he showed that it was not; for he said that there were at least twenty-four men who voted there whose names he could not find upon that list, nor any substitutes therefor. How came they there? I say there are one hundred and fifty men voting there who are not on that list certified by the registering officer to the judges, and which list was remade by others; and the gentleman who makes the report admits that the names of twenty-five of them cannot be found after all the investigation he has given to this question. How did they get a chance to vote? Their names are not on the list furnished by the registrar, nor any name that is in any way analogous to them. On the original register you cannot find any name analogous to them. According to the constitution of Missouri no man who is not registered is allowed to vote. How did these twenty-five men vote? If they are not on the original, nor yet on the certified copy, how did they get to vote, unless their names are upon the list furnished by these outsiders, and which list was illegally used by the judges? The gentleman himself admits that there are twenty-five whose names he cannot find at all; and as to many more of them he does not find analogous names which should be so substituted; besides, some sixteen of those he thus substitutes voted in their own proper names, thus adding this many more to those not found.

Now, let me illustrate the analogy in some of these names. I furnished a list of names and the committee go to work and exemplify the names which they say are analogous to those that I furnished. Now, I desire to direct the attention of members to some of these names, and these not perhaps the worst, furnished by the committee in substitution for the names I charge as those of fraudulent voters. Here is an example. One man voted as "H'y Mullenhorse." The name they say this is intended for is "Henrich Killinghorst." Now, is there not a striking analogy between these two names? If a man came up and gave his name as Henrich Killinghorst, even though he spoke German, would any intelligent clerk write that name "H'y Mullenhorse." Is not this a very striking exemplification of the analogy of names? But they say that this man's name, when he voted, was taken down by the sound. Now,

that is another one of the assumptions upon which the case of the sitting member rests. It is not so. Before the judge of election who receives the man's votes should be the certified list by which is determined the right of the man to vote. A man comes up and gives his name as Killinghorst. The judge looks over the list and does not find there the name of Killinghorst; but he does find on the certified list the name of "Heillinghorst." The man when he offers his vote says that his name is Killinghorst. The judge says to him "Is not your name Heillinghorst?" The man replies, "Yes, mein name is Heillinghorst." It is taken down as Heillinghorst. No, sir, it is taken down as Mullenhorse. The name voted is Mullenhorse, the name certified is Heillinghorst, and the name registered is Killinghorst! Which of these names is it that votes? Is it the right man or the wrong man? But I will not dwell upon this case.

I will give you another illustration. Here is the name of Reichard Bessery. Well, that is not his name at all. He ought to be a good voter, as he voted for the sitting member. It was necessary to find some name to substitute for him, and Richard Boeswetter is the man who called his name as Boeswetter, but who they say now is upon the certified list as Richard Basewetter. When they came to take down that man's name it is Richard Bessery. Is there anything analogous to it? Is it taken down from the sound? Here is another. A man comes up and votes as J. H. Gerheide; no such name is registered, but they admit this and say the name should be J. H. Woerheide, yet this "certified list" which is presumed to have been examined so as to see whether he is entitled to vote they say gives the name as G. H. Waerhard, yet after all the intelligent clerk writes this latter name J. H. Gerheide, and the committee say it was taken down by the sound. How likely!

Here is a worse case. Here is a man who votes as August Cuttman. I say that man is not to be found. Oh, no, says the sitting member, there is no such man in that district. Oh, no, says the committee, there is no such man as August Cuttman, but there is a name August Katlonder, spelled in certified list as Aug. Kothlander, and there is no doubt he is the man intended, this is August Cuttman, and do not you see it is misspelled. And so it goes through all these names until you come down to this one. Here is one name I find substituted for another. It is the name of Frank Somers. This shows the highest style of art in the substitution of names. I think the man who did this certainly could take out a patent for substituting names. They find Frank Somers on the list, and they find the name on the original registration as Frank Webster, who also writes his own name and no mistake, which certainly must mean Frank Somers, because he lives upon Webster street! The man who did that certainly can take out a patent. But it is worthy of remark, that there is no testimony going to prove that these were the men at all; it is mere naked assumption.

I give these as an illustration of the manner in which they substituted names, and while they substitute these names there are those for whom they make no substitution at all, but have counted them for the sitting member; that is to say, a man comes in and illegally votes, you substitute a name for him and then vote him for the sitting member. I do not see any use in contesting an election where fraudulent appliances like these are used. I invite investigation of this matter. When the sitting member made his proof as to substituting names I went over it and examined each case, and I found a number of names thus substituted had voted for themselves. I alleged that in my replication, but the committee did not take any notice of it in their report. I leave it to the House of Representatives whether, in view of this state of facts, there is no evidence there were fraudulent names added to that list at the precinct No. 30? At any rate, whether,

if the House decides it cannot throw out that vote entirely, they will not throw out the fraudulent votes?

Another point in this case is the return or want of return from the thirty-seventh district. I do not intend to go very largely into this case at this period of the session. I do not intend to make an elaborate investigation of this matter. The committee allege there is no proper evidence a return has not been made from the thirty-seventh precinct, and even if it was it does not amount to anything. It cannot be constituted a means of depriving the people of their right to vote. The registration law of Missouri, section fourteen, says:

"The officers of registration shall, as soon as may be, deposit with said clerk the original books of registration, which shall be kept and preserved among the archives of the court."

Why is this? No man can vote in Missouri unless he takes the oath prescribed by the constitution. Any man who takes that oath falsely may be prosecuted by anybody for doing it, and his registration may be given in evidence. The constitution explicitly declares that the registration shall be the only evidence of the fact that a man is entitled to vote; and in order that that evidence may be had, the law provides that it shall be filed in the county clerk's office.

Now, I ask members of this House and the Committee of Elections how do they know that any man who voted at the thirty-seventh election precinct was a voter in Missouri. The law says he cannot vote unless he is registered. The law says the registration on affirmation or oath and certificate of the officer of registration are the only evidence that shall be had. The law says that that evidence shall be deposited in the county clerk's office. Yet the Committee of Elections now declare that there is no necessity for that. The law requires it, but what of it? I say that I do not know that a single man who voted in that thirty-seventh precinct was entitled to vote. I have no evidence that he could vote, and yet the committee count them all, as if the list of those voting were the highest evidence. Here is evidence in this record that the original registration, if ever made, was not where the law required it to be. There is nothing shown why it was not there. I leave that point, for I do not think it worth while now to dwell upon any of these questions.

I come now to the night vote. The gentleman from Illinois [Mr. Cook] concedes that at three precincts a night vote was held. The law of Missouri does not allow a night vote. It says that the polls shall be open from sunrise till sunset. "Well, but," says the gentleman, "the polls closed at two places, and there is evidence that while the sitting member had a majority at two of these precincts, the contestant had a majority at one." They do not say anything about the legality of the vote. That I may not misrepresent them, I will quote what the committee say, which is substantially what the gentleman from Illinois just now said:

"The law of Missouri provides that the polls shall be kept open until sunset. The committee expressly refrain from deciding whether the votes taken in precinct No. 26 after sunset should be counted or not. The law of Missouri requires that the polls should be kept open until sunset; whether this law makes it imperative that the polls should be closed at sunset it is not necessary to decide, as the decision cannot affect the result of this case."

Now, the committee say that they will refrain from deciding this matter. They do not recognize its legality. But, sir, the committee do not throw out one of these night votes given for the sitting member. They count them all just as though they were legal. The secretary of State, when he made up his certificate in this case, recognized that this was a different thing from any other vote. I have here the certificate, in which he states it thus:

"For Congress, first district, William A. Pile received 6,587 votes before sunset; 141 votes after sunset."

Is that the usual certificate?

"John Hogan received 6,417 votes before sunset; 93 after sunset."

Now, why that unusual form? Why stated in that way? There is nothing of the kind in reference to the second district, nor to any other district. The night vote was not recognized by the secretary of State as a legal and authoritative vote. The committee say they do not recognize this, and yet they are so anxious to be fair in reference to this thing that, while not recognizing it as legal, they count it for the sitting member! Now, why is it done? The committee say it will not make any difference in the count. I want the count to show fairly whether it makes a difference or not; and if I were upon the Committee of Elections I would either decide that it should be counted or should not. And if it is not counted that leaves the majority of the sitting member 170. I would be glad if the members of the House who are present would bear in mind the fact that while there was a majority of 48 votes given for the sitting member at precinct twenty-six, those 48 votes taken from his majority would leave him only a majority of 170.

But the gentleman says that at the twenty-seventh precinct the majority of the night vote was also for the sitting member. One man testifies that Mr. Pile's majority in that precinct was about 8. Another testifies that of 487 votes "pretty much all of them were Hogan votes." The man who makes that statement was one of the judges, the one who put all the ballots in the box, and he says that the night vote was neither opened nor counted, but he says that he knew all the men, he took in all the votes, and pretty much all of them were Hogan votes, and that is the reason why they were not counted. If there had been a majority there for William A. Pile, his friends, the majority of the judges, would have counted the night vote there, as they counted it in the twenty-sixth precinct. But because there was some 400 majority there for me, which majority would have elected me, it was not counted, and although Mr. Gambs, one of the friends of the sitting member, and one of the judges there, says that there was a majority of 8 for Pile, the clerk of the election swears that it was not counted at all, and the other judge of election swears it was not counted at all. And if it was counted at all, it was counted by Henry Gambs in his own private room at his home, after the election was over, after the judges had separated, and there was nobody there to see how he counted it, just as the thing was done at the thirtieth precinct, without the presence either of the register, the judges of election, the clerk, or anybody else known to the law.

Now, sir, I wish to say, in concluding this part of the argument—and I wish the members of the House would remember it when I say it—that of all the registering officers in the first congressional district of Missouri not one of them belonged to the party that I belong to. They were all, each and every one, in the interest of the sitting member; and of the judges of election there were but five or six places in which one of the judges of election was allowed in my interest. They were all in the interest of the sitting member. If, then, there were fraudulent votes polled on my side, he must be a smart man who got in these fraudulent votes against the registering officers, against the judges of election and the clerks who took in the votes, and everybody else.

But, sir, an allusion was made by the learned gentleman who opened the case to the fact that many men could not be found registered because their names were misspelt upon the register. Why, sir, they were left off wholly, bodily—left off of the certified list—and they were left off on one side only. Listen to what is said by one of these judges in the twenty-eighth precinct, Mr. John P. Cassily, and I merely quote it in order to justify myself in what I say:

"What struck me as rather peculiar was that the class of names that seemed to be dropped from the registry, in at least forty-eight cases out of fifty, were Irish, and appeared to be Hogan men. I have lived a long time, some twenty-five years, in that ward, and am acquainted with many of the voters in the tenth ward, and a portion of the ninth, and of course

knew the status of most or many of the men there known as Radicals and Conservatives, and, with two exceptions—with simply two exceptions—I do not know of a Radical being dropped off the book, and it came more severely on the Hogan portion of the community; that is all on that subject."

And yet in that precinct there were nearly 300 votes left off the list certified to the judges by the registrars, declaring and certifying that they furnished a "true copy" of the list. So it was in almost every precinct. Not only were names changed, but names were left off. And they were changed not for the reason assigned by the learned gentleman who opened the case, because they were German names, written in German text. No, sir; the names left off or changed were in the fewest possible instances German. They were Irish and English and American. Those were the names that were left off. Why were they left off? Because it was claimed that the Germans were chiefly the friends of the sitting member. It was supposed that the Germans would vote in his interest, whereas the Irishmen would vote in mine.

Four hundred Irish names are left off the certified list. I do not find that more than twenty German names were left off, and many of them were my friends, for I had about as many friends among the Germans as my competitor had. But those names were changed purposely; they were changed because their political status was known; because it was well known that if they voted I would be elected by a large majority. The object was to deprive the people of their right of suffrage, and to perpetrate upon them this terrible fraud. That is the reason of it; that is the idiom of the German language that caused them to be left off. There may be a man by the name of Johann Lynfriz, who may be called John Helfrich. There may be some three or four cases of that kind, but they are very few and far between. But why is Dennis Maloney spelled Nehoney, or James Hagan spelled Heigin, or John Tucker spelled Tugher, and many others whom I might refer to; were they also spelled in German text and difficulty found in their translation?

And in ninety-nine out of every hundred cases it was not the German whose name was misspelled, because the registrars were nearly all of them of German extraction. The very men who registered the voters in the fourth, seventh, eighth, ninth, and tenth wards were themselves of German extraction. And they could understand the idiom of the German just about as well as the learned gentleman who has preceded me, [Mr. Cook,] or than my competitor upon this floor. They were Germans themselves; they read the German language aright; they left off the American and Irish names, as Dr. Cassily says here, because they knew them, and knew for whom they were going to vote.

If on a fair contest before the people of the first congressional district of Missouri I was beaten by one single vote, I do not so esteem a place even in this honorable House; I do not so much desire political position and preferment as to make a contest here in order to trouble this House about such a matter. But when nearly four thousand of the people of that district are deprived of their rights; when hundreds of them are robbed of their right to vote after they had registered their names, and then when they are not allowed to vote because it is alleged that their names are not to be found upon the list there, although they are there, and when violations of law in Missouri are perpetrated with impunity, I come here, who have been against that law, who believe it to be wrong and iniquitous and designed to do wrong to the people of Missouri, yet as it is the law, and while it is the law, I demand not only of my own political friends, but of you, gentlemen from Missouri who have been elected under this law. I demand of you to vindicate your own law, and not allow such fraud and chicanery and wrong to be perpetrated not only upon me and my people, but upon the right of the elective franchise, that

palladium of American liberty. And I come to the House of Representatives to vindicate us in this matter.

I know that this House does not possess the power to arrange voting places. The Legislature of Missouri left that to the county courts. But has this House no right to investigate where there are palpable violations of right and justice? Must this House acquiesce in the illegal deprivation of the franchise of several thousand legal voters, to whom partisan judges will not furnish sufficient voting places? The gentleman who represents the majority of the committee has just said this House could say that because of this wrong there was no fair or legal election held in that district, and send it back again to the people. I say that if I am not elected a member from the first district of Missouri, then there was nobody elected as such member; and this House ought to declare the election void, not only because of this outrageous arrangement, but because nearly one entire half of the legal vote of this entire congressional district was required to vote at four precincts. Mark me, gentlemen, mark what I state, for I speak deliberately about it. Here is a congressional district which has but twenty-one voting places allowed to it; in the first place only twenty-one, an entire congressional district embracing twenty-one places at which the people are to vote, and yet one half of the whole number of voters, less six hundred, are crowded into four voting places. How would any gentleman here like to be fixed in that way? I ask members here how would you like any county court or variety of county courts so to arrange the voting places that you could not get half your vote in? Sir, "it is a long lane that has no turning." You may be in high power to-day, you may establish precedents which others may follow, you may declare that you will not allow anything to be done in reference to such a case as this; but the adage is, "It is a long lane which has no turning;" and these very things may be brought home upon you before you are aware.

My friend from Illinois, [Mr. Cook,] who represents the committee on this occasion, a gentleman whom I have known for many years, says that all that the House can do in such a case as this would be to declare that the election was void; that it cannot purge the election of its frauds. I know that you cannot change the voting places; but, sir, you can look at the facts in reference to these things and investigate them.

But, sir, I must hasten on. I do not want to occupy any longer time than may be necessary. I have made these statements to the House that members may understand the facts of this whole matter. I desire now to call attention to another statement made by the committee. The committee say that in the registry all these names were numbered. Sir, in all this book there is found but one case, and that the twenty-first precinct, where the original registration is numbered; no evidence of a single name being numbered except there in the original registration. The names are taken down promiscuously as they come; and there are but two even of the certified lists that are numbered. Why, then, do the committee assume that it was easy to ascertain the identity of the voters because the names were numbered? I have gone over this entire book of evidence; I have examined the whole case; I have labored honestly and faithfully to find every man who was fairly and legally registered. I do not want to count on my side any vote which was cast contrary to the law of Missouri. I desire that the law of Missouri, while it remains in force, shall be honestly and faithfully complied with. I shall do all I can to have that law repealed or changed; but I am not in favor of violating it and yet professing to be its friend.

But, sir, not only have the committee gone over the list that I gave them of those who in various precincts had not been registered, and substitute therefor other names, intended, as they assume, for the same persons; but, sir, I

find that in many of these cases, while they have professed to find names corresponding with those registered, have in many cases omitted names entirely, finding no substitutes, and in some cases have omitted entirely the names I cited. Now, I ask in all candor and fairness this question: when the committee could not find names to substitute for those that I gave them as the names of fraudulent voters, why did they not deduct that number from the sitting member's majority—one hundred and seventy, if they leave out the night vote, are all that he professes to have after all the frauds perpetrated in the registration, and by means of the certified list; yet the committee do not deduct even those. The minority of the committee, in making up their report in reference to this matter, have shown that this number, deducted from the vote claimed for the sitting member, would leave him with a minority. But the committee did not count for me the votes of those who I showed were registered, and who came up and swore they would vote for me, but who were not permitted to do so because their names were omitted from the list. Why was that omission made? I gave the committee a list of every man's name, with the page of the book on which will be found his affidavit that he went up to the judges, offered to vote, waiting in line in many cases six or eight hours to get the opportunity to vote; and yet when they reached the polls these men were coolly told by the judges of the election, "You cannot vote; we do not find your name here." The man having been a duly registered legal voter, but a fraudulent judge may have refused to take his vote, or the fraud of a registrar, in changing his name or entirely omitting it from the list, precluded its being received. And this is called honesty in election. This is done, too, by the party who demand the ballot for the protection of the freeman. Here the registered voter is placed at the mercy of a registrar who will "certify as true" a list from which he omits the names of one hundred or more voters, because they do not belong to his party!

Yet the Committee of Elections do not give me any credit for these votes. Never in the history of this Government has it occurred that such an allowance has not been given. Why is it not done in this case? Why is it votes confessedly fraudulent are counted for the sitting member? Why is it votes honestly given and illegally rejected are not counted for me? Is it because he belongs to your party and I do not? Yet you claim to be the party of great moral ideas; yes, and seek to sustain this by such fraudulent appliances as I have been commenting upon; but assuredly, Mr. Speaker, these fraudulent triumphs will be but short-lived; the people will not be always cheated.

But, sir, the committee allude to another thing. In closing the argument in my case before the committee I presented the affidavits of seventy-two men from one of the precincts in that district that they had voted for me. Every one of them was a legal voter, and yet every one of them was counted for the sitting member. What does the committee say in relation to that? I will read:

"During his concluding argument before the committee the contestant presented the affidavits of forty-two persons showing that they voted for him, and it is insisted that the poll-books show that each of these persons were counted for the sitting member."

"The committee cannot consider these affidavits as evidence, because it was admitted by contestant that the affidavits were wholly *ex parte* and taken without any notice whatever having been given to the sitting member, and because the same were taken without any order having been made for that purpose after the time allowed by law for the taking of the proof had expired."

"If, however, the testimony was admissible it would be very far from conclusive, because the poll-books as printed show that a large number of persons, and among them a number of these affidavits, voted for both the contestant and the sitting member."

It ought to be seventy-two instead of forty-two. I suppose it is a typographical mistake.

Sir, I do not like flatly to contradict the Committee of Elections, but I say that it is

not so. There is not one of those 72 names, honorable, high-minded, intelligent gentlemen, in the twenty-third precinct, who does not swear they voted for me at that election, and yet there is not one of their votes counted for me in this record. I have since had 10 more names, making 82. I saw some seventy others when I was at home, who told me they would swear they did not vote for William A. Pile. They said, "What is the use of making an affidavit of that? the House of Representatives does not care." Such is the character you have got. "The House of Representatives does not care whether you are elected by 500 majority or not; they intend to perpetrate this fraud." I told them no; that I did not believe the House of Representatives intended to carry out any such fraudulent purpose; but they were not disposed to send their names here appended to an affidavit. But I got 82; and here they are. Here are the affidavits of 82 men, equal to any in St. Louis, lawyers, doctors, merchants, mechanics, bankers, and business men, all swearing that they gave their votes for me. Still, by chicanery and fraud, these votes are every one counted for the sitting member, and assist in making his assumed 170 majority. If taken from him it leaves him but 88, and added to my vote about of itself elects me.

The SPEAKER. The gentleman's time has expired.

Mr. COOK. I move that the gentleman's time be extended.

The SPEAKER. For how long?

Mr. HOGAN. Ten minutes.

There was no objection, and it was ordered accordingly.

Mr. HOGAN. Now, sir, those 82 names, not one of whom voted for him, not one of whom are counted for me, are every one counted for him. Take 82 from him and add them to me, and it will overbalance his 170 majority as made out by the committee. There are 100 more votes that were fraudulently transferred to him in this same precinct. I ask the House to contemplate this condition of things. You are here to judge of the right. You are here to act on honor and principle. You are here honorable men representing an honest constituency. Are you, then, going to sustain frauds like this? Are you going to retain among you a man who comes here on votes given for another but transferred to him? This done, too, in one of the most intelligent precincts in the district, and of the best known men, men whose political status is as well known as any in the city. I assume that if done there, if such well known votes are transferred from me to him, doubtless the same thing has been done in hundreds of other cases in other parts of the city, of men whose political opinions are not so thoroughly known. Here is "ballot stuffing" with a vengeance by the advocates of moral ideas. Is this the way you expect in the future to succeed? We shall endeavor to watch your manipulations.

I leave that point. I have a little calculation here. I presented 129 names of men who voted for me, but were illegally refused their votes. The gentleman from Illinois [Mr. Cook] says that some of them did not say they voted for me. Well, that is so; some of them did not say they voted for me. They were not asked. But, sir, they were my friends, they were all brought up by me; their testimony is presented on my side of the evidence, and the fair presumption is that they did vote for me. It was but an omission of the lawyers who attended to my case who did not ask them whether they did or not vote for me.

But there are more; there are, perhaps, 8 or 10 of that class out of 129, and there are 25 more who were deprived of their right to vote because the registration officer was himself a candidate for office, and he knew they would not vote for him, hence rejected them. But I will put here on paper this simple statement, and gentlemen, if they please, can recur to it and see how the matter is. The gentleman from Illinois [Mr. Cook] admitted that the night vote was counted. Now, I take off that

vote. In precinct No. 25 the gentleman does furnish the names of substitutes for those that I furnished. He furnishes all, he says, except 4; at precinct No. 26, all except 8; at precinct No. 27, all except 20; at precinct No. 28, all except 6. Now, the gentleman admits that there were many of the names given that were claimed by the sitting member and by the gentleman to be substituted for names improperly voted, who had voted in their own names. I gave that list, amounting to some 25. I take this as not being the men that it is alleged they should be substituted for, who voted in their own names, and these, with the night vote, and the vote admitted not to be found at the thirtieth precinct, makes 137. That leaves the majority of the sitting member 81.

Now, sir, take the vote refused for me at the different precincts which I give here, amounting to 129, and then take the 25 who were improperly rejected by the registration officers, who were honestly and fairly entitled to registration, and who did vote for me, and it leaves me a majority in the district on this view alone of over 70, independent of all other matters. I am elected by this showing independently of the 82 men who swear they voted for me and yet are counted for the sitting member. And this is by what is admitted in the report of the majority of the committee, and what they omitted to allow, yet in the verbal statement just made by the member it is clear was an accidental omission. That has been admitted to be proper testimony in the case of Vallandigham vs. Campbell, and in the case of the broad seal of New Jersey, where the right of the voter to designate for whom he voted is held by this House and by the Committee of Elections. Those votes ought in all fairness to be counted for me. This is independent of all these other precincts. I could show you where 25 votes, which by this testimony were cast for me were laid aside and not counted at all by the judges of one of the precincts. I could show you by the testimony of other witnesses here that 153 votes were laid aside and not counted by the judges, mostly given for me. I could show you various fraudulent appliances in this transaction, but my time is nearly out.

I do not want to obtrude upon the House, who have shown me so much favor; but I will just say in conclusion that I have served with many, if not most of the members on this floor, and I know they are high-minded, intelligent men. I believe I have so demeaned myself as to have the respect and confidence of most of those with whom I served in the Thirty-Ninth Congress. I assure you upon my honor as a man that if I did not believe I was honestly elected to this House I would never have attempted to make a contest here. You cannot pay me for the value of my labor. You cannot pay me for the time that I have spent. You cannot pay me any pecuniary consideration that would remunerate me for my efforts in this case to attain the honorable position to which I know I was honorably elected, but by fraud deprived of. Now, I say to you, you have got to pass upon this question; you have got to decide it finally; you have got to say whether you will rise above party considerations and decide it according to right and justice. A pure ballot-box is the safeguard of our institutions. What matters though your majority of three fourths or more in this House be reduced by one. Must party drag you down so low as to vote to retain one among you whom you all must recognize is here by fraud? By so doing you all become parties to the fraud. He occupies one of your seats here as an equal. You were, I assume, honestly elected; he was not. You represent the will of your constituents when you vote and speak; he does not. If I was not elected, surely he was not; yet will you still, because he is of your party, permit him to occupy this seat obtained by these fraudulent means, and thus give it your sanction? I appeal to your honor, your love of country, of right, of fairness, of a pure and honest ballot, one time during this Congress to rise above party and to the dignity of states-

men and do justice to a defrauded constituency, and to one who, differing with you honestly, has still endeavored to demean himself honorably among you. Sincerely thanking you for the courtesy you have shown me, I leave this case with you.

[Here the hammer fell.]

BUSINESS ON THE SPEAKER'S TABLE.

Mr. BANKS. I rise to a privileged motion. One hour having been devoted to the consideration of reports of committees, I move that the House now proceed to the consideration of business on the Speaker's table.

The question was put; and there were—ayes 72, noes 38.

Mr. CULLOM. As a great many members are absent, supposing the election case would be continued, I demand the yeas and nays, and call for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The motion was agreed to; and the House proceeded to the consideration of business on the Speaker's table.

NAVY AND MARINE CORPS.

The first business upon the Speaker's table was the amendments of the Senate to the bill (H. R. No. 941) to amend certain acts in relation to the Navy and Marine corps.

Mr. LAWRENCE, of Ohio. I move that the amendments be referred to the Committee on Naval Affairs.

The motion was agreed to.

PENSION LAWS.

The next business upon the Speaker's table was the amendments of the Senate to the bill (H. R. No. 1010) relating to pensions.

Mr. PERHAM. I move that the amendments of the Senate be non-concurred in, and that a conference be asked on the disagreeing votes of the two Houses.

The motion was agreed to; and the Speaker appointed Mr. PERHAM, Mr. POLSLEY, and Mr. TRIMBLE of Kentucky, managers of the conference on the part of the House.

POSTAL LAWS.

The next business upon the Speaker's table was the amendments of the Senate to the bill (H. R. No. 1205) to further amend the postal laws.

Mr. FARNSWORTH. I move that the amendments of the Senate be non-concurred in, and that a committee of conference be asked on the disagreeing votes of the two Houses.

The motion was agreed to; and the Speaker appointed Mr. FARNSWORTH, Mr. FERRY, and Mr. JOHNSON managers of the conference on the part of the House.

PURCHASE OF ALASKA.

The next business upon the Speaker's table was the amendments of the Senate to the bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867.

Mr. BANKS. I move that the amendments of the Senate be non-concurred in, and that a committee of conference be asked on the disagreeing votes of the two Houses, and on that motion I demand the previous question.

The amendments of the Senate were read, as follows:

Strike out the first section after the enacting clause, as follows: "That the assent of Congress is hereby given to the stipulations of said treaty."

Strike out the enacting clause of the second section.

Strike out the preamble of the bill in the following words: "Whereas the President of the United States, on the 30th of March, 1867, entered into a treaty with the emperor of Russia, by the terms of which it was stipulated that in consideration of the cession by the emperor of Russia to the United States of certain territory therein described, the United States should pay to the emperor of Russia the sum of \$7,200,000 in coin; and whereas it was further stipulated in said treaty that the United States shall accept of such cession, and that certain inhabitants of said territory shall be admitted to the enjoyment of all the rights and immunities of citizens of the United States; and whereas the subjects thus embraced in the stipulations of said treaty are among the subjects which by the Constitution of the United States are submitted to the power of Congress and over which Con-

gress has jurisdiction, and it being for such reason necessary that the consent of Congress should be given to the said stipulations before the same can have full force and effect, having taken into consideration the said treaty, and approving of the stipulations therein, to the end that the same may be carried into effect: Therefore."

The previous question was seconded and the main question ordered, being upon Mr. BANK'S motion, to non-concur in the amendments of the Senate and ask a committee of conference.

Mr. CULLOM demanded the yeas and nays, and called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The motion was agreed to.

Mr. BANKS moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER appointed Mr. BANKS, Mr. LOUGHRIDGE, and Mr. RANDALL, managers of the conference on the part of the House.

ARSENALS AT ST. LOUIS, ETC., MISSOURI.

The next business on the Speaker's table was the amendments of the Senate to the bill (H. R. No. 451) providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes.

The amendments of the Senate were read as follows:

In line eight of section one, strike out "first," after "Missouri," in line nine, insert "except the westernmost six acres thereof," and strike out all after line fourteen, as follows: "Second. That portion of the military reservation known as Fort Leavenworth, which lies on the east side of the Missouri river, together with that portion of said reservation situated on the west side of the Missouri river, which lies between the city limits of Leavenworth City and a line commencing on the Missouri river at the mouth of Corral ravine, and running parallel with the south line of said reservation to its western boundary;" so as to make the section read:

That the Secretary of War be, and is hereby, authorized to sell, at such time and in such manner as he may deem most advantageous to the interests of the Government, subject to the provisions herein-after contained, the following military reservations and public property, namely: the ground now occupied by the St. Louis arsenal, in the city of St. Louis, Missouri, except the westernmost six acres thereof, and that occupied by the United States arsenal situated at Liberty, Missouri, together with such buildings, machinery, and other property appertaining thereto as cannot be advantageously employed in the construction or improvement of other arsenals or military posts.

In section two after the word "arsenal," in line two, insert "except the westernmost six acres thereof," so as to make the section read:

SEC. 2. *And be it further enacted*, That the ground occupied by the St. Louis arsenal, except the westernmost six acres thereof, shall be divided into blocks and lots of convenient size for building purposes, with public streets, conforming, as near as may be without detriment to the interest of the Government in the sale, to the public streets of the city of St. Louis adjoining said grounds; a plat of this division, made in accordance with the laws of the State of Missouri, shall be filed with the proper officer in the city of St. Louis; and the said lots shall be sold separately, at public auction, to the highest bidder, after thirty days' notice by advertisement in at least three daily papers in the city of St. Louis; payment to be made one third in cash, the remainder in one and two years, with six per cent. interest per annum, secured by deed of trust on the lots sold. The stone wall surrounding said arsenal shall be sold in sections not exceeding one hundred feet in length.

Insert as a new section, the following:

And be it further enacted, That the westernmost six acres of the tract of ground occupied by the said St. Louis arsenal, is hereby granted to the city of St. Louis, to be by it held as a public ground forever, open to the use of the public as a place of public resort, and for no other use whatever, and without any power in said city to make any disposition of the same, or any part thereof, for any private use whatever: *Provided, however*, That this grant is upon the express condition that the said city or the association formed and now existing in the State of Missouri for the purpose of erecting a monument to the memory of the late Brigadier General Nathaniel Lyon, shall, within three years after the passage of this act, complete the erection upon the said six acres of such a monument, upon a plan and of a character to be approved by the President of the United States; in default whereof this grant shall be null and void.

In lines two and three of section three, strike out the words "and that part of the Fort Leavenworth reservation specified in section first;" and in lines nine, ten, eleven, and twelve, strike out the following proviso: "*Provided*, That no part of Fort Leavenworth reservation west of the Missouri river shall be sold in lots exceeding ten acres each, but shall be sold in lots of half an acre, separately if desired by purchasers;" so as to make it read:

And be it further enacted, That the grounds occupied by the Liberty arsenal shall be sold at public auction, after due notice by public advertisement of the time and place of said sale, in such parcels, blocks, and lots as may be deemed most advantageous to the interest of the Government, by the Secretary of War, upon the terms and conditions as to payment specified in the previous section.

Mr. PILE. I move that the amendments of the Senate be concurred in; and on that motion I demand the previous question.

Mr. COBB. I would like to have the original bill read.

The SPEAKER. That can be done by unanimous consent; but only the amendments of the Senate are now before the House.

Mr. CLARKE, of Kansas. I would inquire of the gentleman from Missouri [Mr. PILE] if that portion of the bill relating to the sale of the Fort Leavenworth reservation has been stricken out?

Mr. PILE. It has been, for the reason that a bill subsequently passed the House and the Senate, and became a law, providing for the sale of that portion of the Fort Leavenworth reservation upon which the coal lands are situated. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments of the Senate were concurred in.

Mr. PILE moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LOYAL CHOCTAWS AND CHICKASAWS.

The next business upon the Speaker's table was the amendment of the Senate to House bill No. 1876, for the relief of the loyal Choctaw and Chickasaw Indians.

The amendment of the Senate was to add to the bill the following:

And provided also, That the bonds of the State of Indiana held by the United States shall not be sold under the provisions of this act.

Mr. WINDOM. I move that the amendment of the Senate be concurred in.

The question was taken upon concurring in the amendment of the Senate; and it was concurred in.

Mr. WINDOM moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COLUMBIA DEAF AND DUMB INSTITUTION.

The next business upon the Speaker's table was the consideration of the amendments of the Senate to House bill No. 541, making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution.

The first amendment of the Senate was to add to the bill the following:

SEC. 6. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, for the purpose hereinafter expressed, for the fiscal year ending June 30, 1869:

Government Hospital for the Insane in the District of Columbia:

For the support, clothing, medical and moral treatment of the insane of the Army and Navy and revenue-cutter service, and of the indigent insane of the District of Columbia in the Government hospital for the insane, including \$500 for books, stationery, and incidental expenses, \$30,500.

For finishing, furnishing, lighting, and heating the unfinished part of the east wing of the main hospital edifice, \$7,000.

Columbia Institution for the Deaf and Dumb: For the support of the institution, including \$1,000 for books and illustrative apparatus, \$25,000.

For the proper inclosure, improvement, and enlargement of the grounds of the institution, in accordance with plans heretofore submitted to Congress, \$5,600.

Columbia Hospital for Women and Lying-in Asylum:

For the support of the asylum, over and above the probable amount which will be received from independent or pay patients, \$15,000.

For the completion of the Providence Hospital in Washington city, District of Columbia, \$30,000.

For the National Soldiers' and Sailors' Orphans' Home, in the city of Washington, District of Columbia, \$10,000.

For care, support, and medical treatment of sixty

transient paupers, medical and surgical patients, in some proper medical institution in the city of Washington, under a contract to be formed with such institution, \$12,000, or so much thereof as may be necessary.

The second amendment of the Senate was to add to the title of the bill the words "and for other purposes;" so that it would read:

An act making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, and for other purposes.

Mr. WASHBURN, of Illinois. The first amendment makes an appropriation, which, under the rule, must receive its first consideration in Committee of the Whole. I therefore move that the amendments of the Senate to this bill be referred to the Committee of the Whole.

Mr. SPALDING. I move that the amendments be referred to the Committee on Appropriations.

The SPEAKER. The motion to refer to the Committee of the Whole has priority of a motion to refer to a standing committee of the House.

Mr. SPALDING. I hope the motion to refer to the Committee of the Whole will not be agreed to. We have had this same subject substantially under consideration in Committee of the Whole once already.

Mr. SCOFIELD. I desire to make an inquiry of the Chair. Should these amendments of the Senate to this bill be referred to the Committee on Appropriations, when they shall have been reported back to the House, must they not then receive their first consideration in the Committee of the Whole?

The SPEAKER. They must if the point be then made; but at that time a motion to suspend the rules so as to discharge the Committee of the Whole from their consideration may be in order.

Mr. WASHBURN, of Illinois. All I desire is to have an opportunity to discuss and have a separate vote on some of the amendments.

Mr. SPALDING. If the gentleman will withdraw his motion to refer to the Committee of the Whole, we can arrange it in the committee-room so as to give him the opportunity he desires.

Mr. WASHBURN, of Illinois. If the gentleman from Ohio [Mr. SPALDING] will agree to give me time to state some objections I will withdraw the motion. I expect the bill will pass.

Mr. SPALDING. I will agree to that.

Mr. WASHBURN, of Illinois. Then I withdraw my motion.

The SPEAKER. The question then recurs upon the motion to refer to the Committee on Appropriations.

The motion was agreed to.

POST ROUTES.

The next business on the Speaker's table was Senate amendments to the bill (H. R. No. 1427) to establish certain post routes.

Mr. FARNSWORTH. It is not necessary, I presume, to read those amendments; they simply fix certain post routes. I move that the House concur.

The amendments were concurred in.

Mr. FARNSWORTH moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRESENTATION OF BILLS TO PRESIDENT, ETC.

The next business on the Speaker's table was the bill (S. No. 366) regulating the presentation of bills to the President of the United States and the return of the same; which was read a first and second time.

The bill provides in the first section that the ten days mentioned in section seven of article one of the Constitution, within which the President of the United States is required to return to the House in which it originated any bill not approved by him shall be held and con-

strued to be ten calendar days (Sundays excepted) next after the day of the presentation of any such bill to him; and the adjournment of Congress which shall prevent the return of any such bill by the President to that House in which it originated, shall be held and construed to be the final adjournment of a session, and not an adjournment of either or both Houses of Congress, acting by themselves or with the consent of each other, as provided for in the Constitution, to a particular day.

It further provides that if at any time within the aforesaid ten days the President shall desire to return a bill to the House in which it originated or to send a message to such House that he has signed the same, when such House is not sitting, it shall be lawful for him to return such bill or send such message to the office of the Secretary of the Senate, or Clerk of the House of Representatives, as the case may be, and the Secretary or Clerk is to indorse thereon the day on which such return shall be made or such message received, and make entry of the fact of such return, or the receipt of such message, in his Journal of the proceedings; and such return or sending of such message is to be deemed and taken to be a return of such bill to the House in which it originated, or a sending of such message to such House, to all intents and purposes.

The second section provides that every bill which having passed both Houses of Congress and having been presented to the President as provided in the Constitution, shall not have been returned by the President with his objections thereto to that House in which it originated within the time herein defined and declared, shall be a law; and it is declared to be the duty of the President in such case immediately to deliver such bill, so having become a law, to the Secretary of State, who is to receive and proceed with the same in the same manner as may be provided by law for bills signed by the President, and to certify thereon, and in the promulgation thereof, that such bill has become a law for the cause aforesaid.

It is provided in the third section that the time mentioned in this act shall be computed by excluding the day on which a bill may be presented to the President, and including the tenth day (Sundays excepted) thereafter.

Mr. BOUTWELL. I demand the previous question.

Mr. SCOTFIELD. I desire to submit an inquiry to the gentleman from Massachusetts, [Mr. BOUTWELL.] This bill provides that bills disapproved by the President are to be returned when the two Houses are not in session to the Clerk of the House or the Secretary of the Senate. In the case of a vetoed bill returned in that way how would we act upon the bill in pursuance of the constitutional provision?

Mr. BOUTWELL. The bill when returned to the Clerk of the House or the Secretary of the Senate would be considered as returned to the House or the Senate.

Mr. KERR. I desire to inquire whether this bill originates here or in the Senate?

The SPEAKER. It is a Senate bill.

Mr. KERR. Then I move that it be referred to the Committee on the Judiciary.

The SPEAKER. Does the gentleman from Massachusetts [Mr. BOUTWELL] yield to allow that motion to be made?

Mr. BOUTWELL. I cannot yield for that purpose. Of course the reference of the bill to the Committee on the Judiciary would defeat it for this session.

Mr. SCOTFIELD. I would like to inquire of the gentleman whether there is any necessity for passing the bill at this session. I do not see any reason why it may not wait until next session. It contains provisions which ought to be considered.

Mr. BOUTWELL. It depends of course upon our action at the present session whether the session shall be closed by an adjournment till the commencement of the session in December, or whether we are to take a recess as we did last year. If we take a recess the same

difficulty which has arisen heretofore may arise again. I do not see how this bill can work any injury to anybody.

Mr. MILLER. What is to be gained by its passage?

Mr. BOUTWELL. According to the construction put upon his constitutional authority if this Congress took a recess for three days and the ten days expired in those three days, he would hold the bill and it would become inoperative.

Mr. SCOTFIELD. I hope this will be referred to the Committee on the Judiciary.

Mr. MARSHALL. This involves perhaps a change of the Constitution. It is at least a most important measure, and ought to be considered by a committee of the House. The reading of the bill has not been heard by one third of the members. It is therefore utterly impossible they can understand it. It should be printed and referred to the Committee on the Judiciary.

Mr. BOUTWELL. I move that it be referred to the Committee on the Judiciary and ordered to be printed, believing there is time enough in which to act on it.

The motion was agreed to.

NATIONAL LIFE INSURANCE COMPANY.

The next business upon the Speaker's table was Senate bill No. 286 to incorporate the National Life Insurance Company of the United States of America.

Mr. WELKER. This bill has been considered and favorably acted on by the Committee for the District of Columbia. I demand the previous question.

Mr. WOOD. There is a misunderstanding or misrepresentation in this case. It has never been reported from the Committee for the District of Columbia. It is a Senate bill.

Mr. WELKER. This identical bill was introduced and referred to the Committee for the District of Columbia. It was referred to a sub-committee. That committee examined it thoroughly, and the gentleman from Maryland [Mr. McCULLOUGH] was directed to report it. The gentleman from New York was, perhaps, absent. The gentleman from Maryland never had the opportunity, and it was introduced into the Senate, and passed unanimously.

Mr. WOOD. I submit the gentleman is in error in stating that the principles now contained in this bill ever were decided upon by the Committee for the District of Columbia. I was present when this whole subject was discussed, and the committee failed to agree on these very principles.

Mr. WELKER. One of the objections raised in the committee is obviated by the amendment of the Senate, which requires these branch offices to exercise their duties under the laws of the States.

Mr. McCULLOUGH. I think the bill was introduced at the same time one was pending in the Senate. There were objections to the bill at the time in reference to these branch offices. My recollection is that I was directed to report it with a provision that the branch offices should be under the laws of the States.

Mr. WELKER. That is the Senate amendment. I demand the previous question.

Mr. WOOD. I move that the bill be laid upon the table.

The House divided; and there were—ayes 31, noes 91.

So the bill was not laid upon the table.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading, and it was accordingly read the third time.

Mr. BOUTWELL. I hope the bill will be referred.

Mr. WELKER. I would if it were not so near the close of the session.

Mr. KERR. I demand the yeas and nays. The yeas and nays were ordered.

Mr. WOOD. I will give \$5,000,000 for the grant this bill makes.

The question was taken; and it was decided

in the affirmative—yeas 92, nays 50, not voting 74; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Axtell, Baldwin, Banks, Bentley, Bingham, Blair, Boies, Boyden, Buckland, Buckley, Benjamin F. Butler, Roderick B. Butler, Churchill, Reeder, W. Clarke, Coburn, Cook, Coville, Cullom, Dockery, Donnelly, Driggs, Eckley, Eggleston, Eia, Ferriss, Ferry, Fields, French, Garfield, Goss, Grady, Griswold, Halsey, Hamilton, Langley, Heaton, Lieby, Hill, Hinds, Hulburd, Hunter, Jones, Jones, Alexander H. Jones, Kelley, Kellogg, Kelley, Ketchum, Keuntz, Ladin, Lash, Mallory, Maynard, McCarthy, McClurg, McCullough, McKee, Mercer, Miller, Moore, Moore, head, Mullins, Myers, O'Neill, Orth, Peters, Pierce, Pike, Plants, Poland, Polsey, Raum, Scherck, Scofield, Shanks, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Trowbridge, Van Aernam, Burt Van Horn, Vidal, Henry D. Washburn, Welker, Whittemore, William Williams, and Woodbridge—92.

NAYS—Messrs. Adams, Archer, Baker, Barnes, Beck, Boutwell, Brooks, Cary, Sidney Clarke, Cobb, Dawes, Eliot, Farnsworth, Getz, Glossbrenner, Goldaday, Haight, Hopkins, Hotchkiss, Chester D. Hubbard, Johnson, Thomas L. Jones, Judd, Kerr, Knott, William Lawrence, Loan, Marshall, Niblack, Nicholson, Faine, Perham, Pike, Pomeroy, Ross, Sawyer, Sitgreaves, Stewart, Taber, Taylor, Thomas, Lawrence S. Trimble, Upson, Van Aiken, Elihu B. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, and Wood—50.

NOT VOTING—Messrs. Anderson, James M. Ashley, Bailey, Barnum, Beaman, Benjamin, Benton, Blackburn, Blaine, Bowen, Boyer, Bromwell, Broomall, Burr, Cake, Callis, Chandler, Cornell, Delano, Dowers, Dixon, Dodge, Eldridge, Finney, Fox, Grover, Harding, Hawkins, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Ingersoll, Julian, Kitchen, George V. Lawrence, Lincoln, Logan, Loughridge, Lynch, Mann, Marvin, McCormick, Morrell, Morrissey, Mungen, Newcomb, Newsham, Norris, Nunn, Phelps, Price, Pruyn, Randall, Robertson, Robinson, Roots, Selye, Shellabarger, Smith, Stone, Sypher, Taffe, John Trimble, Trigholl, Robert T. Van Horn, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, Thomas Williams, John T. Wilson, and Woodward—74.

So the bill was passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NORTHERN PACIFIC RAILROAD.

The SPEAKER. The next business upon the Speaker's table is Senate joint resolution No. 137, to extend the time for the Northern Pacific railroad, a duplicate of which has already become a law.

Mr. KELSEY. I move to lay the joint resolution on the table.

The motion was agreed to.

LAND TITLES IN NEBRASKA.

The next business upon the Speaker's table was Senate bill No. 481, to confirm the titles to certain lands in the State of Nebraska; which was read a first and second time.

The bill provides that in all cases in which the Commissioner of the General Land Office or the Secretary of the Interior has finally decided in favor of preemption settlers or locators of Indian or half-breed scrip, and issued patents to them for lands within the corporate limits of the city of Omaha, in the State of Nebraska, the right and title of the patentee or patentees shall not be defeated or impaired because such land was within the said corporate limits, but if good in every other respect the title shall be good and valid, notwithstanding such lands may have been within the said corporate limits, and notwithstanding the entry thereof by any preëmptor or locator of Indian or half-breed scrip was forbidden by the tenth section of the act of September 4, 1841, because so within said limit.

Mr. TAFKE. I move to amend the bill by adding the following proviso:

Provided, That the following tracts of land to wit: the north half of the northeast quarter of section fifteen, the west half of the southeast quarter of section ten, the east half of the southeast quarter and the northwest quarter of the southeast quarter of section nine, township fifteen, north of range thirteen of the sixtieth principal meridian, are hereby excepted from the operation of this act.

This bill is entirely local in its application. The object of it is to quiet titles. Some question seems to have arisen as to whether the lands outside of the three hundred and twenty acres permitted to be preempted by the city

authorities under the act of 1841, and within the corporate limits, are preëemptible. The people of that city have held this land some twelve years under the accepted construction of the law, but for fear there might be a question this bill is proposed, and my amendment excepts certain lands where there is any controversy from the operation of the law.

Mr. WASHBURNE, of Illinois. I would like to know whether there is any litigation or any adverse claimant against any of this land.

Mr. TAFFE. There are none so far as I know. But I have excepted from the operation of this bill the tracts named in the amendment, so that if there should be any controversy my amendment will cover them.

Mr. WASHBURNE, of Illinois. It seems to me, from the gentleman's statement, that the bill is right.

Mr. LAWRENCE, of Ohio. How much land is affected by this bill? We ought to know how much in order to vote intelligently.

Mr. TAFFE. I cannot tell precisely how much.

Mr. LAWRENCE, of Ohio. About how much?

Mr. TAFFE. I really cannot tell with any degree of accuracy.

Mr. WASHBURNE, of Illinois. I suppose the lands have been paid for?

Mr. TAFFE. They were bought and paid for according to the usual course under the preëemption law. Some question has arisen as to whether the land was preëemptible or not. I demand the previous question.

Mr. STEVENS, of Pennsylvania. I hope the gentleman will let it go to the Committee on the Public Lands. It is a most strange and dangerous thing.

The previous question was seconded—ayes 68, noes 41.

Mr. BROOKS. I would like to inquire whether these lots thus distributed in Omaha are not worth as much as they are in Pittsburg or Cincinnati?

The main question was ordered.

The question being taken on the amendment of Mr. TAFFE, it was agreed to.

The bill was ordered to be read a third time—ayes 72, noes 38; and it was accordingly read the third time.

Mr. BROOKS. As this is an important measure, changing the land titles in a large and rising city, I feel it my duty to call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 118, nays 23, not voting 80; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, Axtell, Baldwin, Banks, Beatty, Bingham, Blair, Boies, Boutwell, Boyden, Broomall, Buokland, Benjamin F. Butler, Roderick B. Butler, Callis, Churchill, Reader W. Clarke, Sney Clarke, Cobb, Coburn, Cook, Covode, Cullum, Dawes, Delano, Dewesse, Dockery, Donnelly, Briggs, Beckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Goss, Halsey, Hamilton, Langhoy, Heaton, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Judd, Kelley, Kellogg, Kelsey, Ketcham, Koontz, Lufkin, Lash, William Lawrence, Loan, Loughridge, Mallory, Maynard, McCarthy, McClurg, McKee, Mercer, Miller, Moore, Moorhead, Mullins, Myers, Nunn, O'Neill, Orth, Paine, Pierce, Pike, Pie, Plants, Poland, Polesie, Pomeroy, Randall, Raun, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, Trowbridge, Upson, Van Aernam, Burt Van Horn, Van Wyck, Eliza B. Washburne, Henry B. Washburn, William B. Washburn, Walker, Wiltmore, William Williams, James P. Wilson, and Windom—113.

NAYS—Messrs. Archer, Beck, Brooks, Cary, Eldridge, Getz, Glessner, Goldsby, Grover, Haight, Hotchkiss, Thomas L. Jones, Kerr, Knott, Marshall, McCullough, Nicholson, Ross, Sitgreaves, Stone, Thomas, Lawrence S. Trimble, and Wood—23.

NOT VOTING—Messrs. Adams, James M. Ashley, Bailey, Baker, Barnes, Barnum, Beaman, Benjamin, Benton, Blackburn, Blaine, Bowen, Boyer, Brownwell, Buckley, Burr, Cake, Chanler, Cornell, Dixon, Dodge, Eia, Finney, Fox, French, Gravely, Griswold, Harding, Hawkins, Hinds, Holman, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Jenckes, Johnson, Alexander H. Jones, Julian, Kitchen, George V. Lawrence, Lincoln, Logan, Lynch, Mann, Marvin, McCormick, Morrell, Morrissey, Mungen, Newcomb, Newsam, Niblack, Norris, Perham, Peters, Phelps, Price, Pruyn, Robinson, Roots, Selye, Shellabarger, Spalding, Thaddeus Stevens, Stewart, Sypher, Taber, John Trimble, Twichell, Van Au-

ken, Robert T. Van Horn, Van Trump, Vidal, Ward, Cadwalader C. Washburn, Thomas Williams, John T. Wilson, Stephen F. Wilson, Woodbridge, and Woodward—80.

So the bill was passed.

Mr. TAFFE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADDITIONAL LAND DISTRICT—MINNESOTA.

The next business on the Speaker's table was the bill (S. No. 252) to create an additional land district in the State of Minnesota; which was read a first and second time.

Mr. DONNELLY. I would ask that this bill be put upon its passage, and I will state to the House that it creates a new land district in a portion of my congressional district that is increasing with very great rapidity in population. The settlers are mainly settlers under the homestead law, and are generally poor men. As it is now they have to travel from fifty to one hundred miles to the nearest land office at St. Cloud, and the expense of that travel and taking their witnesses with them is a very heavy tax upon that population. This bill will remedy that state of things. It will cost the Government nothing, because the salaries of the land officers will be paid by the fees received from settlers. I hope there will be no objection to the passage of the bill.

The bill was then read. The first section authorizes the President of the United States to establish an additional land district in the State of Minnesota embracing all that part of the present northwestern land district which lies north of township No. 124, northwest of range No. 35, west of the fifth principal meridian, and to fix from time to time the boundaries thereof, which district shall be named after the place at which the office shall first be established. The President is to have power to fix from time to time the location of the office for such district. The second section authorizes the President to appoint, by and with the advice and consent of the Senate, a register and receiver for the said land district, who shall be required to reside at the site of the land office, and also shall be subject to the same laws and receive the same compensation as other land officers in the State of Minnesota.

Mr. MAYNARD. This bill creates a new office, and I think it should come from the Committee on the Public Lands of this House. I hope the gentleman will not insist on its being pressed at this time.

Mr. DONNELLY. I would say that the Committee on the Public Lands have adjourned *sine die* for this session. If, therefore, the bill is referred to that committee it will inevitably go over until next session. In the mean time the state of facts will continue to which I have referred. I have no interest in the matter. In fact if I have any interest it would be against the passage of the bill, for the patronage created would not be friendly to myself. I feel, however, that my interests should be subordinated to the interests of my constituents, and that it is far better I should suffer than that the poor men who live in that region should longer endure the heavy outlays to which they have been subjected.

Mr. MAYNARD. The gentleman from Minnesota [Mr. DONNELLY] has advocated the local interests of his constituents very handsomely, and has been very faithful to them. I trust now that for the considerations he has suggested this bill will go over to the next session. I move that it be referred to the Committee on the Public Lands.

Mr. DONNELLY. The policy of the homestead law is based upon the theory of giving the poor man a homestead for ten dollars. Yet as the law is now, in my State he has to pay forty or fifty or even seventy-five dollars for a homestead, in traveling expenses for himself and witnesses to and from the place where the land office is situated. I am only pleading for the interest of the poor man.

Mr. MULLINS. Will the gentleman allow me to ask him a question?

Mr. DONNELLY. Certainly.

Mr. MULLINS. Did not these poor people know they were going so far away from the land office when they went there?

Mr. DONNELLY. I now call the previous question on the passage of the bill.

The SPEAKER. The previous question, if sustained, will operate first upon the motion to refer, and will be exhausted upon the third reading of the bill.

The previous question was seconded and the main question ordered.

The question was then taken upon the motion to refer the bill to the Committee on the Public Lands; and upon a division there were—ayes 58, noes 50.

Before the result was announced,

Mr. DONNELLY called for tellers.

Tellers were ordered; and Mr. DONNELLY and Mr. MAYNARD were appointed.

The House again divided; and the tellers reported that there were—ayes 47, noes 62.

So the motion to refer was not agreed to.

The bill was then read the third time.

The question was upon the passage of the bill.

Mr. DONNELLY. I call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered, and under the operation thereof the bill was passed; there being upon a division—ayes seventy-eight, noes not counted.

Mr. DONNELLY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. WOODBRIDGE, on account of sickness in his family.

TEMPORARY LOAN CERTIFICATES.

Mr. HOOPER, of Massachusetts. I ask unanimous consent that Senate bill No. 543, to provide for the further issue of temporary loan certificates for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes, be taken from the Speaker's table, and referred to the Committee of Ways and Means.

No objection was made.

The bill was accordingly taken from the Speaker's table, read a first and second time, and referred to the Committee of Ways and Means.

COMMERCE ON THE LAKES.

Mr. WASHBURNE, of Illinois. A Senate bill, in relation to the commerce on the northern and northwestern lakes, has been referred to the Committee of Commerce. I ask unanimous consent that the Committee of Commerce be discharged from its further consideration, and that it take its place on the Speaker's table, where it may be reached this session.

Mr. SPALDING and Mr. ARNELL objected.

SOUTHERN PACIFIC RAILROAD.

The next business on the Speaker's table was Senate bill No. 492, to extend the time for the construction of the Southern Pacific railroad, in the State of California; which was taken up, and read a first and second time.

The question was upon the third reading of the bill.

The bill, which was read, provides that the Southern Pacific Railroad Company, of the State of California, shall, instead of the times now fixed by law for the construction of the first section of its road and telegraph line, have until the 1st day of July, 1870, for the construction of the first thirty miles, and they shall be required to construct at least twenty miles every year thereafter, and the whole line of their road within the time now provided by law.

Mr. SCOFIELD. When does their time for constructing the first thirty miles expire under the present law?

Mr. HIGBY. According to my construction of the law it expires in July, 1869.

Mr. SCOFIELD. Then there is plenty of time to consider this bill at the next session.

Mr. HIGBY. There is a difference in the construction of the law; I have only given what is my construction of it. This is to obviate any difficulty that may arise because of that difference of construction. We do not ask any extension of time for the completion of the road, or any increase of the grant; only an extension of the time for the completion of the first thirty miles. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time, and passed.

Mr. HIGBY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TERRITORY OF WYOMING.

The next business upon the Speaker's table was Senate bill No. 357, to provide a territorial government for the Territory of Wyoming; which was taken from the table, and read a first and second time.

The question was upon the third reading of the bill.

Mr. WASHBURN, of Illinois. I move that the bill be referred to the Committee on Territories; and upon that motion I call the previous question.

Mr. BINGHAM. I hope the bill will be put upon its passage now.

Mr. CULLOM. I desire to ask a parliamentary question. Should the previous question be seconded and the motion to refer be voted down, will not the question then be upon the passage of the bill?

The SPEAKER. The gentleman from Illinois [Mr. WASHBURN] has moved to refer the bill to the Committee on Territories, and demanded the previous question. If the previous question should be sustained, and the motion to refer voted down, the previous question will not exhaust itself till the third reading of the bill.

Mr. CULLOM. I hope the House will vote down the motion to refer, and pass the bill.

Mr. SPALDING. I hope the previous question will not be sustained.

Mr. WASHBURN, of Illinois. I withdraw the call for the previous question, and yield the floor to the gentleman from Ohio, [Mr. ASHLEY,] the chairman of the Committee on Territories.

Mr. ASHLEY, of Ohio. There are two or three amendments which I desire to offer to this bill.

The SPEAKER. A motion to amend cannot be made while a motion to refer is pending.

Mr. ASHLEY, of Ohio. I desire to say that the Committee on Territories have instructed me to move the reference of this bill to that committee for action next winter. With that statement I ask the previous question.

Mr. BURLEIGH. Will the gentleman yield to me for a moment?

Mr. ASHLEY, of Ohio. Yes, sir.

Mr. BURLEIGH. I desire to state that at the commencement of the present session, some eight months ago, this bill was referred to the Committee on Territories of this House. I, with other gentlemen, went before that committee; but we have never been able to get any action upon the bill. We were compelled to go to the Senate and get the bill introduced there. It was unanimously reported there by the Committee on Territories. It was discussed almost a whole day in the Senate, many of the Senators having recently visited that section of the country and seen this proposed Territory; and the bill was passed without a dissenting vote. It is now on the Speaker's table, and I hope it may be put on its passage.

Mr. DONNELLY. I ask the gentleman

from Ohio [Mr. ASHLEY] to yield to allow an amendment to be reported.

Mr. ASHLEY, of Ohio. I cannot yield now. If the bill should not be referred I have two or three amendments I desire to offer.

The SPEAKER. If the previous question should be sustained there will be no opportunity for amendments, though the motion to refer should be voted down.

Mr. WASHBURN, of Illinois. I withdrew the call for the previous question; but on the express condition that the gentleman from Ohio should renew it.

Mr. ASHLEY, of Ohio. Before calling the previous question I will answer any question which may be asked.

Mr. SCHENCK. I ask my colleague why, in the name of common sense, this Territory is to be called Wyoming. What is the association or connection of that name with this particular district of country?

Mr. WASHBURN, of Illinois. If there is to be any debate, I would like to ask why should this Territory be organized, imposing upon the Government a vast increase of expense?

Mr. ASHLEY, of Ohio. I will say to my colleague [Mr. SCHENCK] that I selected that name because it designated better than any other name which I could find the character of the Territory, Wyoming, meaning in the Indian language "large plains." I thought it better and more appropriate than Cheyenne, Shoshonee, or the name of any Indian tribe, mountain, or river within the limits of the Territory.

Mr. Speaker, when the Territory of Montana was organized, as chairman of the committee I blocked out the present Territory, gave it the name of Wyoming, and attached it to the Territory of Dakota. At that time I had never been through the Territory, and my judgment was that there was territorial area enough in that country to form another Territory sufficiently large to contain population enough for a State. In 1865 I traveled over the continent, and was in all the Territories except Arizona and New Mexico. From a personal examination I then came to the conclusion that we had more territorial organizations now than necessary, and that in this proposed Territory, which appears upon the map as large as all New England, there was not fertility enough in the soil to subsist a population sufficient for a single congressional district. Not one acre can be cultivated without irrigation, and not one acre in a thousand can be irrigated, because there is no water with which to irrigate even that proportion of its area.

Now, sir, we have too many territorial organizations to-day. These Territories are the nucleus of State organizations. After they are organized and have formed constitutions and been admitted as States they will remain as States for all time to come, even though their population decreased to a few thousand inhabitants. The State organization would be maintained for its political power and for the honors and emoluments of the position of Senators and members.

The State of Oregon was admitted to representation before I came into Congress, ten years ago. To-day it has not the population of my congressional district.

The State of Nevada has not half the population of my congressional district. If her mines should fail, which I hope may never be the case, the State would go into the sands as her rivers do. It will never have but one member. Its population will not increase fast enough to keep pace with the increased ratio which each apportionment of Representatives will require if the number of members should remain as now, at 2.33.

Mr. MAYNARD. I was a member of the Thirty-Fifth Congress, which admitted Oregon as a State. It was objected that she had not population equivalent to what was the ratio for a member at that time. The ratio of representation at that time was ninety thousand and odd. It was then stated by the then Delegate, who subsequently became Senator and a candidate

for the Vice Presidency, that he most solemnly believed the population of Oregon was quite equal to the ratio.

Mr. CAVANAUGH. I wish to correct the gentleman on that point. I also was a member when Oregon was admitted, and served in the same Congress with General Lane. I wish to do him justice. He said there were forty-five thousand people there and a fraction over. Oregon was admitted by a strict party vote. I think the gentleman from Massachusetts will bear me out.

Mr. DAWES. I was seeking the floor to make a statement of my recollection of the subject. My recollection is that General Lane stated that the population of Oregon was ninety thousand. I opposed the admission of Oregon, Mr. Speaker, as you know, and stated at the time the population was not fifty thousand.

Mr. ASHLEY, of Ohio. After I get through I will be ready to answer any question.

Mr. FARNSWORTH. At the time of the admission of Oregon I was a member of this House, and I remember making a speech against it on the ground of paucity of population. It was then declared that it had ninety thousand population, and that was proved to the satisfaction of the House.

A MEMBER. That is to the Democrats.

Mr. ASHLEY, of Ohio. The Legislature of the Territory of Idaho has sent memorials here for the organization of a territory out of the northern part of that Territory and a part of Montana and Washington. Citizens of New Mexico have memorialized Congress to give them a new Territory to be carved out of the southern part of that Territory, to be called Montezuma. There is not a Territory upon the continent in which you cannot find some of the population ready to detach themselves and organize a new Territory if Congress will but give them a territorial government and the offices and emoluments connected with it. The secret of the extraordinary lobbying and the offensive importunities to which members have been subjected during this winter has not been because the people were anxious for the organization of this new Territory. It has all been in the interest of paper-city proprietors and political "bummers," who desired the offices. But it is claimed that there is a large population in this part of Dakota without civil government. I have offered to transfer two of the judges from Dakota to that part of the Territory, but that would not suit the wants of the office applicants. The population of this Territory is vastly overestimated. From the vote of 1866 for the sitting Delegate, who ran against the regular Republican candidate, I should not think it was very large. He received 593 votes and his competitor 264 votes. It is proposed now to divide this Territory with a voting population of a few hundred men and make two Territories out of it, which will cost the Government at least \$100,000 a year each. You will thus lay the foundation for two political communities with four Senators and but one Representative each, States which can never by any possibility have more than one member.

Sir, what will be the effect of this policy if we are to go on in this way; if a small population in any part of a Territory and a few speculators engaged in building paper cities ask for a territorial government and it is granted them? We have already eight organized Territories. We now have six States with but one member each. At the next census we are to have Rhode Island with but one. The admission of two or three Territories as States—and they are now knocking at the door—will give nine States with only nine Representatives, one each, while at the same time they will have eighteen Senators; and the number of small States will increase instead of diminish if this policy of organizing new Territories is to continue. When an election of President of the United States devolves on the House of Representatives one voter in Nevada with its present population represents sixty times the power of a voter in New York. I

say nothing now of the inequality of political power which this policy is sure to perpetuate. It is violative of the democratic idea and the representative principle.

Mr. WILSON, of Iowa. Did not the gentleman himself report the bills for these new States?

Mr. ASHLEY, of Ohio. Yes, sir. If the gentleman wants to know why I reported the bills for Nebraska, Colorado, and Nevada, I can state it; but it is not necessary for this discussion. I say, then, that the part of prudence and of wisdom is to postpone the consideration of this bill, as the Committee on the Territories, who have charge of it, understand it better than any Senators who last year went to Cheyenne, which is just within the eastern limits of this Territory. They have not examined this matter as carefully as I have; being a member of the committee for ten years, and having twice passed through this proposed Territory from east to west, I understand what I am talking about, and I say to this House that no greater folly could be perpetrated than to erect this Territory at this time. If done it will be in the interest of office applicants and the owners of cities on paper, and not in the interest of the people of the Territory, and it will be against the interests of the nation.

Mr. MAYNARD. Allow me to ask the gentleman at what time he ascertained his error and changed his territorial policy?

Mr. ASHLEY, of Ohio. Well, I do not care to go into that discussion just now. I demand the previous question.

Mr. MAYNARD. I suggest that as the gentleman was in error then, perhaps he may be now.

Mr. SPALDING. I would like to have the gentleman answer me one or two questions.

Mr. ASHLEY, of Ohio. After the previous question is seconded.

The SPEAKER. The gentleman will have no time after the previous question is seconded.

Mr. SPALDING. How many square miles are there in the Territory?

Mr. ASHLEY, of Ohio. Sir, it is almost as boundless as the desert of Sahara, and for the most part as worthless.

Mr. SPALDING. How far is Cheyenne from the seat of government of Dakota?

Mr. ASHLEY, of Ohio. About seven hundred miles.

The previous question was seconded—ayes 61, noes 49; and the main question ordered.

Mr. CULLOM. If the motion to refer does not prevail the question will then be on the passage of the bill, will it not?

The SPEAKER. It will.

Mr. WASHBURNE, of Illinois. And if it does prevail then the question will not be on its passage? [Laughter.]

The SPEAKER. It will not.

The question being put on referring the bill to the Committee on the Territories, there were—ayes 51, noes 71.

Mr. ASHLEY, of Ohio. I demand the yeas and nays.

On ordering the yeas and nays, there were—ayes twenty-three; not one fifth of the members present.

Mr. ASHLEY. I demand tellers on ordering the yeas and nays.

Tellers were ordered; and the Chair appointed Messrs. ASHLEY, of Ohio, and BINGHAM.

The House divided; and the tellers reported—ayes 26, noes 105; the affirmative not being one fifth of the whole vote.

So the yeas and nays were refused, and the motion to refer the bill to the Committee on the Territories was disagreed to.

The bill was then ordered to be read a third time, and it was accordingly read the third time.

Mr. WASHBURNE, of Illinois. I move that the House adjourn.

The motion was disagreed to—ayes 32, noes 95.

Mr. BINGHAM. I call the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 106, nays 50, not voting 60; as follows:

YEAS—Messrs. Adams, Allison, Ames, Archer, Arnett, Delos R. Ashley, Axtell, Banks, Beck, Benton, Bingham, Blair, Bowen, Boyden, Boyer, Brooks, Buckland, Buckley, Roderick R. Butler, Callis, Cary, Churchill, Sidney Clarke, Cobb, Coburn, Covode, Culom, Dewesse, Dixon, Dockery, Donnelly, Driggs, Eckley, Eggleston, Eila, Eldridge, Ferry, Garfield, Getz, Glossbrenner, Golladay, Goss, Grover, Hamilton, Haughey, Heaton, Higby, Hill, Hinds, Hotchkiss, Chester D. Hubbard, Ingersoll, Jenckes, Johnson, Alexander H. Jones, Judd, Kelley, Kellogg, Kerr, Koontz, Lash, Loan, Logan, Loughbridge, Mallory, Mann, Marshall, Maynard, McCullough, McKee, Moorhead, Myers, Niblack, Nicholson, Nunn, O'Neill, Paine, Peters, Pierce, Pike, Pile, Poland, Polsey, Pomeroy, Randall, Raum, Ross, Scofield, Shanks, Sitgreaves, Smith, Spalding, Starkweather, Aaron F. Stevens, Stokes, Stone, Taft, Twichell, Upson, Van Auken, Henry D. Washburn, Welker, James F. Wilson, Stephen F. Wilson, Wood, and Woodward—106.

NAYS—Messrs. James M. Ashley, Baker, Beatty, Boles, Boutwell, Broomall, Reader W. Clarke, Cook, Dawes, Eliot, Farnsworth, Ferriss, Fields, French, Griswold, Haight, Halsey, Hawkins, Hopkins, Hubbard, Hunter, Thomas L. Jones, Kelsey, Ketcham, Ladin, William Lawrence, McCarthy, Mercur, Miller, Moore, Mullins, Orth, Perham, Phelps, Robertson, Sawyer, Schenck, Stewart, Taber, Thomas, Lawrence S. Trimble, Trowbridge, Van Aernam, Burt Van Horn, Van Wyck, Ward, Elihu B. Washburne, William B. Washburn, William Williams, and Windom—50.

NOT VOTING—Messrs. Anderson, Bailey, Baldwin, Barnes, Barnum, Beaman, Benjamin, Blackburn, Blaine, Bromwell, Burr, Benjamin F. Butler, Calk, Chanler, Cornell, Delano, Dodge, Finney, Fox, Gravelly, Harding, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Julian, Kitchen, Knott, George V. Lawrence, Lincoln, Lynch, Marvin, McClurg, McCormick, Morrill, Morrissey, Munger, Newcomb, Newsham, Norris, Plants, Price, Pruyn, Robinson, Koots, Selye, Shellabarger, Thaddeus Stevens, Sypher, Taylor, John Trimble, Robert T. Van Horn, Van Trump, Vidal, Cadwalader C. Washburn, Whittemore, Thomas Williams, John T. Wilson, and Woodward—60.

So the bill was passed.

During the roll-call, Mr. TABER stated that Mr. VAN TRUMP was confined to his room by sickness.

The result having been announced as above, Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate insisted on its amendments disagreed to by the House to the bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867, agreed to the conference asked on the disagreeing votes thereon, and had ordered that Mr. SUMNER, Mr. MORGAN, and Mr. DOOLITTLE be the conferees on the part of the Senate.

Also, that the Senate insisted on its amendments disagreed to by the House to the bill (H. R. No. 1205) to further amend the postal laws, agreed to the conference asked on the disagreeing votes thereon, and had ordered that Mr. RAMSEY, Mr. HARLAN, and Mr. MCCREERY be the conferees on the part of the Senate.

The message further announced that the Senate had passed a joint resolution (S. R. No. 170) in relation to the library of the Department of Agriculture, in which he was directed to ask the concurrence of the House.

ORDER OF BUSINESS.

Mr. SCHENCK. There is a vast amount of business yet on the Speaker's table, and I propose that we have a meeting at half past seven o'clock this evening. [Cries of "Agreed," and "No, no."]

Mr. WASHBURNE, of Illinois. I will say, if the gentleman from Ohio will permit me, that I am willing that we shall go to business on the Speaker's table to-morrow at one o'clock. [Cries of "Agreed!"]

Mr. SCHENCK. We cannot get through business.

Mr. WASHBURNE, of Illinois. Oh, yes; we can. The Senate have adopted no resolution to adjourn. We may be kept here ten days.

Mr. INGERSOLL. I suggest to the gentleman from Ohio that he move to adjourn till ten o'clock to-morrow.

The SPEAKER. That would require unanimous consent. [Cries of "Object."]

Mr. WASHBURNE, of Illinois. I ask unanimous consent that we may go to business on the Speaker's table to-morrow after the election case is disposed of.

Mr. SCHENCK. I shall be perfectly satisfied with whatever the House may determine, but I prefer that my motion should be put for a recess until half past seven o'clock this evening.

Mr. GARFIELD. I move to amend by striking out "half past seven o'clock this evening," and inserting "half past ten o'clock to-morrow morning."

Mr. WASHBURNE, of Illinois. Oh, no; the committee have to meet in the morning.

Mr. GARFIELD. We can do more work in the morning than we can do in the evening.

The question was taken on Mr. GARFIELD's amendment; and it was disagreed to.

The question recurred on Mr. SCHENCK's motion; and it being put, the motion was disagreed to.

Mr. WASHBURNE, of Illinois. I now ask unanimous consent that the House shall proceed to the business on the Speaker's table to-morrow after the Missouri and Utah contested-election cases shall have been disposed of.

Several MEMBERS. Only the Missouri case.

Mr. WASHBURNE, of Illinois. Very well, then, until after the Missouri contested-election case is disposed of.

Mr. DAWES. I object, unless the Utah case can be disposed of. It will be very brief. I do not propose to occupy two minutes' time myself. The contestant, I understand, desires to occupy an hour. It is due to the committee that the case should be disposed of.

The SPEAKER. The gentleman from Missouri [Mr. PILE] will be entitled to the floor for one hour on his own case.

Mr. PILE. I will state for the information of the House that I shall not detain them more than fifteen minutes.

Mr. SCHENCK. Then that will be all right.

The SPEAKER. The Chair understands that there is no objection to the order that the House shall proceed to the business on the Speaker's table after the Missouri and Utah contested-election cases are disposed of to-morrow.

Mr. ALLISON. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock and forty-five minutes p. m.) the House adjourned.

IN SENATE.

THURSDAY July 23, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. CONNESS, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message of the President of the United States, transmitting to the Senate in compliance with its resolution of the 9th instant, a report from the Secretary of State, communicating a copy of a paper received by him purporting to be a resolution of the senate and house of representatives of the State of Alabama, ratifying the proposed amendment to the Constitution of the United States known as article fourteen; which was ordered to lie on the table and be printed.

LANDS IN NEBRASKA.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of

Representatives to the bill (S. No. 481) to confirm the title to certain lands in the State of Nebraska. The amendment was to add to the bill the following proviso:

Provided, That the following tracts of land, to wit: the north half of the northwest quarter of section fifteen, the west half of the southwest quarter of section ten, the east half of the southwest quarter and the northwest quarter of the southeast quarter of section nine, township fifteen north of range thirteen east of the sixth principal meridian, are hereby excepted from the operation of this act.

Mr. THAYER. I move that the Senate concur in that amendment.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. CRAGIN presented a petition of officers of the Army, asking increased compensation; which was referred to the Committee on Military Affairs and the Militia.

Mr. FOWLER presented the petition of Martha A. Sommerville, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Philadelphia, praying that pensions be granted to the surviving soldiers and sailors of the war of 1812, and to the widows of such as have died; which was referred to the Committee on Pensions.

He also presented a memorial of citizens of East Tennessee, praying legislation in favor of those interested in the exportation of distilled spirits; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. MORGAN, from the Committee on the Library, to whom was referred the petition of Emilie Rossmasser, asked to be discharged from its further consideration; which was agreed to.

Mr. ANTHONY, from the Committee on Printing, to whom was recommitted the motion submitted by Mr. DAVIS on the 1st instant, to print the report of the Secretary of War, communicating information relative to the purchase and sale of vessels by the War Department during the war of the rebellion, reported in favor of the motion; and it was agreed to.

Mr. WILLIAMS. The Committee on Private Land Claims, to whom was referred the bill (H. R. No. 1118) to confirm to J. M. Hutchings and J. C. Lamon, their preemption claims in the Yosemite valley, in the State of California, have instructed me to make an adverse report, and to move the indefinite postponement of the bill.

Mr. CONNESS. Let it be voted on immediately.

Mr. WILLIAMS. If there be no objection I ask to have the bill considered at this time, though perhaps some persons may desire to read the report before action is taken upon it.

Mr. COLE. I think there is no necessity for action now.

Mr. WILLIAMS. Very well; I will call it up before the session adjourns. I move that the report be printed.

The motion was agreed to.

Mr. FRELINGHUYSEN, from the Committee on Claims, to whom was referred the petition of W. A. Griffin, submitted a report, accompanied by a bill (S. No. 643) for the relief of W. A. Griffin. The bill was read and passed to a second reading, and the report was ordered to be printed.

COAST DEFENSE.

Mr. HOWARD, from the joint Committee on Ordnance, reported a joint resolution (S. R. No. 171) in relation to coast defense; which was read twice.

Mr. HOWARD. I ask that the joint resolution be acted on now.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to direct the General of the Army and the Admiral of the Navy to inquire into the utility and practicability of the Ryan-Hitchcock mode of marine fortification, and to report to Congress at the next session.

Mr. CONNESS. There is only one objection that I see to the form of the resolution, that the Admiral is absent and likely to remain absent for some time. If the Senator would amend it so as to say "or, in the absence of the Admiral, the vice admiral," it would be practicable.

Mr. HOWARD. I have no objection.

Mr. CONNESS. I move that amendment. The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

REWARD FOR JEFFERSON DAVIS'S CAPTORS.

Mr. HOWE. The Committee on Claims, to whom was referred the bill (H. R. No. 1277) to provide for the distribution of the reward offered by the President of the United States for the capture of Jefferson Davis, have directed me to report the bill back with amendments, and recommend its passage. It interests a good many who were soldiers in the Army, and I believe there will be no sort of objection in the Senate to its passage. As it has to go back to the House of Representatives for concurrence in our amendments, I should be glad if the Senate would consider it at the present time.

By unanimous consent, the bill was considered as in Committee of the Whole.

The Chief Clerk proceeded to read the bill.

Mr. HOWE. I suppose by unanimous consent the reading of the long list of names which the bill contains may be dispensed with. ["Certainly."]

The PRESIDENT *pro tempore*. The reading of the names may be dispensed with if there be no objection. The Chair hears no objection. The amendments reported by the Committee on Claims will be read.

The first amendment was to strike out in lines six, seven, and eight, of section one, the words "To James H. Wilson, of the State of Illinois, late major general of volunteers, \$3,000."

The amendment was agreed to.

The next amendment was in line ten to strike out "three" and insert "four," so as to allow \$4,000 to B. D. Pritchard, late lieutenant colonel of the fourth Michigan cavalry.

The amendment was agreed to.

The next amendment was in line twelve to strike out "three" and insert "four," so as to allow \$4,000 to H. Harnden, late lieutenant colonel of the first Wisconsin cavalry.

The amendment was agreed to.

The next amendment was in line fourteen to strike out "three" and insert "four," so as to allow \$4,000 to Joseph A. O. Yeoman, late captain of the first Ohio cavalry.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. POMEROY. I desire to make only one remark. It cost us more to catch that great criminal than we took for bail after we got him.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the time, and passed.

COMMITTEE SERVICE.

Mr. MORRILL, of Vermont. I ask to be excused from further service upon the Committee on Claims, being already on three committees. The request was granted.

Mr. HOWE. I wish to say that I would not have consented to part with the Senator from Vermont from the Committee on Claims if I could have helped myself, but I found I could not, and so I did not make any opposition.

LEAVE OF ABSENCE.

Mr. WILSON. I move that leave of absence be granted to Mr. ROBERTSON, of South Carolina, for the remainder of the present session. The motion was agreed to.

BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 639) providing for a more efficient provisional government for Mississippi; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 640) to provide for the payment of subsistence furnished for the Navajo Indians; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 641) in addition to the several acts providing for suppressing insurrections against the governments of States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

LUX'S CASE.

Mr. WILSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be directed to communicate to the Senate the facts relative to the trial of Albert M. D. C. Lux by a military commission at New Orleans, for the murder of a colored boy, together with a copy of the record in the case.

DUPLICATE BONDS.

Mr. MORRILL, of Maine, submitted the following resolution for consideration:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of authorizing the Secretary of the Treasury, upon satisfactory proof of the destruction of any of the bonds of the United States in the hands of *bona fide* holders, to issue to such holders a new bond or bonds of like kind and denomination.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses to the bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 451) providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes; and

A bill (H. R. No. 1376) for the relief of the loyal Choctaw and Chickasaw Indians.

PENSION BILLS.

Mr. VAN WINKLE. I am instructed by the Committee on Pensions to ask the Senate to set aside two or three hours for the consideration of bills from that committee. I hope the Senate will grant me part of this evening, or to-morrow evening if this evening is engaged otherwise, for the purpose of considering pension bills. It is somewhat important for that committee to get its business out of the way.

Mr. WILLIAMS. I object to the consideration of that matter at this time. I desire to call up House bill No. 1206.

The PRESIDENT *pro tempore*. I presume the motion is in order.

Mr. VAN WINKLE. We have more than a hundred pension bills to dispose of, and I cannot scramble for the floor to get up each one.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves that at five o'clock to-day the Senate take a recess till half past seven for the purpose of considering pension bills at the evening session.

The motion was agreed to.

AMERICAN STEAMSHIP LINE TO EUROPE.

Mr. POMEROY. I move to take up the bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports.

Mr. CONNESS. I hope we shall not pro-

ceed with that bill at this moment. Further on in the day I shall be ready to proceed with it. I have in progress of preparation some amendments that I intend to propose to it, which I have reason to believe will be acceptable, and as soon as I can spare a few minutes from the Senate Chamber it is my intention to go on with their preparation, and then I shall be as anxious to proceed with the consideration of the bill as the Senator from Kansas. But at present, before they are fully prepared, I prefer that the Senate shall not go on with its consideration. I will say that my object is to perfect the bill, not to delay it.

Mr. POMEROY. I did not know that the Senator anticipated making any amendments; but the session is so nearly through, and it is so difficult to get up bills for the purpose of passing them, that my own opinion is that we must consider this bill this morning or we shall not be able to consider it at all. I feel only the interest that all the friends of the measure feel; but I should like to have the Senate act upon it now.

Mr. FESSENDEN. I think at this late period of the session a bill ought not to be put off merely because a Senator is not ready.

Mr. CONNESS. Very well, sir, let it go on. I am glad to find the Senator from Maine in favor of some bill of this kind.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports. The question pending being on the amendment of Mr. MORRILL, of Vermont, to strike out in section two after the word "steamships," in line five, the words "five of;" and in line six to strike out "and two others of not less than two thousand tons each;" so as to make the clause read:

At least seven first-class sea-going steamships which shall not be of less than three thousand tons each, Government measurement.

Mr. POMEROY. I believe the Senator from Vermont does not desire to press that amendment, but proposes to withdraw it.

Mr. MORRILL, of Vermont. After conference with my friend from Kansas, I am willing to withdraw that amendment upon his assenting to another amendment in relation to the average rate of speed. I understand that he will assent to it, and therefore I withdraw this.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. POMEROY. The Senator from Iowa has an amendment that I believe he intends to move.

Mr. HARLAN. An amendment has been handed to me to be presented.

Mr. POMEROY. I have not seen the amendment, but I have been told it was to be offered.

Mr. HARLAN. I will offer it. It is to insert at the end of the third section:

And it is provided, That should the receipts under any contract made in pursuance of this act exceed the average of \$800,000 yearly for the period of the above-named twenty years, then such excess shall be and belong to the Post Office Department, it being the intent and meaning of this act that the amount the said company shall receive during the period of the above-named twenty years for the postal service shall not exceed the sum of \$800,000 yearly.

I desire to say in relation to the amendment that it states distinctly what the parties themselves want; but it has not been considered by the committee.

Mr. CONKLING. I observe that the amendment says "twenty years." The time named in the bill was changed to ten years.

Mr. HARLAN. Then this ought to be changed.

The PRESIDENT *pro tempore*. The amendment will be so modified.

Mr. MORRILL, of Vermont. It seems to me that \$800,000 is very much too large an amount of subsidy. That for ten years would be \$8,000,000. By the reading of the bill I think no one would infer that the amount of

postages to be received by the company should ever be beyond \$400,000 a year. I had no idea that they were to exceed \$400,000, and I think no member of the committee had.

Mr. RAMSEY. I think there is a very exaggerated impression as to the amount of these postages. If this corporation were to receive \$800,000 per annum they would have to do all the postal service between the United States and those ports to which it is proposed they shall carry the mails. To do that they would have to have thirty vessels in constant service, and I am sure that sum would not be too much compensation for that service. I am sure it would not be considered so by those who have any pride in seeing steamers crossing the ocean carrying the American flag. In order to receive all the postages they must carry all the mails. It is only proposed that this line shall carry about a mail a week in the first instance, and the receipts for that would not be more than about two thousand five hundred dollars for the outward trip, and they would not get probably over one hundred and twenty or one hundred and twenty-five thousand dollars a year. That is all they are likely to get. To get six, seven, or eight hundred thousand dollars they must be prepared to carry all the mails that we send by way either of Queenstown or Southampton. Probably by any arrangement they can make within five years they will not be able to earn one fourth, certainly not one half of the amount of limit proposed.

The total cost of the trans-Atlantic mail service employed by the United States Post Office Department during the fiscal year which ended June 30, 1867, was \$551,338 01. Fifty-two round trips between New York and Liverpool, via Queenstown, (at sea postage,) cost \$241,381 93.

Twenty-four and one half round trips between New York and Bremen, via Southampton, (at sea postage) cost \$91,331 33. Thirteen and one half round trips between New York and Hamburg, via Southampton, (at sea postage) cost \$47,577 62. Thirty-eight round trips between New York and Havre, via Falmouth (at United States inland and sea postage) cost \$73,059 92. The amounts paid from 30th June, 1867, to January 1, 1868, were as follows:

Twenty-seven round trips between New York and Liverpool, via Queenstown, (at sea postage,) \$104,502 20. Twenty-seven round trips between New York and Bremen, via Southampton, (at sea postage) \$77,171 14. Eleven round trips between New York and Hamburg, via Southampton, (at sea postage) \$32,111 23. Total for six months, \$213,784 57, (sixty-five round trips.)

There has been paid under the new arrangements, since January 1, 1868, at the rate of fifteen cents per ounce for letters, and six cents a pound for printed matter, from January 1 to March 31, 1868:

To Cunard line, fourteen outward trips.....	\$21,026 42
To Inman line, thirteen outward trips.....	17,844 73
To Bremen line, fourteen outward trips.....	19,787 60
To Hamburg line, six outward trips.....	11,412 55

Total for three months.....	\$70,071 30
Via Queenstown, twenty-seven outward trips.....	38,871 15
Via Southampton, twenty outward trips.....	31,200 15

These figures show that in no event during the time this contract would run, would this company be likely to receive four or five hundred thousand dollars a year, if they were to carry all the mails.

Mr. HARLAN. I wish to repeat that this amendment offered by me has not been proposed by the Committee on Post Offices and Post Roads, and I am not sure that the amount named in it is not greater than is necessary. I desire the sense of the Senate on that subject. It may be observed, however, that they will not receive this sum of money unless it comes in from the postages on the mail matter carried by the parties themselves, both the land and sea postages on the matter carried by this company. It has been suggested to me, however, that a maximum of \$600,000

extending over the whole period of ten years, probably would be sufficient, and for the purpose of testing the judgment of the Senate on that subject, I move to amend the amendment by striking out "eight," and inserting "six."

Mr. POMEROY. I think that is right.

Mr. HARLAN. I modify the amendment in that way.

The PRESIDENT *pro tempore*. The amendment is so modified.

Mr. MORRILL, of Vermont. I move to amend the amendment by striking out "\$600,000," and inserting "\$400,000."

Mr. FESSENDEN. I suggest to my friend that I do not understand that there is to be an average that one year is to make up for another. My understanding of it was that if the yearly pay in any one year came up to \$600,000 the excess over that should go into the Treasury, not that the company should go back and make an average so as to secure the \$600,000 in each year. That is not the idea of the contract as I understand it.

Mr. HARLAN. I think the amendment is drawn so as to enable them to receive the excess in one year sufficient to make up the deficiency for preceding years.

Mr. FESSENDEN. That was not my understanding of the amendment that was to be made. I supposed they were to take the risk.

Mr. MORRILL, of Vermont. Under the Cunard contract, until within the past year, the amount paid by the British Government was £180,000 for all the service of the Cunard line, or about equal to the sum proposed at first by the Senator from Iowa. But under the contract for the last year the British Government paid the Cunard line £90,000 for all their service. Now, it does seem to me, that if, for the amount of service stipulated for here in this bill, we pay \$400,000 a year, we are paying a very liberal price for the service. If it should be conditioned as proposed by this amendment, and the Postmaster General should be in favor of patronizing this line, and he should direct the mails at the western cities to be made up on such days as would reach these steamships and no others, this steamship company would be at once placed in a position to receive a very large amount of postages.

If we are to make a monopoly of steamships centering at but one port, shipping by Baltimore, Philadelphia, Boston, Portland, and yielding the entire business to the city of New York, it does seem to me that we ought to have at least the service performed for \$400,000 a year. I trust the Senate will not vote for any larger sum than that. Then the point to which the attention of the Senate was called by the Senator from Maine is certainly an important one. They ought not in this long course of years to make up the average sum that they are to receive so as to make up for any deficiencies in the first part of the service when they perform a very small amount of service by the receipts toward the end of the contract, when they have increased their number of ships. I trust that portion of the amendment will be modified or amended by the Senate before it passes.

Mr. CORBETT. I propose to offer an amendment to meet the point suggested when it shall be in order to do so. The third section now provides:

That when the receipts of said navigation company for sea postages under any contract to be made in pursuance of this act shall equal or exceed the sum of \$400,000 per annum, then the right of said company to receive the inland postages shall cease and determine, and said company shall only receive the sea postages.

There I propose to insert:

Provided, Said postages shall not exceed at any time \$600,000.

So that if in the last few years the sea postages reach \$600,000, the company may have that sum, but shall not make an average. By my amendment if the whole postages exceed \$400,000, the inland postage is to be cut off, and if it then amounts to over \$400,000 for the remainder of the time it shall not at any time exceed \$600,000. It seems to me that this will

obviate the objections of the Senator from Vermont, and the company may during the last few years receive between four and six hundred thousand dollars. If the Senator from Vermont will withdraw his amendment I will propose this.

Mr. MORRILL, of Vermont. The amendment pending is offered by the Senator from Iowa.

Mr. NYE. I hope the amendment of the Senator from Vermont and the amendment of the Senator from Oregon will not prevail. The honorable Senator from Vermont seems to be under the apprehension that we are going to have a steamship monopoly. I wish, for the honor of this country, we could say that we had one. A monopoly, Mr. President, exists now; our whole transit trade and our mails are monopolized by British ships. That is where the monopoly lies; and how have they obtained that monopoly? Not by the postages to which the honorable Senator refers, but in the first place by large subsidies, till their ships number enough almost in length to make a raft across the Atlantic ocean. By the subsidies of that nation and by the mail privileges which they have, they have become enabled to make a monopoly of the carrying trade of the sea. Sir, to break up that monopoly this effort is made to establish this line; and with what? With no subsidy, with nothing but the simple earnings of the line; and when it is proposed that the trans-Atlantic mails of the United States shall pay for carrying themselves, the honorable Senator from Vermont sees a monopoly in it.

Sir, we are now paying hundreds of thousands of dollars a year for carrying the mails to British capitalists and British ship-owners, and now when we come here and ask to establish a line of our own ships under our own flag, the honorable Senator is afraid of a monopoly! Sir, I take it this Government would be willing to make such a contract to-day generally, and by it we could save millions. If all the mails of the United States, internal and external, could be carried for the postages, I repeat the Government would save millions. Now, with our waning commerce as it is, when this attempt is made by simply paying the postages upon the letters and packages they carry to establish an American line, I wonder that we meet objection here from as wise men as the honorable Senator from Vermont. If the postage earned shall amount to \$600,000 let them have it. I wish there was something done to drive every British ship from our shores that carries our mails and takes our money from us. We have the amount of postage receipts from the honorable chairman of the Post Office Committee, and it shows that there is no probability that in ten years they will reach the maximum here fixed; but if they do let the sum go to this line, and it will add to the character, the dignity, and the importance of this nation, for the more they get the better ships they can build.

The honorable Senator from Vermont is almost always right in figures; and whenever I differ from him in regard to figures I think I am wrong till I look at the papers. The other day we insisted upon it that these vessels should be three thousand tons, nothing less. Now, sir, there is but one vessel in the whole number engaged in carrying the American mails in British ships that amounts to three thousand tons—only one. Some of them are as low as two thousand, twenty-three hundred, twenty-four hundred, twenty-five hundred, twenty-six hundred tons; so they range along. My honorable friend is willing that the mails should be carried on British ships of inferior size; but so apprehensive seems he to be that our flag shall again regain its influence upon the sea and our seamanship be exhibited that he wants even larger ships to start with than the British have.

Mr. MORRILL, of Vermont. I withdraw my amendment, and accept the amendment proposed by the Senator from Oregon.

Mr. HARLAN. I withdraw mine.

Mr. POMEROY. I think the amendment of the Senator from Oregon will be entirely satisfactory. That is if the postages ever come up in any one year to \$600,000 they get that sum, and there is no average about it.

Mr. CORBETT. I move to amend the bill by adding to the third section:

And provided further. That such postages shall not exceed \$600,000 per annum after the discontinuance of said inland postages.

The amendment was agreed to.

Mr. MORRILL, of Vermont. I suppose, by common consent, all the places in the bill where the word "twenty" occurs will be stricken out, and the word "ten" inserted before "years," agreeably to the previous vote.

The PRESIDENT *pro tempore*. That will be done to make the bill conform to the action already had.

Mr. MORRILL, of Vermont. I should like to strike out some of the nonsense in the bill. In the fifth section it provides that they "shall mount an armament, if required, of two guns each;" all these vessels always have two guns to fire salutes.

Mr. FESSENDEN. It will not do any harm.

Mr. MORRILL, of Vermont. It is no sort of consequence. I think the whole section might as well be stricken out. It provides also for "one apprentice to be instructed in engineering and seamanship."

Mr. POMEROY. The Senator from Vermont had a bill the other day which said that it should not be a precedent for other bills. I objected to that clause and wanted it stricken out; but he would not have it stricken out.

Mr. MORRILL, of Vermont. I move to insert this proviso at the end of the second section:

And provided. That the average rate of speed of the steamships of the said Navigation Company shall not be less than that of the steamships of other lines upon the same or similar routes; and if for the space of three months the trips successively of the steamships of said company shall be made in longer time than that employed by other steamships as aforesaid, then any contract made under the provisions of this act shall cease and determine at the pleasure of the Government of the United States.

I take it there is no objection to that.

Mr. POMEROY. The only objection I have to it is that it looks as if we were advertising to all nations that we are going to have a race across the ocean with them.

Mr. MORRILL, of Vermont. Not at all.

Mr. POMEROY. I say it has that look.

Mr. FRELINGHUYSEN. If I understand the amendment, it seems to me it is very objectionable. The suggestion made by the Senator from Kansas that it is encouraging racing across the ocean is a good objection. The whole subject will be under the control of the Department as the bill stands.

Mr. POMEROY. In the western waters some years ago when boats undertook to go very fast and race with each other a great many blew up.

Mr. MORRILL, of Vermont. If we are to have a large contract of this kind we do not want to make it without the power to terminate it provided the other party does not perform it according to its stipulations. All that is stipulated here is that they shall average the rate of speed of other vessels engaged upon similar routes, and if for the space of three months they fail to do that, we can then terminate the contract without paying damages. That is all the proposition is. Is it to be supposed that if we have steamers that are at all equal to those of other companies, they can fail for twelve successive voyages, that is for three months, once each week? The thing is absurd; but unless there is a provision of this kind they may go on and perform the service in fourteen or fifteen days, and yet the Government have no power to terminate the contract.

Mr. PATTERSON, of New Hampshire. I ask if it is not equally absurd to suppose that an American line of steamers will run in less time than a foreign line?

Mr. MORRILL, of Vermont. They do. The PRESIDENT *pro tempore*. The morning-hour having expired, the Chair must call up the unfinished business of yesterday.

Mr. NYE. I hope we shall a vote on this bill.

Mr. POMEROY. Let the unfinished business be laid aside for a few minutes.

Mr. CONNESS. I apprehend there is no chance of getting this bill through in a few minutes. If Senators are going to oppose such a provision as that which has been offered by the Senator from Vermont to this bill it is time to discuss it.

Mr. POMEROY. I shall make no further remarks on the subject.

Mr. CONNESS. I desire to be heard on this proposition. That an average amount of speed such as is made by other lines shall not be secured on this line seems to me very absurd.

The PRESIDENT *pro tempore*. The unfinished business of yesterday may be passed over if there be no objection.

Mr. CONNESS. Let it go over for a little while.

The PRESIDENT *pro tempore*. The Chair hears no objection; and the unfinished business will be passed over, and the consideration of House bill No. 939 continued. The question is on the amendment of the Senator from Vermont.

Mr. MORRILL, of Vermont. I had supposed that this was fairly agreed upon. I withdrew my other amendment on that understanding. I so understood it in conference with the Senator from Kansas. Now, if there be an opposition raised here to this provision, which is manifestly proper, I shall feel at liberty to propose any amendments.

Mr. CONKLING. Is there opposition to it?

Mr. MORRILL, of Vermont. I understand that there is.

Mr. CONKLING. I should like to understand from the Senator from Kansas whether there is any objection to this amendment.

Mr. POMEROY. I shall make no objection.

Mr. CONKLING. I understand there is no objection.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

NATIONAL CAPITAL LIFE INSURANCE COMPANY.

Mr. PATTERSON, of New Hampshire. I am instructed by the Committee on the District of Columbia to report a bill which merely adds a single word to an act heretofore passed, by way of correction. I hope it will be considered now.

Mr. CONNESS. I hope not. I hope we shall go on with the unfinished business. It has been postponed for a week for almost everything.

Mr. CONKLING. I understand this is a mere formal matter which can take but a moment. It is to change a single word in a bill.

Mr. CONNESS. A bill already passed?

Mr. CONKLING. Yes, sir. It is merely to correct a verbal mistake.

Mr. PATTERSON, of New Hampshire. It is merely to add one word to a bill already passed.

Mr. CONNESS. I have no objection.

By unanimous consent the bill (S. No. 642) to amend the charter of the National Capital Life Insurance Company was read three times, and passed. It proposes to change the title of the act entitled "An act to incorporate the National Capital Insurance Company," approved March 2, 1867, to "An act to incorporate the National Capital Life Insurance Company."

EXECUTIVE BUSINESS.

Mr. CORBETT. I move that the Senate proceed to the consideration of executive business. I desire to state upon that motion, that there are a large number of nominations to some very important offices, revenue offices and oth-

ers, that must be confirmed. Many of them will be rejected, and will have to go back to the President so that others may be appointed in their places. I think we ought to dispose of those matters.

Mr. CONNESS. I call the Senator to order. Discussion is not in order.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The motion to go into executive session is not debatable under the rules.

Mr. CORBETT. We ought to have an executive session for an hour or so.

Mr. CONNESS. On that motion I ask for the yeas and nays; and I ask the Senate not to adopt it.

The question being taken by yeas and nays, resulted—yeas 18, nays 25; as follows:

YEAS—Messrs. Anthony, Buckalew, Cameron, Chandler, Cole, Corbett, Davis, Ferry, Hendricks, McCreery, Pomeroy, Ramsey, Ross, Sprague, Sumner, Tipton, Vickers, and Welch—18.

NAYS—Messrs. Conkling, Conness, Cragin, Drake, Fessenden, Frelinghuysen, Harlan, Harris, Howard, Howe, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of Tennessee, Rice, Stewart, Thayer, Van Winkle, Wade, Willey, Williams, and Yates—25.

ABSENT—Messrs. Abbott, Bayard, Cattell, Dixon, Doolittle, Edmunds, Fowler, Grimes, Henderson, Kellogg, Norton, Osborn, Patterson of New Hampshire, Pool, Robertson, Saulsbury, Sawyer, Sherman, Trumbull, Whyte, and Wilson—21.

So the motion was not agreed to.

RIGHTS OF CITIZENS ABROAD.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the bill (H. R. No. 768) concerning the rights of American citizens in foreign States. The pending question is on the amendment of the Senator from Pennsylvania, [Mr. BUCKALEW.]

Mr. CONNESS. I ask for the reading of the two amendments and of the third section of the bill as it stands. As I understand it at this time the amendment of the Senator from Oregon [Mr. WILLIAMS] was adopted in lieu of the third section, and now the question is on substituting the amendment of the Senator from Pennsylvania for that.

The PRESIDING OFFICER. The section, as amended, will be read, and also the amendment proposed.

The CHIEF CLERK. The first amendment proposed is to strike out the third section of the bill, as amended, which is as follows:

And be it further enacted, That whenever it shall be made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign Government, it shall be the duty of the President forthwith to demand of that Government the reasons for such imprisonment, and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen; and if the release so demanded is unreasonably delayed or refused, it shall be the duty of the President to use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate such release; and all the facts and proceedings relative thereto shall, as soon as practicable, be communicated by the President to Congress.

It is also proposed to add to the second section of the bill—

Mr. BUCKALEW. My amendment is to strike out the whole of that, and then to add what the Clerk will read to the second section.

Mr. CONNESS. I suppose that amendment of the Senator from Pennsylvania is not in order until after the vote is taken on striking out the third section.

The PRESIDING OFFICER. The words can, however, be read for information. The first question is on striking out the third section, and then it will be in order to amend the second section in the manner proposed by the Senator from Pennsylvania.

Mr. FRELINGHUYSEN. I desire to have that amendment read for information.

The CHIEF CLERK. The Senator from Pennsylvania proposes to insert at the end of the second section:

And it shall be the duty of the President to exert all his powers under the Constitution and laws of the United States, for the protection and relief of citizens of the United States abroad, and to report promptly to Congress, from time to time, all cases where justice or relief shall be refused to such citizens by the Government of any foreign country.

The PRESIDING OFFICER. The ques-

tion now is on the motion of the Senator from Pennsylvania, to strike out the third section of the bill.

Mr. CONNESS called for the yeas and nays, and they were ordered.

Mr. BUCKALEW. At the request of certain gentlemen who desire to vote for this amendment of mine, I will change the form of my motion. I move to strike out all of the third section as it now stands after the word "that," and insert in lieu of the words stricken out:

It shall be the duty of the President to exert all his powers under the Constitution and laws for the protection and relief of citizens of the United States abroad, and to report promptly to Congress from time to time all cases where justice or relief shall be refused to such citizens by the Government of any foreign country.

Mr. HOWARD. I understand the motion to be to strike out the third section entirely and substitute the words which have just been read.

The PRESIDING OFFICER. That is the question.

The question being taken by yeas and nays, resulted—yeas 27, nays 21; as follows:

YEAS—Messrs. Anthony, Buckalew, Cattell, Conkling, Corbett, Davis, Doolittle, Drake, Ferry, Fessenden, Frelinghuysen, Harris, Hendricks, McCreery, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Pomeroy, Robertson, Sumner, Trumbull, Van Winkle, Vickers, Welch, and Willey—27.

NAYS—Messrs. Cameron, Chandler, Cole, Conness, Cragin, Harlan, Howard, Howe, Morgan, Nye, Patterson of Tennessee, Ramsey, Rice, Sherman, Sprague, Stewart, Thayer, Tipton, Williams, Wilson, and Yates—21.

ABSENT—Messrs. Abbott, Bayard, Dixon, Edmunds, Fowler, Grimes, Henderson, Kellogg, Norton, Osborn, Pool, Ross, Saulsbury, Sawyer, Wade, and Whyte—16.

So the amendment was agreed to.

Mr. HOWARD. I ask that section as amended be now read, that we may see how it stands.

The Chief Clerk read the section, as amended, as follows:

SEC. 3. *And be it further enacted*, That it shall be the duty of the President to exert all his powers under the Constitution and laws for the protection and relief of citizens of the United States abroad, and to report promptly to Congress, from time to time, all cases where justice or relief shall be refused to such citizens by the Government of any foreign country.

Mr. HOWARD. Is that all there is of it?

Mr. CONNESS. Yes, sir; there is all there is of it. The Senate has voted to strike out what little vitality there was in the bill. Mr. President, I wish to say a few words in regard to this bill. I have no further interest in what shall be done with it. The insertion of the clause proposed, I regard and say and declare to be an insult to every naturalized citizen in the United States; it is cruel to those who are in prison; and in my opinion it will be met as it ought to be met—by the opposition of men who feel deeply and have a right to feel deeply upon this question.

Mr. HOWARD. Mr. President I am not satisfied with the clause as it stands now; and I move this amendment be added to it:

And whenever any citizen shall be or shall have been unlawfully arrested or unlawfully detained by any foreign Government, it shall be the duty of the President on receiving information thereof to demand the release and liberation of such citizen; and in case of the refusal or unreasonable delay of such foreign Government to release such citizen, it shall be the duty of the President of the United States to communicate the facts of the case to Congress at the earliest practicable moment, with such recommendations as he may think fit; and he may in the meantime withdraw the representative of the United States from such foreign Government, and shall refuse to hold further diplomatic correspondence with any such representative of foreign Government until justice shall be done in the matter by such foreign Government.

I am not perfectly satisfied to leave this matter in such an indefinite form as this section now stands. Cases may occur where it would be becoming the dignity of the Government of our country to make a peremptory demand upon a foreign Government by which the liberty of our citizens abroad, whether native or naturalized, may be restrained. Such things are of frequent occurrence in the intercourse of nations, and I would authorize the

President in such a case, where he finds it necessary, to make a demand for the liberation of an American citizen, and where such demand is refused to discontinue diplomatic intercourse with that Government until the latter should do justice in the premises; and if the United States find it necessary to make a demand of that description, it is certainly becoming us, as a Government and as a people, to make that demand good in some form. I would not, on such an occasion, go to war immediately. I would take the preliminary steps, however, to show such offending Government that we are in earnest and that our demand is not to pass unheeded.

Our Government will never, I fancy, make any unreasonable or rash or precipitate demand of this kind; but should an occasion arise when the dignity of the nation requires it, I am in favor of making the demand good, and teaching the offending foreign Government that it must act according to the laws of nations, and respect our wishes. I care not what the Government may be, whether it be that of Great Britain or France or North Germany or any other Government under heaven. The rights of American citizens abroad should be respected; and it is the highest office of every Government to see to it that its citizens or subjects receive due protection against oppression on the part of other nations. I hope, therefore, that this amendment of mine will be adopted.

Mr. STEWART. I hope so, too. The amendment of the Senator from Pennsylvania, as adopted, amounts simply to this: that the President may negotiate and he may report to Congress. He has power to do that now. It does not declare any specific remedy. The President in his last annual message suggested to Congress to extend to him some power. We claim that he is controlled by legislation. He has asked for some power to act in the premises, he not conceiving himself as having under the laws as they are any ability to do anything. This section now certainly does not confer on him any specific authority to take any action. I wish to call attention of the Senate to that point.

It is often said that it is a cause of war for us to arrest a British subject. Sir, we should be at war all the while if we had spirit enough to resist such acts on the part of Great Britain. They have our citizens incarcerated. If it would be a cause of war on their part for us to arrest their subjects is not their arrest and detention of our citizens a sufficient provocation for us to empower the President to suspend diplomatic relations? He can simply investigate, correspond, and report to Congress; that is all there is of it. I hope the Senate will adopt the amendment of the Senator from Michigan and not abandon the whole thing. It seems to me it is a shame to abandon our citizens abroad.

Mr. SPRAGUE. Mr. President, I desire to occupy the attention of the Senate for a few minutes upon this measure, to state the reasons for the vote I shall give, because that vote is contrary to the one which I was disposed to give when the bill was first suggested to the Senate.

The Senator from Massachusetts, who opened this debate, [Mr. SUMNER,] quotes the law of nations and cites his great learning as to those laws for argument against the bill as it came from the House of Representatives. Everybody knows the bill is nothing without the House provision. The Senator abandons the doctrine of retaliation, and counsels as much of the country, in the very face of the fact that during the civil war we placed in close confinement rebel officers to restrain rebellion and ill treatment of our colored soldiers in the hands of the rebels. Did the Senator protest then? I did not hear it. He also abandons the doctrine of reprisals in face of the fact that this is a people whose policy in peace is to disband armies and lay up navies. We thus are in no condition to aggress on the rights of others, and by abandoning reprisals we are defense-

less in resisting aggressions from other nations. Shall we abandon the sure defense we have in our merchant marine and fold our arms and see every sail driven from the ocean? We must wait the slow conclusions of regularity and order; we must fight by rule; we must first build a navy, and before we have completed it find ourselves as the Alabama found us. No humiliation to our country has equaled the Alabama question. In war retaliation becomes at times a measure of the utmost humanity, and the issuing of letters of marque for reprisals has averted one war with France, and the fear of them have kept off the strong arm of jealous nations throughout our history as a nation. The Senator counsels us to abandon this our strongest arm and come in our defenseless condition to resist the attack of well armed, hostile forces; or, for the sake of regularity of proceedings, he would burden the people with a great debt and great taxation to maintain large standing armies and navies.

Prior to the civil war we could have armed our merchant service with letters and have banished British commerce from the ocean in a short period. When the emergency came what did we do? We lay upon our back, refused, from a spirit akin to that which animates the Senator, to make the only defensive arm we had available, and saw, one after another, every armed vessel driven from the sea, and British shipping in their place. This was a great blunder; yes, a great crime. Our remedy gone, in deep humiliation we watched for the conclusion of the war to wipe out the disgrace.

We could at one time have placed cannon on every merchant vessel and swords in the hands of our gallant tars, who would have applied the simple law of self-preservation and have saved us. We closed the war, and now wait for measures that will in some degree satisfy our wounded honor. And we have treaties sent here and reasons adduced that enable a foreign Power to regulate for us our own citizenship. What deeper humiliation than, first, to permit the destruction of our property, then the regulating of the political status of our citizens?

No grander spectacle has been presented in the history of nations than the recent act of Britain, when she extended her strong arm in a remote quarter of the globe, in an unknown country, with an uneven chance of success, and at great expense, to protect and cover from the hands of a presumptuous Power a few simple British subjects.

We have taken from Englishmen much of our law and love for liberty. We acknowledge our obligation. But, sir, this example which she has set us in protecting the liberties of British subjects from the aggressions of foreign Powers is deserving of greater praise offering than her whole past glorious contests for constitutional law and liberty of the citizen. Under the lead of the Senator from Massachusetts we cannot refuse to follow her glorious example. God forbid!

The question has never been presented to us as it is now presented. We have been remiss. We have neglected our duty to ourselves and to those we invite to our shores. We have permitted the little and the great to trample under their feet our laws, and bid us defiance time out of mind. When returned citizens of the United States have been imprisoned and punished for being such we remonstrate; our ministers have remonstrated. These remonstrances, though constantly repeated, have availed nothing. We come to-day and accept the German version as to who is an American citizen. How long would Great Britain permit any Power to contravene her laws? An American soldier, born in Germany, raised to high rank it may be, and in one year's service becomes an American citizen, visits the land of his birth and is arrested and compelled to work out and suffer penalties that were attached to a citizenship a portion of which perhaps was while battling for our institutions. We were weak when we declared war against Great Britain for violating the deck of American ships

in search of men deserting from theirs or men subjects of hers. Did we ever abandon the doctrine that the flag covers and protects the deck and all thereon, as well as it covers and protects the land and inhabitants throughout its jurisdiction? Certainly not; and we have held that even a slave taken voluntarily by its owner into a free State became thenceforth a freeman. This even in the face of the all-powerful negro aristocracy of the South who then controlled our Government. Shall we not accord to a free white Englishman or Scotchman or Irishman or German as much? Did these Powers not permit and encourage their inhabitants to leave their jurisdiction? Why should they when they return require service from them? Shame, sir, that we must consent to give less to such citizens when we have given it to the black men of the South; and shame, double shame, on those Powers who make terms and qualifications toward those they have abandoned; but far deeper shame on us for admitting any Power to regulate our citizenship. Can a man hold any divided allegiance? Under our law, no.

Under our treaties for four years he may exercise the privileges of a citizen of the United States, and at the same time be a subject of a foreign Power. A Power that voluntarily permits its citizens to leave its jurisdiction, consents to the jurisdiction of another Power, and cannot compel his return from the second Power, and when such person consents to the abandonment of the one by the assumption of the other he may return to the first-named Power freed from all former political disabilities. Though there may be among them men owing military service, the last Power that assumes final jurisdiction can never be required to make such a discrimination, for it is manifestly absurd to ask one nation to aid in the arrest of a deserter, or in the aid of restrictive acts touching such person, for this would be asking one nation to aid another in the execution of its laws. If a nation effects to prevent its citizens from leaving its jurisdiction, failing, it has no remedy as a Power too weak to enforce its acts, may not call on another for help, nor is such power entitled to hold as a subject those it has no power over. If this is not international law it is the law that this people will stand by. It is the law of progress and of necessity. It is the law of electricity and of steam. No international law has yet been written touching these new forces.

Can you stop the people of Europe from coming to the rich inheritance here? We desire it. These interests make the demand. Can you consent that any restraint can be put on one class of American citizens and withheld from another by a foreign Government? Certainly not. It is a contradiction. It is not practical. You may make treaties withdrawing your rights and privileges of citizens which our law has conferred toward those who leave the country. It will avail nothing. It will stand as long as the law which disfranchises deserters stands; until it comes before the courts. They say you must first convict of crime; desertion is no crime in times of peace. Stamp a man with the full insignia of an American citizen, and your honor, your plighted faith, your best interest, demands that no former political obligation shall detract from full allegiance to his new country.

I would in defense of this principle urge, first, retaliation; then reprisals; then war. For all of which we have illustrious and beneficial precedents in both English and American history. I would hold up to public condemnation him who would introduce any qualification touching a public law, least of all one touching the right of an American citizen to life, liberty, and the pursuit of happiness. A Government does not deserve to exist, it is not fit to be, that disregards the principle.

As to the policy of the easy introduction of foreigners to our citizenship I have nothing to say; I perhaps should oppose it. As to the Irish, who are more subjects of church and priests than they are interested by the princi-

ples of a republic, I might exclude them entirely. But the law stands, nevertheless, without discrimination or qualification, and I will not sit idly by and witness a violation of our law, such violation being enforced by hostile acts of a foreign Power. Repeal your law or enforce it. None of the precedents quoted by the honorable Senator stand a moment in face of an American citizen in prison, or held to service by another Government contrary to the law of this land, and no penalty can be adopted and enforced that is too strong to meet such an emergency.

Mr. YATES obtained the floor.

Mr. MORTON. I ask the Senator from Illinois to yield to me for a few moments. I desire to leave to-night not to return for the rest of the session, and there are a few little matters in my charge that will not take long, which, with the indulgence of the Senate, I should be glad to bring up now.

Mr. YATES. Very well.

Mr. MORTON. I desire to call up a pension bill in favor of the widow of General Hackleman. Two other bills on the same basis were passed the other day.

Mr. CONNESS. Not while this bill is being considered.

Mr. MORTON. I will say to the Senator from California that I am about to leave the Senate for the session.

Mr. CONNESS. The Senator is aware that, pending the consideration of the bill now before the Senate, a great deal of other business has been done by my consent, but I think it is time the bill was disposed of. I am perfectly willing that it shall be rejected by the Senate; it is now worth nothing, in my opinion; but I shall not consent, for one, to any other business transpiring until it is disposed of. I desire at least to get rid of it.

Mr. MORTON. I will say to the Senator from California that the business I desire to present will take but a few minutes.

Mr. CONNESS. It is only a few minutes ago since I gave way, when one objection would have stopped it, to the passage of a bill presented by the Senator from New Hampshire. There was a very plain understanding in the Senate that this bill should be gone on with; and yet as soon as that was disposed of there was a motion, which very nearly carried, to go into executive session.

Mr. WILLIAMS. There will be a meeting to-night to consider pension bills.

Mr. MORTON. I am going away in the evening train.

The PRESIDING OFFICER. The Chair will entertain the motion of the Senator from Indiana if there be no objection.

Mr. CONNESS. I have objected, and I cannot help it, although I do not wish to object.

Mr. THAYER. Then to accommodate the Senator from Indiana I move that the bill under consideration be laid aside informally.

Mr. CONNESS. The bills which the honorable Senator from Indiana has in charge can be taken up in the Senate afterward and passed whether he be here or not. I will present them to the Senate or any other Senator will.

Mr. MORTON. I shall be compelled to leave the Senate in a very little while, and that was the only reason I presented the matter now.

The PRESIDING OFFICER. The Senator from Nebraska moves that the pending bill be laid aside informally.

Mr. CONNESS. I object.

The PRESIDING OFFICER. Does the Senator from Nebraska make his motion to postpone for any particular time?

Mr. CONNESS. I hope the Chair will go on with the business under the rules. What is the question before the Senate?

The PRESIDING OFFICER. The Chair understands the question to be on laying aside the pending bill informally, but that is a motion which can only be entertained by unanimous consent, and objection has been made.

Mr. THAYER. I move that the pending bill be laid aside for twenty minutes.

The PRESIDING OFFICER. That motion is in order.

Mr. CONNESS. Upon that I call for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on the motion of the Senator from Nebraska, to postpone the bill before the Senate for twenty minutes.

The motion was agreed to.

MRS. EMMA WILSON.

Mr. MORTON. I move now to take up for consideration Senate bill No. 174.

The motion was agreed to; and the bill (S. No. 174) for the relief of Mrs. Emma Wilson, of the State of Indiana, was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to pay to Mrs. Emma Wilson, of Indiana, the salary which would have become due to her deceased husband, James Wilson, as minister to Venezuela, had he survived in that office till the close of the year ending with the date of his appointment.

Mr. MORTON. This bill was reported adversely by the Senator from Massachusetts [Mr. SUMNER] upon the ground that the precedents did not authorize it; but I am informed that the precedents do authorize the payment of a quarter's salary; and as this lady is in very destitute circumstances I move to amend the bill by providing the salary for a quarter instead of for a year.

Mr. SUMNER. I should have no objection to that.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. It is proposed to amend the bill by striking out all after the word "Indiana," in line four, and inserting "one quarter's salary of her deceased husband, James Wilson, as minister to Venezuela."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MRS. GENERAL HACKLEMAN.

Mr. MORTON. I move that the Senate now proceed to the consideration of Senate bill No. 627.

The motion was agreed to; and the bill (S. No. 627) granting an increase of pension to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman, was read the second time, and considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension-roll the name of Sarah Hackleman, widow of the late Brigadier General Pleasant A. Hackleman, at the rate of fifty dollars per month, from the 3d of October, 1862, on which day General Hackleman fell mortally wounded at the battle of Corinth, to continue during widowhood. The pension heretofore allowed her under general law is to be discontinued, but the sum heretofore received by her is to be deducted from the pension hereby granted.

Mr. CAMERON. I desire to say that this is another of those special acts increasing pensions. We have a general law which gives to the widows of officers of the rank of lieutenant colonel and above a pension of thirty dollars a month. We passed, I think without reflection, some time ago, five or six bills increasing these pensions in special cases to fifty dollars a month, and this is one of that class. As I said the other day, I am opposed to all this special legislation. If these pensions ought to be increased let us have a general bill. If it is to be done for any one let us increase them all. I am not in favor of taking out particular isolated cases to double the pensions.

Mr. MORTON. I could not hear what the Senator from Pennsylvania said; but I will state that the other day the Senate passed three bills of the same character increasing the pensions in the same way of the widows of three brigadier generals who fell on the field of battle.

General Hackleman was killed while leading his brigade at the battle of Corinth, and left a large family quite poor. There cannot be a more deserving and worthy case than this.

Mr. HARLAN. I desire to say a very few words, and I shall not consume much time. Heretofore the rule established for the regulation of pensions provided that the pension should begin at the date of its allowance. Afterward by law it was changed so as to begin at the date of the filing of the application. Now, I wish to call the attention of the Senate to the fact that they are reversing both the old rule and the recent law, and are establishing the precedent of going back to a former date. The amount of pensions now paid is considerably over thirty millions a year. It is equal to the interest on a capital of several hundred millions. It seems to me that we ought not to permit these precedents to multiply, for we may have to go back in every individual case. Suppose an appeal were made to the Senate in favor of the widow of a private, it would be perhaps quite as strong as that in favor of the widow of a general or of a colonel. It seems to me that the Senate ought to be a little careful in the establishment of precedents of this kind that will take from the Treasury millions of money more than was contemplated when the laws were originally passed. I have nothing to say in opposition to this particular case. I have no doubt that it is equally meritorious with any of those that have been passed by the Senate.

Mr. MORTON. I would say that the bills which were passed the other day were in the same form with this, and the Senator, I think, made the same objection to those bills that he now makes to this; but notwithstanding that they passed the Senate in the form in which this is I hope there will be no discrimination made between them, but that this bill will be passed as it is.

Mr. THAYER. I will simply say that I believe there are not four more cases of this character in the whole country.

Mr. CAMERON. There are at least seven or eight hundred; perhaps a thousand.

Mr. MORTON. Brigadier generals killed?

Mr. CAMERON. Not brigadier generals, but officers from the rank of lieutenant colonel up. We had four hundred generals, I believe. I am perfectly willing that there should be a higher pension in all these cases; I am not saying anything against that, but I oppose this system of special legislation by which a Senator or Representative, powerful and popular in the House of which he is a member, is enabled to urge a particular case from his own State, and the Senate vote for it without reflecting on it further than that this Senator has presented it. This principle will add millions of money to your pension list if you go on and carry it out. For the generals alone who have died either on the battle field or soon afterward it would be \$1,200,000.

The first excuse was that the officer had died on the field of battle, and the Pension Committee refused to act on bills granting an increased pension in those cases, but referred them to the Committee on Military Affairs, and they made it a special case because the individuals actually died while the conflict was going on. This goes a little further; this is a case where the officer died afterward, as I understand. He was a worthy and proper officer, undoubtedly, but he died after the battle was over. If you go on in this way you will bring in every case. Let us put it off until next year, and if our soldiers and the widows and orphans of our officers and soldiers have not pension enough let us increase it; make the sum as large as you please, and I will vote for it; but do not let us pick out these individual cases, and pass special bills now at the close of the session.

Mr. MORTON. I would say to the Senator from Pennsylvania that General Hackleman was shot dead on his horse at the head of his brigade at the battle of Corinth. As to the number of these cases the Senator from Penn-

sylvania is entirely mistaken. I am informed by one member of the Committee on Military Affairs that there are not exceeding three or four cases of this kind.

Mr. FESSENDEN. How many privates were shot dead in the field?

Mr. MORTON. I understand that Congress has made distinctions in regard to pensions.

Mr. CONKLING. There were thirty generals killed in battle, I understand; so the chairman of the Committee on Pensions tells me.

Mr. MORTON. I think those cases have all been provided for with the exception of three our four. I hope there will be no distinction made between this case and those which received the sanction of this body only two days ago.

Mr. CAMERON. This is the seventh case.

Mr. HENDRICKS. If there were thirty cases the amount would be \$18,000 a year. This bill proposes to give to the widow of General Hackleman just what has been given to the widows of other generals by the vote of the Senate within a few days. We ask simply for her what has been given to others. General Hackleman left but a small estate, although a lawyer of distinction. He left his business and went to the war, and left to his family but a home. His widow has been dependent on her personal efforts for her support and the support of a family of daughters. I think he left no boy to aid in the support of the family. It is a case that appeals not only to the sense of justice but of kindness. He was a distinguished officer in whom the State of Indiana takes much pride; and I should be deeply mortified if this increased pension was allowed in other cases and denied in this.

Mr. MORRILL, of Vermont. We have a law that fixes the time when these pensions shall commence. We should either adhere to the law or change it. This variation from the law will give the Pension Committee an infinite amount of business. I have no doubt of the worthiness of the applicant in this case; but I have a case for which I presented a bill at this session—the case of a lady who lost her husband, shot dead in the battle near the city of Mexico, and whose son also was killed in the recent rebellion. If this bill passes will it not furnish a precedent for a case of that kind—a widow and a mother having lost her husband and son, the only means of her support, both in battles of our country? The law makes a distinction in the amount of pay according to grade, whether to a private, a colonel, or a brigadier. Is not that a sufficient distinction? It seems to me that we cannot withstand the petitions in behalf of the widows of captains and lieutenants and privates if we break down this rule. I hope, if we have a rule, we shall adhere to it.

Mr. HOWE. I understand this bill was not reported by the Pension Committee, but by the Military Committee.

Mr. MORTON. I will say to the Senator that the committee reported four or five bills of the same kind at the same time, this being one. There were three or four of them passed the other day, and I got up to present this bill, but a motion to adjourn intervened, and the bill was cut off.

Mr. HOWE. I rise to inquire whether the other bills alluded to by the Senator from Indiana came from the same committee?

Mr. MORTON. Yes, sir; from the same committee, and were reported at the same time.

Mr. CAMERON. I desire to move an amendment of this sort—the Clerk can put it in form—that the same proportionate amount of pensions be paid to the widows of all the officers and soldiers who were killed in battle during the rebellion. Now, let us make the list complete.

The PRESIDING OFFICER. The Senator will reduce his amendment to writing.

Mr. VAN WINKLE. There seems to be a little misapprehension about the pension law as it now stands. All pensions take effect, if the application is made in time, from the death of the party or from the time his disability was incurred, or from the muster-out. The objec-

tion made to this bill by the Senator from Iowa, as I understand it, is this: this bill proposes, not to grant a pension, because I suppose there are no pensions but those allowed by law until the bill is passed, at least, but proposes, in addition to the regular pension which this lady already has of thirty dollars a month, to grant her twenty dollars a month more. As I understand, the motion of the Senator from Iowa is to prevent that increase from going back and to make it commence from the passage of the bill.

The PRESIDING OFFICER. The Senator from Pennsylvania proposes to amend the bill by adding as an additional section the following:

And be it further enacted, That the same proportionate increase of pension be paid to the widows of all officers and soldiers who were killed in battle during the late rebellion, such pensions to commence from the date of the death of said officers and soldiers.

Mr. CONNESS. I should like to know what became of the order of the Senate postponing the regular order twenty minutes. Does the Chair keep any account of the time?

Mr. HENDRICKS. Let us finish this bill.

Mr. CONNESS. I ask for information of the Chair.

The PRESIDING OFFICER. The Chair is not informed precisely. He thinks the twenty minutes are up.

Mr. CONNESS. If this bill could be disposed of in a few minutes I would not object.

Mr. MORTON. I will say to the Senator from California that we can dispose of it in a minute or two.

Mr. FESSENDEN. It cannot be disposed of with that amendment extending pensions to all.

Mr. MORTON. That amendment is intended for the simple purpose of killing the bill. I hope that it will be voted down, and that we shall then take a vote on the bill. It will be hard to explain the reason why the Senate should vote differently on this bill than they did on the other four the day before yesterday.

Mr. CAMERON. It is hardly fair to say that this is offered for the purpose of killing the bill.

Mr. FESSENDEN. If the twenty minutes have expired all this debate is out of order, and I object to further debate. There is no use in spending further time upon it.

The PRESIDING OFFICER. The twenty minutes having expired it becomes the duty of the Chair to announce that the other bill is before the Senate.

Mr. HENDRICKS. I hope the time will be extended thirty minutes more.

Mr. FESSENDEN. I hope not.

Mr. HENDRICKS. There is no reason why the other cases should be provided for and this one not.

Mr. FESSENDEN. There may be a good many cases.

Mr. HENDRICKS. The Senate have given this increase to others, and we want the same to General Hackleman's widow. It is a simple act of justice and right. I ask that the time be extended for thirty minutes.

Mr. CONNESS. Upon that I shall call for the yeas and nays.

Mr. FESSENDEN. Try it by a division in the first place.

Mr. CONNESS. Very well; I withdraw the call.

Mr. HENDRICKS. I will say, then, ten minutes.

The PRESIDING OFFICER. The question is on extending the time for ten minutes. The question being put, the motion was declared to be agreed to.

Mr. CONNESS. I ask for a division. The Chair cannot decide questions. It belongs to the Senate to decide.

The PRESIDING OFFICER. The Chair will again put the question.

The question being put, there were on a division—ayes 17, noes 15.

Several SENATORS. No quorum.

The PRESIDING OFFICER. Just a quorum.

Mr. CONKLING. Is that a quorum?

Mr. CONNESS. No, sir; there is not a quorum.

Mr. BUCKALEW. I suppose the Chair makes just a quorum.

Mr. WILSON. I ask for the yeas and nays. We have got to have them.

Mr. HENDRICKS. I would rather withdraw the motion than have so much strife over it.

The PRESIDING OFFICER. The regular order is before the Senate.

Mr. WILSON. Is there a quorum?

Mr. CONKLING. It was given up.

Mr. WILSON. It cannot be given up. We have got to ascertain the fact.

The PRESIDING OFFICER. The vote lacked one of a quorum; but the Senator from Pennsylvania afterward rose, assuring the Chair that there was a quorum in the body.

Mr. FERRY. Is the regular order before the Senate?

Mr. HENDRICKS. If the yeas and nays are not called I do not withdraw my motion. I thought the yeas and nays were called for. I believe the motion was carried.

The PRESIDING OFFICER. The motion was carried without a quorum, and afterward the Senator from Pennsylvania rose, which made a quorum. Which side he voted upon the Chair did not learn.

Mr. HENDRICKS. He says he voted ay.

Mr. FESSENDEN. He could not vote ay after the vote had been declared. If the thing is to be brought up again I object to that irregular mode of proceeding. We are spending our whole time here over pension bills and the like when we have very important business which must be transacted.

Mr. MORTON. The Senator has consumed more time in objecting than would have been required to pass the bill.

Mr. FESSENDEN. It would have passed if there had not been objection, and if there had been no objection from others I should have made none. I think we ought to go on with the business that must be disposed of and not proceed with such bills as these.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 252) to create an additional land district in the State of Minnesota;

A bill (S. No. 286) to incorporate the National Life Insurance Company of the United States of America;

A bill (S. No. 357) to provide a temporary government for the Territory of Wyoming;

A bill (S. No. 481) to confirm the title to certain lands in the State of Nebraska; and

A bill (S. No. 492) to extend the time for the construction of the Southern Pacific railroad in the State of California.

RIGHTS OF CITIZENS ABROAD.

The PRESIDING OFFICER. The regular order is before the Senate as in Committee of the Whole, being the bill (H. R. No. 768) concerning the rights of American citizens abroad, the pending question being on the amendment offered by the Senator from Michigan.

Mr. HOWARD. I have modified my amendment, striking out some useless words in it.

The PRESIDING OFFICER. It will be reported as modified.

The Chief Clerk read the amendment, as modified, which was to insert at the end of the third section the following words:

And whenever any citizen of the United States

shall be, or shall have been, unlawfully arrested or unlawfully detained by any foreign Government, it shall be the duty of the President, on receiving information thereof, to demand the release and liberation of such citizen, and in case of the refusal or unreasonable delay of such foreign Government to release such citizen it shall be the duty of the President to withdraw the diplomatic representative of the United States from such foreign Government, and to refuse to hold any further diplomatic correspondence with any representative of such foreign Government until justice shall be done in the matter by such foreign Government.

Mr. CONKLING. I should like to hear the whole of that section read as it will stand if amended. It is very brief.

The PRESIDING OFFICER. The section will be reported as it will stand if amended.

The Chief Clerk read as follows:

And be it further enacted, That it shall be the duty of the President to exert all his powers under the Constitution and laws for the protection and relief of citizens of the United States abroad, and to report promptly to Congress from time to time all cases where justice or relief shall be refused to such citizen by the Government of any foreign country, and whenever any citizen of the United States shall be, or shall have been, unlawfully arrested or unlawfully detained by any foreign Government, it shall be the duty of the President, on receiving information thereof, to demand the release and liberation of such citizen; and in case of the refusal or unreasonable delay of such foreign Government to release such citizen, it shall be the duty of the President to withdraw the diplomatic representative of the United States from such foreign Government, and to refuse to hold further diplomatic correspondence with any representative of such foreign Government until justice shall be done in the matter by such foreign Government.

Mr. SHERMAN. I should like to make an inquiry? Is that a substitution for the amendment of the Senator from Pennsylvania?

The PRESIDING OFFICER. It is an addition to it.

Mr. SHERMAN. If so, it is inconsistent.

Mr. FESSENDEN. It is pointing out to the State Department and the President exactly what they shall do in a case that has not yet happened; judging beforehand and telling them what they shall do, when at the time it may be very unwise to do it. I am opposed to such legislation as that.

Mr. HOWARD. I think the Senator from Maine misapprehends the drift and effect of my amendment. It does not require the President in such a case as that to withdraw the American representative from the foreign Government.

Mr. FESSENDEN. What is the language?

Mr. HOWARD. He may do it.

Mr. FESSENDEN. He can do that without this.

Mr. HOWARD. But he must refuse to hold any further intercourse with the representative of that Government.

Mr. FESSENDEN. That is, we may leave our representative there, but he shall refuse to receive theirs here.

Mr. YATES. Mr. President, I had intended to make some remarks on this bill suggested by the debate which has occurred upon it; and probably what I intended to say is not as applicable to the present posture of the bill as it would have been before. But I rose for the purpose of expressing my approval of the amendment of the Senator from Michigan. I think the action of the Government in all such cases should be deliberate, should be cautious; but at the same time the opinion and the position of our Government should be clearly understood. I approve of the amendment of the Senator from Michigan, because it does not contain that filibustering element, that upon a mere primary case there shall be a declaration of war. I believe that the Government should assert its position on this subject, and certainly it could not do it more effectually or more to the point than by saying that with any Government which arrests or imprisons an American citizen, the Government of the United States will suspend all diplomatic correspondence.

Mr. President, I should not have risen to speak on this question at all except to say that as little as this question may be regarded by some and pronounced a mere filibustering or a mere electioneering proposition, there is substance in it; there is right in it; there is

justice in it. No American citizen, whether he is a native born or a naturalized citizen, or whether he has simply declared his intention to be naturalized, should be denied the protection of the Government of the United States.

Two parties are now before the people of the United States. In 1864 the Democratic party of the United States, representing every State in the Union, assembled in Chicago, and presided over by Horatio Seymour, the candidate of the Democratic party at this time for the Presidency, declared by solemn resolution that the war which was then being prosecuted to suppress the rebellion was a failure. The man who presided at the head of that convention which made that declaration, and which sent discouragement to our troops in the Army, and encouragement and aid and sympathy to the rebels, is now the declared candidate of the Democratic convention lately assembled in New York for the Presidency of the United States. Sir, we met that convention before the people, we met them upon the field of battle, and we planted our flag where ever traitor hands had pulled it down. We consigned that convention, presided over by Horatio Seymour, upon that issue that the war was a failure, to the tomb of oblivion, and we triumphed, and gloriously triumphed.

But, sir, that was not all. That convention declared that there should be no proclamation of emancipation, that there should be no freedom to the slaves of the South. The Republican party took up the issue, and they have given life and liberty to four millions of God's long oppressed and downtrodden poor. This is what has been accomplished by the Republican party. Not only that, but the Republican party, opposed by the whole strength of the Democratic party, said they would confer the rights of freemen in the South upon these four millions of the oppressed, and they have done so.

I rise now simply to say that the mission of the Republican party is to give liberty to the captives and rights to the emancipated; to confer not only freedom but equal rights and equal suffrage upon every man on the whole continent of North America, whether in the North or in the South, without distinction of color, race, or condition.

Moreover, the Republican party now plants upon its banner, in defiance of all opposition, that without regard to nativity, wherever a man may be born, in any empire, upon any continent or island, wherever the American flag floats, there will float protection to the American citizen, whether he be native born or naturalized, whether he be born in this country or any other land. Mr. President, this is the doctrine; this is the gospel of the Republican party—equal rights to all at home and abroad; equal rights to all without regard to color or nativity. I could not let this occasion pass without saying that this is the flag beneath which we fight; this is the ensign by which we conquer.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan.

Mr. HOWARD. I call for the yeas and nays upon that question.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 19; as follows:

YEAS—Messrs. Cameron, Chandler, Conness, Corbett, Cragin, Harlan, Howard, McCreery, Morgan, Ny, Osborn, Patterson of Tennessee, Ramsey, Rice, Sawyer, Sprague, Stewart, Thayer, Wade, Welch, Williams, Wilson and Yates—23.

NAYS—Messrs. Anthony, Buckalew, Conkling, Deolittle, Ferry, Fessenden, Frelighuysen, Harris, Hendricks, Morrill of Vermont, Morrill, Patterson of New Hampshire, Pomeroy, Sherman, Sumner, Trumbull, Van Winkle, Vickers, and Willey—19.

ABSENT—Messrs. Abbott, Bayard, Cattell, Cole, Davis, Dixon, Drake, Edmunds, Fowler, Grimes, Henderson, Howe, Kellogg, McDonald, Morrill of Maine, Norton, Pool, Robertson, Ross, Saulsbury, Tipton, and Whyte—22.

So the amendment was agreed to.

Mr. FERRY. I have an amendment which I wish to offer in the nature of a substitute for the whole bill. I move to strike out all of the preamble and all after the enacting clause,

and substitute after the enacting clause the amendment that I send to the Chair.

Mr. CONNESS. It is not in order.

Mr. FERRY. If it is not in order I will wait until it is.

The PRESIDING OFFICER. The Chair understands it to be in order. I understand it as a substitute for the bill.

Mr. FERRY. In the nature of a substitute.

Mr. CONNESS. Mr. President—

Mr. FERRY. Let it be read, and we shall see.

Mr. CONNESS. This is a substitute for the preamble and bill. I ask whether it is in order to act on the preamble now at all.

The PRESIDING OFFICER. It is not.

Mr. FERRY. Then I will leave out the part in regard to the preamble, and move to strike out all of the bill after the enacting clause, and insert:

That all naturalized citizens of the United States while in foreign States shall be entitled to, and shall receive from this Government, the same protection of persons and property that is accorded to native-born citizens.

SEC. 2. And be it further enacted, That whenever the rights of any citizen of the United States who may be in any foreign country shall be infringed by the Government of that country, it shall be the duty of the President of the United States to extend to the citizen so injured the protection of this Government by every necessary means in accordance with the law of nations and the Constitution, treaties, and laws of the United States.

The PRESIDING OFFICER. The question is on this amendment as a substitute for the bill.

Mr. STEWART called for the yeas and nays, and they were ordered.

Mr. CONNESS. This question has assumed a great many shapes since it has been before the Senate; and this I think one of its most effeminate ones; one of its most lame and impotent ones. If language could be employed so that less could be expected from any act passed on the subject there could be no greater success realized than in the language employed here. I should expect it would get the votes of those who simply desire to offer to men incarcerated in prison fine words and platitudes, but of none others.

Mr. FERRY. The subject-matter which has engaged the attention of the Senate so long is one which, in my judgment, does require some legislative action. We have had from time to time in the history of this Government complaints made of the action of foreign Governments upon such of their former subjects as had become naturalized citizens of the United States. It was evident early that the difficulty grew out of the old doctrine of perpetual allegiance held generally by the European Powers and practically denied in this country under our system of naturalization. It was, therefore, evident to every intelligent man that it was impossible to accomplish a perfect remedy except through the treaty-making power. To change the law of nations by a municipal statute is a thing which every intelligent person knows cannot be accomplished. Consequently the Government for a considerable period past has been taking the right, proper course to remedy the evils complained of, to wit, by negotiation and the exchange of treaties.

But recently there has been in one foreign country an insurrection, more or less formidable. In that insurrection citizens of the United States, both naturalized and native born, are said to have been auxiliaries. I do not know whether the fact was so or not. It is said to be so. The insurrection was unsuccessful, and citizens of the United States were arrested, charged with violation of the municipal law of the country in which they were arrested, convicted, and are now imprisoned. It is asserted that the conviction and imprisonment are wrongful, contrary to the law of nations, and especially contrary to the principles of this Government, so far as those principles demand its protection to its naturalized as well as its native citizens. Now, sir, I hold, and I have always held, as a matter of national duty, that

we must extend to our naturalized citizens all over the globe, wherever they may go in the pursuit of business or pleasure, the same protection which we extend to our native-born citizens; and the object which is sought to be accomplished by this bill is to effectuate such protection whenever it shall be needed.

The difficulty we have had is this: we have been undertaking to pass a municipal law which could not have any extra territorial efficacy for the purpose of affecting the status of citizens of the United States charged with offenses against the municipal laws of other countries. No one, I suppose, not even the Senator from California, desires that this Government shall do more than protect its citizens, whether native or naturalized, against injuries inflicted upon them by foreign Governments.

Mr. CONNESS. Certainly not.

Mr. FERRY. But my friend, the Senator from California, desires a bill to point out some specific kind of protection in some specific mode. I must say that in my judgment the original bill, as passed by the House of Representatives and referred to the Committee on Foreign Relations in the Senate, in attempting to point out a specific mode of extending this protection went back in civilization and undertook to introduce here into our practice customs which have been abandoned by the civilized world for ages.

The thing which we wish to do, and which we ought to do, is to impose upon the President of the United States, the executive power of the country, a specific duty which he shall be enabled to perform without the necessity of referring the subject-matter in every instance to Congress. I have not been in favor of the propositions here made to refer the information the President may receive to Congress, because the delay thus occasioned might be very injurious to the rights of American citizens, and yet the President of the United States might not feel authorized, without legislation, to employ some of the means known to the law of nations, and which he might exercise by the law of nations, for the protection of American citizens injured by foreign Governments without a reference of the subject-matter to Congress, as in Congress rests the responsibility of declaring war and making peace, and the President might feel, without legislation authorizing him to take the preliminary steps which might ultimately lead to war, that he ought not to take them without a reference to Congress.

The amendment which I have proposed clothes expressly the President of the United States, without a reference of the information which has been communicated by him to Congress, with the power of using all the needful means to extend the protection of the Government over a citizen who is injured by a foreign Government—all needful means known to the law of nations and under the Constitution, treaties, and laws of the United States. I ask what more can any reasonable man want? I am not a naturalized citizen; I am a native-born citizen, but I, for one, as a native-born citizen, would ask no further law than that which is embodied in the amendment which I have presented, anywhere upon the face of this broad earth; for wherever I might be, under the operation of that law I should feel that the Executive of my country would employ whatever needful means were authorized by the law of nations and the organic and other laws of the United States for my protection if I were injured abroad. If there be nothing else under this bill, and under the series of movements from which this bill has originated, than an honest desire to protect the citizens of this country in their rights while temporarily abroad, in my judgment this amendment is all-sufficient for both native and naturalized. If there be any other motive underlying the bill I do not know what it is; I do not say that there is; but it is a motive which is not revealed in the discussions of either of these two Houses, and therefore not a matter for my consideration here.

I am sorry that my friend from California deems the amendment effeminate, but it is an addition to the present body of the law, and it is an addition which, in my judgment, will confer upon the Executive of the country authority which he can employ for the protection of our citizens abroad, and it is a notice to all the Governments of the world that the executive authority of the United States will employ the means which we thus authorize and direct him to employ.

Mr. MORTON. I should like to ask the Senator from Connecticut a question. After the President has exhausted negotiations in trying to procure the release of an American citizen arrested abroad, the amendment then provides that he shall resort to all means authorized by the law of nations and by the Constitution, treaties, and laws of the United States. I ask him now to specify those means; whether he refers to the withdrawal of diplomatic intercourse or the suspension of commercial relations; whether his amendment, if it means anything at all, does not carry a vast power with it. I want him to specify the means that the President may resort to under it.

Mr. FERRY. It does carry with it the power to suspend diplomatic intercourse. It does carry with it the power which has been exerted within the last few years by the fleets of this Government upon the coast of Japan. When that Government imprisoned American citizens or infringed upon their rights the fleets of the United States compelled that Government to yield and give to the citizens of the United States their rights. I would prefer to leave with the executive authority of the United States the discretion as to the means which he should employ for the purpose of securing the rights of American citizens abroad, believing that the Executive would not resort to the final arbitrament of war, or measures which should lead necessarily to war, until the legislative department also had been informed of the condition of things.

Mr. MORTON. I will ask the Senator if it authorizes the President to suspend commercial relations, and if it authorizes him to use the Army and Navy, is not that war?

Mr. FERRY. It authorizes him to use precisely what the amendment itself suggests. We have got to give to some power in this country, either the executive or the legislative department, the authority to extend the protection which in the second section of the original bill we all agree without exception in this Chamber should be extended to American citizens abroad. I think that under the amendment that I have presented any infringement upon the rights of American citizens abroad will be remedied and redressed by the interposition of the executive authority using, as it would be under our system the inevitable tendency of the executive authority to use, such preliminary means as would be carried out subsequently, if they were not effective, by the legislative department exercising its power in declaring war.

Mr. CONNESS. I beg my friend from Indiana not to suppose that there is any war in this amendment suggested by the Senator from Connecticut. On the contrary, it is peaceful. It is as quiet as a summer morn. If adopted, it will never lead to the disturbance of one human mind in the United States of America, nor without the United States of America. It is one of those broad declarations, in effect like the common air, which serves some purpose, but no particular purpose. I very much prefer the amendment offered by the Senator from Michigan, with some reconciliation of its language with that to which it is appended, or the amendment offered by the Senator from Oregon.

While we have been talking here on this subject I sent out and obtained an article pertinent to this question, and I propose to read it as a part of my remarks. I ask the attention of the Senate to it. It is a leading article in the New York Sun of yesterday, a paper edited by one of the ablest writers in this country. It

is not a party paper, and I present what it says both as to the facts stated and the conclusions drawn therefrom, as a fair index of public opinion on this subject, and as very much at variance with the statement of facts asserted yesterday by the Senator from Massachusetts, the chairman of the Committee on Foreign Relations. It is predicated upon a particular case, that is one case, the arrest and detention of the prisoners taken from the Jacmel packet. It will be remembered that some of those have been discharged by Great Britain, and have reached the United States. All that were discharged were native Americans, and no native Americans now remain in custody. All that were held and are now in confinement were naturalized citizens. I proceed to read the article:

"The Case of Warren and Costello.—The case of Colonels Warren and Costello, who were arrested and convicted in Ireland on a charge of being connected with the Jacmel expedition, and which we have so frequently alluded to in these columns, was brought under the notice of the British Government in the House of Commons on last Thursday night. Lord Mayo stated that there was no peculiar feature in the case which would lead the Government to depart from the usual course of the law; that is, in plain English, they must serve out the term of their imprisonment; that their claim to be regarded as American citizens is utterly ignored; that our naturalization laws are held in contempt by the British Government, and afford no protection whatever to such American citizens as Colonels Warren and Costello. Notwithstanding the opinion of Lord Mayo, we regard this as a very peculiar case—so peculiar as to be at this moment not only engrossing the attention of our Senate, but exciting the deep interest of the entire American people, whose national consequence abroad has been lowered in the persons of those men who are now held in a British prison without having been tried according to that form of international law which, as American citizens, they demanded."

That relates to the making up of the jury, they having been denied the privilege of the statute provided by Great Britain itself of giving a mixed jury:

"The same evidence, the same informers, the same agency, and espionage were brought to bear against Colonel Nagle and the other captives of the so-called expedition, and yet they were released and permitted to return to this country. Is it not somewhat peculiar that Warren and Costello should be doomed to lie in jail while their fellow-voyagers are set at large? It would be more peculiar still if our people should allow this subject to rest with the statement of Lord Mayo, and the appeals for justice of any of our citizens who may have been illegally tried to be stifled within the four walls of an English dungeon. The action taken by Colonel Warren at the time of his arraignment has forced the whole naturalization question upon the attention of the British Government and driven them into a corner from which there is no safe retreat, and thus embittered them against him; and they are resolved, if forced to relinquish their old feudal claims, to retain and wreak their vengeance upon his person."

"The British Government are not, it would seem, acting in good faith with us regarding this naturalization question, for Lord Stanley stated in the House of Commons also on Thursday evening that although they were prepared to accept the American view of it, still that he declined to make a treaty at present, as the royal commission is still considering the general subject, and for the additional reason that time will not permit the passage of a bill at the present session of Parliament."

"In view of such language the Senate should act promptly on the bill which is now before it. Whatever legislative action England may think fit to take in this matter the duty of our Government is clear. We are the aggrieved party, the rights of our citizens have been invaded, and we cannot afford to have their recognition everywhere, in every country under the sun, postponed for a single day."

But, sir, we do.

"This is a question of national importance, and must not be diplomatically trifled with."

Thus speaks one of the independent journals of this country, not written in the interests of any political party, nor seeking votes, but representing an American opinion, the existence of which cannot be denied on this subject. Sir, in face of the facts alleged, and which are unquestionably true as stated in this article, we are here trifling with the question, and proposing general declarations that give the President of the United States no more power than he has to-day; that make it his duty to perform no specific action, that do not take one single step to the release of our incarcerated and oppressed citizens.

I regret, Mr. President, very much, indeed, that I felt it to be my duty to press this question upon the attention of the Senate. It has

been to me a very unpleasant task. But, sir, I could not fill the place I hold here and do less than I have done. I regret more deeply still the manner in which it has been received and treated, the efforts from time to time to avoid action on the subject, the preference given again and again to motions to go into executive session, to consider first one bill and then another, the attempts to put it aside, and finally the manner in which we meet it. It is a question, it appears to me, in which we are all equally interested, and upon which it becomes our first duty to act. I cannot conceive, without endeavoring to add any force of language to the statement, how any man can rest quietly while he knows and is conscious that one of our citizens is deprived of his rights of liberty. To deny that that is the case is to deny the plainest and most palpable facts. The denial may be made here again and again, but the millions of this country will believe the statement to be true. It has been stated, and I reiterate it, that both political parties recognize this opinion in the country and have made declarations which are creditable to them upon this subject. Let us stand up to the declarations we have made. Let us exact only what is right, and let us submit to nothing that is wrong.

Mr. CONKLING. Mr. President, I like to consider this subject in the spirit of the accomplished journalist and thinker whose article a few moments ago was read. It is an important subject, deeply interesting and disturbing in many of its bearings; and because it is so it is fit in this Council Chamber to be deliberately treated and to receive, in such form as legislation in regard to it may take, at least that measure of discernment which we find when we open our statute-books at large.

I do not believe that the conviction felt with regard to it here is confined to any one or two Senators; nor do I believe that intense and extravagant language in denunciation of this measure or of any measure is likely to conduce to its perfection or to the wise conclusion of the Senate. Legislation, in its best estate, is the average judgment of the members of the body by which the legislation is matured; and when to this measure is given the best embodied judgments of the Senate it has received from us all that we have the power to give.

I agree with the Senator from Connecticut in thinking that a large part of the difficulties with which we have met are difficulties of administration, if they be faults at all. The Senator truly said that disrespect, want of consideration, has been shown for our naturalization laws. That is not the fault of those laws, as he justly intimated, but it is precisely what the statement imports, that laws upon our statute-book have not in extra territorial consideration received the weight and been allowed the action and the force which we would gladly claim for them.

In this statement there is a great deal to curtail the function of legislation; yet I am not disposed to deny that legislation may be made useful on this subject; and for myself I can assure the Senate, and assure anybody who observes the action of the Senate that I have but one purpose in the votes I give on this subject; that purpose is to arrive at the best conclusion, to adopt the most perfect and the most effectual measure to secure respect for the rights of all our citizens, be they native or adopted, in every land, however remote it may be. I think, sir, speaking of the legislative action of those around me, that is the purpose of the whole Senate without, perhaps, that enthusiasm, that warmth of espousal, that demonstrative enthusiasm which, for reasons having nothing to do with considerations of legislation, particular persons may feel.

Now, Mr. President, coming to the amendment offered by the Senator from Connecticut, I think his position as its mover is very like that of a plaintiff in ejectment, who should be permitted to recover more upon the weakness of his adversary's title than upon the strength of his own. I do not mean to disparage his

amendment, but I mean to say that the strong point in its favor which lies at the threshold in my estimation is the imperfection, the misfortune, as I conceive, of the measure in lieu of which he offers it. The Senate has adopted a provision which I have before me, and which, among other things, provides that in all cases whatsoever, be their history or circumstance what they may, of the detention of a citizen by a foreign Power despite a demand of the American Executive, it shall be his duty, all discretion being dispensed with, to suspend all diplomatic relations with the Power thus refusing. There are various criticisms to be made upon this. One general criticism which may be made is by supposing for a moment such an act as that to stand upon a British statute-book, putting away that feeling of distrust and disquiet, which in spite of us enters the minds of all, growing out of the want of confidence felt in the present Executive of this country, and looking at this measure as a permanent one, to stand under future Administrations, I ask Senators to consider how it would be regarded if it were the act of the British Parliament, if the ministry of England were not only clothed with power, but specifically directed in all cases, under all circumstances, however variant they might be, to suspend diplomatic relations at once with any and every foreign Power between whom and Great Britain a certain question might arise.

Mr. President, not to dwell upon it, I think I may say that, viewed in the light of statesmanship and public policy, such a statute would be received with the derision of all Europe; and why? Because it is the absorption of purely administrative discretion, because it is an attempt to compass an impossibility, to make provision beforehand for questions which have not arisen, upon facts which cannot be foreseen, and to have that provision uniform, alike in all cases. I will not detain the Senate with any disquisition upon what I conceive to be the fallacy generally of such a proposition, but I wish to ask attention in the interest of this measure to one single objection.

The proposition is that upon a citizen or citizens being detained in a foreign country, and a demand for their release and a refusal to comply with that demand having occurred, the President shall at once suspend diplomatic relations. I call the attention of the Senator from Michigan to the fact that the amendment is not, as he supposed, one giving discretion to the President to do that, but containing this language:

"It shall be the duty of the President to withdraw the diplomatic representative of the United States from such foreign Government, and to refuse to hold further diplomatic correspondence with any representative of such Government until," &c.

Now, Mr. President, look at this one moment in the interest of any citizen who may be thus detained. Is there any moment when the interest of a citizen, native or adopted, detained in a foreign country, requires so much as that interest requires at the time of his detention, a representative of his Government to whom he can appeal? I submit it is the occasion of all others, looking to the interests of a citizen detained abroad, when you do want a diplomatic representative there to negotiate for him, on his behalf, and for his release, and yet here is a proposition that instantly, without giving the President a discretion by which he can wait a day or two until dispatches might pass by cable and ascertain whether leaving the diplomatic representative there might not be the very instrumentality by which release could be obtained, without leaving even that measure of discretion to him, we provide that, hit or miss, wise or otherwise, he shall at once sunder all diplomatic relations by withdrawing our minister and compelling the minister of that Government here to demand his passports so that both countries shall be mute and isolated from each other.

Mr. HOWARD. The Senator from New York will observe, if he looks into the amend-

ment carefully, that this cessation of diplomatic intercourse cannot take place, according to the provisions of the amendment, until after the foreign Government has either actually refused to comply with our demand, or until after it shall have unreasonably delayed a compliance; so that the language does not tie the President up so closely and unconditionally as the Senator seems to suppose. There would be, as a matter of course, abundant time for further negotiation unless the foreign Government makes a positive refusal to comply, and then I submit to the Senate in such a case as that, after a demand from the United States has been formally made and formally refused, whether it is becoming our Government for the future to hold diplomatic intercourse with the recalcitrant Government?

Mr. CONKLING. I differ entirely with the Senator, and I base my argument upon the precise point which he thinks vindicates this proposition. Now, let me beg the attention of Senators, for one moment to this point, for it is a very simple one: "and in case of the refusal." I stop just there; I want nothing further objectionable in the amendment upon which to base my proposition. Upon the refusal to surrender, it shall be the duty of the President to withdraw the diplomatic representative. Consider, Mr. President, the operation of that provision. A citizen has been detained in Dublin, and a statement comes here by cable of the facts. The President makes a demand that he shall be released. Upon the case, as then understood, he is met by a flat refusal. The British Government say, "No, we decline and refuse to release this man; we hold him as a culprit charged under our laws, and we mean to try him." What is to follow that? What, in the ordinary course of human transactions and of wisdom, would follow? One would think the first step on the part of the friends of the person detained and his Government would be to institute an inquiry to see whether some other person might not be the one charged; whether, from a similarity of names or description, some mistake had not occurred; or whether, although a *prima facie* case might exist, it might not turn out upon investigation that this refusal might be withdrawn, and that the two Governments might meet in assent. But in lieu of that, by this provision, it would be the unbending duty of the Executive instantly to require our representative to demand his passports and return home, and, at the same time, to dismiss the representative of the British Government here.

I pass over the extraordinary character of this legislation; I pass over the criticism to which, for general reasons, it might be subject; and I ask, as a practical proposition looking solely to the interests of citizens abroad in imprisonment, whether it is wise first of all to deprive them of the instrumentality of all others which, in all human probability, they need? It seems to me that in place of a provision withdrawing diplomatic representatives, a provision which would enable the President to increase them, to send rather a special ambassador, or an embassy of some kind to negotiate for the release of American citizens would be a far more friendly and a far more effectual line of legislation.

It seems to me, Mr. President, that this provision, if it could be carried into a law, would have no effect so certain as an effect injurious to the rights of those whom we really wish to protect; and, therefore, such a proposition as was offered by the honorable Senator from Connecticut, or the proposition as it stood upon the motion of the honorable Senator from Pennsylvania, in my eye is far more beneficial; not because it is weaker, not because it is expressed with bated breath, not because it is toned down into a heartless one of zeal and vigor, but because, if I put myself in the supposed position of one detained in a foreign country, I would infinitely rather rely upon a discreet exercise of all the powers which may be conferred upon the Executive than to depend upon

the fortune of one single expedient. Without this and with the bill as it stood, what should we have in general on this subject? We should have an act not only declaring to the nations of the world our determination to maintain in all instances and in all countries the rights and immunities of American citizens, home born and foreign born alike, but a legislative injunction laying upon the Executive the command of Congress that all the powers, every prerogative that he can wield under the Constitution and laws of the country, should be exerted in the case of the humblest citizen who might be detained anywhere upon any pretext.

If you assume that we are to have a dishonest, an imbecile, a rash, a guilty Executive, I admit that the practical argument is very strong against trusting this or any other matter to his discretion; and if we were legislating merely during the brief term of the present Executive, I have no hesitation in saying that any measure committing to him a discretion which might be withheld, and which was liable to abuse, might not be, in my judgment, altogether indefensible and unwise. If the present Executive was to administer a law like this permanently, or if a successor following in his footsteps and resembling him in public character were to administer it, I admit, without an argument, that that fact would exert a controlling influence with me as to the measure of discretion that I should confide and as to the power that I would commit to him. But we are making a statute to stand permanently, to be administered presently by an Executive in whom a majority of the members of this body have confidence, and to be administered in the far future, we have a right to believe, by those who will have regard to the spirit, the genius, and the duties which are elements in this case. Looking to that, I confess I would infinitely rather trust to the amendment offered by the Senator from Connecticut, liable as it may be to the criticism made by the Senator from Indiana, that acts amounting to causes of war might be done under it, and criticised on the other hand, as it has been, as lacking vigor, as being empty of power, than to commit myself and the rights of American citizens to a fixed rule of this sort, which I conceive would work injuriously in a majority of instances, and which, as an act to be done at once without preliminaries except those provided here, I believe would be unwise in all cases.

With or without the amendment of the Senator from Connecticut, except for this provision offered by the Senator from Michigan, the President of the United States has the power to suspend diplomatic relations, and that power as it stands now is tempered only by a discretion. The change here is to make it absolute, to prejudice for ourselves upon all cases likely to arise in the future that when a certain stage arrives in the negotiations relationship shall be sundered. Can there be, I submit to the honorable Senator who offered this provision, one argument for that except want of confidence in the executive government? If he believes a sound discretion would be exercised, then in theory of law that discretion would concur with the judgment which we should form upon the given case stated; but the amendment presupposes that we cannot trust now or in the future any discretion as a concomitant of this power. We must leave the executive authority to suspend diplomatic relations, and take from it all capacity to judge whether the power shall be exercised or not, and at what time that exercise shall take place.

Now, sir, I trust as a friend of this measure, and as one willing to vote for the strongest provision which can be defended upon principles of sound policy, the provision most likely to work out the vindication everywhere of American citizens, be they home born or adopted, that the amendment of the Senator from Connecticut will be adopted. A great mistake will be made if it is assumed on either side that those who are not able to go for every

proposition which on its face looks dashing, looks vigorous, looks effective, are restrained from doing so by some want of interest which they feel in the subject, some lack of zeal to reach the end. That is a great mistake, I believe, as to a majority of this body. I know that it is an entire mistake as to myself, for the proposition which shall receive my vote first and last is that one, based upon sound principles, which seems to me to be the most effectual and the most certain in securing the rights of those whom we are seeking to protect; and as between the proposition as it now stands and the amendment offered by the honorable Senator from Connecticut I shall vote for his amendment, not because it is weaker on the one hand, not because it is rasher and more likely to be productive of war, as has been suggested, on the other, but because, making the case my own, looking at my own interest, if I were thrown into a British dungeon I would rather have all the powers of my Government exercised with the discretion tolerated by the pending amendment than to have the abrupt experiment of withdrawing from the country in which I might be detained the representative of my own Government, and banishing from my own Government the representative of that Government, leaving the two parties estranged from each other, and me to abide the fortunes of some shadowy by and by.

Mr. HOWARD. Mr. President, the honorable Senator from New York has directed his remarks in the main against the amendment which I had the honor to offer and which the Senate has already adopted. He criticises the amendment because he thinks it may encourage rash conduct on the part of the Executive.

Mr. CONKLING. No, sir; I beg the Senator's pardon; I did not say that.

Mr. HOWARD. I will state to the Senator what he said. Commenting upon the amendment, he asked: suppose the President of the United States should receive a dispatch across the Atlantic cable that an American citizen was thrown into confinement in Europe, and suppose the President should instantly on the receipt of the telegraphic dispatch across the cable act upon the case and return a peremptory demand upon the British Government for the liberation of the prisoner, what then? He foresees that great trouble might arise in such a case.

Now, Mr. President, is it fair to use language like this in the way of commenting upon that amendment? Does the honorable Senator suppose that any President of the United States, whether it be the present Executive or some other Executive, would act so precipitately as he seems to apprehend he might? Does he suppose that any President would make a peremptory demand upon the Government of Great Britain for the rendition of the prisoner without having consulted upon the subject in Cabinet council, without having held a diplomatic correspondence with the proper British authorities on the subject? Why, sir, this example of danger which he holds up before us is a thing which is never likely to occur unless we have for President some insane man who is without reason, whose passions nothing can moderate, and who desires merely to involve us in a war with a foreign country. He might as well point out to us that a similar danger would arise from the communication of some spiritualistic medium to the President of the United States that a similar transaction had occurred. No, sir, there is no ground for any such apprehension. Would he be content to act upon the credit of a cable dispatch upon any subject of moment, any public matter which concerned the interests of the people of the United States? Would he act without negotiation upon paper, without consulting the British Government through our minister at the Court of St. James, without consulting the minister of the British Government here? No, sir; I know he would not; so that there is no ground for any such apprehension. The whole

field is left open and unembarrassed by my amendment until there has been a formal demand made by our Government upon the foreign Government.

The President by that amendment is not required to make a demand at once, and it is implied from the very language of the amendment and the very nature of the case that such a demand should be preceded by the usual and ordinary negotiations between the two Governments. Now, sir, I put this to the honorable Senator: after having duly considered the case, after having negotiated and discussed the subject as a faithful Executive, and his Cabinet undoubtedly would do so in all cases, and after the Executive, being thus advised by his Cabinet, shall have come to the conclusion to make a peremptory demand upon the foreign Government for the redress contemplated in the amendment, would the Senator from New York continue diplomatic relations one moment after the refusal of such a demand? Could it be done with dignity? Could it be done with self-respect? The demand would necessarily imply that our own Government have obtained all the information practicable on the subject; that they have considered the question in all its bearings, and have solemnly made up their minds to make the demand. When the demand is made it is the voice of the United States requiring that the offending Government shall do us justice and surrender up the prisoner. But instead of this, it seems that the honorable Senator from New York, after the demand shall have been refused by the offending Government, would double our number of diplomatic representatives at the foreign Court, would send over additional diplomats to continue the negotiations and tease the foreign Government to comply with our demand. Sir, is that the conduct of a nation who is conscious of its own rights, who is able to show by its own strength the justice of its own claims? No, sir, it would be merely to belittle the Government in the eyes of the world to follow up a negotiation after a peremptory demand had been made and refused.

Mr. President, I have one word to say respecting the amendment offered by the honorable Senator from Connecticut. If I comprehended its terms and effect while it was read at the desk I think it opens the door quite too widely; it gives too much discretion to the President of the United States. In such a case it authorizes him, if I understand it, to employ any means known to the Constitution or laws of the United States, any means recognized by existing treaties, any means recognized by the law of nations to obtain redress. This would lead at once to war. Instead of requiring the President to give the usual admonition in the form of withdrawing our minister, it would, by its very terms, authorize the President to launch the bolts of war in the first instance against the offending Government. Surely I cannot suppose the Senator from New York would place such a power in the hands of the President. Surely I cannot suppose the Senator from Connecticut would place such a power in the hands of the President. I do not think the Senator from New York would consent to such a delegation of discretionary authority. I am opposed to it, sir; but at the same time, where there has been a negotiation, and where our own Government have come to the conclusion that our claim is just, and have seen fit to make a formal demand for the liberation of the prisoner, I would go so far as to command the President of the United States to withdraw our representative from the foreign Government and cease to hold intercourse with the minister of that Government here. I would show a resentment, admonishing the offending Government that its conduct was leading gradually to a collision of arms. These intimations, in all cases I may say I think would probably finally lead to a peaceful solution of the question. I would not leave such a question as this to stand upon such vague generalities, such

inconclusive language as that which is couched in the amendment of the Senator from Pennsylvania.

If we legislate upon this subject at all let us express our purpose in our legislation. As the law now stands the Senator from New York very well knows the President of the United States has no legal right to make a demand for the liberation of an American citizen abroad. I think I am correct about this; if I am wrong he can easily set me right. I think the time has come when there ought to be a statute which can be appealed to by the American citizen abroad who is suffering injustice at the hands of a foreign Government. I think that the American nation is powerful, wise, and spirited enough to understand its own rights, and to defend those rights as against all foreign Governments. I think the time has come when the name of "American citizen" should be as much respected as was the name of "Roman citizen" throughout that almost boundless empire in ancient days. I think our legislation is defective upon the subject, and that we ought to place upon our statute-book a law which regulates the rule of conduct for the executive power of the United States in such an exigency.

Mr. MORRILL, of Maine. I voted against an executive session with a great sense of its importance this morning, but with the supposition that we should be able to reach a vote upon this question without much further discussion; and I had not thought it possible that under any circumstances I should get my own consent to say a word upon this question; and I do not propose to detain, at any length, the Senate now. I had supposed that I should follow, as I usually do where I have no very distinct notions of my own, the action of the appropriate committee; but since the debate has been extended I have turned my attention to this bill, and I want to say in a very few words how it strikes me.

The difficulty, in my mind, has been to fixing some just and definite idea of what we want to accomplish. It probably results from the fact that I have paid very little attention to the discourse that the object aimed at has been so shadowy in my mind; but turning to this bill I find that the object to be accomplished is explicit, the principles which are characterized here as American principles, and which ought to be sustained it is said, are clear, well defined, and distinct; and I understand in this the committee were unanimous, and I understand as a matter of fact that the Senate is quite unanimous on the principles which ought to be maintained, and the rights of citizenship which ought to be vindicated, both as to native and naturalized citizens. What are they as defined by this bill? The first section of the bill declares that it shall be an offense for any officer of the Government of the United States to deny the right of expatriation. That the committee characterize as a high American doctrine; the right of expatriation the American Congress will vindicate. Very well; we stand on that.

What is the next proposition? The next proposition is that all naturalized citizens of the United States when in foreign States shall be entitled to the same protection as native citizens of the United States. That is the corollary, of course, of the first proposition. The whole bill turns on these two distinct propositions: first, it is the great American doctrine that the foreigner has a right to expatriate himself and become an American citizen, and becoming an American citizen no officer of the American Government shall be allowed to question that right; and further, it shall be the duty of this Government to protect the rights of the foreigner having become an American citizen precisely as we protect the rights of the native born. Of course this goes upon the assumption that there is a discrimination now in the practice of foreign countries against American citizens in this respect: that while one rule is applied to the native citizen another and a dif-

ferent rule is applied to the foreigner; and this bill is designed to correct that. Look at the third section:

Whenever it shall be duly made known to the President that any citizen of the United States has been arrested and is detained by any foreign Government in contravention of the intent and purposes this act—

What are the intents and purposes of this act? To place the naturalized citizen upon the same ground, when abroad, as the American-born citizen. If any distinction is made between those classes of citizens abroad, what then? That is the point; what then? What will you do? The committee of the Senate say we advise that when any fact of that sort comes to the knowledge of the President, he shall at some convenient season tell Congress of it; and that is all there is in their proposition. If Congress is away the American citizen will be under the injustice until Congress gets together. No duty whatever is imposed upon the President, except some time in his own way, to tell the American Congress what he knows about it. It contemplates nothing on the part of the President of the United States save only that he shall acquaint Congress with the fact, and in the mean time the rights which you say are sacred by this bill and which shall not be discriminated against are infringed and violated, and the subject of your authority and your power lies in a foreign prison. Now, all the remark I make on that subject is to submit that in view of the high sounding principles of the bill, the remedy of the Committee on Foreign Relations is not at all adequate. I submit that the chairman of that committee does not propose any remedy at all, and I submit that having declared against making any discrimination between citizens abroad, which implies that such discriminations are made, it becomes the Congress of the United States to put into the hands of the President the exercise of some authority which shall be instant and immediate. I am not now discussing what they ought to do, but I say the remedy applied, whatever it is, should be instant and immediate for relief. Therefore I shall not give my assent to the report of the Committee on Foreign Relations.

What is the next proposition? I do not know that I shall get them in order, but the next proposition to which I shall advert is that introduced by the Senator from Pennsylvania, [Mr. BUCKALEW.] He agrees to the premises of this bill; he agrees to all that is said in vindication of the rights of naturalized citizens residing abroad; but what is his remedy? He says that if it comes to the knowledge of the President that the rights of naturalized citizens have been discriminated against in the way contemplated by this bill, the President shall do what? He shall exert all his power to protect the rights of such citizen and report the facts to Congress. The Senator from Pennsylvania does not define what the President has power to do. If it is to be assumed that the President already has all the power that the case admits of, perhaps that remedy is ample; but on that ground the whole bill is a simple declaration of what ought to be done without any remedy for doing it; and if there is nothing more than what is absolutely granted by the amendment of the Senator from Pennsylvania I submit that this bill is nothing but a declaration of American principles with regard to the American citizen abroad, and with that you ought to be content, and the first and second sections are all that ought to be passed; nobody will contend that the third section arms the President with a particle of additional power, and for that reason I should be content with the first and second sections rather than make an empty sounding declaration, which upon examination amounts to nothing and gives no additional authority.

The next proposition which has fallen under my notice is that of the Senator from Connecticut, [Mr. FERRY.] Agreeing with the bill in the principles I have mentioned, he provides a remedy. What is it? If any of the rights of the citizen abroad—I am now assuming that

it is the naturalized citizen resident abroad—are infringed the President shall extend protection. What protection? In what way? By any necessary means in accordance with the principles of international law. Well, that comes out exactly where it went in. That ends just where it begins. That makes no advance. Nobody will pretend it. That gives no remedy. That invests the President with no additional authority or power. It is not even an emphatic instruction on the subject. The bill, then, as it would stand amended by the honorable Senator from Connecticut, is a high sounding declaration of the American doctrine of the right of expatriation and the right of absolute protection to the naturalized citizen, a declaration that the flag covers him, that his rights are as sacred as if he were born on this soil; but when you come to the question of remedy, not a word; not a word in advance; turn him over to the principles of international law. That is all.

What I mean to say, Mr. President, is that the bill stopping there proposes no remedy, invests the President with no authority, is no rule of conduct for him in such a case; and for that reason it strikes me if you are to have a remedy it is inadequate altogether.

The next proposition is that of the Senator from Michigan, [Mr. HOWARD.] That does propose a remedy, but I think it is a remedy, perhaps, a little too belligerent; I think it is a remedy which might involve difficulty, and for that reason, without stopping to comment upon it, I would say that if it should come to the knowledge of the President that the rights of a naturalized citizen had been discriminated against it would hardly be worth while to authorize the President thereupon, in such a case, without further consideration, to withdraw all diplomatic relations whatever. It might be construed into an act of war. For that reason I would hardly think that judicious.

And now, Mr. President, one word briefly upon the proposition of the honorable Senator from Oregon, [Mr. WILLIAMS,] and then I have done. The Senator from Oregon, accepting the propositions in the first and second sections of the bill, provides a remedy, and what is it? He says that whenever the President knows of any case of injustice he shall act. Well, sir, what would be a case of injustice? Whenever it comes to the knowledge of the President that any foreign Government has denied to a naturalized citizen the right of expatriation, and whenever such citizen has fallen under the ban of such Government, and his rights on that ground are discriminated against, that shall be regarded as an act of positive injustice toward that American citizen. That is the ground, and that is in exact harmony with the bill. Those who accept the two propositions in the first and second sections of the bill certainly cannot deny that proposition. In such a case of injustice what is to be done? The remedy is this: if it appears to the President that such acts have been done in violation of those rights thus set forth it shall be the duty of the President immediately to demand the reasons. Is there any objection to that? Can any Senator say that that of itself would endanger the peace of the nation? Can you do less? If you say that the rights of a naturalized citizen shall not be discriminated against, and it comes to the knowledge of the President that an injustice has been done in that regard, will you not say that it is his duty at once to inquire into the facts and to address himself to that Government thus committing that injustice and demand the reasons? Nobody would object to that, of course. Suppose the reasons are given and the reasons are not satisfactory, what then? Then this amendment provides that he shall use such means, not amounting to acts of war, as are within his power, and that is all there is of it. Whether the honorable Senator from Oregon thinks this is ample or not I do not know. What I am saying is that he does provide for some specific remedy to the end that at least by making it the duty

of the President to demand the reasons for the discrimination between the naturalized and the native citizen he will have a case, he will be able to present to the Congress of the United States and the American people the case which arises in the premises, and we shall know the reasons for the discrimination; but what then? If the remedy is obvious to the President he may take it, provided that he does not involve the nation in any war, that he does not commit an act of war; and further, the amendment provides that in any of these cases and in all cases it shall be his duty to report the result of his investigations to the Congress of the United States.

I only intended to glance at the different propositions; and at this late period I am not disposed to delay the action of the Senate. I merely say that I shall vote against the proposition of the honorable Senator from Connecticut, and I shall vote with a view of getting in the Senate at the proposition of the honorable Senator from Oregon.

Mr. HARLAN. I am very anxious to get the attention of the Senate to a bill pertaining to the District of Columbia; but as I do not wish to interfere with a vote on this bill, I will venture to express the hope that a vote may be taken.

Mr. CONNESS. Let us have a vote.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Connecticut, [Mr. FERRY.]

The question being taken by yeas and nays, resulted—yeas 17, nays 32; as follows:

YEAS—Messrs. Anthony, Cattell, Conkling, Doolittle, Ferry, Fessenden, Frelinghuysen, Harris, McGreevy, Morrill of Vermont, Pomeroy, Ross, Sumner, Trumbull, Van Winkle, Vickers, and Welch—17.

NAYS—Messrs. Buckalew, Cameron, Chandler, Cole, Conness, Corbett, Gragin, Drake, Harlan, Howard, Howe, Kellogg, McDonald, Morgan, Morrill of Maine, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Rice, Robertson, Sawyer, Sherman, Sprague, Stewart, Thayer, Tipton, Wade, Willey, Williams, Wilson, and Yates—32.

ABSENT—Messrs. Abbott, Bayard, Davis, Dixon, Edmunds, Fowler, Grimes, Henderson, Hendricks, Morton, Norton, Osborn, Pool, Saulsbury, and Whyte—15.

So the amendment was rejected.

The bill was reported to the Senate as amended.

Mr. FESSENDEN. I desire a separate vote on the amendment proposed in committee by the Senator from Michigan, [Mr. HOWARD.]

The PRESIDING OFFICER. The question is on concurring in the Senate with the amendments made as in Committee of the Whole. The Senator from Maine desires a separate vote on the amendment mentioned by him.

Mr. WILLIAMS. I move to substitute the amendment that I proposed in Committee of the Whole for the amendment made on the motion of the Senator from Michigan, or for the section as amended, and I wish to say a very few words. I shall not take five minutes.

The section as it now stands is inconsistent with itself, for the amendment proposed by the Senator from Pennsylvania requires the President to exercise all his powers under the Constitution, and as amended by the Senator from Michigan it only allows him to exercise one specific power; so that while the section apparently requires him to do everything, it is so modified as to require him to do but one thing. Then I wish to suggest that the suspension of diplomatic relations would be no remedy as to those nations with which we have no diplomatic relations. There are many nations in the world with whom we have no diplomatic relations. There are the barbarous Powers, for instance. If an American citizen is seized by a barbarous Power what remedy would this be? The President ought to have the power to do what the exigencies of the case require to rescue that citizen from imprisonment, and this amendment of mine enables the President to exercise his power without involving the country in war.

Mr. FESSENDEN. It seems to be the determination of the Senate to waste the little time we have left—I believe there are but two

days—in discussing this matter which has already taken about three days, and I feel therefore inclined to say a few words on it as I am a member of the committee that reported the bill.

THE PRESIDING OFFICER. Before the Senator proceeds the Chair desires to state the question. It appears that the Senator from Oregon proposes to amend the same section that the Senator from Maine proposes to disagree to, and the first question will be on the motion of the Senator from Maine, to strike out that portion of the amendment made as in Committee of the Whole, to which he objects, and then the motion of the Senator from Oregon will be in order.

MR. HOWARD. I desire to modify the amendment which I presented before, so as to leave it discretionary with the President to recall the representative from a foreign Government.

MR. FESSENDEN. I have the same objection to that. As the bill stood amended by the amendment of the Senator from Pennsylvania I had no objection to it. It was then substantially a legislative declaration that all citizens, whether native or adopted, should stand upon the same level, and that it should be the duty of our Government to protect them alike in all places and under all circumstances; that is just as far as I think we are entitled to go; and it further provided that in case negotiation should fail in point of fact resort should then be had to Congress by a statement of the facts. If it should be a question of that severity as in the judgment of the President of the United States to need the interposition of Congress, then that interposition was to be appealed to.

Now, sir, my objection to legislating in the manner proposed by the amendment of the honorable Senator from Michigan is that it assumes to do what Congress in the nature of things ought not to assume to do, in my judgment. There are certain things that belong to the executive power. There are certain other things that belong to the legislative power. It is impossible in the nature of things for Congress to foresee what should be done, particularly in any one case, and yet this amendment moved by the honorable Senator from Michigan proposes to designate precisely what course shall be adopted in advance, before we know what the case is, and before we know what difficulties may surround it, and before we know what may be the consequences of the act that we render mandatory upon the President. We gain nothing by anything of that description.

Gentlemen talk about the necessity of pointing out this matter to the President and dictating the course. Let me ask Senators if it is possible to believe that we shall have an Administration in this country dependent upon the will of the people, and desirous to keep the good will of the people, that will not do all that it can do with reference to the protection of our citizens abroad, whether native or adopted. It is a question of national honor which no Administration dares to trifle with. Everything will be done unquestionably that can be done. I believe everything has been done by this Administration, and I believe that the Secretary of State has in fact gone further than he had any authority to go in employing counsel to defend men who were in difficulty abroad; but let that pass.

What I say, then, is that I do not apprehend the slightest danger of any omission of duty on the part of any Administration that we shall ever have in this country so long as that Administration is elected. They will do it from the necessity of keeping the good will of the large mass of the people. And yet, sir, we here undertake by legislation to point out to the executive Government, which, from the nature of things, is and ought to be intrusted with all these matters of diplomatic relations and all negotiations with foreign Governments, precisely what they shall do in a given case which we know nothing about, and which may

be surrounded by circumstances that we cannot foresee. Sir, in my judgment it is the most unwise thing in the world. In my belief it was never before attempted in any Government on the face of the earth to legislate as to what should be done in a given case in its foreign relations by that department of the Government to which are intrusted the foreign relations of the country, and we ought not to interfere with it. I say, therefore, that, in my judgment, the adoption of that amendment only tends to make us ridiculous in undertaking to foresee what we cannot, and to point out a course of action under circumstances about which we can know nothing in advance.

That is my objection to the amendment of the Senator from Michigan. I infinitely prefer to that the amendment proposed by the Senator from Oregon, because it does not attempt to designate what shall be done; but better than either, in my judgment, and in fact comprising all there is of value in the amendment of the Senator from Michigan, is the amendment that was adopted on the motion of the Senator from Pennsylvania. It covers the whole ground in proper language and in appropriate words. It points out that it is the will of Congress that the executive Government shall take all proper steps in all such cases, a thing unnecessary in itself, but if we are going to do anything it amounts to nothing more than that; and it ought not to amount to anything more than that, because it is a matter upon which, as I said before, we cannot properly undertake to determine what particular thing shall be done.

Sir, you must have some confidence in your Government, and leave the executive part of it to its appropriate sphere. I know we have a right to pass laws; but in all such cases, in my judgment, the passage of laws undertaking to interfere with that which is appropriate to another department of the Government is injurious, and must necessarily be so.

MR. PRESIDENT, as I said before, we can do nothing but declare the principle; and if the Government does not do its duty the people will remedy it, and we must leave the proper remedy to those who have it in their hands. I do not believe that any good is to come of the kind of interference we propose. Where does this bill come from? We cannot, in the nature of things, find a remedy for it. My colleague was perfectly right in criticising the remedies; he only did not go quite far enough. He should have said that in the nature of things no remedy could be found.

MR. MORKILL, of Maine. Unless you intend to provide a remedy, there should be no bill.

MR. FESSENDEN. What has experience taught us in respect to this very bill? It came from the House of Representatives with one remedy. We repudiated it. All the study the House of Representatives and their Committee on Foreign Affairs could give us was a resort to reprisals, and that was rejected at once unanimously by the Committee on Foreign Relations on the part of the Senate, and almost unanimously, if not quite so, by the Senate itself. There was a remedy, and we abandoned that. Now, gentlemen are finding some other remedies. We have had some half dozen of them, and they all amount to nothing except this: that we declare the principle we adopt in regard to it, and what is the duty of the Government, unless that of the honorable Senator from Michigan, which is more definite, but which is objectionable for the reason I have stated, that it undertakes to cure a case that it does not know anything about. There is the difficulty. After we have tried all these things, and found these differences of opinion, why should we not leave the bill as it was left on the amendment of the Senator from Pennsylvania? It stood well there, and I think we had better stand upon that still.

MR. ANTHONY. I rise to make a suggestion in regard to the order of business. There are a number of executive nominations before us that ought to be referred to the appropriate

committees, and if we could go into executive session for about ten minutes and make those references before the recess it would expedite the transaction of business. I do not wish to interfere with this bill if my friend from California thinks he can get a vote.

MR. CONNESS. I think we are near a vote now, and if we go into executive session at this time we shall not have a legislative session again before the recess. I hope we shall be allowed to go on with this bill for a few minutes, and I think we can get a vote.

MR. ANTHONY. Then I shall postpone my motion for a few minutes longer; but if the Chair will give me the floor I shall certainly make the motion again before the recess.

THE PRESIDING OFFICER. The Chair gives the floor to those who speak for it first.

MR. ANTHONY. I speak for it now. [Laughter.]

MR. HOWARD. I wish to inquire whether the amendment offered by me in Committee of the Whole is now amendable in the Senate?

THE PRESIDING OFFICER. The motion was to concur in the Senate with the amendments made in committee. The Senator from Maine excepted the amendment to the third section, and his motion, if properly put, is to strike out that portion of the section which was inserted on the motion of the Senator from Michigan.

MR. HOWARD. I wish to make a small amendment to the amendment which I offered, so that it shall leave it discretionary with the President whether to recall our minister from the foreign Government or not.

THE PRESIDING OFFICER. It can be modified if there be no objection.

MR. HOWARD. I suppose by common consent it can be amended.

MR. FESSENDEN. I object to the modification unless the Senator modifies the other part of it also, so as not to make it imperative on the President of the United States to suspend negotiations with the minister of any foreign Government here.

MR. HOWARD. The truth is, that the amendment as it now stands does not express the idea which I had originally. In making a slight modification at the Clerk's desk I omitted to use such phraseology as would carry out my exact idea. I wish to have my amendment come fairly before the Senate, and therefore ask that it may be modified so as to read in this way: "That the President of the United States may withdraw," &c., and in the second clause to say that he shall discontinue correspondence with the resident minister of that country here.

MR. HARLAN. I am not sure that I understood the Chair. Did the Chair rule that an amendment made in committee was not amendable in the Senate?

THE PRESIDING OFFICER. The question was on concurring in the Senate with the amendments made as in Committee of the Whole, and the Senator from Maine excepted this particular amendment, and the Senator from Maine now proposes to concur with the amendments made as in Committee of the Whole, with an amendment, which is to strike out the portion of the third section that was inserted on the motion of the Senator from Michigan. It is in order to concur with an amendment; it is in order to concur without amendment; or, it is in order not to concur at all.

MR. HARLAN. When the question shall be taken on the amendment proposed by the Senator from Michigan, I suppose it will be in order to amend it as that Senator now proposes.

THE PRESIDING OFFICER. Certainly it will. The question now is on the motion of the Senator from Maine, to strike out that portion of section three which was inserted on the motion of the Senator from Michigan.

MR. FESSENDEN. I understand the question to be whether the Senate will concur with that amendment.

MR. HOWARD. I hope the Senate will allow me to modify it.

THE PRESIDING OFFICER. It appears

that the whole of section three as it now stands is an amendment, a part of it was inserted on the motion of the Senator from Pennsylvania and a part of it on the motion of the Senator from Michigan, and both those amendments now constitute one section.

Mr. FESSENDEN. Then I move to strike out that part which was adopted on the motion of the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Maine moves to amend the section by striking out that portion of it which was inserted on the motion of the Senator from Michigan.

Mr. CONNESS. Let the Clerk read the section and the words to be stricken out, and let us vote.

The PRESIDING OFFICER. The amendment will be read.

The CHIEF CLERK. The third section, as amended in Committee of the Whole, reads as follows:

And be it further enacted, That it shall be the duty of the President to exert all his powers under the Constitution and laws for the protection and relief of citizens of the United States abroad, and to report promptly to Congress from time to time all cases where justice or relief shall be refused to such citizens by the Government of any foreign country. And whenever any citizen of the United States shall be or shall have been unlawfully arrested or unlawfully detained by any foreign Government it shall be the duty of the President on receiving information thereof to demand the release and liberation of such citizen; and in case of the refusal or unreasonable delay of such foreign Government to release such citizen, it shall be the duty of the President to withdraw the diplomatic representative of the United States from such foreign Government and to refuse to hold further diplomatic correspondence with any representative of such foreign Government until justice shall be done in the matter by such Government.

The Senator from Maine moves to strike out the latter clause, beginning with the words "and whenever."

Mr. HOWARD. I trust the Senate will allow me to modify the clause by making it read, "the President may withdraw the diplomatic representative of the United States from such foreign Government, and shall hold no further diplomatic correspondence with any representative of such foreign Government," &c. It expresses my idea better.

Mr. ANTHONY. The last clause is made mandatory.

Mr. HOWARD. Yes, and the first discretionary.

The PRESIDING OFFICER. The amendment will be so modified unless objection be made. The Chair hears no objection.

Mr. SUMNER. I would remark, on the proposition of the Senator from Michigan, that the first part of it is already implied in the amendment of the Senator from Pennsylvania, which has been adopted; and the second part, so far as it is mandatory, I think might be very inconvenient in the conduct of our foreign relations. It certainly carries into detail in advance instructions which I do not think it expedient for Congress to enter upon. I think it will be enough for us to declare, as we do in the first and second sections of the bill, the general principles, and be as abstemious as possible with regard to those details which may be necessary in their application. I hope, therefore, the amendment of the Senator from Michigan will be rejected.

Mr. HENDRICKS. I wish to ask the Senator from Michigan a question. In the amendment proposed by him he uses the word "unlawful." In judging whether the arrest and confinement are unlawful will that be decided by the laws of this country or by the laws of the country where the arrest is made? If an arrest should be unjust and oppressive, and yet be according to the finding of some grand jury or other proceeding in court, would it be unlawful in the sense in which the Senator uses the word?

Mr. HOWARD. I suppose that the only practical construction to be given to that word "unlawful" would be this: that the arrest and detention must be contrary to the laws of nations, contrary to the rights of an American citizen under the laws of nations. That is the

construction which I give to it, and the idea which I had in my mind.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maine, to strike from the third section that portion which was added to it in committee on the motion of the Senator from Michigan.

Mr. HOWARD called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 21, nays 25; as follows:

YEAS—Messrs. Anthony, Buckalew, Cattell, Conkling, Doolittle, Drake, Ferry, Fessenden, Frelinghuysen, Harris, McCreery, Morrill of Vermont, Patterson of New Hampshire, Pomeroy, Ross, Sherman, Sumner, Trumbull, Van Winkle, Vickers and Willey—21.

NAYS—Messrs. Chandler, Cole, Conness, Corbett, Harlan, Hendricks, Howard, Howe, Kellogg, McDonald, Morgan, Morrill of Maine, Nye, Patterson of Tennessee, Ramsey, Sawyer, Sprague, Stewart, Thayer, Tipton, Wade, Welch, Williams, Wilson and Yates—25.

ABSENT—Messrs. Abbott, Bayard, Cameron, Cragin, Davis, Dixon, Edmunds, Fowler, Grimes, Henderson, Morton, Norton, Pool, Rice, Robertson, Saulsbury and White—18.

So the amendment to the amendment was rejected.

Mr. WILLIAMS. I move now to strike out the third section and substitute the proposition that I offered in committee.

Mr. CONNESS. Now let that be read.

The Chief Clerk read the words proposed to be inserted, as follows:

That whenever it shall be made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign Government, it shall be the duty of the President forthwith to demand of that Government the reasons for such imprisonment, and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen; and if the release so demanded is unreasonably delayed or refused, it shall be the duty of the President to use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate such release; and all the facts and proceedings relative thereto shall, as soon as practicable, be communicated by the President of the United States to Congress.

Mr. WILLIAMS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 33, nays 14; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Conness, Cragin, Fessenden, Frelinghuysen, Harlan, Harris, Hendricks, Kellogg, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Thayer, Tipton, Vickers, Wade, Welch, Willey, Williams, Wilson, and Yates—33.

NAYS—Messrs. Buckalew, Chandler, Cole, Conkling, Corbett, Doolittle, Drake, Ferry, Howard, Howe, Nye, Rice, Sumner, and Van Winkle—14.

ABSENT—Messrs. Abbott, Bayard, Davis, Dixon, Edmunds, Fowler, Grimes, Henderson, McDonald, Morton, Norton, Pool, Robertson, Saulsbury, Sawyer, Trumbull, and Whyte—17.

The PRESIDING OFFICER. The question now is on concurring in the amendment made as in Committee of the Whole as it has been amended on the motion of the Senator from Oregon.

Mr. FESSENDEN. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HOWARD. I cannot vote for the principle embodied in that amendment. I am very well satisfied with that portion of it which requires the President of the United States in such cases to make demand on the foreign Government for an explanation and for the release of the person restrained of his liberty; but I am not willing to place in the hands of the President of the United States that broad and almost illimitable discretion which the Senator from Oregon gives to him by this amendment. The President of the United States is authorized by the amendment to use any means not amounting to acts of war—I believe I repeat the language correctly—which he may see fit in order to effectuate the object. Now, sir, what are some of the means not amounting to acts of war? This enables the President of the United States to put an end to all intercourse between the people of the United States and the foreign Government. That is not an act of war. It authorizes the President to make reprisals on the persons and property of the offending Government for the purpose of

righting the wrongs complained of. Strictly and technically speaking reprisals are not acts of war; but, as we know very well, both the stoppage of commercial relations and the exercise of the right of reprisals almost always lead to actual war.

I do not wish to take up the time of the Senate on this subject; but the Senate will see if they scan this amendment that it opens discretion widely, entirely too widely, I think, to the President of the United States. It enables him substantially and practically to involve this country in a war with a foreign nation at his own discretion by ordering the cessation of commercial intercourse or by ordering reprisals, neither of which technically and legally speaking amounts to an act of war according to the code of war and according to the laws of nations. Now, sir, I will never consent to give the President this broad and dangerous discretion. The Constitution of our country commits to Congress entirely the war-making power; and the President of the United States has no more to do with it than has the humblest magistrate in the country, without an act of Congress. I shall therefore vote against the bill if this clause is insisted upon. We are in the habit of giving too much discretion to the President. I would be glad to narrow it down, to keep the Executive of this nation within the boundaries fixed by the Constitution, and as they were understood to be fixed by the fathers of the Republic. I will not enable the President to launch a war upon this country without consulting Congress. If you pass this amendment you enable him to involve this country in war without any appeal or reference to ourselves sitting here in the two Houses. That is the long and the short of it.

Mr. WILLIAMS. I do not believe that the President will have any more power under this amendment to involve the nation in war than he has at this time. Assuming that the President is a dishonest, unfaithful, unwise Chief Magistrate, he can involve this nation in war to-morrow or at any other time. He possesses ample power to involve the nation in war. If you propose any remedy at all, you must invest the Executive with some discretion, so that he may apply the remedy to a case as it may arise. As to England or France he might adopt one policy to relieve a citizen imprisoned by either one of those countries; as to the Barbary Powers, he might adopt another policy; as to the islands of the ocean, another. With different countries that have different systems of government he might adopt different means. But, sir, the Senator from Massachusetts read law the other day to show that the acts which the Senator from Michigan has designated would be acts of war; and this amendment was changed so as to avoid any objection of that kind which the Senator has made against it.

Mr. FRELINGHUYSEN. Mr. President, the trouble about this whole subject is, in my opinion, that we are trying to do what is impossible to be done. If a citizen of this country is maltreated by another nation there is but one remedy, and that is to compel that nation to respect the rights of our citizens, and that means war; just exactly the same remedy that England took toward Abyssinia. It is war. Now, the bill contains in my opinion all that is necessary. Everybody who is familiar with the history of the question knows that the difficulty in reference to the rights of American citizens abroad has been that our own jurists laid down the doctrine that citizens of other countries had not the right of expatriation; and whenever any negotiation transpired between our nation and another nation they right away quoted to us our own authorities.

I have here before me Story, where the doctrine is broadly stated that the right of expatriation does not exist; that a nation has a right to control its native-born citizens. Now, what do we do by this bill? We negative all these declarations of our jurists and say that the right of expatriation does exist and will be insisted upon by this country. Having done

that, we probably have the remedy; and if that is not the remedy the next step is to enforce that doctrine of the right of expatriation, not by withdrawing your representative, not by hard words, but by hard blows; and it is the only way that the right of expatriation can be enforced. Therefore I shall vote to strike out this third section.

Mr. SUMNER. Mr. President, I also shall vote to strike out this section. It seems to me it is out of place here. We shall do our duty if we, as we do in the first and second sections, declare the rule of law applicable to immigrants coming to this country; in other words, if we vindicate according to the language of this bill the right of expatriation. That is the real point in issue; there is no other point; and as the Senator from New Jersey has reminded us, on that point our own greatest jurists have concurred with the English authorities. He quoted Story. I might also quote Kent. I have his words here on my table. I might quote Ellsworth, one of our earliest chief justices. I might quote Washington, a very able judge of our Supreme Court, who said that he must be wiser than he was at that time if he undertook to declare that any man could release himself from his obligations to his country without the consent of that country.

Now, as I understand it, this bill does meet precisely the difficulties raised by these various expressions of opinion from high authorities in our courts. Why not stop there? Why go beyond that into debatable ground? Why undertake to give remedies which the case does not require, and, as the Senator from Maine [Mr. FESSENDEN] says, does not admit of. I accept his amendment; it does not admit of the remedy proposed. The remedies are out of place. They are inapplicable. The panacea does not apply. I know the Senator from Oregon does not see it so; and when I know how excellent he is as a lawyer I am led for the moment to hesitate in my own conclusions; but still, after the best reflection I have been able to give this question, the Senator must pardon me if I do say that his amendment is entirely inappropriate. Besides, when I look at it I see that it does undertake to give powers to the President which are not defined. It says all powers except acts of war. Very well; we have had a learned discussion in the course of this debate on that subject, and Senators in my eye, particularly one very determined Senator, have insisted that reprisals, with all their barbarism, were not acts of war, but were acts of peace. Under the interpretation which has been given to acts of war on this floor the President would be justified in launching that barbarism and disgracing the country and the age. The Senator shakes his head. I simply speak according to the fact, and his language is susceptible of such an interpretation. It does open the door to such an abomination.

Mr. ANTHONY. I move that the time for taking the recess be extended twenty minutes, and that at five o'clock the Senate proceed to the consideration of executive business.

Mr. CONNESS. That is a double motion. Several Senators. Let us vote.

Mr. ANTHONY. I will give way for a vote, but I fear we are not going to have a vote.

Mr. SUMNER. Does the recess occur at five o'clock.

The PRESIDING OFFICER. Yes, sir.

Mr. SUMNER. We cannot reach a vote by that time.

Mr. ANTHONY. I make the motion that the recess be extended for twenty minutes, and that at five o'clock we proceed to the consideration of executive business. We can refer the nominations on the table, and that will make one day's difference in the progress of business.

Mr. HENDRICKS. I think we shall save time by going on to the conclusion of this discussion. Every time the bill is taken up the discussion must necessarily spring up anew, and we shall save time if we go on now until it is concluded. I am in favor of the proposition of the Senator from Rhode Island that the time for taking a recess be extended.

Mr. ANTHONY. If Senators want to come back here for an executive session next week I shall interpose no further objection. I give it up. I have been trying all day to get an executive session.

Mr. MORRILL, of Maine. The Senator from New Jersey has given the debate an entirely new turn, and that is that the bill is utterly unauthorized on the American principle, or on the doctrine of international law; that is to say the doctrine of expatriation is not sound.

Mr. FRELINGHUYSEN. Mr. President, the—

The PRESIDING OFFICER. The question before the Senate, and which has been received by unanimous consent, is the motion that the time for taking the recess be extended twenty minutes.

Mr. ANTHONY. That is not my motion. I withdraw my motion.

Mr. FESSENDEN. I objected to that in my seat.

The PRESIDING OFFICER. The motion cannot be entertained except by unanimous consent.

Mr. FRELINGHUYSEN. I simply wish to correct my friend from Maine, [Mr. MORRILL.] I certainly hold the very opposite opinion to that which he ascribes to me. My statement was that the jurists of this country had held that expatriation was not a right, and we hold the contrary doctrine, and asserted it by this bill.

Mr. FESSENDEN. I hope the time for the recess will not be extended. As to the executive business, we can just as well go into executive session and refer the nominations on the table to-night as do it now.

Mr. ANTHONY. This evening is assigned for special business.

Mr. FESSENDEN. Suppose it is, we can overrule that assignment. Three days ago fifteen minutes were assigned to close this bill, and we have been on it ever since, day and night.

Mr. MORRILL, of Vermont. And this morning the understanding was that we should have a vote without debate.

Mr. CONNESS. If the Senators will let us vote now we can vote.

Mr. FESSENDEN. Why did not the Senator think of that some time ago when he was making a speech himself?

Mr. CONNESS. The Senator from Maine has occupied as much time as I have to-day on this bill.

Mr. FESSENDEN. The Senator is very much mistaken.

Mr. CONNESS. I was for passing the bill and the Senator against it.

Mr. FESSENDEN. No, sir; I was in hopes we should have come to a conclusion on it a long time ago.

Mr. MORRILL, of Maine. I yielded the floor to an explanation of my friend from New Jersey.

Mr. FESSENDEN. But my colleague yielded the floor, and this question is a debatable question, and I choose to debate it.

Mr. MORRILL, of Maine. I will not contest my colleague's right to the floor.

Mr. FESSENDEN. The question is debatable. We cannot take this vote before five o'clock.

Mr. CONNESS. We will vote if the Senator will take his seat. There is time enough to call the roll. That is all there is to be done.

Mr. FESSENDEN. I yield, then, to let the vote be taken. What is the question upon?

The PRESIDING OFFICER. The question is upon concurring in the Senate in the amendment made to the bill in Committee of the Whole.

Mr. HENDRICKS. I move that the time for taking the recess be extended for twenty minutes.

Mr. TRUMBULL. I have sat here all day in the hope that this bill would be disposed of in some way, but it seems impossible to get rid of it.

Mr. CONNESS. Let us vote.

Mr. TRUMBULL. I will make a motion on which the Senator can vote. I move that this bill be laid upon the table.

Mr. CONNESS. On that I call for the yeas and nays.

Mr. CONKLING. What has become of the motion in regard to the recess?

Mr. HENDRICKS. I ask for the vote on my motion.

Mr. TRUMBULL. The motion is out of order.

The PRESIDING OFFICER. If it is objected to it is out of order.

Mr. HENDRICKS. Then I move to postpone the bill before the Senate for the purpose of enabling me to make the motion.

Mr. TRUMBULL. The motion to lie on the table has precedence.

The PRESIDING OFFICER. The motion to lie on the table takes precedence of all other motions.

Mr. CONNESS. On that I call for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Illinois moves that the bill lie on the table. Upon this question the yeas and nays have been ordered. The Clerk will call the roll.

Mr. CONKLING. At what time does the recess occur?

The PRESIDING OFFICER. At five o'clock.

Mr. CONKLING. It is five o'clock now.

The PRESIDING OFFICER. The Clerk will call the roll.

The call of the roll was commenced.

Mr. FESSENDEN, (when his name was called.) I do not vote; the time for the recess has arrived; it is now past five o'clock.

The PRESIDING OFFICER. The call of the roll must not be interrupted.

The call of the roll was concluded; and the result announced—yeas 4, nays 37; as follows:

YEAS—Messrs. Howard, Morrill of Vermont, Ross and Van Winkle—4.

NAYS—Messrs. Abbott, Anthony, Buckalew, Cattell, Chandler, Conkling, Conness, Corbett, Cragin, Doolittle, Drake, Ferry, Frelinghuysen, Harlan, Harris, Hendricks, McCreery, McDonald, Morgan, Morrill of Maine, Nye, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Rice, Sawyer, Sprague, Stewart, Thayer, Tipton, Vickers, Wade, Wiley, Williams, and Yates—37.

ABSENT—Messrs. Bayard, Cameron, Cole, Davis, Dixon, Edmunds, Fessenden, Fowler, Grimes, Henderson, Howe, Kellogg, Morton, Norton, Pool, Robertson, Saulsbury, Sherman, Sumner, Trumbull, Welch, Whyte, and Wilson—23.

So the Senate refused to lay the bill upon the table.

The PRESIDING OFFICER. Under the order of the Senate, a recess will now be taken until half past seven o'clock p. m.

EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

POSTAL LAWS.

Mr. RAMSEY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses to the bill (H. R. No. 1235) to further amend the postal laws, having met after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to the Senate amendments to said bill, with the following amendments: section thirteen, line five, strike out all after "whatever;" at the end of section fourteen add "all other blank agencies are hereby abolished."

ALEXANDER RAMSEY,

JAMES HARLAN,

Managers on the part of the Senate.

J. F. FARNSWORTH,

JOHN HILL,

Managers on the part of the House.

The report was concurred in.

DISTRICT CHARITABLE INSTITUTIONS.

The Senate proceeded to consider the amendments of the House of Representatives to the amendments of the Senate to the bill (H. R. No. 541) making appropriations for the ser-

vice of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution; and

On motion by Mr. MORRILL, of Maine,

Resolved, That the Senate disagree to the amendments of the House of Representatives to the amendments of the Senate to the said bill, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. MORRILL of Maine, Mr. PATTERSON of New Hampshire, and Mr. McDONALD.

MARK HOWARD.

Mr. FERRY. I request the Senator from West Virginia, to whose Committee on Pensions this evening has been assigned, to allow me to call up a bill reported by him from the Committee on Finance, House bill No. 39, authorizing the Commissioner of Internal Revenue to adjust the accounts of Mark Howard. It will take but a moment.

Mr. VAN WINKLE. If it will give rise to no discussion I shall not object.

By unanimous consent, the bill (H. R. No. 39) authorizing the Commissioner of Internal Revenue to adjust the accounts of Mark Howard was considered as in Committee of the Whole. It proposes to direct the Commissioner of Internal Revenue to adjust and settle the accounts of Mark Howard as collector of the first revenue district of Connecticut, in conformity with the revenue laws in force at the time he was collector of the district.

Mr. FERRY. The Senator from West Virginia reported the bill from the Committee on Finance, and can explain it if an explanation is necessary.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

WASHINGTON CITY LOAN.

Mr. HARLAN. I move that the Senate proceed to the consideration of Senate bill No. 637.

Mr. VAN WINKLE. I must object.

Mr. HARLAN. It is a bill to authorize the city of Washington to borrow money to pay its debts.

Mr. MORGAN. Will it create debate?

Mr. HARLAN. I think not, and it is very important that it should be passed. I may state in one word that the city owes now about two hundred thousand dollars to its school teachers and for school-house purposes, and it is very important that the bill should be passed in order that they may raise money to pay these debts.

By unanimous consent, the bill (S. No. 637) to authorize the city of Washington to issue bonds for the purpose of paying the floating debt of the city was considered as in Committee of the Whole. Under the bill the city of Washington is to issue, by vote of its councils, registered or coupon bonds in denominations of \$50, \$100, \$500, and \$1,000, payable in ten years from the date of issue, bearing interest at the rate of six per cent. per annum, payable semi-annually, principal and interest payable in lawful money of the United States. The bonds are to be signed by the mayor and countersigned by the register of the city, and to be payable at such place or places as may by them be deemed expedient, and may be issued and disposed of to an amount sufficient to pay and discharge the present floating debt of the city, not, however, to exceed the sum of \$800,000. The bonds are not to be sold for less than their par value in lawful money of the United States, or in exchange for matured and liquidated indebtedness; but no greater amount of bonds are to be disposed of than may be found necessary for the payment of said indebtedness. The city councils upon issuing the bonds herein authorized are to provide by taxation for the prompt payment of the interest thereon; also to provide for their redemption by establishing a sinking fund to be set apart annually to an amount not exceed-

ing ten per cent. of the amount of bonds issued, the sinking fund to be created from regular taxes levied for that purpose, and to be assessed and collected as other taxes.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

ANDREW S. CORE.

Mr. WILLIAMS, from the Committee on Finance, reported a joint resolution (S. R. No. 172) to construe an act entitled "An act to authorize the accounting officers of the Treasury to settle the accounts of Andrew S. Core," and asked for its present consideration.

By unanimous consent, the joint resolution was read three times, and passed. It proposes to construe the act to authorize the accounting officers of the Treasury to settle the accounts of Andrew S. Core, so as to direct the accounting officers to settle and close the accounts by crediting Core with the amount of such uncollectable and unaccounted-for tax lists or bills placed in his hands for collection as they may be satisfied have been lost or destroyed by reason of rebel raids, and have not been collected by him.

CALIFORNIA LAND CLAIMS.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of House bill No. 1206. I presume it will excite no discussion. It is a very important bill, and there are many people interested in it. It has been very carefully considered by the Committee on Private Land Claims.

The motion was agreed to; and the bill (H. R. No. 1206) to restore to certain parties their rights under laws and treaties of the United States was considered as in Committee of the Whole. It provides that each and every person claiming lands in California by virtue of any right or title derived from the Spanish or Mexican authorities, and whose claim has not been adjudicated by the commission created by the act of Congress approved March 3, 1851, and record evidence of which claim is found in the Spanish or Mexican archives, now in the custody of the United States surveyor general for the State of California, shall, within one year after the date of the act, present his petition in writing for the same to the United States district court for the district in which the land claimed is situated, with such documentary evidence and testimony of witnesses as the claimant relies upon in support of his claim; and thereupon the same proceedings are to be had in the district court in relation to the hearing and decision of the claim in all respects as though it had been presented to and decided adverse to such claim by the commission created by the act of March 3, 1851, except that no transcript of the report or proceedings of the commission shall be presented to the district court, and the survey of any grant which may be confirmed under this act shall be subject to the provisions of the act of June 14, 1860. From the decision of the district courts, both on the title and on the survey and location, an appeal may be taken to the Supreme Court of the United States within six months after such decision has been rendered, and the same proceedings for the hearing and decision thereof shall be had, and the judgment of the district court shall have the same effect as is provided by the acts hereinbefore referred to. All persons who, previous to the passage of this act, have acquired any valid right or title to any of the lands embraced within its provisions under the preemption or homestead laws or otherwise are to be protected in their rights.

The Committee on Private Land Claims proposed to amend the bill by striking out the following clause:

That all persons who, previous to the passage of this act, have acquired any valid right or title to any of the lands embraced within the provisions of this act under the preemption or homestead laws or otherwise shall be protected in their rights.

And in lieu thereof inserting:

That a decree under the provisions of this act in

favor of any claim derived from Mexican or Spanish authorities shall not be construed to affect or in any way impair any adverse right, title, or claim under the laws of the United States or the laws of California but for the area embraced within the decree to which the adverse right, title or claim attaches; the claimant or his assigns may select and shall be allowed to enter any other lands not mineral belonging to the United States, and subject to entry at private sale, which selections shall be of sections or legal subdivisions of sections at the option of the parties entitled to make them.

Mr. HARLAN. I have no objection to the amendment, but if I understand the bill it opens up the whole question of Spanish claims in California. I do not think such a bill as that ought to go through in this way.

Mr. WILLIAMS. I think the Senator is mistaken. It only provides for cases where the record evidence of the title is now in the office of the surveyor general in California. It allows no title to be established by parol or anything of the kind; but where the title is perfect upon the records in the surveyor general's office in California in such cases suits can be brought. There are only two or three cases, I think, and the circumstances were such, according to the law in force in California, that they could not be brought before the courts. It is only to such cases that this bill applies.

Mr. HARLAN. If there are only two or three cases, I think it would be better to let each case come up on its own merits. No one can foresee the cases that will arise under this bill unless he has examined the whole record. We all know that in California vast quantities of the best agricultural lands in the State have been swept away from the settlers and have gone to the possession of persons that paid nothing whatever for them to any Government, either the Mexican Government or ours, and I doubt very much the propriety of a bill like this. I call the attention of the Senate to it. Of course I have no personal interest in it.

Mr. CONNESS. A few words, I think, will be sufficient in regard to this bill. As the Senator from Oregon says, it only applies to two or three cases at the outside. Those are cases in which the record evidence is complete. Special bills have been attempted to be passed for the last five years since I have been in the Senate, and I have hindered their passage because the parties attempting to pass them would do nothing to protect the settlers on the lands. They are fully protected here, the parties finally agreeing to that. Until these questions are adjudicated and settled their claims act as a cloud upon the title, and there is no peace for the possessors, even where they acquired title from the United States, and this is to remove that cloud. It cannot possibly lead to any difficulty, but, on the contrary, to great advantage.

Mr. WILLIAMS. The Senator from Iowa will see that this bill provides that the right of any person in possession of lands under the laws of the United States or the laws of California shall in no way be affected or impaired by any proceedings under this act. It abundantly protects every settler, and is rather intended to quiet titles. There are important tracts of land to which there is a claim pending, and that claim is a cloud on the titles of men who own the property. If it can be adjudicated in court and settled that doubt will be removed.

Mr. HARLAN. I do not object to the amendment. I think that is obviously right, whether the bill passes or not. Let the question be taken on the amendment.

The amendment was agreed to.

Mr. HARLAN. Now I will ask that the first section of the bill be read.

The Chief Clerk read the first section of the bill.

Mr. HARLAN. That looks to me as if it opened up the whole question again.

Mr. WILLIAMS. I think not.

Mr. POMEROY. I do not know but what this is entirely right. I see what it does; it revives those cases that are now excluded by law, allows those to come into court who did

not avail themselves of the commission during the time the commission was in existence.

Mr. WILLIAMS. That is true. There is no time now to explain; but there are cases where it was impossible on account of circumstances for the claimants to present their cases to the board of commissioners within the time limited by law.

Mr. POMEROY. While it may relieve some very worthy ones, I am afraid it will relieve many unworthy ones.

Mr. WILLIAMS. It is impossible that it can do so. If a man has record evidence of his title that right under the treaty ought to be recognized by the American Government.

Mr. WILLIAMS. I could explain if I had time. Take, for instance, one case where there were contending claims to a tract of land. Both claims were presented to the board of commissioners. The commissioners decided in favor of one claim, and the district court affirmed that decision. In view of that the other claim was withdrawn from the board. That decision was then taken up to the Supreme Court of the United States, and finally reversed, and the Supreme Court decided that the claim which had been recognized by the board of land commissioners was an invalid claim. By that time the statute of limitations had run, so that the man who had a good claim could not come in with it, and for that reason he is left out when there is no doubt that he has a good claim to the land, but he had no opportunity under these circumstances to present his case.

Mr. POMEROY. I do not care to argue it. I am afraid of it, that is all.

Mr. VAN WINKLE. I am afraid this will lead to discussion.

Mr. WILLIAMS. No; I think we can vote now.

Mr. VAN WINKLE. If there can be a vote I shall not interpose.

Mr. FRELINGHUYSEN. I ask the Senator from Oregon whether there was not a commission to settle these Spanish claims, and whether the period within which the claims could be made has not expired; and is not this now to extend the time within which claims may be presented to the commission?

Mr. WILLIAMS. That is true; it extends the time one year.

Mr. FRELINGHUYSEN. May not rights have been acquired since that limitation expired which this bill does not respect?

Mr. WILLIAMS. Not at all. The Senator will see that it is provided in this bill that no proceedings under it shall affect or in any way impair the right of any person in possession of any property under the laws of the United States or the laws of California, so that if any man is in possession of property there under any law of the United States or law of California he is protected by the terms of this bill; but there are claims set up in such cases which are a cloud upon the title of men in possession, and it is desirable that they should be determined by litigation.

Mr. FRELINGHUYSEN. I ask the Senator whether the law did not provide that those lands which were not claimed within the time limited should become public lands of the United States, and whether this bill does not authorize private claimants to come in and take them, not as public lands, but in their own right?

Mr. WILLIAMS. That is true. The law organizing the board of commissioners provided that such lands as were not claimed should revert to the public domain and be a part of the public lands. These lands have been taken, a portion of them as public domain, and the persons who have so taken them are protected by this bill. The claimants can establish their right to the quantity of land granted to them, and the bill provides that the amount which they establish to belong to them may be taken from vacant public lands elsewhere.

Mr. HARLAN. I do not think this bill ought to pass. In the first place, very few of

the holders of any of these claims ever paid anything for them. They applied to the Spanish authorities for a cattle rancho and made arrangements that they should have all the land between the limits of certain mountains or rivers. It is not a case of settling title to land that anybody has given a consideration for, as we understand that word. A number of years were given to all these claimants under the treaty with Mexico, to come in and establish their claims. That time has long since elapsed, and this bill opens up the whole question. I do not think it ought to be passed. I hope it will not be insisted on.

Mr. VAN WINKLE. I feel constrained to move that the further consideration of this bill be postponed in order to take up House bill No. 1431. I could have had twenty pension bills passed while this bill has been under consideration.

Mr. CONNESS. I do not understand why this bill should not pass. If the Senators understood it as the committee who have fully investigated it understand it, they would not object to it. I will state a case to which it applies. It applies to the land covered by the city of Petaluma, but since I have been here I have hindered the passage of an act to establish that claim. There is scarcely a doubt of the complete record evidence of the claim. We have bound ourselves by treaty to protect these persons in that property; but they are out of court, it may be said, by their own neglect. In many instances, however, these parties did not understand our language, and labored under great difficulties indeed. It was only last year that we confirmed a claim outright by act of Congress that it is as well established as the title to the property that any Senator owns, and yet it never got into the board of land commissioners. In this case this hangs as a cloud over the whole city property. The parties will get into court at some time or other. If this act passes, the United States having received pay for that property loses nothing by it; the parties take land, if they establish their claim, that is of far less value. I hope we shall get a vote upon the bill.

Mr. CONKLING. I dislike very much to interpose any objection—

Mr. VAN WINKLE. I must move to lay this bill on the table, in order that pension bills may be taken up. I consented to allow it to be taken up with the understanding that it would lead to no discussion, but it has led to a very lengthy one.

The PRESIDENT *pro tempore*. Does the Senator from New York yield the floor for the motion?

Mr. CONKLING. I was going to make a suggestion, and I hoped the Senator from California would obviate the objection.

Mr. CONNESS. If the Senator will ask me any question I will answer it. I hope gentlemen will give us a vote on this bill. I am sure it has been examined by one of the best committees of this body, and one in which the Senate ought to have confidence.

Mr. FESSENDEN. I do not think a bill of this importance ought to be passed upon with so few present and such little explanation. The Senator from California does not pay any very great attention or respect to the reports of committees unless they are in his favor. He has not thought much of the report of the Committee on Foreign Relations on the bill that has been discussed so long. I am disposed at any rate to understand something more about this before we act.

Mr. VAN WINKLE. I insist on my motion to postpone the consideration of this bill and take up the pension bills.

The motion was agreed to.

THE COOLIE TRADE.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1431.

Mr. SUMNER. I hope the Senator will allow me to make a report which I was not able to make this morning.

Mr. VAN WINKLE. Very well.

Mr. SUMNER, from the Committee on Foreign Relations, reported a bill (S. No. 644) to amend an act entitled "An act to prohibit the coolie trade by American citizens in American vessels," approved February 19, 1862; which was read, and passed to a second reading.

Mr. SUMNER. The effect of the bill is simply to extend the existing acts against the trade in Chinese coolies to the trade in Japanese coolies, and I hope the Senate will put it on its passage.

Mr. VAN WINKLE. I object.

Mr. SUMNER. It will not take time.

Mr. VAN WINKLE. After I get through you can go on. I insist on my motion.

EMMELENE H. RUDD.

Mr. VAN WINKLE's motion was agreed to; and the bill (H. R. No. 1431) granting a pension to Emmelene H. Rudd, widow of the late Commodore John Rudd, deceased, was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Emmelene H. Rudd, widow of John Rudd, late a commodore in the United States Navy, and to pay her, out of the naval pension fund, a pension at the rate of thirty dollars per month, commencing October 12, 1867, to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REBECCA C. MEEKER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 597.

The motion was agreed to; and the bill (S. No. 597) granting a pension to Rebecca C. Meeker was read the second time, and considered as in Committee of the Whole. By its terms the Secretary of the Interior is to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Rebecca C. Meeker, widow of Captain James F. Meeker, of the war of 1812, and allow and pay her a pension at the rate of twenty dollars per month.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARY SCOTT.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 598.

The motion was agreed to; and the bill (S. No. 598) for the relief of Mary Scott was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to allow and pay to Mary Scott, widow of William Scott, late a private in company I, fifteenth regiment Massachusetts volunteers, a pension at the rate of eight dollars per month, from the 21st of October, 1861, the date of the death of her husband, until the 10th of August, 1866, the date of the commencement of the pension heretofore allowed her, and the additional sum of two dollars per month for each child of William Scott under sixteen years of age, to commence from the 25th day of July, 1866, and to continue until the children shall severally attain the age of sixteen years.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

DAVID DUHIGG.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 218.

The motion was agreed to; and the bill (H. R. No. 218) granting a pension of seventeen dollars per month to David Duhigg, of Lyndon, Vermont, father of late first lieutenant Dennis Duhigg, of company M, first regiment Vermont artillery, was considered as in Committee of the Whole. It provides for placing on the

pension-roll the name of David Duhigg, father of late first lieutenant Dennis Duhigg, of company M, first regiment Vermont artillery, who was killed in battle, and David Duhigg, in consequence of the service and death of his son, is to be paid during his natural life a pension of seventeen dollars per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE TRUAX.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 256.

The motion was agreed to; and the bill (H. R. No. 256) granting a pension to George Truax, late a private in company H, first regiment of Virginia volunteers, was considered as in Committee of the Whole. It provides for placing the name of George Truax, late a private in company H, first regiment of Virginia volunteers, on the pension-roll, to be paid a pension to the extent of one fourth disability, to be increased or cease as the subsequent examinations of the surgeon may disclose, subject to the rules and regulations of the pension department, to commence on the 29th day of October A. D. 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARGARET DAVIS.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1164.

The motion was agreed to; and the bill (H. R. No. 1164) granting a pension to Margaret Davis was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Davis, widow of William H. Davis, late an acting surgeon in the eighteenth Missouri volunteers, and pay her a pension at the rate of seventeen dollars per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZABETH CASSIDY.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1165.

The motion was agreed to; and the bill (H. R. No. 1165) granting a pension to Elizabeth Cassidy was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Cassidy, widow of Michael Cassidy, late a first lieutenant in the sixty-ninth regiment of Pennsylvania volunteer infantry, commencing July 5, 1863.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LOUISA M. WILLISTON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1166.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1166) granting a pension to Louisa M. Williston. The Secretary of the Interior is directed by the bill to place on the pension-roll the name of Louisa M. Williston, widow of Samuel P. Williston, late a sergeant in the fourth Massachusetts battery, and pay her a pension at the rate of eight dollars per month, from October 17, 1862, to June 6, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ESTHER GRAVES.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1167.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1167) granting a

pension to Esther Graves, by which the Secretary of the Interior is to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Esther Graves, late a nurse in the Army, and pay her a pension at the rate of eight dollars per month, commencing January 1, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FREDERICK DENNING.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1168.

The motion was agreed to; and the bill (H. R. No. 1168) granting a pension to Frederick Denning was considered in the Senate as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Frederick Denning, father of William F. Denning, late a second lieutenant in the ninth Maine volunteers, commencing July 22, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSEPH B. RODDEN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1169.

The motion was agreed to; and the bill (H. R. No. 1169) granting a pension to Joseph B. Rodden was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Joseph B. Rodden, late a private in company K, sixteenth regiment of New York volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZA MATHEWS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1170.

The motion was agreed to; and the bill (H. R. No. 1170) granting a pension to Eliza Mathews was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Eliza Mathews, mother of Josiah W. Mathews, late a private in company F, of the one hundred and ninth regiment of Pennsylvania volunteers, commencing May 28, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM F. NELSON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1171.

The motion was agreed to; and the bill (H. R. No. 1171) granting a pension to William F. Nelson was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William F. Nelson, late a chaplain at the Washington Park Hospital, Cincinnati, and pay him a pension as a chaplain from and after the passage of this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LUCINDA J. LETCHER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1172.

The motion was agreed to; and the bill (H. R. No. 1172) granting a pension to Lucinda J. Letcher was considered as in Committee of

the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lucinda J. Letcher, widow of Joseph Letcher, late a private in company G, ninth Michigan volunteers, commencing October 21, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JULIA A. BARTON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1173.

The motion was agreed to; and the bill (H. R. No. 1173) granting a pension to Julia A. Barton was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Julia A. Barton, widow of William Barton, late a private in company I, seventh regiment Kentucky volunteers.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JULIA CARROLL.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1174.

The motion was agreed to; and the bill (H. R. No. 1174) granting a pension to Julia Carroll was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Julia Carroll, widow of Edward Carroll, late a private in company H, twenty-ninth regiment Massachusetts volunteers, commencing February 22, 1863.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CORNELIA PEASLEE.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1175.

The motion was agreed to; and the bill (H. R. No. 1175) granting a pension to Cornelia Peaslee was considered by the Senate as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Cornelia Peaslee, widow of Leonard Peaslee, late a private in company D, of the third regiment of Maine volunteer infantry, commencing July 1, 1862.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARY COVER.

Mr. VAN WINKLE. I now move to take up House bill No. 1176.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1176) granting a pension to Mary Cover, widow of Samuel Cover, deceased, late a private in company G, of the fifty-sixth regiment of Pennsylvania volunteers. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary Cover, widow of Samuel Cover, deceased, late a private in company G, of the fifty-sixth regiment of Pennsylvania volunteers, (who left one child, to wit, a son, named Henry, born May 19, 1856,) and to pay her such a pension per month as a widow of a private is entitled to under existing laws, to commence from the 10th of February, 1863, and to continue during her widowhood, and at her marriage or death the pension from that event is to be paid to the child while under sixteen years of age.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MALINDA FERGUSON.

Mr. VAN WINKLE. I now move to take up House bill No. 1177.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1177) granting a pension to Malinda Ferguson, widow of James Ferguson, late a private in company C, of the first regiment of Kentucky cavalry. It proposes to direct the Secretary of the Interior to place on the pension-roll the name of Malinda Ferguson, widow of James Ferguson, deceased, late a private in company C, of the first Kentucky cavalry, to be paid during her widowhood the sum allowed widows of privates in the war of 1861, under existing pension laws, to commence from and after the passage of this act, and at her remarriage or death the pension is to be paid from that period to his surviving children that may then be under sixteen years of age, subject to the rules and regulations of the pension department.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARY MERCHANT.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1178.

The motion was agreed to; and the bill (H. R. No. 1178) granting a pension to Mary Merchant, mother of Timothy H. Pittsford, deceased, late a private in company G, of the first regiment of the United States veteran engineer corps, was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll the name of Mary Merchant, mother of Timothy H. Pittsford, late a private in company G, of the first regiment of United States veteran engineer corps, to be paid during her widowhood the sum allowed mothers of a deceased private in the war of 1861, under existing pension laws, to be computed from the passage of this bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELLEN CURRY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 945.

The motion was agreed to; and the bill (H. R. No. 945) to place the name of Ellen Curry, widow of James Curry, deceased, a private soldier in company F, thirty-ninth regiment Illinois volunteers, upon the pension-roll of the United States, was considered as in Committee of the Whole. The Secretary of the Interior is authorized by the bill to place the name of Ellen Curry, widow of James Curry, deceased, private soldier in company F, thirty-ninth regiment Illinois infantry volunteers, upon the pension-roll of the United States, subject to the laws now in force in relation to pensions.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARY A. FALARDO.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1179.

The motion was agreed to; and the bill (H. R. No. 1179) granting a pension to Mary A. Falardo, widow of Onesimus Falardo, deceased, late a private in company K, of the one hundred and twenty-fifth regiment of New York volunteers, was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary A. Falardo, widow of Onesimus Falardo, deceased, late a private in company K, of the one hundred and twenty-fifth regiment of New York volunteers, (who left three children under sixteen years of age, to wit, George, William, and Charles Falardo,) and to pay her such a

pension per month as a widow of a private is entitled to under existing laws, to commence from the passage of this act, and to continue during her widowhood, and at her marriage or death the pension from that event is to be paid to her children while under sixteen years of age.

The bill was reported to the Senate without amendment, ordered to be printed for a third reading, read the third time, and passed.

PHOEBE M'BRIDE.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1180.

The motion was agreed to; and the bill (H. R. No. 1180) granting a pension to Phoebe McBride, mother of Thomas McBride, deceased, late a private in company B, of the eighty-seventh regiment of Illinois volunteers, was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll the name of Phoebe McBride, mother of Thomas McBride, deceased, late a private in company B, of the eighty-seventh regiment of Illinois volunteers, to be paid a pension of eight dollars per month during her widowhood, to commence from the passage of this act.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HARRIET E. SHEARS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1181.

The motion was agreed to; and the bill (H. R. No. 1181) granting a pension to Harriet E. Shears, widow of John T. Shears, deceased, late a private in company H, of the fifty-seventh regiment of Illinois infantry, was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll the name of Harriet E. Shears, widow of John T. Shears, deceased, late a private in company H, of the fifty-seventh regiment of Illinois infantry, and pay her the pension allowed widows of privates during widowhood, to be computed from the 7th of September, 1862, and at her remarriage or death it is to be paid to the minor children of John T. Shears, deceased, who may then be under the age of sixteen years, subject to the rules and regulations of the pension department.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM H. BLAIR.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1182.

The motion was agreed to; and the bill (H. R. No. 1182) granting a pension to William H. Blair, late a private in company G, of the twelfth regiment of Maine volunteers, was considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of William H. Blair, late a private in company G, of the twelfth regiment of Maine volunteers, on the pension-roll, to be paid a pension at the rate of eight dollars per month, to be computed from the 27th of January, 1867, subject to the rules and regulations of the pension department.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHRISTOPHER M. CORNMESSEER.

Mr. VAN WINKLE. I now move to take up House bill No. 1183.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1183) granting a pension to Christopher M. Cornmesser, late a private in the independent Iowa home guards. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to

the provisions and limitations of the pension laws, the name of Christopher M. Cornmesser, late a private in the independent Iowa home guards, and pay him such a pension as a private, injured as he is, may be entitled to under existing laws, founded upon surgical examination, to commence on the 21st of July, 1861.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

KATE HIGGINS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1220.

The motion was agreed to; and the bill (H. R. No. 1220) granting a pension to Kate Higgins was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Kate Higgins, of Louisville, Kentucky, widow of John Higgins, formerly a private in company F, twenty-eighth regiment Kentucky infantry, to receive a pension as such widow commencing November 11, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SARAH J. ROGERS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1221.

The motion was agreed to; and the bill (H. R. No. 1221) granting a pension to Sarah J. Rogers was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah Jane Rogers, widow of Hugh S. Rogers, formerly of Company C, fiftieth regiment Ohio volunteers, to receive pension from June 22, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CATHERINE GINSLER.

Mr. VAN WINKLE. I now move to proceed to the consideration of House bill No. 1222, granting a pension to Catherine Ginsler.

The motion was agreed to.

Mr. VAN WINKLE. I move that the bill be indefinitely postponed. There is another bill for the same person with an error in the name corrected.

The motion was agreed to.

MARGARET FILSON.

Mr. VAN WINKLE. I move that the Senate proceed to the reconsideration of House bill No. 1223.

The motion was agreed to; and the bill (H. R. No. 1223) granting a pension to Margaret Filson was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Filson, widow of George W. Filson, to receive a pension to bear date from January 1, 1866.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JANE E. ROGERS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1224.

The motion was agreed to; and the bill (H. R. No. 1224) granting a pension to Jane E. Rogers was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jane E. Rogers, widow of James B. Rogers, late captain company C, sixty-fourth regiment of United States colored troops, commencing July 1, 1864.

The bill was reported to the Senate without

amendment, ordered to a third reading, read the third time, and passed.

PATRICK COLLINS.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1225.

The motion was agreed to; and the bill (H. R. No. 1225) granting a pension to Patrick Collins was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Patrick Collins, of Dayton, Ohio, late of the twenty-ninth Indiana infantry, to receive a pension from and after January 1, 1866, at the rate of ten dollars per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BARBARA WEISSE.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1226.

The motion was agreed to; and the bill (H. R. No. 1226) granting a pension to Barbara Weisse was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Barbara Weisse, widow of Michael Weisse, late of company K, ninth regiment Michigan infantry, to receive a pension to date from January 1, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House insisted on its amendments to the amendments of the Senate to the bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses on said bill, and had appointed Mr. RUFUS P. SPALDING of Ohio, Mr. E. B. WASHBURN of Illinois, and Mr. S. S. MARSHALL of Illinois, managers at the same on its part.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1427) to establish certain post roads; and it was thereupon signed by the President *pro tempore* of the Senate.

JOANNA L. SHAW.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1228.

The motion was agreed to; and the bill (H. R. No. 1228) granting a pension to Joanna L. Shaw was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Joanna L. Shaw, widow of John E. Shaw, late a private in company E, fourteenth regiment of Maine volunteers, and pay her a pension of seventeen dollars per month in lieu of the pension she is now and has been receiving, commencing August 17, 1862.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANNA H. PRATT.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1229.

The motion was agreed to; and the bill (H. R. No. 1229) granting a pension to Anna H. Pratt was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the

provisions and limitations of the pension laws, the name of Anna H. Pratt, widow of Wheelock Pratt, late a major in the fifty-fifth regiment Massachusetts infantry, as the widow of a captain, commencing December 30, 1866.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HANNAH K. COOK.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1230.

The motion was agreed to; and the bill (H. R. No. 1230) granting a pension to Hannah K. Cook was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hannah K. Cook, widow of John M. Cook, late a second lieutenant in the one hundred and nineteenth regiment of Pennsylvania volunteers, commencing July 28, 1865.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN MORLEY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1231.

The motion was agreed to; and the bill (H. R. No. 1231) granting a pension to John Morley was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the limitations and provisions of the pension laws, the name of John Morley, late a private in company I, seventh New Hampshire volunteers, commencing on the 23d of October, 1863.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RUTH BARTON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1232.

The motion was agreed to; and the bill (H. R. No. 1232) granting a pension to Ruth Barton was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ruth Barton, widow of Albert G. Barton, late a hospital steward United States Army, commencing April 7, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM F. MOSES.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1233.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1233) granting a pension to William F. Moses. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William F. Moses, late of company A, seventy-second regiment of Indiana volunteers, commencing June 6, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FREDERICA BRIELMAYER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1234.

The motion was agreed to; and the bill (H. R. No. 1234) granting a pension to Frederica Brielmayer was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the limitations and provisions of the pension laws, the name of Frederica Brielmayer, widow of William Brielmayer, late a member of company H, second regiment Ohio heavy artillery.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHANNAH CONNOLLY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1235.

The motion was agreed to; and the bill (H. R. No. 1235) granting a pension to Johannah Connolly was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the limitations and provisions of the pension laws, the name of Johannah Connolly, mother of Eugene Connolly, late a private in company E, twentieth regiment Massachusetts volunteers, commencing November 5, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHILDREN OF MICHAEL TRAVIS.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1236.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1236) granting a pension to the minor children of Michael Travis. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the minor children of Michael Travis, late a private in company I, seventy-fourth regiment of Ohio volunteers, commencing February 16, 1864.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JAMES COX.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1237.

The motion was agreed to; and the bill (H. R. No. 1237) granting a pension to the widow and minor children of James Cox was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the limitations and provisions of the pension laws, the names of the widow, Agnes Cox, and the minor children of James Cox, late of company B, first regiment Ohio heavy artillery, commencing January 10, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LAVINIA A. GITTINGS.

Mr. VAN WINKLE. I now move that the Senate proceed to the consideration of House bill No. 1238.

The motion was agreed to; and the bill (H. R. No. 1238) granting a pension to Lavinia A. Gittings, mother of Andrew J. Gittings, was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the limitations and provisions of the pension laws, the name of Lavinia A. Gittings, mother of Andrew J. Gittings, late of "Putnam's rangers," first Maryland cavalry, commencing March 4, 1862.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

OWEN GRIFFIN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1239.

The motion was agreed to; and the bill (H. R. No. 1239) granting a pension to Owen Griffin was considered as in Committee of the Whole. By it the Secretary of the Interior is directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Owen Griffin, foster-father of James Griffin, late a member of company D, of the twenty-second Wisconsin volunteers, and John Griffin, late of company H, seventeenth regiment of Wisconsin volun-

teers, at the rate of eight dollars per month, and to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARGARET LEWIS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1240.

The motion was agreed to; and the bill (H. R. No. 1240) granting a pension to Margaret Lewis was considered as in Committee of the Whole. By the bill the Secretary of the Interior is directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Lewis, mother of John B. Lewis, who served in company A, twelfth regiment of Connecticut volunteers, under the name of Clarence L. Ingersoll, at the rate of eight dollars per month, commencing April 27, 1863, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. MARY BROWN.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1241.

The motion was agreed to; and the bill (H. R. No. 1241) granting a pension to Mrs. Mary Brown was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and restrictions of the pension laws, the name of Mrs. Mary Brown, widow of William Brown, late of company E, thirty-seventh regiment Iowa volunteer infantry, at the rate of eight dollars per month, to commence on the 3d of April, 1863, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ESTHER FISK.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1242.

The motion was agreed to; and the bill (H. R. No. 1242) granting a pension to Esther Fisk was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Esther Fisk, widow of John D. Fisk, late a private in the second New York veteran cavalry, commencing November 20, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM O. DODGE.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1243.

The motion was agreed to; and the bill (H. R. No. 1243) granting a pension to William O. Dodge, was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William O. Dodge, a resident of Kingston, Caldwell county, Missouri, and late a member of the Missouri home guards.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SOLOMON GAUSE.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1244.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1244) granting a pension to the widow of Solomon Gause. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the limitations and provisions of the pension laws, the name of Mary D. Gause, the widow of

Solomon Gause, late a private in company B, sixty-fifth regiment Ohio volunteers, commencing September 11, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HOOR OF MEETING.

Mr. SHERMAN. I move that when the Senate adjourns to-day it adjourn to meet at ten o'clock a. m. to-morrow.

The motion was agreed to.

MATTHEW C. GRISWOLD.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1245.

The motion was agreed to; and the bill (H. R. No. 1245) granting a pension to Matthew C. Griswold was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Matthew C. Griswold, late a first lieutenant in the twentieth regiment of New York cavalry, commencing January 11, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HIRAM HITCHCOCK.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1246.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1246) granting a pension to the widow and minor children of Hiram Hitchcock. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the limitations and provisions of the pension laws, the names of the widow, Jane E. Hitchcock, and the minor children, under sixteen years of age, of Hiram Hitchcock, late a hospital steward in the eighteenth Wisconsin regiment volunteers, commencing January 7, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ORLENA WALTERS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1247.

The motion was agreed to; and the bill (H. R. No. 1247) granting a pension to Orlena Walters was considered by the Senate as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Orlena Walters, widow of Lieutenant Elisha Walters, late of the seventh provisional regiment of enrolled Missouri militia, commencing October 4, 1863.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZABETH RICHARDSON.

Mr. VAN WINKLE. I now move to proceed to the consideration of House bill No. 1248.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1248) granting a pension to Elizabeth Richardson. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Richardson, widow of William Richardson, late a private in company I, fifth regiment Kentucky cavalry, commencing February 20, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARGARET C. LONG.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1249.

The motion was agreed to; and the bill (H.

R. No. 1249) granting a pension to Margaret C. Long was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret C. Long, widow of Jesse K. Long, late a private in company E, twenty-eighth Kentucky volunteers, commencing June 6, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JAMES ROONEY.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1250.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1250) granting a pension to James Rooney. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of James Rooney, late a member of company B, seventh Missouri cavalry, commencing April 14, 1863.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHARLES HAMSTEAD.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1251.

The motion was agreed to; and the bill (H. R. No. 1251) granting a pension to Charles Hamstead was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the limitations and provisions of the pension laws, the name of Charles Hamstead, late a member of Captain Shell's company of West Virginia State guards, (afterward the seventh West Virginia volunteers,) commencing February 26, 1862.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHILDREN OF GARRET W. FREER.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1252.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1252) granting a pension to the minor children of Garret W. Freer. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names, jointly, of William G. Freer, Brodhead E. Freer, and Clarence Freer, minor children of Garret W. Freer, late a "special agent" in the thirteenth district of New York, as the minor children of a second lieutenant, commencing July 25, 1863.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JULIA L. DOTY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1253.

The motion was agreed to; and the bill (H. R. No. 1253) granting a pension to Julia L. Doty was considered as in Committee of the Whole. By the bill the Secretary of the Interior is directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the widow, Julia L. Doty, and minor children of John M. Doty, late a contract surgeon United States volunteers, and who died at Annapolis, Maryland.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FRANCES M. WEBSTER.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1254.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1254) granting a pension to Frances M. Webster. It directs

the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Frances M. Webster, widow of L. B. Webster, late a captain and brevet lieutenant colonel in the fourth regiment United States artillery.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. ALICE A. DRYER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 614.

The motion was agreed to; and the bill (H. R. No. 614) for the relief of Mrs. Alice A. Dryer was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to pay to Alice A. Dryer, widow of Hiram Dryer, late a major of the thirteenth regiment of United States infantry, whose name is now on the list of pensioners, the sum of twenty-five dollars per month during her widowhood, in lieu of the pension she is now receiving, this act to take effect from the 5th of March, 1867, the day of his death.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANN WILLIAMS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 851.

The motion was agreed to; and the bill (H. R. No. 851) granting a pension to Ann Williams was considered as in Committee of the Whole. The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ann Williams, widow of John Williams, late of company E, third regiment of Wisconsin cavalry, commencing May 26, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. MARY J. TRUEMAN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 886.

The motion was agreed to; and the bill (H. R. No. 886) for the relief of Mrs. Mary J. Trueman was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll of the United States the name of Mary J. Trueman, widow of James Trueman, late private in company B, twelfth regiment West Virginia volunteer infantry, subject to the provisions and limitations of the pension laws.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ZADOCK T. NEWMAN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 991.

The motion was agreed to; and the bill (H. R. No. 991) for the relief of Zadock T. Newman was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place the name of Zadock T. Newman, late a private in the seventh provisional regiment enrolled Missouri militia, upon the pension-roll, at the rate of four dollars a month from the 2d of January, 1864, to continue during his natural life, subject to the provisions of the pension laws.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSEPH A. FRY.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1263.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1263) granting a pension to Joseph A. Fry. The bill directs

the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Joseph A. Fry, a private soldier enlisted in company F, seventeenth regiment Ohio volunteer infantry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM J. COTTY.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1295.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1295) granting a pension to William J. Cotty, late of the twenty-first Missouri infantry volunteers. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, at the rate of eight dollars per month, the name of William J. Cotty, late a member of the twenty-first Missouri infantry volunteers, to commence from the 30th of June, 1862.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SETH LEA.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1315.

The motion was agreed to; and the bill (H. R. No. 1315) for the relief of Seth Lea was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Seth Lea, of Knox county, in the State of Tennessee, and pay him a pension as a second lieutenant, commencing January 15, 1863.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NANCY COOK.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1331.

The motion was agreed to; and the bill (H. R. No. 1331) for the relief of Nancy Cook, of Tennessee, was considered as in Committee of the Whole. By this bill the Secretary of the Interior is directed to place the name of Nancy Cook, of Johnson county, Tennessee, widow of Alexander Cook, on the pension-roll, at the rate of eight dollars per month, commencing on the 6th of August, 1863, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BARBARA STOUT.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1332.

The motion was agreed to; and the bill (H. R. No. 1332) for the relief of Barbara Stout, of Tennessee, was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place the name of Barbara Stout, of the county of Johnson, State of Tennessee, widow of John P. Stout, on the pension-roll, at the rate of eight dollars per month, to commence on the 1st of October, 1864, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SARAH E. BALL.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1382½.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1382½) granting a pension to Sarah E. Ball, widow of James Ball, deceased, late a fireman on the steamer Vidette, connected with the Burnside expedi-

tion. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah E. Ball, of the city of Poughkeepsie, in the State of New York, widow of James Ball, deceased, who was a fireman on the steamer Vidette, belonging to the Government of the United States and connected with the Burnside expedition, and died of disease contracted in the service, leaving her surviving and issue under age of sixteen years, two children, namely, Elnora, born June 26, 1853, and George D., born January 3, 1855; and that she be paid a pension of eight dollars per month during her widowhood, to commence on the 9th of May, 1862, and at her death or marriage the pension from that event is to be paid to the children of James Ball, deceased, as may be then under the age of sixteen years.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ANN E. HAMILTON.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1383.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1383) granting a pension to Miss Ann E. Hamilton, of Alleghany City, Pennsylvania, aunt and adopted mother of James E. McKillip and Charles P. McKillip, deceased, late soldiers in the Union Army. It directs the Secretary of the Interior to place on the pension-roll the name of Miss Ann E. Hamilton, aunt and adopted mother of James E. McKillip, late a private in company F, sixty-first regiment Pennsylvania volunteers, who was wounded in battle at Fair Oaks, Virginia, May 31, 1862, and died of his wounds, in Richmond, June 30, 1862, and Charles P. McKillip, late a corporal in company G, sixty-second regiment Pennsylvania volunteers, who was killed in battle at Gaines Hill, Virginia, June 27, 1862; and that she be paid a pension of eight dollars per month during her natural life, to commence on the 27th of June, 1862.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. ELIZABETH LANE.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1384.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1384) granting a pension to Mrs. Elizabeth Lane, of Boston, Massachusetts, mother of John Lane, deceased, late a private in company A, twelfth regiment Massachusetts volunteers. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Lane, mother of John Lane, deceased, late a private in company A, twelfth regiment Massachusetts volunteers, who was killed in action August 30, 1862, at the second battle of Bull Run, Virginia, and that she be paid a pension of eight dollars per month during her widowhood, commencing on the 30th of August, 1862.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ROSLINDA McCABE.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1385.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1385) granting a pension to Roslinda McCabe, widow of Barney McCabe, deceased, late a private in company I, tenth regiment New York cavalry volunteers. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension

laws, the name of Roslinda McCabe, widow of Barney McCabe, deceased, late a private in company I, tenth regiment New York cavalry volunteers, who died July 14, 1863, leaving surviving a widow, who has not remarried, and issue by her three children under sixteen years of age, to wit: William, born October 20, 1859; Charles Edwin, born January 29, 1861; and Emily Jane McCabe, born May 14, 1863; and that she be paid during her widowhood a pension at the rate of eight dollars per month, to commence on the 14th of July, 1863, and also be paid under the provisions of an act of Congress relative to pensions, approved July 25, 1866, the further sum of two dollars per month for each of the children, until they shall respectively arrive at the age of sixteen years.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HINMAN J. HALL.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1386.

The motion was agreed to; and the bill (H. R. No. 1386) granting a pension to Hinman L. Hall was considered as in Committee of the Whole. By this bill the Secretary of the Interior is directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hinman L. Hall, late a private in company D, of the ninety-seventh regiment of New York volunteer infantry, commencing July 17, 1862.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZABETH G. HIBBEN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1387.

The motion was agreed to; and the bill (H. R. No. 1387) granting a pension to Elizabeth G. Hibben, widow of Rev. Samuel Hibben, deceased, late a chaplain in the fourth cavalry regiment Illinois volunteers, was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth G. Hibben, widow of Rev. Samuel Hibben, late a chaplain of the fourth cavalry regiment Illinois volunteers, who had been appointed to that position with the rank of captain, and died of disease contracted in the service, leaving surviving a widow, and issue, one child, a son, of the name of John Grier Hibben, born April 19, 1861; and that she be paid during her widowhood a pension of twenty dollars per month, to commence on the 10th of June, 1862; and at her marriage or death the pension from that event is to be paid to the child, if then under sixteen years old.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

KATE HIGGINS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of the bill (H. R. No. 1388) granting a pension to Kate Higgins.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Chair is informed by the Clerk that a bill with precisely the same title has already been passed.

Mr. VAN WINKLE. Let it be passed over until it can be looked into.

The PRESIDENT *pro tempore*. It will be passed over.

ELIZA DONNELLY.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1389.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1389) granting a pension to Eliza Donnelly, mother of Dudley

Donnelly, deceased, late colonel of the twenty-eighth regiment infantry, New York State volunteers. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Eliza Donnelly, mother of Dudley Donnelly, deceased, late colonel of the twenty-eighth regiment of infantry, New York State volunteers; and she is to be paid during her widowhood a pension at the rate of thirty dollars per month, to commence on and after the 4th of December, 1868.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MICHAEL REILLY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1390.

The motion was agreed to; and the bill (H. R. No. 1390) granting a pension to Michael Reilly was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Michael Reilly, late a private in company I, thirty-fifth regiment of Massachusetts volunteer infantry, commencing June 9, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JANE McNAUGHTON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1391.

The motion was agreed to; and the bill (H. R. No. 1391) granting a pension to Jane McNaughton was considered as in Committee of the Whole. By the bill the Secretary of the Interior is directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jane McNaughton, late a contract surgeon, and pay her a pension as the widow of a contract surgeon, commencing June 13, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHAUNCEY D. ROSE.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1392.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1392) granting a pension to Chauncey D. Rose, father of Alvin J. Rose, late a sergeant veteran in company A, second regiment of Ohio cavalry volunteers, who was killed in action at Five Forks, Virginia, April 1, 1865. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Chauncey D. Rose, father of Alvin J. Rose, late a sergeant veteran in company A, second regiment of Ohio cavalry volunteers, who was killed in action at Five Forks, Virginia, April 1, 1862, and that he be paid a pension at the rate of eight dollars per month during his natural life, to commence on the 1st day of April, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ROBERT WATSON.

Mr. VAN WINKLE. I now move to proceed to the consideration of Senate bill No. 606.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 606) granting a pension to Robert Watson. The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Robert Watson, late a private in company E, tenth regiment Tennessee infantry volunteers, and to pay him a pension at the rate of eight dollars per

month, from the 19th of August, 1864, to the 6th of June, 1866, and thereafter at the rate of fifteen dollars per month during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NANCY A. STOCKS.

Mr. VAN WINKLE. I now move to proceed to the consideration of Senate bill No. 630.

The motion was agreed to; and the bill (S. No. 630) granting increase of pension to Nancy A. Stocks was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to pay to Nancy A. Stocks, widow of Reuben Stocks, deceased, subject to the provisions and limitations of the pension laws, the sum of two dollars per month for each of the children of Reuben Stocks under sixteen years of age at the time of his death, to wit: George, born November 12, 1854; Joseph, born March 28, 1857; and Mary A., born December 11, 1861, until they severally attain the age of sixteen years.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HUGO EICHHOLTZ.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1393.

The motion was agreed to; and the bill (H. R. No. 1393) granting a pension to Hugo Eichholtz was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hugo Eichholtz, late a sergeant in company L, of the fifteenth New York heavy artillery, and pay him a pension from August 22, 1865, to April 23, 1866.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

DANIEL SHEETS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1394.

The motion was agreed to; and the bill (H. R. No. 1394) granting a pension to Daniel Sheets was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Daniel Sheets, late a captain in the seventh regiment of Ohio volunteers, commencing September 12, 1863.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ESTHER C. C. VANGILDER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1395.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1395) granting a pension to Esther C. C. Vangilder, widow of Charles F. Vangilder, deceased, late a private in company M, first regiment Vermont heavy artillery volunteers. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Esther C. C. Vangilder, widow of Charles F. Vangilder, late a private in company M, first regiment of Vermont heavy artillery volunteers, who died May 6, 1864, leaving surviving a widow and issue by her three children, to wit: Charles Adelbert, born November 30, 1857; Martha Rosell, born June 8, 1861, and Hosea Rosell Vangilder, born February 21, 1865, and to pay her during her widowhood the sum of eight dollars per month, to commence on the 6th day of May, 1864, and also, under the provisions of the act

of Congress relating to pensions, approved July 25, 1866, the further sum of two dollars per month for each of the children until they shall respectively arrive at the age of sixteen years.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

STEPHEN T. CARVER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1396.

The motion was agreed to; and the bill (H. R. No. 1396) granting a pension to Stephen T. Carver was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Stephen T. Carver, late a private in company D, of the forty-ninth New York volunteers, and pay him a pension subject to the report from an examining surgeon, commencing February 5, 1863.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PRESCOTT Y. HOWLAND.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1397.

The motion was agreed to; and the bill (H. R. No. 1397) granting a pension to Prescott Y. Howland was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Prescott Y. Howland, late a corporal in company D, of the twelfth regiment of New Hampshire volunteer infantry, commencing October 13, 1862.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARTIN BURKE.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1398.

The motion was agreed to; and the bill (H. R. No. 1398) granting a pension to Martin Burke was considered as in Committee of the Whole. By this bill the Secretary of the Interior is directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Martin Burke, late a sergeant in company K, of the fifteenth regiment of New York heavy artillery, and pay him a pension from August 22, 1865, to December 31, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM B. EDWARDS.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1399.

The motion was agreed to; and the bill (H. R. No. 1399) granting increased pension to William B. Edwards was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William B. Edwards, who was granted a pension of eight dollars per month by an act approved April 20, 1854, and pay him a pension at the rate of fifteen dollars per month, in lieu of the pension he is now receiving, the increased pension to commence June 6, 1866.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JONATHAN H. PERRY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1400.

The motion was agreed to; and the bill (H. R. No. 1400) granting a pension to Jonathan H. Perry was considered as in Committee of the Whole. It directs the Secretary of the

Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, at the rate of eight dollars per month, the name of Jonathan H. Perry, father of Anthony H. Perry, late of company I, of the third regiment of New Jersey volunteer infantry, commencing August 15, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN LA MARSH.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1401.

The motion was agreed to; and the bill (H. R. No. 1401) granting a pension to John La Marsh was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John La Marsh, late a private in company F, of the third Vermont volunteer infantry, commencing August 4, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CATHARINE SKINNER.

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1402.

The motion was agreed to; and the bill (H. R. No. 1402) granting a pension to Catharine Skinner was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Catherine Skinner, widow of Charles B. Skinner, late a private in company C, of the second regiment of Pennsylvania volunteers, and pay her a pension at the rate of eight dollars per month, commencing December 27, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HELEN N. WOLF.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1403.

The motion was agreed to; and the bill (H. R. No. 1403) granting a pension to Helen L. Wolf was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Helen L. Wolf, widow of John Wolf, late a private in company K, of the one hundred and eleventh regiment of New York infantry, commencing March 23, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM SMITH.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1404.

The motion was agreed to; and the bill (H. R. No. 1404) granting a pension to William Smith was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William Smith, late a corporal in company H, of the tenth United States infantry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZABETH LAMAR

Mr. VAN WINKLE. I move to proceed to the consideration of House bill No. 1405.

The motion was agreed to; and the bill (H. R. No. 1405) granting a pension to Elizabeth Lamar was considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place on the pension-roll, subject to the provisions and limitations

of the pension laws, the name of Elizabeth Lamar, mother of James Curtis Lamar, who was killed while fighting with an organization of Union men in Kentucky, and pay her a pension of eight dollars per month, commencing September 20, 1862.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INDEFINITELY POSTPONED.

Mr. VAN WINKLE. I now move to take up, with a view to its indefinite postponement, House bill No. 1406, granting a pension to Patrick Collins.

The motion was agreed to.

Mr. VAN WINKLE. We have already passed a bill for his relief to-night. I therefore move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. VAN WINKLE. I move to take up House bill No. 1388, granting a pension to Kate Higgins, which was passed over a short time ago.

The motion was agreed to.

Mr. VAN WINKLE. I move that that bill also be indefinitely postponed, as a bill has already passed for her relief.

The motion was agreed to.

JOHN GRIDLEY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1407.

The motion was agreed to; and the bill (H. R. No. 1407) granting a pension to John Gridley was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John Gridley, late of company G, of the ninth regiment of Michigan volunteers, commencing February 4, 1865.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CATHERINE GENSER.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1408.

The motion was agreed to; and the bill (H. R. No. 1408) granting a pension to Catherine Gensler was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Catherine Gensler, mother of John D. Gensler, late a private in company I, one hundred and forty-ninth regiment of Pennsylvania volunteers, commencing June 29, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ASA F. HOLCOMB.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1409.

The motion was agreed to; and the bill (H. R. No. 1409) granting a pension to Asa F. Holcomb was considered as in Committee of the Whole. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Asa F. Holcomb, late a private in company B, of the twenty-fourth regiment of New York cavalry, commencing September 9, 1864.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOSEPH BERRY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1410.

The motion was agreed to; and the bill (H. R. No. 1410) granting back pension to the minor children of Joseph Berry was considered as in Committee of the Whole. It proposes to

place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary E. Berry and Louisa Berry, minor children of Joseph Berry, late a private in company B, fourth regiment of Iowa volunteers, commencing October 27, 1862, and to continue until November 26, 1867.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

POLLY W. COTTON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1411.

The motion was agreed to; and the bill (H. R. No. 1411) granting a pension to Polly W. Cotton was considered as in Committee of the Whole. Subject to the provisions and limitations of the pension laws the name of Polly W. Cotton, widow of Wayne W. Cotton, late of company G, of the seventh regiment of Tennessee infantry, is to be placed on the pension-roll, and receive a pension as the widow of a captain, in lieu of the pension she is and has been receiving, commencing April 18, 1863.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM R. SILVEY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1412.

The motion was agreed to; and the bill (H. R. No. 1412) granting a pension to the children of William R. Silvey was considered as in Committee of the Whole. The Secretary of the Interior is to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of William A. Silvey and Mary Elizabeth Ann Silvey, children under sixteen years of William R. Silvey, late a private in company B, second regiment of Tennessee infantry, commencing November 13, 1863.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JANE ROOK.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1413.

The motion was agreed to; and the bill (H. R. No. 1413) granting a pension to Jane Rook was considered as in Committee of the Whole. The Secretary of the Interior is to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jane Rook, mother of James C. Rook, late a private in company A, of the third regiment of Maine volunteer infantry, commencing July 16, 1862.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SARAH K. JOHNSON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1414.

The motion was agreed to; and the bill (H. R. No. 1414) granting a pension to Sarah K. Johnson was considered as in Committee of the Whole. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah K. Johnson, late of Salisbury, North Carolina, at the rate of thirty dollars per month, commencing March 4, 1863, and to continue during her natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CHARLES D. COX.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House bill No. 1420.

The motion was agreed to; and the bill (H. R. No. 1420) directing the Commissioner of Pensions to proceed to hear evidence and

determine the right of W. H. Cox, deceased, late a sergeant in company F, second regiment Pennsylvania artillery, to a pension in the same manner as if he was still living, he having died of disease contracted while a prisoner of war at Andersonville, Georgia, and if found to be entitled to a pension then the same, from time of his discharge till death, to be paid over to his father, was considered as in Committee of the Whole. The preamble recites that W. H. Cox, a hale, hearty, young man of about twenty years of age, residing with his father, Charles D. Cox, of Lewisburg, Pennsylvania, and being a part of his family, on the 16th day of February, 1864, was enrolled as a sergeant in company F, second regiment Pennsylvania artillery, to serve three years or during the war; that he was regularly mustered in as such, and at the battle of Cold Harbor, Virginia, on or about the 2d of June, 1864, was taken prisoner by the rebels and sent to Andersonville, Georgia, and there confined as a prisoner of war for the period of ten months, and from exposure and lack of food became very much debilitated, and after being released he was on the 8th of August, 1865, at Philadelphia, Pennsylvania, by virtue of a telegram dated Adjutant General's office, May 12, 1865, honorably discharged from the United States service; that after reaching his father's residence he made application for a pension under existing laws, in consequence of disease contracted in line of duty, and before the case was finally disposed of, on July 9, 1866, he died of disease contracted, and the Commissioner then declined to proceed further in the case, being of opinion that the death of the young man suspended further proceedings; and that Charles D. Cox, father of the deceased soldier, is desirous of obtaining the pension justly due his son from the date of his discharge till death, to be applied to the purchase of a suitable monument to be placed at his grave. The bill therefore proceeds to direct the Commissioner of Pensions to proceed and receive proof of the right of W. H. Cox to a pension in the same manner as if he were still living, and if the evidence satisfies him that he was so entitled, then the pension from time of his discharge till his death is to be paid over to his father, Charles D. Cox.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NANCY SMITH.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 633.

The motion was agreed to; and the bill (S. No. 633) granting a pension to Nancy Smith was read the second time, and considered as in Committee of the Whole. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Nancy Smith, widow of Benjamin H. Smith, late a private in company E, twenty-third regiment Massachusetts volunteers, at the rate of eight dollars per month, to commence on the 1st day of March, 1865, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

VIOLET HENRY.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 634.

The motion was agreed to; and the bill (S. No. 634) granting a pension to Violet Henry was read the second time, and considered as in Committee of the Whole. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Violet Henry, the widow of Sherrod Henry, late a private in company D, sixteenth regiment United States colored troops, and for paying her a pension at the rate of eight dollars per month, commencing July 17, 1865, and also the sum of two dollars per month for Easter Henry, child under sixteen years of age of Sherrod and

Violet, from the 25th day of July, 1866, until she attains the age of sixteen.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MARTHA E. KING.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of House joint resolution No. 256.

The motion was agreed to; and the joint resolution (H. R. No. 256) for the relief of Martha E. King was considered as in Committee of the Whole. It is a direction to the Paymaster General to pay to Martha E. King, widow of Clinton King, late of the county of Carroll and State of Tennessee, deceased, a sum equal to the pay of a first lieutenant of cavalry from the 15th of September, 1863, to the 10th of March, 1864; and to the Secretary of the Interior to place the name of Martha E. King on the pension-roll, at the rate provided by law for the widow of a first lieutenant of cavalry who died in the military service of the United States of disease contracted while in such service and in the line of duty since the 4th day of March, 1861.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SOLDIERS AND SAILORS OF 1812.

Mr. VAN WINKLE. I move to take up House bill No. 608.

The motion was agreed to; and the consideration of the bill (H. R. No. 608) granting pensions to certain soldiers and sailors of the war of 1812 was resumed as in Committee of the Whole.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

Mr. VAN WINKLE. The Senate has taken up this bill. This is the last of the pension bills.

Mr. ANTHONY. That is a general bill.

Mr. VAN WINKLE. It will not take five minutes. It has been read and partly acted on.

Mr. ANTHONY. This is not the kind of bill we came here for this evening.

Mr. SHERMAN. I insist on my motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent therein the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, July 23, 1868.

The House met at twelve o'clock m. Prayer by Rev. Mr. FRENCH.

Mr. WASHBURN, of Illinois. I understand that the gentleman from Ohio [Mr. GARFIELD] desires to have some ten or fifteen minutes for the purpose of making a personal explanation. I therefore move that the reading of the Journal be dispensed with in order to allow him that time.

The motion was agreed to.

DR. BENJAMIN MALONE.

Mr. RAUM, by unanimous consent, submitted a report from the Committee on Military Affairs upon the application of Dr. Benjamin Malone, late paymaster of volunteers, for relief of himself and his sureties; which was ordered to be printed, and recommitted.

PERSONAL EXPLANATION.

Mr. GARFIELD. I ask unanimous consent to make a personal explanation for fifteen minutes.

No objection was made, and leave was granted.

Mr. GARFIELD. I will first ask the Clerk to read some remarks made by the gentleman from Pennsylvania [Mr. STEVENS] on Friday, the 17th instant, so that the statements to which I desire to reply may be recalled to the recollection of members. He was speaking of the payment of the five-twenty bonds.

The Clerk read as follows:

"Mr. STEVENS, of Pennsylvania. I want to say that if this loan was to be paid according to the intimation of the gentleman from Illinois, [Mr. ROSS:] if I knew that any party in this country would go for paying in coin that which is payable in money, thus enhancing it one half, if I knew there was such a platform and such a determination this day on the part of any party, I would vote for the other side, Frank Blair and all. I would vote for no such swindle upon the tax-payers of this country. I would vote for no such speculation in favor of the large bondholders, the millionaires, who took advantage of our folly in granting them coin payment of interest. And I declare—well, it is hard to say it—but if even Frank Blair stood upon the platform paying the bonds according to the contract, and the Republican candidates stood upon the platform of paying bloated speculators twice the amount which we agreed to pay them, then I would vote for Frank Blair, even if a worse man than Seymour headed the ticket. That is all I want to say."

A few days afterward I expressed my surprise at these statements of the gentleman from Pennsylvania, [Mr. STEVENS,] and referred to the fact that in the debate of 1862, on the passage of the bill authorizing the five-twenty bonds, the gentleman distinctly declared that these bonds were payable in gold, and that such was the unanimous opinion and intention of Congress at that time.

Yesterday the gentleman read from manuscript the following:

"Mr. STEVENS, of Pennsylvania, rising to a personal explanation, said: I desire to say a few words relating to what I observe reported in the *Globe* of the remarks of General GARFIELD and others with regard to what I said in debate on the passage of the five-twenty bill. I find that it is all taken from a report of Secretary McCulloch, which I had never read. I am therefore free to presume that which those gentlemen quoted, rather than said, as a total perversion of the truth. Had it not been introduced from so respectable a quarter in this House it would not be too harsh, as there presented, to call it an absolute falsehood. I do not know that I should have taken any notice of what various papers are repeating, some of them half secession, and more of them, I suppose, in the pay of the bondholders. I shall not now undertake to explain the whole of this matter, as I am too feeble; but I shall take occasion hereafter to expose the villainy of those who charge me with having said, on the passage of the five-twenty bill, that its bonds were payable in coin. The whole debate from which they quote, and all my remarks which they cited, were made upon an entirely different bill, as might be seen by observing that I speak only of the payment of gold after twenty years, when the bill I was speaking of, as well as all the liabilities, were payable in coin, as no one doubted the resumption of specie payments. My speech was made upon the introduction of the legal-tender bill, on which the interest for twenty years was to be paid in currency. No question of paying the interest in gold arose till some time after, when the bill had been passed by the House, sent to the Senate, returned, and went to a committee of conference, where, for the first time, the gold-bearing question was introduced, and yet all that these wise and thoughtful gentlemen have quoted from me took place in debate some weeks before the gold question, either principal or interest, had arisen in the House. I only now want to caution the public against putting faith in the publications of demagogues, and they will find that every word which I have asserted with regard to myself is true to the letter."

Now, Mr. Speaker, I can permit no such denial of the truth of my statement, and particularly no such personal attack to go unchallenged. I therefore appeal to the records. On the 22d day of January, 1862, Hon. E. G. Spaulding, of New York, from the Committee of Ways and Means, reported House bill No. 240, a bill to authorize the issue of United States notes and for the redemption or funding thereof, and for funding the floating debt of the United States. It consisted of three sections. The first authorized the issue of \$100,000,000 legal-tender notes; the second authorized the issue of \$500,000,000 of six per cent. twenty-year bonds, with which to fund the legal-tender note and other floating debt of the United States; the third was mainly administrative. (See copy of original bill, *Globe*, vol. 46, p. 522.) This bill, with but few important changes, became the act of February 25, 1862. On the day of its introduction it was printed and made the special order for January 28, when a searching debate on its provisions began and continued with uninterrupted of but one legislative day, to and including the 6th of February.

The gentleman from Pennsylvania took no active part in the debate until the day of its passage, when, after general debate on the bill

in Committee of the Whole was closed by order of the House, Hon. E. G. Spaulding yielded to Mr. STEVENS most of the hour to which he was entitled, and then the gentleman [Mr. STEVENS] made a vigorous and incisive speech, as he always did, attacking the several substitutes that had been offered, and defended the bill of the Committee of Ways and Means. One substitute had been offered by Mr. Vallandigham, of Ohio, another by Mr. Roscoe Conkling, of New York, another by Mr. Morrill, of Vermont, and another by Mr. Horton, of Ohio, which embraced the leading features of all the others, and was finally selected as the one to be voted on in opposition to the bill of the committee. This substitute did not make United States notes a legal tender for private debts, and this was the chief issue between the advocates and opponents of the bill of the committee.

A large part of the speech of the gentleman from Pennsylvania [Mr. STEVENS] was devoted to the defense of the legal-tender clause of the bill. He held that without the legal-tender provision the notes would depreciate; with it they would remain at par. He quoted a long passage from the English writer McCulloch to show that paper money which is a legal-tender will always be at par so long as the amount issued is not in excess of the wants of the country. At that point a question was asked him by Judge Thomas, of Massachusetts. I quote from the *Globe* of February 6, 1862, page 688:

"Mr. THOMAS. I desire to ask the gentleman a question in connection with that passage. McCulloch laid down the doctrine that the paper is limited to the amount necessary for currency. Let me ask the gentleman from Pennsylvania whether he now expects, in managing these financial matters, to limit the amount of these notes to \$150,000,000? Is that his expectation?"

"Mr. STEVENS. It is. I expect that is the maximum amount to be issued."

"Mr. THOMAS. You do not expect to call for any more?"

"Mr. STEVENS. No, sir; I do not."

The gentleman then proceeded to show that these legal-tender notes would soon be used to buy the bonds authorized in the second section, and that the bonds would be a good investment. He said:

"This money would soon lodge in large quantities with the capitalists and banks, who must take them. But the instinct of gain—perhaps I may call it avarice—would not allow them to keep it long unproductive. A dollar in a miser's safe unproductive is a sore disturbance. Where could he invest it? In United States loans at six per cent., redeemable in gold in twenty years, the best and most valuable permanent investment that could be desired. The Government would thus again possess such notes in exchange for bonds, and again reissue them. I have no doubt that thus the \$500,000,000 of bonds authorized would be absorbed in less time than would be needed by Government, and thus \$150,000,000 would do the work of \$500,000,000 of bonds."

"When further loans were wanted you need only authorize the sale of more bonds. The same \$150,000,000 of notes will be ready to take them."—*Globe*, vol. 46, p. 688.

A little further on, on the same page, he said:

"Gentlemen are clamorous in favor of those who have debts due them, lest the debtor should the more easily pay his debt. I do not much sympathize with such importunate money-lenders. But widows and orphans are interested and in tears lest their estates should be badly invested. I pity no one who has his money invested in United States bonds, payable in gold in twenty years, with interest semi-annually."

He then proceeded to review the several substitutes, stating first the plan of the committee. I quote from the same page:

"Let me restate the various projects. Ours proposes United States notes, secured at the end of twenty years to be paid in coin, and the interest raised by taxation semi-annually; such notes to be money, and of uniform value throughout the Union. No better investment, in my judgment, can be had. No better currency can be invented."

"* * * * *

"The proposition of the gentleman from New York, [Mr. ROSCOE CONKLING,] authorizes the issuing of seven per cent. bonds payable in thirty-one years to be sold (\$250,000,000 of it) or exchanged for the currency of the banks of Boston, New York, and Philadelphia."

"Sir, this proposition seems to me to lack every element of wise legislation. Make a loan payable in irredeemable currency, and pay that in its depreciated condition to our contractors, soldiers, and creditors generally! The banks would issue unlimited amounts of what would become trash, and buy good hard-money bonds of the nation! Was there ever such a temptation to swindle?"

On the following page, and near the end of his speech, he says:

"Here, then, in a few words, lies your choice. Throw bonds at six or seven per cent. on the market between this and December, enough to raise at least \$600,000,000, or issue United States notes, not redeemable in coin, but fundable in specie-paying bonds at twenty years."

In a few moments after the conclusion of this speech the House voted to reject the substitute of Mr. Horton and adopted the bill advocated by Mr. STEVENS.

It was sent to the Senate, and but few important amendments were made, the chief of which was that the legal-tender clause should not apply to duties on imports, but that they should be paid in coin, and the coin should be applied to payment of the interest on the bonds and to the reduction of the principal of the debt. No change was made in the bill which in any manner affected the question of the payment of the principal of the bonds.

On the 14th of February the bill came back to the House and was made a special order for February 19, when it was again debated, some of the amendments adopted, and some rejected; and after submitting the differences between the two Houses to a conference committee it was passed February 25, and on the following day became a law by receiving the approval of the President.

I have carefully gone over all the proceedings as recorded in the *Globe* and in the *Journal* of the House, and I have not found an intimation made, directly or indirectly, by any member that it was ever dreamed the principal of these bonds could be paid in anything but gold. On the contrary, all who did refer to the subject spoke in the most positive terms that, as a matter of course, they were payable in gold.

Mr. Spalding, of New York, said:

"They intend to foot all the bills, and ultimately pay the whole, principal and interest, in gold and silver."—*Globe*, vol. 46, p. 882.

Mr. POMEROY, who is now a member of the House, said:

"The credit of the Government is alike bound for the payment of both these classes of indebtedness ultimately in gold; each derives its entire value from that."—*Id.*, p. 885.

Mr. PIKE, of Maine, now a member of this House, said:

"With all due deference to the gentleman who differ with me on this subject, it does seem to me that this matter of paying the interest in coin is a controversy about goats' wool. The interest will be paid in coin in any event."—*Id.*, p. 887.

Now, Mr. Speaker, I have proved from the record the correctness of every declaration I made in reference to the opinion of Congress at the time of the passage of the five-twenty bill, and particularly the opinion of the gentleman from Pennsylvania. This might seem sufficient, but I wish to carry the investigation a step further.

About one year later, when the House was debating the bill for issuing what are now known as ten-forty bonds, the gentleman from Pennsylvania, [Mr. STEVENS,] who had offered an amendment to make the interest payable in paper, interjected into a speech of Mr. Horton, of Ohio, the following remark, (see *Globe*, January 19, 1863, page 388:)

"It would be fair, I suppose, to state that my amendment proposes to pay for these bonds at the end of ten years in coin, but to pay the interest in currency, while the bill of the Committee of Ways and Means proposes to redeem the bonds in currency."

"Mr. HORTON. I cannot state what the gentleman asks me to state, because, according to my view, it is not correct. The bill of the Committee of Ways and Means does not contemplate paying in paper."

"Mr. STEVENS. Will the gentleman allow me to ask him a question?"

"Mr. HORTON. Certainly."

"Mr. STEVENS. Are not the bonds payable 'in lawful money,' whatever that is?"

"Mr. HORTON. No, sir."

"Mr. STEVENS. Then the Committee of Ways and Means and I do not agree as to its meaning."

"Mr. HORTON. I speak only for myself, and I appeal to the bill. The policy of the bill is to pay the interest in coin, and to collect the imposts in coin, and to redeem the bonds in twenty years in coin."

So far as I can learn, this was the first word

over spoken in Congress suggesting the possibility of paying these bonds in anything but coin.

Now, notice the effect of this suggestion. On the following day, January 20, while the same bill was pending, Mr. Thomas, of Massachusetts, moved to amend by inserting the words, "in coin" in the first section. Mr. MORRILL, of Vermont, moved to add the words "and bullion." Then Mr. Horton said, (see *Globe*, vol. 47, page 412:)

"I am opposed to the amendment of the gentleman from Vermont, which is to include bullion with gold in the payment of these bonds; and am in favor of the amendment of the gentleman from Massachusetts, to make them payable in gold. I wish to say here that the Committee of Ways and Means, in framing this bill, never dreamed that these twenty-year bonds were payable in anything other than gold, until the gentleman from Pennsylvania [Mr. STEVENS] told it yesterday upon the floor of the House."

"Mr. STEVENS. I do not like to refer to what occurred in committee, but I ask the gentleman from Vermont whether he did not state that he expected they would be paid in legal money?"

"Mr. HORTON. I say to the gentleman and to this committee, that I never heard an expression by any member of the Committee of Ways and Means of the possibility that these bonds were to be payable in anything other than coin. The form here proposed is the form always used by the Government in the issue of these bonds, and they have always been paid in coin up to this day, even as late as the 31st day of December, the bonds then coming due were paid in coin in accordance with the uniform established practice of the Government."

"Mr. STEVENS. I ought to say that I am informed by the gentleman from Vermont that he did not make the remark in the committee which I just attributed to him. I so understood him."

"Mr. HORTON. I know nothing of any such remark."

The amendment of Mr. Thomas was then adopted without division.

Thus, Mr. Speaker, I have shown that when the original five-twenty bond bill passed the House in 1862 all who referred to the subject stated that the principal of those bonds was payable in gold; that the gentleman from Pennsylvania [Mr. STEVENS] so stated five distinct times, and no member suggested anything to the contrary; that when in 1863 that gentleman raised a doubt on the subject he was promptly met by the statement of a leading member of the Committee of Ways and Means that he never before heard such a suggestion, and nobody on the Committee of Ways and Means dreamed of the possibility of paying them in anything but coin; and finally, from abundant caution, and because of the doubt thus raised, the words "in coin" were inserted in the law authorizing the ten-forty bonds, and so far as the record shows no other member, either in 1862 or in 1863, shared the gentleman's doubt. Let it be remembered that I have not discussed the language of the law, but only its history and the construction placed upon it by those who made it at the time they made it.

At the expiration of the fifteen minutes allowed Mr. GARFIELD,

Mr. WASHBURNE, of Illinois, moved that his time be extended for three minutes.

Mr. BUTLER, of Massachusetts. I object. I do not want to have a speech on one side only.

Mr. GARFIELD. It is not a speech.

Mr. BUTLER, of Massachusetts. It is as near like a speech as anything I ever heard.

Mr. GARFIELD. I ask leave to print the conclusion of my remarks.

There was no objection; and it was ordered accordingly.

Mr. STEVENS, of Pennsylvania. I suppose I am not allowed to reply to the gentleman now. I have no controversy with him. Why it is he has renewed the attack upon me God only knows. I only referred to him as speaking the language of another, the Secretary of the Treasury; and when the proper time comes I will show there is not a word of truth in what either one of them says.

INSTITUTION FOR THE DEAF AND DUMB.

Mr. SPALDING. I rise to submit a report from the Committee on Appropriations on the Senate amendments to House bill No. 541, making appropriations for the service of the Columbia Institution for the Instruction

of the Deaf and Dumb, and establishing additional regulations for the government of the institution.

Mr. WASHBURNE, of Illinois. Let the amendments of the Senate be reported. The gentleman has promised to give me twenty minutes.

The Clerk read as follows:

Add the following to the bill:

SEC.—*And be it further enacted*, That the following sums be, and the same are hereby, appropriated, for the purposes hereinafter expressed, for the fiscal year ending June 30, 1869:

Government Hospital for the Insane in the District of Columbia:

For the support, clothing, medical, and moral treatment of the insane of the Army and Navy and revenue-cutter service, and of the indigent insane of the District of Columbia in the Government Hospital for the Insane, including \$500 for books, stationery, and incidental expenses, \$90,500.

For finishing, furnishing, lighting, and heating the unfinished part of the east wing of the main hospital edifice, \$7,000.

Columbia Institution for the Deaf and Dumb:

For the support of the institution, including \$1,000 for books and illustrative apparatus, \$25,000.

For the proper inclosure, improvement, and enlargement of the grounds of the institution, in accordance with plans heretofore submitted to Congress, \$5,600.

Columbia Hospital for Women and Lying-in Asylum:

For the support of the asylum, over and above the probable amount which will be received from independent or pay patients, \$15,000.

For the completion of the Providence Hospital, in Washington city, District of Columbia, \$30,000.

For the National Soldiers' and Sailors' Orphans' Home, in the city of Washington, District of Columbia, \$10,000.

For care, support, and medical treatment of sixty transient paupers, medical and surgical patients, in some proper medical institution in the city of Washington, under a contract to be formed with such institution, \$12,000, or so much thereof as may be necessary.

Mr. SPALDING. The Committee on Appropriations recommend concurrence in the amendment for the proper inclosure, &c., of the grounds of the Columbia Institution for the Deaf and Dumb, reducing the appropriation from \$5,600 to \$3,600. They also recommend concurrence in the amendment for the completion of the Providence Hospital, with the following proviso:

Provided, That all expenditures for the said Providence Hospital, under appropriations of Congress, shall be made under the direction and control of the Surgeon General of the Army, whose duty it shall be to report at the December session of every Congress a full and complete statement of the expenses incurred under and by virtue of appropriations made by Congress.

They also recommend concurrence in the appropriation for transient paupers with the following proviso:

Provided, Said contract shall be made by the Surgeon General of the Army, who shall report to the December session of every Congress, stating with whom the said contract is made and the amount thereof.

They recommend concurrence in all the others without amendment.

Mr. WASHBURNE, of Illinois. The gentleman from Ohio yields to me to move an amendment to the bill.

Mr. STEVENS, of Pennsylvania. Is it in order to amend the bill when it has been adopted by both Houses?

The SPEAKER. It cannot be amended, but it is in order to move to add to it.

The amendment was read, as follows:

Add to the bill as follows:

That the Secretary of the Interior, the chief justice of the supreme court of the District of Columbia, the Surgeon General of the Army, the chief of the Bureau of Medical Surgery of the Navy, and the Commissioner of Public Buildings, Grounds, and Works, shall constitute a commission, which shall be known and designated as the "Commission of Charities for the District of Columbia."

SEC.—*And be it further enacted*, That the said commission shall organize immediately upon the passage of this act, and the Secretary of the Interior shall be president thereof, and he shall designate as secretary of the said commission a clerk of his Department, who is of the fourth class, and who shall keep a record of all the proceedings and transactions of the said commission.

SEC.—*And be it further enacted*, That the said commission shall have the full control and direction of all the appropriations made by Congress to the charitable institutions of the said District of Columbia, and of all such appropriations as may be made for the purpose of charity in the said District, and shall have the power of visitation and examination of all the institutions in the said District to the sup-

port of which appropriations shall be made by Congress. No money shall be drawn from the appropriations made to the charitable institutions of the District, or for the purposes of charity in said District, except upon the requisition of the president of the commission, made upon an order of the commission, duly entered in the journal of their proceedings, and all the accounts of the said board shall be audited by the First Auditor of the Treasury. And it is hereby provided that the provisions of this act shall not be deemed to include the Government Hospital for the Insane in the District of Columbia.

SEC.—*And be it further enacted* That no money shall be expended for the Columbia Institution for the Deaf and Dumb, for the Columbia Hospital for Women and Lying-in Asylum, and for the Providence Hospital, until the title to the property, real and personal, of such institutions shall be transferred to the United States by conveyances, certified as being valid by the Attorney General of the United States, and conveying all the right, title, and interest of the said institutions in the property conveyed.

SEC.—*And be it further enacted*, That it shall be the duty of the said commission to make a full report to Congress, at the December session of each year, of all its transactions and of all the expenditures made under its direction, together with a statement of the condition of the charitable institutions of the District for which appropriations shall have been previously made and which shall have been expended under its direction.

Mr. WASHBURNE, of Illinois. There is another amendment which the gentleman from Ohio consents I shall offer, to reduce the amount appropriated for the Columbia Institution for the Deaf and Dumb from \$25,000 to \$12,500.

The SPEAKER. That amendment will also be considered as pending.

Mr. SPALDING. I now call the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from Ohio [Mr. SPALDING] is now entitled to the floor for one hour.

Mr. SPALDING. I yield to the gentleman from Illinois [Mr. WASHBURNE] for twenty minutes.

Mr. WASHBURNE, of Illinois. I hope, Mr. Speaker, I shall not occupy that much time, because this question has already been pretty thoroughly discussed; and I would not ask any time if I did not think the distinguished gentleman from Ohio [Mr. SPALDING] did me injustice, unintentional of course, when this question was up the other day, in replying, I think, with undue severity to the points which I made in my report. As a member of the Committee on Appropriations, upon which you, Mr. Speaker, placed me, it became my duty to the House and the country to examine into the matters connected with this institution for the deaf and dumb. In my report, which was concurred in by three other members of the committee, making the minority four against five, I showed that we had appropriated \$825,000 to this private corporation; and that this vast sum had been expended without any control or direction on the part of the United States. What I maintained was that when we make appropriations for charities in the District—and I will not be behind any man in making such appropriations in proper amounts for deserving objects and under adequate restrictions—it is our duty to see that the expenditure of these appropriations is under proper control and direction by the Government which appropriates for them. I showed that the party connected with this institution who has had the disbursement of this vast sum of \$825,000 has only given one bond, which was given in 1862 for \$3,000; that we have had no control of that disbursement, and have no proper knowledge of how it was made. I ask gentlemen whether this is the manner in which to vote away the money of our constituents to an institution of this kind?

I acknowledge that it is our duty to educate and take care of every deaf and dumb person belonging to the District of Columbia unable to procure an education, but I am unwilling that we shall establish here a great eleemosynary institution for the benefit of all the States of the Union; we have no constitutional right to do it. I offered the other day my substitute for the bill, creating a commission to overlook and control the funds appropriated for chari-

table purposes. That proposition would not affect the appropriations we have already made, but would establish a commission to have control and direction in regard to the expenditure of our appropriations, to exercise the power of visitation and investigation, and to report to us at every session the manner in which the money has been disbursed.

As matters now stand we go on making these appropriations year after year, putting the money into the hands, not of officers of the Government giving bond for their fidelity, but of the representatives of these various institutions, who use the money as they please. Look for one moment at the manner in which your money has been applied, and observe how your appropriations for this institution have grown up. In 1864 there were twenty-four pupils in this institution, and we appropriated \$4,400. In 1865 there were thirty-five pupils, and we appropriated \$7,500. In 1866 there were twenty-two pupils, and we appropriated \$12,500. In 1867, there were twenty-five pupils, and we appropriated \$20,434. For 1868 I have no return of the number of pupils, but I believe it was about the same; and in that year our appropriation jumped up to \$25,000.

Where does this amount go? Who has the control of it? Practically in this way: the superintendent of this institution takes this money and puts it into his own pocket or into the hands of those whom he chooses to employ at whatever salary he may fix. As to the control of the board of directors of the institution it amounts to nothing. Yet the House, when this bill was under consideration heretofore, refused to agree to the proposition for the appointment of a commission to superintend the expenditure of our appropriations for these purposes, to see that the money is justly and fairly used, to examine the accounts, and to report to Congress the particulars of the disbursement. And now, sir, the Senate have put in this sum of \$25,000 for expenses, &c., for the coming year. I have submitted an amendment to reduce the amount to \$12,500. In 1866 there were twenty-two pupils, and we gave them \$12,500, an increase from the amount appropriated the year before, which was \$7,500. I propose to give them this same amount of \$12,500 for this year. It is to pay the teachers for this institution, and for the education of the twenty-five pupils whom we undertake to educate. I showed to the House the other day that while it was our duty to educate these pupils, we could send them to the best institutions of this country and have them educated better than they are educated here, and for less than \$7,000. I proposed an amendment which was lost by only three votes, to the effect that if this institution was to be kept here, and if we are to make still further appropriations, those appropriations shall not be more than I have indicated in my amendment.

Now there is another question for you to consider. Are you ready to make these appropriations for these private institutions, to build up their immense buildings, their colleges, and their out-buildings, and to furnish them with everything, and at the same time to have no control over the property? I showed you the other day how much Congress had given for this institution, and how much others had given. I think the sum of sixteen or twenty thousand dollars was about the amount contributed by others, while Congress has appropriated \$325,000! And how much is it now proposed to pay for this institution out of the people's money? In the bill we passed the other day there were \$48,000 for putting up a building, and \$3,000 for some other purpose. The Senate propose to add to that \$25,000 and \$3,500. That makes nearly eighty thousand dollars which it is proposed to give to this institution, when your constituents are already groaning under taxation; you propose to take it from their pockets and give it to this private institution. That is \$70,000 more than is necessary in order to educate all these pupils as they should be educated, and as I agree they should be educated.

Now, if gentlemen have attended to the reading of my substitute they will have seen that it is simply a proposition to designate certain parties to be a commission, to cost the Government nothing. It provides that this commission shall take charge of the several amounts thus appropriated. Now, when you appropriate \$25,000 or \$12,500 for these teachers out here is there anything wrong in having a commission of our own to fix the salaries of these teachers, to see that large and unjustifiable salaries are not paid to them, and that a greater number are not employed than there is occasion for?

Mr. WELKER. Will the gentleman allow me to ask him a question?

Mr. WASHBURN, of Illinois. Yes, sir.

Mr. WELKER. I want to know whether the effect of the gentleman's amendment will not be to adopt these institutions as national institutions. I observe that by the terms of his amendment these institutions are to convey their title to the property to the General Government or they cannot use the appropriations made in the bill. And I want to know whether the gentleman's proposition is to make this Providence hospital in this city a national institution; and I also want to know whether the gentleman's proposition is to make the lying-in hospital a national institution? I want to know whether the purport and effect of the gentleman's amendment will not be to make these institutions national, and compel us hereafter to keep them up as such?

Mr. WASHBURN, of Illinois. I answer most unhesitatingly it would not. The very effect of the amendment is to prevent that; and I ask my friend from Ohio [Mr. WELKER] if he is willing to go on and build for every kind of private corporation in this District immense buildings and tax our constituents to pay for them, costing many hundred thousand dollars, and yet have no security in the property and no control over it?

Mr. WELKER. Certainly not.

Mr. WASHBURN, of Illinois. Now, I do not wish to detain the House at this late period of the session longer than I think it to be my duty. As I said before, I deemed it my duty to examine into the matter as a member of the Committee on Appropriations. I did examine into it, and I have shown to the House the state of things which exists in regard to the deaf and dumb asylum. I insisted the other day, and I insist now, that while we make these appropriations we shall demand that there be a commission appointed which shall have some control over these expenditures. For instance, here is an appropriation for the support of the Columbia Hospital for Women and Lying-in Hospital, \$15,000. Who is to control that appropriation? As your laws now stand nobody but the parties now in the institution. They can do with the money as they please, and we cannot help ourselves. I propose that we shall adopt a remedy; that while we give that sum we shall have the means of knowing that it has been properly expended.

Again, we have an appropriation for the Providence Hospital in the District of Columbia, \$30,000. We have already, as I believe, appropriated \$120,000 for that hospital. It is a private corporation, and private parties have entire control over it. We have put up a building there, and now we are asked to appropriate \$30,000. If you adopt the amendment that I propose, which does not take away the appropriation, at the commencement of the next session of Congress you will have a report as to how the money has been appropriated and expended.

Then there is another sum of \$10,000 for the National Soldiers' and Sailors' Orphans' Home, a most benevolent object, and I do not object to the appropriation. I believe the appropriation is now honestly and carefully administered by benevolent ladies of the highest character, who give their labors to the object in the noblest spirit. But we have a right to have our appropriations looked into in this as well as in all other like matters, and

have a report upon the manner in which the funds are used. I am certain those in control of this matter will have no objection to this.

Then there is another sum of \$12,000 for the support and medical treatment of sixty transient paupers. That comes in the same category as the other appropriations here, and what I desire and what I demand is that when we give these appropriations we shall have a commission to control them, and a commission that will report to us how that money has been spent. That is all I desire to say.

Mr. SPALDING. I do not propose to take up much of the time of the House. We have heretofore very fully discussed this whole subject. I will only say in reply to my friend from Illinois, [Mr. WASHBURN]—for I am still proud to call him my friend, notwithstanding he says I indulged in some sharpness of rebuke on a former occasion—I say in reply to him that I feel as forcibly the obligations resting on the members of the Committee on Appropriations as that gentleman can possibly feel them, and I think a majority of that committee are as sensible of their duty to the public and the people of this great country; but we do not always look upon the same matters in the same light; we do not look at them through the same medium, and it is not strange that there should be a difference of opinion. The majority of the Committee on Appropriations favor the several items embraced in this bill, as well in the original bill as it passed the House and the Senate as in the amendment now ingrafted on the bill by the action of the Senate; for let it be understood that these amendments are only the items embraced in the general charitable appropriation bill which is now in the Committee of the Whole on the state of the Union, and which has once been considered by the Committee of the Whole, excepting the two last items; it was left in an unfinished state, and the Senate, fearing that there might not be time to get that bill through the regular channels, put these amendments into the other bill and sent them to the House for its action; so that this bill, with the Senate amendments, now embraces all the charitable appropriations for the District of Columbia which are recognized and recommended by your Committee on Appropriations. We have reduced the amount somewhat, but the committee do not believe it to be desirable to adopt what the gentleman from Illinois offered as a substitute on a former occasion, and now proposes as an amendment to the amendments of the Senate. It is a provision forming what is called a "Commission of Charities," and requiring these several benevolent institutions, before they can use one dollar of the money which the bill appropriates, to convey to the United States the whole title to their property.

Well, now, I wish to have it understood that so far as it regards the Providence Hospital, which is the institution of the Sisters of Charity, here in the city of Washington, we might just as well strike out the appropriation at once, for we all know that they have a policy of their own in regard to the holding of their real estate. I do not sympathize with them religiously, but I do sympathize with them in their charitable disposition. We give this money to help them to build a wing to their asylum for the sick, poor, and distressed, who happen to fall within the limits of the city of Washington.

Mr. WELKER. I ask my colleague to allow a motion to be made to amend by striking out this appropriation for the Providence Hospital.

Mr. SPALDING. Mr. Speaker, I can allow no further motion to amend, and the gentleman knows I cannot, as the previous question has been seconded. I have, in the superabundance of my indulgence, allowed the gentleman from Illinois to offer his two amendments.

Mr. WELKER. Will my colleague allow the gentleman from Illinois [Mr. WASHBURN] to amend his proposition so as to embrace that?

Mr. SPALDING. I do not yield the floor.

The SPEAKER. A separate vote can be demanded on each of the amendments of the Senate.

Mr. SPALDING. I wish to say, if the House requires information on that subject, that these institutions are in the hands of trustees who manage their concerns. Now, the imputation is a very gratuitous one, thrown out by the learned gentleman from Illinois upon the gentleman at the head of the institution for the deaf and dumb, that he is expending twenty or twenty-five thousand dollars a year of the people's money, and paying himself and all under him just what sums he pleases without any check or control upon him. That is not so, and the gentleman knows it. In the first place, there are trustees for the Columbia Institution for the Deaf and Dumb. Congress have heretofore appointed certain individuals to act as corporators of that institution, and have from time to time put that institution under such control as they in their wisdom saw fit. They have now, in the bill as it has passed the House and as it passed the Senate, prevented that institution from parting with a single foot of its land or a single dollar's worth of its personal property for any other purpose than for the purpose of the education of the deaf and dumb. They cannot part with any of their real estate at all without a special act of Congress. And I say further, that if it be the pleasure of Congress to exact it at their hands, or whether it be or not, these trustees hold this property only in trust for the use of the deaf and dumb who are educated at that institution, and it cannot be divested from that purpose without the assent of Congress. The courts of the land would never allow it; the property was given for that purpose; the fund was created for that purpose. These trustees are entirely willing that the United States should take a fee-simple title to every foot of their land.

Mr. MAYNARD. Is my friend from Ohio [Mr. SPALDING] quite clear that even an act of Congress would authorize these trustees to divest themselves of the title placed in them by the original holder for a specific trust without the consent of the party creating the trust?

Mr. SPALDING. I do not claim that a donation for a particular purpose by an individual can be perverted or diverted even by consent of Congress.

Mr. MULLINS. I want to ask the gentleman one question.

Mr. SPALDING. Very well.

Mr. MULLINS. He states that there is a provision in this bill prohibiting these parties who own this property from ever selling it, unless by permission of Congress. Now, he has just stated that it is impossible to do so even by act of Congress. And hence it is a difficulty with me all the time, which I should like to have the gentleman explain.

Mr. SPALDING. If I was to stand here and endeavor to explain all the scruples of my learned and astute friend from Tennessee, [Mr. MULLINS,] it would take up all the time of this Congress. His colleague [Mr. MAYNARD] has made it clear by his statement. The courts must enforce the trust, but they cannot take it away from them. No State Legislature can take it away from them; no Congress can do it. The trust must be carried out according to the purpose of the original donor. That is all that the gentleman claims. The amendment recommended by the committee of course I ask may be adopted. But the first amendment of the gentleman from Illinois [Mr. WASHBURN] is that the annual appropriation for the next fiscal year shall be cut down from \$25,000 to \$12,500.

Mr. WELKER. Will my colleague [Mr. SPALDING] state how the title to the Providence Hospital is vested, and whether under this bill that corporation could not convey to the Government a good title to their property; and also whether it is not an independent private corporation holding its property for a specific purpose?

Mr. SPALDING. I understand that the Providence Hospital, under control of the Sisters of Charity, was incorporated by act of

Congress, the property being placed in the hands of trustees. That is the way I understand it; the gentleman from Pennsylvania [Mr. STEVENS] understands better about that matter than I do. That property is now in the hands of trustees for the purpose of a hospital, and these women are doing more good in the District of Columbia in the way of charity, I understand, than any other set of persons whatever.

I was about to say when I was interrupted that this appropriation of \$25,000 ought not to be cut down to \$12,500, for the reason that three years ago Congress established a collegiate department in the deaf and dumb institution, where all the arts and sciences are taught in the highest branches, and where there is a regular corps of professors and teachers. That is the way the expenses have been increased. Ten students were received for education in the higher branches in order to be fitted for teachers in similar institutions in the different States. The appropriation for last year was \$25,000. The directors of the institution think they can receive an additional number of fifteen students from the different States, with a like appropriation of \$25,000 for this year. If the appropriation is reduced to \$12,500 then that will be stopped; there is no doubt about that.

We are satisfied, then, that the regular operations of the institution, as countenanced, encouraged, and directed by Congress, require an outlay of \$25,000 for the next fiscal year. The \$48,000 which has passed both Houses is intended to complete the unfinished building; and the \$8,000 is in the nature of a deficiency to pay for the ten additional students who came in last year from the different States.

Mr. Speaker, the gentleman has alluded to this donation—I may call it a donation—of \$30,000 to assist the Sisters of Charity in finishing the last wing of their hospital. It will probably cost them more than twice that sum; but they raise the residue from private donations. Now, it is not to be presumed that they are going to convey the title of their whole institution to Congress, because Congress makes a contribution of one third or one half of the expense of erecting a wing to their hospital.

Mr. WASHBURN, of Illinois. Will my friend from Ohio give me his attention for a moment?

Mr. SPALDING. I cannot yield any further time, because I must dispose of this subject.

Mr. WASHBURN, of Illinois. If you will give me just a moment, it will facilitate this matter.

Mr. SPALDING. I do not yield. Mr. Speaker, I now say in conclusion that the Committee on Appropriations recommend concurrence in the Senate amendments with amendments which they themselves have attached. They recommend in the strongest terms that the amendments now proposed by the gentleman from Illinois upon his own responsibility be voted down. I hope that will be done. I leave the whole question with the House. I yield to the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. MAYNARD. I desire to say a word, Mr. Speaker, upon the amendment of the gentleman from Illinois, [Mr. WASHBURN,] proposed, as I understand, upon his own individual responsibility and not with the sanction of the committee. It proposes to create in the District of Columbia a commission of charities, to consist of the chief justice of the supreme court of the District, the Secretary of the Interior, the Surgeon General, the chief of the Bureau of Medical Surgery in the Navy, and the Commissioner of Public Buildings and Grounds. I submit that we have no authority to impose this duty upon these several officials. If they should undertake it in compliance with this legislation, it would be a purely voluntary and gratuitous act on their part. Administering charities here constitutes no part of their regular official duties; and how they would be likely to administer this newly-imposed task we can very well understand, if we imagine such

an obligation imposed unwillingly upon us in addition to our other obligations and our other official duties.

When we accepted the ten miles square from the States of Maryland and Virginia, we did it under the constitutional provision and guarantee that we were to exercise exclusive legislative power over this District and the people residing here. I submit that we ought to provide for these people charities and charitable institutions, at least commensurate with those which the people of the several States provide for themselves. The legislation now contemplated does nothing more than that; it does not do so much as many of the States have done for themselves. All these institutions have their own appropriate boards of supervision, consisting of persons interested in the great objects for which they were established and endowed; and I submit respectfully to the gentleman from Illinois, or any who may hold similar views, that it is better to leave these charities in the hands of those whom we must admit have efficiently and effectively administered them, and not seek to put them in the hands of a board such as is proposed to be constituted here. We have already, I am reminded, provided for the appointment of three members of Congress to serve upon the board of directors of the institution for the deaf and dumb. Their efficiency in that capacity will of course depend very much upon their disposition to act on that board.

Mr. MULLINS. I wish to ask my colleague whether the appointment of members of Congress to be directors of this institution is not liable to the same objection as the appointment of the commission proposed by the gentleman from Illinois? Is not the time of members of Congress as much taken up as that of the officers named in the amendment of the gentleman from Illinois?

Mr. MAYNARD. I think the gentleman will see a very wide difference between the appointment of three members of Congress to act with the board already in existence, and the designation of these officials—

Mr. STEVENS, of Pennsylvania. With the consent of the gentleman from Tennessee, I wish to say that, if I recollect aright, we have by our amendment put the expenditure under the supervision of the Surgeon General.

Mr. MAYNARD. That is as far as the hospital is concerned. I am speaking of other charities. But I will not prolong these remarks.

Mr. SPALDING. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. WASHBURN, of Illinois. The principal point of objection is the transfer of property. I will strike that section out and modify my amendment. I understand that will be satisfactory to the gentleman from Pennsylvania, [Mr. STEVENS,] who has more knowledge on this subject than any of us.

First amendment of the Senate:

Add the following:

SEC. —. And be it further enacted, That the following sums be, and the same are hereby, appropriated, for the purposes hereinafter expressed, for the fiscal year ending June 30, 1869.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Second amendment:

Add as follows:

Government Hospital for the Insane in the District of Columbia:

For the support, clothing, medical and moral treatment of the insane of the Army and Navy and revenue-cutter service, and of the indigent insane of the District of Columbia in the Government Hospital for the Insane, including \$500 for books, stationery, and incidental expenses, \$90,500.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Third amendment:

Add as follows:

For finishing, furnishing, lighting, and heating the unfinished part of the east wing of the main hospital edifice, \$7,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Fourth amendment:

Add as follows:

Columbia Institution for the Deaf and Dumb: For the support of the institution, including \$1,000 for books and illustrative apparatus, \$25,000.

The Committee on Appropriations recommend concurrence.

The first question recurred on the amendment of Mr. WASHBURN, of Illinois, to reduce the appropriation to \$12,500.

The House divided; and there were—ayes 53, noes 43; no quorum voting.

Tellers were ordered; and Mr. WELKER and Mr. SPALDING were appointed.

The House was again divided; and the tellers reported—ayes 65, noes 46.

So the amendment to the amendment was agreed to.

The Senate amendment, as amended, was concurred in.

Fifth amendment:

Add as follows:

For the proper inclosure, improvement, and enlargement of the grounds of the institution, in accordance with plans heretofore submitted to Congress, \$5,600.

The Committee on Appropriations recommend concurrence, with an amendment, to reduce the appropriation to \$3,600.

The amendment to the Senate amendment was agreed to.

The Senate amendment, as amended, was concurred in.

Sixth amendment:

Add as follows:

Columbia Hospital for Women and Lying-in Asylum: For the support of the asylum, over and above the probable amount which will be received from independent or pay patients, \$15,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Seventh amendment:

Add as follows:

For the completion of the Providence Hospital in Washington city, District of Columbia, \$30,000.

The Committee on Appropriations recommend concurrence, with the following proviso:

Provided, That the expenditures for said Providence Hospital under appropriations of Congress shall be made under the direction and control of the Surgeon General of the Army, whose duty it shall be to report at the December session of every Congress a full and complete statement of the expenses incurred under and by virtue of appropriations made by Congress.

The amendment to the amendment was agreed to; and then the Senate amendment, as amended, was concurred in.

Eighth amendment:

Add as follows:

For the National Soldiers, and Sailors' Orphan Home, in the city of Washington, District of Columbia, \$10,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Ninth amendment:

Add as follows:

For care, support, and medical treatment of sixty transient paupers, medical and surgical patients, in some proper medical institution in the city of Washington, under a contract to be formed with such institution, \$12,000, or so much thereof as may be necessary.

The Committee on Appropriations recommend concurrence, with the following proviso:

Provided, That said contract shall be made by the Surgeon General of the Army, who shall report to the December session of every Congress, stating with whom said contract was made and the amount and nature thereof.

The amendment to the amendment was agreed to; and the Senate amendment, as amended, was then concurred in.

The question next recurred on the amendment of Mr. WASHBURN, of Illinois.

Mr. WASHBURN, of Illinois. I have modified it by leaving out the section in reference to the transfer of the property.

Mr. SPALDING. I hope it will not be adopted.

The House divided; and there were—ayes 59, noes 49.

Mr. SPALDING demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—ayes 87, nays 58, not voting 71; as follows:

YEAS—Messrs. Allison, Ames, James M. Ashley, Baker, Beatty, Benton, Bingham, Bojes, Boutwell, Bowen, Boyden, Bromwell, Buckland, Buckley, Benjamin F. Butler, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Culom, Delano, Dockery, Driggs, Eggleston, Farnsworth, Ferriss, Fields, Goss, Gravelly, Griswold, Halsey, Hamilton, Hawkins, Hill, Hinds, Hopkins, Hotchkiss, Hunter, Johnson, Judd, Kelley, Kellogg, Ketcham, Ladin, Lash, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Marshall, McClurg, McKee, Mercur, Miller, Moore, Mullins, Nunn, Orth, Paine, Perham, Peters, Plants, Polesley, Pomroy, Sawyer, Schenck, Seofield, Sypher, Taylor, Trowbridge, Van Aernam, Burt Van Horn, Van Wyck, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, James F. Wilson, John T. Wilson, and Stephen F. Wilson—87.

NAYS—Messrs. Archer, Arnell, Delos R. Ashley, Axtell, Baldwin, Beck, Blair, Boyer, Brooks, Broomall, Dawes, Dixon, Eckley, Eliot, Garfield, Getz, Goldaday, Grover, Haight, Haughey, Higby, Chester D. Hubbard, Ingersoll, Jencks, Alexander H. Jones, Thomas L. Jones, Kelsey, Kerr, Knott, Koontz, Mallory, Maynard, McCullough, Myers, Niblack, Nicholson, O'Neill, Pierce, Pile, Poland, Randall, Kaum, Ross, Sitgreaves, Smith, Spaulding, Starkweather, Thaddeus Stevens, Stokes, Taber, Thomas, Lawrence S. Trimble, Upson, Van Anken, Van Trump, Windom, Wood, and Woodward—58.

NOT VOTING—Messrs. Adams, Anderson, Bailey, Banks, Barnes, Barnum, Beaman, Benjamin, Blackburn, Blaine, Burr, Roderick R. Butler, Calk, Cary, Chandler, Cornell, Dewesse, Dodge, Donnelly, Elia, Eldridge, Ferry, Finney, Fox, French, Glossbrenner, Harding, Heaton, Holman, Hooper, Asabel H. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Julian, Kitchin, George V. Lawrence, Lynch, Mann, Marvin, McCarthy, McCormick, Moorhead, Morrell, Morrissey, Mungen, Newcomb, Newsham, Norris, Phelps, Pike, Price, Pruyn, Robertson, Robinson, Roots, Selye, Shanks, Shellabarger, Aaron F. Stevens, Stewart, Stone, Taffe, John Trimble, Twichell, Robert T. Van Horn, Vidal, Ward, Cadwalader C. Washburn, Thomas Williams, and Woodbridge—71.

So the amendment was agreed to.

The SPEAKER. The Senate also have amended the title by adding the words "and for other purposes."

Mr. WASHBURN, of Illinois. I move to amend the title further by inserting the words "for charities."

The SPEAKER. The amendment of the Senate covers that. Besides, the amendment can be entertained only by unanimous consent, the previous question operating.

Mr. SPALDING. I call for a vote on the amendment to the title.

The amendment was agreed to.

Mr. SPALDING moved to reconsider the vote by which the various amendments were concurred and non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had agreed to the resolution of the House fixing a day for the adjournment of Congress, with the following amendment, in which he was directed to request the concurrence of the House:

Strike out all of said resolution after the word "concurring," and insert the following:

That the President of the Senate and the Speaker of the House of Representatives on Monday, the 27th day of July, at twelve o'clock meridian, adjourn their respective Houses until the third Monday of September; and on that day, unless it be then otherwise ordered by the two Houses, they further adjourn their respective Houses until the first Monday of December, 1868.

The message further announced that the Senate had agreed to the amendment of the House to the bill (S. No. 481) to confirm the title to certain lands in the State of Nebraska.

Also, that the Senate had disagreed to the amendments of the House to the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States.

Also, that the Senate insisted upon its amendments, disagreed to by the House, to the bill

(H. R. No. 1010) relating to pensions, agreed to the committee of conference asked for by the House, and had appointed Messrs. VAN WINKLE, RAMSEY, and FOWLER as conferees on the part of the Senate.

Also, that the Senate had passed a joint resolution (S. No. 161) in relation to the coast defense, in which the concurrence of the House was requested.

ENROLLED BILLS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 1376) for the relief of the loyal Choctaw and Chickasaw Indians; and

An act (H. R. No. 451) providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes.

ADJOURNMENT OF CONGRESS.

Mr. WASHBURN, of Illinois. I call up from the Speaker's table the resolution in relation to adjournment.

The SPEAKER laid before the House the following message from the Senate:

IN THE SENATE OF THE UNITED STATES,
July 22, 1868.

Resolved, That the Senate agree to the resolution of the House of Representatives fixing a day for the adjournment of Congress, with the following amendment:

Strike out all of said resolution after the word "concurring," and insert, "That the President of the Senate and the Speaker of the House, on Monday, the 27th day of July, at twelve o'clock meridian, adjourn their respective Houses until the third Monday of September; and on that day, unless it be then otherwise ordered by the two Houses, they further adjourn their respective Houses until the first Monday of December, 1868."

Mr. BUTLER, of Massachusetts. Does it not require unanimous consent to bring this resolution up at this time?

The SPEAKER. It is privileged, and comes up whenever there is no other business before the House. Resolutions in regard to the adjournment of Congress are always regarded as privileged. That is the uniform practice.

Mr. WASHBURN, of Illinois. I desire to say that while this resolution does not meet with my entire concurrence, and is not what I would have liked, yet I think it will meet the concurrence of a majority of the House. If adopted I have no doubt that all the business will be finished by Saturday, and we will only keep in session till Monday for the purpose of having the President report the signing of some bills. If the resolution should be adopted the session will practically end on Saturday.

Mr. UPSON. How about the tax bill?

Mr. WASHBURN, of Illinois. That is signed.

Mr. UPSON. I understand it is not signed.

Mr. PAINE. Will the gentleman yield to me a moment.

Mr. WASHBURN, of Illinois. My friend from Illinois [Mr. COOK] has an election case pending, but he consented I should test the sense of the House upon this resolution. I do not feel, therefore, like yielding unless the majority of the House desire it.

Mr. PAINE. The gentleman having made his remarks prevents anybody else from saying anything.

Mr. MILLER. I would inquire whether all the bills will be returned from the President by Monday?

Mr. LOGAN. We have the assurance that one of our most important bills has been signed already.

Mr. WASHBURN, of Illinois. I was informed a moment ago by the gentleman from Iowa [Mr. ALLISON] that the tax bill was signed.

Mr. SCHENCK. I desire to say that nobody knows that it has been signed. The Commissioner of Internal Revenue was sent for to read it over with the Secretary of the Treasury, and that has led to an inference that it has been signed.

Mr. PAINE. Will the gentleman from Illinois yield to me?

Mr. WASHBURNE, of Illinois. I yield one minute.

Mr. PAINE. There are two reasons why this amendment should not be adopted which are very weighty with me. I do not oppose that part of the resolution which provides for a meeting of Congress before the regular meeting in December, but I do object to that part which provides for a recess, and for two special reasons. In the first place the Committee on Reconstruction has authorized one of its members [Mr. BINGHAM] to report at the earliest moment a bill of the utmost importance in relation to Texas, Virginia, and Mississippi, and I believe it will be a crime for us to adjourn before that is acted upon.

Mr. WASHBURNE, of Illinois. The gentleman's time is out.

Mr. PAINE. I think my minute is not out.

The SPEAKER. The Chair thinks the gentleman has spoken his minute.

Mr. WASHBURNE, of Illinois. Gentlemen ask me to postpone this matter until tomorrow. I only desire to say that we cannot suspend the rules until this resolution is passed.

Mr. SCHENCK. Can we then? It will only be a recess.

Mr. WASHBURNE, of Illinois. That is the question. The resolution is before the House, and members can dispose of it as they see fit.

Mr. FARNSWORTH. I desire to inquire of the Chair whether, if this resolution passes, it will be in order to suspend the rules, as it provides for a recess, and not for an adjournment?

Mr. WASHBURNE, of Illinois. Perhaps it might be so construed.

The SPEAKER. The Chair could not so construe it. The rule states that the rules may be suspended during the last ten days of the session. The Clerk will read the rule.

The Clerk read as follows:

"Except during the last ten days of the session the Speaker shall not entertain a motion to suspend the rules of the House at any time except on Monday of each week."

The SPEAKER. The last ten days of the second session of the Fortieth Congress will not have commenced if the House and the Senate take a recess until September.

Mr. MULLINS. Will the gentleman from Illinois allow me one minute?

Mr. WASHBURNE, of Illinois. No, sir; I demand the previous question, and the House can do as they please.

Mr. SCHENCK. Are all the other committees to be choked down in this way?

Mr. WASHBURNE, of Illinois. The gentleman can only be choked down by a majority of the House.

The SPEAKER. The Chair did not hear the remark of the gentleman from Ohio.

Mr. SCHENCK. I inquired whether the gentleman from Illinois intended that the rest of us shall not be permitted to state the condition of the business connected with other committees. I desired especially to call the attention of the House to the position of the funding bill.

The SPEAKER. The Chair understood the gentleman to address a question to the Chair, and this is different from what he supposed it was.

Mr. SCHENCK. I had to address the Chair necessarily, but I was talking at the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. I will yield to the gentleman from Ohio [Mr. SCHENCK] for a few minutes, and then to his colleague, [Mr. GARFIELD.]

Mr. SCHENCK. I desire to say that the Senate have disagreed to the amendments of the House to the funding bill, but have not asked for a committee of conference. This has been explained by the chairman of the Committee on Finance of the Senate, and I have no doubt of a desire existing that the House shall ask for a committee of conference for certain reasons that have been mentioned,

and we are considering whether it is not our duty to ask for a committee of conference on our part. If there should be a conference, it would, of course, take one day at least for its consideration.

So far as the tax bill is concerned, I think no man is authorized to say whether the message sent by the President on Monday that he had signed the tax bill was or was not consistent with the fact. The bill has been lying on the table of the President, as I am assured, and various statements have been made in regard to it, some of which can and some cannot be traced to him. It certainly has been a question of consideration with him whether or not on account of some of its provisions he ought or ought not to veto it.

Mr. VAN WYCK. I would like to state to the gentleman that a few moments ago I met Mr. Rollins, and he stated that the Secretary of the Treasury told him that the President had signed the bill.

Mr. SCHENCK. Yes; and a high official said the same thing the other day and afterward found out he was mistaken. This much is certain, that the Commissioner of Internal Revenue has been invited to read over the bill with the Secretary of the Treasury to-day.

Mr. WASHBURNE, of Illinois. I yield now to the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. I desire to state the condition of business pertaining to the Committee on Military Affairs. Of course I do not expect at this late day that we can report several bills that the committee have authorized to be reported to the House, though they are very important.

But there is one bill to which I wish to call attention for one moment; and I shall feel it to be a public calamity if the House shall fail to act upon it. It is a bill now upon the Speaker's table, one upon which there has been substantially considerable debate in this House. One of its important sections has already passed the House in the form of a joint resolution. If that bill should pass it would probably reduce the expenses of the Army for the coming year \$10,000,000; not so much as the expenses would be reduced by the bill of the House.

There is one section of the bill now upon the Speaker's table which, in my judgment, is of transcendent importance to this House. It provides that the newly reconstructed State governments shall be furnished by the Secretary of War with arms to a sufficient amount to enable the people of those States to protect themselves against the violence and outrage of the rebels there. As the theory of the reconstruction measures requires, we are withdrawing our military force from the control of those States. And if no provision is made we will have no control whatever over the rebel element in those States which have lately been reconstructed. The rebel element there has arms; but our friends have no arms. Whatever arms there are in those States are in the possession of the rebels.

Mr. ROSS. I rise to a question of order. The military bill is not before the House.

The SPEAKER. The Chair sustains the point of order.

Mr. GARFIELD. Then I will say no more than that I desire to have that bill considered.

Mr. WASHBURNE, of Illinois. I now yield two minutes to the gentleman from Massachusetts.

Mr. BUTLER, of Massachusetts. I do not wish to say much in the two minutes allowed me, even if I could; and could not if I would. I desire merely to say that I am opposed to any adjournment of Congress until we take measures to make sure that we are not to go into the coming presidential election on a sort of "heads I win and tails you lose" principle of having the southern States counted against us if we lose them and not for us if we win them, as the other side propose to do.

Mr. RANDALL. I rise to a question of order. The gentleman is not discussing the

question before the House, but the next presidential election.

The SPEAKER. The subject of the presidential election is not now before the House. The gentleman must confine himself to the question before the House.

Mr. BUTLER, of Massachusetts. The question is whether we shall adjourn and go home. I am trying to give reasons why we should not do so.

The SPEAKER. If the point of order is raised, the Chair will be compelled to rule that gentlemen cannot discuss all the bills and measures that are or may be before the House.

Mr. BUTLER, of Massachusetts. I want to see quiet and safety secured in the South before I consent to go home.

Mr. RANDALL. You had better go home now; you have got glory enough.

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] is not in order.

Mr. BUTLER, of Massachusetts. I am quite sure the gentleman from Pennsylvania would have to remain here a long time to get himself in that condition.

I desire to say that until we can arrange matters here so that there can be safety for the Union men in the South, I am not for going home; that is the whole of it. We must take the best way to secure that object, and we should take a little time to find out that best way. If we can do so by supplying arms to protect Union men from rebels, then let us supply them. If it can be done only by removing the great obstruction to peace and quiet in the country, then let us stay here and do our duty in that respect. Let us do something or other, that our friends in the South may not day by day be murdered by the rebels there, as we have reports by every mail is now being done.

Mr. WASHBURNE, of Illinois. I now call the previous question.

Mr. WOOD. Will the gentleman yield to me for a moment?

Mr. MULLINS. I hope the gentleman will yield to me for two minutes.

Mr. WASHBURNE, of Illinois. I yield to the gentleman from New York [Mr. WOOD] for two minutes.

Mr. MULLINS. I think the gentleman has made a great mistake in not yielding to me.

Mr. WOOD. The question before the House is simply upon agreeing to the amendment made by the Senate to the resolution of the House fixing a time for the adjournment of Congress. The Senate has seen proper to amend the resolution of the House so as to provide for a recess, and the meeting of the two Houses of Congress again in September next. As one of the minority of this House, as a member of the great Democratic party of this country, nothing would delight me more, in a partisan sense, than to see this Congress in perpetual session. The responsibility is upon them; the omission and commission is altogether upon the Republican party of this country. And so long as they remain in session, so long, in my judgment, if they go on as they are now going on, they will fail to meet the responsibility now resting upon them.

But, sir, the people of this country require rest. They cannot have rest as long as Congress is in session. The people of this country require freedom for at least a short period for the purpose of collecting their judgment and making up their decision to be enunciated next November in the election of a President of the United States. Hence, while we ought to adjourn, we should not agree to meet here again in September. For what purpose is a meeting at this time proposed? To agitate, to excite the people, to arouse animosities and engender, if possible, hostilities in anticipation of the presidential election, and to involve this whole country a second time in revolution and war. Is this the object of the majority here? Do they see no hope of electing their candidate except by a resort to violence and force? Is that the object of the bill referred to by the gentleman from Ohio, [Mr. GARFIELD,] pro-

posing to distribute arms to the provisional Governors of the southern States?

[Here the hammer fell.]

Mr. MILLER. I suppose the gentleman from New York [Mr. Wood] will vote to continue the session in order to help his party.

Mr. WOOD. I will vote to adjourn *sine die*, that the country may have rest; that the people may have peace.

Mr. WASHBURN, of Illinois. I will in a moment demand the previous question; and the House can second it or not, as it may see proper. The majority of the House can second the demand for the previous question, and then pass or reject the resolution; or they can refuse to second the previous question and open the question to indefinite discussion.

Mr. HOPKINS. Will the gentleman allow me to offer an amendment; to strike out Monday, the 27th, and insert Friday, the 31st, as the day for taking the recess?

Mr. WASHBURN, of Illinois. I cannot yield for that amendment.

Now, sir, looking at this matter as a practical question, let me say one word as to the business of the House. That gentlemen may determine whether it is necessary for the public interest that we should remain here any longer than Monday or even Saturday. All the appropriation bills have passed both Houses. The tax bill, I have every reason to believe, has been signed, and I have it from the most reliable authority that we shall not be kept here on account of the President declining to act on bills presented to him. Every political bill which he is not disposed to sign he will return with his veto before the time we propose to fix for the adjournment.

Mr. SPALDING. Has the gentleman had an interview with the President? [Laughter.]

Mr. WASHBURN, of Illinois. No, sir; but I have my information from reliable authority.

Mr. SCHENCK. Will the gentleman name his authority?

Mr. WASHBURN, of Illinois. My authority is good; and authority which the gentleman will not dispute.

Now, sir, the question is why should we stay here after Monday? Indeed, Senators have told me that if we would amend the resolution by fixing to-morrow or Saturday as the day of adjournment they will accept the amendment; that their reason for inserting Monday instead of Friday was that they did not fully understand the position of business in the House.

Mr. PAINE. I would like to know whether the gentleman's information as to the action of the Senate was derived from the same authority that informed him how the President would act? [Laughter.]

Mr. WASHBURN, of Illinois. It was not. [Laughter.]

Mr. BINGHAM. Will the gentleman allow me to make an inquiry?

Mr. WASHBURN, of Illinois. Yes, sir.

Mr. BINGHAM. If the Senate resolution should now be agreed to by the House, and a motion to reconsider entered and left pending, would it not be within the power of the House at any time before Monday noon to reconsider its action and prevent an adjournment?

Mr. WASHBURN, of Illinois. As a matter of course that could be done.

Mr. BINGHAM. Then, why can that not be done for the protection of the country, so that, if before Monday noon the important bills sent to him should not be returned with either his approval or disapproval, we may delay our adjournment so as to insure that those bills shall become laws?

Mr. WASHBURN, of Illinois. I do not know exactly to what bills the gentleman refers. We have already, in my judgment, done about all the business that is required to be done, or we can do it before the time fixed by the Senate. There may be a design on the part of some gentlemen to keep us here permanently—a design to enter again upon the impeachment of the President, as has been foreshadowed by my distinguished friend from Massachusetts, [Mr. Butler.] There may be

a design to change all the issues before the country and to go into another impeachment trial, and keep us here during the whole summer. For one, sir, I say I am against that. I am almost prepared to say I am against this bill which is considered of so much importance by the gentleman from Wisconsin, [Mr. Paine.] I do not see any necessity for distributing arms to any State in the Union.

Mr. STOKES. Will the gentleman yield to me for a moment?

Mr. PILE. I would like to know whether it is in order to discuss a bill before the House?

Mr. STOKES. I desire one moment.

Mr. WASHBURN, of Illinois. I yield to the gentleman.

Mr. STOKES. I desire to send to the Clerk's desk a letter I received this morning from the adjutant general of Tennessee.

Mr. WOOD. I object.

Mr. STOKES. I ask it to be read as a part of my speech.

Mr. RANDALL. The gentleman has not the right to have it read.

The SPEAKER. The Chair sustains the point of order. The adjutant general of Tennessee cannot determine as to whether Congress shall adjourn or not.

Mr. WOOD. The letter has nothing to do with the matter.

The SPEAKER. Does the gentleman from Illinois yield further to the gentleman from Tennessee?

Mr. WASHBURN, of Illinois. I do.

Mr. STOKES. I oppose the adjournment of the two Houses to December next. I am in favor of taking a recess whenever the business of the House and the Senate will justify it, and allow us to go to our homes. But, sir, the condition of things in Tennessee and in other States, I say to the gentleman from Illinois, and I say to this House, and I desire every member here to hear what I have to say; I say that the condition of things there is such that if this Congress adjourns without this Government appropriating arms to the Union men there to protect themselves, then the Ku-Klux-Klan will overrun those States. These rebels are already armed. They are already organized, and they will intimidate the Union men and the colored men, and they will not allow them to go to the polls. The war-cry has gone forth, and those rebels swear they will vote at the election in November regardless of our Constitution and laws. They say that they have the right to do it. They say the President's proclamation—

Mr. RANDALL. I rise to a question of order.

Mr. STOKES. I know the gentleman from Pennsylvania does not like to hear this.

The SPEAKER. The Chair will decide the point of order. The remarks of the gentleman are not out of order. The Chair will state that while it is not in order, upon the adjournment of Congress or the taking of a recess, to discuss any bill pending before Congress, or to discuss any election that is to occur, it is in order for the gentleman to state his opinion as to the condition of the country and as to whether it is wise or unwise to adjourn. Discussions of the military bill, the funding bill, or the presidential election are not in order. If they have everything would be in order on the question of adjournment or taking a recess; but the opinion of a member as to the condition of the country is in order on the question whether the House should or should not adjourn.

Mr. STOKES. I propose to read—

The SPEAKER. The opinion of some other person is not the opinion of the gentleman.

Mr. STOKES. I state it as a fact, to show the condition of things in Tennessee, and as a reason why this House ought not to adjourn until certain things are done. The facts are these—

Mr. RANDALL. I object to the letter being read.

The SPEAKER. The gentleman from Tennessee will see that if he can read the opinion

of the adjutant general of Tennessee he can read the opinion of every one of the forty millions of people in America.

Mr. STOKES. I will express my own opinion, and my own opinion is, from the facts in my possession, and I am sure I am right, that unless this military bill is passed and arms given to the Union people of the South the Union people there, white and black, will be overrun. And it is the duty of Congress to remain here until this measure is put through. To day, sir, my people are expecting every moment when Forrest and his rebel Democratic crew will next make a raid upon them. We were entitled to ten thousand stand of arms and only drew two thousand. I want this House to remain in session until we can ascertain why it was that the demand of the Governor of the State of Tennessee for ten thousand arms was not complied with. We only received two thousand; eight thousand remain, and we to-day demand those eight thousand arms; and I tell this House that this is a matter of life and death. I am satisfied that at a very early day we shall need these arms. The rebels have determined that they will rule the country or they will exterminate the loyal white and colored people, and I propose to meet them.

Mr. WASHBURN, of Illinois. I resume the floor.

Mr. STOKES. I hope the House will not adopt the amendment of the Senate.

Mr. TRIMBLE, of Kentucky. I ask the gentleman from Illinois to yield and allow me to offer an amendment, which I have no doubt he will consent to.

Mr. WASHBURN, of Illinois. The House can vote down the previous question, which will bring the whole subject before it for discussion. I will say a word in reply to the gentleman from Tennessee, [Mr. Stokes,] and then insist upon a vote on seconding the previous question. I have no doubt of the grievous and terrible state of things existing in the South to which the gentleman refers, but the question is, and it is one of the gravest, I think, that was ever thrust upon us, whether that state of things is to be remedied by sending arms into those States? Sir, I believe that in most of the States it will not be ten days after your arms are sent there before they will be in the hands of the rebels to be used against loyal men.

Mr. BUTLER, of Massachusetts. I rise to a question of order. I was stopped in discussing this question, and the gentleman is out of order if I was. The gentleman is discussing a bill that is before the House in relation to supplying arms to the States.

The SPEAKER. The Chair has ruled that there is no such bill before the House.

Mr. BUTLER, of Massachusetts. There is a bill before the House.

The SPEAKER. The Chair will not argue the point of order. The gentleman from Massachusetts had a right to appeal from the decision of the Chair when the Chair decided that the gentleman was out of order in discussing the presidential election.

Mr. BOYDEN. Will the gentleman from Illinois yield to me?

Mr. STOKES. One single word. The gentleman from Illinois says it will not take ten days if these arms are sent before they will be taken from the colored people and put into the hands of rebels. I simply desire to state that the two thousand which we drew last year are in the hands of Union men.

Mr. WASHBURN, of Illinois. That may be so in Tennessee. I did not allude to that State, but to the other southern States; and I tell gentlemen to beware before they press this measure, lest it should incite civil war and insurrection, and bring on the very state of things which you desire to prevent.

Mr. BUTLER, of Massachusetts. I ask for a ruling on my point of order.

The SPEAKER. The Chair sustains the point of order. The gentleman from Illinois is discussing a bill which is not before the House.

Mr. WASHBURN, of Illinois. As the gentleman from North Carolina [Mr. BOYDEN] desires to say a few words, I will yield to him for a moment, and I think what he will say will fall with some weight upon the House.

Mr. BOYDEN. Mr. Speaker, I am astonished at the ideas advanced in this House. I am alarmed at the condition of mind of gentlemen on this floor. Do they propose to send arms to North Carolina that we may get into a fight with each other? Great God! if we are on the eve of a conflict, keep away arms? Do nothing to irritate our people. Do everything in your power to assuage and heal the excitement that is abroad there. We want no arms. It would seem from what is said here that a conflict is just upon the eve of being engaged in, and you are to send us arms to fight it out. No, sir; I warn this House that if they do such a thing as that they will ruin us all. We cannot live there if you are about to send arms to enable us to fight each other. If anything is to be done in the way of arms, send the Army of the United States there. Do not arm neighbor against neighbor, and expect to have peace and good government under any such policy as that. There never was a more mischievous measure than this proposition to arm one part of our people against the other.

Mr. BUTLER, of Massachusetts. I make the same point of order that was made on other gentlemen.

The SPEAKER. The Chair sustains the point of order. The bill in regard to arming the States is not before the House.

Mr. HAMILTON. I desire to say that the gentleman from North Carolina does not speak the sentiments of the South.

Mr. WASHBURN, of Illinois. I demand a vote on seconding the previous question.

The question was put; and there were—ayes 91, noes 56.

Mr. RAUM and Mr. MILLER demanded tellers.

Tellers were ordered; and Messrs. GARFIELD and BOYDEN were appointed.

The House divided; and the tellers reported—ayes 81, noes 67.

So the previous question was seconded.

The question was upon ordering the main question to be now put.

Mr. MAYNARD. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 80, nays 81, not voting 55; as follows:

YEAS—Messrs. Adams, Ames, Archer, Axtell, Baker, Beck, Bingham, Blair, Boyden, Boyer, Brownell, Brooks, Broomall, Churchill, Reader W. Clarke, Cook, Cullom, Dawes, Delano, Dixon, Dockery, Driggs, Eckley, Ferriss, Fields, Getz, Golladay, Griswold, Grover, Haight, Hill, Hitchcock, Chester D. Hubbard, Hunter, Ingersoll, Johnson, Thomas L. Jones, Kerr, Ketcham, Knott, Koontz, Ladin, Lash, Loan, Mallory, Marshall, McCullough, McKee, Mercur, Moore, Orth, Pike, Platts, Poland, Pomeroy, Randall, Robertson, Ross, Sawyer, Smith, Spalding, Starkweather, Stewart, Stone, Taber, Taffe, Taylor, Townbridge, Twitchell, Upson, Van Aernam, Van Trump, Elihu B. Washburne, William B. Washburn, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—80.

NAYS—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beatty, Benton, Blackburn, Boies, Boutwell, Bowen, Buckland, Buckley, Benjamin F. Butler, Rodrick R. Butler, Callis, Sidney Clarke, Cobb, Coburn, Covode, Deweese, Eggleston, Eli, Eldridge, Eliot, Farnsworth, French, Garfield, Glassbrenner, Goss, Gravely, Hamilton, Haughey, Hawkins, Heaton, Higby, Jones, Hooper, Hopkins, Jenckes, Alexander H. Jones, Judd, Kelley, Kellogg, Keiser, William Lawrence, Lincoln, Logan, Maynard, McClurg, Miller, Mullins, Myers, Niblack, Nisholson, Nunn, O'Neill, Paine, Perham, Pierce, Pillsbury, Rams, Schenck, Scofield, Shanks, Sitgreaves, Aaron F. Stevens, Stokes, Sypher, Thomas, Lawrence S. Trimble, Van Alken, Bart Van Horn, Vidal, Ward, Henry D. Washburn, Welker, Whittemore, and Windom—81.

NOT VOTING—Messrs. Anderson, Bailey, Barnes, Barnum, Beaman, Benjamin, Blaine, Burr, Cake, Cary, Chanler, Cornell, Dodge, Donnelly, Ferry, Finney, Fox, Halsey, Harding, Holman, Asabel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Julian, Kitchen, George V. Lawrence, Loughbridge, Lynch, Mann, Marvin, McCarthy, McCormick, Moorhead, Morrell, Morrissey, Phelps, Price, Pruyn, Robinson, Norris, Peters, Shellabarger, Thaddeus Stevens, John Trimble, Robert T. Van Horn, Van Wyck, Cad-

walader C. Washburn, Thomas Williams, and Woodbridge—55.

So the House refused to order the main question.

Mr. PILE. I move to reconsider the vote by which the previous question was seconded.

Mr. SCHENCK. I hope we will have an opportunity of amending the resolution.

The question was put on Mr. PILE's motion; and there were—ayes 63, noes 63.

The SPEAKER. The Chair votes in the affirmative, and the vote seconding the previous question is reconsidered, as it must have been if anything else was to be done, the House having refused to order the main question to be put.

The question recurred on seconding the demand for the previous question.

Mr. WASHBURN, of Illinois. I withdraw the demand for the previous question in order to enable the gentleman from Ohio [Mr. SCHENCK] to make a motion to amend the resolution, and then he will call the previous question.

Mr. SCHENCK took the floor.

Mr. BUTLER, of Massachusetts. I rise to a question of order.

The SPEAKER. The gentleman will state his point of order.

Mr. BUTLER, of Massachusetts. I understand the parliamentary rule to be that after the House has antagonized by its vote a position taken by the person in charge of a resolution or measure then he is not entitled to the floor as against other members.

The SPEAKER. That is true. And when the vote is taken again upon seconding the previous question that rule will apply, and not until then. The vote seconding the previous question having been reconsidered, the question recurs, "Will the House second the demand for the previous question?"

Mr. PILE. I desire to ask a parliamentary question. Will it be in order now to move to postpone the further consideration of this resolution?

The SPEAKER. It will not, because the demand for the previous question is now pending. The gentleman from Illinois, [Mr. WASHBURN], who has possession of the floor, withdraws that demand, in order to allow the gentleman from Ohio [Mr. SCHENCK] to move an amendment.

Mr. SCHENCK. I now move to amend the amendment of the Senate, which provides for a recess, so that the reassembling of Congress shall be on the 14th of October instead of the third Monday, or the 21st, of September. And I will state my reason for that amendment. There seems to be a determination on the part of the House that if we leave here it shall be with an arrangement by which a meeting of Congress shall take place before December next. I desire that the meeting shall take place as soon as practicable after the elections in the three large States of Pennsylvania, Ohio, and Indiana. If we meet on the 21st of September, under the provisions of the Senate amendment, then, as I understand it, if a quorum of both Houses does not appear the two Presiding Officers will be imperatively required to adjourn Congress until the first Monday of December next.

Now, if there be any purpose of mischief, any development of a spirit of violence in those States where we apprehend it may be manifested, it may very easily be suppressed in a great degree from motives of policy, and the hand of mischief not shown, until after the 21st of September. And if all be quiet and going on smoothly at that time you will not be able to get a quorum of either House, or at least of both Houses, to meet here at that time. In that case we will be powerless until the regular meeting of Congress in December next. But if we postpone the time of meeting until the middle of October, until after the elections in two or three important States shall have taken place, and there will by that time have been developed any purpose or temper and spirit of mischievous violence, or any

thing of that kind in the southern States, then, my word for it, upon a manifestation of that sort, the people will require their Representatives and their Senators to be here, as they did upon one occasion before. For that reason, if we are to have a recess, I hope that recess will be prolonged until the 14th of October, two days after the elections are to take place in the three great States to which I have referred.

Mr. WOOD. Will the gentleman allow me to ask him a question?

Mr. SCHENCK. Certainly.

Mr. WOOD. I desire to ask the gentleman from Ohio [Mr. SCHENCK] what the Congress of the United States has to do with the elections in October next in Pennsylvania, Ohio, and Indiana?

Mr. SCHENCK. They have to do with those elections as facts; they have to do with them in this instance as connected with dates. It would be inconvenient for members to come here from three of the large States just upon the eve of the elections there, within a few days before. Arguing with reference to their convenience, therefore, I did not propose, as I otherwise might have done, that the reassembling of Congress should take place some time in the first week of October. Inasmuch, therefore, as for convenience sake it should be thrown beyond those elections, I would make it as soon after those elections as practicable. I have not spoken of the Congress of the United States as having anything to do with those elections.

Mr. WOOD. I understood the gentleman from Ohio [Mr. SCHENCK] to say that in case of any indication of a turbulent spirit in those States the people would demand of their representatives to meet here in October. Now, I desire the gentleman to tell us for what object the Congress of the United States can come here in October, in connection with the elections in those States?

Mr. SCHENCK. Does the gentleman refer to the southern States?

Mr. WOOD. No; to the other States.

Mr. SCHENCK. Oh, I have not been talking about them in any such connection. I have merely referred to the date of the elections as affecting the convenience of a meeting in October.

Mr. WOOD. The gentleman has another motive.

Mr. SCHENCK. It is against the gentleman's friends, the Ku-Klux-Klan in the southern States, that we want to prepare.

Mr. WOOD. The gentleman is a revolutionist, and desires to adopt revolutionary measures.

Mr. SCHENCK. I have been speaking of our action as necessary for the protection of the disloyal States. We do not need any congressional measures of protection in Ohio. We will there take care of the gentleman's hybrid ticket without any difficulty.

Mr. WOOD. The people will take care of you.

Mr. SCHENCK. That ticket will be taken care of, I apprehend, in all the States I have named; but my reference to those States was merely with regard to the date of their elections as affecting the convenience of our meeting. They were not referred to in any other connection at all.

Mr. DEWESE. Mr. Speaker, I think that every man who loves his country should vote against this resolution. If this Congress adjourns without making some provision for sustaining the newly organized governments of the southern States, and protecting the loyal people there, the rebellion will be reestablished. The programme laid down in the letter of Mr. Blair, the candidate of the rebel Democracy for the Vice Presidency, will be carried out. In 1865 the rebel armies were disbanded and sent home carrying in their hands the arms they had used to shoot the supporters of this Congress; and if you expect us to maintain the governments you have established you must assist us in doing so. If you adjourn

and go home, then before six months go round the last trace of republican governments in the South will have ceased to exist, and the Ku-Klux-Klan, the rebel, slave-holding Democratic party, will be ruling as they were in 1865.

Mr. WOODWARD. I beg leave to ask the gentleman a question.

Mr. DEWESEE. Certainly.

Mr. WOODWARD. I beg to inquire whether the reconstructed governments of the South can be maintained in any other way than by the bayonet?

Mr. DEWESEE. They can, if you give us arms to keep down the rebels, and by no other means. [Laughter.]

Mr. WOODWARD. Then, if I understand the gentleman, the governments which this Congress has been at such pains to reconstruct in those States can only exist by virtue of the bayonet.

Mr. DEWESEE. I will say to the gentleman from Pennsylvania that his State has arms; that his party in 1861 stole the arms that belonged to the Government of the United States to shoot their loyal neighbors' sons. Those guns are still in the hands of the slaveholding Democratic party.

Mr. JONES, of Kentucky. I desire to ask the gentleman from North Carolina whether the militia of his State and all the arms in the State are not under the control of the Governor and Legislature of that State as now constituted, and whether the Governor and Legislature do not belong to his own party?

Mr. DEWESEE. We have no militia and no militia law as yet.

Mr. JONES, of Kentucky. Then it is your own fault.

Mr. DEWESEE. Under the reign of the Democratic party, from 1861 to 1865, every musket, every shot-gun, every old horse-pistol was taken out of the hands of all men who were in the least degree loyal and put into the hands of southern sympathizers.

Mr. GETZ. Will the gentleman allow me a single remark?

Mr. DEWESEE. No, sir; I will not yield. I say that the support which is given to this proposition of adjournment on the Democratic side of this House is for the purpose of carrying out the Blair letter of the 3d of July, for the purpose of stamping out the loyal State governments of the South, and dispersing us "carpet-baggers." Now, I say to them, come on whenever you feel disposed to do so. Stretch forth your traitorous hands and touch one fold of the old flag, and the representatives of four million men, who, although black in skin, are yet white and loyal in heart, will throw themselves as a bulwark between you and these loyal governments, and you will live only in the sad memories of past events. Come on. I tell you this, you men who live in northern States, especially the gentleman from Illinois, [Mr. WASHBURN], that you know nothing about the condition of affairs among us. You know nothing of the persecution that the loyal men have to bear in the southern States. If the gentleman from New York [Mr. Brooks] will go with me and stay three weeks I promise that he will come back one of the most radical members in this Congress. [Laughter.] I will tell him that down South they do not allow you to stay in the Democratic party unless you steal and rob, and I do not think he will do that. With us Democracy means treason, crime, bloodshed, and everything known to the criminal law.

Mr. GETZ. It does not mean that with us.

Mr. DEWESEE. I say to you this, that if you expect these governments to be a success you must, before you adjourn, do something to assist us. There is no danger in putting arms in the hands of the loyal men of the South.

Mr. MAYNARD. Will the gentleman from North Carolina allow me to inquire whether these newly organized governments have had any arms issued to them?

Mr. DEWESEE. Not a single solitary pocket-pistol—not an arm. After the close

of the war, under military orders issued from Washington city every old gun and every old pistol was "gobbled up"—that is, every one that could be found.

Mr. MAYNARD. When they are organized will they not be compelled to resort to the Federal Government for arms?

Mr. DEWESEE. Certainly they will. We have no arms, and we have no money with which to buy them. If we had the money to buy them we would not ask the Government for them. There is no danger in putting arms into the hands of loyal men.

Mr. ELDRIDGE. How many Government troops are there in the gentleman's State now?

Mr. DEWESEE. I think about five hundred.

Mr. ELDRIDGE. That is all in that State.

Mr. DEWESEE. Under the instructions of the President of the United States since these governments have been reconstructed these troops have not been allowed to render us any assistance. Some of the officers have refused to turn over the offices to the newly elected officers. They have also applied for assistance, and were told that the officers had no authority to interfere. Our papers are full of proclamations and notices of men in reference to murders of loyal men. I say that if you want to sustain these newly organized governments you must give us assistance. We only want the arms sent to the State capitol, so our Governor can have them to use in case this rebel Democratic party attempts another rebellion. We do not wish them distributed and put in the hands of the people. Only give us the guns for use in case they are needed.

Mr. ROSS. Is there not danger that the Republicans will lose the elections there unless they get arms?

Mr. SCHENCK. I wish to resume the floor.

Mr. KELLEY. Is there not danger of the Republicans losing their lives, white and black?

Mr. DEWESEE. Certainly there is if you allow the Democratic party to get into power again. The spirit that inaugurated the rebellion is as rampant to-day at the South as it was in 1860. Crushed by the Federal Army, until it became almost extinct, it has been gradually resuscitated under the fostering care of Andrew Johnson until it now stands defiant, threatening to involve the country in another war. The Democratic party of the North, under the leadership of such men as the gentleman from Pennsylvania, [Mr. WOODWARD], and the gentleman from New York, [Mr. Brooks], aided by their promises of help in fomenting the rebellion, and now they hold out to the defeated rebels the idea of obtaining control of the Government. How do they propose to do it? Why, by uprooting and destroying the loyal State governments established at the South under the reconstruction acts of Congress. The plan has been deliberately set forth by the Democratic candidate for the Vice Presidency. All that is needed now is the opportunity to execute it. The unrepentant traitors are preparing the way. The Democrats of this House want to put the loyal men of the South, white and black, in the same position that the traitors placed the Federal Government in 1860. When they are ready to strike us down they want to find us unarmed and unprepared, so that we may be the more easily overpowered. That is the secret of their opposition to the bill giving us arms. No sane man in this House or elsewhere believes that any danger would come to the peace and good order of the community by putting arms into the hands of loyal men.

My colleague [Mr. BOYDEN] talks wildly about the people using the arms against each other, and implores you to keep them away. "Do not," he exclaims, "arm neighbor against neighbor." Sir, who proposes to "arm neighbor against neighbor?" Certainly no man on this [Republican] side of the House. He knows as well as I do, or at least he should know, that in our State—and I presume it is so in others—the rebels are armed, while the Unionists are practically defenseless. Does he propose that this state of things shall remain? Does he

want the rebels to do all the shooting and murdering, while the Union men submissively exclaim in his language, "Great God! we cannot afford to fight each other?" This is the only inference to be drawn from the gentleman's position on this question. The distribution of arms among the loyal men of the South will insure peace instead of producing bloodshed. When the rebels know that we have not only the will but the means to protect ourselves they will cease to harass and murder us. If there is to be any violation of the public peace it must come from them. There are no elements of disorder in our ranks. We want peace. But we cannot afford to leave ourselves in the power of our enemies. The rebels are as unscrupulous as they are treacherous. Those of us who know them best put the least confidence in their promises. We must have the means of securing good behavior on their part, whether they are willing or not.

My colleague [Mr. BOYDEN] talks about "irritating" these people. I think it is about time, sir, that we ceased consulting these rebels. They grow worse the more we endeavor to coax and please them. The only thing they fear or respect is the mailed hand of power. That is what created such a sudden overflowing of love in their breasts for Andrew Johnson. He is no better now than when they expressed their supreme contempt for him by calling him a "mean white." But now he sits at the dazzling height of power, and these rebels are the veriest sycophants at his footstool.

Mr. Speaker, the loyal men of the South are for peace. Those of you from the North were glad to welcome it when the rebellion formally closed. We of the South are still in the midst, I may say, of the conflict. If we are allowed to struggle on unaided, while our enemies and the enemies of liberty are backed by the whole power of the Administration, it requires no prophet to predict the result. Those State governments still feeble, and now menaced by the Executive and his party, will go down. The labors of those of us who have, as it were, passed through the fiery ordeal for the purpose of establishing those governments, will go for nothing. We ourselves will eventually be forced to leave the South and seek for more peaceful homes, and all because you will allow—

"Bloody treason to flourish o'er us,"

while you have the power to protect and save us. The work of reconstruction perfected by Congress in the admission of these States will become the failure the Democrats and rebels have hoped for; and worse than all the vantage ground gained from the common enemy, the enemy of the Government, of human rights and equal justice will be surrendered and the Union again imperiled. You owe it to yourselves, not less than to those who have held aloft the old flag in the South when it was worth a man's life to do so, that these State governments shall be protected. We do not ask a standing army. Give us the arms and we will organize a militia force that will maintain peace. That is what has saved Tennessee. It is the only thing to save the Carolinas and the other States recently admitted to representation in Congress from falling under the domination of the unrepentant rebels.

Mr. SCHENCK. This may be considered by some gentlemen as somewhat amusing, but it is really a serious matter. There is a Ku-Klux-Klan of rebels in the South. There is a majority of those who support these governments lawfully established under the legislation of Congress, white and black, but they are unarmed. It is to this condition of things we are referred. To say, therefore, an unarmed majority, a totally unarmed majority cannot sustain itself against an armed, vicious, excited, disloyal minority, is not an admission which need occasion any amusement. In several of the States of the Union the majority was controlled by having, as it were, the inside track. Otherwise we would not have had the rebellion. Virginia was carried out by a minority, Ala-

bama was carried out by a minority, a minority of bad, disloyal, rebel men.

Mr. ELDRIDGE. Allow me to suggest that I am told here that a minority in Tennessee and Missouri control the action of those States.

Mr. SCHENCK. I do not believe it.

Mr. MULLINS. They did in carrying it into rebellion along with your party.

Mr. SCHENCK. Those who wish to believe such stories will give them ready credence, but it is not historical, and I advise the gentleman from Wisconsin to correct his knowledge on that subject by further reading, study, and examination.

Mr. Speaker, being under the impression that the elections in three of the principal States would take place on the 12th of October, I named the 14th in my amendment. I find on reference to the Calendar that I was mistaken by one day; that the elections in Pennsylvania, Ohio, and Indiana will be on the 13th. To avoid interfering, therefore, with those elections, I propose to select the Monday following, which will be the 19th. I modify my amendment accordingly by substituting for the 14th, Monday, the 19th of October.

Mr. MILLER. I hope the House will agree to that. It is much better.

Mr. SCHENCK. I now yield to my colleague, [Mr. DELANO.]

The SPEAKER. The gentleman has nine minutes remaining.

Mr. SCHENCK. My colleague declines to speak with the hope that I will call the previous question. Before I do that I will indicate a further amendment. I do not wish to be understood, by fixing the time of meeting after the recess, as agreeing to the time when that recess is to begin. I think we ought to allow ourselves, for the reasons that have been indicated here, at least a week's longer time before we take the recess. I propose, therefore, to modify the amendment by inserting Friday, the 31st of July, instead of Monday, the 27th. I demand the previous question.

Mr. MILLER. Say Thursday.

Mr. RANDALL. I call for a division on the amendment.

The SPEAKER. There will be a separate vote on each amendment.

The previous question was seconded and the main question ordered.

The first question was on striking out "Monday, the 27th," and inserting "Friday, the 31st."

Mr. WASHBURNE, of Illinois. I would like to know what business there is to keep us here till then?

The question being put on the amendment, there were—ayes 68, noes 83.

Mr. PAINE. I call for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 66, nays 92, not voting 58; as follows:

YEAS—Messrs. Ames, Arnell, Delos R. Ashley, Banks, Beatty, Benton, Bingham, Blackburn, Boles, Boutwell, Bowen, Buckland, Buckley, Roderick R. Butler, Callis, Sidney Clarke, Cobb, Coburn, Covode, Deweese, Driggs, Farnsworth, French, Goss, Gravely, Hamilton, Haughey, Hawkins, Heaton, Higby, Hill, Hinds, Hopkins, Hunter, Jenckes, Alexander H. Jones, Kelley, Kellogg, Kelsey, William Lawrence, Lincoln, Lott, Luridge, Maynard, McClurg, Miller, Mullins, Myers, Nunn, O'Neill, Paine, Pierce, Pile, Plants, Polsley, Raum, Schenck, Shanks, Stokes, Sypher, Taffo, Taylor, Thomas, Vidal, Henry D. Washburn, Welker, and Whittemore—66.

NAYS—Messrs. Adams, Allison, Archer, James M. Ashley, Axtell, Baker, Baldwin, Beck, Blair, Boyden, Boyer, Bromwell, Brooks, Broome, Calkins, Cary, Churchill, Reader W. Clarke, Cook, Cullom, Dawes, Delano, Dixon, Dockery, Eckley, Eldridge, Eliot, Ferriss, Fields, Garfield, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Halsay, Hooper, Hotchkiss, Chester D. Hubbard, Ingersoll, Johnson, Thomas L. Jones, Kerr, Ketcham, Knott, Koontz, Laffin, Lash, Loan, Mallory, Mann, Marshall, McCullough, McKee, Mercer, Moore, Niblack, Nicholson, Orth, Perham, Peters, Pike, Poland, Pomerooy, Randall, Robertson, Ross, Sawyer, Scofield, Sitgreaves, Smith, Starkweather, Aaron F. Stevens, Stewart, Stone, Taber, Lawrence S. Trimble, Trowbridge, Twichell, Upson, Van Aernam, Van Auken, Van Trump, Ward, Elish B. Washburne, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodward—92.

NOT VOTING—Messrs. Anderson, Bailey, Barnes, Barnum, Beaman, Benjamin, Blaine, Burr, Benjamin

F. Butler, Chanler, Cornell, Dodge, Donnelly, Eggleston, Ela, Ferry, Finney, Fox, Harding, Holman, Asabel W. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Judd, Julian, Kitchen, George V. Lawrence, Logan, Lynch, Marvin, McCarthy, McCormick, Moorhead, Morrill, Morrissey, Munyon, Newcomb, Newsham, Norris, Phelps, Price, Prunty, Robinson, Roots, Selye, Shellabarger, Spalding, Thaddeus Stevens, John Trimble, Butler Van Horn, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Thomas Williams, William Williams, John T. Wilson, and Woodbridge—58.

So the amendment was disagreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed a bill (S. No. 642) to amend the charter of the National Capital Insurance Company, in which he was directed to request the concurrence of the House.

The message further announced that the Senate had passed the following bills of the House with amendments, in which the concurrence of the House was requested:

A bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York, and one or more European ports; and

A bill (H. R. No. 1277) to provide for the distribution of the reward offered by the President for the capture of Jefferson Davis.

ENROLLED BILLS.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 286) to incorporate the National Life Insurance Company of the United States of America;

An act (S. No. 492) to extend the time for the construction of the Southern Pacific railroad, in the State of California;

An act (S. No. 357) to provide a temporary government for the Territory of Wyoming;

An act (S. No. 252) to create an additional land district in the State of Minnesota; and

An act (S. No. 481) to confirm the title to certain lands in the State of Nebraska.

ADJOURNMENT OF CONGRESS

The House resumed the consideration of the resolution for the adjournment of Congress.

The question recurred on the second amendment of Mr. SCHENCK, to strike out "the 3d Monday of September," and insert "Monday, the 19th day of October."

The question was put; and there were—ayes thirty-eight, noes not counted.

So the amendment was rejected.

The question recurred on agreeing to the amendment of the Senate.

Mr. KELSEY demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 85, nays 69, not voting 62; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Baker, Beck, Blair, Boutwell, Boyden, Boyer, Bromwell, Brooks, Broome, Calkins, Reader W. Clarke, Cook, Dawes, Delano, Dixon, Driggs, Eckley, Eliot, Ferriss, Fields, Getz, Golladay, Grover, Haight, Halsay, Hooper, Hotchkiss, Hunter, Ingersoll, Jenckes, Thomas L. Jones, Kerr, Ketcham, Knott, Koontz, Laffin, Lincoln, Loan, Mallory, Marshall, McCullough, McKee, Mercer, Moore, Nicholson, Orth, Perham, Peters, Pike, Pile, Plants, Poland, Pomerooy, Randall, Robertson, Ross, Sawyer, Scofield, Sitgreaves, Smith, Starkweather, Aaron F. Stevens, Stewart, Taber, Trowbridge, Twichell, Van Aernam, Van Auken, Van Trump, Ward, Elish B. Washburne, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, and Woodward—85.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Beatty, Benton, Blackburn, Boles, Bowen, Buckland, Buckley, Benjamin F. Butler, Roderick R. Butler, Callis, Cary, Sidney Clarke, Cobb, Coburn, Cullom, Deweese, Dockery, Eggleston, Ela, Eldridge, French, Garfield, Glossbrenner, Goss, Gravely, Hamilton, Haughey, Hawkins, Heaton, Higby, Hinds, Hopkins, Alexander H. Jones, Judd, Kelley, Kellogg, Kelsey, Lash, William Lawrence, Logan, Mann, Maynard, McClurg, Miller, Mullins, Myers, Niblack, O'Neill, Paine, Pierce, Polsley, Raum, Schenck, Shanks, Stokes, Stone, Taffo, Taylor, Thomas, Lawrence S. Trimble, Ward, Henry D. Washburn, Welker, and Woodward—69.

NOT VOTING—Messrs. Anderson, Bailey, Bald-

wia, Banks, Barnes, Barnum, Beaman, Benjamin, Bingham, Blaine, Burr, Chanler, Cornell, Covode, Dodge, Donnelly, Farnsworth, Ferry, Finney, Fox, Griswold, Harding, Hill, Holman, Asabel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Johnson, Julian, Kitchen, George V. Lawrence, Loughridge, Lynch, Marvin, McCarthy, McCormick, Moorhead, Morrill, Morrissey, Munyon, Newcomb, Newsham, Norris, Nunn, Phelps, Price, Prunty, Robinson, Roots, Selye, Shellabarger, Spalding, Thaddeus Stevens, Sypher, John Trimble, Upson, Robert T. Van Horn, Cadwalader C. Washburn, Thomas Williams, and Woodbridge—62.

So the amendment of the Senate was concurred in.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the amendment was concurred in; and I move to postpone the consideration of that motion until tomorrow immediately after the reading of the Journal; and on that motion I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to postpone was agreed to.

OBSTRUCTIONS IN NEW YORK HARBOR.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, in answer to the resolution of the House of the 14th instant, relative to the obstruction of the ship canal off Sandy Hook by the wreck of the steamship Scotland, and the best means to protect commerce from the dangers to which it is exposed.

Mr. WASHBURNE, of Illinois. As an appropriation has been made for this purpose in one of the appropriation bills which has passed, I move to lay the communication on the table.

The motion was agreed to.

LIEUTENANT ROSWELL M. SHUTLIFF.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting all the papers on record in his Department relative to the case of Roswell M. Shurtliff, late first lieutenant ninety-ninth New York volunteers.

The letters and accompanying papers were referred to the Committee of Claims.

FORT LEAVENWORTH RESERVATION.

Mr. CLARKE, of Kansas. I ask unanimously to introduce for consideration at this time a bill which has received the approval of the Committee on Military Affairs. It is a bill granting the right of way to certain railway companies over the military reservation at Fort Leavenworth, Kansas.

The SPEAKER. The bill will be read, after which the Chair will ask for objections to its introduction at this time.

The first section of the bill provides for granting the right of way, not exceeding one hundred feet in width, to the Leavenworth and Des Moines Railway Company, a corporation created under the laws of the State of Missouri, to construct and operate a railway across the military reservation at Fort Leavenworth, on the east side of the Missouri, upon a line to be designated and fixed by the Secretary of War. The second section provides for granting the right of way, not exceeding one hundred feet in width, to the Leavenworth, Atchison, and Northwestern Railway Company, a corporation created under the laws of the State of Kansas, to construct and operate a railway across and over the military reserve at Fort Leavenworth, in the State of Kansas, upon such line as shall be designated and fixed by the Secretary of War; provided that if the said company shall not construct, within one year from the passage of this act, a railway from the city of Leavenworth to the city of Atchison, then and in that case a like privilege shall be conferred upon any other company that shall construct a railway between said cities.

No objection was made, and the bill (H. R. No. 1447) was introduced, and read a first and second time.

The bill was ordered to be engrossed and

read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CLARKE, of Kansas, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THE TAX BILL SIGNED.

The SPEAKER. Before the House proceeds to consider the election case, the Chair desires to state what he did not state before, as he did not desire to influence the action of the House, that the tax bill has been signed by the President and filed by him in the State Department as the law of the land.

LEAVE OF ABSENCE.

Mr. SCHENCK. By request of Mr. GRISWOLD, of New York, a member of the Committee of Ways and Means, I ask leave of absence for him for five weeks, beginning to-morrow.

There was no objection, and the leave was granted.

ELECTION CONTEST—HOGAN VS. PILE.

The House then resumed the consideration of the report of the Committee of Elections in the case of Hogan vs. Pile, from the first congressional district of Missouri.

Mr. COOK. I move the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from Illinois [Mr. Cook] is entitled to the floor for one hour to close the debate.

Mr. COOK. I yield thirty minutes to the sitting member, [Mr. PILE.]

Mr. PILE. Mr. Speaker, I will not detain the House for more than ten or fifteen minutes, as I desire to make merely a brief statement, not a speech, in explanation of two or three points in this case. First, with reference to the thirtieth precinct. It is claimed by the contestant that the vote of this election district should be rejected, for the reason that the judges of election did not use the certified list of voters made by the registering officer. The facts in relation to this district are as follows: under the law of the State of Missouri there was a supervisor of registration for each senatorial district. There were several election districts in every senatorial district, for each of which there was a registrar. The supervisor of registration and the registrars constituted a board of revision and appeal. The registry closed ten days before the election, after which this court of appeals met to revise the lists and take testimony in regard to voters objected to. This court for the senatorial district in which the thirtieth election district was situated, finally adjourned on Friday night, previous to the election on Tuesday. On Saturday the registration officer is required to deliver to the judges of election and to the county clerk a certified alphabetized list of the voters. After receiving the revised list, the judges of election of the thirtieth precinct, finding that it was imperfect, from the fact that it was only alphabetized to the first letter, on Monday, the first working day after they received it, and on Monday night preceding the election on Tuesday, made a copy of the list and alphabetized it perfectly. On the day of election they used that copy and the copy furnished by the registering officers. On this point I read the testimony of C. P. Gould, page 137 printed testimony:

"C. P. Gould was duly sworn as a witness on the part of General Pile, and testified as follows:

"Am fifty-nine years of age; am a carrier; and live at 2512 North Eleventh street. On the day of election I was acting as a clerk of the election at the thirtieth district; I was merely taking down the names of voters, and copying and numbering the ballots as they were put in. The books that were used there were the return books from the registrar, and they were copied on to other sheets and put in alphabetical order that we might find the names readily. These copies that we used corresponded in every particular with the lists that were furnished. Whenever we had occasion to examine them—that is, the names that we copied from the original return list from the registrar—I frequently compared them and found that they agreed in every particular. I had the original lists in my hands most of the day,

and when there was occasion to refer to them I generally did it."

Also extract from testimony of Milton H. Wash, one of contestant's witnesses, page 57, printed testimony.

"Question. Was this certified list a correct one? [referring to list furnished by registering officer.]

"Answer. I presume it was not from the fact that there appeared to be some sixty odd names in the original list that were not found on the certified list.

"Question. Did you examine it yourself to see?

"Answer. I cannot say I examined it; they [i. e., the judges of election] were using it, and I could not get permission to examine it."

Two other witnesses swear distinctly to the same facts, and that the perfectly alphabetized list was used for the purpose of facilitating the voting, and four witnesses testify that the official returns were made up from the certified list furnished by the registrar. That certainly does not constitute any such violation of the law as would justify the rejection of this vote; it is no violation of the law at all. The rule is, as established by all legislative bodies of which I have any knowledge, that to reject an entire poll it must be either so tainted by fraud as to render it impossible to ascertain the truth and purge it from fraudulent votes, or there must be a substantive violation of the provisions of law. The election in the thirtieth precinct, as the facts are disclosed in the testimony, does not come within this rule, and therefore it cannot be rejected.

Now, with reference to the thirty-seventh precinct, which has been called in question, a sufficient answer to all that was said upon that subject, both in the speech of the contestant and in the report of the minority of the Committee of Elections, was made by the gentleman from Illinois who reported upon this case, [Mr. Cook.] And there is an additional answer, which would also be conclusive, and that is that the contestant set up nothing in his notice of contest in regard to this district until six months after the testimony in the case was closed. I had no notice that the election in that precinct was called in question, and had no opportunity to show by testimony that the registration was made. I affirm that I could show that this registration was made in the regular form, and that the only ground of objection was the neglect of the officer to return a certified list to the county clerk. The law simply provides that he shall return it "as soon as may be," without fixing any time. The only testimony with regard to the invalidity of the registry was that on the 1st day of January, immediately after the election, this return of the certified list had not been made. Upon testimony of that kind no vote in any precinct has ever in the history of this House, or any other legislative body, been rejected.

One word more with regard to the night vote.

In three precincts votes were polled after sundown. The way that occurred was this: just about the time for closing the polls in the twenty-sixth election precinct four prominent citizens of St. Louis, two belonging to the party to which I belong and two belonging to the party of the contestant, happened to meet at that precinct, and a conversation occurred between them as to the legality of a night vote. One of them, Hon. Samuel Knox, whom many gentlemen here will remember, gave it as his opinion that a night vote would be legal; and at the request of the judges of the election he went into the room and told them that he believed the law of the State of Missouri was not mandatory as to closing the polls at sundown; that votes received after sundown would be legal. Guided by his opinion the judges kept the polls open and received something over 200 votes. One hundred and forty-one were cast for me and 93 for the contestant, the night votes and the day votes being kept separate. These four gentlemen went immediately to the twenty-seventh and the twenty-eighth election precincts, and before arriving there the polls had been formally closed, and proclamation made to that effect. At their request, however, the polls were reopened to accommodate the crowd, who were clamorous

to vote. There being only partial notice to the voters, and the polls having been formally closed, the decision of the judges of election and the clerk of the county court was that where the polls had been closed formally and by proclamation they could not legally be reopened, and that where they were kept continuously open, as in the twenty-sixth precinct, the vote cast after sundown was entitled to be counted. And that is the distinct and emphatic ground upon which was based the action of the judges of the election and of the county clerk with reference to the night vote.

Now, sir, a single remark further, and I shall have nothing more to say. The contestant closed his speech by a reference to the affidavits of eighty persons who he said had testified that they voted for him, while their votes are counted for me. These affidavits were taken a year after the testimony in this case was closed; but to preclude any impression either in this House or in my district that there was anything wrong in reference to this matter, and that these men were really cheated out of their votes by the judges of the election, I desire to make an explanation as to how this difficulty occurred, and how an equal number of men who voted for me are counted for the contestant, a list of whom with the same number of affidavits I can furnish. The law of the State of Missouri requires that the names of the voters shall be entered upon the poll-list when they come to vote, the names being numbered *seriatim* from the first to the last. The number prefixed to each man's name on the poll-list is entered upon the back of the ballot, so that under an order made by the court subsequent to an election directing the county clerk to make a certified copy of the numbers of the ballots cast for each candidate it can be ascertained, if the numbers are correctly entered, how each man voted.

These numbers upon the back of the ballot were made in pencil-marks by the judge of the election or by some of the clerks at the time. After the ballots were returned the county clerk in making out his certified list was unable in every case to decipher the numbers, and one number was sometimes mistaken for another. Eighty-nine was transferred to eighty-seven and eighty-three to eight-eight, it being difficult to distinguish between the seven and nine and the three and eight, one being mistaken for the other. From this statement it will be seen that wherever a mistake was made by the county clerk in the number on the back of the ballot that ballot would be traced to the wrong name on the poll-list, and might be found to be the name of a person who voted on the other side. In the case of my own ballot a mistake was made in deciphering the number, and on tracing it up the number that was deciphered showed that I had voted for the contestant, which, of course, was not the case. The mistake was made by the number upon the back of my ballot being indistinctly written. In each district there are from forty to sixty persons recorded as having voted both for myself and the contestant. There is also an equal number of names for which there are no correspondingly numbered ballots, showing conclusively that this was caused by the duplication of numbers.

The county clerk himself swears (see printed testimony) that it was impossible to decipher these numbers, and he had to guess and come as near the number as possible. The whole number of votes in each district, however, corresponds with the number of names upon the poll-book. So all there is in this accusation of fraud is that there was a mistake of the clerk, growing out of his inability to decipher the numbers upon the backs of the ballots.

It is conclusively shown by the testimony of the contestant's own witnesses that there was not a more orderly election held anywhere than in that district. They swear that it was conducted quietly and honestly, and that the universal desire was to give every man a fair chance to cast his vote.

If the gentleman who manages this case is

ready to take the vote I have nothing further to say.

Mr. COOK. I yield two minutes to the gentleman from Indiana.

Mr. KERR. Mr. Speaker, I desire to say, in the first instance, that the interest of the minority in the case was referred to the gentleman from New York, [Mr. CHANLER.] During my absence he prepared a report, in which I concurred, by which report he made the majority of the contestant 73. On my return I gave the case such examination as I had the time and health to give it, and arrived at another conclusion, which is stated in what purports to be an additional report. I make it 67 majority for the contestant instead of 73. From the understanding we have had about the case I do not propose to make any argument about it.

Mr. COOK. I think there were some material errors made by my colleague on the committee in taking the figures from the brief rather than from personal examination. Votes were counted twice, and 129 in his statement should be 71.

The question first recurred on Mr. KERR's amendment, as follows:

Resolved, That John Hogan is duly elected a member of this House from the first district of Missouri.

Mr. KERR demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 32, nays 91, not voting 93; as follows:

YEAS—Messrs. Adams, Archer, Delos R. Ashley, Beck, Boyer, Cary, Eldridge, Getz, Glossbrenner, Golladay, Grover, Haight, Hotchkiss, Johnson, Thomas L. Jones, Kerr, Knott, Mann, Marshall, McCullough, Mungen, Niblack, Nicholson, Randall, Ross, Sitgreaves, Stone, Tabor, Lawrence S. Trimble, Van Auker, Van Trump, and Woodward—32.

NAYS—Messrs. Allison, Arnold, Baldwin, Bank, Beatty, Benton, Blackburn, Blair, Boies, Boutwell, Bowen, Broomall, Buckley, Benjamin F. Butler, Roderick R. Butler, Calk, Callis, Churchill, Reader, W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Corvode, Culom, Dawes, Dewesse, Dixon, Driggs, Ella, Eliot, Farnsworth, Ferriss, Fields, Garfield, Halsey, Hamilton, Haughey, Hawkins, Heaton, Higby, Hinds, Hopkins, Hunter, Kelley, Kelsey, Koontz, Lash, William Lawrence, Loan, Logan, Loughridge, Mallory, Maynard, McClure, McKee, Miller, Moore, Mullins, Myers, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pierce, Plants, Poland, Polesley, Raun, Sawyer, Schenck, Scofield, Shanks, Smith, Starkweather, Aaron F. Stevens, Sypher, Taffo, Taylor, Thomas, Twichell, Van Aernam, Bart Van Horn, Van Wyck, William B. Washburn, Whittemore, James F. Wilson, John F. Wilson, and Windom—91.

NOT VOTING—Messrs. Ames, Anderson, James M. Ashley, Axtell, Bailey, Baker, Barnes, Barnum, Beaman, Benjamin, Brigham, Blaine, Boyden, Brownell, Brooks, Buckland, Burr, Chanler, Cornell, Delano, Dockery, Dodge, Donnelly, Eckley, Eggleston, Ferry, Finney, Fox, French, Goss, Gravely, Griswold, Harding, Hill, Holman, Hooper, Ashel W. Hubbard, Chester H. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Ingersoll, Jencks, Alexander H. Jones, Judd, Julian, Kellogg, Ketchum, Kitchen, Larkin, George V. Lawrence, Lincoln, Lynch, Marvin, McCarthy, McCormick, Mercer, Moorhead, Morrell, Morrissey, Newcomb, Newsham, Norris, Phelps, Pike, Re, Pomeroy, Price, Pruyn, Robertson, Robinson, Roots, Selye, Shellabarger, Spalding, Thaddeus Stevens, Stewart, Stokes, John Trimble, Trowbridge, Upson, Robert T. Van Horn, Vidal, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, Stephen F. Wilson, Wood, and Woodbridge—93.

So the amendment was disagreed to.

During the roll-call,

Mr. BOYDEN said: I ask to be excused from voting on this question. I know nothing about the case.

By unanimous consent the gentleman was excused.

The result having been announced as above the question recurred on the adoption of the resolution reported by the committee, as follows:

Resolved, That William A. Pike is duly elected a member of this House from the first district of the State of Missouri.

Mr. KERR. I demand the yeas and nays.

The yeas and nays were ordered.

The roll was partially called, when

Mr. KERR asked to withdraw the call for the yeas and nays.

No objection being made the call was accordingly withdrawn.

The resolution was then agreed to.

Mr. COOK moved to reconsider the vote by

which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

PAY OF A CONTESTANT.

Mr. COOK, from the Committee of Elections, reported the following resolution, and demanded the previous question thereon:

Resolved, That the sum of \$2,500 be paid to John Hogan out of the contingent fund of the House, in full for his mileage and expenses incurred in contesting the seat of WILLIAM A. PIKE from the first district of Missouri.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. COOK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

The SPEAKER. By order of the House yesterday the contested-election cases must both be disposed of before proceeding to the consideration of business on the Speaker's table.

Mr. WASHBURN, of Illinois. At my suggestion yesterday the House agreed to take up bills from the Speaker's table immediately after the election cases should be disposed of. We were a long time in getting at them to-day. It is now four o'clock, and the Utah election case remains to be disposed of. I hope, therefore, by unanimous consent, it will be agreed that we shall go to business on the Speaker's table to-morrow immediately after the reading of the Journal, or to-day after the remaining election case is disposed of.

The SPEAKER. The first question after the reading of the Journal will be the motion to reconsider the vote by which the amendments to the concurrent resolution in relation to adjournment were adopted.

Mr. WASHBURN, of Illinois. Immediately, then, after that is disposed of.

Mr. BROOKS. Many members have gone away upon the presumption that the unanimous order of the House was to be followed. What is the understanding now?

Mr. WASHBURN, of Illinois. The order of the House was that the Missouri and Utah contested-election cases were to be disposed of, and then that the House should proceed to business on the Speaker's table, but we shall not reach that business before the adjournment to-day. I propose therefore to dispose of the remaining election case this afternoon, and then to-morrow morning, immediately after disposing of the pending motion to reconsider the vote on the concurrent resolution in regard to adjournment, to proceed to business on the Speaker's table.

Mr. SPALDING. Better take it up now.

Mr. WASHBURN, of Illinois. We cannot take it up now.

Mr. FARNSWORTH. I object. Let us have an evening session and get through with the business.

Mr. WASHBURN, of Illinois. We have two days to do that in.

EVENING SESSION TO-NIGHT.

Mr. SCHENCK. I rise to a privileged motion. I move that an evening session be ordered for to-night at half-past seven o'clock.

Mr. WASHBURN, of Illinois. In order to avoid a night session, I will move that the House take a recess till ten minutes before twelve o'clock to-morrow. We can get at the Speaker's table then.

The SPEAKER. The effect of that will probably be to throw over the motion to reconsider the vote on the resolution in regard to adjournment till Saturday. The House might take a recess till ten o'clock to-morrow.

Mr. WASHBURN, of Illinois. I do not know why my colleague desires a night session.

Mr. FARNSWORTH. Because all the time will be required to dispose of the business before the House.

Mr. PAINE. I call for the regular order.

The SPEAKER. The regular order is the motion to take a recess till half past seven o'clock this evening.

The question being put; there were—ayes 50, noes 65.

Mr. FARNSWORTH. I call for tellers.

Mr. WASHBURN, of Illinois. Now I hope my colleague will withdraw his objection, and that we shall agree to go to the business on the Speaker's table to-morrow.

Mr. FARNSWORTH. I withdraw it.

Mr. PAINE. I renew it.

Mr. SCHENCK. I move, then, that we may take a recess until ten o'clock to-morrow.

Mr. WASHBURN, of Illinois. That will cut off action on the motion to reconsider the vote on adjournment.

The SPEAKER. No; because the House can then adjourn and meet again at twelve o'clock.

Mr. WASHBURN, of Illinois. Well, I will agree to that, although I should prefer eleven o'clock.

Mr. SCHENCK. Oh, no; give us two hours.

The question was taken on Mr. SCHENCK's motion, and it was agreed to.

Mr. SCOFIELD. When is the recess to begin?

The SPEAKER. Whenever the House sees fit to take a recess this afternoon.

LEAVE OF ABSENCE.

Leave of absence was granted to Mr. MUNGEN on account of feeble health, caused by a sun-stroke.

Leave of absence was granted to Mr. UPSON on account of ill-health.

FUNDING THE NATIONAL DEBT.

Mr. DAWES obtained the floor.

Mr. SCHENCK. I ask unanimous consent that a conference be asked on the disagreeing votes of the two Houses on the funding bill.

Mr. WASHBURN, of Illinois. Would a motion to recede from our amendments be in order?

The SPEAKER. That would have priority. Mr. WASHBURN, of Illinois. Then I make that motion.

Mr. DAWES. Then I must resume the floor, for that will cause delay, and the understanding was that the Utah contested-election case should be disposed of to-day.

Mr. WASHBURN, of Illinois. Then I withdraw my motion in order that the gentleman from Ohio may ask for a committee of conference.

Mr. SCHENCK. I ask that a conference be requested on the disagreeing votes.

Mr. PIKE. I object.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had passed a bill (S. No. 174) for the relief of Mrs. Mary Wilson, of the State of Indiana, in which the concurrence of the House was requested.

The message further announced that the Senate had disagreed to the amendments of the House to the amendments of the Senate to House bill No. 541, making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, and for other purposes; and asked a committee of conference thereon, and had appointed Mr. MORRILL of Maine, Mr. PATTERSON of New Hampshire, and Mr. McDONALD of Arkansas, as the conferees on the part of the Senate.

COLUMBIA DEAF AND DUMB INSTITUTION.

The SPEAKER. The Senate has sent a message informing the House that it has disagreed to the amendments of the House to the amendments of the Senate to House bill No. 541, making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, &c., and ask for a committee of conference on the disagreeing votes of the

two Houses on that bill. If no objection is made, the request of the Senate will be granted.

No objection was made.

The SPEAKER appointed as the conferees on the part of the House Mr. SPALDING of Ohio, Mr. WASHBURNE of Illinois, and Mr. MARSHALL of Illinois.

LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. GRAVELY after to-morrow.

Indefinite leave of absence was granted to Mr. HUBBARD, on account of the illness of his wife.

Indefinite leave of absence was granted to Mr. WILSON, of Iowa, on account of indisposition.

LEAVE TO PRINT.

Mr. MILLER asked and obtained leave to print in the Globe some remarks upon the general political issues of the country.

Mr. BURLEIGH asked and obtained leave to print in the Globe some remarks upon the organization of Wyoming Territory.

[These speeches will be found in the Appendix.]

ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 1427) to establish certain post roads.

ELECTION CONTEST—M'GRORTY VS. HOOPER.

Mr. DAWES. I now call up the election-contest case from Utah, and I ask that the resolutions reported by the Committee of Elections may be read.

The Clerk read the resolutions, as follows:

Resolved, That William McGrorty is not entitled to a seat in this House, as a Delegate from the Territory of Utah.

Resolved, That William H. Hooper is entitled to a seat in this House, as a Delegate from the Territory of Utah.

Mr. DAWES. I propose to submit these resolutions to the House without debate. It is sufficient to say that the official canvass shows Mr. Hooper to have received 15,068 votes and the contestant 105 votes, and that no notice was given or any testimony taken in conformity with law. The committee have, nevertheless, patiently heard the contestant, but were unanimously of the opinion that he is not entitled to the seat.

The report in this case was prepared by the gentleman from New York, [Mr. CHANLER,] who would have charge of the case at this time were he not detained from the House by sickness in his family. I am requested by the gentleman from Michigan, [Mr. UPSON,] the gentleman from Missouri, [Mr. McCLEGG,] and the gentleman from Pennsylvania, [Mr. SCOFFIELD,] my colleagues upon the Committee of Elections, to state that while they agree to the resolutions there is much in the views expressed by the gentleman from New York in his report to which they dissent, and I also desire to say that I join in that dissent. There are many papers also published in connection with the report that I supposed were not to be published.

I now yield the remainder of my time to the contestant, Mr. McGrorty. I do not know that he desires to occupy the whole of it; but at the conclusion of his speech I shall move the previous question on the first resolution and move to lay the second resolution upon the table.

Mr. M'GRORTY, (contestant.) I do not propose, Mr. Speaker, to occupy the attention of the House for any great length of time. The question involved in this case is one of great national importance; it is one in which every living soul within the geographical lines of the Republic is interested. I desire particularly that members will give me that attention which the importance of the case demands.

On the 4th of February, 1867, an election was held in the Territory of Utah for the choice of a Delegate to the House of Repre-

sentatives of the United States. William H. Hooper claims to hold that office, as the result of such election, by a vote of 15,068. William McGrorty, however, denies the legality of Hooper's election, and claims to be entitled to the office in question, as the recipient of 105 votes.

From Miscellaneous Documents No. 35, printed in the case, it appears that on the 23d of February, 1867, the contestant dispatched to both the sitting Delegate and to the Clerk of the House of Representatives notice of his (the contestant's) intention to contest the election of the sitting Delegate. The same document further shows, that on the 18th of January, 1868, this contestant sent the sitting Delegate another notice of his (the contestant's) intention to contest the election of the said sitting Delegate, accompanied by a written statement of seven exceptions and twelve specifications of illegality in the said election.

This contestant also presents as evidence in the case a number of affidavits, the depositions of George B. Smith and Mrs. Sarah E. Carmichael Williamson, with other written and printed matter. The contestant's notice, however, is alleged to be insufficient by the sitting Delegate, who claims by reason thereof to be exempt from all legal obligation to answer in the case.

The sitting Delegate, however, does not remain absent or silent, or content himself with a mere dilatory exception. On the contrary he appears, with his counsel, before the House Committee on Elections, there makes eleven elaborate exceptions *ore tenus* in bar and to the merits of the case, and argues them minutely. Still further, the sitting Delegate presents, by way of answer in writing, an elaborate, argumentative "statement of the positions relied upon by" him, containing these same eleven exceptions to the contestant's case, as it stands presented on the merits, including the unsworn written statements of four "men of character and position," as he describes them, whom he also names, and those "of forty-one citizens, not Mormons," less favored, it would seem, than the other four, but nevertheless leading merchants, bankers, and business men, as they are by him described, of Salt Lake City, to show that this "contestant could at any time since the" said election, have given his notice in full and "proceeded with his case in the manner prescribed by law, with entire and perfect safety to himself, without the least possible danger of personal violence; and who," according to the sitting Delegate, "state further that the fullest freedom and expression of opinion are indulged in and tolerated in the said Territory," &c.

This "statement" concludes with a challenge to match the people of Utah in devotion to that Government of which they form a part, (these are its very words,) representing them as persecuted and driven from their homes, misstates a certain order of the Federal Government in regard to Mormon troops as a call of the United States there engaged in a foreign war, exaggerates their former sufferings and privations, and grossly misrepresents the present population of Utah as more than one hundred thousand. This "statement" is not under oath, nor is it accompanied by any affidavit or deposition. Though extremely argumentative and diffuse, it is not in any part or manner fully and adequately responsive to this contestant's exceptions and depositions, nor is it even subscribed by the sitting Delegate. While it devolves upon him, therefore, all the burdens of the present case it is wholly insufficient to bar its legal responsibilities.

The first question, then, is whether this case can be maintained as it stands presented by this contestant. The original notice of February 23, 1867, is alleged to have been insufficient for want of the necessary specifications of exceptions. It will be perceived, however, (Mis. Doc., No. 35, page 3,) that this contestant gives his reasons under oath for this omission. And the sitting Delegate, while he affects to claim all the benefits of silence, interposes an

inadequate denial, including a gross misrepresentation of several of the incidents of outrage in Utah detailed by the attorney of this contestant in his argument before the House Committee of Elections, and also the written statements, as they purport to be, of forty-one men, not Mormons, of Salt Lake City.

This contestant stated that the reasons which induced him to omit detailed specifications from the original notice of February 23, 1867, were the apprehension that the lives of himself and his friends would have been in constant danger after such detailed notice, and during the taking of the testimony and the prosecution of the contest; and to sustain his allegations thus made he instances a large number of outrages committed in Utah, "all of which," says the sitting Delegate, "occurred there by his (the contestant's) own showing from eight to fifteen years ago." (Exception ninth of Delegate's statement.) The gross error of such a representation as this is shown by the fact that the contestant's attorney says in his argument, since printed and laid before the House Committee of Elections, and in the hands of the sitting Delegate, it is submitted, when this statement was made and filed, (page 19 of printed argument,) the "killing of Squire Newton Brassfield, a highly respectable citizen of Austin, Nevada, who was shot down in the streets of Salt Lake City, in the company of the United States marshal," was on the 2d of April, 1865, (this is an error of the year; it was 1866,) and the assassination of Dr. J. K. Robinson, who had become involved in litigation with Salt Lake City, was "on the 22d of October, 1866." And on page 20 of his printed argument the contestant's attorney says: "The killing of the new prophet, Joseph Morris, with Banks and four women of his followers, who having resisted those seeking to arrest them were shot down in cold blood after surrendering," was June 13, 1862; "the killing of negro Tom, a Mormon, who was found in the outskirts of Salt Lake City with his throat cut from ear to ear," "was in the fall of 1866;" and (same page) "the murder of Isaac Potter and Charles Wilson, at Coalville," was "on the 2d of August last," 1867.

It will thus appear from simple collocation of dates that the four last cases of homicide referred to by this contestant's counsel were within two years from the date of that statement of the sitting Delegate; two of them within five months before, and one of them about six months after, the election in question. The homicide of Potter and Wilson occurred less than one year ago.

Several other cases of homicide have occurred in Salt Lake City and its vicinity, which might, but have not been mentioned by this contestant's counsel. The murder of Potter and Wilson, referred to page 20 of Judge Waite's printed argument, fully justifies this contestant, it is submitted, in declining to give a detailed notice of his intention to contest the election of the sitting Delegate, and impressively shows the extreme peril to which this contestant would have been exposed with his witnesses while in Utah, preparing the evidence of his case, and in the power of the Mormons, without the special protection of the Federal Government, which, however, was wholly unobtainable. A full report of the evidence taken on the primary hearing of that case is now before the House Committee of Elections. The whole annals of crime present no worse case of preconcerted, remorseless murder than that testimony conclusively exhibits.

But the fate of the witnesses in that case is what makes it an example of peculiar gravity to this contestant. Two of the twelve men committed, or rather ordered to be committed, for they were allowed by the Mormon marshal to go at large without any effort to restrain them, were sent from Salt Lake City to Coalville, charged by those who in Utah arrogate to themselves the arbitrary disposal of men's lives and fortunes, with the perpetration of the murder of Isaac Potter, Charles Wilson, and John Walker. One of these two was, or

was reputed to be, a near connection and employé or partner in business of Daniel H. Wells, the lieutenant general and third president of the Mormons. The other one of these two, then, was or had been a policeman of Salt Lake City. These two men assured an aged resident of Coalville the day preceding the murder that they came there "to kill Potter, Wilson, and Walker," who was wounded but made his escape at the time. The old man, who was himself a Mormon, begged that he might not be required to testify in the case, as his own murder would be the certain consequence, and he was excused accordingly, as some others were for the same reason. Some of those, however, who were examined, undoubtedly caved under the same fearful apprehension. It is a significant fact that Avza Hinkley, one of the murderers thus permitted to escape, has since been appointed probate judge in the county in which the murder was committed.

John Walker, one of the intended victims, and an important witness on the primary hearing of the case, was severely wounded at the time Potter and Wilson fell, but escaped and made his way to the hospital at Camp Douglas, near Salt Lake City, where he remained till his recovery. After his discharge from the hospital at the camp, painfully impressed with his peril, and to divert his pursuers, he declared his intention to visit Malad City, Idaho. He actually went, however, to the house of an old and prominent Mormon, his former employer, a few miles from Salt Lake City, whither he was followed by several of the murderous band who had before attempted to take his life. These men were cautioned to leave by Walker's protector. Both he and Walker, however, were warned to quit the Territory, and threatened with death as the consequence of delay or refusal. They certainly started to do so; reliable information, however, impels the belief that John Walker was finally murdered in the West mountains, some twenty miles from Salt Lake City, and that his attempted protector is now a fugitive from Mormon vengeance in Nevada or California. Every witness for the prosecution of these murderers, without any known exception, it is submitted, was threatened with death, and subjected to a system of intimidation diabolical in its heartless cunning. Most of them fled from the Territory. These facts were made known to the United States judge of the district and his protection asked. With the best intentions, however, he was as powerless to protect the innocent as he was to punish the guilty, and so he as well as other Federal officers there must remain until the national Government shall sternly unmask and punish murder and polygamy, and disarm the fanatical despotism which now deals even unto death and ruinous spoliation with the lives, liberties, and property of the people of Utah. It may here be again mentioned, even at the expense of repetition, that Dr. J. King Robinson perished in consequence of his attempt to assert a legal right in the usual and proper way in the courts of Utah.

The moral or legal force of the cases thus presented by this contestant, it is submitted, is in no manner weakened by the statements of the four "men of character and position, residents of the said Territory Utah, and not members of the Mormon church," and "of forty-one other citizens, not Mormons, who are the leading merchants, bankers, and business men of Salt Lake City." The Governor of Utah refused to sign that paper when presented to him, and the most prominent man whose name appears appended to it has since declared that he never did or intended to sign any such declaration as that ascribed to him in the "statement of the sitting Delegate," now on file with the House Committee of Elections. Nowhere else are the arrogance of power and abject submission in such humiliating contrast as they now are in Utah. And without fear of error or of successful contradiction it may be said that every man who has

signed the paper copied into the statement of the sitting Delegate has recently confessed it in the fullest possible manner. They are not the men to run the hazard of refusal in such a case. Experience shows that such declarations are easily obtained in Utah, even with the most lamentable disregard of truth and decency. And the sitting Delegate could have presented no more humiliating illustration of the despotism he claims to represent on this floor than the declaration in question.

The murder of Brassfield has already been referred to. That outrage was preceded and followed by the most brutal denunciations of all Gentiles by the Mormon leaders and expositors, then actually, or about to be, in session of their semi-annual conference in Salt Lake City. The military commander of that department cautioned Brigham Young by telegram against any more such assassinations. That priestly arbiter of men's lives and fortunes in Utah demanded of the Gentiles thus threatened and abused, over the dead body of their murdered brother Brassfield, a statement, for answer to the military telegram, that "human life and property" were then "as secure in Utah as in any part of the United States." And the men who responded to that demand and signed the statement of that day were, with perhaps a single exception, to be noticed further on as the same who subscribe the declaration copied into the statement of the sitting Delegate now on file with the House Committee of Elections.

About the same time a number of residents of Salt Lake City offered a reward for the apprehension of the murderer of Brassfield. This was eminently proper in itself. It roused the ire of the Mormon leaders, however; and some of the sitting Delegate's chosen forty-five, who had joined in this offer of reward, after a series of abusive threats for this interference with the rights of Mormon murder from the saintly leaders in the tabernacle and through their papers, the Daily Telegraph and Deseret News, humbly denied having anything to do with that offer of reward. Somewhat later in the same year nearly all the Gentile merchants in Salt Lake City, suffering from the abuse and threats of the Mormon leaders, and thereby deprived of the trade of the masses, combined in a written offer to sell out all their property, interests, and effects to their traducers and quit the Territory. This offer was fair, and fairly as well as courteously made. It angered the Mormon leaders, however, who increased the vehemence of their abuse. And many of these timid merchants retracted, in a written apology, the offer thus made to sell their effects. It is an instructive coincidence that those who did this are the leading merchants, bankers, and business men of Salt Lake City, who subscribe the declaration copied into the statement of the sitting Delegate on file in the present case.

Reference was made to one exception from the subscribers to the statement made at the time of Brassfield's death. That exception was S. P. McCurdy, described by the sitting Delegate as "late associate and now chief justice of Utah." (?) The judge was then terror-stricken by the Mormon threats and abuse of himself on account of his judgment upon a writ of *habeas corpus*, consigning the children of Mrs. Brassfield to herself and her husband, subsequently murdered. Such was then the judge's apprehension of threatened personal violence that he telegraphed for military protection. And the judge's dispatch, on file, doubtless, in the War Department, shows an estimate on that occasion of personal safety in Utah very different from what it was when he signed the declaration for the sitting Delegate to be used in the present case. The value of the judge's attestation may be further and finally illustrated by his call on Dr. Williamson, after leaving this city, with a request that the doctor would not permit his wife, Mrs. Sarah E. Carmichael Williamson, to depose concerning the Mormon endowment for the use of this contestant in the present case.

Many similar illustrations might be given, but these are sufficient; it is submitted to show the peril as well as the fear of conflict with Mormon prejudice in Utah.

This contestant claims no more than a layman's share of legal knowledge. He ventures, however, with becoming deference, but certainly not without confidence, to submit to this House, and especially to its professional members, as sound law, this proposition: that no man in a case like this is bound to exercise more than ordinary diligence, or to encounter more than ordinary risk in the assertion of either a legal or political right.

The law does not require a party to sacrifice his own life or the lives of his friends, or to run the hazard of a forlorn hope in the service of notice or in the preparation of his case. Where there is extraordinary peril he may wait until those who wield the public forces shall give him adequate protection.

This House will perceive that notice of any one of several, much more of all, of the contestant's exceptions would have exposed him to imminent danger had he remained in Utah after giving it. Such is his fourth exception (Mis. Doc. No. 35, page 1,) which reads as follows:

"Your oath, taken in passing through the endowment ceremony of the Mormon church, is incompatible with your duties as a Delegate in the Congress of the United States."

This denial, though addressed directly to the sitting Delegate, is indirectly an appeal touching the whole Mormon fraternity. Like all attempts to invade the penetralia of any secret society or system, it would have roused their direst vengeance. So it was with the Aelusinian and bacchanalian mysteries of ancient, and so it has been with all secret organizations of modern times. Over all such adjured pledges, as well as along the avenues and portals leading to and from them, may be seen in letters of flaming menace the terrible admonition, which Dante saw before one of the precincts of Hell: "Leave hope behind all ye who enter here!" There, and all round there, it is holy ground, which no uninitiated or recreant eye or foot may penetrate or enter—the penalty is death.

And the House, it is submitted, will not visit on this contestant, in the present case, the penalty of failure for his omission to include such exceptions in the original notice of February 23, 1867, while he was compelled to remain in Utah. The contestant, however, asks and submits that the House will receive the second amended and supplementary notice of January 18, 1868, (page 1 of Miscellaneous Documents, No. 35,) as supplying all possible omissions, and constituting full, valid, and complete notice in the case.

The decided cases, as the contestant is instructed, sustain him in this. The case of *Williams vs. Sickels* (Bartlett, page 288,) decided by this House in 1860, determines that the law of 1851 is not absolutely binding on the House, but a wholesome rule which may be departed from for good cause, and further time be granted to plead those that law prescribes. Later, in 1862, (Bartlett, 381,) this House also determined that where the grounds of exception were not specified in the petition or notice in writing, it may be done orally, for good cause, even after the time allowed by law. Also, that amendments are in the discretion of the House, in election cases, as they are in a court of law, regarding the pleadings. (*Kline vs. Verree*. See also the case of *Kneass*, 2 *Parson's Select Cases*, page 509; 1 *Baldwin's Reports*, 193, and *Baily vs. Musgrove*, 2 *Sergeant & Rawle*, 219.) Upon principle and precedent, as well as from the necessity of the case, this contestant, therefore, asks with deference, but with confidence, that the House will receive his two notices of February 23, 1867, and January 18, 1868, as one complete and sufficient notice, constituting an adequate pleading and valid presentation of the case.

This contestant is aware that his counsel, Judge Waite, in his printed argument, page

29, denies that the act of Congress of February 19, 1851, concerning contested-election cases, applies to the Territories or to this case. To the cases cited in that argument the contestant begs leave to add the case of *Hunt vs. Palao*, 4 Howard, 589, and *Benner vs. Porter*, 9 Howard, 235. Whether that act applies, or whether some other pleadings framed or adopted for the conduct of the case is to be the rule of procedure, the contestant submits that he is fairly entitled to the benefit of the conclusion before announced.

How stands the case as presented, then, by the contestant on the pleadings and the evidence? A similar effect, it is submitted, is to be ascribed by this House to the pleadings in the case as by a court of law to the pleadings in cases before it. There the pleadings on one side, when sufficient, are to be taken as admitted when not denied or avoided with equal certainty on the other. The sitting Delegate attempts to meet the pleadings, affidavits, and depositions of the contestant by a "statement" tautological, rambling, elaborate, argumentative, and confessedly to the merits, without, however, the oath or even the signature of the party producing it or any one for him. Informal, however, and wanting in sanction as is the sitting Delegate's statement or answer, as it purports to be, it is by no means responsive, fully responsive, to several material allegations in the contestant's exceptions. By the rule above announced all such material allegations as are left unanswered are to be taken as proved, or with the same effect, it is submitted, as if proved.

Such, it is submitted, are the one, two, three, four, ten, eleven, and twelve of the contestant's specifications, under his sixth exception, pages 1 and 2 of Miscellaneous Document No. 35. The House will perceive by inspection that these allegations charge want of legal competency in the voters; that the votes were cast not by the voters themselves whose ballots they purport to be, but by the judges of the elections, being also elders and bishops, the voters not knowing what was on the ballots which were voted; that the said election of the 4th of February, 1867, was under the control of men composing a secret religious and political organization, sworn to secrecy and co-operation and to eternal hostility to the people and Government of the United States; that those who voted for the contestant did so at the peril of their lives, and that many who would have voted for the contestant were deterred from doing so by the fear of personal violence; that votes were cast at said election by persons, by proxy, under twenty-one years of age, indiscriminately, the judges of election knowing them to be so, and that no objection was made although large numbers of such votes were cast, that aliens voted by proxy indiscriminately; and that the great body of the votes cast for him, the sitting Delegate, were those of unnaturalized persons; that votes were cast in favor of the sitting Delegate by the judges of election in behalf of large numbers of persons who never appeared at the polls.

Now, all the answer, or pretense of answer to this, contained in the statement of the sitting Delegate, is in his eighth objection, which is as follows, page 3:

"The returns of the election, as shown by the papers filed by the contestant, are made in strict conformity to the laws of the Territory."

The House will perceive, however, and the contestant begs it to note this well, that none of these allegations refers to the returns at all, not one of them. They do refer, however, to the absolute incompetency of the voters, the disloyalty of both the voters and those who conducted the election, and to the grossest disregard of all law as well as decency in the mode of conducting the election. This objection of the sitting Delegate may be true without impairing, in the slightest degree, the verity or the force of these allegations of this contestant, to which it is interposed.

By the rule before declared, which this contestant begs to submit with deference, but with

confidence this House will accept as law, all this overwhelming mass of fatal allegation against the sitting Delegate which is thus left undenied and unavowed, is admitted to be true, with just the same effect as if fully and categorically proved. Taken as true it shows the whole vote of 15,068 claimed by the sitting delegate to be one mass of fetid illegality beyond the power of any known analysis to find in or extract from it a particle of legal soundness.

Votes may be illegal in any one or all of three ways; first, where the voter is without some necessary legal qualification; second, where the person voted for is without some necessary legal qualification; or third, where the votes are polled or returned without or against law. These suppositions exhaust all possible cases of illegality in voting. Examples under the first case would be, where the voter is a minor or infamous, or in some other way disqualified; under the second, where the candidate is an alien, a foreigner, or domestic enemy of the Government to which the office pertains, or otherwise disqualified to hold the office; under the third, where voting is by proxy, where the ballot is exposed, where the *personnel* of the election are wholly incompetent to receive or return the votes.

Any man wholly incompetent for any cause vitiates all votes cast for him. He himself cannot hold the office, and these votes counted cannot be counted for any one else. They are obviously, therefore, futile, null, and void. So votes cast by a person wholly incompetent, as by alienage, treason, or fanatical hostility to the Government, are obviously null and void. Votes are also null and void where the law is violated or disregarded in polling or returning them. The causes of nullity in the conduct of an election are of course numerous. The positive breach or the omission of any necessary legal requisite in polling or returning votes, renders them null and void.

The illegality of all such votes is as clearly shown by this statement as by any reasoning of which the case is susceptible. This House has already determined that where the secrecy of the ballot is violated it vitiates the vote and renders it illegal. *Easton vs. Scott*, Delegate of Missouri Territory, 1816. (*Clarke and Hall*, Contested-Election Cases, p. 272.) Such, too, was the determination of this House in the case of *Washburn vs. Ripley*, decided in 1830. (*Clarke and Hall*, Contested-Election Cases, p. 679.) Such, too, was the determination of this House in the case of *Otero vs. Gallegos*, Delegate of New Mexico in 1856. (*Bartlett*, Contested-Election Cases, p. 177.)

This House also decided in the case of *Washburn vs. Ripley* that the intention of the voter is to be ascertained from the box in which his ticket is deposited. (*Ibid.*) The last decision is of direct application to Utah. There the voter provides his own ticket, the judge must number and put it in the box. The clerk shall then write the name of the elector and opposite it the number of the vote. Thus it is shown that even in Utah the intention of the voter can only be ascertained from the box in which the votes are deposited. Any attempt to scrutinize the ticket before it is deposited in the box, renders the ticket futile and so far vitiates the election. This was done in regard to Mormon votes in Utah by the Mormon election officers acting in the interests of the sitting Delegate. And to that extent the election of the sitting Delegate was vitiated.

The law of confusion, this contestant is instructed and submits, applies directly to voting and to votes. That law obviously sustains the following proposition: if spurious or illegal votes are so mingled with legal votes as that the number of either cannot be ascertained the whole mass is rendered spurious and illegal, and must be disregarded. More especially is this true when the confusion results from the act of the person claiming the benefit of the mixed mass or those in his interest or favor. This proposition the contestant submits to the favorable consideration of this House. The

confusion is alleged under the sixth exception of the contestant, and not denied by the sitting Delegate. By the rule of pleading before stated by the contestant it must, therefore, be taken as admitted. And it shows the mass of the votes for the sitting Delegate, both legal and illegal, to be so combined that by no known process can they be separated and the number of each ascertained.

The whole of the votes of the sitting Delegate are thus, it is submitted, annulled, and ought to be rejected. The contestant in his first three exceptions alleges of the sitting Delegate that he does not represent any constituent part of the community of the United States, but a separate and distinct community under a different government, not republican in form; that he does not represent a loyal or law-abiding people, but one hostile to the American Government, and seeking its overthrow; and that he does represent a people hostile to and endeavoring to undermine and destroy the monogamic family system, which lies at the foundation of republican institutions.

All this, too, is left unanswered, and must, therefore, be taken to be admitted by the sitting Delegate. The contestant, therefore, submits that he is entitled to the same judgment upon it as if it were fully and fairly proved.

Without discussing this portion of the subject at large the question may be asked, is any community, or that portion of it which is in the condition represented in the exceptions last above cited, fitted or entitled to the choice of Delegate? Is any Delegate chosen by such a people entitled to hold his seat against one chosen by the loyal portion of the same community? This contestant submits that he is entitled to the judgment of this House in the negative upon these questions.

This contestant now comes to his fourth exception, which reads as follows:

"4. Your oath, taken in passing through the endowment ceremony of the Mormon church, is incompatible with your duties as a Delegate in the Congress of the United States."

The sitting Delegate denies this exception in his answer, informally, but still sufficiently to constitute an issue. This, therefore, presents a case for proof. The proofs are produced by the contestant, and the judgment of this House is respectfully asked on the issue and the proofs thus presented. The evidence upon this portion of the case consists of the depositions of George B. Smith and of Mrs. Sarah E. Carmichael Williamson. Some other written materials are also produced on the same subject, which are commended to the careful consideration of this House. This part of the case the contestant, however, submits may be safely rested on these depositions alone. They were taken at Chicago, Illinois, and at Hamilton, Ohio, on fourteen and fifteen days' notice. Neither the sufficiency of the notice nor the validity of the execution is questioned.

The sitting Delegate, however, in his fifth objection, says of himself:

"He [the Delegate] did not appear to cross-examine, because an appearance would have been a recognition of the illegal proceeding, which would have committed him to a defense before the committee."

The sitting Delegate, therefore, comes to the complacent conclusion that the notice being insufficient all proceedings under it fail, notwithstanding his elaborate answer. This conclusion of the sitting Delegate is certainly quite as remarkable as the reasons offered for it. The Delegate, this contestant submits, might with perfect safety have appeared and cross-examined Mr. Smith and Mrs. Williamson under protest or with a reservation to himself of all rights of objection, not only to the depositions themselves, but to the whole case. He might thus have secured to himself all the benefits of a cross-examination and impaired no defensive right.

This testimony, therefore, the contestant submits, is competent and fairly in the case, and the judgment of this House will determine the credit and legal effect to be ascribed to it. Both the witnesses, George B. Smith and Sarah E. Carmichael Williamson, are of full

age and obviously intelligent, generally and particularly, on the subject of the testimony. Mrs. Williamson, indeed, is a person of rare genius. Her volume of published poems place her among the first, if not the very first, poetical writers of the present age in this or any other country. Her eulogy on President Lincoln is absolutely unrivaled in its kind. Such are these witnesses.

This contestant is informed, and submits, that swearing under conditions which are against the interests or the safety of the witness is one of the most powerful tests known to the law, not only of the credibility but even of the competency of the witness. Both these witnesses swear they are subject to the penalty of death for revealing the secrets of the endowment and testifying as they have done in the present case. Mr. Smith was endowed in 1857, at the age of about thirty, after having been a member of the Mormon church some eight months. Mrs. Williamson was endowed in 1859, when about twenty years of age, after a membership of twelve years in the Mormon church. Both witnesses testify that the endowment pledges were made under the most terrible oaths and imprecations. One of these was the death of the subject for revealing any of these pledges. Mr. Smith says he took oaths, four or more. Mrs. Williamson says she took oaths, several of them, she cannot tell how many, while passing under the endowment. Mr. Smith says: "I think there was only one of these oaths, the second or third, which had anything to do with his relations to the people or Government of the United States." Mrs. Williamson says there were two oaths which she considered antagonistic to the people and Government of the United States.

Mr. Smith says in answer to question fifteen: "The substance of the oath as I remember it: 'That you (he) will hate the United States Government; that you (he) will do all in your power to overthrow it, teach the same to your children and impress it on your dying bed.'"

Mrs. Williams says of these oaths:

"One required unquestioning obedience to the head of the Mormon church as God's representative, making the authority of the priesthood paramount. The other required a formal renunciation of allegiance to the United States Government, and hostility thereto as a Power, held responsible for the persecution of the saints, spilling the blood of the prophets," &c.

Both these witnesses say that all members in good standing are expected to go through these ceremonies and take these endowment oaths. They also both testify that all church members appointed to do church business of the most trivial kind are required to receive these endowments before leaving the Territory. Both testify that Mr. Hooper is an elder in the Mormon church, and are, as they swear, sure that he has assumed the endowment pledges above described.

Besides the evidence of these witnesses, this contestant has laid before the House the historical works of Hyde and Ferris on the subject of Mormonism, and the Journal of Discourses printed by authority of the Mormon church. Historical works are evidence of past and even of current transactions, and as such these are presented to this House.

The Journal of Discourses is, however, of peculiar value in the case. It is the Mormon statement of Mormons and Mormonism by themselves, and as men are always known to speak of themselves as well as they deserve, its statements are commended to the House. The Journal speaks of Mr. Hooper as an elder. Mr. Hyde describes the endowment in the same manner as Mr. Smith and Mrs. Williamson, and all of them testify that elders in the Mormon church receive the endowment.

This testimony shows that the sitting Delegate, William H. Hooper, has taken the pledges thus shown to be hostile to the people and Government of the United States, and that he must stand or fall by their consequences. The testimony thus produced is the best of which the nature of the case admits. The pledges of all secret societies, which are against the public and Government amid and under which they

exist, are necessarily secret. Such pledges are invariably verbal, and are not permitted to be written or printed lest they be exposed. They are made in darkness and in close recesses, into which no uninitiated eye or ear can ever penetrate. And when these secret pledges are thus made the penalty for revealing or exposing them is death.

Such are the pledges shown to have been assumed by the sitting Delegate. And it must be obvious to this House that in their very nature they are not susceptible of direct proof. Indirect proof, such as this contestant has adduced, is the best of which the nature of the case under inquiry admits. The law does not require impossibilities. This contestant believes and submits, for instance, that in a conspiracy, which is nearly always secret, the intermingling of the very breath of the conspirators need not be proved. In adultery the fact of coition need not be proved. In all such cases the party is required to prove such circumstances, such indirect facts as the nature of the case admits. Such are the proofs presented in the present case, and they are all the case allows.

The House is asked to note well the nature of this endowment pledge in connection with the question of proof. These pledges are assumed in profound and impenetrable secrecy. Such is the proof offered, and such, too, is its obvious essential nature. Have the Mormons or anybody else ever pledged themselves to hostility against their Government and their country openly, ostensibly, or in any other manner susceptible of direct proof? None but Mormons in good standing, who surrender themselves absolutely to the system, accustomed to impenetrable secrecy and to the arts of evasion, are allowed to assume this pledge. And it is always assumed amid the most horrid oaths and imprecations:

"A death penalty is attached to the violation of all oaths taken in the endowment ceremony, and one of the oaths requires that the secrets of the endowment be kept inviolate. These penalties are expressed in pantomime by motions of stabbing through the heart, cutting the throat, disemboweling," &c.

Can this House require the contestant to show by the very witness, if any such there ever was, who saw the sitting Delegate assume these pledges? Or can it upon established principles of law or common sense require better or other testimony than that which is presented in the case by the contestant? This contestant, therefore, submits to the House that he has proved by the best testimony the nature of the case admits that the sitting Delegate—

"Has abjured his allegiance to the United States, that he has pledged himself to hostility against the Government and people, and that he has bound himself to avenge the death of the saints upon them; to teach the same obligations to his children and impress them on his dying bed."

The two witnesses examined speak from memory only. The oath they never saw, for such things never are written or printed. They are impressed no where but upon the human heart, in characters of envenomed hate as enduring as itself. Each of these witnesses speaks a little more fully than the other on some particular points. The absolute test of verity, substantial agreement with circumstantial diversity, characterizes the statements of these witnesses. These witnesses agree that the sitting Delegate has abjured his allegiance and pledged himself in active hostility to the United States. Still it may be said that the sitting Delegate has sworn his allegiance here to the United States, and that the endowment pledge is part of his religion and not to be called into question. Can any one believe that pledges, imprecations, adjurations, such as have been proved, are able to be retracted or released by any other sanctions or retractions whatever? Grant, *arguendo*, that it is a part of the fanaticism or religion of the Mormon people. It then pertains to his hope of happiness here and of his salvation hereafter. It is then a question between the conscience of the sitting Delegate and his God which no oath sworn here can ever reach or retract.

If this be so then you have in your midst as the sitting Delegate from Utah one who has abjured his allegiance to the United States and pledged himself to active hostility against them, by irrevocable sanctions, and yet he claims to sit here as one of the council of that country whose sworn foe he has thus become. Is this a part of the religion of the sitting Delegate, and therefore not to be called in question here? Can this House admit such a proposition as that? It has been so claimed by and on behalf of the Mormons in regard to polygamy and murder among them. But can this House adopt as a practical rule the proposition that disloyalty, sedition, treasonable pledges, impurity, and crime are susceptible of being so clothed in the forms and sanctities of religion as to be not only beyond its investigation, but that the man who comes here as the sitting Delegate, robed in the infamy of such a livery as that, may, forsooth, maintain his place in this Hall beyond all the power of this House to displace him because he has made these crimes a part of his religion?

Grant the affirmative of this to be true, and what follows as a practical proposition not to be denied? Just this, that any band of traitors, murderers, seditionists, adulterers, polygamists, conspirators, or what not, may first combine and establish a religion of which these crimes form a part, and then go on and revel in such crimes on any part of the soil of the United States because its Constitution places religion beyond inquiry by the Federal Government? Does the Constitution thus confound religion and crime? Murder, polygamy, treason, sedition were as well known to the framers of the Federal Constitution to be crimes and criminal offenses as the Christian religion was known to them to be the common faith in every State in the Union, and indeed in every civilized country. Can this House believe that any intention to confound them entered into the formation of the Constitution? If Mormon polygamy, Mormon murders, and Mormon sedition are protected from inquiry by the Constitution of the United States, then that venerated code of fundamental law must make religion synonymous with crime. The contestant submits with confidence that this House never will adopt that proposition as a practical rule, nor any one approximating to it.

It may be submitted, perhaps, as a fundamental rule of action, hardly deniable that no human government can subsist unless those who hold its offices and wield its forces are in absolute allegiance and fidelity to, and in perfect peace and amity of sentiment with the government itself. Governments can subsist on no other terms. The practical application of the above proposition is submitted as equally true, that no man ought to be permitted to hold office under any Government unless he maintains his allegiance and fidelity to, and absolute peace and amity of sentiment with such Government. In the absence of these essential qualifications no form or sanction of election or choice can render any man competent to administer any Government function. Wanting these qualifications such a man ought to be expelled from the councils of the country.

This contestant now, therefore, submits to the House that he has shown the sitting Delegate to have abjured his allegiance and pledged himself in active hostility to the Government of the United States, by fanciful pledges so overwhelming in the obligation with which they were accepted, that no official or secular oath can retract or loose them; and that he was in that condition when he was elected, as he claims to have been, to this House. He also submits to this House that this condition annulled the 15,068 votes which the sitting Delegate claims to have received; renders them wholly futile, and deprives his election of all validity. The sitting Delegate cannot and ought not, therefore, to hold the office he now claims to hold under any form or sanction of choice.

The contestant has already submitted that

all votes polled for any man incompetent or disqualified for the office of choice are wholly illegal, and the election void. No vote, no possible majority, can elect any man to an office under this Government who has thrown off his allegiance and sworn hostility to it. The sitting Delegate is in that condition, and he ought not, therefore, to hold the office.

This contestant has also submitted that all votes polled by incompetent persons are illegal, null, and void. Exceptions two and three (page 1, Miscellaneous Document, No. 35) of this contestant allege that the votes polled for the sitting Delegate were by persons disloyal and hostile to the United States. These allegations the sitting Delegate does not effectually deny in his statement or answer. They must therefore be taken as admitted.

The testimony in the case also shows the Mormon people to be disloyal and hostile to the United States. They are, therefore, by what has been shown, incapable of electing any person to office under the Government of the United States. This contestant, therefore, submits to the House that the sitting Delegate, by his own incompetency, as well as by the incompetency of his voters, is absolutely disqualified to hold his present seat. The 15,068 votes he claims to have received cannot avail him. He cannot hold the office. And the resolution of this House in the present case ought to be that the sitting Delegate, William H. Hooper, is not entitled to his present seat in the Fortieth Congress.

The next question is, was the contestant elected at the election of the 4th of February, 1867, at which the sitting Delegate claims to have been chosen. For the contestant there were returned 105 votes. The competency of those who voted and the validity of the votes for the contestant have not been questioned or denied. They were, therefore, able to, and did, make a legal choice of this contestant at that election, if the opposing candidate and voters were illegal and incompetent by reason of their disloyalty and hostility to the Government of the United States. It has been shown, both by the pleadings and the evidence in the case, that such was the condition of the sitting Delegate and his voters at the time of the election in question.

It has been claimed, as this contestant believes, that the minority cannot represent the majority. That may be true where the majority is in entire harmony and amity with its Government and entitled to representation. But where such majority casts off its allegiance and swears hostility to the Government of the United States, however large, it cannot and ought not to deprive the loyal and faithful minority, however small, of its rights of representation.

The contestant submits but one precedent on this point. It is, however, of Divine authority, and therefore binding on all, whether lawyers or laymen. It is found in chapter eighteen of Genesis, where it is related of Abraham communing with the angels concerning Sodom and Gomorrah, as follows:

"And Abraham drew near and said, Wilt thou also destroy the righteous with the wicked? And he said, Oh let not the Lord be angry, and I will speak yet but this once: Peradventure ten [righteous persons] shall be found here. And he said I will not destroy it for ten's sake."—V. 32.

This is a most instructive case and worthy the gravest consideration of this House.

Without further argument or citation this contestant submits that he was duly chosen at the election in question on the 4th of February, 1867. And the resolution of the House in the present case ought to be that the contestant, William McGrorty, is entitled to the seat in the House of Representatives of the Fortieth Congress of the United States as Delegate from Utah, under the election of February 4, 1867.

Beyond the immediate controversy of the present case there are, as this contestant submits, other very grave questions, which demand the immediate action of this House, however the main controversy may be determined. Full evidence has, in times past, been sub-

mitted to different Departments of the Government of the crime and impurity existing in Utah, and it has elicited animadversion in various forms and degrees. And still the evils continue.

The testimony of the present case, however, brings the condition of Utah more fully and significantly before this House than it had ever been previously presented to any Department of this Government. The existence of polygamy in Utah is not denied. With blasphemous effrontery, however, it is claimed to be sustained by the sanctities of religion, and its practice enjoined by the Mormon leaders upon their followers in direct violation of the act of Congress to the contrary.

The report of Colonel Carleton, filed in the present case directs the attention of this House to the Mountain Meadow massacre, and with all other evidence on the subject traces that outrage to the Mormons. It even places the sitting Delegate in grave complicity with some of the consequences, if not with the crime itself. He was found associated in some measure with John D. Lee, who is designated by every indication as the leader in that massacre, and it appears that he was found selling two hundred and forty-eight head of live stock taken from those murdered at the Mountain Meadow not long after that atrocity. The sitting Delegate will doubtless be able, and ought promptly to be required to explain, how in a country such as Utah, by no means overrun with cattle, and with an efficient system of branding and marking, he could innocently be found in possession of so much property of plundered and murdered people. The magnitude of this fact cannot be explained by trifling evasions.

All the evidence, as already stated, indicate that John D. Lee, then, as now, an adopted son of Brigham Young, and a Mormon bishop, was the leader in that nefarious crime. The large property of the victims, consisting of carriages, wagons, horses, mules, oxen, furniture, store goods, wearing apparel, money, jewelry, books, musical instruments, arms, and other effects of a body of wealthy emigrants, worth as variously reported, from one to two hundred thousand dollars, was appropriated by the Mormons, chiefly by the leaders. Other parts of the country were shocked by this atrocity and loudly condemned it. For many months the Mormon papers never alluded to the massacre, and then only to traduce the victims. In Utah, among the Mormons, the guilty authorship of this outrage is not denied. Participation in the massacre is frequently characterized by the Mormons as a "service," and in their quarrels they not unfrequently twit each other with it.

The Mountain Meadow massacre is perhaps unparalleled in cruelty and impunity. More than one hundred and twenty persons were by it swept into eternity, leaving fifteen or twenty children, so young as not to know their own names or those of their parents. Matrons, defended by all the dignity and charms of their sex; girls, still lovely with the tender innocence of childhood, were first subjected to that fate which is the most revolting to humanity, whose further mention, however, would suffuse the cheek of modesty with the blush of shame, and then remorselessly butchered while invoking death for themselves, but pleading with angelic eloquence for their husbands, their fathers, mothers, brothers, and sisters.

The evidence is believed and submitted will show that this is no fancy sketch, but the terrible truth. One boy was killed by having his head cleaved with an ax some days after the massacre, because he was found to be old enough to identify his father's oxen. Treachery was employed against the emigrants. The spring which supplied them with water was furtively seized by men in the disguise of Indians, in the hope of reducing the emigrants by thirst. Subsequently the disguise was thrown off, and these emigrants, after a brave defense, were induced to surrender their arms to the Mormons, under promise of protection from the Indians. The work of massacre was then easy.

The children saved were so utterly bereft of all relations of kindred, as well as of individuality, that the very names since given them express their miserable condition. One of these, for instance, is Calvin Sorrow. These poor orphans, naked and destitute, as they were born, were permitted to depart from the Territory of Utah without the offer of a dollar, so far as is known, for their relief, while the abundant property of their fathers remains with their Mormon murderers, who will doubtless raise the cry of persecution for this attempt to interfere with the rights of Mormon murderers.

It is now eleven years since this most atrocious crime was perpetrated. Its perpetrators, red with the blood and gorged with the wealth of the murdered victims, walk unpunished as offensive to the eye of decency as to that of justice. Nay, more; it is possible they mean to invade this Hall of legislation! The evidence of this crime is fast passing away, and if the apathy of this Government continues, it will soon leave these murderers to an impunity as entire and absolute as its own responsibility for justice disregarded.

The next case which this contestant presents, with a few words of necessary explanation, but without comment, is the Mormon order to murder some eighty poor, unarmed teamsters, discharged from Fort Bridger, and making their way home by way of Salt Lake City, to and through California, in the fall, winter, and spring of 1857-58. The order speaks for itself, and is as follows:

[Special Order.]

SALT LAKE CITY, April 9, 1858.

The officer in command of escort is hereby ordered to see that every man is well supplied with ammunition and have it ready at the time you see those teamsters a hundred miles from the settlements. President Young advises that they should be all killed to prevent them returning to Bridger to join our enemies. Every precaution should be taken and see that not one escapes. Secrecy is required.

By order of General Daniel H. Wells:

JAMES FERGUSON,
Assistant Adjutant General.

These teamsters were leaving Fort Bridger and the service of the United States forever. They were permitted to escape by the humanity and integrity of the man to whom the order and escort referred to were committed, and from whom it was received by its present possessor. That man, however, was stripped of his property, driven from his home, and has ever since been persecuted for his disobedience. He worked for several years for the United States, under the guns of Camp Douglas, as a carpenter. During that time he was several times fired at, and once wounded in the outskirts of Salt Lake City. He was then in frequent receipt of anonymous letters warning him to leave the Territory, and threatening him with death if he remained. He is now in one of the new States of the West. It is thought best, however, for prudential reasons, to withhold both his name and his residence.

This order originally came through the hands of a Mormon bishop and an adopted son of Brigham Young. In January and February of 1867, the Mormon leaders supposed this order to be in the hands of General Conner, and their denial of its genuineness was only equalled by their abuse of the general. This induced its present custodian, then a United States officer in Great Salt Lake City, to inform them by a newspaper notice where the order was, to invite its examination by them, or anybody for them, at the same time offering every facility, legal or otherwise, to test its genuineness. Two persons, obviously the most likely to know the handwriting of Assistant Adjutant General James Ferguson, who seems to have signed the order, called and examined it. They were entirely silent on that occasion as to the handwriting. Not the slightest reference has since been made to it by the Mormons.

Of the many cases of murderous outrage referred to by the contestant's counsel in his printed argument, but one other can, with any detail, be noticed now, and that was the murder of Dr. J. K. Robinson, which took place

in Salt Lake City, October 22, 1866, about eleven and a half o'clock, of a remarkably bright, clear, beautiful night, while the theater still retained its audience, and travel on the streets was in full activity. It is hard to conceive of a motive for the murder of such a man as Dr. Robinson. Thirty years or so of age at the time of his death, massive in his physical and mental organization, a physician as learned and skillful, in fact, as he was kind and liberal in his practice. He was as ready to succor the poor, without fee or reward, as the rich, with all the honors and emoluments of the profession. A devout Christian, without cant or affectation, Dr. Robinson entered heartily into the scheme of establishing a mission church in Salt Lake City, and at the time of his death was the superintendent of the Congregational Sunday school in that place. The motive to his death was probably revenge for an action of ejectment brought by him against the corporation of Salt Lake City for a tract of land containing a sulphur spring beyond its environs, of which he had been dispossessed, his fences and buildings torn down, and his workmen driven off by the police of the city. Seven men were engaged in his murder; and their detection and conviction imperatively demand the stern and immediate action of the Federal Government.

Dr. Robinson, like the Divine Founder of our religion, of whom it is believed he was a sincere and faithful follower, and like every man of sufficient consequence, since murdered, has been maligned by his murderers. This has been done from thirst of unsated revenge as well as to avert suspicion. The lie in this case was that Dr. Robinson had been gambling and was killed by one of his own kind. It is known to this contestant as well as to others, that Dr. Robinson was ignorant of all games of hazard, as well as of all their apparatus and devices. That calumny was put forth by the Mormon leaders and expositors in Salt Lake City. It shows the guilty authors of Dr. Robinson's murder as clearly as the slime of the serpent enables the wayfarer to trace him to his lair. It has been transferred to this Hall, and this House will be wanting in justice if it fail to visit its severest animadversion on the head of the traducer. All who knew Dr. Robinson without prejudice will join in the testimony that rarely, if ever, has there been a case which more strongly than his enjoins upon the living a tender regard for the memory of the dead.

This case, as well as many others, shows the existence of an organized band of murderers in Utah, as well as an authorized and established practice of murder inseparable from the Mormon system. It was so in Missouri, it was so in Nauvoo. It has been and will be so in Utah until the Federal Government shall stop it with a strong hand.

This contestant, therefore, above and beyond the immediate controversy in the present case, feels it to be his duty urgently but respectfully to recommend such changes in the laws of Utah and such action on the part of this House as shall result in bringing to condign punishment the actors in these and other outrages, as well as other violators of the law in that Territory. Sufficient evidence has been adduced in the present case, it is submitted, not only to call for the immediate investigation and action of this House, but to indicate very clearly the proper sources in inquiry. Some allegations of the sitting Delegate made on page 3 of his statement filed, demands the notice of this contestant even at the risk of prolixity. These allegations are as follows:

"The whole course of said people of Utah challenges history for a parallel in devotion to that Government of which they form a part. Persecuted and driven from their homes more than twenty years ago, while stripped of almost everything necessary to life, and houseless and homeless on the west bank of the Missouri, they promptly answered the call of the United States then engaged in a foreign war, furnished all the men asked for soldiers; penniless they took up their line of march, and westward moved with their families, their wives and their little ones; over barren plains, through hostile bands of savages; twelve hundred miles from civilization, after having

endured untold hardships they came to a halt in what was then a desert. This desert, in this short space of time, they have filled with more than one hundred thousand people, and by their industry and frugality have made it a prosperous land, enabling them thus to add greatly to the rapid settlement and development of the country surrounding them. The very first step taken by the expelled exiles after once being settled in their new homes was to seek to connect themselves again to the Federal Union, and to ask a government guaranteed by its laws; and although they have been constantly abused, and almost continually denounced, even by many who have held high places, they have never ceased to seek and cultivate more intimate relations with the Government and people of the United States, and no people look forward with more eagerness and earnest delight to the completion of that great work which is soon to bring them and their once isolated country, in reality, almost to the very doors of the nation's capital."

The principal statement here made with so much apparent confidence, and that upon which the Mormons have always relied more than upon anything else for sympathy, is their persecution. That history, which the sitting Delegate "challenges" with such a clash of arms, very clearly shows that the Mormons never have been persecuted. Upon the death of Joseph and Hiram Smith the Mormons principally rest their claim of persecution; and upon the same fact they wholly rest the Divine indignation, communicated to them as they allege by revelation, which has doomed the Federal Government to sink beneath the Mormon power. The Mormons allege that both the Smiths fell by the Illinois gentiles, soldiers or citizens, or both. Now, Joseph and Hiram Smith were shot, but not by gentiles. They did not meet their deaths by the soldiers or citizens of Illinois. They were shot by a young Mormon, whose father had been plundered and his sister dishonored by Joseph Smith. For prudential reasons the name of the young man is withheld. It can be given, however, and the proofs produced.

The Mormon system is essentially and positively hostile to every other, and it places its own people in direct and inevitable conflict with every other. The Mormon alternative, Mormonism or the sword, is as clearly presented by that system as that of the Koran or the sword presented by Mohammed for more than twelve hundred years. In fact that very alternative and polygamy are borrowed from Mohammedanism. The Mormon system, by a most dangerous perversion of a few passages of Scripture, teaches that all true Mormons may kill and spoil all gentiles, as well as their own recreant brethren, whenever necessary to promote the interests of the Mormon system or that of its leaders. And in order to carry these murderous principles into practice the Mormons have organized a band of murderers, called the Danite band, which is coetaneous with the Mormon system. Abundant proofs have been presented by the Mormons themselves, that this murderous band was in full activity in Missouri as early as 1836 and 1837, and its bloody trail has followed them ever since. The Mountain Meadow massacre may be referred to as only one of the many instances of their sanguinary work.

The Mormon city of Nauvoo was a receptacle of murder and robbery. Many gentiles entered it and never came out or were heard of afterward. Nauvoo, while the Mormons were there, was one vast receptacle of stolen property from various parts of the State of Illinois, as the Mormon settlements in Missouri before. It was the habit of the Mormon, or saint, as he calls himself indifferently, to communicate to his gentile neighbor who chanced to be the owner of a fine farm and stock, for instance, that God had revealed to the saint that all the gentiles' property should belong to him, the saint. Such is now the promise of the system and its leaders.

The Nauvoo Legion, a formidable body of troops, was organized and carefully and ostentatiously drilled and disciplined by Joseph Smith, in Nauvoo, avowedly for purposes of aggression and conquest, just as the same thing is done in Utah at the present day. Now, in Utah this same Nauvoo Legion is plied with projects and promises of conquest over the

gentiles as extravagant as those of Mohammed in the zenith of his power. The conclusion which this contestant therefore deduces from the nature, practice, and history of the Mormons is that they have not been persecuted. The force which the Gentiles employed upon them was no more than a natural reaction against the unprovoked aggressions of the Mormons themselves. It is in no just sense a persecution.

Equally erroneous is the statement of the sitting Delegate in reference to the employment of Mormon troops in our war with Mexico. History shows that General William Kearney and Colonels Doniphan, Frémont, and Mason, had swept every trace of Mexican power from every line of the Mormon exodus, and far beyond Utah, never to return, early in 1846, at least a year before the movement of the Mormons from the Missouri river. These officers had also suspended on the same lines the operations of the Indians, which were not resumed for several years.

It was supposed, however, that a movement of the United States troops from the Missouri river to and through California, by way of New Mexico, might secure the quiet of northern Texas, as well as the other Territories mentioned, and make an effective diversion in favor of General Taylor, and even of General Scott. A considerable number of Mormons were known to be preparing to migrate to San Bernardino, and other places in central California, and it was proposed to embody them in the forces above described. They were received accordingly, and these Mormon emigrants thus accomplished their intended journey in the pay and subsistence of the United States.

This project of accepting the Mormon troops originated with the Mormon leaders. It was one in which the Mormons were unquestionably party. The offer of the Mormon leaders to employ the Mormons for troops, if not prior to, was at least simultaneous with that of the United States Government. The few hundred Mormons thus employed as troops were subsisted and aided upon their own exact line of emigration. They experienced none of the casualties of war, for they never met an enemy or fired a shot.

There was one element of gross injustice in this transaction, not, however, on the part of the United States, but on that of the Mormon leaders. It was this: the large sum of money paid by the Federal Government on account of the Mormons thus employed as troops was received by Brigham Young avowedly for their families and relations. It was, however, appropriated by him to his own use, and little or none of it or of its value ever reached the rightful beneficiaries.

The Mormons reached Utah in July, 1847, when the possession of the United States was complete, permanent, and uncontested. On their march thither, as well as into California, they were but remote camp-followers of the Federal troops. The devotion to the United States claimed by the sitting Delegate for the Mormons has no real existence. During our late civil war not a man or a dollar was furnished or offered by them to the United States. Both Colorado and Nevada, with much smaller populations, furnished large numbers of troops. The hopes and prayers constantly expressed and repeated by the Mormon leaders and expositors were that both sections would be ruined. The hair-brained reverie of Jo. Smith, which the Mormon leaders and expositors proclaim to be an inspired prophecy, that the Mormons are to succeed to the Constitution and Government of the United States after both shall have failed in the hands of the gentiles, is well known to all conversant with Mormonism.

During our late war the predictions of the Mormon leaders were constant and emphatic that the Federal Government ought to and would fail. On one occasion Brigham Young declared in a tabernacle harangue:

"The North prays that every northern missile shall reach some southern heart, and so pray I. The

South prays that every southern missile shall reach some northern heart, and so pray I. Let them kill each other, all, and the saints will save the women, the children, and the Constitution."

The response to this by the listeners seemed to be general.

The chagrin of the Mormon leaders, when the war terminated in favor of the North, was not at all concealed. The event was a falsification of all their predictions, and, therefore, a sore disappointment. When the news of our rejoicings for the return of peace reached Utah Brigham Young, in one of his harangues, proclaimed with a sane yell of disappointment, "Let them crow; it will not be long before that Great Babel, the United States Government, itself will fall."

The present and more recent accessions to Mormonism are nearly all European peasantry, from Sweden, Denmark, Wales, and England proper. On their arrival here they are hurried by Mormon agents from the Atlantic to Utah, and really know but little of the United States. Once in Utah, they are taught to distrust and hate our people and Government with all the intensity of fanaticism. Smith's diatribe, that the gentiles are to lose and the saints gain the power under the Constitution, is imposed upon them as divine revelation. All their teachings are subservient to this as a ruling idea.

The most horrid calumny and abuse are indulged by the Mormon leaders and expositors of the people and every branch of the Government of the United States. A late Mormon functionary of very high authority declared, some months before his death, in one of his Sunday harangues to the Mormon masses, that "among the gentile population of the United States more than half a million sons were living in incest with their own mothers." This was received by the Mormon audience as a report of the morals of our people not to be doubted.

The Federal Government, especially since the act of 1862, is made to share largely in this abuse.

This contestant avers, and wishes it to be distinctly understood by this House, that all statements of fact by him made, beyond the proofs in the case, are, as he is informed and believes, susceptible of irrefragable proof. Many of them can be proved by persons now in this city.

No doubt, as the sitting Delegate says, the Mormons are desirous of admission into the Union. They proclaimed that they would be admitted some years ago, and an unnaturalized Englishman, as the contestant is assured, came from London, and the sitting Delegate came from Utah to this Capitol as Senators of the State of Deseret. The Mormons avow their intention of perpetuating their polygamy, and placing their other crimes beyond the reach of judicial inquiry by admission into the Union as a State.

The population of Utah is grossly exaggerated by the statement of the sitting Delegate as one hundred thousand. It cannot be over forty-five or fifty thousand at the most. In 1860 the population of Utah, as shown by the census, was only a trifle over forty thousand. Since then portions of that population have been consigned to Nevada, Idaho, and Montana. Much of it also has emigrated to other States and Territories and to Europe. The natural increase of the population of Utah is not large.

This contestant, in conclusion, begs to refer briefly to himself. Two years of residence in Utah placed him in frequent and extensive contact with the Mormons as well as with the gentiles. His trade relations with all were mutually agreeable and profitable until disturbed by the interference of the Mormon leaders. A careful scrutiny of the condition of the Territory convinced this contestant that the Delegate instead of representing the true interests of the people of Utah was elected by the will of one man for the simple purpose of concealing or palliating existing evils and deceiving the Government of the United States. Thus impressed, and in the absence

of any other candidate, he determined to seek election as the Delegate of Utah, and thus secure the Territory a representation in accord alike with the true interests of the people of that Territory and those of the United States. The experiment was obviously costly and perilous. It has annihilated the contestant's business in Utah, it has entailed upon him much expense and loss of valuable time. Whatever be the event of this controversy the contestant will, however, have the enduring satisfaction of having laid the wrongs and evils existing in Utah more fully before this House than any one had done before him.

Sincerely grateful for the kind indulgence of the House, the contestant submits his case to its judgment.

The first question was upon the following resolution:

Resolved, That William McGrorty is not entitled to a seat in this House as a Delegate from the Territory of Utah.

The question was taken upon the resolution; and it was agreed to.

The next question was upon the following resolution:

Resolved, That William H. Hooper is entitled to a seat in this House as a Delegate from the Territory of Utah.

Mr. DAWES. I move that that resolution be laid on the table.

The motion was agreed to.

Mr. DAWES. I move to reconsider the votes just taken; and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. KELSEY. I move that the House now take a recess.

The SPEAKER. The Chair will state that if the House now takes a recess it will be until ten o'clock a. m. to-morrow, at which time, by the unanimous order of the House, the session of to-day will be resumed, and the House will proceed to the consideration of business on the Speaker's table. As that business will probably occupy the time up to twelve o'clock, or the commencement of the legislative day of to-morrow, members should be in attendance.

The question was taken upon the motion for a recess; and it was agreed to.

Accordingly (at five o'clock and ten minutes p. m.) the House took a recess to ten a. m. to-morrow.

AFTER RECESS.

The House reassembled at ten o'clock a. m., [Friday, July 24.]

The SPEAKER announced as the regular order the consideration of business on the Speaker's table.

TEMPORARY LOAN CERTIFICATES.

Mr. HOOPER, of Massachusetts, by unanimous consent, reported from the Committee of Ways and Means a bill (S. No. 543) to provide for a further issue of temporary loan certificates for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes.

The bill provides that for the sole purpose of redeeming and retiring the remainder of the compound-interest notes outstanding, the Secretary of the Treasury is authorized and directed to issue an additional amount of temporary loan certificates, not exceeding \$25,000,000; said certificates to bear interest at the rate of three per cent. per annum, principal and interest payable in lawful money, on demand, and to be similar in all respects to the certificates authorized by the act entitled "An act to provide ways and means for the payment of compound-interest notes," approved March 2, 1867; and these certificates may constitute and be held by any national bank holding or owning the same, as a part of the reserve, in accordance with the provisions of the above-mentioned act of March 2, 1867.

The bill was ordered to a third reading, and was accordingly read the third time, and passed.

Mr. HOOPER, of Massachusetts, moved to

reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXECUTIVE EXPENSES.

Mr. BUTLER, of Massachusetts. I ask unanimous consent to report from the Committee on Appropriations for consideration at the present time, as in Committee of the Whole, a bill providing for the pay of temporary clerks in the State and Interior Departments, (this appropriation having been overlooked when the regular appropriation bill passed,) and also making a small appropriation for the surveyor general's office in Utah, that office not having been created when our regular appropriations were made.

There being no objection,

Mr. BUTLER, of Massachusetts, reported from the Committee on Appropriations a bill (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869; which was read a first and second time.

The bill makes the following appropriations: \$20,200 for the employment of temporary clerks in the Indian Bureau, as follows: One clerk at \$1,600 per annum; six clerks at \$1,400 per annum; seven clerks at \$1,200 per annum, and two female copyists at \$900 per annum. Ten thousand dollars for the employment of temporary clerks in the State Department at a compensation of \$1,200 each per annum; \$9,000, or so much thereof as may be necessary, to pay the salary, office expenses, and clerk hire of the surveyor general of Utah Territory, in accordance with the provisions of the act of July 16, 1868.

Mr. MULLINS. I hope the gentleman from Massachusetts [Mr. BUTLER] will allow me to offer an amendment.

Mr. BUTLER, of Massachusetts. I do not think I can yield for any amendment; but let the gentleman's proposition be read.

The Clerk read as follows:

Add as a new section the following:
Be it enacted, &c. That it shall be the duty of the commanding general of the fourth military district to ascertain the cost to the United States (for the year ending July 4, 1868) of maintaining law and order and civil government in Mississippi, and protecting loyal citizens in their rights; and it shall be his further duty to levy and collect a tax upon the property in the State sufficient to defray said expenses.

The SPEAKER. That amendment is not germane to this bill.

Mr. MULLINS. I thought it might be in order when we are acting as in Committee of the Whole.

The SPEAKER. It would not be in order in Committee of the Whole, because the pertinency of amendments with reference to the scope of the bill is generally determined by the title; and this is entitled "A bill making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869."

Mr. KELSEY. Mr. Speaker, is this bill now being considered as in Committee of the Whole?

The SPEAKER. It is.

Mr. KELSEY. I ask the gentleman from Massachusetts why the sum of \$10,000 is appropriated for temporary clerks in the State Department when several persons who are nominally clerks in that Department are absent and have been for one or two years, discharging no duty? They are regular clerks and excused from duty. Now, this appropriation is asked for temporary clerks to perform duties they ought to discharge here.

Mr. POMEROY. Will the gentleman yield to me for a question?

Mr. KELSEY. My colleague can afford me the information I desire if the gentleman from Massachusetts cannot. I will ask him whether the clerk who has charge of preparing commercial statistics—I believe that is the designation—has not spent his entire time, with the exception of one or two weeks, in the city of Auburn, where my colleague resides?

Mr. POMEROY. That is the case to which I supposed he alluded. He has not been upon the pay-roll of the State Department for months and months.

Mr. WASHBURN, of Illinois. And the office has been abolished.

Mr. KELSEY. How long has he been off the pay-roll of the State Department?

Mr. POMEROY. Since the commencement of the session. I inquired, and was told that he was not on the pay-roll.

Mr. KELSEY. That is different from the information I have on the subject.

Mr. POMEROY. I know it was months and months ago.

Mr. KELSEY. That is different from the information I have on the subject. I was informed that two months ago this person was on the pay-roll of the State Department, nominally in charge of this work of preparing commercial statistics, receiving \$2,000 a year and performing no service whatever. If I am wrong I shall be happy to be corrected.

Mr. POMEROY. The gentleman he refers to was absent working, or pretending to work, on half pay. He is now not upon the pay-roll.

Mr. BUTLER, of Massachusetts. However that may be we have abolished him and his office.

Mr. KELSEY. That is an answer to my question.

Mr. WELKER. What is the necessity for the employment of these extra clerks?

Mr. BUTLER, of Massachusetts. In the State Department?

Mr. WELKER. In either Department.

Mr. BUTLER, of Massachusetts. From the State Department the request comes to us in the most urgent form on account of the duties put upon that Department by Congress. They say they cannot get along with the present force of clerks. This is not for new clerks to be employed. Under the appropriation bills we cut off a portion of the present force, and they insist they cannot get along without these temporary clerks with the extra duty put upon them. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BUTLER, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. KOONTZ. I ask unanimous consent to report a bill from the Committee for the District of Columbia.

Mr. BALDWIN. I demand the regular order of business.

Mr. WASHBURN, of Illinois. I desire to say this, and I wish the House would hear me. There is a Senate bill upon the Speaker's table which it is imperatively necessary should pass at once. It extends the revenue laws over the newly acquired Alaska purchase. The valuable portion of that purchase is St. Paul's Island, the only home of the fur-bearing seal in the world. The Russians have protected this island with a great deal of care in order not to have these seals cut off.

Mr. FARNSWORTH. I rise to a point of order. I understand we came here at ten o'clock for the purpose of going to the Speaker's table.

Mr. BALDWIN. I have demanded the regular order of business.

Mr. MAYNARD. Until we have a quorum I hope it will not be insisted upon.

Mr. FARNSWORTH. The only objection I have is to bills being taken up from the table out of their order.

Mr. BALDWIN. I insist upon the regular order.

FUNDING BILL.

The first business on the Speaker's table was

the message of the Senate communicating their non concurrence in the amendments of the House to the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States.

Mr. ALLISON. I move that the House insist upon its amendments, and ask for a committee of conference.

The question being put, there were—ayes forty-six.

Mr. BECK. I insist upon a further division.

Mr. HOOPER, of Massachusetts. I move that the bill be passed over till the House is full.

The SPEAKER. That requires unanimous consent. Is there objection?

Mr. BECK. My only object in insisting upon a division is to have a quorum when action is taken. I will withdraw the objection as soon as there is a quorum.

The further consideration of the bill was accordingly reserved by unanimous consent till a quorum should be present.

CAPTURE OF JEFFERSON DAVIS.

The next business on the Speaker's table was the amendments of the Senate to the bill (H. R. No. 1277) to provide for the distribution of the reward offered by the President of the United States for the capture of Jefferson Davis.

Mr. WASHBURN, of Massachusetts. I move that the House non-concur and ask for a committee of conference.

Mr. BLAIR. I move that the House concur.

The SPEAKER. The latter motion has precedence.

Mr. WASHBURN, of Massachusetts. The Senate amendment strikes out an officer who is meritorious above all others to whom we have made any award. It strikes out General Wilson. The committee are opposed to that amendment, and therefore they ask a committee of conference.

Mr. PAINE. Allow me to inquire what is done with that portion of the reward which was given by the House to General Wilson?

Mr. WASHBURN, of Massachusetts. That is given to the three other officers, increasing their amount to \$4,000, allowing General Wilson nothing.

Mr. PAINE. Which three officers? The commanders of the detachments?

Mr. WASHBURN, of Massachusetts. Yes, sir.

Mr. WASHBURN, of Illinois. I consider the striking out of the reward to General Wilson an outrage.

Mr. PAINE. I will ask the gentleman from Michigan, who must be familiar with the Senate amendment, as he moved to concur in it, whether the bill as it passed the Senate differs in any particular from that of the House than that it omits the name of General Wilson?

Mr. BLAIR. I do not understand that there is any other difference than that the \$3,000 which the House bill gave to General Wilson is given to the three other principal officers named in the bill, namely: Colonel Pritchard, Colonel Harnden, and Captain Yeoman. That change was made upon the ground that in the offer made by the President of the United States there was no reason whatever for giving any portion of the reward to persons who had no share in the actual arrest. It is carrying out the principle which I have maintained and which I still insist is correct, that this offer having been made to those who were engaged in the capture, there was certainly no ground for giving any portion of the reward to persons who were one hundred miles or more distant. It was not a reward for meritorious service, as the gentleman from Massachusetts continues to insist. That is not the ground upon which the reward was offered. It was for those engaged in making the actual arrest. Now, I can see some reason—though I do confess I do not see much—for the distribution made by the committee to the several persons named in the bill who were not actually present.

They were most of them very near, were in the neighborhood, and therefore there is some ground for including them. But there is no pretense at all that General Wilson was in the neighborhood or participated in the capture himself. The committee propose to give him this sum simply for the reason, I believe, that he issued the orders; but he did not issue the immediate orders under which the capture was made. Those orders were issued by General Minty, commanding the division.

I am not here in this matter finding any fault with General Wilson, nor shall I detain the House with any extended remarks on this subject. I will simply say that I think the bill as amended by the Senate conforms more nearly to the offer of reward than did the bill as it went from the House. I have, therefore, moved to concur in the amendments of the Senate upon that ground. It will make an end of the question. I do not like the bill, and if I could vote it down I would. If I could keep every dollar of the money in the Treasury of the United States, instead of distributing it in this way, I would do it. But I know very well that the House intends to pass a bill of this sort, and inasmuch as I think the bill as amended by the Senate is quite as good as the bill as it passed the House, I hope the House will concur in the amendments of the Senate, and let us have an end of the matter.

Mr. WASHBURN, of Massachusetts. I do not want to take up the time of the House, but simply to state the facts. The amount given to General Wilson by the bill as it originally passed is taken away from General Wilson by the amendments of the Senate and given to three other officers, neither of whom was engaged in the immediate capture. The capture was made by privates and non-commissioned officers. But General Wilson was the officer who sent out all the various regiments which assisted in the capture, and upon the principle which the gentleman from Michigan [Mr. BLAIR] urges neither of these officers who are to receive the additional \$3,000 would be entitled to a dollar. I call the previous question.

The previous question was seconded and the main question ordered.

The question was first upon agreeing to the amendments of the Senate; and being put, there were—ayes twenty-two, noes not counted.

So the amendments were disagreed to.

The question recurred on the motion of Mr. WASHBURN, of Massachusetts, that a conference be asked on the disagreeing votes of the two Houses; and being put, the motion was agreed to.

The SPEAKER appointed Mr. WASHBURN of Massachusetts, Mr. BLAIR, and Mr. ROSS, managers of the conference on the part of the House.

LINE OF OCEAN STEAMERS.

The next business upon the Speaker's table was the amendments of the Senate to the bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports.

Mr. HILL. I move that the amendments of the Senate be non-concurred in, and a conference asked upon the disagreeing votes thereon.

Mr. WASHBURN, of Illinois. I should like to hear the amendments read.

The Clerk read the amendments, as follows:

Page 1, line twelve, strike out "twenty" and insert "ten."

Page 2, after line sixteen, insert: "And provided, That the average rate of speed of the steamships of said navigation company shall not be less than that of the steamships of other lines upon the same or similar routes, and if for the space of three months the trips successively of the steamships of said company shall be made in longer time than that employed by other steamships as aforesaid, then any contract made under the provisions of this act shall cease and determine at the pleasure of the Government of the United States."

Page 3, line six, after "postages," insert: "Provided, such postages shall not exceed \$600,000 per annum, after the discontinuance of said inland postages."

Page 3, line fourteen, strike out "twenty" and insert "ten."

Page 5, line twenty-six, strike out "twenty" and insert "ten."

Mr. WELKER. I have no opposition to make to the agreement to these amendments; but I desire to state that I see it noticed in a good many newspapers over the country that this bill gives a large subsidy, some three million dollars, to this company in addition to the contract to carry the mails. Now, I do not understand that there is any such provision in the bill. There is no subsidy at all provided for in the bill as it passed the House or as amended by the Senate.

Mr. HILL. There is none; none at all.

Mr. SCOFIELD. I understand from hearing the amendments read that the bill now provides that the company shall have the inland postages until the whole amount comes to \$600,000.

Mr. HILL. Until all the postages amount to that.

Mr. SCOFIELD. As we passed the bill it was put very high, at \$400,000.

Mr. DELANO. The gentleman will allow me to correct him. As the bill passed the House it allowed inland postages until the whole amount was \$400,000. It then allows sea postages till the aggregate is \$600,000 and limits the amount to \$600,000; so that if the sea postages shall amount to over \$600,000, the company can get no more than that.

Mr. ROSS. I would suggest that we had better postpone this bill until after the recess, when it will be cooler and pleasanter.

Mr. HILL. I hope the committee of conference will be granted. I think there will be no difficulty in coming to an agreement.

Mr. ROSS. I move that it be postponed until after the recess.

Mr. HILL. I do not yield for that motion. I call the previous question.

Mr. SCOFIELD. Is a motion to concur in the Senate amendments in order?

The SPEAKER. That motion is in order, even after the previous question has been ordered, because a motion to bring the two Houses to an agreement takes precedence of a motion to keep them divided in action.

Mr. SCOFIELD. I do not see why we should not concur in the amendments of the Senate. I make the motion to concur.

Mr. HILL. We only want to arrange one little matter.

Mr. SCOFIELD. That is just what I am afraid of.

The previous question was then seconded and the main question ordered.

The question was upon concurring in the amendments of the Senate; and being taken, there were upon a division—ayes 25, noes 41; no quorum voting.

Mr. ROSS. I would suggest that this bill should go over until after the recess.

Mr. MILLER. Will the gentleman from New Jersey [Mr. HILL] state why he does not want these amendments concurred in?

The SPEAKER. No debate is in order, the previous question having been seconded and the main question ordered.

Mr. FARNSWORTH. I hope the House will not concur.

Mr. WASHBURN, of Illinois. I think we should understand this matter.

Tellers were ordered; and Mr. SCOFIELD and Mr. HILL were appointed.

The House again divided; and the tellers reported that there were—ayes 45, noes 53; no quorum voting.

Mr. WASHBURN, of Illinois. I think we may as well have the yeas and nays, so as to give time for a quorum to come in.

The yeas and nays were ordered.

Mr. HILL. All we desire is to have a committee of conference in order to have the time extended to fifteen years. The bill as passed by the House provided for a term of twenty years; the Senate by their amendment reduce the time to ten years. We think we can obtain an extension of the time to fifteen years.

Mr. MILLER. Is there any intention to obtain the insertion of a subsidy?

Mr. HILL. There is not.

Mr. ROSS. As there is no intention to obtain a subsidy, I will not further oppose the proposition for a committee of conference.

The SPEAKER. If there is no objection, the yeas and nays, which have been ordered, can be dispensed with.

No objection was made.

The motion to concur was accordingly not agreed to.

The motion to non-concur and ask a committee of conference was then agreed to.

UNION CHAPEL, WASHINGTON.

The next business upon the Speaker's table was Senate bill No. 433, authorizing the trustees of the Union Chapel Methodist Episcopal church, in the city of Washington, to mortgage their property for church purposes; which was taken up, and read the first and second time.

The question was upon the third reading of the bill.

The bill, which was read, proposes to authorize George Reinhart, John Byram, John B. Hines, William Worth, and George T. McGlue, trustees of Union Chapel, of the Methodist Episcopal church, in the city of Washington, to execute and deliver a mortgage on lot No. 28 and lot No. 29, in square No. 101, belonging to that church in the city of Washington, in order thereby to enable these trustees to procure money for the purpose of erecting a parsonage on those lots and otherwise improving them, for the use and benefit of the church, in manner and form as the legally constituted authorities of the church shall prescribe and direct.

The bill was then read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CORPS BADGES.

The next business upon the Speaker's table was Senate joint resolution No. 93, granting permission to officers and soldiers to wear the badge of the corps in which they served during the rebellion; which was taken up, and read a first and second time.

The question was upon the third reading of the joint resolution.

The joint resolution, which was read, provides that all who served as officers, non-commissioned officers, privates, or other enlisted men in the regular Army, volunteer, or militia forces of the United States during the war of the rebellion, and have been honorably discharged from the service, or remain still in the same, shall be entitled to wear on occasions of ceremony the distinctive Army badge ordered for or adopted by the Army corps or division respectively in which they served.

The joint resolution was read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXCHANGE OF PUBLIC DOCUMENTS.

The next business upon the Speaker's table was Senate joint resolution No. 121, to carry into effect the resolution approved March 2, 1867, providing for the exchange of certain public documents; which was taken up and read a first and second time.

The question was upon the third reading of the joint resolution.

The first section directs the Congressional Printer, whenever he shall be so directed by the joint Committee on the Library, to print fifty copies in addition to the regular number of all documents hereafter printed by order of either House of Congress or any Department or bureau of the Government, and whenever he shall be directed by the joint Committee on

the Library one hundred copies additional of all documents ordered to be printed in excess of the usual number; the fifty or one hundred copies in each case to be delivered to the Librarian of Congress, to be exchanged under the direction of the joint Committee on the Library, as provided by the joint resolution approved March 2, 1867. The second section provides that fifty copies of each publication printed under direction of any Department or bureau of the Government, whether at the Congressional Printing Office or elsewhere, shall be placed at the disposal of the joint Committee on the Library, to carry out the provisions of the resolution of March 2, 1867.

Mr. WASHBURN, of Illinois. I would like to hear some explanation of this joint resolution.

Mr. BALDWIN. The object of this joint resolution is to enable us to carry into execution the joint resolution of March 2, 1867, providing for an exchange of public documents with foreign Governments. After the passage of that resolution there was correspondence with foreign Governments, and the proposition was generally and cordially responded to, and we have received from Russia, England, Spain, and some other countries, a large number of valuable documents; but as the Superintendent of Public Printing did not see that he was authorized to print the additional copies necessary for the exchange, we have been unable to send documents in return for those we have received. It is a point of honor with us that this resolution should be passed to carry into effect the joint resolution to which it refers.

Mr. WASHBURN, of Illinois. I could not hear distinctly the explanation of the gentleman from Massachusetts, [Mr. BALDWIN.] The purpose of this resolution is perhaps a very good one; but it seems to me we propose to order a larger number of extra copies of documents than are necessary to effect the purpose which the gentleman from Massachusetts has in view. One of the great sources of expense, in reference to which so much complaint is made, is the enormous amount we are paying for the printing of documents. This resolution proposes the printing of a large additional number of every public document that may hereafter be published. The question is, are we not extending this matter further than is proper? Now, if the purpose is merely to make exchanges with foreign Governments, it seems to me we do not need so large an extra number as one hundred.

Mr. BALDWIN. The gentleman will observe that it is left to the Committee on the Library to decide whether so many as one hundred shall be devoted to this purpose.

Mr. WASHBURN, of Illinois. If this matter were always to be left to the discretion of my friend from Massachusetts [Mr. BALDWIN] I should be very well satisfied. But there may be a Committee on the Library that will avail itself, to the whole extent, of the provisions of this resolution, and I suggest to the gentleman—

Mr. BALDWIN. Will the gentleman allow me to finish my statement?

Mr. WASHBURN, of Illinois. The gentleman is entitled to the floor, and can, of course, prevent me from making any statement that I want to make.

Mr. BALDWIN. There may occur cases in which we receive duplicates from other Governments and in which duplicates are required to be sent in return; and there may be other reasons for sending, in some cases, more than one copy of a document. It is a matter in which something must necessarily be left to the discretion of the committee, if we would avoid printing absolutely more than may generally be necessary.

Mr. BANKS. Mr. Speaker, I hope the House will pass this resolution. I do not wish to increase the expense of our public printing. On the contrary, I am willing to act with anybody who desires to reduce that expense. But I submit that this proposition ought to be adopted. It will increase by only fifty or one

hundred the usual number of copies of public documents; and the increased expense must be very slight. The object is to facilitate exchanges of documents with foreign Governments. By this means we shall receive documents which will be of great value. They will be placed in our libraries for the use of men interested in the affairs of the Government, and the benefit resulting will repay a thousand fold the extra expense. The objectionable matter in regard to our public printing is with regard to the extra copies that are ordered by the House for general distribution, and I am ready at any time to join with other members of the House in sweeping the whole of that away. But the adoption of the proposition now pending will be advantageous to the public interests, and will involve no considerable additional expense.

Mr. BALDWIN. I call for the previous question.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. BALDWIN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PURCHASE OF ALASKA.

Mr. BANKS presented the following report:

The committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 1096), an act making appropriations of money to carry into effect the treaty with Russia of March 30, 1867, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from its first amendment and agree to the preamble of the bill with amendments as follows: after the word "Russia," in the fourth line, insert the following words: "And the Senate thereafter gave its advice and consent to said treaty," and strike out all after the words "United States;" in the twelfth line, and insert instead thereof the following words: "And whereas said stipulations cannot be carried into full force and effect except by legislation to which the consent of both Houses of Congress is necessary;" and the House agree to the same as amended.

And they further recommend that the House recede from its disagreement to the second and third amendments of the Senate, and agree to the same.

N. P. BANKS,
WILLIAM LOUGHRIDGE,
SAMUEL J. RANDALL,
Managers on the part of the House.
CHARLES SUMNER,
O. P. MORTON,
J. R. DOOLITTLE,
Managers on the part of the Senate.

Mr. BANKS. Mr. Speaker, I send to the Clerk's desk to be read as a part of my speech a copy of the bill as it will stand when the conference report is agreed to.

The Clerk read as follows:

An act making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867.

Whereas the President of the United States, on the 30th of March, 1867, entered into a treaty with the emperor of Russia, by the terms of which it was stipulated that, in consideration of the cession by the emperor of Russia to the United States of certain territory therein described, the United States should pay to the emperor of Russia the sum of \$7,200,000, in coin; and whereas it was further stipulated in said treaty that the United States shall accept of such cession, and that certain inhabitants of said territory shall be admitted to the enjoyment of all the rights and immunities of citizens of the United States; and whereas said stipulations cannot be carried into full force and effect except by legislation to which the consent of both Houses of Congress is necessary: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, appropriated from any money in the Treasury not otherwise appropriated \$7,200,000 in coin, to fulfill stipulations contained in the sixth article of the treaty with Russia, concluded at Washington on the 30th day of March, 1867.

Mr. BANKS. I now demand the previous question.

Mr. DELANO. I hope the House will vote down the previous question.

Mr. BUTLER, of Massachusetts. I ask my colleague to yield to me.

Mr. BANKS. For what purpose?

Mr. BUTLER, of Massachusetts. I want to give my views.

Mr. BANKS. I do not want to yield the

floor for debate. I demand the previous question.

Mr. BUTLER, of Massachusetts. I understand this is an entire surrender of all we have done.

Mr. BANKS. I demand the previous question.

Mr. BUTLER, of Massachusetts. I hope it will be voted down.

The House divided; and there were—ayes 74, noes 43.

So the previous question was seconded.

The main question was ordered to be now put.

Mr. WASHBURNE, of Illinois. I ask the House to have the report again read. It is an entire surrender.

Mr. BANKS. It is no surrender at all.

Mr. BUTLER, of Massachusetts. It is an entire surrender.

The question recurred on the adoption of the conference report.

Mr. DELANO demanded the yeas and nays.

The yeas and nays were ordered.

Mr. LOUGHRIDGE. I move to reconsider the vote by which the main question was ordered.

Mr. MAYNARD. I move that the motion be laid on the table.

The House divided; and there were—ayes 67, noes 43.

Mr. LOUGHRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. LOUGHRIDGE. Will the chairman of the committee be entitled to an hour's debate after the main question is ordered?

The SPEAKER. The gentleman who has charge of the bill has the right to speak an hour.

Mr. LOUGHRIDGE. I withdraw my motion.

Mr. MAYNARD. I withdraw the motion to lay upon the table.

Mr. BANKS. I propose to yield to my colleague on the conference committee to state the reasons for his concurrence in the conference report.

Mr. PAINE. I renew the motion to lay upon the table.

The SPEAKER. The motion to reconsider has been withdrawn; and there is nothing to which the gentleman's motion will apply.

Mr. PAINE. I move, then, that the conference report be laid upon the table.

Mr. BUTLER, of Massachusetts. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 80, not voting 99; as follows:

YEAS—Messrs. Allison, Beatty, Benton, Boies, Benjamin F. Butler, Roderick R. Butler, Reader W. Clarke, Cobb, Cullom, Delano, Deweese, Farnsworth, Ferriss, Hamilton, Hawkins, Hill, Judd, Kelley, Kelsey, William Lawrence, Logan, Miller, Moore, Nunn, Paine, Perham, Polsey, Seafeld, Taylor, Lawrence S. Trimble, Trowbridge, Van Aernam, Van Trump, Van Wyck, Ward, Henry D. Washburn, and Welker—37.

NAYS—Messrs. Ames, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Beck, Bingham, Blair, Boutwell, Boyden, Buckland, Buckley, Cary, Sidney Clarke, Dixon, Briggs, Eckley, Eldridge, Eliot, Fields, French, Getz, Glossbrenner, Golladay, Goss, Grover, Haight, Halsey, Higby, Hooper, Hotchkiss, Hunter, Ingersoll, Jenekes, Alexander H. Jones, Kerr, Koontz, Ladin, Lash, Loughridge, Mallory, Mann, Marshall, Maynard, McCullough, McKee, Mercut, Mullins, Myers, Niblack, O'Neill, Orth, Pile, Poland, Pomeroy, Raun, Robertson, Ross, Sawyer, Shanks, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Sypher, Taber, Taffe, John Trimble, Twichell, Burt Van Horn, William B. Washburn, Whittemore, William Williams, Windom, and Wood—80.

NOT VOTING—Messrs. Adams, Anderson, Baker, Barnes, Barnum, Beaman, Benjamin, Blackburn, Blaine, Bowen, Boyer, Bromwell, Brooks, Broomall, Burr, Cake, Callis, Chanler, Churchill, Coburn, Cook, Cornell, Covode, Dawes, Dockery, Dodge, Donnelly, Eggleston, Ela, Ferry, Finney, Fox, Garfield, Gravelly, Griswold, Harding, Haughey, Heaton, Hinds, Hubbard, Hopkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Johnson, Thomas L. Jones, Julian, Kellogg, Ketcham, Kitchen, Knott, George V. Lawrence, Lincoln, Loan, Lynch, Marvin, McCarthy, McClurg, McCormick, Moorhead, Morrill, Morrissey, Mungen, Newcomb, Newsham, Nicholson, Norris, Peters, Phelps, Pierce,

Pike, Plants, Price, Pruyn, Randall, Robinson, Roots, Schenck, Selye, Shellabarger, Sitgreaves, Smith, Aaron F. Stevens, Stone, Thomas, Upson, Van Auken, Robert T. Van Horn, Vidal, Cadwalader C. Washburn, Elihu B. Washburne, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Woodbridge, and Woodward—29.

So the House refused to lay the report on the table.

The SPEAKER. The question recurs on agreeing to the conference report unless the gentleman from Massachusetts claims the floor.

Mr. BANKS. I do not wish to speak. My colleague on the committee agrees to present his remarks at another time so that the time of the House shall not be taken up now.

Mr. MILLER. I would like to know whether we have not surrendered all that was put in the preamble.

Mr. BANKS. We have not surrendered anything. My colleague on the committee desires to say a word and I yield to him a moment.

Mr. PAINE. I would like to ask one question. What consideration has induced the gentleman who now has the floor to abandon the substance of his own amendment?

Mr. BANKS. I have yielded to my colleague to explain the matter.

Mr. LOUGHRIDGE. I do not desire to detain the House very long, as business on the Speaker's table is pressing. I am asked to explain my position in regard to the surrender of the substance of the preamble. I will state frankly that in my opinion the substance of the preamble is stricken out. I agreed to that as a friend of Alaska. I voted for the appropriation and I agreed to the report of the committee of conference simply because the majority of the committee were against me. I frankly say that I should myself have preferred to have had the entire preamble stricken off the bill.

Mr. PAINE. I would be glad to understand the gentleman. Do I understand him to admit that the substance of his preamble is stricken out?

Mr. LOUGHRIDGE. I certainly do so consider it.

Mr. PAINE. I understand the chairman of the committee to deny that. I would be glad to hear the gentleman explain it.

Mr. LOUGHRIDGE. I am not explaining the action of the chairman of the committee nor his denial. I am explaining my own position. I admit that the substance of the preamble is stricken out, and that I voted for the report simply because the majority of the committee were against me, and the report would have been the same whether I voted for it or not. I am satisfied further that the bill could not pass with the preamble as it passed the House, and for this reason: there is no doubt of the fact that there is between the Senate and House a vital difference of opinion.

Mr. WASHBURNE, of Illinois. Let the Senate give down.

Mr. LOUGHRIDGE. I believe the Senate will not give down. I am satisfied it will not.

Mr. WASHBURNE, of Illinois. Why not?

Mr. LOUGHRIDGE. I hope gentlemen will not interrupt me. I say I am satisfied the Senate will not give down. I am equally satisfied that the House will not give down. The question then is simply this: Shall we compel the Senate to agree to our doctrine or shall we lose this bill?

Mr. VAN WYCK. Will the gentleman allow me a question? The Senate have undertaken to compel the House to yield and vote millions of dollars which we do not think ought to have been paid. Now, is it asking too much that the Senate shall at least yield to the acknowledgment which the House claims, that we shall have some protection in the future for the people of the country?

Mr. LOUGHRIDGE. I claim that we yield nothing at all. All we do is to say we do not insist upon this declaration in connection with this bill. That is all. We can make the declaration elsewhere if we desire to do so.

Several members here asked the gentleman to yield.

Mr. BANKS. I object to any yielding by my colleague, to whom I yielded and to no one else.

Mr. LOUGHRIDGE. I frankly admit that I agreed to the striking out of the preamble simply because I did not believe the bill could pass without so doing.

Several members here again asked the gentleman to yield.

Mr. BUTLER, of Massachusetts. I rise to a point of order. Who has the floor, the gentleman from Iowa or some other gentleman?

The SPEAKER. The gentleman from Iowa has the floor, the gentleman from Massachusetts [Mr. BANKS] having yielded to him with the limitation that he shall not yield to any one else. The Chair will therefore protect the gentleman from Iowa from interruptions. This is a uniform usage which all old members of the House are familiar with.

Mr. BUTLER, of Massachusetts. Well, I am not old enough to see that the chairman of the Committee on Foreign Affairs has a right to tell the gentleman from Iowa what to say.

The SPEAKER. The Chair will state to the gentleman from Massachusetts [Mr. BUTLER] that when he has the floor he can yield upon any conditions he sees fit to impose, and resume the floor when he sees fit.

Mr. BUTLER, of Massachusetts. My colleague imposed no conditions when he yielded.

Mr. LOUGHRIDGE. I wish the gentleman from Massachusetts [Mr. BUTLER] to understand that the gentleman from Iowa knows what to say without being told by the chairman of the Committee on Foreign Affairs.

Mr. BUTLER, of Massachusetts. I do not doubt that.

Mr. LOUGHRIDGE. Upon my motion the House placed upon this bill a preamble setting forth fully and clearly the doctrines of this House. In the first place that no cession of territory can be made without the consent of the House; in the second place, that no money can be appropriated without the consent of the House; and in the third place, that no foreigners can be naturalized without the consent of the House. Now, to all of these propositions the Senate entirely disagree, and I am satisfied will never consent. The question, then, simply is, shall the Alaska bill be defeated or shall the House withdraw the demand that these principles shall be incorporated in this bill? As a friend of the Alaska bill, I have consented, so far as I am concerned, to withdraw our demand to have this placed in the bill. We have placed our vote on record in favor of these propositions. That vote stands there, and I have no doubt the House will adhere to it hereafter. And believing that the bill cannot pass without our withdrawal of this demand, I have consented to it. I do not ask the House to do it. I say frankly and freely I would rather the whole preamble was stricken out than to have it stand as it is now. I refused to sign the report of the committee of conference until the majority of the committee were against me and then I signed it.

Mr. MILLER. I desire to ask the gentleman a question.

Mr. BANKS. I object to his yielding,

Mr. LOGAN. I ask the gentleman from Massachusetts if he will allow me to ask the gentleman from Iowa a question?

Mr. LOUGHRIDGE. I hope the gentleman will allow me to answer.

Mr. BANKS. No, sir; no.

Mr. MILLER. I rise to a question of order. I would ask whether, when the gentleman from Massachusetts has yielded to the gentleman from Iowa, he can dictate to the gentleman from Iowa whether he shall answer questions or not?

The SPEAKER. The Chair has answered that question on the point of order made by the gentleman from Massachusetts, [Mr. BUTLER.] A gentleman who has the floor can yield it unconditionally or conditionally and resume the floor whenever he sees fit. The gentleman from Massachusetts [Mr. BANKS] has yielded the floor to the gentleman from

Iowa [Mr. LOUGHRIDGE] on conditions, and as long as he maintains those conditions the Chair will protect him and his rights under the rules.

Mr. LOGAN. I would like to ask the gentleman from Massachusetts a question.

Mr. BANKS. I cannot answer any questions now. I will answer any question when I get possession of the floor, but I cannot now.

Mr. CULLOM. I would like to ask the gentleman from Massachusetts if he still persists in controlling the gentleman from Iowa?

Mr. BANKS. I do not control the gentleman from Iowa at all. I yield to my colleague on the conference committee, and to no other member of the House.

Mr. CULLOM. I hope he will allow the gentleman from Iowa to answer questions if he sees proper to do so.

The SPEAKER. The gentleman from Illinois is not in order.

Mr. BENTON. I rise to a question of order. I desire to propound a parliamentary question.

The SPEAKER. The Chair does not answer parliamentary questions.

Mr. BENTON. I understand the chairman of the Committee on Foreign Affairs to say that he does not now object to the gentleman from Iowa answering questions.

Mr. BANKS. I have yielded to my colleague on the conference committee for the purpose of making a statement, and I yield to no one else.

The SPEAKER. The Chair, therefore, overrules the point of order made by the gentleman from New Hampshire, [Mr. BENTON.]

Mr. LOGAN. I rise to a question of order.

The SPEAKER. The gentleman will state his point of order.

Mr. LOGAN. I asked the gentleman from Massachusetts [Mr. BANKS] if he would allow the gentleman from Iowa [Mr. LOUGHRIDGE] to answer me a question. The gentleman from Iowa insisted upon answering my question, and asked the gentleman from Massachusetts to allow him to answer it, and he would not do so. Now, my question of order is this: when a member is on the floor and desires to answer a question can another member stand behind him, as though he had a bayonet, and prevent his answering the question?

The SPEAKER. The Chair will decide this point of order for the fourth time. Whenever the gentleman from Illinois [Mr. LOGAN] shall be entitled to the floor, and shall state that he will yield to another upon conditions, the Chair will protect him in the enforcement of those conditions, as he now protects the gentleman from Massachusetts [Mr. BANKS] in enforcing the conditions upon which he has yielded the floor.

Mr. LOUGHRIDGE. I hold the floor only by the courtesy of the gentleman from Massachusetts, [Mr. BANKS.] I would be glad to answer questions, but I have no right to do so without his consent.

Mr. Speaker, as a member of the committee of conference, I desire to say a few words in explanation of the report which I have signed.

The preamble as adopted originally by the House, stated fully and clearly that the three stipulations of the treaty mentioned therein:

1. The stipulation to pay the money.
2. The stipulation to accept of the cession of the Territory and its incorporation into this Government; and
3. The stipulation that the Russian inhabitants of said territory should be invested with the rights and privileges of American citizens, were all of them among the subjects which, by the Constitution were submitted to the power of Congress, and that Congress had jurisdiction over them, and that the same, nor any of them could have any force or effect until the assent of Congress is given thereto. This preamble was adopted by a vote of 98 yeas to 49 nays, and quite a number who voted against the preamble done so because the same concluded in favor of carrying the treaty into effect, while they were really in favor of the construction of the law as therein stated.

The declaration thus made by the House is clear, explicit, and unmistakable, and I have no doubt will be adhered to by the House in the future. To this declaration the Senate refused to agree, and hence the committee of conference.

The committee on the part of the Senate stated freely and frankly that they could, in no event, consent to the preamble, and that the Senate would not consent, and that they held that the House was bound to carry out the stipulations of all treaties, and that when a treaty provided for the payment of money for any purpose that such stipulation created a debt, and that the House had no discretion in relation to the payment of the same—doctrine, of course, utterly at variance with the law and with the principles asserted in the preamble as passed by the House—and it is manifestly impossible to reconcile opinions so utterly at variance upon so important a question. The majority of the committee on the part of the House could, in no event, consent to any such doctrine, so utterly subversive of the rights and constitutional prerogatives of the House. The only question, then, for the committee was whether the House should insist in incorporating the doctrine claimed by the House in the bill, and thus prevent the passage of the bill and the carrying out of the treaty, or whether, in view of this vital difference between the Senate and the House, it should not advise the waiver of the right to the declaration in the bill. The committee deemed the latter the better course. I am myself fully satisfied that the Senate will not consent to the original preamble, and that to insist upon it will simply defeat the bill, and this I, for one, should dislike to do.

It must be remembered that the committee in this course do not recommend the House to give up its claim or its position heretofore taken. But by the opposite course they would insist upon the Senate and the President solemnly consenting to the claim of the House.

If I were opposed to the passage of the bill I should oppose the course taken by the committee, but being in favor of it, and deeming this course necessary to the passage of the bill, I have agreed with the committee.

I think the Senate should have agreed to the preamble. In refusing to do so, they show an intention to continue the encroachment upon the rights of the House which has been going on on the part of the treaty-making power for years, and which this House owes it to itself and to the country to put a stop to. Had it not been for the peculiar circumstances of this case, not the least of which is the friendship shown us by Russia in the dark days of the rebellion, I should have felt like insisting upon the disagreement of the House and defeating the treaty, which would have been the result of that course.

The preamble agreed upon makes no statement upon the real question at issue between the House and Senate. It simply states that legislation is necessary to carry out the stipulations of the treaty which everybody admits and nobody denies. The real issue is waived. I understand this perfectly well, and I agreed to it with that understanding. The House gives up nothing, waives no jot or tittle of its claims of jurisdiction over the stipulations of treaties involving, as this does, matters which are submitted to Congress by the Constitution. It simply says it will not insist upon the Senate agreeing by this bill to the view of the Constitution as held by the House. But that each House shall retain and exercise the right to regulate its action in the future by its own judgment of the law.

The opinion of the House as to its power stands on record by the adoption of the original preamble, and the treaty-making power and the country and foreign nations can understand what the view of the House is and what their future course will be.

I would not consent to the passage of this bill if I thought it could be considered as a precedent and authority for like unauthorized

acts by the treaty-making power in the future. But I think that the adoption of the preamble by the House in its original form by a large majority will be a sufficient answer to any such claim as against this House.

I hope this will be the last time we will be placed in such a position through the action of the treaty-making power; but that hereafter, before any steps are taken to purchase foreign territory, the President will obtain the consent of Congress; for in this case the President, in my opinion, has been guilty of a high-handed usurpation, and one for which he deserves the severest condemnation. And with the due notice which has been now given, I for one, as long as I have the honor of holding a seat upon this floor, shall never hereafter consider myself under any obligation to vote any appropriation to carry out a treaty, or to assent to the provisions of any treaty of purchase or acquisition of territory unless such treaty meets with the full assent of my judgment as to its expediency; and I understand this to be the settled determination of this House. The House knows its rights, and is aware of its constitutional prerogatives, and it will maintain them. I trust this bill will pass; that this treaty may be carried into effect.

Mr. BANKS. I owe an apology to members of the House for having introduced this report during the time when by an understanding the business on the Speaker's table was under consideration. Had I thought of that I should not have submitted the report at this time, and when the regular session of the next legislative day shall commence I will ask that so much additional time be given to the business on the Speaker's table as may be occupied by this report.

Now, in regard to the matter before the House, the two committees of conference have agreed unanimously to a report by which the preamble, in my judgment, is made identical in effect with the preamble as it passed the House of Representatives. The only question of difference between the two committees of conference was whether the preamble, as it passed the House, claimed for the House of Representatives a right to participate in the treaty-making power of the Government. My opinion was and is now that it does not claim any such power. The Senate conferees thought differently. My colleague on the committee, [Mr. LOGAN], who originally moved the preamble in the House, did not mean that it should claim on the part of the House a right to participate in the treaty-making power.

I will state, in substance, the report to which the committee of conference have agreed. It is that whenever a treaty is made, and it contains stipulations which require the action of the two Houses of Congress, the treaty cannot be carried into effect until that legislation shall be had. There are three stipulations in this treaty with Russia. One is that the cession of territory shall be accepted by the United States; another is that the sum of \$7,200,000 in gold shall be appropriated for the purchase; and a third is that certain conditions in regard to citizenship shall be executed. The House has declared, and the committee of conference has consented to the declaration, that no one of the stipulations of the treaty with Russia can be carried into effect except by legislation to which the assent of both Houses is necessary. The report, therefore, in my judgment, perfectly sustains the claim of the House.

Mr. LOGAN. Will the gentleman allow me to ask him a question?

Mr. BANKS. Certainly.

Mr. LOGAN. The preamble, as agreed upon by the committee of conference, recites that the treaty with Russia stipulates for the payment of \$7,200,000, &c., and then goes on to say that, "Whereas said stipulations"—referring to the stipulations in the treaty with Russia—"cannot be carried into full force and effect except by legislation to which the assent of both Houses is necessary," therefore \$7,200,000 is appropriated. To what does the conference report refer, except the \$7,200,000?

Mr. BANKS. Nothing but that, because the other conditions are to be carried into effect by legislation hereafter.

Mr. LOGAN. There is nothing in the report of the committee of conference in reference to legislation to be had hereafter. Yet the report refers to the stipulations in the treaty, and then refers to the appropriation of \$7,200,000, and refers to nothing else.

Mr. BANKS. There is no stipulation in the treaty that can be carried into effect except by the consent of the two Houses of Congress. The stipulation that we carry into effect by this bill is the stipulation for the payment of money. The stipulation in regard to the government of that territory and the rights of citizens there is to be settled by legislation that is to come hereafter. We embody in this bill a provision for carrying out only one of the stipulations. The appropriate committees of the House will hereafter report other provisions.

Mr. LOGAN. Will the gentleman permit me to ask one question?

Mr. BANKS. Yes, sir.

Mr. LOGAN. The gentleman says that the treaty stipulations in reference to the rights of citizens depend upon acts of Congress hereafter to be passed.

Mr. BANKS. Yes, sir.

Mr. LOGAN. The preamble contains this language:

And whereas it is further stipulated in said treaty that the United States shall accept such cession, and that certain inhabitants of that territory shall be admitted to the enjoyment of all the rights and immunities of citizens of the United States.

You thus admit these people to all the rights and immunities of citizens of the United States. I would like to know what future legislation is required on that point?

Mr. BANKS. The gentleman misunderstands entirely both the preamble and the resolution. The preamble refers to a contract. It is not executed. The declaration embodied by the conference committee in this report is that it cannot be executed except by consent of the two Houses of Congress. This House will decide whether that consent shall be given or withheld when the Committee on Territories shall have reported a bill on that question. A contract has been entered into by the treaty-making power; but it is unexecuted. The Government of the United States will not have assented to it until a bill to that effect shall have received the assent of the two Houses.

Mr. BUTLER, of Massachusetts, rose.

Mr. BANKS. I yield one moment to my colleague for a question.

Mr. BUTLER, of Massachusetts. I do not desire merely to ask a question. Will not my colleague, in a matter of this very great importance, allow a single word of debate on the side opposed to that which he occupies?

Mr. BANKS. The question has already been debated at length.

Mr. BUTLER, of Massachusetts. Not this proposition. I want to explain how this differs from the proposition heretofore discussed. I would like to know whether this House will suffer its rights to be trampled on.

Mr. BANKS. Mr. Speaker, I do not yield the floor for debate. I say to my colleague that he has already debated this question at length.

Mr. BUTLER, of Massachusetts. Never this question.

Mr. BANKS. Yes, this question. He has occupied as much of the time of this House as I have. He has had a full opportunity to discuss this question, as the records will show. In the present condition of the public business I cannot consent that the time of the House shall be further occupied with this question. I regret that I introduced the report at this time. I would not have done so had I known that the House had set aside this morning for another purpose.

Mr. LOGAN. I ask the gentleman from Massachusetts whether he will not give me ten minutes of his hour? I have never taken up the time of the House in debating this matter.

Mr. BANKS. I cannot yield for any further debate.

Mr. LOGAN. Will not the gentleman give me five minutes?

Mr. WASHBURN, of Illinois. I move to reconsider the vote by which the main question was ordered to be put.

The motion was not agreed to, there being—ayes 37, noes 74.

The question recurred on agreeing to the report of the committee of conference, on which the yeas and nays had been ordered.

The question was taken; and it was decided in the affirmative—yeas 91, nays 48, not voting 77; as follows:

YEAS—Messrs. Ames, Archer, Arnell, Delos R. Ashley, Axtell, Bailey, Baldwin, Banks, Beck, Bingham, Blackburn, Blair, Boles, Bowen, Boyden, Buckley, Roderick R. Butler, Callis, Cary, Churchill, Reider W. Clarke, Dixon, Dockery, Driggs, Eckley, Eldridge, Fields, French, Garfield, Getz, Glossbrenner, Goldady, Goss, Grover, Haight, Halsey, Hamilton, Hawkins, Heaton, Higby, Hinds, Hooper, Hoyt, Hottel, Hunter, Jenckes, Alexander H. Jones, Thomas L. Jones, Kellogg, Kerr, Ketcham, Keontz, Lullin, Lash, Mallory, Marshall, Maynard, McCullough, McKee, Mercur, Myers, Niblack, Nunn, O'Neill, Orth, Phelps, Platts, Poland, Pomeroy, Raun, Robertson, Ross, Sawyer, Shanks, Smith, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Tabor, John Trimble, Twichell, Burt Van Horn, Vidal, Whittemore, William Williams, John T. Wilson, Windom, and Wood—91.

NAYS—Messrs. James M. Ashley, Baker, Beatty, Benton, Boutwell, Broomall, Buckland, Benjamin F. Butler, Cake, Sidney Clarke, Coburn, Covode, Cullum, Delano, Deweese, Eliot, Farnsworth, Ferris, Gravelly, Haughey, Hill, Judd, Kelley, Kelsey, William Lawrence, Loan, Logan, Miller, Moore, Mullins, Paine, Perham, Polsley, Schenck, Scofield, Sypher, Taffe, Taylor, Lawrence S. Trimble, Trowbridge, Van Aernam, Van Trump, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Welker—48.

NOT VOTING—Messrs. Adams, Allison, Anderson, Barnes, Barnum, Beaman, Benjamin, Blaine, Boyer, Bromwell, Brooks, Burr, Chanler, Cobb, Cook, Cornell, Dawes, Dodge, Donnelly, Eggleston, Ela, Ferry, Finney, Fox, Griswold, Harding, Holman, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hubbard, Humphrey, Juggs, Joll, Johnson, Julian, Kitchen, Knott, George V. Lawrence, Lincoln, Loughridge, Lynch, Mann, Marvin, McArthur, McClurg, McCormick, Moorhead, Morrell, Morrissey, Mungen, Newcomb, Newsham, Nicholson, Norris, Peters, Pierce, Pike, Pile, Price, Pruyn, Randall, Robinson, Roots, Soyle, Shellabarger, Sigreaves, Stone, Thomas, Upson, Van Auker, Robert T. Van Horn, Cadwallader C. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Woodbridge, and Woodward—77.

So the report of the committee of conference was agreed to.

Mr. BANKS moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed, without amendments, bills of the House of the following titles:

An act (H. R. No. 218) granting a pension of seventeen dollars per month to David Duhigg, of Lyndon, Vermont, father of late First Lieutenant Dennis Duhigg, of company M, first regiment Vermont artillery;

An act (H. R. No. 256) granting a pension to George Truax, late a private in company H, first regiment Virginia volunteers;

An act (H. R. No. 1164) granting a pension to Margaret Davis;

An act (H. R. No. 1165) granting a pension to Elizabeth Cassidy;

An act (H. R. No. 1166) granting a pension to Louisa M. Williston;

An act (H. R. No. 1167) granting a pension to Esther Graves;

An act (H. R. No. 1168) granting a pension to Frederick Denning;

An act (H. R. No. 1169) granting a pension to Joseph B. Rodden;

An act (H. R. No. 1170) granting a pension to Eliza M. Mathews;

An act (H. R. No. 1171) granting a pension to William F. Nelson;

An act (H. R. No. 1172) granting a pension to Lucinda J. Letcher;

An act (H. R. No. 1173) granting a pension to Julia A. Barton;

An act (H. R. No. 1174) granting a pension to Julia Carroll;

An act (H. R. No. 1175) granting a pension to Cornelia Peaslee;

An act (H. R. No. 1176) granting a pension to Mary Cover, widow of Samuel Cover, deceased, late a private in company G, sixty-fifth regiment Pennsylvania volunteers;

An act (H. R. No. 1177) granting a pension to Malinda Ferguson, widow of James Ferguson, late a private in company C, first regiment Kentucky cavalry;

An act (H. R. No. 1178) granting a pension to Mary Merchant, mother of Timothy H. Pittsford, deceased, late a private in company G, first regiment United States veteran engineer corps;

An act (H. R. No. 945) to place the name of Ellen Curry, widow of James Curry, deceased, a private soldier in company F, thirty-ninth regiment Illinois volunteers, upon the pension-roll of the United States;

An act (H. R. No. 1179) granting a pension to Mary A. Fulardo, widow of Onesimus Fulardo, deceased, late a private in company K, of the one hundred and twenty-fifth regiment of New York volunteers;

An act (H. R. No. 1180) granting a pension to Phoebe McBride, mother of Thomas McBride, deceased, late a private in company B of the eighty-seventh regiment of Illinois volunteers;

An act (H. R. No. 1181) granting a pension to Harriet E. Shears, widow of John T. Shears, deceased, late a private in company H, of the fifty-seventh regiment of Illinois volunteer infantry;

An act (H. R. No. 1182) granting a pension to William H. Blair, late a private in company G, of the twelfth regiment of Maine volunteers;

An act (H. R. No. 1183) granting a pension to Christopher M. Cornmesser, late a private in the independent Iowa home guards;

An act (H. R. No. 1220) granting a pension to Kate Higgins;

An act (H. R. No. 1221) granting a pension to Sarah J. Rogers;

An act (H. R. No. 1222) granting a pension to Catharine Ginsler;

An act (H. R. No. 1223) granting a pension to Margaret Filson;

An act (H. R. No. 1224) granting a pension to Jane E. Rogers;

An act (H. R. No. 1225) granting a pension to Patrick Collins;

An act (H. R. No. 1226) granting a pension to Barbara Weiss;

An act (H. R. No. 1228) granting a pension to Joanna L. Shaw;

An act (H. R. No. 1229) granting a pension to Anna H. Pratt;

An act (H. R. No. 1230) granting a pension to Hannah K. Cook;

An act (H. R. No. 1231) granting a pension to John Morley;

An act (H. R. No. 1232) granting a pension to Ruth Barton;

An act (H. R. No. 1233) granting a pension to W. P. Moses;

An act (H. R. No. 1234) granting a pension to Frederick Brielmayer;

An act (H. R. No. 1235) granting a pension to Joannal Connelly;

An act (H. R. No. 1236) granting a pension to the minor children of Michael Travis;

An act (H. R. No. 1237) granting a pension to the widow and children of James Cox;

An act (H. R. No. 1238) granting a pension to Lavinia A. Gittings, mother of A. J. Gittings;

An act (H. R. No. 1239) granting a pension to Owen Griffin;

An act (H. R. No. 1240) granting a pension to Margaret Lewis;

An act (H. R. No. 1241) granting a pension to Mrs. Mary Brown;

An act (H. R. No. 1242) granting a pension to Esther Fisk;

An act (H. R. No. 1243) granting a pension to William O. Dodge;

An act (H. R. No. 1244) granting a pension to the widow of Solomon Gause;

An act (H. R. No. 1245) granting a pension to Matthew C. Griswold;

An act (H. R. No. 1246) granting a pension to the widow and minor children of Hiram Hitchcock;

An act (H. R. No. 1247) granting a pension to Orlena Walters;

An act (H. R. No. 1248) granting a pension to Elizabeth Richardson;

An act (H. R. No. 1249) granting a pension to Margaret C. Long;

An act (H. R. No. 1250) granting a pension to James Rooney;

An act (H. R. No. 1251) granting a pension to Charles Hamstead;

An act (H. R. No. 1252) granting a pension to the minor children of Garrett W. Freer;

An act (H. R. No. 1253) granting a pension to Julia L. Doty;

An act (H. R. No. 1254) granting a pension to Francis M. Webster;

An act (H. R. No. 614) for the relief of Mrs. Alice A. Dryer;

An act (H. R. No. 851) granting a pension to Ann Williams;

An act (H. R. No. 886) for the relief of Mrs. Mary J. Trueman;

An act (H. R. No. 991) for the relief of Zadock T. Newman;

An act (H. R. No. 1263) granting a pension to Joseph A. Fry;

An act (H. R. No. 1295) granting a pension to William J. Cotty, late of the twenty-first Missouri infantry volunteers;

An act (H. R. No. 1351) for the relief of Seth Lea;

An act (H. R. No. 1381) for the relief of Nancy Cook, of Tennessee;

An act (H. R. No. 1382) for the relief of Barbara Stout, of Tennessee;

An act (H. R. No. 1382½) granting a pension to Sarah E. Ball, widow of James Ball, deceased, late a fireman on steamer Vedette, connected with the Burnside expedition;

An act (H. R. No. 1383) granting a pension to Miss Ann E. Hamilton, of Alleghany City, Pennsylvania, aunt and adopted mother of James E. McKillip and Charles P. McKillip, deceased, late soldiers in Union Army;

An act (H. R. No. 1485) granting a pension to Rosinda McCabe, widow of Barney McCabe, deceased, late a private in company I, tenth regiment New York cavalry volunteers;

An act (H. R. No. 1386) granting a pension to Hinman L. Hall;

An act (H. R. No. 1387) granting a pension to Elizabeth G. Hibben, widow of Rev. Samuel Hibben, deceased, late a chaplain in the fourth cavalry regiment Illinois volunteers;

An act (H. R. No. 1389) granting a pension to Eliza Donnelly, mother of Dudley Donnelly, deceased, late colonel of the twenty-eighth regiment New York State volunteers;

An act (H. R. No. 1390) granting a pension to Michael Reilly;

An act (H. R. No. 1391) granting a pension to Jane McNaughton;

An act (H. R. No. 1392) granting a pension to Chauncy D. Rose, father of Alvin J. Rose, late a sergeant veteran in company A, second regiment Ohio cavalry volunteers, who was killed in action at Five Forks, Virginia, April 1, 1865;

An act (H. R. No. 1384) granting a pension to Mrs. Elizabeth Lane, of Boston, Massachusetts, mother of John Lane, deceased, late a private in company A, twelfth regiment Massachusetts volunteers;

An act (H. R. No. 1393) granting a pension to Hugo Eichholtz;

An act (H. R. No. 1394) granting a pension to Daniel Sheets;

An act (H. R. No. 1395) granting a pension to Esther C. C. Vangilder, widow of Charles F. Vangilder, deceased, late a private in company M, first regiment Vermont heavy artillery volunteers;

An act (H. R. No. 1396) granting a pension to Stephen T. Carrer;

An act (H. R. No. 1397) granting a pension to Prescott Y. Howland;

An act (H. R. No. 1398) granting a pension to Martin Burke;

An act (H. R. No. 1399) granting increased pension to William B. Edwards;

An act (H. R. No. 1400) granting a pension to Jonathan H. Perry;

An act (H. R. No. 1401) granting a pension to John La Marsh;

An act (H. R. No. 1402) granting a pension to Catharine Skinner;

An act (H. R. No. 1403) granting a pension to Helen L. Wolf;

An act (H. R. No. 1404) granting a pension to William Smith;

An act (H. R. No. 1405) granting a pension to Elizabeth Lamar;

An act (H. R. No. 1406) granting a pension to Patrick Collins;

An act (H. R. No. 1407) granting a pension to John Gridley;

An act (H. R. No. 1408) granting a pension to Catharine Gensler;

An act (H. R. No. 1409) granting a pension to Asa F. Holcomb;

An act (H. R. No. 1410) granting back pension to the minor children of Joseph Berry;

An act (H. R. No. 1411) granting a pension to Polly W. Cotton;

An act (H. R. No. 1412) granting a pension to the children of William K. Silrey;

An act (H. R. No. 1413) granting a pension to Jane Rook;

An act (H. R. No. 1414) granting a pension to Sarah K. Johnson;

An act (H. R. No. 1431) granting a pension to Emmeline H. Rudd, widow of the late Commodore Rudd, deceased; and

An act (H. R. No. 1420) directing the Commissioner of Pensions to proceed to hear evidence and determine the right of W. H. Cox, deceased, late a sergeant in company F, second regiment Pennsylvania artillery, to a pension in the same manner as if he was still living, he having died of disease contracted while a prisoner of war at Andersonville, Georgia, and if found to be entitled to a pension, then the same, from time of his discharge till death, to be paid over to his father, Charles D. Cox.

The message further announced that the Senate had passed bills and joint resolutions of the following titles in which the concurrence of the House was requested:

A bill (S. No. 597) granting a pension to Rebecca C. Meeker;

A bill (S. No. 598) for the relief of Mary Scott;

A bill (S. No. 606) granting a pension to Robert Watson;

A bill (S. No. 630) granting increase of pension to Nancy A. Stocks;

A bill (S. No. 633) granting a pension to Nancy Smith;

A bill (S. No. 634) granting a pension to Violet Henry.

A bill (S. No. 637) to authorize the city of Washington to issue bonds for the purpose of paying the floating debt of the city;

A bill (S. No. 565) to authorize the Secretary of State to adjust the claim of Gustavus G. Cushman, for officer rent while commissioner under the reciprocity treaty;

A joint resolution (S. R. No. 173) respecting the provisional governments of Virginia and Texas; and

A joint resolution (S. R. No. 172) to construe an act entitled "An act to authorize the accounting officers of the Treasury to settle the accounts of Andrew S. Core.

It further requested the return of a bill (H. R. No. 783) for the relief of Samuel Pierce, indefinitely postponed by the Senate.

It further announced that the Senate insisted on its amendments to a bill (H. R. No. 1277) to provide for the distribution of the reward offered by the President of the United States for the capture of Jeff. Davis, agreed to the conference asked for, and had appointed Mr. Howe, Mr. Howard, and Mr. Wilson managers of said conference on its part.

It further announced that the Senate insisted on its amendments to a bill (H. R. No. 939) to provide for an American line of emigrant passenger steamships between New York and one or more European ports, agreed to the conference asked for, and had appointed Mr. RAMSEY, Mr. PATTERSON, and Mr. CATTELL as managers of said conference on its part.

SAMUEL PIERCE.

The SPEAKER. If there be no objection, the bill (H. R. No. 783) for the relief of Samuel Pierce will be returned, as requested, to the Senate.

There was no objection, and it was ordered accordingly.

ENROLLED BILL.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (S. No. 543) to provide for a further issue of temporary loan certificates, for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes; when the Speaker signed the same.

BUSINESS UPON THE SPEAKER'S TABLE.

Mr. BANKS. In consideration of the time taken up by the House with the conference report on the Alaska purchase, I move that the time allowed for business upon the Speaker's table be extended for half an hour.

Mr. BUTLER, of Massachusetts. I object.

STATUTE OF LIMITATIONS AS TO CRIMES.

The next business on the Speaker's table was the bill (S. No. 509) in addition to an act passed March 20, 1804, entitled "An act in addition to an act entitled 'An act for the punishment of certain crimes against the United States,'" which was read a first and second time.

The bill provides that no person shall be prosecuted, tried, or punished for the capital offenses set forth in the act to which this act is an addition, unless the indictment for the same is found by a grand jury within five years after such capital offense is committed. Section two provides that this act shall take effect from and after its passage, and its provisions shall be applicable equally to offenses committed within three years before and offenses committed after its passage.

Mr. LAWRENCE, of Ohio. I ask that the bill be put on its passage.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONTRACTORS FOR IRON-CLADS.

The next business upon the Speaker's table was the joint resolution (S. R. No. 100) for the relief of certain contractors for the construction of vessels of war and steam machinery; which was read a first and second time.

Mr. WARD. I move to refer the joint resolution to the Committee of Claims.

The question being put there were—ayes 56, noes 24; no quorum voting.

Mr. PILE. I demand the yeas and nays.

Mr. INGERSOLL. Let the resolution be read.

The joint resolution was accordingly read at length. The preamble recites that Congress, by an act passed on the 2d of March, 1867, provided for the investigation by the Secretary of the Navy of the claims of all the contractors for building vessels of war and steam machinery, and that pursuant to that act the Secretary of the Navy appointed a naval board for the investigation of the claims in question, and that it appears that the provisions of said act have not been fully conformed to in the findings of the board; and Congress having neither the time nor means for the careful legal investigation which the importance of the subject demands, to relieve

it from the further consideration of the subject, and as a final settlement of the claims of the contractors, the resolution provides the claims for building vessels of war and steam machinery, referred to in the act entitled "An act for the relief of certain contractors," &c., approved March 2, 1867, be referred to the Court of Claims, which is hereby vested with jurisdiction under that act, whose duty it shall be to investigate and determine the claims of the several petitioners upon the principles of that act, and its finding is to have the same force and effect as any other judgment of the Court of Claims, provided that no claim shall be so referred under this act in favor of Secor & Co.; Perrine, Secor & Co.; Harrison Loring; the Atlantic Works, of Boston; Aquilla Adams; M. F. Merritt; Tomlinson, Hartup & Co.; or to Messrs. Poole & Hunt; or any or either of them, upon any vessel upon which an allowance was made by the board organized under the act of March 2, 1867.

At the conclusion of the reading of the joint resolution,

The SPEAKER said: The hour of twelve o'clock m. having arrived, the session of Thursday is closed, pursuant to the order of the House.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committee:

By Mr. BOYER, on behalf of Mr. PRUYN: The petition of Colonel J. G. Chandler and 10 others, officers of the Army, asking for an increase of the pay of the Army.

By Mr. SCHENCK: The petition of Henry Fitzhugh, of Fredericksburg, Virginia, and claim for damage by Union Army to his property incurred during war.

By Mr. VAN AERNAM: A letter of Isaac Carpenter, a lieutenant in the war of 1812, asking increase of pension, and indorsement of Governor Fenton, of New York, on the same, inviting attention to the case.

By Mr. WOODWARD: The petition of officers and soldiers of the Army, for increased pay.

IN SENATE.

FRIDAY, July 24, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. RAMSEY, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, recommending the removal of the Indians located on the Smith river farm, in California, to the Round Valley reservation in that State; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of the Interior, communicating papers relating to the rights of freedmen under the third article of the treaty with the Choctaw and Chickasaw nations of Indians, concluded April 28, 1866; which was referred to the Committee on Indian Affairs, and ordered to be printed.

PETITION.

Mr. McDONALD presented papers relative to the claim of Captain Samuel Houston, for compensation for a steamboat sunk and destroyed during the rebellion; which were referred to the Committee on Claims.

PAPERS WITHDRAWN.

Mr. ANTHONY. I ask the adoption of the following order:

Ordered, That Wilson D. Burlingame have leave to withdraw his petition and papers from the files of the Senate.

The PRESIDENT *pro tempore* Has there been an adverse report?

Mr. ANTHONY. There has been an adverse report; but it is not proposed to refer the

claim to the committee again, but the claimant wishes to withdraw his papers for the purpose of presenting them to the Department or the Court of Claims.

The order was adopted.

REPORT OF A COMMITTEE.

Mr. FRELINGHUYSEN, from the Committee on Claims, to whom was referred the petition of Joel Hyatt, submitted an adverse report; which was ordered to be printed.

BILLS INTRODUCED.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 645) for the relief of Henry B. Ste. Marie; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. McDONALD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 174) for the relief of Samuel Houston; which was read twice by its title, and referred to the Committee on Claims.

AGRICULTURAL COLLEGE SCRIP.

Mr. RAMSEY. I move that the Senate take up House bill No. 23. It is a short bill of only five lines, and it will take but a moment to dispose of it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 23) to protect the rights of actual settlers on the public lands of the United States. It provides that in no case shall more than three sections of public lands of the United States be entered in any one township by means of scrip issued to any State under the act approved July 2, 1862, for the establishment of an agricultural college therein.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

OFFICERS OF PROVISIONAL GOVERNMENTS.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 173) respecting the provisional governments of Virginia and Texas; which was read twice by its title.

Mr. WILSON. If there be no objection, I should like to put the resolution on its passage. It is right, and it ought to be acted upon.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It provides that persons now holding civil offices in the provisional governments of Virginia and Texas who cannot take and subscribe the oath prescribed by the act to prescribe an oath of office, and for other purposes, approved July 2, 1862, shall be removed therefrom, and it shall be the duty of the district commander to fill the vacancies so created by the appointment of persons who can take the oath.

Mr. WILSON. I do not think anybody ought to oppose that resolution. That is the Constitution now.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PORTS OF ENTRY.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the bill (H. R. No. 1444) changing the ports of entry from Plymouth to Edenton, in North Carolina, and Port Royal to Beaufort, in South Carolina, have directed me to report it back without amendment and recommend its passage, and I ask the unanimous consent of the Senate to pass it now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that the port of entry in the Albemarle collection district be removed from Plymouth to Edenton, North Carolina, and also that Beaufort, in South Carolina, be created a port of entry in lieu of Port Royal, which is abolished as a port of entry.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RETURN OF A BILL.

On motion by Mr. WILSON, it was *Ordered*, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. No. 783) for the relief of Samuel Pierce.

GUSTAVUS G. CUSHMAN.

Mr. CHANDLER. I ask the Senate to give me about ten or twelve minutes to pass three or four bills from the Committee on Commerce. I move to take up Senate bill No. 565.

Mr. WILLIAMS. I hope the Senator will allow me to make a report. I want to pass a little bill that I wish to report.

Mr. CHANDLER. Let me take up my bill first. Give me ten minutes, and I shall be out of your way.

Mr. WILLIAMS. When the ten minutes expire everybody will be here, and I cannot obtain the floor.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 565) to authorize the Secretary of State to adjust the claim of Gustavus G. Cushman for office rent while commissioner under the reciprocity treaty. It authorizes the Secretary of State to reopen and adjust the accounts of Gustavus G. Cushman, late commissioner of fisheries under the late reciprocity treaty with Great Britain, so far as relates to a claim for office rent, upon the same basis as allowed to all his successors in office.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

SPECIFICATIONS OF PATENTS.

Mr. ANTHONY. The Committee on Printing, to whom was referred the joint resolution (H. R. No. 345) relative to printing specifications of patents, have had it under consideration, and directed me to report it back without amendment, and I ask to have it put upon its passage. It is merely to save money to the Treasury. There will be no objection to it.

Mr. MORGAN. Will it lead to any debate?

Mr. ANTHONY. No, sir.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs that no bills be paid by the Treasury for printing specifications of patents above the contract price, except that seventy cents may be added to each thousand words for the additional cost of composition occasioned by change made in the printing by order of the Commissioner of Patents.

Mr. SHERMAN. I have heard a great deal said about that subject.

Mr. ANTHONY. I will explain it in one minute. The Committee on Printing of the House had referred to them the subject of printing the specifications of patents. They have reported that a much larger sum has been paid than the contract price, owing to some alterations in the printing. This resolution is to prohibit the payment of anything more than the contract price, except a sum which the Committee on Printing estimate to be the fair value of the additional cost imposed by the Commissioner of Patents, which is much less than that which he has been paying. The resolution is entirely negative in its character, or intended to be.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CARRIAGE OF PASSENGERS IN VESSELS.

Mr. CHANDLER. I now move to take up Senate joint resolution No. 162.

The motion was agreed to; and the joint resolution (S. R. No. 162) to regulate the carriage of passengers in steamships and other vessels, was read the second time and considered as in Committee of the Whole. It provides that there shall not be carried on any vessel on a voyage a greater number of passengers than in the following proportion: on the second deck, not being an orlop deck, one

passenger for every one hundred and twenty cubic feet of clear space contained therein, and on the main deck and poop deck, one passenger for every one hundred cubic feet of clear space contained therein, the space in each case to be ascertained in the manner provided by law for the measurement of tonnage. If a greater number of "statute adults" than the number allowable by this proportion be carried during a voyage, or be brought within the United States by a voyage, or be taken on board a vessel within the United States for a voyage, the owner, agent, or master is to forfeit fifty dollars for each passenger so carried, brought, or taken on board in excess of the number allowable by the provisions of this section. And if the number of such statute adults in excess is more than twenty-five per cent. of such allowable number, the owner, agent, and master are to be deemed guilty of a misdemeanor, and upon conviction thereof the owner or agent is to be fined not exceeding \$2,000, and imprisoned not exceeding six months, or either, at the discretion of the court, and the master is to be imprisoned not less than six months and not more than one year. The second section provides that no passenger is to be carried on an orlop deck or temporary deck; nor on any deck where the height or distance between decks, or from the deck to the roof or covering of deck houses, measured on the inside, is less than six feet; nor upon any deck not having good and sufficient side lights and ventilation; nor on any sailing vessel except upon the main and poop decks and deck houses, subject to the limitation as to space and height between decks. The Committees on Commerce of the respective Houses are by the third section requested to prepare a bill for the better protection of emigrants on shipboard, and submit it on the opening of the session of Congress in December next.

Mr. MORGAN. I move to amend the resolution in section one, line five, by inserting after the word "deck" the words "or within a compartment on such deck."

The amendment was agreed to.

Mr. CONNESS. This is a pretty important measure. I have never seen it before.

Mr. CHANDLER. It has been on your desk for a considerable length of time.

Mr. CONNESS. I have not seen it, and I do not know what it contains. The people of my State are considerably interested in what it contemplates.

Mr. MORGAN. I hope the Senator will give way until we can act upon the amendments.

Mr. CONNESS. No; I cannot give way to a measure of this sort or permit it to pass until I know what it is.

Mr. MORGAN. Will the Senator give way for an explanation?

Mr. CONNESS. Yes, sir.

Mr. MORGAN. The House of Representatives passed the large bill which I hold in my hand, on this subject, containing a great many provisions, and establishing a bureau. It was referred to the Committee on Commerce, and the Committee on Commerce referred it to me. I have had it examined very thoroughly, not only by persons interested in the importing of immigrants, but by all classes and every interest; and after a great deal of consideration the committee made a report in writing which has been upon the desks of Senators for some time.

Mr. CONNESS. I see the resolution was only reported July 16.

Mr. MORGAN. The committee accompanied their report with this joint resolution, which contains but a small part of the original House bill. It is simply to give immigrants more space and air. That is about all there is in it. By the third section of the joint resolution the Committees on Commerce of the respective Houses are requested to prepare a bill for the better protection of immigrants on shipboard, and to submit it on the opening of Congress in December next. This is a very important question, a very delicate question, to establish the exact medium between the immi-

grant and the ship-owner. This joint resolution is all that I thought we could get through at the present session. As I said before, it will make it a little more comfortable to the immigrant. I think it very important that it should pass. I have several amendments to offer to it.

Mr. CONNESS. The object undoubtedly is a worthy one, and one upon which I should like to see careful legislation; but it is too important a subject to legislate suddenly upon. The honorable Senator says that an elaborate bill came from the House. I think it came here a long time since. This resolution was only reported to the Senate on the 16th of July, eight days since. I did not know, for my part, of its being reported. I do not know how this meets the case, nor where it touches. The ships carrying passengers to California frequently take a very large number of passengers; but these ships are so constructed that they take them with great comfort and convenience; and I do not know but that this measure may break up that passenger business. I do not know to what extent it will affect it.

Mr. CHANDLER. Will you give way to enable me to take up and pass a couple of other bills?

Mr. CONNESS. Certainly.

Mr. CHANDLER. I will ask that this resolution lie over informally while I have a couple of other bills passed.

Mr. MORGAN. I hope not. There is no bill more important than this. I feel it my duty, in justice to the immigrants, considering the number of deaths that have taken place, not to be interrupted by the Senator from California on this measure. This resolution ought to pass; at any rate it will not be put aside with my consent. It has been examined by the Committee on Commerce, and if the Senator from California has not seen it he ought to be willing to admit that somebody else has some knowledge of these matters as well as himself. I am not willing to have this resolution put aside.

Mr. CONNESS. This is extraordinary language that the Senator from New York uses. His threatening that this resolution shall not be put aside by the Senator from California is rather queer language. I suppose the Senator will concede my right to inquire into the terms of a measure which he proposes. I suppose that inquiry will hardly be construed by others as an interruption. If it is, it must be taken as an interruption.

Now, Mr. President, I do not know how much the honorable Senator is interested in the object for which this resolution is introduced. I am very deeply interested. I do not know to what extent this resolution meets the difficulties of the case.

The honorable Senator says that I need not suppose that no other person is competent or able or disposed to understand this question but myself. I have said that is a queer answer to what I had said. I had said I did not understand it. I did not protest that I did, but that I did not. The Senator from Michigan asked that it be laid over for a few minutes that the other bills that the committee have in charge might be passed. The Senator from New York is not willing that those few minutes shall be given to consider this measure. Well, sir, then we must discuss it, that is all. I suppose the Senator cannot prohibit that. I did not attribute anything but the highest motives and highest degree of ability to the Senator; but I do not know what could authorize him to discuss this question as he has done.

Mr. CHANDLER. It is all right; let it pass.

Mr. CONNESS. I very much prefer that it should lie over until the other bills are acted upon. I may at that time be willing that it should go through; but I am disposed to understand it if I can. I should like to have the aid of the honorable Senator to enable me to understand it.

Mr. CHANDLER. Without displacing this matter, I will move that we take up House bill No. 633, while the Senator is examining this resolution.

Mr. MORGAN. I have been waited upon by a great many persons for the purpose of having this measure passed. I made a report upon it, and I now send the report to the Chair, and ask that it be read.

Mr. CONNESS. I should like to hear it.

Mr. MORGAN. It will contain the information that the Senator from California wants. I have no interest in this resolution beyond having a proper measure for the protection of immigrants and to do justice to the owners of ships.

Mr. DOOLITTLE. I desire simply to say that the honorable Senator from California, as soon as he hears that report, will be willing to allow this resolution to pass.

Mr. CONNESS. All I asked for was information. I am very glad to have the report presented.

The PRESIDENT *pro tempore*. The report will be read.

The Chief Clerk read the following report, submitted by Mr. MORGAN from the Committee on Commerce on the 16th instant:

The following papers have been referred to the Committee on Commerce:

1. Resolutions adopted by a meeting of citizens of Cincinnati, in relation to treatment of emigrant passengers in sailing vessels of the Hamburg line.

2. Senate bill No. 247.

3. H. R. bill No. 995.

4. H. R. bill No. 1100.

5. H. R. bill No. 1100, amended.

6. H. R. bill No. 1372.

The number of bills of this nature submitted at the present session, and the variety of their provisions, indicate how general is the interest in the subject, and that our previous legislation thereon is fundamentally defective.

The proper care of the emigrant while on shipboard has engaged more or less attention from Congress and the public for fifty years past, but an examination of our passenger laws will show them generally to be in the nature of expedients, and partial in their provisions, rather than well-digested and comprehensive enactments.

Inquiry will show that emigration to the United States has been of so rapid, and often of so irregular a growth, as to keep in advance of adequate facilities. Hence, while too many of the evils complained of are abuses resulting from indifference or inhumanity, there have been certain others quite unavoidable in their nature. A close scrutiny has become necessary, and it is time that the whole subject was considered with a view to early and suitable action.

For existing evils two cases, two classes of remedies will be found requisite: legislation and a well directed public sentiment. And in legislating, two incidental objects ought steadily to be kept in view: first, that of favoring the industrious, intelligent, and moral over the opposite classes of emigrants, so far as it is the law's province to discriminate; and, second, such statutory recognition as shall, while making all needful provision for the passenger's comfort, tend to foster rather than to embarrass American shipping interests.

It is to the principal question appears to have been complicated by an assumed antagonism between the emigrant and the ship-owner; but wherefore, it would be quite difficult to say; for, in the nature of things, there is one of reciprocal advantages, essentially the same as that between carrier and patron on the great steamship lines. Laws thus originating in error must inevitably tend to drive out wholesome competition in the carrying trade, and thereby deprive commerce of a most efficient corrective of abuses.

The portions of Europe whence comes the larger share of emigration are over-peopled, and labor there is ill-compensated. Of this excess the provident and enterprising portions would naturally be first to seek this country. Shall they be encouraged, or shall we by ill-founded laws draw hitherward the thrifless instead? Staunch and well-appointed vessels will secure the former, while shipping scarcely better in accommodations than floating prisons would assure a large proportion of the latter. Honorable American ship-owners, having every inducement to encourage the incoming of the better classes, will, doubtless, compete with foreign ship merchants for the passenger trade, unless restrained by laws that bear with special severity upon American vessels. Healthy rivalry would soon afford ample facilities, and thus by offering the passenger a choice of vessels place the question of comfort largely in his own hands.

A simple code of regulations, recognizing the rights of adult and infant alike, and especially designed for protecting the female, should be placed in every passenger vessel. Penalties should be proportioned to offenses, and remedies should, so far as practicable, be in the nature of private suits, enforceable by the party wronged. Justice may thus be made prompt, certain, and inexpensive. The intervention of Government bureaus, or other cumbersome and dilatory agencies, should be avoided. To insure speedy adjustment of well-founded claims, the propriety of requiring a moderate guarantee fund from ship-owners, to be lodged in suitable hands, attachable by order of court, the amount to be graduated according to the vessels' capacity, might be considered. Local boards, composed of citizens of standing, familiar with the laws and zealous to protect the emigrant, like the commissioners of emigration in New

York, already exist by virtue of State authority at the principal ports, and would be found ready to second any enlightened plan of Congress.

A brief reference to facts will show how rapid has been the growth of emigration. President Monroe, referring in his annual message of 1823 to the increase of population in the United States, says: "What is more extraordinary, it is almost altogether native, for immigration from other countries has been inconsiderable."

The arrivals from 1819 to 1829 averaged but 12,000 annually; for the next ten years the annual average was 53,800; for the succeeding decade it was 143,000 per year; and for the five years next following, that is from 1850 to 1855, it was 333,000 annually. Official statistics for subsequent years are not at hand.

Emigration, as now known, is of comparatively recent origin. True, mankind have roamed a good deal in every age, and history, sacred and profane, is crowded with records of migrations of nomadic tribes, the inroads of adventurous men, and the forcible colonization of particular regions. After the discovery of America, emigration assumed a peaceful and somewhat systematic character, though the earlier colonies in the New World were often established by fortune-hunters whose objects were not to found permanent settlements. America, however, became, and still continues to be the principal field of emigration, and we shall derive little aid from foreign precedents in framing passenger laws. The protection of the passenger in his person and morals, recognition of the ship-owner's rights, the security to the public health, and the non-deportation hitherto of foreign criminals are the essential points to be observed. Our countrymen cordially welcome the intelligent farmer, laborer, and skilled mechanic of Europe. Our public works, the situation of the national domain, the underpeopled Territories, and the demands of our rising manufactures will, for some time to come, encourage accessions to the industrial classes here. And the spirit of the period paves the way for the incoming of a larger proportion of men in early prime of life than hitherto. The dogma, long tenaciously adhered to in Europe, that "once a citizen always a citizen," is yielding to the broader American doctrine of the inherent right to change home and allegiance.

Full one third of emigration to the United States comes from Germany. That country is just now engaged in preparing a passenger bill. From Ireland, Scotland, Wales, and England, come three fifths of all who reach our shores, and it is believed that Great Britain would be disposed to consider the question of assimilating passenger laws. France would also, it is thought, unite in an examination of the subject with a view to the prevention of future abuses to emigrants on shipboard; and to international regulation, enforced by laws of the respective countries, must we look for a full solution of present difficulties, for they would reach the greater evils than these. Acts of Congress, it must be borne in mind, have but limited application beyond American vessels. Hence excessive penalties and other injudicious provisions not only fail of their object, but paralyze American enterprise.

The spirit of the Federal and State constitutions toward the foreign-born citizen is most liberal; hence we have no occasion to oppress the ship merchant, or to wrong any interest for the sake of assuring him of the friendly disposition of our people.

The season is already so far advanced that legislation could not be availed of to any great extent this year. A brief enactment or joint resolution defining the amount of space to which each passenger is entitled, and fixing a penalty for the use of orlop decks for passengers, might, however, be passed. The committees of the two Houses should, at the same time, be authorized to prepare a bill, after correspondence with the three foreign Governments named above, and consultation with those persons who have enjoyed opportunities, official and other, for observation, for submission at the meeting of Congress in December. The importance of the subject and the variety of provisions necessary to be embraced, coupled with the unsatisfactory nature of previous legislation, would appear to render this course necessary. It is proper to add that no expense would be thereby involved.

Mature deliberation is essential in another respect. It is desirable to have as little machinery as possible. Congress does not want to raise up a swarm of port functionaries and informers by the offer of a share of penalties, nor to confer unnecessary powers upon bureau officers, nor yet to refer to heads of Departments at Washington, questions that are susceptible of more speedy and satisfactory adjustment at the respective ports.

The committee submit the accompanying draught of a joint resolution which conforms in terms to the recommendations made above:

Joint resolution to regulate the carriage of passengers in steamships and other vessels.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall not be carried on any vessel on a voyage a greater number of passengers than in the following proportion, to wit: on the second deck, or within a compartment on such deck, not being an orlop deck, one passenger for every one hundred and twenty cubic feet of clear space contained therein, and on the main deck or within a compartment on such deck or spar deck, one passenger for every one hundred cubic feet of clear space contained therein, the space in each case to be ascertained in the manner provided by law for the measurement of tonnage. If a greater number of "statute adults" than the number allowable by the proportion aforesaid be carried during a voyage, or be brought within the United States by a voyage, or be taken on board a vessel within the United States for a voyage, the owner, agent, or master shall forfeit fifty dollars for each passenger so carried, brought or taken on board in

excess of the number allowable by the provisions of this section. And if the number of such statute adults in excess is more than twenty-five per cent. of such allowable number, the owner, agent, and master shall be deemed guilty of a misdemeanor, and upon conviction thereof the owner or agent shall be fined not exceeding \$2,000, and imprisoned not exceeding six months, or either, at the discretion of the court; and the master shall be imprisoned not less than six months, and not more than one year.

Sec. 2. And be it further resolved, That no passenger shall be carried on an orlop deck or temporary deck; nor on any deck where the height or distance between decks, or from the deck to the roof or covering of deck houses, measured on the inside, is less than six feet; nor upon any deck not having good and sufficient ventilation; nor on any sailing vessel except upon the main and poop decks and deck houses, subject to the aforesaid provisions as to space, height between decks, and ventilation; and for every violation of the provisions of this section the owner, agent, or master shall be liable to a penalty of not more than \$2,000, and not less than \$500.

Sec. 3. And be it further resolved, That the Committee on Commerce of the respective Houses be, and they are hereby, requested to prepare a bill for the better protection of emigrants on shipboard, and embracing such other provisions as may to them seem proper, and submit the same on the opening of the session of Congress in December next.

Mr. CONNESS. I should like to inquire now of one of the members of the Committee on Commerce what number of passengers, according to this arrangement, may be carried by a ship of given tonnage? I know that there is a necessity for regulating the passenger traffic, particularly the immigrant traffic; and to regulate that as well as to regulate the other passenger traffic I am always ready, and have been.

Mr. FRELINGHUYSEN. That is already regulated by law, the number of passengers.

Mr. CONNESS. Yes; but this is a new regulation; and I do not understand it as applied to the tonnage of a vessel, say of two or three thousand tons. Can the chairman of the committee answer me, under this division of space that is provided here, how many passengers can be carried in a ship of two thousand tons?

Mr. MORGAN. I stated to the Senate that this does not affect the general law. It only gives so much space to each passenger. The House bill was so large, and contained so many provisions that it was not deemed advisable to attempt to carry out more than the first two sections. They were drawn at the Treasury Department, and submitted to the ship-owners of New York and the commissioners of immigration in New York, and the commissioners of immigration in Baltimore, and to various other parties, and these two sections as they stand were the result of their examination. They all deem it important that those two sections should be passed at this time.

Mr. CONNESS. Then I will ask the Senator, if he will answer it, whether he has any objection to confining the application of the resolution to the carrying of immigrants across the Atlantic ocean?

Mr. MORGAN. That is the main thing the resolution is to provide for.

Mr. CONNESS. Will the Senator accept an amendment giving it that application?

Mr. MORGAN. If there is any reason why any part of the country should be excepted from its operation, and that can be shown, I shall not object to it. I do not know any reason for making any exception myself; but if there are any good reasons for doing so of course I have no objection.

Mr. CONNESS. I am not prepared now to give the reasons, because the Senator will see that neither he nor I understand, according to this arrangement, how many passengers a ship of a given size is allowed to carry. My desire to protect the immigrants is as strong as the Senator's can possibly be. But as to our passenger ships going from New York to California, the Senator understands that there is at the present time a great competition in the carriage, and that they are doing very well in this regard. I do not know to what extent, or whether this resolution would interfere with them at all. The Senator is not able to answer my inquiry as to the number of passengers this arrangement would give to a ship of a given tonnage. If it has been ascertained that this

is a necessary regulation for emigrant ships, and the committee will agree to confine it to emigrant ships, of course I can have no objection, and I am glad that the committee has undertaken to regulate that business, because I think it one of the most inhuman traffics as now carried on known to the world. I would thank the committee for their efforts in that behalf; but I do not understand the degree to which this measure may interfere with the passenger traffic where emigrants are not carried. I desired that information at which the Senator got angry.

Mr. MORGAN. I should be very glad to go on and make some amendments to this resolution, and when we have it perfected the Senator from California can understand better what it is.

Mr. CONNESS. I will give way until the Senator gets through with his amendments.

Mr. MORGAN. In section one, line eight, after the words "main deck," I move to insert "or within a compartment on said deck;" and in the same line to strike out the word "poop" and insert the word "spar;" so that it will read:

And on the main deck or within a compartment on said deck and spar deck one passenger for every one hundred cubic feet of clear space contained therein.

The amendment was agreed to.

Mr. MORGAN. The next amendment is in section two, line seven, to strike out the words "side lights and."

The amendment was agreed to.

Mr. MORGAN. The next amendment is in section two, line nine, to strike out the word "limitation" and insert "provision."

The amendment was agreed to.

Mr. MORGAN. In the same line, after the word "space," I move to strike out the word "and."

The amendment was agreed to.

Mr. MORGAN. I move to add to the end of that section the following:

And for ventilation; and for every violation of the provisions of this act the owner, agent, or master shall be liable to a penalty of not more than \$2,000 and not less than \$500.

The amendment was agreed to.

Mr. MORGAN. The next amendment is in section three, line four, after the word "ship-board," to insert:

And embracing such other provisions as may to them seem proper.

That is in relation to the report of the committee at the next session.

The amendment was agreed to.

Mr. MORGAN. In section two, lines seven and eight, I move to strike out the words "main and poop decks and," and to insert "one deck situated immediately below the upper or main deck and in;" so that the clause will read:

Nor upon any deck not having good and sufficient ventilation; nor on any sailing vessel except upon one deck situated immediately below the upper or main deck and in deck houses subject to the aforesaid provision, &c.

The amendment was agreed to.

Mr. CONNESS. I offer the following, to come in as a proviso at the end of the second section:

Provided, That the provisions of this resolution shall only apply to ships engaged in carrying emigrants from ports in the United States and Europe.

Mr. MORGAN. I shall not object to the amendment that is proposed by the Senator from California. There has been such a general demand from all sections of the country, as has been shown by the report and by the various bills that have been introduced, and the numerous petitions presented from Cincinnati and Cleveland, for the passage of these two sections, and I regard them as so important, that if the Senator wishes to make an exception in relation to passengers to California I shall not object. It is very important that the joint resolution should pass.

Mr. CONNESS. I wish to say one word in explanation. We have for the first time in a long period an active competition between two

lines in carrying passengers to California. It is regarded by our whole people as a fortuitous circumstance. It is giving us that increase of population which we so much require. There is already a labor exchange established at San Francisco to provide for the employment of immigrants, and it is carried on very vigorously. I do not know to what extent this joint resolution might interfere with that traffic. It is now going on in the most acceptable manner. Nobody objects to it. The whole community in California hail it as something not to be disturbed, but to be encouraged; and as the joint resolution, to which I have no objection, proposes to protect immigrants crossing the Atlantic, I hope this amendment will be adopted, which will leave us as we are, at least until the committee shall have time to examine the subject next December.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

Subsequently,

Mr. CONNESS said: I should like to modify the amendment that I offered to Senate joint resolution No. 162, to regulate the carriage of passengers in steamships and other vessels, which passed a few minutes since, so that it may be engrossed. It will take but a moment. I move to reconsider the vote on the passage of the joint resolution for the purpose of modifying the amendment that was adopted on my motion.

Mr. MORGAN. I should prefer to have the Senator from California state what his amendment is. Perhaps the Senate will not object to it.

Mr. CONNESS. I submitted it to the Senator, and understood he approved it.

Mr. MORGAN. State it to the Senate, and it may be adopted by unanimous consent.

Mr. CONNESS. I desire to substitute in lieu of the provision that I offered the following:

Provided, That the provisions of this resolution shall not apply to ships engaged in carrying passengers from the port of New York to California.

I do not wish the regulations applied to emigrant ships to be applied to these vessels, because they are differently constructed; and the amendment heretofore adopted does not secure that end.

The PRESIDENT *pro tempore*. If there be no objection the amendment now proposed by the Senator from California will be substituted for the amendment heretofore adopted.

Mr. MORGAN. If the Senator from California desires the amendment in that form I shall not object to it.

The PRESIDENT *pro tempore*. There being no objection, it will be substituted for the other amendment.

SURVEYS OF RIVERS AND HARBORS.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of House joint resolution No. 823.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 823) in relation to surveys and examinations of rivers and harbors. It directs the Secretary of War to cause to be prepared and submitted to Congress in connection with the reports of examinations and surveys of rivers and harbors hereafter made by order of Congress, full statements of all existing facts tending to show to what extent the general commerce of the country will be promoted by the several works of improvements contemplated by such examinations and surveys, to the end that public moneys shall not be applied excepting where such improvements shall tend to subserve the general commercial and navigation interests of the United States.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SALE OF SHIPS TO FRIENDLY BELLIGERENTS.

Mr. CHANDLER. I now move to proceed to the consideration of Senate bill No. 94.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 94) declaratory of the law in regard to the sale of ships to friendly belligerents.

Mr. CHANDLER. That bill was once passed and then reconsidered on the motion of the Senator from New Hampshire, [Mr. PATTERSON,] who has withdrawn his opposition to it.

Mr. PATTERSON, of New Hampshire. Not exactly that.

Mr. CHANDLER. I so understood.

Mr. PATTERSON, of New Hampshire. I will say a word in relation to this bill. This bill passed the Senate the other day and I moved a reconsideration, and I wish to give my reasons for having done so.

It is known that the Committee on Retrenchment have had under consideration for a long time the matter of the sale of one of our ironclads to the Peruvian Government. It was thought by some members of the committee that this bill trenching upon the course of the Government on that subject. I will read the section of the neutrality laws which members of the committee thought this bill interfered with:

"If any person shall, within the limits of the United States, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out, or arming of any ship or vessel, with intent that such ship or vessel shall be employed in the service of any foreign prince or State, or of any colony, district, or people, to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or State, or of any colony, district, or people with whom the United States are at peace; or shall issue or deliver a commission, within the territory or jurisdiction of the United States, for any ship or vessel, to the intent that she may be employed as aforesaid, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than \$10,000, and imprisoned not more than two years. And every such ship or vessel, with her tackle, apparel, and furniture, together with all materials, arms, ammunition, and stores which may have been procured for the building and equipment thereof, shall be forfeited: one half to the use of the informer, and the other half to the use of the United States."

Now, this bill provides:

That, in order to remove all doubt with regard to the existing law, it is hereby declared that nothing contained therein shall be construed to render it illegal to sell or charter a vessel or steamer built within the United States, or purchased from the United States, to any foreign Government at peace with the United States, or to any subject of such Government, although the vessel or steamer be wholly or in part prepared for war: *Provided*, That the transaction is simply commercial, with no intent on the part of the seller or charterer to participate in any belligerent act, and that the vessel or steamer, while *in transitu*, is in no respect exempted from the law of contraband.

In the case of the Meteor, Judge Nelson decided that it was lawful to sell a vessel of war to a foreign Power as a mere commercial transaction, provided there was no evidence of an intent on the part of the person making the sale to engage in war with a Power with which we were at peace; but it seemed to the committee that this bill covered a little larger ground than that; that it came in conflict with the law. However, I do not wish personally to take the responsibility of preventing the passage of this bill. I do not withdraw my objection to it; but I wish to throw upon the Senate the responsibility of passing the bill or refusing to pass it; because Mr. Forbes, who owned the Meteor, has written me in relation to it, and says that he was put to an expense of over \$200,000 in the case of the Meteor, and it was decided by Judge Nelson that his case was a good one; that there was no reason for arresting his vessel.

Mr. MORRILL, of Maine. Will the Senator yield to me for a moment?

Mr. PATTERSON, of New Hampshire. Certainly.

Mr. MORRILL, of Maine. I submit to the honorable Senator, the chairman of the Committee on Commerce, whether he had not better allow this bill to go over in order that we may proceed with some others?

Mr. PATTERSON, of New Hampshire. I have nothing more to say further than that I wish the responsibility of this matter to be thrown upon the Senate and not to take it myself. I call the attention of the lawyers of the Senate, who have considered this matter, of course, more fully than I have, and are better capable of judging of the import and force of the bill, to consider it.

Mr. MORRILL, of Maine. Let it go over. Mr. CHANDLER. If there is nothing more to be said, I ask that it be put on its passage. It has been drawn by the Committee on Commerce, and has been carefully prepared.

The PRESIDENT *pro tempore*. The question is on the passage of the bill.

Mr. HENDERSON. Mr. President—
Mr. MORRILL, of Maine. I hope it will be allowed to go over.

Mr. CHANDLER. If it leads to any discussion I am willing that it shall be laid aside.

Mr. HENDERSON. There is an expression in this bill which I am satisfied may get the United States into difficulty, and with a slight amendment I do not know that I should press any objection to it. I knew nothing of it until it was called up on this occasion; but I cannot sit still without entering my protest against its passage. I would rather it should go over. I should like to look into it.

Mr. CHANDLER. Very well.
The PRESIDENT *pro tempore*. The bill will lie over.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed without amendment the following bills and joint resolutions of the Senate:

A bill (S. No. 433) authorizing the trustees of Union Chapel of the Methodist-Episcopal church in the city of Washington to mortgage their church property for church purposes;

A bill (S. No. 543) to provide for a further issue of temporary loan certificates for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes;

A bill (S. No. 509) in addition to an act passed March 26, 1864, entitled "An act in addition to an act entitled 'An act for the punishment of certain crimes against the United States';"

A joint resolution (S. R. No. 93) granting permission to officers and soldiers to wear the badge of the corps in which they served during the rebellion; and

A joint resolution (S. R. No. 121) to carry into effect the resolution approved March 2, 1867, providing for the exchange of certain public documents.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1447) granting the right of way to certain railway companies over the military reservation at Fort Leavenworth; and

A bill (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1277) to provide for the distribution of the reward offered by the President of the United States for the capture of Jefferson Davis, asked a conference on the disagreeing votes of the two Houses on the said bill, and had appointed Mr. W. B. WASHBURN of Massachusetts, Mr. A. BLAIR of Michigan, and Mr. L. W. ROSS of Illinois, managers at the same on its part.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two

Houses on the bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867.

REWARD FOR JEFFERSON DAVIS'S CAPTURE.

On motion by Mr. HOWE, the Senate proceeded to consider its amendments to the bill (H. R. No. 1277) to provide for the distribution of the reward offered by the President of the United States for the capture of Jefferson Davis, disagreed to by the House; and
On motion by Mr. HOWE, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. HOWE, Mr. HOWARD, and Mr. WILSON.

AMERICAN STEAM LINE TO EUROPE.

On motion by Mr. POMEROY, the Senate proceeded to consider its amendments to the bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports, disagreed to by the House of Representatives; and

On motion by Mr. POMEROY, it was
Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. RAMSEY, Mr. PATTERSON of New Hampshire, and Mr. CATTELL.

ALEXANDRIA CANAL.

Mr. CHANDLER. I move that the Senate proceed to the consideration of House bill No. 1275.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1275) relating to the Alexandria canal.

The Committee on Commerce reported the bill with amendments. The first amendment was in section one, line three, after the word "that," to strike out the following words:

The said grant, lease, and conveyance be, and the same is hereby, sanctioned, ratified, and confirmed; and the said president and directors of the said canal company are hereby authorized and empowered to execute any and all other leases, agreements, and conveyances that may be necessary to render the said lease valid and effectual.

The amendment was agreed to.

Mr. WILLEY. I desire to ask the chairman of the committee whether the right of the lessees to that canal is not now a matter of litigation before the courts?

Mr. MORRILL, of Maine. If the Senator will allow the amendments of the committee to be made, I will then explain the precise nature of the bill.

Mr. CORBETT. I ask that the bill be read as amended. That will show how it stands.

Mr. MORRILL, of Maine. We have not got it amended yet.

The CHIEF CLERK. The first section, as amended, reads as follows:

That the said aqueduct across the Potomac river from Georgetown to the Virginia shore, and so connecting the said canals, is hereby declared to be a lawful structure in its present position and elevation, anything in any law or laws of the United States, or of any State to the contrary notwithstanding.

The next amendment was in section three, line four, after the words "to the," to strike out the following words:

City of Alexandria, in the State of Virginia, and to connect with the Orange and Alexandria railroad, and Alexandria, Loudoun, and Hampshire railroad, at Alexandria; and it shall be lawful for the said lessees, their associates, their successors, to lay out, build, operate, and maintain the said railroad upon the berme bank of said canal, in whole or in part, with power and authority to diverge therefrom when and as often as may be necessary, in order to obtain the best and most direct route between said aqueduct and the city of Alexandria: *Provided, however*, That said railroad shall not be laid out, constructed, or operated, as to impede or interfere with the convenient and legitimate use of the said canal or aqueduct as a canal, and for the transportation of persons and property by water.

And to insert the words "Virginia shore and there to connect with said railroad;" so that the section will read:

That it shall be lawful for the said lessees, their associates and successors, to lay out, construct, maintain, and operate a railroad across said bridge from Georgetown, in the District of Columbia, to the Virginia shore, and there to connect with said railroad.

The amendment was agreed to.

The next amendment was to strike out the fourth section, as follows:

SEC. 4. *And be it further enacted*, That it shall be lawful for the said lessees, their associates and successors, to transport passengers, freight, and baggage over said railroad, and to collect fare or tolls for the same: *And it is further provided*, That in case the Alexandria Canal Company shall elect, as by the terms of said lease they have the right to, to reënter and repossess the said canal, said company shall also have the right at the same time to take possession of the said railroad and bridge, by first paying the lessees and their successors the actual value of the superadded and superimposed works, to be ascertained by referees to be equally chosen by the president and directors of the Alexandria Canal Company and the lessees and their successors; said referees to choose an umpire, if one should become necessary, in order to agree upon such value; but if the said canal company shall not so elect to reënter and possess said canal and acquire said railroad and bridge, then said bridge and railroad, with all its property, rights, and effects shall be and remain the property of the lessees and their associates, with full power to maintain and use the same, but they shall repair and be liable for all damages which may at any time be done to the said canal by said railroad, or which may be caused by the use of any of the canal property for the purposes of the railroad. Said railroad to be kept on the same footing as postal roads are required to be kept.

The amendment was agreed to.

Mr. MORRILL, of Maine. I desire to state in a word what this bill is. As it came to the Senate, it provided for the construction of a railroad from Georgetown across the river, and thence by the line of the canal to Alexandria. As it now stands, it authorizes simply the construction of a railroad across the aqueduct bridge, which is declared by this bill to be a legal structure.

In regard to that part of the bill to which the Senator from West Virginia refers, which was to make valid a certain lease heretofore existing between the canal company and the railroad company chartered by Virginia, that has all been stricken out. The committee of the Senate did not think it worth while for the Congress of the United States to say anything at all about contracts or leases or anything else between other parties; but preferred to leave it to law.

The next provision in the bill is that these parties shall be authorized to make a toll-bridge. First, we authorize them to extend a railroad across that bridge, and connect with a railroad which they say they have a right to build under the laws of Virginia from Georgetown to Alexandria. That is the extent of that. The next proposition is that they are authorized to make a toll-bridge in connection with this, under such restrictions as the engineer department may determine, in other words, to the acceptance of the engineer department in the way of security and safety to travel, and authorized to take toll upon it. That is the entire bill as it comes from the committee on the part of the Senate. We did not think it worth while to authorize them to build a bridge from the opposite side of the river to Alexandria. They say they have got that power from the State of Virginia. Whether they have or not, it is not perhaps the duty of Congress or the interest of Congress to inquire; but we give them substantially what they want: first, to extend the railroad across the bridge, and second, to build a toll-bridge. That is the whole of it.

Mr. CAMERON. There is a great deal more in this bill than the Senator from Maine seems to understand. I am a little surprised that he does not see it, because I tried to explain it to him the other day.

The city of Washington, different from all other towns in the United States and in the world, is isolated from a general railroad connection by a particular connection which it now has. There is but one railroad coming now into this city. With that you can have no connection at all if you go in any direction but

one from Washington. Men going north, men going up to where the Senator from Michigan lives, taking the direct route, are compelled to stay three hours in Baltimore every time they pass through, and pay toll to that city besides the detention. This scheme is, I fear, a trick to control the southern side of the District of Columbia as the northern side is now controlled. A few gentlemen have got up this measure who do not intend, as I am told, to use it at all; but they got it up on a speculation, expecting to sell it to a corporation who have bound you here and put a gate on the northern side of the city, so as to enable them to put a gate on the other side of this city.

Within a year there will be another railroad coming into this city; and I desire that that railroad and every other railroad that may be built towards this city, either north or south, shall have a right to connect with all other railroads throughout the United States as every other railroad in the United States has. This bill, after we shall have passed it, will be in a condition to be sold at a handsome premium to this Baltimore corporation on the northern side of us, and then they will make such terms as they please unless such an amendment as I shall offer should be adopted.

Why, sir, two years ago a bill passed Congress legalizing the coming into the District of Columbia of a railroad which had been authorized by the State of Maryland twenty years before. A few persons about the Senate got control of that charter, without intending to put a dollar in it, and the men who are now making that road had to pay them, as I am informed, for the legislation that they got here to enable them to get a charter. I have no evidence of it, but I fear and believe that this will be another such trick as that, and therefore I shall offer an amendment which I have in my hand. If that should be adopted I shall have no objection to the bill, because it authorizes every road to connect with this one, and prevents it from selling out to any corporation which will not check baggage and commute fares with all other railroads coming in and going out of the city.

The *PRESIDENT pro tempore*. The amendment of the Senator from Pennsylvania will be read.

The Chief Clerk read the amendment, which was to insert as an additional section the following:

And be it further enacted, That any railroad company which shall at any time hereafter construct a railway to the District of Columbia, or any part thereof, or desire to do so, shall be at liberty to connect the same with, and use and pass over with its engines and cars, the railroad and bridge hereby authorized; and that it shall be the duty of said lessees and assigns, and of the said canal company and its assigns, and every other party then operating the road and using the bridge hereby authorized, to commute fares and check baggage over any railroad which may hereafter be constructed as aforesaid and all connections thereof, and at all points to which such commutation and checking shall be desired by the said railroad company so constructing a railroad as aforesaid: *Provided*, That the price to be charged for such use of said railroad and bridge, and the terms and regulations for said commutation of fares and checking of baggage shall be fixed and determined by referees to be equally chosen by the party then operating said railroad and using said bridge, and the party desiring the use of the same, and the commutation and checking aforesaid; said referees to choose an umpire, if one should become necessary in order to agree upon such price, terms, and regulations: *Provided further, however*, That no railroad company whatever shall be permitted to use the railroad or bridge hereby authorized, or in any manner connect therewith, or be entitled to any of the provisions of this section, which refuses to commute fares or check baggage over its own line of railroad and any other line of railroad which enters the States of Maryland or Virginia, whose company requests such commutation of fares and checking of baggage, and is willing that the terms and regulations therefor shall be fixed and determined by referees in the manner hereinbefore fully detailed.

Mr. SHERMAN. Ordinarily I would favor the passage of this bill as reported from the Committee of Commerce, because I am in favor of increasing to the last degree every medium of communication between the States and the people of the States; but my own deliberate judgment is that this bill will be made the medium of the Baltimore and Ohio railroad to perfect and extend their monopoly. That rail-

road is built under the laws of the State of Maryland, and controls the legislation of Maryland; so that it is impossible now to build a railroad from any part of the great West or from the North to the city of Washington without the consent of the Baltimore and Ohio railroad. They not only hold this monopoly, but they refuse to make connections with other railroads connecting at Baltimore. There is not the like of it in the United States of America, and we ought to guard against any extension of this monopoly. The Baltimore and Ohio railroad now depends upon the State of Virginia for legislation to get through Virginia. They avail themselves of the liberal policy of Ohio to make connections in Ohio in every direction, and we favor those connections; but they pursue such a course in regard to railroads in Maryland as substantially to separate the city of Washington from all the United States; and this city cannot now be approached by railroad except with the consent of the Baltimore and Ohio railroad.

I have almost every year called attention to a most remarkable thing in connection with this Baltimore and Ohio railroad. A road has been built from the State of Pennsylvania to Baltimore which the people of the Northwest naturally take. We cannot take the Baltimore and Ohio road and get to our homes. We must go over the Northern Central railroad connecting with the Pennsylvania road; and yet this Baltimore and Ohio railroad refuses to make connections with the Northern Central; so that I myself have had several times to go over to Baltimore, with my family, to get through the city of Baltimore, and see that baggage was checked and taken care of, and then come back here again. They refuse to make these connections. I, for one, never intend to allow a bill to be passed here that will enable them still further to control the monopoly over trade North or South until that railroad does what every other railroad in the United States is now required to do.

I know that such is not the purpose of the Committee on Commerce; but look at the effect of this bill. Here is but one bridge across the Potomac river in or near Washington. The long bridge I look upon as substantially an effete structure which ought to be abandoned, and no doubt will be abandoned in time, unless great improvements are made in it. The only way to cross the Potomac is at the heights at Georgetown. Now, suppose the Baltimore and Ohio railroad should get possession of this bridge—the aqueduct bridge, as it is known—and get a toll over that bridge, and construct a line over that bridge, then they have the monopoly of the approach from the South as well as from the North.

I hope that at the next session of Congress, when we shall be freed from political controversies, we shall take up this whole railroad question, and provide means of connection from the capital to all parts of the country, and then this bridge may be vital to the new railroads we may construct under the authority of Congress and with the consent of the States. But, sir, until that is done, I do not wish to pass a law to enable the Baltimore and Ohio railroad, by purchasing the franchise granted in this bill, to control the monopoly of the trade to the South.

There is a great deal of feeling in regard to this matter in the West. It is a thing that we have submitted to; we have complained against it; but we are utterly powerless unless Congress should grant us some relief by compelling this railroad to conform to the ordinary usages of other railroads, and to do what has been done in other places. As long as that railroad controls the Legislature of Maryland and the legislation of Maryland, so that no road can be built over the soil of Maryland except with the assent of the Baltimore and Ohio railroad, they will extend their monopoly. They will buy up unquestionably the power conferred by this very bill, plausible as it appears on its face, and they will have the control of the southern extension just as they now have of the

northern extension. If this road from here to Alexandria gets in the power of the Baltimore and Ohio railroad company they will have then the monopoly of every approach to Washington. There is no authority now under existing law to make any railroads here or any bridge.

I do not say that it is the purpose of the Committee on Commerce—I know it is not their purpose—to favor the Baltimore and Ohio Railroad Company in this way; but I very much fear they will avail themselves of it, and then do what the Committee on Commerce do not desire them to do. The Committee on Commerce undoubtedly desire to promote communication between the several States. If this bill goes over until next winter I shall be very willing to vote for a proposition that will authorize any railroad company to build a railroad bridge on the foundations of the aqueduct bridge, and to make that a free mode of communication connecting with all railroads that may be built to or from Washington. Then, I think, it will accomplish a very good purpose, and will promote communication between the States.

Mr. MORRILL, of Maine. Having stated the objects of this bill and its scope to the Senate, the honorable Senator from Pennsylvania feels himself authorized to tell the Senate that the committee do not understand the effect of this measure. What has he discovered here, what has anybody discovered here to alarm the Senate? The Baltimore and Ohio railroad are going to take possession of Congress! Well, sir, I am not conscious of it; I have never seen their power here, and do not know anything about it. Sir, that is the biggest bugaboo in the world to apply to such a measure as this. What is this bill? Three quarters of a century ago Congress authorized a canal between here and Alexandria. Since that time the State of Virginia has authorized a railroad alongside of it up to the southern shore of the Potomac. Now, gentlemen who say they are lessees of that road, and have succeeded to the rights of the Government in the canal, and the rights of the Legislature of Virginia in the road, want to extend the railroad across a bridge that is already authorized by an act of Congress, and to have it declared a lawful structure. That is all. And the Senator from Pennsylvania rises here and arraigns a committee of the body for not understanding that there is some extraordinary thing about to be done. How? A great monopoly is going to get possession of it. How, sir? Tell us how, if you know.

Mr. CAMERON. I will tell you after a while.

Mr. MORRILL, of Maine. If the Senator has examined it and understands it, and think the committee do not, why not tell us what it is, and not undertake to frighten the Senate from its propriety by holding up a monopoly.

Now, let us come back a moment to this question. You are about to say that persons who have succeeded to certain rights under this Government, and under the government of Virginia, shall have a right to run a railroad across a bridge already built by your authority from the Georgetown side to the other side of the river. My honorable friend from Pennsylvania says if you do that this great monopoly will get possession of it, and will shut up the gates of the South, and nobody can open the gates but that road. Will the Senator from Pennsylvania, or the Senator from Ohio, or any other Senator, tell me how they are to do that? Look at this bill. Is there any right of connection with this road? Does this bill give the Baltimore and Ohio road or any other road any right to connect with it whatever? Not a bit of it. Is there any lawyer here or anywhere who will say that they have such right unless it is given? Of course not. There is not the slightest right under heaven to connect with it. That is the answer to that, and the whole of it. Whenever these people choose to come here and ask for the right to connect, then the honorable Senator will be right in saying "I object to this road

having the exclusive right to connect with this company; there are other roads in the country that ought to share in it." That is the answer to the whole argument of my honorable friend from Pennsylvania.

Now, to my astonishment, my friend from Ohio takes up the strain, and he says that we are in danger really of this great monopoly. Why? He says they will not check the baggage through now to the Northwest. I think that is very illiberal in them, to say the least of it; but how are we to settle these relations on this little question of crossing the river? Are we here to settle the relations between the Northern Central and the Baltimore and Ohio roads? Is that our business on this particular measure? Has it come to pass that no legislation, however remote, can be done in the District of Columbia touching any railroad unless the Northern Central and the Baltimore and Ohio roads must be heard, and their interests must be heard, and that we must hold audience with these august institutions before we allow ourselves to say whether we will cross the Potomac by a toll-bridge? That is this proposition.

My honorable friend from Ohio says if they get possession of this road, what will happen? Who can tell? They will then have the right of way to the South. Suppose they do. Cannot we cross the river where we please the next day after? Suppose that were all true, what a frightful thing it would be! Does the honorable Senator know that right here under our nose they cross every day? Does the honorable Senator know that Congress chartered a road within the last five years which runs regularly between here and Richmond daily? And yet the earth stands; the Capitol of the United States is secure. I have heard a great deal of this monopoly. One would have supposed from the wonderful power and capacity of this road that they would own Virginia and all its railways before this; but they do not own the road to which I refer. I have not heard any intimation that they have any control over this road. And yet we are told that we cannot legislate to authorize the building of a toll bridge for fear this great monopoly which breaks the connections with the Northern Central will get control of the road and block the whole travel to the South.

Now, sir, I submit that those fears and apprehensions are not worthy of the Senate of the United States on a bill of this sort. I submit that they are groundless. I submit that it affects nobody's rights. And so as to what the honorable Senator from Pennsylvania said to me on this subject. I heard him patiently and respectfully, as I always do, and disposed to take his views so far as practicable, and I have shorn this bill of everything under heaven except simply the right to cross that bridge. There is no right whatever of connection on this side, and I say to that Senator and the Senate I have not the slightest belief that either that road or any other road can connect with it on this side unless they come here and get your authority. Everybody knows they cannot do it. That is precisely what there is in this bill.

What does my friend from Pennsylvania want? If he is afraid that the Baltimore and Ohio railroad will buy this road, and will get a right to connect which no other road has a right to do, I am perfectly willing to negative all such right as that, and I will submit such a proposition as this to the honorable Senator, which I think will answer that purpose:

And be it further enacted, That such company shall not grant to any one railroad company any right of connection or any privilege whatever to the exclusion of any other railroad company.

Believing as I do that no company has any such right, opposed as I am to granting in this bill any right of this sort, I am disposed to gratify this apprehension of the honorable Senator and go so far as expressly to deny the right of granting to one road what is not granted to another. But any one will see that the proposition which the honorable Senator

offers is altogether a very extraordinary proposition to put upon a bill of this kind. The machinery which he proposes, the conditions and terms are such as I think the Senate would agree would be unusual. If this is satisfactory to the honorable Senator I will propose it.

Mr. CAMERON. It is not.

Mr. MORRILL, of Maine. Then I offer it as a substitute for the amendment of the honorable Senator from Pennsylvania.

Mr. SUMNER. I ask if all parties will not agree that this bill should now go over with a view to have an executive session. I do not wish to interfere with the bill.

Mr. SHERMAN. Make that motion.

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business.

Mr. CAMERON. I trust the Senator will allow me a word in reply to the Senator from Maine.

Mr. MORRILL, of Maine. I think we can finish the bill in a short time.

Mr. SUMNER. I withdraw my motion for the present, but give notice that I shall renew it.

Mr. CAMERON. I must say, with all deference to the Senator from Maine, that he has shown a great deal more heat on this subject than he usually does, and much more than the subject, to my mind, warrants. The Senator said that I called upon him some years ago to ask for the passage of a bill he then had under consideration; and from the manner in which he spoke of it it might be supposed that I attempted to ask that of him which was not proper.

Mr. MORRILL, of Maine. Oh, no.

Mr. CAMERON. I came to him as the chairman of a committee of the Senate who were considering a bill in which I felt a deep interest. My interest was that of a citizen of the country.

Mr. MORRILL, of Maine. I hope the Senator will allow me to say—

Mr. CAMERON. If I have said anything wrong I shall be glad to be corrected.

Mr. MORRILL, of Maine. It was the farthest thing possible in my mind to intimate that the honorable Senator had approached me in any but the most proper spirit, and I received it in that way.

Mr. CAMERON. I wish to say what I have to say in reply to the Senator. I came here as a citizen desirous of having communication with this city. The State of Maryland some twenty years before had passed a law authorizing a railroad from the city of Baltimore to Aquia creek. That law could be made useful if we could get the right to connect with the city of Washington. I asked the Senator from Maine to pass a bill giving that right. For some reason or other he refused to do so, and as I said before, the next year that bill was passed, and some people about the Senate—not Senators, but some people about the Senate—took possession of the charter and refused to give it to anybody but the Baltimore and Ohio railroad, unless they were paid a large sum of money for it. In order to make that connection that sum of money was paid to those people, and now the right to come here is in the hands of men who, within the last few days, have made such arrangements as will, within a year and a half more, bring another railroad to Washington.

Now, as to the connection here, what I desire is that every railroad wishing to connect with the South shall have permission to go across that bridge.

The Senator from Maine is incorrect in another particular. He says the Baltimore and Ohio road have no right to connect with this road. By their charter they have a right to connect with any railroad here, in Virginia, or in Maryland, as he will find if he looks it up. They can connect there, and they can make their own terms, or at least they can negotiate for terms. All I desire is to permit all railroads coming here to have the right to pass over that railroad bridge upon equal terms. I

desire also that this company shall be prevented from selling their charter privileges to the Baltimore and Ohio railroad, or any other railroad which shall not check baggage or commute fares as other railroads do. My proposition is a perfectly fair one, and if the gentlemen who are interested in this matter had nothing but fairness in their minds they would not object to it.

Mr. MORRILL, of Maine. To whom does the Senator refer when he says that the persons interested were not prompted by fairness or they would not object to his proposition?

Mr. CAMERON. The people who own the charter. That is my conclusion. I have conversed with them all. I have assured them that I had no desire to interfere with them, if they would do as I think they ought to do, allow everybody to connect with them and not sell their charter to people who will not make connections. My impression and my strong belief is that they will sell out this charter to the Baltimore and Ohio railroad; for to that company it will be of immense importance, as by means of it they can keep the connection south as they have hitherto done the connection north.

Mr. SUMNER. I now renew my motion for an executive session.

Mr. MORRILL, of Maine. I think we can get a vote now.

Mr. SUMNER. I think we had better proceed to the consideration of executive business. We must get that business out of the way.

Mr. CONNESS. I shall be compelled to object to that until we can get a vote on House bill No. 768, and I hope the motion for an executive session will not be precipitated upon us this morning until we can get a vote on that bill.

The PRESIDENT *pro tempore*. The motion for an executive session is not debatable.

Mr. CHANDLER. We can get a vote on this bill now, and I hope the Senator will withdraw his motion.

Mr. SUMNER. I must persist in my motion. It is well known to the Senate that there is important business in executive session requiring two or three hours.

Mr. CHANDLER. Allow this to be disposed of first.

Mr. SUMNER. This will be in order as soon as we get out of executive session.

Mr. MORRILL, of Maine. We have agreed upon a proposition which will relieve this bill of all embarrassment, and we can pass it without further debate.

The PRESIDENT *pro tempore*. Does the Senator withdraw his motion?

Mr. SUMNER. I do for the moment.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Maine, which will be read as modified.

The Chief Clerk read the amendment, as modified, which was to insert as an additional section the following:

And be it further enacted, That said company shall not grant to any railroad or other corporation the exclusive right to transfer passengers or freight over said railroad bridge, and any privilege granted to one corporation shall be extended to all who may make application for such privilege on equal terms, and shall not sell, transfer, or lease their corporate rights.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

HISTORY OF THE MONITOR.

Mr. DOOLITTLE submitted the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That the Secretary of the Navy be requested to communicate to the Senate the facts concerning the construction of the iron-clad Monitor, including a copy of the proposal to build said vessel, a copy of the contract, a statement of the amount paid for her construction, the time and amount of each payment, and any other facts necessary for a full history of the origin and construction of this memorable vessel.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869, was read twice by its title, and referred to the Committee on Appropriations.

The bill (H. R. No. 1447) granting the right of way to certain railroad companies over the military reservation at Fort Leavenworth was read twice by its title.

Mr. WILSON. I ask to have that bill put on its passage now.

Mr. POMEROY. I hope it will be passed at once.

The PRESIDENT *pro tempore*. The Senator from Massachusetts asks the unanimous consent of the Senate to consider the bill at the present time. Is there any objection?

Mr. CONNESS. I object.

The PRESIDENT *pro tempore*. Objection being made, the bill will be referred to the Committee on Military Affairs.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1212) to further amend the postal laws.

The message further announced that the House insisted upon its disagreement to the amendments of the Senate to the bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses on the said bill, and appointed Mr. JOHN HILL of New Jersey, Mr. JOHN F. FARNSWORTH of Illinois, and Mr. FERNANDO WOOD of New York, managers at the same on its part.

The message also announced that the House had agreed to the amendment of the Senate to the resolution of the House fixing the day of the adjournment of the present session of Congress.

The message further returned, in compliance with a request of the Senate, the bill (H. R. No. 783) for the relief of Samuel Pierce.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House had signed the enrolled bill (S. No. 543) to provide for the farther issue of temporary loan certificates for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes; and it was thereupon signed by the President *pro tempore* of the Senate.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had on the 23d instant approved and signed the following bill and joint resolution:

A bill (S. No. 352) to authorize the temporary supplying of vacancies in the Executive Departments; and

A joint resolution (S. R. No. 164) for the restoration of Commander Aaron K. Hughes, United States Navy, to the active list from the retired list.

EXECUTIVE SESSION.

Mr. SUMNER. I have a bill on my table which I desire to move, but I forbear to take advantage—

Mr. CONNESS. There is nothing before the Senate, I believe.

Mr. SUMNER. I have the floor. If the Senator calls me to order, he must make his point of order. I now renew the motion which I made some moments ago, that the Senate proceed to the consideration of executive business.

Mr. CONNESS. On that I call for the yeas and nays.

Mr. SUMNER. Briefly remarking—

Mr. CONNESS. I object to debate.

The PRESIDENT *pro tempore*. No argument can be made on the motion.

Mr. SUMNER. Very well; the Senate will take notice that there is executive business.

The yeas and nays were ordered.

Mr. CONNESS. I hope we shall not go into executive session.

The question being taken by yeas and nays resulted—yeas 29, nays 17; as follows:

YEAS—Messrs. Abbott, Anthony, Chandler, Cole, Conkling, Corbett, Cragin, Doolittle, Drake, Ferry, Fessenden, Fowler, Frelinghuysen, Harris, Henderson, McCreery, Morgan, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Pomerooy, Sawyer, Sherman, Sumner, Trumbull, Vickers, Welch, Whyte, and Willey—29.

NAYS—Messrs. Buckalew, Conness, Harlan, Hendricks, Howard, Howe, Kellogg, McDonald, Morrill of Maine, Ramsey, Ross, Sprague, Stewart, Tipton, Wade, Williams, and Wilson—17.

ABSENT—Messrs. Bayard, Cameron, Cattell, Davis, Dixon, Edmunds, Grimes, Morton, Norton, Nye, Osborn, Pool, Rice, Robertson, Sausbury, Thayer, Van Winkle, and Yates—18.

So the motion was agreed to; and after some time spent in executive session, the doors were reopened to receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1433) to amend an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, in which it requested the concurrence of the Senate.

The message further announced that the House insisted upon its amendments to the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States, disagreed to by the Senate, asked a conference on the disagreement of the two Houses on the said bill, and had appointed Mr. R. C. SCHENCK of Ohio, Mr. JOHN A. LOGAN of Illinois, and Mr. GEORGE S. BOUTWELL of Massachusetts, managers at the same on its part.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, &c.; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 433) authorizing the trustees of Union Chapel of the Methodist Episcopal church in the city of Washington to mortgage their property for church purposes;

A bill (S. No. 509) in addition to an act passed March 21, 1864, entitled "An act for the punishment of certain crimes against the United States;"

A joint resolution (S. R. No. 93) granting permission to officers and soldiers to wear the badge of the corps in which they served during the rebellion; and

A joint resolution (S. R. No. 121) to carry into effect the resolution approved March 2, 1867, providing for the exchange of certain public documents.

REPORT FROM A COMMITTEE.

Mr. PATTERSON, of New Hampshire, from the joint select Committee on Retrenchment, submitted a report, accompanied by a joint resolution (S. R. No. 175) relative to the recent contract for stationery for the Department of the Interior. The joint resolution was read and passed to a second reading, and the report was ordered to be printed.

THE FUNDING BILL.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 207) for funding the national debt, and for the conversion of the notes of the United States, disagreed to by the Senate and insisted on by the House: and,

On motion by Mr. SHERMAN,

Resolved, That the Senate insist upon its disagreement to the amendments of the House of Representatives to the said bill, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. SHERMAN, Mr. MORGAN, and Mr. WILLIAMS, managers on the part of the Senate.

EXECUTIVE SESSION.

The Senate resumed the consideration of executive business; and after some hours spent therein, the doors were reopened at five o'clock, and the Senate took a recess until half past seven o'clock p. m., for the purpose of considering at the evening session bills reported from the Committee on Claims.

EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

PENSION LAWS.

Mr. VAN WINKLE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1010) relating to pensions, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the amendments of the Senate, numbered as follows: 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20, and agree to the same.

That the House recede from their disagreement to the sixth amendment of the Senate, and agree to the same, with amendments as follows: strike out all after the word "garrison," in line ten of the amendment, to the end of line twelve; also, strike out all after the word "station," in line eighteen of the amendment; and that the Senate agree to the same.

That the House recede from their disagreement to the twenty-first amendment, and agree to the same, with an amendment as follows: strike out all after the enacting clause of the amendment, and insert in lieu thereof the following: "That the third section of an act entitled 'An act increasing the pensions of widows and orphans, and for other purposes,' approved July 25, 1866, shall be construed as to place all pensioners whose right thereto accrued subsequently to the Revolution and prior to the 4th day of March, 1861, on the same footing as to rate of pension from and after the passage of said act, as those who have been pensioned under acts passed since said 4th day of March, 1861; and the widows of revolutionary soldiers and sailors, and soldiers and sailors now receiving a less sum, shall hereafter be paid at the rate of eight dollars per month;" and that the Senate agree to the same.

That the House recede from their disagreement to the twenty-second amendment, and agree to the same, with an amendment, namely: strike out after line eleven of the amendment the following: "and in all cases pensions heretofore or hereafter granted by special acts of Congress shall be subject to be varied in amount according to the provisions and limitations of the pension laws," and insert the same as an additional section; and that the Senate agree to the same.

P. G. VAN WINKLE,
JOSEPH S. FOWLER,
ALEXANDER RAMSEY,
Managers on the part of the Senate.
SIDNEY PERHAM,
D. FOLSLEY,
L. S. TRIMBLE,
Managers on the part of the House.

The report was concurred in.

REPORT OF A COMMITTEE.

Mr. CAMERON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 168) for the relief of John Montgomery, reported it without amendment.

WHARVES AT OSWEGO.

Mr. MORGAN. I move to take up House joint resolution No. 296. It is a very brief resolution, and has passed the House of Representatives. It will take but a few moments.

Mr. RAMSEY. I wish to make a report from a committee of conference.

Mr. MORGAN. It will not take five minutes to pass this resolution.

Mr. RAMSEY. Very well; I give way to the Senator from New York. He has been indulgent this session; but I would not give way to anybody else. [Laughter.]

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 296) giving the assent of the United States to the construction of certain wharves in the harbor of Oswego, New York. The preamble recites

that the common council of the city of Oswego, in the State of New York, by resolutions unanimously adopted April 7, 1868, and May 12, 1868, in pursuance of the authority granted them by the Legislature of New York in the charter of the city, have given permission to the owners of lots eleven and twelve, also of lots, thirteen, fourteen, eighty-one, and eighty-two, and of lots fifteen, sixteen, seventeen, and eighteen, in fortification block No. 2, in the first ward of the city, to construct wharves in front of the lots, seventy feet in width, and extending northerly so that the north end of the wharves may be on a line with the north line of the Ontario elevator pier, but not less than two hundred and fifty feet distant from the nearest point of the United States pier, which wharves will extend into the navigable waters of the harbor. The joint resolution, therefore, gives the assent of the United States, so far as Congress has power to give the same, to the owners of the lots above mentioned, to construct the wharves in accordance with the terms of the resolutions, subject, however, to the approval of the engineer department of the Army.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AMERICAN STEAM LINE TO EUROPE.

Mr. RAMSEY. There is a report of a committee of conference on the table, which always has preference, and I ask to have it acted upon.

The Senate proceeded to consider the following report:

The committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 939) to provide for an American line of mail and emigrant steamships between New York and one or more European ports, have had the same under consideration, and agree to recommend to their respective Houses as follows:

That the House recede from their disagreements to the second and third amendments of the Senate.

That the House recede from their disagreement to the first, fourth, and fifth amendments with the following amendments, to wit:

In line twelve, page 1, of engrossed bill strike out "twenty," and insert "fifteen."

In line fourteen, page 3, of the engrossed bill strike out "twenty" and insert "fifteen."

In line twenty-six, page 5, strike out "twenty," and insert "fifteen."

JOHN HILL,

J. F. FARNSWORTH,

FERNANDO WOOD,

Managers on the part of the House.

ALEXANDER RAMSEY,

J. W. PATTERSON,

ALEXANDER G. CATTELL,

Managers on the part of the Senate.

Mr. CONNESS. I am very sorry that the committee who had charge of this bill have made such a report. The Senate struck out "twenty" years and inserted "ten," and I doubt very much whether the bill could have passed the Senate as it originally stood, or for fifteen years. It gives a lien upon the postages of the United States for fifteen years of time. At that time the honorable Senator from Minnesota and myself will be in heaven or somewhere else. In the mean time the postages are mortgaged and bonds issued on the faith of that mortgage. I regard it myself, although entirely friendly to the legislation, as very bad legislation, and I desire to put that expression on record in regard to it.

Mr. RAMSEY. My honorable friend from California will have no brighter monument in the future than that which he has entitled himself to in establishing the line from San Francisco to Yokohama and Hong Kong, and that costs \$500,000 a year for monthly trips.

Mr. CONNESS. For ten years.

Mr. RAMSEY. Yes, for ten years, but costing \$500,000 a year. These people, for all the mails, and carry them if you please weekly between New York and Southampton or Queenstown, and so on, get only about two hundred and fifty thousand dollars.

Mr. CONNESS. How do you know?

Mr. RAMSEY. I have it here with the high postages at this time. Fifty-two round trips—

Mr. CONNESS. If the Senator will permit me, I give way before his logic and his persuasion. I have no further objection.

The PRESIDENT *pro tempore*. The question is on agreeing to the report of the committee of conference.

The report was concurred in.

PURCHASE OF TERRITORY FROM RUSSIA.

Mr. FRELINGHUYSEN. I move to take up House bill No. 1261.

Mr. SUMNER. I desire to make a report from a committee of conference.

The PRESIDENT *pro tempore*. The report of a committee of conference is a privileged question.

Mr. SUMNER. The conference committee on the disagreeing votes of the two Houses on the bill known as the Alaska appropriation bill have directed me to make the following report:

The committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 1096) entitled "An act making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867," having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its first amendment and agree to the preamble of the bill with amendments, as follows: after the word "Russia," in the fourth line, insert the following words: "and the Senate thereafter gave its advice and consent to said treaty," and strike out all after the words "United States," in the twelfth line, and insert instead thereof the following words, "and whereas said stipulations cannot be carried into full force and effect except by legislation, to which the consent of both Houses of Congress is necessary;" and the House agree to the same, as amended.

And they further recommend that the House recede from its disagreement to the second and third amendments of the Senate, and agree to the same.

CHARLES SUMNER,

O. P. MORTON,

J. R. DOOLITTLE,

Managers on the part of the Senate.

N. P. BANKS,

W. LOUGHRIDGE,

S. J. RANDALL,

Managers on the part of the House.

The report was concurred in.

REMOVAL OF CAUSES FROM STATE COURTS.

Mr. FRELINGHUYSEN. I now ask that my bill be taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1261) amendatory of an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases."

Mr. FRELINGHUYSEN. The Committee on the Judiciary have reported an amendment as a substitute for the bill. I presume it is unnecessary to read the original bill.

The Chief Clerk read the amendment, which was to strike out all after the enacting clause and insert the following:

That the provisions of an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863, so far as the same relate to the removal of causes from the State to the Federal courts, be, and the same are hereby, declared to extend to any suit or action at law or prosecution, civil or criminal, which has been or shall be commenced in any State court against the owner or owners of any ship or vessel, or of any railway, or of any line of transportation, firm, or corporation engaged in business as common carriers of goods, wares, or merchandise, for any loss or damage which may have happened to any goods, wares, or merchandise whatever, which shall have been delivered to any such owner or owners of any ship or vessel, or any railway, or of any line of transportation, firm, or corporation, engaged in business as common carriers, where such loss or damage shall have been occasioned by the acts of those engaged in hostility to the Government of the United States during the late rebellion, or where such loss or damage shall have been occasioned by any of the forces of the United States, or by any officer in command of such forces: *Provided*, That this act shall not be construed to affect any contract of insurance for war risks which may have been made with reference to any goods, wares, or merchandise, which shall have been so destroyed.

Mr. TRUMBULL. This subject was very thoroughly considered in the Committee on the Judiciary, and when the committee was full the measure never had the assent of the committee. It is now reported by a majority of the committee in attendance when the matter

was last considered. It is known to the Senate, I presume, that Mr. Johnson, one of the members of that committee, has left the Senate, and Mr. EDMUNDS, another member of the committee, is absent; and the committee consisting of but five members, it received the assent of a majority of that committee. I was opposed to it, and I will state to the Senate what this bill is. I regard it as an important bill affecting the jurisdiction of the United States courts. I am aware that at this stage of the session, and in the present temper of the Senate, it will be very difficult to get attention to anything I shall say. I am aware that a person who gets the floor at this stage of the session is very likely to have his bill passed, if he announces that it comes from a committee; and hence I considered it to be my duty to state to the Senate that when the committee was full this bill did not command the assent of the committee. It proposes to confer upon the United States courts jurisdiction never heretofore given in a class of cases which, if it can be given, will confer all the jurisdiction in every case that you can imagine almost upon the United States courts, and you might as well abolish all the State tribunals. Under the provisions of the bill as it is now proposed to pass it a corporation created in the State of Illinois or any other State has a right to take a case into the United States court when it is sued by a citizen of Illinois, or in any other State, any corporation or railroad company, or steamship company, or other company engaged in transporting passengers, incorporated by a State, when it is sued in a State court has a right, under the provisions of this bill, to take the case into the courts of the United States. Can any one tell me where the authority comes from to pass such a bill as that?

Mr. HOWE. I hope this bill, if the Senator wishes to debate it, will be allowed to go over until a better opportunity can be given for the debate.

Mr. TRUMBULL. I will say to my friend from Wisconsin that I do not wish to debate it; I do not wish to delay it. I shall probably not occupy more than five or ten minutes. It is a bill of so important a character that, in my judgment, it should be understood by the Senate before it is permitted to become a law; and when I have stated what the bill is, if I can get the attention of the Senate for five or ten minutes, if they think proper to pass it I have no more to say about it.

Mr. HOWE. The Senator from New Jersey will have to reply.

Mr. FRELINGHUYSEN. I shall have to correct the statements the Senator from Illinois makes.

Mr. HOWE. I hope the Senator from Illinois will allow this bill to be postponed, and let us proceed to the business of the evening.

Mr. CONKLING. Let us dispose of this first.

Mr. WILLIAMS. If the bill is such as the Senator from Illinois represents it to be, it cannot pass without opposition.

Mr. FRELINGHUYSEN. I do not think there will be any opposition to the bill when it is understood. As to its not passing the committee, there was a majority of the committee opposed to the original bill, and a majority of the committee in favor of this amendment which is reported. As to the effect of the bill, it is simply this—I can state it in one minute—that where the defense of an individual or of a corporation is that the property which they were transporting was destroyed by reason of the war, in that case the question of the effect of the war may be taken from the State courts to the Federal courts, which is in strict compliance with the provision of the Constitution of the United States; and that is the whole case.

Mr. TRUMBULL. Well, Mr. President, let us see if that is the whole case. The Senator has made his statement. Now we will read the bill. The Senator has stated what I was not aware of. I reiterate the statement,

although it will contradict the statement of my friend from New Jersey, who means to be entirely accurate, that to my knowledge, in a full committee, this amendment never had the assent of a majority. If it had I cannot conceive when it was. I certainly never knew it. I think the Senator from New Jersey, so careful as he ordinarily is, is mistaken in this instance. I cannot understand who constituted the majority of the committee when it was agreed to. It certainly was never known to me. I know that the Senator from Vermont, [Mr. EDMUNDS,] the Senator from Maryland, [Mr. JOHNSON,] and the Senator from Indiana, [Mr. HENDRICKS,] and myself were all opposed to the bill.

Mr. FRELINGHUYSEN. Not the Senator from Maryland.

Mr. TRUMBULL. It has never been agreed to in committee when the Senator from Maryland was present in that committee, so far as my knowledge goes. The Senator from Maryland has not been with us for the last week or two upon the committee. I know not what may have been said in the Senate.

That is immaterial, however. I only mention that incidentally, that the Senate may not take this bill without examination. Now, let us see what the bill is:

That the provisions of an act entitled "An act relating to *habeas corpus* and regulating judicial proceeding in certain cases," approved March 3, 1863—

Mr. HOWE. I must interpose, with the leave of the Senator, and move to lay this bill on the table for the present, until the business of the evening is disposed of. I make that motion.

Mr. CONKLING. I appeal to the Senator to withdraw that motion. Let it be laid aside informally; that will answer the purpose.

Mr. HOWE. If the whole Senate will agree that it lay aside informally, I have no objection.

Mr. TRUMBULL. I object to its being laid aside informally, for then it can be called up at any moment when I am not present. I wish to state what the bill is, and shall take no unnecessary time in doing it.

Mr. HOWE. I move to lay the bill on the table.

The PRESIDING OFFICER. The Chair thinks he erred, as the Senate were to consider private bills this evening, in not recognizing the head of that committee at the opening of the session. The question is on laying the bill on the table.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 1322.

Mr. FESSENDEN. I really hope that the Senate will not proceed to the consideration of private claims at this period of the session. If we do, we cannot possibly get through with our business. There is a great deal of business to do, and if any measures are to go over those ought to go over until the next session. We have public business that we must do, and although I believe there was a sort of understanding as to to-night yet I really think it would not be just to the public business or to ourselves to take up these private claims at this period of the session when we have got so little time, and so much to do that must necessarily be attended to. I really hope it will not be done.

Mr. STEWART. I wish to make an appeal to the Senator from Wisconsin. I have been trying to get the floor for some days past, but have not succeeded, in order to call up a little bill to remove disabilities from two members of Congress. It is important that it should go through, and I presume there will be no objection to it. It has got but four names in it, and I have been trying hard for a week to get the floor.

Mr. HOWE. I am a little surprised at the objection made by the Senator from Maine. This afternoon the Senate agreed that this

evening should be assigned to business reported from the Committee on Claims.

Mr. FESSENDEN. I was no party to it.

Mr. HOWE. I do not know whether the Senator was a party to it or not; but the Senate did it, and I hope the Senator is prepared to acquiesce in the decision of the Senate. Of course, they can recall the vote or reconsider it. I know that very well; but I have struggled as hard as I could, without seeming to be impertinent, to get a fair share of attention to the business of the Committee on Claims. I have no interest in the business of the committee, but I do not wish to be held up and held responsible for utter inefficiency and incapacity in the conduct of that business. The Senate will bear me witness that we have occupied but very little of its time during this protracted session. And now what is the objection to considering these bills this evening? Our individual convenience, it is true, would be promoted by leaving here early and going home; that is all. There is time enough to dispose of this business and all the business there is to be transacted in executive session, and I think in a very short time the business that I intended to lay before the Senate can be disposed of this evening. I hope the Senate will indulge me to that extent. If they will not, I cannot help it.

Mr. FESSENDEN. I really do not like to interfere with my friend; but he has already had time more than once to call up his bills and has had bills before the Senate, and has occupied the attention of the Senate for some hours in relation to those bills. My only objection is that there is not time. If we had time to dispose of these bills and the general business before us I would not say a word; but I am satisfied we have not got it unless we stay here all night. The idea was not to my mind that we were to go home, but that we would go into executive session and try to dispose of the executive business in which we made some slight progress in the afternoon. I think if we intend to adjourn on Monday, and we cannot help it, because we have come to an agreement between the two Houses, the only way in which we can avoid being called together again is to go on with the executive business and dispose of it; and I really do not think that private claims, for they are all private, at this period of the session, when the next session is so near, should interfere with the general business of the country which is clearly of more importance. I will move, therefore, that the Senate—

Mr. STEWART. Let me pass my little bill first.

Mr. FESSENDEN. That "little bill" is of no more importance than any other; and if I were to give way to everybody who wants to pass a little bill we should never get through. I am willing to let the Senate decide. If there is time enough to go on with these bills I am perfectly content. I only make the motion with reference to getting through and disposing of the business that is absolutely indispensable. I therefore move that the Senate proceed to the consideration of executive business.

Mr. STEWART. On that I call for the yeas and nays.

Mr. HOWE. I desire to have the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. CAMERON. It seems to me we had better not go into executive session now.

The PRESIDENT *pro tempore*. The motion is not debateable.

Mr. CAMERON. I beg pardon; I thought it was.

The question being taken by yeas and nays, resulted—yeas 15, nays 27; as follows:

YEAS—Messrs. Buckalew, Ferry, Fessenden, Hendricks, McCreery, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Sherman, Sprague, Sumner, Trumbull, Welch, and Yates—15.

NAYS—Messrs. Cameron, Cattell, Cole, Conkling, Conness, Corbett, Doolittle, Drake, Fowler, Frelinghuysen, Harris, Harris, Howard, Howe, McDonald, Morgan, Morrill of Maine, Patterson of Tennessee,

Sawyer, Stewart, Thayer, Tipton, Vickers, Wade, Wiley, Williams, and Wilson—27.

ABSENT—Messrs. Abbott, Anthony, Bayard, Chandler, Cragin, Davis, Dixon, Edmunds, Grimes, Henderson, Kellogg, Morrill of Vermont, Morton, Norton, Osborn, Pool, Rice, Robertson, Ross, Saulsbury, Van Winkle, and Whyte—22.

So the motion was not agreed to.

MAJOR F. F. STEVENS.

Mr. HOWE. I now renew my motion to proceed to the consideration of House bill No. 1322.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1322) for the relief of Major F. F. Stevens, assistant paymaster United States Army. It directs the proper accounting officers of the Paymaster General's office and the Treasury Department in the settlement of the accounts of Major F. F. Stevens, late an assistant paymaster of the United States Army, to credit to him the sum of \$3,078 63 as of the 1st April, 1867, for that amount of public money in his hands on that day, lost by the burning of the steamer Alabama on the Mississippi river, provided they are of opinion that the allowance should be made.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

A. W. WALKER.

Mr. HOWE. I move to proceed to the consideration of Senate joint resolution No. 9.

The motion was agreed to; and the joint resolution (S. R. No. 9) in favor of A. W. Walker was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to pay to A. W. Walker, of Tennessee, the full amount of pay allowed by law to a captain of infantry for one year, less \$750, the amount received by him while acting as scout and spy for the Union Army.

Mr. HOWE. The report in that case is adverse. I move that the joint resolution be indefinitely postponed.

The motion was agreed to.

REMOVAL OF POLITICAL DISABILITIES.

Mr. STEWART. I appeal to the Senator from Wisconsin to give way for one moment to allow me to pass a little bill removing the disabilities of two members of Congress. The House have added one other name and we propose to add another.

Mr. HENDRICKS. I want to pass a little pension bill.

Mr. STEWART. If you object to this bill when it is read we will not pass it.

Mr. POMEROY. I think we ought to relieve those two members of Congress.

Mr. HOWE. I have no objection if this business is not postponed.

Mr. STEWART. I move, then, to take up House bill No. 1446.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1446) to relieve from legal and political disabilities Simeon Corley, John Milledge, and Michael Hahn. It proposes to remove all legal and political disabilities imposed by the United States upon Simeon Corley, a citizen of South Carolina; John Milledge, of Augusta, Georgia, and Michael Hahn, of New Orleans, Louisiana.

The Committee on the Judiciary reported the bill with an amendment, in line six, after "Louisiana," to insert "and P. M. B. Young, of Georgia."

The amendment was agreed to.

Mr. SAWYER. I move to amend the bill by inserting after "South Carolina," in the fourth line, the following:

And all county officers elected under the new constitution of the State of South Carolina at the recent election in that State, so far as such officers elect rest under such disabilities.

Mr. STEWART. I should like to hear from the Senator a statement in regard to that amendment.

Mr. SAWYER. Mr. President, there are

some fifteen or sixteen county officers who have been elected by the people of South Carolina who cannot qualify on account of their being thrown out by the fourteenth amendment. It is absolutely necessary that their disabilities should be relieved in order that the places may be filled. If new elections are ordered we will be obliged to elect the same class of men, and the offices will have to go unfilled until the next session of Congress. It is in that view alone that I bring the amendment before the Senate at this time.

Mr. BUCKALEW. I see no reason against extending this amendment to all these reconstructed States. If the principle is correct as to South Carolina, it must be equally correct as to the other States. Where people of a State under the reconstruction laws, or of any particular district, have selected an officer to discharge some local office there, it seems to me there is no public objection to permitting him to discharge its duties. Otherwise, we narrow the popular privileges. Now, after having confined the right of suffrage within narrow limits, so far as the white population are concerned, after having secured the incorporation in the new constitution of a very severe test, as we know to be the fact, because they have been laid before us, it seems to me it will be proper for Congress to relieve the people of all those States from the inconvenience under which they suffer, which prevailed in South Carolina to that extent that the honorable Senator has offered an amendment applying to that State.

Mr. STEWART. With the permission of the Senator from Pennsylvania, it would hardly be fair to the Senator from Wisconsin, who has a special order, to have a matter of this kind brought before us for discussion. There will be more or less discussion upon it; and I hope the Senator from South Carolina will withdraw the amendment for the present, and put it on some bill where it can be considered in connection with that subject, inasmuch as the House are desirous to relieve these members of Congress, and permit them to take their seats.

Mr. SAWYER. I withdraw the amendment.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. BUCKALEW. I must call attention to a case very well known, occurring in the House at the present session, the case of John Young Brown, of Kentucky. Here is a bill relieving the political disabilities of certain gentlemen elected to the House of Representatives, as I understand. Now, we have had sent to us, among the published documents of the House, the case of John Young Brown, who, it seems, acted with the Union side during most of the war, but was held by the House not to be able to take the oath of July 2, 1862, because he made a certain speech.

Mr. STEWART. Let me state to the Senator from Pennsylvania the facts with regard to this particular bill. There was one Democrat elected on the Democratic ticket, Mr. Young, of Georgia, and although he is a Democrat, elected on that ticket, and was a rebel general in the war, yet he is recommended by General Grant and General Meade, and the Reconstruction Committee of the House have just sent a letter here requesting the passage of the bill with the insertion of his name, and the Senator from Ohio has also sent several letters on the subject. I hope, therefore, that the Senator will let the bill go through with a Democrat and a Republican. There is nothing unfair about this particular bill, and I hope it will not interfere with the business of the evening. I ask the Senator not to press an amendment on this bill, or debate it. We shall have some other measure before us which we can discuss.

Mr. BUCKALEW. I shall not occupy time. I am not accustomed to speak at great length after exhausting the merits of the points. Here is a bill, I repeat, to relieve disabilities of members elected to the present House, and here is

a well-known case, perfectly familiar to the Senate, coming within this class. The amendment which was offered by the Senator from South Carolina, which has been withdrawn, related to a different class of persons entirely, local officers selected in the southern States. I call attention to a case of a member elected from Kentucky to the House of Representatives, and I submit that in agreeing to this bill from the House it will be but reasonable to include all the known cases falling under the same general character clearly. This case of Mr. Brown, of Kentucky, is one of much more merit, so far as I understand it, than these other cases. His was not the case of an officer who had served in the rebel armies, not the case of a man who had taken persistently a position against us during the whole war, and contributed to the extent of his ability and of his influence to its success—

Mr. HOWE. Will the Senator give way to a motion to lay this bill on the table?

Mr. BUCKALEW. Oh, no, sir. I am almost done. I simply want to state the case with reference to the amendment I propose to submit, and I do not intend to detain the Senate long.

In the case of Mr. Brown, at a time when Kentucky had very foolishly assumed a position of so-called neutrality, when she intended to stop the torrent of war by assuming and maintaining an independent attitude, Mr. Brown, in a public speech, spoke of resisting the entrance of Federal troops as well as of confederate troops within the limits of that State. It was a mistaken policy which he and others adopted; but it was temporary; it was for the moment; and that position was abandoned by him, and his loyalty afterward during the real pressure of the war was unquestioned. And yet he was precluded from taking the iron-clad oath and taking his seat because of that speech made about the time of the outbreak of hostilities, and when the fact was that he abandoned, along with the great mass of the inhabitants of his State, the position they proposed to assume.

Now, sir, I propose to amend the bill by adding to the other names the name of John Young Brown, of Kentucky. Then we can send the bill back corrected to the House, and applying to all cases of members elected to the present House of Representatives of those several States; and by this amendment we shall include the most meritorious of all the cases which have been brought to our notice. In that form I have no objection to voting for the bill. I think it is but reasonable that where the people of those States have chosen men to the House of Representatives, and thereby indicated to us that they are persons of merit, loyal to the Government, relief should be afforded; but it is manifestly unjust and unfair to select out some cases and to leave others unprovided for by our law.

Mr. HOWE. I move that this bill lie on the table.

The motion was agreed to; there being on a division—ayes 33, noes 7.

SALLY C. NORTHRUP.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 722, for the relief of Sally C. Northrup.

The motion was agreed to; and the Senate resumed the consideration of the bill.

Mr. HOWE. The bill has been read heretofore.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

A. G. OLIVAR.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 1366.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1366) for the relief of Captain A. G. Olivar. It proposes to direct the Secretary of the Treasury to pay to

Captain A. G. Olivar the sum of \$2,010, being the full amount stolen from him the 13th of May, 1864, which was Government funds.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

THOMAS W. MILLER.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 1365.

The motion was agreed to; and the bill (H. R. No. 1365) for the relief of Captain Thomas W. Miller was considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to pay to Thomas W. Miller, late captain and acting aid to Brigadier General L. Cutler, late of the Army of the Potomac, the sum of \$529 88, in full for military services from the 13th of May to the 7th of August, 1863, inclusive, and for private horse killed in action at the battle of Gettysburg.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GEORGE W. BRIDGES.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 834.

The motion was agreed to; and the bill (H. R. No. 834) for the relief of Hon. George W. Bridges, a member of the Thirty-Seventh Congress, was considered as in Committee of the Whole. It provides for payment by the Treasurer of the United States to Hon. George W. Bridges, late a member of the Thirty-Seventh Congress from the State of Tennessee, of \$1,685 10, in full compensation and payment of his claim for pay as a member of the Thirty-Seventh Congress, deducted for loss of time, occasioned by his arrest by rebel authority while on his way to the capital.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PALEMON JOHN.

Mr. HOWE. House bill No. 423, passed some time since, for the relief of Palemon John. A motion to reconsider was entered. I should like to have that motion now disposed of.

Mr. BUCKALEW. I desire to make an explanation. I have the papers in that case at my room and have read them through. I have also obtained a statement from the Commissioner of Internal Revenue in relation to the account on which the question arises. I had intended to compare them and bring the papers over here. As I understand, the only evidence of the amount is the oath of the applicant. I propose to do this, to examine these papers, and bring them over to-morrow, and with a brief statement I will then submit the question to the Senate. I will agree to call it up myself to-morrow. It will take but a moment.

Mr. HOWE. The Senator will bear in mind that I have reminded him of this case several times, and it is getting to be near the close of the session. I hope he will not disappoint me to-morrow.

Mr. BUCKALEW. Certainly not.

Mr. CAMERON. I trust my colleague will not object to the passage of this bill. It is a perfectly fair bill. The man is an officer of the Government; he put the money in the post office, and had the letter registered, and the money was seen by the postmaster; it was lost in the mail. My colleague knows all the facts.

Mr. BUCKALEW. My colleague will be fully satisfied to-morrow with reference to the subject. I do not want to go into an explanation of it now. I assure him he will be entirely satisfied.

Mr. CAMERON. Very well.

The PRESIDENT *pro tempore*. This bill will be laid aside for the present.

JOSEPH SEGAR.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 675.

The motion was agreed to; and the bill (S. No. 575) for the relief of Joseph Segar was considered as in Committee of the Whole.

Mr. BUCKALEW. I should like some explanation of the bill. A claim of this magnitude, and based upon items that must be uncertain in amount, it seems to me ought to be determined by the Court of Claims or by some tribunal other than a committee of the Senate. Necessarily, our committees must act upon *ex parte* affidavits or papers. It seems to me that a claim of this character and magnitude ought to be sent to some other tribunal for decision.

Mr. CONKLING. I beg the chairman of the committee to state, as he can in a word, no doubt, what this claim is in substance. It seems to be a large amount for the occupation of land by troops, and it belongs to a very dangerous class of claims.

Mr. HOWE. The Senator from West Virginia will state more succinctly than I can the facts in this case.

Mr. WILLEY. The report in detail has been lying on the tables of Senators for three or four weeks. It gives the evidence pretty much in detail. Mr. Segar owns a farm near Fortress Monroe in Virginia, four hundred and forty-seven acres. About the 24th day of May, 1861, the military authorities having landed troops at that point, and being desirous to have a camping ground, and a place for hospitals, and being without supplies, in the first place sent a military commission upon the farm of Mr. Segar, and took in possession his mules, his wagons, his corn, &c., to the value of some six or seven thousand dollars according to their own estimate, which was duly reported to the Quartermaster General, and was all paid with the exception of \$1,560, and that would have been paid but for the interposition of the act of 1867, forbidding any further payments to any parties living within States lately in insurrection; so that in regard to \$1,560 there is no question of doubt.

The military authorities took possession of this farm, consisting of four hundred and forty-seven acres; they erected camps upon it; they erected hospitals upon it; they made it a drilling ground. They took possession of it by virtue of a military order in due form. They turned Mr. Segar out of his comfortable home, and he had to find quarters for himself and his family elsewhere. He left a library, the accumulation of all his life; he left his furniture there, and when he returned his library was gone and his furniture was gone. For neither of these does he make any charge, because they were undoubtedly the depredations of unauthorized soldiers. But after the collapse of the rebellion, by military orders at Richmond, under command of General Terry, a commission was appointed, who went upon the premises, took evidence in order to ascertain what was a fair compensation for the use and occupation of the farm of Mr. Segar during the time the military authorities had it in possession, and they brought in an estimate of some twenty thousand dollars upon the evidence, which they give in detail in their report, and a synopsis of which is in the report of the committee in this case, which has been placed on the desk of each member of the Senate.

There was a tract of woodland upon that farm. The military forces, while they occupied the farm, for the purpose of supplying themselves with fuel cut down nearly all the timber upon this land and used it for fuel. There was a dispute about the quantity of timber land. I directed and procured an actual survey of the whole land, and of what was in dispute, and leaving out the amount of timber land in dispute there were seventy-seven and a quarter acres of woodland undisputed besides four hundred and forty-seven acres of the farm. The troops also destroyed six miles of fence. They destroyed all of Mr. Segar's outbuildings.

They dug up his farm by excavations here and there. I will read a recapitulation of the evidence which I made myself as about the shortest abstract and statement which I could make of the whole case. Here it is:

"In reference to quartermaster stores and commissary subsistence there seems clearly to be due and unpaid a balance of \$1,560."

Allow me to state here that this farm was never for one moment within the enemy's lines; it was always within our lines. Allow me further to state that it was excepted by Mr. Lincoln's proclamation, reserved as loyal territory:

"II. In reference to use and occupation of farm: The farm consisted of four hundred and forty-seven acres, including woodland. Of this about three hundred acres were under cultivation and used for pasturage. The annual value for use and occupation is estimated as follows: D. H. Clark, at \$6,000 per year; M. R. Muzzy, at from six to eight thousand dollars per year; Sylvester Kelley, at from six to eight thousand dollars per year; T. S. Tennis, at \$10,000 per year.

"Colonel Thomas G. Whytall, depot quartermaster in charge, says the farm was of incalculable value and importance to the Government.

"Sylvester Kelley, William Outten, R. Whiting, Robert B. Wood, J. S. Moody, and Z. Craver say the farm was of indispensable value to the Government.

"Herman Briggs says the farm was indispensably necessary to the quartermaster's department, and would have been very profitable to the owner, and his allowance for use and occupation should be liberal.

"General Roberts, General Hays, Captain Adams, Colonel Baylor, Captain Sanger, and Colonel Curry say that the farm was indispensable to the military operations of the Government. There is much other testimony to the same effect."

I do not know whether Senators desire me to read the whole recapitulation of this evidence, some of which is much stronger to that point than that which I have read; but I will proceed:

"On this testimony, and from personal inspection of the premises, the board fix the monthly value of the use and occupation of said farm at \$400, making \$4,800 per year, subject to some small credits which Mr. Segar had received for rent of parts of the said premises, and also subject to a proper deduction for his own use and occupation of the dwelling-house after it was restored to him.

"Mr. Segar acknowledges that he has received full compensation for use and occupation of his farm from and after April 2, 1866."

The Government occupied the farm from the 24th of May, 1861, to January 1, 1867, according to the certificate of the quartermaster:

"From 25th November, 1865, (the time to which the military commission assessed the value,) to said 2d April, 1866, would be four months and eight days, which, at \$366 77 per month, would make the sum of, say, \$1,565."

"But the claimant acknowledges having received from Freedmen's Bureau, after the closing of the military survey hereinbefore set forth, and to be applied as a credit for use and occupation prior to 2d April, 1866, the sum of \$3,766 07."

The military board referred to consisted of the following-named officers: Charles P. Baldwin, lieutenant colonel eleventh Maine infantry, president; Thomas F. Edwards, major twenty-fourth Massachusetts infantry; and George C. Scammon, captain eleventh Maine infantry, recorder.

I have given a recapitulation of the damages to the farm, but inasmuch as the committee allow no damages to the farm I will omit that. They only allow for the value of the timber:

"In reference to the timber destroyed:

"Six witnesses, to wit: Kelley, Outten, Whiting, Wood, Moody, and Craver, say woodland of nearly one hundred acres entirely stripped.

"Six other witnesses, to wit: General Roberts, General Hays, Captain Adams, Colonel Baylor, Captain Sanger, and Colonel Curry, say fencing, fuel, and timber, all destroyed.

"C. W. Hickman and J. C. Phillips say value of wood per cord on the stump in the woods was at the least from two and a half to three dollars per cord. The latter says he knows that the Freedmen's Bureau actually paid six dollars per cord for wood in the immediate vicinity. They also fix the area of the woodland at about one hundred acres, and estimate that each acre would have produced at least seventy-five cords. But the title of Mr. Segar to a part of this woodland seems to have been in dispute. Surveyor Joy, by actual survey, fixes the area belonging to Mr. Segar, clear of dispute, at seventy-seven and a quarter acres.

"Fixing the amount of wood at seventy-five cords per acre, (the lowest estimate of any of the witnesses,) the total number of cords on the seventy-seven and a quarter acres would be five thousand seven hundred and ninety-four, which, at three dol-

lars per cord, would make the sum of \$17,382; but this is subject (see General Howard's letter) to a credit of \$1,828 17, leaving balance of \$15,553 83.

"The result, therefore, of the evidence as aforesaid, is as follows:

Balance due on quartermaster stores and commissary subsistence.....	\$1,560 00
Use and occupancy of the farm to 25th November, 1865, as ascertained by military commission, which see.....	\$20,410 10
Use and occupancy of the farm from 25th November, 1865, to 2d April, 1866.....	1,565 00
	21,975 10
Subject to credit of.....	3,766 07
Leaving balance of.....	18,209 03
Timber cut and used for fuel.....	\$17,382 00
Subject to credit of.....	1,828 17

Leaving balance.....	15,553 83
	\$35,322 86

It is proved that every panel of the fence of the farm was destroyed; and since this report I have received a certificate from the quartermaster that for want of fuel it was burned as fuel. There is evidence that it would take \$1,000 a mile to restore that fence, but estimating that fence at half what a new fence would be worth it would amount to \$3,000, at least. This estimate also excludes any destruction of the farm-house, worth probably \$3,000; but putting that at half the amount, \$1,500, here would be an additional sum of \$4,500, for which no allowance is made.

"Nor is any estimate made for the damage done by digging trenches, constructing roads through it, &c., creating pools of stagnant water, and causing a formerly healthy location to be unhealthy."

So unhealthy that although formerly one of the most healthy places in the country, Mr. Segar has now taken his family away in consequence of the intermittent fever. It is impossible for them to live there, himself being sick and his family penniless, beggars, by what has been taken from them, and now depending upon the charity of their friends; while men are at his door waiting for the suspension of the stay law in Virginia, formerly his enemies and now his persecutors, ready to foreclose the mortgage and take even the soil that is left from him. We say further in this report:

"The destruction of fences and buildings was evidently the result of private trespasses and depredations by the soldiers and freedmen; and although the losses occasioned thereby are as great to the claimant as if they had been lawfully authorized by the Army the committee did not feel at liberty to allow claims of that character."

Since that time we have received evidence that they were taken and burned for fuel by the quartermaster.

"After maturely considering this case, and taking also into consideration the abatements to which *ex parte* testimony must always be subject, the committee are satisfied that the claimant is still entitled, at the lowest estimate which can be reasonably made, to the sum of \$25,000, by reason of the matters as set forth in his petition and accompanying papers. The committee therefore report the accompanying bill, providing for the payment of that sum."

I have an extract from the report of the military commission which I could read, or I can read any amount of evidence to substantiate these facts.

Mr. HENDRICKS. I should like to ask the Senator from West Virginia what this land was worth as a farm before it was taken possession of according to the rates of value in that neighborhood and considering the character of this property? What was it worth per acre as it was improved then?

Mr. WILLEY. The evidence is contradictory on that point. It varied from one to one hundred and fifty dollars per acre. Allow me to state another fact in connection with it. Colonel Segar, by permission of the United States Government, erected what is called the Hygeia Hotel on the public grounds near Fortress Monroe, with the explicit understanding that in any military exigency it must be taken down if the military authorities required; and although he and his partner had invested in that hotel \$90,000 it was taken down, and it is a total loss to him, because he

has no claim on the Government for it. If there ever was a man on the face of God's earth entitled to this pittance at the hands of Congress it is Joseph Segar, a loyal, honorable man; and this bill does not give him one half what he is honestly entitled to at the hands of the Government.

Mr. CAMERON. I think the sum named in this bill is very much too large. This man had four hundred acres of land, and the out-houses upon his farm were not destroyed at all.

Mr. WILLEY. All the out-houses were destroyed except one.

Mr. CAMERON. I beg the Senator's pardon, I know something about it. The Senator is mistaken as to the Hygeia Hotel. Instead of being injured by that transaction he was a great beneficiary. He occupied that property for years without paying the Government one dollar of rent, and he got a large income from it every year.

Mr. HENDRICKS. Who built that?

Mr. CAMERON. He built it himself on the Government's land, on ground belonging to the Government. That was taken from him during the war. I know something about the occupation of lands by the troops. They occupied my land at Harrisburg for six or eight or ten months; they destroyed my timber, burnt down my fences, and injured my crops; and I never got a dollar. I had a little contest with them on one point, about the time they were going away, because they wanted to sell the manure which the horses had left on the ground, [laughter,] and I would not agree to it. I have no doubt that on this man's farm, if two hundred acres of the land were occupied by the Army, they must have had eight or ten thousand horses there during the time; and I have no doubt it is worth twice or thrice as much as it was before the troops took possession.

Mr. CONNESS. That is your experience.

Mr. CAMERON. Yes, sir. The whole country around here has been benefited by the manure left by the Army. The crops are a great deal better than they were before; more abundant, and in every way better. I move to amend the bill by striking out "\$25,000" and inserting "\$10,000," which I think is a very liberal sum.

Mr. HOWE. Let me say one word. The subject-matter of this claim has been stated by the Senator from West Virginia. It is impossible for the whole Senate to go into the evidence by which this claim is supported and form an accurate judgment as to the precise sum that should be recovered. I can only say to the Senate that the committee considered it very carefully. We hesitated a time as to whether we should report any sum or report a bill sending him to the Court of Claims to have the damages assessed there; but upon full consideration it was finally the unanimous opinion of the committee—and the composition of the committee is known to the Senate—that it was safer for the Government to pay this sum rather than to let it go to the Court of Claims. The Senator from New Jersey [Mr. FRELINGHUYSEN] and others belonging to the committee will attest that. I shall not argue a moment as to whether the sum should be \$10,000 or \$25,000. The bill expresses the judgment of the committee.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania, to reduce the sum to \$10,000.

The amendment was rejected.

Mr. BUCKALEW. Mr. President, in my county there was a case of the occupation of land, a farm, for a considerable time by a camp. The troops destroyed the fences, swept off the crops, cut down the sugar corn, cut down the trees, and committed depredations generally. There was an investigation afterward, and a report was made that the drippings of the camp were sufficient to indemnify that gentleman, and he has gone without a copper of compensation to this day. So that gentleman need not smile at the statement which my colleague

has made in reference to the occupation of lands by troops. That seems to answer up in Pennsylvania; at least it answered in my county in a case within my own knowledge.

Mr. President, this mode of assessing damages to individuals for the occupancy of their lands, for the destruction of their property, and for supplies obtained by the Army from them, is the most dangerous system we can undertake in reference to these demands—an investigation upon *ex parte* statement here before committees. It is impossible for us to base an honest and intelligent vote upon cases examined in this manner and presented to us hurriedly in the closing hours of the session. Why, just think of it! This demand of \$25,000 is about sixty dollars an acre for the whole of this farm, including the improved parts and the woodland, and I believe the highest estimate of its value is one hundred and twenty-five or one hundred and fifty dollars an acre. It seems the house was restored and some of the other buildings, and that at least the house was put in good condition; that there was an allowance made to him of some six thousand dollars actual payment for all the articles that were used when possession was taken of the premises, carts and wagons, and some of the crops, and so on; so that the mere naked occupation of the land afterward is to be paid for at the enormous rate of sixty dollars an acre. Now, sir, I venture to say that if this property was put under the hammer at this moment it would not bring the amount that it is here proposed to vote to this man for the occupation of it for two or three years. This is not payment for damages done to the property when possession was taken of it. Payment was then made to the extent of \$6,000. It is for the use and occupancy of the land afterward. The main destruction must have been of the fences, and some of the timber was consumed; but about the timber, it does not appear that all of it was consumed, because after the Freedmen's Bureau took possession of it they took off a portion of the timber, which has been paid for.

Mr. WILLEY. The Senator seems to be under a misapprehension. This amount paid when they went there was not for use and occupation, but it was for corn in the crib, for wagons, for tools, for horses, for mules. The amount was estimated by a military commission for property taken at the very time they commenced the use and occupation of the land.

Mr. BUCKALEW. That is the very thing I say, that this allowance is for use and occupation of the land afterward. It is not for the articles upon the premises which were taken possession of by the Army. They were paid for, or nearly paid for, within \$1,600. It is for the mere use of the land except so far as timber was cut from that portion which was woodland. It seems to me that on the very face of it this is a most monstrous demand, paying this man at the rate of sixty dollars an acre, probably more than the whole value of the land at this time, in the way of damages. And observe this is done upon an *ex parte* examination. Nobody has represented the Government in this investigation; no solicitor of the Court of Claims has been notified of the taking of the evidence; there was no cross-examination in behalf of the Government. Nor does this whole claim rest upon the report of the military commission. A part of it is made up of a sum assessed here in a private committee-room, upon papers presented by the claimant himself, without any cross-examination of the witnesses, without the Government being represented. Well, sir, no committee can be made in either House of Congress so intelligent, so honorable, so sagacious, that can investigate claims presented here in this manner and do justice to the Government. It is utterly impossible; and it is because it is impossible that we have constituted a Court of Claims and have conferred upon that court enlarged powers, have provided officers to represent the Government, and pay annually out of the Treasury a large sum of money to see that such

claims as this are duly investigated, and that justice is done to the Government as well as to claimants.

I do not object so much to the appropriation of \$25,000 out of the Treasury upon this claim, insufficiently as it seems to me to be established and shown here; I object to the system. If you vote to Mr. Segar upon the estimate of one of our committees this large sum of money, sixty dollars an acre for the whole of his farm, from all parts of Virginia, and from all parts of the South and from the central States, claims will come up here by the hundred, and they will demand as an act of justice that we shall vote the money, and you cannot say no. They will plead this very case that you are passing to-night upon the report of a committee merely, as a conclusive precedent in behalf of the allowance demanded.

Mr. HENDRICKS. I do not take the view of this case which is taken by the Senator from Pennsylvania, [Mr. BUCKALEW.] This land appears, at the commencement of the war, to have been worth from one hundred to one hundred and fifty dollars an acre. Assuming it to have been worth \$125 an acre, the plantation was worth above fifty-five thousand dollars; a handsome estate. That man is turned off. It is taken possession of by the Government. It is held for five or six years. Now, I ask Senators what that is worth, not upon *ex parte* statement, as the Senator from Pennsylvania seems to think, but upon the testimony of officers of the Government. What is it worth? The rental value for the five or six years, these officers say, is worth above twenty thousand dollars. That is the evidence, not *ex parte*, but of the Government's own officers. A commission appointed by the Government made an estimate of the use of this property for the time this man was turned off, and put it at \$21,000. Now, I ask the Senator from Pennsylvania, [Mr. CAMERON,] who spoke of the depredations upon his own plantation, what is the present difference between the value of this estate down near Fortress Monroe and its value before it was taken by the Government; a beautiful farm with fences, with one hundred acres of woodland, with three hundred and forty-seven acres of improved land well fenced, in good condition, making a good return to the owner? What is the difference between the value then and now? It was worth \$125 an acre when taken possession of. What is it worth now? I agree with the Senator from Pennsylvania, [Mr. BUCKALEW,] that perhaps it is not worth \$25,000 now. According to the description of that plantation to-day, because of the depredation upon it, the destruction of the fences, the destruction of the timber, the destruction of the soil, making it into roads, and other uses by the military forces there for four or five years, I would not give for it now one half what it was worth when it was taken possession of, and I undertake to guess that the Senator from Pennsylvania would not. It is worth as it comes back to the owner to-day with the mortgages upon it, less by one half than it was when it was taken possession of. Therefore the payment of rent is not sufficient. If you rent your house and let to your neighbor at \$100 a month, that is compensation to you; but you expect it to be returned in as good condition as he took it, except the necessary and natural decay of the property. That is not the case here. This property is to be paid for, the loss of the property, not the destruction of the improvements, but the use of the property for five or six years.

Is it to be said to the Senate of the United States that if we allow a claim which is just and honest other claims may come, that we are to reject a claim that is right because somebody else may present a claim? I have never yet listened to that argument. The Government of the United States must pay its honest debts, even if other creditors should present themselves.

Mr. BUCKALEW. The Senator misconceives my argument. It was not that we should

refuse to pay the claim, but that we should turn it over to a proper tribunal.

Mr. HENDRICKS. The proper tribunal cannot do full justice in this case. The Court of Claims as organized cannot; and I believe this case has been before that court; has it not?

Mr. WILLEY. No, sir.

Mr. HENDRICKS. I thought it had been; but for the loss of this property a compensation cannot be made by the Court of Claims. What has the Court of Claims to do with the cutting down of a grove of one hundred acres of woodland? Does that come within any of the definitions of the jurisdiction of that court? Does that rest upon contract? Does that rest upon law? Does that rest upon departmental regulations and orders? No, sir; it does not come within the jurisdiction of that court as now defined by law. It is simply a case of power exercised to take that which belongs to the citizen for the public good. It does not rest upon contract, nor law, nor departmental regulations.

Returning to the argument of the Senator from Pennsylvania, if there are other cases like this we ought to hear them. If the Government of the United States has gone upon the farm of the Senator's neighbor and has occupied that farm and driven his family away so that that family has not been any longer supported upon that farm, and the Government has had the use of that private property, shall the Government not pay for it? Can it be claimed that the Government of the United States can occupy property and not pay for it? Can it be claimed that the Government can take one hundred acres of woodland and convert that into fuel for the use of the Army, and yet not pay for it? It is just, it is right that this man should be paid. It is right because his property has been taken, it has been used, it has been destroyed; and it seems to me, according to this report, that the estimate made by the committee is a very low one. The use of the property, according to the report of the commission on that subject, nearly amounts to the twenty-five thousand dollars; and does any Senator who knows anything of the value of a handsome farm undertake to say that the injury to this plantation is not a very serious one, one that cannot be repaired short of a very large expenditure? I do not believe that farm to-day is worth one half what it was when the Government took it; and the money due for the use of it for these intervening years must be paid by the Government as an honest debt, just such a debt as the Senator from Pennsylvania would have to pay for in a court if he had taken the use of the property. For the use of it I have no doubt the Court of Claims can give a judgment; but for the balance of this claim that court has no jurisdiction.

Mr. CONKLING. I wish to ask the Senator from Indiana a question. Shall I understand him to say that the Court of Claims has no jurisdiction of a claim for the occupation of land for military purposes and the destruction of timber?

Mr. HENDRICKS. I undertake to say—I do not know just how the Senator understood me—that for the use and occupation I presume the court would have jurisdiction upon the common count, resting it upon contract, an assumed or implied contract to pay for the use and occupation; but for the destruction of property, which is in the nature of trespass, it does not rest upon contract.

Mr. CONKLING. The Senator does mean, then, that I shall understand him in that way. I beg to take issue with him. I affirm not only that the Court of Claims would have jurisdiction to try such a case as that, but that the court has tried such cases, and has adjudicated upon them—upon cases which arose anterior to this war. I refer particularly to a case which the Senator from Oregon may remember, a case which arose in his State, the case of Johnson, I think, against the United States for the occupation of land near the Cascades on the Columbia river, the erection of two

block-houses, the cutting down of timber; and in short the parallel of this case, which was tried in the Court of Claims, and in which a recovery was had of \$40,000.

I do not rise to contest this claim; but I think the Senator will have to revise the opinion he has given, that the Court of Claims is not the appropriate jurisdiction to extend over this case. Certainly, it seems to me, that they could find, upon the theory of an implied *assumpsit*, what would be the fair rent for these premises as they were occupied, and the fair recompense for the injury inflicted on the Senator.

Mr. HENDRICKS. I will ask the Senator a question with his permission. In a case of trespass upon land, cutting of timber, can the trespass be waived by the party and he sue in contract for the damage thus done? It is very plain that where personal property is taken and used the party may waive the trespass and sue on contract; but for a trespass to real estate, a cutting of timber without the authority of the owner, can you sue for that wrong in contract? Does it rest upon contract?

Mr. CONKLING. I rather think from the tone and degree in which the Senator suggests that question that he and I would be at issue as to the true answer to it in the abstract. Without being diverted, however, to the consideration of that question, I dispose of it practically as far as it is here by saying to the Senator that if the United States through any of its authorized agents takes possession of my property, real property though it be, occupies it in a manner no matter how peculiar, inflicting injury upon it, transforming it in its character from woodland to meadowland, or in any other way the Senator pleases, as I understand the law, I may go and I ought to go into the Court of Claims and recover upon the special facts of the case, whether he would denominate it a special action on the case or an action of *assumpsit*. I recover upon my petition setting out these facts, and the Court of Claims would carve out of the facts just such a decree as would be appropriate. I understand that the Court of Claims would have power to do that just as undoubtedly as a court of equity would have that power. If that is not so, then I cannot comprehend how the claimant in the case of Johnson, that I referred to, maintained his cause of action for just such an occupation as we are talking about.

Mr. HENDRICKS. I should like to inquire of the Senator from New York—

Mr. TRUMBULL. Will the Senator from Indiana allow me to read a section of law which, I think, will satisfy both the Senator from New York and himself what the law is. It is very brief:

"That the jurisdiction of the Court of Claims shall not extend to or include any claim against the United States growing out of the destruction or appropriation of ordnance to property by the Army or Navy or any part of the Army or Navy engaged in the suppression of the rebellion from the commencement to the close thereof."

Mr. CONKLING. Does that section apply to all States alike?

Mr. TRUMBULL. I think it does apply to all States alike.

Mr. CONKLING. My recollection was, though I do not dispute the Senator's statement, that that section applied to those States and that portion of territory declared in insurrection.

Mr. TRUMBULL. There is no such limitation.

Mr. CONKLING. But then certain territory was excepted by proclamation. If that statute has stepped in, and there be no statutory answer, I admit the Senator is right; but I still contest with the Senator from Indiana the point on the principle he laid down; and I affirm that but for the special statute cutting it off there would be no doubt whatever of the jurisdiction of the Court of Claims, and that was the question which the Senator from Indiana and I were discussing.

Mr. WILLIAMS. I think there is a question involved in this case of more importance than that suggested by the Senator from Indiana or discussed by the Senator from New

York. I am impressed with the hardship of the case as it has been presented by the Senator from West Virginia; but the inquiry arises in my mind as to whether or not this was not one of the calamities of war. Eleven States, of which Virginia was one, organized into a confederacy and made war upon the Government. To subdue the rebellion which they made the Government organized armies and sent them into those States, and it was a necessary part of the duty of those armies to destroy property, to kill men, and in every lawful way, according to the rules of war, to cripple the enemies of the country. Senators seem to regard this claim with indifference; but it follows necessarily that if this claim is allowed by Congress every man in these eleven States upon whose lands the Union Army made a camp, whose house was taken for the purposes of war, whose fences were destroyed in the progress of the war, whose timber was destroyed by reason of the war, will have a claim against the Government; and we shall be engaged for the next ten, fifteen, or twenty years in imposing taxes upon the people of this country to indemnify those who lived in the rebel States for the losses which they sustained during the war.

This opens the door; this is the fatal precedent that will plead for every case that may arise in the eleven rebel States for property that was taken or that was destroyed or injured by the prosecution of the war in putting down this rebellion, and you cannot distinguish between one claim and another upon principle. It was necessary, if we sent our armies into those States, that they should make camps; and was it possible for the armies to distinguish between the innocent and the guilty? Is it not one of the inevitable consequences of war that where an army invades a country the innocent must suffer with the guilty? That is a great calamity, but it is unavoidable.

Mr. FRELINGHUYSEN. My friend is laboring under a misapprehension. This land was all within our lines, and not within the rebel lines.

Mr. WILLIAMS. Was it not in the State of Virginia?

Mr. FRELINGHUYSEN. Not within the rebel lines. It was expressly excepted by proclamation. It was the same thing as if it had been land in Oregon.

Mr. WILLIAMS. I think not.

Mr. HOWE. The Senator from Oregon is entirely mistaken as to the fact. This was as clearly outside of the rebellion as Massachusetts was, clearly defined by the proclamation. We must be allowed to know about that, because we have examined the testimony.

Mr. WILLIAMS. The Senator is allowed to know. I do not dispute what the Senator knows. I say it was in the State of Virginia.

Mr. HOWE. That is true.

Mr. WILLIAMS. And Virginia was one of the States which were in rebellion against the Government. If there are some particular facts which except this case from the general rule, those, of course, are to be considered by the Senate; but I call attention to this claim and to claims of this description; I know there are many of them pending before Congress. They are creeping along. One comes with some special circumstances that are supposed to take it out of the general rule; and another comes with some other circumstances that describe it and except it from the general rule; and in that way these claims are coming up like clouds against the Government and will be allowed unless Congress takes some decided stand upon that subject and establishes some uniform rule to which it will adhere. I know that one or two claims have passed Congress that originated in the rebel States, within the lines of the rebel armies, for the destruction of property; and this case seems to me to be one very much like them, although it is said that this particular land was within the Federal lines.

Mr. WILLEY. There can be no question of that fact. This was taken possession of on

the 24th day of May, 1861. There had been no war yet. This soil never was for one moment within the lines of the enemy. It is under the guns of Fortress Monroe almost. This was taken possession of on the 24th of May, 1861, and never was out of the possession of the Government until the 1st day of January, 1867.

Mr. WILLIAMS. I understand that to be the statement that was made, that it was within the Federal lines; but the question is as to whether the rule fixing the legality of these claims is to be determined by the State in which the claim originates, or whether it is to be governed by the lines that varied from time to time as the war progressed?

I have stated my objection to this claim as I have to other kindred claims of this description. I presume that the objection will be overruled as it has been heretofore overruled in one or two cases of this description; but I desire, so far as I am concerned, to say that in my judgment the loyal people of this country ought not, after they have expended thousands of millions of dollars to put down this rebellion, and sacrificed hundreds of thousands of lives, to be now taxed year after year for an indefinite time to indemnify the people of the rebel States for the losses which they sustained during the war.

Mr. FOWLER. Mr. President, I had supposed that the object of government was to protect citizens in their rights of property. If it does not have that object, I do not know what it has. I do assure you, sir, that the loyal people in the southern States expect the Government of the United States to indemnify them for property that they lost and that they gave for the support of the Army and Navy during the war. The Government of the United States, in my opinion, is bound to discharge this solemn duty to those people. It was its duty to protect them against violence of all kinds, and having failed to do that, it is its duty to indemnify them for the losses of property and the property the Government took to support its armies and its navies. If, however, it is to be the determination of what is called the loyal States in contradistinction to what it has pleased some individuals to call the rebel States to say that the loyal men of the rebel States shall never receive any compensation for the supplies that they furnished the Army and Navy, we wish that to be distinctly understood. There are certain other obligations that are devolved on the American people by persons in the loyal States. There is a large debt, and it is mostly in bonds. The bondholders will expect, of course, the men of the rebel States to pay their portion of taxes in order to pay this debt faithfully, and we expect to do it; but if the obligations of the Government with respect to the loyal men of the South are to be refused in this kind of style we shall see what other contracts are valid besides.

Mr. BUCKALEW. I offer the following amendment as a substitute for the bill:

That the claims of Joseph Segar, of Virginia, for use and occupation of his lands, and for timber appropriated therefrom by the military forces of the United States during the recent war, are hereby referred to the Court of Claims for investigation and allowance, the amount allowed not to exceed \$25,000, in addition to the sums heretofore paid on said claims.

Congress two or three years ago, by a general law, withheld the adjudication of these cases from that court. What I propose is simply this: that in the present case, as upon the *prima facie* showing, here is a meritorious claim, according to the report of our committee, we shall send the claim to that court to be determined upon the general law as it stood before the statute of 1864 was passed.

Mr. HARLAN. Is it not in order to amend the matter of the bill before the question is taken on striking out?

The PRESIDENT *pro tempore*. Certainly.

Mr. HARLAN. I move to strike out "\$25,000" and insert "\$15,000." I think the committee have got it a little too high. I observe the testimony stated by the Senator from West Virginia was that the use of the land was supposed to be worth from six to eight thousand

dollars a year. There are said to be about three hundred acres, I think, of tillable land. In my country you can rent land at from two to three dollars an acre. Suppose it is worth double that in Virginia, and I think it is no more than double, six dollars an acre would make \$1,800 a year, very much below the sum placed by some of the witnesses that have testified in the case. I think they have overestimated the value of the rental of the land; and I judge from all the testimony, although of course I have not had an opportunity to form as correct an opinion as the committee have had, that this owner will be probably satisfied with \$15,000 rather than go to the Court of Claims. It would drag along there several years probably, and he would have to pay attorneys' fees and lie out of the use of his money. I think it better to fix on some sum that a majority of the Senate will vote for. I therefore move to amend the bill by striking out \$25,000 and inserting \$15,000.

Mr. DRAKE. Mr. President, if it is proper for the Senate to pass upon a sum at all, it seems to me that great weight ought to be attached to the opinion of such a committee as the Committee on Claims of this body. I do not think it is right to treat a loyal man whose property has been used by the Government in any such way as that. I think we ought to be prepared to do justice here in every such case.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa.

The amendment was rejected.

Mr. CONNESS. I move to amend the bill by inserting "\$20,000" in place of "\$25,000."

The amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Pennsylvania.

Mr. BUCKALEW. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HOWE. Let me say one word. The Senator from Pennsylvania is a just man. I think he must concede that it is not fair after this man had a trial before one tribunal, whatever may be said of the character of that tribunal, to send him to another tribunal and to limit his recovery. Send him to the Court of Claims and strike off the limit from his right of recovery, and all I can say is that he will recover a heavier judgment than there is here.

Mr. BUCKALEW. There has never been any trial of this case at all; there was an appointment of a military commission, who went there and made an *ex parte* examination on the subject and made a report; but that is only a part of the demand. A portion of this claim was never investigated by any authority except the committee.

Mr. TIPTON. I wish only to say that every man who knows anything about the Army will admit that there were certain incidental damages done wherever the Army marched that never can be paid for and never ought to be asked for. I think much of that kind of incidental damage enters into this claim; and this Government would be bankrupt for a thousand years if it would undertake to pay all the claims that would follow in the wake of such a claim as this.

Mr. BUCKALEW. I have asked for the yeas and nays in order to put my protest upon the record on the first important one of these bills, to show that I resisted the establishment of this system which will lead to the presentation of a large number of claims to us at the next session. I beg to suggest to the Senate that it is utterly impossible that Congress in this case can do anything like justice to the Government and the claimant. That will depend on the passions and feelings of the hour in a numerous body like this, on sympathy for the claimant, on an impassioned appeal, on the state of a man's nerves, whether the Senate is tired or fresh. We cannot investigate and pass upon cases of this kind. I implore the

Senate to turn this case over to the Court of Claims, to have a rule. If we do not do this, that statute of 1864 will be one of the most pernicious ones ever put upon our statute-book, so far as the pecuniary interests of the Government are concerned. Far better would it have been to have left the whole of these claims to the proper court without the interference of Congress to protect the Government against them.

Mr. TRUMBULL. I concur in what the Senator from Pennsylvania has said as to the Court of Claims being altogether the better tribunal to investigate cases of this kind. I believe there is no tribunal ever devised so well calculated to illustrate the truth and arrive at a judgment upon facts as a court where witnesses are examined and cross-examined, brought face to face with the parties on both sides; and I think one of the most miserable ways of investigating any case depending on facts is to do it on *ex parte* affidavits. But I submit to the Senator from Pennsylvania, is it competent by a resolution of the Senate to give the Court of Claims jurisdiction of this case? We have a law passed in 1866 expressly prohibiting the court from taking jurisdiction of such cases. When we have referred it there, would this resolution repeal the law?

Mr. CONKLING. Is not this a joint resolution?

Mr. TRUMBULL. No, sir; it does not purport to be. If it be a joint resolution or an act, then I grant you it will be sufficient.

Mr. CONKLING. Is it not to be?

Mr. BUCKALEW. As a matter of course I understood this to be a joint resolution, which, if passed, would have the force of law; otherwise it would not carry the money to the claimant.

Mr. TRUMBULL. The law formerly was that the Court of Claims could take jurisdiction of causes of action arising out of contracts, expressed or implied, and also of such cases as might be referred to it by either House of Congress; but in 1866 Congress intervened and said the court should have no jurisdiction of cases of this character, and it seems to me that a resolution, unless it should be a joint resolution having the force of a law, would not confer jurisdiction.

Mr. BUCKALEW. I should like to have the resolution read. If it is not a joint resolution or a law it is of no account.

The PRESIDENT *pro tempore*. The matter before the Senate is Senate bill No. 575, for the relief of Joseph Segar.

Mr. TRUMBULL. But this amendment reads "Resolved." So it is at the desk.

Mr. BUCKALEW. I did not offer anything except the substance of the amendment. The formal introduction is to be left as it is in the bill.

The PRESIDENT *pro tempore*. Then the amendment is to strike out all after the enacting clause of the bill, and insert what has been read.

Mr. TRUMBULL. That makes a law.

Mr. WILLEY. If this amendment should be adopted, will it be subject to amendment afterward?

The PRESIDENT *pro tempore*. When the bill shall have been reported to the Senate it will be subject to amendment.

Mr. WILLEY. I move now to strike out so much of the amendment of the Senator from Pennsylvania as limits the allowance to \$25,000. If the case is to go to the Court of Claims, let him have what he can show himself entitled to.

The PRESIDENT *pro tempore*. It is moved to amend the amendment by striking out the limitation of \$25,000.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania, as amended, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 24, nays 20; as follows:

YEAS—Messrs. Buckalew, Cameron, Chandler,

Conkling, Conness, Cragin, Doolittle, Ferry, Fessenden, Harlan, Harris, McCreery, Morgan, Nye, Patterson of New Hampshire, Rice, Ross, Sawyer, Sherman, Stewart, Sumner, Tipton, Trumbull, and Williams—24.

YAYS—Messrs. Abbott, Anthony, Cattell, Corbett, Drake, Fowler, Frelinghuysen, Henderson, Hendricks, Howard, Howe, Morrill of Maine, Osborn, Patterson of Tennessee, Pomeroy, Thayer, Vickers, Wade, Willey, and Wilson—20.

ABSENT—Messrs. Bayard, Cole, Davis, Dixon, Edmunds, Grimes, Kellogg, McDonald, Morrill of Vermont, Morton, Norton, Pool, Ramsey, Robertson, Saulsbury, Sprague, Van Winkle, Welch, Whyte, and Yates—20.

So the amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed. Its title was amended to read: "A bill to refer the claim of Joseph Segar to the Court of Claims."

O. N. CUTLER.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 591.

The motion was agreed to; and the bill (S. No. 591) for the relief of O. N. Cutler was considered as in Committee of the Whole. It provides for paying to O. N. Cutler \$50,000, in full compensation for two hundred and sixty-eight bales of cotton seized by order of General Ulysses S. Grant at Lake Providence, Louisiana, the property of Cutler, and used for military purposes in equipping the steamer Tigress for running the blockade of the Mississippi river, at Vicksburg, in the month of April, 1863, and destroyed.

Mr. HOWE. That is a large claim, and I will state in a very few words what the facts are about it. In 1863, under the direction of General McPherson, commanding at Vicksburg, his chief quartermaster made a contract with a man by the name of Wagley to pick cotton out in the neighborhood of Lake Providence. He was to hire the help, pay them, feed them, pick the cotton, bale it, and have half of it, and turn the other half over to the Army for the use of the Government. Wagley assigned the contract to Cutler. Cutler went on and picked a large amount of cotton, baled it, delivered half of it to the Government, and the other half was at Lake Providence. When General Grant wanted to run the batteries at Vicksburg he sent out some steamers to gather up all the cotton they could to protect his boats. Although in the contract for picking the officer had stipulated against this cotton being seized it was seized, brought down, and used in packing the machinery of the Tigress, and was sunk with the Tigress by the rebel batteries in running by Vicksburg. The number of bales is proved by the officers who took it and used it on the boat. The value of the cotton is proved by the sales by the Government at Memphis. The cost of transportation is proved by the quartermasters on duty. Everything is proved except the weight of the bales. That is not proved except by the testimony of the petitioner himself, and we have cut down his estimate of the weight considerably. According to his estimate of the weight his claim would be sixty-two thousand and some odd dollars. We have reported an even \$50,000. These are just the facts in the case.

Mr. MORGAN. If there was good reason for referring the other case to the Court of Claims I should think there was good reason for referring this. It is a much larger claim. I make the motion that this be referred to the Court of Claims. I move the same amendment that was made in the other case.

Mr. STEWART. I think this bill had better go over to the next session.

Mr. SHERMAN. I think that in the present condition of business we ought not to consider such a bill as this, but should attend to the transaction of the large amount of business requiring attention in executive session.

Mr. SUMNER. I was about to submit a motion that the Senate proceed to the consideration of executive business.

Mr. HOWE. Let us take the vote on this bill.

Mr. SHERMAN. The Senator from Wisconsin asked two hours, and he has had them. I feel very restive when we are passing on claims of fifty or sixty thousand dollars of this character.

Mr. HOWE. I have had but fifteen minutes really.

Mr. SHERMAN. I feel very restive in passing claims for fifty or sixty thousand dollars growing out of losses during the war, when the policy of our laws forbids their being considered by the Court of Claims. I agree to what has been said by the Senator from Illinois, that these claims ought to be sent to some tribunal where they can be thoroughly examined.

Mr. HOWE. Very well, I only want to get the sense of the Senate. I wish to say to the Senator from Ohio that he can have no conception of the relief which has been afforded to the Committee on Claims by the vote which has been taken in the case of Mr. Segar. If the Senator will move to this bill the amendment which the Senator from Pennsylvania moved in that case he can test the sense of the Senate on that point.

Mr. SHERMAN. Let me point out a danger. It was with a great deal of reluctance that I voted for the proposition of the Senator from Pennsylvania. Once break down the rule you have established and agree to pay for losses, depredations, damages, &c., caused by the war on private property, or for a man's cotton taken and used for the public service and sunk in the river, and where will you stop? The difficulty is in ascertaining precisely what classes of claims we ought to pay and what we ought not to pay. That question ought to be settled at some time or other by a court under certain established general rules. I do not think we ought to make precedents now which will be dangerous hereafter. It was with great doubt that I voted to refer Segar's claim to the Court of Claims, and hereafter when a strong case is made appealing to our sympathies in behalf of a man who is semi-loyal or entirely loyal, as that claimant undoubtedly is, we shall be pressed to refer it to the Court of Claims, conferring on that court jurisdiction, and thus we shall open wide a door for claims that may amount to \$1,000,000,000. Indeed, one of my colleagues in the House of Representatives, in a very elaborate report, estimated the claims growing out of the war caused by depredations to property, destruction of property, and injury to property, as amounting to some \$1,500,000,000.

Mr. HOWE. Now, Mr. President, let me state to the Senator from Ohio the predicament he puts the Committee on Claims in. We have this army of claimants on us, and we cannot turn them out of the committee-room, and you will not turn them out of the Senate; you will send their claims to us. You have precluded them by a general law from going to the Court of Claims, and you will not alter it. You have altered it in the other case, and individually I thank you for it, and I think the Committee on Claims are very grateful to you, but you do not propose to alter it here. You say they shall not go to the Court of Claims; you send them to us; you make us examine the claims and report them here, and you will not vote on them. I only ask you to vote. Establish some rule and I will abide by it.

Mr. SHERMAN. This cotton, I admit, according to the statement made, was cotton belonging to this man which was taken for public use. A claim is presented which in equity everybody will admit ought to be responded to. But is his claim in equity any stronger than the claim of a loyal owner of real estate in a rebel State whose land was entered upon, whose fields were dug up and trenched, out of whose homestead a battery was made or a block-house? May not thousands and tens of thousands of such cases arise? We could not undertake to pay those damages.

Mr. HOWE. I will not undertake to say

that the equity here is stronger than it is in the other case suggested. I only ask the Senate to decide something, not to send these hordes of claims to the committee to labor on them, report on them, and then say you will not consider them. Just tell us what the law is and we will abide by it; but to hang these fellows up between heaven and earth, and make the Committee on Claims nurse them and poultice them there, is not right. I do not like the duty.

Mr. SUMNER. I renew my motion.

Mr. STEWART. I think this bill ought to be postponed until the December session, and then we can discuss the matter and settle some rule. I do not believe we can at this time arrive at any safe conclusion as to what to do with this class of cases.

Mr. SUMNER. I agree with the Senator to-night, and therefore I move that the Senate proceed to the consideration of executive business.

Mr. ANTHONY. I suggest that if the Senator from Wisconsin has any undisputed claims he be allowed to have them passed.

The PRESIDING OFFICER. The motion is not debatable.

Mr. HOWE. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 20; as follows:

YEAS—Messrs. Abbott, Buckalew, Cameron, Chandler, Cole, Conkling, Corbett, Doolittle, Ferry, Fessenden, Harlan, Harris, Howard, McCreery, Morgan, Patterson of New Hampshire, Pomeroy, Rice, Sawyer, Sherman, Sprague, Stewart, Sumner, Tipton, Vickers, and Welch—26.

NAYS—Messrs. Anthony, Cattell, Cragin, Drake, Fowler, Frelinghuysen, Henderson, Howe, Morrill of Maine, Nye, Osborn, Patterson of Tennessee, Ramsey, Thayer, Trumbull, Wade, Willey, Williams, and Wilson—20.

ABSENT—Messrs. Bayard, Conness, Davis, Dixon, Edmunds, Grimes, Hendricks, Kellogg, McDonald, Morton, Norton, Pool, Robertson, Ross, Saulsbury, Van Winkle, Whyte, and Yates—18.

So the motion was agreed to.

After some time spent in executive session the doors were reopened, and the Senate adjourned until ten o'clock to-morrow.

HOUSE OF REPRESENTATIVES.

FRIDAY, July 24, 1868.

The SPEAKER. The hour of twelve o'clock having arrived, the session of Friday commences. The Journal of yesterday not having been completed if there is no objection the reading of it will be dispensed with.

ADJOURNMENT OF CONGRESS.

The SPEAKER. The House resumes the consideration of the motion made yesterday by the gentleman from Illinois, [Mr. WASHBURNE,] to reconsider the vote by which the House agreed to the amendment of the Senate to the concurrent resolution in regard to the adjournment of Congress.

Mr. WASHBURNE, of Illinois. I move to lay the motion to reconsider on the table.

The question was put; and there were—yeas 63, noes 48.

Mr. MAYNARD and **Mr. PAINE** demanded the yeas and nays.

The yeas and nays were ordered.

Mr. BINGHAM. Would it be in order to move to postpone the consideration of this question until Saturday at two o'clock?

The SPEAKER. It would not. The motion to lay on the table has priority of the motion to postpone.

Mr. FARNSWORTH. I appeal to my colleague to let this matter lie over until to-morrow.

Mr. WASHBURNE, of Illinois. I call for the regular order.

Mr. ORTH. We can rescind the resolution if necessary.

Mr. FARNSWORTH. No, we cannot.

The SPEAKER. No debate is in order.

The question was taken; and it was decided in the affirmative—yeas 75, nays 71, not voting 70; as follows:

YEAS—Messrs. Adams, Archer, Axtell, Baker, Baldwin, Beck, Blair, Boyden, Broomall, Roderick

R. Butler, Cake, Cary, Churchill, Reader W. Clarke, Cullom, Dawes, Delano, Dixon, Dockery, Eckley, Eldridge, Eliot, Ferriss, Getz, Glossbrenner, Golladay, Grover, Haight, Halsey, Hill, Hotchkiss, Hunter, Johnson, Thomas L. Jones, Judd, Kerr, Ketchum, Knott, Koontz, Ladin, Lash, Mallory, McCullough, McKee, Mercer, Moore, Mungen, Niblack, Orth, Perham, Phelps, Pike, Poland, Pomeroy, Robertson, Ross, Sawyer, Seofield, Sitgreaves, Smith, Starkweather, Aaron F. Stevens, Stewart, Taber, Lawrence S. Trimble, Trowbridge, Twichell, Van Arnam, Burt Van Horn, Van Trump, Van Wyck, Ellihu B. Washburne, William B. Washburn, Stephen F. Wilson, and Windom—75.

YAYS—Messrs. Ames, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Banks, Beatty, Benton, Bingham, Blackburn, Boies, Boutwell, Bowen, Bromwell, Buckland, Buckley, Benjamin F. Butler, Cullis, Sidney Clarke, Cobb, Coburn, Covode, De-weese, Driggs, Ela, Farnsworth, Fields, French, Garfield, Goss, Gravelly, Hamilton, Haughey, Hawkins, Heaton, Higby, Hinds, Hooper, Hopkins, Ingersoll, Jencks, Alexander H. Jones, Kelley, William Lawrence, Loan, Logan, Loughridge, Maynard, McClurg, Miller, Mullins, Myers, Nunn, O'Neill, Paine, Pile, Plants, Polsey, Schenck, Stokes, Sypher, Taffe, Taylor, Thomas, John Trimble, Vidal, Ward, Henry D. Washburn, Welker, Whittemore, and William Williams—71.

NOT VOTING—Messrs. Allison, Anderson, Barnes, Barnum, Beaman, Benjamin, Blaine, Boyer, Brooks, Burr, Chanler, Cook, Cornell, Dodge, Donnelly, Eggleston, Ferry, Finney, Fox, Griswold, Harding, Holman, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Julian, Kellogg, Kelsey, Kitchen, George V. Lawrence, Lincoln, Lynch, Mann, Marshall, Marvin, McCarthy, McCormick, Moorhead, Morrell, Morrissey, Newcomb, Newsham, Nicholson, Norris, Peters, Pierce, Price, Pruyn, Randall, Raum, Robinson, Root, Selye, Shanks, Shellabarger, Spalding, Thaddeus Stevens, Stone, Upson, Van Auken, Robert T. Van Horn, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, Wood, Woodbridge, and Woodward—70.

So the motion to reconsider was laid on the table.

During the roll-call, Mr. RAUM stated that he was paired on this question with Mr. MARSHALL, or he would have voted in the negative.

Mr. ALLISON stated that he had paired with Mr. Brooks on this question, or he would have voted no.

Mr. KELSEY stated that he was paired on this question with Mr. WILSON, of Iowa.

Mr. ELDRIDGE. I am opposed to the recess, but for the sake of getting this House away from here I vote ay.

The result of the vote was announced as above recorded.

Mr. FARNSWORTH. I rise to make a report from a committee of conference.

ILLINOIS IRON AND BOLT COMPANY.

Mr. MAYNARD. Will the gentleman yield to me for a moment?

Mr. FARNSWORTH. I will.

Mr. MAYNARD. I ask leave to report back from the Committee of Ways and Means a bill for the relief of the Illinois Iron and Bolt Company. It will take but a single moment, and is of some importance.

Mr. SCOFIELD. I object.

LAND SCRIP IN SOUTH CAROLINA.

Mr. FARNSWORTH. I yield for a moment to the gentleman from South Carolina, [Mr. WHITTEMORE.]

Mr. WHITTEMORE, by unanimous consent, introduced a joint resolution (H. R. No. 856) relative to land scrip in the State of South Carolina; which was read a first and second time, and referred to the Committee on the Public Lands.

REPRESENTATIVES FROM GEORGIA.

Mr. DAWES presented the credentials of Samuel F. Gove, of the fourth congressional district, and C. H. Prince, of the fifth congressional district of the State of Georgia, claiming to have been duly elected members of the Fortieth Congress; and the same were referred to the Committee of Elections.

POSTAL LAWS.

Mr. FARNSWORTH submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1205) to further amend the postal laws, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from its disagreement to

the Senate amendments to said bill, with the following amendments: section thirteen, line five, strike out all after "whatever."

At the end of section fourteen add, "all other blank agencies are hereby abolished."

JOHN F. FARNSWORTH,

JOHN HILL,

Managers on the part of the House.

ALEXANDER RAMSEY,

JAMES HARLAN,

Managers on the part of the Senate.

The question was upon agreeing to the report of the committee of conference.

Mr. FARNSWORTH. The gentleman from California, [Mr. JOHNSON,] who was a member of the committee of conference, also concurred in this report, but was not present when the report was handed around for signatures.

Mr. JOHNSON. That is correct.

Mr. WASHBURN, of Illinois. I desire to have read the House bill and the amendments of the Senate to that bill, in order in the first place to see what are the changes which the Senate propose, then what amendments the committee of conference disagree to, and then what the committee agree to.

The SPEAKER. By a ruling of Mr. Speaker Banks, in the Thirty-Fourth Congress, and affirmed upon an appeal to the House, nothing can be read when a conference committee submit a report but that report, except by unanimous consent.

Mr. WASHBURN, of Illinois. I would be glad to have it read, because I think there can be no objection to our being informed in regard to the legislation here proposed.

Mr. FARNSWORTH. I object to that because the bill is very long, and I can explain it in less time than it will take to read it. The conferees on the part of the House agree to recede from their disagreement to the amendments of the Senate, with amendments. One is to strike out a clause in one of the Senate amendments which authorizes postmasters if they suspect that any letters or circulars concern lotteries to take them from the mails and forward them to the dead letter office. We thought that was a dangerous power to confer upon postmasters, and therefore we have stricken it out. That section provides that it shall be unlawful to deposit in the mails any letters or circulars relating to lotteries, which we thought would be a wise provision. But we thought it would not be wise to give postmasters this extraordinary power to be exercised upon a mere suspicion.

The other amendment to which the conferees agree is to add a provision to the Senate amendment for the establishment of a blank agency of the Post Office Department in the city of Washington, which provision abolishes all other blank agencies. I believe the Department now has four blank agencies, agencies for the distribution of blanks to the post offices of the United States; one in the city of New York, one in Buffalo, I believe, one I think in Cincinnati, and one in Washington. I may be mistaken in the names of the particular places. It is found that it is much more convenient to have but one blank agency, and that here in the city of Washington, at the Department, than to have agencies scattered around through the country. These blank agencies were originally established before the days of railroads, and the means of quick and easy transportation thereby afforded. This establishment of one agency in the city of Washington, in place of all there are now, and the provision for the appointment of the blank agent and the necessary clerks and employes under him, will save the Government at least \$600 in expenses. I suppose no one will object to that, because one agency will certainly cost less than four will.

Mr. RAUM. I wish to ask whether all the blanks distributed from this blank agency will be gotten up in Washington city?

Mr. FARNSWORTH. Not necessarily.

Mr. RAUM. If everything of that kind be gotten up here, the cost will be twenty per cent. more than in New York.

Mr. FARNSWORTH. The existing law requires that the blanks shall be delivered; the

only question presented by this bill is as to the establishment of an agency to attend to this business. I will state for the information of the House that this bill as originally passed by the House comprised three sections. The first provided for the return of letters where a direction was placed upon them for return within a certain number of days. The second section provided a different scale from the present for money orders. The third section provided for the free delivery of weekly newspapers within the county where published or within thirty miles of the place of publication, construing and explaining the law passed some years ago, making it more satisfactory to the publishers of weekly newspapers in the country. The Senate has added several sections; and we believe they are all necessary. They have added a section providing for the issuing of a duplicate money order in case of the loss of the original order, proper provision being made to prevent the duplication of orders where the original is not actually lost. There are two or three sections added by the Senate providing for the punishment of forgery and other crimes against the Post Office Department where there seemed to be a lack of necessary legal provision for that purpose.

The Senate has also provided for the appointment of a new officer. There is in the Post Office Department a clerk who takes charge of the foreign mail department. He is only a clerk detailed for that purpose, receiving a salary, I think, of \$2,500 a year. This bill proposes to make him the head of a division of foreign mails, and increases his salary by the addition of \$500.

Mr. BINGHAM. I would like to know whether this bill makes any appropriation for the erection of a post office in the city of New York.

Mr. FARNSWORTH. No, sir; it does not. I wish to state in regard to the foreign mail service that within the last ten years the postage upon the exchange of letters with foreign countries has increased over one million dollars. The postage now is some two million four hundred thousand dollars upon letters exchanged with foreign countries. We have recently negotiated a number of foreign postal treaties, and this branch of our postal service has become so large that the Department asks, and we have agreed to give it, a superintendent of foreign mail service. The officer who at present takes charge of this branch of business will be the superintendent, his salary being increased by the addition of \$500.

The Senate amendment also provides that the Postmaster General may appoint an agent to go out with each of the mails on the mail steamships to China and Japan. At present the law provides that the Postmaster General may send special agents on such service. He does so at a cost, in each case, of \$1,600 salary, and I think four dollars a day for expenses. This bill provides that the agent shall be appointed at a salary of \$2,000, which is less than the amount already paid to the special agents sent out under the existing law. The bill also provides that the Postmaster General may appoint the necessary agents in China, for the purpose of taking charge of our mails and distributing them there. The House, I suppose, is aware of the fact that we have no postal arrangement with China, China having no postal system. The result is that our mails when sent out there have to be left with the consul. For the extra labor of attending to those mails he receives only such extra pay as the Postmaster General may see fit to give him. Sometimes our consuls cannot take charge of this business. It is a labor which they cannot properly perform for want of the required facilities. It is necessary that the Department should provide some agent for this purpose. The Postmaster General under this bill will employ, at as small an expense as possible, a consul or some other person living out there who will take charge of the mails when they are sent ashore from the steamship and attend to their distribution. I believe,

Mr. Speaker, I have said all that is necessary to be stated in regard to this bill. The conferees on the part of the House were unanimous. I believe I will now call for the previous question.

Mr. WASHBURN, of Illinois. I hope my colleague will yield to me.

Mr. FARNSWORTH. For how long?

Mr. WASHBURN, of Illinois. Ten minutes.

Mr. FARNSWORTH. I yield to the gentleman five minutes.

Mr. WASHBURN, of Illinois. That is not sufficient time in which to consider an important bill of this kind. If the House will look at the report and the bill as it will stand they will see that the most of it is composed of matter which has been subjected to the action of the committee of conference. I believe almost the whole bill has been under the action of the committee of conference. I think, therefore, that the space of five minutes is too short in which properly to discuss a bill of this kind. But I have only five minutes, and I must be content with it. The part of the bill to which I wish to call attention, and which is agreed to by the committee of conference, is that which provides for additional offices to the amount of \$11,000. Yet such a report from a committee of conference we are asked to put through without full debate. I am allowed only five minutes in which to say a few words. Now, sir, if there is anything which this House has resisted from the commencement of the session up to this moment it is that we shall create no more new offices and increase no more salaries.

Mr. FARNSWORTH. Will the gentleman point out the sections to which he refers?

Mr. WASHBURN, of Illinois. I will in detail if the gentleman will give me time. The Senate creates new offices and increases salaries, and I wish my colleague to pay attention to the statement, for I do not believe he is fully advised in reference to the matter. The Senate create the new office of the superintendent of the foreign mails at a salary of \$3,000. By whom is he to be appointed? With this large salary is he to be appointed by the President and confirmed by the Senate? No, sir; but it is provided that the Postmaster General shall make the appointment and that the Senate shall have no control over it. That is of itself a sufficient reason why we should not adopt the report of the committee of conference. I would not confide this power to any Postmaster General. I do not know but the Postmaster General would fill this office with a man entirely satisfactory to me; but I would not give that power to any man.

There is one new office at \$3,000. Besides that there is one clerk of class four at \$1,800. There are also two clerks of class three, \$3,200. These are all to be appointed by the Postmaster General. Now, when a postmaster is appointed whose salary amounts to more than \$1,000 the appointment has to be confirmed by the Senate. Here all these officers, with salaries as high as \$3,000 and all over \$1,000, are to be appointed by the Postmaster General without the concurrence of the Senate. Then there is an increase of salary to \$2,500, \$500 more. Another section creates the chief of the dead-letter office, a new office, with a salary of \$2,500, making in all \$11,000. I ask any member of the House whether he is satisfied by the showing my colleague has made there is any necessity for these new offices? I think we can get along without them. I think that we have mail agents enough without sending mail agents to Shanghai and other ports. Are we to go on with this kind of business? Are we to have mail agents to China and Japan at these large salaries? I protest against it. But I have not time to go fully into this matter. Here is section eight, which provides for the appointment of a superintendent of foreign mails at an annual salary of \$3,000, and for three additional clerks. I ask that the report of the committee of conference be rejected, so

that we may have another committee and strike out these new offices and these increase of salaries.

[Here the hammer fell.]

Mr. FARNSWORTH. I expected that my colleague would oppose this. Everybody expected that. He says that postmasters with salaries over one thousand dollars have to be confirmed by the Senate. That is true; but there are many officers in the Post Office Department who have salaries up to \$3,000, who do not have to go through that process. Now, I say to the House that this bill does not provide for the appointment of a single additional clerk. It provides that certain clerks shall be appointed to certain places, who are already in the Department, being employed as temporary clerks, and drawing the same salaries as clerks. The law now authorizes the Postmaster General to appoint an additional number of temporary clerks. An appropriation was made for that purpose, and he cannot appoint additional clerks beyond the amount of the appropriation for clerk hire. These clerks are always there. A man is already in the Department in charge of the foreign mail service. His salary is increased \$500. He has been there fourteen years and has become almost indispensable.

Mr. INGERSOLL. How much does this bill increase the expense in the aggregate?

Mr. FARNSWORTH. I do not think it will increase the expense of the Department \$2,000. These agents that are sent out, of whom my colleague complains, are now sent out by the Postmaster General with every one of these mails as special agents.

Mr. WASHBURN, of Illinois. The table I read does not include them.

Mr. FARNSWORTH. I do not give way to my colleague.

Mr. WASHBURN, of Illinois. Why not? Mr. FARNSWORTH. Because I want to occupy the time myself. I have stated to the House that these agents sent out by the Postmaster General at the present time receive a greater compensation than this bill provides. They now receive \$1,600 a year, and four dollars a day in addition for expenses. This bill only proposes to give them \$2,000 in all. And so far as establishing agencies in China to take charge of the mail, I leave it to any member of the House whether those mails are to be thrown on shore with nobody to take charge of them. We pay \$500,000 a year as subsidy to the steamship company to carry the mails. The service has increased very largely. The Post Office Department must be fostered. It must have the agencies necessary for the purpose of carrying, taking charge of, and distributing the mails, or else we may as well abolish the service. The Postmaster General is only authorized by this bill, so far as establishing agencies in China is concerned, to make such regulations as he can to the best advantage; which he can do with consuls or merchants living at the place where the mails arrive. He can do so at a small expense. We have no postmasters in China; the Chinese have none; you have therefore got to employ a consul or somebody else to take charge of the mails.

Now, sir, as the foreign mail service has increased so that we are to-day reaping \$1,000,000 more than we were ten years ago from that service, I ask if it is not proper that we should have a superintendent for the foreign mails. We have made eight or ten postal treaties within the last year, and we shall probably make a good many more. This bill provides also that the clerk who is now at the head of the dead-letter division may be made superintendent of that office. If any gentleman has visited that office he is aware of the immense amount of work done there. There is already an appropriation for this division, and the Department asks that we shall give them the same amount, and they propose that the same man who is now employed in charge of it shall be made superintendent of the dead-letter office.

His salary is increased \$500. But on the whole the saving of money in the agencies for the mail service across the Pacific to China and Japan nearly offsets the additional expense in the other case. I call the previous question.

On seconding the previous question, there were—ayes 41, noes 12; no quorum voting.

Mr. WASHBURN, of Illinois. I insist on a further count, unless my colleague gives me five minutes.

Mr. FARNSWORTH. I cannot. My colleague is anxious to adjourn as early as possible, and so am I now.

Tellers were ordered; and Messrs. WASHBURN, of Illinois, and FARNSWORTH were appointed.

The House divided; and the tellers reported—ayes 79, noes 38.

So the previous question was seconded.

The main question was then ordered.

Mr. WASHBURN, of Illinois. I demand the yeas and nays on agreeing to the report, and call for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

Mr. WASHBURN, of Illinois. I call for tellers on agreeing to the report.

Tellers were not ordered.

The question was put; and there were—ayes 70, noes 26; no quorum voting.

Mr. WASHBURN, of Illinois. I move to lay the report on the table.

The question was put; and there were—ayes 30, noes 65; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. COBURN and Mr. PERHAM to act as tellers.

The House divided; and the tellers reported—ayes 20, noes 90.

So the House refused to lay the report of the committee of conference on the table.

The question recurred on agreeing to the report of the committee.

Tellers were ordered; and Mr. COBURN and Mr. PERHAM were appointed.

The House divided; and the tellers reported—ayes 80, noes 30.

So the report of the committee of conference was agreed to.

Mr. FARNSWORTH moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONTRACTORS FOR IRON-CLADS.

The SPEAKER. The House resumes the consideration of the unfinished business of yesterday, pending at the adjournment at twelve o'clock, being the joint resolution (S. R. No. 100) for the relief of certain contractors for the construction of vessels of war and steam machinery. The pending question is to refer the joint resolution to the Committee of Claims, upon which the gentleman from New York [Mr. WARD] is entitled to the floor.

Mr. PILE. I ask the consent of the House to make a brief statement in regard to the bill.

Mr. WARD. I will yield for a short statement for five minutes.

Mr. PILE. Mr. Speaker, as I understand this case, some thirty vessels were built under contracts with the Government, commencing at the time when gold and the price of labor and materials commenced running up during the war. After they were completed a claim was presented to Congress upon the part of the contractors for additional compensation, basing their claim upon the ground of the increase in the price of labor and materials. A bill passed the Senate, whether upon investigation or not I do not know, granting them \$1,800,000. When that bill came to the House the gentleman from Ohio [Mr. DELANO] reported a substitute from the Committee of Claims.

Mr. DELANO. It was reported by the Committee of Claims, but not by me.

Mr. PILE. That substitute directed the Secretary of the Navy to investigate the claims

of these contractors, and to ascertain what additional compensation was due them for increase in the price of labor and materials occasioned by delay, which delay was caused by the action of the Government in changing the plan for the construction of the vessels. This substitute was finally adopted and became a law; it was approved March 2, 1867. Under that act the Secretary of the Navy appointed a board. These contractors sent in their claims before that board. And with reference to nine of them, about which I am informed, some of the contractors living in my own city, they were built on exactly the same plan, contracted for about the same time, finished near the same time, and in each of these nine the same alterations were made. The plans and specifications, and all the drawings, were drawn by the same man and furnished to the different contractors. And yet this board allow five of these contractors who are in the East additional compensation and throw out the claims of four of them who are in the West. In addition to the fact that all of these nine vessels were built under exactly the same circumstances as to the specifications and alterations these contractors in the East, as a gentleman informed me a day or two ago, had constant access to the office of the superintendent for the construction of these vessels. They received orders from him for changes eight or ten days in advance of the contractors building vessels in the West, giving them a decided advantage in this particular, and yet, from some singular cause, this board threw out the claims absolutely of those four men in the West, and allow the claims of the five contractors who built their vessels in the East. This bill simply proposes to send these contractors before the Court of Claims, and to give the Court of Claims jurisdiction to investigate and ascertain the facts in the case, and adjust the claims upon the basis of the act of March, 1867, simply for the purpose of ascertaining whether this board, appointed by the Secretary of the Navy, did justice to these men or not. They claim that injustice was done in allowing additional compensation to a portion of these contractors, who built these vessels upon exactly the same plan and under the same circumstances, and not allowing it to others. By this bill the Court of Claims is given jurisdiction to reinvestigate these claims and to adjust them, not upon the general basis of allowing compensation for the increase in the cost of labor and materials, but upon the basis of the act of March 2, 1867.

One more remark: Congress still hold in their power the full control of this matter. If the Court of Claims award damages to these parties the money must be appropriated by Congress. If this bill be referred to the Committee of Claims it will go over until the next session of Congress; and even if it is then passed in the form in which it now stands the matter will be postponed until next summer before you can get a decision from the Court of Claims; and it will be a year from next winter before a final settlement can be made. These men have already laid out of their money for two or two and a half years. So far as those men are concerned who live in St. Louis I know they are absolutely bankrupt by the construction of these vessels; that their contracts for the iron that was used in these vessels are still unpaid, and the men are unable to pay until they get this relief. And if they are to have any relief at all, if the Court of Claims decide they are to have anything, they ought to receive it, and receive it speedily. I hope the matter will not be postponed for eighteen months longer by referring this bill to the Committee of Claims. It has received the examination of the Committee of Claims in the Senate, it was very fully discussed in the Senate, and passed that body by a very large majority.

Mr. WARD. This is a very important bill, as will be seen upon examination. The bill has never been considered by any committee of this House. It comes from the Senate, and

has been upon the Speaker's table since it came here. It proposes to permit a large number of contractors for building iron-clads during the war to go into the Court of Claims and have their claims adjudicated there. It seems to me that it is eminently proper that this bill should be committed for investigation to a regularly-appointed committee of this House, whose duty it is to investigate all claims of this or any other character, and to submit the result of their investigation to this House for its information.

Mr. RANDALL. Will the gentleman yield to me for a question?

Mr. WARD. Certainly.

Mr. RANDALL. Has there not been an investigation of these claims by a commission of naval officers appointed by the Navy Department, and have they not decided against them?

Mr. WARD. I was about to say that there is a history connected with these iron-clad claims. In the Thirty-Ninth Congress these cases were referred to the Committee of Claims, who investigated them carefully. A report was made from that committee authorizing the reference of all these cases—those now under consideration, as well as all others relating to the construction of iron-clads—to a board to be appointed by the Secretary of the Navy. That board was to act upon certain principles which were set forth in the measure reported by the committee. The report of the committee was adopted by Congress. The board was appointed, and I understand investigated several cases, among them the cases embraced in this bill. It is claimed by the gentleman from Missouri [Mr. PILE] that the claims of the parties he represents here were rejected by that board. It is claimed that injustice has been done by that commission. That is one of the very questions that we want to investigate, one of the very matters upon which the House desires to be informed. It is for this reason among others that I desire the reference of the bill to a committee. Let it go to a committee and be examined; and if injustice has been done to these parties I have no doubt the committee will insist that justice shall be done.

Mr. Speaker, I am not here in hostility to this measure. It is true that I have had something to do with investigating these claims; it is true that I have had some grave suspicions in reference to their justice; but I am not here to say that they are unjust and ought not to be paid. I do say, however, that these claims, having been once rejected by a committee appointed to investigate them, should not be referred to the Court of Claims unless this House shall so decide after due investigation. If by the passage of this bill we send these cases to the Court of Claims, we surrender all power over them. We throw open that court to every contractor for iron-clads in the land. We permit everybody to go in there on an *ex parte* case and succeed if he can. I am opposed to our surrendering our control over this matter. Gentlemen tell us that if the Court of Claims should decide in favor of these claims, we can refuse to make the appropriation. We might; but that has not been the custom. The judgments of the Court of Claims have usually been regarded as conclusive and final.

Mr. MAYNARD. Will the gentleman tell us how much these claims would amount to as presented by the contractors themselves?

Mr. WARD. I cannot give the gentleman the precise figures, but I understand they go into the millions.

Mr. MAYNARD. Several millions, I understand.

Mr. WARD. Are we prepared now, without investigation and upon the mere assertion of gentlemen here that these claims are just, to send to this court for examination claims to the amount of millions? I demand the previous question.

Mr. PILE. I ask the gentleman to yield to me.

Mr. WARD. In view of the late period of the session I am urged on all sides not to yield. My judgment is that we ought to take up no more time with this matter.

The SPEAKER. The Chair will state that if the previous question should be sustained it will not exhaust itself on the motion to refer should that motion be negatived, but will continue to operate until the third reading of the bill.

Mr. WARD. Would it be in order for me now to yield to the gentleman from Illinois, [Mr. LOGAN?]

The SPEAKER. The gentleman can yield by withdrawing the call for the previous question.

Mr. WARD. I withdraw the demand for the previous question, and yield to the gentleman from Illinois.

Mr. LOGAN. Mr. Speaker, I do not profess to know anything particularly in reference to these claims except that presented by one of my constituents who claims compensation for the building of one of these vessels. I know that this gentleman, Mr. Bestor, of Peoria, Illinois, has by reason of his contract made with the Government become a bankrupt; and I know that injustice has been done to him by not allowing him the same opportunity of prosecuting his claim as has been allowed to others. Now, I merely desire to correct a statement which has been made here, calculated to do injustice to this constituent of mine; I am not speaking with reference to any of the other claimants, for I know nothing about them. It has been stated that these claims amount to millions of dollars. I say such is not the case; and any gentleman making such a statement certainly does not understand the facts. It has also been stated that these claims were rejected by a board appointed by the Navy Department. That also is not the fact. I will state the facts as they are. A naval board was appointed for the purpose of examining into what was known as the iron-clad claims. These were numerous and reached enormous amounts. But this board reported, as gentlemen will find by examining the report, that they did not consider the claims embraced in this bill as within their province. These claims were excluded because that naval board did not understand that they had authority to examine them under the purview of the resolution providing for the appointment of the board. That is the fact as I understand it. I mean the board appointed of naval officers. These claims, I understand, have not been acted on by that board.

Now, sir, it is strange to me that in the examination of these claims by this board only the large claims presented to it were allowed and reported back to this House, and this House has passed a bill for the payment of the large claims only. The larger number of these claimants claim only small amounts. They are the men who built the light draught vessels, but they happen to live in the West. It is strange that the men who are excluded are men from west of Philadelphia; while the claims that have been allowed are from Philadelphia east. I do not know how that occurred, but it is the fact. But, sir, I desire, so far as the claim of my constituent is concerned, to say—

Mr. KELLEY. I wish to correct the gentleman's phraseology. It should be Philadelphia west, for no Philadelphia claimant was embraced in the bill.

Mr. LOGAN. That is what I am saying. All I want to say in reference to this is, that so far as my constituent is concerned—and I understand the other claims are of a similar character—that these claims should be referred to the Court of Claims. Let them go before the Court of Claims. I have some information of the Court of Claims. I know the men upon that court. There is one gentleman from my own State. I would trust him as soon as any man upon the face of God's earth. I do not believe they would decide that these men

were entitled to this money unless their claims were just and proper. All the claimants want is to be permitted to go before the Court of Claims and to have their claims passed upon by that court on their merits. Now, I wish to know whether there is any fraud in that? If these claimants cannot go before the Court of Claims for the purpose of having them acted upon and adjudicated, I should like to know then what these courts were created for? If we cannot have confidence in our courts that they will do justice between the Government and claimants; if we cannot trust them, and Congress is to investigate all these cases, why, then, let us wipe these courts out of existence. If they are referred to the Committee of Claims, when will that committee report? We are now at the heel of the session. Report when? Perhaps next Congress, and perhaps not.

[Here the hammer fell.]

Mr. WARD. I desire to say this, Mr. Speaker, that if I yield to any one at all I will yield to the gentleman from Maine, [Mr. PIKE,] the chairman of the Committee on Naval Affairs, who has, perhaps, some information on this subject. Before I do that I will say that I do not think the gentleman's constituents will suffer by the reference of his case to the Committee of Claims. I do not think there is any more doubt of the integrity of that committee than there is about that of the Court of Claims.

Mr. LOGAN. I am not questioning that.

Mr. WARD. I do not think it will take longer to have the claims investigated by the Committee of Claims than by the Court of Claims. I do not see the necessity of going out of Congress, away from our own committees, which can just as well pass on the question. I yield five minutes to the gentleman from Maine, [Mr. PIKE,] and then I will demand the previous question.

Mr. VAN WYCK. Let me ask the gentleman a question. Has this bill under consideration ever been acted upon by any committee of this House?

Mr. WARD. Not this particular bill, but this particular class of claims has.

Mr. VAN WYCK. Why not refer it to a committee of this House?

Mr. WARD. That is all we want to do.

Mr. LOGAN. Will the gentleman yield to me for a question?

Mr. WARD. I will yield to the gentleman for a question.

Mr. LOGAN. I merely desire to say a single word for the purpose of putting the matter right. The gentleman says this claim has not been before a committee. Now, I say that this claim was before the Committee of Claims in a former Congress. It was referred to the Navy Department. A board was appointed to consider it and the board decided that they did not consider that they had a right to investigate it. It was before the committee a year ago.

Mr. WARD. I yield five minutes to the gentleman from Maine.

Mr. PIKE. I am a little surprised at the position of the gentleman from Illinois [Mr. LOGAN] upon the question now before the House. Either he misunderstands it or I do. His position is that these claimants should have the same rights before the Court of Claims that any other citizen has. So far I concur with him heartily. But if by that he means that this bill gives them the same rights that any other citizen has, and no more, there I dissent from him. This bill provides that the Court of Claims shall take jurisdiction, which without this bill they cannot do, of this class of claims, because these men have no legal claims upon the Government. If they had a legal claim there is no need whatever of this bill. Every citizen is entirely free to go before the Court of Claims with a legal claim. The only question is whether we shall confer special jurisdiction of this class of claims. For one, I am opposed to it unless there be further

investigation by a committee of this House. And I say this to the House from a knowledge of these claims from the beginning. These parties came here in the Thirty-Eighth Congress. Then the gross amount of their claims was some seven or eight million dollars. An investigation was had by the Naval Committee and the committee reported the matter to the House at the heel of the session, just as this now comes before the House. On the very last night it was attempted to get it through. I was on the minority of the committee, and with the help of the gentleman from Ohio [Mr. DELANO] it was resisted and defeated. It was afterward referred to the Committee of Claims. It was there investigated by the gentleman from Ohio, [Mr. DELANO,] and I ask him to take up my statement where I leave it. These claims for \$7,000,000 can easily be rejuvenated until they swell into as great proportions as this House, in its utmost liberality, will be disposed to give, and the question is now whether, on the heel of the session, without investigation, we shall take this step which may lead to that result? I yield the remainder of my time to the gentleman from Ohio.

Mr. DELANO. I do not intend in the discussion of this question to express any opinion of my own as to how any member of the House ought to vote, but I will endeavor to lay the facts of the case before the House, so that every member can judge of them for himself. In the first place, in the Thirty-Eighth Congress the Senate passed a resolution appointing a board of naval officers to investigate the claim of certain contractors for iron-clad vessels. Under that resolution forty-eight contractors presented their cases to the board and obtained an award of \$2,500,000. On that report the Senate passed a bill appropriating for those contractors \$1,800,000. That bill came to the House during the Thirty-Ninth Congress, and was referred to the Committee of Claims. On examination of the case we found that the board appointed by the Senate had made allowances for damages which arose from an inflation of the currency.

[Here the hammer fell.]

Mr. DELANO. I ask the gentleman from New York to allow me to finish my statement.

Mr. WARD. I yield two minutes. I cannot yield any more.

Mr. DELANO. Thereupon the House passed a rule settling these claims, which was this: that where contractors had suffered by the action of the Government, not only these forty-eight claimants, but all other contractors for iron-clads, causing delays or alterations in the contracts, the Government should pay the damage, but should not pay in any other case. That rule was adopted by a joint resolution of the House and Senate, which became a law in place of the bill appropriating \$1,800,000. Under that rule a board was established, and before that board these claims have been brought. Part of them have been allowed, and those allowed we have paid at this session. Part of them have been rejected, and those whose claims were rejected under that rule now by this bill ask for a hearing again before the Court of Claims. And all you have to say now is whether you will award to these persons whose claims have been once examined under this rule a rehearing, and keep this thing open for an indefinite length of time, or whether you will refer the question back to the Committee of Claims and obtain their opinion as to the propriety of giving a new hearing before the Court of Claims. It is a simple question of giving to these men an additional hearing.

[Here the hammer fell.]

Mr. PIKE. I merely wish to say that this bill directs the Court of Claims to investigate and adjudicate these cases upon the same rule that bound this board, which rule was not adhered to, as these men claim, by the board, and the Court of Claims can only decide under that rule.

Mr. WARD. I resume the floor and demand the previous question.

The previous question was seconded and the main question ordered; being upon the motion of Mr. WARD, to refer the bill to the Committee of Claims.

The question was put; and there were—ayes 80, noes 29.

So the bill was referred to the Committee of Claims.

Mr. WARD moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AMENDMENT OF HOMESTEAD LAW.

Mr. WASHBURN, of Indiana. I rise to a privileged question. I call up the motion to reconsider the vote by which the bill (H. R. No. 1433) to amend an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, was recommitted to the Committee on Military Affairs, and ordered to be printed.

The bill was read. It provides that the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, shall be so amended that whenever a person settling on the public domain, under the provisions of said act, shall make satisfactory proof that he has served not less than one year in the Army of the United States during the late war for the suppression of rebellion, and has been honorably discharged, or has been honorably discharged for wounds or disability after a less period of service, he shall be entitled to receive a patent or certificate after the expiration of one year from the entry of the land, as prescribed in said act.

Mr. WASHBURN, of Indiana. The only object of this bill is to reduce to the soldier the length of time of actual settlement required in order to get a homestead. In the naturalization laws we have reduced the time from five years to one year, and now we propose to reduce the time of settlement under the homestead law from five years to one year for the soldier. If no gentleman desires to ask any questions, I will call the previous question.

Mr. GARFIELD. I hope there will be no objection to this bill. It is in lieu of the bounty bill which we have not time to pass, and it will answer many of the purposes of that bill.

The question was taken on the motion to reconsider; and it was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONTINGENT FUND OF THE HOUSE.

Mr. BINGHAM obtained the floor.

Mr. BROOMALL. I ask the gentleman to yield to me for a few minutes that I may make a report from the Committee on Accounts. I am in ill health and must go home.

Mr. BINGHAM. I will yield to the gentleman if it will lead to no debate or delay.

Mr. BROOMALL. It can lead to no debate or delay.

Mr. BINGHAM. Let a vote be taken on the resolutions without the reading of the report.

Mr. BROOMALL. That is my idea.

Mr. BINGHAM. I will yield on condition that it gives rise to no debate or delay.

Mr. BROOMALL. I desire to submit a report from the Committee on Accounts, in the matter of the charges against the officers of the House. The report is accompanied by three resolutions, which I propose to have put on their passage at once.

Mr. BINGHAM. Let the resolutions be read.

Mr. NIBLACK. Let the report be also read.

Mr. BINGHAM. I cannot yield for that.

Mr. WOOD. I understand that this matter will give rise to debate.

Mr. RANDALL. I want the evidence to be read, also.

Mr. BINGHAM. That will take all day. I will yield to the gentleman to introduce his report, have it printed and laid on the table, and then he can enter a motion to reconsider.

Mr. BROOMALL. I will ask to have the report printed and recommitment.

Mr. RANDALL. I shall ask to have the report read.

Mr. BROOMALL. Then I withdraw the report.

COURT OF CLAIMS—ALABAMA.

Mr. HAUGHEY, by unanimous consent, introduced a joint resolution (H. R. No. 357) placing the loyal citizens of the State of Alabama on equal terms with citizens of other States, according to the act of July 4, 1864; which was read a first and second time, and referred to the Committee of Claims.

FOURTEENTH AMENDMENT TO CONSTITUTION.

Mr. SYPHER, by unanimous consent, introduced a bill (H. R. No. 1449) to enforce the third section of the fourteenth article of amendments to the Constitution; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

POSTAL-ORDER SYSTEM WITH FRANCE.

Mr. SYPHER, by unanimous consent, also submitted a resolution instructing the Committee on the Post Office and Post Roads to report measures to authorize a postal and money-order system between the United States and France; which was referred to the Committee on the Post Office and Post Roads.

RECONSTRUCTION.

Mr. BINGHAM, from the Committee on Reconstruction, reported a bill (H. R. No. 1450) to provide for the more speedy reorganization of the States of Virginia, Mississippi, and Texas, and for other purposes; which was read a first and second time.

The first section provides that for the better security of persons and property in Texas, Virginia, and Mississippi, the constitutional conventions in each of these States heretofore elected under and in pursuance of an act of Congress passed March 2, 1867, entitled "An act for the more efficient government of the rebel States," and the special acts of Congress supplementary thereto and amendatory thereof shall be authorized to exercise the following powers in addition to the powers now authorized by law, to wit: to make removals and appointments of the officers of the provisional governments in said States respectively; to authorize the provisional governments of said States respectively to remove and appoint registers and judges of elections under said acts of Congress, which registers and judges of election shall not be eligible to any elective office under such provisional governments, and shall observe the provisions of said acts of Congress; to organize and maintain a constabulary force in each of said States for the preservation of peace and to aid in the execution of the laws; to provide by ordinance for the reassembling of the said conventions from time to time, and for holding all elections authorized by said acts of Congress, and for ascertaining and declaring the results of such elections, and especially the result of any election which may be held for the ratification or rejection of any constitution which said several conventions may submit to the people of either of said States; and to pass such ordinances not inconsistent with the Constitution and laws of the United States as may be necessary to protect all persons therein in their lives, liberty, and property.

The second section provides that the special ordinances which may be passed by the constitutional convention of either of said States as herein provided for, shall be enforced by the provisional governments of said States until disapproved by Congress or until such

States shall have adopted a constitution of State government, and the same shall have been approved by Congress, provided that nothing contained in this act shall deprive any person of trial by jury in the courts of said States for offenses against the laws of said States.

The third section provides that the military commanders in each of the States named shall give aid to the officers of the provisional government in preserving the peace and enforcing the laws, and especially in suppressing unlawful obstructions and forcible resistance to the execution of the laws.

The fourth section provides that on the fourth Wednesday after the passage of this act the convention of Mississippi and Virginia shall reassemble, and the convention of Mississippi shall proceed to frame a constitution of State government and submit the same to the people, under and in pursuance of the provisions of the act of Congress before mentioned and of this act.

The fifth section provides for the repeal of all acts and parts of acts in conflict with the provisions of this act.

Mr. RANDALL. I suggest that we ought to have this bill printed before acting on it.

The SPEAKER. Does the gentleman from Ohio [Mr. BINGHAM] yield for a motion that the bill be printed?

Mr. BINGHAM. No, sir.

Mr. BECK. As a member of the subcommittee, as well as of the committee, I would like to have some little time to discuss this subject.

Mr. BINGHAM. I yield to the gentleman for thirty minutes.

Mr. BECK. Mr. Speaker, while I approve fully of what purports to be the object of the bill as set forth in the preamble, and desire as earnestly as any gentleman on the Reconstruction Committee to protect the life, liberty, and property of every person in those so-called unconstructed States, be they white or black, without regard to their political antecedents or present opinion, I believe that the bill now proposed so far from effecting the object intended will have directly a contrary effect.

I ask gentlemen to bear in mind that at present the General of the Army or the department commanders has the absolute power to appoint any one he may select as provisional governor over those States, to remove any official, high or low, who does not do his duty, and to put those there who will do it. He, in conjunction with the department commanders, has unlimited power to call upon and use the Army of the United States for the purpose of enforcing and preserving the peace and maintaining order. Besides, the Freedmen's Bureaus, already established there, can aid in protecting the life, liberty, and property of the citizens if they desire to do so. These instrumentalities are surely more potent than any that can be exercised by constitutional conventions. If they are not I do not understand why they are not.

This bill makes provision with reference to three States; let me call attention to them severally, as well as I can in the thirty minutes allowed me. First, as to the State of Virginia; what is the condition of things there? Virginia has held her convention; she has framed her constitution; she has appealed to us to pass a law to enable her to hold an election for its ratification, and for the election of State officers and members of Congress under it. We have passed a bill for that purpose, and that bill is now pending in the Senate of the United States. Nothing remains to be done in Virginia but for her people to vote whether they will adopt or reject the constitution; and to elect officers under it if they decide to adopt it. There is no complaint that in Virginia the lives and property of loyal men are not now thoroughly protected. There is no allegation that the convention has not finished its work. That convention has adjourned; and nothing now remains but for us to fix a day for the election. By the bill already passed by this

House we have done so. We have done it in strict accordance with the reconstruction acts of Congress. Why, then, is this new order of things proposed? Gentlemen on the Reconstruction Committee will bear me out in saying that, so far at least as Virginia is concerned, this is an effort on the part of the ultra Republican leaders there to set aside and nullify the reconstruction acts in that State.

The object of this bill, though I do not think the committee concur in that object—the real purpose of the men who manipulated and projected this bill is to put all power into the hands of a few ultra Radical leaders in that convention, and to deprive of the right of suffrage twenty-five thousand white men in that State. The present provisional governor of Virginia, Governor Wells, came before the Reconstruction Committee, and when called upon by our chairman to state what he wanted he said, almost in the very words which I now repeat, (and the committee will sustain me in the statement,) that in the first place he wanted liberal appropriations to carry on the election. That we have given them; we have appropriated \$93,000. He wanted no further registration, because, as he said, there were to-day twenty-five thousand white men in the State of Virginia, who, under the present reconstruction laws, are entitled to be registered and vote, and if registered they would carry the State against the Republican party. He wanted to disfranchise twenty-five thousand white voters in that State. He further said that if they were permitted to adhere to the registration which took place last year, when a great many white men refused to register, that they would carry the State, as they could, if an early day was fixed, get the negro vote solid and get enough white votes to give them a majority for the constitution and the Radical candidates. The Reconstruction Committee treated the infamous proposition with the scorn and contempt it deserved. There was not a member of the committee who did not refuse to adopt that proposition. It was afterward urged, time and again, before us by a man by the name of Williamson, an emissary of the Radicals in Virginia, he undertaking to argue and to show that Wells's opinion was, that under the reconstruction laws it was not necessary nor proper to open the registration for revision as required by the seventh section of the act of July, 1867, although it had been done everywhere, and appropriation after appropriation had been made by Congress for that purpose. He even prepared a bill striking out of the bill which I had drawn and which the committee adopted and this House passed, all that part of the fourth section relating to the board of registration, and out of the first section which submitted the proposed constitution to the voters of Virginia in August next, "who shall then be registered and qualified as such in compliance with the acts of Congress known as the reconstruction acts," and inserting in lieu thereof "who were registered and qualified to vote for delegates to said convention, and none others." His proposition was at once rejected, as Wells's had been. The proposition to set aside all the reconstruction laws and disfranchise twenty-five thousand white men who were as much entitled to register and vote as any men in Virginia, was an outrage too monstrous to be tolerated or entertained for a moment, merely to place a few partisans in power.

One of the great objections to the present bill is that while it recognizes and requires a revised and corrected registration, as provided by law—a right the existence of which no man in this House doubts—it puts all power into the hands of Wells and others of that sort, who will refuse to carry out any provision which does not suit them, and being wholly irresponsible they will rely on the success of their outrages as sufficient vindication for their party for all the wrongs committed. As I said, the bill which passed this House, as reported from the Committee on Reconstruction, allowed all to

vote who were entitled to vote under the reconstruction laws, requiring a revision and correction of the lists. Now, this bill is brought forward for the purpose—that is the effect, if not the intention—of enabling these men, who are seeking to disfranchise twenty-five thousand white men, to so manipulate the election as to put it entirely within their control. Such is the character of this bill which is to be hurried through this House under the pretense that it is to protect life, liberty, and property. It is, so far as Virginia is concerned, for the purpose, and purpose alone, of disfranchising these twenty-five thousand white men who are entitled to vote, and throwing the election into the hands of a set of unscrupulous adventurers who are restrained by no principle, who have no interest in the State or her people, and who are looking solely to self-aggrandizement, regardless of the rights of the people of Virginia.

Let me state another fact. The registration in Richmond last fall was so fraudulent that it was set aside in March last, and a new one was ordered by General Schofield, when eleven hundred white men were added to the registration list. Under the view taken and bill prepared by Wells and company, that new registration was to be set aside, and the old fraudulent list restored, and thus eleven hundred legal and now registered white voters in the city of Richmond alone were to be disfranchised, as none of them were qualified to vote for delegates to the convention which framed the constitution. The very effort made to pass such a bill as they proposed ought to be conclusive evidence to this House that such men are wholly unworthy to intrust with any power, and that no man's life, liberty, or right, will be respected by them, yet this bill proposes to make them omnipotent.

I may as well mention a fact in this connection, which, perhaps, more than all others induced men to withhold their names from the registration list last fall. The people of Virginia denied, as they were warranted in doing by the decision of the Supreme Court *ex parte Mulligan*, that the reconstruction acts were valid, or that they could properly be put under martial law, or under negro rule, or be tried by military tribunals in time of peace when all the courts, State and Federal, were open; and many of them declined to register, lest by so doing they should be giving a seeming sanction to the validity of such acts. Yet they determined to make no decided opposition; they were anxious to be again restored to civil government, and did not care to oppose the calling of a convention on the formation of a constitution. They desired to have one, and if such a constitution was framed as comported with their ideas of true republican liberty, they were willing to acquiesce in it and permit it to become the fundamental law of the State. They knew that they had the right under the reconstruction laws to register and vote for or against any constitution that might be tendered for their acceptance or rejection by the convention, and the character of the instrument presented would determine their action. Acting under these laws, and relying upon the rights therein granted, they failed to register or take any part in the matter till now, and now, when they claim the right secured to them by existing laws, they are placed under the absolute dominion of a set of men whose past conduct and whose avowals here show conclusively that they intend to withhold all these rights and to disregard everything except what is necessary to their own advancement. As a specimen, I find the following in the Washington city papers this morning:

"Southern Unionists in Convention.—A meeting of the Representatives-elect and 'loyal' Union men of the southern States was held on Wednesday morning at the Washington House at nine o'clock for the purpose of discussing and maturing a plan by which their political aspirations can be most readily attained."

"Resolved, That in the judgment of this meeting Congress ought to legislate immediately for the relief of the loyal people of Virginia, Mississippi, and

Texas, in such way as will secure to these States loyal civil governments."

"Mr. S. D. Williamson, of Virginia, presented a statement of affairs in his State. The military government of General Schofield was examined, and his counsel to the State convention sharply criticised as bringing about disorganization in the Republican ranks. General Schofield postponed the State election contrary to the enactments of Congress. Mr. Williamson said he had presented a memorial to Congress, but no relief had been obtained as yet. Unless something was promptly done there would not be a loyal white voter left in the State of Virginia. He wanted Congress to make provision for the restoration of the power of the Republican party. They had nothing to hope for unless Congress did something immediately. General Stoneman, the successor of General Schofield, followed the plans of his predecessor, and had said he should continue to do so. He had been appealed to to allow the election to be held. He understood that General Stoneman had been appointed the successor of General Schofield at the request of the latter, and he accepted the position of Secretary of War on condition only that General Stoneman should be appointed his successor. Governor Wells, the present Governor, was considered a loyal man, as is also Judge Underwood, the president of the convention.

The meeting resolves that the States of Virginia, Texas, and Mississippi, must be made loyal by Congress. Unless something is done promptly there will not be a loyal white voter left in the State of Virginia, said Williamson; he had presented a memorial to Congress (I have shown you what it was) and had as yet obtained no relief. They are getting relief now with a vengeance, and that promptly. Wells and Underwood will make Virginia loyal if they have to disfranchise every white man in the State, and I suppose this Congress would indorse the act and proclaim any man or any party revolutionists who would say that they had not the perfect right to do so.

But I must hasten on. How is it with the State of Mississippi? Her convention is to reassemble to remove and appoint all officers of the provisional government; to authorize the provisional governor they may appoint to remove and appoint all registrars and judges of elections; to organize and maintain a constabulary force, (of armed negroes, of course;) to ascertain and determine the result of all elections, and especially the election determining the adoption or rejection of the proposed constitution; to pass any ordinances they please, even if these ordinances disfranchise every white man in the State, and all such ordinances shall be valid until disapproved by Congress. Of course whether they are disapproved or not will depend altogether on whether they manage to carry the State for Grant and elect Radicals to fill all the offices. The Mississippi carpet-baggers were at the meeting last night also, and they put in their demands thus:

"General G. C. McKee, of Mississippi, said the condition of affairs in his State was somewhat mixed. He claimed that there were frauds at the recent election, and was ready to establish that fact, but the Reconstruction Committee had refused to listen to them. The State could be secured to the Republican party if they were allowed to poll all their votes. A bill was pending before Congress which looked for the relief of the Republicans in that State. He was opposed to Congress adjourning at the present time.

General Gillem, who is at the head of the military department in Mississippi, was the personal friend of President Johnson, and, of course, no favors or protection could be hoped for while such things were permitted to exist. A new provisional government was needed, and it was to be hoped Congress would take some action before adjourning.

"Mr. J. Railsback, of Mississippi, said he could indorse the remarks of his friend, General McKee. It was hard for the Republicans to secure the elections or the cooperation of the negroes. He was opposed to this one-sided arrangement, and looked upon the recent elections as a perfect farce. Congress must come to our assistance or the Republicans will be entirely demoralized. If Congress did not come to their relief he should return to his native State, Indiana. He was a carpet-bagger, and was proud of the title. This class were 'played out,' congressional assistance to the contrary notwithstanding. They had spent all their funds, and were waiting for something to turn up that will bring them relief."

Railsback was defeated for Congress, and feels like going home to Indiana unless something turns up. This bill will make him drift back with his carpet-bag to Mississippi. Congress has come to his assistance; he will be in funds as soon as the convention gets a fresh hold on the people, and the one-sided farce of

an election will be repeated, with the white men out in the cold; and this is Republican liberty and law.

For a week or more a parcel of fellows, claiming to be from Mississippi and the representatives of their convention, hung round the Reconstruction Committee room pretending to have evidence of fraud and false voting, and returns sufficient to show that eight or ten of the largest and most populous Democratic counties in the State ought to be rejected, and the constitution declared adopted, and the Radical office-seekers proclaimed elected. They asserted that a committee of five had been appointed by some ordinance of the convention to determine whether the constitution was adopted or not, although the reconstruction laws vested that power exclusively in the department commander, and required all returns upon that subject to be made to him, and that they had the evidences necessary to make out their claim from that committee. While they were thus pressing their demands and urging immediate action a telegram announced that General Gillem had forwarded all the returns to the President. These returns came, and the report was laid before the committee, accompanied by full returns from all the registrars, judges of election, post commanders, &c., with a full and clear exhibit of all his acts and orders as department commander, falsifying all the statements and allegations of the committee of the convention, and establishing beyond all peradventure the defeat of the constitution by a majority of 7,620, and the election of a Democratic Governor and Legislature, and four of the five members of Congress, by decisive majorities. This report silenced the convention emissaries; from that day to this they have not opened their mouths before the committee, as such. None of their evidences of fraud or unfairness have ever been filed. General Gillem's report not only falsifies their assertions, but shows how utterly reckless the convention and its committee is. Perhaps that is the reason why all power is to be given to it by this bill.

I have not time to read the report of General Gillem which I hold in my hand, far less to read the numerous orders and reports on which he bases it. He shows how the convention, under the power given to it by Congress, to levy a tax to defray the expenses of that body, undertook to tax all trades and occupations in the State: street brokers, \$100 each; \$50,000 on the railroad corporations, which by the State laws could not be taxed, requiring the sheriff to collect taxes from citizens in ten days, and a number of other acts equally arbitrary, illegal, and oppressive, demonstrating that the only object of that body was to oppress, extort from, and eat out the substance of that people, which was, indeed, their only mission to the State. Yet this is the power sought to be restored, with gangs of armed negroes at their back, under pretense of protecting the lives and property of the people. All these outrages General Gillem opposed as best he could, and his doing so was doubtless the cause of his temporary removal. He shows further that he took every means possible to secure a fair and free election. He supplied registration papers to the negroes especially who had lost the originals. He extended the time of voting in populous districts for their benefit. He appointed supervisors to visit the registrars and judges of elections and instruct them as to their duties. He distributed the soldiers under his command so as to have them at sixty-three different points in the State while the elections were progressing, charging them to aid the civil officers and see that neither force nor intimidation was resorted to; in short, he took all the precautions possible to secure peace, good order, and a fair and free election, and closed his report thus:

"On the 10th instant the boards of registration of the various counties having all made their returns, as required by the fourth section of the act of March 23, 1867, they were consolidated, and show the follow-

ing as the result. [Here follows a full tabular statement.] He adds:

The foregoing table shows that there were cast—
For the constitution.....56,231 votes.
Against the constitution.....63,860 votes.

And therefore there is a majority of.....7,629
against the constitution."

He says:

"As is generally the case in elections fraud is charged by both parties. All reports and complaints bearing on this subject are herewith transmitted for the consideration of the proper authority, merely remarking that I am satisfied the election was as fair and free from intimidation or the influence of fraud as it would be possible to secure under existing circumstances, and that no undue influence was exercised at the polls. If intimidation was used at all it was beyond the power of the military to reach it."

That report thus wholly uncontradicted, even by the men who before its receipt were loud in their charges of fraud, seems to me absolutely conclusive on both propositions. First, that the constitution was fairly defeated; and second, that a convention such as that in Mississippi is shown by the report and the conduct of their agents to be, is the last body of men upon earth in whose hands the protection of either the lives, the liberty, or the property of that people ought to be intrusted, especially with such arbitrary and despotic powers as this bill proposes to invest them.

How is it with Texas? The convention has been in session in that State since the first Monday in June, and has not yet finished its labors, waiting, as I believe they admit, for congressional action, either to divide the State or increase their power and authority. Complaints are made that the lives of the citizens are insecure there. To some extent I suppose that is true, and always has been. But if the reports are true why not order your military commanders to exercise their authority. Your commanders have power given them in your reconstruction law to appoint any officials they please to execute their will in that district. Why not send down there such forces as will enable General Reynolds to protect the people? Cannot he do it better than the convention? General Reynolds is a Republican beyond all question. Governor Pease is an ultra Republican. The Freedmen's Bureau is there. You are withdrawing your armies from every other part of the South; if the five thousand soldiers now there are not enough for Texas send twenty thousand. Protect the people, but protect them all, and do not allow a few men to take possession of the State and control affairs for their own purposes. The charges of murders of loyal men so freely and recklessly made for party purposes are grossly exaggerated.

I hold in my hand a speech made by Judge Evans, of Texas, on the 6th day of this month, in the Texas convention on that subject, which proves the facts as I assert them. I will say to the House that his loyalty will be vouched for by the gentleman from Pennsylvania, [Mr. STEVENS,] for he was the man who was the principal in consultation with him as to the division of the State. He will be vouched for by that gentleman as one of the most distinguished men in Texas. I will read a few extracts from the speech.

"Mr. President, I had not expected that the rules would be suspended for immediate action on this resolution, and therefore I am not prepared to submit my objections in their logical order.

"If I should manifest more than ordinary feeling and embarrassment on this occasion, I hope gentlemen will bear with me, for no man who loves his country can hear this report and contemplate, unmoved, the consequences which will flow from this resolution if adopted.

"When this measure was first introduced, I learn that it was designed to cover others, which, taken together, constitute a series of acts looking to the establishment of a species of government in Texas which cannot be justified, unless both the facts stated in this report on lawlessness and crime, and the inferences drawn therefrom, are correct. The first of these, suggested by Governor Pease's message, was a request that Congress would give to this body the control of the boards of registrars. Next came the appropriation of \$25,000 to be placed in the hands of the Governor, to enable him to employ a corps of detectives or secret spies under the pretense of bringing criminals to justice. Then follows the bill asking

of Congress the power to organize a loyal militia for the State of Texas.

"The design and tendency of these measures is the organization of an unmitigated and cruel despotism for the benefit of a class of politicians who supinely asked this convention and the Congress to place them in power and continue them in power by the bayonet.

"The report as concocted is charging the entire Democratic and Conservative masses of Texas as a band of lawless murderers, or raiders, abettors, and apologists of the murderers of defenseless loyalists—murdered in cold blood for their loyalty.

"Whether the facts upon which this report purports to be based are true or not I am not prepared to say.

"I offered this morning the resolution asking that the committee produce the records of crime and statements of witnesses on which they rely. This request was, as I anticipated, denied me. I felt sure that those who dealt such wholesale denunciations against their political opponents would not dare let the transactions of their committee-room ever come to the light of day.

"Let me ask the members of this convention if they are prepared to indorse these sweeping denunciations against their neighbors and friends?

"Take the committee's table of homicides from the date of the surrender in 1865 to the present time, from which it appears there were only seventy-seven homicides during the year 1865. The smallness of these numbers is indeed surprising when we take into consideration the condition of our unhappy country.

"The most terrible war of any age has just closed. The Governor and all the principal officers of the State were fugitives—the whole machinery of civil government was broken up, and by mere force of the moral and intellectual character of its people anarchy was averted. Of the seventy-seven homicides it does not appear that any one of them was killed for his loyalty. I submit that it is well known that many of these so-called homicides were public executions of murderers and robbers by society.

"That lawlessness and violence are, and have been ever since then, steadily on the increase, I well understand, and am able to point to the true cause, the want of all civil authority and the contest of extremists for power."

"The idea of usurping the political control would never have occurred to the colored people had they not been stimulated to make the demand, and I appeal to you, (addressing himself to the colored delegates,) and through you to your race, do not listen to the suggestions of the demagogues, traitors to society, who lead you in the impracticable effort to control the political power of this country. You must understand that no church or society can live in peace in which the minority undertakes to control the majority."

"At this Hon. Morgan Hamilton objected to the latitude of the remarks. (Mr. Caldwell and other gentlemen insisted that he be permitted to proceed.)

"Judge Evans continued: Under the reconstruction laws there are registered one hundred and four thousand voters; in round numbers forty thousand colored and sixty-four thousand whites; of these sixty-four thousand whites not more than ten thousand have united with colored—not quite sufficient to give them the majority. The design of this resolution and the threatened measures is nothing less than the demand that Congress shall, by a change in the reconstruction laws, place these leaders in power, give to them the control of the registrars, who will strike from the list a sufficient number of whites to insure their own election to office, and to be prepared with armed negro troops to maintain the usurpation. You, by these measures are striking a fatal blow at republican government; you render reconstruction impossible.

"Congress finally yielded to the importunities of these loyalists, and passed reconstruction laws, defining the qualifications of votes in Texas. Under the operation of these laws a large portion of the white voters of 1865 were disfranchised, and all adult colored males enfranchised, which gave, in round numbers, one hundred and four thousand loyal voters. This result is not satisfactory to Governor Pease; therefore he suggests that a sufficient number of whites be disfranchised to insure him in power. Now he schemes to arm the blacks to carry by the bayonet his infamous schemes. Twenty-five thousand dollars have been placed at his disposal to form that odious instrument of despots, a corps of detectives. Already is there opened in the state department a secret recruiting office for the enrollment of negro troops.

"Mr. Caldwell here interrupted, denying the charge.

"Judge Evans. I refer the honorable gentleman to the members of the convention who have been called on to furnish their quota of names of negroes for his militia.

"Now, I tell the honorable chairman of the committee [Caldwell] that he is engaging in a perilous enterprise. Should he succeed in his mission in carrying into effect the mandates of his committee, and go to Jefferson and attempt to continue himself in office by sufficient number of qualified voters to control the election, and attempt to exclude those against him by armed negroes, he will be resisted, and he ought to be resisted.

"To what lamentable depths are we reduced! A set of politicians distributing the votes of Texas, and asking this convention to shape matters as to place them in power and keep them in power by bayonets! Where is all this to end? When military despotism is once established it creates a necessity for its continuance. And is this to be the normal condition of Texas? No, no! This is not reconstruction. It is

provocation of war, and will be met by war. Now, I opine that the sixty thousand Conservative voters are just as loyal and as true as are the colored voters and their white allies. And you represent this large and respectable body of voters as aiders and abettors of crime, or apologists of crime! What can you expect?

"I appeal to any member on this floor to say if he does not know that his neighbors—his Democratic and Conservative neighbors—are not as loyal and orderly and peaceful as the most ardent Republican? Do you not know that these outrages are committed by a few lawless men, some of whom belong not to Texas, but are filibusters from other States? Do you not know that the people, without reference to party, in some counties stand in awe of them? The remedy for these evils is a speedy organization of civil government under the reconstruction laws—on basis to command the respect of the country."

Mr. Mullins, a Democratic or Conservative member of that convention, also made a speech on the same day, and he, as well as Judge Evans, shows that this scheme, which is now being put through this House under pretense of protection to the people, was a mere device of Pease and his associates, which the Virginia and Mississippi carpet-baggers have adopted; for these States were on yesterday tacked on to this bill after it was prepared for Texas alone, nobody pretending that there was any unusual amount of lawlessness in either of these States, to crush out the few remaining rights of the white race and to deliver over the States manacled to the Radical party. Pease having with unblushing impudence recommended that course to the convention in his message, Mr. Mullins said:

"Mr. President, I propose briefly to review the series of measures that have passed this body. In the first place, the Governor of the State sends in a message in which he recommends the disfranchisement of a 'sufficient' number of our citizens to place the political power of the State government in the hands of the 'loyal people,' meaning, of course, the Republican party. And for what are these men to be disfranchised? Is it for any crime they have committed? No such charge is made. It is not pretended that the masses of the white people of this State have committed any crime, unless it be a crime to belong to the Democratic or Conservative party. Why, then, disfranchise them? For the obvious purpose of placing an insignificant minority, claim: to be 'the simon pure' and truly loyal of the State, in power.

This convention, adopting the patriotic (?) suggestions of his excellency, proceeded to petition Congress to give them control of the boards of registrars. Why? Is it because the registration has not been fairly made? Not a bit of it; and yet the measure passed this House without a single item of testimony having been submitted to it going to show that fraud or corruption had been practiced by the boards of registration. Now, sir, it is impossible for any man in his proper senses to mistake the object of this move. It is to cut down the list of registration until a 'sufficient' number have been deprived of the privilege of voting to give the Republicans control."

"But this is not all. The black list is not yet complete; the truly loyal men yet sufficiently hedged in. But the prolific brain of the Republican party (so called) is equal to the emergency, and soon gives birth to the loyal-militia scheme. And what does this new-born prodigy of patriotism propose? Why, sir, forty thousand black men, just released from the manacles of slavery, and not yet emerged from the long night of ignorance and superstition in which their souls have been enveloped for centuries, are to be organized and armed for the express purpose of acting as a police force, to patrol the premises of their former masters, and, if needs be, control the coming elections. To justify all these measures and secure their sanction by the Congress of the United States, we have here a report on lawlessness and crime, which, at a glance, would shock the moral sense of mankind. And how was this report made? The records of the courts, and of the Freedmen's Bureau for the last three years have been searched, and every crime, every disorderly act, and every mean thing charged has been called therefrom, and brought to light for the purpose of branding the sixty thousand white people of this State as thieves, robbers, and murderers. Nine hundred homicides reported to have been committed in the last three years are here exposed, since it is taken for granted that every man charged is guilty. We are not told how many of these men were killed in self-defense, how many fell in drunken rows, how many were hung as horse thieves, or how many were murdered by robbers for their money; but they were all put down as cold-blooded murders, for which the Conservative party of the State is to be held responsible. Nay, you would fain have the world believe that all these victims were Union men, and fell as martyrs at the hands of men whom you style rebels because of their devotion to their Government.

"Sir, I should be unworthy of the high-toned, honorable, and law-abiding constituency whom I have the honor to represent on this floor, if I did not here in my place, brand this same report and the deductions drawn therefrom, as a foul slander on the white people of Texas. But to carry out these large plans, and put into immediate execution

these wonderfully philanthropic schemers, it is proposed to send two gentlemen to Washington that they may enlighten Congress in regard to all the iniquitous deeds being perpetrated in Texas, and urge upon that body the immediate sanction and adoption of these measures. Now, sir, what is to be the result of all this, if your efforts succeed? It does not require the inspiration of a prophet, nor the wisdom of a seer to foresee it. The bitter enmities engendered by the late war, and which have been only partially buried, will again spring into life in full vigor. Malice and hatred, the legitimate parents of vice and crime, will again be aroused, and all their deadly fury. Wounds that have been partially healed by the plastic hand of time will again be opened afresh; midnight will again be made hideously luminous with the glare of the incendiary's brand and torch; consternation and death will stalk broadcast throughout the land; the earth will again be drenched in blood, and the wail of despair and grief that will go up from this devoted country will be sufficient to appal the ear of Heaven! Sir, I warn gentlemen against the adoption of this measure, if they would avoid plunging the country into utter ruin.

"They tell us, however, that they are in favor of 'equal rights before the law,' and yet they propose to whittle down the list of registration, and place a colored minority in power over the white majority."

"Let us have peace," you say, and yet you adopt the most certain means of bringing about a civil war, or an absolute military despotism.

"We are for economy," say you, and yet you indulge in the most extravagant expenditures for the advancement of your own partisan purposes.

"You invite immigration to the State, and yet you tell the world that the white men of Texas are thieves, robbers, and murderers, or their friends and allies. Do gentlemen desire that the lawless banditti of the world should come to Texas? If so, they are right in publishing this report, for it offers every inducement to that class of men to come. 'O consistency, thou art a Jew!'"

Surely these speeches make the aim and object of Radical leaders too plain for comment; and this is the bill they rely on and demand to enable them to carry out their nefarious purposes. As additional evidence of the falsehood of the charges made by these men in Texas of wholesale murders there as a pretext for the passage of this bill, I will next read the remonstrance of the Democratic delegation from Texas to the New York convention; gentlemen of the very highest position and respectability in the State, whose veracity will not be doubted by the country, though I suppose their statement will have but little weight on the other side of the House. I laid it before the committee and will read it here merely premising for the benefit of the other side that General Boughton and Judge Hancock at least were men of unquestioned loyalty from the beginning to the end of the war.

ROOMS OF THE TEXAS DELEGATION,
NEW YORK, July 9, 1868.

To the Senate and House of Representatives, United States of America:

It having come to the knowledge of the delegation from Texas to the national Democratic convention, just held in this city, that the State convention now in session at Austin, in the State of Texas, has deputed certain persons to represent to the Congress of the United States that an extraordinary state of lawlessness exists in said State, against loyal Union men by the late confederate partisans, and that the lives of loyal Union men and freedmen in different and most parts of said State are unsafe, &c. The said delegation do protest against the truth of the said representations, and have agreed that Hon. John Hancock and General Horace Boughton, original and unquestionable Union men of our State, be appointed by us to bear this our protest and statement to Washington, and there lay the same before the Congress, or a committee of Congress, to the end that just and true information be furnished on this subject.

And the said delegation does now here say and represent that the said representations of said conventional committee from Austin are unfounded and entirely wanting in truth.

That the members of our delegation are from all parts of the State, and their united and undivided testimony is that no such state of things exists in Texas as represented by the delegation from Austin, and that said representations are intended to influence, unduly, public opinion outside of Texas, prejudicial to the desire for peace on the part of our citizens, and their good faith in the maintenance of law and order.

That we are assured by persons from all parts of the State, including truly loyal citizens, that whatever degree of lawlessness prevails in Texas is the result of a disorganized state of society, consequent upon the inefficiency, disorganization, and transformation of the courts and juries, and is in no wise of a political character.

That we rely on the known and distinguished character of our deputies to contradict and counter-vail the representations in question, and by a fair and truthful statement to spare our people the ignominy of having placed over them an armed police; and especially in times like these, when such armed force would more than possibly be composed of zealous

partisans, saying nothing of the already onerous financial condition of our State and country.

That as well might we collect the lists of crime in New York or any other large community, and set it down as an evidence of disloyalty and demoralization as to collect this data from the extended territory and sparsely settled regions of Texas and count it as an evidence of disloyalty on the part of our citizens.

We therefore respectfully submit that no weight should be given to the representations in question, and that no action should be had on the same.

DAN A. VERTCH,
CHARLES B. JOHNSON,
HORACE BOUGHTON,
JOSEPH M. BUREOUGH,
JOHN HANCOCK,
ASHBEL SMITH,
GEORGE W. SMITH,
G. H. GIDDINGS,
T. S. STOCKDALE,
STEPHEN POWERS,
GEORGE BUTTY,
J. H. BANTON.

Being requested, in conjunction with Judge Hancock, to present the above and foregoing statement by said delegation to the honorable Congress, I would in this connection beg leave to state that I was in the national Army from the commencement to the termination of the war, at the end of which I was a brevet brigadier general. In December, 1865, having been appointed assessor of internal revenue for the fourth collection district of Texas, and embracing a large portion of the territory of said State, and not less than one fourth of the entire population of the State, I at once organized my said office at Marshall, in Harrison county, giving employment to from twenty to thirty persons in the discharge of the duties of my office, and while the assessment of taxes on a people without representation is well calculated to arouse unpleasant feelings, and even resistance, I have encountered none, nor have I heard of any violence or even insult offered to any one of my employes, or to any other Federal officer, on account of their political sentiments, past or present.

HORACE BOUGHTON,
Assessor of the fourth district of Texas.

WASHINGTON, July 11, 1868.

I am well acquainted in all the central and western parts of Texas, and fully indorse the foregoing statements as to those portions of the State.

Very respectfully submitted,

JOHN HANCOCK.

WASHINGTON, July 11, 1868.

These facts seem to me conclusive against this bill. There is the statement of Judge Evans, himself a Republican and a leading member of the convention, and, as I said, a friend of the distinguished gentleman from Pennsylvania. There is the statement of the Democratic delegation, of General Boughton and Judge Hancock, and in addition to all this, there stands the fact that the General of the Army and General Reynolds have absolute power to order as many troops there as they please, and to remove all the officers of the provisional government in the State and appoint others. There is the fact that General Reynolds, the present commander, is a Republican, and that Governor Pease himself is an ultra Radical Republican prepared to do anything necessary for success.

Mr. BOUTWELL. With the permission of the gentleman, I desire to have read the report of General Reynolds of the 4th of July, in regard to the condition of things in Texas.

Mr. BECK. You can do that after I am through. I know there are conflicting reports, and that letter was read to the committee by the gentleman from Massachusetts.

I admit, as I have already said, that there are outrages in Texas, and, as I said, there always have been. There are everywhere; in New York and Philadelphia, Boston and everywhere else. But what I was going to say is, that as things now exist the white men of Texas protest and this House ought to protest against the reconstruction laws of Congress being set aside and all power being conferred on the convention, headed by a few malignant partisans who are seeking this power for the purpose of crushing out opposition to them and establishing a little oligarchy in defiance of the will of the people of Texas, so as to secure to themselves place and power as Governors, Senators, and Representatives there and here, by fraud and force. Send your Army, nay, even your Freedmen's Bureau there, if you please; increase the power of your General if he has not enough; do everything to preserve the peace and prevent fraud in the elections, and I will stand by you. But in God's

name do not trample the people of Texas in the dust under the heels of such a convention as that and under the feet of the armed negroes you propose to place as masters over the white men there. That is all I have to say upon that subject.

Now, Mr. Speaker, I ask this House, with the Virginia convention dissolved, with Governor Wells there, your own political partisan, with all the machinery necessary to secure to your party friends every advantage, and with a bill passed in this House authorizing the election to be held in August according to your own laws, why will you reassemble that convention? When those men come and say that all they ask is to deprive twenty-five thousand white men of the right to vote, although as much entitled to vote as they are, why will you set aside your laws and the orders of your commanders and allow that to be done? Why will you turn out the men who were elected in the State of Mississippi, and put in men who were not elected, if a provisional government has to be continued there? Why will you, in the face of the statement of Judge Evans and other members of the convention of Texas, place this power in the hands of Governor Pease, when he has announced that he only wants it so that he may disfranchise enough to give his party the control of the State? Why will you establish armed bands of negroes all over those States, and thus inaugurate a war of races, unless you are prepared to avow before the country, what you cannot well conceal, that you are determined to count the electoral votes of these States for General Grant, even if you have to disfranchise every white man in them in order to enable you to do it, and then raise your hands in holy horror and charge all men as revolutionists who assert that such things shall not be permitted?

Rather than see such a bill as this pass I would say send your white soldiers there in any numbers desired; only let them be men of your own race and color, compel the people to obey your laws if compulsion be necessary. If your commanders have not power enough give it to them; if appropriations are needed make them. None of your commanders have failed in severity. Some of them, especially Meade, in the case of the young men in Columbus falsely charged with the murder of Ashburn, has exhibited toward prisoners and witnesses a barbarity and brutality unparalleled in modern times; and after all his infamous atrocities the telegrams announce that he has dissolved his court-martial, the proof being too clear and overwhelming even for him to resist that these gentlemen were as innocent as he was, and that the head and front of their offending was that they were active leaders in the Democratic party.

I insist that when no complaints come from either Virginia or Mississippi, and the object of that from Texas is made so apparent, that you shall not embrace all these States in your bill and then go before the northern people and say you desire peace, law, order, and representative government, while you are yourselves nullifying the laws you have yourselves passed and crushing out the rights you yourselves have bestowed upon these very men, for the revolutionary and despotic purpose of coercing the votes of those States for your candidate for the Presidency.

I know, sir, that I am talking to men who are very little disposed to listen to anything I may say, and I have but little hope of influencing the action of the majority. Indeed, their past action in regard to those States show how little they are governed by either law or precedent. When the Electoral College bill passed and by the amendment here, the three States of North Carolina, Arkansas, and Florida, all then represented in Congress, were seized, at is were, by the throats, and partly by the votes of their Representatives, were placed on the same footing as the unreconstructed States in the casting of their electoral votes, subject to the will of

Congress whether such votes shall be counted or not. I thought the Radical party were developing their revolutionary policy to the country in a way that they could neither justify nor maintain, and I think so still; yet they did it, and when the other morning, men claiming to be Representatives from Alabama were admitted to their seats, I struggled unsuccessfully to be heard, believing that I could demonstrate that by our own laws and conduct we had determined that they were not elected and were no more entitled to seats here than any other men that might be picked up in any other part of the country, yet it would have been of no avail; every Republican, when he voted to admit those men, knew that they were not only not elected, but a large majority of the members of this House had recorded their votes here to sustain that fact. The case of Alabama is too fresh and the facts too well recollected to need repetition. The laws required that a majority of all the registered voters should vote at the election for or against the constitution of Alabama, and if they failed to do so the constitution should be rejected, and if rejected, of course all elections held under and by virtue of it were null and void. That election was held early in February, and the only certificates these Representatives have bear date from and are based on that election. I caused one of them to be read to show that fact. This constitution was then rejected, as General Meade certified, as this House determined, and on motion of Mr. STEVENS referred the bill proposing her admission under it back to the committee. The act of March 11, allowing a majority of the votes cast to determine the question, used the words "hereafter in all elections held," &c., and was not retrospective; and when those who were anxious to get Alabama and her Representatives recognized again, pressed their claims before this House, in a bill reciting that a large majority of the votes cast had been cast for the constitution and the candidates for office under it, Judge SPALDING, of Ohio, offered a substitute for the bill, which was adopted March 29, 1868. The substitute and the action taken on it are as follows:

"That the constitution framed by the convention of Alabama, which was submitted for ratification by the people at an election commencing on the 4th day of February, 1868, is hereby declared to be the fundamental and organic law for a provisional government for the people of Alabama, so far as the same is not in conflict with the Constitution and laws of the United States. And the officers elected at said election shall, on the 1st day of May, 1868, qualify as provided in said constitution and the ordinances of said convention, and immediately thereafter enter upon the discharge of the duties of their respective offices.

SEC. 2. *And be it further enacted*, That the Governor at any time after he shall have qualified and entered upon the discharge of the duties of his office, may by proclamation convene the Legislature chosen at said election. The Legislature, when so convened, shall possess all the power conferred by said constitution, which may not be in conflict with the Constitution and laws of the United States. And the Legislature is hereby further empowered to submit said constitution to the qualified electors of Alabama for ratification at such time or times as it may designate. And said Legislature is also empowered, by a majority vote of each House, to submit the said constitution, as framed by the convention, with or without amendments proposed by the Legislature. And if amendments be proposed by the Legislature, they shall be voted upon separately, and not in connection with the constitution as it came from the convention.

SEC. 3. *And be it further enacted*, That whenever the people, by a majority vote of the qualified electors of Alabama, qualified under the act of Congress of March 23, 1867, to vote for delegates to frame a constitution, and actually voting upon such ratification, shall have ratified a constitution submitted as aforesaid, and the Legislature of the proposed State organization shall have adopted the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, the constitution of Alabama may be presented to Congress for its approval.

SEC. 4. *And be it further enacted*, That the district commanders shall furnish all necessary aid in enforcing this act, and the act of March 2, 1867, entitled "An act to provide for a more efficient government for the rebel States," and the acts supplemental to and amendatory thereof shall remain in full force in Alabama except as modified by this act, until Alabama shall be restored to representation in Congress.

"Mr. FARNSWORTH demanded the yeas and nays.

"The yeas and nays were ordered.

"The question was taken; and it was decided in the

affirmative—yeas 77, nays 54, not voting 58; as follows:

"YEAS—Messrs. Ames, Anderson, Delos B. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beatty, Benjamin, Bromwell, Broomall, Churchill, Sidney Clarke, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Dodge, Briggs, Eckley, Eggleston, Elliott, Ferriss, Ferry, Halsey, Hawkins, Hill, Hopkins, Hunter, Koons, Judd, Julian, Kelsey, Ketcham, Maynard, Laffin, William Lawrence, Loan, Loughridge, Maynard, McClurg, Mercur, Moore, Moorhead, Morrell, Mullins, Myers, Nunn, O'Neill, Orth, Poland, Shanks, Pomeroy, Price, Raun, Sawyer, Schofield, Twichell, Smith, Spaulding, Thaddeus Stevens, Taffe, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—77."

Every man who voted for that substitute solemnly declared that the constitution of Alabama had been rejected by the people, and that all elections at the time that vote was taken were null and void. The provisional legislature was authorized to again submit it, with or without amendments, to the people for ratification. The omnibus bill of June 23 merely declared that Alabama and the other States should be entitled and admitted to representation in Congress as States when their Legislatures did certain things; but it did not declare that the void election in February held in Alabama should be valid, or that an election to determine who should be her Representatives in Congress should not be held. Yet in the face of all these things this Congress selected a number of its own partisans and has sworn them in as Representatives from Alabama without giving that people any chance to say a word, and without even advising them of their intention to do so. Of course, these gentlemen now on this floor no more represent the people of Alabama than they represent the moon. They are the appointees of this Congress, no more, no less. After a Congress does things like that it is of course hopeless to seek to check the members of it who do them by any legal or constitutional objections to their course.

I merely desire to say in the minute or two left me, that as a member of the committee I was willing, and proposed, rather than see this bill pass, to make the power of the General of the Army absolute over these States for the time being. I know that public opinion and his own self-respect would compel him to treat their people as civilized men. My substitute was rejected, and they are now to be surrendered to the mercy of their bitterest and most relentless enemies, who, by the constabulary force herein provided for mercenary bands of negroes to be armed by the bill for that purpose now being pressed before the House, are to eat out their substance, drive them from the polls at the point of the bayonet, humiliate, degrade, insult, and disgrace the white men in every possible form so as to bring about collisions and riots, which of course will be charged all over the North to the rebellious spirit of the people who are wantonly murdering poor, innocent, unoffending Union men because of their devotion to the flag and the principles of the Radical party. That is the last hope for Radical success. Whether the people of the South can endure all the humiliations, to which they will be subjected as they have endured those they are now suffering is the only problem. If they can, your bill, in one of its leading objects, will be a failure.

I do not believe the committee desire or intend that it shall have effect. I cannot believe it. Their course, in frowning down the infamous propositions of Wells and Williamson, relative to Virginia, their insertion on my motion into this bill of the clause that candidates shall not be revising registrars nor judges of the election indicate that they do not; still that it will produce all the evils I have suggested, and will be carried out in total disregard and defiance of law by the parties it places in power, is as clear to my mind as the sun at noon-day.

If only protection and the due execution of the law is desired, surely conventions elected solely to frame constitutions, without reference

to their executive ability are illy adapted to secure the desired end. Your armies, your military tribunals, your existing bureaus, and all your military machinery which now exists and can be indefinitely extended, are far more efficient. I see nothing but evil in the bill.

[Here the hammer fell.]

Mr. BINGHAM. I now yield fifteen minutes to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER, of Massachusetts. Mr. Speaker, let me premise by saying that I am in favor of every provision of this bill. It is in the right direction—an attempt to restore civil government at the South by the laws and by the action of the Congress of the United States; and I am ready to pass any measure by which the reconstruction which we have so far carried out could be made effectual. I trust it may be, and yet I am oppressed by doubts; and it is with reference to those doubts that I desire to occupy a few moments to examine whether, upon the whole, we are now engaged upon a measure of practical value. I trust the bill may be passed by this House; I trust it may pass the Senate, that we may show our desire by our action to make every provision for the restoration of civil governments in some form over the southern States.

But, sir, I have no hope that this bill will become a law. We have agreed to adjourn on Monday, and whoever expects this bill to be signed by the President of the United States, or returned with his objections, so that we can pass it over them before Monday noon, has a faith which would fit him to believe the promise which the gentleman from Illinois [Mr. WASHBURN] said he had received from the President, that all the bills that passed would be signed, when he wished to carry the adjournment.

Mr. MILLER. I would like to ask the gentleman from Massachusetts whether we did not pass the resolution for adjournment upon the allegation of the gentleman from Illinois that the President would either sign or veto all our bills in time for an adjournment on Monday.

Mr. WASHBURN, of Illinois. The gentleman from Massachusetts has, in referring to what I said, stated the matter rather broadly. What I said was this: that I had reliable information that the President would either sign or veto those political bills. The two bills to which I particularly referred were the bill in reference to vacancies in the Executive Departments, commonly called the *ad interim* bill, and the bill in regard to the Freedmen's Bureau. The *ad interim* bill has already been signed, and the bill in regard to the Freedmen's Bureau will, I understand, be signed or vetoed to-morrow.

Mr. BUTLER, of Massachusetts. Mr. Speaker, I am very glad that the President has taken the gentleman from Illinois into his confidence. [Laughter.]

Mr. WASHBURN, of Illinois. The gentleman has no right to speak of me in that way. I have not seen the President, and the gentleman, from what I said, has no right to make such a statement. I said I was reliably informed of a certain fact. I have not had any communication with the President.

Mr. BUTLER, of Massachusetts. Well, sir, the old Latin maxim is *qui facit per alium facit per se*; and if the gentleman gets his reliable information through a third person, why then we have two men who are liable to be mistaken instead of one. I hope the gentleman's communication may prove true. But I say again that I do not believe, and my friend from Illinois will pardon me for saying that I do not believe he believes, that the President will approve or return with his veto the bill now before us—the bill to which we were all looking for a finish to our reconstruction measures. I mean we who had some idea of the necessity of staying here. Now, sir, let us see exactly where we stand in relation to reconstruction. Let us see what the President of the United

States has told us. Lest I do him injustice I will read his own words from his recent message vetoing the Electoral College resolution :

"It is worthy of remark that if the States whose inhabitants were recently in rebellion were legally and constitutionally organized and restored to their rights prior to the 4th of March, 1867, as I am satisfied they were, the only legitimate authority under which the election for President and Vice President can be held therein must be derived from the governments instituted before that period.

"It clearly follows that all State governments organized in those States under acts of Congress for that purpose and under military control are illegitimate and of no validity whatever; and, in that view, the votes cast in those States for President and Vice President, in pursuance of acts passed since the 4th of March, 1867, and in obedience to the so-called reconstruction acts of Congress, cannot be legally received and counted; while the only votes in those States that can be legally cast and counted will be those cast in pursuance of the laws in force in the several States prior to the legislation by Congress upon the subject of reconstruction."

There you have it, sir, broad and full. The Chief Executive of the United States holds all your actions in this direction "illegal, illegitimate, of no validity, and void." He sends us that notice, and yet do we propose to sit here to pass bills to be sent to him which, when they become laws, he considers illegal, illegitimate and void. He gives you fair notice that no electoral votes can be cast or counted in those States except under the governments organized by himself; not one under the governments organized by you. And he holds the governments organized under acts of Congress, States organized under constitutions submitted to the people thereof and ratified, under which we have forty-odd members sitting here, and twelve Senators in the other House, are all null and void; that our fellow members are illegally here, and the Senators are illegally there, and, in the language of one of his supporters, ought to be expelled. Why, then, shall we sit here enacting provisional governments under the reconstruction acts, or any other acts, when the President announces, in the most solemn form, that all the obligations of law we pass are to be treated by him as of no effect, null and void.

In order to show you what we are to expect from these States, he tells you, if we go on, that every vote cast under governments instituted by you will not be counted, and every vote cast by governments instituted by him will be counted. I remarked yesterday incidentally that I did not desire to go into a heads-I-win-and-tails-you-lose sort of an election. What I desired to express was that if we carry the southern States then the votes are not to be counted. If we lose the southern States then we are estopped from objecting that they be counted against us. So we are to go into an election with seventy electoral votes which are to go against us in any event. If we lose them we cannot object to their being counted against us. If we win them the President tells us they shall be counted against us.

Mr. ELDRIDGE. Will the gentleman let me ask him a question?

Mr. BUTLER, of Massachusetts. I decline. I would be glad to yield if I had the time.

Mr. ELDRIDGE. You can have the time if you want it. You have omnipotent power.

Mr. BUTLER, of Massachusetts. I call the attention of the House to another difficulty which we are to meet leaving our seats to go home, and I will take the text from my own home organ, the New York World. [Laughter.] It devotes an equal portion of its columns to abuse of me and to praise of Seymour, and so I insist that it is my home organ. The World tells us for once, and I agree with it in the first part of the sentence :

"If Congress will adjourn and leave things as they stand, every southern State can be carried for the Democratic ticket, and if Congress should prevent the counting of the votes, the superiority of numbers demonstrated at the polls will constitute a preponderance of physical strength against which it will be vain to contend."

Here, then, is the organ of Mr. Seymour, his mouthpiece, the paper that did more to nominate him, and will by its praises do less to elect him than any other, and it tells you exactly in so many words that if we adjourn

with matters as they stand now the South will be carried against us. Again we are warned that force is to be used, if what the World denominates their votes are not counted; that is to say, if the white rebel voters who are disfranchised and who vote under the President's State governments are not counted against us although the whole legitimate vote may be given for us.

This, then, brings us to a question of force. Our friends, the true loyal men of the South, are unarmed, I believe, and we know they cannot contend against the armed rebel element there without arms. The rebellion cost us two million muskets, and four years to put it down, and yet our friends down there are asked to beat down the same element with their naked arms. And in the face of this we are told we must not send any arms there. Why not? Because we shall "irritate" somebody. Sir, we have fought such irritation for five years.

Mr. ELDRIDGE. I rise to a point of order. The gentleman is not discussing the bill before the House. He is short of time and is discussing some other question.

The SPEAKER *pro tempore*, (Mr. DAWES in the chair.) The Chair overrules the point of order.

Mr. ELDRIDGE. I supposed he would. [Laughter.]

The SPEAKER *pro tempore*. The gentleman from Massachusetts will proceed.

Mr. BUTLER, of Massachusetts. Therefore I say this bill is not a remedy for the evils of the South, and therefore I am in order. But the editor of the World does not stop here. He says:

"If they refuse to count our votes at the polling-places, we have arithmetic enough to count our own sinewy arms."

Now, gentlemen of the House of Representatives, you are forewarned. You are told by the President that he holds these State governments are illegal and their votes cannot be counted. The Democratic candidate for the Presidency holds that they are illegal and revolutionary. Their candidate for the Vice Presidency not only holds them to be illegal, but that the President should sweep them out of existence by the Army of the United States. If the assumption of the President is true as contained in his veto of the Electoral College bill, then it logically follows, and I agree to it, it is the duty of the President to take the Army of the United States and sweep away those State governments. There is no escape from that conclusion. He holds all these governments are illegal and void, against the Constitution and against the will of the people, and holding that view it is his duty as the Executive, whose duty it is to see that the laws are faithfully executed, to put down by the power of the Army of the United States those insurrectionary governments, as according to his doctrines they plainly are. He adopts, therefore, the Democratic theory that they should be overturned by force, and we are doing what? Making provisional governments for these States which are declared to be insurrectionary, and are so if the President is correct, which are mere secession governments, disturbers of the peace, and in rebellion against the General Government.

I say, therefore, we are simply wasting our time in passing this bill. We have but one duty, in my judgment, to perform. Either we are right or we are wrong. If we are right, if our governments are legal, if our reconstruction measures are to stand, we ought to protect them. We ought to protect our action, our legislation, ourselves, and our honor. How is this to be done?

[Here the hammer fell.]

Mr. BINGHAM. I yield ten minutes to the gentleman from Wisconsin.

Mr. PAINE. I wish to reply very briefly to some statements of my colleague on the committee [Mr. BECK] respecting the regularity of the election in the State of Mississippi. Now, I admit that General Gillem in general

terms in his report concludes that there was a tolerable condition of regularity and order in the election in that State. But, sir, in opposition to his statement I will offer here, so far as my time will allow, extracts from reports made by his subordinate officers showing what the facts are, and upon what reports General Gillem assumes to inform the General and the country that in his opinion there were no serious irregularities or disorders in that State.

And here let me remind the gentleman from Kentucky that he is mistaken in his assertion that the General of the Army has it in his power to remove and appoint district commanders. The General of the Army has some powers under the reconstruction acts but the President alone has power to remove or appoint district commanders, to place General Gillem or any other officer in command in the district.

Mr. BECK. Allow me to refer to the reconstruction act of July, 1867, which gives the General of the Army that power absolutely :

"SEC. 2. That the commander of any district named in said act shall have power, subject to the disapproval of the General of the Army of the United States, and to have effect till disapproved, whenever in the opinion of such commander the proper administration of said act shall require it, to suspend or remove from office, or from the performance of official duties and the exercise of official powers, any officer or person holding or exercising, or professing to hold or exercise, any civil or military office or duty in such district under any power, election, appointment, or authority derived from, or granted by, or claimed under, any so-called State or the government thereof, or any municipal or other division thereof; and upon such suspension or removal such commander, subject to the disapproval of the General as aforesaid, shall have power to provide from time to time for the performance of said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier of the Army, or by the appointment of some other person, to perform the same, and to fill vacancies occasioned by death, resignation, or otherwise.

"SEC. 3. That the General of the Army of the United States shall be invested with all the powers of suspension, removal, appointment, and detail granted in the preceding section to district commanders.

"SEC. 4. That the acts of the officers of the Army already done in removing in said districts persons exercising the functions of civil officers, and appointing others in their stead, are hereby confirmed: *Provided*, That any person heretofore or hereafter appointed by any district commander to exercise the functions of any civil office may be removed either by the military officer in command of the district or by the General of the Army."

Mr. PAINE. That is the power to suspend subordinate officers, not to appoint or remove district commanders.

Mr. BINGHAM. I desire to inquire of the gentleman from Kentucky, for I think it important that the House should understand this matter, whether he claims by anything that he has said in this interruption, that under existing law the General of the Army has power to remove the commanding officers of any of these military districts, and I demand of him now what section of what law confers that power?

Mr. BECK. I say that the General of the Army has a right to remove any or all of the provisional officers, from the governor down, and that is what you are providing against in your bill, one of the leading features of it.

Mr. BINGHAM. If the gentleman will pardon me, I beg leave to say to the gentleman from Kentucky, that he totally mistakes the scope of the bill. It does not affect the question of the appointment of the commanding officers of these military districts at all, but subjects them to the operations of this law, and the General of the Army never had any more power over them than has the gentleman from Kentucky.

Mr. BECK. But the General of the Army had power to remove the provisional governors and every officer of these States, and has it now.

Mr. PAINE. What the gentleman from Kentucky said was this: that the General of the Army had power to remove and appoint the district commanders, and what I denied was that assertion. I will spend no more time upon that point, but I will read a few extracts from the reports made by subordinate officers of

General Gillem respecting the election in Mississippi. I regret that I have not time to read more. I will begin with the report made by Thomas H. Norton, brevet major United States Army, and one of the inspectors of elections. He says:

"There is not a political meeting held in which the newly enfranchised freedmen are not solemnly warned and threatened that if they do not vote down the proposed constitution they will be deprived of employment, and that the southern whites will see their lands confiscated rather than permit these freedmen who oppose them politically to earn a livelihood by their cultivation. Not only are these unlawful threats used in the speeches of these politicians, but many prominent newspapers throughout the State in the interests of their party publish conspicuous editorials approving and pledging themselves and others to the enforcement of this barbarous policy of outrage and persecution. In consequence of this system of intimidation, I am fully persuaded that hundreds, and perhaps thousands of legal voters will be prevented from approaching the polls to give a free expression to their political preferences.

"Again, the laws of the United States prohibit any civil or military officer of any State government now in process of reconstruction from using their official influence in any way to hinder, delay, prevent, or obstruct the due and proper administration of the acts of Congress relating to reconstruction, or any act supplementary thereto, and a specific punishment is prescribed for infractions of those laws.

"Now, it is respectfully submitted and can be substantiated that the official influence of nearly all the civil officers of the State of Mississippi has been and is now constantly exercised to hinder and prevent the reconstruction of the State in violation of the true intent and meaning of the laws above referred to. The Governor of Mississippi is now actively canvassing the State in opposition to reconstruction, when, in view of the extraordinary excitement now pervading the entire community, every obligation of official decorum and every consideration of public safety would seem to demand that in the legitimate discharge of his functions as the chief executive of the State he should be at his post using every means at his command to enforce the laws and in aiding the military commander in the maintenance of public order and in preserving the peace and dignity of the community."

I now read from a report signed by William Atwood, first lieutenant nineteenth infantry, one of the inspectors of election. He says:

"As the last one (a colored man) left the polls, a white man asked him how he had voted. He intimated he had voted the Radical ticket, whereupon the white man struck him a blow with a stick, telling him to 'go along.' The negro started to run and fell at the edge of the yard. Another white man made an attack upon him while down, but was so much intoxicated as to be unable to injure him. He arose and ran down the road, and while running was struck by still another white man, and knocked down," &c.

E. C. Gilbraith, first lieutenant twenty-fourth United States infantry, an inspector of election, says:

"Many complaints are made by persons who have been discharged from employment for voting as they did. I am convinced that the election was no free expression of opinion, and was carried through pressure."

John E. Meek, states as follows:

"Being one of the registrars of the county of Monroe, Mississippi, I must say to you that the feeling of a large portion of the people in this county is anything else but loyal. In the district in which I held the election, many of the voters were deterred from voting for the constitution and went home. It was proclaimed by rebels publicly that they wanted to see and know the white man that dared to come up to the polls and vote the Radical ticket. So if the constitution is defeated it will be done in that way, by forcing public opinion and making a man odious who wishes to vote with the Republican party.

"I have no doubt that in order to reconstruct the State you will be compelled to remove all of the civil officers of the State, and to cast off the official influences that are wielded over the people of this county and State. All the sheriffs and clerks here took a bold stand to defeat ratification. Not one of them can qualify for office under the present military rule. The registrars of this county know all and every man in the county who are competent to fill the various offices and who can take the oath of office. So whenever the time comes to displace them you can have the reference of qualification through this board of registrars as to merit and qualification.

The excitement here to-day is as angry as in the year 1860. They are as defiant to the Government as ever, notwithstanding their denial to the contrary. They boast that if a collision of arms should take place at the polls to-morrow they could whip out the Federals before they could get aid from headquarters.

"You need not be surprised to hear of a collision of arms at any moment. Radicals are not safe to travel the public highways of the county, notwithstanding the rebel papers at this day tell you that good order prevails over the State; it is done for a blind to keep all right at headquarters.

"In giving you this hint of what is brewing here, it is done from the best of motives of a loyal man. You may think it premature with me, but I am a close observer of the political events of the day. I would be pleased to hear from you at any time."

F. P. Hilliard makes the following statement:

"I have the honor to state that I came here to-night for the purpose of asking for instructions. I closed the election at Lassel's shop precinct this evening at seven o'clock; many freedmen came there to vote and went away without voting.

"Threats and intimidation are used; parties opposed to reconstruction insist upon remaining about the polls as challengers, and take the names of all parties voting, and inquire very particularly how every man votes. The voters are watched so closely that many of them say they cannot vote as they wish to. They are informed by people away from the polls that these men are taking their names, and are finding out how they vote; telling them that if they do not vote as they wish them to that they (the freedmen) will regret it; that labor will not be given them, any more provisions will not be issued them, &c. My opinion is that an honest expression of the wishes of the voters cannot be had unless we can rule away from the polls all except the sheriff and commissioners of election.

"Please inform me by telegram to Yazoo City, and I will get it in time for the election at Benton."

General Gillem, it is true, uses in his report the following general language:

"As is generally the case in elections frauds is charged by both parties. All reports and complaints bearing on this subject are herewith transmitted for the consideration of the proper authority. (See Appendix C.) Merely remarking that I am satisfied the election was as fair and free from intimidation or the influence of fraud as it would be possible to secure under existing circumstances, and that no undue influence was exercised at the polls. If intimidation was used at all it was beyond the power of the military to reach it."

But, sir, in these very documents which accompany his report, General Gillem, who finds no serious irregularities in that election, furnishes proof that statements and complaints were actually made to him, that irregularities had been perpetrated, and the grossest wrongs had been committed on the freedmen. I will not detain the House by reading any further extracts, as I presume they are familiar to my friends on the other side.

[Here the hammer fell.]

Mr. LAWRENCE, of Ohio. Will my colleague [Mr. BINGHAM] yield to me to offer an amendment?

Mr. BINGHAM. Certainly.

Mr. LAWRENCE, of Ohio. I move to amend the bill by adding to it the following:

And be it further enacted, That if in any one of said States any person shall, during the year 1868, vote for any candidate for elector for President or Vice President of the United States, or shall act as an officer at any election for such candidate, every person so offending shall be deemed guilty of a high misdemeanor, and shall be liable to indictment and conviction therefor in any court of competent jurisdiction, and shall, on such conviction, be fined not more than \$1,000, and be imprisoned not less than one month nor more than one year.

And be it further enacted, That it shall be the duty of the President of the United States to prohibit any person from voting or acting as an officer at any election contrary to the provisions of this act; and for that purpose he shall employ the power of the Army and Navy of the United States, so far as may be necessary.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Colonel WILLIAM G. MOORE, his Secretary, informed the House that the President had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 554) making a grant of land to the State of Minnesota, to aid in the improvement of the navigation of the Mississippi river;

An act (H. R. No. 698) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869;

An act (H. R. No. 761) to construct a wagon-road from West Point to Cornwall Landing, all in the county of Orange, State of New York;

An act (H. R. No. 1227) granting a pension to Martha Ann Wallace;

An act (H. R. No. 1820) for the relief of L. Merchant & Co. and Peter Rosecranz;

An act (H. R. No. 1337) granting an increase of pension to Frances S. Richardson, widow of the late Major General Israel B. Richardson;

A joint resolution (H. R. No. 329) to amend the fourteenth section of the act approved July

28, 1866, entitled "An act to protect the revenue, and for other purposes;"

A joint resolution (H. R. No. 340) for the relief of Peter M. Carmichael, surgeon of the port of Albany;

A joint resolution (H. R. No. 343) to admit free of duty certain statutory;

A joint resolution (H. R. No. 344) to incorporate the "Washington Target-Shooting Association," in the District of Columbia; and

A joint resolution (H. R. No. 354) admitting steam plows free of duty for one year from June 30, 1868.

ENROLLED BILLS, ETC., SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 433) authorizing the trustees of Union Chapel of the Methodist Episcopal church, in the city of Washington, to mortgage their property for church purposes;

An act (S. No. 509) in addition to an act passed March 28, 1864, entitled "An act in addition to an act entitled 'An act for the punishment of certain crimes against the United States';"

Joint resolution (S. R. No. 93) granting permission to officers and soldiers to wear the badge of the corps in which they served during the rebellion; and

Joint resolution (S. R. No. 121) to carry into effect the resolution approved March 2, 1867, providing for the exchange of certain public documents.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House was requested:

Joint resolution (S. No. 162) to regulate the carriage of passengers in steamships and other vessels.

The message also announced that the Senate had passed House bill of the following title, with an amendment, in which the concurrence of the House was requested:

An act (H. R. No. 1275) relating to the Alexandria canal.

RECONSTRUCTION—AGAIN.

THE SPEAKER. The House resumes the consideration of the bill to provide for the more speedy reorganization of the States of Virginia, Mississippi, and Texas, and for other purposes. The gentleman from Ohio [Mr. BINGHAM] has five minutes of his hour remaining.

Mr. COVODE obtained leave to print some remarks as part of the debates. [See Appendix.]

Mr. BINGHAM. Mr. Speaker, in the five minutes left me, I can do no more than refer to a single objection made by my colleague on the committee, the gentleman from Kentucky, [Mr. Beck.] He has intimated to the House, indeed he has stated to the House in terms which I think he did not fully consider, that by this bill persons authorized and entitled to be registered under the existing laws of Congress would be deprived of the privilege of registering, and consequently of the privilege of voting. I beg leave to say to the gentleman from Kentucky, and I say it under my responsibility to the people whom I represent, that there is nothing in the bill before the House that can be tortured by human ingenuity into any such construction. On the contrary, (and it is due to the gentleman from Kentucky that I should say it,) the committee have, by way of caution, inserted in this bill language providing that the officers appointed in the mode specified in the bill shall observe in all respects the provisions of the existing laws touching the matter of reconstruction. Hence it results that officers appointed as provided in this bill will have no more power to deprive any person in either of the States named of registration or of the right to vote than have the existing officers.

The only difficulty in the case, Mr. Speaker, (and it is this that gives occasion for this legislation,) is that we have an apostate President, who has no more care touching the execution of the laws of this country than has the king of Dahomey. We desire, therefore, so to amend the laws as to aid their execution by the united action of the people of these States, represented in their constitutional conventions. Gentlemen have intimated here some doubts about the constitutionality of this legislation. I beg leave to say to the gentlemen who have made this objection that the very men who constituted the uniting link between the men who made the Government and the men who executed the Government thereafter, did in more than one instance, as gentlemen will find by reference to the early legislation of Congress, exercise these same general powers which have never been challenged until this day, when they are challenged in the interest of partisans and of party, though they are invoked for the establishment of law and order in the disorganized territories of this country. I have said this much by way of answer to my colleague on the committee. Our existing laws, instead of being changed in this behalf, are reiterated and are to be enforced, but through a different agency. I now demand the previous question.

Mr. WOOD. I move that the bill and amendments be laid on the table.

Mr. SCOTFIELD. I move that the House proceed to the consideration of business on the Speaker's table.

The SPEAKER. Two undebatable propositions now pending prevent that motion from being in order. If it had been made before the demand for the previous question, it would have been in order.

Mr. WOOD. I call for the yeas and nays on my motion.

The yeas and nays were not ordered.

The motion of Mr. WOOD was not agreed to, there being—yeas 19, noes not counted.

The previous question was seconded and the main question ordered.

The amendment of Mr. LAWRENCE, of Ohio, was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time.

Mr. BINGHAM. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BINGHAM. Before this bill is passed my colleague on the committee, the gentleman from Massachusetts [Mr. BOUTWELL] desires to be heard for ten minutes, and I am willing to yield to him.

The SPEAKER. Then the motion of the gentleman from Pennsylvania [Mr. SCOTFIELD] is now in order. If the debate continues the gentleman has the right to take any member from the floor by a motion to proceed to business on the Speaker's table.

Mr. WASHBURN, of Illinois. Under what rule?

The SPEAKER. The Clerk will read the rule.

The Clerk read as follows:

"After one hour shall have been devoted to reports from committees and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion that the House do now proceed to dispose of the business on the Speaker's table."

Mr. WASHBURN, of Illinois. Read beyond that.

The Clerk read as follows:

"It is an invariable practice, too, to permit a member, upon the expiration of the morning hour, to take the floor, even though another may be occupying it, to make the motion to proceed to business on the Speaker's table."

Mr. WASHBURN, of Illinois. My point of order is that that refers to the standing committees of the House making their reports in the morning hour, and not to the reports of

special committees like the Committee on Reconstruction.

The SPEAKER. The Chair overrules the point of order. The rule is, that after one hour shall have been devoted to reports from committees and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion that the House do now proceed to dispose of the business on the Speaker's table. It does not speak of standing committees or special committees. The committees of the House are divided into two classes. One called in regular order is entitled to two morning hours, and no more, until called again in regular order. The other class, of which the Committee of Elections and the Committee on Reconstruction may be regarded as types, can report at any time. Its business is regarded of a higher character. At the end of the hour, when the Committee of Claims is making reports, a motion to go, to the business upon the Speaker's table is in order, and the Chair does not see why it should not be in order after an hour has been devoted to the consideration of reports from the Committee on Reconstruction. The rule is broad, and covers all committees.

Mr. SCOTFIELD. If the vote be taken without debate I will withdraw my motion.

Mr. BINGHAM. I have no desire to delay the House about this matter myself, but I deemed it my duty to yield a few minutes to my colleague on the committee.

Mr. BOUTWELL. I only ask to read the following extract from General Reynold's letter:

"In addition to all that I have heretofore stated with regard to the necessity of military commissions in Texas, I beg now to add that my experience and additional information with reference to the amount of lawlessness throughout the State fully confirm my previous statements, and compel me to repeat the application. Scarcely a day passes that I am not appealed to for a military commission."

"These appeals, although coming in a majority of instances from men of well known Union sentiments, are by no means confined to men of any party. Conservatives, Radicals, whites and blacks, profess an earnest desire to have a stop put to the murdering which is going on in the State to an extent which is almost incredible to citizens of other States, and which is a disgrace to the civilization of the age."

Mr. SCOTFIELD. I withdraw my motion.

Mr. RAUM then addressed the House. [See Appendix.]

The question was then taken; and it was decided in the affirmative—yeas 112, nays 27, not voting 77; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beatty, Benton, Bingham, Blackburn, Boies, Boutwell, Bowen, Brownell, Broomall, Buckland, Buckley, Calkins, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Corvode, Cullom, Delano, Dewesse, Dixon, Dockery, Driggs, Eckley, Ela, Eliot, Ferriss, Fields, French, Garfield, Gravelly, Halsey, Hamilton, Hanthey, Heaton, Higby, Hill, Hinds, Hooper, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Kelley, Kelsey, Ketcham, Koonz, Laflin, Lash, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Mallory, Maynard, McClurg, McKee, Mercer, Miller, Moore, Mullins, Myers, Nunn, O'Neill, Orth, Paine, Perham, Pierce, Pie, Polley, Pomeroy, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Starkweather, Aaron F. Stevens, Stewart, Stokes, Sypher, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, John T. Wilson, Stephen F. Wilson, and Windom—112.

NAYS—Messrs. Adams, Archer, Axtell, Baker, Beck, Cary, Eldridge, Getz, Glossbrenner, Golladay, Grover, Haight, Hawkins, Johnson, Thomas L. Jones, Kerr, Knott, Mann, Niblack, Nicholson, Phelps, Randall, Ross, Taber, Lawrence S. Trimble, Van Auker, and Wood—27.

NOT VOTING—Messrs. Anderson, Bailey, Barnes, Barnum, Beaman, Benjamin, Blaine, Blair, Boyden, Boyer, Brooks, Burr, Benjamin F. Butler, Rodger B. Butler, Chanler, Cook, Cornell, Daves, Dodge, Donnelly, Eggleston, Farnsworth, Ferry, Finney, Fox, Goss, Griswold, Harding, Holman, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Julian, Kellogg, Kitchen, George V. Lawrence, Lynch, Marshall, Marvin, McCarthy, McCormick, McCullough, Moorhead, Morrell, Morrissey, Mungen, Newcomb, Newsham, Norris, Peters, Pike, Platts, Poland, Price, Pruyn, Robinson, Roots, Sells, Shickbarger, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Stone, Upson, Robert T. Van Horn, Vanz Trump, Vidal, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, Woodbridge, and Woodward—77.

So the bill was passed.

Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SCOTFIELD. I move to proceed to business on the Speaker's table.

The motion was agreed to.

FUNDING BILL.

The first business on the Speaker's table was the resumption of the consideration of the bill (S. No. 207) for funding the national debt, and for the conversion of the notes of the United States, which had been passed over until a quorum should be present.

Mr. SCHENCK. I move that the House insist upon its amendments and ask for a committee of conference. It is important that we should endeavor to come to an agreement.

The motion was agreed to; and the Chair appointed as conferees on the part of the House Messrs. SCHENCK, LOGAN, and BOUTWELL.

CONTINGENT FUND OF THE HOUSE.

Mr. BROOMALL. I rise to make the following privileged report:

Report of the Committee on Accounts upon the resolution of July 15, 1868, directing them to investigate into the disbursements of the contingent funds of the House for 1867 and 1868.

The Committee on Accounts, who were directed by a resolution of the House July 15, 1868, to inquire into and report the disbursement of the contingent fund of the House of Representatives for the years 1867 and 1868, make report:

That they have investigated the matters committed to them, and that the result is contained in the following tables, showing all the disbursements of public moneys on account of the House for the years 1864, 1865, 1866, 1867, and 1868:

A.

Statement of Annual Expenditures of Contingent Fund, House of Representatives, 1854, 1855, 1856, 1857, and half of 1858.

Object.	1854.	1855.	1856.	1857.	1858.
	From Jan. 1 to Dec. 31.	From Jan. 1 to Dec. 31.	From Jan. 1 to Dec. 31.	From Jan. 1 to Dec. 31.	From Jan. 1 to July 1.
Carriage	\$900 00	\$3,490 75	\$1,503 50	\$3,999 50	\$233 75
Congressional Globe and Appendix, twenty-four copies to each Member and Delegate of the House of Representatives	28,536 00	14,394 72	48,383 98	52,845 59	29,250 00
Clerks to committees and temporary clerks, &c.	8,832 38	13,938 17	20,408 95	24,967 02	20,279 95
Folding documents, including materials	80,183 00	36,766 50	74,085 17	80,861 35	78,971 35
Fuel and lights, including plumbing, gas-fitting, repairs, and materials	22,387 98	24,765 79	22,432 46	22,432 46	6,253 68
Furniture, repairs, and packing-boxes for members	18,523 79	20,432 06	29,560 26	43,851 23	10,672 55
Horses, carriages and saddle-horses	9,083 50	7,253 09	8,905 00	8,753 00	4,684 50
Laborers	8,038 60	11,076 20	10,531 16	11,531 16	4,036 88
Miscellaneous items	72,249 72	88,125 96	65,747 25	75,142 71	42,711 88
Newspapers	12,617 00	7,314 00	11,563 87	14,565 90	6,112 79
Pages and temporary mail boys	18,597 00	8,001 61	23,148 48	24,382 05	12,632 46
Reporting and printing debates in the Daily Globe	24,312 85	20,263 97	36,720 00	45,481 63	22,096 50
Stationery	48,043 65	24,578 73			19,721 00
Congressional Globe and Appendix, in full sets					3,720 00

* Exclusive of pay of engineers and firemen.

† Includes besides ordinary objects of expenditure, investigating committees and pay of contestants.

‡ Three sessions and three allowances for newspapers and stationery.

Object.	Statement of Annual Expenditures of Stationery Fund for 1864, 1865, 1866, 1867, and half of 1868.				
	1864.	1865.	1866.	1867.	1868.
Compensation of the officers, clerks, messengers, and others receiving an annual salary.....	From Jan. 1 to Dec. 31, \$104,062 90	From Jan. 1 to Dec. 31, \$109,219 67	From Jan. 1 to Dec. 31, \$119,678 13	From Jan. 1 to Dec. 31, \$120,963 42	From Jan. 1 to July 1, \$67,368 30
Capitol police.....				\$16,801 01	16,080 97
Additional pay under the eighteenth section act July 28, 1865.....			74,488 10	26,358 39	86 13
Uniforms for Capitol police.....				2,065 00	

* Including pay of engineers and firemen.
† Second six months.

These tables are taken from the records of the clerks, and as the accounts of the clerks up to a very recent date have been passed upon and approved by the proper officers of the Treasury Department, the tables may be relied upon for years prior to 1868 as absolutely correct, and for the year 1868 as equally so, subject to whatever error may be discovered in the accounts not yet reached. This element of uncertainty for the year 1868 must be very small, since among the thousands of accounts sent annually to the Treasury Department for revision the discovery of any error whatever is of rare occurrence.

These tables would seem to constitute a full compliance with the order of the House, and the committee might leave the subject here, but for some matters which came to their knowledge during the investigation, and which being connected with the subject-matter the committee deem proper to be presented to the House.

It came to the knowledge of the committee that one W. J. Manker, who had been in the Doorkeeper's department knew, or professed to know, some violations of law in the disbursement of the contingent fund. The committee accordingly summoned and examined Mr. Manker, and his testimony, with that of some other witnesses, accompanies this report. It appears from the testimony of Mr. Manker that he held the position of messenger under the Doorkeeper from about March 4, 1867, to July 1, instant. That about the commencement of the present session he had some disagreement with Mr. Edward Spicer, superintendent of the folding-room, about some money, \$150, which the witness alleged to be due him, the particulars of which will appear in a subsequent part of this report.

Being unable to get the money, Mr. Manker, as he tells us, set about to discover irregularities in the management of the Doorkeeper's department. He believed there were frauds there, and he confesses his intention was to possess himself of sufficient facts to put the Doorkeeper in his power, and thereby compel him to pay the money.

Mr. Manker's investigations were conducted with profound secrecy, and continued from early in last winter up to about the last of June. His success in the Doorkeeper's department stimulated him to further inquiries, and he attacked the departments of the Clerk, Sergeant-at-Arms, and postmaster, in all of which he discovered, or thought he discovered, gigantic iniquities. The result of this investigation appears in a printed pamphlet of thirty-eight pages which he produced before the committee, and a copy of which accompanies this report.

According to his own testimony, when he had prepared himself with what he deemed the evidence of fraud contained in the book, he communicated with several of the Republican Representatives from his own State, Indiana, and the result was that some time in the present month an interview took place between himself and Mr. HUNTER, Messrs. COBURN

and SHANKS being present. He seems to have impressed these gentlemen with the opinion that he had been injured, and according to his account of the interview they were disposed to see him righted if that would end his quarrel with the Doorkeeper and reconcile him to Mr. COBURN, at whose instance he was first appointed, and whom he accused of neglecting his complaints. He says his investigations and book cost him \$200, and that he asked \$350 to suppress the book. One of the gentlemen remarked that the transaction looked like black-mailing, whereupon the witness became greatly incensed and refused to treat further.

It is proper to state that Messrs. HUNTER, COBURN, and SHANKS, in their testimony, deny all intention and all propositions to purchase the book, their object being simply to befriend Mr. Manker and end his quarrel. Before this interview, according to his testimony, he had opened negotiations with the national Democratic committee, through Mr. NIMBLECK, a Democratic Representative from his own State, and soon afterward succeeded in selling his book to that committee to be used as a campaign document for consideration which, to use his own language, "was better to him than to remain in the Doorkeeper's department and receive a year's salary." That salary, he tells us, is \$1,440.

It is proper to state that Mr. Manker tells us the book is to be modified to some extent in the hands of the Democratic committee, but he left the impression that the proposed modifications were not important. The book, as reported, may therefore be considered substantially as it will be given to the world. It bears upon its title-page the inviting announcement, "The Ventilation of the Radical House of Representatives, showing the most infamous system of swindling that can be found in this or any other country."

As the misrepresentations are gross, and as some of them may be believed by the country, the committee have deemed it proper to examine and report from undoubted official sources the facts so attempted to be perverted. The committee owe an apology to the House for noticing such a publication. A book gotten up for the purpose of frightening the Republicans into the payment of money to suppress it, or in default of that to sell it to the Democrats for use in the coming campaign, might be well expected to be made to answer its twofold purpose if the writer had sufficient ingenuity to do it, but where the truth can be so readily got at it is well that the House and the country should be put in possession of it.

The committee find the table on pages 4 and 5, showing the expenses of the House for the fiscal years ending June 30, 1864, 1865, 1866, 1867, and 1868, more nearly correct than anything else in the book, but it duplicates the item of \$100,000.

This was additional compensation to employes voted in 1863, and is embraced within the amounts ascribed to the years following that date.

Hence this sum has no business in the table. The actual expenses of these various years appear on the books of the Clerk's office, and are as follows:

In the year ending June 30:	
1864.....	\$328,384 26
1865.....	481,884 00
1866.....	462,418 96
1867.....	464,810 98
1868.....	685,281 28
	\$2,522,679 48

The figures in the book for 1863, the witness admits in his testimony, were partially estimated. This accounts for their being \$40,000 too much. The trifling aggregate error in Mr. Manker's table of \$140,000 may not lessen the value of the book in the estimation of the purchasers, but it is worth noticing. The increase of 1863 over 1864 is accounted for by the twenty per cent. increase of compensation of officers, clerks, and employes, by the enlargement of the Capitol police, by the increased size and expense of the Globe, growing out of the frequent and long sessions of Congress, by the creation of additional committees, and the increase of committee clerks, consequent upon the enormous increase of legislative business, by the number of investigating committees, and contested seats, by the repair and refurnishing of the various rooms in the Capitol, all of which was neglected during the war, and by the general increase of documents, the additional allowances for and consumption of stationery and newspapers, consequent upon the repeated convenings of Congress.

These expenses were necessarily incidental to the enforced antagonistic position of the legislative body toward the Executive, and they could not have been avoided without infidelity to the highest duties. In the stationery statement (page 6) there are serious mistakes. The table giving the stationery for 1863—which must have been meant for 1867, for that of 1868 cannot be ascertained until the end of the year—states it at \$7,500, and the commutation of stationery at \$22,150 is added by Manker, making a total of \$99,650. The stationery for 1864 is placed at \$36,600, and the commutation \$2,000, making a total of \$38,600.

This, according to Manker, shows an excess for 1867, over 1864 of \$61,050.

The books of the disbursing officer of the Clerk's office show the entire expenditure under each appropriation in each year. From them we get the entire amount of stationery and commutation drawn by members for the years named as follows:

	Total amount paid both for stationery and commutation.	Amount of commutation allowed.
For 1864.....	\$24,312 85	\$4,633 74
For 1865.....	20,263 97	2,927 43
For 1866.....	34,382 05	9,264 40
For 1867.....	56,484 63	18,994 26
For 1868 (six months).....	15,721 02	3,081 83

From this we find that the whole amount of stationery and commutation for 1867 was \$55,484 63, instead of \$99,650, as alleged in the book, and that the increase over 1864 was \$31,171 78, instead of \$61,050, as alleged by Mr. Manker. It must be borne in mind that in 1867 there were three distinct sessions of Congress, and therefore three allowances of stationery to members, whereas in 1864 there was but one session and but one allowance. Most of the actual excess was owing to this fact.

These official facts entirely destroy the assertions of the book, and make ridiculous its attempts to account for imaginary excesses by imagining every form of extravagance. The difference between the facts and the book is, doubtless, owing to the circumstance that the latter was made to sell and the former not. The stationery alone without the commutation for 1864, was \$19,679 11, and that for 1867, \$36,490 37. Out of this latter sum the members were supplied upon their orders, the various officers of the Clerk's department, that of the Sergeant-at-Arms, the Doorkeeper, and postmaster were supplied. The wrapping-paper for folding hundreds of thousands of documents for distribution among the people was furnished and a surplus left over of \$8,914 92 with which to begin the year 1868. On page 11 it is alleged that the purchases of stationery for 1867 amounted to \$85,000, and the commutation for stationery drawn by members \$20,000, making a total of \$105,000, whereas the fact is, and the records of the House show it, that the entire purchases of stationery for that year were but \$36,490 37, and the commutation \$18,994 16, making a total of \$55,484 63, a little over half the alleged figures.

When we consider the discrepancy between the facts and the allegation it is plain that some ingenuity must have been exercised to render the book valuable in the market for which it was intended.

On page 21 a comparison is instituted between 1868 and 1864, in the matter of horses and carriage hire and cartage, by which there is assigned to 1868 the sum of \$14,213, and to 1864 \$6,594, making an increase in the four years of \$7,619. A reference to the Clerk's books shows that the following sums were expended for horses and carriage hire and cartage during the following years:

1863.....	\$8,419 00
1864.....	9,583 50
1865.....	10,723 75
1866.....	10,308 50
1867.....	12,732 50
1868 (six months of).....	2,968 25

It will be seen that the book gives the alleged expenses for the years ending June 30, 1864 and 1868, respectively, while the records of the Clerk's office give us the expenditure during each year from January 1 to December 31. Hence an exact comparison cannot be instituted, but the figures in the table enable us to say with certainty that those in the book are false.

In these several sums are included the allowances for keeping horses for the public service by the Clerk, Sergeant-at-Arms, and Doorkeeper. The number of these horses has been steadily the same for more than eight years, so that the expense could not greatly increase since 1864. On one occasion since that date the allowance for this particular was increased in consequence of the increased cost of keeping horses. The actual difference between 1864 and 1868 is thus accounted for.

On page 24 of the book appears a table, the contents of which are worthy the attention of authors who get up statistics at will to prove what they desire. It professes to give the expense of furnishing horses, carriages, cartage, &c., to the various officers of the House with incidental expenses for the year ending June 30, 1865, making the total \$34,633. Among the items appears one for forage for horses ("estimated,") \$15,000. As this forage is purchased by the officers and paid for by them out of the allowance made to them, (heretofore alluded to,) it is difficult to see why that sum figures in the expenses of the House. But supposing this estimate of the cost of forage to be correct, \$15,000, and his statement of the allowance made to officers in the whole business to be as he states it, \$14,213, the keeping of horses for the transaction of public business would not seem to be very profitable since the cost of keeping them exceeds by \$787 per annum the entire sum allowed the officers for horses, carriage hire, and cartage. In a succeeding table on the same page a like ingenuity is exhibited. The Chief Clerk is alleged to have received \$2,523 allowance for three horses and carriages, to which is added \$3,750 for forage, under the false assumption that this is paid for by the Government. If the cost of keeping these horses to Mr. Lloyd is really \$3,750 per annum, he will hardly get rich out of \$2,523 allowed him by the House for keeping them.

The same remarks will apply to the item of \$5,000 in the table on page 23, in the alleged expenses of the Postmaster's department. In addition to that there must become other serious blunder in the table. It makes the cost of the mail service during the fiscal year ending June 30, 1868, including the salary of the Postmaster and his subordinates, \$32,358 50; whereas the entire appropriation for that year for the whole matter was but \$12,730 50.

The charges made in the book against the Sergeant-at-Arms consist almost altogether of those investigated by the committee in the early part of this session, and the report in that case is referred to as a full answer to them. It is sufficient to say, in short, that after full investigation the committee ascertained the amounts awarded him since the commencement of the Thirty-Ninth Congress to be in strict accordance with law and precedent.

Taking a single case complained of by Manker—that of the New Orleans investigation—the Sergeant-at-Arms is charged truly with having received \$2,392 40 for summoning three hundred and one witnesses—this is \$7 94 each. During the last Democratic

Congress, the Thirty-Fifth, the Sergeant-at-Arms charged and received in the Fort Snelling investigation \$4,408 for summoning forty-eight witnesses, making \$190 17 each. Other comparisons between 1867 and 1868, show similar results. The parties who have purchased the book will hardly profit by contrasting the Thirty-Fifth and Thirty-Ninth Congresses.

The charge against the Clerk of having a person on his roll who was never in Washington has about as little real truth in it as the other principal charges in the book. No such person has been upon the roll since this committee was organized. It is said that some time in 1867, during the recess, the Clerk being at his home, and having his business correspondence, which is large, sent there, procured assistance there instead of taking it from Washington. This was approved by the Committee of Accounts, and as no additional expense to the Government was thereby incurred we see no reason to complain of it now.

The case of Anna E. Ward, complained of in the book, was examined by the Committee on Accounts some time since. She is the widow of a soldier who held the office until his death; his widow was left destitute and was appointed to succeed him. She procures the services to be performed by another person who draws no pay from the Government. This is not strictly regular, but the Government is not the loser. The services are performed, and the salary is paid; and it is an unfeeling act to strike at the pittance of a soldier's widow. If the House wants her discharged, it must not ask the committee to make the order.

There seems to be no specific charge against the Doorkeeper, except the refusal to pay Mr. Manker his full salary while absent from his post. This is treated elsewhere.

The charge that the Postmaster is interested in the contract for cartage made by himself is proven to be wholly without foundation. S. H. Dunham, so far from being a myth, is a citizen of the State of New York, who becoming tired of his contract left Washington, after bargaining with other parties to carry it out.

The charge that these officers are keeping their horses at the public expense is untrue. No charge for forage for horses appears anywhere against the Government.

The controversy between the witness Manker and the Doorkeeper, according to his own testimony, is this: about the adjournment of the March session of the Fortieth Congress a resolution was passed directing the Doorkeeper to retain his assistants and employes upon the roll. There were services to be performed which would require some time, and an adjourned session was to be held in July following. After the adjournment the witness desired to be absent during the recess. He was told by Mr. Spicer that he could do so upon paying out of his salary such sum as would be necessary to procure a substitute. He assented to this, and remained away from that time until November, except during the July session. His entire period of absence was about six months. During this time he received his full pay, a little over seven hundred dollars, though he performed no services whatever, and paid Mr. Spicer out of it \$150 for procuring a substitute. He further states that on his return to Washington, in November, he discovered that no substitute had ever been employed, and he demanded of Mr. Spicer the money he had paid. He also states that there were fourteen subordinates of the Doorkeeper besides himself who obtained leave of absence under a similar arrangement, and that the aggregate amount paid to Mr. Spicer, including his own, was \$1,950.

The testimony of Mr. Spicer admits the receipt of that amount of money, and alleges it to have been all paid over by him in good faith to substitutes procured for the absent parties.

A practice such as this the committee conceive to be liable to great abuses, and they recommend its entire discontinuance. As the Doorkeeper himself concurs in this opinion it will be unnecessary to notice this subject further. The practice is of long standing, and is one of the legacies left by Congresses prior to 1861 to their successors.

Upon the merits of the controversy the committee by no means agree with Mr. Manker. Even assuming his statement of the facts to be correct, it is difficult to see how he can be entitled to the money.

If Mr. Spicer, the representative of the Doorkeeper, and, therefore, of the House, procured service which Mr. Manker had undertaken to perform for a less sum than that allowed by the House the difference properly belongs to the funds of the House. Indeed, Mr. Manker himself appears to have received more money than he was entitled to. Justice between him and the Government requires that he should refund the remainder of his \$700, he having been absent from his post during the period for which it was paid him, and having rendered no services whatever.

If Mr. Manker really desired to correct abuses, it is difficult to see why he did not apply to this committee. He made a written statement of his grievances, as he says, to the Speaker of the House, whose letter is appended to the testimony, and who very properly referred his friends to the Committee on Accounts. Possibly Mr. Manker knew that though this might result in getting the money paid over to the Government yet it would not benefit him.

It is not to be denied that the expenses of legislation are greater than they should be. This is owing to a number of abuses which the party now in power in Congress found in full vigor at their accession. Many of these have been already remedied. Scarcely a recent session of Congress has passed without laying the ax at the root of some old mischief.

The expenses of investigating committees have been systematized and greatly lessened. During the present session of Congress a limit has been for the first time placed upon the stationery allowed to Sen-

ators. Great abuses and extravagances existed in this particular prior to 1861, and to some extent up to the recent enactment. A variety of old abuses in furnishing the Hall and the committee-rooms, the details of which would swell this report unnecessarily, have been remedied by the Thirty-Eighth, Thirty-Ninth, and Fortieth Congresses. Many evils still exist and the committee take this occasion to recommend still further reforms; but vague, monstrous, and incredible charges of fraud discourage investigation, and prevent the correction of actual abuses.

The books of the postmaster show an extravagance in the furnishing of stationery to the various committees, and the mode by which members are supplied appears wasteful and liable to abuse. Until recently no account was required to be rendered by law of the stationery delivered to the postmaster for the members. During the present Congress such a law has been enacted, and unless the system be changed it will be difficult to prevent serious loss annually to the postmaster. The committee therefore recommend the passage of the accompanying resolutions upon that subject.

The number of officers and employes of the House is unnecessarily large. But as the reorganization of the House in this respect is now in the hands of another committee it is hoped a proper remedy will be applied. It may be said, however, that even this has yielded to some extent to recent reform. In the Thirty-Fifth Congress the number was two hundred and fifty-seven. Now, notwithstanding the immense increase of legislative business, and the consequent greater necessity for clerks and employes, the number is but two hundred and twenty-one.

The old mischief of voting increased compensation to officers' clerks and employes usually just at the close of the session has yielded to a similar partial reform.

In the Thirty-Fifth Congress, at its second session, as appears by Miscellaneous Document, pages 148-154, the amount voted and paid was \$45,862 40 in gold, while during the entire period since January 1, 1867, and up to the present time the amount paid was only \$25,444 52 in currency, as appears by table B, appended to this report.

The officers and employes of the House should be adequately paid by regular salaries, and the number should be limited to that sufficient to perform the duties thoroughly.

The attention of the committee has been called to some other matters requiring reformation. The two folding departments need consolidating and reorganizing. The manner in which horses, carriages, and cartage are supplied for the public service needs revising, and some further changes ought to be made in the manner of furnishing the Hall and committee rooms. The committee therefore request power to continue the investigation during the recess and report finally at the next session of Congress.

All of which is respectfully submitted.

J. M. BROOMALL, Chairman.

The committee report the following resolutions:

Resolved, &c., That the Clerk be, and he is hereby, authorized, as the agent of the House in this behalf, to purchase in the manner provided by law, on the best terms he may find practicable, such stationery as may be requisite for the use of the House and Clerk's office, giving preference in all cases to American manufacture, provided it be equally cheap and of as good quality; that he cause to be recorded in a well bound book, suited to that purpose, the bills and invoices of all the stationery he may so purchase from time to time; that he deliver to the members of Congress and officers hereinafter named the amounts of stationery hereinafter specified, keeping an accurate account of the same, and also of the quantity and value of that used in the Clerk's office, and that hereafter, in the annual reports now required by law to be made by the Clerk, showing the amount of expenditure from the contingent fund of the House, he be required to state, accurately and distinctly, the quantity and cost of all the stationery delivered pursuant to the provisions hereof, and that used in the Clerk's office; also the amount remaining on hand at the time of making such statement, and the amount of unexpended appropriation for stationery: *Provided,* That the amount furnished to members of Congress may be embraced in a single item.

Resolved, That the Clerk be, and he is hereby, required to deliver to every member of the House the usual articles of stationery now furnished to members on an amount not exceeding in value that authorized by law, at the cost price, in the stationery room, or, at the option of the members, to pay them the proper commutation in money; that he keep a true and accurate account of all stationery which he may so deliver to the several members of the House; and if in any case a member shall receive a greater amount of stationery during any session than is above provided, the Clerk shall, before the close of such session, furnish to the Sergeant-at-Arms an account of such excess beyond the amounts above specified, who is hereby required to deduct the amount of such excess from the pay and mileage of such members, and refund the same into the Treasury: *Provided,* That this limitation is not intended to be made applicable to the use of wrapping-paper and envelopes which may be required in the folding-room.

Resolved, That the Clerk be, and he is hereby, authorized and required to deliver to every chairman of the committees of the House for the use of such committees, and to the Postmaster, Sergeant-at-Arms, and Doorkeeper, for the use of their respective offices at every session of Congress, similar articles of stationery, not exceeding in value an amount which from time to time shall be fixed upon by the Committee on Accounts, and approved by the Speaker.

Mr. BROOMALL. The changes proposed by the committee are embraced in a few items and can be explained in a few words, and, although it is late in the session, I trust the House will adopt the resolutions, for the sooner a reform of this kind is begun the better. The resolutions are nearly a copy of those of March 4, 1842, upon the same subject, preserving the phraseology, except where it is necessary to carry out what the committee recommend to be changed.

Mr. DAWES. I would like to make an inquiry.

Mr. BROOMALL. Certainly.

Mr. DAWES. The resolutions, if I understand them correctly, authorize the Clerk to purchase on account all the stationery. What objection is there to his offering bids?

Mr. BROOMALL. That is the law now, and it is what the resolution requires. The resolutions of March 4, 1842, were passed before the Clerk was required to purchase on bids or proposals. The law requiring this to be done having since been passed, the present resolutions are made to correspond with the law. The words are "in the manner provided by law." That is one change.

The next change in the first resolution is that instead of requiring the Clerk to deliver the stationery to the Postmaster, to be delivered by him to members of the House, it requires him to deliver it to the members at once.

Mr. DAWES. One moment. Without any disposition to oppose the gentleman, I would like to inquire what necessity there is for paying such an enormous price for stationery as is charged in our account. In my own district this paper can be produced for less than half what it stands in our accounts. Note paper is charged six dollars a ream. Now, I do not know much about it, but I never paid more than three dollars a ream at home for note paper. The paper is manufactured in large quantities in my district, and I suppose it would be a matter of economy to go to the factory and purchase it.

Mr. BROOMALL. The practice we propose to institute will test whether or not we are charged too much through the Clerk, because, as the gentleman will see in a little while, we propose to allow members the option of getting their stationery from the Clerk or taking their commutation money and getting it wherever they please. If they find it profitable to get it elsewhere then a more rigid inquiry into the cost price to the Clerk will be necessary to be instituted. But the cost of certain kinds of paper which the gentleman alludes to may be accounted for in this way. That kind of paper has a printed heading, which has to be put on by a separate operation after the paper is purchased, and that increases the cost.

Mr. DAWES. I saw an account coming over here from the Senate, in which the mere printing of the heading added \$6 50 to each ream. It seems to me that that is a great deal.

Mr. BROOMALL. That is more than it has cost us at any time. Two or three dollars a ream is all that it has cost the Clerk of the House.

Mr. DAWES. That is the statement I saw.

Mr. BROOMALL. If the gentleman will excuse me, after a brief explanation of the resolutions I will answer any questions.

I was about saying that the second change we propose in the first resolution of March 4, 1862, is to require the Clerk in his published accounts which are made annually, to insert the balance of stationery on hand and the amount of unexpended appropriation for stationery. This will enable anybody from the book to ascertain whether the accounts balance. As at present published it is impossible to do that.

The second resolution substitutes in place of the Postmaster the Clerk of the House. It does away with the store which is kept over in the post-office room, and where there is unavoidably a good deal of waste of stationery.

It requires the Clerk to deliver to members either in stationery or in commutation what they are entitled to. If in stationery, upon their written orders, of course. The object of that is to simplify the transaction, and to bring the whole matter on the Clerk's books, where the whole expenditure can be ascertained, and it will prevent the waste in the post office.

The resolution also requires a report of the amount of stationery furnished to all parties, whereas under the present system the amount handed over to the Postmaster for the use of members is simply given in the Clerk's books, and the Postmaster until recently was not required to account to anybody. By a recent law he is required to account, and if that law is continued, and this change is not made, it will be impossible for the Postmaster to avoid very considerable personal loss. I will say that this change is made, not exactly at the instance of the Clerk and Postmaster, who are the parties interested, but with their entire concurrence. The committee think it will be a decided improvement, simplifying things very much.

The third resolution is entirely new. Heretofore there has been no limit to the amount of stationery given to the chairmen of committees for the use of the committees. There has been considerable inequality in the amount given to the different committees, and it has seemed for some time to the Committee on Accounts that it required regulation.

Mr. RANDALL. Have you the figures showing the inequality?

Mr. BROOMALL. Not in the report. They can be had.

Mr. RANDALL. Will not you give them?

Mr. BROOMALL. Not now. It has seemed to us that a change in this respect has been required for a considerable length of time. There is difficulty in fixing upon an absolute limit for a committee, and that is the reason why the plan embraced in the third resolution was resolved on. The difficulty is this: at some sessions of Congress certain committees require none, and at others they require a very large amount, and hence it would be impossible to regulate it except by fixing a maximum amount, which would probably be pretty certain to be run up to, and thus the Government would probably be as great a loser as now. The plan resolved upon by the committee was the best that occurred to them, and it is this: that at every session of Congress the Committee on Accounts shall ascertain the amount of stationery needed by each of the committees, and that their report on the matter shall be approved by the Speaker, and the Clerk shall then furnish the amount so found to be necessary. This may not be the best system possible, but it is the best the committee could think of.

I am now ready to answer any questions that may be put to me. I do not desire to occupy much time, and shall move the previous question after answering inquiries.

Mr. RANDALL. I understood that there was a minority report from the Committee on Accounts.

The SPEAKER. The minority of the committee does not appear to be present.

Mr. RANDALL. It was the understanding that the matter would not be brought up until to-morrow morning.

Mr. BROOMALL. Oh, no; I have no kind of objection to a minority report, not the least; but there was no such understanding as that to which my colleague refers, because I have been trying these three hours to get this report in, and the minority knew it.

Mr. RANDALL. I understand that the gentleman from Maryland, [Mr. McCULLOUGH], who is on the Committee on Accounts, is now preparing a minority report, in which he proposes to recite the facts, which will show that there has been a most loose expenditure of this money.

Mr. BROOMALL. I yielded merely for a question, and not for an argument. I now resume the floor, and, as I promised the gen-

tleman from Maryland [Mr. McCULLOUGH] I would do, I ask that he be allowed to present a minority report before the session closes.

Mr. RANDALL. To be printed with the majority report.

No objection was made, and leave was granted accordingly.

Mr. NIBLACK. Will the gentleman yield to me for three or five minutes?

Mr. BROOMALL. I will yield to the gentleman for three minutes.

Mr. NIBLACK. As my name has been mentioned in this report, it is perhaps proper that I should make a very brief statement as to my connection with this matter. Major Manker, whom I never personally knew until two or three weeks ago, although I knew there was a person of that name in office here from my State—Major Manker came to me with a copy of the book mentioned in this report. He stated to me the circumstances under which he had prepared it, and his reasons for publishing it. He said he thought the matters embraced in it ought to be published, and desired some assistance. He said that my colleague, [Mr. HOLMAN], who was then absent from the city, had referred him to me in case he [Mr. HOLMAN] had to leave the city. It seems that Mr. HOLMAN, at his request, had procured some information from the Treasury Department; that was his only connection with the matter.

As I had no time to read the book myself, and not feeling specially interested in the matter, I declined to give it any attention, alleging want of time, and feeling, perhaps, a want of inclination. I referred him to the Democratic executive committee here, who have charge of the distribution of documents. The book was referred to some members of the committee, resident in the District not members of Congress, and I am informed that after examining it they came to the conclusion that it embraced many matters that should come before the public. They agreed to give him some assistance in the publication of the book; what that assistance was I do not know. The book will be published I am advised, and will be for sale at the bookstores and wherever else such books might be looked for. I have had no further connection with the matter.

Mr. SHANKS. I would ask my colleague [Mr. NIBLACK] where he obtained the information he now gives to the House as to the purchase of this book from Mr. Manker?

Mr. NIBLACK. The information I have, which is but partial, I derived from Mr. John D. Hoover, of this city. I never asked for all the facts, nor do I know what they are.

[Here the hammer fell.]

The SPEAKER. The three minutes allowed the gentleman have expired.

Mr. NIBLACK. I hope the gentleman will allow me to make one other remark.

Mr. BROOMALL. Very well.

Mr. NIBLACK. Major Manker has now left the city, and is not here. I am therefore not sufficiently advised in regard to the matters mentioned in the report to be able to speak positively in regard to them.

Mr. LOGAN. Will the gentleman from Pennsylvania [Mr. BROOMALL] allow me to ask him a question?

Mr. BROOMALL. Certainly.

Mr. LOGAN. I desire to know of the chairman of the Committee on Accounts, [Mr. BROOMALL], inasmuch as charges have been made through the papers against the Doorkeeper of the House, General Lippincott, whether or not in the investigations of the committee they have found anything showing any improper conduct on his part connected with his office here?

Mr. BROOMALL. We find nothing in the conduct of the Doorkeeper to complain of. He has followed certain precedents which we speak of as being bad ones. But there is nothing whatever to complain of in his conduct, and he was one of the first to suggest some of the reforms we propose. The same remarks will apply to the Clerk, the Sergeant-at-Arms, and

the Postmaster. I promised to yield to the gentleman from Massachusetts, [Mr. DAWES], and I do so now.

Mr. DAWES. Mr. Speaker, I desire nothing further in regard to this matter than to seek a remedy for any abuses which may exist. I have no charges to make against any person. But I observe that the contracts for supplying us with stationery are let to a certain firm in this city. I observe, also, that the same firm has the contracts for furnishing stationery to all the Departments, and this is the firm that furnishes stationery to the Patent Office, in reference to which the Committee on Printing reported that the Patent Office gave eighty dollars per thousand sheets for paper which is purchasable in New York for thirteen dollars per thousand sheets. I am hence led to inquire of the chairman of the Committee on Accounts [Mr. BROOMALL] whether he has pursued his investigation so far as to be able to answer why it is that this firm furnishes paper the stamp-mark upon which is exceedingly familiar to me, being made within sight of my own house—paper I can purchase at retail for two dollars or two dollars and a half per ream—why this firm gets through advertising for bids all the contracts for furnishing stationery, not only to this House, but to all the Departments, and why we are somehow or other charged six or eight dollars per ream for this same kind of paper to which I have just referred?

Mr. BROOMALL. Mr. Speaker, I can only answer the gentleman's question by saying that I have already answered a part of it, as to the cause of the increased cost of paper to us. It results from the printed headings.

Mr. DAWES. Oh, no; it does not.

Mr. BROOMALL. I never use any of that kind, but many gentlemen do.

Mr. DAWES. I do not refer to that paper at all.

Mr. BROOMALL. Again, the attention of the committee was not directed to that subject. The allegations did not embrace it. This is the first time I have ever heard a suspicion of unfairness started in regard to the issuing of these proposals or the making of contracts by the Clerk. Whether there is any special reason why this firm gets the contracts for all the Departments other than the fact that they are the lowest bidders I do not know. If there is anything wrong in reference to this matter it should, as a matter of course, be remedied. All the inquiries touching that matter, and up to this one, which, as I say, is new to us, led us to conclude that there was nothing wrong in the purchase of paper. I do not say, however, that there has not been any wrong in that respect; but if there has been, it can be investigated under the resolution under which the committee is acting, and will be investigated.

Let me say to the gentleman from Massachusetts that from the beginning of my service upon this committee it has been its earnest endeavor—and the Democratic members who have served on the committee will, I think, sustain me in this declaration—to find out irregularities and correct them wherever it could be done. I have no idea that there is anything in the suspicion—for it amounts to nothing else—thrown out by the gentleman from Massachusetts, of unfairness on the letting of these contracts.

Mr. DAWES. The gentleman has misunderstood me. I do not allude to any irregularities. The matters to which I refer seem to occur very regularly. [Laughter.] I do not allude to any printed heads or anything of that kind. I have been led to make this inquiry from the fact that I know these manufacturers have endeavored at different times within the last ten years to put in bids for the supplying of the stationery to the different Departments in Washington, and I know that they have failed. I know that notwithstanding their earnest desire to supply the Government with paper at a fairly remunerative rate they have not been allowed the opportunity, while the Government has been subjected to these exorbitant charges.

Now, Mr. Speaker, I want to inquire of the gentleman from Pennsylvania—for I know he is faithful and honest in this matter—whether, instead of authorizing the clerk to advertise for bids, as is now done, it would not be better to authorize him to go where the paper is made and purchase it there, as the gentleman and I would purchase paper?

Mr. BROOMALL. That might probably be an advantage; and the propositions of the committee, as I have already said, lead in that direction. If further reform is necessary it will be an easy matter to accomplish it at some future time. It is now too late in the session to perfect at this time any reform in that respect. If the constituents of the gentleman, however, will make a proposal when next the opportunity is offered, and if they bid at a lower rate than the successful competitor, and the matter is brought to the attention of the House, it will, if referred to our committee, be rigidly inquired into.

Mr. MAYNARD. Mr. Speaker, when I first came to Congress, ten years ago, I was appointed chairman of a committee whose duty it was to investigate the accounts of the outgoing Clerk, primarily his stationery accounts. We investigated the subject at very great length, summoning before us every subordinate who could give any information upon the question. At that time it was the practice, as it is at present, to advertise for proposals for the specific articles required. The proposals were sent in with samples, and exhibited in one of the rooms here. The present Journal Clerk and the then reading Clerk were appointed to examine the proposals and samples and to select articles on the best terms. It seemed to be, so far as we could judge, entirely fair; and yet the fact appears as the gentleman from Massachusetts [Mr. DAWES] has already stated. The source I was then unable to detect, and I am unable to do so now; but I am satisfied if the plan suggested by the gentleman from Massachusetts was adopted, of authorizing the Clerk to go out and make contracts according as he might choose, unless you had a Clerk more exempt from the weakness of human nature than many of our public functionaries have been in times past, he would never be able to discover that cheap and excellent paper which the gentleman was able to find when in his own town. If the present plan is properly carried out it affords as little opportunity for fraud as any other I can think of. Yet it happens in the different changes of administration that a particular firm gets the large proportion of the contracts. How it is done the gentleman, who is an older and more sagacious man than I am, will perhaps be able to tell.

Mr. BROOMALL. If the power to continue the investigation be assented to by the House that will be inquired into by the committee. I will yield now for two minutes to the gentleman from New Hampshire.

Mr. ELA. Mr. Speaker, I wish to correct the statement made by the gentleman from Massachusetts [Mr. DAWES] in regard to the firm that supplies the House with stationery being the firm alluded to the other day in the report from the Printing Committee that supplied the Patent Office with bond paper. There are other gentlemen beside those alluded to who supply the different Departments with stationery.

While I am up I will add another word. Gentlemen complain that contracts are awarded not at the lowest prices at which the material can be procured of manufacturers. If the idea of the resolution introduced the other day by the Committee on Printing be adopted it will establish a stationery bureau here, not only for the Departments of the Government, but for the House and Senate, so that stationery will be furnished by contracts with first parties.

Now, sir, I hold in my hand a schedule of different prices for furnishing different articles to one Department of the Government. While one party proposed to furnish envelopes at fifteen dollars a thousand another proposed to

furnish the same envelopes at five cents per thousand.

A MEMBER. Five cents?

Mr. ELA. Yes, sir; five cents. One party proposed to furnish the parchment paper used in that Department for twenty-five cents a sheet, which is fair price, while the other proposed to furnish it at one cent. The truth is that the whole contract system as now managed is vicious from the beginning to the end. An individual having an understanding with the Department can so shape his bids as to get any contract he chooses. It was so with the Interior Department for the present year. While one party whose bids in the aggregate for stationery amounted to \$4,594, lost the contract the other party obtained the contract, although the bids amounted to \$22,624 for the same articles.

It was so arranged that the bids were less by footing up the bids for single articles, and the Department paid no attention to the aggregate price.

[Here the hammer fell.]

Mr. BROOMALL. I have no belief that any such iniquity as that spoken of by the gentleman from New Hampshire as existing in other Departments of the Government exists in the Clerk's office.

Mr. ROSS. I object to continuing the committee. They have been long in session and done no good. They do not intend to expose anything. They cover it up all the time.

Mr. BROOMALL. We have been investigating only for a short time.

Mr. KERR. I hope the gentleman will yield to me.

Mr. BROOMALL. I cannot.

Mr. KERR. He has yielded all around, and will not now yield to us on this side.

Mr. BROOMALL. How much time does the gentleman desire?

Mr. KERR. Ten minutes.

Mr. BROOMALL. Mr. Speaker, how much time have I left?

The SPEAKER. Fourteen minutes.

Mr. BROOMALL. I will yield three minutes to the gentleman.

Mr. KERR. Before I proceed I desire to ask the gentleman whether this committee have reported all the evidence taken thus far?

Mr. BROOMALL. We have reported all the evidence taken so far.

Mr. KERR. Have they examined all the witnesses whose names have been given to them?

Mr. BROOMALL. They have examined all the witnesses brought before them. The resolution did not authorize us to compel the attendance of witnesses. We resorted to that expedient in one instance before that was thought of. But no witnesses refused to come. Any witness named by any member of the committee, was requested to come before us and be examined, and as far as I know did so.

Mr. KERR. Were they brought before the committee and examined as the names were given by the gentleman whose name I now forget—a major somebody?

Mr. BROOMALL. Those witnesses were not all examined, because Mr. Spicer admitted the facts which it was alleged they would prove, that is, that they had paid him so much money.

Mr. KERR. Is that true in regard to them all?

Mr. BROOMALL. As far as I know.

Mr. KERR. I had the honor to serve during the Thirty-Ninth Congress on the Committee on Accounts. While I was so engaged I became familiar with the mode of transacting the business of the House, so far as it was conducted before that committee. It was most unpardonably loose and reckless. I tried over and over again to have that mode changed, to have a reform introduced; to have safeguards thrown around the conduct of the business by the committee and by the officers of the House. I succeeded on one occasion in getting the House to make an order that every officer of the House who should present any account to be audited and

paid should attach to that account his oath, stating that it was regular and proper, or that the money had been properly expended according to the laws and regulations of the House for the expenditure of its contingent fund. Thereupon, from some singular cause, the officers of the House at once ceased to present their reports to the committee or their accounts to be audited, until some six weeks thereafter a motion was made and carried to repeal that order. From the time of that repeal I do not know of a single safeguard that has ever been thrown around the action of the committee by the House. Now, I do not believe—and this I say in justice to the committee—that it was in the power of the committee without the order of the House to inaugurate this necessary reform. But I do say that the committee ought then, and ought now, to insist upon a reform. They ought to require that these officers, when they bring their accounts to be audited, shall purge their own consciences at least, and show to the committee, through their own names and under their own oaths, that they have obeyed the law.

[Here the hammer fell.]

Mr. BROOMALL. The gentleman speaks of a resolution which he procured to be passed requiring the officers of the House to swear to every claim presented by them before the Committee on Accounts, and says that the resolution was subsequently repealed. That is true, and it was done at the instance of the Committee on Accounts.

Mr. KERR. This is the first time I ever heard of that. I am very glad to know it. It shows the animus of the whole thing.

Mr. BROOMALL. The officers who presented the bills were not those to whom the bills were paid, and then a resolution passed by the committee was substituted in the place of the affidavit of the parties who received the money, who did know how much was due while the officers frequently did not. And I will now inform the gentleman of what he does not seem to know, that not a single bill has ever been passed by the Committee on Accounts since the time he speaks of, if my recollection is right, certainly since the present committee was organized, without having the affidavit of the party to whom the money was paid that it was due, that the bill was proper, and that no other person but himself had any interest in it, except where the claim was for a salary or for pay fixed by law or resolution of the House, which rendered such an affidavit unnecessary.

I will make one other observation. Something has been said about incorporating in this resolution a provision changing the manner in which the Clerk purchases his stationery. I will state, for the information of the gentleman from Massachusetts, [Mr. DAWES], that that could not be done. The act of August 26, 1842, requires that it shall be purchased exactly in the manner it now is, and if any change is made in that particular it must be done by law, and not by a resolution of the House. I now call the previous question.

Mr. KERR. I desire to say that the affidavit to which the gentleman has referred was not required while I was on the Committee on Accounts.

The previous question was seconded and the main question ordered; and under the operation thereof the resolutions were agreed to.

Mr. BROOMALL moved to reconsider the vote by which the resolutions were agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. BROOMALL. I now ask authority that the sum of \$4 20 be paid to the witness Manker, the amount due him for witness fees. That is the only expense incurred.

There was no objection, and it was so ordered.

UNITED STATES CONSUL AT PANAMA.

Mr. VAN WYCK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be directed

to inform this House how long during the last fifteen months the consul at Panama has been absent from his post, the reason of such absence, and whether by the approbation of the State Department.

LEAVE OF ABSENCE.

Leave of absence after to-day was granted to Mr. SMITH, on account of the illness of his brother.

Leave of absence was granted to Mr. HUNTER, on account of sickness in his family.

JOHN H. OSLER.

Mr. BINGHAM. I am instructed unanimously by the Committee of Claims to report a bill for the relief of a soldier wounded at the battle of Kenesaw mountain, and I desire to state to the House that the bill involves no more than \$800 at most. I desire to state further that the bill passed this House in the Thirty-Ninth Congress without a division. Under the existing law this soldier cannot have relief nor have his accounts settled by reason of the fact that being a sergeant at the time he received his wounds he was not able to render any account whatever to the Government, although no one claims that he is capable of defrauding any one to the extent of a farthing, because his clothing, his papers, and everything pertaining to him, while he lay covered with his wounds, was carried away by an unknown person. The bill is but ten lines long, it explains itself, and it stands within the general purview of previous laws of this very Congress, giving like compensation to commissioned lieutenants. I ask unanimous consent to report the bill, and that it be put upon its passage.

There was no objection.

Mr. BINGHAM, from the Committee of Claims, then reported a bill (H. R. No. 1451) for the relief of Lieutenant John H. Osler, of Guernsey county, Ohio; which was read a first and second time.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LAND DISTRICT IN NEBRASKA.

Mr. TAFTE. I ask unanimous consent to have taken from the Speaker's table Senate bill No. 579, to establish a new land district in the State of Nebraska, for consideration at this time.

No objection was made, and the bill was taken up, read a first, second, and third time, and passed.

Mr. TAFTE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. NICHOLSON, on account of the sickness of his wife.

ORDER OF BUSINESS.

The SPEAKER. The Chair will state that as many members here are really not in good health, and as many have obtained leave of absence, there is a possibility that there may not be a quorum here this evening or to-morrow morning. If the Senate should grant the request of the House for a committee of conference on the funding bill the committee will not be able to report before to-morrow afternoon. The Chair would therefore express a hope that a majority of members will remain here, so as to act upon the report of the committee.

Mr. WASHBURN, of Illinois. There is a bill upon the Speaker's table from the Senate extending the revenue laws of this country over the newly-acquired territory of Alaska. It is a bill of the greatest public importance, being for the purpose of preventing smuggling

there, and the preservation of the seal fisheries. I ask that it may be now considered.

Mr. SCOTFIELD. I am willing to begin at the top of the pile and go down, or at the bottom of the pile and go up, but I object to taking up special bills out of their regular order.

ALEXANDRIA CANAL.

The next business upon the Speaker's table was the consideration of the amendments of the Senate to House bill No. 1275, relating to the Alexandria canal.

Mr. INGERSOLL. I move that the Senate amendments be concurred in. They are pretty severe, yet they are the best we can get this session.

The amendments of the Senate were concurred in.

Mr. INGERSOLL moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RAILROAD LAND GRANTS.

Mr. HOPKINS. I now call up the motion to reconsider the vote by which House bill No. 767, to regulate the disposition of lands that may be hereafter granted to aid in the construction of railways, was recommitted to the Committee on the Public Lands.

The bill, which was read, provides that all lands which may hereafter be granted to aid in the construction of railways shall, unless otherwise expressly provided in the act granting the same, be sold by the State or Territory, corporation, or company to which said grant is made to actual settlers, in quantities no greater than one quarter section, to any one person, and at a price to be fixed by the company which shall build the road, not exceeding \$2 50 per acre, and the amount received for the said land shall be paid by the State or Territory to the company constructing said road, after deducting all the expense incurred by the State or Territory in making such sales. And all sales so made shall be made upon the following terms, namely: one fourth of the amount thereof shall be paid in cash at the time of purchase, and the balance thereof shall be paid by the settler in three annual installments with interest, not to exceed seven per cent. per annum, until paid. And the Secretary of the Interior shall have power to prescribe rules and regulations for carrying this act into effect, and no person shall be deemed an actual settler who does not furnish evidence, in such form as the Governor of the State or Territory may prescribe, that it is his or her intention to enter upon, improve, and reside upon the lands he or she may purchase; provided further, that any alternate even-numbered sections along the line of any railway, which have not been sold or entered upon by actual settlers within ten years from and after the survey and location of said railway, shall be disposed of on the same terms as other public lands of the United States.

The question was upon the motion to reconsider.

Mr. HOPKINS. Mr. Speaker, the bill under consideration was agreed upon by the Committee on the Public Lands several months ago, and I was instructed to report the same to the House. I have had no opportunity to call it up until now. I do not desire to detain the House by any lengthy explanation of its provision. Those who have listened to the reading will understand and appreciate its object, and at this late hour of the session I will not trespass upon the time of the House by a lengthy discussion. It will be observed that the bill proposes a reform in the manner of granting lands to aid in the construction of railroads.

While the committee do not propose by this bill to oppose granting lands to aid in constructing railroads in the new States and Territories, they do propose a radical change in the manner of making these grants hereafter. The objection to the grants heretofore made is

that they have not been sufficiently guarded to protect the rights and interests of the settler. Grants of public land heretofore made for these objects have either been conferred direct upon the corporations building the road, or made to the States, and by the States granted to the corporations, without any restrictions or provisions for keeping the land in market for the benefit of those desiring the same for settlement and cultivation. Under this policy the railroad corporations have been able to withdraw vast tracts of land from the market and hold them for an unlimited time out of the reach of persons desiring to purchase for actual settlement, thereby retarding the settlement of the country, and doing manifest injustice to those seeking homes for cultivation by creating vast land monopolies. The evil of this system must be apparent to all; and while I believe in a liberal policy of Government aid toward all these works of internal improvement so necessary to the development and prosperity of the country, and while I feel that under proper restrictions, such as this bill provides, no better use can be made of a portion of the public domain than to donate it to aid in the construction of railroads, I am nevertheless convinced that the aid can be as effectually extended without granting the lands absolutely to the corporations but by making the grants to the States and having the lands sold by the States to actual settlers, giving the proceeds of the sale to the corporations which construct the roads. By this system we avoid a great and growing evil in this country of immense corporate land monopolies.

Up to this time the Government has granted about fifty-seven million acres of public lands to aid railroad enterprises; and of this large quantity, embracing some of the most fertile and productive lands of the country, over nine tenths are still held by railroad corporations and have never been offered in the market at all. In this estimate I do not include the very liberal grants which have been made to aid in the construction of the Pacific roads. Under the policy up to this time the rights of the settler have been entirely ignored, and the pernicious effects of placing such vast quantities of the public lands of the country in the grasp of corporations, to be by them held out of market and out of reach of those desiring them for homes, driving the settler back further into the wilderness, and compelling him by his toil to add to the value of the lands held by corporate monopolists, has been widely felt, and demands at our hands a speedy and effectual remedy.

The bill under consideration, in my judgment, provides the remedy for this evil by adopting a policy for all future grants which will prevent the land granted from going into the possession of corporations, while by giving the proceeds of the sales of such grants to the corporations constructing the roads it will encourage the extension of our railway system, while at the same time it protects the rights of the settler by keeping the lands constantly in the market at a low price, thereby promoting the rapid settlement of the country through which the road passes. It is believed that under this system the corporations receiving the aid will derive more substantial advantages than they would if the lands were actually granted to them as the country along the lines of the roads will be rapidly settled and made productive, thereby largely increasing the business and profits of the corporations. I am unable to see any valid objection to this necessary reform in our land policy, and I feel confident if it is adopted it will result to the advantage of the people of the country. I trust the bill may pass.

Mr. SCOTFIELD. Does this bill apply only to grants hereafter to be made?

Mr. HOPKINS. Yes, sir.

Mr. HIGBY. Will the gentleman yield a couple of minutes to me?

Mr. HOPKINS. Yes, sir, I yield two minutes.

Mr. HIGBY. I wish to say that this bill embraces some principles which at a proper

time I should be very glad to favor; but it seems to me this is an inopportune occasion to bring up a measure of such importance when we cannot properly investigate the principles concerned in it. For this reason I hope the gentleman will consent to let the bill lie over till the commencement of next session, as there is no danger of any land being granted to any railroad meanwhile.

Mr. HOPKINS. I cannot consent to that.

Mr. LOAN. Will the gentleman allow me to ask him a question?

Mr. HOPKINS. Certainly.

Mr. LOAN. I observe that this bill provides that the land shall be sold to actual settlers at a price not exceeding \$2 50 per acre. I desire to inquire whether the land may be sold to any other persons than actual settlers?

Mr. HOPKINS. Under the provisions of this bill the land can be sold only to actual settlers.

Mr. LOAN. If there should be no actual settlers on the land for twenty years would not the company be permitted to sell it to those who have purchased, for instance, adjoining land? Suppose there are portions of the land which are undesirable, so as not to be taken up separately, are they to be excluded from market, the company thus being deprived of the benefit of the grant for twenty, thirty, or forty years, and the States of the taxes on the land during all that time?

Mr. HOPKINS. Not at all. The bill provides for the sale of the land to persons desiring to settle on it; and the Secretary of the Interior is to carry out the provisions of the bill by proper regulations.

Mr. LOAN. But I understand the actual settler can only take one quarter section.

Mr. HOPKINS. That is all.

Mr. LOAN. And if the land adjoining his quarter section should be undesirable for other persons to occupy that will not be sold for all time to come.

Mr. HOPKINS. There is no provision for the sale of any portion of this land except to actual settlers.

Mr. LAWRENCE, of Ohio. I ask the gentleman to yield to me.

Mr. HOPKINS. I will yield to the gentleman.

Mr. LAWRENCE, of Ohio. I am aware, sir, that I have no time to discuss the merits of this bill; but I will say that it has been fully considered by the Committee on the Public Lands. It has been before the House and repeatedly considered. I hope the bill will pass. It is demanded by the public interests and demanded by the settlers upon the public lands, and if we adjourn this Congress without passing this bill or something like it we will fail in our duty to the country and to the men who desire to secure homes upon the public lands.

On the 20th January I had the honor to introduce House bill No. 492, to secure to actual settlers the right to purchase lands hereafter granted to railway and other companies, which provided—

"That all lands which may hereafter be granted to railway or other companies to aid in the construction of railways or other works, whether under existing law or laws hereafter enacted, shall be sold by such grantees only to actual settlers in quantities not greater than one half section to any one person, and at a price not exceeding \$1 25 per acre, &c.

The bill now under consideration is designed to accomplish the same purpose and also to reach those cases where lands have been granted to States to aid in the construction of railroads. The bill will reach all grants or conveyances by patent hereafter made to the Union Pacific and other railroad companies, whether in pursuance of existing laws or laws hereafter enacted authorizing such grants. Its object is to secure the lands to actual settlers at a moderate price, and to prevent many of the evils arising from the accumulation of large bodies of lands in the hands of corporations. It seeks in part to carry out a policy somewhat similar to that provided by the homestead laws, the wisdom of which is now universally acknowledged.

I have already given my views briefly on this subject, and will not further repeat them now. I may say that the policy of this bill has been inaugurated for the first time during this session of Congress, and the Committee on the Public Lands will not agree to the passage of any bill authorizing grants of lands to railroad companies which does not embrace the policy of this bill. To perfect our land policy Congress should not only enact this bill into a law but abrogate as void all sales of land made in large bodies in pursuance of treaties with the Indian tribes. The joint resolution passed a few days since for the protection of the settlers on the Cherokee neutral lands in part abrogated a sale made under such a treaty. Now, let Congress abrogate the treaties or sales under them, in other cases, and we will only vindicate the right of Congress to dictate the land policy of the country by denying the right of the treaty-making power to control it. The Supreme Court of the United States, in a famous case arising under an Indian treaty, reported in the fifth volume of Peters's Reports, if I remember correctly, doubted the right of the treaty-making power to dispose of public lands. And while upon this subject I may refer to other authorities to show the power to annul all such treaties. I quote from the American Law Register, January, 1868, vol. 7, No. 3, N. S., page 149; Gray vs. the Clinton bridge and others, in the circuit court of the United States for Iowa, October term, 1867. The act of Congress of February 27, 1867, (16 U. S. Stat., 412,) declared the Clinton bridge "a lawful structure and post route." Gray filed a bill to abate the bridge. He objected to the act of Congress that it violated treaties with foreign nations, which declared that the navigation of the Mississippi should remain unobstructed. The court, Miller judge, said:

"The courts possess no power to declare a statute passed by Congress void because it may violate such [treaty] obligations. These are international questions, to be settled between the foreign nations interested in the treaties and the political departments of our Government. When these Departments declare a treaty abrogated, annulled, or modified, it is not for the judicial branch of the Government to set it up and assert its continual obligation."

And to the same effect I may refer to an act to declare the treaties heretofore concluded with France no longer obligatory on the United States, approved July 7, 1793, (1 U. S. Stat. at Large, 578,) and to Barclay's Digest of 1867, page 136, (Jefferson's Manual,) where it is said "an act of the Legislature alone can declare them (treaties) infringed and rescinded;" and to General BANKS's speech in the House of Representatives on the passage of the Alaska bill, July 14, 1868, in which he declared Congress could abrogate treaties.

Mr. HOPKINS. I must now call for the previous question.

Mr. ELDRIDGE. I desire to know of the gentleman who reports this bill whether he supposes, when Congress hereafter makes a grant of lands to a railroad corporation different from the provisions of this bill, it will not to that extent repeal this bill? How can this Congress prohibit future Congresses from disposing of the public lands as they may see fit? This will not govern any other Congress.

Mr. HOPKINS. My understanding is that we settle a policy by which we propose to be governed hereafter, or ought to be governed, in regard to the aid we may give to railroad corporations by grants of the public lands. I do not suppose it is possible for this Congress to prevent any future Congress from making any stipulations it may deem proper, but we do propose to declare what is the settled policy of this Congress in regard to these grants of the public land. I will say, although we have had thirty bills before the Committee on the Public Lands asking for grants of land, not one has been reported without the clause contained in this bill.

Mr. ELDRIDGE. Why not continue that practice when we make grants so it may be binding? If we incorporate it in no future legislation how can it affect the rights which may

then accrue? I will suggest to my colleague that it can have no effect whatever. It is a mere legislative declaration. It is absolutely useless. Does it relate to grants hereafter made?

Mr. HOPKINS. It does not.

Mr. ELDRIDGE. Then it is a mere declaration of a policy which is to control, or undertake to control, future Congresses.

Mr. HOPKINS. Is my colleague in favor of the provisions of this bill or not?

Mr. ELDRIDGE. I am in favor of the provisions of this bill as applicable to grants of land, but I can see no reason for making this useless legislative declaration.

Mr. HOPKINS. I wish to remind the gentleman that the Democratic party stole this bill and put it into their platform.

Mr. INGERSOLL. That is a good place for it. [Laughter.]

Mr. ELDRIDGE. They have made better use of these principles than to put them in this bill. That is the platform of a great, just, patriotic, powerful party. This Congress is now attempting to pass this bill in order to steal our thunder.

Mr. HOPKINS. Does the gentleman mean to say that the Democratic party has more power than this Congress?

Mr. ELDRIDGE. Yes; for it will turn it out of power at the next election. [Laughter.]

Mr. HOPKINS. What good is it in the Democratic platform if it is not to become the law?

Mr. ELDRIDGE. If it is put into the platform of the Democratic party it will control the legislation of the country, while this Congress will expire on the 4th of March next.

Mr. MULLINS. The false prophet must be stoned to death. [Laughter.]

Mr. ELDRIDGE. I suppose they would stoned to death a really national man in his country.

Mr. HOPKINS. I demand the previous question.

Mr. KELSEY. I move that the House take a recess till half past ten to-morrow morning.

Mr. GARFIELD. I move that we take a recess until half past seven this evening.

Mr. DRIGGS. I object to any business. Let the vote be taken on adjourning.

The question was taken on the amendment of Mr. GARFIELD, to take a recess till half past seven o'clock this evening; and it was disagreed to—ayes 48, noes 61.

The question recurred on the motion of Mr. KELSEY, to take a recess till ten o'clock to-morrow.

Mr. PILE. I move to amend by making it till eleven o'clock to-morrow morning.

The amendment was disagreed to.

Mr. MAYNARD. I move to amend by making it half past ten o'clock.

The amendment was agreed to—ayes sixty-one, noes not counted.

The motion of Mr. KELSEY, as amended, was then agreed to; and thereupon (at five o'clock p. m.) the House took a recess till half past ten o'clock to-morrow morning.

AFTER RECESS.

The House reassembled pursuant to order at half past ten o'clock a. m., [Saturday, July 24.]

LIGHTING THE STREETS OF WASHINGTON.

Mr. KOONTZ. I ask unanimous consent to report back from the Committee for the District of Columbia Senate joint resolution No. 57, relative to lighting the streets of Washington, District of Columbia, with an amendment in the nature of a substitute.

The substitute was read as follows:

Joint resolution relative to lighting the streets of Washington, District of Columbia, reducing the expenses and for other purposes.

Whereas the municipal authorities of the city of Washington have failed to carry out the arrangements for lighting the streets of said city, in accordance with the provisions of an act entitled "An act making appropriations for sundry civil expenses of the Government," approved July 28, 1866; Therefore, Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the mayor and city councils of the

city of Washington be, and they are hereby, authorized and directed to levy and collect a tax from the property-holders of the city of Washington sufficient to defray the expense of lighting the avenue and street lamps of said city with six-foot burners twenty-one nights in each month, from dark until daylight, and keep said lamps so lighted each year.

SEC. 2. *And be it further resolved*, That the Secretary of the Interior, for the Government of the United States, and the mayor and city councils of the city of Washington, for the city, be, and they are hereby, authorized and directed immediately upon the passage of this joint resolution, severally, to contract with the Washington Gas-light Company (if said company shall agree thereto) for a term of fifteen years for the United States Government, and for the city for such a term, not exceeding fifteen years, as may be agreed upon, for all the illuminating gas required in the city of Washington by the United States, and for the avenue and street lamps and public offices of the city in the city of Washington, in accordance with the provisions of this joint resolution, at the reduced price of three dollars net per thousand feet: *Provided, however*, That the price paid under said contract shall at no time within said term of fifteen years exceed the price charged by said company to the citizens of Washington, and that the quality of said illuminating gas shall not be less than fifteen candles standard: *And provided further*, That the right is reserved to the United States and to the mayor and city councils of Washington to annul the contracts authorized hereby at any time after ten years by giving two years' notice.

SEC. 3. *And be it further resolved*, That the mayor and city councils of the city of Washington be, and they are hereby, authorized and directed to increase from time to time, as the public good may require, the number of street lamps on any of the streets, lanes, alleys, public ways, and grounds in the city of Washington, and to do any and all things pertaining to the well lighting of the city, and to levy and collect a tax from the property holders thereof.

SEC. 4. *And be it further resolved*, That in the event of the failure of the mayor and city councils to levy and collect the tax herein authorized, or to light the said city as herein directed, then the Secretary of the Interior be, and he is hereby, authorized and directed to levy a tax upon the property of said city and to collect the same, sufficient to light said city for the current year, and so from year to year, in case of such failure of said mayor and city councils to light as herein directed, and to fully execute the provisions of this joint resolution in the place and stead of the said mayor and city councils.

SEC. 5. *And be it further resolved*, That nothing herein contained shall be construed to relieve the said Washington Gas-light Company from paying the internal revenue tax imposed by law.

Mr. KOONTZ. I will merely state that this joint resolution, if passed and carried out, will save, in the course of ten years, some two hundred thousand dollars. The saving of expense yearly in lighting the avenue and Four-and-a-half street will probably be \$30,000. I presume there will be no objection to the passage of the substitute.

The substitute was agreed to; and the joint resolution, as amended, was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. KOONTZ moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REMISSION OF MEMBERS' FINES.

Mr. GETZ, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the fees and fines imposed upon members of this House for being absent without leave at the present session be remitted.

PATERSON SOLDIERS' MONUMENT ASSOCIATION.

Mr. HILL. I ask unanimous consent to introduce a joint resolution (H. R. No. 358) authorizing the Secretary of War to furnish cannon to the soldiers' monument in Paterson, New Jersey.

Mr. WASHBURN, of Illinois. I will not object to that, but there is a matter of public business of such vast importance on the Speaker's table that I hope it will be acted upon at once. It is the bill extending the revenue laws to the Territory of Alaska.

The bill was read a first and second time, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Illinois. I now

hope, as a matter of public duty, we will pass the bill of the Senate extending the revenue laws to Alaska.

Mr. POMEROY. I call for the regular order.

LAND GRANTS FOR RAILROADS.

The SPEAKER. The regular order is the consideration of the motion pending at the recess yesterday, made by the gentleman from Wisconsin [Mr. HOPKINS] on the 20th of February last, to reconsider the vote by which the bill (H. R. No. 767) to regulate the disposition of lands that may be hereafter granted to aid in the construction of railways was re-committed.

The motion to reconsider was agreed to, and the motion to recommit was disagreed to; and the bill was brought before the House.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOPKINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. POMEROY. I call for the regular order.

The SPEAKER. By the unanimous order of the House until twelve o'clock to-day the House will proceed to business on the Speaker's table. Unless, therefore, by unanimous consent it is otherwise ordered, the Chair will refuse to receive conference reports until twelve o'clock.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had passed bills and a joint resolution of the House of the following titles:

An act (H. R. No. 722) for the relief of Sally C. Northrop;

An act (H. R. No. 1822) for the relief of Major F. F. Stevens, assistant paymaster United States Army;

An act (H. R. No. 834) for the relief of Hon. George W. Bridges, a member of the Thirty-Seventh Congress;

An act (H. R. No. 1865) for the relief of Captain Thomas W. Miller;

An act (H. R. No. 1866) for the relief of Captain A. G. Oliver; and

Joint resolution (H. R. No. 269) giving the assent of the United States to the construction of certain wharves in the harbor of Oswego, New York.

The message further announced that the Senate insisted on their disagreement to the amendments of the House to the bill (S. No. 207) for funding the national debt, and for the conversion of the notes of the United States, agreed to the conference asked by the House on the disagreeing votes of the two Houses, and had appointed Mr. SHERMAN, Mr. MORGAN, and Mr. WILLIAMS conferees on the part of the Senate.

Also, that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports.

The message further announced that the Senate had passed a bill (S. No. 576) to refer the claim of Joseph Segar to the Court of Claims, in which the concurrence of the House was requested.

Mr. POMEROY. I demand the regular order.

Mr. WASHBURN, of Illinois. If the regular order is demanded, I shall insist that no business shall be done without a quorum.

Mr. INGERSOLL. I think we had better harmonize matters.

Mr. POMEROY. I insist on the regular order of business on the Speaker's table.

The SPEAKER. Any member will be

entitled to demand a division on any question, which will disclose the absence of a quorum.

SALE OF HAY IN THE DISTRICT OF COLUMBIA.

The next business on the Speaker's table was the bill of the Senate (S. No. 450) to regulate the sale of hay in the District of Columbia; which was read a first and second time.

Mr. WELKER. I ask that the bill be put upon its passage.

The bill was read. It provides that all hay and straw which may be sold by weight in the District of Columbia shall be sold by the net hundred, and every two thousand pounds net weight shall be a ton.

The bill was ordered to a third reading, and it was accordingly read the third time.

Mr. WASHBURN, of Illinois. I call for a division on the passage of the bill.

The question was put; and there were—ayes 80, noes 6. No quorum voting.

Tellers were ordered; and Messrs. ORTH and BINGHAM were appointed.

Mr. WASHBURN, of Illinois. If the gentleman from New York will agree that we shall pass the Alaska bill, to which I referred just now, after we get through with the Speaker's table at twelve o'clock, I will not insist on a division.

Mr. POMEROY. No, sir.

Mr. O'NEILL. If I were the gentleman from New York I would not yield to what appears to be obstinacy and nothing else. Let the gentleman take the responsibility of breaking up a quorum if he chooses.

The SPEAKER. Debate is not in order.

The House divided; and the tellers reported—ayes 46, noes 6. No quorum voting.

CALL OF THE HOUSE.

Mr. INGERSOLL. I move that there be a call of the House.

The motion was agreed to.

The roll was accordingly called, and the following members failed to answer to their names:

Messrs. Adams, Anderson, Axtell, Baldwin, Barnes, Barnum, Beaman, Benjamin, Benton, Blaine, Boles, Bowen, Boyer, Brownell, Brooks, Burr, Cary, Chandler, Charcull, Cook, Cornell, Dockery, Dodge, Donnelly, Eggleston, Eldridge, Farnsworth, Ferry, Finney, Fox, Glossbrenner, Goss, Gravely, G iswold, Haight, Harding, Hawkins, Henton, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Hunter, Johnson, Julian, Kellogg, Kitchon, Lush, George V. Lawrence, Logan, Lynch, Marvin, McCarthy, McCormick, Miller, Moorhead, Morrell, Morrissey, Mungen, Newcomb, Newsham, Nicholson, Norris, Nunn, Pierce, Pike, Plants, Poland, Price, Pruyn, Randall, Raum, Robertson, Robinson, Roots, Schenck, Seelye, Shellabarger, Sitgreaves, Smith, Thaddeus Stevens, Stewart, Stone, Sypher, Taffe, Taylor, Thomas, Twichell, Upson, Van Auken, Burt Van Horn, Robert T. Van Horn, Van Trump, Vidal, Cadwalader C. Washburn, Thomas Williams, William Williams, James F. Wilson, Wood, Woodbridge, and Woodward.

The SPEAKER. One hundred and fourteen members have answered to their names.

Mr. MAYNARD. I move that all further proceedings in the call be dispensed with.

The motion was agreed to.

Mr. JUDD. I desire to state that my colleague, Mr. Cook, is so unwell as to be unable to attend this morning.

Mr. BUCKLEY. I would state that my colleague, Mr. NORRIS, has been confined to his bed by sickness for the past three days.

SALE OF HAY IN THE DISTRICT.

The question recurred upon the passage of Senate bill No. 450, to regulate the sale of hay in the District of Columbia.

The bill was then passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. O'NEILL. I desire to ask a parliamentary question.

The SPEAKER. The Chair will answer a parliamentary question.

Mr. O'NEILL. The House on yesterday resolved to proceed to the consideration of

business on the Speaker's table at half past ten o'clock this morning. Now, I am in favor of going on with that business until it is completed. I would, therefore, ask whether after twelve o'clock to day, when the session of Saturday shall have commenced, the House can then proceed with and finish the business on the Speaker's table?

The SPEAKER. The Chair will rule upon that question, if then raised, when the hour of twelve o'clock shall have arrived.

BOUNTIES TO COLORED SOLDIERS.

Mr. COBB, by unanimous consent, from the select committee appointed to investigate the affairs of the pay department, submitted a report in part upon a special matter investigated by them at the request of the Secretary of the Treasury, in relation to the payment of bounties to colored soldiers; which report was ordered to be printed and recommitting.

LINCOLN TERRITORY.

Mr. MULLINS, by unanimous consent, reported back adversely from the Committee on the Territories House bill No. 86, providing a territorial government for Lincoln Territory; which was laid on the table.

TAX ON EDUCATIONAL INSTITUTIONS.

Mr. CULLOM, by unanimous consent, introduced a bill (H. R. No. 1452) to repeal section one hundred and thirty-six of the act of June 30, 1804, entitled "An act to provide ways and means for the support of the Government, and for other purposes;" which was read a first and second time, and referred to the Committee of Ways and Means.

WILLIAM GRANT POWERS.

Mr. INGERSOLL. I hold in my hand a small bill of eight or ten lines, providing for the admission of an insane person to the insane asylum of this District. His name is William Grant Powers, and he is the son of the late Rev. Grant Powers, who died, leaving Mrs. Eliza H. Powers, his wife, without property, with six children to maintain and educate. Her son, William Grant Powers, became insane from overwork the hot days in June, 1851, and has since been entirely dependent upon the exertions of his mother for his support in an asylum. He is now in the asylum in Concord, New Hampshire, and is incurable. Mrs. E. H. Powers devoted herself to the comfort of the sick and wounded soldiers of our Army for three years, from May, 1861. She was one of the agents of the United States Sanitary Commission, and collected in the town where she lived, in New Jersey, \$10,000 in money by her own personal application and superintended the making of twenty-one thousand hospital articles. This money and these hospital articles she sent and distributed to our soldiers. In camp and hospital, at home and abroad, for three years, until her health totally failed, Mrs. Powers is now nearly sixty-six years old, and works daily in the Department, but finds with her utmost exertions that she cannot longer maintain her insane son in an asylum. She therefore asks he may be admitted free into the Hospital for the Insane in the District of Columbia, where she now resides. William G. Powers became insane before he was twenty-one years old, therefore must take the domicile of his mother.

I ask unanimous consent to introduce a bill for the purpose I have indicated, to be considered at this time.

No objection was made.

Accordingly a bill (H. R. No. 1453) for the relief of William Grant Powers was introduced, and read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, directs the Secretary of the Interior to admit into the Government Hospital for the Insane in the District of Columbia William Grant Powers, an insane person, son of Mrs. Eliza H. Powers, widow, and an employé under the Government.

The bill was then ordered to be engrossed

and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FOURTEENTH AMENDMENT TO CONSTITUTION.

The SPEAKER, by unanimous consent, laid before the House joint resolutions of the Legislature of Georgia, ratifying the fourteenth amendment to the Constitution of the United States and accepting conditions proposed by Congress; which were referred to the Committee on Reconstruction.

NATIONAL CURRENCY.

The House resumed the consideration of business upon the Speaker's table.

The next business was Senate bill No. 440, supplementary to an act entitled "An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864; which was taken up, and read a first and second time.

Mr. POMEROY. I move that the bill be referred to the Committee on Banking and Currency.

The motion was agreed to.

APPEALS AND WRITS OF ERROR.

The next business upon the Speaker's table was Senate bill No. 472, supplementary to an act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security;" which was taken up, and read a first and second time.

The question was upon the third reading of the bill.

The bill, which was read, proposes to extend the provisions of the act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security," approved February 21, 1863, to writs of error, appeals, or other process in law, admiralty, or equity, issuing from, or brought up to, a circuit court of the United States.

Mr. MAYNARD. I think this bill should be referred to the Committee on the Judiciary.

Mr. BINGHAM. I move to amend by adding as a new section what is in substance a bill which has already passed the Senate, and which I send to the Clerk's desk.

The Clerk read as follows:

SEC. 2. And be it further enacted, That any corporation or any member thereof, other than a banking corporation, organized under a law of the United States, and against which a suit at law or in equity has been or may be commenced in any court other than a circuit or district court of the United States, may have such suit removed from the court in which it may be pending to the proper circuit or district court of the United States, for any liability or alleged liability of such corporation or any member thereof as such member upon filing a petition therefor, verified by oath, either before or after issue joined, stating that they have a defense arising under or by virtue of the Constitution of the United States, or any treaty or law of the United States, and offering good and sufficient surety for entering in such court on the first day of its session, copies of all processes, pleadings, depositions, testimony, and other proceedings in said suit, and doing such other appropriate acts as are required to be done by the act entitled "An act for the removal of causes in certain cases from State courts," approved July 27, 1866; and it shall be thereupon the duty of the court to accept the surety and proceed no further in the suit; and the said copies being entered as aforesaid in such court of the United States, the suit shall then proceed in the same manner as if it had been brought there by original process, and all the provisions of said act in this section referred to, respecting any bail, attachment, injunction, or other restraining process, and respecting any bond of indemnity or other obligation, given upon the issuing or granting of any attachment, injunction, or other restraining process, shall apply with like force and effect in all respects to similar matters, process, or effects in the suits for the removal of which this act provides.

Mr. MAYNARD. In deference to the opinion of other gentlemen, rather than my own judgment, I withdraw my objection to the consideration of the bill now.

Mr. BINGHAM. Mr. Speaker, I desire to say that the amendment offered by me has, as a separate bill, passed the Senate of the United States. The amendment which I offer I

have no doubt is a provision in which the Government of the United States is as deeply interested as any corporation or corporation of the United States. It concerns the interests of the whole country; and if it was deemed important for the public interests, as it certainly was, by the representatives of the people in Congress assembled to create these corporate trusts, it is certainly important to protect them in the courts of the United States. I hope that the amendment will be adopted and the bill passed.

Mr. MARSHALL. When this bill was read I attempted to get the floor for the purpose of moving its reference to the Committee on the Judiciary.

The SPEAKER. As soon as the title was read, the gentleman from Ohio [Mr. BINGHAM] obtained the floor and moved his amendment.

Mr. MARSHALL. My reason for desiring the reference of the bill is that I think a measure of this importance ought not to be passed without a reference to some committee of this House. It must change very radically the legislation of the country.

Mr. BINGHAM. I desire to say, in reply to the gentleman from Illinois, [Mr. MARSHALL,] that this bill does not, as the gentleman says, "change very radically the legislation of this country;" but it makes the general legislation of this country which has been in force ever since the organization of this Government, applicable to these corporations established by your own laws. The general principle of the judiciary legislation of this country has been that rights accruing under the laws of the United States were cognizable in the courts of the United States; but it so happens that the general legislation of the country does not cover all classes of cases arising under the modern legislation by which you have invested large amounts of the public moneys and large quantities of the public lands in public improvements. I submit that the amendment proposed by me, and which has already been passed by the Senate without, as I understand, any objection, is entirely consistent with all our legislation, past and present.

I call the previous question.

Mr. ROSS. I move that the bill and amendments be laid on the table. I do not think it respectful to the Committee on the Judiciary that such a bill as this should be passed without a reference to that committee.

Mr. BINGHAM. I disclaim any want of respect to the committee.

The motion of Mr. Ross was not agreed to; there being—ayes 13, noes 95.

The previous question was seconded and the main question ordered.

The amendment of Mr. BINGHAM was adopted.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BINGHAM. I move to amend the title of the bill by adding the words, "and for other purposes."

The amendment was agreed to.

JONATHAN S. TURNER.

The next business upon the Speaker's table was joint resolution (S. R. No. 147) for the relief of Jonathan S. Turner; which was read a first and second time.

The preamble recites that Jonathan S. Turner, of Fair Haven, in the county of New Haven and State of Connecticut, obtained letters-patent of the United States for an improvement in alarm-clocks, dated July 13, 1852; that he did, on or about the 27th day of December, 1865, file in the Patent Office his petition or application for an extension of the term, in accordance with the provisions of the eighteenth section of the patent act, approved July 4, 1836, and complied with all the requirements of the rules and laws applicable thereto, except

the inadvertent omission of one revenue stamp of the value of five cents, for which omission only the acting Commissioner of Patents did, on the 12th day of July, 1866, refuse to extend the patent. The resolution proposes, therefore, to direct the Commissioner of Patents to extend the term of the patent for seven years from and after the 13th day of July, 1866. The patent so extended is to have the same validity, force, and effect as though the extension had been allowed and certified by the Commissioner of Patents, in accordance with the eighteenth section of the patent act, approved July 4, 1836, before the expiration of the original term.

Mr. JENCKES. This bill sufficiently explains itself. It is the case of an application for an extension in which everything was regularly proved to the satisfaction of the Commissioner, but from the omission of a five cent stamp on one of the papers the then acting commissioner was not satisfied that he should take jurisdiction of the case. Hence he rejected the application. It enables the Commissioner of Patents to act on the case as he would have done if the five cent stamp had been attached. It makes no grant of any right.

Mr. MAYNARD. Has the gentleman given this matter his personal examination?

Mr. JENCKES. It was considered by the Committee on Patents, and reported on favorably.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. JENCKES moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EVENING STAR NEWSPAPER COMPANY.

The next business on the Speaker's table was an act (S. No. 209) to incorporate the Evening Star Newspaper Company; which was read a first and second time.

Mr. WELKER. I move that the bill be put on its passage.

The bill was read. It proposes to create and declare Crosby S. Noyes, Clarence B. Baker, Alexander R. Shepherd, George W. Adams, and Samuel H. Kauffmann, and their associates and successors, a body corporate and politic, by the name and style of the Evening Star Newspaper Company of Washington, for the purpose of carrying on the business of printing and publishing at the city of Washington, in the District of Columbia, with the usual powers and privileges of a corporation. The capital stock of the company is not to be less than \$100,000, nor more than \$200,000, in shares of \$1,000 each. It is also provided that each stockholder shall be individually liable for the debts of the company to the extent of his stock at its par value.

Mr. SHANKS. I move that the bill be laid upon the table.

A MEMBER. Mr. Wallach's name is not in the bill.

Mr. SHANKS. I thought it was. I withdraw the motion.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UMATILLA RESERVATION.

The next business on the Speaker's table was a bill (S. No. 215) to vacate and sell the Umatilla reservation, in the State of Oregon; which was read a first and second time.

Mr. WINDOM. I move that the bill be put on its passage.

The bill was read. The first section directs the superintendent of Indian affairs for the State of Oregon, if practicable, to negotiate a treaty with the Indians now living on the Umatilla reservation in that State, providing for the relinquishment by said Indians to the United States of their right and claim to the reservation, and for their removal to some other reservation or reservations to be selected in said State or in the Territory of Washington, and to be described in the treaty, and it appropriates \$2,000 for the purpose of defraying the expenses of the treaty. The second section requires that provision shall be made in the proposed treaty securing to the Indians the full value of their lands, together with the value of all improvements thereon, and that no part of the lands shall be sold for less than \$1 25 an acre.

Mr. INGERSOLL. I do not think there is any urgent necessity to pass this bill now.

Mr. WINDOM. It reduces the number of agents in Oregon and the expenses of the Government.

Mr. BOUTWELL. I move that it be referred to the Committee on Indian Affairs.

The motion was agreed to.

JOHN F. MASCHER'S PATENT.

The next business on the Speaker's table was the bill (S. No. 295) for the relief of Eliza Mascher, widow of John F. Mascher; which was read a first and second time.

The bill was read. It proposes to authorize Eliza Mascher, administratrix of John F. Mascher, deceased, who obtained a patent No. 9611, for an improvement in daguerreotype cases, dated the 8th of March, 1853, with additional improvement, No. 134, annexed to said original patent, dated 19th of February, 1856, for fourteen years, which expired on the 8th day of March, 1867, to apply to the Commissioner of Patents for the extension of said patent for seven years, under the regulations now in force for the extension of patents, as if she had made application previous to its expiration, as required by law; and the Commissioner of Patents is directed to investigate and decide the application for extension on the same evidence and in the same manner as other applications for extension are decided. The application for extension is to be made within thirty days after the approval of this act, and the decision of the Commissioner rendered within ninety days after the filing of the application in the Patent Office. Nothing in this act is to be so construed as to hold responsible in damages any person who may have manufactured or used the daguerreotype cases, with the improvement and addition aforesaid, or used cases containing the improvement and addition aforesaid, between the expiration of the patent and the approval of this act. The Commissioner shall be satisfied before granting such extension that it will insure entirely to the benefit of the said Eliza Mascher.

Mr. WASHBURN, of Illinois. I do not think this ought to pass.

Mr. MYERS. Mr. Speaker, this is a bill merely for the correction of an error. It grants no extension, but simply allows a poor woman, the widow of a very worthy man, well known in Philadelphia, to apply and obtain the decision of the Commissioner of Patents, as though no mistake had been made. I demand the previous question.

On seconding the previous question there were—ayes 36, noes 30; no quorum voting.

Tellers were ordered; and Messrs. MYERS, and WASHBURN of Illinois, were appointed.

The House divided; and the tellers reported—ayes 88, noes 31.

So the previous question was seconded.

The main question was then ordered; and under the operation thereof the bill was read the third time, and passed.

Mr. MYERS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ISRAEL T. CANBY.

The next business on the Speaker's table was the bill (S. No. 428) for the relief of the

sureties of Israel T. Canby, late receiver of public moneys at Crawfordsville, Indiana; which was read a first and second time.

The bill proposes to release the sureties of Israel T. Canby, late receiver of public moneys at the land office at Crawfordsville, Indiana, from all liability arising from any defalcation, omission, or misconduct of his as such receiver; and it directs the proper officers of the Treasury Department to dismiss any and all suits and actions that may have been instituted against the sureties, and to enter the proper discharges on the books of the Department.

Mr. WARD. I think this bill should go to the Committee of Claims.

Mr. KERR. I hope not. I desire to say a word.

Mr. WARD. I yield to the gentleman from Indiana.

Mr. KERR. This is not a very important bill so far as the Government is concerned, but it is important to the parties interested in it. It passed the Senate by an almost unanimous vote. I hold in my hand a report by Senator WILLEY from the committee to whom it was referred, giving the entire history of the suit, stating the amounts that have been realized by the Government heretofore, the amount that remains uncollected, the amount of assets that have come into the hands of the Government officers from time to time, and showing in the clearest possible manner that justice cannot be done to these sureties, except by the dismissal of this suit. I will read the conclusion of the report.

Mr. ORTH. I desire to ask if the gentleman has the names of the three sureties referred to.

Mr. KERR. I have.

Mr. ORTH. Who are they?

Mr. KERR. They are Nathan B. Palmer, of Indianapolis, Michael G. Bright and Jeremiah Sullivan, of Madison, Indiana, all of whom are now venerable in years, and two of them very feeble in health.

Mr. ORTH. All right.

Mr. KERR. I will now read the conclusion of the Senate report on this subject.

"Considering the great length of time which has elapsed since the original default of the principal; considering the fact that only three of his sureties are now living; considering the *laches* of the Government in not making an earlier adjustment of the case, when the facts involved in it could have been easily and certainly ascertained, for the neglect of doing which no reason whatever is shown; considering the fact apparent on the face of the foregoing statement that sufficient effects of the said Canby had been transferred to and placed in the hands of the officers and agents of the Government, which, if those agents and officers had exercised reasonable diligence, would have realized an amount amply sufficient to have satisfied the default aforesaid of the said Canby; considering that the Government was so thoroughly convinced that said effects were more than sufficient for its purposes it voluntarily released to said Canby a portion of said effects, to wit: what is called in the foregoing statement the Illinois lands; considering the facts admitted that prior to October 10, 1845, there had been realized and accounted for to the Government out of the effects so transferred to the Government as aforesaid the sum of \$20,694 83 in cash, and that the Government then still had in its hands notes taken for sale of lands of said Canby, \$32,655 88, and notes transferred by Canby to the Government for the further sum of \$10,957 66, and that the Government had under its control other lands of the said Canby still unsold; considering that the Government is now unable to account for said notes, lands, &c., rendering it probable that portions of said notes may have been collected by its agents and not accounted for, and the remainder, in whole or in part, may have been so neglected by the agents of the Government as to render their collection at this time impracticable; in fine, considering that the Government having received under its own control, or the effects of said Canby, ample indemnity for his said default, which it failed to make fully available through its own neglect or the negligence and default of its authorized agents, and is now itself unable to account for the means placed in its hands, the committee are of opinion that it would now, thirty-five years after the default of the principal, be harsh and unjust to make his few surviving securities responsible. They therefore recommend the passage of the said bill."

Mr. Speaker, in addition, I invite attention to the affidavits of Judge Sullivan in reference to some of the facts and the history of this case. Judge Sullivan is an ex-judge of the supreme court of Indiana, and all these surviving sureties are gentlemen of the highest respectability

and have filled many positions of distinction in our State. The affidavit reads as follows:

STATE OF INDIANA, *County of Jefferson*, ss:

Jeremiah Sullivan, being duly sworn, deposes and says, that he was one of the sureties of Israel T. Canby, on his bond as receiver of public monies at Crawfordsville, Indiana.

That when it was discovered at the Treasury Department that said Canby was a defaulter, a warrant was issued against him and his sureties and placed in the hands of the marshal of the district with instructions to levy the same. This deponent knows that said warrant was executed, in part because it was levied on his personal property, a part of which was sold; but proceedings on said warrant were stayed, as deponent believes, in consequence of an arrangement for a settlement of the debt, as hereinafter stated, between said Canby and the Government.

Deponent says that upon a settlement of accounts between Canby and the Government he (Canby,) as deponent was informed, assigned and transferred to the United States lands and other property to an amount sufficient to pay his debt to the Government, and thereupon all legal proceedings were suspended.

Deponent says that General T. A. Howard was the Attorney of the United States in the adjustment of the above matter with said Canby, and in the reception of the property transferred, as he was informed and believes; and said Howard, in more than one conversation with deponent while he (Howard) was acting as such attorney, informed deponent that the property so transferred by Canby was sufficient to pay the balances against him. Many of the circumstances connected with the settlement between the United States Attorney and Canby have escaped deponent's recollection, (from thirty-six to forty years having elapsed) and much of the conversation with General Howard at the time is forgotten; but deponent felt easy under the assurances given him as above stated, and he dismissed the matter from his mind.

Deponent will further state the impression remaining on his mind that the late Governor Hendricks, of Indiana, informed him that the property transferred by Canby was sufficient to pay Canby's debt to the Government. Mr. Hendricks was well acquainted with the value of the lands transferred, and he exerted himself to secure the Government and relieve Canby and his securities. Governor Hendricks, General Howard, (district attorney at the time) Gamaliel Taylor, then marshal of the district, Canby himself, and some of the deponent's cosureties, are now dead, in consequence of which, the surviving cosureties are deprived of any assistance they might, and probably could, get from them to show that they should not be held to further accountability as the sureties of said Canby.

Deponent says that, relying on said assurances, he rested quietly and made no effort to secure himself or indemnify himself against his liability on said bond. The Government, by her agents, having taken property at its valuation, estimated at the time to be sufficient to pay the debt, and the main witnesses to the transaction being now dead, the deponent asks that a final discharge be given to him and his cosureties from the above mentioned bond.

JEREMIAH SULLIVAN.

STATE OF INDIANA, *Jefferson County*, ss:

Subscribed and sworn to before me, Walter S. Roberts, a notary public, in and for said county, this 23d day of June, 1868, by Jeremiah Sullivan.

Witness my hand and official seal.

WALTER S. ROBERTS,
Notary Public.

Mr. Speaker, my lack of time under the rules forbids me to go more fully into the facts in this case. But I earnestly appeal to the House to refuse the motion to refer, and to let this bill be now passed. The entire fault is the result of the negligence of the Government's own agents, and not of these surviving sureties, and I think that upon every principle of justice they should now be discharged.

Mr. INGERSOLL. I desire to know how many years have elapsed since the original default.

Mr. KERR. Over thirty-five years. This case is one demanding immediate action, as a matter of the most clear and simple justice to the parties, and I earnestly hope that the motion of the gentleman from New York [Mr. WARD] will not be adopted.

Mr. WARD. I never heard of this case before. I know nothing about it; but from the statement just made by the gentleman from Indiana, it is apparent that there are a great many facts to be considered and a great many questions to be examined. It has received the sanction of no committee of this House. There has been no investigation of its merits or demerits by any committee. This is the heel of the session, and I hold that we ought to send all such bills to the committees for investigation, and especially that class of bills which propose to relieve parties who are under liability to the Government. This may be all

right; it may be all wrong. We are not in the habit of being concluded by the action of the Senate. We are in the habit of investigating these matters for ourselves. If it is all right, as gentlemen claim, the Committee of Claims in a few months will ascertain that fact and report it to the House, and the House, acting on that report, can pass the bill. If it is all wrong, the committee can so report. If we pass the bill now without due consideration, we may make a grave mistake, and therefore I move that the bill be referred to the Committee of Claims; and on that motion I demand the previous question.

Mr. KERR. I hope the reference will not be made.

Mr. WARD. I object to debate.

The SPEAKER. No debate is in order.

The previous question was seconded and the main question ordered.

The question was put on the motion to refer the bill to the Committee of Claims; and there were—ayes 72, noes 34.

So the motion was agreed to.

Mr. WARD moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMITTEE ON ENROLLED BILLS.

The SPEAKER. The Chair desires to state to the House that two members of the Committee on Enrolled Bills are absent on account of sickness. The business of that committee is very materially increased on the last day of the session, and if there is no objection the Chair will appoint an additional member. The Chair hears no objection, and appoints Mr. LAFLIN, of New York.

CREDENTIALS OF A MEMBER.

The SPEAKER presented the credentials of W. P. Edwards, Representative-elect from the third congressional district of Georgia; which were referred to the Committee of Elections.

ELIZABETH CARSON.

The next business upon the Speaker's table was Senate bill No. 536, for the relief of Elizabeth Carson; which was read a first and second time.

Mr. WASHBURN, of Massachusetts, moved that the bill be referred to the Committee of Claims.

The motion was agreed to.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTION OF UNITED STATES SENATORS.

The next business upon the Speaker's table was Senate bill No. 533, in addition to an act to regulate the times and manner of holding elections for Senators in Congress; which was read a first and second time.

The bill was read. It provides that whenever any person shall have been elected a Senator in Congress, in the manner provided in the first section of the act to which this act is an addition, and shall have died or refused to accept said office before the commencement of his term of office, the Legislature shall proceed, on the second Tuesday after it shall have notice of such death or refusal, to elect another person Senator in Congress in the manner provided in the first section of the act to which this act is an addition.

Mr. MAYNARD. It seems to me that that bill is defective. It ought to apply only to cases when the Legislature is in session. As it now stands, it would compel an extra session. I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

REMOVAL OF THE CENTER MARKET.

The next business upon the Speaker's table was Senate bill No. 394, to provide for the removal of the Center market, in the city of

Washington, and for the erection of a market building in a more suitable locality; which was read a first and second time.

Mr. INGERSOLL. I would be glad if the House would consider that bill at the present time and pass it.

Mr. WELKER. I desire that it be referred. Mr. INGERSOLL. I object to its reference. We have had that annoyance on the avenue long enough, and I hope we shall get rid of it.

Mr. WASHBURN, of Illinois. Let the bill be read.

Mr. INGERSOLL. I ask for the reading.

The bill was read. The first section authorizes the Commissioner of Public Buildings to cause to be removed within twelve months all the buildings, sheds, and tenements of every description now located on the Government reservation on Pennsylvania avenue, between Seventh and Ninth streets west, and occupied as a city market, or for other purposes, and to cause the reservation to be inclosed and preserved in the same manner as other reservations now under his charge. The second section provides that the materials of the present market buildings are to be turned over to the mayor of the city of Washington for such public purposes as may be deemed proper under the direction of the corporate authorities of the city. The third section authorizes the corporate authorities of the city of Washington to enter upon and occupy, as a permanent site for a market-house, all of that portion of the public reservation, or so much thereof as may be necessary, bounded as follows: commencing one hundred feet south of the southeast corner of block three hundred and fifty, as marked on the plat of the city of Washington; thence west five hundred and eleven feet and four inches to a point one hundred feet south of the southwest corner of block three hundred and twenty-four; thence south one hundred and seventy feet along the east side of Twelfth street west; thence east five hundred and eleven feet four inches to a point on the west side of Tenth street west; thence north one hundred and seventy feet to the place of beginning.

The fourth section provides that for the purpose of erecting such market-house it is to be lawful for the said corporation to create a debt, in such form as may be found most expedient, not exceeding the sum of \$200,000, at a rate of interest not exceeding six per cent. per annum, notwithstanding any restriction in the charter of the city or existing laws to the contrary; but the Government of the United States in no event whatever is to be liable for the principal or interest upon any such loan; and the entire revenue of the building after paying contingent expenses and interest on the loan is to be appropriated to the payment of the money borrowed for that purpose. No more than \$220,000 are to be expended in building the market-house, nor are any contracts to be entered into which involve a larger expenditure for its completion. The fifth section provides that the corporate authorities of Washington shall have the right to hold and use the property so long as the building to be erected thereon shall be maintained as a market-house, and no longer; and that all laws and parts of laws inconsistent with this act shall be repealed.

Mr. INGERSOLL. I desire to state that by the provisions of this bill the Government of the United States is not made liable for one farthing of expense for the construction of a new market-house, or for the bonds or indebtedness of the city government. It provides for removing the old nuisance and eye-sore on the great avenue of the city, and for erecting a new market-house two blocks further up the canal and one block further from the avenue. Probably no more accessible site for a market-house can be procured than the one proposed by this bill. If the members of the House are as tired of this horrid nuisance on the avenue as I am, and as the citizens of this District are, then this Congress will allow the city authorities to appropriate money to build a new market-house. Three thousand of the business men of this city have petitioned for the passage

of this bill as it passed the Senate. In my judgment we can do no better than to pass this bill; and I call the previous question.

Mr. ALLISON. I move to lay the bill on the table.

The question was taken upon laying the bill on the table; and upon a division there were—ayes 46, noes 47; no quorum voting.

Tellers were ordered; and Mr. ALLISON and Mr. INGERSOLL were appointed.

The House again divided; but the tellers disagreeing in regard to the count, Mr. ELIOT and Mr. MARSHALL were appointed tellers.

The House again divided; and the tellers reported that there were—ayes 70, noes 47.

Before the result was announced, Mr. INGERSOLL called for the yeas and nays.

The yeas and nays were not ordered. Mr. ALLISON. If there be no objection, I will agree that the motion to lay on the table be withdrawn, and that the bill be referred to the Committee for the District of Columbia.

The SPEAKER. If there be no objection, the motion to lay on the table will be regarded as withdrawn, and the bill will be referred to the Committee for the District of Columbia.

There was no objection; and the bill was referred to the Committee for the District of Columbia.

Mr. ALLISON moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had passed without amendment House bill No. 433, for the relief of Palemon John.

The message further announced that the Senate had passed with amendments, in which the concurrence of the House was requested, House bill No. 1375, to transfer to the Department of the Interior certain powers and duties now exercised by the Secretary of the Treasury in connection with Indian affairs.

The message further announced that the Senate had passed a bill (S. No. 575) to refer the claim of Joseph Segar to the Court of Claims, in which the concurrence of the House was requested.

The message further announced that the Senate had adopted a concurrent resolution suspending for the residue of the session the sixteenth and seventeenth joint rules of the two Houses, in which the concurrence of the House was requested.

ENROLLED BILLS, ETC., SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 23) to protect the rights of actual settlers upon the public lands of the United States;

An act (H. R. No. 39) authorizing the Commissioner of Internal Revenue to adjust the accounts of Mark Howard;

An act (H. R. No. 218) granting a pension of seventeen dollars per month to David Duhigg, of Lynden, Vermont, father of late First Lieutenant Dennis Duhigg, of company M, first regiment Vermont artillery;

An act (H. R. No. 256) granting a pension to George Truax, late a private in company H, first regiment Virginia volunteers;

An act (H. R. No. 614) for the relief of Mrs. Alice A. Dryer;

An act (H. R. No. 851) granting a pension to Ann Williams;

An act (H. R. No. 836) for the relief of Mrs. Mary J. Trueman;

An act (H. R. No. 945) to place the name of Ellen Curry, widow of James Curry, deceased, a private soldier in company F, thirty-ninth

regiment Illinois volunteers, upon the pension-roll of the United States;

An act (H. R. No. 991) for the relief of Zadock T. Newman;

An act (H. R. No. 1164) granting a pension to Margaret Davis;

An act (H. R. No. 1165) granting a pension to Elizabeth Cassidy;

An act (H. R. No. 1166) granting a pension to Louisa M. Williston;

An act (H. R. No. 1167) granting a pension to Esther Graves;

An act (H. R. No. 1168) granting a pension to Frederick Denning;

An act (H. R. No. 1169) granting a pension to Joseph B. Rodden;

An act (H. R. No. 1170) granting a pension to Eliza M. Mathews;

An act (H. R. No. 1171) granting a pension to William F. Nelson;

An act (H. R. No. 1172) granting a pension to Lucinda J. Letcher;

An act (H. R. No. 1173) granting a pension to Julia A. Barton;

An act (H. R. No. 1174) granting a pension to Julia Carroll;

An act (H. R. No. 1175) granting a pension to Cornelia Peaslee;

An act (H. R. No. 1176) granting a pension to Mary Cover, widow of Samuel Cover, deceased, late a private in company G, of the fifty-sixth regiment of Pennsylvania volunteers;

An act (H. R. No. 1177) granting a pension to Malinda Ferguson, widow of James Ferguson, late a private in company C, of the first regiment of Kentucky cavalry;

An act (H. R. No. 1178) granting a pension to Mary Merchant, mother of Timothy H. Pittsford, deceased, late a private in company G, of the first regiment of the United States veteran engineer corps;

An act (H. R. No. 1179) granting a pension to Mary A. Falardo, widow of Onesimus Falardo, deceased, late a private in company K, of the one hundred and twenty-fifth regiment of New York volunteers;

An act (H. R. No. 1180) granting a pension to Phoebe McBride, mother of Thomas McBride, deceased, late a private in company B, of the eighty-seventh regiment of Illinois volunteers;

An act (H. R. No. 1181) granting a pension to Harriet E. Shears, widow of John T. Shears, deceased, late a private in company II, of the fifty-seventh regiment of Illinois volunteers infantry;

An act (H. R. No. 1182) granting a pension to William H. Blair, late a private in company G, of the twelfth regiment of Maine volunteers;

An act (H. R. No. 1183) granting a pension to Christopher M. Cornmesser, late a private in the independent Iowa home guards;

An act (H. R. No. 1220) granting a pension to Kate Higgins;

An act (H. R. No. 1221) granting a pension to Sarah J. Rogers;

An act (H. R. No. 1223) granting a pension to Margaret Filson;

An act (H. R. No. 1224) granting a pension to Jane E. Rogers;

An act (H. R. No. 1225) granting a pension to Patrick Collins;

An act (H. R. No. 1226) granting a pension to Barbara Weisse;

An act (H. R. No. 1228) granting a pension to Joanna L. Shaw;

An act (H. R. No. 1229) granting a pension to Anna H. Pratt;

An act (H. R. No. 1230) granting a pension to Hannah K. Cook;

An act (H. R. No. 1231) granting a pension to John Morley;

An act (H. R. No. 1232) granting a pension to Ruth Barton;

An act (H. R. No. 1233) granting a pension to William F. Moses;

An act (H. R. No. 1234) granting a pension to Frederica Brielmayer;

An act (H. R. No. 1235) granting a pension to Johannah Connelly;

An act (H. R. No. 1236) granting a pension to the minor children of Michael Travis;

An act (H. R. No. 1237) granting a pension to the widow and minor children of James Cox;

An act (H. R. No. 1238) granting a pension to Lavinia A. Gittings, mother of Andrew J. Gittings;

An act (H. R. No. 1239) granting a pension to Owen Griffin;

An act (H. R. No. 1240) granting a pension to Margaret Lewis;

An act (H. R. No. 1241) granting a pension to Mrs. Mary Brown;

An act (H. R. No. 1242) granting a pension to Esther Fisk;

An act (H. R. No. 1243) granting a pension to William O. Dodge;

An act (H. R. No. 1244) granting a pension to the widow of Solomon Gause;

An act (H. R. No. 1245) granting a pension to Matthew C. Griswold;

An act (H. R. No. 1246) granting a pension to the widow and minor children of Hiram Hitchcock;

An act (H. R. No. 1247) granting a pension to Orlena Walters;

An act (H. R. No. 1248) granting a pension to Elizabeth Richardson;

An act (H. R. No. 1249) granting a pension to Margaret C. Long;

An act (H. R. No. 1250) granting a pension to James Rooney;

An act (H. R. No. 1251) granting a pension to Charles Hamstead;

An act (H. R. No. 1252) granting a pension to the minor children of Garrett W. Freer;

An act (H. R. No. 1253) granting a pension to Julia L. Doty;

An act (H. R. No. 1254) granting a pension to Frances M. Webster;

An act (H. R. No. 1263) granting a pension to Joseph A. Fry;

An act (H. R. No. 1295) granting a pension to William J. Cotty, late of the twenty-first Missouri infantry volunteers;

An act (H. R. No. 1315) for the relief of Seth Lea;

An act (H. R. No. 1331) for the relief of Nancy Cook, of Tennessee;

An act (H. R. No. 1332) for the relief of Barbara Stout, of Tennessee;

An act (H. R. No. 1382½) granting a pension to Sarah E. Ball, widow of James Ball, deceased, late a fireman on the steamer Vidette, connected with the Burnside expedition;

An act (H. R. No. 1383) granting a pension to Miss Ann E. Hamilton, of Alleghany City, Pennsylvania, aunt and adopted mother of James E. McKillip and Charles P. McKillip, deceased, late soldiers in the Union Army;

An act (H. R. No. 1384) granting a pension to Mrs. Elizabeth Lane, of Boston, Massachusetts, mother of John Lane, deceased, late a private in company A, twelfth regiment Massachusetts volunteers;

An act (H. R. No. 1385) granting a pension to Rosinda McCabe, widow of Barney McCabe, deceased, late a private in company I, tenth regiment New York cavalry volunteers;

An act (H. R. No. 1386) granting a pension to Hinman L. Hall;

An act (H. R. No. 1387) granting a pension to Elizabeth G. Hibben, widow of Rev. Samuel Hibben, deceased, late a chaplain in the fourth cavalry regiment Illinois volunteers;

An act (H. R. No. 1389) granting a pension to Eliza Donnelly, mother of Dudley Donnelly, deceased, late colonel of the twenty-eighth regiment infantry New York volunteers;

An act (H. R. No. 1390) granting a pension to Michael Reilly;

An act (H. R. No. 1391) granting a pension to Jane McNaughton;

An act (H. R. No. 1392) granting a pension to Chauncy D. Rose, father of Alvin J. Rose, late a sergeant veteran in company A, second regiment Ohio cavalry volunteers, who was killed in action at Five Forks, Virginia, April 1, 1865;

An act (H. R. No. 1393) granting a pension to Hugo Eichholtz;

An act (H. R. No. 1394) granting a pension to Daniel Sheets;

An act (H. R. No. 1395) granting a pension to Esther C. C. Vangilder, widow of Charles F. Vangilder, deceased, late a private in company M, first regiment Vermont heavy artillery volunteers;

An act (H. R. No. 1396) granting a pension to Stephen T. Carver;

An act (H. R. No. 1397) granting a pension to Prescott Y. Howland;

An act (H. R. No. 1398) granting a pension to Martin Burke;

An act (H. R. No. 1399) granting increased pension to William B. Edwards;

An act (H. R. No. 1400) granting a pension to Jonathan H. Perry;

An act (H. R. No. 1401) granting a pension to John La Marsh.

An act (H. R. No. 1402) granting a pension to Catherine Skinner;

An act (H. R. No. 1403) granting a pension to Helen L. Wolf;

An act (H. R. No. 1404) granting a pension to William Smith;

An act (H. R. No. 1405) granting a pension to Elizabeth Lamar;

An act (H. R. No. 1407) granting a pension to John Gridley;

An act (H. R. No. 1408) granting a pension to Catharine Gensler;

An act (H. R. No. 1409) granting a pension to Asa F. Holcomb;

An act (H. R. No. 1410) granting back pension to the minor children of Joseph Berry;

An act (H. R. No. 1411) granting a pension to Polly W. Cotton;

An act (H. R. No. 1412) granting a pension to the children of William R. Silvey;

An act (H. R. No. 1413) granting a pension to Jane Rook;

An act (H. R. No. 1414) granting a pension to Sarah K. Johnson;

An act (H. R. No. 1420) directing the Commissioner of Pensions to proceed to hear evidence and determine the right of W. H. Cox, deceased, late a sergeant in company F, second regiment Pennsylvania artillery, to a pension in the same manner as if he was still living, he having died of disease contracted while a prisoner of war at Andersonville, Georgia, and if found to be entitled to a pension, then same, from time of his discharge till death, to be paid over to his father, Charles D. Cox;

An act (H. R. No. 1431) granting a pension to Emmelene H. Rudd, widow of the late Commodore John Rudd, deceased;

An act (H. R. No. 1444) changing the ports of entry from Plymouth to Edenton, in North Carolina, and Port Royal to Beaufort, in South Carolina;

Joint resolution (H. R. No. 256) for the relief of Martha E. King;

Joint resolution (H. R. No. 323) in relation to surveys and examinations of rivers and harbors; and

Joint resolution (H. R. No. 345) relative to printing specifications of patents.

PORTAGE LAKE SHIP-CANAL.

The next business on the Speaker's table was the bill (S. No. 398) extending the Portage Lake and Lake Superior ship-canal to Keweenaw bay, providing for the right of way, and making a grant of land to aid in the continuance of said extension; which was read a first and second time.

Mr. DRIGGS. I hope this bill will be acted on now.

The bill, which was read, provides in the first section that the Portage Lake and Lake Superior Ship-Canal Company, a company organized under the laws of the State of Michigan, be authorized to construct a breakwater in Keweenaw bay, Lake Superior, not exceeding two thousand feet in width, on the bank of that bay, and a ship-canal from the most eligible point in the bay to Portage Lake, which canal shall be at least one hundred feet in width, and not less than thirteen feet in depth. The canal company is to remove the rocks in Portage Lake, so as to secure free and unobstructed navigation, with thirteen feet water

in the channel of said lake, through to the head thereof; and the right of way through the lake is granted to the company, not exceeding six hundred feet in width. The Secretary of War is to designate an engineer of the Army who shall examine the obstructions in the lake, and report the same to the Secretary, with maps thereof, and shall report to him when the work contemplated in this section shall be completed in a permanent manner. The engineer is also to ascertain whether any money has been expended to aid the navigation into Portage Lake, in the route of this ship canal; by whom expended, if any has been expended, the amount expended; and after deducting the reimbursements received, if any, by persons so expending money for that purpose he is to report the balance to the Secretary of War, if any balance is found, and establish the time in which the sum so found shall be paid. The grants contained in this act are to be subject to the payment of the money so actually expended. The second section grants to the State of Michigan for the use and benefit of the Portage Lake and Lake Superior Ship-Canal Company, to aid in the construction of the work provided for in the first section, in accordance with the act of the Legislature of the State of Michigan in relation thereto, two hundred thousand acres of public land, to be selected from the odd-numbered sections in the Marquette land district, in the upper peninsula of Michigan, subject to sale or preemption, and which have been surveyed, but to which no preemption or homestead rights have attached, and which have not been reserved in any grant heretofore made by Congress nor otherwise disposed of, and which are not known upon the maps or reports of the public surveys as mineral. These lands may be selected by the company at any time, patents to issue therefor as hereinafter provided. The canal is to be and remain a public highway for the use of the Government of the United States, free from toll or charge upon the vessels of the Government, or upon vessels employed by it in the transportation of any property or troops of the United States. The third section requires that the company shall forthwith establish the route of the canal and the plan of the breakwater, and file plats or a plat thereof in the office of the War Department, and shall obtain the approval of the same by the Secretary of War; and all the expenses incurred in carrying out the provisions of this act are to be borne by the company. The fourth section provides that if the breakwater and ship-canal shall not be completed according to the plans so approved by the Secretary of War, and the obstructions removed within five years from the passage of this act, the lands granted shall revert to the United States. But whenever the breakwater and ship-canal shall be completed according to the provisions of this act, and the obstructions removed, and the Secretary of War certify to the same, patents for the lands herein granted are to be issued to the company.

Mr. DRIGGS. Mr. Speaker, this bill has been passed by the Senate, I believe, unanimously. A certified copy of it was taken before the Committee on the Public Lands of this House, and was, after full discussion, agreed to by the committee, who instructed me to report the bill favorably to the House, with certain amendments.

The principal objection, and in fact the only one raised in committee, was that these lands were liable to be withheld from market and from the operation of the homestead and preemption laws. We have agreed on an amendment which completely obviates this objection, and provides also that the land shall be sold at a price not exceeding \$2 50 per acre. We thus guard against the infliction of any hardship upon the settlers.

Another provision is that when this canal is completed—

The SPEAKER. The hour of twelve o'clock m. having arrived, the session of Friday is closed, pursuant to the order of the House.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Kate F. Keene, of Washington city, a Government employé, for a twenty per cent. increase of the salaries of Government employés.

By Mr. KELLEY: The petition of John Hearing, a soldier of the war of 1812, for a pension.

Also, a memorial of 61 citizens of Philadelphia, Pennsylvania, praying for the adoption of a law investing all men with the equal exercise of the elective franchise in all the States.

Also, the petition of R. P. Jackson, executor of Francis Lowndes, deceased, praying for compensation for services rendered by said Lowndes.

By Mr. MYERS: The petition of Leonard Revis and 54 others, citizens of the third district of Pennsylvania, for greater protection to American industry.

Also, the petition of Mary Fryer, of Philadelphia, widow of John Fryer, deceased, seaman in the war of 1812, for Navy pension.

Also, the petition for pension of Ann Smith, of Philadelphia, widow of Simeon Smith, deceased, late of company D, fifty-eighth Pennsylvania volunteers.

By Mr. STOKES: The petition of Andrew S. Davis, of Cleveland, Tennessee.

IN SENATE.

SATURDAY, July 25, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. DRAKE, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill of the Senate (S. No. 579) to establish a new land district in the State of Nebraska.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1450) for the more speedy reorganization of the States of Virginia, Mississippi, and Texas, and for other purposes; and

A bill (H. R. No. 1451) for the relief of John H. Osler, of Guernsey county, Ohio.

The message also announced that the House of Representatives had agreed to the amendments of the Senate to the bill (H. R. No. 1275) relating to the Alexandria canal.

DENVER PACIFIC RAILWAY.

Mr. DRAKE. I ask the Senate to take up Senate bill No. 570.

Mr. BUCKALEW. I object. I have certain papers to present.

Mr. DRAKE. Why should the gentleman object?

Mr. BUCKALEW. I want to present some petitions.

Mr. DRAKE. I will give way for that purpose if the Senate will allow the bill to be taken up.

Mr. BUCKALEW. Very well, I surrender.

The PRESIDENT *pro tempore*. The motion of the Senator from Wisconsin requires unanimous consent at this time.

There being no objection, the bill (S. No. 570) for a grant of land, granting the right of way over the public lands to the Denver Pacific Railway and Telegraph Company, and for other purposes, was considered as in Committee of the Whole. It proposes to authorize the Denver Pacific Railway and Telegraph Company, a company incorporated under the laws of the Territory of Colorado, to connect its road and telegraph with the Union Pacific railroad and telegraph at or near Cheyenne, and to provide that it shall have a uniform gauge, rate of freight and fare, and the privileges, immuni-

ties, and obligations of other branches of the Union Pacific railroad, and to aid in its construction shall have similar grants of lands, right of way, with like conditions, limitations, and privileges, and upon the connection of the Union Pacific railroad and telegraph, eastern division, with this railroad and telegraph at Denver City, the company shall be entitled to the same rights and privileges as though the whole line had been constructed by the eastern division company. The line from Denver to Cheyenne is to be taken in lieu of its construction of that portion of its route; and all the provisions contained in the several acts of Congress relating to the operation of the Union Pacific railroad and telegraph, the Central Pacific of California, and the branches of the Union Pacific railroad and telegraph so far as the Government, the public, and the railroad and branches are concerned, are to apply to the operation of the Denver Pacific railway and telegraph, the same as though they were here repeated, the design being to provide that the road shall, for the purpose of through business, be operated without change of cars or breaking bulk.

The Committee on the Pacific Railroad proposed several amendments to the bill. The first amendment was after the word "Cheyenne," in line seven, to insert "and with the Union Pacific railway, eastern division," at Denver.

The amendment was agreed to.

The next amendment was between the words "privileges" and "immunities," in line ten, to insert "and;" and after "immunities" to strike out the words "and obligations of other branches," and insert "except subsidy in bonds, and be subject to the obligations."

The amendment was agreed to.

The next amendment was in line twelve to strike out "said" and insert "the;" and after "railroad," in the same line, to insert "company and its branches."

The amendment was agreed to.

The next amendment was in line thirteen to strike out "similar" and insert "like" before "grants."

The amendment was agreed to.

The next amendment was after "privileges," in line fifteen, to insert:

Provided, That patents may be issued to said company, whenever it shall have completed twenty consecutive miles of its railroad and telegraph line, instead of forty miles, as now provided by law; whenever said company shall file in the Department of the Interior a certificate of the Governor and surveyor general of Colorado, whether a Territory or a State, duly sworn to by them before the judge of some court of record in Colorado, that twenty consecutive miles of the railroad and telegraph line of said company have been fully completed in a good and substantial manner, as contemplated by this act.

Mr. HARLAN. That amendment was drawn, I think, under a misapprehension of the existing law:

"That patents may be issued to said company whenever it shall have completed twenty consecutive miles of its railroad and telegraph line, instead of forty miles, as now provided by law."

That was the provision of the law of 1862; but in the law of 1864 there was a change made; the word "forty" was stricken out and the word "twenty" inserted in its place. I think that provision is unnecessary.

Mr. DRAKE. It will not do any harm. Let it stand.

Mr. HARLAN. Very well.

The amendment was agreed to.

The next amendment was in lines twenty-eight and thirty-eight, to strike out "though" and insert "if."

The amendment was agreed to.

The next amendment was to insert the following additional section:

SEC. 2. *And be it further enacted, That the Union Pacific Railroad Company, eastern division, may mortgage that part of its road between the point where its subsidy in bonds shall terminate and Denver City, together with its rolling stock, to an amount not exceeding \$32,000 per mile; and the Denver Pacific Railway and Telegraph Company may mortgage its road and rolling stock to a like amount, for the purpose of enabling said companies to borrow money to construct their said roads.*

Mr. DRAKE. I move to amend the amendment by inserting after the word "mile," in line six, the words "which point shall be held and construed under existing laws to be at or near Cheyenne Wells, in Colorado, and not further west than the meridian of said Wells."

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is on the amendment as amended.

Mr. SHERMAN. I am in favor of the amendment; but the Senate ought to know that the effect of it is to extend somewhat the subsidy of the eastern division. The Committee on the Pacific Railroad fully considered it. I am in favor of fixing the termination at that point, but I want the Senate to understand that the effect of it is somewhat to extend the subsidy to the eastern division.

Mr. STEWART. How much?

Mr. SHERMAN. About forty miles. These things ought to be distinctly understood by the Senate. The subsidy is not fixed, nor is it an ascertainable quantity now, because it is to be settled by the length of the line along the Republican, and that was never measured. It cannot now be ascertained, and it is difficult to tell what the present subsidy amounts to. The company have built the road out to a point which is admitted on all hands to be an inconvenient point for the termination of the subsidy. The Committee on the Pacific Railroad thought it better to fix the terminus at the point which on the testimony we think best, which is about forty miles beyond Fort Wallace.

Mr. FESSENDEN. Is this granting additional subsidy?

Mr. SHERMAN. That will be the effect, to grant a subsidy as far as Cheyenne Wells, because as the Senator is probably aware the present terminus of the eastern division is not fixed by any geographical line; it is only fixed by the length of another line which has never been surveyed, and about which there would be great difference of opinion if it was surveyed. A change was made in the law in regard to the eastern division. The former law allowed them to go along the Republican Fork, striking the other road at the one hundredth meridian; but by a change in the law they were allowed to divert in another direction along the Smoky Hill, and were to be allowed the same amount of subsidy along the Smoky Hill that they would have had along the Republican Fork; but as the Republican Fork line was never surveyed the distance was never ascertained, nor can it be exactly ascertained, because dispute might arise as to where the railroad should go. It is impossible to fix the present termination; controversies were likely to spring up between the company and the United States; and the general testimony tended to show to the committee that it would terminate about Fort Wallace.

Mr. DOOLITTLE. Where is that?

Mr. SHERMAN. On the Smoky Hill, about two hundred miles this side of Denver. This bill fixes the terminus at Cheyenne Wells on the route to Denver, about forty miles beyond what would probably be the termination of the present subsidy. I think it is a wise provision, but it is right that the Senate should understand distinctly what the legal effect of this amendment is.

Mr. HOWARD. I will state very briefly what the effect of this bill is. By the old law, as has been stated by the honorable Senator from Ohio, the eastern division or Kansas branch of the Pacific railroad had a right to a subsidy from the point of its commencement on the Missouri river to the one hundredth degree of longitude, passing up the Republican Fork. The company has never made an accurate survey of the length of that line, nor has the Government yet ascertained the exact length of that line; but an engineer has now been employed and is engaged in ascertaining its length. I have looked over the subject as carefully as I could with all the data I could obtain, with a view to ascertain the exact length of the line

upon which it would be entitled to subsidy in land and bonds, and I find that that line will extend about forty-five miles west of the present point to which the eastern division is completed up the Smoky Hill Fork, and will necessitate the issuing of bonds to the amount, in addition to what they would be entitled to under the old law, of near eight hundred thousand dollars. It will probably fall short of \$800,000, and will be between seven and eight hundred thousand dollars. I think my estimate has been as accurate as is practicable at the present time; but that is the result plainly enough.

Mr. FESSENDEN. I would like to ask the chairman of the Committee on the Pacific Railroad what provision exists for giving to this company more than they would receive if they had gone to the one hundredth meridian according to the original law. They have departed now, and as I understand they do not intend to join the main route at all, but to make a new road.

Mr. HOWARD. This bill absolutely requires them to construct the line to Denver City, and of course they are bound to construct the line beyond Denver City until it shall form a connection with the Omaha branch. There is no possibility under the law as it exists at present of diverging off to the south further.

Mr. FESSENDEN. That is very true, but I was told by the president of the company distinctly, in an interview that he had with me, that it was not the intention of the company to join the main trunk, but to go off down through New Mexico.

Mr. CONNESS. This obliges them to do it.

Mr. HOWARD. This requires them to do it. What the Senator says is correct.

Mr. FESSENDEN. Have they changed their intention on that subject?

Mr. HOWARD. This bill requires them positively to form that connection, does not permit them to diverge.

Mr. DOOLITTLE. At what place?

Mr. HOWARD. Cheyenne Wells, which is about forty-five miles west of the point to which the company has already completed its line.

Mr. DOOLITTLE. Where will they strike the main line to California?

Mr. HOWARD. They will strike the main line about fifty miles north of Denver.

Mr. DOOLITTLE. That is five hundred miles from this point.

Mr. HOWARD. I do not know the length; but they are not entitled to any subsidy beyond Cheyenne Wells. They will strike the main line at a place known as Cheyenne City, which is almost exactly north of Denver at a distance of about fifty miles.

Mr. DOOLITTLE. Four or five hundred miles from the point to which this bill gives them a subsidy. How are they to get there?

Mr. CONNESS. Not so far.

Mr. DOOLITTLE. Three hundred miles, anyhow.

Mr. HOWARD. I do not know the exact distance, but it is certainly not as far as five hundred miles.

Mr. FESSENDEN. When this company changed the route and went by the Smoky Hill line it was understood at the time that they got an improved quality of lands, went through a rich country, and had the benefit of the lands on the route. Now, what is the reason which exists why, in consequence of their changing the route and making the distance greater, we should give them \$800,000 more?

Mr. DRAKE. I will state, for the information of the honorable Senator from Maine that if the road is obliged to terminate at Fort Wallace it terminates at a point where it renders no real service to anybody, to the Government, to the road itself, or to the people. It is out in a waste there, which has no objective point, nor any real connection with any portion of that country that would amount to anything. Cheyenne Wells is a point in Colorado some forty miles west of Fort Wallace, a well-known point of assembly and departure for trains, for people connected with the Army

and with all that region through Colorado. It is a point where there is abundance of water and abundance of forage, and wagon trains go from that point through all that region, and come from all that region to that point. It is the point of departure, too, for Fort Lyon.

The position of the thing, then, is this: whether it is not better for the Government and for the people everywhere to terminate this road at a point which is so well known and resorted to as Cheyenne Wells rather than terminate it at Fort Wallace. I have a letter from General Schofield, the Secretary of War, on that subject, which I will send to the Clerk's desk, and I ask to have it read for the information of the Senate. It states the whole case in very brief terms.

The Chief Clerk read the following letter:

WAR DEPARTMENT,
WASHINGTON CITY, July 4, 1868.

SIR: In reply to your communication of July 2, respecting the Union Pacific railway, eastern division, in which you desire to know the wishes of the War Department as to the proposed extension of Government aid to that road as far as Cheyenne Wells, I have no hesitation in recommending the proposed extension.

By reference to a letter from General Sherman to General Grant, dated March 4, 1868, now before Congress, it will be seen that a much greater aid is recommended than that now proposed, and that the road is spoken of as a military necessity.

No man could be better able to judge of this matter than General Sherman, and I have no hesitation in indorsing his opinion.

I believe near Cheyenne Wells is the most easterly point where a temporary depot for the supplies destined for Fort Lyon and the posts beyond can be made so as to conveniently subserve the military interests.

Abundant water and forage at that point make it more suitable than any other point further east for such depot, while the distance (about forty miles) from Fort Wallace to Cheyenne Wells, will be saved in wagon transportation of supplies.

The proposed extension appears to be a measure of economy to the Government.

Very respectfully, your obedient servant,

J. M. SCHOFIELD,
Secretary of War.

Hon. C. D. DRAKE, United States Senator.

Mr. FESSENDEN. I have no doubt that is the opinion of the Secretary of War; and I have no doubt that if this road be extended there, it will be convenient and save money to the Government in the way of transportation. But the whole course of this thing is to me disagreeable. I do not like it in any part of it. In the first place, this road was chartered to join the main road at the one hundredth meridian. They laid out their road in that direction, in the first place, up the Republican Fork. After the time expired—and I do not complain of that—they chose to apply for an extension of time, and for authority to build their road in another direction. I have heard it stated—I think it was stated at the time and admitted, and I presume there is no doubt about it—that by that change, going by the Smoky Hill route as it is called, they obtained a very great advantage in the quality of the lands which they got on the new route. It is conceded that on that route are some of the finest lands in that region, and they had the benefit of them, and are having the benefit of them. They were at liberty, too, while having that increased benefit from changing their route, to take the whole subsidy which they would have received if they had joined the main road on the one hundredth meridian. We know from the application of another company what the Government may be exposed to in regard to that change of route.

The president of this company stated to me in conversation, and so did the engineer, that now they want an extension for some considerable distance further than this—I do not know how many miles—stating that they want to go where there are wood and water and iron. I inquired what they designed to do, and they told me, as it was perfectly manifest on the map they showed me, that in doing that they designed to make an entirely new road, bending southerly and having nothing to do with the main Pacific railroad, and they expected to get Government aid for that new railroad. Thus, instead of carrying out our system by this change, they must have contemplated originally making this application for addi-

tional subsidy, although they did not tell us of it when they got us to pass the bill giving them an extension, so that they might go by the Smoky Hill route, keeping it carefully concealed, for nothing was said on that subject. Now it is conceded that if this bill pass we shall have to pay nearly a million dollars more than they would have received if they had joined the main road on the one hundredth meridian. If we agree to this what shall we do next? Will they go out and join the main route? They will not do any such thing, but they will come to Congress and tease Congress, and we shall have a bill to allow them to go where they please.

Mr. HOWARD. Not with my consent.

Mr. FESSENDEN. If it does not come from the Senator it will come from somebody else. It is manifest what the thing means. It means that we shall subsidize another road across the continent, and then there is to be still another, I suppose, south of that; and another is in progress to the north. Where is this to end? The original idea was that Government aid was to be given to build one railroad from the Mississippi river to California, and in order to accomplish that and to get that bill through, you had to have three months to it running through the States on this side, subsidizing them all. Now that we have done that, we are called upon to subsidize two or three more roads by Government aid. Cannot the country afford to wait? When there is one road across the continent, cannot the building of the others wait until the country develops so that they may be built by private enterprise with the aid of the lands alone, as these things have been done before?

What I see in it is an utter burdening of the Treasury for these railroads in addition to our heavy debt. I know what gentlemen say. They say it is developing the country and enabling us to pay taxes. They are looking forward a little too fast. The burden gets to be intolerable before the increased taxes come along to relieve us. That is the great difficulty. I am perfectly willing to comply with the first contract we made; but just look and see where Congress stands now and what is urged. Here is nearly a million dollars to be given to this railroad in addition to what we first agreed to pay, and another road claims two millions and a half for damages, and the committee are urging that claim because we have given this road a chance to change its route. All follows on that one first step. This is the first million. Then comes another and another. Sir, it is not dealing in good faith with Congress or with the nation, and I am utterly opposed to it.

Mr. STEWART. The granting of this has no tendency to commit the Government beyond the particular appropriation on the direct route to Denver; but when you look at your Indian appropriation bills and see what immense amounts of money you are expending to try to keep a *quasi* possession of that country, and when you take the report of every Army officer who has been there and who tells you that in the mere matter of Indian regulation it is cheaper to take possession of the country in this way, cheaper to build a military road and take hold of the country through the railroads than to expend millions upon millions yearly by trying to take care of the Indians—

Mr. FESSENDEN. That is always the argument.

Mr. STEWART. And a most conclusive argument. You spend millions of dollars every year upon the Indian service on the plains. You have the constant testimony of everybody capable of judging that it will be cheaper to take possession of the country by means of railroads than to continue your present system. You are at great disadvantage now in attempting to supply the Army and the Indian agencies out there. A fair, candid investigation of the subject will show that it would be better to build a northern and southern road, and take possession of the whole country. You are spending no money for Indians now

on the line of the Omaha branch. You have it through to the Rocky mountains; you have the road through the Indian country, and that ends the question. You will have no more Indian wars there. It will civilize that portion of the country and keep possession of it. The present system of managing Indian affairs, all admit, is a great evil which can never be overcome until you extend railroads into that country. I need not go into details. The committee took no step which had a tendency to build a new continental road. This road now terminates upon a desert, and it is important that it should go where there are grass and water, and where it can make proper connections.

Mr. FESSENDEN. Why is it that the company built the road to this point if they do not mean to continue it forty miles themselves? What did they begin for? They have called for these appropriations and got them all, and they then come to a point where they say they cannot stop and call on Congress to help them. Is the Government to build the road entirely?

Mr. STEWART. The company propose to build the road from the point named to Denver.

Mr. FESSENDEN. Why do they not do it now?

Mr. STEWART. They have not the money to do it with. The road stops in the desert now. The question is not what is their interest, but what is the interest of the Government. The Government has spent this amount of money for a road stopping in the desert. Military men say that if we could get to a point where stock could be kept, where there is grass, where there is water, where the company can freight to New Mexico, it will be of vast importance. At Fort Wallace there is no place to keep stock, and it is a very great inconvenience to stop there. The military officers recommend this measure, and it is certainly for the interests of the Government. It would save a vast amount of freights going to New Mexico. This bill provides that the company shall build from the point named to Denver, and build from Denver to Cheyenne to connect with the Omaha branch. This extension is absolutely necessary in order to make the road of any value to anybody.

Mr. HARLAN. The Senator from Maine is perfectly right in saying that we are not under any legal obligation, either express or implied, to grant additional subsidy to this road. The measure stands purely on its own merits. The question is whether it will be for the interest of the public to have it done. The Committee on the Pacific Railroad, after considering the subject maturely, thought it would be for the public interest to aid in the construction of this additional section of the road from the present terminus to the Wells, where it is said there is abundance of water and of grass. This has been recommended, I believe, by all the officers of the Army in that part of the country, and it is the point of divergence to Denver for the branch road originally contemplated by that company to that city. The bill therefore provides that the grant of lands may be extended to this branch of the Union Pacific, eastern division, from this point of divergence to the city of Denver, and then for a grant of land from the city of Denver to the city of Cheyenne on the Omaha line, so as to form a connection between the constructed part of this road and the Omaha branch of the Union Pacific railroad. There are a few miles necessary to be constructed in order to bring the terminus to an available point where our military trains can make their outfit for the Territories of New Mexico and Arizona. I believe the committee was entirely unanimous in agreeing that this amount of subsidy ought to be granted in order to secure the early completion of the road to this point. I think the Senator from Maine is right in stating that it is the purpose of the company ultimately to build the road on through New Mexico and Arizona to the Pacific coast, and I have no doubt the public interests will require that it shall be built at some time, and the earlier it

be constructed the better for the public; but we are coming under no obligation, as it seems to me, either express or implied, to grant additional subsidy from Cheyenne Wells southwest. When that question shall arise it ought to stand on its own merits. I shall be disposed, as a member of this body, to consider it on its merits when it does arise. We do not now agree to any subsidy further than Cheyenne Wells.

Mr. FRELINGHUYSEN. There is no question but what it would be a great advantage to have this road built. I do not suppose it is necessary for us to have the advice of the officers of the Army on that subject. I suppose the Senate will all agree with the committee that it is very desirable to have this road built, but that is not exactly the question as it presents itself to my mind. As I understand it, this company came to Congress and asked as a privilege that they might change their line to the point to which they have now arrived, having subsidies to that point. It seems to me that that does create an understanding and a contract between them and Congress that these are all the subsidies incident to that change of route. They get to that point and now ask for about seven hundred thousand dollars more.

Mr. COLE. The subsidy is not to exceed \$32,000 per mile, and for forty miles that would be \$1,280,000.

Mr. FRELINGHUYSEN. It may be \$1,280,000. That is the maximum. I think it would be a wise experiment for Congress to refuse these subsidies and see if these roads will not put forth a little private enterprise, and not rely entirely on the Treasury of the nation to build their lines. It is perfectly clear that after they get to Cheyenne Wells, they will apply again for other subsidies; no one doubts that; and it is a question now to be settled at this late period of the session whether the whole policy of this nation shall be changed and we shall have two or three routes across the continent to be built by drafts upon the public Treasury rather than adhere to the policy which was deliberately adopted and which was a liberal policy. To take this course in the present state of the Treasury, I think, is unauthorized and improper.

Mr. DOOLITTLE. Mr. President, I desire to say a few words in relation to this subject. I think the greatest mistake Congress has made in relation to this railroad matter was in permitting this company to go on the Smoky Hill route at all. That was, in the first place, a violation of the faith which Congress had pledged to those companies that undertook to build branches and concentrate on the one hundredth meridian. The purpose of Congress was to concentrate the whole railroad interest east of the Missouri river, in carrying through the Pacific railroad in one line after reaching the one hundredth meridian. In order to concentrate them Congress allowed three branches to meet at that point, one coming from St. Louis and Kansas City, another coming from Chicago by way of Quincy and Burlington, and the other coming from Chicago directly west through the State of Iowa, striking at Omaha. The purpose was to concentrate the whole railroad interest, bring them together on the one hundredth meridian in order to construct the road, to begin with, and then, while it is just as material as the construction of the road, to be able to run it after it should be constructed—for I tell you on the line across to California there are nearly a thousand miles of desert; and when the road is done it is to be a very serious question whether it will pay the expenses of running; and therefore the necessity of having all the railroad interests of the East concentrate their whole force over one line. But this allowing the thing to be divided across these plains into two roads running over a barren region of country, where, for five hundred miles, there is neither timber nor scarcely water, and no way business except in the transportation of supplies to the troops and supplies to the Indians, is not advisable.

It is going to be, in my judgment, a very serious question whether the road, when constructed, will pay the expenses of running across this vast region of country. But it involved this other difficulty: by running up the Smoky Hill this line went directly through the home of the Cheyennes and Arapahoes, where they were in the habit of living in the winter time in the little timber that clusters along the streams of the Smoky Hill, and drove them out from that place, which, I say, has kept them afloat, and kept them at war with us.

But, Mr. President, aside from that it has involved us with the central branch, as it is called. We agreed that the central branch, starting from Atchison, might run into the Pacific railroad on the one hundredth meridian. Our faith, it seems to me, has become bound, and we, by consenting that the road with which they were to connect should turn off down to the Smoky Hill, have in substance consented that they shall have the benefit of the original contract, and that they may be permitted to build to the point of junction with the one hundredth meridian. By that we are bound; but we are under no implied obligation or anything binding on our faith in any way whatever to give this further subsidy. I do not feel disposed to vote this additional subsidy. But I shall not take up the time of the Senate on the last day.

Mr. SHERMAN. I called attention to this matter because I thought it was due to the Senate that they should understand the question involved in this amendment. I voted for the amendment in committee and I shall vote for it here, and will state to the Senate briefly the reason. I have opposed during this session the increase of subsidies to railroads. On that general principle I have acted throughout. When application was made by the eastern division for a subsidy to go by the way of Albuquerque, I voted against it, and am still opposed to it. The difficulty they had to encounter was this: Congress had allowed them to build a road on the Smoky Hill route. If that was to be done over again I do not know that I should vote for any departure from the original railroad grant; but that is a question neither here nor there. They built the road to the termination of their present subsidy, which is an inconvenient and unascertained point; and it is impossible to ascertain it exactly for the reasons I stated a few moments ago. The general weight of the testimony and the opinion of the United States officers is that it terminates about Fort Wallace, in a place admitted to be inconvenient, without water, on an arid plain, in the State of Kansas, where no connections can be made. Under these circumstances, this road, having been denied further subsidies by the Committee on the Pacific Railroad, having been refused their application to extend their road southwesterly to Albuquerque, applied to us to fix the termination of their subsidy. There were two ways to fix it. One was by the survey of the Republican route and ascertaining the length of the Republican route, and then ascertaining the point at which their subsidy would terminate on that route. That was a very difficult question.

On the other hand, all the officers of the Government, including the General of the Army, General Sherman, General Schofield, General Sheridan, and all the officers familiar with that country, who fought over it in Indian wars, and have been over it recently, agree that the best point for the termination of the eastern division road is Cheyenne Wells, because there is grass and there is water; it is an old and familiar camping ground known since the early settlements on the plains, a prominent point in Colorado. Then this company applied to the Committee on the Pacific Railroad to allow them to terminate the subsidy for their road at Cheyenne Wells. That involved an increase of subsidy for about forty miles. At first I was disinclined to do it; but in connection with the other provisions of this bill, I have concluded that it is wise and prudent and economical in the Government to grant this subsidy. What are they? This com-

pany undertake to build without any cash subsidy, with the ordinary land grant, the road from Cheyenne Wells to Denver City, a distance of between a hundred and fifty and two hundred miles. If they will do this, they will open railroad communication with Denver and Colorado, and with all the mining region of that country; they will enable us to reach by this railroad the fortifications along the line of the Arkansas, and on the road to Albuquerque, so that according to the opinion of General Sherman and General Schofield, we shall save in transportation to the forts in New Mexico and other places by the construction of this railroad several times the interest of the increased subsidy. That was their testimony, and the figures seemed to be very conclusive.

In addition to that a company chartered by the Territory of Colorado undertake to build a road from Denver City to Cheyenne, a point on the line of the main Pacific road, and thus we shall have accomplished with but an increased subsidy for forty miles the connection contemplated by the original acts and a route along the Smoky Hill and thence to the main Pacific railroad. If that can be accomplished by an additional subsidy of forty or forty-five miles, I think it will be economical in the Government to grant it.

This bill does not raise in the least the question of the application made by this same company for a subsidy to build a railroad to Albuquerque and so on by the southern Pacific route to California. In my judgment it rather tends to make an argument against that, because the strong point they now make for an increased subsidy is that they are left in the wilderness without any connection or any terminus; but if by this bill they have a terminus at a point selected by themselves at Cheyenne Wells, and are under obligations to build their road from Denver and from Denver to make connection with the Union Pacific railroad this side of the desert, the very strong argument for an increased subsidy is gone, and the suggestion of the Senator from Wisconsin is completely answered. He says that two roads ought not to be built over the desert. By this bill only one road will be built over the desert, and we shall give the eastern division an opportunity to make connection with the main Pacific railroad this side of the Black Hills. Thus his argument is completely answered.

While generally I am indisposed to vote for such bills, and have no particular feeling about this matter, I believe as a matter of economy it will be better to enable this railroad to get a terminus at Denver by giving the additional subsidy for forty miles and enable them to get a connection with the main Pacific railroad; and in this way, in my judgment, we shall settle the controversy about the Central branch, because the Central branch have complained that we have diverted the eastern division so as to prevent them having a connection with the main Pacific railroad; but if this connection is perfected to Cheyenne Wells and Denver, and thence to Cheyenne City, they can run their road upon the original line into the eastern division, and they will have a complete connection not only with the main Pacific railroad, but also with Colorado, which will be a great advantage to them, and carry out the original purpose, and they will have a road reaching to Pike's Peak and the mining region. It seems to me that under all the circumstances it is better to pass this bill, and I shall vote for it.

Mr. HOWARD. I wish to make one statement, which may have a certain weight upon the mind of Senators in reference to this bill. It is this: the eastern division, although somewhat embarrassed in its operations, has really repaid to the Government all the interest which the Government has paid on the bonds that have been issued to the company, and something more. This eastern division branch is the only branch that has done that; and indeed, the Union Pacific Railroad Company proper has not, I believe, repaid to the Government in the shape of transportation,

&c., quite one half of the interest upon the bonds issued to it, which interest has been paid by the Government; so that the eastern division has this great advantage before the world, that it has kept its credit perfectly good with the Government; and I have no reason to apprehend that in the future it will run in arrears in the payment of interest.

I do not wish to protract the discussion, but I beg to be indulged in saying that I in a great degree concur in the view taken of this subject by the honorable Senator from Wisconsin. I do not look upon it as a perfectly settled question that this enterprise will be a money making one for the Government or the country across the main branch. I look upon that immense desert spreading itself between the two ranges of mountains both on the route of the Omaha line and on the route of the line upon the thirty-fifth degree, which is in contemplation, as entirely experimental still, and I am not prepared by any means to say now that I will hereafter give my consent to granting a subsidy to a line on the thirty-fifth degree of latitude. I do not know what may turn up in the future; but I hold my opinions in abeyance on that question. The effect of the passage of this bill will be absolutely to insure, as I have the best reason to believe, the completion of the line from Cheyenne Wells through Denver to the city of Cheyenne on the Omaha branch, and with all commendable speed. It will insure it absolutely, as I have no doubt; and this measure is entirely separate and independent from the contemplated enterprise of building a road along the thirty-fifth degree of latitude. The two things are entirely independent of each other.

Mr. FESSENDEN. I wish to ask the Senator a question. It seems this company cannot build for want of means this forty miles. Then how are they going to build the other part of the road?

Mr. DRAKE. There is power here to mortgage that portion of the road west of Cheyenne Wells.

Mr. HOWARD. They will raise money by means of a mortgage which this bill authorizes. Their means will be sufficient; and besides, they have every inducement in the world to complete the line.

Mr. DOOLITTLE. I ask whether, if this subsidy is granted so that this road is constructed by Denver to Cheyenne, that will settle our difficulty with the central branch? Will they turn their road into the Smoky Hill route, so that we can settle that question of their claim on the Government?

Mr. HOWARD. I do not see that this has any relation to that question at all.

Mr. DOOLITTLE. If we could settle the difficulty with the central branch, if they would turn their road and go into the Smoky Hill route, and go that way on to the main railroad at Cheyenne, it would be an argument for this bill.

Mr. SHERMAN. The central branch can then make their connection at the very point they contemplated making it and make their connection with the Pacific railroad. They always contemplated making their connection with the eastern division east of Fort Riley; and if we pass this bill they can carry out their original design and run their line into the eastern division and have their connection, which ought to be always claimed, with the Pacific railroad.

Mr. POMEROY. The Senator from Ohio must know better than that; they have got beyond Fort Riley now.

Mr. SHERMAN. I know they have; but they can make their connection with this railroad and make connection with the Union Pacific.

Mr. HOWARD. They will have a clear right to do it.

Mr. SHERMAN. If they do not it will be their own fault.

Mr. HARLAN. I do not want anybody to be misled about that. This road diverges off to the southwest, which will render it perfectly

impracticable for the central branch to connect with it.

Mr. SHERMAN. The Senate will see that this road does not go to the southwest until it gets to Fort Riley, and the central branch was bound to make connection east of Fort Riley, and can do it.

Mr. HARLAN. The central branch has now built west of the meridian of Fort Riley. They will have to turn around and come back considerably east of the present terminus, and to make this connection they would have to build a long parallel road, perhaps equal in length to making connection with the original point at the one hundredth meridian. The claim of the central branch stands on its own merits, and so must this. The committee thought it would be wise to give this company an additional credit to enable them to hasten the completion of their road to the Cheyenne Wells, a place where it will be convenient to make outfits, where there is plenty of grass and water; that the public convenience required that they should be stimulated to make it thus far; but it will not relieve the obligation of the Government to carry out the original understanding with the central branch in my opinion.

Mr. CONKLING. We see now very clearly that this is a matter which ought not to be disposed of in a moment, and I wish upon two points that have been suggested to make a remark.

Mr. BUCKALEW. Before the Senate goes on I wish to suggest that this bill be laid aside for a few moments in order that we may present morning business. I have a number of papers to present, but I gave way this morning to the Senator from Missouri, expecting that the bill which he called up would occupy but a short time. It is leading to debate, and I suggest that it be passed over informally, and that we go on with the morning business. I have waited for an hour.

Mr. CONKLING. I have no wish to interfere with the convenience of anybody.

Mr. BUCKALEW. I ask that the bill be laid aside, that we may present the morning business.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) Is there any objection to the proposition of the Senator from Pennsylvania? The Chair hears none. The bill is laid aside temporarily.

PETITIONS AND MEMORIALS.

Mr. BUCKALEW presented a petition of citizens of Montgomery county, Pennsylvania, praying that pensions be granted to the soldiers and sailors of the war of 1812, and to the widows of such as have died; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Philadelphia, praying that pensions be granted to the soldiers and sailors of the war of 1812, and to the widows of such as have died; which was referred to the Committee on Pensions.

He also presented the memorial of employes of the Lehigh Zinc Company's oxide works at South Bethlehem, Pennsylvania, remonstrating against the renewal of the patent of Samuel T. Jones for the manufacture of oxide of zinc; which was ordered to lie on the table.

Mr. BUCKALEW. I also present a memorial of A. J. Marshall, on the ventilation of the two Halls of Congress. This memorial, with the accompanying papers, contains some very interesting matter. I move that the papers be laid on the table and printed, with a view to having the subject considered at the next session of Congress.

The motion was agreed to.

Mr. HOWARD presented the petition of Normand Wiard, praying that Government manufactories may be abolished and that such manufactured articles as may be required for the use of the Government be purchased; which was referred to the joint Committee on Ordnance.

Mr. HOWE presented a letter of the Secretary of the Interior, addressed to the Commit-

tee on Claims, inclosing copies of papers relative to the petition of Margaret Doyle.

PAPERS WITHDRAWN.

On motion of Mr. VAN WINKLE, it was

Ordered, That Mrs. Harriet W. Pond have leave to withdraw her petition and papers from the files of the Senate.

On motion of Mr. CHANDLER, it was

Ordered, That leave be granted to withdraw the private papers filed with the application for a change of register of the brig Highland Mary.

PALEMON JOHN.

Mr. BUCKALEW. House bill No. 453, relating to the claim of Palemon John, a former assessor of internal revenue in Pennsylvania, was passed some days since, and I entered a motion to reconsider. I desire to say that I have examined all the papers since the passage of the bill, and I find there is only one defect in the case. I allude to this now because the case arises in my own district. The amount of stamps which it is alleged Mr. John returned to the Commissioner of Internal Revenue is proved only by his own oath. That is a point to which I have directed my attention. The evidence is very satisfactory that he mailed stamps directed to the Commissioner of the Internal Revenue at the post office at Bloomsburg. The postmaster swears to that fact, and the fact is indisputable. It also appears very clearly by the investigations which were made under the direction of the Postmaster General that that registered letter was purloined from the mails, or lost somewhere between Bloomsburg and Philadelphia. It seems, also, that another letter sent the day following by the postmaster there, notifying the postmaster at Washington city of the mailing of this registered letter, never reached its destination. It appears probable, in fact I believe from the papers, that both these letters, the letter transmitting the stamps and the letter of advice from the postmaster at Bloomsburg to the postmaster at Washington, were purloined from the mails after they left Bloomsburg, having been mailed there.

Under these circumstances, although the oath of the claimant alone fixes the amount of stamps which he mailed, it seems reasonably clear that he did mail about the amount which he states. That was exactly the balance necessary to close his account, some seven hundred dollars. He is a man of credit and veracity, and swears to the fact; and now, under an amendment of the laws of the United States, introduced by myself, he would be admitted in the Federal courts on his oath as a witness, even in a case where he was a party. Upon examining his account at the internal revenue department, I think there is such moral certainty in the case that I am willing to withdraw my motion to reconsider, and let the bill stand passed, although I acknowledge that in ordinary cases it would be very hazardous, indeed, to permit a party to get a claim through on his own oath.

The PRESIDING OFFICER. If there be no objection, leave will be granted to withdraw the motion to reconsider. The Chair hears no objection, and the motion is withdrawn.

REPORTS OF COMMITTEES.

Mr. STEWART, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1131) regulating judicial proceedings in certain cases for the protection of officers and agents of the Government, and for the better defense of the Treasury against unlawful claims, reported it with an amendment.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of the heirs-at-law of Thomas Lawson, reported a bill (S. No. 647) for the relief of the heirs of the late Thomas Lawson, deceased; which was read and passed to a second reading.

Mr. THAYER, from the Committee on Indian Affairs, to whom was referred the bill (S. No. 640) to provide for the payment of subsistence furnished for the Navajo Indians, reported it without amendment.

Mr. THAYER. The same committee, to

whom was referred the bill (H. R. No. 1875) to transfer to the Department of the Interior certain powers and duties now exercised by the Secretary of the Treasury in connection with Indian affairs, have directed me to report it back with an amendment. I have been specially requested by the delegation from North Carolina, now present, to ask the Senate to consider the bill at this time. Nobody objects to it, and it will have to go back to the other House for concurrence in our amendment. It simply transfers jurisdiction over the fragment of the Cherokee Indians left in North Carolina from the Treasury to the Interior Department. The bill is introduced on the special recommendation of both the Secretary of the Treasury and the Secretary of the Interior.

THE PRESIDING OFFICER. Is there any objection to the present consideration of the bill?

MR. HOWARD. I hope we shall go on with the railroad bill, which is regularly under consideration.

MR. THAYER. We are on morning business now. There can be no objection to this bill, and it has to go back to the other House.

MR. HOWARD. Let us go on with the railroad bill.

MR. THAYER. I ask if there is any objection to the consideration of this bill.

THE PRESIDING OFFICER. The Chair understands the Senator from Michigan to object.

MR. HOWARD. Yes, sir. If we can proceed with the railroad bill now under consideration I do object.

MR. THAYER. That was laid aside informally. This would have been through before this time.

MR. CONKLING. I understand that the Senators from North Carolina ask for the passage of this bill, and it is a formal matter to which there is no objection.

MR. HOWARD. If it does not lead to any discussion I shall not object.

MR. THAYER. If there be any objection or discussion I shall consent that it lie on the table.

MR. HOWARD. Very well.

By unanimous consent, the bill (H. R. No. 1875) to transfer to the Department of the Interior certain powers and duties now exercised by the Secretary of the Treasury in connection with Indian affairs was considered as in Committee of the Whole. It provides that the powers and duties devolving upon the Secretary of the Treasury, under and by virtue of the fourth section of the act entitled "An act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30, 1849, and for other purposes," approved July 29, 1848, and the powers and duties devolving upon him under and by virtue of the laws relating to the investment of the moneys in behalf of the Cherokee Indians, from the sales of land under the treaties concluded at Pontotoc October 20, 1822, and at Washington city May 24, 1834, as also all other supervisory and appellate powers and duties in regard to Indian affairs, which may now by law be vested in the Secretary of the Treasury, shall hereafter the passage be exercised and performed by the Secretary of the Department of the Interior.

The amendment of the Committee on Indian Affairs was to add the following additional sections:

And be it further enacted, That the Secretary of the Interior shall cause a new roll or census to be made of the North Carolina or Eastern Cherokees, which shall be the roll upon which payments due said Indians shall be made.

And be it further enacted, That hereafter the Secretary of the Interior shall cause the Commissioner of Indian Affairs to take the same supervisory charge of the Eastern or North Carolina Cherokees as of other tribes of Indians.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

LANMAN'S DICTIONARY.

MR. BUCKALEW submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to purchase for the use of each Senator one copy of the fifth, being the latest, edition of "Lanman's Dictionary of the United States Congress and the General Government," and one copy each for the offices of the Secretary, of the Sergeant-at-Arms, and of the Postmaster of the Senate.

DENVER PACIFIC RAILWAY.

MR. TRUMBULL. A few days ago I presented to the Senate a resolution in regard to the pay of new Senators. Some action ought to be taken upon it. I presented it in accordance with former precedents of the Senate. I ask that it be disposed of. It ought to be disposed of in some way. It is about the last day of the session. Of course they are entitled to some pay, and the question ought to be settled.

MR. DRAKE. The bill that was before the Senate was laid aside informally for the accommodation of the Senator from Pennsylvania. I now desire that it shall be proceeded with.

MR. TRUMBULL. Will not the Senator from Missouri allow this resolution to be disposed of in some way?

MR. DRAKE. This bill can be disposed of in a little time, if the Senate will allow it to be proceeded with.

MR. TRUMBULL. This is a matter that affects members of the body, and I do not think there ought to be any objection to disposing of it in some way.

MR. DRAKE. I do not propose to interfere with that matter; but it is a question that depends entirely upon our own action, and it can be disposed of at any time during this day; but this bill if passed by the Senate this morning must go to the House of Representatives, and I therefore insist on proceeding with it.

MR. TRUMBULL. The resolution could have been disposed of by this time.

MR. DRAKE. I call for the resumption of the consideration of the pending bill that was laid aside informally.

MR. PATTERSON, of New Hampshire. I ask permission of the Senator, who has charge of that bill, to allow me to put on its passage a joint resolution which it is necessary should go through the House to-day. It is a joint resolution from the Committee on Retrenchment, which looks to the setting aside of a fraudulent contract on the part of the Interior Department for stationery.

MR. DRAKE. I do not wish to be discourteous to the honorable Senator from New Hampshire.

MR. PATTERSON, of New Hampshire. If it leads to any discussion I shall not press it.

MR. DRAKE. I feel great interest in the consideration of the bill before the Senate, and I ask that the Senate resume the consideration of it.

THE PRESIDING OFFICER. The bill (S. No. 570) for a grant of land, granting the right of way over the public lands to the Denver Pacific Railway and Telegraph Company, and for other purposes, was laid aside informally, and being called for is now regularly before the Senate as in Committee of the Whole. The pending question is on the amendment of the Committee on the Pacific Railroad, as amended, to insert what has been read as the second section.

MR. CONKLING. I feel inclined, upon the suggestion made first by the Senator from Ohio, to favor the passage of this bill; and I wish to assign a reason or two in answer to what was said by the Senator from Wisconsin. The Senator from Wisconsin, if I understand him, charges to the account of the eastern division an equity that he thinks has arisen in behalf of the central branch, and upon the ground that the eastern division being bound to go by a certain route the central branch relied upon

that route and built a road which might have been connected with the eastern division but for the diversion which took place under the permission of Congress. This proposition suggests to everybody acquainted with the subject the propriety of a somewhat careful consideration, which I beg to assure Senators I do not intend to give it on my part this morning, but it gives rise to a matter of fact also, which I think can be disposed of within very narrow limits, and I ask the attention of the Senator from Wisconsin to that matter of fact.

It is not true historically or in any other way that the central branch built its present road relying upon the route of the eastern division as established before it went up the Smoky Hill. I have in my hand the evidence that on the 21st day of February, 1866, the president of the Pacific railroad, eastern division, addressed to the then Secretary of the Interior, the honorable Senator from Iowa, a letter giving notice formally that the original intention, as far as it had existed, to go up the Republican Fork was abandoned; and let me say just here that that purpose was formed a long time before, and long before the war interrupted this work, and interrupted surveys. On the day which I have fixed notice was given, as I have said, to the Secretary of the Interior. At that time no considerable portion of the Central Branch railroad had been built, as I have in my hands also the proof to show, and I will refer to it in a moment. A certain portion of the road had been graded, and a map had been filed by both companies. When the war concluded and working parties were enabled to go out the eastern division saw that another route was preferable to that, and proposed to file a map accordingly. The Attorney General, in an opinion which lies upon my desk, held that in point of time they were too late by some six months, because the law had fixed the limit, and the time had run, and he advised that legislation was necessary to cure this difficulty in matter of time. That legislation did not take place until a day later than that of which I am speaking.

THE PRESIDING OFFICER. The Chair is reminded of an omission which he made. The Chair should have called up at the close of the morning hour the unfinished business of yesterday, the bill concerning the rights of American citizens in foreign States.

MR. CONNESS. I agree to have that laid over informally until this bill has been disposed of.

THE PRESIDING OFFICER. It can be laid aside informally, and the consideration of Senate bill No. 570 continued. The Senator from New York will proceed.

MR. CONKLING. I was about to say that although the legislation which enabled the eastern division to go up the Smoky Hill was not until July afterward, the record of the debates will show that at the time of which I am speaking, February, 1866, all parties connected with this central branch, the honorable Senator from Kansas [Mr. POMEROY] being then its president, perfectly well understood that the Eastern Division railroad was not to be built up the Republican Fork, but that it was to be built where, in truth, it has been built. So that Senators who attend to my statement and will take the trouble to verify it will see that in point of fact no assertion is more entirely ungrounded than the assertion that the central branch laid down its track and expended its money expecting to obtain a connection with the eastern division in consequence of that road going up the Republican Fork. So far from that, a letter which I have in my hand from the Secretary of the Treasury states that on the 12th of July, 1866, five months after the central branch company had notice and understood that the eastern division was to come up the Smoky Hill, and not up the Republican Fork, but twenty miles of the Atchison and Pike's Peak road, otherwise called the central branch, were completed and accepted by the commissioners, and I have read the report of the commissioners which I have at

my desk. I will not stop to read it to the Senate, but it will show to Senators precisely how much work in addition to that had been done five months after the period when they had full notice of all the facts. Therefore without dwelling upon it, and without being able in the brief time I mean to occupy to state it as circumstantially as I should like to do, I lay out of the question the blame which the Senator from Wisconsin imputes to the eastern division for anything which has befallen the central branch, and I come to the second point, upon which I wish to make an observation suggested by the Senator from Ohio.

I do think, although the Senator from Michigan thinks otherwise, that a decided argument is to be drawn in favor of the bill before us from the fact that it will supply to the central branch all that the central branch can honestly insist it ever expected. Why? The central branch is the assignee of the Hannibal and St. Joseph Railroad Company, which company had the right to extend its road—that was the language of the law—from St. Joseph onward under a charter which went to Pike's Peak. It was the Atchison and Pike's Peak railroad. That charter did not call for a road running west; it called for a route bearing decidedly to the south, and running as the central branch laid it down on its map, not where it runs now, not even to Manhattan, but to Topeka, where it would have had its connection within its one hundred miles, as the Senator from Ohio says, east of Fort Riley. It was there they were to go.

Having been told by some of these gentlemen that I did them injustice in some remarks which I made formerly on this subject, I have taken the pains to traverse the debates since; and I wish time permitted me to present them to Senators in order that they might see that the friends of the eastern division, its representatives on this floor, when a subsidy for one hundred miles was given to it admitted and insisted that they were to go to a point on the eastern division east of Fort Riley; that there was no expectation of going anywhere else, and that so far from one hundred miles of subsidy not being sufficient sixty miles of subsidy was all they would ask, and that those sixty miles would carry them to the connection which they sought and coveted, being a connection east, and far east of Fort Riley. Now, this company has changed entirely its route and has run not only west but northwest, having run to a point which as I can show by its sworn map, which I have in the Chamber, verified by their engineer, would not enable them to make a connection with the eastern division had it gone up the Republican Fork by fifty miles, although my honorable friend from Kansas told me when I said so before that I might as well say that it was fifty miles from Albany to Troy, that it was not fifteen miles. I say to him now that I have the sworn evidence on my desk of this company, laid down on the map by townships, showing that had the eastern division gone up the Republican Fork by the route which the central branch has taken, they could not have made their connection within their hundred miles by more than forty miles, and showing that by the law they could not have made it by more than sixty miles. As I speak in the presence of gentlemen who understand this matter, I wish to explain my last remark.

The extension was to be from St. Joseph, not to exceed one hundred miles. In place of extending it there they commenced at Atchison, twenty-one miles from St. Joseph, gaining twenty-one miles to start with, and then they ran one hundred miles from there, and the extension of those one hundred miles leaves them more than forty miles short of any connection with the eastern division, no matter where it had gone, unless it had defied mountains and clambered bluffs. And yet we are told that there is an equity which compels us to take up the central branch at the extension of their hundred miles, and build, in the first place, for them these forty miles of road which nobody pretends a subsidy was ever granted

for, and then carry it on indefinitely to the one hundredth degree.

I agree with the Senator from Ohio that when we pass this bill we confer upon the central branch, not the right, but the favor, in substance which they seek; we give them a connection with the main trunk, ultimately, of the Pacific railroad. But some Senator remarked, I think the Senator from Iowa, that they had already pushed their road west of Fort Riley. Very well, sir; if they have pushed their road west of Fort Riley, it will compel them, perhaps, to take up their iron, if they have actually laid it down, for a short space and turn their road down where, and where alone, it had a right to go, namely, to a connection with the eastern division at some point east of Fort Riley; and it is no answer to say that without authority of law, in derogation of the pledges and promises under which they received their hundred miles of subsidy, they have pointed their western terminus so far north and carried it so far beyond the meridian of Fort Riley that it has now become inconvenient for them to make the connection to which they are entitled. I therefore deny that any deflection of the eastern division at Fort Riley did change, or could change at all the rights of the central branch. The one hundred miles to which they were restricted carried them to a point east of Fort Riley, and could not, by any possibility, permit them to go west of it; and up to the point of Fort Riley nobody pretends that the location of the eastern division is anything excepting just what and where it should be.

In the second place, I concur with the Senator from Ohio that we do confer substantial benefit upon the Central Branch Pacific road by restoring to them virtually that very connection which they insist upon it they lost, which I deny that they have lost, because they did not embrace their opportunity to enjoy it; and it restores to them that connection which they say now they want, and therefore, and because this termination at Cheyenne Wells is recommended by the officers of the Army acquainted with the facts, and for the reasons I have already given, I am willing and glad to vote for it, hoping that it will be a solution of this whole question, and that when we have done it we shall not have seriously pressed upon us the proposition to give two and a half millions of money and nineteen hundred thousand acres of land to this other company, for which I am unable to see now the shadow of an equity; for which certainly there will be no pretext when we give them the connection which this bill proposes.

Mr. DRAKE. I do very earnestly hope that we shall not drift off into a discussion upon the bill with regard to the Central Branch Pacific railroad, which is not before us. Beyond all doubt, in the view taken by the Senator from New York, it was perfectly proper for him to state that matter; but I would deprecate, very respectfully, any pursuing of that line of debate, and would beg that we may have a vote upon the bill.

Mr. POMEROY. I desire to occupy only a moment to correct the statement of facts made by the Senator from New York. I will not delay the passage of the bill if the Senate desire to pass it. The Senator from New York seems to be troubled about the central branch on almost every occasion. It haunts him when he lies down and when he gets up. The fact is that the contract for the building of their road was made in July, 1865, for one hundred miles, instead of in 1866, as the Senator said.

Mr. CONKLING. I did not say anything about the contract; I simply referred to the letter from the Secretary of the Treasury, showing when the first twenty miles were completed.

Mr. POMEROY. In July, 1866, forty miles of iron were laid, and sixty miles were graded. The direction of this road is precisely on the parallel from Atchison to Pike's Peak, the first standard parallel by the surveyors commencing at Atchison, and running due west,

and instead of deflecting south, to go to Pike's Peak, they do not deflect south a township anywhere to reach Pike's Peak in a direct line.

Mr. CONKLING. Does the Senator mean to say that a line due west from Atchison would reach Pike's Peak without deflecting to the south?

Mr. POMEROY. Without deflecting a township, six miles. There is only one other point on which I desire to say a word. The connection to be made was to be made in the Republican valley. No one doubts that. Before the passage of the act there was a consideration urged here, and I urged it myself during the pendency of the bill, that there might be an early connection made in the Kansas valley, but in that I was voted down by a yea and nay vote, and one hundred miles of subsidy given to make connection in the valley of the Republican. If you count the townships from Atchison straight west you come to the Republican valley within two and a half townships from Atchison, but in building a road one hundred miles of road are not a hundred miles in a straight line. I said that a hundred miles in a straight line from Atchison by way of this road brought us within twelve or fifteen miles of the Republican valley. It is so in a straight line by counting the townships not in the bend of the Republican above where they now propose to go.

Mr. CONKLING. My statement was that from the western end of the Central branch as it is now, to a connection with the Republican fork was at least forty miles. The Senator told me that I was wrong about that, that I might as well say it was forty miles from Albany to Troy; that it was fifteen miles. Now, my statement is that the sworn map of this company which I have shows that it is over forty miles.

Mr. POMEROY. The Republican river branches off to the South, and where they now propose to construct it is further than in a straight line from Atchison. This is true; but what I said was that a hundred miles in a direct line west from Atchison brought us within twelve or fifteen miles of the valley, and it is a matter of fact about which there can be no dispute, because it is all laid down on the map.

But, sir, I will not occupy time. I only wish to say that this bill, independent of the claim of the Central branch, stands on its own merits, and ought to be voted upon on its own merits.

Mr. CONNESS and Mr. DRAKE. Let us vote.

The PRESIDING OFFICER. The amendment of the Senator from Missouri to the amendment of the committee has been agreed to, and the question now is on the amendment as amended.

Mr. MORGAN. I should like to hear it read.

The Chief Clerk read the amendment as amended, as follows:

SEC. 2. And be it further enacted, That the Union Pacific Railroad Company, eastern division, may mortgage that part of its road between the point where its subsidy in bonds shall terminate and Denver City, together with its rolling stock, to an amount not exceeding \$32,000 per mile, which point shall be held and construed under existing laws to be at or near Cheyenne Wells, in Colorado, not further west than the meridian of said wells; and the Denver Pacific Railway and Telegraph Company may mortgage its road and rolling stock to a like amount, for the purpose of enabling said companies to borrow money to construct their said roads.

Mr. MORGAN. I had hoped that we should not be called upon to vote any more subsidies at this session of Congress. There have been several bills presented for subsidies to railroads, and this is one of them. The Senate ought to understand that it is the entering wedge of a new line to California to be supported by the Government, and we ought to vote with that understanding. The distance to be built under this bill, fifty miles, is probably as much as can be constructed this year; but if we grant this aid now we shall be called upon at the next session of Congress to grant additional aid, because as long as Congress will grant the railroads will apply. It is much

more convenient and agreeable to the stockholders to have the Government build the roads than for them to advance the money from their own private fortunes. This is a bill granting near a million dollars, at least eight hundred thousand to this line. It is a new subsidy to that extent.

Mr. WILSON. I desire, Mr. President, to make a statement in regard to this question. All our difficulties on this subject grow out of the change two years ago that was made by our allowing this eastern division to go down to the Smoky Hill route. We have had a great deal of difficulty growing out of it. Now it is proposed, and I assented to the proposal, that this road shall go to Cheyenne Wells with a view of going to Denver, and not to the Pacific, and I support this bill with that understanding. I hold in my hand a protest of the president of the Atlantic and Pacific Railroad Company against allowing this road to diverge southward, and I shall vote for the report of the committee with the expectation, if there is any truth in men, that this eastern division company shall build their road to Denver, and that the Congress of the United States by this vote, instead of doing anything to carry this road to New Mexico or to the Pacific, gives a vote to the contrary of that. I vote with that understanding, and intend to be governed by it in the future. If there is to be another railroad to the Pacific, that railroad belongs to the south of this eastern division, and it should be some distance south of it. I shall vote for the bill with the understanding I have stated.

The amendment, as amended, was agreed to.

The next amendment reported by the Committee on the Pacific Railroad was to insert as an additional section:

SEC. 3. *And be it further enacted*, That this act shall not take effect and go into operation until the said Union Pacific Railway Company, eastern division, shall, by a vote of its directors, have given its consent to the same, and have filed a certificate to that effect under the corporate seal of said company, attested by its president and secretary, in the Department of the Interior. And the grant herein made to said Denver Pacific Railway and Telegraph Company are made upon condition that said company shall complete and put in operation its whole line of railroad and telegraph by the 1st day of January, A. D. 1870.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. HOWARD. I offer the following amendment as an additional section:

And be it further enacted, That nothing contained in the act of Congress approved July 3, 1866, relating to the Union Pacific railway, eastern division, shall deprive the Central Branch Union Pacific Railroad Company, assignee of the Hannibal and St. Joseph Railroad Company, of its right to continue its road and telegraph line westerly from the termination of the one hundred miles mentioned in the act of Congress incorporating the Union Pacific Railroad Company, approved July 1, 1862, to a connection with the Union Pacific Railroad Company, as one of the branches thereof; but said Central Branch Union Pacific Railroad Company shall continue its road westerly from the termination of the one hundred miles aforesaid to a connection with the Union Pacific railroad at the hundredth meridian of west longitude, upon the same terms and conditions, in all respects, as are now provided by law for the construction of the Union Pacific railroad. And in case said Central Branch Company shall deem it desirable, it may construct its road so as to connect with the Omaha branch of the Union Pacific railroad at any nearer point east of said meridian: *Provided*, That no subsidy in United States bonds shall be allowed to said Central Branch Company for any greater length of road than one hundred and fifty miles from the termination of the one hundred miles, on which bonds are already authorized to be issued on said line of railroad.

I will say for the information of the Senate that this amendment is the bill which has been before us before, and been repeatedly under discussion, for the benefit of the Central branch which has been spoken of. I offer it as an amendment to this bill in order to test the sense of the Senate upon the propriety of granting the relief which is asked for by the Central Branch Company. I do not wish to make it a subject of discussion further.

Mr. CONKLING. The Senator of course understands that it will be the subject of a very prolonged discussion. He cannot doubt that.

Mr. CONNESS. Let us vote on it.

Mr. SHERMAN. The Senator from Michigan has substantially in his hands the fate of the pending bill, which he knows has been fully considered and adjusted with a view to enable the eastern division to have a western terminus. It is manifest that this attempt to hitch on the central branch to this bill is a defeat of the bill, and any Senator here has it in his power to defeat both measures. My own impression is that the bill we have now perfected will enable the eastern division to go on without a subsidy beyond Cheyenne Wells and build their road to Denver, and thence to Cheyenne City; that it is a measure not only largely in the interest of the local community there, Colorado and New Mexico, but largely in the interest of the Government. Now, to put on this disputed proposition for a local road in no way connected with this, but rather disconnected from it, going in a different direction, is simply to defeat this bill about which I believe there is a general concurrence of sentiment. The Senator can, by pressing this amendment and raising a debate upon it, defeat the whole, and that will be the result. This is the last legislative day, and we must go into executive session within a few minutes. I hope the Senator will withdraw his amendment, because, if not, we might as well go into executive session at once, and let the whole thing go.

Mr. HOWARD. I certainly would not by any means embarrass the passage of the bill by the amendment which I have offered; much less would I defeat the passage of that bill; but I beg leave to say that if the Senate will come to an understanding that we shall have a vote upon the bill itself, which I have now offered as an amendment during the day, I shall be very happy to withdraw it. I think we ought to take a vote on that bill.

Mr. CONKLING. We cannot have any such understanding.

Mr. CONNESS, (to Mr. HOWARD.) Withdraw your amendment and try to bring up the bill itself.

Mr. STEWART. Several Senators will not vote for this proposition as an amendment who will vote for it as an original bill.

Mr. HOWARD. There seems to be an indisposition on the part of the Senate to entertain this amendment at present, and I withdraw it, with the understanding that the Senate will take up the bill for discussion if we have an opportunity during the day.

Mr. CONKLING. There can be no such understanding.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. MORGAN. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. CRAGIN. Before the vote is taken, I wish to state that on this question I am paired with the Senator from Vermont, Mr. EDMUNDS. He would vote against the bill and I for it.

Mr. DOOLITTLE. On this question I agreed to pair off with the honorable Senator from West Virginia, Mr. VAN WINKLE. He would vote for the bill and I against it.

Mr. SUMNER. On this vote I have paired with the Senator from Vermont, Mr. MORRILL, he being against the bill and I for it.

The question being taken by yeas and nays, resulted—yeas 32, nays 7; as follows:

YEAS—Messrs. Abbott, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Davis, Drake, Harlan, Harris, Henderson, Howard, Howe, Kellogg, McDonald, Nye, Rice, Ross, Sawyer, Sherman, Stewart, Thayer, Tipton, Trumbull, Wade, Welch, Wiley, Williams, Wilson, and Yates—32.

NAYS—Messrs. Anthony, Ferry, Fessenden, Frelinghuysen, McCreery, Morgan, and Patterson of Tennessee—7.

ABSENT—Messrs. Bayard, Buckalew, Cragin, Dixon, Doolittle, Edmunds, Fowler, Grimes, Hendricks, Morrill of Maine, Morrill of Vermont, Morton, Norton, Osborn, Patterson of New Hampshire, Pomeroy, Pool, Ramsey, Robertson, Saulsbury, Sprague, Sumner, Van Winkle, Vickers, and Whyte—25.

So the bill was passed.

SUSPENSION OF JOINT RULES.

Mr. WILSON submitted the following res-

olution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate, (the House of Representatives concurring,) That the sixteenth and seventeenth joint rules of the two Houses be suspended for the residue of the session.

The joint rules referred to are as follows:

"16. No bill that shall have passed one House shall be sent for concurrence to the other on either of the last three days of the session.

"17. No bill or resolution that shall have passed the House of Representatives and the Senate shall be presented to the President of the United States for his approval on the last day of the session."

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolutions of the Senate:

A joint resolution (S. R. No. 147) for the relief of Jonathan S. Turner;

A bill (S. No. 209) to incorporate "The Evening Star Newspaper Company";

A bill (S. No. 295) for the relief of Eliza Mascher, widow of John F. Mascher; and

A bill (S. No. 540) to regulate the sale of hay in the District of Columbia.

The message further announced that the House had passed the resolution of the Senate (S. R. No. 57) relative to lighting the streets of Washington city, District of Columbia, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the joint resolution (H. R. No. 358) authorizing the Secretary of War to furnish cannon to the Soldiers' Monument Association of Pequannock and Paterson, New Jersey; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 218) granting a pension of seventeen dollars per month to David Dubigg, of Lyndon, Vermont, father of late First Lieutenant Dennis Dubigg, of company M, first regiment Vermont artillery;

A bill (H. R. No. 256) granting a pension to George Truax, late a private in company H, first regiment Virginia volunteers;

A bill (H. R. No. 614) for the relief of Mrs. Alice A. Dryer;

A bill (H. R. No. 851) granting a pension to Ann Williams;

A bill (H. R. No. 886) for the relief of Mrs. Mary J. Trueman;

A bill (H. R. No. 945) to place the name of Ellen Curry, widow of James Curry, deceased, a private soldier in company F, thirty-ninth regiment Illinois volunteers, upon the pension-roll of the United States;

A bill (H. R. No. 991) for the relief of Zaddock T. Newman;

A bill (H. R. No. 1164) granting a pension to Margaret Davis;

A bill (H. R. No. 1165) granting a pension to Elizabeth Cassidy;

A bill (H. R. No. 1166) granting a pension to Louisa M. Williston;

A bill (H. R. No. 1167) granting a pension to Esther Graves;

A bill (H. R. No. 1168) granting a pension to Frederick Denning;

A bill (H. R. No. 1169) granting a pension to Joseph B. Rodden;

A bill (H. R. No. 1170) granting a pension to Eliza M. Matthews;

A bill (H. R. No. 1171) granting a pension to William F. Nelson;

A bill (H. R. No. 1172) granting a pension to Lucinda J. Letcher;

A bill (H. R. No. 1173) granting a pension to Julia A. Barton;

A bill (H. R. No. 1171) granting a pension to Julia Carroll;

A bill (H. R. No. 1175) granting a pension to Cornelia Peaslee;

A bill (H. R. No. 1176) granting a pension

to Mary Cover, widow of Samuel Cover, deceased, late a private in company G, sixty-fifth regiment Pennsylvania volunteers;

A bill (H. R. No. 1177) granting a pension to Malinda Ferguson, widow of James Ferguson, late a private in company C, first regiment Kentucky cavalry;

A bill (H. R. No. 1178) granting a pension to Mary Merchant, mother of Timothy H. Pittsford, deceased, late a private in company G, first regiment United States veteran engineer corps;

A bill (H. R. No. 1179) granting a pension to Mary A. Falardo, widow of Onesimus Falardo, deceased, late a private in company K, of the one hundred and twenty-fifth regiment of New York volunteers;

A bill (H. R. No. 1180) granting a pension to Phoebe McBride, mother of Thomas McBride, deceased, late a private in company B, of the eighty-seventh regiment of Illinois volunteers;

A bill (H. R. No. 1181) granting a pension to Harriet E. Shears, widow of John T. Shears, deceased, late a private in company H, of the fifty-seventh regiment of Illinois volunteer infantry;

A bill (H. R. No. 1182) granting a pension to William H. Blair, late a private in company G, of the twelfth regiment of Maine volunteers;

A bill (H. R. No. 1183) granting a pension to Christopher M. Cornmesser, late a private in the independent Iowa home guards;

A bill (H. R. No. 1220) granting a pension to Kate Higgins;

A bill (H. R. No. 1221) granting a pension to Sarah J. Rogers;

A bill (H. R. No. 1223) granting a pension to Margaret Filson;

A bill (H. R. No. 1224) granting a pension to Jane E. Rodgers;

A bill (H. R. No. 1225) granting a pension to Patrick Collins;

A bill (H. R. No. 1226) granting a pension to Barbara Weisse;

A bill (H. R. No. 1228) granting a pension to Joanna L. Shaw;

A bill (H. R. No. 1229) granting a pension to Anna H. Pratt;

A bill (H. R. No. 1230) granting a pension to Hannah K. Cook;

A bill (H. R. No. 1231) granting a pension to John Morley;

A bill (H. R. No. 1232) granting a pension to Ruth Barton;

A bill (H. R. No. 1233) granting a pension to W. F. Moses;

A bill (H. R. No. 1234) granting a pension to Frederica Brielmayer;

A bill (H. R. No. 1235) granting a pension to Joanna Connolly;

A bill (H. R. No. 1236) granting a pension to the minor children of Michael Travis;

A bill (H. R. No. 1237) granting a pension to the widow and children of James Cox;

A bill (H. R. No. 1238) granting a pension to Lavinia A. Gittings, mother of A. J. Gittings;

A bill (H. R. No. 1239) granting a pension to Owen Griffin;

A bill (H. R. No. 1240) granting a pension to Margaret Lewis;

A bill (H. R. No. 1241) granting a pension to Mrs. Mary Brown;

A bill (H. R. No. 1242) granting a pension to Esther Fisk;

A bill (H. R. No. 1243) granting a pension to William O. Dodge;

A bill (H. R. No. 1244) granting a pension to the widow of Solomon Gause;

A bill (H. R. No. 1245) granting a pension to Matthew C. Griswold;

A bill (H. R. No. 1246) granting a pension to the widow and minor children of Hiram Hitchcock;

A bill (H. R. No. 1247) granting a pension to Orlena Walters;

A bill (H. R. No. 1248) granting a pension to Elizabeth Richardson;

A bill (H. R. No. 1249) granting a pension to Margaret C. Long;

A bill (H. R. No. 1250) granting a pension to James Rooney;

A bill (H. R. No. 1251) granting a pension to Charles Hamstead;

A bill (H. R. No. 1252) granting a pension to the minor children of Garrett W. Freer;

A bill (H. R. No. 1253) granting a pension to Julia L. Doty;

A bill (H. R. No. 1254) granting a pension to Frances M. Webster;

A bill (H. R. No. 1263) granting a pension to Joseph A. Fry;

A bill (H. R. No. 1295) granting a pension to William J. Cotty, late of the twenty-first Missouri infantry volunteers;

A bill (H. R. No. 1315) for relief of S. Lea;

A bill (H. R. No. 1331) for the relief of Nancy Cook, of Tennessee;

A bill (H. R. No. 1332) for the relief of Barbara Stout, of Tennessee;

A bill (H. R. No. 1332½) granting a pension to Sarah E. Ball, widow of James Ball, deceased, late a fireman on the steamer Vidette, connected with the Burnside expedition;

A bill (H. R. No. 1333) granting a pension to Miss Ann E. Hamilton, of Alleghany City, Pennsylvania, aunt and adopted mother of James E. McKillip and Charles P. McKillip, deceased, late soldiers in Union Army;

A bill (H. R. No. 1384) granting a pension to Mrs. Elizabeth Lane, of Boston, Massachusetts, mother of John Lane, deceased, late a private in company A, twelfth regiment Massachusetts volunteers;

A bill (H. R. No. 1385) granting a pension to Rosinda McCabe, widow of Barney McCabe, deceased, late a private in company I, tenth regiment New York cavalry volunteers;

A bill (H. R. No. 1386) granting a pension to Hinman L. Hall;

A bill (H. R. No. 1387) granting a pension to Elizabeth G. Hibben, widow of Rev. Samuel Hibben, deceased, late a chaplain in the fourth cavalry regiment Illinois volunteers;

A bill (H. R. No. 1389) granting a pension to Eliza Donnelly, mother of Dudley Donnelly, deceased, late a colonel of the twenty-eighth regiment New York State volunteers;

A bill (H. R. No. 1390) granting a pension to Michael Reilly;

A bill (H. R. No. 1391) granting a pension to Jane McNaughton;

A bill (H. R. No. 1392) granting a pension to Chauncy D. Rose, father of Alvin J. Rose, late a sergeant veteran in company A, second regiment Ohio cavalry volunteers, who was killed in action at Five Forks, Virginia, April 1, 1865;

A bill (H. R. No. 1393) granting a pension to Hugo Eichholtz;

A bill (H. R. No. 1394) granting a pension to Daniel Sheets;

A bill (H. R. No. 1395) granting a pension to Esther C. C. Vangilder, widow of Charles F. Vangilder, deceased, late a private in company M, first regiment Vermont heavy artillery volunteers;

A bill (H. R. No. 1396) granting a pension to Stephen T. Carrer;

A bill (H. R. No. 1397) granting a pension to Prescott Y. Howland;

A bill (H. R. No. 1398) granting a pension to Martin Burke;

A bill (H. R. No. 1399) granting increased pension to William B. Edwards;

A bill (H. R. No. 1400) granting a pension to Jonathan H. Perry;

A bill (H. R. No. 1401) granting a pension to John La Marsh;

A bill (H. R. No. 1402) granting a pension to Catharine Skinner;

A bill (H. R. No. 1403) granting a pension to Helen L. Wolf;

A bill (H. R. No. 1404) granting a pension to William Smith;

A bill (H. R. No. 1405) granting a pension to Elizabeth Lamar;

A bill (H. R. No. 1406) granting a pension to Patrick Collins;

A bill (H. R. No. 1407) granting a pension to John Gridley;

A bill (H. R. No. 1408) granting a pension to Catherine Gensler;

A bill (H. R. No. 1409) granting a pension to Asa F. Holcomb;

A bill (H. R. No. 1410) granting back pension to the minor children of Joseph Berry;

A bill (H. R. No. 1411) granting a pension to Polly W. Cotton;

A bill (H. R. No. 1412) granting a pension to the children of William K. Silrey;

A bill (H. R. No. 1413) granting a pension to Jane Rook;

A bill (H. R. No. 1414) granting a pension to Sarah K. Johnson;

A bill (H. R. No. 1420) directing the Commissioner of Pensions to proceed to hear evidence and determine the right of W. H. Cox, deceased, late a sergeant in company F, second regiment Pennsylvania artillery, to a pension in the same manner as if he was still living, he having died of disease contracted while a prisoner of war at Andersonville, Georgia, and if found to be entitled to a pension, then same, from time of his discharge till death, to be paid over to his father, Charles D. Cox;

A bill (H. R. No. 1431) granting a pension to Emmelene H. Rudd, widow of the late Commodore Rudd, deceased;

A bill (H. R. No. 23) to protect the rights of actual settlers upon the public lands of the United States;

A bill (H. R. No. 39) authorizing the Commissioner of Internal Revenue to adjust the accounts of Mark Howard;

A joint resolution (H. R. No. 256) for the relief of Martha E. King;

A joint resolution (H. R. No. 323) in relation to surveys and examinations of rivers and harbors;

A joint resolution (H. R. No. 345) relative to printing specifications of patents; and

A bill (H. R. No. 1444) changing the ports of entry from Plymouth to Edenton, in North Carolina, and Port Royal to Beaufort, in South Carolina.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1451) for the relief of John H. Osler, of Guernsey county, Ohio, was read twice by its title, and referred to the Committee on Claims.

The bill (H. R. No. 1450) for the more speedy reorganization of the States of Virginia, Mississippi, and Texas, and for other purposes, was read twice by its title.

Mr. WILSON. I hope that bill will be put on its passage.

Mr. CONNESS. Not now.

Mr. STEWART. It is important that it should be passed.

Several Senators. Not now.

Mr. STEWART. Well, let it lie on the table without a reference.

The bill was ordered to lie on the table.

CENTRAL BRANCH PACIFIC RAILROAD.

Mr. HOWARD. I move now to take up Senate bill No. 256, relating to the Central Branch Pacific railroad.

Mr. CONNESS. I call for the unfinished business.

The PRESIDENT *pro tempore*. The question is on taking up the bill mentioned by the Senator from Michigan.

Mr. CONNESS. Is not the unfinished business in order unless it be set aside by a vote? I call for the unfinished business.

The PRESIDENT *pro tempore*. That does not supersede the motion to take up the other bill.

Mr. CONNESS. I desire to know whether the bill to which I have reference, the bill for the protection of American citizens abroad, does not come up in the natural order of things, and whether it does not require a vote to put it aside?

Mr. CONKLING. Certainly it does.

Mr. CONNESS. It is the regular order, and before the Senate, as I understand.

The PRESIDENT *pro tempore*. But a motion is made to supersede it and take up another bill.

Mr. CONNESS. It is the unfinished business, and has been lying over informally.

The PRESIDENT *pro tempore*. The motion of the Senator from Michigan is before the Senate.

Mr. CONKLING. The unfinished business was before the Senate half an hour ago and laid over.

The PRESIDENT *pro tempore*. Any Senator has a right to move to lay it aside and take up something else.

Mr. CONKLING. But the motion is not to put it aside. Let the Senator make that motion if he chooses.

Mr. HOWARD. I am very anxious to get up the bill relative to the central branch, and to get the sense of the Senate upon it.

Mr. CONNESS. I shall vote against the Senator if he takes this course.

Mr. HOWARD. I do not care about that. I move to take up Senate bill No. 256.

Mr. CONNESS. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. CONKLING. I wish to make one remark on this motion. The Senator from Michigan understands, of course, that I am not the only member of the body who wishes to submit remarks, somewhat at length, upon the central branch bill; and I say to the Senator that, reluctant as I am to occupy time at this stage of the session, if he persists in taking up the bill I shall feel at liberty to debate it without regard to the lateness of the session. Since it was up before I have examined the whole question very carefully, and before a vote is taken upon it I intend to put upon the record, and deliberately, my objections to it. Now, if the Senator thinks anything is to be gained on the last legislative day by taking up a bill which will certainly lead to a long discussion, and would lead to discussion even if I were to hold my peace, so be it. I submit to him that without advancing the bill it will simply fritter away the day.

Mr. HOWE. Do I understand the motion to be to postpone the unfinished business?

The PRESIDENT *pro tempore*. Certainly. To postpone the special order. The Senator from California calls for the special order—

Mr. CONNESS. Which is the unfinished business.

The PRESIDENT *pro tempore*. The Senator from Michigan moves to put that aside, and to take up Senate bill No. 256.

Mr. HOWE. I only wish to say that I shall vote against putting aside the unfinished business, but I do not understand that the bill alluded to by the Senator from California is the unfinished business.

Mr. CONNESS. It has been so decided by the Chair.

Mr. HOWE. We shall see about that.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan, to take up Senate bill No. 256.

Mr. CONNESS. I wish to say one word to the Senate before the vote is taken. For two weeks past I have urged the bill constituting the unfinished business on the attention of the Senate. We are now in the last day in this session. It is a subject I submit that we should legislate upon before we adjourn. There is no more discussion to be had upon it, the vote is simply to be taken, and I ask the Senate now not to put it aside, but to proceed to vote upon it.

Mr. HARLAN. I desire to make one remark. I have no doubt there will be time enough to dispose of this bill, and the bill to which the Senator from California refers, also. In relation to the remark of the Senator from New York I have this to say: I do not believe that his sense of propriety would permit him to attempt to fritter away the session unnecessarily. He, of course, will claim enough time to present his views clearly and fully. He has a right to that; and I have no doubt those who are in favor of the passage of the bill will listen patiently to all he has to say that may be said legitimately. I do not understand him

to intend to convey the idea that he will speak against time with a view of defeating the bill. If there is a majority of the Senate that believe, under all the circumstances, the bill ought to pass, of course they will vote to take it up; and if there is not such a majority they will vote against it. I hope the vote may be had on the merits of the bill according to the opinion of Senators. I have no personal interest in it myself. I think, however, the Government is under obligation to enable this company to make its connection according to the original design and according to the law under which it began to build. I hope the Senators will vote according to their understanding of the merits of the case.

Mr. HOWARD. The Senator from New York intimates that if this bill be taken up now the day will be frittered away in discussion. That is very possible; but I do not foresee it unless he sees fit to consume the whole day by discussing the bill himself. I beg to say to the Senator that as this bill has received quite thorough discussion heretofore, and as he has spent more time in that discussion, according to my recollection, than any other member of the body, the question will be addressed to his sense of public duty whether he will fritter away the time of the Senate on this last day of the session in speaking against time with a view to defeat this measure. That is all I have to say about that. I cannot be intimidated by any such remarks as fell from the lips of the Senator.

Mr. WILLIAMS. I have not made up my mind to vote against this bill; I am deliberating on that subject; but I shall vote against taking it up at this time, and I hope it will not be taken up. I think the other bill has precedence, and we ought to give it that position to which it is entitled.

Mr. FESSENDEN. I was informed this morning by a member of the other House—whether his judgment was correct or not I do not know—that there was a very strong probability that at the close of this day there would not be a quorum of the House left for business. It is perfectly obvious that the bill which we have passed this morning, if it goes to the other House, as it will now, will not be acted upon there; and there is no probability that if we have a discussion on this bill, and it goes to the House, it will be acted upon; and it is contrary to all precedent to take up on the last day of the session original Senate bills involving debate and considerations of great importance and send them to the House of Representatives. I think, therefore, this bill ought not to be taken up; but there is just as much propriety, in my judgment, in taking it up as there was in taking up the other bill and expending two hours upon it, and just as much to be accomplished by it. As the Senate seems disposed to use up the few remaining moments we have, which ought to be devoted to matters that can be disposed of, to bills to which there is no objection, and which are somewhat of a business character, such as that which is held at this moment by my friend from New Hampshire in his hands, and the executive business, I feel rather disposed to fall in with the sentiment of the Senate as exhibited this morning and vote to take up this bill. As we have spent a large portion of the day uselessly, in my judgment, I do not see why we should not go on in the same system, if that is agreeable to the Senate. I suppose there must be an understanding on the part of gentlemen that the result of that course will be to have an extra session of the Senate next week to dispose of executive business. That must be the inevitable consequence, and another consequence will be the defeat of a great many measures of more or less importance which could be passed if we would only act on them here and send them to the other House this morning. It is not a disagreeable thing for gentlemen like my friend from Iowa, who has a comfortable house here with his family nicely located, to stay another week or a fortnight. He probably will do so, whether Congress remains in session or

not. But for those who have been here eight months, and who would like to return home as soon as the time comes on Monday, it is disagreeable to spend this time on railroad bills that cannot come to a termination this session instead of devoting it to ordinary matters and to settling those things which can be finally acted upon and disposed of at this session.

Mr. FRELINGHUYSEN. I rise to call the attention of the Senate to an important bill, hoping that they will afford me an opportunity to call it up, not to antagonize it with either of these bills now. The Senate will remember that at the last session we passed the bankrupt law, which provided that after six months none should have the benefit of it unless they paid fifty per cent. of their debts and a majority of their creditors agreed to the discharge. The House of Representatives have passed a bill extending the period within which one may take the benefit of the bankrupt law without paying fifty per cent. until January next. The whole southern delegation are urging the passage of the bill as essential to the interests of that section of the country, because the people were unable for the want of the requisite funds to deposit to take the benefit of the law within the first six months. Most of those at the North who desired to take the benefit of it have already done so, so that it is really a measure for the relief of the South, and a most important measure. I state this to the Senate now, so that when a motion is made to adjourn or to go into executive session they will remember that the bill to which I have called attention will be presented, and I hope they will deal favorably with it.

The PRESIDENT *pro tempore*. The question is on taking up the bill mentioned by the Senator from Michigan, and upon that question the yeas and nays have been ordered.

Mr. ANTHONY. I believe there is a misapprehension as to a point of order, and perhaps I am responsible for it. I understand that last evening the Senate adjourned during the consideration of a bill which was in charge of the Senator from Wisconsin, [Mr. HOWE.] If so, I suppose that is the unfinished business which comes up as a matter of course. But it seems impossible to untie this knot, and I wish the Senate would cut it. I move that the Senate proceed to the consideration of executive business.

Mr. CONNESS. That is pending a call of the yeas and nays. Do not do that.

Mr. POMEROY. After the order to call the yeas and nays on the motion of the Senator from Michigan, the Senator from Rhode Island cannot make another motion until that has been decided.

Mr. ANTHONY. I believe it is the disposition of the Senate to remain here next week, and I therefore withdraw my motion. I submit to the wishes of a majority.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan, to take up Senate bill No. 256.

Mr. DOOLITTLE. I was inclined to favor the bill, but I think it useless to take it up now. I shall vote in the negative.

Mr. DRAKE. On all questions connected with this bill I am paired off with the honorable Senator from Vermont, [Mr. EDMUNDS.] If he were present he would vote against the bill and I for it.

Mr. SUMNER. On this question I am paired with the Senator from Vermont, [Mr. MORRILL.] I should vote for taking up the bill.

The question being taken by yeas and nays, resulted—yeas 16, nays 27; as follows:

YEAS—Messrs. Chandler, Ferry, Harlan, Hendricks, Howard, McDonald, Nye, Pomeroy, Ramsey, Thayer, Tipton, Van Winkle, Wade, Welch, Wilson, and Yates—16.

NAYS—Messrs. Abbott, Anthony, Cameron, Cattell, Cole, Conkling, Conness, Corbett, Davis, Doolittle, Fessenden, Frelinghuysen, Henderson, Howe, Kellogg, McCreery, Morgan, Patterson of New Hampshire, Patterson of Tennessee, Rice, Sawyer, Sherman, Sprague, Stewart, Trumbull, Whyte, and Williams—27.

ABSENT—Messrs. Bayard, Buckalew, Cragin, Dixon, Drake, Edmunds, Fowler, Grimes, Harris,

Morrill of Maine, Morrill of Vermont, Morton, Norton, Osborn, Pool, Robertson, Ross, Saulsbury, Sumner, Vickers, and Willey—21.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 472) supplementary to an act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security," with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H. R. No. 1453) for the relief of William Grant Powers, in which it requested the concurrence of the Senate.

APPEALS AND WRITS OF ERROR.

The Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 472) supplementary to an act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security."

Mr. CONKLING. The amendment need not be read. It is simply to add a provision as to corporations that passed the Senate in another bill. The House has put the two together. I move that the amendment be concurred in.

The motion was agreed to.

HOUSE BILLS REFERRED.

The bill (H. R. No. 1453) for the relief of William Grant Powers was read twice by its title, and referred to the Committee on the District of Columbia.

The joint resolution (H. R. No. 358) authorizing the Secretary of War to furnish cannon to Soldiers' Monument Association of Pequonock and Paterson, New Jersey, was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

RIGHTS OF CITIZENS ABROAD.

Mr. CONNESS. I move that the Senate proceed to the consideration of House bill No. 768, to protect the rights of American citizens abroad.

Mr. HOWE. Do I understand that this is a motion to postpone the regular order?

The PRESIDENT *pro tempore*. This is a motion to take up the unfinished business.

Mr. HOWE. The unfinished business, I suppose, is up. I understand the unfinished business to be the bill for the relief of O. N. Cutler. That is the bill which was pending last evening when the Senate went into executive session.

The PRESIDENT *pro tempore*. The Senator is correct; that is the unfinished business.

Mr. CONKLING. But that was taken up at last evening's session, which was specially for private business.

Mr. CONNESS. My motion is to supersede that, and take up for consideration House bill No. 768.

Mr. HOWE. Allow me to make a suggestion. I have no objection to the unfinished business being laid aside informally, if the Senator's bill can be voted upon right away.

The PRESIDENT *pro tempore*. The unfinished business will be laid aside informally, if there be no objection.

Mr. CONNESS. I see that the Senator from Massachusetts is trying to get the floor. There is evidently a disposition to put this bill aside by a motion to go into executive session. My friend from Massachusetts, I am sorry to say, is proposing to make it. I hope the Senate will be candid enough, and just enough, to give us a vote now on this measure.

Mr. CONKLING. There is to be no more debate, I suppose?

Mr. CONNESS. No.

The PRESIDENT *pro tempore*. There being no objection to the proposition of the Senator from California, the bill (H. R. No. 768) to protect the rights of American citizens in foreign States is before the Senate. The question is on concurring in the amendment made as in

Committee of the Whole, upon which question the yeas and nays have been ordered.

Mr. SUMNER. I beg pardon of the Chair; there have been several questions of detail since the bill came out of committee, and I wish to have the precise amendment reported.

The PRESIDENT *pro tempore*. The Chair is informed by the Chief Clerk that the question is on concurring in the amendment made as in Committee of the Whole, as it has been amended in the Senate.

Mr. SUMNER. I wish that that should be reported to the Senate in its precise condition, so that we shall know what we are voting on.

The PRESIDENT *pro tempore*. The amendment will be read.

The CHIEF CLERK. The amendment made as in Committee of the Whole, as amended in the Senate, is to strike out the third section of the bill after the enacting clause, and in lieu of the words stricken out to insert:

That whenever it shall be made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign Government, it shall be the duty of the President forthwith to demand of that Government the reasons for such imprisonment, and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused it shall be the duty of the President to use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate such release, and all the facts and proceedings relative thereto shall, as soon as practicable, be communicated by the President to Congress.

The question being taken by yeas and nays, resulted—yeas 30, nays 12; as follows:

YEAS—Messrs. Cameron, Cole, Conness, Corbett, Cragin, Drake, Harlan, Henderson, Hendricks, Howe, Kellogg, McCreery, McDonald, Morgan, Nye, Patterson of Tennessee, Ramsey, Rice, Ross, Sherman, Sprague, Stewart, Thayer, Tipton, Van Winkle, Welch, Whyte, Williams, Wilson, and Yates—30.

NAYS—Messrs. Anthony, Conkling, Ferry, Fessenden, Frelinghuysen, Howard, Patterson of New Hampshire, Pomeroy, Sawyer, Sumner, Trumbull, and Willey—12.

ABSENT—Messrs. Abbott, Bayard, Buckalew, Cattell, Chandler, Davis, Dixon, Doolittle, Edmunds, Fowler, Grimes, Harris, Morrill of Maine, Morrill of Vermont, Morton, Norton, Osborn, Pool, Robertson, Saulsbury, Vickers, and Wade—22.

So the amendment was concurred in.

Mr. FERRY. I move to strike out the first section of the bill. I do not want to discuss it.

The words proposed to be stricken out were read, as follows:

That any declaration, instruction, opinion, order, or decision of any officer of this Government which denies, restricts, impairs, or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this Government.

Mr. CONNESS. I hope it will not be done.

Mr. HOWARD. I hope it will be done. I do not see any necessity of enacting an abstract principle of that kind. The section is a prohibition against any officer of the Government of the United States expressing his opinions on a certain subject. I do not believe in such legislation.

Mr. CONNESS. I hope Senators will not strike out this section.

Mr. HOWARD. I call for the yeas and nays. The yeas and nays were ordered.

Mr. DRAKE. I would inquire of the Senator from Connecticut whether in moving to strike out the first section of the bill he intends to include the enacting clause?

Mr. FERRY. Of course not. My motion is to strike out all of the first section of the bill after the enacting clause. That leaves the practical part of the bill in the second and third sections sufficient for the purpose.

Mr. CONNESS. I hope it will be left as it is.

The question being taken by yeas and nays, resulted—yeas 9, nays 29; as follows:

YEAS—Messrs. Chandler, Ferry, Frelinghuysen, Howard, McCreery, Pomeroy, Sherman, Van Winkle, and Welch—9.

NAYS—Messrs. Cameron, Cole, Conkling, Conness, Corbett, Cragin, Doolittle, Drake, Harlan, Henderson, Hendricks, Howe, McDonald, Morgan, Nye, Patterson of Tennessee, Ramsey, Rice, Ross, Sawyer, Sprague, Sumner, Thayer, Tipton, Wade, Whyte, Willey, Williams, and Wilson—29.

ABSENT—Messrs. Abbott, Anthony, Bayard, Buckalew, Cattell, Davis, Dixon, Edmunds, Fessenden, Fowler, Grimes, Harris, Kellogg, Morrill of Maine, Morrill of Vermont, Morton, Norton, Osborn, Pat-

erson of New Hampshire, Pool, Robertson, Saulsbury, Stewart, Trumbull, Vickers, and Yates—23.

So the amendment was rejected.

Mr. SUMNER. The state of the question is this, as I understand it: the Senate has, by its vote, inserted the amendment of the Senator from Oregon as a substitute for the original third section. I now move that the third section be stricken out.

Mr. POMEROY. It was inserted not as a substitute for the original third section, but as a substitute for the amendment made in committee.

Mr. SUMNER. Now I move to strike out the third section.

Mr. CONNESS. That has just been inserted.

Mr. SUMNER. The amendment of the Senator from Oregon has been inserted as a substitute for the third section. That leaves the question behind as to whether there shall be a third section.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts, who moves to strike out the third section of the bill.

Mr. SUMNER. Precisely; as a substitute for the amended third section. Now, the question is which form of third section do the Senate prefer, or do they prefer any third section. I submit that the bill is in better shape if there is no third section.

Mr. HENDRICKS. I wish to inquire if the Senate has not agreed to the insertion of this section as amended?

Mr. CONNESS. Twice.

Mr. HENDRICKS. Then I raise the question of order that the motion to strike out is not in order, for that is simply another form of moving to reconsider.

Mr. SHERMAN. We can take the vote quicker than have the point of order decided.

Mr. HENDRICKS. Very well.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts, to strike out the third section of the bill.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment reported by the Committee on Foreign Relations, to strike out of the preamble the words "for the protection of which the Government of the United States was established."

Mr. CONNESS. I have no objection to that.

Mr. SUMNER. I suppose not.

The amendment was agreed to.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. HOWARD. On the passage of the bill I have one word to say. I am in favor of authorizing the Executive to intervene in all cases where American citizens have been arrested and unjustly detained by foreign Governments. That is one of the duties which are devolved upon him by the position which he holds. It is a power which ought to be carefully and vigilantly exercised, peacefully, quietly exercised; but I am not in favor of devolving upon the President the enormous power which is granted to him by the third section of this bill. That section authorizes him and commands him to do any act not amounting to war which he may deem necessary in order to secure the liberation of an American citizen. He may resort to a species of reprisals upon the foreign Government. He may resort to non-intercourse. There are various acts preliminary to a declaration of war, and which almost always in the history of nations lead to war, that he may do under this broad authority which we are now conferring upon him.

Sir, the Constitution of the United States places in the hands and in the discretion of Congress the whole of the war-making power, and it devolves upon the President of the United States no portion of that power, whether it be the preliminary steps ordinarily preced-

ing a war or the actual conduct of a war. Ours is a republican Government. The war-making authority is lodged in Congress; all the functions which can be performed by the Government of the United States growing out of legislation pertain to Congress; and although I conceive that Congress by such an act as this may lawfully and constitutionally commit this enormous discretion to the President, still it strikes me that it is a departure from those simple republican principles which lie at the foundation of our republican system, and underlie the Constitution itself. We are verging, I think, quite too rapidly toward a recognition of the one-man power in this great Republic, and it is time that we surveyed the position which we have taken. It is high time that we looked about us to see whether we are not diverging from that line of republican duty and republican principle which pertains to our Government.

I will never commit this dangerous discretion contemplated by this bill to any Executive; and although it is at the very heel of the session, when other business is extremely pressing upon us, I will not remain silent in my seat when such an authority as this is to be granted to the President of the United States. We know that Presidents are but frail mortals; the angels from heaven have not yet descended to occupy the presidential seat; and the destinies of the country are by this act placed in the hands of the Executive. He may be a wise man, he may be an unwise man, he may be a sound, philosophical, patriotic statesman, or he may be animated by selfish ambition and a desire to engage the country in war with foreign Governments. I would not give him that power, because under it he may in six weeks from the time it is bestowed upon him involve this country in a war with some of the foreign Powers of the earth. I cannot agree to it. I choose to keep this authority in the hands of Congress, and never permit it to be exercised even in this preliminary form without the consent of the law-making power of the Government, and I appeal to Senators to consider well whether they are not taking a step in this matter and setting a precedent which may in the end prove to be very dangerous and very destructive to the character of our national institutions.

I know that other business is so pressing that it is unkind in me further to occupy the time of the Senate on this subject, and I will therefore bring what I have to say to a close, with this remark: that we, as I think, owe no duty to Fenianism which can possibly justify the Congress of the United States in placing this enormous discretionary war-making power in the hands of Andrew Johnson, or any other President. I am willing to go as far as anybody in protecting American citizens abroad from injustice; but I am not willing to pervert the character of our own Government, in obsequiousness to this demand of the Fenian organizations, whose sole ambition is, and always has been, to involve the United States in a war with Great Britain on account of their cause. Sir, I am not afraid of war at home or abroad. I shrink from none of its responsibilities. When the cause is just and clear and honorable I would prosecute it at any expense to a successful termination. But I am unwilling that the Government of the United States should be drawn into an affiliation with a combination of men in whose real purposes our Government has really no interest, and can have very little sympathy. In saying this, I do not undertake to say that the Irish at home have not been oppressed by the British Government. That is a matter for the British Government and people, and it is not a matter in which the Government of the United States has a right to convert itself into an immense society of propagandism for the purpose of subserving the ambition and the claims of those persons.

Mr. FERRY. I am compelled by the course which the bill has taken to vote against it. The first section of the bill is in itself a merely

legislative declaration of an abstraction, and that abstraction an untruth; for it is not true that the judicial decisions of the tribunals of this country, from the foundation of the Government, declaring the law of perpetual allegiance to be a part of the law of this nation as well as of the nations of Europe, are inconsistent with the fundamental principles of republican government. It is not true that the denial of the right of expatriation, as it is termed, is inconsistent with the fundamental principles upon which this Government is founded. Nay, more, sir, it may be necessary again and again for the Government of the United States to prevent the exercise of the right or capacity of expatriation. Every act which you pass in time of war to prevent your citizens abandoning their country and freeing themselves from the obligation to defend it by seeking a foreign soil is an act directly opposite to the first section of the present bill. So that that section being first a mere declaration of an abstraction, and that being in itself untrue, if ever capable of any real purpose, capable only of an evil purpose at a period when the country is in danger, it ought not, in my judgment, to receive the sanction of the Senate.

Again, so far as this bill undertakes to change the law with respect to the right of expatriation, it is an effort to change the law of nations by a municipal statute. It is my opinion that in the progress of society the time has come when the civilized nations should agree with each other to give to their citizens the right to change their homes and transfer their allegiance at such periods as the necessities of the home defense do not make it necessary for their respective Governments to call every citizen or subject to that defense. It is time that the law of nations should be changed so far as the doctrine of perpetual allegiance is concerned, because there is only one way in which that change can be accomplished, and that is by the mode which is now being adopted among the civilized nations of the earth, by the exercise of the treaty-making power. I will permit, I will vote for treaties between this nation and all the civilized nations of the earth for the purpose of accomplishing this object. In this way, and in this way only, can the object be accomplished; and no declaration of the Government of the United States that it is an inherent and inalienable right of the individual man to expatriate himself can possibly affect the municipal laws of any of the countries of Europe or of the civilized nations of the earth. Attempting, therefore, to do by municipal statute that which is impossible to perform is simply launching what is an absurdity, and, in my judgment, in the enactment of this bill we are exposing ourselves simply to the contempt of the nations of the earth so far as we are attempting to change the law of nations, which is common to all civilized nations, by a mere municipal statute of our own. The amendment which I offered yesterday declaring it to be the duty of this Government to protect equally the naturalized and native-born citizen, and declaring it to be the duty of the executive department of this Government when the rights of any citizen, either native-born or naturalized, were infringed by a foreign Government to resist such infringement, and to afford full and adequate protection, is all which this Government can do, and all that is necessary in order to accomplish every honest purpose of this bill.

Because, therefore, the bill, in my judgment, in its first section is a declaration of that which is a political untruth; because in its subsequent sections it is an effort to change the law of nations by a municipal statute, and therefore impossible of accomplishing the result which it seeks to accomplish; because the very ends to which the bill is directed are now being rapidly accomplished by the treaty-making power, the only power which can secure a full accomplishment of those ends, I am compelled to vote against the enactment of this bill.

Mr. CONNESS. There is not a single word

the Senator has said that has not been fully replied to in this discussion already. Therefore I have nothing to say.

Mr. DOOLITTLE. I shall vote for this bill, although there are some of its provisions which do not fully accord with my judgment; and therefore, although I could have preferred different language in the third section, my objections to that section are not strong enough to compel me to withhold my vote for the bill, which I regard rather as a legislative declaration than anything else. With the object of the bill to secure the rights of our citizens, both native and naturalized, everywhere I most fully agree. In foreign countries those rights are to be secured either by diplomacy or by arms. With Germany we have already entered into a treaty by which those rights are secured; the native born and the naturalized citizen are placed upon a footing of equality. As I am credibly informed and believe the British Government are about, in the negotiations which are pending between that Government and our own, to accede to the American doctrine of the right of expatriation. I believe that it will all be accomplished, and accomplished by diplomacy.

While I agree to a certain extent with the Senator from Michigan, that we are by this act intrusting partially the war-making power to the Executive, I do not think that we transcend the Constitution as far as we go in this bill. If my own judgment had been consulted I should have preferred the language of the amendment offered by the Senator from Pennsylvania; still the language of the amendment offered by the Senator from Oregon is not so essentially different that I shall withhold my assent from the bill itself.

I felt called upon to say this much, because in the progress of legislating on this bill I have had occasion to vote against several amendments which have been offered from time to time.

The PRESIDENT *pro tempore*. The question is on the passage of the bill.

Mr. CONNESS. Give us the yeas and nays. ["No!" "No!"] I withdraw the demand.

Mr. DRAKE. I want the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 39, nays 5; as follows:

YEAS—Messrs. Abbott, Cattell, Cole, Conkling, Conness, Corbett, Cragin, Davis, Doolittle, Drake, Harlan, Harris, Henderson, Hendricks, Howe, Kellogg, McCreery, McDonald, Morgan, Nye, Osborn, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Rice, Sawyer, Sherman, Sprague, Stewart, Thayer, Tipton, Wade, Welch, Whyte, Wiley, Williams, Wilson, and Yates—39.

NAYS—Messrs. Ferry, Fessenden, Fowler, Howard, and Van Winkle—5.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cameron, Chandler, Dixon, Edmunds, Frelinghuysen, Grimes, Morrill of Maine, Morrill of Vermont, Morton, Norton, Pool, Robertson, Ross, Saulsbury, Sumner, Trumbull, and Vickers—20.

So the bill was passed.

AGRICULTURAL COLLEGES.

Mr. SAWYER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 176) extending the benefits of an act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, approved July 2, 1862, as amended by act of July 23, 1860, to States lately in rebellion; which was read twice by its title.

Mr. SAWYER. I ask the unanimous consent of the Senate to put the joint resolution on its passage.

Mr. POMEROY. I hope that resolution will be passed at once. It is simply extending the agricultural college law to these States as fast as they are reconstructed. The Committee on Public Lands have examined it.

Mr. HOWE. If it can pass without disturbing the unfinished business I shall not object.

Mr. POMEROY. I presume it will pass without any debate.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. The preamble recites that under the provisions of an act of

Congress approved July 2, 1862, entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," and under the provisions of an act of Congress approved July 23, 1866, entitled "An act to amend the fifth section of an act entitled 'An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts,' and approved July 2, 1862, so as to extend the time within which the provisions of said act shall be accepted and such colleges established," the several States and Territories became entitled, under certain conditions, to grants of land or land scrip; and that by a resolution of the Senate and the House of Representatives, approved March 29, 1867, the issue or delivery of the land scrip to any of the States lately in rebellion against the United States, except the State of Tennessee, was prohibited until those States should be fully restored to their rights as States by Congress; and that several of the States lately in rebellion have already been fully restored to their rights as States by Congress. The joint resolution, therefore, directs the issue of the land scrip to the States thus fully restored to their rights as States by Congress under the conditions and limitations prescribed in those acts; and the authority and direction herein contained is made to apply to States lately in rebellion, not yet fully restored to their rights as States by Congress, so soon as they shall be thus restored.

Mr. SHERMAN. If that resolution is to be passed I desire to move an amendment to the last clause. Some of that land scrip I am told has been issued, and the authority ought to be legalized for that which has already been issued. It was issued when the Senator from Iowa was Secretary of the Interior.

Mr. HARLAN. Yes, there was scrip issued to North Carolina, I think, but the delivery was suspended.

Mr. POMEROY. This would not allow any extra scrip.

Mr. SHERMAN. I wish simply to authorize and legalize that which has already been issued.

Mr. HARLAN. I would make this suggestion to the Senator: I am not sure but that scrip was issued in the name of the then Governor.

Mr. SHERMAN. I only know that complaints have been made that obstructions have been thrown in the way of its use.

Mr. POMEROY. I have been told that none was issued except to North Carolina, and after the passage of that amended act it was recalled. I am so informed by Mr. SAWYER, who has investigated the matter.

Mr. SHERMAN. I am told that innocent parties hold this land scrip, and in ignorance of the law have been taken in. It ought to be legalized. There is no objection to it, as a matter of course.

Mr. POMEROY. I have no objection to the amendment the Senator proposes.

Mr. SHERMAN. I move, then, to amend the joint resolution by adding the following:

And all such warrants already issued to either of said States are hereby legalized and declared to be a part of the share of such State.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

ORDER OF BUSINESS.

Mr. TRUMBULL. I ask the Senate to take up the resolution I offered the other day in regard to the compensation of the new Senators from the reconstructed States, and let it be disposed of in some way. I offer it in the interest of the Secretary of the Senate, that he may know how to settle their accounts. The resolution that I offered is in the form of the resolution adopted in reference to the Senators

from Tennessee some two or three years ago; but if the Senate prefer to adopt a different resolution I have nothing to say about it. I merely wish to get action upon it. I think it due to the Secretary that it should be acted on. I ask the unanimous consent of the Senate to let that resolution be acted upon.

Mr. HOWE. That resolution will lead to debate.

Mr. TRUMBULL. I shall not debate it.

Mr. HOWE. Debate was indicated very clearly the other day; and I prefer that the unfinished business should be disposed of unless the Senate will agree to lay that aside to dispose of a report of a committee of conference which is lying on the table.

The PRESIDENT *pro tempore*. The resolution mentioned by the Senator from Illinois being objected to goes over.

Mr. HOWE. I hope the Senate will proceed to the consideration of the unfinished business.

Mr. HENDRICKS. Allow me to call up a pension bill.

Mr. CONKLING. I ask the Senator from Wisconsin to allow me to call up a House bill reported from the Judiciary Committee with an amendment, which will lead to no debate I think, for the protection of officers in the war against certain suits, allowing the transfer of those suits.

Mr. HOWE. I would do so with all the pleasure in the world if the Senate would only allow me to dispose of that conference report which I attempted to get up yesterday.

Mr. CONKLING. That is a privileged matter, and this will lead to no debate.

Mr. HOWE. I have never been able to see the privilege.

Mr. PATTERSON, of New Hampshire. I hope the Senator will remember the touching appeal I made to him some time ago. [Laughter.]

REWARD FOR JEFFERSON DAVIS'S CAPTURE.

Mr. HOWE. I ask that the unfinished business be laid aside to dispose of that report of the conference committee.

There being no objection, the Senate proceeded to consider the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1277) to provide for the distribution of the reward offered by the President of the United States for the capture of Jefferson Davis, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from their first, second, third, and fourth amendments.

TIMOTHY O. HOWE,

HENRY WILSON,

Managers on the part of the Senate.

W. B. WASHBURN,

L. W. ROSS,

Managers on the part of the House.

The PRESIDENT *pro tempore*. The question is on concurring in the report.

Mr. HARLAN. I desire to know what those amendments are.

Mr. HOWARD. I have a word to say on agreeing to that report.

Mr. HARLAN. I desire to know what those amendments are.

Mr. HOWARD. I will state them.

Mr. President, a bill recently passed the House of Representatives distributing the reward offered by the President of the United States under his proclamation of May 2, 1863, offering the sum of \$100,000 for the arrest of Jefferson Davis. It is well known that the actual arrest of Davis was by Colonel Pritchard, lieutenant colonel of the fourth Michigan cavalry, then on service in Georgia. Colonel Pritchard, with a small command of one hundred and twenty-eight men and seven officers, surrounded the camp of Davis before daylight on the morning of the 10th of May, 1865, and had him in his possession. He made the arrest, capturing Davis and his suite, all of whom he conducted back to Macon, which was the place whence he started on his march, and from Macon to Fortress Monroe. The reward offered under the proclamation of the 2d of May was never known either to Pritchard or any of his command, or to Major General

Wilson, who was the cavalry commander in that department, nor to Colonel Harnden, who commanded the Wisconsin regiment, until some days after the arrest of Davis. The actual arrest, as I have remarked, was made by Colonel Pritchard and his one hundred and twenty-eight men of the fourth Michigan cavalry.

The Secretary of War, during the year 1865, instituted a military commission, consisting of the Adjutant General of the Army and of the Judge Advocate General of the Army, to whom he referred the duty of deciding what would be a proper distribution of the reward thus offered by the President. That commission reported during the next year, early, I think, in 1866, perhaps in the fall of 1865, that the whole of this reward was justly due to Colonel Pritchard of the fourth Michigan cavalry, and to his regiment, who were acting with him for the purpose of arresting Davis. The sum of \$10,000 was awarded to Colonel Pritchard under the finding of the commission.

In 1866 a bill was introduced into the House of Representatives for carrying out the award thus made by the military commission. It passed the House of Representatives, granting to Colonel Pritchard \$10,000, and to his men the balance of the sum offered, distributed to them according to the law of prize. That bill having passed the House came into the Senate, and being connected with some other provisions, and being called up here for discussion, as it was likely to lead to a protracted discussion I gave my consent that that portion of the bill which distributed the award to Pritchard and his men might be stricken out, with a view to pass the remainder of the bill, the claimants under the remainder of the bill being very pressing for their money and standing in need of it. Those claimants were those who captured Booth and his confederates.

Afterward, and during the present session of Congress, the bill now under consideration was introduced into the House of Representatives, giving to Colonel Pritchard only \$3,000, and to his men a proportional amount; giving to Major General Wilson, who commanded the troops in Georgia, the sum of \$3,000, and to Colonel Harnden, of the first Wisconsin cavalry, \$3,000, and to his men a proportional amount. The bill was referred by the Senate to the Committee on Claims, who took it under consideration and reported it back to the Senate with an amendment. By that amendment the award to General Wilson of \$3,000 was stricken out and \$1,000 of it given to Colonel Pritchard, \$1,000 of it to Colonel Harnden, and \$1,000 to Captain Yeoman, who was from Ohio.

The question now before the Senate is this: whether, under the circumstances of the case, it is just and fair to the men who made the actual capture of Jeff. Davis that General Wilson should receive this sum of \$3,000. I think upon principle, in the first place, if it were an original question upon which it was proper for the Senate to pass, that no person was justly entitled to the reward offered by the President of the United States for the arrest of Davis; first, for the reason that that reward did not instigate any exertion on the part of the real captors of Davis to proceed to capture him; and secondly, that all these men were in the employment of the Government, and it was their duty as military men, whether officers or soldiers, to seek for Davis and for the other chiefs of the confederacy, and to make them prisoners wherever they could be found. But it seems to have been the inclination both of the War Department and of Congress to distribute this sum of \$100,000 to somebody, and the House have agreed by their bill to give General Wilson \$3,000 of this award. Now, sir, I object to it.

At the time of the capture of Davis, General Wilson had his headquarters at Macon, Georgia. He knew the exact state of things as early as the 27th of April, for on that day he received a telegram in cipher from General Sherman informing him that Johnston had surrendered

his forces and that the rebellion was really at an end in this part of the country. He knew, therefore, that the chiefs of the rebellion would be endeavoring to make their escape out of the country, and it was his duty as a good officer, and nobody doubts that he is a good and gallant officer, to use every means in his power to anticipate the flight of the rebel chiefs, who were making their way, as was supposed, across the country toward the Mississippi river. It was a moment when ordinary prudence, mere ordinary care would have suggested to the mind of every military officer that every avenue of escape should be watched and guarded, in order that the chiefs of the rebellion might be arrested and made prisoners before escaping from the country. I say that on the part of General Wilson there was no extraordinary effort at all. He simply did his duty; and the question now before the Senate is whether we will reward a military officer holding the commission of major general, and receiving the liberal pay which we gave to our major generals, with a portion of this *douceur*, which was intended by the President of the United States to be given to the person who ever he might be or the persons whoever they might be who actually made the arrest.

Now, sir, General Wilson, in the statement which he makes, dated at Davenport, Iowa, January 17, 1867, states his position very plainly and clearly. He says:

"The situation of my command was peculiar. Originally organized as a corps under General Sherman, the commanding general of the military division of the Mississippi, and not having been transferred, it still formed a legitimate part of his command wherever he might be. General Sherman with the main body of his army was at that time in North Carolina, moving northward. Before leaving North Carolina he had instructed me to report with my entire corps, except Kilpatrick's division, to Major General George H. Thomas, to assist in the operations against Hood. It was the intention of General Sherman, however, as developed in frequent conversations with me while lying at Galesville, Alabama, in October, 1864, that as soon as Hood could be disposed of and my command could be reorganized and remounted I should gather together every man and horse that could be made fit for service and march through the richer parts of Alabama and Georgia, for the purpose of destroying the railroad communications and supplies of the rebels, and bringing my command into the theater of operations toward which all our great armies were moving.

"In the campaign terminating at Macon I had actually moved under the direct instructions of General Thomas, but with the indirect latitude of an independent commander," transmitted through him from General Grant in person. I found myself cut off from all communication with these generals, but liable to receive orders from either or all of them, and from the Secretary of War in addition. My first duty was clearly to take care of the public interests and to reconcile orders afterward, should they come in conflicting terms from different directions.

"In anticipation of a final break up of the rebel forces, I had already determined to keep a sharp lookout for Davis and the leading rebel authorities. As soon as I became satisfied, by reliable instructions from General Sherman, that he had actually concluded an armistice, and intended it to apply to my command, I felt bound to observe it, but only upon the condition that the rebels should also comply with its provisions in equal good faith. One of those provisions was that neither party should make any changes in the station of troops during the continuance of the armistice. My command while remaining in camp was therefore kept on the alert, and ready to move in any direction. Having heard from citizens, however, that Davis was making his way toward the South with an escort, I directed my command to take possession of the railroads, and to send scouts in all directions in order that I might receive timely notice of the rebel movements. The armistice was declared null and void by the President, but at least one day before I had been advised of this through General Thomas and General Gillmore, I received from General Sherman a cypher dispatch informing me of the formal termination of hostilities by the surrender of General Johnston and all the forces under his command east of the Chattahoochee. This was on the 27th day of April."

Mr. POMEROY. I hope the Senator will let us vote on this. This is the last day of the session.

Mr. HOWARD. I have but a few more words to say. I cannot permit this subject to pass by without stating the just claims of the fourth Michigan cavalry, and without bringing, so far as is reasonable, into clear contrast the position taken by General Wilson. He was simply acting in the line of his duty under instructions from General Sherman and General Grant. It was his duty to guard every passage, every avenue of escape, and he did so

with most commendable vigilance and activity, I agree; but the question for the Senate is whether General Wilson, holding that high position and charged with those high responsibilities, as a soldier, has not been sufficiently rewarded by the reputation which he has gained, the glory which he has achieved, and which will forever brighten his brow, whether he has not gained enough in this way to satisfy his claims upon the Government. I insist that by making himself a claimant and coming in for a small pittance of this reward which was offered to the real captors of Jeff. Davis he is not pursuing precisely the course which a high sense of delicacy would dictate to a high officer of the Army. I prefer, therefore, that the bill should pass as it was reported from the Committee on Claims of the Senate, and that the \$3,000 which the House has given to General Wilson should be given, \$1,000 to Colonel Pritchard, \$1,000 to Colonel Harnden, of the first Wisconsin, and \$1,000 to Captain Yeoman, of the Ohio volunteers, in reward for their especial activity, vigilance, fatigues, and labors in about the arrest of Davis; and I submit to the Senate that this is doing nothing more than simple justice to those gallant officers.

Mr. President, if I have consumed the time of the Senate on this question, I hope they will pardon me. It will occur to every Senator that the officers and men of the fourth Michigan cavalry have some sensibility about this, and I think their feelings ought not to be trifled with, and I think this \$3,000 ought to be distributed to their commander, the commander of the first Wisconsin cavalry, and also to Captain Yeoman, of Ohio.

The PRESIDENT *pro tempore*. The question is on agreeing to the report of the committee of conference.

The report was concurred in.

REMOVAL OF POLITICAL DISABILITIES.

Mr. KELLOGG. I desire to take up House bill No. 1446 from the table. I wish to offer an amendment to it, and then put it upon its passage. It will take but a moment. It is the bill to remove political disabilities from Michael Hahn and other citizens.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1446) to relieve from legal and political disabilities Simeon Corley, John Milledge, and Michael Hahn, the pending question being on the amendment of Mr. BUCKALEW, to insert after "Louisiana," in the sixth line, "and John Young Brown, of Kentucky."

The amendment was agreed to.

Mr. KELLOGG. I move to amend the bill by inserting after the word "Louisiana," in the sixth line, the following:

James Riskey, of Morehouse parish, Louisiana; William C. Carr, of Union parish, Louisiana; John L. Barrett, of Union parish, Louisiana; Richard H. Cuney, of East Baton Rouge, Louisiana; Robert Ray, of New Orleans, Louisiana; Andrew T. Stone, of Rocky Comfort, Arkansas; Riley B. Archer, of Arkansas; James A. Hicks, of Arkansas; Rufus L. Archer, of Arkansas; Z. C. Ross, of Arkansas; George W. Christy, of New Orleans, Louisiana, and W. F. Richardson, Union county, Arkansas.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

On motion of Mr. STEWART, the title of the bill was amended so as to read: "A bill to relieve from legal and political disabilities certain persons engaged in the late rebellion."

Subsequently,

Mr. STEWART said: I desire to move a reconsideration of House bill No. 1446, the bill removing political disabilities. I was not aware that an amendment had been made inserting the name of John Young Brown. That will undoubtedly create trouble in the House and may defeat the bill. I therefore move a reconsideration with a view of leaving out that name.

The PRESIDENT *pro tempore*. That may

be done by unanimous consent without a reconsideration.

Mr. STEWART. Then I ask that by common consent that name be left out.

The PRESIDENT *pro tempore*. Is there any objection to that course? No objection being made it will be so ordered.

STATIONERY FOR INTERIOR DEPARTMENT.

Mr. PATTERSON, of New Hampshire. I move to take up Senate joint resolution No. 175. It is very important that it should pass, and it will lead to no discussion.

The motion was agreed to; and the joint resolution (S. R. No. 175) relative to the recent contract for stationery for the Department of the Interior was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to annul and cancel the contract made by him with Messrs. Dempsey & O'Toole for supplying the Department of the Interior and the several bureaus and offices thereof with stationery for the fiscal year ending June 30, 1869, (under the advertisement issued May 25, 1868,) and to enter into a contract for the articles mentioned in the advertisement with Blanchard & Mohun, the latter being the lowest and best bidder therefor.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

AMENDMENT OF BANKRUPT LAW.

Mr. FRELINGHUYSEN. I move to take up House bill No. 1021, the bill to which I referred this morning. It will take but a minute.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1021) in amendment of an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867. It provides that the provisions of the second clause of the thirty-third section of the bankrupt act shall not apply to the cases of proceedings in bankruptcy commenced prior to the 1st of January, 1869, and it extends the time during which the operation of the provisions of the clause is postponed until the 1st of January, 1869. And it proposes to amend the clause so as to read as follows:

In all proceedings in bankruptcy commenced after the 1st day of January, 1869, no discharge shall be granted to a debtor whose assets shall not be equal to fifty per cent of the claims proved against his estate upon which he shall be liable as the principal debtor, unless the assent in writing of a majority in number and value of his creditors to whom he shall have become liable as principal debtor, and who shall have proved their claims, be filed in the case at or before the time of the hearing of the application for discharge.

The bill proposes further to amend the act as follows: the phrase "presented or defended" in the fourteenth section of the act is to read "prosecuted or defended;" the phrase "non-resident debtors," in line five, section twenty-two, of the act as printed in the Statutes-at-Large, is to read "non-resident creditors;" the word "or," in the next to the last line of the thirty-ninth section of the act, is to read "and;" the phrase "section thirteen," in the forty-second section of the act, is to read "section eleven;" the phrase "or spends any part thereof in gaming," in the forty-fourth section of the act, is to read "or shall spend any part thereof in gaming;" and the words "with the senior register, or" and the phrase "to be delivered to the register," in the forty-seventh section of the act, are to be stricken out. Registers in bankruptcy are to have power to administer oaths in all cases and in relation to all matters in which oaths may be administered by commissioners of the circuit courts of the United States, and such commissioners may take proof of debts in bankruptcy in all cases, subject to the revision of such proof by the register and by the court according to the provisions of the act.

Mr. SPRAGUE. When this bill was first agitated there were remonstrances sent to the

Committee on the Judiciary, and the understanding was that that committee was to delay reporting favorably upon this bill. It is manifestly unjust and unfair toward the people who are adverse to this measure that it should be reported here at this late period of the session. I think it ought not to pass until it has consideration and the remonstrants have had some opportunity to express themselves and be heard. They were informed by the committee, or through those representing the committee, that this bill would not be agitated at this session.

Mr. CRAGIN. I move to amend the first section—

Mr. FESSENDEN and others. Oh, no; let it go.

Mr. CRAGIN. I move to amend by adding this proviso:

Provided, That the provisions of this act shall only apply to the States lately in rebellion.

I am opposed to extending the time in the States where the law has been in full operation.

Several SENATORS. Let it pass without amendment.

Mr. CRAGIN. I withdraw the amendment.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EXECUTIVE EXPENSES.

Mr. MORRILL, of Maine. The Committee on Appropriations, to whom was referred the bill (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869, have instructed me to report it back with two amendments. It is a very short bill, and I ask the unanimous consent of the Senate to consider it at the present moment.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates \$20,200 for the employment of temporary clerks in the Indian Bureau, to be employed at the following rates: one clerk at \$1,600, six clerks at \$1,400 each, seven clerks at \$1,200 each, and two female copyists at \$900 each. It also appropriates \$9,000 for the employment of temporary clerks in the State Department, who are to receive a compensation of \$1,200 each per annum. It further appropriates \$9,000, or so much thereof as may be necessary, to pay the salary, office expenses, and clerk hire of the surveyor general of Utah Territory, in accordance with the provisions of the act of July 16, 1868.

The first amendment of the Committee on Appropriations was to insert as an additional section the following:

And be it further enacted, That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Henry B. Ste. Marie, the sum of \$10,000 for services and information in the arrest of John H. Surratt in the kingdom of Italy, charged with the crimes of conspiracy and murder; and the joint resolution for the relief of Henry B. Ste. Marie, approved July 20, 1865, be, and the same is hereby, repealed.

Mr. MORRILL, of Maine. That has passed both Houses in another form.

Mr. SUMNER. That is right.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

And be it further enacted, That there be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$5,000, under the direction of the Commissioner of Public Buildings and Grounds, for the purpose of building an arched roadway over Tiber Creek on North Capitol street leading to the Government Printing Office: Provided, The city of Washington will appropriate a sufficient additional amount to complete it.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

DEFENSE OF OFFICERS AGAINST SUITS.

Mr. CONKLING. I move to take up House bill No. 1131, with a view of concurring in an amendment reported by the Committee on the Judiciary and sending it back to the House.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1131) regulating judicial proceedings in certain cases for the protection of officers and agents of the Government, and for the better defense of the Treasury against unlawful claims. It provides that all the provisions of section eight of the act of July 28, 1866, entitled "An act to protect the revenue, and for other purposes," and the forms and modes by that section and the twelfth section of the act of March 3, 1863, therein referred to, prescribed for prosecuting suits, withholding executions, and paying judgments against officers of the United States, or other persons engaged in executing the acts relative to captured and abandoned property, shall extend and be applied to all suits and proceedings (except those in behalf of the United States) which have been brought, or may hereafter be brought, against any officer or agent of the Government, civil or military, for acts done during the rebellion while acting by virtue or under color of his office or employment; and every defendant in such suit or proceeding having made full defense thereto, and having notified the Attorney General of the United States to appear and defend the same, is to be entitled to the full benefit and protection provided in that section for officers and agents of the Government engaged in the collection of the public revenue; and any defendant being aggrieved by any order or direction, certificate, ruling, or judgment of any court made or had in any such proceeding, may except thereto and appeal therefrom to the Supreme Court of the United States, and have the questions arising there heard and determined.

No action or suit is to be maintained in any court of the United States, or of any State thereof, in the name or in the behalf or interest of any alien against the United States, or any person for or on account of any act done or omitted to be done by such person as an officer or agent of the United States in the administration of the act of Congress entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," approved March 12, 1863, or of the act of Congress entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July 2, 1864, or in virtue or under color of those acts of Congress, or any other acts of Congress relative to the insurrectionary States, or to person or property therein, and to any action or suit which may have been heretofore, or shall hereafter be instituted by any alien against the United States, or any such person, on account of any act done or omitted to be done the defendant may and shall plead or allege in bar thereof that such act was done or omitted to be done in the administration of one of those acts of Congress, or in virtue or under color thereof, and such plea or allegation, if the fact be sustained by the proof, is to be, and shall be deemed and adjudged in law to be, a complete and conclusive bar to any such suit or action; but this section is not to be construed so as to deprive aliens who are citizens or subjects of any Government which accords to citizens of the United States the right to prosecute claims against such Government in its courts, of the privilege of prosecuting claims against the United States in the Court of Claims as now provided by law. It is declared to have been the true intent and meaning of the act approved March 12, 1863, entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," that the remedy given in cases of seizure made under the act, by preferring claim in the Court of Claims, should be exclusive, precluding the owner of any property taken by agents of the Treasury Department as abandoned or captured property in virtue

or under color of the act from suit at common law, or any other mode of redress whatever, before any court or tribunal other than the Court of Claims; and in all cases in which suits of trespass, replevin, detinue, or any other form of action may have been brought and are now pending, or shall hereafter be brought against any person for or on account of private property taken by such person as an officer or agent of the United States, in virtue or under color of that act, or the act approved July 2, 1864, entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," the defendant may and shall plead or allege in bar thereof that such act was done or omitted to be done by him as an officer or agent of the United States in the administration of one of those acts of Congress, or in virtue or under color thereof, and such plea or allegation, if the fact be sustained by the proof is to be, and shall be deemed and adjudged in law to be, a complete and conclusive bar to any such suit or action.

The Committee on the Judiciary reported an amendment, to insert at the end of the bill the following:

Provided, That no judgment recovered in accordance with this act shall be paid by the United States unless the amount received by the defendant as the proceeds of the transaction which was the foundation of the suit shall have been paid into the Treasury, except upon an appropriation duly made therefor after a full examination of the claim upon its merits.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. The bill was read the third time.

Mr. DAVIS. I rise simply to express my opposition to the bill. It is not my purpose to make any speech against it, nor to make a solitary remark against its passage, but simply to express my utter opposition to the passage of any such measure.

Mr. HENDRICKS. I have not been able to satisfy my judgment that this bill ought to pass. I do not expect at this stage of the session to make any special opposition to the bill. I tried to see its merits in the Committee on the Judiciary, but was not able to do so. How far it would go, how much may it involve, I cannot undertake to say now, but I think it is not a safe bill to pass.

The bill was passed.

ORDER OF BUSINESS.

Mr. SUMNER. I now move to take up Senate bill No. 644.

The PRESIDENT *pro tempore*. If there be no objection, the bill indicated by the Senator from Massachusetts will be taken up.

Mr. HENDRICKS. I wish to move to take up the bill granting a pension to Mrs. Hackleman.

Mr. SUMNER. Let this bill be acted on first. It will not take a minute.

Mr. HENDRICKS. I ask to take up a bill which I have tried to take up ever since my colleague left, and which he was seeking to have considered when he did leave, for the relief of Mrs. Hackleman, the widow of General Hackleman, to grant her a pension, and I ask its consideration now. It has been utterly impossible for me to get the floor; the Senator has occupied the floor to the extent of my observation about half the time. I think it but reasonable that some of the rest of us should have an opportunity occasionally to get up a bill.

Mr. SHERMAN. I desire to submit a privileged motion, one which must be adopted if we intend to close without an extra session. It is impossible to pass all the bills that Senators have in charge. I move that the Senate proceed to the consideration of executive business. We have scarcely time left now to finish that business.

Mr. HENDRICKS. Let me pass this bill.

Mr. SHERMAN. There are others equally pressing.

Mr. SUMNER. The little bill I have got here will take but a moment.

Mr. SHERMAN. Every Senator has a bill that he wants passed. I insist upon my motion for an executive session.

The motion was agreed to.

LIGHTING OF WASHINGTON.

Mr. HENDRICKS. While the doors are being closed, I move to take up the bill for the relief of Mrs. Hackleman.

Mr. HARLAN. I understand that there is a proposition here from the House in relation to lighting the avenue. The House have amended a Senate joint resolution on that subject, and I hope it will be acted on at once.

The PRESIDENT *pro tempore*. Will the Senate take up the bill mentioned by the Senator from Indiana? Is there any objection?

Mr. FESSENDEN. I object to taking up any bill of any kind whatever.

The PRESIDENT *pro tempore*. Objection being made, it cannot be considered.

Mr. FESSENDEN. I did not make the objection with reference to the particular bill of the Senator from Indiana, but to any business except that which was executive business according to the direction of the Senate.

Mr. HARLAN. I will state to the Senator from Maine that Congress has refused to pay for lighting the avenues this year, and the House has amended an old Senate resolution so as to authorize a tax to be levied on the property to pay for the lighting. That ought to be acted on at once.

Mr. FESSENDEN. I cannot consent, because it would appear to be invidious toward my friend from Indiana. My objection was not to taking up his bill, but any bill.

Mr. HARLAN. I move, then, that the doors be considered open for the purpose of considering the amendment of the House to Senate joint resolution No. 57.

Mr. SHERMAN. I hope not.

Mr. HARLAN. I am sure Senators do not want to leave this city in darkness.

Mr. FESSENDEN. The House chose to leave it in darkness.

Mr. HARLAN. We may not choose to agree with them.

Mr. FESSENDEN. We have done so.

Mr. HARLAN. But they have sent us an amendment to a Senate resolution on the subject.

Mr. FESSENDEN. They struck out of an appropriation bill the appropriation for this purpose. They have decided it.

Mr. HARLAN. It seems to me to be a hardship if the United States will neither light the streets in this city nor allow the people to light them out of their own pockets.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the joint resolution (S. R. No. 57) relative to lighting the streets of Washington, District of Columbia.

Mr. HARLAN. I move to amend the amendment by striking out all of the second section of the amendment after the enacting clause and inserting:

That the mayor and city councils of the city of Washington be, and they are hereby, authorized to contract with the Washington Gas-Light Company for the term of one year, and so from year to year until otherwise provided by law, at such rates as may be agreed upon not exceeding the maximum now fixed by law, for all the illuminating gas required for the avenue and street lamps and public offices of the city and public grounds under the control of said city.

The amendment was agreed to.

The amendment of the House, as amended, was concurred in.

EXECUTIVE SESSION.

The PRESIDENT *pro tempore*. The Senate will now proceed to the consideration of executive business.

The doors were closed, and after some time

spent in executive session, the doors were reopened.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1452) to repeal section one hundred and thirty-six of the act of June 30, 1864, entitled "An act to provide ways and means to support the Government, and for other purposes."

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1869;

A bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867;

A bill (H. R. No. 1205) to further amend the postal laws; and

A bill (H. R. No. 1275) relating to the Alexandria canal.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in obedience to law, the report of the board of naval officers appointed to select suitable locations for powder magazines; which was ordered to lie on the table, and be printed.

BILLS INTRODUCED.

Mr. KELLOGG asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 646) to guaranty the payment of certain bonds to be issued under the authority of the government of the State of Louisiana for the purpose of building and repairing levees in said State; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 177) to extend the provisions of the act of July 4, 1864, limiting the jurisdiction of the Court of Claims to loyal citizens of the State of Louisiana; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

LEVEES ON THE LOWER MISSISSIPPI.

Mr. HARRIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of taking measures by the General Government to rebuild the levees upon the lower Mississippi river which were destroyed during the late war; and that the said committee have leave to report at the next session of Congress by bill or otherwise.

HOUSE BILL REFERRED.

The bill (H. R. No. 1452) to repeal section one hundred and thirty-six of the act of June 30, 1864, entitled "An act to provide ways and means to support the Government, and for other purposes," was read twice by its title, and referred to the Committee on Finance.

PRESIDENTIAL APPROVAL OF BILLS.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, announced that the President had on the 25th instant signed the following acts and joint resolutions:

An act (S. No. 252) to create an additional land district in the State of Minnesota;

An act (S. No. 286) to incorporate the National Life Insurance Company of the United States of America;

An act (S. No. 433) authorizing the trustees of Union Chapel of the Methodist Episcopal Church in the city of Washington to mortgage their property for church purposes;

An act (S. No. 481) to confirm the title to certain lands in the State of Nebraska;

An act (S. No. 492) to extend the time for the completion of the Southern Pacific railroad in the State of California;

An act (S. No. 509) in addition to an act passed March 26, 1864, entitled "An act in addition to an act entitled 'An act for the punishment of certain crimes against the United States';"

An act (S. No. 543) to provide for a further issue of temporary loan certificates for the purpose of redeeming and retiring the remainder of the outstanding compound-interest notes;

A joint resolution (S. R. No. 98) granting permission to officers and soldiers to wear the badge of the corps in which they served during the war; and

A joint resolution (S. R. No. 121) to carry into effect the resolution approved March 2, 1867, providing for the exchange of certain public documents.

REPORTS OF COMMITTEES.

Mr. CORBETT, from the Committee on Indian Affairs, to whom was referred the joint resolution (S. R. No. 181) to authorize the settlement of the accounts of Robert L. Stockton, late Indian agent, reported adversely, and moved the indefinite postponement of the resolution.

Mr. HOWARD, from the select joint Committee on Ordnance, to whom was referred the letter of the Secretary of War to the President of the Senate of the 21st of July, inclosing a letter of the 20th of July from Brevet Major General A. B. Dyer, Chief of Ordnance, submitted a report thereon; which was ordered to be printed.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 396) for the relief of Samuel Tibbets, reported it without amendment.

FREEDMEN'S BUREAU—VETO.

A message was received from the President of the United States, by Mr. MOORE, his Secretary, announcing that he returned to the Senate, in which House it originated, the bill (S. No. 567) relating to the Freedmen's Bureau and providing for its discontinuance, with his objections thereto in writing.

The veto message was read, as follows:

To the Senate of the United States:

Believing that a bill entitled "An act relating to the Freedmen's Bureau and providing for its discontinuance" interferes with the appointing power conferred by the Constitution upon the Executive, and for other reasons which at this late period of the session time will not permit me to state, I herewith return it to the Senate, in which House it originated, without my approval. ANDREW JOHNSON.

WASHINGTON, D. C., July 25, 1868.

Mr. BUCKALEW. I really do not recollect what that bill is, and I ask for the reading of it.

The bill was read as follows:

An act relating to the Freedmen's Bureau and providing for its discontinuance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the duties and powers of Commissioner of the Bureau for the relief of Freedmen and Refugees shall continue to be discharged by the present Commissioner of the bureau, and in case of vacancy in said office occurring by reason of his death or resignation the same shall be filled by appointment of the President on the nomination of the Secretary of War, and with the advice and consent of the Senate; and no officer of the Army shall be detailed for service as Commissioner unless appointed by and with the advice and consent of the Senate; and all assistant commissioners, agents, clerks, and assistants, shall be appointed by the Secretary of War on the nomination of the Commissioner of the bureau. In case of vacancy in the office of Commissioner happening during the recess of the Senate the duties of Commissioner shall be discharged by the acting assistant adjutant general of the bureau until such vacancy can be filled.

SEC. 2. And be it further enacted, That the Commissioner of the bureau shall, on the 1st day of January next, cause the said bureau to be withdrawn from the several States within which said bureau has acted and its operations shall be discontinued. But the educational department of the said bureau and the collection and payment of moneys due the soldiers, sailors, and marines, or their heirs, shall be continued as now provided by law until otherwise ordered by act of Congress.

The PRESIDENT *pro tempore*. The question is on the passage of the bill, notwithstanding the objection of the President of the United

States; and upon this question the yeas and nays will be taken.

The question being taken by yeas and nays, resulted—yeas 42, nays 5; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Drake, Ferry, Frolinghuysen, Harlan, Harris, Henderson, Howard, Howe, Kellogg, McDonald, Morgan, Morrill of Maine, Nye, Osborn, Patterson of New Hampshire, Pomeroy, Ramsey, Rice, Ross, Sawyer, Sherman, Sprague, Stewart, Sumner, Thayer, Tipton, Van Winkle, Wade, Welch, Willey, Williams, Wilson, and Yates—42.

NAYS—Messrs. Buckalew, Davis, McCreery, Patterson of Tennessee, and Whyte—5.

ABSENT—Messrs. Abbott, Bayard, Dixon, Doolittle, Edmunds, Fessenden, Fowler, Grimes, Hendricks, Morrill of Vermont, Morton, Norton, Pool, Robertson, Saulsbury, Trumbull, and Vickers—17.

The **PRESIDENT pro tempore**. On this question the yeas are forty-two, and the nays five. Two thirds of the Senators present having voted in the affirmative, the bill is passed notwithstanding the objections of the President of the United States.

A message was afterward received from the House of Representatives, by Mr. McPHERSON, its Clerk, announcing that the House having proceeded in conformity with the Constitution to reconsider the bill entitled "An act relating to the Freedmen's Bureau, and providing for its discontinuance," returned to the Senate by the President of the United States with his objections, and sent by the Senate to the House of Representatives, with the message of the President relating to the resolution, and the proceedings of the Senate thereon, had

Resolved, That the said bill do pass, two thirds of the House of Representatives agreeing to the same.

Mr. HOWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Senate be directed to present to the Secretary of State the enrolled bill entitled "An act relating to the Freedmen's Bureau and providing for its discontinuance," together with the certificates of the Secretary of the Senate and Clerk of the House of Representatives, showing that the said bill was passed by a vote of two thirds of both Houses of Congress after the same had been returned to the Senate by the President with his objections, and after the reconsideration of said bill by both Houses of Congress in accordance with the Constitution.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the following bills:

A bill (H. R. No. 768) concerning the rights of American citizens in foreign States;

A bill (H. R. No. 1131) regulating judicial proceedings in certain cases for the protection of officers and agents of the Government and for the better defense of the Treasury against unlawful claims; and

A bill (H. R. No. 1375) to transfer to the Department of the Interior certain powers and duties now exercised by the Secretary of the Treasury in connection with Indian affairs.

The message also announced that the House had passed without amendment the following bills of the Senate:

A bill (S. No. 442) to amend section one of an act to prevent and punish frauds upon the revenue, and for other purposes, approved March 8, 1863;

A bill (S. No. 598) for the relief of Mary Scott;

A bill (S. No. 633) granting a pension to Nancy Smith;

A bill (S. No. 634) granting a pension to Violet Henry;

A bill (S. No. 630) granting a pension to Mrs. Sallie Griffin;

A bill (S. No. 606) granting a pension to Robert Watson; and

A joint resolution (S. R. No. 172) to construe an act entitled "An act to authorize the accounting officers of the Treasury to settle the accounts of Andrew S. Core."

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1446) to relieve from legal disabilities Simeon Corley, John Milledge, and Michael Hahn, and asked

a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHN A. BINGHAM of Ohio, Mr. H. E. PAINE of Wisconsin, and Mr. J. B. BECK of Kentucky, managers on the part of the House.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869, and asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. B. F. BUTLER of Massachusetts, Mr. W. B. STOKES of Tennessee, and Mr. L. W. ROSS of Illinois, managers at the same on its part.

The message further announced that the House had agreed to the amendments of the Senate to the amendments of the House to the joint resolution (S. R. No. 57) relative to lighting the streets of Washington city, District of Columbia.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 767) to regulate the disposition of lands that may be hereafter granted to aid in the construction of railways;

A bill (H. R. No. 1455) to correct an error in the enrollment of the act imposing taxes on distilled spirits and tobacco, and for other purposes;

A bill (H. R. No. 1454) making regulations as to the public debt;

A bill (H. R. No. 1456) to authorize the importation of machinery for repair only free of duty;

A joint resolution (H. R. No. 361) for the relief of Helen Lincoln and Heloise Lincoln, and for the withholding of money from tribes of Indians holding American captives; and

A joint resolution (H. R. No. 362) to aid in relieving from peonage women and children of the Navajo Indians.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 209) to incorporate the Evening Star Newspaper Company;

A bill (S. No. 295) for the relief of Eliza Mascher, widow of John F. Mascher;

A bill (S. No. 472) supplementary to an act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security;"

A bill (S. No. 540) to regulate the sale of hay in the District of Columbia;

A bill (S. No. 147) for the relief of Jonathan S. Turner;

A bill (H. R. No. 433) for the relief of Palemon John;

A bill (H. R. No. 722) for the relief of Sally C. Northrup;

A bill (H. R. No. 834) for the relief of Hon. George W. Bridges, a member of the Thirty-Seventh Congress;

A bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports;

A bill (H. R. No. 1322) for the relief of Major F. F. Stevens, assistant paymaster United States Army;

A bill (H. R. No. 1365) for the relief of Captain Thomas W. Miller;

A bill (H. R. No. 1366) for the relief of Captain A. G. Olivar; and

A joint resolution (H. R. No. 296) giving the assent of the United States to the construction of certain wharves in the harbor of Oswego, New York.

REMOVAL OF POLITICAL DISABILITIES.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1446) to relieve from legal disabilities Simeon Corley, John Milledge, and Michael Hahn, disagreed to by the House of Representatives; and

On motion by Mr. WILSON, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The **PRESIDENT pro tempore** appointed Mr. STEWART, Mr. WILSON, and Mr. BUCKALEW.

EXECUTIVE EXPENSES.

The Senate proceeded to consider its amendments to the bill (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869, disagreed to by the House of Representatives; and

On motion by Mr. MORRILL, of Maine, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The **PRESIDENT pro tempore** appointed Mr. MORRILL of Maine, Mr. CRAGIN, and Mr. HARLAN.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the joint resolution (S. R. No. 154) to admit certain persons to the Naval Academy.

The message also announced that the House had appointed Mr. W. H. KELSEY, of New York, on the conference committee on the disagreeing votes of the two Houses on the bill (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869, in the place of Mr. B. F. BUTLER, of Massachusetts, excused.

The message further announced that the House had passed the following resolution:

Resolved, That the Clerk, in reply to the resolution of the Senate asking the concurrence of the House in the suspension of the sixteenth and seventeenth joint rules, be directed respectively to inform the Senate that by the construction given by the House to the concurrent resolution on adjournment, no certain time is yet fixed for the close of the second session of the fortieth Congress, and, on that account, no action has been taken on the resolution of the Senate for the suspension of the said sixteenth and seventeenth joint rules.

EXECUTIVE SESSION.

On motion of Mr. FESSENDEN, the Senate proceeded to the consideration of executive business, remaining in executive session till five o'clock p. m., when the Senate took a recess till half past seven p. m.

EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

DEPARTMENT OF EDUCATION.

The **PRESIDENT pro tempore** laid before the Senate a report of the Commissioner of Education, on the educational interests of the District of Columbia; which was ordered to lie on the table, and be printed.

LA CROSSE AND MILWAUKEE RAILROAD.

Mr. HOWE. I move that the Senate proceed to the consideration of House bill No. 1052.

The motion was agreed to; and the bill (H. R. No. 1052) amendatory of an act entitled "An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," approved June 3, 1856, was considered as in Committee of the Whole. It proposes to make it lawful for the Legislature of the State of Wisconsin to dispose of the lands granted and which may have been inured and been certified to the State of Wisconsin under the act of Congress approved June 3, 1856, to aid in the construction of a railroad "from Madison or Columbus, by way of Portage City, to the Saint Croix river or lake, between townships twenty-five and thirty-one," and commonly known as

La Crosse and Milwaukee railroad, for the benefit of the Wisconsin Railroad Farm Mortgage Land Company, a company existing under and by virtue of the laws of Wisconsin; but this act is to apply only to such lands as may be due the State of Wisconsin for the portion of the road already completed.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SOUTHERN PACIFIC RAILROAD LANDS.

Mr. STEWART submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to suspend the execution of his order of the 14th instant restoring to market the lands heretofore withdrawn by him for the use of the Southern Pacific railroad in California, until he can reexamine the matter, and that he be requested to grant a rehearing therein.

GRANTEES OF ANN D. DURDING.

Mr. WILLIAMS. I am directed by the Committee on Private Land Claims, to whom was referred the bill (H. R. No. 910) for the relief of the grantees of Ann D. Durning, to report it back without amendment. This is a little bill that was prepared by the Commissioner of the General Land Office, and I have a letter recommending its passage. It is simply to correct an error in an entry. I ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. The preamble recites that Ann D. Durning, by her duly appointed attorney, attempted to locate the northwest quarter of the southwest quarter of section twenty-one, in township ninety-seven north, of range six west, in the district of lands subject to sale at Dubuque, Iowa, on the 7th of November, 1851, with bounty land warrant No. 23525, for forty acres, issued under the act of September 28, 1850, but by an error the location was made in township ninety-one north instead of ninety-seven north, and a patent was issued on the location in township ninety-one north, which patent was destroyed by fire by the burning of the land office at Dubuque; that the tract in township ninety-seven north has been withdrawn from market under the act of Congress approved May 12, 1864, to aid in constructing the McGregor western railroad, but has not been taken by or approved to that road at this time; and that the tract in township ninety-seven north has been several times conveyed, and Ann D. Durning cannot now be found, and the loss of the tract of land to her grantees would result in a great hardship to them. The bill, therefore, authorizes the Commissioner of the General Land Office to cause the records and papers in the case to be corrected, and to issue a patent for the northwest quarter of the southwest quarter of section twenty-one, in township ninety-seven north of range six west, Iowa, in the name of Ann D. Durning.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COLUMNS OF OLD PENNSYLVANIA BANK.

Mr. CATTELL. I move that the Senate proceed to the consideration of House joint resolution No. 328. It will take but a minute to pass it.

The motion was agreed to; and the joint resolution (H. R. No. 328) for the donation of certain columns was considered as in Committee of the Whole. It authorizes the Secretary of the Treasury to donate to such cemeteries as have been in whole or in part dedicated to the burial of soldiers or sailors who lost their lives in defense of the United States, or to such voluntary associations of citizens as contributed to the comfort and wants of these patriots while living, the six columns taken from the old Pennsylvania bank building, in the city of Philadelphia; but only one column is to be donated to such cemetery or association in any one State, and the same shall be used as a monument.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COOLIE TRADE.

Mr. SUMNER. There is a bill on the table which I have been trying to call up for a day or two past. It is Senate bill No. 644. I move that it be now taken up.

The motion was agreed to; and the bill (S. No. 644) to amend an act entitled "An act to prohibit the coolie trade by American citizens in American vessels," approved February 19, 1862, was read the second time, and considered as in Committee of the Whole. It proposes to extend all the provisions of an act entitled "An act to prohibit the coolie trade by American citizens in American vessels," approved February 19, 1862, so as to include and embrace the inhabitants or subjects of Japan, or of any other oriental country, known as coolies, in the same manner and to the same extent as such act and its provisions apply to the inhabitants and subjects of China.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RIGHT OF WAY OVER LEAVENWORTH RESERVE.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 1447) granting the right of way to certain railroad companies over the military reserve of Fort Leavenworth, to report it back without amendment, and ask that it be put upon its passage.

By unanimous consent, the Senate proceeded to consider the bill as in Committee of the Whole. It proposes to grant the right of way, not exceeding one hundred feet in width, to the Leavenworth and Des Moines Railroad Company, a corporation created under the laws of the State of Missouri, to construct and operate a railway across the military reservation at Fort Leavenworth, on the east side of the Missouri river, upon a line to be designated and fixed by the Secretary of War. It also proposes to grant the right of way, not exceeding one hundred feet in width, to the Leavenworth, Atchison, and Northeastern Railway Company, a corporation created under the laws of the State of Kansas, to construct and operate a railroad across and over the military reservation at Fort Leavenworth, in the State of Kansas, upon such line as shall be designated and fixed by the Secretary of War; but if the company shall not construct within one year from the passage of the act a railway from the city of Leavenworth to the city of Atchison then, and in that case, a like privilege is conferred upon any other company that shall construct a railway between those cities.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

TERRITORIAL GOVERNMENTS.

Mr. RAMSEY. I move to take up Senate bill No. 571.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 571) to provide for a more economical administration of the governments of the several Territories of the United States, and for other purposes. It provides that from and after its passage the Legislatures of the several Territories of the United States shall meet but once in every two years and the next meeting of each of the Legislatures shall begin two years from the date of their last sessions, respectively, and no moneys are to be appropriated out of the Treasury of the United States to pay the legislative expenses of the several Territories for any other than the biennial sessions; and the salaries of the Governors of the several Territories of the United States are to be fixed at \$2,500 per annum.

Mr. BUCKALEW. I should like to inquire how the Territory would stand in case of a certain emergency, an Indian war, or some-

thing of that sort. There ought to be a discretion somewhere to call the Legislature together.

Mr. RAMSEY. This applies to the regular and ordinary sessions of the Legislature.

Mr. BUCKALEW. Then I move to amend the bill by inserting "unless specially convened by the Governor."

Several SENATORS. Oh, no; he has that power now.

Mr. HARLAN. I think it is better to leave the territorial governments as the organic acts have fixed them. I move that the bill be laid on the table.

Mr. RAMSEY. I hope not.

Mr. HARLAN. What is the use of attempting to revise all the laws for the government of the Territories at this time?

Mr. RAMSEY. It is done by one dash of the pen. The Committee on Territories have had this subject under consideration, and they say this bill will result in saving \$250,000 annually to the Government.

Mr. WILLIAMS. It is a good bill.

Mr. RAMSEY. These Legislatures met time and again, and have nothing to do but simply receive their pay.

Mr. HARLAN. I move to lay the bill on the table.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania, to insert in line five, after the word "years," the words "unless specially convened by the Governor of the Territory."

Mr. WILLIAMS. I hope that amendment will not be adopted. I have had some experience in Territories. I have lived in two Territories and helped to make two Territories into States; and I have never known any provision particularly authorizing the Governor to call special sessions. The power ought not to be in the hands of the Governor, because it will afford an opportunity to add greatly to the expenses of the territorial government, and there is no necessity for it in the Territories so far as my experience goes. I am in favor of biennial sessions. Some of the Territories have now only biennial sessions. The great objection in the Territories is to too much legislation. The less they have the better for the people. The bill is a good bill the way it is reported.

Mr. BUCKALEW. I was told a moment ago that my amendment was unnecessary because the Governor had already the power. I suppose they have under some of the territorial acts. As a matter of course, when you allow the Legislature to meet only once in two years you ought to make some provision for the possible emergencies which may arise. We know practically that they may arise.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. HARLAN. I desire to record my vote against that bill.

Mr. RAMSEY. Call for the yeas and nays, then.

Mr. HARLAN. I will ask for the yeas and nays.

Mr. STEWART. That will break up a quorum.

Mr. CONKLING. I ask that this bill be laid aside for a moment, while I take up a resolution that will give rise to no debate from the Committee on the Judiciary.

The PRESIDENT *pro tempore*. The question is on laying the bill on the table.

The motion was agreed to.

MEDICAL HISTORY OF THE WAR.

Mr. CONKLING. I ask the Senate to take up a resolution reported by the Judiciary Committee, which I think nobody will object to, making a direction about an appropriation.

The motion was agreed to; and the Senate proceeded to consider the following resolution reported from the Committee on the Judiciary on the 22d instant:

Resolved, That under existing laws the balance of

the appropriation of \$60,000 made July 28, 1866, for the preparation, under the direction of the Secretary of War, of five thousand copies of the first volume of the Medical and Surgical History of the Rebellion, compiled by the Surgeon General, and the preparation and publication of a like number of the Medical Statistics of the Provost Marshal General's bureau, compiled and to be compiled by Surgeon J. H. Baxter, to wit, the sum of \$19,736, must be applied exclusively to the latter work.

The resolution was adopted.

NEW JERSEY SOLDIERS' MONUMENTS.

Mr. WILSON. I desire to make a report of a little patriotic resolution and put it on its passage.

Mr. YATES. I rise to a question of order, whether the bill that was passed over informally a moment ago in relation to biennial sessions of the Legislatures of Territories does not come up now.

The PRESIDENT *pro tempore*. That bill has just been laid on the table.

Mr. YATES. No, sir; it was passed over informally.

Mr. RAMSEY. "Passed over informally" was the phrase used.

Mr. STEWART. The yeas and nays will be called on that, and there is not a quorum present. I hope the Senators will not insist upon it at present.

Mr. WILSON. We can get that up by and by. I want to pass a little resolution. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 358) authorizing the Secretary of War to furnish cannon to Soldiers' Monument Associations of Pequonnock and Paterson, New Jersey, to report it back without amendment and recommend its passage, and I ask for its present consideration.

By unanimous consent, the Senate proceeded to consider the joint resolution as in Committee of the Whole. It authorizes the Secretary of War to furnish to the Soldiers' Monument Associations of the township of Pequonnock, Morris county, New Jersey, and Paterson, Passaic county, New Jersey, each four pieces of cannon and twenty balls, in all eight pieces of cannon and forty balls, to be placed about those monuments.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had appointed Mr. J. M. ASHLEY, of Ohio, on the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1446) to relieve from legal and political disabilities Simeon Corley, John Milledge, and Michael Hahn, in place of Mr. H. E. PAINE, of Wisconsin, excused.

The message also announced that the House had passed the bill (S. No. 637) to authorize the city of Washington to issue bonds for the purpose of paying the floating debt of the city.

HOUSE BILLS REFERRED.

The following bills and joint resolutions received from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 1454) making regulations as to the public debt—to the Committee on Finance.

A bill (H. R. No. 1455) to correct an error in the enrollment of the act imposing taxes on distilled spirits and tobacco, and for other purposes—to the Committee on Finance.

A bill (H. R. No. 1456) to authorize the importation of machinery for repair only, free of duty—to the Committee on Finance.

A bill (H. R. No. 767) to regulate the disposition of lands that may be hereafter granted to aid in the construction of railways—to the Committee on Public Lands.

A joint resolution (H. R. No. 361) for the relief of Helen Lincoln and Heloise Lincoln, and for the withholding of money from tribes of Indians holding American captives—to the Committee on Indian Affairs.

A joint resolution (H. R. No. 362) to aid in relieving from peonage women and children of the Navajo Indians—to the Committee on Indian Affairs.

WILLIAM M'GARRAHAN.

Mr. NYE. I move to take up House bill No. 65.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 65) for the relief of William McGarrahan. It proposes to confirm the tract of land known as the Panoche Grande rancho, in the State of California, granted by Governor Manuel Micheltorena to Vincente P. Gomez, in the year 1844, and by Gomez conveyed to William McGarrahan, on the 22d day of December, 1857, surveyed by the United States surveyor general for the State of California, and approved by him on the 11th of September, 1862, and which survey is now on file in the General Land Office, to William McGarrahan, upon the condition that McGarrahan shall, within twelve months, pay into the Treasury of the United States the sum of \$1 25 per acre for the lands embraced within the survey. Upon the payment of this sum to the Treasurer of the United States by McGarrahan the Treasurer is to give a certificate therefor, and upon the presentation thereof to the Commissioner of the General Land Office a patent is to be issued to William McGarrahan for the lands.

Mr. NYE. I should like to have the report of the committee read.

Mr. CONNESS. That is very long.

Mr. COLE. It will take a long time to read it.

Mr. STEWART. The report recommends that the bill be indefinitely postponed. I therefore move, in accordance with the report of the committee, that the bill be indefinitely postponed.

The motion was agreed to.

DISTRICT CHARITABLE INSTITUTIONS.

Mr. COLE. I call up the bill (H. R. No. 1206) to restore to certain parties their rights under the laws and treaties of the United States.

The motion was agreed to.

Mr. COLE. The bill has been read.

Mr. WILLIAMS. It has been read and partly discussed.

Mr. HARLAN. I cannot consent that a bill of the importance of that measure shall be taken up at this time.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

Mr. MORRILL, of Maine. I desire to make a report from a committee of conference.

The PRESIDENT *pro tempore*. The Chair will receive that report.

Mr. MORRILL, of Maine, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the Senate recede from their disagreement to the amendment of the House to the third amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the fourth amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the sixth amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the first clause of the amendment of the House to the eighth amendment of the Senate and agree to the same.

That the Senate recede from their disagreement to the second clause of the amendment of the House to the eighth amendment of the Senate, and agree to the same with the following amendment: strike out all of said second clause, to wit: four sections; and insert in lieu the following: "That the superintendent of the said Columbia Institution for the Deaf and Dumb shall at the commencement of every December session of Congress make a full and complete statement of all the expenditures made by virtue of any appropriations by Congress. Said statement shall

include the amount paid to said superintendent, and also for teachers, to whom paid, and the rate at which paid. And all expenditures for the Columbia Hospital for Women and Lying-in Asylum shall be under the direction of the Surgeon General of the Army, who shall also report to Congress at every December session a full and accurate account of all expenditures made by said asylum out of appropriations by Congress; and all accounts for all appropriations made by Congress for charitable purposes, and for charitable institutions in the District of Columbia, shall be audited by the First Auditor of the Treasury. But nothing herein contained shall take from the Secretary of the Interior the jurisdiction he now has over the subject of charities and charitable institutions in the District of Columbia.

L. M. MORRILL,

J. W. PATTERSON,

A. McDONALD,

Managers on the part of the Senate.

R. P. SPALDING,

S. S. MARSHALL,

Managers on the part of the House.

The report was concurred in.

REMOVAL OF POLITICAL DISABILITIES.

Mr. STEWART submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1446) to relieve from legal and political disabilities Simeon Corley, John Milledge, and Michael Hahn, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the amendments of the Senate, and agree to the same.

WILLIAM W. STEWART,

HENRY WILSON,

C. R. BUCKALEW,

Managers on the part of the Senate.

JOHN A. BINGHAM,

J. B. BECK,

J. M. ASHLEY,

Managers on the part of the House.

The report was concurred in.

ORDER OF BUSINESS.

Mr. CONKLING. I wish to call up the resolution fixing the pay of the newly-admitted Senators; and I submit to Senators that we ought to give the Secretary some direction in regard to it. These gentlemen want their pay. They ought to have it. The Secretary is utterly unable to pay them until he receives some direction from the Senate. I move to take up that resolution. We can dispose of it in a short time.

Mr. HARLAN. I am in favor of it; but I want to take up a little bill which will not occupy two minutes. I have been trying to get the floor for two days to call it up.

Mr. CONKLING. Allow this to be taken up, and then I will let it lay aside for that purpose.

Mr. HARLAN. Allow me to take this up, and I will give way.

Mr. CONKLING. Very well; take it so.

The PRESIDENT *pro tempore*. The Senator from New York moves to take up the resolution in regard to the compensation of the newly admitted members.

Mr. COLE. I believe there was a motion pending.

Mr. CONKLING. Let us take up this resolution, and I will give way to Senators on both sides.

Mr. HARLAN. There is a little bill of five or six lines for the relief of a constituent of mine. It has passed the House, and I want it to pass the Senate in time to be signed. It will not take two minutes to pass it.

Mr. CONKLING. I beg to make an inquiry of the Chair. Is not this in the nature of a privileged resolution? These gentlemen are here, entitled to some pay, under some rule, just as much as the rest of us; but they cannot get their pay. The Secretary does not know what to do. Is it not a matter of privilege?

The PRESIDENT *pro tempore*. We could pass them both while Senators are talking about it.

Mr. CONKLING. Certainly. Now, I ask the Chair to give precedence to one or the other.

The PRESIDENT *pro tempore*. I supposed I recognized the Senator from New York first. I do not remember, but I think I did. The question is on his motion.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, and for other purposes.

The message also announced that the House had passed the following bills and joint resolutions of the Senate:

A bill (S. No. 417) to amend an act proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by the said State of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States, and to establish a territorial government for New Mexico;

A bill (S. No. 487) to disapprove an act of the Legislative Assembly of Washington Territory, redistricting the Territory, and reassigning the judges thereto;

A bill (S. No. 491) to provide for the appointment of recorder of deeds in the District of Columbia, and for other purposes;

A joint resolution (S. R. No. 151) to drop from the rolls of the Army certain officers absent without authority from their commands; and

A joint resolution (S. R. No. 163) appealing to the Turkish Government in behalf of the people of Crete.

The message further announced that the House had passed the bill (S. No. 619) to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1457) to pay for indexing the tax bill; and

A bill (H. R. No. 1458) to provide for the more economical administration of the government of the several Territories of the United States, and for other purposes.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 768) concerning the rights of American citizens in foreign States;

A bill (H. R. No. 1021) in amendment of an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867; and

A bill (H. R. No. 1875) to transfer to the Department of the Interior certain powers and duties now exercised by the Secretary of the Treasury in connection with Indian affairs.

PAY OF SOUTHERN SENATORS.

The Senate proceeded to consider the following resolution, submitted by Mr. TRUMBULL on the 21st instant:

Resolved, That the Secretary of the Senate be directed to pay to the Senators from the States of Arkansas, Florida, North Carolina, and Louisiana, the compensation allowed by law, to be computed from the commencement of the Fortieth Congress.

The pending question was stated to be on the amendment proposed by Mr. DAVIS, to strike out all of the resolution after the word "Arkansas," in the third line, and insert:

The compensation allowed by law from the 22d day of June, 1868, and to the Senators from Florida, North Carolina, and Louisiana, from the 25th day of June, 1868.

Mr. CONKLING. I ask my honorable friend from Kentucky to allow me to amend the original resolution by including South Carolina, which, it seems, is not there, and then his amendment will be equally appropriate.

The PRESIDENT *pro tempore*. The amendment will be made if there be no objection.

Mr. DAVIS. To make the amendment commensurate with the rest?

Mr. CONKLING. Of course.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kentucky.

Mr. DAVIS. The reason that I move the amendment, is simply this: by the legislation of Congress, and by the judgment of the Senate, those States were not entitled to elect Senators except from the time from which, according to the amendment, pay is directed to be made to them. The resolution called up by the Senator from New York proposes to pay those Senators from the 4th of March, 1867; that is eighteen months previous to the time when any of those States had the privilege to elect Senators according to the laws of Congress and according to the deliberate and repeated judgment of the Senate. Suppose a new State was admitted now into the Union, eighteen months after the commencement of the present Congress, when that new State elected Senators to Congress, would they be entitled to receive pay from the beginning of the Congress, or would they be entitled to receive pay only from the time that the State was admitted into the Union? Upon those two propositions there cannot be a doubt. This is an analogous case. I deny that there is any law of Congress, or any precedent of the Senate that authorizes the payment of Senators for eighteen months previous to the time that they were elected, and for eighteen months previous to the time that they were authorized by the laws of Congress to be elected.

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. DAVIS. Certainly.

Mr. CONKLING. I took the same view of this subject in the House of Representatives originally that he does; but I beg to ask him how he surmounts the precedent established in the case of Tennessee, which I understand to have been upon all-fours with this case, and where the Senate, after discussion, gave the same direction that is proposed in this resolution?

Mr. DAVIS. No, sir; that was not an analogous case, because the State of Tennessee had been represented in Congress during the whole of the rebellion in the one House or the other, or both.

Mr. CONKLING. Not during the whole of the rebellion.

Mr. DAVIS. Well, for three or four sessions. These other States, unless it be Louisiana, have not been represented in Congress at all during the war. But the single precedent is not sufficient to overrule the plain and legal principle of law.

Mr. BUCKALEW. And this is a Senate resolution?

Mr. DAVIS. Yes, sir; this is a resolution of the Senate, not a law. If I recollect aright, I am not certain, the case of Tennessee was provided for by law.

Mr. POMEROY. No; by a resolution of the Senate simply.

Mr. DAVIS. I care not whether it was by law or resolution.

Mr. HENDRICKS. In the Tennessee case I do not think there was an attempt to go back of the time of election. The election took place a good while before they were admitted.

Mr. DAVIS. I do not recollect that. I do not recollect the facts in relation to the case of Tennessee; but before the honorable Senator from New York can ask to have any force attached to that precedent he should examine the precedent itself and its circumstances in order to prove to the Senate that it is in conformity to the present case. But, sir, can any proposition be more unsound than that Senators shall be elected from States which therefore were not authorized to elect Senators, and that then for the eighteen months of time intervening between the commencement of Congress and their election they shall be enti-

tled to receive pay? I do not think anything can be more unsound than that. It is upon this ground that I object to the passage of the resolution. I do not think it is sanctioned by any law or by any precedent.

Mr. THAYER. The Senator from Kentucky makes a distinction between the State of Tennessee and these other States on the ground, as he says, that Tennessee was represented in Congress during the war. It was not all the time. I have to state that during no portion of the Thirty-Ninth Congress did Tennessee have any representation.

Mr. PATTERSON, of Tennessee. Oh, yes; she was represented in the Thirty-Ninth. She had no representation in the Thirty-Eighth; but she had in the Thirty-Seventh.

Mr. THAYER. Exactly. Tennessee had no representation in either House during the Thirty-Eighth Congress, and not until the close of the Thirty-Ninth.

Mr. PATTERSON, of Tennessee. The close of the first session of the Thirty-Ninth.

Mr. THAYER. When the present Senators were admitted, and the delegation were admitted in the other House about the same time, the pay of the members of the House and of the Senate, as I am informed by the Senator from Tennessee on my left, dated back to the commencement of the Thirty-Ninth Congress. I believe that is true.

Mr. PATTERSON, of Tennessee. Yes, sir.

Mr. THAYER. It is proposed now to apply the same rule to the delegation from each of these States which have actually been restored.

Mr. DAVIS. There is, if I understand the precedent correctly, this difference between that case and the case of the present Senators; I may be mistaken, however, in its conception. There were no Senators elected to the Senate from the State of Tennessee except the honorable Senator now in my eye and his colleague.

Mr. PATTERSON, of Tennessee. That is so.

Mr. DAVIS. Well, sir, that is the most important difference, or at least an important difference between the case of Tennessee and the case of the Senators who are intended to be provided for by the resolution pending. In each one of those States there had been an election of other gentlemen to the Senate.

Mr. THAYER. No other Senators were elected in these States since the commencement of the present Congress; that is, subsequent to the 4th of March, 1867. These are the only Senators who have been elected since that time.

Mr. DAVIS. That I understand; but there were two gentlemen elected from each one of these States previously, according to my recollection, from some of them I know, whose terms of service have not yet expired. I ask the honorable Senator from Nebraska if the term of service of any man who presented his credentials since the suppression of the rebellion from any of the States named in the resolution has yet expired? I suppose, if those Senators had been admitted to their seats in conformity to their credentials, that each senatorial seat would now be filled and occupied by a different gentleman from any of those who have been admitted here at the present session.

That, then, presents this state of facts: here were two Senators elected from each of these States. They presented themselves at the bar of the Senate with their commissions, their returns of election, and asked to be admitted to their seats. The terms of none of those Senators have yet expired. I do not know the fact certainly in relation to all of them, but I know it is the fact in relation to most of them. Now, when there had been a previous election according to the forms of the Constitution by the Legislatures of those several States, and the gentlemen elected from those States, or who professed to be elected from those States, came here with commissions of the Governors of those States under the great seal of the

States, certifying that they were elected to the Senate according to the Constitution and laws, and their credentials were placed upon the table of the Senate, and those credentials still show the fact that their terms of service have not yet expired, the question is when other gentlemen who claim to have been elected since the first elections to which I have adverted and during the terms for which those elections had been made, and when these second gentlemen were not entitled to be elected by the Legislatures of the respective States at any time previous to the date set forth in my amendment, whether the Senate will pass a resolution to pay them for eighteen months previous to the time that they were elected, and previous to the time when, according to the laws of Congress, their respective States had the power to elect them. I think that nothing could be more unsound or more absurd.

Mr. SHERMAN. This is too large a question to be disposed of in a moment without reflection. It involves about half a million dollars. I trust Senators, while they are willing to do justice and be liberal to these new Senators and members, will remember that we cannot go beyond what is liberal and just without doing injustice to our constituents. If there are sixty of these gentlemen—and the same rule that is applied to Senators must be applied to members of the House—it will make nearly half a million dollars.

Mr. CONKLING. You do not mean half a million?

Mr. SHERMAN. Yes, sir. I will state the question. The difference between the proposition of the Senator from New York and that of the Senator from Kentucky amounts to about sixteen months' pay, or nearly a year and a half's pay. Suppose it amounts \$6,500 to each Senator and member. There are about sixty of them, as near as I can tell.

Mr. BUCKALEW. It amounts to \$6,400, tax off, for each.

Mr. SHERMAN. Then I was nearly right. The members and Senators of these States that will be entitled to representation during this Congress—for if they come in at the beginning of the next session the same rule will have to be applied—amount to at least sixty, and I think more.

Mr. DRAKE. Sixty-seven altogether.

Mr. SHERMAN. Now, Mr. President, at \$6,500 each, that makes \$500,000. While I am disposed to be liberal to the new Senators and members, and am willing to go back to a reasonable time so as to cover their expenses, I do not think we should be justified in going back a year and a half. I think the rule prescribed by the Senator from Kentucky is fair, to give them their pay from the time when the State was first entitled to elect Senators and members. I am willing to go back as far as any one would think to be reasonable; but to go back beyond the time when the States could send these gentlemen here would be an excess of liberality at the expense of our constituents. We cannot afford it. The same rule that is involved in regard to Senators is involved in regard to members; and I am told the House is awaiting the action of the Senate on this question in order to fix the pay of their members.

Mr. STEWART. Move to amend it so as to make it commence from the beginning of this session.

Mr. SHERMAN. No; I think the Senator from Kentucky has got it about right; that is from the time the States were entitled to elect Senators and Representatives, and not before.

Mr. FESSENDEN. That is the time of the adoption of the constitutional amendment.

Mr. SHERMAN. The Senator from Kentucky goes a little beyond that. I am willing to go as far as he does. I will ask him what time he fixes.

Mr. DAVIS. I fix the time of the passage of the law that authorized the respective States to elect Senators.

Mr. SHERMAN. That certainly is liberal

enough, because these Senators could not be elected until that time. That goes back to the time within which they could be elected.

Mr. FESSENDEN. When was that?

Mr. SHERMAN. In June. I suppose the resolution fixes it.

Mr. BUCKALEW. I desire to make one remark in this connection. I think the subject may as well be disposed of now as at any time. We are acting upon a resolution of the Senate alone, and that resolution must be in conformity with the law regulating the compensation of members of Congress. If these gentlemen are to receive more than the existing law authorizes, let us have a resolution of the two Houses on the subject. It is a subject that belongs to the Senate and House. If you go outside of the present law, you must make a law either in the form of a bill or in the form of a joint resolution; and when that question comes up, I am willing to consider it. If the House sends us a proposition in the form of a law I am willing to take it up and act upon it and vote upon it now or at any future time; but at present we are passing a resolution of the Senate alone, and of course we cannot vote in this form any more money than is authorized by the existing law. That will only authorize the payment of the members from States that are entitled to representation in the Senate. In voting for this amendment I do not preclude my judgment in passing upon the general question when it is proper to be raised; but it would be monstrous for us by a resolution of the Senate alone to attempt to make a law and open the Treasury. We cannot do it. The accounting officers would be justified in refusing to execute it.

Mr. SHERMAN. I ask that the amendment be read.

The PRESIDENT *pro tempore*. The resolution will be reported as proposed to be amended.

The CHIEF CLERK. The resolution, if amended as proposed, will read:

Resolved, That the Secretary of the Senate be directed to pay to the Senators from the State of Arkansas the compensation allowed by law from the 22d day of June, 1868, and to the Senators from Florida, North Carolina, and Louisiana, from the 25th day of June, 1868, and to the Senators from South Carolina from the — day of —, 1868.

Mr. DRAKE. The Senators from South Carolina should be included with the Senators from Florida, North Carolina, and Louisiana. They came in under the omnibus bill.

Mr. DAVIS. That is my understanding.

Mr. DRAKE. Just put in South Carolina with the others of the same date.

Mr. DAVIS. The Clerk can make that modification.

Mr. CONKLING. I do not wish it to be inferred from my calling up this resolution that I have any theory to sustain with regard to it; and it is due also to these gentlemen to say, as far as I have heard them express their opinion on this subject, that they have no theory about it. They only want the judgment of the Senate fixing what is due to them.

I have but one remark to make upon the merits of this question. When the case of Tennessee arose I was unable to see, as a member of the House, exactly the principle upon which the Senate acted. The Senate did fix, in spite of the remonstrance, I think, of the honorable Senator from Wisconsin [Mr. HOWE] and some other Senators, a rule in that case which is precisely the rule adopted by this resolution. I have in my hand the Journal of the Senate of 1866-67, from which it appears that—

"Mr. Harris, from the Committee on the Judiciary, to whom was referred the letter of the Secretary of the Senate in relation to the payment of the Senators admitted from the State of Tennessee at the last session of Congress, reported the following resolution:

Resolved, That the Secretary of the Senate be directed to pay to the Senators from the State of Tennessee the compensation allowed by law, to be computed from the commencement of the Thirty-Ninth Congress."

The honorable Senator from Massachusetts

[Mr. SUMNER] offered an amendment expressive of the idea of the honorable Senator from Kentucky, as I understand, in these words:

"On motion by Mr. SUMNER, to amend the resolution by striking out the words 'commencement of the Thirty-Ninth Congress,' and inserting in lieu thereof the words 'date of the resolution of Congress recognizing Tennessee as entitled to representation,' it was determined in the negative; and on the question to agree to the resolution, it was determined in the affirmative.

"So it was
"Resolved"—

As I previously read. I have before me the debate in the Globe on this subject.

Mr. DRAKE. What was the date of that resolution?

Mr. CONKLING. The resolution was reported on the 4th of February, 1867, and it was disposed of finally on the 2d of March, 1867. There is the Journal if the Senator will take the trouble to look at it himself.

I have here the debate on this subject, which I have not the opportunity to look at carefully, but I find that these same considerations were presented, and I confess I am unable to see how the honorable Senator from Kentucky distinguishes Tennessee from this case by saying that Tennessee all the time retained representation in Congress.

Mr. DAVIS. If the honorable Senator will permit me, if they were completely alike, and the precedent of Tennessee was exactly and literally in accordance with the present, and I had inadvertently voted in favor of that compensation to the Senators from Tennessee, I would be as ready, willing, and free to reverse that precedent and to vote against this principle as though it had never been set.

Mr. CONKLING. That I think is perfectly fair and perfectly just; and so I think should I feel free to vote; and yet it is due to all of us that we should understand precisely what this precedent is. Tennessee, I submit to the honorable Senator from Kentucky, was not represented through the rebellion in either House. He knows it was not represented here, and I know that Tennessee was not represented in the House of Representatives, of which I was then a member. On the contrary, the same hiatus which has occurred in the case of these States occurred in the case of Tennessee, not exactly so long, I admit. The present incumbent of the Presidency was here longer than representatives from Alabama, Louisiana, and Georgia lingered. Nevertheless, in theory of law and in point of fact, for every purpose now, the same interruption of representation occurred in the State of Tennessee as took place in the instance of these other States. Further than that, as the Senator will remember, Tennessee obliterated, so to speak, by her own act that government by virtue of which representation was originally enjoyed; and the act admitting Tennessee recited, I well remember, as its preamble, that the citizens of that State having adopted a constitution of government republican in form and ratified the same by a large majority, referring to the date, which was then recent, had become entitled to representation.

My honorable friend behind me [Mr. HENRICKS] says in a whisper they did not amend their constitution. I beg him to remember that they did; that they amended their constitution disqualifying large portions of their citizens from exercising the elective franchise, and that they came in under a special report made in advance by the Reconstruction Committee—and I am able to remember it because I happened myself to be a member—a report made in advance from the committee, I think, by the honorable Senator from Iowa, not now present, [Mr. GRIMES,] reciting the fact which I have specified, that they had amended their constitution or had set up a new constitution by a large majority of the votes cast, which constitution was republican in form, and therefore, in the language substantially which we adopted in the omnibus bill, so called, Tennessee was admitted. So that Senators will see that Tennessee stood on all fours with these

States, having had representation, having lost or abandoned it, and having undergone a transmutation of State institutions.

The honorable Senator from Massachusetts, [Mr. SUMNER,] on that occasion, embracing the idea now suggested by the Senator from Kentucky, offered an amendment expressive of the same idea, and that was sustained on the one side and the other as the debate shows. The Senator from Kansas [Mr. POMEROY] deduced some analogy from his State, which had been a Territory, from which he had been chosen before statehood occurred, and his pay had reverted back. The honorable Senator from Wisconsin, [Mr. HOWE,] as the debate shows, drew his attention to distinctions between that case and the case then under consideration, and the judgment of the Senate maturely was that under the law as it stood those two Senators were entitled to a computation of pay commencing with the beginning of that Congress; and so the resolution passed.

Now, Mr. President, these gentlemen in whose behalf, in a certain sense, we are considering this question, turning back to the records, found this precedent, and they found no other analogous precedent, and so far as they have expressed any opinion or any wish, as far as I know on the subject, it is that their case fell within the Tennessee precedent, which it seems to me to do. But if Senators, exercising the right which I think the honorable Senator from Kentucky justly and properly claims, now, upon a more mature review of the premises, choose to reverse their judgment, certainly I am not here to contend against that. No doubt everybody will be content with precisely what is just.

I wish, however, to make one brief and passing suggestion on this subject. I will not venture to say anything as to the experience of the Senate; but in the House, where a death has occurred, where, from some unforeseen contingency, a district has been left unrepresented, and an election has taken place long after the commencement of the term, as far as I remember, for the last ten years in every instance the practice has been to allow the computation to be made *nunc pro tunc*, to allow them to count from the time when the Congress itself began. I know there is a distinction to be drawn which my honorable friend [Mr. DRAKE] very likely rises to draw between that case and the case of a district itself ineligible. That I admit.

Mr. DRAKE. I merely want to make this suggestion to the honorable Senator from New York, that by joint resolution of both Houses of Congress, standing on the statute-book for some time past, a Senator or Representative elected to fill a vacancy takes his pay from the time the vacancy occurs. That is by special law, a joint resolution of the two Houses now standing on the statute-book and operative.

Mr. CONKLING. If my honorable friend is right in that statement the fact which he states goes back but very little way; for I remember several instances in the case of my own colleagues, gentlemen from the State of New York, of special reports being made and special resolutions passed in order to enable them to do what the Senator says may be done under a general law. He will find, if he looks, that when there was no such general law, when the question was entirely open, the uniform practice of the House in such cases was to allow the computation to go back to the commencement of the Congress; that is, in other words, the commencement of the term. Now, sir, there may be distinctions to be drawn between that case and this; very likely there are, but the Tennessee case, I submit, is on all fours with this, and upon that much experience—I know of no other—it is for Senators to say what they think of the whole ground.

Mr. BUCKALEW. I rise to answer the Senator upon the analogy. He is mistaken entirely upon it. Compensation was paid until recently only at the date of the session of Congress. Payments were not made between times

until recently. There was no authorized, regular session before the first Monday in December. Consequently, at the first session of the Thirty-Eighth Congress these gentlemen from Tennessee took their seats and served a part of that session. There has been no meeting of Congress during the previous spring or summer during all that time.

Mr. CONKLING. If my honorable friend will allow me a moment, my recollection is that in 1856 the law was passed under which we now receive compensation, except that two years ago an addition of \$2,000 was made, which provision was that the pay should be \$3,000 a year, being so much a month, and from that day to this the pay has been drawn monthly by those who chose to do it, whether there was or was not a session of Congress.

Mr. BUCKALEW. No, sir; it was not drawn between the sessions of Congress.

Mr. CONKLING. Until when?

Mr. BUCKALEW. We passed a measure within a couple of years past authorizing it to be paid in that way. Mr. President, the Senators from Tennessee appeared at the first session of the Thirty-Ninth Congress; although they did not serve the whole of that session, it was held that we could not split it, and we paid them what was paid to other members for that session, and counting from the beginning of Congress, as the law then stood, was substantially counting for the session that they were present. In the case before us, the proposition is to go back and pay for a former service at a former session when these members were not here at all. The cases are radically different, the law having no application to this case, whereas it would have an application to the former.

There is another consideration upon the point I am on—the Senator's analogy—and that is that these cases come up under the reconstruction laws, the first of which was passed on the 2d of March, last year, the second on the 23d of March, the third one in July, and one or two at the present session. None of these reconstruction laws with reference to the right of these States to representation was in existence when the case of the State of Tennessee was before us, and there was then a general legal presumption that that State was entitled to representation in Congress according to Mr. Lincoln's idea, and it was held, when the Senators appeared here at the first session of the Thirty-Ninth Congress, that we could not split that session under the law. Now, I insist that upon both of these grounds the distinction is wide between these cases and the former.

Mr. THAYER. The Senator from Pennsylvania will perceive that there is this analogy between the case of Tennessee and the case of these States in reference to reconstruction: the Senators and Representatives from Tennessee were not admitted until a joint resolution had passed both Houses restoring Tennessee to representation. The Senators and Representatives were admitted immediately under that joint resolution.

The objection that the accounting officers of the Treasury will not pass an account for the payment of these Senators is met by the fact that in the case of the Senators and Representatives of Tennessee they did pass precisely similar accounts for the payment of those Senators back to the commencement of the Thirty-Ninth Congress. The cases are precisely similar.

Mr. HENDRICKS. I am willing to pay these members their compensation upon some reasonable and right principles, but I am not able to see how it is proper to pay them when they were not elected, and when Congress held by express law that the States were not entitled to representation.

Mr. BUCKALEW. Before the Senator goes on I wish to call attention to one thing. For every day of the session that a member of the Senate is absent he is required to report his absence, and his pay is deducted for that time.

If a gentleman now present had been absent during the first session of the Fortieth Congress he would have been required to deduct his pay for the whole time. Here are men who were never here at all during that session, and they are to receive pay, while in the case of men who were entitled to be here, elected Senators, their pay is to be deducted for absence, unless in case of sickness. Think of that.

Mr. HENDRICKS. By express law Congress said these States were not entitled to representation, and that they would not be entitled to representation until they became reconstructed, and the last act of reconstruction was the submission to Congress of the constitution that they might adopt, and the approval of that constitution by Congress, and a declaratory resolution of course had to express the approval of Congress. Then Congress said they would be entitled to representation. Until that time they were not entitled to representation. Individually I do not agree to that; that is not my judgment; but that is the law as declared by Congress; at least as much of law as Congress can make out of a thing of that sort. That stands as the law of the question. How Senators then can be paid for a time that they did not hold the office at all, and for a time when the States were not entitled to representation, is more than I can understand. In the case of Tennessee, when that question was up, the Senator from Oregon [Mr. WILLIAMS] said that that could not be considered a precedent hereafter. During the debate that was said, for the reason that Tennessee was recognized as entitled to the right of representation from the time that she ratified the constitutional amendment.

Mr. YATES. I wish to ask the Senator from Indiana if it would not be more generous and consistent in him, who believes these States to be in the Union and entitled to representation, and that there was a vacancy, to stand up to the doctrine for which he contends and say these Senators should be entitled to their pay, than to plant himself upon the platform of the other side of the House, and draw his conclusions from that?

Mr. HENDRICKS. I could not do that, for the Senator will see at once there were other Senators accredited to this body under the State governments that I believe in, and they were entitled, as I claim, to the seats here, and that claim *prima facie* shown by credentials rested upon the table of the Senate until the Senate decided that these Senators might take their seats.

Mr. YATES. But as matter of fact they have not been recognized as Senators and have never taken their seats. If anybody is entitled to the pay it is the gentlemen who are acknowledged to be Senators.

Mr. HENDRICKS. But the Senator is insisting that I shall argue it from my standpoint. If I could argue it from my standpoint of course I should be compelled to say they cannot be paid. Until Congress in some way declared these prior elections not valid, *prima facie* these other men were entitled to their seats, because their credentials lay upon our table. But taking the law as it reads they are elected under that. Now, why in the world pay them when you say they were not entitled to representation? It is monstrous. You might as well say that a Senator coming for the first time from a State might draw his pay from the organization of the territorial government, at least from the time they took steps to form a State government when they culled their convention; you might say that from that time they should be paid. I am willing to vote for the proposition of the Senator from Kentucky, although I think the right doctrine is that men should be paid from the time they hold the office. I do not see how it is that a man can be paid when he does not hold the office.

Mr. CONKLING. I want to ask the Senator a question on that point. The members of the House from Arkansas were elected in March, for example; in Alabama they were

elected in February, a month before. Now, if we go back to the time when the men were elected, it would establish an inequality between that House and this. That is very clear. Take the State of Kentucky, where they elect in August; in California they elect in September. Nobody doubts that their pay goes back to the time when the Congress begins; and if you take the date of election the members of the other House would not draw their pay from the time when this Congress commenced, the 4th of March. Now, we certainly ought not to establish a rule here which will lead to an inequality between the members of the two Houses.

Mr. HENDRICKS. I do not care about adopting that rule. I guess the proposition of the Senator from Kentucky is nearly right. I am willing to vote for that, and that will be uniform in regard to all these parties; but I wish to state a difference between this and the Tennessee case. We recognized by the resolution admitting Tennessee to representation her right to representation at the time the Senators were elected, and for a period before that. I think if Senators will look back to the preamble of the resolution they will see that Congress by that resolution recognized the right of Tennessee to representation for a period before the time that those Senators drew their pay; and, as a matter of fact, those Senators were here, I think, for about fourteen months asking their seats. We finally gave them their seats and went back of their election two months. I expect that was a mistake to that extent; but certainly they were entitled to pay from the time of their election, which was fourteen months before they took their seats; and the time covered by the pay is recognized as within the time when they were entitled to representation.

Mr. STEWART. If it is in order, I move to amend the amendment by making the pay begin at the commencement of the present session of Congress. It seems to me that there is a principle in that. Many of the members of Congress were elected during the winter, and the House will apply the same rule. Certainly this will come within the rule in the Tennessee case, and will come within a safe precedent for the construction of the rule as given by the Senator from Pennsylvania. Certainly it will come within that; and I think that is about fair. I move that amendment.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment, to strike out the words "the Fortieth Congress" and insert "the present session of Congress."

Mr. DRAKE. They were not elected until June.

Mr. STEWART. The members of the House were elected in March.

Mr. DRAKE. Let the House settle that matter for themselves.

Mr. FESSENDEN. I see no sort of consistency in the proposition of the Senator from Nevada. If we are going back at all, we may just as well go back to the commencement of the present Congress. The idea upon which we have always proceeded in these cases, since we have had a salary, is when there is a vacancy to pay from the time it occurred; but that was where the State itself was entitled to representation. Here in these cases we have adopted throughout on this side of the Chamber entirely different principles. We have said that these States were not entitled to representation, and we have said that they were out of practical relations to the Union, so that they could not be represented in Congress. Therefore that idea fails entirely, and if we pay these gentlemen from the time of the commencement of Congress, or from the time of the commencement of the present session, we are just giving the lie to all we have said. We are acting upon one principle with regard to admission and another principle with regard to pay. I am unwilling to put myself in that category.

I do not see any objection to the amendment of the honorable Senator from Kentucky, because it assumes that they were entitled to representation from that particular date, and I am perfectly willing to take it, although I think the more proper principle to adopt would be from the date of the adoption of the fourteenth article, which fixes the right of representation from that time, and up to which time we did not recognize the right as existing. However, the difference is so small that I am perfectly willing to adopt the amendment of the Senator from Kentucky.

Mr. YATES. I do not understand myself that there has been any particular rule on the subject. My understanding of the practice is that where there is a vacancy by death, resignation, or for any other reason, the person who fills the office is entitled to the pay from the time that vacancy occurs. That is a positive law, as the Senator from Missouri well remarked? Are we to go back, in fixing the salary or the compensation of Senators, and determine the question whether the State was entitled to representation or not? Are we supposed to be governed by any such consideration as that? The question simply is: were the States represented? Were there Senators in Congress from those States? Has there been a vacancy? Who now fills the vacancy? Who occupies the places which should have been occupied by the Senators from those States? That is the question, and the only question.

I am utterly opposed to applying any technical rules to the Senators elected from these newly-reconstructed States, and going back to decide the question raised by the Senator from Indiana and the Senator from Kentucky, whether they are right in their views that the States were in the Union or not. I believe that when a party like ourselves have the power we should be governed by rules of our own construction and the rules of justice. These States have not been represented; the Senators are here filling the time and the period for which they should have been represented, and I am for paying them for the time named in the original resolution; that is, from the commencement of the Fortieth Congress.

Mr. FESSENDEN. I will ask the Senator one question, then. Some of them come here merely to fill out a vacant term that has been vacant all the time. For instance, they come here during the third Congress of the term instead of first. Nobody was here from the State at the first, and nobody at the second. Why not pay them for all the terms?

Mr. YATES. I say there never has been any rule on the subject; and I say that a narrow construction should not be applied to the Senators elected to fill vacancies of this kind. These Senators are here representing States which should have been represented; and now I do not propose to go back and apply the doctrines of President Johnson and the Senator from Indiana and the Senator from Kentucky, and say we will cut off our own Senators who come here and are entitled to the pay while these States were not represented. There is no justice in it; there is no propriety in it. We shall deserve the contempt and the censure of the country if we yield to any such doctrine as that, according to my notion. If we adopt the rule that they shall be squared down and measured down to the very days that they have been here since they have taken their seats it will be a new rule, a rule which has never been applied heretofore. I hope the Senate will allow these men to receive their compensation in accordance with the precedent heretofore adopted by the Senate. There is no use, to my notion, of hesitating about a matter of justice and propriety, as I say this is. I cannot see any reason whatever for hesitation.

Mr. BUCKALEW. Will the Senator allow me to read a section of the existing law on this subject of compensation?

Mr. YATES. I am through.

Mr. BUCKALEW. This is the law:

"It shall be the duty of the Sergeant-at-Arms of the House and Secretary of the Senate, respectively, to deduct from the monthly payments of members herein provided"—

Providing that the salaries shall be paid month by month—

"For the amount of his compensation for each day that such member shall be absent from the House or Senate, respectively, unless such Representative, Senator, or Delegate shall assign as a reason of such absence the sickness of himself or some member of his family."

Does the Senator from Illinois perceive that a member from a State entitled to representation who did not attend at the first session of this Congress in March, April, July, and November would get no pay at all, and a member from a State not entitled to representation who did not attend under his doctrine would get pay for the whole time? Can anything be more absurd under the laws that regulate this subject?

Mr. YATES. The States were not entitled because of the prevalence of such doctrines as those contended for by the Senator from Pennsylvania. They were entitled to representation; they would have been represented but for the Democratic party; and now, in behalf of the Republican party, I contend that the men who fill these vacancies should be paid.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Nevada to the amendment of the Senator from Kentucky.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Kentucky.

Mr. DRAKE. On that I ask for the yeas and nays.

The yeas and nays were ordered.

The Chief Clerk proceeded to call the roll, and at the conclusion of the call read the list, which was as follows:

YEAS—Messrs. Buckalew, Cragin, Davis, Doolittle, Drake, Ferry, Fessenden, Frelinghuysen, Harlan, Henderson, Hendricks, Howe, McCreery, Morrill of Maine, Sprague, Sumner, and Wilson—17.

NAYS—Messrs. Abbott, Cameron, Cattell, Chandler, Cole, Conkling, Connors, Harris, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomroy, Ramsey, Rice, Stewart, Thayer, Tipton, Trumbull, Van Winkle, Wade, and Yates—21.

Mr. BUCKALEW. I rise to a question of order or of parliamentary law. The members whose compensation is voted upon cannot vote; but some of them have voted on this amendment.

I suppose it was by inadvertence. I did not care to interrupt the roll-call. I make the point, however, before the result is announced. Under the rules no member of the body can vote on a question in which he is directly interested.

Mr. ANTHONY. According to that point I should like to know how any Senator or Representative could vote on the question of increasing his salary, as we did two or three years ago.

The PRESIDENT *pro tempore*. There is no rule on the subject.

Mr. BUCKALEW. Do I understand the Chair to decide against the point of order? I should like to have the rule or the principle of parliamentary law read.

The PRESIDENT *pro tempore*. The Chair does not understand that there is any rule about it. Senators vote on the question of fixing their own pay, and have raised their pay since I have been a member here two or three times, and all voted on the question.

Mr. BUCKALEW. I submit to the Chair that it is a different question. Of course we vote general appropriation laws and general laws fixing compensation; but this is a resolution of the Senate voting specifically certain pay to certain members.

The PRESIDENT *pro tempore*. The Chair will submit the question to the decision of the Senate. It is one not embraced in any of our rules. The question is whether it is in order

for Senators who will receive compensation under this resolution to vote.

Mr. BUCKALEW. I call for the yeas and nays on the question.

The yeas and nays were ordered.

Mr. FERRY. I understand the question is whether it is in order for these gentlemen to vote.

The PRESIDENT *pro tempore*. The question is, Is it in order for those interested in the resolution to vote? Those who are of the opinion that it is in order will answer yeas as their names are called; and those opposed nay.

Mr. ABBOTT. I wish to inquire whether the Senators from those States are to vote on this motion. My name was called and I voted.

The PRESIDENT *pro tempore*. That is another point of order.

Mr. ABBOTT. I do not understand why we may not vote on this question as well as any Senator may vote on the question of raising his pay or anything else that comes before the Senate in the way of money, mileage, or anything of that kind. If my name is called I shall vote.

The PRESIDENT *pro tempore*. The Clerk will call the roll.

The Chief Clerk commenced to call the roll; and Mr. ABBOTT responded in the affirmative.

Mr. BUCKALEW. I ask the Chair to state the question. Perhaps there is a misapprehension of what the question is.

The PRESIDENT *pro tempore*. The question is, Are the members who are to be compensated by this resolution entitled to vote? Those who are of opinion that they are entitled will say yeas, those opposed will say nays, and the Clerk will call the roll.

Mr. ABBOTT. I withdraw my vote under the circumstances.

Mr. DRAKE. I wish to ask a question for information. I desire to know whether the Senate did not in the case of Mr. Stockton, of New Jersey, decide that he could not vote upon the question of his election being declared null and void.

Mr. SUMNER. It did.

Mr. DRAKE. If that is so, it seems to me that this case stands in direct analogy to that. I desire to state that I do not wish to interfere with anything that is proper and right toward these gentlemen, but I cannot see my way clear to vote for their compensation back to the beginning of this Congress.

Mr. NYE. I propose in a word to show that it is perfectly in order for these gentlemen to vote on this question. This is a legislative question entirely, upon which every Senator on this floor has a right to vote and may be compelled to vote. It is a question for these gentlemen to decide for themselves whether they choose to vote or not. It is simply a question of what compensation they shall have. I think there is a difference between this case and the Stockton case. In that case the question was not a legislative question as to the amount of money to be voted, but whether Mr. Stockton was elected by his Legislature at home. In that case the Senate held that he was not entitled to vote, because it was a question affecting his right to a seat here. If there is any analogy between this question and any question that has been up, it is between this case and the case where we voted to raise our own pay. That was a legislative question, and so is this. I am surprised that the Senator from Pennsylvania should have raised this question, both on the ground of propriety and upon the ground of right. Of course it is an embarrassing situation for these men, but it is a question on which this body would have a right to compel their vote. I hope the Senate will overrule the point of order.

Mr. HENDRICKS. In the Stockton case the question was whether the Senator was entitled to his office; but in the present case the question is whether certain parties in this body are entitled to certain money. In the Stockton case it was claimed that Mr. Stockton

was entitled to vote because he was not supposed to have an interest in the office; but it was a question of public interest, the right of a State to be represented in the person she selected. In this case the question is whether certain gentlemen are entitled to certain sums of money, not according to existing law, but according to the will of the Senate; whether they shall have a sum of money voted to them before they held the office for which they are entitled to compensation; whether they shall have a sum of money for services before the time when Congress by law said their States were entitled to representation, and in that question their States and the public have no interest, except as the public is interested in seeing to it that money is not taken out of the Treasury improperly. The interest of the public is not the same as their interest. In the Stockton case the public interest was presumed to be as the interest of the Senator whose credentials made a *prima facie* right for him. Here is a direct question of personal interest in a sum of money to be voted by the Senate, as much so as if there were a private bill pending to pay money to a Senator. Now, could a Senator vote upon a private bill voting money to himself? It is too clear; it is too plain for question. This is a resolution that out of the contingent fund of the Senate, or out of the public Treasury, if it be made a joint resolution, there shall be paid each man a sum of money; and the entire sum is about half a million dollars. That is the question; not whether they shall be paid according to law, but paid beyond the law by the special favor of the Senate.

Mr. YATES. Mr. President, I understand the Senator from Indiana to argue that in the Stockton case it was right and proper and allowable, where the question was whether a Senator was entitled to a seat, for him to vote. He thinks that where the question was not merely one of pay, but whether a man was entitled to a seat in the Senate, the interest was not such as to disqualify him from voting. There the question was whether he was entitled to a seat in the Senate. The Senate was called on to decide whether the forms and ceremonies by which he was elected were regular and proper. The Senator from Indiana thinks there was no disqualifying interest in him in such a case; that he could vote to decide that he was entitled to a seat in the Senate, and that he was entitled to all the pay and emoluments resulting from such a seat in the Senate; and yet when the simple question arises as to whether a Senator shall vote on the amount of pay which he is to receive the Senator from Indiana thinks he is disqualified. It is a question upon which there has been no doubt heretofore—according to the history of the Senate—from the beginning of the Government down to the present time; and the Senator from Indiana himself has repeatedly voted upon that question in which he was directly and personally interested, whether his pay should be raised or not. And yet he would now disqualify these Senators from voting when he would say that a candidate for the Senate had a right to decide upon the merits of his own election.

Mr. President, were not Senators interested when the pay of Senators was raised by our own votes? Their constituents were interested in seeing that as much of the public money should be saved as possible, and that they should receive just as little as possible. We voted on that question, although we were personally and directly interested. I voted for the increase of my own pay. It was so much against the Government; it was so much against the people of the United States; it was so much against the Treasury; it was for my individual interest in a certain sense; but it was a legislative act, as this has been already denominated. I not only had a right to vote, but I was compelled to vote. If I received the pay I was compelled to take the responsibility of my vote for or against receiving that pay. There can

be no question about a proposition so plain. These Senators have just the same right to vote for fixing their pay that we had to vote for our increased compensation, and the Senator from Indiana will in vain attempt to draw a distinction. The same interest would have applied to him if he had been present and voting on that question, which would apply to these Senators.

Mr. President, I hope that such a distinction will not be drawn against the new Senators from these States, that their votes will not be questioned, when such votes have never been questioned in all the history of the past legislation of the country.

Mr. FRELINGHUYSEN. Mr. President, I believe there were but one or two of the Senators who have recently come to the Chamber that voted, and, as I understood it, they did not vote until the Clerk waited, in consequence of there not being a quorum, to have the number filled. It seems to me that there is a difference between the case of our passing a law here which indirectly affects every man who votes for it and giving construction to a law directly to affect the person who votes upon it. Every law we pass affects us as citizens of the United States. When we voted the compensation for Senators it affected us and those who succeed us. This is giving construction to the act applicable to the individuals who vote upon it, and it does seem therefore to me that there is greater propriety in those interested not voting. I move, Mr. President, to lay this question of order on the table.

Mr. DRAKE. That cannot be done.

Mr. DAVIS. Will the honorable Senator permit me to make an explanation to my friend from Illinois, [Mr. YATES.] The honorable Senator tells us that his constituents are interested in seeing that he gets the least amount of money from the public Treasury possible. Well, I will tell my honorable friend that the interests of my constituents are different; they are interested, and very much interested, in seeing that I get a fair and full compensation for my services here. [Laughter.]

Mr. DRAKE. Mr. President, on the question now before the Senate as to whether it is in order for these gentlemen to vote upon this question, I desire simply to refer to the Journal of the Senate and show just what was done in the case that I referred to awhile ago. It is as I supposed it, though it occurred before I came into the Senate. The case arose in the Senate in the year 1866. The question was on a resolution that "John P. Stockton was duly elected and is entitled to his seat as a Senator from the State of New Jersey for the term of six years from the 4th day of March, 1865." It was determined in the affirmative. I now read from the Journal of the Senate of Monday, March 26, 1866, page 270:

"On motion by Mr. POLAND, that the Senate reconsider its vote on Friday last agreeing to the following resolution:

"Resolved, That John P. Stockton was duly elected and is entitled to his seat as a Senator from the State of New Jersey for the term of six years from the 4th day of March, 1865."

"It was determined in the affirmative; and

"The question recurring upon said resolution,

"Mr. SUMNER, by unanimous consent, submitted the following resolution:

"Resolved, That the vote of Mr. Stockton be not received in determining the question of his seat in the Senate."

"The Senate proceeded, by unanimous consent, to consider the said resolution; and

"On motion by Mr. SHERMAN, that the resolution be referred to the Committee on the Judiciary, with instructions to report on Thursday next;

"It was determined in the negative—yeas 13, nays 22.

"On motion of Mr. JOHNSON,

"The yeas and nays being desired by one fifth of the Senators present,

"Those who voted in the affirmative are,

"Messrs. Anthony, Buckalew, Cowan, Davis, Guthrie, Harris, Hendricks, Johnson, Lane of Kansas, McDougall, Nesmith, Norton, Riddle, Saulsbury, Sherman, Trumbull, Van Winkle, and Wiley.

"Those who voted in the negative are,

"Messrs. Brown, Chandler, Clark, Conness, Cragin, Creswell, Fessenden, Foster, Grimes, Howard, Howe, Kirkwood, Lane of Indiana, Nye, Poland, Pomeroy, Ramsey, Sprague, Sumner, Wade, Wilson, and Yates.

"On the question to agree to the resolution, it was determined in the affirmative."
 "So it was."
Resolved, That the vote of Mr. Stockton be not received in determining the question of his seat in the Senate."

I have simply to say that if the Senate would be consistent in its rulings it seems to me there is no other way but to decide this question of order against the right of these gentlemen to vote.

Mr. SUMNER. Mr. President, there is important business in executive session.

Several SENATORS. Let us vote.

Mr. WILSON. If my colleague will give way, I desire to make a motion. I move to refer this matter to the Committee on the Judiciary. ["Oh, no!"] It will give an opportunity to reflect on this subject for a few hours and get it right.

Mr. TRUMBULL. I hope that will not be done.

Mr. DOOLITTLE. I desire to say a single word. This question of order is, perhaps, more troublesome to dispose of than the other question if we were to come to a vote on that. It seems to me this is very plain. If the honorable Senator from Pennsylvania, [Mr. CAMERON,] who was elected before the beginning of this Congress, had been upon a voyage in Europe all this time and had now just appeared in the body, the question would arise what compensation should he have. His compensation would commence from the time that he appeared here. In relation to these gentlemen who come here just elected from these States, the theory on this side of the Chamber is that the States themselves have been abroad and just got back. Now, when shall their compensation commence? It seems to me, and I appeal to these gentlemen themselves, as well as to every other member of the Senate, that the fair, honest thing is to say that the compensation shall begin when they took the office, when the States got back. They have been abroad. The idea of giving them compensation when they have not been here, when, if it had been the Senator from Pennsylvania or the Senator from New Jersey or the Senator from California, if they had been abroad, traveling in Europe, and not been here, it would not have been allowed, seems to me very unjust as a principle. Let the time be fixed, either the time when they come and take the office or the time when their State was ready to elect them to the office; fix it one or the other. That would seem to be fair. I think these gentlemen themselves should be better satisfied with that construction, as I think it is the fairer construction to be given to the law than any other.

Mr. SUMNER. I now move that the Senate proceed to the consideration of executive business.

Mr. HARLAN. I will ask my honorable friend if he will not give way in order to let me take up a little bill?

Mr. SUMNER. I have given way for the last half hour.

Mr. TRUMBULL. I suggest a question of order, whether, when an appeal has been taken from the decision of the Chair, the yeas and nays have been called, and the result not yet announced, it is competent to submit a motion to go into executive session. The yeas and nays are being called; the vote has not been announced. Can it be, when we are in that condition, and a question arises whether some Senator has a right to vote, which runs into a question of order, the vote not yet being announced, a member can rise and make a motion for an executive session.

The PRESIDENT *pro tempore*. The Chair will take this occasion to present the business on his table.

TERRITORIAL GOVERNMENTS.

The bill (H. R. No. 1458) to provide for the more economical administration of the government of the several Territories of the United States, and for other purposes, was read twice by its title.

Mr. RAMSEY. I ask that that bill be considered at once. It is the same bill which we had up some time ago as a Senate bill, and passed almost to a final vote.

The PRESIDENT *pro tempore*. Is there any objection to the consideration of the bill?

Mr. TRUMBULL. I raise the question whether we can do that in the situation the Senate is now?

Mr. CHANDLER. By unanimous consent. The PRESIDENT *pro tempore*. Is there any objection to the consideration of this bill?

Mr. HARLAN. I must object unless Senators will take up a little bill that I desire to have considered.

Mr. HENDERSON. Is it in order to move to lay the whole subject on the table?

Mr. FRELINGHUYSEN. I made that motion some time ago.

The PRESIDENT *pro tempore*. Nothing is in order until the Chair has cleared his table of the documents on it. The bill that has been read twice will lie on the table.

INDEXING TAX BILL.

The bill (H. R. No. 1457) to pay for indexing the tax bill was read twice by its title.

Mr. HOWE. If there is no objection I should like to have that put on its passage.

The PRESIDENT *pro tempore*. If there is no objection it will be put on its passage.

Mr. HARLAN. I shall have to object.

COMMERCIAL LAWS IN ALASKA.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. No. 619) to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes.

On motion by Mr. CHANDLER, it was *Resolved*, That the Senate disagree to the amendments of the House of Representatives on the said bill, and ask a conference on the disagreeing votes of the two Houses thereon.

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. CHANDLER, Mr. MORRILL of Maine, and Mr. DOOLITTLE.

EXECUTIVE EXPENSES.

Mr. MORRILL, of Maine. I ask consent to make a report from a committee of conference.

The PRESIDENT *pro tempore*. The report will be received.

Mr. MORRILL, of Maine, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from their disagreement to the first and second amendments of the Senate, and agree to the same.

L. M. MORRILL,
 JAMES HARLAN,
 A. H. CRAIGIN,
Managers on the part of the Senate.
 W. H. KELSEY,
 WILLIAM B. STOKES,
 L. W. ROSS,
Managers on the part of the House.

The report was concurred in.

SENATOR FROM ALABAMA.

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business.

Mr. FRELINGHUYSEN. There is a motion pending which I made to lay the subject before the Senate on the table.

Mr. SUMNER. My motion will supersede that.

The PRESIDENT *pro tempore*. The motion to go into executive session has priority.

Mr. THAYER. I rise to a privileged question. I send to the Chair the credentials of General George E. Spencer, Senator-elect from the State of Alabama. I move that they be

read, and the oath of office administered to him.

The credentials of Hon. George E. Spencer, elected by the Legislature of the State of Alabama a Senator from that State for the term ending March 3, 1873, were read; and the oaths prescribed by law having been administered to Mr. SPENCER, he took his seat in the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 16) donating a portion of the Fort Leavenworth military reservation for the exclusive use of a public road, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills of the Senate:

A bill (S. No. 576) relating to the district courts of Utah Territory;

A bill (S. No. 604) regulating the times and places of holding the district and circuit courts of the United States for the northern district of Florida; and

A bill (S. No. 621) authorizing the Manufacturers' National Bank of New York to change its location.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 598) for the relief of Mary Scott;

A bill (S. No. 606) granting a pension to Robert Watson;

A bill (S. No. 630) granting an increase of pension to Nancy A. Stokes;

A bill (S. No. 633) granting a pension to Nancy Smith;

A bill (S. No. 634) granting a pension to Violet Henry;

A bill (S. No. 637) to authorize the city of Washington to issue bonds for the purpose of paying the floating debt of the city;

A bill (S. No. 442) to amend section one of an act to prevent and punish frauds upon the revenue, and for other purposes, approved March 3, 1863;

A joint resolution (S. R. No. 57) relative to lighting the streets of Washington city, District of Columbia;

A joint resolution (S. R. No. 154) to admit certain persons to the Naval Academy; and

A joint resolution (S. R. No. 172) to construe an act entitled "An act to authorize the accounting officers of the Treasury to settle the accounts of Andrew S. Core."

PAY OF SOUTHERN SENATORS.

The PRESIDENT *pro tempore*. The resolution of the Senator from Illinois [Mr. TRUMBULL] is before the Senate.

Mr. HARLAN. I move that the Senate proceed to the consideration of House bill No. 396, for the relief of Samuel Tibbetts.

Mr. HENDRICKS. I rise to a question of order. The Senate is in the act of voting upon a proposition. That proposition is whether certain Senators are entitled to vote upon the question before the body. The yeas and nays are being called. Pending the call of the yeas and nays a question of order arises. That question of order the Chair submits to the body, instead of deciding it himself. My point of order is that until that call for the yeas and nays be completed by the announcement of the result it is not in order to call up any independent business.

Mr. HARLAN. I have no doubt that the Senator's point of order is well taken, and I will make no contest over that; but I will ask unanimous consent of the Senate, and throw myself on the courtesy of the Senator himself and state the case. This man has paid twice for his land, and the bill is to remit one payment.

Mr. POMEROY. I hope that bill will be taken up.

Mr. HENDRICKS. I will waive the question of order for that if it is a distressing case. But the Senator from Massachusetts has submitted a proposition, and I make the point of order upon his proposition, that the Senate cannot pass from one class of business to another pending a vote.

The PRESIDENT *pro tempore*. There is a certain priority of business that is settled by our rules. I do not understand that this is one of those cases. The call of the yeas and nays had not commenced when the debate arose, and I suppose any Senator having the floor may move to proceed to any other business he pleases.

Mr. ABBOTT. I rise to a point of order, sir; that the yeas and nays having been called on the amendment of the Senator from Kentucky, the vote was not announced by the Chair.

Mr. HARLAN. This bill could have passed in this time.

Mr. ABBOTT. The point of the Senator from Pennsylvania was made before the result was announced.

The PRESIDENT *pro tempore*. The fact that the yeas and nays were being called does not alter the position of the case; only when the question arises again the yeas and nays will have to be called over. The fact that the yeas and nays have been ordered does not give this business priority.

Mr. TRUMBULL. The Chair will indulge me. That is not the point. The yeas and nays had been called and a question of order was raised as to whether one or more of the Senators who had answered could answer.

The PRESIDENT *pro tempore*. I do not remember whether the vote was announced or not. The yeas are 17, and the nays 21—

Mr. HENDRICKS. The Chair cannot announce the result of this vote until the Senate, upon the point made, decides whether certain Senators—

The PRESIDENT *pro tempore*. That is true, the question of order was prior to all others.

SAMUEL TIBBETTS.

Mr. HARLAN. I do not understand that anybody objects to taking up the bill I have mentioned.

The PRESIDENT *pro tempore*. The Senator from Iowa moves now to consider the bill mentioned by him. Is there any objection to taking up the bill indicated by the Senator from Iowa? ["No!"]

The bill (H. R. No. 396) for the relief of Samuel Tibbetts was considered as in Committee of the Whole. It is a direction to the Secretary of the Treasury to pay the sum of \$200 to Samuel Tibbetts, being for money paid by him for the entry of land upon which he had before located a land warrant, and which warrant, before a patent was issued, had been lost by the officers of the land office.

The bill was reported to the Senate without amendment, ordered to third reading, read the third time, and passed.

PAY OF SOUTHERN SENATORS.

The PRESIDENT *pro tempore*. The resolution is before the Senate.

Mr. SUMNER. I again renew my motion, that the Senate proceed to the consideration of executive business.

Mr. HENDRICKS. I renew my question of order, that until the result of the vote he announced the Senator cannot submit another proposition, any more than if the Secretary were in the middle of the roll-calling. There can be no business having priority over it. There is no motion that possibly can be made which can cut off the calling of the roll, and that is not completed until the Chair announces the result. That announcement cannot be made until the question of order raised by the Senator from Pennsylvania has been decided, because the Chair cannot decide whether certain votes are to be counted until the Senate settles that question of order.

Mr. WILSON. I ask unanimous consent to

enter a motion that this whole matter be referred to the Committee on the Contingent Expenses of the Senate to consider it and report on it, so that we may get over this difficulty.

Mr. TRUMBULL. I should like to know if we can refer a question of order to a Contingent Expenses Committee?

The PRESIDENT *pro tempore*. The Chair is unable to see why the Senate cannot go into executive session at any time a Senator gets the floor and makes a motion for that purpose. The Chair thinks the motion can be put and decided as the Senate pleases.

Mr. BUCKALEW. I desire to make one remark. I shall have no objection to making the disposition of this subject proposed by the Senator from Massachusetts, [Mr. WILSON,] after simply reading the parliamentary rule to which I referred, and if the Chair will permit me I shall take but a moment.

Mr. SUMNER. Is the motion to proceed to the consideration of executive business debatable?

The PRESIDENT *pro tempore*. It is not debatable.

Mr. SUMNER. Then I must insist upon its being put.

Mr. HENDRICKS. I am so confident of the point I make that I will raise the question of order, and ask the decision of the Chair that I may take an appeal, though then we have two questions of order before the body at the same time, and that is rather a queer state of things. I appeal from the decision of the Chair if the Chair holds that pending the call of the roll the Senator from Massachusetts may submit a motion that we proceed to the consideration of executive business while the Senate is dividing, and on the appeal I ask for the yeas and nays.

Mr. DOOLITTLE. Mr. President—

Mr. SUMNER. Is my motion debatable?

The PRESIDENT *pro tempore*. The motion is not debatable, but there is an appeal taken from the decision of the Chair. The Chair decides that when a Senator has the floor at any stage of proceedings he may move that the Senate proceed to the consideration of executive business. If a Senator has a right to the floor, he has a right to make that motion.

Mr. SUMNER. Precisely, as he may make a motion to adjourn.

The PRESIDENT *pro tempore*. Yes, sir; and if the Senate go into executive session, and even come out again, they will find the business just where they left it. An appeal is taken from the decision of the Chair, and the question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. DOOLITTLE. I am of opinion—

Mr. SUMNER. Is it debatable?

Mr. DOOLITTLE. Certainly, the appeal is debatable. I am of opinion that the Chair is right in the decision, for if it be true that you cannot move to proceed to the consideration of executive business you cannot move to adjourn, and the question of order raised on the validity of these votes is a question that might be discussed for a week, and you could not adjourn at all if the doctrine is true. If you have commenced the call of the yeas and nays and a question of order is raised as to the validity of some of the votes, whether they are to be counted or not counted, as a question of order it might lead to a discussion that would take us a week, and according to the present doctrine of the Senator from Indiana you could not interpose a motion to adjourn. A motion for an executive session is a motion that can be made by any person who has the floor.

The PRESIDENT *pro tempore*. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. POMEROY. What is the decision of the Chair?

The PRESIDENT *pro tempore*. The decision of the Chair is that a member may move that the Senate proceed to the consideration of executive business whenever he has the floor, and if the Senate agree to his motion, when

the executive session is over the business will be resumed in the same position as it was when the Senate went into executive session.

Mr. DRAKE. Is not the question this: whether a Senator can move to go into executive session while the Senate is dividing by the yeas and nays, and the vote has not been announced?

The PRESIDENT *pro tempore*. The question involves this difficulty, who is to be called, and when have you got through the call? That is the real point.

Mr. SUMNER. I must insist on my motion for an executive session.

The PRESIDENT *pro tempore*. Senators argue that the roll was called through; other Senators say that members were called who were not entitled to vote; and that is the difficulty. That is the question to be decided.

Mr. VAN WINKLE. The roll was called through on another question, and not on the amendment of the Senator from Kentucky, I think. My name is pretty low down on the list, and I know I did not vote on that question.

The PRESIDENT *pro tempore*. The Chair does not remember that he announced the vote on the amendment of the Senator from Kentucky; but his recollection is that an objection was immediately taken to the vote, inasmuch as gentlemen had voted who were not entitled to vote, and the decision was arrested by that objection.

Mr. SUMNER. I must insist upon my motion that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I desire to vote on the amendment of the Senator from Kentucky. I understand the vote has not been announced.

The PRESIDENT *pro tempore*. The question is on the appeal, and the yeas and nays have been demanded.

The yeas and nays were ordered.

Mr. TRUMBULL. Before voting upon this question, I wish to state what I consider the proper disposition of the matter before us. The Senate was voting upon an amendment moved by the Senator from Kentucky. The yeas and nays were called nearly or quite through. There could be and was but one thing to be done, and that was for the Presiding Officer to announce that vote. The Senator from Pennsylvania could not raise a question while the vote was being taken as to the right of a Senator to vote. After the vote was taken and announced, he might then raise that question; but no question can be raised while the yeas and nays are being called, and you cannot pile up one appeal upon another or one question of order upon another. One question of order must be decided and finished before you can raise a second question of order, otherwise you would go on *ad infinitum*; there would be no end to the questions of order which might be raised. One gentleman could raise one question, and while that was under consideration another Senator could raise another, and there would be no end. You can have but one question of order at a time.

The PRESIDENT *pro tempore*. The Chair will suggest right here that when the vote was taken the objection was made that certain Senators having a right to seats on the floor were not entitled to vote. The Chair could not announce the vote until that question was decided.

Mr. TRUMBULL. My answer to that is this: that question could not be raised pending the call. The Senator from Pennsylvania had no right to raise the question of the right of any person whose name is on the roll to vote while the call was pending. After the call was through, and the vote was announced, it would then have been competent for the Senator from Pennsylvania to introduce a proposition to change that vote, or to strike out the name of some person who had no right to vote; but I insist that pending the vote no question can be raised as to the right of a Senator to vote, and if the Senate will reflect they will remember that that was the way in the Stockton case. Mr. Stockton voted; his vote was counted; and the result

was announced, and after it was announced a Senator made a motion to reconsider the vote upon the ground that Mr. Stockton had no right to vote in his own case, and the Senate did reconsider it. In my judgment, the duty of the Chair simply would be to announce the result of the vote on the amendment of the Senator from Kentucky, and then if the Senator from Pennsylvania wants to raise a question as to whether certain persons are entitled to vote or not that can be decided.

Mr. HENDRICKS. The Senator from Illinois is mistaken in the question of order upon which I took an appeal. The Senate is in the act of dividing; the roll-call is quite completed or nearly; but the result is not announced, so that the Senate is still in the very act of voting. Pending that, the Senator from Massachusetts moves that the Senate go into executive session. My question of order is that he cannot make that motion at that stage of the business.

Mr. TRUMBULL. I quite agree with the Senator from Indiana on that point. That is another question.

Mr. HENDRICKS. The Chair decides that he can make that motion, and from that decision I appeal.

Mr. THAYER. Will the Senator from Massachusetts withdraw his motion for an executive session, with the understanding that we vote at once on the question whether these Senators are entitled to vote or not, and then on the original resolution as to their pay without any discussion whatever? If we do that we shall save time. We are wasting hour after hour here in this wrangle.

Mr. SUMNER. But who is there that can speak for the Senate?

Mr. THAYER. Let it be understood by unanimous consent.

Mr. SUMNER. And so that there shall be no debate on the question?

Mr. THAYER. Yes, sir.

Mr. SUMNER. Who is there that can speak for the Senate? Can the Senator from Nebraska?

Mr. THAYER. If any one objects to that understanding, let him make the objection now. I make the suggestion in order to get out of this difficulty at once.

Mr. THAYER and others. Let us vote.

The PRESIDENT *pro tempore*. The Clerk will call the roll on the appeal.

Mr. SUMNER. I think the shortest way is to insist on my motion.

The PRESIDENT *pro tempore*. The question is, Shall the decision of the Chair stand as the judgment of the Senate? and on this question the roll will be called.

The question being taken by yeas and nays, resulted—yeas 16, nays 21; as follows:

YEAS—Messrs. Anthony, Cameron, Chandler, Corbett, Doolittle, Fessenden, Fowler, Frelinghuysen, Harlan, Henderson, Nye, Pomeroy, Ramsey, Sherman, Sumner, and Van Winkle—16.

NAYS—Messrs. Buckalew, Conkling, Conness, Cragin, Davis, Drake, Ferry, Harris, Hendricks, McCreery, Morgan, Patterson of Tennessee, Sawyer, Sprague, Stewart, Thayer, Tipton, Trumbull, Williams, Wilson, and Yates—21.

ABSENT—Messrs. Abbott, Bayard, Cattell, Cole, Dixon, Edmunds, Grimes, Howard, Howe, Kellogg, McDonald, Morrill of Maine, Morrill of Vermont, Morton, Norton, Osborn, Patterson of New Hampshire, Rice, Robertson, Ross, Saulsbury, Spencer, Vickers, Wade, Welch, Whyte, and Willey—23.

So the decision of the Chair was overruled.

Mr. TRUMBULL. Now I insist that the Chair announce the vote on the question upon which the yeas and nays were called.

The PRESIDENT *pro tempore*. There is a question of order raised on that vote, and that is the question now under consideration, whether it is in order for gentlemen who are interested in the resolution to vote.

Mr. BUCKALEW. Now I desire to read what I proposed to present a moment ago.

Mr. ABBOTT. Mr. President, I insist on the Chair announcing the vote upon the amendment of the Senator from Kentucky. Nothing is in order until that is announced. The vote has been taken, the yeas and nays have been called, but the result has not yet been announced.

Mr. BUCKALEW. Mr. President, I was addressing the Chair.

Mr. SHERMAN. I desire to vote on the amendment whenever it is in order for me to do so.

Mr. ABBOTT. I raise the point of order which I have just stated.

Mr. BUCKALEW. The roll was called through, and I, as soon as it was in order, not to produce confusion, raised the question.

Mr. TRUMBULL. I rise to a question of order, and call the Senator from Pennsylvania to order, upon the ground that no remarks are in order while the Senate is being divided until the vote is announced.

Mr. BUCKALEW. I understand that the Senator from Illinois has exercised the privilege of making remarks several times, and I propose to respond to him.

Mr. TRUMBULL. I raise the question of order that no remarks from anybody are in order.

Mr. BUCKALEW. I ask the Chair whether the question is not that submitted by him to the Senate, Are the votes objected to by me in order? Is not that the question? If so, I propose addressing the Chair.

The PRESIDENT *pro tempore*. The question arose in this way: the roll was called, and a difficulty arose as to the votes of certain Senators whose votes were objected to. The Chair did not understand that that question was settled, or that the roll was called through. If it had been it would be the business of the Chair to announce the vote. He did not so understand it because a question of order was raised right there as to whether certain gentlemen were entitled to vote.

Mr. BUCKALEW. And now the Senator from Ohio, before the vote is announced, rises and asks to have his name called. The Senator from Illinois insists that the vote shall be announced.

Mr. SHERMAN. If it is now in order, I desire to vote, and there are two or three others who desire to vote.

Mr. CONNESS. Let the Clerk call the names of those whose names are not recorded.

The PRESIDENT *pro tempore*. The names will be called through, and the vote announced if that is the sense of the Senate, but the question is who is entitled to be called? That is the way the difficulty arose. If there is no objection the roll will be called through on the amendment of the Senator from Kentucky.

Mr. BUCKALEW. I object.

Mr. CONNESS. No matter whether there is objection or not, the question of order is made, and I hope the Chair will direct the roll to be called.

Mr. SHERMAN. It is not necessary to call the roll.

Mr. CONNESS. Not at all; only the names of those who have not voted.

The PRESIDENT *pro tempore*. The roll will be called of those Senators who have not answered to their names on the amendment of the Senator from Kentucky.

The absentees were called, and Messrs. CORBETT, MORGAN, ROSS, SHERMAN, and WILLIAMS voted in the affirmative, and Messrs. McDONALD and OSBORNE in the negative.

Mr. BUCKALEW. I insist upon my point of order, that the votes of the Senators named in this resolution cannot be taken or reported. I make it at the earliest moment when their votes are read by our Clerk.

Mr. POMEROY. I believe I voted under a misapprehension; I intended to vote yeas.

The result was announced—yeas 25, nays 20; as follows:

YEAS—Messrs. Buckalew, Cameron, Corbett, Cragin, Davis, Doolittle, Drake, Ferry, Fessenden, Frelinghuysen, Harlan, Henderson, Hendricks, Howe, McCreery, Morgan, Morrill of Maine, Patterson of New Hampshire, Pomeroy, Ross, Sherman, Sprague, Sumner, Williams, and Wilson—25.

NAYS—Messrs. Abbott, Cattell, Chandler, Cole, Conkling, Conness, Harris, McDonald, Nye, Osborn, Patterson of Tennessee, Ramsey, Rice, Stewart, Thayer, Trumbull, Van Winkle, Wade, Welch, and Yates—20.

ABSENT—Messrs. Anthony, Bayard, Dixon, Edmunds, Fowler, Grimes, Howard, Kellogg, Morrill

of Vermont, Morton, Norton, Pool, Robertson, Saulsbury, Sawyer, Spencer, Tipton, Vickers, Whyte, and Willey—20.

So the amendment was agreed to.

Mr. BUCKALEW. Now I make my point of order that the votes of the Senators interested in this resolution should not be counted.

The PRESIDENT *pro tempore*. That question the Chair will submit to the Senate. Of course the Chair cannot undertake to say that a member whose name is on the roll has not a right to vote.

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business.

Mr. STEWART and Mr. SHERMAN. Let the resolution be adopted.

Mr. BUCKALEW. I insist upon this question being determined. We are now coming to the final vote on the resolution, and this is the proper time to raise the question and have it decided. In the Stockton debate the Senator from Massachusetts [Mr. SUMNER] presented the law very clearly. He collected the body of authority bearing on this subject with great ability and diligence, and presented it in such manner that it carried the judgment of the Senate against what I thought was its first impression. Although that case was in some respects distinguishable from the present, it was for all the purposes of this point of order a much weaker one. Here is a direct pecuniary interest, whereas in that case there was involved the question of the right of a State to representation and to be heard on this floor. The declaratory rule of parliamentary law as found in the rules of the House of Representatives is as follows:

"No member shall vote on anything in the event of which he has an immediate interest."

And the Senator from Massachusetts very truly and very soundly added these words: "This is an expression in parliamentary language of what I have announced as the principle of universal jurisprudence," applicable, of course, to parliamentary bodies. It is found in Jefferson's Manual, and it is found in all accredited works upon parliamentary law, and in the rules and practices of bodies of this description. It is a fundamental and essential principle extending to all parliamentary action, and extending into courts, and indispensable everywhere where it has application to the ends of justice, to the purity of Government, to the maintenance in its integrity of any form of public administration or public authority.

Following this—I will not trouble the Senate with reading them—are copious citations of authority to show that this question may be raised after the vote even is recorded upon the Journal; and the precedents go so far that they show cases where the decision has been actually reversed upon a subsequent occasion by the rejection of interested votes. This is the undoubted parliamentary law in Great Britain. It was the law incorporated in Mr. Jefferson's Manual, and recognized by the Senate early in the history of our own Government; and this rule which I have read, found in the Manual as applicable to the House of Representatives, is simply declaratory of the general principle. Now, I simply desire a decision of the Senate that the votes of the Senators mentioned in this resolution shall not be put upon the record and shall not be counted.

Mr. WELCH. Mr. President, I am accustomed to meet every question squarely. I will confess that I had a little doubt as to the propriety of my casting a vote on this question, but not the slightest doubt as to my right to do so; for whatever may be general parliamentary law on this subject I have an example in the fact that this Senate have always decided the question of their own pay by their own votes, and that is enough for me.

Mr. FRELINGHUYSEN. I move to lay the question of order on the table.

The PRESIDENT *pro tempore*. The Senator from New Jersey moves that the question of order be laid on the table. The question is on that motion.

The motion was agreed to.

The *PRESIDENT pro tempore*. The question is on the resolution as it has been amended. The resolution, as amended, was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1446) to relieve from legal and political disabilities certain persons engaged in the late rebellion.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 1277) to provide for the distribution of the reward offered by the President of the United States for the capture of Jefferson Davis;

A bill (H. R. No. 1446) to relieve from legal and political disabilities certain persons engaged in the late rebellion;

A joint resolution (H. R. No. 328) for the donation of certain columns; and

A joint resolution (H. R. No. 358) authorizing the Secretary of War to furnish cannon to Soldiers' Monument Associations of Pequonock and Paterson, New Jersey.

BRIDGES ACROSS THE OHIO.

Mr. HENDRICKS submitted the following resolution for consideration:

Resolved, That the Secretary of War be, and he is hereby, requested to appoint a board of engineers of not less than three nor more than five, and instruct them to make a survey of the Ohio river at points where bridges are being constructed or projected, and report to Congress at the next session what length of span is practicable and necessary to meet the requirements of navigation on said river, and of the public interest.

CAPE FEAR RIVER.

Mr. ABBOTT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of an appropriation for deepening the channel of the Cape Fear river in North Carolina, and to report at the next session by bill or otherwise.

EXECUTIVE SESSION.

Mr. HENDRICKS. There are a couple of matters that my colleague felt a special interest in. He had to go away, and I feel an interest in having them attended to. I move to take up the bill for the relief of Mrs. Hackleman.

Mr. FESSENDEN. That will be debated. Mr. HENDRICKS. Well, let it be debated. Mr. FESSENDEN. It is too late to-night.

Mr. SUMNER. I submit to the Senator from Indiana that we ought to go into executive session.

The *PRESIDENT pro tempore*. Is there any objection to taking up the bill mentioned by the Senator from Indiana?

Mr. SUMNER. Pending the motion to take up that bill I submit a motion that the Senate proceed to the consideration of executive business.

Mr. HENDRICKS. I must call for the yeas and nays on that motion if it is insisted upon.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 17; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Corbett, Cragin, Davis, Doolittle, Drake, Ferry, Fessenden, Frelinghuysen, Harris, Henderson, Howe, Kellogg, Morgan, Morrill of Maine, Patterson of New Hampshire, Pomeroy, Sherman, Sumner, Trumbull, Van Winkle, Wiley, and Williams—25.

NAYS—Messrs. Conkling, Conness, Hendricks, McCreery, McDonald, Patterson of Tennessee, Ramsey, Rice, Ross, Sprague, Stewart, Thayer, Tipton, Wade, Welch, Wilson, and Yates—17.

ABSENT—Messrs. Abbott, Bayard, Cameron, Cat-

tell, Cole, Dixon, Edmunds, Fowler, Grimes, Harlan, Howard, Morrill of Vermont, Morton, Norton, Nye, Osborn, Pool, Robertson, Saulsbury, Sawyer, Spencer, Vickers, and Whyte—23.

So the motion was agreed to.

NAVAJO INDIANS.

Mr. WILSON. Before the doors are closed I desire to make a report from the Committee on Military Affairs and the Militia. That committee, to whom was referred the joint resolution (H. R. No. 362) to aid in relieving from peonage women and children of the Navajo Indians, have instructed me to report it back without amendment, and I desire to have it put upon its passage now.

Mr. POMEROY. It ought to be passed right off.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It requests Lieutenant General Sherman to use the most efficient means his judgment will approve to reclaim from peonage women and children of the Navajo Indians, now held in slavery in the Territory adjacent to their homes and the reservation on which the Navajo Indians have been confined.

Mr. BUCKALEW. I think that will be a very difficult task for General Sherman. Is he to pay for reclaiming these persons, or to take them by force?

Mr. POMEROY. He is to do the best he can.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business; and after two hours spent therein the doors were reopened.

MRS. BIDWELL AND MRS. HACKLEMAN.

On motion of Mr. CONKLING, the Senate proceeded to consider the bill (H. R. No. 1863) granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell. It proposes to direct the Secretary of the Interior to place on the pension-roll the name of Emily B. Bidwell, widow of the late Brigadier General Daniel D. Bidwell, at the rate of fifty dollars per month, from the 19th day of October, 1864, on which day General Bidwell fell mortally wounded at the battle of Cedar Creek, Virginia, to continue during widowhood. The pension heretofore allowed her under general law is to be discontinued; but the sum received by her under the same is to be deducted from the pension hereby granted.

Mr. HENDRICKS. I move to amend that bill by adding the following:

And be it further enacted, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Sarah Hackleman, widow of the late Brigadier General Pleasant A. Hackleman, for pension, at the rate of fifty dollars per month from the 3d day of October, 1862, on which day General Hackleman fell mortally wounded at the battle of Corinth, to continue during her widowhood.

And be it further enacted, That the pension heretofore allowed said Sarah Hackleman, under general law, be discontinued, but the sum received by her under the same shall be deducted from the pension hereby granted, and this pension shall be subject to the provisions of the general pension law.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. HARLAN. I move to amend the bill by striking out the time fixed for the commencement of the pensions, and inserting this proviso:

Provided, That the increase of pensions herein granted shall take effect from the date of the passage of this act.

The amendment was agreed to; and the amendment made as in Committee of the Whole, as thus amended, was concurred in. The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed. Its title was amended by adding the words "and granting an increase of pension to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman."

REMOVAL OF CAUSES FROM STATE COURTS.

On motion of Mr. FRELINGHUYSEN, the

Senate resumed, as in Committee of the Whole, the consideration of the bill (H. R. No. 1261) amendatory of an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," the pending question being on the amendment reported by the Committee on the Judiciary as a substitute for the House bill.

Mr. COLE. It seems to me this bill needs some explanation.

Mr. DOOLITTLE. The bill was under discussion last night, and the honorable Senator from Illinois [Mr. TRUMBULL] was opposed to it, and so were other Senators.

Mr. CONKLING. On the contrary, if the Senator will listen he will find that he is quite mistaken.

Mr. FRELINGHUYSEN. The bill was introduced just for this purpose: in the States recently in rebellion they will not permit any defense whatever to be made in any of the suits which are brought against the express companies of the country. This bill provides that where a defense arises from the fact of the country being in a state of war, not that that shall be a defense, but that in that case the suit may be transferred to the Federal courts under the provision of the Constitution which says that the United States courts may have jurisdiction over questions arising under the laws and treaties of the country.

Mr. STEWART. The report was unanimous on that section. We struck out most of the House bill.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time.

Mr. DOOLITTLE. I desire to ask one question of the Senator from New Jersey, whether the Committee on the Judiciary are unanimous upon this bill?

Mr. FRELINGHUYSEN. No, sir; they are not.

Mr. DOOLITTLE. I do not think it ought to be passed. I think it should be laid aside.

Mr. WILLIAMS. I have not had any opportunity to examine this bill. If this is the same bill that was up the other day, when the Senator from Illinois explained it, it appears to me very objectionable in its provisions.

Mr. FRELINGHUYSEN. It is the same bill.

Mr. DOOLITTLE. If the honorable Senator from Oregon will give way I will move that the doors be closed, and that we proceed to the consideration of executive business.

Mr. CONKLING. I hope the Senator will not make a motion of that sort after the remark he has just made, but will allow me to make one remark. There was a bill which Judge TRUMBULL commented upon containing several sections. That is not this bill at all. This is one single section reported by the committee as a substitute for that bill, and its whole purpose I can state in a moment. In the State of Georgia, for example, there were many letters before us showing that common carriers were sued for goods which had been snatched from them by embodied military power, and certain judges down there have refused to rule upon the question whether that was the act of a public enemy or not, but insisted upon submitting the question to the jury as a pure question of fact under the instruction that all they could find was upon a question of damages, that the common carriers were liable any way even if the goods had been taken from them by a public enemy. This section provides that where they wish to raise that question and carry it up to the Supreme Court of the United States, they shall have an opportunity to transfer their causes into a court where they can present their exceptions and have them ruled upon as matters of law one way or the other, and put themselves on the high road to the court of *dernier resort*. I want to know who objects to that?

Mr. COLE. Does the gentleman mean the rebel military power.

Mr. CONKLING. Certainly, where the rebels in arms prevented the goods being delivered. For example, a company came and swept away a railroad train, taking all the goods in it. The corporation want to be able to submit the question whether this was a public war, or whether the rebels were public enemies, and they themselves as common carriers exempted from the liability which would otherwise rest upon them. I want to know who can object to a provision of that sort. We had before us many statements from lawyers of respectability belonging to no political party, saying that when they went into court the judge would not rule as a matter of law upon that question, nor submit instructions to the jury, so that they could go up with the case, but that he simply submitted as a question of damages to the jury how much was the value of the goods. I do not care anything about this bill, but I hope it will not be put down by any suspicion being cast upon it.

Mr. WILLIAMS. I do not know that I understand this bill as well as the members of the Judiciary Committee; but this seems to be the twin brother of another bill that was passed here not very long ago in the interest of corporations. There seems to be a great sensitiveness on the part of corporations, and an apprehension that they cannot obtain justice in the courts of the States. Now, here is a bill which provides, as I understand it, that where a citizen of a State sues a corporation within that State, that corporation may take the case into a Federal court. I should like to know under what clause of the Constitution this can be done.

Mr. CONKLING. If the Senator asks me, I shall be very happy to answer him. The provision is that when such a suit as that is brought, and the parties sued wish to set up strictly and rigidly a defense growing up under the Constitution of the United States and the laws passed in pursuance thereof, in the language of the Constitution, they may be permitted to do it. If they wish to show that Abraham Lincoln, under the power vested in him by Congress, made a call for troops; that those troops come out; that military collisions took place; that a public war raged under the authority of Congress, and in that public war those goods were swept away—if they wish to set that up and allege that it was by virtue of the Constitution of the United States and the power inhering in the Congress of the United States, they may be permitted to do it; and the part of the Constitution which defines the judicial power specifies that in so many words as a part of the Federal judicial power.

Mr. WILLIAMS. Mr. President, that is not this bill as I understand it.

Mr. DOOLITTLE. I appeal to the honorable Senator from Oregon to yield me the floor. This bill will evidently lead to a long discussion. We have the Executive Calendar before us, and I move that the doors be closed that we may go on with executive business. There are the treaties of the Senator from Massachusetts and Indian treaties, and General Sherman and all the men upon the plains are writing that the issue of peace or war with the Indians is depending on those treaties. I move that the doors be closed.

Mr. SUMNER. I move that the Senate proceed to the consideration of executive business.

Mr. NYE. Will not the Senators give way for one moment?

Mr. SUMNER. No; we must go into executive session.

Mr. CONKLING. I shall have to ask for a division.

Mr. DOOLITTLE. If gentlemen want to break up a quorum, and continue this discussion all night, so as to force an extra session next week, let us know it now.

Mr. CONKLING. We have all waited here alike; we are all equally tired; but we are charged with different business. My friend from New Jersey and I are charged by the Committee on the Judiciary with this bill. Senators must not complain that we want to

pass it. The bill is right; it has passed the other House in a much broader form, and there is no reason why we should not take the vote on it.

Mr. DOOLITTLE. We must go on with the executive business to-night or we shall have an extra session.

The PRESIDENT *pro tempore*. The motion is that the Senate do now proceed to the consideration of executive business.

Mr. CONKLING. I call for a division on that question.

The question being taken, there were on a division—ayes 17, noes 13.

The PRESIDENT *pro tempore*. There is not a quorum voting.

Mr. CONKLING. Now I suggest that by common consent the motion be withdrawn, and that we pass the bill.

Mr. DOOLITTLE. There is no quorum.

Mr. CONKLING. The call can be withdrawn by common consent.

Mr. BUCKALEW. I desire to make a statement about our business. It seems we are without a quorum. Here are a number of treaties to be acted upon, and I think there is absolute necessity for meeting to-morrow evening.

Mr. POMEROY. I think we ought to have a recess until to-morrow night at seven o'clock, and begin fresh then.

Mr. BUCKALEW. I think a number of members have gone off with the understanding that such a recess will be taken. It is absolutely necessary in my judgment.

Mr. STEWART. I think there is a quorum here.

Mr. CONKLING. Why not let this bill be voted upon?

The PRESIDENT *pro tempore*. There is undoubtedly a quorum present, but there was not a quorum voting.

Mr. DOOLITTLE. By common consent let us go into executive session. We cannot get through the bill which is under discussion.

The PRESIDENT *pro tempore*. The Chair will put the question again on the motion that the Senate proceed to the consideration of executive business.

The question being put, there were on a division—ayes 21, noes 16.

So the motion was agreed to; and the Senate proceeded to the consideration of executive business.

At one o'clock and forty minutes a. m., [Sunday, July 26,] the Senate took a recess till 8 o'clock p. m.

SUNDAY EVENING SESSION.

The Senate reassembled at 8 o'clock p. m., [Sunday, July 26.]

PERSONAL EXPLANATION—IMPEACHMENT.

Mr. HENDERSON. Mr. President, a report signed by BENJAMIN F. BUTLER, purporting to be by authority of the managers of impeachment called the select committee, has recently been published by the House of Representatives, which requires a short notice at my hands. I have learned that the six gentlemen on that committee have had nothing to do with it; and even in the absence of such information I know them well enough to acquit them of all responsibility in the premises. It was my intention to criticise this report as its character deserves. I have abandoned that intention. First, I have no appropriate epithets for it; and second, if I had I could not in justice to myself, or to the body of which I am a member, use them.

I waive the impropriety of the House of Representatives instituting an investigation into the character of Senators. I waive the utter injustice of constituting a committee for any purpose whatever composed of only one political party, and especially in an investigation of this character. Such committees never elicit the truth. Their reports are entitled to no more credence than *ex parte* examinations usually are.

In this case the committee was organized in

a moment of intense excitement, and bitter personal and political feeling. Whatever may have been the purpose of its organization, all will now admit that its proceedings were conducted to one single end. Ostensibly it was designed to seek new matter of impeachment against the President. The futility of this purpose having soon manifested itself, those having self-respect withdrew from its proceedings, when the whole project degenerated into a low, petty work of malice and calumny, disgraceful not to the author of the report, but disgraceful to the character of an American Congress.

I forbear to comment upon the manner in which this thing has been conducted. If it had been to elicit truth and not falsehood, I could bear to be silent, for even the casual reader can find nothing in its forty-eight pages of wicked perversion derogatory to me as a man or as a member of this body, unless it be derogatory to have entertained, as I did, on the 12th of May last, the thought of resigning my seat in the Senate.

But this, sir, was a matter between me and my constituents, one entirely outside the jurisdiction of the House of Representatives. I am not now and never expect to be ashamed of anything connected with this purpose of mine. The best of us sometimes hesitate as to what is our duty under a given state of circumstances. Whatever hesitancy I may have had resulted from the deliberation of a few moments in reference to my duty to constituents who were supposed to differ with me upon a question of great political concern, and out of regard for what I was assured was their will. In this disgraceful paper, that well-known hesitancy of mine is seized upon, and every fact connected with it knowingly distorted and perverted to accomplish the base purposes of its author. It is attempted to make me inconsistent with myself. This is done by testimony taken not before the impeachment managers, but before another committee of the House of Representatives. That committee was raised to investigate the conduct of the Missouri members for attempting to influence my vote for conviction.

Before that committee I testified. The House members also testified. This report, in order to place me at disadvantage, draws upon only parts of the testimony of these members, taken in their own defense, and extracts not one word from my testimony which gives a full history of all the correspondence and proceedings between us. The members of the lower House were testifying in their own behalf. They were the only parties in interest. The proceeding was in the nature of a prosecution against them. As to the truth of their evidence I have nothing to say. I have never seen the whole of it. This is not the time nor the place to criticise it. It is a matter between ourselves which we can settle. But, Mr. President, have I not a right to complain that the committee before which my testimony and theirs was taken should entirely suppress its own proceedings and fail to make any report at all, while it has furnished to another committee to be incorporated in its report just enough of the statement against me, including those of the parties implicated, to stamp an apparent inconsistency upon my conduct. Is this the mode by which truth is obtained? Was truth in this case sought for? If so why was not all the evidence furnished and published? And if justice is to be done to me why does not the other committee report? If investigating committees are to be the mere vehicles of calumny and detraction, then this report is a marvelously proper one. If their purpose be to conceal the truth this is an eminent success.

As an evidence of the corrupt purpose in which this report is conceived I refer Senators to page 17, where, with the usual fullness of innuendo and insinuation, is introduced the following note, namely:

DEAR MR. PRESIDENT: The HENDERSON matter all right. Lacey has been to see him with Craig. All right. So says Evans.

Truly,

COOPER.

The author then makes the following remarks:

"This note, taken in connection with the testimony, shows that the HENDERSON matter was made 'all right' by Lacey and Craig having 'seen' HENDERSON, and that it was 'all right'—so says EVARTS, the senior counsel of the President, who is shown thereby to have interested himself in knowing that a Senator had been 'seen' and made 'all right,' and in keeping his client informed of the fact."

It will be observed by the reader of this report that an attempt is made to show that money was subscribed by the friends of the President to procure his acquittal. It will be equally observed by the careful reader that there is not one scintilla of evidence going to show that money was raised for any other purpose than to pay the counsel fees of the President. Whether it be right or wrong for the friends of an impeached officer to employ counsel for his defense I shall not undertake to decide. The laws of all free countries guarantee the right to the meanest criminal to be heard by counsel. If the criminal be too poor to employ, counsel is furnished at the public expense. This is the demand of humanity and of justice. Some will say that the President should have been defended in this case at the public expense, and the day may yet come when the public will pay what individual friends may have left unpaid. On one subject I have an opinion. The opinion is that it is infamous in the extreme that this generosity on the part of the President's friends should be knowingly perverted into a charge of corruption against those who voted for acquittal. The only alleged talk of bribery anywhere to be found in this report is by one "Leggett," shown by his own testimony to be the very incarnation of corruption and rascality, who, in order to line his own pockets, offered to sell the votes of Senator POMEROY and four others, all of whom voted for conviction, for \$40,000; and a statement by one General Adams, who is denounced in the report itself as wholly unworthy of belief, that he wanted some money for the same purpose. The object of these two men was evidently to obtain money for themselves. None was given them; and if it had been, the corruption would never have extended beyond themselves.

With this statement I return to the note of Cooper, not for the purpose of repelling the insinuations made in the comments upon it, but for the purpose of showing that the contemptible author of this report knew when he penned it what the Cooper note meant. He insinuates that this note, taken "in connection with the testimony," proves something injurious to me. Why does he not publish the testimony? Cooper, Craig, and Lacey all testified before this committee. I charge that he suppressed their testimony explanatory of the note, and published the note, "not in connection with the testimony," but without the testimony. This, of course, was done with the single purpose of injuring my character. This fact contains within itself both species of lying known to the law—the suppression of truth and the suggestion of falsehood. I cannot conceive what good purpose this conduct can accomplish. If it were a larceny of my property I could attribute it to a well-known infirmity of its author, and suffer the mantle of charity silently to be drawn over it. But it manifests a degree of obliquity and devilish malice indicating total depravity. The implication here is not only against myself, but equally strong against Messrs. EVARTS, LACEY, COOPER, CRAIG, and the President, with no one of whom, up to the date of this note, I had ever had one word of conversation upon the subject of impeachment.

And now, Mr. President, I send to the Chair letters from these several gentlemen, written in answer to notes addressed to them, which I wish to have incorporated in my remarks.

The Chief Clerk read the following letters:

UNITED STATES SENATE CHAMBER,
WASHINGTON, July 13, 1868.

DEAR SIR: In General BUTLER's report from the impeachment committee I find the following note on page 17, to wit:

May 13.

DEAR MR. PRESIDENT: HENDERSON matter all

right. Lacey has been to see him with Craig—all right—so says EVARTS.

Truly,

COOPER.

Will you be so kind as to say to me whether you sent such a note to the President, and if so, what is meant by "the HENDERSON matter," and also by the statement that "Lacey has been to see him with Craig"? &c.

Please state also whether you ever had any conversation with me on the subject of impeachment, or communicated with me directly or indirectly on that subject at any time whatever.

Your friend and obedient servant,
J. B. H.
Hon. EDMUND COOPER, Metropolitan Hotel.

WASHINGTON, July 15, 1868.

DEAR SIR: Yours of the 13th July, 1868, is before me, and I hasten to answer it.

I wrote the note alluded to, and mentioned in General BUTLER's report, bearing date May 13, addressed to the President.

On the evening of 12th May it was currently reported in Washington that you intended to resign your position as one of the Senators from Missouri. This intention caused great anxiety with the President and his friends.

On the morning of the 13th May I was informed by Mr. Lacey that you had abandoned the idea, and in using the language contained in the note, "the HENDERSON matter all right," I had reference to nothing else except that you would not resign, and that if you did not, in my opinion you would vote for his acquittal.

When, in the hurry of writing the note, I stated "Lacey has been to see him with Craig," I was in error, as Mr. Lacey informed me during the same interview, but after I had written the note, that he had not seen you in person, but had heard from Mr. Craig what your intentions were.

I never had any conversation with you on the subject of impeachment at any time, nor did I ever communicate with you directly or indirectly on that subject.

Very truly,

EDMUND COOPER.

Hon. J. B. HENDERSON, United States Senate.

WINDSOR, VERMONT, July 16, 1868.

MY DEAR SIR: Your letter of 13th instant, addressed to me in New York, was forwarded to me here, and I take the earliest moment to reply to it, regretting that even this delay should have occurred.

I have not seen General BUTLER's report nor much notice of it in the newspapers, and your letter gives me my first and only knowledge of the "note" to the President, which you have transcribed in your letter.

I do not know who "Lacey" or "Craig" is, and, to my knowledge, have never seen either of them, nor heard of them in any connection whatever. I have no means of knowledge or conjecture what the writer of this note referred to as "the HENDERSON matter," except such as the note itself furnishes to any reader.

During the whole course of the President's trial I never had any intercourse with Mr. Cooper (though personally acquainted with him for some years, and having some early college associations in common with him) except of the most casual occurrence. I never had any interview with him by appointment or prearrangement, nor a conference or consultation under any circumstances, as to any means or influences that should or might be used with you, or anybody else, in reference to the President's trial or its result.

In regard to any intercourse or communication, direct or indirect, between yourself or myself from the day I first came to Washington until now, a very brief statement will dispose of the whole of it. After the trial had been in progress for some time, I had the honor to be introduced to you, upon the floor of the Senate, by some member of that body, and beyond an occasional interchange of ordinary conversation on the floor of the Senate, in which, I am quite sure, other Senators were always participants, I have never had any relations with you whatever, nor has anything ever passed between us by any intermediation, written or personal, on any subject whatever.

I have, I believe, fully met the inquiries of your letter, and I shall be happy at all times to satisfy any further wishes you may have in reference to this subject.

It has occurred to me that the true reading of Mr. Cooper's note may not connect his reference to me as his authority with the special allusion to "the HENDERSON matter," but only with the second "all right," as if to say that the general prospect is, as Mr. EVARTS says, favorable. That I early formed the opinion that the case made against the President did not admit of a judicial conviction, and that a political removal from office would not be accomplished, was known to everybody that took the trouble to ask me, and, doubtless, to Mr. Cooper among the rest.

I am, my dear sir, with great respect, your obedient servant,

WILLIAM M. EVARTS.

Hon. J. B. HENDERSON, United States Senate.

WASHINGTON, July 20, 1868.

SIR: In reply to your note of this date, I state that on the morning of the 13th day of May last I was informed that you contemplated resigning your seat in the Senate, and my visit to you on that day was simply to advise you, as a personal friend of many years standing, against resigning; and our conversation was confined to that subject.

I did not then know how you intended to vote on the subject of impeachment, and remarked to you that I did not desire to know that I did not come for that purpose. I also said to you what I had previously said to some others, that believing you would vote conscientiously I would defend the vote in Mis-

souri, without reference to whether you voted for conviction or acquittal.

In my examination before BUTLER's committee I was interrogated as to the visit, but neither asked or permitted to repeat our conversation. For a reply to other matters mentioned in your note I respectfully refer you to a letter I had the honor of addressing to Hon. JOHN A. BINGHAM, of Ohio, a few days since.

I am, sir, respectfully,

JAMES CRAIG.

Hon. JOHN B. HENDERSON.

METROPOLITAN HOTEL,
WASHINGTON, June 9, 1868.

SIR: After making several applications through friends to General BUTLER for a copy of the report made by him to the House for the special committee of the managers of impeachment, of which you are chairman, I to-day succeeded in procuring a copy, for which I am indebted to the politeness of General LOGAN. In commenting upon this remarkable document, I desire in advance to disclaim any intention of attributing to you its authorship, or any responsibility for its character. An acquaintance of more than twenty-five years gives me authority for saying that you are incapable of either writing or knowingly sanctioning a report made up of deliberate perversions of truth, and of bald, unblushing falsehoods.

I proceed to notice the report so far as it connects me with the impeachment trial, in the full belief that you could not have read either the evidence or the report, and protesting that if it had gone out to the world as the individual production of Manager BUTLER, and not as the joint report of yourself, and some other gentlemen of high character associated with BUTLER upon the committee, I should not have troubled you or the public with this hasty letter.

I have never indulged in the use of those epithets so generally applied to General BUTLER, among the mildest of which are "Brute," "Beast," "Thief," &c., fearing that in the political excitement of the times his enemies were possibly doing him injustice; nor could I until now fully realize the pungency of the language you once applied to him on the floor of the House of Representatives, that "he had been raised in a bottle and fed with a spoon." I can now "see the point," and without investigating the origin or discussing the propriety of the epithets heretofore bestowed upon him, the document now in question conclusively proves him to be "a great liar and a dirty dog."

A note purporting to have been written by Mr. Cooper to the President, stating that "HENDERSON is all right; Lacey has gone to see him with Craig; so says EVARTS," induced your committee to subpoena me. I attended in obedience to the subpoena, fully determined to answer all questions whatever, proper or improper, which might be propounded, and upon my examination, General BUTLER and LOGAN being the only members of the committee present, I did so answer.

In my testimony I admitted that I had visited Senator HENDERSON, but not with Mr. Lacey; that, although on terms of intimate friendship with Senator HENDERSON, I had never felt at liberty to inquire how he intended to vote on the impeachment until the night before the vote was to be taken; and that the Senator having called at my hotel to bid my family farewell, and I being about to start for Missouri, I then asked him, as I would leave the city within a few minutes, to tell me whether he would vote next day for conviction or acquittal; and that when he informed me of his intention to vote for acquittal I was astonished, for I had offered only a few hours before to bet that he would vote for conviction on one or more of the articles. On my way to the omnibus I met Mr. Lacey on the sidewalk, and told him what the Senator had just communicated to me. This was all that occurred between Lacey and me; and to more completely expose the perversion contained in the report, I will add that I never saw Lacey and HENDERSON together in my life; and in addition to this, Mr. Lacey testified before the committee that he had seen Senator HENDERSON but twice in six years, and on neither of those occasions was impeachment mentioned, either directly or indirectly.

On page 17 of the report appears the following: "Was not the information of Leggett on the morning of the 13th quite correct, that unless the Missouri delegation got HENDERSON's promise before twelve o'clock, to resign or vote for conviction, they never would get it, as Craig had gone to see him; and they never did."

I quote the above paragraph to illustrate the character of the report. This Leggett is the man who confessedly presented a forged letter purporting to come from Senator POMEROY, for the purpose of getting \$40,000 for the votes of certain Senators to acquit; and yet BUTLER parades his evidence in his report, apparently with the sanction of the committee as worthy of belief.

On page 19 the report states that I dined at Welker's with Woolley, Mr. EVARTS, one of the President's counsel, being also a guest. This is one of the most damnable and willful falsehoods in the report. I have never been in Welker's restaurant, never saw Woolley, do not know him by sight, and I have never been introduced to, nor have I ever spoken to Mr. EVARTS. This was a plain, palpable, intentional misrepresentation by BUTLER, which needs no further comment.

I have before given the substance of my testimony on the subject of my "seeing and securing HENDERSON." I will add that a day or two after giving my testimony I called at the committee-room to correct a mistake I had made in my evidence, which I did by writing a note to the clerk of the committee, with General BUTLER's consent, and in his presence. I then told him that justice to the Senate and to the country would be promoted if he would ask me the

main question upon the subject which he was ordered to investigate—that is, whether I had used, or attempted to use, any influence, political, pecuniary, or otherwise, to induce any Senator to vote to acquit the President—and assured him I was ready to swear that I had not done so, either directly or indirectly. BUTLER refused to ask the question.

The report states that Lacey's testimony disagrees with mine; that Lacey communicated to Lacey HENDERSON's intention to vote against conviction on Friday evening, and that Lacey states it was on Saturday evening, when, according to my statement, I was far on my way to Missouri. By reference to the testimony of Lacey, (question 103, page 16,) you will see that no such discrepancy appears, and BUTLER knew his assertion was false when he wrote it.

On the same page the report says I am president of certain railroads in Missouri in which Mr. HENDERSON is interested. I do not think Mr. HENDERSON owns any railroad stock anywhere, and I know he does not have a farthing of interest in any road or company in Missouri or elsewhere with which I am connected, and no witness before the committee testified that he had any such interest.

Such are a few of the more glaring falsehoods contained in the report. It is unnecessary to specify others. These are sufficient to brand the production with a portion of the infamy pertaining to its author.

To briefly sum up the facts, I will state that I remained in Washington attending to the business of the several railroad companies with which I am connected during the whole time of the impeachment trial, and did not once allude to the subject of impeachment, either in conversation or in writing, to any Senator except to Senator HENDERSON, and I did not try to ascertain his intentions until after the evidence and arguments had been closed, and I was about to leave the city, on the night before the vote was taken; and, although superfluous, I make the assertion, that no man acquainted with the character of Senator HENDERSON, would have ventured to make any improper or corrupt overtures to him on that or any other subject.

I was a member of the Democratic convention of 1860, at Charleston, South Carolina, where BUTLER voted fifty odd times for Jeff. Davis for candidate for the Presidency. Differing with BUTLER as to the fitness of his candidate, I made certain remarks which I suppose he considered offensive, and it seems he has neither forgotten nor forgiven me. After several southern States had, under the advice of BUTLER, withdrawn from the convention, BUTLER attended the "bolters' meeting," and made a speech, in which he promised his fire-eating brethren (in the event of a war resulting from the rupture) the use of half a million northern Democrats to slay the northern abolitionists before they should invade a southern State.

I was disposed at the time to doubt BUTLER's sincerity, but subsequent events have satisfied me that he would have tried to fulfill his promise if he had continued to believe that the paying side; but after reflecting upon the numerical strength of the northern States, and especially upon the strength of northern States, he concluded that jewelry and plate were more accessible at the South, and hence took the side of his country, and busied himself during the war in taking jewelry, plate, and other things, instead of taking Fort Fisher, Big Bethel, and other places.

You will not doubt my sincerity when I suggest that you cannot afford to place your hard-earned and well-deserved character in the keeping of this miserable parody on his species. When he charged you with contributing to the murder of an innocent woman, nobody believed him, and the American people read the terrible charge in the Globe with a shudder of indignation; but if you permit him to act as chairman of your committee, bully and badger witnesses, falsify records, manufacture evidence, and finally make a report in the names of your committee that would shock the sensibilities of a buccaneer, even your character, heretofore without stain, may be injured.

The only truth I find in the report, so far as it relates to me, is, that I was once a member of Congress, and now collector of internal revenue for my district. I voluntarily left my seat in Congress, and will within a week resign the collectorship. For the manner in which I discharged my duties in Congress I refer you to my constituents; and for the kind of "whisky ring" I belong to, I refer you to the files of the revenue department in this city, and to Hon. E. A. Rollins, the Commissioner.

I am, sir, with high regard, your old friend,
JAMES CRAIG.

Hon. JOHN A. BINGHAM.

METROPOLITAN HOTEL,
WASHINGTON, June 15, 1868.

SIR: In answer to your note of to-day I can only repeat what I stated as a witness before the impeachment managers on the 18th ultimo, that I had not mentioned the subject of the impeachment of the President to you or any other Senator until after his trial and acquittal: that I had visited you but twice during this session of Congress, once about the 17th of February, before impeachment was inaugurated, and once early in April. My first visit was to inform you I had been asked to accept the office of collector of internal revenue at New Orleans, and to learn if you would give me your influence to secure my confirmation if I got the nomination; you said as then advised you would, but advised me to get letters of indorsement to other Senators, as you had known nothing of me since I left Missouri. I promised to do so and retired, leaving in your room Mr. Britton and Mr. Lumberger, of St. Louis, who were present during the interview. I left for Memphis soon after, and returned here the last of March, and called upon you early in April, and exhibited my letters of indorsement, which were satisfactory, and you promised to favor my confirmation. These two interviews are

all we have had for several years. I have met you occasionally on the avenue and in the corridors of the Capitol at times subsequent to that date, but nothing occurred beyond a bow of recognition. And now I repeat that at no time between the inception of the impeachment and the vote on the eleventh article did I ever mention to you or to me the subject of impeachment. I was not here for any such purpose, but had been summoned here to take an office which I had not sought.

Very respectfully, your obedient servant,
A. T. LACEY.
Hon. J. B. HENDERSON, E Street, Washington.

Mr. HENDERSON. I stated that the author was advised of the meaning of this note when he prepared the report.

On page 16 of the report a part of the testimony of Mr. Lacey is introduced for another purpose, and it will be seen by his testimony that Mr. Craig having heard that I was going to resign called on me on the 13th of May to advise me against it. I quote from the questions and answers of Mr. Lacey:

"Question. Was it the day you told the fact to Mr. Cooper?"

"Answer. Yes."

"Question. Craig did go to see HENDERSON?"

"Answer. He told me he did that night or the next day. I got the information from Silas Woodson. When I returned from the post office I met Silas Woodson from Missouri, and he said HENDERSON is going to 'stick.' 'He is not going to resign.'"

Instead, therefore, of the testimony leaving the true meaning of this note in obscurity, it explains it in such manner as to strip the insinuations of all plausibility, and to stamp the author as a bold, willful, and intentional falsifier of the truth. I must refer to one other statement contained in this document intended to affect me injuriously. On page 18 appears the following telegram:

WASHINGTON, May 15, 1868.

Senator HENDERSON says conviction will fail by two votes.
LOCKWOOD.

JOHN R. GARLAND, New York.

Then follows the insinuation, "so the gold-room had the benefit of Senator HENDERSON's knowledge." At another place we are told that "Lockwood" is Mr. L. L. Crouse, the intelligent and gentlemanly Washington correspondent of the New York Times. On the same page is given the testimony of Colonel McCLEUNG, a member of Congress from Missouri, taken, not before this committee, but extracted, as I have said, from the unpublished records of another committee, in which testimony appears the following passage, namely:

"Senator HENDERSON handed to me in writing his reply to the delegation, (this was the evening of the 14th of May.) He then stated to me in most distinct and positive language that the impeachment of the President would fail; that the second article would fail by either 'at least' or 'about' two votes. (I will not say which.) and the eleventh article would fail by three or four votes."

"Upon my asking if I might repeat this conversation to my colleagues, and being answered in the affirmative, I retired."

I now send to the desk the letter of Mr. Crouse, with whom I had not the pleasure of a personal acquaintance until since the publication of this report.

The Chief Clerk read the following letter:

DEAR SIR: Your note of the 20th instant is received. In reply I have to say that the dispatch in question was not founded on any conversation had with you, and further, that I never had any communication with you, directly or indirectly, on the subject of impeachment. The information on which I based this and other dispatches, public and private, came to me in such a positive manner from members of the Missouri delegation, that I felt warranted in putting it in such brief and positive terms. But the assumption of BUTLER that "HENDERSON told Crouse" what is contained in this dispatch, or anything else, is wholly unwarranted, either by the dispatch itself or any other evidence in or out of BUTLER's possession, and, I may add, is only another evidence of those skillful perversions of the truth for which that gentleman has achieved a reputation which none can desire or hope to approach.

I am, sir, very respectfully, your obedient servant,
L. L. CROUSE.

Hon. J. B. HENDERSON.

Mr. HENDERSON. It therefore appears, Mr. President, first, that I did not communicate the information to Mr. Crouse for any purpose whatever; second, that it was communicated only as an opinion to Colonel McCLEUNG, an active friend of impeachment, with the privilege that he might communicate it to the other Missouri members, who were equally favorable to impeachment; third, that this

information, for good or bad purposes, was communicated by them to Mr. Crouse, and not by me; and fourth, that the insinuation contained in this report against me is gratuitous and false, and the writer knew it.

Mr. President, one or two general remarks and I am done. I forbear to characterize this whole proceeding as history must receive it. For selfish and malicious purposes the whole power of this Government has been given for fifty days. Telegraph offices have been ransacked and the operators dragged before a secret committee and subjected to a species of examination unknown in this country. Private letters have been surreptitiously taken from the desks of the writers. The officers of banks have been compelled to expose the accounts of their customers, and to their utter astonishment have been interrogated as to the corruption of men whose characters were previously without stain. Men have been subjected to imprisonment and insult such as illustrated the days of the base, contemptible, and cowardly Jeffreys.

After all this work of iniquity a cunning, perverted statement is made suppressing and concealing the entire mass of testimony taken, which statement contains nothing except such miserable assaults as I have referred to. The logic of the document is as vicious and corrupt as the motives prompting the proceeding. The object of the entire proceeding was to injure those who could not be bullied nor seduced into an abandonment of their convictions of right to selfish or partisan purposes. It was to bring suspicion on the seven Republican Senators who voted for acquittal. The President is lost sight of. The report is simply a work of vengeance. It is not to vindicate truth. It is the punishment which malice inflicts to soothe its disappointment. The impotency of the effort is acknowledged in a passage of that corrupt logic to which I have referred, found on page 33. It reads as follows:

"While Adams and men of his stamp, as is admitted so freely, are offering the votes of other Senators in the market, as almost to establish a price-current for them, yet no man, upon the evidence before your committee, breathes the thought that any one of the seven was open to the slightest suspicion of approach."

The report proceeds:

"Does not this studied silence of all the witnesses as to the 'seven' appear as the conscious attempted concealment of all clew to their motives lest they should be discovered?"

We are told in this connection that the names of Senators NYE, TIFTON, POMEROY, WILSON, THAYER, ANTHONY, SPRAGUE, and MORTON are canvassed as proper subjects for bribery and corruption, but no one breathes the name of the seven. Then comes the conclusion that the seven must be guilty because there is no testimony against them, and the others must be innocent because there is testimony against them. How much these gentlemen must feel indebted to the writer for his kindness in connecting their names with these disgraceful proceedings, suppressing the testimony, and then volunteering his own hypocritical defense that they are "honorable" men! I know they are honorable men. The country knows it. But their characters are none the better for being vouched by the author of this paper. They need no defense from BENJAMIN F. BUTLER. When the necessity for defense shall arise thousands of honest and patriotic men throughout the land will spring forward to attest their integrity and purity, even against the false implications of his vicious logic. After this last argument, that the absence of all proof to support a fact is the best evidence to establish it I dismiss the report, the infamous proceedings which led to its publication, and its more infamous author, to that just contempt which they have already received at the hands of honest and reflecting men of all political parties and of all shades of opinion.

SENATOR FROM ALABAMA.

Mr. SHERMAN presented the credentials of Hon. Willard Warner, elected a Senator

by the Legislature of Alabama for the term ending March 3, 1871; which were read.

Mr. SHERMAN. The Senator-elect is now present and ready to take the oaths prescribed by law.

The PRESIDENT *pro tempore* administered the oaths prescribed by law to Mr. WARREN, and he took his seat in the Senate.

THE FUNDING BILL.

Mr. SHERMAN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 207) for funding the national debt, and for the conversion of the notes of the United States, having met, after free and full conference, have agreed to recommend, and do recommend, to their respective Houses as follows: That the House recede from their sixth, eighth, ninth, thirteenth, fourteenth, and fifteenth amendments.

That the Senate recede from their disagreement to the tenth and twelfth amendments of the House, and agree to the same.

That the Senate recede from their disagreement to the first amendment of the House, so far as it proposes to strike out words, and agree to the said amendment with an amendment as follows: insert in lieu of the words proposed to be stricken out the words "as he may prescribe, and of denominations of \$100, or any multiple of that sum," and the House agree to the same.

That the Senate recede from their disagreement to the second amendment of the House so far as it proposes to strike out words, and agree to the same with an amendment as follows: insert in lieu of the words stricken out "thirty and forty years respectively, and bearing the following rates of yearly interest payable semi-annually in coin, that is to say: the issue of bonds falling due in thirty years shall bear interest at four and a half per cent.; and bonds falling due in forty years shall bear interest at four per cent.," and the House agree to the same.

That the Senate recede from their disagreement to the third amendment of the House so far as it proposes to strike out words, and agree to the same with an amendment as follows: insert in lieu of the words stricken out "and the interest thereon shall be exempt from the payment of all taxes or duties to the United States other than such income tax as may be assessed on other incomes, as well as from taxation in any form by or under State, municipal, or local authority," and the House agree to the same.

That the Senate recede from their disagreement to the fourth amendment of the House, and agree to the same, with an amendment, as follows: page 1, line twenty-five (of the bill) after the word "used" insert the words "par for par."

That the Senate recede from their disagreement to the fifth amendment of the House, and agree to the same with the following amendments:

Page 1, line twenty-eight (of the bill) strike out the words "present interest-bearing debt," and insert in lieu thereof the words "present outstanding bonds."

Page 1, line twenty-nine, strike out the words "other than."

Page 1, line thirty, strike out the words "the three per cent. certificates," and insert in lieu thereof the words "known as the five-twenty bonds."

And the House agree to the same.

That the Senate recede from their disagreement to the seventh amendment of the House, and agree to the same with the following amendment: page 2, lines thirty-three and thirty-four, strike out the words "outstanding or existing obligations as limited herein," and insert in lieu thereof the words "such five-twenty bonds," and the Senate agree to the same.

That the Senate recede from their disagreement to the eleventh amendment of the House, and agree to the same, with amendments, as follows: insert in said House amendment, after the word "negotiation," the word "redemption"; page 3, line fourteen, strike out the word "or," and after the word "negotiation" insert the words "redemption or exchange;" and the House agree to the same.

They further recommend that the title be amended so that it will read:

"An act providing for the payment of the national debt, and for the reduction of the rate of interest thereon."

JOHN SHERMAN,
E. D. MORGAN,
GEORGE H. WILLIAMS,
Managers on the part of the Senate.
ROBERT C. SCHENCK,
JOHN A. LOGAN,
GEORGE S. BOUTWELL,
Managers on the part of the House.

The PRESIDENT *pro tempore*. The question is on agreeing to the report of the committee.

Mr. SHERMAN. This is what is commonly called the funding bill. Senators will remember that as it passed the Senate it contained four sections. The first prescribed the classes of bonds; one at twenty years at five per cent.; one at thirty years at four and a half per cent.; and one at forty years at four per cent., in which the debt of the United States was to be converted. The second section provided for a sinking fund of \$135,000,000. The third section legalized gold contracts.

The fourth section prohibited the payment of percentages or commissions on the exchange of bonds. The House of Representatives added several new sections. They struck out the section in regard to gold contracts, and changed the first section so as to provide for the issue of bonds running forty years, at an interest of three and sixty-five hundredths per cent. This disagreement came before the committee of conference extending to nearly all parts of the bill. The result of the conference has been that we report a bill of three sections, providing for the second and third classes of the bonds prescribed in the Senate bill, omitting the first class; so that the bill provides for bonds running for thirty years at four and a half per cent., and forty years at four per cent., principal and interest payable in gold, and of precisely the legal character stipulated in the Senate bill, free from all tax except the income tax levied upon other incomes in the United States.

Mr. VAN WINKLE. Are they redeemable before maturity?

Mr. SHERMAN. They are not redeemable until after maturity, payable at the pleasure of the United States after thirty and forty years.

The second section, providing for the sinking fund, is left as it passed both Houses, the amendments of the House being verbal in character.

The third section provided for gold contracts. The House disagreed to that, and the Senate conferees, with great reluctance, finally yielded that section.

The fourth section is substantially as it passed in the Senate, simply adding the word "redemption" after the word "negotiation." The House recede from all the other sections that they added to the bill. There were four of them, I believe, making new provisions in regard to the public debt. If Senators wish any further information about it I have the bill as it will stand according to the report of the committee, and as the matter is of great importance, I will ask the Clerk to read the bill, as it is short, as it will stand if the report is adopted.

The Chief Clerk read as follows:

An act providing for the payment of the national debt, and for the reduction of the rate of interest thereon.

Be it enacted, &c. That the Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States, in such form as he may prescribe, and of denominations of \$100, or any multiple of that sum, redeemable in coin at the pleasure of the United States after thirty and forty years, respectively, and bearing the following rates of yearly interest, payable semi-annually in coin, that is to say: the issue of bonds falling due in thirty years shall bear interest at four and a half per cent.; and bonds falling due in forty years shall bear interest at four per cent.; which said bonds and the interest thereon shall be exempt from the payment of all taxes or duties to the United States other than such income tax as may be assessed on other incomes, as well as from taxation in any form by or under State, municipal, or local authority, and the said bonds shall be exclusively used, par for par, for the redemption of or in exchange for an equal amount of any of the present outstanding bonds of the United States known as the five-twenty bonds, and may be issued to an amount, in the aggregate, sufficient to cover the principal of all such five-twenty bonds, and no more.

Sec. 2. *And be it further enacted,* That there is hereby appropriated out of the duties derived from imported goods the sum of \$135,000,000 annually, which sum, during each fiscal year, shall be applied to the payment of the interest and to the reduction of the principal of the public debt, in such a manner as may be determined by the Secretary of the Treasury or as Congress may hereafter direct; and such reduction shall be in lieu of the sinking fund contemplated by the fifth section of the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and funding the floating debt of the United States," approved February 25, 1862.

Sec. 3. *And be it further enacted,* That from and after the passage of this act no percentage, deduction, commission, or compensation of any amount or kind shall be allowed to any person for the sale, negotiation, redemption, or exchange of any bonds or securities of the United States, or of any coin or bullion disposed of at the Treasury Department or elsewhere on account of the United States; and all acts and parts of acts authorizing or permitting, by construction or otherwise, the Secretary of the Treasury to appoint any agent, other than some proper officer of his Department, to make such sale, negotiation, redemption, or exchange of bonds and securities, are hereby repealed.

Mr. CORBETT. I wish to make an inquiry of the Senator from Ohio. I notice that the committee have stricken out the words "at the option of the holder." I desire to inquire whether or not the Secretary has a right to compel the present holders to receive these bonds in exchange for the five-twenty bonds that have matured, the five years having expired?

Mr. SHERMAN. I will answer that simply in the negative. There is no such power in the bill or anywhere else. We do not make these bonds legal tenders in the payment of debts. The exchange must be voluntary.

Mr. CORBETT. "Par for par," as I understand it, and it seemed to me there might be such a thing as exchanging them not at the option of the holders, but compelling them to take them. It is very difficult to judge of the precise character of the bill from hearing it read in this way. I should like to have it printed. It is a very important matter.

Mr. SHERMAN. I will state that no change has been made in the legal effect of the section referred to as it stood in the Senate, and as it was agreed to in the House. The House have inserted some words and stricken out others. It is to be a voluntary exchange par for par between the present bonds and the new bonds.

Mr. CORBETT. To test the sense of the Senate, I move that the bill be printed as proposed to be amended by the conference committee.

Mr. SHERMAN. The Senate can do as they please about that. As a matter of course that would defeat the bill, because the House of Representatives meet at nine o'clock in the morning, and we shall have no time to get the bill and report printed. The Senator, with his known sagacity and shrewdness, I have no doubt can see exactly the provisions of the bill without having it printed.

Mr. BUCKALEW. I do not understand how much of the existing public debt may be put into the bonds proposed in this bill.

Mr. SHERMAN. The five-twenties; none others. About sixteen hundred millions will be the aggregate.

Mr. BUCKALEW. Then it is substantially as now presented by the committee, a bill to change the five-twenties into four and a half and four per cent. thirty and forty year bonds, free from all forms of taxation.

Mr. SPRAGUE. I notice that the last section of the bill prohibits any compensation being allowed for the transaction of this business by any outside agent of the Government; but there was in the old conversion a fruitful source of income in permitting the bonds of the Government to lie on deposit in the hands of the agent. This is not remedied. I am not willing to let the matter pass without the Senate understanding that if the old practice is carried out of the Treasury Department, permitting these bonds to remain out on deposit prior to their being sold, one half per cent. or one per cent. could very easily be made by the parties negotiating them.

The report was concurred in.

INDEXING THE TAX BILL.

Mr. HOWE. I move to take up House bill No 1457.

The motion was agreed to; and the bill (H. R. No. 1457) to pay for indexing the tax bill was considered as in Committee of the Whole. It proposes to authorize the Clerk of the House of Representatives to pay out of the contingent fund of the House \$100 to the clerk of the Committee of Ways and Means for indexing the act of July 20, 1868.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CLERK OF HOUSE—SERGEANT-AT-ARMS.

Mr. MORRILL, of Maine. I move to take up House joint resolution No. 325. It is the last measure from the Committee on Appropriations that I have to present. It will not occupy a minute.

The joint resolution (S. R. No. 325) relative

to the pay of the chief clerk in the office of the Sergeant-at-Arms of the House was considered as in Committee of the Whole. It is a direction to the Clerk of the House to pay from the contingent fund of the House to the chief clerk in the office of the Sergeant-at-Arms the difference between his present pay and the amount voted him by resolution of the House, passed June 25, 1866, thereby fixing the salary of the chief clerk in the office of Sergeant-at-Arms at \$2,500 per annum.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

MILITIA IN SOUTHERN STATES.

Mr. WILSON. I am directed by the Committee on Military Affairs to report a bill respecting the organization of the militia in the States lately in rebellion, and I desire to put it on its passage.

Mr. HARLAN. I understood that this session was agreed on for a special purpose, and I should only reconcile the propriety of this session of the Senate on account of the character of the business that was expected to come before the Senate. I move, therefore, that the Senate proceed to the consideration of executive business.

Mr. WILSON. I wish the Senator would allow us to get this bill through.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa, that the Senate proceed to the consideration of executive business.

The question being put there were, on a division—yeas 13, nays 18; no quorum voting.

Mr. WILSON. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 23; as follows:

YEAS—Messrs. Buckalew, Cameron, Cattell, Chandler, Cole, Corbett, Davis, Doolittle, Drake, Henderson, McCree, Morrill of Maine, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ross, Sherman, Tipton, Van Winkle, and Wilcox—22.

NAYS—Messrs. Abbott, Conkling, Conness, Cragin, Ferry, Harris, Howard, Howe, Kellogg, McDonald, Morgan, Osborn, Rice, Sawyer, Sprague, Stewart, Sumner, Thayer, Wade, Welch, Williams, Wilson, and Yates—23.

ABSENT—Messrs. Anthony, Bayard, Dixon, Edmunds, Fessenden, Frothingham, Grimes, Harlan, Hendricks, Morrill of Vermont, Morton, Norton, Pool, Ramsey, Robertson, Salisbury, Spencer, Trumbull, Vickers, Warner, and Whyte—21.

So the motion was not agreed to.

Mr. WILSON. I hope the bill which I have reported will now be put on its passage.

The bill (S. No. 648) respecting the organization of the militia in the States lately in rebellion was read twice, and considered as in Committee of the Whole. It proposes to repeal so much of the act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes, approved March 2, 1867, as prohibits the organization, arming, or calling into service of the militia forces in the States lately in rebellion.

Mr. BUCKALEW. I believe that bill has been reported to-night. If so, I object to its consideration.

The PRESIDENT *pro tempore*. Objection being made the bill cannot be considered further.

HISTORY OF THE MONITOR.

Mr. ANTHONY, from the Committee on Printing, reported the following resolution; which was considered, and agreed to:

Resolved, That the report of the Secretary of the Navy, communicating in compliance with a resolution of the Senate of the 24th instant, information in relation to the construction of the iron-clad monitor, be laid upon the table and printed, and that five hundred extra copies be printed for the use of the Navy Department.

ERROR IN TAX BILL.

Mr. SHERMAN. The Committee on Finance, to whom was referred a bill (H. R. No. 1455) to correct an error in the enrollment of the act imposing taxes on distilled spirits and tobacco, and for other purposes, report it back without amendment, and recommend

its passage. I desire to have it considered at this time.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to amend the last clause of the first sentence of section forty-eighth of the act of July 20, 1868, by inserting the word "not" after the word "containing."

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. DRAKE. I move that the Senate proceed to the consideration of executive business.

Mr. STEWART. Allow me to offer a resolution.

Mr. DRAKE. No, sir; I think we have gone far enough to-night in this kind of business. I insist on my motion.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. The Senate remained in executive session till one o'clock and forty-five minutes a. m., (Monday, July 27,) when it adjourned to meet at half past nine a. m.

HOUSE OF REPRESENTATIVES.

SATURDAY, July 25, 1868.

The House met at twelve o'clock in. The reading of the Journal of yesterday was, by unanimous consent, dispensed with.

PORTAGE LAKE SHIP-CANAL.

The SPEAKER. The House resumes the consideration of the unfinished business pending at the expiration of yesterday's session, being the bill (S. No. 398) extending the Portage Lake and Lake Superior ship-canal to Keeweenaw bay, providing for the right of way, and making a grant of land to aid in the continuance of said extension. The gentleman from Michigan [Mr. DRIGGS] is entitled to the floor.

Mr. DRIGGS. I desire to say that one of the amendments which the Committee on the Public Lands have instructed me to offer provides that this company shall not charge any greater toll upon the canal when finished than may be necessary to keep the canal in running order. Some gentlemen have an impression that this company has already received a grant of land for this canal. That is a mistake. This is an entirely distinct work from that for which a grant was made a few years since. I will now present the amendment to which I have alluded.

The Clerk read as follows:

Add to the bill the following: *Provided*, That the lands herein granted shall not be withdrawn upon entry or settlement except upon lists of actual selection and the payment of fees allowed by law at the local land office: *And provided further*, All arable lands selected under this grant shall remain subject to preemption settlement at the minimum price of \$2 50 per acre until the completion of said canal and so long as they shall remain the property of said company: *And provided further*, That after the cost of said canal and break-water shall be reimbursed to said company by the sale of said lands, or otherwise, it shall not be lawful for said company to charge or receive any higher rates of toll than shall be sufficient to pay the expense of running the canal and keeping the works in repair.

Mr. DRIGGS. I will yield to the gentleman from Ohio.

INCREASED DUTIES ON IMPORTED COPPER.

Mr. SCHENCK. I am directed by the Committee of Ways and Means to report a joint resolution (H. R. No. 359) providing for increased duties on imported copper and copper ore.

The joint resolution was read. It provides that from and after the passage of this act in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid on the articles herein enumerated and provided for, imported from foreign countries, the following specified duties and rates of duty, that is to say: on all copper imported in the form of ores, three cents on each pound of fine copper

contained therein; on all regulus of copper, and on all black or coarse copper, four cents on each pound of fine copper contained therein; on all old copper, fit only for remanufacture, four cents per pound; on all copper in plates, bars, ingots, pigs, and in other forms not manufactured or herein enumerated, five cents per pound.

Mr. O'NEILL. I wish to ask the gentleman a question.

Mr. WASHBURNE, of Illinois. Has the joint resolution been received?

The SPEAKER. It was reported from the Committee of Ways and Means.

Mr. KERR. I rise to a question of order. Should this not under the rules go to the Committee of the Whole on the state of the Union?

The SPEAKER. The Committee of Ways and Means can report at any time; but the gentleman from Indiana makes the point of order that this is a tariff bill, imposing a tax upon the people, and must receive its first consideration in the Committee of the Whole on the state of the Union. The Chair is compelled under the rules to sustain that point of order. It must, therefore, be referred to the Committee of the Whole on the state of the Union.

It was so referred.

BUSINESS ON THE SPEAKER'S TABLE.

The SPEAKER. If there be no objection, after the pending bill is disposed of the business on the Speaker's table will be resumed.

Mr. WASHBURNE, of Illinois. I object.

AMERICAN LINE OF OCEAN STEAMERS.

Mr. HILL. I submit the following report from a committee of conference.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses upon the bill (H. R. No. 939) entitled "An act to provide for an American line of mail and passenger steamships between New York and one or more European ports," have had the same under consideration, and agree to recommend to their respective Houses as follows:

That the House recede from their disagreement to the second and third amendments of the Senate.

That the House recede from their disagreement to the first, fourth, and fifth amendments, to wit:

In line twelve, page 1 of engrossed bill, strike out "twenty" and insert "fifteen."

In line fourteen, page 3 of engrossed bill, strike out "twenty" and insert "fifteen."

In line twenty-six, page 5 of engrossed bill, strike out "twenty" and insert "fifteen."

JOHN HILL,

J. F. FARNSWORTH,

FERNANDO WOOD,

Managers on the part of the House.

ALEXANDER RAMSEY,

J. W. PATTERSON,

ALEXANDER G. CATTELL,

Managers on the part of the Senate.

Mr. HILL demanded the previous question on the adoption of the report.

The previous question was seconded and the main question ordered; and under the operation thereof the report was adopted.

Mr. HILL moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PORTAGE LAKE AND LAKE SUPERIOR CANAL.

Mr. DRIGGS. I now yield to the gentleman from Ohio, [Mr. ECKLEY.]

Mr. ECKLEY. The Committee on the Public Lands had two sessions at least for the consideration of this bill, and I believe they were all, with the exception of the gentleman from New York, [Mr. TABER], in favor of it, after full investigation and deliberate consideration. The bill explains itself, and I think with the further explanation of the gentleman from Michigan the House understands it.

Mr. HOPKINS. Will the gentleman yield to me a moment?

Mr. DRIGGS. I will.

Mr. HOPKINS. The gentleman from Michigan has stated correctly that this bill, or a certified copy of it, has been considered informally by the Committee on the Public Lands, and I believe the committee generally acquiesced in it, and allowed it to be reported

to the House. But I am satisfied for one, from facts which I have learned since the action of the committee on the bill, that it ought not to pass. Unless, therefore, I shall be better satisfied that the bill ought to pass I shall vote against it. I have learned that it interferes with private rights. There is a canal already nearly completed, and one of the gentlemen interested in it has told me that he has laid out his money and his friends have done the same, and they have never asked any aid from the Government for the work, and they do not want Congress to grant land to another corporation to their detriment. It strikes me this is an outrage upon these parties who have built the canal from their own private means, and I trust, without further investigation, the House will not pass this bill. I am reminded that this same company has already had a grant of four hundred thousand acres of land, but my friend from Michigan assures me it is for another purpose.

Now, sir, I desire to be entirely fair. I would like to have this bill referred to the Committee on the Public Lands, and if I am mistaken in my statement I will certainly favor the passage of this bill at the next session of Congress. But from my present information I think it ought not to pass.

Mr. DRIGGS. Now, Mr. Speaker, I want to say to the House that last evening when the gentleman from Wisconsin had a bill before the House, in which I felt a very deep interest and to which the Committee on the Public Lands had agreed to allow me the privilege of offering an amendment when it was presented, I could not get the gentleman to yield to me to offer that amendment.

Mr. HOPKINS. I do not wish to contradict my friend, but if he will show any such record of the Committee on the Public Lands I will not, of course, dispute what he says.

Mr. DRIGGS. Gentlemen present will bear me out.

Mr. HOPKINS. I have asked the clerk of the committee this morning, and I am informed that there is no such record of the action of the committee on this bill.

The SPEAKER. Discussion as to what was agreed upon in a committee is not in order.

Mr. DRIGGS. I have treated the gentleman fairly and allowed him to offer his objections to this bill. Now one word in regard to this canal. It was built at a cost of about seventy thousand dollars, and I am informed that the company has received back already in tolls almost the whole amount expended. The rates of toll charged are enormous. Now, this bill provides that before this company can receive one foot of land they must pay back every dollar that the canal company have expended, the amount to be ascertained by a commission appointed by the Secretary of War. And let me say further that this company propose to charge one fourth the rate of toll upon the shipping that the canal company are now charging.

The gentleman from Wisconsin has alluded to gentlemen who he says will be greatly aggrieved if this bill passes. Now, sir, I state what I know when I declare that one of those gentlemen proposed to these other parties to take \$100,000 and withdraw his objection to this bill. That, sir, was nothing more nor less than an attempt at black-mail upon the present company, who propose to build a good canal for the passage of vessels through Portage lake.

I will say further, that you have given three or four hundred thousand acres of land to build a canal from the west end of the lake to Lake Superior, and that that grant will be rendered entirely useless if another company charging enormous tolls have possession of the east end. I have petitions from nearly all the people living there—the shippers and shipowners—asking this grant, and the committee have unanimously agreed upon it. I call the previous question.

Mr. TROWBRIDGE. I hope not.

Mr. WASHBURN, of Illinois. Oh, no; let us discuss this measure.

Mr. COBURN. I ask the gentleman to yield to me for a few minutes.

Mr. DRIGGS. I yield to the gentleman for five minutes.

Mr. COBURN. The gentleman from Michigan has said that this is no interference with the rights of third persons. I desire to state to the House the condition of this Portage Lake canal, so far as I know, and in order to do that I shall have to describe the location. Keewenaw point is a tongue of land that juts out into Lake Superior some fifteen or more miles wide. Portage lake lies partly across that point. From the south side of the point into Portage lake there is a small stream which is not navigable. There are certain copper mines upon the banks of Portage lake. In order to open those mines to navigation the owners opened a canal to the south at an expense of about eighty thousand dollars, and they have in their possession a fee simple right to the lands through which this canal runs, along the banks of Portage river. In other words, the citizens of Hancock and Houghton own the canal running south into Lake Superior.

Now, two or three years ago a grant was made of two hundred thousand acres of land for the construction of a canal from the north end of Portage lake into Lake Superior, so that there would be a channel clear across from one side of Keewenaw point to the other. They received this large grant of two hundred thousand acres of land for the construction of a canal one mile and six hundred feet long from the north end of Portage lake to Lake Superior. They come now and ask two hundred thousand acres of land more for the construction of that work, and they not only want that, but the right and title to, and absolute control of this little canal made at the south end, which was made by private enterprise, and is the property in fee simple, and by every right known to man, of the citizens of Hancock and Houghton.

Mr. DRIGGS. The gentleman makes an unintentional misstatement in regard to the length of the canal. It is two miles and three tenths of a mile in length.

Mr. COBURN. It is one mile and six hundred feet long, as I am reliably informed. I have been on the ground. They have no right to take a canal made at an expense of nearly one hundred thousand dollars and the property of private citizens. I pronounce it now a fraud. I say that they have no more right to take this land and Congress has no more right to legislate it away than they have to take the title to any square in Washington city. These men bought the lands from the Government and have spent their money to make the canal. They have two towns with from three to five thousand inhabitants each, and the best copper mines of Lake Superior, worth vast sums of money, and all in consequence of their own independence and enterprise in opening this canal into Lake Superior. And these men, this new company, now seek, and this bill undertakes to take it away from men who spent this money freely and honestly without asking the Government for a cent. On the other hand, the men who ask this large additional bonus have been two years in making about eight hundred feet of canal. With two hundred thousand acres of land in their possession they could have made that canal last year, but they have made only about eight hundred feet, and I do not believe they intend to make the canal at all unless they get another large bonus. They deserve neither the additional land nor the vested rights of the citizens there in the improvements on Portage river.

[Here the hammer fell.]

Mr. DRIGGS. I have but a word to say. I seem to come in conflict with the gentleman in regard to facts and figures, and I am unable now, of course, to prove what I assert, that this canal is two miles and three tenths of a

mile in length, and that it is about half completed instead of only eight hundred feet. The gentleman from Indiana doubtless states what he believes to be correct, but I am very confident that it is incorrect.

Now, as I have called out so much discussion on this subject, and as I do not want anything that is not fair and right and just, I will move that the bill and pending amendment be referred to the Committee on the Public Lands.

The motion was agreed to.

Mr. WASHBURN, of Illinois moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (S. No. 579) to establish a new land district in the State of Nebraska; when the Speaker signed the same.

THE PUBLIC DEBT.

Mr. LOGAN. I ask unanimous consent to report from the Committee of Ways and Means a bill in reference to paying a percentage for the sale of bonds, and requiring the Secretary of the Treasury to give a monthly statement of the indebtedness under the different enumerations of bonds, currency, gold, &c. The substance of this bill was before the House some time ago, and some provisions of it were in fact inserted in the funding bill on my motion. But for fear that that bill may not become a law I ask that this bill may be now considered.

No objection was made, and the bill (H. R. No. 1454) making certain regulations as to the public debt was received, and read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read. The first section provides that from and after the passage of this act no percentage, deduction, commission, or compensation of any amount or kind shall be allowed to any person for the sale, or negotiation, or exchange of any bonds or securities of the United States disposed of at the Treasury Department or elsewhere on account of the United States, or for any coin or bullion; and all acts and parts of acts authorizing or permitting, by construction or otherwise, the Secretary of the Treasury to appoint any agent other than some officer of his Department to make such sale or negotiation of bonds and securities are hereby repealed. The second section provides that on and after the passage of this act all authority under any existing law to issue bonds, or interest-bearing Treasury notes, or obligations of the United States shall cease and determine; provided that nothing herein shall prevent the conversion of Treasury notes known as "seven-thirties" into five-twenty bonds, nor the issue of the three per cent. certificates of temporary loan, nor the exchanging of registered bonds for coupon bonds, nor the issue of bonds as subsidies to railroad companies as provided by law. The third section provides that the Secretary of the Treasury shall publish monthly a detailed statement of the public debt at the close of each month, in which statement all the bonds and other obligations of the United States issued from the Treasury Department payable after the year in which such statement is made, including the amount of seven-thirty Treasury notes convertible into five-twenty bonds, and not including subsidy bonds issued to railroad companies, shall be classed as the funded debt; the United States and fractional notes issued for circulation as money shall be classed as the currency debt; the three per cent. certificates of temporary loan shall be classed as the temporary loan debt; and all debt that is past due, or that will be payable within the year, the same to be stated in detail, shall be classed as the matured debt, and all interest shall cease on such matured debt

when it becomes due, but the same shall be paid on presentation at the Treasury. Such statement shall also contain an account of the amount outstanding of subsidy bonds issued to railroad companies; also the amount of coin, the amount of outstanding gold certificates, and the whole amount of currency in the Treasury of the United States.

Mr. BOUTWELL. I desire to make a suggestion in regard to one of the sections of this bill, and also to move an amendment to it. The suggestion I have to make is in regard to the last section of the bill, I think. It is that the Secretary of the Treasury shall be required to report the amount of interest due and unpaid, for it happens now that we think we are diminishing our debt, and on the 1st of July or the 1st of January, when a large amount of interest becomes due and is paid, we find that we are losing instead of gaining. I also ask the gentleman from Illinois [Mr. LOGAN] to allow me to offer an amendment as an additional section.

Mr. LOGAN. I will yield to allow the amendment to be read.

The Clerk read as follows:

SEC. —. And be it further enacted, That the Secretary of the Treasury be, and he hereby is, prohibited from making sales of gold for any purpose whatever.

Mr. LOGAN. I have no objection to that amendment, and I allow it to be offered. I think there can be no objection to the provisions of this bill, as similar provisions were incorporated in the funding bill, already passed.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. LOGAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HEIRS OF MAJOR JOHN RIPLEY.

On motion of Mr. WASHBURN, of Massachusetts, and by unanimous consent, the Committee on Revolutionary Pensions and of the War of 1812 was discharged from further consideration of the petition of the heirs of Major John Ripley, and it was referred to the Committee on Revolutionary Claims.

G. P. PUTNAM AND ELIZA KETCHAM.

Mr. WASHBURN, of Massachusetts, by unanimous consent, introduced a joint resolution (H. R. No. 360) relative to the accounts of George P. Putnam and Eliza Ketcham; which was read a first and second time, and referred to the Committee of Claims.

PRINTING OF LAND OFFICE REPORT.

Mr. LAFLIN, by unanimous consent, reported from the Committee on Printing the following resolution:

Resolved, That there be printed for the use of the House fifteen thousand extra copies of the report of the Commissioner of the General Land Office for 1867, five thousand of the above in full with the connected maps of the United States, and ten thousand of the abridgments.

Mr. WASHBURN, of Illinois. I would like the gentleman to explain this resolution.

Mr. LAFLIN. The document we propose to print is the regular report of the Commissioner of the General Land Office. We propose to publish fifteen thousand extra copies, five thousand with the connected maps and ten thousand in the abridged form.

The resolution was adopted.

REPORT ON EDUCATION.

Mr. LAFLIN also, by unanimous consent, reported from the Committee on Printing the following resolution; which was read, considered, and agreed to:

Whereas the House of Representatives did, upon the 2d of June last, order the printing of the report of the Commissioner of Education, with the accompanying documents; and whereas it appears that the report proper covers thirty-three pages; and whereas the accompanying documents embrace eight hundred and forty-eight pages: Therefore,
Be it resolved, That so much of said order as re-

quires the printing of the accompanying documents be, and is hereby, rescinded, except upon the order of the Committee on Printing.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FRAUDS ON THE REVENUE.

Mr. ELIOT, by unanimous consent, reported back from the Committee on Commerce a bill (S. No. 442) to amend section one of "An act to prevent and punish frauds upon the revenue, and for other purposes," approved March 3, 1863.

The bill provides that the act named in the title be amended by adding to section one the following additional proviso:

And provided further, That in case of goods, wares, and merchandise imported from a foreign country adjacent to the United States, the declaration in this section hereinbefore required may be made to, and the certificate indorsed by, the consul, vice consul, or commercial agent at or nearest to the port or place of clearance for the United States.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REMISSION OF TAX LAW PENALTIES.

Mr. BECK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of presenting to the House, for immediate action, a joint resolution exempting all persons from the penalties and forfeitures imposed by the internal revenue law passed at this session, for such period of time, not less than twenty days, as will enable the persons affected thereby to obtain copies of said law and understand the provisions thereof.

SANDY BRUCE.

Mr. WASHBURN, of Illinois. I move, by unanimous consent, that the Committee on Accounts be directed to add fifteen dollars a month to the pay of Sandy Bruce, who attends to us so well in the bath-rooms.

There was no objection, and it was ordered accordingly.

AMENDMENT OF THE TAX LAW.

Mr. MAYNARD. I am directed to report back from the Committee of Ways and Means House bill No. 1452, to repeal section one hundred and thirty-six of the act of June 30, 1864, entitled "An act to provide ways and means to support the Government, and for other purposes," with the recommendation that it do pass.

The bill was read. It provides that section one hundred and thirty-six of the act of June 30, 1864, entitled "An act to provide ways and means to support the Government, and for other purposes," be repealed, and that any legacy or succession tax that is now due and unpaid, or hereafter may become due by virtue and under said section, be released.

Mr. MAYNARD. I now ask that section one hundred and thirty-six be read.

The Clerk read as follows:

SEC. 136. And be it further enacted, That where real estate shall become subject to a trust for any charitable or public purposes under any part or future disposition, which, if made in favor of an individual, would confer on him a succession, there shall be payable in respect of such real estate upon its becoming subject to such trusts or duty at the rate of six per cent. upon the amount or principal value of such real estate.

Mr. MAYNARD. It is proposed not to make that class of transfers subject to tax, as they are for charitable purposes.

Mr. GARFIELD. I hope the bill will be passed.

The bill was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time, and passed.

Mr. MAYNARD moved to reconsider the vote by which the bill was passed; and also

moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HELEN AND HELOISE LINCOLN.

Mr. CLARKE, of Kansas. I ask unanimous consent to introduce a joint resolution (H. R. No. 361) for the relief of Helen and Heloise Lincoln.

There was no objection, and the joint resolution was received and read a first and second time. The preamble states that on or about the 5th day of January, 1868, the Kioway Indians, captured in Cook county, State of Texas, two female children, whose family name is unknown aged about three and five years, after having murdered their parents and all known relations; and that they have recently been recovered from those Indians, and are now in the care of J. H. Leavenworth, United States Indian agent, and are without any means of support. It then directs the Secretary of the Interior to reserve from any moneys due or to become due to the Kioway Indians the sum of \$5,000 for each one of said children, to be used in such manner as he may deem expedient for their maintenance, education, and support, the eldest of the children to be known as Helen Lincoln and the youngest as Heloise Lincoln.

Mr. DELANO. I hope the gentleman will modify his resolution so as to provide that this money shall be invested in United States securities for the benefit of these children.

Mr. CLARKE, of Kansas. I accept that.

Mr. DELANO. I wish to make a single statement in reference to this joint resolution. [Cries of "Oh, no! let us pass it!"] Very well, then.

Mr. PAINE. Mr. Speaker, it seems to me this resolution as it stands now allows the Secretary of the Interior to pay these Indians what shall be due to them, deducting \$5,000; and it seems to me to be wrong to allow the Secretary of the Interior to pay any tribes of Indians which hold white women and children in captivity. I wish, therefore, to amend the resolution so as to cut off any annuity to any Indians who hold white women and children in captivity.

Mr. CLARKE, of Kansas. I do not object to that amendment.

The amendment was agreed to.

Mr. MULLINS. It does not go far enough. It should embrace people held in captivity of whatever color. I move that amendment.

The amendment was agreed to.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time, and passed.

Mr. CLARKE, of Kansas, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PEONAGE OF NAVAJOES.

Mr. BUTLER, of Massachusetts. I wish to present for immediate action a joint resolution (H. R. No. 362) to aid in relieving from peonage women and children of the Navajo Indians. I think it will commend itself to every member of the House.

The joint resolution was read a first and second time. It authorizes and requests Lieutenant General Sherman to use the most efficient means his judgment will approve to reclaim from peonage the women and children of the Navajo Indians, now held in slavery in the territory adjacent to their homes, on the reservation on which the Navajo Indians have been confined.

Mr. BUTLER, of Massachusetts. I wish merely to say that there are now four thousand of these women and children held in peonage, and I desire that General Sherman shall have authority to use such means as his judgment approves to take them away from peonage.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BUTLER, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INTERNAL TAX BILL.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to report a bill (H. R. No. 1455) to correct an error in the enrollment of the act imposing taxes on distilled spirits and tobacco, and for other purposes. It is merely to insert the word "not," which was omitted.

The bill was read a first and second time. It amends section forty-eight of the internal tax bill by inserting the word "not," so as to read, "thirteen dollars per dozen bottles, each bottle containing not more than one pint."

The bill was ordered to be engrossed for a third reading; and being engrossed it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

IMPORTATION OF MACHINERY.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to report a bill (H. R. No. 1456) to authorize the importation of machinery for repair only free of duty.

The bill was read a first and second time. It provides that machinery for repair may be imported into the United States without the payment of duty, under bond, to be given in double the appraised value thereof, to be withdrawn after said machinery shall have been repaired; and directs the Secretary of the Treasury to prescribe such rules and regulations as may be necessary to protect the revenue against fraud, and secure the identity and character of all such importations when again withdrawn and exported, restricting and limiting the export and withdrawal to the same port of entry where imported, and also limiting all bonds to a period of time of not more than six months from date of the importation.

Mr. BANKS. I think that ought not to pass.

Mr. SCHENCK. There is a great deal of machinery for manufacturing sugar and machinery of other kinds used in the West Indies and other foreign countries where they have no means of repairing it. It has, therefore, to be brought back to this country or some other country to be repaired. But that cannot be done without paying a duty. The proposition is, by letting it in free of duty, to permit our mechanics to have the benefit of repairing this machinery, which otherwise would be taken to England or elsewhere to be repaired, and to reexport it after the repairs are made.

Mr. ELIOT. All right.

Mr. BANKS. I withdraw my objection.

Mr. SCHENCK. I think it is generally agreed all around that it is right.

Mr. PAINE. I think the object of the Committee of Ways and Means is right, but when the bill was read it did not strike me that it would carry out the object which the gentleman stated. It seemed to me that it might cover all cases where machinery is brought into this country to be used in repairing machinery, whether originally made in this country or not. I think the language is too broad.

Mr. SCHENCK. I think the gentleman will find that the bill is so guarded, and that we have placed such restrictions in it as to guard against any possibility of fraud. The bill is generally asked for by the machinists of the country who are engaged in this work.

Mr. MILLER. I do not know that I have any serious objection to this bill, but I should prefer that all these questions in relation to the tariff should go over until the tariff is considered next session.

Mr. KELLEY. I hope my colleague will make no objection to this bill. It is simply to allow our own mechanics to repair machinery.

Mr. MILLER. I withdraw the objection.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE TO PRINT.

Mr. JONES, of North Carolina, asked and obtained, leave to print some remarks on the condition of the southern States. [See Appendix.]

TRADE WITH PRINCE EDWARD ISLAND.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to report back the joint resolution (H. R. No. 322) relative to Prince Edward Island with a brief report in writing accompanied by a resolution. I ask that the joint resolution be read and then the report of the committee.

The joint resolution was read. It proposes to authorize and direct the Secretary of the Treasury to admit into the several ports of the United States free of duty the actual productions of Prince Edward Island, including fish, accompanied by satisfactory vouchers of the place of production, under such regulations as he may deem necessary, whenever the colonial Government of Prince Edward Island shall by law provide, first, for the free admission of all productions of the United States to the island; second, to admit to its ports and harbors, for shelter, to obtain supplies, and to refit, free of duty or impost, all American fishing vessels; third, to give license to fish in the waters adjacent to the island upon such terms that the license fee shall not exceed five dollars for any one vessel, &c.

Mr. ELIOT. Is this resolution properly before the House?

The SPEAKER. It is. The Committee of Ways and Means have a right to report at any time for commitment.

The Clerk read the report of the Committee of Ways and Means, as follows:

The Committee of Ways and Means having considered joint resolution (H. R. No. 322) relative to Prince Edward Island, and not being able to obtain at once and with exactness all the information needed before it would be wise and advisable, in their opinion, to take any definite action on the subject, have concluded as a preliminary measure, to submit to the House and recommend the passage of the following:

Resolved, That a select committee of three members be appointed by the Speaker, to whom shall be referred joint resolution No. 322 of the House, relative to Prince Edward Island, with instructions to inquire and report at the next session of this Congress the fullest and most reliable information they can obtain in regard to said colony of Prince Edward Island, including particularly whatever can be ascertained as to the kind and amount of imports and exports to and from the island, and the views and disposition as well as authority of the colonial government to enter into any particular or exceptional arrangement or agreement by legislative enactment with the United States, conceding and securing such privileges as to fisheries on the coast as are contemplated in said resolution. But no expense to the United States is to be incurred by said committee in the prosecution of their inquiries.

Mr. SCHENCK. The House will observe that the resolution which was referred to the Committee of Ways and Means proposed legislative action by which negotiations or tenders for reciprocal legislation should be offered to the colony of Prince Edward Island.

The Committee of Ways and Means report that they do not think they have such exact and accurate information as would justify us in founding action upon it. The committee therefore recommend that the resolution be referred to a select committee of three persons, who shall inquire, without expense of any kind attending their inquiry, and report at the next session of this Congress, what are the exports and imports of that colony, what authority it has for legislative action, and what is the disposition of the people there to enter into an arrangement of this kind. The committee therefore recommend that action be postponed until full and complete and exact information can be obtained on these points.

The gentleman from Massachusetts, [Mr.

BUTLER,] who introduced the resolution, thinks that the committee might better recommend its passage. I have agreed to give him an opportunity to move an amendment so as to put the resolution on its passage; but I desire the House to understand that the Committee of Ways and Means do not recommend the passage of the resolution at this time.

Mr. BUTLER, of Massachusetts. By leave of the chairman of the Committee of Ways and Means, [Mr. SCHENCK,] I desire to call the attention of the House to this subject, which is a matter of very considerable importance. The difference between the action proposed by the committee and that which I desire is this: the Committee of Ways and Means want to put the matter off and have a select committee appointed to go, at their own expense, to the island, where there is no public conveyance, there to make an examination for the purpose of obtaining information for this House. There may be many patriotic gentlemen who will volunteer to serve upon such a committee; but I have not happened to see any such exhibition of patriotism. I do not think there is any use in such a committee. We have a very excellent report upon this matter by Mr. Derby and Mr. Brega, made under the direction of the Treasury Department.

I will state to the House, briefly, what I desire. Edward Island is about two hundred thousand square miles in extent, and embraces a million acres of land under cultivation. The people of that island are engaged in agriculture and in fishing. They have the finest harbors anywhere on our coast; but we are debarred from going there now because the government of the dominion, under the treaty of 1815, prevents any of our fishing vessels going into those harbors and laying there more than twenty-four hours without confiscation. And so great a burden is that on our fishermen that in 1856 three hundred sail of fishermen undertook to ride out a storm rather than go into the harbor, and one hundred sail and almost three hundred lives were lost.

My resolution proposes that we shall admit the productions of this island free of duty. The whole of the products of this island that they export everywhere are not more than \$200,000 in value. They export only about twenty-five thousand dollars worth of fish of all sorts. They also have a few potatoes, some oats, and some barley. In return for allowing their exports to come into the country free of duty they propose to give our fishermen the right to enter their ports, to refit there, to victual their vessels, and to dry their fish, upon the nominal license of not exceeding five dollars a vessel. The license now is at the rate of two dollars per ton, or from forty to two hundred dollars per vessel, amounting to an almost entire prohibition. This resolution provides that in case the authorities of this island allow our fishing vessels to enter their harbors for a nominal license only, allowing them full and free use of their harbors, and the best fishing grounds in the world, which now they are almost wholly deprived of, we will allow their products to come into our country free, ours going free into their country. They consume from forty to fifty thousand dollars worth of flour each year, which would all come from the United States. Now, my friend from the New Bedford district [Mr. ELIOT] thinks this will interfere with the interests of his district.

Mr. ELIOT. I will state my own objections if I am allowed to do so.

Mr. BUTLER, of Massachusetts. I will allow the gentleman to state his objections, so far as I am concerned.

Mr. SCHENCK. I will yield to the gentleman for five minutes.

Mr. ELIOT. I do not believe the House of Representatives, after the report from the Committee of Ways and Means that upon the examination they have made they do not think they possess sufficient information to justify their action upon the resolution of my colleague, [Mr. BUTLER,] I do not believe the House will be willing to pass the resolution,

especially in view of some facts, which I will proceed to state.

Soon after the offering of this resolution by my colleague, [Mr. BUTLER,] and its reference to the committee, I received from Massachusetts a communication in behalf of the cod-fishing interests of that State, representing that the passage of this resolution, although it might possibly affect beneficially the mackerel interests of my colleague's constituents, would be disastrous to the cod-fishing interests of the country for this reason: if Prince Edward Island should be made a free port of entry, although it may be that now the exports of fish from there amount to but \$20,000 a year, yet the time would speedily come when it would be made a depot for the introduction of cod-fish, which would by that channel come into the country free of duty. The fishing grounds to which my colleague refers are mackerel fishing grounds; and this resolution would be destructive to the cod-fishing interests of the country, by permitting the introduction of cod-fish free of duty by the way of Prince Edward Island.

I do not know, Mr. Speaker, but that there may be reasons why some legislation should be had on this subject; but I insist that in the absence of all reliable information it would be manifestly unsafe at this period of the session for the House to pass this resolution, which is not recommended by any committee, but upon which the Committee of Ways and Means have, I may say, reported unfavorably. It would be wise, I believe, to adopt the report of the committee, so that between this time and the next session such information may be had as will enable the committee when we shall reassemble to report some action which may be safe and proper. That is all I desire to say.

Mr. BUTLER, of Massachusetts. A word or two in reply to my colleague, [Mr. ELIOT.] In the first place, I do not believe that any codfish grow on that island.

Mr. ELIOT. But codfish will get there quickly enough.

Mr. BUTLER, of Massachusetts. I cannot permit myself to be interrupted.

In the first place, I do not believe that any codfish grow on that island. If any do grow there I am content they shall come in free of duty. In the second place, I would like to know whether my colleague has read the report of Mr. Brega and that of Mr. Derby on this subject. If he has not, then I agree that he does not know anything about the matter, but he can easily obtain information, for the thing has been reported on fully. I represent as many cod-fishing vessels as does my colleague, quite as many. The Salem Board of Trade, the merchants of Boston, and others who fully understand the true interests of our State desire the passage of this resolution. It will be an entering wedge to enable us to get, in the fisheries of those waters, that fair consideration to which we are entitled.

Now, sir, I ask would my colleague spend the vacation in going to Prince Edward Island and getting this information at his own expense? If he would, then I want him put on this committee if it should be appointed. But, sir, I look upon this proposition of the committee as simply giving this matter the go-by. The committee propose that three members of this House shall spend the vacation, when they have their elections to attend to at home, in going at their own expense to visit this island, to which there is no public conveyance. I do not believe any member will want to go. The adoption of the proposition of the committee will simply give this question the go-by.

Mr. ELIOT. We had better give it the go-by than legislate in the dark on such a question.

Mr. BUTLER, of Massachusetts. When the gentleman speaks of "legislating in the dark" he may speak for himself; everybody else understands this question.

Mr. SCHENCK. Mr. Speaker, I do not mean to enter into this question between mackerel and codfish, [laughter;] but it may be

well enough to refresh the recollection of gentlemen of this House, who, I know, must all be posted in geography, but who may not have looked at the map with reference to this question so recently as some of the committee. This question is in some sense one of topography. Prince Edward Island, it will be remembered, lies in the Gulf of St. Lawrence, with Nova Scotia stretching out as one arm on the right, and the lower part of the Canadian dominion reaching around the gulf upon the left. The object is to get around Nova Scotia and obtain good relations with this little island one hundred and forty miles long lying inside. This may be all very well if it can be done, and we may make a good bargain by it. But my difficulty arises in part from information derived from one of these very gentlemen referred to by the gentleman from Massachusetts, [Mr. BUTLER.] I understand it to be doubtful whether any arrangement which Prince Edward Island as a distinct colony might make by legislative provision for conceding these advantages for fishing purposes would be recognized by Canada and by Nova Scotia, which border upon the same waters that encircle this island. And the committee, although they could obtain even to the bushel exact information from various statistical tables, and particularly from an interesting one which accompanies Colton's Atlas on this subject, as to the imports and exports of grain and other productions, have no means of knowing the disposition of the people or what may be considered their power as a colony on this subject of making a definitive and exceptional arrangement by legislative enactment.

Mr. BUTLER, of Massachusetts. The gentleman from Ohio will do the justice of saying that this does not propose anything until Prince Edward Island has acted.

Mr. SCHENCK. We may do this thing with this little island and afterward be "snubbed" by being told that they had not the power to do this thing. We do not report against the resolution to keep open every question of an economical character like this which will result in good to the country. We have not proposed to report against that, but we have stated in the opinion of the Committee of Ways and Means the information is not so exact and full in regard to the power and authority of the colony as to its condition and productive capacity. We think, therefore, it will be better to refer the resolution itself to a select committee, and that committee shall collect and report to the next session of Congress reliable information on this subject.

The gentleman makes an objection on this point. He says no three men appointed on that committee will make the trip at their own expense. It will be easy to test the sense of the House on striking out that part of the resolution. The Secretary of the Treasury might send out with little expense one of the revenue-cutters.

But, sir, it does not follow they must necessarily go there. I do not understand my friend from Massachusetts [Mr. BUTLER] has ever been there, and yet he knows a great deal about it, a great deal about the resources of the island and the character of the people. The committee has not proposed the select committee shall visit the island, or go out of the United States, but simply to commission them to get all the information they can by investigation in proper quarters, by correspondence, or in any way they may deem best. I admit it would be better to visit the island; but that is a question apart from what the committee propose. If any gentleman wishes to offer an amendment which will cover that point I will agree to it. I wish the resolution of the committee to be read, so we may understand what it is the committee proposes.

Mr. BUTLER, of Massachusetts. Fearful lest the House should not adopt my motion to pass the resolution, I will move to add these words: "except the Secretary of the Treasury put a proper revenue-cutter at the use of the committee for that purpose."

Mr. SCHENCK. I now demand the previous question.

The previous question was seconded and the main question ordered.

The House divided; and there were—ayes 26, noes 26; no quorum voting.

The SPEAKER under the rules ordered tellers; and appointed Mr. BUTLER of Massachusetts, and Mr. VAN WYCK.

The House again divided; and the tellers reported—ayes 62, noes 40.

So the amendment was agreed to.

The resolution, as amended, was adopted.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RATIFICATION OF FOURTEENTH ARTICLE.

Mr. DAWES. I am instructed by the Committee of Elections to report back the resolutions of the Legislature of Georgia ratifying the fourteenth article of amendment to the Constitution, with the recommendation that they be filed in the State Department.

It was ordered accordingly.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had agreed to the amendment of the House to a bill (S. No. 472) supplementary to an act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security."

It also announced that the Senate had passed a bill (S. No. 570) for a grant of lands granting the right of way over the public lands to the Denver Pacific railroad and telegraph company, and for other purposes; in which the concurrence of the House was requested.

SESSIONS OF COMMITTEES DURING THE RECESS.

Mr. SPALDING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved. That no one of the committees of this House be authorized to sit during the recess of Congress, unless it be without increased expense to the Government.

Mr. SPALDING moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAY OF A CONTESTANT.

Mr. McCLURG, from the Committee of Elections, reported the following resolution, and demanded the previous question thereon:

Resolved. That there be paid out of the contingent fund of the House the sum of \$1,500 to A. C. Hunt, in full compensation for expenses of contesting the seat of George M. Chilcott, Delegate in the Fortieth Congress from the Territory of Colorado.

Mr. TRIMBLE, of Kentucky. I will not object to that if the gentleman will yield to allow me to offer an amendment covering a case passed upon by the Committee of Elections.

Mr. McCLURG. I am instructed by the committee to offer the resolution, and therefore cannot yield.

The SPEAKER. It is privileged question. The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. McCLURG moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MEMBERS-ELECT FROM GEORGIA.

Mr. DAWES. I am instructed by the Committee of Elections to report back the credentials of J. W. Clift and C. H. Prince, members-elect from the State of Georgia, that State having ratified the fourteenth amendment to the Constitution, and in all other respects having conformed to the requirements of law in regard to the admission of that State. These gentle-

men will take the oath prescribed by the act of July 2, 1862.

The report was agreed to.

Mr. J. W. CLIFT and Mr. C. H. PRINCE accordingly appeared and were duly qualified by taking the oaths prescribed by the act of July 2, 1862.

Mr. DAWES. I am also instructed by the Committee of Elections to report back the credentials of P. W. Edwards and Samuel F. Gove, members-elect from the State of Georgia, and to state that these gentlemen are unable to take the oaths prescribed by the act of July 2, 1862, they having participated in the rebellion, one having held office under the confederacy and the other having served in the confederate army. The gentlemen, however, have had their disabilities removed by the act of July 25, 1868, and the committee recommend that they be admitted to their seats upon taking the oath prescribed by the statute of July 11, 1868.

Mr. MULLINS. Is the evidence sufficient to satisfy the minds of the committee that all is right in this case?

Mr. DAWES. The evidence as to the removal of the disabilities of these gentlemen was submitted to the committee some time since, and they reported upon it. The presumption is that it was entirely satisfactory to that committee, as it appeared to be satisfactory to the Committee of Elections.

Mr. MULLINS. I desire to ask the gentleman this question: whether he did not urge the passage of that bill very heavily and participate in it, as well as the balance of the House?

Mr. DAWES. I am sorry to say that I am usually "heavy" on these things, but I did not participate in that debate. I was absent when the bill passed. If I had been present, however, I would have recorded my vote in favor of the bill.

Mr. ROSS. I desire to ask the gentleman if he proposes to let these red-handed rebels into Congress? [Laughter.]

Mr. DAWES. I do not know that any such have applied to be admitted, but they may if the gentleman's party gets into power. At present no such have presented themselves. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee was agreed to.

Mr. DAWES moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SAMUEL F. GOVE and Mr. P. W. EDWARDS then appeared and were duly qualified by taking the oath prescribed by the act of July 11, 1868.

PAY OF A CONTESTANT.

Mr. POLAND. I ask unanimous consent to offer the following resolution:

Resolved, That there be paid out of the contingent fund of the House the sum of \$2,500 to William McGroarty as full compensation for expenses of contesting the seat of WILLIAM H. HOOPER, Delegate in the Fortieth Congress from the Territory of Utah.

Mr. KERR, Mr. ALLISON, and others objected.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1010) relating to pensions.

Mr. SCHENCK. I move that the House proceed to the business on the Speaker's table.

The motion was agreed to; and the House accordingly proceeded to the consideration of the business on the Speaker's table.

SUSPENSION OF JOINT RULES.

The first business on the Speaker's table was the following message from the Senate:

IN THE SENATE OF THE UNITED STATES,
July 25, 1868.

Resolved, (the House of Representatives concur-

ring.) That the sixteenth and seventeenth joint rules of the two Houses be suspended for the residue of the session.

The SPEAKER. The Chair will state to the House that the Senate evidently understands that this is within the last three days of the session, and proposes to suspend the sixteenth and seventeenth joint rules prohibiting the exchange of bills between the two Houses within the last three days of the session, and the sending of bills to the President on the last day of the session. The House has, however, ruled, the Chair having so decided, that these are not the last days of the session, as this is only a recess, and the last days will not occur until after the recess in September. The resolution will be referred to the Committee of Ways and Means if there is no objection.

Mr. SCOTFIELD. Can bills be sent to the President unless we pass the resolution?

The SPEAKER. There is no doubt they can, as this is not within the last three days or the last ten days of the session.

Mr. SCHENCK. I beg leave to say that I have no doubt the Speaker is right, but the Senate take a different view, and as the Senate may act upon their view, they might be unwilling to unite with us in doing any business. I suggest, therefore, whether it would not be better to gratify the Senate by concurring in the resolution?

Mr. WASHBURN, of Illinois. I should be very unwilling to concede by concurring in the resolution that the Speaker decided wrong.

Mr. MAYNARD. I do not see that it can do any harm to concur.

The SPEAKER. The question will first be taken on concurring.

The question was put; and there were—ayes 55, noes 54.

Mr. WASHBURN, of Illinois, demanded tellers.

Tellers were ordered.

Mr. WASHBURN, of Illinois. I would like to have the ruling of the Chair again stated, so that the House may understand what it is.

Mr. FARNSWORTH. Does not the resolution provide for suspending the rules during the last three days of the session? If so, it will not take effect until next September. I would like to have it read again.

The SPEAKER. The Chair will have read the sixteenth and seventeenth joint rules.

The Clerk read as follows:

"16. No bill that shall have passed one House shall be sent for concurrence to the other on either of the three last days of the session.

"17. No bill or resolution that shall have passed the House of Representatives and the Senate shall be presented to the President of the United States for his approbation on the last day of the session."

Mr. SCHENCK. I will submit, if it is in order, another motion, that the Speaker of the House be requested to communicate to the Senate that, by the construction given to the rules by the House of Representatives, it is not necessary to pass a concurrent resolution of this kind, as these are not the last days of the session, and that we are acting upon that construction. It is a case where the Senate construes the joint rules of the two Houses in one way and the House in another. I believe the House is right. There is no doubt about the Speaker being correct. This is not the end of the session.

The SPEAKER. The Chair will state to the gentleman from Ohio [Mr. SCHENCK] and to the House that he would prefer that the House, and not the Speaker, should send the message to the Senate. The Senate might not consider it altogether respectful for the Speaker of this House to decide that their construction of the joint rules was not correct.

Mr. SCHENCK. Very well. Then I will move that the Clerk of the House be directed to notify the Senate that we construe the rules differently from what the Senate appear to do; that we do not hold that it is now within the last three days of the session, but that the session will not close until after the meeting in September next.

The motion was agreed to.

The SPEAKER. The Chair will now state to the House that had the resolution of the Senate been concurred in the Chair would have felt bound to entertain motions to suspend the rules, upon the ground that such a concurrence would have been a construction that this was the last of the session.

The House resumed the consideration of business upon the Speaker's table.

CHEROKEES—NORTH CAROLINA.

The next business on the Speaker's table was the amendment of the Senate to the bill of the House No. 1375, to transfer to the Department of the Interior certain powers and duties now exercised by the Secretary of the Treasury in connection with Indian affairs.

The amendment of the Senate was to add to the bill the following:

Sec. —. *And be it further enacted*, That the Secretary of the Interior shall cause a new roll or class to be made of the North Carolina or eastern Cherokees, which shall be the roll upon which payments due said Indians shall be made.

Sec. —. *And be it further enacted*, That hereafter the Secretary of the Interior shall cause the Committee of Indian Affairs to take the same supervisory charge of the Eastern or North Carolina Cherokees as of the other tribes of Indians.

The amendment of the Senate was then concurred in.

Mr. WINDOM moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

UNITED STATES COURTS IN FLORIDA.

Mr. HAMILTON. It seems to be utterly impossible for me to get in some resolutions I have drawn up for the impeachment of the President of the United States. I now rise to do the next best thing I can for the people of my State. I ask unanimous consent to have taken from the Speaker's table, for consideration at this time, Senate bill No. 604, regulating the times and places of holding the district and circuit courts of the United States for the northern district of Florida.

The SPEAKER. The bill will be read; after which the Chair will ask for objections.

The bill was read. The first section provides that the times and places of holding the United States district and circuit courts for the northern district of Florida shall hereafter be as follows: at Jacksonville on the first Monday of December; at Tallahassee, on the first Monday in February; at Pensacola on the first Monday of March. The second section provides that the terms of the United States court heretofore held at St. Augustine and Apalachicola shall be hereafter discontinued.

Mr. BOUTWELL. I believe the bill is all right and should be passed.

Mr. PHELPS. I would like to inquire why it is that the gentleman from Florida [Mr. HAMILTON] cannot get in his resolutions of impeachment?

The SPEAKER. The Chair will answer that question after this bill has been disposed of. The gentleman from Florida asks unanimous consent to have taken from the Speaker's table, out of its order, the bill which has just been read.

Mr. PHELPS. I object to that.

The SPEAKER. Then the bill is not before the House. The Chair will state that when the gentleman from Florida [Mr. HAMILTON] states that he is unable to obtain the floor in order to move resolutions for the impeachment of the President of the United States the gentleman does the Chair injustice, which the Chair supposes was unintentional on his part.

Mr. HAMILTON. I certainly did not mean anything of the kind.

The SPEAKER. When the House is proceeding with the consideration of business on the Speaker's table, as each bill is disposed of, before another bill is taken up any gentleman on either side of the House can present any question of privilege to the House for its consideration. The gentleman from Florida [Mr. HAMILTON] has sought twice to obtain the floor to introduce something which he says

was a question of privilege. The Chair stated to him each time that he could not interrupt other business then pending for that purpose. The gentleman has not yet sought the floor when no other business was pending, as is now the case.

IMPEACHMENT OF THE PRESIDENT.

Mr. HAMILTON. I now rise to a question of privilege, and present the preamble and resolutions which I send to the Clerk's desk to be read.

The Clerk read as follows:

Whereas Andrew Johnson, President of the United States, in violation of his oath of office, has put in jeopardy the Constitution of the United States, by causing to be turned over to the possession and control of the disloyal inhabitants of the States whose late rebellion subverted their legal governments the ten States lately in insurrection, and has obstructed the restoration of the Union by combining and coöperating with said disloyal inhabitants to establish therein governments not "republican in form;"

And whereas Andrew Johnson, President of the United States, in disregard of his constitutional oath "to take care that the laws be faithfully executed," has refused and failed to execute the laws of the United States known as the reconstruction acts, and provide for their reconstruction and restoration to the Union; and, perverting his high office of President of the United States to partisan purposes, still refuses to execute said laws, and officially denounces them as "unconstitutional, revolutionary, and void," and declares the State governments formed in accordance with the provisions of said laws, and recognized by the Congress of the United States as the valid and legitimate governments of said States, to be "illegitimate and of no validity whatever;"

And whereas Andrew Johnson, President of the United States, by his failure to execute the laws, by his advice to individuals, his public speeches, proclamations, and messages, by his votes of constitutional acts passed by the Congress of the United States, by use of the executive patronage, by his whole administration of the laws of the United States, in so far as they relate to the States lately in rebellion, has brought about a civil and political hostility to the loyal States of the Union and the citizens thereof, to the Congress of the United States, and to the General Government, which, if not speedily repressed, will precipitate a now imminent insurrection within said States, and endanger the "domestic tranquility;"

And whereas Andrew Johnson, President of the United States, by his unlawful, unwarranted course, and dangerous, unprecedented conduct, encouraging instead of restraining opposition to the laws of the United States, has so revived the spirit of the late rebellion that the national peace is endangered, and has so administered the laws that the States lately in rebellion have been destitute of the protection of the governments of their respective States, in so far as reserved to them by the laws of the United States, and of the Government of the United States, until arson, rapine, murder, and assassination have become of every-day occurrence, and until the shedding of blood of loyal citizens scarcely excites comment, and has thus thrown every obstacle which his official position placed in his power in the way of bringing incendiaries, assassins, and murderers to justice, either by the civil authorities of said States, as reserved to them by act of Congress, or by the military power delegated by Congress to insure peace, order, and protection in the said States;

And whereas Andrew Johnson, President of the United States, threatens to use the power and authority of his high office of President to overthrow the republican State governments established in the States lately in rebellion by the constitutional authority of the Congress of the United States, and declares such to be his rebellious purpose, in the following alarming passage contained in his seditious, incendiary message to Congress on the 20th instant, to wit:

"It clearly follows that all the State governments organized in those States under acts of Congress for that purpose, and under military control, are illegitimate and of no validity whatever, and in that view the votes cast in those States for President and Vice President, in pursuance of the acts passed since the 4th of March, 1867, and in obedience to the so-called reconstruction acts of Congress, cannot be legally received and counted, while the only votes in those States that can be legally cast and counted will be those cast in pursuance of the laws in force in the several States prior to the legislation by Congress upon the subject of reconstruction."

And whereas, so long as Andrew Johnson occupies the office of President of the United States, there can be no administration of the Government in the South, no peace, no safety, either to the Government, States, or individuals, no "promotion of the general welfare," no protection to life, liberty, or property; and he has in all these many and several particulars been guilty of high crimes and misdemeanors: Therefore,

Resolved, That Andrew Johnson, President of the United States, be, and he hereby is, impeached of high crimes and misdemeanors.

Resolved, That the managers on the part of the House of Representatives during the late impeachment trial, are hereby instructed to immediately proceed to the bar of the Senate of the United States, and inform that body that the House of Representatives, in the name of all the people, have impeached Andrew Johnson, President of the United States, and will in due time present particular articles of impeachment.

Resolved, That said managers prepare and report

to this House as speedily as possible particular articles of impeachment against Andrew Johnson, President of the United States, and that they have any and all power conferred upon them necessary to prepare and prosecute to final judgment such articles of impeachment as may from time to time be reported to and adopted by this House.

Mr. BOUTWELL and others addressed the Chair.

The SPEAKER. The Chair is about to rule on this proposition. He rules that this is a question of privilege which the gentleman has the right to bring before the House when it is not engaged in the transaction of other business; but that part of the resolution which proposes to revive the board of managers, whose official functions have now expired, cannot, in the opinion of the Chair, be entertained except by unanimous consent or by a suspension of the rules, because the precedents in the British House of Commons, and also in the American Congress, are that when articles of impeachment have been agreed upon by the popular branch of the Government the managers are then to be elected to present those articles of impeachment. As to the managers formerly appointed by this House to conduct the impeachment of the President of the United States, though they were continued as a select committee for conducting a special investigation their official functions have expired, as has been heretofore decided by the Chair, the decision being acquiesced in by the House; and if impeachment should be voted by the House managers must be elected by the House to conduct that impeachment. The remaining portion of the resolution constitutes a question of privilege, and is before the House. The gentleman from Florida [Mr. HAMILTON] is entitled to the floor. Does he yield to the gentleman from Massachusetts, [Mr. BOUTWELL,] who is claiming his attention?

Mr. HAMILTON. Yes, sir.

Mr. BOUTWELL. My object in rising was to ask the gentleman from Florida to allow me to make a motion to refer the preamble and resolutions to the Committee on the Judiciary.

Mr. HAMILTON. I have no objection to that.

Mr. BOUTWELL. I make that motion, and on it demand the previous question.

Mr. ELDRIDGE. I raise the question on the reception of these resolutions as a question of privilege, unless the gentleman from Florida will give me an opportunity to ask him some questions, and unless his answers should satisfy me to the contrary of the opinion I now entertain.

The SPEAKER. If the gentleman from Wisconsin [Mr. ELDRIDGE] raises the question of consideration he cannot debate it except by unanimous consent, as the question is undebatable.

Mr. ELDRIDGE. I do not propose to debate it.

The SPEAKER. The question of consideration must be raised, if at all, at the time a proposition is presented. It is now in order to raise that question.

Mr. ELDRIDGE. I propose to make it, unless the gentleman from Florida—

Mr. HAMILTON. I do not yield to the gentleman.

The SPEAKER. The question of consideration can be raised by any gentleman when a resolution is presented, whether it be a question of privilege or not.

Mr. FARNSWORTH. I make the point of order that the question of consideration is raised too late.

Mr. ELDRIDGE. The Chair has already decided that it is not too late.

Mr. FARNSWORTH. The Chair decided that the resolution was before the House, and afterward the gentleman from Florida, being recognized as entitled to the floor, yielded to the gentleman from Massachusetts, [Mr. BOUTWELL.]

The SPEAKER. The Clerk will read the rule.

The Clerk read as follows:

"When any motion or proposition is made, the

question, Will the House now consider it? shall not be put, unless it is demanded by some member or is deemed necessary by the Speaker; and it is competent for a member to raise the question of consideration upon a report, even though a question of privilege is involved in the report. But after a question has been stated, and its discussion commenced, it is too late to raise the question of consideration."

The SPEAKER. The Chair overrules the point of order raised by the gentleman from Illinois, [Mr. FARNSWORTH,] first, because the discussion had not commenced, and also for the additional reason that the gentleman from Wisconsin [Mr. ELDRIDGE] rose at the same time as the gentleman from Massachusetts, [Mr. BOUTWELL.] The Chair gave the floor to the gentleman from Massachusetts, with the assent of the gentleman from Florida; but the gentleman from Wisconsin remained standing, and made the point of order at the earliest moment at which he could obtain the attention of the Chair.

Mr. BOUTWELL. I wish it understood that I demanded the previous question on the motion to refer.

The SPEAKER. Certainly. The question of consideration must, however, be entertained and decided.

Mr. ELDRIDGE. The first question before the House is whether it will entertain the question as one of privilege.

Mr. PHELPS. I demand the yeas and nays. The yeas and nays were ordered.

Mr. JONES, of Kentucky. The Speaker has announced this resolution is in part not in order. If part is inadmissible is it not all out of order?

The SPEAKER. The remaining portion is admissible. The gentleman from Florida withdrew that part which was not in order.

LEWIS SANDERS, DECEASED.

Mr. WASHBURN, of Illinois. I move that the Committee on Accounts be authorized to pay out of the contingent fund of the House \$100, to defray the funeral expenses of Lewis Sanders, who died while employed at the Capitol. We all recollect him. It is to be paid to his widow.

There was no objection, and it was agreed to.

IMPEACHMENT AGAIN.

The question was taken; and it was decided in the affirmative—yeas 103, nays 31, not voting 86; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Bailey, Banks, Beatty, Benton, Bingham, Blackburn, Blair, Boutwell, Boyen, Brownell, Buckland, Buekley, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Covode, Culion, Dawes, Delano, Dowse, Dixon, Driggs, Eckley, Eli, Eliot, Farnsworth, Ferriss, Fields, French, Garfield, Goss, Gove, Halsey, Hamilton, Haughey, Heaton, Higby, Hinds, Hopkins, Chester D. Hubbard, Hunter, Jenckes, Alexander H. Jones, Judd, Kellogg, Kelsey, Koontz, William Lawrence, Loan, Loughbridge, Mallory, Maynard, McClurg, Mercer, Miller, Moore, Mullins, Myers, Newsham, Nunn, O'Neill, Orth, Paine, Perham, Pierce, Plants, Polley, Prince, Raum, Sawyer, Schenck, Scofield, Shanks, Starkweather, Aaron F. Stevens, Stokes, Sypher, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Vidal, Ward, Elihu B. Washburne, William B. Washburn, Welker, Whittemore, William Williams, John T. Wilson, and Windom—103.

NAYS—Messrs. Adams, Axtell, Baker, Beck, Boyden, Cary, Dockery, Eldridge, Getz, Glossbrenner, Golladay, Grover, Hawkins, Hotchkiss, Ingersoll, Johnson, Thomas L. Jones, Kerr, Knott, Mann, Marshall, Mungen, Niblack, Phelps, Ross, Spalding, Stewart, Tabor, Taffe, Lawrence S. Trimble, and Van Auker—31.

NOT VOTING—Messrs. Anderson, Aroher, James M. Ashley, Baldwin, Barnes, Barnum, Beaman, Benjamin, Blaine, Botes, Boyer, Brooks, Broomall, Burr, Benjamin F. Butler, Roderick R. Butler, Cake, Chanler, Cook, Cornell, Dodge, Donnelly, Edwards, Eggleston, Ferry, Finney, Fox, Gravely, Griswold, Haight, Hading, Hill, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Julian, Ketchum, Kitchen, Ladin, Lash, George V. Lawrence, Lincoln, Loggall, Lynch, Marvin, McCarthy, McCormick, McCullough, McKee, Moorhead, Morrell, Morrissey, Newcomb, Nicholson, Norris, Peters, Pike, Pile, Poland, Pomeroy, Price, Pruyn, Randall, Robertson, Smith, Thaddeus Selye, Shellabarger, Sitgreaves, Van A. Smith, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, James F. Wilson, Stephen Wilson, Wood, Woodbridge, and Woodward—86.

So the House agreed to consider the question.

During the vote, Mr. TABER stated that Mr. HAIGHT was paired with Mr. PIKE.

Mr. LOUGHRIDGE stated that Mr. FERRY was detained at his room by illness.

The vote was then announced as above recorded.

Mr. BOUTWELL. I move that the proposition be referred to the Committee on the Judiciary.

Mr. ELDRIDGE. I move that it be laid on the table; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 30, nays 100, not voting 90; as follows:

YEAS—Messrs. Adams, Axtell, Baker, Beck, Boyden, Cary, Eldridge, Getz, Glossbrenner, Golladay, Graver, Hotchkiss, Ingersoll, Johnson, Thomas L. Jones, Kerr, Knott, Mann, Marshall, McCullough, Munger, Niblack, Phelps, Ross, Spalding, Stewart, Taber, Taffe, Lawrence S. Trimble, and Van Auker—30.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beatty, Benton, Bingham, Blackburn, Blair, Boutwell, Bromwell, Buckland, Buckley, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Clift, Corburn, Covado, Cullom, Dawes, Delano, Doyewese, Dixon, Dockery, Driggs, Eckley, Eliot, Ferriss, Fields, French, Garfield, Goss, Halsey, Hamilton, Haughey, Heaton, Higby, Hill, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hunter, Jenckes, Alexander H. Jones, Judd, Kelley, Kelsey, Koontz, William Lawrence, Loan, Loughridge, Mallory, McClurg, Mercer, Miller, Moore, Mullins, Myers, Nunn, O'Neill, Orth, Paine, Perham, Pierce, Pile, Poland, Polsley, Prince, Raun, Sawyer, Schenck, Seofield, Shanks, Starkweather, Aaron F. Stevens, Stokes, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Van Aernam, Van Wyck, Vidal, Ward, Elihu B. Washburne, William B. Washburn, Welker, Whittemore, William Williams, John T. Wilson, and Windom—100.

NOT VOTING—Messrs. Anderson, Archer, Barnes, Barnum, Beaman, Benjamin, Blaine, Boles, Bowen, Boyer, Brooks, Broomall, Burr, Benjamin F. Butler, Roderick R. Butler, Cake, Chanler, Cook, Cornell, Dodge, Donnelly, Edwards, Eggleston, Ella, Farnsworth, Ferry, Finney, Fox, Gove, Gravely, Griswold, Haight, Harding, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Huburd, Humphrey, Julian, Kellogg, Ketcham, Kitchen, Laffin, Lash, George V. Lawrence, Lincoln, Logan, Lynch, Marvin, Maynard, McCarthy, McCormick, McKee, Moorhead, Morrell, Morrissey, Newcomb, Newsham, Nicholson, Norris, Peters, Pike, Plants, Pomeroy, Price, Pruyn, Randall, Robertson, Robinson, Roots, Selye, Shiellabarger, Sitgreaves, Smith, Thaddeus Stevens, Stone, Sypher, Upson, Burt Van Horn, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—90.

So the House refused to lay the subject on the table.

Mr. BOUTWELL. I demand the previous question on referring the resolutions to the Committee on the Judiciary.

The previous question was seconded and the main question ordered; and under the operation thereof the resolutions were referred to the Committee on the Judiciary.

Mr. BOUTWELL moved to reconsider the vote by which the resolutions were referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that that body had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 570) providing for the distribution of the reward offered by the President for the capture of Jefferson Davis.

The message further announced that the Senate had passed a joint resolution (S. No. 176) extending the benefits of an act donating public lands to the several States and Territories which may provide colleges for the benefit of agricultural and the mechanical arts, approved July 2, 1862, as amended by act of July 23, 1866, to States lately in rebellion; also, a joint resolution (S. No. 175) relative to the recent contract for stationery for the Department of the Interior; in both of which the concurrence of the House was requested.

The message further announced that the Senate had passed without amendment the bill (H. R. No. 1021) in amendment of an act

entitled "An act to establish a uniform system of bankruptcy throughout the United States."

Also, that it had passed the bill (H. R. No. 768) concerning the rights of American citizens in foreign States, with amendments, in which the concurrence of the House was requested.

RIGHTS OF AMERICAN CITIZENS ABROAD.

The next business on the Speaker's table was the amendments of the Senate to the bill (H. R. No. 768) concerning the rights of American citizens in foreign States.

The first amendment of the Senate was to strike out the words "for the protection of which the Government of the United States was established."

The second amendment of the Senate was to strike out section three and insert in lieu thereof the following:

That whenever it shall be made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign Government it shall be the duty of the President forthwith to demand of that Government the reasons for such imprisonment, and if it appears to be wrongful and in violation of the rights of American citizenship the President shall forthwith demand the release of such citizen; and if the release so demanded is unreasonably delayed or refused, it shall be the duty of the President to use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate such release; and all the facts and proceedings relative thereto shall, as soon as practicable, be communicated by the President to Congress.

Mr. BANKS. I move that the House concur in the amendments of the Senate; and on that I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments of the Senate were concurred in.

Mr. BANKS moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CORRUPTION IN IMPEACHMENT TRIAL.

Mr. BINGHAM. I rise to make a privileged report. I am instructed by the committee appointed to inquire into alleged corruption in the trial of the impeachment of the President of the United States to report the following resolution, on which I demand the previous question:

Resolved, That the select committee on alleged corruption in the impeachment trial be discharged from the further consideration of the subject.

Mr. ELDRIDGE. I hope the gentlemen will not be discharged until they have at least buried the body. [Laughter.]

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. BINGHAM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SCOFIELD. I ask unanimous consent to offer a resolution.

Mr. ELDRIDGE. I do not know what the resolution is, but I object to it out of personal consideration for the gentleman from Pennsylvania.

GOVERNMENT OF UNITED STATES TERRITORIES.

Mr. MULLINS. I ask leave to introduce a bill for present action, which will save \$491,000 a year. It is a bill to provide for a more economical administration of the governments of the several Territories of the United States, and for other purposes.

The bill was read. It provides that from and after its passage the Legislatures of the several Territories of the United States shall meet only once in every two years, and that the next meeting of each of said Legislatures shall begin two years from the date of their last session respectively; and that no money shall be appropriated out of the Treasury of the United States to pay the legislative expenses of the several Territories for any other than biennial sessions. The bill also proposes to fix the sal-

aries of the Governors of the respective Territories at \$1,500 per annum.

Mr. KERR. I object to the bill.

Mr. MULLINS. Well, I cannot see how any one can object to that.

PENSION BILL.

Mr. PERHAM. I rise to a privileged question. I submit a report from a committee of conference.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 1010) relating to pensions, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from their disagreement to the amendments of the Senate, numbered as follows: 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20, and agree to the same.

That the House recede from their disagreement to the sixth amendment of the Senate, and agree to the same, with amendments, as follows: strike out all after the word "garrison," in line ten of the amendment to the end of line twelve; also, strike out all after the word "station," in line eighteen of the amendment; and that the Senate agree to the same.

That the House recede from their disagreement to the twenty-first amendment, and agree to the same, with an amendment, as follows: strike out all after the enacting clause of the amendment and insert in lieu thereof the following: "That the third section of an act entitled 'An act increasing the pensions of widows and orphans, and for other purposes,' approved July 25, 1866, shall be so construed as to place all pensioners whose right thereto accrued subsequently to the Revolution and prior to the 4th day of March, 1861, on the same footing as to rate of pension from and after the passage of said act as those who have been pensioned under acts passed since said 4th day of March, 1861; and the widows of revolutionary soldiers and sailors now receiving a less sum shall hereafter be paid at the rate of eight dollars per month;" and that the Senate agree to the same.

That the House recede from their disagreement to the twenty-second amendment, and agree to the same, with an amendment, namely: strike out after line eleven of the amendment the following: "and in all cases pensions heretofore or hereafter granted by special acts of Congress shall be subject to be varied in amount according to the provisions and limitations of the pension laws," and insert the same as an additional section; and that the Senate agree to the same.

P. G. VAN WINKLE,
JOS. S. FOWLER,
ALEX. RAMSEY.

Managers on the part of the Senate.

SIDNEY PERHAM,
D. POLSLEY,
L. S. TRIMBLE.

Managers on the part of the House.

Mr. PERHAM. If no gentleman desires to ask me any questions I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report was agreed to.

Mr. PERHAM moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SIOUX OR DAKOTA INDIANS.

The next business on the Speaker's table was the bill (S. No. 478) to amend an act entitled "An act for the removal of the Sisseton, Waupeton, Medawakonton, and Waukepete bands of Sioux or Dakota Indians, and for the disposition of their lands in Minnesota and Dakota," approved March 3, 1863; which was read a first and second time.

Mr. ALLISON moved that the bill be reported to the Committee on Indian Affairs.

The motion was agreed to.

Mr. ALLISON moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ANDREW S. CORE.

Mr. SCHENCK. There is a joint resolution upon the table which has been sent from the Senate, to correct an error in a bill passed at this session. The original bill came from the Senate, was agreed to, perhaps without sufficient consideration, and reported favorably upon by the Committee of Ways and Means, exactly in the form in which it passed the Senate, and they say at the Treasury Department

they cannot understand it. I ask that the joint resolution be taken up and passed.

The joint resolution (S. No. 172) to construe an act entitled "An act to authorize the accounting officers of the Treasury to settle the accounts of Andrew S. Core," was read for information. It provides that the act to which it refers shall be so construed as to authorize and direct the accounting officers to settle and close the accounts of Andrew S. Core by crediting him with the amount of such collectable or unaccounted for tax lists or bills placed in his hands for collection as they may be satisfied have been lost or destroyed by reason of rebel raids and have not been collected by him.

There was no objection; and the joint resolution was taken from the Speaker's table and received its several readings, and was passed.

Mr. ALLISON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

STEPHEN G. MONTANO.

The next business on the Speaker's table was Senate bill No. 553, to pay Stephen G. Montano, a citizen of Peru, an unpaid balance of money awarded to him by the mixed commission authorized by the convention of January 12, 1863, between the United States and Peru; which was taken up, and read a first and second time.

Mr. WELKER. I move that this bill be referred to the Committee of Claims.

The motion was agreed to.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LOIS CLARK.

The next business on the Speaker's table was Senate bill No. 569, granting relief to Lois Clark; which was taken up, and read a first and second time.

Mr. ORTH. I move that the bill be referred to the Committee on Revolutionary Pensions and of the War of 1812.

The motion was agreed to.

WILLIAM HENRY OTIS.

The next business on the Speaker's table was Senate bill No. 279, for the relief of William Henry Otis; which was taken up, and read a first and second time.

Mr. ALLISON. I move that this bill be referred to the Committee of Claims.

The motion was agreed to.

ACCOUNTS WITH THE STATES.

The next business on the Speaker's table was Senate joint resolution No. 94, directing the Secretary of the Treasury, whenever any State shall have been or may be in default for the payment of interest or principal on investments in its stocks or bonds held by the United States in trust, to retain the moneys due to such States from the United States; which was taken up, and read a first and second time.

The question was upon ordering the joint resolution to be read a third time.

The joint resolution, which was read, provides that whenever any State shall have been, or may be, in default of the payment of interest or principal on investments in its stocks or bonds held by the United States in trust, it shall be the duty of the Secretary of the Treasury to retain the whole, or so much thereof as may be necessary, of any moneys due on any account from the United States to such State, and to apply the same to the payment of such principal and interest, or either, or to the reimbursement of any sum of money advanced by the United States on account of such interest; provided that there shall be an account rendered in the first instance to the States in default showing the amount of moneys that have been withheld from the States in default

on account of sales of public lands, or on any other account.

Mr. ORTH. I move that the bill be amended by striking out all after the word "Provided," and inserting in lieu thereof that which I send to the Clerk's desk to be read.

The Clerk read as follows:

That there shall be an account rendered in the first instance to the several States, showing the amount due to the United States from each State, or to the States respectively from the United States, whether on account of such investment and advance by the United States, or on account of sales of public lands, or on account of money advanced and expenses incurred in aid of the Government to suppress the rebellion; and such account shall be so rendered as to place all of the States upon the same footing in regard to the adjustment of their respective accounts with the United States, of whatever nature; and whatever balance may be due to any State upon the basis aforesaid shall be allowed and paid; and the Treasurer of the United States shall call upon all such States as may be in arrears to the United States for payment of whatever balance may be due from such States respectively.

Mr. ORTH. I call the previous question on the bill and amendment.

Mr. SCOTFIELD. I hope the gentleman will not call upon us to vote upon such an important bill as this without our knowing anything about it.

Mr. ORTH. I will state what I know about it. The object of the bill is to effect a settlement of accounts between the United States and the several States in regard to matters growing out of the war, principally in regard to the five per cent. fund. The passage of the bill is required before the accounting officers of the Treasury can settle those accounts.

Mr. SCOTFIELD. It looks to me as if this was a bill to pay some of these State claims which we have already once refused to pay.

Mr. ORTH. Not at all.

Mr. SCOTFIELD. I hope the bill will be referred to a committee. It proposes to settle all the accounts of all the States of the Union, which will include all the war claims.

Mr. ORTH. The object is merely to allow a set-off, in order to effect a settlement of unliquidated accounts between the States and the General Government. It is for the benefit of the General Government. I insist upon the previous question.

The question was taken upon seconding the previous question; and upon a division there were—ayes 39, noes 29; no quorum voting.

Mr. ORTH. I hope the gentleman from Pennsylvania [Mr. SCOTFIELD] will not insist upon his opposition to this bill.

Mr. SCOTFIELD. I insist upon knowing something about this very important bill before I can vote upon it.

Mr. PAINE. I think there ought to be either a better understanding of this bill, or tellers upon ordering the previous question upon it.

Tellers were ordered; and Mr. ORTH and Mr. SCOTFIELD were appointed.

The House again divided; and the tellers reported that there were—ayes 66, noes 45.

So the previous question was seconded.

The main question was then ordered, which was upon the amendment of Mr. ORTH.

Mr. SCOTFIELD. I rise to a point of order upon the amendment. The bill itself is a little bill to authorize the United States to retain from the amount due a State the sum for which the State may be in default. The amendment is a provision to cover up all the war claims of all the States with the United States. The same proposition has been up here in different shapes this session, being at some times defeated and at other times referred. I take it that such a proposition cannot be attached as an amendment to this bill.

The SPEAKER. Without deciding whether the amendment would have been ruled germane if the point had been made in time, the Chair will state that it is now too late to raise the point. The amendment has been received and debated for some time. The previous question has been seconded and the main question ordered to be put upon the bill and amendment. The argument of the gentleman from

Pennsylvania [Mr. SCOTFIELD] as to the relevancy of the amendment might have force if addressed to the House as a reason why the amendment should not be agreed to.

Mr. SCOTFIELD. The amendment is a very big thing.

Mr. WELKER. I desire to inquire of the gentleman from Indiana [Mr. ORTH] whether the purport and effect of this joint resolution is not to authorize the decision of a question which has been in controversy for some years, affecting the States of Illinois, Indiana, and Ohio, a question growing out of the construction of the national road through those States. As I understand, this is a proposition coming from the State of Illinois, that State claiming from the General Government two or three million dollars, said to have been derived by the General Government from the sale of public lands that were donated to construct the national road through the States I have named. I understand that this bill involves that question, which has been submitted to the Treasury Department, referred to the Comptroller of the Treasury, and by him decided against the claim of Illinois, and that the purpose of this bill is to place that claim in such a condition that it can be settled in another manner.

Mr. PILE. Mr. Speaker, is this debate in order?

The SPEAKER. It is not, if any gentleman objects. The House is acting under the operation of the previous question.

Mr. ORTH. I hope the gentleman will not object to my making an explanation.

Mr. PILE. I do not object at present.

Mr. ORTH. Mr. Speaker, I will state to the gentleman from Ohio [Mr. WELKER] that I know nothing of the claim of the State of Illinois, to which he alludes.

Mr. WELKER. I do.

Mr. ORTH. My amendment can of course have nothing to do with the State of Illinois or the State of Ohio, unless those States have valid claims against the Government. This bill, with the amendment, presents to my mind one of the simplest of all questions. The object is simply to refer to the accounting officers of the Treasury Department the question of the settlement of the accounts between the Government of the United States on the one part and the different States of this Union on the other part. It is not proposed that Congress shall settle these accounts, but that they shall go to the proper accounting officers of the Treasury. The gentleman from Ohio, if he observes the words of the bill and the proviso which I have offered, must see that they do not recognize any claim that is not now valid against the General Government; they do not revive any claim upon which an adverse decision has been made. The simple provision is that where the State is indebted to the General Government on account of trust funds, which is the case with my own State, a proper deduction shall be made therefor upon a settlement of the war debts or any other matters standing between the State and the United States. In other words, it provides for a general settlement between the Government of the United States and all the States of this Union that may have claims against the General Government.

Now, what objection can there be to such a settlement as that? It is proposed to intrust it to the officers of the General Government. We do not propose to provide for the revival of a single claim that has been decided upon adversely by the Government or any Department of the Government. It is simply provided that where valid claims now exist in favor of the United States against any State, those claims shall be investigated; if on the other hand any State has a claim against the United States, such claim is likewise to be investigated. Where any amount is found due from the United States to the State, that amount is to be paid; and where, on the contrary, a balance is found due by the State, the United States is to call on the State for the payment of that balance. The object is simply to ex-

pedite the settlement of accounts between the General Government and the various States of the Union.

Mr. WELKER. Mr. Speaker, I perceive from the remarks of my friend from Indiana [Mr. ORTH] that he does not understand the whole import of this bill. Now, I happen to know that upon this claim on behalf of the State of Illinois, growing out of the very subject that is involved in this bill, the Comptroller of the Treasury has made a decision adverse to the claim; and that the purpose of this bill is to take the decision of that question of making up the accounts in relation to these claims from the Comptroller of the Treasury, and to put it into the hands of the Secretary of the Treasury himself.

Mr. ORTH. If the gentleman is correct, what does the committee propose? That it shall be referred to the very officer who has decided against the claim, as the gentleman has said. Is the gentleman unwilling to refer it to that officer, who has already decided against the claim?

Mr. WELKER. It involves a larger amount of money than I perceive he thinks is involved.

Mr. ORTH. I do not know how much it involves.

Mr. WELKER. I do not think we should pass it.

Mr. ORTH. We provide that our officers shall make the settlement, and when that settlement is made and the balance shall be struck it shall be paid, whichever side it may be on.

Mr. RAUM. I wish to ask the gentleman a question. It is provided that said account shall be so adjusted as to place all the States upon the same footing in regard to the adjustment of their respective accounts with the United States, of whatever nature. What is that put in there for?

Mr. ORTH. The object of it is this: where a settlement, for instance, has been had with the State of Ohio, then the same basis shall be adopted with reference to the State of Illinois; that the same rule applied to the State of Ohio shall be applied to Illinois.

Mr. SPALDING. Is the same rule to be applied also to the rebellious States?

Mr. ORTH. If any rebel State has a claim against us for helping to put down the rebellion would my friend from Ohio refuse to pay it?

Mr. PAINE. During the Thirty-Ninth and Fortieth Congresses we have had a select committee to take charge of this subject of war claims of the loyal States, and the effect of this amendment of the gentleman from Indiana is to transfer to a single officer, to wit, the Secretary of the Treasury, to dispose of this vast subject involving millions upon millions of dollars. For one, sir, I am not willing that a subject which has involved so much labor and so much difficulty should be intrusted to him now.

Mr. ORTH. Let me remind the gentleman that no other officer is authorized.

Mr. KELSEY. I object to further debate.

Mr. ALLISON. I move that the bill be laid on the table.

Mr. ORTH. Let it be referred to the Committee on the Judiciary.

Mr. ALLISON. I withdraw my motion.

It was so referred.

Mr. SCOFIELD moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had passed bills of the following titles, with amendments, in which the concurrence of the House was requested:

A bill (H. R. No. 1446) for the relief from legal and political disabilities of Simeon Corley, John Milledge, and Michael Hahn;

A bill (H. R. No. 1448) making appropriations for certain executive expenses of the

Government for the fiscal year ending June 30, 1869; and

A bill (H. R. No. 1131) regulating judicial proceedings in certain cases for the protection of officers and agents of the Government, and for the better protection of the Treasury against unlawful claims.

It further announced that the Senate had agreed to the amendment of the House to the joint resolution (S. R. No. 57) relative to lighting the streets of Washington city, District of Columbia.

CHOCTAW AND CHICKASAW INDIANS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, with inclosures, relative to the rights of freedmen under the third article of the treaty with the Choctaw and Chickasaw Indians; which was referred to the Committee on Indian Affairs, and ordered to be printed.

REMOVAL OF INDIANS.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, relative to the removal of certain Indians, and asking an appropriation therefor; which was referred to the Committee on Appropriations, and ordered to be printed.

INVENTORY OF FURNITURE.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Doorkeeper of the House, transmitting an inventory of furniture in the several committee-rooms, as required by the twenty-seventh rule of the House; which was referred to the Committee on Accounts.

PURCHASE OF HOUSE STATIONERY.

The SPEAKER also laid before the House the following letter from the Clerk of the House of Representatives:

CLERK'S OFFICE, HOUSE OF REPRESENTATIVES,
UNITED STATES, WASHINGTON, D. C.,
July 23, 1863.

SIR: A question having been raised yesterday in the House respecting the prices paid for writing paper the past year, I have, on the suggestion of the chairman of the Committee on Accounts, had a statement prepared of the quantities purchased for the use of the House, the persons from whom purchased, the gross amounts paid, and the weight of the paper. The statement is appended, and shows that—

French & Richardson furnished 810 reams.....	\$3,159 00
T. W. Price furnished 383½ reams (lithographed) for.....	2,781 35
Gingorly & Myers, legal cap and engrossing paper, 150 reams for.....	801 80
Philp & Solomons, 160 reams for.....	763 46
	\$7,595 61

All of this was purchased under contract with the lowest bidder, except the lithographed paper, which cannot be advantageously contracted for in that way.

I may be allowed to add that under the system of bidding which has prevailed in this office for the last five years, the Government has the advantage of a separate bid for each article, and of the active competition which exists among the trade; and that I have unofficially been informed that the joint Committee on Retrenchment propose to make this system obligatory upon all branches of the public service.

From the accompanying table it will be found that our commercial note paper ranged from \$2 50 to \$3 11, according to weight, letter paper from \$4 47 to \$5 58, according to weight, and foolscap from \$5 74 to \$6 70, according to weight. These prices are believed to be as low as the market afforded. It has been my aim to invite competition, and secure the best articles for the smallest amount of money; and I have reason to believe that a comparison of prices will prove that a considerable measure of success has attended this effort.

I am, sir, very respectfully, your obedient servant,
EWD McPHERSON,
Clerk House Representatives United States.
Hon. SCHUYLER COLFAX,
Speaker House Representatives United States.

Contracts for writing paper, fall of 1867.

Contractors.	Reams.	Price.	Amount.	Weight per ream.
<i>French & Richardson.</i>				
Platner & Porter's commercial note.....	100	\$2 50	\$250 00	5lb.
Platner & Porter's commercial note.....	250	2 87	746 20	6lb.
Owens's commercial note.....	100	3 11	311 00	6lb.
Platner & Porter's letter.....	100	4 47	447 00	10lb.
Platner & Porter's letter.....	130	5 58	725 40	12lb.
Owens's letter.....	50	4 88	244 00	10lb.
Platner & Porter's foolscap.....	85	5 74	200 90	12lb.
Platner & Porter's foolscap.....	85	6 70	234 50	14lb.
	810		\$3,159 00	
<i>Singerly & Myers.</i>				
Legal cap.....	70	4 87	\$340 90	14lb.
Legal cap, (contract duplicated,).....	70	4 87	340 90	14lb.
Large engrossing paper, ruled to pattern.....	10	21 00	210 00	50lb.
	150		\$891 80	
<i>Philp & Solomons.</i>				
Thin French note, No. 5, commercial size.....	9	2 20	\$19 80	-
Thin French note, No. 6, smaller.....	9	2 00	18 00	-
Thin French note, No. 7, smaller yet.....	9	1 90	17 10	-
Heavier French note, No. 5.....	16	4 60	73 60	-
Heavier French note, No. 6.....	11	4 14	45 54	-
Heavier French note, No. 7.....	9	3 94	35 46	-
French colored edge, assorted, No. 5.....	2	4 55	9 10	-
French colored edge, assorted, No. 6.....	2	4 33	8 66	-
French colored edge, assorted, No. 7.....	2	3 95	7 90	-
French colored edge, assorted, square.....	2	4 40	8 80	-
French colored edge, assorted, square.....	2	3 60	7 20	-
French, very heavy, large packet note.....	2	7 00	14 00	-
Flat cap.....	75	5 58	418 50	16lb.
Journal paper, heavy, ruled two ways to pattern.....	10	7 98	79 80	-
	160		\$763 46	
<i>T. W. Price.</i>				
Congressional note, lithographed.....	253½	6 00	\$1,521 00	-
Congressional letter, lithographed.....	140	\$9 @ 9 50	1,260 35	-
	393½		\$2,781 35	

Mr. DAWES. In connection with that letter I desire to say that in the remarks I made yesterday I had not the slightest intention of impugning the integrity of the Clerk of this House, or any officer of the House. I do not believe there is a man living more honest than the

Clerk of this House. I spoke of an evil that existed about the Government, and I hope the plan adopted by the Clerk of the House will ultimately bring about a reform of that evil.

The letter was ordered to be printed, and referred to the Committee on Retrenchment.

CONTINGENT FUND OF THE HOUSE.

Mr. McCULLOUGH, from the minority of the Committee on Accounts, under the authority given yesterday, presented a minority report; which was ordered to be printed with the majority report, and laid on the table.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. MOORE, his Private Secretary, announced that he had approved and signed bills of the following titles:

An act (H. R. No. 1427) to establish certain post roads;

An act (H. R. No. 1341) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1868, and for other purposes;

An act (H. R. No. 451) providing for the sale of the arsenal grounds at St. Louis and Liberty, Missouri, and for other purposes; and

An act (H. R. No. 1376) for the relief of loyal Choctaw and Chickasaw Indians.

STATIONERY FOR INTERIOR DEPARTMENT.

Mr. VAN WYCK. I ask the House to take up a joint resolution which has just passed the Senate (S. No. 175) relative to the recent contracts for stationery for the Department of the Interior. I hold in my hand a report made by Senator PATTERSON, from the Committee on Retrenchment, to the Senate. I will not read it, but I will refer to one item in regard to the bids for stationery. The report shows that there were bids for various classes of stationery by Messrs. Blanchard & Mohun, by Messrs. Philp & Solomons, by Messrs. Coyle & Towers, and by Messrs. Dempsey & O'Toole, and that the contract was made with the highest instead of the lowest bidder. The lowest bid was about eight thousand dollars, and the highest \$32,000.

The joint resolution was accordingly taken from the Speaker's table and read a first and second time. It directs the Secretary of the Interior to annul and cancel the contract made by him with Messrs. Dempsey & O'Toole for supplying the Department of the Interior and the several bureaus and officers thereof with stationery for the fiscal year ending June 30, 1869, under the advertisement issued May 25, 1868, and to enter into a contract for the articles mentioned in said advertisement with Messrs. Blanchard & Mohun, the latter being the lowest and best bidder therefor.

Mr. ROSS. I object.

PENSION BILLS PASSED.

The SPEAKER. The Chair asks consent to lay before the House five Senate bills which have been examined by the chairman of the Committee on Invalid Pensions, that they may be passed.

There was no objection; and bills of the following titles were taken from the Speaker's table, received their several readings, and were passed:

A bill (S. No. 598) for the relief of Mary Scott;

A bill (S. No. 606) granting a pension to Robert Watson;

A bill (S. No. 633) granting a pension to Nancy Smith;

A bill (S. No. 634) granting a pension to Violet Henry; and

A bill (S. No. 630) granting an increase of pension to Nancy A. Stocks.

REBECCA C. MEEKER.

On motion of Mr. MILLER, by unanimous consent, the bill (S. No. 597) granting a pension to Rebecca C. Meeker was taken from the Speaker's table, read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

W. H. MACDONALD, ETC.

On motion of Mr. WASHBURNE, of Illinois, by unanimous consent the Committee on Commerce was discharged from the further consideration of a bill and joint resolution of

the following titles, and the same were placed on the Speaker's table:

A bill (S. No. 361) for the relief of W. H. MacDonald, late acting United States consul at Capetown, Cape of Good Hope; and

Joint resolution (S. R. No. 36) authorizing the Secretary of the Treasury to issue an American register to the bark Aug. Guardein.

CAPTURE OF JEFF DAVIS.

Mr. WASHBURN, of Massachusetts, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1277) to provide for the distribution of the rewards offered by the President of the United States for the capture of Jefferson Davis, having met, after full and free conference, have agreed to recommend to their respective Houses that the Senate recede from their first, second, third, and fourth amendments.

W. B. WASHBURN,
LEWIS W. ROSS,
Managers on the part of the House.
TIMOTHY O. HOWE,
HENRY WILSON,
Managers on the part of the Senate.

Mr. WASHBURN, of Massachusetts. I simply wish to say that the Senate recede from their amendments, and the bill is just as it passed the House.

The SPEAKER. Then if the Senate recedes from its amendments the bill has passed, and the report will be entered on the Journal.

REMOVAL OF DISABILITIES.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 1446) to relieve from legal and political disabilities Simeon Corley, John Milledge, and Michael Hahn.

Mr. BINGHAM. The amendment of the Senate proposes to add the names of a number of persons in Louisiana. I move that it be concurred in, and on that I demand the previous question.

Mr. PAINE. I would ask if the gentleman understands that there are any names inserted in this bill except from Louisiana?

A MEMBER. There are one or two from Arkansas.

Mr. KELLEY. I understand that one of the persons whose names have been inserted by the Senate was a graduate of West Point, or rather a gentleman who left West Point before he had graduated to take service in the rebel army. He was a general in the rebel service, and has resisted the entire work of reconstruction.

Mr. BINGHAM. Then I move to non-concur in the amendment of the Senate and ask a conference.

The motion was agreed to; and the Speaker thereupon appointed Mr. BINGHAM, Mr. PAINE, and Mr. BECK managers of the conference on the part of the House.

LIGHTING OF WASHINGTON STREETS.

The next business on the Speaker's table was the amendments of the Senate to the amendments of the House to the joint resolution (S. R. No. 57) relative to lighting the streets of Washington, District of Columbia.

The amendment of the Senate was to strike out of the second section of the House amendment all after the enacting clause, and to insert in lieu thereof the following:

That the mayor and the city councils of the city of Washington be, and they are, authorized to contract with the Washington Gas-Light Company for the term of one year, and so from year to year until otherwise provided by law, at such rates as may be agreed upon, not exceeding the maximum now fixed by law, for all the illuminating gas required for the avenue and street lamps and public offices of the city, and public grounds under the control of said city.

Mr. KOONTZ. I move that the House non-concur in the amendment of the Senate, and ask for a committee of conference.

Mr. WELKER. I move that the amendment be concurred in.

The SPEAKER. The question will first be on concurring in the amendment of the Senate.

Mr. ALLISON. I understand that this joint resolution proposes to increase the price of gas in this city.

Mr. KOONTZ. By no means; it proposes to reduce it. The cost heretofore has been \$3 42 per thousand feet, and the amendment of the House to the original resolution proposes to reduce it to three dollars per thousand feet.

Mr. WELKER. The difference between the Senate amendment and the joint resolution as it passed the House is that the House fixed upon the Government a contract for ten years, while the Senate amendment provides that the contract shall be made with the gas company from year to year.

Mr. KOONTZ. If the Senate amendment is concurred in we will not be able to get the gas at the reduced rate, for it is impossible for the company to furnish it at the price proposed by the House, except they have a contract for a term of years. The uniform custom all over the country is to allow contracts to be made in similar cases for a term of years.

Mr. MAYNARD. Is it proposed to charter a new company?

Mr. KOONTZ. It is not.

Mr. MAYNARD. If it was I might be induced to vote for this joint resolution.

Mr. ALLISON. Is this bill to fasten upon the community the price of three dollars per thousand feet of gas for ten years to come?

Mr. KOONTZ. It proposes to reduce the price of gas from three dollars and forty-two cents to three dollars per thousand feet. The committee find upon examination in regard to forty of the principal gas companies in the country that the average price is three dollars and eighty-three cents per thousand feet. It will be impossible for this company to furnish gas at three dollars per thousand feet unless they are allowed a contract for a term of years.

Mr. MAYNARD. Does the gentleman think it worth while to fasten a monopoly upon this community for a term of years?

Mr. KOONTZ. This is not to fasten a monopoly upon the community; it is to secure a saving to the Government.

Mr. WELKER. The sub-committee, to which this subject was referred, I understand, did not inquire as to the price of gas furnished to city authorities, but only as to the price of gas furnished to individuals.

Mr. KOONTZ. The gentleman from Ohio [Mr. WELKER] concurred in the joint resolution as reported from the committee of the House; in fact it was drawn to meet his views in the case. I will say that in the city of Philadelphia, where the gas is furnished by the corporation, the price is \$2 95 per thousand feet. We propose to put it at three dollars per thousand feet in this city, only five cents more than in Philadelphia. Inasmuch as the city of Philadelphia is so much nearer the coal mines than Washington is I do not think the difference in the price is any too much. I call the previous question.

The previous question was seconded and the main question ordered.

The question was upon concurring in the amendment of the Senate; and being taken it was concurred in, upon a division—ayes sixty-eight, noes not counted.

Mr. WELKER moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AGRICULTURAL COLLEGES—SOUTHERN STATES.

Mr. BOWEN. I ask unanimous consent to take up from the Speaker's table, out of its regular order, for consideration at the present time, Senate joint resolution No. 176, extending to the States lately in rebellion the benefits of the act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts, approved July 2, 1862, and amended by act of July 23, 1866.

The joint resolution was read for information. The preamble recites that under the provisions of the act of Congress, approved July 2, 1862, entitled "An act donating public

lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," and under the provisions of an act of Congress approved July 23, 1866, entitled "An act to amend the fifth section of an act entitled 'An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts,'" approved July 2, 1862, extending the time within which the provisions of the original act shall be accepted and such colleges established, the several States and Territories became entitled under certain conditions to grants of land and land scrip; that by a joint resolution approved March 29, 1867, the issue or delivery of such land scrip to any of the States lately in rebellion against the United States, except the State of Tennessee, was prohibited until such States should be fully restored to their rights as States by Congress; and that several of the States lately in rebellion have already been fully restored to their rights as States by Congress. The joint resolution therefore provides that the issue of land scrip to the States thus fully restored to their rights as States by Congress be authorized and directed under the conditions and limitations prescribed in the acts recited, and that this authority and direction shall apply to States lately in rebellion not yet fully restored to their rights as States by Congress, so soon as they shall be thus restored. All amounts already issued to either of those States are legalized and declared to be a part of the share of such States.

Mr. HOPKINS. Does not this apply to all the southern States.

Mr. ASHLEY, of Nevada. I object to the consideration of the resolution.

JUDICIAL PROCEEDINGS.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 1181) regulating judicial proceedings in certain cases for the protection of officers and agents of the Government, and for the better defense of the Treasury against unlawful claims.

The amendment of the Senate was read, as follows:

At the end of the bill add the following:
Provided, however, That no judgment recovered in accordance with this act shall be paid by the United States unless the amount received by the defendant as the proceeds of the transaction which was the foundation of the suit, shall have been paid into the Treasury, except upon an appropriation duly made therefor after a full examination of the claim upon its merits.

Mr. BOUTWELL. I move that the House concur in the amendment of the Senate.

The amendment was concurred in.

Mr. BOUTWELL moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXECUTIVE EXPENSES.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869.

The amendment was read, as follows:

Add to the bill the following:

Sec. — And be it further enacted, That there be appropriated out of any money in the Treasury not otherwise appropriated, the sum of \$5,000 to be expended under the direction of the Commissioner of Public Buildings and Grounds, for the purpose of building an arched roadway from Tiber creek, on North Capitol street, leading to the Government Printing Office, provided the city of Washington will appropriate a sufficient additional amount to complete it.

Sec. — And be it further enacted, That the Secretary of the Treasury is hereby authorized and directed to pay out of any money in the Treasury not otherwise appropriated to Henry B. Ste. Marie the sum of \$10,000 for services and information in the arrest of John H. Surratt in the kingdom of Italy, charged with the crimes of conspiracy and murder; and the joint resolution for the relief of Henry B. Ste. Marie, approved July 20, 1868, be, and the same is hereby, repealed.

Mr. ROSS. I make the point of order that as this amendment makes an appropriation of

money it must be first considered in Committee of the Whole.

Mr. BUTLER, of Massachusetts. I move that the House non-concur in the amendment of the Senate, and ask the appointment of a committee of conference.

The SPEAKER. The point of order is made by the gentleman from Illinois [Mr. Ross] that this amendment contains an appropriation, and must first be considered in Committee of the Whole. If that point is insisted on the question cannot now be taken in the House on concurring in the Senate amendment.

Mr. BUTLER, of Massachusetts. Let me say to the gentleman from Illinois that there are only two things provided for in this amendment of the Senate. The first is to remedy an omission in our previous legislation by which we gave to Ste. Marie a reward of \$10,000, but omitted in the bill to make any specific appropriation. The other part of the amendment simply provides for building a bridge over the Tiber, so as to make a convenient thoroughfare to the Government Printing Office. This is the whole effect of the amendments.

Mr. ROSS. I will not withdraw my objection unless I have the right to make it again when the conference report is submitted.

Mr. BUTLER, of Massachusetts. You can.

The SPEAKER. The right will be reserved. The bill is before the House.

Mr. STOKES. My friend is laboring under a mistake. This House passed a bill, and it was concurred in by the Senate, appropriating \$10,000 to this Henri Ste. Marie for information furnished and services rendered by him. It was provided that it should be paid out of a certain fund. It now turns out there is no fund belonging to that Department. He, therefore, fails to get the money that the House and Senate intended he should get. I insist, therefore, we should concur in the Senate amendment providing \$10,000 for Henri Ste. Marie.

The Senate amendment was non-concurred in.

Mr. BUTLER, of Massachusetts, moved that the House request a conference on the disagreeing votes between the two Houses.

The motion was agreed to; and the Speaker appointed Mr. BUTLER, of Massachusetts, Mr. STOKES, and Mr. ROSS, as managers of said conference on its part.

ENROLLED BILLS.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867;

An act (H. R. No. 1205) to further amend the postal laws; and

An act (H. R. No. 1275) relating to the Alexandria canal.

Mr. WILSON, of Pennsylvania, from the same committee, reported that they had examined and found truly enrolled an act (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1868; when the Speaker signed the same.

MOUNT VERNON ASSOCIATION.

Mr. SCHENCK. I hope I will have consent to take up a bill in relation to the Mount Vernon Association.

Mr. WASHBURN, of Illinois. I object.

WEST WISCONSIN RAILROAD.

The next business on the Speaker's table was the joint resolution (S. R. No. 152) to extend the time for the completion of the West Wisconsin railroad; which was read a first and second time. It proposes to further extend the time fixed and limited by an act entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," approved May 5, 1864, for

the completion of the railroad from Tomah, in the county of Monroe, to St. Croix river or lake, between townships twenty-five and thirty-one, for a period of three years, to the West Wisconsin Railroad Company, a corporation established by the laws of the State of Wisconsin, and which, by the laws of that State, is entitled to the land grant made in the second section of the act of May 5, 1864; but if the railway company shall not have completed the railroad from Tomah to Black River falls on or before the expiration of one year from the passage of the resolution it is to be null and void.

Mr. WASHBURN, of Illinois. That joint resolution has already been passed.

Mr. COVODE. I move to strike out all after the enacting clause, and to insert in lieu thereof the following:

That the Denver Pacific Railway and Telegraph Company, a company incorporated under the laws of the Territory of Colorado, is hereby authorized to connect its road and telegraph with the Union Pacific railroad and telegraph at or near Cheyenne, and with the Union Pacific railway, eastern division, at Denver, and shall have a uniform gauge, rate of freight, and fare, and charge for hauling of cars and the privileges and immunities, except subsidy in bonds, and be subject to the obligations of the Union Pacific Railroad Company and its branches, and to aid in its construction shall have like grants of lands, right of way, with like conditions, limitations, and privileges: *Provided,* That patents may be issued to said company whenever it shall have completed twenty consecutive miles of its railroad and telegraph line, instead of forty miles, as now provided by law, whenever said company shall file in the Department of the Interior a certificate of the Governor and surveyor general of Colorado, whether a Territory or a State, duly sworn to by them before the judge of some court of record in Colorado, that twenty consecutive miles of the railroad and telegraph line of said company have been fully completed in a good and substantial manner, as contemplated by this act; and upon the connection of the Union Pacific railroad and telegraph, eastern division, with said railroad and telegraph at Denver City, said company shall be entitled to the same rights and privileges as if the whole line had been constructed by said eastern division company. The line from Denver to Cheyenne shall be taken in lieu of its construction of said portion of its route, and all the provisions contained in the several acts of Congress relating to the operation of the Union Pacific railroad and telegraph, the Central Pacific of California, and the branches of said Union Pacific railroad and telegraph so far as the Government, the public, and said railroad and branches are concerned, shall apply to the operation of said Denver Pacific railway and telegraph, the same as if they were here repeated. The design being to provide that the said road shall for the purpose of through business be operated without change of cars or breaking bulk.

And be it further resolved, That the Union Pacific Railroad Company, eastern division, may mortgage that part of its road between the point where its subsidy in bonds shall terminate and Denver City, together with its rolling-stock, to an amount not exceeding \$32,000 per mile, which point shall be held and construed under existing laws to be at or near Cheyenne Wells, in Colorado, and not further west than the meridian of said wells; and the Denver Pacific Railway and Telegraph Company may mortgage its road and rolling-stock to a like amount, for the purpose of enabling said companies to borrow money to construct their said roads.

And be it further resolved, That this act shall not take effect and go into operation until the said Union Pacific Railway Company, eastern division, shall, by a vote of its directors, have given its consent to the same, and have filed a certificate to that effect under the corporate seal of said company, attested by its president and secretary, in the Department of the Interior. And the grants herein made to said Denver Pacific Railway and Telegraph Company are made upon condition that said company shall complete and put in operation its whole line of railroad and telegraph by the 1st day of January, A. D. 1870.

Mr. WASHBURN, of Illinois. I raise the point of order that is not germane.

The SPEAKER. It is not germane. The title of a bill controls its scope, except where, in the body of the bill, it has a scope beyond the title.

Mr. WASHBURN, of Illinois. Would it be in order to offer it as an amendment to a bill that is already a law? [Laughter.]

The SPEAKER. It would not.

Mr. WASHBURN, of Illinois. I move that the bill be laid on the table.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the President of the United States having returned to the Senate, in which it originated, the bill (S. No. 567) relative to the Freedmen's Bureau, and provid-

ing for its discontinuance, with his objections thereto, the Senate proceeded in pursuance of the Constitution to reconsider the same, and resolved that the said bill do pass, two thirds of the Senate agreeing thereto.

FREEDMEN'S BUREAU.

The SPEAKER laid before the House the foregoing message from the Senate, together with the message of the President of the United States; which was read as follows:

To the Senate of the United States:

Believing that a bill entitled "An act relating to the Freedmen's Bureau, and providing for its discontinuance" interferes with the appointing power conferred by the Constitution upon the Executive, and for other reasons which, at this late period of the session, time will not permit me to state, I herewith return it to the Senate, in which House it originated, without my approval.

ANDREW JOHNSON.

WASHINGTON, D. C., July 25, 1868.

Mr. ELIOT. I demand the previous question on the passage of the bill, the objections of the President to the contrary notwithstanding.

The previous question was seconded and the main question ordered.

The SPEAKER. The question is, Will the House on reconsideration agree to pass this bill? That question is required by the Constitution to be taken by yeas and nays.

The question was taken; and there were—yeas 115, nays 23, not voting 82; as follows:

YEAS—Messrs. Allison, Ames, Arnell, James M. Ashley, Bailey, Baldwin, Banks, Beatty, Benton, Bingham, Blair, Boles, Boutwell, Bowen, Bromwell, Buckley, Benjamin F. Butler, Roderick R. Butler, Cake, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Corode, Cullom, Dawes, Delano, Deweese, Dixon, Dockery, Driggs, Eckley, Eggleston, Farnsworth, Ferriss, Fields, French, Garfield, Halsey, Hamilton, Haughey, Heaton, Higby, Hill, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Alexander H. Jones, Judd, Kelley, Kellogg, Kelsey, Ketcham, Kootz, Ladin, William Lawrence, Lincoln, Logan, Longbridge, Mallory, Maynard, McClurg, McKee, Mercer, Miller, Moore, Mullins, Myers, Nunn, O'Neill, Orth, Paine, Peckham, Peters, Pierce, Pile, Plants, Poland, Polsley, Pomeroy, Raum, Sawyer, Schenck, Scofield, Shanks, Spalding, Starkweather, Aaron F. Stevens, Stewart, Stokes, Sypher, Taffe, Taylor, Thomas, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, John T. Wilson, and Windom—115.

NAYS—Messrs. Adams, Axtell, Beck, Cary, Eldridge, Getz, Glossbrenner, Golladay, Grover, Hawkins, Hotchkiss, Johnson, Thomas L. Jones, Kerr, Knott, Mann, Marshall, McCullough, Niblack, Ross, Taber, Lawrence S. Trimble, and Van Auker—23.

NOT VOTING—Messrs. Anderson, Archer, Delos R. Ashley, Baker, Barnes, Barnum, Beaman, Benjamin, Blackburn, Blaine, Boyden, Boyer, Brooks, Bromall, Buckland, Burr, Chanler, Cliff, Cook, Cornell, Dodge, Donnelly, Edwards, Ela, Eliot, Ferry, Finney, Fox, Goss, Gove, Gravelly, Griswold, Haight, Harding, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Julian, Kitchin, Lash, George V. Lawrence, Loan, Lynch, Marvin, McCarthy, McCormick, Moorhead, Morrell, Morrissey, Mungen, Newcomb, Newsham, Nicholson, Norris, Phelps, Pike, Price, Prince, Pruyn, Randall, Robertson, Robinson, Root, Selye, Shellabarger, Sitgreaves, Smith, Thaddeus Stevens, Stone, John Trimble, Upson, Robert T. Van Horn, Van Trump, Vidal, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—82.

The SPEAKER. Two thirds having voted in the affirmative, and the House having been notified that in the Senate of the United States upon a similar reconsideration two thirds of that body also agreed to the passage of the bill, I do declare, by the authority of the Constitution of the United States, that the act relating to the Freedmen's Bureau, and providing for its discontinuance, has become a law notwithstanding the objections of the President thereto.

During the roll-call,

Mr. ARNELL said that his colleague, Mr. TRIMBLE, of Tennessee, was absent; if present he would vote ay.

ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 722) for the relief of Sally C. Northrop;

An act (H. R. No. 1366) for the relief of Captain A. G. Olivar;

An act (H. R. No. 1365) for the relief of Captain Thomas W. Miller;

An act (H. R. No. 834) for the relief of Hon. George W. Bridges, a member of the Thirty-Seventh Congress;

An act (H. R. No. 433) for the relief of Palemon John;

An act (H. R. No. 1322) for the relief of Major F. F. Stevens, assistant paymaster United States Army;

An act (S. No. 472) supplementary to an act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security," and for other purposes;

An act (S. No. 540) to regulate the sale of hay in the District of Columbia;

An act (S. No. 295) for the relief of Eliza Mascher, widow of John F. Mascher;

An act (S. No. 209) to incorporate the Evening Star Newspaper Company;

Joint resolution (H. R. No. 296) giving the assent of the United States to the construction of certain wharves in the harbor of Oswego, New York; and

Joint resolution (S. R. No. 147) for the relief of Jonathan S. Turner.

MOTION FOR A RECESS.

Mr. WASHBURN, of Illinois. I move that the House take a recess. [Loud cries of "Oh, no," and "Not yet."]

The SPEAKER. To what time does the gentleman move to take a recess?

Mr. WASHBURN, of Illinois. Ten o'clock on Monday morning.

Mr. FARNSWORTH. I hope not.

The SPEAKER. The Chair desires to state the condition of the public business, as it is his duty to do at this stage of the session. There are two bills now in the hands of conference committees that have not reported. The Committee on Enrolled Bills have not yet reported the bill in regard to the rights of naturalized citizens abroad, which has to be signed in open House by the Speaker and the President of the Senate before it can be sent to the President for his signature. After to-day, the Chair does not believe, from the votes cast to-day on the yeas and nays on the veto and other important propositions, there will be any quorum. If the House now takes a recess until ten o'clock on Monday we shall lose all the bills on the Speaker's table, as to the value of which the Chair is not informed and expresses no opinion, besides the bills which are before conference committees, and possibly other bills which cannot be enrolled in time to receive the signature of the President.

Mr. WASHBURN, of Illinois. Now, can I make a little speech?

Mr. FARNSWORTH. I object to debate.

The SPEAKER. It is the duty of the Speaker at the present stage of the session to inform the House of the condition of the public business. The present Speaker has done it, and all his predecessors have done it.

Mr. FARNSWORTH. I did not object to the Chair making his statement.

Mr. WASHBURN, of Illinois. I desire to state some reasons why we should take a recess.

Mr. FARNSWORTH. I object.

Mr. WASHBURN, of Illinois. Why did not the gentleman object to the Speaker's speech?

Mr. FARNSWORTH. Because it was his duty to make the statement.

The SPEAKER. The gentleman from Illinois [Mr. FARNSWORTH] drew a distinction between the Presiding Officer making a statement of the condition of business and a member making a speech.

Mr. MAYNARD. It is the official duty of the Speaker to do it.

Mr. BINGHAM. The Speaker is right.

The SPEAKER. It is the Speaker's duty to do it, and he would be derelict if he did not do it.

The question was put on the motion of Mr.

WASHBURN, of Illinois; and there were—ayes 20, noes 93.

So the motion for a recess was disagreed to.

NEW MEXICO ELECTION CONTEST.

Mr. LAWRENCE, of Ohio. I rise to a question of privilege. I offer the resolution which I send to the Chair.

The SPEAKER. The Chair will decide upon it after it is read.

Mr. LAWRENCE, of Ohio. I understand from the chairman of the Committee of Elections that there is no objection to it at any rate.

The Clerk read the resolution, as follows:

Resolved, That the time for taking evidence in the case of the contested election for a seat in Congress as Delegate from the Territory of New Mexico be extended to the 15th day of November, 1868.

The SPEAKER. That is a question of privilege.

The resolution was agreed to.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAPANESE STUDENTS OF NAVAL ACADEMY.

The next business on the Speaker's table was the joint resolution (S. R. No. 154) to admit certain persons to the Naval Academy; which was read a first and second time.

Mr. KELLEY. I move that the joint resolution be put upon its passage. It explains itself.

The Clerk read the joint resolution, which authorizes the Secretary of the Navy to receive for instruction at the Naval Academy at Annapolis not exceeding six persons, to be designated by the Government of the empire of Japan; but no expense is thereby to accrue to the United States, and the Secretary of the Navy may in the case of these persons modify or dispense with any provisions of the rules and regulations of the Academy which circumstances may, in his opinion, render necessary or desirable.

Mr. KELLEY. The resolution provides for the education of not exceeding six Japanese youths, designated by the Government of the empire, at the expense of the empire.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. KELLEY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WESTERN PACIFIC RAILROAD.

The next business on the Speaker's table was Senate bill No. 159, relating to the Western Pacific railroad; which was taken up, and read a first and second time.

The question was upon ordering the bill to be read a third time.

Mr. WASHBURN, of Illinois. I move that the bill be referred to the Committee on the Public Lands.

Mr. HIGBY. I ask that this bill be now put upon its passage.

Mr. WASHBURN, of Illinois. Oh, no.

The bill, which was read, provides that the Western Pacific Railroad Company of California shall be permitted to occupy for the purposes of a depot, store-houses, and other necessary fixtures so much of the island known as Yerba Buena, or Goat Island, in the bay of San Francisco, California, as may, within one year from the time this act shall take effect, be designated by the General of the Army of the United States, with the approval of the Secretary of War, as not being required in time of peace for military purposes; which privilege shall, however, be terminable at the pleasure of Congress, and may be suspended whenever the United States shall be engaged in war or in imminent danger thereof, and notice of such determination shall be given to the company, its successors or assigns, by the Secretary of War, with the approval of the

President. And in case of such suspension of privilege it shall be the right of the United States to take possession of the part of the island subject to the privilege, together with all buildings and other fixtures erected thereon by the company, and to occupy and use the same for military purposes during the war, and so long thereafter as shall be deemed necessary by the Secretary of War, with the like approval; and the Western Pacific Railroad Company are also authorized to locate and construct a railroad thence, by the shortest and most practicable route, to a point on its present line at or south of the city of Stockton, and they are enfranchised with all the grants, privileges, benefits, and made subject to all the conditions of the several acts of Congress relating to the company and its railroad and telegraph line; provided that nothing herein contained shall be so construed as to authorize any grant or subsidy in bonds for any road built under this act, or to increase the subsidies in bonds, beyond that accruing under existing lines of location and laws heretofore passed providing for the construction of the Pacific railroad; provided further, that no work shall be constructed by the said company between the main land and said island which will, in the judgment of the War Department, injuriously affect the navigation of the harbor of San Francisco; and provided further, that on the determination or suspension of the privilege hereby granted, and on the United States taking possession of that part of the island to which this privilege applies, the Government of the United States shall not be required to make compensation for any structures or buildings thereon, or for the use or occupation of the island or structures; and provided further, that this act shall not impair the rights or claims of persons in possession of the island of Yerba Buena at the time of the late military occupation thereof.

Mr. HIGBY. I propose to yield to the gentleman from Ohio, [Mr. ECKLEY,] a member of the Committee on the Public Lands, to make a statement. Then I will make a brief statement myself, after which I will give an opportunity to the other side to be heard. But I wish to hold control of the matter for the present.

The SPEAKER. The Chair will recognize the gentleman as entitled to the floor.

Mr. HOPKINS. I am, also, a member of the Committee on the Public Lands. I hope the gentleman from California [Mr. HIGBY] will yield to me for five minutes.

Mr. HIGBY. I will yield to the gentleman from Wisconsin [Mr. HOPKINS] for five minutes after the gentleman from Ohio has spoken.

Mr. WASHBURN, of Illinois. I hope the gentleman will yield to me, also, for five minutes.

Mr. HIGBY. Certainly.

Mr. ECKLEY. This bill has been considered by the Committee on the Pacific Railroad, and they have agreed to it. It has also been submitted to and considered by the Committee on the Public Lands. Any one who will take the trouble to look at this proposition will see that this is the natural terminus of the Pacific railroad. It is true there is a controversy about this island; it is claimed by individuals, and also claimed by the Government. This bill merely provides that this Western Pacific railroad shall be allowed to have its terminus on the island of Yerba Buena, subject to the regulations of the Secretary of War.

I think every necessary guard is thrown around this bill. It simply gives the right of way on the island—not the island itself, but the right of way—to this railroad company. This being the great thoroughfare that is eventually to control, to a very great extent, not only the trade of this country, but the trade of Asia, it is right and proper that the terminus should be as near the city of San Francisco as possible, that city being the great emporium for the commerce of the Pacific. This is the nearest point of land in the control of the Government which can be given to this company for this purpose. That is the reason which act-

uated the Committee on the Public Lands in deciding in favor of this bill.

Mr. HIGBY. I now yield five minutes to the gentleman from Wisconsin, [Mr. HOPKINS.]

Mr. HOPKINS. As a member of the Committee on the Public Lands of this House in reply to the gentleman from Ohio, [Mr. ECKLEY,] also a member of that committee, I desire to say that to my knowledge this bill has never been formally considered by that committee. The subject has been talked over; we have had various propositions before us during the entire session, some of them exceedingly extravagant; some even more extravagant than the one now under consideration. But, Mr. Speaker, I wish to relieve the Committee on the Public Lands from the odium implied in the statement that they have made a recommendation in favor of this project. They have not done so. I say this on behalf of the committee, because I think that such a recommendation would be discreditable to the committee. What individual members of the committee may have said to the paid lobbyists who have been here pressing this and other schemes to get possession of the island I cannot say. We have been bored by day and haunted by night by these exceedingly disinterested individuals, and to get rid of their importunities, it is impossible to say what members of the committee may have said to them; but this I do know, that as a committee, we are not committed to this project, and I trust never shall be. In the few moments accorded to me I am unable to discuss this measure in detail. I shall, however, attempt to give a few reasons why, in my judgment, this bill ought not to pass.

The Government of the United States owns to-day a small island in the bay of San Francisco, containing one hundred and twenty-nine acres, known as Yerba Buena, or Goat Island. This island has been reserved by the Government for military purposes. It lies in the center of the channel, commanding it on both sides. Until recently, no one deemed it possible that the Government would ever part with any portion of it, so important had it always been regarded for fortification purposes, to defend the entrance of the harbor, and for the protection of the city. But the enterprising managers of the Western Pacific railroad have conceived the idea that the island is just what they need for the terminus of the Pacific road. In the first place, they asked for the whole of it as a donation, but finding little favor for such a monstrous proposition, they with extreme modesty agree to accept a part of it now, expecting, of course, that the remainder will be surrendered to them whenever it is demanded. And, Mr. Speaker, I am free to say if this passes I do not think they will be disappointed in their expectation. Permit this corporation to locate their depot upon this island, and erect upon it the extensive structures which will be necessary to transact the business of this, the most important railroad in the world, give them this foothold now, and does any one believe they will ever be dispossessed? Once give the right of occupation and it is forever surrendered to them. When they have spent millions of dollars in bridging the channel to get on to the island, and perhaps millions more in the way of permanent structures, for the convenience of their immense traffic, does any one presume for a moment that the Government will dispossess them, and render valueless such vast expenditures of money? No, Mr. Speaker, if this island is to be preserved and retained by the Government for the purpose of defending the harbor and city of San Francisco it must be done now by defeating the bill under consideration. Allow it to pass, and for the purpose which the Government now holds it it is no longer of any value. The real question is are we prepared to give the island away? If we are, to whom shall we give it? Other roads terminating at San Francisco claim a portion of it. Shall we give this valuable island all to one mammoth corporation, as a mo-

nopoly, or divide it with other less favored but equally meritorious projects? In my judgment we should not give it away at all. If Congress determines that it is not needed for the defense of the harbor and the city, let us sell it, giving all parties a fair chance to compete for the purchase, and thereby realizing millions of dollars in the sale to the Government Treasury.

As at present advised I am decidedly opposed to either giving it away or selling it. We have learned something of the value of earth-works and fortifications upon the land in repelling naval attacks, even as against iron-clads and the most formidable guns ever floated on vessels-of-war. We have not forgotten the siege of Charleston and Mobile, when these fortifications on land resisted week after week, month after month, and almost year after year, the most formidable fleet of war vessels ever floated upon the waters. It is well that we should remember these practical illustrations of the value of earth-works and islands in our harbors for defensive purposes in time of war. It is too soon to forget the expensive lessons of the recent past. While we indulge the hope that our great Republic may be spared the calamity of either foreign or domestic war in the future we must not forget that it is the duty of all nations in time of peace to prepare for war. In looking over the thousands of miles of sea-coast, both on the Atlantic and Pacific, which we should be called upon to defend in case of foreign war against the attacks of powerful navies, does not ordinary prudence teach us that we should hold all the natural available points of defense we now possess?

San Francisco is one of the available points of attack. This city has already become one of the important cities of this country, and is destined at no distant day in the future to be one of the great cities of this continent. The completion of the Pacific railroad, now nearly done, gives to this city a commercial prominence which we cannot well overestimate and which we should not underrate. Her future is bright with hope, and in the fulfillment of the reasonable expectations of her people every American feels an honest pride. With a safe and commodious harbor, the terminus of a railroad connecting two great oceans, and stretching across a continent, controlling to a large extent the trade of the eastern world, that city is about to enter upon a career of prosperity hitherto unparalleled in the growth of American cities. The completion of the Pacific road will be an event of transcendent importance, not only to the city of San Francisco, but the entire Pacific slope, and indeed to our whole country. It will to a great extent revolutionize the commerce of the great countries of the East, with which we have heretofore enjoyed but very imperfect and comparatively unimportant commercial relations.

No man on this floor appreciates more keenly those advantages, and few are more liberal in extending such aid as is necessary to complete this great national thoroughfare. But believing that we are not called upon to make the concession demanded by this bill, and being convinced that the company asking the aid has all the land necessary for depot purposes at Oakland and in the city of San Francisco, and that the true interests of the country as well as the city will be better subserved by holding this island permanently for the purpose of fortifications, I cannot favor the passage of the bill. As I have before remarked, it commands the city of San Francisco and harbor in all directions, and would constitute a perfect point of defense for the harbor against a foreign attack. I have before me here a report from three of the most distinguished engineers in the service, and I desire to call the attention of the House to that report. These engineers of the United States recommend that this island be occupied for military purposes, and for such purposes only, and they protest against allowing the island to be given up for any such purposes as this bill contemplates. They state that if the structures proposed to be erected by this rail-

road company be built upon any portion of the island the Government will be prevented from ever rendering the island valuable for fortification purposes. This report is so important that I deem it proper to embody the whole of it as a part of my remarks. It is as follows:

Report by George H. Elliot, G. H. Mendell, and B. S. Alexander, Officers of Engineers, to General A. A. Humphreys, Chief of Engineers, of an examination of Yerba Buena Island, showing its importance as a military defense to the harbor of San Francisco.

OFFICE BOARD OF ENGINEERS,
SAN FRANCISCO, CALIFORNIA, January 8, 1868.

GENERAL: The board of engineers for the Pacific coast, constituted by Engineer Order No. 64, dated "Engineer Department, Washington, December 4, 1866," has received and considered the application of Mr. William B. Hyde, the chief engineer of the Terminal Central Pacific Railroad Company, dated October 28, 1867, and addressed to the Secretary of War, in relation to Yerba Buena Island.

The indorsement of the Department on this letter was as follows, namely:

"HEADQUARTERS CORPS OF ENGINEERS,
WASHINGTON, November 2, 1867.

"Respectfully referred to the board of engineers for the Pacific coast for report as to what portions of the island are required for defense.

"The general project of the defenses of the island should be considered by the board, so as to determine the traces and references of the crests of the batteries, and the ground that will be required by the military establishments of the island. There will then be indicated what may remain available for railroad and commercial purposes, and what restrictions the defensive uses exact in respect of them."

The board, having carefully examined the island and the adjacent channels, has the honor to submit the following report:

The great importance of Yerba Buena island, if occupied in time of war with heavy long-range guns, as securing the water front of the city of San Francisco from occupation by a hostile fleet, should such be found in the harbor on the declaration of war, or should it succeed in entering the bay either by force, by stratagem, by surprise, in a dense fog or in the darkness of night, has been acknowledged by all our engineers who have considered the subject.

The island will cover by its fire the entire water front of the present city of San Francisco, and it is the last point from which the anchorage in front of the city can be defended.

Remove this island and there will be nothing but a naval force to prevent an enemy's fleet, or even a single man-of-war, if the outer batteries should prove insufficient to prevent his entrance into the bay from taking position in front of the city, beyond effective range of Alcatraz Island, and either destroying it or levying such contributions as cupidity may dictate.

If the Government fails to properly occupy the island on the approach of war, or if it permits such structures to be erected along the water front of the island as will obstruct or otherwise nullify the fire of its batteries, the same result will follow.

Doubtless there are persons who attach more importance to this island for railroad and commercial uses than they do for military purposes, and those who are interested in securing it for purposes of private gain may argue that the defense of the city front may safely be left to the Navy alone unaided by land batteries.

As such a doctrine would render our Navy passive in time of war, confining it to home duty, and otherwise violate the well established principles of harbor defense, this board may safely leave its confutation, should it ever be publicly advanced, to the Department.

We start, therefore, with the idea that this island is absolutely necessary for the protection of the city front; that batteries should be erected upon it, and armed with our heaviest guns, which should control by their fire all the anchorages within range, from whence an enemy might injure the city or otherwise cripple its defense. We may add, too, that this island has a prospective value of great importance to the defense of the city.

It is the last point from which a defense can be made, and on account of its location and the ease with which it may be defended, it will be the most secure position in the harbor. It will probably, therefore, be occupied in time of war for ordnance purposes, have an arsenal, with all the necessary establishments for the storage and safe-keeping of artillery, ammunition, and small arms.

When the board first entered upon the investigation of this subject some of its members were disposed to think that all these things might be provided for; all necessary security given to the water front, and yet a portion of the northeastern end of the island and the adjacent shoal toward the northwest might be given up to commercial purposes. But as the investigation has proceeded this opinion has changed, and all the members of the board, now present, are of the opinion that no portion of the island or of the adjacent shoal should pass out of the control of the Government.

We proceed to give the reasons for this opinion.

The board first carefully examined the island, and came to the conclusion that it might be securely and cheaply fortified by a system of earthworks and batteries, the guns of which should fire *en barbette*. Having no good survey of the island, and no time to have one made before this report would be required, we next proceeded to compile a map from the best data which could be obtained in this city. The result was the sketch herewith inclosed, which is approximately

correct, and upon which we have laid down, as near as may be, the positions, forms and sizes of the earthworks and batteries by which we propose to occupy the island.

We propose to build an inclosed earthwork (at A) on the highest point of the island, which will be the key of the position.

The crest of this fort will be held about in the reference of three hundred and twenty-five feet.

It is to command by its fire the two redoubts B and C, which it overlooks, and the batteries numbers four, five, six, and seven, rendering the occupation of these works by an enemy impossible.

Redoubt B will command, by its fire, batteries one, two, and three.

Redoubt C will have its crest about in the reference of one hundred and twenty-five feet, and will flank the only practicable landings on the island on the east and north sides, and command the channel between the island and the Contra Costa shore. The water batteries from No. 1 to No. 7 will be placed around the island, near the shore, in the most advantageous positions. Their crests will vary in height from about sixty feet to about two hundred feet. The lower of these batteries ought to be armed principally with smooth-bore guns, while the higher ones would receive mostly rifled guns and mortars. They will exclude an enemy from all anchorages within range of their guns.

The two redoubts A and B, being built to command the adjacent batteries, will be armed principally with smooth-bore field guns. They might, however, receive with advantage a few heavy sea-coast mortars, and perhaps some rifled guns of heavy caliber.

Redoubt C would be armed with ordnance suitable to accomplish the objects which have been indicated; that is to say, the two flanks looking toward the south and southwest with field guns, while the other three faces would receive heavy guns, (principally rifles.)

The most suitable position for the wharf is indicated on the sketch. It would be well sheltered from an enemy's guns until he had passed to the eastward of the island.

Such, in general terms, is the manner in which this board thinks the island should be fortified. Doubtless a complete survey of the ground will modify some of the details of the redoubts as well as of the batteries; but if this method of occupation should be adopted, the principles as herein sketched must remain unchanged.

We have now to examine into the consequences of giving up a portion of the island for railroad and commercial purposes; and,

1. We assume that no portion of the shore, from battery No. 1 on the western side of the island, around by the southern shore to battery No. 6, on the southeastern spur, could properly be occupied for railroad or commercial purposes; for such occupation involves the construction of wharves, buildings, and storehouses, which would mask the fire of the batteries, and render the service of their guns unsafe in time of action by reason of fire and splinters caused by the enemy's shot.

2. Neither could the cove between battery No. 6 and redoubt C be properly given up for civil objects; for here must be the wharf for the post, and the shores of this cove afford the most available and secure position on the island for barracks, storehouses, and other military establishments which will be required.

3. There remains, therefore, only the northern shore of the island and the adjacent shoal to be considered. The construction of buildings for civil purposes on this side of the island, though not so objectionable as the occupation of the southern, western, or eastern sides would be, might nevertheless materially endanger the safety of the city in time of war, and would probably prove to be a fruitful source of trouble in time of peace.

Let us suppose, for instance, that an enemy's fleet takes up a position on the eastern side of this shoal, from half a mile to a mile north of the eastern extremity of the island, and that this shoal is occupied by wharves, depots, workshops, storehouses, &c., covering it from the fire of the guns on the island. This position is within two and a half miles of the city front, and an enemy here, in a place of comparative security, and armed with the long-range guns of our times, would be in a condition to dictate terms to the city.

If this island were the only place for a railroad depot, or if a cession of a portion of it would add greatly to the prosperity of the city of San Francisco or was indispensable to its commercial prosperity, or even to its convenience, the board would feel disposed to enter into an investigation as to what portion of the shoal north of the island could safely be ceded for such purposes.

But the Contra Costa shore, eastward from the island, affords ample positions for all possible railroad or commercial purposes, the only objection being that the depot, wharves, &c., would be from one to two miles further from the city, and that their construction would be somewhat more expensive than they would be at Yerba Buena Island. These are objections, but they are not serious in their nature, and, in the opinion of the board, are far outweighed by endangering the safety of the city in time of war, as we have shown would be the case were Yerba Buena Island occupied by civil constructions.

This island is regarded in this city as a very valuable piece of property. If the public mind could be disabused of the idea that it may be obtained for railroad and commercial purposes by an act of Congress, and if the Government were disposed to sell the island, and were to put it up at auction to be sold to the highest bidder, it would probably bring \$5,000,000.

This fact, together with the circumstance that several companies possessing ample means are en-

deavoring to get possession of the island without paying for it, and before it is wanted for either railroad or commercial uses, naturally leads to the suspicion that such parties are actuated more by the desire of private gain than by any public necessity connected with facilities for travel or commerce.

But there is another objection to giving up this island, or any portion of it, or of the shoal north of it, to railroad purposes. We allude to the bridging and ultimate closing of the channel between the island and the Contra Costa shore. If a railroad depot should be established on the island, the course of proceedings would probably be, first, to build a solid causeway from the Contra Costa shore out toward the island until a depth of water of about eighteen feet was reached, connecting this causeway with the island by a pile-bridge across the deeper water.

This construction would close only a small portion of the water-way between the island and the eastern shore, and would not probably do much damage except to fill up the flats in front of Oakland.

But the repairs of this bridge would be expensive and the draw would prove an annoyance and might at some time lead to an accident; it would doubtless induce the company owning the franchise to wish to make their causeway continuous, as is hinted in Mr. Hyde's letter of August 26, 1867, to General Alexander, a copy of which was forwarded to the Department, by direction of the board, on the 1st of October last. And the railroad company, once established on the island, by enlisting the sympathies or exciting the fears of the traveling community, would, in all probability, ultimately succeed in their object.

Such being the case, we are all called upon to investigate the effect of closing this channel by a permanent causeway.

The first step in this investigation was to calculate the area of the cross sections of the channels on either side of Yerba Buena Island, then to ascertain the velocity of the water in the two channels, and thus approximate to the quantity of water which passes through the two channels in a given unit of time.

Having done this, we next suppose the channel between the island and the Contra Costa shore to be closed by a causeway, and that all the water that formerly passed through it to pass through the other channel thus increasing the velocity in this channel. This velocity is already so great at certain states of the wind and tides, particularly close to the city front, where the surface velocity is sometimes four miles an hour, as to make it difficult for vessels to reach or leave their wharves, and any material increase of the current would increase the difficulty proportionably. Fortunately, the Coast Survey maps and current observations enable us to approximate to the increased velocity in the case supposed with some degree of exactness.

The following are the results:

Mean area of water-way between the city and Yerba Buena Island, 676,686 square feet; greatest surface velocity in mid-channel, 2.8 miles per hour; mean area of water-way between Yerba Buena Island and the Contra Costa shore, 238,396 square feet; greatest surface velocity in mid-channel, 1.9 per hour.

Now, if we leave out of consideration all disturbing causes, and suppose all the water in these cross sections to move with the surface velocities, we have for the channel between the city and Yerba Buena Island:

$676,686 \times 4 \times 1,066 = 2,778,926$ cubic feet as the discharge per second. And for the channel between Yerba Buena Island and the adjacent shore, $238,396 \times 2 \times 786 = 747,931$ cubic feet as the discharge per second.

Supposing the latter channel to be closed, and all the water to pass between the city and Yerba Buena Island, and that the same quantity passes through this channel in the same time as now passes in both channels, we have, by supposing the velocity to be proportional to the discharge,

$2,778,926 \div 3,552,896 = 2.8 \div x$, and $x = 3.55359$ miles per hour = 5.21194 feet per second as the resulting velocity in the case supposed. Therefore,

$\frac{3.55359}{-2.80000}$
= .75359

say three fourths of a mile per hour as the measured velocity.

Of course this is only an approximation. If we knew the velocity at different depths in the two channels the discharge of each would be much less than is given by the above figures. It is probable also that the ratio between the amount of water passing through the channels would be increased, giving as a consequence a decreased resulting velocity in the main channel when we suppose the other channel to be closed.

The fact, however, that this velocity would be considerably increased cannot be disputed, for the upper bay must still be filled and emptied at each tide, and we will thus have the same quantity of water passing through one channel in the same time that now passes through both channels, resulting of course either in an increased current or an increase of the water-way.

The rapid currents along the wharves of the city are already the cause of much difficulty, and if we suppose these wharves to be gradually extended out into the harbor, as has been the case in New York and Brooklyn, and further suppose that the encroachments on the water passage is also allowed to begin on the Yerba Buena shore, stopping up by one operation one third of the entire water-way, we have only to look at the difficulties that are sometimes experienced in the East river in front of New York to realize the future scene between the city of San Francisco and Yerba Buena Island.

Fortunately, the commerce of New York can seek, and has already sought to a great extent, the more quiet waters of the Hudson river, but the other side of the city of San Francisco has no such river flowing along its front.

The board will not now enter upon the other consequences that might follow the closing up of the channel under discussion, but will remark that in its opinion such a change might prove injurious, and should not be permitted without the most thorough investigation of the subject.

Recapitulation.

This board is of the opinion that no portion of Yerba Buena Island, or of the adjacent shoal, can safely be given up for railroad or commercial purposes.

All of which is respectfully submitted.

GEORGE H. ELLIOT,

Major of Engineers.

G. H. MENDELL,

Major Engineers, Brevet Colonel U. S. Army.

B. S. ALEXANDER,

Brevet Brigadier General U. S. A.,

President of Board of Engineers.

CHARLES W. RAYMOND,

Captain of Engineers, Recorder of Board.

Now, I submit, Mr. Speaker, that no candid man who will read with care this able report of these competent engineers of the Army, who have no interest in this subject but the common interest of the country, and who have recently, under an order of the War Department, examined this island to ascertain its real value to the Government for military purposes, can favor the proposition under consideration.

But it is alleged by those who so persistently advocate this measure that the Government do not part with the title to any portion of this island, but hold the railroad corporation as a tenant at will to be removed in case of war if the Government requires it. I give the originators of this scheme the credit of so framing their bill as to ingeniously hide and cover their real object, and grant them that they gain by indirection what they could not hope to get by a more honorable and direct law; and I am really in doubt whether, if they can pass this bill in its present form, it is not better for the corporation than the original proposition, which gave them as a donation the entire island. Let us examine the bill for a moment and see if I am not right. It will be observed that the company obtain the right to locate the terminus of their road upon the island. They are permitted to erect their depots, warehouses, machine-shops, &c., at whatever cost they may deem necessary upon this Government reservation. Gaining no absolute title to the soil they acquire the rights and advantages of possession, and the title of the land remaining in the United States; all this vast property is not subject to taxation either for State, county, or city purposes. I wish to call the attention of the House to this feature of the bill, and in passing upon it let us determine whether we are not giving the corporation more substantial advantages than we should by an absolute grant of the land itself. May it not be presumed that this constitutes one of the strong reasons for the abandonment of the original project which contemplated a donation of the island as a free gift to this railroad corporation, now plethoric with Government subsidies and lands, to the exclusion of all other roads, and at a loss to the Government Treasury, as estimated by the board of engineers, of \$5,000,000, which the island would bring if sold in the market?

In conclusion, Mr. Speaker, I desire to say if the military authorities are correct in their estimate of the value of this island for military purposes we should not part with any portion of it at any price. But if Congress shall decide now, or at any time, otherwise, then I say it should be sold to the highest bidder or bidders, giving all who desire to purchase the whole, or any part of it, a fair chance in such manner and at such time as to realize the largest sum to the Government Treasury. Entertaining these views, I certainly hope the bill will not pass.

Mr. WASHBURN, of Illinois. I now ask the gentleman to yield to me.

Mr. HIGBY. I will yield to the gentleman, but not for a motion.

Mr. WASHBURN, of Illinois. Mr. Speaker,

I do not think it is necessary to consume any further time on this bill, as I see that gentlemen of the House are determined not to pass it, or any bill like it. If I thought gentlemen intended to vote for this bill I would have read the full and elaborate report of three of the most eminent engineers of the Army on this subject, in which they state the Government has use for this island, and it cannot abandon it without exposing San Francisco to great risks. I have also a letter from the Secretary of War on this very subject, in which he corroborates the opinion of these engineers. But I see from the disposition of gentlemen around me that there is no necessity for having the report read.

The gentleman from Wisconsin [Mr. HORTON] has stated the points, and stated them strongly. If gentlemen will look at the map they will see the situation of Goat Island. Here it is. What is proposed? This Western Pacific Railroad Company, this bloated corporation, swollen and plethoric with our subsidies, proposes to get possession of this island and it never can be deprived of its possession except, in the language of the bill, it may be suspended whenever the United States shall be engaged in war or in imminent danger thereof, and notice of such determination shall be given to said company, its successors or assigns, by the Secretary of War, with the approval of the President. You will see how that is hedged about with qualifications. You cannot get possession of it except under those conditions. If we let them go on as they have they will be so strong hereafter that we will never get back the possession of it.

Mr. FARNSWORTH. Cannot the Government take possession of any property in time of war?

Mr. WASHBURN, of Illinois. I wish to call attention to another point. They are to build a causeway or bridge from the main shore to this island, but there is no provision that the Government, which owns the land, and which may need it for military defense, and may therefore establish military depots there, shall have the use of this causeway or bridge. While this Government is to give this company a portion of this island for nothing, there is no provision in this bill that the Government can ever get on or off the island except upon such terms as the company may choose to impose, without the payment of such price as the company may fix. Various sums have been stated as the value of the island. Some say one million and some say five or six. Mr. Carpenter, of California, a gentleman who is well known, has telegraphed that he will give \$1,000,000 for this island; that he will give \$1,000,000 in gold and put the money here in twenty days. And yet, sir, it is now proposed to give this island away against the protest of our military officers, against the protest of our engineers, and against the protest of the Secretary of War, and in the face of an offer of \$1,000,000 for it.

Mr. POMEROY. I ask the gentleman from California to yield to me.

Mr. HIGBY. I will yield to the gentleman for five minutes.

Mr. POMEROY. Mr. Speaker, at my entrance to this body, I believe there was no project in the United States that received more cordial indorsement of men of all parties than the Pacific railroad; and it was deemed a matter of so much national importance that for years, in fact from 1860 down to the present time, the Pacific railroad has been made a part of the national platform of both parties. Yet, sir, during this winter I have hardly heard a word of kindness from anybody for a company that has to-day thirty thousand men working upon the road, and which promises to build it fifteen years earlier than the most sanguine ever expected to see it done.

I have read the report to which the gentleman from Illinois [Mr. WASHBURN] has referred, and I say that report presents the strongest argument in favor of this very bill. The gentleman talks about the island being worth \$6,000,000. I do not care how many millions

it is worth. But that report shows that the island should be reserved by the Government for military purposes. It is of no value except for military purposes. The Government can never sell it for commercial purposes. The question then arises whether in the long interval between one war and another this Government shall stand like a hog on the ice and say that this island, valuable as it is for commercial purposes by connection with the railroad, shall not be used for such purposes, because perchance once in half a century the Government may need it for war purposes.

Then the bill further provides that in case of war the Secretary of War can take possession of the island, and not only that but of the track, depots, and warehouses without paying one cent. If this island is worth anything, then, in case the Government wants a railroad track leading to it for the purpose of carrying munitions and supplies, it will cost, I understand, \$1,500,000 to connect the island with the main land. Now, the Government will have the full advantage of this outlay in case it is allowed to be made.

The gentleman from Illinois says it is only in case of war that the Government can resume possession of the island on a declaration by the Secretary of War that it is wanted. This bill provides that the grant may be terminated at any time by act of Congress. Not only may possession be resumed in the event of war, but the grant may be terminated by act of Congress.

This island is the natural terminus, as everybody will see, of this Pacific railroad. It gives it a water front, where without interfering with anybody the freights may be landed from the Pacific steamers from China and the East, and loaded into the cars. It will save an immense amount of cartage through the city of San Francisco, as everybody must know.

Now, sir, there is no guard that can be put in any bill that is not put in this. It gives a mere temporary right of occupation at the will of Congress. But gentlemen say to me that this granting of a mere right of possession is an entering wedge for the disposal of the title to the land by some future Congress. They assume that the virtue of this Congress is greater than that of succeeding Congresses. I take it the virtue which refuses in this Congress to give away the title will refuse to give it hereafter. The company must take simply a possessory right under this bill.

Some gentlemen are accustomed to speak of the Pacific railroad as a monstrous corporation, and as if it was to be hewn down before it had completed its work. I do not look upon this corporation in that light. It is one of the greatest railroad enterprises the world has ever seen, and instead of undertaking to shackle it when the day is drawing near for its completion I say give to it all the advantages that can be given consistent with the rights of the Government and of the people.

[Here the hammer fell.]

Mr. HIGBY. I yield five minutes to the gentleman from Michigan.

Mr. DRIGGS. Mr. Speaker, I have but a very few words to say about this bill. In the first place, as a member of the Committee on the Public Lands, I desire to put them right before the House. They have not formally considered this bill. There were several propositions for the possession of this island, one from a local road asking the privilege of removing a portion of the earth from the island and filling in the surrounding limits, so as to get a sufficient depth of water. The committee have had propositions from various quarters before them for the possession in some form of this island. Among the rest a proposition came up to give a portion of it under the provisions of this bill to the Union Pacific railroad. Now, sir, I have simply to say this: that without a full knowledge of all the facts and circumstances that have been referred to this morning, especially the one in reference to \$1,000,000 being offered for this island, I had thought possibly it was right we should consider this question in the committee, as this

island seems to be the natural terminus for the road, communicating between the two oceans. But, sir, I think from the temper of the House that they hardly feel disposed to pass it. I hope the gentleman will allow it to go to the committee to be reported on at the next session, when more of the facts can be ascertained. That is all I have to say.

Mr. HIGBY. I yield now for five minutes to my colleague, [Mr. AXTELL.]

Mr. AXTELL. I desire to say a few words in relation to the harbor of San Francisco. I am very glad that gentlemen have our charts here. They will observe that we have six miles of straight line upon which our principal ports are located. Fortifications are now being built at Fort Point and Lime Point, and another nearer the city at Black Point. And then in the very throat of the harbor there is Fort Alcatraz, and to the right of it a large island called Angel Island, occupied by the Government and fortified. This island is inside the harbor, and, as the engineer remarks, would only be useful in case a fleet should get into the harbor. It commands the city front. I call attention to the significant fact that for twenty years the Government have been interested in that harbor and have been munificent and more than liberal to us, not only in forts but in iron-clads for its protection, and yet they have never put up a single gun on this island, nor thought it necessary to use or occupy it for military purposes.

I desire to call attention to the further fact that the island has been occupied by squatters up to a few years ago, when General McDowell took possession of it and condemned it under some old reservation act for the use of fortifications for the Government. I am not very conversant with this character of law, but I should suppose that if condemned for military use it would not properly be Government land for sale. If the Government does not need it for military purposes it will fall back to the original squatters. The island contains one hundred and fourteen acres. It is a high, rocky point, and there is a very small portion of it that people can inhabit at all. It is proposed to cut it down and level it, leaving enough for the Government to occupy for all purposes of fortification, and allowing its present use by the railroad, who will build a road from the opposite side of the bay across the water—shoal water—without injuring the harbor, and coming on to the island within perhaps a mile of the city front at the north point. I wish the bill could be amended so as to include all railroads. I am not speaking in the interest of the railroads, but in the interest of the cities of San Francisco and Oakland, and the country lying back of them. Gentlemen who look at the chart will see that our bay stretches down beyond this point fifty miles, and this will save nearly a hundred miles in coming to San Francisco from the East.

[Here the hammer fell.]

Mr. HIGBY. The gentleman from Ohio [Mr. DELANO] desires to offer an amendment. I will hear it read.

Mr. DELANO. I do not desire to enter into a discussion of the merits of the bill, but I desire to offer the following amendment:

Provided further, That the United States reserves to itself the right to grant to any other railroad companies the same and similar privileges as are hereby granted to the Western Pacific Railroad Company of California, but in making such grants no rights shall be conferred upon any other company which will impair the rights herein conferred upon said Western Pacific Railroad Company, and this act shall not be so construed as to give the said company the right to use and occupy any portion of said island not necessary for the business of its road.

Mr. WASHBURNE, of Illinois. I object to that amendment.

The SPEAKER. Does the gentleman from California yield to allow it to be offered?

Mr. HIGBY. I do.

The SPEAKER. Then it is pending.

Mr. HIGBY. I do. I will simply say that it is but an explanation of what I understand the bill to be now. And if it will give any satisfaction to other members of the House I

certainly have no objection to it. I now yield for five minutes to my colleague near me, [Mr. JOHNSON.]

Mr. JOHNSON. I have no fight to make against the Western Pacific railroad or any other great enterprise that is for the benefit of the people, as I admit that road to be. But I think it is my duty as a Representative from the State of California to say something in vindication of private rights.

Early this session I presented a memorial, and had it referred to the Committee on the Judiciary of this House, asking that committee to investigate the claim of a man who has lived on this island for seventeen years, and who purchased from a man who had lived on the island for fifteen years before him. I asked the Judiciary Committee to examine and report to this House what title that man has, and how it was that the Government of the United States could deprive him of his property without any compensation for it.

I have in my desk here papers in relation to all the Government reservations on the Pacific coast. The record in this case shows that Millard Fillmore, when President of the United States, ordered this island to be set apart as a military reservation. But no notice was given to the occupants of the island, and no steps were taken until last year to perfect the claim of the United States to this island for a reservation. Last year the occupants of the island were ejected by an order from the War Department to General McDowell to take possession of it, which he did. Whether that possession gives a title or not I refer gentlemen to the decisions of the Supreme Court of the United States, where they will find the question fairly and squarely decided, in cases which I cited to the House in some remarks I submitted not long since upon the Yosemite bill.

This island is within the limits of San Francisco. In 1855 the city of San Francisco passed an ordinance giving to the actual settlers and occupants a title to the lands held within the city limits. To make it sure they went to the State Legislature and had their ordinance affirmed by a statute of the Legislature. And to make it still more conclusive they came to Congress in 1864, and the House of Representatives, with only eleven opposing votes, affirmed the whole transaction, the ordinance of the city of San Francisco, and the act of the Legislature of the State, declaring that every man holding by that tenure within the limits of San Francisco should be confirmed in his title. There are men in this city, I understand, who have bought from the man who has lived on this island for seventeen years his interest for a large sum of money, many thousand dollars; and I say their rights should be protected.

I now want to say a few words as to the general policy of this bill. If this island does belong to the Government of the United States, if it has been taken and set apart for military purposes, there should be some provision for paying the true owners of this island for their property. Even if that is not done now, I say the question should at least be investigated.

The island lies in the middle of the bay of San Francisco. How is it to be reached and occupied by this railroad company? Certainly by a bridge connecting it with the main land. Now, if such a bridge will interfere with the commerce there, it certainly should never be allowed to be built. I want to have this bill referred to some appropriate committee, so that we may have a report from some board of competent officers, whose duty it shall be to examine and report whether such a structure will interfere with the commerce of our great city. If they shall report that it will not so interfere, then I shall be in favor of giving this privilege to this railroad company, for I want it brought as near to the city of San Francisco as possible; and I pledge myself in advance that when a board of officers of engineers have made this survey, and have reported to this House or to the department that this structure will not interfere with the commerce of

San Francisco, and the Committee on the Judiciary have reported that private parties have no rights on this island, I will vote to give enough of it to this railroad for depot purposes.

Gentlemen who have advocated giving this island to this railroad company for depot purposes say that the trade with China and with Japan is going to swell our commerce, and that it will center upon that island. No man ought to stand on this floor and say that the city front of San Francisco should be broken up by transferring the business of the merchants into the middle of the bay. I say it is outrageous to break up the business of the merchants of that city, who would make our commerce respectable all over the world, and transfer that business into the middle of the bay, to be there under the control of a soulless corporation. It is an indignity upon the people of San Francisco to bring forward such a proposition.

I hope this bill will be allowed to go to a committee; and if proper restrictions should hereafter be put upon it I will give it my hearty and cordial support. I hold in my hand a report on this subject made by the engineers appointed by the War Department, who say that this island is worth \$5,000,000. I have also another report from General Humphreys, of similar purport. But what I principally desire is that the bill shall embrace proper restrictions, so that the business of San Francisco may not be taken from the city front and transferred to this island, where it will be under the control of speculators, who will break up our merchants and destroy our commerce.

[Here the hammer fell.]

Mr. HIGBY. Mr. Speaker, I have no more personal or private interest in regard to this matter than any other member of this House. The only question is, where is the commercial point on the bay of San Francisco? for it is there that this railroad should terminate. I am satisfied that this question will, in time, be settled by the laws of trade; and any company or companies that may run a railroad from the main land to Yerba Buena Island must take the risks as to whether that or some other point shall be demonstrated by the laws of trade to be the proper terminus.

Now, sir, I wish to submit a few facts. In the first place this bill comes to the Speaker's table from the Senate, and there is a manifest disposition on the part of some members to refer it to some one of the committees of this House. The struggle at present seems to be to refer it to the Committee on the Public Lands; but I presume that if it should be so referred there would be a struggle on the part of the Committee on the Pacific Railroad to obtain the custody of the bill, for I believe that the formation of the railroad affected by this bill gave rise to the Committees on the Pacific Railroad in both ends of the Capitol; and those committees have at all times had supervision of all questions pertaining to this railroad.

But, sir, I have not been tenacious to assert the jurisdiction of the Committee on the Pacific Railroad with regard to this bill. I have called upon the Committee on the Public Lands to examine this bill as it lay upon the Speaker's table, knowing that, should it be referred, there would not be time to act on it at this session. I have understood that a majority of that committee have examined the bill and are in favor of its passage without a formal reference to the committee. I conferred with the chairman of the committee, [Mr. JULIAN,] who, before he left the city, examined the bill and told me that he desired to have it passed, and wished me to use my influence in its behalf whenever it should come up.

I have conferred very little with members generally in reference to this question, and I do not know the temper of the House. But I have no authority to consent to the reference of the bill. I do not act in this matter as the organ of the Committee on the Pacific Railroad, because the bill has never been referred to that committee. It was favorably reported in the Senate by the Pacific Railroad Commit-

tee of that body after a thorough examination, a very large majority of the committee concurring in the report. I believe that the question as to private rights, which has been suggested by one of my colleagues, was very thoroughly examined by the Senate committee, who came very decidedly to the conclusion that no private rights would be injuriously affected by the measure. The last proviso of the bill shows that Congress does not attempt to convey any private rights whatever, but all rights of individuals are expressly reserved and protected. I ask that the last proviso be read. I do not mean the amendment, but the last proviso of the bill.

The Clerk read as follows:

Provided, This act shall not impair the rights or claims of persons in possession of the land of Yerba Buena at the time of the late military occupation thereof.

Mr. RAUM. I ask the gentleman to yield to me to offer an amendment and to make an explanation.

Mr. HIGBY. I will yield to the gentleman for three minutes, but not to offer an amendment.

Mr. RAUM. I will read the amendment I propose to offer as a part of my remarks and make some observations on it. It is as follows:

Provided, That the Central Pacific Railroad Company and the Union Pacific Railroad Company, or either of them, shall have the right to join the said Western Pacific Railroad Company in the occupation of said island under this act with all the rights, powers, and privileges of the Western Pacific Railroad Company.

If this bill is to pass I presume that proviso should be added to it. This proposes to grant to a short line of railroad, not more than fifty or sixty miles long, said to be the western terminus of this road, this island worth three or four times the value of the road you grant it to. It is said it is the terminus of the Pacific railroad. That is true, but it is an independent railroad company. You grant this island to the Western Pacific Railroad Company, and you give them the monopoly of the whole trade to and from the Pacific ocean over the Union and Central Pacific railroads.

Mr. HOPKINS. I ask the gentleman to yield to me.

Mr. RAUM. I will yield to the gentleman.

Mr. HIGBY. I object to that.

Mr. RAUM. It does seem to me if this bill passes these roads should participate in its benefits.

Mr. WASHBURN, of Illinois. Throw it open so all these railroads may compete for the purchase of this island.

Mr. JUDD. I ask the gentleman from California to yield to me for a question.

Mr. HIGBY. Certainly.

Mr. JUDD. I ask the gentleman whether there is not in the middle of this bill a grant for a new railroad? How long is it to be and what subsidies are to be granted to it?

Mr. HIGBY. None.

Mr. JUDD. I wish to call the gentleman's attention to this clause of the bill:

The said Western Pacific Railroad Company are also hereby authorized to locate and construct a railroad thence, by the shortest and most practicable route, to a point on its present line at or south of the city of Stockton, and they are hereby enfranchised with all the grants, privileges, and benefits, and made subject to all the conditions of the several acts of Congress relating to the said company and its railroad and telegraph line.

I desire the gentleman to advise me whether that is not a railroad grant in the body of the bill?

Mr. HIGBY. It is a grant, but without subsidies or bonds.

Mr. JUDD. Does it give them land?

Mr. HIGBY. It gives them land wherever they turn off.

Mr. JUDD. How long is it—one hundred and sixty miles?

Mr. HIGBY. It is not so much.

Mr. JUDD. How much?

Mr. HIGBY. About seventy.

Mr. JUDD. A gentleman told me it was one hundred and sixty.

Mr. HIGBY. It is only one hundred and thirty by water. You have to go forty miles and

then at right angles to make one hundred and thirty. The diversion is not to be a great way from the city of Oakland. They have to pass through a range of mountains, and there is but one pass I know of, that is to go to the city of San José. To get from the city of Oakland to this island there is a distance of over two miles by water to be overcome. A portion of that water channel around the ease side is about twenty-five feet deep; the rest of the water varies in depth from two fathoms to three or four feet. The gentleman says there is a proposition to give a million or more dollars for the island. Let me say to the House that the island lies right in front of the city of San Francisco, at a distance of less than a mile and a half; the population has been twenty years growing to its present dimension, and yet this is the first time we have heard a proposition that anybody would give the Government a considerable sum of money for it. I undertake to say there is not a man in California that would give \$10,000 for it, except it might be for speculative purposes, believing that he could dispose of it to some railroad company for a landing, and make a large amount of profit in that way.

Mr. INGERSOLL. I desire to offer an amendment.

Mr. HIGBY. I cannot yield to allow amendment to be offered cutting off all discussion.

Mr. INGERSOLL. Will you not allow it to be read?

Mr. HIGBY. No, sir.

Mr. INGERSOLL. Well, we will vote your bill down, then.

Mr. HIGBY. Well, sir; you may do it. I have heard such threats before.

Let us see how much value there is in this island. It contains about one hundred and fifteen acres. From the water base the land rises to a height of three hundred feet. Now, in order to get a deep water front considerable work has to be done. At a little distance the water is one hundred feet deep, and it increases to a depth of three hundred feet. Now, I ask how many millions of dollars it will take to cut down all that island so as to render it all useful, provided it is not to be occupied at all by the Government for military purposes. You may think the island is of great value. I admit if it was only a few feet above the water level it would be of vast value compared with what it is now.

We are told it is to be kept for military purposes. So we insist it should be if it is necessary, although it has never yet been used for such purposes. It would be a woful moment for San Francisco when any foreign Power sends its navy past Fort Alcatraz and Black Point. I should despair of the preservation of that city in such an event. I question whether that island could furnish fortifications to save that city, although prudence would dictate its reservation for military purposes in the possible event of its being needed. I would not have the Government release its hold on the island, nor is it designed by this bill that it should do so.

It is a question in my mind whether this company gets enough to warrant it in commencing this immense expenditure year after year on that island for the use it will make of it. One gentleman says it can only be resumed by the Government in time of war. This bill provides that Congress may at any time repeal this act, and whenever it shall do so, or whenever the Government shall see its need of the island for military purposes it may take it away from this company and the company will get nothing for it. All the improvements made by the company will go for naught in that event.

It seems to me this bill is properly guarded, as much so as it possibly could be. I think it is an utter impossibility to put any more guards around it so as to protect the rights of private individuals and protect the Government, also, whenever it may be deemed necessary to resume possession of the island.

Mr. SCHENCK. If the gentleman will allow me, I wish to call his attention to one of the provisions of this bill. I find among other provisions of the bill, which seems to have been carefully drawn, this:

Provided, however, That nothing herein contained shall be so construed as to authorize or grant any subsidy in bonds for any of the roads built under this act.

It built forty miles, I understand, for what would be about seventy.

Mr. HIGBY. It does not have to build that distance. It will save forty-five miles in going round the bay. I have answered the gentleman's question and cannot yield further to him. I desire to say a word in answer to the gentleman from Illinois, [Mr. RAUM,] who wished to offer an amendment, that the Union Pacific, the Central Pacific, and the Western Pacific are lines that unite each with the other, and make one continuous line to San Francisco.

Mr. RAUM. I will state the object I had.

Mr. HIGBY. I cannot yield. The Central Pacific railroad will not reach the water; neither will the Union Pacific railroad. There is only the Western Pacific railroad. If there shall ever be any act of Congress allowing other railroads to go to this point, I think we have guarded the bill well enough for them so that if they wish to have depots there they can have them. It is for commercial purposes that we are in favor of keeping this open and using it for railroad purposes, not only by this one road, but by others, if military necessity does not compel the Government to use it all for military purposes. The amendment of the gentleman from Ohio [Mr. DELANO] provides for that, and that was why I readily permitted him to offer it. It is simply an explanation of what I understand to be the tenor of the bill, its purpose and object and nothing else. When I was in San Francisco parties came to me and wanted to get my influence to help them to the island. I told them I thought it was a commercial point, and that I thought it ought to be opened to railroads; not only to one railroad, but to all railroads that could possibly get there from all parts of the State. The object of the bill is to leave it open in that way. I call the previous question on the bill and amendments.

The question was put on seconding the previous question; and there were—ayes 49, noes 48; no quorum voting.

Tellers were ordered; and Messrs. HOPKINS and HIGBY were appointed.

The House divided; and the tellers reported—ayes 53, noes 61.

So the House refused to second the demand for the previous question.

Mr. HOPKINS moved that the bill be referred to the Committee on the Public Lands.

The motion was agreed to.

Mr. INGERSOLL moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

RECESS.

Mr. SCHENCK. I should like very much to ascertain what the disposition of the House is as to a recess. I believe it is pretty certain from indications which have been given that we shall have no quorum on Monday, and we ought therefore to go on and do all we can or that is needful to be done to-day.

Mr. WASHBURN, of Illinois. What is there?

Mr. SCHENCK. There is a great deal of business on the Speaker's table.

Mr. WASHBURN, of Illinois. I would like the gentleman to tell us some of the things which are needed.

Mr. ASHLEY, of Ohio. I must call for the regular order. There are one or two bills on the Speaker's table which the Committee on the Territories have instructed me to move to put upon their passage.

Mr. WASHBURN, of Illinois. I move that the House take a recess until ten o'clock on Monday morning.

Mr. KELLEY. I move to amend that motion by striking out "ten o'clock on Monday morning" and inserting "half past seven o'clock this evening."

The question was put on the amendment; and there were—ayes 74, noes 53.

So the amendment was agreed to.

The question recurred upon the motion as amended; and being taken, there were, upon a division—ayes 72, noes 52.

Before the result was announced,

Mr. WASHBURN, of Illinois, called for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes 16, noes 85.

So (the affirmative not being one fifth of those voting) the yeas and nays were not ordered.

The motion, as amended, was agreed to; and accordingly, (at five o'clock and ten minutes p. m.,) the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The hour of half past seven o'clock p. m. having arrived the House resumed its session.

DUTY ON COPPER.

Mr. SCHENCK. I ask unanimous consent to report from the Committee of Ways and Means a bill regulating the duties on imported copper and copper ores.

The SPEAKER. The bill will be read, after which the Chair will ask for objections.

The bill, which was read, provides that from and after the passage of this act, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid on the articles herein enumerated and provided for, imported from foreign countries, the following specified duties and rates of duty: on all copper imported in the form of ores, three cents on each pound of fine copper contained therein; on all regulus of copper, and on all black or coarse copper, four cents on each pound of fine copper contained therein; on all old copper, fit only for manufacture, four cents per pound; on all copper in plates, bars, ingots, pigs, and in other forms not manufactured or herein enumerated, five cents per pound.

The SPEAKER. Is there objection to the consideration of this bill at this time?

Mr. THOMAS. I have been very earnestly urged to resist this measure. I know that one of my colleagues [Mr. PHELPS] has prepared himself very fully on this particular subject. I should certainly be very derelict to my duty to him if I did not take every precaution against action upon this bill in his absence. It is upon that ground that I must object to the introduction of this bill at this time; and if it is introduced I must insist upon the enforcement of the rule, which requires that such a bill shall receive its first consideration in Committee of the Whole.

Mr. SCHENCK. Will the gentleman withdraw his objection until I state briefly the motives of the Committee of Ways and Means in proposing to introduce this bill at this time?

Mr. THOMAS. It would be a work of supererogation on the part of the gentleman, for I should still insist upon my objection to the consideration of the bill in the absence of my colleague, who is not now in his seat.

The SPEAKER. Objection being made, the bill is not now before the House.

ENROLLED BILLS SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 768) concerning the rights of American citizens in foreign States; and

An act (H. R. No. 1021) in amendment of an act entitled "An act to establish a uniform system of bankruptcy throughout the United States."

REMOVAL OF POLITICAL DISABILITIES.

Mr. PAINE. I am informed that I have been appointed upon the conference committee upon the disagreeing votes of the two Houses upon the bill for the removal of political disabilities from Simeon Corley and others. On account of the inconvenience of my moving about I ask to be excused from service on that committee.

No objection was made; and Mr. PAINE was excused, and Mr. ASHLEY, of Ohio, appointed to serve in his place.

INDEXING THE TAX BILL.

Mr. SCHENCK, by unanimous consent, reported from the Committee of Ways and Means, a bill (H. R. No. 1457) to pay for indexing the tax bill; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, authorizes the Clerk of the House of Representatives to pay out of the contingent fund of the House \$100 to the clerk of the Committee of Ways and Means for preparing, by order of the House, a full index of the act imposing taxes on distilled spirits and tobacco, and for other purposes, approved July 20, 1868.

Mr. SCHENCK. I will state that this duty was imposed upon the clerk of the Committee of Ways and Means by a resolution reported from the Committee on Printing, and it was not a part of his regular duties. He was busily engaged for seven nights in preparing this index, his time during the day being occupied upon business for the Committee of Ways and Means.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMERCE, ETC., IN ALASKA.

Mr. WASHBURN, of Illinois. I ask that the House, by unanimous consent, take from the Speaker's table for consideration at the present time the bill (S. No. 619) to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes.

There was no objection.

The SPEAKER. The bill will be read.

Mr. WASHBURN, of Illinois. Before the House proceeds to the consideration of this bill, I have consented to yield to several other gentlemen for the transaction of business in which they feel an interest.

TERRITORIAL ADMINISTRATION.

Mr. MULLINS, by unanimous consent, introduced a bill (H. R. No. 1458) to provide for the more economical administration of the government of the several Territories of the United States, and for other purposes; which was read a first and second time.

The bill provides that from and after its passage the Legislatures of the several Territories of the United States shall meet but once in every two years; and the next meeting of those Legislatures is to take place two years from the date of their last sessions respectively. No money is to be appropriated from the Treasury of the United States to pay the legislative expenses of Territories for any other than biennial sessions. The salary of the Governors of the Territories is fixed at \$2,500 per annum.

Mr. MULLINS. I do not care to take up the time of the House in discussing this question. The measure is one which must address itself to the good sense of every member.

Mr. WASHBURN, of Illinois. Substantially this same proposition was embraced in one of our appropriation bills, and was so worded as to take effect from and after the

1st day of the present month, it being supposed that the bill would become a law before the 1st of July.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MULLINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FLOATING DEBT OF WASHINGTON.

On motion of Mr. HOOPER, of Massachusetts, and by unanimous consent, the bill (S. No. 637) to authorize the city of Washington to issue bonds for the purpose of paying the floating debt of the city was taken from the Speaker's table, and read a first and second time.

The first section of the bill authorizes the city of Washington to issue, by vote of its councils, registered or coupon bonds in denominations of \$50, \$100, \$500, and \$1,000, payable in ten years from the date of issue, bearing interest at the rate of six per cent. per annum, payable semi-annually, principal and interest payable in lawful money of the United States. The bonds are to be signed by the mayor and countersigned by the register of the city, and are to be payable at such place or places as may by them be deemed expedient, and may be issued and disposed of to an amount sufficient to pay and discharge the present floating debt of the city, not, however, to exceed the sum of \$800,000. The bonds are not to be sold for less than their par value in lawful money of the United States, or in exchange for the matured and liquidated indebtedness; and no greater amount of the bonds is to be disposed of than may be found necessary for the payment of such indebtedness. The second section makes it the duty of the city councils upon issuing the bonds to provide by taxation for the prompt payment of the interest thereon; also to provide for the redemption of the bonds by establishing a sinking fund to be set apart annually to an amount not exceeding ten per cent. of the amount of bonds issued, this sinking fund to be created from regular taxes levied for that purpose, and to be assessed and collected as other taxes. The third section authorizes the city councils to pass any and all ordinances which may be necessary to carry into effect the provisions of this act; and all acts or parts of acts inconsistent with this act are repealed.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. HOOPER, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRINTING OF THE RULES.

Mr. BANKS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed for the use of the members of the House, to be in readiness at the next session, the usual edition of the Constitution, Rules, and Manual, together with Barclay's Digest, with such additions as have been made during the present session, and upon the same terms as heretofore.

Mr. BANKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SALE OF HOT SPRINGS RESERVATION.

Mr. HOPKINS, by unanimous consent, from the Committee on the Public Lands, reported back House bill No. 1276, for the sale of the Hot Springs reservation, in Arkansas, with amendments.

The bill was read. The preamble recites that the public reservation known as the Hot Springs reservation, in the State of Arkansas, is now held and occupied without color of title by various persons, whose claims have never

been acknowledged by the United States Government; and that the public interest and humanity require that they should be made available for public use, and that the welfare and settlement of the State will be promoted by the sale of lands adjacent thereto. The first section provides that upon the passage of this act the Secretary of the Interior shall cause to be surveyed, platted, and laid out into streets, blocks, and lots, or parcels of ground of such form and area as will best facilitate the construction of a town, all that portion of the public domain situate in sections twenty-eight, twenty-nine, thirty-two, thirty-three, thirty-four, and thirty-five, in township two and three south, of range nineteen west, known as the Hot Springs reservation, in Hot Springs county, State of Arkansas; provided that no parcel of ground surveyed and platted for lot, block, or street shall approach nearer than one hundred feet to any spring included in the group of hot or warm springs embraced within the reservation. When the survey shall have been made in accordance with the provisions herein provided the Secretary of the Interior shall cause maps and plats to be made of said survey and the grounds embraced within this reservation, which maps and plats shall show each lot, block, and street of the survey, each stream of water, and the elevation of each block of ground above some fixed point to be designated on a level with the drainage of this reservation, each spring and its elevation above the point designated, also the temperature of each spring; and shall furnish these maps and plats to persons who may apply for information. The second section provides that the Secretary of the Interior shall, within sixty days after this reservation is surveyed and platted, as above provided, appoint three disinterested freeholders, not citizens of Arkansas, who shall proceed to the reservation, and on view thereof appraise the lots or parcels of ground so platted and surveyed, each at the cash value thereof, and return the same to the Secretary of the Interior. These appraisers shall also receive proof of claims of loyal persons, if any such are presented, which were acquired prior to the 1st of April, 1861, as well as proof of the loyalty of persons presenting such claims, and return the same to the Secretary of the Interior for his action thereon. The third section provides that after such surveys have been made, plats and maps prepared, and report of appraisers returned as provided, the Secretary of the Interior shall advertise in all the newspapers authorized to publish the laws of the United States in the several States, once each week for the period of ninety days, that upon a day to be designated in the advertisement, which shall be immediately succeeding the expiration of the period above named, the proper officers will sell, upon the reservation at public auction, to the highest and best bidder, all those lots or parcels of ground situated nearest to a point in such survey, to be ascertained which shall be the center of the group of springs aforesaid, and shall be marked and designated upon the maps and plats of the survey, which will be required to make one fourth of the area of said reservation. Upon the day designated in the advertisement the Secretary of the Interior shall cause the sale to be made as provided in accordance with existing laws, made and provided for the sale of public lands; provided that no lot or parcel of ground shall be sold for less than its appraised value; provided that no lot or parcel of this reservation shall be sold, to which, in the opinion of the Secretary of the Interior, a legal claim exists, belonging to any person or persons who remained loyal to the Government of the United States during the late war, and who did not, directly or indirectly, give aid, countenance, or assistance in any way to those in rebellion, or to their authority, which was acquired prior to the 1st of April, 1861, until such claim shall have been set aside by the proper authorities; provided also that no lot, block, or parcel of ground, containing a spring of the character described as aforesaid in section one, shall be sold or

offered for sale; but by virtue of this act, each spring of the character designated as hot, warm, or mineral springs within this reservation, with a plat of ground embracing an area which shall extend one hundred feet in all directions from its center, shall become the property of the municipality so soon as organized and legally authorized to hold property, and shall so remain forever, the right to convey not being granted. It shall also be lawful for the Secretary of the Interior to have surveyed and set apart a plat of ground, not to exceed one hundred acres in area, upon what is known as Hot Springs mountain, for a public park, which may be excepted from the survey into lots, blocks, and streets, the title of which shall vest in like manner as the title of the springs hereinbefore provided. The fourth section provides that the proceeds of the sale provided for in the foregoing sections shall be returned to the Secretary of the Interior, who shall first pay all costs of survey, appraisal, and sale; after which he shall invest the residue in United States securities, and hold it in trust until otherwise directed by law. The fifth section provides that the interest accruing upon such securities shall be applied *pro rata* for the education of children in the State of Arkansas, without respect to color, which may be between the ages of six and twenty years. The sixth section provides that the remaining three fourths of the aforesaid reservation shall be sold, one fourth annually, upon a day designated in each year by the Secretary of the Interior; such sales to be made in like manner as hereinbefore provided, the lots to be first sold in each case being those next adjacent to those last sold; provided that the lots or parcels of land sold each year shall have a separate appraisal in like manner as hereinbefore provided, which appraisal shall be made during the sixty days next preceding the ninety days which such lands in each case shall be advertised prior to sale. The seventh and last section provides the proceeds of each annual sale, as aforesaid, shall be subject to the same provisions as are made and provided in section four and section five of this act for the proceeds of the first sale of one fourth of the reservation as aforesaid.

The amendments of the committee were agreed to, as follows:

Strike out all of section two, after the word "Interior," in line eight, and insert as follows: "and any person who may be residing upon said reservation at the time of the passage of this act shall be entitled to take the lot or lots upon which his or her residence is actually located by paying therefor the appraised value thereof: *Provided, however, That in ascertaining such value the appraisers shall estimate the value of said lots and shall not take into account the value of the improvements thereon: And provided further, That if said occupant does not desire to take said lot or lots he or she shall be permitted to remove the improvements thereon.*"

Strike out that part of section three, between the word "value," in line twenty, and the word "provided," in line thirty.

Strike out in lines thirty-five and thirty-six, in section three, the words "embracing an area which shall extend one hundred feet in all directions from its center" and insert as follows: "two hundred feet square, the spring being as nearly as practicable in the center thereof."

Strike out in line thirty-nine, section three, the words "it shall also be lawful for."

Strike out in line forty, section three, the word "to" and insert the word "shall."

In line three, section five, between the words "of" and "children," insert the words "all the."

In lines three and four, in section five, strike out the words "without respect to color."

Insert after the word "Interior," in line four, section six, the words "public notice thereof being given in the manner provided in section three."

Strike out in lines ten and eleven, section six, the words "ninety days which said lands in each case shall be advertised prior to sale" and insert the words "said sale."

Strike out from the word "sale," in the thirty-second line, to and including the word "granted," in the thirty-ninth line, section three, and insert as follows: "but said lot, block, or parcel of ground shall for ever remain the property of the United States, subject to the control and authority of the Secretary of the Interior, whose duty it shall be to protect the said property from the occupation of any person or persons whatever and keep it at all times open and free to the use of the public; and the said Secretary of the Interior shall report annually to Congress the situation of the said lot, block, or parcel of ground, and what legislation may be necessary to carry out the purposes of this act."

Mr. HINDS. Mr. Speaker, this bill provides for the public sale of the Hot Springs reservation in Arkansas. It comprises four sections located about fifty miles southwesterly from Little Rock, along the western slope of the Hot Springs mountain, being a margin of the Ozark group, and a portion of the lands ceded to the United States by the Qua-Paw Indians in 1818.

The act reserving the same was passed on the 20th of April, 1832, which, after making reservation of certain salt springs in Arkansas, proceeds as follows, (4 Statutes-at-Large, page 505:)

"Sec. 3. *And be it further enacted, That the Hot Springs in said Territory, together with four sections of land, including said springs, as near the center thereof as may be, shall be reserved for the future disposal of the United States, and shall not be entered, located, or appropriated, for any other purpose whatever.*"

It is reasonable to suppose, then, that at the time of the passage of this act Congress understood the land upon which the Hot Springs are located to be unappropriated public domain; that it had neither been patented, preempted, or located by any person or persons whatever. We do not contend that the act of 1832 was retroactive and was intended to cut off all who had valid claims anterior to its passage; in other words, that it could undo that which had been lawfully done. But we do contend that Rector, Langlais, Beldin, or anybody else, in order to be entitled to a patent must make proof of an appropriation of the Hot Springs anterior to their reservation by the United States. And, further, that no one has ever before or since set up any valid claim to the same.

The springs are fifty-four in number, having a temperature varying from 98° to 150° Fahrenheit, and discharge three hundred and seventeen gallons of water per minute. The amount discharged by each varies, but they are all qualitatively allied.

The following is a chemical analysis of the properties of those waters: Silicates with base, bicarbonate of lime, bicarbonate of magnesia, alumina with oxide of iron, arseniate of iron, carbonate of soda, carbonate of potash, carbonate of lithia, sulphate of magnesia, chloride of magnesia, oxide of manganese, sulphate of lime, arseniate of lime, bromine, iodine a trace, organic matter a trace.

These springs are the most remarkable in the world. The power their waters have to cure all chronic diseases is indeed wonderful.

Dr. Lawrence, a resident physician for ten years, says:

"The properties of the waters depend not alone upon the caloric, diluent, solvent, corrective, or the antacid qualities—but the springs all contain carbonates of the alkalis and alkaline earths—agents well known to therapeutists to possess active eliminative agency; consequently they produce valuable alterative effects in chronic diseases. Again, the natural soluble silicates of the earths, I feel satisfied by experience, produce molecular results, as yet but little known or regarded by the profession as adjuncts in the treatment of constitutional diseases.

Rheumatism, gout, stiff joints, contractions of the muscles and skin, old wounds, and painful cicatrices are relieved. Skin diseases, scrofulous ulcerations, and enlargement of the glands; prostrations from long-standing sickness, or from debility following severe courses of powerful medicines, show a remarkable improvement. Spinal diseases, neuralgias, nervous affections, partial paralysis, lead palsy, St. Vitus' dance, (chorea,) muscular and general debility, respond to treatment. Uterine diseases as a class are greatly benefited, and the uterus particularly regarded for the grand climacteric change of life. Where sterility is a consequent of functional disorder, the baths are of great importance. For mercurial diseases, mercurio-syphilitic, and all syphilitic forms of derangement, volumes of testimonials could be adduced relative to the effects of these remarkable and unexcelled waters in the treatment of those obstinate and loathsome affections.

Experience, with careful observations for a number of years, satisfy me that dropsies, cancers, aneurisms, acute inflammatory diseases, diseases of the lungs, bronchial tubes, tuberculosis in any form, affections of the heart or brain are not benefited here; but, on the contrary, the Hot Springs are positively injurious."

It is estimated by eminent medical gentlemen that there are over one hundred thousand afflicted persons in the United States who cannot be permanently cured except by a use of these waters.

It is proper to say that various persons have from time to time laid claim to portions of this reservation under the following acts: April 12, 1814, page 121, and act of February 17, 1815, page 211, volume three, United States Statutes; act of May 29, 1830, page 429, and of July 14, 1832, page 603, volume four; and act of March 1, 1843, page 603, volume five, United States Statutes. No one of these claimants have ever been recognized by any Department of the Government.

The several claimants to the Hot Springs, whose conflicting claims have been urged from time to time are:

1. The claim of Rector, assignee of Langlais, upon a certificate, No. 467, issued by the recorder under the act of February 17, 1815, for the relief of the sufferers by the earthquake at New Madrid.

2. The claim for Hale, for heirs Perciful, for a preemption under the act of April 12, 1814.

3. The claim of heirs of Beldin for a preemption under the act of May 29, 1830.

Now, if either of these parties have any valid claim to these lands, neither the people of Arkansas, who in convention have memorialized, nor her Representatives, who unanimously ask the public sale of this reservation, either desire or would consent to it.

In order to a correct determination of the respective claims, let us recur to the acts under which these parties claim. The first section of the New Madrid act, under which Rector, assignee of Langlais, claims, provides—

"That any person or persons owning lands in the county of New Madrid, in the Missouri Territory," * * * "and whose lands have been materially injured by earthquake shall be, and they hereby are, authorized to locate the like quantity of land on any of the public lands of the said Territory, the sale of which is authorized by law."—*11 Statutes at Large*, p. 211.

Now, these lands were not ceded to the United States by the Qua-Paw Indians until the 24th of August, 1818. So they could not be considered as lands the sale of which was authorized by law under the New Madrid act of 1815.

Mr. Attorney General Wirt long since ruled that the words in an act of Congress authorizing preemption of lands—"the sale of which is authorized by law"—excludes the right of preemption from all lands the sale of which has not been authorized by law at the date of the preemption act. However this may be there is no evidence of survey and location under the act of 1815 by Langlais or his legal representatives until 1838, six years subsequent to these reservations from sale by the United States.

Mr. Secretary Stewart in 1851 rendered an opinion against all the claimants, and was reasoned out in a decision which cuts out alike Langlais, Rector, Hale, and Beldin. It adjudges on full consideration that their claims were wholly invalid in the face of the act reserving the Hot Springs to the use of the United States.

In 1854, the whole matter having again been brought before the Interior Department, Mr. McClelland, then Secretary, rendered a decision against each and all the claimants.

The opinion of Mr. McClelland having been in 1854 submitted to Mr. Attorney General Cushing, and the whole matter having been considered, he concludes his opinion as follows:

"The decision of Mr. Stewart that none of these parties have a valid claim to the Hot Springs was correct, and ought to stand as the determination of the Department."—*Attorney General's Opinions*, vol. 6, p. 711.

The matter having been again brought before Mr. Secretary Thompson, that officer in 1860 concurred in the decisions of his predecessors, and concludes his decision as follows:

"This case having been repeatedly brought before this Department and fully considered, and the several claims to the land having been repeatedly rejected for reasons which have been concurred in by each succeeding head of the Department through a series of years, I think the time has now arrived at which it is no longer proper to delay a vindication of the position of the Department by appropriate action.

"The entry of Beldin's heirs should therefore now be canceled, the invalidity of all the subsisting claims to this section be declared, and the land held subject to such disposal as Congress may see fit to direct should be made of the same."

After the decision of Mr. Secretary Stewart rejecting all these claims to the Hot Springs and asserting the title of the United States against them all, he allowed an entry to be made in behalf of Beldin, the object of which was to enable him to commence an action of ejectment under the statutes of Arkansas, which provides that the action may be maintained in all cases where the plaintiff claims the possession of the premises under or by virtue of, first, an entry with the register and receiver of the Public Land Office of the United States. Second, a preemption right under the laws of the United States. (Stat. of Ark., ch. 53, sec. 2, p. 344.) Mr. Attorney General Cushing, says:

"It is edifying to see actions of ejectment having for their purpose to dispute the title to parcels of the public domain between parties none of whom pretend anything but an equitable interest, and neither of whom has in fact any title as against the United States, legal or equitable. The parties may eject one another *ad libitum*; and the party prevailing may thus get up a fallacious appearance or semblance of title, but the fee still remains in the United States, for Congress alone has the power to declare the rule of titles to the public domain; it has accordingly declared a patent to be the superior conclusive evidence of title; and until that issues the fee is in the Government. This being the case it is matter of great consideration whether the Government of the United States ought not to intervene, in some way, itself to defend its own rights which may be seriously prejudiced."

The State of Arkansas has asked that this reservation may be disposed of as indicated in the following memorial of her convention, which is substantially what is asked by the terms of this bill:

Memorial to the Congress of the United States, for the public sale of the Hot Spring reservation in the State of Arkansas.

To the Honorable the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the constitutional convention of the State of Arkansas, respectfully represent that the public reservation known as the Hot Spring reservation, comprising all that portion of the public domain situated in section twenty-eight, twenty-nine, thirty-two, thirty-three, in township two south; and four and five, in township three, south of range nineteen, west, in the State of Arkansas, is now held and occupied without color of title, by various persons whose claims have never been acknowledged by the United States Government; that the public interest and humanity require that said Springs be made available for public use; and the welfare and settlement of the State is in a great measure dependent upon it. We would, therefore, ask that the same be sold, under the direction of the Secretary of the Interior, to the highest bidder or bidders for cash, after having been laid out into streets, blocks, and lots or parcels of ground, of such form and area as will best facilitate the construction of a town.

That the proceeds arising from the sale of the same be invested in United States securities, and held in trust until otherwise provided by law; and that the accruing interest upon said securities be applied to the common-school fund for the education of all the children of the State. And your memorialists will ever pray.

Adopted February 6, 1868.

Let the Government assert her right, as her law officer has advised, and dispose of this property as asked by this memorial, and the day is not far distant when a great city will rise on this mountain slope which will be the Baden-Baden of America.

Here, where the salubrity of the climate is unsurpassed, especially in the summer season, and where the long genial twilights are inspiring refreshing, will come the pleasure seekers from all parts of the world, and here will resort from year to year the millions of afflicted from all lands to be healed of their many infirmities.

Appropriate the annual accruing interest arising from the securely invested proceeds of the sale of these lands in the education of all the children of the State, and in after years an educated and enlightened people will rise up and call you blessed.

The bill, as amended, was ordered to be engrossed and read the third time; and being engrossed it was accordingly read the third time, and passed.

Mr. HOPKINS moved to reconsider the vote by which the bill was passed; and also

moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ALASKA TERRITORY.

The next business on the Speaker's table was Senate bill No. 619 to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes; which was read a first and second time.

The bill extends the laws of the United States relating to customs, commerce, and navigation to and over all the mainland, islands, and waters of the territory ceded to the United States by the emperor of Russia by treaty concluded at Washington on the 30th day of March, 1867, so far as the same may be applicable thereto. Section two constitutes the said territory, with its ports, harbors, bays, rivers, and waters, a customs-collection district, to be called the district of Alaska, for which said district a port of entry shall be established at some convenient point to be designated by the President, at or near the town of Sitka or New Archangel, and a collector of customs shall be appointed who shall reside at the said port of entry, and who shall receive an annual salary of \$2,500 in addition to the usual legal fees and emoluments of the office. But his entire compensation shall not exceed \$4,000 per annum, or a proportionate sum for a less period of time. Section three authorizes regulations to be prescribed for the nationalization of vessels owned by actual residents of said territory on or since the 20th of June, 1867. Section four empowers the President to restrict and regulate or to prohibit the importation and use of fire-arms, ammunition, and distilled spirits into and within the said territory, and prescribes penalties for the violation of said regulations. Section five provides that the coasting trade between the said territory and any other portion of the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great districts. Section six empowers the Secretary of the Treasury, with the approval of the President, to prescribe such rules and regulations as he may think proper in relation to the preservation of fur-bearing animals from indiscriminate destruction, provided that no special privilege shall be granted under this act. Section seven provides for the prosecution of violations of this act and of the several laws hereby extended to the said territory and the waters thereof, committed within the limits of the same, in any district court of the United States in California or Oregon or in the district courts of Washington. Section eight authorizes the Secretary of the Treasury to remit fines, penalties, and forfeitures. Section nine provides for the establishment of bonded warehouses. Section ten appropriates the sum of \$25,000 to carry this act into effect and meet the expenses of collecting the customs revenue in the territory.

Mr. WASHBURNE, of Illinois. I am instructed by the Committee on Commerce to move to amend the bill by striking out all after the enacting clause in section six, and inserting in lieu thereof the following:

That it shall be unlawful for any person or persons to kill any other, mink, marten, sable, fur-seal, or other fur-bearing animals within the limits of said territory, or in the waters thereof; and any person guilty thereof shall, for each offense, on conviction, be fined in any sum not less than \$200 nor more than \$1,000, or imprisoned not more than six months, or both, at the discretion of the court; and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this act, shall be forfeited. *Provided*, That the Secretary of the Treasury shall have power to authorize the killing of any such other, mink, marten, or other fur-bearing animals, except fur-seals, under such regulations as he may prescribe; and it shall be the duty of the said Secretary to prevent the killing of any fur seal, and to provide for the execution of the provisions of this section until it shall be otherwise provided by law.

Mr. DELANO. I call attention to the sixth section, which seems to leave the fur trade entirely at the disposal of the Secretary of the Treasury, thereby making it subject to such jobs as he may farm out.

Mr. WASHBURNE, of Illinois. If the gentleman will look at section six in the bill he will consider the amendment that I have proposed from the Committee on Commerce preferable. There are certain kinds of fur-bearing animals upon which the natives subsist or get their living. We do not think we can put a stop to the killing of those kinds without doing great injustice to the people there. But we do prohibit the killing of the fur seal until Congress shall take further action. This is merely a temporary measure until Congress shall have time to digest a code of laws, as they call it, for the government of this whole matter.

Mr. DELANO. I would be glad to have the section reported.

The Clerk read as follows:

And be it further enacted, That until Congress shall otherwise provide by law, the Secretary of the Treasury, with the approval of the President, shall have power to prescribe such rules and regulations as he may think proper in relation to the killing and to the preservation of fur-bearing animals from indiscriminate destruction: *Provided,* That no special privileges shall be granted under this act.

Mr. FERRISS. I understood the gentleman to say there were several of the fur-bearing animals upon which the inhabitants of the country subsisted. I desire to know whether it is the otter or the mink on which the people live?

Mr. WASHBURNE, of Illinois. The gentleman misunderstood me. They get their living by killing the animals and selling their furs.

I now yield to my colleague on the Committee on Commerce, the gentleman from California, [Mr. AXTELL,] who has a more intimate acquaintance with the subject than I have.

Mr. AXTELL. I observe that the sum appropriated to carry out the provisions of this act is left at \$25,000. I thought the Committee on Commerce authorized an amendment increasing the amount.

Mr. WASHBURNE, of Illinois. We have not yet come to that.

Mr. AXTELL. We propose to amend the sixth section by prohibiting the killing of the fur-bearing seal. I hope that amendment will prevail. They are very peculiar animals, and if not killed only at certain seasons and under certain regulations they forsake the islands where they usually resort. The Russian Government only allowed the killing of a limited number, and those were to be males of a certain age. The animals are almost tame, and unless the killing of them is regulated, they will soon be exterminated. We thought, as the session was so near its close, it was better to pass this sort of game law prohibiting their being killed at all until the next session of Congress.

Mr. PAINE. I think that in some particulars the amendment of the Committee on Commerce is better than the section of the original bill; but in one particular I think the section is better than the amendment. The gentleman from Illinois [Mr. WASHBURNE] informed the gentleman from Ohio, [Mr. DELANO,] in answer to a question, that the amendment absolutely prohibits the killing of seals until further legislation by Congress. But I did not so understand the amendment. I understood from the reading that it absolutely prohibits the killing of seals and other animals, with a proviso that they may be killed under certain regulations to be prescribed by the Secretary of the Treasury. I am informed that I am incorrect as to seals, and I will admit that it is so. But there is still this difference between the bill as it comes to us from the Senate and the amendment of the committee. The bill, as it comes to us from the Senate, prohibits the Secretary of the Treasury from extending any special privileges in regard to these fur-bearing animals; whereas that clause does not appear in the amendment of the committee, unless I am mistaken on that point also, and I listened very carefully to the reading of the amendment. I would inquire whether that clause which prohibits the Secretary of the Treasury from ex-

tending special privileges is not omitted in the amendment?

Mr. WASHBURNE, of Illinois. It is, and I think it would be very well to put it in. I am the last man that wants special privileges given. If the gentleman desires to move that amendment, I will yield to him for the purpose.

Mr. PAINE. I move, then, to amend the amendment by adding to it the words:

Provided, That no special privileges shall be granted under this act.

I offer that amendment, but I shall of course vote against the whole bill.

Mr. AXTELL. I think the Committee on Commerce would agree to that amendment.

The amendment to the amendment was agreed to; and the amendment, as amended, was then adopted.

Mr. WASHBURNE, of Illinois. I move to add to the third section what I send to the Clerk's desk. I will state that the Treasury Department desired that we should put in an amendment providing for six deputy collectors. We declined to do that, as the committee thought they could get along if we added to the section what I now offer.

The Clerk read as follows:

And that from any deputy collector of customs upon whom there has been or shall hereafter be conferred any of the powers of collector under and by virtue of the twenty-ninth section of the act further to prevent smuggling and for other purposes, approved July 18, 1866, the Secretary of the Treasury shall have power to require bonds in favor of the United States in such amount as said Secretary shall prescribe for the faithful discharge of official duties by such deputy.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I now very reluctantly move another amendment to the last section of this bill, because it increases the amount appropriated. The Senate propose to appropriate the amount of \$25,000. The Treasury Department say they cannot possibly get along with less than \$100,000. The Committee on Commerce do not agree to the increase to that amount, but they have instructed me to move an amendment, which I now do, to increase the appropriation from \$25,000 to \$50,000.

The amendment was agreed to.

Mr. PAINE. I would ask the gentleman from Illinois [Mr. WASHBURNE] to state to the House whether he does not believe that the result of this legislation will be to increase the expenses of this Government some millions of dollars each year?

Mr. WASHBURNE, of Illinois. I am very much afraid of all this legislation in regard to the territory of Alaska. But when the Committee on Commerce, of which I am chairman, instruct me to report a bill with amendments, I am obliged to do so.

The bill, as amended, was then read the third time.

The question was upon the passage of the bill, and being taken, it was agreed to; there being upon a division—ayes sixty-one; noes not counted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had passed without amendment House bills of the following titles:

A bill (H. R. No. 910) for the relief of the grantees of Ann S. Durdin;

A bill (H. R. No. 1052) amendatory of an act entitled "An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," approved June 3, 1856; and

A bill (H. R. No. 1447) granting the right of way to certain railway corporations over the military reservation at Fort Leavenworth.

SYMPATHY WITH CRETE.

Mr. MYERS. The gentleman from Nevada

[Mr. ASHLEY] having withdrawn his objection, I now ask, by direction of the Committee of Foreign Affairs, to take up from the Speaker's table, for consideration at this time, Senate joint resolution No. 169, appealing to the Turkish Government in behalf of the people of Crete.

The joint resolution was taken up, and read a first and second time.

The question was upon ordering it to be read a third time.

The first section of the joint resolution, which was read, states that the people of the United States renew the expression of their sympathy with the suffering people of Crete, to whom they are bound by the ties of a common religion, and by the gratitude due to the great race of which the Cretans are a part, and they rejoice to believe that the sufferings of that interesting people may be happily terminated by forbearance on the part of the Turkish Government, and they hereby declare their earnest hope that the Turkish Government will listen kindly to this representation, and speedily adopt such steps as will secure to the Cretans the blessings of peace and the advantages of good government. The second section declares that religion, civilization, and humanity require that the existing contest in Crete shall be brought to a close; and to accomplish this result the civilized Powers of the world should unite in friendly intervention with the Government of Turkey. The third section provides that it shall be the duty of the President to instruct the minister of the United States at Constantinople to co-operate with the ministers of other Powers in all good offices to terminate the sufferings of the people of Crete, and that it shall be the further duty of the President to communicate a copy of these resolutions to the Government of Turkey.

Mr. MYERS. I will now call the previous question, merely stating that this joint resolution was reported from the Committee on Foreign Relations of the Senate, and has the approval of the Committee on Foreign Affairs of the House; and I believe it is responsive to the wishes of the American people.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was unanimously passed.

Mr. MYERS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TREATMENT OF PRISONERS BY REBELS.

Mr. SHANKS. I am instructed by the select Committee on the Treatment of Prisoners of War and Union Citizens by the rebel authorities to submit a partial report, and to ask for further time to take testimony, the authority heretofore possessed by the committee having been taken away by a resolution of the House adopted to-day.

Mr. NIBLACK. What particular object does the gentleman expect to accomplish by the further prosecution of this inquiry? The war is now over, and the States lately in rebellion are being readmitted into the Union.

Mr. SHANKS. The object is to make a record of the treatment of prisoners of war and of Union citizens by the rebel authorities, so that the country may know what that treatment was. The committee think it important to put upon record the facts in the case, and that such a record will be valuable in all time to come. We think it is highly important that the rebel records should be collated which are now in the War Department, and which they are collecting for us; that they should be collated and put in such shape that the American people may see and know for themselves what has been the treatment of prisoners of war and of Union citizens by the men who were in rebellion against the Government. We want to make such a record that men hereafter will not commit these high crimes against the defenders of the Republic. The committee in all earnest-

ness ask this House not to cut off the investigation which shall make such a record.

Mr. SPALDING. Does the gentleman wish the House to rescind the resolution which it passed to-day, prohibiting committees from sitting during the recess when such sitting involves expense to the Government? This committee will have the right to sit; but unless that resolution be rescinded, it will not have the right to impose any expense upon the Government by this investigation.

Mr. SHANKS. I withdraw the previous question temporarily, and yield to the gentleman from Pennsylvania, [Mr. SCOFIELD.]

Mr. SCOFIELD. In order that we may know what this committee has been doing and what it now proposes to do, I desire to ask the gentleman from Indiana [Mr. SHANKS] whether the committee has, during the whole of this session, employed a clerk, with nothing to do?

Mr. SHANKS. Mr. Speaker, I will answer the question very frankly. The committee has a clerk, but the other part of the remark is not true; the clerk has had much to do.

Mr. SCOFIELD. I did not make any assertion; I simply asked a question. It is the answer that must be true or untrue.

Mr. SHANKS. I do not wish to have any controversy with my friend from Pennsylvania. This committee has had a clerk, and that clerk has had something to do. The business of the House has required the individual attention of members, and we have not had an opportunity to do as much work as we desired.

Mr. SCOFIELD. Then if the committee has had nothing to do the clerk has had nothing to do.

Mr. SHANKS. I said we had not done so much work as we desired to do.

Mr. SPALDING. Let me ask the gentleman how much this committee has already drawn from the contingent fund?

Mr. SHANKS. A little over six thousand dollars.

Mr. SPALDING. "A little over six thousand dollars!" And yet the gentleman wants to continue the investigation.

Mr. SHANKS. This House has voted to pay \$100,000 for the capture of Jefferson Davis. That was money squandered upon a useless object; for the Government has never made any use of his capture by bringing him to justice. The object of the investigation, which we propose to continue, is to make a record of the treatment of the patriotic men who served our country faithfully in the field, and who, when prisoners, were subjected to inhuman treatment at the hands of rebels. If the House does not think it a worthy object to put on record the sufferings of the men who perished in the cause of their country, and the crimes of those who were arrayed against the Government, be it so. I shall have discharged my duty by presenting this question to the House.

Mr. MAYNARD. What we desire to know is whether this committee has done anything. If it has not, we had better discharge it, and if we think the investigation should be continued, appoint another committee.

Mr. SHANKS. I ask that the resolution reported by the committee be read.

The Clerk read as follows:

Resolved, That the Committee on the Treatment of Prisoners of War and Union Citizens be authorized to continue their investigation during the recess of Congress, with full powers in accordance with the resolutions of the House of July 10 and 13, 1867.

Mr. SCOFIELD. I move that this resolution be laid on the table. The committee has now power to continue this investigation, but it has not power to employ a clerk with nothing to do, and to incur other expenses for no useful purpose.

Mr. SPALDING. I call for the yeas and nays on the motion to lay the resolution on the table.

Mr. MULLINS. I hope that the yeas and nays will be ordered. I am for continuing this investigation and ferreting out these scoundrels who inflicted such barbarities upon our soldiers.

Mr. SHANKS. I am requested to state how many witnesses we have examined. The number thus far examined is one hundred and forty.

Mr. SPALDING. Well, I think that is about enough.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 34, nays 80, not voting 106; as follows:

YEAS—Messrs. Adams, Ames, Axtell, Baker, Beck, Boyden, Cake, Delano, Dixon, Getz, Glossbrenner, Golladay, Grover, Higby, Hinds, Hotchkiss, Jenckes, Johnson, Thomas L. Jones, Ketcham, Knott, Marshall, Niblack, Phelps, Pomeroy, Ross, Scofield, Spalding, Taber, Lawrence S. Trimble, Trowbridge, Burt Van Horn, Van Wyck, and Elihu B. Washburne—34.

NAYS—Messrs. Allison, Delos R. Ashley, James M. Ashley, Bailey, Banks, Beatty, Benton, Bingham, Blair, Boutwell, Bowen, Buckland, Buckley, Roderrick R. Butler, Cary, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cullom, Dawes, Deweese, Dockery, Driggs, Eckley, Ela, Eliot, Ferriss, Fields, French, Garfield, Halsey, Hamilton, Haughey, Hawkins, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Judd, Kelley, Kellogg, Koontz, Laffin, Lincoln, Logan, Mallory, Mann, Maynard, McClurg, McKee, Mercer, Miller, Moore, Mullins, Myers, Nunn, Orth, Paine, Perham, Pile, Plants, Polsley, Sawyer, Schenck, Shanks, Aaron F. Stevens, Stokes, John Trimble, Van Aernam, Ward, Henry D. Washburn, Welker, Whittemore, William Williams, John T. Wilson, Stephen F. Wilson, and Windom—80.

NOT VOTING—Messrs. Anderson, Archer, Arnell, Baldwin, Barnes, Burnum, Beaman, Benjamin, Blackburn, Blaine, Boies, Boyer, Bromwell, Brooks, Broomall, Burr, Benjamin F. Butler, Callis, Chanler, Churchill, Cook, Cornell, Covode, Dodge, Donnelly, Edwards, Eggleston, Eldridge, Farnsworth, Ferry, Finney, Fox, Goss, Gove, Gravelly, Griswold, Haight, Harding, Heaton, Hill, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Alexander H. Jones, Julian, Kelsey, Kerr, Kitchin, Lash, George V. Lawrence, William Lawrence, Loan, Loucheur, Lynch, Marvin, McCarthy, McCormick, McCullough, Moorhead, Morrell, Morrissey, Mungen, Newcomb, Newsham, Nicholson, Norris, O'Neill, Peters, Pierce, Pike, Poland, Price, Prince, Pruyn, Randall, Raum, Robertson, Robinson, Roots, Selye, Shellabarger, Sitgreaves, Smith, Starkweather, Thaddeus Stevens, Stewart, Stone, Sypher, Taffe, Taylor, Thomas, Twichell, Upson, Van Auken, Robert T. Van Horn, Van Trump, Vidal, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, James F. Wilson, Wood, Woodbridge, and Woodward—106.

So the House refused to lay the resolution on the table.

The resolution was adopted.

Mr. SHANKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. POMEROY. I ask unanimous consent to take from the Speaker's table a Senate bill, a similar one to which has already passed the House.

Mr. ASHLEY, of Nevada. I object.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the House that that body had passed without amendment joint resolutions of the following titles:

Joint resolution (H. R. No. 358) authorizing the Secretary of War to furnish cannon to Soldiers' Monument Associations of Pequannock and Paterson, New Jersey; and

Joint resolution (H. R. No. 328) for the donation of certain columns.

It further announced that the Senate insisted on its amendments to a bill (H. R. No. 1446) to relieve from legal and political disabilities Simeon Corley, John Milledge, and Michael Hahn, agreed to the conference asked for, and had appointed Mr. STEWART, Mr. WILSON, and Mr. BUCKALEW, managers of such conference on the part of the Senate.

It further announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on a bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution.

It further announced that the Senate had indefinitely postponed a bill (H. R. No. 65) for the relief of William McGarrahan.

CONFERENCE REPORT.

Mr. SPALDING. I submit the following report from a committee of conference.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, and for other purposes, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their disagreement to the amendment of the House to the third amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the fourth amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the amendment of the House to the sixth amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the first clause of the amendment of the House to the eighth amendment of the Senate, and agree to the same.

That the Senate recede from their disagreement to the second clause of the amendment of the House to the eighth amendment of the Senate, and agree to the same with the following amendment: strike out all of said second clause, to wit: four sections, and insert in lieu thereof the following: "That the superintendent of the said Columbia Institution for the Deaf and Dumb shall at the commencement of every December session of Congress make a full and complete statement of all the expenditures made by virtue of any appropriations by Congress, said statement shall include the amount paid to said superintendent, and also for teachers, to whom paid, and the rate at which paid; and all expenditures for the Columbia Hospital for Women and Lying-in Asylum shall be under the direction of the Surgeon General of the Army, who shall also report to Congress at every December session a full and accurate account of all expenditures made by said asylum out of appropriations by Congress, and all accounts for all appropriations made by Congress for charitable purposes and for charitable institutions in the District of Columbia, shall be audited by the First Auditor of the Treasury. But nothing herein contained shall take from the Secretary of the Interior the jurisdiction he now has over the subject of charities and charitable institutions in the District of Columbia."

L. M. MORRILL,
J. W. PATTERSON,
A. McDONALD,

Managers on the part of the Senate.

R. P. SPALDING,
S. S. MARSHALL,

Managers on the part of the House.

The report of the committee of conference was agreed to.

Mr. SPALDING moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WASHINGTON TERRITORY.

The next business on the Speaker's table was the bill (S. No. 487) to disapprove the act of the Legislative Assembly of Washington Territory, redistricting the Territory and reassigning the judges thereto; which was read a first and second time.

Mr. ASHLEY, of Ohio. I am directed by the Committee on the Territories to put this bill on its passage.

The bill was reported. It disapproves of the act of the Legislative Assembly, approved January 25, 1868, entitled "An act to define the several judicial districts of the Territory, and assigning the judges thereto."

The bill was ordered to a third reading, read the third time, and passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MANUFACTURERS' NATIONAL BANK.

On motion of Mr. POMEROY, the bill (S. No. 621) authorizing the Manufacturers' National Bank of New York to change its location, was taken from the Speaker's table, read a first, second, and third time, and passed.

Mr. POMEROY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CORPORATIONS IN THE DISTRICT.

The next business on the Speaker's table was Senate bill No. 102, providing for the formation of corporations and regulating the same in the District of Columbia; which was read a first and second time.

Mr. INGERSOLL. That bill is too voluminous to get through to-night. I ask its reference to the Committee for the District of Columbia.

The SPEAKER. The Chair will state that it could scarcely be enrolled unless the clerks should do it on Sunday.

The bill was accordingly referred to the Committee for the District of Columbia.

RECORDER OF DEEDS IN THE DISTRICT.

The next business on the Speaker's table was the bill (S. No. 491) to provide for the appointment of register of deeds in the District of Columbia, and for other purposes; which was read a first and second time.

It provides that from and after the passage of this act the style of the register of deeds of the District of Columbia shall be "recorder of deeds of the District of Columbia." Section two vests the appointment of recorder of deeds for the District of Columbia in the supreme court of said District, and provides that his compensation shall not exceed the rate of \$8,000 per annum, exclusive of the necessary expenses of said office. Section three makes it the duty of the recorder to employ a sufficient number of copyists to enable him to keep up the current records and indexes of said office with necessary and reasonable promptness; and, as the fees and income of said office will justify, to copy such of the records as have become defaced or obliterated, and to index the same. It also regulates the compensation of the copyists. Section four relates to the disposition of the fees and emoluments of the office. Section five fixes the legal fees of the recorder. Section six legalizes the recording of deeds and other written instruments, and copies of papers recorded, made and certified by William G. Flood as acting register of deeds since the death of Edward G. Eddie, late register of deeds, up to the date of the appointment of a recorder under this act, and declares Mr. Flood entitled to the legal fees and emoluments that may have accrued.

The bill was ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MATTHEW LOW.

The next business on the Speaker's table was the bill (S. No. 535) to reward the services of Matthew Low, of Nassau, New Providence; which was read a first and second time.

It appropriates the sum of \$2,000 in recognition of his services in carrying to the commander of the United States gunboat Tioga the important information on which he acted in intercepting and capturing the blockade-runner Granite City on the 22d of March, 1863, near the port of Nassau.

Mr. MAYNARD. I think it ought to go to the Committee on Naval Affairs.

Mr. WASHBURN, of Massachusetts. I move its reference to the Committee of Claims.

The motion was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

STATE UNIVERSITY OF MINNESOTA.

The next business on the Speaker's table was the bill (S. No. 555) authorizing allowance of the claim of Minnesota to lands for the support of the State University; which was read a first and second time.

On motion of Mr. INGERSOLL, the bill was referred to the Committee on the Public Lands.

Mr. ALLISON moved to reconsider the various votes of reference; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

STEAM-PACKET COMPANY.

The next business on the Speaker's table was the bill (S. No. 236) in addition to the act entitled "An act to incorporate the Washington, Alexandria, and Georgetown Steam Packet Company; which was read a first and second time.

Mr. ALLISON moved that the bill be referred to the Committee for the District of Columbia.

The motion was agreed to.

Mr. ALLISON moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TERRITORY OF NEW MEXICO.

The next business on the Speaker's table was the bill (S. No. 417) to amend an act entitled "An act proposing to the State of Texas the establishing of her northern and western boundaries, the relinquishment by the said State of all Territory claimed by her exterior to said boundaries, and of all her claims on the United States, and to establish territorial government in New Mexico; which was read a first and second time.

Mr. ASHLEY, of Ohio. The Committee on the Territories have instructed me to ask that that bill be put upon its passage.

The bill was read. The act referred to is to be amended so as to provide:

Every bill which shall have passed the council and house of representatives of said Territory shall, before it becomes a law, be presented to the Governor of the Territory; if he approve he shall sign it, but if he do not approve it, he shall return it with his objections to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house it shall become a law, the Governor's objections to the contrary notwithstanding. But in such cases the votes of both houses shall be determined by yeas and nays, and entered upon the journal of each house respectively. And if the Governor shall not return any bill presented to him for approval, after its passage by both Houses of the Legislature, within three days (Sundays excepted) after such presentation, the same shall become a law in like manner as if the Governor had approved it. *Provided, however,* That the Assembly shall not have adjourned *sine die* during the three days prescribed as above, in which case it shall not become a law.

The bill further provides that the secretary of the Territory of New Mexico shall hereafter be *ex officio* superintendent of public buildings and grounds, and shall have control and management of all public buildings now erected, in progress of erection, or to be hereafter erected, and of all grounds pertaining thereto; and he is to be under the direction of the Secretary of the Interior, who shall establish such rules in relation to these public buildings and grounds as in his judgment he may devise, and for his services as such superintendent the secretary is to receive an annual salary of \$1,000. It is to be the duty of the secretary of the Territory, upon the convening of the Legislature thereof, to administer the oath of office to the members-elect of the two houses and the officers thereof when chosen; and no other person shall be competent to administer the oath, save in the absence of the secretary; in which case any one member of either house may administer the oath to the presiding officer-elect, and he shall administer the same to the members and other officers. The annual salary of the secretary of the Territory is to be \$2,000 per annum from and after the 1st day of February, 1867.

Mr. ASHLEY, of Ohio. I will say that at the organization of this Territory the veto power—

Mr. WASHBURN, of Illinois. There is no objection to that part of the bill, but the other part which gives additional compensation to the secretary of the Territory as superintendent of public buildings I think ought not to pass.

Mr. ASHLEY, of Ohio. The Committees on Territories of the two Houses were unanimously in favor of that provision. I ask for the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate insisted on its amendments disagreed to by the House to the bill (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869, agreed to the conference asked on the disagreeing votes of the two Houses thereon, and had appointed Mr. MORGAN, Mr. CRAGIN, and Mr. HARLAN conferees on the part of the Senate.

ACT OF 29TH JULY, 1850.

The next business on the Speaker's table was the bill (S. No. 449) to revive and continue in force the act of the 29th July, 1850, and the act amendatory thereof of the 2d of April, 1852; which was read a first and second time.

The SPEAKER. The Chair does not know what subject this bill relates to.

Mr. SCOFIELD. I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. SCOFIELD moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

OFFICERS DROPPED FROM ARMY ROLLS.

The next business on the Speaker's table was Senate joint resolution No. 151, to drop from the rolls of the Army certain officers absent without authority from their commands; which was taken up, and read a first and second time.

The question was upon ordering the joint resolution to be read a third time.

Mr. GARFIELD. I have been instructed by the Committee on Military Affairs of this House to ask that this joint resolution be passed.

The joint resolution, which was read, provides that the following named officers of the Army, reported by the Secretary of War as absent from their commands without authority, be, and they are hereby, dropped from the rolls, with loss of all pay and allowances, namely: First Lieutenant D. H. Weiland, sixth infantry; First Lieutenant H. D. Lanty, fourth infantry; First Lieutenant A. J. McDonald, fifth artillery; First Lieutenant Richard Wilson, third artillery; Second Lieutenant J. W. Godman, sixth infantry, and Second Lieutenant Guy Morrison, tenth infantry; this resolution to take effect from the date at which they absented themselves from their commands.

The joint resolution was then read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MOUNT VERNON LADIES' ASSOCIATION.

The next business on the Speaker's table was Senate bill No. 588, for the relief of the Mount Vernon Ladies' Association of the Union; which was taken up, and read a first and second time.

The question was upon ordering the bill to be read a third time.

Mr. GARFIELD. I ask that that bill be now put upon its passage.

Mr. WASHBURN, of Illinois. I raise the point of order that the bill contains an appropriation, and I therefore move that it be referred to the Committee on Appropriations.

Mr. GARFIELD. I hope that the gentleman will not insist upon his motion.

Mr. WASHBURN, of Illinois. I must insist upon it. This matter has been once before the Committee on Appropriations, and they rejected it unanimously.

Mr. GARFIELD. I would rather it should go to the Committee of the Whole under the rule.

The SPEAKER. The motion to refer the bill to the Committee of the Whole has priority of the motion to refer it to the Committee on Appropriations.

Mr. GARFIELD. Then I make that motion.

The question was then taken upon referring the bill to the Committee of the Whole, and it was not agreed to, upon a division—ayes 44, noes 68.

The question recurred upon referring the bill to the Committee on Appropriations; and being taken, it was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote last taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on House bill No. 1446, to relieve from legal and political disabilities Simeon Corley, John Milledge, and Michael Hahn.

DISTRICT COURT IN UTAH.

The next business on the Speaker's table was Senate bill No. 576, relating to the district court of the United States of Utah Territory; which was taken up, and read a first and second time.

The question was upon ordering the bill to be read a third time.

Mr. LAWRENCE, of Ohio. I hope the bill will be put upon its passage now.

Mr. AXTELL. I move that the bill be referred to the Committee on the Judiciary.

The bill, which was read, provides that the Governor of Utah Territory shall assign the district judges of said Territory to their respective districts, and appoint the times and places of holding court in each of said districts, not exceeding two terms in each district in any one year.

Mr. LAWRENCE, of Ohio. I desire to state to the House the reasons for the passage of this bill.

Mr. ASHLEY, of Ohio. I do not think any debate is necessary. I call the previous question.

The previous question was seconded and the main question ordered.

The question was first upon the motion of Mr. AXTELL, that the bill be referred to the Committee on the Judiciary; and being taken, upon a division there were—ayes 52, noes 59.

Before the result was announced,

Mr. WASHBURN, of Indiana, called for tellers

The question was taken upon ordering tellers; and there were twelve in the affirmative.

So (the affirmative not being one fifth of a quorum) tellers were not ordered.

The motion to refer was accordingly not agreed to.

The bill was then read the third time.

The question was upon the passage of the bill.

Mr. JOHNSON. Upon that question I call for the yeas and nays. I know what the bill is, and I do not want it to pass.

The question was taken upon ordering the

yeas and nays; and there were eleven in the affirmative, not one fifth of the last vote.

Mr. JOHNSON. I call for tellers on the yeas and nays.

The question was taken upon ordering tellers upon the yeas and nays; and there were six in the affirmative.

So (the affirmative not being one fifth of a quorum) tellers were not ordered.

The yeas and nays were not ordered.

The bill was then passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REMOVAL OF POLITICAL DISABILITIES.

Mr. BINGHAM, from a conference committee, submitted the following report:

The conference committee on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H. R. No. 1446) to relieve from legal and political disabilities Simeon Corley, John Milledge, and Michael Hahn, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from their disagreement to the amendments of the Senate, and agree to the same.

WILLIAM M. STEWART,

HENRY WILSON,

CHARLES R. BUCKALEW,

Managers on the part of the Senate.

JOHN A. BINGHAM,

JAMES B. BECK,

JAMES M. ASHLEY,

Managers on the part of the House.

Mr. BINGHAM. I call the previous question on agreeing to the report.

The previous question was seconded and the main question ordered.

Mr. MULLINS. I call for the yeas and nays.

The yeas and nays were not ordered.

The SPEAKER. As the question on agreeing to the conference report is substantially the same question as that on the passage of the bill, and as bills removing political disabilities must, under the fourteenth constitutional amendment, be passed by a two-thirds vote, such a vote is necessary on agreeing to this report.

On agreeing to the report, there were—ayes 86, noes 25.

So (two thirds voting in favor thereof) the report was agreed to.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN POTTS

The next business on the Speaker's table was the bill (S. No. 595) for the relief of John Potts; which was read a first and second time.

The bill appropriates \$3,500 to pay John Potts, chief clerk of the Department of War, for services as disbursing clerk from 1861 to July 1, 1868. It also provides that it shall be lawful hereafter to pay the disbursing clerk of the Department of War \$200 yearly in addition to his salary, whether such officer shall have been appointed from the clerks of the fourth class or from a higher grade.

Mr. WASHBURN, of Massachusetts. I move the reference of this bill to the Committee of Claims.

Mr. O'NEILL. I hope that the bill will not be referred. This officer was called on to perform this extra duty for which he has never been compensated. The bill has been examined by the Committee of the Senate, and has passed that body unanimously.

Mr. WASHBURN, of Massachusetts. We have had many bills of this kind before our committee, and we think that no such bill ought to pass without examination. Some general principle should be followed with reference to all such cases. I call for the previous question on the motion to refer.

The previous question was seconded and the main question ordered; and under the operation thereof the motion of Mr. WASHBURN, of

Massachusetts, was agreed to, and the bill was referred to the Committee of Claims.

Mr. WARD moved to consider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPRESENTATIVE FROM GEORGIA.

Mr. BINGHAM presented the credentials of Mr. P. M. B. Young, claiming a seat as a Representative from the State of Georgia; which were referred to the Committee of Elections.

GOVERNMENT OF THE ARMY.

The next business on the Speaker's table was the bill (S. No. 529) establishing rules and articles for the government of the armies of the United States; which was read a first and second time.

Mr. WASHBURN, of Indiana. I move the reference of this bill to the Committee on Military Affairs.

The motion was agreed to.

Mr. WASHBURN, of Indiana, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TRUSTEES OF COLORED SCHOOLS.

The next business on the Speaker's table was the bill (S. No. 609) transferring the duties of trustees of colored schools of Washington and Georgetown; which was read a first and second time.

Mr. INGERSOLL. Let that bill be referred.

Mr. WASHBURN, of Illinois. Let it be read.

Mr. INGERSOLL. We do not want to pass it.

Mr. WASHBURN, of Illinois. I do not know but it ought to be passed. I ask that it be read.

The bill was read. It provides that the several acts of Congress authorizing the appointment and defining the duties of the board of trustees of colored schools for the cities of Washington and Georgetown in the District of Columbia shall be so modified as to transfer the duties heretofore imposed upon said trustees of colored schools to the trustees of public schools in those cities; and that all laws and parts of laws inconsistent herewith shall be repealed.

The bill was referred to the Committee for the District of Columbia.

WAR CLAIMS OF KANSAS.

The next business upon the Speaker's table was Senate bill No. 214, to authorize the Secretary of War to settle the claims of the State of Kansas for services of the militia called out by the Governor of that State upon the requisition of Major General Curtis, the commander of the United States forces in that State; which was read a first and second time.

Mr. CLARKE, of Kansas. I move to strike out that part of the bill which makes an appropriation.

Mr. DELANO. I understand the bill makes an appropriation, and I therefore make the point of order that it must have its first consideration in the Committee of the Whole on the state of the Union.

The SPEAKER. The bill contains the following section:

SEC. 5. And be it further enacted, That the Commissioners to be appointed as aforesaid shall, before proceeding to the discharge of their duties, be sworn that they will carefully examine the accounts existing between the United States and the State of Kansas, and that they will, to the best of their ability, make a just, true, and impartial statement thereof, as required by this act. They shall receive such compensation for their services as may be determined by the Secretary of the Treasury, not exceeding ten dollars per day for each commissioner. And the amount necessary to defray said expenses and the award made by the commissioners, not to exceed \$259,000, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The bill does make an appropriation, but it may be referred to one of the standing committees.

Mr. WASHBURN, of Illinois. I move

that it be referred to the Committee on Appropriations.

The motion was agreed to.

Mr. DELANO moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST ROAD BILL.

The next business on the Speaker's table was Senate bill No. 589, to establish certain post roads; which was read a first and second time.

The SPEAKER. These post roads have been already provided for. If there be no objection it will be referred to the Committee on the Post Office and Post Roads.

There was no objection, and it was ordered accordingly.

FORT LEAVENWORTH MILITARY RESERVATION.

The next business on the Speaker's table was the bill (S. No. 16) donating a portion of the Fort Leavenworth military reservation for the exclusive use of a public road; which was read a first and second time.

Mr. GARFIELD. I move that bill be put on its passage. It grants the right of way through the reservation for a wagon-road.

Mr. WASHBURN, of Illinois. Has it the recommendation of the officers of the Army?

Mr. GARFIELD. I do not know.

Mr. WASHBURN, of Illinois. I think, then, we had better not pass it.

Mr. CLARKE, of Kansas. It has been approved by the Secretary of War and the General of the Army. It provides for the location of a public road.

The bill was read. It provides that a strip of land one hundred feet in width along the southern boundary of the Fort Leavenworth military reservation, in the State of Kansas, extending from the Missouri river to the western boundary thereof, be set apart for the perpetual and exclusive use of a public road; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charges upon the transportation of any property, troops, or mails of the United States.

Mr. INGERSOLL. I move to add the usual clause, that Congress reserves the right to repeal, alter, or amend.

The amendment was agreed to.

The bill, as amended, was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. CLARKE, of Kansas, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

VALLEJO AND HUMBOLDT RAILROAD.

The next business on the Speaker's table was the bill (S. No. 849) granting lands to the State of California to aid in the construction of a railroad and telegraph line from the town of Vallejo to Humboldt bay, in the State of California; which was read a first and second time.

Mr. DELANO. I move that bill be referred to the Committee on Roads and Canals.

Mr. INGERSOLL. I move that it be referred to the Committee on the Public Lands.

Mr. DELANO. I demand the previous question.

Mr. AXTELL. I hope that motion will not prevail. The bill has been before the Committee on the Public Lands, and the chairman of that committee [Mr. JULIAN] gave me authority to say that he desired its passage. I believe other gentlemen will bear me out when I say that this bill ought to be passed. It comes from the Senate because the House Committee could not report it. The grant is guarded as we guarded day before yesterday all grants to railroads. I hope the gentleman from Ohio will allow it to be put on its passage.

Mr. DELANO. I cannot comply with the

gentleman's request. I yield for a moment to the gentleman from California.

Mr. HIGBY. I have not examined this bill, but I will state that the chairman of the Committee on the Public Lands [Mr. JULIAN] came to me before he left town, some two days ago, and gave me to understand that he was in favor of its passage. I think he said that a bill in the same words had been before the committee and had been favorably considered. He stated that also to members of the House.

Mr. DELANO. I yield to the gentleman from Wisconsin.

Mr. HOPKINS. I simply wish to say that what the gentleman from California [Mr. HIGBY] has stated is correct. This bill has been before the Committee on the Public Lands, and it comes before the House in the same form which the committee agreed upon, unanimously, I believe. The same provisions that were contained in the bill we passed yesterday are incorporated in this bill, providing that the land shall be held by the State of California and sold, and that the proceeds shall be paid to the company.

Mr. HIGBY. Allow me to state further that the chairman of the Committee on the Public Lands said that this bill contained a provision in the way of restriction which the House bill did not, and which by some singular inadvertence was overlooked by the House committee.

Mr. DELANO. I desire now to call the attention of the House to the fact that this bill grants to the Humboldt Bay and Vallejo Railroad Company one million five hundred thousand acres of land.

Mr. WASHBURN, of Illinois. How much?

Mr. DELANO. A million and a half.

Mr. WASHBURN, of Illinois. That is enough, in all conscience.

Mr. DELANO. We are now asked to pass a bill making this enormous grant at this hour of the session without any examination by a committee of this House. But that is not all. There is already a company chartered by the Legislature of California to build a railroad from Humboldt bay to San Francisco, which company has gone on and obtained subscriptions from the counties through which the road is to pass. That company asks, if this appropriation is to be made, the same benefit at least that this company is to receive. This company now seeks to lay hands upon these one million five hundred thousand acres and monopolize them. Now, where there is so much doubt as would arise in a conflict of this kind, I ask if it would be right for us at this late hour of the session and of the night to pass this bill? I could go into further reasons for referring the bill, but it seems to me I have said enough. I therefore demand the previous question.

The previous question was seconded and the main question ordered.

The question being taken on the motion of Mr. DELANO, to refer the bill to the Committee on the Public Lands, it was agreed to.

Mr. DELANO moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 364) granting a pension to Violet Henry;

An act (S. No. 637) to authorize the city of Washington to issue bonds for the purpose of paying the floating debt of the city;

An act (S. No. 633) granting a pension to Nancy Smith;

An act (S. No. 630) granting increase of pension to Nancy A. Stocks;

An act (S. No. 442) to amend section one

of an act to prevent and punish frauds upon the revenue, and for other purposes, approved March 3, 1863;

An act (S. No. 606) granting a pension to Robert Watson;

An act (S. No. 598) for the relief of Mary Scott;

Joint resolution (S. R. No. 172) to construe an act entitled "An act to authorize the accounting officers of the Treasury to settle the accounts of Andrew S. Core;"

Joint resolution (S. R. No. 154) to admit certain persons to the Naval Academy; and

Joint resolution (S. R. No. 57) relative to lighting the streets of Washington city, District of Columbia.

MRS. L. T. POTTER.

The next business on the Speaker's table was the bill (S. No. 596) for the relief of Mrs. L. T. Potter; which was read a first and second time.

Mr. WASHBURN, of Massachusetts. That bill contains an appropriation. I move that it be referred to the Committee of Claims.

The motion was agreed to.

Mr. WARD moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PURCHASE OF PUBLIC LANDS IN ALABAMA.

The next business on the Speaker's table was the bill (S. No. 301) authorizing the purchase of certain public lands in Alabama; which was read a first and second time.

Mr. BUCKLEY moved that the bill be referred to the Committee on the Public Lands. The motion was agreed to.

Mr. KOONTZ moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

UNITED STATES COURTS IN FLORIDA.

The next business on the Speaker's table was the bill (S. No. 604) regulating the times and places of holding the district and circuit courts of the United States for the northern district of Florida; which was read a first and second time.

Mr. HAMILTON. I ask that that bill be put upon its passage.

The bill was read. It provides that the times and places of holding the United States district and circuit courts for the northern district of Florida shall hereafter be as follows: at Jacksonville on the first Monday of December, at Tallahassee on the first Monday of February, and at Pensacola on the first Monday of March, and that the terms of the courts heretofore held at St. Augustine and Apalachicola shall be discontinued.

Mr. HAMILTON. I demand the previous question on the bill.

Mr. CULLOM. Does not the bill provide for holding the courts at more places than necessary in that State? I would inquire what has been the fact heretofore in reference to holding these courts?

Mr. HAMILTON. They have been held at three places.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. HAMILTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CORPORATIONS CREATED.

The next business on the Speaker's table was the bill (S. No. 610) in relation to corporations created by laws of the United States; which was read a first and second time.

Mr. WASHBURN, of Illinois, moved that the bill be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILITARY PEACE ESTABLISHMENT.

The next business on the Speaker's table was the bill (S. No. 617) to reduce the military peace establishment of the United States; which was read a first and second time.

Mr. GARFIELD. I am instructed by the Committee on Military Affairs to report some amendments to that bill and to ask that it be put upon its passage, and I call upon the House to insist on considering it now. I ask for the reading of the bill.

The first section of the bill, which was read, provides that the line of the Army as now constituted shall be reduced to thirty regiments of infantry, eight regiments of cavalry, and four regiments of artillery; such reduction to be effected by the consolidation of regiments of the several arms now in the service, and that three regiments of infantry shall be composed of colored troops and three of the troops of the Veteran Reserve; and one regiment of cavalry shall be composed of colored troops. The second section directs the President, so soon as the public interest and necessity will admit, to order the muster-out of enlisted men now in the service until the total number remaining in service shall be reduced to thirty thousand: of cavalry, six thousand; of artillery, forty-eight hundred; of infantry, eighteen thousand five hundred, and of enlisted engineers and ordnance department, seven hundred; provided that until such reduction is reached no further enlistments into the Army shall be made, and thereafter there shall be no more than thirty thousand enlisted men in service at any one time, unless hereafter authorized by law. The third section provides that all the bands now in the service organized under the provisions of section seven of an act to fix the military peace establishment of the United States, approved July 28, 1866, except the band at the Military Academy, shall be honorably discharged without delay, and shall receive full pay and allowances to the date of their discharge. The fourth section provides that it shall be the duty of the Secretary of War, immediately after the passage of this act, to appoint a board of competent officers, whose duty it shall be to prepare and submit to the Secretary of War a plan for the reduction of the officers of the Army, and designating from the officers of the line of the several grades now in service those to be retained on duty with the consolidated regiments, those to be wholly discharged from the service, and those not retained on duty with the regiments herein authorized whom it is deemed advisable or proper to retain in service; and it is made the duty of the Secretary of War to submit such plan to the action of Congress at its next ensuing session, together with the names and rank of the officers to be so retained or so discharged; and until the action of Congress be had thereon no other action shall be taken on said plan.

Before the Clerk proceeded to read the fifth section of the bill,

Mr. INGERSOLL said: I desire to appeal to the chairman of the Committee on Military Affairs [Mr. GARFIELD] to take the sense of the House on the question of referring this bill to the Committee on Military Affairs without further reading. If the sense of the House is in favor of the reference, then he should accede to it; if not, then we can go on with the bill.

Mr. ROSS. Is it in order to move that the House now adjourn?

The SPEAKER. That motion is in order. But the Chair would say that there are now two conference committees which have not yet made reports. One of the committees, the Chair understands, has agreed upon its report; the other, upon the funding bill, will probably not agree upon a report to-night. After the committee which has agreed shall have made its report there will be nothing in the way of a

recess until Monday morning, except the bill now under consideration, and some ten or fifteen bills upon the Speaker's table.

Mr. GARFIELD. I desire to say that I have no other purpose than to know the will of the House in regard to this bill. It is due to the Committee on Military Affairs and to a very large number of persons who have spoken to the committee during the last few weeks in regard to this bill to say that it is thought by a very large number of the members of this House—I do not know whether a majority or not—that we ought to provide for a reduction of the Army, and that especially we ought to provide, as is provided by the ninth section of this bill, some means by which the people in the southern States which have been reconstructed can protect themselves. This bill was very elaborately considered in the Senate, and is there regarded as a very important bill. And it is deemed very necessary that the seven States recently readmitted into the Union, and now relieved from military control, should be provided with means to protect themselves.

I have been requested by several members to submit a proposition to the House for the purpose of ascertaining whether we will refer the whole of this bill to the Committee on Military Affairs, or whether we will take out one section, the ninth, and proceed to consider it at this time. I prefer that the whole bill should take its fate together. I am willing, however, that the sense of the House shall be taken. Let it be understood that this is a test question.

The SPEAKER. If there be no objection, the Chair will put the question on referring the bill to the Committee on Military Affairs.

On the question there were—ayes 64, noes 44.

Mr. GARFIELD. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 62, not voting 93; as follows:

YEAS—Messrs. Adams, Delos R. Ashley, Axtell, Baker, Banks, Beck, Bingham, Blair, Bowen, Boyden, Calkins, Caryl, Churchill, Reader W. Clarke, Dawes, Dockery, Driggs, Elliot, Farnsworth, Getz, Glossbrenner, Golladay, Grover, Halsey, Hawkins, Hill, Hotchkiss, Hunter, Ingersoll, Johnson, Thomas L. Jones, Kerr, Ketcham, Knott, Koontz, Ladin, Lincoln, Mallory, Mann, Marshall, McKee, Miller, Moore, Myers, Niblack, O'Neill, Orth, Peters, Phelps, Poland, Pomeroy, Ross, Sawyer, Stewart, Taber, Taylor, Lawrence S. Trimble, Trowbridge, Van Aernam, Van Auken, Van Trump, Ward, Elihu B. Washburne, William B. Washburn, and Stephen F. Wilson—65.

NAYS—Messrs. Allison, Ames, Arnell, James M. Ashley, Beatty, Benton, Blackburn, Boies, Buckland, Buckley, Calkins, Sidney Clarke, Clift, Coburn, Culom, Delano, Dewesse, Ela, Ferriss, Fields, French, Garfield, Goss, Gove, Hamilton, Higby, Hinds, Hopkins, Chester D. Hubbard, Jencks, Alexander H. Jones, Kelley, Kelsey, William Lawrence, Loan, Logan, Loughridge, Maynard, McClurg, Mercur, Mullins, Paine, Perham, Pierce, Pile, Polsley, Kaum, Schenck, Scofield, Aaron F. Stevens, Stokes, Sypher, Thomas, Twiehell, Burt Van Horn, Van Wyck, Henry D. Washburn, Welker, Whittemore, William Williams, John T. Wilson, and Windom—62.

NOT VOTING—Messrs. Anderson, Archer, Bailey, Baldwin, Barnes, Barnum, Beaman, Benjamin, Blaine, Boutwell, Boyer, Bromwell, Brooks, Bucomall, Burr, Benjamin F. Butler, Roderick B. Butler, Chanler, Cobb, Cook, Cornell, Covode, Dixon, Dodge, Donnelly, Eckley, Edwards, Eggleson, Eldridge, Ferry, Finney, Fox, Gravely, Griswold, Haight, Harding, Haughey, Heaton, Holman, Hooper, Samuel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Judd, Julian, Kellogg, Kitchen, Lash, George V. Lawrence, Lynch, Marvin, McCarthy, McCormick, McCullough, Moorhead, Morrell, Morrissey, Mungen, Newcomb, Newsham, Nicholson, Norris, Nunn, Pike, Plants, Price, Prince, Pruyn, Randall, Robertson, Robinson, Root, Selye, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Stone, Taft, John Trimble, Upson, Robert T. Van Horn, Vidal, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, Wood, Woodbridge, and Woodward—93.

So the bill was referred to the Committee on Military Affairs.

Mr. WASHBURN, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE TO PRINT.

Mr. ARNELL obtained leave to print as

part of the debates remarks on the bill just referred. [See Appendix.]

ENROLLED JOINT RESOLUTIONS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 328) for the donation of certain columns; and

Joint resolution (H. R. No. 358) authorizing the Secretary of War to furnish cannon to Soldiers' Monument Associations of Pequannock and Paterson, New Jersey.

MESSAGE FROM THE SENATE.

A message from the Senate by Mr. GORHAM, its Secretary, announced that the Senate had passed without amendment a bill (H. R. No. 396) for the relief of Samuel Tibbets.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 144) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1868.

The message further announced that the Senate had disagreed to the amendments of the House to the bill (S. No. 619) to extend the laws of the United States relating to customs, commerce, and navigation, over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes; had asked a conference on the disagreeing votes of the two Houses, and had appointed as conferees on the part of the Senate, Mr. CHANDLER, Mr. MORRILL of Maine, and Mr. DOOLITTLE.

ENROLLED BILLS SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 1277) to provide for the distribution of the reward offered by the President of the United for the capture of Jefferson Davis;

An act (H. R. No. 1375) to transfer to the Department of the Interior certain powers and duties now exercised by the Secretary of the Treasury, in connection with Indian affairs; and

An act (H. R. No. 1446) to relieve from legal and political disabilities certain persons engaged in the late rebellion.

FUNDING THE NATIONAL DEBT.

Mr. SCHENCK. I desire to state that the conferees on the part of the House on the disagreeing votes between the two Houses on the funding bill, have been engaged with the conferees on the part of the Senate; but it is impossible for them, on account of business in the Senate, to remain longer with us to-night. We have proceeded so far as to satisfy ourselves there is every reasonable probability of our agreeing to a report between now and Monday morning, and reporting a funding bill that will be satisfactory. I make this statement with a view to impress upon members the importance of keeping up a quorum on Monday. If we can adjourn so as to meet as early as eight or nine o'clock on Monday morning, the matter can be arranged.

The SPEAKER. The Chair will state there are only fifteen members over a quorum in the Hall. Many members have designed returning home to-morrow, and as the conference committee has given notice of important business on Monday morning, the Chair trusts a quorum will remain until that time.

LEAVE TO PRINT.

Mr. BOYDEN and Mr. DOCKERY were granted leave to print remarks as part of the debates. [See Appendix.]

PRINCE EDWARD ISLAND.

The SPEAKER announced that he had appointed, as the select committee ordered to-

day to inquire in reference to Prince Edward Island, Mr. BUTLER, of Massachusetts, Mr. POLAND, and Mr. BECK.

EXECUTIVE APPROPRIATION BILL.

Mr. KELSEY. I submit the following report from a committee of conference.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the first and second amendments of the Senate, and agree to the same.

L. M. MORRILL,
JAMES HARRLAN,
A. H. CRAGIN.

Managers on the part of the Senate.

W. H. KELSEY,
W. B. STOKES.

Managers on the part of the House.

Mr. KELSEY demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report was adopted.

Mr. KELSEY moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DELANO moved that the House take a recess until nine o'clock Monday morning.

Mr. ROSS moved to amend by taking a recess until eleven o'clock Monday morning. The amendment was disagreed to.

Mr. WASHBURNE, of Illinois, moved to amend by taking a recess until ten o'clock Monday morning.

The amendment was disagreed to.

Mr. DELANO's motion was agreed to; and thereupon (at five minutes after ten o'clock p. m.) the House took a recess until nine o'clock Monday morning.

AFTER THE RECESS.

The House, at nine o'clock a. m., [Monday, July 27,] resumed its legislative session of Saturday last.

DEMPSEY AND O'TOOLE.

Mr. WASHBURNE, of Illinois. Is it in order to call for the reading of the Journal.

The SPEAKER. It is not.

Mr. WASHBURNE, of Illinois. Then I ask unanimous consent to take up and pass a joint resolution (S. R. No. 175) relative to the recent contract for stationery with the Department of the Interior.

The resolution was read. It directs the Secretary of the Interior to annul and cancel a contract made by him with Dempsey & O'Toole for supplying the Department of the Interior and the several bureaus and offices thereof with stationery for the fiscal year ending June 30, 1869, under the advertisement issued May 25, 1868, and to enter into a contract for the articles mentioned in said advertisement with Blanchard & Mohun, the latter being the lowest and best bidders therefor.

Mr. VAN TRUMP. I object.

Mr. WASHBURNE, of Illinois. The gentleman might have stated the grounds of his objection to a contract by which the Government is "choused" out of twenty thousand dollars or more.

Mr. VAN TRUMP. There is a difference of opinion on that.

CONTRACTS PAYABLE IN COIN.

Mr. SCHENCK. I report back from the Committee of Ways and Means Senate bill No. 180, relative to contracts payable in coin, and move that it be laid on the table, and that the committee be discharged from its further consideration.

Mr. GARFIELD. I wish my colleague would allow that to lie over till next session. I would not commit the House against it.

Mr. SCHENCK. I withdraw it at the suggestion of my colleague. It will remain with the Committee of Ways and Means.

DUTIES ON COPPER ORES.

Mr. SCHENCK. I report back again the bill (H. R. No. 1460) to regulate the duties on imported copper and copper ores.

Mr. ROSS. I object.

The SPEAKER. The gentleman cannot prevent its introduction. The Chair will entertain the objection as a point of order that the bill must go to the Committee of the Whole.

Mr. ROSS. Will the gentleman from Ohio allow me a moment to offer a resolution about one of the employes of the House?

Mr. SCHENCK. If the gentleman will withdraw his point of order I will yield for that purpose.

Mr. ROSS. Let it be reported for information.

Mr. SCHENCK. I yield to let it be reported.

PAY OF A HOUSE EMPLOYÉ.

Mr. ROSS, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Clerk be directed to pay from the contingent fund to William Henry Hall, Jr., an assistant in the east clock-room, the compensation of a laborer during the time for which he has served or shall continue to serve in that capacity.

DUTIES ON COPPER ORES—AGAIN.

The SPEAKER. Does the gentleman from Illinois withdraw his objection to the bill introduced by the gentleman from Ohio?

Mr. ROSS. This is about copper. My objection is they will add on other things, raising the tariff.

Several MEMBERS. No; we will not.

Mr. ROSS. I withdraw my objection on that condition.

The SPEAKER. Is there further objection? The Chair hears none.

The bill was read a first, second, and third time.

Mr. SCHENCK. I demand the previous question.

Mr. SCOFIELD. Let the bill be reported.

The bill was reported. It provides that from and after the passage of the act, in lieu of the duties heretofore imposed by law on the articles hereinafter mentioned, there shall be levied, collected, and paid on the articles herein enumerated and provided for, imported from foreign countries, the following specified duties and rates of duty, that is to say: On all copper imported in the form of ores, three cents on each pound of fine copper contained therein; on all regulus of copper, and on all black or coarse copper, four cents on each pound of fine copper contained therein; on all old copper fit only for remanufacture, four cents per pound; on all copper in plates, bars, ingots, pigs, and in other forms not manufactured or herein enumerated, five cents per pound.

Mr. BANKS. I object to that bill.

Mr. SCHENCK. I withdraw the demand for the previous question for the purpose of making a statement of about two minutes.

The SPEAKER. The Senate has asked a committee of conference on the disagreeing votes of the two Houses on the bill in relation to extending the customs laws to Alaska Territory. If there is no objection the House will reciprocate the request.

Mr. BANKS. I object to any business until this question is settled. I make the point of order that this should go to the Committee of the Whole.

The SPEAKER. It is made too late.

Mr. BANKS. As soon as the bill was read I objected. I would have objected before if I had known what it was.

Mr. SCHENCK. It is too late.

Mr. BANKS. I object on the ground that it was not read, and no opportunity was had to make the objection before. I never would have consented to consider the bill if I had known what it was. I insist upon a division of the House on the question.

The SPEAKER. The title of the bill was read when the gentleman from Illinois [Mr. Ross] objected. He then asked leave to offer a resolution, which was adopted, and then he stated that he would withdraw his objection on condition that nothing else should be added to the bill. The Chair asked if there was further objection. There was none, and then the gentleman from Pennsylvania [Mr. SCOFIELD] asked to have the bill reported in full.

Mr. BANKS. I desire to say that it is the constant practice of the Chair, and it is a just practice, to have a bill read, reserving the right of objecting until it shall have been read. I heard the proposition of the gentleman from Illinois, [Mr. Ross,] but I did not know what the bill was.

The SPEAKER. The bill has been three times attempted to be reported, and the Chair supposed that every member was familiar with its provisions.

Mr. SCHENCK. And it has already been reported in full.

Mr. BANKS. I do not know anything about it.

Mr. SCHENCK. I know how precious our time is. I wish simply to explain that the Committee of Ways and Means were very reluctant, after the failure to get through anything like a more general provision of tariff, embracing other matters, to bring forward a specific bill; but looking over the whole ground again and again they came to the conclusion that if there was any one thing which stands out among all others with a claim to have some legislation which shall relieve those engaged in the interest from the great difficulties and suffering under which they now labor it is this copper interest. The copper interest, every one knows, is very large, especially in the Lake Superior region. It was once so promising and flourishing that they almost scorned to ask protection for it in any way as the other productions of the country were protected. But since then there has been protection extended to the copper interest, mostly from five to seven per cent. *ad valorem*, and it is only that now, while lead, iron, and other corresponding interests have forty, fifty, and sixty per cent. protection, copper has up to this hour only had from five to seven per cent., the highest of any protective duty attached to any form of copper being seven per cent. The bill now proposed will give protection to the amount of thirty per cent.

Mr. BANKS. I state as a question of order that I have had no right to object to the bill on the ground that it must be considered in Committee of the Whole for the reason that I never heard it read, and knew not what it was. I submit to the Chair that I have not lost my right to object on the question of order that this bill must be first considered in Committee of the Whole.

The SPEAKER. The Chair overrules the point of order on two grounds; first, on the ground which he has already stated, and second, on the ground that a point of order cannot be renewed by the suggestion of additional reasons. That rule is to be found in the Digest.

Mr. BANKS. My objection is that I have had no power, no opportunity, no information on which I could raise the question of order.

Mr. SCHENCK. The gentleman mistakes his own want of observation for want of opportunity.

Mr. BANKS. No, sir; not at all. I was attending every moment to the business before the House.

The SPEAKER. The Chair has for the second time overruled the point of order.

FOREIGN AND COASTING TRADE.

On motion of Mr. WASHBURNE, of Illinois, by unanimous consent the Committee on Commerce was discharged from the further consideration of the bill (S. No. 266) to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other pur-

poses; and the same was placed upon the Speaker's table.

DUTIES ON COPPER ORES—AGAIN.

Mr. SCHENCK. I was saying that the amount of protection afforded by this bill does not yet bring copper up to the standard of the average protection on like commodities. But another consideration is this; and with this statement I close: under the existing law such has been the prostration in regard to our copper mines and mining that there are now hundreds of operatives absolutely starving, or going to the poor-house, or endeavoring by the aid of charity to get away from the mining regions. Business is necessarily closing up there, and the steamboats heretofore running upon the lakes are stopping their trips, or reducing them from daily to weekly trips. The whole matter is languishing for want of some aid in this way. These are the considerations which induced the committee to make an exception in regard to one particular interest. And they were instructed to make exception only as to copper, although there are several other things that a number of us, and among them myself, would like to have legislated upon this session if possible.

Mr. KELLEY. I would ask the gentleman if he cannot consent to add a clause to this bill in relation to nickel?

The SPEAKER. The Chair will state that under the consent given by the gentleman from Illinois [Mr. ROSS] no proposition to amend the bill can be entertained now except by unanimous consent. He withdrew his objection to the bill upon the express understanding, repeated by the Chair, that nothing should be added to the bill.

Mr. SCHENCK. And I will state that I would like if possible to extend the provisions of the bill to the manufacture of hair cloth and to the flaxseed interest, in which my constituents are much interested.

Mr. O'NEILL. Will the gentleman allow me to ask him a question?

Mr. SCHENCK. Certainly.

Mr. O'NEILL. I would inquire if my colleague, [Mr. MOORHEAD,] who reported the general tariff bill, has consented to this bill?

Mr. SCHENCK. The gentleman concurred entirely with the rest of the committee, that if action on his bill could not be had at this session, then this bill in relation to the duty on copper should be presented to the House for his action.

Mr. O'NEILL. The question I was going to ask is this, although I know this copper interest is languishing very much at this time, still there is another interest which comes home to all of us, I mean the book interest.

Mr. SCHENCK. I yielded to the gentleman for a question, not for an argument on the book interest.

Mr. WASHBURN. I will say to the gentleman from Pennsylvania, [Mr. O'NEILL,] that although the lead interest, which is very important, is not included in this bill, still considering the depressed condition of the copper interest of Michigan I think it would be well to pass this bill.

Mr. MAYNARD. Will the gentleman yield to me for a moment?

Mr. SCHENCK. I will yield for a question.

Mr. MAYNARD. I will state what I want to say in the form of a question. Is not the gentleman aware that I have been in favor of this proposition from the beginning, but opposed to its introduction now lest our tariff should fare precisely as our internal tax has fared, by piece-meal legislation? And I would also ask the gentleman whether by passing this bill we will not be losing a friend, or rather making an enemy to any general action on our tariff?

Mr. SCHENCK. I think we are not making an enemy.

Mr. WASHBURN, of Massachusetts. I object to singling out one interest in preference to another interest which the gentleman admits needs additional legislation.

Mr. SCHENCK. I call the previous question.

The question was taken upon seconding the previous question; and upon a division there were—ayes 52, noes 18; no quorum voting.

CALL OF THE HOUSE.

Mr. WASHBURN, of Illinois. I move that there be a call of the House.

The motion for a call of the House was agreed to.

The roll was then called; and the following members failed to answer to their names:

Messrs. Adams, Anderson, Archer, Arnell, James M. Ashley, Baldwin, Barnes, Barnum, Beaman, Benjamin, Bingham, Blackburn, Blaine, Blair, Boles, Bowen, Boyer, Brooks, Broomall, Burr, Roderick R. Butler, Chanler, Cook, Cornell, Dixon, Dodge, Donnelly, Eckley, Edwards, Eldridge, Ferry, Finney, Fox, Golladay, Goss, Gravelly, Griswold, Grover, Haight, Halsey, Hamilton, Harding, Heaton, Higby, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Alexander H. Jones, Thomas L. Jones, Julian, Kitchen, Knott, Lash, George V. Lawrence, Lynch, Mallory, Marshall, Marvin, McCarthy, McCormick, McCullough, Moorhead, Morrell, Morrissey, Munger, Newcomb, Newsham, Nicholson, Nunn, Perham, Phelps, Pike, Pile, Pomeroy, Price, Prince, Pruyn, Randall, Robinson, Root, Sawyer, Selye, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Stone, Taffe, Taylor, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Vidal, Ward, Cadwalader C. Washburn, Thomas Williams, James B. Wilson, Stephen E. Wilson, Wood, Woodbridge, and Woodward.

The SPEAKER. A quorum having answered to their names, further proceedings under the call will be dispensed with, if there be no objection.

No objection was made; and further proceedings under the call were dispensed with.

The question then recurred on seconding the demand for the previous question upon the bill regulating the duties on imported copper and copper ores.

Mr. BANKS. I call for tellers.

Tellers were ordered; and Mr. BANKS and Mr. SCHENCK were appointed.

The House divided; and the tellers reported—ayes 87, noes 24.

So the previous question was seconded.

The question recurring on ordering the main question,

Mr. BANKS called for the yeas and nays.

The yeas and nays were ordered.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had passed, without amendment, bills and joint resolutions of the following titles:

An act (H. R. No. 1455) to correct an error in the enrollment of the act imposing taxes on distilled spirits and tobacco, and for other purposes;

An act (H. R. No. 1457) to pay for indexing the tax bill;

Joint resolution (H. R. No. 325) relative to the pay of the chief clerk in the office of the Sergeant-at-Arms of the House; and

Joint resolution (H. R. No. 362) to aid in relieving from peonage women and children of the Navajo Indians.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House was requested:

An act (S. No. 643) for the relief of William A. Griffin.

The message further announced that the Senate had passed House bill of the following title, with an amendment, in which the concurrence of the House was requested:

An act (H. R. No. 1363) granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel B. Bidwell.

The message also announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States.

ENROLLED BILLS.

Mr. LAFLIN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the

following titles; when the Speaker signed the same:

An act (H. R. No. 396) for the relief of Samuel Tibbets;

An act (H. R. No. 541) making appropriations for the service of the Columbia Institution for the instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, and for other purposes;

An act (H. R. No. 910) for the relief of the grantees of Ann D. Durling;

An act (H. R. No. 1010) relating to pensions;

An act (H. R. No. 1052) amendatory of an act entitled "An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," approved June 3, 1856;

An act (H. R. No. 1131) regulating judicial proceedings in certain cases for the protection of officers and agents of the Government, and for the better defense of the Treasury against unlawful claims;

An act (H. R. No. 1447) granting the right of way to certain railway companies over the military reservation at Fort Leavenworth; and

An act (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869.

COMMITTEE ON REVISAL OF THE LAWS.

Mr. WASHBURN, of Illinois. I ask unanimous consent to make at this time a privileged report from the Committee on the Rules, to which there will be no objection. That committee has instructed me to report a rule establishing, instead of the present Committee on Revisal and Unfinished Business, a Committee on the Revision of the Laws, to consist of nine members, their duties to be the same as those of the present special Committee on the Revision of the Laws.

The SPEAKER. The gentleman from Vermont [Mr. POLAND] is chairman of the select Committee on the Revision of the Laws and also of the standing Committee on Revisal and Unfinished Business, the latter committee never having any business. If there be no objection the rule proposed by the Committee on the Rules will be adopted.

There was no objection.

DUTY ON COPPER ORES—AGAIN.

Mr. BOUTWELL. I wish to ask the gentleman from Ohio whether the conference committee is not ready to report the funding bill, and whether that is not of more public importance than this bill?

Mr. DRIGGS. I object to debate.

Mr. SCHENCK. The bill has not yet come from the Senate.

Mr. BOUTWELL. I object to hazing the funding bill on account of this bill.

The question was taken; and it was decided in the affirmative—yeas 93, nays 80, not voting 97; as follows:

YEAS—Messrs. Adams, Allison, Ames, Delos R. Ashley, Artell, Bailey, Beatty, Beck, Benton, Bingham, Boyden, Buckland, Buckley, Benjamin F. Butler, Cake, Callis, Cary, Churchill, Reader W. Clarke, Clift, Cobb, Coburn, Covode, Cullom, Delano, Deweese, Dockery, Driggs, Eggleston, Farnsworth, Ferriss, French, Garfield, Getz, Glossbrenner, Haughey, Heaton, Hill, Hinds, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jencks, Johnson, Thomas L. Jones, Judd, Kelley, Kellogg, Kelsey, Ketcham, Koontz, William Lawrence, Logan, Logan, Loughridge, Maynard, McClurg, McKee, Miller, Moore, Mullins, Myers, Norris, O'Neill, Paine, Pierce, Pile, Plants, Poland, Polsley, Pomeroy, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Spalding, Thaddeus Stevens, Stokes, Sypher, Taylor, Twichell, Burt Van Horn, Van Wyck, Elihu B. Washburn, Henry D. Washburn, Welker, Whittemore, William Williams, Stephen F. Wilson, and Windom—93.

NAYS—Messrs. Banks, Boutwell, Brownell, Sidney Clarke, Dawes, Ela, Eldridge, Eliot, Fields, Hawkins, Kerr, Ladin, Lincoln, Mann, Marshall, Mercier, Niblack, Peters, Randall, Ross, Aaron F. Stevens, Stewart, Taber, Thomas, John Trimble, Lawrence S. Trimble, Van Aernam, Van Auken, Van Trump, and William B. Washburn—30.

NOT VOTING—Messrs. Anderson, Archer, Arnell, James M. Ashley, Baker, Baldwin, Barnes, Barnum, Beaman, Benjamin, Blackburn, Blaine, Blair, Boles, Bowen, Boyer, Brooks, Broomall, Burr, Roderick R. Butler, Chanler, Cook, Cornell, Dixon, Dodge,

Donnelly, Eckley, Edwards, Ferry, Finney, Fox, Golladay, Goss, Gove, Gravely, Griswold, Grover, Haight, Halsey, Hamilton, Harding, Higby, Holman, Hooper, Hotchkiss, Asabel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Alexander H. Jones, Julian, Kitchen, Knott, Lash, George V. Lawrence, Lynch, Mallory, Marvin, McCarthy, McCormick, McCullough, Moorhead, Newsham, Nicholson, Nunn, Orth, Perham, Phelps, Price, Prince, Prunty, Robinson, Root, Selye, Shellabarger, Sitgreaves, Smith, Starkweather, Stone, Taffe, Trowbridge, Upson, Robert T. Van Horn, Vidal, Ward, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, Wood, Woodbridge, and Woodward 97.

So the main question was ordered to be now put.

ENROLLED BILLS AND JOINT RESOLUTIONS.

Mr. WILSON, of Ohio, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (S. No. 16) donating a portion of the Fort Leavenworth military reservation for the exclusive use of a public road;

An act (S. No. 487) to disapprove an act of the Legislative Assembly of Washington Territory, redistricting the Territory and reassigning the judges thereof;

An act (S. No. 621) authorizing the Manufacturers' National Bank of New York to change its location;

An act (S. No. 576) relating to the district courts of Utah Territory;

An act (S. No. 604) regulating the times and places of holding the district and circuit courts of the United States for the northern district of Florida;

Joint resolution (S. R. No. 169) appealing to the Turkish Government in behalf of the people of Crete;

An act (S. No. 417) to amend an act entitled "An act proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by the said State of all territory claimed by her, exterior to said boundaries, and of all her claims upon the United States, and to establish a territorial government for New Mexico;"

An act (S. No. 491) to provide for the appointment of recorder of deeds in the District of Columbia, and for other purposes; and

Joint resolution (S. R. No. 151) to drop from the rolls of the Army certain officers absent without authority from their commands.

Mr. HOPKINS, from the same committee, reported that they had examined and found truly enrolled bills and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 1455) to correct an error in the enrollment of the act imposing taxes on distilled spirits and tobacco, and for other purposes;

An act (H. R. No. 1457) to pay for indexing the tax bill;

Joint resolution (H. R. No. 867) to aid in relieving from peonage women and children of the Navajo Indians; and

Joint resolution (H. R. No. 825) relative to the pay of the chief clerk in the office of the Sergeant-at-Arms of the House.

EMILY B. BIDWELL.

The SPEAKER. House bill No. 1863 granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell, has been returned from the Senate with an amendment increasing the pension in the case of Sarah Hackleman, widow of the late Brigadier General Pleasant A. Hackleman. It is the case which the gentleman from Indiana [Mr. HOLMAN] has had in charge. If there be no objection the Senate amendment will be concurred in.

There was no objection, and it was ordered accordingly.

DUTY ON COPPER ORE—AGAIN.

Mr. THOMAS. I move to lay the pending bill on the table.

The House divided; and there were—ayes 25, noes 71; no quorum voting.

Tellers were ordered; and Mr. THOMAS and Mr. SCOFIELD were appointed.

The House divided; and the tellers reported—ayes 31, noes 88.

Mr. ELDRIDGE and Mr. BANKS demanded the yeas and nays.

On ordering the yeas and nays the Chair reported—ayes twenty, not one fifth of the last vote.

Mr. ELDRIDGE. I ask for tellers on ordering the yeas and nays.

Mr. BANKS. Count the other side.

The SPEAKER. The gentleman from Wisconsin demands tellers, which supersedes a count, being a revision of the Speaker's count.

On ordering tellers there were—ayes twenty-one.

So tellers were refused.

Mr. BANKS. I have a right to a count of the other side.

The SPEAKER. That would be true if a count by the House by tellers did not supersede a count by the Speaker.

Mr. BANKS. Then I take an appeal from the decision of the Chair.

The SPEAKER. The Chair will state the decision he has made. Upon a count by the Chair twenty members demanded the yeas and nays. The Chair decided that that was not one fifth of the last vote. The gentleman from Massachusetts then demanded a count of the other side, but the gentleman from Wisconsin demanded tellers, which the Chair decided superseded the count of the other side by the Chair. On ordering tellers twenty-two members rose which was not a sufficient number. The gentleman from Massachusetts appeals from that decision.

Mr. ELDRIDGE. The gentleman from California [Mr. HENRY] rose before the Chair declared the count, so that the count should have been twenty-two.

The SPEAKER. There were twenty-one votes by the count of the Chair, but the Clerk informed him that another member rose, making twenty-two. That, however, is not a sufficient number.

Mr. ROSS. I demand the yeas and nays on the appeal.

The yeas and nays were ordered.

The question was taken on sustaining the decision of the Chair; and it was decided in the affirmative—yeas 121, nays 1, not voting 98; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, Axtell, Bailey, Baker, Bently, Beck, Bingham, Blackburn, Boies, Bottwell, Boyden, Bromwell, Buckland, Buckley, Roderick R. Butler, Calkins, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Delano, Dowse, Dockery, Driggs, Eggleston, Ela, Eldridge, Eliot, Farnsworth, Ferriss, Fields, French, Garfield, Getz, Glossbrenner, Grover, Haughey, Heaton, Higby, Hill, Hinds, Hopkins, Choster L. Hubbard, Hunter, Ingersoll, Jencks, Johnson, Kerr, Ketchum, Kootz, Kelley, Kellogg, Kelsey, Kerr, Logan, Loughbridge, Ladin, William Lawrence, McClurg, McKee, Mercer, Mallory, Mann, Marshall, May, Niblack, Norris, Miller, Moore, Mullins, Myers, O'Neill, Orth, Paine, Perham, Peters, Phelps, Pierce, Plants, Poland, Polesky, Pomeroy, Randall, Robertson, Ross, Sawyer, Schenck, Scofield, Shanks, Spalding, Thaddeus Stevens, Stewart, Stokes, Taber, Taffe, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Twitchell, Van Aernam, Burt Van Horn, Van Trump, Van Wyck, Vidal, E. J. Washburne, William B. Washburn, Welker, Whittemore, William Williams, John T. Wilson, Stephen F. Wilson, and Window—121.

NAYS—Mr. Van Anken—1.

NOT VOTING—Messrs. Adams, Anderson, Archer, Arnell, James M. Ashley, Baldwin, Banks, Barnes, Barnum, Beaman, Benjamin, Benton, Blaine, Blair, Bowen, Boyer, Brooks, Broomall, Burr, Benjamin F. Butler, Chandler, Clift, Cook, Cornell, Dawes, Dixon, Dodge, Donnelly, Eckley, Edwards, Ferry, Finney, Fox, Golladay, Goss, Gove, Gravely, Griswold, Holman, Hooper, Hotchkiss, Asabel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Alexander H. Jones, Julian, Kitchen, Knott, Lash, George V. Lawrence, Lincoln, Lynch, Marvin, Maynard, McCarthy, McCormick, McCullough, Moorhead, Morrill, Morrissey, Mungen, Newcomb, Newsham, Nicholson, Nunn, Pike, Pile, Price, Prince, Prunty, Raum, Robinson, Root, Selye, Shellabarger, Sitgreaves, Smith, Starkweather, Aaron F. Stevens, Stone, Sypher, Trowbridge, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, James F. Wilson, Wood, Woodbridge, and Woodward—98.

So the decision of the Chair was sustained.

The SPEAKER. The motion to lay the bill on the table is lost.

Mr. SCHENCK. I rise to make a privileged report.

Mr. ROSS. I move to reconsider the vote by which the decision of the Chair was sustained, and lay that motion on the table.

The SPEAKER. The Chair recognizes the gentleman from Ohio as entitled to the floor to make a privileged report.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that that body had passed an act (H. R. No. 553) for the relief of A. W. Ballard.

The message further announced that the Senate had indefinitely postponed the bill (H. R. No. 783) for the relief Samuel Pierce.

FUNDING THE NATIONAL DEBT.

Mr. SCHENCK. I rise to a privileged question. I submit the following report from the committee of conference on the funding bill:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses, as follows: That the House recede from their sixth, eighth, ninth, thirteenth, fourteenth, and fifteenth amendments.

That the Senate recede from their disagreement to the tenth and twelfth amendments of the House, and agree to the same.

That the House recede from their disagreement to the first amendment of the House, so far as it proposes to strike out words, and agree to the said amendment with an amendment, as follows: insert in lieu of the words proposed to be stricken out the words "as he may prescribe, and of denominations of \$100, or any multiple of that sum;" and the House agree to the same.

That the Senate recede from their disagreement to the second amendment of the House, so far as it proposes to strike out words, and agree to the same with an amendment, as follows: insert in lieu of the words stricken out, "thirty and forty years respectively and bearing the following rates of yearly interest, payable semi-annually in coin, that is to say, the issue of bonds falling due in thirty years shall bear interest at four and a half per cent., and bonds falling due in forty years shall bear interest at four per cent.;" and the House agree to the same.

That the Senate recede from their disagreement to the third amendment of the House, so far as it proposes to strike out words, and agree to the same with an amendment, as follows: insert in lieu of the words stricken out, "and the interest thereon shall be exempt from the payment of all taxes or duties to the United States other than such income tax as may be assessed on other incomes, as well as from taxation in any form by or under State, municipal, or local authority;" and the House agree to the same.

That the Senate recede from their disagreement to the fourth amendment of the House, and agree to the same with an amendment, as follows: page 1, line twenty-five, (of the bill,) after the word "used" insert the words "par for par."

That the Senate recede from their disagreement to the fifth amendment of the House, and agree to the same with the following amendments: page 1, line twenty-eight, (of the bill,) strike out the words "present interest-bearing debt" and insert in lieu thereof the words "present outstanding bonds."

Page 1, line twenty-nine, strike out the words "other than."

Page 1, line thirty, strike out the words "the three per cent. certificates" and insert in lieu thereof the words "known as the five-twenty bonds;" and the House agree to the same.

That the Senate recede from their disagreement to the seventh amendment of the House, and agree to the same with the following amendment: page 2, lines thirty-three and thirty-four, strike out the words "outstanding or existing obligations as limited herein" and insert in lieu thereof the words "such five-twenty bonds;" and the House agree to the same.

That the Senate recede from the disagreement to the eleventh amendment of the House, and agree to the same with amendments, as follows: insert in said House amendment after the word "negotiation" the word "redemption."

Page 3, line fourteen, strike out the word "or" and after the word "negotiation" insert the words "redemption or exchange;" and the House agree to the same.

They further recommend that the title be amended so that it will read "An act providing for the payment of the national debt and for the reduction of the rate of interest thereon."

JOHN SHERMAN,

E. D. MORGAN,

GEORGE H. WILLIAMS.

Managers on the part of the Senate,

ROBT. C. SCHENCK.

JOHN A. LOGAN.

GEORGE S. BOUTWELL.

Managers on the part of the House.

Mr. SCHENCK. I demand the previous question.

Mr. RANDALL. I rise to a question of order. I ask that the bill, as amended, may be read.

Mr. SCHENCK. I was going to say that I apprehended every one has seen the bill in the morning papers.

The SPEAKER. The Chair will state that it has been frequently decided that on a conference report it is not the right of any member to demand that the entire bill be read. That has been decided on appeal. But the Chair understands that the gentleman from Ohio [Mr. SCHENCK] proposes, as the bill is important, to have it read.

Mr. RANDALL. I shall have to appeal from the decision of the Chair.

The SPEAKER. The Chair declines to entertain the appeal because the question has been settled by parliamentary law; it has been repeatedly settled.

Mr. ELDRIDGE. I reserve the right to demand a separate vote on each amendment.

The SPEAKER. The rules state that the report of a conference committee shall be voted on and accepted or rejected as a whole. That is the parliamentary law laid down in the Digest, and beyond all controversy. The Chair will read it if gentlemen desire it.

Mr. ROSS. I would like to hear it read.

The SPEAKER. The Chair cannot turn to it at this moment, but the gentleman from Illinois is as well acquainted with the rule as the Speaker is. It is a well-known, established rule that a conference report must be accepted or rejected as a whole.

Mr. RANDALL. I do not object to that, but I want the bill, as amended, read.

The SPEAKER. The Chair was answering the gentleman from Wisconsin [Mr. ELDRIDGE] and the gentleman from Illinois, [Mr. ROSS.]

Mr. SCHENCK. It is not my purpose to detain the House with any explanation. The bill is reduced to a little bill of three sections. It has been published in the papers this morning. If there is a general desire in the House to have the bill exactly as we have agreed upon it read from the Clerk's desk, instead of any explanation, I will agree to submit that as my explanation before I call the previous question.

Mr. GARFIELD. I hope the gentleman will have it read.

Mr. SCHENCK. Very well. Then I ask that the bill be read as my explanation.

Mr. ELDRIDGE. I desire to raise the point of order, that it is not in order to read from newspapers here.

The SPEAKER. The Chair certainly cannot sustain that point of order, for it is the practice for members on the floor to read speeches in manuscript and from print.

Mr. ELDRIDGE. I did not understand that the gentleman offered it as his speech.

The SPEAKER. He does. He so stated.

The Clerk read the bill, as follows:

An act providing for the payment of the national debt, and for the reduction of the rate of interest thereon.

Be it enacted, &c., That the Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States, in such form as he may prescribe, and of denominations of \$100, or any multiple of that sum, redeemable in coin at the pleasure of the United States after thirty and forty years, respectively, and bearing the following rates of yearly interest, payable semi-annually in coin; that is to say, the issue of bonds falling due in thirty years shall bear interest at four and a half per cent., and bonds falling due in forty years shall bear interest at four per cent., which said bonds and the interest thereon shall be exempt from the payment of all taxes or duties to the United States other than such income tax as may be assessed on other incomes, as well as from taxation in any form by or under State, municipal, or local authority, and the said bonds shall be exclusively used, par for par, for the redemption of or in exchange for an equal amount of any of the outstanding bonds of the United States known as the five-twenty bonds, and may be issued to an amount, in the aggregate, sufficient to cover the principal of all such five-twenty bonds, and no more.

Sec. 2. And be it further enacted, That there is hereby appropriated out of the duties derived from imported goods the sum of \$135,000,000 annually, which sum, during each fiscal year, shall be applied to the payment of the interest and to the reduction of the principal of the public debt in such a manner as may be determined by the Secretary of the Treasury or as Congress may hereafter direct; and such reduction shall be in lieu of the sinking fund con-

templated by the fifth section of the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and funding the floating debt of the United States," approved February 25, 1862.

Sec. 3. And be it further enacted, That from and after the passage of this act no percentage, deduction, commission, or compensation of any amount or kind shall be allowed to any person for the sale, negotiation, redemption, or exchange of any bonds or securities of the United States, or of any coin or bullion disposed of at the Treasury Department or elsewhere on account of the United States; and all acts and parts of acts authorizing or permitting, by construction or otherwise, the Secretary of the Treasury to appoint any agent, other than some proper officer of his Department, to make such sale, negotiation, redemption, or exchange of bonds and securities are hereby repealed.

Mr. SCHENCK. With that explanation, I demand the previous question.

ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 1363) granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell, and to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman; when the Speaker signed the same.

FUNDING THE NATIONAL DEBT.

The question was on seconding the demand for the previous question on agreeing to the report of the committee of conference on the funding bill.

Mr. ROSS. I move that the House take a recess for fifteen minutes, and I call for the yeas and nays on that motion.

Mr. SCHENCK. Is it in order to move to suspend the rules?

The SPEAKER. It is not; this is the session of Saturday.

The yeas and nays were not ordered.

Mr. ROSS called for tellers.

Tellers were not ordered.

The question was put; and there were—ayes 20, noes 90.

So the House refused to take a recess for fifteen minutes.

Mr. ELDRIDGE. I move that the House now adjourn.

The SPEAKER. The Chair cannot entertain the motion to adjourn for the reason that the two Houses have ordered that the adjournment shall take place at twelve o'clock to-day.

Mr. ELDRIDGE. Then I move that the House now take a recess until eleven o'clock.

The SPEAKER. That motion is in order. The question was taken; and upon a division there were—ayes 19, noes 104.

Before the result was announced

Mr. ELDRIDGE called for tellers on the motion for a recess.

The question was taken upon ordering tellers; and there were eighteen in the affirmative.

So (the affirmative being not one fifth of a quorum) tellers were not ordered.

Mr. ELDRIDGE. I call for the yeas and nays on the motion for a recess.

The question was taken; and upon a division there were—ayes 19, noes 103.

So (one fifth not voting in the affirmative) the yeas and nays were not ordered.

Accordingly the motion for a recess to eleven o'clock was not agreed to.

Mr. RANDALL. I move that the House now take a recess until half past eleven o'clock.

The question was taken; and upon a division there were—ayes 18, noes 100.

Before the result was announced,

Mr. RANDALL called for tellers.

The question was taken; and there were nineteen in the affirmative.

So (the affirmative not being one fifth of a quorum) tellers were not ordered.

Mr. RANDALL. I call for the yeas and nays on the motion for a recess.

The question was taken; and upon a division there were—ayes 19, noes 101.

So (one fifth not voting in the affirmative) the yeas and nays were not ordered.

The motion for a recess until half past eleven o'clock was accordingly not agreed to.

Mr. ROSS. I move that the House now adjourn.

The SPEAKER. The Chair declines to entertain the motion to adjourn for the reason stated by him when the gentleman from Wisconsin [Mr. ELDRIDGE] made a similar motion a few minutes since. The Chair has entertained three motions for a recess in immediate succession, but he doubts whether it was his duty to entertain more than one such motion, in order to determine the status of the House. But the Chair did not desire to deprive the minority of any of their rights, and therefore entertained three motions for a recess. The question now recurs upon seconding the call for the previous question upon the report of the committee of conference.

The question was taken; and upon a division there were—ayes 103, noes 19.

So the previous question was seconded.

Mr. ROSS. I move that the report of the committee of conference be laid on the table.

The question was taken; and upon a division there were—ayes 19, noes 101.

So the motion to lay on the table was not agreed to.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, announced that he had on the 27th instant approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 1431) granting a pension to Emmelene H. Rudd, widow of the late Commodore John Rudd, deceased;

An act (H. R. No. 1407) granting a pension to John Gridley;

An act (H. R. No. 1408) granting a pension to Catharine Gensler;

An act (H. R. No. 1409) granting a pension to Asa F. Holcomb;

An act (H. R. No. 1405) granting a pension to Elizabeth Lamar;

An act (H. R. No. 1404) granting a pension to William Smith;

An act (H. R. No. 1392) granting a pension to Chauncey D. Rose, father of Alvin J. Rose, late a sergeant-veteran in company A, second regiment of Ohio cavalry volunteers, who was killed in action at Five Forks, Virginia, April 1, 1865;

An act (H. R. No. 1398) granting a pension to Martin Burke;

An act (H. R. No. 1397) granting a pension to Prescott Y. Howland;

An act (H. R. No. 1396) granting a pension to Stephen T. Carver;

An act (H. R. No. 1395) granting a pension to Esther C. Vangilder, widow of Charles F. Vangilder, deceased, late a private in company M, first regiment Vermont heavy artillery volunteers;

An act (H. R. No. 1410) granting back pension to the minor children of Joseph Berry;

An act (H. R. No. 1399) granting increased pension to William B. Edwards;

An act (H. R. No. 1400) granting a pension to Jonathan H. Perry;

An act (H. R. No. 1401) granting a pension to John La Marsh;

An act (H. R. No. 1402) granting a pension to Catharine Skinner;

An act (H. R. No. 1403) granting a pension to Helen L. Wolf;

An act (H. R. No. 1384) granting a pension to Mrs. Elizabeth Lane, of Boston, Massachusetts, mother of John Lane, deceased, late a private in company A, twelfth regiment Massachusetts volunteers;

An act (H. R. No. 1393) granting a pension to Miss Ann E. Hamilton, of Allegheny city, Pennsylvania, aunt and adopted mother of James E. McKillip and Charles P. McKillip, deceased, late soldiers in the Union Army;

An act (H. R. No. 1382) granting a pension to Sarah E. Ball, widow of James Ball, deceased, late a fireman on the steamer Viddette, connected with the Burnside expedition;

An act (H. R. No. 1391) granting a pension to Jane McNaughton;

An act (H. R. No. 1390) granting a pension to Michael Reilly;

An act (H. R. No. 1389) granting a pension to Eliza Donnelly, widow of Dudley Donnelly, deceased, late colonel of the twenty-eighth regiment of infantry, New York State volunteers;

An act (H. R. No. 1387) granting a pension to Elizabeth G. Hibben, widow of Rev. Samuel Hibben, deceased, late a chaplain in the fourth cavalry regiment Illinois volunteers;

An act (H. R. No. 1386) granting a pension to Hinman L. Hall;

Joint resolution (H. R. No. 256) for the relief of Martha E. King;

An act (H. R. No. 1411) granting a pension to Polly W. Cotton;

An act (H. R. No. 1394) granting a pension to Daniel Sheets;

An act (H. R. No. 1413) granting a pension to Jane Rook;

An act (H. R. No. 1393) granting a pension to Hugo Eichholtz;

An act (H. R. No. 1412) granting a pension to the children of William R. Silvey;

An act (H. R. No. 1414) granting a pension to Sarah K. Johnson;

An act (H. R. No. 1315) for the relief of Seth Lea;

An act (H. R. No. 1385) granting a pension to Rosinda McCabe, widow of Barney McCabe, deceased, late a private in company I, tenth regiment New York cavalry volunteers;

An act (H. R. No. 1263) granting a pension to Joseph A. Fry;

An act (H. R. No. 1295) granting a pension to William J. Cotty, late of the twenty-first Missouri infantry volunteers;

An act (H. R. No. 1331) for the relief of Nancy Cook, of Tennessee;

An act (H. R. No. 1332) for the relief of Barbara Stout, of Tennessee;

An act (H. R. No. 1252) granting a pension to the minor children of Garrett W. Freer;

An act (H. R. No. 1253) granting a pension to Julia L. Doty;

An act (H. R. No. 1254) granting a pension to Francis M. Webster;

An act (H. R. No. 1232) granting a pension to Ruth Barton;

An act (H. R. No. 1231) granting a pension to John Morley;

An act (H. R. No. 1228) granting a pension to Joanna L. Shaw;

An act (H. R. No. 1229) granting a pension to Anna H. Pratt;

An act (H. R. No. 1230) granting a pension to Hannah K. Cook;

An act (H. R. No. 1224) granting a pension to Jane E. Rogers;

An act (H. R. No. 1225) granting a pension to Patrick Collins;

An act (H. R. No. 1220) granting a pension to Kate Higgins;

An act (H. R. No. 1226) granting a pension to Barbara Weiss;

An act (H. R. No. 1221) granting a pension to Sarah J. Rogers;

An act (H. R. No. 1166) granting a pension to Louisa M. Williston;

An act (H. R. No. 1167) granting a pension to Esther Graves;

An act (H. R. No. 1168) granting a pension to Frederick Denning;

An act (H. R. No. 1169) granting a pension to Joseph B. Rodden;

An act (H. R. No. 1170) granting a pension to Eliza Mathews;

An act (H. R. No. 1171) granting a pension to William F. Nelson;

An act (H. R. No. 1173) granting a pension to Julia A. Barton;

An act (H. R. No. 1174) granting a pension to Julia Carroll;

An act (H. R. No. 1175) granting a pension to Cornelia Peaslee;

An act (H. R. No. 1176) granting a pension to Mary Cover, widow of Samuel Cover, deceased, late a private in company G, of the fifty-sixth regiment of Pennsylvania volunteers;

An act (H. R. No. 1133) granting a pension to William F. Moses;

An act (H. R. No. 1177) granting a pension to Malinda Ferguson, widow of James Ferguson, late a private in company C, of the first regiment Kentucky cavalry;

An act (H. R. No. 1178) granting a pension to Mary Merchant, mother of Timothy H. Pittsford, deceased, late a private in company G, of the first regiment United States veteran engineer corps;

An act (H. R. No. 1179) granting a pension to Mary A. Falarido, widow of Onesimus Falarido, deceased, late a private in company K, of the one hundred and twenty-fifth regiment of New York volunteers;

An act (H. R. No. 1180) granting a pension to Phoebe McBride, mother of Thomas McBride, deceased, late a private in company B, of the eighty-seventh regiment of Illinois volunteers;

An act (H. R. No. 1181) granting a pension to Harriet E. Shears, widow of John T. Shears, deceased, late a private in company H, of the fifty-seventh regiment of Illinois volunteer infantry;

An act (H. R. No. 1182) granting a pension to William H. Blair, late a private in company G, of the twelfth regiment of Maine volunteers;

An act (H. R. No. 1183) granting a pension to Christopher M. Cornmesser, late a private in the independent Iowa home guards;

An act (H. R. No. 1234) granting a pension to Frederica Brielmayer;

An act (H. R. No. 1235) granting a pension to Johannah Connolly;

An act (H. R. No. 1236) granting a pension to the minor children of Michael Travis;

An act (H. R. No. 1237) granting a pension to the widow and minor children of James Cox;

An act (H. R. No. 1238) granting a pension to Lavinia A. Gittings, mother of Andrew J. Gittings;

An act (H. R. No. 1239) granting a pension to Owen Griffin;

An act (H. R. No. 1240) granting a pension to Margaret Lewis;

An act (H. R. No. 1241) granting a pension to Mrs. Mary Brown;

An act (H. R. No. 1242) granting a pension to Esther Fisk;

An act (H. R. No. 1243) granting a pension to Wm. O. Dodge;

An act (H. R. No. 1244) granting a pension to the widow of Solomon Gause;

An act (H. R. No. 1247) granting a pension to Orlena Walters;

An act (H. R. No. 1248) granting a pension to Elizabeth Richardson;

An act (H. R. No. 1249) granting a pension to Margaret C. Long;

An act (H. R. No. 1250) granting a pension to James Rooney;

An act (H. R. No. 1264) granting a pension to Margaret Davis;

An act (H. R. No. 1266) granting a pension to the widow and minor children of Hiram Hitchcock;

An act (H. R. No. 991) for the relief of Zadock T. Newman;

An act (H. R. No. 614) for the relief of Mrs. Alice A. Dryer;

An act (H. R. No. 851) granting a pension to Ann Williams;

An act (H. R. No. 256) granting a pension to George Truax, late a private in company H, first regiment of Virginia volunteers;

An act (H. R. No. 1165) granting a pension to Elizabeth Cassidy;

An act (H. R. No. 1223) granting a pension to Margaret Filson;

An act (H. R. No. 945) to place the name of Ellen Curry, widow of James Curry, deceased, a private soldier in company F, thirty-ninth regiment Illinois volunteers, upon the pension-roll of the United States;

An act (H. R. No. 218) granting a pension of seventeen dollars per month to David Duhigg, of Lyndon, Vermont, father of late First Lieutenant Dennis Duhigg, of company M, first regiment Vermont artillery;

An act (H. R. No. 1251) granting a pension to Charles Hamstead;

An act (H. R. No. 1245) granting a pension to Matthew C. Griswold;

An act (H. R. No. 886) for the relief of Mrs. Mary J. Trueman;

A joint resolution (H. R. No. 328) for the donation of certain columns;

An act (H. R. No. 1420) directing the Commissioner of Pensions to proceed to hear evidence and determine the right of W. H. Cox, deceased, late a sergeant in company F, second regiment Pennsylvania artillery, to a pension in the same manner as if he was still living, he having died of disease contracted while a prisoner of war at Andersonville, Georgia, and if found to be entitled to a pension, then the same, from time of his discharge till death, to be paid over to his father;

An act (H. R. No. 1466) to relieve from legal and political disabilities certain persons engaged in the late rebellion;

A joint resolution (H. R. No. 358) authorizing the Secretary of War to furnish cannon to the Soldiers' Monument Association of Pequannock and Paterson, New Jersey;

An act (H. R. No. 1172) granting a pension to Lucinda J. Letcher;

An act (H. R. No. 1277) to provide for the distribution of the reward offered by the President of the United States for the capture of Jefferson Davis;

An act (H. R. No. 1021) in amendment of an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867;

An act (H. R. No. 1375) to transfer to the Department of the Interior certain powers and duties now exercised by the Secretary of the Treasury in connection with Indian affairs;

A joint resolution (H. R. No. 296) giving the assent of the United States to the construction of certain wharves in the harbor of Oswego, New York;

An act (H. R. No. 1365) for the relief of Captain Thomas W. Miller;

An act (H. R. No. 1366) for the relief of Captain A. G. Olivar;

An act (H. R. No. 722) for the relief of Sally C. Northrup;

An act (H. R. No. 834) for the relief of Hon. George W. Bridges, a member of the Thirty-Seventh Congress;

An act (H. R. No. 1322) for the relief of Major F. P. Stevens, assistant paymaster United States Army;

An act (H. R. No. 433) for the relief of Palemon John;

An act (H. R. No. 930) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports;

An act (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867;

An act (H. R. No. 768) concerning the rights of American citizens in foreign States;

A joint resolution (H. R. No. 345) relative to printing specifications of patents;

A joint resolution (H. R. No. 323) in relation to surveys and examinations of rivers and harbors;

An act (H. R. No. 1275) relative to the Alexandria canal;

An act (H. R. No. 1444) to change the ports of entry from Plymouth to Edentown, in North Carolina, and Port Royal to Beaufort, in South Carolina;

An act (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department for fulfilling treaty stipulations with various Indian tribes for the year ending the 30th of June, 1869, and for other purposes;

An act (H. R. No. 23) to protect the rights of actual settlers upon the public lands of the United States;

An act (H. R. No. 39) authorizing the Commissioner of Internal Revenue to adjust the accounts of Mark Howard;

An act (H. R. No. 1205) to further amend the postal laws;

An (H. R. No. 553) for the relief of A. D. Ballard; and

An act (H. R. No. 1459) for the relief of Nelson Tift, of Georgia, from disabilities.

ENROLLED BILLS SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled the bill (H. R. No. 553) for the relief of A. W. Ballard; when the Speaker signed the same.

FUNDING THE NATIONAL DEBT—AGAIN.

The House resumed the consideration of the report of the committee of conference on the funding bill.

The question was upon ordering the main question.

Mr. RANDALL. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 26, not voting 78; as follows:

YEAS—Messrs. Allison, Ames, Arnell, James M. Ashley, Bailey, Baldwin, Banks, Beatty, Benton, Bingham, Blackburn, Boles, Boutwell, Bowen, Boyden, Bromwell, Buckland, Buckley, Benjamin F. Butler, Roderick R. Butler, Cake, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Covode, Cullom, Dawes, Delano, Dockery, Driggs, Ela, Eliot, Farnsworth, Ferriss, Fields, French, Garfield, Goss, Halsey, Haughey, Hawkins, Heaton, Higby, Hill, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hunter, Jenckes, Alexander H. Jones, Judd, Kelley, Kellogg, Kelsey, Ketcham, Koontz, Laffin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Mann, Maynard, McClurg, McKee, Mercer, Miller, Moore, Myers, Newsham, Norris, O'Neill, Orth, Paine, Perham, Peters, Pierce, Pile, Plants, Poland, Polsley, Pomeroy, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stokes, Sypher, Taffe, Taylor, John Trimble, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Vidal, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, and John T. Wilson—116.

NAYS—Messrs. Adams, Axtell, Baker, Beck, Cary, Eggleston, Eldridge, Getz, Glossbrenner, Grover, Hamilton, Johnson, Thomas L. Jones, Kerr, Marshall, McCullough, Mungen, Niblack, Phelps, Randall, Ross, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Stephen F. Wilson—26.

NOT VOTING—Messrs. Anderson, Archer, Delos R. Ashley, Barnes, Barnum, Beaman, Benjamin, Blaine, Blair, Boyer, Brooks, Broomall, Burr, Chandler, Cook, Cornell, Dewesse, Dixon, Dodge, Donnelly, Eckley, Edwards, Ferry, Finney, Fox, Golladay, Gove, Gravely, Griswold, Haight, Harding, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Julian, Kitchen, Knott, Lash, George V. Lawrence, Lynch, Marvin, McCarthy, McCormick, Moorhead, Morrell, Morrissey, Mullins, Newcomb, Nicholson, Nunn, Pike, Price, Prince, Pruyn, Robinson, Roots, Shellabarger, Sitgreaves, Smith, Starkweather, Stewart, Stone, Thomas, Trowbridge, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, Windom, Wood, Woodward, and Woodward—78.

So the main question was ordered.

The question was upon concurring in the report of the committee of conference; and upon a division, there were—ayes 99, noes 28.

Before the result was announced,

Mr. RANDALL called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 32, not voting 88; as follows:

YEAS—Messrs. Allison, Ames, James M. Ashley, Bailey, Baldwin, Banks, Beatty, Benton, Bingham, Boles, Boutwell, Bowen, Boyden, Bromwell, Buckland, Buckley, Roderick R. Butler, Cake, Callis, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Covode, Cullom, Delano, Driggs, Ela, Eliot, Farnsworth, Ferriss, Fields, French, Garfield, Goss, Gove, Halsey, Haughey, Higby, Hill, Hinds, Hopkins, Chester D. Hubbard, Hunter, Jenckes, Judd, Kelley, Kellogg, Ketcham, Koontz, Laffin, William Lawrence, Lincoln, Loan, Logan, Loughridge, Mallory, Maynard, McClurg, McKee, Mercer, Miller, Moore, Mullins, Myers, Norris, O'Neill, Paine, Perham, Peters, Pile, Plants, Poland, Polsley, Prince, Raum, Sawyer, Schenck, Scofield, Shanks, Spalding, Aaron F. Stevens, Stewart, Stokes, Sypher, Taffe, Taylor, John Trimble, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Vidal, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, and John T. Wilson—100.

NAYS—Messrs. Adams, Delos R. Ashley, Axtell, Baker, Beck, Benjamin F. Butler, Cary, Dewesse, Dockery, Eggleston, Eldridge, Getz, Glossbrenner, Grover, Ingersoll, Johnson, Thomas L. Jones, Kerr, Mann, Marshall, McCullough, Mungen, Niblack,

Orth, Phelps, Randall, Ross, Taber, Thomas, Lawrence S. Trimble, Van Auken, and Van Trump—32.

NOT VOTING—Messrs. Anderson, Archer, Arnell, Barnes, Barnum, Beaman, Benjamin, Blackburn, Blaine, Blair, Boyer, Brooks, Broomall, Burr, Chandler, Clift, Coburn, Cook, Cornell, Dawes, Dixon, Dodge, Donnelly, Eckley, Edwards, Ferry, Finney, Fox, Golladay, Gravely, Griswold, Haight, Hamilton, Harding, Hawkins, Heaton, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Alexander H. Jones, Julian, Kelsey, Kitchen, Knott, Lash, George V. Lawrence, Lynch, Marvin, McCarthy, McCormick, Moorhead, Morrell, Morrissey, Newcomb, Newsham, Nicholson, Nunn, Pierce, Pike, Pomeroy, Price, Pruyn, Robertson, Robinson, Roots, Selye, Shellabarger, Sitgreaves, Smith, Starkweather, Thaddeus Stevens, Stone, Trowbridge, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—88.

So the report of the committee of conference was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Leave of absence was granted to Mr. AXTELL and Mr. JOHNSON for the September session, at which time they expect to be on the Pacific coast.

LEAVE TO PRINT REMARKS.

Mr. BUTLER, of Massachusetts. I ask leave to print an explanation in reply to an attack made on a committee of this House in the Senate.

No objection being made, leave was granted.

Mr. CLARKE, of Kansas. I ask leave to print some remarks on the treaty with the Osage Indians.

Leave was granted.

[These remarks will be found in the Appendix.]

DUTIES ON COPPER ORES—AGAIN.

Mr. SCHENCK. I call for the regular order. The SPEAKER. The regular order is the resumption of the consideration of the bill in relation to duties on copper ores. The pending question is on the motion of the gentleman from Illinois [Mr. Ross] to reconsider the vote by which the House refused to lay the bill on the table.

Mr. ROSS. As the great inquiry has gone through I withdraw the motion.

REMOVAL OF DISABILITIES.

Mr. DAWES. I ask unanimous consent to introduce a bill (H. R. No. 1459) to relieve Nelson Tift, of Georgia, from disabilities.

No objection being made the bill was read a first, second, and third time, and passed by a two-thirds vote.

Mr. DAWES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MEMBERS-ELECT.

Mr. DAWES. I report back the credentials of Simeon Corley, of South Carolina, and P. M. B. Young, of Georgia. These gentlemen have had their disabilities removed by act of Congress, and the committee recommend that they be admitted to their seats on taking the oath prescribed by act of July 11, 1868.

The report was agreed to.

Thereupon Mr. SIMON CORLEY and Mr. P. M. B. YOUNG appeared and were duly qualified by taking the oath prescribed by act of July 11, 1868.

DUTIES ON COPPER ORES.

The SPEAKER. The question recurs under the operation of the previous question on the passage of the bill in regard to duties on copper ores.

Mr. THOMAS. Will the Chair entertain a motion to lay the bill on the table?

The SPEAKER. That motion was made and rejected. The gentleman from Illinois [Mr. Ross] moved to reconsider the vote by which the House refused to lay the bill on the table, but he has withdrawn it.

Mr. ROSS. My motion was to reconsider

the vote sustaining the Speaker's decision, and to lay that on the table.

The SPEAKER. The Chair understood it differently. Does the gentleman insist upon it?

Mr. ROSS. No, sir.

Mr. BANKS. I move to reconsider the vote by which the yeas and nays were refused.

The SPEAKER. The yeas and nays have not been refused on the passage of the bill. The gentleman will state what other question the yeas and nays have been refused on that he desires to reconsider.

Mr. BANKS. On ordering the main question.

The SPEAKER. The yeas and nays were ordered on ordering the main question, and they were taken, and were not only recorded, but read in full by the Clerk. The gentleman of course understands that an order which has been executed cannot be reconsidered.

Mr. THOMAS. I voted in the affirmative on sustaining the decision of the Chair, which was appealed from by the gentleman from Massachusetts, [Mr. BANKS.] I now move to reconsider that vote.

The SPEAKER. That vote was not reconsidered and laid on the table, and the motion is therefore in order.

Mr. THOMAS. Upon that motion I call the yeas and nays.

Mr. PILE. I move to lay the motion to reconsider upon the table.

Mr. THOMAS, Mr. PHELPS, and Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 125, nays 7, not voting 90; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baker, Baldwin, Banks, Beatty, Beck, Benton, Bingham, Blackburn, Boles, Bowen, Boyden, Bromwell, Buckland, Buckley, Roderick R. Butler, Cake, Callis, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cullom, Dawes, Delano, Dockery, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Fields, French, Garfield, Getz, Glossbrenner, Goss, Grover, Halsey, Hamilton, Hawkins, Heaton, Higby, Hill, Hinds, Hooper, Hopkins, Chester D. Hubbard, Ingersoll, Jenckes, Johnson, Alexander H. Jones, Thomas L. Jones, Judd, Kelley, Kellogg, Kelsey, Kerr, Ketcham, Koontz, Laffin, William Lawrence, Lincoln, Loan, Loughridge, Mallory, Maynard, McClurg, McCullough, McKee, Mercer, Miller, Moore, Mullins, Myers, Newsham, Niblack, Norris, O'Neill, Orth, Perham, Peters, Phelps, Pierce, Pile, Plants, Poland, Polsley, Randall, Robertson, Ross, Sawyer, Schenck, Scofield, Selye, Shanks, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taylor, Lawrence S. Trimble, Twichell, Van Aernam, Van Auken, Burt Van Horn, Van Wyck, Vidal, Elihu B. Washburne, William B. Washburn, Welker, Whittemore, William Williams, John T. Wilson, Stephen F. Wilson, and Windom—125.

NAYS—Messrs. Eldridge, Hunter, Mann, Pomeroy, Taber, Thomas, and Van Trump—7.

NOT VOTING—Messrs. Adams, Anderson, Archer, Barnes, Barnum, Beaman, Benjamin, Blaine, Blair, Boutwell, Boyer, Brooks, Broomall, Burr, Benjamin F. Butler, Chandler, Clift, Cook, Corley, Cornell, Covode, Dewesse, Dixon, Dodge, Donnelly, Eckley, Edwards, Ela, Ferry, Finney, Fox, Golladay, Gove, Gravely, Griswold, Haight, Harding, Haughey, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Julian, Kitchen, Knott, Lash, George V. Lawrence, Logan, Lynch, Marshall, Marvin, McCarthy, McCormick, Moorhead, Morrell, Morrissey, Mungen, Newcomb, Nicholson, Nunn, Paine, Pike, Price, Prince, Pruyn, Raum, Robinson, Roots, Shellabarger, Sitgreaves, Smith, Starkweather, Stone, Sypher, Taffe, John Trimble, Trowbridge, Upson, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, James F. Wilson, Wood, Woodbridge, Woodward, and Young—90.

So the motion to reconsider was laid on the table.

The question recurred on the passage of the bill.

Mr. BANKS. I move that the House take a recess until a quarter to twelve o'clock.

Mr. SCHENCK. Has not the Speaker decided that that is a dilatory motion?

The SPEAKER. The Chair decided that another motion for a recess was not in order, pending the consideration of the funding bill, but this is a different bill.

Mr. BANKS. I desire to inform the gentleman from Ohio that the Speaker has not decided this to be a "dilatory" motion. He did not use that word.

Mr. SCHENCK. Everybody sees that it is.

The SPEAKER. The House voted down three motions for a recess while the funding bill was pending, and it was manifestly the sense of the House to vote upon it without dilatory motions.

Mr. BANKS. That is right.

The SPEAKER. The Chair thinks the motion of the gentleman from Massachusetts is in order.

Mr. SCHENCK. I would inquire if a message has been received from the Senate extending the session till four o'clock?

The SPEAKER. It has not.

Mr. BANKS. I ask the yeas and nays on my motion.

The yeas and nays were ordered.

Mr. BANKS. Pending that question I move a call of the House.

The SPEAKER. That motion is not in order, as the gentleman from Massachusetts must know, because the previous question is operating, and the vote by yeas and nays has just disclosed the presence of a quorum.

Mr. BANKS. I appeal from the decision of the Chair.

The SPEAKER. The Chair declines to entertain the appeal on the ground that the gentleman from Massachusetts as Speaker of the House has administered the very same rule, that when the previous question is operating a call of the House is not in order, unless the absence of a quorum is disclosed.

Mr. BANKS. Not under similar circumstances.

The question was then taken; and it was decided in the negative—yeas 16, nays 112, not voting 94; as follows:

YEAS—Messrs. Adams, Bailey, Beck, Getz, Glossbrenner, Kerr, McCullough, Moreau, Niblack, Ross, Seofield, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Windom—16.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baker, Beatty, Benton, Bingham, Boies, Boutwell, Bowen, Boyden, Bromwell, Buckland, Buckley, Roderick B. Butler, Calhoun, Chubb, Reader W. Clarke, Sidney Clarke, Clift, Cobb, Coburn, Cook, Corvode, Cullom, Delano, Driggs, Eggleston, Eln, Eldridge, Eliot, Farnsworth, Ferriss, French, Garfield, Grover, Hamilton, Haughey, Hill, Hinds, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jencks, Johnson, Alexander H. Jones, Thomas L. Jones, Judd, Kelley, Kellogg, Kelsey, Ketchum, Koontz, Ladin, William Lawrence, Lincoln, Logan, Loughridge, Mallory, Mann, Marshall, Maynard, McClurg, McKee, Miller, Moore, Mullins, Myers, Newsham, Norris, O'Neill, Orth, Paine, Perham, Phelps, Pierce, Plants, Poland, Polesley, Pomeroy, Prince, Randall, Raum, Robertson, Sawyer, Schack, Shanks, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Sypher, Taft, Taylor, Thomas, John Trimble, Tiewhell, Van Aernam, Vidal, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, and William Williams—112.

NOT VOTING—Messrs. Anderson, Archer, Baldwin, Banks, Barnes, Barnum, Beaman, Benjamin, Blackburn, Blaine, Blair, Boyer, Brooks, Broomall, Burr, Benjamin F. Butler, Cake, Cary, Chanler, Corley, Cornell, Dawes, Deweese, Dixon, Dockery, Dodge, Donnelly, Eckley, Edwards, Ferry, Fields, Finney, Fox, Goldaday, Goss, Gove, Gravely, Griswold, Haight, Halsey, Harding, Hawkins, Heaton, Higby, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Julian, Kitchen, Kitchin, Lash, George V. Lawrence, Logan, Lynch, Marvin, McCarthy, McCormick, Moorhead, Morrell, Morrissey, Mungen, Newcomb, Nicholson, Nunn, Peters, Pike, Price, Pruyn, Robinson, Root, Solye, Shellabarger, Sitgreaves, Smith, Stone, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, Woodbridge, Woodward, and Young—94.

So the motion of Mr. BANKS, for a recess, was not agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had passed without amendment House bill No. 1459, to relieve Nelson Tift, of Georgia, of disabilities.

The message further announced that the Senate had receded from its disagreement to the amendments of the House to Senate bill No. 619, to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes.

ENROLLED BILLS SIGNED.

Mr. WILSON, of Pennsylvania, from the

Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 270) for funding the national debt and for the conversion of the notes of the United States; and

An act (S. No. 619) to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes.

MESSAGE FROM THE PRESIDENT.

A message from the President, by Colonel WILLIAM G. MOORE, his Secretary, informed the House that he had approved and signed bills and resolutions of the following titles:

An act (H. R. No. 396) for the relief of Samuel Tibbets;

An act (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, and for other purposes;

An act (H. R. No. 910) for the relief of the grantees of Ann D. Durning;

An act (H. R. No. 1010) relating to pensions;

An act (H. R. No. 1052) amendatory of an act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State, approved June 3, 1868;

An act (H. R. No. 1131) regulating judicial proceedings in certain cases for the protection of officers and agents of the Government, and for the better protection of the Treasury against unlawful claims;

An act (H. R. No. 1363) granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell, and to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman;

An act (H. R. No. 1447) granting the right of way to certain railway companies over the military reservation at Fort Leavenworth;

An act (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869;

An act (H. R. No. 1457) to pay for indexing the tax bill;

A joint resolution (H. R. No. 325) relative to the pay of the chief clerk in the office of the Sergeant-at-Arms of the House; and

A joint resolution (H. R. No. 362) to aid in relieving from peonage women and children of the Navajo Indians.

ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 1459) to relieve Nelson Tift, of Georgia, of disabilities; when the Speaker signed the same.

COLUMBIA DEAF AND DUMB INSTITUTION.

The SPEAKER. The President of the United States having signed the bill which provides for appointing on the part of Congress directors of the Columbia Institution for the Deaf and Dumb in the District of Columbia, the Chair, on the part of the House of Representatives, appoints as directors the gentleman from Ohio [Mr. SPALDING] and the gentleman from North Carolina, [Mr. BOYDEN.]

COMMITTEE APPOINTMENT.

The SPEAKER. The gentleman from Vermont, [Mr. POLAND,] on account of service on two other committees, resigns his position as a member of the Committee of Elections, and the Chair appoints to fill the vacancy on that committee, the gentleman from North Carolina, [Mr. HEATON.]

Mr. BANKS. I call for the yeas and nays on the question of excusing the gentleman from Vermont, [Mr. POLAND.]

The SPEAKER. The gentleman from Mas-

sachusetts [Mr. BANKS] will understand that by the rules, when a member is already serving on two committees, he has the right to decline service on a third.

Mr. BANKS. We are entitled to a vote on the question.

The SPEAKER. The gentleman cannot obtain a vote on the question, because the rule is positive that when a member is serving on two committees he has the right to resign service on another.

Mr. BANKS. Allow me to say that if it were not for the interruption of the public business I should take an appeal from the decision of the Chair; but under the circumstances I will not appeal.

The SPEAKER. The Chair will have the rule read.

The Clerk read as follows:

"Any member may excuse himself from serving on any committee at the time of his appointment, if he is then a member of two other committees."

The SPEAKER. According to the construction uniformly put upon this rule by previous occupants of the Chair, any member serving on two committees has the right to excuse himself at any time from service on another committee.

Mr. BANKS. He has the right to excuse himself from service on the committee to which he has last been appointed, but not from service on a committee to which he has previously been appointed.

The SPEAKER. In reply to the point last made by the gentleman from Massachusetts, the Clerk will read the subsequent part of the rule.

The Clerk read as follows:

"And under the practice, it is sufficient for him to offer such an excuse at any subsequent period of the session."

REPRESENTATIVE FROM GEORGIA.

Mr. DAWES. Mr. Speaker, both Houses of Congress having, by a two-thirds vote, passed an act relieving of disabilities Mr. Nelson Tift, I am directed by the Committee of Elections to report his credentials as a Representative from the State of Georgia, with a recommendation that he be admitted to a seat in this House upon taking the oath prescribed by the act of July 11, 1868.

The report was agreed to.

Mr. NELSON TIFT presented himself at the Speaker's desk, and was duly qualified by taking the oath prescribed by the act of July 11, 1868.

DISCHARGE OF SOLDIERS ACTING AS CLERKS.

Mr. GARFIELD. I ask unanimous consent to introduce a joint resolution in regard to the discharge of certain soldiers from the quartermaster general's department.

The SPEAKER. The joint resolution will be read for information, after which there will be an opportunity for objection.

The joint resolution was read. The preamble recites that ninety-four clerks were discharged from the quartermaster general's department on the 25th instant; eighty-three of the number being men who served in the Union Army during the late war; that the purpose of Congress as repeatedly expressed has been to give the preference in the civil service to those who have done duty as soldiers, whenever they are equally efficient with others. The joint resolution therefore requests the Secretary of War so to amend the order by which the discharge was made, as to retain in service by preference, those efficient clerks who have been physically disabled in the military service of the United States.

Mr. GARFIELD. I hope no one will object to this resolution.

Mr. JOHNSON. I object.

Mr. GARFIELD. I call attention to the fact that the objection comes from the Democratic side of the House.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. GORHAM, its Secretary, notifying the

House that that body had appointed Mr. **WHYTE** and Mr. **HENDERSON** a committee to join such committee as the House should appoint to wait upon the President and inform him that both Houses are ready to take a recess at twelve o'clock m.

Mr. **WASHBURN**, of Illinois. Under the ruling of the Chair no such message is necessary to be passed.

The **SPEAKER**. Respect to the Senate would require concurrence.

The request of the Senate was concurred in; and the Speaker appointed Mr. **WASHBURN**, of Illinois, and Mr. **ELDRIDGE** as such committee on the part of the House.

IMPEACHMENT REPORTS.

Mr. **LAFLIN**, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed five thousand extra copies of the report of the trial of the impeachment of the President of the United States.

CONSUL AT PANAMA.

The **SPEAKER**, by unanimous consent, laid before the House a message from the President of the United States, transmitting a report of the Secretary of State in regard to the consul at Panama; which were referred to the Committee on Foreign Affairs, and ordered to be printed.

JOSEPH SEGAR.

Leave was granted for the withdrawal from the files of the House of the papers in the case of Joseph Segar.

AMNESTY.

Mr. **JONES**, of Kentucky. I ask unanimous consent to submit the following resolution:

Resolved, That this House, acting under a sense of wise discretion and of that magnanimity and dignity becoming a great Christian nation, in furtherance of the harmony, fraternity, and union of our beloved country, request the President to issue a proclamation of complete amnesty for political offenses to all persons engaged in the late rebellion against the United States.

Objection was made.

DUTY ON COPPER ORES—AGAIN.

Mr. **BANKS**. I demand the yeas and nays on the pending proposition in regard to duty on copper ore.

Mr. **SCHENCK**. There is not time to take the yeas and nays.

Mr. **BANKS**. I object to debate.

Mr. **SCHENCK**. I ask to withdraw the bill.

Mr. **BANKS**. I yielded to the funding bill, upon the solemn assurance of the gentleman from Pennsylvania [Mr. **SCOFIELD**] this would not be pressed.

The yeas and nays were ordered.

While the Clerk was calling the roll the hour fixed for taking a recess arrived.

The **SPEAKER**. The hour of twelve o'clock m. having arrived, by the concurrent resolution of both Houses of Congress the House of Representatives now takes a recess until Monday, September 21, at twelve m.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. **KELLEY**: The petition of citizens of Philadelphia, asking for appropriations for the improvement of St. Mary's river and the St. Mary's Falls ship-canal.

By Mr. **O'NEILL**: A resolution of the board of directors of the Union League of Philadelphia, suggesting to Senators and members that they use their influence to prevent an adjournment of Congress at this time.

By Mr. **PLANTS**: The petition of 124 citizens of Athens county, Ohio, for a mail route from New England to Coolville, in said Athens county, Ohio.

By Mr. **POLAND**: The remonstrance of Frank H. Harris and others, of Brattleboro', Vermont, against the extension of Howe's patent on sewing-machines.

IN SENATE.

MONDAY, July 27, 1868.

Prayer by Rev. E. H. **GRAY**, D. D.

On motion of Mr. **FERRY**, and by unanimous consent, the reading of the Journal of Saturday was dispensed with.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. **McPHERSON**, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1010) relating to pensions.

The message also announced that the House had agreed to the conference asked by the Senate on the disagreeing votes of the two Houses on the bill (S. No. 619) to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes, and had appointed Mr. E. B. **WASHBURN** of Illinois, Mr. **THOMAS D. ELIOT** of Massachusetts, and Mr. S. B. **AXTELL** of California, managers on the part of the House of Representatives.

The message also announced that the House had passed a bill (H. R. No. 1276) for the sale of the Hot Springs reservation in Arkansas.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 1445) to correct an error in the enrollment of the act imposing taxes on distilled spirits and tobacco, and for other purposes;

A bill (H. R. No. 1457) to pay for indexing the tax bill;

A bill (H. R. No. 910) for the relief of the grantees of Ann D. Durning;

A bill (H. R. No. 1052) amendatory of an act entitled "An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," approved June 3, 1856;

A bill (H. R. No. 1447) granting the right of way to certain railway companies over the military reservation at Fort Leavenworth;

A bill (H. R. No. 1448) making appropriations for certain executive expenses of the Government for the fiscal year ending June 30, 1869;

A bill (H. R. No. 1131) regulating judicial proceedings in certain cases for the protection of officers and agents of the Government, and for the better defense of the Treasury against unlawful claims;

A bill (H. R. No. 1010) relating to pensions;

A bill (H. R. No. 541) making appropriations for the service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing additional regulations for the government of the institution, and for other purposes;

A bill (S. No. 491) to provide for the appointment of recorder of deeds in the District of Columbia, and for other purposes;

A bill (S. No. 16) donating a portion of the Fort Leavenworth military reservation for the exclusive use of a public road;

A bill (S. No. 417) to amend an act proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by the State of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States, and to establish a territorial government for New Mexico;

A bill (S. No. 489) to relinquish the interest of the United States in certain lands to the city and county of San Francisco;

A bill (S. No. 596) for the relief of Mrs. L. T. Potter;

A joint resolution (S. R. No. 151) to drop from the rolls of the Army certain officers absent without authority from their commands;

A joint resolution (S. R. No. 169) appealing to the Turkish Government in behalf of the people of Crete;

A joint resolution (H. R. No. 325) relative to the pay of the chief clerk in the office of the Sergeant-at-Arms of the House; and

A joint resolution (H. R. No. 362) to aid in relieving from peonage women and children of the Navajo Indians.

EXECUTIVE SESSION.

Mr. **FERRY**. I move that the Senate proceed to the consideration of executive business. I ask it but for a moment, in order that I may move a reconsideration to get a paper back from the White House.

The motion was agreed to; and after some minutes spent in executive session the doors were reopened.

REPORT OF COMMISSIONER OF EDUCATION.

Mr. **ANTHONY**. I am directed by the Committee on Printing to report a resolution for the printing of extra copies of the report of the Commissioner of Education, and I ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That three thousand copies of the annual report of the Commissioner of Education be printed for the use of the Commissioner, and that fifteen hundred copies of the accompanying documents, or so many of them, not exceeding fifteen hundred, as he may deem proper, be printed and furnished to the Commissioner, either separately or together, as he may elect.

Mr. **HARLAN**. I wish to ask the chairman of the committee whether that relates also to the report on the condition of the schools in this District.

Mr. **ANTHONY**. I think it does.

Mr. **HARLAN**. There are two separate reports. I desire to have it include the report on the schools in this District.

Mr. **ANTHONY**. This includes the printing of the accompanying reports or so many as the Commissioner may deem necessary, not to exceed fifteen hundred, and if that came with his report it will be included.

Mr. **HARLAN**. To make it sure, I move to amend by adding "including the report for the District of Columbia."

Mr. **ANTHONY**. There is no objection to that.

The **PRESIDENT pro tempore**. That amendment will be made.

The resolution, as amended, was adopted.

PRINTING OF LAND OFFICE MAPS.

Mr. **STEWART**. I desire to offer a resolution in regard to printing the maps accompanying the report of the Commissioner of the General Land Office. I promised Mr. Wilson, the Commissioner, that there should be a vote on that particular item.

Mr. **ANTHONY**. The Senator had better wait until the Senate is full. I shall be obliged to divide the Senate on that motion. It will not take any time.

Mr. **STEWART**. I am afraid I shall not get an opportunity to call it up again.

Mr. **ANTHONY**. I have no objection to its passing, if such be the will of the Senate; but I must ask for a vote upon it. Probably there is a quorum here now.

Mr. **STEWART**. The Committee on Public Lands examined the subject of printing these maps twice, and think they ought to be printed. It has been before the Committee on Printing, and the Committee on Printing think they should not be printed. I think it very important to have them printed. In the hurry of business the other day there was no vote on this item, and the Commissioner requested me to have a vote upon it. I think the maps very important for carrying into operation the land system, particularly those maps of the States. They show the extent to which the lands have been taken up. They are absolutely necessary in order that immigrants may understand the location of the lands before they go upon them.

The **PRESIDENT pro tempore**. The resolution will be read for information.

The Chief Clerk read it, as follows :

Resolved, That the five thousand copies of the annual report of the Commissioner of the General Land Office for 1867 ordered to be printed for the use of the Senate, and the two thousand copies for distribution by the Commissioner, be accompanied by the Mercatorial map of the world, and separate maps of the several land States and Territories.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. ANTHONY. I do not wish to detain the Senate; but, as I have said to my friend from Nevada, when this resolution is acted upon I shall have to divide the Senate. I will do it now or whenever he sees fit. This resolution has been before the Committee on Printing, and the Committee on Printing was adverse to it. It was afterward referred to the Committee on Public Lands, and the Committee on Public Lands are in favor of it. The only objection that the Committee on Printing have to it is the great expense. It will be an expense of at least \$60,000 to print these maps; and if we print them it is fair to presume that the House will print a larger number than we do. I have no doubt the maps are valuable, although I must say if the Government is going to enter on the publication of maps they ought to be verified and their authenticity ascertained by the best scientific information. I think the Coast Survey and the engineer department are the departments that should supervise the publication of maps before the seal of the Government is put upon them. I have not sufficient geographical knowledge, and I presume few of us here have, to judge for myself as to the entire accuracy of these maps.

Mr. STEWART. The maps of the States are taken from actual surveys that are in the Commissioner's office. It is a very important thing for a person going into a new Territory or a new State to know what lands are taken up and what are not. It is the most valuable information that can be furnished to immigrants. There is no information that they desire so much, or call for so frequently, as the maps of the States or Territories where there are public lands. No description can be given of those lands equal in value to a map showing where the lands are. I hope the resolution will be passed.

Mr. SHERMAN. A single objection puts it over.

Mr. ANTHONY. I do not interpose a single objection. If it is the judgment of the Senate to enter upon this expense I am perfectly willing to take that judgment; but I wish it to be the judgment of the Senate; I do not wish it to be pressed in haste.

Mr. SHERMAN. Only half of a quorum ought not to overrule the action of the Senate when the Senate was full.

Mr. STEWART. They have not made any decision on it.

Mr. SHERMAN. The Senate acted on this very question on the report of the Printing Committee.

Mr. ANTHONY. I suggest that the resolution lie over until a quorum appears, and then if they determine to print these maps I shall be content. I only wish to have the judgment of the Senate upon it.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over.

TERRITORIAL GOVERNMENTS.

Mr. RAMSEY. I should like to call up a bill that was under consideration on Saturday evening, but not disposed of. It is House bill No. 1458. The Senator from Iowa [Mr. HARLAN] will withdraw his objection to it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1458) to provide for the more economical administration of the government of the several Territories of the United States, and for other purposes.

Mr. HARLAN. I understand that this principle has been adopted in the appropriation bill, and I withdraw all objection to it.

The bill was reported to the Senate without amendment, and ordered to a third reading.

Mr. CORBETT. I call for the reading of the bill.

The Chief Clerk read the bill, as follows :

Be it enacted, &c., That from and after the passage of this act the Legislatures of the several Territories of the United States shall meet but once in every two years, and the next meeting of each of said Legislatures shall begin two years from the date of their last sessions, respectively, and no moneys shall be appropriated out of the Treasury of the United States to pay the legislative expenses of the several Territories for any other than the said biennial sessions; and the salaries of the Governors of the several Territories of the United States shall be fixed at \$2,500 per annum.

Mr. DRAKE. When that bill was before the Senate on a former occasion the attention of the Senate was called to the fact that if passed in its terms as it then stood the Governor of any of the Territories could not in any exigency call the Legislatures of the Territory together. If that is the present purpose of the bill I do not think it ought to pass.

Mr. RAMSEY. The Senator is entirely mistaken. It is within the power of the Governor to convene the territorial Legislatures. The question of compensation is another thing. They must compensate them for any special emergency occurring out of their local treasury.

Mr. DRAKE. I have nothing to say about the compensation; but as I have heard it read, it does put it out of the power of the Governor of the Territory to call the territorial Legislature under any emergency whatever; and if that is its character, it ought not to pass in that shape. As to the design of the bill, I entirely approve of it; but there ought to be a reservation in it which would admit of the Legislature being called together in an emergency. I ask for the reading of the bill again.

The Chief Clerk read the bill.

Mr. DRAKE. Now, sir, it is perfectly evident from that bill that the Legislature of the Territory cannot be called together by the Governor in any emergency whatever.

Mr. STEWART. I should like to know what emergency can arise to make it necessary?

Mr. DRAKE. I cannot undertake to specify any emergency; but certainly those people should not be left without a possibility of their Legislature being called together if necessary.

Mr. RAMSEY. That is the tenor of the present law.

Mr. DRAKE. No, sir; this takes the place of the present law.

Mr. WILLIAMS. I think the Senator is mistaken as to the existing laws on this subject. I do not think that a law has existed anywhere in any Territory giving to the territorial Governor the right to convene the Legislative Assembly, and he never ought to have such a power. I do not believe such a power has ever been exercised in the United States. It ought not to be in the power of the territorial Governor to put the United States to an expense of \$50,000 to suit the wishes, views, and interests, of some particular locality or party in the Territory. I understand this law to conform to all the laws that have ever been enacted in reference to the Territories. I do not understand that this power has ever existed in the hands of any Governor of any Territory; and there is no necessity whatever for its existence. Congress legislates for the Territories; and if any great emergency arises we have the same right to pass a law for a Territory that we have for the District of Columbia. There is no necessity for this power, and I undertake to say that if it is put in the bill it will subject the United States to an expense of \$250,000 every year more than is necessary for carrying on the business of the Territories.

Mr. BUCKALEW. I believe we had a Senate bill similar to this, which was somewhat considered. Now we have a bill hurried here from the House, and a great amount of warmth manifested to have it passed at the closing hours of the session, and a very energetic resistance to leaving any power in the territorial governments to convene the Legislatures in any case. I do not know what case this bill is to meet; but the impression in my mind, and a very strong one, is that some-

body, probably in the House of Representatives, is very anxious to have a little affair attended to. I have no doubt that this is one of this class of bills which are always coming up mysteriously at the end of sessions of Congress and State Legislatures. I think the best thing we can do with this bill is to let it lie over, and I have no doubt our territorial affairs will go on as they have gone on, with perfect success.

Mr. RAMSEY. This subject has been before the Committee on Territories for a long time, and maturely considered. It is not sprung upon the Senate.

Mr. SHERMAN. I only wish to repeat what the Senator from Pennsylvania has said. This bill was called to my attention with this plausible pretext, that the expenses of the territorial Legislatures were so great that we ought not to put the Territories to the expense of having yearly sessions. As Congress pays the expense there is not any trouble about that. The truth is, the present Legislatures have made certain monopolies which they want to preserve. We are about to have this fall a change of Administration which will upset a good many nice schemes in those Territories. The passage of this bill will prevent either Congress or the Governors that may be appointed for those Territories, with the Legislatures there, from upsetting a great many nice schemes in the way of corporations in those new Territories, which are rapidly growing. As a matter of course, if there is any place where they ought to have repeated and frequent sessions it is in a country where the population is doubling almost every year. I hope, therefore, the Senate will not act upon the bill now.

Mr. WILLIAMS. I think the Senator from Ohio is altogether too suspicious about this bill. Congress passed a bill for Washington Territory some time ago restricting the sessions there to biennial sessions. That is now the law for Washington Territory. The great evil in these Territories is the frequent meetings of these Legislative Assemblies, for they are constantly making changes and making contracts and binding up the country and the people; so that it is impossible when a State government is organized to legislate for the interests of the people. This bill, which proposes to make biennial sessions of the Legislatures, has no such effect as the Senator contemplates. The effect is to keep these men, adventurers, in the Legislative Assemblies of the Territories from making contracts, granting charters to bridges and ferries, and to enterprises of that description, that destroy and cripple the enterprise of the Territories. That is the great evil to be remedied by this bill.

Mr. SHERMAN. Unless this bill is to be laid aside I desire to read it and comment upon it. There are three different clauses in this bill, all in one section. It provides :

That from and after the passage of this act the Legislatures of the several Territories of the United States shall meet but once in every two years.

That is plausible enough.

And the next meeting of each of said Legislatures shall begin two years from the date of their last sessions, respectively.

That is, from the termination of their last session; so that it provides for a meeting probably about once in three years. They cannot meet for two years, so that the people of these Territories may not have the power to repeal obnoxious laws put upon them by the present authorities there, and mostly, as my friend from Oregon knows, of a very doubtful political character.

Mr. WILLIAMS. The less they have of them the better.

Mr. SHERMAN. We hope to make an improvement by next March, at least, in that respect. No Legislatures can be convened in these Territories for two years from the close of their last sessions, under this bill. Now, here is a remarkable provision :

And no moneys shall be appropriated out of the Treasury of the United States to pay the legislative

expenses of the several Territories for any other than the said biennial sessions.

That undertakes to tie up our hands and prevent us from making future appropriations.

Mr. RAMSEY. That is the provision in all the organic acts of the Territories.

Mr. SHERMAN. No, sir; we never tie up our hands from making future appropriations. Here is another provision:

And the salaries of the Governors of the several Territories of the United States shall be fixed at \$2,500 per annum—

which, with the \$1,000 allowed them as superintendents of Indian affairs, increases their salaries \$500. Most of them now receive \$2,000. It seems to me that we ought not to pass a bill of this kind at this period of the session. I move that the bill be laid on the table.

The motion was agreed to.

DICTIONARY OF CONGRESS.

Mr. BUCKALEW. I move to discharge the Committee on Printing from the further consideration of the resolution offered by me in relation to the Dictionary of Congress.

The motion was agreed to.

Mr. BUCKALEW. Now I ask the Senate to consider the resolution.

The motion was agreed to; and the Senate proceeded to consider the following resolution:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to purchase for the use of each Senator one copy of the fifth, being the latest, edition of *Lanman's Dictionary of the United States Congress and the General Government*, and one copy each for the offices of the Secretary, of the Sergeant-at-Arms, and of the Postmaster of the Senate.

The resolution was adopted.

SAMUEL PIERCE.

Mr. WILSON. I submitted a motion a day or two since to reconsider the vote postponing indefinitely the bill (H. R. No. 783) for the relief of Samuel Pierce, which had been reported adversely from the Committee on Patents and the Patent Office. I move to take it up now for the purpose of having a vote upon it.

The motion was agreed to; and the Senate resumed the consideration of the motion to reconsider the vote postponing the bill indefinitely.

Mr. WILSON. I will hear a statement from the Senator from Connecticut on the subject.

Mr. FERRY. This bill was referred to the Committee on Patents, who investigated it and unanimously reported against the bill. Upon the report being made, instead of moving the indefinite postponement at the time, at the request of the party I left the bill upon the table for a considerable period of time to give him an opportunity to make such further effort as he chose. As the session was drawing to a close I took the bill up one day and had it indefinitely postponed. Since then the Senator from Massachusetts has desired to have another vote, and I have consented that this motion to reconsider should be agreed to, and I shall then renew the motion to postpone the bill indefinitely. The case is one in which the Committee on Patents were unanimously of the opinion that the relief asked for should not be granted. It is for a second renewal of a patent.

The PRESIDENT *pro tempore*. The first question is on the motion to reconsider.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is on the motion of the Senator from Connecticut, to postpone the bill indefinitely.

The motion was agreed to.

RELATIONS WITH BRITISH AMERICA.

Mr. RAMSEY. Mr. President, I desire the Senate to consider the resolution of inquiry which I presented some months since. I wish to make certain amendments that have suggested themselves to me by the newspaper discussion which they have elicited in the weeks that they have been before the public; they are but suggestions of inquiry for the Committee on Foreign Relations, who, I doubt not,

will give the Senate and the country their best judgment upon the whole subject.

I cannot be mistaken in saying that the necessity exists for a careful consideration of our commercial relations with British America. When the recent reciprocity treaty terminated in March, 1866, our trade with the Provinces exceeded that with any nation except Great Britain, and was fast increasing—the tonnage of arrivals and clearances in provincial trade amounting in the last year of the treaty to seven million two hundred and eighty-four thousand one hundred and seventy tons. Under the treaty our commerce had increased nearly fivefold in fourteen years, or from \$17,000,000 annually in 1852 to \$82,000,000 in 1866. As briefly stated by Arthur Harvey, esq., in his prize essay, the history of the negotiation and abrogation of the treaty is as follows:

"For many years after the United States had established their independence, their trade with the Colonies which continued to own allegiance to the British Crown was subject to most galling restrictions. Partial relief was afforded by the convention negotiated in 1830, by Mr. McLane, President Jackson's minister at the Court of St. James; and a further step toward freedom in commerce was taken in 1846, when the American Government secured the enactment of a drawback law. The beneficial results of these measures led to the introduction into Congress, in 1848, of a bill for reciprocal free-trade with Canada in certain articles. It failed to become law, but attention having been thus directed to the subject, the Senate, in 1851, requested the Secretary of the Treasury to communicate to it all the information he could gather relating to the commerce of the Provinces with the States. Mr. Corwin selected Mr. Andrews to collect and tabulate the statistics bearing on this trade; and that gentleman's report, transmitted to the Senate in August, 1852, had a most important influence on the subsequent action of the British and American Governments and Legislatures."

Mr. Andrews reported:

"That the free navigation of the St. Lawrence was greatly desired by all those western States bordering on the great lakes, as their natural outlet to the sea."

"That the free navigation of the St. John would be of great advantage to the extensive lumber interest in the northeastern portion of the Union, and that the repeal of the New Brunswick export duty on American lumber floated down that river would be but an act of justice to the lumbermen of that quarter, upon whom it presses severely."

"That without a free participation in the fisheries near the shores of the Colonies the American deep-sea fisheries in that region would become valueless."

"That it would be wise to place the border trade between the United States and the Colonies on a different basis, and under the influence of a higher principle, so as to mature and perfect a complete system of mutual exchanges between the different sections of this vast continent—an achievement not only wise and advantageous, but worthy of the high civilization of the country."

"After much correspondence between the Governments interested, and many debates in the American and colonial Legislatures, in which some opposition to freedom of trade was shown by the Pennsylvania manufacturers and the Maine lumber interest, and much opposition to admit Americans to the coast fisheries was displayed by the maritime Provinces, the British Government gave the Earl of Elgin full powers to negotiate a treaty in accordance with these views, and Mr. W. L. Marcy having been named plenipotentiary by the President of the United States the reciprocity treaty was drawn up. It was done in triplicate at Washington on the 5th of June, 1854. It went into effect in Canada on the 18th of October, and was put into full operation in the States by the President's proclamation of March 16, 1855."

"For several years afterward nothing but satisfaction was expressed at the working of the new arrangements; but when the fiscal necessities of Canada rendered an increase in its revenue necessary, and heavier duties were levied on manufactured goods, the frontier towns of New York State, whose exports of such articles began to decline, complained that the spirit if not the letter of the treaty was being broken. Each successive increase in the Canadian tariff was made the pretext for renewed complaints. The American Government began to act less liberally than they were wont toward Canadian merchants. Heavy consular fees began to be exacted on imports from Canada. Proof began to be demanded that our exports of grain were 'the growth and produce of Canada,' and much of the carrying trade we had begun to enjoy was thus cut off. The Legislature of the State of New York reported that the action of the Canadian Government was unfair, and requested its Representatives in Congress to protect the interests of the Republic from the 'unjust and unequal system' said to prevail. And although this statement was ably answered by Mr. Taylor and the Chamber of Commerce of St. Paul, Minnesota, and refuted by Hon. Mr. Galt, then, as now, finance minister of Canada, who pronounced it 'unjustifiable,' a resolution introduced into Congress, by Mr. Ward, in December, 1863, was carried, and the President was authorized to suspend the existing treaty and appoint commissioners to negotiate a new one. Notice was accordingly given in London on the 17th March, 1865, and information thereof reached the Governor General at Quebec on the 3d April."

I have not the materials for a full exhibit of the course of trade since the abrogation of the treaty, but from a carefully-prepared statement of the trade of Boston as published in the newspapers of that city it appears that during the last two years there has been a reduction of from twenty-five to fifty per cent. of this international trade, with a corresponding diversion in favor of England.

The first clause of my proposition would substantially make the commerce of our northern frontier free, except in foreign productions. While the reciprocity treaty of 1854 was in operation, the manufacturers of the United States asked that the freedom of exchange should include their fabrics as well as the natural growth of the respective countries; this I would provide for, and extend the interchange of products subject to a merely nominal duty to manufactures as well as agricultural productions and raw materials.

That the agricultural interest is interested in a renewal of our relations with our northern neighbors will be seen by this statement in the same essay:

"In 1863, we imported from the States four million two hundred and ten thousand nine hundred bushels of wheat, and exported thither one million four hundred thousand. The imports were chiefly at Kingston (three million one hundred and seventy-five thousand fifty-five bushels) and at Sarina, (seventy-eight thousand seven hundred and ninety-five bushels). The exports were principally across the lakes. We also imported two hundred and twenty-five thousand four hundred and thirty-nine barrels of flour and exported four hundred and ninety thousand. Converting these into their equivalents in bushels of wheat, we find that our imports of this cereal from the States were five million three hundred and thirty-eight thousand nine hundred and fifty thousand. Now, we did not import the balance, one million four hundred and eighty-eight thousand nine hundred bushels, because we needed it for food, for we had a fine surplus of our own, and exported to Europe and the colonies one million four hundred and ninety-four thousand three hundred and eighty-four bushels of wheat and two million seven hundred and eighty-three thousand one hundred and fifty barrels of flour; together, eight million nine hundred and sixty-nine thousand three hundred and four bushels of wheat. But it helped to feed our internal commerce, made up fifteen per cent. of our foreign export of this article, and increased the business of our millers—since the figures show that what we imported as wheat we exported chiefly as flour. Besides, sectional benefits resulted, for the price of wheat was rendered uniform in all accessible parts of the country. On the other hand, the price of flour was somewhat reduced to the people of the northern States, who received a portion of their supplies by our cheap freight routes, while the American merchants and forwarders enjoyed the benefit of the trade with the maritime provinces, which consume annually about the same quantity of breadstuffs which we export to the States. In 1863, the lower provinces imported from the United States flour and wheat to the extent of three million six hundred and fifteen thousand two hundred and thirty-two bushels; our exports to the States being, as above given, three million eight hundred and fifty thousand."

"Looking now at the coarser grains, we perceive that we exported \$2,260,438 worth of barley and rye, while we imported only \$75,793 worth. Similarly the exports to the United States of oats amounted to \$2,097,688; the imports to but \$17,637. But on the other hand, we imported Indian corn to the value of \$975,014, and exported only \$39,807 worth. Thus we see that the treaty has had the beneficial effect of enabling the farmers of Canada and the United States to use their lands in raising just that kind of produce for which their soil and climate are best adapted; the Canadians growing oats and barley, the Americans corn. The consumer has consequently had the advantage of cheaper prices than if the farmers of Illinois had been driven to raise oats, and those of Canada corn. So with animals. We exported live animals worth \$2,390,799, importing to the extent of \$520,835; but we imported meats worth \$1,238,923, and exported only to the extent of \$256,527. The Canadian farmer, who grows oats, breeds horses and cattle; and the American, who grown corn, converts it into pork."

I do not fear that Canadian manufacturers will have any advantages for the supply of the American market above our facilities for reaching and holding the Canadian market. The rates of labor will constantly be rendered uniform by the migration of the people; the currency will soon be of the same standard; while the organization of our manufacturing industry at great centers of cooperation will long prevent successful competition. The leading argument for a protective tariff, a crowded labor supply, has as fair application to Canada, and I fail to see any good reasons for restric-

tions on the commerce between the United States and our northern neighbor.

In proposing the second clause I seek to remove any possible confusion from the importation of articles produced under a low scale of excise duties, and I learn that the late Canadian minister of finance deems it quite possible to bring their excise to an adjustment with those rates with which our people will be satisfied when our revenue system is fully revised, for I presume no one anticipates the permanence of our present excise. We all admit that our industry must be relieved from its existing burdens, and that a few duties imposed on luxuries and stimulants, as in England and France, can be made more productive of revenue than the present system.

The third proposition, "that the navigation of the great lakes and of the canals and channel of the St. Lawrence shall be forever free and open to citizens of the United States and Canada," was a wise provision of the treaty of 1854, to which I am not aware that any objection was made. We extend to the Canadian the freedom of Lake Michigan and the use of the Superior ship-canal in exchange for the use by American vessels of the Welland canal and the canals and channel of the Lower St. Lawrence, with its tributaries. I again quote from Mr. Harvey's essay:

"The lakes and their connecting rivers have a coast line of upward of four thousand miles—half British, half American. At numerous points Canada and the States actually indent each other. Here Canadian, there American railroads and canals offer to the joint commerce of the two countries the shortest transit, the cheapest and most rapid means of conveyance from East to West. Here Canadian, there American markets are the best or the most convenient for the people of the neighboring districts to buy or sell in. It has been permissible since 1855 for the inhabitants of either side of the frontier freely to use the facilities afforded by the other, and a trade has grown up which, though before reciprocity it never exceeded \$13,000,000 per annum, now averages about forty million dollars, surpassing what the entire foreign commerce of the States was for several years after the beginning of their Government."

In regard to the fourth proposition, "that Canadian vessels in American ports shall be entitled to all the privileges of American vessels in Canadian ports," I would establish the principle of full reciprocity, leaving it to the committee to establish its practical working. It may be obnoxious in some degree to those who wish to keep up restrictions upon our inland navigation for the benefit of the ship-building and ship-owning interest, but the great and permanent necessity of the western producer is cheap transportation, and the general welfare now demands as much competition as possible in the coasting and carrying trade of the lakes. I believe the practical operation of this clause would add ten per cent. to the value of wheat and other agricultural products of the Northwest and the same time that it cheapen them by that much to the eastern consumer in the reduction of freights. Public sentiment in the West is clamorous, and with good reason, for the removal of every obstruction and the enlargement of every facility in this matter of the movement of produce to market. The shores of Superior and Michigan must be made as accessible from the ocean as the Levant and the Crimea are accessible by grain transports through the Mediterranean.

Mr. Harvey concludes his essay with a consideration of the last important article of the treaty:

"That which secures to the United States the right of using our canals, and enables Canadian vessels to navigate Lake Michigan. This, the article which perhaps most deeply concerns the western States, appears to be that which has led to all the agitation hostile to the treaty. Freedom to use our canals, especially on the liberal terms fixed by the Canadian Government, has naturally interfered with the monopoly of transport enjoyed by those of New York State, whose policy has always been to raise as much revenue from tolls as the western producers could be made to pay. Buffalo and New York consequently first took ground against the treaty, and the committee on commerce of the New York Legislature, in reporting against it, plainly showed their animus in the complaint that we have 'built canals and railroads in Canada to compete with American interests,' and 'engaged in fruitless but persistent efforts to divert the trade of the western States

from the natural channels it had already formed.' Let the Legislature of New York be answered by that of the State of Illinois. The commissioners from that State, appointed under resolution of the 14th of February, 1863, to confer on the subject of transportation with the Canadian authorities, said in their memorial:

"For several years past, a lamentable waste of crops already harvested has occurred in consequence of the inability of the railways and canals leading to the sea-board to take off the excess. The Northwest seems already to have arrived at a point of production beyond any possible capacity for transportation which can be provided, except by the great natural outlets. It has for two successive years crowded the canals and railways with more than one hundred million bushels of grain, besides immense quantities of other provisions and vast numbers of cattle and hogs. This increasing volume of business cannot be maintained without recourse to the natural outlet of the lakes." "The St. Lawrence furnishes for the country bordering upon the lakes a natural outlet to the sea."

"Our canal system, then, though it may compete with that of New York, does not appear to the representatives of Illinois to be 'hostile to American interests.' We have not yet succeeded in affording so much relief as we could wish to the bursting granaries of the West. Owing to a combination of causes we only transported in 1863 thirteen million three hundred thousand bushels of wheat through the Welland canal, of which but three million three hundred and three thousand bushels passed on down the St. Lawrence; but even this must have been of great assistance to western producers and forwarders. We hope, however, soon to do better than this. We have now but one grain portage railway connecting Lake Erie with Lake Ontario. We hope soon to have three. We contemplate the enlargement of our existing canals, and the construction of another to connect the Georgian Bay more directly with the St. Lawrence, and shall thus endeavor to realize the ardent hopes of the great West, whose future prosperity depends," say the Illinois commissioners, "upon cheap transportation to foreign markets."

Mr. Brega, in his interesting and valuable communication, addressed to Secretary McCulloch, says:

"The resolution calls for information 'as to the nature of the arrangements made for securing to American citizens the free navigation of the river St. Lawrence, and the privilege of fishing in the waters adjacent to Canada.' These questions were embraced in the reciprocity treaty, and consequently upon the repeal of that measure they reverted to the condition existing previous to 1864. No arrangements or understanding have been entered into since the abrogation of the treaty, between the United States and the Government of Great Britain or of Canada with reference to the subjects. But the Canadian Government has seen fit to permit the arrangement practically to continue in force, so far as our citizens are concerned, in the hope, as they avow, that some understanding will shortly be entered into for liberalizing trade between the two countries, and their desire, in the meantime, to do nothing which might bear an unfriendly interpretation. The freedom to navigate Lake Michigan they do not consider as any equivalent."

"Strictly speaking, it can scarcely be said that the

* The value to the western States of each additional facility for transportation cannot be overrated. Each cent per bushel taken off the cost of carrying their produce to market increases the value of their annual crop by \$6,500,000; they having raised in 1862 six hundred and fifty million bushels of wheat and corn.

Canadian Government has permitted the arrangement under the reciprocity treaty to continue, as there is really no regulation or 'order in council' upon the subject of the St. Lawrence. Since the termination of the treaty American vessels desiring to pass either to or from the ocean through the St. Lawrence have asked permission in each case of the Canadian Government, and it has in no instance as yet been refused. But the informal manner in which this permission has been given, and the absence of any general regulation upon the subject, evidently shows that the Canadian Government does not desire to have these special permits regarded as precedents, or as in any manner committing the Government in its treatment of the question hereafter, should no general arrangement be entered into with the United States.

"The free navigation of the St. Lawrence is a matter of necessity in the immense growth of the great Northwest. Already the various channels of communication for the produce of that vast territory to tide-water, where it seeks the markets of the world, are crowded beyond their capacity at certain periods. No artificial communications, no matter upon how liberal a scale they may be constructed, will be sufficient for the almost immediate future. Apart from the question of direct trade between the upper lakes and Europe, the existing communication, even with its limited canals, is of the last importance. It is not exaggerating its consequences to assume that even a war for the possession of the right to the natural outlet to our great lakes and the fertile, teeming territory they drain, would be less costly to us, in its consequences, than the loss which the closing of that outlet to our products would entail. And yet, notwithstanding the gravity of this question and the extent of the interests involved, our citizens enjoy the privilege at this moment solely through the liberality of the Canadian Government, without any understanding whatever of an official or even unofficial character, and without the right to enter a complaint if the permission to use that river was refused."

"It is useless to go into tabular statements to show that up to this time the St. Lawrence has not been used to any great extent as an outlet for American produce. It is not necessary to advert to the important indirect influence which the fact of the existence of this great natural outlet has in the cheapening of freights from the West. It is, as it were, a standing menace against the tyranny which a single route might enforce, and operates always as a check in this way. The argument that the St. Lawrence is of little consequence to the trade of the West, because it has not, up to this time, been used as an outlet for our products, might have a degree of plausibility if it could be maintained that the productiveness of the great Northwest had reached its limits, and that the crops of the past were not to be exceeded by the harvests in the future. The growth of the western States is of almost fabulous rapidity, as it is of gigantic proportions, and who can pretend to set limits to its manhood? Even at its present pace, how long will it be before the produce of that region will choke up all existing means of transportation? The day is not far distant when the Mississippi and the St. Lawrence will each be covered by vessels, floating to less favored countries the generous fruits of the boundless prairies, while the railroads and canals within our borders will be burdened also by the overflowing harvests."

"The following is a statement of the length of the St. Lawrence navigation, and the present capacity of the canals connected therewith. The St. Lawrence navigation is two thousand three hundred and eighty-five miles long, and eight canals, of which seven are Canadian and one American, have been built to make it practicable for all its length. The annexed exhibit shows the various distances and the size of the canal locks:

	Natural channel miles.	Canal miles.	Number and dimensions of locks, in feet.	Feet of water on sill.	Rise of lock-age in feet.
Straits of Belle Isle to head of tide water, (Three Rivers.)	900	-	-	-	-
To the Lachine canal, (Montreal.)	86	8½	5 locks, 200 by 45	9	44½
Lachine canal.	15½	11½	9 locks, 200 by 45	9	82½
To Beauharnois canal.	32½	11½	7 locks, 200 by 55	9	48
Beauharnois canal.	5	4	1 lock, 200 by 45	9	4
To Cornwall canal.	10½	4	2 locks, 400 by 45	9	11½
Cornwall canal.	4½	7½	5 locks, 200 by 45	9	17½
To Farran's Point canal.	236½	-	-	-	-
Farran's Point canal.	-	28	27 locks, 150 by 26½	10½	299½
To Rapid Plat canal.	625	1	1 lock, 350 by 70 at top and 61 at bottom	-	536½
Rapide Plat canal.	397	-	-	12	12
To Fond du Lac, (Lake Superior.)	-	-	-	-	-
Total	2,312½	72½	Number of locks, 57	-	548½

The St. Lawrence lock and the Chamblay canal connect the St. Lawrence and the Hudson, via the Richelieu river and Lake Champlain. Distance from Montreal to New York, 456 miles.

The annexed table gives the dimensions of the largest vessels which can pass through the various locks; also, through the Champlain and Erie canals in the United States:

	Length in feet.	Breadth in feet.	Draught of water when loaded.	Tonnage.
St. Lawrence canal.....	186	44½	9	600
Welland canal.....	142½	26½	10	400
Ottawa canal.....	95	18½	5	100
Rideau canal.....	127	31½	5	250
Chamblay canal.....	114	23	6½	230
Champlain canal, (United States.).....	89	13½	4	70
Erie canal, (United States.).....	102	17½	7	210

If the productions of the lake States shall increase for the next ten years in the rate observed since 1850, two hundred million bushels of wheat and six hundred million bushels of corn will be moderate statements, with equally wonderful results in the production of provisions.

The State of Minnesota, producing an aggregate of near twelve million bushels in 1867, between thirty and forty bushels to every soul of population, has not brought one twentieth of her area under the plow, and to such a community the utmost freedom and encouragement of navigation eastward and southward to the sea is a most vital question.

The freedom of the Atlantic fisheries and a common system of copyrights, patents, and postages are desirable, and have already been proposed, I learn, in Canada.

In regard to the cession of northwest British America and the stipulations of the seventh article, I propose, for the most part, what would be the free and voluntary course of our legislation if the country west of longitude 90° was our own.

The Hudson Bay Company holds a charter as old as, and very similar in terms, to the well known grants to Lord Baltimore and to William Penn. Neither England nor Canada can ignore the proprietary rights which exist under the grant of that charter, or have resulted from its repeated recognition: nor could we if the territory was freely ceded to the United States.

I would limit the expenditure for a quit claim rather than leave it as an open question after cession.

So with the assumption of the deficit between revenue and expenditure which has produced general dissatisfaction in British Columbia, leading to a strong popular sentiment in favor of annexation to these States.

The only stipulation which would not otherwise be unavoidable from the possession of northwest British America, consists of the assurance which I would make as a part of a continental adjustment of commerce and boundaries in favor of the immediate construction of the Northern Pacific railroad. Sir, such a guarantee, whenever given, will determine the destiny of northwest British America. Let England first move as I have proposed, and the relations of Selkirk and Saskatchewan and Columbia, including Canada, will become fixed and irrevocable as English provinces. But it must be an immediate, ample subsidy, making certain the construction of a continuous railway from Halifax to Puget's sound, north of latitude 49° before 1880.

The railway question is therefore vitally germane to the whole scope of an international treaty. Hence no project is adequate to the necessities of the subject before us unless it comprehends the topics which I have embraced in this resolution. I feel confident that the Committee on Foreign Relations will, on careful consideration, concur in the opinion which I now express.

Mr. President, this resolution assumes that no commercial treaty should be concluded with Canada which does not dispose of our relations with northwest British America. The people of Minnesota were not satisfied with the reciprocity treaty of 1854, but have always favored a commission to adjust the terms of a more comprehensive treaty, and which should be

extended to the Territories west of Lake Superior.

Since the cession by Russia of the extreme northwest the public attention turns with increased interest to the intermediate territory. The Selkirk settlement immediately adjacent to Minnesota, a recent migration of miners from Montana to the sources of the Saskatchewan, and the communities of British Columbia and Vancouver's Island, are the only localities where civilized society is established. I might speak of these settlements in some measure from personal observation; but I choose to refer to a communication from Mr. Secretary McCulloch, addressed June 12, 1866, to the House of Representatives, in which after responding to a resolution calling for information of our commerce with Canada, he availed himself of the opportunity to present more distinctly than on former occasions the commercial relations of the western district of British America (a region rapidly advancing in importance) to the United States.

From this document and its inclosures I ascertain that west of the nineteenth degree of longitude, on the western boundary of Canada, there is an immense domain of five hundred and six thousand two hundred square miles, or three hundred and twenty-three million nine hundred and sixty-eight thousand acres—larger than the whole inhabitable area of eastern British America by one hundred thousand square miles, and which in respect to soil, climate, and mineral resources is more suitable for settlement.

The Treasury report enumerates these western districts as follows:

	Square miles.
1. Central British America, inclosed between longitude 90° on the east, the Rocky mountains on the west, and the forty-ninth and fifty-fourth parallels of latitude, and containing the valleys of the Winnipeg, Red, Assiniboin, Swan, Saskatchewan, and other rivers tributary to Lake Winnipeg.....	360,000
2. Athabasca, a block of territory drained by the sources of the river of that name, between 110° and 120° of longitude and 54° and 58° of latitude, recently discovered to be rich in precious metals, and which is described by Sir Alexander Mackenzie and others as quite similar in climate and vegetation to Scotland.....	50,000
3. Sources of the Columbia, in British Columbia, now the scene of great excitement by the discovery of the Big Bend and Kootenais gold fields.....	20,000
4. The valleys of the Frazer and Thompson rivers, in British Columbia.....	60,000
5. Vancouver Island.....	16,200
Total.....	506,200

"It is now well known that northwest of Minnesota the country reaching from the Selkirk settlement to the Rocky mountains, and from latitude 49° to 54°, is as favorable to grain and animal production as any of the northern States; that the mean temperature for spring, summer, and autumn, observed on the forty-second and forty-third parallels in New York, Michigan, and Wisconsin, has been accurately traced through Fort Snelling and the valley of the Saskatchewan to latitude 55° on the Pacific coast, and that from the northwest boundary of Minnesota this whole district of British America is threaded in all directions by the navigable water-lines which converge to Lake Winnipeg. English and American exploration have also established in favor of this district that its average elevation above the sea is far less than in American territory; that the Rocky mountains are diminished in width, while the passes are not difficult; that the supply of rain is more abundant, and the carboniferous and silurian formations are of greater extent than further south, and, owing to the greater influence of the Pacific winds through the mountain gorges and the reduced alti-

tude, that the climate is no material obstacle to civilized occupation.

"It is unnecessary to repeat the narrative of Lord Selkirk's colonization of the Red river of the North. The present community of Selkirk settlement numbers five thousand, and are competent to assume any civil or social responsibility which may be imposed upon them. The accumulations from the fur trade during fifty years, with few excitements or opportunities of expenditure, have secured general prosperity with frequent instances of affluence; while the numerous churches and schools sustain a high standard of morality and intelligence. A district on the Red river from the international boundary at Pembina to the mouth of the river in Lake Winnipeg, and upon the Assiniboin river for a distance of sixty miles west of its junction with the Red river at Fort Garry, has acquired a civil organization under appointments of legislative councilors and magistrates by the Hudson Bay Company, which is officially designated as 'The Colony of Assiniboin.'"

I will not detain the Senate by detailed statements. It is enough to add that the valleys of the Red, the Assiniboin, and Saskatchewan rivers east of the Rocky mountains are in my judgment destined to produce as much wheat as is now produced in European Russia north of Moscow, and that from this region of America there will be an exportation of grain through Lake Superior as important as the commerce in breadstuffs from the Baltic.

Canada and the United States are equally interested in the speedy settlement of these northwestern districts; but, Mr. President, I am constrained to believe that their colonization will advance far more rapidly as States of the American Union than if they are permanently included in the Canadian confederation.

The railway system of the United States is now extended eighty miles northwest of St. Paul, and will soon reach Selkirk settlement; while the nearest railway communication of Canada is eight hundred miles distant.

Then these communities are closely related to Minnesota, Montana, and the Pacific States by mails, express and telegraph lines, and commercial intercourse.

I am not sure that I desire another reciprocity treaty with Canada except on the basis herein indicated of a permanent and adequate arrangement—an exchange for a liberal adjustment of trade and intercourse along the valley of the St. Lawrence and the lakes. Let Canada and Great Britain cede the districts mentioned of their remote and to them inaccessible northwest, to be organized as Territories of our Union, and closely associated with the immediate construction of the Northern Pacific railroad. For I will not admit, Mr. President, not for a moment, that a single railway communication from the Mississippi States to the Pacific States will satisfy the wants of the country along the route of such a communication from Lake Superior to Puget's sound. Wheat-growing Minnesota and Dakota, gold-bearing Montana and Idaho, and the maritime States of Oregon and Washington are rapidly advancing to positions which demand the same recognition of their interests which you have extended to the communities along the track of the Union Pacific railroad. I would bring within the beneficent influence of such an enterprise another cordon of Territories with equal resources by nature, and which ought to have been developed long ago. Nor is this a local interest merely. The nation will receive a thousandfold whatever aid is temporarily extended to the conquest of the wilderness.

India has constructed five thousand miles of railway, and by a guarantee of five per cent. on capital stock has mostly constructed them with a prospect of speedy reimbursement for the advances by Government, and with a wonderful advent of national prosperity.

We of the Northwest have postponed our Pacific railway in favor of a central line; but we have not abdicated. That enterprise was an initiative, a precedent, and with its success now abundantly assured let there be no suggestion of permanent monopoly. We expect and shall claim a just and equal share of Government recognition.

In regard to the specific form of the national aid I will cheerfully concur in any feasible suggestion by the committee.

I had preferred a limited guarantee of five

per cent. in the stock of the Northern Pacific Railroad Company, because the public debt would not thereby have been increased, the Government merely assuring an additional expenditure on this account for a few years, never excessive in amount, and certain to cease and finally be reimbursed by the sale of lands, the increase of traffic, and credits for the transportation of the mails and military stores. Such a guarantee or indorsement by the nation would vitalize all the resources of the company, and as the work advances the country would be astonished by the reduction of the actual burden imposed on the Treasury and the celerity with which it will be removed.

The *PRESIDENT pro tempore*. The question is on taking up the resolution indicated by the Senator from Minnesota.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. RAMSEY on the 31st of January last:

Resolved. That the Committee on Foreign Relations is hereby directed to inquire into the expediency of a treaty between the United States and the Dominion of Canada, which shall contain the following provisions:

First. That a duty of five per cent. *ad valorem* shall be imposed upon all importations from Canada to the United States, or from the United States to Canada, being the exclusive production or manufacture of the respective countries.

Second. That the exports duties of the United States and of Canada shall be assimilated by concurrent legislation.

Third. That the navigation of the great lakes and of the canals and channel of the St. Lawrence river and its tributaries, shall be forever free and open to citizens of the United States and Canada.

Fourth. That Canadian vessels in American ports shall be entitled to all the privileges of American vessels in Canadian ports.

Fifth. That the fisheries of the Atlantic coast shall be free to the citizens of both countries.

Sixth. That a common system of laws regulating copyrights, patent rights, and rates of postage shall be extended over both countries.

Seventh. That Canada, with the consent of Great Britain, shall cede to the United States the districts of North America west of longitude 90°, on conditions following, to wit:

1. The United States will pay \$6,000,000 to the Hudson Bay Company, in full discharge of all possessory rights and of all claims to territory or jurisdiction in North America, whether founded on the charter of the company, or any treaty, law, or usage.

2. The United States will assume the public debt of British Columbia, not exceeding the sum of \$2,000,000.

3. To aid the construction of a railroad from the western extremity of Lake Superior to Puget sound the United States, in addition to the grant of land heretofore made, will guaranty dividends of five per cent. upon the stock of the Northern Pacific Railroad Company; *Provided*, That the amount of stock guaranteed as aforesaid shall not exceed \$20,000 per mile, and Congress shall regulate the securities for advances on account thereof.

4. The Northwest Territory shall be divided and organized into Territories of the United States, not less than three in number, with all the rights and privileges of the citizens and government of Montana Territory, so far as the same can be made applicable.

Mr. SUMNER. The first words in the resolution ought to be altered. I have no objection to the resolution passing and going to the committee; but it proposes, as I understand, a treaty with Canada. Now, in point of fact, and under the law of nations, there can be no treaty between the United States and Canada. Canada is not a sovereign Power. The treaty must be with Great Britain. If the resolution be altered in that way, that is all I ask.

Mr. RAMSEY. I accept the modification of the resolution.

The resolution, as modified, was adopted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 1363) granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 1363) granting an increase of pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell; and it was thereupon signed by the President *pro tempore* of the Senate.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had on this day approved and signed the following enrolled bills and joint resolutions:

A bill (S. No. 295) for the relief of Eliza Mascher, widow of John T. Mascher;

A bill (S. No. 579) to establish a new land district in the State of Nebraska;

A bill (S. No. 540) to regulate the sale of hay in the District of Columbia;

A bill (S. No. 209) to incorporate the Evening Star Newspaper Company;

A bill (S. No. 637) to authorize the city of Washington to issue bonds for the purpose of paying the floating debt of the city;

A bill (S. No. 634) granting a pension to Violet Henry;

A bill (S. No. 633) granting a pension to Nancy Smith;

A bill (S. No. 630) granting an increase of pension to Nancy A. Stocks;

A bill (S. No. 606) granting a pension to Robert Watson;

A bill (S. No. 598) for the relief of Mary Scott;

A bill (S. No. 442) granting lands to the State of Nevada to aid in the construction of a railroad and telegraph line from the Central Pacific railroad to the Colorado river;

A bill (S. No. 472) supplementary to an act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security;"

A joint resolution (S. R. No. 147) for the relief of Jonathan S. Turner;

A joint resolution (S. R. No. 172) to construe an act entitled "An act to authorize the accounting officers of the Treasury to settle the accounts of Andrew S. Core;"

A joint resolution (S. R. No. 154) to admit certain persons to the Naval Academy; and

A joint resolution (S. R. No. 57) relative to lighting the streets of Washington city, District of Columbia.

A. W. BALLARD.

Mr. HOWE. The Committee on Claims, to whom was referred the bill (H. R. No. 553) for the relief of A. W. Ballard, have directed me to report it back without amendment and recommend its passage. It only appropriates about two hundred and seventy dollars, and I ask to have it put upon its passage.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It directs the Quartermaster General of the United States to allow and settle the claim of Captain A. W. Ballard, late captain in the one hundred and thirteenth regiment United States colored infantry, for value of lost voucher for corn issued by Benton Stearns, lieutenant twenty-second Michigan veteran infantry, late acting assistant quartermaster at Washington, Arkansas, November 15, 1865, which is now suspended under act of Congress of February 19, 1867.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COMMERCIAL REGULATIONS FOR ALASKA.

Mr. DOOLITTLE. I rise to a privileged question. Mr. MORRILL, of Maine, one of the members of the committee of conference on the part of the Senate on the bill (S. No. 619) to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes, I understand is unwell and has left the Senate Chamber. I therefore move, from the committee of conference, that Mr. MORGAN be appointed on that committee, in order that they may be able to report.

The *PRESIDENT pro tempore*. If there be no objection, the Senator from New York [Mr. MORGAN] will be appointed on that committee. The Chair hears no objection.

RECONSTRUCTION.

Mr. WILSON. I move to take up House bill No. 1450.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1450) to provide for the more speedy reorganization of the States of Virginia, Mississippi, and Texas, and for other purposes. For the better security of persons and property in Texas, Virginia, and Mississippi the constitutional conventions in each of those States heretofore elected under and in pursuance of an act of Congress passed March 2, 1867, entitled "An act for the more efficient government of the rebel States," and the special acts of Congress supplementary thereto and amendatory thereof are to be authorized to exercise the following powers in addition to the powers now authorized by law, to make removals and appointments of the officers of the provisional governments in those States respectively; to authorize the provisional governments of those States respectively to remove and appoint registers and judges of elections under those acts of Congress, which registers and judges of election shall not be eligible to any elective office under such provisional governments, and shall observe the provisions of those acts of Congress; to organize and maintain a constabulary force in each of those States for the preservation of peace and to aid in the execution of the laws; to provide by ordinance for the reassembling of those conventions from time to time, and for holding all elections authorized by those acts of Congress, and for ascertaining and declaring the results of such elections, and especially the result of any election which may be held for the ratification or rejection of any constitution which the several conventions may submit to the people of either of those States; and to pass such ordinances not inconsistent with the Constitution and laws of the United States as may be necessary to protect all persons therein in their lives, liberty, and property. The special ordinances which may be passed by the constitutional convention of either of the States are to be enforced by the provisional governments of those States until disapproved by Congress or until such State shall have adopted a constitution of State government, and the same shall have been approved by Congress, provided that nothing therein shall deprive any person of trial by jury in the courts of those States for offenses against their laws. The military commanders in each of the States named are to give aid to the officers of the provisional government in preserving the peace and enforcing the laws, and especially in suppressing unlawful obstructions and forcible resistance to the execution of the laws. On the fourth Wednesday after the passage of this act the convention of Mississippi and Virginia are to reassemble, and the convention of Mississippi is to proceed to frame a constitution of State government and submit the same to the people, under and in pursuance of the provisions of the act of Congress before mentioned and of this act. The fifth section provides for the repeal of all acts and parts of acts in conflict with the provisions of this act.

Mr. DAVIS. That is a very important bill. I believe it has not been printed. There has been no opportunity to examine it, and there is no time to consider it at this expiring hour of the session. It certainly ought not to be taken up and hurried through now. I therefore move to lay the bill on the table.

Mr. WILSON. I ask for the yeas and nays on that motion.

Several SENATORS. No; no.

Mr. WILSON. I do not care anything about the yeas and nays. I withdraw the call.

Mr. DAVIS. We want the yeas and nays on this side.

The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 33; as follows:

YEAS—Messrs. Buckalew, Cameron, Davis, Doolittle, McCreery, Patterson of Tennessee, and Whyte—7.
NAYS—Messrs. Abbott, Anthony, Cattell, Cole, Conness, Corbett, Cragin, Drake, Ferry, Frelinghuysen, Harlan, Harris, Howe, Kellogg, McDonald, Morgan, Nye, Pomeroy, Ramsey, Rice, Spencer,

Stewart, Sumner, Thayer, Tipton, Van Winkle, Wade, Warner, Welch, Willey, Williams, Wilson, and Yates—33.

ABSENT—Messrs. Bayard, Chandler, Conkling, Dixon, Edmunds, Fessenden, Fowler, Grimes, Henderson, Hendricks, Howard, Morrill of Maine, Morrill of Vermont, Morton, Norton, Osborn, Patterson of New Hampshire, Pool, Robertson, Ross, Saulsbury, Sawyer, Sherman, Sprague, Trumbull, and Vickers—26.

So the motion was not agreed to.

The PRESIDENT *pro tempore*. If there be no objection the bill will be reported to the Senate.

Mr. BUCKALEW. I object. I wish the Clerk to send the bill to me. It has not been printed, and I am unable to speak to it without using the manuscript as sent from the House.

The second section of the bill reads as follows:

That the several ordinances which may be passed by the constitutional convention of either of said States as herein provided shall be enforced by the provisional government in such State until disapproved by Congress, or until such a State shall have adopted a constitution of State government, and the same shall have been approved by Congress: *Provided*, That nothing in this act contained shall deprive any person of trial by jury in the courts of said States for offenses against the laws of said States.

Now, Mr. President, that section is one of very extraordinary character, and will undoubtedly lead to gross abuses during the present year. Here is a provision that ordinances passed hereafter by conventions in those several States shall be enforced by the provisional authorities until the future pleasure of Congress shall be known and shall be announced on the subject. It will make no difference what the orders adopted by the convention may be no matter what the subject may be to which it relates, nor its particular character. Whatever it may be it is to be enforced within the State for an unknown, unfixed period of time in the future. Heretofore Congress has reserved to itself the right to disapprove the acts of territorial Legislatures whenever they may conflict with constitutional principles or with public policy. Here, however, beforehand, before we know what statute may be adopted by the convention, we proceed to provide that it shall be law, and that it shall take effect, and that its operations shall continue until some unknown, unfixed time in the future, when Congress may think proper to recall its assent now given in advance without knowledge.

What will be the result? What is probably the very result aimed at by that section? It is that constitutional conventions in certain of those States may by ordinance regulate and control the elections of the present year, the elections which may be held in those States not only upon the subject of reorganizing the reconstructed State governments, but also elections for the choice of presidential electors and members of Congress.

Mr. WILSON. They do not vote at all. The bill prohibits their voting on the presidential election, and they will not vote on the constitution either.

Mr. BUCKALEW. That shows the impropriety of acting in this manner.

Mr. WILSON. There is nothing about elections in it.

Mr. BUCKALEW. I suppose it applies to the three States of Virginia, Mississippi, and Texas. That shows the impropriety of proceeding to legislate in the closing hours of the session in this manner. Of course, no one knows what is in that bill except the particular member or members whose attention has been called to it and who have examined its provisions. Of course, I speak at random. So far as the second section is concerned it is general; it makes no distinction between the different States of the South, although in point of fact I suppose its operation would be confined to the three States of Virginia, Mississippi, and Texas, because in them, and in them alone, will there be constitutional conventions held during the present year.

Now, sir, here is a double authority and a double jurisdiction to be set up in those States, confining myself for the present to the second

section of this bill. These constitutional conventions by ordinance may decree anything they please relating to the government of the particular States in which they are held. Then all the existing civil authorities in that State are commanded to enforce their ordinances, to accept them as law, to act under them as if they were binding as acts passed by competent authority; and that condition of things is to continue until Congress, at some future time, shall make some change. That is the second section of this bill. At the same time you continue in those States your military jurisdiction. Here are your military commanders, your generals, with their subordinates, armed by your laws with full control over these provisional governments, not only to regulate and control their action, but to change incumbents of offices under those provisional arrangements. Here is a dual system. First, here is a fountain of law and of power lodged in those constitutional conventions, not merely to frame a constitution for the particular State, but to enact any law, regulation, or ordinance, which the convention may please for the control and regulation of civil affairs within the State. Here, then, also is your military commander, armed by your several reconstruction laws with full authority and control within the same jurisdiction. Now, sir, in a case of conflict or of collision, in case of a difference of opinion as to what is politic, or in fact necessary within the State, between the military commander and the constitutional convention, which authority shall prevail? If different rules are presented by these two authorities which rule shall prevail, which shall the people of that State accept as that rule of civil conduct prescribed by the supreme power in the State, which is to command the obedience of the citizen or of the subject?

You will remember, Mr. President, that in the case of Arkansas the constitutional convention in that State provided by ordinance how the election should be held in the State, and they provided such regulations that it was impossible that one half, or more, of the inhabitants of the State could vote at all on the question of adopting the constitution. They prescribed such oaths to be administered at the first election and provided that it should be held in such manner and under such conditions that it was impossible that their political opponents should vote at the election. That was done by ordinance, by a regulation which was to obtain only at the first election. Their constitution made very different arrangements for the future after it had once come into existence by the adoption of the people. What was done there? Here was one rule in Arkansas for the adoption of the constitution prescribed by the ordinance of the convention, which disfranchised a large portion of the people of the State and prevented them from voting on the adoption of the constitution, and there was a different rule prescribed by the reconstruction laws and by the military commanders. What took place? The general in command of the district gave notice that the election should not be held under the ordinance of the convention; that it should be held in conformity with the reconstruction laws of Congress. He issued that order; and it was by reason of his interference, and by it alone, that there was any pretense of a fair or a full election in the State of Arkansas. It was by overriding the passionate and unjust ordinance which had been passed by the constitutional convention.

Mr. DOOLITTLE. Will the honorable Senator from Pennsylvania yield to me for a moment for a privileged question, to submit the report of the conference committee on the bill now pending in relation to the territory of Alaska, and which it is necessary should be passed at once?

Mr. BUCKALEW. Certainly.

Mr. DOOLITTLE. The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. No. 619) to extend the laws of the United States relative to customs, commerce,

and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes, recommend that the Senate recede from its disagreement to the amendments of the House.

The report was concurred in.

ORDER OF BUSINESS.

Mr. CONKLING. I ask the Senator from Pennsylvania whether he will yield for a motion to proceed to the consideration of executive business? I understand that the bill is to be discussed at some length by other Senators; and as there is only an hour and a half remaining it is clear that we cannot pass the bill. If the Senator from Pennsylvania yields, I submit a motion that the Senate proceed to the consideration of executive business.

Mr. BUCKALEW. The Senator will excuse me. The Senator from Tennessee [Mr. FOWLER] desires to make some personal explanation, and I will yield to him.

PERSONAL EXPLANATION—IMPEACHMENT.

Mr. FOWLER. Mr. President, at this late hour in the session I dislike very much to occupy the time of the Senate. Indeed, sir, I am disinclined to do so on any occasion; and since I have been here I have occupied but very little of the valuable time of the Senate. I would not even, under present circumstances, seek to divert the attention of the Senate from its more important business if I had not been assailed in a very improper and very dishonorable manner, and if the whole power of the House of Representatives had not been brought to bear in the hands of one bad man for the purpose of crushing me and others on this floor. No investigation has been made by the committee appointed by the Senate to examine into certain allegations connected with the impeachment trial, and we are left to ourselves to protect ourselves against these assaults. I wish now to review to some extent a document known as a report submitted to the House of Representatives and signed by one man of the so-called inquisitorial committee, who brought forward and inaugurated the effort to crush out certain members of the Senate who chose to exercise the right of private judgment on a somewhat memorable occasion.

It is a painful duty to be required to vindicate our own reputation against the aspersions of any individual. Men do not readily listen even to one who is necessarily compelled to speak of himself. It is at all times unpleasant for a man of sensibility to obtrude his complaints upon others.

As each individual in society is interested personally in the good reputation of his fellow, it becomes not only his duty to hear patiently but to undertake the vindication of himself. If the slanderer is permitted to pass undetected and unchastised he will soon undermine the foundations of faith and confidence. However unpleasant it may be for me to assume the attitude of vindicating my own honor, it is in a high degree a public duty to my fellow-citizens. They are deeply interested in whatever affects my honor and good name. I would also feel unworthy of the confidence of men if I did not feel bound to protect and defend the good name of my fellow-men.

I may, then, claim the attention and indulgence of such of the Senators as acknowledge in their hearts and manifest in their conduct the obligations due from man to his fellow-man, and more especially those that comprehend the relations of each to the Great Father of all. I may expect to receive the favor of my countrymen who are actuated by a like regard and reverence for the virtues and graces of life.

To understand more clearly the malignity of the efforts of certain men to asperse the reputation of the seven Republican Senators who dared, in the late movement to expel the President from his place and to take possession of it, to exercise the right of private judgment under the solemnities of an oath, it will be proper for me to review rapidly a part of our political history during the last four years.

THE INCEPTION OF MR. JOHNSON'S ADMINISTRATION.

The war closed soon after his Administration began. This threw upon his hands the labor of providing for the care and interests of ten States. They had been a part of the nation, and the war closed by the vindication of the nation's right to this part of her people and territory. To do the greatest possible good to the inhabitants of these States was at once to protect the interest of the Government and to execute its mission there. The Executive saw that no people could be happy or prosperous without the protection of law administered through a regularly organized civil government. To continue the military government over these provinces or States was contrary to the genius of our free institutions. Through the advice and by the approval of his Cabinet and the leading military men in the field he undertook the work of establishing State governments. These governments were organized during the recess of Congress.

It soon became evident to the party that had been instrumental in prosecuting the rebellion that these organizations would restore the rebel party in the South to power and this would reestablish the rule of those who had been unfriendly to the war. It would leave the freedmen in the power of their former masters whom they had aided to defeat in their cherished and desperate effort for independence.

The result of this action of the Executive was regarded by the Republicans as an abandonment of the men who had as a race remained true to the Union in its sublime effort for its integrity and its life. The duty of the nation to protect its friends was imperative. These are some of the considerations that brought out a policy antagonistic to the policy of the Executive, which, in process of time, assumed a definite form and was denominated the congressional policy. The policy of the President rested upon the ideas of the past, and sought no changes in his well-defined political ideas save the one rendered inevitable by the progress of the war, the abolition of slavery. The emancipated man gained only freedom from slavery. He obtained no status in the nation. He was but a fugitive and a wanderer upon the earth.

The opponents of this system, rising above the prejudices of race and the fetters of the past, and under the inspirations of a more glorious and diviner faith, based their policy upon the capacities, rights, and duties of man. They introduced the emancipated race into the great national family and proclaimed him a citizen of the Republic. This was the declaration of the first article of the civil rights bill, a declaration destined to become immortal in our history and in the history of mankind, to take place with the first great principle announced in the Jeffersonian declaration. In that declaration is contained all that is valuable in the congressional policy. The enfranchisement of the colored man is but a logical sequence of citizenizing him, and both follow inevitably from the declaration that he is a man.

It must, in view of the events and teachings of history, be conceded that no such ideas could make their way to universal dominion without a struggle and without seriously alarming the great body of the ruling class among which this reform was introduced. The minds that were wedded to the past and trusted alone to a basis of experience firmly crystalized opposed the introduction of an element that must upturn the firm earth on which they stood and on which their fathers had stood before them. A bitter contest was inevitable over the inception of a new era. In this, as in all past instances, passion was evoked to the aid of principle. Each party put forth its utmost efforts in the achievement of its object. The conflict has thus far been bitter and personal. The most fearful passions, ambition, glory, success, self-defense, took possession of the combatants. Men ceased to reason and to trust to the divine power of thought. The bounds of propriety were passed by each.

False and unmeaning accusations were freely hurled from side to side.

EFFORT TO IMPEACH.

It was in this severe contest that the President was assailed in the House of Representatives and an effort made to impeach him, which failed by a large majority. Up to this period I did suppose that the conduct of the President in reorganizing the seceded States was impeachable, and do believe that generally this effort to impeach proceeded from honorable motives. This general and vague opinion was formed without a careful application of the relation of the facts to the law. It was influenced, I do not doubt, by the dangers to which I saw the Union men and freedmen of the South exposed. The condition of these parties was fearfully misrepresented by selfish and abandoned men who sought place at any sacrifice. Upon closer examination of the case, after the vote of the House on the first effort to impeach, I saw very clearly that if the President was impeachable all his Cabinet and General Grant were liable to the same charge.

It is now apparent to all who have investigated this question that the President was sustained in his action by all the members of his Cabinet. Indeed, what is called the Johnson policy was the policy of his predecessor in all its essential elements. It is perhaps more strictly true that it was the policy of the Secretary of War, who prepared the first draft of the plan for the organization of North Carolina. He presented the plan to the President before Mr. Johnson acceded to the Presidency.

It may be said that these governments were to be provisional only, and that they were only so intended. That does not alter the case, for they became permanent upon the recognition of Congress. If Congress has the power to propose an organization for these States it has the power to adopt the organizations of the President under the plan of Secretary Stanton. If Congress could make its own acts of reconstruction valid it could have made that of the Executive valid.

MY OWN VIEW OF THE SITUATION.

A large part of the American people believed that the action of the President was unauthorized by the Constitution and laws. It must be admitted that the House of Representatives, in their action, did not regard his course without the sanction of law. When the impeachment failed I did suppose there would be an end of this movement. Undertaken by many true and earnest men, as well as by men prompted by ambition, it was checked by the same character of men. A careful review of the case will convince any unbiased man that there were no grounds for such an action. At all events the purposes of those friendly to impeachment should have been accomplished by the judgment of the House. It was unquestionably the judgment of the country. But the efforts of some were not abated and their designs were not changed. Defeat in the first instance only stimulated to watchfulness and whetted their intentions and passions. The visions of future power, the control of the Government and its ample patronage, was not the least consideration that influenced the leaders in the second effort. It is not now the time to characterize the motives and conduct of those men. They were neither numerous nor marked for their prudence, wisdom, moderation, or disinterested patriotism. They were, for the most part, mere politicians, thrown to the surface through the disjointed times, whose interests could best be served by keeping alive the elements of the departing revolution. The great body of the party had no desire, indeed, no cause for vindictiveness and malice. The few were more persistent, ambitious, and determined. These passions worked their way, and finally inaugurated a revolutionary movement that was checked only by the firmness and patriotism of the Senate.

THE TWO POLICIES.

While the friends of progress and reform

were aroused to great anxiety lest this opportunity should fail in establishing their ideas, by the persistency and firm will of the Executive it became manifest that it was through that very antagonism that success was attainable. A calm view of the question, and the causes by which reforms are brought about in society will satisfy any person at all conversant with history that no advance is attainable without strong opposition; and the strength of that opposition must be in direct proportion to the advance demanded. So in this case the success of the reform was due more to the Executive than to any one person. He did not so intend. He earnestly and firmly and honestly maintained the opposite view. I do not say that those who opposed the principle of political equality were absolutely so, but they sought to maintain the present state of the institutions and to advance through them to a higher. They would leave the question of the political equality of all races to the judgment and liberality of one. This would have left the steadfast loyalist to the mercy of the enemy of the Government. I became reconciled to the opposition of the Executive as I became satisfied that by no other means could Congress have been pressed forward to complete this great work. I believed that Congress had, under the circumstances, the right and power to consummate the great work of political equality in the States.

THE INFLUENCE AT WORK.

Early in this session, and before the vote was taken in the House of Representatives, I became satisfied that there was more of sectional prejudice and political ambition in the minds of the leading impeachers than of patriotism. The former passion was seized upon to produce the main object of these parties. I will not say that I did read all that passed before me correctly, but I do say that the course pursued by many and the sentiments advanced by one of the leading Senators, and this course, followed by others on the questions touching southern men, convinced me that there was a deep-seated and unreasonable prejudice against all southern men. That so long as men from "former slave States" acted for them and in their interests they might be tolerated, never trusted; but the moment they assumed any independence they were to be destroyed if possible. Now, I do not mean to say that they were to be murdered. No such humane idea ever intruded itself upon them. Their victims were not to be put away to rest in peace forever, but in their vain arrogance, in their inflated vanity, they assumed the almighty power of the destroyer, and determined to make them the outcasts of earth, the wandering vagabonds despised and scorned of all men. It was to be a moral assassination continued through all time for their perpetual gratification. Compared with this vain, wicked pretension the murderer Booth is an angel of mercy. Of this class of men, to the honor of the human race be it said, there are but few, but these few had grown into commanding power. They had infused the poison of their own breasts into the minds of many good men and many bad ones too.

I am aware from personal observation that many honest and earnest people desired the impeachment of the President because they believed he had actually become a rebel in sympathy and conduct; that he intended to inaugurate the success of the rebellion they had done so much to overthrow. No wonder they were jealous of the cause in which they had spent so much blood and treasure. The first-born slain in every household was an argument that would not down at their bidding if they even desired it. They had poured out the blood and treasures of the nation like water to extinguish forever the institution of slavery, and to establish everywhere liberty and political equality. In the beginning they did not see through the whole problem. Still this was the result that an all-wise Providence was all the while bringing about, and which, though late, they began to believe.

MY OWN PRINCIPLE OF ACTION.

Having cherished fondly and devotedly through my life an "ardent and unconquerable hostility to every form of tyranny over the minds" and bodies of men, I had opposed slavery ever and defended the right of every subject of law to his unit of influence in determining the political force that should control his conduct and regulate and protect his rights. The position was not a new one with me. Through all the days of my life I had maintained the principle. When the war-cloud settled upon our whole southern horizon and threatened to deluge the whole land as it did, I saw through the dark present into the bright future and beheld my cherished hopes fulfilled. Still I did oppose what to me was a fearful crime, although through its agency the future was filled with hope. To gain that point the red cloud of war had to be passed with its fields of slain, devastation, and demoralization. It was upon these principles that I, with a few other persons, began the work of reconstruction in Tennessee. It was upon that basis that the work of reconstruction was effected. From the beginning I anxiously desired the complete triumph of my own long hoped for and fondly cherished views.

I may be permitted here to state my own principle of political action. Through life I have asked only for the right of a free expression of opinion. I have opposed alike the influence of the sword and the tyranny of a bigoted and overbearing public opinion coerced by social influences and party machinery. I have relied on the power of thought to enlighten and purify the human soul. It is light and light alone that can effect an enduring and desirable revolution. The sword, the inquisition, tortures, impeachments, are all from the same source, and are alike opposed to the principle of adequate freedom. I could in no case approve of either, unless as the work of predestined fate; then I would submit in reverence, although it would be in sorrow. I do not wish to state that I condemn courts and their judgments; they are, in the present state of society, necessities. They are never to be resorted to unless for the gravest considerations. Reason and justice and charity are alone the altars at which I would have men worship.

It is true that impeachment is a constitutional remedy for great and solemn crimes. It is a remedy that must not be resorted to for "light and transient causes," for mere party purposes. It is a remedy to which no good man will not shudder to resort. It is one before which a patriot of pure and tender sensibilities would stand in awe. I care not how rash he may have been in his expression, how much he may have been embittered and outraged at the course of an incumbent, no considerations short of actual and unendurable crime would permit him to look with dry eyes at such a remedy. To tear from his high place a man chosen by the American people for their first office, when the question could in a short period pass to the people themselves for their own decision, is not to be contemplated in earnest action without clear and unmistakable causes, legal, constitutional causes. When we reflect that the President was acting according to the opinion of a large minority, if not a majority of the American people, and when we again reflect that he may be endeavoring to do his duty honestly and according to the best lights in his power, we should pause and hesitate long to strike a blow that might set all the arteries of the nation bleeding and lay the foundation for the overthrow of all government. In the heat of political conflict, stimulated by considerations of party triumphs and the powerful influences consequent upon the close of the rebellion, for one I should not feel bound to permit any such decisions to influence my opinions of the question that would come before me in the solemn capacity of a judge. There all personal hostility, all political prejudice, all party ties, all selfish considerations must cease. No honorable man could carry them to that sacred place; no individ-

ual with the least self-respect could dare intrude his prejudgments into such a position.

SECOND ATTEMPT AT IMPEACHMENT.

It was under the circumstances already described and under a careful review of the past that I approached the consideration of the questions presented by the trial. I had opposed the entire political theory of the Executive. I occupied from the beginning the very advance guard in the party of reform. Its ends had long been cherished as the sacred principle of the life of the Republic. On all public questions I had acted with my party. At this stage of the question I was bound to hesitate and assume an individual and personal responsibility. Each Senator was to become a judge in a court sitting on the character and rights of a human being. His duty was to pronounce justice according to the Constitution and laws.

When the Senator from Massachusetts [Mr. WILSON] endeavored, at the time the question of impeachment was pending in the House, to put through the Senate a resolution prepared by a distinguished member of the House, afterward one of the managers, which would have committed the Senate in advance of trial for conviction, I then refused to vote for that resolution from considerations of delicacy and propriety as well as from the courtesy and duty due to the accused. I will also add that I had been in the House, which appeared to me in the preliminary steps of revolution. The action of the House, the tone and manner of the members, were to my mind alarming in the highest degree. I had passed through a revolution before. I knew what it was to see a whole people infuriated with resentment and maddened with rage. I had seen thousands upon thousands of good, earnest, pacific people carried by a small storming party of revolutionists into the vortex of rebellion. I had before seen and felt the pressure of wild and unbridled passion. I had seen the appeal made to force instead of to reason. I had seen it pour its burning flood over the whole land, consuming and blasting man and the fruits of his toil. I do not mean to say that the great body of the House were not honest, sincere, and truly patriotic. They were so, and all the more dangerous on that account, if stimulated into a revolutionary course. Now, it is evident that the best men of that body were borne down by the force of party machinery and a false public opinion improvised and brought to the Capitol for that purpose.

It was the 21st day of February, 1868, that President Johnson issued an order for the removal of Edwin M. Stanton from the office of Secretary for the Department of War, and on the same day designated Lorenzo Thomas to take charge of the office. This was the immediate cause of the impeachment. Of course it was not the real cause. It was embraced as the occasion for hunting the Executive from his place. It furnished the revolutionists with the very kind of a pretext best calculated to precipitate a violent state of feeling.

The entire series of articles are but consequence of the one and only rational charge in the list, except the tenth article and part of the eleventh. This article the Senate voted by a large majority to dismiss. These articles involved the construction of the "tenure-of-office bill." That construction I had made at the time the bill passed. After mature reflection, aided by the light elicited upon the trial, after the most exhaustive debate, I have seen no reason to modify the judgment I formed upon the passage of the act.

THE TRIAL.

My attention to all that passed was constant and earnest. I am conscious that my course was influenced with the sole desire to do my duty to my country and the accused. I endeavored to look at this question in the light that history must examine it and place its verdict upon it. I have the most satisfactory assurance, a consciousness of having discharged my whole duty, unbiased and unawed

by threats of personal danger and still more fearful threats of political and moral and social assassination. I have seen the ambitious and designing balked in their purposes attempt to execute the latter. I have witnessed summer friends "fall like autumn leaves in wintry weather." I have seen men in high places honored and respected, and asking to be crowned with the choicest places in the gift of American freemen, sink into the sewers of meanness and exhibit traits as low as the barbarian. I have not been disappointed, for I knew that they were begotten by mortals. After all it is another assurance to me of the correctness of my political theories, the philosopher is not after all so far removed from the slave as not to be able to say, my brother. Nor, on the other hand, is the gambler so far from the pretentious leader of the Senate as not to excel him in the higher elements of manhood. If the dwellers of palaces would see themselves, let them look into the cottage, the cabin, and still humbler habitations. They would then claim no preëminence.

If I have any one thing that commands my grateful thanks to the Searcher of all hearts for his infinite mercies, it is for that peace of mind and conscious power of self-support that I have gained from my action in this great cause. God is ever on the side of him who is meekly, reverentially, and bravely true to himself. It is a condition of supreme felicity to be alone and see the baser elements of society fall like withered leaves from around you.

I do desire one thing above all others, that in this as it was by far the most important event of my life, as of all those who sat with me, that my fellow-countrymen could know as I do the motives that influenced the men of my party with whom I had the pleasure to act throughout the trial. They did not and do not pretend to any divinity; to any perfectability, but only to an honest desire to perform faithfully their duty.

THE CONSEQUENCES OF THE TRIAL ON THE USURPERS.

The trial, it is well known, was protracted from time to time for purposes that in after years will constitute the saddest commentary upon American justice ever manifested in our history. The chief agents in this drama, disappointed in all their dreams of future power and rule, tortured by the superior culture and refined intelligence of the opposing counsel who had extinguished forever their vain hopes of professional superiority and power, determined to wreak their vengeance on the men they thought they could prostrate by a charge of corruption. They at once obtained authority of the House of Representatives to establish an inquisition more powerful and cruel than any that ever cursed, oppressed, and degraded Spain. It was supported by all the power and wealth that the most powerful Government on this earth could furnish. The post office was seized, the telegraph office was placed under the command of the committee, writs commanded the presence of any and all witnesses that were demanded, prisons forced the summoned to testify, spies and informers haunted the footsteps of Senators from their chambers through all the avenues of their public and private duty. The proud boast that I am a free American citizen was trampled in the dust, and a worse than Russian despotism reigned in the capital. After weeks of toil and tyranny and meanness and systematic falsehood the author of the inquisitorial report, signed by B. F. BUTLER alone, comes before the country with a statement so foully false that none but the most corrupt and abandoned would dare to mention it with anything but the severest condemnation. He makes two charges against me, that I made a speech on the 10th day of January, 1868, at a meeting of the Union Congressional Committee in favor of impeachment, and that Colonel Cooper had said that he had secured the votes of Senators HENDERSON and FOWLER. He then meanly insinuates the charge of corruption. He and his accomplices invent false-

hoods, and then infer willfully and deliberately the filthy slander.

THE SPEECH AT SENATOR MORGAN'S.

Here is the only record ever made by any person of the meeting alluded to. Not a word was ever recorded of a single speech made:

WASHINGTON D. C., January 10, 1868.

A meeting of the Union Congressional Committee was held at the house of its chairman, Senator MORGAN, this evening.

Present — Senators Morgan, Morrill, Thayer, Chandler, Ferry, Corbett, and Fowler; Representatives Schenck, Ames, Kelley, Broomall, Ela, Coburn, Hopkins, Hubbard, Windom, and Clarke.

Senator MORGAN in the chair.

Thomas J. Tullock secretary.

General SCHENCK presented a report from the Executive Committee, which was adopted.

Interesting and earnest remarks were made by General Schenck, Senators Corbett, Chandler, Thayer, Fowler, Ferry, and Morrill, and Representatives Ela, Kelley, Windom, and Hopkins.

After four months Judge KELLEY forged the following report of my speech, preceded by the only extract from the only record in the book which I have already given:

In the course of his remarks at this meeting, Senator FOWLER, of Tennessee, without warrant of precedent by an allusion to Mr. Johnson by any of the speakers who had preceded him, introduced the question of his impeachment, and entered into an argument to demonstrate its necessity, and to show the responsibility of Congress for the sufferings of southern Union men and the murder of so many of them, which he said would be continued as long as we failed to impeach and remove him.

He opened this topic by saying that some of the gentlemen present had differed with him in their estimate of Mr. Johnson and judgment of his purposes, but that experience had probably satisfied them that he had been right. He said he had known him long and well, and let the defects of his character be what they may, he was plausible and unrepentant in his purposes, and had extraordinary power for evil.

That no efficient relief could be given the Union men of the South till he should be impeached and removed—it was very well to send speakers and organizers among them, and to enlighten them on the questions of the day by distributing our publications among them—but that our labors would be ineffectual while Mr. Johnson continued to administer the laws.

That he would as President be able to overthrow such governments as might be established, and that so long as we should fail to do our duty and impeach and remove him from office, we would be responsible for the sufferings and blood of the Union men of Tennessee and the unreconstructed States.

The foregoing embraces an extract from the minutes of the committee, and my recollection of the tenor and phraseology of the remarks of Senator FOWLER, at the meeting of the 10th of January, nor was their tenor exceptional, as in his intercourse with me he had frequently pressed the same views on me, as well as on others in my presence.

WILLIAM D. KELLEY.

We, who were present also at the meeting referred to above, concur with Judge KELLEY in his account of what was said and agreed to there by Senator FOWLER. Senator FOWLER's idea, distinctly set forth and impressed on us, was that we could expect no restoration of peace to the country or enforcement of the laws without the impeachment and removal of Andrew Johnson from the Presidency.

ROBERT C. SCHENCK,
B. F. HOPKINS,
OAKES AMES,
J. H. ELA,
JOHN COBURN,
SIDNEY CLARKE,
C. D. HUBBARD,
THOMAS L. TULLOCK.

I regret to see the names of OAKES AMES and General COBURN in this company. They were obtained no doubt through the same influence that obtain names generally. They were, I suppose, asked to sign the document.

It will be observed that this meeting took place after the first attempt in the House to impeach, and six weeks before the second was thought of.

It was not until the 21st day of February, 1868, that the President issued his order for the removal of Mr. Stanton, and designated Lorenzo Thomas to take charge of the office. This act was seized upon, as it was a personal quarrel, and like any other similar fight it was well adapted to the purposes of those waiting in anxious hope for some indiscretion or any pretext, less to dispossess the President of his place than to gain possession of it for themselves. I could have passed no opinion on any subject connected with the articles of impeachment actually preferred. If I had advocated the impeachment of the President on other

grounds I could not and would not have felt bound to convict him on a different charge, or on any charge whatever, unless from careful examination of the case I had, upon the trial, found him guilty.

This forgery was not sent to me until the evening preceeding the vote on the eleventh article. It was published in the Washington Chronicle on the day that vote was taken, four months after the meeting at Senator MORGAN'S. The date of KELLEY'S forgery is carefully concealed. He does give the date of the meeting, but is cunning enough to conceal the period of his own criminal conspiracy. I leave the country to judge the motive that did induce this man to play this petty trick of a weak and silly knave. I have this declaration to make, that I did not utter one single sentence that KELLEY has coined. He neither gives the spirit, nor the connection, nor the object of my remarks. I did allude to impeachment, but for a very different purpose and in a very different connection. There is no more uncertain thing than a report made by any person after four months, under the pressure of political or partisan bias. What credence is such a report of a political conspirator entitled to under such circumstances?

It is true I did allude, as I have already said, to impeachment, but for this purpose: that as Congress had failed to impeach, and as the President did desire the success of his policy, he would as he had a right secure it if he could; that the Republicans of Alabama must carry that State if they succeeded in any of the States; that it was the duty of the committee to send means and competent speakers to aid in the canvass; that if we failed to carry the State the fault was our own. I felt more disposed to censure the committee than the President. When it will be remembered that the election was to take place in about three weeks, it cannot be believed that I looked to impeachment as a remedy unless the process of impeachment were as simple, undignified, and uncereemonious as the process of expelling a rat from the cellar, unless to cast aside all self-respect, all regard for the delicate propriety due to that high office, as well as to silence all "compunctious visitings of nature," to block up all "access and passage to remorse," to execute the "fell purpose" with dispatch, to seize with heroic courage the cherished diadem, the process of the "expulsion of the President" were resorted to. No such object was in my mind, no such speech was made.

THE INFLUENCE THAT SUCH A SPEECH SHOULD HAVE.

I will say to my fellow-citizens that if I had made the speech and one ten times more decided, and if it had been made upon the very articles of impeachment I would not have felt bound to adhere to it unless upon the trial I had found the President guilty as charged. I would have felt the more deeply my obligation to give the President the benefit of a just and impartial verdict upon his case according to the spirit and words of my oath to render an "impartial verdict according to the Constitution and laws." If I had distrusted my ability to hear his cause with impartiality, I should at once have resigned my place. If any preconceived opinions or any prejudgment had taken place in my mind, or any ambitious desire for place or honor, or any other consideration of which I could not divest myself, I would have scorned to have taken and kept my seat. If any considerations other than a stern and simple regard for a righteous decision had influenced me or seemed to have influenced me I should have shunned the office as I would a poisonous reptile. But I was not placed in any such position. The President was charged under a law that I had voted for and which presented issues not before involved in the political domain. I expressed no opinion on any article involved in the trial of the President until the Chief Justice asked my decision.

MY RIGHT TO SPEAK FOR MYSELF.

I know I say quite enough, and merit chas-

tisement for very much of it as well as for other derelictions; still I do not believe, and those who know me best will not believe, that I have ever committed any offense so heinous as to merit a punishment so cruel, so inhuman, so degrading as that of having KELLEY and BUTLER assigned to make speeches for me. May I not be judged by my own words?

I have one thing in particular here to complain of, and I pray my fellow-citizens to consider it and believe my statement. KELLEY says that I had frequently expressed the same views to him. Now, what I desire to prevent being inferred from this language of his is this: that there was ever any cordiality between us. I never called on Judge KELLEY in my life. I have met him in committee, on the street, and in the Capitol. I have spoken a few words to him with civility. I do not desire to have an impression so mortifying to my own self-respect as that we were ever in sympathy, or that I did not instinctively repel his presence. I desire to make this statement for the benefit of those that I love and that love me. I pronounced him a revolutionary conspirator, and do not think otherwise now. I formed my opinion from his course on the subject of impeachment long before he forged a speech for me.

THE CONNECTION OF THIS WITH OTHER CIRCUMSTANCES.

It must be borne in mind that this forgery of KELLEY was sent to me on the evening preceeding the vote on the eleventh article, and was published the day that the vote was taken in the Washington Chronicle. A few hours after the forgery came to me three persons visited my room to poll my vote. I detected their sinister motives by a false and contradictory statement of one of them, and the arrogance, insincerity, and weak presumption of another. I shall not stop to speak of the ungentlemanly conduct of the chaplain of the company, who seemed thoroughly in the interest of the revolutionary leaders. These men left disappointed. I met the reverend meddler the next morning in the Capitol, and he threatened the investigation of the inquisition, the exposure and expulsion from the Senate. I will only add that the same threat had been made before by others.

When BUTLER makes his report he inserts KELLEY'S forged speech, and baldly pronounces it an "extract from the minutes of the Union congressional committee." This misrepresentation of KELLEY'S forgery is of itself enough to damn this man to infamy among all honorable men. KELLEY did not date his forgery, and connected the false report with the extract from the minutes of the committee in such a manner as to insinuate the lie. But BUTLER, of more capacious soul and bolder wing for the false, scorns the act of his meaner rival, and baldly proclaims the forgery an extract from the minutes of the committee. He is a bold genius that rises above the dusty and tortuous paths of the common sneak. He mounts upon strong pinions high up in the atmosphere of never-ending and uncontaminated falsehood, and basks in his native element. He is a thorough-bred; no trace of truth contaminates his veins or stains his memory. He seeks to perfect the false by eliminating all the true. He is the immaculate and Protean liar of the age, as well as the very "god of thieves."

THE SECOND CHARGE.

I come now to the second evidence of my corruption. BUTLER charges in his report that Colonel Edmund Cooper, of Tennessee, held the following language with one Leggett:

"Mr. Cooper assured Mr. Leggett that in addition to the Democratic vote the President had secured the votes of HENDERSON and FOWLER; and although the latter was embarrassed by some declarations that he had made 'that the President ought to be impeached,' yet he was sure of holding him ultimately."

As Colonel Cooper is well known throughout the South as a gentleman of fine talents and culture, of the highest social position, distinguished for his devotion to his country in her severest trials, of irreproachable integrity and purity of character, I will let him speak for

himself. To my letter calling his attention to the report he made the following reply:

WASHINGTON, July 20, 1868.

MY DEAR SIR: In answer to your inquiries contained in your note of the 18th of July, 1868, I beg leave to say that the statement made in the report of Hon. B. F. BUTLER, that "Mr. Cooper assured Mr. Leggett that in addition to the Democratic vote the President was sure of the votes of Senators FESSENDEN, GRIMES, and TRUMBULL, that he had secured the votes of HENDERSON and FOWLER, and although the latter was embarrassed by some declaration that he had made, that the President ought to be impeached, yet he was sure of holding him ultimately," is a willful, deliberate, intentional falsehood, coined alone in the brain of the witness.

I never made such a statement in regard to you or Senator HENDERSON to Mr. Leggett or any other person, nor could any language of mine be tortured into such a construction.

At no time did I ever make an effort to secure Senator HENDERSON or yourself. You never informed me that the "President ought to be impeached," nor had I ever heard the statement made by others, nor could I have used language showing embarrassment about a subject of which I knew nothing.

Hoping that you will characterize this willful falsehood as it deserves, and that you will suffer no wrong from the vindictiveness with which you have been pursued,

I remain, very truly, yours,

EDMUND COOPER.

Hon. JOSEPH S. FOWLER, *United States Senate.*

As the report mentions my name only in these two relations prominently, I do not deem it proper to enter further into the matter, except to state that Hon. H. A. Smythe, soon after the vote on the eleventh article, sent me a telegram congratulating me and those who voted with me on the service we had done our country. This I answered at once, in the presence of the Senator from Kentucky, [Mr. McCREERY,] who read both. The report further says that one General Eagan won a hat in a bet that the seven who voted for acquittal would so vote. The report says that he swore that he "guessed it." It was not difficult for any person who read the trial to tell how each Senator would vote. Any man who watched from the beginning the vote on all interlocutory and preliminary questions could readily have predicted with almost absolute certainty how each would vote. These votes showed the convictions of the Senators, and showed also their courage to defy the spirit of intolerance that surrounded them.

After all the elaborate system of falsehood used by BUTLER in his report, he has failed to prove any offer ever made, or any attempt ever made, or was ever contemplated to be made to bribe, intimidate, influence, or induce any one of the Senators who voted against impeachment to vote as they did. He has failed to show that a single dollar was raised or used or attempted to be used to influence one of these men. There is not an honest man who has ever read the paper that would not pronounce it false in its conception, false in its statements, and false in its intentions. There is not an honorable man that would not spurn the vile slander, and the vile slanderer from his presence as he would hunt a spy from an army. It is so shameful that it bears only the name of its author already immortal in infamy. To show a fair specimen of the capacity of this national liar, I will insert the letter of General Craig relative to the charges against Senator HENDERSON. General Craig is an ex-member of Congress from Missouri, of high character and unsullied veracity. This letter is addressed to Hon. JOHN A. BINGHAM, an old friend. I will venture the prediction that Judge BINGHAM scorns the foul slander and its author. No man who ever sat at the feet of that great and good man, John Armstrong, and received lessons of wisdom and truth from him could either lend his voice to sustain a document so loathsome in itself as this, or to ruin one who drank from the same pure fountain. Indeed, not one of the committee were so lost to self-respect as to permit their names to be connected with this infamous document:

METROPOLITAN HOTEL,
WASHINGTON, June 9, 1868.

SIR: After making several applications through friends to General BUTLER for a copy of the report made by him to the House for the special committee of the managers of impeachment, of which you are chairman, I to-day succeeded in procuring a copy, for which I am indebted to the politeness of General

LOGAN. In commenting upon this remarkable document, I desire in advance to disclaim any intention of attributing to you its authorship or any responsibility for its character. An acquaintance of more than twenty-five years gives me authority for saying that you are incapable of either writing or knowingly sanctioning a report made up of deliberate perversions of truth, and of bald, unblushing falsehoods.

I proceed to notice the report, so far as it connects me with the impeachment trial, in the full belief that you could not have read either the evidence or the report, and protesting that if it had gone out to the world as the individual production of Manager BUTLER, and not as the joint report of yourself, and some other gentleman of high character associated with BUTLER upon the committee, I should not have troubled you or the public with this hasty letter.

I have never indulged in the use of those epithets so generally applied to General BUTLER, among the mildest of which are "Brute," "Beast," "Thief," &c., fearing that in the political excitement of the times his enemies were possibly doing him injustice; nor could I, until now, fully realize the pungeny of the language you once applied to him on the floor of the House of Representatives, that "he had been raised in a bottle and fed with a spoon." I can now "see the point," and without investigating the origin of discussing the propriety of the epithets heretofore bestowed upon him, the document now in question conclusively proves him to be "a great liar and a dirty dog."

A note purporting to have been written by Mr. Cooper to the President, stating that "HENDERSON is all right; Lacey has gone to see him with Craig; so says Evans," induced your committee to subpoena me. I attended in obedience to the subpoena, fully determined to answer all questions whatever, proper or improper, which might be propounded, and upon my examination—Generals BUTLER and LOGAN being the only members of the committee present—I did so answer.

In my testimony I admitted that I had visited Senator HENDERSON, but not with Mr. Lacey; that although on terms of intimate friendship with Senator HENDERSON I had never felt at liberty to inquire how he intended to vote on the impeachment until the night before the vote was to be taken; and that the Senator having called at my hotel to bid my family farewell, and I being about to start for Missouri, I then asked him, as I would leave the city within a few minutes, to tell me whether he would vote next day for conviction or acquittal; and that when he informed me of his intention to vote for acquittal I was astonished, for I had offered only a few hours before to bet that he would vote for conviction on one or more of the articles. On my way to the omnibus I met Mr. Lacey on the sidewalk, and told him what the Senator had just communicated to me. This was all that occurred between Lacey and me; and to more completely expose the perversion contained in the report, I will add that I never saw Lacey and HENDERSON together in my life; and in addition to this, Mr. Lacey testified before the committee that he had seen Senator HENDERSON but twice in six years, and on neither of those occasions was impeachment mentioned, either directly or indirectly.

On page 17 of the report appears the following: "Was not the information of Leggett on the morning of the 13th quite correct, that unless the Missouri delegation got HENDERSON'S promise before twelve o'clock, to resign or vote for conviction, they never would get it, as Craig had gone to see him; and they never did." I quote the above paragraph to illustrate the character of the report. This Leggett is the man who confessedly presented a forged letter purporting to come from Senator POMEROY, for the purpose of getting \$40,000 for the votes of certain Senators to acquit; and yet BUTLER parades his evidence in his report, apparently with the sanction of the committee, as worthy of belief.

On page 19 the report states that I dined at Welker's with Woolley, Mr. Evans, one of the President's counsel, being also a guest. This is one of the most damnable and willful falsehoods in the report. I have never been in Welker's restaurant, never saw Woolley, do not know him by sight, and I have never been introduced to, nor have I ever spoken to Mr. Evans. This was a plain, palpable, intentional misrepresentation by BUTLER, which needs no further comment.

I have before given the substance of my testimony on the subject of my "seeing and securing HENDERSON." I will add that a day or two after giving my testimony, I called at the committee-room to correct a mistake I had made in my evidence, which I did by writing a note to the clerk of the committee, with General BUTLER'S consent and in his presence. I then told him that justice to the Senate and to the country would be promoted if he would ask me the main question upon the subject which he was ordered to investigate—that is, whether I had used or attempted to use any influence, political, pecuniary, or otherwise, to induce any Senator to vote to acquit the President—and assured him I was ready to swear that I had not done so either directly or indirectly. BUTLER refused to ask the question.

The report states that Lacey's testimony disagrees with mine; that I say I communicated to Lacey HENDERSON'S intention to vote against conviction on Friday evening, and that Lacey states it was on Saturday evening, when, according to my statement, I was far on my way to Missouri. By reference to the testimony of Lacey (question 103, page 16) you will see that no such discrepancy appears, and BUTLER knew his assertion was false when he wrote it.

On the same page the report says I am president of certain railroads in Missouri, in which Mr. HENDERSON is interested. I do not think Mr. HENDERSON owns any railroad stock anywhere, and I know he does not have a farthing of interest in any road

or company in Missouri or elsewhere with which I am connected, and no witness before the committee testified that he had any such interest.

Such are a few of the more glaring falsehoods contained in the report. It is unnecessary to specify others. These are sufficient to brand the production with a portion of the infamy pertaining to its author.

To briefly sum up the facts, I will state that I remained in Washington attending to the business of the several railroad companies with which I am connected during the whole time of the impeachment trial, and did not once allude to the subject of impeachment, either in conversation or in writing, to any Senator except to Senator HENDERSON; and I did not try to ascertain his intentions until after the evidence and arguments had been closed, and I was about to leave the city, on the night before the vote was taken; and, although superfluous, I make the assertion that no man acquainted with the character of Senator HENDERSON would have ventured to make any improper or corrupt overtures to him on that or any other subject.

I was a member of the Democratic convention of 1860, at Charleston, South Carolina, where BUTLER voted fifty odd times for Jefferson Davis for candidate for the Presidency. Differing with BUTLER as to the fitness of his candidate, I made certain remarks which I suppose he considered offensive, and it seems he has neither forgotten nor forgiven me. After several southern States had, under the advice of BUTLER, withdrawn from the convention, BUTLER attended the "bolter's meeting," and made a speech in which he promised his fire-eating brethren (in the event of a war resulting from the rupture) the use of half a million northern Democrats to slay the northern abolitionists before they should invade a southern State.

I was disposed at the time to doubt BUTLER'S sincerity, but subsequent events have satisfied me that he would have tried to fulfill his promise if he had continued to believe that the paying side; but after reflecting upon the numerical strength of the northern States, and especially upon the strength of northern safes, he concluded that jewelry and plate were more accessible at the South, and hence took the side of his country, and busied himself during the war in taking jewelry, plate, and other things, instead of taking Fort Fisher, Big Bethel, and other places.

You will not doubt my sincerity when I suggest that you cannot afford to place your hard-earned and well-deserved character in the keeping of this miserable parody on his species. When he charged you with contributing to the murder of an innocent woman, nobody believed him, and the American people read the terrible charge in the Globe with a shudder of indignation; but if you permit him to act as chairman of your committee, bully and badger witnesses, falsify records, manufacture evidence, and finally make a report in the name of your committee that would shock the sensibilities of a buccaner, even your character, heretofore without stain, may be injured.

The only truth I find in the report, so far as it relates to me, is that I was once a member of Congress, and now collector of internal revenue for my district. I voluntarily left my seat in Congress, and will within a week resign the collectorship. For the manner in which I discharged my duties in Congress I refer you to my constituents, and for the kind of "whisky ring" I belong to I refer to the files of the revenue department in this city, and to Hon. E. A. Rollins, the Commissioner.

I am, sir, with high regard, your old friend,
JAMES CRAIG.

Hon. JOHN A. BINGHAM.

GENERAL B. F. BUTLER.

Who is this man BUTLER, who assumes to lead the nation by the ears at his will, and to crush out all opposition? He is, I know, not unknown to fame, or rather to infamy. I will call attention to his record, as made by a commission appointed by Mr. Lincoln to investigate the affairs of the department of the Mississippi:

BUTLER IN NEW ORLEANS—PART OF THE STANTON-SUPPRESSED REPORT.

The following is a hitherto unpublished extract from the final report of the "special commission appointed to investigate and report, for the information of the President, upon the civil and military administration in the military department bordering upon and west of the Mississippi."

The order creating this commission was signed by Abraham Lincoln, as President, on the 10th of December, 1864. The commissioners named were Major General William F. Smith, and Hon. Henry Stanbery, of Ohio. General Smith reached New Orleans January 2, 1865, but owing to the non-arrival of Mr. Stanbery, it was not until the 23rd of January that the first testimony was taken. Mr. James T. Brady, of New York, arrived in April, 1865, having been appointed by the President in place of Mr. Stanbery. The report, a volume containing nearly four hundred pages of foolscap, is now on file in the War Office, having been suppressed by Stanton since the time it was submitted, in September, 1865. It is signed by William F. Smith, Major General, (properly known as Baldy Smith;) James T. Brady, and Nicolas Bowen, lieutenant colonel, A. A. G., judge advocate. The commissioners, in their introduction to the report, say:

"The Administration of General Butler in the Department of the Gulf."

"Mr. Jacob Barker was examined on the 9th of February, 1865, and he says, among other things, that when General BUTLER arrived in New Orleans he told

the witness he had no money, or very little, in the military chest—about one hundred dollars. Mr. Barker, at his request, loaned him \$500, which was afterward paid. About this time he told me (the witness continued) "he wanted more money—\$100,000 on his own account for his bill in Boston. I agreed to let him have it. He took the greater portion, for which he gave me his exchange on Boston, which was honorably paid. Of this money most of it he drew on me for gold in favor of his brother. Subsequently he told me that his object in this negotiation was to get funds to loan his brother."

"Mr. B. F. Smith testified before the commission on the 27th of February, 1865, that he had resided in New Orleans twenty-two years, and was there when General BUTLER arrived; that he was interested with Colonel A. J. Butler, the brother of General BUTLER, in carrying goods across the lake, consisting of salt, quinine, shoes, corn, groceries, and liquors, which went mostly into the hands of the rebels, as Colonel Butler well knew. He received one third of the profits realized upon them. The witness was asked: 'Do you believe that General BUTLER knew about this trade?'"

"Answer. Yes, sir; I told him. He asked me the question, and \$13,000 worth went after that."

"Question. Did you deal in cotton at all?"

"Answer. We tried to, but got only one hundred and ninety bales."

"Question. State about the transaction."

"Answer. General BUTLER informed me that no more goods should go out unless cotton returned. I went to the rebel authorities. General Lovell, the rebel commander-in-chief, endeavored to have the witness come back with more goods. The witness told him what General BUTLER had said."

"Question. You had no difficulty to get in and out (of our lines) when you pleased?"

"Answer. No, sir; I had six or seven schooners chartered. Colonel Butler got everything fixed. French signed the passes."

"The witness says that when he came back to New Orleans after his interview with the rebel general about the cotton, he reported progress to General BUTLER and Colonel Butler, and that he got a promise, and he says, 'the general told me that the rebels would fool me.'"

"Question. Did the cotton come in?"

"Answer. Yes, sir; and goods went out."

"Question. What was the value of the cargo?"

"Answer. Between twelve and thirteen thousand dollars."

"Question. What was the value of the cotton that came in?"

"Answer. One hundred and ninety-six bales, at forty-five cents a pound."

"Question. When you came to settle with Colonel Butler he gave you only \$2,500?"

"Answer. He did not give me that. The party who represented the rebel authorities came to me and offered me \$10,000 for my interest in the thing."

"Question. What was the amount of your claim on Colonel Butler?"

"Answer. I do not know; I was to have one third of the net proceeds. We paid for the cotton, I think, ten cents a pound, and got forty-five cents. It was worth about two hundred dollars a bale. That would be about thirty-six thousand dollars. The salt was bringing about thirty dollars a sack."

"Question. How much percentage did you make upon the goods?"

"Answer. More than two hundred per cent., and seventy-five per cent. upon the cotton."

"This witness, Smith, says that he was a rebel at the time, and did not take the oath until after these transactions."

"W. W. Watson testified on the 1st day of March, 1865, that he knew a person named A. F. Smith. (This undoubtedly refers to B. F. Smith, the witness last examined, as will appear by a careful examination of the deposition.) Mr. Watson says that Smith did a great deal of business during General BUTLER's administration; that he would slightly doubt his statements because he was a party in the Bayou la Fourche Land Company bill, which the witness regarded as a swindle."

"The witness testified as follows:

"Question. Is there anything in that to hinder his credibility as a witness, except that he was connected with the straw company?"

"Answer. No, sir; I do not think there was."

"Question. Do you know anything about this business that he carried on across the lake in General BUTLER's time?"

"Answer. At the time I saw him the business was not carried on very well, and he told General BUTLER that he would retire."

"Question. What knowledge had you that he was going into a contraband and improper business?"

"Answer. I had no direct knowledge, but was of opinion that he filled out the General's passes in a written form."

"Question. Do you mean he signed the General's name, or that the General furnished him with blank passes?"

"Answer. I saw his book on the table, and saw his passes that were not signed by the General."

"Question. And you are certain that General BUTLER filled up these passes?"

"Answer. Yes, sir; he cleared three vessels from here to Matamoras, among which was the Mary Davis. When Admiral Farragut was informed of it he sent a gunboat and took the supercargo, Reed, General BUTLER's brother-in-law. Farragut took his pass and went up to the General's with it, and asked him if it was his handwriting, to which the General replied, 'That is A. J.'s handwriting.' A. J. Butler was then arrested and paroled, and afterward taken up by a picket and brought back here, and, having given security in \$30,000 bonds, finally ran away."

"The witness was not present at the interview between Admiral Farragut and General BUTLER and based his statement on hearsay. The witness says that the permits which Colonel Butler made out contained a great variety of articles, and instanced one to a man named Long, to take a vessel of about eighty tons to Mobile loaded with provisions, &c. He was to bring back the money belonging to the Merchants' Bank. Colonel Butler and Mr. French made out the list of medicines, and assisted in getting the medicines to send by this vessel."

"The witness was asked: Have you any reason to suppose that General BUTLER was interested in these operations?"

"Answer. Yes, sir. I have reason to suppose so, but I do not know the fact."

"Question. State any fact."

"Answer. They had no money until they got \$320,000 out of the city treasury. I saw the first \$1,000 counted out on the table in Butler's (Colonel) office."

"Question. Who was present when that money was counted?"

"Answer. No one except Mr. Wyer, Mr. Dunell, and myself. Mr. Dues, General BUTLER, and General Schaffer signed the order. It was presented to Mr. C., and he would not give up the money, whereupon Mr. Mlanders was appointed and the money was got."

"Question. Where any receipts given for this money?"

"Answer. I do not know."

"Question. Was an order ever given to deliver this money over to A. J. Butler?"

"Answer. Yes, sir; and you will find it in the comptroller's office, I think."

"Question. Who signed it?"

"Answer. Dues, General BUTLER, and General Schaffer."

"Question. And it passed into A. J. Butler's hands?"

"Answer. Yes, sir; I did not see the money used, but I was asked to pass \$20,000 to a planter on the coast, and I told A. J. Butler that I would not do it."

"The witness says that A. J. Butler was engaged in removing crops from plantations to the city, for which purpose a boat used to be guarded by from twenty-five to fifty soldiers, and the boat used to return to the city with six, seven, or eight hundred hogsheads of sugar. He understood, but did not personally know the fact, that this sugar was seized and went to New York through the hands of A. J. Butler. The proceeds of this cargo passed into the hands of A. J. Butler & Co. or their agents."

"The boats employed in the business were the Iberville, Laurel Hill, the Empire Parish, and the Lieutenant Morris, boats in the employ of the United States Government. The Iberville was chartered by Colonel Shaffer and Mr. Bloomer, who did the outside business for BUTLER at \$5,000 per month. These boats paid no freight to the quartermaster's department. The witness paid the teamsters and wagoners employed in the work. The boats all passed out of the port of New Orleans free of any charge or tax."

"The witness says: 'I suggested to General BUTLER that the Government transports might be ballasted with sugar. He said that it would not be proper, for the port was not open; but finally that I might do so, provided it was sand instead of sugar.'"

"Question. This was the general himself?"

"Answer. Yes, sir; this was before A. J. Butler arrived here."

"Question. Did you pay to BUTLER any freight upon this ballast?"

"Answer. No; I commenced going around to persons who wanted to ship sugar to New York, and told them that it would be taken for ten dollars a hogshead, and to say that it was sand if any inquiries were made about it. The port was not open until the middle of June, but this sugar was shipped in the month of May. General BUTLER said it would break the blockade in the eyes of foreign Governments if we were found shipping from here before the port was opened. When Colonel Butler came here he sent Captain Turner, and desired an introduction to me. I went down, and he, the Colonel, stated that he had been informed I was the only person capable or willing to do business, and as there was a great deal of shipping to be done, that if I would do it he would furnish officers, stationery, and clerks, and would divide with me. I declined doing so, when he sent for me again, and insisted upon my doing so. I heard him say to the captains of vessels: 'When you arrive in New York lay off in the harbor; go to the quartermaster and get your charter canceled, then heave alongside the pier and discharge your cargo to the consignees, who will pay you two dollars a hogshead. Keep your mouths shut.'"

"Question. What did you engage this freight for?"

"Answer. Ten dollars a hogshead."

"Question. Where did the eight dollars go to?"

"Answer. I don't know. I suppose that the money went to the Government. I charged nothing."

"Question. Into whose hands did these ten dollars pass?"

"Answer. I suppose the Government consigned to the quartermaster, and collected the freight in New York. I suppose everything was proper; I can bring you down to the list of the cargo of every vessel. Colonel Shaffer canceled his bonds by paying \$60,000, as they would not bear investigation."

"R. Bloomer was examined before the commission 22d of February, 1865, and testified that he was guardian of the children of one Mr. Wyer, who had an interest in the steamers New Orleans and Southerner, Belle Lee, the Johnnie Rodgers, and the Simpson. During General BUTLER's administration these boats were run on capital, which the witness says was 'probably' furnished by Colonel Butler. Colonel French became interested in them shortly after they arrived in New Orleans. He first became interested

in the Southerner. He bought one third, for which he paid \$6,000. She paid that one third the first week she arrived; these boats brought the agricultural produce of Louisiana to market. They got into trouble, witness says, every week. They were seized by military authority, and, says the witness, 'it became my duty to get them released. I generally went to Colonel Butler, and he would see persons in authority, and they were generally released.' In the case of the Southerner, she was seized and bonded, and I understood the district attorney discharged it. Sometimes we petitioned that the boat had violated no military law, and General Banks and General Stone would release them. There never was any money paid in any case that I recollect."

Colonel French was the provost marshal general during the administration of General BUTLER."

George Hounnewell, examined before the commission on the 5th of May, 1865, testified that on the 17th of September, 1862, General BUTLER compelled him to sell to him the steamer Nassau, for \$31,360 in current funds. He called it \$28,000 in greenbacks. He gave me his check on the Citizens' Bank for \$31,360, equal to \$28,000 in United States Treasury notes. I then offered to charter her to the Government for fifty dollars a day, and if that was too much, they might have had her for forty dollars. He said he was going to send her on a perilous errand, and could not charter her. General BUTLER sold the steamer a few days afterward for \$45,000 in greenbacks. He afterward chartered her to the Government for \$340 a day; \$10,500 a month. I saw the check for the first month's charter."

"Such is the substance of the testimony affecting General BUTLER's administration. For full details we refer to the depositions on file."

This is from the records in the Department of War, and shows conclusively that this general was a traitor to his country, and should have been tried, convicted, and executed for treason. The records of the Government furnish abundant proof of his pillage of the provinces over which he was placed. He went forth for spoils, and through the courage and skill of the brave Farragut he returned crowned with abundance."

THE INFAMOUS ORDER NO. 28.

HEADQUARTERS DEPARTMENT OF GULF, NEW ORLEANS, May 15.

As officers and soldiers of the United States have been subjected to repeated insults from women calling themselves ladies of New Orleans, in return for the most scrupulous non-interference and courtesy on our part, it is ordered hereafter when any female shall by mere gesture or movement insult or show contempt for any officers or soldiers of the United States, she shall be regarded and held liable to be treated as a woman about town plying her avocation."

By command of Major General BUTLER.

GEORGE C. STRONG, A. A. G.

In all the outrages and cruelties of this fearful contest, I venture the assertion that nothing can be found so dishonorable as the above. Other men committed acts of cruelty so starting as to cause humanity to shudder, but this abandoned assault upon the virtue of the women of New Orleans appalls all who dare look at its depravity."

This order was issued upon the trivial provocation given by some of the earnest women of the South to show their devotion to the cause they had espoused with all their hearts, and for which they were willing to sacrifice all that they held dear on earth. This devotion, although erroneous, only elevated these women in the minds of all noble officers and soldiers in the Union Army. It endeared them the more as American women, although in the wrong, still honest and faithful to what they believed their sacred cause. This master in the arts of Mephistophiles, struck home at their honesty and their virtue. It was not in detail but in the wholesale. He commanded his army to tear from their souls all respect for their virtue and purity. It stands out the monument of depravity sublime in its cold atrocity. Let the civilized world read it, and let one man attempt to apologize for it, or to mitigate its worse than barbarous spirit if he dares. It has already met among all civilized people its just condemnation. It is folly to say that the man who was trading with the enemy was moved to this by any sense of respect for his officers, his soldiers, or his country. It was cold revenge for mortified vanity. This man was met with deserved contempt, and he sought his revenge and used his power for that purpose. If, after reading Order No. 28, there are any men that would credit a word that its author would say on any subject, I do not envy them their disposition."

I have mentioned only a few points connected with this individual. The records are full of his atrocities. It was not my wish to assail. I sought not this contest. It was prepared for me, and I could not avoid it; hence I will do no more than I deem proper. I have toiled through too many years of honest conflict to suffer my reputation to be aspersed without an effort to vindicate it. I shall not see myself stricken down in passive submission to a being bloated by his own corrupt and dishonorable passions. Nature says it is so. She has stamped her impress upon him. He is the last and highest expression of treachery and mendacity that has made its appearance.

I shall not further pursue this theme. I will trust my action on the trial to the just judgment of my countrymen, conscious that they will do ample justice to motives, and that they will inflict ample chastisement upon the wicked men who sought to defeat the ends of justice and convert the Senate of the United States into a political guillotine. I have but one wish on the subject, and that is the harmony and peace of my country and the preservation of its institutions. These, I cannot but believe, were endangered by the unhallowed effort made to overawe and coerce the judgment of Senators.

In less than ten years the returning sense of justice of my countrymen will expunge the articles of impeachment from the Journals of the House. Passion, ambition, and vengeance cannot long inflame the masses of men. To their solemn and revered decision I will submit with the same cheerfulness that I have been accustomed to meet all the duties of life.

Mr. ROSS. Mr. President, it is now between two and three months that a committee appointed for that purpose by the House of Representatives has been engaged in an investigation of charges of bribery against members of the Senate in connection with the trial of the impeachment of the President. As one of the Senators who have fallen under the displeasure of the House, and against whom that body has diligently sought proof of corruption, I have repeatedly and earnestly expressed a desire for a most thorough and speedy examination into and report upon these accusations. That desire was amply manifested in the following remarks upon this subject, submitted to the Senate a few days after the final adjournment of the court, in which I denounced the accusations, and demanded an investigation; and for fear of that unnecessary delay and perversion of fact which has ensued I then submitted a resolution to the Senate, in connection with my remarks, for the raising of a committee of its own members, that if possible a more speedy and searching examination might be had:

"Mr. President, since the vote taken in this Chamber on the 16th instant, which resulted in the acquittal of the President of the charge of a high misdemeanor in office, set out in the eleventh article of impeachment, the whole country has been filled with rumors of bribery and corruption on the part of members of this body. Were these rumors confined to street or bar-room gossip they might not be worthy the notice of the Senate; but the House of Representatives has deemed them of sufficient importance to predicate official action on them, and since the date of that vote the board of managers have been in daily session, prosecuting investigations on this subject.

"These charges are calculated to affect the honor of the Senate, and as they have received from the House of Representatives such marked and protracted attention it is becoming in the Senate to take notice of them. An investigation is due from the Senate to its own high character, to its accused members, and to the American people.

"If there be on this floor a Senator who has received or offered or agreed to take a bribe of any nature whatever to convict or acquit the President, let him be proved guilty before a committee of his peers and expelled.

"If there be one who has yielded his convictions to threats, let us expose the coward to the merited contempt and scorn of a courageous people.

"If there be one who has attempted to bully or bribe a fellow-Senator, let us know the fact, and determine whether he is a fit associate for us in this high Council Chamber.

"But if none of these offenses have marred the dignity of this great trial, let the calumnies which the tongues and pens of ten thousand slanderers have scattered broadcast over the land be dispelled, and let the purity and dignity of the American Senate, and of the humblest as well as of the highest of its members, be vindicated by its own act."

"I have borne in silence until now assaults on my character and motives as a member of the court, such as few, if any, of my associates have endured. I do not allude to the fierce storm of party denunciation which burst over the heads of the seven Republicans who voted 'not guilty,' for that was anticipated, and I was prepared for it. The peltings of that storm I have borne with equanimity, conscious that I had performed a just and worthy act, and confident that the developments of time would bring an ample vindication of my conduct against the charges of infidelity to my party and the country. I allude to the charges of bribery in its various forms, now being examined by the managers of the impeachment in secret session. I allude to scandals which have been deliberately concocted by those urging the cause of impeachment, and repeated threats of assassination, all brought with the view of affecting my action in favor of the conviction of the President.

"Believing the trial would soon end, I have thus far submitted in silence to these accusations and assaults, rather than provoke a controversy in the Senate as to matters then pending before the court. But the trial is now ended, and I have something to say in vindication of my conduct during it, which it is both my right and my duty to say.

"At the beginning of the trial of this cause I was sworn by the Chief Justice of the Supreme Court of the United States, as a member of the court of impeachment, to do 'impartial justice to Andrew Johnson, President of the United States, according to the Constitution and laws.' I had been, and still am, an earnest opponent of the reconstruction policy of his administration. I thought, as I still think, that policy in many most important particulars, unwise and injurious to the best interests of the country. I longed, and still long, for such changes in the administration of the Government as would conform it to the views of the dominant party of the country, and to the reconstruction policy of Congress. But I could not, with the light then before me, declare the President guilty of high crimes and misdemeanors on mere differences as to governmental policy. I sought to divest my mind of all party prejudice, hear the accusations and the evidence, and endeavor to cast my vote in the cause with the candor and courage of an honest judge.

"In this spirit I discharged my duty as a member of the court of impeachment. I voted to admit all the evidence offered by both the prosecution and the defense, so that the Senate, sitting as a court and jury, as judges of law and fact, might sift it all and determine the cause with no fact shut out by technical rule which bore on the guilt or innocence of the accused; and when I voted on the several articles of impeachment I cast out of the scale, as far as I was able, all mere party considerations, and weighed the cause as the Constitution and laws and my oath demanded.

"I do not claim the attention of the Senate to-day in order to vindicate the wisdom of my votes. The law and the evidence applicable to the several articles have been ably discussed by the managers on the part of the House, by the counsel for the President, and by the lawyers of the Senate, and any argument from me would be egotistic, superfluous, and now out of time. I ask the attention of the Senate to assert the integrity of my conduct as one of the judges in the trial; to denounce falsehoods set afloat affecting my honor as a Senator; to demand of the Senate that all charges of improper influences brought to bear on Senators during the late trial be openly and thoroughly investigated by the Senate and not be committed to the secret investigation, but public criticism of the board of prosecutors appointed by the House. I challenge any man or board to appear before this Senate or its committee and exhibit accusations or evidence against me; and, finally, to give notice that when that committee is appointed, I shall move the Senate to call on the House for copies of all the testimony taken by its board of managers under the resolution of the 16th instant, so that if any evidence of corrupt practices by or toward any Senator, whether he be one of those voting for or against conviction, be in possession of the board, it may not fail to be brought to the attention of the Senate.

"As a foundation for the charge of bribery brought against me it is claimed that I assured my colleague repeatedly, and up to the day of the vote, that I would vote for conviction on the eleventh article; that he had my pledge in writing to that effect, together with that of thirty-five other Senators; and that I suddenly and unaccountably, except upon the supposition of bribery, changed my determination in a single night. If the assertion of fact were true, the inference were monstrously unfair. Who among you, Senators, anxious to keep his oath and to do impartial justice, was at all times free from doubt? The honorable Senator from West Virginia, [Mr. WILEY,] in a card published on the 25th instant in the papers of this city, says that he and his colleague were in doubt as to the eleventh article until the week of the judgment, and that he was by the announced opinion of the Chief Justice on the manner of taking the vote on that article to vote for conviction, while his colleague was led by the same opinion to vote for acquittal. I confess, as I am sure a large part of this Senate might truthfully do, to having entertained doubts about that and other articles until a few days before the vote was taken, and I then resolved the question in my own mind by giving to my country the benefit of my doubts. I do not deny that it has been my intention to support a portion of the articles of impeachment, nor that I have given numbers of those who approached me on that subject to understand that such was my intention. But, sir, does that deprive me from changing that purpose when I become convinced that a wrong is to be perpetrated by carrying it out? Is it an uncommon thing for

men's minds to be changed with the lapse of time and the further development of the questions at issue?

"But no man ever had from me a positive assurance that I would vote either for conviction or acquittal on that article, or either of the other articles voted on prior to Thursday, the 14th instant.

"That my colleague had no such assurance, but was fully informed of my position upon those articles, will be amply shown upon the investigation contemplated by this resolution by the testimony of Senators on both sides of the question of impeachment.

"Mr. President, I have been no summer soldier, no sunshine patriot. I was baptized in politics in the old abolition party of 1844, when but fifty thousand men in the United States dared to say that they were the friends of the slave, and bore my share of the whips and scorns which fell to the lot of its members before anti-slaveryism became a popular and lucrative profession. I led a colony to Kansas in 1855, and there struggled with success to check the spread of slavery; and again, when rebellion threatened the nation's life, I entered the ranks of the Union Army as a private soldier and carried the flag until slavery was destroyed and the authority of the national Government reestablished. I have never labored or fought for plunder. My hands have no dishonorable stain upon them. No man can point to a single instance where I have wavered in the maintenance of my convictions, whether in the battle's front or the polemics of the forum. Always poor in this world's goods, I have contentedly worked and fought for the establishment of principles which I believed to be beneficent to my fellow-man and to my country; and without egotism I may challenge any honorable Senator here to produce a record of service, in civil or military life, freer to this moment from all stains of selfishness or blot of dishonor than that which I now proudly look back upon and call my own.

"Mr. President, I feel that this charge is heralded over the land and evidence ostentatiously sought to sustain it to make me a scapegoat for the egregious blunders, weaknesses, and hates which have characterized this whole impeachment movement; itself a stupendous blunder from its inception to the present time. I have been singled out as the object of assault, doubtless because I am a new member here, unskilled in debate, unknown to national politics, and comparatively without the means of self-defense possessed by able and more experienced members. I am conscious of these disadvantages, as well as of the strength and malignity of my accusers. They have to-day at their back a large majority of the great patriotic party to which they and I belong, with nearly a lithe machinery of vengeance; while I have but a feeble voice here, backed, however, by that never-failing source of strength, my own consciousness of rectitude and patriotic, honest purpose. Let them do their worst. There is a just people behind us all who constitute the court of last resort, in which all our acts are tried and judged. Dear as I value my hard-earned reputation—the chief property of myself, my wife, and my children—profoundly as I appreciate my weakness and the strength of my accusers, I am upheld by a consciousness of rectitude which no power can shake, and I bid defiance to them and their calumnies.

"Mr. President, I desire to offer a substitute for the resolution now pending.

"That a committee be appointed by the President of the Senate, to be composed of three Senators, whose duty it shall be to inquire whether improper or corrupt means have been used, or attempted to be used, to influence the votes of the members of the Senate in the trial of the impeachment of the President; and that the said committee be authorized and empowered to send for persons and papers, and to do all things that in their judgment may be necessary for the furtherance of the object of the resolution."

"That committee, though appointed at my urgent solicitation, has not yet commenced its investigations, and though its members have been repeatedly requested by me to do so I have now no hope that it ever will. At my own request, also, a majority of the committee was composed of gentlemen who were supposed to be actively and zealously in favor of the impeachment, and who were understood to believe the charges of corruption which were so freely and confidently circulated against some who differed with them in that matter.

I had hoped that we would long since have been furnished with a complete report of the operations of this committee, with nothing held back, nothing put down in extenuation of the short-coming of those, if any, who might be found to have been swayed by any influences whatever, from the distinctive line of senatorial and judicial propriety. Up to this time, however, now at the close of the session, no such report has been given us. It is true we had laid upon our desks a few days ago a report in part of the testimony taken by the committee of the House, but which in fact consists of little else, after ransacking the mails and telegraphs and carefully collating the gossip of the street and the bar-room for testimony against the accused Senators, after the employment of all the means known to a

shrewd and unscrupulous criminal lawyer of the most degraded and remorseless type, after the most shameless distortion and garbling of testimony, even after the employment of perjury, to little else than base and unwarranted innuendo, of garbled extracts and perverted phrases skillfully put together by the practiced hand of a cunning knave.

Not even the chairman of the committee, its legitimate and proper head, signs the report. All save one, as if conscious of the humiliating and pitiful failure of all their travail, and possessing too much self-respect to lend themselves to a task so revolting, long since practically withdrew from the investigation, leaving it to one so well fitted for it by instinct and habit, and have declined to give it the respectability of their names.

Frequent and loud complaint has been made throughout the country, and echoed in this report, of the efforts alleged to have been made by the friends of the President to improperly influence the members of the court during the pendency of the trial, but not one word is said of the efforts made and persisted in during the entire trial, and even after the vote on the eleventh article, to improperly influence the court for conviction. The badgering of Senators who chose to keep their own counsel, and to persist in a determination to give the President a fair and impartial trial, was too well understood for the committee to have been ignorant of it. The threats of political obloquy, and even of assassination if they failed to vote for conviction, borne to the dissenting Republicans by every mail, must, according to the spirit of this report, be considered as among the legitimate and proper influences to be used in such a cause, else why were they not also inquired into? Who can doubt that this investigation, commenced before the court had fairly closed its sitting for that fateful 16th of May, was itself relied upon as one of the instrumentalities for securing conviction on some one of the remaining articles of impeachment? On the morning of that day I was threatened at the doors of this Chamber by two honorable Senators that a vote on my part for other than the impeachment of the President would certainly be inquired into, as it has been. That this rod was sought to be held over me for the manifest and only purpose of forcing me to vote for conviction, and with the connivance of the committee, who can doubt? Who can doubt either that the subsequent prosecution of the investigation was more for the purpose of coercing Senators to vote for the balance of the articles than with any expectation of developing the alleged corruption?

It is a noticeable feature of the report that it commences at the outset with an apology, which is not an honest, manly confession, but halting and lame, for the miserable failure of the investigation, and for the tissue of falsehoods and perversions which the report contains. The author needed not to have so early reminded the reader of this characteristic of his paper, for a very little progress into its labyrinths of falsehood and malice will develop that fact and expose the depths of its wickedness to any but the most prejudiced eye.

The author of the report alleges that money and promises of patronage were used to procure the President's acquittal, yet fails to trace either directly or indirectly to the door of a single Senator who so voted, and jumps to the conclusion that because an effort was made to procure funds for the defrayal of the expenses of the defense it must, perforce, have been used for the corruption of Senators. The report is more charitable, however, when those are involved who voted for conviction. The inquisitors were very far from being as zealous in inquiring into the other side of the case. Why does the author fail to tell us anything of the disposition of the "fabulous sums" which he is understood to have informed a gentleman could be had, if necessary, for the pur-

pose of procuring conviction? Why does he fail to tell us of a certain \$100,000 draft, said to have been drawn by himself in the same behalf? It might be instructive to know why he refused to allow a certain witness testifying before the committee to state all that he knew about bribery in connection with the impeachment. A great deal of useful, if unpleasant information might possibly have been obtained in this matter if the investigations of the committee had been pushed in another direction than they were with the same zeal and industry.

It was with the view, in part, of supplying this hiatus that the effort was made to procure an investigation by a committee of the Senate, but that is now denied us, from what motive I am unable to say; I hope from no fear of unpleasant results to others than those who voted against impeachment.

In regard to the promise of patronage for the defeat of the impeachment, if true, there may be two sides to that also. Was it, or was it not, true that the forty thousand offices of the country were farmed out, from the cabinet down to the cross-roads post office, in the interest of a cabal which had predetermined that one set of men should go out of office simply that another set might go in.

Upon the pretext of explaining the relations of Mr. Perry Fuller with Senators, and the alleged influence he was thereby enabled to exert on the result of the trial, the report proceeds to say, on page 4, that—

"The closest intimacy and family relations have existed and still exist between Fuller and Ross. Fuller is the son-in-law of the person whose Senator Ross lodges, and that Senator Ross was visited by Fuller on the evening before the vote was taken on the eleventh article, and that Senator Ross took breakfast at Mr. Fuller's on the morning of that vote."

If anything were needed to establish the title of the author of this report to the well-earned reputation of a retailer of filthy scandals that want is supplied by this extract. Subsequent events transpiring in connection with the impeachment, in which he has added the soubriquet of "persecutor of women" to his many laurels in the various grades of infamy, give point and elucidation to this language of the report. As to Mr. Fuller's visit on the evening named, I am happy to have been the recipient of frequent visits from him, both before and since that time; but what possible reference this or any of those visits had to the matter of the impeachment the report fails to inform us, and I am in utter ignorance. I did, also, breakfast at Mr. Fuller's on the morning of that vote, as I have done many times before and since. These are two of the very few statements of fact contained in the report. What impropriety there was in so doing does not appear. If the author of the report had published the testimony in his possession in relation to the conversation had on that occasion the malignant insinuation which he seeks to convey, yet does not dare to express, would have been utterly refuted, and therefore its publication was doubtless deemed unnecessary. It certainly was unnecessary to the purposes of the committee.

As an example of the commendable and searching thoroughness with which this grand inquisitor has pursued his investigations in this branch of the impeachment, he informs us that I appeared at my friend's table "without invitation." Now, inasmuch as he has given to the world this fact of my departure from the usual etiquette of society, I will take this opportunity to apologize to my early friend, as also to his estimable family, for my apparent rudeness in so important a matter. The world—certainly the inhabitants of this capital, owe the author of this report a debt of gratitude for thus reminding us that an "invitation," even among friends between whom "family relations" exist, is a prerequisite to the enjoyment of hospitality. Otherwise the notorious individual who speaks "for the committee" might at some future time be found an unbidden guest, especially if the household

which should be called upon to endure the honor of his presence, should be a little lax in the care of its table ware.

But what this has to do with charges of corruption in connection with the impeachment I am at a loss to divine. Possibly, however, at some future time, upon the publication of the balance of that of which this is only a "report in part," we may hope to be enlightened by this redoubtable hero of the dual stars, conferred by a credulous Congress, more on account of what was expected than anything that had been performed, in exemplification of the Apostle's definition of faith, which he says is "the evidence of things not seen—the substance of things hoped for."

Testimony is introduced in the report to prove that I had expressed a determination to vote for the conviction of the President, and afterward abandoned that determination and voted for acquittal. This is simply not true, either before, during, or after the closing of the case. It is true, however, that up to a late day in the progress of the trial I felt constrained, in deference to the almost unanimous wish of my party, to resolve all doubts of a legal nature (and they pervaded the entire case) in favor of conviction. Notwithstanding this, however, I could not from the first regard the preferment of the articles of impeachment, aside from the legal merits of the case, otherwise than as a partisan mistake; that their successful maintenance could not but result, in view of the pending presidential canvass, in embarrassing complications and probably in disaster. There are forty thousand offices in the Government, for the immediate filling of which an irresistible pressure would at once have been created, and a scramble for office would have been witnessed never equaled except upon the quadrennial change of administration, accompanied by a change of party supremacy. It is well known that Presidents are seldom so weak as upon the elections next succeeding their inauguration. The reason is obvious. The great bulk of the swarm of place hunters who invariably besiege the incoming President are of course disappointed in their expectations and demands for the recognition of their services to their party by official preferment. The result is disaffection and apathy, and often a serious diminution of party strength in the next succeeding elections. This would have been most emphatically true in this case. Never before was the brood of hungry cormorants congregated at the Federal capital in anticipation of the deposition of the President and the establishment of a new régime more clamorous and remorseless than during the trial of the impeachment.

To have installed a Republican President and then have failed to satisfy with position nine out of ten of these place hunters, as would certainly have been the case, would have been to send to every part of the country a discontented and demoralizing element, which by its indifference, if not by its opposition, would have proved embarrassing in a canvass which must be brought on before the healing effects of time could have soothed its imaginary wounds.

Add to this prolific cause of defection the immediate assumption of the responsibility for the immense fraud and speculation in the revenue department, which it would have been impossible to have cured till long after the presidential election would have passed, and we would have had a load to carry which no party ever yet successfully carried through a presidential canvass.

To have gone into that election under such circumstances must have been for reasons patent to partisan politicians embarrassing, to say the least, if not fatal; and I have the success of the Republican party too much at heart to consent to any measure which I believe to be destructive of its interests or prejudicial to its success.

For more than a year I have labored earnestly, in my humble way, for the nomination and

election of the distinguished patriot and soldier who is now our standard-bearer, and I was not willing to see his success hazarded, or his Administration forestalled, by the creation of an *ad interim* President, if I could in any just and legitimate manner aid in preventing it. Yet because I have given, as I deemed it, the benefit of the legal doubts in this case to my party and the country, I have been proscribed, and my change of base, as it is termed, is brought forward in the report as conclusive proof of corruption; and an ingenious web of insinuation and falsehood, interspersed with incidental and utterly irrelevant facts, is woven in support of the charge. If I were disposed to retaliate, I might ask what it was that produced the remarkable change from "acquittal" to "conviction" in the minds of several members of "the committee." It is well known that but a few months previous to the institution of the trial the House of Representatives, by a vote of more than two to one, and with the concurrence of a portion of this committee, discarded as frivolous and unworthy of consideration all save one of the very articles of impeachment the adoption of which they subsequently urged with such vehemence and persistency. Here was a decisive, radical change of front on the part of the prosecutors of the President.

Now, if I am to be questioned thus closely, and accused of crime in having changed my views on these identical points, I must be privileged to criticise the same act on the part of members of the committee. I hope these gentlemen were not actuated by any base and sordid motives in their conduct. I do not say that they were to share in those "fabulous sums" which were understood to have been raised for the purpose of procuring conviction. It is hardly possible that they were actuated by any expectation of controlling the immense patronage of the Government which was to have reverted to the disposal of one of the impeaching Senators through their labors. Yet why may not these considerations have actuated them as readily as those whom their eloquence failed to convince of the justice of their cause? No, Mr. President, it was no crime for them to change front on this question, simply because they changed from "against" to "for" conviction. No one has charged that there was any impropriety in that, but all the criminality attaching to a change was on the other side. I voted for acquittal when I was expected to vote for conviction; and straightway "hell is stirred from beneath" in the vain search for proofs of unworthy motives. The Republican party press, from the Atlantic to the Pacific, with rare exceptions, has teemed with the most abusive and scurrilous personal attacks; association with me has been deemed disreputable and scandalous. I have been passed by on the street and in these Halls like a leper, with averted face and every indication of hatred and disgust, all for having assumed to myself the same right so readily accorded to the committee of permitting time and a more thorough consideration of the merits of the case to change my views.

Mr. President, I appreciated most fully then, as I do now, that the almost unanimous sentiment of the Republican party was in favor of the conviction of the President, and that every man who chose to resist that sentiment in a political sense took his life in his hand. I can say with a painful realization of its truth that at the time of so voting I had no expectation of surviving, politically, the storm of popular indignation which I felt sure would rage throughout the country, and especially in my own State, intense as its people are in their convictions on all political subjects. I felt most forcibly, in casting the vote I did, that I was with my own hands digging my political grave. That a reversal of the hasty judgment of the hour would eventually come, I felt the utmost confidence, and that history would record the act as it was designed to be, as one calculated to effect the conservation of the highest good of the coun-

try, and performed in utter disregard of all possible consequences to myself. I had little expectation or hope, however, that that reversal would come until long after I should have passed out of political life. The long controversy which had been carried on between the Executive and the party which elected him had reached a point when apparently nothing but his deposition could allay the strife. I knew that a vote of acquittal would be followed by a contest between every member so voting and his constituents, the bitterness of which has never yet been equaled in the history of partisan politics. I knew that a vote of acquittal on my part would alienate from me, for a time at least, very many of whose confidence and support I have been so proud. I knew that my motives would be impugned, my acts misconstrued, and myself subjected to unmeasured abuse.

But I saw, or thought I saw, in the conviction and removal of the President upon inadequate testimony, and upon accusations mainly of a partisan character, the establishment of a precedent which would render every future President liable to successful impeachment whenever he found himself in a minority in Congress. I thought I saw the success of that great party of which I have so long been a humble but working member hazarded, if not prevented, in the coming election, and with it the hopes of a speedy and complete restoration of the Union under the reconstruction laws of Congress thwarted and destroyed.

Feeling thus, I determined to brave all and vote my deliberate convictions, founded, as I believed them to be, on considerations involving the merits of the case and the highest good of the State.

Viewing the question thus I felt that it would be cowardly to act otherwise; that I should be untrue to the principles of justice, untrue to my party, untrue to myself, and untrue to the country, if I permitted my judgment to be overborne by party clamor or a dread of party indignation.

It will not do to say that it was my duty to subordinate my individual views to those so earnestly and so clearly entertained by the great mass of the party on so grave a question as this. In the first place, I was sworn to act according to the law and the testimony in the case, while my constituents were not. My own judgment was worth more to me than that of those who were thousands of miles away, and could by no possibility be as thoroughly informed of all the facts as I was expected and ought to be.

In the second place, I was sent here to vote on all questions according to my own best judgment, and not to follow the lead of any one, or any number of my peers, however learned or distinguished they might be. My convictions are my own, and whenever I shall not have the courage and the honesty to follow them I will vacate my seat, and give the people I represent an opportunity to fill it with one who has. Confident that I am right, and that history will vindicate my act, I can well afford to await the calm and unimpassioned judgment of time.

I have never yet cast a vote in this Chamber upon any question which had not the sanction of my deliberate and best judgment, irrespective of merely personal and partisan considerations, and I never will. Party dictation, and the thunders of party indignation, have no weight with me, to swerve me one hair's breadth from the maintenance of my convictions, and I hope never will. I do not question the sincerity or the purity of the motives of those with whom I differed. I believe they also acted according to the dictates of their deliberate and best judgment, but I insist upon the same concession from them to myself, until good reason for a different estimate shall be developed.

Mr. President, there is a matter contained in this report peculiarly personal to myself,

to which I owe it to myself to refer. On pages 30, 31, and 32 of the report my colleague is reported as giving the following testimony:

Testimony of Senator Pomeroy.

"Question 1. You are a Senator from Kansas?"

"Answer. Yes, sir."

"Question 2. On what terms as to personal intimacy have you been with your colleague, Senator Ross?"

"Answer. On cordial and intimate terms as any two colleagues, perhaps, in the Senate. We never had an unpleasant word."

"Question 3. At any time after the argument was closed in the impeachment trial did you speak to him, or to you, as to his opinions or convictions upon the state of the case, as to the guilt or innocence of the President?"

"Answer. Yes, sir; I spoke to him at several times."

"Question 4. Will not you give the conversations from time to time as nearly as you can, commencing after the close of the evidence, and have the kindness to state what was said, who commenced the interview, and all that was said."

"Answer. The most definite conversation in regard to specific articles of impeachment was had five days before the Saturday that we voted, or both on Tuesday and Wednesday before we voted. Our conversations previously had been upon the general question of conviction, and the guilt or innocence of the President."

"Question 5. Please state what that conversation was."

"Answer. The most definite and particular conversation was had in the room of the Sergeant-at-Arms of the Senate."

"Question 6. How came you there at that interview?"

"Answer. I noticed that my colleague had gone in there with Senator TRUMBULL and I followed him in."

"Question 7. What did you find when you got there?"

"Answer. I found Senator TRUMBULL in conversation with him."

"Question 8. On what subject?"

"Answer. The subject of impeachment; I do not know the particular article."

"Question 9. Was it an animated conversation?"

"Answer. It was an earnest conversation, at any rate."

"Question 10. Did Senator TRUMBULL appear to be arguing with him?"

"Answer. He was talking in a continued, earnest strain to him on the subject."

"Question 11. What further took place?"

"Answer. The conversation ceased soon after I went in, or within a few minutes. After Mr. TRUMBULL went out my colleague and myself had the conversation to which I am about to allude. I hold the same paper in my hand now that I held then. [Paper exhibited.]

"Question 12. What is that paper?"

"Answer. It is a list of the Senators as prepared by the Senate; and on this list I had put down the articles that I had made up in my mind to vote for, and several other Senators had done the same voluntarily. From my previous conversations I had also put down several articles which I supposed Mr. ROSS would vote for; and I now came to see if I was right. Those articles, so far as they related to Mr. ROSS, were the first, second, third, eighth, and eleventh. I showed, at that time, Mr. ROSS this paper, and he looked at the whole list and saw how all the Senators, so far as they were known then, had decided to vote. I then asked him if those figures were right so far as related to himself. He said they were right with the exception of the eighth; he had his doubts in regard to the eighth; he was undecided. I said, then, taking my pencil, if he was not entirely clear I would draw a circle around the eighth, which I did, as it now appears on the paper. I then asked him in closing if the eighth being erased, it was then right, as he would vote. He said it was. I then asked several other Senators that I was in doubt about, and they all gave me their answers very freely and very pleasantly, and put down the articles they had decided to vote for and those they had decided to vote against. This was not all completed that day, but it was completed before the day of the vote."

"By Mr. WILSON:

"Question 13. Was that conversation Wednesday?"

"Answer. I am not certain; it was Tuesday or Wednesday."

"By Mr. BUTLER:

"Question 14. Has there been any debate in the Senate since he told you that?"

"Answer. No, sir; none prior to the vote."

"Question 15. Did you see him afterward?"

"Answer. Several times."

"Question 16. Did this question of how he should vote come up for consideration?"

"Answer. Yes, sir. Only on one occasion afterward did he even hint that he might be doubtful on some of these articles. That was Thursday night before we voted, about half past nine o'clock. I had called upon Senator VAN WINKLE in his rooms at the National Hotel. I found there my colleague, Senator ROSS, Senator TRUMBULL, Senator HENDERSON, and Senator WILLEY, with Senator VAN WINKLE."

"Question 17. Will not you state that conversation as nearly as you can, so far as relates to impeachment, giving the general substance?"

"Answer. The general question was whether conviction or acquittal would be carried on Saturday. I claimed from my knowledge of Senators, in reply to Senator HENDERSON, who claimed that from his knowledge, was should be defeated by four votes, that it was not possible. He said it was. I told him that on the eleventh article I had had conversation with a sufficient number of Senators to know, believing they all told me the truth, that we should carry it by

one vote, and I appealed to Mr. WILLEY, who sat opposite to me, stating that I made this, because he had told me he should vote for the eleventh article. My colleague at that time united with Mr. HENDERSON and Mr. TRUMBULL in an urgent appeal for postponement, not to take the vote at all. Mr. TRUMBULL was not decided that the President would be acquitted on that article, and therefore he argued for postponement. Mr. HENDERSON assured me that if there would be a postponement the President would reorganize his Cabinet. I said, who will take a place in his Cabinet now? So far as I was concerned, the Cabinet was as good as the President. It was no motive to urge to me, to change the Cabinet. Said I, who will take any office in the Cabinet? Reverdy Johnson, he said, would, and Mr. HOOPER would, Mr. EVARTS would, and he mentioned the name of Groesbeck, whether he mentioned any particular place or not. He designated no particular place except that Mr. HOOPER, of the House, would go into the Treasury. I wanted to know if he had been making arrangements for office while we were trying the criminal. He said he had got it second-hand; he did not say where he got it. Mr. TRUMBULL interfered with some conversation, and Mr. HENDERSON said he had had no conversation with the President, but learned this from other sources, but did not tell the source. My colleague said at that time that I had him down on my paper for some of the articles, and he desired to notify me that he was doubtful on some of the articles. Mr. HENDERSON said I was mistaken also in regard to several other Senators on whom I relied, but did not name them. He said he knew on whom I relied. This paper was not shown to any of them. My colleague intimated no particular article on which he was doubtful, but said if we were pushed to a vote on Saturday I might consider him doubtful on some of the articles.

"Question 18. In the course of the conversation was the position Mr. EVARTS would occupy mentioned?"
 Answer. I understood that it was to be that of Secretary of State. The last conversation I had with my colleague was on Friday evening before the day we voted. He dined with me at my house, and at the dinner table, before the family and others who were present, we were discoursing upon the general subject of what was contained in the articles of impeachment and the fact that we had to vote the next day. My colleague repeated what he had previously said, that he preferred to have it postponed, and wanted I should vote for postponement. When the conversation turned upon the eleventh article he said it was the strongest article of all; he was free to vote for that than any, because it was the strongest article. He said he was in favor of the conviction of the President, and that was the strongest article, in his mind. When he came to leave, at about half past six, I accompanied him to the door. He then said he hoped we would put it off and not vote. I said that would be a question for the majority, and I asked him if he had changed his mind in regard to those particular articles, if we were compelled to vote. He said he had not; if he was obliged to vote he had not changed his mind on that subject, but he preferred not to vote, and discoursed at some little length upon the Administration being entirely accessible to us if we would only hold it over the President's head. That was the last conversation I had till the morning, ten minutes before we voted. I then conversed with him in the presence of THADDEUS STEVENS, of the House. He told me that if we forced the vote on I might consider him doubtful on any of the articles, and hoped that I and others would vote for the postponement. I used the reasons that occurred to me at the time to induce him, if obliged to vote, to vote according to what he had previously told me were his convictions.

"Question 19. How came Mr. THADDEUS STEVENS there?"

Answer. He was passing by the door of the Senate and halted as he saw I was conversing with Mr. ROSS. It was a short conversation; only half a minute or a minute, perhaps.

"Question 20. Do you know your colleague's condition as to property?"

Answer. Only in a general way, not definitely. He is generally understood to have a small property in Lawrence, where he lives. He has a house and village lot.

"Question 21. Worth how much?"

Answer. I should suppose \$2,000, perhaps, or in that neighborhood.

"Question 22. Is that all?"

Answer. I have known of his having a claim for a quarter section of land.

Mr. President, it is farthest from my intention or desire to comment upon this testimony, or to characterize it in any manner whatever, but will leave this part of the subject with a simple statement of the facts of the case as they occurred.

The conversation alleged to have taken place in the room of the Sergeant-at-Arms occurred on Thursday, the 14th of May, two days before the vote on the eleventh article. I had passed into the room, where I found Senator TRUMBULL, and fell into a merely casual conversation with him about the impeachment. While so engaged my colleague came in, and after the conclusion of my conversation with Senator TRUMBULL, was about to pass out, when my colleague desired me to remain. We re-

tired to a corner of the room, when he commenced by asking me how I was going to vote on the impeachment. I replied that I did not know—that I should probably vote for some of the articles, and not for others. He then informed me that he was canvassing the Senate—that he had got the names of thirty-five Senators, pledged, every one of them, in their own handwriting, for conviction, and wanted my pledge to make conviction sure.

The idea of polling the Senate in this manner on such a question struck me as rather novel, to say the least, and I desired to see the list. He then produced a yea and nay list, and opposite the names of about thirty Senators were figures indicating the articles upon which they would vote for conviction. Opposite my own name, to my surprise, I found myself set down for conviction on the first, second, third, eighth, and eleventh articles. I had not before seen the list, consequently those figures could not have been in my own handwriting. On examining further I discovered a remarkable similarity in the chirography of nearly all the figures, indicating that the whole was probably guess-work, intended as a fraud with which to entrap me into a written committal for conviction. I then informed my colleague that he had no authority to put me down on the list at all, either for or against conviction; that I should probably vote for conviction on the first article, as that, in my judgment, contained all there was in the whole bill of indictment; that the eighth I should not support, and that as to all the others enumerated, I was undecided; that their fate depended very much on that of the first article. If that were carried, I said to him, these would be very much strengthened thereby, but if that were lost, in my opinion all the others went with it.

These are the precise words used, and nearly all that were used. My colleague then took a pencil and drew it around the eighth article, to indicate that I should not support it, and also made a dot under all the others except the first, to indicate that they were doubtful. I have not seen the list from that day to this, but these marks upon the list can be substantiated by any person who will take the trouble to refer to it.

This was on the afternoon of Thursday. The second interview was on the evening of the same day, at the rooms of Senator VAN WINKLE, at the National Hotel. Senators HENDERSON, TRUMBULL, WILLEY, VAN WINKLE, and myself were there by agreement. During the evening Senator POMEROY came in. In the course of a conversation that ensued between him and Senator HENDERSON, he stated that conviction was certain, as thirty-six Senators had pledged themselves in writing so to vote. I asked my colleague if he counted me among the thirty-six. He answered that he did. I then repeated the conversation and the circumstances attending it that we had had in the room of the Sergeant-at-Arms in the afternoon, and he admitted after some hesitancy that my statement of it was correct. I then assured him that he need not count upon my vote as certain for conviction under any circumstances; that I insisted upon a postponement of the vote, and said to him, after he had repeated that he wanted to know how I should vote, as others were asking him about it, that if any one in the future asked him how I was going to vote, to say that he did not know.

This was substantially all that passed between us until Friday evening, at his own residence. I had called there to procure a copy of the Anthony telegram, which was addressed to us jointly. At this interview not one word passed between us on the subject of impeachment, at the table or elsewhere, until I had gone out upon the steps after dinner, and stood waiting for a street car. He then asked me if I felt about the impeachment as I had expressed myself on the previous evening. I said I did, and was still desirous of a postponement.

This was all that passed between us until Sat-

urday morning, when he met me at the lobby door of the Chamber, and commenced an urgent appeal to me to vote for conviction, suggesting that to vote otherwise would be my political death at home, and also that a vote for acquittal would be investigated on charges of bribery. I assured him that I had determined upon the course I should take, and was prepared to take the consequences. I requested him, also, to say to those who were urging the impeachment that if they forced it to a vote on that day it would certainly be lost, as I was determined to secure a postponement at all hazards.

This is the substance, in fact all the material conversation relating to impeachment, that passed between my colleague and myself during the period covered by his testimony. The misstatements contained in that testimony I can only ascribe to a defective memory, and there I propose to leave it, at least for the present.

This, however, is a fair sample of the entire report so far as it relates to myself, and, I doubt not, so far as it relates to others. That report is a tissue of falsehoods, wilful perversions of facts and distortions of testimony from beginning to end. Having found it false in so important a particular as the case cited, is it not reasonable, without specifying further, to presume the whole to be of the same character?

It will be borne in mind, Mr. President, that the testimony contained in this report was all taken in secret. No information was afforded me as to the charges that were to be investigated, what witnesses or whether any were to be called, no opportunity given for replication or explanation of circumstances that might otherwise be misconstrued, or even that an investigation was to be had. Certainly I may claim it to be due to a Senator that he at least be allowed to know something of a proceeding designed to blacken his character, and degrade him from his high and honorable position, if not to face his accusers and their witnesses. The meanest criminal is guaranteed this by the most sacred and obligatory of our laws.

But nothing of this sort was permitted. That comity which has heretofore been observed between the two Houses of Congress was utterly broken down. The verdict of guilty was pronounced in advance, and then proof diligently sought to substantiate it. No tribunal in the world ever more thoroughly earned the designation of a Star Chamber Inquisition. The merest trifles are caught up and magnified into "proofs confirmation strong," when a single explanatory word would have rendered their use in support of the accusations of the inquisitors utterly ridiculous, and have saved the country the absurd and humiliating spectacle which that committee now presents to the gaze of the country.

What are the American people to think of such a procedure? Nowhere in the world is private and public integrity more general or more highly prized than here. Nowhere in the world are public men so free to act according to the dictates of their own personal reason and judgment. Nowhere in all the nations of the earth is personal independence and manly courage in the maintenance of personal convictions so thoroughly appreciated and so highly honored. How, then, must a brave and courageous people view this insidious and malignant assault upon personal independence and private character by one whom common rumor makes the loathsome embodiment of all the crimes denounced in the decalogue; by one who, it is believed, prostituted a high military office, in the time of the country's great trial, to the satisfaction of a private, sordid greed; by one to whose inefficiency and cowardice the bleaching bones of many of the patriotic dead of the war are a fearful and melancholy memento; by one whose well-known groveling instincts and proneness to slime and uncleanness have led the public to

insult the brute creation by dubbing him "the beast?"

Yet an honorable Senator had the bad taste, to characterize it by no stronger language, to insult the Senate and the country, to outrage the proprieties of the place, and to cast an uncalled for indignity upon the Republican Senators who voted against the impeachment, by declaring in his place a few days ago that he believed this report to be substantially truthful and correct; in other words, that he believed the accused Senators had perjured themselves and made merchandise of their votes.

Sir, that Senator may live long enough to find a place meet for repentance for having given voice to so flagrant an insult to his fellow Senators. I trust that his Maker may lengthen out his span of life to afford him the opportunity for that repentance, for he will greatly need and greatly desire it. It will not come to him in the State of Michigan, nor in any part of that great, free, and generous West, whose people instinctively abhor all manner of meanness, and who never fail to visit with contempt and condemnation a malicious and cowardly act.

Mr. President, there are many phases of this question of impeachment which are worthy of consideration, and which will be permitted to have their due weight with all impartial minds in that review of the question which must inevitably be had in that great court of last appeal on all questions of public import—the court of public opinion.

Weighty as present considerations may sometimes appear when viewed only by the light of present issues, yet he only is the statesman who looks forward into the future; who judges the issues of to-day by their prospective as well as present effects. He who fails to regard the interests of the coming time as well as of the present, is the politician simply of to-day, of whom history will take little note.

The trial of the impeachment of the President was, in my judgment, one of those epochs which occur in the history of all nations, in which their future destiny is determined by the ability of the individual to resist the popular clamor for the perpetration of an act which aftertime would denounce as a great public wrong. In this instance the success of the impeachment would, in my opinion, have been not only a great public wrong, but also a great public calamity.

It is undeniably true that three fourths of the dominant party of the country were zealously and intensely desirous of the impeachment and removal of the President.

It is undeniably true that during the past three years he has administered the Government in such a manner as to sorely disappoint the highest hopes of the party which elected him.

It is undeniably true that the governmental policy he has sought to establish is regarded by Republicans as of a most mischievous character and ruinous to the best interests of the country.

It is undeniably true that in the matter of reconstruction he has sought to thwart the plainly expressed and undoubted wish of a majority of the people as expressed through their Representatives in Congress.

But it is not true, so far as the testimony adduced on the trial of the impeachment shows, that he has willfully violated the Constitution or the laws.

It is not true, so far as that testimony shows, that he has done these things with the willful and deliberate intent to violate the Constitution or the laws, or to bring disorder upon the country, or disrepute upon the Government.

It is not true, so far as is shown by that evidence, that he has willfully and deliberately transcended the prerogatives vested in him by the Constitution and the laws.

Hence the failure of the cause. Impeachment cannot in any sense be said to be properly

a party cause. Articles of impeachment may originate in partisan considerations, may be preferred for the accomplishment of important partisan ends, but when they come to the Senate for trial they are at once divested of all such aspects. The highest judicial officer of the Government presides, and each Senator is sworn by a special oath of an entirely different import from that under which he discharges his legislative duties.

When sworn as members of the court of impeachment we took an oath to impartially try the President. Now, what did "impartially" mean in this connection? Did it mean to decide the case according to the desire and expectation of the Republican party? Did it mean to decide it according to our own individual preconceived opinions? By no means. It meant simply what it said, that we would hear and determine the cause "impartially," without bias from any cause or source whatever, without reference to our own political sentiments and predilections, and without reference to the political sentiments of our constituents, fairly and candidly, on its merits, "according to the Constitution and laws."

If the judgment of the party is to govern, if Senators, in trying a cause of impeachment, are expected to represent and carry out the party will, why go through the mockery of a trial? On the contrary, why not at once depose the President by an act of Congress? At once bid defiance to forms and all inconvenient barriers to the realization of the party will? This would be the bold, manly way, and the only way in which that will can at all times be carried out.

To deliberately trample upon law and established forms was the only way in which impeachment could have been carried as a party measure, and that no party, however strong, can afford to do. When we depart from those forms of law by which we seek the ends of justice we at once inaugurate confusion and anarchy, and we substantially do that when we subordinate the issue of a trial, largely judicial in its nature, to the behests of party will.

A great political party can no more afford to do a wrong or unjust act in the conduct of the affairs of the Government than can an individual in the management of his personal affairs with his neighbors. History is full of instances where parties and communities have suffered reverses by reason of mistakes and acts of oppression and wrong. Measures conceived in an hour of partisan excitement, and consummated under the pressure of party discipline, have been too often condemned and reversed by the more mature judgment of the people for me to allow myself to be at all disconcerted by the frenzied clamor of to-day over the failure of the impeachment. History is not without examples where the courage of the individual has produced results conserving the highest good of great communities. The history of the near future will record this as an instance in which the peace of the country, if not the perpetuity of our institutions, has been preserved and secured by the resolution of a few men who were willing to sacrifice themselves, if need be, to the blind fury of partisan hate. By it the supremacy of those forms of law which underlie all civil government have been vindicated; the scales of justice are held with an even hand, and the country is saved from the confusion and demoralization which always follow a departure from the spirit of acknowledged fundamental law.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States.

The message further announced that the House had agreed to the report of the com-

mittee of conference on the disagreeing votes of the two Houses on the bill (S. No. 619) to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes.

The message also announced that the House had passed a bill (H. R. No. 1459) to relieve Nelson Tift, of Georgia, of disabilities, in which it requested the concurrence of the Senate.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had on this day approved and signed the following enrolled bills and joint resolutions:

A bill (S. No. 417) to amend "An act proposing to the State of Texas the establishment of her northern and western boundaries, the relinquishment by the said State of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States, and to establish a territorial government for New Mexico;

A bill (S. No. 16) donating a portion of the Fort Leavenworth military reservation for the exclusive use of a public road;

A bill (S. No. 621) authorizing the Manufacturer's National Bank of New York to change its location;

A bill (S. No. 576) relating to the district courts of Utah Territory;

A bill (S. No. 604) regulating the times and places of holding the district and circuit courts of the United States for the northern district of Florida;

A bill (S. No. 487) to disapprove an act of the Legislative Assembly of Washington Territory redistricting the Territory and reassigning the judges thereto;

A joint resolution (S. No. 169) appealing to the Turkish Government in behalf of the people of Crete; and

A joint resolution (S. R. No. 151) to drop from the rolls of the Army certain officers absent without authority from their command.

NELSON TIFT.

The bill (H. R. No. 1459) to relieve Nelson Tift, of Georgia, of disabilities was read twice by its title.

By unanimous consent the bill was considered as in Committee of the Whole, reported to the Senate, read the third time, and passed.

EXECUTIVE SESSION.

On motion of Mr. CONKLING, the Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were therefore signed by the President *pro tempore* of the Senate:

A bill (S. No. 553) for the relief of A. W. Ballard;

A bill (S. No. 619) to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes;

A bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States; and

A bill (S. No. 1459) to relieve Nelson Tift, of Georgia, of disabilities.

COMMITTEE TO WAIT ON THE PRESIDENT.

Mr. HENDERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That a committee of two be appointed on

the part of the Senate to join such committee as may be appointed on the part of the House of Representatives to wait upon the President of the United States and inform him that unless he may have some further communication to make to Congress the two Houses will close the present session, in pursuance of their resolution of 24th instant, at twelve o'clock meridian to-day, by a recess until the third Monday in September next.

The PRESIDENT *pro tempore* appointed Mr. HENDERSON and Mr. WHYTE the committee on the part of the Senate.

A message subsequently received from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the resolution to wait on the President of the United States and inform him that both Houses were ready to adjourn, in accordance with their resolution of the 24th instant, and had appointed Mr. E. B. WASHBURN, of Illinois, and Mr. CHARLES A. ELDRIDGE, of Wisconsin, the committee on its part.

PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had this day approved and signed the bill (S. No. 619) to extend the laws of the United States relating to customs, commerce, and navigation over the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes.

EXECUTIVE SESSION.

The Senate resumed the consideration of executive business; and after some time spent therein the doors were reopened.

CLOSE OF THE SESSION.

Mr. HENDERSON, from the committee appointed to wait upon the President and inform him that Congress was ready to adjourn at twelve o'clock to-day in accordance with the terms of their resolution of the 24th instant, unless he had some further communication to make, reported that the committee had performed the duty assigned them, and the President replied that he had no further communication to make.

The PRESIDENT *pro tempore* announced that the hour of twelve o'clock, fixed by the resolution of the two Houses for closing the present session of Congress by a recess, had arrived, and declared the Senate, in pursuance of the said resolution, adjourned until the third Monday in September next at twelve o'clock.

IN SENATE.

MONDAY, September 21, 1868.

The Senate assembled in the Senate Chamber, in the city of Washington, at twelve o'clock noon, in pursuance of the provisions of the following concurrent resolution of the 22d of July last:

Resolved, That the President of the Senate and the Speaker of the House of Representatives, on Monday, the 27th day of July, at twelve o'clock meridian, adjourn their respective Houses until the third Monday of September, and on that day, unless it be then otherwise ordered by the two Houses, they further adjourn their respective Houses until the first Monday in December, 1868.

Rev. E. H. GRAY, D. D., offered the following prayer:

O Thou ever blessed God, Maker, Preserver, and Redeemer, we thank Thee that Thou art ever about our path to protect and preserve us. Help us to realize that every good and perfect gift cometh down from the Father of lights, with whom there is no variableness, neither shadow of turning; and help us to respond to Thy goodness and mercy which we receive day by day from Thy hand. We thank Thee that Thou hast protected the life and health of Thy servants, the Senators, during this recess; and now that they are convened again in this high council of the nation, O Lord, we ask that wisdom which is profitable to direct and that grace which is needful to support may be granted unto them; and that whatever course they pursue in this emergency may be such as to meet the Divine approval and sanction of the whole nation. We pray

that Thou wilt also sanctify to us the dispensations of Thy providence by death during this recess in the other House. Let not the interests of the nation be periled or jeopardized when great and good men fall. O Lord, we pray that while the workmen die, the work may go forward. Let Thy blessing especially rest upon the President of the United States; endure him with wisdom, and guide him in the faithful discharge of the high trusts committed to his care. Bless also his constitutional advisers, the members of the Cabinet; may they prove to be wise and safe counselors. Bless, we pray Thee, the officers and soldiers of the Army and of the Navy; make them brave and faithful. And bless all the interests of this great people, and let peace and prosperity and quiet and order prevail through all of our borders; and we pray that Thou wilt prepare the minds of the people for the great coming contest at the ballot-box. O Lord, grant that the nation may be wise to choose its ruler, and we ask that Thy blessing may rest upon all the efforts made to advance the interests and promote the prosperity and welfare of the whole nation; and in this contest we ask that the great principles of right and justice and righteousness and loyalty may triumph, and let all the people say amen. All of which we ask through the name of Jesus Christ, our Redeemer and Saviour and Ruler. Amen.

The PRESIDENT *pro tempore* (Hon. B. F. WADE) took the chair and said: The Senate will please come to order; and the Journal will be read.

The Chief Clerk proceeded to read the Journal of the proceedings of the Senate on Monday, July 27, 1868.

Mr. EDMUNDS. I move that the further reading of the Journal be dispensed with.

The PRESIDENT *pro tempore*. If there be no objection that order will be made. The Chair hears no objection, and the reading of the Journal will be dispensed with.

Mr. ANTHONY. Mr. President, I beg to offer a concurrent resolution, which I send to the Chair.

The PRESIDENT *pro tempore*. The resolution will be read.

The Chief Clerk read the resolution, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That the President of the Senate and Speaker of the House of Representatives do adjourn their respective Houses until twelve o'clock noon of the 16th day of October, 1868; and that they then, unless otherwise ordered by the two Houses, further adjourn their respective Houses until the 10th day of November, at twelve o'clock noon; and that they then, unless otherwise ordered, further adjourn their respective Houses to the first Monday of December, 1868, at twelve o'clock noon.

Mr. SHERMAN. Before the vote is taken upon that resolution, I would move a call of the Senate, so that it may appear on the Journal that a legal quorum is present.

The PRESIDENT *pro tempore*. The roll of the Senate will be called if there be no objection.

Mr. EDMUNDS. The Chair ascertains that there is a quorum before he calls the Senate to order.

Mr. SHERMAN. It had better be ascertained officially.

Mr. EDMUNDS. I have no objection.

The PRESIDENT *pro tempore*. The roll of the Senate will be called.

The Chief Clerk called the roll, and the following Senators answered to their names:

Messrs. Abbott, Anthony, Buckalew, Cameron, Cattell, Chandler, Conness, Corbett, Cragin, Edmunds, Fowler, Frelinghuysen, Harlan, Harris, Howe, Kellogg, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Osborn, Patterson of New Hampshire, Pomeroy, Robertson, Ross, Sawyer, Sherman, Sumner, Trumbull, Wade, Warner, Willey, and Wilson.

The PRESIDENT *pro tempore*. Thirty-four Senators having answered to their names, a quorum is present.

[Mr. YATES and Mr. McCREERY subsequently appeared.]

Mr. ANTHONY. Mr. President, I desire to state that my colleague [Mr. SPRAGUE] is

absent on account of severe illness, from which, I am happy to state, he is now convalescent, although when I last saw him he was not able to leave his chamber.

The PRESIDENT *pro tempore*. The question is on the resolution offered by the Senator from Rhode Island.

The question being put, the resolution was declared to be agreed to.

Mr. BUCKALEW. I endeavored to address the Chair before the vote was announced.

The PRESIDENT *pro tempore*. The Chair was not aware of it. The question will be put over again.

Mr. BUCKALEW. I simply desire to call for the yeas and nays on the question of adopting the resolution.

Mr. SUMNER. There is no objection to that.

The PRESIDENT *pro tempore*. The Chair was not aware that the Senator from Pennsylvania had addressed the Chair before the question was put. The Chair will therefore put the question again. On the adoption of the resolution the yeas and nays are demanded.

The yeas and nays were ordered; and being taken, resulted—yeas 33, nays 1; as follows:

YEAS—Messrs. Abbott, Anthony, Cameron, Cattell, Chandler, Conness, Corbett, Cragin, Edmunds, Fowler, Frelinghuysen, Harlan, Harris, Howe, Kellogg, McDonald, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Osborn, Patterson of New Hampshire, Pomeroy, Robertson, Ross, Sawyer, Sherman, Sumner, Trumbull, Wade, Warner, Willey, and Wilson—33.

NAY—Mr. Buckalew—1.

ABSENT—Messrs. Bayard, Cole, Conkling, Davis, Dixon, Doolittle, Drake, Ferry, Fessenden, Grimes, Henderson, Hendricks, Howard, McCreery, Norton, Nye, Patterson of Tennessee, Pool, Ramsey, Rice, Saulsbury, Spencer, Sprague, Stewart, Thayer, Tipton, Van Winkle, Vickers, Welch, Whyte, Williams, and Yates—32.

So the resolution was agreed to.

Mr. ANTHONY. I now move that the Senate take a recess for half an hour.

The motion was agreed to; and at the expiration of half an hour the President *pro tempore* took the chair and called the Senate to order.

Mr. EDWARD MCPHERSON, Clerk of the House of Representatives, appeared below the bar and delivered the following message:

Mr. President, I am directed to inform the Senate that the House of Representatives have passed the following resolution, in which the concurrence of the Senate is requested:

Resolved by the House, (the Senate concurring,) That the President of the Senate and the Speaker of the House of Representatives do adjourn their respective Houses at twelve o'clock noon of the 16th day of October, 1868; and that they then, unless otherwise ordered by the two Houses, further adjourn their respective Houses until the 10th day of November, at twelve o'clock noon; and that they then, unless otherwise ordered, further adjourn their respective Houses to the first Monday of December, 1868, at twelve o'clock noon.

Mr. BUCKALEW. Mr. President, I desire to offer a resolution relating to business.

The PRESIDENT *pro tempore*. The resolution will be read.

Mr. SUMNER. I would inquire if the message from the House is not the subject before the Senate. I move a concurrence in the resolution of the House, if that is in order.

Mr. BUCKALEW. I suggest, sir, that my resolution having been received by the Chair, must be first considered. It may be read, at least.

Mr. EDMUNDS. Let it be read for information.

Mr. SUMNER. I have no objection to its being read for information.

The Chief Clerk read the resolution of Mr. BUCKALEW, as follows:

Resolved, That the House of Representatives be requested to inform the Senate whether a quorum of the members of that House are present at the sitting of this day.

Mr. BUCKALEW. Mr. President, I desire to state that I have been in the House—

Mr. EDMUNDS. Mr. President, I object to the present consideration of that resolution.

The PRESIDENT *pro tempore*. That carries it over under the rule.

Mr. SUMNER. I move that the Senate concur with the resolution from the House.

Mr. BUCKALEW. If the Senator will wait a moment, I desire to make a remark in explanation of my resolution. I was about to say that I had been in the House of Representatives and was informed by members that there was not a quorum—

Mr. EDMUNDS. Mr. President, I rise to a question of order. I submit that an objection having been made to the resolution, it goes over, and debate is not in order.

The PRESIDENT *pro tempore*. It does go over under the rule; but the Senator wished to make an explanation. If the rule is insisted upon, of course the resolution is disposed of.

Mr. BUCKALEW. I merely wish to remark, then, that before acting upon the resolution from the House, it will be proper, if not necessary, to inquire of the House whether it be in fact constituted with a quorum. I believe the ordinary usage of the two Houses at the opening of a session is to inform each other that a quorum is present. Now, the Senate has not passed any such resolution, and we have received none such from the House. I suggest, therefore, that under the usage of the two Houses of Congress it is necessary for the Senate to give notice to the House and the House to give notice to the Senate that a quorum is present. Otherwise, we cannot officially be informed or know that there is another branch with whom we can communicate. Before, therefore, acting upon the resolution which we have received from the House, I suggest that it is necessary to give formal notice between the two bodies; and I make this suggestion in connection with the information which I now give to the Senate, that I have been informed in the House itself, by members of the House, that a quorum is not present, and will not be until afternoon, if at all.

The PRESIDENT *pro tempore*. The Chair will remark that he has not considered this as a new session, but barely as an adjournment from day to day. It covers a larger period, to be sure, but we have treated it as we have all other temporary adjournments, as a continuation of the original session, and did not suppose those formalities were ordinarily gone through with.

Mr. SUMNER. I call for a vote on my motion.

Mr. EDMUNDS. The Chair is entirely correct in its suggestion to the Senator from Pennsylvania. This adjournment is precisely like one over the holidays or over any three days. Both Houses are supposed to have a quorum, and we know by the Constitution that the House of Representatives, having sent us a message, has a quorum. What private information a Senator is to obtain on the floor of the House of Representatives no man can tell; and it is a somewhat unusual proceeding, the Senator from Pennsylvania will permit me to remind him, and a somewhat unparliamentary proceeding, for a Senator to undertake to inform this body whether another coordinate body is properly constituted or not from his personal knowledge and investigation into the affairs of that body. The two Houses cannot have intercommunication in that way. Therefore what the Chair has said is entirely correct, and the pending question must be on the resolution from the House of Representatives.

Mr. YATES. Mr. President, I was not present at the roll-call. I desire to have my name entered as present.

Several SENATORS. Can that be done?

Mr. POMEROY. It does not interfere with our rule. It is simply allowing a Senator's name to be entered as present on the roll-call, not on any vote.

The PRESIDENT *pro tempore*. The rule does not tolerate a vote being recorded unless the person is present; but I understand the Senator from Illinois wishes his name to be recorded as being present.

Mr. YATES. That is all.

The PRESIDENT *pro tempore*. There is

no objection to that, I believe. ["No objection."] The name will be recorded.

Mr. SUMNER. The question is on the motion to concur.

The PRESIDENT *pro tempore*. The question is on concurring in the resolution of the House of Representatives.

Mr. BUCKALEW. Mr. President, I suppose it had better be read. I ask for its reading.

The PRESIDENT *pro tempore*. The resolution will be read.

The Chief Clerk read as follows:

Resolved by the House, (the Senate concurring,) That the President of the Senate and Speaker of the House of Representatives do adjourn their respective Houses until twelve o'clock noon of the 16th day of October, 1868; and that they then, unless otherwise ordered by the two Houses, further adjourn their respective Houses until the 10th day of November, at twelve o'clock noon; and that they then, unless otherwise ordered, further adjourn their respective Houses to the first Monday of December, 1868, at twelve o'clock noon.

Mr. BUCKALEW. Mr. President, I suppose I shall be strictly in order in submitting some remarks on the question of concurrence in this resolution.

The PRESIDENT *pro tempore*. Certainly.

Mr. BUCKALEW. I am in favor of having everything done decently and in order. I am opposed to any "sharp practice" in the public affairs and conduct of the Government. In accordance with this idea I had no difficulty in responding this morning upon the organization of the Senate, being present and thinking it undignified, if not improper, to withhold my vote. The Senate had a call, upon which names were recorded on the Journal. The record is made up for history to show that we proceed in a regular manner. We are now organized and authorized, under the rule which we have heretofore adopted in reference to a quorum of this body, to proceed with the transaction of business.

Now, sir, I proposed that we should ask of the House of Representatives whether they had met and organized in a similar manner—a respectful request in the form of a resolution. It seemed to me a little surprising that any member of the Senate should object to the resolution when, accompanying the offer of it, I stated as a matter of personal knowledge, obtained by inquiry of members of the House itself, that a quorum of that body was not convened to-day, and that it was not possible to have such a quorum until this afternoon or evening, when possibly members enough for a quorum may be present in Washington. The House sends us, by its Clerk, a resolution adopted without the yeas and nays, without any previous call of that body, without any official information to us that a quorum competent to transact business is assembled in the Hall of the House. In truth the fact is exactly the opposite; there is no such quorum convened. That is a matter of fact of which I have no doubt, and of which other members of the Senate need have no doubt.

Now, sir, it is said that we are to take a communication from the House as conclusive that that body is convened; that a competent quorum under the Constitution is there assembled and ready to transact business. That presumption might answer if the Senate had no other information; but here it is proposed to stand upon a technical presumption when we are well convinced that the fact is exactly opposite. If there be any question or doubt on this subject the proper mode of proceeding, I submit, is to take up and consider the resolution which I have presented; to call upon the House itself to inform us as to the fact.

I have but one additional remark to make, and that is that I think it manifestly an improper, if not an indecent thing that the Government of the United States should be conducted upon this principle of false presumptions that we know are not well founded in truth; that we should attempt to transact business in the two Houses without a quorum of each being present.

Mr. ANTHONY. It seems to me that the Senator from Pennsylvania proceeds upon the

theory which the Chair corrected when the motion was first submitted. This is not a new session of Congress; this is merely an adjournment of the second session of the Fortieth Congress. Half our business, in point of fact, as every Senator knows, is transacted without a quorum. What should we think if, any day in the middle of a session, the House of Representatives should send us a message inquiring if a quorum was present when we had passed a certain bill and sent it to them? I would not attribute any such intention to the Senator from Pennsylvania, but certainly I think such a message would be impertinent. We might as well ask if the Speaker had been elected according to the rules of the House, if there were not some members in the House who had been admitted to their seats without proper qualifications. It is an assumption on our part to inquire into the organization of the House, and I am quite sure that such a message would be resented in the House as the Senator from Pennsylvania would resent such a message if sent from the House here. I think if the House of Representatives should send a message inquiring if we were properly organized, if we were authorized to do what we had just done, we should take it as an exceedingly impertinent interference in affairs with which the House has no business any more than we have with the affairs of the House. They have sent us a communication; and if they passed the resolution which they have communicated when there was not a quorum present, the fault, if there be any, is theirs, not ours. If they have done that, they have done what has been done a thousand times in both Houses. Very important bills have been passed in both Houses when we knew there was no quorum. I have known some treaties to be negotiated here when there were but three Senators present, and yet nobody doubts the validity of those treaties.

Mr. POMEROY. The Senator does not mean to say they were "negotiated," I hope.

Mr. ANTHONY. No; "ratified." I do not know, but I might say, they were negotiated here. I believe the Senator from Kansas had charge of them; they were Indian treaties; they might have been amended here, and thus I might almost say were negotiated here. I do not think there is any pertinence at all in the resolution of the Senator from Pennsylvania, and I think it can have no useful effect.

Mr. BUCKALEW. I will make one further suggestion, and then leave this subject. The House meets, a resolution is proposed and passed, and sent here. Shortly afterward the yeas and nays are called, and the House ascertains that it has acted without a quorum. It is ascertained by a roll-call. Now, are we to catch up their resolution because it has been already sent here and act upon it?

Mr. ANTHONY. I ask the Senator this question: When any action is adopted by the House and is sent to the Senate, if upon some subsequent proposition it is ascertained that there is no quorum present are we to infer that there was no quorum present at the preceding business? Is the Senate to inquire of the House whether it was so or not?

Mr. BUCKALEW. The Senator does not understand me. He was speaking about disrespect to the House in suggesting a state of facts where the House act on a proposition, send it here, and ascertain the fact of not having a quorum immediately afterward.

Mr. ANTHONY. Then, if they find that they passed a resolution when they had no proper authority to pass it, it is their business to send to us and ask to have the resolution sent back, and I should vote to send it back under those circumstances.

Mr. BUCKALEW. Yes, sir; but suppose in the mean time we concur in it and adjourn?

Mr. EDMUNDS. Mr. President, I do not wish to occupy the time of the Senate, but I think it right to say a word in reply to the honorable Senator from Pennsylvania. I quite agree with my friend from Rhode Island that it would be impertinent, not to say insulting,

for us to undertake to inquire into the organization of the House of Representatives when that House had sent to us any bill or proposition. Now, my friend from Pennsylvania asserts, on his personal information and belief, that there was no quorum of the House when the pending resolution was passed by that body. What ground has he for supposing so? He states that somebody told him that on a call afterward a quorum was not there. Now, the fair presumption is—and I believe it myself—that there was a quorum when the resolution passed; and after it passed, the business of the session being accomplished, members went away, particularly the Democratic members, who were in haste to get back to their constituents. My friend entirely jumps at a conclusion when he undertakes to say that the resolution was passed by less than a quorum of the House, because half an hour afterward, all the business of the session being accomplished and members having gone away, the House found itself then without a quorum. We might just as well this evening refuse to consider anything binding that was done in the morning when we had a quorum, because it turns out that we have not one in the afternoon. It is altogether improper, as I think, to raise a question of that kind as to the organization of the other House.

The PRESIDENT *pro tempore*. The question is on concurring in the resolution of the House of Representatives.

The resolution was concurred in.

The PRESIDENT *pro tempore*. The Senate stands adjourned until the 16th day of October next.

Mr. EDMUNDS. No; the Chair should first inform the House that we have agreed to the resolution, and then we shall stand adjourned.

The PRESIDENT *pro tempore*. We have agreed to their resolution.

Mr. EDMUNDS. The Secretary can inform the House.

The PRESIDENT *pro tempore*. The resolution having been concurred in, *ipso facto*, the Senate stands adjourned until the 16th of October, at twelve o'clock.

HOUSE OF REPRESENTATIVES.

MONDAY, September 21, 1868.

The House reassembled, pursuant to adjournment, at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The SPEAKER. The recess having expired, the House of Representatives resumes its session. The Journal of the last day's session in July is in print, and if there be no objection its reading will be dispensed with.

There was no objection, and it was so ordered.

ANOTHER RECESS.

Mr. SCHENCK. I offer the following resolution:

Resolved, (the Senate concurring.) That the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses until twelve o'clock noon on the 16th day of October, 1868; and that they then, unless otherwise ordered by the two Houses, further adjourn their respective Houses until the 10th day of November, 1868, at twelve o'clock noon; and then, unless otherwise ordered by the two Houses, they further adjourn their respective Houses until the first Monday of December, 1868, at twelve o'clock noon.

Mr. WASHBURN, of Illinois. That is right.

Mr. SCHENCK. I modify the resolution so as to read, "when the two Houses adjourn to-day;" and demand the previous question.

Mr. GARFIELD. Ought it not to read, "*sine die*?"

Mr. SCHENCK. It amounts to the same thing. I have followed the form of the last resolution.

Mr. MILLER. Say the 21st instead of the 16th? [Cries of "Question!"]

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. SCHENCK moved to reconsider the

vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SUSPENSION OF THE RULES.

Mr. SCHENCK. I offer the following resolution:

Resolved, That during the remainder of the second session of the Fortieth Congress it shall be in order to suspend the rules at any time.

Mr. BROOKS. I object.

Mr. SCHENCK. I move to suspend the rules to present the resolution.

The House divided; and there were—ayes 102, noes 8; no quorum voting.

Mr. WASHBURN, of Illinois. I call for tellers.

Mr. SCHENCK. I will for the present withdraw the resolution.

Mr. BROOKS. Is it not too late?

The SPEAKER. It is not too late, as there has been no final vote. It can be withdrawn or modified.

Mr. SCHENCK. Our meeting will be on Friday, and it may be important to have this resolution adopted.

SUPERVISORS OF INTERNAL REVENUE.

Mr. SCHENCK. I offer the following resolution:

Resolved, That the Committee on Public Expenditures be directed to inquire into the reasons why the supervisors of internal revenue provided for in the law of July 28, 1868, have not been appointed; and also to ascertain whether or not, since the passage of the said law, there has been any failure on the part of any officer of the Government properly to administer the internal revenue laws, or any attempt on the part of said officer, or of any person, to defeat, embarrass, prevent, or improperly interfere with the prompt and efficient administration of said laws; with power by sub-committee or otherwise to sit during any recess of Congress and send for persons and papers and to administer oaths; the necessary expenses to be paid from the contingent fund of the House.

Mr. SPALDING. I object to the introduction of any general business. I object to this resolution.

Mr. SCHENCK. I move to suspend the rules; and if the House will allow me, I will state, as chairman of the Committee of Ways and Means, there is ground for this resolution—

Mr. BROOKS. I do not object if we on this side of the House can be heard.

Mr. SCHENCK. Then I have no statement to make.

The House divided, and there were—ayes 91, noes 6; no quorum voting.

Mr. SCHENCK. I withdraw the resolution. Has any notice come from the Senate?

The SPEAKER. None.

Mr. SCHENCK. I move that we take a recess for half an hour; and I ask unanimous consent if a message come from the Senate before that time expires the Speaker shall then call the House to order.

Mr. BROOKS. I rise to a point of order. We cannot take a recess without a quorum.

The SPEAKER. The gentleman from New York makes the point of order that no quorum voted on the last vote, and that no recess can be taken except by unanimous consent when no quorum is present. The Chair thinks that a quorum perhaps may be present, as he has noticed that some gentlemen have not voted on any of the divisions.

Mr. WASHBURN, of Illinois. Then I demand tellers on the motion.

The SPEAKER. The motion is withdrawn.

Mr. WASHBURN, of Illinois. I ask the gentleman from Ohio to renew it.

Mr. SCHENCK. Then, as we are to be kept here, I renew the resolution in reference to the execution of the internal revenue laws; and upon it I demand the previous question.

The SPEAKER. The previous question is not necessary. The motion is to suspend the rules to allow the resolution to be introduced, which is not debatable.

Mr. SPALDING. I demand the yeas and nays on that motion.

Mr. WASHBURN, of Illinois. Which resolution is it?

The SPEAKER. The resolution for an investigation in regard to the internal revenue.

The yeas and nays were ordered.

Mr. BROOKS. I rise to a point of order; and for the purpose of sustaining my point of order I ask to have read the order under which the House assembled to-day.

The Clerk read the resolution, as follows:

"*Resolved by the House of Representatives*, (the Senate concurring.) That the President of the Senate and the Speaker of the House of Representatives, on Monday, the 27th day of July, at twelve o'clock m., do adjourn their respective Houses until the third Monday of September; and on that day, unless it be then otherwise ordered by the two Houses, they further adjourn their respective Houses until the first Monday of December, 1868."

Mr. BROOKS. The point of order that I make is that a second resolution is not in order until the conditions of the first order of this House are complied with; that they have not yet been complied with; that so far as any demonstration has been made, the demonstration has been such that there is no quorum present; that it is not within our power to do business of any kind until there is a quorum present; and that the proper way to ascertain whether there is a quorum present is to call the roll and ascertain it in that legitimate manner. We have attempted to ascertain illegitimately, by outside demonstrations, and they have all demonstrated that no quorum is now present. The point, therefore, which I make is that the motion of the gentleman from Ohio is not in order until it is first ascertained by a regular call of the House that a quorum of members is present; and further, that it is the duty of the Speaker when it is demonstrated, as it has been, that there is no quorum present, to adjourn the House till December.

The SPEAKER. The point of order embraces, as the Chair understands it, two propositions: first, that there can be no other business on this day except to act on resolutions to adjourn; and secondly, that the absence of a quorum, upon a count by the Speaker, prevents other business being transacted. The last point, of course, the gentleman from New York does not intend to press, because the demand for the yeas and nays on the proposition is to ascertain the fact whether there is a quorum in attendance. The Chair, as he has already stated, saw gentlemen, including the gentleman from New York himself, who, contrary to the rules of the House, did not vote on the division when the Chair counted. The Chair, therefore, overrules that part of the point of order. The first part is important, and the Chair thinks substantial, but he overrules it on this ground; the resolution reads as follows:

"And on that day, unless it be then otherwise ordered by the two Houses, they further adjourn their respective Houses until the first Monday of December, 1868."

It will be noticed that this resolution differs entirely from the resolution under which the supplemental session of 1867 was held, which provided specially that when the two Houses met the roll should immediately be called, and if a quorum did not appear of each House the Presiding Officer should declare both Houses adjourned until the regular session. This language is totally different, and seems to raise an entirely different inference as to the business of this day. It says:

"On that day, unless it be then otherwise ordered by the two Houses, they further adjourn their respective Houses until the first Monday of December, 1868."

This gives to both branches of Congress the entire legislative day of the 21st of September within which to settle the question of the adjournment of the two Houses. Any hour at which they may settle it on this legislative day will comply with the terms of the concurrent resolution. For instance, both Houses could transact legislative business during the entire legislative day until they were ready to adjourn, and could then agree to a further adjournment till the first Monday of December, or till some other time, if a quorum should be in attendance. The resolution gives to the

two Houses the whole day in which to decide this question. Under the resolution the two Houses may be in session the whole day; it does not say that the question as to the time to which an adjournment shall be had must be determined the first hour or the second hour or the last hour of the day. Therefore the Chair thinks it is competent for a majority of the House to adopt a resolution upon any other subject which they may deem proper.

Mr. RANDALL. I desire to ask, Mr. Speaker, whether it is within the power of the House to take any legislative action whatever when there is not a quorum present?

The SPEAKER. It is not.

Mr. RANDALL. There is not now a quorum present.

The SPEAKER. That has only appeared by the count of the Chair. Whether a quorum is present will be disclosed by the call of the yeas and nays about to be taken. If upon that call no quorum should appear of course no business can be transacted.

Mr. RANDALL. The Chair himself announced that there was not a quorum present.

The SPEAKER. By his count.

Mr. RANDALL. Therefore the introduction of any resolution or the transaction of any legislative business is not in order till it be made manifest to the Speaker that a quorum is present.

The SPEAKER. There has been no legislative business transacted.

Mr. RANDALL. A resolution involving action by the House other than adjournment is legislative.

The SPEAKER. The Chair will state to the gentleman from Pennsylvania, [Mr. RANDALL,] who came into the House a little after the hour of meeting, the character of the business transacted this morning. By unanimous consent the reading of the Journal of the day when the House was last in session was dispensed with. In that action the presence of a quorum was presumed, as no member called for a division. By unanimous consent, also, a concurrent resolution in regard to adjournment was adopted, no division being called for, and the Journal presuming, as the Speaker does, the presence of a quorum. The next resolution offered was one authorizing the suspension of the rules on any day during the remainder of the second session of the Fortieth Congress. Upon that no vote was taken by yeas and nays or by tellers. Upon a count by the Chair no quorum appeared, but that does not prove that no quorum is in attendance. Some members, like the gentleman from Pennsylvania, have come in since. The yeas and nays have now been demanded, and the vote about to be taken will show whether a quorum is present.

Mr. RANDALL. My point is that whenever the House finds itself without a quorum it is not competent to transact legislative business.

The SPEAKER. There is no record upon the Journal of the absence of a quorum. The resolution upon which a count was made by the Speaker was withdrawn by the mover, as he had the right to withdraw it, before a final decision, under the rule, to be found on page 120 of the Digest.

Mr. RANDALL. I am supported in my point by the declaration of the Speaker himself, that no quorum was present.

The SPEAKER. Upon a count no quorum appeared. It very frequently happens, indeed almost every day during a regular session, that upon a count by the Chair a quorum does not appear, though a quorum is subsequently elicited on a vote by tellers or yeas and nays. The question is now upon the suspension of the rules to permit the introduction of the resolution of the gentleman from Ohio, [Mr. SCHENCK.] The yeas and nays have been ordered, and the roll will now be called.

The question was put; and there were—yeas 100, nays 2, not voting 119; as follows:

YEAS—Messrs. Ames, Baldwin, Banks, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Broomall, Buckland, Benjamin F. Butler, Carke, Callis, Churchill, Sidney Clarke, Cobb, Coburn, Corley, Cor-

nell, Dawes, Deweese, Dixon, Driggs, Eckley, Edwards, Ella, Eliot, Ferriss, Fields, French, Garfield, Gove, Griswold, Halsey, Hamilton, Heaton, Higby, Hill, Chester D. Hubbard, Hulburt, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Koontz, Ladin, Lash, William Lawrence, Lincoln, Loughbridge, Lynch, Marvin, Maynard, McCarthy, Mercur, Miller, Moore, Mullins, Myers, O'Neill, Paine, Perham, Peters, Pierce, Poland, Prince, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Stevens, Stewart, Stokes, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Vidal, Ward, Elihu B. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whittmore, John T. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Young—100.

NAYS—Messrs. Kellogg and Spalding—2.

NOT VOTING—Messrs. Adams, Allison, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baker, Barnes, Barnum, Beaman, Beck, Benjamin, Blackburn, Boles, Bowen, Boyden, Boyer, Bromwell, Brooks, Buckley, Roderick R. Butler, Cary, Chanler, Burr, Reader W. Clarke, Clift, Cook, Covode, Cullom, Delano, Dockery, Dodge, Donnelly, Eggleston, Eldridge, Farnsworth, Ferry, Fox, Getz, Glossbrenner, Golladay, Goss, Gravely, Grover, Haight, Harding, Haughey, Hawkins, Hinds, Holman, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Johnson, Alexander H. Jones, Thomas L. Jones, Kerr, Kitchen, Knott, George V. Lawrence, Loan, Logan, Mallory, Marshall, McClurg, McCormick, McCullough, McKee, Moorhead, Morrell, Morrissey, Mungen, Newcomb, Newsham, Niblack, Nicholson, Norris, Nunn, Orth, Phelps, Pike, Pile, Plants, Polesley, Pomeroy, Price, Pruy, Randall, Baum, Robinson, Roots, Ross, Solye, Shellabarger, Sitgreaves, Starkweather, Stone, Sypher, Tabor, Taffe, Tift, Lawrence S. Trimble, Upson, Van Auker, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, Wood, and Woodward—119.

The SPEAKER. There is not a quorum voting.

During the call of the roll a message was received from the Senate, by Mr. McDONALD, its Chief Clerk, notifying the House that that body had adopted the following resolution, in which the concurrence of the House was requested:

Resolved by the Senate, (the House of Representatives concurring,) That the President of the Senate and the Speaker of the House of Representatives do adjourn their respective Houses until twelve o'clock noon of the 16th day of October, 1868; and that they then, unless otherwise ordered by the two Houses, further adjourn their respective Houses until the 10th day of November, 1868, at twelve o'clock noon; and that they then, unless otherwise ordered, further adjourn their respective Houses to the first Monday of December, 1868, at twelve o'clock noon.

Mr. SCHENCK. I wish to call attention to the fact that Mr. BROOKS, Mr. ELDRIDGE, and Mr. RANDALL, who are present, do not vote.

Mr. WASHBURN, of Illinois. I do not suppose there will be any objection to pass the resolution which came from the Senate. I ask unanimous consent to take it up and pass it.

Mr. RANDALL. I object.

The SPEAKER. There is no quorum on the last vote.

Mr. MULLINS. If I am not at fault in regard to the rules of the House, when there appears not to be a quorum a definite number may order those who do not appear to be brought within the pale of the House.

Mr. WASHBURN, of Illinois. I move that there be a call of the House.

Mr. MULLINS. I ask, to carry out that idea, a call of the House be had, and we proceed to take things in order according to the rules.

The motion was agreed to.

The Clerk accordingly proceeded to call the roll, and the following members failed to answer to their names:

Messrs. Adams, Allison, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baker, Barnes, Barnum, Beaman, Beck, Benjamin, Blackburn, Boles, Bowen, Boyden, Boyer, Bromwell, Brooks, Buckley, Burr, Roderick R. Butler, Cary, Chanler, Reader W. Clarke, Cook, Covode, Cullom, Delano, Dockery, Dodge, Donnelly, Eggleston, Eldridge, Farnsworth, Ferry, Fox, Getz, Glossbrenner, Golladay, Goss, Gravely, Grover, Haight, Harding, Haughey, Hawkins, Hinds, Holman, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Johnson, Alexander H. Jones, Thomas L. Jones, Kerr, Kitchen, Knott, George V. Lawrence, Loan, Logan, Mallory, Marshall, McClurg, McCormick, McCullough, McKee, Moorhead, Morrell, Morrissey, Mungen, Newcomb, Newsham, Niblack, Nicholson, Norris, Nunn, Orth, Phelps, Pike, Pile, Plants, Polesley, Pomeroy, Price, Pruy, Randall, Baum, Robinson, Roots, Ross, Solye, Shellabarger, Sitgreaves, Starkweather, Stone, Sypher, Tabor, Taffe, Lawrence S. Trimble, Upson, Van Auker, Robert T. Van Horn, Van

Trump, Cadwalader C. Washburn, Thomas Williams, William Williams, James F. Wilson, Wood, Woodward, and Young.

The doors were then closed, and the Clerk proceeded to call the names of the absentees for excuses:

GEORGE M. ADAMS. No excuse offered.
WILLIAM B. ALLISON. No excuse offered.
GEORGE W. ANDERSON. No excuse offered.
STEVENSON ARCHER. No excuse offered.
SAMUEL M. ARNELL. No excuse offered.
DELOS R. ASHLEY. No excuse offered.
JAMES M. ASHLEY. No excuse offered.
SAMUEL B. AXTELL. No excuse offered.
ALEXANDER H. BAILEY. No excuse offered.
Jehu BAKER. No excuse offered.
DEMAS BARNES. No excuse offered.
WILLIAM H. BARNUM. No excuse offered.
FERNANDO C. BEAMAN.

The SPEAKER. The Chair has received a telegram from Mr. BEAMAN, stating that he is sick at home. If there is no objection he will be regarded as excused. The Chair hears no objection.

JAMES H. BECK. No excuse offered.
JOHN F. BENJAMIN. No excuse offered.
W. JASPER BLACKBURN. No excuse offered.
THOMAS BOLES. No excuse offered.
C. C. BOWEN. No excuse offered.
NATHANIEL BOYDEN. No excuse offered.
BENJAMIN M. BOYER. No excuse offered.
HENRY P. H. BROMWELL. No excuse offered.
JAMES BROOKS. No excuse offered.
CHARLES W. BUCKLEY. No excuse offered.
ALBERT G. BURR. No excuse offered.
RODERICK R. BUTLER. No excuse offered.
SAMUEL F. CARY. No excuse offered.
JOHN W. CHANLER. No excuse offered.
READER W. CLARKE. No excuse offered.
BURTON C. COOK. No excuse offered.
JOHN COVODE. No excuse offered.
COLUMBUS DELANO. No excuse offered.
OLIVER H. DOCKERY. No excuse offered.
GRENVILLE M. DODGE. No excuse offered.
IGNATIUS DONNELLY. No excuse offered.
BENJAMIN EGGLESTON. No excuse offered.
CHARLES A. ELDRIDGE. No excuse offered.
JOHN F. FARNSWORTH. No excuse offered.
THOMAS W. FERRY.

The SPEAKER. The Chair has a telegram from Mr. FERRY stating that he is confined to his room by illness. If there be no objection he will be regarded as excused. The Chair hears no objection.

JOHN FOX. No excuse offered.
J. LAWRENCE GETZ. No excuse offered.
ADAM J. GLOSSBRENNER. No excuse offered.
J. S. GOLLADAY. No excuse offered.
JAMES H. GOSS. No excuse offered.
JOSEPH J. GRAVELY. No excuse offered.
ASA P. GROVER. No excuse offered.
CHARLES HAIGHT. No excuse offered.
ABNER C. HARDING. No excuse offered.
THOMAS HAUGHEY. No excuse offered.
ISAAC R. HAWKINS. No excuse offered.
JAMES HINDS. No excuse offered.
WILLIAM S. HOLMAN. No excuse offered.
SAMUEL HOOPER. No excuse offered.
BENJAMIN F. HOPKINS. No excuse offered.
JULIUS HOTCHKISS. No excuse offered.
ASAHIEL W. HUBBARD. No excuse offered.
RICHARD D. HUBBARD. No excuse offered.
JAMES M. HUMPHREY. No excuse offered.
MORTON C. HUNTER.

Mr. WASHBURN, of Indiana. My colleague, Mr. HUNTER, is detained at home by serious illness in his family. I move that he be excused.

The motion was agreed to.

JAMES A. JOHNSON. No excuse offered.
ALEXANDER H. JONES. No excuse offered.
THOMAS L. JONES. No excuse offered.
MICHAEL C. KERR. No excuse offered.
BETHUEL M. KITCHEN. No excuse offered.
J. PROCTER KNOTT. No excuse offered.
GEORGE V. LAWRENCE. No excuse offered.
BENJAMIN F. LOAN. No excuse offered.
JOHN A. LOGAN. No excuse offered.
RUFUS MALLORY. No excuse offered.
SAMUEL S. MARSHALL. No excuse offered.

JOSEPH W. McCLEURG. No excuse offered.
 JAMES R. McCORMICK. No excuse offered.
 HIRAM McCULLOUGH. No excuse offered.
 SAMUEL McKEE. No excuse offered.
 JAMES K. MOORHEAD. No excuse offered.
 DANIEL J. MORRELL. No excuse offered.
 JOHN MORRISSEY. No excuse offered.
 WILLIAM MUNCHEN. No excuse offered.
 GARMAN A. NEWCOMB. No excuse offered.
 J. P. NEWSHAM. No excuse offered.
 WILLIAM E. NIBLACK. No excuse offered.
 JOHN A. NICHOLSON. No excuse offered.
 BENJAMIN W. NORRIS. No excuse offered.
 DAVID A. NUNN. No excuse offered.
 GODLOVE S. ORTH. No excuse offered.
 CHARLES E. PHELPS. No excuse offered.
 FREDERIC A. PIKE. No excuse offered.
 WILLIAM A. PILE. No excuse offered.
 TOBIAS A. PLANTS. No excuse offered.
 DANIEL POISLEY. No excuse offered.
 THEODORE M. POMEROY. No excuse offered.
 HIRAM PRICE. No excuse offered.
 JOHN V. L. PRUYN. No excuse offered.
 SAMUEL J. RANDALL. No excuse offered.
 GREEN B. RAUM. No excuse offered.
 WILLIAM E. ROBINSON. No excuse offered.
 LOGAN H. ROOTS. No excuse offered.
 LEWIS W. ROSS. No excuse offered.
 LEWIS SELYE. No excuse offered.

SAMUEL SHELLABARGER.
 Mr. SPALDING. I move that Mr. SHELLABARGER be excused on account of sickness.

The motion was agreed to.

CHARLES SITGREAVES. No excuse offered.
 HENRY H. STARKWEATHER. No excuse offered.

FREDERICK STONE. No excuse offered.
 J. H. SYPPER. No excuse offered.
 STEPHEN TABER. No excuse offered.
 JOHN TAFFE. No excuse offered.
 LAWRENCE S. TRIMBLE. No excuse offered.
 CHARLES UPSON.

Mr. DRIGGS. My colleague, Mr. UPSON, is ill, and his family quite ill, so that he could not attend. I move that he be excused.

The motion was agreed to.

DANIEL M. VAN AUKEN. No excuse offered.
 ROBERT T. VAN HORN. No excuse offered.
 PHILADELPH VAN TRUMP. No excuse offered.
 CADWALADER C. WASHBURN. No excuse offered.

THOMAS WILLIAMS. No excuse offered.
 WILLIAM WILLIAMS. No excuse offered.
 JAMES F. WILSON. No excuse offered.
 FERNANDO WOOD. No excuse offered.
 GEORGE W. WOODWARD. No excuse offered.
 P. M. B. YOUNG. No excuse offered.

Mr. BROOMALL. Would it be in order to move that my colleague, Mr. RANDALL, be excused?

Mr. RANDALL. Mr. RANDALL can speak for himself.

Mr. BROOMALL. He is not here. He is very much indisposed. He is not here at least in contemplation of law.

Mr. RANDALL. He is not only here now, but he will be here in the next Congress, which the gentleman will not. [Laughter.]

The SPEAKER. The Chair will state that a motion to excuse any member who is on the list of absentees is always in order during a call of the House.

Mr. BROOMALL. I think, then, I ought to move that my colleague be excused on account of indisposition to vote. [Laughter.]

Mr. RANDALL. The gentleman is himself excused from the next Congress by the indisposition of his constituents to send him here. [Laughter.]

Mr. WASHBURN, of Illinois. How is it with the gentleman from Pennsylvania, [Mr. RANDALL?]

Mr. RANDALL. I am coming back.

Mr. WASHBURN, of Illinois. If you get votes enough. [Laughter.]

Mr. BROOMALL. My colleague's case has not yet been passed upon.

Mr. RANDALL. Yours has.

Mr. BROOMALL. I think, Mr. Speaker, I will make the motion I have indicated, that

my colleague be excused on account of indisposition to vote.

Mr. SCHENCK. Mr. Speaker, I desire to inquire whether a message has been received from the Senate?

The SPEAKER. A message cannot be received while the doors are closed.

Mr. SCHENCK. Is a message at the door?

Mr. PAINE. I move that all further proceedings under the call be dispensed with.

The motion was agreed to; and the doors were reopened.

ADJOURNMENT.

A message from the Senate was announced, when Mr. McDONALD, its Chief Clerk, said: I am directed by the Senate to inform the House that the Senate has concurred in the resolution of the House for the adjournment of the two Houses till the 16th day of October next, and for the subsequent adjournments named in the resolution.

Mr. SCHENCK, (at one o'clock and ten minutes p. m.) I move that the House now adjourn.

The motion was agreed to; when

The SPEAKER said: In accordance with the concurrent resolution adopted by the two Houses of Congress, I declare the second session of the Fortieth Congress adjourned till Friday, the 16th day of October, at noon.

IN SENATE.

FRIDAY, October 16, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Monday, September 21, 1868, was read and approved.

Senators present—Hons. B. F. Wade, S. Cameron, C. Cole, and D. T. Patterson of Tennessee.

The PRESIDENT *pro tempore*, (Hon. B. F. WADE.) Unless a motion be interposed the Chair will declare the Senate adjourned. [After a pause.] No motion being made, the Chair declares the Senate adjourned to the 10th day of November, 1868, pursuant to the resolution of the two Houses adopted on Monday, the 21st September last.

HOUSE OF REPRESENTATIVES.

FRIDAY, October 16, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON, as follows:

Almighty God, our Creator, Preserver, and Redeemer: Thanks be to Thy holy name for all Thy gracious gifts unto the children of men, not only for the creation of our lives, but their preservation, and above all, for the highest of all Thy blessings, the knowledge of salvation through Jesus Christ, Thy Son. We bless Thee that Thou hast added to all other gifts of Thine the preservation of our lives while we have been separated from each other, and that we are permitted to meet again in peace this morning. Glory to God on high for all his mercies shown! We bless Thee, O God, for all the evidences Thou art giving us of right-mindedness in the population of this land; and we beseech Thee that Thou wilt so teach the people that in the result, when the great issue of the contest is reached, we shall find that expression so given as to place the country immovably from this time forward upon the great foundations on which alone it can rest—righteousness and justice, out of which peace and prosperity will come. We bless Thee, O God, that from this day forth we may believe that peace and order shall begin to be restored to the country, that bloodshed and outrage and disorder of every kind shall begin to cease; for we think we see the beginning of the end of strife—the beginning, and we hope the rapid growth and final maturity of a great, free, American, Christian nationality. We pray Thee, O God, to bless the whole nation, to remember all classes and conditions of the people. Give all their due rights. Minister unto all such consolations as they need. Prepare us all for our great mis-

sion in this world as a Christian nation, and individually for the great work we have to perform and for the solemn account we have to render. We ask it for Christ's sake. Amen.

The SPEAKER. The recess having expired, the House of Representatives resumes its session. The Journal of the 21st of September is not in possession of the Clerk, but is at the Printing Office. If there be no objection the reading of it will be dispensed with. The Chair hears no objection, and it is so ordered. The Clerk will now read the concurrent resolution under which the two Houses of Congress convene on this day.

The Clerk read as follows:

"Resolved, (the Senate concurring.) That when the two Houses adjourn to-day the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses until twelve o'clock noon on the 16th day of October, 1868; and that they then, unless otherwise ordered by the two Houses, further adjourn their respective Houses until the 10th day of November, 1868, at twelve o'clock noon; and then, unless otherwise ordered by the two Houses, they further adjourn their respective Houses until the first Monday of December, 1868, at twelve o'clock noon."

The SPEAKER. If no motion is made looking to the rescinding in whole or in part of this concurrent resolution, it is the duty of the Chair under the resolution to declare the House of Representatives adjourned until Tuesday, the 10th of November, at noon. [A pause.] In accordance with the concurrent resolution adopted by the two Houses on the 21st of September last, I declare the second session of the House of Representatives of the Fortieth Congress adjourned until Tuesday, the 10th of November, at noon.

IN SENATE.

TUESDAY, November 10, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Friday, the 16th of October last, was read and approved.

Senators present—Hons. B. F. Wade of Ohio, H. W. Corbett of Oregon, James Harlan of Iowa, Edwin D. Morgan of New York, and William Pinckney Whyte of Maryland.

The PRESIDENT *pro tempore*, (Hon. B. F. WADE,) pursuant to the adjournment on the 16th of October last, took the chair at twelve o'clock m.; and he directed the resolution adopted on the 21st of September, under which the adjournment on the 16th of October last to this day was ordered, to be read.

The resolution was read, as follows:

"Resolved by the Senate, (the House of Representatives concurring.) That the President of the Senate and the Speaker of the House of Representatives do adjourn their respective Houses until twelve o'clock noon of the 16th day of October, 1868; and that they then, unless otherwise ordered by the two Houses, further adjourn their respective Houses until the 10th day of November, 1868, at twelve o'clock noon; and that they then, unless otherwise ordered, further adjourn their respective Houses to the first Monday of December, 1868, at twelve o'clock noon."

The PRESIDENT *pro tempore*. Unless it be otherwise ordered, the Chair, according to the order which has been read, will declare the Senate adjourned until the first Monday of December next. [After a pause.] No motion being made it is so declared, and the Senate stands adjourned until the first Monday of December next.

HOUSE OF REPRESENTATIVES.

TUESDAY, November 10, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON, as follows:

Almighty God, Creator and Preserver of us all. We thank Thee for that kind and fatherly protection by which we have been spared unto this present hour, and desire to lift our prayers and thanksgivings once more unto Thee through Jesus Christ our Advocate and Redeemer. We beseech Thee, O Lord, to accept our thanks for the good issue to which Thou hast brought the great questions that have been pending before the country. We believe that

Thou hast inspired the people of this land to come to right decisions; and we hail the beginnings of peace and prosperity, which we believe, through Thy blessing, will be stable and enduring. And now we commend unto Thee those whom, through the people of this country, Thou hast chosen to soon rule over us. May their lives and their health be precious in Thy sight! O God, preserve them, we pray Thee, from any attempted violence or injury, and suffer not the country to be brought again to the hour of mourning, as it once was, by violent hands. Preserve them, and bless them in all their private as well as their public relations. Remember all our rulers and legislators, all who are controlling the destinies of this great land. Be Thou the teacher of them all, the inspirer of their minds and the sanctifier of their hearts, that this country may be brought speedily under the complete control of those

principles for which Jesus died, and for the establishment of which He rose again and now reigns on high. The Lord accept this our morning offering, for Jesus' sake. Amen.

The SPEAKER. The recess having expired, the House of Representatives resumes its session. If there be no objection the reading of the Journal of the last day's session will be dispensed with. The Chair hears no objection, and it is so ordered. The Clerk will now read the concurrent resolution under which this adjourned session is held.

The Clerk read as follows:

"*Resolved*, (the Senate concurring,) That when the two Houses adjourn to-day the President of the Senate and Speaker of the House of Representatives adjourn their respective Houses until twelve o'clock noon on the 16th day of October, 1868; and that they then, unless otherwise ordered by the two Houses, further adjourn their respective Houses until the 10th day of November, 1868, at twelve o'clock noon;

and then, unless otherwise ordered by the two Houses, they further adjourn their respective Houses until the first Monday of December, 1868, at twelve o'clock noon."

The SPEAKER. As the time designated in the concluding part of this resolution is the day on which the third session of the House of Representatives of the Fortieth Congress will by law commence, an adjournment to-day, unless otherwise ordered, will be an adjournment without day of the second session of the Fortieth Congress.

Mr. KELLEY. I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. In accordance with the concurrent resolution adopted by the two Houses of Congress, I declare the second session of the House of Representatives of the Fortieth Congress adjourned without day.

APPENDIX

TO

THE CONGRESSIONAL GLOBE:

CONTAINING

SPEECHES, IMPORTANT STATE PAPERS, AND THE LAWS

OF THE

SECOND SESSION FORTIETH CONGRESS.

BY F. & J. RIVES & GEORGE A. BAILEY.

CITY OF WASHINGTON:
OFFICE OF THE CONGRESSIONAL GLOBE.
1868.

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

APPENDIX

TO

THE CONGRESSIONAL GLOBE,

SECOND SESSION FORTIETH CONGRESS.

APPENDIX

TO THE CONGRESSIONAL GLOBE.

40TH CONG....2D SESS.

Message of the President.

SENATE & HO. OF REPS.

MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES.

*Fellow-Citizens of the Senate
and House of Representatives :*

The continued disorganization of the Union, to which the President has so often called the attention of Congress, is yet a subject of profound and patriotic concern. We may, however, find some relief from that anxiety in the reflection that the painful political situation, although before untried by ourselves, is not new in the experience of nations. Political science, perhaps as highly perfected in our own time and country as in any other, has not yet disclosed any means by which civil wars can be absolutely prevented. An enlightened nation, however, with a wise and beneficent Constitution of free government, may diminish their frequency and mitigate their severity by directing all its proceedings in accordance with its fundamental law.

When a civil war has been brought to a close, it is manifestly the first interest and duty of the State to repair the injuries which the war has inflicted, and to secure the benefit of the lessons it teaches as fully and as speedily as possible. This duty was, upon the termination of the rebellion, promptly accepted, not only by the executive department, but by the insurrectionary States themselves, and restoration, in the first moment of peace, was believed to be as easy and certain as it was indispensable. The expectations, however, then so reasonably and confidently entertained were disappointed by legislation from which I felt constrained, by my obligations to the Constitution, to withhold my assent.

It is therefore a source of profound regret that in complying with the obligation imposed upon the President by the Constitution, to give to Congress, from time to time, information of the state of the Union, I am unable to communicate any definitive adjustment, satisfactory to the American people, of the questions which, since the close of the rebellion, have agitated the public mind. On the contrary, candor compels me to declare that at this time there is no Union, as our Fathers understood the term, and as they meant it to be understood by us. The Union which they established can exist only where all the States are represented in both Houses of Congress; where one State is as free as another to regulate its internal concerns according to its own will; and where the laws of the central Government, strictly confined to matters of national jurisdiction, apply with equal force to all the people of every section. That such is not the present "state of the Union" is a melancholy fact; and we all must acknowledge that the restoration of the States to their proper legal relations with the Federal

Government, and with one another, according to the terms of the original compact, would be the greatest temporal blessing which God, in His kindest providence, could bestow upon this nation. It becomes our imperative duty to consider whether or not it is impossible to effect this most desirable consummation.

The Union and the Constitution are inseparable. As long as one is obeyed by all parties the other will be preserved, and if one is destroyed, both must perish together. The destruction of the Constitution will be followed by other and still greater calamities. It was ordained not only to form a more perfect union between the States, but to "establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity." Nothing but implicit obedience to its requirements in all parts of the country will accomplish these great ends. Without that obedience we can look forward only to continual outrages upon individual rights, incessant breaches of the public peace, national weakness, financial dishonor, the total loss of our prosperity, the general corruption of morals, and the final extinction of popular freedom. To save our country from evils so appalling as these we should renew our efforts again and again.

To me the process of restoration seems perfectly plain and simple. It consists merely in a faithful application of the Constitution and laws. The execution of the laws is not now obstructed or opposed by physical force. There is no military or other necessity, real or pretended, which can prevent obedience to the Constitution, either North or South. All the rights and all the obligations of States and individuals can be protected and enforced by means perfectly consistent with the fundamental law. The courts may be everywhere open, and, if open, their process would be unimpeded. Crimes against the United States can be prevented or punished by the proper judicial authorities, in a manner entirely practicable and legal. There is therefore no reason why the Constitution should not be obeyed, unless those who exercise its powers have determined that it shall be disregarded and violated. The mere naked will of this Government, or of some one or more of its branches, is the only obstacle that can exist to a perfect union of all the States.

On this momentous question, and some of the measures growing out of it, I have had the misfortune to differ from Congress, and have expressed my convictions without reserve, though with becoming deference to the opinion of the legislative department. Those convictions are not only unchanged, but strengthened by subsequent events and further reflection. The transcendent importance of the subject will be a sufficient excuse for calling your attention to some of the reasons which have so strongly

influenced my own judgment. The hope that we may all finally concur in a mode of settlement, consistent at once with our true interests and with our sworn duties to the Constitution, is too natural and too just to be easily relinquished.

It is clear to my apprehension that the States lately in rebellion are still members of the national Union. When did they cease to be so? The "ordinances of secession," adopted by a portion (in most of them a very small portion) of their citizens, were mere nullities. If we admit now that they were valid and effectual for the purpose intended by their authors, we sweep from under our feet the whole ground upon which we justified the war. Were those States afterward expelled from the Union by the war? The direct contrary was averred by this Government to be its purpose, and was so understood by all those who gave their blood and treasure to aid in its prosecution. It cannot be that a successful war, waged for the preservation of the Union, had the legal effect of dissolving it. The victory of the nation's arms was not the disgrace of her policy; the defeat of secession on the battle-field was not the triumph of its lawless principle. Nor could Congress, with or without the consent of the Executive, do anything which would have the effect, directly or indirectly, of separating the States from each other. To dissolve the Union is to repeal the Constitution which holds it together, and that is a power which does not belong to any department of this Government, nor to all of them united.

This is so plain that it has been acknowledged by all branches of the Federal Government. The Executive (my predecessor as well as myself) and the heads of all the Departments have uniformly acted upon the principle that the Union is not only undissolved, but indissoluble. Congress submitted an amendment of the Constitution to be ratified by the southern States, and accepted their acts of ratification as a necessary and lawful exercise of their highest function. If they were not States, or were States out of the Union, their consent to a change in the fundamental law of the Union would have been nugatory, and Congress, in asking it, committed a political absurdity. The judiciary has also given the solemn sanction of its authority to the same view of the case. The judges of the Supreme Court have included the southern States in their circuits, and they are constantly, *in banc* and elsewhere, exercising jurisdiction which does not belong to them, unless those States are States of the Union.

If the southern States are component parts of the Union, the Constitution is the supreme law for them, as it is for all the other States. They are bound to obey it, and so are we. The right of the Federal Government, which is clear and unquestionable, to enforce the Constitution upon them, implies the correlative obligation on our part to observe its limitations

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and execute its guarantees. Without the Constitution we are nothing; by, through, and under the Constitution we are what it makes us. We may doubt the wisdom of the law, we may not approve of its provisions, but we cannot violate it merely because it seems to confine our powers within limits narrower than we could wish. It is not a question of individual, or class, or sectional interest, much less of party predominance, but of duty—of high and sacred duty—which we are all sworn to perform. If we cannot support the Constitution with the cheerful alacrity of those who love and believe in it we must give to it at least the fidelity of public servants who act under solemn obligations and commands which they dare not disregard.

The constitutional duty is not the only one which requires the States to be restored. There is another consideration, which, though of minor importance, is yet of great weight. On the 22d day of July, 1861, Congress declared by an almost unanimous vote of both Houses that the war should be conducted solely for the purpose of preserving the Union and maintaining the supremacy of the Federal Constitution and laws, without impairing the dignity, equality, and rights of the States or of individuals, and that when this was done the war should cease. I do not say that this declaration is personally binding on those who joined in making it any more than individual members of Congress are personally bound to pay a public debt created under a law for which they voted. But it was a solemn, public, official pledge of the national honor, and I cannot imagine upon what grounds the repudiation of it is to be justified. If it be said that we are not bound to keep faith with rebels let it be remembered that this promise was not made to rebels only. Thousands of true men in the South were drawn to our standard by it, and hundreds of thousands in the North gave their lives in the belief that it would be carried out. It was made on the day after the first great battle of the war had been fought and lost. All patriotic and intelligent men then saw the necessity of giving such an assurance, and believed that without it the war would end in disaster to our cause. Having given that assurance in the extremity of our peril, the violation of it now in the day of our power would be a rude rending of that good faith which holds the moral world together; our country would cease to have any claim upon the confidence of men; it would make the war not only a failure, but a fraud.

Being sincerely convinced that these views are correct, I would be unfaithful to my duty if I did not recommend the repeal of the acts of Congress which place ten of the southern States under the domination of military masters. If calm reflection shall satisfy a majority of your honorable bodies that the acts referred to are not only a violation of the national faith, but in direct conflict with the Constitution, I dare not permit myself to doubt that you will immediately strike them from the statute-book.

To demonstrate the unconstitutional character of those acts I need no more than refer to their general provisions. It must be seen at once that they are not authorized. To dictate what alterations shall be made in the constitutions of the several States; to control the elections of State legislators and State officers, members of Congress and electors of President and Vice President, by arbitrarily declaring who shall vote and who shall be excluded from that privilege; to dissolve State Legislatures or prevent them from assembling; to dismiss judges and other civil functionaries of the State, and appoint others without regard to State law; to organize and operate all the political machinery of the States; to regulate the whole administration of their domestic and local affairs according to the mere will of strange and irresponsible agents, sent among them for that purpose; these are powers not granted to the Federal Government or to any

one of its branches. Not being granted, we violate our trust by assuming them as palpably as we would by acting in the face of a positive interdict; for the Constitution forbids us to do whatever it does not affirmatively authorize, either by express words or by clear implication. If the authority we desire to use does not come to us through the Constitution, we can exercise it only by usurpation; and usurpation is the most dangerous of political crimes. By that crime the enemies of free government in all ages have worked out their designs against public liberty and private right. It leads directly and immediately to the establishment of absolute rule; for undelegated power is always unlimited and unrestrained.

The acts of Congress in question are not only objectionable for their assumption of ungranted power, but many of their provisions are in conflict with the direct prohibitions of the Constitution. The Constitution commands that a republican form of government shall be guaranteed to all the States; that no person shall be deprived of life, liberty, or property without due process of law, arrested without a judicial warrant, or punished without a fair trial before an impartial jury; that the privilege of *habeas corpus* shall not be denied in time of peace; and that no bill of attainder shall be passed even against a single individual. Yet the system of measures established by these acts of Congress does totally subvert and destroy the form as well as the substance of republican government in the ten States to which they apply. It binds them hand and foot in absolute slavery, and subjects them to a strange and hostile power, more unlimited and more likely to be abused than any other now known among civilized men. It tramples down all those rights in which the essence of liberty consists, and which a free government is always most careful to protect. It denies the *habeas corpus* and the trial by jury. Personal freedom, property, and life, if assailed by the passion, the prejudice, or the rapacity of the ruler, have no security whatever. It has the effect of a bill of attainder, or bill of pains and penalties, not upon a few individuals, but upon whole masses, including the millions who inhabit the subject States, and even their unborn children. These wrongs, being expressly forbidden, cannot be constitutionally inflicted upon any portion of our people, no matter how they may have come within our jurisdiction, and no matter whether they live in States, Territories, or districts.

I have no desire to save from the proper and just consequences of their great crime those who engaged in rebellion against the Government; but as a mode of punishment the measures under consideration are the most unreasonable that could be invented. Many of those people are perfectly innocent; many kept their fidelity to the Union untainted to the last; many were incapable of any legal offense; a large proportion even of the persons able to bear arms were forced into rebellion against their will; and of those who are guilty with their own consent, the degrees of guilt are as various as the shades of their character and temper. But these acts of Congress confound them all together in one common doom. Indiscriminate vengeance upon classes, sects, and parties, or upon whole communities, for offenses committed by a portion of them against the governments to which they owed obedience, was common in the barbarous ages of the world. But Christianity and civilization have made such progress that recourse to a punishment so cruel and unjust would meet with the condemnation of all unprejudiced and right-minded men. The punitive justice of this age, and especially of this country, does not consist in stripping whole States of their liberties, and reducing all their people, without distinction, to the condition of slavery. It deals separately with each individual, confines itself to the forms of law, and vindicates its own purity by an impartial examination of every case before

a competent judicial tribunal. If this does not satisfy all our desires with regard to southern rebels, let us console ourselves by reflecting that a free Constitution, triumphant in war and unbroken in peace, is worth far more to us and our children than the gratification of any present feeling.

I am aware that it is assumed that this system of government for the southern States is not to be perpetual. It is true this military government is to be only provisional, but it is through this temporary evil that a greater evil is to be made perpetual. If the guarantees of the Constitution can be broken provisionally to serve a temporary purpose, and in a part only of the country, we can destroy them everywhere and for all time. Arbitrary measures often change, but they generally change for the worse. It is the curse of despotism that it has no halting place. The intermitted exercise of its power brings no sense of security to its subjects; for they can never know what more they will be called to endure when its red right hand is armed to plague them again. Nor is it possible to conjecture how or where power, unrestrained by law, may seek its next victims. The States that are still free may be enslaved at any moment; for if the Constitution does not protect all it protects none.

It is manifestly and avowedly the object of these laws to confer upon negroes the privilege of voting, and to disfranchise such a number of white citizens as will give the former a clear majority at all elections in the southern States. This, to the minds of some persons, is so important that a violation of the Constitution is justified as a means of bringing it about. The morality is always false which excuses a wrong because it proposes to accomplish a desirable end. We are not permitted to do evil that good may come. But in this case the end itself is evil, as well as the means. The subjugation of the States to negro domination would be worse than the military despotism under which they are now suffering. It was believed beforehand that the people would endure any amount of military oppression, for any length of time, rather than degrade themselves by subjection to the negro race. Therefore they have been left without a choice. Negro suffrage was established by act of Congress, and the military officers were commanded to superintend the process of clothing the negro race with the political privileges torn from white men.

The blacks in the South are entitled to be well and humanely governed, and to have the protection of just laws for all their rights of person and property. If it were practicable at this time to give them a government exclusively their own, under which they might manage their own affairs in their own way, it would become a grave question whether we ought to do so, or whether common humanity would not require us to save them from themselves. But, under the circumstances, this is only a speculative point. It is not proposed merely that they shall govern themselves, but that they shall rule the white race, make and administer State laws, elect Presidents and members of Congress, and shape, to a greater or less extent, the future destiny of the whole country. Would such a trust and power be safe in such hands?

The peculiar qualities which should characterize any people who are fit to decide upon the management of public affairs for a great State have seldom been combined. It is the glory of white men to know that they have had these qualities in sufficient measure to build upon this continent a great political fabric, and to preserve its stability for more than ninety years, while in every other part of the world all similar experiments have failed. But if anything can be proved by known facts—if all reasoning upon evidence is not abandoned, it must be acknowledged that in the progress of nations negroes have shown less capacity for govern-

ment than any other race of people. No independent Government of any form has ever been successful in their hands. On the contrary, wherever they have been left to their own devices they have shown a constant tendency to relapse into barbarism. In the southern States, however, Congress has undertaken to confer upon them the privilege of the ballot. Just released from slavery, it may be doubted whether, as a class, they know more than their ancestors how to organize and regulate civil society. Indeed, it is admitted that the blacks of the South are not only regardless of the rights of property, but so utterly ignorant of public affairs that their voting can consist in nothing more than carrying a ballot to the place where they are directed to deposit it. I need not remind you that the exercise of the elective franchise is the highest attribute of an American citizen, and that, when guided by virtue, intelligence, patriotism, and a proper appreciation of our free institutions, it constitutes the true basis of a democratic form of government, in which the sovereign power is lodged in the body of the people. A trust artificially created, not for its own sake, but solely as a means of promoting the general welfare, its influence for good must necessarily depend upon the elevated character and true allegiance of the elector. It ought, therefore, to be reposed in none except those who are fitted morally and mentally to administer it well; for if conferred upon persons who do not justly estimate its value, and who are indifferent as to its results, it will only serve as a means of placing power in the hands of the unprincipled and ambitious, and must eventuate in the complete destruction of that liberty of which it should be the most powerful conservator. I have, therefore, heretofore urged upon your attention the great danger "to be apprehended from an untimely extension of the elective franchise to any new class in our country, especially when the large majority of that class, in wielding the power thus placed in their hands, cannot be expected correctly to comprehend the duties and responsibilities which pertain to suffrage. Yesterday, as it were, four million persons were held in a condition of slavery that had existed for generations; to-day they are freemen; and are assumed by law to be citizens. It cannot be presumed, from their previous condition of servitude, that, as a class, they are as well informed as to the nature of our Government as the intelligent foreigner who makes our land the home of his choice. In the case of the latter, neither a residence of five years, and the knowledge of our institutions which it gives, nor attachment to the principles of the Constitution, are the only conditions upon which he can be admitted to citizenship. He must prove, in addition, a good moral character, and thus give reasonable ground for the belief that he will be faithful to the obligations which he assumes as a citizen of the Republic. Where a people—the source of all political power—speak, by their suffrages, through the instrumentality of the ballot-box, it must be carefully guarded against the control of those who are corrupt in principle and enemies of free institutions, for it can only become to our political and social system a safe conductor of healthy popular sentiment when kept free from demoralizing influences. Controlled, through fraud and usurpation, by the designing, anarchy and despotism must inevitably follow. In the hands of the patriotic and worthy, our Government will be preserved upon the principles of the Constitution inherited from our fathers. It follows, therefore, that in admitting to the ballot-box a new class of voters not qualified for the exercise of the elective franchise, we weaken our system of Government, instead of adding to its strength and durability." "I yield to no one in attachment to that rule of general suffrage which distinguishes our policy as a nation. But there is a limit, wisely observed hitherto, which

makes the ballot a privilege and a trust, and which requires of some classes a time suitable for probation and preparation. To give it indiscriminately to a new class wholly unprepared by previous habits and opportunities to perform the trust which it demands is to degrade it, and finally to destroy its power; for it may be safely assumed that no political truth is better established than that such indiscriminate and all-embracing extension of popular suffrage must end at last in its overthrow and destruction."

I repeat the expression of my willingness to join in any plan within the scope of our constitutional authority which promises to better the condition of the negroes in the South, by encouraging them in industry, enlightening their minds, improving their morals, and giving protection to all their just rights as freemen. But the transfer of our political inheritance to them would, in my opinion, be an abandonment of a duty which we owe alike to the memory of our fathers and the rights of our children.

The plan of putting the southern States wholly, and the General Government partially, into the hands of negroes, is proposed at a time peculiarly unpropitious. The foundations of society have been broken up by civil war. Industry must be reorganized, justice reestablished, public credit maintained, and order brought out of confusion. To accomplish these ends would require all the wisdom and virtue of the great men who formed our institutions originally. I confidently believe that their descendants will be equal to the arduous task before them, but it is worse than madness to expect that negroes will perform it for us. Certainly we ought not to ask their assistance until we despair of our own competency.

The great difference between the two races in physical, mental, and moral characteristics will prevent an amalgamation or fusion of them together in one homogeneous mass. If the inferior obtains the ascendancy over the other, it will govern with reference only to its own interests—for it will recognize no common interest—and create such a tyranny as this continent has never yet witnessed. Already the negroes are influenced by promises of confiscation and plunder. They are taught to regard as an enemy every white man who has any respect for the rights of his own race. If this continues, it must become worse and worse, until all order will be subverted, all industry cease, and the fertile fields of the South grow up into a wilderness. Of all the dangers which our nation has yet encountered none are equal to those which must result from the success of the effort now making to Africanize the half of our country.

I would not put considerations of money in competition with justice and right. But the expenses incident to "reconstruction" under the system adopted by Congress aggravate what I regard as the intrinsic wrong of the measure itself. It has cost uncounted millions already, and if persisted in will add largely to the weight of taxation, already too oppressive to be borne without just complaint, and may finally reduce the Treasury of the nation to a condition of bankruptcy. We must not delude ourselves. It will require a strong standing army, and probably more than two hundred million dollars per annum to maintain the supremacy of negro governments after they are established. The sum thus thrown away would, if properly used, form a sinking fund large enough to pay the whole national debt in less than fifteen years. It is vain to hope that negroes will maintain their ascendancy themselves. Without military power they are wholly incapable of holding in subjection the white people of the South.

I submit to the judgment of Congress whether the public credit may not be injuriously affected by a system of measures like this. With our debt, and the vast private interests which are

complicated with it, we cannot be too cautious of a policy which might, by possibility, impair the confidence of the world in our Government. That confidence can only be retained by carefully inculcating the principles of justice and honor on the popular mind, and by the most scrupulous fidelity to all our engagements of every sort. Any serious breach of the organic law persisted in for a considerable time cannot but create fears for the stability of our institutions. Habitual violation of prescribed rules which we bind ourselves to observe must demoralize the people. Our only standard of civil duty being set at naught, the sheet-anchor of our political morality is lost; the public conscience swings from its moorings and yields to every impulse of passion and interest. If we repudiate the Constitution we will not be expected to care much for mere pecuniary obligations. The violation of such a pledge as we made on the 22d day of July, 1861, will assuredly diminish the market value of our other promises. Besides, if we now acknowledge that the national debt was created, not to hold the States in the Union, as the tax-payers were led to suppose, but to expel them from it and hand them over to be governed by negroes, the moral duty to pay it may seem much less clear. I say it may seem so; for I do not admit that this or any other argument in favor of repudiation can be entertained as sound; but its influence on some classes of minds may well be apprehended. The financial honor of a great commercial nation, largely indebted, and with a republican form of government administered by agents of the popular choice, is a thing of such delicate texture, and the destruction of it would be followed by such unspeakable calamity, that every true patriot must desire to avoid whatever might expose it to the slightest danger.

The great interests of the country require immediate relief from these enactments. Business in the South is paralyzed by a sense of general insecurity, by the terror of confiscation, and the dread of negro supremacy. The southern trade, from which the North would have derived so great a profit under a government of law, still languishes, and can never be revived until it ceases to be fettered by the arbitrary power which makes all its operations unsafe. That rich country—the richest in natural resources the world ever saw—is worse than lost if it be not soon placed under the protection of a free Constitution. Instead of being, as it ought to be, a source of wealth and power, it will become an intolerable burden upon the rest of the nation.

Another reason for retracing our steps will doubtless be seen by Congress in the late manifestations of public opinion upon this subject. We live in a country where the popular will always enforces obedience to itself, sooner or later. It is vain to think of opposing it with anything short of legal authority, backed by overwhelming force. It cannot have escaped your attention that from the day on which Congress fairly and formally presented the proposition to govern the southern States by military force, with a view to the ultimate establishment of negro supremacy, every expression of the general sentiment has been more or less adverse to it. The affections of this generation cannot be detached from the institutions of their ancestors. Their determination to preserve the inheritance of free government in their own hands and transmit it undivided and unimpaired to their own posterity is too strong to be successfully opposed. Every weaker passion will disappear before that love of liberty and law for which the American people are distinguished above all others in the world.

How far the duty of the President "to preserve, protect, and defend the Constitution" requires him to go in opposing an unconstitutional act of Congress is a very serious and

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important question, on which I have deliberated much, and felt extremely anxious to reach a proper conclusion. Where an act has been passed according to the forms of the Constitution by the supreme legislative authority, and is regularly enrolled among the public statutes of the country, executive resistance to it, especially in times of high party excitement, would be likely to produce violent collision between the respective adherents of the two branches of the Government. This would be simply civil war; and civil war must be resorted to only as the last remedy for the worst of evils. Whatever might tend to provoke it should be most carefully avoided. A faithful and conscientious magistrate will concede very much to honest error, and something even to perverse malice, before he will endanger the public peace; and he will not adopt forcible measures, or such as might lead to force, as long as those which are peaceable remain open to him or to his constituents. It is true that cases may occur in which the Executive would be compelled to stand on his rights, and maintain them, regardless of all consequences. If Congress should pass an act which is not only in palpable conflict with the Constitution, but will certainly, if carried out, produce immediate and irreparable injury to the organic structure of the Government, and if there be neither judicial remedy for the wrongs it inflicts nor power in the people to protect themselves without the official aid of their elected defender: if, for instance, the legislative department should pass an act even through all the forms of law to abolish a coordinate department of the Government; in such a case the President must take the high responsibilities of his office, and save the life of the nation at all hazards. The so-called reconstruction acts, though as plainly unconstitutional as any that can be imagined, were not believed to be within the class last mentioned. The people were not wholly disarmed of the power of self-defense. In all the northern States they still held in their hands the sacred right of the ballot, and it was safe to believe that in due time they would come to the rescue of their own institutions. It gives me pleasure to add that the appeal to our common constituents was not taken in vain, and that my confidence in their wisdom and virtue seems not to have been misplaced.

It is well and publicly known that enormous frauds have been perpetrated on the Treasury, and that colossal fortunes have been made at the public expense. This species of corruption has increased, is increasing, and, if not diminished, will soon bring us into total ruin and disgrace. The public creditors and the tax-payers are alike interested in an honest administration of the finances; neither class will long endure the large-handed robberies of the recent past. For this discreditable state of things there are several causes. Some of the taxes are so laid as to present an irresistible temptation to evade payment. The great sums which officers may win by connivance at fraud create a pressure which is more than the virtue of many can withstand; and there can be no doubt that the open disregard of constitutional obligations avowed by some of the highest and most influential men in the country has greatly weakened the moral sense of those who serve in subordinate places. The expenses of the United States, including interest on the public debt, are more than six times as much as they were seven years ago. To collect and disburse this vast amount requires careful supervision as well as systematic vigilance. The system, never perfected, was much disorganized by the "tenure-of-office bill," which has almost destroyed official accountability. The President may be thoroughly convinced that an officer is incapable, dishonest, or unfaithful to the Constitution, but, under the law which I have named, the utmost he can do is to complain to the Senate,

and ask the privilege of supplying his place with a better man. If the Senate be regarded as personally or politically hostile to the President, it is natural, and not altogether unreasonable, for the officer to expect that it will take his part as far as possible, restore him to his place, and give him a triumph over his executive superior. The officer has other chances of impunity arising from accidental defects of evidence, the mode of investigating it, and the secrecy of the hearing. It is not wonderful that official malfeasance should become bold in proportion as the delinquents learn to think themselves safe. I am entirely persuaded that under such a rule the President cannot perform the great duty assigned to him of seeing the laws faithfully executed, and that it disables him most especially from enforcing that rigid accountability which is necessary to the due execution of the revenue laws.

The Constitution invests the President with authority to decide whether a removal should be made in any given case; the act of Congress declares, in substance, that he shall only *accuse* such as he supposes to be unworthy of their trust. The Constitution makes him sole *judge* in the premises; but the statute takes away his jurisdiction, transfers it to the Senate, and leaves him nothing but the odious and sometimes impracticable duty of becoming a *prosecutor*. The prosecution is to be conducted before a tribunal whose members are not, like him, responsible to the whole people, but to separate constituent bodies, and who may bear his accusation with great disfavor. The Senate is absolutely without any known standard of decision applicable to such a case. Its judgment cannot be anticipated, for it is not governed by any rule. The law does not define what shall be deemed good cause for removal. It is impossible even to conjecture what may or may not be so considered by the Senate. The nature of the subject forbids clear proof. If the charge be incapacity, what evidence will support it? Fidelity to the Constitution may be understood or misunderstood in a thousand different ways, and by violent party men, in violent party times, unfaithfulness to the Constitution may even come to be considered meritorious. If the officer be accused of dishonesty how shall it be made out? Will it be inferred from acts unconnected with public duty, from private history, or from general reputation? Or must the President await the commission of an actual misdemeanor in office? Shall he, in the mean time, risk the character and interests of the nation in the hands of men to whom he cannot give his confidence? Must he forbear his complaint until the mischief is done and cannot be prevented? If his zeal in the public service should impel him to anticipate the overt act, must he move at the peril of being tried himself for the offense of slandering his subordinate? In the present circumstances of the country some one must be held responsible for official delinquency of every kind. It is extremely difficult to say where that responsibility should be thrown if it be not left where it has been placed by the Constitution. But all just men will admit that the President ought to be entirely relieved from such responsibility if he cannot meet it by reason of restrictions placed by law upon his action.

The unrestricted power of removal from office is a very great one to be trusted even to a magistrate chosen by the general suffrage of the whole people, and accountable directly to them for his acts. It is undoubtedly liable to abuse, and at some period of our history perhaps has been abused. If it be thought desirable and constitutional that it should be so limited as to make the President merely a common informer against other public agents he should at least be permitted to act in that capacity before some open tribunal, independent of party politics, ready to investigate the merits of every case furnished with the means of taking evidence, and bound to decide according to

established rules. This would guaranty the safety of the accuser when he acts in good faith, and at the same time secure the rights of the other party. I speak, of course, with all proper respect for the present Senate, but it does not seem to me that any legislative body can be so constituted as to insure its fitness for these functions.

It is not the theory of this Government that public offices are the property of those who hold them. They are given merely as a trust for the public benefit, sometimes for a fixed period, sometimes during good behavior, but generally they are liable to be terminated at the pleasure of the appointing power, which represents the collective majesty and speaks the will of the people. The forced retention in office of a single dishonest person may work great injury to the public interests. The danger to the public service comes not from the power to remove, but from the power to appoint. Therefore it was that the framers of the Constitution left the power of removal unrestricted, while they gave the Senate a right to reject all appointments which, in its opinion, were not fit to be made. A little reflection on this subject will probably satisfy all who have the good of the country at heart that our best course is to take the Constitution for our guide, walk in the path marked out by the founders of the Republic, and obey the rules made sacred by the observance of our great predecessors.

The present condition of our finances and circulating medium is one to which your early consideration is invited.

The proportion which the currency of any country should bear to the whole value of the annual produce circulated by its means is a question upon which political economists have not agreed. Nor can it be controlled by legislation, but must be left to the irrevocable laws which everywhere regulate commerce and trade. The circulating medium will ever irresistibly flow to those points where it is in greatest demand. The law of demand and supply is as unerring as that which regulates the tides of the ocean; and indeed currency, like the tides, has its ebbs and flows throughout the commercial world.

At the beginning of the rebellion the bank-note circulation of the country amounted to not much more than two hundred million dollars; now the circulation of national bank notes and those known as "legal tenders" is nearly seven hundred millions. While it is urged by some that this amount should be increased others contend that a decided reduction is absolutely essential to the best interests of the country. In view of these diverse opinions it may be well to ascertain the real value of our paper issues when compared with a metallic or convertible currency. For this purpose let us inquire how much gold and silver could be purchased by the seven hundred millions of paper money now in circulation. Probably not more than half the amount of the latter—showing that when our paper currency is compared with gold and silver its commercial value is compressed into three hundred and fifty millions. This striking fact makes it the obvious duty of the Government, as early as may be consistent with the principles of sound political economy, to take such measures as will enable the holder of its notes and those of the national banks to convert them, without loss, into specie or its equivalent. A reduction of our paper circulating medium need not necessarily follow. This, however, would depend upon the law of demand and supply, though it should be borne in mind that by making legal tender and bank notes convertible into coin or its equivalent their present specie value in the hands of their holders would be enhanced one hundred per cent.

Legislation for the accomplishment of a result so desirable is demanded by the highest public considerations. The Constitution con-

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templates that the circulating medium of the country shall be uniform in quality and value. At the time of the formation of that instrument the country had just emerged from the war of the Revolution, and was suffering from the effects of a redundant and worthless paper currency. The sages of that period were anxious to protect their posterity from the evils which they themselves had experienced. Hence, in providing a circulating medium, they conferred upon Congress the power to coin money and regulate the value thereof, at the same time prohibiting the States from making anything but gold and silver a tender in payment of debts.

The anomalous condition of our currency is in striking contrast with that which was originally designed. Our circulation now embraces, first, notes of the national banks, which are made receivable for all dues to the Government, excluding imposts, and by all its creditors, excepting in payment of interests upon its bonds and the securities themselves; second, legal-tender notes, issued by the United States, and which the law requires shall be received as well in payment of all debts between citizens as of all Government dues excepting imposts; and, third, gold and silver coin. By the operation of our present system of finance, however, the metallic currency, when collected, is reserved only for one class of Government creditors, who, holding its bonds, semi-annually receive their interest in coin from the national Treasury. They are thus made to occupy an invidious position, which may be used to strengthen the arguments of those who would bring into disrepute the obligations of the nation. In the payment of all its debts the plighted faith of the Government should be inviolably maintained. But while it acts with fidelity toward the bond-holder who loaned his money that the integrity of the Union might be preserved, it should at the same time observe good faith with the great masses of the people, who, having rescued the Union from the perils of rebellion, now bear the burdens of taxation that the Government may be able to fulfill its engagements. There is no reason which will be accepted as satisfactory by the people why those who defend us on the land and protect us on the sea; the pensioner upon the gratitude of the nation, bearing the scars and wounds received while in its service; the public servants in the various departments of the Government; the farmer who supplies the soldiers of the Army and the sailors of the Navy; the artisan who toils in the nation's workshops, or the mechanics and laborers who build its edifices and construct its forts and vessels of war, should, in payment of their just and hard-earned dues receive depreciated paper while another class of their countrymen, no more deserving, are paid in coin of gold and silver. Equal and exact justice requires that all the creditors of the Government should be paid in a currency possessing a uniform value. This can only be accomplished by the restoration of the currency to the standard established by the Constitution; and by this means we would remove a discrimination which may, if it has not already done so, create a prejudice that may become deep-rooted and wide-spread, and imperil the national credit.

The feasibility of making our currency correspond with the constitutional standard may be seen by reference to a few facts derived from our commercial statistics.

The production of precious metals in the United States from 1849 to 1857, inclusive, amounted to \$579,000,000; from 1858 to 1860, inclusive, to \$137,500,000; and from 1861 to 1867, inclusive, to \$457,500,000—making the grand aggregate of products since 1849 \$1,174,000,000. The amount of specie coined from 1849 to 1857, inclusive, was \$439,000,000; from 1858 to 1860, inclusive, \$125,000,000; and from 1861 to 1867, inclusive, \$310,000,000—making the total coinage since 1849 \$874,-

000,000. From 1849 to 1857, inclusive, the net exports of specie amounted to \$271,000,000; from 1858 to 1860, inclusive, to \$148,000,000; and from 1861 to 1867, inclusive, \$322,000,000—making the aggregate of net exports since 1849 \$741,000,000. These figures show an excess of product over net exports of \$433,000,000. There are in the Treasury \$111,000,000 in coin, something more than \$40,000,000 in circulation on the Pacific coast, and a few millions in the national and other banks—in all about \$160,000,000. This, however, taking into account the specie in the country prior to 1849, leaves more than three hundred million dollars which have not been accounted for by exportation, and therefore may yet remain in the country.

These are important facts, and show how completely the inferior currency will supersede the better, forcing it from circulation among the masses, and causing it to be exported as a mere article of trade, to add to the money capital of foreign lands. They show the necessity of retiring our paper money, that the return of gold and silver to the avenues of trade may be invited, and a demand created which will cause the retention at home of at least so much of the productions of our rich and inexhaustible gold-bearing fields as may be sufficient for purposes of circulation. It is unreasonable to expect a return to a sound currency so long as the Government, by continuing to issue irredeemable notes, fills the channels of circulation with depreciated paper. Notwithstanding a coinage by our mints since 1849 of \$874,000,000, the people are now strangers to the currency which was designed for their use and benefit, and specimens of the precious metals bearing the national device are seldom seen, except when produced to gratify the interest excited by their novelty. If depreciated paper is to be continued as the permanent currency of the country, and all our coin is to become a mere article of traffic and speculation, to the enhancement in price of all that is indispensable to the comfort of the people, it would be wise economy to abolish our mints, thus saving the nation the care and expense incident to such establishments, and let all our precious metals be exported in bullion. The time has come, however, when the Government and national banks should be required to take the most efficient steps and make all necessary arrangements for a resumption of specie payments at the earliest practicable period. Specie payments having been once resumed by the Government and banks, all notes or bills of paper issued by either of a less denomination than twenty dollars should by law be excluded from circulation, so that the people may have the benefit and convenience of a gold and silver currency which in all their business transactions will be uniform in value at home and abroad.

"Every man of property or industry, every man who desires to preserve what he honestly possesses, or to obtain what he can honestly earn, has a direct interest in maintaining a safe circulating medium; such a medium as shall be real and substantial, not liable to vibrate with opinions, not subject to be blown up or blown down by the breath of speculation, but to be made stable and secure. A disordered currency is one of the greatest political evils. It undermines the virtues necessary for the support of the social system and encourages propensities destructive of its happiness; it wars against industry, frugality, and economy; and it fosters the evil spirits of extravagance and speculation." It has been asserted by one of our profound and most gifted statesmen that "of all the contrivances for cheating the laboring classes of mankind none has been more effectual than that which deludes them with paper money. This is the most effectual of inventions to fertilize the rich man's fields by the sweat of the poor man's brow. Ordinary tyranny, oppression,

excessive taxation—these bear lightly on the happiness of the mass of the community compared with a fraudulent currency, and the robberies committed by depreciated paper." Our own history has recorded for our instruction enough, and more than enough, of the demoralizing tendency, the injustice, and the intolerable oppression on the virtuous and well-disposed of a degraded paper currency, authorized by law or in any way countenanced by Government." It is one of the most successful devices in times of peace or war, expansions or revulsions, to accomplish the transfer of all the precious metals from the great mass of the people into the hands of the few, where they are hoarded in secret places or deposited in strong boxes under bolts and bars, while the people are left to endure all the inconvenience, sacrifice, and demoralization resulting from the use of a depreciated and worthless paper money.

The condition of our finances and the operations of our revenue system are set forth and fully explained in the able and instructive report of the Secretary of the Treasury. On the 30th of June, 1866, the public debt amounted to \$2,783,425,879; on the 30th of June last it was \$2,692,199,215, showing a reduction during the fiscal year of \$91,226,664. During the fiscal year ending June 30, 1867, the receipts were \$490,634,010, and the expenditures \$346,729,129, leaving an available surplus of \$143,904,880. It is estimated that the receipts for the fiscal year ending June 30, 1868, will be \$417,161,928, and that the expenditures will reach the sum of \$393,269,226, leaving in the Treasury a surplus of \$28,892,702. For the fiscal year ending June 30, 1869, it is estimated that the receipts will amount to \$381,000,000, and that the expenditures will be \$372,000,000, showing an excess of \$9,000,000 in favor of the Government.

The attention of Congress is earnestly invited to the necessity of a thorough revision of our revenue system. Our internal revenue laws and impost system should be so adjusted as to bear most heavily on articles of luxury, leaving the necessities of life as free from taxation as may be consistent with the real wants of the Government, economically administered. Taxation would not then fall unduly on the man of moderate means; and while none would be entirely exempt from assessment, all, in proportion to their pecuniary abilities, would contribute toward the support of the State. A modification of the internal revenue system, by a large reduction in the number of articles now subject to tax, would be followed by results equally advantageous to the citizen and the Government. It would render the execution of the law less expensive and more certain, remove obstructions to industry, lessen the temptations to evade the law, diminish the violations and frauds perpetrated upon its provisions, make its operation less inquisitorial, and greatly reduce in numbers the army of tax-gatherers created by the system, who "take from the mouth of honest labor the bread it has earned." Retrenchment, reform, and economy should be carried into every branch of the public service, that the expenditures of the Government may be reduced and the people relieved from oppressive taxation; a sound currency should be restored, and the public faith in regard to the national debt sacredly observed. The accomplishment of these important results, together with the restoration of the Union of the States upon the principles of the Constitution, would inspire confidence at home and abroad in the stability of our institutions and bring to the nation prosperity, peace, and good will.

The report of the Secretary of War *ad interim* exhibits the operations of the Army and of the several bureaus of the War Department. The aggregate strength of our military force on the 30th of September last was 56,315. The total estimate for military appro-

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priations is \$77,124,707, including a deficiency in last year's appropriation of \$13,600,000. The payments at the Treasury on account of the service of the War Department from January 1 to October 29, 1867—a period of ten months—amounted to \$109,807,000. The expenses of the military establishment, as well as the numbers of the Army, are now three times as great as they have ever been in time of peace; while the discretionary power is vested in the Executive to add millions to this expenditure by an increase of the Army to the maximum strength allowed by the law.

The comprehensive report of the Secretary of the Interior furnishes interesting information in reference to the important branches of the public service connected with his Department.

The menacing attitude of some of the warlike bands of Indians inhabiting the district of country between the Arkansas and Platte rivers, and portions of Dakota Territory, required the presence of a large military force in that region. Instigated by real or imaginary grievances the Indians occasionally committed acts of barbarous violence upon emigrants and our frontier settlements; but a general Indian war has been providentially averted. The commissioners under the act of 20th July, 1867, were invested with full power to adjust existing difficulties, negotiate treaties with the disaffected bands, and select for them reservations remote from the traveled routes between the Mississippi and the Pacific. They entered without delay upon the execution of their trust, but have not yet made any official report of their proceedings. It is of vital importance that our distant Territories should be exempt from Indian outbreaks, and that the construction of the Pacific railroad, an object of national importance, should not be interrupted by hostile tribes. These objects, as well as the material interests and the moral and intellectual improvement of the Indians, can be most effectually secured by concentrating them upon portions of country set apart for their exclusive use, and located at points remote from our highways and encroaching white settlements.

Since the commencement of the second session of the Thirty-Ninth Congress five hundred and ten miles of road have been constructed on the main line and branches of the Pacific railway. The line from Omaha is rapidly approaching the eastern base of the Rocky mountains, while the terminus of the last section of constructed road in California, accepted by the Government on the 24th day of October last, was but eleven miles distant from the summit of the Sierra Nevada. The remarkable energies evinced by the companies offer the strongest assurance that the completion of the road from Sacramento to Omaha will not be long deferred.

During the last fiscal year seven million forty-one thousand one hundred and fourteen acres of public land were disposed of, and the cash receipts from sales and fees exceeded by \$500,000 the sum realized from those sources during the preceding year. The amount paid to pensioners, including expenses of disbursements, was \$18,619,956, and thirty-six thousand four hundred and eighty-two names were added to the rolls. The entire number of pensioners on the 30th of June last was one hundred and fifty-five thousand four hundred and seventy-four. Eleven thousand six hundred and fifty-five patents and designs were issued during the year ending September 30, 1867, and at that date the balance in the Treasury to the credit of the patent fund was \$286,607.

The report of the Secretary of the Navy states that we have seven squadrons actively and judiciously employed, under efficient and able commanders, in protecting the persons and property of American citizens, maintaining the dignity and power of the Government, and promoting the commerce and business interests of our countrymen in every part of the world. Of the two hundred and thirty-eight vessels com-

posing the present Navy of the United States, fifty-six, carrying five hundred and seven guns, are in squadron service. During the year the number of vessels in commission has been reduced twelve, and there are thirteen less on squadron duty than there were at the date of the last report. A large number of vessels were commenced and in the course of construction when the war terminated, and although Congress had made the necessary appropriations for their completion the Department has either suspended work upon them or limited the slow completion of the steam vessels so as to meet the contracts for machinery made with private establishments. The total expenditures of the Navy Department for the fiscal year ending June 30, 1867, were \$31,034,011. No appropriations have been made or required since the close of the war for the construction and repair of vessels, for steam machinery, ordnance, provisions and clothing, fuel, hemp, &c., the balances under these several heads having been more than sufficient for current expenditures. It should also be stated to the credit of the Department that, besides asking no appropriations for the above objects for the last two years, the Secretary of the Navy, on the 30th of September last, in accordance with the act of May 1, 1820, requested the Secretary of the Treasury to carry to the surplus fund the sum of \$65,000,000, being the amount received from the sales of vessels and other war property and the remnants of former appropriations.

The report of the Postmaster General shows the business of the Post Office Department and the condition of the postal service in a very favorable light, and the attention of Congress is called to its practical recommendations. The receipts of the Department for the year ending June 30, 1867, including all special appropriations for sea and land service and for free mail matter, were \$19,978,693. The expenditures for all purposes were \$19,235,483, leaving an unexpended balance in favor of the Department of \$743,210, which can be applied toward the expenses of the Department for the current year. The increase of postal revenue, independent of specific appropriations, for the year 1867 over that of 1866 was \$850,040. The increase of revenue from the sale of stamps and stamped envelopes was \$783,404. The increase of expenditures for 1867 over those of the previous year was owing chiefly to the extension of the land and ocean mail service. During the past year new postal conventions have been ratified and exchanged with the United Kingdom of Great Britain and Ireland, Belgium, the Netherlands, Switzerland, the North German Union, Italy, and the Colonial Government at Hong Kong, reducing very largely the rates of ocean and land postages to and from and within those countries.

The report of the Acting Commissioner of Agriculture concisely presents the condition, wants, and progress of an interest eminently worthy the fostering care of Congress, and exhibits a large measure of useful results achieved during the year to which it refers.

The reestablishment of peace at home and the resumption of extended trade, travel, and commerce abroad have served to increase the number and variety of questions in the Department for Foreign Affairs. None of these questions, however, have seriously disturbed our relations with other States.

The Republic of Mexico, having been relieved from foreign intervention, is earnestly engaged in efforts to reestablish her constitutional system of government. A good understanding continues to exist between our Government and the republics of Hayti and San Domingo, and our cordial relations with the Central and South American States remain unchanged. The tender, made in conformity with a resolution of Congress, of the good offices of the Government, with a view to an amicable adjustment of peace between Brazil

and her allies on one side and Paraguay on the other, and between Chili and her allies on the one side and Spain on the other, though kindly received, has in neither case been fully accepted by the belligerents. The war in the Valley of the Parana is still vigorously maintained. On the other hand, actual hostilities between the Pacific States and Spain have been more than a year suspended. I shall, on any proper occasion that may occur, renew the conciliatory recommendations which have been already made. Brazil, with enlightened sagacity and comprehensive statesmanship, has opened the great channels of the Amazon and its tributaries to universal commerce. One thing more seems needful to assure a rapid and cheering progress in South America. I refer to those peaceful habits without which States and nations cannot, in this age, well expect material prosperity or social advancement.

The Exposition of Universal Industry at Paris has passed, and seems to have fully realized the high expectations of the French Government. If due allowance be made for the recent political derangement of industry here, the part which the United States has borne in this exhibition of invention and art may be regarded with very high satisfaction. During the Exposition a conference was held of delegates from several nations, the United States being one, in which the inconveniences of commerce and social intercourse resulting from the diverse standards of money value were very fully discussed, and plans were developed for establishing, by universal consent, a common principle for the coinage of gold. These conferences are expected to be renewed, with the attendance of many foreign States not hitherto represented. A report of these interesting proceedings will be submitted to Congress, which will no doubt justly appreciate the great object, and be ready to adopt any measure which may tend to facilitate its ultimate accomplishment.

On the 25th of February, 1862, Congress declared by law that Treasury notes without interest, authorized by that act, should be legal tender in payment of all debts, public and private, within the United States. An annual remittance of \$30,000, less stipulated expenses, accrues to claimants under the Convention made with Spain in 1834. These remittances, since the passage of that act, have been paid in such notes. The claimants insist that the Government ought to require payment in coin. The subject may be deemed worthy of your attention.

No arrangement has as yet been reached for the settlement of our claims for British depredations upon the commerce of the United States. I have felt it my duty to decline the proposition of arbitration made by her majesty's Government, because it has hitherto been accompanied by reservations and limitations incompatible with the rights, interest, and honor of our country. It is not to be apprehended that Great Britain will persist in her refusal to satisfy these just and reasonable claims, which involve the sacred principle of non-intervention—a principle henceforth not more important to the United States than to all other commercial nations.

The West India Islands were settled and colonized by European States simultaneously with the settlement and colonization of the American continent. Most of the colonies planted here became independent nations in the close of the last and the beginning of the present century. Our own country embraces communities which at one period were colonies of Great Britain, France, Spain, Holland, Sweden, and Russia. The people in the West Indies, with the exception of those of the island of Hayti, have neither attained nor aspired to independence, nor have they become prepared for self-defense. Although possessing considerable commercial value, they have been held by the several European States which colonized

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or at some time conquered them chiefly for purposes of military and naval strategy in carrying out European policy and designs in regard to this continent. In our revolutionary war ports and harbors in the West India Islands were used by our enemy to the great injury and embarrassment of the United States. We had the same experience in our second war with Great Britain. The same European policy for a long time excluded us even from trade with the West Indies while we were at peace with all nations. In our recent civil war the rebels and their piratical and blockade-breaking allies found facilities in the same ports for the work, which they too successfully accomplished, of injuring and devastating the commerce which we are now engaged in rebuilding. We labored especially under this disadvantage—that European steam vessels, employed by our enemies, found friendly shelter, protection, and supplies in West Indian ports, while our own naval operations were necessarily carried on from our own distant shores. There was then a universal feeling of the want of an advanced naval outpost between the Atlantic coast and Europe. The duty of obtaining such an outpost peacefully and lawfully, while neither doing nor menacing injury to other States, earnestly engaged the attention of the executive department before the close of the war, and it has not been lost sight of since that time. A not entirely dissimilar naval want revealed itself during the same period on the Pacific coast. The required foothold there was fortunately secured by our late treaty with the Emperor of Russia, and it now seems imperative that the more obvious necessities of the Atlantic coast should be not less carefully provided for. A good and convenient port and harbor, capable of easy defense, will supply that want. With the possession of such a station by the United States neither we nor any other American nation need longer apprehend injury or offense from any trans-Atlantic enemy. I agree with our early statesmen that the West Indies naturally gravitate to, and may be expected ultimately to be absorbed by, the continental States, including our own. I agree with them also that it is wise to leave the question of such absorption to this process of natural political gravitation. The islands of St. Thomas and St. John's, which constitute a part of the group called the Virgin Islands, seemed to offer us advantages immediately desirable, while their acquisition could be secured in harmony with the principles to which I have alluded. A treaty has, therefore, been concluded with the King of Denmark for the cession of those islands, and will be submitted to the Senate for consideration.

It will hardly be necessary to call the attention of Congress to the subject of providing for the payment to Russia of the sum stipulated in the treaty for the cession of Alaska. Possession having been formally delivered to our commissioner, the territory remains for the present in care of a military force, awaiting such civil organization as shall be directed by Congress.

The annexation of many small German States to Prussia, and the reorganization of that country under a new and liberal constitution, have induced me to renew the effort to obtain a just and prompt settlement of the long-vested question concerning the claims of foreign States for military service from their subjects naturalized in the United States.

In connection with this subject the attention of Congress is respectfully called to a singular and embarrassing conflict of laws. The executive department of this Government has hitherto uniformly held, as it now holds, that naturalization, in conformity with the Constitution and laws of the United States, absolves the recipient from his native allegiance. The courts of Great Britain hold that allegiance to the British Crown is indefeasible, and is not absolved by our laws of naturalization. British

judges cite courts and law authorities of the United States in support of that theory against the position held by the executive authority of the United States. This conflict perplexes the public mind concerning the rights of naturalized citizens, and impairs the national authority abroad. I called attention to this subject in my last annual message, and now again respectfully appeal to Congress to declare the national will unmistakably upon this important question.

The abuse of our laws by the clandestine prosecution of the African slave-trade from American ports or by American citizens has altogether ceased, and, under existing circumstances, no apprehensions of its renewal in this part of the world are entertained. Under these circumstances it becomes a question whether we shall not propose to her majesty's Government a suspension or discontinuance of the stipulations for maintaining a naval force for the suppression of that trade.

ANDREW JOHNSON.

WASHINGTON, December 3, 1867.

Report of the Secretary of War *ad interim* and General United States Army.

WAR DEPARTMENT,

WASHINGTON CITY, November, 1867.

MR. PRESIDENT: I have the honor to submit my report as Secretary of War *ad interim* and the accompanying reports of the Army and bureaus under the War Department since the last annual report of the Secretary of War.

I assumed the duties of Secretary of War *ad interim* August 12, 1867, in pursuance of the following instructions from the President, to wit:

EXECUTIVE MANSION.

WASHINGTON, D. C., August 12, 1867.

SIR: Hon. Edwin M. Stanton having been this day suspended as Secretary of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will at once enter upon the discharge of the duties of that office.

The Secretary of War has been instructed to transfer to you all records, books, papers, and other public property now in his custody and charge.

Very respectfully, yours,

ANDREW JOHNSON.

General ULYSSES S. GRANT, Washington, D. C.

On receipt of the above I notified the Secretary of War of it, first verbally and then, at his suggestion, by letter, of which the following is a copy:

HEADQUARTERS ARMIES OF THE UNITED STATES,
WASHINGTON, D. C., August 12, 1867.

SIR: Inclosed herewith I have the honor to transmit to you a copy of a letter just received from the President of the United States notifying me of my assignment as Acting Secretary of War, and directing me to assume those duties at once.

In notifying you of my acceptance I cannot let the opportunity pass without expressing to you my appreciation of the zeal, patriotism, firmness, and ability with which you have ever discharged the duties of Secretary of War.

With great respect, your obedient servant,

U. S. GRANT, General.

Hon. E. M. STANTON, Secretary of War.

To this the Secretary of War made this reply:

WAR DEPARTMENT,

WASHINGTON CITY, August 12, 1867.

GENERAL: Your note of this date, accompanied by a copy of a letter addressed to you, August 12, by the President, appointing you Secretary of War *ad interim*, and informing me of your acceptance of the appointment, has been received.

Under a sense of public duty I am compelled to deny the President's right, under the Constitution and laws of the United States, to suspend me from office as Secretary of War, or to authorize any other person to enter upon the discharge of the duties of that office, or to require me to transfer to you or any other person the records, books, papers, and other property in my official custody and charge as Secretary of War.

But inasmuch as the President has assumed to suspend me from office as Secretary of War, and you have notified me of your acceptance of the appointment of Secretary of War *ad interim*, I have no alternative but to submit, under protest, to the superior force of the President.

You will please accept my acknowledgment of the kind terms in which you have notified me of your acceptance of the President's appointment, and my cordial reciprocation of the sentiments expressed.

I am, with sincere regard, truly yours,

EDWIN M. STANTON,

Secretary of War.

General ULYSSES S. GRANT.

Immediately after this exchange of notes I assumed the duties of the office assigned to me, in addition to the duties of General of the Army.

A long war had entailed upon the Army practices of extravagance totally unjustifiable in times of peace; and as the increase of the regular Army since 1860 (now almost the entire Army) is officered by men whose Army experience does not go back to that period, (and therefore they may not know but their indulgences at the expense of the General Government are all legitimate,) retrenchment was the first subject to attract my attention. During the rebellion ambulances and mounted orderlies at every headquarters had come into use; and since the rebellion they have been continued, if not at every post of a single company at least generally throughout the Army. A discontinuance of this evil was necessary both to the discipline and efficiency of the Army and to the relief of the Treasury. Orders were therefore given both for breaking it up and seeing to its execution.

The Bureau of Rebel Archives was transferred to the Adjutant General's department, as was also the Bureau for the Exchange of Prisoners, &c., thus relieving from Government employment a large number of clerks and several officers who had, to that date, been continued in service.

Supplying large armies for a period of four years of hostilities necessarily led to an accumulation of stores of all sorts far beyond the wants of our present establishment for many years to come. Many of these articles were of a perishable nature; besides being borne on the returns of officers accountable for them they had to be stored and guarded, although the cost of care per annum might be greater than their value. Under my direction all these surplus and useless stores in the quartermaster's department are being sold, and the balance distributed for issue to troops as they may be wanted. This releases a large number of storehouses for which rent is being paid, and also discharges a large number of civil employes of Government.

During the last summer and summer before I caused inspections to be made of the various routes of travel and supply through the territory between the Missouri river and the Pacific coast. The cost of maintaining troops in that section was so enormous that I desired, if possible, to reduce it. This I have been enabled to do, to some extent, from the information obtained by these inspections; but for the present the military establishment between the lines designated must be maintained at a great cost per man. The completion of the railroads to the Pacific will materially reduce this cost, as well as the number of men to be kept there. The completion of these roads will also go far toward a permanent settlement of our Indian difficulties. There is good reason to hope that negotiations now going on with the hostile tribes of Indians will result, if not in a permanent peace at least in a suspension of hostilities until the railroads are pushed through that portion of the Indian territory where they are giving the most trouble.

FREEDMEN'S BUREAU.

From the report of the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands I make the following synopsis:

No changes have been made in the organization and practical working of the Bureau of Refugees, Freedmen, and Abandoned Lands, except such as have been caused by the appointment of district commanders under the reconstruction act.

The detail of officers serving with troops has enabled the Commissioner to reduce the number of bureau agents. Twenty-eight civil agents have been discharged and forty-eight mustered out.

The freedmen, as a people, are making rapid progress in education, in mechanic arts, and in all branches of industry.

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The amount of "abandoned land" now in possession of the bureau is 215,024 acres, much of which is swampland, and scarcely any affording revenue. The number of pieces of town property is 950.

The business of adjusting the claims of colored soldiers has greatly increased in good results. The total number of claims presented during the year is 5,535, of which 755 have been finally adjusted, and 4,266 are now awaiting action in the Treasury Department. The amount collected and paid to claimants has been \$64,494 29; certificates received by the Commissioner and ordered paid, under act of Congress approved March 29, 1867, amounting to \$890,712 99.

Transportation has been furnished to 778 refugees, and to 10,931 freedmen to enable them to reach places where they can provide for themselves. Teachers and agents have also received transportation. Railroad accounts for transportation have been audited amounting to \$102,093 99, and the amount paid by the disbursing officer has been \$227,754 63.

Hospitals are being rapidly closed and dispensaries substituted as a more economical mode of giving relief to the sick. The number of refugees treated during the year ending August 31, 1867, is 8,853, of whom 196 died, or 2.2 per cent. The number of freedmen treated is 135,296; died, 4,640, or 3.4 per cent. The number of commissioned medical officers and private physicians employed by the bureau has been 178, of whom 105 were on duty at the end of the year. No adequate provision has been made for the insane, either by State or municipal authorities, but they are cared for in separate wards of bureau hospitals. The average cost of furnishing medical attendance and medicines during the year has been \$2 73 for each patient.

The total expenditures for the medical department have been \$301,800.

Commissary supplies have been issued to a limited extent. It has been found impracticable to discontinue such issues altogether. The average number of rations for the year ending September 1, 1867, was 11,658 per day. In the latter part of winter the destitution became so great that urgent appeals were made for a more general distribution of supplies. The total amount of supplies furnished by means of the "relief fund" has been 850,388 pounds of pork and bacon, and 6,809,296 pounds of corn. The number of persons receiving relief is reported to have been 233,372. The average number has been 58,000, the largest number being, in July, 82,000. The whole expense has been \$445,993 86, *i. e.*, nearly \$8 to each person for the period of four months, or \$2 per month. This special relief was discontinued in August, the funds and supplies remaining on hand being reserved for those who may require help during the coming winter.

The Schools have increased in number and usefulness. Normal and training schools are well attended. The total of day and night schools reported, including industrial, but not the Sunday schools, is 2,207, with 2,442 teachers and 130,735 scholars; an increase of 40,000 since the last annual report. Of these, 1,056 schools are sustained wholly or in part by freedmen, and 391 buildings are owned by them. Of the teachers, 699 are colored and 1,388 white.

The average amount of tuition paid per month by the freedmen has been \$14,555.

Finances.—Appropriation for the year ending July 1, 1868, \$3,838,300.

Total expenditures from October 1, 1866, to August 31, 1867, eleven months, \$3,597,397 65.

The principal items of expenditures are: for schools and school buildings, \$553,915 79; subsistence stores, \$1,460,326 28; for transportation, \$227,754 63; salaries of agents, clerks, &c., \$521,421 44; medical department, \$331,001 21; quarters and fuel, \$135,098 64; clothing, \$110,688 30.

The balance of the expenditure, \$251,190 86, has been for printing, postage, and other contingencies.

The surplus from the unexpended appropriations of 1866, with the balance of the appropriations of this year, will be sufficient for the purposes of the bureau during the present fiscal year ending June 30, 1868. In addition to the above proper expenditures, the disbursing officer has paid back to colored soldiers, or their heirs, retained State bounties to the amount of \$51,720 83, and has paid claims of colored soldiers, under joint resolution of Congress approved March 29, 1867, to the amount of \$550,870 96.

Apprenticeship in Maryland still holds large numbers of colored children in virtual slavery. The evils and cruelties resulting from this system, sanctioned by the State laws, are matters of constant complaint. As many as two thousand cases have been presented in a single county.

Education.—In all the schools in the District of Columbia and West Virginia there have been 7,998 scholars and 229 teachers. In West Virginia the schools have been sustained in part from the public school fund, where an impartial system of free schools exists. In the District of Columbia the colored schools are also entitled to a proportionate share of the public school fund, but the city authorities have not yet paid the entire sum claimed. It is probable, however, that the trustees of the colored schools will recover all that is due, and in future receive an equitable share of the public funds, in which case the colored schools will be independent of the bureau. Several institutions of higher grade than common schools have been established, and have made a good beginning. Among these are the National Theological Institute, in Washington, under the auspices of the Baptist denomination; the normal school and college at Harper's Ferry, conducted by the Free-Will Baptists, and the Howard University, in the District of Columbia, which is designed to be national and free to all. The normal and preparatory department has been opened with about sixty scholars, and buildings are now being erected for other departments.

To provide cheap homes for industrious colored men, a farm has been purchased, surveyed into acre lots, and sold at cost. The lots have been taken up rapidly, and payments upon them promptly made.

Expenditures have fallen below the original estimates. No further appropriation of funds is asked for. As the bureau will expire next July, unless extended by Congress, no funds are estimated for the next fiscal year. In case the bureau is not extended, it is recommended by the Commissioner that proper arrangements be made with the State authorities for the care of indigent classes; that the educational work be continued under the direction of the Bureau of Education or other United States agency, with full power and means to maintain and extend the present system; and that the Claim Division be continued in connection with the War Department as long as it may be deemed necessary by the Secretary of War.

This is but a brief abstract of the report of the Commissioner of Refugees, Freedmen, and Abandoned Lands. Special attention to the report itself is respectfully invited. No recommendation is made at the present time respecting the continuance or discontinuance of this bureau. During the session of Congress facts may develop themselves requiring special legislation in the premises, when the necessary recommendations can be made.

ADJUTANT GENERAL.

The report of the Adjutant General of the Army shows the organization and present strength of the Army, the force stationed in each military department and district, the number of recruits enlisted, and desertions from

October 1, 1866, to September 20, 1867, and the organization of the colored troops.

On the 30th of September, 1867, the aggregate strength of the Army (officers and men) was 56,815; the number of recruits, 34,191; and desertions, 13,608.

The recruiting service has been very successful, and men have been supplied as fast as needed.

The greatly enlarged numbers of the Army and of the military posts occupied by it render it necessary that some change should be made in the present system of courts-martial and of punishments. The organization of "companies of discipline" is recommended. It is also recommended that, for the good of the service, the term of enlistment be changed from three to five years. In the cavalry it is five years, but the other arms of the service only enlist for three.

At the date of the last report 11,043 volunteers still remained in service. That number has been reduced, and now only 203 commissioned officers remain, and no enlisted men. These officers are kept by special acts authorizing retention of volunteers in Freedmen's Bureau.

The mustering and disbursing officers have all been discontinued, except at Albany, New York; Philadelphia, Pennsylvania; Columbus, Ohio; Louisville, Kentucky; St. Louis, Missouri; Santa Fé, New Mexico; and San Francisco, California. No appropriation is required for the volunteer disbursing branch for the next year.

Attention is called to the great number of desertions, and the necessity for a change in the present system of courts-martial and of punishment to abate the evil.

I would recommend an increase of three assistant adjutants general. This would enable the assignment of one to each of the major generals and brigadier generals of the Army, and avoid the necessity of detaching officers from their legitimate duties to act as assistant adjutants general.

INSPECTOR GENERAL.

During the year there has been no change in the inspector general's department, except that two of the assistant inspectors general have been promoted from majors to lieutenant colonels, under the provisions of the act of Congress approved July 28, 1866. The number of officers in this branch of the service is too small to properly make the required special and stated inspections, whereby many abuses and irregularities have crept into the service. The immediate organization of an inspection department, composed of competent, active officers, is respectfully recommended to the attention of the authorities.

THE CHIEF OF THE BUREAU OF MILITARY JUSTICE reports that in the Bureau of Military Justice, during the past year, 11,432 records of military courts were received, reviewed, and registered; 2,135 special reports made as to the regularity of judicial proceedings, the pardon of military offenders, the remission or commutation of sentences, and upon the miscellaneous subjects and questions of law referred for the opinion of the bureau. The only change made in the conduct of the bureau and the status of its officers during the year has been in the detailing, by the order of the Secretary of War, of the assistant judge advocate general and four judge advocates for service at the headquarters, respectively, of the five military districts established by the act of Congress of March 2, 1867. From official reports of the district commanders and other communications it is believed that the services of these officers have been of an important and valuable character. The satisfactory manner in which they are represented as having performed their duties, which have been both of an advisory and judicial character, is deemed especially to vindicate the policy of Congress in retaining

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in the Army a small body of officers instructed in military and common law, by constituting the corps of judge advocates a part of the permanent regular establishment.

QUARTERMASTER GENERAL.

The Quartermaster General submits full financial statement and analysis of accounts for fiscal year ending June 30, 1867, showing that during the past year 11,130 accounts have been examined, amounting to \$309,738,171 89, and of accounts remaining to be examined 1,544, amounting to \$47,451,262 74.

Sixteen thousand and eighty-six horses and mules were purchased during the year for the public service.

The sales of surplus or unserviceable animals during the year amount to \$268,572 24. The total sales of this character since the close of active hostilities in 1865 amount to \$16,245,716 46.

The supply of clothing and equipage is so large that no purchases of these articles will be necessary for the next year.

The amount of clothing and equipage issued under the act of Congress approved July 14, 1866, to families rendered houseless and destitute by the recent conflagration in Portland, Maine, is fully set forth in report.

The fund of \$1,000,000, known as the sheltering fund for the troops on the plains, has been applied to the purposes for which it was intended.

One thousand temporary buildings have been sold during the year for the sum of \$112,000.

The erection of the fire-proof warehouse in Philadelphia is in process of construction. The contract price for building is \$138,800. It will probably be ready for occupancy in December next.

The United States not owning any land at or near the city of Jeffersonville, Indiana, and no appropriation having been made to purchase land as a site for the buildings, no steps have been taken to execute the provisions of the fourth section of the act of Congress approved February 2, 1867, authorizing the erection of fire-proof buildings at that place.

There are 308 cemeteries in the United States in which are interred the bodies of United States soldiers. Eighty-one of these are known as "national cemeteries." The total number of United States soldiers interred in cemeteries is 251,827, of which 238,666 are interred in the national cemeteries. Seventy-six thousand two hundred and sixty-three bodies are yet to be interred in these cemeteries, which, when completed, will make the total number 328,090. Twenty thousand eight hundred and sixty-one rebel prisoners of war have been interred. The estimated cost for fencing the cemeteries is \$709,000. The amount already expended on cemeteries is estimated at \$1,737,000. The total cost of the cemeteries, when completed, is estimated at \$3,500,000.

On July 1, 1866, the southern railroads were indebted to the Government to the amount of \$6,570,074 05. June 30, 1867, this amount was reduced to \$5,921,372 10.

The number of troops and the quantity of supplies transported up to the 20th September were as follows: passengers, 73,196; animals, 7,194; public freight, 306,576 tons, at a cost of 4,048,000.

During the fiscal year there were presented 24,417 claims, amounting to \$13,924,764 10, of which—

5,408 claims were approved, amounting to.....	\$5,440,041 48
6,513 claims were not allowed, amounting to.....	3,613,866 99
12,496 claims are awaiting action, amounting to.....	4,870,855 63
	<u>\$13,924,764 10</u>

On the 1st of July, 1866, the organization of the department consisted of 67 officers and 12 military storekeepers, total 79. By the act approved July 28, 1866, the department was

reorganized, and now consists of 76 officers and 16 military storekeepers with the rank of captain, making a total of 92. Five assistant quartermasters general have been retired. The number of volunteer officers in the department has been reduced from 107 to 81. Those remaining at the close of the year were fully employed upon important duties.

It is found that the number of officers of the quartermasters' department as authorized by the act of July 28, 1866, is insufficient to the prompt performance of the duties devolving upon them; it is therefore respectfully recommended that a portion of section thirteen of the act approved July 28, 1866, be repealed, and that there be added to the quartermasters' department so many assistant quartermasters with the rank, pay, and emoluments of captains of cavalry as will raise the number of officers of that grade to fifty; and that the vacancies thereby created in the grade of assistant quartermaster shall be filled by selection from those persons who have rendered meritorious services in the military service of the United States as assistant quartermasters of volunteers in the late war.

All of the officers of the department are highly commended for the able, conscientious, and faithful manner in which they have all discharged the highly important duties devolving upon them in the various details of business pertaining to the department.

COMMISSARY GENERAL.

The Commissary General of Subsistence reports that during the past year subsistence stores for the Army have been procured in the usual manner, by advertising for proposals in the larger markets of the country. Efforts have been made with considerable success to obtain supplies from the producers and dealers established near the point of consumption. The completion and extension of the Union Pacific railroad already afford great facilities for reaching and supplying distant occupied posts heretofore supplied by trains of wagons at special seasons of the year. Recent reports from the military division of the Pacific give assurances of success in the efforts to supply the troops of that division with pork made on the coast. This article has heretofore been shipped from New York. Tobacco has been supplied to the enlisted men of the Army under the sixth section of the act of March 3, 1865, to the amount of \$104,895 84. Subsistence to the amount of \$882,634 66 has been furnished by this department for the fiscal year ending June 30, 1867, to freedmen and others under the proper and authorized demands of the officers and agents of the Bureau of Refugees, Freedmen, and Abandoned Lands. The total cost of subsistence stores issued or transferred for the subsistence of Indians for the fiscal year ending June 30, 1867, is \$644,430 22. The number of claims presented and paid under public resolution No. 56, approved July 25, 1866, up to September 12, 1867, was 2,069, and amounted to \$116,187 75. The number presented and passed for payment under section three of the act of March 2, 1867, was five, and amounted to \$259 50.

The total number of claims received under the third section of the act approved July 4, 1864, is 4,926, amounting to \$2,493,257 45; of which number there have been examined and approved 482, amounting to \$146,149 51; examined and rejected, 1,881, amounting to \$1,071,194 42; leaving for final action and decision 2,563, amounting to \$1,275,913 32.

The number of claims examined and decided since the last annual report is 1,190, amounting to \$480,436 60; of which number there have been approved 248, amounting to \$60,806 41; rejected, 942, amounting to \$419,630 19.

The officers of the department have all performed their duties with zeal and ability.

All of the commissaries of subsistence of volunteers have now been mustered out except two, who are by authority of law on duty in

the Bureau of Refugees, Freedmen, and Abandoned Lands.

No appropriation having been made to meet the large expenditures necessary to carry out the provisions of section twenty-five of the act approved July 28, 1866, an order was issued permitting sutlers to continue to trade with troops until further orders.

The law authorizing the appointment of commissaries of subsistence having expired, it is suggested that it be recommended to Congress to authorize the General commanding the Army to appoint from the lieutenants of the line, on the recommendation of the Commissary General of Subsistence, as many assistant commissaries of subsistence as the service may require, not to exceed thirty-two, such officers to be paid twenty dollars a month in addition to their proper pay and emoluments, but without loss of the fourth ration, and to hold their appointment until canceled by their promotion to the grade of captain or by order of the General.

It is also suggested that it would be highly beneficial to the service could there be authorized a grade of non-commissioned officers to be called post commissary sergeants, to be selected and appointed as are ordnance sergeants, and to have the same rank, pay, and emoluments—the number not to exceed one to each military post.

The recommendation of the Commissary General for the appointment of thirty-two assistant commissaries is approved. It is absolutely necessary that there should be, and there is, an officer acting as commissary at every post garrisoned by troops. The only bonded officers to act in such capacity are the officers of the subsistence department and the regimental quartermasters. The same bond should be required from assistant commissaries as is required to be given by the latter. The additional pay would only be allowed when the duty of assistant commissary was performed, and they would never perform that duty at a post of less than a full regiment when there was present either a commissary or a regimental quartermaster.

I would recommend that no appropriation be made to execute the requirements of section twenty-five of the act of Congress entitled "An act to increase and fix the military peace establishment of the United States," and that public resolution of Congress No. 33, approved March 30, 1867, as promulgated in the following orders, be continued in force:

[General Orders, No. 54.]

WAR DEPARTMENT, ADJUTANT GENERAL'S OFFICE,
WASHINGTON, April 15, 1867.

The following resolution of Congress is published for the information and government of all concerned:

[PUBLIC RESOLUTION, No. 33.]

A resolution to authorize the Commanding General of the Army to permit traders to remain at certain military posts.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled. That the Commanding General of the Army shall be authorized to permit a trading establishment to be maintained, after the 1st day of July, 1867, at any military post on the frontier not in the vicinity of any city or town, and situated at any point between the one hundredth meridian of longitude west from Greenwich and the eastern boundary of the State of California, when, in his judgment, such establishment is needed for the accommodation of emigrants, freighters, and other citizens: *Provided*, That after the commissary department shall be prepared to supply stores to soldiers as required by law no trader permitted to remain at such post shall sell any goods kept by the commissary department to any enlisted men: *And provided further*, That such traders shall be under protection and military control as camp followers.

Approved March 30, 1867.

By order of the Secretary of War:

E. D. TOWNSEND,

Assistant Adjutant General.

[General Orders, No. 53.]

HEADQUARTERS OF THE ARMY,

ADJUTANT GENERAL'S OFFICE,

WASHINGTON, May 24, 1867.

So much of paragraph II, General Orders, No. 6, dated War Department, January 23, 1867, as is inconsistent with the following, is, by direction of the Secretary of War, revoked.

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The Commissary General of Subsistence having reported that no special appropriation has been made by Congress to enable the subsistence department to carry into effect section twenty-five of the act of Congress approved July 28, 1866, which abolishes the office of sutler and requires said department to furnish for sale to officers and soldiers such articles (heretofore supplied by sutlers) as may be designated by the inspectors general of the Army; and in view of the large expenditure of funds necessary to furnish such supplies, and the delay which must ensue before an appropriation can be made for this purpose, it is ordered, that the sutlers at military posts on the frontier, not in the vicinity of any city or town, and situated between the one hundredth meridian of longitude west from Greenwich and the eastern boundary of the State of California, shall, after the 1st of July, 1867, be retained, until further orders, as traders at such military posts, under the resolution of Congress approved March 30, 1867, authorizing the Commanding General of the Army to permit traders to remain at certain military posts.

Should the commanding officer of any post included in this order consider the present sutler of his post an unfit person to hold the office of trader, he will forward a report to that effect through intermediate commanders to those headquarters.

By command of General Grant:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders, No. 68.]

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, July 19, 1867.

Traders at Military Posts.

General Orders, No. 58, of May 24, 1867, is modified so as to permit any persons, without limit as to number, to trade at the military posts situated between the one hundredth meridian of longitude west from Greenwich and the eastern boundary of the State of California, subject only to such regulations and restrictions as may be imposed by department commanders.

By command of General Grant:

E. D. TOWNSEND,
Assistant Adjutant General.

SURGEON GENERAL.

From the report of the Surgeon General it will be found that since October 20, 1866, three surgeons, six assistant surgeons, and seven acting assistant surgeons have died. Of these five died of yellow fever and three of Asiatic cholera.

In the month of June of the present year Asiatic cholera appeared among the troops at various points in the West and Northwest; and for a time fears of a wide-spread epidemic were entertained. Recent reports from the infected command show that the disease has subsided, or has been eradicated by vigorous hygienic measures.

The valuable medical and mortuary records of this department were transferred to the fire-proof building on Tenth street in December, 1866. During the year official evidence has been furnished from these records of the death or discharge for disability in 55,600 cases.

Four thousand and eight monthly reports of sick and wounded, 315 special reports, 598 folio records of hospital records, 2,365 burial records, and 1,262 hospital muster and pay-rolls have been received during the year. The alphabetical registers of the dead, as far as completed, contain the names of 244,747 white soldiers, 29,796 colored soldiers, and 30,204 rebel soldiers.

In the division of surgical records the histories of 45,551 wounded men have been traced out and entered upon the permanent registers. The number thus entered now amounts to 207,941. The histories of the graver injuries and of those cases in which important operations were performed are very fully recorded.

Fifty-nine thousand five hundred and nineteen cases of wounds and operations occurring previous to the present system of registration and return of injuries have been compiled, and will be entered upon the permanent registers.

The average annual strength of white troops is represented by the reports at 41,104. The number taken on sick report for diseases, wounds, and injuries, 122,181, an average of nearly three entries on sick report for each man. The mortality during the year was 1,527. The average annual strength of the colored troops, as shown by the reports, is 6,561. The

number taken on sick report for disease, wounds, and injuries was 19,694, an average of three entries on sick report for each man. The total number of white and colored soldiers discharged during the year on surgeons' certificate of disability is 618.

The Army Medical Museum was removed to the building on Tenth street in April last. Eight thousand five hundred and forty-two specimens have been catalogued, and a small appropriation will be required to continue and preserve this invaluable collection.

In September, 1867, a medical board was convened in New York city for the examination of candidates for the position of assistant surgeons in the Army and the promotion of assistant surgeons, which resulted in the appointment of forty-seven as assistant surgeons in the Army, and the promotion of fourteen assistant surgeons.

Of artificial legs, arms, &c., there were issued during the past year to wounded soldiers 573 pieces.

The funds of the medical and hospital department for the fiscal year ending June 30, 1867, consisted of a balance remaining in the Treasury June 30, 1866..... \$2,546,457 14

Amount issued by the Treasury in June, 1866, to disbursing officers, but which had not come to hand July 1, 1866.....	37,000 00
Balance of appropriation for artificial limbs under act of July 16, 1862.....	540 00
Appropriation for the year ending June 30, 1867, by act of July 13, 1866.....	500,000 00
Amount derived from the sale of old and surplus hospital property.....	203,002 82
From boards of officers in hospitals.....	327 85
For care of citizen patients in United States hospital at Louisville, Kentucky.....	1,270 88
Refunded from appropriation for prisoners of war.....	1,420 87
Amounts in the hands of disbursing officers, including suspended vouchers....	446,139 47

Deduct balances in favor of various disbursing officers.....	751,555 81
	\$3,074,603 22

There was disbursed for purchase of medical and hospital supplies.....	\$176,556 40
For pay of private physicians.....	225,531 40
For pay of hospital employes.....	40,894 44
For expense of purveying depots.....	102,253 06
For artificial limbs for soldiers and seamen.....	35,206 50
For care of sick soldiers in private hospitals.....	3,229 04
For miscellaneous expenses of the medical department.....	48,835 19
For internal revenue tax.....	2,133 12
Refundment of amounts erroneously deposited in the previous year.....	125 61
Transferred to the pay department for the payment of contract surgeons.....	200,000 00
Balance of appropriation for artificial limbs turned into the surplus fund.....	190 00
Balance in the Treasury June 30, 1867.....	2,909,614 08
Amount of previous disallowances now admitted, proper vouchers being furnished.....	33,789 33
In the hands of disbursing officers.....	72,526 25
Amounts chargeable to disbursing officers on suspended vouchers awaiting explanation and correction.....	65,769 52

	3,916,653 94
Deduct balances due disbursing officers,	842,050 72
	\$3,074,603 22

PAYMASTER GENERAL.

The Paymaster General reports that at the date of the last annual report there were 25 paymasters of the old establishment and 58 additional paymasters, making a total of 83. There have since been 35 appointed in the permanent establishment, the complement authorized by the "act to increase and fix the military peace establishment," approved July 28, 1866, making of regular paymasters created and now in service 60; reduction of additional paymasters during the fiscal year 37, leaving still in service 21. Total of both classes now in service 81.

The explanation given in the last annual report of the necessity of continuing in service some of the additional paymasters still exists in all its force, though it is expected that a

further reduction may be practicable before the end of the current year.

The financial summary exhibits a balance on hand at the beginning of the fiscal year of.....\$23,941,899 82
Received from Treasury and other sources during the year..... 34,933,958 27

Total.....\$58,875,858 09

Accounted for as follows:

Disbursements to the regular Army and the Military Academy.....	\$14,369,243 62
Disbursements to volunteers.....	23,389,213 43
Requisitions canceled.....	8,100,000 00
Amount refunded to Treasury.....	38,000 00
Amount of paymasters' balances on deposit in Merchants' National Bank at date of closing, not heretofore accounted for.....	107,614 65
Unissued requisitions in Treasury.....	3,550,000 00
In hands of paymasters.....	4,321,788 39

Total.....\$58,875,858 09

The total disbursements of each class during the fiscal year is as follows:

To troops in service.....	\$20,078,855 09
To troops on muster-out.....	3,300,000 00
To Treasury certificates.....	10,614,000 00
To referred claims.....	8,765,602 00

Total.....\$42,758,457 09

There have been received and recorded to October 20, 1867, 407,857 bounty claims under the act of Congress approved July 28, 1866. Of this number, 105,378 have been fully settled and disposed of at an expenditure of \$9,352,797; 302,479 claims remain on hand to be settled.

Thirty-one thousand claims for ordering bounty and arrears of pay have also been settled and disposed of within the year, at an expenditure of \$3,353,203.

Under the joint resolutions of Congress, the one approved March 30, 1867, and the other July 19, 1867, \$1,500,000 was appropriated for expenditure in the five military districts of the South. Of this amount there has been drawn from the Treasury \$1,454,728 93, leaving a balance in the Treasury of \$45,271 07, which balance is to the credit of the second military district.

CHIEF ENGINEER.

The corps of engineers consists of one hundred and seven officers and the battalion of engineer troops. Seventeen officers are on detached duty, serving on the staff of the General of the Army, on the staffs of the general officers commanding military divisions and departments, at the Military Academy, on the Light-House Board, and in the Interior Department. The remainder are engaged, under the orders of the Chief of Engineers, upon the permanent defenses of the country, the survey of the lakes, the improvement of rivers and harbors and the surveys relating thereto, upon explorations, in the command and instruction of the engineer troops, and in the charge of public buildings, grounds, and works in Washington.

The work of strengthening the permanent defenses of the country and of adapting them to receive more powerful armaments has been continued during the past fiscal year.

Experimental targets and other structures have been in the course of construction for the purpose of determining the further modifications which sea-coast defense must undergo in view of the great power of modern ordnance and the best and most economical manner of using iron as shields or scarps, or in other modes, for defense.

The estimates for the sea-coast defenses during the next fiscal year are for the construction of such interior and other portions of the works now in progress as are not affected by the improved means of naval warfare and of siege operations, or where the increased strength required can be secured by simple means, such as greater thickness of earth-covering, &c.

The headquarters of the engineer battalion, with three companies, have been established at

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Willett's Point, the chief depot of engineer supplies; a second depot has been fixed at Jefferson barracks, with one company; and a third, near San Francisco, with one company. A detachment from the engineer battalion is at the Military Academy to aid in giving instruction in practical engineering.

Some legislation for improving the discipline and instruction of the engineer troops is recommended by the Chief of Engineers, and appears to be required.

The operations of the corps relating to reconnaissances and surveys for military and commercial purposes, and to the improvement of rivers and harbors, have progressed during the fiscal year in a satisfactory manner.

The maps of the country from the Mississippi to the Pacific, prepared chiefly from the first-named surveys, are indispensable to the troops now occupying that region. The explorations and surveys in progress and those in contemplation will continue to supply such wants and to furnish besides information of great value to the country.

The surveys for river and harbor improvements supply the information essential for legislation as well as for the proper location and construction of the works. They should be continued, especially upon the western rivers, where changes in the channels and bars and other obstacles to navigation are constantly going on.

The survey of the lakes has made satisfactory progress in the waters of Lakes Superior and Michigan, to which attention has been confined for the most part, to meet the demands of commerce now being developed upon the borders of those waters.

The report of the Chief of Engineers and accompanying papers contain all the information required to be presented by the acts of 1866 and 1867 making appropriations for certain river and harbor improvements and surveys. These works have been carried on in a highly satisfactory manner.

Embarrassments have been experienced in the execution of the acts, modifications of which are suggested by the Chief of Engineers.

A large number of detailed maps, intended to illustrate some of the principal campaigns and battle-fields, have been prepared, and others are in course of preparation. They contain information not only useful for the purposes intended, but highly valuable in connection with other objects, military and civil. The Chief of Engineers recommends an appropriation of \$50,000 for the engraving and printing of the most important, a recommendation which is concurred in.

ORDNANCE BUREAU.

The expenditures of the Ordnance Bureau during the past fiscal year were less than one third of those of the preceding year. They were applied chiefly to work previously begun and partially executed, and to the settlement of war claims. The estimates for the next year are for defraying expenses of ordinary peace operations, and executing such works as have been authorized and directed by law.

The operations at the arsenals have been confined to the manufacture of iron gun-carriages and implements for sea-coast cannon and of articles required for issue to troops, the reception, care, and preservation of ordnance and ordnance stores, the breaking up of unserviceable ammunition, and the construction of authorized buildings and other permanent improvements. The hired men employed at the arsenals have been reduced from last year by about seventeen per cent., and the reduction is in further progress. There were, at the end of the year, 987 enlisted ordnance men employed at the arsenals in guard, police, and other military duties, and as mechanics and laborers in the workshops, magazines, and laboratories.

A title to the property on Rock island, Illinois, having been acquired, the construction

of the arsenal and armory at that place, in accordance with the act of April 19, 1864, has been carried forward rapidly. The estimate for continuing that work during the next fiscal year is in accordance with its character and design as authorized and directed by law. The conditions connected with the appropriation in March last for the erection of a bridge at Rock Island having not yet been fulfilled by the railroad company, no part of that appropriation has been expended. From correspondence and negotiations with the railroad company in reference to the guarantee required from them by the appropriation act, it is understood that the company will agree to pay, and will satisfactorily guaranty the payment of half the cost of building the bridges across the main channel of the Mississippi river and across the slough on the Illinois side, and is anxious to have the bridges built as soon as practicable upon those conditions. As there is some doubt whether the guarantee which the company is willing to give would fulfill the exact requirements of the law, this subject is recommended to be brought to the notice of Congress for such further legislation as may be deemed necessary and proper. It is very desirable that the bridges should be built as soon as practicable, and that a sufficient appropriation for the purpose be made. When the work is done one half of its expense will be returned to the Government by the railroad company.

The arms and other ordnance stores which had accumulated at the southern arsenals, excepting one in Florida turned over for use by the Freedmen's Bureau, and one at Little Rock, Arkansas, occupied as a military station, have been repossessed, and are now in charge of the ordnance department. The buildings and other public property at these arsenals should be kept from decay and in proper preservation, and the ordnance estimates include the amount necessary for that purpose. The arsenal at Augusta, Georgia, from its position and healthfulness, is peculiarly suitable for a large arsenal of deposit, and its advantages in this respect should be made available as soon as it may be considered necessary and proper to store arms in the South. The establishment of an arsenal at a suitable point between the Missouri and the Rocky mountains, for supplying troops serving in that region, is considered necessary, and an appropriation for that purpose is recommended. The sale of the small arsenals at Rome, New York, Vergennes, Vermont, and Liberty, Missouri, which may be soon abandoned without disadvantage to the public service, is also recommended, as well as the sale of the North Carolina arsenal, the Macon armory, and the powder-works at Augusta, Georgia, which were captured from the rebel government. The land and other property at Harper's Ferry, formerly used for an armory, are not now required by the department, and their sale is recommended, if it be decided that it can be done under the Government title. If not sold, it is suggested that it be leased for a term of years.

There were 23,033 Springfield rifle muskets converted into breech-loaders during the past fiscal year at the national armory, and about 100,000 muskets, carbines, and sabers were cleaned and repaired there. All of the converted arms have been issued to troops, and nearly all the infantry serving in the departments of the Missouri and the Platte have been armed with them. Monthly reports received from the commanders of the companies so armed have been highly favorable to the arm, and furnish abundant evidence of its excellence and fitness for the military service. The almost unanimous opinion expressed by the officers is that the musket is simple, strong, not liable to get out of order, and extremely accurate in firing. Not a single officer has expressed the opinion that the caliber (reduced from that of the muzzle-loader) is too small, while a few have recommended a further reduction. These arms have done excellent

service in an Indian campaign during the past summer. Very few of them have been reported as rendered unserviceable, and of these more were made unserviceable through carelessness than from all other causes. In July, 1866, the Secretary of War directed the conversion of 25,000 Springfield rifle muskets into breech-loaders, and the preparation of an adequate supply of proper ammunition. He afterward ordered the conversion of these arms to be continued, without fixing a limit as to number, and the work was carried on rapidly until August, 1867, when it was directed to be suspended, after 50,000 arms had been altered. That number is nearly completed, and there have been prepared the requisite tools for converting about 400 muskets per day, at which rate their conversion can be resumed at short notice. It is confidently believed that no converted breech-loader, in this country or in Europe, has been produced which is superior to the converted Springfield musket, as altered at the armory, and that none equal to it in serviceable qualities can be produced at less cost. In view of the fact that the 50,000 converted muskets will very soon be issued to troops, leaving no breech-loading muskets on hand in store, it is recommended that the conversion of the Springfield musket be resumed. The chief difficulties which have been interposed against the production of a good breech-loading musket by the ordnance department have been the immediate claim of almost every improvement under some of the many patents which have been granted for improvements in fire-arms, and the extreme eagerness and strong efforts of some inventors, and others interested in patents, to have their particular inventions used in the Government military service. There are many claims of patent rights in the methods used to convert the Springfield muskets. Several parties, in some instances, claim to hold patents for the same thing; and every improvement, it is believed, is claimed by more than one inventor. The validity of such patent claims for the improvements used at the national armory in converting the musket have not been acknowledged by the Ordnance Bureau, which believes that the proper course for the various claimants to take is to establish their respective rights, and then apply to Congress for remuneration for their use by the Government.

The cartridges used for breech-loading arms are known as "central fire," about 7,000,000 of which have been fabricated. Extensive trials of them, made by troops and in proofs, resulted in an average failure of only one third of one per cent.

Smooth-bore cannon of less than eight inches caliber being ineffective against iron-clad war vessels it has been determined to supersede all such now in the sea-coast forts by those of heavier caliber, and by rifled cannon. A board of engineer, ordnance, and artillery officers, specially appointed to consider the subject of arming the permanent forts, reported that 1,915 pieces of the caliber of thirteen, fifteen, and twenty inches for smooth-bores, and ten and twelve inches for rifles, were required for the permanent fortifications, and should be provided; and their report was approved by the Secretary of War. None of these guns have yet been provided, and there are no existing orders or contracts for heavy cannon. This stoppage of the procurement of heavy cannon has been mainly occasioned by "persistent efforts for some time past by ignorant or designing persons to destroy public confidence in the heavy guns which have been provided by the ordnance department of the Army and Navy." This subject, as also the experiments which have been made to test the durability and efficiency of these cannon are stated more fully and in detail in the report of the Chief of Ordnance. The experiments have resulted in establishing the fact that our heavy cast-iron cannon are the cheapest and most effective guns that are possessed by any nation. While

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this is fully proved so far as regards the smooth-bore heavy guns, and the same results have followed in respect to the rifles, so far as the tests have yet been applied to them, it is not deemed prudent to enter upon the manufacture of these latter to a large extent without the previous trial of a greater number of these guns.

Since the delivery of the report of the Chief of Ordnance that officer has received such information as to materially change his views in regard to additional legislation which he thinks necessary to secure the interests of the United States before expending any money on the railroad bridge at Rock Island.

His views will be submitted in special report hereafter.

SIGNAL CORPS.

The chief signal officer of the Army reports that the course of tuition in military signaling and telegraphing has been definitely established and commenced at West Point; that the preliminary steps have been taken to secure the arrangement, upon similar plans, in so far as is practicable, of the studies of these duties at the Military and Naval Academies; that a project for the general communication of the Army and Navy by signals common to both services has been brought under consideration; that a general order publishing regulations for the equipment and instruction of the Army has been authorized. When these plans shall have been carried into effect the active forces of the United States will be prepared to use, in the contingencies of the service, either aerial or electric telegraphy.

MILITARY ACADEMY.

The corps of cadets at the examination in June last numbered two hundred and fifty-five. Of these sixty-three graduated, and were commissioned in the Army.

The report of the Board of Visitors exhibits fully the excellent condition of the institution, and bears ample testimony of its usefulness. They renew the recommendation made by the board of the previous year to increase the number of cadets, giving substantially, but perhaps more elaborately, the same arguments for the increase. They also recommend that the pay and emoluments of the superintendent should be not less than those of a brigadier general, and give various strong reasons therefor. They rightly say that "the continuous and increasing visits of official persons from abroad and from our own country exact expenditures which ought not to be permitted by a generous people any longer to diminish his income." The erection of a fire-proof building for the preservation and safety of the records and archives of the Academy is also recommended. Congress appropriated \$15,000 to accomplish this object, but it is found inadequate, and an additional appropriation of \$15,000 is asked for this year. Other recommendations are made by the board, but for which no estimates are submitted by the inspector. The inspector bears liberal testimony to the unusual degree of interest and patience manifested by the board to examine and investigate all the affairs, faults, and errors of administration of the institution; and he says that it will be the pleasure and endeavor of the academic authorities to profit by and carry out the views and suggestions of the board where no legal obstacle intervenes.

The total estimate of military appropriations for the fiscal year ending June 30, 1869 is: \$77,124,707 03
For office of the General of the Army..... \$5,000 00
For Adjutant General's office, recruiting service..... \$300,000 00
For Inspector General's office—no appropriation.
For Military Academy..... \$145,305 00
For pay of cadets, &c..... 188,707 00
\$335,012 00

For Bureau of Military Justice no appropriation.
For Quartermaster General's department..... \$28,180,066 20
For ditto—deficiency estimate..... 13,500,000 00
For ditto—for contingencies..... 100,000 00
\$41,780,066 20

For subsistence department—no appropriation.
For medical department..... \$15,000 00
For pay department..... \$22,412,068 00
For Engineer Bureau..... \$10,528,769 88
For Ordnance Bureau..... \$1,533,084 00
For Bureau of Refugees, Freedmen, and Abandoned Lands—no appropriation.
For signal service..... \$27,000 00

The foregoing estimates for the approaching fiscal year are taken from the estimate of the different bureau chiefs without change of the items. They are based upon the expenditures of the current year, and will probably exceed the amount which will be required. A season of peace with the Indians on the plains will of itself materially diminish the expenditures of the Army, and justify a reduction in the number of enlisted men in a company.

Attention may be attracted to the great increase of appropriation for the bureaus of the War Department asked for this year over the estimates of last year, and requires explanation. The expenses for the next fiscal year will necessarily be much below those for the present year. It will be observed that \$13,600,000 of the present estimate is to cover deficiency in appropriation of last year. The last Congress made large appropriations for river and harbor improvements, for which no estimates were then made. The work having been commenced under such authority, it is now necessary to make large estimates for its continuance. The appropriations for the fiscal year ending June 30, 1867, having been made during the existence of war, were very large; far in excess of requirements after cessation of hostilities. This left a large balance, already appropriated, to commence the present fiscal year with, and reduced the estimate. No such balance will exist to commence the year 1868–69 with.

The small regular Army sustained by the United States prior to 1861 was kept well supplied with officers educated at the national Military Academy. After the rebellion, however, it was found necessary to increase this standing force about fourfold. The war educated soldiers to fill well, by judicious selections, this increase to the Army, but not to keep up the supply. The original vacancies created by this increase in the Army are now filled, and appointments hereafter to fill vacancies must go in at the foot of the Army Register. For this reason the time has passed, or soon will, when efficient volunteer soldiers, educated in the rebellion, will be willing to accept such positions, or, if willing, will be of an age making it unadvisable to accept them. While the Army has been so much increased, no addition has been made to the number of cadets admitted at West Point. I would now respectfully recommend an increase to the full number that can be accommodated without additional buildings. The present number of cadets is limited by the number of Representatives and Delegates in the lower House of Congress, and ten at large each year appointed by the President. Four hundred cadets can be accommodated without increase of expense to the Government further than the pay to the additional number. The manner of making these appointments, I would suggest, should be by adding three at large additional, to be appointed by the President, and by regarding a vacancy as existing in each congressional district when the cadet representing it enters the second class.

I would recommend the continuance for another year of the additional pay allowed to officers of the Army by the last Congress.

The thirty-seventh section of the act of July 23, 1866, appropriates \$20,000 for the procurement of an equestrian statue of Lieutenant General Winfield Scott. It has been found that the work cannot be contracted for for less than from three to four times the appropriation; hence no contract has been entered into.

Special report will be submitted hereafter of plans and estimates that have been prepared for the erection of the new War Department buildings.

By act of Congress the ten southern States which have no representation in the national councils are divided into five military districts, each commanded by an officer of the Army of not less rank than brigadier general. The powers of these commanders are both civil and military. So far as their military duties are concerned they are under the same subordination to the General of the Army and Secretary of War that department commanders are. In their civil capacity they are entirely independent of both the General and Secretary, except in the matters of removals, appointments, and detail, where the General of the Army has the same powers as have district commanders. It is but fair to the district commanders, however, to state that, while they have been thus independent in their civil duties, there has not been one of them who would not yield to a positively expressed wish, in regard to any matter of civil administration, from either of the officers placed over them by the Constitution or acts of Congress, so long as that wish was in the direction of a proper execution of the law for the execution of which they alone are responsible. I am pleased to say that the commanders of the five military districts have executed their difficult trust faithfully and without bias from any judgment of their own as to the merit or demerit of the law they were executing.

THE FIRST MILITARY DISTRICT

comprises the State of Virginia, Brevet Major General J. M. Schofield commanding. In assuming command, the principle was announced by General Schofield that the military power conferred by act of Congress on the district commander would be used only so far as was necessary to accomplish the purposes for which the power was conferred. The civil government was interfered with only when necessary, and the wisdom of the policy has been demonstrated by the result. The instances of complaint of the action of the civil courts become exceedingly rare. Still the evil which existed prior to the act of Congress of March 2, 1867, though mitigated by the increased efficiency of civil officers, was not removed. It was an evil in the jury system, apparent at all times, and fully developed by the natural antagonism between loyalist and rebel, or the prejudice between white and black, existing throughout the South since the rebellion. The first idea was to admit blacks on juries and prescribe a test of loyalty. But as the requirement of a unanimous verdict must give very inadequate protection where strong prejudice of class or caste exists, and as a military change of jury system would be but temporary, it was determined to leave its change to the convention soon to meet, and be content with a system of military commissions. Such commissioners were appointed from officers of the Army and Freedmen's Bureau for the different cities and counties of the State, with powers of justices of the peace, while the State was divided into sub-districts under commanders whose powers were ultimately increased to those of circuit judges, taking jurisdiction only in cases where civil authorities failed to do justice. The system has given a large measure of protection to all classes of citizens, with slight interference with the civil courts.

Since the publication of the act of March 23, 1867, all elections have been suspended. Existing State, county, and municipal officers were continued in office. Vacancies have been filled by the district commander. The number of removals has been five, and of appointments to fill vacancies one hundred and five.

In executing the registration a board of officers was first appointed to select registering officers. The selections were made with great care, and the officers so selected have, with few exceptions, done their duty in the most satisfactory manner. Carefully prepared regulations for the boards of registration were issued, being made as specific as possible, so as to secure a uniform rule of disfranchisement throughout the State. In prescribing them the

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district commander was controlled by the belief that the law made him responsible for its correct interpretation as well as its faithful execution.

The results of the first session of the registering boards were all received on September 15. One hundred and fifteen thousand and sixty-eight whites and 101,382 colored were registered; 1,620 whites and 232 colored, being rejected. The tax list of 1866-67 (not quite complete) returns about 136,000 white male adults and 87,000 colored male adults. This indicates that the number of whites disfranchised, or who have failed to register, is about 19,000, and that about 15,000 more colored men have registered than were on the tax lists. Hence it may be inferred that nearly all male adults, white or colored, not disfranchised, have registered.

The principle upon which the apportionment was made was to give separate representations to the smallest practicable subdivisions of the State, and where fractions remained over to so combine counties in election districts as to justly represent those portions. This is believed to be the fairest mode of apportionment practicable under the law.

THE SECOND MILITARY DISTRICT

comprises the States of North Carolina and South Carolina, Brevet Major General E. R. S. Canby commanding. Major General Daniel E. Sickles, who was originally assigned to the command of this district, was relieved, and General Canby assigned by the following order of the President:

[General Orders, No. 80.]

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, August 27, 1867.

I. The following orders have been received from the President:

EXECUTIVE MANSION,
WASHINGTON, D. C., August 26, 1867.

Brevet Major General Edward R. S. Canby is hereby assigned to the command of the second military district, created by the act of Congress of March 2, 1867, and of the military department of the South, embracing the States of North Carolina and South Carolina. He will, as soon as practicable, relieve Major General Daniel E. Sickles, and, on assuming the command to which he is hereby assigned, will, when necessary to a faithful execution of the laws, exercise any and all powers conferred by acts of Congress upon district commanders, and any and all authority pertaining to officers in command of military departments.

Major General Daniel E. Sickles is hereby relieved from the command of the second military district.

The Secretary of War *ad interim* will give the necessary instructions to carry this order into effect.

ANDREW JOHNSON.

II. In pursuance of the foregoing order of the President of the United States, Brevet Major General Canby will, on the receipt of the order, turn over his present command to the next officer in rank to himself, and proceed to Charleston, South Carolina, to relieve Major General Sickles of the command of the second military district.

III. Major General Sickles, on being relieved, will repair to New York city, and report by letter to the Adjutant General.

By command of General Grant:

E. D. TOWNSEND,
Assistant Adjutant General.

"In order to secure a more efficient administration of justice it was deemed necessary to place all sheriffs and other municipal officers under the immediate control of a military officer. Accordingly all such officers were directed to report to the Provost Marshal General, and to make monthly reports of 'crimes committed' and 'prisoners confined.' The reports of prisoners confined have aided materially in detecting illegal imprisonments or punishments, and has enabled the district commander to secure the release of many Union men and freedmen, against whom much gross injustice had been committed.

"A bureau of civil affairs was established to take charge of all matters pertaining to registration, and its duties were afterward extended to include all questions of protection to person or property arising under the laws of Congress. One hundred and seventy registration precincts were established in North Carolina, and one hundred and nine in South Carolina.

"In North Carolina there were registered

103,060 whites and 71,657 blacks; and in South Carolina 45,751 whites and 79,585 blacks. Registration proceeded very slowly on account of slowness of communication with distant parts of the district.

"Of the appropriation made by Congress, \$54,802 87 have been expended, and outstanding liabilities will exceed the balance on hand, \$194,802 87.

"The present condition of the district is so satisfactory as to warrant the belief that after elections the number of military posts in both States can be diminished."

THE THIRD MILITARY DISTRICT

comprises the States of Georgia, Florida, and Alabama, Brevet Major General John Pope commanding.

"On assuming command an order was issued" by General Pope "continuing in office State officials, but forbidding their opposing the reconstruction acts; prohibiting elections except under those acts, and giving notice that all vacancies in civil offices would be filled by the district commander. Becoming satisfied subsequently that State officials, while obeying the order personally, yet officially, by their patronage, encouraged papers opposing the reconstruction act, an order was issued forbidding official patronage to such papers.

"In consequence of the riot at Mobile an order was issued holding city and county officers responsible for the preservation of peace at all public meetings, and requiring the United States troops to assist them when called on. No disturbances have since occurred.

"Under the laws of the State no colored person could be admitted to the jury box, and there was no surety of justice to Union men, to people from the North, (and especially ex-Union soldiers,) or to colored persons, from juries inflamed with hostility toward such classes.

"There is a very large number of cases of wrong perpetrated by such juries in the district on file.

"Accordingly an order was issued directing all juries to be drawn indiscriminately from the list of voters registered by the boards of registration.

"Very few civil officers have been removed, and those in almost every case were removed for refusing to comply with orders. Appointments to fill vacancies have only been made where the daily business of the people demanded it.

"The State treasurers of Georgia, Alabama, and Florida have been ordered to make no payments after the appropriations of the present fiscal year have expired, save on warrants approved by the district commander, as it is believed that a new Legislature will not continue or approve many of the appropriations made.

"In executing the registration it was deemed advisable that no officer nor soldier of the United States should be employed, and accordingly each board of registration was appointed from among the citizens living in the district, and to consist of two white men and one colored. A fixed sum was paid for registering each name, the average for the district being twenty-six cents per name.

"There were registered in Georgia 95,214 whites and 93,457 colored; in Alabama 74,450 whites and 90,350 colored; and in Florida 11,180 whites and 15,357 colored. The amount expended in registration, &c., has been \$162,325.

"The appointment of delegates was made in Georgia for State senatorial districts, and in Alabama for representative districts, fixed by an order. Polls were ordered to be opened at each county seat."

THE FOURTH MILITARY DISTRICT

comprises the States of Mississippi and Arkansas, Brevet Major General E. O. C. Ord commanding.

"The reconstruction measures of Congress

are unpopular with a majority of the white people, but their execution has met with slight opposition, the ignorant and lawless, from whom alone trouble was to be apprehended, having been kept in order by the troops distributed through the States.

"The civil laws have not been interfered with when equally administered, except to remove from the civil courts cases of crime charged against persons who, being opposed to the rebellion, had reason to fear prejudice. Also freedmen's cases, where the courts were practically closed against them; and cases of horse-stealing, and violations of acts of Congress, for all of which military commissions have been organized.

"The officers of the provisional State governments have continued in office, except where they have failed to perform their duties. It is difficult to find competent men who can qualify to fill vacancies in civil offices, some of which are consequently vacant.

"In consequence of the indisposition (as manifested of late) of the civil authorities in Arkansas to take action in offenses of an aggravated nature against freedmen, orders have been issued for the trial of all such cases by military commission, and for prompt action to be taken for the punishment of civil officers who fail to issue writs against offenders committing assaults, &c., against freedmen, and prohibiting bail for the appearance of such criminals."

The extension of suffrage to freedmen has evidently aroused a sentiment of hostility to the colored race and to northern men in many parts of the district, which did not exist before; and General Ord is convinced that a larger force than is now stationed in those States to preserve order and organize conventions will be required hereafter to protect them and secure the freedmen the use of the suffrage.

"In a majority of the counties of this district there are very few men who can take the test oath, and these are not disposed to defy public opinion by accepting office, unless supported by a military force afterward.

"The will of the colored people may be in favor of supporting loyal office-holders, but their intelligence is not now sufficient to enable them to combine for the execution of their will. All their combinations are now conducted by white men, under the protection of the military; if the protection is withdrawn the white men now controlling would withdraw with it; and some of the southern people, now exasperated at what they deem the freedmen's presumption, would not be very gentle toward them, so that the presence of a larger military force will be required for some time to maintain the freedmen in the right of suffrage."

THE FIFTH MILITARY DISTRICT

comprises the States of Louisiana and Texas, Brevet Major General J. A. Mower commanding.

No report has yet been received from General Mower, but it is expected in time for the meeting of Congress.

Major General P. H. Sheridan, who was originally assigned to the command of this district, was relieved, and General Hancock assigned, by the following orders of the President. On the decease of Brevet Major General Charles Griffin, designated as the officer next in rank to whom General Sheridan should turn over the command until General Hancock assumed it, General Mower succeeded to the command:

[General Orders, No. 77.]

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, August 17, 1867.

I. The following orders have been received from the President:

EXECUTIVE MANSION,
WASHINGTON, D. C., August 17, 1867.

Major General George H. Thomas is hereby assigned to the command of the fifth military district, created by the act of Congress passed on the 2d day of March, 1867.

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Major General P. H. Sheridan is hereby assigned to the command of the department of the Missouri. Major General Winfield S. Hancock is hereby assigned to the command of the department of the Cumberland.

The Secretary of War *ad interim* will give the necessary instructions to carry this order into effect.
ANDREW JOHNSON.

II. In pursuance of the foregoing order of the President of the United States, Major General G. H. Thomas will, on the receipt of the order, turn over his present command to the officer next in rank to himself, and proceed to New Orleans, Louisiana, to relieve Major General P. H. Sheridan of the command of the fifth military district.

III. Major General P. H. Sheridan, on being relieved from the command of the fifth military district by Major General G. H. Thomas, will proceed to Fort Leavenworth, Kansas, and will relieve Major General W. S. Hancock in the command of the department of the Missouri.

IV. Major General W. S. Hancock, on being relieved from the command of the department of the Missouri by Major General Sheridan, will proceed to Louisville, Kentucky, and will assume command of the department of the Cumberland.

V. Major General G. H. Thomas will continue to execute all orders he may find in force in the fifth military district at the time of his assuming command of it, unless authorized by the General of the Army to annul, alter, or modify them.

VI. Major General Sheridan, before relieving Major General Hancock, will report in person to these headquarters.

By command of General Grant:

E. D. TOWNSEND,
Assistant Adjutant General.

[General Orders, No. 81.]

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, August 27, 1867.

I. The following orders have been received from the President:

EXECUTIVE MANSION,

WASHINGTON, D. C., August 26, 1867.

SIR: In consequence of the unfavorable condition of the health of Major General George H. Thomas, as reported to you in Surgeon Haddon's dispatch of the 21st instant, my order dated August 17, 1867, is hereby modified so as to assign Major General Winfield S. Hancock to the command of the fifth military district, created by the act of Congress passed March 2, 1867, and of the military department comprising the States of Louisiana and Texas. On being relieved from the command of the department of the Missouri by Major General P. H. Sheridan, Major General Hancock will proceed directly to New Orleans, Louisiana, and, assuming the command to which he is hereby assigned, will, when necessary to a faithful execution of the laws, exercise any and all powers conferred by acts of Congress upon district commanders, and any and all authority pertaining to officers in command of military departments.

Major General P. H. Sheridan will at once turn over his present command to the officer next in rank to himself, and proceeding, without delay, to Fort Leavenworth, Kansas, will relieve Major General Hancock of the command of the department of the Missouri.

Major General George H. Thomas will, until further orders, remain in command of the department of the Cumberland.

Very respectfully, yours,

ANDREW JOHNSON.

General U. S. GRANT,

Secretary of War *ad interim*.

II. In compliance with the foregoing instructions of the President of the United States, Major General P. H. Sheridan will, on receipt of this order, turn over his present command to Brevet Major General Charles Griffin, the officer next in rank to himself, and proceed, without delay, to Fort Leavenworth, Kansas, and will relieve Major General Hancock in command of the department of the Missouri.

III. On being relieved by Major General Sheridan, Major General Hancock will proceed, without delay, to New Orleans, Louisiana, and assume command of the fifth military district, and of the department composed of the States of Louisiana and Texas.

IV. Major General George H. Thomas will continue in command of the department of the Cumberland.

By command of General Grant:

E. D. TOWNSEND,
Assistant Adjutant General.

Generals Sheridan and Sickles having been relieved before the period for submitting their annual reports; none have been received from them. They have, however, been called on recently to submit reports, which may be expected before the meeting of Congress.

The territory of the United States not embraced in the five military districts is divided into military divisions (they subdivided into departments) and departments.

ABSTRACT OF REPORTS FROM MILITARY DIVISIONS AND DEPARTMENT COMMANDERS.

The Military Division of the Missouri, commanded by Lieutenant General W. T.

Sherman, embraces the departments of Dakota, the Platte, and the Missouri; commanded respectively by Brevet Major General A. H. Terry, Brevet Major General C. C. Angur, and Major General P. H. Sheridan.

During the latter part of the year 1866, the operations of this command were embarrassed by the necessity of mustering out the volunteer troops that had been organized for the war of the rebellion, before a sufficient number of regular troops could be raised and forwarded to remote parts of the frontier, to replace them. The winter of 1866-67 proved to be unprecendently severe, so that it was a physical impossibility to keep open communication with some of the most remote posts. The garrison of Fort Phil. Kearney, on Powder river, two hundred and twenty-three miles distant from old Fort Laramie, suffered severely from an attack made by Indians, December 21, 1866, upon a wagon-train and its escorts, that had been sent a short distance from the fort to procure lumber, in which Brevet Lieutenant Colonel W. J. Fetterman and a detachment of forty-nine men were killed. In December other bands of hostile Indians made their appearance at Fort Buford, and rumors were received of the massacre of the entire garrison. All communication being cut off by the severity of the weather, great anxiety was felt for the safety of the garrison for two months, when reports were received contradicting the capture of the post.

In the spring of 1867 rumors were received from all quarters of a renewal of Indian hostilities. Though many proved to be greatly exaggerated, yet depredations and attacks on the principal emigrant routes increased to such an extent that it required the utmost activity on the part of the troops to keep open communication with our Territories and protect working parties on the important railroads now in process of construction.

A village of the Cheyennes and Sioux, on Pawnee fork, was burned April 19, as a punishment for depredations previously committed.

Department commanders visited the scenes of hostilities in person, and made every effort with the means at hand to afford protection. They have at times been greatly embarrassed by a disposition on the part of irresponsible persons to precipitate hostilities by false rumors and sensation reports.

Since the Indian commission provided by act of July 20, 1867, commenced its labors the operations of the troops have been confined to the defensive, and they are now principally engaged in garrisoning the most important posts.

Indians have been employed as soldiers under the provisions of the act of July 28, 1866, with some success. The attention of Congress is respectfully invited to the remarks of Lieutenant General Sherman on this subject, and also in regard to providing for a more efficient civil government in the Indian country.

The following number of trains have passed Fort Sedgwick, Colorado Territory, from February 1 to September 28: Trains, 124; wagons, 3,074; men, 4,587; women, 556; children, 587; mules, 5,738; oxen, 11,096; horses, 1,062; led animals, 948.

The Department of the Cumberland,

Major General G. H. Thomas commanding, embraces the States of Kentucky, Tennessee, and West Virginia.

General Thomas reports that with his present force he is able, partially, to hold in check the disloyal tendencies of the people, and to punish, if not prevent, unlawful proceedings; that, although there still remains much to be desired in the way of protection to life and property throughout his command outrages are not so prevalent as formerly, but the feeling of the people is still hostile to the Government.

A small force is retained in West Virginia,

as it is believed that without it the laws would not be impartially executed.

In anticipation of trouble in Tennessee at the period of the August elections, the troops were so disposed as to be able to render proper assistance to the civil authorities in suppressing riots or violence of any kind. The department commander was directed to proceed in person to Memphis, and to make the best disposition to guard against an outbreak. The election, however, passed off quietly, and the services of the troops were not required. Trouble was again apprehended at Nashville at the charter election in September, and General Thomas was directed to go in person to that city, and take every precaution against a disturbance, with the usual instructions to employ the troops only to preserve peace, not permit them to take sides in political differences, and to prevent mobs from aiding any party. General Thomas, by his presence and advice, again rendered the interposition of troops unnecessary.

The Department of the Lakes,

Brevet Major General J. C. Robinson commanding, embraces the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin.

The few troops stationed in this department have been employed in garrisoning the forts on our northern frontier.

The Department of Washington,

Brevet Major General W. H. Emory commanding. A disturbance being apprehended in Baltimore upon the occasion of the threatened removal of the police commissioners by the Governor of Maryland the headquarters of this department were temporarily transferred to that city November 6, 1866, and the troops were held in readiness to preserve the peace in case it should become necessary to employ them. Their services, however, were not required.

The Military Division of the Pacific,

Major General H. W. Halleck commanding, embraces the department of the Columbia and the department of California, commanded respectively by Brevet Major General F. Steele and Brevet Major General Irvin McDowell. The territory, including the district of Alaska or Russian America, contains 1,235,000 square miles, or more than one third of our entire territory, estimating it at 3,579,002 square miles. Coast line is estimated at 12,750 statute miles—more than three times the length of our Atlantic coast.

Number of tribal Indians is about 130,000, or more than one third the whole number in the United States, estimating this number at 330,000.

White population is about one sixtieth part of the entire civilized population of the United States.

Though some depredations have been committed upon white settlers in nearly every part of the military division, active military operations have been limited to Arizona, southern Idaho, southeastern Oregon, and the northern portions of Nevada and California. Most of the troops engaged in hostile operations in the latter district have been under command of Brevet Major General Crook, who has exhibited skill, bravery, and untiring energy.

Indians have no principal chiefs, but roam in small bands, and fight independently; hence the impossibility to make treaties with them. As their hunting grounds are gradually taken from them by the settlers they are obliged either to rob or starve. The Apaches are the most hostile Indians. They will observe no treaties, agreements, or truces. With them there is no alternative but active and vigorous war till they are completely destroyed or forced to surrender as prisoners of war.

Though, from various causes, operations against hostile tribes during the past year have not been as active and successful as was expected, considerable progress has been made

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in breaking up their haunts and punishing their depredations.

Services of Indian scouts employed under act of Congress have been of the greatest value in this military division. Officers are unanimously in favor of increasing the number. As guides and scouts they have been almost indispensable. At least a thousand could be employed on the Pacific coast.

Commanders have been embarrassed by the number of Indians in their hands taken as prisoners of war. They require troops to guard them, and have to be fed by the commissary. They cannot be set to work unless reservations of land and farming implements are provided. General Halleck recommends the transfer of the Indian Bureau to the War Department, and the removal of the Indians to large reservations placed, entirely under military authority, and from which all white settlers should be excluded. He condemns the present Indian system, but does not cast reflections on the officers of the Indian Bureau in his military division. They have endeavored to do as much good as possible with their limited means.

The Department of the East,

Major General G. G. Meade commanding. This department embraces the New England States, New York, New Jersey, Pennsylvania, and Delaware. The troops have been employed in garrisoning the forts on our northern frontier and North Atlantic coast, and the operations have been confined to improving the posts and collecting and forwarding recruits to the Army.

Acting in the double capacity of Secretary of War and General of the Army this report is made to embrace both.

U. S. GRANT,

Secretary of War ad interim and General United States Army.

Report of the Secretary of the Navy.

NAVY DEPARTMENT, December 2, 1867.

SIR: During the year our naval force has been almost exclusively employed on foreign stations. But little remained for it to perform in our own waters, and the general peace which has prevailed throughout the civilized world has called for no interposition or active operations on our part for the protection of our commerce abroad. The display of a naval force has been sufficient to suppress threatened difficulties, and in every quarter American interests have been respected and American rights observed by commercial nations, and intercourse and trade have been fostered.

EXHIBIT OF THE NAVAL FORCE.

During the year the aggregate naval force has been reduced to forty vessels and four hundred and eighty-two guns. The number of vessels in commission has been reduced twelve, and the number on squadron service is thirteen less than at the date of my last report. The following is a summary of the present condition of the vessels of the Navy:

	No.	Guns.
Vessels in squadron service.....	56	507
Apprentice ships.....	3	52
Receiving ships.....	8	129
Special and lake service.....	3	54
Attached to Naval Academy.....	10	115
On service at yards and stations, including yard and powder tugs, and vessels used as barracks and as coal barges.....	23	41
Total number of vessels in use.....	103	898
Iron-clad vessels laid up.....	49	109
Iron-clad vessels not completed.....	6	22
Steam vessels not completed.....	21	332
Sailing vessels not completed, (old line-of-battle ships).....	2	-
Older vessels laid up, repairing, fitting for sea, and for sale.....	57	508
Total number of vessels and guns.....	238	1,869

Eleven thousand nine hundred men have been employed in the naval and coast survey service during the year.

EUROPEAN SQUADRON.

Admiral Farragut was last spring designated to command the European squadron. He hoisted his flag on the Franklin at New York on the 17th of June, and departed from Sandy Hook on the 28th of that month. On the 14th of July he relieved Rear Admiral Goldsborough at Cherbourg.

The reception of our distinguished naval commander by the people at the different ports he has visited, and by the sovereigns and authorities of Europe, has been of a character gratifying to himself and to the Government and people of the United States. At Cherbourg the Franklin was visited by the empress of France, while Admiral Farragut was invited to Paris by the emperor, who tendered to him personal attention and courtesy.

On the 30th of July he sailed for Cronstadt; the Ticonderoga, Canandaigua, and Frolic composing, with his flag-ship, the squadron which went up the Baltic. This was the largest American naval force which had ever visited the countries of northern Europe. Highly complimentary and friendly honors, naval and civil, were everywhere extended. International, official, and honorary salutes were given and returned. At Cronstadt the squadron was visited by his highness the Grand Duke Constantine, the official head of the Russian navy, by Rear Admiral Lessofsky, and other dignitaries, and by the municipal authorities of St. Petersburg. During their brief stay at Cronstadt our officers experienced the unbounded hospitality and unwearied courtesy and attention of the Russian Government and people, whose friendship and attachment to the United States have been so often and unmistakably manifested. Many availed themselves of invitations to visit Moscow, the ancient capital, and other parts of the empire. Upon leaving Cronstadt, on the 30th of August, the squadron proceeded by invitation from the grand duke to visit and inspect the iron-clad fleet of Russia at Trongsund roads, where a grand naval review took place. On the 1st of September they proceeded to sea amid cheering from all the ships of the two squadrons, "concluding," in the words of Admiral Farragut, "a visit which from first to last has been marked by the interchange of the warmest friendliness, and which we shall always cherish as one of the most pleasant remembrances of our lives."

The squadron anchored on the 3d of September off Waxholm, below Stockholm. A vessel was placed at the disposal of Admiral Farragut during his stay, by order of the Government, and on reaching the Swedish capital he was presented to the king, who expressed the gratification which it gave him to welcome the vessels of war of the United States once more in the waters of Sweden.

The squadron left Stockholm on the 9th of September, and on the 14th anchored off Copenhagen. During the run to this point, and in a heavy gale, the full steaming power of the Franklin was tested. Her performance gave general satisfaction, and Admiral Farragut says that he "can with confidence say she steams better under full power than any frigate in our service." The ministers of war and marine tendered him all the civilities in their power during his stay in Copenhagen. On the 19th, by invitation, he dined with the king of Denmark, his brother, and his two sons, the crown prince, and his majesty George the king of Greece.

Admiral Farragut left Copenhagen on the 19th of September, and arrived off Gravesend, England, on the 26th. The lords commissioners of the admiralty here telegraphed him that they would be happy to render any attention to him and his squadron that might be agreeable. He accompanied them on their annual tour of inspection of the dock-yards of Woolwich, Chatham, Sheerness, and Portsmouth. Great courtesy was invariably extended to him and his officers on these visits. The Prince de

Joinville visited the Franklin, and the Admiral and his officers accepted the cordial invitation of the prince to visit him at his residence at Mount Lebanon. The flag-ship having gone to Sheerness, the Admiral joined her at that place, on the 12th October. On the 14th he attended the gun target practice at Shoeburyness.

On the 15th, Admiral Farragut sailed for Portsmouth, which point he reached the next day. On the 17th he entertained the lords of the admiralty, receiving them with full honors, and on the day following made a most interesting visit to the dock-yard, the gunnery ship, and some of the iron-clads. On the 19th he received his highness the duke of Cambridge, with yards manned, the royal standard at the main, and a salute of twenty-one guns. During his entire stay at Portsmouth a small steamer was placed at his disposal, and the Admiral was received with every kindness and hospitality, not only by officers of the army and navy, but also by the civil authorities.

On the 20th he left Portsmouth, and on the next day anchored in Plymouth harbor. At this place there was a repetition of the civilities received at other points, extending over three days. The Admiral sailed on the 24th and anchored off Lisbon on the 28th.

The dispatches of Admiral Farragut relating to his public movements received at the Department prior to November 1 are given in the appendix to this report.

Rear Admiral Goldsborough continued in command of the squadron until relieved by Admiral Farragut. In the month of December, 1866, the Colorado left Lisbon for the Mediterranean, and after passing a few days at Port Mahon proceeded in January to Villefranche, where she remained until March, when she left for southern Italy. In May she went from Naples to Trieste, and returned by way of Carthage to Gibraltar in June.

In the month of November, 1866, on a joint application from Mr. King, our minister at Rome, and Mr. Fox, then one of the Assistant Secretaries of the Navy, who was in Rome, urging the immediate presence of one of our ships-of-war at Civita Vecchia on a very important matter, the Swatara was ordered to proceed to that place. The object in view was the transportation of John H. Surratt, charged with having been implicated in the assassination of the late President Lincoln, to the United States. But the prisoner escaped from his captors and fled from the Papal dominions. He was, however, retaken in Alexandria, whither the Swatara followed him, and where Commander Jeffers received him on the 21st of December, from our consul general in Egypt. Leaving Alexandria, the Swatara, after a tedious voyage, touching at Nice and Punal, reached Washington in February, where Commander Jeffers delivered the prisoner to the marshal of the District of Columbia, and the Swatara immediately thereafter returned to Lisbon, and rejoined the European squadron.

Earnest appeals in behalf of the suffering Christians in Crete have from time to time been made to our naval officers urging them to so far depart from the principle of non-interference and that neutrality which the Government of the United States has studiously enjoined and observed, as to repair to that island and convey to the shores of Greece the women and children, who were represented as houseless and destitute, the results of the insurrection against the Turkish authorities. Rear Admiral Goldsborough, to whom application was first made for a naval vessel to transport the inhabitants from Crete, very properly declined to violate neutral obligations, nor could the Department authorize him to employ a steamer to convey inhabitants from Turkish territory during civil war without the consent of the Turkish Government. He was informed that if our minister at Constantinople could obtain permission of the Government to con-

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vey away the inhabitants the Department would interpose no objection to the employment of a steamer as requested, though naval vessels are not adapted to transportation.

The Canandaigua, Captain Strong, was dispatched to Crete with full, explicit, and guarded instructions from Rear Admiral Goldsborough to first obtain an interview with the chief authority of the island, explain the object of his visit to be one of friendship, harmony, and humanity, and if consent could be obtained to receive on board as many Greek women and children as the vessel could accommodate and take them to Greece. In an interview with Omar Pacha, Captain Strong communicated his instruction; but permission was refused, and he was informed it would not be allowed under any circumstances.

Subsequently, on the 26th July, Admiral Farragut dispatched the Swatara, Commander Jefferies, to Crete. His reports confirm the representations of Captain Strong of the Canandaigua as to the impolicy of any interference on our part with either of the belligerents. It could not be done without violating the neutrality which we had always observed, and whatever may have been our sympathies we could take no active measures with the insurrectionists without an injustice to the Turkish Government, which had scrupulously respected our national integrity and refused recognition of the rebels when other nations gave them countenance. At a period when other Powers restricted the courtesies which belonged to us, placed us on the footing of belligerents and extended to the rebels all the privileges that were given to the naval vessels of the United States, the Turkish Government maintained honorable faith with us, and gave no encouragement to the insurrection which threatened the stability of our Union. The dispatches of Captain Strong and Commander Jefferies are appended to this report.

The following vessels now compose the European squadron:

Franklin, (flag-ship).....	39 guns.
Canandaigua.....	7 "
Theodoreoga.....	9 "
Swatara.....	10 "
Shamrock.....	10 "
Frolic.....	5 "
Guard, (store-ship).....	3 "

ASIATIC SQUADRON.

The Asiatic squadron is still under the command of Rear Admiral H. H. Bell, and has been reinforced during the year by the addition of the Oneida, Iroquois, Aroostook, Unadilla, and the Onward, and consists at this time of the

Hartford, (flag-ship).....	21 guns.
Shenandoah.....	7 "
Oneida.....	8 "
Wachusett.....	9 "
Wyoming.....	6 "
Iroquois.....	6 "
Ashuelot.....	10 "
Monocacy.....	10 "
Aroostook.....	5 "
Unadilla.....	5 "
Onward.....	3 "
Supply.....	6 "

The Piscataqua, one of the steam frigates recently built, will sail in a few days to relieve the Hartford, and carry out Rear Admiral S. C. Rowan, who will succeed Rear Admiral Bell. The Idaho, taken into the service by direction of Congress, has been converted into a sailing vessel by removing the boilers and machinery, which were condemned as worthless. She sailed from New York November 1, and will be stationed at Nagasaki and be used principally as a hospital and store-ship.

The Maumee is now on her way to join the squadron, and the Wachusett, Wyoming, Onward, and Supply are under orders to return to the United States.

In April last, by request of Mr. Van Valkenburgh, the United States minister, Rear Admiral Bell proceeded to Yokohama, having been advised that the foreign ministers resident in Japan proposed to visit the Tycoon, who had invited them to an interview at his country residence. The occasion being

an extraordinary one in the history of Japanese intercourse with foreigners, and the transaction one of an important commercial and business character, Rear Admiral Bell deemed it expedient that our minister should be sustained by the display of a respectable naval force off the port of Osaka, and that Mr. Van Valkenburgh should be conveyed hither in his flag-ship, the Hartford. With this intent he assembled at Yokohama the Hartford, Shenandoah, and Wyoming, of his squadron. Unfortunately the machinery of the Hartford became temporarily disabled on her passage from Hong Kong, and she could not therefore discharge this duty. The minister was, however, accommodated on board the Shenandoah, which, in company with the Wyoming, proceeded to Osaka, where he was landed on the 1st of May with the usual honors, and escorted by the marine guard of both vessels. Rear Admiral Bell subsequently arrived in the Hartford, and remained with the Shenandoah and Wyoming until the object of the mission was completed, when the Shenandoah returned with the minister to Yokohama, and the Hartford and Wyoming proceeded by way of the inland sea to Nagasaki.

The Japanese Government having, in the interview between the Tycoon and the ministers, signified its purpose to open an additional port on the western coast to foreign trade, our minister, in pursuance of an arrangement with his colleagues, left Yokohama on the 25th of June in the Shenandoah, which had been placed at his disposal, with a view of examining the different ports and selecting the most suitable one for commercial purposes. Unusual interest marked this cruise. The Shenandoah reached Hakodadi on the 28th of June, and the first salute that was ever fired there in honor of a foreign minister was given on this occasion. The minister and the officers of the Shenandoah were received by the governor with marked ceremony and politeness. On the 12th of July the Shenandoah entered the port of Neegata, where similar courtesies were extended to them by the governor, vice-governor, and a large concourse of officials. Nanou was reached on the 13th of July, no American vessel having ever before entered that harbor, and on the 17th of July she visited Mikuni and also Tsurunga, where no foreign vessel of war had ever previously anchored. The Shenandoah arrived on the 20th at Miyadsu, the most beautiful of all the bays visited.

Commodore Goldsborough and the officers under his command made surveys of most of these new harbors, and prepared sailing directions for their entrance.

In consequence of the domestic troubles in Japan, and to prevent interruption of our opening commerce with that country, and especially in consideration of the national importance of the recently established communication with Asia by the Pacific Mail Steamship Company, one or more of the vessels of the Asiatic squadron is constantly maintained in the waters of Japan.

American commerce in the East suffered some detriment during our civil war, and others have profited by our misfortune. Prussia has, within a few years, become conspicuous as a mercantile Power in the east. Sailing vessels under her flag are seen in every port, receiving freights at lower rates than are offered by either American or British ships, and German merchants are securing a thriving business in that quarter. Apprehensions are expressed that we are not destined to recover the prestige of our former successful mercantile marine in the China seas unless it be by means of steam vessels built for that trade. The arrival of the Pacific Mail Steamship Company's steamer Colorado, the first of that line, at Hong Kong in January last, via Yokohama, twenty-nine and a half days from San Francisco, was an event of vast importance in steam navigation, as well as of intense interest to our

countrymen in eastern Asia, and was greeted by our naval vessels with a salute of twenty-one guns, and their mast-heads were dressed with the American ensign. The establishment of this line of steamers is, without doubt, destined to have an expanding and beneficent influence on the commerce of the world.

In the autumn of 1866 intelligence reached the squadron that the American schooner General Sherman had been wrecked in the Ping Yang river, one of the streams of Corea, and that all of her officers, crew, and passengers were murdered. Rear Admiral Bell dispatched the Wachusett, Commander E. W. Shufeldt, to Chifu to investigate the circumstances attending the loss of the General Sherman, with instructions to demand of the chief authorities that, if there were any survivors of the schooner, they should be delivered on the deck of the Wachusett, whatever might be their nationality, and to make such further investigation as was practicable.

The Wachusett anchored near the mouth of the Ta Tong river, on the west coast of Corea, on the 23d of January. The pilot secured for those waters did not consider it safe at that season to take the vessel to the Ping Yang, which was some fifty miles to the northward. Commander Shufeldt had, therefore, to communicate with the king of Corea by a messenger, secured through the instrumentality of the chief of a fishing village. The object of his visit and his demands were thus made known; but no reply to his communication was received. On the 29th of January, however, an officer, who claimed to be from the capital, was presented on board the Wachusett, and had an interview with her commander. The result was most unsatisfactory. Commander Shufeldt was unable to find any peaceable solution of the difficulty, or that there were any survivors of the ill-fated vessel.

In reference to this affair, Rear Admiral Bell apprehends that "until the Government takes efficient action on this case our countrymen lawfully navigating the seas adjacent to Corea will be in peril of life and liberty of person from the barbarities of the people and the authorities of that country, who aim at the exclusion of strangers."

No survey of that part of the coast has ever been made. Commander Shufeldt, therefore, while waiting a response to his communication to the king, improved the time in making a partial survey of the Ta Tong river.

Piracies have occurred less frequently the current year than in some former seasons. They do not often take place during the northeast monsoons, that is, between October and May. The violence of the winds at that season prevents the vessels from being becalmed and drives the piratical junks and row boats from the sea. It also carries American and European vessels off the coast or into ports with too great speed to be boarded. The season for piracies is during the southwest monsoons, when calms and summer breezes with smooth seas prevail.

The Monocacy was instructed to proceed in May last to Bruni, Borneo, and investigate, for the information of the Government, the circumstances of an alleged attack on, and the destruction of, the residence of the American consul at that place. On the 27th of that month, the Monocacy, Commander Carter, anchored abreast of the sultan's palace off Bruni, and after executing his mission left on the 1st of June.

In the early part of the year information reached the squadron that the American bark Rover had been wrecked on the southeast end of the island of Formosa, and it was rumored that all who were on board had been murdered. Commander Febiger, with the Ashuelot, was ordered to proceed to the locality in question, gain what information he could in reference to the affair, and rescue the survivors should any be found. On his arrival at Tai-wan-Foo, in April, Commander Febiger required of the three principal authorities of the island an

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immediate investigation of the outrage, the seizure and punishment of those implicated, and the recovery of any of the shipwrecked crew who survived. The authorities expressed much interest in the case, and indicated a desire to obtain all information possible, and to punish those who were engaged in it; but they claimed to be unable to bring to justice the perpetrators of the crime, who belonged to a horde of savages that were not obedient to their laws. They represented, moreover, that it was difficult to employ an effective armed force against savages who were incapable of holding negotiations with civilized people. On visiting the immediate scene of the outrage Commander Febiger deemed it inadvisable, with his limited force, to resort to hostile measures.

Rear Admiral Bell was not disposed that so great a crime should pass unpunished, and he therefore left Shanghai in June, with the Hartford and Wyoming, for the purpose of destroying, if possible, the lurking places of the savages who had murdered the crew of the Rover. When he reached Taka he received on board Mr. Pickering, an interpreter; Mr. Taylor, a merchant at that place, and her Britannic majesty's consul, Charles Carroll, Esq., who were anxious to accompany the expedition. The latter gentleman had previously humanely, but unsuccessfully, endeavored to communicate with the savages and ransom any of the crew of the Rover who survived.

On the 13th of June the vessels anchored within half a mile of the shore, and one hundred and eighty-one officers, sailors, and marines were landed, under command of Commander George C. Belknap, of the Hartford, accompanied by Lieutenant Commander Alexander S. Mackenzie, fleet lieutenant, as second in command, he having earnestly sought to go on the expedition.

Soon after landing, savages, dressed in cloths and their bodies painted, were, by the aid of glasses, seen assembled in parties of ten or twelve on the cleared hills about two miles distant, their muskets glittering in the sun. As our men approached the hills the savages, familiar with the paths, descended to meet them, and, gliding through the high grass from cover to cover, displayed a strategy and courage equal to North American Indians. Delivering their fire, they retreated without being seen by our men, who, charging on their coverts, frequently fell into ambuscades. The detachment pursued them in this harassing manner out of sight of the ships until two p. m., when they halted to rest. While thus resting the savages covertly approached and fired upon the party. Lieutenant Commander Mackenzie immediately placed himself at the head of the company commanded by Lieutenant Sands, of the Hartford, and daringly led a charge into the ambuscade. He fell mortally wounded by a musket-ball, and died while being borne to the rear. His loss was deeply felt by his comrades; and his commander, in communicating his death, pays a generous and deserved tribute to this gallant young officer when he says the Navy could boast no braver spirit and no man of higher promise. He was distinguished for his professional knowledge, aptitude, and tact, and for suavity of manners, which inspired the confidence and affection of his men, while his impetuous courage impelled him ever to seek the post of danger, where he was always seen in the advance, a conspicuous mark and an example.

Several of the officers and men experienced severe sunstrokes, the heat being intense; and as the command was generally exhausted in unavailing efforts to get at the enemy, Commander Belknap determined to return to the ships, which were reached at four p. m., after an exhausting march of six hours under a tropical sun.

The experience obtained demonstrated the inutility of such an expedition against a savage enemy in a wild country, by sailors unaccus-

tomed to ambuscades and bush life. No troops could have exhibited more bravery, but the warfare was one to which sailors are not adapted. These considerations and the prostrated condition of his men decided Rear Admiral Bell to make no further attempt by again landing his force. They had already done all that was possible, by burning a number of native huts and in chasing the warriors through coverts of green jungle and green grass, which are represented as fire-proof at that season.

The Shenandoah on the way to the Asiatic squadron touched at Calcutta and remained several days. No American man-of-war having for some twenty-five years visited that port the appearance of the Shenandoah attracted unusual attention. She was warmly welcomed by our countrymen, and the military and civil authorities and inhabitants of the place.

She left Calcutta December 18, and, touching at Penang, arrived at Singapore the 21st. From Singapore she proceeded to Bangkok, in Siam, and the French settlement Saigon, in Cochin China. At Bangkok a friendly greeting was received from the king and his ministers.

On the way to her station the Iroquois touched at St. Augustine bay, Madagascar, and at Johanna, one of the Comoro islands in the Mozambique channel. At St. Augustine bay his majesty King Willy was entertained on board. He expressed his gratification at the arrival of the Iroquois, the first American man-of-war which had ever touched there. At Johanna visits were exchanged with the sultan, who was found well disposed to our flag. He complained of an indirect slave trade carried on by the French, and that some of our own merchantmen had at different times carried his subjects from the island without permission. Commander English left a circular addressed to commanders of merchantmen touching there requesting them not to ship or receive on board subjects of the sultan without permission. The Iroquois also touched at Aden, Muscat, and Bombay.

The Aroostook, which a short time previously had touched at Johanna, was the first American man-of-war that had been in that port for nine years. It being the 4th of July, the ship was dressed and the flag of the sultan hoisted at the fore, for which courtesy the thanks of the principal minister were sent on board, the sultan being temporarily absent on the other side of the island.

NORTH ATLANTIC SQUADRON.

The causes which rendered expedient the continuance of a distinct force in the Gulf of Mexico ceased when the attempt to establish an imperial Government in Mexico was abandoned. A consolidation of the squadron under Commodore Winslow with that of Rear Admiral Palmer was therefore determined upon in April, and in pursuance of instructions then issued the transfer was made on the 22d of May. This transfer disposed of the last of the several squadrons which our civil war had called into existence. It had been retained as a distinct force two years after all organized resistance to the Government had ceased, in consequence of the peculiar condition of affairs in the neighboring republic, and not from any disturbance within our own territory. From the date of the transfer Rear Admiral Palmer has had command of the whole North Atlantic squadron. In consequence of the prevalence of yellow fever a number of the vessels have been withdrawn. This disease has prevailed to a great extent the current year along the Gulf and through a considerable portion of the West Indies. At this time Rear Admiral Palmer has under his command the—

Susquehanna, (flag-ship).....	18 guns.
De Soto.....	8 "
Monongahela.....	7 "
Glasgow.....	2 "
Don.....	8 "
Saco.....	10 "
Shawmut.....	8 "
Marblehead.....	7 "
Yantic.....	5 "
Mahaska.....	10 "

Although the operations and movements of the vessels of this squadron have been frequently and seriously interfered with by the prevailing epidemic I am not aware that the interests of our countrymen have suffered from inattention or from the absence of naval protection. The principal foreign ports within the limits of the squadron have been visited, some of them repeatedly, and the countries affected by domestic disturbance, or where there were foreign enemies, have invariably had a man-of-war in port when needed.

Vera Cruz and Tampico, in Mexico; the ports of Hayti and St. Domingo, countries afflicted with perpetual discontent and revolution; Aspinwall, Carthagena, and other places in Colombia, where a revolution of Government has taken place, have been visited by Rear Admiral Palmer, and the flag-ship or one of the squadron has always been near when the presence of a naval vessel would be likely to exercise a beneficial influence.

In August last Rear Admiral Palmer had an interview at Panama with General Gutierrez, the president of Colombia, who expressed great regard for our country, and especially for American interests on the isthmus, where the faithful observance of treaty stipulations he considered mutually beneficial to his country and our own.

Preceding and attending the surrender of Vera Cruz great judgment and address were exhibited by Commander Roe, the naval commander stationed at that place. Repeated negotiations had been opened between the imperial and republican commanders, without final results. When at length, through the friendly offices of Commander Roe and the American and British consuls, an arrangement was made for the transfer of the place, it was interrupted by the arrival of the steamer Virginia from New York with General Santa Anna, who proceeded at once to the castle, which was in command of one of his friends. Santa Anna declared that he brought letters from the United States Government, and many believed he was its authorized agent. Great excitement for a while prevailed, and a revolution seemed imminent, but, by prompt and decisive measures, this difficulty was disposed of. Santa Anna left the port, and on the 27th of June a transfer of the place and a peaceful embarkation of the foreign legion followed.

Commander Roe is entitled to commendation for the discretion and zeal which he manifested. To his good judgment, in concert with that of our consul, the surrender of Vera Cruz without disaster or bloodshed is attributed.

The naval station at Port Royal has been discontinued and after shipping to other places most of the movable naval property a sale of the remainder and of the buildings at Bay Point has been effected. Key West has been made the principal depot for supplies for this squadron.

SOUTH ATLANTIC SQUADRON.

The South Atlantic squadron is composed at this time of the—

Guerriere, (flag-ship).....	21 guns.
Wasp.....	8 "
Pawnee.....	11 "
Kansas.....	8 "
Quinnabaug.....	6 "
Huron.....	6 "
Shamokin.....	10 "

During the year the Brooklyn, Juniata, Shawmut, Nipsic, and Onward have returned from this squadron. Rear Admiral Charles H. Davis relieved Rear Admiral Godon on the 27th of July, and the latter sailed from Rio on the 31st and arrived at Philadelphia on the 3d of September. This officer has discharged the responsible duties of his Command with ability and discretion, and the vessels of his squadron have been actively and usefully employed.

The Shamokin, Commander P. Crosby, received on board Mr. Washburn, minister to Paraguay, and arrived at the line of the Brazilian blockading squadron November 2, 1866. Commander Crosby immediately informed

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Admiral Tamandaré of his orders to proceed to Asuncion for the purpose of placing the United States minister at his post.

Objection was made to the passage of the Shamokin through the lines of his squadron by the Brazilian admiral, who was without instructions from his Government, but when informed by Commander Crosby that force alone would prevent the execution of his orders the Shamokin was allowed to proceed, under protest, to Campayti, beyond the line of the blockade, from whence, after the customary preliminary salutes of the Paraguayan flag, a letter was sent to President Lopez. Obstructions in the river made it dangerous to proceed further and the minister was there landed. The Shamokin immediately withdrew from the line of the belligerents. Although objection was made to the passage of the Shamokin, in order that it should not serve as a precedent, the most friendly relations were maintained by the American and Brazilian officers.

Rear Admiral Godon during the month of April visited, in the Wasp, the towns on the Uruguay river as far as Concepcion, the capital of the province of Entre Rios. The prevalence of cholera prevented him from carrying out his design of proceeding as far at least as Rosario.

Early in January the Kansas, Commander Wells, left Montevideo for a cruise on the west coast of Africa. This vessel visited the Cape of Good Hope, St. Paul de Loando, Benguela, and Little Fish bay. No American slaves were heard of at any of those points, and from English officers, met with along the coast, and from the Governors of Loando and St. Helena, information direct was received that the shameful traffic has virtually ceased. One vessel, a small brig without name or flag, and without human cargo, had been captured by an English steamer and sent to St. Helena and condemned.

NORTH PACIFIC SQUADRON.

The North Pacific squadron remains in command of Rear Admiral H. K. Thatcher, and is composed of the following vessels:

Pensacola, (flag-ship).....	20 guns.
Saranac.....	11 "
Lackawanna.....	7 "
Ossipee.....	6 "
Rosaca.....	8 "
Mohican.....	7 "
Swanance.....	10 "
Mohongo.....	10 "
Saginaw.....	6 "
Jamestown, (store and hospital ship.)	
Cyane, (store and hospital ship.)	

These vessels have been employed during the year in watching and protecting the persons and property of our countrymen and the welfare and interests of the United States in Mexico and on the isthmus, where war and internal difficulties and disturbances have been threatening, or have to a great extent prevailed. They have also been engaged in surveying and exploring the North Pacific ocean, and in visiting our recently acquired possessions in the north. Along the coast of Mexico, from Acapulco to the ports in the Gulf of California, which has been the field of operations of the French against the Mexican republic, one or more of the vessels of this squadron have been constantly cruising or in port, as the interests of our countrymen seemed to require.

The Lackawanna since her arrival in the Pacific has been most of the time cruising among the Sandwich islands, a locality of great and increasing interest and importance. In May she visited the French Frigate shoals and brought to Honolulu twenty-seven of the officers and crew of the Daniel Wood, an American whale-ship which had been wrecked. Recently she has been engaged in examining and surveying the islands, reefs, and reported dangers which lie northwesterly from the Sandwich group toward Japan. Many of them have not been surveyed, nor their positions reliably established. The acquisition of Russian America will call for more extensive operations on the part of this squadron, and, in connection

with our increasing commerce with Japan and China, and the rising importance of the States on the Pacific, a more thorough exploration and survey of the North Pacific ocean is necessary.

Information in regard to the newly acquired territory is wanted, and early in the season Rear Admiral Thatcher was instructed to send one or more of our naval vessels to visit the most important points, to cruise among the islands, and report in detail in regard to the topographical and hydrographical condition of the country, its harbors, productions, fisheries, timber, and other resources. The transfer of the territory was consummated at so late a period that but little can be accomplished until another season.

In conformity with instructions previously given, the Ossipee, Captain Emmons, was detailed to convey the commissioners to Alaska, and General Rousseau and Captain Pestchouff, the Russian commissioner, left San Francisco in that vessel on the 27th of September for Sitka.

It became necessary last spring to order the Jamestown, then stationed at Panama, to a northern climate, as many of her crew were prostrated with fever, and several cases terminated fatally. The Resaca, which succeeded the Jamestown at Panama, became similarly affected, and both vessels proceeded from San Francisco to Sitka in the month of August.

SOUTH PACIFIC SQUADRON.

Rear Admiral George F. Pearson was relieved of the command of the South Pacific squadron by Rear Admiral John A. Dahlgren on the 12th of December last at Panama. But a single change has been made in this squadron during the year—the detachment of the storeship Parallones. It consists at this time of the—

Powhatan, (flag-ship).....	17 guns.
Tuscarora.....	10 "
Dacotah.....	7 "
Wateree.....	10 "
Nyaek.....	6 "
Fredonia, (store-ship.)	

The continuation of the war between Spain and the republics of Chili and Peru, though not prosecuted with much activity, has in some measure limited the operations of this squadron and rendered it expedient that the vessels should remain chiefly on the coast and in the ports of the republics. The progress of these international difficulties has been watched with interest by Rear Admiral Dahlgren, who has been prepared to furnish whatever aid and protection our citizens needed and which the law justified. He has also cooperated with Rear Admiral Thatcher in preserving the safety of transit over the isthmus. The limits of this squadron, which extend westward to Australia, embrace a vast field for naval exploration and cruising, and might occupy the officers and vessels usefully and with advantage to our commercial interests were they not required in particular localities. The Tuscarora has in fact been engaged for a portion of the year in visiting Tahiti and some others of the Society islands. At the Féeje islands Captain Stanley cooperated with the vice consul in measures to secure the payment of awards made in 1855 and 1858 to certain citizens of the United States for injuries and losses sustained from acts of the natives.

The disturbed and revolutionary condition of affairs in Colombia, in May and June led to serious apprehensions that a civil war would prevail throughout the republic. At Panama some movements toward increased and unlawful taxation caused dissatisfaction among the foreign merchants, and a public meeting was held by the consuls and commanders of vessels of war, at which a remonstrance against the alleged illegal proceedings was adopted. After some correspondence a compromise was effected, by which the merchants at Panama and Colon (Aspinwall) consented to pay their regular tax three months in advance, without any increase.

Commander Bradford, who was at Panama in the Resaca when these difficulties took place, was vigilant and prompt in attending to the interests of our citizens, and in advising the department of what transpired. The commanders-in-chief of both the North and South Pacific squadrons, as well as Rear Admiral Palmer on the Atlantic coast, were informed of the unsettled condition of affairs, and instructed to be vigilant in guarding the persons and property of our citizens in that quarter, to attend to the safety and security of passengers and merchandise crossing the isthmus, and, for the time being, to have a suitable naval force in that vicinity in anticipation of, and to guard against, serious disturbance, which might be injurious to American interests, but not to interfere in the controversy in a manner to involve the Government or to violate neutrality. Happily, the difficulties passed away and a civil revolution was effected without much internal commotion or foreign complications.

SPECIAL SERVICE.

In my last annual report it was stated that the steam frigate Susquehanna was on special service, having been ordered to convey our minister and Lieutenant General Sherman to Vera Cruz. The then unsettled condition of affairs in Mexico, and especially in and about Vera Cruz, prevented the mission from landing, and the Susquehanna returned with them to the United States. It was deemed important, however, to continue one or more of our naval vessels at Vera Cruz until the foreign troops then in that country had embarked and tranquillity was restored to the republic.

Information having been received from Captain W. H. Russell, of the merchant ship Cultivator, that his ship had struck heavily several times on a shoal not laid down upon any chart, about twenty miles to the westward of George's shoal, his vessel drawing twenty-two and a half feet of water at the time, the Department sent the United States steamer Don, Commander Ralph Chandler, to search for and, if found, to survey this obstruction to navigation. The shoal was discovered, and was found to extend about five miles in a southeast and northwest direction, and the soundings on it to vary from three to nine fathoms. The soundings in the vicinity of the shoal change from fifty to fourteen fathoms, and its approach is only indicated by the breakers or rips, which in clear weather are visible for several miles. As this shoal lies directly in the track of vessels bound to and from Europe, it is not improbable that some of the vessels whose fate is unknown may have here struck, and in heavy weather have gone to pieces. The survey made by Commander Chandler was published at the hydrographic office in June last.

The Sacramento, Captain Collins, which was mentioned in my last annual report as being on special service, and which has been wrecked, as is elsewhere noticed, visited the island of Madeira; the Canary islands; the Cape de Verde islands; Monrovia; Cape Palmas, Axim; St. George del Mina, Dutch Guinea; Acera; Jella Coffy; Prince's island; island of St. Thomas; St. Paul de Loando; St. Philip de Benguela; Elephant bay; Little Fish bay; Saldanha bay; Cape Town; Mauritius; Point de Galle and Trincomalie, Ceylon; Pondicherry, Coromandel coast, and Madras. While at Monrovia, Captain Collins, at the request of President Warner, of Liberia, called a council of the head men of certain unfriendly tribes in the vicinity, and endeavored to persuade them by concessions and conciliation to make a lasting peace.

The graduating class at the Naval Academy this year was larger than usual, and as nearly all the vessels needing midshipmen were on foreign service, the Minnesota, Commodore James Alden, was put in commission for the purpose of giving the midshipmen instruction in the first duties of naval officers after graduating, of enabling them to see foreign dock-

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yards and naval establishments, and for distribution to the naval vessels to which they were to be assigned. The Minnesota sailed from New York on the 24th of July, having on board forty-six midshipmen, and she has visited a number of the principal ports on the European coast, and has passed up the Mediterranean as far as Toulon. She is to return by the way of Aspinwall, where all the midshipmen not assigned to the European squadron will be detached and join vessels on the Pacific stations.

The Michigan has been employed in her usual duties on the lakes.

LOSS OF THE SACRAMENTO.

The Sacramento, Captain Napoleon Collins, which was performing an important and interesting cruise, was wrecked on the 19th of June last in the bay of Bengal, on the reefs off the mouth of the Kothapalem, a branch of the Godavery river, Madras district. The vessel proved a total wreck, but happily no lives were lost. Two strong rafts were constructed during the night of the 19th, and on the succeeding morning one of them, with a part of the officers and men, was safely towed to the shore. The other, having on it twenty-nine officers and men, was swept out to sea by the tide and currents, but fortunately those upon it were rescued the next day, about twelve miles from the wreck of the ship, by the British mail steamer Arabia, Captain Ballantine, who, in order to land them, deviated some twenty miles from his course. The remaining officers and men safely reached the shore in the boats of the ship and by the aid of other rafts—the last man leaving on the morning of the 21st. The spot where they landed was a sterile beach without water, and the natives could neither supply them with food nor render any other assistance. They worked their way in their boats to the French town of Yanaon, and from thence to Madras. Every assistance was rendered them at these places by the civil officers and citizens, and by officers of naval and merchant vessels, and they were not only provided with the necessaries, but with the luxuries of life. Captain Collins, with his officers and the crew of the Sacramento, sailed from Cocanada on the 17th of August, in the ship General Caulfield, and arrived in New York on the 19th of November. As is usual in such cases a court of inquiry has been ordered, and is now in session.

IRON-CLAD MIAANTOMOH.

At the date of my last report the iron-clad Miantonomoh was in European waters. She passed up the Mediterranean as far as Naples, visiting several intermediate ports, and returning left Gibraltar on the 15th of May, en route to the United States. She returned by the way of the Canary, Cape de Verde, and West India islands, and reached Philadelphia on the 22d of July, having steamed during her absence from the United States 17,767 miles.

The cruise of the Miantonomoh to Europe and her return, and of the Monadnock to San Francisco, are the most remarkable voyages ever undertaken by turreted iron-clad vessels. These vessels encountered every variety of weather, and under all circumstances proved themselves to be staunch, reliable sea-going ships. The monitor type of vessel has been constructed primarily for harbor defense, and it was not contemplated that they would do more than move from port to port on our own coast. These voyages demonstrate their ability to go to any part of the world, and it is believed by experienced naval officers that with slight modifications above the water-line, in no way interfering with their efficiency in action, they will safely make the longest and most difficult voyages without convoy.

Steam, turreted iron-clads and fifteen-inch guns have revolutionized naval warfare, and foreign Governments, becoming sensible of this great change, are slowly but surely coming to the conclusion that turreted vessels and heavy

ordnance are essential parts of an efficient fighting navy.

NEW VESSELS.

Four new vessels have been launched during the year: the Moshulu, 1,448 tons, at New York, on the 22d of December; the Minnetonka, 2,490 tons, at Kittery, on the 3d of July; the Pushmataha, 1,448 tons, at Philadelphia, on the 17th of July; and the Nantasket, 523 tons, at Charlestown, on the 15th of August.

The construction of these vessels was well advanced before the close of the war, but their final completion has not been pressed, and work has been done upon them only when it could be most economically accomplished. The machinery for these vessels is now being placed on board, and they will be ready for service in the course of the ensuing year. The Guerriere, a vessel similar to the Minnetonka, is the flag-ship of the South Atlantic squadron, and her performance under steam and sail, and with both combined, has been well spoken of. The Piscataqua, of the same class, is under orders, and will sail in a few days as the flag-ship of the Asiatic squadron.

The steam machinery is completed for seven more vessels of this class, but it is not the intention of the Department to commence their construction at present. A smaller vessel is found to be more serviceable and convenient for general purposes, and the building of four a trifle larger than the Nantasket has been commenced—the Algoma, at Kittery; the Alaska, at Charlestown; the Kenosha, at New York, and the Omaha, at Philadelphia. These vessels will be completed in the fall and winter of the ensuing year. They are necessary to replace vessels of the permanent Navy which have been lost or were so much damaged during the war that their further repair is inexpedient. The machinery for these vessels is already completed.

There are several vessels on the stocks at the different yards, upon which work has been wholly suspended, and in all of which some portion of the machinery has been placed. At the Kittery yard is the Illinois of 2,490 tons and the iron-clad Passaconaway of 2,127 tons. At the Charlestown yard the Pompanoosuc of 2,869 tons and the iron-clad Quinsigamond of 2,127 tons; also the ship-of-the-line Virginia, the keel of which was laid in 1820, and which when launched can only be used as a receiving-ship. At the New York yard the Ontario of 2,490 tons and the iron-clad Kalamazoo of 2,127 tons. At the Philadelphia yard the iron-clad Shakamaxon of 2,127 tons. Besides these vessels upon which no work is being done there is at the New York yard the Java; at the Philadelphia yard the Antietam, and at the Charlestown yard the Kewadin, each of 2,490 tons, which are not under permanent cover, and upon which a small amount of work is being done to put them in condition to be at least partially protected from deterioration by the weather, as it may be many years before they will be launched. The Neshaminy and Ammonoosuc of 2,019 tons are receiving their machinery at the wharves of the contractors in New York.

The appropriation for all of these vessels was made prior to the close of the war, and the construction of all but the four small vessels whose keels have recently been laid was commenced months before hostilities terminated.

NAVY-YARD FACILITIES.

The experience of the last seven years has demonstrated the importance of more extensive areas and greater facilities at the navy-yards for the construction and repair of naval vessels and their machinery. Our navy-yards are too circumscribed in their limits, as well as too deficient in their means, to build and sustain a navy which is at all commensurate with our position and character among nations. More enlarged accommodations, where the work required can be better, more reliably, and so

far as repairs are involved, more economically executed, should be provided.

Notwithstanding present deficiencies, and the unfinished condition of many of the shops and buildings, Congress omitted to make appropriations for improvements in any of the navy-yards for the current year. In consequence of this omission the estimates herewith presented for that head for the ensuing fiscal year, which will close on the 30th of June 1869, are necessarily increased.

Seav's island, adjacent to the Kittery navy-yard, is a valuable addition to that important station, and when Congress shall have made appropriation for its improvement, accommodations adequate to the public wants at that point may be expected to be made. No funds have been supplied by Congress for establishing any additional works on the island, or for extending the yard in that direction, consequently nothing has been done beyond the repairs and occupancy of the dwellings. Should Congress furnish the means this valuable acquisition may be easily made available for useful purposes, though the improvements must necessarily be the work of years.

The reasons stated in my last annual report for essential improvements at the Norfolk and Pensacola navy-yards are referred to, without repeating them in detail, as still existing, and every consideration of policy and duty calls for the necessary appropriations to place those establishments in a condition of usefulness to the country. In some respects the yard at Norfolk has advantages superior to any other station. Accessible as the harbor is at all seasons of the year, and having a permanent stone dry-dock already constructed, there is no reason why the facilities afforded should not be made available to the country.

The temporary arrangements which were made for the occupancy of the navy-yard at Pensacola still continue, and the buildings which were spared remain in a dilapidated and scarcely habitable condition. Kitchens and stables which escaped destruction are occupied as residences by the officers attached to the yard, with few of the conveniences and none of the comforts of home. In peaceable times the work at this yard will not be extensive, but being the only naval station on the Gulf of Mexico, and there being no large ports in that section where naval vessels can be repaired, it is important in an economical point of view, as well as advantageous in many respects, that this yard should be placed in a proper condition.

LEAGUE ISLAND.

The act of Congress approved February 18, 1867, authorized the acceptance of the title to League island "and adjacent marsh land, including the whole of the creek known as the back channel, from the Schuylkill to the Delaware river, and all the riparian rights and privileges of said League island, adjacent marsh, and back channel, together with so much of the opposite shore of the back channel from the League island shore as shall, in the opinion of the Secretary of the Navy, be ample to enable the Government to have the sole and exclusive use of said back channel and both shores thereof;" provided "the acceptance thereof shall be recommended by a board of officers to be appointed by the President."

You were pleased to designate as members of the board Rear Admiral Charles H. Davis, United States Navy, president; Major General A. A. Humphreys, chief of engineer corps United States Army; Commodore James Alden, United States Navy; Chief Engineer J. W. King, United States Navy, and Professor J. E. Hilgard, of the coast survey. On the 11th of April the board reported that it "had read with scrupulous attention the several reports and opinions on the League island subject, and its suitability for naval purposes, proceeding from commissions of inquiry or from other official authorities; it has given a respectful

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and careful deliberation to the most prominent of the controversial pamphlets written on this subject; it has made a complete study of the original maps and plans of League island and the adjacent property, among which are included the early original manuscript topographical sheets of the United States coast survey; it has investigated the hydrographical features of the surrounding channels and basins; it has entered into a thorough personal examination of League island, of the opposite shore of the back channel, and of the channels themselves at different periods of the tide; it has bestowed its careful consideration upon the relation of all the various points and details involved to the present and future wants and purposes of the Navy of the United States, and especially their relation to the supplies of material, labor, and the sources of manufacturing power; and feeling assured that these deliberations, examinations, and studies, added to the knowledge and experience already possessed by its members, qualify it to form an opinion on the subject of League island in respect to its geological, topographical, and hydrographical conditions, in respect to defense, in respect to practical business and wants of navy-yards, docks, and dock-yards for vessels of wood and iron, and in respect to its adaptation for all naval purposes whatever, this board does not hesitate to recommend with entire unanimity that League island, the adjacent marshes, and back channel, together with so much of the opposite shore of the back channel from the League island shore as is hereinafter described, be accepted from Philadelphia, and be held for naval purposes by the Government of the United States."

The board also designated the quantity of land on the opposite shore from League island which, in its opinion, was necessary to enable the Government to have the exclusive use of the back channel and both shores thereof. A copy of this report was communicated to the mayor of Philadelphia, and he was notified that the Department was ready to accept the title to the property whenever it was perfected and offered for that purpose. After consultation the authorities of Philadelphia decided to ask a modification of the line recommended on the shore opposite to League island, as it was their intention to lay out an avenue one hundred and twenty feet wide, running the entire length of the island. Chief Engineer King was directed to cooperate with the city engineer and surveyor, and a line satisfactory to themselves was agreed upon. This was submitted to the board, of which Rear Admiral Davis was chairman, who recommend the acceptance of the modification proposed. The board say in their report that had they been acquainted with the plan of the city improvements they would have chosen the same or similar lines, and that "the interposition of Delaware avenue, which is one hundred and twenty feet broad, between the northern wall bounding the property of the United States and the buildings of the city, furnishes that security against nuisances and against accidents by fire which it was the first object of the board to provide."

It is provided by the act of February last that League island shall not be accepted until the title to the whole of the land necessary to enable the Government to control both shores of the back channel is complete and indefeasible. As the land on the shore opposite League island belongs to various parties, some of whom are minors, and as some of it is held in trust, it became necessary, in order to make perfect titles under the laws of the State of Pennsylvania, as well as to fix a price, for the city of Philadelphia to call for the intervention of a jury. This jury has not yet reported, but is shortly expected to do so, and I am informed by the mayor of Philadelphia that he has reason to believe that about the commencement of the ensuing year everything will be in readiness to complete the transfer from the city to the national Government. The city of Philadelphia has been

ready to transfer League island proper on the terms originally proposed, without any delay, and since the designation of the adjoining property, it has not been negligent in its efforts to acquire a legal title, in order to comply with the requirements of Congress.

SITE ON THE THAMES RIVER FOR NAVAL PURPOSES.

A clause in the act making appropriations for the naval service, approved March 2, 1867, authorizes and directs the Secretary of the Navy "to receive and accept a deed of gift, when offered by the State of Connecticut, of a tract of land situated on the Thames river, near New London, Connecticut, with a water front of not less than one mile, to be held by the United States for naval purposes." On the 25th of September his excellency the Governor of Connecticut transmitted to the Department a copy of an act passed by the General Assembly of that State appropriating \$15,000 to aid the city of New London in the purchase of the requisite property, and making other necessary provisions for carrying the act into effect, and inviting me to designate some one to unite with the commissioners to be appointed by him in selecting and locating such a site as is contemplated in the act. In compliance with the request of Governor English, Commodore J. P. McKinstry was detailed for that purpose, and in the latter part of October he proceeded to New London and examined, with Messrs. Ingersoll, Blackstone, and Hollister, commissioners on the part of the State, the proposed site. No transfer of the property has yet been made to the Government, but Commodore McKinstry reports to the Department that the tract of land which it is proposed to cede is on the east shore of the Thames river, situated partly in the towns of Ledyard and Groton, with a water front of one mile, as provided by act of Congress, and a breadth varying from six hundred to seven hundred feet. The south line of the tract is about two miles above New London, and five miles north of the light-house at the entrance of the Thames. The channel of the river adjacent to the tract of land selected has a depth of water of not less than four and a half fathoms.

TRANSFER OF IRON-CLAD STEAMERS.

By an act of March 2, 1867, the Secretary of the Navy was authorized and directed to deliver to George W. Quintard, of New York, for his own use and behoof, the United States iron-clad Onondaga, upon payment by said Quintard, his heirs and assigns, to the Treasury of the United States of the sum of \$759,673. In pursuance of this act the iron-clad steamer Onondaga was, on the 12th day of July last, transferred to Mr. Quintard, that gentleman having deposited the amount therein specified.

By an act of the same date the Secretary of the Navy was authorized and directed to release to William H. Webb, of New York, all right, title, interest, and demand of the United States in and to the iron-clad steamship Dunderberg, built by said Webb under contract with the Navy Department, upon payment by him into the Treasury of the United States of any and all sums of money paid or advanced by the Secretary, or by his order, to said Webb on account of said contract. There had been paid to Mr. Webb, on his contract for this vessel, \$1,041,666 67, which amount he deposited in the Treasury, and on receipt from the Assistant Treasurer at New York of a certificate to that effect a release of the vessel took place and Mr. Webb became her owner.

REBEL RAM STONEWALL.

The rebel ram Stonewall, which was delivered by the rebels to the Spanish authorities at Havana, and by them turned over to the United States, was on the 5th of August transferred to the Government of Japan at her appraised value of \$400,000. Since coming into our possession she had been lying in the waters of the Potomac, and as she was constructed of wood, and liable to rapid deterioration if

unused, her retention for our service was not deemed advisable. The negotiations for her sale were conducted through the Department of State, and were made with the approval of the Government.

NAVAL ACADEMY.

The Naval Academy continues under the able superintendence of Vice Admiral Porter, whose report, together with that of the Board of Visitors, is appended. These papers show that the Academy is satisfactorily fulfilling the work assigned it in educating and molding the character of the future officers of the Navy. The standard for general instruction will compare favorably with that of other educational institutions, and the special training required to prepare the students for the naval service is thorough and satisfactory. Some additional facilities are needed, both in the academic and steam department, for which estimates have been submitted. A further purchase of land and the erection of additional buildings are also desirable. The department of natural and experimental philosophy, especially, needs enlarged and better accommodations, and the discipline of the Academy would be much benefited if all the officers could live within the grounds of the institution instead of being compelled to occupy very indifferent quarters outside. Two convenient dwellings have been completed during the year at a moderate cost, and the erection of ten more is recommended.

The superintendent of the Academy, the chief of the Bureau of Medicine and Surgery, and the Board of Visitors call attention to the insufficient arrangements for the sick. The hospital will only accommodate twelve, with two in a room, and the daily average of sick is very much larger. Humanity requires that a site remote from disturbing causes should be purchased and a suitable building erected without delay.

The new chapel is nearly finished, and the large building designed for quarters for the midshipmen is under contract, to be completed in season for occupancy at the commencement of the next academic year.

The graduating class the present year numbered eighty-seven. The undergraduates were at sea from two to three months for practice in the sloops-of-war Macedonian, Savannah, and Dale.

NAVAL APPRENTICES.

The naval apprentice system, to which reference has been made in former reports, continues to receive the special care and attention of the Department, and the results thus far have been more satisfactory than could have been reasonably anticipated at the time the enlistment of apprentice boys was revived, about three years since. There are occasionally mistaken ideas on the part of parents and guardians as to the end to be attained by enlistment, but by far the greater proportion, as well as the apprentices themselves, have a just appreciation of the benefits to be received. The education of the boys as seamen does not cease with their transfer from the apprentice ships to sea-going vessels. Those in service on board our men-of-war are being educated and prepared for the higher duties of seaman-ship, and such as identify themselves with the Navy by twenty years' service become beneficiaries under the act of March 2, 1867, and are provided for in age. By its policy the Government is giving a stimulus to a long-desired and greatly-needed improvement in the moral and intellectual character of the seamen of the country and establishing among them an abiding attachment for the naval service.

The authorized annual number of apprentices for admission to the Naval Academy, though this year increased to ten, was selected without difficulty by competitive examination from those who were eligible under the law, and several others, who were nominated from the school-ships by members of Congress, passed the required examination.

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The increasing number of applicants for enlistment rendered necessary an increase in the facilities for instruction, and accordingly the sloops-of-war Portsmouth and Saratoga have been put in commission, and, with the Sabine, will be used exclusively as apprentice ships. The station of the Sabine is at New London and vicinity, the Portsmouth will be in Hampton roads and Chesapeake bay, and the Saratoga in New York.

SEAMEN.

I have heretofore repeatedly invited attention to the importance of legislation to improve the condition of our seamen, both in the naval and mercantile service, and I again ask a recurrence to these suggestions, particularly to those made in my last annual report. The apprentice ships will gradually furnish a class of men educated to the naval service, and every reasonable inducement should be held out to them to continue in that branch of sea life in which they have been trained. The longer a seaman continues in the Navy the more valuable he becomes, and it is worthy of consideration whether in lieu of the bounty now paid for the reenlistment of those who have been honorably discharged, or in addition thereto, an increased rate of monthly wages may not be advantageously given for every honorable discharge, so that for those who creditably serve their enlistments the inducement to continue in the Navy will increase with their years of service, until finally, when they are entitled to retire upon half pay for life, after an enlistment of twenty or more years as now provided by law, their compensation will be such that their half pay will give them a comfortable support if they choose to accept it in lieu of a home at the Naval Asylum.

Additional legislation is also needed to retain the services of those who voluntarily enlist. Punishment cannot now reach a deserter except by the tedious and expensive process of a court-martial. It is suggested that a more summary way to deal with deserters be authorized, and that they be by law required to serve the full term of enlistment exclusive of the time they may have absented themselves, as is now provided for the military service, and that they be liable to trial by court-martial even if not arrested until after their term of enlistment has expired.

It is also recommended that for the purposes of the naval service the age of enlisted persons, as sworn to at the time of enlistment, shall be held to be their true age, and that persons who have declared themselves to be of the requisite age shall not be discharged by any process of court, either State or Federal.

EXAMINATION OF VOLUNTEER OFFICERS.

The board for the examination of volunteer officers for admission into the regular Navy, in conformity with the provisions of the act of July 25, 1866, has been in session at intervals during the entire year, and has submitted its final report of officers examined. A very small number on foreign service, and some who have been recommended for admission under the last clause of the third section of the act under which the board was convened, have not been finally examined, and for this purpose it will be necessary to convene a board of officers at some future time. The law gave the Department no authority to make selections or recommendations, but left the whole matter in the hands of a board, which was to select and recommend the authorized number in the several grades, provided so many were found qualified. The report of the board has not, therefore, received any revision by the Department, and the names of the several officers found qualified will, in accordance with their recommendation, be forwarded to you at an early day for transmission to the Senate for confirmation.

RANK OF STAFF CORPS.

The chiefs of the Bureaus of Medicine and Surgery of Provisions and Clothing, and of

Steam Engineering, bring to the notice of the Department the claims of their respective corps to increased rank. It is urged that by the recent creation of the several grades of admiral, of commodore, and lieutenant commander, the rank of the staff corps has in effect been reduced. The law now provides for the appointment of fleet surgeons, fleet paymasters, and fleet engineers, but the rank is only temporary, ceasing when the officer is detached from fleet duty. If these grades were made permanent and to embrace a sufficient number for the service required of the officers standing at the head of their respective lists and the rank now temporarily given to fleet officers and to the other grades legalized, it is thought that the staff corps would be generally satisfied. It is understood that they propose to bring the matter of increased rank to the notice of Congress, and such legislation as may seem equitable and just is recommended.

RELIEF FOR THE SOUTHERN STATES.

A joint resolution, approved February 22, 1867, authorized and directed the Secretary of the Navy, upon application of the contributors, to assign a public vessel for the transportation under such regulations as he might prescribe, to Charleston, Savannah, and Mobile, of any supplies of food and clothing that might be contributed by the people of the United States for the use of any portion of the people of the southern States who were suffering from the failure of crops or other causes.

In accordance with this resolution two public vessels of the Navy were put in commission and assigned to the purpose indicated. One, the Purveyor, was placed at the disposal of the Southern Relief Commission at New York; the other, the Relief, was placed at the disposal of the Southern Relief Association at Baltimore.

The Purveyor made two trips, one in March and one in June, to the South as far as Mobile, carrying such provisions and other articles as were placed on board by the commission at New York. The Relief sailed from Baltimore in May and proceeded to Mobile, where she discharged her cargo and returned.

As the Department had no suitable vessel of light draught to enable it to send provisions to Wilmington, Congress, by resolution approved on the 29th of March, directed it to charter a vessel to convey contributions from Baltimore to that point. It was found, however, that the employment of the usual freighting lines was more economical, and such supplies as were offered were in that way transported at a cost of \$1,506 89. No appropriation having been made for this service, the expense was defrayed from the contingent fund of the Department.

CLAIMS OF CONTRACTORS.

An act of Congress approved March 2, 1867, directs the Secretary of the Navy to investigate the claims of contractors for vessels of war and steam machinery for relief, upon a basis therein named. To give the several claims a thorough examination it became necessary to convene a board, and Commodore J. B. Marchand, Chief Engineer J. W. King, and Paymaster E. Foster were selected. The sessions of the board commenced on the 8th of July, the several contractors having previously been directed to prepare and forward to the Department a statement in detail of the several claims, fortified by such proofs as they could furnish. The board permitted each contractor to appear before them in person or by attorney, and gave a patient and searching examination to the several claims. Their report will be submitted to Congress at an early day.

PETROLEUM AS FUEL FOR GENERATING STEAM.

The act approved April 17, 1866, appropriated \$5,000 for testing the use of petroleum as a fuel under marine boilers. An elaborate series of experiments has been made at the New York and Boston navy-yards, and a very full synopsis of the information gathered is

given in the report of the chief of the Bureau of Steam Engineering. The conclusion arrived at is that convenience, comfort, health, and safety are against the use of petroleum in steam vessels, and that the only advantage thus far shown is a not very important reduction in bulk and weight of fuel carried.

STEAMER AMAZON.

The attention of the Department has been called to the interest and rights of the captors in the case of the Amazon. This was an iron steamer captured by the Pontiac, Commander S. B. Luce, on the 2d of March, 1865. She was appraised by order of Rear Admiral Dahlgren and taken into service, libeled as prize in the eastern district of Pennsylvania, but under an order of court was surrendered to the claimant on his paying into court \$8,000. On trial the Amazon was condemned as prize, but the Secretary of the Treasury remitted the forfeiture, and the \$8,000, instead of being paid to the captors and naval pension fund, in conformity to law, were repaid to Dillon, the claimant. Of this proceeding this Department was wholly unadvised, and had no notice whatever until after the money had been paid to Dillon, and the time allowed by law for repeal had elapsed.

The captors who were thus deprived of the share of the prize money to which, under the capture and condemnation, they consider themselves legally entitled, will appeal to Congress for the money which, by law and the decision of the court, they believe to be due them. The naval pension fund is also entitled to its moiety of the money which has been relinquished.

NAVAL PENSION FUND.

The naval pension fund has been increased during the year \$1,250,000, making the aggregate at the present time \$13,000,000. This amount having accrued to the United States from the sale of prizes, the public faith is pledged that it "shall be and remain forever a fund for the payment of pensions to the officers, seamen, and marines who may be entitled to receive the same." It is also provided that if the fund shall be more than sufficient the surplus shall be applied to the making of further provision for the comfort of disabled officers, seamen, and marines. To partially comply with this requirement, the act of March 2, 1867, provides for giving a cash pension in lieu of a home at the Naval Asylum to those who have been twenty years in the service, and authorizes relief for a specified time to those who have been disabled after ten years' enlistment. The benefit of this act has thus far been given to but seven persons, and though the number may be considerably increased, it is probable that a portion only of the surplus will be used in this way. I recommend, therefore, that the pension laws applicable to the Navy be revised, and such an increase in the rates of pension be authorized as the fund will warrant. The entire principal of the fund was earned by the officers and men of the Navy during the recent war, and it is eminently proper that its benefits should be enjoyed by those whom the war has deprived of other support, as contemplated by the statute. In this revision provision should also be made for pensions for the admiral, vice admiral, rear admiral, commodore, and other grades, both of the line and staff, now wholly omitted. It may also be well to consider whether the family of a person dying in the Navy after a specified time of service should not derive some benefit from this surplus fund, even though the death should not have occurred in the strict "line of duty."

NAVAL PENSIONS.

During the year ending November 1, 1867, there has been an increase of twenty-nine on the invalid pension-roll, and of one hundred and eighty-four on the widows' and orphans' roll, making a total of two hundred and thirteen, and calling for \$49,089 20 more than the

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previous year. The number of each class on the rolls is as follows:

1,079 invalids, annually receiving.....	\$92,674 25
1,392 widows and children, annually receiving.....	226,398 00
7 invalids under act March 2, 1867, receiving.....	756 00
2,478 persons, receiving a total amount of	\$319,828 25

EXPENSES AND ESTIMATES.

The available resources of the Department for the fiscal year ending June 30, 1867, were.....\$117,944,000 43

Expenditures.....	31,031,011 04
Leaving a balance at the commencement of the present fiscal year of.....	86,910,949 44
The appropriations for the current year amount to.....	16,555,705 25

Making the total available resources for the fiscal year ending June 30, 1868.....103,465,754 69

There was carried to the surplus fund of the Treasury, on the 30th September, 1867, at the request of the Department.....65,000,000 00

Leaving available for the current fiscal year.....\$38,465,754 69

The estimates for the fiscal year ending June 30, 1869, are as follows:

Pay of officers and men of the Navy.....	\$10,660,560 00
Improvements and repairs in navy-yards.....	10,141,038 00
Pay of superintendence in navy-yards.....	448,772 75
Coal, hemp, and equipment of vessels.....	3,000,000 00
Navigation, Naval Academy, Observatory, &c.....	650,999 40
Ordnance, magazines, &c.....	2,842,355 75
Construction and repair of vessels.....	6,690,000 00
Steam machinery, tools, &c.....	4,460,000 00
Provisions and clothing.....	3,400,000 00
Hospitals and naval laboratory.....	141,000 00
Contingent expenses.....	1,832,500 00
Support of Marine corps.....	1,614,978 05
Total.....	\$47,317,183 05

Since the close of the war no appropriations have been required for the construction and repair of vessels for steam machinery, ordnance, provisions and clothing, fuel, hemp, &c., the balances under these several heads having been more than ample for current expenditures. In my last annual report attention was called to the existence of large balances under those heads, and it was suggested that they could be disposed of by Congress in order that future expenditures might be made after specific appropriation following the close scrutiny which has been deemed essential to correct administration. As no action was taken by Congress, on the 30th September last, in accordance with the provisions of the act approved May 1, 1820, I requested the Secretary of the Treasury to carry to the surplus fund appropriations to the amount of \$65,000,000, leaving under these several heads an amount only sufficient for the expenditures of the current fiscal year. In this sum of \$65,000,000 are embraced the amount received from the sales of vessels and other war property of no service in time of peace, the amount refunded to the Government by the builders of the Dunderberg and Onondaga, as well as the balance of appropriations under the heads for which nothing has been asked for the last two years, not required for the current year.

In accordance with the views herein expressed estimates have been submitted for the entire expenses of the Department for the ensuing fiscal year, which of course make a larger aggregate than for the past two years, when only partial estimates were made. Estimates have also been made for amounts sufficient to complete the buildings and works which are unfinished, and to place the different navy-yards in an efficient condition, amounting to over \$10,000,000. This expenditure, should the appropriation be made, would run through several years; the improvements being of a character requiring time for their completion.

At the close of the war, in the spring of 1865, the Department had heavy contracts in the process of fulfillment for vessels, engines, ordnance, &c. Good faith required that these should be completed, and the expenditures of

the Department for the past two years have, for these reasons, been necessarily large for a peace establishment. Nearly all the war liabilities are now closed, arrangements having been made with some of the manufacturers of engines for which no vessels have been provided, to take the engines and relieve them from further responsibility. The expenditures of the Department were over \$12,000,000 less during the last year than for the preceding fiscal year.

To return to the Treasury \$65,000,000, besides meeting the extraordinary expenditures of the heaviest branches of the service for three years, must be regarded as evidence that the business of the Department has been conducted with economy, as well as that care has been taken by those intrusted with the disposition of useless public property to realize the nearest approximation to its value; and is a financial exhibit exceedingly gratifying to the Department.

THE BUREAUX.

The reports of the chiefs of bureaux and of the commandant of the Marine corps contain detailed statements of the operations of their several departments during the year, with suggestions for the future. The principal points touched upon are the following:

The chief of the Bureau of Yards and Docks reports the expenditures for improvements and repairs in the several navy-yards during the last year, and explains in detail the estimates for the ensuing fiscal year for improvements. The immense expenditures for construction, repairs, and for machinery outside the yards, during the rebellion, has shown the necessity for enlarging the yards and increasing the facilities in the Government establishments, where the work is more reliably and economically done. Nothing was appropriated for improvements during the current year, and the estimates are consequently larger than usual. For the navy-yard at Kittery \$17,828 is asked; for the Charlestown yard, \$2,882,135; for the Brooklyn yard, \$3,913,714; for the care and preservation of the property in the Philadelphia yard, \$88,883—nothing being asked for permanent improvements, in view of the proposed removal of the yard to League island; for the Washington yard the estimates amount to \$426,415; for the Norfolk yard, \$646,145; for the Pensacola yard, \$1,256,885; for the yard at Mare island, California, \$530,433; for the stations at Key West, Sackett's Harbor, Mound City, and for the Naval Asylum, \$138,000.

The chief of the Bureau of Equipment and Recruiting reports that during the year seventy-three vessels have been equipped for service, twenty-three of which have been wholly and several others partially wire rigged. The Government ropewalk at Charlestown has as heretofore supplied the hemp rigging used in the Navy, consuming in its manufacture 425 tons of hemp. The tests of the comparative strength of wire and hemp rope and the reports of commanders of wire-rigged vessels are so satisfactory that the bureau recommends the erection of a building and the purchase of suitable machinery for the manufacture of wire rigging. Attention is called to the suggestions of the chief of the bureau relative to offering greater inducements to seamen and ordinary seamen to enlist in the Navy, and also to the necessity for additional legislation to prevent desertions by providing more effectual punishment for that crime than now exists.

The chief of the Bureau of Navigation reports that the instruments, nautical books, charts, and other navigation supplies issued to naval vessels, are well cared for, and that a strict accountability is exacted of officers in charge. The subject of compass deviations has continued to receive the particular attention of the bureau, and it is believed that its efforts will result in furnishing a body of reliable practical data upon which to base a satisfactory judgment upon the quality of the compass and

its use on board modern ships of war. The active coöperation of this Government with European Powers in developing the dangers to navigation in the Pacific and Indian oceans is recommended. The navigable waters of China and Japan, and in the vicinity of the territory recently acquired from Russia, are now visited at considerable risk of both life and property, and the interests of the commerce of all nations require that careful surveys be made. The hydrographic office has prepared a number of charts for publication, some of which have already been issued, and it is steadily progressing in the duties for which it was originally designed. The naval apprentice system continues to win favor, and the results are satisfactory. The new chapel and the additional quarters for midshipmen at the Naval Academy are now under construction. The accompanying reports of the superintendent of the Naval Observatory and of the Nautical Almanac show in detail their labors during the year.

The chief of the Bureau of Ordnance states that since the date of his last report all existing contracts for naval cannon have been completed, and that, with the exception of the fifteen-inch guns, the stock on hand will meet the wants of the service. There is also a superabundant supply of powder, projectiles, &c., to supply current demands. The trials of the navy fifteen-inch gun in England have fully vindicated the wisdom of the measure of introducing this caliber of cast-iron ordnance into our service. Wrought-iron gun-carriages are taking the place of the old wooden ones, and a steam gun-carriage for the manipulation of heavy ordnance, the invention of James B. Eads, Esq., of Missouri, has been tried during the past year with gratifying results. Breech-loading small-arms, in lieu of muzzle-loaders, are now being introduced into the service. Old, unserviceable, and surplus guns, powder, projectiles, &c., have been disposed of during the year, and \$385,941 has been realized to the Treasury from this source.

The chief of the Bureau of Construction and Repair reports that during the last year the work at the navy-yards has been mainly confined to the repair of vessels. The new work has been limited to the slow completion of the steam vessels, for the machinery of which contracts were made with private parties before the close of the war. Four have been launched during the year, and the construction of four of the smaller class has been commenced. Additional buildings are needed at the different yards for the economical working of the constructor's department. The chief of the bureau recommends that steps be taken for the professional education of naval constructors.

The chief of the Bureau of Steam Engineering reports that no new machinery has been commenced during the year, and that the work at the different navy-yards has been limited to repairing and fitting out, and to the gradual completion of the machinery commenced before the termination of the war. The Franklin and Guerriere are the only new vessels with recently constructed engines that have made sea voyages, and the reports of the performance of their machinery are most satisfactory. A summary of the trial of competitive machinery erected in other large vessels is given. The machine shops at the different yards are inadequate for the operations which a sudden demand for war steamers would require, and the chief of the bureau earnestly hopes that the estimates asked for to put them in efficient condition may receive the favorable action of Congress.

The chief of the Bureau of Provisions and Clothing reports that the large stock of stores on hand at the close of the war has been reduced to a standard sufficient only to meet the current wants of the service. He recommends that the custom of the English and French Navies, and of our own Army, of pur

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chasing the materials and making up a portion of the clothing used, be gradually introduced into our service, and that a part of the sailor's outfit be furnished him without charge.

The chief of the Bureau of Medicine and Surgery presents not only the usual report of sickness and death in the Navy during the year, but gives in addition interesting tables showing the number of sick of each squadron engaged on the blockade during the war, together with the total of each disease treated, number of deaths on the blockade during the rebellion, proportion of deaths to the number of cases treated, and the proportion of deaths to the number of ship's company. The summary shows that from the commencement of the rebellion to the 30th of June, 1865, there were under treatment 114,038 cases; that there were 2,532 deaths, the proportion of deaths to the number of cases treated being .0175. At the close of the year 1865 there remained under treatment 853 cases; during the year 1866 there occurred 24,350 cases of disease, injury, &c., making a total of 25,203 cases treated during the year, of which 310 died; 23,954 were returned to duty or discharged the service, leaving 939 cases under treatment at the end of the year 1866. The proportion of cases admitted to the whole number of persons in the service was about $\frac{1}{46}$, or each person was on the sick list 1.46 times during the year. The proportion of deaths to the whole number in service was .018, and the per centage of deaths to the whole number of cases treated is .012, or less than two per cent.—taking the average strength of the Navy (officers, seamen, marines, engineer service and coast survey included) for the year 1866, to be 17,193. The total number of deaths from all causes, reported at the Navy Department from October 1, 1866, to September 30, 1867, is 395. The number of insane of the Navy under treatment in the Government Asylum near Washington, during the year ending 30th September, 1867, was 24; number now under treatment, 18. The necessity for enlarging the laboratory accommodation continues to press itself upon the attention of the Bureau, and estimates for this purpose have again been submitted.

The commandant of the Marine corps reports that at the annual inspection he found the troops in a thorough state of discipline and efficiency, and the several barracks and quarters in a creditable condition. The men are kept in constant readiness for duty at sea or on shore, and at short notice could be concentrated, in condition for effective service, at any point where the presence of troops might be required. The number of officers and men attached to vessels in commission is now somewhat less than usual. The new infantry tactics recently introduced into the Army has been adopted, and the corps is now being instructed in conformity therewith. Two officers and several men have died of yellow fever at Pensacola. The commandant of the corps renews the recommendation of last year that a new barracks be erected at Washington, a board composed of officers, a civil engineer, and master mechanic, after a thorough examination, having reported that it is not expedient to attempt to repair the present structures.

CONCLUSION.

In concluding this report it is gratifying to state that, while the reduction of vessels in commission has steadily progressed, and while our squadrons are limited to the smallest number of steamers compatible with the requirements of commerce, the protection of our countrymen, and the dignity and power of the nation, the vigilance and activity of our naval officers, with their small but efficient commands, have been such as to cause our flag to be exhibited in almost every important port on the globe; and it is a satisfaction to know that

the demonstration of a naval force has everywhere been sufficient to cause it to be respected, and to give security to the persons and property of American citizens. Our commerce, which was seriously affected during the prevalence of civil war, in consequence of the countenance and encouragement extended to the rebels by foreign Governments, has not, from the continued unsettled condition of our domestic affairs, recovered its former vigor; but the Navy has, in guarding American interests and maintaining American rights, performed its duty, fostered trade, and, with the reestablishment of the Union, will contribute to restore our former commercial prosperity and success. If our ships and men in service are vastly inferior in numbers to other maritime Powers, it is a matter of just pride that, for efficiency in guarding the interests of our countrymen, in opening new avenues to trade, in exploring and rendering safe the ocean highways traversed by adventurous navigators, and for every useful purposes, they are surpassed by those of no other nation, and that they continue to assert our rights and maintain the credit and renown which has ever belonged to the American Navy.

GIDEON WELLES.

To the PRESIDENT.

Report of the Secretary of the Treasury.

TREASURY DEPARTMENT,
WASHINGTON, November 30, 1867.

In conformity with law, the Secretary of the Treasury has the honor to submit to Congress this his regular annual report.

The finances of the United States, notwithstanding the continued depreciation of the currency, are in a much more satisfactory condition than they were when the Secretary had the honor to make to Congress his last annual report. Since the 1st day of November, 1866, \$493,990,268 84 of interest-bearing notes, certificates of indebtedness, and of temporary loans, have been paid or converted into bonds; and the public debt, deducting therefrom the cash in the Treasury, which is to be applied to its payment, has been reduced \$59,805,555 72. During the same period decided improvement has also been witnessed in the general economical condition of the country. The policy of contracting the currency, although not enforced to the extent authorized by law, has prevented an expansion of credits, to which a redundant and especially a depreciated currency is always an incentive, and has had no little influence in stimulating labor and increasing production. Industry has been steadily returning to the healthy channels from which it was diverted during the war, and although incomes have been small, and trade generally inactive, in no other commercial country has there been less financial embarrassment than in the United States.

In order that the action of the Secretary, in the financial administration of the Department, may be properly understood, a brief reference to the condition of the Treasury at the time the war was drawing to a close, and at some subsequent periods, seems to be necessary.

On the 31st day of March, 1865, the total debt of the United States was \$2,866,955,077 84, of the following descriptions, to wit:

Funded debt.....	\$1,100,361,241 89
Matured debt.....	319,439 09
Temporary loan certificates.....	52,452,328 29
Certificates of indebtedness.....	171,790,000 00
Interest-bearing notes.....	536,812,800 00
Suspended or unpaid requisitions.....	111,256,518 93
United States notes (legal tenders).....	433,169,569 00
Fractional currency.....	24,254,094 07
Cash in Treasury.....	2,423,437,002 18
	53,481,924 84
Total.....	\$2,866,955,077 84

The resources of the Treasury consisted of the money in the public depositories in different

parts of the country, amounting as above stated to \$56,481,924 84; the revenues from internal taxes and customs duties, and the authority to issue bonds, notes, and certificates, under the following acts to the following amounts:

Act of February 25, 1862, bonds.....	\$4,023,600 00
Act of March 3, 1864, bonds.....	27,229,900 00
Act of June 30, 1864, bonds, 7-20 or compound-interest notes.....	79,811,000 00
Certificates for temporary loans, act June 30, 1864.....	97,546,471 71
United States notes for payment of temporary loans, act July 11, 1862.....	16,839,431 00
Fractional currency, act June 30, 1864.....	25,745,995 93
Act of March 3, 1865, bonds or interest-bearing notes.....	523,587,200 00
Making a total of.....	\$784,783,508 64

Certificates of indebtedness, payable one year from date, or earlier at the option of the Government, bearing interest at the rate of six per cent. per annum, might be issued to an indefinite amount, but only to public creditors desirous of receiving them in satisfaction of audited and settled demands against the United States.

Early in April the fall of Richmond and the surrender of the forces which had so long defended it rendered it certain that the war was soon to be terminated, and that provision must be made for the payment of the Army at the earliest practicable moment.

The exigency was great, and the prospect of raising the money required to meet the present and prospective demands upon the Treasury, under the laws then existing, was sufficiently discouraging to create solicitude and anxiety in the mind of a Secretary little experienced in public affairs, upon whom the responsibility of maintaining the credit of the nation had been unexpectedly devolved. There was no time to try experiments or to correct errors, if any had been committed, in the kind of securities which had been put upon the market. Creditors were importunate, the unpaid requisitions in the Department were largely in excess of the cash in the Treasury, the vouchers issued to contractors for the necessary supplies of the Army and Navy were being sold at from ten to twenty per cent. discount—indicating by their depreciation how uncertain was the prospect of early payment—while nearly a million men were soon to be discharged from service, who could not be mustered out until the means to pay the large balances due them were provided. There was no alternative but to raise money by popular subscription to Government securities of a character the most acceptable to the people, who had subscribed so liberally to previous loans.

As a considerable amount of the seventy notes had recently been disposed of satisfactorily by the Department, and had proved to be the most popular security ever offered to the people, the Secretary determined to rely upon them, (although on the part of the Government they were in many respects objectionable,) and in order to insure speedy subscriptions to place them within the reach of all who might be willing to invest in them. In every city and town and village of the loyal and at some points in the disloyal States subscriptions were solicited. The press, with its immense power, and without distinction of party, seconded the efforts of the energetic and skillful agent who had charge of the loan. The national banks gave efficient aid by liberal subscriptions, while thousands of persons in humble life and with limited means hesitated not to commit their substance to the honor and good faith of the Government. Before the end of July the entire loan, exceeding five hundred millions, was subscribed and paid for, and the Secretary was enabled with the proceeds, together with the receipts from customs and internal revenues and the use to a limited extent of other means at his disposal, to pay every requisition upon the Treasury and every matured national obligation. As evidence of the necessity that existed for prompt action in

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the negotiation of this loan and the straits to which the Treasury was reduced, it will be remembered by those who examined carefully the monthly statements of the Department that although during the month of April upward of one hundred million dollars had been received from the sale of seven-thirty notes, the unpaid requisitions at it close had increased to \$120,470,000, while the cash (coin and currency) in all the public depositories amounted to only \$16,835,800. If few men intrusted with the management of the finances of a great nation were ever in a position so embarrassing and trying as was that of the Secretary of the United States Treasury in the months of April and May, 1865, none certainly were ever so happily and promptly relieved. The Secretary refers to this period of his administration of the Department with pleasure, because the success of this loan was to him not only a surprise and a relief, but because it indicated the resources of the country and gave him the needed courage for the performance of the great work that was before him.

Between the 1st days of April and September, 1865, the Secretary used his authority to issue securities as follows:

Bonds under the act of February 25, 1862.....	\$4,023,000 00
Bonds under the act of June 30, 1864, Compound-interest notes, act June 30, 1864.....	6,000,000 00
24,978,390 00	
Certificates for temporary loans, act June 30, 1864.....	54,606,384 87
Fractional currency, act June 30, 1864, Seven-thirty notes, March 3, 1865.....	2,090,648 44
	529,187,200 00
	\$620,976,223 31

On the 31st of August, 1865, the public debt reached the highest point, and was made up of the following items, to wit:

Funded debt.....	\$1,109,563,191 89
Matured debt.....	1,503,020 00
Temporary loans.....	107,148,713 16
Certificates of indebtedness.....	85,003,000 00
Five per cent. legal-tender notes.....	33,954,230 00
Compound-interest legal-tender notes.....	217,024,160 00
Seven-thirty notes.....	830,000,000 00
United States notes (legal tenders).....	433,160,560 00
Fractional currency.....	26,344,742 51
Suspended requisitions uncalled for.....	2,111,000 00
Total.....	2,845,907,626 56
Deduct cash in Treasury.....	88,218,055 13
Balance.....	\$2,757,689,571 43

Of these obligations, it will be noticed, \$684,138,959 were a legal tender, to wit:

United States notes.....	\$433,160,560 00
Five per cent. notes.....	33,954,230 00
Compound-interest notes.....	217,024,160 00
Total.....	\$684,138,959 00

A very large portion of which are in circulation as currency.

The temporary loans were payable in thirty days from the time of deposit, after a notice of ten days.

The five per cent. notes were payable in lawful money, in one and two years from December 1, 1863.

The compound-interest notes were payable in three years from their respective dates, all becoming due between the 10th day of June, 1867, and the 10th day of October, 1868.

The seven-thirty notes were payable, in about equal proportions, in August, 1867, and June and July, 1868, in lawful money, or convertible at maturity, at the pleasure of the holder, into five-twenty bonds.

The certificates of indebtedness would mature at various times between the 31st day of August, 1865, and the 2d day of May, 1867.

During the month of September, 1865, the Army having been reduced nearly to a peace footing, it became apparent that the internal revenues and the receipts from customs would be sufficient to pay all the expenses of the Government and the interest on the public debt, so that thenceforward the efforts of the Secretary were to be turned from borrowing to

funding. Besides the United States notes in circulation, there were nearly \$1,300,000,000 of debts in the form of interest-bearing notes, temporary loans, and certificates of indebtedness, a portion of which were maturing daily, and all of which, with the exception of the temporary loans, (which, being in the nature of loans on call, might or might not be continued, according to the will of the holders,) must be converted into bonds or paid in money before the 16th of October, 1868. The country had passed through a war unexampled in its expensiveness and sacrifice of lives; it was afflicted with a redundant and depreciated currency; prices of property and the cost of living had advanced correspondingly with the increase of the circulating medium; men, estimating their means by a false standard of value, had become reckless and extravagant in their expenditures and habits; business, in the absence of a staple basis, was unsteady and speculative, and great financial troubles the usual result of expensive wars, seemed to be almost inevitable.

It was under such circumstances that the work of funding the rapidly maturing obligations of the Government and restoring the specie standard was to be commenced. While the latter object could not be brought about until the former had been accomplished, it was highly important that the necessity of an early return to specie payments should never be lost sight of. At the same time it seemed to the Secretary that a return to the true measure of value, however desirable, was not of sufficient importance to justify the adoption of such measures as might prevent funding, and injuriously affect those branches of industry from which revenue was to be derived, much less such measures as might, by exciting alarm, precipitate the disaster which so many anticipated and feared. Thus the condition of the country and the Treasury determined the policy of the Secretary, which has been to convert the interest-bearing notes, temporary loans, &c., into gold-bearing bonds, and to contract the paper circulation by the redemption of United States notes. For the last two years this policy has been steadily but carefully pursued, and the result upon the whole has been satisfactory to the Secretary, and, as he believes, to a large majority of the people. Since the 1st day of September, 1865, the temporary loans, the certificates of indebtedness, and the five per cent. notes have all been paid, (with the exception of small amounts of each not presented for payment,) the compound-interest notes have been reduced from \$217,024,160 to \$71,875,040, (\$11,560,000 having been taken up with three per cent. certificates;) the seven and three-tenth notes from \$830,000,000 to \$337,978,800; the United States notes, including fractional currency, from \$459,505,311 51 to \$387,871,477 89; while the cash in the Treasury has been increased from \$88,218,055 13 to \$133,998,398 02, and the funded debt has been increased \$686,584,800. While this has been accomplished there has been no commercial crisis and (outside of the southern States, which are still greatly suffering from the effects of the war and the unsettled state of their industrial interests and political affairs) no considerable financial embarrassment.

In his last report the Secretary remarked that "after a careful survey of the whole field he was of the opinion that specie payments might be resumed, and ought to be resumed, as early as the 1st day of July, 1868, while he indulged the hope that such would be the character of future legislation and such the condition of our productive industry that this most desirable event might be brought about at a still earlier day." These anticipations of the Secretary may not be fully realized. The grain crops of 1866 were barely sufficient for home consumption. The expenses of the War Department, by reason of Indian hostilities and the establishment of military governments in the southern States, have greatly exceeded

the estimates. The Government has been defrauded of a large part of the revenue upon distilled spirits, and the condition of the South has been disturbed and unsatisfactory. These facts, and the apprehension created in Europe, and to some extent at home, by the utterances of some of our public men upon the subjects of finance and taxation, that the public faith might not be maintained, may postpone the time when specie payments shall be resumed. But, notwithstanding these unexpected embarrassments, much preliminary work has been done, and there is not, in the opinion of the Secretary, any insuperable difficulty in the way of an early and a permanent restoration of the specie standard. It may not be safe to fix the exact time, but, with favorable crops next year, and with no legislation unfavorable to contraction at this session, it ought not to be delayed beyond the 1st of January, or at the furthest, the 1st of July, 1869. Nothing will be gained, however, by a forced resumption. When the country is in a condition to maintain specie payments they will be restored as a necessary consequence. To such a condition of national prosperity as will insure a permanent restoration of the specie standard the following measures are, in the opinion of the Secretary, important, if not indispensable:

First. The funding or payment of the balance of interest-bearing notes, and a continued contraction of the paper currency.

Second. The maintenance of the public faith in regard to the funded debt.

Third. The restoration of the southern States to their proper relations to the Federal Government.

If this opinion be correct the question of permanent specie payments, involving, as it does, the prosperity of the country, underlies the great questions of currency, taxation, and reconstruction, which are now engaging the attention of the people, and cannot fail to receive the earnest and deliberate attention of Congress. In view of the paramount importance of this great question, the Secretary deems it to be his duty briefly to discuss the measures regarded by him to be necessary for an early and wise disposition of it, even at the risk of a repetition of what he has said in previous communications to Congress.

The measures regarded by him as important, if not indispensable for national prosperity, and as a consequence for a permanent resumption, are:

First. The funding or payment of the balance of interest-bearing notes, and a continued contraction of the paper currency.

By the act of March 2, 1867, the Secretary was authorized and directed to issue three per cent. loan certificates to the amount of \$50,000,000, for the purpose of redeeming and retiring compound interest notes; and such certificates, on the 1st instant, had been issued to the amount of \$11,560,000, in redemption of the notes becoming due in October and December. The notes still outstanding will be either taken up with certificates or paid at maturity. The seven and three-tenth notes being payable in lawful money or convertible at the option of the holders into five-twenty bonds will be paid or converted according to the terms of the contract. Fortunately all the interest-bearing notes are to be paid or converted within eleven months, and they need not therefore be regarded as a serious impediment to a return to the true standard of value. As to the redemption of these notes, and the manner in which they should be redeemed, there cannot of course be much difference of opinion. It is in regard to a contraction of the currency, and upon which of the two kinds of currency—United States notes or the notes of the national banks—contraction should be brought to bear that a difference of sentiment seems to exist.

In his report to Congress under date of the 4th of December, 1865, the Secretary pre-

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sented as fully and as clearly as he was able to do his views upon the subject of the currency and the necessity of action for the purpose of bringing about a return to specie payments. The views thus presented by him were approved by the House of Representatives on the 8th of December, 1865, by the adoption of the following resolution, by the decisive vote of 144 to 6:

"Resolved, That this House cordially concurs in the views of the Secretary of the Treasury in relation to the necessity of a contraction of the currency, with a view to as early a resumption of specie payments as the business interests of the country will permit; and we hereby pledge cooperative action to this end as speedily as practicable."

Among the views thus emphatically indorsed were the following:

"The right of Congress, at all times, to borrow money and to issue obligations for loans in such form as may be convenient is unquestionable; but their authority to issue obligations for a circulating medium as money, and to make these obligations a legal tender, can only be found in the unwritten law which sanctions whatever the representatives of the people, whose duty it is to maintain the Government against its enemies, may consider in a great emergency necessary to be done. The present legal-tender acts were war measures, and, while the repeal of those provisions which made the United States notes lawful money is not now recommended, the Secretary is of the opinion that they ought not to remain in force one day longer than shall be necessary to enable the people to prepare for a return to the constitutional currency."

The reasons which are sometimes urged in favor of United States notes as a permanent currency are the saving of interest and their perfect safety and uniform value.

The objections to such a policy are, that the paper circulation of the country should be flexible, increasing and decreasing according to the requirements of legitimate business, while, if furnished by the Government, it would be quite likely to be governed by the necessities of the Treasury or the interest of parties rather than the demands of commerce and trade. Besides, a permanent Government currency would be greatly in the way of public economy, and would give to the party in possession of the Government a power which it might be under strong temptation to use for other purposes than the public good—keeping the question of the currency constantly before the people as a political question, than which few things would be more injurious to business.

"While, therefore, the Secretary is of the opinion that the immediate repeal of the legal-tender provisions of the acts referred to would be unwise, as being likely to affect injuriously the legitimate business of the country, upon the prosperity of which depend the welfare of the people and the revenues which are necessary for the maintenance of the national credit, and unjust to the holders of the notes, he is of the opinion that not only these provisions, but the acts also, should be regarded as only temporary, and that the work of retiring the notes which have been issued under them should be commenced without delay, and carefully and persistently continued until all are retired."

"The rapidity with which the Government notes can be withdrawn will depend upon the ability of the Secretary to dispose of securities. The influences of funding upon the money market will sufficiently prevent their too rapid withdrawal. The Secretary, however, believes that a decided movement toward a contraction of the currency is not only a public necessity, but that it will speedily dissipate the apprehension which very generally exists that the effect of such a policy must necessarily be to make money scarce and to diminish the prosperity of the country. It is a well-established fact, which has not escaped the attention of all intelligent observers, that the demand for money increases (by reason of an advance of prices) with the supply, and that this demand is not unfrequently most pressing when the volume of currency is the largest and inflation has reached the culminating point. Money being an unprofitable article to hold, very little is withheld from active use, and in proportion to its increase prices advance; on the other hand, a reduction of it reduces prices, and as prices are reduced the demand for it falls off; so that, paradoxical as it may seem, a diminution of the currency may in fact increase the supply of it."

"Nor need there be any apprehension that a reduction of the currency—unless it be a violent one—will injuriously affect real prosperity. Labor is the great source of national wealth, and industry invariably declines on an inflated currency."

After discussing this subject at considerable length, sustaining his views by a reference to the experience of the country under previous inflations of the currency, the Secretary concludes his remarks as follows:

"Every consideration, therefore, that has been brought to the mind of the Secretary confirms the correctness of the views he has presented. If the business of the country rested upon a stable basis, or if credits could be kept from being still further increased, there would be less occasion for solicitude on this subject. But such is not the fact. Business is not in a healthy condition; it is speculative, fever-

ish, uncertain. Every day that contraction is deferred increases the difficulty of preventing a financial collapse. Prices and credits will not remain as they are. The tide will either recede or advance, and it will not recede without the exercise of the controlling power of Congress."

These views were not only approved by the House of Representatives, but they seemed at the time to be heartily responded to by the people. By the act of April 12, 1866, the Secretary was authorized to receive Treasury notes and other obligations of the Government, whether bearing interest or not, in exchange for bonds, with a proviso that of United States notes not more than \$10,000,000 should be canceled within six months from the passage of the act, and thereafter not more than \$4,000,000 in any one month. This proviso, while it fixed a limit to the amount of notes which should be retired per month, so far from indicating an abandonment of the policy of contraction, confirmed and established it. To this policy (although for reasons that seemed to him to be judicious the regular monthly reduction has not always been made) the action of the Secretary has been conformed, and the effect of it has been so salutary, and the continuation of it would be so obviously wise, that he would not consider it necessary to say one word in its favor were there not indications that, under the teachings of the advocates of a large and consequently a depreciated currency, such views are being inculcated as, if not corrected, may lead to its abandonment.

Money is simply a medium of exchange and measure of value. As a medium it facilitates exchanges, and by doing this necessarily stimulates production. It does not follow, however, that exchanges are facilitated and production stimulated in proportion to its increase. It is a measure of value, but it does not necessarily create values. It is an indispensable agent in trade between individuals, and in commerce between nations; the great incentive to enterprise and labor in the wide range of human energy and skill; but, great as is its power, and essential as it is to the progress of the race in civilization and refinement, there are limits beyond which its volume cannot be extended without a diminution of its usefulness. A certain amount is required for facilitating exchanges and determining values. The exact amount required cannot of course be accurately determined, but the excess or deficiency of money in a country is always pretty accurately indicated by the condition of its industry and trade. In all countries there is just as much money needed as will encourage enterprise, give employment to labor, and furnish the means for a ready exchange of property, and no more. Whenever the amount in circulation exceeds the amount required for these purposes, the fact will become apparent by a decline of industry, an advance of prices, and a tendency to speculation. Especially will this be the case when an irredeemable currency becomes the standard of value by being made a legal tender. Coin, being the circulating medium of the world, flows from one country to another in obedience to the law of trade, which prevents it from becoming anywhere, for any considerable period, excessive in amount; when this law is not interfered with by legislation, the evils of an excessive currency are corrected by the law itself. An increase of money beyond what is needed for the purposes above named, according to all experience, not only inflates prices, but diminishes labor; and coin, as a consequence, flows from the country in which the excess exists to some other where labor is more active and prices are lower: to flow back again when the loss by one country and the gain by another produce the natural results upon industry and production. Thus coin is not only the regulator of commerce but the great stimulator of industry and enterprise.

The same may be said of a convertible paper currency, which, by being convertible, will not

for any considerable period be excessive; but it is rarely if ever true of an inconvertible currency, which is necessarily local, and would not be likely to be inconvertible if it were not excessive, and by being excessive and inconvertible is fluctuating and uncertain in value. The only possible exception to this rule would be found in the limitation of the amount in circulation to what might be absolutely required in the payment and disbursement of the public revenues. No matter what laws may be enacted to give credit and value to it, an irredeemable currency must, unless limited as above stated, always be a depreciated currency. The attempt to give value to paper promises by making them lawful money is not original with the United States. The experiment has been tried by other nations, and generally with the same injurious if not disastrous results. Indeed, with rare exceptions, nations that have commenced the direct issue of paper money have continued to issue it until prevented by its utter worthlessness. There may be no danger that this will be true of the United States; but there will always be ground for apprehension as long as an irredeemable and depreciated currency is not regarded as an evil—an evil to be tolerated only so long as may be necessary to retire it without great derangement of legitimate business. Inconvertible and depreciated lawful money is an agreeable but demoralizing deception. It is agreeable because it is plentiful, and because it deludes by the creation of apparent wealth. It is demoralizing by familiarizing the public mind with dishonored obligations. The prices of most kinds of property in the United States advanced near three fold during the war, but this advance was mainly the result of the increase of the circulating medium, and in reality only indicated its depreciation. The purchasing power of the money in circulation was diminished in the ratio that its volume was increased. The farmer, for example, received three dollars a bushel for his wheat, but, except for the payment of debts, these three dollars were of no more value to him than one dollar was before the suspension of specie payments.

The same was true of other kinds of property and other labor. The advance, except so far as it was the result of an increased demand, was apparent only and unreal. The same cause is sustaining prices at the present time, and will continue to do so as long as the cause exists, but the advantages resulting from it are merely imaginary, while the evils are positive and actual. No sane man supposes that his own wealth, or the wealth of the nation, is increased by the depreciation of the standard by which it is measured. If the paper circulation of the United States should be doubled during the next year, and the prices of property should be likewise doubled, would it be imagined that the real value of property would be thus advanced? Or, if the paper currency should, during the same period, be reduced fifty per cent., and prices of property should decline correspondingly, would it follow that the real value of property would thus decline? In the one case the value of the currency would be reduced in proportion to its increase in amount; in the other the currency would be increased in value as it was diminished in amount. The increase or decrease of prices would, if no counteracting causes intervened, be the natural result of the increase or decrease of the measure of value, while real values remained unchanged.

The United States notes were made a legal tender and lawful money because it was thought that this character was necessary to secure their currency. By reference to the first debates of Congress upon the subject it will be noticed that those who advocated their issue justified themselves on the ground of necessity. No one who spoke in favor of the measure favored it upon principle or hesitated to express his

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apprehensions that evil consequences might result from it. But the Government was in peril, the emergency was pressing, necessity seemed to sanction a departure from sound principles of finance, if not from the letter of the Constitution, and an inconvertible currency became the lawful money of the country. While the action of Congress, in authorizing the issue of these notes, seemed necessary at the time, and was undoubtedly approved by a large majority of the people, there can now, in the light of experience, be no question that the apprehensions of those who advocated the measure as a necessity were well founded. Had they not been made a legal tender, the amount in circulation would not have been excessive, and the national debt would doubtless have been hundreds of millions of dollars less than it is. The issue would have been stayed before a very large amount had been put in circulation, not because the notes would have been really more depreciated by not being made lawful money, but because their depreciation would have been manifest. By being made lawful money they became the legalized measure of value—a substitute for the precious metals—which, as a consequence, were at once demonetized and converted into articles of traffic. Made by statute a legal tender, they were of course popular with those who had debts to pay or property to sell; costing nothing, and yet seemingly adding to the value of property, supplying the means for speculation and for creating an artificial and a delusive prosperity, it is an evidence of the wisdom of Congress that the issue was stopped before the notes had become ruinously depreciated and the business of the country involved in inextricable difficulties.

But although the issue of these notes was limited, and we thus escaped the disasters which would have overwhelmed the country without such limitation, it can hardly be doubted that the resort to them was a misfortune. If this means of raising money had not been adopted bonds would have undoubtedly been sold at a heavy discount, but the fact that they were thus sold, without debasing the currency, would have induced greater economy in the use of the proceeds, while the discount on the bonds would scarcely have exceeded the actual depreciation of the notes below the coin standard. As long as notes could be issued and bonds could be sold at a premium or at par, for what the statute made money there was a constant temptation to liberal if not unnecessary expenditures. Had the specie standard been maintained and bonds been sold at a discount for real money there would have been an economy in all the branches of the public service which unfortunately was not witnessed, and the country would have escaped the evils resulting from a disregard of the great international law, which no nation can violate with impunity, the one that makes gold and silver the only true measure of value. The financial evils under which the country has been suffering for some years past, to say nothing of the dangers which loom up in the future, are in a great degree to be traced to the direct issues by the Government of an inconvertible currency with the legal attributes of money.

Upon the demoralizing influences of an inconvertible Government currency it is not necessary to enlarge. They are forced upon our attention by every day's observation, and we cannot be blind to them if we would. The Government is virtually repudiating its own obligations by failing to redeem its notes according to their tenor. These notes are payable to bearer on demand in dollars, and not one of them is being so paid. It is not to be expected that a people will be more honest than the Government under which they live, and while the Government of the United States refuses to pay its notes according to their tenor, or at least as long as it fails to make proper effort to do so, it practically teaches to the people the doctrine of repudiation.

The general financial legislation and the administration of the finances during the war reflect the highest credit upon Congress and the distinguished gentlemen then at the head of the Treasury Department. They have commanded the admiration of intelligent and impartial men at home and abroad. In speaking thus plainly of the legal-tender notes, the Secretary must not, therefore, be understood as indulging in the language of criticism. His object is neither to criticize nor to condemn what has been done, but to express his decided conviction of the danger of a repetition or a perpetuation of what experience has shown to have been, in a single but important matter, unfortunate legislation.

If the views thus presented are correct, there can be no question that there is still an excess of paper money in the United States, and that the legal-tender notes are an obstacle, and unless reduced in amount must continue to be an obstacle to a return to a stable currency.

In opposition to these views it is urged by many intelligent persons that as the credit system has been very much curtailed since 1861, and sales are made chiefly for cash, a much larger amount of currency is required than formerly for the convenient transaction of business; that there is in fact no excess of money in the United States, but that on the contrary an increase is required to move the crops, encourage enterprise, and give activity to trade. As an evidence of the correctness of this opinion, reference is made to the "tightness of the money market" in the commercial cities, and the scarcity of money in the agricultural districts.

It is undoubtedly true that the effect of a curtailment of credits would have been to increase the legitimate demand for currency, if no other means had intervened to counteract the effect of it. But such means have intervened. In all the cities and towns throughout the country, checks upon credits in banks, and bills of exchange, have largely taken the place of bank notes. Not a fiftieth part of the business of the large cities is transacted by the actual use of money, and what is true in regard to the business of the chief cities is measurably true in regard to that of towns and villages throughout the country. Everywhere bank credits and bills of exchange perform the offices of currency to a much greater extent than in former years. Except in dealings with the Government, for retail trade, for the payment of labor and taxes, for traveling expenses, the purchase of products at first hand, and for the bankers' reserve, money is hardly a necessity. The increased use of bank checks and bills of exchange counterbalances the increased demand for money resulting from the curtailment of mercantile credits. That money is in demand, and is commanding full rates of interest, is true, but this does not indicate a scarcity of it. The rates of interest in England and France have rarely been as low as within the last four months, and yet for commercial or manufacturing purposes money has not often been so difficult to be obtained. The speculative reaction or overproduction of manufactures, together with apprehensions of political troubles, have caused business to be sluggish and unprofitable, and made capitalists cautious and timid. Thus, in those countries, money was never more plentiful, and yet apparently never more scarce. Its apparent scarcity in the United States is attributable to high prices, to its uncertain value, and to its inactivity.

Money by no means becomes abundant by an increase or scarce by a diminution of its volume. The reverse is more likely to be true, especially when, as is generally the case, high prices are speculative prices, and prevent activity in exchanges. Money is in demand at the present time, not so much to move crops as to hold them—not to bring them at reasonable prices within the reach of consumers, but to withhold them from market until a large

advance of prices can be established. Let the great staples of the country come forward and be sold at market prices, at such prices as, while the producer is fairly remunerated, will increase consumption and exports—let capitalists be assured that progress toward a stable basis is to be uninterrupted—and money, now considered scarce, will be found to be abundant. The actual legitimate business of the country is not larger than it was in 1860, when three hundred millions of coin and bank notes were an ample circulating medium, and when an addition of fifty millions would have made it excessive. Throughout a considerable portion of the best grain-growing sections of the United States there has been during the past year great complaint of a scarcity of money, and yet no single article of agricultural product, except wool, was to be sold there for which there was not a purchaser at more than remunerating, if not exorbitant, prices. There was no lack of money in these sections, but a lack of products to exchange for it. The hard times complained of were the consequence of short crops, and not of deficient circulation. To the farmer who had little to sell and much to buy, an increase of the circulation would have been an injury; a curtailment of it a benefit. And yet by men in such circumstances the policy of contraction has met with a condemnation second only to that which it has received at the hands of speculators in stocks.

Next to the stock board of the commercial metropolis, the opposition to the policy of contraction has been most decided in those sections where, by reason of short crops, the people have been less prosperous than heretofore. Unfortunately, in the same sections, the harvest has been again unsatisfactory, and the demand not only for a cessation of contraction but for an increase of paper money, may thus be more pressing than ever. This demand, no matter from what quarter it comes or by what interest sustained, should, in the opinion of the Secretary, be inflexibly resisted by Congress. To increase the volume of paper money for the purpose of giving relief to the country, would be to foster the cause in order to cure the disease. To stay the process of contraction this year will but prepare the way for an increase of circulation the next. Whenever the policy of reducing the paper circulation of the country, with the view of a return to specie payments, shall be abandoned, it is to be apprehended that the demand for an increase will be irresistible, and that the country will plunge into bankruptcy. The specie standard must be sooner or later restored. Whether this shall be accomplished by elevating the currency by lessening its volume, or after lessening its value by increasing its volume, it is for Congress to determine. That this question will be determined promptly and wisely the Secretary is not permitted to doubt. Some progress has been made in the right direction during the past year, but there is still in the United States a plethora of paper money. If this is not so, how happens it that coin commands a premium of some forty per cent. over legal-tender notes?—that a high tariff has proved powerless to prevent excessive importations?—that capitalists hesitate in regard to the uses to which they shall put their surplus means?—that business is speculative and uncertain?—that expenses of living are driving thousands into crime and making dishonesty excusable, while honorable men of limited means are indignantly and justly complaining that they cannot live on incomes that formerly gave them a handsome support? Money may be inactive, but it is not scarce. Its inactivity is in fact the result of its uncertain value. With a circulation that is to-day at a discount of thirty per cent., and which may by a change of policy be increased to sixty per cent. within the next year, with what safety can men engage in enterprises which look into the future, and

which are needed to develop the slumbering resources of the country? Let the paper dollar truly represent the dollar in coin. Let men of capital and enterprise feel that the currency has come, or is steadily coming to the "hard-pan" of specie, and there will be a stimulus given to enterprise and labor which will banish all complaints of a scarcity of money.

If, then, it be admitted that the paper circulation is excessive, the question arises why should not the contraction be applied to the notes of the national banks instead of the United States notes, and thus a large saving of interest to the Government be effected? This question has already been answered inferentially, but its importance requires that it shall receive more definite consideration.

Prior to 1863 the banking institutions of the country, with the exception of the Bank of the United States, were created by the States, and were subject to State authority alone. They were State institutions, over which the General Government exercised no control. The right of the States to create and to manage them had been so long conceded that no interference with them by Congress, and no decision of the courts adverse to the constitutionality of their issues were apprehended.

Soon after the commencement of war it became manifest that a system of internal taxation must be adopted for the support of the Government and the maintenance of its credit, and that this would involve the necessity of a national currency of uniform value and undoubted solvency. To meet this necessity (United States notes being then regarded as only a temporary expedient) the national banking system was created, not to destroy the State banks nor injuriously to affect their business, but to furnish through their agency and that of new institutions which might be organized under it a permanent national bank note circulation. Had it been supposed that the object of those who advocated the measure was to bring the State banks under the control of the Federal Government for the purpose of destroying them, or that such would be its effect, it would never have been adopted. No such object was avowed or intended by its friends, and no such effect was anticipated by the banks. With that spirit of patriotism which was so marked a characteristic of the people of the North during the war, the stockholders of the State banks relinquished, at the request of the Government, the greater privileges possessed by them under State laws, and in connection with the new banks organized under the law became efficient aids in negotiating the public loans and sustaining the public credit. To all banking systems under which circulating notes are issued there are grave objections, and if there were none in existence in the United States the Secretary would hesitate to recommend or to indorse even the most perfect that has been devised.

The question now to be considered, however, is not whether banks of issue should be created, but whether the national banking system should be sustained. In the present condition of the country, and in view of the relations that the national banks sustain to the Government (ignoring in this connection the question of good faith) the Secretary has no difficulty in coming to the conclusion that they should be sustained. They are so interwoven with all branches of business, and are so directly connected with the credit of the Government, that they could not be destroyed without precipitating upon the country financial troubles which it is now in no condition to meet. At some more propitious period, when the Union shall have been fully restored, and all the States shall have attained that substantial prosperity which their great resources and the energy of their people must sooner or later secure for them, it may perhaps be wise for Congress to consider whether the national banking system may not

be dispensed with. The present is not a favorable time to consider this question. The condition of our political and financial affairs is too critical to justify any action that would compel the national banks, or any considerable number of them, to call in their loans and put their bonds upon the market for the purpose of providing the means of retiring their circulation. Conservative legislation is now indispensable. The public mind is too sensitive, business is too unsteady, and the political future is too uncertain to warrant any financial experiments. Fortunately none are required. The national banking system has accomplished all and more than was anticipated by its advocates. It has furnished a circulation, depreciated it is true, like the United States notes, but solvent beyond question, and current throughout the Union. It has prevented bank note panics and saved note holders from losses. It has aided in regulating domestic exchanges, and furnished the Government with valuable financial agents. Had it not been adopted State banks would have continued, as long as they were tolerated, to furnish the country with bank notes.

In most of the States banks were not required to deposit stock for the security of their notes, and in those States where security was required there was no limit to the amount of bonds that might be deposited, and consequently no limit to the amount of notes that might be put in circulation. In other States there was no security beyond the capitals of the banks, frequently unreal, and the partial liability of stockholders generally deceptive. Who can estimate the extent of the injury which the people and the Government would have sustained if State institutions, without any other restrictions than were enforced by State laws, had been permitted during the war to occupy the field? All having suspended specie payments, and thereby been relieved from the necessity of furnishing evidence of solvency, banks unwisely or dishonestly managed would have stood on a level with those which were managed wisely and honestly. While the latter would have found it difficult to keep their issues within reasonable limits, stimulated as they would have been to issue freely, by the necessities of the Government and the increasing demand for money, which is always the result of an increased supply, the former would have poured out their irredeemable promises until distrust created panic and panic disaster. That the national banking system, with its limited and secured circulation, and its restricted provisions, by superseding the State systems, has prevented a financial crisis, there can be but little doubt. For this it is entitled to credit; and for this and for other reasons suggested it should be sustained until a better system shall be devised, or the country is in a condition to dispense with banks of issue altogether.

The arguments in favor of compelling the banks to retire their notes, and yielding the field to the notes of the Government, are based upon the supposition that if \$300,000,000 of United States notes were substituted for the \$300,000,000 of national bank notes now in circulation the Government would save some eighteen million dollars in interest which is now a gratuity to the banks. That there would be no such saving, nor any saving, by the proposed substitution is clearly shown by the Comptroller of the Currency in his accompanying report, to which the attention of Congress is especially asked. If an account were opened with the banks, and they were charged with the interest on \$300,000,000, and the losses sustained through those that have failed, and credited with the interest on the United States notes held by them as a permanent reserve, the taxes paid by them to the Government and the States, and with a commission covering only what has been saved in transferring and

disbursing public money, it would be ascertained that the banks were not debtors to the United States. It is not necessary, however, for the Secretary to dwell on this point, as his main objection to the substitution would not be removed if a saving of interest would be effected by it. Regarding, as he does, the issue of the United States notes in the first instance as having been a misfortune, and their continuance as a circulating medium, unless the volume shall be steadily reduced, as fraught with mischief, the Secretary can conceive of no circumstances that would justify a further issue.

These depreciated but legal-tender notes, notwithstanding the reduction that has taken place, still stand in the way of a return to specie payments; a substitution of them for bank notes would be regarded by him and by the country as a declaration that resumption had been indefinitely postponed. If those now outstanding shall be retired at the rate of only \$4,000,000 per month, the amount in actual circulation will soon be so reduced that they may not seriously retard the restoration of the true measure of value. If, on the contrary, under any pretense, or for any purpose whatever, their volume should be increased, especially if they should be made the sole paper circulation of the country, a false measure of value will be continued, speculation will be stimulated, industry will decline, and the great risk be incurred that financial health will only be obtained by a revolution, the effect of which upon the material interests and credit of the country no one can estimate. Such a revolution the Secretary is most anxious to prevent; and he therefore cannot approve the proposition of substituting the notes of the United States for those of the national banks, but recommends that the policy of contraction be continued.

The apprehension that this policy will embarrass healthy trade is in his judgment unfounded. Legitimate business has not suffered by the curtailment which has taken place within the last two years, nor will it permanently suffer by such a contraction, prudently enforced, as may be necessary to bring the precious metals again into circulation. What business requires is a stable currency. What enterprise demands is the assurance that it shall not be balked of its just rewards by an unreliable measure of value. It is frequently urged by those who admit that the currency is redundant, that the country is not now in a condition to bear further contraction; that its growth will soon render contraction unnecessary; that business, if left to itself, will rapidly increase to such an extent as to require the \$888,000,000 of United States notes and fractional currency, and the \$300,000,000 of bank notes, now outstanding, for its proper and needful accommodation. Nothing can be more fallacious than this unfortunately popular idea. An irredeemable currency is a financial disease which retards growth instead of encouraging it; which stimulates speculation but diminishes labor. A healthy growth is to be secured by the removal of the disease, and not by postponing the proper treatment of it in the expectation that the vigorous constitution of the patient will eventually overcome it.

The next subject to be considered, in connection with the permanent resumption of specie payments, is the maintenance of the public faith, which involves the necessity of wise and stable revenue laws, impartially and rigorously enforced; economy in the public expenditures; and a recognition of the obligation of the Government to pay its bonds in accordance with the understanding under which they were issued.

The remarks of the Secretary in this report upon the subject of the public revenues must necessarily be brief and general. Fortunately the accompanying reports of the commissioners of the revenue are so full and exhaustive as to

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render any elaborate discussion of this great subject on his part unnecessary.

The power to tax is one of the most important powers exercised by Governments. To tax wisely, so as to raise large revenues without oppressing industry, is one of the most difficult duties ever devolved upon the law-making power. Taxation can never be otherwise than burdensome, and it becomes especially so when subject to frequent changes. It is, therefore, of great importance that revenue laws should be stable. By this it is not meant that they should be unchangeable, but that while, from time to time, they may be modified to meet the changing condition of the country, the principles upon which they are based should be so wise and just as to give to them permanency of character. Perhaps as much mischief has resulted from the frequent changes in the tariff laws of the United States as from their defects. From the time when the first tariff was framed in 1789 up to the last session of Congress the tariff has been a fruitful subject of discussion, and at no period has the policy of the Government in regard to customs duties been regarded as definitely settled. There has been a constant struggle between the advocates and opponents of protection and free trade, the ascendancy generally being with the protectionists. The tariffs of 1816, of 1824, of 1828, 1842, and 1861, were all of a highly protective character. Those of 1833 and 1846 reduced the duties largely, and looked in the direction of free trade. So evenly, however, have parties been divided, that although protective laws have generally been in force, at no period from 1789 to the present day have importers and manufacturers had any reasonable assurances that existing tariff laws might not be suddenly and materially altered. That the effect of these changes—actual and apprehended—has been highly injurious to the country cannot be questioned; that it has not been disastrous indicates the readiness of the people of the United States to adapt their business to the policy of the Government, whatever it may be.

The frequent changes of the tariff laws are attributable to the fact that in none of them has a revenue been the principal object. There has never been in the United States a strictly revenue tariff, and consequently there has been no stability in the tariff laws. Up to 1861 the revenues from customs, under any scale of duties adopted, were sufficient to defray the expenses of the Government, and therefore the question, now so interesting, was hardly a prominent one. In the present financial condition of the country large revenues are indispensable, and in adjusting the present tariff the question of revenue must necessarily be the question of paramount importance.

When the Government was substantially free from debt, and the public expenditures were small, as was the case before the rebellion, a revenue tariff properly adjusted to the public necessities would have been a low tariff. But now, when a heavy debt and liberal expenditures create a necessity for large revenues, a considerable portion of which must, for some years to come, be derived from customs, it is difficult to perceive how, without excessive importations, a strictly revenue tariff can fail to be a high one. It may thus turn out that the necessities of the Government may give incidentally to American manufacturers the protection they are supposed to require without special legislation—always odious and generally unreliable—in their behalf. Inasmuch as large and permanent revenues cannot be realized unless laws are so framed as not to bear heavily upon industrial pursuits, a tariff which, harmonizing with internal taxes, should year by year yield the largest revenues would undoubtedly prove to be the least prejudicial to national growth and prosperity.

A high tariff, by reducing importations, or by oppressing important branches of trade and

industry which are subject to internal duties, might prove to be as unfavorable to revenue as a low one, and equally unsuited to the public necessities. The present tariff, although a high one, has not proved to be protective, while for the past two years it has been highly productive of revenue; but its failure to protect those interests for whose benefit it was in a great measure framed, and the large revenues which have been derived from it, do not prove it to be in any just sense a revenue tariff. It has failed to give to American manufacturers the protection it was intended to afford, and it has yielded much larger revenues than were anticipated, because the high prices prevailing in the United States have stimulated importations. It does not follow because it is producing large revenues now that it will continue to do so when business and the currency shall be restored to a healthy condition. The time will soon come when the United States will cease to be the most favorable country to sell in, and when it must pay for what it purchases, not in its bonds but in its own productions. In order that the present tariff should be a revenue tariff, important modifications will be necessary, which cannot be intelligently made until business ceases to be subject to derangement by an irredeemable currency. The Secretary does not, therefore, recommend a complete revision of the tariff at the present session; but there are some features of it, and some matters connected with it, which require early attention.

The experience of the Department discloses many disadvantages attendant upon the collection of duties on imports when the rates are high and estimated on an *ad valorem* basis. For the collection of such duties, machinery more or less complicated is necessary for the verification abroad of invoices of importations and for the examination and appraisal of merchandise on its arrival in this country. In every instance a comparison is required between the invoice estimate and the general value in the principal markets of the country whence a commodity is exported. The difficulty of ascertaining the foreign market value, especially in cases where a commodity is manufactured expressly for exportation, affords tempting opportunities for successful undervaluation, and the high rates of duty offer inducements for evasion more than commensurate with the risk of detection.

Since the passage of the tariff act of March 2, 1861, the rates of duty which from 1846 to that period were exclusively *ad valorem* have on many articles been specific. The system of specific duties appears to have given much satisfaction to honorable dealers and to officers of the customs for the ease with which the character and quantity of merchandise imported can be determined; for the uniformity with which duties may be assessed at different ports; and particularly as it precludes the possibility of fraudulent undervaluations. Without recommending an exclusive adoption of specific duties the Secretary would suggest for the consideration of Congress whether the system might not with propriety be extended to all commodities on which the duty bears a large proportion to the value, or of which the foreign market price is subject to great fluctuations, or is from other causes with difficulty ascertained. The special commissioner of the revenue will in his report present the result of his investigations as to the extent to which the *ad valorem* rates of the present tariff can be advantageously converted into corresponding specific duties.

Our commercial relations with Spain and her colonies under the acts of July 13, 1832, and June 30, 1834, particularly so far as they relate to trade with Cuba and Porto Rico, have been many years the source of much perplexity and have given rise to frequent discussions. The acts above cited were designed as retaliatory

measures to induce by a sort of coercion a relaxation of the extreme protective system adopted by Spain in relation to her colonial trade. Not only have they entirely failed to produce the desired effect, but their operation has proved on the contrary positively injurious to our interest in every respect. Their effect, in connection with Spanish exactions, has been to drive the greater part of Cuban and Porto Rican trade from our markets to others where the same policy does not prevail.

The countervailing system thus brings no benefit to our shipping interests and largely curtails our commerce, which, considering the proximity of these islands, should include the greater part of their foreign traffic. It is, therefore, worthy of grave consideration whether sound, enlightened policy does not dictate the repeal at least of the act of 1834.

Recommendations to this effect have been at various times made to Congress by my predecessors, particularly Mr. Walker, in 1849, and in 1852 by Mr. Corwin. The experience of the past fifteen years has fully justified the views then expressed.

The shipping interest of the United States to a great degree prostrated by the war has not revived during the past year. Our ship-yards are, with rare exceptions, inactive. Our surplus products are being chiefly transported to foreign countries in foreign vessels. The Secretary is still forced to admit, in the language of his last report, "that with unequalled facilities for obtaining the materials, and with acknowledged skill in ship-building, with thousands of miles of sea-coast, indented with the finest harbors in the world, with surplus products that require in their transportation a large and increasing tonnage, we can neither profitably build ships nor successfully compete with English ships in the transportation of our own productions."

No change for the better has taken place since that report was made. On the contrary, the indications are that the great ship-building interest of the eastern and middle States has been steadily declining, and that consequently the United States is gradually ceasing to be a great maritime Power. A return to specie payments will do much, but will not be sufficient, to avert this declension and give activity to our ship-yards. The materials which enter into the construction of vessels should be relieved from taxation by means of drawbacks; or if this may be regarded as impracticable, subsidies might be allowed as an offset to taxation. If subsidies are objectionable, then it is recommended that all restrictions upon the registration of foreign-built vessels be removed, so that the people of the United States who cannot profitably build vessels may be permitted to purchase them in the cheapest market. It is certainly unwise to retain upon the statute-books a law restrictive upon commerce when it no longer accomplishes the object for which it was enacted. This subject is one of great interest to the whole country. The attention of Congress is again earnestly called to it.

The special commissioner of the revenue since the adjournment of the Thirty-Ninth Congress has been actively engaged in the wide range of duties assigned to him by law, and, under the direction of the Secretary, has devoted a portion of his time to a personal study and examination of the revenue system and industrial condition of Great Britain and the leading countries of Europe. The result of his investigations will be transmitted to Congress at an early day. In his report the commissioner will discuss the subject of Government expenditures as bearing upon the question of abatement of taxes, the present industrial condition and recent progress of the country, the prices of labor and of raw material at home and abroad, the revision of the internal revenue system both as respects administration and specific taxation, and the rela-

tions of the present tariff revenue and domestic industry. This report, and that of the Commissioner of Internal Revenue, which presents his views in regard to what is needed to relieve the excise from some of its most burdensome features and secure greater efficiency in the administration of the law, will be found to be so able and complete as to make it quite unnecessary, as before suggested, for the Secretary to do more than to commend them to the attention of Congress.

While the amount of revenue to be raised by internal taxes must continue to be large it is evident that many articles now taxable must be relieved from taxation in order that the number of revenue officers may be reduced, duplication of taxes avoided, and the system rendered less obnoxious to tax-payers. It is also evident that the administration of the law must be more efficient than it is at present if the service is to escape utter demoralization. The internal revenues of the past year would have largely exceeded the estimates but for the failure of the revenue officers to collect the taxes upon distilled liquors. The failure is well known to the country, and has been the cause of deep regret and not a little humiliation to the Secretary as well as to the Commissioner.

The duty upon distilled liquors is so high that there has been a temptation to avoid its payment, which has, to a great extent, demoralized both the manufacturers and the officers of the revenue. A tax of two dollars per gallon upon an article which can be made for thirty cents would be a difficult tax to collect even in a small country, where appointments to revenue positions depend upon merit alone, and where dishonesty is promptly and severely punished; it is especially difficult in a country so vast as the United States, where politics are apt to influence, if not to control, selections for office, and where skill in evading the requirements of revenue laws is not among the least decided characteristic of the people. The Secretary is not of the opinion that this tax cannot be collected, but he does not hesitate to say that even if the meter which has been adopted and is intended to be brought into general use shall accomplish what is expected from it, the collection of so heavy a tax with thoroughness will be impossible unless a higher standard of qualification for revenue officers than now exists shall be established. The views of the revenue commissioners on this point are worthy of especial consideration.

The necessity of economy in the public expenditures in the present financial condition of the country is so apparent that no suggestions from the Secretary are needed to impress it upon the attention of Congress. Taxation is weighing heavily upon the people, and they have a right to demand, and they are demanding, that their necessary burdens shall not be increased by unnecessary expenditures. Public economy is, in all nations, a rare virtue, and it is a singular truth that nations which are most deeply in debt, and whose affairs ought, therefore, to be most prudently managed, are the very nations where the least economy is observed. This truth, so interesting and instructive to the people of the United States at the present time, is largely attributable to the well-known facts that the contracting of large public debts is unavoidably attended with imprudent if not reckless expenditures and that when those entrusted with or possessing governing power have once enjoyed the luxury of using or expending freely the moneys under their control (and this is always the case during the progress of expensive wars) proper economy is afterward exceedingly difficult to be enforced. Thus national debts become chronic, and efforts to reduce them are rarely successful. The debts of nations the most heavily burdened, instead of being stationary, or on the increase, might be in the

process of rapid extinction if the same economy were practiced now that was practiced before their debts came into existence.

It is of the last importance that the debt of the United States should not, like that of most other nations, be perpetuated by habits formed during the period of its creation. It is large, but fortunately it has not yet become chronic. It was incurred under the pressure of a war so vast and so momentous that economy was in a large degree lost sight of in the absorbing public interest which it excited. It is undeniably formidable in amount, but the experiences of the past two years, during which, under the most unpropitious circumstances, it has been largely diminished, must satisfy the least sanguine that the reduction of it can be continued, and that even with diminished taxation it can be totally extinguished within the present century if a rigid economy, which, perhaps, could not be practiced during the war, and, unfortunately, has not been practiced since, is hereafter faithfully enforced in all branches of the public service. Extravagance in the administration of the Government has not become so fixed as to be beyond correction. There is no substantial difficulty in the way of public economy now, but there may be a few years hence. It is not proper, perhaps, for the Secretary of the Treasury to advise in regard to the precise manner in which this economy shall be enforced, but he ventures to suggest: that the Army, at the earliest practicable moment, be reduced to the *minimum* required to garrison forts and preserve the peace on the frontiers and along the lines of the Pacific roads; that the expenses of the Navy be reduced, as far as can be done consistently with the protection of our commerce and the maintenance of our reputation as a maritime Power; that retrenchment be introduced into all branches of the civil service; that there be no payments of damages which were the unavoidable incidents of war; that there be no additional grants to railroads, and no considerable donations of any character unless in connection with the appropriation a special tax shall be levied for their payment.

But the public faith does not depend alone upon adequate revenue laws, nor upon economy in the administration of the Government. It rests also upon the observance of contracts in the spirit as well as in the letter. In fact, without this there will be neither efficient administration of revenue laws nor economy in expenditures. Nothing but absolute insolvency will save from the infamy of repudiation a nation that does not pay its debts according to the understanding at the time they were contracted; and when a nation voluntarily violates this understanding it will soon be unable, from the very effect of its own example, to enforce its revenue laws; and its expenditures will only be checked by its inability to collect. How much of the demoralization which exists in the revenue service of the United States is attributable to the failure of the Government to redeem the legal-tender notes according to their tenor, would be an interesting subject of inquiry, but hardly appropriate in a communication like this. In his report for the year 1865 the Secretary used the following language in regard to the national debt:

"The maintenance of public faith is a national necessity. Nations do not and cannot safely accumulate moneys to be used at a future day, and exigencies are constantly occurring in which the richest and most powerful are under the necessity of borrowing. The millennial days, when nations shall beat their swords into plowshares and their spears into pruning-hooks, and learn war no more, are yet, according to all existing indications, far in the future. Weak and defaulting nations may maintain a nominally independent existence, but it will be by reason of the jealousies rather than the forbearance of stronger Powers. No nation is absolutely safe which is not in a condition to defend itself; nor can it be in this condition, no matter how strong in other respects, without a well-established financial credit. Nations cannot, therefore, afford to be unfaithful to their pecuniary obligations. Credit to them, as to individ-

uals, is money; and money is the war power of the age. But for the unfaltering confidence of the people of the loyal States in the good faith of the Government, the late rebellion would have been a success, and this great nation, so rapidly becoming again harmonious, would have been broken into weak and belligerent fragments.

But the public faith of the United States has higher considerations than these for its support. It rests not only upon the interests of the people but upon their integrity and virtue. The debt of the United States has been created by the people in their successful struggle for undivided and indivisible nationality. It is not a debt imposed upon unwilling subjects by a despotic authority, but one incurred by the people themselves for the preservation of their Government—by the preservation of which those who have been longed together for its overthrow are to be as really benefited as those who have been battling for its maintenance. As it is a debt voluntarily incurred for the common good its burdens will be cheerfully borne by the people, who will not permit them to be permanent."

Now, to what is the United States pledged in regard to the public debt? Is it not that it shall be paid according to the understanding between the Government and the subscribers to its loans at the time the subscriptions were solicited and obtained? And can there be any question in regard to the nature of this understanding? Was it not that, while the interest-bearing notes should be converted into bonds or paid in lawful money, the bonds should be paid, principal as well as interest, in coin? Was not this the understanding of the Congress which passed the loan bills and of the people who furnished the money? Did any member of the House or of the Senate, prior to 1864, in the exhaustive discussions of these bills, ever intimate that the bonds to be issued in accordance with their provisions might be paid, when redeemable, in a depreciated currency? Was there a single subscriber to the five-twenty bonds, or to the seven and three tenth notes, which by their terms were convertible into bonds, who did not believe, and who was not given to understand by the agents of the Government, that both the principal and interest of these bonds were payable in coin? Does any one suppose that the people of the United States, self-sacrificing as they were in the support of the Government, would have sold their stocks, their lands, the products of their farms, of their factories and their shops, and invested the proceeds in five-twenty bonds and seven and three tenth notes, convertible into such bonds, if they had understood that these bonds were to be redeemed after five years from their respective dates in a currency of the value of which they could form no reliable estimate? Would the Secretary of the Treasury, or would Congress, when the fate of the nation was trembling in the balance, and when a failure to raise money for the support of the Federal Army would have been success to the rebellion and ruin to the Union cause, have dared to attempt the experiment of raising money on bonds redeemable at the pleasure of the Government, after five years, in a currency the convertible value of which might not depend upon the solvency of the Government but upon the amount in circulation? No such understanding existed, and fortunately no such experiment was tried. The bonds were negotiated with the definite understanding that they were payable in coin, and the seven and three tenth notes with an equally definite understanding that they were convertible at the option of the holder into bonds of a similar character or payable in lawful money. The contracts were made in good faith on both sides, a part of them when the Government was in imminent peril and needed money to preserve its existence, the balance when its necessities were scarcely less urgent for the payment of its just obligations to contractors and to the gallant men by whom the nation had been saved. Good faith and public honor, which to a nation are of priceless worth, require that these contracts should be complied with in the spirit in which they were made. The holders of our bonds at home and abroad

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who understand the character of the people of the United States and the greatness of the national resources ought not to need an assurance that they will be so complied with.

Here remarks upon a subject which it ought not to be necessary to discuss might be closed, but the great interest and alarm excited by the doctrines recently promulgated seem to justify a reference to the debates when the act of February 25, 1862, in some respects the most important of the loan bills, was under consideration, in order that the action and intention of Congress in regard to the legal-tender notes and to the bonds which it authorized the issue of may be understood.

This act authorized an issue of \$150,000,000 of United States notes, which were made receivable for all Government dues except duties on imports, and of all claims against the United States except for interest upon bonds and notes, which was to be paid in coin. It also authorized the issue of \$500,000,000 of bonds, redeemable at the pleasure of the Government after five years from date. The purpose for which these bonds were to be issued was stated to be "to enable the Secretary of the Treasury to fund the Treasury notes and floating debt of the United States," and he was authorized to dispose of them "at the market value thereof, for coin of the United States or for any Treasury notes issued under any former act of Congress, or for the United States notes that might be issued under this act." Regarding only the act itself it is not supposable that Congress intended to provide for funding the floating debt in bonds which might, at the expiration of five years, be called in and paid in the very notes which, with the Treasury notes, were thus to be funded. These bonds, like all others since and previously issued, were intended to be a part of the funded debt of the United States, the right to redeem them after five years having been reserved by the Government, not that they might be called in and paid in a depreciated currency, but in order that bonds bearing a lower rate of interest might be substituted for them, if it should so happen that before their maturity money could be borrowed on more favorable terms.

The act provides that the United States notes of which it authorized the issue shall be receivable in payment "of all claims and demands against the United States, of every kind whatsoever, except interest upon bonds and notes, which shall be paid in coin." It is not said that they shall not be receivable for the principal of the bonds, for the very obvious reason that they were expected to be but a temporary circulation. A provision that these notes—intended only to meet a temporary emergency—should not be received for the payment of the principal of bonds which were not redeemable for five years, would, if it had been advocated and insisted upon, have been quite likely to have prevented their issue. The public judgment had not then been perverted by an irredeemable currency, and a proposition that indicated a long-continued departure from the specie standard would have found few supporters in Congress or among the people.

But if the intention and understanding of Congress are not sufficiently indicated by the language of the act all doubts must be removed by a reference to the debates while it was under consideration. From these debates it is clear that the issue of the legal-tender notes was expected to be limited to \$150,000,000. On this point one of the Representatives from the State of New York spoke as follows:

"Then the whole secret of our financial success lies simply in borrowing \$500,000,000, or rather in funding the floating indebtedness convertibly represented by the Treasury notes, so that their issue need never exceed that authorized by this bill, and which is conceded to be the extreme limit consistent with safety to private interest and public credit. Nobody has proposed to rely upon this currency beyond that amount, but, on the contrary, the idea of any further similar issue has been expressly repudiated by every supporter of this bill."

One of the Representatives from Massachusetts put to the distinguished chairman of the Committee of Ways and Means the following question:

"Let me ask the gentleman from Pennsylvania whether he now expects, in managing these financial matters, to limit the amount of these notes to \$150,000,000. Is that his expectation?"

To which question he received the following reply:

"It is. I expect that is the maximum amount to be issued."

Later in the debate the same distinguished gentleman used the following language:

"When this question was discussed before, the distinguished gentleman from Kentucky [Mr. Crittenden] asked me whether it was the intention or expectation of the House to go on and issue more than \$150,000,000 of legal-tender notes—a pertinent question, which I saw the full force of at the time. I told him that it was my expectation that no more would be issued by the Government; that they would be received and funded in the twenty-year bonds."

It is clear from these quotations and the whole tenor of the debate that it was the intention of Congress that \$150,000,000 should be the limit of the legal-tender circulation; and that it was confidently expected that this circulation would soon be converted into the five-twenty bonds, known as the bonds of 1862, and which are now redeemable according to their tenor. This of itself is a sufficient explanation of the fact that it was deemed unnecessary to provide that these notes should not be receivable for the principal of the bonds. As the amount to be issued was limited to \$150,000,000, a provision that they should not be receivable for the principal of \$500,000,000 of bonds to be issued under the same act, in which they are expected to be funded, and which were not to be subject to the control of the Government for five years, would certainly have been regarded as being as singular as it would have been unnecessary. But this is not all. The same gentleman, who, as chairman of the Committee of Ways and Means, was the exponent of the views of the House upon this question, in speaking of these bonds remarked as follows:

"A dollar in a miser's safe, unproductive, is a sore disturbance. Where could they invest it? In United States loans at six per cent., redeemable in gold in twenty years—the best and most valuable permanent investment that could be desired."

Would he have regarded these bonds a most valuable permanent investment if he had supposed that they might be redeemed in a depreciated currency at the expiration of five years from date? Again, he said:

"But widows and orphans are interested and in tears lest their estates should be badly invested. I pity no one who has money invested in the United States bonds payable in gold in twenty years, with interest semi-annually."

In these debates very little was said upon the subject of the payment of the principal of the bonds, apparently for the reason that no one supposed that they would or could be paid in anything else than in the heretofore recognized constitutional currency of the country. The same may be said in regard to the debates upon the bills authorizing subsequent issues. The acts of March 3, 1863, and March 3, 1864, are the only acts which state expressly that the bonds to be issued under them shall be payable in coin; and this provision in these acts, if not accidental, attracted no attention at the time, either in Congress or with the public. Under the former act \$75,000,000 of twenty-year six per cent. bonds (part of those known as bonds of 1861) were issued, and under the latter act nearly two hundred millions of five per cent. bonds, known as ten-forties; and the fact that these six per cent. bonds have had no higher reputation than other bonds of the same class, and that the five per cent. bonds never were a popular security, and have in the market until very recently scarcely possessed a value corresponding with the six per cent. five-twenties, shows conclusively that dealers in Government securities, and the people generally, have not

regarded this provision as placing them on a different footing as to the kind of money in which they are to be paid from the bonds issued under acts containing no such provisions.

There was nothing in the condition of the country when these acts were passed that required an unusual provision in order that the loans authorized by them might be successfully negotiated; on the contrary, the national credit was better then than at periods when other loan bills were passed; nor was there any intimation by any member of Congress, nor was it ever thought by the officers of the Treasury Department, that the bonds authorized by them were of a different character from those issued under other acts. It is unreasonable to suppose that it was the intention of Congress that the bonds authorized by the acts of February 25, 1862, and June 30, 1864, might be paid in legal-tender notes while those authorized by the acts of March 3, 1863, and March 3, 1864, could be paid only in coin. The various issues of bonds, constituting the national funded debt, stand upon the same footing, and all should be paid in coin, if any are so paid.

National debts are subject to the moral law of the nations. Whenever there is no expression to the contrary, coin payments in such obligations are honorably implied. The policy of the Government of the United States in regard to the payment of its debts has been uniform and consistent. Prior to February 25, 1862, there was in the United States no lawful money but specie, consequently its Treasury notes, and its bonds previously issued, were payable in the same currency. Subsequently all interest-bearing notes were made payable in lawful money, but no change was made in the form of the obligation of the bonds. Thus the seven and three tenth notes issued after that date, the five per cent. notes, and the compound-interest notes, were made payable in lawful money, while the bonds not being so made payable have ever been recognized by Congress, by the Treasury Department, and by the people, as payable only in coin. These different classes of securities were negotiated with this distinct understanding—an understanding which is as binding upon the honor of the nation as if it were explicitly stated in the statute.

It is true that the bonds, and notes convertible into bonds issued after the passage of the first legal-tender act, were paid for in a depreciated currency, and were therefore, in fact, sold at a discount; but it is not denied that they were sold fairly, and that every one had ample opportunity to subscribe for them. Agencies were established and subscriptions solicited in every part of the country; and liberal subscriptions were regarded as evidence of loyalty. That they were paid for in a depreciated currency was not the fault of the subscribers. They were sold at the highest price that could be obtained for them—not chiefly to the capitalists of the cities, but to men of moderate means throughout the country, who subscribed for them, not for speculation, but to aid the Government in its struggles with a gigantic rebellion; and it is a significant fact that, with rare exceptions, the complaints that they were sold at a discount come from those who, doubtful of the result of the conflict, declined to invest in them. How would the Government of the United States stand before the world—how would it stand in the estimation of its own people, if it should decline to pay, according to agreement, the money it borrowed when its very existence was in peril, and without which it could not have prosecuted the war, on the ground that the lenders took advantage of its necessities and purchased its securities at less than their value?

But if the honor of the nation were not involved in the question the inquiry arises In what shall the bonds be paid if not in coin?

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Some five hundred and fifteen millions of five-twenty bonds are now redeemable according to their tenor. No one, certainly, would propose that some of them shall be called in and paid in a currency now worth seventy cents on the dollar while the rest shall remain unredeemed until the currency shall be more depreciated by additions to its volume or appreciated by contraction. The holders of these bonds stand on the same footing; if any are to be paid before maturity in a depreciated currency the whole should be so paid, and in a currency of equal value. But the Government has no United States notes in the Treasury, and as the annual receipts are not likely hereafter to be much in excess of the expenditures, and as a new loan to raise money for the purpose of violating an agreement under which a previous loan was negotiated would be impracticable, there would be no way in which the bonds now redeemable could be paid as has been proposed except by putting the printing presses again at work and issuing more promises which must themselves eventually be paid in coin, converted into coin bonds, or repudiated. This process of making money seems an easy one, but our own experience and the experience of every other nation that has tried it prove it to be neither judicious nor profitable.

As the paper circulation of the country is already redundant it would be lessened in value by every addition to it, and by the distress thus created its depreciation would doubtless be in a greater ratio even than the additions would bear to the volume to which they would be added. It is not too much to say that an additional issue of \$500,000,000 of United States notes would reduce the \$700,000,000 of paper money now in circulation to one half their present value; so that a legal-tender note or a national bank note, now worth seventy per cent. in coin, would not be worth more than thirty-five per cent., even if the apprehension of further issues did not place it on a par with confederate notes at the collapse of the rebellion. The bonds would of course decline in value with the currency in which they would be payable. Can any one seriously propose thus to depreciate, if not to render valueless, the money and securities of the people? Can any one, knowing the effect which such an issue would have upon the Government bonds, upon the currency now afloat, upon business, upon credit, upon the public morals, seriously advocate such a measure, not as a matter of necessity, but to anticipate the payment of debts due many years hence? The statement of the proposition exposes its wickedness. When fairly considered it cannot fail to be stamped with universal condemnation. It is a proposition that the people of the United States, who own four fifths of the national obligations, shall, by their own deliberate act, rob and ruin themselves, and at the same time cover the nation with inexpressible and infaceable disgrace.

In opposition to all such expedients for paying, or rather for getting rid of, the public debt, is the upright, world-honored *economical* policy of paying every obligation of the Government according to the understanding with which it was created—the policy of appreciating the paper dollar until it shall represent a dollar in coin, of giving stability to business and assurance to enterprise, and wiping from the country the reproach that rests upon it by reason of the low price of its securities in the great marts of the world. That this is the policy which will be sustained by the people and their representatives the Secretary has the fullest confidence. There may hereafter be nations which, ignoring their honorary obligations, may look only to their own statutes for the measure of their liabilities. If there shall be such nations the Republic of the United States will not be found among them. It has essentially suffered by the actual repudiation of some of the States and the virtual repudiation of others; it is still

suffering from the same cause, although more than a quarter of a century has elapsed since this stigma was fixed upon American credit. It is suffering also from the fact that Massachusetts and California alone, of all the States, have continued to pay the interest on their bonds in coin. But although it has suffered, and is still suffering, from the bad faith or false economy of some of its members, its own financial honor is unsullied. It has committed the mistake of making its inconvertible promises a legal tender, but it has never taken advantage of its own legislation to lessen in the hands of the holders the value of its securities or violate its engagements by covert repudiation. In the darkest hours of the rebellion it faltered not in the observance of its contracts. Shall it falter now when its ability to pay to the uttermost farthing, even without oppressive taxation, cannot be questioned?

The importance of the restoration of the southern States to their proper relations with the Federal Government cannot be overestimated. A curtailment of the currency and a maintenance of the public faith are not all that is required to restore the country to perfect financial health. We need in addition to these a united country—united in fact as well as in name. It may not be proper for the Secretary in this report to discuss the measures regarded by him as best calculated to bring about this most desirable result. This, however, he feels it to be his duty to say, as he substantially said in his last year's report, that the question of reconstruction as a purely financial question is in his judgment second in importance to none that Congress will ever be called upon to consider. The great staples of the South have for many years constituted a large portion of our exports. But for the cotton held in that section at the close of the rebellion the foreign exchanges would have been so largely against the United States that a commercial revulsion would have been imminent, if not unavoidable. Even in the deplorable condition of these States last year more than two thirds of our exports consisted of their productions, and it is the crop of the present year—small though it may be—that is to save us from ruinous indebtedness to Europe. It is of the greatest moment, therefore, that the productive power of the southern States should be restored as rapidly as possible. Little progress has been made in this direction during the past two years, and no real progress will be made until their political condition is determined by their restoration to the Union with all the rights and privileges of other States under the Constitution. The Secretary does not allude to this subject for the purpose of calling the attention of Congress to it. This is unnecessary. It is absorbing the public attention, and the further action of Congress in relation to it will be watched by the people with intense solicitude. Upon the judicious settlement of it depends in a great degree the national prosperity. The views presented by the Secretary upon this subject in his last report are equally appropriate at the present time.

In his report for the year 1865 the Secretary used the following language in regard to taxation by the States of Government obligations:

"In view of the fact that the exemption of Government securities from State taxation is by many persons considered an unjust discrimination in their favor, efforts may be made to induce Congress to legislate upon the subject of their taxation. Of course the existing exemption from State and municipal taxation of bonds and securities now outstanding will be scrupulously regarded. That exemption is a part of the contract under which the securities have been issued and the money loaned thereon to the Government, and it would not only be unconstitutional but a breach of the public faith of the nation to disregard it. It would also, in the judgment of the Secretary, be unwise for Congress to grant to the States the power, which they will not possess unless conferred by express congressional enactment, of imposing taxes upon securities of the United States which may be hereafter issued. Such taxation, in any form, would result in serious, if not fatal, embar-

assment to the Government and, instead of relieving, would eventually injure the great mass of the people, who are to bear their full proportion of the burden of the public debt. This is a subject in relation to which there should be no difference of opinion. Every tax-payer is personally interested in having the public debt placed at home, and at a low rate of interest, which cannot be done if the public securities are to be subject to local taxation.

"Taxes vary largely in different States, and in different counties and cities of the same State, and are everywhere so high that, unless protected against them, the bonds into which the present debt must be funded cannot be distributed among the people, except in some favored localities, unless they bear a rate of interest so high as to make the debt severely oppressive, and to render the prospect of its extinguishment well-nigh hopeless. Exempted from local taxation, the debt can, it is expected, be funded at an early day at five per cent.; if local taxation is allowed, no considerable portion of the debt which falls due within the next four years can be funded at home at less than eight per cent. The tax-payers of the United States cannot afford to have their burdens thus increased. It is also evident that the relief which local-tax payers would obtain from Government taxation, as the result of a low rate of interest on the national securities, would at least be as great as the increase of local taxes to which they would be subjected on account of the exemption of Government securities; while if those securities should bear a rate of interest sufficient to secure their sale when subject to local taxes, how, if any of them, would long remain where those taxes could reach them. They would be rapidly transferred to other countries, into the hands of foreign capitalists, and thus at last the burdens of paying a high rate of interest would be left upon the people of this country without compensation or alleviation."

The views of the Secretary, thus expressed, have undergone no change, but the exemption from taxation of any kind of property, by which special privileges are, or seem to be, granted to any class of citizens, is odious to the heavily-burdened masses in all countries, and is especially so in a Republic like ours. Local taxes in all the States are heavy, and no matter what the law may say upon the subject, no matter what the contract may have been under which they were negotiated, there is a general sentiment among tax-payers that the exemption of Government bonds from local taxation is not exactly right, and that it ought to be in some way avoided in future issues. The Secretary has no hesitation in admitting that he is in sympathy with this sentiment. The difficulty in the way, however, as has been suggested, arises from the fact that if bonds hereafter to be issued were to be subject to local taxation very few would be held where taxes are high, and there would be a constant tendency to a concentration of them in States and counties and cities where taxes are low, or in foreign countries, where they would escape taxation altogether. It is a matter of great importance that the Government bonds should be a desirable investment in all parts of the country, and it is obvious that the States should be in some manner compensated for the right now denied of taxing them as other kinds of property are taxed.

After giving the subject careful consideration the Secretary can suggest no better way of doing it than by an issue of bonds to be known as the Consolidated Debt of the United States, bearing six per cent. interest, and having twenty years to run, into which all other obligations of the Government shall as rapidly as possible be converted; one sixth part of the interest at each semi-annual payment to be reserved by the Government and paid over to the States, according to their population. By this means all the bonds, wherever held, would be taxed alike, and a general distribution of them be secured. State taxes, including the levies for county and municipal purposes, now, as a general thing, exceed one per cent., but when the debts incurred for the payment of bounties are paid (and in most of the States they are already in the process of rapid extinction) and economy is again practiced in the administration of State affairs, this indirect assessment will be quite likely to equal the tax assessed upon other property. If the debt to be funded shall amount to \$2,000,000,000, the amount to be reserved and paid to the States annually would be \$20,000,000, which would give to each of the

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States, in gold, as nearly as can now be estimated, the following sums, to be reduced of course with the reduction of the debt:

Maine.....	\$385,609 76
Massachusetts.....	748,378 43
New Hampshire.....	194,411 17
Vermont.....	186,026 09
Connecticut.....	282,418 01
Rhode Island.....	107,174 16
New York.....	2,381,825 89
New Jersey.....	412,466 92
Pennsylvania.....	1,783,647 12
Ohio.....	1,449,559 58
Indiana.....	836,727 81
Michigan.....	472,909 32
Illinois.....	1,390,892 56
Wisconsin.....	521,554 49
Iowa.....	493,159 19
Minnesota.....	177,810 91
Missouri.....	773,831 79
Kentucky.....	709,398 45
Tennessee.....	681,147 55
Arkansas.....	267,239 98
Louisiana.....	434,510 77
Texas.....	529,772 40
Alabama.....	580,512 63
Mississippi.....	471,792 28
Georgia.....	618,915 98
Florida.....	90,290 60
South Carolina.....	431,995 13
North Carolina.....	626,634 28
Virginia.....	730,662 50
West Virginia.....	249,088 11
Maryland.....	421,089 53
Delaware.....	68,873 42
Kansas.....	156,662 80
Nebraska.....	33,716 80
California.....	288,753 14
Nevada.....	24,018 73
Oregon.....	46,000 76

\$20,000,000 00

The advantages to be derived from this plan are so obvious as not to require discussion. It would secure, as has been already stated, such a distribution of the bonds throughout the States and counties and cities as could not be expected if local taxes should be imposed upon them. It would create an interest in the bonds in States the people of which are justly responsible for the debt, but whose early and complete restoration to the Union is so desirable and important, and would give to them needed aid in their efforts to build up again their own prostrate credit. It would put an end to all discussions and doubts in regard to the kind of currency in which the bonds are to be paid, to all complaints of exclusive privileges, and place the public credit on a basis worthy a nation whose resources, young as it is, are second to those of no other nation, and of whose future resources the present are but an indication.

The bonds, the issue of which is thus recommended, would be six per cents to the Government and five per cents to the holders, which is as low a rate of interest as can be expected to prevail in the United States for many years to come. Of the practicability of converting the outstanding obligations of the Government into this consolidated debt at an early day, at no considerable expense, the Secretary entertains no doubt.

It is therefore respectfully recommended that the act of March 3, 1865, be so amended as to authorize the Secretary of the Treasury to issue six per cent. gold-bearing bonds, to be known as the Consolidated Debt of the United States, having twenty years to run and redeemable, if it may be thought advisable, at an earlier day, to be exchanged at par for any and all other obligations of the Government—one sixth part of the interest on which, in lieu of all other taxes, at each semi-annual payment, shall be reserved by the Government and paid over to the States according to population.

The following is a statement of the public debt on the 1st of July, 1867:

DEBT BEARING COIN INTEREST.	
5 per cent. bonds.....	\$198,431,350 00
6 per cent. bonds of 1867 and 1868.....	15,181,141 80
6 per cent. bonds, 1881.....	283,746,350 00
6 per cent. 5-20 bonds.....	1,127,531,890 00
Navy pension fund.....	13,000,000 00

Carried forward.....\$1,637,890,641 80

Brought forward.....\$1,637,890,641 80

DEBT BEARING CURRENCY INTEREST.	
6 per cent. bonds.....	\$14,762,000 00
3-year compound-interest notes.....	122,394,480 00
3-year 7-30 notes.....	488,647,425 00

625,803,905 00

Matured debt not presented for payment.....	8,997,595 80
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DEBT BEARING NO INTEREST.	
United States notes.....	\$371,993,029 00
Fractional currency.....	28,307,523 52
Gold certificates of deposit.....	19,207,520 00

419,507,072 52

Total debt.....	2,692,199,215 12
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Amount in Treasury, coin.....	\$108,419,638 02
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Amount in Treasury, currency.....	71,979,563 77
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180,399,201 79

Amount of debt, less cash in Treasury.....\$2,511,800,013 33

The following is a statement of the public debt on the 1st of November, 1867:

DEBT BEARING COIN INTEREST.	
5 per cent. bonds.....	\$198,845,350 00
6 per cent. bonds of 1867 and 1868.....	14,690,941 80
6 per cent. bonds, 1881.....	283,676,600 00
6 per cent. 5-20 bonds.....	1,267,898,100 00
Navy pension fund.....	13,000,000 00

1,778,110,991 80

DEBT BEARING CURRENCY INTEREST.	
6 per cent. bonds.....	\$18,042,000 00
3-year compound-interest notes.....	62,558,940 00
3-year 7-30 notes.....	334,907,700 00
3 per cent. certificates.....	11,500,000 00

426,768,640 00

MATURED DEBT NOT PRESENTED FOR PAYMENT.

3-year 7-30 notes, due August 15, 1867.....	\$3,371,100 00
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Compound-interest notes, matured June 10, July 15, August 15, and October 15, 1867.....	9,316,100 00
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Bonds, Texas indemnity Treasury notes, acts July 17, 1861, and prior thereto.....	103,661 64
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Bonds, April 15, 1812.....	54,031 64
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Treasury notes, March 3, 1863.....	868,240 00
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Temporary loan.....	4,168,375 55
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Certificates of indebtedness.....	34,000 00
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218,637,538 83

DEBT BEARING NO INTEREST.	
United States notes.....	\$357,164,844 00
Fractional currency.....	30,706,633 39
Gold certificates of deposit.....	14,514,200 00

402,385,677 39

Total debt.....	2,625,502,848 02
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Amount in Treasury, coin.....	\$111,540,317 35
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Amount in Treasury, currency.....	22,458,080 67
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133,998,398 02

Amount of debt, less cash in Treasury.....\$2,491,504,450 00

The following is a statement of receipts and expenditures for the fiscal year ending June 30, 1868:

Receipts from customs.....	\$176,417,810 88
Receipts from lands.....	1,163,575 76
Receipts from direct tax.....	4,200,233 70
Receipts from internal revenue.....	266,027,537 43
Receipts from miscellaneous sources.....	42,824,852 50

\$490,634,010 27

Expenditures for the civil service.....	\$51,110,027 27
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Expenditures for pensions and Indians.....	25,579,083 48
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Expenditures for War Department.....	93,224,415 63
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Expenditures for Navy Department.....	31,034,011 04
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Expenditures for interest on the public debt.....	143,781,591 91
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\$346,729,129 33

Loans paid.....	\$746,350,525 94
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Receipts from loans.....	640,426,910 29
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105,923,615 65

Reduction of loans.....\$105,923,615 65

The following is a statement of receipts and expenditures for the quarter ending September 30, 1867:

Receipts from customs.....	\$48,081,907 61
Receipts from lands.....	287,460 07
Receipts from direct tax.....	647,070 83
Receipts from internal revenue.....	53,784,027 49
Receipts from miscellaneous sources.....	18,361,462 62

\$121,161,928 62

Expenditures for the civil service.....	\$13,152,348 08
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Expenditures for pensions and Indians.....	10,484,476 11
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Expenditures for War Department.....	30,537,056 85
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Expenditures for Navy Department.....	5,579,704 67
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Expenditures for interest on the public debt.....	88,515,640 47
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\$98,269,226 18

Loans paid.....	\$200,176,368 34
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Receipts from loans.....	135,103,282 00
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\$65,073,086 34

Reduction of loans.....\$65,073,086 34

The Secretary estimates that the receipts and expenditures for the three quarters ending June 30, 1868, will be as follows:

Receipts from customs.....	\$115,300,000 00
Lands.....	700,000 00
Internal revenue.....	155,000,000 00
Miscellaneous sources.....	25,000,000 00

296,000,000 00

The expenditures for the same period, according to his estimates, will be—

For the civil service.....	\$37,000,000 00
For pensions and Indians.....	22,000,000 00
For the War Department, including \$24,500,000 for bounties.....	100,000,000 00
For the Navy Department.....	22,000,000 00
For the interest on the public debt.....	114,000,000 00

295,000,000 00

Leaving a surplus of estimated receipts over estimated expenditures of.....\$1,000,000 00

The receipts and expenditures for the next fiscal year, ending June 30, 1869, are estimated as follows:

Receipts from customs.....	\$145,000,000 00
Internal revenue.....	205,000,000 00
Lands.....	1,000,000 00
Miscellaneous sources.....	30,000,000 00

381,000,000 00

The expenditures for the same period are estimated as follows:

For the civil service.....	\$51,000,000 00
For pensions and Indians.....	35,000,000 00
For the War Department, including \$25,500,000 for bounties.....	120,000,000 00
For the Navy Department.....	36,000,000 00
For the interest on the public debt.....	130,000,000 00

372,000,000 00

Leaving a surplus of estimated receipts over estimated expenditures of.....\$9,000,000 00

The foregoing estimates are made on the general average of the receipts and expenditures for the past nine months. The Secretary is hopeful, however, that Congress will take measures to largely reduce expenditures in all branches of the service, so that a steady reduction of the debt may be continued.

In regard to the national debt, and the necessity of commencing at once the payment of it, the Secretary, in his report of 1865, remarked:

"We need not be anxious that future generations shall share the burden with us. Wars are not at an end, and posterity will have enough to do to take care of the debts of their own creation."

"In a matter of so great importance as this, experiments are out of place. The plain, beaten path of experience is the only safe one to tread."

"It is of the greatest importance in the management of a matter of so surpassing interest that the right start should be made. Nothing but revenue will sustain the national credit, and nothing less than a fixed policy for the reduction of the public debt will be likely to prevent its increase."

The right start in the direction suggested has been made. Since the 1st day of September, 1865, the debt has been reduced \$266,185,121 43. Now, if such a reduction could be made while the industry of one third part of the country, by reason of the war and the unsettled state of its political affairs, has been exceedingly depressed, and the other two thirds have by no means exerted their full productive power; if such a reduction could be made, notwithstanding the liberal miscellaneous appropriations by Congress, the payment of bounties, and the great expense of maintaining large military forces upon the frontier and in the southern States, can there be any good reason why the reduction, so successfully commenced under the most inauspicious circumstances, should not be continued steadily and without interruption until every dollar of it is extinguished? The Secretary indulges the hope that the policy which has been inaugurated, and which, in his judgment, is so essential to the national credit, if not to the preservation of republican institutions, will not be abandoned. Old debts are hard debts to pay. The longer they are continued the more odious do they become. If the present generation should throw the burden of this debt upon the next it will be quite likely to be handed down from one generation to another—a perpetual, if not a constantly increasing burden upon the people. Our country is full of enterprise and resources. The debt will be lightened every year with great rapidity by the increase of wealth and population. With a proper reduction in the expenses of the Government, and with a revenue system adapted to the industry of the country and not oppressing it, the debt may be paid before the expiration of the present century. The wisdom of a policy which shall bring about such a result is vindicated in advance by the history of nations whose people are burdened with inherited debts, and with no prospect of relief for themselves or their posterity. In the appendix to this report there will be found a table prepared by a very intelligent gentleman of Massachusetts, which shows how soon the debt may be paid by the regular increase of population alone, at the rate of three per cent. per annum on a regular annual *per capita* tax of \$8 00, which is now much below the present rate.

By a resolution approved February 22, 1867, the provisions of the joint resolution to provide for codifying the laws relating to customs, approved July 26, 1866, were continued in force until the 1st day of January in the year 1868.

Under the authority and direction of these resolutions the Department has caused to be prepared the draft of an act embracing all provisions deemed necessary for regulating the foreign and coasting trade, the assessment and collection of duties on goods imported from foreign countries, and for consolidating and perfecting the navigation laws. This draft was transmitted to the House of Representatives on the 8th of March last, and the report accompanying it gives a general view of its scope, and an outline of the most important changes in existing laws proposed to be made.

The laws relating to the foreign and coasting trade and the collection of the revenue from customs are now dispersed through many volumes of statutes, and have been so frequently modified by amendments of their original provisions that on many points it is difficult for merchants as well as for the officers whose duty it is to construe and execute them to determine what is the law in force.

It is of great importance that laws regulating interests so various and vast should be so systematized that the rights and duties of the classes whose interest are most directly affected by them may be clearly apparent. Their present complication is a source of serious embarrassment to the mercantile community, and it is not less embarrassing to the officers of the

customs, whose positions demand prompt action and an intelligent application of law to facts as they arise. The Department has endeavored to obviate these embarrassments, as far as practicable, by regulations and instructions; but these measures are only a partial remedy, and fall far short of supplying the want of a uniform and consistent code. In view of these considerations, it is hoped that the proposed act will receive the early attention of Congress.

The Secretary respectfully recommends the reorganization of the accounting offices of the Treasury Department, so as to place this branch of the public service under one responsible head, according to what seems to have been designed in the original organization of the Department, and followed until the increase of business led to the creation of the office of Second Comptroller, and subsequently to that of Commissioner of Customs. There are now three officers controlling the settlement of accounts, each independent of the others, and, as a consequence, the rules and decisions are not uniform where the same or like questions arise. In the judgment of the Secretary the concentration of the accounting offices under one head would secure greater efficiency, as well as greater uniformity of practice, than can be expected under a divided supervision. It is believed, also, that it would be advantageous to relieve the Commissioner of Customs of the duty of settling accounts, and to confine his labors to the supervision of the revenue from customs, now sufficiently large to demand his whole time. It is therefore recommended that the office of Chief Comptroller be created, having general supervision of the accounting officers and appellate jurisdiction from their decisions; to which should be transferred the duty of examining and countersigning warrants on the Treasury, and of collecting debts due the Government, now constituting a part of the duties of the First Comptroller; and that the adjustment of accounts pertaining to the customs be restored to the latter office.

The Secretary also renews the recommendation contained in his last annual report of a reorganization of the bureaus of the Department, and most respectfully and earnestly solicits for it the favorable action of Congress. The compensation now paid is inadequate to the services performed, and simple justice to gentlemen of the ability and character of those employed in the Department requires a liberal addition to their present compensation. Since the rates of compensation now allowed were established, the duties, labors, and responsibilities of the bureaus have been largely increased, and the necessary expenses of living in Washington have been more than doubled.

The report of the Director of the Mint contains the usual information relative to the coinage for the past year.

The total value of the bullion deposited at the Mint and branches during the fiscal year was \$41,893,100 76, of which \$40,069,200 06 was in gold and \$1,823,900 70 in silver. Deducting the redeposit, the amount of actual deposit was \$34,537,048 89.

The coinage for the year was, in gold coin, \$28,217,187 50; gold bars, \$11,621,691 32; silver coin, \$986,871; silver bars, \$575,823 18; nickel, copper, and bronze coinage, (one, two, three, and five cent pieces,) \$1,879,540. Total coinage, \$31,083,598 50. Total bars stamped, \$12,197,514 50.

The gold deposits of domestic production were, at Philadelphia, \$2,418,197 89; at San Francisco, \$17,936,169 40; at New York, \$10,320,821 55; at Denver, \$130,559 70. The silver deposits were, at Philadelphia, \$87,399 72; San Francisco, \$744,387 48; New York, \$274,893 19.

The gold and silver deposits of foreign production were \$2,674,619 46.

The amount of gold coined at Philadelphia

was \$10,072,060 86; at San Francisco, \$18,225,000; of silver, at Philadelphia, \$357,490 38; at San Francisco, \$780,048 54; of bronze and nickel and copper, at Philadelphia, \$1,879,540. Total number of pieces struck, 54,110,384.

A valuable site for a branch mint in San Francisco has been purchased during the past year, and an additional appropriation will be required for the purpose of erecting a mint building complete in all its appointments upon the Pacific coast.

The Director of the Mint recommends the opening of the branch mint at New Orleans, upon an economical basis, for the coinage of nickel copper pieces. The branch mint at Charlotte, North Carolina, is being repaired and placed in condition for melting and assaying the precious metals. It will be unnecessary ever to execute coinage at Denver or Charlotte, and the branch mints at those points should be converted into assay offices, and thus expenses reduced.

The Director also recommends the repeal of the coinage charge, the tax on bullion, and the redemption of the cent coinage. His remarks upon international coinage, and his suggestions for the protection of gold coins from debasement, are worthy careful consideration.

An appropriation of \$10,000 was made by Congress on the 28th of July, 1866, to enable the Secretary of the Treasury to collect reliable statistical information concerning the gold and silver mines of the western States and Territories. Under the authority thus conferred upon this Department, Mr. J. Ross Browne was appointed special commissioner for the mineral regions west of the Rocky mountains. His preliminary report was submitted to Congress on the 8th of January, 1867. The districts of New Mexico, Colorado, Montana, Dakota, and Minnesota were assigned to Mr. James W. Taylor, whose report was submitted on the 13th of February, 1867. No detailed information respecting our mineral resources, the nature and extent of the metalliferous veins, the mode and cost of working the mines, or the yield of bullion, had previously appeared in an official form. Little was known of the local rules and regulations or the practical effect of Federal legislation on the subject of the mineral lands. The value of the information contained in these reports has been attested in a marked degree by the public favor with which they have been received throughout the Atlantic and Pacific States. A new and increasing interest has been manifested in the exploration and development of our mineral regions, both east and west of the Rocky mountains.

As stated in letters of the Department, dated January 8 and February 14, 1867, these reports were merely preliminary. Provisions having been made by the appropriation act of March 2, 1867, for a continuance of this service, the special commissioner, Mr. Browne, has been occupied during the present year in a more thorough examination of the mineral districts within his division. He has traveled extensively over the principal mining regions of the Pacific slope, and collected much valuable information. The scope of his investigations, reaching from British Columbia to the Mexican border, was too extensive to admit of a personal visit to each district, and he deemed it expedient to secure the services of an experienced corps of mining engineers and statisticians to aid him in the performance of his duties. Special instructions were given to them in writing, impressing upon them the necessity of caution in the reception of unverified statements from interested parties, and the importance of accuracy and a critical adherence to facts in their own. Through the services of these assistants, who have visited in person nearly all the districts described, he has been enabled to obtain detailed reports on the products, population, and characteristic features of Utah, western

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Report of the Secretary of the Treasury.

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Montana, Idaho, Washington Territory, Oregon, Nevada, California, and Arizona. The adjacent foreign territories in which American capital is invested are also briefly noticed. Particular attention is given to the topographical, geological, and mineralogical features of each State and Territory; to the various systems of mining; the cost of labor and production; the yield of bullion and loss in reduction; and incidentally to the climates, facilities for communicating agricultural capabilities, and inducements to immigration, and the investment of capital. An important feature connected with the development of the mining interest is presented in the tabular statements accompanying the report. While the prospect is generally favorable, and the permanency of the mineral deposits attested by indisputable evidence, the laws sustained in the treatment of the ores is represented as a serious drawback to the prosperity of this great interest.

On the Comstock lode, where gold exists chiefly in an uncombined form, the percentage of loss on that metal is comparatively small; but the loss of silver is so great as to suggest the necessity of some means by which the extraordinary drain upon the productive industry of the country may be arrested. With all the improvements derived from seven years' experience, it appears that the average yield of all the ores worked at the present time from the Comstock lode does not exceed sixty-five per cent. of the assay value. The net product this year will probably amount to \$17,000,000—showing an actual loss to the country on this single lode of \$9,353,846, of which, by a more economical system of working, a large proportion might be saved. In other districts the loss is greater or less, according to the character of the ore and the facilities for its reduction. Assuming our total gold and silver product to be \$75,000,000 for the calendar year 1867, it is estimated that the aggregate loss on the production of this amount of bullion does not fall far short of \$25,000,000. Indian hostilities and other causes have retarded the progress of the mining interest in Montana, Idaho, Colorado, and Arizona; but under the most favorable circumstances such a drain upon our resources as that to which attention is now called would appear to demand the serious consideration of Government.

The special commissioner recommends, as the only possible remedy, the establishment, at some central point west of the Rocky mountains, of a national mining school, organized upon comprehensive principles, analogous in its general design and scope to the great mining schools of Europe. By the concentration of scientific experience upon the processes of mining and metallurgy, and the analytical and working tests that could be applied to the different ores, where individual enterprise has so long and so signally failed, it is believed the results would be beneficial. Without assuming to suggest by what means this object could be best accomplished the Secretary deems it due to the enterprising pioneers of the West, who have opened up a vast empire to settlement and civilization, that their wishes, as represented by the commissioners, should meet with the most favorable consideration. Whatever can be done to promote their welfare will be a national benefit; and none will question that the tendency of scientific institutions is to strengthen the bonds of interest and sympathy between a people separated by a diversity of pursuits and the circumstances of their geographical position.

An interesting and instructive report by Mr. Taylor upon the situation and prospects of gold and silver mining east of the Rocky mountains, embracing some notice of the Alleghanian and Canadian gold-fields, in addition to the mining statistics of New Mexico, Colorado, and eastern Montana, will also be presented to Congress.

The report from the Light-House Board,

with estimates of appropriations for the year commencing July 1, 1868, herewith submitted, is recommended to the favorable consideration of Congress. The progress made in renovating and restoring the aids to navigation so seriously injured during the late war is all that could be expected from the means and time at command. The establishment increases with the opening of new channels to commerce and the rapidly increasing population of the country, and Congress may rely on the judicious application of all means appropriated to that end.

The operations of the Coast Survey have been continued during the past year with accustomed vigor, and progress has been made in all portions of the coast heretofore provided for by appropriations. The estimates for the next fiscal year have been prepared with a view to keeping up the work efficiently on the scale to which it has been developed by the demands of navigation, and accompany this report.

For the collection of the revenue from customs in the territory recently acquired from Russia, until permanent arrangements shall have been made by Congress, a special agent of the Department was dispatched in August last to Sitka, in company with the agent designated by the State Department, to receive the formal transfer of the territory; and for the further protection of the revenue, as well as to obtain information to guide in the establishment of ports and collection districts, the steam-cutter "Lincoln" was ordered to extend her cruising limits to these possessions. An officer of the service, familiar with the coasts, accompanied by several officers of the Coast Survey, was sent from the Department, with detailed instructions, to take charge of the vessel for the cruise. A general reconnaissance of the coast was ordered, including soundings, location of lights, and ascertainment of available channels of commerce. Attention was also especially directed to subjects of scientific inquiry suggested by the Smithsonian Institution.

The steamer sailed late in July, and a full report of her operations is expected within a brief period. When received it will be promptly communicated to Congress, with such information as the Department has been able to collect from other sources, and suggestions as to the creation of collection districts for customs and internal revenue.

The Revenue Marine consists at present of forty-three vessels, comprising twenty-five steamers and eighteen sailing vessels, of which seventeen of the former and sixteen of the latter are employed on the Atlantic coast, two of each description on the Pacific, and six steamers, each of over five hundred tons burden, on the Great Lakes. Five steamers, of three hundred and fifty tons burden and upward, have been sold, in pursuance of the power conferred upon the Department by the act of April 20, 1866, and eight sailing vessels, ranging in burden from one hundred and twenty to two hundred and twenty tons, better suited to the wants of the service, have been constructed. Four of the steamers now in commission are small tugs, employed (two at New York, one at Boston, and one at New Orleans) in a special boarding and inspecting service. These are found to be so serviceable that others like them will be employed, as occasion may require, in place of the larger vessels not so well suited to the service, which will be disposed of as may be found convenient.

The expenses of the service have considerably increased within a few years past, owing not only to the increased number of vessels which the circumstances of our commerce have required and to the consequent employment of additional officers and men, but chiefly to the unprecedented advance in the price of all necessary supplies, and consequent indispensable increase in the pay of officers and

men. Since 1861 these supplies have advanced at rates varying from thirty-three to one hundred per cent. All these expenses are now paid from the general customs fund, and are limited in amount only by the direction of the Secretary. They have now attained such a magnitude as to make it desirable that Congress should signify its views in regard to the subject by providing a specific appropriation for them. A bill for that purpose was presented a few months since by the Department which received the approval of one branch of the legislature but did not become a law. The expenses of the service will form distinct items in the regular estimates to be submitted for the coming fiscal year.

The expenses of the Marine Hospital establishment continue quite large, notwithstanding persistent efforts to secure economy. The receipts from the tax are still found insufficient to meet them, and it will be necessary to provide for the deficiency, as heretofore, from the public treasury. It is suggested that, in accordance with the example afforded by the military establishment, authority may be given for the annual appropriation of so much of the proceeds of fines, penalties, and forfeitures under the customs laws as may suffice to meet the deficiency unprovided for by the tax.

Efforts for the prevention and detection of smuggling have been actively continued during the year, with considerable success, at a comparatively moderate expense, and without any charge upon the public Treasury, the proceeds of fines, penalties, and forfeitures having proved sufficient to sustain the charge and pay into the Treasury a surplus of more than \$300,000.

Quite a large amount of stock of private corporations is held by the United States in the custody of the Department, which is a constant source of embarrassment to the Government and to the respective companies. A schedule is annexed exhibiting these stocks and the manner in which they were obtained. It will be observed that they were acquired by subscription under special authority of law in aid of projects of internal improvement. However proper and beneficial such measures may have been at the time of their inception, no good purpose can now be subserved by longer retaining the interests thus acquired, and it is recommended that authority be conferred by law for the sale of them. Such a course, it is believed, will be altogether acceptable to the various corporations.

A portion of the first annual report of the Director of the Bureau of Statistics is submitted herewith, the entire report being in course of preparation for separate publication. It contains a survey of the operations of the bureau; a careful analysis, illustrated by numerous tables, of our commerce during the past year; together with late returns of population, immigration, manufactures, mining, and agriculture. These subjects are particularly interesting at the present time, and the report of the Director cannot fail to attract the attention of Congress and the people.

From the report of the Third Auditor, to which attention is invited, it is apparent that a change should be made in regard to the adjustment and settlement of the war claims that come before his bureau; that a period should be fixed within which claims should be presented, and that measures should be adopted to perpetuate the testimony in cases of claims that are disallowed. Even now, while all the facts are fresh and attainable, fraudulent claims are frequently presented; and when, by a lapse of time, it will be difficult, if not impossible, to obtain testimony in regard to their true character, fraudulent claims will be quite likely to increase in numbers and amounts.

The report of the Treasurer, exhibiting, as it does, the condition of the Treasury and the extent of its operations during the past year, and presenting views upon some interesting

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Report of the Postmaster General.

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matters by an officer of large experience, merits especial attention. The reports of the other bureau officers are also of unusual interest and value.

The work upon the public buildings throughout the country has been prosecuted with unusual energy. It has been the aim of the supervising architect, under the direction of the Secretary, to have all public buildings constructed in the most substantial manner and completed, with a view to economy, as rapidly as possible. The rapidity with which the north wing of the Treasury is approaching completion must be gratifying to Congress.

The Department of State has referred to this Department for consideration the official report of the proceedings of "the international monetary conference" held at Paris in June and July of the present year, and also the report of Mr. Samuel B. Ruggles, the delegate in that conference from the United States of America. This conference was diplomatic in its constitution, having been formally called by the Government of France by official invitations to most of the civilized nations. Its object, as stated by the minister of France at Washington, was a general interchange of views, and also "to seek for a basis for ulterior negotiation" on the subject of a unified coinage for the use of the world. It appears by the official report that the conference, on full deliberation, has agreed on such a basis, which is now transmitted to the different nations for their consideration and decision respectively. The matters thus presented are of high monetary interest to the United States, and merit the attentive and careful examination of its public authorities, executive and legislative. They are fully discussed in the separate report of Mr. Ruggles under the following heads:

1. The composition and character of the conference, embracing nineteen separate nations, with a population of 320,000,000 inhabitants.

2. The importance of including in the proposed monetary reform the nations of Central and South America.

3. The necessity of monetary union between the eastern and western continents.

4. The intermediate position of the two Americas between Western Europe and Eastern Asia, and their duty as the principal producers of the gold of the world.

5. The cost of recoinage required by the proposed unification, with full statistics of the coinage, past and present, of the United States, Great Britain, and France.

The gold coinage of the United States, from 1792 to 1851, the report states to have been.....	\$180,184,268
Of Great Britain, from 1816 to 1851.....	480,105,755
Of France, from 1793 to 1851.....	324,492,516
	<hr/> \$984,782,639

From 1851 to 1866 (fifteen years) there was coined by the United States.....	\$665,352,323
Great Britain.....	455,225,695
France.....	987,788,298
	<hr/> \$2,108,356,316

6. The probable rate of future product of gold in the United States.

7 and 8. The history of the varying coinages of Europe and their gradual consolidation.

9. The contrast presented by the coinage of the United States, as unified by the Constitution.

10. The necessity of intercontinental monetary conferences of nations. First attempt in the congress at Berlin in 1863.

11. Quadripartite monetary treaty of December, 1865, between France, Belgium, Switzerland, and Italy, with subsequent adhesion of the Pontifical States and of Greece, partially unifying Europe.

12. The necessity of a single standard exclusively of gold. The fallacy and impossibility of a double standard of gold and silver.

13. A "common denominator," or unit, of gold of defined weight and value, rendering "dollars" and "francs" synonymous or mutually convertible.

14. Action in the conference by the delegates from Great Britain.

15. The consent of France to issue a new gold coin of twenty-five francs to circulate side by side with the half-eagle of the United States and the sovereign of Great Britain when reduced to that value.

The proper examination of a subject so comprehensive can hardly fail to benefit the Government and the people of the United States. In commending the report to the due consideration of Congress the Secretary deems it sufficient for the present to express his full concurrence in the view of public duty embodied in the following extract:

"Let us never forget that the two Americas are Christian members of the great family of nations, and that the unification of money may be close akin to other and higher objects of Christian concord. We cannot wisely or rightfully remain in continental isolation. Integral portions of the mighty organism of modern civilization, let us ever fraternally and promptly take our part in the world-wide works of peace."

HUGH McCULLOCH,
Secretary of the Treasury.

HON. SCHUYLER COLFAX,
Speaker of the House of Representatives.

Report of the Postmaster General.

POST OFFICE DEPARTMENT,
November 26, 1867.

SIR: The revenues of the Department during the fiscal year ended June 30, 1867, were \$15,237,026 87, to which should be added amounts drawn from the Treasury under the acts making appropriations for carrying "free mail matter," \$900,000, and amounts under the special appropriations for overland mail and marine service between New York and California, \$900,000; steamship service between San Francisco, Japan, and China, \$41,666 67; and between the United States and Brazil, \$250,000, (including \$100,000 on account of service performed during the previous fiscal year;) for new mail routes, \$150,000; and to supply deficiencies, \$1,600,000; making the receipts from all sources \$19,978,698 54. The expenditures of all kinds, including the foreign mail transportation, and service for which the above special appropriations were made, say \$1,191,666 67, during the same period, were \$19,235,483 46, showing an excess of receipts over expenditures of \$743,210 08.

The ordinary expenses of the Department, not including mail transportation provided for by special appropriation, were \$18,043,816 79; and the ordinary receipts, including the amount drawn under appropriation for carrying free mail matter, were \$16,137,026 87, showing an excess of expenditures of \$1,906,789 92, which has been met by the unexpended balances of former appropriations. No appropriation for the past year is therefore needed.

The receipts for postages, as compared with the previous year, show an increase of six per cent., and the expenditures an increase of twenty-five and three tenths per cent. The amount of revenue concentrated in the depositories and draft offices was \$6,164,728 16; collected by the Auditor, \$2,197,118 66; retained by postmasters for compensation and office expenses, \$6,314,156 55; and remaining in the hands of postmasters awaiting collection, \$561,028 50.

The details of the financial operations of the Department are fully set forth in the

accompanying comprehensive report of the Auditor:

ESTIMATES FOR 1869.

The ordinary expenditures for the year ending June 30, 1869, are estimated at.....	\$21,200,000
Add for overland mail and marine service between New York and California.....	\$900,000
Steamship service between San Francisco, Japan, and China.....	500,000
Steamship service between the United States and Brazil.....	150,000
Steamship service between San Francisco and the Sandwich Islands.....	75,000
To supply a deficiency in service between the United States and Brazil in the fiscal year ended June 30, 1866.....	12,500
	<hr/> 1,637,500

Making the total estimated expenditures... 22,837,500

The ordinary receipts, including the standing appropriation of \$700,000 for carrying free mail matter are estimated at..... \$16,700,000

Add amounts of special appropriation for California, China, and Brazil mails, and for the deficiency above named..... 1,562,500

18,262,500

Showing an excess of expenditures of..... 4,575,000

Deducting the undrawn balances of appropriations for the Department, amounting to..... 2,000,000

Leaves the deficiency to be provided for from the general Treasury..... \$2,575,000

APPROPRIATIONS FOR SPECIAL SERVICE.

It will also be necessary to make the usual special appropriations as follows:

For overland mail transportation and marine service between New York and California.....	\$900,000
Mail steamship service between San Francisco, Japan, and China.....	500,000
Mail steamship service between the United States and Brazil.....	150,000
And for deficiency on account of service between the United States and Brazil during the fiscal year ended June 30, 1866.....	12,500
Mail steamship service between San Francisco and the Sandwich Islands.....	75,000

POSTAGE STAMPS AND STAMPED ENVELOPES.

During the year 371,599,605 postage stamps, of the value of \$11,578,607; 44,566,150 plain stamped envelopes, representing \$1,290,688 50; 16,662,750 stamped envelopes bearing printed cards and requests, representing \$494,712 50; and 1,857,750 newspaper wrappers, valued at \$37,155, were issued. An aggregate value of \$13,401,063.

The issue of postage stamps, compared with the previous year shows an increase of about 6.5 per cent., while the issue of stamped envelopes has increased almost sixty-one per cent. This increase is attributable to the introduction of printing business cards and requests for return if not delivered, without additional cost. The issue of this class of envelopes during the year was increased one hundred and six per cent. over that of 1866.

The prediction in last year's report that the use of such envelopes would tend largely to reduce the number of dead letters has been verified. The statistics elsewhere given, under the head of dead letters, show that the number has diminished nearly one million during the past year, and that this gratifying result is attributable to the use of envelopes with a request for the return to the writers of unclaimed letters directly from the post office addressed. It is estimated that fully fifty million of these envelopes were used during the year, the Department supplying about one third of the number. The sales of postage stamps and stamped envelopes during the year amounted to \$12,988,134 32, leaving unsold in the hands of postmasters \$412,928 78.

New Postage Stamps.

Experiments are in progress with a postage stamp printed on embossed paper, which seems to afford good security against fraud. The fibers of the paper being broken, canceling marks almost necessarily penetrate, so that they cannot easily be removed without destroying the stamp. The adhesive properties are

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also promoted, and other advantages secured which commend the invention to favorable notice.

The number of packages of postage stamps lost in the mails during the year ending June 30, 1867, was nineteen, representing \$3,830. The number of packages of stamped envelopes lost during the same period was seven, valued at \$1,191 90.

During the year twenty-eight cases of claims on account of robberies by armed forces have been acted on. Twenty-four of these, amounting to \$6,064 05, have been allowed, and four, amounting to \$383 27, have been disallowed.

CONTRACTS.

There were in the service of the Department on the 30th June, 1867, 6,376 contractors for the transportation of the mails.

Of mail routes in operation there were 7,743; aggregate length, 203,245 miles; aggregate annual transportation, 78,982,789 miles; aggregate annual cost, \$9,336,286; including the compensation of postal railway clerks, route agents, local agents, mail messengers, mail-route messengers, and baggage masters in charge of mails, namely: \$1,020,871, the aggregate annual cost was \$10,357,157. This service was divided as follows:

Railroad routes: Length, 84,015 miles; annual transportation, 32,437,900 miles; annual cost, \$3,812,600; about 11.75 cents per mile.

Steamboat routes: Length, 15,094 miles; annual transportation, 3,210,740 miles; annual cost, \$472,206; about 14.7 cents per mile.

Celerity, certainty, and security routes: Length, 153,136 miles; annual transportation, 43,334,149 miles; annual cost, \$5,051,480; about 11.65 cents per mile.

The length of routes was increased over the preceding year 22,324 miles; the annual transportation, 7,144,875 miles; and cost \$1,705,812; to which add increased cost for railway postal clerks, route, local, and other agents, \$241,161, makes an aggregate of \$1,946,973.

LEGISLATIVE CONTRACTS.

San Francisco to Portland, by Sea.

By a joint resolution of Congress approved February 18, 1867, the Postmaster General was "authorized to employ ocean mail service between San Francisco, California, and Portland, Oregon, not less than three times a month, in continuation of the service from New York via Panama to San Francisco; provided that the cost of said service shall not exceed \$25,000 per annum." The resolution further directed that bids for the service be invited by advertisement in newspapers published at San Francisco, California, and Portland, Oregon. In compliance with the provisions of this enactment an advertisement was prepared under date of February 25, 1867, and inserted in the newspapers directed, and also in one printed in New York, inviting proposals for service from July 1, 1867, to June 30, 1870. But one bid was received, that of the California, Oregon, and Mexican Steamship Company, at \$25,000 per annum, which was accepted June 6, 1867, and contracts have since been executed.

Lincoln to Portland, by Land.

The Fortieth Congress adopted "a resolution to terminate a contract of a member of Congress with the Post Office Department," which was approved by the President March 26, 1867. This resolution authorizes the Postmaster General "to cancel the contract between the United States and the present contractor for the transportation of the mail on route No. 14782, between Lincoln, California, and Portland, Oregon, to take effect September 30, 1867," and directs that the Department "advertise for bids for the performance of the service for the residue of the contract term" in California and Oregon newspapers.

An advertisement was accordingly issued April 4, 1867, and published as directed, invit-

ing proposals for the service from October 1, 1867, to June 30, 1870, under which advertisement bids were received from three persons, the lowest being that of Jesse C. Carr, of San Francisco, at \$196,000 per annum, which was accepted August 5, 1867.

The compensation under the contract superseded by this legislation was \$179,000.

OVERLAND AND TERRITORIAL MAIL.

No changes have been made in the overland California mail since the last annual report, at which time the Department was having daily service from the ends of the railroad, by both the Smoky Hill and Platte routes, as far as Denver, where the lines united and formed the single daily route via Salt Lake City and Virginia City to the Central Pacific railroad connection.

During the spring and summer months the complaints as to the manner in which the service was being performed, and the great delay in the arrival of mail from the East at Denver and Salt Lake, were more numerous and pressing than at any time since the present route has been in operation. It was charged that the Indian troubles, complained of by the contractor and given by his agents as an excuse for non-performance of service, were a pretense, and that there was no reason why the mails should not be conveyed regularly and within schedule time. The official reports, however, of General Sherman and other officers of the Army, referred by the Secretary of War to this Department, proved conclusively that the most serious troubles did exist on the Plains, and that there was no safety for either passengers or mails except under ample military escort, which could not be furnished daily. A special agent of the Department, lately sent over the route for the express purpose of reporting as to the manner in which the service had been performed during the summer, and also as to its present condition, has under date of November 4, 1867, made his report, which is accompanied by the affidavit of the postmasters at the principal offices on the route, and also by the statements of several officers commanding military stations on the line. The burden of this proof is summed up as well, perhaps, in the affidavit of the postmaster at Denver as in any of the other papers submitted. He says:

"On that portion of the route from Denver to Omaha City, or terminus of railroad, Indian troubles of a serious nature commenced as early as February 16, and, notwithstanding the contractor, supported by the military, put forth every effort in his power to clear the route and keep it open, no mail was received at this office over that route from February 23 to March 2. During the month of March our registers show eighteen failures. From June 8 to September 1 regular trips were made on alternate days, and from that date to the present we have had daily service. I am reliably informed that the delay was, in many instances, caused by loss of stock driven off by hostile Indians, at points where it was impossible to replace it without prolonged delay. This was more especially the case on the route from Denver to Salt Lake City. Late in the winter the Union Pacific railroad was blockaded by snow, followed soon by high water, which caused another delay of three weeks and the diversion of the mail from the Platte to the Smoky Hill line. From the best information I can obtain the causes of all of the detentions and irregularities complained of were unavoidable on the part of the contractor, and of such a character as to have precluded the possibility of any man or set of men making regular trips over the route, unless securely guarded by an armed force of considerable magnitude."

From papers submitted by the contractor to the inspection division it would appear that from April 1 to August 15 the Indians robbed him of three hundred and fifty head of stage stock, burned twelve of his stage stations, with large amounts of grain and hay, destroyed three coaches and express wagons, severely wounded several of his passengers, and killed outright thirteen of his most reliable employees.

The Santa Fé route, although more fortunate than the overland, was also besieged by Indians during the greater part of the summer. Several of the stations were robbed of their stock, which of course seriously delayed the

transmission of mail matter. At this date, however, the route is working well, and the registers show that the service is being performed even within the lately shortened schedule time, which gives great satisfaction to the residents of the entire Territory.

A daily mail having been ordered on the route from Salt Lake to the Dalles, Washington Territory, letters and papers from the East for northern Oregon and Washington are distributed so as to be forwarded by that line.

Contracts for the overland and the Dalles routes expire September 30, 1868, and the usual advertisements inviting proposals for the service are about being issued by the Department.

The importance of a mail over the old southern overland route from El Paso, Texas, by Tucson and Yuma, to Los Angeles being urged upon the Department, route 17408, originally let from Mesilla to Tucson, was extended, at *pro rata* pay, to Los Angeles, and the number of trips increased to three per week. This has proved a source of great benefit to persons living on the line of the route, who had been for five years cut off from any more direct communication with California than by sending their letters by stage fifteen hundred miles to St. Joseph, to be again transmitted two thousand miles by the same conveyance to San Francisco.

With the view of affording more direct mail communication between Chicago, St. Paul, and other important points, and the Territories of Montana, Idaho, and Washington, route No. 13811, from Fort Abercrombie to Helena, was advertised for the spring letting of 1867, and duly awarded to contract, for a three-times-a-week service, to the lowest bidders. By this route, it was claimed, six hundred miles in distance would be saved between Chicago and Helena, as compared with the more indirect one via Salt Lake City. Unfortunately, however, both for the communities interested and the contractors, the Indian hostilities have been so fierce and unrelenting on nearly the whole line, with not even an attempt at military protection, that what little mail matter was trusted to it has been conveyed by ponies, traveling over some portions of the route only at night; and therefore, instead of shortening the time between the points named, it has been more than doubled. The service, as now performed on the route, is of no value to the Department, and unless a marked improvement shall take place by spring it will be discontinued.

RATES OF PAY AND WEIGHTS OF MAILS ON RAILROAD ROUTES.

There are three acts of Congress which contain provisions prescribing the rates of compensation which shall be allowed for the transportation of mails on railroad routes. By the first, approved July 7, 1838, section two, the Postmaster General is authorized to cause the mail to be transported upon "each and every railroad within the limits of the United States which now is, or hereafter may be, made and completed," "provided he can have it done upon reasonable terms, and not paying therefor, in any instance, more than twenty-five per cent. over and above what similar transportation would cost in post coaches." The second, approved January 25, 1839, section one, restricts the authority vested in the Postmaster General by the act above quoted, so as not to permit him to allow more than \$300 per mile per annum to any railroad company in the United States for the conveyance of one or more daily mails upon their roads. And the third, approved March 3, 1845, section nine-teen, prescribes that—

"To insure, as far as may be practicable, an equal and just rate of compensation, according to the service performed, among the several railroad companies in the United States for the transportation of the mail, it shall be the duty of the Postmaster General to arrange and divide the railroad routes, including those in which the service is partly by railroad and partly by steamboats, into three classes, accord-

ing to the size of the mails, the speed with which they are conveyed, and the importance of the service; and it shall be lawful for him to contract for conveying the mail with any such railroad company, either with or without advertising for such contract. *Provided*, That for the conveyance of the mail on any railroad of the first class he shall not pay a higher rate of compensation than is now allowed by law; nor for carrying the mail on any railroad of the second class a greater compensation than \$100 per mile per annum; nor for carrying the mail on any railroad of the third class a greater compensation than fifty dollars per mile per annum. And in case the Postmaster General shall not be able to conclude a contract for carrying the mail on any such railroad routes at a compensation not exceeding the aforesaid maximum rates, or for what he may deem a reasonable and fair compensation for the service to be performed, it shall be lawful for him to separate the letter mail from the residue of the mail, and to contract, either with or without advertising, for conveying the letter mail over such route by horse express, or otherwise, at the greatest speed that can reasonably be obtained, and also to contract for carrying over such route the residue of the mail, in wagons or otherwise, at a slower rate of speed: *Provided*, That if one half of the service on any railroad is required to be performed in the night season it shall be lawful for the Postmaster General to pay twenty-five per cent. in addition to the aforesaid maximum rates of allowance: *And provided further*, That if it shall be found necessary to convey over any railroad route more than two mails daily it shall be lawful for the Postmaster General to pay such additional compensation as he may think just and reasonable, having reference to the service performed and the maximum rate of allowance established by this act."

In order to such an arrangement and classification of railroad routes as the act last mentioned contemplates there is an obvious necessity for accurate and reliable information as to the "size of the mails" they severally convey. Yet, until recently, no measures were ever taken to procure from any considerable proportion of the roads in the service of the Department statements of the amounts of mail matter conveyed by them, respectively. In February and March last, however, a "railroad weight circular" was issued and addressed to the proprietors of each railroad route, requesting them to "weigh all the through mails and way mails" conveyed in both directions to and from every station for thirty consecutive working days, commencing on all roads east of the Rocky mountains on the 1st, and on all roads west on the 15th of April, 1867, and report the results to the Department in a prescribed tabular form annexed to the circular, and to return also a description of the accommodations provided for mails and agents, with the dimensions, fixtures, and furniture of the car or apartment allotted to their use, and a statement of the number of trips per week in each direction. Prompt responses were returned from a majority of the routes; and to obtain returns from the residue a second circular was issued, under date of the 1st August, 1867, notifying them that the returns received would be published, and remarking that roads refusing or failing to respond would incur the imputation of unwillingness to exhibit the amount and character of the service they performed for the Department in comparison with others receiving equal compensation, and that, upon any future call or opportunity for the readjustment of the pay for transporting mails on such roads, the information asked for would be deemed indispensable. The result of these calls appears in the annexed "table showing the weight of mails and accommodations for mails and agents on railroad routes, with the frequency of the service and the rate of pay per mile per annum for mail transportation," in which, it will be observed, the routes are arranged, not by States, but according to the rate of pay, the highest being first, and those of equal pay according to the average weight carried the whole distance.

Two routes receiving the highest rate of pay—\$375 per mile per annum—have reported, namely, the New Jersey railroad, route 2006, between New York and New Brunswick, on which the average weight of mails per day carried the whole length of the route is 20,119 pounds, and the Philadelphia and Trenton railroad, route 2067, between New Brunswick and Philadelphia, on which the average weight

of mails per day carried the whole length of the route is 20,069 pounds. On four routes receiving pay at the rate of \$300 per mile the daily average weights range from 22,581 pounds between Baltimore and Washington, (route 3207,) to 7,668 pounds between Baltimore and Cumberland, (route 3208,) both under contract to the Baltimore and Ohio Railroad Company. On eight routes receiving pay at rates ranging from \$275 to \$210 87 per mile the weights range from 9,385 pounds per day between Cincinnati and Xenia, (Little Miami railroad, route 9406, pay \$225,) to 3,518 pounds between Cincinnati and Hamilton, (Cincinnati, Hamilton, and Dayton railroad, route 9405, pay \$225.) On fifteen routes receiving \$200 per mile the weights range from 19,183 pounds per day between Philadelphia and Pittsburg, (Pennsylvania railroad, route 2201,) to 367 pounds between Syracuse and Rochester, (New York Central railroad, route 1234.) Dividing the Pennsylvania railroad at Harrisburg, the point at which the great mails between New York and the principal cities of the West pass on and off that road, the average weight per day carried the whole distance between Philadelphia and Harrisburg is 8,278 pounds, and between Harrisburg and Pittsburg 23,825 pounds, the largest average reported. On six routes receiving pay at rates ranging from \$187 50 to \$150 72 the weights range from 4,827 pounds between Boston and Providence, (Boston and Providence railroad, route 608, pay \$187 50,) to 1,756 pounds between Chicago and Boonsboro', (Chicago and Northwestern railroad, route 11403, pay \$175.) On twenty-seven routes receiving \$150 the weights range from 7,384 pounds between Rochester and Niagara Falls, (New York Central railroad, route 1282,) to 287 pounds between Leavenworth and Lawrence, (Union Pacific railroad, route 14,083, branch.)

On twenty routes receiving pay at rates ranging from \$145 64 to \$103 63 the weights range from 3,603 pounds between Richmond and Petersburg, (Richmond and Petersburg railroad, route 4408, pay \$122 45,) to 30 pounds between Rouse's Point and Canada line, (Champlain and St. Lawrence railroad, route 1138, pay \$116 60.) On seventy-one routes receiving \$100 the weights range from 7,086 pounds between Washington and Lynchburg, (Orange and Alexandria railroad, route 4401,) to six pounds between Shawmut and Shawmut Junction, (Pennsylvania Cannel Coal railroad, route 2380.) On six routes receiving pay at rates ranging from \$90 to \$77 17 the weights range from 732 pounds between Albany and Junction, (Rensselaer and Saratoga railroad, route 1080, pay \$85 75,) to 108 pounds between Canandaigua and Batavia, (New York Central railroad, route 1277, pay \$83.) On fifty-one routes receiving \$75 the weights range from 2,048 pounds between Atlanta and West Point, (Atlanta and West Point railroad, route 6003,) to 40 pounds between Northboro' and Pratt's station, (Agricultural Branch railroad, route 640a.) On twelve routes receiving pay at rates ranging from \$69 09 to \$51 12 the weights range from 1,324 pounds between Buffalo and Corning, (Erie railroad, route 1321, pay \$60,) or 3,794 pounds dividing the route at Attica, to 46 pounds between Taunton and Middleboro', (Middleboro' and Taunton railroad, route 679, pay \$63 16.) On one hundred and eight routes receiving \$50 the weights range from 6,488 pounds between Suspension Bridge and Detroit, (Great Western railroad of Canada, route 1320,) to 12 pounds between Washington and Double Wells, (Georgia railroad, route 6005.) On thirty-one routes receiving pay at rates ranging from \$47 77 to \$20 the weights range from 464 pounds between Lancaster and Middletown, (Pennsylvania railroad, route 2257, pay \$45 84,) to 14 pounds between Hodges and Abbeville, (Greenville and Columbia railroad, route 5,607 branch, pay \$30.)

In tabular form these results appear as follows:

Number of routes,	Rates of Pay.		Range of Daily Weights.	
	From	To	From	To
2	-	\$375 00	Pounds.	Pounds.
4	-	300 00	20,119	20,069
8	\$275 00	210 87	22,581	7,668
15	-	200 00	9,385	3,518
6	187 50	150 72	19,183*	367
27	-	150 00	4,827	1,756
20	145 64	103 63	7,384	287
71	-	100 00	3,603	30
51	90 00	77 17	7,086	6
12	69 09	75 00	732	108
103	-	51 12	2,048	40
31	47 77	20 00	1,324†	46
361	-	-	6,488	12
			464	14

* Or 23,825 pounds, dividing the Pennsylvania railroad at Harrisburg.

† Or 3,794 pounds, dividing at Attica.

Not the weight of the mails alone, it is true, but also the accommodations provided for the mails and agents of the Department, the dimensions, fixtures, and furniture of the car or apartment allotted to their use, the frequency of the service, and, it may be, other circumstances besides, are entitled to consideration in adjusting the pay for railroad transportation. Still, the size of the mails being, in the main, undeniably the principal indication or test of "the importance of the service," the figures above cited display great inequalities in the rates actually allowed. No general systematic revision and readjustment of these rates, based upon the returns received, has yet been attempted; but in a number of cases of disagreement between the Department and railroad companies the returns have been used as a guide to a proper settlement of the dispute; and as the terms of existing contracts expire, and it becomes necessary to enter into new engagements, it is expected that such changes will from time to time be made as will eventuate ultimately in the nearest practicable approach to a perfect classification of railroad routes and graduation of their pay according to the comparative value and importance of the service they perform.

The table showing the weight of mails, &c., above referred to, is accompanied by an alphabetical index for easy reference, and also by a list of routes from which no response to the Department's calls has been received, in which list the titles of the companies are arranged in alphabetical order. Several whose titles do not appear in either the table or the list are expected yet to furnish the desired information, they being in correspondence with the Department on the subject.

POST-ROUTE MAPS,

These maps, the general outline of which was suggested by and inaugurated under the administration of Postmaster General Blair, are intended to embrace a systematic exhibit of the postal service of the United States on a plan adapted to keep up with the periodical changes and gradual improvement of the service.

It is needless to do more than refer to the advantages of this graphic mode of representation for a general view of mail connections over the tedious reference to books of entry.

Owing to the vast extent of our national domain, and the great number of post offices and routes to be shown, with the requisite amount of detail, such maps can only be compiled in successive groups of States.

During the past year a map of the mail service in the States of New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut, with parts of New York and Maine, has been completed by the topographer, and distributed to postmasters and other agents of the Department, as also to officers in other branches of the public service, and has already secured

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numerous testimonials to the usefulness of such an official production.

These first demands having been met, copies of the map are for sale from the Department (Second Assistant Postmaster General's bureau) and from agents in Boston, Portland, New York, and Philadelphia.

The next in the series, the map of the State of New York and its immediate connections, is nearly completed by the engraver and will be issued this winter; and the third map, embracing the States of Pennsylvania, New Jersey, Delaware, Maryland, and the District of Columbia, being well advanced, will follow soon after.

FINES AND DEDUCTIONS.

The amount of fines imposed and deductions made from the pay of contractors for failures and other delinquencies during the year was \$188,839 46, and the amount remitted for the same period was \$42,931 79, leaving the net amount of fines and deductions \$145,907 97.

MAIL-BAGS, LOCKS, AND KEYS.

A table is annexed showing the number, description, and cost of mail-bags, locks, and keys purchased during the year; the amount expended for mail-bags being \$80,440, which, though an excess of \$26,812 50 over the expenditure of the previous year, is less by \$11,275 86 than that of the year next preceding.

THROUGH MAIL ROUTE BETWEEN WASHINGTON AND NEW ORLEANS.

The through mails between Washington and New Orleans are carried over the Orange and Alexandria railroad between Washington and Lynchburg, Virginia; the Virginia and Tennessee railroad between Lynchburg and Bristol, Tennessee; the East Tennessee and Virginia railroad between Bristol and Knoxville, Tennessee; the East Tennessee and Georgia railroad between Knoxville and Chattanooga, Tennessee; the Nashville and Chattanooga railroad between Chattanooga and Stevenson, Alabama; the Memphis and Charleston railroad between Stevenson and Grand Junction, Tennessee; the Mississippi Central railroad between Grand Junction and Canton, Mississippi; and the New Orleans, Jackson, and Great Northern railroad between Canton and New Orleans. This is called the southwestern route. It is all rail, and its aggregate length is twelve hundred and eighty miles. The Atlantic route, via Richmond, Virginia; Wilmington, North Carolina; Kingsville, South Carolina; Augusta and Atlanta, Georgia; and Montgomery and Mobile, Alabama, is twenty miles shorter, the aggregate distance thereby between Washington and New Orleans being twelve hundred and sixty miles; but on that route there are two hundred and thirty miles of steamboat service, namely, between Washington and Game Point, (Aquia creek,) fifty-six miles, and between Mobile and the lake terminus of the Ponchartrain railroad, one hundred and seventy-four miles.

Records have been kept at New Orleans and Washington since 21st January last, showing the time occupied in the transmission of through mails between the two extremes.

The period from 21st January to 31st October, inclusive, embraces two hundred and eighty-four days; during thirty-five of these days, namely, from the 8th of March to the 11th of April, inclusive, the southwestern route was obstructed by excessive floods in East Tennessee. In the remaining two hundred and forty-nine days there were received at New Orleans from Washington, by the southwestern route, two hundred and forty-eight mails, of which ninety-six were carried through at an average speed of seventy-eight hours and thirteen minutes, a fraction over three and one quarter days; one hundred and four at an average speed of eighty-five hours and fifty-three minutes, a fraction over three and one half days; nine at an average speed of one hundred and two hours and six minutes,

a fraction over four and one quarter days; thirty-five at an average speed of one hundred and nine hours and forty-eight minutes, a fraction over four and one half days; one in one hundred and twenty-two hours and forty-five minutes; one in one hundred and twenty-seven hours and forty minutes; one in one hundred and thirty-three hours and forty-five minutes; and one in one hundred and thirty-four hours and forty-five minutes; the common average speed of the two hundred and forty-eight mails being eighty-seven hours and thirty-five minutes, or three days, fifteen hours, and thirty-five minutes. Two trips were made each in seventy-six hours and forty minutes, which was the greatest speed attained. On thirty of the two hundred and forty-nine days no mails were received at New Orleans from Washington, in consequence of the failure of the trains to connect at some point on the route.

During the same two hundred and forty-nine days there were received at Washington from New Orleans two hundred and forty-eight mails, of which one hundred and eighty-seven were carried through at an average speed of eighty-three hours and fifty-three minutes, a fraction under three and one half days; thirty-two at an average speed of ninety-four hours and thirty-seven minutes, a fraction under four days; twenty-two at an average speed of one hundred and seven hours and twenty minutes, a fraction under four and one half days; four at an average speed of one hundred and nineteen hours and fourteen minutes, a fraction under five days; one in one hundred and thirty-one hours and twenty-five minutes; one in one hundred and forty-four hours and fifty minutes; and one in one hundred and fifty-five hours and thirty-eight minutes; the common average speed of the two hundred and forty-eight mails being eighty-eight hours and thirty-nine minutes, or three days, sixteen hours, and thirty-nine minutes. Two trips were made each in eighty-two hours, which was the greatest speed attained going north. On twenty-eight of the two hundred and forty-nine days no mails were received at Washington from New Orleans, in consequence of the failure of the trains to connect at some point on the route.

During the thirty-five days' interruption of the through mail service on the southwestern route the mails were carried from Washington to New Orleans, over the Atlantic route, at an average speed of one hundred and five hours and twenty-six minutes, or four days, nine hours, and twenty-six minutes, nineteen of the thirty-five mails going through each in four days and a fraction over—say ninety-six hours and forty-six minutes. During the same thirty-five days seven mails were carried from New Orleans to Washington, via Nashville, Tennessee, and Cincinnati, Ohio, at an average speed of one hundred and thirty-five hours, or five days and fifteen hours; one trip, the shortest by that route, being made in one hundred and six hours, or four days and ten hours; and twenty-four mails by the Atlantic route at an average speed of one hundred and thirteen hours and twenty-eight minutes, or four days, seventeen hours, and twenty-eight minutes; one trip, the shortest, going north, by that route, being made in one hundred and eleven hours, or four days and fifteen hours.

Compared with the records kept before the rebellion, as condensed in the report of the Postmaster General for the year 1860, (page 23,) the service on the southwestern route exhibits a marked improvement, both with regard to speed and regularity, the average time in each direction being reduced about twenty-two hours, and the proportion of trips performed in schedule time being increased from about one half the whole number then to nearly five sevenths now, reckoning the schedule time at three and a half days until the 15th of June, and at three and a fourth days after that date, going south, and at three and a half days for the whole period going north.

RAILWAY POSTAL SERVICE.

There are now in operation in the United States eighteen railway postal routes, extending in the aggregate over 4,435 miles, upon 879 miles of which twice daily service is performed, making a total equal to 5,314 miles of railway postal service daily each way. There are employed in this service 160 men, as head clerks and clerks, at a cost \$187,900 per annum. It would require to perform this same service by route agents, in the ordinary way, eighty-six men, at salaries of \$1,080 per annum, the compensation now allowed to route agents on first-class routes, making the cost \$92,880 per annum. Thus:

160 postal clerks cost.....	\$187,900 00
86 route agents would cost.....	92,880 00

Increased cost of postal clerks over route agents..... \$95,020 00

But in making this statement it is proper to state that the reduction of clerical force in distributing and other large post offices incident to the introduction of the railway postal service should be taken into consideration. It is impossible to give the exact number of clerks saved to those offices; but it is certain that in the force of the Chicago, Cairo, St. Joseph, Buffalo, Washington, Richmond, Memphis, and Chattanooga offices an aggregate reduction of thirty men has been made; and it is fair to assume that, without the railway postal service, these same offices instead of decreasing would have increased their force by the addition of at least thirty. The saving may therefore be set down at sixty men at an average compensation of \$1,000 per annum each, say \$60,000 per annum, thus reducing the balance against the railway postal service as at present in operation and organized to about \$35,000 per annum.

The reduction of labor in the New York, Philadelphia, and Baltimore offices must, of course, be as much in proportion as the reduction of labor in the offices first mentioned; but leaving out New York, Philadelphia, and Baltimore, and assuming that the railway postal service on these five thousand miles is costing \$35,000 per annum, or an average of seven dollars per mile over the ordinary or old route-agent service, the fact that twelve, twenty-four, and often forty-eight hours are saved in the transmission of all the mails passing over these five thousand miles would seem sufficient to justify the increased expenditure.

PACIFIC RAILROAD SERVICE.

At the date of the last annual report Junction City, Kansas, 139 miles west of Wyandotte, and 418 miles west of St. Louis, Missouri, was the farthest point to which a continuous railroad line from the eastern cities toward the Pacific was completed, a gap existing east of Omaha City, Nebraska, in the line from Chicago to Kearney. This gap has since been filled up by the completion of the Chicago and Northwestern railroad to Council Bluffs, Iowa, on the eastern side of the Missouri river, opposite Omaha, and the Union Pacific railroad (the Platte route) has been extended beyond Kearney 329 miles to Cheyenne, at the base of the Rocky mountains, 519 miles west of Omaha, and 1,013 miles west of Chicago, Illinois. The Junction City or Smoky Hill route (Union Pacific railroad, eastern division) has also been extended 153 miles to Hays City, making the length of the railroad route west of St. Louis 571 miles. The mails are carried daily on these routes west from Wyandotte and Omaha, and on the Pacific side the mails are conveyed twice daily between Sacramento and Cisco, a distance of 94 miles, under contract with the Central Pacific Railroad Company. The lines are thus extending east and west to meet each other; the average progress on the Platte route the past year, Sundays excepted, exceeding one mile per day. A continuation of the work with like energy will verify the promise of the railroad companies by the year 1870 to span the continent.

FOREIGN MAIL SERVICE.

Statistics.

The aggregate amount of postage upon the correspondence exchanged with foreign countries was \$2,411,242 52, an increase of \$152,023 22 over the previous year. Of this amount \$1,969,005 55 accrued on the correspondence exchanged in the mails with Great Britain, France, Prussia, Bremen, Hamburg, and Belgium; \$348,303 88 on correspondence exchanged with the British North American provinces, and \$123,333 09 on mails transmitted to and from the West Indies, Mexico, Central and South America, the Sandwich Islands, Japan, and China. The United States portion of the postage on correspondence exchanged with Great Britain and the Continent of Europe amounted to \$871,223 45; with the British North American provinces, \$196,848 13; and with the West Indies, &c., \$123,333 09, making the total United States postages on foreign mails \$1,191,404 67.

The number of letters exchanged with foreign countries (exclusive of the British North American provinces) was 10,298,234, of which 5,312,401 were sent from and 4,985,833 received in the United States. Of this number 9,442,111 were exchanged with European countries, an increase of 877,264 as compared with the previous year. The estimated number exchanged with the British provinces was 2,806,000, making a total of over 13,100,000 letters exchanged in the mails with foreign countries.

The number of newspapers sent to foreign countries (exclusive of the British North American provinces) was 2,956,599, and the number received 1,871,710, making a total of 4,828,482. Of this number 4,418,482 were exchanged with European countries. As no postage accounts are kept with the British provinces the number of newspapers exchanged between the United States and these provinces cannot be stated, even approximately, although it is known to have been large.

The transatlantic steamship lines employed in the service of foreign Governments conveyed mails the postage on which amounted to \$1,091,189 55, and those employed in the same service by this Department conveyed mails the postage on which amounted to \$878,416.

Ocean Transportation.

The cost of the transatlantic mail steamship service employed by this Department, under the provisions of the law allowing sea and inland postages to American and sea postages only to foreign steamships was \$551,338 01. The amount paid for the transportation of mails to and from the West Indies, &c., by steamers receiving different rates of compensation limited to the postages, was \$60,711 77, and the amount paid for sea and Isthmus conveyance of mails to and from Central and South America, via Panama, was \$22,956 79; making a total expenditure for ocean transportation of \$635,006 57, exclusive of the payments made to the Brazil and China lines, receiving subsidies for mail service under special acts of Congress.

Balance due Foreign Post Departments.

The excess of postage collections in the United States on the correspondence exchanged with Great Britain and countries on the Continent of Europe was \$564,757 13, and the balance against the United States on adjustment of the international postage accounts with those countries amounted to \$357,223 77. Additional particulars of the results of the foreign mail service, which is increasing rapidly in extent and importance, are embraced in the appendix, and also in the report of the Auditor, appended hereto.

Negotiations of new Postal Conventions with Great Britain and Countries on the Continent of Europe.

Following the notice given by the British Government for the termination of the postal

convention of 15th December, 1848, between the United States and the United Kingdom, a preliminary basis of a new convention reducing the international letter postage from twenty-four to twelve cents, and establishing moderate charges for sea and territorial transit of correspondence in closed mails was agreed upon between this Department and the British post office, the leading features of which were stated in the last report. As the details of this new convention were yet to be discussed and formally adjusted with the British office, a favorable opportunity was presented to establish enlarged facilities of mail communication with reduced and uniform rates of postage to the Continent of Europe.

With this object in view Hon. John A. Kasson was appointed a special commissioner on behalf of this Department, with instructions to proceed to Europe and negotiate in person at the respective post departments, subject to revision and approval by the Postmaster General, the details of new postal conventions, in conformity with the general basis of international postal intercourse recommended by the Paris conference of 1863—the main points being the reduction of rates on international mail communications, written and printed; the reduction or total abolition of territorial transit charges on correspondence in closed mails; the establishment, as nearly as possible, of uniform postage rates to all parts of Europe; and generally to simplify and render uniform the rules governing the exchange of correspondence with other countries.

Mr. Kasson was selected for this important mission because of his knowledge of postal details obtained during his connection with the Department as First Assistant Postmaster General, and particularly on account of his familiarity with the postal questions to be dealt with, which were fully discussed at the Paris conference, in which he took a prominent part as the delegate from this Department. His success thus far in accomplishing the objects of his mission has been all that I could have reasonably expected, considering the different internal systems and variety of postal interests to be consulted, and the delays encountered in conducting such negotiations.

Liberal postal conventions, with general uniformity of principles and details, have been concluded with the United Kingdom of Great Britain and Ireland, Belgium, Switzerland, the Netherlands, the North German Union, and Italy, securing important reductions of postage, and introducing other valuable improvements in our postal intercourse with those countries. Negotiations are also in progress with the French post department for a similar arrangement, which it is hoped may terminate with like success.

The leading features of the postal convention with the United Kingdom, which goes into full effect on the 1st of January, 1868, are:

1. A reduction of the international letter rate from twenty-four to twelve cents.
2. The standard weight for letters one half ounce in the United Kingdom, or fifteen grammes in the United States, with uniform progression from that basis, one additional rate for each additional weight or fraction of it.
3. Prepayment of letters optional, but unpaid letters to be subject to a fine on delivery.
4. Prepayment of all other postal packets compulsory in the mailing country, at rates to be established by each department, within a prescribed minimum for book packets and samples, and the receiving country to deliver free of charge.
5. The postage collected in each country upon international correspondence, written or printed, to be equally divided, on the principle that every letter receives an answer, and the labors of each office are substantially equal. But each country to collect for its own use the fines imposed on unpaid letters which it receives from the other.

6. The transit charge for letters in closed mails, one half the interior rate in each country, namely, one and a half cents for the United States, and one half of a penny for Great Britain, to be computed by the ounce, or thirty grammes on letters, and by the pound or kilogramme on other mails.

7. Each country to make its own arrangements for the dispatch of mails to the other by well-appointed ships, and to pay for the transportation of the mails which it dispatches.

8. The free transfer of extra territorial mails in the sea-ports of the two countries.

The conventions concluded with Belgium, the Netherlands, the North German Union, Italy, and Switzerland, respectively, contain substantially the same principles and provisions as the convention with the United Kingdom, with such slight modifications as were necessary to meet the peculiarities of the postal system of each country.

The single rate for letters between the United States and Belgium, by closed mails through England, is reduced from twenty-seven to fifteen cents; between the United States and Prussia, embracing all the States now included within the North German Union, the single letter rate is reduced from thirty to fifteen cents; and the same rate of fifteen cents has been established to the Netherlands, Italy, and to Switzerland, respectively, by closed mails through England, thus securing a uniform rate of letter postage to each of these countries.

The conventions with Belgium and the North German Union also establish a reduced international rate of ten cents for letters transmitted by regular lines of mail steamships plying directly between any port of the United States and any port of the north of Europe.

The principle of free transit for correspondence transmitted in closed mails is adopted in the conventions with the Netherlands and Italy, and in each of the other conventions very low transit charges are established.

Copies of these conventions are annexed.

Postal Convention with Hong Kong, China.

A postal convention, with simple provisions avoiding postage accounts, has also been concluded with the colonial Government of Hong Kong, China, a copy of which is annexed. As the colonial post office at Hong Kong exercises exclusive control of all mails received at and dispatched from that port a convention regulating an exchange of correspondence with that office became essential in connection with the United States mail steamship service between San Francisco and Hong Kong. The arrangements made with the Hong Kong office embrace correspondence originating in the United States and addressed to Hong Kong or to the dependent Chinese ports with which Hong Kong maintains postal relations, including Canton, Amoy, Swatow, and Foo-chow; and *vice versa* of correspondence originating in Hong Kong or the dependent Chinese ports and addressed to the United States. Prepayment is compulsory. Each office retains the postage which it collects at the established rates on the correspondence which it forwards to the other, and the receiving office delivers free of charge.

A corresponding arrangement has been proposed by this Department to the British post office with respect to the correspondence originating in the United States and addressed to the ports in India, regularly served with mails by British contract packets from Hong Kong and *vice versa*.

Registration of Letters to British North American Provinces.

The arrangement between the United States and Canada for the mutual exchange of registered letters has been extended to registered letters exchanged with New Brunswick, Nova

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Scotia, and Prince Edward's Island, respectively.

Mail Steamship Service to Japan and China.

The mail steamship service between the United States and China, authorized by the act of Congress approved February 17, 1865, was commenced on the 1st of January, 1867, by the departure of the steamship Colorado from San Francisco with the mails for Japan and China, and two additional round trips have been performed between San Francisco, Yokohama, and Hong Kong, by that steamer, departing from San Francisco on 3d of April and 4th of July, and delivering return mails at that port on 15th of June and 15th of September, respectively. The average duration of the three voyages of the Colorado were as follows, namely:

	Days.	Hours.	Min.
From San Francisco to Yokohama.....	22	17	41
From San Francisco to Hong Kong, including detention at Yokohama.....	30	11	10
From Yokohama to Hong Kong.....	6	2	48
From Hong Kong to Yokohama.....	7	12	46
From Yokohama to San Francisco.....	21	9	0
From Hong Kong to San Francisco, including detention at Yokohama.....	30	22	7

The Great Republic and China, built expressly for this service, have been placed upon the line. The Great Republic has just completed her first round voyage, begun at San Francisco September 3, 1867, and ended November 19, 1867, and the China entered on her first voyage from San Francisco on the 14th of October, 1867. The contractors expect to have the Japan, the third steamship building for the line, ready for service about the 1st of July, 1868, and the fourth steamship, not yet named, but now on the stocks in a state of forwardness, will likewise be ready for service in January, 1869. They are unable at present to indicate the time of commencing the full monthly service required by the contract.

A supplemental contract was executed on the 20th of March, 1867, a copy of which is annexed, for the conveyance of the United States mails without additional charge, in lieu of the Honolulu service released, by a branch line of steamers between Yokohama or other port in Japan used by the main line and the port of Shanghai, in China, making continuous regular monthly trips between said ports in connection with the main line, both on the outward and homeward voyages, according to the terms and conditions of the second section of the act of Congress approved February 18, 1867; the branch service to be put into operation in connection with the steamship leaving San Francisco on the 3d of July, 1867, for Yokohama and Hong Kong, and her return.

In April last the contractors applied for permission to perform the mail service between Yokohama and Hong Kong by a monthly branch line of first-class American side-wheel steamships, in regular connection with the main line, under the stipulations of the contract, similar to those authorized by the act of February 18, 1867, for the branch service between Yokohama and Shanghai, representing that it might become necessary, in order to perform the China mail service with the fullest efficiency, to terminate the voyage of the large ships required by the contract at Yokohama, and to employ one or more branch steamships of a like class and description, but less in size only, to do the service between Yokohama and Hong Kong. After full consideration and consultation with the Attorney General upon the question of authority, who was of the opinion that the modification of service desired was within the spirit of the law of February 17, 1865, considered in connection with the amendatory act of February 18, 1867, the permission asked was granted by the Department until Congress shall have legislated further in

relation to this service. The steamer New York was dispatched on 3d of August for Hong Kong and Yokohama, via Cape of Good Hope, to be ready to perform the branch service between those two ports, should it be found best to do it in this way, under the permission granted by the Department.

The company have also been authorized to change the Japan port of calling from Yokohama to Osaka, and to carry the transfer into immediate effect if their president, who has gone to Japan and China for the purpose of inspecting and perfecting the service in that quarter, should consider it desirable to make that change in order to increase the efficiency of the mail service, and benefit all interests connected with the establishment of the line.

To carry into successful operation a new steamship line of such extent and national importance it was deemed expedient to employ a mail agent on board of each steamship to receive and take charge of the mails, to attend to their exchange and delivery at all points on the route, and also advise the Department of all irregularities of service, and make such recommendations for promoting its usefulness and efficiency as personal observation would enable them to suggest. Four agents have been appointed and are now employed in this service; two on the main line between San Francisco and Yokohama, one between Yokohama and Hong Kong, and one on the branch line between Yokohama and Shanghai. It was also necessary to employ agents at Kanagawa, Japan, and at Shanghai, China, to receive, deliver, make up, and dispatch the mails conveyed to and from each of those ports; and in the absence of legislation authorizing the establishment of United States postal agencies in connection with this service, or any appropriation to pay salaries of officers and other expenses incident thereto, the United States consul general at Shanghai, and United States consul at Kanagawa were, with the concurrence of the Department of State, designated United States resident mail agents at those ports, respectively, and instructed to act in that capacity in connection with their consular duties, this Department to pay all necessary expenses for clerk hire, &c., incurred in attending to the mails. In respect to Hong Kong no such provision was requisite, as the correspondence conveyed to and from that port was required to pass through the colonial post office.

The establishment of the branch line to Shanghai makes that city the principal distributing point for the correspondence between the United States and China, and the amount of service required to attend to the postal business there will be much larger than at any other port. As our consuls in China and Japan may very well act as postal agents in connection with their other duties, I recommend that authority be given to establish, in connection with the mail steamship service to Japan and China, a general postal agency for China, at Shanghai, with such branch agencies at other ports in China and Japan as may, in the judgment of the Postmaster General, be necessary; and to pay the postal agents appointed and employed at such ports reasonable compensation for their services in addition to the necessary expenses allowed for conducting the postal business.

Mail Steamship Line to the Hawaiian Islands.

The contract for the mail steamship service between the United States and the Hawaiian islands, authorized by act of March 2, 1867, was awarded to the California, Oregon, and Mexico Steamship Company, whose bid for the required service at the sum of \$75,000 for the performance of twelve round trips per annum between the port of San Francisco and the port of Honolulu was the only one received under the advertisement inviting proposals for the service. A contract was executed by the

company on the 30th July, 1867, a copy of which is annexed. The service was commenced on the 15th October, 1867.

Proposed Steamship Service to Venezuela.

The postal convention between the United States and Venezuela went into operation on the 1st of October, 1866, and the Government of Venezuela has, through its minister, proposed to this Department the establishment of a direct line of mail packets between the two countries, the expense of the service to be divided equally between the two Governments. The propriety of authorizing this Department to unite with Venezuela in establishing such a line on the basis proposed is respectfully referred to the consideration of Congress.

Mail Steamship Service to Brazil.

The United States mail steamship service between New York and Rio de Janeiro, Brazil, has been performed without interruption and with reasonable regularity considering the great length of the route and the delays encountered at some of the intermediate ports, particularly the port of Para, at the mouth of the Amazon, the entrance to which is difficult and dangerous. Para was not originally embraced in this route but was made an additional port of call to accommodate the Government of Brazil which insisted in its acceptance of the proposals of the contractors that the steamer should touch at that port both on the outward and homeward trips, thereby prolonging the voyages to and from Rio de Janeiro about two days, as well as increasing the expense of the service to the United States \$80,000 per annum. As the time occupied in calling at Para would be of great value to the respective Governments in expediting the transmission of the mails between the terminal ports and securing important connections at St. Thomas with the inter-colonial mail packets, it is my purpose to urge the Brazilian Government to assent to such a modification of the service as will relieve the through steamers from calling at that port.

APPOINTMENTS.

The number of post offices established during the year, 1,885; number discontinued, 6,111; decrease of offices, 4,226; number of post offices in operation on the 30th June, 1866, including suspended offices in the southern States, 29,889; total number in operation on the 30th June, 1867, 25,163; number of offices subject to appointment by the President, 837; number by the Postmaster General, 21,326; appointments made to fill vacancies by resignation of postmasters, 4,065; by removals, 3,444; by change of names and sites, 135; by death of postmasters, 215; by establishment of new offices, 1,885; total number of appointments, 9,744; number of cases acted upon, 15,960.

A large majority of offices discontinued are in the southern States, the service at which was suspended by order of the Postmaster General in May, 1861, and were not in operation thereafter, but not regularly discontinued. These offices were reported by the Auditor to the appointment office as having failed to make returns for five years, and their discontinuance recommended as necessary to enable that officer to close the accounts of the late postmasters on the books of his office, and for that reason it was deemed advisable to formally discontinue them.

Number of special agents, 43; aggregate compensation, \$113,590. Number of postal route clerks, 170; aggregate compensation, \$197,500. Number of route agents, 493; aggregate compensation, \$485,100. Number of local mail agents, 60; aggregate compensation, \$40,358. Number of regular baggage masters, 48; aggregate compensation, \$3,320. Number of temporary baggage masters, 56; aggregate compensation, \$3,402. Number of mail route messengers, 29; aggregate compensation, \$16,050. Total number of employes, 899. Total compensation, \$859,330.

40TH CONG....2D SESS.

Report of the Postmaster General.

SENATE & HO. OF REPS.

The free delivery of letters by carriers has been in operation during the past year in forty-seven of the principal cities. The number of carriers employed was 943, at an aggregate compensation of \$699,934 34.

This mode of delivery continues to grow in public favor, as is shown by the increase of postages on local matter, the reduction of the number of post office boxes, and the large decrease of advertised letters in several of the cities where the system has been more efficiently conducted. Experience, so far, justifies the belief that it will supersede the present system of box delivery, increase correspondence, especially in large cities, and not only pay its expenses, but yield a revenue to the Department.

The postage on local matter in New York amounted to \$171,401, the total expenses \$151,829 92, showing an excess of \$20,071 08 local postage over total expenses.

DEAD LETTERS.

The number of letters consigned to the dead-letter office during the past fiscal year was 8,619,062 dead domestic letters, partly estimated; 443,786 unmailable letters, chiefly held for non-payment of postage; 179,466 dead letters mailed in foreign countries, and 64,194 letters mailed in the United States, and returned as "dead" from the foreign countries to which they were originally addressed; making a total from all sources of 4,306,508—a decrease of 892,097 letters from the same total as estimated for the previous year.

The whole number of lead letters, of domestic and foreign origin, and returned from the local offices of the United States, was 3,798,528, a decrease of 789,514 as compared with the returns of the previous year; the percentage decrease of such as were of domestic origin being about eighteen, while the decrease of such as were of foreign origin was only four and one half per cent.

The whole number of unmailable letters was 443,786, a decrease since last report of 94,337. Of the number received, 7,961 letters were directed to places having no mail service.

The letters received were disposed of according to the regulations governing the classes to which they belonged, as follows:

The number of money letters containing sums of one dollar and upward was 21,365, inclosing \$138,365, of which 668, containing \$8,564 56, were registered. There were restored to owners 18,577 letters, containing \$127,135 43. The remaining letters have been filed, or are held for future disposition.

The number of money letters containing sums less than one dollar was 13,770, inclosing \$3,869 24; of these 10,372, containing \$3,485 09, were restored to owners.

The amount of money taken from unclaimed letters filed prior to July 1, 1867, was \$19,914 67, which, together with \$5,159 20 realized from the sale of waste paper, amounting to \$25,073 87, was deposited in the Treasury.

The number of letters inclosing bills of exchange, checks, deeds, and other papers, classed as "minor" letters, was 21,262, with a nominal value of \$5,109,554 48. Of this class 19,991 letters were restored to owners.

The number of letters inclosing photographs, jewelry, and other articles, classed as "property" letters, was 49,386, of which 34,892 were restored to owners.

The public sale of property belonging to this class realized a net amount of \$835 05.

The number of Congressional and official letters returned to the proper Departments was 17,304.

The number of letters containing stamps and articles of small value was 97,059; returned to owners, 88,679.

The number of foreign letters returned unopened to the countries where they originated was 186,189, and the number received from foreign countries was 64,194.

The number of ordinary letters remained to

writers was 1,677,875; of these, 1,421,871, or eighty-four per cent., were delivered—fully sustaining the policy of the free return of dead letters to their writers.

It thus appears that of the 4,306,508 letters consigned to the dead-letter office during the year there have been restored to owners 1,611,686; filed and held for future disposition 18,553; and returned to foreign countries 186,189, leaving a balance of 2,490,080 indicative of the number that were property, or unavoidably destroyed. Of these, about 1,500,000 were worthless, being mostly circulars and gift or lottery advertisements; 256,004 were sent out but not delivered, leaving about one million without signatures, or so written as to be unintelligible.

Further details of disposition, and comparative statements of results for the fiscal years 1866 and 1867, are included in the appendix.

During the year, 5,469 written applications for lost letters were received. The number found and forwarded to applicants was 1,110, or about twenty per cent. The registered letters found reached the proportion of nearly ninety per cent., while the proportion for ordinary letters was but five per cent. These results indicate the value of registration, on the one part, and, on the other, that application for letters having no inclosures are useless.

By a resolution of the United States Senate, introduced by Hon. Jacob Collamer, of Vermont, and adopted March 9, 1859, the Postmaster General was requested to include in his next annual report "the number of letters consigned to the dead-letter office during the next fiscal year, and what further legislation is necessary to diminish the number of such letters, or to provide for their return to the writers thereof." Attention was thus drawn to a most interesting branch of the public service, previously almost entirely neglected, while a corresponding interest in the Post Office Department developed in the dead-letter system relations of benefit to all classes of the people scarcely suspected, or at best but poorly appreciated. The results have been eminently satisfactory. The details of postal service have been revised and carefully analyzed in all their bearings upon the transmission and delivery of letters to their address, and also upon the means employed for the return of dead letters to the writers thereof. The improvements which investigation and experiment suggested are too numerous to be included in this report.

Like improvements have been made in the arrangements and labors of the dead-letter office. Statistical records have been amplified, and now cover all important details. The letters received, and their miscellaneous inclosures, have been thoroughly classified. The most approved safeguards of valuable letters have been introduced, and all available measures have been adopted to secure the speedy return to proper owners of all mail matter sent to the Department for final disposition.

Special and constant attention has been given to the reduction of the number of dead letters. In large cities and thickly populated districts improved modes of delivery have been attended with beneficial results; but in general the obstacles in the way of reduction, frequently mentioned in the annual reports since 1859, present difficulties which no official action can remove. These are in substance the migratory habits of our people, the great territorial area over which our mail service extends, and the pertinent fact that fully three fourths of the letters returned as dead become so through circumstances exclusively associated with the parties immediately concerned. "Mistaken direction," "illegible," "removed," "dead," are reasons found on three fourths of the letters tested in this respect by repeated examinations. It is evident that no efforts of the Department can reach such difficulties; and

hence it follows that the dead letters from year to year will retain a somewhat uniform proportion to the whole number mailed.

Thus, in 1859 there were 381 dead letters to every \$1,000 of postage revenue; in 1861, 339; in 1862, 302; in 1863, 246; in 1864, 301; in 1865, 326; in 1866, 347; and in 1867, 278; showing as the result of eight years of constant effort an improvement of 103 letters to an amount of postage representative of upward of 33,000 letters mailed.

It may be observed that the four years covered by the contests of the late rebellion present smaller proportions of dead letters compared with postage revenues than either the previous or subsequent years of peace. This is doubtless attributable, not to an actual decrease of dead letters, but to the large number of such addressed to soldiers which failed to reach the dead-letter office. These aided in the augmentation of the revenues, but could not be included in the enumeration of dead letters; thus materially affecting proportions based upon such data. But for these the proportions above shown would have been still more uniform.

It has been found impossible to ascertain the statistical results of measures introduced as improvements upon the postal service, because of the want of sufficient data to determine the aggregate of letter correspondence, or the whole number of letters mailed for delivery in the United States from year to year. Efforts are now being made to satisfactorily supply this want. Such approximate estimates as are available have developed agencies operating during the past year which are found to be of prime importance in diminishing the number of dead letters.

The estimated aggregates of letters consigned to the local offices for delivery are 438,846,607 for 1866, and 462,279,719 for 1867, the proportions of dead letters to these aggregates being about one per cent. for 1866, and four fifths of one per cent. for 1867; a gain of one fifth of one per cent., which is also one fifth of the proportion for 1866. On the supposition that the ratio of 1866 was also that of 1867, the letter correspondence of the latter year would have produced 4,669,024 dead letters, an excess of 870,496 over the actual returns.

These results show the presence and effects of agencies operating in 1867 which were not operating in 1866. Unmistakably these agencies are "request envelopes," introduced into more general use during the past fiscal year, and bearing directly upon dead letter returns. It is estimated that fully fifty millions were used during the year, the department supplying about one third of that number, as before stated.

A comparative view of the returns of dead foreign and domestic letters for the same periods sustains this conclusion:

In 1866 the proportion of dead foreign letters to the whole number received for delivery in the United States was three and six tenths per cent. In 1867 the proportion was two and seven tenths per cent., a gain of thirty-six hundredths of one per cent., or one ninth of the ratio of 1866. It thus appears while the domestic element has gained one fifth part of its ratio for the previous year, the foreign element has gained only one ninth part of its ratio for the same year, and hence it follows that in the past fiscal year there were agencies advantageously affecting the domestic reductions, and not affecting the foreign.

The only agencies thus circumstanced are "request envelopes," and in proportion as these are introduced into general use there may be confidently anticipated a like reduction in the number of dead letters, fulfilling the purpose of the laws on this subject, for which this Department and the public are indebted to the foresight of Hon. Jacob Collamer, former Postmaster General.

SENATE & HO. OF REPS.

Report of the Postmaster General.

40TH CONG....2D SESS.

POSTAL MONEY ORDER SYSTEM.

The whole number of money order post offices now in operation is 1,224, of which 458 have been established since the date of the last annual report. This increase has occurred mainly in the western and southern States, where the facilities of the system for the transmission of money appear at present to be most needed.

The number of orders issued during the year was	474,496	of the aggregate	
value of.....	\$9,220,327	72	
The number paid was 461,876,			
of the value of.....	\$8,977,874	71	
To which is to be added the			
amount of orders repaid to			
purchasers.....	93,366	02	
	9,071,240	73	

Excess of issues over payments.....	\$158,086	99
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During the previous fiscal year, ending June 30, 1866, the total amount of orders issued was \$3,977,259 28, and of orders paid and repaid \$3,903,890 22.

A comparison of these amounts with the corresponding transactions of the last fiscal year, as above exhibited, will show that during the latter period the money order business has been more than doubled.

The average sum for which money orders were issued last year was \$19 45, an increase over that of the previous year, which was but \$16 32.

The number of duplicate orders was 2,069, of which 1,915 were issued as substitutes for originals lost in the mails or otherwise, 141 were in lieu of orders rendered invalid because not presented for payment until more than one year after date, and 13 to replace orders made invalid in consequence of bearing, contrary to law, more than one indorsement.

The receipts and expenditures for the last fiscal year, as adjusted and stated by the auditor, were as follows:

RECEIPTS.

Fees on money orders issued.....	\$70,888	57
Premium received on exchange.....	1	00
	70,889	57

EXPENDITURES.

Commissions to postmasters.....	\$19,835	03
Clerk hire.....	20,048	28
Remittances lost in the mails.....	3,562	00
Incidental expenses for stationery		
and fixtures.....	1,183	65
	44,628	96

Excess of receipts over expenditures.....	\$26,260	61
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Being the gross amount of revenue derived from the transaction of the money order business. It is proper to state that the cost of the blanks used by postmasters, which are furnished by the Department of Public Printing, is not included in the foregoing statement of expenditures.

The sum of \$5,973,969 70, being surplus funds accruing at the smaller post offices in transacting the money order business, was transmitted to first-class offices used as depositories either by means of national bank drafts or in registered packages by mail. The loss by the latter mode of transmission amounted, as above stated, to \$3,562; but since the adoption of the improved system of registration on the 1st of June, only one registered package, containing a small remittance of money, has failed to reach its destination.

The transfers made by postmasters from the postage to the money order account for the purpose of meeting orders presented for payment amounted to \$458,911 98; on the other hand the transfers from the money order to the postage account amounted to \$548,880 56, showing that the latter is a debtor to the former account upon the transactions of the year in the sum of \$89,968 58.

In the last annual report submitted by this Department it was recommended that certain modifications, with a view to greater efficiency and simplicity, should be made in the law establishing and regulating the money order system. The proposed changes were embodied

in a bill which passed the Senate at its last session, but failed from lack of time and the pressure of legislative business to receive the consideration of the House of Representatives. I beg leave, therefore, to renew these recommendations, which were stated in detail in that report, together with the reasons which would render their adoption expedient.

To forge or counterfeit a money order is made a penal offense by the act of May 17, 1864. But one instance of this kind has happened since the establishment of the system. A late postmaster abstracted in June last fifty-two blank money orders, specially prepared and numbered, from the book which he delivered to his successor, filled them up in the usual manner, so that they appeared to have been duly issued on several postmasters for small sums, and forged upon each the signature of the postmaster. Payment of twenty-nine of these forged orders to the aggregate amount of \$1,322 was obtained on presentation. The fraud was speedily detected and the guilty person was recently convicted of the crime of forgery at the United States court at Cleveland, Ohio, and duly sentenced to three years' imprisonment and hard labor and to pay a fine of \$500.

By existing law a postmaster at a money order office is not authorized to issue an order payable by himself. Hence money order offices cannot at present be established at the stations or sub-post offices in the large cities, although in some instances these stations furnish ordinary postal facilities to a larger population in their vicinity than that of many considerable towns. It is evident that the convenience of residents within the delivery of such stations would be sensibly promoted if they were allowed to purchase and receive payment of money orders at these stations, instead of being compelled, as now, to resort for such facilities to the central post office of the city. The latter would, moreover, be relieved, to some extent, of a great and constantly increasing pressure of applicants for the purchase and payment of orders. It would also prove useful in the sparsely settled States, where the county town usually has a money order office, through which, under the proposed modification, small debts could readily be paid in any part of the county by means of money orders issued and payable at the post office in the county town, which is habitually visited by residents of the county.

I would therefore recommend that the law be so far modified as to permit a postmaster to issue orders payable at his own office.

MISCELLANEOUS.

It is gratifying to be able to state that, notwithstanding the increase of expenses of the Department, growing out of the increase of compensation of clerks, agents, and employes of the Department, and increase in the extent and expense of the mail service throughout the country and on the sea, the disbursements were not only kept within the estimates for 1867, but there remained an unexpended balance of over seven hundred thousand dollars to be applied toward the expenses for the current year. So great is the constant demand for increased mail service by the people of the Territories, and to supply the necessities of the older States, and so important is it to put into full operation the service in the States lately involved in the rebellion, that a considerable deficiency is estimated for the year 1869. A more detailed statement of anticipated revenues and expenditures will be found in another part of this report. It cannot be anticipated that the revenues of the Department derived from the sale of stamps and stamped envelopes, and from other sources, independent of specific appropriations, can equal the necessary expenditures of the Department while the service is being constantly increased, at great cost, to meet the wants of the people in sparsely settled Territories.

The faster the new Territories are peopled

and their material resources developed the greater will be the postal revenues coming back to reimburse the Department for its outlays. Until the whole country is well settled by a stable, producing, thrifty population, it cannot be assumed, with certainty that the Post Office Department can become self-sustaining. New channels of postal communication are opening everywhere, and necessary expenses grow faster than legitimate revenue increases. When the waste country becomes better settled and the facilities for mail transportation increased and cheapened, as they will be in a very few years, the increase of revenues and comparative decrease of carrying expenses will entirely change the relation of the taxes and resources of the Department, and, at the present rates of postage, it will not only be self-sustaining, but furnish no inconsiderable revenue to the Government. There is no appropriation of public money which brings back, directly and indirectly, so large a return to the Government and the people as that made in aid of the postal service. Only one other Department of the Government gets back a revenue anywhere near its expenses in return for the outlays of public money.

Under the new postal conventions with foreign countries and under the contracts recently made for Atlantic service the large balances against the Department, which have burdened it for so many years, will be entirely wiped out, and a very handsome revenue derived in aid of its finances.

Previous to the present year a semi-weekly mail only was dispatched between this country and Europe, the sailing days from each side being Wednesday and Saturday. During this year a third weekly service has been established, and next year a fourth weekly service will be added, all by fast steamships of the first class, and the period is not distant when a regular daily mail communication will be maintained across the Atlantic. We exchange direct international mails, under provisions of postal conventions, with the United Kingdom of Great Britain and Ireland, France and Algeria, Belgium, the North German Union, Bremen, Hamburg, the Netherlands, Italy, Switzerland, Canada and British North American provinces, Mexico, Guatemala, Venezuela, and the colonial government of Hong Kong, China; and through the mails of one or more of those countries, used as intermediaries, with Russia, Poland, Norway, Sweden, Denmark, Holland, Spain, Portugal, Austria, Greece, European and Asiatic Turkey, Syria, Egypt, Africa, Mediterranean and Atlantic coasts, islands of the Mediterranean sea and Indian ocean, Arabia, India, China, Japan, Ceylon, Sumatra, Java, Borneo, Moluccas, Philippine islands, Australia, New Zealand, Madeira islands, Canary islands, St. Helena, Ascension, Azores, Cape de Verdes, Bermuda, Bahamas, West India islands, Falkland islands, Brazil, Paraguay, Uruguay, the Argentine Republic, English, French, and Dutch Guiana, countries of Central America, New Granada, Ecuador, Peru, Bolivia, Chili, and many other portions of the world.

Direct mail steamship communications are also maintained between the United States and neighboring countries, including Brazil, countries of Central America, Bahamas, Bermudas and West India islands, British Columbia and Vancouver's island, Sandwich islands, Japan, and China.

The exhibits of this report show a remarkable increase in the importance of the foreign mail service, and the increased care and watchfulness required of those in direct charge of it. I therefore repeat my request that authority be given to appoint a superintendent of foreign mails, and an additional clerk for that branch of the service.

I repeat, also, my recommendation that authority be given to appoint a superintendent of the opening and distribution of dead letters.

40TH CONG....2D SESS.

Report of the Secretary of the Interior.

SENATE & HO. OF REPS.

The subject of connecting the telegraphic system of the country with the postal service has attracted public attention, and it received, to some extent, the consideration of my predecessor. It has recently transpired that the telegraphic system of Great Britain has been put in charge of the British post office department. It is a matter of very great importance, and its propriety and practicability ought to be thoroughly investigated by Congress. The most efficient mode of examination of the subject, in my judgment, would be the appointment of a special commission to inquire into the working of a new arrangement in Great Britain, and into its feasibility in the United States, and report to Congress for such action as may be wisely taken.

I am compelled again to call attention to the gross frauds perpetrated upon the Department by violations of the franking privilege in almost all parts of the country. The *fac simile* franks of different members of Congress are freely used to circulate obscene books and papers, lottery circulars, business cards, &c., and to cover all kinds of business and domestic correspondence of persons not authorized by law to frank mailable matter. Unless something is done speedily by Congress to check this serious mischief, the annual appropriation to cover the transmission of free matter will have to be increased from \$700,000 to at least \$1,000,000. To avoid the continuance of this serious abuse in the use of the names of members of Congress without their knowledge or consent I again urge that the law be so changed as to require the written signature of the person exercising the franking privilege upon the matter franked; and, to relieve the heads of Departments and Bureaus of great labor, that a franking clerk be authorized by law for each Department of the Government, with the authority to frank all matter pertaining to the Department for which he is so appointed.

The commercial enterprises of the people of the United States are carried on to a very large extent by the use of foreign ships. The ocean mail service also is performed to a very great extent by foreign ships. The commercial and postal interests of the country ought to be made aids to each other. We are too dependent upon the enterprises of other peoples in the transaction of our business. Some encouragement ought to be given in some way to our own ship-builders and citizens engaged in ocean commerce to build ships and buy ships and own ships, to be used in our own business. It is to be hoped that Congress will relieve labor and ship-building materials of taxes and impositions, so that our own ships may be built in our own waters, to bear our commerce and carry our mails. As long as subsidies are paid by other Governments to aid in establishing and maintaining lines of ocean steamers to and from European ports, giving them the command of the carrying trade, with comparatively little competition, it is due to the citizens of the United States that like aid should be furnished to American enterprise. This can, in my judgment, be very properly and profitably done by subsidies to lines of steamers already established, or to be established, as a consideration for carrying the ocean mails.

Respectfully submitted.

ALEXANDER W. RANDALL,
Postmaster General.

The PRESIDENT.

Report of the Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, November 18, 1867.

SIR: I have the honor to submit a summary of the results which were attained during the last fiscal year, in the branches of the public service committed to the supervision of this Depart-

ment. The accompanying reports of the chiefs of bureaus and other officers furnish that specific information on matters of detail which could not be embraced in this paper without unduly extending its limits.

None of these branches occupies a higher place in the public regard than that which relates to the national domain. Much of this noble patrimony was acquired by cession from the States which won our independence. Successive additions to it have been made by treaties, the first of which was concluded with France in 1803, and the last with Russia, ceding to us her American possessions, which cover an area of 369,529,600 acres.

Our legislation has been adapted to the peculiar status of the territory acquired from foreign Powers and to the adjudication of individual rights claimed under them. Experience has suggested salutary changes in the mode of disposing of the public lands. Credit on sales has been long since abolished. The right of preëemption, originally conferred only by special enactment, has become a permanent part of our system. At a later period the homestead policy was ingrafted upon it. In no respect has the wisdom of Congress been more strikingly displayed than in the adoption of a general and uniform method of public surveys. Until they are extended over the soil, the proprietorship thereof remains in the Government. This policy offers a marked contrast to that of the nations which established colonies within our limits, and secures to the purchaser an indisputable right to a well-defined tract. Notwithstanding our settlements have progressed with a rapidity unequalled in the history of nations, few serious controversies have arisen in regard to titles emanating from the United States. Our present system is so simple and efficient, so well adapted to the wants of our population and the interests of the service, that it is not susceptible of much improvement. Such modifications as were needed to perfect it were alluded to in my last annual report. No necessity exists for making at this time more special reference to them.

During the fiscal year 7,041,114.50 acres were disposed of, as follows:

	Acres.
Sold for cash.....	756,619.61
Located with military warrants.....	476 780.00
Taken for homesteads.....	1,788,043.49
Approved to States as swamp.....	1,066,450.15
Grants to railroads, wagon roads, and canals.....	533,168.52
Located with college scrip.....	2,420,072.73
Total.....	7,041,114.50

This quantity exceeds that disposed of during the previous year by 2,411,800 acres.

The cash receipts of the office from sales and fees of various kinds amounted to \$1,347,862 52; a sum greater than that received the previous year by more than half a million dollars.

During the last fiscal year and the quarter of the present year ending 30th September last, 550 Indian patents were issued, embracing 89,824 acres.

Under the several acts of Congress relating thereto, 275 patents for private land claims in California have been issued, embracing 4,363,300 acres.

Contracts have been entered into for surveying and marking the northern boundary of California, that portion of the eastern boundary of Oregon which lies due south of the confluence of Owyhee with Snake river, to the northern line of Nevada, and the northern boundary of New Mexico. It is recommended that appropriations be made for the survey of the northern and eastern boundaries of Colorado Territory and the northern and eastern boundaries of Nevada.

The report of the Commissioner evinces great labor and research. He discusses with his accustomed ability many questions in connec-

tion with the landed interests of the United States.

The last soldier of the Revolution who was on the pension-rolls at the date of my last annual report has since died. By special act of Congress two other veterans of that war have been placed on the rolls at the rate of \$500 per annum. Of the widows of such soldiers there are on the rolls the names of 997; of these 119 were married prior to 1st January, 1800.

Of wars subsequent to the Revolution and prior to the rebellion the number of pensioned widows and orphans of soldiers was 1,810 at the close of the last fiscal year.

During the past year, 16,452 new applications for invalid pensions of soldiers, at an aggregate annual rate of \$1,180,194 72, and 13,946 applications for increased pension of invalid soldiers, at an aggregate annual rate of \$1,089,003 62, have been examined and allowed. During the same period 19,660 original applications for pension by widows, orphans, and dependent relatives of soldiers were admitted, at an aggregate annual rate of \$1,979,062 67. Of applications for increased pay by the same class, 19,309 were admitted, at a total annual rate of \$1,150,646. On the 30th June, 1867, there were enrolled 70,802 invalid military pensioners, whose yearly pensions amounted to \$6,478,004 14, and 82,291 widows, orphans, and dependent relatives of soldiers, whose yearly pensions amounted to \$9,664,075 83, making the total aggregate of Army pensions 153,093, at a total annual rate of \$16,142,079 97.

The whole amount paid during the last fiscal year to invalid military pensioners was \$6,428,532 53; to widows, orphans, and dependent relatives, \$11,873,182 72; a grand total of \$18,301,715 25, which includes the expenses of the disbursing agencies.

During the year ending June 30, 1867, there were admitted 137 new applications for invalid Navy pensions, at an annual rate of \$10,317; 206 applications for increased pensions of the same class at an annual aggregate of \$17,892; 233 original applications of widows, orphans, and dependent relatives of those who died in the Navy, at an aggregate rate of \$81,856 per annum, and 120 pensions of the same class were increased at a total yearly rate of \$6,792.

On the 30th June, 1867, on the rolls of the Navy pensioners were the names of 1,054 invalids, at an annual aggregate of \$80,652 25, and 1,827 widows, orphans, and dependent relatives, at an aggregate annual rate of \$805,742 25. The amount paid during the last fiscal year to Navy invalids was \$77,241 28, and to widows, orphans, and dependent relatives of officers and seamen of the Navy \$240,999 92; a total amount of \$318,241 20.

During the year there were added to the number of pensioners of all classes 36,482; there were 7,932 dropped from various causes, leaving on the rolls June 30, 1867, 155,474. The total annual amount of pensions of all classes was \$16,449,822 22, and the amount paid was \$18,619,956 46, which includes expenses of disbursement.

During the year ending September 30, 1867, there were admitted 954 applications for bounty land warrants, requiring 148,963 acres of land to satisfy them.

The invested Navy pension fund now amounts to \$13,000,000, and there is an uninvested balance of \$229,246 37. As the interest on the invested sum far exceeds the amount required for the Navy pensions, Congress provided, by act approved March 2, 1867, for the increase of the pensions of meritorious disabled officers, seamen, and marines. The Secretary of the Navy has favorably reported seven claims of this class. There is an urgent necessity for an increased appropriation for special investigation to prevent frauds upon the Government in obtaining pensions. The amount saved to the Government by such investigations has far exceeded the expenditures in conducting them,

while their chief value arises from their preventive influence.

The pension act of July 14, 1862, is the most comprehensive and munificent ever made by any Government for similar purposes. The administration of its provisions evinced the necessity of amending it in several essential particulars. A total disability entitled a pensioner to a fixed amount. A wound causing the loss of a right hand and one rendering the sufferer entirely and permanently helpless, were each rated at the maximum sum. The act in this regard has been wisely changed, and it would be difficult to suggest a more equitable rule than that which now exists, although it is subject to the infirmity of all general enactments, and occasionally fails to make full provision for an individual case. Former laws made no provision for relatives in the ascending or collateral lines. The act of 1862 first gave a pension to the dependent mother of the deceased soldier or officer, or, if there were none, to his orphan sisters under the age of sixteen years. The act of June 6, 1866, so amends the fourth section of the act of 1862 as to make its provisions apply to and include the orphan brother as well as sister, and the father as well as the mother. That section in its original shape made no mention of the mother, and it is very questionable, when the father and the orphan sisters are the only surviving relatives, whether the former or latter would be entitled to a pension, or whether they would not have a joint claim. The mother is regarded as having the exclusive right where the father is also living, but I suggest that the order in which the relatives should be entitled to take precedence be more clearly defined by declaratory legislation.

The third section of the act of July 25, 1866, extends the act of 1862 and the acts supplementary and amendatory thereto, as far as applicable, to the pensions under previous laws, except revolutionary pensioners. The practical construction of this act by the Pension Bureau has limited its effect merely to the specific increases allowed to pensioners, and does not recognize it as making a new class of pensioners, or as placing, in every respect, all pensions, except revolutionary, upon the basis of said acts. This construction may not give full effect, in the opinion of Congress, to the intent and purpose of the act; but should they not otherwise direct, it will be adhered to in the adjudication of all cases to which it applies.

The act of 1862 was enacted in reference to the then existing war. It was confined to diseases contracted or wounds received in the military or naval service, and in the line of duty, after March 4, 1861, and deaths resulting therefrom. Hostilities have ceased. I submit that an amendment should be made excluding the allowance of a pension by reason of death the result of disease hereafter contracted, except upon the occurrence of a future war. An examination of the various acts of Congress granting military pensions, commencing with that of March 16, 1802, fixing our military peace establishments, satisfies me that the amendment suggested is not only right and proper, but in keeping with our past legislation. That act provided that the widow, or if there were none then the child of a commissioned officer who should die by reason of a wound received in the actual service of the United States, should be entitled to receive for the period of five years half the monthly pay to which he was entitled at the time of his death. The act of June 29, 1813, conferred the same limited right upon the same condition, although war was then existing; and in 1816, after the termination of hostilities, the allowance to the widows or children of officers of the Army was confined to instances where such officers had died during the war, or should thereafter die of wounds received in the service. In regard to the naval service the provision was extended to widows

the death of whose husbands in the service was caused by disease contracted, or of casualties by drowning or otherwise, or of injuries received in the line of duty. Subsequent acts, in regard to the Navy, renewed for a term of years the provision for half pay to widows.

The first section of the act of July 4, 1836, in reference to the widows of officers or enlisted men of the militia, including volunteers who had died since April 20, 1818, conferred a right to half pay when the officer or enlisted man died in the service, or in consequence of a wound received in service. The first section of the act of July 21, 1848, declares that the foregoing provision shall be applicable to all widows and orphans of officers or enlisted men of the Army of the United States who were in the Army of the United States on the 1st day of March, 1846, or at any subsequent period during the then war with Mexico. The second section extends the provision to the widows or children of officers or enlisted men of the regular Army, or volunteers, who had died since April 1, 1846, or who might die during the war with Mexico of wounds received or disease contracted during said war; provided that the death had occurred, or should thereafter occur, during the time that such officer or enlisted man was in actual service and in the line of duty, or while returning to his usual place of residence in the United States after having been discharged upon a surgeon's certificate of disability incurred from wounds received or disease contracted while in the line of duty, or on the march to join the army of Mexico; and declares that the act shall not be applicable to the widows and orphans of officers or enlisted men who had not served in or upon the borders of Mexico. The act of February 2, 1849, construes the second section of the act of 1848 so as to make it applicable to all those whose husbands or fathers remained in the service to the day of their death, or who received an honorable discharge, or died after their return home of wounds received or disease contracted during the war and in the line of duty. Successive acts of Congress were passed from time to time to which I need not specially allude. They all seem, except in reference to the widows of revolutionary soldiers, to rest upon the obviously just proposition that in order to give a pension to the widow of an officer of the regular Army or to his children, if he died without leaving a widow, he must have died of a wound received, or else that the mortal disease was contracted during actual hostilities. Prior, therefore, to the act of 1862, neither the widow nor the children of such an officer were entitled to a pension by reason of his death resulting from disease contracted in time of peace, and such has been the ruling of the Pension Bureau.

The death of an officer in charge of a bureau in the War Department, by reason of disease contracted since the termination of the late war and during the time in which he was engaged in the performance of his official duties in this city, devolves upon his widow a pension right, not for a limited term of years, but during her widowhood. He is not subject to the imminent perils or to the exposure which in time of war make such havoc of human life. His duties are such as ordinarily appertain to an officer in the civil service. His appointment is for life, and assures him, under existing laws, pay and emoluments eighty-five per cent. greater than the salary of an officer of corresponding grade in the other Departments, whose duties are equally laborious, and whose official tenure is far more precarious. This case is not exceptional. During peace the military is not in a greater degree than the civil officer exposed to casualties that endanger health, life, or limb. The claim, therefore, of his widow upon the country, if he dies of disease then contracted, is not stronger than that of the widow of the civil officer, and our laws have never granted to the latter a

pension by reason of the services and death of her husband. I recommend such an amendment of the law as will exclude from its benefits the widow or children of an officer of the Army who shall die of disease not contracted, or from a cause not occurring during war and in the line of duty. The same provision should be applied to the Navy, with such modifications as the arduous and peculiar character of the service may, in the opinion of Congress, require. Our legislation will then be in harmony with that which preceded the enactment of a law deemed expedient during a civil war in which the country needed the services of all her sons, and offered the highest rewards to those who, on the field or the deck, imperiled their lives in saving her from dishonor and death.

Under our present legislation a pension unclaimed for fourteen months after the same has become due is not payable at the agency for paying pensions, but must be adjusted at the Third Auditor's office and paid by warrant on the Treasury. No good reason exists for the continuance of this practice. It would be better to regard a failure during a longer period to demand payment as presumptive proof that the right thereto had ceased by the restoration of the invalid to health and physical ability, the marriage of the widow, or the happening of some other condition which by law determines it. A new application would then be required. The applicant's name should be restored and the accrued pension paid as other pensions if the presumption arising from the lapse of time be overcome by the proofs.

The applications for pensions notwithstanding they have increased in number by reason of the recent modifications of the laws have been determined with the utmost dispatch under the supervision of the efficient chief of the bureau. His report is worthy of the highest encomium for its comprehensiveness, perspicuity, and brevity.

Our Indian relations have assumed a new and interesting aspect. The steady approach of emigration to the grounds heretofore devoted to the chase, and the rapid progress of the railroads pointing toward the Pacific and traversing the country over which the Indians from time immemorial have roamed, imperiously demand that the policy of concentrating them upon reservations should, whenever practicable, be adopted. Until recently there was territory enough to supply the demands of the white race without unduly encroaching upon the districts where the Indians subsisted by hunting. This condition of things no longer exists. Christianity and civilization, with the industrial arts, are spreading over the entire region from the Mississippi to the Pacific. The Indians are in possession of vast tracts of country, abounding in precious metals, or rich in sources of agricultural wealth. These invite the enterprise of the adventurous pioneer, who, in seeking a home and fortune, is constantly pressing upon the abode of the red man.

By an inevitable law, two races, one civilized and the other barbarous, are being brought face to face. The obligations which rest upon the Government extend to both. Each is justly entitled to protection. Our duty requires us to devise a system by which civilization, with its attendant blessings, may be fostered and extended, and at the same time protection be secured to the tribes.

The estimated number of Indians is about three hundred thousand, spreading from Lake Superior to the Pacific ocean. Those east of the Mississippi, with few exceptions, are on reservations; so also are the tribes in Kansas north of the Arkansas, and those located between the western border of Arkansas and the country known as the "leased lands." Treaties were negotiated last winter with the Kansas tribes, and submitted to the Senate for its constitutional action. If ratified and in good faith executed, these tribes will be pro-

vided with homes, where they will soon become self-sustaining, as they have already adopted the habits of civilized life and become familiar with agricultural pursuits. They will then require from us little beyond protection against the intrusion of the whites, and the faithful performance of our stipulations.

A consideration of the proper policy to be pursued in respect to the wild tribes presents more difficult questions. As long as they cling to their nomadic habits and subsist by hunting and fishing, encroachment upon their hunting grounds—and it does not seem possible to prevent it—will necessarily lead to hostilities and a devastation of the frontier settlements.

The tribes within our borders are capable of civilization. The past furnishes gratifying evidence that well-directed and persistent efforts to that end will be rewarded with success. It is, however, a work of time. The arts of civilization but slowly displaced the primitive tastes and habits of our own race. It must be so with the Indian; he cannot immediately be transformed from the hunter to the farmer or mechanic. There are intermediate states through which he has to pass. He should be gradually won from the chase to a pastoral life, and under its influences he will ultimately acquire a taste for agricultural pursuits. The first step in the process of improvement is to localize the Indians. The same district should not be appropriated to the savage and the civilized, nor should tribes between whom hereditary feuds exist be brought together, as it would be followed by disastrous results. No objection is perceived to placing the civilized upon contiguous tracts; on the contrary, it is expedient to do so, and, as soon as their consent can be obtained, to subject them to the same system of government and laws. But such a policy is wholly inapplicable to the wild tribes; they require, in proportion to their numbers, much more territory, and can only be governed and controlled, and trained to habits of industry on separate and widely distant reservations, selected in view of their adaptation to grazing as well as tillage, and amply stocked by the Government with large numbers of cattle, sheep, and goats. The Indian will discover that a herdsman's life affords a better and surer subsistence than a precarious dependence upon the chase. A desire for the acquisition of individual property will soon spring up, and should be gratified by appropriating to each adult a limited quantity of land for his exclusive use. A title thereto should be assured to him, and farming utensils furnished. He will then learn to cultivate the soil. The mechanic arts will follow. The schoolmaster, and above all the missionary, with the blessings and hopes of religion, will crown and perpetuate the work.

The unoccupied country west of the Missouri is of such vast extent that large regions, if properly selected, at points remote from the great lines of travel, may be reserved without detriment to any public interest. Long before the tide of emigration will reach them they can, by an equitable arrangement with the Indians, be reduced to the dimensions required by the actual wants of an agricultural population.

The selection of suitable sites, and the removal of the Indians to them, cannot be accomplished in the short time allotted to the commissioners appointed by the act of Congress of July last. Two commissions, each consisting of not less than three persons, should be appointed, and adequate means placed at the disposal of the Secretary of the Interior for the efficient completion of the work. No consideration of the time or expenditure likely to be required should be suffered to defeat an object of such surpassing importance. A guarantee against the useless consumption of time or money should be found in the character of the persons selected. The cost will be very inconsiderable compared with that of a war. Had a tithe of our outlay in

military operations against the Indians during the present year been honestly and judiciously applied to purposes of peace, the necessity of a resort to force would have been avoided. It is more humane and economical to subside Indians than to fight them. A wise and just policy will soon relieve us from either necessity.

The salaries of the superintendents of Indian affairs and Indian agents are inadequate. Increased compensation would enable the Department to secure the services of men of undoubted capacity and integrity, and tend to remove the temptation to commit those frauds, which, before and since the transfer of the Indian Bureau to this Department, were and still are imputed to officers performing duties and sustaining relations to the Indians such as devolve upon this class of public servants. I take pleasure, however, in bearing testimony to the ability and fidelity of many now in the Indian service. Some of those of the greatest merit have announced their intention to resign on account of the insufficiency of their pay. Loss to the Government and serious wrong to the Indians would be prevented by an appropriation for the employment of special agents, to investigate and correct, at remote posts, frauds and abuses, which cannot be properly dealt with by the instrumentalities now subject to the order of the Department.

The necessities of the service require that a superintendent should be immediately appointed for each of the Territories of Colorado, Idaho, Montana, and Dakota.

During the year ending September 30, 1867, there were 16,547 applications for patents; 11,655 patents (including reissues and designs) were issued; 1,224 applications were allowed, but patents were not issued thereon, by reason of the non-payment of the final fees; 3,486 caveats were filed; 96 applications for extension were received, and 82 extensions of patents were granted.

During the same period the receipts were \$611,910 61, and the expenditures \$553,599 98, leaving a balance of \$58,310 63, which, added to \$228,297 26, the balance on hand September 30, 1866, makes the amount now in the Treasury to the credit of the patent fund \$386,607 89.

In my last annual report I advised a repeal of the law conferring upon a party the right of appeal from the Commissioner of Patents to one of the judges of the supreme court of this District. Subsequent reflection has confirmed my conviction of the soundness of the views then presented. In no other instance is an appellate power given to a judge to affirm or reverse the action of an executive officer. This exceptional proceeding is essentially different from an action instituted in a court of original jurisdiction for a *mandamus* against an officer to enforce the performance of a specific duty, or from that wherein an injunction is sought to restrain him from the commission of an act which would work irreparable injury to rights of property. Neither does it bear any analogy, even the most remote, to a suit in which either party thereto asserts a right or resists a claim resting upon an adjudication to which the other party was a stranger, and which was rendered by an executive officer, or a special tribunal, authorized to deal only between one party and the Government. The court having cognizance of the suit may review such adjudication and correct errors of law or fact to the prejudice of either party. This doctrine has been announced by the Supreme Court in suits where the title to land was in issue and where a party relied upon the decision of the General Land Office awarding a right of preemption or vacating an entry. It has also been applied in cases involving a claim to priority of invention, as an inquiry is not precluded by a patent in any court in which its validity is brought in question. A judicial determination of conflicting rights is final and

conclusive on the parties and those subsequently claiming under them. The decision of the judge on appeal awarding a patent, even in interference cases, has not this, nor indeed any greater force or effect than that of the Patent Bureau, and may be reviewed in the same manner when a proper case arises. I respectfully submit that an appellate authority over an executive officer should not be devolved upon a judge, especially where his decision upon the questions in controversy has not the properties or binding efficacy of a judgment at law, or a degree in equity. Delays are occasioned and expenses incurred by this objectionable and anomalous practice without any compensating benefit to the inventor or the public.

The Union Pacific Railroad Company at the date of my last annual report had constructed its road to a point twenty-three miles west of the one hundredth meridian of longitude, being 270 miles west from the initial point near Omaha. Since then you have accepted 220 miles, and the Government commissioners are now engaged in examining another completed section of twenty miles.

The point where the railroad crosses Crow creek at Cheyenne, 517 miles west of the initial point, was represented by the company to be at the eastern base of the Rocky mountains, and they requested that it should be so "fixed" for the purposes mentioned in the eleventh section of the act of 1862, which confers a subsidy of \$48,000 per mile for a distance of 150 miles westerly from such base.

You determined to defer final action until after a thorough personal inspection of the locality and the contiguous country should have been made by an experienced civil engineer. Mr. Jacob Blickensderfer, jr., was selected for that purpose and instructed to set forth in his report all the facts elicited by such inspection, and to accompany it with a map of the region and a profile of the proposed line of road. After accepting the appointment, he proceeded as far west as Dodge's summit, stated to be the crest of the water shed of the continent, about thirty miles northwest of Bridger's pass, and examined the general formation of the ranges known as the Rocky mountains. South of Long's peak these mountains consist of one single compact range, attaining a great elevation, while north thereof they form three distinct ranges. One of these, the Black hills, tends nearly north to Laramie peak, where it divides into two branches. The second, the Medicine Bow range, divides the waters of the Laramie from those of the north fork of the Platte, and bears north-northwest to Elk mountain, near Fort Halleck, where it also divides into two branches, termed the Rattlesnake hills. The third, taking a direction nearly northwest to Bridger's pass, Dodge's summit, and South pass, divides the waters which flow into the Atlantic from those which flow into the Pacific.

From the point of divergence near Long's peak these ranges rapidly decline in elevation to the northward, while the intervening country approximates in altitude to that of the mountains themselves. The passes of the Black hills, although much lower than those south of Long's peak, within the drainage of the Platte, are nevertheless considerably higher than those of the Medicine Bow range or of the water shed of the continent between Bridger's pass and South pass. The approaches to the Black hills, especially from the east, are abrupt and the crest is comparatively sharp, and marked by bold, rocky elevations, which form distinguishing landmarks visible at a great distance. The ascent to the crest of the water shed is so gentle as to be scarcely perceptible, and the crest itself is a wide open plain, free from rocks or bold elevations, and its inclinations for miles of extent can be determined only by the aid of instruments.

The located line of road crosses the three

SENATE & HO. OF REPS.

Report of the Secretary of the Interior.

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ranges formed by the Black hills, the Medicine Bow mountains or their continuations, the Rattlesnake hills, and the water-shed proper. The altitude above tide-water of the points where it strikes them, respectively, is as follows: Black hills 8,242 feet, Rattlesnake hills 7,132 feet, and Dodge's summit 7,108 feet. The height of the country between these summits may be inferred from the elevations at the following places, to wit: 7,150 feet at Fort Sanders, beyond the western base of the Black hills; 6,569 feet at the crossing of the Medicine Bow river, the lowest point touched by the railroad line between the Black hills and Rattlesnake summit; 6,484 feet at the crossing of the north fork of the Platte, the lowest point between Rattlesnake and Dodge's summit. It appears that the Black hills loom up more than a thousand feet above the crest of the water-shed of the continent, and that the region between them is nowhere greatly depressed below the latter, except in the immediate valleys of the water-courses. Mr. Blickensderfer is of opinion that a line of railway will encounter at the Black hills greater obstacles and require in its construction a much greater outlay than in passing over either of the ranges west of them. The country known as the Laramie plains, and situate between the Black hills and the water-shed of the continent proper, is essentially mountainous, being but elevated table-land hemmed in by mountains, and when examined found to possess but few of the characteristics of a plain. These interesting facts in regard to that distant region satisfied him that the Black hills constitute a prominent portion of the Rocky mountains, and that the eastern base of the latter is reached by the road at a point on those hills 6.037 miles west of Cheyenne, and, according to the railroad surveys 525.078 miles west from the eastern terminus of the road.

Upon a consideration of the report and the maps accompanying it you concurred in the recommendation of the Department and ordered that the point so described should be considered in the administration of the acts of Congress for the purpose therein mentioned as the eastern base of the Rocky mountains. The Secretary of the Treasury and the railroad company have been informed of your order.

Reports from the Government directors, dated July 23 and August 16, 1867, gave a very favorable report upon the location of the road and the energy with which the work was being prosecuted. Two machine-shops were in full operation—one at Omaha costing \$250,000, and another at North Platte costing \$20,000, employing 350 men, with a capacity to make 20 cars per week and repair all the machinery and rolling stock of the road. At the latter date the company had 3,500 men employed in grading the road-bed, and 450 in laying the superstructure.

The company, under date of the 11th of October, report that the road during the present year would probably be extended to a point 537 miles west of Omaha, and that station buildings, engine-houses, water-stations, and the telegraph line to meet the wants of the road had been built. Shops and an engine-house have been commenced at Cheyenne. The grading, masonry, and bridging in the mountain regions were in active progress. The road has been definitely located 600 miles, and the earthwork will be finished to that point the present year.

The surveys of the line have been revised through to Salt Lake. A reconnaissance of the various routes has been made by the chief and consulting engineers in order to secure the most favorable location which the topographical features of the country will admit. The Indian raids in the course of the past season have seriously interrupted the progress of the engineers. Great vigilance on the part of surveying parties, and their protection by military escorts, have been indispensable.

The total cost of the road to October 1, 1867, (unadjusted accounts with contractors not included) amounts, according to the report, to \$21,757,488 79

Of this sum there was received from—

Capital stock.....	\$5,369,750 00
United States bonds.....	7,280,000 00
First mortgage bonds.....	4,090,000 00
Land-grant bonds.....	3,000,000 00
Unfunded debt and cash.....	1,661,424 04
Income from earnings.....	356,314 75
	<hr/>
	\$21,757,488 79

The road on the 1st of July, 1867, was in operation to Julesburg, 377 miles, and receipts from all sources amounted to \$1,015,195 29, and expenses to \$658,880 54, leaving the net earnings \$356,314 75. The receipts of the road from travel, emigration, and the business of the region tributary to it were greatly diminished in consequence of Indian difficulties.

The rolling stock consists of 53 locomotives, 15 passenger and 875 other cars.

The company express their intention to prosecute this enterprise with the vigor and efficiency that have thus far characterized its advancement.

On the 24th of October last you accepted, upon the report of the Government commissioners, a section of twenty miles of the Central Pacific railroad of California, terminating at a point ninety-four miles distant from Sacramento.

On the 28th of January last the vice president of the company filed a map showing the definite location of said railroad from the Big Bend of the Truckee to Humboldt Wells. From the best information at my command it appeared that this route possessed great advantages over all others, and I gave my "consent and approval" to the location, pursuant to the authority conferred by the second section of the act approved July 3, 1866, and forwarded the map to the Commissioner of the General Land Office, with directions to adjust the grant of lands upon the basis furnished by it.

On the 22d of July, 1867, this company forwarded to the Department a map of a location from Humboldt Wells, via the north pass of Pequop and Toano mountains, the north point of the Ombe mountains, Red Dome pass, and the north end of Salt lake, to Weber river, a distance of 214 miles. The report of the chief engineer accompanying the map states that this line is the most direct and advantageous of the three that had been surveyed eastwardly from Humboldt Wells. It appears that the highest point is 6,200 feet above the sea, and 585 feet above Humboldt Wells, and is reached through a narrow valley with a grade of seventy feet per mile. From this height the line descends with a nearly uniform grade of six feet per mile for thirty-four miles through the north pass of the Pequop mountains, and along the slopes of the latter to the north pass of the Toano mountains. From thence it passes along a valley from one eighth to a mile in width to the eastern base of those mountains, making the descent of seventeen miles with a grade ranging from sixty-two to seventy feet per mile. Seventy feet is the highest grade found on the line, and it occurs for short distances at two other places besides those mentioned. No very difficult or expensive rock cutting is required on this route. I informed the company that I was not prepared to approve this location.

A report upon this road, dated October 7, 1867, has been received from the Government commissioners. They state that it crosses the Sierra Nevada mountains 105 miles from Sacramento, at an elevation of 7,042 feet above the sea. From the point where it was then built 917 feet only must be overcome to reach the summit, a distance of eleven miles. Between the seventy-seventh and one hundred and thirty-seventh mile posts there are fifteen tunnels of an aggregate length of 5,166 feet. During the past year about fifty miles of road

have been in progress of construction; the greater part lying on the eastern and western slopes of the Sierra Nevadas. Fifteen miles of the portion on the eastern slope are graded, and the track is being laid at the rate of about one half mile per day. By the time these eighteen miles are laid six more will probably be graded and ready for the track-layers, making in all twenty-four miles east of the summit. On the western slope a larger force of laborers are at work, and it is believed that with a favorable season the grading will be completed and the track laid over the summit before the snow occasions a suspension of work. The company have not been able during the past season to procure the requisite number of laborers, but it is expected that next season this difficulty will be removed. There is on hand iron sufficient to lay one hundred and ten miles of track, and enough more *in transitu* to lay fifty additional miles. In the snow belt the rails used weigh sixty-three pounds to the linear yard, and are put together with fish-joints instead of chairs. At Sacramento the company have erected, along the river front, wharves and derricks capable of moving an immense freight from vessels to the cars. There are 27 locomotives in use, and 20 more, with material for 250 cars, are on the way from Atlantic ports. There is on hand material for 75 cars. Eight locomotives recently purchased are being set up. The company report to the commissioners that 37,738 acres of land granted to aid in the construction of the road had been sold for \$77,570, the greater part upon a credit of five years.

The following table gives the gross earnings and expenses for the years 1865 and 1866, and for 1867 up to September:

	Gross earnings.	Operating expenses.	Net earnings.
1865.....	\$401,965 33	\$122,375 30	\$279,590 03
1866.....	864,976 82	200,722 96	664,253 86
1867.....	804,326 53	197,974 13	606,352 40
Total.....	\$2,071,768 68	\$521,072 39	\$1,550,696 29

The net profit, therefore, over operating expenses in thirty-two months is the large sum of \$1,550,696 29.

Since the commencement of business operations, the company represent that they have paid to the United Government for taxes, stamps, &c., the sum of \$288,000.

At the date of my last annual report the Union Pacific Railway Company, eastern division, had constructed its road to Fort Riley, 135 miles west from the initial point on the line dividing the States of Kansas and Missouri. Since that date this company has constructed 150 miles of its road, which you have accepted. The Government commissioners are now examining an additional section of 20 miles, completing the road for a distance of 305 miles from said initial point. The company report the road as provided with round-houses, repair-shops, turn-tables, water-tanks, sidings, &c., sufficient to meet the immediate wants of business, and that the necessary warehouses and depot buildings have been erected at the stations for the accommodation of passengers and freight.

The equipment now in use consists of 25 locomotives, 18 passenger and 736 other cars. Contracts have been made for two locomotives, two passenger and 140 other cars. Iron has been ordered sufficient to complete the road to the three hundred and thirty-fifth mile, nearly all of which has been delivered.

The aggregate earnings of the company for ten months and fifteen days, from October 15, 1866, are represented to have been \$1,220,483 08. It is also represented that during the same period the business done for the Government amounted to \$358,949 49; that the fifty per cent. retained therefrom is in excess of the interest paid by the Government on the bonds issued to the company during ten months and fifteen days \$6,189 53.

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A table is submitted showing that the amount retained by the United States Treasurer from that due the company on the Government business for the month of August last is nearly eight per cent. per annum of the principal of the bonds issued to the company on account of the construction of the road. This would repay the principal at no distant period by the Government business alone, should it be continued to the same extent. The payment of the bonds at maturity is therefore considered by the company to be fully assured, and the road is being built, so far as the Government is concerned, simply by the loan of its credit for a term of years upon ample security, and without the actual expenditure of a single dollar from the public Treasury. The company have organized and sent into the field during the past year three large surveying parties, and have already had careful instrumental examinations made, covering an aggregate distance of more than 1,300 miles. Two lines have been run from Fort Wallace to Denver, and an advantageous route discovered. One has been surveyed from Fort Wallace to the Arkansas river, and thence up the Purgatory valley, through the passes of the Raton mountains, to Fort Union, and with two lines thence, through the easternmost range of the Rocky mountains, to Albuquerque and Fort Craig, on the Rio Grande. Another has been examined up the valley of the Huerfano river, through the Sangre de Cristo pass, via Fort Garland, to the Rio Grande, and thence, via Santa Fé, to Albuquerque. Surveying parties, organized into two divisions, are now making a careful survey of two general routes from the Rio Grande to the Pacific—one along the thirty-fifth parallel west from Albuquerque; the other from Fort Craig, along the thirty-second parallel, by what is known as the Gila route. The surveys have met the most favorable anticipations. At no point will the grades exceed the maximum allowed by law for the Pacific railroad, and such grades will be for short distances, and at only two or three points between Fort Wallace and the Rio Grande. The highest altitude attained on this line is 7,846 feet above tide-water. The company express the conviction that had the work not been delayed by unexpected difficulties with the Indians, the road would have been finished to Fort Wallace by the end of the present year, and they have every reason to expect that it will reach a point 335 miles west from the Missouri river by the 31st proximo.

Forty miles of the road of the Central Branch Union Pacific Railroad Company have been accepted since the date of my last annual report, and the Government commissioners are now engaged in examining another section of twenty miles.

This company, after the Union Pacific Railway Company, eastern division, had vacated its line along the Republican fork of the Kansas river, claimed that, under existing laws, they were entitled to extend their road from its intersection with such vacated line, and on the latter to the one hundredth meridian, and to receive, in aid of the construction thereof, the same subsidy in lands and bonds per mile as for the first hundred miles of their road. The Department, February 19, 1867, rejected the claim upon the ground that the promised subsidy was confined to "one hundred miles in length next to the Missouri river." The lands on such vacated line, that had been originally withdrawn, were, therefore, restored to their original status.

It appears from the company's report, dated the 11th of October last, that the road has been definitely located for 100 miles, and terminates in the valley of the Little Blue river, near the mouth of Coon creek, in township four, range six, east of the sixth principal meridian, in Marshall county, Kansas. The construction of bridges occasions a heavy expense. The most important is that across

the Big Blue river, 434 feet in length and 31 feet above low water. The equipment of the road consists of 6 locomotives, 2 passenger and 144 other cars. A substantial round-house, with stalls for 6 locomotives, a machine-shop, and commodious depot buildings have been erected. Other buildings are in process of erection. A ferry, with a first class side-wheel boat, has been established by the company on the Missouri river at Atchison for the accommodation of the road.

No report has been received from the Sioux City and Pacific Railroad Company, and the Department has not been advised of the construction of any portion of the road.

The first section of the Western Pacific Railroad Company of California, twenty miles in length, was accepted on the 14th day of December last. No work has since been prosecuted.

Commissioners examined the road of the San Francisco and San José Railroad Company, and reported, under date of February 9, 1866, that, in its construction and equipment, it fully attained the standard of excellence prescribed by the Pacific railroad acts. The company made claim to an acceptance by the Government of the road and to bonds and lands. Their agent was verbally informed that an allowance of the claim, so far from being warranted, was, in the opinion of the Department, positively forbidden by law. Subsequently, on the production of additional papers, I received a communication, in which the views of the company on the subject were presented. After full consideration I was constrained to adhere to the conclusion previously announced. I stated, however, that if I had failed to recognize the just rights of the company Congress would, no doubt, at its approaching session, furnish an appropriate remedy. The subject is submitted for consideration.

The seventh section of the act approved July 1, 1862, seems to require, upon a map being filed designating the route of the Union Pacific railroad, or any branch thereof, that all the lands situate within fifteen miles on each side of the route should be withdrawn from preemption, private entry, and sale. This distance is increased to twenty-five miles by the amendatory act of July 2, 1864. One of my predecessors, however, directed that the order of withdrawal should not apply to the even-numbered sections reserved by the Government. The present practice, in conformity with this precedent, therefore authorizes a settlement on such sections, and, if they were surveyed at the date of settlement, recognizes the right of the settler to enter his claim either under the preemption or homestead laws. Conflicting opinions have been entertained by my predecessors as to the applicability to these lands of other acts of Congress prescribing the price of the even-numbered or reserved sections within certain prescribed distances from railways. The practice in this regard has not been uniform. The settler is now required on entering these lands to pay therefor the double minimum price. The acts of 1862 and 1864 are silent on the subject, and I respectfully submit that the question should be determined by the authoritative action of Congress.

In a recent preemption case contested by the Central Pacific Railroad Company of California it was decided by the Department that the grant embraces the unsurveyed as well as the surveyed lands traversed by the route of these roads. An actual settler cannot, therefore, by settlement upon lands of either description which fall within the operation of the grant inaugurate a valid preemption right thereto after the local officers, pursuant to instructions, have withdrawn or withheld such lands. The proviso in the act of 1864, which declares that the grant shall not defeat or impair any preemption or other lawful claim has exclusive reference to such claims as had lawful incep-

tion at the date when the right of the road attached.

The Northern Pacific Railroad Company report that two surveying parties from Lake Superior and two from the Pacific coast have been actively engaged in the field. Explorations have been made, and the company are of opinion that a practicable route will be found. No portion of the road has been constructed.

The Atlantic and Pacific Railroad Company, by a resolution of its board of directors, passed November 20, 1866, accepted the terms, conditions, and impositions of the act approved July 27, 1866, granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast. A map was subsequently filed showing the location of the road from Springfield, Missouri, to the western boundary of that State. Upon the basis of this map the Commissioner of the General Land Office was directed to withdraw the lands. The eighteenth section of this act authorizes the Southern Pacific railroad, a company incorporated under the laws of the State of California, to connect with the Atlantic and Pacific railroad near the boundary line of California, and gives it a similar grant of lands. The latter company filed an acceptance of the terms and conditions of said act and a map showing the preliminary survey of the road from San Francisco to the Colorado river. The Commissioner of the General Land Office was instructed to withdraw the lands along the line represented upon that map.

The bridges across the Big Sioux river and the Vermilion, on the line of the wagon road between Sioux City and the mouth of the Big Cheyenne, have been completed. The James river bridge is unfinished. The balance of the appropriation is \$1,250.

I have declined ordering a resumption of work on the projected road from the mouth of the Big Cheyenne to a point on the Niobrara road, in consequence of the hostile attitude of the Indians. The unexpended appropriation applicable to this road is \$12,157 70.

The superintendent of the wagon road from Virginia City, Montana, to Lewiston, reports that it is impossible to grade and open such a road between those termini, and that a construction of one for a part of the distance would be of very little utility, as there is no local business. His efforts were directed to opening a track for the passage of loaded pack trains, that being the only method by which goods could be transported from Columbia river to Montana. There remains of the appropriation unexpended \$8,025 25.

The architect in charge of the Capitol extension reports the completion of the portico of the south wing, and reiterates the opinion expressed in his previous reports that the central portico should be extended to correspond with those of the wings.

The skylights of the halls of the Senate and House of Representatives are, on account of their great dimensions, peculiarly sensitive to variations in temperature, which occasion frequent fractures. It is proposed to substitute for them others of the same description as those placed in the Supreme Court room.

There are serious objections to appropriating the committee-rooms in each wing as depositories of public documents. They are needed for the uses for which they were originally designed, and the floors and walls are being injured and defaced. It is desirable that arrangements should be made for storing the documents elsewhere.

The chambers occupied by the Supreme Court, law library, and Court of Claims, and the passages between the Senate wing and the Rotunda are warmed with improved heating apparatus; but the Rotunda and the old Hall of the House of Representatives are cold and often damp in winter, to the prejudice of the health as well as comfort of visitors. It is

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recommended that they be warmed in the same manner as the other passages.

If the Capitol grounds be extended to C streets north and south, as recommended by the architect, the Capitol would occupy about the centre of the enlarged area. It is universally conceded that the present limits are entirely too contracted. Justice to the adjoining proprietors requires that it should at an early day be determined to what extent their property contiguous to those limits will be needed for public uses. Squares numbered 575, 576, 687, and 688 were appraised in 1860, by authority of Congress, as a preliminary step to their purchase. All permanent improvement of the property was suspended. The Senate subsequently passed a bill providing for the purchase of the squares, but limiting the price thereof to the appraisal of 1860. The value of real estate in that portion of the city has since then greatly enhanced. In view of these facts the holders of this property have presented a memorial to this Department urging that three disinterested appraisers be selected—one by the Government, one by the property owners, and the third by these two; that Congress shall at once decide what grounds shall be purchased and direct their value to be fixed by the appraisers. The propriety of early legislative action is suggested.

The work upon the north portico of the Department of the Interior is nearly finished. An estimate has been submitted of the amount necessary for completing it and paving the street.

The following statement shows the amounts advanced to marshals of the United States for the year ending June 30, 1867, for defraying the expenses of the courts of the United States, including fees of marshals, jurors, and witnesses, maintenance of prisoners, and contingencies of holding the courts:

Alabama, northern district.....	\$2,971 00
Alabama, southern district.....	27,037 00
Arkansas, eastern district.....	7,479 00
Arkansas, western district.....	16,896 09
California.....	13,902 00
Connecticut.....	5,677 00
Delaware.....	2,014 61
District of Columbia.....	\$4,769 50
Florida, northern district.....	4,532 09
Florida, southern district.....	12,344 85
Georgia.....	15,774 50
Illinois, northern district.....	14,411 00
Illinois, southern district.....	24,129 09
Indiana.....	30,558 00
Iowa.....	25,491 00
Kansas.....	21,469 00
Kentucky.....	44,053 00
Louisiana.....	31,634 09
Maine.....	16,935 50
Maryland.....	22,273 00
Massachusetts.....	58,614 43
Michigan, eastern district.....	36,411 76
Michigan, western district.....	17,512 79
Minnesota.....	17,864 00
Mississippi, northern district.....	3,007 00
Mississippi, southern district.....	7,915 25
Missouri, eastern district.....	37,000 00
Missouri, western district.....	13,289 68
Nebraska.....	14,168 48
Nevada.....	18,883 00
New Hampshire.....	5,861 00
New Jersey.....	28,989 77
New York, northern district.....	102,600 00
New York, southern district.....	57,000 00
New York, eastern district.....	21,589 00
North Carolina.....	6,000 00
Ohio, northern district.....	42,340 03
Ohio, southern district.....	40,838 00
Oregon.....	3,222 00
Pennsylvania, eastern district.....	33,905 09
Pennsylvania, western district.....	27,060 00
Rhode Island.....	8,230 00
South Carolina.....	21,877 00
Tennessee, eastern district.....	8,221 86
Tennessee, middle district.....	2,616 00
Tennessee, western district.....	16,195 00
Texas, eastern district.....	20,335 00
Texas, western district.....	11,814 00
Vermont.....	5,723 00
Virginia.....	6,125 00
West Virginia.....	8,081 79
Wisconsin.....	9,633 02
Arizona.....	10,000 00
Dakota.....	5,653 00
Colorado.....	9,564 95
Montana.....	10,278 00
Utah.....	6,000 00
New Mexico.....	11,336 00
Washington.....	15,000 00

\$1,203,214 74

The amount paid to district attorneys, their assistants and substitutes, for the same period was \$146,945 29; to United States commissioners, \$50,643 53; to clerks of the courts of the United States 70,895 25; and for miscellaneous expenditures \$157,837 67. Of this sum \$66,092 97 were paid for rent of buildings for the accommodation of the courts and their officers.

By an act of Congress approved May 12, 1864, the Secretary of the Interior was authorized to designate some suitable prison or penitentiary, and to contract with the authorities thereof for the confinement of persons convicted of crime, the punishment whereof is imprisonment, and sentenced by the courts of the United States in a district or territory where, at the time of such conviction, there should be no suitable prison or penitentiary. Under the authority so conferred my predecessor made contracts with the House of Correction at Detroit, and the Iowa State penitentiary, for the subsistence and employment of all convicts sentenced by the courts of the United States for the several Territories to imprisonment at hard labor. The former institution receives under the contract only such whose term of sentence was two or more years. Prisoners have been sent to these prisons from the Territories of Colorado, Nebraska, and Montana.

The act further provides that if in the opinion of the Secretary of the Interior the expense of transportation will exceed that of maintaining the convicts in jail in the Territory during the period of their sentence, it shall be lawful so to confine them. None have been sent from any of the other Territories, as, in the opinion of my predecessors, in which I concur, the expense of their transportation would far exceed the cost of maintaining them in jails in the Territories.

An act entitled "An act setting aside certain proceeds from internal revenue for the erection of penitentiaries in the Territories of Nebraska, Washington, Colorado, Idaho, Montana, Arizona, and Dakota," approved January 22, 1867, appropriated the net proceeds of the internal revenue of said Territories for the fiscal year ending the 30th of June, 1866, and the two succeeding years, for the purpose of erecting, under the direction of the Secretary of the Interior, penitentiary buildings in said Territories, at such place therein as had been or might be designated by the Legislatures thereof and approved by him. The amount to be expended therefor was not to exceed \$20,000 in Washington Territory, nor \$40,000 in either of the other Territories. The attention of the Governors of these Territories was invited to the subject, and they were requested, when the territorial Legislatures had passed an act designating the place for the erection of such penitentiaries, to transmit a duly certified copy thereof to this Department. Advices have been received only from Washington and Montana.

The ninth section of an act to enable the people of Nebraska to form a constitution and State government, and for the admission of said State into the Union on an equal footing with the original States, approved April 19, 1864, (Statutes-at-Large, volume thirteen, page 47,) provides that fifty entire sections of land, to be selected and located by the direction of the Legislature thereof on or before the 1st day of January, 1868, should be, and they were thereby, granted to the State of Nebraska on her admission into the Union, in accordance with certain provisions of that act, for the purpose of erecting a suitable building for a penitentiary or State prison, in such manner as the Legislature shall prescribe. The State was not admitted under that act. An act entitled "An act for the admission of the State of Nebraska," passed February 9, 1867, declares the State of Nebraska to be entitled to the rights, privileges, grants, and immunities, and subject to all the conditions and restrictions of said act of April

19, 1864. The proclamation of the President contemplated in the third section of the act of 1867 was issued March 1, 1867. Nebraska, on her admission to the Union, was entitled to the grant of lands for the specific purpose of erecting a State prison. Her admission occurring after the passage of the act of January 22, 1867, changed entirely her preëxisting relations with the United States. That act regarded her only as a Territory, and did not authorize the building of a penitentiary within the limits of a State.

I have been informed by the Secretary of the Treasury that the entire amount appropriated for building these penitentiaries in Washington, Colorado, Montana, and probably Idaho, has been received and is available for that purpose. In Arizona and Dakota the revenue is inconceivable, and the expense of collecting it so nearly exhausts the receipts that at the date of the Secretary's communication there was no available balance that could be applied to this purpose.

The Legislature of Washington passed an act designating certain persons therein named as a board of commissioners to superintend the erection of the penitentiary at such place as they might select in the county of Pierce, at or near the town of Steilacoom. By this act the entire control of the building is assumed by the Territory. It provides for the appointment of a person to superintend its erection, and authorizes the employment of the territorial convicts thereon, and for the payment into the treasury of the Territory of such sum from the penitentiary fund as their labor may be worth. The Legislature seems not to have been fully aware of the provisions of the act of Congress. The latter makes it the duty of the Secretary of the Interior to approve the site, and provides that the buildings shall be constructed under his direction. No action can, therefore, under existing circumstances, be taken in the premises by the Department. It is presumed that the Legislature will amend its legislation so as to make it conform to that of Congress.

An act has been passed by the Legislature of Montana locating the penitentiary at Argenta, and appointing commissioners to select a suitable site for said penitentiary at that place. The commissioners have performed that duty, and have made a report thereof to this Department. At an early day steps will be taken to have the building erected in accordance with the provisions of the act of Congress.

The warden of the District jail reports that on the 1st of November there were in his custody 113 prisoners, of whom 43 were white and 70 colored. During the year preceding that date 1,241 persons were committed, 79 of whom were convicted and sentenced to imprisonment at Albany. The present officers consist of a warden and 14 guards. The expense of the jail for said year, including the cost of transporting prisoners to the penitentiary at Albany, was \$30,736 48.

Pursuant to the requirements of a joint resolution, approved March 2, 1867, I examined the public grounds deemed available for the purpose, and selected as a site for a new jail in the District the parcel of land known as reservation numbered seventeen, situated at the intersection of New Jersey and Virginia avenues, in the city of Washington. The "perfected plans" of the building were approved by a board of disinterested and competent engineers and architects, and public notice of the "letting of the contract" was given in the mode prescribed by law. After a careful consideration of the proposals I accepted such as offered the best terms to the Government. The contractors have executed bonds with acceptable security, conditioned for the faithful performance of their engagements, and I trust that the work may, without interruption, be prosecuted to an early completion.

Congress at its last session made no provision for the House of Correction for this

District. Of the \$12,000 appropriated at the preceding session \$8,000 have been paid to the treasurer. Five thousand five hundred and five dollars and fifty-three cents have been expended by him upon the order of the trustees in repairing and furnishing the temporary building upon the Government farm, in an attempt to render it fit for the reception and detention, for the time being, of juvenile offenders. One thousand four hundred and fifty-seven dollars have been spent in the employment of a watchman and for other purposes, of which the report of the board does not furnish specific information. The trustees are of opinion that the building now occupied cannot be adapted to any permanent use. For the erection of one such as is required they suggest that an appropriation of \$100,000 is necessary, and they request an additional appropriation of \$25,000 to meet the current expenses of the institution. They have furnished no detailed estimate, and I submit the subject for consideration.

I earnestly invite attention to the views expressed in the last annual report of this Department touching the law directing the imprisonment of juvenile offenders sentenced by the Federal courts. A modification of its provisions is indispensable to give it practical effect in many parts of the country.

The Metropolitan police force consists of 238 men, of whom 6 are detectives. They made 20,075 arrests during the past year, 3,783 of which were of females, and 6,136 were of colored persons; 13,224 of the alleged offenses were against the person, and 6,851 against property; 12,167 of those arrested were unmarried, and 7,373 could neither read nor write; 971 were committed to jail; 334 gave bail for appearance at court; 200 were turned over to the military; 6,330 were dismissed; 1,967 were sent to the work-house, and 578 gave bonds to keep the peace. In 569 cases various light punishments were inflicted; fines to the amount of \$38,098 45 were imposed in 9,128 cases. One hundred and eighty-four lost children were sent home; 3,473 destitute persons were furnished with temporary lodgings, and 181 were assisted or taken to the hospital. The detective force made 462 arrests; recovered stolen or lost property to the amount of \$15,691 40, and performed other labors, which do not admit of record. The sanitary company of the police have been actively employed, and with evident advantage to the health of the city.

This Department suggested in the last annual report the expediency of creating a court for the trial of offenses of a minor grade, and the subject is again presented for consideration.

During the year ending 30th of June, 1867, there were admitted to the Government Hospital for the Insane 109 patients, of whom 88 were males. The whole number under treatment was 890, of whom 273 were males. The number discharged was 77, of whom 66 were males. The number of deaths was 33, of whom 19 were males. The whole number under treatment at the close of the fiscal year was 280, of whom 188 were males. More than half of these were from civil life. There have been 2,315 persons treated since the institution was opened, 1,064 of whom were natives. The receipts during the past year amounted to \$101,871 95, and at its close there was a balance of \$2,436 69 in the hands of the superintendent. Congress will no doubt cheerfully make the usual allowance for the support of the hospital. I recommend that an additional appropriation, for which an estimate has been submitted, be made for furnishing, lighting, and heating the unfinished part of the east wing of the main edifice, and for the purchase of land contiguous to the present grounds. The report of the Board of Visitors contains many interesting tables and an elaborate discussion of the proper treatment of persons afflicted with a peculiar form of insanity, of whom an unusually large number was admitted during the past year.

I have heretofore expressed my opinion of the admirable manner in which this institution has been conducted. Its present condition reflects the highest credit upon the accomplished superintendent and those associated with him in the administration of its affairs.

The Columbian Institute for the Deaf and Dumb is a private corporation. I referred to its history and its relation to the Government in my last annual report. I respectfully invite attention to the views which I then had the honor to submit.

In addition to the payment of the charges for the education and maintenance of the pupils entitled to admission on the order of the Secretary of the Interior Congress has advanced to this institution the sum of \$264,040 87. There are now twenty-three pupils from the District of Columbia and three who are the children of persons in the military service of the United States. By the acts of February 16, 1857, and May 29, 1858, Congress agreed to pay annually \$150 for the maintenance of each of such pupils. The directors requested an appropriation in gross for the support of the institution instead of the payment for such pupils *per capita*. The act allowing such charges should therefore be repealed, as Congress made the requested appropriation for that and the succeeding year, and it is confidently believed they will evince the same liberality for the ensuing fiscal year. At the last session the admission of ten pupils from the States to the collegiate branch of the institution was authorized on the same terms and conditions as those prescribed by law to the residents of this District. This provision was annexed to the appropriating clause granting \$25,000 for the support of the institution and the purchase of books and apparatus. Nine pupils availed themselves of this privilege, thereby entailing an unexpected burden upon the resources of the institution. The directors request on this account an allowance of \$3,000. I have submitted an item, therefore, in the deficiency estimates for the current year. During the last fiscal year three pupils died, eleven were dismissed, and eight admitted. In accordance with the direction of the board of trustees the president proceeded to Europe to examine similar schools in Great Britain, Prussia, France, Germany, Belgium, Switzerland, and Italy. The result of his investigations is embodied in an able and interesting paper which accompanies the report of the board.

The claims of such an institution are of the most imposing character. I am, nevertheless, of the opinion that when Congress shall have liberally provided for the indigent deaf mutes who reside in this District, or are the children of persons actually in the military or naval service, it will have fully discharged its duty, if not exhausted its constitutional power over the subject. The present buildings are more than sufficient for the ample accommodation of the Government pupils. The board of directors, in addition to the school for the primary branches, desire to maintain a preparatory department, where the deaf mutes of the several States may be prepared for admission into the college proper. The studies in the latter will embrace as thorough and comprehensive a course of instruction in ancient and modern languages, and in the literary and scientific branches, as is furnished in the best American colleges. The indigent deaf mutes of the several States who are competent to profit by these advantages are to be maintained and instructed at the expense of the General Government. It certainly was not the original intention of Congress to provide for the gratuitous instruction of these afflicted persons. If unable to incur the expenses of an education, they should appeal to individual munificence or to that of the States in which they reside. The support of paupers is an appropriate subject of State legislation, and has never been regarded as falling within the

province or constituting a duty of the General Government. The arguments advanced to justify Congress in furnishing educational privileges for the indigent deaf mutes of a State would equally require a similar provision for the blind or lame, or those who, without natural infirmities, desire collegiate instruction, but are excluded by their poverty from obtaining it.

Should these views be regarded as erroneous, however, and Congress deem it their constitutional duty to establish and maintain a national deaf mute college, the United States should control it, and be vested with a title to the grounds purchased by their means for its uses. The erection of buildings required for the accommodation of all the students who may desire instruction and maintenance free of charge will require a very large outlay, independent of the amount which, from time to time, must be advanced to meet the annual expenses of the institution. I take pleasure in adding that there is no other school in the country that surpasses this in the ability, zeal, and success with which the president and professors devote themselves to the intellectual and moral training of those committed to their care.

Congress, by an act approved June 1, 1866, incorporated the "Columbia Hospital for Women and Lying-in Asylum." It was established for the treatment of diseases peculiar to women, and as a lying-in asylum, in which board, lodging, medicine, and attendance should be gratuitously furnished to those unable to pay therefor. At the date of the report of the board of trustees there were seventy-one patients. During the past year 451 women obtained admission to the asylum, or received from it assistance and medical treatment. Congress on the 2d of March last appropriated \$10,000 to aid in the support of this institution. The receipts from private donations were \$3,280 71, and from patients \$2,114 88, making an aggregate of \$15,895 60.

Congress has always given its sanction, and whenever they could be properly bestowed, its pecuniary contributions to every well-considered benevolent enterprise adapted to supply the wants or promote the interests of the District of Columbia. This institution is a private corporation, and maintains the same relations to the Government as the Columbia Institution of the Deaf and Dumb. The trustees have, however, determined to submit an annual report to the Secretary of the Interior and to authorize upon his order the admission of patients whose indigence and helpless condition justify them in seeking eleemosynary aid. Few if any of the instrumentalities which the benevolence of the age has adopted to alleviate human suffering or minister to human wants present stronger claims to public sympathy than institutions of this description. Although in its infancy and with scanty means, this asylum has liberally extended to its beneficiaries skillful medical and surgical aid and that considerate attention which their peculiar condition required. In consideration of the good already accomplished and of the pressing necessity for extending the scope of its charities the directors strenuously urge that it should be established upon a permanent basis. As that object cannot be attained solely by private benefactions, they request an appropriation by Congress of \$60,000 for the purchase of a site and the erection of buildings. I cordially recommend this request to favorable consideration; but if granted the organic act should be so amended as to secure to the United States a title to the real estate purchased, and an efficient control over the institution.

The respective departments and officers of the national Government, the executive departments of the several States and Territories, and the legally designated public libraries and educational institutions of the United States have been furnished, as far as practicable, with those copies of statutes, books, and con-

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gressional documents to which they are respectively entitled under existing laws. For a period of several years, on the completion of the printing and binding of the documents of a session of Congress, there have been delivered to the Department of the Interior 470 complete sets of those which are known as "House documents," and only 420 sets of "Senate documents;" thus placing in the custody of this Department, after the close of each session of Congress, fifty sets of "House documents" without an equal number of "Senate documents." The statutes which relate to the printing, binding, and distribution of complete sets of public documents need revision.

In closing this report, I should do injustice to the officers of this Department were I not to declare my high sense of the very efficient manner in which they have discharged their arduous duties. I respectfully refer to the views in regard to their compensation presented in the concluding portion of my last annual report, and earnestly invoke for them the favorable consideration of Congress.

I am, sir, very respectfully, your obedient servant,

O. H. BROWNING,
Secretary of the Interior.

The PRESIDENT.

Report of the Acting Commissioner of Agriculture.

DEPARTMENT OF AGRICULTURE,
WASHINGTON, D. C., November 25, 1867.

SIR: In consequence of the death of the late Commissioner, Hon. Isaac Newton, which took place in this city on the 19th day of June last, it becomes my duty by the terms of the organic act establishing this Department to submit to you a report of its transactions for the past year. In so doing it affords me great pleasure to be able to say that it has been a year of great productiveness and prosperity to the agricultural interest and to the country.

The discouragement resulting from the diminished fruitfulness of preceding years has been partially relieved by a recurrence of a fair measure of productiveness. Another assurance has been added to the universal teaching of the past, that seed-time is followed by the harvest as sure as day is preceded by the dawn. It is this certainty of results in proportion to the measure of judgment and industry employed that gives to husbandry its safety and stability, its freedom from preying anxieties, and its ability to supply the most pressing wants of the whole human family.

PROGRESS IN AGRICULTURE.

It is gratifying to note the evidences that are apparent even to the superficial observer of the increasing interest of our people in the advancement of agricultural science—of the quickened mental activities of farmers, as shown by the widening demand for agricultural books, newspapers, and the reports of this Department—of the disposition to experiment, test alleged improvements, and adopt labor-saving expedients—of the growing inclination to employ in agriculture money, business energy, and active enterprise, which are so successfully employed in other departments of business.

In nothing is this intellectual activity shown to be so manifestly beneficent to the agriculture of the present era as in the improvement of agricultural implements. In 1847 the number of agricultural patents granted was but forty-three; in 1863 it had increased to three hundred and ninety; in 1864 to five hundred and sixty-three; in 1865 to six hundred and forty-two; while in 1866 the wonderful increase to one thousand seven hundred and seventy-eight was made; and during ten months of the present year the Patent Office has issued no less than one thousand seven hundred and seventy-seven. Thus the number of agricultural inven-

tions perfected yearly is now more than forty fold greater than twenty years ago. Already has this nation surpassed all others in the excellence and variety of its agricultural machinery. Partially represented as was our agriculture in the recent World's Exposition of Industry, at Paris, and almost ignored officially in the national recognition of that great exhibition, our honors plucked from the field of European competition were almost exclusively industrial, and largely agricultural. So successful have been our farming implements in repeated contests on European soil that their rapid introduction into foreign markets is only impeded by the greatly increasing demand at home. These improvements are rapidly revolutionizing the agriculture of the West, and reducing to the lowest minimum ever attained the proportion of manual labor employed in its operations. As an instance the reaper, first doing the labor of a half dozen, then a half score of men, is supplemented with a self-raker, which does the work of others still; and now, further to facilitate and economize the harvest work, the same machine is furnished with apparatus for instantaneous binding of the sheaves. And the further this labor saving progresses the higher the wages of harvest workers, the broader become the harvest fields, the greater are the profits of the farmer, and the more extensive become the garnerers of the world.

Coincident with this application of mechanics to agriculture, systematic and enlarged business aptitudes have also sought alliance with this noble art. Farms of thousands of acres have been managed with greater skill, a more economical adaption of means to ends, and with a larger margin of net profit than many others of eighty acres. The maxim "cultivate fewer acres and cultivate them better" is a safe one for farmers who can only be induced to cultivate better by a reduction of the area cultivated, but it will be found that the larger the farm, within the capacity and means of the farmer for good tillage, the better and cheaper it may be tilled. Yet it is true of the mass of farmers who only employ the labor of their own hands, that the concentration of that labor upon a small area is their highest assurance of success.

It is a fact that cannot escape the attention of the observing that men of culture and wealth are taking an interest in agriculture, giving to the world the benefit of their experience and research, and pursuing their vocation with a view to scientific results as well as profit. It has ceased to be a custom to select the dolt of the family for the business of farming. It is becoming apparent, even to the unintelligent, that agriculture involves principles underlying many sciences, and natural phenomena too deep for science to fathom; that it requires, in a merely practical view, a farmer to be something more than a plowman—a machinist, to understand the construction, management, and care of farm machinery; a carpenter, to repair implements and manufacture many fixtures of the farm; a bookkeeper, to keep an accurate record of the outgo and income, experiment, profit and loss; a merchant, to know how and when to buy and sell cattle, or dispose of the products of his labor; and a banker, to discover when drainage and fertilization will prove a better investment for surplus profits than five-twenties or railroad stock. In view of all these evidences of the progress and of the expanding capabilities of our agriculture I take pleasure in commending this great interest to the favorable consideration of Congress, believing they will deal with it in a spirit of liberality becoming a great nation. The continued manifestation of governmental interest in this industry is assumed from the magnificent grants of public lands for "such branches of learning as are related to agriculture and mechanic arts," the subject of which is fully set forth in the fourth section of said act, as follows:

"Sec. 4. And be it further enacted, That all moneys derived from the sale of lands

aforesaid by the States to which the lands are apportioned, and from the sales of land scrip hereinbefore provided for, shall be invested in stocks of the United States, or of the States, or some other safe stocks, yielding not less than five per cent. upon the par value of said stocks; and that the moneys so invested shall constitute a perpetual fund, the capital of which shall remain forever undiminished, (except so far as may be provided in section fifth of this act,) and the interest of which shall be invariably appropriated by each State which may take and claim the benefit of this act to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the Legislatures of the States may respectively prescribe, in order to promote the practical and liberal education of the industrial classes in the several pursuits and professions in life."

The details of organization of these institutions in aid of scientific and intelligent husbandry has been wisely left to the control of the States, a majority of whose people are interested in the pursuits to be benefited and therefore not disposed to permit these liberal donations to be misapplied. It is gratifying to note the increasing interest in agricultural education which is evinced in discussions of the various plans of organization, and to discern the gradual crystallizing into form of the crude views at first entertained, all leading to the confident belief that a sublime development of practical industrial education, however slowly accomplished amid embarrassments and discouragements, will at length be acknowledged one of the crowning glories of America.

RETROGRESSION.

While adverting to these evidences of progress in American agriculture it is proper to drop a word of dissatisfaction, and even utter a note of warning, in view of the improvidence and reckless waste which is stripping the fairest fields of their wealth of fertility, exposing them to the constant action of the elements, and subjecting them to an annual drain of the same constituents, none of which are ever returned to the soil. The Department estimate of the average production of wheat in Ohio last year was about four bushels per acre; the State statistics, so far as returned, made the yield scarcely three bushels. None will doubt that it is more owing to bad culture and want of drainage than to the severity of the season that the product did not average twenty bushels. Every new western State is remarkable for sounding reports of great crops of wheat, and the same States, in a very few years, are equally remarkable for reduction in yield of wheat, increase of insects, and prevalence of disease.

The freshest areas in this culture east of California will scarcely yield an average of twelve bushels per acre the present year. A systematic rotation, some attention to fertilization, greater care in the selection of seeds, better tillage, and more thorough culture will alone prevent deterioration in products and real values of farm property. This stigma upon American agriculture may be attributed in part to the cheapness of western lands, the original price of which bears so insignificant proportion to their intrinsic value that the owner erroneously deems it cheaper to remove to new lands than to sustain and increase the productive capacity of his present farm. One result of this fatal error is the removal westward, year by year, of the center of wheat production, thus adding transportation and other charges to its ultimate cost, threatening to make difficult the future supply of our population and to render export impossible.

If we shall be able to produce our own sup-

ply of breadstuffs, with a surplus sufficient to prevent the operations of speculators, a failure to supply a foreign demand need occasion few regrets among the true friends of agriculture, for grain growing for export is unquestionably the most illusory and least remunerative of agricultural operations; and its worst feature is the exhaustion of the soil which inevitably follows its culture in undue proportion to stock-raising. Western farmers are finding true the remark of the late Hon. Henry L. Ellsworth, made twenty years ago, that "the profits of wheat appear well in expectation, on paper, but the prospect is blasted by the appearance of insects, bad weather in harvesting, or transportation to market, or last, a fluctuation in the market itself;" and many are inclining to the belief of Lord Brougham, "that grazing countries are always the most prosperous, and their population the most contented and happy."

THE POLITICS OF AGRICULTURE.

The modest reserve and quiet independence of our rural population have heretofore barred the great interest of agriculture from its proper prominence in the legislation of the country; while other interests, more active and clamorous, with the advantages of association, abundant means, and concentrated effort, have often secured special protection at the expense of the farmer. Unfortunately this disinclination to self-seeking and lack of ambition for public station result too generally in the selection from towns and cities of national legislators from other vocations, some of whom have little knowledge of the peculiar wants of the farming class, and many others may have connection with other interests that may be brought into frequent antagonism with those of agriculture. Farmers are learning their power and are beginning to exercise it in self-protection, if not for their own advantage; and their interests are now more clearly understood and more fully represented in legislative councils than at any former period.

RAILROADS.

The railroad interest has secured, among other favors and franchises of the Government, grants of public land, amounting to one hundred and eighty-four million acres, in aid of lines extending in all directions, to the borders of civilization, under plea of furnishing facilities for travel and the transportation of the fruits of agriculture and the products of mines; and the results have been seen in extended settlement and expanding cultivation; yet growing stronger, disregarding the general welfare, these monopolies have combined in their tariff of rates to discriminate unfairly against farm products, and to require much the larger portion of the value of the crops for their transportation to market. So onerous is this burden that the cost of transportation of wheat from Chicago and other western centers to the Atlantic cities is greater than from San Francisco, via Cape Horn, to the same points. It is hoped that the attention of rural voters to this subject may ultimately correct this evil which proves so serious a drawback to their industry; but it can only be accomplished by untiring vigilance over State legislation and by securing the enactment of laws that shall restrain these corporations from the absorption of the entire products of the farm, instead of allowing them to control the legislation of the country against the best interests of the people, and especially to the detriment of the consumer, who is made to pay tribute to this combination which breaks down a fair competition incidental to all other classes and associations in the business of life.

In this connection I desire to express the hope that Congress may devise and perfect some plan for facilitating the early construction of a ship-canal for the transportation of western products from the lakes to the ocean, or for the building of a double track freight railway, open to all, forwarding on equal

terms and supported by an equitable system of tolls.

THE WOOL INTEREST.

The wool-growing interest, involving a capital of hundreds of millions and underlying the prosperity of American agriculture in a degree scarcely appreciated by farmers themselves, has been saved from threatened annihilation by the action of Congress in placing a duty upon the foreign article equivalent to the internal taxation endured by the wool-growers, though not until the commercial class, taking advantage of the tardy progress of the measure, had inflicted a heavy blow in the introduction of more woolsens in a single year than were imported in three years of the late war. It is to be hoped that a premium will never again be given to foreign production either of wool or woolsens by imposing a higher tax upon American than upon foreign wool-growers, and that the present moderate and harmonious adjustment, barely saving the two classes of producers from loss and consumers from becoming the ultimate prey of foreign monopolists, may long be undisturbed, even by the threat of agitation for repeal. Our wool production is now more than equivalent to two thirds of a full supply, and with an increase of worsted wools, already initiated and progressive, and more attention to the finer varieties of clothing wools, there will scarcely be occasion for any imports whatever, with the exception of coarse carpet styles, complete provision for which exists at a nominal rate of duty. It is a manifestly false system of political economy in a nation with a continental domain having unmeasured resources of annual growth running to waste that sends abroad for the raw materials of manufacture, and it is scarcely less unwise in a teeming population, demanding various employment, to send from the country these unwrought productions which we are amply able to manufacture for the markets of the world.

SOUTHERN AFFAIRS.

The unsettled condition of industry of the southern States requires the encouraging aid and friendly recognition of the Government to restore the people to a state of prosperity and self-reliance, so essential to the development of the great resources of that section. There is every evidence of a fixed and determined purpose of the people to adapt themselves to the changes produced by the result of the late war. I am confident that the change in the labor system of these States, radical as it has been, will ultimately prove a great and permanent benefit, which none will be more ready to acknowledge than those affected by it; and that the least apprehension of an attempt to revive the system of slavery is entirely groundless. By no means can a settled and well-grounded conviction of this fact be so readily realized as by promptly and emphatically disabusing the minds of the freedmen (at present unsettled and disturbed) of anticipations of dividends of confiscated estates and the delusions of political preferment. With ample protection of his civil rights and privileges, the increasing demand for his labor, at remunerating wages, will make his presence not only acceptable but desirable; antagonism of capital and labor will cease, and the laborer of to-day, with the accumulations of his industry and economy, becomes the proprietor of to-morrow.

A portion of the people have been influenced by more potent causes for discouragement than political failure and the change in the relations of labor. Reduced to almost hopeless poverty by the exactions and vicissitudes of war, many thousands of the poor of these sections, during the early part of the present year, suffered great distress and absolute want, which excited the sympathy of the benevolent in the North, and secured food supplies for temporary relief.

The distribution, under the special appropriation of \$50,000 to be expended in seeds

for these States, was promptly and fully made, in accordance with the views and intentions of Congress, through special agents sent through the southern States, postmasters, prominent citizens, and the officers and agents of the Freedmen's Bureau. Although authorized late in the season, the information received by the Department has been entirely satisfactory as to the result produced by this liberal and timely donation.

These States possess decided natural advantages over the northern and western sections in their ability to produce every article which may be grown in the higher latitudes, with the almost exclusive advantage of producing cotton, hemp, rice, sugar and other products of the lower temperate zone. With longer shore lines than any other section of the continent, facilities are furnished for coastwise and inland navigation to the whole tide-water area, which is endowed with a climate peculiarly adapted to market gardening, with forests abounding in the most valuable timber and waters teeming with edible fishes and crustacea. Florida is destined to be a winter garden, yielding market supplies to northern cities without a risk of competition, and oranges, figs, and olives and other fruits of semi-tropical climes. Between tide-water and the lower slopes of the mountains is a region producing wheat of a better quality than that of any section north of it, the entire range of farm products in great profusion, and such fruits as apples, cherries, and grapes with certainty and success. The mountain region, almost unappropriated and unknown, at an elevation varying from fifteen hundred to six thousand feet, is the great grazing section of North America, sufficient to furnish abundant pasturage through the year to millions of cattle and sheep. These mountain slopes are generally free from surface rocks, covered with forest growths interspersed with grassy glades, and fertile to their summits. In bodies of thousands of acres these pastoral areas await the advent of the dairyman, the wool-grower, and the herdsman, at prices not exceeding those of the public lands of the distant West; and even on the eastern aspect of the Blue Ridge, in proximity to railroads and near to great markets, whole counties together have little more than ten per cent. of their territory in a state of nominal improvement.

There are grounds for assuming, also, that this must ultimately become the great wine-producing section of the country; for observation and experience fully attest that the higher, colder, and more humid latitudes will not ripen to perfection the wine-producing grape. It being now a well-settled fact that wine can be made in this country equal to the best that can be imported, we have only to select a region of our great country where the climate is perfectly adapted to grape culture to be independent of the world for our wine supplies.

Examination of the following table will show the extent of land not included in farms in the several States: [See table at the foot of next page.]

It will be seen that the southern States vie with the distant West in extent of unoccupied lands. They show an area, not in farms, amounting to nearly three hundred million acres, nearly two thirds as much more "unimproved" in farms, and less than seventy-five million nominally improved, which is but thirteen per cent. of the whole, and not half of this in actual cultivation. It is safe to say that little more than five per cent. of the area of the South is annually cultivated.

An imperative and immediate necessity of rescinding the cotton tax must be apparent to all. The reduction of more than half the value of this fiber, in connection with labor contracts and other expenses upon the basis of high prices, is disastrous and disheartening in the extreme. A tax of twenty per cent. *ad valorem* upon one of the raw products of

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agriculture which has not paid the expenses of culture must be destructive to all enterprise and effort in the producer, and yet many a cotton-planter will fail to realize a more cheering state of facts at the close of the year's operations; and it will stimulate the efforts of the British cotton supply association, which have increased the India yield by the aid of the war and our own taxation nearly fourfold in eight years, and that of Brazil at about the same rate. Ten years ago the contribution of the United States to the European supply was fully four fifths of the total amount; now it is considerably less than the receipts from other sources. During ten months of 1867 the imports into Great Britain were as follows:

	Pounds.
From Brazil.....	501,234
From Egypt.....	501,398
From India and China.....	2,938,557
From the United States.....	4,188,094
From other quarters.....	292,000
Total.....	8,511,333

The following table shows the rate of increase in the production of competing countries, stated in bales—those of the United States averaging 441 pounds, of Egypt 490, India and China 860, and Brazil 174 pounds:

Year.	United States.	Brazil.	Egypt.	India and China.	Miscellaneous quarters.	Total.
1859.....	2,086,000	125,000	101,000	510,000	7,000	2,829,000
1860.....	2,580,000	103,000	110,000	563,000	10,000	3,366,000
1861.....	1,841,000	100,000	97,000	585,000	11,000	3,053,000
1862.....	72,000	134,000	152,000	1,072,000	35,000	1,445,000
1863.....	132,000	138,000	204,000	1,301,000	67,000	1,932,000
1864.....	198,000	212,000	257,000	1,798,000	122,000	2,586,000
1865.....	462,000	340,000	334,000	1,407,000	211,000	2,754,000
1866.....	1,162,745	407,646	167,451	1,586,600	144,000	3,740,042

It is not probable that a monopoly in cotton production will be regained; nor is it desirable that it should. The cotton of this country is of superior quality, and should be manufactured largely where it is grown; any surplus of the raw material would then command remunerative prices abroad, and the cotton interest would still be independent of foreign combinations, and far more prosperous than in the time when planters made more purchases annually than the proceeds of their cotton would cover. The factories would make a demand for the labor of women and children, and furnish markets which would stimulate a widened range of agricultural production, making requisite and inevitable a largely increased population, and ultimately resulting in larger crops of cotton than in the boasted days of our cotton supremacy.

The solution of the labor question in the cotton States is anxiously awaited by the people. The recent radical change of the system of labor has necessarily been attended with irregularities, especially in the working of large plantations, and has led to disappointments and discouragements; and the operations of the future will undoubtedly be conducted on a smaller scale by a larger number of proprietors. No body of laborers of whatever race

or degree of intelligence, if free to contract for their own service, can be held in one locality or one branch of industry or prevented from attempts, however weak or unsuccessful, to assume the part of proprietor. The negroes of the South have exhibited such restlessness and evinced a similar ambition to the annoyance of the contractors for their labor; yet in many cases their employers have accorded to them a character for stability and industry that was scarcely to be expected. Time alone will settle these disturbed conditions; and patience and experience in adjustments to new circumstances on the part of employers and employes will aid materially in the settlement.

The introduction of Asiatics to meet the requirements of cotton production is to be deprecated, not only because such labor is unskilled and far inferior to negro labor, but it will add to the complications produced by the jealousies and prejudices of races widely differing in character, taste, and traditional customs. The assumed disadvantage in the presence of one inferior race cannot be neutralized by the introduction of another.

As a result of the doubt relative to the action of the negro the white man has undertaken the solution of the labor question, and is successfully producing cotton, both by coöperative and individual enterprises, proving to the world that the Caucasian can labor without detriment to health under a southern sun, and laying the foundation for universal industry and general thrift.

There is unexampled activity throughout this section in search of new branches of production, and the fostering care of the Government in aiding the acquisition of new fruits, grasses, and fibers, and in furnishing information calculated to facilitate experiments, correct injurious misapprehensions, and render these activities successful, will be rewarded by the return of prosperity to a great section and in a development that will enrich the country and astonish the world.

STOCK IMPORTATION.

The cattle-plague, or rinderpest, having almost, if not entirely, disappeared in Europe, it will become necessary to repeal or modify the law prohibiting the importation of cattle,

no cases having appeared in England for some weeks, and notice having been given that no more reports will be made. Stock-growers of this country desire, after so long a prohibition of importation, to avail themselves of an opportunity for judicious selection of favorite strains of blood and to secure the result of recent improvements.

DEPARTMENT OPERATIONS.

The limited appropriations heretofore made to this Department have merely enabled it to inaugurate a plan of operations designed to further the interests of intelligent husbandry and protect it in its economic and political relations with other industries. Constantly accumulating evidence of the interest awakened among farmers in these efforts in behalf of agriculture attests the vitality and utility of this branch of the Government service. Special information, involving scientific, technical, and practical knowledge, is sought with great avidity by individuals and associations, and by directors and promoters of emigration and official boards of agriculture in foreign countries, and the monthly and annual reports are yearly received with increasing appreciation.

The system of crop estimates, initiated as an experiment, and furnishing only approximate results in the absence of a complete census of production, have proved sufficiently reliable to excite the ire of speculators, whose purposes are frequently foiled by their publication. In the case of cotton, the only product of which an annual enumeration is attainable, the estimate of last year, of one million eight hundred and thirty-five thousand bales, was strikingly verified.

Great benefits would result from a census by the General Government, taken in periods of five years instead of ten as heretofore; and it is to be regretted that there is not in each State a provision for an annual census of the principal farm products, and that in many of those States which have taken some action in that direction there should be so much neglect and failure in the enumeration required on the part of local officers, many of whom appear to regard the duty as a labor to be performed or neglected at pleasure. The schedules to be

[Table referred to on preceding page.]

States.	Improved land in farms.	Unimproved land in farms.	Wild or waste areas not in farms.	Number of farms.	Average number of acres in each farm.
Alabama.....	6,385,724	12,718,821	13,357,535	55,128	846
Arkansas.....	1,983,313	7,590,393	23,833,014	39,004	245
California.....	2,468,034	6,262,000	112,219,086	18,716	666
Connecticut.....	1,830,807	673,457	477,096	25,180	99
Delaware.....	637,065	367,230	352,505	6,638	151
Florida.....	654,213	2,236,015	35,011,292	6,588	444
Georgia.....	8,032,758	18,587,732	10,461,510	62,603	430
Illinois.....	13,098,374	7,815,615	14,550,411	143,810	146
Indiana.....	8,242,183	8,146,109	5,249,468	181,826	124
Iowa.....	8,792,792	6,277,115	25,168,893	61,163	165
Kansas.....	405,468	1,372,932	60,235,130	10,400	171
Kentucky.....	7,614,208	11,519,053	4,951,939	90,814	211
Louisiana.....	2,707,108	6,591,468	17,162,864	17,328	526
Maine.....	2,704,133	3,023,538	13,472,329	55,068	103
Maryland.....	3,002,267	1,833,304	1,152,269	25,491	190
Massachusetts.....	2,155,512	1,183,212	1,633,276	35,601	94
Michigan.....	3,476,296	3,554,538	29,097,806	62,422	113
Minnesota.....	556,250	2,165,718	59,747,572	18,181	149
Mississippi.....	5,065,755	10,773,929	14,310,156	42,810	370
Missouri.....	6,216,871	13,737,930	21,839,100	92,732	215
Nebraska.....	118,789	512,425	48,000,375	2,780	226
Nevada.....	14,132	41,968	71,651,623	91	617
New Hampshire.....	2,367,034	1,377,531	2,191,575	30,501	123
New Jersey.....	1,944,441	1,030,084	2,341,275	27,616	103
New York.....	14,358,403	6,616,555	9,105,012	196,990	106
North Carolina.....	6,517,284	17,245,685	5,037,631	75,203	316
Ohio.....	12,625,394	7,846,747	5,104,829	179,889	111
Oregon.....	896,414	1,164,125	58,914,821	5,806	355
Pennsylvania.....	10,463,296	6,548,844	12,427,660	156,357	109
Rhode Island.....	335,128	186,096	314,616	5,406	96
South Carolina.....	4,572,060	11,623,859	2,610,481	33,171	483
Tennessee.....	6,795,337	13,873,828	8,514,835	62,368	251
Texas.....	2,650,781	22,693,247	128,541,412	42,891	591
Vermont.....	2,823,157	1,451,257	1,322,426	31,536	135
Virginia.....	11,437,821	19,679,215	8,148,244	92,665	324
Wisconsin.....	3,746,167	4,147,420	28,717,773	68,270	114
Total.....	162,782,769	242,498,082	834,548,859	2,033,665	199

filled should be as nearly as possible the same in each State; the duty of the officer should be made imperative, and public opinion should be brought to enforce the requirement. The efficiency of these officers differs much in different States, but the returns of the States most reliably and completely reported fall far short of the figures of the United States census of the same period. If those statistics could be made equally and reasonably complete and accurate in the several States, and the returns should be promptly communicated to this Department, the results might be of exceeding interest and value.

Believing that a more direct and intimate communication between this Department and the people, through the medium of competent representatives, would be conducive of good results, securing cooperation in official labors, comparing results of agricultural processes under different circumstances, noting the progress of improvement at exhibitions or special meetings, and communicating in lectures or conversations the results of official investigations, I have taken occasion, to some extent, thus to employ the services of heads of divisions in observations having reference to the greater efficiency of their several branches of the Department, and for which they were especially qualified by specific and technical training. I am satisfied that good has resulted both to the Department and to agriculture by this representation.

I take the liberty to suggest that the compensation fixed by law for the services of the head of this Department is entirely inadequate, and would recommend a liberal increase of the salary of the Commissioner of Agriculture. Believing that the time has arrived for providing suitable and appropriate residences for the heads of the different Departments of the Government upon portions of the public reservations, I would recommend that a suitable house be erected for the accommodation of the Commissioner of Agriculture, in the vicinity of the Department buildings. The social position of chief officers of a great nation, if properly maintained, requires outlays greatly disproportionate to the compensation now allowed by law, and with the short periods of official service and frequent changes incident to our system of Government, no one can enjoy the comforts of a home without great pecuniary sacrifice.

THE SEED DISTRIBUTION.

The distribution among the people of new and valuable seeds and plants appears to be one of the principal objects of Congress in the annual appropriations to the Department. This has become a most delicate and difficult duty, for what is new in one country may not be valuable or useful in another; the most valuable of seeds or plants may be in some sections of our own country the most common varieties, yet unknown in other sections; and those which would be of the utmost value in one latitude might be worthless in another. Experience has fully shown that a change of seeds and plants from one section to another has greatly improved the yield and quality. These results can only be attained by repeated and constant tests of the adaptation of the several varieties to soil and climate. To introduce or to distribute seed upon any other principle would be useless. The charges occasionally heard of the distribution of worthless and common seed are caused in many if not in all cases by inexperience or neglect or want of skill in their culture; for the singular anomaly is often presented by unfavorable reports from some and the most favorable and flattering accounts from others of the results of the same seeds in the same locality. That seed may not occasionally be mislabeled in the millions of papers put up and annually distributed would be to claim a marvelous exemption from mistakes. New varieties are obtained whenever satisfactory evidence has been adduced that they have

been properly tested; and the people are now enjoying the benefits of many new and valuable products which have been introduced into the country through the agency of this Department. The crops of sorghum alone would more than compensate for all the money expended by the Department for seed.

The total distribution of seeds for the year amounted to 1,426,637 papers. Of this number 352,000 were distributed through Senators and members of the Thirty-Ninth and Fortieth Congresses; 88,482 through agricultural and horticultural organizations; 164,953 to corps of statistical correspondents, in acknowledgment of valuable gratuitous services; 299,975 to individuals upon letters of members of Congress, or upon personal application, or in answer to letters from individuals; and 521,227 to the southern States, under the special appropriation for that purpose.

PROPAGATING GARDEN.

The distribution of plants from the experimental and propagating gardens from January 1 to May 6, 1867, amounted to 42,123, principally through Senators and members of Congress, reaching every State and Territory in the country. The articles have consisted mainly of the smaller varieties of fruits, of which the grape has been in large proportion. The introduction of the best varieties of this valuable fruit, their adaptation to various climates, and for special purposes, has been prominently kept in view. The main purpose of the garden, that of testing the respective merits of new varieties, is still kept strictly in view, and all new varieties are procured as early as practicable, and the knowledge gained concerning them embodied in the Department reports.

The Department building having been located upon the reservation now used as an experimental farm, an arrangement of the grounds in a manner more in keeping with the surroundings and new improvements becomes not only proper but necessary. As a farm it has long been evident that the area is altogether too limited for the requirements of the nation; seeds become intermixed, and the products consequently are unreliable. Even with regard to testing the merits of various products, the limited space that can be afforded to each is such as to render an accurate estimate impossible. I would therefore suggest that the reservation be devoted to the purpose of forming an *Arboretum Americanum*, or grand national arboretum, where the unequalled arboreal wealth of this country may be collected and planted in accordance with a strict botanical system, and at the same time exhibit the highest degree of landscape effect. This has long been a desideratum with scientific men here as well as in foreign countries, and its importance has very frequently been impressed upon the Department. A specimen of every tree and shrub capable of existing in the climate would here find its appropriate place, forming a scientific school of instruction to the botanical student and a valuable resort to the artist and to all lovers of the beautiful in nature. Plans for this important improvement are now in course of preparation by Mr. Saunders, the horticulturist of this Department. This disposition of the grounds will be hailed with satisfaction, and will be a work of time more than expense, calling for no alteration of present surface more than may be necessary in providing sufficient roads and walks for the inspection of the plants.

THE EXPERIMENTAL FARM.

At the experimental farm tests of seeds of cereals and garden vegetables, both foreign and domestic, have been successfully continued, though the area cultivated is quite too limited for the best results. Of the five hundred and seventy-six varieties included in the experiments sixty-three were of winter wheat, sixty-six of spring wheat, five of winter rye, sixteen

of spring rye, twenty-one of barley, twenty of oats, ten of corn, twenty-nine of grass seeds, three of sorghum, nine of sugar beets, thirty-five of peas, thirty-six of potatoes, and twenty-seven of melons. Many of these varieties, as was expected, proved undesirable or unsuitable, while others succeeded well, warranting good results in their introduction and cultivation. A statement of results in detail will be found in the report of the superintendent of the farm.

The spring wheat was a failure, almost necessarily, in this climate; it is proposed that tests of this grain be made by individuals in the North and Northwest the coming season.

The winter wheat was prostrated by heavy storms late in spring, and therefore attained scarcely three fourths of the highest yield of the previous year, yet a Tasmanian variety produced at the rate of thirty-seven bushels per acre, weighing fifty-nine pounds. The Tappahannock yielded at the rate of twenty-eight bushels, weighing sixty-five pounds.

The New Brunswick oats attained the best results—thirty-six bushels, weighing thirty-nine pounds.

The greatest yield of rye was at the rate of forty-two bushels, weighing fifty-eight pounds.

Of the thirty-six varieties of potatoes, including the most noted and popular of this country and Europe, the results of last year are substantially repeated. Those standing highest were the Goodrich, Orono, and Samaritan. This season the Samaritan drops to sixth on the list in point of productiveness, and the first three are the Goodrich, Orono, and Colebrook seedling, yielding at the rate of about three hundred bushels per acre.

THE CHEMICAL LABORATORY.

In the chemical laboratory of the Department analyses and tests have been constantly made to ascertain the value and utility of various products, fertilizers, minerals, and fibers, the benefits of which the country are reaping. Correspondence has been held and information and advice given on making sugar from sorghum. Attention has been given to a solution of the question as to the extent of territory of the United States in which the sugar beet may be grown for the manufacture of sugar, and in what respects the climatic peculiarities of the country, between 35° and 45° north latitude, compare with the beet-growing districts of northern Europe. An extended series of examination has been made upon beets grown on the experimental farm of the Department, the results of which have not been tabulated and compared. The work will soon be completed, and the results will appear in the report of the chemist. These analyses have been made at different stages of growth, with reference to the effect of fertilizers, and to ascertaining the time at which the largest amount and best quality of sugar may be obtained. In view of the great success of the beet-sugar manufacture in France and Germany and the supply of a large portion of Europe with an unexceptionable article of sugar, there is every reason to anticipate an early conquest of all the difficulties which confront the experiment in this country. Already, at Chatsworth, Livingston county, Illinois, the business has been introduced on an extended scale, with every prospect of ultimate success.

STATISTICS.

The work of the division of statistics has been various and laborious. A mass of ascertained facts of foreign and domestic agriculture, with approximate estimates of current productions of the staples of the farm will be found in the report of the statistician, condensed and systematized, with careful analyses and explanatory illustrations and comments.

For several years the estimates of production included only the northern States until people had become familiarized with aggregates representing the production of only a

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portion of the country. The incorporation of the southern States in a grand summary of agricultural results was doubly difficult in view of the cessation of all regular agricultural order during the war, and its shattered and uncertain status on the return of peace. The wonderful agricultural progress of the distant Pacific States has complicated the difficulties of accurate compilation of the statistics of production. Yet, with the aid of a large corps of zealous and intelligent reporters in all sections of the country, valuable results have been achieved in this branch of the Department.

In comparison with 1860 the table of numbers and prices of farm stock exhibit a decrease of six per cent. in horses, with a slight increase over the exhibit of the previous year. The heaviest loss is shown in the South; the most rapid recuperation in the West. Prices of horses have retrograded less than values of other stock during the year.

Cows appear to be increasing more rapidly than any other horned cattle, as a result in part of the success of the associated dairy system.

Sheep, it is claimed, have nearly doubled in numbers since 1860, increasing from twenty-three to more than forty million, and their wool from sixty to one hundred and fifteen million pounds.

There has been an increase in swine since 1860, principally in the West.

The farm crops of the present season, with some exceptions, have been more abundant than those of last year. The wheat crop, for three years comparatively small, has been generally good, with a large average, and a moderate yield. Including the southern and Pacific States, the returns, when fully complete, will probably show a total aggregate of more than two hundred million bushels.

While corn promised a large yield, with an increased acreage, there were serious local losses, principally in the Ohio valley, which will tend to reduce the estimates.

Cotton is yielding better than last year and will probably produce an aggregate of more than two and a half million bales.

For estimates of the principal products reference is made to the statistical report.

THE DEPARTMENT BUILDING.

The new building for the accommodation of the Department was not contracted for until after the adjournment of the session of the Congress in July last, in consequence of the protracted illness and subsequent death of the Commissioner. The contract was awarded to the lowest bidder, Francis Gibbons, jr., esq., of Baltimore, with whom an agreement providing for the furnishing of materials and erection of a building, upon the plans submitted to Congress, and upon which the appropriation therefor was made, was duly executed on the 2d day of August, 1867, copies of which, with ample security for the performance of the same, are on file in the Comptroller's office, Treasury Department. The erection of the building was promptly commenced and is now ready for the roof, and proceeding with entire satisfaction toward completion. The promptness and energy with which the contractor has thus far progressed with the work warrant the confident belief that it will be completed under the terms of the contract and within the appropriation by the 1st day of March next or very soon thereafter.

Further appropriations will be necessary for heating, furnishing, fixtures, and grading of grounds and walks around the building, the cost of which has been submitted in the estimates for the expenses of the Department for the next fiscal year, and will be duly presented to Congress for consideration.

There has been paid on account of the building, upon estimates of work done and materials furnished, \$48,720 89. The remainder of the appropriation is applicable to the payment of further estimates, and the ten per cent. reser-

vation, under the contract, upon the completion of the work; and I have no reason to doubt that it will be sufficient for those purposes.

FINANCES.

The declining health of the late Commissioner greatly interfered with the prompt rendering of his quarterly accounts during the last year of his administration, none having been rendered for that period until after I had assumed control of the Department, since which time they have been duly submitted to the proper accounting officer of the Government. In the settlement all moneys drawn by him from the Treasury appear to be accounted for, but during the several years of continual appropriations for nearly the same objects drafts were made upon certain items of appropriations and paid out upon others in amounts beyond the appropriations to these objects, and in order to a proper adjustment of his accounts upon the books of the Treasury Department a deficiency appropriation to the amount of \$8,606 42 should be made.

There are also in addition to the above various unpaid bills for seeds and other materials, contracted for and used by the Department during his administration, amounting to \$35,392 35, to meet which the appropriations were inadequate, and for which a further deficiency appropriation should be made. A schedule of such debts have been submitted to the honorable Secretary of the Treasury for the purpose of being presented to Congress in the usual manner.

The appropriation for the purchase of the Glover Museum was promptly applied to that object, and Mr. Glover has duly transferred his collection to the Government. This collection continues to be the center of attraction to all visitors, and its usefulness as an economic museum can scarcely be overestimated. Additions of interesting objects continue to be made, all sections of the country contributing specimens of agricultural products, minerals, and manufactures, or whatever may be considered useful and illustrative of the growth and enterprise of the country.

In reference to the present financial condition of the Department, there has been expended out of the appropriation for the current fiscal year \$65,118, leaving a balance of \$113,902 to meet the demand for the remainder of the year, which is considered sufficient for the purpose.

In conclusion I desire to acknowledge my indebtedness to the several heads of division of this Department for their valuable assistance and faithful cooperation in the peculiar and responsible duties devolved upon me, and also to note their zeal and ability in the management of the specialties confided to their charge. The same commendation is cheerfully accorded to the clerks and employes of the office for their general faithfulness in the discharge of their various duties.

JOHN W. STOKES,

Acting Commissioner of Agriculture.

To his Excellency ANDREW JOHNSON, President.

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SPEECH OF HON. G. S. BOUTWELL,
OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

December 5 and 6, 1867.

The House having under consideration the following resolution, reported from the Committee on the Judiciary:

Resolved, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors—

Mr. BOUTWELL said:

Mr. SPEAKER: In opening this cause to the House I shall confine myself to a concise presentation of the views which the occasion im-

peratively demands at my hands, giving no rein whatever to those efforts and forms of speech which other men in similar circumstances have freely employed with great propriety and power.

The gravity of the occasion is unusual; leading us, as it ought, to exercise great care in speech and action, but not inducing us to swerve in any manner from the line of duty. It is one of the incidents of public life that public men are called to take responsibility; but it is one of the achievements of life to meet and bear successfully such responsibility when tendered by circumstances or events.

It is not strange that a sensitive, a conscientious public opinion shrinks from a proceeding so solemn in its character, the end of which man cannot foresee. In one scale they place all the present material and political interests of the country and in the other the project for the removal of a President who has fifteen months only of official life. If this were a full statement of the case, and there were no consequences of evil likely to follow, I certainly should not hesitate to yield to the suggestion which invites us to leave the President where he is. In the first place, the impeachment of the President does not involve any neglect of the questions and subjects to which the attention of the country is chiefly directed. In any event Congress will have time to deal with all these questions, and it will deal with them undoubtedly in a manner acceptable to the country. On the other hand, if the conclusion of the majority of the committee be correct, we are charged with a grave duty concerning the country in all its material and political interests during the present Administration, and furnishing an example affecting favorably or unfavorably its fortunes in all future time.

The public mind is influenced also by the vast powers and supposed evil character of the President; and the larger these powers are assumed to be so the more do the people dread a contest with a man whose capacity for wrongdoing even they have learned to respect. There is also a small class, but not an unimportant class, of the community who are attracted by the courage and persistency of the President's course. They have seen him carry on for two years a contest, apparently an unequal contest, with the legislative department of the Government in which there has been a two-thirds majority against him; but such has been his success that it is not strange that they now anticipate for him a speedy, decisive victory. And even his enemies must admit that he has exhibited talents and courage in a bad cause which would have rendered the truth triumphant in every part of the land.

Others have received the impression that the suspension of the President would follow his impeachment by this House. It certainly will not be out of place for me in this connection to present the views I entertain on this subject. After much deliberation I cannot doubt the soundness of the opinion that the President, even when impeached by this House, is still entitled to his office until he has been convicted by the Senate; and I have reached that conclusion in the presence of many difficulties which in my judgment are incident to the question.

I know it may be said that it is an extraordinary feature in the Government that the President of the United States, impeached by this House, and arraigned and on trial before the other, should still have command of the Army and the Navy and remain in possession of the vast emoluments, power, and patronage of office. There are grave difficulties in the way of this view. But if, on the other hand, it be the doctrine that the President of the United States is to be temporarily suspended from his office whenever the House of Representatives, by a majority of one, shall choose to prefer articles of impeachment against him, it is perfectly apparent that a

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mere majority might take out of the hands of the Executive, for any purpose that might seem to it fit, the power which by the people and under the Constitution had been confided to him. It is worthy of notice, also, that the House having the management of the prosecution might prolong the trial for the purpose of controlling the Government. Therefore, after careful examination, I reach the conclusion that whatever may be the difficulty in the way of prosecuting the trial while the President remains actually in control of all the powers of the Government, it is a difficulty incident to the question, and a difficulty which we cannot remove.

I refer briefly to what seemed to me to be the duty of the committee; and in this connection I will also speak of what I understand to be the discretion of this House incident to its great authority under the Constitution, having in its hands the sole power of impeachment. The committee had no discretion. It was called by the order of the House under the Constitution to investigate the conduct of the President and to ascertain whether he had committed impeachable offenses. It was the duty of the committee to report its conclusion upon its conscience and best judgment. But in this House the jurisdiction is larger. This House has the sole power of impeachment. Its action is not subject to revision. Therefore it follows unquestionably that, in the exercise of its best judgment and conscience, it may give heed to the great rule of municipal and public life, that the law takes no notice of trifles. While the committee might feel compelled to bring here as a result of their investigation a conclusion based upon unimportant but technical violations of the laws of the land, amounting, in their judgment, to crimes and misdemeanors, it still would be in the power of the House to say that these matters are too unimportant to attract and engross the attention of that great tribunal, the Senate of the United States, acting in its highest character as a branch of the Government.

I also assume that this House may go still further. It may say, notwithstanding it shall appear from the record and from the evidence that the President is guilty of impeachable offenses of so high a character that under other circumstances it would be compelled to proceed to his trial and conviction, that the evil of attempting to correct them in the manner appointed by the Constitution is greater than submission to the continued evil of his administration. And this statement comprehends, I think, the entire powers of this House. It acts in its judgment upon the evidence first, but upon its conscience in its regard to public policy whether it will proceed or not. I very much doubt, however, the power of this House to censure the President as an independent proposition, though I cannot doubt its power to declare, if it choose so to do, that the President is guilty of impeachable high crimes and misdemeanors, but that upon considerations of public policy it is not for the present wise to prosecute those charges to trial and final judgment.

It was found by the investigation, as has been very fully set forth in the reports submitted to the House by the different branches of the committee, that this inquiry involves the determination of questions of law on which, in my judgment, the whole proceeding depends. If the theory of the law submitted by the minority of the committee be in the judgment of this House a true theory, then the majority have no case whatever. If, on the other hand, as I believe, the opinion entertained by the majority of the committee be a true view of the law, then I am unable to avoid the conclusion that the President is guilty of high crimes and misdemeanors, subjecting him to impeachment according to the authority of the Constitution. I have therefore felt it to be my first duty, if not my chief duty, in the discussion of this matter, to present to the House the view of the law entertained by the majority of the committee

as fully, as carefully, but as concisely, as I am able to present it.

The attention of the committee was directed almost constantly to the nature and extent of the power of impeachment as it exists under the Constitution of the United States, and to the practice of the British Parliament from the earliest historical times to the commencement of the present century. The experience of Great Britain affords much instruction and something of warning in reference to proceedings by impeachment, but it does not furnish precedents which ought to control or in a large degree to influence the House of Representatives acting under the Constitution of the United States.

There are four provisions of the Constitution relating to impeachment, and I present them together for easier reference, and that the views I entertain may be more readily compared with the law upon the subject:

"The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment."—*Art. II, sec. 3, par. 5.*

"The Senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two thirds of the members present."—*Art. II, sec. 3, par. 6.*

"Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law."—*Art. II, sec. 3, par. 7.*

"The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."—*Art. II, sec. 4.*

It is apparent from these provisions that the power of impeachment is not vested in the two Houses of Congress for the purpose of punishing criminals, but for the sole purpose of removing from and rendering ineligible to office those persons who by their crimes or misdemeanors may be unfit for a particular public trust, or, in extreme cases, for any public trust whatever.

It is true that a judgment by which an officer who is charged with an act tainted with criminality is removed from office, and in some cases declared to be disqualified to hold and enjoy any office of honor, trust, or profit under the United States, is in its very nature a severe punishment; but that punishment is an incident of the proceeding and not its object. The object is to secure the country against the presence of the offender in any place of trust or power. If the judgment of the Senate be regarded as punishment, then the seventh paragraph of the third section of the first article of the Constitution, which provides that "the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law," would be wholly inconsistent with the nature of our institutions.

This phrase of the Constitution has been drawn aside, as I think, or rather torn from its legitimate connections and office for the purpose of furnishing a prop to the doctrine that those acts that are indictable, and those alone, are impeachable offenses.

The true and different meaning of this phrase is easily discovered. Its office was to change the common law practice of England. By that law a person convicted by the House of Lords upon a proceeding by impeachment could plead that conviction and sentence in bar of an indictment in a criminal court for the same offense. The reason of this is also apparent. The judgment of the lords carried a punishment with it entirely distinct from removal from office. Indeed in England removal from office was an incident or consequence of the proceeding, while its main object, as in ordinary criminal trials, was the punishment of the guilty party. Hence, when a man had been convicted and sentenced through the process of impeachment, and was subse-

quently arraigned in an ordinary criminal court, he put himself upon the common law maxim, incorporated substantially as an amendment to the Constitution of the United States, in these words:

"Nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb."—*Art. V of Amendments.*

The framers of the Constitution foresaw when they limited the sentence in cases of impeachment to removal from office and inability to hold office, that persons so convicted and sentenced, if afterwards arraigned upon an indictment would plead the judgment of the court of impeachment as a bar to the proceeding. Hence they employed affirmative and specific language controlling the English practice. This clause of the Constitution furnishes adequate support to the position I hold that impeachment is not in this country, as in England it is, a mode by which crimes are punished.

The proceedings, under the Constitution of the United States, for the impeachment of a public officer are essentially and fundamentally different from proceedings in cases of impeachment under the system of Great Britain; and this difference impairs materially, if it does not utterly destroy, the value of the English cases as authority in the United States. Under the English system the accused is subjected to trial in the House of Lords by processes analogous to those of an ordinary criminal court, with the singular and apparently unreasonable difference that he may be condemned by the voices of a majority merely of his triers, not less, perhaps, than twelve in number, while in a criminal court the accused cannot be sentenced and punishment inflicted unless the jury are unanimous in pronouncing him guilty.

Further, under the English system the House of Lords fixes the penalty, which may be death, imprisonment, loss of property, of office, or only the smallest fine in money. The accused can have no previous knowledge of the penalty to which his acts have exposed him. By the process of impeachment in England greater power is exercised by the House of Lords than is or can be exercised by the Senate of the United States and any criminal court, if the authority that each possesses is considered as vested in one body.

There are five manifest and important distinctions between the English and American systems in the nature and scope of the proceeding by impeachment:

1. In the United States the object is not the punishment of the offender, but security against his presence as a public officer.

2. In the United States the power of impeachment is limited to public officers; while in Great Britain a private citizen may be subjected to the proceeding.

3. In the United States the accused cannot be convicted without the concurrence of two thirds of the Senators present, while in England judgment follows if a majority of the lords present pronounce the accused guilty.

4. In the United States judgment cannot extend further than removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States, while in England the party convicted may be deprived of office, estate, and life at the will of a majority of his judges.

5. In England judges of the courts, since the time of William III, may be removed by the king upon an address by both houses of Parliament. This power does not exist under the Constitution of the United States.

In view of these manifest and important distinctions between the English and American systems the cases furnished by the practice of Great Britain possess but little importance as authority in America.

It follows naturally and necessarily from the distinctions stated that in this country a proceeding by impeachment is not a criminal proceeding. The absence of the party charged

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does not delay the trial. He cannot challenge the triers. Whoever is qualified as a Senator is thereby authorized to act as a judge. The Government is not bound to provide counsel or to pay the expenses of witnesses for the accused; nor can he avail himself of those technical rules relating to the verbiage of the charge established by law and usage in purely criminal proceedings, by whose aid the felon often passes from the dock or the prison and escapes the punishment due to his crimes.

An address to the throne would be resorted to in those cases where the matter for which the removal of a public officer is sought is free from color or taint of criminality. This power does not exist under the Constitution of the United States; and inasmuch as its exercise depends necessarily upon the concurrence and action of the Executive it could not be resorted to for the removal of the Executive.

It is unnecessary, and consequently unwise, to anticipate the result should the House and Senate ever be called to consider the case of an imbecile or insane executive or judicial officer. Mr. Johnson is mentally competent for the performance of his official duty, and the only question is whether he has done acts that legally and technically are "high crimes and misdemeanors" in the sense in which those words are used in the Constitution. Recently, in a more formal manner than ever before, the position has been taken that civil officers, including the President and Vice President, are not liable to removal by impeachment unless proved guilty of acts that are declared to be indictable high crimes or misdemeanors by the written statute laws of the United States.

In the presence of the fact that this technical theory of the law is a shield, operating though not designed to protect Mr. Johnson from responsibility for acts which, as I believe, are high crimes and misdemeanors, according to the principles of the English parliamentary common law of crimes, I am led to make a full statement of my views of the constitutional powers of the two Houses of Congress for the removal of civil officers by the process of impeachment.

In entering upon this branch of the subject it is not out of place for me to state that when I speak of the English common law of crimes, or the criminal common law of England, I mean that law as it was administered by Parliament in cases of impeachment. This law was based upon the municipal criminal law, if it did not in all particulars correspond to it. Inasmuch as the process of impeachment under the English system was a criminal proceeding solely, and in that particular, as already shown, distinguished from the process by impeachment under our system, it naturally happened, as in the case of Lord Melville, that the lords declined to proceed when the law judges gave the opinion that the charges did not set forth an indictable offense.

It is also true that the principles of the English criminal courts in regard to the admission of testimony, the nature of the proof, and the rights of the accused, prevail in courts of impeachment in this country; and this rather from the necessity of the case than by virtue of the Constitution or by specific authority of law.

This practice shows how generally and thoroughly woven into our system of jurisprudence is the English common law, and how it is only by violent wrenching of the whole system that we escape from its control. We learn the meaning of the words "pardon," "reprieve," "jury," "bribery," "crime," "cruel and unusual punishments," "good behavior," "felony," "breach of the peace," and even of "impeachment," all words used in the Constitution, by reference to the English common law, and this, by the necessity of the case, sanctioned by the authority of the Supreme Court of the United States, and upon the ground

that without such reference the Constitution would be inoperative and void; and yet when we propose to go to the same fountain of wisdom for the meaning of the words "high crimes and misdemeanors" we are told that these words are exceptions.

When, as is admitted, every other word used in the Constitution and known to the common law is interpreted by the common law, I ask for the authority, the constitutional authority, by which these words are made exceptions to this great rule, incident to our public life, sanctioned by the Constitution, and necessary to the existence of the Government? Is it to be found in the fact that these are general words and not specific? The minority of the committee, as I understand them, so assert and maintain. They admit that if following the words "treason" and "bribery" were the names of specific crimes, as arson, burglary, and murder, there would then remain no doubt that the commission of a crime so specified would constitute an impeachable offense. How does the case now differ? It would have been impossible to enumerate every crime and misdemeanor in the Constitution, yet those acts which by the English common law were "high crimes and misdemeanors" were perfectly well known. Blackstone in successive chapters has specified and named the acts which were "crimes and misdemeanors" under the general head of public wrongs. He has divided them into five principal classes, described the acts that were criminal, and given to each its name.

First, crimes against justice, among which are mentioned bribery, perjury, barratry, maintenance, champerty, and other crimes well known to the common law and the laws of all civilized countries as crimes against justice. Secondly, he enumerates under the head of "crimes and misdemeanors" "crimes against peace," such as riots, carrying weapons, challenges, &c. Thirdly, he mentions "crimes against trade," such as smuggling, owling, &c. Fourthly, "crimes against health," such as selling unwholesome provisions. Fifthly, "crimes against the police or the public economy of the State," as bigamy, polygamy, nuisances, &c. Can there be any doubt that when our ancestors went to the common law of England as it was laid down by Blackstone and selected treason and bribery as two great public political crimes, thus indicating the nature of the crimes which by the Constitution they intended to make impeachable, and drew from Blackstone, or even older authorities than Blackstone, the intelligible and well understood phrase, "other high crimes and misdemeanors," they intended to include those crimes which were as well known to the common law of England as were the crimes of treason and perjury?

Blackstone also divided crimes and misdemeanors into such as are more immediately injurious to God and His holy religion; such as violate or transgress the law of nations; such as especially affect the king; such as more directly infringe the rights of the public or commonwealth taken in its collective capacity; such as in a peculiar manner affect or injure individuals. Under this last head he mentions "murder," "mayhem," "abduction," "rape," "kidnapping," "false imprisonment."

Every lawyer and statesman in England and America understood precisely what offenses were embraced by the phrase "high crimes and misdemeanors."

The division and enumeration made by Blackstone was familiar to every court in England and America, for the English common law prevailed in all the thirteen colonies. Moreover, in the last days of royal power in Massachusetts, its House of Representatives, upon the motion of John Adams, had impeached Chief Justice Oliver of "high crimes and misdemeanors." And yet we are now told that these solemn, majestic, omnipotent words of the common law were used by the lawyers,

patriots, and statesmen of America in the most important part of the Constitution without any present meaning, destined to wait, and wait, for Congress to breathe into them the breath of life.

Nor can any enumeration in words meet all the cases of misdemeanor in office which would be the subject of impeachment, and Congress, after a struggle with difficulties which could not be mastered, would finally flee for refuge and security to some general phrase, and can any be suggested better than the comprehensive and well understood language employed by the framers of the Constitution?

Again, I say the view of the majority of the committee does not rest solely upon contemporaneous history or ancient authorities. The Supreme Court and the admissions of the minority of the committee fully sustain our position. The word "bribery" is not defined by the Constitution, and the minority admit what the Supreme Court with the clearest reason has declared, that for the definition of a common law word used, but not defined in the Constitution, we must refer to the common law and there ascertain its meaning. The chairman goes to the common law for the meaning of the word "bribery." The general and specific meaning of the words "high crimes and misdemeanors" was as well known to the common law as was the meaning of the word "bribery." The decision of the Supreme Court accepted by the minority of the committee refers us necessarily to the common law for the meaning of the words "high crimes and misdemeanors," and that meaning it must be admitted is not in any degree doubtful. Indeed "bribery," as we have seen from Blackstone's arrangement, is one of the crimes embraced under the head of crimes against justice in his classification of crimes and misdemeanors to which we are compelled to go to ascertain the meaning of the word "bribery," and wherein also we cannot avoid seeing the names and learning the nature of the other offenses included under the general phrase "high crimes and misdemeanors."

In pursuing this branch of inquiry I again refer to the provisions of the Constitution, already quoted, from which several distinct powers are derived:

1. The House of Representatives has "the sole power of impeachment." The word impeachment was known to the common law of England; and by the authority of the Supreme Court of the United States every common law word or phrase used in the Constitution is to be interpreted and defined by the rules and definitions of the English common law.

By that law the power of impeachment included inquiry, the presentation of articles of impeachment, and the prosecution of the case before the Senate to final judgment, and all this at the will of the House of Representatives.

2. The Senate has the sole power to try all impeachments, and the sixth paragraph of the third section of the second article makes provision in detail for the organization of the Senate as a special judicial tribunal.

3. The Constitution enumerates the persons who may be the subjects of impeachment, to wit: "the President, Vice President, and all civil officers of the United States," and by necessary implication excludes all other persons.

Thus does the Constitution create a court of impeachment, composed of a body charged with the duty of examination and prosecution, a tribunal to hear and decide with the jurisdiction as to persons prescribed and limited, leaving nothing whatever to future legislative discretion and action.

4. The Constitution specifies the acts which render the "President, Vice President, and all civil officers" liable to impeachment, to wit: "treason, bribery, or other high crimes and misdemeanors."

The open and remaining questions are: did

these words have a specific and understood meaning when the Constitution was made, or did the men who framed it, the conventions and the people who ratified it, leave these words without meaning or force?

Is it not certain from the nature of the case, from the provisions adopted, from the language employed, that it was the design of the framers of the Constitution to create a tribunal with all the needful qualities and attributes of a court, including a statement of the extent and limits of its jurisdiction and authority in regard to persons and offenses, leaving nothing to legislative discretion and wisdom?

The meaning of the words "treason, bribery, high crimes, misdemeanors," as used in the common law of England and America, was then perfectly understood. The legal and general literature of both countries is replete with evidence in support of this statement. Could the framers of the Constitution have used these words without ascribing to them any meaning; and if any meaning was ascribed to them what meaning except that ascribed to them wherever the English language was spoken or English laws and customs prevailed? But the view I am maintaining is not dependent upon inference, reason, or contemporaneous history even, for a careful consideration of the clause in question shows that legislative action would prove entirely impotent. Assume that it is not possible to impeach the President or any civil officer for any offense of which he may be guilty, unless such offense shall have been declared previously by a law of the United States to be an indictable high crime or misdemeanor. But will it be assumed further on the one hand that Congress may by law declare an act to be a misdemeanor which, according to the principles of the common law, contains no one element or quality of a crime, and upon the doing of the thing inhibited proceed to impeach and remove the President of the United States from his office?

The statement of the proposition furnishes its own refutation, and all just men must admit that in the presence of the provision of the Constitution now under consideration there is no power in Congress available for the purpose of laying a foundation for proceeding by impeachment to declare an act a crime which would not be so upon a judicial application of the principles of the English common law.

On the other hand, can Congress by law declare that acts which by the common judgment of mankind are crimes are relieved from all taint and impurity and that civil officers who may be guilty of those acts are free from responsibility? Can the constitutional powers of a court established under the Constitution, and for the highest purposes known to it, be thus annulled by an act of Congress and the court itself rendered utterly incapable of performing its only function, and that function essential to the existence of the Government? Is it possible in the nature of the case that the Fortieth Congress by law may limit and control the House or Senate of a succeeding Congress in the discharge of duties imposed upon them by the Constitution? Is it not, then, true, if the power to legislate on the subject be admitted, that Congress from the necessity of the case can neither enlarge nor limit the meaning or scope of the words used in the Constitution?

Honest and constitutional legislation would present the subject finally as it now appears in the Constitution itself. Those acts, and those only, would be "high crimes" which are so according to the principles of the English parliamentary common law of crimes; and those acts would still be "misdemeanors" which are so by virtue of the same principles. Thus, upon an analysis of the subject, are we compelled to fall back upon the phraseology and substance of the constitutional provision we are considering; and most certainly we should be compelled by experience to fall back upon

its substance and phraseology if legislative action were undertaken.

In continuing the analysis we see yet more clearly how futile and dangerous all attempts to legislate upon this subject will in the end prove. Treason is one of the offenses for which civil officers are liable to impeachment. This crime is defined by the Constitution, and will it be contended that it is in the power of Congress to enlarge, limit, or in any degree to qualify the jurisdiction of the Senate when sitting as a court for the trial of the President or other officer charged with that crime?

If it be said that the circumstance that this crime is defined in the Constitution has deprived Congress of the power to legislate upon this branch of the subject, and that its authority is therefore limited to "bribery and other high crimes and misdemeanors," it may be stated in answer that the Constitution did not create the crime of treason, but simply limited the definition of the crime to a single offense; while by the common law of England it included several distinct offenses. It should be observed, however, that by the English law every form of treason was a crime or misdemeanor, and while by the Constitution of the United States only one of these forms is declared to be treason the other acts still rest in the class of crimes and misdemeanors.

Bribery was an offense as well known to and as well defined by the common law of England at the time the Constitution was framed as was the crime of treason. The phrase "high crimes and misdemeanors" had been in use in the courts and in the books of England for centuries.

Legislative wisdom is and ever must be incapable of rendering the meaning of these words more certain than it is when subjected to the principles which lie at the foundation of the English common law. The Constitution makes the President and all civil officers liable to impeachment if guilty of bribery; is it to be assumed that this power in the Constitution was to remain dormant until Congress by law should declare what bribery is, and what acts are acts of bribery; and also provide that bribery as defined by law shall be an indictable offense? If it had happened, for example, that an aspirant for the Presidency at the organization of the Government had bribed a sufficient number of electors to secure his own election and to defeat the choice of the people, would the country have been compelled to submit to the administration of such a man for four years, or would the House of Representatives and Senate have proceeded under the authority conferred by the Constitution to impeach, to try, and remove him from office? And be it remembered that although bribery is named in the Constitution it was not, when the Government was organized in 1789, an indictable offense, which the minority of the committee say it must be before it can be impeachable. The Government was in existence from the 4th day of March, 1789, to the 30th day of April, 1790, before a crimes act was passed, and during that time neither treason nor bribery was indictable by law in any court of the United States. Will anybody say in view of this provision of the Constitution that our fathers would have sat silently and submitted to the administration of a man who was elected by bribery, but whose offense was by no law of the land indictable?

Still further, it is constitutionally impossible for Congress to declare that certain offenses are crimes and misdemeanors everywhere and under all circumstances within the territory of the United States. For example, the power of Congress to provide for the punishment of the crime of murder is limited to the forts and arsenals, to the District of Columbia, and to the Territories of the Union. Upon the theory that those offenses only are impeachable which are made crimes by the laws of the United States a civil officer might be guilty of mur-

der within the jurisdiction of a State where the crime is not and cannot be punishable by any law of Congress, and the House and Senate would have no power to arraign, try, and remove him from office. Practically it would be found impossible to anticipate by specific legislation all cases of misconduct which will occur in the career of criminal men. At the present moment we have no law which declares that it shall be a high crime or misdemeanor for the President to decline to recognize the Congress of the United States, and yet should he deny its lawful and constitutional existence and authority, and thus virtually dissolve the Government, would the House and Senate be impotent and unable to proceed by process of impeachment to secure his removal from office?

The theory I am combating is virtually the end of the Government. It offers substantially free license to executive and judicial officers. Legislative wisdom has not yet attempted to declare by statutory provisions what acts executive and judicial officers may not lawfully do, but when such wisdom shall have been exercised for a century and exhausted the President of the United States may examine and avoid all statutes of restraint or inhibition, and then fearlessly and successfully usurp power, oppress the people, encourage discord, promote rebellion, corrupt public officers, humiliate and disgrace the nation by multitudinous acts of wrong, and there will be neither redress nor relief. The theory that we must look to the statutes of the United States alone, and that the President and other officers, as long as they do not violate the criminal statute laws of the country, may do any act or thing, however detrimental to the public interests, however contrary to the public morals, however heinous in its nature, and still retain their offices, is a theory so at variance with civilization, with the principles of law, and with the existence of the Government, that it ought not to receive our support or countenance unless the language of the Constitution imperatively requires us to yield to its authority.

The history of the Government shows conclusively that this theory was not entertained by its founders. The men who framed the Constitution were for a quarter of a century in the Government of the country, and they never took one step or suggested that one step should be taken for the purpose of rendering the power of impeachment of practical value if it be true that no act, however base, dangerous, or criminal, is a crime or misdemeanor in the contemplation of the Constitution unless it has been previously so declared by an act of Congress and made an indictable offense. The omission upon their part to legislate upon the subject, with the knowledge they had as to the meaning of the Constitution, would have been criminal in character if they entertained the opinion that legislation was necessary in order to render the power of removal by impeachment of any practical value for the preservation of the liberties of the country.

I now call the attention of the House to the opinion of the Supreme Court given in 1812 touching the jurisdiction of the courts of the United States, in which they held that the courts have no common-law criminal jurisdiction, and that such jurisdiction cannot be taken unless authorized by an act of Congress. The opinion was given in a case which was not fully argued, and it was not the unanimous opinion of the court. But I have no occasion to question its soundness. The courts of the United States under the Constitution have no common-law criminal jurisdiction, and for the reason that the Constitution has not conferred it upon them. The Senate of the United States, as I maintain, as a high court of impeachment, has the power to deprive the President or any civil officer of his office who has been guilty of treason, bribery, or other high crime or misdemeanor, because the Constitu-

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tion has conferred this power upon the Senate. The Supreme Court in the case referred to held that the law must first make an act a crime, affix a punishment to it, and declare the court that shall have jurisdiction of the offense. All these conditions are satisfied in the provisions of the Constitution by which the Senate is constituted a tribunal with the sole power to try impeachments. The officers liable to impeachment and the offenses rendering them so liable are distinctly specified.

Is it not reasonably certain that if the words "bribery or other high crimes and misdemeanors" were not to be interpreted by the rule of the common law their meaning would have been limited in the Constitution itself, as was done in the case of treason, or that specific authority would have been given to Congress to act on the subject? The simple addition to the phrase "high crimes and misdemeanors" of the words "as may by law be prescribed" would have settled the question in favor of the theory which gives to Congress authority to change the powers of the Senate as a court of impeachment according to its own changing opinions.

I rest firmly in the conclusion that the phrase "bribery or other high crimes and misdemeanors" is used in the Constitution in accordance with and subject to the rule of reason, which lies at the foundation of the English common law. This rule is that no person in office shall do an act *contra bonos mores*, contrary to good morals; and subjecting the provisions of the Constitution concerning impeachment to that rule the result is that neither the President, the Vice President, nor any civil officer of the United States can lawfully do any act, either official or otherwise, which in a large, a public sense is contrary to the good morals of the office he holds. Misconduct in office, misbehavior in office, misdemeanor in office, are equivalent terms. It follows also that the scope of the rule of the common law is not to be ascertained by reference to cases which have arisen either in Great Britain or in the States of the United States where the English common law of crimes exist, however numerous such cases may be. The principle of the English common law furnishes not only the foundation for the cases which have arisen, but for others that may arise and to which the same great principles of law must be applied.

This principle has been elucidated by the most eminent writers of England and of this country, and it is especially recognized, applied, and elaborated by one of the great jurists of modern times. I refer to Chief Justice Shaw, of the supreme court of Massachusetts.

By the Constitution this House may determine the rule of its proceedings, punish its members for disorderly behavior, and with the concurrence of two thirds expel a member. But are we to sit here without authority to protect ourselves until those acts which amount to disorderly behavior are enumerated in the laws of the country or by the rules of the House? Our security is first in the reason and conscience with which we are individually guided and warned; and then in the reason and conscience of our judges applied in the light of the principle which lies at the foundation of the common law, municipal, public, and parliamentary. Upon the view of the Constitution which I present and maintain honest public officers are safe in all their rights. In the nature of the case, a civil officer, guided by his conscience and judgment, will do no act which the Senate of the United States upon its conscience and judgment, and by a two-thirds majority of the members present, will pronounce a high crime and misdemeanor. On the other hand, the theory that I aim to refute seems to me to be fraught with danger to civil officers and with peril to the Government.

With this view of the law I turn now to the authorities, and then I shall pass briefly over the precedents which the history of this coun-

try furnishes. The great authority upon impeachment, whose writings are, indeed, the result of all English experience, all English law, and all English learning upon the subject, is that of Wooddeson, who was the first English law writer, as far as I know, who treated the subject of impeachment upon broad, general grounds of public policy. A part of the extract which I now read has been furnished, I believe, in both the majority and minority reports of the committee, but I enlarge the quotation as stating more fully the ground upon which I stand in the opinions I entertain upon this question. He says:

"All the king's subjects are impeachable in Parliament, but with this distinction: that a peer may be so accused before his peers of any crime, a commoner (though perhaps it was formerly otherwise) can now be charged with misdemeanors only, not with any capital offense. For when Fitzharris, in the year 1681, was impeached of high treason, the lords remitted the prosecution to the inferior court, though it greatly exasperated the accusers. Such kind of misdeeds, however, as peculiarly injure the Commonwealth by the abuse of high offices of trust are the most proper and have been the most usual ground for this kind of prosecution.

"Thus, if a lord chancellor be guilty of bribery or of acting grossly contrary to the duty of his office, if the judges mislead their sovereign by unconstitutional opinions, if any other magistrate attempt to subvert the fundamental laws or introduce arbitrary power, these have been deemed cases adapted to parliamentary inquiry and decision.

"So where a lord chancellor has been thought to have put the seal to an ignominious treaty, a lord admiral to neglect the safeguard of the sea, an ambassador to betray his trust, a privy councillor to propound or support dishonorable measures, or a confidential advisor of his sovereign to obtain exorbitant grants or incompatible employments—these imputations have properly occasioned impeachments; because it is apparent how little the ordinary tribunals are calculated to take cognizance of such offenses, or to investigate and reform the general polity of the State."—Wooddeson's *Lectures*, edition of 1792, Dublin, vol. 2, lecture 40.

In accordance with this learned and clear opinion of the great commentator upon the English law are the authorities on this side of the Atlantic, beginning with Hamilton, who in the sixty-fifth number of the *Federalist* says, speaking of the power of the Senate in the matter of impeachment:

"The subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust."—*Federalist*, No. 65.

Nathan Dane, in his *Digest of American Law*, says:

"Judge Chase in his defense under the first article of impeachment contended that no civil officer of the United States can be impeached except for some offense for which he may be indicted at law; and that no evidence can be received on an impeachment except such as on an indictment at law for the same offense would be admissible. This ground taken by the respondent occupied a large portion of the arguments on both sides; but his counsel did not insist on this ground, and most clearly it was not tenable. It was agreed on all hands that he was charged with misdemeanor in office; that a misdemeanor in office and misbehavior in office mean the same thing."

"Suppose the President of the United States were to attempt to influence the votes of members of Congress upon a particular question, and should promise them offices, he would be impeachable clearly, but surely not indictable."

"Now, what is good behavior in office is certainly a very general and indefinite question, not defined by statute, Constitution, or adjudged cases, nor can it be in the nature of things; but what is good behavior or not in office must ever essentially depend on the actions of the officer and circumstances of the particular case, too numerous and various to be reduced within any known in the proper sense of the expression."—*Chap. 222, articles 8 and 9.*

It follows from these authorities that those acts are especially impeachable offenses which affect the welfare or existence of the State, or render the officer unfit for the discharge of his duties. It does not follow that every act which is a crime at law is therefore impeachable, or that impeachable offenses are indictable.

Chief Justice Story says, in his various paragraphs on this subject:

"However much it may fall within the political theories of certain statesmen and jurists to deny the existence of a common law belonging to and applicable to the nation in ordinary cases, no one has yet been bold enough to assert that the power of impeachment

is limited to offenses positively defined in the statute-book of the Union as impeachable high crimes and misdemeanors."

Again:

"It seems to be the settled doctrine of the high court of impeachment that, though the common law cannot be the foundation of a jurisdiction not given by the Constitution or laws, that jurisdiction, when given, attaches, and is to be exercised according to the rules of the common law, and that what are and what are not 'high crimes and misdemeanors' is to be ascertained by a recurrence to that great basis of American jurisprudence."

And he adds to this that—

"The power of the House to punish contempts, which are breaches of privilege not defined by positive law, has been upheld on the same ground; for if the House had no jurisdiction to punish until the acts had been previously ascertained and defined by positive law, it is clear that the process of arrest would be illegal."—*Vol. 2, sec. 797.*

Again he says:

"The offenses to which the power of impeachment has been and is ordinarily applied as a remedy are of a political character. Not but that crimes of a strictly legal character fall within the scope of the power, but that it has a more enlarged operation, and reaches what are aptly termed political offenses, growing out of personal misconduct, or gross neglect, or usurpation, or habitual disregard of the public interests in the discharge of the duties of political office. These are so various in their character and so indefinable in their actual involutions that it is almost impossible to provide for them by positive law. They must be examined on very broad and comprehensive principles of policy and duty."—*Vol. 2, sec. 764.*

If this concise and clear paragraph illustrating the law of impeachment had been written in view of the facts which we are now called to consider, it would not have more clearly set forth in its general language the offenses of which the majority of the committee complain.

Again he says:

"Congress have unhesitatingly adopted the conclusion that no previous statute is necessary to authorize an impeachment for any official misconduct." * * * "In the few cases of impeachment which have hitherto been tried no one of the charges has rested upon statutable misdemeanors."—*Sec. 799.*

That was the opinion of Mr. Justice Story, writing about the year 1830, when the cases of Blount, of Chase, and of Pickens were before him and known to him. He says that no one of the cases of impeachment which had then been tried rested upon statutable misdemeanors.

I here close, Mr. Speaker, the authorities, and turn to the cases which the history of this country has furnished for the purpose of sustaining by a distinct reference thereto the doctrine which Judge Story maintained, and which is set forth in the report of the majority of the committee.

The first case is that of William Blount, a Senator from the State of Tennessee in the Congress of the United States. He was impeached by the House of Representatives upon the ground that he had excited the Indians of the Southwest against the Government of the United States, or at least to ally themselves through the agency of other persons with foreign Powers in such a way as to promote a rupture with Spain. The charges against him rested entirely, or almost entirely, upon a letter written by himself and upon the testimony of a person who was in a certain sense his confidant and agent; but I believe upon a careful examination of the whole of the testimony it amounts to this only, that there was probable cause to believe that he had some purpose to alienate the Indians of the Southwest from the Government of the United States, and indirectly to interfere with the neutrality laws of 1794. But however that may be, whoever reads the charges made by the House of Representatives will be satisfied that they did not set forth an indictable offense under any law of the United States. What did the House of Representatives do? It impeached William Blount of high crimes and misdemeanors on the 3d day of July, 1797. The Senate, upon the question of law being raised whether a Senator was in such a sense a civil officer as to be liable to the process of impeachment, held that he was not a civil

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officer, and therefore the case was disposed of upon a point of law.

But what did the Senate do? By a vote of twenty-five to one they expelled William Blount from the Senate, and in the resolution of expulsion it was expressly declared that he had been guilty of a high misdemeanor. Therefore in the case of William Blount we have the judgment of the House of Representatives of 1797 and the judgment of the Senate of 1797 that an offense which, as set forth in the charges preferred by the House, was not an indictable offense, was nevertheless a high misdemeanor. Judge Story, in commenting upon the action of the Senate, says:

"It may be supposed that the first charge in the article of impeachment against William Blount was a statutable offense, but on an accurate examination of the act of 1794 it will be found not to have been so."

The next case is that of Judge Chase, an associate justice of the Supreme Court of the United States, a signer of the Declaration of Independence, a member of the Convention that framed the Constitution of the United States, a learned lawyer, present, making his answer and managing his own cause before the Senate. Upon the eighth article there were nineteen votes in the Senate for conviction and fifteen for acquittal. He had been impeached by the House of Representatives for high crimes and misdemeanors. By a majority of the Senate, but not by the requisite two thirds majority, it was declared that under the eighth article he was guilty of high crimes and misdemeanors. What is set up in the eighth article? If the House will bear with me I think it would be not uninteresting to listen to the concise statement of the grounds on which the House of Representatives, in 1804, proceeded to carry the case of Judge Chase before the Senate of the United States.

The eighth article is in these words:

"And whereas mutual respect and confidence between the Government of the United States and those of the individual States, and between the people and those governments, respectively, are highly conducive to that public harmony without which there can be no public happiness, yet the said Samuel Chase, disregarding the duties and dignity of his judicial character, did, at the circuit court for the district of Maryland, held at Baltimore in the month of May, 1803, pervert his official right and duty to address the grand jury then and there assembled, on the matters coming within the province of the said jury, for the purpose of delivering to the said grand jury an intemperate and inflammatory political harangue, with intent to excite the fears and resentment of the said grand jury, and of the good people of Maryland against their State government and constitution, a conduct highly censurable in any, but peculiarly indecent and unbecoming in a judge of the Supreme Court of the United States; and, moreover, that the said Samuel Chase, then and there, under pretense of exercising his judicial right to address the said grand jury, as aforesaid, did, in a manner highly unwarrantable, endeavor to excite the odium of the said grand jury, and of the good people of Maryland against the Government of the United States by delivering opinions which, even if the judiciary were competent to their expression, on a suitable occasion and in a proper manner, were, at that time, and as delivered by him, highly indecent, extra-judicial, and tending to prostitute the high judicial character with which he was invested to the low purpose of an electioneering partisan."

That was the eighth of the articles preferred in 1804 by the House of Representatives of the United States against a justice of the Supreme Court of the United States, and he did not, upon the record, venture to risk his case upon the question of law. He took the judgment of the Senate upon the whole question, the law and the fact combined; and by a vote of four only escaped conviction of high crimes and misdemeanors upon the article, which I have now read, from the first to the last words thereof.

The next case was that of Judge Pickering, of New Hampshire. I will read the fourth of the articles upon which he was convicted. I will say here, what perhaps I might have said elsewhere, that we stand, not upon the doctrine that indictable offenses by the statutes of the United States are not under some circumstances and when of a certain character impeachable, but if we find in the proceedings

of our ancestors that on any occasion in any array of articles against an offender there is a single article which does not set forth an indictable offense, and the party was convicted upon that article, it sustains our position as fully as though none of the articles set forth an indictable offense. Therefore it is with great confidence that I call the attention of the House to this particular article against Judge Pickering, which does not contain an indictable offense under the laws of the United States. I suppose it would be difficult to frame a statute of the United States which would make the substance of this charge an indictable offense. The fourth article upon which Judge Pickering was tried and convicted is as follows:

"That whereas for the due, faithful, and impartial administration of justice, temperance and sobriety are essential qualities in the character of a judge, yet the said John Pickering, being a man of loose morals and intemperate habits, on the 11th and 12th days of November, in the year 1802, being then judge of the district court in and for the district of New Hampshire, did appear upon the bench of the said court for the purpose of administering justice in a state of total intoxication, produced by the free and intemperate use of inebriating liquors; and did then and there frequently, in a most profane and indecent manner, invoke the name of the Supreme Being, to the evil example of all the good citizens of the United States, and was then and there guilty of other high misdemeanors disgraceful to his own character as a judge, and degrading to the honor and dignity of the United States."

These were the ideas which our ancestors entertained of the character of a public officer. They felt that the dignity of the nation required that a judge should be clear in his high office. Upon that article, containing no one element of an indictable offense by any law of the United States then existing, he was found guilty and removed from his office.

Before passing from the case of Judge Pickering I desire to call attention to a view taken of his trial by the minority of the committee. Upon the question "guilty" or "not guilty" of the charges set out in the fourth article the yeas were 19 and the nays 7. It is stated substantially in the report of the minority (I do not profess to quote the exact words) that the finding was, in a certain sense, a political and partisan judgment. It may be true that the men who voted for the conviction of Judge Pickering were of one party; but I think the record shows that it was not by one party that he was removed from office. Five Senators, members of the court, refused to vote. If those five had voted in the negative Judge Pickering would have been acquitted. Why did those five gentlemen refuse to vote? The record shows. The son of Judge Pickering sent a memorial to the President of the Senate, setting forth that his father was then insane; that he was insane when he exhibited himself intoxicated upon the bench; that for two years previous to that time he had been insane; and that therefore he was not responsible for what he had done.

It is important for the House to see how these five men, who had it in their power to save Judge Pickering from conviction by the Senate, to save his reputation, acted on that occasion. Senators Armstrong, Bradley, Stone, Dayton, and White retired from the court, and the record shows that the two last, Dayton and White, did this, not because they believed Judge Pickering guilty of high crimes and misdemeanors, (leaving it to be inferred that Armstrong, Bradley, and Stone did believe him guilty of high crimes and misdemeanors,) but because they did not choose to be compelled to give so solemn a vote upon a form of question which they considered unfair and calculated to preclude them from giving any distinct and explicit opinion upon the true and most important point in the case, namely, as to the insanity of Judge Pickering, and whether the charges contained in the articles of impeachment, if true, amounted in him—in him—to high crimes and misdemeanors; thereby upon the record admitting that if the question of insanity had not been raised there would have been no doubt as to the character of the offenses charged as high

crimes and misdemeanors. Senator Dayton, one of the Senators who retired, said:

"They were simply to be allowed to vote whether Judge Pickering was guilty as charged—that is, guilty of the facts charged in each article—aye or no. If voted guilty of the facts, the sentence was to follow, without any previous question whether those facts amounted to a high crime or misdemeanor. The latent reason of this course was too obvious. There were members who were disposed to give sentence of removal against this unhappy judge upon the ground of the facts alleged and proved, who could not, however, conscientiously vote that they amounted to high crimes and misdemeanors, especially when committed by a man proved at the very time to be insane, and to have been so ever since, even to the present moment."

It therefore is clear, I think, from the action of the court in the case of Judge Pickering, that there was really no substantial difference of opinion upon the main question in which we are now concerned, which is, not whether Judge Pickering was insane, but whether the fourth article, one of the articles on which he was convicted, set forth impeachable high crimes and misdemeanors. Therefore, notwithstanding there may have been an irregularity, an informality, even an impropriety in the character of the question put to the court, it still remains true that upon the record a majority of more than two thirds of that court believed that the fourth article charged the respondent with impeachable high crimes and misdemeanors.

I come now to the last case—a very recent one—the case of Judge Humphreys, who in the year 1861 was removed from his office as judge of the district court of Tennessee. Judge Humphreys was convicted upon each of the seven articles which were presented before the Senate, with the exception of a portion of one of the specifications under one of the articles. The first article on which he was convicted (and we are compelled to assume that if it had been the only article he would have been convicted and removed from office) does not—and I speak with great confidence—set forth an indictable offense. Trespassing as I know I do upon the patience of the House, I still think that the view of the case I am presenting would be incomplete if I did not read that article in full to the House that I may have its judgment upon the question whether or not the offense set forth is indictable.

The first article was in these words:

"That, regardless of his duties as a citizen of the United States, and unmindful of the duties of his said office, and in violation of the sacred obligation of his official oath, 'to administer justice without respect to persons,' and faithfully and impartially discharge all the duties incumbent upon him as judge of the district court of the United States for the several districts of the State of Tennessee, agreeable to the Constitution and laws of the United States,' the said West H. Humphreys, on the 29th day of December, A. D. 1860, in the city of Nashville, in said State, the said West H. Humphreys then being a citizen of the United States, and owing allegiance thereto, and then and there being judge of the district court of the United States for the several districts of said State, at a public meeting on the day and year last aforesaid, held in said city of Nashville, and in the hearing of divers persons then there present, did endeavor by public speech to incite revolt and rebellion within said State against the Constitution and Government of the United States, and did then and there publicly declare that it was the right of the people of said State, by an ordinance of secession, to absolve themselves from all allegiance to the Government of the United States, the Constitution and laws thereof."

The offense with which Humphreys is charged in this article was committed on the 29th day of December, 1860, before the fall of Sumter, and when only one or two States had passed an ordinance of secession. The declaration was merely a declaration in a public speech that the State of Tennessee had the right to secede. That the article sets forth an impeachable offense I do not doubt; but no lawyer will maintain that Judge Humphreys could have been indicted for treason or for any other crime under the laws of the United States for what in this article is alleged as having been said by him, or for what he did say, or, in fine, for anything that he could have said in a public speech at Nashville at that time. Yet the

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House and the Senate of 1861 found that this article set forth "impeachable high crimes and misdemeanors" under the Constitution of the United States, and by a two-thirds majority of the Senate he was convicted and removed from office.

Mr. Speaker, my discussion of the law is ended. The view that I have attempted to maintain, however imperfectly presented, is strong in the principles of American jurisprudence. Those principles are derived from the English common law, and by the letter and spirit of the Constitution are transferred to and made a part of our system of public policy.

We stand firmly upon the authorities on this side of the Atlantic and on the other. We follow the practice of our ancestors, the men who framed the Constitution, and who may be presumed to have known their own intention, and to have been able to express that intention in appropriate words.

I turn now to the facts of the case. If the position I have taken is sound, that the meaning of the phrase "high crimes and misdemeanors" is to be ascertained by reference to the principles of the English common law of crimes, Blackstone's definition, "that a crime or misdemeanor is an act committed or omitted in violation of a public law either forbidding or commanding it" becomes important. I stand upon this definition of the great writer upon English law as the connecting link between the theory of the law that I maintain and the facts which in this case are proved.

It is to be observed in connection with Blackstone's definition that in our system the Constitution and the statutes are the "public law" of which he speaks, and any act done by the President which is forbidden by the law or by the Constitution, or the omission by him to do what is by the law or the Constitution commanded, is a "high crime and misdemeanor," and renders him liable to impeachment and removal from office.

He is amenable to the House and the Senate in accordance with the great principles of public law of which the Constitution of the United States is the foundation. And it is true in a higher and better sense than it is true of the statutes that the President of the United States is bound to support the Constitution, the vital part of which, in reference to the public affairs of the country, is that he shall take care that the laws be faithfully executed, and he violates that great provision of the Constitution especially when he himself disregards the law either by doing that which is forbidden or neglecting that which he is commanded to do.

Sir, in approaching the discussion of the transactions of which we complain I labor under great difficulties, such as are incident to the case. The President has in his hands the immense patronage of the Government. Its influence is all-pervading. The country was disappointed, no doubt, in the report of the committee, and very likely this House participated in the disappointment, that there was no specific, heinous, novel offense charged upon and proved against the President of the United States. It is in the very nature of the case that no such heinous offense could be proved. If we understand the teachings of the successive acts which are developed in the voluminous report of the testimony, and if we understand the facts which are there developed, they all point to one conclusion, and that is that the offense with which the President is charged, and of which I believe by history he will ultimately be convicted, is that he used as he had the opportunity, and misused as necessity and circumstances dictated, the great powers of the nation with which he was intrusted, for the purpose of reconstructing this Government in the interest of the rebellion, so that henceforth this Union, in its legitimate connection, in its relations, in its powers, in its historical character, should be merely the continuation of the Government which was organ-

ized at Montgomery and transferred to Richmond.

If, sir, this statement unfolds the nature of the case, there would not be found any particular specific act which would disclose the whole of the transaction. It was only by a series of acts, by a succession of events, by participation direct or indirect in numerous transactions, some of them open and some of them secret, that this great scheme was carried on and far on towards its final consummation. Hence it happens that when we present a particular charge it is one which for a long time has been before the public. The country has heard of it again and again. Men do not see in that particular offense any great enormity. Then we are told that this particular act was advised by this Cabinet officer, and that act assented to by another Cabinet officer. This matter was discussed in Cabinet meeting, the other was considered in a side chamber, and therefore the President is not alone responsible for anything that has been done. But, sir, I assert that whoever else may be responsible with him, he is responsible for himself. Any other theory is destructive to public liberty. We understand the relations which subsisted between the President and his Cabinet officers. The tenure-of-office act gave the latter a degree of independence. But whatever were the subsisting relations the President cannot shield himself by their counsel, and claim immunity for open, known, and willful violations of the laws of the land. I do not speak now of errors of judgment, but of open and avowed illegal acts personally done or authorized by himself. But he has not always had even the countenance of his Cabinet officers. The test-oath was suspended by the President against the opinion of Attorney General Speed. If Cabinet officers have been concerned in these illegal transactions I have for them, to a large extent, the same excuse that I have for myself, the same that I have for the members of this House and for the people of this country. In the beginning they did not understand the President's character, capacity, and purposes.

His capacity has not been comprehended by the country. Violent sometimes in language, indiscreet in manner, impulsive in action, unwise often in declamation, he is still animated by a persistency of purpose which never yields under any circumstances, but seeks by means covert and tortuous as well as open and direct the accomplishment of the purpose of his life.

I care not to go into an examination—indeed, I have neither the time nor the taste for it now—of the tortuous ways by which he has controlled men who in the public estimation are superior to himself. But my excuse for Cabinet officers, for members of Congress, for the country, is that in 1865, when he issued his proclamation for the reorganization of North Carolina, no one understood him. General Grant in his testimony says that he considered the plan temporary, to be approved or annulled when Congress should meet in December. But when Congress assembled the President told us that the work was ended; that the rebellious States were restored to the Union. He then planted himself firmly upon the proposition laid down in his North Carolina proclamation in defiance of the Constitution; in defiance of the decision of the Supreme Court of the United States that the power was in Congress to decide whether the government of a State was republican or not; in defiance of the cardinal principle of the sovereignty of the people through Congress. He ratified substantially in his message that which he had assumed merely in the proclamation of the 29th of May, that he was the United States for the purpose of deciding whether the government of a State was republican or not.

Sir, if this whole case rested merely upon that assumption, that exercise of power, I maintain that it would bring him specifically

and exactly within the control of this House, for the purpose of arraigning him before the Senate upon the charge of seizing and usurping the greatest power of the legislative department of the Government, unless it be that of taxation, which he has also usurped and exercised in defiance of the Constitution. But even then the nature of the proceeding was not fully understood, and his motives were only partially disclosed. The public mind did not comprehend the character and extent of the usurpation.

Thus it was that his motive was concealed. He was not understood, and the charity of the country silenced suspicions of evil. But he moved on step by step. The country in the mean while was under the influence of his bold declarations, made frequently from the 14th of April to about the 1st of July, 1865; declarations which, even in the coldest of us, made the blood kindle in our veins, as he set forth the punishment to which the rebels were entitled. Even the most violent of the northern people, they who had suffered from the war, those who had offered their sons, their brothers, and their husbands in sacrifice for the Republic, shuddered when they listened to his declamation as to the power and duty of this Government to punish those who had been engaged in the rebellion. But from July, 1865, his conduct and his policy have been entirely opposed to the declarations made in the spring and early summer of that year. I see in those declarations only this: that they were designed and intended, when they were uttered, to conceal from the public the great purpose he had in view, which was to wrest this Government from the power of the loyal people of the North and turn it over to the tender mercies of those who had brought upon the country all the horrors of civil war.

I pass, sir, to the testimony of Judge Mathews, of Ohio, a person whom I never saw but once, and of whom I know nothing except what the record discloses. He was an officer of the northern Army, and he has been a judge of some of the courts in Cincinnati or vicinity. He says that in the month of February, 1865, when Mr. Johnson was passing from Tennessee to Washington to take the oath of office as Vice President, he called upon him at the Burnett House. The conversation was apparently unimportant, but it discloses a purpose on the part of Mr. Johnson. He said to Judge Mathews, "You and I were old Democrats." "Yes," replied Judge Mathews. Says Mr. Johnson, "I will tell you what it is: if the country is ever to be saved it is to be done through the old Democratic party." That was in February, 1865. He had then received the suffrages of a free and generous people. They had taken him from Tennessee, where he would have had no abiding place but for the armies of the Republic that protected him in his person and property. He was then entering upon the second office in the gift of the people, chosen by the great party of power and of progress in the country, which had saved the Union in its days of peril. No act had been by them done which could possibly have alienated him from them. Jefferson Davis was still at Richmond. The armies of Lee menaced the capital of his country. Andrew Johnson was approaching that capital for the purpose of taking the oath of office. That capital was merely a fortified garrison. He then declares that the country cannot be saved except by the old Democratic party.

What was the old Democratic party? It was the party of the South; it was made up of those men in the southern country who entered into the rebellion. That casual expression dropped at the Burnett House in Cincinnati in February, 1865, discloses his mysterious course from that day to this. I do not speak now of those Democrats of the North who stood by the flag of the country, who maintained the cause of the Union, but I speak of that old Democratic party of which he spoke, whose

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inspiring principle was devotion to slavery, hatred to republican institutions and the cause of the Union and of liberty. It was to them that Mr. Johnson, in February, 1865, turned his eyes for the salvation of the country. He was then Vice President only, but his career as President illustrates his devotion to the purpose he then entertained.

I come now to a brief statement of those acts of the President which disclose his motives and establish his guilt. First he and his friends sedulously promulgated the idea that what he did in the year 1865 was temporary.

Then came his message of December, 1865, which disclosed more fully his ulterior purpose.

Then came the speech of February 22, 1866, in which he arraigned the Congress of the United States collectively and individually, and, as I believe, made use of expressions which uttered by a sovereign of Great Britain in reference to Parliament and to individual members of Parliament would have led to most serious consequences, if not to the overthrow of the Government.

Then came his vetoes of the various reconstruction measures. I know very well that it will be said that the President has the veto power in his hands. To be sure he has; but it is a power to be exercised, like the discretion of a court, in good faith, for proper purposes, in honest judgment and good conscience, and not persistently in the execution of a scheme which is in contravention of the just authority of the legislative branch of the Government. It was exercised, however, by the President for the purpose of preventing reconstruction by congressional agency and by authority of law.

Then came his interference by his message of the 22d of June, 1866, and by other acts, all disclosing and furthering a purpose to prevent the ratification of the pending constitutional amendment, a matter with which, as the Executive of the country, he had no concern whatever. The Constitution provides that the House and the Senate, by specified means, may propose amendments to the Constitution; and if any subject is wholly separated from executive authority or control it is this power to amend the Constitution of the United States. The Constitution reserves this power to Congress and to the people, excluding the President. In the same year he suspended the test-oath, against the advice of the Attorney General, and appointed men to office who, as he well knew, could not take that oath. The oath was prescribed for the purpose of protecting the country against the presence of disloyal persons in office—a measure necessary to the public safety. Can any act be more reprehensible? Can any act be more criminal? Can any act be more clearly within Blackstone's definition of "crimes and misdemeanors?"

Then follows his surrender of abandoned lands. In 1865 we passed the first Freedmen's Bureau bill, in which we set apart the abandoned lands for the negroes and refugees of the South. In violation of law and without authority of law he has restored them to their former rebel owners. This class of property was of the value of many millions of money.

We had captured in the South vast amounts of railway property. All these millions of property he has turned over to their former rebel proprietors. In many instances, as in the case of one railway, the Government itself, under his special direction and control, in the State of Tennessee constructed fifty-four miles of railway at an expense of more than two million dollars. This railway, with others, was turned over without consideration, without power to make reclamation or to obtain compensation, and all without authority of law.

We possessed a vast amount of rolling stock used on southern roads during the war, some of it captured from the enemy. The rolling stock captured he restored without money and without price. Other portions of it, constructed by the Government of the United States, or

purchased of manufacturers or of railroad companies, he sold without authority of law to corporations that, according to the principles of law, were insolvent. When the time arrived for payment to the Government many of them neglected to comply with the conditions of sale. One of those corporations, the Nashville and Chattanooga railroad, Tennessee, made an exhibit by which it appeared they had money on hand to pay the Government what they owed it. The officers of the Government demanded payment, and threatened to take possession of the road in case of further neglect. President Johnson, by his simple order, and that, as far as is known, without consultation with any member of the Cabinet, authorized, or rather directed, a delay or postponement in the collection of this debt. Agreeably to a previous order which he had issued, the interest on the bonds guaranteed by the State of Tennessee to this road, which had been due three or four years, were then paid out of money which upon every principle of reason, equity, and law belonged to the Government. The money had been earned by the use of the rolling stock which the Government had furnished.

Mr. Johnson's order was in utter disregard of the great principle that of all creditors the Government is to be first paid. Under no circumstances does the law concede to the citizen the right of payment until the claim of the sovereign is satisfied.

One important fact in connection with this transaction is that the President himself was the holder of these Tennessee State bonds, issued for the benefit of this road, to the amount of either nineteen thousand or thirty thousand dollars; and that of that money, which upon the contract and by every principle of law was due to the United States, he received past interest for about four years. A small matter, you may say; a small matter the country may say; but in a public trust he had no right, in the first place, to make sale of this property; secondly, he had no right to postpone payment, and above all he had no right to delay payment for the purpose of receiving to himself that which belonged to the Government. Nor is it any excuse for him that there were other holders, whether loyal or rebel, who shared the benefits of this transaction.

Then there is connected with these proceedings other public acts, such as the appointment of provisional governors for North Carolina and the other nine States without any authority of law. Not only that, but he authorized the payment of salaries without authority of law. Not only that, he ordered payment from the War Department of those salaries, notwithstanding there had been no appropriation by law, and notwithstanding the Constitution of the United States says that no money shall be drawn from the Treasury but in consequence of an appropriation by law.

When you bring all these acts together; when you consider what he has said; when you consider what he has done; when you consider that he has appropriated the public property for the benefit of rebels; when you consider that in every public act, as far as we can learn, from May, 1865, to the present time, all has tended to this great result, the restoration of the rebels to power under and in the Government of the country; when you consider all these things, can there be any doubt as to his purpose, or doubt as to the criminality of his purpose and his responsibility under the Constitution?

It may not be possible, by specific charge, to arraign him for this great crime, but is he therefore to escape? These offenses which I have enumerated, which are impeachable—and I have enumerated but a part of them—are the acts, the individual acts, the subordinate crimes, the tributary offenses to the accomplishment of the great object which he had in view. But if, upon the body of the testimony, you are satisfied of his purpose, and if you are satisfied that

these tributary offenses were committed as the means of enabling him to accomplish this great crime, will you hesitate to try him and convict him upon those charges of which he is manifestly guilty, even if they appear to be of inferior importance, knowing that they were in themselves misdemeanors, that they were tributary offenses, and that in this way, and in this way only, can you protect the State against the final consummation of his crime? We have not yet seen the end of this contest.

I am not disposed to enter into the region of prophecy, but we can understand the logic of propositions. The propositions which the President has laid down in his last message and elsewhere will lead to certain difficulty if they are acted upon. Whether they will be acted upon I cannot say. The first proposition is, that under some circumstances an act of Congress may be in his judgment so unconstitutional that he will violate the law and utterly disregard legislative authority. This is an assumption of power which strikes at the foundation of the Government. The Constitution authorizes Congress to pass bills. When they have been passed they are presented to the President for his approval or objection. If he objects to a bill, for constitutional or other reason, he returns it to the House in which it originated; and then and there his power over the subject is exhausted. If the House and Senate by a two-thirds vote pass a bill it becomes a law, and until it is repealed by the same authority or annulled by the Supreme Court the President has but one duty, and that is to obey it; and no consideration or opinion of his as to its constitutionality will defend or protect him in any degree. The opposite doctrine is fraught with evils of the most alarming character to the country. If the President may refuse to execute or may violate a law because he thinks it unconstitutional in a certain particular, another President may disregard it for another reason; and thus the Government becomes not a Government of laws, but a Government of men. Every civil officer has the same right in this respect as the President. If the latter has the right to disregard a law because he thinks it unconstitutional the Secretary of the Treasury and every subordinate has the same right. Is that doctrine to prevail in this country?

But coupled with that declaration is another declaration, that the negroes of the South have no right whatever to vote. Our whole plan of reconstruction is based upon the doctrine that the loyal people of the South, black and white, are to vote. Now, while there is no evidence conclusively establishing the fact, it is still undoubtedly true that thousands and tens of thousands of white men in the States recently in rebellion have abstained from participation in the work of calling the conventions because they have been stimulated by the conduct of the President to believe that they will ultimately be able to secure governments from which the negro population will be excluded. What is our condition to-day? Governments are being set up in the ten States largely by the black people, and without the concurrence of the whites, that concurrence being refused, to a large extent, through the influence of the President. Are we to leave this officer, if we judge him to be guilty of high crimes and misdemeanors, in control of the Army and the Navy, with his declaration upon the record that under certain circumstances he will not execute the laws? He has the control of the Army. Do you not suppose that next November a single soldier at each polling place in the southern country, aided by the whites, could prevent the entire negro population from voting? And if it is for the interest of the President to do so have we any reason to anticipate a different course of conduct? At any rate, such is the logic of the propositions which he has presented to us. If that logic be followed, the next presidential election will be heralded by

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civil war, or the next inauguration of a President of the United States will be the occasion for the renewal of fratricidal strife.

Mr. Speaker, we are at present involved in financial difficulties. I see no way of escape while Mr. Johnson is President of the United States. I assent to much of what he has said in his message concerning the effects of the tenure-of-office act. From my experience in the internal revenue office I reach the conclusion that it is substantially impossible to collect the taxes while the tenure-of-office act is in force; and I have no doubt that whenever a new Administration is organized, of whatever party it may be, some of the essential provisions of that act will be changed. The reason, Mr. Speaker, of the present difficulty is due to the fact that the persons engaged in plundering the revenues of the country are more or less associated criminally with public officers. The character of those public officers can be substantially known in the internal revenue office and in the Treasury Department; but if the Secretary of the Treasury and the President before they can remove officers against whom probable cause exists are obliged to wait until they have evidence which will satisfy the Senate of their guilt the very process of waiting for that evidence to be procured exhausts the public revenues. There is but one way of overcoming this difficulty. When the President, the Secretary of the Treasury, and the Commissioner of Internal Revenue are in harmony, and the Commissioner is satisfied from the circumstances existing that an officer is in collusion with thieves, he can ask the President for the removal of that man; and then there should exist the power of removal by a stroke of the pen. Neither the official nor his friends should know the reason therefor. Nothing so inspires officials with zeal in the discharge of their duties as to feel that if they are derelict their commissions may at any moment be taken from them.

But what is our position to-day? Can this House and the Senate, with the knowledge that they have of the President's purposes and of the character of the men who surround him, give him the necessary power? Do they not feel that if he be allowed such power these places will be given to worse men? Hence I say that with Mr. Johnson in office from this time until the 4th of March, 1869, there is no remedy for these grievances. These are considerations only why we should not hesitate to do that which justice authorizes us to do if we believe that the President has been guilty of impeachable offenses.

Mr. Speaker, all rests here. To this House is given under the Constitution the sole power of impeachment; and this power of impeachment furnishes the only means by which we can secure the execution of the laws. And those of our fellow-citizens who desire the administration of the law ought to sustain this House while it executes that great law which is in its hands and which is nowhere else, while it performs a high and solemn duty resting upon it by which that man who has been the chief violator of law shall be removed, and without which there can be no execution of the law anywhere. Therefore the whole responsibility, whatever it may be, for the non-execution of the laws of the country is, in the presence of these great facts, upon this House. If this House believes that the President has executed the laws of the country, that he has obeyed the provision of the Constitution to take care that the laws be faithfully executed, then it is our duty to sustain him, to lift up his hands, to strengthen his arms; but if we believe, as upon this record I think we cannot do otherwise than believe, that he has disregarded that great injunction of the Constitution to take care that the laws be faithfully executed, there is but one remedy. The remedy is with this House, and it is nowhere else. If we neglect or refuse to use our powers when the case arises demanding decisive action

the Government ceases to be a Government of laws and becomes a Government of men.

But, sir, in conclusion, I am prepared to accept the judgment of this House as a patriotic judgment. I shall then wait for the teaching of events. I do not despair of a great people. They can endure trials. They can overcome obstacles. If we err, they, even through the suffering so caused, will assert finally the authority of justice and the majesty of law. Let nothing be done under the influence of passion, prejudice, or political excitement. But the vindication of the laws is a duty, and it often falls to the lot of a political party to perform it. My own convictions are clear. I see my country just emerging from civil war, distracted, torn, and bleeding; her people heavily taxed and the public revenues plundered; her currency depreciated; her credit impaired, so that in the markets of Europe she is associated with Austria, Turkey, and Spain. Millions of her people, but recently in rebellion, still bold, defiant, aggressive; and millions more loyal, dutiful, and hopeful, too, even when peril menaces, after two years of struggle, still without security, and all this, as I believe, in consequence of the doings and designs of the President of the United States. Can I hesitate; can I yield my judgment to circumstances which in the nature of the case must be temporary? I will not ask this House to do its duty; that would not be decorous in me. It will do its duty, and its duty will have been equally performed whether the results harmonize with my judgment or not.

But, sir, I may look beyond the present moment and assume that to be done which upon my judgment and conscience I think ought to be done.

Consider how all the affairs of the country would be changed and improved. Civil government would be restored speedily to ten States; the civil rights of all the people would be recognized and made secure; the loyal men would exercise the great privilege of self-government, safe in their own power and in the benign protection of the national Government; those recently in rebellion would soon be restored to all their political privileges; industry would be honored and well recompensed; production, consumption, and trade immensely developed; the revenues of the country collected; public plunder no longer fostered as an art; taxes diminished; the public credit so improved that the questions depending upon the value of our currency would be settled without disturbance or violent legislation; the Army reduced; and the power of the nation so augmented and everywhere respected as that a single ship-of-war would protect the commerce of the Mediterranean or of the Gulf of Mexico.

These things are not and cannot now be, because the President is not "clear in his high office," disregarding, as he does, the injunction of the Constitution upon him to "take care that the laws be faithfully executed."

So mighty is the machinery of the Government that the weight of the President's hand upon the central lever affects the fortune of every citizen. With \$150,000,000 in the Treasury, and unlimited power to accumulate and to disburse, a nod of his head makes his friends prosper while his enemies perish. In the presence of this power, and surrounded as we are with evidence of the evil results of a policy which we have so long tolerated but never approved, are we to hesitate, to delay, to abandon the field in the hope that by other means and by other agencies the final redemption of the nation is to be secured?

Believing that Andrew Johnson is guilty of high crimes and misdemeanors I have assented to, and by the direction of a majority of the Committee on the Judiciary reported, a resolution for his impeachment. This resolution, upon my conscience and best judgment, I now support.

In contemplation of the law, and upon the facts, I believe him to be so guilty. And thereon I ask the judgment of the House.

Impeachment.

SPEECH OF HON. JAMES F. WILSON,
OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

December 6, 1867.

The House having under consideration the following resolution, reported from the Committee on the Judiciary:

Resolved, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors—

Mr. WILSON, of Iowa, said:

Mr. SPEAKER: The argument of the gentleman from Massachusetts [Mr. BOUTWELL] presents a much stronger case than will be found in the record which he reported to this body. I presume it is fair for me to conclude that the judgment of the House will be based upon the record. That this shall be the case is all that I desire to ask of the House. I will as briefly as possible notice some of the points which have been made by the gentleman, and submit the case to the judgment of the House.

Mr. Speaker, I am astonished at the line of argument pursued by the gentleman from Massachusetts, [Mr. BOUTWELL.] I have great respect for his ability, and therefore must say that I am disappointed by the argument he has just closed. He has consumed about one half of his time in making a determined and persistent attack upon one feature of the report of the minority, which, so far as this proceeding is concerned, might be stricken from the record without affecting the case in the remotest degree. No member of the minority of the committee regards the doctrine that only crimes and misdemeanors indictable under the statutes of the United States will justify an impeachment of a civil officer of the United States of the slightest importance so far as a correct determination of this case is concerned. We believe the doctrine to be correct, but regarded it of so little consequence in its effect on this case that it is introduced into our report as a suggestion rather than as an affirmative declaration of the law. It may be important in future cases, and is therefore placed on the records of the House, not in expectation that any determination of the present proceeding will either approve or disapprove of it. It is immaterial what opinions members may have of it. I will let it rest upon the argument contained in the minority report, and wait for some person to answer it when a case arises in which it may be material. The speech to which we have listened most determinedly asserted that this question has been settled against the view taken of it by the minority—settled by the law and practice in this country. The gentleman seems to have forgotten that in the report presented by him to the House in this case he said:

"The cases here, though all of offenses that were not statutory crimes or misdemeanors, have been so few as to leave this question open, to be decided hereafter upon those great reasons of State that lie at the foundation of the law of Parliament, which is the rule that must govern ultimately here."—Page 51.

This admission is of some value as it leaves to the gentleman the task of harmonizing his speech with the report which he presented to this House. The report says it is an open question, the speech says it is settled. This conflict of statement is not mine. I leave its settlement to its author.

The gentleman also told us that English precedents ought not to influence the action of this House in the exercise of its power of impeachment. Why, then, did he resort to those precedents in support of his report, and for the

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purpose of giving force to his speech? The report and the speech cite English text writers. Why is this if English cases have nothing to do with guiding the conscience of this House? The assertion of the gentleman is disputed both by the report and by the speech. He answers himself, and I am content to leave him in that position.

But he tells us that the power of impeachment is not delegated to the two Houses for the punishment of criminals; that no crime is necessarily involved in an exercise of this power; that it looks merely to a removal of an officer who may have conducted himself in a manner which the conscience of the House disapproves; that a trial on impeachment is not a trial for crime in its technical sense. I commend to him as an answer to his most singular suggestion that part of section two of article three of the Constitution which says:

"The trial of all crimes, except in cases of impeachment, shall be by jury," &c.

Can a non-indictable offense be tried by a jury? The gentleman from Massachusetts will not so affirm. Then, are not trials in cases of impeachments trials for indictable crimes, at least at common law? How will the gentleman avoid this conclusion except by rejecting the Constitution and affirming as its superior the conscience of this House, which may be Republican now and Democratic at no distant day? The Constitution is more stable than the conscience of this House; and it may be well for us to consider the promise of stability which these two regulators of power present. I prefer the Constitution to that conscience of this body which may be evidenced by a mere partisan majority. I would be willing to be judged by a Republican conscience and yet shrink from the conclusions of one directed by a Democratic majority. I prefer that both shall be subject to the limitations of the Constitution. This will secure the rights of all parties and all persons.

The gentleman says, again, that impeachments look not to the punishment of persons, but to the removal of officers. Let this be granted for the sake of the present argument. What follows? The Constitution answers that for whatever purpose an impeachment may be instituted it must be based on "treason, bribery, or other high crime or misdemeanor." Now, sir, if this proceeding is not for punishment, if it is for something else, still it is plain we cannot put its machinery in motion unless we have the force of a crime or misdemeanor to move it.

And here we are told that for the meaning of the terms "high crimes and misdemeanors" we must resort to the common law of Parliament. If this be true what comes of the declaration that "English precedents should not influence the action of this House in its exercise of the power of impeachment?" Let the gentleman from Massachusetts answer this question, for it springs from his speech. Authority upon authority based on parliamentary law is presented by the report which he made to this House in this case, and yet we are told that English cases should not influence our action. Why, then, did the report of the majority force them upon our attention? Let the gentleman answer, for his report compels the presence of this question.

Sir, I am willing to go with the gentleman to the common law of Parliament to ascertain what the terms "high crimes and misdemeanors" mean. He denied the authority of this source of information and at the same time invited us to it as constituting an umpire in the matter of our dispute. Let him take the consequences of this appeal. I accept his umpire, and claim that he shall stand by the decision. I have presented in the report of the minority two well-considered and thoroughly-digested cases made up by this umpire. Both of these affirm that the terms "high crimes and misdemeanors" mean offenses in-

dictable by the common law of England or the statutes of Parliament.

I refer to the cases of Macclesfield and Melville—two of the best-considered of all the English cases. They both affirm this doctrine. Macclesfield was convicted upon the express ground that his offense was indictable under the act of Edward VI; Melville, on the contrary, was acquitted upon the ground that the case did not show, as committed by him, an offense which would support a presentment or indictment in any court of the realm.

These cases follow the current authority of England, and I ask the gentleman to cite a single case in opposition thereto entitled to the respect of this House. Let him do it now if he can. I will pause for a reply if he has one to make. Give to this House, if you can, a single case which departs from the rule which I have affirmed. I demand the case, and will not be put off with the opinions of elementary writers. Tell this body wherein the House of Lords has crossed the path of the report of the minority of the Committee on the Judiciary made in this case, so far as it concerns the English authorities. I care nothing for the assertions which have been made relative to this case, but demand the authorities which will support them. Not one case has been cited against the position which I have assumed, and I declare that not one of respectability can be found in opposition thereto.

The gentleman asserted with an air of triumph that the crime of murder might be committed by the President or any other civil officer of the United States in places and under circumstances which would not bring the crime within the jurisdiction of the courts of the United States, and demanded to know whether in such a case an objection would be interposed to an impeachment of the offending officer.

I answer this question by quoting the language of the gentleman's own report, as follows:

"The legitimate causes of impeachment can only have reference to public character and official duty. In general, those offenses which may be committed equally by a private person as a public officer are not the subjects of impeachment. Murder, burglary, robbery, and, indeed, all offenses not immediately connected with office, except the two expressly mentioned, are left to the ordinary course of judicial proceeding, and neither House can regularly inquire into them except for the purpose of expelling the member."

This answers the gentleman's inquiry. The source from whence the answer comes may render its presence in some degree uncomfortable to the honorable gentleman, but in no wise detracts from its aptness and force. It very plainly declares that the supposititious case stated by the gentleman would not sustain an impeachment of a civil officer, and this is sufficient for my present purpose. It might be difficult for the conscience of this House to determine which rule of conduct to follow in such a case—the one presented by the majority report or the one stated in the speech to which we have listened.

The gentleman has told us that the framers of our Constitution designed to strip the impeaching power of some of its severest features—that while the House of Lords of England, upon presentment by the Commons, may try any subject of the Crown, entertain jurisdiction of every grade of offense known to the law of the realm, and apply the full measure of punishment, we have been confined in our inquiries to civil officers, and the Senate, in pronouncing judgment, to removal from and disqualification to hold office. I grant this, and claim that the limitation imposed by the Constitution shall be observed. But the gentleman seeks to avoid the force of this limitation by enlarging the field of inquiry, and changing the character of the power. He told us that the power of impeachment vested in this House is subject to no revision or control, and that its exercise is to be guided solely by the conscience of the House. Correctly inter-

preted, this doctrine, as it seems to me, comes to this: that whatever this House may declare on its conscience to be an impeachable offense, reduce to the form of articles, and carry to the Senate for trial, that body is only to be allowed to declare whether the officer impeached is guilty of the facts presented against him, but is not to be permitted to say that such facts do or do not constitute a crime or misdemeanor. For, if this conscience is not subject to any control or revision, having determined that a given state of facts constitute a high crime or misdemeanor, it would seem to follow, logically, that the House must demand judgment of conviction on proof of the facts charged, regardless of the opinions of the members of the Senate respecting the presence or absence of those elements which alone can constitute any act a real crime.

Sir, let us consider that, while this House is now guided by a Republican conscience, it may at some time in the future be directed by a Democratic conscience. Does he desire us to intrust the character, extent, and uses of this power to the shifting fortunes of political parties? What could be more dangerous to the peace and safety of the Government than this? This doctrine may carry this case to the determination desired by the gentleman. But can he not see that it may return to plague him and the country? He admitted that if the minority of the committee are right on the law the majority have no case whatever. And I may here say that if he is right in his views of the power of impeachment no law is needed, for the law might control the conscience of the House.

I agree with him in the statement that Congress cannot declare and punish as a crime an act which does not involve the elements of crime as they are known to and established by the common law. But this doctrine is fatal to his argument and destructive of his case; for if it be true the conscience of this House is as much bound by it when exercising the impeaching power as it is in matters of ordinary legislation. You cannot bind the ordinary legislative power of this House by the principle here laid down and then, when you come to exercise the impeaching power, brush it out of the way in order that the obnoxious officer may be removed without the presentation of some act involving the well-known elements of crime.

The position which the minority of the committee occupy in this case may be summed up in these words: that no civil officer of the United States can be lawfully impeached except for a crime or misdemeanor known to the law; that this body must be guided by the law, and not by that indefinite something called its conscience, which may be one thing to-day and quite a different one to-morrow. If the case now before us, tested by the principles of criminal law, discloses high crimes or misdemeanors coming within the rule I have stated, then the gentleman is right in demanding that the President of the United States be impeached; and I here throw open to the gentleman the range of both statutory and common law impeachable crimes. If these cannot be found in the record of this case, then no amount of conscience in House and Senate can justify us in proceeding further with it.

The gentleman quoted from Woodeson to show that non-indictable offenses may justify an impeachment of a civil officer, but he did not read far enough. The principles of which Woodeson is treating in the lecture from which the passage read by the gentleman is taken involve more than the power of impeachment: they involve the power of attainder and the power to pass bills of pains and penalties. These powers have been confused and confounded by many of the elementary writers. Woodeson has been more fortunate than most writers in presenting the lines which divide these powers. His lecture on the subject of

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parliamentary impeachments concludes as follows:

"Impeachments, as we have seen, are founded and proved upon the laws in being. A more extraordinary course is sometimes adopted. New and occasional laws have been passed for the punishment of particular offenders. Such ordinances are called bills of attainder, and bills of pains and penalties."

And he opens the next succeeding lecture, in which he treats specially of bills of attainder and bills of pains and penalties, with this language:

"All the modes of criminal prosecutions hitherto spoken of, whether by impeachment or otherwise, are vindications of the laws in being, on which they are founded. But, besides the regular enforcement of established law, the annals of most countries record single exertions of penal justice adapted to exigencies unprovided for in the criminal code. Such acts of supreme power are with unscaled bills of attainder, which are capital sentences, and bills of pains and penalties, which inflict a milder degree of punishment."

That is what Woodeson said, and it presents distinctly the lines which divide these several parliamentary powers. Impeachments were for offenses known to the law; were founded on the laws in being; for other offenses the sharp and unlimited powers of attainder and bills of pains and penalties were used. These extraordinary powers are denied to us by the Constitution. We may provide for crimes and misdemeanors known to the law when the acts constituting them were done. "No bill of attainder or *ex post facto* law shall be passed."

The gentleman also referred to Story. But how loosely Judge Story wrote on this subject may be seen by reading a few lines from one of the sections of his Commentaries:

"The object of these prosecutions in America, as well as in England, is to reach high and potent offenders, such as might be presumed to escape punishment in the ordinary tribunals, either from their own extraordinary influence or from the imperfect organization and power of these tribunals."—*Story's Commentaries*, section 688.

Does this present a correct idea of the power of impeachment vested in this House by the Constitution? Sir, send out your committee upon charges preferred against some petty postmaster who has not influence enough in his neighborhood to change the result of an election for a justice of the peace, and he, within the contemplation of the Constitution, is one of these "high and potent offenders" who must be punished by an exercise of this grand power lodged in the House of Representatives, for he is a civil officer of the United States. Why, sir, it is simply ridiculous, and it only tends to show how loosely the text writers have written on this subject.

But the gentleman found in Story an authority to the effect that we may impeach for "political offenses." What is a "political offense?" That is a broad and a very significant term in this country. What is a "political offense?" Is it the doing of something that the dominant political party in the country do not like? That, in one sense, is a political offense. Are we to impeach for that? We did not like the removal of our own friends from office by the present President. Are we to impeach for that? He has done many acts of political littleness, meanness, and treachery. Are these impeachable political offenses? Sir, it is unsafe for us to wander into the field of political or party action for offenses upon which to rest the impeaching power of this House. Disaster alone could result from such a course of procedure.

The gentleman referred to cases which have occurred in this country. We have had, as he stated, the case of Blount, of Pickering, of Chase, of Peck, of Humphrey. Blount's case was decided, as the gentleman informed us, upon a plea to the jurisdiction of the court. Certainly, then, that case established no precedent beyond that involved in the one point passed upon by the court. In Chase's case the gentleman says he finds an approval of the doctrine he has argued here to-day, that something less than an indictable offense may be the subject of an impeachment. How is that

ascertained? I have always supposed that before the action of a court can be treated as authority it must decide something in such a manner as to disclose the principle underlying its action and guiding its conduct. Chase was tried. What was the result? He was acquitted. Why? The record does not disclose the reason; but it must have been because the court did not believe him guilty of high crimes and misdemeanors. The proof of the facts charged was very strong, and an acquittal certainly does not tend to establish the doctrine that an impeachment may be properly had for a non-indictable offense. In what did the case originate? In the partisan feelings and excitements of the times. And this case has gone into your history as a partisan impeachment.

Then we come to the Pickering case. As the minority have said in their report, that case is a disgrace to the court that tried it. It is very manifest from the report of the case that it also was a partisan case. Notwithstanding the court permitted his counsel to set up the plea of insanity, the case was disposed of without regard to that plea, although, if anything was proved in the case, it was that Pickering was insane. And if it is authority for any purpose or thing, it is that an insane man may be held criminally liable, and be punished for acts done by him in the midst of his insanity and caused thereby. Such a doctrine is monstrous. The Constitution has provided another remedy for such cases.

The Humphrey case, it is said, was not based, so far as the first article was concerned, on any act for which he could have been indicted. What are the facts? The South Carolina convention passed the ordinance of secession on the 17th day of December, 1860. The criminal act laid to the charge of Humphrey, and on which the first article rested, was alleged to have transpired on the 29th day of the same month, at which time he, being a judge of the district court of the United States, urged in a public speech the people of Tennessee to secede and make common cause with the people of South Carolina in the war which they had levied against the United States. This was an act of treason. War having been levied, his conduct made him a traitor.

I will not occupy the attention of the House longer on the law of this case, for I want to have done with it. Briefly I will refer to some of the facts to which the gentleman from Massachusetts has directed our attention, for, after all, upon these must depend mainly the termination of this case. The first things to which the gentleman refers are the acts of the President having reference to the reconstruction of the rebel States.

He excuses to some extent some of the advisers of the President on the ground that they, at the inauguration of the executive plan of reconstruction, did not understand his motives nor comprehend his wicked designs. How did the plan originate and by whom was it prepared? The North Carolina proclamation, which was followed in every other case, seems mainly to have been the work of Mr. Stanton, and I am sure we will not question his patriotism. The President certainly did not use him as an instrument to carry out his wicked designs. He could not use him for any such purpose. But it is said that the President's real motive was to turn over the power of the Government to the possession of the rebels who had made war upon it, and that this was not discovered until his first annual message was communicated to Congress in December, 1865, when the motive was disclosed and the plot became apparent. Soon after this message had been delivered to Congress the contest between the executive and legislative departments of the Government commenced. Presidential vetoes came in upon us. The Freedmen's Bureau bill and the civil rights bill fell under his hand. The notorious presidential speech of the 22d of February, 1866, proclaimed the breach between

us and the President irreparable. The official heads of our friends fell into the Executive basket with astonishing rapidity. We were outraged by this conduct of the man who had been elevated to power by our votes. We appealed to a deceived people, and they sustained us, as, I doubt not, they will continue to do.

More than six months after the date when the gentleman from Massachusetts says he discovered the real motive and criminal design of the President in this matter of reconstruction the report of the joint committee which had been charged with that subject was made to the two Houses of Congress. This report was made on the 18th day of June, 1866, and in it our agents told us of the wretched results of the President's policy. They had carefully surveyed the entire field, but gave us no notice of the motive and design of the President, which my friend from Massachusetts has just told us he had discovered in December, 1865. On the contrary, they said in that report:

"While your committee do not for a moment impute to the President any such design," [to destroy the constitutional form of Government, and absorb its powers in the Executive], "but cheerfully concede to him the most patriotic motives, they cannot but look with alarm upon a precedent so fraught with danger to the Republic."

And to that report the name of my friend from Massachusetts is signed. This was months after the December discovery, and in the midst of the bitter political contest which resulted from the President's unjustifiable desertion of the party which had trusted him and elevated him to the second office in the Government.

Sir, I am not here to defend the President. He must be a bold man who will undertake that task. I have not boldness sufficient for it, even if I had the inclination, which in the remotest degree does not exist in my mind; for I believe him to be the worst of the Presidents. But it does seem strange to me that any member of that able, thorough, pertinacious Committee on Reconstruction should now demand an impeachment of the President for doing the acts which they reported to us he had done from patriotic motives. Such motives, if they did exist, will not support an allegation of criminal intent.

It is affirmed that the testimony of Stanley Mathews discloses that the President, from the very date of his first association with the Republican party, designed treachery. The testimony of this witness and that of Hon. Jeremiah S. Black show that the President never was in earnest accord with the Republican party. This will account for much of his strange and reprehensible conduct. But it does not establish a crime. It discloses a trait of character bad almost beyond precedent, and shows how cautious political parties should be in selecting candidates for official positions. We committed a terrible blunder, not to say a political crime, when we selected Andrew Johnson as our candidate for the Vice Presidential office. We trusted too much to his oft-repeated utterances of devotion to the progressive principles of the Republican organization, and unfortunately forgot, for the time being, his antecedents as a public man, and the influences and associations which had molded his character, and would be likely to direct his action as a public officer. His offenses in this regard, sad and grave as they are, must be tried by the suffrages of the people, and not on impeachment before the Senate.

The next grand charge which is advanced in support of the demand for an impeachment of the President is the surrender of property of which the Government and its agents held possession. In this charge the surrender of railroads in the insurgent States occupies a conspicuous position. But the policy which led to this did not originate with the President. Secretary Stanton's testimony shows that with himself and the Quartermaster General this policy originated. He regarded his action in

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the premises as in consonance with the requirements of a great public policy, which demanded the opening of these great channels of commerce to the trade and business of the country, as tending to a renewal of prosperity and as an effective means of reconstruction.

Mr. DAWES. And stands by it now.

Mr. WILSON, of Iowa. Yes, sir—so far as I have any information—adheres to it yet.

Whatever may be the rule of public law with reference to property seized in time of war, and which may have been occupied or used by the public enemy, this Government established its own rule, as it had a right to do, by enacting the confiscation act of 1862. None of the railroads surrendered had been seized, condemned, and sold under the provisions of that act, nor had the stock which represented the title of the stockholders to the property been confiscated in pursuance of its provisions. The Government had not acquired title to this property by either of these modes. The Government held possession of the roads for military purposes, and when the war closed surrendered that possession to the corporations owning them, which action was in accord with the opinions of Attorneys General Speed and Staunbury that the property of corporations did not come within the confiscation act of 1862; and that if it did, said act, being a war measure, could not properly be enforced after the rebellion had been suppressed and the war had ceased. It does not occur to me that this branch of the case affords evidence of criminal conduct.

The surrender of property to individuals is covered to a great extent by this view of the President's legal advisers, and in a larger degree by the well-established principle that a full pardon restores to the recipient all of his rights which have not become vested in third parties. The construction given to the confiscation act of 1862 and the effect of a full pardon may be said to cover all of these cases of surrender of property. If the pardons, whether by special act of grace or by general amnesty, were in any case corruptly granted, the record submitted to this House by the committee does not disclose the fact.

The sale of movable property to railway corporations is complained of. In all cases where this character came within the rule already stated respecting the property of corporations, all sums realized by such sale were gains to the Government. In other cases, as when the Government owned the same by virtue of purchase or manufacture, the sales were not authorized by law, but it does not appear that they were made from corrupt or criminal motives or for the purpose of private gain.

The first plan adopted for the regulation of these sales seems to have been the work of the Quartermaster General, approved by the Secretary of War. This was subsequently changed by the President, and the sales proceeded. How has the President been profited by this? The sales inured to the benefit of the Government. The President derived no benefit therefrom.

But it is alleged that he did derive a benefit by extending the time for the payment of the amount due to the Government from the Nashville and Chattanooga Railway Company; that he held bonds of this company, and by extending the time in which the company had agreed to pay the same he secured the payment of the interest due on his own bonds. The interest on these bonds was guaranteed by the State of Tennessee, and the utmost amount he could save thereby would be the interest on the amount of interest due which might accrue between the date of the extension or final payment. This would be at most an inconsiderable sum. Still this action of the President might afford some color to the argument of the gentleman from Massachusetts if it stood alone amid the demands of southern railway companies for extensions of time in which payments

were to be made by them to the Government. But it does not stand alone—it is not an exceptional case. The first extensions were granted by order of Major General Thomas, others by order of the Secretary of War, (Mr. Stanton,) until nearly if not quite all of the southern companies became the recipients of the benefits of a system which seems to have become general. If these acts of the Secretary of War and of General Thomas were illegal and criminal, (which I presume no one will claim they were,) the President cannot be charged criminally with them unless it appear that they were done by his subordinates with his consent, or at least with his knowledge, and it will hardly be claimed that this is established by the testimony in this case.

Mr. Speaker, I will not detain the House much longer by commenting on this case. If I were to refer to all of the facts of the case, in reply to the gentleman from Massachusetts, I could accomplish no more than has already been achieved by the minority report, and I am content to leave it with the House upon the argument and review presented by that document. It would be an unprofitable consumption of time for me to go beyond it. A few minutes more and I will have done.

The gentleman from Massachusetts has expressed his fears that a failure to impeach and remove the President from office will result in a total defeat of the congressional plan of reconstruction. How can this be? The constitutional life of this Congress will measure the full limit of the President's official term. We most assuredly will not surrender our plan. No power can turn us from this determination. Before the expiration of this Congress we hope to have every State restored on the just and equitable principles of our plan. If this result be not realized, to our successors will be left the task of completing our labors, unless the people in the next congressional elections determine to reverse our resolve by returning a majority to this House hostile to the system of reconstruction which we have adopted. I am willing to trust the people in this regard without fear as to the judgment they will pronounce. A failure of our plan of reconstruction can be secured only by the voice of the people at the ballot-box. I cannot believe that it will thus fail, but if it should it will be the act of the people and not of the President. We may not impeach for this.

The gentleman from Massachusetts has remarked that the President may interfere with the next presidential election in the southern States; that he may station soldiers at the voting places and overawe the loyal vote of those States, especially the colored vote; and we must, I suppose, guard against the possibility of this by his impeachment and removal from office. This position, if I state it correctly, is startling. Are we to impeach the President for what he may do in the future? Do our fears constitute in the President high crimes and misdemeanors? Are we to wander beyond the record of this case and found our judgment of it on the possibilities of the future? This would lead us even beyond the conscience of this House.

Sir, we must be guided by some rule in this grave proceeding—something more certain than an impossibility to arraign the President for a specific crime. And when the gentleman from Massachusetts, in commenting on one of the alleged offenses of the President, stated that we could not "arraign him for the specific crime," he disclosed the weakness of the case we are now considering. If we cannot arraign the President for a specific crime for what are we to proceed against him? For a bundle of generalities such as we have in the volume of testimony reported by the committee to the House in this case? If we cannot state upon paper a specific crime how are we to carry this case to the Senate for trial?

Mr. Speaker, I have done. Appreciating

the imperfections of my reply to the lengthy argument of the gentleman from Massachusetts, I am nevertheless willing to submit this case to the deliberate judgment of this House. I believe the country desires a speedy disposition of it. If we are to impeach the President it should be done without further delay. If we are to arrive at a different conclusion the sooner we reach it the better it will be for all of the interests involved. Other and important subjects of legislation demand our attention, and to these the country demands that we shall devote ourselves; and, depending on the strength of the case as it is presented by the minority report, or rather on the weakness of the case as disclosed by the record on which the majority report rests, I now move that the subject be laid on the table.

President's Message.

SPEECH OF HON. REVERDY JOHNSON,
OF MARYLAND,
IN THE UNITED STATES SENATE,
December 12, 1867.

The Senate having under consideration the concurrent resolution introduced by Mr. DRAKE relative to the President's annual message—

Mr. JOHNSON said:

Mr. PRESIDENT: The resolution offered by the honorable member from Missouri proposes to censure the President of the United States for certain expressions found in his annual message of the 3d of this month. He has quoted those words in the resolution, and that the Senate may have the subject fully before them I ask the Secretary to do me the favor to read the words.

THE SECRETARY. The words quoted are as follows:

"Are not only objectionable for their assumption of ungranted power, but many of their provisions are in conflict with the direct prohibitions of the Constitution" and "as plainly unconstitutional as any that can be imagined."

Mr. JOHNSON. The honorable member from Missouri, from an elaborate message relating to the concerns of our country at home and abroad, has selected these words, and these alone, as calling for the censure which he proposes to have pronounced upon the President by the two Houses of Congress. The resolution, therefore, presents for the consideration of the Senate and of the country two questions: the first is whether the President had not a constitutional right to address those words to Congress; the other is, if he had not, whether the measure proposed is a fit and proper one.

Before addressing myself to either of these propositions I beg permission to correct what I think are constitutional heresies in the elaborate speech the honorable member delivered in support of this resolution. If I understand the principles contained in that speech, and especially those in a letter which the honorable gentleman has done me the honor to address me through the public press, they are that there are no rights which can be called in any proper sense sovereign in any of the States of the Union; that the supreme authority over people everywhere in relation to all things is in the Government of the United States, and especially in its legislative department. A reference to the circumstances which caused the Convention of 1787, to the deliberations of that body, and to those of the several State conventions by which the Constitution was finally ratified, will, I think, demonstrate that the honorable member in these respects is wholly and mischievously in error.

When the Colonies declared their independence of England and resolved by force of arms to maintain it, they became at once sovereign and independent States. This would have been the result of that declaration if it had been silent upon the subject; but it is not silent. After giving to the world the reasons

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for resisting the power of England and ending, and as they hoped forever, the allegiance which they antecedently owed to that kingdom, they stated in conclusion that henceforth and forever the States would be free and independent and vested with all the powers belonging to free and independent Governments. During the period of that struggle the Colonies, then States, were kept together by the exigencies in which they were all involved. The war upon which their fate depended could only be successfully carried on by joint efforts, and the war itself, the necessity growing out of it and the object for which it was waged, constituted during the period of the struggle a bond of Union, which enabled them triumphantly to emerge from the conflict.

Soon after the commencement of the war, however, it was found necessary that there should be some form of government operative upon all the States collectively, and the Articles of Confederation with that view were adopted; but those articles were the acts of free and independent States. They constituted but a treaty or a league between the States, and were no more binding upon them separately than is a treaty binding which is entered into between nations wholly distinct from each other.

At the termination of the conflict the great men of that day soon became convinced that the struggles through which they had passed, the blood and the treasure expended in the grand effort to establish upon this continent a free and independent Republic, would be frustrated unless some form of government was adopted, not only in name but in fact a Government; a Government vested with powers adequate to its own preservation; a Government, therefore, authorized to enforce those powers, not through the instrumentality of other Governments, but directly upon the citizen individually; and above all, having the authority absolutely necessary to maintain the interests of all against the nations elsewhere, and to prevent conflicts among the States themselves.

But no member of the Convention during the deliberations which terminated in the recommendation of the Constitution to the American people, ever intimated that it was their purpose or that it was desirable to extinguish the States as free and independent governments. On the contrary, every leading man who participated in the debates admitted that a people so numerous as then inhabited a country as extensive as ours then was, could only be governed successfully and in accordance with social and individual liberty through the joint instrumentality of a general government and the governments of the States. So far from designing to absorb all the powers of the States belonging to them at the time of the adoption of the Constitution in the Government of the United States, it was in the Convention and everywhere conceded that only such portion of the powers then possessed by the States should be transferred to the Government of the United States, as was necessary and adequate to maintain our independence against the world and preserve peace among ourselves. When the Constitution was submitted to the people of the several States assembled in convention, under the authority of each State, for adoption or rejection, it was apprehended, and there was cause for the apprehension, that the work upon which the hearts of the great and patriotic men of the day were fixed would fail, because it was supposed that the people of several of the States might believe that the practical result of the Constitution would be the absorption of all State power in general government.

Virginia, the first to propose the Convention, whose great men were among the earliest to point out the hazards to which we were then liable from the condition of things then existing—Virginia now, in the estimation of some, supposed to be out of the Union by means of

a war waged for the purpose of preserving it unbroken—by some of her sons in her State convention, and particularly by Patrick Henry, whose matchless eloquence and burning patriotism during the earlier periods of the revolutionary struggle had stirred the American heart and aroused it to the necessity of appealing to arms and of dying in the effort to maintain independence, opposed the ratification of the Constitution upon the ground that by construction powers would be implied not delegated, and the result would be to absorb everything within the jurisdiction of the General Government; and the failure to adopt it there and in other States was imminent. Unless the history of the times is altogether false, that failure would have occurred but for the understanding with its friends and opponents that at the earliest possible moment after the organization of the Government amendments would be adopted which would accomplish all the purposes that the opponents of the Constitution supposed to be vital to social and individual liberty just as effectually as would have been the case if the Constitution had been accompanied by a declaration of rights.

In consequence of this understanding several of the States, and Virginia particularly, ratified it, and that understanding (for the men of that day were true to their pledges) was faithfully carried out by the adoption at the earliest possible period of ten of the amendments which now constitute a portion of our organic law. The first eight of these amendments relate to the individual rights of the citizen. The remaining two were inserted for the purpose of guarding against any possible construction that would give to the Government of the Union powers which might be exerted to the prejudice of such rights or to the prejudice of the rights of the States. The first was accomplished by providing that the rights secured by the Constitution were not to be considered as depriving the citizens of the States from all their other rights not expressly surrendered. The purpose of the second was accomplished by providing—I do not give the words of the amendment—that notwithstanding the powers conferred upon the General Government they were not in any way to affect the rights of the States, but that, on the contrary, all powers before belonging to them or to their people not delegated to the General Government were reserved to the States respectively and to the people. And from that day to this, with the exception of some statesmen within the last five years, including my honorable friend from Missouri, it has been the received doctrine that the sovereignty of the United States is confined to the subjects specially or by fair implication conferred upon that Government, and that in no manner, for no purpose, and to no extent, was the sovereignty of the States in relation to the powers not so delegated to the General Government affected, but, on the contrary, remained, as far as such powers were concerned, as absolutely in the States as they were anterior to the adoption of the Constitution.

In the Supreme Court of the United States, from the period of its organization to the present hour, during the administration of the many great and patriotic men who have adorned that tribunal, this has been held with entire unanimity to be the true interpretation of the Constitution in every case in which it became the duty of the court to pronounce its judgment upon it. In the celebrated case of *The State of Maryland vs. McCulloch*, involving the constitutionality of the Bank of the United States, Mr. Chief Justice Marshall, in the luminous and eloquent opinion delivered by him in the name of the court, stated the doctrine in clear, precise, and positive terms, and substantially denounced the opposite doctrine as a heresy not only not warranted by a proper construction of the Constitution, but fatal to the very objects which its framers had in view.

The honorable member from Missouri, there-

fore, is utterly mistaken if he supposes, as he seems to do, that within the sphere of the powers not delegated by the States to the Government of the United States the former are not free and independent sovereignties; and I was a little surprised to find that he entertains a different opinion on receiving the letter to which I have referred and by listening to his speech delivered in this Chamber in support of his resolution. Somewhat conversant with the public men of the country, and having lived to a period and been placed in positions which rendered it necessary to make myself acquainted, as far as I was able, with the political opinions of the leading men of the day, I was brought to the conclusion by what I thought I knew were the sentiments of the honorable member from Missouri, that he agreed with me that there were State rights which it was the duty of the States at all hazards to maintain; and above all did I so think from the proceedings of a convention to which I will now refer. The honorable gentleman was a conspicuous member of the body which framed the constitution that for weal or woe now governs the people of Missouri. In that instrument there are provisions involving sovereignty in its most absolute sense, and, indeed, some which seem to me to be at war with any rightful sovereignty of man over man.

That convention undertook to step between the ministers of our holy religion and their disciples, and to deny them the privilege of administering their holy functions to erring and sinning man at any period of his existence from his cradle to his grave, by demanding as a preliminary to the exercise of that function that he should take an oath the nature of which I forbear to speak of. True to the spirit of the martyrs who from time to time have by their sufferings even unto death testified to their convictions of the truth of the Christian faith, they refused to submit, were in many cases prosecuted, convicted, and sentenced to imprisonment for having ventured, as against the alleged sovereignty of Missouri, to baptize infancy, confirm the adult, minister to the sick, give the consolations of our faith to the dying, and bury the dead. If those powers were rightfully exerted—and it is not for me in this debate to question it—it could only be because there was in the people of Missouri, in their capacity of a State, sovereign and almost absolute power. I commend, therefore, my friend, the honorable member, to reexamine his opinions, if they are what I suppose them to be, to see whether those which he entertained at a former period are not correct and his present opinions wholly erroneous.

MR. DRAKE. Will the honorable Senator from Maryland permit me a moment's interruption?

MR. JOHNSON. If you desire it. I should prefer going on, though.

MR. DRAKE. I regret very much to ask it; but I should like at this point to say one word.

MR. JOHNSON. Certainly.

MR. DRAKE. I simply wish to say, Mr. President, with regard to the illustration which the honorable Senator has used from the constitution of Missouri, that in the convention which framed that constitution I opposed with all my might the particular provision that he refers to, did everything that mortal man could do in a body of that kind to prevent its adoption, but it was adopted in spite of me.

MR. JOHNSON. That may be, Mr. President; but that in no manner affects the purpose for which I refer to it. I do not understand the honorable member as now telling us that he objected to it on the ground of any want of sovereignty in the people of Missouri. I refer to it merely to establish that in the judgment of that convention there was in that State sovereign and independent powers wholly irrespective of the powers conferred upon the General Government when these were not restricted by the provisions of the latter.

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Mr. President, this detail of the origin and subsequent history of the Constitution I have troubled the Senate with, because, in my judgment, it bears immediately upon the question before us, and which I proceed now to examine. The resolution states, substantially, that the expressions in the President's message, quoted in the resolution of the honorable member, are in conflict with the constitutional rights and authority of Congress, transcend his constitutional prerogatives, and are calculated to excite resistance to the laws; and almost intimates that they were so designed. Now what are the facts? or rather, what is the Constitution in its bearing upon the inquiry? In express terms the powers conferred upon the legislative department of the Government are stated to be only those that are delegated in the first article. In the second place, the powers conferred upon the Executive by the second article are, as stated in the very beginning of that article, "the executive power" of the Government, without any detail of the subjects upon which such power is to be exerted, as in the case in relation to the legislative department. And, in the third article, relating to the judicial department, only such cases are submitted as are specially enumerated. With regard, then, to the legislative and judicial departments, the powers vested in them are to be found in the articles constituting them. With regard to the executive department, the question as to the extent of its power depends upon the fact whether the power in question in its nature is executive, and not restricted by some of the express guarantees or prohibitions in the Constitution.

But the President is not only invested with the executive power in general terms, but he is made a partaker in the legislation of the country; not invested with the authority to originate, but with the power to approve or to reject; and no law passed by Congress in the contingency of his failing to approve is of any validity unless passed by the majority which the Constitution provides for such a case—two thirds. He has also the power (and so far the executive authority which would belong to him in the absence of that provision is limited) to negotiate treaties and appoint officers, subject only to the approval of the Senate. Further, the sole responsibility under which he is placed with regard to the Congress of the United States is that if he commits treason or bribery or other high crimes and misdemeanors he may be impeached by the House of Representatives, a majority voting to that end, and be tried by the Senate sitting in a judicial capacity, presided over by the Chief Justice of the United States, and is by the Constitution considered to be innocent unless upon such a trial he is convicted by two thirds of its members. And, lastly, he is to continue in office for a period of four years, clothed with the entire business of negotiating with foreign Governments, of watching over the interests of all the people of all the States, elected by the people of all the States, (if that can be accomplished,) bound to see that the Constitution and laws of the United States are faithfully executed; and he is from time to time when Congress shall have assembled, to communicate to them the condition of the country, and to advise such measures as he may deem necessary to promote the common interest and the general welfare.

Now what has he done? What are called the military reconstruction bills did not receive his approval. He was not bound to approve them. It would have been a clear dereliction of duty if he had approved them with the opinion which we have no right to suppose he did not sincerely entertain. He therefore objected, and his objections were overruled by the majority which the Constitution requires. In the messages transmitted to Congress accompanying his disapproval of those bills he assigned as a reason not only that they were unconstitutional, in conflict with the sovereign rights of the States upon which they were to operate, but

also inconsistent and fatal to the guaranteed rights of the individual citizens within their limits, and would prove in their effect to be seriously mischievous. It is not for us to say that he did this in any captious spirit, or from any other motive than the same motive which the honorable member from Missouri has told us governed him in propounding this resolution—a sense of duty.

When the bills were passed, objectionable in his judgment both upon grounds of constitutionality and expediency, he had to decide whether it was not his duty to see to their execution. That duty he met. At the earliest moment that he could take a step looking to that end he appointed for each of the military districts commanders, and selected them from the most gallant and patriotic officers of the Army. I knew it was apprehended, as I had some reason to believe, by some members of this body who had not the confidence in the President that I had, and still have, that he would not execute these laws. Their fears have proved to be unfounded. They have been executed. No man, as I think, can successfully lay his hand upon a single fact which demonstrates that he had any other intention than to see to their faithful execution. It is possible he may have misapprehended their meaning; he may have put upon them an interpretation which Congress, or a majority of Congress, may think erroneous; but that he gave to them a meaning and an interpretation which he believed they were alone capable of I think will not be denied by any gentleman of this body who is sensible, as I trust we all are, of the courtesy which belongs to the coördinate departments of the Government.

A year passes. We assembled on the 2d of the present month. The practical operation of these laws he from day to day had witnessed, or rather had understood by information upon which he had a right to rely. His constitutional opinions on the subject of their validity communicated by him to Congress when they passed had undergone no change. What was he to do? If he was right constitutionally in sending to us his message stating the grounds upon which he disapproved of such laws, which are substantially the same as those stated in the message, a portion of which it is now proposed to censure, it was his right, and, in my opinion, his clear duty, to restate them. And, if he believed that their operation had proved disastrous to the country, it was also his duty to communicate that opinion to Congress.

The honorable member from Missouri, I think, would have been much better employed (if he will pardon me for using such words in reference to any conduct of his) if, instead of offering a resolution to censure the President, he had in debate attempted to answer the message. It would indeed have been a harder task, and have required all the ability of the honorable member, than to draft a resolution censuring the President; but it would have been more in accordance, in my view, with his duty as a Senator, and to the obligation which he owes to the people of the United States, if, instead of censuring, he had replied and demonstrated, if he could, the errors into which the President, as he supposes, had fallen. That message is before the people of the country. The President and those who differ with him in regard to the doctrines which it contains are now in the presence of that high tribunal, to be judged as it may think proper; and the President, judging from the signs of the times, has no particular reason to be apprehensive of the result.

But, if his doctrines would imperil the safety of the country or hazard the rights of any of our people, it is our duty, such of us as may so think, to let that be known in the debates in this Chamber; to answer and not censure him. Answer him, the people will say, not—I was about to use a word which perhaps I ought not to use—not vilify him. Answer him by proving that the measures are constitutional; that

we had a right to adopt them; and, that done, an intelligent and patriotic people will say to us, "You are right: the President is wrong: your conduct we will approve: his we will disapprove, and by disapproving censure."

But, Mr. President, the honorable member throughout his speech spoke of the legislative department as clothed with supreme authority. Supreme in what? Supreme over what? Not in regard to the Executive; not over the Executive. He is as entirely independent of that department when he moves within the sphere of his own functions as we are independent of him when we move within our legitimate sphere. We have no more right to censure him in terms of reproach, assailing his character as a man or an officer, than he has the right to censure us, to assail our characters as men and officers of a common constituency.

I do not think, sir, I can be mistaken in my recollection, but I believe the honorable member from Missouri held in high esteem and was a constant supporter of that man who had so strong a hold on the affections of the American people, once the President of the United States, Andrew Jackson.

Mr. BUCKALEW. Oh, no.

Mr. JOHNSON. If the honorable member was not I should be glad to have him so state.

Mr. DRAKE. I was not a supporter of General Jackson.

Mr. JOHNSON. At any time?

Mr. DRAKE. At any time; though if I had known as much in those days as I know now perhaps I might have been.

Mr. JOHNSON. I was about to say that. [Laughter.]

Mr. DRAKE. But it would have been, if the honorable member will permit me to say so, because he was an invincible champion of the Union and the deadly foe of the very doctrine which the honorable Senator is now proclaiming on this floor.

Mr. JOHNSON. Well, I learn that for the first time. I rather think that the reading of my honorable friend from Missouri has been more affected during the last eight or ten years than mine has been by impaired sight.

Mr. DRAKE. Does the honorable Senator remember his proclamation against South Carolina nullification?

Mr. JOHNSON. Perfectly.

Mr. DRAKE. There, sir, is all the doctrine that I am contending for.

Mr. JOHNSON. And I remember his veto of the United States Bank bill; and over and above all, his protest against the authority of the Senate to pass a resolution censuring him for an act of his as President of the United States.

Mr. DRAKE. Not, if the honorable member please, an act done by him toward the Senate of the United States, but outside.

The PRESIDENT *pro tempore*. Does the Senator from Maryland give way to the interruption?

Mr. JOHNSON. I give way, sir, to any interruption. It only lengthens, perhaps, the time that I should otherwise tax the patience of the Senate; but if the honorable member has any explanation to make from time to time I hope he will not hesitate in asking permission to make it. Certainly, as far as I am concerned, it will be granted.

Mr. DRAKE. I beg the honorable Senator's pardon for interrupting him at all. I did not wish to do it, and would not have done it but that the honorable Senator called upon me, and this little dialogue ensued.

Mr. JOHNSON. I do not object to it. The relations between the honorable member and myself are such—and I am glad to say they are equally friendly with every member of the body—that he never will receive at my hands anything but what will be most cheerfully rendered, the greatest courtesy.

Mr. DRAKE. Nor you from me any other.

Mr. JOHNSON. I do not doubt it.

Now, Mr. President, the foundation upon which this resolution rests, if it has any, is,

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that the President of the United States is responsible to the legislative department of the Government if he commits errors, whether designed or not, interfering in the judgment of that department, with its own legitimate authority. The honorable member told us in the course of his speech that the meaning of a law, its proper interpretation, is a fact. If he meant to say that it was a fact whether there had been an interpretation or not, or a meaning given to it or not, he is right. But if he meant to say that there was anything like a question of fact in the proposition whether the law has been properly construed or not, he is in error. That is a question of law, and to be answered by all to whom it is addressed, by Congress, by the President, by the judiciary, and by every citizen subject to the responsibility of suffering, if he attempts to violate it, if he turns out to be in error himself as to that interpretation.

President Jackson, whose doctrines the honorable member says with the lights he now has he would support, and would have supported at that time if he had been then so illuminated, states his view of the rights of the coordinate departments of the Government in the message accompanying his veto of the Bank bill of the 10th of July, 1832, an extract from which I will read:

"If the opinion of the Supreme Court covered the whole ground of this act it ought not to control the coordinate authorities of this Government. The Congress, the Executive, and the court must each for itself be guided by its own opinion of the Constitution."

I suppose the honorable member from Missouri will not question that this is the true constitutional doctrine; and yet I submit to him and to the Senate whether it is not in direct conflict with the one which he has attempted to inculcate upon this body. The President, vested with almost transcendent executive power, constituted in one respect, and to a certain extent, a part of the legislative power vested with the authority to negotiate treaties and make appointments, subject to the approval of the Senate, to see to the faithful execution of the laws, and sworn to protect, preserve, and defend the Constitution of the United States. Jackson tells us, and tells us truly, that the President in the discharge of his duties is as absolute and independent with reference to such questions as is the Supreme Court or Congress. What is the consequence of this absolute independence? The right to judge whether a law proposed to be passed, or passed notwithstanding his objections, is in conflict with the Constitution. The Constitution nowhere says that he is to surrender his opinions upon that question because two thirds of Congress entertain a different opinion. The action of the two thirds only gives vitality to the law as far as the President is concerned, and makes it only as operative as it would have been if passed by a bare majority and received his approval; but it no more concludes his right to entertain and express an opinion as to its constitutionality than it concludes the right of any member of Congress who may have been in a minority upon its passage or any judge to entertain and express the same opinion. The passage of the law in no manner modifies the Constitution.

The passage of a law is, when the question is fairly presented to a tribunal authorized to pass upon it judicially, no evidence at all, except by force of the courtesy which is due to any department of the Government, that it is constitutional. When it comes into debate before a judicial tribunal, or before a legislative forum, or before the Executive, when he is called upon to discharge an executive function expressly assigned him, it is the right and the duty of the courts collectively and individually, of the members of Congress collectively and individually, and of the President, to entertain and express the opinion that the law has no warrant in the Constitution. That is all that the President has done in this instance; and for having done it the

honorable member says he should be censured, because, after the laws were passed by the majority provided by the Constitution, it was a question at once and forever placed beyond his jurisdiction. That Mr. Jefferson entertained the same opinion with General Jackson is evident from his letter of June 2, 1807, to Mr. Hay, in which he said:

"In the cases of Callendar and others the judges determined the seditious act was valid under the Constitution, and exercised their regular powers of sentencing them to fine and imprisonment. But the Executive determined that the seditious act was a nullity under the Constitution, and exercised his regular power of prohibiting the execution of the sentence, or rather of executing the real law, which protected the acts of the defendants. From these different constructions of the same act by different branches less mischief arises than from giving to any one of them a control over the others."

This was clearly General Jackson's view. A Bank of the United States was chartered in 1790, rechartered in 1811, and chartered again in 1832, and this last act was submitted for his approval; and he then, referring to the Bank in existence as well as to the Bank proposed to be continued, assailed each upon the ground that it had no warrant in the Constitution; and he was sustained, or rather not overruled, by the requisite majority. Did he doubt, did any member of the Congress of that day doubt, that it was not only his right but his duty to withhold his approval if he was sincere in his conviction that Congress had no authority to pass it? Not one. And what made that case infinitely stronger than the one before us is, that in two causes brought before the Supreme Court that court unanimously held that Congress had the right to pass such a law. He therefore said: "I know it; I know that Congress did in 1790 and 1811 pass a law for that purpose; I know that it has passed the law before me for approval; but while the court is independent of me as President of the United States in the discharge of its own appropriate functions, and while the Congress of the United States is also independent of me if two thirds of its members differ from me in the particular discharge of any of its functions, I as President am not bound to submit my judgment to the judgment of either;" and nobody pretended that he was; no one moved a vote of censure, mild or severe.

The Bank fell and was never afterward revived; and yet what was done by the President in that instance was much more objectionable, because of the authority which he overruled, than what President Johnson has done in the existing case in the passages selected for censure by the honorable member.

In the one case the interpretation of the Supreme Court was disregarded totally, though given in two instances and with absolute unanimity and maintained by a power of reasoning never surpassed and hardly ever equaled. The greatest men of the land then adorning our country in both Chambers of Congress entertained and acted upon the same opinion. Every court in the land, in every State in the Union, had maintained the same doctrine that the Bank was constitutional. But that man of iron will, true to what he believed to be his duty—whether he was in error or not is immaterial—vested with the power to do what he believed was his duty notwithstanding courts and Congresses, vetoed the bill of 1832 upon the ground that it violated the Constitution. I have said that case is infinitely stronger than the one before us. Am I not right in this? What court in the land has adjudged that the acts objected to by the President are constitutional? None that I know of.

What intelligent man in the country has asserted that they are not in fact at war with some of the express restrictions of the Constitution? What intelligent man has pretended that they are not in palpable violation of many of the guarantees of human and individual liberty contained in the first eight of the Amendments? And finally, what man has ventured to express the opinion that they are not

absolutely antagonistic with the provisions contained in the tenth Amendment? I know of none. Their warrant, if they have any—and I do not propose to discuss that question—the ground upon which they have been supported, has been that with reference to the States and the people of the States to which they were made applicable, the guarantees of individual liberty and of State rights contained in the ninth and tenth Amendments have no operation whatever, they having fallen by reason of the war; that as States they have no existence, and as men they possess no individual rights embraced by any of the guarantees to which I have referred; that they are amenable by reason of the war, and by virtue of the war alone, and are bound to submit to the absolute and uncontrolled will of the legislative department.

Now, that President Johnson should entertain with all proper respect to Congress a different opinion ought not to surprise any one; that he should honestly entertain that opinion should not surprise any one; and if he did, the judgment of his country and of the world, if the world shall take any interest in our troubles, will pronounce that he not only does not deserve censure for what he has done, but is entitled to the highest praise, because if he had failed to do what he has done he would have been recreant to his clear and sworn duty.

I could discuss the question much further, Mr. President, if I was not sensible that I should weary the kind indulgence of the Senate; and I therefore leave it, and have but a word to say upon the second proposition which I suppose the resolution involves: have we the right, if he had no constitutional power to send such a message to us containing the selected words, to censure him for so doing? In the first place, let me submit to the honorable member from Missouri to consider what may be the consequences to the fair fame of the country of a war of crimination and recrimination between the two departments of the Government.

In what light will we exhibit ourselves to the world, whose citizens and subjects in the mass are looking with solicitude to the success of what from the beginning of our efforts to the present time has been called our great experiment? The President at war with Congress, Congress at war with the President; to use one of the metaphors (if metaphor it can be called) adopted by the honorable member from Missouri, becoming, in the slang language of "the ring," shoulder-hitters, striking, kicking at each other, in the face of our own people and the civilized world! They will see that the message which the President has sent to us is in the discharge of an express duty imposed upon him by the Constitution. They will see that to censure him for so doing is to deny to the Executive the exercise of his rightful authority. They will see that such a denial takes from the Constitution of the United States one of its most obvious advantages, one of its chiefest benefits, the existence of a high functionary selected for the purpose by the will of the American people, placed over the whole for the exercise of all the powers conferred upon him, and therefore able from the very nature of those powers more particularly to be informed of the state of the country and to give to Congress the benefit incident to his situation. I think, as I have just said, the world will say that for the words for which we are called upon to censure him he deserves praise. I think the people will regret that in the Senate of the United States one of its most distinguished members, in the metaphorical language in the use of which throughout his speech he was so exceedingly felicitous, instead of awarding praise to him, represented him as a "presidential nightmare crouched upon the heaving bosom of the nation." I think that they are now coming to the opinion that he has to the full measure of his ability been a wise and a faithful servant. I believe that they will

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accord to him eminent ability as displayed in the several messages which from time to time he has transmitted to Congress, and especially in the message which we are now asked to censure.

Without being guilty of the sin of extravagant eulogy, as always in bad taste and offensive to its object, if he deserves eulogy at all I think that message is equal to any message sent to Congress by any President of the many illustrious men who have adorned the executive office; and that when we and he are tenants of our respective graves, and history takes up the subject of his administration and examines the messages to which I have adverted and his conduct throughout, it will record as is due that he did all that he was able to do to fulfill the obligations of his official oath to "preserve, protect, and defend" the Constitution of his country.

Mr. President, in the protest to which I adverted a few moments since, President Jackson denied, and as I think by a force of reasoning never successfully met, the jurisdiction of this body to censure him for any official act, unless such censure was involved in some executive function which it was called upon to discharge, or in some legislative duty. In that protest he said that by the proceeding of which he complained the Senate "convert themselves into accusers, witnesses, counsel, and judges, and prejudice the whole case." He says, further, speaking of the relations of the different departments of the Government:

"In every other respect each of them is the coequal of the other two, and all are the servants of the American people, without power or right to control or censure each other in the service of their common superior, save only in the manner and to the degree which that superior has prescribed."

The honorable member should take warning by the results of that controversy. The resolution of censure was proposed by Mr. Clay, whose name I can never mention but with reverence and admiration. He was impulsive, strong-willed, of masculine understanding, and of the purest patriotism, but he could "bear no brother near the throne." On the 26th of December, 1833, he proposed this resolution:

"Resolved, That the President in the late executive proceedings in relation to the public revenue has assumed upon himself authority and power not conferred by the Constitution and laws and in derogation of both."

The majority of the Senate were a long time in concluding that it was their province and was expedient to pass that resolution. It was offered, as I have stated, on the 26th of December, 1833. It was held under deliberation and the subject of constant debate from that time to the 28th of March, 1834, when it was finally adopted by a vote of 26 yeas to 20 nays. In a few years some of the men who passed it ceased to be members of this body. I beg my friend from Missouri to take warning by the example. The American people rallied around their chosen chief. The press of the country and the friends of the Administration called upon the people to "watch the Senate." The revolution went on; and on the 16th of January, 1837, the following resolution, which had been previously submitted by Mr. Benton, was passed by a vote of 24 yeas to 19 nays:

"Resolved, That the said resolve be expunged from the Journal, and for that purpose that the Secretary of the Senate, at such time as the Senate may appoint, shall bring the manuscript Journal of the session of 1833-34 into the Senate, draw black lines around the said resolve, and write across the face thereof, in strong letters, the following words: 'Expunged by order of the Senate this 16th day of January, in the year of our Lord 1837.'"

Now, I submit to my friend from Missouri whether it would be altogether exceedingly palatable or amusing to him some year or two hence to have his resolution put into mourning; whether, if he then be a member of this body, as I hope he may be, he will not regret that in a moment of patriotic enthusiasm, governed, without being aware of it, by the influ-

ence of party, not conscious of it, because I am sure he was sincere in saying that he offered it solely from a sense of duty, he will not feel a little sensitive when he finds his resolution brought upon the desk of the President of the Senate, and he, perhaps, called upon by the Senate—who can, I suppose, call upon a member to perform the task—to draw black lines around it as an evidence that, in the judgment of the Senate and the country, it would be derogatory to the dignity of the body to permit such a resolution to constitute a part of its archives.

Now, Mr. President, I say in all kindness to the honorable member that if there is no such heaving upon the bosom of the nation as he supposed, and brought about by the cause to which he referred it, the indications of the day are that there is a heaving going on which promises to increase from day to day. It commenced, I believe, in the State so ably represented by my friend who sits near me [Mr. MORRILL, of Maine] and by his colleague, slight in comparison.

Mr. MORRILL, of Maine. Very slight.

Mr. JOHNSON. But still a rumbling which indicated that an earthquake might happen. It again was heard from the shores of the Pacific; it became more violent in October in Pennsylvania and Ohio. It became still more violent in the succeeding November in New York and New Jersey; and all the indications we have had since show that it has not subsided but is yet going on. Even Massachusetts, who has been indoctrinated by the learning and the eloquence of the honorable member who sits farthest from me, [Mr. SUMNER,] and by the power and ability of his colleague, [Mr. WILSON,] seems to be in motion. Now, being very anxious to retain the association in this body of the honorable member the mover of this resolution, I warn him in a spirit of sincere regard to take heed of this heaving, that he may escape its fury, and the only way to avert it is to remove the causes which have led to it. If he declines to do this, he and all who shall so decline, will, I think, in November next be hurled into utter and irretrievable ruin, not physical but political—physical, every member of the Senate would mourn, but political ruin to my honorable friend, in the contingency of his undertaking to resist it, would be borne by many members on this side of the Chamber with all becoming and decent fortitude.

A word more and I shall have done. I again submit to the honorable member, and through him to the Senate, if the necessities of the country and the duties which these impose upon us, do not demand a different description of conduct; whether the people are not looking to us anxiously not to carry on a war with the President, (which can result in no possible good to them or anybody else,) but to apply ourselves exclusively to the duties belonging to the times, restore peace to our distracted land, revise our system of taxation—miserably inefficient as far as the Treasury is concerned, but heavily oppressive upon the people—affecting every branch of human industry. Let us so revise it that it may operate as lightly upon the people as is consistent with the obligation upon us of meeting the demands upon the Government. And, above all, let us see to it that we maintain unbroken the plighted faith and preserve unsullied the honor of the nation.

Reconstruction.

SPEECH OF HON. JAMES BROOKS,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

December 18, 1867.

Mr. STEVENS, of Pennsylvania, from the "Reconstruction Committee" of the House of Representatives, having, December 18, reported a bill, *first*, to change the majority of all registered votes in the southern States into a majority of the actual voters

on the day the constitutions were voted upon; *second*, to give seven of the southern States ten more Representatives in Congress than under the apportionment of 1850; and *third*, to elect the members of Congress the day on which the constitutions were voted upon—and the *second* proposition having been withdrawn on the earnest opposition of Mr. BRIGHAM—

Mr. BROOKS said:

Mr. SPEAKER: The question of reconstruction, like Banquo's ghost, can never be laid. In the ominous ides of March, just before the opening of this, the Fortieth Congress, (not to go any further back,) we had a bill for reconstruction. In July last, in the summer solstice, an extraordinary session of Congress was called, for the purpose of again "enacting" "reconstruction." And now here, among the very earliest measures of the present session, we have brought before us the third bill to "reconstruct."

THE SOUTHERN NEGRO MAN TO HAVE MORE REPRESENTATION THAN THE WESTERN WHITE MAN.

They who have reported this bill have already, at the very outset, struck it a fatal blow by exhibiting a division in their own ranks as the result of which it became necessary for the gentleman from Pennsylvania to withdraw one of the most important parts—the section to increase the number of negro Representatives in Congress from the South. In deference to the protest of a member of their own organization from a western State, the proposition to give ten additional Representatives to the slaveholding States—I mean white slaveholding States, no longer negro slaveholding States—has been withdrawn, because such negro favoritism would have startled the great white-growing West. The State of California, which, though its population has immensely increased since the last census, has now only three Representatives on this floor with a voting population of 120,000—a representative population then of over 600,000. The people of Iowa with a population of 674,000 by the last census of 1860, now have by State census 967,000. The people of Michigan with a population according to the last census of only 600,000, now have probably 1,000,000. The people of Kansas with a population by the last census of 106,000 now have 400,000. The people of Minnesota with a population by the last census of 169,000 now have 400,000.

The Committee on Reconstruction, blind to all this white increase, reported an increase of ten Representatives in Congress for the negro States, but no increase whatsoever for these great white-growing communities of the West! It would have been an irresistible argument, then, before the white people of the West to say, "Congress has increased the negro representation of the South, while it has allowed nothing for the million and a half increased population of California, Iowa, Michigan, Minnesota, and Kansas." The Reconstruction Committee reported in favor of all this, but the honorable gentleman from Ohio hit it on the head and affrighted the honorable gentleman from Pennsylvania [Mr. STEVENS] out of this iniquitous inequality, thus discriminating against the whites, the moment it was fairly shown up above water. Overawed for once by opinion he abandoned his negroes and stood by his own race and color. The will was there to start the iniquity, but the pluck has failed him to carry it out. The white people of this country thus, thank God, are at last recovering, in some small degree, their proper consideration, if not respectability, among certain members of the House.

TO ENABLE THE BARE MAJORITY OF A MINORITY FOREVER TO GOVERN.

Sir, the first proposition now before the House is to change the organic law, as it is called, of reconstruction, to abandon the established principles of the March and July acts of Congress, that the majority of the registered voters shall vote for a constitution, by limiting the vote now to voters only on the day of election.

Ho. OF REPS.

Reconstruction—Mr. Brooks.

40TH CONG....2D SESS.

The object of this change is not all apparent, a concealed object being to disfranchise more and more of the white population, and to enable a bare majority of an actual minority to frame the organic law of the State. It was not enough under the two last reconstruction bills that they disfranchised thousands, ay, tens of thousands, if not hundreds of thousands of white voters, while they enfranchised the whole black population, who were as deep in practical rebellion as their masters, for this bill now disfranchises thousands and tens of thousands more. It invites now and enables all the negro-constitution mongers of the South to disfranchise whites enough in every southern State to secure the government thereof to the negroes.

THE CONSTITUTION OF ALABAMA,

the first framed by the negro conventions, unfolds the meaning of this act, and shows how Anglo-Saxon white States are to be converted into African States, the declared intent and meaning of that so-called constitution being to disfranchise every white man in the South who has any respect left for his own noble Anglo-Saxon race, and who will not forswear himself forever to secure in perpetuity the superiority and reign of negro blood.

THE NEGRO TEST-OATH OF ALABAMA.

Under that constitution of Alabama every voter is compelled to swear that he will never, under any circumstances, have it so amended as to prohibit negroes from voting. No one is allowed to be a voter who will not commit himself forever to the principle that negroes shall be the rulers of the State. The provision I allude to is embodied in the new constitution, article seventh, section fourth, in the test-oath there:

"That I accept the civil and political equality of all men"—

Negro men, nothing is said of women!

"and agree not to attempt to deprive any person or persons of any race or color, on account of previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men."

Before any person can vote, then, in the State of Alabama under that constitution he is bound to devote himself by oath for all time to negroes and to negro voting, to fellow negro soldiers, to negro jurymen, to negro and white mongrel schools and school-houses, to mongrel cars, to mongrel taverns, to a complete mongrel social existence from the cradle to the grave. No man can vote unless he takes that unnatural, that horrid oath, and thus forswears his own white race and color. I appeal to the States of Minnesota, to Wisconsin, to Kansas, to the great Northwest, that have just been voting negro suffrage down—to Ohio, to Pennsylvania, to every northern State which has refused suffrage to the negroes among them, who are ten times more intelligent than the besotted, just-freed negro slaves of the southern country, who scarcely know their own names as they vote, and I ask them all, "Will you trust to such negroes in eleven States the right to govern the whole country, through their Representatives upon this floor, for all time to come, now and forever, while you refuse the right to vote to your own people of African descent, ten times more intelligent than these just-freed slaves of the South?"

EVEN WHITE RADICAL ALABAMIANS TO BE OUTVOTED BY NEGROES.

Apart from all this, too, the constitution of Alabama has been deliberately so framed as to disfranchise or misrepresent a large portion of the white people of the northern part of that State. The State has fifty-nine counties and is apportioned off in this new constitution into one hundred Representatives, and that Alabama convention has deliberately affixed an apportionment in and upon the constitution so that 136,395 persons in southern negro Alabama are entitled to fifteen Representatives, while 391,444 persons in northern white Alabama, nearly three times the number in the negro counties, are given but thirty-five, when an

equitable apportionment would have been forty-two—nearly forty-three—Representatives. So that by the very apportionment organic law of the State the white people of northern Alabama are crushed out by the negro vote of the southern part.

The constitution apportionment table is as follows:

Counties.	Representatives.	Negro Alabama.		No. of Representatives.
		Population.		
3	Each 5.	77,047 negroes.		
		59,348 whites.		
		136,395		15
35	Each 1.	White Alabama.		
		280,282 whites.		
		111,159 negroes.		
		391,441		35

You have not been content, then, in your two previous reconstruction acts in so arranging eight million southern white men as to enable four million negroes thereto govern them; but here in such constitutions as that of Alabama you are cheating your own white Radicals and subjecting them to irrecoverable negro dominion. Sir, the object of all your three bills, their real intent and meaning, is for all time so to organize this Government that four million negroes in the southern States shall hold a balance of power in the whole United States, there enslaving eight million white people to counteract the politically divided voting population of the twenty-four millions of the North, and thus to govern the whole.

IS THIS, OR IS IT NOT, A WHITE MAN'S GOVERNMENT?

My objection to this bill rises far higher than any mere details; it is to the whole principle throughout from beginning to end. My theory, my principle, and I believe the principle of the Democratic party, is one before which all other issues—tariffs, currency, taxes, armies, navies, all mere questions of the hour—dwindle into comparative insignificance. They are but passing questions, which live to-day and die to-morrow. The only real living issue towers above all these—and that is, Is this, or is it not, a white man's Government?

You have deliberately framed a bill to overthrow this white man's Government of our fathers and to erect an African Government in its stead; and it is because you have done this that I resist and protest against it, again and again, and from the beginning to the end.

THE NEGRO IS NOT THE EQUAL OF THE WHITE MAN.

The negro is not the equal of the white man, much less his master, as your bill makes him; and this I can demonstrate anatomically, physiologically, and psychologically too, if necessary. Volumes of scientific authority establish the fact; I might "pile Pelion on Ossa" to demonstrate it, if this were a hall of science for such discussions, or if there were time for such discussions here. All that I have opportunity to do here is in the fewest words possible to set forth scientific facts. The negro man differs more from the white man than a white man from a white woman, and the difference is essential, organic, throughout, from the crown of the head to the very sole of the foot. The negro is a different creature, with a different brain and different structural organization and in every respect inferior to the white governing man.

THE HAIR OR WOOL OF THE NEGRO.

The very hair which crowns his head is not hair, but it is wool, wool, and wool only. [Laughter.] He who will take the trouble to examine it through the microscope, micrometer, and microtome will see that its structure is that of wool and not of hair. The hair of a white man is cylindrical; the section under the microscope appears perfectly circular, and provided with a medullary canal, while the wool of the negro is flattened, so that its section exhibits an elongated ellipsis, in the axis of which no medullary canal is seen. It is this

lateral compression which effects the peculiar frizzling of the hair, owing to its not taking place exactly in the direction of the longitudinal axis of the hair, but ascending in spirals, so that the hair resembles a spiral spring, which always returns to its shape when drawn out. (See M. Pruner Bey, *De la Chevelure comme Caractéristique des Races Humaines*, Carl Voght, et alios.)

THE SKULL, THE BRAIN, THE NECK, THE FOOT, ETC.

The difference is not only in the hair but it is in the whole anatomical structure of the head, inside and outside. The negro's face projects like a muzzle, and the teeth are obliquely inserted, so that their edges meet as at projecting angles. The development of the jaw (prognathism) is in direct relation or proportion to the intellectual capacity of a people, the prognathous being confined to the lowest races of men, among them the negro. Their cranial capacity is different. The volume of an American or English head is in cubic centimetres 1572—95, while that of the negro born in Africa is only 1371—42, and the place occupied in relation to cranial capacity and cerebral weight corresponds with the degree of intellectual capacity and civilization. The weight of the white man's brain is greater than that of the negro. The convolutions of the brain are different. The anterior and frontal lobes of the white man show a far better mental development. All these assertions are maintainable by high German, French, and English, as well as American authority; but this is not the place nor the hour for metaphysical or psychological discussion. Every feature of the white man and the negro differs. The nose is different. The nostrils of a Caucasian form two nearly rectangular triangles, the hypothenuses of which are turned outward, while the septum of the nose forms a perpendicular line common to the two triangles. On taking a similar view of the negro the nostrils present only a transverse aperture, or the figure of a horizontal eight united in the middle by the nasal septum. The form and size of the mouth, the shape of the lips and cheeks are very different. The apish chin of the negro differs very essentially from that of the white man. The facial angle of the distinguished writer, Camper, amounts in the negro to 70.75 degrees—it may sink to 65—while in the Caucasian it is rarely below 80, and frequently a few degrees higher. The negro's skull is thicker than the white man's, the cervical muscles more powerful, and hence the negro carries his burden on his head, and, like a ram in a fight, uses his skull. The negro's shoulder differs from the white man's. The negro's hand is larger, his fingers long and thin, palms flat, thumb balls scarcely prominent. "All the characters of his hand," says Carl Voght, "decidedly approach those of the simian hand." The leg, the calves of the leg, all differ from the white man's. "The femoral bones, as well as the fibula, seem curved outward, so that the knees are more apart from each other than in the white." The pelvis is organically different. "The foot of the negro," says Burmeister, "is in everything ugly—flat, of a projecting heel, a thick, flabby cushion in the inner cavity, with wide, spreading toes. The middle part of the foot does not touch the ground." Voght, the German physiologist, calls it "the foot of the gorilla, or, if you please, the posterior hand." I cite these facts to show that it is not the skin alone that parts the white from the negro race, not the dermis or epidermis, or pigment therein. I could not respect myself if I judged a race inferior to my own because of its color only, for color may be but an incident or accident of life. We have brunettes as well as blondes, and both among the most beautiful of our race. The Egyptian is not white, scarcely is the Italian or the Spaniard, in whose veins courses Moorish blood. The negro is no more of a colored man than Caucasians are colored men. I never use

the absurd words "colored men." The negro is a negro, and only a negro—of a type, a race of men as different from ours as the Hottentot or the Bushman. God has created us anatomically and physiologically different in almost all respects, so far as we can judge never intending us to be equal or kindred men, and though of one blood, He has determined the bounds of their habitations, and never assuredly determined that an inferior race from Africa should govern, as set forth in this bill, here, in America, a superior race of men.

**AMALGAMATION OR MISCEGENATION IN A GOVERNMENT
COMPARTNERSHIP IS GOVERNMENT DESTRUCTION.**

After entering so briefly and necessarily so imperfectly upon the anatomical and physical distinctions that part us from the negro—a discussion which might be extended to any length—I now ask the attention of the House, in as few words as possible, to certain historical facts; for this experiment of negro equality is no novelty in history. We are not the first negrophilists who have trodden over the old ground of amalgamation and miscegenation, and hence we have nothing new to offer in it or to expect from it. The experiment was tried hundreds of years ago, and it has been tried in our own time and in our own generation too. I will not allude to Hayti, where the negro is so wise that he will not admit the white man into the government of that country or even allow him to hold real estate there. I will not allude to Jamaica, where the negroes have managed their local Government so badly that the British authorities at home have taken the power of self-government from them, and redeposited it in the Crown, through a British governor and council; but I will go a little further and show from the great history of the world that the negro has not the capacity of self-government or of any species of popular government, and that wherever or whenever the superior race has shared government with him destruction has been the lot of both.

THE MULATTO WITH WHITE BLOOD IN HIS VEINS.

I speak not now of the mulatto, because the mulatto with white blood in his veins often has the intelligence and capacity of a white man. But for violating a law of God, that all are to be punished who indulge in a criminal admixture of races, so that beyond the third or fourth generation there can be no further mulatto progeny, I would admit the mulatto to the right of suffrage, if I could do it without violating that law or without establishing a principle which would be fatal to my own race. I recognize the mulatto's intelligence and capacity with our white blood flowing in his veins, and I know that he is often the equal and sometimes the superior of some white men.

THE CONGO NEGRO, ETC.

But the Congo negro, the Dahomey negro, the Guinea negro, the negro of the southern States, is no brother of ours, and God never made him for our brother. I do not say that he is only a higher species of the *anthropoid* apes, as some say, but I do say that the orang-outang is as intelligent as many of the Bushmen of southern Africa, and that the chimpanzee and the gorilla in their forms of creation wonderfully represent the ignorant and brutalized negro; and I will add that if we are to degrade this great Government of ours into a southern negro Congo Government, it is as well to take into the partnership the orang, the chimpanzee, and the gorilla as to go into this partnership with the sons of Congo, Soudan, and Dahomey, the native lands of them all, apes and men.

I do not mean in what I have said to refer to the mulatto, or quadroon, or octoroon, whose intelligence I respect by virtue of the white blood that runs in their veins, but to the pure Congo negro. I admit him to be a "man," but he is not a "brother" if he is a man, and I will never consent to divide self-government with him, or to degrade our own noble, historical race to his low level.

THE NEGRO UNCHANGED AND UNCHANGEABLE.

The negro is the same, and has been the same, for four thousand years. While all other races—our own race—emerging from barbarism, have been constantly improving the negro in Africa is to be seen now just as he was in the earliest periods of Egyptian record. In the frescoes or amid the tombs of Egypt, four thousand years old in all probability, the negro there exhibits the same pictured life he lives in now. His tough skull and strong muscles of the neck are carrying the same burden that he carries to this day. He was then the servant of the Egyptian man, the yellow man of Egypt, just as he is the servant of the Caucasian now. As Virgil described the race some two thousand years ago, when he wrote of an "Aunt Chloe" of his day, even so is the negro now:

"*Afra genus, tota patriam testante figura,
Torta comam, labroque tumens et lusea, colorem:
Pectora lata, jaceos mammas, compressor alvo,
Cruribus exilis, spatiosa prodiga planta;
Continuis rimis calcearea scissa rigeant.*"

I quote Cowper's translation, and I trust you, sir, will the more enjoy it as coming from an old abolition friend, who would have not a slave to till his grounds:

"*From Afric she, the swain's sole serving maid,
Whose face and form alike her birth betrayed:
With woolly locks, lips tumid, sable skin,
Wide bosom, udders flaccid, belly thin,
Legs slender, broad and most misshapen feet,
Chopped into chinks and parched with solar heat.*"

That is the description given by Virgil two thousand years ago; and that is the appearance of the negro of this day. In his own native land he has not improved, and he never will improve, save as he comes in close contact with civilization, and is forced to exercise his naturally imitative powers.

CIVILIZATION AND CHRISTIANITY HAVE NOT CHANGED HIM.

Four thousand years ago he was exactly what he is now, anno Domini 1867, and what he ever will be, save as he comes in contact with the civilization of a superior race. The Egyptians whose genius created the pyramids, the sphynx, the obelisk; the Carthaginian whose soldiers under Hannibal surmounted the then horrid Alps, rolled over the Campagna of Rome, and the plains of Capua; the Roman, whose arms and whose arts embraced the whole world—all have brought their civilization and their arts before the negro race, but all in vain. The Church had holy foundations in Carthage, in Cyrene, in Alexandria, throughout all Egypt, and far, far up the Nile, and ascetics from upper Egypt, clothed in the wild raiment of the Baptist, wandered forth in sheepskins and goatskins, and dwelt in deserts and on mountains, in dens and caves, to bring the negro to Christ, but all, all in vain. Pagan, savage, cannibal even, the negro in his own native home for thousands of years has defied all civilization, all Christianity; and only when in close individual contact with the superior race is the negro improved or improvable. He clings to his gregees, jujus, fetishism with as much pertinacity as he did hundreds of years ago. But a wonderful imitative genius is that of the negro! It displays itself surprisingly in music and in a variety of our culinary arts. When associated with the white man the negro, through his faculties of imitation, becomes in many occupations almost the equal of the white man. But when left to his own guidance, as in Hayti, in Jamaica, or in upper Egypt, he returns to his barbaric tastes, his gregees, his jujus, the fetich, &c.

NO NEGRO POETS, ARCHITECTS, NO GREAT MECHANICS, ETC.

Where, oh tell me where, sir, has the pure-blooded negro, unassisted by the white man, exhibited any of the triumphs of genius? Where have we found that race producing a Homer, a Phidias, a Praxiteles, a Socrates, a Demosthenes, a Virgil, or a Milton, or a Shakespeare? Where has it produced any great architect like Michael Angelo? Where any great poet, where any heroic soldier like Alex-

ander, Cæsar, or Napoleon? Where any wonderful mechanic? What negro of pure blood ever started a steam-engine or a spinning-jenny, a screw, a lever, the wheel, or the pulley? What negro has invented a telegraph or discovered a star, a satellite, or an asteroid? What negro ever constructed a palatial edifice like this in which we are assembled, these corinthian columns, these frescoed walls? Negro history makes no mark in the great world's progress. That history is all a blank, blank, blank, sir. The negro can never rise above a certain range of intelligence. The children of the negro, up to ten or fifteen years of age, may be as bright and as intelligent as white children. They acquire knowledge as rapidly; but after that early age the negro youth does not advance as does the white youth. While the white man is increasing in knowledge till the day of his death the negro reaches before the age of maturity a point beyond which he cannot well advance in anything save in the arts of mere imitation.

Mr. GARFIELD. Will the gentleman tell us who Euclid was?

Mr. BROOKS. Does the gentleman mean to intimate that Euclid was a negro? Why, sir, he had not a particle of wool on his head.

Mr. GARFIELD. He was only an Abyssinian.

THE LESSONS OF LIFE—THE ARABS FIRST.

Mr. BROOKS. Now, Mr. Speaker, I am about to show further that wherever there has been an admixture of a superior race with the negro the utter deterioration and degeneracy, if not the destruction, of the dominant race has been the result. Look at the history of the Middle Ages, when the men of our race were involved in mental darkness, when even the priests could not read or write, and when books were not printed. At that time the Arabs had almost all the knowledge and learning in the world. Under the banner of their prophet they started from the holy city of Mecca and swept along the whole northern coast of the Mediterranean, by Alexandria, Carthage, and beyond the pillars of Hercules; aye, carrying over the Sierra Nevada of Spain into the beautiful valley of the Grenadian La Vega their wonderful arts, as well as their victorious arms. They constructed the magnificent Alhambra; they created the Alcazars of Seville and Cordova. Our countryman, Irving, in glowing prose, with thoughts that breathe and words that burn, has pictured their marches and conquests, and their arts as well as their arms. The whole Christian world shrank and trembled before the mighty genius of this Arab race while it was overrunning Spain and threatening Europe with downfall. But in an evil hour they who had planted the noblest banners of poetry and of prose, of philosophy, and of history, in the front rank of the learning of the world; they who had invented the science of notation, and taught us decimals; they who had created algebra and given it the Arabic name; they who had measured the heavens in their astronomy, and given the very names we now use to the stars and constellations that sparkle in the sky; they who bequeathed to us the Arabic-named *Almanac*, (the Diary,) the little work now indispensable in every man's house—alas, they mingled the blood of their heroic race with the Nubian, the negro, with the inferior and degraded races of Africa all about them, and they rapidly fell from their exalted position into the degraded pool of races with whom they had commingled. These once heroic Arabs were driven from Grenada, and lingering awhile upon the coast of the Mediterranean, they fled into Africa, dishonored, degraded, destroyed, by forgetting their Arab nobility and becoming Nubians, negroes, and other inferior races of Africa.

THE OTTOMAN TURKS NEXT.

Years afterward there sallied forth from Asia, that great storehouse of nations, the Ottoman

Turks, under the banner of the prophet, and their crescent swept over almost the same breadth of territory that the Arabs had gone over before them. If they paused at the pillars of Hercules in the West, their cimexes flashed in the East under the walls of Vienna, and swept off every living man that showed himself on the open plains of Austria or Bohemia. But alas! they entered upon the same degraded crime of amalgamation and miscegenation, and they soon emasculated these once heroic Turks, the approach of whose crescent had made the Christian tremble in every court of Europe, and upon every navigable internal sea. In their harems the thick-lipped, woolly-headed negro woman was mixed up with the beautiful Circassian and Georgian, and children of all hues and colors and races were the product of this hateful miscegenation; and God—even the God of Mohammed—has punished the Moslem by his own degradation and his overthrow for violating that first law of nature—the preservation of the purity of race. The crescent no more waves in terror under the walls of Malta, as pirate or corsair, no more affrights on the Adriatic or the Danube, but trembles in doubtful existence on the Sea of Marmora. I myself have seen in Constantinople around a mosque where the sultan was at prayer some thirty or forty beautiful Circassians and Georgians of his harem kissing the hand of a eunuch, an Ethiopian, a negro selected from the interior of Africa as the custodian of these women, and who thus had become their master. The moment the Turk thus associated himself with the negro or negress and recognized him or her either as brother or sister, from that hour the Turkish empire began to crumble until it now exists only by the toleration of the Christian Powers of Europe.

THE MOORS AND THE NEGROES NEXT.

Let gentlemen, then, but study the history of the Arabs in their mixture of races; let them but study the history of the Turks, let them but study the history of Morocco, if they will ever take the trouble to study at all, and they will see what a fatal step they are taking now in equalizing unnatural races, or rather in subjecting the superior white race of the South to negroes from Africa. Muley Ismael was emperor of Morocco about 1680, and he had a negro as well as a Georgian wife, between whom and others were born from him, the historian records, eight hundred children, the last born when he was near eighty years of age. This Muley Ismael, in order to do what you in this Congress are doing, that is, to enforce a military despotism upon his people, neglected the Moors, and enlisted an army of one hundred thousand negroes, obtained from the coast of Guinea. Through civil war and bloodshed, and for over one hundred years, as you will find in the history of Morocco written by Cheuier, the Moors were in the most miserable condition a people could be in, almost all the time under the power of these negroes, these janizaries, these pretorian guards of the emperor, and they never ceased in their insolent demands and pretensions. It was not till 1780 that these one hundred thousand negroes could be got rid of by any device; and then through Sidi Mahomet, by cunning and fraud, they were reduced to fifteen thousand before they noted their weakness. It took a hundred years for the Moorish race to recover itself from the fatal crime of Muley Ismael; and it will cost a hundred years to recover from your legislation if the people continue you in power another election.

THE LATIN-SPANISH AND THE ANGLO-SAXON RACE AS SETTLERS ON THE AMERICAN CONTINENT.

But I need not go to the Mediterranean. I need not cross the Atlantic to show the fatal step you are taking by this reconstruction bill in going into this copartnership with negroes. Our continent has been settled by two classes of men—Anglo-Saxon, Celt, and Teuton in the North, and the Spanish-Latin race in the

South. God never made a nobler race of men than the old hidalgos of Spain, who, under Columbus, in a little caravel of forty tons, started on the trackless Atlantic in search of the then unknown America. God never made a nobler race, I repeat, than these hidalgos of Spain. What did they do? They ran all along the Gulf of Mexico, from Florida, on the north, to Cape Horn, on the southern verge of South America. They settled Mexico and Venezuela, New Granada and Chili, and Peru, and coasting all the northern Pacific imprinted the holy classic names of old Spain upon the now golden mountains and wine-covered valleys of the State of California. They climbed the snow-clad Cordilleras, and planted their banner on every hill and every valley of Mexico, Peru, and Chili. They drove Montezuma from the halls of his Aztec ancestors, and under Cortez and Pizarro, Peruvian, Mexican, and semi-barbarian civilization fell before the mighty prowess of their arms. Their heroic deeds, their lofty chivalry, their Christian loyalty now read more like the romances of a Froissart than, as they are, the true records of history.

Our Anglo-Saxon fathers started later from the shores of England and landed upon the rock of Plymouth or upon the flats of Jamestown. The Puritan himself, trembling over his rock for a while, in terror of the tomahawk, ventured at last on what was then deemed gigantic heroism. He crossed the Connecticut and the Hudson, and slowly crept up the Mohawk, and halted for years and years upon lakes Erie, Ontario, and Huron. The cavaliers of Jamestown threaded their way up the river James, stealthily wound over the passes of the Alleghenies, and looked down at last with astonishment and affright upon *la belle riviere* of Ohio. But all this time these heroic hidalgos of Spain were spreading the name and fame of Castile and Arragon throughout the whole American continent, from Florida, on the north, to Cape Horn, on the south, and from Cape Horn to California, while our Anglo-Saxon race stood shivering upon the Ohio and Lake Erie without the courage to advance further. What, sir, happened then? What has produced this difference between us and the lofty hidalgo? Why are they fallen, these men of the Armada, so exalted among all the nations of the earth, who made our ancestors in the days of Queen Elizabeth tremble on the throne? Why was it that in the Mexican war one regiment of our Anglo-Saxon, Celtic, Teutonic blood, again and again put whole regiments of these once noble hidalgos of Spain to flight at Chepultepec, the Garita, and elsewhere? I will tell you why, sir. The Latin, the Spanish race, freed from that instinct of ours which abhors all hybrid amalgamation, reveled in a fatally tempting admixture of blood—indulged in social and governmental copartnership with Aztecs, Indians, negroes, one and all.

The pure blood, the azure blood of the old hidalgos of Spain, lost and drained, dishonored and degraded, has dwindled into nothing, while the pure blood of the Anglo-Saxons, the Celts, the Teutons, abhorring all such association and amalgamation with the negro or the Indian, has leaped over Lake Erie, crossed *la belle riviere*, the great Father of Waters, the Mississippi, crowded the mountain passes of Colorado, Utah, Nevada, and Montana, rolled over the Rocky mountains, and spread for hundreds of miles on the Pacific ocean—carrying not only there but everywhere, triumphant from the Arctic to the Antarctic, the glorious flag of our country, that emblem of a pure race, and ever contrasting the glory and honor, the prowess of that race with the degradation of the race of these once noble hidalgos of Spain.

Sir, you are on the eve now of an association and copartnership with a like inferior race which, if the people do not drive you from this Capitol, will be destructive of us all as has been a like copartnership to the Spaniards, the Turks, the Moors, and the Arabs. I have

recalled these sacred lessons of history, and I hold them up to you for your admonition and warning. Heed, oh, heed! Strike, but hear!

I have here, sir, and will publish in a note a table of the different admixtures of races which have brought about the utter degradation of the white race in parts of Spanish America, and I hold them up to you as what you are legislating to make of us.*

Now, sir, this may be the last time in this Congress when I shall have an opportunity thus at length to address a white audience upon the floor of this House. [Laughter.] Aye, you are so hurrying up this reconstruction, as you call it, that the African will soon come down from your galleries and make his appearance here upon the floor, side by side with you, as a man and a brother. He is soon to be with you and part of you a Representative upon this floor. I tell you, gentlemen, that you make a fatal political mistake, for it will not be acquiesced in by the northern people, and your violent revolutionary acts here will be resisted in the elective tribunals elsewhere. In order to obtain a few additional negro representative votes upon this floor from the South you are

* THE MISCEGENATION IN PREPARATION FOR US.

The subjoined list shows the parentage of the different variety of half-castes, and also their designations, in Peru:

Parents.	Children.
White father and negro mother.	Mulatto, 1, or pure mulatto; half white, half negro.
White father and Indian mother.	Mestizo, 2, or pure mestizo; half white, half Indian.
Indian father and negro mother.	Chino, 3, or pure Zambo; half Indian, half negro.
White father and mulatto mother.	Cuateron, 4, or mulatto variety; three fourths white, one fourth negro.
White father and mestizo mother.	Croole, 5, or mestizo variety; three fourths white, one fourth Indian.
White father and China mother.	Chino-blanco, or Zambo-mestizo variety; one half white, one fourth Indian, one fourth negro.
White father and Cuaterona mother.	Quintero, 6, or mulatto variety; four fifths white, one fifth negro.
White father and quintera mother.	White, (7), or mulatto variety; nine ninths white, one ninth negro.
Negro father and Indian mother.	Zambo, 8, or pure Zambo; half negro, half Indian.
Negro father and mulatto mother.	Zambo-negro or Zambo with white; three fourths negro, one fourth white.
Negro father and mestizo mother.	Mulatto-oscuro or Zambo with white and Indian; half negro, one fourth Indian, one fourth white.
Negro father and China mother.	Zambo-chino or Zambo variety; three fourths negro, one fourth Indian.
Negro father and Zambo mother.	Zambo-negro or Zambo variety; quite black; nine tenths negro, one tenth Indian.
Negro father and quintera mother.	Mulatto dark or mulatto variety; four fifths negro, one fifth white.
Indian father and mulatto mother.	Chino-oscuro or Zambo and white variety; half Indian, one fourth negro, one fourth white.
Indian father and mestizo mother.	Mestizo-claro or mestizo variety; said to be often beautiful; three fourths Indian, one fourth white.
Indian father and China mother.	"Chino-cholo," or Zambo variety; two thirds Indian, one third negro.
Indian father and Zambo mother.	Zambo-claro or Zambo variety; three fourths Indian, one fourth negro.
Indian father and Chino-chola mother.	Indian with frizzly hair or Zambo variety; four fifths Indian, one fifth negro.
Indian father and quintera mother.	Mestizo, rather brown, or Zambo variety, with white; three fifths Indian, one fifth negro, one fifth white.
Mulatto father and Zambo mother.	Zambo (a miserable race) or Zambo variety, with some white; three fifths negro, one fifth Indian, one fifth white.
Mulatto father and mestizo mother.	Chino-claro or Zambo variety, with some white; two fifths white, one fifth negro, one fifth Indian.
Mulatto father and China mother.	Chino, dark or Zambo variety, with some white; two fifths negro, two fifths Indian, one fifth white.

Besides the half-castes here enumerated there are many others not distinguished by particular names.

jeoparding the domination of your party in the great North and West. The northern people are sound upon the subject of race, and where ethnology is discussed scientifically in the primary assemblies of the people they will become more and more sound, and become more and more converts to the principles I have been laying down to-day. But I know, sir, that it is vain for me to invoke the majority of this House to pause. I have too often sent forth vain invocations here and appealed to the majority of this House in vain and in vain. But, thank God, my voice and the voices of the few bold compatriots around me have gone beyond this Capitol and been heard among the people, who have responded by rolling up majorities in our favor such as we did not dream of so early after our vain appeals to you here on this floor. But if you blacken this House this session of Congress it will soon be whitened by the Democracy of the North and the West. It cannot be that God inspired Columbus to the discovery of this great new world only to drive out Pequods, Chippewas, Mohawks, Pottawatomies, Sioux, Cheyennes, to substitute here a government of Congo negroes from Africa instead. It cannot be that Almighty wisdom has gathered here the best blood from all the nations of Europe to be overwhelmed as Spanish blood has been, by the basest mixture of Aztec, Indian, and Congo negro. But to you, pledged, manacled to party, and loving party more than you love country, or God, or man, I know I speak in vain. A voice even from the dead would not now change a single opinion here, but we shall be heard and heeded elsewhere. Posterity will vindicate our foresight. History will do us justice, while a grateful country is already sending in its plaudits of "Well done, good and faithful servants."

Contested Election.

SPEECH OF HON. G. G. SYMES, OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,
January 10, 1868.

The House having under consideration the resolutions reported from the Committee of Elections in the contested-election case of Symes vs. Trimble, from the first congressional district of Kentucky—

Mr. SYMES (contestant) said:

Mr. SPEAKER: Thankful for the privilege thus conferred upon me, I proceed to address this

as they do not in color materially differ from those specified.

1. Mulatto, from *mula*, a male or hybrid. 2. *Mestizo*, from the Spanish *mestizar*, to mix. 3. Like the Chinese in color. 4. Cuateron, or quadroon, as being the fourth remove from the negro. 4. In the West Indies the Creole is a mulatto; Criolla, in Spanish, meant the offspring of Spanish parents in the Colonies. 6. As being a fifth remove from the negro. 7. "White" here is still negro blood. 8. Zambo looks like an African word. In Spain pigeon-footed people are called "Zambos." 9. Cholo is another name for very Indian *Mestizos*.

The two first items in this table are from Schudi's travels in Peru.

The following is from M. de Laremandiere's history of Mexico, indicating the different degrees of the mixture effected between the three species of white, Indian, and the negro:

Mestizo 1, product of Spaniard and Indian woman. *Castizo* 2, of a mongrel 3 woman and a Spaniard. *Spanish* (1) of a Castizo and a Spanish woman. *Mulatto*, of a Spaniard and a negress. *Morisco* 4, of a mulatto woman and a Spaniard. *Albino* 5, of a Morisco and a Spanish woman. *Tornatras* 6, of an Albino and a Spanish woman. *Tentandaire* 7, of a Tornatras and a Spanish woman. *Lobo* 8, of an Indian woman and a negro. *Caribou* 9, of an Indian woman and a Lobo. *Barbino*, of a Coyote 7 and an Indian woman. *Grifo* 8, of a negress and a Lobo. *Onisca*, of a mongrel woman and an Indian. *Albarazado*, of a Coyote and an Indian woman. *Mechino*, of a Lobo and a Coyote.

1. Pure mixture. 2. Offspring of *Mestizos*. 3. Difficult to classify. 4. Is a mulatto. 5. As partaking of white mulatto variety. 6. A step backward. 7. Mulatto variety. 8. Wolf or Zambo. 9. Variety of Zambo. 10. Coyote is from the Mexican word for wolf, probably a variety of Zambo. 11. Variety of Zambo.

honorable body in behalf of myself and my constituents upon one of the most important subjects to the people of certain portions of this country that has ever been submitted for the consideration of this House. I hope I may be heard with a little patience, for highly interesting must every question be, sir, which may eventually affect the well-being of society, or the freedom or repose of that unfortunate portion of our country known as the border and southern States, and which, by an immediate and a direct necessity, must decide either fatally or fortunately whether that well-being, that repose, and that freedom are again to be restored to that portion of our country, with equality to all men before the law, is surely one of the most important subjects at this time that human wisdom can be employed upon. And, sir, this greatest-to-be-desired object in this country at this time can never be attained except it be by the true construction and rigid enforcement of all the laws passed by the law-making power. Without this everything must remain as it now is in those portions of the country, in uncertainty and confusion. It is upon this alone that the loyal people of the South and of Kentucky have relied for protection against those demagogues whose efforts have been to play upon prejudices and to array one portion of the people against the other.

Heretofore, sir, the loyal people of the South have relied upon the justice of their cause and upon the integrity of those who were to decide upon it. But their minds are now somewhat filled with fears, the more painful because hitherto unforeseen. They are now, from certain results which I shall mention, fearful that their cause may be looked upon as of doubtful merit, and that some of their rights, which they considered as defined by the wisdom and confirmed by the authority of the laws of the United States, are now, from the results of the reports of a certain committee, no more than idle claims, without either precision or security. I am sorry, indeed, Mr. Speaker, that I am unable at this time to offer that consolation to my constituents and the people of my district generally that I had expected, and that I can only join with them in regretting that some of the plainest questions of law, the results of which must in a great measure decide their prosperity, unity, and freedom, seem to be, since they have been submitted to a wise and sage committee of this House, perplexed with difficulties and uncertainties of which we never before dreamed, and which, I must confess, I am now entirely unable to understand.

But, Mr. Speaker, it would be presumption in me to impute injustice or anything but a true, legal, and just interpretation of the letter and spirit of the law as applicable to the facts of the case to the report of the committee on my case or any other, and we must therefore suppose that the determination of the committee, as contained in their report, embraces not that which policy dictated, but their true, conscientious convictions after mature deliberation under the difficulties surrounding the task of setting the first precedent in the construction of a law.

With a full appreciation of the difficulty of discovering some of the reasons which seem to have actuated the majority of the committee in arriving at their conclusions in this case I shall comment somewhat upon the law and upon the facts applicable to this case. This I shall do, not with the idea or vain expectation, or I might say even the wish of changing the opinions or votes of members of this House, but more particularly to simply justify the course I have taken in this contest. For if I cannot show that upon the facts contained in the affidavits upon the strength of which I served the notice of contest and which I submitted to this House in July last and upon which the House decided that if those alleged facts were true my competitor was not entitled to a seat here; if I cannot show upon a con-

sideration of these facts and the law applicable to these facts at that time I had good reason to suppose my competitor ineligible to a seat here then I am liable to the censure of the people of my district and of this House, for I have kept the people of that district a long time from being represented in Congress, and I have imposed trouble and expense upon this House without any cause or excuse for so doing.

And here let me say that I did not serve the notice of contest in this case until my constituents presented to me the affidavits containing the evidence of facts upon the strength of which this man was not allowed to take the oath in July last, and upon the decision of the House at that time I felt it to be my duty to my constituents and to my country to prosecute this contest. Having performed that duty, I shall be satisfied with the result, whatever it may be. For it is a matter, under the present state of this House, of little importance which might get the seat; but the principle is of importance to the people of my district.

Now, to come to the question before us. Are the facts contained in these affidavits, upon which the House decided last July that my competitor was not then entitled to his seat, sustained by competent and sufficient evidence? If so, then do they bring this case within the letter and the spirit of the test-oath law? And here allow me to remark that I do think that cases of this kind ought to be viewed in a somewhat different light from the ordinary cases of contest brought here. In ordinary cases the simple question is as to which of two opposing candidates has received the greatest number of legal votes, and therefore who is entitled to the privileges and emoluments of the position.

In this case the question is whether these Halls shall be occupied in plain violation of the laws of the country; whether a law which has been passed by Congress, the strict enforcement of which has been enjoined upon every Department and branch of this Government as necessary to its protection and safety from its enemies, shall, as I have before intimated, be a reality, or whether it shall become an obsolete law, the enforcement of which shall be as idle as the pope's bull of excommunication against the first Napoleon.

I shall attempt to comment a little upon the evidence in this case. I say now, as I said before the Committee of Elections, that if the facts alleged in these affidavits, upon the strength of which this House in July last refused to allow this man to take the oath, do not show treason within the legal and accepted construction of the words of that clause of the Constitution of the United States "of adhering to the enemy, giving them aid and comfort," then I will yield the case. If you will examine the decisions of Judge Marshall and other leading jurists, those who abhorred the doctrine of constructive treason and refer to the cases mentioned in Wharton's Criminal Law as to what acts of sending provisions, &c., to the enemy have been decided to be treason you will see that these acts are plainly within the law.

It has been decided by this House that if acts are proved against a man which, in the judgment of this House, incapacitate him from taking the oath, then the proper enforcement of the law requires that he should not be allowed to take it. Gentlemen here well know that there are many men in this country who would walk up here, after having given aid and countenance to the rebellion, and take the test-oath, upon the ground that it is unconstitutional, that it is illegal to ask them to take it, and that to take it under those circumstances would not be perjury, either politically, legally, or morally; and they honestly believe this to be the case. And here, allow me to say, that in an argument with my competitor, in a private conversation, he stated to me that if Jefferson

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Davis should appear in these Halls with credentials of election from the Governor of the State of Mississippi, and should see fit to take the oath of office, there was no constitutional power in this House to keep him from taking his seat here.

Mr. KERR. Will the gentleman allow me to ask him a question?

Mr. SYMES. Certainly.

Mr. KERR. I would ask the gentleman if the statement he has just made is supported by evidence that appears upon the record of this case, or does he propose to rest his case upon the statements which he now makes here?

Mr. SYMES. I expect to rest my case upon the evidence; but I am now simply making my argument.

Mr. KERR. That is not an answer to my question; but I will not interrupt the gentleman's time further.

Mr. SYMES. In answer to the gentleman I will say that I have just been laying down a few premises and propositions to found my case upon. I think that when a man who is to be admitted to these Halls simply because he has once taken the oath has stated that he considers that oath unconstitutional, and that the House has no power to keep out Jeff. Davis if he would take the oath, I think that such a fact does bear upon the case. It bears upon the question whether any credibility should be attached to what this man has stated.

Now, sir, as to the evidence in this case, I will state that I rest my case upon a few overt acts substantially proved, consisting in sending supplies to the enemy. If such acts are not treason, precluding, when proved, all question as to Treasury regulations, all question as to the intention with which the acts were done, then I concede I have no case.

Now, sir, in the deposition of Ellithorp there are proved four distinct acts of treason committed by Mr. Trimble. One of these acts is the delivery by Mr. Ellithorp himself of three casks of bacon to a confederate commissary agent, and the sending of the proceeds, which he received in confederate money, but exchanged for Missouri notes, to the firm of Flournoy, Trimble & Co., at Paducah. This is in evidence in the case and cannot be denied. It further appears in the evidence that in July, 1861, Mr. Trimble went down into Tennessee among the rebel camps, and when asked how the business was proceeding and how the pay would be he replied that it would be all right. When the attempt was made to get around this evidence upon the ground that, although it is proved that this partnership carried on this contraband business, this man Trimble did not know anything about it, that he was absent from the city, I desire to call the attention of members to this evidence, which is not stated in the report of the majority of the committee, that he was down there at the store, between the two rebel camps, in the month of July, 1861; that he passed on below, and that he returned, reporting that it would be all right as to the pay, &c., for the goods which had been sent to the confederate agent.

These are the overt acts of treason upon which I rely. I have prosecuted this case as I would prosecute a case before a court. I have not prosecuted it upon any question of "policy." I have prosecuted it upon the principle that when there are proved against a man acts which in their very nature constitute treason it is not admissible to prove the intention with which they were committed. Such a defense might be made where the acts proved were not technically treason, as mentioned in the report of the committee in other Kentucky cases. I stated to the committee that if the acts which I proved to have been committed by Mr. Trimble did not constitute treason I would yield the case, for the presumption was in favor of my competitor, on the ground that he had pretended to be a "constitutional Union man."

If Mr. Trimble knew nothing about these acts

how is it that they are corroborated by three witnesses in such a way that the evidence is not to be controverted? How is it that when Bolinger, in Cincinnati, in 1861, told Mr. Trimble that D. W. Ellithorp was there and that he was going to buy this lot of goods, Mr. Trimble told him that he was interested in the matter and not to say anything about it? It is not denied that these goods were to go to the confederate army, but Bolinger told him that Ellithorp said they were to go south into Tennessee.

Then, again, T. A. Duke swears, corroborating the testimony of Ellithorp, in regard to the large amount of goods which were sent up the Tennessee river. He states that in response to a request which came from the surveyor of the port of Louisville he examined a boat load of supplies which was permitted to go to Kentucky, but was transferred to another boat, without ever being landed in Kentucky, and went up the Tennessee river; and it could not have gone up that river at that time without going into the rebel lines; that these goods were marked F., T. & Co., and that Trimble told him (Duke) that he was a member of the firm, that it was Flournoy, Trimble & Co., and the evidence of the ex-confederate soldier Campbell corroborates the statements of Ellithorp about goods supplied to the confederates in Tennessee.

Gentlemen may talk about "policy;" they may talk about the "intention" with which certain acts were committed; they may talk about "constitutional Unionism;" but here are plain, palpable acts of treason, sworn to by one party who was a participant and corroborated by three others.

Now, sir, I do contend that the proposition will not be denied: if Judge Trimble knew any of those goods were to go South; if he was connected with this partnership and knew its object was to send goods South, and furnished means to carry on the business, then it is treason on his part, whether the goods ever reached their destination or not. If you will read the decisions of Judge Marshall and others on treason; if you will read the cases reported in Wharton's Criminal Law, and see in what cases furnishing money and provisions have been decided to be treason, then you will see that the facts in this case justify my conclusion.

And here, sir, I may argue it ought not to inure to a man's benefit that he pretended to be a Union man. I will dwell for a short time upon the evidence which is considered by the majority of the committee as setting aside the evidence which I have presented. The judge has brought up a dozen witnesses; and I will say they are among the most reliable men in the community, and they all swear to—what? They all swear that they do not know that the judge ever did these things. Well, I do not believe they do. They swear that they were constitutional Union men; and they further swear that the judge was a constitutional Union man. In my estimation I will say they are honest in their opinions, and that they are honest, constitutional Union men. What is it? It is simply this: that in 1861 they were for Kentucky neutrality and against secession, but that when the troops were called for, in violation of the Constitution as they maintained, they sympathized with the South, and have done so ever since, except some of his witnesses, who are good conservative Union men I know. Then there is another class of constitutional Union men different from these—I mean those who went into the rebel army to save the Constitution and who fought four years to save it.

But to proceed a little further, to show you the testimony which has been produced to combat the evidence I have presented, William Nolen is sworn. He swears that in 1861 he was surveyor of the port of Paducah to September 1, 1861, and that he was against seces-

sion, &c.; that he did not know Trimble ever sent any goods South, &c. I asked Mr. Nolen the question whether in July, 1861, when he was a United States officer under an oath to protect and defend the Constitution, he did not illuminate his house over the rebel victory at the first battle of Bull Run? He said he did. That is the evidence which is to set aside the evidence of one witness who participated in this contraband trade and of another who corroborated it.

Now, sir, I do contend that the test-oath law was intended to apply to just such men. There is no danger of men coming here to take the test-oath who fought in the rebel army. Many of them have too much manhood and principle to offer or to attempt to do it. I maintain that the test-oath was meant for such men as my honorable competitor, who could canvass and make speeches all day and contend that he was a constitutional Union man and at night send cargoes of goods and munitions of war to the enemy to break down the Constitution; who could come here in 1861 and on the strength of his being a great constitutional Union man obtain a permit from the Secretary of the Treasury to send \$6,000 worth of goods to Kentucky, which, as the evidence of one witness shows, were sent up the Tennessee river, and sent into the rebel lines without touching the shores of Kentucky. Yes, sir, that is the history of the Unionism that is to set aside the *prima facie* case of disloyalty.

To go a little further, sir, when the war was over, when the South was willing to accept, and was accepting, in good faith the constitutional amendment abolishing the cause of all our troubles, the only curse and blot upon America's fair fame, then this great "lover of the Constitution" canvassed his whole district, arguing, as was characteristic of him, that it was unconstitutional to thus amend the Constitution so as to make liberty commensurate with and inseparable from the American soil, and to say to the stranger that no matter in what language his doom may have been pronounced, no matter what complexion an Indian or an African sun might have burnt upon him, that the moment he should hereafter touch the sacred soil of America the chains would fall from around him and he would stand redeemed, regenerated, and disenthralled by the irresistible genius of American emancipation. It was to prevent this most happy consummation that this "lover of the Constitution," who wanted to come to Congress as such a great constitutional man, used all his efforts.

But, sir, let me go still further. We are told that this man is to be allowed to walk in here now and take his seat because he has already occupied a seat in this Hall without question. Was his admission questioned when he came here before? I was at that time a military commander in the district of western Kentucky; I do know that the man who ran against him was told to come here and contest the seat, but he was an old man and he knew the obloquy which would be heaped upon him if he should attempt to do it, and therefore he gave way and Judge Trimble came here and took his seat. But, sir, I beg leave to submit to this House upon what principle of law or justice that reasoning can be maintained which would give a man seat in this House because he has already occupied one here in violation of law for two long years? What is the beauty and perfection and security of your law if it be not the permanence of that law, if it be not that when the facts are the same the law is always the same? And I tell you, sir, that the only way in which you can restore peace and harmony to the disaffected portions of our country is by seeing that the laws are faithfully executed, and that every law passed by Congress shall remain until repealed to pronounce the same decision whenever the same facts arise.

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But again, I am told that this man is to be allowed to take the oath and occupy the seat here because it will not do to be so radical any longer. Mr. Speaker, I should be very sorry indeed to have my competitor or any other man kept from his seat in this House by any construction of law or facts which should be brought about by radicalism. But, sir, if it is radicalism to give a plain remedial law of our country a fair and just construction, such as it would receive in a court of justice, then I must hope to be considered a Radical. On the other hand, if it is conservatism to avoid the plain written laws of our country by a policy construction of them which excuses a man from the effect of a law for the reason that he has already violated them for two years, or that if he has betrayed his country, his friends, and his God he was moved by the same impulse and instigated by the same reason as Benedict Arnold when he betrayed us in the Revolution or Judas Iscariot when he betrayed the Saviour of Mankind—moneys. If that be conservatism, Heaven save us from it!

Let me say further that I wish to see this law construed upon the rules applicable to remedial justice. It is a remedial law, and it should be construed according to the rules peculiar to remedial justice. The first question to be considered is what the old law was, and then what was the mischief to be remedied, and what was the intent of the law itself which was to remedy it. In the first place, we know what the old law was. We know that any man could walk into this Hall and take the oath as a member provided he was twenty-five years of age and had been a citizen of the United States for eight years and an inhabitant of the State for which he was chosen, and no further questions were asked.

We had then arrived at a time in the history of our country when we were threatened with a rebellion which endangered the very existence of our Government. And there was the further reason, that we then had within those States still under the control of the Government greater enemies than those in open arms against us; men, as I have said, who, like my competitor, while by day they pretended to be for the Government and the Constitution of our country by night sent goods treacherously to the enemy to assist in breaking it up.

It was in consideration of such men as those, whom we could not watch continually, that this law was enacted; and it was intended by the very spirit and letter of its language—"aid, counsel, countenance, and encouragement"—to apply to those men. Why should not the language of that law be followed? Why was it put in the law?

Now, let me call attention to the great consideration relied upon by the defense in this case. The strongest point in the majority report, the strongest reason upon which it is based, is the fact that my competitor has already held a seat here for two years, and that it is proved by witnesses that he is a great "constitutional Union man."

Now, I will admit that had I been so fortunate or unfortunate as to have lived in another portion of this country; had I never personally known my competitor; had I never learned of his course or his inclination except from the speeches which he has made, I might have supposed him to be one of the greatest and most unflinching patriots in the world. If I did not know his course I could go to his speeches in 1862 and 1863 and find that which would lead one to believe that instead of sending supplies to the enemy, if upon his death-bed he would be almost ready to call his friends around him to catch his last words as in the delirium of approaching dissolution he would cast his eyes to Heaven, and cry out: "Oh! wrap the flag around me, for it is sweet to die thus."

I do not so much wonder that the gentlemen upon the Committee of Elections are so mis-

taken in regard to this man's position. But I would call the attention of the House to a few facts which have been proved before the committee, but which have been left out of this report of the majority. I would like to call their attention a little further to the evidence of the confederate soldier, Campbell. He stated that when he was in Tennessee as a confederate soldier W. F. Ellithorpe, the prominent witness against the contestee in this case, was arrested and brought to the confederate camp on the charge of sending information to the Federals North. But when he came to be tried he proved by the testimony of confederate soldiers that he had been sending supplies South to the confederate army, and that he received them from a firm in Paducah, and he was cleared upon that ground.

It is stated in the majority report that Judge Trimble was absent from Paducah when these acts were committed. Yet it is shown by the very next witness who was produced—but his evidence is left out of the majority report—that Judge Trimble passed South in July of that year to look after these supplies and the pay for them.

The committee asked the witness how he knew that Mr. Trimble was interested in these goods that passed up the Tennessee river, and he replied that Mr. Trimble told him he was a member of the firm. I supposed that the evidence taken by the committee in Kentucky and the depositions would be sufficient. But I have in my possession at the present time the affidavit of a man, whose name it is not proper to mention, who gives the name of a man, who might have been brought here had he been found in time, who would swear that gunpowder was sent to the rebel General Forrest and received by him from Trimble & Co., of Paducah.

But it would be out of place here to dwell upon the difficulty which I experienced in endeavoring to procure testimony in this case. I propose to dwell a little upon the facts as they are proved here, and to rely for my justification upon the action taken by this House in July last.

The affidavits proved and sworn to were already before the committee when they came to Kentucky. If I had had the time and opportunity, without having been compelled to bring my witnesses before the notary by attachments, I would have proved such a chain of circumstances, so many overt acts, that there would have been no question whatever as regards this Mr. Trimble. But the time has come, in the judgment of some gentlemen in this Hall, when the proof of overt acts of treason, when they were committed by a man who talks about the Constitution, yet who went to look after goods he had sent to the enemy, who did not deny that he was interested in those goods, is to be excused because he did it for money.

And it is proved by another witness that the goods went up the Tennessee river and were never landed in Kentucky. Are all these acts to be passed over as of no significance simply upon the ground of policy? If I had not supposed that the ruling of the committee and of this House would be the same to-day that it was last July I should not be here now urging this contest. I have felt justified in pressing this case in response to the calls of my constituents, because I was told in July last that if the facts then stated as reasons against the admission of Mr. Trimble could be proved they would be sufficient ground for his exclusion. I have expended much time and labor in presenting this case to the House. The Committee of Elections have ruled against me. Some of my friends are concerned lest the result in this case should ruin me in the section from which I come, because, as they think, the people of my district will conclude that I have been wrong in this contest because I did not succeed. I have no fears upon this point. If the majority of this House shall

agree with the majority of the committee in holding that this man is entitled to the seat because he has been here before no man will submit with better grace than I will. And, sir, I would remind those enemies of mine who will be gratified at my failure in this contest—I will remind those friends who are fearful that this failure will ruin my prospects, professional and otherwise—that I am a young man; that I am one of that band of private soldiers who, in 1861, came here to defend this capital. And here I am reminded that my competitor, in his extreme love for the flag of the nation and the Constitution of the country, voted against allowing to the small remnant of these men an extra bounty of \$100. This man, who came here as a Representative upon the strength of a canvass which he conducted upon the sole ground of opposition to the constitutional amendment, voted solitary and alone, with no copperhead on the north side of the river to vote with him, against indorsing the few of those men that were yet in the land of the living, by giving them \$100 additional bounty.

Another reason that I am told has operated in favor of my competitor, and will cause men to vote for his admission, is, that he is a very harmless member of Congress for the kind, and that whatever his sympathies may be there is no danger of his originating any measure that will do any great harm; and as the district is bound to send a Democrat he is the least possible evil star of that kind. I admit this is of more force than any other defense offered.

I allude to these facts, not because they are evidence, but because they are as good evidence as many of the facts which have been proved here by this man to show that he was not a rebel sympathizer, but was a great "constitutional Union" man.

And, sir, I would like to refer to another vote which this man gave while holding a seat in this House. I am not assuming that it is evidence in the case; but it is of as much weight as the evidence which has been introduced by him to rebut the *prima facie* case made out by me. Sir, right upon the heels of the rebellion, when the last rebel gun had scarcely ceased to resound in the land—when it was a grave question with many leading financiers of Europe and of our own country whether, after surviving the greatest conflict of arms that any Government was ever called upon to meet, we should not be engulfed in financial ruin—my competitor stood here again, solitary and alone, with no Democrat to vote with him, and voted in favor of repudiation. I simply mention this to rebut the idea that his sympathies were with the Union.

One witness who swore that he had always considered Judge Trimble a rebel sympathizer was asked by the judge, "Have you not always considered me a national Democrat?" The language of the witness in reply to this was, "If Jim Buchanan, the traitor, and John C. Breckinridge are national Democrats, judge, you must be one." [Laughter.]

That, sir, is evidence in this case. It is not a mere statement. And now, as I find my time is drawing to a close, and as I find it will be of no great use to continue this argument further, I will only say that the object of my remarks has been to show this House I have conducted this contest for the people of my district on the same principle that I would conduct a lawsuit, and only ask that the law and facts would be applied in the same way. I wish to mention a few general facts in addition. I want to remark that it will be said and heralded by my Democratic friends and others in my district that I have been their enemy, that I have been trying to get into this Hall to represent the people against their wishes. I ask them whether it is not better to have men here who can secure some local legislation for them and for the good of this country than to have one here whose industry and talent are used

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for the simple purpose of voting "no" on every question which may be brought up.

I believe that the day will again come when the old State of Kentucky will send men here such as were her Representatives in the days of Clay and Crittenden, patriots to the whole country. I do not believe that a State with the past record of Kentucky, with the recollection that when her people were united and followed the teachings of such patriots, how happy, how prosperous, how rich and great she was compared with her condition since she has been adhering to the advice and following the policy of such sectional politicians as her latter-day saints, who advise her to a course that will only widen the breach between her people and also the General Government, who ride into office on the prejudices of the people, will long remain so. But I do think that the home of the Clays, Crittendens, Marshalls, Hardings, Godloes, and others as good and great, will yet emerge from her disaffected condition, from the mutations and changes which revolutions always bring, and will shake off those sectional politicians which now hang like an incubus upon her, those natural tails to a great civil war, and will again assume the name of the patriot State, and send men to these halls who will not prate continually about the prejudices of any section, North, South, East, or West.

Mr. Speaker, I will say, so far as regards this contest, it will be better for me, it will undoubtedly be a good thing for me personally, but it will weaken the Union party in my district, for whose benefit I am working.

It is said there was no doubt of his loyalty then. If there was, I am willing to give him the benefit of that doubt. I am more lenient than our illustrious President, who said "whenever you hear a man prating about the Constitution, spot him—he is a traitor." I am willing to give him the benefit of the doubt in favor of his loyalty until the contrary is shown, but when direct evidence shows the contrary it should remove the doubt.

I am sorry, sir, I did not have an argument prepared which I might have read before the House, which would have been more consecutive and presented my case in a better light. But I do not make this argument with a view to change the opinion of this House, although I might if I wished had a minority report to do it. I only make it in justification of the course I have pursued and to show this House and the people of my district I have answered their demand, made immediately after the election, to come here and make this contest. In July I was told if I could present the evidence I indicated that my case would be proved, and I have done so. If I were to take up the evidence to analyze it as it should be my time would run out. I only hope, in conclusion, that the time will again come when we will not be controlled by policy and expediency but by the rulings of law. I hope the time will again come when justice will govern. I hope the time will come when the remedial laws of our country will be considered according to their meaning and not according to policy. Either let the laws be carried out or repealed. It is a question of policy whether or not this law, passed during the war, ought not to be repealed ere long, but should not be a question of policy about strictly enforcing until it is repealed. The only way in which you will ever command respect in the disaffected portions of our country at this time is upon the basis that every law must be strictly construed and rigidly enforced.

Sir, I am sorry that I have taken up so much time in preliminary remarks. I did not suppose an hour was so short until I came to speak before the House. I have no time to dwell upon the evidence. I have no time to show that the very evidence upon which the gentleman from Missouri, [Mr. McClurg,] who dissents from the majority of the committee, relies has been left out of the report of the majority.

I am sorry that I cannot have fifteen minutes more to dwell upon that, and to show that there is evidence in this case which ought to have sustained me; but I am satisfied it will be objected to.

[Here the hammer fell, the hour having expired.]

On motion of Mr. CHANLER, by unanimous consent, the time of the contestant was extended half an hour.

Mr. SYMES, (resuming.) Mr. Speaker, I thank the House, and I am very happy to find that there is a courtesy on the other side of this House among the Democrats that has not existed on the other side of this contest. I am happy to find that the day is again coming when men can differ on political questions without carrying their political differences into every other circle, a thing which has proved such a great curse to the State in which I have the good fortune to live. I trust the time is coming when we shall be able to discuss questions and present them before a committee without personal animosities. But I do not wish to occupy my time with such matters. I wish to refer briefly to some of the evidence in this case.

It is claimed by the majority of the committee in their report that it has not been proved by "clear and satisfactory testimony" that this man was connected with those acts of which I charge him. Now, let me ask, was I bound to do before the committee that which I should have had to do if I had been prosecuting him for treason before a court of justice? Is it the judgment of this House that it is not sufficient to prove an act by one witness, corroborated by several others, but that it must be made so clear and distinct as to be beyond all doubt, and that two witnesses must swear to an overt act of treason, as is necessary in prosecuting a man for his life before a court? If that is so, then I am willing to admit that this evidence might have been a little more corroborated.

I have proved that when Bolinger talked to Trimble in Cincinnati and told him that these acts were going on, and that \$4,000 worth of goods were being purchased and sent to the South, Trimble told him as a friend not to say anything about it, for he was interested in it himself. Further than this, Duke swears beyond a doubt that he examined a boat load of goods at Paducah marked "F. T. & Co.," that Trimble told him that he was a member of that firm, and that the goods were allowed to go on up the Tennessee river into the rebel lines. This, mark you, was at a time when Judge Trimble had procured from the Secretary of the Treasury of the United States a permit to ship \$6,000 worth of goods a month to Kentucky. The proof shows that those goods were received in Tennessee and distributed to the confederate forces, and to preclude any rational doubt that Judge Trimble knew that this was going on we have evidence that he himself went down within the rebel lines and returned and reported that the pay would be all right for those goods.

Then, to look a little further at one point I have mentioned, the ex-confederate soldier, William Campbell, swears that Judge Trimble told him in 1861, before he entered the confederate army, that if he would enter that army he should have his old position when he returned. These are facts that cannot be denied, for they are sworn to and not contradicted.

I desire to state further, that the very morning my case was set for hearing before the committee I discovered that General Hurlbut was in this city. I knew he was in command in that district in 1862-63. He told me that he had official information on record that this contraband trade was then carried on there; that he had quite a distinct recollection that a train was captured near Union City on which were goods marked as having come from Trimble & Co. I asked that that witness might be examined, but they said the case must be closed, and they would not allow him to come

before them and testify. I did not insist upon it because I supposed the committee were satisfied with the evidence they already had.

Now, it is stated in the majority report that the principal facts are contradicted by witnesses. Now, the great point upon which that report is based, the point upon which I knew it would be based when I heard the cross-examination of the principal witnesses by the chairman of the sub-committee that came to Kentucky, is as to the intention with which these acts were committed.

I investigated the law of treason. Then I told the committee that if these facts did not constitute treason of such a character that it did away with any question as to the intention of the acts I would yield my case.

Now, it is said that Judge Trimble could not have been engaged at that time in this contraband trade, for the reason that he had made a canvass as a great Union man just before that time against Hon. Henry C. Burnett. One of the witnesses swore that Mr. Trimble was in favor of coercion. I asked that Mr. Trimble might be sworn before the committee in order that I might ask him the question whether he had been a coercionist or not. When we were having the first joint discussion at Cadiz, the home of Hon. Henry C. Burnett, as I knew that the audience were almost all Democratic, and that the worst charge in their view that I could make against my opponent was that he was a coercionist, I did make that charge against him. He replied to that charge in words substantially like these:

"I said in 1861, when speaking from this stump in opposition to Mr. Burnett, that I would not vote men or money to subjugate the southern States; I have said so ever since, and I stick to that doctrine now."

And yet this man is to be excused upon the ground that he was for saving the Government.

These are the facts and circumstances against this man. I could bring Union men by the dozen who would testify that they believed that Mr. Trimble carried on this contraband trade, and I could bring Democrats by the hundred who, if they were put on oath and would testify, would swear that they thought that Trimble carried on this contraband trade. I have never heard men speak of it there but what they laughed about the fortune which Judge Trimble had made at this business. Yet men are brought before the committee by the dozen to swear that they did not know that Judge Trimble ever did these things. It is just like the case of the Irishman who went before a lawyer to get him to defend him against the charge of stealing a watch. "Why," said the lawyer, "I understand there are two men who will swear that they saw you steal the watch." "Be aisy, now," replied the Irishman; "niver d'ye mind that at all; and can't I bring a dozen who will swear that they did not see me steal it?"

Upon that principle this defense has been conducted. Sir, an examination of the evidence will show that the case against the contestee has been made out by clear and satisfactory testimony. I do not say that it has been made out exactly as it would have been if Judge Trimble was to have been hung for treason. I did not want to put it on that ground. The case is very different. If you show that a man in Kentucky has been guilty of these acts he is not going to be hanged for it; it only helps him in rising to high position in that State. I simply wanted to show the truth by proper and sufficient evidence, and give him the full benefit of it both ways.

Again, sir, I call the attention of the House to the fact that I put upon the stand about one dozen witnesses who all swore that they had always considered Judge Trimble a rebel sympathizer. It is shown, it is true, that for the purpose of getting these permits he pretended to be a great constitutional Union man; but, sir, if you will look at the evidence you will see that according to the testimony of many

witnesses, when a man was recruiting for the rebel army in Kentucky, he made speeches for "the Constitution," and asked men to enlist in the rebel army "to save the Constitution."

Again, sir, it appears by the evidence of Mr. Hall, which is not mentioned in the report of the committee, that packages of goods in 1864 were sent by this firm, of which the contestee was a member, marked to go to places in Kentucky when in fact the persons to whom they were directed lived in Tennessee, outside of the lines; and it was unlawful and treasonable to send anything there. This was in 1864, although the pretense is made that Judge Trimble had nothing to do with such matters after 1861.

Now, sir, I wish to mention another combination of circumstances in this great chain of circumstantial evidence, which if I were before a court and jury I would defy any man to meet successfully. After the return of Ellithorp from his journey in connection with this great contraband trade, which was carried on under the guise of building a railroad in Tennessee and sending goods to the men engaged upon it, when in fact the goods were delivered to the confederates, W. F. Ellithorp testifies that he procured seven sacks of coffee from Judge Trimble's store to send to the enemy. This is not disputed, and he states that he took this through the lines himself.

Is evidence of this character to be set at naught upon the ground that Judge Trimble was a great "constitutional Union man?" It is in evidence that at the most critical period of the rebellion, when the Government needed to have its armies reinforced by thousands of additional recruits, when the civilized world was looking upon our conflict for constitutional liberty with doubt, wondering whether this great Government of the people should fall for the want of a few thousand more men—at that period this great lover of the Constitution told the people of his district that he would not give one more man or one more dollar to carry on the war. Yet because this man has already served as a member for two years it is claimed that he must be admitted now in spite of the record which is proved against him.

It would take, as gentlemen must perceive, two hours, without rambling, to present the facts and the law of this case. But, sir, before I close I would briefly refer to the question of law involved, and upon this question I feel that I can speak with some confidence, because I have extended my investigations over a period of nearly two hundred years, and I find that the principle upon which I stand has been clearly established as a principle of the common law during that whole period. That the principle that where the candidate who receives the greatest number of votes is ineligible, and the electors had notice or a good reason to believe he was disqualified, all votes cast for him are thrown away and the next candidate is entitled to the seat, as he has received the only legal votes cast, has always been recognized both by the courts of law and legislative bodies.

Now, if this were a question of doubtful constitutionality I should not wonder so much, but it is only an ordinary question of common law, and its right decision is reached by simply traveling for a few years the highway of precedent; and, sir, having traveled that highway, I stand here to say, without fear of contradiction, that if you will investigate the subject you will find I am right. I have not time to mention cases in detail. There are many that I might mention. The only American authority upon this point is Cushing's Parliamentary Law, and he positively declares that this is the American law. But my time is again up and I must close. In conclusion I will say that I have endeavored to discharge my duty by prosecuting this contest so as fairly to bring my competitor's record before the committee. It will be said that I have been the enemy of many of the people of my district for trying to

keep their Representative out, but the time will come when they will be satisfied that he is and has been the worst and most deceitful enemy they ever had. He has proved himself in this contest exactly the opposite from the principles he pretended to entertain before his constituents, and his course shows that the wishes and interests of his constituents he will at any time sacrifice for his personal benefit. And if after having proved these acts against my competitor it is the opinion of this House, as it seems to be of the committee, that my competitor, proving himself a violent Union man and a coercionist, throws a reasonable doubt around them in his favor, or shows that if he did commit these treasonable acts he did it not because he sympathized with the rebellion but to make money, and should therefore be admitted, I abide by the decision.

Reconstruction.

SPEECH OF HON. ALBERT G. BURR, OF ILLINOIS, IN THE HOUSE OF REPRESENTATIVES, January 16, 1868.

The House having under consideration the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867—

Mr. BURR said:

Mr. SPEAKER: Distrusting as I do my own ability to discuss in a manner satisfactory to myself the subject which is under consideration in the presence of those whose legislative experience and ability so far exceed my own, I almost tremble, sir, in assuming to say anything on the subject. Let me remind the House and its members that the proposition under discussion is not a dry technicality; it is not for the purpose merely of deciding a given construction of the Constitution; but it is a decision in the legislative branch of the Government of the most important question which could be pressed upon the House for discussion, involving, in my humble judgment, the prosperity, if not the very existence of a republican form of government on our soil. The fathers, in framing the Constitution under which our Government to-day exists, were prompted and governed in their action by the spirit of compromise and a desire to harmonize the different conflicting interests represented in the Convention by the delegates from the various States. Let me ask attention briefly to the letter sent forth by the Convention which framed that Constitution, which letter is certified by the signature of George Washington himself, showing the Constitution was adopted as the result of a spirit of compromise, and showing at the same time, sir, the views which our fathers held of the powers vested in the different branches of the Government by the Constitution. A clause of that letter is as follows:

"It is obviously impracticable in the Federal government of these States to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered and those which may be reserved; and on the present occasion, this difficulty was increased by a difference among the several States as to their situation, extent, habits, and particular interests."

Sir, that difficulty, if we will view the case with candor, in the present day has been in some degree diminished, for by an amendment to the same Constitution, which amendment forms to-day one of the vital parts of that instrument, it is expressly provided what rights may be or are reserved by the people of the States, and what are granted by the people of

the States to the General Government. It shows that our Government is one of delegated powers, delegated by the people to the Government in its several departments. This amendment, short and comprehensive, is as follows:

"ARTICLE X.

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Now, sir, in our form of government, as well as in a monarchy, there is somewhere existing the principle which we may term sovereignty. Does it exist in our form of government in the Executive? No. In the legislative department? No. In the judiciary? No. In all combined? No; but in the people, and all these departments of Government can exercise rightfully and constitutionally only such powers as the people have granted or delegated to them in the Constitution, which should be the rule and guide in the exercise of power for each and all of them.

But, sir, why have we three instead of one department in our Government? Without having time to read or quote the text, I will refer to eminent authors, among them Story and other commentators on different parts of the Constitution, showing the House that these vested powers in these three departments were so diffused under limitations and restrictions in the Constitution as to constitute guards of the liberties of the people against the invasion or usurpation of power by which their liberties would be endangered if they were under a monarchy, where one man's authority or power alone fills the place of the executive, legislative, and judicial departments as existing in our form of government.

It was well remarked the other day by my colleague, [Mr. MARSHALL,] that it is the theory of our Government so long as any one of these departments remains true to the people and faithful to the Constitution, just so long will the individual citizen have a guarantee for his liberty against any usurpation by either or both of the other departments.

Now, sir, with that statement of the interpretation of the Constitution, which I think is fair, that it is one of delegated power to each of these departments of the Government, let me ask the question, what is the framework of the bill now before the House? Is it to extend the limits of the executive power? No; but to restrict it within narrower bounds than the Constitution defines and expressly grants. Furthermore, it limits and circumscribes the bounds of action of the judicial department of the Government; and in proportion as it trenches upon the powers of the two, it assumes to extend beyond constitutional limits the authority and power of the remaining or legislative branch of the Government.

In the first section of each of the several articles of the Constitution creating these departments of the Government it is provided that the power in each direction shall rest in that department. As for instance, the comprehensive language of the Constitution in article one, section one, is that—

"All legislative powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and House of Representatives."

By what authority can we pass an act to change the legislative power and delegate it to the judicial or to the executive department? That language is no more clear and explicit than is the language of article one, section two, which prescribes the power of another department of the Government:

"The executive power shall be vested in a President of the United States of America."

And of article one, section three, which prescribes and vests the judicial power in another, by the following words of express grant:

"The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish."

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But what does this bill propose? It proposes to nullify that section of the Constitution which places in the hands of the President of the United States the executive power of the nation. It proposes, in indirect terms, but in fact, to repeal that clause which says that he shall be Commander-in-Chief of the Army and Navy. And how do gentlemen attempt to answer that statement? The best argument I have ever heard came from the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] who admitted with all candor—and I admire his candor—that in these reconstruction acts he did not consider himself limited or bound in his action by the Constitution, but that he was legislating outside of it.

But other gentlemen, his associates, see fit not to make that candid admission, but claim under various clauses of the Constitution some degree of authority for the measure which is now under consideration. And what is the first? I will refer to them briefly and give my views on the subject. If I am correct in the views which I entertain of the Constitution it falls far short of giving any such power.

Among the powers that are delegated to the Congress of the United States is the power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, namely, the powers relating to coining money, organizing and providing for the Army and Navy, the militia, the establishment of uniform rules of naturalization, and various subjects enumerated; but last of all it says, "and all other powers vested by this Constitution in the Government of the United States and in any department or officer thereof."

Now, what power is vested by the Constitution in any department of the Government so far as the command of the Army is concerned? Where by this instrument does that power rest? The instrument expressly says that the President of the United States shall be, not a commander, but the Commander-in-Chief of the Army and Navy of the United States. But gentlemen say they have a right by legislation to provide for carrying into execution these powers. True, but are they attempting in this bill to carry into execution that power which is granted to the President as Commander-in-Chief? Not at all, but they are limiting that power. A distinction might be drawn here between the right of carrying into execution a given power and the right to destroy, paralyze or limit that power as vested by the Constitution. But as that clause has been sufficiently commented upon by my learned and eloquent friend from Indiana [Mr. KERR] this afternoon, I propose to refer very briefly to another.

The Constitution in another place, in this same enumeration of the powers of Congress, says that the Congress shall have power to make rules for the government and regulation of the land and naval forces. Under that clause gentlemen claim the right to prescribe that a particular individual may be vested with the power which is vested in the President by the Constitution to issue orders to the Army and Navy. They urge that by this contemplated action the President will not be at all relieved from his obligation to "take care that the laws be faithfully executed," and to "preserve, protect, and defend the Constitution of the United States; and it is claimed that because he is not in express terms relieved of that responsibility his power is not abrogated by this act.

But, sir, suppose, as stated by my friend from Indiana, [Mr. KERR,] that the President by constitutional authority issues orders for a colonel with his regiment to report for service at a given point, and the Commanding General under this proposed act issues contravening orders requiring the same officers and force to enter another and different field of service; shall the orders of the President or General be obeyed? If of the President, does not Congress yield its authority? If of the General, is

not the act so requiring in direct violation of the Constitution, and under the executive responsibility, which gentlemen say is not removed, will not the President insist on obedience to his orders issued in conformity to constitutional power and obligation combined? and cannot gentlemen see in this conflict of authority the possibility of a collision endangering our form of government in all its points?

But, Mr. Speaker, what is the exact authority embraced in the clause giving Congress right to establish rules? We can find an interpretation of the extent of this right by comparing this clause with another on the subject of rules, and when the same terms are employed in a given instrument, the most clearly defined one that you can find furnishes the standard by which to interpret the same term in another part of the same instrument. In another clause it is said:

"Each House may determine the rules of its proceedings."

That is a power unquestioned anywhere. What are the rules of its proceedings? The right to prescribe the hour of its adjournment; the right to put in motion such legislative machinery as may be necessary to carry on the business of Congress under the Constitution and in conformity with its provisions, but never in derogation thereof. Does any gentleman claim that under that right to prescribe rules for its government, this House can legislate to the effect that this act, when passed by a bare majority and shall have the force and effect of a statute-at-large without the executive sanction of being passed over a veto? That is not the extent of the rule, for the reason that it would conflict with other provisions of the same Constitution which confer the right to make rules. The rule must be in conformity with and not in conflict with the Constitution, which authorizes the promulgation of rules. And so in this case. "The Congress shall have power to establish rules for the government of the Army and Navy." Does that imply that Congress shall have power to divest the President of the United States, a coördinate branch of the Government, of his well-defined power under the Constitution to command the Army and Navy of the Union? If it would authorize the one it would sanction the other.

But, sir, these powers were distributed by our fathers in different departments of the Government for a wise purpose; and I know of no clearer indorsement of the wisdom of our fathers in that respect than to quote from an article which a few years ago was understood by our friends, who constitute the majority upon this floor, to be the law and the gospel of the Republican party. I adopt the sentiment which I shall quote as being correct political doctrine to-day. I read from one of the planks of the Republican platform of 1864:

"That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power"—

that is why the powers of the Government were vested in different departments, to constitute a balance of powers, one checking the other, and each holding all in such well-balanced regulation as to secure the liberties of the people—

"is essential to that balance of power on which the perfection and endurance of our political fabric depends."

According to that something is to be accomplished. What is it? The "perfection and endurance of our political fabric." And how is it to be secured? By preserving that balance of power upon which it depends. How is that balance of power to be maintained? By securing to each State "the right to order and regulate its own domestic affairs in its own way." That is the way to maintain the balance of power, and that power, except so far as reserved to the States respectively or to the

people, is vested in three, not one department of our Government.

That balance of power is essential to the preservation and perpetuity of the Union, and that perpetuity of the Union is necessary as a safeguard to the rights and privileges of every citizen in the Union.

But further, let me instance some cases which I think would be parallel with this, so far as the exercise of power by the three departments of the Government are concerned. Let me ask whether, in the view of any member here, the President could command or order the Supreme Court to enter a given decree—whether he could dictate a judgment to that court? Certainly not. Could he appropriate money or establish a rule of naturalization? No. Why? Because the right to do the one is vested in the legislative branch, the right to do the other is confined to the judicial department, and in either case he would be trenching upon the powers of another department of the Government. When, then, either of the other branches of the Government proposes to interfere with his constitutional power may we not well apprehend that we shall have a conflict among the departments of the Government or, if not a conflict, that the public mind, when the Constitution is thus openly disregarded and the rights and privileges of one department are usurped by another, will become so far demoralized as to lose all respect for that instrument which its public servants from day to day disregard and trample under foot?

Again, sir, could the judiciary establish post offices or appropriate money? Whenever the judicial department should assume so to do it would be trenching upon the functions of another department. Could it appoint an officer or prescribe rules for the government of the Army? Certainly not; because it would then invade the province of other branches of the Government.

But, sir, the attempt is made by gentlemen here to justify this exercise of power upon the ground that it is the duty of Congress by the Constitution to "guaranty to every State in this Union a republican form of government." On this point I wish to ask a question—old, oft-repeated, but never yet answered. Is Virginia a State to-day? If it is a State for one purpose it must be a State for all purposes. If not a State for every purpose it is not a State for any purpose. If it is not a State then your legislation is not sanctioned by this clause, because your only authority is to guaranty to a State a republican form of government. What is a State as contemplated by this clause? It is a municipal organization in possession of an executive and in possession of a legislative branch; for the very same clause of the Constitution provides the mode of appealing to the General Government for the exercise of this power to guaranty. It provides that the appeal shall be made by the Legislature if it shall be in session, or by the executive if the Legislature be not in session. Has Virginia, by the recognition of this Congress, an executive and legislative branch? If so, and those branches of the State government are in successful operation, why do you term that State a military district and prescribe that a military officer shall exercise supreme authority, executive, judicial, as well as every kind of power that exists in any branch of the Government?

But sir, admit for one moment that there is authority for the exercise of such power, and that circumstances call upon Congress to do it, let me ask this question: Does this bill guaranty to Virginia a republican form of government? Is it a republican form of government when one man dictates the orders of the courts; when one man removes at his sovereign, unquestioned will and pleasure all civil officers from Governor down; when one man, ranking simply as a colonel, overrides all legislative acts and controls all departments of the Gov-

ernment, setting aside the will of the people, as recorded by their public acts? Is that a republican form of government? If it be so, then republican governments ought to sink and disappear from the sight of man forever.

Let me follow out the line of argument adopted by my friend from Massachusetts, [Mr. DAWES,] whose ability and candor I equally admire. He says that these States, by rebellion, lost their republican forms of government. I admit it. When the State of Virginia, (and I name that as one of the old original thirteen States,) when that State assumed by an act of legislative usurpation to pass an ordinance of secession, that moment the State ceased to be in harmonious relation with the Government of the United States and with her sister States under the Constitution. But had not Virginia been before that time in possession of a government republican in form? Most assuredly it had, or our fathers were greatly in error. When the result of battle and the tide of war brought a period of reflection to the minds of the people, and they, in the exercise of the same power and acting by the same volition, repealed that act of secession, did away voluntarily with all their offensive legislation, and assumed again the functions and powers of a State subject to the authority of the Constitution, resumed the position as a State organization which they had possessed before the period when mad fanaticism passed upon their minds, did they not then come again into possession of a government republican in form, as they were in 1858, before their attempted secession from the Union? If their framework of government was republican in form in 1856, 1857, 1858, or 1859, why does the same form of government, in the hands of the same portion of the people of the United States, and moved in the same channels, cease to be republican in form in 1868? If by rebellion they lost their republican form of government, then, by renewed allegiance to the Union that republican form of government was restored, else our fathers were greatly in error.

But, sir, it was stated the other day by my eloquent friend from Ohio [Mr. BINGHAM] that this is a contest between the friends and enemies of republican constitutional government. Sir, in the discussion of a constitutional or political question, or any question affecting the interests of us all, I dislike to hear any gentleman of any class denounce anybody as an enemy of his country. But, sir, when denunciation comes—when either by express terms or by way of implication I am forced to the conclusion that opprobrious epithets are to be applied to one class in contradistinction from another, I propose to examine where such terms may correctly be applied. What is a friend of a constitutional form of Government? One who adheres to that constitution in its letter and spirit. My friends on the other side need not point me to the rebellion in the South. They need not point me to the treason of a Davis, to the efforts of a Lee, or to the mad fanaticism of the masses of the people of the South. The rebellion has ceased. Members upon this floor have never been engaged in that rebellion. Gentlemen may use whatever language their own sense of propriety may dictate upon that subject. But, sir, for one I can say that I have never sympathized in any manner with the rebellion nor have my political associates on this floor. I could not, sir, when in 1860 I saw its first deadly shaft aimed at our own honored Douglas, the idol of Illinois. And when I saw the blow aimed at the institutions of my country, and the effort to strike down the flag of my fathers, I could not do otherwise than denounce and repudiate every man standing in active coöperation with the rebellion. Yet, sir, I adhere to the Constitution of our common country, and resist unconstitutional legislation as I did unconstitutional secession; and he who would willingly and wilfully strike down one clause of that

Constitution is to that extent as much a traitor to his country as though the same effort were made upon the bloody field of battle. The man who is in favor of adhering to the Constitution, preserving it in its purity, obeying it in all its forms—that man is a friend of a constitutional form of government; and whoever is willing to depart from the ancient landmarks to abrogate one clause of the Constitution, to take away powers expressly delegated to one branch of the Government and vest them, against the provisions of the Constitution, in another—that man is perhaps unwittingly, but yet, in point of fact, to that extent actually an enemy of the institutions of his country.

Now, sir, I wish to renew a point which has been already made on this side of the House, and which was attempted to be answered by my colleague, [Mr. FARNSWORTH.] The war upon the field has ceased. We are to-day in a state of peace, so far at least as regards the movements of hostile armies. What was the promise upon which the war was prosecuted? My colleague said that the Crittenden resolution to which I now refer was a tub thrown to the whale of secession. A tub thrown to the whale! That, sir, was not the language used when in the most solemn hour of our nation's history every member on this floor, with but two exceptions, voted for a resolution declaring that the war "was not waged in any spirit of oppression, nor for any purpose of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or established institutions of the States." There are the negatives. There is a statement of what the war was not waged for.

Here is what it was waged for: "To maintain and defend the supremacy of the Constitution." For that and something else—what? "To preserve the Union." How? "With the dignity, equality, and rights of the several States unimpaired." Where are the rights of the old State of Virginia, the mother of Presidents, to-day? What has become of her dignity and equality as one of the original thirteen whose wisdom created the Constitution and organized under it our glorious framework of Government? Our friends say her "dignity, rights, and equality" were submitted to wager of battle and staked on the fortunes of war, with adverse results. But, sir, the resolution to which I have referred pledged the Government to sustain that State and preserve her dignity, rights, and equality unimpaired. The act of attempted secession disturbed her harmonious relations—if you please, interrupted her republican form of government—and the object of the war on the part of the Government was to restore that harmony and preserve her dignity as a State in the Union—not a district outside the Union; to maintain her equality as a State under the Constitution—not a military department, or a dead State "outside the Constitution." In other words, sir, the avowed object of the war was to guaranty to Virginia, in common with other southern States, a republican form of government. And those States having each resumed at the close of the war the same constitutions, modified only by amendments prohibiting involuntary servitude and repudiating the payment of the rebel debt, that such States respectively possessed before the commencement of the war, are they not each as much and as fully possessed of governments republican in form as before the rebellion occurred?

But again, sir, let us notice a distinction not made by gentlemen in arguing this question of power under this clause giving Congress the right to guaranty to each State a republican form of government. It is not a grant of power to create for any State a republican form of government; that is the right of the people of that State. The very language of this clause—"guaranty to each State a republican form of government"—presupposes such republican

form of government to be already in existence; and such was really the fact. There were representatives assembled from the original States to act as delegates of the people in forming the framework of a government to supersede the original "Articles of Confederation," which framework became necessary, in their judgment, "in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty" to themselves and their posterity; and when their labor was completed the world gazed with admiration upon the peerless Constitution of 1787; and our fathers, in publishing it to the world, certified that it was "done in convention by unanimous consent of the States present" on the day when it was attested by the signature of the "father of his country."

Recurring again to the letter published with the Constitution by order of the Convention, we find the statement that our fathers found it difficult to draw with precision the line between those rights which must be surrendered and those which might be reserved, which difficulty was increased by a difference among the several States as to their situation, extent, habits, and particular interests. But the great desire to secure the ends set forth in the preamble controlled all objections, and because it was found to be impracticable to secure all rights of independent sovereignty to each State and yet provide for the interest and safety of all, every State represented then and there surrendered some of the attributes of sovereignty and delegated to the General Government certain powers which, in the absence of that grant would remain in or be, in the language of the tenth amendment, "reserved to the States respectively or to the people." Among these attributes of sovereignty so surrendered by each State, and thereby delegated to the Federal Government, was the right to enter into any treaty, alliance, or confederation, coin money, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign Power, or engage in war, unless actually invaded or in such imminent danger as forbade delay, thus surrendering on the part of each such attributes of sovereignty as might in their separate exercise endanger the whole. It was but natural for each to ask the question, "If we surrender the right to preserve, either by arms or treaty, our own State dignity and equality, how can we preserve our republican form of government of which we are already in possession?"

The answer was inserted into the Constitution as a clause binding upon the General Government and intended to compensate the States respectively for a surrender of the attributes of sovereignty in that respect; and such clause simply declares that the United States shall guaranty to every State in this Union—what each already possessed—a republican form of government. That guarantee was not to operate simply for a day, nor cease to be binding at the will of a party, but holds in all its fullness to-day firmly as when first extended by the General Government to the original States. In that clause the United States guarantied the separate existence of Virginia under her then form of government, with such changes and modifications as her people might from time to time ordain and establish not inconsistent with the Constitution of the United States nor contrary to her duty under the same. And, sir, I maintain that when the war ceased and the people of Virginia readjusted their disturbed machinery of State government and came again into harmony with the General Government, under the same constitution, once recognized by Congress as republican in form, that very moment Virginia could claim the guarantee, and the United States could not in good faith withhold or

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refuse it. In this view each of what are now termed military districts, and which are to be by this bill merged in one grand military empire, are sovereign States, with their several governments guaranteed by the United States, and their "dignity, equality, and rights" guaranteed by the very party which this day proposes, by the madness of fanatical legislation, to strike down and abrogate those same governments in order to perpetuate its own unconstitutional power by southern negro rule in each of those ten States.

But, sir, not only does this bill abrogate executive power and usurp executive functions, but in express terms denies to the judicial branch or department the exercise of the powers granted to it by the people in their Constitution. It provides in its first section that the governments in said States, respectively, shall not be recognized as valid or legal State governments by the judicial power or authority of the United States—thus prohibiting the judiciary from hearing and determining any question involving the existence of any of those States, while in the Constitution it is provided that "the judicial power shall extend to all cases in law and equity arising under this Constitution," as also "to controversies between two or more States." Should a controversy arise between the authorities of Virginia and North Carolina the Constitution makes it the duty of the judiciary to determine the question, and by decree or judgment end the controversy, while this bill prohibits such action and assumes to rest in one man, and he a military officer, the right to decide the question and enforce his decision by the armies of the nation, while both the executive and judicial departments are powerless to enforce the Constitution unless at imminent risk of a collision with the Army acting under congressional authority and in violation of the Constitution.

But, sir, as men never act but from the prompting of motive, what is the motive prompting this denial of judicial examinations? Is it not because our friends on the other side of the House feel convinced that the result of judicial examination and decision would be a vindication of civil governments in those States? Why, sir, the very denial of the right of such investigation is an admission that its results, if permitted, would be fatal to their revolutionary legislation. And, sir, as an illustration of the progressiveness of Radicalism let it be remembered that this same court thus unconstitutionally circumscribed in its action is composed of eight members, of whom a majority are members of the Republican party, and that the father of American Radicalism, Salmon P. Chase, is its presiding judge. But though a Radical, he is a lawyer, and might be supposed to manifest some regard for the Constitution under which alone he holds his high position. But, further, I may be pardoned for referring to a rumor, whether well-founded or not, still very generally accredited, to the effect that in a case now pending in that court involving the constitutionality of these reconstruction acts a majority of the court incline to the opinion, and will so decide, that these acts are void, and that as a consequence each of those southern States are in possession of all their "rights, dignity, and equality" under the Constitution. Is it to forestall the court in the promulgation of this anticipated unwelcome decision that this denial of its right to decide the question is incorporated in this bill?

Sir, I think I have fairly shown that this proposed enactment, in more than one respect, subverts the fundamental law of our Republic. Do gentlemen reflect that an abrogation of that fundamental law is a surrender, or rather a destruction, of the form of government created by that law? As without some of the reserved attributes of sovereignty there can be no State, so without the Constitution there can be no union of States. The maintenance of one is essential to the existence of the

other. And do gentlemen further reflect that a willful violation of one portion of our Constitution is equally criminal as a forcible abrogation of the instrument entire? Is it not always by slow and almost imperceptible movement that the march of tyranny and usurpation commences? Is it not true to-day, as in days past, that the first effort at usurpation is to conceal its purpose under some special plea of public utility? Is not necessity still the plea of the tyrant? But, sir, as public forbearance has until recently been untiring and public patience unwavering, I fear our Radical friends have concluded that the people were tacitly indorsing, instead of silently tolerating, their usurpations and infractions of the Constitution. Imagining themselves secure in power and beyond the reach of responsibility, they have exhibited that madness which precedes destruction. It is but history repeating itself and verifying the predictions of Webster when he said:

"If the infernal fanatics and abolitionists ever get the power in their hands they will override the Constitution, set the Supreme Court at defiance, change and make laws to suit themselves, lay violent hands on those who differ with them in their opinions or dare question their infallibility, and finally bankrupt the country and deluge it with blood."

How fully the history of the past few years of our country, and especially the past few months of our legislative history, justifies the prediction of the immortal Webster. There is now, in my judgment, but one pathway of safety for the people, but one remaining hope of salvation to our country from impending ruin. That hope is a speedy uprising of the people, constitutionally, in their sovereign power, rebuking the madness of fanaticism, and hurling from power those who betray the high trust reposed in them under the laws of our country. And, sir, I feel assured this hope is not doomed to disappointment; for while the necessity is great and the danger imminent, the pathway is plain and the people patriotic. Groaning as they are under a debt of untold millions, they will not tolerate this tinkering with the Constitution nor remain blind to the iniquities of the party in power. In July last, upon one of the preceding acts in this same series of so-called reconstruction measures, I put upon record here my predictions of a speedy reaction in the public mind and a prompt repudiation in public action of the acts and doings of the present Congress; and how signally has that condemnation been already pronounced in the very States where a few years ago the party holding a majority on this floor to-day revelled in the plenitude of unquestioned power.

And, Mr. Speaker, it is not the spasmodic action of a moment, not the mere temporary unrest of a period, that underlies or causes this popular uprising. It is the full, deep determination of the patriotic citizens of the United States to withdraw power from those who abuse it, withhold trust from those who betray it, and in their sovereignty return to the policy of their fathers, and to secure the existence of States in coequal dignity under a Constitution uniform, equal, and just to all.

One more consideration, sir, and I will close. It has been intimated by those of the majority that we oppose this bill because we distrust the General of the armies. Sir, for one, I distrust any man who may be clothed with the extraordinary powers contemplated in this bill. No man in this broad land of ours can be safely intrusted with unconstitutional power. Under our form of government Presidents, courts, legislative bodies, generals, all are alike subordinate to the Constitution, which overreaches, controls, directs, guides, and limits all. Were it so possible for the immortal spirit of Washington to return to earth and reanimate his still remains I would not willingly yield to him, pure as he was, patriotic as he was known to be, the powers contemplated in this unrighteous act. Ah, sir, he would not accept it—but in

answer to proffered power would reply, "Get thee behind me; I, too, am a citizen; go learn of your fathers, gather their lessons of wisdom, comprehend and obey their teaching as set forth in the Constitution, and all will be well."

Reconstruction.

SPEECH OF HON. W. E. NIBLACK,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

January 16, 1868.

The House having under consideration the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867—

Mr. NIBLACK said:

MR. SPEAKER: I shall not, I hope, occupy the time allotted to me on the bill now under consideration reported from the Committee on Reconstruction. I felt, after first examining it and looking into its provisions, that it ought to be discussed fully and thoroughly. Gentlemen who have preceded me, however, on this side of the House have nearly exhausted all the points involved in the measure, and I feel I should be guilty of repetition if I undertook to go over the whole ground again.

This question of reconstruction was first brought before the House in its present aspect nearly one year ago. I then spoke on the general subject, and it is unnecessary for me to repeat the positions I then assumed in regard to it. I may be permitted, however, to remark that subsequent reflection and examination of the subject have convinced me I did not even go far enough on that occasion in opposition to this policy of Congress, because I could not then realize what enormities were in store for us under this pretext of reconstruction.

The question of loyalty or disloyalty, the question of rebellion, the question of the civil war which so long divided and distracted the country, is in no way involved in the discussion of the principles of this bill. It is only a question of power and expediency on the part of Congress. No one has yet seriously assumed the position that Congress has to-day any more power than it had ten years ago. If a measure of this kind could not be passed before the war I insist it cannot be passed by us now, so that all the talk about loyalty and disloyalty is outside of the real issues involved in this controversy.

But, sir, I was about remarking that the further consideration of this question of reconstruction, as it is called, has convinced me of the fact that a great deal, that nearly everything done in relation to it is outside of the Constitution, and has been mere naked usurpation. I acquiesced in much that the President did on the subject because of the supposed necessity of the case and because of the spirit in which it was done, and not because I supposed it was justified by the letter of the Constitution. Since Congress has taken hold of the subject it is in more interminable confusion than when the President had hold of it. There is no well-defined policy upon it. We have practically torn down the governments which existed in these States as reorganized since the war, and yet we have never had the courage to remove those governments out of the way and to set up others in their places. We have gone on, half recognizing and half protesting against their existence.

The act of 2d of March, 1867, was the first act passed on the subject. That act recognized these as provisional governments, reserving only the declaration that they should be subject to the paramount power of Congress. If they are provisional governments, so long as they are permitted to exist, so long as they are

permitted to exercise the powers of States, I submit they are just as valid and binding as any other State governments, and it is as much a violation of sound principle to tear them down, unless others are immediately supplied in their place equally acceptable to the people affected by them, as to tear down the government of any other State of this Union.

The first act passed on the subject, and to which I have referred, was, however, in many respects incongruous and obscure in its provisions, as was conceded by the hasty manner in which it was amended by the present Congress, which convened soon after that act was passed. The same want of policy, the same want of precision and completeness, I submit, run through all the acts passed subsequently to that and amendatory of it. This bill, which professes to go to the very root of the difficulty, yet evades or seemingly attempts to evade the real issue impliedly raised by it, and I say this in the hearing of the distinguished gentleman [Mr. BINGHAM] who reported it, who opened the debate on it, and who will, I presume, close it.

If the governments in the rebellious States are illegal, then I beg to inquire what is the effect upon them of the first section of this bill? It says they shall not be recognized as "valid or legal State governments" by the executive or judicial power or authority of the United States. Does that go back to the first reorganization of these States under the President's proclamation, or does it only declare them illegal after the passage of this act? There is an obscurity in this language which, I submit to the gentleman who reported it, will have to be again supplied by some amendatory act.

Mr. BINGHAM. Will the gentleman allow me to suggest one word?

Mr. NIBLACK. Certainly.

Mr. BINGHAM. It is simply this: we consider it settled by all the traditions of the Republic and by solemn judicial decisions that no department of this Government could, at any time after the rebellion, recognize any one of these governments about which the gentleman is now speaking, which were set up on the termination of the rebellion, or attempted to be set up as valid until Congress did so recognize them. Therefore the provision of the first section is for the very purpose of concluding the executive and judicial departments of the Government in accordance with former decisions. That is exactly what we are about.

Mr. NIBLACK. It is a well recognized principle of international law that in the absence of a regular government—that is, a government *de jure*—a government *de facto* is allowed to supply the place of such regular government.

Mr. BINGHAM. The principles of international law, I beg to say to the gentleman, do not apply to the interior policy of a government or sovereignty.

Mr. NIBLACK. Then I inquire by what law, if not international law, the gentleman claims these States are conquered provinces and not States of the Union?

Mr. BINGHAM. I do not claim that they are conquered provinces at all. A nation never conquered its own territory.

Mr. NIBLACK. So I have always contended; but if they are not conquered provinces they must be States, and if they are States then you have no authority under the Constitution or any principle recognized under our form of government by which we can rule these States by any such form of legislation as this. If they are still States of this Union then they have the undisputed right to regulate all such matters as pertain to their internal and State matters, without any interference or paramount control by Congress.

Mr. BINGHAM. Allow me to ask a question? The Government of the United States has a right to demand that a republican form of government shall be maintained in each State by the voluntary act of the people thereof, as required by the Constitution. Now, I ask

the gentleman whether he is ready to say, if perchance to-morrow all the people of the State of Ohio choose by common consent, in convention assembled, to declare their State organization dissolved, that they will have henceforth no Legislature, and accordingly all their legislative officers resign, all their judicial officers and executive officers resign, the Government of the United States has not the right to take notice of it and by act of Congress extend absolute undivided jurisdiction over every rood of that territory, and protect the lives of every citizen therein? I respectfully ask an answer of the gentleman.

Mr. NIBLACK. Mr. Speaker, I have the floor, and cannot yield for anything like an argument.

The SPEAKER. The gentleman from Indiana [Mr. NIBLACK] must be protected in his right to the floor.

Mr. BINGHAM. I desire an answer to my question, if it be agreeable to the gentleman to give it.

Mr. NIBLACK. I admit that if a State government should abdicate its authority, if it ever dare to do so, it might become the duty of Congress to enforce in some way a reorganization of its government, but not through the military power, but by civil officers and civil agencies, called into existence for the special purpose and clothed with certain definite powers. In such an event Congress could certainly go no further than to reorganize the already existing State government, and would have no power to set up a new government for the people of the State. This thing of taking possession of the State governments through military agencies is inconsistent with our form of government and with the principles recognized by our Constitution. It places the military power above the civil authority, which is clearly in violation of the letter and spirit of that instrument. Sir, the military power is but a police power in aid of the civil administration of the Government; and whatever we do in regard to any State government, either under the guarantee clause or under the necessities of the case as they may seem to arise, we must do by civil agencies and not by the military authority as provided for in this bill. The exercise of military authority in matters of civil administration is in conflict with all our early lessons on the subject of a republican and constitutional government.

Mr. BINGHAM. Will the gentleman allow me once more to make a suggestion?

Mr. NIBLACK. Go on.

Mr. BINGHAM. I desire to treat the gentleman with all respect. There is no gentleman in this House for whom I entertain greater respect.

Mr. NIBLACK. Well, then, make your suggestion.

Mr. BINGHAM. I beg leave to suggest to the gentleman that there is no such thing as republican government in any State of the Union except by the cooperation and voluntary act of the people resident therein; and if the people of a State will not act in the matter the Government of the United States cannot make a republican government in that State, because that is elective, and elective by the people of the State, but it can govern the State, either by arms or by laws, until the people thereof do their duty and establish a republican State government.

Mr. NIBLACK. That is just what I am arguing. The gentleman concedes that a republican government must be the work of the people to be governed by it; I agree to that; but then I deny the power he claims in Congress to coerce the people of a State in the manner proposed by this bill.

But I beg the gentleman's attention still further, for there are some other suggestions I desire to make that I hope he will see proper to answer in his closing argument on this bill. When I was interrupted by the gentleman I

was inquiring what is to be the effect of the first section of the bill on the existing State governments—if it is to be construed to go back to and relate to all that has been done by those governments since the close of the war? Think for a moment of the effect it must have on the people of those States and on the very organization of society itself within those States. Why, sir, they have been marrying and giving in marriage for three years in those States; debts have been created; contracts have been entered into; property has been purchased and sold by loyal as well as by disloyal men, by people of all classes; deeds and other legal instruments executed; all the functions of municipal government have been carried on by the people of those States under laws created by these provisional governments, or whatever kind of governments you please to call them, erected and organized since the war. If you tear those governments down by this bill, I beg to inquire what is to take their places? A mere military order cannot take the place of municipal law. If these State governments are to be thus summarily abolished, I beg to submit that it is our duty first to make provision by act of Congress for governing these people and carrying on their local and domestic affairs under some code of written laws. Do not leave them, I beseech of you, to the caprice of any military commander or of any other officer, however exalted he may be.

Why, sir, if we have the power to pass this bill the powers of Congress have in times past been greatly underrated. Ten years ago no one would have believed that such a power would ever have been claimed in the Congress of the United States or tolerated by it for a single moment; and yet it is argued, and seriously argued, by men representing a large majority of this House, and I suppose it will be so voted, that Congress has the power to do all this, and much more, if found expedient. It is, sir, most extraordinary to me. I confess that when I think about it, when I look into this question and consider it with that seriousness which it is entitled to be considered at the hands of every member of this House, and of every intelligent citizen of the United States, I am unable to realize that this is the last half of the nineteenth century. It seems that we have been living for more than seventy-five years under a Government founded upon a written Constitution, and yet have been unable to understand and appreciate its powers and functions until this late period of its existence.

Sir, it does seem to me that some strange infatuation must have seized upon the minds of gentlemen, and especially upon the mind of so intelligent a gentleman as the gentleman from Ohio, [Mr. BINGHAM,] before he can be led to believe all that he has said upon this great and momentous question.

I say this with all respect for the gentleman, and he knows that I entertain the very highest respect for him personally. He has been for a time our leader upon this side of the House. [Laughter.] At the close of the last Congress we had sore need of a leader, because the distinguished gentleman who had been our representative upon the Judiciary Committee of that Congress was no longer a member of Congress; and at the commencement of this Congress we were sadly in need of some able gentleman to take charge of us on this side of the House. And when the distinguished gentleman from Ohio [Mr. BINGHAM] came over here last spring and took a seat with us no one was more delighted than I was. [Laughter.]

Sir, we sympathized with his efforts to assert the constitutional rights of the people of the southern States in the earlier part of the first session of this Congress; and in that celebrated controversy which took place between him and the distinguished gentleman from Massachusetts [Mr. BUTLER] we on this side of the House cheered him lustily, not so much, perhaps, for what he said as because he said it, and because

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he was on our side and we felt it to be our duty to stand by him, right or wrong. [Great laughter.] Now, in view of all these facts, we on this side cannot do otherwise than feel an interest in all the gentleman says and does. The eyes of this side of the House, if not of the world, are upon the gentleman, and we carefully watch all his utterances. Hence the importance to us of the positions he assumes and of the arguments which he advances in this great discussion. Sir, he has returned to his first love, and we have no longer any claims upon him. We part sadly, but still we must part. [Laughter.]

I beg leave to call the attention of the gentleman to one other position which he has taken. If I remember correctly, he asserted in his opening argument on this question that it was preposterous to insist that the people of the southern States, of these disorganized States, had any power to ratify the constitutional amendment abolishing slavery or any other amendment to the Constitution. He said they were disorganized States, and were not entitled to any voice upon any amendment to the Constitution, simply because they had not the power to act as organized States of the Union.

Mr. BINGHAM. Will the gentleman yield to me for a moment?

Mr. NIBLACK. I would gladly do so if my time can be extended; but I have but little time left now.

Mr. BINGHAM. I am sure no objection will be made to extending the time of the gentleman.

Mr. NIBLACK. If that can be done I will have no objection to yield.

Mr. BINGHAM. I move that the gentleman's time be extended.

No objection was made.

Mr. NIBLACK. I now yield to the gentleman.

Mr. BINGHAM. I may be unfortunate in not being understood. But I venture to say that the gentleman will find no such expression of opinion in any utterance of mine as that the people of the southern States have no power to ratify a constitutional amendment. My point is simply this: that they are not States for municipal purposes, and have no political voice or power in the Union while they remain disorganized for that or for any other purpose; yet, while that is true, they may organize their governments territorially, without any enabling acts of Congress, and may ratify the pending constitutional amendment. And, in accordance with one of the most solemn and well-considered opinions ever rendered in America, that ratification becomes valid by relation whenever Congress recognizes their reorganization as valid State governments.

Mr. NIBLACK. The gentleman certainly said with great earnestness that these States had no authority to vote upon this question of the ratification of the pending amendment to the Constitution in their present disorganized condition. That, I understand, was the position assumed by the gentleman; and I think if he will refer to his speech he will find that I am justified in making that quotation from his argument. And, indeed, his explanation, after all, amounts to a repetition of that assertion.

Now, I ask the gentleman—and I do not ask him to answer me now; he can do so when he comes to close the discussion on this bill—what greater validity had the government of Tennessee as a State government immediately before her admission into the Union than has the government of any other of these disorganized States?

It was reorganized under a proclamation issued by executive authority without any enabling act, without any act of the legislative authority—by executive power alone, under a scheme of reconstruction inaugurated and

carried forward by Mr. Lincoln in his lifetime. The State, however, elected representatives to the Thirty-Ninth Congress, who presented themselves for admission. An act was subsequently passed readmitting Tennessee into the Union or declaring the State restored to her relations to the Union, and allowing her to be again represented on this floor and in the other end of the Capitol as before the war.

Mr. BINGHAM. The gentleman voted for that.

Mr. NIBLACK. I did not. I did not think the State needed any readmission, and hence voted against it.

Now, Mr. Speaker, one of the reasons assigned for acknowledging Tennessee to be restored to her former relations to the General Government was that she had ratified the constitutional amendment. If I am not mistaken that bill was drafted by the gentleman from Ohio [Mr. BINGHAM] himself. At all events I know that he was its leading advocate on this floor. I ask that that act, including the preamble, be read by the Clerk.

Mr. BINGHAM. The preamble is no part of the act.

Mr. NIBLACK. It gives the reasons of the act and is explanatory of it.

The Clerk read as follows:

"Joint resolution restoring Tennessee to her relation to the Union:

"Whereas in the year 1861 the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State, in pursuance of an act of Congress, were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States; and whereas the people of said State did on the 22d day of February, 1865, by a large popular vote adopt and ratify a constitution of government whereby slavery was abolished, and all ordinances and laws of secession and debts contracted under the same were declared void; and whereas a State government has been organized under said constitution, which has ratified the amendment to the Constitution of the United States abolishing slavery, also the amendment proposed by the Thirty-Ninth Congress, and has done other acts proclaiming and denoting loyalty; Therefore,

"Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Tennessee is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress.

"Approved July 24, 1866."

Mr. NIBLACK. Mr. Speaker, I have had this act read to the House for the purpose of confirming my assertion that all that Congress has done on this subject has been mere patchwork, mere mosaic, mere temporizing, without any well defined principle or policy. Then it was conceded that Tennessee had the power to ratify the amendment, and it being claimed that she had done so haste was made to proclaim her restored to her place in the Union, so as to encourage other States to do likewise and to be also restored. Now, however, the same men claim that these lately rebellious States have no such power of ratification at all, and nothing whatever to do with it. Were ever men more inconsistent and less mindful of their pledges? When the Thirty-Ninth Congress first assembled no pretense was made that these reorganized southern State governments were not governments for most purposes—at least for local State purposes. Though many questions were raised as to the manner in which those States had been reorganized, yet that they were reorganized very few, if anybody, denied. At the time the amendment to the Constitution of the United States was proposed by the Thirty-Ninth Congress it seemed to be generally conceded that those governments were competent to ratify that constitutional amendment, or that, at all events, it should be submitted to them for their action one way or the other; and the manner in which this amendment should be received by those State governments was by a sort of common consent, I believe, of the majority here to be regarded as a test of the loyalty or disloyalty of their people.

The impression was sent out pretty generally that if the States lately in rebellion would accept that constitutional amendment they should at once be restored to their constitutional relations to the General Government. To be sure, the distinguished gentleman from Pennsylvania [Mr. STEVENS] and some others protested against this construction. But the popular construction—the construction on which the campaign of 1866 was fought—was that whenever those States should adopt that amendment they should be entitled to complete restoration. The legislation since adopted by Congress is conceded by most of its friends to be harsh and exceptional in its character, but the usual apology for it is that those States have refused to ratify the constitutional amendment when submitted to them, and that therefore it became the duty of Congress to adopt some more harsh and extreme measure.

Sir, if these States had no power to ratify this last proposed amendment to the Constitution why the mockery of submitting it to them? Why ask them to do it; and, more than all, why punish the people of those States for not doing it? It is, I submit, all an after-thought; a mere pretense, and a lame and impotent one at that, for this cruel, unprecedented and revolutionary legislation which has since followed.

But the gentleman from Ohio [Mr. BINGHAM] intimates that these disorganized States ought to have gone through with the formality of a ratification of this amendment and to have left it to Congress to vitalize and approve their action. Sir, if that was the true mode of procedure, why did not Congress point it out in advance? Why leave it a matter of construction, of doubt, and uncertainty? Why this wriggling and uncertainty upon a great and paramount question? Congress declared that when three fourths of the Legislatures of all the States should ratify the proposed amendment it should become a part of the Constitution. Nothing was then said as to the incapacity of the Legislature of any State to ratify it. Nothing was then said about the necessity of further action of Congress upon it; nothing about that vitalizing process of which the gentleman speaks.

Mr. Speaker, I assert, but I do it with sadness and mortification, that this constant shifting and evasion, this continuous flying from one pretext to another for failing to do a plain duty, and the better to conceal what we are really trying to accomplish, is most discreditably to Congress and unworthy a great people like ours. Whatever we may do here, and especially in matters that pertain to the integrity and very life of the Government, ought to be boldly, squarely, and frankly done.

But it is insisted that under that clause in the Constitution which provides that the United States shall guaranty to each State a republican form of government, known sometimes as the guarantee clause, Congress may do what is contemplated by this bill. I will not now attempt to discuss the power of Congress under that clause at any length. This has already been done, and done thoroughly, by my colleague [Mr. KERR] and others who have preceded me in this debate. This provision, in my judgment, clearly presupposes that each one of the old States had a republican form of government when the Federal Constitution was adopted. Also, that each new State would have a government republican in form before and at the time of its admission into the Union. Its object certainly was only to preserve these governments from subversion and destruction—to guaranty their continued existence, subject of course to the power of the people of the States to amend them from time to time if they chose, without destroying their republican form. It was certainly never contemplated that under this clause Congress, or indeed all the departments of the Government combined, could overthrow the existing government in any State so long as it remains republican in form. To assert that the power to guaranty the

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existence of anything includes and confers the right to destroy it is too preposterous for argument. The assertion of such a proposition in the present emergency of the country is well nigh usurpation itself. I will not, however, pursue this branch of the argument farther now.

But, sir, conceding that Congress has all the power claimed for it in this bill, and in all the acts to which it is amendatory, is it expedient to exercise this power in such a way? I maintain that it is never expedient in this country in a time of profound peace to place the civil in subordination to the military power; to override by congressional action the will of the people in their local and domestic affairs; to overthrow legally existing and republican State governments by military force and to even disorganize society itself. The bill we are considering proposes to do all these—indeed, more than all these—for when these things are accomplished it proposes to govern the people of the States affected by it by merely arbitrary and flagrantly usurped power.

Sir, in a great emergency like this, with a great Government disorganized, with every important interest imperiled, when we are just entering on a new era in our history, I do insist that it becomes the representatives of the American people to act in this matter, not with passion, not with feelings of hatred, not with feelings of revenge, but upon some elevated and well-defined line of policy clearly authorized by our common Constitution, and which will stand the test of criticism in future ages.

Mr. Speaker, when I obtained the floor I did not expect to detain the House half so long as I have done. The interruptions of the gentleman from Ohio have induced me to occupy more time than I intended.

I sought the floor merely to protest, as I have heretofore done, against this whole scheme of congressional reconstruction, from first to last, and to denounce its revolutionary character and tendencies. I yield to no one in my anxiety to see all the States again restored to their former relations to the General Government. To accomplish this is our first great duty. But, sir, when this shall be done, I desire to see it well done. I want to see it done in a way that will not require standing armies within the borders of these reconstructed States to keep the peace within them. We cannot afford to do hasty, revolutionary, and experimental things in so delicate and so important a matter. Caution to that extent at least ought to be inspired by common prudence and a common danger.

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SPEECH OF HON. R. D. HUBBARD,
OF CONNECTICUT,
IN THE HOUSE OF REPRESENTATIVES,
January 17, 1868.

The House having under consideration the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867—

Mr. HUBBARD, of Connecticut, said:

Mr. SPEAKER: I notice that whenever the attention of honorable gentlemen on the other side of the House is challenged to the constitutional questions arising under this bill we are met with sneers and taunts and grimaces. To all these I have no answer to make except one of silent contempt. I shall, therefore, make no apology to the House for giving the remarks I am about to offer a constitutional direction, because the bill under consideration reaches down into the lowest foundations of law and free government. No human government can be truly and permanently free that is not a constitutional government. Outside of this there is, on the one hand, absolute despotism, or

else, on the other, popular chaos, crime, and anarchy.

Now, sir, whenever the Constitution or any portion of it is battered down, no matter whether by the shock of rebel States in arms, or by overriding popular commotion, or by audacious usurpation on the part of any one or all of the coordinate branches of the Government, all the securities of freedom are destroyed; we are then in the midst of revolution, and when we come to revolution it matters but little whether the instrumentalities employed are the brute force of sword and bayonet or the brute numbers of an accidental majority in Congress. Now, sir, I start out on the discussion with this proposition, that the bill before the House is a measure of revolutionary usurpation, and I will add, in my deliberate judgment, a measure of flagrant, defiant usurpation. I do not intend to stand upon this mere generality. I shall challenge the attention of this House to the proof of it. Nor shall I need go far to find my witnesses. They are present in court and on the stand. I refer to the language of the first section of the bill in proof of the position I have just taken—"the so-called civil governments in said States, respectively, shall not be recognized as valid or legal State governments either by the executive or judicial power or authority of the United States." This, sir, is a most pregnant clause. It is full, crowded, and overflowing with untold and immeasurable mischief to the Constitution and Government.

Why, I demand, is this clause incorporated in this bill? Why has this Congress attempted to hurl this audacious and impudent prohibition at the Supreme Court of the United States? Why have you attempted in the opening section of the bill to strike dumb the learned judges on the bench of that august and venerable tribunal? The reason is obvious, it is confessed. You know—you find in the law of your own minds and consciences the conviction and assurance that when this measure shall come before the Supreme Court that court will pronounce it unconstitutional and void. To that end you attempt to gag the Supreme Court. That great tribunal, intended, as Alexander Hamilton declared, "as an intermediate body between the people and the Legislature, to keep the latter within the limits assigned to that authority"—that great tribunal of the Constitution stands in your path. It is an "impediment" in the way of your revolutionary schemes. You must "go through it." By a bill which has already passed the House you have presumed to require six out of eight judges to pass on the question of the constitutionality of your acts. In so doing you have assumed supreme dominion over the Supreme Court. You have sapped it of all its marrow and life as a free, constitutional, coordinate branch of the Government. You have established yourselves—the accidental majority in Congress—as the supreme, irresponsible despot of the Government.

Have you not done enough already? What further mischief remains? Why, sir, in addition to all this, in addition to emasculating—aye, sir, emasculating—the judiciary, you now propose by the bill before the House to provide that not even by the unanimous voice of the judges shall the Supreme Court undertake ever to pass upon the validity of this bill. You propose to deprive the judicial mannikins who of your mere grace and mercy sit on their judicial seats of the power of passing on the political felony you are about to commit upon ten States of the Federal Union. This is the power you propose to usurp over an independent and coordinate branch of the General Government. When this act shall have passed the mere shell of the Supreme Court will be left, nothing more; the mere husks of the judiciary, nothing else; the mere gowns of the judges, nothing besides. Make clean work, I beseech you; send your military satraps

into the chamber where that grave tribunal sits and disperse the judges; they are a useless expense, an "obstruction." Why cumber they the benches of justice?

Now, let me suggest to the better judgment of the House whether it would not be more manly, more decent, and decorous to simply pass the other sections of this bill, and then let it be challenged, if need be, by the Supreme Court. If it cannot stand the constitutional scrutiny of that tribunal, in God's name let it fall. If it can, then the majority of this House will have had their own will and way in the premises.

The learned gentleman from Ohio, [Mr. BINGHAM,] for all whose qualities and acquirements I have great admiration, except his politics and his law, has seen fit to say that the Supreme Court of the United States has already determined, in the case of *Luther vs. Borden*, that when the legislative department passes upon the question of the rights and existence of a State the judicial power is absolutely concluded by the determination of Congress. If this be so why thrust a gag into the mouths of the judges? If the law has already been so decided why put this insulting prohibition on the supreme judicial tribunal? But I deny that any such decision has been made. If Mr. Justice Taney had announced such a doctrine as that then I might possibly agree with the eloquent gentleman from Ohio that there was some resemblance between our late Chief Justice and the miserable Jeffreys, who was obliged to seek refuge from the indignation of London in the fortress of the Tower. If such a decision had fallen from the Supreme Court I would appeal, sir, from such a decision, not to the people—for I do not agree with the gentleman from Ohio that the Supreme Court is the creature of the people, and may be pulled down and built up with every changing popular election—I would appeal to the Supreme Court itself, as the creature of the Constitution, to reconsider and reverse a judgment of such intolerable and manifest injustice and error.

Now, sir, if, as the gentleman from Ohio claims, and as this bill most assuredly assumes, Congress may pass conclusively and finally upon the question of the existence of a State, what follows? This, obviously, and nothing less than this: Congress may, in its discretion, abolish the State which I have the honor to represent—one of the glorious thirteen which achieved our independence and formed the Constitution. The great giant of the West, which, I may be pardoned for saying, sometimes exercises in the House a giant's strength for questionable purposes—the great giant of the West, holding the majority in this House, might abolish all the eastern or the middle States, and, according to the doctrine laid down by the gentleman from Ohio, there would be no remedy except that which might be found in party revolutions. Now, sir, I do not acknowledge that my right as a Representative on this floor is dependent for its existence upon the breath of the nostrils of gentlemen on the other side. I deny the power of the majority in this House to expel my State from the Federal Union. She is not the creature of this Congress. Rather, sir, she is one of the sovereign creators of Congress.

If I thought the existence of my State as a member of the Federal Union—if I thought my seat on the floor of this House were dependent upon the will of this Congress I would willingly retire from its presence; I would turn my back on the Capitol; I would abandon my habitation in the valley of the Connecticut and plant my household gods on the polar side of the St. Lawrence under the shadow of the British monarchy, where I might find the securities of liberty regulated in some sort at least by constitutional law. Yet this bill assumes as its fundamental principle and postulate that the majority in Congress has the right

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at its pleasure to blot out any one or more of our State governments, to exclude from Congress their representatives, and that in the presence of such a monstrous, such a gigantic wrong, every other department of the Government must stand dumb and paralyzed.

In view of such a provision in this bill I will say, not that this Congress is infamous, but that this bill is more than infamous.

Now, sir, I hold that every State in this Government is indestructible, except upon a dissolution of the Union; that its right to representation in Congress, subject to the right of Congress to judge of the qualifications of its members, is as absolute and indefeasible under the Constitution as the natural and inalienable right of man to liberty, life, and property. There is no law under the Constitution for the murder of States at the will of a political majority in Congress; and when such an act is attempted it becomes the solemn duty of every other branch of the Government and of every citizen of the Republic to resist it, peaceably if it may be, forcibly if it must.

Sir, this power of State destruction which is claimed under this bill is the power of force and robbery which rules barbarian hordes—

"That they should take who have the power,
And they should keep who can."

Under this rule States go down and rise again with changing political parties; the minority is crushed beneath the despotism of the majority. The stars ride in their courses because uniformity, order, and law reign in the heavens; but the devil himself could not inaugurate on earth a more complete pandemonium of anarchy, chaos, and old night than this bill would bring in if the principle of the first section were accepted as the organic law of the land.

Now, sir, let me come to another subject which arises under this bill. I submit, in the second place, this is a measure of revolutionary usurpation, because it attempts to strike down the executive department of the Government. I do not stop to read that clause of the Constitution which provides that the President shall be the Commander-in-Chief of the Army; it has already been many times read in course of the debate. My excellent friend from Ohio [Mr. GARFIELD] seems to gather the power to abolish the office of the Commander-in-Chief from the constitutional authority of Congress to "declare war," from its authority to "raise and support armies," from its authority to "make rules for the government and regulation of the land and naval forces." Sir, every one of these powers may doubtless be exercised by Congress, but no one of them can be so exercised as to infringe in the slightest manner on that other provision which ordains that the President shall be the Commander-in-Chief of the armies of the United States. Now what is implied in this phrase "Commander-in-Chief?" I wish to ask the attention of the House for a moment to this question. I answer, in the first place, every officer in the Army, not excepting General Grant, is the military subordinate of the President, and, if his subordinate, then of consequence subject to his command. In the next place, as Commander-in-Chief he has the authority to direct and employ all the forces and instrumentalities of war, and to this end to appoint officers and assign them to their commands.

The learned gentleman from Massachusetts [Mr. BOWEN] insists that all that is meant by the term "Commander-in-Chief" is that the President is to see that the laws are executed, and that to this end he is to see that General Grant perform the duties devolved upon him by this bill. But suppose the President should come to the conclusion that the General fails to execute the law, may the President remove him? Who so stupid as not to know, or so disingenuous as not to confess, that the foremost object and purpose of the bill is to prevent the President from exercising any authority what-

ever either over the General of the Army or over the southern States? How, then—will the gentleman explain—is the President Commander-in-Chief? How is he to see that the laws are executed when his own subordinates are authorized by act of Congress to disregard and defy his authority? Suppose, under this bill General Grant should order Sheridan to Louisiana. Suppose the President should find a better use for him in the Indian country and should order him thither, who is he to obey? The General of the Army or the Commander-in-Chief? or may he elect for himself whom he will serve? I ask any man who recognizes the President as Commander-in-Chief whether ten thousand Grants could in such a case lawfully stand between the President and the execution of his order?

Sir, it is vain to deny it; this bill shears the President of the United States of his constitutional office in ten States of this Union. The bill does not intend the President shall touch the execution of the law in those States. It is to be passed for the very purpose of depriving him of that prerogative. The express aim and object of the bill is to depose him from his office as Commander-in-Chief, to lay him aside among the dead files of the War office, under the eye of the impudent intruder who now disgraces by his effrontery both himself and the War Department. If this office can be abolished in ten States, as by this bill it is, then it can be abolished in thirty-seven States. If you can abolish it in thirty-seven, then you can abolish the Constitution.

For the reasons I have given, therefore, I protest against this bill. I protest against the power of Congress to create General Grant or any one else military emperor of ten States in the Federal Union. And as some notices have been served upon us from the other side of the House I beg leave to give notice in return that if General Grant shall take upon himself the usurped powers conferred by this odious law and executes them in a manner sufficiently relentless and despotic to satisfy his political masters, he will have taken a load upon his shoulders that will break his back in the next presidential election. I care not what may be his military reputation and services; he who, after having fought for the integrity of the Constitution, shall lend himself to a scheme for the overthrow of the Constitution and the subjugation of ten States to martial law and negro dominion will, in my humble judgment, have forfeited the gratitude of his country and the luster of a great name in history. Let these modern Mark Antonys, who are offering this military crown to their modern Cæsar remember the verdict which history has passed both on the Roman Cæsar and his selfish and profligate tool. It is but a single step from the Capitol to the Tarpeian rock.

I have heard it said during this debate that a political convention of the party with which I act, during the course of the late war pronounced it a failure. To that declaration I did not then subscribe. But I do not hesitate now to say that if the execrable principles of this bill are to become the law of the land, if the scheme which is now on foot is to be successfully and permanently consummated, I hesitate not to say, though I did not believe it then, that the war has proved a failure—a dead and utter failure. For what purpose, let me ask, was the late war with the rebellion carried on? For what purpose did you shake the continent with the heavy tread of a million of men in arms? For what purpose were the flood-gates of the Treasury thrown wide open? For what purpose did a million of the people's money flow out with every setting sun? For what, I ask? Simply to determine this rule of constitutional law that the Union was indissoluble and that no State could secede from it; and for the purpose of vindicating that single principle of constitutional law a half million of men, counting the integrity of the Con-

stitution as of more value than treasure, life, or limb, forsaking all things else—father and mother, wife and child—offered up their lives upon the fiery altar of war. Sir, that constitutional principle has been written into our organic code with a sword for a pen and blood for ink; and yet what do these reconstruction measures propose? They propose this: That to-day—when not a hostile bayonet is upturned, not a hostile foot in stirrup in the whole South, when the rebellion has been ended for more than two years—we should blot out of the Union the very States to retain which in all their "dignity, equality, and rights" was, as Congress declared in 1861, the sole purpose of the war.

Nay, more; these measures propose more. They set the nation in the attitude of war again—war against the vanquished. They put the Federal Government to the exercise of war powers—the employment of war machinery. They suppress the writ of *habeas corpus*, which by the Constitution can be suppressed only in time of invasion or rebellion. They establish martial law, which can only be established within the lines of belligerent military forces and in time of war. They abolish trial by jury, the inextinguishable right of the citizen in all cases and at all times except when martial law is legally established. They quarter standing armies upon the whole South. They appoint a supreme military dictator over ten States. They silence the voice of law in the clamor of arms. They subject life, limb, liberty, and property to the caprice of the sword. Nor is this the worst. The makers of the law demand its enforcement, not in mercy but in wrath. Now, I need not say it is a settled rule that a public statute in derogation of the right of the citizen is to be construed with benignity. Yet notice has already been given by the chairman of the Military Committee that the House is to be asked on Monday next "to improve"—that, I believe, is the word—"to improve the Army of the United States" by removing General Hancock from his command—the only man who has attempted to exercise benignantly the powers conferred by the reconstruction acts—the only commander who has attempted to exercise his military discretion in the interests of the citizen and on the side of liberty and law.

Now, sir, let me ask what is the purpose of this bill? It blots out, as I have said, the political institutions of ten States of the Federal Union; and why? For the simple purpose of Africanizing them. Why Africanize them? Because by that instrumentality you can Republicanize them.

[Here the hammer fell.]

Mr. PETERS obtained the floor.

Mr. HUBBARD, of Connecticut. I hope that I may have the privilege of publishing a sentence or two in conclusion of my remarks.

Mr. BINGHAM. I hope the gentleman will be allowed to deliver them.

Mr. PETERS. I have no objection.

Mr. GARFIELD. I ask that by unanimous consent the gentleman from Connecticut be allowed to proceed.

No objection was made.

Mr. HUBBARD, of Connecticut. For what purpose, I inquire again, is this bill to be passed? For what purpose is the writ of *habeas corpus* abolished in the South? For what purpose is civil law destroyed? For what purpose are eight millions of people made over to the rule of the sword and bayonet? For what purpose is martial law to be made supreme over ten of the States of this Union? For the simple purpose, I answer again, of overwhelming the white race in the South and the rising reactionary movement in the North in a black mass of negro barbarism and ignorance. If the friends of this bill were put upon the inquiry of the confessional they would be obliged to admit it. To accomplish this end the bill is to be hurried through, with a latitude of debate,

however, highly honorable, I admit, to the gentleman who reported it; but, nevertheless, the bill is to be hurried through. Other legislation must give way. The work is to be done in season for the coming presidential election.

I beg leave to say, in conclusion, Mr. Speaker, that this is a scheme which can never prevail. The assassination of ten States will never "trammel up the consequence." The judgment of this people is just; their instincts are generous. They love liberty; they hate oppression. They revere the Constitution, and whoever shall attempt in this way to upturn the deep foundations of the organic law of the land and turn us over to negro dominion, congressional despotism, and martial law will be ground to powder between the upper and the nether millstones of popular indignation. If, at the beginning of the war, the purposes now apparent had been avowed, if the programme now written down in this House had been disclosed to the people, a corporal's guard could not have been mustered to the ranks of your armies. Those grand levies of the people who flocked to the defense of the country at the sound of the first rebel gun would have dropped the bayonet and returned the sword to the rust of its scabbard. Every battle would have been a Bull Run; nay, worse than that, a Big Bethel, a Drury's Bluff.

Powers of Supreme Court.

SPEECH OF HON. THOMAS WILLIAMS,
OF PENNSYLVANIA,
IN THE HOUSE OF REPRESENTATIVES,
January 13, 1868,

On the bill declaring what shall constitute a quorum of the Supreme Court, and to regulate the jurisdiction thereof.

Mr. WILLIAMS, of Pennsylvania. The object of the amendment reported by the committee to the Senate bill is to preserve this Government in its original spirit, and protect its people in the enjoyment of the rights intended to be secured to them by its fundamental law, by protecting that law as well against the encroachments of the States as from the ambition or infirmities of its accredited expounders, acting through the more insidious and alarming process of judicial construction, which is so often but another name for judicial legislation.

The purpose of the amendment just offered by me, which is no other than a copy of the bill that, under a feeling of profound alarm for the tranquillity of the nation and the preservation of the just balances of the Constitution, was introduced by me into the last Congress, and again renewed and referred upon the inauguration of the present one, is to make that protection sure by exacting the highest security that the authority of Congress can demand and the nature of the circumstances will admit.

To this end it provides that not less than a full bench shall sit in judgment upon the will of the people as declared through their Representatives, and that nothing short of the consentaneous agreement of the favored few, holding their places by appointment of the Executive, shall nullify that will, by breaking the scepter of the law-giver, and striking his ordinances dead at his feet.

The amendment of the committee, while it accepts and incorporates the principle enunciated in my bill, and so far challenges my approval, reduces the security provided for by it by compromising on a two-third vote, which, under the present constitution of the Supreme Court, would add one voice only to the number now required to undo the work of Congress, and give, perhaps, a new law to the people; and in this, I think, falls short of the necessities of the case and the high requirements of public duty.

The difference, then, is only one of measure or degree—a mere question of more or less—between the highest possible security and an inferior or lower one. And here, I think, it may be affirmed with confidence that the legislator, holding, as he does, a public trust, and not dealing upon his own account or for his own private interests alone, has no absolute discretion, no choice, indeed, but to take the higher and superior. Assuming the need of a guarantee for the public safety, he cannot, in my judgment, demand too much; his only question is what is within the range of the possible. When the great interests—perhaps the life—of a nation are involved, I take it to be his clear duty to waive no security, but to

"Make assurance double sure,
And take a bend of fate."

The point once admitted, as it is here, that we may require any more than a majority, the whole question is surrendered. If we may exact two thirds it is transparent that we may exact the whole. And who shall say, if we may do this, that the lowest security which the country shall enjoy shall be less than the unanimity of the jury box? If that is practicable, why not insist upon it?

To these questions there can be no answer except that it is unreasonable, or inexpedient and unnecessary. But is this so? Let us examine.

It is not certainly unreasonable to insist that if the judgments of perhaps two hundred representative men, of the *élite* of the nation, drawn mainly from the legal profession, and embodying a large portion of its wisdom and experience, are to be overruled by a little conclave of some seven or eight not chosen by the people at all, and no wiser or better than themselves, the oracle whose nod is claimed to be equal to the stamp of fate shall give out no discordant utterances. The wisdom of that common law which was claimed by our ancestors as their birth-right has ordained that the life, and liberty, and property, even of the humblest citizen, shall not be taken away without the unanimous verdict of a jury of his peers. Who shall say that the life of a great State, the liberties of a great people, are not entitled to the same protection, and that four or five men out of a body so constituted—nay, even a bare majority of those four or five—shall determine in the last resort, and without any appeal whatever, the extent of its own charter of freedom, in defiance of the sense of the millions who, under all the forms of the Constitution, have declared their sovereign will?

I did not regard it as unlikely that the proposition, which I had the honor to introduce nearly a year ago, would startle the profession at first sight as an alarming innovation, and I am not sure that this expectation has been entirely disappointed. It could scarcely in the nature of things be otherwise. Lawyers, who run in grooves, and are educated into a superstitious reverence for precedents, and so often—I may say so proverbially—fail as statesmen, because they lack the bold, original, and progressive spirit of a Mansfield, are always averse to untried ways, and always ready to denounce the idea of reform or change, whenever it goes to matter of substance and beyond any mere question of form, as a pernicious novelty. Men of this sort will say, perhaps, that there is no case where unanimity of sentiment has ever been demanded at the hands of any tribunal on a question as to the meaning or effect of a covenant or a law, and taking their position there, maintain that the thing is improper only because there is no precedent to warrant it.

And yet if the law, as claimed by its professors, is only reason and the very perfection of it, and if what is not reason is not law, it will be found, on the application of this test, that there is nothing in the requirement of unanimity to conflict with that idea. Whatever weight considerations of mere conven-

ience may be entitled to in ordinary cases upon questions of merely private right between man and man, it cannot certainly be affirmed that there is anything unreasonable in the proposition that unanimity of opinion shall be required where the tribunal is a small one, and it is sought to overthrow the judgment of the millions, speaking through another and greater organ, on a matter that concerns the well-being of the whole, and perhaps the very existence of the State. The lawyer who cherishes the old and favorite hypothesis, that what we every day realize to be the most uncertain of all things is always absolutely certain, cannot very consistently complain that the meager priesthood, which ministers at the shrine of an oracle that claims to be infallible, should be expected to give out no divided responses, and scatter no ambiguous voices among the worshippers, but, on the contrary, on all vital questions at least, should blend all its outgivings into one sublime chorus of universal harmony. In matters of faith, where the idea of infallibility is the rule, such consentaneity is indispensable. If the successors of the fisherman, along with the triple crown had worn a triple head, the prestige of infallibility must soon have disappeared. With seven or eight heads the faith must necessarily have perished under any other rule than that which is proposed to be enacted here.

It is only necessary to remind the lawyer himself that there is an analogy to this in that time-honored institution, the trial by jury, which, although generally referred to the great charter of English liberty, antedates the records of our race, and is imbedded in all our constitutions as the palladium of all our rights—the one great preëminent defense of private and public liberty. It was not enough that the person and property of the citizen should be walled round by the protection of his peers. Even that security was treated as inadequate without the unanimity that constitutes its excellence. It was still possible that seven men out of twelve might be warped by prejudice, misled by ignorance, imposed on by cunning, corrupted by money, or seduced or overawed by power. The life and liberty and property of the citizen were not to be trusted to the keeping of the majority, or taken away except by the unanimous accord of all his judges, passing in criminal cases as well upon the law as upon the facts. It is the glory of England, as it is the boast of America, that not one of the great natural rights, whose protection is the only legitimate object of all government, shall be disturbed, even in the smallest particular, without the unanimous judgment of a larger bench than that which claims to pass, by a divided vote, upon the fundamental law of a great nation, and in effect to nullify that law, or to make it speak in accordance with its own imperial behests. Who, then, shall say that there is in this amendment anything unreasonable or unprecedented, or any departure from the analogies of our Constitution; or that a nation may not borrow in its extremity, for the preservation of its life, the securities it has already thrown around the humblest individual and the lowliest home?

If there is anything that is transcendently and indefensibly unreasonable, it is in the idea that it should be competent for even any seven or eight men, however exalted, and with like passions and infirmities as ourselves, either to legislate away by construction the great charter of our liberties, or to set aside the decrees of the high council of the nation, embodying, as it always does, a large share of the intelligence and all of the majesty of a great people, and in effect to bind everybody but itself. That is an anomaly necessitated, perhaps, by the fact of a written Constitution, but still an anomaly that may well startle us, in view of the possibilities that are so strongly suggested by the present condition of the nation, wherein its highest judicial tribunal is invoked and depended upon, as a powerful, nay, a resistless auxiliary in the war

HO. OF REPS.

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waged by the Executive against the power that is intrusted under the Constitution with the making of its laws. There was a time when it was seriously doubted whether there was any authority in the States or the United States that could declare an act of the law-making power to be invalid because it conflicted with the constitutions of either. That question has been settled affirmatively on grounds that may be, perhaps, conceded to be unanswerable, and which I will not, at all events, attempt to controvert. It was apparently the logical and necessary result of an antagonism between a superior law and an inferior one, which could not be reconciled without the surrender of one or other of them. If the fundamental, and of course the higher law was not to prevail in such a strife, the Constitution became valueless as a limitation, which it was intended to be. It was not without reason, however, as we have occasion from very recent experience to know, that the jealous and watchful and sagacious Jefferson referred again and again to the power claimed for that tribunal, as involving the establishment of a judicial oligarchy in the land.

We look in vain to the country from which our institutions are derived for any example of such a power as this over its constitution and laws. The royal negative, it is true, may suspend the action of the legislative body, although in point of fact that prerogative has slept for near two hundred years, but it settles nothing in regard to the powers of that arm of the Government, and only stays its operation until the might of public opinion comes back to bend even royalty itself before it. No British court, even the most ancient and venerable, with all its historic prestige and all its array of learning, has ever ventured to set limits to the authority of the law-giver. The appeal is not there from Parliament to the courts, but practically from the courts themselves to Parliament, as the highest of them all. And welland faithfully has that great depository of the unwritten laws and customs of England, which constitute the safeguard of the liberties of its people, observed and performed that responsible and exalted trust. In the custody of the courts they would have sickened and died under the withering influence of royal favor. The history of that nation proves abundantly that in all the struggles between prerogative and privilege the supplest instruments of tyranny have been the judges. But to the honor of the Legislature be it said, that no decision has ever been made by them which violated the instincts of the Saxon race, by breaking down its landmarks, or traversing its great maxims of liberty, by impinging upon the natural rights of the subject, that has not been eventually reversed by the Commons of England in Parliament assembled. And thus, without a written constitution, with no guides but those high instincts, those hoary and venerable customs, and those hallowed traditions of the past, which, handed down, as they have been, from sire to son from prehistoric times, make up the body of their common or customary law, the liberties of Englishmen, so wisely reserved for their own keeping, have been perpetuated from generation to generation, not only unimpaired but enlarged, improved, developed, and strengthened by the flow of centuries. They have not learned the royal lesson of the last presidential campaign, which is still rehearsed and reiterated even here, that the danger of tyranny is from the many, or, in other words, from themselves, and that they required the vetoes of a king, or the supervisory power of a court, to instruct them as to their rights, and protect them from themselves. There have been none among their representatives so deficient in self-respect as to abase themselves in the presence of any court; none so unappreciative of their own high trusts, or so forgetful of their official dignity, as to insist, or even to concede, that there was more wisdom, and learning, and virtue concentrated in any body of seven, or eight, or even twelve men in

Westminster Hall, selected by the Crown, than was to be found in the multitude of counselors that represent the people of a great empire. The Parliament of England is the guardian of the liberties of England, and cannot betray those liberties without surrendering its own. And so, too, with our Constitution and all of value that it contains. When it ceases to be safe in the hands of all the people, who have a common inheritance in its provisions, it is idle to hope that it can be locked up securely under the custody of any seven or eight men outside, as so many doctors of the Sanhedrim, with the high prerogative of reading and interpreting it to the people, as the imperfect judgment or the mere caprice of a majority of them may determine. The statesman who holds that we cannot safely trust ourselves, and that our only security is in such a guardianship, surrenders the idea of self-government as a visionary and impracticable thing, and confesses that a political State cannot exist without a master. That is an ancient superstition. Wise men of old and some of modern times have entertained it. The world has generally been governed under it, often by a hierarchy. It was supposed for a long time to have been exploded here. It is now revived under the auspices of the Democratic party—once so hostile to this *régime*—in the idea that a sort of hieratic college—a priesthood of a new religion—a little oligarchy of lawyers—is the only safe depository of the supreme power of the State. The difference is only between an oligarchy and a monarchy—between eight sacerdotal masters—a sort of conclave of superannuated cardinals—in wigs and gowns, and a single royal one in purple. Without disparagement to either of these high professions, and certainly with none to that to which nearly forty years of my own life have been devoted, and which is now sought by some to be enthroned at this Capitol as the absolute master of the State, I must be excused for thinking that, however flattering may be the offer of the crown to us, many people would, perhaps, prefer the purple, with all its attendant splendors, to the sable regalia of either the priest or the pedagogue.

If it has been found, however, that the liberties of Englishmen could not be safely trusted to their courts, how much less likely is it that ours, as a people, can be confided securely to the same hands here. It may be truly said of the judiciary of the mother-land, that since the era of the great Revolution, for a period now of near two hundred years, there have been no tribunals among men that have been more exempt from the frailties of humanity, and have more nearly approximated to the ideal of unerring wisdom and perfect justice; and it is to the fact that the highest honors of the profession are only accessible to the highest excellence, that there are no loftier rewards to tempt ambition, even the most restless and insatiable, and that there is a homogeneity among its people which frees it from the adulteration of foreign and inferior ethnic elements, that it is indebted for these exalted qualities. No favoritism rules in the selection of its judges. The leader in the forum steps by an admitted right of succession into the first vacancy on the bench. It is scarcely within the power of the Crown itself to disregard this rule in its appointments. To pass by the trained athletes, and single out even the greatest of the parliamentary leaders for such a place, would shock the moral sense of the whole realm. Not so, unfortunately, with us.

There is, perhaps, scarce a Congressman or Cabinet officer, who has been long enough in public life to unlearn all of law that he ever knew, whose modesty would prevent him from seeking or accepting the mantle that has fallen from the shoulders of a Marshall or a Story. It is not to the leaders of the bar in this country that the honors of the profession are awarded, as their undisputed right; and they are, perhaps, not sought by them, for the reason that

the rewards are not commensurate with the earnings of the higher class of professional men. And therefore it is that the bar is in most cases superior to the bench, as it cannot be where the usage prevails of selecting the judges from the ablest of its members; and therefore it is, too, that the spectacle of a divided court is, of late years especially, so common a thing, that unanimity is the exception rather than the rule, and lawyers themselves are startled at the idea of prescribing a condition that to them seems impossible. I take leave to say that it is no more impossible than the harmonious agreement of a jury. It is questions of fact alone that are the most fruitful sources of difference among men. In matters of pure science, as the law is sometimes claimed to be, there is no great room for controversy. High culture and thorough discipline will go far to secure accordance in opinion. The best lawyers will be seldom found to differ where they are agreed upon the facts. It is only the pretenders, the mere sciolists, that convert what ought to be the temple of concord into an arena of perpetual strife, on the bench as well as at the bar. In the long term of thirty-two years, during which Lord Mansfield presided over the Court of King's Bench, there were, if my recollection serves me right, but two cases of division among the judges of that court—one the case of *Millar vs. Taylor*, upon the great question of literary property, and the other that of *Perrin vs. Blake*, upon the application of the rule in *Shelley's case*—and no reversals in the Exchequer Chamber or in the House of Lords, except in those two cases, wherein the dissenting judge was Yates, who was decided to be right in both. Another Yates might save the Constitution here against even the errors of another Mansfield by the adoption of the proposed amendment. And what is there, in view of this striking chapter of judicial history, which is only singled out by way of illustration of the general harmony that prevails in England, to prevent the achievement of the same result with us; and who is there that will consent, until it is accomplished, to trust the welfare and the very existence of this nation to such an arbitrament?

But it is not the want of professional training only that makes the difficulty and the danger here. The judge, with us, is not so much a lawyer as a politician. The chances are that his politics, and not his knowledge of the law, have made him what he is; and the place he has sought and won is, perhaps, but the stepping-stone to a higher one—which he covets more—whenever he shall have recommended himself sufficiently by his conduct there, either to the President or to the party to which he owes his exaltation. Without any of the *esprit du corps*, the devotion to his proper calling, the high professional pride that always results from high professional training, he sinks the lawyer in the politician, and carries into the temple of Themis, where no divided worship is admissible, all the prejudice of party, and all the spirit of the local and sectional demagogue. It is idle to talk of our courts of justice as merely judicial institutions. Disclaiming ostensibly all jurisdiction over political questions, they are as thoroughly political in their texture and spirit as the two Houses of Congress themselves, over whose atmosphere of mists and storms they are supposed to float, like disembodied spirits, in the celestial light of an unclouded and unbiased reason. Turn to the history of our jurisprudence, State and national, and what do you see but the reflection of the opinions of the party which happens for the time being to have the ascendancy in the courts? Fortunately, perhaps, for the welfare of this nation, before it was well hardened into the consistency of an organized State, the plastic hand of the party that favored the covenant of Union was invoked to put its impress on the work and launch it on its high career. If the old Federalist, however, carried to the bench one set

of opinions, the old Republican brought with him another. With the growth of slavery the State rights Democrat, drawing his inspiration mainly from that unhallowed institution, took possession of the State and Federal courts, stealing away, even in the free Commonwealth of Pennsylvania, the chartered rights of the black man, under the miserable juggle that the word "freeman" did not mean a free man, but a white man, and maintaining its power here and in the States until that power culminated and carried the country down into rebellion and ruin, in the monstrous paradox that slavery and not freedom was the law of this Republic, and that four millions of its native inhabitants were but aliens and outlaws, with no rights that a white man was bound to respect.

When the echo of these opinions came back in the roll of the war drum, and the thunders of the artillery that shook this Capitol, the Supreme Court of the United States, startled, as it no doubt was, by the unexpected results of its own work, with one defection only, maintained its faith to the Union by adhering to the Government, affirming its powers of self-conservation, and recognizing the belligerent relations created by the war. It could not well have been otherwise. Its dignity, its power, its very existence, were involved in the preservation of that Union whose integrity was menaced by the revolt. Not so, however, with the party judges of the States. While it was no longer safe to question the power to coerce, wherever a Democratic judge was found, he was almost sure to cast his vote into the southern scale by a denial of the means, while the Republican judges of the loyal States were ever ready to enforce the legislation of the governments, both Federal and State, in aid of the war. Thus in Pennsylvania, when it was proposed to arm the soldier with the suffrage in the field, in order to enable him to protect himself from "a fire in the rear," the constitutionality of the law enacted for that purpose was denied by a Democratic court. If the right of the General Government to compel the military service of its citizens in its darkest hour was sustained even upon the anomalous and extraordinary proceeding of a bill in equity to enjoin the draft, hurried to an argument against all rule before a full bench, in midsummer and out of term, while the rebel armies were thundering at our very gates, and pressing in serried columns upon the fatal field of Gettysburg, by the supreme court of the same State, it was only through a popular election which deposed one Democratic judge, and the defection of another, who preferred his country to his party. If the legal-tender act, which provided in the nation's extremity the sinews of war, and fed and clothed the gallant volunteers who so freely offered their young lives to the sacred cause of liberty, was saved from judicial condemnation in the same court, it was in the same way. And now it may be added, since the danger has apparently passed away, and the judges of the Supreme Court of the United States, lately united and cemented together under a feeling of common danger, have come to feel that the Federal judiciary is saved along with the Union on which it depends, they are found to divide again according to their original political connections and proclivities, upon the validity of the test-oath, the military commissions, and perhaps others of the important measures of self-preservation and defense that contributed so largely to carry us successfully through the war, while it is not to be denied, that if the authority of Congress is not absolutely menaced at this very moment from the same direction, this body at least, if not the whole country, is affected with the deepest alarm by rumors of a combination between the Executive and the courts for the overthrow of the legislative power.

Allow me to remark, however, that in what I have just said in relation to the decisions of the courts I have not intended to inquire who

of the judges involved were right and who were wrong, because it is not necessary to the argument, and gentlemen on the other side, to whom it is equally addressed, might differ with me as to that. The object I have in view just here is only to make good the allegation that the decisions of the courts, on constitutional questions especially, are almost invariably governed by the party affiliations of the members, and therefore not so much the judgments of lawyers as of politicians. If the fact be so, it is, of course, and must forever be, in the mutations of party and with the ever-changing kaleidoscope of politics, entirely fatal to the idea of uniformity of decision, and nothing is ever to be settled, as nothing apparently has been settled incontrovertibly heretofore. Assuming it to be true, moreover, there is an end of all argument in support of the judgment of a divided court, if there is not an end of all apology for treating even its unanimous decisions on questions of constitutional law as conclusive upon Congress and the people when they are not even conclusive upon themselves.

It was a grave error, therefore, as I honestly think, on the part of the founders of this Republic, when they departed from the example of our British ancestors in giving place to such an anomaly, instead of reserving the ultimate judgment in all such cases to their own Representatives, or at least preserving their control over the judiciary, by the method of address by two thirds of both Houses, which was provided in the statute of 9 William III, and has been copied by some of the State constitutions, instead of relying only on the inadequate remedy of impeachment, which corrects no error, however vital, and leaves the defaulting judge to shelter himself under the plea that he erred from ignorance only, or without corrupt intent. To meet this difficulty, however, I have had the honor to submit a constitutional amendment to the same effect, in order to maintain the just authority of the law-making power, by bringing the Federal judiciary within the reasonable control of Congress, with such qualifications as will guard it sufficiently against abuse, which I propose to bring to the notice of the House at some more favorable opportunity.

Assuming, however, that the power of review is properly lodged with the Supreme Court, the question is whether the limitation proposed would be a proper one. That it is so is, I think, demonstrable from well-settled principles, and as a logical result of the decisions of the court itself.

It is admitted on all hands that questions of this sort are of great delicacy, and ought not to be even heard, except in the presence of a full bench. This is the rule in Pennsylvania, and perhaps everywhere else, and the practice of the Supreme Court of the United States is shown by the Reports to be in strict accordance with it. (6 Wheaton.) There can be no possible objection, therefore, to so much of the bill as merely imparts the sanction of law to what is already recognized as a rule of the court.

But the rulings of the courts do not stop short with the concession of the principle, that cases of this nature ought not to be heard except before a full bench. It is still further admitted, as well by the Supreme Court of the United States as by the judicial tribunals of all the States, so far as I am acquainted with them, that no act of the law-making power ought to be declared invalid on the ground of conflict with the Constitution, except in a very clear case. (Fletcher vs. Peck, 6 Cranch, 128; Resp. vs. Duquet, 3 Yates, 493; Eakin vs. Robb, 12 S. & R.) In the first named case Judge Marshall says, in delivering the opinion of the court:

"The question whether a law be void for its repugnancy to the Constitution is at all times a question of much delicacy, which ought seldom, if ever, to be decided in the affirmative in a doubtful case. It is not on slight implication or vague conjecture that the Legislature is to be presumed to have transcended its powers and its acts to be considered void. The opposition between the Constitution and the

law should be such that the judge feels a clear and strong conviction of their incompatibility with each other."

And this is reason. When we look to the fact that every law enacted by the Congress of the United States must pass the ordeal of a bench of judges in the Judiciary Committee of each House; undergo public discussion and scrutiny on the floors of both; be affirmed by the votes of at least one hundred and twenty men, comprising among them a large number of lawyers of great experience and ability, and many of them at least the peers of the judges of the Supreme Court themselves, and then either approved by the President, or reviewed and reaffirmed upon objections made by a two-third vote, it would have been surprising, indeed, if the court could have held any other language in regard to it. When they say, however, that the case must be a clear one, they affirm by an inevitable logic the principle of my amendment. No case can be said to be a clear one where even one out of eight judges dissents, as no decision is regarded as an unimpeachable authority, even in an ordinary case, where there has been a division on the bench; and none *à fortiori* ought to be considered in a case of that sort as of any weight or value whatever. It may be that the dissenting judge is, as in the case of Yates, the ablest lawyer of the number, and therefore it is no unusual thing to find, as in that of Curtis in the Dred Scott case, that the dissenting opinion is the more thoroughly considered and satisfactory of the two. It is not mere brute numbers that ought to prevail in the forum of reason, or in other words, of law, which is supposed to be the perfection of it. The vulgar idea of a majority in numbers, which is only properly admissible on grounds of convenience if not necessity, because in the case of conflicting wills it is impossible that both can prevail, (1 Tucker's Black Commentaries, Appendix, 168-172; 9 Dan Abridgt 37-43 1 Story's Commentaries, section 330) has no proper place in the comparison of opinions, which are not to be tested, as Tacitus, I think, expresses it in regard to the great councils of the Germanic tribes, by numeration, but by weight. It follows, however, from the theory of the court itself, that the law, which is but the voice of the people speaking through their Representatives, is entitled to the benefit of every doubt, and ought not to be pronounced unconstitutional where there is any dissent whatever; and so they must decide if they would be consistent with themselves. The effect of this amendment therefore is only to hold them to the logical consequences of a doctrine which has been distinctly, emphatically, and repeatedly enunciated by themselves.

We are so much accustomed in this country to the idea of a majority, as the fundamental one on which all republican government must practically rest, that we are apt to suppose that it has its own foundation in the very nature of things, and that every departure from it must do violence to the spirit of our institutions. Allow me to say that this is a great mistake. The idea is exclusively a social and political one. There is no such thing in nature as the right of superior numbers to govern the inferior. Mr. Burke, whose richly furnished, comprehensive, and philosophic mind was brought by the leading events of his time to the exploration and analysis of the great principles that lie at the foundation of all government, holds this language in his "appeal from the new to the old Whigs":

"We are so little affected by things which are habitual that we consider this idea of a majority as if it were a law of our original nature; but such constructive whole, residing in a part only, is one of the most violent fictions of positive law that has ever been or can be made on the principles of artificial incorporation. Out of civil society nature knows nothing of it; nor are men, even when arranged according to civil order, otherwise than by a very long training, brought at all to submit to it."

"This mode of decision where wills may be so

nearly equal, where according to circumstances the smaller number may be the stronger force, and where apparent reason may be all on one side, and on the other little else than impetuous appetite; all this must be the result of a very special convention, confirmed afterward by long habits of obedience, by a sort of discipline in society, and by a strong hand vested with stationary, permanent power to enforce this sort of constructive general will. What organ it that shall declare the corporate mind is so much a matter of positive arrangement that several States, for the validity of several of their acts, have required a proportion of voices much greater than that of a mere majority. Those proportions are so entirely governed by convention that in some cases the minority decides. The laws, in many countries, to condemn require more than a mere majority; less than an equal number to acquit. In our judicial trials we require unanimity either to condemn or absolve. In some incorporations one man speaks for the whole; in others a few. Until the other day in the constitution of Poland unanimity was required to give validity to any act of their great national council or diet. This approaches much more nearly to rude nature than the institutions of any other country. Such, indeed, every commonwealth must be without a positive law to recognize in a certain number the will of the entire body."

Now, a reference to the structure of our own political machine will show, that while the majority principle, which is but the common law, is generally recognized in public affairs as the governing one, it is not by any means the universal rule of our Constitution, and that the framers of our Government have deviated from it largely by way of check or limitation upon the possible and probable abuse of such a power. I have already referred to the trial by jury, where unanimity, which is of its very essence, is the rule. The trial by impeachment, where two-thirds are required to convict, is another case where the majority idea is departed from. Again, in the enactment of our laws, the power of the majority in either House is controlled by the dissent of the other, while both are bridled by the one-man power residing in the President, and a two-third vote of each, although comprising of themselves, by the very terms of the Constitution, the entire legislative power, is required to enable them to act effectively alone; so that it may be truly said that the rule of legislation is a two-third vote. The like majorities are required for the alteration of the fundamental law itself, along with the consent of at least three fourths of all the States. In all these cases the majority rule is not permitted to apply, and that for the transparent reason that the great vital interests of the State and people demand a higher measure of security. So little regard, indeed, is had for this cabalistic number, which is supposed to be so full of preternatural virtue, that a departure may be witnessed even in the opposite direction, in the rule which prevails in nearly all the States in the choice of Presidents and Congressmen, at Federal as well as State elections, that a mere plurality, which is only another name for a minority, may elect to the most important offices.

If the majority principle is the rule in the courts, and generally at the ballot-box, it rests only on the same grounds of convenience that have tolerated and recommended the rule of a plurality. It is a necessity that wherever there is a diversity of opinion the larger number shall prevail if there is to be any decision at all; and therefore it is, that by the rule of the common law, which is the growth of a nation that never recognized the rule of a majority in affairs of state, a power delegated to three or more persons for a public purpose, is exercisable by a majority of the persons named, while a merely private authority cannot be executed by any number less than the whole. (6 Johnson's Report, 38.) The consequence in the latter case is, that it must fail altogether in the event of a difference of opinion, which in affairs of state would be entirely inadmissible, wherever any positive act is to be done. In the ordinary course of judicial proceedings it may be admitted that the rule of unanimity would be, if not absolutely impracticable, as I think it is, a source of endless and infinite embarrassment, and result unquestionably in the great delay, if not the absolute denial, of justice. In the case,

however, of a question as to the constitutionality of an act of Congress there is no such exigency. The requirement of unanimity will only give to the law-making power the benefit of the favorable presumption to which no lawyer will dispute that it is entitled, and fortify that presumption with the advantage of any doubt, by treating its own decisions as the rule that is to govern the courts until, at least, they shall have been reversed by the united and concurring voices of the whole of that judiciary which claims to hold a delegated power to sit in judgment upon its authority. There will be no such inconvenience as a failure to decide. When the judges differ they will have already decided that the law is constitutional by failing to agree that it is otherwise, and the law of Congress will prevail, as it ought to do, whenever they cannot be brought to agree that it is wrong.

Having thus shown, as I think, the entire reasonableness and propriety of the change proposed, the next and last question is as to our power to effect it. And here, I think, there is no doubt or difficulty.

In the first place, then, the Constitution provides that—

"The judicial power shall be vested in one Supreme Court and such inferior courts as the Congress may from time to time ordain and establish."

There is nothing here, however, as to the number of judges who shall compose it; nothing as to the number who shall be competent to pass upon such questions as may come before it. It is unquestionable that Congress may fix the number of the court at its own discretion, and it has always done so. It is equally clear that it may determine how many of them shall be required to constitute a court for business purposes, and this it has also done by declaring how many shall be necessary to make a quorum. As the law now stands, it requires more than two thirds of that tribunal, as at present organized, for this purpose. The constitutionality of that law has never been doubted by anybody. If it was valid when enacted, it is certainly not made otherwise by the reduction that has since taken place in the number of the judges. If it is still the law, then, by a further reduction of the number, the now existing quorum might become the whole, and upon this argument the constitutionality of so much of the amendment at least as requires a hearing before a full bench is clearly demonstrated.

And now, in the second place, as to the power of Congress to require the concurring opinions of the whole of what it may choose to declare a quorum, upon any decision which they may propose to make against the validity of any of its laws.

It is to be remembered always that the authority of the court is a purely delegated one. It does not follow, therefore, as a conclusion of reason, from the doctrine that a majority of several joint owners may dispose of the joint property, or because a corporate body may act in the same way in relation to a matter which concerns themselves, that the same rule shall apply to a public trust, except perhaps, in cases where it is incapable of execution in any other way. The people are entitled to the benefit of the aggregate wisdom of the bench, in the concurring judgments of all those who compose it. The Supreme Court might have been constituted of a single judge, and ought to, and perhaps would have been so constituted but for the proverbial and generally received hypothesis, that wisdom is to be found rather in "the multitude of counsellors" than in the few—not, however, in view of their ultimate disagreement, but to the end that, by comparison and even the possible shock and conflict of opinions, the truth may be evolved and harmony secured, just as in the system of the universe, it is said by the poet, that "all nature's difference makes all nature's peace." It can hardly be supposed that, in the constitution of a bench of eight or nine judges, it was intended

that five only of the number should decide, or expected that a sound conclusion could be reached by any result so near an equipoise. To claim for this larger fraction the power of a constructive whole is not too strongly characterized by Mr. Burke, in the passage already cited, as "one of the most violent fictions of positive law that have ever been or can be made on the principles of artificial incorporation," and "cannot be so made, in a Commonwealth, without a positive law to recognize it." There is no law, however, in the present case except the common law, resting on the reason of the thing, which is only its supposed necessity in ordinary cases; and this, as a mere rule of procedure, not entering into the constitution of the tribunal, and only prescribing a law for its government. If it inhered necessarily in that constitution—if it were of the essence of a court that it should act in all cases by mere majorities—if, in other words, it were strictly definable as a machine whose principle of motion was of that sort only, it might be objected, perhaps, that the Constitution had settled it. But this, I suppose, will hardly be pretended by anybody. In any other aspect of the question, however, it is but a rule of the common law for the regulation and more effective working of these tribunals; in which case there is nothing, of course, to prevent its abrogation by the power that makes and un-makes the law, in accordance with its own sovereign will, which is only the will of the people declaring itself through their representatives. So long as the authority to decide is still left and still exercisable by the courts, at their own discretion, and upon their own judgments, they have no more right to complain that they are all required to agree in order to nullify the law than that they are not now permitted to do the same thing, as a quasi-corporate body, without the concurrence of a majority of such a quorum as it has pleased the Congress of the United States to indicate.

It is not necessary, however, to either of the pending amendments, to borrow the aid of the general principle that Congress may alter and modify the rule of the common law. The power is to be found in the Constitution itself, so far at least as regards the appellate jurisdiction of the court, which is the whole extent of this bill. That jurisdiction which extends to all cases, except those "affecting ambassadors, other public ministers and consuls, and those in which a State is a party," is conferred only with the express reservation that it shall be exercised and enjoyed "with such exceptions and under such regulations as the Congress shall make." What is the meaning of this language? The word "regulations" imports no more than rules or laws. That it carries with it any power to change the rule of decision, so as to impose another law upon the court than the action of its own judicial mind, or to do anything further than prescribe the mode of decision, I do not claim. It will not be disputed, at least, that under this provision it may limit the jurisdiction to such cases as it thinks proper, and settle in its own way the whole process of removal to, and treatment in the appellate court. If it shall think proper, then, to accord that jurisdiction only on the condition that none of its own acts shall be overruled on constitutional grounds without the judgment of an undivided court, who shall gainsay its right so to do, when it may even refuse the jurisdiction altogether where the court below may have affirmed the validity of its enactments?

And now, having fully vindicated, as I trust I have done, the principles of the amendment I have had the honor to submit, covering, as it does, as well the modification on which the Judiciary Committee has agreed, and which in default of the higher security will not be unacceptable to me, I must be allowed a word in conclusion on the reasons which have prompted the introduction and agitation at the present

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moment of a question that seems, in some measure, to have taken the press and country and even the profession by surprise, as a very novel if not a very bold experiment.

It will be said, perhaps, as it has been already more than whispered in some quarters of the Union, that this alarming proposition is only a mere expedient for the time, intended to serve the purposes of the moment, and with a view only to a particular case; just as the important provision of the tenure-of-office law extending its operation to the heads of Departments, which without much active sympathy or support from any quarter, and only by persevering and persistent effort, and after repeated defeats, I was happily enabled to see ingrafted upon this law, against the apparent sense of the Senate and the unyielding opposition of a large portion of the Republican members of this House, has been published to the world through all the organs of public opinion, until it has persuaded everybody here, and the echo of it has come back even from the other side of the Atlantic, as a mere party contrivance to save a particular officer—who was known by me at the time to be himself opposed to it—instead of a great measure of state, prompted by a conviction of the absolute necessity of securing the independence of a set of functionaries who had come to look upon the master of their fortunes as the rightful master of their wills, and intended for all heads of Departments and all time. The impatient urgency with which the pending measure is just now pressed, even in its imperfect shape, after having slept so long undisturbed, may seem to give an air of plausibility to this suggestion. If the fact of its introduction nearly a year ago is not a sufficient answer, I may be allowed to say, at least for myself, that I have never belonged to that timid school of practitioners, which deals only in palliatives, when great public evils which threaten the safety of the State are to be remedied. When I beheld the law obstructed on system, and arrived at the conviction—shared with me by a majority of this House—that the supreme Executive Magistrate of this nation, the officer intrusted under the Constitution with the execution of its laws, instead of performing that duty had disclosed a settled purpose to thwart your measures and defy your will, I was at once prepared to meet that exigency by the complete and obvious and radical measure of relief, which I thought the Constitution had placed in our hands, instead of resorting to any evasive or circuitous process, any mere experiments of doubtful validity or dangerous example, to accomplish the same object. When I saw again the rare chance, the golden opportunity, of correcting a capital error, canonized in some sort by a practice coeval with the Government, in the concession of the absolute power of removal to the President, which had been so fatally used and abused, I was equally ready to take advantage of the feeling of peril engendered by the usurpations of that officer, for the purpose of accomplishing a long desiderated object, which would have been proper at all times, but had never been possible till now. So when the wild vagaries of the courts, the obvious political leanings of the judges in great affairs of State, and the atrocious and abominable doctrines to which the highest of them was not ashamed to give utterance, had stripped them of the awful prestige the more than Druidical sanctity—that had surrounded and covered them from the rude gaze of the people—when the very priesthood of the altar itself had drawn aside the curtain of the sanctuary before the eyes of the nation, in a revelation that surpassed in hideousness and horror all that the poet's conception had imagined of the impostor prophet, when he lifted his veil in the presence of his deluded followers and proclaimed in their ears in thunder tones:

"Here, ye wise saints, behold your light, your star!
Ye would be fools and victims, and ye are:"

I was equally prepared to improve the occasion, by striking boldly at the dangerous anomaly of a power in this nation that was higher than its Constitution and its laws. The time had not yet come to do this thing, until the red harvest of death had been gathered from the seed thus sown, in so many battle-fields; but revolutions are the opportunities of statesmen, and he is no statesman who hesitates when the way is providentially leveled before him, and he is thus invited to enter upon it; as he, too, is none, who dreads the idle and unmeaning taunt that he is merely legislating for the evil that is imminent, just as though it were not the business of the statesman to meet the danger that is exigent. In quiet times the chances for reform are rare. The measure now proposed was a proper one at all times. The present condition of the country only demonstrates, through an imminent peril, its absolute necessity.

Tax on Distilled Spirits.

SPEECH OF HON. S. S. MARSHALL, OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,
January 9, 1868.

The House having under consideration Senate amendment to House bill No. 369, to prevent frauds in the collection of the tax on distilled spirits—

Mr. MARSHALL said:

Mr. SPEAKER: The few remarks which I shall submit upon this occasion have been suggested by the debate that has arisen this afternoon on the proposition before the House, and I shall not detain the House for any great length of time. It was not my purpose, when this question was brought before the House, to say anything whatever upon it, for with the details and particular merits of the proposition pending I do not pretend to be very familiar. But as the debate has taken a latitude that does not properly belong to the question immediately before the House I wish to avail myself of the opportunity to suggest some things that ought, as I think, to be brought to the attention of the country. I have no direct or peculiar information in regard to the enormous and outrageous frauds that are being perpetrated upon the Government and upon the overtaxed and oppressed people of this country. There can be no doubt that these frauds have for some years been increasing so rapidly, and have now become so enormous, as to be perfectly appalling, and to threaten not only the ruin of the people, but the very existence of our Government.

It is an unquestionable fact that thievery and robbery of the people by public officials all over the land have within the last few years become a science. It is engaged in extensively in all parts of the country, and it has grown to be such an enormous evil that it now threatens to bring starvation to the people and bankruptcy to the Government. Many of the facts are notorious, but it seems impossible to bring any of these great thieves and malefactors to justice. The fact is the public sense has become demoralized. The public wink at crimes when they are so enormous that the pockets of the criminals are filled with gold or greenbacks. We can punish little petty thieves in our courts of justice, men who steal a pig or horse, or something of that kind, but the thief who robs the Treasury of thousands or millions goes at large with impunity, and too often becomes an honored member of society. There ought to be—there must be, Mr. Speaker—somewhere a remedy for this. A large portion of our public officials seem to have adopted as an axiom that

"A little thieving is a dangerous art,
But thieving largely is a noble part;
'Tis vile to rob a hen-roost of a hen,
But stealing largely makes us gentlemen."

And it is the adopting of this maxim which has brought half of this country almost to destitution, while in the other half the people are raising their hands in vain to Heaven for bread.

Ruin and devastation have spread all over the land. An over-burdened people are appealing now to this Congress for redress. If we can in any manner give it to them it is our sacred duty to do so.

But while this is so it is unfair and unjust on the part of my colleague, [Mr. LOGAN,] or of any other member upon this floor, to deal in wholesale denunciations of any public official without bringing forward facts to show that those charges are well founded. Charges have been made here by my colleague [Mr. LOGAN] against the President of the United States and against the Secretary of the Treasury which, if true and sustained by evidence, ought to send them down through all time as more infamous than any men who ever held office in this or in any other country.

Now, admitting that many public officials all over the land, as charged by my colleague, are engaged in this wholesale robbery, yet I am not willing to condemn any man, high or low, upon broad specifications of this kind, unsustained by one single fact or one particle of evidence. I understand my colleague [Mr. LOGAN] to say that the Secretary of the Treasury has knowingly appointed these thieves and robbers to office, and that the President has done the same, or has winked at enormous crimes of this character. He also charges that the Secretary of the Treasury has issued instructions that prove him to be a fool or a scoundrel.

These are grave charges; if true, these men should be infamous. But if they are not sustained by facts which can be stated here, what ought to be said, what must be said, of honorable men upon this floor who make charges of this kind against men in high official positions without having one particle of proof to sustain them?

Mr. LOGAN. Will the gentleman yield to me for a moment right here?

Mr. MARSHALL. If my colleague will be brief I will do so with pleasure.

Mr. LOGAN. Certainly. My statement, which I will repeat, was this: that the principal frauds which were committed were committed under Treasury regulations; that if the law was carried out it would be a protection against fraud to a much greater extent than are the Treasury regulations; that those regulations were of such a character that they did absolutely authorize or protect fraud, from the manner in which they were issued. There were so many of them—

Mr. MARSHALL. I cannot yield further.

Mr. LOGAN. I will make my statement very brief.

Mr. MARSHALL. I cannot yield.

Mr. LOGAN. Let me state about the second matter.

Mr. MARSHALL. If I had plenty of time, or the House would agree to extend it, I would yield to my colleague with great pleasure. But I am indebted for the short time that I am now entitled to the floor entirely to the courtesy of the gentleman from New York, [Mr. VAN WYCK,] and I shall probably not have time to make the remarks that have suggested themselves to me as appropriate on this occasion. I do not wish to do my colleague or any one else any injustice. His statement is on the record here, and if I do him any injustice he can correct me hereafter.

I understood him to state, in regard to these Treasury regulations, that they were intended to aid in the perpetration of frauds. If that is so it is not the duty of my colleague to bring before the House the instructions to which he refers, in order that we may judge whether or not the Secretary of the Treasury has been a party to these frauds upon the country?

Now, it is a very easy matter to deal in general

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charges of this kind. To what extent has the Secretary of the Treasury or the President appointed thieves and robbers to office? Or when have they, if appointed, been called to the attention of the President or Secretary, and they been asked to exert their power to remove? Name the man, the occasion, the circumstance; and if they have been guilty of offences of this kind let them be condemned by the country, by history, and by the world.

Sir, no man's reputation is safe if a member upon this floor deems that he is authorized to get up here and deal in wholesale defamation of public officers without bringing forward one particle of proof or a single fact against any one of them. If my colleague [Mr. LOGAN] will reflect a moment he must see that such a course is unjust—one which cannot be sustained for a moment upon any principle of justice or fair dealing among men.

Mr. LOGAN. Does the gentleman desire me to state a case? I can do so.

Mr. MARSHALL. I would yield to the gentleman if it did not come out of my time.

The SPEAKER *pro tempore*, [Mr. WINDOW.] It must come out of the gentleman's time.

Mr. MARSHALL. If my colleague can state a case, let him, when he has the floor, (and he has much better opportunities of obtaining it than I have,) bring forward his charges; let him prove them; it is his duty to do so if he has facts upon which to base them; and then let the facts go before the country. If there is no other mode of punishment let the country at least know that these high officials are conniving at or participating in these enormous frauds. I will be the last man in the House to attempt to shield them if they are guilty of these enormities. But I say here that I do not believe such to be the fact. I certainly do not believe that the President or the Secretary of the Treasury has knowingly aided in the perpetration of these frauds. Why, sir, what do they know personally of the men appointed to official position throughout this broad land? Neither the President nor the Secretary of the Treasury knows personally one man in a thousand of those appointed. The appointees are recommended by members of Congress—by my colleague [Mr. LOGAN] and gentlemen on that side of the House to a much greater extent than by any on this side. The men holding the public offices of the country under presidential appointment are men appointed either by Mr. Lincoln or Mr. Johnson with the approbation of the Senate of the United States. It is a notorious fact that no member of the Democratic party proper can pass the ordeal of the Senate for any appointment. The appointments throughout the country have been made from men within the Republican party. So far as my colleague's speech was intended to have a partisan bearing let me say that he must know that the Democratic party proper has had no part or lot in the collection of the revenues of the Government. Secretary McCulloch stated on oath before the Judiciary Committee that nineteen out of twenty of the officials in his Department were not only not Democrats but Radicals, supporters of the policy of Congress; and Mr. Rollins, the Commissioner of Internal Revenue, admitted to be a strong Radical, was present when the testimony was given and assented to the statement. So it is all over the country.

The effort of my colleague to give this matter a partisan turn must be met, and may be rightfully met, in this way: in all Governments frauds occasionally occur. Now and then, under every Administration, a scoundrel gets into office. Even under good old Democratic Administrations there occasionally got into office some man who perpetrated frauds upon the Government; but they were promptly turned out when the fact was discovered. It was not till the advent of the Republican party to power that robbery of the people became a fine art

[laughter] and was indulged in all over the country. A distinguished Republican Senator from New Hampshire (Mr. Hale) has testified in the Senate, and a distinguished Republican Representative from Massachusetts [Mr. DAWES] has testified in this House that more of the money of the people was stolen during the first year of Mr. Lincoln's Administration than the entire expenses of conducting the Government during the four years of Mr. Buchanan's Administration. And, sir, that inundation of thievery which commenced then has been growing and rolling and swelling from that day to this until the people are brought to poverty in one section of the country and to starvation in another. If the party that brought about this thing has any remedy to offer it is time the remedy should be presented. When the people are crying for relief from the enormous burdens which are weighing them down it is high time that this party, now upon its last legs and about to retire from power forever, should inaugurate some system by which the people may be hereafter protected from such robbery as that by which they have suffered. There are many ways of introducing reform and protecting the interests of the people. I know of one method which I think would be infallible, and I hope my colleague, or if that is hopeless, at least that the honest masses who have been deceived by the false pretensions of the party in power, will join me in bringing about the desired reform.

I do not, I must confess, have very strong hopes that my colleague will unite in the proposed effort, but the remedy is a palpable one, and that is to go back to the old principles and practice of Democratic administration, bring in a Democratic President and a Democratic Congress, and introduce the principles of economy and justice which were always carried out when that party was in power. Then this robbery of the people will cease. I will guaranty it, sir. The history of our Government from its foundation to the present time furnishes irrefragable evidence that this is the remedy, and now the only remedy.

My colleague proposes one plan by which to increase the revenue from the whisky tax. I propose another plan, and that is to get rid right now of this party which has thus wronged and oppressed the people, and brought desolation, ruin, mourning, and woe to our fair land. Let the slick, unctuous gentlemen around me bow themselves out of these Halls, and let the old fashioned Democratic administration come into power, and I will guaranty that we will have an Administration which will relieve the people of the enormous burdens which are now crushing out their very lives, and that we will drive the thieves and money-changers in disgrace and ignominy from this great temple of liberty which they have been polluting and desecrating.

Mr. MAYNARD. Let me ask the gentleman a question. Mr. Floyd, one of the old-fashioned economists, has unfortunately departed, but can he inform us whether Jacob Thompson is accessible, and what means we shall resort to in order to get him back? [Laughter.]

Mr. MARSHALL. I have heard charges against these men, and they may be true, but Mr. Buchanan's Administration was not a favorite of mine. I have, however, the testimony of leading Republicans for saying that the stealing during the first year of Mr. Lincoln's Administration amounted to a larger sum than it cost to run Mr. Buchanan's Administration for four years, stealings and all. [Great laughter.]

This thing of stealing, sir, has become a wholesale business, and has grown to most appalling proportions since the advent of the Republican party to power, and it will cease, in my judgment, the very day that it goes out of power, and not one moment sooner. The present condition of the country, sir, ought not to be considered cause for surprise or wonder to any one who has brains enough to compre-

hend the natural and inevitable connection and sequence between cause and effect. Similar causes would produce similar results in any age or in any country. The Abolition, now called the Republican or Radical, party was founded on the maxim, which they spread out on their banners and boldly proclaimed to the world, that "The United States Constitution is a covenant with death and an agreement with hell," and that there was a higher law than the Constitution, and no man was bound by its provisions or obligations. And this party since it came into power has been true to this theory upon which it was founded. Every feature and principle of that sacred instrument and every safeguard put there for the protection of the rights and liberties of the citizen have been openly and defiantly trampled under foot by this party. And now its great leaders and Representatives upon this floor openly proclaim that they are administering the Government "outside of" and in open defiance of the Constitution. No wonder, Mr. Speaker, that all sense of moral obligation has been destroyed among their followers. No wonder that the floodgates have been broken down and a deluge of crime, debauchery, and prostitution, political, moral, and social, has swept over the land. When the chosen and select prophets of the sect openly and defiantly disregard the sanctions and guarantees of that great charter which they have just sworn to support why should we wonder that the lesser lights and disciples should feel resting lightly upon them the obligations of the commandment which says, "thou shalt not steal," or be surprised when we see them engaged in wholesale plunder and debauchery?

It was the most natural thing in the world that when the leaders were engaged in violating their duties to the country and its Constitution, the lesser lights should practice upon the rules of venality which had been laid down for them and go to filling their pockets. And they have done it with a vengeance.

These robbers are now rioting in luxury all over the land, while the honest, industrious laboring people are borne down with poverty and taxation. The very bread which they make by the sweat of their brow is wrested from them before it reaches the mouths of their children, and one half of the revenue wrung from them is taken to feed and clothe lazy, vagabond negroes, or put into the hands and pockets of these plunderers.

This system must cease, and there is a remedy for it; and the only remedy is to go back to the original principles of the Government; to reinstate that party in power which for sixty years safely and economically carried on the Government, and successfully prosecuted two great foreign wars without any oppression of the citizen, any violation of the safeguards of the Constitution, and without sending one single Federal tax gatherer among the people to eat out their substance.

And how dare my colleague or any gentleman, in the presence of public and well-known facts, charge any of these frauds upon the President or upon any one outside of the party now in power? By an act of Congress the President is stripped of his rightful power for the correction of these evils. He cannot remove a single man from office, not even one of his own Cabinet ministers, or appoint a single man to office without the consent of your Radical Senate. The consequence is that while the offices are now filled by Radicals all new appointments must be made from that party. It is sufficient for the Senate to know that a man is a friend of the President or an opposer of the Radical measures of Congress to secure his rejection; and, therefore, rather than have these offices vacant that are necessary to be filled for the public service, he time and again sends in men of the Radical party, the very elect of the party, and they are the only ones who can be confirmed for positions of any

importance. He has not the power to select men of his own choice. Why, even for the very highest offices in the land, although opposing Congress in its mis-called "reconstruction" policy, the President takes the elect of the Radical party. Look at our foreign missions where vacancies have occurred. Mr. Bancroft was appointed to one, and Mr. Raymond to another. Then Mr. Greeley, the very head and front of the party, was nominated for one of the first positions under the Government. It is not true that the President, even where he has had the power of appointment, has confined himself to his own friends in making the selection. He has been compelled, in all these revenue cases, so far as my knowledge extends, either to take men of the dominant party or those with whom they were satisfied or leave the offices unfilled. And if, in selecting among them, he finds one thief out of a dozen, I do not think it is at all remarkable, and I am only surprised that he has not been more unlucky than he has in this particular.

We are alarmed, Mr. Speaker; and honorable gentlemen seem surprised at the cry of distress that comes up to us from all parts of the land. A once happy, free, and prosperous people find themselves upon the very brink of financial and commercial ruin, while trembling between the Scylla of anarchy and the Charybdis of despotism that threaten to engulf our brightest prospects and fondest hopes forever. But why should we be surprised at our present condition? The experience of all ages, the lessons of all history would have warned us of the rocks against which we were madly dashing if we had but listened to their voices. No people on earth could long exist without utter ruin under the system of misrule, profligacy, and debauchery inaugurated by the men who now unhappily control the destinies of our country. Even if the system of speculation and robbery of which I have been speaking could be stopped, the expenditures actually authorized by law would crush any people. The hard-earned money of our people is recklessly voted away and squandered as if our resources were endless and the means and patience of the masses inexhaustible.

Nearly three long years have passed since the surrender of the last army of the confederates brought gladness and hope to the hearts of our people. If the men who had control of our Government had permitted the Constitution of our fathers to extend its protection and benign influences to every part of the land, and had at the same time inaugurated a system of strict economy in the administration of the Government, we would to-day be the happiest and most prosperous people on earth. But this would not answer the ends or purposes of the Radical faction. The founders of their sect had denounced the Constitution as a "covenant with death and an agreement with hell," and now, drunken and debauched with their ill-gotten power, our rulers trampled that sacred instrument under their feet and inaugurated their most wretched and wicked system of revolution and subversion. And this wicked scheme naturally and inevitably led to the adoption of measures that have quadrupled the expenditure of the Government. A bureau, at an enormous expense, to feed, clothe, and proselyte to radicalism a horde of lazy, vagabond negroes; a large standing army; an expensive military despotism in the South, extending its withering and blighting influences to every part of the land; a horde of Federal office-holders spread all over the land to spy out and seize upon the substance of the people; these were all appropriate sequences of this wicked purpose to destroy the Constitution and establish a Radical despotism in its stead.

We have had profound peace, Mr. Speaker, for nearly three years. From the surrender of the confederate armies in April, 1865, to the present time there has not been an arm raised anywhere against the power of the Fed-

eral Government. Why, then, these enormous expenditures, that are crushing the very life out of the people? Why should the ordinary expenses of the Government now greatly exceed those of the years immediately preceding the war. Mr. Buchanan's Administration has always been characterized by the party now in power as most reckless and extravagant. I am not here now for the purpose of defending it. But let us compare for a moment the last and most extravagant year of Buchanan's Administration with the expenditures now inaugurated under Radical rule. Men may mislead the ignorant by frothy declamation, but figures are stubborn things, and when used fairly never mislead. In the figures I now give I do not include the public debt or the interest thereon, nor the pensions and bounties to soldiers and their families, all of which the people will cheerfully pay.

The Secretary of the Treasury asks for appropriations for this year as follows:

For the War Department, exclusive of bounties and pensions.....	\$95,000,000
For the Navy Department.....	36,000,000
For civil service.....	51,000,000
	\$182,000,000

There can be no doubt that the actual demands and expenditures of the Government under existing legislation will greatly exceed even this enormous sum. For who ever heard of a Congress in these days without a series of deficiency bills? The expenditures invariably exceed greatly the estimates.

The whole expenditures of the Government for the same service in 1860 (the last year of Mr. Buchanan's Administration) were:

For civil list.....	\$6,077,000
For the War Department.....	16,563,000
For the Navy Department.....	11,514,000
	\$34,154,000

Difference between the estimates for 1868 and actual expenditures for the same items in 1860.....\$147,847,000

Thus it is demonstrated that the ordinary expenditures of the Government under Radical rule is more than five times as great as it was under the much-abused Administration of Buchanan.

We have been accustomed to call ours a free and happy and prosperous people. But, sir, no people can be properly called free or prosperous, whatever may be the form of government, whose daily earnings are wrung from them by the tax-gatherer to feed a horde of hungry vultures who are preying upon them. We now pay in taxes nearly twice as much *per capita* as any other people in the world. And it will be seen from the foregoing figures that, even if our national debt were wiped out as with a sponge, we would still, under our present rulers, be the worst taxed and worst governed people on earth. The people should in thunder tones demand of this Congress—"Why does this country, in time of peace, with no prospect of war, require five times more expenditures, in proportion to its population, for the Army or the Navy or the civil list, than it ever required at any time before the Republican party came into power?" Your wretched, unconstitutional, and most wicked policy, your negro bureaus, your large standing army, your military despotism, your hordes of hungry vultures sent all over the land to devour the substance of the people, furnish the answer. Sir, the Republican party has been trusted by the people as no party was ever trusted before, and their generous confidence has in every respect been most shamefully abused. I know it is easy to indulge in loose and idle declamation and censure; and lest I might be accused of sinning in this direction I will furnish here for the consideration of the House and of the country some tables compiled from the archives of our Government, upon which I wish to base a few additional remarks, and which will demonstrate beyond all possibility of contradiction the folly, recklessness, and extra-

gance of the party that now most unfortunately controls the expenditures of our Government:

Table giving the entire expenditures of the Federal Government, exclusive of the public debt, from the foundation of the Government to the close of the last British war:

From March 4, 1789, to December 31, 1791	\$1,910,509 52
1792.....	1,877,903 68
1793.....	1,710,070 26
1794.....	3,500,546 65
1795.....	4,350,658 04
1796.....	2,531,930 40
1797.....	2,833,590 96
1798.....	4,623,223 54
1799.....	6,480,166 72
1800.....	7,411,369 97
1801.....	4,981,669 90
1802.....	3,737,079 91
1803.....	4,002,824 24
1804.....	4,452,858 91
1805.....	6,357,234 62
1806.....	6,080,209 36
1807.....	4,984,572 89
1808.....	6,504,338 85
1809.....	7,414,672 14
1810.....	6,311,082 28
1811.....	5,592,604 86
1812.....	17,829,498 70
1813.....	28,082,396 92
1814.....	30,127,606 38
Total.....	\$172,697,779 00

Thus it is seen that the entire expenditures of our Government from the foundation thereof to the 1st day of January, 1815, including the expenses of the last British war, does not equal by over eleven million dollars what is now required for the mere ordinary expenses of the Government for the present year under Radical rule. I say ordinary, as I do not in the estimates given include the amount required for bounties, pensions, and interest on the public debt. But these expenditures which I have given are, in fact, most extraordinary, and enough to cause the very clods of our mother earth to rise in mutiny against the further rule of such a party.

It will be seen by looking at the foregoing table that the whole aggregate expenditures of the Government during the three years (1812, 1813, and 1814) of our last great struggle with Great Britain, in which we met and grappled in the death-struggle on land and sea with the greatest Power on earth, amounted only to \$76,039,502, which is \$105,960,498 less than it now costs to run the Government in a time of profound peace for one year under Radical rule; and that, too, without counting the frauds and robberies perpetrated under our revenue system, and which may be estimated at least fifty millions more, that never reaches the Treasury, but every dollar of which is wrung from the pockets of the toiling millions.

But it may be urged that these comparisons are not fair, and are calculated to mislead, as the population was much less in the early days of the Republic than now, and the expenditures necessarily less than now. Admit all that can be fairly claimed from this fact, and yet it does not weaken the startling character of the facts I have given. Surely no one will contend that it ought to cost more, or at least much more, *per capita* to administer our Government as we increase in population than it did during the early and struggling days of the Republic. If it does necessarily have this result we should in self-defense immediately put a stop to immigration, and go back as speedily as possible to our original boundaries. But it cannot possibly produce this result if the Government were now administered on the principles on which it was founded. Taking this as indisputable, I will now furnish another table that will place in a still stronger light the enormities of our present system:

A table showing the expenses of the General Government, exclusive of public debt, and the population shown by the census during each decennial year, from the foundation of the Government to the year 1850:

Year.	Expenses.	Population.	Rate per inhabitant.
1789-90 and 1791	\$1,910,509 52	3,929,827	\$0 48
1800.....	4,981,669 90	5,305,925	0 90
1810.....	5,311,082 28	7,239,814	0 73
1820.....	13,134,530 57	9,638,131	1 36
1830.....	13,259,533 33	12,866,020	1 03
1840.....	24,139,920 11	17,069,435	1 41
1850.....	37,165,990 09	23,191,876	1 60

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It will be seen from this table that while during Washington's Administration the expenses of the Government amounted to but forty-eight cents *per capita*, in 1840, the last year of Van Buren's Administration, to but one dollar and forty-one cents *per capita*, and in 1850 but to one dollar and sixty cents *per capita*, they now, in a time of profound peace under Radical rule, estimating our population at thirty millions, amount to six dollars *per capita*, or about forty dollars annually for each head of a family, for what are called the ordinary expenditures of the Government. Sir, these facts are in themselves sufficiently alarming, and I do not see that I can now add to their force by dwelling further thereon. If they do not arouse the people from Maine to California to demand an immediate change in our rulers and in our system of government, then, indeed, may we say with a sad heart, farewell forever to all hope of a restoration of our poor bleeding country to prosperity and happiness.

Mr. Speaker, in these remarks I do not intend to misrepresent, or, if I can avoid it, to be misrepresented; and therefore I must repeat that in this indictment against the Radical party I have not included those expenses and expenditures which are the necessary result of the war through which we have just passed. I have not included the estimates for paying bounties and pensions or the sums necessary to pay the interest on our public debt. I have left these out, that the people might see whither we are tending under Radical rule, even if these sacred but most burdensome debts were canceled forever.

Now, Mr. Speaker, I should not have made remarks of this character, especially at this time, if it had not been for the extraordinary partisan course which my colleague [Mr. Logan] took in addressing the House upon this question, which ought to be considered as a mere matter of business. I am aware that unusual latitude has been given in the debate. Whether it is in the power of Congress, the President, and the Secretary of the Treasury combined to inaugurate a system by which this whisky tax can be collected or not it is impossible for me to say. My impression is that while the enormous tax of two dollars per gallon is retained the revenue never will be fully collected. The temptations to fraud and bribery are too enormous in this profligate age. I care not how vigilant the head of the Department may be, there will necessarily be a great deal of thievery and fraud. My impression is that the only remedy is to reduce the tax to one quarter what it is now and inaugurate a better system of collection, and the amount of revenue received would probably be as great as it is at this time. I do not believe that it is in the power of mortal man to inaugurate a system by which the entire revenue can be collected while the tax is retained at the present rate.

In the remarks which I have made, as a matter of course—and I presume it was so with my colleague—it was not intended to insinuate that all the officers connected with the revenue service are engaged in speculation and fraud. I do not believe anything of the kind. I do not understand my colleague to charge anything of the kind, although his charges have been very broad. But with the temptations that are held out some fraud is inevitable. It is impossible for the President, or the Secretary of the Treasury, or the Commissioner of Internal Revenue to know one man in a thousand of their appointees. How are they to avoid, when they must take the men recommended to them, getting men often who are at best weak and will yield to the temptations that are held out so bounteously around them? I do not believe that it is possible to inaugurate a system under our laws as they are now, and with the taxation as it is now, that will result in an honest collection of the revenue that ought to be received from this whisky tax.

A few words more, Mr. Speaker, and I have done. Our whole revenue system seems to be devised for the purpose of holding out temptations to fraud and perjury. There is but one hope and one remedy. Bring the party as soon as possible into power that is pledged to economy and justice, and whose whole history proves that it will redeem those pledges. Your Army must be reduced; your Freedmen's Bureau abolished; your military despotism uprooted; the expenditures of the Government reduced one half, the taxes reduced in the same proportion; the horde of tax-gatherers must be called in wherever they can possibly be dispensed with; the most rigid economy must be introduced into every branch of the Government, and our outstanding bonds, as speedily as possible without injury to the country, be paid off in precise conformity with the contract upon which they were issued. Without these reforms destruction, speedy and inevitable, is upon us. And I would say in all kindness to the bond oligarchy that your only hope of escape from irretrievable ruin depends upon your calling in your mercenary pack of slanderers of the only party that is for justice, economy, and a strict and sacred preservation of the public faith. The path in which we are now traveling leads to inevitable ruin and bankruptcy, and if persevered in for any considerable time your bonds will not be worth the paper on which they are written. Aid us in rescuing the people from the oppressions that are grinding them into the dust; ask for no more on your bonds than the people have agreed to pay you; do not seek to escape your share of the burdens of Government; and the public faith, I will guaranty, will be sacredly preserved, and you may live to a green old age in happiness and prosperity.

But there is no hope now save in a speedy ejection of the Radical destructives from power and place. I know that, frightened at the thunder tones of an enraged people in the late elections, they came up to this session of Congress bawling hoarsely for retrenchment and reform. But that cry is already forgotten, and they have turned more madly and fiercely than ever to their schemes of consolidation, despotism, and measures that must result in the robbery and ruin of the people. It would be as easy for the Ethiopian to change his skin or the leopard his spots as for this Congress to return to the principles of economy and justice under the Constitution. But, sir, I do not despair of the Republic. The people are aroused at last, thank God. The bright angel of hope is spreading her wings once more over our beloved land. The dark cloud that has so long hung like a pall over our country is already encircled with a silver lining. The destructives and malignants are dying out in their strongholds. They will be driven in disgrace and ignominy from these Halls. I see it, sir; I see it with the eye of prophecy. The principles of economy and justice will once more take charge of the administration of our Government. Prosperity, liberty, and hope will return to gladden the hearts of our overburdened people. And then, sir, when that happy day arrives, I can with truth say with good old Simeon, "Lord, now lettest thy servant depart in peace, for mine eyes have seen thy salvation."

Reconstruction.

SPEECH OF HON. W. H. KOONTZ,
OF PENNSYLVANIA,
IN THE HOUSE OF REPRESENTATIVES,
January 20, 1868.

The House having under consideration the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867—

Mr. KOONTZ said:

Mr. SPEAKER: This bill has been pretty thoroughly discussed on both sides of the

House, and I will endeavor, in as brief a time as possible, to present to the consideration of the House my reasons for supporting the measure. In discussing this bill there are three things to be considered: first, what is proposed to be done by the bill? second, has Congress the power to pass it? third, is there now such a pressing public necessity as calls upon Congress for the passage of the bill?

This bill proposes to declare that in the late rebellious States "there are no civil State governments republican in form, and that the so-called civil governments in said States, respectively, shall not be recognized as valid or legal State governments either by the executive or judicial power or authority of the United States."

The bill also proposes to confer upon the General of the Army the power "to enjoin, by special orders, upon all officers in command within the several military departments within said several States, the performance of all acts authorized by said several laws above recited, and to remove by his order from command any or all of said commanders and detail other officers of the United States Army, not below the rank of colonel, to perform all the duties and exercise all the powers authorized by said several acts."

The bill also confers upon the General of the Army the power of removal from and appointment to the civil offices under those several provisional governments. It further declares that "it shall be unlawful for the President of the United States to order any part of the Army or Navy of the United States to assist by force of arms the authority of either of said provisional governments in said disorganized States to oppose or obstruct the authority of the United States as provided in this act and the act to which this is supplementary."

Then there is added a section making it a penal offense for any person to attempt to prevent by force the execution of the orders of the General of the Army.

These, sir, are in brief the provisions of the bill. The next question is, has Congress the lawful power and authority to pass this measure? And, sir, in asserting the power of Congress over this question it becomes necessary to sustain the allegation of fact contained in the first section of the bill, that in those States there are no civil State governments republican in form; for, sir, I concede that if it be not true in point of fact that there are no such civil governments in those States then this proposed legislation and all the legislation of Congress pertaining to the question of reconstruction is wrong; but if, on the other hand, it be true in point of fact that there are no valid State governments in those States, then I apprehend that gentlemen on all sides of this House will concede that there is necessity for some legislation, either in the shape of this bill or some other.

Now, sir, is it true that there are no legal State governments in those States? I maintain that it is. I do not deny that prior to 1861 there were legal State governments in those States holding their true relation to the Government of the United States, and acting harmoniously with the other States of the Union, under the Constitution, the supreme law of the land. But I assert that those governments were overthrown by traitors; that they were seized by men whose hearts were filled with treason, and all, or nearly all, of the legislative, executive, and judicial officers of those States assisted in carrying them outside of the Government of the United States.

It is necessary, sir, to briefly allude to some of the leading events of that period. A Republican President had been elected in accordance with the provisions of the Constitution of the United States; but because he and his party were of a different political faith to theirs they seized upon what they considered a favorable opportunity to enforce their long-cherished

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doctrine of State rights. For many years the political leaders of the South had been promulgating the wicked and dangerous theory that it was within the power of any one of the States, at its pleasure, to sever its connection with the Government of the United States; and the election of a President by the Republican party was made the pretext for rebellion; and I would here remind gentlemen who are continually denouncing the Republican party for what they allege to be its unconstitutional acts, that in the election of Abraham Lincoln that party was strictly within the limits of the Constitution, and that the leaders of the rebellion not only disregarded the plain provisions of the Constitution in refusing to abide by that election, but engaged in their unholy work before his Administration had come into power and without waiting to see whether, so far as they were concerned, he would not take care that the laws of the land were faithfully executed. It will be remembered that they passed their ordinances of secession, and by the most solemn legislative enactment declared that their States were no longer bound to the General Government. Not only that, but they seized upon all the public property within the limits of those States. They seized upon the forts, arsenals, mints, custom-houses, navy-yards, and all the property belonging to the United States Government therein. They went further, sir; they elected their representatives and sent them to Montgomery, Alabama, and there they united together under another government, formed a constitution for themselves, and adopted a flag different from the flag of our fathers. By the most solemn forms of law they created a separate and independent government, with the avowed intent and purpose of destroying the Government of the United States.

And, sir, for four long years they wielded the power of this great and tremendous organization, extending over ten States, a vast empire in themselves, holding within and under its control ten million people, and with almost unlimited resources, for the purpose of destroying the Government which had been framed by Washington and his compeers. They were unsuccessful, but I need not remind gentlemen on this floor of the tremendous cost to the loyal people of the country in precious blood and treasure to maintain the unity and integrity of this Government.

Now, sir, during these four years of civil war where rested the legal power and authority of the United States Government? I answer that they were with the loyal, adhering, organized States of the Union. Does any gentleman on the other side say that the legislation for those ten States during that time was wrong because they were in armed rebellion? Will they deny that the legislation necessary to carry on the Government within the organized States was illegal, unconstitutional, and void because those ten States happened to be in organized revolt? Was not the legislative, executive, and judicial power of the Government of the United States fully recognized by the people of the loyal States during that time?

MR. MUNGEN. We get appeals to this side of the House, and I should like to answer.

MR. KOONTZ. Not now. I answer that during the time that those States were outside of the Government, so far as they could place themselves, the sovereign power of the nation was represented in the organized States of the Union. He would be a bold man, indeed, who would controvert this position; for to deny the authority of the law-abiding, organized States to wield the sovereign power of the Government during an insurrection or rebellion in others, would be equivalent to an admission that the bare organization of rebellion in any section of the country would of itself work a dissolution of the Government, for those not in revolt would be powerless to prevent it. But not only were the legal power and authority of

the Government of the United States vested in the organized States by recognition of the loyal people but they were recognized by foreign nations. The United States of America did not in the eyes of other Powers cease to be a nation because a portion thereof was in rebellion, but its dignity and sovereign power were as fully acknowledged by them as before.

Now, sir, if the proposition be true that during the rebellion the legal power and authority of the United States remained in the loyal States, when did that power cease over the disorganized communities? When the war ended, say the rebels; when Lee surrendered, say the Democratic party. This would be equivalent to saying that there should be no penalty for treason, for there would be no power to impose it, as the guilty would have an equal voice with the guiltless in settling the controversy. Against this doctrine the loyal people protest, earnestly protest, and insist that the terms of settlement shall be fixed by them; that as the power and jurisdiction of a court over the criminal attach until the sentence is pronounced, so the power and jurisdiction of the loyal States attach and remain over the disorganized part until all the questions springing up and arising out of the rebellion have been fully and entirely settled.

But, sir, if those States were not entirely overthrown, gentlemen will admit with the President of the United States, as they now seem to have come to his position, that they required at least some legislative or executive action in their behalf, because they were so far disorganized as to require it, to set them on foot again. The President recognized this when he declared that they were without civil governments, and undertook to assume the power of legislation on this question. He recognized the fact that their civil governments had been overthrown when he established provisional governments for them. We only differed with him so far in asserting that the question of reconstructing these States was with the Congress of the United States and not in the hands of the Executive.

Then, sir, to establish the point I am making, namely, that these are not valid civil governments, I deny that they are such, because they are the creatures of executive power and not of legislative authority. It was a question that belonged exclusively to Congress and not to any other coördinate branch of the Government.

But I object to these governments further because they have had the breath of life breathed into them for the purpose of reviving the fell spirit of treason that for four long years spread disaster and sorrow throughout the land.

Now, sir, I think I have clearly shown that the power of this Government belongs to the loyal States of the Union, those that remained true to it during the civil war. Then the only question remaining is, is there a public necessity for this bill?

I urge, in the first place, that there is a necessity for the passage of this bill to protect the loyal men of those States. Does any man doubt, from all the evidence we have had during the last two years, that if the military power is withdrawn from these States the loyal men, black and white, will be entirely under the control of the rebels, who will have an ascendancy as complete and effectual as when Lee held undisputed power over the whole region?

It is needed, further, to prevent the obstacles that have been thrown in the way of reconstruction. We have had obstacles not only on account of the construction of the law, as was stated by my colleague, but in adverse executive action; and in order that there may be a harmonious policy, and that all obstacles may be removed in the way of the policy of Congress, it is necessary that this question should be under the control of the General of the Army and not of so many different military commanders. We would thus be relieved of

the difficulty that exists under the present law, of having one policy for Louisiana and another for Virginia.

But it is needed, further, because the rebels and their sympathizing friends in the North refused to accept the generous terms that were offered by the Thirty-Ninth Congress. That Congress offered a plan of settlement of these difficulties so fair and generous that no honest mind could controvert it; and yet these people, aided and encouraged by the President of the United States and by the Democratic party of the North, refused to accept the generous terms proffered in the fourteenth amendment to the Constitution of the United States. Therefore it becomes necessary that Congress should exercise its authority and demand that other terms shall be acceded to by them since they have refused to accept so generous an offer. Indeed, the terms of settlement contained in these several reconstruction bills are more generous than were ever offered to a vanquished foe before. A magnanimous people demand neither the lives or property of their late enemies; but they do insist that they shall only be restored to political power in the Union upon the conditions prescribed by the loyal people of the country.

These, sir, are in brief my reasons for advocating this bill, and I propose now to advert to a few arguments—I can hardly say a few, because it seems to me there is but a single argument advanced on the other side against this bill. The whole cry is that this bill is unconstitutional. Sir, all the reconstruction bills that have been passed by this and the preceding Congress have been denounced by gentlemen on the other side as unconstitutional. This is the old cry repeated. We heard it at the beginning of the war. We were then told it was unconstitutional to coerce a State; that it was unconstitutional to call out armies and defend the capital of the nation; that it was unconstitutional to draft men into the armies of the United States; that it was unconstitutional to issue money to pay the soldiers who were drafted; that it was unconstitutional and wrong to arm the negro. In short, every measure that was ever advocated by the Republican party in these Halls for the suppression of this infamous rebellion has been denounced by the Democratic party as unconstitutional. They seem to assume, or rather they do assume, that they are the especial guardians and protectors of the Constitution. I desire, in the brief moments that are left me, to point to some of their own acts in regard to the Constitution.

It will be remembered, in 1860, when the conscience of the people had become aroused by the aggressive spirit of slavery, and had brought into life and being a party that planted itself upon the ground of opposition to the extension of that institution, that John J. Crittenden, a Senator from Kentucky, offered in the other branch of Congress a series of resolutions to perpetuate the curse of human bondage. He proposed to place in the Constitution of the United States that word which James Madison refused to permit to go in. He was willing not only to insert the word "slave" in the Constitution but to dedicate the whole of that vast empire south of 36° 30' to the curse of slavery. That was Democratic doctrine then. The Constitution might, by their consent, be changed, provided it would be to the interest of the slave power.

We go a step further. After the Montgomery constitution had been adopted there was a portion of the Democratic party that was willing to run the line north of Pennsylvania and to exclude New England from the Union. They proposed to take in Pennsylvania, New Jersey, New York, and as many western States as chose to come in, and adopt the Montgomery constitution for the purpose, as they said, of leaving New England out in the cold.

Sir, let me say that New England will not

be kept out in the cold, and the reason of it in brief is this, that she is true now to the cause of human liberty as she was when the Mayflower landed her precious cargo upon her shores and

"The sounding aisles of the dim woods rang
To the anthem of the free."

But, sir, in answer to gentlemen upon the other side who claim that the Democratic party is the great protector and defender of the Constitution, I want to point out to gentlemen upon all sides of this House this significant fact, that when the great unconstitutional work of this century was undertaken, namely, organized rebellion in ten States for the purpose of breaking up and destroying this Union, never during all that time was there promulgated from a Democratic State convention or from a Democratic State committee a single authoritative enunciation expressive of their indignation at the great unconstitutional work that the rebels were engaged in; no, not one. And permit me to say now that if that party had denounced that great unconstitutional work with half the zeal and half the energy with which they have denounced the measures that were necessary to put down the rebellion, and that are necessary to keep it down, the war would have ended a year sooner than it did, \$1,000,000,000 of public debt would have been saved to the Government, and many firesides would now have chairs occupied that are vacant. This was the policy of that party that has assumed to act as the special defenders of the Constitution. Let me add another item on this point. I remember that in the latter part of June, 1863, the news spread abroad throughout the North that General Lee was advancing upon the State of Pennsylvania, and soon that news was confirmed, and the invaders stood upon the soil of Pennsylvania. At that very time there was a Democratic State convention sitting in the capitol at Harrisburg, and although the enemy was ready to carry destruction and devastation throughout the broad limits of the Commonwealth, and, indeed, the whole North, if it had been in his power, not one word in condemnation of the rebellion or denunciation of the unconstitutional work its leaders were engaged in went out from that convention; and yet, sir, this is the party that professes to speak for the Constitution.

Mr. BOYER. Mr. Speaker—

Mr. KOONTZ. My time is nearly out. I would like to yield to my colleague, but I cannot.

Sir, I think I have effectually answered the claim that the Democratic party has set up to be considered the special guardian and protector of the Constitution of the United States. We maintain that the power we have had ever since the war began, the power that belonged to the remaining organized States of this Union to crush and destroy the rebellion, remains with us until every vestige of treason is destroyed. And if the provisional governments in these States, created without any authority of law, are to be made instruments to reinstate treason in the high places of this Government, then they must just as surely fall as did the military power of the rebellion before the invincible armies of the Republic. We claim that this bill is necessary to a proper enforcement of the reconstruction acts heretofore passed, and to a just and fair settlement of this vexed question.

In conclusion, sir, permit me to say that we are now engaged in rebuilding the foundations of this great Government that have been shaken by the fierce tempest of civil war. Treason did its work in attempting to pull down and destroy, let it be the work of loyal hands to build up, beautify, and adorn this temple of liberty. Let us see to it that the loyal people are protected throughout the limits of the whole country; that equal and exact justice to all men shall be the rule by which the Republic is guided, and then we shall have faithfully executed the trust committed to us.

REPORT

OF

THE COMMITTEE ON FOREIGN AFFAIRS

CONCERNING

The Rights of American Citizens in Foreign States.

IN THE HOUSE OF REPRESENTATIVES,

January 27, 1868.

Mr. BANKS, from the Committee on Foreign Affairs, reported a bill concerning the Rights of American Citizens in Foreign States, accompanied by the following report; which was ordered to be printed in the Globe:

The Committee on Foreign Affairs, to whom was referred "so much of the President's message as relates to our foreign affairs," also House resolutions Nos. 100, 111, 159, and 166, instructing the committee to inquire into and report upon the subject of the rights of American citizens in foreign countries; as well as sixty-three resolutions and memorials adopted in public meetings held by citizens of different sections of the country, praying that action be taken to secure to citizens of the United States protection abroad, respectfully

REPORT:

The treaty of peace between the United States and Great Britain at the close of the war of Independence left unsettled three subjects of international importance: First, the impressment of seamen; second, the right of search; and third, the question of expatriation. The impressment of seamen had long been practiced under the most absolute of the monarchs of England, and little discrimination was there made between subjects and foreigners.

The right to search American vessels had been asserted and exercised by Great Britain from the recognition of American independence. Both claims were justified upon the theory of intrinsic and perpetual allegiance of all persons born subject to the British Crown. The enforcement of this doctrine by the arrest and search of American vessels on the high seas, the impressment of American seamen, and the imprisonment of such as would not fight against their country, led to the war with Great Britain in 1812, which resulted in the triumph of our forces by sea and land. The treaty of peace did not in terms surrender these claims, but they were abandoned in practice. No impressment has been attempted since the war closed. A feeble effort to establish the right of search in a qualified form was made in the quintuple treaty negotiated in 1841, for the ostensible purpose of suppressing the slave trade and piracy, by the five great Powers—England, France, Austria, Russia, and Prussia. Having been declined by the United States, and not being ratified by France, the treaty failed. The exercise of the right of search and impressment of seamen, which led to the war of 1812, have therefore been abandoned. But the claim is still maintained. The very earnest appeals of Mr. Webster, made as late as 1842, enforcing the wisdom and public necessity of removing this ground of past complaint and future danger, were promptly but politely rejected.

The question of the right of expatriation, the most important of all, and upon which both these claims rested, still remains unsettled, and under different circumstances becomes one of the most important questions of our day.

At the commencement of the war of 1812 the number of emigrants in the United States did not exceed one hundred and twenty thousand. International difficulties prevented any considerable emigration from 1810 to 1816. The actual returns from 1820 to 1867, added to the

estimated emigration from 1790 to 1820, show that the total emigration to this country from Europe since the Declaration of Independence is six million six hundred and forty thousand persons. No more important question can arise than that which concerns the relations of this portion of the American people to the Governments they have abandoned and that of their adoption. The English law holds them and their descendants as British subjects, "at least to the second generation, and perhaps forever." * The theory of a double allegiance is discarded, and they and their descendants, even though born of a foreign mother, are inexorably and forever held to the service of native-born subjects, incapable of disavowing their allegiance to the mother country or of acquiring a legal citizenship in another land, and liable to punishment as traitors if found in a time of war in the Army or Navy of their adopted country.

During a general war in Europe they would be deprived of the privileges of travel or commerce; and in the event of participation by this Government in such war, which is not impossible, they would be liable to punishment as traitors by European or American Governments, whether yielding compulsory service to one or the other. The execution of naturalized citizens of the United States when captured in the American Army by the British troops, who claimed them as British subjects during the late war, was only prevented by the President's orders for retaliation on British soldiers. Deprived of recognized citizenship, debarred from the privileges of travel or commerce in peace, and exposed to punishment in time of war, they are without safety and without rights. The commission of public crimes could not more effectually strip them of privileges which in every age and in all parts of the world have been the accompaniments of civilization and freedom. At the opening of our national career Great Britain attempted to enforce her claims upon her natural-born subjects beyond her territorial jurisdiction, arresting American ships and impressing American seamen under their own flag. The actual sufferers were few in number. Now, after the lapse of half a century a similar claim is enforced against a nation of people; not, it is true, as before, upon their own soil or under their own flag, but wherever found within the jurisdiction of other nations. In the first contest their success would have driven American sailors from the ocean. In this it would deprive masses of the American people of privileges that were never denied to any nation, retaining any sense of the value of personal liberty. It is scarcely to be supposed that it can be pressed to this extent; but if the doctrine be inapplicable to masses of people it is unjust that it should be enforced against individual citizens in a manner to disturb the peace of a nation.

The correspondence transmitted to Congress shows that naturalized citizens of the United States being present in Great Britain, without the commission of any offense, have been arrested, tried, convicted, sentenced, and punished as criminals, upon the ground that they were natural born subjects of the Crown; that their allegiance was perpetual and indefeasible, except by its consent; and that they were therefore subject to its laws and liable to punishment not only for offenses committed within its jurisdiction, but for words spoken and acts performed in the United States. They claim the protection of their adopted country which has made them citizens and conferred upon them the same rights both at home and abroad which are enjoyed by native-born Americans. The Government is in duty bound to listen to their appeal, and to protect them in their rights. The

* "Unless the British Government consents to their ancestors' expatriation, the same posterity must be treated as British at least to the second generation, and perhaps forever."—*Westlake's Private International Law*, page 23.

President called the especial attention of Congress to this subject in his last annual message.

It is not our province to examine laws of England under which these prosecutions have been conducted; but as the English judges appeal to the law authorities of this country in justification of their course it may not be inappropriate to consider the origin and nature of the claim of indefeasible and perpetual allegiance to the British Crown. The principal authority cited in its support is found in Blackstone's Commentaries on the Laws of England, as follows:

"Natural allegiance is such as is due from all men born within the sovereign dominions, immediately upon their birth; for, immediately upon their birth, they are under the protection of the Crown, at a time, too, when (during infancy) they are incapable of protecting themselves. Natural allegiance is, therefore, a debt of gratitude which cannot be forfeited, canceled, or altered by any change of time, place, or circumstance, nor by anything but the united concurrence of the Legislature. An Englishman who removes to France or to China owes the same allegiance to the King of England there as at home, and twenty years hence as well as now; for it is a principle of universal law that the natural born subject of one prince cannot by any act of his own—no, not by swearing allegiance to another, put off or discharge his natural allegiance to the former; for this natural allegiance was intrinsic and primitive and antecedent to the other, and cannot be divested without the concurrent act of that prince to whom it was first due."—Vol. I, page 368.

The Commentaries of Blackstone have probably never had greater weight with any people than in this country. In the discussions preceding the Revolution it was the authority mainly relied upon by the Colonists in their contest with the mother country for constitutional liberty. More copies of his work were purchased in America than had been sold in Great Britain up to the time of the Revolution. It is not forgotten, however, that he supported in Parliament principles of law in direct opposition to those of his Commentaries. Blackstone was the servant of power, and it was not without justice that Junius said of him that "he recollected he had a place to preserve, though he forgot he had a reputation to lose." But the American Constitution is itself proof that Blackstone's theory of allegiance was not accepted by the American governments. He claimed for the sovereign absolute power. He left to the subject nothing but servile submission. The American statesmen reversed the proposition. In their system the people were absolute and the ruler a representative only. According to the philosophy of Blackstone the people were a possession of the Government. Under the American system the Government was the property of the people. They reserved to the body-politic collectively the power of reforming its institutions at pleasure, and left to the people individually the right of transferring their allegiance to other Governments whenever the safety of life, the welfare of the subject, or liberty of conscience should demand it.

There are no rules of universal authority by which Governments are guided in regulating the rights of subjects. The controversy existing between this country and England, and in a less degree with European States, in regard to the rights conferred by emigration and naturalization is a contest between feudal ideas and those that govern civilized States. Feudalism held all rights dependent upon the possession of the soil. The soil was the gift of the Crown. Allegiance was due to the Crown and controlled by the place of birth, and all the obligations of the people were summed up in that of personal fidelity to the king. It was more absolute in England as established by William the Conqueror, than on the continent under Charlemagne or the Gothic kings.

The oath of allegiance administered to the landholders of England by William the Conqueror at Salisbury, in 1086, sets forth this obligation and the reason upon which it is founded with more authority than in the paraphrase given us by Blackstone. Observe the oath to the Crown: "I BECOME YOUR MAN FROM

THIS DAY FORTH, of life and limb and earthly worship, and unto you will be faithful, and bear you faith for the land I hold of you. So help me God."

The feudal law of Europe claimed allegiance to the Crown from the barons, and that of lesser lords and landholders to the barons in turn. The English monarch held all alike in subjection to the Crown. Other laws extended the principle to strangers, who were required to live and die in the king's quarrels, to serve in his wars, and to lodge only in English houses. The king's writ, *ne exeat Regno* instead of being limited as now to processes of civil courts, obliged his subjects to remain within the realm, or recalled them from beyond the seas, and this "not merely in respect to attempts prejudicial to the State, but from the king's right to the attendance and service of his liege men within the realm." No merchant was allowed to remain in the country above forty days, no host to receive a lodger for more than three nights, and no man to wander from the highway without sounding a horn, under penalty of death.

The doctrine taught by Blackstone is hardly less absolute in principle than these provisions of the laws of Alfred, William, and later kings, upon which his theory is founded. It is unnecessary to say that in this age such doctrines have no claim to respect. The truth is now universally recognized in theory if not in practice: the world belongs to its people. Political institutions are rather for them than for their rulers. Under every form of administration it is now admitted that Governments are for the people, if not by them; and in this view they claim that "that which is best administered is best."

This is true of European States, but especially of England. The great charters of later English history and the popular rights secured by them attest this fact. The feudal theory of allegiance in England was early modified by the statute of Henry VII, which declared that no one was to be called in question for obeying a king *de facto*: denying the theory of divine right, and recognizing partially the revolutionary doctrines of possession and power. This is regarded as the basis of modern English allegiance.

The revolution of 1688 was the foundation of the present British constitution and overthrew all feudal institutions. The king no longer held power exclusively from tenure, birth, or possession, but by the consent of the people. He obtained from their representatives year by year authority for his Government, and supplies for the maintenance of his army and navy. Instead of being held by the king to the soil on which they were born, the people forbade the king to leave the kingdom without the consent of their representatives. "Sovereignty," they said, "was in the king with the Parliament." Without the recognition and support of the representatives of the people he had no power. Such is the comparison which history forces upon us between the Governments of William of Normandy, in 1086, and that of William of Orange, in 1688. And such is the contrast between the principles of allegiance contended for by Blackstone and English judges of the present day, and that which is sustained by the principles of modern history based upon public reason and justice.

Restrictive legislation, which forbade subjects to leave or strangers to enter the kingdom, has been swept away. The prerogative of kings, though sometimes exercised in such matters during the bloodier periods of European history, has been resisted and its abuse punished with exile or death. The Chinese have been compelled to abandon their system of isolation and exclusion, maintained for many thousand years. Within our own time it has been held by all civilized nations that a government of isolation and exclusion presented in itself just grounds of war.

Such changes in the constitution of England and the States of Europe demonstrate that the doctrine of feudal supremacy, which is the basis of feudal allegiance as now upheld, ought to be without authority or force in any form of government existing in this age.

Having made war upon a nation so distant as that of China, disturbing so little the rest of the world by the movements of her people or the character of her Government, it scarcely becomes the English or European Governments to maintain the principles of absolute and perpetual power over their natural-born subjects, or the supremacy of municipal law against the laws of nations and the progress of civilization.

OF THE SERVICE DUE TO GOVERNMENT.

It is not to be denied that there is between the Government and the subject an equitable and mutual interest; neither can it be denied that there is due from every citizen to the Government under which he lives certain obligations, and that the service which is implied by these obligations, whether or not supported by his oath, cannot be cast off without its consent. This is but a just return for the protection which he receives from the Government, which attends him from his birth, and secures after death the preservation and disposition of his property according to his will so long as his name or race shall endure. This does not arise so much from any special or implied contract made in the organization of society as from the law of necessity and of nature. It is inherent in every form of civilized society, and is as apparent and as absolute in an unorganized company of individuals as it is in village, city, State, or nation. No man is permitted anywhere among civilized men to look with unconcern upon any outrage inflicted upon the persons or property of a company of which he is a member, without at least signifying to the extent of his ability his opposition to the wrong and defeating it if in his power. This mutual obligation extends to the protection of property, the preservation of the public peace, as well as to the security of life. The same obligation rests upon a subject in regard to the Government under which he lives. He is bound to assist in its protection, to aid in its support by the contribution of his means or his labor, to maintain its honor unimpaired, to strengthen its capacity for usefulness by the performance of every duty which is necessary to the peace and prosperity of society, and to defend it in peril with his life if necessary. Failure in the performance of such duties is justly condemned and punished by all Governments. But the recognition of these varied and important obligations can in no wise be held to render such subjects and their descendants to the second and third generations perpetual prisoners of any association, society, or form of government. So long as they are of it they must fulfill their obligations, whatever they are. A mere contingent or possible obligation cannot rightly be made by construction, absolute and perpetual, controlling the actions and life of the subject from whom it is due wherever he may be found.

But if, from causes appertaining to the conscience or safety, the welfare of a subject or his family is to be improved by separation from that society of which he is a member, the laws of nature and the practice of all civilized nations, ancient and modern, justify him, within reasonable limits, in severing that connection; otherwise, in a State which has an established religion, any citizen might be compelled to conform to its doctrines, and to leave his descendants to the same mental and moral servitude, deprived of the freedom of belief, and without that freedom of worship to which, according to the laws of nature and of God, every man is entitled. Society is necessary to the existence of man, and government indispensable to his civilization, prosperity, and power. But the perpetual subjection of every

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person born within its jurisdiction, without consent and in disregard of protest or removal, is not necessary in any form of political society. It does not rest upon any theory of justice, and the whole course of civilization disproves its justice or wisdom. It is a power that does not attach to a State which has for its object the welfare of all its members, but to a despotism that knows no duty and cares for no interest but to strengthen and perpetuate the power of rulers. The law of allegiance and of service is as essential to a republic as it is to a monarchy. It is not a mere matter of agreement, convenience, or utility; it is a necessity. Every form of government depends upon it, and dissolution awaits all forms of society to which it is denied.

But here the parallel ends. The authority of despotic governments is force; that of a State is the consent of its people.

The claim of indefeasible allegiance and perpetual service is the symbol of feudalism and force. The right of emigration and naturalization, where life or liberty is insecure, or where the prerogatives of conscience are violated, is wrought into the constitutions of all governments of choice. The feudal claim is as absolute over the mind as the body. It denies liberty of conscience and of thought by the same title that it proscribes the right of locomotion. It dwarfs human capacity and reason and corrupts the nature of man and society.

OF THE CONSENT OF GOVERNMENTS.

It may justly be conceded that the express or implied consent of both parties is necessary to the extinction of mutual obligations between a Government and its subject. But this does not justify the perpetual control of one by the force of the other. It assumes that it is the right and duty of the Government to so regulate the manner of separation as to secure in the highest degree the welfare of both. It is to this natural law that we refer the right to regulate, not defeat, emigration and naturalization, which together constitute expatriation. But a Government cannot justly admit one and deny the other.

A subject may justly be held to the complete performance of all obligations actually due to the Government at the time of separation. In a period of war or when public peace is threatened, every form of political society is justified by natural as well as municipal law in holding its members to the fulfillment of their duties until the crisis is passed. In moments of public peril it might with justice forbid emigration so long as the common danger continued. But this exercise of power must be considered as incident to a present exigency of the State. It cannot be just that a citizen who has withdrawn in a time of peace, with the actual or implied consent of the Government, is to be held, himself and his descendants, forever responsible for the conduct of that Government or the perils which it may encounter; or that he is bound under such circumstances to render the same service in its defense or make the same sacrifice for its support which could have been demanded had his connection remained unbroken.

The reciprocal protection which is the basis of the obligation due from a subject to the State is rightfully terminated by a permitted removal, and leaves no foundation for the subsequent claim of perpetual service. The State would be justified, in anticipation of immediate or approaching public peril, in prohibiting many acts threatening its present or its future safety. In this view the decree of Charles I in 1637-38, denying the right of departure to "passengers" for New England "as idle and refractory persons whose only or principal end is to live out of the reach of authority where they take liberty to nourish and preserve their schismatical factions," might be justifiable as defeating an organization detrimental, if not destructive, to his throne. In this he did not merely assert a right, but he averted by his

acts an immediate danger. Whether the result was more fortunate for his crown than to have allowed these "passengers"—among whom were Pym, Hampden, and Cromwell—the liberty of emigration, and how far despotic rulers ought to take warning from the fatal consequences that followed the exercise of such power in this particular case, his successors may be called upon to determine.

RULE OF INTERNATIONAL LAW.

International law does not control nations in the conduct of municipal affairs. It leaves them to the good sense of every independent State. It does not, therefore, present any positive rule by which Governments are to be guided. Nevertheless the opinions of writers of recognized authority upon national and international law, whose judgments are universally respected, ought not to be without weight in this discussion. With few exceptions, and those least important, they favor the largest liberty consistent with public safety in emigration and naturalization, which, taken together, complete the act of expatriation:

"Since one is a subject in regard that he constitutes, with others, one republic, into which he willingly enters, it follows from thence that one ceases to be a citizen so soon as he willingly removes with that design from his native country and joins himself to another State, settling there his fortune and family, unless the laws forbid subjects to remove."—*Heineccius*, B. 2, § 230.

"A man should not leave his country or the State of which he is a member in time of war or great distress, but in a time of peace he may do so if he pleases."—*Grotius*.

"Where the liberty of removal hath been promiscuously allowed, and the subject settles himself and his effects under the protection of a foreign State, the Commonwealth which he left hath no longer any authority over him."—*Puffendorf*, B. 8, Ch. 11.

"Every man is born free; and the son of a citizen, when come to the years of discretion, may examine whether it be convenient for him to join the society for which he was destined by his birth. If he does not find it advantageous to remain in it, he is at liberty to quit it on making compensation for what it has done in his favor, and preserving, as far as new engagements will allow him, the sentiments of love and gratitude he owes it. A man's obligations to his natural country may, however, change, lessen, or entirely vanish, accordingly as he may have quitted it lawfully, and with good reason, in order to choose another, or has been banished from it deservedly or unjustly in due form of law or by violence."—*Vattel*.

"In England the subjects are under a stronger and more particular obligation to the sovereign than elsewhere in virtue of a right which they there call allegiance; but this does not prevent the English from withdrawing from the kingdom without the permission of the king; and when they have established themselves elsewhere neither the authority of the king nor of the laws of the kingdom have any further power over them."—*Wicquefort*, section 11, book 1, Ambassador.

"It is a right inherent in all free people to have the liberty of removal if they think proper. When a person becomes a member of a State he does not thereby renounce the care of himself and his affairs. He may seek the necessities and conveniences of life elsewhere. The subjects of a State cannot be denied the liberty of settling elsewhere in order to procure those advantages which they do not enjoy in their native country."—*Burlamaqui*.

"The particular duties of citizens terminate with the offices from which they flowed; but, as to general duties, they subsist as long as one continues to be a citizen and until that character is lost. Now, a man ceases to be a citizen in one of these ways: 1. When he goes to establish himself elsewhere; 2. When he is banished; 3. In case of subjection to a foreign Power."—*Fetis*, *Droit des Gens*.

"On the other hand, except in cases of great necessity, where it is intended to call out the strength of the society, the civil power, considered simply as such, has no right to restrain emigration and the disposition to settle elsewhere; this right not being necessary for the perpetuation of the body-politic, and the inhabitants of a country being by nature sufficiently attached to it (if the government be tolerable) without being detained."—*Vicat*.

"Man, whose subsistence depends upon his industry, ought naturally to seek happiness wherever he can find it. Want and misery make the law for him in this respect. If his native country offers him resources it is his nature to be attached to it. If it does not, by what right—I will add, with what motive—shall we seek to arrest and to punish him? May he not say, 'Give me and my family assurance of support, or let me seek it elsewhere?' The law of nature, which is that of self-preservation, will be to eternity stronger than all the maxims and calculations which politics can present. We are wrong to say that this man injures his country by carrying his industry abroad. He may justly reply that his industry is his own, and that he has a right to carry it where it can furnish him subsistence."—*Rayneval*.

"In times of peace it would seem unjust and dis-

honorable to any State to hinder its citizens from selling their lands and removing to any other State they please and freeing themselves from their former political relation. For the several subjects, by the taxes or tributes which they pay annually, compensate all the ordinary advantages which they receive from the community, and it would be unjust to hinder them from consulting better their own interest, if they can, elsewhere. Nor is there danger that any State will be deserted by many of its subjects unless it be either miserably constituted or administered, and in such cases the citizens have a better right to quit it and cannot be compelled to remain its subjects."—*Hutchinson's Moral Philosophy*.

"Men may relinquish their country from a sense of insecurity, oppression, annoyance, or inconvenience, and emigration ought neither to be prohibited nor discouraged."—*Payley's Moral and Political Philosophy*.

"Considered from an international point of view, the jurisdiction of a nation must be founded either upon the person or the property being within its territory; considered from a civil point of view, jurisdiction may be founded upon natural as well as local allegiance; in other words, every independent State claims to make laws perpetually binding upon its natural-born subjects wherever they may be. But natural allegiance or the obligation of perpetual obedience to the Government of the country wherein a man may happen to have been born, which he cannot forfeit or cancel, or vary by any change of time or place or circumstance, is the creature of civil law, and finds no countenance in the law of nations, as it is in direct conflict with the incontestable rule of that law: '*Extra territorium jus domicili impune non paretur*.'"*Twiss's Law of Nations*, page 231.

"Formerly it was doubted whether an individual had a right to quit his country and settle elsewhere without leave from his Government; and in some countries he who did go had to sacrifice a part of his property.* At present such a right is very generally conceded under certain limitations. 'The right of emigration,' says Hefter, 'is inalienable; only self-imposed or unfulfilled obligations can restrict it.' The relation of the subject to the sovereign is a voluntary one, to be terminated by emigration; but a State is not bound to allow the departure of its subjects until all preëxisting lawful obligations to the State have been satisfied. Notice, therefore, may be required of an intent to migrate, and security be demanded for the satisfaction of back-standing obligations, before the person in question is allowed to leave the country.† De Martens writes to the effect:‡

"It belongs to universal and positive public law to determine how far the State is authorized to restrict or prevent the emigration of the natives of a country. Although the bond which attaches a subject to the State of his birth or his adoption be not indissoluble, every State has a right to be informed beforehand of the design of one of its subjects to expatriate himself, and to examine whether, by reason of crime or debt or engagements not yet fulfilled toward the State, it is authorized to retain him longer. These cases excepted, it is no more justified in prohibiting him from emigrating than it would be in prohibiting foreign sojourners from doing the same. These principles have always been followed in Germany. They have been sanctioned even by the federal pact of the German Confederation, as far as relates to emigration from the territory of one member of the Confederation to that of another."—*Woolsey's International Law*, page 142.

"While almost all the nations of Europe are ignorant of the constituent principles of society, and regard the people only as beasts of a farm, cultivated for the benefit of the owner, we are astonished, we are edified, that your thirteen republics should know at once the dignity of man, and should have drawn from the sources of the wisest philosophy the principles by which they are disposed to be governed."—*Abbe de Mably to Mr. Adams, Minister to Holland*.

"One of the principal objects of police is to hinder the subjects from emigrating in too great numbers. It is for the public universal or particular, law to determine to what degree a sovereign is permitted to restrain the natural liberty of those subjects who wish to quit the territory for a long time or expatriate themselves entirely. A foreigner, as long as he remains so, and has not contracted debts or committed crimes, is entirely at liberty to quit the State when he pleases; it is only in case of collision, reprisal, or war that a State is justifiable in detaining a foreigner against his will. This liberty, founded on the universal law of nations, is confirmed and even extended by a great number of treaties, and accordingly it is rarely violated; but a foreigner, formally naturalized, has no more right to exemption from this restraint than those who are born subjects of a State, unless he made express or tacit conditions on the subject."—*Von Marten's Law of Nations*, § 7.

"Citizenship ceases by penal or voluntary expatriation. In the first case the country renounces all its claims upon the subject; in the second he loses his

*By the *jus detractis*, *droit de detraction*, property to which strangers out of the country succeeded was taxed. By an analogous tax, as the *gabelle d'emigration*, those who left a country were amerced in part of their goods, immovable or movable. Such odious rights, says De Martens, (I, sec. 90,) although existing still, are very generally abolished.

†Hefter, sec. 11, § 9.

‡Precis, &c. (Paris edition of 1858,) sec. 91.

§Almost all the treaties of commerce contain articles on this subject, and by the greatest part of them foreigners are permitted to quit the State even in case of rupture.

privileges by voluntary separation from the country. But even when it is not permitted by law the bonds which unite the subject to his country are not dissoluble. Being wronged by his Government, compelled to seek in other lands the well-being (*bienestar*) and the happiness that he is not able to find in his own, he is allowed to abandon the association to which he belongs and to establish another elsewhere. This is a right of which the civil law cannot deprive him, and in the exercise of this right, as in all others, he is to decide for himself when to dissolve the ties which bind him to his country. It is, without doubt, possible for him to abuse it, but whether or not it is abused will be a difficult question for foreign nations to decide, as they are not competent judges of the facts."—*Bello. Derechos Internacional*, Paris, 1864, page 75.

MUNICIPAL LAWS OF EUROPEAN STATES.

The enlarged and just views of these and other authors as to the inalienable rights of man must, in good time, produce their proper effect upon the legislation of the world. But unhappily the ground of our present complaint is that the municipal legislation of European States is in conflict with the principles advocated by the most enlightened jurists, who have best studied the laws of nature and of nations.

In other relations of government great advances have been made. The great States of southern Europe have abandoned in their recent organizations the political philosophy of the Middle Ages. There are no longer sovereigns who govern for years without a parliament, like Charles I, and there are no archbishops who, like Laud, boast that they are not likely to hear "that noise" again. The consent of the people is now the first condition of permanent or peaceful Governments. The forms of the ancient monarchies only are retained. The popular power expands with every generation in the organization of States; but as to subjects the rigid traditions of feudal law are strictly preserved. Municipal government is unimproved. It confounds police regulations with natural law: local legislation with the law of nations.

LOCAL LEGISLATION OF EUROPEAN STATES.

We have appended to this report a *résumé* of the laws of the several States of Europe, given by the principal Cabinet officers in answer to inquiries presented by the American Government in 1849. It is but just to suppose that a statement of laws thus made by officers best acquainted with the course of legislation and administration will be more satisfactory than any cursory examination of the various statutes could give. The correspondence from which these expositions of European law upon the subject of expatriation are taken, is printed in Executive Document 38, first session Thirty-Sixth Congress.

The doctrines of Great Britain, as represented by Lord Palmerston in a letter to Mr. Bancroft, are thus stated: that while it has never been denied by the British Government that emigrants leave their country by virtue of that right which has been asserted to be the foundation of all liberty, the right of every reasonable being to seek a new country, and that by the laws of Great Britain no restraint can, except in very special cases, be placed upon the perfect liberty of every British subject to leave the realm when and for whatever period he chooses, yet this expatriation, in the sense of a voluntary abjuration of natural allegiance, cannot be sanctioned without the assent of the sovereign power; nor does it debar the return of the emigrant as a natural-born subject.

Count Walewski, for the Government of France, in a dispatch to Mr. Calhoun, 25th November, 1859, declares that French legislation does not permit a Frenchman to renounce his nationality, but he loses it by positive law when naturalized in a foreign country. A Frenchman who emigrates, and thus places himself out of the way of military service, would assuredly be punishable on his return to France although he should have obtained a foreign naturalization. (Article 230, *Nouveau Code Militaire*, 1859.)

The royal decree of the Spanish Government, 17th November, 1852, declares that a Spaniard naturalized within the territory of another Power without the knowledge and authority of his Government shall not exempt himself from the obligations which were consequent to his primitive nationality. The same rule is applied to foreigners naturalized in Spain. (Serrano, to the Consul General of the United States at Cuba, 14th February, 1860.)

Austria requires an emigrant to disengage himself from all obligations as an Austrian subject, and he is deprived by law of the right to dispose of or inherit property. It provides punishment for those who absent themselves without passports.

In Prussia a subject loses his nationality, first, by discharge at the subject's request; second, by sentence of competent authority; third, by living ten years in a foreign country; fourth, by marriage, if a female, with a foreigner. Subjects who emigrate without obtaining a discharge are punished according to laws in that case provided, and if they return to Prussia are considered criminals, subject to punishment from which no citizenship of any nation can liberate them. The obligation to military service is not extinguished by time. After absence of more than ten years if he returns he is held to service. Emigration is not permitted except with express leave of the Government. (Baron Gerolt to Mr. Marcy, July 11, 1853; Baron Schleinitz to Mr. Wright, 6th January, 1859.)

The constitution of the North German Union, 1st July, 1867, makes every North German citizen subject to military duty. No substitute is received. Every able-bodied man is to serve three years in the field, four years in the reserves, and then five years in the militia. Colonization and emigration are regulated by the Legislature of the Union. (Executive Document 9, second session Fortieth Congress, pages 16-23.)

The laws of Hamburg make the denationalization of a subject dependent upon his obtaining a discharge from the Government, the payment of a specified sum of money, and evidence of the fulfillment of military service in person or by substitute.—(Merg. Dr., June 21, 1850.)

The Grand Duchy of Baden requires an emigrant to obtain the authorization of the Government, to show that he leaves no debts, that the country to which he emigrates will receive him, and that his wife is in accord in regard to emigration.—(Encyclo. 19, 19th Siecle. T. 11, p. 438.)

Bremen fully acknowledges her obligations to give protection to all American citizens, making no distinction between naturalized and native citizens of the United States. It holds that desertion from military service in any of the German States comes under that class of offenses (crimes) which will justify the surrender; and that no State could complain on the ground that such deserter had become its citizen. It cites the law of the United States to support this view. It does not regard a deserter from military service in the light of a political refugee, nor his act a political offense; and claims that desertion would be a crime in native as well as naturalized citizens. (Mr. Schleiden, minister &c., November 21, 1859.)

The laws of Hanover allow emigration with parents of children to the age of twenty-one years; those who emigrate without parents, up to the year preceding that when conscription takes place, and even in that year, upon proof that the emigrant betters his condition. Those who are within the age of military conscription, not yet in military service, are allowed to emigrate when their departure does not endanger the rights of others liable to service, or who give security for a substitute, in case young men should be called into service.—(W. Reitzenstein, minister, &c., August 20, 1859.)

The first article of the convention between the United States and the king of Wurtemberg,

October 3, 1844, provides that "every kind of *droit d'aubaine*, *droit de retraite*, and *droit de détraction*, or tax on emigration, are and shall remain abolished between the two contracting parties, their States, citizens, and subjects."

The convention with Saxony has the same provisions.

The treaty with Prussia, March 14, 1829, provides that the inhabitants of the respective States of the high contracting parties—

"Shall be at liberty to sojourn and reside in all parts whatsoever of said territories in order to attend to their affairs, and shall enjoy, to that effect, the same security and protection as natives of the country wherein they reside, on condition of submission to the laws and ordinances therein prevailing."

The Russian Government so far satisfies its subjects or so exercises its power as to restrain their emigration. In either case its municipal law is innocuous to other nations, and upon this subject at least does not materially affect the interests or rights of the United States. The same remark is substantially true of France.

REVIEW OF FOREIGN MUNICIPAL LEGISLATION.

There is one element of harmony that pervades foreign legislation upon this subject. The emigration of a subject is held to depend upon the consent of his Government. But the practice of the Governments in this matter varies so much as to show a substantial difference of principle. It does not appear that the consent of Great Britain, express or implied, is actually withheld from the multitudes who emigrate from her shores, or that she makes any exertion to prevent their departure, while in some of the German States the regulations are such as to imply the consent of the Government to the large emigration which seeks, in the provident language of their rulers, to improve their condition by establishing a new home in other lands. Such especially is the fact in Baden, Bremen, Hanover, and perhaps other States.

The French decrees admit a favorable interpretation also. The decree of 1811 was a war measure, established when France was in contest with the whole of Europe, and that of 1859 when fighting for the unity and freedom of Italy. Considered as interpretations of the rights of nations in a period of war, they furnish no reasonable ground of complaint. There is nothing in them that compels the French Government to insist upon them in a period of profound peace. On the contrary, it is but just to assume that an enlightened ruler like the Emperor of France, who has so constantly appealed to the people as the support and authority of his Government, and who has so largely contributed to the late reorganization of the State system of Europe, which has been characterized by the most eminent opponents of the empire as the grandest revolution of modern history, will recognize the difference between a period of war, when nations contend for their existence, and a state of profound peace, as to the absolute power of the Governments of modern times over the rights of subjects. The reserved right of assent or dissent which European States claim, ought to be considered, not upon the basis of the political systems of the middle ages, but in the light of modern ideas and necessities.

EFFECTS OF EMIGRATION ON GOVERNMENTS.

The history of the past twenty years has greatly changed the relations of nations to each other and those of Governments to their subjects; and among the active and powerful agents in this revolution none is to be compared in its results with that of emigration. Every State has participated in it, and the most important of them have sought and found in it security and relief. This is especially true of the English Government. India and America have borne from her millions of her surplus population. Colonization extended.

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her power, and the independence of the States she planted contributed much to her commercial supremacy. It has not only strengthened her outward power, but relieved her of the evil of an over-crowded kingdom. She was taught by her own writers that her people would be too numerous for her means of support, that laborers would exceed the demand for labor. Nothing quieted this universal apprehension so much as plans for extensive emigration. Except in the case of her colonies the Government had done little directly to encourage it. Private enterprise had directed its movements and supplied its necessities. But it became necessary to elevate emigration from a private enterprise to a public and national measure. Committees were appointed by the House of Commons which recommended national systems of emigration; schemes of colonization like those practiced by earlier nations, by which, for the relief and security of the empire, whole communities were to be deported at once and occupations and homes provided for them, were advocated in Parliament and by public journals. Advances for this purpose were proposed from public taxes, to be repaid by emigrants. It was estimated in Parliament that an annual appropriation of £240,000 would be required to carry off the surplus of unemployed people, who would otherwise be an intolerable burden to the Government. Although this was done under the pretense of colonization, it was in reality a plan of deportation or emigration, without special regard to the countries to which the emigrants should be carried. The famine of 1848 made it necessary that the excess of Irish population especially should be reduced by emigration. The officers of the Government were authorized to borrow money for the purpose of advancing loans to such emigrants, to be repaid in five or seven years, and immense sums were raised for this purpose upon this public authority. Under the influence of such measures emigration increased from the British empire from eighty-three thousand persons in 1831 to three hundred and thirty-six thousand in 1857, and has continued to increase to this day.

The result was an immediate relief to the destitute, and increased work and wages for those in want. This was conspicuous in Ireland, where excess of population over the supply of food and of employment led to disorder, crime, and public discontent. "From Ireland," says an eminent authority, "the tide of emigration was directed not so much to the colonies as to the United States, which they seemed to consider as their home next to their own island." The great emigration from 1846 to 1854, which alarmed English politicians and threatened to depopulate Ireland, it is said again, "only redounded to the public advantage by raising wages and improving the condition of those who remained." "Of all those who have left our shores none have been so greatly benefited as the Irish, whose sole possession and inheritance was the sad one of deportation. For them no work was too arduous, no difficulty too great; and in their new homes they roused themselves like giants from the sleep of years."

This exodus of a nation accomplished all that was anticipated, and has been a subject of universal congratulation among English statesmen. England profited by it in many ways. The money remitted by her emigrants in ten years, from 1848 to 1858, through English commercial banking houses, upon their own statements to the Government, was about ten million pounds sterling, (£9,937,000,) nearly fifty million dollars, or five millions yearly. These remittances have probably been trebled in the ten years succeeding 1857. Thus the opponents of these Irish people found their deportation advantageous, while their friends were encouraged to hope for their speedy and complete regeneration.

The interest of the British Government in

this national enterprise was beyond considerations of pecuniary advantage. Had she forbidden the emigration of her subjects, as she was bound in honor to do if she intended to enforce her claim to their service upon her theory of indefeasible allegiance, it would have added ten or twelve millions to the population of Ireland, and to that extent increased the evils of labor without employment, people without food, of misery and crime, the precursor of riot or revolution, and she would have been compelled to choose between a change of her policy towards Ireland or the extinction of an entire race of her people by violence. From such evils she has been preserved by the beneficial results of peaceful emigration to America. It was with good reason that Lord Ashburton described this emigration as "the modern means by which the population of the world found its level, for the benefit of all and eminently for the benefit of humanity."

Emigration from the German States has been nearly in equal proportions, though prompted by very different motives. But it has been attended with equally beneficial results.

Europe has exported to the United States since 1790 six million six hundred and forty thousand of its subjects. They and their descendants now number more than twenty millions. She has received from them in remittances of money £50,000,000 sterling. She monopolized the carrying trade which was thus created. Mr. J. J. Sturz, a German author, long connected with this interest, says that of one thousand and seventy round voyages between Europe and North America made in 1865, by about ninety steamships belonging to fifteen European steamship companies, (ten English, three French, two German,) there was but one voyage made under the American flag.* The same writer reported twenty-two new steamers on the stocks in Europe destined for this trade. A table from the Bureau of Statistics, appended to this report, shows that for the quarter ending September 30, 1867, the number of emigrants brought to the United States in European vessels was eighty-six thousand seven hundred and ninety-seven (including fifteen thousand three hundred and six, from British America, imported there in European vessels,) and only eight thousand two hundred and twenty-five in American vessels. The character of the people gives another indication of the advantage that foreign Governments derive from this emigration. Steerage passengers crowd the vessels from Europe to America, but they take none back from America to Europe. And this is done under the eye of foreign Governments. Every possible aid, public and private, with statute regulations and official protection and subsidy, has been given to this work, so essential to public security and profitable for private enterprise.

It is, therefore, a continuing prosperity for Europe, political, economical, and financial. The disparity between European and American participation therein is likely to be perpetual. No preparation is made by American governments, State or national, or by her steamship owners or navigators, to share in this traffic, which numbers three hundred and fifty thousand passengers yearly, and is not unlikely, under the stimulants of public and private enterprise, to reach half a million.

In the presence of such facts it is to be asked whether European Governments have "consented" to the exodus of these nations from her shores? Is an emigrant who came here in the steerage and returns a regenerated man to the home of his fathers to be told that he "is a deserter," has been absent without consent or knowledge of his Government, and is to serve the balance of his life in her armies or to work out his share of her debts incurred in

his absence? Is a family of the second or the third generation—for such is the law—to be told that they, too, owe service to the Government from which they escaped without leave, and can never return to the hearth-stones or the graves of their ancestors? The pretension is preposterous and the inquiry offensive to justice and decency. Every State is bound to know what is done within its jurisdiction, at least what it does, and to accept the legitimate consequences of its acts.

The emigrants of Europe it may be were sent here to die; but it was also possible they might live. There was at least a chance for that. Their return to a country which they had abandoned because of its excess of population and its scarcity of employment and food could not reasonably have been expected. No stipulations were made of that character at least. It was possible that here in America they would find vacant space, comfortable shelter, healthy food, remunerative employment, and thus preserve, at least, the life God gave them—the only valuable thing they brought with them. Having escaped death by famine, and conquered for themselves a home and freedom, if not fortune and fame; having been counted among rulers in this country; who is able to satisfy them that they are here without authority, and that upon the theory of the oath made by the land barons to William the Conqueror and Charlemagne in the Middle Ages they are yet subjects of the States they and their fathers abandoned, because life was a burden, and now owe them service of mind and heart, of life and limb? Allegiance is not due to a State unable or unwilling to protect its subjects. Incapacity or disinclination is in itself an absolution from the obligation.

But it is not necessary to show the active participation of Governments in this history to relieve emigrants from this bondage of feudal allegiance. It is a well settled principle of public law that sovereigns and subjects are bound by acts which receive their implied sanction. Silence in this case is the equivalent of express consent. It is implied when it is manifested by signs, acts, or facts, or by inaction or silence, which indicate consent. The law of nations is founded upon the general consent of nations, whether it be express, tacit, or presumed. (Heffter, page 8.) The sources of international law are conventions or treaties expressly or tacitly made. The latter have their origin in the actions or customs of States. (Klüber, pages 5-183.) A nation can pledge its faith tacitly in making treaties as well as by express declaration. It is enough that its faith is given. The manner is unimportant. (2 Vattel, page 231.)

When a nation is discontented with public administration it has a right to reform it. But if they are themselves silent and obedient they are judged to approve the conduct of their superiors, and a fragment of the people cannot resist it. (1 Vattel, 164, 199.) Blackstone says that "the consent of the Crown to corporations which exist by force of common law is implied. Kings are presumed to have given their concurrence. The city of London, which has long existed, is looked upon as having the consent of the Crown; for though no charter can be shown the law presumes one, and that it may have been lost or destroyed." (3 Commentaries, 129.) The silence of a nation is received as its consent when it has liberty to accord or refuse it. (Pinheiro Ferreira.)

This is universal law. To deny it would unsettle all compacts, public and private. If this doctrine be good against a people who have not power to control what they may dislike, or against defunct monarchs who cannot deny such presumptions, it is better against Governments who are present with power to inhibit and prevent acts which they do not approve. It will not be denied that emigration from Europe to the United States has been accom-

*Suggestions for the Encouragement of Emigration, by J. J. Sturz, Washington, D. C., 1866.

panied by the tacit consent, at least, of its rulers, and has therefore an authority in law as substantial as the convention and treaties to which public faith has been tacitly pledged, or the city of London, whose charter cannot be shown.

Great Britain has not for purposes of her own transplanted four million subjects to this country, whom she could neither employ nor educate, nor feed nor govern, without knowing it; nor without knowing that when here they were likely to remain; that they were not to demand of her protection and support. She knew the separation was permanent, and she comprehended her interest in that fact. She could not doubt that being present residents they were likely to adopt the customs and become a part of the country. This was a result contemplated by Great Britain. It was the nature of the transaction. She was bound to take notice of the fact, because in recognizing the independence of the American States she had been compelled to study the character of their Government. She knew, as they knew, that they would here find employment, become educated, possess land, create new industries, acquire wealth, obtain social distinction, receive important public commissions, participate in the Government, and be numbered among its rulers.

She knew this, because she had seen this history enacted by the Colonists before the Revolution, and all along up to the war of 1812. Great Britain must have been conscious that when they came to prosperity and power they would cherish the memories of what they had enjoyed, and as well as what they had suffered. If she had capacity to consent to anything she consented to all this—emigration, naturalization, expatriation; and in absolving her Government from the burden of protection she abandoned all claim thereafter to their subjection or service. This is as clear as if done with "the united concurrence of her Legislature."

AUTHORITY OF MUNICIPAL LEGISLATION.

Lord Palmerston, in his dispatch to Mr. Bancroft, cites with admiration Mr. Justice Story as authority for the doctrine which "every nation has hitherto assumed, that its laws extend to and bind natural-born subjects at all times and at all places;" that "every nation has an exclusive right to regulate persons and things within its own territory according to its own sovereign will and pleasure;" and that "in speaking of the right of a State to bind its own native subjects everywhere, we speak only of its own claim and exercise of sovereignty over them, and not of its rights to compel or require obedience to such laws on the part of other nations." And Lord Palmerston considered this exposition of public law as conclusive against the American theory of allegiance and the rights claimed for its naturalized citizens. Americans recognize the truth of these declarations of Mr. Justice Story; but they reject Lord Palmerston's deduction therefrom. What Americans claim is that a State which cannot employ, support, protect, and govern all her people, and for that reason regulates and accomplishes the deportation of that portion least able to support themselves, forfeits her right to govern them anywhere as exclusively her own subjects; and that in this case the doctrine of intrinsic and indefeasible allegiance comes to an abrupt and final termination by mutual consent and necessity.

AMERICAN LAW AND PRECEDENTS.

Foreign Governments attach much importance to the fact that the laws of the United States, as interpreted by its judicial tribunals, sustain their claim to perpetual allegiance. This is one of many embarrassments that attend this difficult and delicate question. The President, in his last annual message, refers to this subject:

"The attention of Congress is respectfully called to a singular and embarrassing conflict of laws.

The executive department of this Government has hitherto uniformly held, as it now holds, that naturalization in conformity with the Constitution and laws of the United States absolves the recipient from his native allegiance. The courts of Great Britain hold that allegiance to the British Crown is indefeasible, and is not absolved by our laws of naturalization. British judges cite courts and law authorities of the United States in support of that theory against the position held by the executive authority of the United States. This conflict perplexes the public mind concerning the rights of naturalized citizens and impairs the national authority abroad. I called attention to this subject in my last annual message, and now again respectfully appeal to Congress to declare the national will unmistakably upon this important question."—Page 32.

Yet, justly considered, the American interpretation of public law on this subject, elementary or judicial, adds nothing to the authority of Blackstone. The jurisdiction of courts does not extend to the enactment of laws. It is limited to their just interpretation. Judges are often governed less by reason than by precedents. "The doctrine of the law, then, is this," says Blackstone, "that precedents and rules must be followed unless flatly absurd or unjust. If the reason of a decision cannot be discovered, yet we owe such deference to former times that we are bound to suppose they did not act wholly without consideration." "I will servilely follow in the footsteps of my predecessors," said one of the most eminent English judges. The obsolete claim of inalienable allegiance may well be sustained by such absurd doctrines of legal construction. There is no American authority which cites this doctrine that does not rest it upon English law. The common law of England at the American Revolution is by some authorities accepted as law in the United States until changed by legislation. There has been no legislation upon the subject of expatriation, because the Constitution of the Government rests for its authority avowedly upon the voluntary consent of its subjects. American law authorities, receiving the common law of England before the Revolution as American common law, as some jurists do, the theory of indefeasible allegiance might be considered as having some color of law, because it was indisputable, at the time of the Revolution, a pretension of the common law of England. It is in this manner that it has been treated in this country. Elementary writers recognize this law because it is a part of our legal history; and a class of lawyers, who subordinate reason to precedent, and a few public men who have cited their views without indorsing them, have held that the English doctrine was law in this country, upon the theory, which has no just foundation, that everything that was law in England before, was law in America after the Revolution. But it has not been so authoritatively declared by the legislative, executive, or judicial officers of the Government.

"It is the doctrine of the English law," says Judge Kent, "that natural-born subjects owe an allegiance which is intrinsic and perpetual, and which cannot be divested by any act of their own." But he cites the writers on public law as generally in favor of an opposite doctrine. Suggesting that the better opinion is that in absence of any legislative act on this question the rule of common law prevails, he also declares that "some relaxation of the old stern rule of the common law is required and admitted under the liberal influence of commerce."

Judge Story, in the case of the *Santissima Trinidad*, (7 Wheaton, 283,) evaded the question of expatriation, giving no decision thereon, but said "it was perfectly clear that it could not be done without a *bona fide* change of domicile under circumstances of good faith." The references to this subject in American judicial decisions are chiefly in cases where the plea of naturalization or expatriation is fraudulently made to support unjust claims to property or to justify acts of war against nations with which we were at peace. In the case of *Williams*, 1804,

cited in 2 Cranch, 84, Chief Justice Ellsworth ruled that upon this subject the common law of the country remained as before the Revolution. But this was a case where a citizen of the United States, in evasion of its laws, accepted a French commission, and made war upon England, justifying his wrong by pleading naturalization in France. His defense was manifestly an evasion, and the just purpose of the court was to show that no such defense could be recognized for such purposes. "It was difficult," the Chief Justice said, "to restrain our own citizens from acts which would involve us in war." *Williams* was justly convicted and imprisoned. The decision of the court maintained the integrity of the Government in its treaty stipulations with England at a time when she was at war, though we were at peace, and ought not to be cited by Englishmen against the principles of public law that lie at the foundations of American government. But it has one important feature. It is a distinct recognition, even at that early day, that the emigration from Europe, and the expatriation of its citizens was with the consent of the European Governments. In countries so crowded with inhabitants, said the Chief Justice, there is necessity for emigration, while in America we have no inhabitants to spare. (*Niles's Register*.)

It will be difficult to find an authority of American law writers or a decision of American courts in which the doctrines of perpetual allegiance is recognized, except as a tradition of English law; or a case in which it has been regarded with favor, except for the purpose of preventing private injustice or the injury of the public peace. It has no authority in this country except as an element of English common law, existing at the time of the Revolution. There is nothing American in the oath of the land barons of England in 1086, nor in the feeble paraphrase of that obligation by Blackstone.

The opinion of American jurists and legislators on this subject is well expressed by Mr. Webster, Secretary of State, in a letter to Lord Ashburton, August, 1842, upon the right of expatriation:

"A question of such serious importance ought now to be put to rest. If the United States give shelter and protection to those whom the policy of England annually casts upon their shores—if, by the benign influences of their Government and institutions, and by the happy condition of the country, those emigrants becomer raised from poverty to comfort, finding it easy even to become landholders, and being allowed to partake in the enjoyment of all civil rights—if all this may be done, (and all this is done under the countenance and encouragement of England herself,) is it not high time, my lord, that, yielding that which had its origin in feudal ideas as inconsistent with the present state of society, and especially with the intercourse and relations subsisting between the Old World and the New, England should at length formally disclaim all right to the services of such persons, and renounce all control over their conduct?"

In this statement Mr. Webster regards the doctrine against which he protests not as American but as English law.

EFFECT OF THIS THEORY ON THE PEOPLE OF THE UNITED STATES.

The American people are perfectly conscious that every nation has a perfect right to frame its municipal laws to meet its own necessities. This municipal right is recognized, because it cannot be known otherwise what is required for the public safety. It has not, however, the same elevation as other branches of public law. It is in the nature of police regulations. But even in this view it is not entirely independent of public opinion and authority. Excessive cruelty or injustice in its provisions would justify interference. Every household has the same immunity, but its authority must be so exercised as not to impair the peace of other households; and the municipal legislation of a nation should be so framed as not to disturb, much less to impair or destroy, in others rights common to all nations. Legislation that does this—municipal or otherwise

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—is against the law of nations and of God. The municipal legislation of Great Britain has this effect upon the people of this country. Under such circumstances this Government is remanded to that general and permanent attribute of nations, denominated the right of self-preservation, which implies not only the right negatively of defense and security against external aggression, but positively of making such regulations generally as may maintain and promote the national welfare and prosperity. (Reddie's International Law, 190.) The authority for internal municipal legislation can never justify a State in disregarding the principles of universal law, public and private, the law of nations and of nature, when it operates, as in this case it does, to deprive a people of privileges conceded to the citizens of all civilized States.

The United States have a population of thirty-five millions. The free people, in 1700, numbered three million two hundred and fifty thousand. With an annual increase of births over deaths, estimated at one and thirty-eight hundredths per cent., they would now number nine million two hundred and fifty thousand; add four million emancipated people, and the aggregate of the population existing in 1790, with their descendants, is thirteen and a quarter millions. The balance of the people, twenty-one million seven hundred and fifty thousand, are emigrants and their descendants.

If this portion of our people—more than twenty millions—are subjects of the several States of Europe and their service is due to them, if they have no right to defend themselves or their adopted country in the event of war with Europe; if, unstained by crime and free of all offense, they are in consequence of this claim of service debarred from travel and from intercourse with civilized nations; or subject to arrest and compulsory service in armies organized to fight against their own Government, then the United States has no independent existence. It may have numbers, industry, commerce, letters, science, invention, courage, enterprise, wealth, prosperity and power; but it is not independent.

Its dreams of equality are delusions and its sacrifices have been in vain. Every State in Europe will have its garrison if these claims are admitted in every part of the Union. The able-bodied portion of three fifths of our population could be summoned to fight for Governments with which they have no connection and against those with which their fortunes are indissolubly united, and they would be accounted traitors if found in the ranks of its armies. We have received, educated, employed, enriched, enfranchised that portion of the people of Europe which its rulers cast off, to find them in their strength incapable of defending their country or lawful resistance to public enemies.

They would be exposed to arrest and compulsory military service or punishment, not only if found in their native country, but in any civilized nation with which their native Governments might have treaties of extradition. Martin Kozsta was a native of Hungary residing in Turkey with the consent of its Government; his surrender was demanded by Austria under an interpretation of treaties rejected by Turkey, and would have been surrendered and imprisoned but for the forcible intervention of the Government of the United States. The intimate association of those who are claimed as subjects of foreign Governments is such as to put in peril the rights or peace of all. Its absurdity if applied to this large portion of our people is palpable. But the injustice of its application to individuals is equal to the absurdity of its application to nations.

REMEDIES.

The injustice of this principle is more apparent than the remedy. But that there is a corrective for so great a wrong cannot be doubted.

It is not in vain to labor for a reconsideration of this great question by European Governments, more in the light of reason and less in the spirit of feudal philosophy. The solution of this important international problem belongs to men who have capacity to divine the right in law and the courage to assert its power. That such men are to be found among those who occupy the proud eminence of royal or popular favor cannot be doubted.

There is one quarter of the world to which we look with hope. Those who have evoked from the labyrinth of German politics, which have been to all students of history in one sense a mystery and in another a puzzle—who, from the elements of anarchy, have in an instant and by a word called into being a new creation already recognized as a permanent empire, and which promises at a day not distant to unite a race long divided, and to cement a power in central Europe long needed, that may number sixty million people: to those to whose genius and success is due the North German Union we have a right to turn for the justice we demand.

In the foundation of a new Power she has wisely submitted her plans to the approval of the people. She has made petty interests that formed petty governments subservient to great principles that are the only basis of great nations. She has united the people who speak the same language and who reverence the same historic past. She seeks to hold them together by consent, not by force. The constitution of 1867 is prophetic of the future. The Republic of the New World might adopt with profit many of its wise and just provisions. She knows how important emigration is to civilization and to liberty. She felt in the great struggle which terminated at Sadowa the priceless advantages of the Germanic emigration to the north which gave to her a friend and an ally in Russia. She counts not less than two million native-born children in the republican family of the United States, and of their descendants nearly six millions more. She will understand how dearly they cherish the glorious memories of the "Fatherland." She can comprehend the advantage of an ally and friend in the New World equal in spirit and strength to that which supports her in the Old. The concession we ask is not worth to her the parchment upon which it is written. Her conventions and treaties closely approach it. The legislation of some of the lesser German States, as interpreted by their rulers, require but the definition of a single word to secure to Americans all they ask of Germany.

But whatever may be her decision or that of other States, the point we make will be conceded. That the rights we claim can be permanently denied; that the question at issue will be settled against us; that it is to remain long unsettled, is impossible.

The Committee on Foreign Affairs have entered upon the consideration of the question only by the direct order of the House. It has received the considerate attention which its great importance demands, and the result of its deliberations is embraced in a bill herewith submitted for the consideration of the House. Nothing can be more apparent than that legislation does not alone furnish a remedy for the evils of which the country complains. Local legislation is as powerless to effect the reforms we desire as it is to justify the wrongs inflicted upon American citizens by other nations. But it is indispensable as a first step that statute declaration of the rights we claim should exist. It is also important that distinct proclamation of the limitations to the rights we claim should be made. The project of a law which is submitted herewith seeks to accomplish this result. It also proposes that when all the resources of the Government shall have failed to produce a recognition by other Governments of the principles of public law so long maintained by this, in

regard to the rights of naturalized citizens, the President shall be invested with the same authority within our jurisdiction as to subjects of other Governments, that foreign States enforce upon American citizens within their jurisdiction. In case of collision, reprisal, or war, a State is justified in detaining a foreigner against his will. (Von Martens, Law of Nations, 87.) But it is not anticipated that such proceedings will be required. It cannot be that in this age, when all the political traditions of the middle ages are tumbling, that Europe will rush to extremities to sustain a claim repudiated by every authority of law, humanity, experience, civilization, and justice.

A BILL concerning the Rights of American Citizens in Foreign States:

SECTION 1. *Be it enacted, &c.*, That all naturalized citizens of the United States while in foreign States shall be entitled to and shall receive from this Government the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances. And the President is empowered to employ all the resources of the Government in just efforts to secure the recognition by other Governments of the principles of public law which have been insisted upon and maintained by the Government of the United States in regard to the rights of naturalized citizens: *Provided always*, That no citizen of the United States who is guilty of crime against the laws of any foreign State committed within its jurisdiction; or of desertion from actual service in the Army or Navy of such State; or who shall have acquired naturalization by misrepresentation or fraud in regard to residence or otherwise; or who by treason or other crime against the United States shall have forfeited, or who shall have renounced his rights as a citizen, or who shall establish a continuous residence beyond the limits of the United States for a term exceeding five years, shall be entitled to the protection contemplated by this act.

SEC. 2. *And be it further enacted*, That whenever it shall be duly made known to the President that any naturalized citizen of the United States has been arrested and is detained by any foreign Government in contravention of the intent and purposes of this act, upon the allegation that naturalization in the United States does not operate to dissolve his allegiance to his native sovereign, or if any citizen shall have been so arrested and detained whose release upon demand shall have been unreasonably delayed or refused, the President shall be, and hereby is, empowered to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States; and the President shall, without unreasonable delay, give information to Congress of any such proceedings under this act.

SEC. 3. *And be it further enacted*, That if any naturalized citizen of the United States shall return to his native country with intent to resume his domicile therein, or if any citizen shall leave the United States with the intention of permanent residence in any foreign State, or shall fail to make annual return of his property in the United States for taxation to the assessor of internal revenue of the district of the United States in which such citizen last resided, or shall engage as an army or navy belligerent in any foreign war or service, such citizen shall not be entitled to the interposition of the Government in his behalf under the provisions of this act.

SEC. 4. *And be it further enacted*, That the term "domicile" in the preceding section shall be construed to mean a continuous residence of more than five years in the native country of the naturalized citizen, or establishing himself in any business which denotes an intention to resume a permanent residence.

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SPEECH OF HON. W. WILLIAMS,
OF INDIANA,
IN THE HOUSE OF REPRESENTATIVES,
January 25, 1868.

The House being in the Committee of the Whole on the state of the Union on the President's annual message—

Mr. WILLIAMS, of Indiana, said:

Mr. CHAIRMAN: Since I have had the honor of a seat in this House I have never save on one occasion, and then very briefly, occupied the attention of the House. So far I have preferred to remain silent and listen to the words of wisdom as they fell from the lips of the experienced statesmen of the land. And as I speak to-day *ex tempore* I shall invoke the charitable criticisms of the House and the country and ask the Chair that I shall not be interrupted during the short time allotted me by the rules of the House.

Mr. Chairman, the condition of the country at this time, both political and financial, is the subject of anxious solicitude in the minds of the people, and to Congress they look with confidence for a happy solution of the national difficulties. I have sometimes wondered since occupying my seat whether I was sitting in the Halls of an American Congress or had taken my place in the Council Chambers of a foreign Power, whose institutions and government was ruled by the hands of some mighty despot. I have heard, sir, with harsh grating on my ear, from the lips of distinguished statesmen and classic orators, the following terrible words: "usurpation," "unconstitutional legislation," "infamous legislation," "monstrosity," and language of similar import, well calculated to arouse to action the sleeping energies of a nation to the impending dangers which surround them; and I trust, sir, that the Republican party will heed the warning voice of these new guardians of liberty, or latter-day saints, and prepare to meet the impending storm that so seriously imperils the life of the Republic.

Sir, I love to go back in my country's history to the time when Providence smiled upon the birth of freedom, and, if possible, draw inspiration from the teachings and principles of the fathers who have transmitted to us so glorious a heritage, and proclaimed to the world the capacity of man to govern himself. I have read, sir, with deep interest, the graphic description of that event that transpired long since, when the fathers spoke and an empire was free. It is said by the writer that the assemblage which convened in that memorable Hall in grandeur and sublimity was only excelled when Trinity held council for the redemption of man. I fancy I can see them as they look over the great white ocean and see no army or navy to encounter the mistress of the sea, and in the midst of the solemn reverie it is said that an old man with a red cloak approached the Speaker's chair and offered a prayer to God for the deliverance of the struggling colonies, and a voice came out from behind the cloud that veiled the brightness of Jehovah's throne. Let victory perch on liberty's side. The British lion was driven back to his lair, and God gave to our fathers a land forever to be dedicated to freedom; and to-day they say to us, "Stand firm amid the battle shock, and transmit to coming generations unimpaired that which treason has sought to overthrow and destroy."

That declaration was but a fulfillment of a prophecy more than four thousand years before, when inspiration, looking down upon the vast future, declared that the time should come in the history of the world when a nation should be born in a day. And the fulfillment of that prophecy came when our nation was born, and liberty came forth as the morning

star and the hope of the oppressed millions of the world.

For seventy years, with but two exceptions, no person dreamed of war. Under the balancing power of the Constitution our country grew and strengthened into a great empire, whose territory was washed by the waves of two oceans. But war did come, and I propose to-day briefly to show what great party it was that raised their impious hands against the Constitution of our country, and who determined if their action could accomplish it to sever the land of Washington, and to let the future historian write the epitaph on his tombstone: "Here lies the hero of a nation that has gone down in rebellion;" and then to divide this great empire which God had decreed, by its mountains, lakes, and rivers, should be one people and one Government until the last sands shall have passed from the mirror of time.

Mr. Chairman, I propose to show that the remnant of the once great and powerful party who in the days of its loyalty and fidelity to the Constitution, when it marched its solid columns, beneath whose tread the earth trembled as they approached the ballot-box, do now, in the days of their degeneracy and affiliation with treason, propose and boldly proclaim that should the Republican party restore back to the disorganized communities in the late rebellious States governments republican in form and such as are required by the Federal Constitution to be guaranteed to all the States, then and in that event this Union party shall be driven from power, and the enemies of the Republic shall be restored to power and placed in charge of the ark of our political covenant.

I charge upon the present Democratic party that they were the party that raised their impious hands against this Government. And what do we see to-day? All over this great land the fires of a thousand forges have gone out; the spindles of your great factories are stilled, and thousands of operatives are unable to obtain employment, with the proceeds of which to maintain their families; the merchant in your commercial metropolis stands with anxious care inquiring, "What shall I do to save my credit and meet the obligations pressing upon me?" The nation, borne down with taxation, fastened upon them by Democratic treachery, calls loudly to Congress for relief, and repeats the Macedonian cry, "Come over and help us;" and I have faith to believe that a Republican Congress will so far as possible meet the emergency.

And what party was it that brought this great ruin upon the land? The answer comes back as true as the law announced amid the roaring thunders and the flashing lightnings of Sinai's mount—"Democracy, thou didst it." And we are to-day reaping the fruits of the legacy bequeathed to the Republican party by the Democratic party of this country, who had grown fat upon the public plunder from our national Treasury, and, like Jezebel of old, "waxed fat and kicked."

When we came into power what was the condition of the country? For forty years, with but few exceptions, the Democratic party had controlled this Government. Before Abraham Lincoln was inaugurated they had stolen of the property of the people of the United States, \$12,670,000, in forts, arsenals, and money. Six States had gone out of the Union as far as they could do. They had organized a confederate government, with a confederate president and a confederate congress, in opposition to the Government which our fathers gave us. That is the legacy the Democracy bequeathed to the Republican party.

The honorable gentleman who has just addressed this committee [Mr. SITGREAVES] says that the Radical party is responsible for all this. Go with me, if you please, down in sight of the city of Charleston in April, 1861, and what is the sight there which meets the gaze of the patriot? There are a large number of

gentlemen clad in military apparel marching backward and forward with trailing arms, and with their cannon pointed toward the flag of your country. Ask who are those men, and the answer is, "All Democrats." And upon that terrible morning in April they opened their batteries of stolen guns against the national fort and fired upon the flag which in its mission of mercy had shed its rays of light over the dark waters of Japan and in searching for the lost navigator in the frozen regions of the north.

I ask Democrats, Do you recollect the morning when the telegraph flashed all over the land the news that Sumter had been fired upon and had fallen, what a thrill went to the hearts of the American people? and Democracy stood appalled at the work of their own hands. Abraham Lincoln called for seventy-five thousand men to defend the existence of the Republic, and Democracy then proclaimed that there was no power in the Constitution to preserve its own vitality or existence, and that the call for troops was a violation of that instrument which perjured treason was attempting to overthrow by the strong hand of armed resistance to its authority. What did the Democracy say? These men who now prate about "the Constitution" told us then that it was a violation of the Constitution to defend the flag of our country. I challenge this Democratic party to show by a single record where, as a party, they ever sustained the Government in its efforts to put down this infamous Democratic rebellion during the entire progress of the war. When the Government found it necessary to suspend the writ of *habeas corpus* what was then the cry? They said, "This is an infringement of our rights; it denies to us the privilege of free speech and a free press." Yes, when we declared that a man should not receive the protection of this Government and at the same time preach treason against his country, the Democracy claimed that it violated their rights under the Constitution. During the entire war the Democratic party of the great North had no sympathy with the struggling thousands of our brave soldiers who went out to defend the flag of the country.

I now come to speak of the period when the Chicago convention was held. The remnants of this great body, who claim to be the political descendants of Jefferson, met in solemn convention upon the borders of that great lake that forms the northwestern boundary of my noble State. What did that convention declare? They declared that they were for peace; they declared that the war had been a failure; and I charge to-day that that resolution, passed by that peace convention, was a slander and a libel upon the brave soldiers of the North who had reconquered three-fourths of the rebel territory, and were then just about to take that great march with Sherman to the sea—a military expedition exceeding in glory the proudest exploits of Napoleon. And in that convention the gentleman from New York [Mr. WOOD] not now in his seat made a prayer on behalf of the Democratic party. It is astonishing to me that the Democracy should ever pray; but my astonishment diminishes when I discover that Jeff. Davis prayed for the triumph of his rebel government. Let me read the language used on that occasion by the gentleman from New York:

"Now, my friends, I counsel peace. [Cheers.] I counsel peace in the Democratic party that we may restore old rights to this distracted land. We must have a union of the party that we may have a Union of the States. [Cheers.] Planting ourselves firmly upon a peace platform, that's right, and cheers, with a candidate pledged to restore peace and harmony, [cheers,] some great-hearted Democrat, the Union shall and will be restored. [Bully for you, and loud cheers.] Now, my friends, we have had war, we have had administration, desolation, emancipation, and damnation. [Loud and continued cheers.] And now we propose to apply the remedy—to administer the antidote—peace. God of our fathers, grant us peace, [Amen.] peace in our hearts, and at [his] altar; peace on our red altars and on our blighted shores; peace for beleaguered cities and

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the hosts that wait around them; peace for the widows and fatherless, for the sinning and sinned against. Grant us peace, O God, for all, and for a distracted, torn and bleeding land. Speed the great time of peace. [Immense cheers.]

It is my opinion, that in the midst of these outbursts of enthusiasm, had they paused for a moment—the pale finger of a Douglas might have been seen writing on the wall these words, *mene, mene, tekel, upharsin*. Peace, Democracy, thou art weighed in the balance, and found wanting.

That is a very eloquent prayer. The gentleman who uttered it went upon the principle expressed by the poet, who says,

"Prayer is appointed to convey
The blessings God designs to give."

But that prayer was never answered. God did not answer the prayer of that Democratic convention by calling back our brave soldiers in their triumphal march and dishonoring our Army. He heard and answered the prayer of the widow going up in behalf of that flag in defense of which her husband had fallen. "There is no peace unto the wicked, saith the Lord." God heard the prayer of the mother whose boy grasped in his firm hand the ensign of the Republic, which was kept waving till an honorable and triumphant peace had been conquered from armed rebellion.

When the war closed what was the condition of this country? Ten States were practically out of the Union. I may differ with some of my Republican friends; but I claim that when the war closed those States were States geographically, but had no civil governments. They had by rebellion overturned the authority of the United States within their limits, and the Constitution was powerless to operate; they had set up rebel governments in antagonism to the national authority. Our armies succeeded in overthrowing those rebel governments, and when the war closed there was no civil government in those States.

Now, under the Constitution it was the duty of Congress to provide for those disorganized communities a republican form of government. But before Congress could take any action President Johnson, assuming to be himself the United States, wrapping himself in the mantle of a self-constituted Moses, said, "I will reconstruct these States on my policy," and did proceed to appoint Governors, declare who should vote, and so far as it was possible under the Constitution or outside of it, so organized these revolted provinces as to place the control of these self-constituted State governments in the hands of the disloyal and rebel element, permitting and appointing men to office who never took the oath prescribed by Congress; and in violation of law, and all his previous pledges made to the people that treason should be punished and traitors take back seats in the work of reconstruction. Congress offered to the people of the United States for ratification an amendment to the Constitution, which, if these revolted and conquered provinces had signified their willingness to see incorporated into the organic law of the land, and had made their reorganization of State governments republican in form, would long since have been, in my opinion, represented in the Legislature of the Government, and to-day would be enjoying all the rights of States in the Union. No nation on the face of the globe ever offered to outlawed and conquered belligerents such noble and humane provisions as was held out as inducements to win them back to their fealty to the Constitution and the land they had dishonored. We had a right under the law of nations to demand indemnity for the past and security for the future. But did we get indemnity for the past?

Mr. ELDRIDGE. I desire to ask the gentleman a question.

Mr. WILLIAMS, of Indiana. I cannot yield.

Mr. ELDRIDGE. I would like to know the terms offered. That is all.

Mr. WILLIAMS, of Indiana. We said to

them we simply require these guarantees for the future. They could not give us indemnity for the past. Could they, I ask you, restore the limbs of our soldiers lost upon the battlefield? Could they restore to the mother the bright jewel of her household that she gave in defense of liberty? All the cotton upon the vast plains of the South, all the vast wealth of her planters could not give us indemnity for the past. We demanded only security for the future. We asked that there should be ingrafted into the organic law of the land a constitutional provision providing that the rebel debt should never be assumed and paid either by the Federal or State governments; we asked a pledge that the pension of the widow of the soldier who gave his life and blood to save the nation should be promptly met and paid; we required a provision in the organic law that the debt of the nation, contracted to put down rebellion and save the country, should never be repudiated; and when we asked these moderate and humane provisions of security the President of the United States and Democracy declared it was a violation of the Constitution to amend that instrument, and the hosts of rebellion answered, Amen! So mote it be.

The President said he acknowledged only two superiors, the Lord and the people. The question was submitted in 1866, and the people, by an overwhelming majority, decided with Congress. And the Lord, becoming disgusted with his repeated violation of his pledges to the people, has forsaken him in this his hour of calamity, that there is none now so low as to do him reverence.

There has been no act passed by the Thirty-Ninth or Fortieth Congress on the subject of reconstruction which has not been denounced by our Democratic friends on the other side as unconstitutional, revolutionary, and tyrannical in its provisions, and designed to supplant the civil by the military power. I suppose they mean the bogus civil governments set up by the fiat of executive usurpation.

I ask my Democratic friends, who now profess so much love for the soldiers, are you afraid to trust the great military leaders of this country, who led our armies triumphant to victory, to hold the rebels in check simply long enough to let the loyal men of that country organize governments republican in form? That is all the measure provides. If you cannot trust our military commanders to hold that rebellious element in check, I ask you what party you can trust in this hour of the nation's life?

I want gentlemen to understand that, while prating about military power, they voted a day or two ago in this House solidly against placing the power of reconstruction in the hands of the civil authorities by voting down the amendment offered by the gentleman from Massachusetts, [Mr. BUTLER.] They evidenced their faith by their works in that vote in favor of letting the military have the control of reconstruction in these States, thus ignoring all their former positions on the question of reconstruction. But gentlemen tell us, and so does the President, that the object of this great Radical party is to Africanize these southern States. They say that we are placing them under negro domination. They say that by these acts of Congress the Republican party say that negroes shall have the right to vote. My friend from New York [Mr. BROOKS] says that this is a "white man's Government." Sir, I deny the assertion that this is a white man's Government. I say that on the adoption of the Federal Constitution in every one of the original Colonies save two every free person of color had a right to vote and did vote for the men who made the Constitution and on its ratification. A "white man's Government!" Sir, I claim that it is a Government for the people of every clime that come to seek protection under the flag of the Union. We invite by our naturalization laws the foreigner to come, and whoever he may be who comes here and

obeys the laws and pays taxes for the support of the Government and defends its flag it is his Government, be he red, black, or white, and he is entitled to the same protection of the native-born American whose eyes first beheld the sunlight upon American soil.

But they tell us we are placing the ballot in the hands of the negro, who is not qualified to exercise the franchise. Why, sir, let us see: in Tennessee, by the act of the people, without congressional intervention, they gave to the colored population the right to vote. There you have a practical test of the first emerging of humanity from slavery to freedom. Let the loyal delegation on the floor of this House from Tennessee answer the question; they voted right. Why, sir, they voted the Republican ticket in Tennessee, say our Democratic friends. Well, I think that they exhibited more intelligence and sound judgment by that vote than the white Democrats who did not vote or who voted the Democratic ticket.

But let us examine this matter for a moment. What do the Democrats propose to do? What kind of a system do they propose to give us? They say they are willing to restore all the rebels to power without either faith or repentance. The gentleman from New Jersey [Mr. SITGRATES] this morning said he was opposed to reconstruction, but in favor of restoration. Sir, what great rights have these men lost by the act of reconstruction? When the war ended they had no rights under the Constitution. They were alien enemies, and had no rights except such as Congress saw fit to confer upon them. Restoration, indeed; that means restore back to these rebels the loyal black man to slavery. Democracy are the only mourners to sing its requiem.

Sir, the country calls upon us to-day in the Halls of this American Congress to restore these ten disorganized governments to the Union. But what does the Democracy say in response? They say to us, "You are going to sap the foundations of the Republic." My friend from Indiana [Mr. KERN] the other day said: "If this reconstruction act is passed and forced upon the people of the South the last sands of the Republic are about to pass away, and it follows to the grave the republics of the past;" and he called mightily upon Hercules to come and save the Government. But, sir, Hercules did not respond. Instead of Hercules, the old fossil Democracy, like ulcerating sores upon the body politic, and the virus of treason yet on their garments, only respond to the invocation.

The question before the country now is, shall this Government be restored upon the basis the fathers designed to establish? Shall we make this, the great empire of the West, the refuge and home of the free? But the President comes in with his message and says to us that in 1861 Congress passed a resolution declaring that the object of the war was not to interfere with the institutions of the States, but to save the Republic and restore the insurgent States to their status prior to the war. I know that was the declaration of Congress. But, sir, we had a practical demonstration of the effect of that position at the very outset of the war, when a military order was issued, called Order No. 3, declaring that no colored man should come inside of our lines. Tell me, if you can, one single battle that we won under Order No. 3? Let the history of Bull Run answer. It is true, we tried to save the country and save slavery at the same time, but the fiat from the throne of the Eternal came down to us saying, "Let the oppressed go free." It came through the proclamation of the great head of the nation, who afterward became the victim of Democratic assassins. He derived his teaching from Independence Hall, from the liberty bell that was cracked while tolling the funeral of the immortal Clay, upon which was this inscription: "Proclaim liberty throughout the land to all the inhabitants thereof." And in-

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spired by that message of liberty he writes that immortal proclamation which shall go down to posterity side by side with the farewell address of the father of his country. Then the manacles fell from the limbs of four million human beings, and the shout of jubilee went up to God, and they went forth clothed with all the rights of humanity.

But gentlemen on the other side tell us that if we persist in this policy of forcing upon the South the reconstruction measures it will supplant the party now in power by the Democratic party, which will rise up and take possession of the Government. Sir, I have no fear on that score. They may by the cry of high taxes and hard times attempt to make an impression upon the people, but I have no fear of this Government being placed in the hands of the party that rose in arms to tear down the citadel of liberty. It may be that in the city of New York, that modern Sodom, and other sinks of iniquity and gambling hells of pandemonium, the arguments of the gentlemen will take effect; but when you come among the rural districts, where churches and school-houses are found, you will find a moral, virtuous, and intelligent people, who have stood by the Government, and who are going to stand by the great party that saved it when the proud ship of state was swaying upon the waves of treason, and when Democrats, with the drawn stiletto in hand, sought to stab the Goddess of Liberty in the back in her onward march of advanced civilization. Sir, it makes no difference what parties may say. I believe that the empire of our fathers must live coextensive with time itself. God has planted this Government here as the great central orb whose light shall radiate out to the despotic Governments of the Old World, and its oppressed millions will behold the scintillations of its light, and, inspired by its shining glory, will rise in their majesty and proclaim to trembling despots that the day of their dissolution is near at hand.

The gentleman from New York speaks for himself. Hear him:

"The gentleman from Massachusetts [Mr. BOWEN] tried to alarm the country by foretelling that the Democracy, if reinstated in power, would undo what the Republicans have been doing; but I think he will give joy to the country rather than alarm by assuring them of that. He instanced, to increase that alarm, what the Democracy had been doing in Ohio and in New Jersey; as to them he might have added New York. Sir, Ohio and New Jersey are but the beginning of the end. We intend to undo almost everything that has been done for the last three years by this and the preceding Congress. We intend to change the present majority here, and to repeal all the destructive acts which you now have in course of reconstruction."

He tells us what his party will do when they obtain control of the Government. He tells us that they are going to wipe out all these measures of reconstruction which have been passed during the last three years. Sir, he need not lay the flattering unction to his soul that they are ever going to get the control of this Government. The loyal people of this land have sworn a great oath and registered it in heaven that none but loyal men shall rule the country. But I suppose the gentleman proposes, then, to repeal the law that gives pensions to the widows of our soldiers. He proposes to repeal the law to give bounties to the brave defenders of our flag. He proposes all that, and what else? Let me tell you. He and his party will propose, if by any accident they should ever get control of the Government, either to repudiate our national debt or fasten upon this people for this generation the payment of pensions and bounties to rebel soldiers.

Let us see what the Democracy say. I quote the language of a Democratic candidate for Congress in Virginia in 1865, under Andrew Johnson's government there. He said:

"I am opposed to the southern States being taxed at all for the redemption of this debt, either directly or indirectly, and if elected to Congress I will oppose all such measures, and I will vote to repeal all laws

that have heretofore been passed for that purpose, and in so doing I do not consider that I violate any obligation to which the South was a party. We never plighted our faith for the redemption of the war debt. The people will be borne down with taxes for years to come, even if the war debt is repudiated. It will be the duty of the Government to support the maimed and disabled soldiers, and if the United States Government requires the South to be taxed for the support of Union soldiers we should insist that all disabled soldiers should be maintained by the United States Government, without regard to the side they had taken in the war."

That was the doctrine of the leading Democrat in Virginia, and I say that it is to-day the doctrine of the Democratic party of the country. If they and the rebels can get the control of this Government they will surrender it into the hands of its enemies, and pension the rebel soldiers and their widows at the expense of the great North.

Another distinguished Democrat, Colonel Crockett, of Memphis, Tennessee, says:

"If the Democratic party will sustain the policy of President Johnson, within five years we shall get all under the Government that we fought for outside during the war."

That, sir, is the language of Democrats, and I say it is the key-note to their party campaign. That is what we may expect if they should get into office under this Government. I ask you, sir, will the great loyal people of the North, who sacrificed the lives of five hundred thousand of the very jewels of their households, and who are saddled to-day with the mighty incubus of a public debt of \$2,500,000,000, consent to place the ark of the covenant of our fathers in the hands of this party, whose hands are stained with treason, and who, if they come into power, will lay this burden upon the people of this country, to bind them and their children for a generation to come.

Mr. MUNGEN. Will the gentleman allow me to ask him a question?

Mr. WILLIAMS, of Indiana. I cannot be interrupted at present.

Mr. MUNGEN. Cannot he? I guess not.

Mr. WILLIAMS, of Indiana. There are one or two other points to which I desire to refer. The gentleman from Connecticut [Mr. HUBBARD] made a very remarkable speech the other day, and I was glad to know that he is very frank. He declared in his speech, which seemed to be very highly appreciated by his party friends, that if he had known that this kind of legislation was to be the result of the war, and that these acts of Congress would be passed, he would have shouldered his knapsack and gone over to the other side. I infer from that, Mr. Chairman, that if another rebellion were to come upon the country now, growing out of our endeavors to reconstruct this Government upon a loyal basis, he would be a rebel. Have I a right to infer that? I think I have from what the gentleman said in his speech. And I will say to him that while I have no doubt that he is a brave man, and during the war was, as he says, a loyal man, a large majority of his party were on the other side. They were the first men who fired upon the national flag. They were Democrats who hauled down the national flag in disgrace from the towering battlements of Sumter and raised up in its stead hell's hissing emblem, the serpent. It was the Democracy which swore with a great oath that they would pull down this Government, build by our fathers, and erect another upon its ruins, the corner-stone of which should be slavery. And further than that—while the southern Democrats were in rebellion, armed and bravely meeting the loyal champions of freedom in the North in the conflict of battle and clash of arms, where was the great Democratic party? On which side of the war were they? I propose to read an extract to show where they stood. There never was a victory won by the great Union Army during the war that was eulogized by the Democratic press. There was never a great battle imminent when the prayer of the Democratic party went up for the success of our arms.

Mr. GETZ. The gentleman is certainly in error in making that statement. I know something about the spirit of the Democratic press during the war.

Mr. WILLIAMS, of Indiana. I must decline to yield to any interruptions. I propose to show that during the war three hundred thousand members of the Democratic party, who were too cowardly to go on the other side and fight, and too much opposed to the liberties of this country to shoulder their muskets and fight on the loyal side, organized a great conspiracy to overthrow this Government. I have the record of the military commission in the Milliken case, in which it is shown by Democratic testimony that three hundred thousand Democrats took the oath of the "Knights of the Golden Circle." The candidate, having his hand on the Bible, is asked: "Do you believe this to be the word of God, and do you believe the present war now being waged against us to be unconstitutional?" Both being answered in the affirmative, the candidate takes the following oath:

"I promise and swear that I will do all in my power to bring all loyal Democrats into this circle of hosts; and I further promise and swear that I will do all in my power against the present Yankee disunion Administration; so help me God."

There is the oath taken by three hundred thousand Democrats of the great States of the northwest, saying that they will seek to introduce into their reasonable organization all the Democrats they could. They went further than that and plotted to seize the arsenals at Camp Douglas, Camp Chase, and Camp Morton, and let loose twenty-five thousand rebels who had been captured by our troops in the field, and to place in the hands of those rebels the arms thus stolen, in order that they might pillage, burn, murder, and destroy the property and people of the great Northwest. And yet this party now tell us that they were all for the war. I admit that a great many Democrats went into the war, thousands of them, and that they fought nobly. But that loyal element of the Democratic party stands to-day with the great Union party for the preservation of our liberties and the perpetuation of the Constitution. Some few, perhaps, after having won glory and renown in the war for the Union, have gone back and grasped hands with those men so stained with treason, and who denounced them during the war as Lincoln hirelings and Lincoln hounds. Yet it is but another illustration of the old proverb that "The dog has returned to his vomit and the swine that was washed to her wallowing in the mire."

Mr. MUNGEN. Will the gentleman allow me to ask him a question?

Mr. WILLIAMS, of Indiana. I decline to yield.

Mr. MUNGEN. Then I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MUNGEN. My point of order is this: The gentleman was looking in this direction. [Laughter.] I went into the war, and I think I did as much for the Government as he did. Now, I want to ask him this question: [Cries of "Order," "Order."] Does he say that because I now vote the Democratic ticket I am a dog?

The CHAIRMAN. The Chair overrules the point of order of the gentleman from Ohio, [Mr. MUNGEN.] The gentleman from Indiana [Mr. WILLIAMS] will proceed.

Mr. MUNGEN. That is very nice. Mr. WILLIAMS, of Indiana. Of course I make no personal reference to any gentleman on the floor of this House; I am speaking generally. I was going on to remark that while these Democrats of the North to the number of three hundred thousand met in dark and secret places to conspire against liberty, there was another portion of them who were not in the war. There was a very large party of them who, when the draft came, shouldered

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their knapsacks and went to seek protection and security in the dominions of Queen Victoria, and they now come back and ask us to give them the control of the Government.

Sir, history teaches us that Christianity had its Judas; that Rome in her demoralization had her Cataline. But in 1860 the Democratic party had its hundreds and thousands of men who, having enjoyed the protection of our Government, raised their arms against the flag that had protected them.

Restore the Government to the hands of the Democratic party! Why, sir, the proposition is monstrous to contemplate. They ask us to admit back into full fellowship the very rebels who have done their utmost to overturn the Government and who yet have exhibited no sign of repentance or sorrow for their crimes.

Why, sir, the great arch rebel himself, who was expelled from Heaven for his treason, has never asked to be restored to his ancient position without faith or repentance; but Democracy says: "Let rebels come back without either."

Mr. Chairman, leaving this branch of the subject, I now pass on to notice the next great conspirator, the accessory to all this crime against liberty and republican government—I mean the President of the United States. In a speech made at Nashville on the 9th of June, 1864, he uses the following patriotic sentiments:

"And let me say that now is the time to secure these fundamental principles, while the land is rent with anarchy and upheaves with the throes of a mighty revolution. While society is in this disordered state and we are seeking security let us fix the foundation of the Government on principles of eternal justice which will endure for all time."

And again, in the same speech, while his heart was beating responsive with patriotic impulse for the punishment of traitors, he pronounced the punishment due to the men who had raised the parrioidal hand against the Government, as follows:

"If we are so cautious about foreigners, who voluntarily renounce their homes to live with us, what should we say to the traitor who, although born and reared among us, has raised a parrioidal hand against the Government which always protected him? My judgment is that he should be subjected to a severe ordeal before he is restored to citizenship."

Now, sir, what severe ordeal has the President required the traitor to pass through before he restores him to citizenship? None. He simply issues his executive edict and restores them to all the rights of citizenship on the condition that they worship at the shrine of treason and proclaim upon the house-tops that he is the Alpha and Omega, the beginning and the end, of the Constitution—that in him is centered the legislative, judicial, and executive departments of the Government, or, more properly speaking, the Constitution—manifest in the flesh.

But, sir, I pass on to notice some other points. It will be recollected that on the 22d of February, 1866, Andrew Johnson made a speech, in which he indicated the policy he was to pursue during the remainder of his term. What did he say?

"I came into power under the Constitution of the country and with the approbation of the people, and what did I find? I found eight millions of people who were convicted, condemned under the law, and the penalty was death; and, through revenge and resentment, were they all to be annihilated? Oh! may I not exclaim, how different would this be from the example set by the Founder of our holy religion, whose divine arch rests its extremities on the horizon while its span embraces the universe! Yes, He that founded this great scheme came into the world and saw men condemned under the law, and the sentence was death. What was His example? Instead of putting the world or a nation to death He went forth on the cross and testified with His wounds that He would die and let the world live."

Now, Mr. Chairman, if President Johnson could only follow that illustrious example and die speedily I have no doubt the loyal people would feel somewhat easier; for then the wicked would cease from troubling, and the wearied nation for a time would be at rest. But, Mr. Chairman, Christ required two conditions—faith and repentance. The President

of the United States, however, requires no repentance. All he asks is faith in this second Moses. I would to God that the Republican party had left him in the Democratic bullrushes long before he reached the presidential chair. But the President now comes in and very modestly says to Congress, "I differ with you in opinion, and I ask you to repeal your acts of reconstruction." He asks us to repeal the very laws by which we are seeking to give to the loyal people of those States republican forms of government.

But the President says that the object of these reconstruction measures is to give the negroes of the South the control of these State governments. Sir, he knows and we all know that in five of these ten States a large majority of the registered voters are white voters, and those States where the white voters preponderate gave the largest majorities in favor of conventions, while in the five States in which the negroes had a majority of the registered voters there was but a small majority in favor of holding conventions. I should like to know from the President how four millions of ignorant and debased slaves, as he claims, are going to rule and control the destinies of thirty millions of the intelligent white race.

But, sir, I am done with the President. The Democratic party have lately adopted him and taken him into full fellowship and communion into their church. On the 8th of January the Democratic party of my own State passed a glowing tribute and eulogy to his treachery to freedom. I am glad he has found a home; that where Democracy is there he may be also.

The gentleman from New Jersey [Mr. SINGMASTER] has told us this morning that this great Republican party is going to ruin the country. Now, I ask any honest, candid man what has Democracy ever done for this land? It was Democracy that made war upon the Constitution and the Government; it was Democracy that carried on the war and northern Democracy that protracted it so as to fasten upon this people \$2,500,000,000 of national debt, to be a tax for all time to come upon the property of our children; it was Democracy that declared you could not conquer these rebels at the South; it was Democracy that told us that ten millions of the Anglo-Saxon race, bone of our bone and blood of our blood, never could be subjugated. Our loyal soldiers said that they would put down the rebellion, and they did put it down, with the fire of rebels in front and the fire of cowardly Democrats in the rear; and when this great pacific policy of reconstruction shall have been carried out we will have the noblest, the freest, and the most powerful Government on the face of the earth, and our children will rise up and call us blessed.

What has radicalism done? It was radicalism that furnished the men and money to carry on the war; it was radicalism that built the proudest navy that floats upon the waters of the earth; it was radicalism that carried on this great war and put down the rebellion; it is radicalism, the great progressive civilization of the age, that is to-day building the Pacific railroad, the great iron artery of commerce that connects the two oceans, and in less than two years more, under this great progressive radical policy, you will see the brazen steed, as he climbs the towering summits of the Rocky mountains, conveying to the great commercial metropolis of the East the products of the mines of the Pacific and carrying back the work of the artists and mechanics of the great North. Radicalism will yet nail upon the top of that great ice column of Alaska the flag of the American Union. It is radicalism that is establishing in the revolted provinces in the South, desolated by war, the school-house where the slave-pen stood, and which will, under the productive energies of free labor, make that great country, what God designed it to be, the Eden of the American Union.

Talk about radicalism! Sir, the people of this country will hold the Democracy to the dark, damning, black record they made during the war, and Democratic orators will find no welcome response from the people to the idle acclamation that the Republican party are disfranchising the white man to place the negro in supremacy. Such appeal to the passion and prejudice of the ignorant and degraded may win to them a few votes. But the intelligent and virtuous will stand by the integrity of the Union party, who are true to the pulsations of liberty. The Democracy say: "Oh, wipe it out; do not bring up that record against us now." Sir, I will tell you when the American people will wipe out that record. When the Democracy shall go down to Andersonville and galvanize into life the sixteen thousand loyal men that were there starved to death by rebel cruelty and restore them to their mothers, their wives, and their children; when they shall go up to Arlington Heights, once owned by the traitor Lee, and call up from their graves the thousands of brave men who sleep there and give them back to the country; when they shall go to the tomb of the immortal Lincoln, upon whose grave the tears of a nation were shed, and restore him to life, and wipe off the bloody winding-sheet of the assassin from his brow, and place him in the chair now dishonored by a vile usurper of the Constitution of his country, and pay off the debt they have made by giving aid and comfort to the rebellion; it will then be time enough to seal up the book that contains their history.

Mr. Chairman, while we sit here in the Council Chamber of the nation and hear the voice of the people saying to us, "Stand by the integrity of the Government; stand by the great principle of liberty," we hear, also, whispers coming from the graves of three hundred thousand patriots, martyrs for liberty, saying, "Do not dishonor the brave who fell in defense of their country's flag." When the hosts of freedom shall marshal their battalions for the approaching political struggle Democratic politicians may well exclaim, "Oh, that we had the wings of the morning, that we might fly to the uttermost parts of the earth," where no radical shall disturb the repose of our ignoble remains.

Mr. Chairman, I have great faith in the future of the Republic. I am one of those who believe there is a Providence that controls it. I believe the same great right arm that enabled Washington to wrest the sword from the hand of Britain's chieftain and nerved the arm of the gallant Meade with our patriot soldiers to place the crowning cap of victory on the smoking summit of Gettysburg, will still preserve a party faithful to liberty, justice, and humanity.

"Liberty crushed to earth shall rise again:
The eternal years of God are hers;
But treason, wounded, writhes with pain,
And dies among his worshippers."

Contraction of the Currency.

SPEECH OF HON. WILLIAM SPRAGUE,
OF RHODE ISLAND,
IN THE UNITED STATES SENATE,
January 15, 1868.

The Senate, as in Committee of the Whole, having under consideration the bill (H. R. No. 213) to suspend further reduction of the currency—

Mr. SPRAGUE said:

Mr. PRESIDENT: I have a great interest in the principles involved in this bill, but little interest in the bill itself. It is a temporary measure, and essentially deceptive. If the receipts going into your Treasury are greater than your expenditures to the extent of the deficiency, contraction continues. As the \$46,000,000 compound-interest notes fall due,

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the last in October, contraction to that extent continues, less, perhaps, \$20,000,000 three per cents. heretofore authorized yet unsold, provided Government can make sales of them, but which, in the present condition of trade and finance, I doubt its ability to do. I wish the Senate realized as I do the exact condition of the disturbed condition of the people's interests. It is no flimsy or temporary difficulty, that without congressional action will speedily pass away; and the important question, what is the real difficulty and what is its cure, must now be answered. In the wise disposal of the currency much will depend of our measure of prosperity or adversity. Matters of taxation and expenditure must be adjusted to the lowest sum compatible with our obligations, and the strictest economical administration of public affairs. The power to increase the currency up to the requirements of the Government and the demands of business is indispensable. By it we may yet save our remaining resources, and through it arrive at a more speedy resumption of specie payments. You cannot, however, expand your currency through increased issues of Treasury notes. These notes to-day are, as I will show, the great enemy of resumption.

Contraction of Treasury notes reduces the means of general speculation. The evil of contraction here is that it is capital that is reduced, when it costs so much to procure it. Treasury notes of themselves have no life, and must be forced to be active. There must be an attraction to the source of issue for currency to benefit trade or industry; for no issue can arrive at this condition unless by the instrumentality of the people, and then only through their industries. One dollar of active currency is better than five dollars or even any larger sum that, from its nature or otherwise, is inactive. An active currency spreads throughout and is beneficial to whole communities. An inactive currency benefits the one only who uses it as an operating power; and not that one unless his use of it bring profit to himself. One has constant life-giving properties, the other exhausts itself after the first operation. The real object of currency is to represent capital, and to promote movement among material things. The capital represented is not gold exclusively, but gold if you have it, and houses, barns, factories, public improvements, or national possessions. It is peculiarly an American necessity when we consider that we have more property and less money. That is, capital in the form of property and not in the form of money. By means of currency, or capital represented by paper, we are to bring our capital in property equal to other peoples' capital in money. By means so simple and safe we are to secure a representative of our capital, which is the presence of capital itself, and by which we will be able to build more houses and factories, clear more farms, and thus continue to give employment to labor. If, like greenbacks, with no return power and no life, and tending to centralization, it has no value as a currency or a representative of capital. It is capital itself, the same as houses and lands are capital. We try to create a distinction between Treasury notes and five-twenty, ten-forty, and other interest-paying securities, by classing the first as currency, the other as property. There is no such distinction, in fact; all are property; and the difference is, one pays no income to the holder, while the others do. In my judgment you may issue a million Treasury notes to-day, and sell them in our market without Government or people deriving but a temporary relief. In fact, the issue becoming property a surplus and an overstock would reduce its value, and through it the value of every other public or private security; besides, it is the poorest kind of property. You cannot get an income from it so long as you hold it; hence you are tempted

constantly to speculation to obtain that which you cannot obtain without. Like chaff in a bed, every stir up sets it floating in the air, to settle again lifeless and useless. Not so a currency performing its legitimate office of an active and distributive circulation. This I cannot easily place my hands on; the other I can buy. I then operate with it as rapidly as possible, otherwise, and as long as I hold it, I lose interest on my money. The seller feels as I do. He also makes an effort to relieve himself of them, and everybody avoids holding Treasury notes.

Concentration takes place when they are again brought into operation, where the chances favor profitable returns. Pay off, if you will, your national debt in greenbacks. Let the present holders of your securities take your issues. He will hold them so long and no longer than to turn them into interest-bearing securities or property. Whose securities or property? The people's property, of course—yours and mine; because it is only here in this country that the issues would pass at all. Here, then, we have a measure that is advocated in the interest of the people that first takes their property, through which a living was procured, and leaves with them a property that pays nothing.

How long, I ask, would a property retain its value, or any value, that pays no income and which nobody wants? If such a measure was proposed by a tyrant the outrage would appear plain to all, as it is advocated in the interest of the people, and though their property is to be the sacrifice the deceitfulness of the proposition is not discovered.

Here, again, the people are true to themselves; they seek relief from impending servitude; they accept the defense that appears best, seek the same object through a cheaper and safer method, more honorable and certain of success.

The people, through their industries, is the only power that can promote general distribution of capital or its representative currency. When, from the prostration of those industries, the power ceases to act, concentration of capital prevails, then speculation begins. This is the condition of your monetary affairs to-day. When there is insufficient capital, or when it is scattered as ours is, money if generally distributed becomes cheap. When general distribution prevails, outside calls for capital become of course less and less frequent. In proportion to this decrease more and more favorable propositions are made from those who command capital to those who employ it. This comes in form of lower rates of interest and less valuable securities. This, for the time being, gives money to a whole country at a lower rate of interest on the principle of the action of a tiller. Its slightest motion changes the course of the largest vessel. How important, therefore, for the whole country, to wisely and firmly control in the people's interest this sensitive and controlling point.

The absence among the people of this distributive machinery and the neglect of Government to concentrate its scattered resources and to operate them in its own defense, is one of the real causes of our present difficulties. The banker, the broker, and the operator will not give this counsel, for if such should prevail his occupation is gone. Hence, from the beginning until now, he has given the opposite and false direction to your monetary affairs. The absence of distribution, which is the character of the greenbacks, renders resumption of specie payment through their agency clearly impossible. Your determination to resume it at a stated time would bring the whole issue upon you for gold payment, because it is a commodity waiting purchase and in any sums. Here, at just this point the Treasury policy has rested all its hopes of resumption to be utterly and irretrievably blasted, and carrying down

with those fond hopes most of the people's industries.

The circulation that has been most useful to this or any country, in my judgment, is that which rests on property. It is steadier and less liable to fluctuation than coin. If coin, you are liable to lose it in the process of trade, and again it accumulates. The accepted opinion favors coin. The currency as well as the capital that has built up and sustained the industries of my State has had no coin as a basis for its solvency. The currency came from banks having for capital the obligation of the people, property-owners, in form of notes, acceptances, drafts, and the like. These banks were but departments of the industries of the State, tributary to, dependent on, and useful only as they promoted those interests. Few of those interests would have had being except through the agency of these institutions. There never was more than one to two per cent. of coin in their vaults. I have come to this conclusion: that gold, as a basis of currency, is as the middleman to the trade of a country, exacts tribute, increases cost to the consumer, but adds no value or safety for the cost. While it is idle interest is lost, and that is the people's loss. Besides, you employ two representative mediums. This is false economy. The gold may be stolen. It certainly fluctuates. Property—or its paper representative, in the form of notes, &c., of the people—is not so easy to take to itself wings and to fly away.

Currency is to capital in banks what banks are to property, the industrial interests and the trade of a people—the motive power; and, like all those powers—steam or water for instance—when acting under direction and control, is performing wonders unknown and unthought of in past ages; but when that direction and control are lost there is a common ruin for all. Let financiers pause here and consider. The assertion that the bank issues of Great Britain are all based on coin is an error. The Bank of England alone issues one hundred million of our values on property other than coin, and so, also, is the case with her other banks. Besides, and in addition, every deposit of coin calls for a corresponding issue in paper. I would not speak of this point as a defect did I imagine my words would influence a change. I hope through this very defect my country will one day command the money market of the world, as you will presently see how unsafe and crude it is to place your reliance on gold.

When, through the process of trade, the drain of gold is into England these issues commence and continue as the drain continues, producing an increasing ease on the market when the market is, perhaps, perfectly easy. On the other hand, the drain is out, the issues are at once called in, no matter how occupied, and a scarcity calls for still greater scarcity. If the drain continues long enough every pound goes out and every issue is canceled, and the public must break, unless through the action of Government additional issues are authorized and gold purchased. As an illustration, a few months since a condition of things existed as I have stated. The people of England were on the eve of general bankruptcy. New issues were authorized and gold was purchased by the bank of the Treasury of the United States at thirty per cent. Thus England was saved by the gold in our Treasury, as the suddenness of the difficulty gave no time to purchase elsewhere; and as a reward for our magnanimity she forced gold up on us to fifty per cent. not a week after. Who, I ask, counseled this blunder? We, saving from failure our greatest rival, and the depreciation of our securities, and at a cost of twenty per cent. in gold. Bear in mind just here that I condemn our policy with but one view, and that is to inaugurate a new policy that will save our people, so they may have heart to continue the great work God has called them to perform.

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So long, therefore, as our intimate monetary relations exist with Great Britain we shall be controlled by their ruinous gold system, and suffer when they suffer. Every interest throughout the world is unsettled through its shifting character. We are still asked to rest our currency on coin where it never has been done and never can be done. Do not forget that currency has but a representative value and a motive power, and that it cannot represent a security at par when that security is below par. The financiers' clamor for payment of all our securities in gold at par is a paramount cause of our present prostration, because it prevents a safe and easy method of creating capital, the collecting of our resources, and issuing thereon a representative, which otherwise is lost to us as capital. We shall begin to learn something when we can understand that a nation, like an individual, must fail if without capital it attempts to compete with one that has an abundance. Unless, therefore, you act upon the idea of resorting to the power to create and collect, and the will to employ your capital in protecting your own and the people's interests, the business prostration of 1887, 1847, 1857, and 1861 will have no parallel in that which is before us. Perhaps it is my fortune to understand more directly from those who now suffer or from those who know of sufferings in the country than those about me. I am not myself influenced by panics. I feel calmer always when the disaster is upon us than in its anticipation; but, as I have contemplated this question, I am astonished that business has held up as long as it has. Now, if there are any who read my words let them pause in their operations and await a change, for if that change does not take place the longer you go on the more difficult it will be to extricate yourself in the end. We may not have a violent and sharp prostration, but, like the sinking of a foundering ship, none the less certain or disastrous. Its violence may pass away to-day, but you cannot escape the effect of the exhausting process, through the constant drain of your securities, public and private, that meets you at every turn.

I do not contemplate the question of finance from any one interest point of view. No one here can charge me with this; my wish is that the manufacturer shall have such facilities and profits only as will enable him to devote his whole time and ability to the perfection of his production. I ask for him nothing that will tempt him into other channels of occupation. So of commerce, agriculture, trade, and the professions. Such, sir, in times gone by has not been the condition of our industrial interests. These have failed in consequence of the skill that should have been devoted to the perfection of production being forced into, and almost exclusively devoted to procuring capital for those operations, leaving to unskilled hands and unlettered heads the perfection of the interest itself; we thus bore failure on the face of all our efforts.

Does Government succeed in the object of its establishment when it fails to afford to the people reasonable protection to their industries? No, sir, I want no more quackery to procure a healthy restoration of our finances, either through financiers, manufacturers, traders, demagogues, and the like. I want a skillful physician who will carefully consider the disease, and, in lieu of remedies applied to the irritated and diseased parts, which at best but adds irritation to irritation, will furnish soothing remedies and careful nursing, then strengthen the healthy parts, to enable nature to work on and itself expel the parts diseased, or an abandonment once and for all time of the false practice of forced resumption, and give life and strength to all your industries—absolute abandonment of the curative processes that kill your patient. In other words, I want a statesman who will cut off the hacks who have given counsel to our injury and to their

own increase; and, while looking for commissions and exchanges, pray God to save the country and the cause, when they know, or ought to know, that they are its real impediments.

The two great objects is to place our debt at home among our own people, and to place it at a low rate of interest amid unusual plenty of money, notwithstanding your Treasury and your committee have other views. The rates of interest and taxes for your business operations following those established for Government, will thus enable me to carry every American product into the markets of the world and to compete successfully. With the present extraordinary rates I must at no distant day abandon even the home market, notwithstanding your tariff. The law of force has been entirely overlooked in our management of finances.

When attacked by hostile Powers we organize armies and oppose force to force, or surrender. At this moment from every quarter comes up hostile attack against your finances to procure your securities at the least possible cost. To meet this force you have first scattered your own, then permitted yourself to be besieged in your main works, leaving your scattered hands to be cut up in detail, and your country laid open to his ravages and plundering expeditions. In other words, you have withheld your means, which otherwise would have enabled your people to have held on to their own property, to have defended the Treasury, and kept the national debt at home. You established no point on which the people could rally, either to assist you or protect themselves. You studiously and angrily withheld every assistance, and when you surrendered you prostrated and humiliated them. These charges are severe. Contradict them he who can. What would be thought of any other Government that acted thus toward its people?

Again, to my mind your present position may be likened to a lion caught in a net and the time for the approach of the hunters drawing near. A mouse can release him. Who has the courage to approach and extend that relief in our case. Our securities are buffeted about by the poorest and the meanest among us, as well as the richest and most honorable, who possess or can borrow, beg, or steal a dollar with which to operate upon them. No one has yet seen a well-directed blow given in defense either of Government or people's securities, but all have witnessed their utter abandonment.

When England in 1694 established her bank (Bank of England) her debt was owned abroad, selling fifty per cent. below par, with interest at from fifteen to twenty per cent., the Government and people of course growing poorer every day. Bankers, brokers, financiers, merchants, and all who represented fixed interest, including the Tory, the then opposition party, exhibited the bitterest hostility, sarcasm, ridicule, and venom in opposing its establishment. The necessities of the people demanded its existence, and it has existed from that day to this. How similar is our position regarding our finance, and as to our attempt to establish a similar system. Who but those just named would be in the Opposition? Now, as to the result. In less than sixty years England's debt was at par, bearing but three per cent. interest, and all held by her people. All this took place during years of exhausting war and civil commotion. Then a second or third rate Power, having but insignificant resources, limited population, large debt, appreciating the resources of the people and exhibiting the ability to organize them, did establish and maintain a mammoth system of industrial interests, enormous Government enterprises, and succeeded also in commanding the money and the markets of the world. How long, in face of these facts, will our people pay fifteen per

cent. interest and be content with a thirty per cent. depreciation, and increasing in that direction daily?

It is interesting to observe the political effect by the bank's operation. Through the creation of varied industries a wealthy and an intelligent middle class, laborers of numerous grades, and their employers, has sprung up from out of the poor and depressed tenantry, and who are now about to assume control of England's future destiny. This aristocratic privileges of a thousand years' standing will give way before the resources of the people when organized in the people's interest. The absence of this controlling and directing influence has given rise in this country to your Vanderbilts, Astors, Cooks, Jeromes, and Stewarts, who, possessing the monopoly of capital, compel every interest to pay them tribute. The people of England checkmated their aristocracy and will subdue it in thus creating a power superior to it. I would perform at this time a like service for the people of this country.

The Secretary of the Treasury holds power given him by our acts, which if granted under the recommendation of an English king, and if used as our Secretary has used his, would cost the king his crown, the Cabinet their portfolios, and Parliament their seats. What sense is there in our reluctance to confer power to organize the means of our people while we continue an enormous trust in irresponsible hands without a restriction or reservation? We cannot control or remove the Secretary. What reason for any complaints against him when he but executes our acts. I am not here to point out the features even of the measures I would ingraft on your financial system. It is not my business, except to present the case to you exactly as it is. It is the business of your committee to act. It is for every Senator to become familiar with its general features. But that which is in greater demand than any other thing is for a statesman to have the courage to advocate any new plan. Timid men may hesitate. The opposing elements are big with hostile power, and Senators about me look at innovations with suspicion. I know the great humiliation that awaits on a change of your policy; but are not the people deserving even of our humiliation? Remember a suffering country, ready to take the character of an indignant people, awaits our action. Again, the absence of an organized system to control and direct our resources has this year cost \$100,000,000 on the cotton crop alone. England's organization depressed our money market and compelled us to part with our crop for half its value. She has operated thus many times in my remembrance. Shall we continue to scatter our resources so as to always fall an easy prey to her and her capitalist operations? It is estimated the people of this country have lost otherwise \$1,500,000,000 from the operations of capital on our weak condition, brought on by our own neglect of the simplest principle of self-preservation. Why not have financial protection as protection to home industry? On the same grounds I advocate protection to one as the other, and capitalist in England can appreciate all that this means. In fact, protection to our finances is primary to home industries, as without a favorable and healthy state of the first the other languishes and dies.

Our national debt is sacred to every loyal heart. What a feeling response comes up from every holder, foreign and domestic! It has, indeed, performed a sacred work. We are mindful of the means that obtained such ends. You that hold it now did not furnish us the means in our great extremities. The loyal people did that work. You have so depressed our market, reduced the value of our property, that we have been compelled to part with the debt we held for one half its value. I suppose your king or queen looks upon a debt created

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to perpetuate their power as sacred, that they may create a new one for the same purpose. A people whose debt has worked out great principles and secured as large possessions as ours has, is revered as means to an end. If, however, we are in danger of losing that which caused the creation of the debt, what then?

We love our guns when in our possession and doing good work against the enemy; but when he captures them and turns them on us, what then? Who would not lead an attack, and such a one as might be necessary, to recapture them?

Our Treasury has played into the hands of those who have depressed our market and depreciated our securities by acting in the interest of banks, bankers, and the like, and our national banks, willingly or otherwise, have followed in the train. We pay on capital national banks say twelve to fifteen per cent. in this wise: Government pays interest on bonds deposited eight and one half per cent., and people purchase the circulation at a rate of interest which would amount to seven per cent. On a similar amount we pay, perhaps, eight and a half per cent. The people lose interest on greenbacks, which is the same as if they paid the interest. These rates obliged the people to pay higher rates, as Government securities will be held by capitalists at less rate than the people's obligations. We cannot carry our debt, private and public, at less than ten per cent.; it may reach twelve per cent. We may rest just here for an answer as to why is the drain of our gold and securities to Europe? The people and Government owe five billions. The interest is from five to six hundred millions. Money comes from the cheapest market. London loans at one and a half per cent. Cut the sum down as much as you may, then add the cost of our purchases and expenditures otherwise, and the startling sum must confound the most thoughtless. Is not a protective measure necessary here?

Let us examine a moment as to the \$100,000,000 gold in your Treasury. This property is available to the purchaser, as has been shown. Will anybody deny that the locking up of this sum has not cost the people its best securities. For the want of capital we have been forced to sell our securities, and that want has been created by our Treasury. As our wants continue we are subject still more to the screw, until we are screwed out of property, hope, and life by the criminal process. What can we do with gold? Certainly not to pay interest. Current receipts will meet all such demands; if not, can we not borrow on our expected receipts, as all nations have done before us? No, it is not that; we have piled it up to resume through its agency, when resumption is as far off as the north pole is from the south. No one will deny, then, that the \$134,000,000 now hoarded in your Treasury has compelled the business of the country to pay an increased rate for money, for when capital is drawn from a distance to meet a demand it always receives increased compensation, and the process has, of course, compelled many interests to do without money, as it had not the credit to procure the means from abroad. The doing-without process is failure to all such. Has not the retention of gold out of the market carried up its price and put resumption afar off, as you would not be quite so weak as to think of resumption when so largely depreciated, and you cannot hope to bring greenbacks to par by hoarding gold, for it is clear the opposite result is produced; and, besides, it ruins your business, for it is only when your business is prosperous can you expect to resume.

Thus the Treasury policy has caused a scarcity of capital and money, depreciated securities by its operations in gold in increasing its value and causing its drain. Therefore the charge I make is, the Government has become

the most extensive speculator in gold and also the greatest depreciator of its own securities. You have also left national bank reserves in hands of operators on your securities, and again created a scarcity of money. You have also before hoarding scattered your incoming receipts and made them available to the banker, and again created a scarcity by its withdrawal from the people without redistribution.

Thus a loyal people have been sacrificed by a loyal representation under a mistaken policy and on a mere theory. We have placed our honor at the disposal of the usurer, and have met the fate we might have expected. It is, of course, too late to prevent the wounds; many have died through them. Hundreds are nigh unto death, and all are demoralized. We must not longer stand idly by and permit this thing, having the power to prevent it. We must act now without a moment's delay.

Nowhere have we been more culpable than to have gone on so long neglecting to obtain the coöperation of the people by a proper use of their resources, which for their own safety they would have loaned you, and especially when the war on finance is more extensive and more bitter than the battles of armies; single-handed you have attempted to stand against a world banded against you. To save you an appeal must be made to the people, and they will extricate you as they did from your exhausting war. Let the rallying point be a financial point; around it create strength in capital; concentrate it, and make it available to act at all times promptly in the people's interests. When a position of strength is once taken the cowardly hordes that have shackled you will drop away in mortification and chagrin. How will this be done? Do the easiest thing. Establish a capital of \$134,000,000; take the stock for the Government; then sell it to the people; receive your national bank deposits, your bank reserves, the deposits of the people, your taxes and income from all sources, and pay out no funds to lay in any one's hands one day longer than the necessity of the case demands; loan all to the people; issue circulation on your capital and on deposits, or on any other property you choose; and if you will not loan it all direct to the people let your national banks furnish you paper with their indorsements; especially pay a stated sum to the institution for the work it does for the Government, either for paying interest on your obligations or in paying your other indebtedness, whether in securing you a new loan or one more favorable. The corruptive influence growing out of commissions for financial service has been ruinous in the extreme; for besides the speculation and monopoly of the business it has promoted, it has prevented any other financial plan from being adopted than one that would perform the same service to the managers that the old plan had performed.

By this simple process you deprive money operators of the use of your money and make it available for the general public interests, and you produce an easy money market that will stop the drain and aid your specie payment in a way that you will become indifferent whether you pay specie or not. What do you care about specie payment when your securities are at par? This is the one great point to be obtained. Certainly depreciating the value of the property of the people will not appreciate the value of Government securities. The contrary is the fact.

When you will send a ship to sea without a rudder, manage your finances without a head to direct them, or, if you please, continue to manage as you have for the past three years.

A word here as to forced resumption of specie payments. Certainly we have had the scare constantly before us in the form of \$100,000,000 gold in the Treasury.

We have gone on with the idea that a sleight-of-hand movement, without the coöperation of the people, was to produce the desired result.

Have you added anything anywhere else in form of property through a prosperous trade or employment and profit on the people's labor? Nothing, as the thirty per cent. depreciation of our property and the high rate of interest show. When England first proposed resumption her securities were very near par and every business interest prosperous. Can you do better than to imitate her policy?

Mr. President, we are told that it is a confidence that is required to carry us safely through our dilemma. Yes; but must not that confidence have a foundation of real property and values for its support? Can you cheat the people into paying specie on a mere sentiment—for it is the people only who are to pay specie in the end, not Government or banks, not they—until the people's property has appreciated to a gold value? It is constantly instanced that in the height of panics in England the moment it is determined to increase issues of bills panic ceases, because confidence is restored. How fallacious is this doctrine!

Here is a question of superior force operating on an inferior one. The weaker force, those whose fears kept back their means, are forced out of their position by a desire to be first to avail themselves of advantageous investments, fearing the others would thus act if they did not. The protection that the presence of superior force gives, acted on the people in promoting a closer union when before an abandonment of the field was clearly imminent. These results were many times obtained with no additional issues or increase of capital. Finances are, therefore, in my judgment, but questions of force. If superior, and handled with energy and skill, you conquer. It is such a force I desire to bring into our finances, and at the same time to crush out the small quaker force we have heretofore supported in our Treasury. For, during the past three years, it has been a contest of opposing forces, as much as that of the Union and rebel armies during the war. In that contest our first experience was defeat, as has been the case as to our finances. We then brought an additional and a discarded element into the field, and only through its means conquered.

We may hesitate. Hesitation is constant and disgraceful financial defeat. In the end we will accept the discarded and unpopular national bank, and with its aid conquer. But in this I do not mean to institute a power I cannot control or which will work otherwise than in the interest of the Government, because the Government's interest has become the people's interest.

Mr. President, I have been surprised to see how we have avoided the precedents of the past by the effort to work out a new system of finance, Government debt, and taxation. The only explanation is that those who are accumulating fortunes by the commission obtained in exchanging a seven-thirty for a five-twenty bond, and the use of your securities pending sales and the deposits afterwards, have now the control of your finances. This is, I believe, the wise and comprehensive plan now before the country. The plan I urge is no new one; not one that has failed of its object, but one that is triumphant; one that has given liberty and prosperity to a great people. I believe, in conclusion, it is wisest to rely on the integrity of the people, and to believe that their impulses are right. Had we so acted we should have sent our soldiers home to profitable employment with less burden to the people. The people cannot, however, blame their representatives, unless blame is to follow failure, no matter how brought about. Their representatives desired to act in your interest, and they thought they were carrying out your views. Remember, first, last, and all the time, that rebellion is the first cause of our troubles, and also that political restoration of the southern States is very far from obtaining material prosperity for the country.

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Reconstruction and the Supreme Court—Mr. Stone.

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Reconstruction and the Supreme Court.

SPEECH OF HON. F. STONE,

OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,

January 25, 1868.

The House being in the Committee of the Whole, on the state of the Union on the President's annual message—

Mr. STONE said:

Mr. CHAIRMAN: Nothing but an imperative sense of the duty I owe to my constituents causes me to trouble the House to-day. The extraordinary character of the legislation of the past ten days makes it, in my opinion, the duty of every Representative of the people on this floor to express, both to the House and to the country, his views upon the recent action of this body. I propose, therefore, to express some views upon the two recent acts that have passed this branch of Congress, namely, the bill in relation to the Supreme Court and the reconstruction bill.

The first of these is a measure not designed to be temporary in its operation. It is to operate not for a few months, nor even a few years, but is designed to be the law of this country for all time. No such excuse as is held up to the country for passing the reconstruction act applies to this. It professes to be a measure that shall operate as long as this Government shall last, or at least as long as that august tribunal at which it is aimed shall exist. Although I cannot hope to influence one single man of the majority of this House, yet I feel it my duty in behalf of those I represent to enter their most solemn protest against both these measures, so destructive of all the cardinal principles of our Government, and so cruelly oppressive of the people who have no voice in these Halls.

There has been introduced into this House in the shape of an amendment to a Senate bill—introduced after the hour of noon and passed by this House before the set of sun—a bill which may be properly named and characterized as a bill to destroy the powers of the Supreme Court, given to it by the Constitution, and which vests this House with all the powers that the framers of that instrument had given to that august tribunal. Two hours only were deemed sufficient to destroy what it took the Convention of 1789 months of anxious deliberation to perfect—the judiciary of the United States. If this bill becomes the law of the land it at once destroys a coördinate branch of this Government, and renders the Supreme Court of the United States as powerless as if they sat there statues clothed in their judicial robes, instead of living and breathing men.

What does that bill propose? It declares that a question of the validity of an act of Congress shall not be decided adversely to such validity except by the judgments of two thirds of the court. The Supreme Court of the United States, a coördinate branch of the Government, is created by the Constitution, which says "the judicial power of the United States shall be vested in one Supreme Court," &c. By the Constitution the Supreme Court, then, was made a coördinate branch of this Government of equal dignity with the legislative and executive branches. What did the framers of the Constitution mean by the words "Supreme Court?" When we know the meaning attached to them in 1789, has the legislative department of this Government now a right to change that plain meaning of the words used in the Constitution of the United States? Have they a right thus practically to abolish that instrument by declaring that words which its framers well knew the meaning of, and the meaning of which had been known for centuries, shall now have a different meaning? If they have there is an end to the Constitution, and Congress is the supreme power of the Government—it is legislative, executive, and judicial, and there is no hope of

national liberty regulated by law in this great Republic. What, then, is the meaning of and the powers necessarily included in the words "Supreme Court?" For seven hundred years, in the courts of Westminster Hall and wherever the English language—the language in which our Constitution is written—has been spoken or written the word "court" has concluded and meant the power of decision by a majority of the bench.

When the Convention said there should be a "Supreme Court" did they not mean and include all the powers that had been so universally included in the word court? I challenge the gentlemen upon the other side who supported this bill reported from the Judiciary Committee to show me where, not in England only, but upon the whole continent of Europe, that word in any nation has ever been used to express a different meaning from that, a body of men the majority of whom have a right to decide. Thus the framers of our Constitution used it, and thus it has ever been used. And now, at this time, the Congress of the United States claims the right to take away from the majority of that court a right to decide upon the life, liberty, and property of the citizen, and in some cases to give it to the minority. If this Congress can say that the Supreme Court shall not give a judgment unless two thirds agree, have they not equal power to say that one third shall be sufficient? Do they not in fact say by this bill that in a certain class of cases a minority of that tribunal shall decide? It is but one step more for Congress to say how the court shall decide every question. If they say that two thirds shall be necessary to decide against the validity of acts of Congress, they say in effect that a minority of the court shall have a right to decide in favor of such acts; as this bill requires two to one of the judges to declare an act void on constitutional grounds, the conclusion is irresistible that Congress considers its own acts just twice as binding as the Constitution, and they, having come to that conclusion, wish the judiciary also to adopt that view.

But, supposing the bill to be ever so constitutional, it presents a strange anomaly. The Supreme Court now consists of eight; and by an act of the Thirty-Ninth Congress, in the course of time, will consist only of seven judges. Of those seven judges it will require five to declare an act of Congress invalid; three of the seven may declare it to be valid, and however clear, however plain the law may be against both the spirit and the letter of the Constitution, three out of the seven judges can give it validity under this bill. And when that contingency occurs a man who goes into that court claiming his rights under the Constitution, signed by George Washington, will lose his case, although he may have four of the seven judges in his favor; while the man who goes into that court with a claim under an act of Congress, signed by the President of the Senate and Speaker of the House, will gain his cause if he has in his favor only three out of the seven judges.

Mr. WOODWARD. Will the gentleman yield to me for a question?

Mr. STONE. Certainly.

Mr. WOODWARD. I agree that my question is rather for the other side of the House than for the gentleman from Maryland, [Mr. STONE.] I desire, however, to ask him this question, in this connection, in the case which he supposes of four judges who are of the opinion that an act of Congress is unconstitutional: if they direct their clerk, who is but the creature of the majority of the judges, to enter that judgment on their record, I want to know where there is any power to review or amend that decision?

Mr. STONE. Nowhere, sir. I am thankful to the gentleman for the interruption. There is no such power anywhere, so long, at least, as the Constitution exists which was

signed by George Washington. There exists nowhere in this Government any such power; and from that decision there rests no appeal on this earth; and I am glad there is no such appeal. Thank God, that court, in the past, and I hope in the future, mindful of its high duty, stands between the people and their oppressors, between national liberty regulated by law and absolute, uncontrolled despotism. Nowhere does there exist the power of appeal.

I have referred to this to show how unconstitutional, how void, how idle it is for this House, assembled, as it is, under and by virtue of the Constitution, claiming and exercising powers by virtue of the Constitution, to pretend to say that they can by their breath cast down in the dust a coördinate branch of the Government established by the people, upheld by the people, and which has stood by the people and the people's rights.

Sir, you may pass this law. We have each and all of us sworn to support the Constitution. The judges of that august tribunal have done the same. And there is no power in this House or in the Executive to declare of that court, as long as the court exists, that the powers it derives from that Constitution can be overridden and utterly destroyed by this House.

But that bill is not the only one which within the last ten days has been aimed at the independence and the efficiency of the judicial department of the United States. A bill, I think, misnamed "the reconstruction bill," has been introduced into and passed by this House, declaring that the existence of certain States of this Union shall not be recognized by the judicial power and authority of the United States. Sir, this is the first time in the whole history of this Government that the legislative branch of the Government has ever attempted to say in advance what shall be the decision of the judicial department of the Government. This is the first time that the Congress of the United States has ever said, through a solemn legislative enactment, to the Supreme Court of the United States, "Close your ears to every appeal made to you by a citizen of the United States; we say to you that you shall not hear any such appeal; we, a coördinate branch of the Government, say to you that you shall hear no cry for relief that comes up from any of the millions of people in ten States of this Union." The very first section of that bill says that the existence of those States shall not be recognized by the executive or judicial departments of this Government.

Since the time that the great charter, which for ten centuries has been the boast and the pride of every man who speaks the English language, was extorted from King John, where is there to be found any example of such legislation? The Congress says, "Be deaf; close your ears; we are not content with exercising all the vast powers which the Constitution gives us to enact laws, but we step beyond that and say to the whole nine million people in these ten States that the Supreme Court shall not hear their cry. Your lives, your liberties, your property may be in danger and in jeopardy; but you must address your prayers to God, for man shall not hear you."

Is not this so? I have heard again and again much declamation in regard to "equal rights," "human rights," and "eternal principles of justice;" but I have never heard one argument to show why it was declared in that bill that men over whom this free and great Government claims jurisdiction, for whom it claims to legislate, should not be heard when appealing to a great coördinate branch of this Government. If the bill was right, if it was founded upon constitutional power, if it was founded upon the "eternal principles" of which gentlemen on the other side are perpetually talking, then, in the name of the great God who rules us all, why close the doors of the Supreme

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Court against the presentation of such a question? Why say that the court should never hear the cause?

To those gentlemen on the other side who seem to think an act of Congress more sacred than our Constitution, I beg leave to refer to the language of Alexander Hamilton, speaking of the judicial power of the United States in the seventy-eighth number of the *Federalist*:

"There is no position which depends on clearer principles than that every act of a delegated authority contrary to the tenor of the commission under which it is exercised is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the Representatives of the people are superior to the people themselves; that men acting by virtue of powers may do not only what their powers do not authorize but what they forbid."

Within the brief period to which I have alluded another measure has also been passed by this House. It is a bill declaring, among other things, that ten States of this Union have not governments republican in form. Sir, the Constitution of the United States at the time of its adoption left to the people of the States the right to fix the elective franchise. Nothing on earth, I presume, is clearer than this proposition. The States at the time of the adoption of the Constitution had prescribed different rules with regard to the exercise of the elective franchise. Some of them had a property qualification, some had not. The Constitution wisely left it to the States themselves to say what should be the qualifications of electors. The question was at that time thoroughly discussed. The danger of leaving it to Congress to determine by a legislative enactment the qualifications for the exercise of the elective franchise was clearly foreseen. Every Representative in this House at this hour holds his seat by virtue of that clause of the Constitution leaving it to the various States to prescribe each for itself the qualifications of electors. This Congress now declares in substance, and for the first time in our history as a nation, that republican government necessarily implies negro suffrage; that unless a State gives to the negroes within its limits the right of suffrage the government of that State is not republican in form and Congress has a right to change it.

Sir, if we admit, contrary to the direct letter as well as the spirit of the Constitution, that Congress has the right to prescribe for the States the qualifications necessary for the exercise of the elective franchise, the same power that to-day declares negro suffrage all-essential in the South may to-morrow declare that women suffrage or children suffrage is necessary to constitute a republican government in the North; and what is the fate of Virginia to-day may be the fate of Maryland and Kentucky to-morrow, and of Pennsylvania and New York the day after. Once depart from the authority of Congress as defined and limited in the Constitution, and the power of Congress is unlimited. Once depart from the provision giving the States the exclusive right to regulate suffrage and it will, in the language of the *Federalist*, depend upon the changing humors of Congress to declare what may or may not be a republican government.

But, sir, this bill goes further. It not only asserts by necessary implication the right of Congress to declare that republican government shall mean negro suffrage; in the extreme haste to attain that end it violates every constitutional provision designed for the security of individual rights. The bill recently passed by this House does not repeal the act of March 2, 1867, except in certain particulars. It does not repeal the third section of that act which gives to district commanders the power "to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished all disturbers of the public peace and

criminals." That provision will still remain in force.

But, sir, I beg leave to state that there is this great difference between the act of March 2, 1867, and the act passed this session. By the former act it was left to the discretion of the district commanders to allow the civil courts to take cognizance of and protect the rights of individuals in their persons and in their property, and to punish criminals and suppress disorder. This bill in one line abolishes all government in these ten States, and with the government falls every court in that magnificent territory, three times, as the gentleman from Ohio [Mr. BINGHAM] said, the territorial area of France. This bill abolishes all government, executive, legislative, and judicial, and deprives the district commander of the discretion which he had under the former act. In one line of your bill, at one stroke of your pen, you have done what no other legislative body ever did since the world was created, and I defy gentlemen to point me to an instance to the contrary. You have abolished all law over nine million people and substituted in its place the arbitrary, unrestrained will of a colonel of infantry or cavalry to decide what is disorder, what is disturbance of the public peace, what is insurrection, and what crimes require punishment.

Sir, the question that was asked by a distinguished Representative from the State of Ohio [Mr. CARY] is unanswered, unanswerable. Who can punish a district commander or the General of the Army when he seizes an innocent man and consigns him either to a felon's cell or to an ignominious death? Where is the power to hold him amenable? When arraigned in a civil court, if ever he should be, he can turn with triumph to this act and say that the judiciary of the United States cannot take cognizance of his acts. If an appeal is made to his superior officer to court-martial him he can walk into the court with a printed copy of this law in hand and say, "I hung that man because the law said I should repress disorder and punish criminals; and he was a criminal. Tell me who can say that he was not?"

And yet, gentlemen with the Constitution upon their lips, with liberty, fraternity, and equality eternally resounding in this Hall, with professions of love for republican government and for rational freedom regulated by law, consign one third of this country to the tender mercies of colonels in the Army, without appeal from their decisions, and with no hope of redress from either the legislative or the judicial power of this country!

Sir, that question has never yet been answered. The gentleman to whom it was addressed [Mr. BINGHAM] says there is a fine and imprisonment. Imposed upon whom? Not upon the man who carries out this provision, but upon the man who opposes it. The fine is for the Executive of the United States if he opposes the law; it is for the judiciary, if they decide against it; but not for the colonels of the Army or for the General of the Army.

Sir, if you have the right, which the gentlemen of the majority in this House claim, to seize these States and give them a republican form of government, have you a right in doing so to violate every principle of that Constitution which was intended to guard individual rights? Have you a right in guarantying to the States a republican form of government to violate the other provisions of the Constitution? Have you a right in order to carry out one provision of the Constitution to violate the other ninety and nine? Have you a right to seize upon an innocent citizen of the United States, be he loyal or be he rebel, and hang him in order to secure to other persons a republican form of government? Is not that the whole theory upon which this bill is based, that you have a right, in order to carry out one provision of the Constitution, to violate ninety-

nine others which are more important and which the great men of 1789 believed they had made unchangeable?

Mr. Chairman, I believe it is labor lost, but I cannot forbear reading to the committee a part of the decision of the Supreme Court of the United States, in 4 Wallace, page 120:

"The history of the world had taught them that what was done in the past might be attempted in the future. The Constitution of the United States is a law for rulers and people equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine involving more pernicious consequences was ever invented by the wit of man than that any of its provisions can be suspended during any of the great exigencies of the Government. Such a doctrine leads directly to anarchy or despotism. But the theory of necessity upon which it is based is false; for the Government within the Constitution has all the powers granted, to it which are necessary to preserve its existence."

When gentlemen say that for the sake of that one article they can violate all the others I beg leave not only to refer them to the plain written language of that instrument but to that decision reaffirming it. That decision declared that a citizen of the United States, although in the midst of war, could not be seized and tried by a military tribunal. And yet, before the ink is dry on the paper upon which that decision was written this branch of the Legislature declares by the fourth section of the reconstruction bill that you can try any man by a military tribunal whether he be a civilian or not; and the power is conferred upon subordinate officers of the Army to try civilians.

But that is not all. The third section gives the power to the district commanders to establish martial law. Now, what does the Supreme Court say in regard to that?

"Martial law established on such a basis destroys every guarantee of the Constitution, and effectually renders the military independent of and superior to the civil power. The attempt to do which by the king of Great Britain was deemed by our fathers such an offense that they assigned it to the world as one of the causes which impelled them to declare their independence. Civil liberty and this kind of martial law cannot endure together. The antagonism is irreconcilable, and in the conflict one or the other must perish."

Sir, not only does this bill encroach upon the judicial power of the United States but upon the executive power. It gives the General of the Army exclusive command over the Army in the South. It takes away from the President the command of a part of the Army. It is said on the other side of the House that the President of the United States is to see that the laws are faithfully executed—that he must carry out the laws of Congress. Tell me, sir, what was the use of placing in the instrument the article giving him the command of the Army and Navy if Congress can take it away from him? What does that power amount to if the General of the Army can assign to the command of a military district his subordinates A, B, and C? Is not the power of the President gone? If the General of the Army has the power to command over the territory of the South by act of Congress he may have equal power conferred upon him to command over the North. The command of the Army of the United States necessarily involves the direction of the troops. If the President chooses to assign an officer who has been assigned by the General of the Army to the command of a military district on the Pacific coast he would have an unquestionable right to do so. Otherwise he has no command of the Army of the United States.

Although this clause of the Constitution seems to me sufficiently plain I beg leave to refer to the opinion, not of the court itself, but of the Chief Justice of the Supreme Court on this subject, to be found in 4 Wallace, page 139:

"This power necessarily extends to all legislation essential to the prosecution, with vigor and success, except such as interferes with the command of the forces and the conduct of the campaign. That power and duty belong to the President as Commander-in-Chief."

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Also, on page 141:

"What we have already said sufficiently indicates our opinion that there is no law for the government of the citizens, the Army, or the Navy of the United States within American jurisdiction which is not contained in or derived from the Constitution; and wherever our Army or Navy may go beyond our territorial limits, neither can go beyond the authority of the President or the legislation of Congress."

How does that agree with the theory of some distinguished gentlemen of this House that the southern States are outside of the shield and protection of the Constitution? The Chief Justice of the Supreme Court, who is in political accord with the majority here, declares that the Army of the United States cannot go beyond the control of the Constitution of the United States, but wherever they may be, whether in the North or in the South, the East or the West, whether within or beyond the territorial limits of the country, the Constitution accompanies them, and neither Congress nor the President has any power over them except what is derived from that instrument. And if, as gentlemen say, these ten States of this Union are beyond and outside of the Constitution, certainly the Chief Justice of the United States says that the Army there and the Navy there are not outside of its jurisdiction, and that it is equally the law for them there as here or wherever else they may be.

Mr. Chairman, my time has nearly expired, but in behalf of the people I represent I mean to say and declare that we hold that instrument signed by Washington as the rule of our action.

Reconstruction.

SPEECH OF HON. LOT M. MORRILL,
OF MAINE,

IN THE SENATE OF THE UNITED STATES,
February 5, 1868.

The Senate having under consideration the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto—

Mr. MORRILL, of Maine, said:

Mr. PRESIDENT: I cannot but confess for myself that I come to the discussion of this question at a time when I fear it must be anything but pleasant to the Senate to attend to any further consideration of this subject—that I am to glean in a field where the reapers have been many, and although the harvest has been abundant it has been gathered. On a motion collateral to the measure, and only related to it in part, a debate has been precipitated by the opponents of congressional reconstruction which has opened to the Senate and to the country that great subject in all its amplitude and in all its relations; so that Senators upon the one side and the other have felt obliged to traverse the whole field of the war, the powers of the Government, the relations of the States, and the respective authority of the President and of the Congress of the United States in the exercise of their functions for the restoration of the relations of the States to the Union.

Congress, by those who precipitated this debate, has been arraigned, and, I may say, presented to the country, for the part it has taken in this great work of reconstruction. It has been arraigned now on this question of reconstruction, as it was arraigned during the war on the question of war. Congress, in the contemplation of the Constitution, being the great war power of the Government, necessarily taking upon itself that function, in giving direction to the conduct of the policy of the war, at once brought down upon its head the denunciation of the bold, bad men who were in rebellion, the fierce and bitter criticism of all parties who hesitated or doubted about war as a remedy for the nation; and, in fact, all persons and all factions here and everywhere who questioned the authority of Congress to deal

with the rebellion on the war side of the Government.

And now the honorable Senator from Wisconsin [Mr. DOOLITTLE] precipitates the question from which arise the same issues against the exercise of the powers of Congress in the consideration of the policy of reconstruction and restoration of these States to their relations with the Federal Union; and I beg to be allowed to say that the same spirit which characterized the denunciations of Congress during the war is repeated here to-day. Passionate, invective, fierce and bitter denunciation of the purposes and the measures of Congress, characterize this debate by its opponents. Congress is denounced now, as then, as usurping the "rights of the States." Congress is denounced now, as then, as establishing arbitrary military authority in these States. Congress is denounced now, as then, of a purpose to outlaw the white race in its "blind zeal," in the language of one honorable Senator, "to exalt the black race." We are charged specifically with "disrobing the white race to enrobe the black race." We are charged specifically with violating the Constitution of the United States "in order to give power and dominion over the white to the black."

These, then, sir, are the charges and the specification of charges in the arraignment of Congress on its reconstruction policy. Outlawry of the white race! Naturally enough one asks himself who is the white race here referred to of which Senators on this floor aspire to be the champions? Who are they in the history of this country? When the white race is referred to here as having been legislated against by Congress, who is meant? The class of white men who have dominated in the South for the last thirty years—they, and nobody else; the white men who are in power under the sham States set up by executive usurpation, and exercising that power exclusively to the oppression of the rest of the population of the South. They, and they alone, are the white race referred to; and who are they? Men whose hands are freshly imbrued in the blood of our children; men who for thirty years have cherished the malignant passion of hatred to this Government which eventuated in civil war and blood; men, moreover, who for a generation, nay, for two hundred years, have cherished a hellish lust for dominion over their fellow-man, in defiance of the law of God, the principles of our holy religion, and the laws of every civilized nation on earth. This is the party in court; this is the white race between which and Congress the Senators who have precipitated this debate, and who have made it incumbent upon Congress to consider it, volunteer their arguments and their sympathy to defend.

Mr. President, to these charges and specifications of charges, to this alleged usurpation of the rights of the States—this supposed outlawry of the whites, this establishing of military despotisms by Congress to the overthrow of ten States of this Union—is there any answer? It has been answered; first, by my honorable friend from Indiana, [Mr. MORTON,] fully, eloquently, logically, conclusively answered—answered many times by those who have followed him in debate; so that absolutely now there is nothing left for me save only to add my feeble voice in testimony and approbation of what has been said on this side of the Chamber.

How does Congress meet this assumption of usurpation, of the establishment of military authority over ten States? I will read you the answer: "An act to provide for the more efficient government of the rebel States," passed March 2, 1867. Let me refer you to its provisions:

"Whereas no legal State government or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary

that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore,

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That said rebel States shall be divided into military districts and made subject to the military authority of the United States, as hereinafter prescribed."

Then the third section provides:

"That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished, all disturbers of the public peace and criminals."

Further, in section five, it is provided:

"That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates," &c.—

they may be admitted again to their relations with the General Government.

Now, sir, to the opponents of congressional reconstruction I have to say, in answer to your specific charge that we have established military despotism in these States, that finding anarchy, misrule, despotism, and disorder in these States, as the result of the rebellion, insurrection, and civil war waged by them, Congress by law, under its authority as the great war power of the nation, and bound to regard the results of the rebellion, has interposed its military authority as a police power to preserve order and protect life and liberty in these States.

Does it go any further than that? Has any Senator on the other side attributed to it any other power than that? No, sir. Its purpose, then, was to protect persons and property. Was it necessary? I do not stand here at this late day to argue that, of course. Allow me to refer Senators who doubt that to the current events of history, to that general information open to all the citizens, by which it appears that, at the time when this act was passed, it had come to be the common sentiment, the common opinion, and common judgment of the nation that there was no protection for life or property in these States. The courts were not open to the citizens of the United States; they were closed to a class, as they had been for two hundred years. Here was the grand necessity for the interposition of the military police authority of the Constitution of the United States to preserve order. That is the answer, the full answer, explained in the preamble to the enactment itself. The preamble declares that no legal State governments exist in those States. Is it pretended here that there are any legal State governments existing in those States at the present moment? The preamble further asserts that at the time of its passage there was no adequate protection for life or property in the rebel States. Does anybody deny that? This explains the motive and the purpose of the law which is characterized by the Opposition in the Senate as having established a military despotism over ten of the States of the American Union.

When Senators talk of usurping the rights of ten of the States of the American Union, to what States do they refer? Do they refer to the "slave States" that existed anterior to the rebellion in 1860; do they refer to the "rebel States" that existed during the war of the rebellion? Do they refer to the "belligerent States" of that period? Or do they refer to the "insurrectionary States," so denominated by the acts of Congress?

Mr. President, the argument about the interference of Congress with the rights of the States is of course upon the assumption that the rights of these States have an existence. If the rights of these States disappeared during the events and by the progress of the war, then, of course, the charge falls to the ground. Now, upon what theory is the notion of the "abiding rights" of these States based? It is based upon the theory that, after all, it turns out that the nation has not been

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at war in a legal sense. It is upon the theory of the honorable Senator from Maryland, [Mr. JOHNSON,] argued here during the rebellion, argued many times since, and, of course, always argued ably and well, that we have had no war in the sense of war; that we have only been engaged in an effort on the part of the Government to put down an insurrection; that what we have seen and witnessed in the last six years is only the exercise of the police power of the nation in dealing with insurrection, and in no sense war. That I understand to be the position of the honorable Senator from Maryland, of Senators in the Opposition, and is the necessary logic of all opposition to reconstruction either by Congress or the President; the Senator from Maryland sees very clearly that if we have been at war certain war rights have been acquired by the Government; that if the Government waged war on rebellion certain grand results would follow; the nation would be victor; the nation would be triumphant; somebody would be defeated; rights would be acquired or lost according to the success or the defeat of the respective parties to the war. So the honorable Senator early concurred in the ground taken by Mr. Buchanan and by those who held that we had no remedy against the rebel States by war; and that the only exercise of authority by Congress, or the President, or the nation at large, was the exercise of the police power of the Government to put down insurrection; and that we had, under the Constitution, no authority whatever for war; that war was destruction of the Union, and therefore could not be exercised.

In the apprehension of the nation I do not think this was correct. As a legal point I am sure it was ingeniously taken; but it has lost its power for good or ill; it was overruled by the judgment of the nation; it was overruled by Congress; it was overruled by the Executive; and, unfortunately for the argument, it was overruled by the Supreme Court of the United States. Still, those who oppose congressional "reconstruction" as against "restoration" fall back always, ever, and continually upon the abstract doctrine that the nation had no power to make war, and of course, therefore, the nation gets no rights of war, and consequently the rebel States were not involved in the disabilities, pains, penalties, and forfeitures of the war. That is the logic, the legal and constitutional argument of the Opposition to congressional reconstruction.

On this theory we have learned to miscall things altogether. On this theory the grand Army of the Republic, three million men, were only a *posse comitatus*, not to enact war, but to preserve order and arrest traitors. Lieutenant General Grant, at the head of all the forces of the United States, was only the grand high constable of the nation; was in no sense a military chieftain; he was not prosecuting war; he was trying to keep order; and his grand march from the Rapidan to Richmond was not a campaign in the sense of war, by which rights were to be enforced or lost, but it was simply a movement of the high constable with a *posse comitatus* to Richmond to force that city to keep the peace; not for its capture; not to destroy it, if need be. In the light of this interpretation of the Constitution, all your battles—Antietam, Chancellorsville, Gettysburg, Williamsburg, the Five Forks, and the surrender—are all nothing, so far as affecting the rights of the parties is concerned; the Government having prosecuted this war for four bloody years at an expense of blood and treasure, unparalleled in history, came out where they went in, settling nothing by this "last resort," an appeal to arms.

On this showing the question of secession is an open question. On this showing the emancipation proclamation, which was but an expression and an act of the war power of the Government is a nullity necessarily, and all that you have done changing the institutions,

constitutions, or laws of the rebel States is null and void, inoperative, and not binding on anybody. On this showing nothing has been settled by this war. It was simply the exercise of a police power; it was to keep order, and it was not the exercise of that war power of the nation which alone could change results and which was omnipotent over constitutions and laws, institutions and interests; and whatever was determined by it was settled forever.

Now, sir, on this theory I understand to be based all the arguments of the Opposition to the power and authority of Congress to reconstruct these States. They all proceed on the theory that no rights were lost by the war; that it worked no subversion of State governments, no change of State constitutions or State laws, and therefore no reconstruction was at all necessary or expedient. The argument of the Senator from Indiana, [Mr. HENDRICKS,] of course, is based on this theory. He affirms as his belief that the State constitutions and State governments came through the war. The States went in with constitutions and governments, and they came out with constitutions and governments, with all their rights, privileges, and immunities unimpaired. Upon what theory can he assert this? Simply upon that to which I have referred, that we have not been at war, that we have been engaged in a great struggle to preserve order, and that during that struggle we were bound not to do damage. Nay, we have had it quoted upon us here often that in 1861 we resolved that we would not do damage, that we were prosecuting the war, as we then called it, inaply enough to be sure, it would seem, we were prosecuting the enterprise, if you please, or carrying on the struggle, not with a view of subverting institutions, State governments, or anything of the sort, but that at the end all these institutions, governments, States, and interests should be restored. Strange delusion of the times! But, sir, in the providence of God it was not to be so.

But, Mr. President, I do not propose to detain the Senate by elaborating that point. What I mean say, to return to the point for a moment, is that the nation was at war with all the rights of a nation at war is not an open question. The effect of this war upon State governments and State institutions is not an open question. The Congress of the United States, the supreme legislative war power of the Government, settled it in 1861 by the act declaring non-intercourse with these States. It settled it again in 1862 by the act declaring them public enemies and awarding against them confiscation of estates and freedom of their slaves and civil and political disabilities to those engaged in rebellion—both the exercise of the supreme power of war on the principle of public law, and adequate, if prosecuted to extremes, to work an entire revolution in the governments of those States. It was settled also by the supreme executive authority of the Government of the United States in the execution of these laws, the issuing of the proclamation of non-intercourse under the act of 1861 and the enforcement of the act of 1862, and by the march of its armies within the limits and jurisdiction of these States, the destruction of their cities and their towns, the overthrow of their institutions, liberation of slaves, the destruction of life and property wherever the Army made its way, leaving desolation and destruction in its track. Was that war or the exercise of the police functions of the Government? Sir, it was war in its most terrible reality. It was so adjudged, moreover, finally, by the supreme judicial tribunal of the Government, that the war waged by the Government of the United States against the "insurrectionary States" was in fact and in law, under the Constitution and by the principles of public law, war, and that it gave to the Government of the United States all the powers and authority and rights of war which any one nation could properly have against another nation.

Now, sir, is that an open question? I understand the theories and the speculations of the learned Senator from Maryland, for whose opinions no man here or elsewhere can have a more profound respect than I have. I am not arguing the question with him, but I am simply stating the facts of history; I am stating simply the current events of the war, which overrule his opinions; and which, sound or unsound, show they are no longer of the slightest practical importance to anybody but himself. The contest was a war; and the nation had all the right of a nation at war; and the results of the war involved the enemy, the domestic enemy, in all the pains and penalties and forfeitures and disabilities of a nation at war. That is the verdict of all the departments of this Government, legislative, executive and judicial, and it is conclusive. It is conclusive with the present, it is conclusive with the past, and it will be conclusive with the future. All institutions, constitutions, interests, courts of law, general or State, must and will conform to this great, historical fact of war, war on the part of the nation rightfully and properly waged, with all the rights of a nation at war, and with all the results of a victorious and conquering nation.

This is the record on which Congress stands; but it is not all. I am now speaking, of course, of the effect of war on the organization of these States. My argument is, that the results of the war were attended with annihilation of State governments and "State rights." Who, sir, as a lawyer, will stand here, after this general judgment of the concurring and coordinate departments of the Government of the United States, and argue for State rights "in the insurrectionary States?" State rights, in the extreme sense always a political fallacy, has by war become an absurdity, a legal and constitutional paradox. As a serious proposition, as a basis of legislative action here, it is an arrogant and impudent assumption in contradiction to the whole history of the war.

But, sir, there is another method of reaching the effect of this rebellion on these States and their governments. The overthrow of these State governments results from the action of the States themselves. I am not speaking now of ordinances of secession; I am not speaking of nullification; I am not speaking of changes of constitution and laws during the rebellion by which these States were made to conform to the "confederate States." I pass that all by. I agree with the honorable Senator from Maryland that they are all null, inoperative, and void; I attach not the slightest importance to their effect. If they effected nothing, did rebellion effect nothing? If the ordinances of secession, as a legal and technical proposition, were null and void, does it follow that the taking up of arms was null and void? Does it follow that when ten States broke into rebellion and armed for war and made war practically and marched armies against the national forces, sacked our cities, and beleaguered the national capital, that is not a fact of some significance as bearing upon the rights of these States?

What is a State government? It consists of constitution, in the first place, which is the organic law. That constitution upon the American plan provides for three departments of government, which are the expression of the constitution. Then it is a complex machinery, consisting of, first, the organic law, and second, the departments. Either one may be called the State, but both together properly constitute the government of the State. How was this organism of the State affected by this war? Let us see. In order to have a State government, organized through the several departments, executive, legislative, and judicial, certain things are necessary to be done. In the first place there must be officers, the persons who are to execute the functions of the State as provided in the organic law. How are they to be qualified? When may they

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begin to exercise any of those functions to put themselves in harmony with the Government of the United States? As the Constitution of the United States provides, when they have taken an oath to support the Constitution of the United States, and not before. The oath prescribed by the Constitution of the United States is the ligament which binds these States to the Union; it is as the soul in the body that animates the State; it is the very breath of life, without which there is no State vitality and no possibility of State organization. Is not that true? Will anybody deny that proposition? When the oath is gone, what becomes of the organization? It goes with it, of course; the ligament is broken, the breath of life departs, the vitality is gone. Now, did not these people renounce the oath? Did they not abjure the jurisdiction of the United States? Did they not defy it, deny its authority, and so abdicate power? Everybody must concede that. Then the organization of the State was gone, and it was gone by renunciation, abjuration, abdication; so that, taking South Carolina for illustration, as she led the way to armed rebellion, there was not, in 1862, any officer in the whole State under oath to support the Constitution of the United States. All had abjured, all had renounced, and the effect was disorganization of its government, absolute and entire. That condition of things remained until the close of the rebellion, so that at the close of the rebellion there was no officer and of course no function in that State. The State organization was dead; it had broken away from its allegiance, it had become foresworn, and it could perform no act of State authority whatever.

At the close of the war what was the condition of the State? Disorganized; disorganized by its own act; disorganized by the abjuration of every officer who could perform a function. How could it be reanimated? On the theory of my argument they had lost all their rights; they had been engaged in war, and had been overthrown; they had been treated as a public enemy, and had been conquered, and had lost all civil and political rights, and were in a state of absolute disability. There was not only no officer in South Carolina to perform the functions of office, but there were no persons in South Carolina who were eligible to office. How, then, was government to be revived? The people, just defeated as a public enemy, could not do it; they were under the disabilities of a public enemy—in a state of total political and civil disability. Some sovereign power, some power outside of themselves, must relieve them from this disability, and give them permission to reorganize those governments. But, sir, I have not yet come to that part of the argument; I am simply showing, attempting to show, the disorganization of these State governments.

But one step further; while these State organizations were thus disorganized and lost, their institutions and laws were overthrown, so that South Carolina, which went into the rebellion in 1860 a "slave State," came out a free State. How? By the change in her fundamental law; and how was that effected? Not by her own act directly, but by the incidents and events of war. By her act of war on the Government she had given the Government of the United States the authority to wage war, and making war the Government found it necessary to change her constitution and to emancipate her slaves. Nay, further, it found it necessary by an amendment in the Constitution of the United States, to provide for a total inhibition of slavery in any of the States. Then, sir, during the war, by the action of the Government of the United States, the constitution of South Carolina became subverted altogether; her slave code and the great body of her laws were subverted, overthrown by the supreme power of the Government in the exercise of its great war functions during the exigencies of civil war.

In this view what becomes of all this talk about these States having "brought their State governments" through the blood and carnage of the war? According to the argument of the Senator from Indiana everything else seems to have perished; there was general desolation throughout the South; cities were sacked and burnt; hundreds of thousands of the southern people perished; poverty, misery, distress, general anarchy and disorder everywhere prevailed; nothing remained perfect and undisturbed but the myth of State constitutions; "the rights and the privileges, the immunities and the dignity" of the rebel States triumphed over all, and came out of the great ordeal of battle unscathed and untouched! And honorable Senators bow reverently and obsequiously before the shade of departed slavery as if it were a real entity, had a bodily existence, and we were legislating in its presence and in deference to its supposed kingship.

State rights, sir, were annihilated by the march of the armies of the United States, which conquered and subdued everywhere, and also by the infatuation and madness of their people in making war on a Government the most beneficent on earth, against which they had never made any well-grounded or just complaint. During the war they were public enemies, and at the surrender were in a state of total civil disability and could exercise no function of Government whatever; their constitutions and institutions were subverted and revolutionized, and they must be touched by a power outside of them and which lay only in the sovereignty of the Government of the United States, before they could be reorganized or vitalized, or put in harmonious relations with the Government of the United States.

These notions of the effects of the war on these States are not novel. I am saying nothing new, and surely nothing unusual in the Senate. Those who took the ground that the nation had a remedy in war knew in the beginning that these would be its results. They knew that it would be attended with the utter overthrow of State governments, the utter annihilation of slavery and all its interests. They anticipated that, contemplated it, and, so far as its introduction into this Chamber is concerned, it was not original with this side of the House; it originated with the Opposition. The honorable Senator from Kentucky, [Mr. DAVIS,] far-seeing, far-reaching, indefatigable, philosophic in his speculations upon history and upon current events, saw it the first ten days after he entered this Chamber in 1861, and proposed to provide for it. He saw that the war cloud which was then overhanging the nation and threatening to involve every part of it in war—fearful, fratricidal, general war—would be attended with the results of war; that it would give the nation rights of war; that it would inflict upon the enemy forfeitures and disabilities of war; and he would provide for that state of things, and I proclaim him here and now to the nation as the great originator and inventor of the whole theory of the results which we are providing for in our policy of reconstruction. He was the great inventor of the term, now become historic, "Reconstruction." He saw at a glance on entering these Chambers how this thing must be dealt with; that the people of the rebellious States must be treated as enemies; that we must hold against them the rights of a public enemy; that we must deal with them as enemies, and we must insist that the results of victory should be the entire overthrow both of their institutions and their constitutions, and that the remedy of the nation would be in the end the right to "reconstruct," the right to readjust the parts to the nation. When the war was over and institutions were subverted, and constitutions subverted, and the governments no more, then the honorable Senator from Kentucky foresaw that it would be the function and the duty and the necessity

of the Government of the United States to reorganize and reconstruct. To show that I am right let me refer to the record in verification.

I hold in my hand a bill introduced by the honorable Senator from Kentucky on the 30th of December, 1861, entitled "A bill declaring certain persons to be alien enemies, forfeiting their property to the United States, creating a lien on said property in favor of loyal persons to indemnify them for such damages as they may have sustained by the existing war of rebellion." I need not read it in detail. It will be found that it contemplated the exercise of authority and power far beyond any exercised by the Congress of the United States since. It covered the whole question. It assumed the absolute supremacy of the nation. It was based on the theory that the nation was at war; that it had public enemies; that our former fellow-citizens were these enemies; that the contest was to be prosecuted as a war and with the results of war. By this bill the honorable Senator, in advance, declared the rebels to be "alien enemies." Not a few of the leaders; but the provision was sweeping—every person who should participate at all, directly or indirectly, in this war was to be regarded as an "alien enemy." What was to be the consequence of this declaration? Forfeiture of all rights, civil and political. That was sagacious—that was profound even, because it met the exigency, stated the theory and the policy of coming events. It took most of us a long time to reach that conclusion; but the honorable Senator saw it in advance and would provide for it.

But that is not all. Here are resolutions introduced by the honorable Senator from Kentucky about the same time. The bill was introduced on the 30th of December, 1861. On the 13th of February following the honorable Senator introduced a series of resolutions, in which he undertook to embody the principles of the war, the principles which underlay it, the power of the Government, and the liabilities of those who opposed it.

Mr. DAVIS. Will the honorable Senator permit me to make a suggestion?

Mr. MORRILL, of Maine. Certainly.

Mr. DAVIS. I will ask the honorable Senator to do me the justice and the courtesy to have those resolutions read by the Clerk.

Mr. MORRILL, of Maine. At the present time?

Mr. DAVIS. Yes, sir.

Mr. MORRILL, of Maine. Certainly; I shall be glad to oblige the Senator.

Mr. DAVIS. I have no objection to the bill being read, too.

Mr. MORRILL, of Maine. I do not care about having the bill read now. It is pretty long, but I send the resolutions to the desk, and ask that they be read.

The Secretary read the following resolutions, submitted by Mr. DAVIS on the 13th of February, 1862:

"1. *Resolved*, That the Constitution of the United States is the fundamental law of the Government, and the powers established and granted, and as parted out and vested by it, the limitations and restrictions which it imposes upon the legislative, executive, and judicial departments, and the States, and the rights, privileges, and liberties which it assures to the people of the United States and the States respectively, are fixed, permanent, and immutable through all the phases of peace and war, until changed by the power and in the mode prescribed by the Constitution itself; and they cannot be abrogated, restricted, enlarged, or differently apportioned or vested by any other power, or in any other mode.

"2. *Resolved*, That between the Government and the citizen the obligation of protection and obedience form mutual rights and obligations; and to enable every citizen to perform his obligations of obedience and loyalty to the Government it should give him reasonable protection and security in such performance; and when the Government fails in that respect, for it to hold the citizen to be criminal in not performing his duties of loyalty and obedience would be unjust, inhuman, and an outrage upon this age of Christian civilization.

"3. *Resolved*, That if any powers of the Constitution or Government of the United States, or of the States, or any rights, privileges, immunities, and liberties

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of the people of the United States, or the States, are, or may hereafter be, suspended by the existence of this war, or by any promulgation of martial law, or by the suspension of the writ of *habeas corpus* immediately upon the termination of the war such powers, rights, privileges, immunities, and liberties would be resumed, and would have force and effect as though they had not been suspended.

"4. *Resolved*, That the duty of Congress to guaranty to every State a republican form of government, to protect each of them against invasion, and on the application of the Legislature or executive thereof against domestic violence, and to enforce the authority, Constitution, and laws of the United States in all the States, are constitutional obligations which abide all times and circumstances.

"5. *Resolved*, That no State can, by any vote of secession, or by rebellion against the authority, Constitution, and laws of the United States, or by any other act, abdicate her rights or obligations under that Constitution or those laws, or absolve her people from their obedience to them, or the United States from their obligation to guaranty to such State a republican form of government, and to protect her people by causing the due enforcement within her territories of the authority, Constitution, and laws of the United States.

"6. *Resolved*, That there cannot be any forfeiture or confiscation of the rights of persons or property of any citizen of the United States who is loyal and obedient to the authority, Constitution, and laws thereof, or of any person whatsoever, unless for acts which the law has previously declared to be criminal, and for the punishment of which it has provided such forfeiture or confiscation.

"7. *Resolved*, That it is the duty of the United States to subdue and punish the existing rebellion by force of arms and civil trials in the shortest practicable time, and with the least cost to the people, but so decisively and thoroughly as to impress upon the present and future generations as a great truth that rebellion, except for grievous oppression of Government, will bring upon the rebels incomparably more of evil than obedience to the Constitution and the laws.

"8. *Resolved*, That the United States Government should march their armies into all the insurgent States, and promptly put down the military power which they have arrayed against it, and give protection and security to the loyal men thereof, to enable them to reconstruct their legitimate State governments, and bring them and the people back to the Union and to obedience and duty under the Constitution and the laws of the United States, bearing the sword in one hand and the olive branch in the other, and while inflicting on the guilty leaders condign and exemplary punishment, granting amnesty and oblivion to the comparatively innocent masses; and if the people of any State cannot, or will not, reconstruct their State government and return to loyalty and duty, Congress should provide a government for such State as a Territory of the United States, securing to the people thereof their appropriate constitutional rights."

Mr. DAVIS. I will say to the honorable Senator that I adhere to every principle and every position in those resolutions, and I have done so throughout the war.

Mr. MORRILL, of Maine. I am more than delighted to hear that approbation, because I shall soon expect the honorable Senator to range himself on our side. [Laughter.]

Mr. DAVIS. I shall show you where I stand in a day or two. [Laughter.]

Mr. MORRILL, of Maine. My purpose was in part to compliment the Senator for his intuitive sense of the rights of the Government and for his elaboration of those rights in the form of a statement so early as 1862, and to give him the full credit of having been the originator of congressional reconstruction. Precisely the state of things which he contemplated in these resolutions came to pass. He then said to the rebels: if you resist my admonition, if you continue fighting, if you bring on general war, if you put yourselves in the attitude of public enemies, not only pains and penalties shall come to you, not only forfeiture of property and of civil and political rights, but when the great destruction of State constitutions, when the day of subversion comes, then the nation will interpose and it will be the duty, nay, the necessity, of the nation, to interpose, to do what? to "reconstruct," readjust the disordered parts, reconstruct State constitutions in harmony with the changed state of things produced by the war. That is what the honorable Senator then foresaw, and that, by the blessing of God, is what we are now trying to do. He saw with clear vision what the results would be if they continued in their resistance to the Government until the Government was obliged to exercise its supreme authority of war, so that it should destroy slavery, State institutions, con-

stitutions, Governments, and general disorder should ensue. Then, under the constitutional provision which guaranties to the people of each State a republican government, it would be the duty of the Government of the United States—not of the President, but of the United States—to step in and restore them. How? By restoring the old State governments? No such thing was contemplated, no such thing was dreamed of, but to restore order by an adjustment of the parts, adjusting the nation to its changed condition by reconstruction.

Let me read one of these resolutions again. The Senator will excuse the satisfaction I take in this early part of his labors here. My especial interest centers in the last resolution. My admiration of it is unbounded. [Laughter.] I have kept it by me constantly, and have admonished the honorable Senator from time to time, as I thought he needed, that his record was against his present position, that he was doing violence in these latter days to his former good works and ways, that his early record was sound, logical, and right, but that his speeches of late, for some reason or other, were doing great violence to it. Now let me read the emphatic parts of the last resolution:

"That the United States Government should march their armies into all the insurgent States and promptly put down the military power which they have arrayed against it, and give protection and security to the loyal men thereof."

Give protection to "the loyal men," carry the sword for the rebels, the olive branch for the loyal men. That is what we are doing now.

Mr. SUMNER. And the phrase is "loyal men," without distinction of color. [Laughter.]

Mr. MORRILL, of Maine. I did not notice that, but of course "all loyal" men, of necessity, includes the colored men.

Mr. SUMNER. Of course. [Laughter.]

Mr. MORRILL, of Maine. And the resolution proceeds:

"Give protection and security to the loyal men thereof."

To what end are you to give security to the loyal men?

"To enable them to reconstruct"—

That is it. There is the word—

"to reconstruct their legitimate State governments."

Now, what if they do not do it?

"And if the people of any State cannot, or will not, reconstruct their State government and return to loyalty and duty, Congress should provide a government for such State as a Territory of the United States."

It was never proposed to treat them absolutely as Territories on this side of the Chamber. I think, after that declaration, it is hardly worth while for us to speculate about "States in the Union or out of the Union." If as early as 1862 the honorable Senator from Kentucky contemplated that in the progress of events these States would be in the position of territories. Then it would be proper for the Congress of the United States to treat them as Territories and give them governments as Territories, I am inclined to think it is hardly worth while for us to quibble on nice points. All I have to regret about this is that while I am disposed to immortalize the Senator from Kentucky in the history of the country, I am afraid it will derogate from the record of my honorable friend from Massachusetts. [Laughter.] I have always supposed, and I think the general impression is, that the Senator from Massachusetts was the originator of the idea that these States were remitted to territorial rights, and should be treated as Territories.

Mr. DAVIS. If the honorable Senator will allow me I will present him with the resolution of the Senator from Massachusetts, offered about three days before my series, and to which mine was a response. There was not a voice in favor of his except his own when they were offered in the Senate.

Mr. MORRILL, of Maine. He could not have got a patent right for his. [Laughter.]

Mr. DAVIS. Will the honorable Senator allow them to be read?

Mr. MORRILL, of Maine. No; I shall want to look at them. I do not desire to get up any antagonism between the honorable Senator from Kentucky and my friend from Massachusetts. I prefer to leave them to fight it out. [Laughter.]

Mr. DAVIS. I will take a hit or two at you as I go along. [Laughter.]

Mr. MORRILL, of Maine. I understand the honorable Senator from Kentucky to intimate that he is prepared on this point. I am glad to hear it. If the Senator believes, as he professes to, that Congress in its "reconstruction policy" is making war on the Constitution of the United States, it is obvious that his record here places him on the skirmish line, at least.

Enough, Mr. President, and more than enough I am sure, upon this great question in this case; the point which underlies the whole of it, and upon which policies of restoration and reconstruction must rest is that by the war, through the war, and on account of the war, the southern States lost their State government and with them all the rights of States and all the rights of individuals, and were in the power of the General Government at the close of the war and must look to the General Government for the restoration of their rights, including the rights of government, amnesty for the great crime they had committed during the war, and for the future of their States. If I have demonstrated this proposition there is nothing left for the nation except the policy of Congress, reconstruction, not restoration—"reconstruction" against "restoration."

Now, sir, the only question left on the merits of the case, to which I shall barely refer, not to argue it, not even to state it, is whether Congress has performed its duty wisely and well; whether the reconstruction policy embraced in the several acts now before Congress, and those which have antedated them, are a wise discharge of the great duty devolving upon the Congress of the United States at the close of the war to reconstruct these States in harmony with the national life? What have we done? I am not to enumerate, but will simply state, the substance of the acts under consideration.

First, our military bill, so much denounced as establishing military despotism, is simply an interposition of a police force to preserve order and the agency by which reconstruction is to be consummated. That is all it is, and I defy the ingenuity of Senators to make it either more or less in its essence, in its provisions, or in its purposes.

Mr. President, I desire briefly to advert to the position taken in the debate by Senators on the other side of the Chamber. I begin with the Senator from Maryland. For his record on reconstruction I have little but approbation. I have the highest consideration for his character, his talents, his patriotism, and his public services. I could not say less to do justice to my own feelings and my own sense of the public record of that Senator. I understand that for all practical purposes, and for the highest objects to be obtained by Congress in its policy of reconstruction, the honorable Senator from Maryland stands with Congress—I do not mean to say that of his constitutional and legal opinions, but of that legislative record of the Congress of the United States which will stand out in history as the grandest legislative record in all time—the Senator from Maryland stands peerless and alone on that side of the Chamber.

Now, sir, the reconstruction policy of Congress is a complex policy. It is not embraced simply in the bills to which I have alluded, but it covers the whole period of the war. We began to reconstruct as soon as we began to conquer.

The great measure which will stand out in

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history as the most sublime, not only of this war, but of all time, which is to make this country illustrious among the civilized nations, which gave us success in war at home and honor and credit abroad, was the emancipation proclamation and the anti-slavery amendment to the Constitution of the United States. On that question, I am happy to say, the honorable Senator from Maryland was not only on the side of Congress, but conspicuous. I shall never cease to remember, with the utmost pleasure and delight, the speech, remarkable for its eloquence and power and pathos and dignity, of the Senator on that occasion. I had to thank him for it then, and I am not less grateful now. So on the corner-stone of reconstruction the honorable Senator from Maryland stands with Congress and against those who voted against the inhibition of slavery, the cause of rebellion in the American States. This was the first step in reconstruction. Here Congress began to put the nation in harmony with the changed state of affairs brought about by the emancipation proclamation of Mr. Lincoln, which had subverted State governments, changed slave States into free States, and necessitated radical reconstruction.

But that is not all. The honorable Senator voted for the civil rights bill, the complement of the anti-slavery amendment of the Constitution—a bill made necessary by the fact of emancipation. He saw, as others did not, that when the slave was emancipated, when the shackles fell from his limbs, when he became a "freedman," he must become a freeman. The President of the United States, whose vision was dim about those days, said he was a "freedman," nothing more; he was of an unprivileged class in our system; he was a serf; he had ceased to be a slave to his old master to become a slave to the State. The Senator from Maryland, rising in his place here in the Senate, maintained his citizenship; according to the logic and the principles of the Constitution there was only one class of persons in this country, the American people, and they were all citizens now. The condition of servitude which was the exception to the general American principle had passed away, and now every native-born person was a citizen, and, being a citizen, he was entitled to all the privileges and protection of a citizen of the United States; and the Senator, leaving his associates, gave his voice and vote to this great bill of rights for the American citizen and against the objections of the President of the United States.

But more; the Senator from Maryland was for suffrage, the crowning act of congressional reconstruction. It did not seem to be so at first, but in the end the great necessity of congressional reconstruction, without which reconstruction in the southern States was impossible under the present state of things, was the ballot. The ballot in the hands of the negro became as much the necessity of reconstruction of republican States and their restoration as the bayonet in his hands was the necessity of the war. I do not mean to say that the honorable Senator from Maryland thought that was so in the beginning. I think he did not. I do not mean to say that he thinks it the most advisable thing possible to be done now; but sinking his constitutional doubts in what he conceived to be the great emergency of the Republic, to reconstruct, he yielded all his opinions, all his constitutional doubts, and gave not to faction, but to country, to liberty, to human rights, and to the peace and restoration of the country the doubts he might entertain on that subject. For that I honor him.

The clear sense of the Senator from Pennsylvania [Mr. BUCKALEW] enables him to see distinctly enough in this debate that the States lost their governments; that the State constitutions were subverted; that the war was attended with decisive results; that the nation was victorious, was the conqueror, and had the rights of a con-

queror; that our enemies lost all; they went in for the ruin of the nation and lost their rights, many of them their lives. He sees that, and so when I propounded the question to the honorable Senator whether the guarantee of the Constitution applies to the State governments that antedated the rebellion his frank and characteristic reply is, "of course not; they were destroyed." I have no occasion to pursue the honorable Senator's argument after that concession. That brings him in principle on the side of Congress; he stands for reconstruction. If they were destroyed they must be reconstructed. I know that the honorable Senator, from those relations which are common to all of us, feels a little delicacy in avowing it quite as emphatically as I do; and perhaps he will not thank me for doing it. But his principles place him on our side. His opinions bring him with us. He must be respectful to his party relations, and so the honorable Senator says in his speech that he does not exactly approve of what we have done; he rather prefers what Mr. Johnson has done, although he does not undertake to defend it on principle. To the question whether he thought the constitutional guarantee applied to the Johnson organized governments he declined to say that it did. He thought that Mr. Johnson's policy was to be preferred over that of Congress, because Mr. Johnson had allowed the people of those States to organize State governments, and for that reason he was disposed to accept them. If I had the time and he and the Senate the patience to listen, I could show that the premise on which he puts his adhesion to the Johnson policy is fallacious. Mr. Johnson did not allow the States to form these governments. He dictated to these States. He told these States on what conditions and on what conditions alone they might form State governments. He told them who might and who should not exercise the elective franchise, who should and who should not be electors of the convention, and when they were in convention, what they should and what they should not do. Remember that he said that as Commander-in-Chief of the Army; remember he had these communities in his power; remember his military lieutenants were there, and he had declared martial law to be the supreme law of the States. He said to them, "Take these terms and be reconstructed." More, sir, he undertook to say that a portion of the rebels should reorganize those governments, while a majority of the people, the loyal people in some of those States, were utterly excluded from all participation in the government. If that commands his policy to the Senator from Pennsylvania, while he is with Congress in principle, all I can say is that he must follow the President on a policy that ignores his principles.

I now turn to the honorable Senator from Wisconsin, [Mr. DOOLITTLE.] That Senator agrees with Congress in principle that the rebellion destroyed the States; that at the close of the rebellion there were no State governments in existence; that they needed reconstruction, must be reconstructed; but he contends that Congress is concluded from any participation in it, because the President of the United States has assumed jurisdiction and Congress is estopped. I do not propose to argue this point, because it has been better done by others than I could hope to do. The Constitution, I believe, provides that if States are to be reconstructed or guaranteed, "the United States" are to do it. By what logic the honorable Senator from Wisconsin understands that the President of the United States is "the United States," when by the Constitution he is only one coördinate branch of three, he has not told the Senate in his late speech, and I do not know that he ever has.

I pass to other considerations upon which the honorable Senator from Wisconsin took his departure from the congressional policy and joined himself to that of the President of the United States.

Mr. DOOLITTLE. I do not desire to interrupt the Senator—

Mr. MORRILL, of Maine. It is no interruption.

Mr. DOOLITTLE. But I wish simply to state that, as regards the view which I entertained in relation to the effect of the rebellion upon the States of the South, I discussed that question at considerable length in January, 1865, and stated my views on that subject. I refer the honorable Senator to my speech at that time. In my speech of the other day I did not go into a discussion of the effect of the rebellion upon the States, their governments or constitutions. I was discussing more the question of the true policy of reconstruction to be pursued by Congress.

Mr. MORRILL, of Maine. So I understood, and therefore I do not address myself to that part of the Senator's speech, but was about to proceed to the question of policy to which he objects.

On the question of emancipation the Senator was sound. He went for the proclamation of emancipation. On the question of the anti-slavery amendment of the Constitution the honorable Senator stood by Congress and congressional reconstruction. Here, I am sorry to say, he stopped. He had freed the slave, and, in the spirited language of the President of the United States, he proposed to let him take care of himself. Mr. Johnson had organized these States. He had put the old slave-masters exclusively in power. They had enacted vagrant laws to take possession of the negro bodily. The courts of the slave States were closed against the negro. There was no course of administration of justice in all the southern States for the negro. The Senator knew that. He knew that under the laws of the southern States there was no such thing as protection to person or property or redress for grievance for colored men, no courts in which the negro could be permitted to tell the truth in vindication of his own rights, and that the heel of oppression was on the neck of the former slave. He was held to be a "freedman," belonged to a subordinate and inferior race, and that his status was a question exclusively belonging to the States.

Under these circumstances, the Congress of the United States introduced a bill to protect him in his civil rights; a bill which assumed that, having freed him, we are bound to protect him; a bill which in equity and good conscience I think the world approves. Not to have done it would have been infamy in the American Congress. To free him and leave him to the domination and tyranny and oppression of the old master would have been a cruelty. This is what that bill contemplated; and when we came to that the honorable Senator voted no. What is the justification for that? Has the honorable Senator ever explained it? Is it explainable? Is the denial of protection to an American citizen explainable in law, in equity, or in good conscience? Sir, it would have been a shame to the nation and it would have become a by-word and a hissing in the general judgment of the nations of the earth if it had failed to vindicate its authority and its sense of justice. Here the honorable Senator breaks away from congressional reconstruction and stands on the message of the President of the United States, who says it is no concern of Congress what becomes of the negro; he is an inferior man, as if that was an argument justifying oppression.

Mr. DOOLITTLE. As the honorable Senator is not stating my position—

Mr. MORRILL, of Maine. No; I am stating what the President said.

Mr. DOOLITTLE. The honorable Senator referred to me.

Mr. MORRILL, of Maine. I am stating what the President said, and what the Senator indorsed by his vote.

Mr. DOOLITTLE. If the honorable Sen-

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ator will allow me, I simply desire to say in relation to that matter, that I did not maintain that no duty was imposed on this Government under the constitutional amendment to secure the freedom and the rights of the negro; and I introduced a bill on that subject myself into the Senate, which I have no doubt was constitutional. On the other hand, I have never doubted that certain clauses in the civil rights bill were unconstitutional, and therefore I voted against it.

Mr. MORRILL, of Maine. Of course. The point is known; the honorable Senator voted against it. That is my argument. The civil rights bill shows for itself. It was protection to the freedmen. It was in the first place, in its preamble the sublimest declaration in legislation in this country or any other, as I remember it. It commenced with a declaration which I am happy to say found a response in the argument of the Senator from Maryland, "that every native-born person is an American citizen." I say it is the sublimest declaration in all history. Up to that hour such a declaration by the American Congress were a legal impossibility; but old things had passed away in the progress of the events of the war; it had acquired the authority, and it embraced the first opportunity to announce it.

But the honorable Senator from Wisconsin has another difficulty about the reconstruction policy. He is afraid of the effects of negro suffrage on the "Caucasian." The Caucasian, he says, is the superior of all human type. The Caucasian is the historic man. He is lord on this continent. He is the man on horseback who has a right to dominate all other classes. Sir, I doubt whether, in a nation that gathers its population from all the tribes and nations and kindreds and families of men this doctrine will gain the popular favor. How many "Caucasians" of pure blood are there here? We have gathered our population from all the nations of the earth—Celts, Moors, Spaniards, &c.—and it is supposed there are some Anglo-Saxons. I never saw one; but there may be some of the pure blood. In such a nation as this it is supposed that under our principles of government somebody who is whiter than another has a right to rule all the rest; and, in the instance of the honorable Senator from Wisconsin, it is the Caucasian. It has been suggested to me that if the Circassian were here the Caucasian would have a competitor and a rival. The Circassian thinks he is the better man altogether. I tell the honorable Senator if one of the finest specimens of the Circassian were here he might find a rival in beauty and form and grace which I am afraid the ladies might prefer. [Laughter.]

But, Mr. President, this idea of race in the Government of the United States is an absurdity. There is no such thing. Is there any race or color in the Declaration of Independence? Is there any race or color in the Constitution of the United States? Was there any race or color in the American constitutions of the several States which were formed during the revolutionary era? One sublime doctrine underlay the whole of them—equal rights to all, except as to the condition of servitude, and all free-men stood upon the platform of equality before the law.

Then, Mr. President, I must notice, also, that the honorable Senator from Wisconsin has another—what with great respect to him I must denominate—political infirmity. He has an apprehension which controls his political conduct, his policy as a statesman and American Senator; an apprehension of "the antagonism of races." It is the burden of his speech—a frightful antagonism of race to be brought about by what? By putting the ballot into the hands of the negro. What is he going to do with it? Beat out the brains of the Caucasian? [Laughter.] Dominate over him? Rule him, with all his intellectual and

numerical superiority? About half a million of blacks will have the ballot, and that half million are going to dominate the American people, thirty-five million in number, and rule them!

The honorable Senator from Wisconsin would put the Senate of the United States in the bad eminence of saying that we have overthrown the Constitution of the United States in "order" to inaugurate negro domination. Now, I want to know if he believes that? Is not that a vagary of an excited imagination? Is that an American sentiment? Is it logic? Is it sense? Is it history? Is it anything recognized among sensible men anywhere as a basis of legislation? We are to legislate on an apprehension, and the apprehension explained is, that half a million of negroes, if they are allowed to vote in a particular locality, will dominate the land. This is really the position of the Senator in his recent speech. It will never be believed by posterity, of course; at least I hope not; but it is in the speech; and Congress is arraigned by that Senator and the speech is published and sent out to the nation to prove that we are overturning this Constitution—that is our purpose, that is our intent, that is what we mean, and in this way—"to put the negro in power."

Mr. FESSENDEN. By the bayonet.

Mr. MORRILL, of Maine. Yes; by the bayonet. I forgot that. We mean to do it by the bayonet. The honorable Senator from Wisconsin is so frightened from all sense of propriety that he rises in the Senate and says he trembles for his country; the Caucasians are to be subjugated. Now, sir, is there any such antagonism anywhere in the races as the Senator supposes? If there is, will the honorable Senator begood enough to tell me whether it is an inherent principle in man; whether the Almighty Maker of heaven and earth, the Parent of all of us, implanted in our innermost being a principle of destruction so that it should come to pass that whenever we came in contact we would fall upon each other like beasts of prey?

The honorable Senator very properly, but very frequently, appeals to his conscience and to the principles of Christianity as inculcated by Him "who spake as never man spake." That is all well; but does this antagonism of race harmonize with the doctrine of Christianity? If I remember anything about the doctrine of Christianity, that which underlies the whole system, that which is itself the gospel of good tidings to man, ignores the whole of this, treats it as a mean, low prejudice, to be put away, and proclaims "God has made of one blood all the families of men to dwell upon the face of the earth." Nay more; it inculcates the brotherhood of the race. It preaches the good tidings that men are brothers; that the inherent tendencies of their being is love and good will; that if they were properly indoctrinated by the sublime doctrines of the Gospel, they would fraternize; that it is only heathenism that hates; it is only the narrow and mean prejudices of men. Talk about the antagonism of the races!

Sir, I commend the honorable Senator to his Bible, to his closet, to meditation, and to prayer to be relieved from the unworthy prejudice of the antagonism of races, which does not exist, which is rank infidelity. Legislate on an apprehension and keep the negro in bondage! Why? Because if you let him at large, he will fly in the face of the white race, and then comes destruction! Who will get hurt? He is afraid the negro. The negro is willing to take his chance. I confess to a willingness to see the experiment tried—all parties having fair play. [Laughter.]

But these notions of the honorable Senator are disclosed in many ways. It is not new, not peculiar to this case. We had this question in another shape early in 1862 on the

emancipation of the slaves in the District of Columbia. The Senator was exercised with the same apprehension then; and it showed itself in an amendment that these negroes must be deported if they were freed. Why? "There would be murders in the streets of Washington, vagrancy, disorder."

Mr. DOOLITTLE. The honorable Senator will allow me to state that it was another Senator who moved the amendment to the bill that those who were emancipated must be deported, and I moved an amendment to the amendment that none should be deported unless they were willing to go.

Mr. MORRILL, of Maine. The Senator voted for deportation.

Mr. DOOLITTLE. Of those who were willing to go; not for their deportation unless they were willing.

Mr. MORRILL, of Maine. Does the Senator suppose his qualification changes the principle of which I have been speaking? If he cannot stay with safety he ought to go. Why the necessity of his deportation? Because it is not safe for him to be here. Then he ought to go, whether he is willing or not. That is the answer to that argument. But I remember the honorable Senator's argument on that occasion very well. It was to show the inferiority of the negro; that he could not live in the presence of the white man; that he was perishing, dying out, and had better be carried out of the country. The honorable Senator has many times repeated it here since the war, that his belief was that two million of them, I think—a very large proportion of them, at any rate—had perished during the war.

Mr. DOOLITTLE. That is true.

Mr. MORRILL, of Maine. Nothing further from the truth. The records of the Freedmen's Bureau show that they have not decreased, and there is a very good reason for it. They stayed at home out of danger, to a very great extent, owing to the circumstances under which the war was conducted. But that is not to the purpose further than to show how unfounded is this apprehension under which the honorable Senator labors, which controls his action and his votes here, and binds him to the policy of the President of the United States.

I have a few words of reply to the honorable Senator from Indiana, [Mr. HENDRICKS.] He very properly opposes congressional reconstruction on the opinion he entertains. He believes in the "abiding rights of the States." He believes with that famous body of men which convened at Philadelphia in 1866 to enforce the policy of the President, and who were touched even to tears, it is said, by the thought that the day when all men were to be of one mind politically and of their way of thinking, would become affectionate and kind to each other, was fast dawning. They resolved that the rights of the States were "abiding rights;" that they existed in the beginning, during the whole war, and at its conclusion. Having thus resolved they proceeded, in a qualified way, to indorse President Johnson, whose policy was based upon exactly the reverse of that doctrine. I have always supposed that if that convention had acted at all consistent with their opinions they would have recommended the President to Congress for impeachment; but neither they nor the President made a point of the principles of either. The President, the late rebels, the anti-war Democrats, had an issue of reconstruction of rebel States with Congress and with the great Union party of the war; and being agreed in the purpose of getting into power again in the nation, what were principles?

The honorable Senator from Indiana stands on the doctrine which he enunciates that the State governments, through the war, lost no rights; that they "brought all their constitutions with them through the conflict." But

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the honorable Senator indorses the policy of the President. In this the Senator will allow me to say that I think he is not consistent with himself. I propose by the exhibit in open court of his record and that of the President to force him to the abandonment of his position. Whether he will come to our side or not I do not know; but that is a matter of which he must judge. It may be the honorable Senator will take the side of his Democratic friends in the South, who would rather have military despotism than reconstruction under Congress.

The honorable Senator assumes that the policy of President Johnson was based upon the recognition of the existence of the State governments. If that is so, the Senator is right in supporting it. If it is not so, he will agree with me that there is no foundation for his faith. In the first place, it should be observed that the Senator from Indiana undertakes for support to connect the policy of Mr. Lincoln with the policy of President Johnson. He says the two are identical; and that Mr. Johnson inherited this policy from President Lincoln; that they were both founded upon the idea that the States had not lost their organizations; and both went upon the policy of restoring the old State governments. Let us see how that is. The first act on record, as I remember, of President Lincoln on this subject was his proclamation of the 8th of December, 1863, in which he proposes organization for the States there, as he supposed, in the military possession of the armies of the United States. In this proclamation in which he introduced the subject of the condition of these States, is this language:

"Whereas a rebellion now exists whereby the loyal State governments of several States have for a long time been—"

What?

"subverted."

Subverted, overthrown, destroyed. That is the Lincoln policy, flat and square. And further, in some directions to the military authorities with regard to resuscitating these States, he uses this language:

"And being a qualified voter by the election law of the State existing immediately before the so-called act of secession, and excluding all others, shall—"

What? Be restored? No.

"shall reestablish a State government."

But a more significant fact still is this, that in 1865, just before the death of President Lincoln, at the surrender of Lee, when the rebel authorities of the State of Virginia, "all having come through the war," according to the Senator, their organizations all complete, legal States, all ready for readmission, restored to the Union by the surrender of Lee, undertook to exercise State authority. The President issued his order repudiating their action. He denied their authority, and held that all their powers were lost in the rebellion.

But the honorable Senator thinks he finds plenary proof, which concludes Congress. To use his own words, "Congress is concluded on this question." Congress in 1864, just before the adjournment of the session of that year, passed a bill for provisional governments, sometimes called the Winter Davis bill, which provided for the reconstruction of these States, and the honorable Senator tells us that President Lincoln did what would seem to be quite an unseemly thing; that he was so determined that Congress should not interfere with his prerogative that he "flung the bill" defiantly in the face of Congress, as much as to say, "Attend to your own affairs; I am the United States; I claim the right to reconstruct or reorganize these States; Congress has nothing to do with it; I defy Congress." I denounce Congress, would be the implication fairly from the language of the Senator. "It is none of your concern whatever; it is my business; and in due time I will restore, as I am restoring, the States." Now, what was the fact?

President Lincoln did not "sign that bill." Why? "It was sent to him only an hour before the adjournment." He had had an idea that some of these States might be brought in in another way; he had experimental organizations in Louisiana and in Arkansas, and was embarrassed on that account. How were those governments organized? Were the old State governments recognized? No, sir; Louisiana was organized on the basis of one tenth of her population, with a new government in all respects, and that government was organized at New Orleans while the rebels were carrying on their "old State government" in two thirds of the entire territory of that State. And yet the Senator from Indiana rises here and tells the Senate that we are concluded on this question; that President Lincoln had intended to restore "the old State governments." The President, in words altogether decorous, as was his wont, said to Congress, that while he could not, without embarrassment, sign the bill, that he had no objection to the policy, and in the future would observe it.

Mr. HENDRICKS. Will the Senator allow me to ask him one question?

Mr. MORRILL, of Maine. Yes, sir.

Mr. HENDRICKS. I wish to know if President Lincoln, in that proclamation, while he referred to the case of Louisiana and Arkansas, did not expressly say that he was unprepared by a formal approval of that bill to be inflexibly committed to any single plan of restoration; and did he not in the same proclamation say that he was pleased well enough with the plan suggested by Congress, but that he would not be bound to it as a law would bind him; but that, if the people went on with the work of the restoration of their States, the Executive would recognize the governments made by them, and would guaranty them in their republican form?

Mr. MORRILL, of Maine. I think he said something to that effect; but that is not the point to which I am adverting. He said he did not wish to be bound to any definite plan for all the States; but he did say, in so many words, as the Senator will find, that he had no objection to this plan, and would observe it in the future, not for all the States, because he had two States he meant to except. He always intended to restore, if it were practicable, in his own way, the States of Louisiana and Arkansas. He felt committed to it. He felt that his faith was involved in it, although they were based on a principle anti-American and anti-republican, which never could have been recognized by an American Congress, that one tenth of the loyal voters should organize a State. Still the President was attached to it, and that was the principal reason for his dissent from that bill.

But it is said now for President Johnson's policy that it is identical with that of Mr. Lincoln. If it is, then, it is not in harmony with the opinions of the honorable Senator on the record, and so not entitled to his support. The first act of Mr. Johnson's Administration upon the event after he came into power is a significant one, and is conclusive, I think, on the point raised by the honorable Senator. I think Lee surrendered before President Johnson was sworn into office, and General Johnston surrendered a short time afterward.

Mr. CONKLING. On the 18th of April, 1865, and President Lincoln was killed on the 14th.

Mr. MORRILL, of Maine. The country knows that on the surrender of General Johnston a proposition was made by which all the southern States, in the language of the honorable Senator from Indiana, were to be recognized as having brought through blood and peril of civil war their constitutions and State governments, and they were to be offered as a living sacrifice on the altar of the Constitution of the United States, and to be introduced

into the Union with all their rights, privileges, and dignity unimpaired, as the phrase is. Did the President assent to it? He issued an order repudiating it absolutely, declaring that it was a proposition not to be entertained, not to be considered. Sir, does that look like recognizing and restoring these "old State governments?"

But the proclamation which the honorable Senator has quoted from and commented upon, and which he asserts binds President Johnson to the policy of guarantying the old State governments, is most important to my purpose. I will read what the honorable Senator said, so that I may do him no injustice:

"In the first place, I will state that he directed each of the departments to extend its operations into the southern States."

There is a recognition, says the honorable Senator.

"Then he goes on with the work of providing for restoration: and what propositions does he lay down? First, he recognizes the old State government of North Carolina, just as he had done in Tennessee, just as Congress did in admitting Tennessee, with the recitals in the preamble; for, after appointing a provisional governor and giving him instructions, he says—"

Here is the proof—

"A convention composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the constitution thereof."

He quotes further, as follows:

"And with authority to exercise within the limits of said State all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relations to the Federal Government."

And there it stops. There is a period. That is the full sentence. That is the complete expression of the President of the United States, as the honorable Senator quotes it to the Senate, and as he intends it shall go to the country to prove his position. Now, what is the whole of it?

"And with authority to exercise within the limits of said State all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relations to the Federal Government, and to present?"

Here is the point—

"and to present such a republican form of State government as will entitle the State to the guarantee of the United States therefor, and its people to protection by the United States against invasion, insurrection, and domestic violence."

There the sentence ends. The Senator finds it convenient to sustain his argument to divide the sentence, to break off in the middle of the sentence; so that where he makes it end it means one thing, and where it does end it means another and quite the reverse. Where it does end it means the reconstruction of a republican government. Of course, the Senator did not see that it had that effect. He quoted it altogether inadvertently, I am bound to believe. The honorable Senator, of course, in the hurry of the discussion, under the impulses of the moment, intent on proving his point, quoted enough to prove the point, and forgot, omitted, overlooked, did not see the significance or relation of the rest of the sentence.

Mr. HENDRICKS. Will the Senator allow me one moment?

Mr. MORRILL, of Maine. Certainly.

Mr. HENDRICKS. I do not choose to accept the defense made by the Senator for me. I understood exactly what I was saying. The point that I was making was this, as the Senator has stated: that, notwithstanding the contradictory statement in the preamble in that proclamation, in the body of the bill, if I may so express it, the President authorized the provisional governor to call a convention, and that convention to amend the constitution. My argument was, that if the President did not recognize the old constitution as an existing thing it could not be amended; that the doc-

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trine that the State government had gone out of existence and that the constitution had ceased as a law would have required the President to call for a convention to make a State government; but that when the President proposed an amendment to the State constitution he recognized that instrument as an existing thing. Therefore I think that my quotation for the purpose of establishing that proposition was full, ample, and complete, and that the residue of the sentence does not interfere with the logic of the position I assumed.

Mr. MORRILL, of Maine. My point was to show the Senator that the President of the United States did not recognize the existing State governments.

Mr. HENDRICKS. That is your proposition.

Mr. MORRILL, of Maine. And that the quotation of the Senator, ending where it did, seemed to prove that he did; and ending where it really ends, repels that inference. I think whoever reads the speech and sees the comments which the Senator makes upon it will find that he is impaled exactly on that last clause, which he did not quote. Of course I attribute nothing except what is honorable to him. I relieve him of all embarrassment of intention on this subject; but in the way he quotes it, he will allow me to say, it bears a false light to the Senate and the country; it is tampering with the witness in open court; it makes him say what he did not intend to say. That is the way it stands, and I leave the Senator to his explanation.

If it were necessary to press that argument any further I could find the reply to it in another part of what the Senator has undertaken to prove by the policy of Mr. Lincoln. Of course he is supposed to know all about President Johnson's position on this subject, whether he believed the States came through the civil war or not. Since he has become in some sense, some very important sense, his champion and defender on this floor, he is supposed to be conversant with his opinions and sentiments on this subject. He says, in "the first place," that the President of the United States "recognizes the old State government of North Carolina as existing." Let us see what he does recognize. This, mind you, sir, is a proclamation addressed to the people of North Carolina with the view of recognizing their State government. What does he say of its condition? Of course he must have had in his mind when he issued his proclamation the condition of the State—whether it was a State government to be recognized or whether it was a State government to be reorganized and reestablished. Among the "whereases" setting out the general condition of affairs, among other things attributable to the war, he says:

"And whereas the rebellion, which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has in its revolutionary progress—"

The Senator did not notice that word "revolutionary," I greatly fear. "In its revolutionary progress" it had done what? Revolutionized, of course, subverted, overthrown. "In its revolutionary progress" what has it done? "Brought the old State governments through the war," says the Senator; but the President says it has "deprived the people of the State of North Carolina of all civil government." Did he use that language unwittingly? The Senator says it is a preamble. Well, the preamble is a recital of facts. That is the object of a preamble. It is put in to give solemnity to the event, to bring the subject matter distinctly before the body that is to act upon it. The President says that in the revolutionary progress of events the rebellion has destroyed all civil government in North Carolina, every vestige of it; there is nothing

left. Did he make a mistake about that? Let us see. I find in the report of the Committee on Reconstruction language used by Mr. Johnson, in speaking of the effects of the rebellion, to Mr. Stearns:

"The State institutions are prostrated, laid on the ground"—

"Come through?" What must be done with them?

"And they must be taken up"—

And what then?

"And adapted to the progress of events."

What does that mean? To restore the old State governments? No, sir; but they must be reorganized and reestablished and reconstructed and put in harmony with the revolutionary progress of events. That is what he said. I should like to hear the Senator explain the meaning of those words.

Mr. HENDRICKS. What do you read from?

Mr. MORRILL, of Maine. I am reading from the report of the Reconstruction Committee. They found that to have been a fact and reported it to the Senate.

Now, Mr. President, I am done with the honorable Senator from Indiana. My only object was to satisfy him that his adhesion to the policy of the President of the United States was upon a mistaken state of facts altogether, a misconception of his principles, and that he is at perfect liberty to abandon his policy; and I submit to him whether he is not in duty bound to abandon his policy, now that he sees that it is absolutely inconsistent and incompatible with the principles which he avows and maintains; that the surrender of Lee was the restoration of the Union; that these States were entitled by that surrender to be recognized by the Government of the United States with all their rights, privileges, and dignity unimpaired.

A single reflection and I shall relieve the patience of the Senate. Senators on that side of the Chamber all close with a solemn prediction that reconstruction by Congress would prove a failure. If it fails it is to fail for what? Because it is not in harmony with the principles of our institutions? Because it is repugnant to the principles of American liberty? Because it is not consonant with the principles of justice? Because it is likely to be oppressive to any class of the community? Is it obnoxious to any of these suggestions? Does any Senator rise here and say that this is an absolute injustice to any class of men? It is said, sir, that it outlaws certain rebels. No, sir; to assert that is to talk inaccurately; it outlaws nobody. It enfranchises everybody except the guiltiest of the guilty. Their war on the Union disfranchised the people of these States. Their war on the Government of the country they were bound to honor, to love, and maintain "outlawed" them. They lost all their rights by rebellion and civil war. We have magnanimously enfranchised all but the few leaders steeped in guilt. We enact no bills of pains and penalties, decree no forfeitures. We restore them to all their rights of person and property. We give them their rights as American citizens to the fullest extent. We are willing to forgive the masses of the people; but as to those men who committed the unpardonable political sin of having sworn to support the Constitution of the United States and then conspired against it, made causeless war upon it, they may not again be intrusted with power. Other nations in other times would have hung, drawn, and quartered these men or driven them from the country. Davis is abroad, fêted, feasted in northern cities. A great and magnanimous people can endure these things, but cannot agree to confide offices of trust and power to men who have once betrayed it, unless it would consent to have secession, insurrection, and civil war reenacted. These men regret nothing but their defeat.

One significant fact stands confessed, that

the Johnson States are neither in form or in effect republican States; that those States disqualify and hold in a state of total civil and political disability an entire class of citizens of the United States. In some of the States a majority of the citizens of the State within their limits, men declared to be citizens by the Constitution of the United States, are utterly disfranchised and denied all civil rights. Is that a republican State according to the formula of American States? Is that a republican State in essence and in effect according to the American principle? I deny it.

I have to say to my honorable friend from Maryland that I have very strong reasons to suspect that the State which he represents will be found to fall in the category of anti-republican States. Of course I venture no opinion on that subject, not now before the Senate; but I am so thoroughly impressed with its anti-republican character that I take this occasion to say that it is not easy for me to understand how that State can lay claim to be republican either in form or in fact. She enfranchised all her citizens in 1865, I think, when her constitution was changed to conform to the Constitution of the United States. Last year it was made to disfranchise all those people who had been theretofore enfranchised. She has, by her constitution, reduced to practical vassalage and excluded from the privileges of citizenship one-fifth of her entire population, and all citizens of the United States. I repeat, sir, is that a republican State which disfranchises so large a portion of her citizen population?

And that is not the worst of it; as is suggested by my honorable friend from California, [Mr. CONNESS,] it is hardly to be denied they have done that in order to give the disloyal element in that State the absolute supremacy. It bears rule there to-day. That element which would have overthrown this Government with pleasure and delight during the war is in power in Maryland to-day. Her militia offered to some extent by those who served in the rebel army during the rebellion. She sends to her Legislature those who are in sympathy with, and who served in the rebel ranks and with the rebel forces. Nay, sir, she would send to this Hall men who deserted their trusts rather than support the Government of the United States, if she could. There is no more conclusive evidence to my mind of her absolute disloyalty in fact and in purpose than the fact that the honorable Senator from Maryland, who patriotically stood by the country during the war, standing for the Government always, receives but a single vote in the Legislature, while those who would not serve the Government, those who sympathized with the rebellion, are asking admission to this Chamber, under her authority and as her choice.

Nay, sir; from what I see announced in the public journals, and not denied, she has given full evidence of the anti-republican and anti-American spirit that animates her. In all the bills of rights that preceded the constitutions of the several American States inaugurated during the Revolutionary era, you will find the great American doctrine which was most conspicuous in the Declaration of Independence, which underlies the Constitution, set forth as the prominent and fundamental doctrine on which American communities and American institutions were to rest, that "all men are created equal." That was the doctrine of the Declaration of Independence and was copied into the bills of rights of all the States. It was in the bill of rights of Maryland. Where is it now? Expunged from the declaration of rights; and in what spirit? The spirit of disloyalty to the sentiments of the Declaration of Independence and the American Constitution: the spirit that is anti-American; the spirit that is anti-republican—such a spirit cannot fail to brand her as an anti-republican State and an anti-American State not worthy of the companionship and sisterhood of American States.

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SPEECH OF HON. GEO. W. JULIAN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

February 4, 1868,

Concluding the argument on the bill (H. R. No. 267) to declare forfeited to the United States certain land grants to aid in the construction of railroads in the States of Alabama, Mississippi, Louisiana, and Florida, and for other purposes.

Mr. JULIAN said:

Mr. SPEAKER: If the House will give me its attention, I promise not to detain it long in concluding the argument in support of this measure. It has been extensively debated already, and the discussion has taken a remarkably wide range. We have talked about the Dubuque and Sioux City railroad, about negro suffrage in Montana, about the confiscation of rebel property, and the inferiority of the negro race. I doubt whether a debate ever occurred in this House which was diversified by a richer variety of topics or a wider departure from the real question in dispute.

I propose, therefore, in conclusion, as the House is already weary and the day nearly spent, to deal only with the naked question presented by this bill. And let me remark, in the outset, that there is no question here as to the revival of railroad land grants in the South or in the North. This bill does not tender that issue in any form. Neither the rebel governments of the South nor their rebel corporations have presented that question. It is not before us, and no argument addressed to it is in order. When it comes here I propose that we shall deal with it upon its merits.

Neither is there any question here about the forfeiture of these railroad lands. No, sir. The lands are forfeited to the United States already; and the simple and sole issue is whether we shall open up these lands of the Government to settlement and tillage by the loyal poor who long for them, or allow them to remain in the remorseless grasp of rebel monopolists.

Mr. ELDRIDGE. Let me ask the gentleman a question right there.

Mr. JULIAN. I have not time to be interrupted. I must therefore decline.

Mr. Speaker, that is the simple and only issue; and I am surprised, therefore, and I confess myself disappointed quite as much as surprised, at the opposition to this measure which has been volunteered on both sides of this House. These rebel corporations, with the single exception of the New Orleans and Opelousas Railroad Company, have not asked any help at our hands. They are not before us save in the accounts we have of their disloyal conduct during and since the war. It will not do to say that they are not represented on this floor, for the right of petition is and has been all the time freely open to them and to the people of the South, and they might at least have had the decency to ask us if they desired our interposition.

But we are told that we ought to wait until these States have representatives in Congress who can be consulted respecting a measure of so much moment. Why, Mr. Speaker, this is a very strange argument in the mouths of gentlemen on this side of the House. Sir, during the progress of this war we did not wait until representatives came here before we abolished slavery in this District, repealed the fugitive slave law, broke up the coast-wise slave trade, and abolished slavery itself. We did not wait for rebels to be represented here before we passed the constitutional amendment wiping out slavery in the Republic forever, nor did we consult them about the reconstruction of their governments and the conditions on which we would allow them to resume their place in the Union. Why, then, stay our hands in dealing

with these corporations on the pretext that no one is here to speak in their behalf?

I know, Mr. Speaker, that there is a pretty well-known individual at the other end of the avenue who has told us for years past that we ought not to legislate here in the absence of ten States of the Union; that it was unconstitutional to deal with their interests until they could be heard in the Senate and the House by their representatives; but this Congress for the last seven years has systematically turned a deaf ear to all suggestions of that character. We have assumed the right to deal with these rebel districts because their people rebelled, and because the loyal element within them had the right to protection at our hands, which could be given in no other way.

Besides, Mr. Speaker, we do not know when these rebel States will be reconstructed. Alabama, it is thought, will be here in a few weeks; but we do not know this. And when will Louisiana and Mississippi and Florida be here? It is quite uncertain; while the multitudes who want homes on these fertile lands of the South cannot afford to be postponed. Certainly they ought not to be, in deference to rebel monopolists, or for any but the strongest of reasons. None such have been given or can be urged. As to the building of these roads by and by, it should be remembered that the settlement and improvement of the country through which they pass will help, and not hinder, such enterprises. When the States shall ask our aid large quantities of coal and iron lands will remain, which cannot be used for agricultural purposes, and are not therefore subject to settlement under the homestead law; and if proper to do so, Congress can grant pecuniary aid, as we have done in other cases.

But it is said, in declaring these lands forfeited and open to settlement, we are making an exception to the ordinary policy of Congress in reference to land grants. Sir, I deny it. We propose no exception by this bill, for the reason that an exception always implies an existing general rule, and there has been no general rule as to the renewal of land grants to rebellious States. If munificent grants of land had heretofore been made to States which thereupon rebelled against the Government of the United States, and we had revived the grants notwithstanding their rebellion, then the forfeiture declared by this bill might be pleaded as an exception to such action. No such case has ever been presented to Congress, and therefore no exception to such supposed action of Congress can be urged. If Michigan, Wisconsin, Minnesota, and Iowa had received grants of millions of acres of land to aid them in building railroads, and following those grants they had turned upon the Government and sought its life, and if especially, the loyal and homeless people of those States had demanded the right of homestead upon the land granted, will any gentlemen opposed to this bill pretend that Congress would not have discriminated in favor of loyal men by opening such lands to settlement and tillage? That, sir, is the only thing proposed by this bill as to these southern lands. Disregarding the wallings of rebel States and corporations, we simply ask, in the interest of the loyal poor, that four or five million acres now criminally withheld from them shall be carved into homesteads and made the basis of productive wealth.

Considerable quantities of these grants are to-day in the occupancy of loyal men, many of them having settled upon them prior as well as subsequent to these grants. These settlers are now at the mercy of rebel capitalists and corporations, and some of them are being driven from the homes on which they have settled and made their improvements in good faith. Shall we, having the power to prevent it, allow these men to be ejected? Is Congress ready to join the President in making treason respectable and giving loyal men the back seats?

But we are told there is no difficulty in getting lands in these regions, and therefore there is no necessity for this enactment. That is the cry which is raised here on both sides of the House. The gentleman from Michigan [Mr. BLAIR] tells us squarely that any man in these States who wants a home can get it, and that there can be no monopoly of the lands of the United States, with our millions of unoccupied acres. Why, sir, I am astonished at the statement of the gentleman. It is not only in the South, but in the North, also, that difficulties in the way of acquiring homesteads exist.

And I desire to state right here some facts in illustration of this point. According to the last report of the Commissioner of the General Land Office, we have granted to the different lines of the Pacific railroad one hundred and twenty-four million acres; and under a recent ruling of the Interior Department double that quantity of land, including an entire belt of forty miles on these several routes, is interdicted from settlement. This makes two hundred and forty-eight million acres. Add to this some fifty-seven million acres which have been granted to other railroads, and we have an aggregate of three hundred and five million acres, being nearly one third of the entire public domain of the United States. This is exclusive of agricultural college scrip, which will amount, when given to all the States, to over nine million acres, and which is rapidly passing into the hands of monopolists. We should add to this the great but indefinite monopoly of the public lands effected through military land warrants, and some seventeen million acres granted for canals and other public improvements, besides over forty-three million acres in all granted to the States as swamp lands, and which have largely gone into the hands of speculators and monopolists. But I wish to speak now especially of our immense grants to railroads. The extent of these grants ought to excite the general alarm of this country. Sir, the railroad power of the United States has no rival to-day among the great forces which govern the country, unless it be in the whisky power, whose remarkable sway is confessed both by the Government and the people. No difficulty in getting homesteads, says the gentleman from Michigan! Sir, I have letters from reliable and prominent men in the Topeka land district in Kansas, stating that the Indian reservations there, as now administered by the Government, and the railroad grants to which I have referred, have made it next to impossible for settlers to acquire homesteads in that district upon any land that is really desirable. Under the prodigal policy of the Government it is every day becoming more and more difficult to acquire a homestead, and I am surprised that gentlemen from the West should not see and confess the fact. And, to make the matter still worse, the Attorney General of the United States has not long since given an elaborate opinion that settlers on the public lands, under the preemption laws, are mere tenants at will, who may be lawfully ejected by the Government at any moment. This opinion, which has been accepted by the Interior Department of the Government as law, puts in peril every preemption and homestead claimant throughout the entire territory of the United States; and I brand it as a flagrant outrage upon justice and a burlesque upon the very name of law. But I return to the question of homesteads in the land States of the South, and to show the difficulty of acquiring them in that section I ask the Clerk to read an extract from a letter I have recently received from Mississippi.

The Clerk read as follows:

"The disadvantages we labor under and the obstacles we meet can never be imagined by one who has not witnessed them. First, the extreme poverty of all Republicans; second, the fact that not one in a hundred live in their own houses and are not at lib-

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erty to entertain Republican canvassers; third, not one precinct in a hundred has a house of any kind where Republican meetings can be held; fourth, our enemies, bitter as ever they were during the war, own all the lands and most of the bread, and will try to starve us to vote their way. They are brave men who will fight against such odds."

Mr. JULIAN. That letter shows that in the very region in which the gentleman from Michigan says any man can find a home who wants it, the lands and the bread are in the hands of the rebels. I ask, in the name of humanity, and of common sense, how can the homeless and starving poor acquire homes under such circumstances? The government there, the ruling class, and the railroads are against them, and I call it a mockery to ask these helpless people to fight their battle unaided.

Any man, we are told, who wants a homestead can find it. I ask the gentleman from Michigan to remember, I ask this House to remember, what I said the other day, that of the agricultural regions of these States more than fifty-two million acres are in the hands of monopolists; that fourteen fifteenths of the people of these States, outside of their cities and towns, are without homes of their own, and to a great extent without the ability to acquire them; that some twenty-six million acres heretofore granted to these States as swamp lands have been bought up and are now held by the leading rebels of the South as a frightful monopoly from which all loyal men are excluded; and that the great body of the lands subject to settlement under the southern homestead law are almost worthless for tillage. If lands were as abundant in the South as gentlemen have attempted to show, the fact would destroy their strong argument against this bill; for the forfeiture of the few millions which it proposes would leave an ample supply for the railroads. Sir, the opposition to this bill proves that I am right in my statements.

Why, sir, the evidence comes to us through every newspaper from the South and every letter from the South, which speaks of the condition of the poor, that the sacred right of homestead is resolutely denied to the loyal masses, who are thus reduced to a condition of servitude and helplessness. The rebel landowner will neither sell his lands in small homesteads nor rent them on the shares, nor lease them in any form, unless he does it as a means of compelling the poor to renounce their loyalty. In this connection allow me to read extracts from two letters which I find in the huge volumes of southern correspondence with the Congressional Executive Committee, on file in their rooms:

"The rebels are using every means in their power to oppress and distress the freedmen. They are swindling them in every conceivable way, and turning them adrift without a mouthful to eat and nowhere to go. They say to these persecuted and outraged people, 'You have brought all this misery and distress upon yourselves by voting for the damned Radicals. Go to the damned scoundrels and see what they will do for you. We have the land and they have none. You may starve and go to hell, where we intend to send you and your damned rascally, Radical, scoundrel friends.' Hunger and starvation are hard masters. Notwithstanding all this outrageous and oppressive treatment, these old rebel tyrant masters are not able to seduce any of them from their tried and faithful loyalty to the Government. Should these true, loyal, and suffering supporters of the Government be left to the mercy of these traitors, or be left to starve on account of their loyalty and faithfulness to the Government? I am in hopes that Congress and our radical Republican friends in the North will take our situation and condition under consideration, and devise some means to render us immediate relief."

Mr. Speaker, this letter comes from Mississippi, one of the States named in this bill, and I commend it to the consideration of gentlemen who think the poor of the South abundantly able to take care of themselves. "We have the land," say the rebels, and "you may starve and go to hell." And will gentlemen on this floor and on this side of the House espouse the cause of railroad corporations which are controlled by such men? The writer of the letter I have read expresses the perfectly reasonable hope that "Congress and our Radi-

cal Republican friends in the North will take our situation and condition under consideration, and devise some means to render us immediate relief." Sir, that is just what I propose by the measure before us, so far as it may be possible, and I cannot believe that this House will be found wanting in its duty. Let us not dishonor the record we have made in uniformly standing by the rights of loyal men in their struggles against their rebel oppressors.

Let me read an extract from one other letter:

"You will see by this letter some part of the condition of our vicinity. The freedmen held a meeting to-day, but framed no resolutions, for the reason that the landowners or the employers are turning off a majority of the freedmen. They do not intend to work for \$100 a year and board themselves. The trouble is, the rebels will not employ those in the leagues or those who voted for a convention. What we are to do the Almighty only knows; but we will lay hold of the strength of our God and go forward, for He has blessed our cause. The employers have taken every grain of corn from the poor freedmen, besides all the cotton. There are a great many now homeless and destitute, without corn and without anything. The prospect is gloomy. Unless something is done starvation is inevitable; while on the other side they have plenty to live upon. Some few are renting their lands to the freedmen for a third share, but they have to get something to plow with and provisions where they can. Major Drake's and Henry Roger's tenants have told me that they were stripped of all corn and cotton and left to starve. The poor whites are faring no better. There was a poor white man in the neighborhood taken sick; he was a league man and favored a convention. They sent for three physicians; none attended him; the poor man suffered and died, and was buried. Major Drake said, 'dig a hole and put him in it.' We give only an outline of the treatment by the rebels. If they are not brought down we shall have a worse time than we have ever experienced. Since I commenced this letter we have been informed by James Peterkin's tenants that he turned them off without anything. We have not time to state the injustice and unrighteous conduct of the able class of people who oppress the poor and treat them with contempt and disdain. Every stumbling-block is thrown in the way, if possible, to subjugate the laborer. It is tax-gathering time. The freedmen are willing to pay their taxes if they had the means, but as everything has been taken from them they have nothing to pay with. When the deputy finds one able to pay he takes advantage of him."

Mr. Speaker, this letter speaks for itself, and is a single specimen of the many which find their way from the land of starvation and misrule, pleading for the interposition of Congress. Shall we turn a deaf ear to this general cry of distress? Shall our action here, speaking louder than words, admonish these homeless people that they "may starve and go to hell?"

Mr. LAWRENCE, of Ohio. In connection with the branch of the subject now being discussed by the chairman of the Committee on Public Lands he will allow me to say that I have caused to be prepared from official sources in the General Land Office and Census Bureau a table showing the amount of land subject to homestead entry in Alabama, Mississippi, Louisiana, Arkansas, and Florida; the number of homesteads at eighty acres each, with population, &c., which will show to some extent the necessity of the bill under consideration.

From this table it will be seen that if all the land subject to homestead entry is arable and accessible in three of these States the number of male citizens needing homesteads exceeds the number of homesteads. Thus the number of male citizens needing homesteads and the number of homesteads are as follows:

	Number of citizens.	Number of homesteads.
Alabama.....	86,024	86,437
Mississippi.....	86,439	61,625
Louisiana.....	118,904	82,275
Total.....	291,367	230,337

This leaves sixty-one thousand and thirty citizens unprovided with homesteads. To supply these would require 4,882,400 acres. The amount of land certified to these three States for railroad purposes is 3,112,565 acres, still leaving a deficiency if all the railroad lands could be appropriated for homesteads.

But it is well understood that not one half of the lands now subject to homestead entry

can be located for that purpose. Much of it is mountainous or barren sands, incapable of cultivation. In any event, many deserving and needy citizens must be left without homesteads.

If the lands shall be located for homesteads the wisdom of this bill will be demonstrated. If lands are left unentered, when we come to consider the propriety and the terms of land grants to railroad companies we can then decide what ought to be done.

I will ask to have the table incorporated with this debate in the Globe.

Mr. JULIAN. I shall be quite willing to have these facts go out with my speech.

Mr. BLAINE. Will the gentleman allow me to ask him a single question?

Mr. JULIAN. No, sir; I have not time.

Mr. BLAINE. Then I object to that table going in the Globe.

Mr. LAWRENCE, of Ohio. Then I ask to have it read as a part of my remarks.

The Clerk proceeded to read the table, but after some minutes was interrupted by

Mr. BLAINE, who said: More time has been consumed in the reading than my question would have occupied. I will now withdraw the objection.

Mr. WASHBURN, of Indiana. I renew it. I want to hear the table read.

The Clerk then concluded the reading of the table, which is as follows:

States.	Acres, subject to homestead entry.	Number of homesteads of eighty acres each, can be located if all the lands are suitable.	Males over twenty-one.		Total over twenty-one.	Farms of three acres and over.	Males not owning farms.
			Whites.	Colored.			
1. Alabama.....	6,915,000	86,437	76,125	69,965	136,090	50,654	\$6,024
2. Mississippi.....	4,980,000	61,625	56,547	66,893	123,440	37,017	\$6,439
3. Louisiana.....	6,582,000	82,275	69,134	67,061	136,195	17,281	118,904
4. Arkansas.....	11,757,000	146,992	45,721	14,157	59,878	3,190	26,638
5. Florida.....	17,540,000	219,250	12,638	6,998	19,636	6,306	12,240
6. Virginia.....					47,713		
7. North Carolina.....					272,101		
8. South Carolina.....					176,101		
9. Georgia.....					176,323		
10. Texas.....					150,976		
Total.....	47,724,000	566,549	290,163	214,060	1,201,807	143,938	380,275

Statement on the basis of the Census of 1860.

The lands certified for railroad purposes in these States, are as follows:

Certified to Florida, August, 1857, August and November, 1858, and October, 1860, under act of 17th of May, 1856—

1. For Florida road, acres.....	281,984.17
2. For Alabama and Florida road, acres.....	165,688.00
3. For Pensacola and Georgia road.....	1,275,212.93
4. For Florida, Atlantic, and Gulf Central road, acres.....	37,583.29

Total to Florida..... 1,700,468.39

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Certified to Alabama, May, 1859, and January, 1861—

(1.) Under act of May 17, 1856—	
1. For Alabama and Florida road, acres...	394,522.99
2. Under same act, for Alabama and Tennessee road, acres.....	440,700.16
(2.) Under act of 3d June, 1856—	
1. For Northwestern and Southwestern road, acres.....	289,535.58
2. For Coosa and Tennessee road, acres.....	67,784.96
3. For Will's Valley road, acres.....	471,920.57
4. For Mobile and Girard road, acres.....	504,145.86

Total to Alabama, acres..... 1,868,610.12

Certified to Mississippi, September, 1859, under act of August 11, 1856—

For Southern railroad, acres.....	171,550.00
Certified to Louisiana, October, 1859, and January, 1861, under act of 3d June, 1856—	
1. For Vicksburg and Shreveport road, acres.....	353,211.70
2. For New Orleans, Opelousas, and Great Western road, acres.....	710,193.75

Total to Louisiana..... 1,072,405.45

Recapitulation.

To Florida.....	1,760,468.39
To Alabama.....	1,868,610.12
To Mississippi.....	171,550.00
To Louisiana.....	1,072,405.45

Total approved to all southern States... 4,973,033.96

There being none approved to Arkansas under the acts referred to.

Mr. JULIAN resumed the floor.

Mr. INGERSOLL. If the gentleman will yield to me, I will move that the House adjourn, as it is getting late.

Mr. BLAINE. Let the previous question be seconded before we adjourn.

Mr. JULIAN. I am willing to go on now if the House wishes it. [Cries of "Go on."]

Mr. INGERSOLL. The best way to see if the House wishes it is to let the motion to adjourn be put.

Mr. WASHBURNE, of Illinois. We are very anxious to hear the speech of the gentleman from Indiana.

The SPEAKER. The Chair will state that the time occupied in putting the motion to adjourn will come out of the time of the gentleman from Indiana.

Mr. JULIAN. Very well; I will proceed now and will not occupy much further time.

But it is further objected to the passage of this bill that the great want of the people of these States is education, knowledge, and this point was particularly emphasized by the gentleman from Michigan [Mr. BLAINE] the other day. He argues that if you give a man education he will know how to acquire a homestead. Mr. Speaker, I agree that an educated man will be much able to acquire a home and to make his way through the world than one who is without education; I concede that, of course. But in the name of decency I ask how are the landless poor of the South, who, as I have already shown, are at the mercy of the rebels, to acquire an education? That is the previous question before this House, and I beg that it may be remembered.

"It is idle," says a leading London newspaper, "to talk of secular education, it is idle to talk of religious instruction, while the great mass of the people have no homes. How are we to teach, how are we to instruct; what can the schoolmaster achieve, what the preacher, when the intellects which the one would clove and the hearts which the other would teach are left to the cruel training of the streets." Sir, the immediate want of the people of these States is not education, but homes. They need their natural rights. Education and morality and the soundest orthodox preaching will be palliatives at best. They want independent homesteads, and bread—as the beginning and grand condition precedent of all other blessings. As I argued on this floor years ago, "Labor must be rendered honorable, and gainful by securing to the laborer the fruits of his toil. Instead of the spirit of caste and the law of hate, which have so long blasted these regions, we must build up homogeneous com-

munities in which the interest of each will be recognized as the interest of all. Instead of an overshadowing aristocracy, founded on the monopoly of the soil, and its dominion over the poor, we must have no order of nobility but that of the laboring masses of the country, who fight its battles in war and constitute its glory and its strength in peace."

Sir, I agree with the gentleman from Michigan that the poor should be taught to help themselves; and to this very end I would, as far as possible, secure to every poor man a home. Just so far as this can be done will the way be opened for the establishment of common schools and the education of the whole people; but it is nonsense to talk about general education when the policy of independent homesteads, guarded by law, is superseded by the monopoly of the soil in the hands of a few.

Why, sir, look at England, where a single landholder can mount his horse in front of his dwelling and ride a hundred miles in a straight line to the sea on his own land; and not only owning the soil, but the laborers who till it, and governing them according to his absolute will. This system of English serfdom is scarcely less galling than was our own system of chattel slavery; and it must be broken up as the preliminary to any educational policy which can really reach the mass of the people. The landless millions of England must have their God-given right to homes upon her soil; and just so far as this shall be done will education be brought within the reach of the people.

Sir, to taunt these helpless loyalists of the South, as has been done by gentlemen on this floor, to say to the poor freedman down there that all he wants is to learn how to take care of himself, is to trample justice and humanity under our feet. It is to insult those who have no power to resent what we do. It is like telling a drowning man, gasping for life, that his duty is to learn how to save himself instead of throwing out a plank for his rescue. The loyal millions of the South, who have been true to the Government under the greatest of trials and sufferings, deserve to be met in quite a different spirit. We have no right to exhort them to take care of themselves while we systematically withhold from them the means of asserting their rights as American citizens.

Mr. Speaker, I do not propose, in view of the present temper of this House and the lateness of the hour, to prolong this argument further. I intended to do so, but I trust it is not necessary. The simple question is, as I have said, between rebel corporations on the one hand and loyal settlers on the other, as to who shall possess and control four or five million acres of land. That is the issue; and to say that you will discriminate in favor of the rebel corporations at the expense of these loyal settlers is to go counter to the whole policy of Congress for the last six or seven years. That policy has been to discriminate on the side of loyalty; and it is just as needful that we should break up these rebel corporations as it was to break up the rebel State governments of the South. The power of a rebel railroad corporation may be less than the power of a rebel State government, or it may be greater, but both should be dismantled, and for precisely the same reasons; and I am astonished that gentlemen on this side of the House should be so ready to rush into the service of these corporations, at the expense and in forgetfulness of the rights of loyal men, and of the record they have made here since the beginning of the late war.

Mr. LAWRENCE, of Ohio. Will the gentleman allow me to ask him one more question?

Mr. JULIAN. Certainly.

Mr. LAWRENCE, of Ohio. I would be glad to know of the gentleman whether these railroad corporations are not now in the hands of men who, if they continue to control these lands, will refuse to allow any of them to go into the hands of the freedmen of the South.

Mr. JULIAN. I can certainly answer that

question in the affirmative, and have already submitted proofs of it. Those corporations, with perhaps one or two exceptions, are in the hands of the enemies of the loyal people of the South, the enemies of reconstruction, the enemies of the Government; and as evidence of that fact I had read by the Clerk the other day the official statement of Captain Hamill, transmitted to this House by General Grant, showing that during the war all the machinery of these infernal organizations was welded incessantly on the side of the rebellion. That fact is shown also by the testimony taken by the committee on southern railroads, which is now placed on the desks of members.

The policy of these corporations has been that of the rebel element generally, that of oppression, misrule, and starvation, as means of swerving loyal men from their faith. This I have shown already, and in the very nature of things it must be the fact. It is a part of the logic of baffled treason.

Mr. Speaker, having indicated what I think and how I feel on this question, let me say one word respecting a motion which I understand is to be made, and then I will submit the question to the judgment of the House. I learn that a motion is to be made by some gentleman to lay on the table the motion to reconsider the recommitment of this bill, which motion, if carried, would send the bill back to the Committee on Public Lands and kill it; for I say to this House (and I know something about the order of its business) that if the motion to reconsider be laid on the table and the bill is thus recommitted there will be no hope of its resurrection during this Congress, or at least during the present session. It has been whispered to me that the interests of the Republican party require that we should postpone action on this subject till December, and I know that that is the object of the motion. So far as that issue is concerned, let me say that I would a hundred times rather shoulder the responsibility of giving homes to these landless loyalists than vote down the proposition in the interest of rebels, or for any reason that has been given to this House. Let us do right, and not fear that the heavens will fall as the result. As to the motion to lay on the table, I ask gentlemen to take notice of what I again repeat, that to lay on the table is to defeat the bill. The country shall be advertised of that fact, and I am sure will not be misled respecting it.

I now demand the previous question.

It was seconded, and the bill was passed.

REPORT OF THE SELECT COMMITTEE ON SOUTHERN RAILROADS.

IN THE HOUSE OF REPRESENTATIVES,
February 7, 1868.

Mr. McCLURG, from the select Committee on Southern Railroads, submitted the following REPORT:

The select Committee on Southern Railroads respectfully report progress as follows:

They were appointed in pursuance of the following resolution, of date 27th March last:

"Resolved, That the Speaker be requested to reappoint the select Committee on Southern Railroads, to whom shall be referred the evidence taken by said committee during the Thirty-Ninth Congress, with power to send for persons and papers and to report during the next session of Congress, and the Speaker to fill any vacancies that there may be on said committee."

The reappointment of the committee imposed upon them the duties and conferred the powers of the committee of the Thirty-Ninth Congress which had not concluded the invest-

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igation required by the following resolution, December 4, 1866:

"Resolved, That a committee of five be appointed to examine into and report to the House of Representatives, at the next session of Congress:

"The past and present relations existing between the Federal Government and the railroads in the States lately in rebellion;

"The amount of money expended by the United States authorities in constructing, repairing, equipping, and managing said roads;

"The amount of money each of said railroad companies is owing to the Government, and all other facts that may be deemed of importance in connection with these subjects;

"And they shall also report what, in their opinion, would be the proper course to be taken by the Government in regard to such railroads or railroad companies.

"The committee shall be authorized to send for persons and papers, and, when thought necessary by them, may employ a clerk, and may report progress at any time."

On the 12th July, 1867, the duties of the committee were enlarged by the following resolution:

"Resolved, That the select Committee on Southern Railroads be instructed to inquire into the expediency of reporting a bill declaring forfeited to the United States all lands granted by Congress in the year 1856 to Mississippi, Alabama, Florida, Louisiana, and Arkansas, to aid in the construction of railroads, which grants have now expired by limitation."

Upon this resolution, as to the forfeiture of lands in five of the late rebel States, the committee do not now report, as the information sought by them through the War Department has not yet been furnished. And this subject will require another and separate report.

The testimony upon the other subjects referred to the committee on which the present report is based, is comprised in two volumes, to wit: Report No. 34, House of Representatives, second session Thirty-Ninth Congress, referred to this committee, and Report No. 8, first session of Fortieth Congress, made by this committee; to which references are made in this report, as detailing facts more minutely and sustaining its more general statements and the conclusions to which the committee have arrived.

The magnitude of this subject and importance of the principles involved have rendered it extremely difficult to confine a report within the usual limits; but it will be as concise as possible for a proper understanding of the subject, without imposing the necessity upon others of reading two volumes of testimony.

Acting under your instructions the committee take up the various branches of the subjects in the order in which they are presented in the resolutions.

PAST AND PRESENT RELATIONS.

First. "The past and present relations existing between the Federal Government and the railroads in the States lately in rebellion."

To speak in general terms, as the Federal arms were victoriously extended over States and portions of States lately in rebellion the railroads, with few exceptions, were seized and possessed, and thereafter during the rebellion, and for some months after the cessation of hostilities, occupied the relation to the Government of captured property and were used for military purposes in the transportation of troops and supplies.

To define this relation more fully and, at the same time, to disclose the testimony, if testimony apart from the familiar history of the country be needed, the committee here give statements of distinguished witnesses, both as to the facts and their opinions of the law. On pages 238 and 269 of Report No. 34, above named, are words of Hon. E. M. Stanton, Secretary of War, as follows:

"The seizures of the railroads in the rebel States and the theater of war were regarded by me as acts of war under the war power, and as being among what has always been regarded as the most important measures of war." "The seizures were made by the commanders in the field without reference to any other consideration than depriving the enemy of their use and applying them to their own, so far as I have any knowledge." "I conceive that the military commanders, as the agents of the Government, had the undoubted right to seize the roads exactly as they would seize any other property of the enemy in time of war, either for the purpose of injuring the enemy or for the purpose of using them themselves."

And Secretary Stanton (see page 271 of Report No. 34) when asked "in regard to the act of Congress under which the roads were taken possession of throughout the Union," replied:

"I do not regard that act of Congress" [of January 31, 1862] "as applying to any case except the cases in the loyal States."

And on page 212 of Report No. 34, President Johnson seems to have entertained the same view, as the president of the East Tennessee and Virginia Railroad Company says:

"The President declines to appoint the commissioners under that act, on the ground that the act does not apply to railroads in the rebellious States."

On page 256 of Report No. 34, Quartermaster General M. C. Meigs uses these words:

"I have always thought that our right to take and use this property during the war arose from the general law of war, the same as taking a battery of artillery. I cannot compare a railroad to anything more properly than to a battery of artillery, or rather to a park of artillery, as it is a most powerful and efficient auxiliary or instrument of war against an opposing force."

On page 14 of Report No. 34, Colonel A. H.

Markland testifies he "was, as special agent for the Post Office Department, with the advance of the Army from the time General Grant first moved until the Army was disbanded," and says:

"We took possession of them and used them for the benefit of the Army. We also took possession of the rolling stock and whatever appertained to the railroad as a matter of military necessity." "I know every railroad we did capture we used as a matter of necessity; frequently fighting for a piece of railroad to use it."

On page 25 of Report No. 34, General L. S. Trowbridge testifies:

"It was necessary for the Government to use these roads for military purposes. They were indispensable to the Government; it could not get along without them."

On page 236 of the same report General E. R. S. Canby testifies:

"They were held as captured property and for the benefit of the Government, and so used in any way they could be used."

On page 169 of the same report General Philip H. Sheridan testifies:

"They were treated as captured property; that was my idea; and therefore rightfully belonged to us; and we used them as we pleased; destroyed or repaired them as occasion required."

The committee might be regarded as under-estimating the intelligence of the House and the country were they to do more upon this point than add the words of Secretary Stanton, page 269 of Report No. 34:

"Nobody doubts my opinion that these seizures were a legitimate exercise of the rights of war."

It appears from the testimony of General M. C. Meigs, on page 255 of Report No. 34, that the matter of southern railroads became a subject of consideration, more or less, from the beginning of the rebellion, and that "the system grew up gradually to meet necessities as they arose" in connection with the quartermaster's department.

This system became so immense that it was familiarly called the military railroad department.

To the officers connected with this department the committee are much indebted for the information which they are here enabled to give in a more condensed form.

Other testimony corroborating the reports of these officers, introduced as testimony, show that forty-two railroads were seized and operated by the United States Government in the late rebel States, the names of which roads here appear, with the terminal stations, their length, the dates at which possession was taken, and when they were returned to the companies:

No.	Name of road.	State.	Terminal stations.		Length, miles.	Possession taken.	Relinquished and returned to company.
			From—	To—			
1	Alexandria and Washington.....	Virginia.....	Alexandria.....	Washington.....	7	Jan. 10, 1862	Aug. 8, 1865.
2	Orange and Alexandria.....	Virginia.....	Alexandria.....	Mitchell's Station.....	63	March 31, 1862	June 27, 1865.
3	Warrenton Branch.....	Virginia.....	Warrenton Junction.....	Warrenton.....	9	April —, 1862	June 27, 1865.
4	Alexandria, Loudoun, and Hampshire.....	Virginia.....	Alexandria.....	Vienna.....	15	April —, 1862	Aug. 8, 1865.
5	Richmond, Fredericksburg, and Potomac.....	Virginia.....	Aquia Creek.....	Falmouth.....	15	April —, 1862	May 23, 1864.
6	Richmond and York River.....	Virginia.....	White House.....	Fair Oaks.....	20	May 1, 1862	June 13, 1864.
7	South Side.....	Virginia.....	City Point.....	Barkeville.....	62	April 11, 1865	July 24, 1865.
8	Richmond and Petersburg.....	Virginia.....	Manchester.....	Petersburg.....	22	April 4, 1865	July 3, 1865.
9	Clover Hill Branch of Richmond and Petersburg railroad.....	Virginia.....	Clover Hill Station.....	Coal Mines.....	18	April 4, 1865	July 3, 1865.
10	Richmond and Danville.....	Virginia.....	Manchester.....	Danville.....	140	April —, 1865	July 4, 1865.
11	Norfolk and Petersburg.....	Virginia.....	Norfolk.....	Blackwater.....	44	July 20, 1862	July 1, 1865.
12	Seaboard and Roanoke.....	Virginia.....	Portsmouth.....	Suffolk.....	17	May —, 1863	July 1, 1865.
13	Manassas Gap.....	Virginia.....	Manassas Junction.....	Strasburg.....	62	April —, 1862	Nov. 10, 1864.
14	Winchester and Potomac.....	Virginia.....	Harper's Ferry.....	Stevenson.....	28	Aug. 10, 1861	Jan. 20, 1866.
15	Nashville and Chattanooga.....	Tennessee.....	Nashville.....	Chattanooga.....	151	Feb. 4, 1861	Sept. 25, 1865.
16	Shelbyville Branch.....	Tennessee.....	Wartrace.....	Shelbyville.....	9	Feb. 4, 1864	Sept. 25, 1865.
17	Nashville and Decatur.....	Tenn. and Ala.....	Nashville.....	Decatur.....	120	Feb. 4, 1864	Sept. 25, 1865.
18	Mount Pleasant Branch.....	Tennessee.....	Columbia.....	Mount Pleasant.....	12	Feb. 4, 1864	Sept. 25, 1865.
19	Nashville and Northwestern.....	Tennessee.....	Nashville.....	Johnsonville.....	78	Feb. 4, 1864	Sept. 1, 1865.
20	Nashville and Clarksville.....	Tennessee.....	Nashville.....	Clarksville.....	62	Aug. —, 1864	Sept. 23, 1865.
21	McMinnville and Manchester.....	Tennessee.....	Tullahoma.....	McMinnville.....	35	Feb. 4, 1864	Sept. 25, 1865.
22	East Tennessee and Georgia.....	Tenn. and Ga.....	Chattanooga.....	Knoxville.....	112	Feb. 4, 1864	Aug. 28, 1865.
23	Dalton Branch.....	Tenn. and Ga.....	Cleveland.....	Dalton.....	27	Feb. 4, 1864	Aug. 28, 1865.
24	East Tennessee and Virginia.....	Tennessee.....	Cleveland.....	Carter's Station.....	110	April 23, 1865	Aug. 28, 1865.
25	Rogersville and Jefferson.....	Tennessee.....	Junction of E. Tenn. and Virginia R. R.....	Rogersville.....	12	June 30, 1865	Aug. 28, 1865.
26	Western and Atlantic.....	Tennessee.....	Chattanooga.....	Atlanta.....	136	Feb. 4, 1864	Sept. 25, 1865.
27	Rome.....	Georgia.....	Kingston.....	Rome.....	17	Feb. 4, 1864	Sept. 25, 1865.
28	Macon and Western.....	Georgia.....	Atlanta.....	Rough-and-Ready.....	11	Feb. 4, 1864	Nov. —, 1864.
29	Memphis and Charleston, (eastern division.).....	Tennessee.....	Decatur, Alabama.....	Stevenson, Alabama.....	80	Feb. 4, 1864	Sept. 1, 1866.

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Report on Southern Railroads.

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TABLE—Continued.

No.	Name of road.	State.	Terminal stations.		Length, miles.	Possession taken.	Relinquished and returned to company.
			From—	To—			
30	Memphis and Charleston, (western division),	Tennessee	Memphis	Poehontas	75	Feb. 26, 1864	Sept. 1, 1865.
31	Mississippi Central	Mississippi	Grand Junction	Tallahatchie river	48	Feb. 26, 1864	Aug. 24, 1864.
32	Mobile and Ohio	Tennessee	Columbia, Kentucky	Brockett's Station	35	Feb. 4, 1864	Aug. 25, 1865.
33	Memphis and Little Rock	Arkansas	Duval's Bluff	Little Rock	49	May 1, 1865	Nov. 1, 1865.
34	Savannah and Gulf	Georgia	Savannah	Ogeechee river	11	Jan. —, 1865	June 20, 1865.
35	Georgia Central	Georgia	In and around the	city of Savannah	3	Jan. —, 1865	June 20, 1865.
36	Atlantic and North Carolina	North Carolina	Morehead City	Goldsboro	95	June —, 1862	Oct. 25, 1865.
37	North Carolina	North Carolina	Goldsboro	Charlotte	223	June —, 1862	Oct. 22, 1865.
38	Wilmington and Weldon	North Carolina	Wilmington	Weldon	162	June —, 1862	Aug. 27, 1865.
39	Raleigh and Gaston	North Carolina	Raleigh	Cedar Creek	25	June —, 1862	May 3, 1865.
40	New Orleans, Opelousas, and Great Western	Louisiana	New Orleans	Brashear City	80	Jan. —, 1863	Jan. 31, 1866.
41	New Orleans, Jackson, and Great Northern	Louisiana	New Orleans	Jackson	183	Jan. 30, 1863	June 30, 1865.
42	San Antonio and Mexican Gulf	Texas	Victoria	Port Lavaca	28	Aug. —, 1865	March 25, 1866.

Making a total length of 2,538 miles; and that in the rebel States three were constructed by the United States Government, with a total length of thirty-one and a half miles.

Railroads constructed by the United States Military Railroad Department.

No.	Name of road.	State.	Terminal stations.		Length, miles.	Date of construction.	Date of abandonment.
			From—	To—			
1	City Point and Army Line	Virginia	Pitkin's Station	Humphrey's Station	18	Autumn of 1864	June —, 1865.
2	St. Joseph's	Louisiana	Hickox Landing	Junction of Jackson railroad.	4	Jan. —, 1863	March 10, 1866.
3	Brazos Santiago and Rio Grande	Texas	Brazos Santiago	White's Ranch	9½	Dec. —, 1865	July 7, 1866.

After the close of the war, by the suppression of the rebellion by force of arms, the railroads so seized and used were restored to the original railroad companies respectively at the respective dates just named. They were no longer regarded, or at least treated, by the Administration at Washington as property belonging to the Government, and, being restored to the original companies, their relation to the Government became changed. The Government fetters were relaxed, and, like slaves coming up from chattels into life with souls breathed into them, they became parties to contracts. They became purchasers of certain property, principally of what is familiarly called "rolling stock," from the Government, which had been during the war purchased by the Government from northern railroads and manufacturers. Not being able, or, at least, after the necessary ravages of war, presumed not to be able, to pay ready cash for said property, they became debtors to the Government and gave bonds, each for the amount of its respective purchase. From the relation of captured property belonging to the Government they thus occupied the relation of debtors to the Government with its military grasp relaxed. Such is the relation they now, with some few exceptions, sustain.

BAD FAITH.

These debtors have generally (with a few honorable exceptions, which the committee will with pleasure mention) failed to meet their obligations promptly. Some have unbecomingly broken faith with the Government, have falsified their promises, and have presumed to bring forward as offsets, or rather as overshadowing claims, accounts against the Government for the use of the roads by the Government after their capture during the rebellion.

With life restored for the time being by the Government which they, as mighty and "efficient instruments of war," had been attempting to destroy, they again seek its vitals by attempting to absorb its material lifeblood, its financial substance. Callous to all feelings of gratitude, they assert claims against the Government for the use of the roads, which very

use had become necessary in order to suppress the very rebellion against that Government which they themselves had been, so far as testimony will show, the willing instruments in sustaining. The red-handed criminal, or, using the mildest language the committee can think at all proper, the *particeps criminis*, claims compensation for losses incurred in consequence of his own crime.

These facts will necessarily lead the committee to further statements and remarks on this point before they shall have closed this report. They have now merely stated "the past and present relations" of these captured railroads in general terms.

MONEY EXPENDED.

The next branch of the subject presented to the committee is—

"The amount of money expended by the United States in constructing, repairing, equipping, and managing said roads."

This information the committee have obtained, so far as possible, and present in the testimony. They would have been pleased to have procured information to enable them to report the amount of money expended on each of said roads, but, as will be seen on page 307 of Report No. 34, "the reports of the military railroad department give the totals of expenditures and of receipts for each department or military division, but fail to show the precise amount expended upon or received from each road," arising "partly from imperfections in the reports and partly from the fact that much of the expense was in common to all the railroads or those of one department." Major General George H. Thomas, (see page 307 of Report No. 34,) under executive order of 8th August, 1865, "caused tabular statements of expenditures and receipts to be prepared of each road in the military division of the Tennessee;" but it will be observed that "they were made up in a great measure from estimates, not from actual figures; and these statements are carried back only to August 1, 1863, while some of the railroads included in them were used at an earlier period." "As to the railroads other than in military division of

the Tennessee, there was at Quartermaster General's office no ascertained record of the expenditures and receipts of each railroad prior to the inquiry of this committee."

"The report of Colonel Crilly supplies the information as far as ascertained; but the records of the military railroad department cover but a portion of the period during which these railroads were held by Government."

"The military commanders who first seized and held them have furnished but imperfectly, if at all, either through direct reports or those of their quartermasters, the data for ascertaining the expenditures and receipts upon each railroad."

And your committee can very readily understand why commanders did not require these accounts to be kept separate and distinct for each road; because it did not enter into their minds to conceive that it could ever be contemplated by a Government to pay enemies for the use of captured property that had been used against that Government.

But as the committee are only instructed to give "the amount of money expended by the United States authorities in constructing, repairing, equipping, and managing said roads," they state the aggregate amount, so far as estimates have been made in the quartermaster's department. As per statement No. 5 on page 326 of Report No. 34, the aggregate "cost of constructing and operating United States military railroads during the rebellion," being "the amounts expended for labor and materials," is \$45,367,480 27.

In the estimates of expenditures for "labor" it should be borne in mind that the evidence discloses the fact that the pay of soldiers who performed "labor" on roads is not included.

MONEY OWING BY EACH RAILROAD.

This brings the committee to the next branch of the subject as presented, to wit, "the amount of money each of said railroad companies is owing to the Government."

To impart the fullest information the Committee here copy tabular statement from pages 327 and 328 of Report No. 34.

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Report on Southern Railroads.

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Statement of the Indebtedness of Railroad Companies for the Purchase of Railway Material of the United States on credit, under executive orders of August 8 and October 14, 1865, showing the appraised value of property transferred, with interest accrued thereon to June 30, 1866, amount of payments made, and balance remaining due at that date.

Name of railroad company.	Value of property sold.	Interest to 30th June, 1866.	Total debt, June 30, 1866.	Payments.	Amount due in interest and installments, June 30, 1866.	Total balance due.
Will's Valley.....	\$30,248 52	\$1,487 44	\$31,735 96	\$1,300 00	\$10,299 16	\$30,435 96
Edgefield and Kentucky.....	114,772 86	5,513 12	120,285 98	-	41,103 81	120,285 98
Macon and Brunswick.....	93,237 50	1,125 49	94,362 99	68,095 01	8,442 75	26,267 98
Montgomery and West Point.....	38,559 66	1,650 31	40,209 97	17,794 45	-	22,415 52
Southwestern.....	46,159 89	-	46,159 89	46,159 89	-	-
Rome.....	22,086 05	910 13	22,996 18	7,256 71	1,018 91	15,739 47
Memphis and Ohio.....	106,929 13	4,948 88	111,878 01	15,283 57	25,204 48	96,594 44
Memphis, Clarksville, and Louisville.....	337,993 72	14,330 92	352,324 64	-	-	352,324 64
Mississippi and Tennessee.....	127,750 52	5,111 99	132,862 51	30,401 95	1,325 56	102,460 56
Alabama and Florida.....	51,912 00	2,501 84	54,413 84	12,733 75	7,032 37	41,680 09
East Tennessee and Georgia.....	366,183 02	20,122 88	386,305 90	26,942 97	115,413 07	359,362 93
Muscogee.....	5,244 20	238 59	5,482 79	1,316 45	685 59	4,166 34
Macon and Western.....	83,638 15	-	83,638 15	81,282 60	-	2,355 55
Nashville and Chattanooga.....	1,566,551 73	85,377 57	1,651,929 30	158,725 23	-	1,493,204 07
Tennessee and Alabama Central.....	84,143 00	4,336 52	88,479 52	25,071 06	378 18	63,408 46
Mobile and Ohio.....	505,143 70	19,290 36	524,434 06	222,068 61	3,003 95	302,365 45
Mobile and Great Northern.....	14,637 73	630 15	15,267 88	4,190 19	66 07	11,077 69
Memphis and Charleston.....	547,494 09	9,779 97	557,274 06	82,306 49	-	474,967 57
Alabama and Tennessee River.....	183,276 49	8,608 08	191,884 57	15,340 18	54,406 27	176,544 39
Mississippi, Gainesville, and Tuscaloosa.....	33,476 59	1,705 72	35,182 31	1,106 40	11,758 12	34,075 71
Georgia Railroad and Banking Company.....	11,935 05	-	11,935 05	11,935 05	-	-
New Orleans and Ohio.....	32,150 00	1,558 28	33,708 28	3,266 16	9,016 37	30,442 12
Nashville and Decatur.....	135,171 92	4,697 89	139,869 81	31,015 04	649 23	108,854 77
Western and Atlantic.....	472,944 66	25,817 14	498,761 80	-	183,660 97	498,761 80
Central Southern.....	77,196 32	3,078 10	81,164 42	22,996 43	346 93	58,167 99
East Tennessee and Virginia.....	205,655 65	15,028 36	220,684 01	8,849 45	95,346 46	272,334 56
Southwestern Iron Company.....	32,515 00	-	32,515 00	32,515 00	-	-
Adams Express Company.....	4,861 45	-	4,861 45	4,861 45	-	-
Nashville and Northwestern.....	525,400 26	30,802 09	556,202 35	23,937 34	181,787 29	532,265 01
Mississippi Central.....	78,460 00	2,513 73	80,973 73	19,394 11	-	61,579 62
New Orleans, Jackson, and Great Northern.....	167,815 53	6,673 81	174,489 39	57,359 13	3,373 45	117,130 26
Tennessee and Alabama.....	108,602 68	5,606 53	114,209 26	82,849 20	488 77	31,359 06
Selma and Meridian.....	146,327 92	5,329 87	151,657 79	58,088 49	-	93,569 30
Virginia and Tennessee.....	102,880 00	3,912 86	106,792 86	-	33,216 48	106,792 86
Wilmington and Weldon.....	110,000 00	2,622 67	112,622 67	10,836 07	-	101,786 60
Atlantic and North Carolina.....	51,453 93	2,073 75	53,527 68	5,948 04	4,046 79	47,579 64
Western North Carolina.....	14,269 82	541 69	14,811 51	2,138 35	138 61	12,673 16
Petersburg.....	65,000 00	1,706 23	66,706 23	13,307 10	-	48,399 13
Virginia Central.....	70,000 00	4,413 26	74,413 26	4,421 71	13,341 30	60,088 55
Richmond, Fredericksburg, and Potomac.....	7,449 27	-	7,449 27	7,449 27	-	-
Orange and Alexandria.....	90,305 74	4,693 28	95,009 02	17,750 45	-	77,258 57
Alexandria, Loudoun, and Hampshire.....	62,592 96	2,284 62	64,877 58	-	17,982 86	64,877 58
Manassas Gap.....	4,623 51	146 21	4,769 72	300 09	877 43	4,463 23
McMinnville and Manchester.....	20,310 00	552 43	20,862 43	-	4,783 63	20,862 43
South Carolina.....	23,458 50	633 06	24,091 56	-	5,525 26	24,091 56
Memphis and Little Rock.....	153,287 47	6,527 49	159,814 96	-	-	159,814 96
New Orleans, Opelousas, and Great Western.....	113,773 45	3,460 19	117,233 64	-	27,162 99	117,233 64
San Antonio and Mexican Gulf.....	48,775 19	949 49	49,724 68	-	7,452 85	49,724 68
New Orleans, Jackson, and Great Northern.....	33,050 00	616 56	33,666 56	-	5,668 60	33,666 56
Orange and Alexandria.....	28,500 00	1,271 41	29,771 41	9,979 74	-	19,791 67
McMinnville and Manchester.....	26,198 54	-	26,198 54	-	-	26,198 54
Total.....	\$7,444,073 22	\$326,086 01	\$7,770,159 23	\$1,200,085 18	\$874,954 58	\$6,570,074 05

ALEXANDER BLISS,

Colonel Quartermaster's Department, Brevet Colonel United States Army, in charge Fourth Division.

From which it appears that the value of property sold the roads in the fall of 1865 was \$7,444,073 22; and which likewise shows the indebtedness of each road on June 30, 1866, amounting in the aggregate to \$6,570,074 05; also, a tabular statement from pages 190 and 191 of same report.

Consolidated Report and Statement of Account between the United States and the Railroad Companies in the Department of the Tennessee for sales of Military Railroad Property under executive orders of August 8 and October 14, 1865, and orders of the Quartermaster General, for the month ending January 31, 1867.

Running number.	Name of railroad company.	Balance of principal unpaid December 31, 1866.	Balance of interest unpaid December 31, 1866.	Total unpaid December 31, 1866.	Monthly interest payable January 31, 1867.	Total interest due January 31, 1867.	Balance of installments unpaid December 31, 1866.	Monthly installments payable January 31, 1867.	Total installments due January 31, 1867.	Total interest and installments due January 31, 1867.
1	Rome.....	\$9,575 24	-	\$9,575 24	\$50 37	\$59 37	\$374 92	\$920 04	\$1,294 96	\$1,354 33
2	Edgefield and Kentucky.....	115,804 58	\$8,781 84	124,586 42	717 99	9,499 83	-	-	9,499 83	9,499 83
3	Mobile and Great Northern.....	5,258 94	32 61	5,291 55	32 61	65 22	-	610 63	610 63	675 85
4	Will's Valley.....	28,948 52	2,552 74	31,501 26	179 48	2,732 22	16,363 08	1,258 56	17,621 64	20,352 86
5	East Tennessee and Georgia.....	350,447 53	4,275 46	354,723 04	2,172 77	6,448 23	76,003 98	15,246 87	91,250 85	97,699 08
6	Montgomery and West Point.....	20,897 83	225 46	21,123 29	129 57	453 03	4,841 55	1,605 63	6,447 18	6,900 21
7	Macon and Brunswick.....	23,671 34	577 58	24,248 92	146 76	724 34	12,530 53	1,114 07	13,644 60	14,368 94
8	Alabama and Florida.....	41,177 72	2,017 71	43,195 43	255 30	2,273 01	19,522 94	2,165 49	21,688 43	23,961 44
9	Muscogee.....	2,868 02	17 78	2,885 80	17 78	35 56	692 63	217 56	910 19	945 75
10	Mobile and Ohio.....	287,896 53	6,837 58	294,734 11	1,734 96	8,622 54	99,651 91	18,519 43	118,171 39	126,793 93
11	Memphis and Ohio.....	93,928 19	1,145 92	95,074 11	582 35	1,728 27	49,809 51	4,461 88	53,771 39	55,499 66
12	Mississippi and Tennessee.....	101,597 69	1,869 41	103,467 10	629 91	2,499 32	22,134 51	3,611 97	25,746 48	28,246 80
13	Carried forward.....	\$122,072 18	\$28,332 09	\$1,000,494 27	\$6,708 85	\$35,138 94	\$20,425 56	\$49,732 18	\$353,267 74	\$393,297 68

* Excess December 31, 1866, \$3,250 62; January 31, 1867, \$2,679 04.

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Report on Southern Railroads.

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Consolidated Report and Statement, &c.—Continued.

Running number.	Name of railroad company.	Balance of principal unpaid December 31, 1866.	Balance of interest unpaid December 31, 1866.	Total unpaid December 31, 1866.	Monthly interest payable January 31, 1867.	Total interest due January 31, 1867.	Balance of installments unpaid December 31, 1866.	Monthly installments payable January 31, 1867.	Total installments due January 31, 1867.	Total interest and installments due January 31, 1867.
	Brought forward.....	\$122,072 18	\$26,332 09	\$1,009,494 27	\$6,708 85	\$35,138 94	\$29,425 56	\$49,732 18	\$353,267 74	\$396,297 68
15	East Tennessee and Virginia.....	263,840 19	4,267 68	268,107 87	1,635 81	5,903 49	64,657 43	11,661 76	75,719 19	81,622 68
16	Memphis and Charleston.....	426,783 76	-	426,783 76	-	-	-	-	-	-
17	Memphis, Clarksville, and Louisville.....	337,993 72	26,759 08	364,752 80	2,695 56	28,364 64	822,870 77	65,233 58	888,104 35	28,864 64
18	Nashville and Chattanooga.....	1,475,206 55	51,371 92	1,526,578 47	9,146 28	60,518 20	302,788 30	21,863 48	324,651 78	918,622 55
19	Nashville and Northwestern.....	522,085 17	27,099 99	549,185 16	3,236 93	30,336 92	17,061 03	1,339 11	18,390 14	354,988 70
20	New Orleans and Ohio.....	30,442 12	1,120 26	31,562 38	188 74	1,309 00	-	-	-	19,699 14
21	Tennessee and Alabama.....	70,005 24	1,927 72	80,932 96	489 83	2,417 55	-	-	-	2,417 55
22	Central Southern.....	56,104 11	1,268 94	57,373 05	347 85	1,716 79	-	-	-	1,716 79
23	Tennessee and Alabama Central.....	61,160 69	1,492 32	62,653 01	379 20	1,871 52	-	-	-	1,871 52
24	Nashville and Decatur Railroad Line.....	103,015 68	1,895 49	104,911 17	638 70	2,534 19	-	-	-	2,534 19
25	Mississippi, Gainesville, and Tuscaloosa.....	33,476 39	1,820 86	35,297 25	207 55	2,028 41	19,527 90	1,994 85	20,922 75	22,951 16
26	Selma and Meridian.....	87,836 05	544 58	88,380 63	544 58	1,089 16	26,579 41	6,129 16	32,708 57	33,797 73
29	Mississippi Central.....	39,120 66	-	39,120 66	242 55	242 55	-	2,304 97	2,304 97	2,304 97
30	Alabama and Tennessee River.....	173,388 72	7,397 21	180,785 93	1,075 01	8,472 22	-	-	-	8,472 22
31	New Orleans, Jackson, and Great Northern.....	71,598 11	-	71,598 11	443 91	443 91	-	7,026 45	7,026 45	7,470 36
33	Western and Atlantic.....	446,862 44	2,418 34	449,280 78	2,770 55	5,188 89	249,924 41	10,698 80	260,618 21	274,807 10
34	Virginia and Tennessee.....	102,880 00	7,698 86	110,578 86	637 86	8,336 72	55,271 86	4,328 04	59,599 90	67,936 02
35	South Carolina.....	22,458 50	1,501 32	24,959 82	145 44	1,646 76	10,751 84	977 44	11,729 28	13,376 04
36	McMinnville and Manchester.....	20,310 00	1,299 83	21,609 83	125 92	1,425 75	9,308 75	846 25	10,155 00	11,580 75
36	McMinnville and Manchester.....	26,198 54	-	26,198 54	-	-	-	-	-	-
37	Knoxville and Kentucky.....	10,793 66	131 68	10,925 34	66 92	198 60	1,027 08	513 99	1,541 97	1,740 57
	Totals.....	\$5,483,632 48	\$108,558 17	\$5,592,190 65	\$31,128 04	\$199,686 21	\$1,381,185 24	\$192,445 06	\$2,073,630 30	\$2,273,316 51

* Excess December 31, 1866, \$11,538 01; January 31, 1867, \$9,233 04.

Consolidated Report and Statement, &c.—Continued.

Running No.	Name of railroad company.	Amount of payments in January, 1867.	How paid.	Date of payment.	Credit: interest on amount of payment in excess of interest due at date of payment.	Balance of interest unpaid January 31, 1867.	Balance of installments unpaid January 31, 1867.	Total interest and installments unpaid January 31, 1867.	Balance of principal unpaid January 31, 1867.	Total principal and interest unpaid January 31, 1867.
1	Rome.....	\$976 66	Cash	Jan. 31.	-	\$9,499 83	\$377 67	\$376 67	\$8,657 95	\$8,657 95
2	Edgefield and Kentucky.....	-	-	-	-	65 22	-	65 22	115,804 58	125,304 41
3	Mobile and Great Northern.....	-	-	-	-	2,732 22	17,621 64	20,353 86	28,948 52	31,680 74
4	Wills Valley.....	-	-	-	-	6,448 23	91,250 85	97,699 08	350,447 58	356,895 81
5	East Tennessee and Georgia.....	-	-	-	-	453 03	6,447 18	6,900 21	20,897 83	21,350 86
6	Montgomery and West Point.....	-	-	-	-	724 84	13,614 60	14,338 94	23,671 34	24,395 68
7	Macon and Brunswick.....	-	-	-	-	-	14,970 35	14,970 35	34,459 64	34,459 64
8	Alabama and Florida.....	8,970 63	P. O. service.	Jan. 16.	\$20 46	35 56	910 19	945 75	2,868 02	2,903 58
9	Muscooke.....	23 99	Tr. award.	Dec. 7.	13	-	-	-	-	-
10	-	44,255 05	P. O. service.	Jan. 4.	200 81	-	69,686 30	69,686 30	239,411 44	239,411 44
11	-	11,975 00	P. O. service.	Jan. 15.	86 55	-	-	-	-	-
12	Mobile and Ohio.....	614 40	P. O. service.	Jan. 16.	1 70	-	-	-	-	-
13	Memphis and Ohio.....	1,875 00	P. O. service.	Jan. 15.	-	1,728 27	53,771 39	55,499 66	93,928 19	95,656 46
14	Mississippi and Tennessee.....	-	P. O. service.	Jan. 4.	-	624 32	25,746 48	26,370 80	101,597 69	102,222 01
15	East Tennessee and Virginia.....	3,267 50	Transport'n.	Jan. 8.	-	2,103 38	75,719 19	77,822 57	263,840 19	265,943 57
16	Memphis and Charleston.....	21 77	Tr. award.	Dec. 21.	-	-	-	-	436,761 99	436,761 99
17	Memphis, Clarksville, and Louisville.....	-	-	-	-	28,864 64	888,104 35	28,864 64	337,993 72	366,858 36
18	Nashville and Chattanooga.....	2,984 15	Transport'n.	Jan. 25.	-	57,534 05	324,651 78	945,638 40	1,475,206 55	1,532,740 60
19	Nashville and Northwestern.....	-	-	-	-	30,336 92	18,390 14	351,988 70	522,085 17	552,422 09
20	New Orleans and Ohio.....	-	-	-	-	1,309 00	-	19,699 14	30,442 12	31,751 12
21	Tennessee and Alabama.....	-	-	-	-	2,417 55	-	2,417 55	79,005 24	81,422 79
22	Central Southern.....	-	-	-	-	1,716 79	-	1,716 79	56,101 11	57,817 90
23	Tennessee and Alabama Central.....	-	-	-	-	1,871 52	-	1,871 52	61,160 69	63,032 21
24	Nashville and Decatur Railroad Line.....	-	-	-	-	2,534 19	-	2,534 19	103,015 68	105,549 87
25	Mississippi, Gainesville, and Tuscaloosa.....	-	-	-	-	2,028 41	20,922 75	22,951 16	33,476 39	35,504 80
26	Selma and Meridian.....	5,000 00	Cash.	Jan. 16.	12 52	242 55	28,735 21	28,735 21	83,912 69	88,912 69
29	Mississippi Central.....	-	-	-	-	8,472 22	-	8,472 22	39,120 66	39,363 21
30	Alabama and Tennessee River.....	-	-	-	-	-	-	-	173,388 72	181,860 94
31	New Orleans, Jackson, and Great Northern.....	7,470 36	Cash.	Jan. 31.	5 05	3,606 11	269,618 21	273,224 32	64,571 66	64,571 66
33	Western and Atlantic.....	1,577 73	Tr. award.	Dec. 12.	-	8,336 72	59,599 90	67,936 62	102,880 00	111,216 72
34	Virginia and Tennessee.....	-	-	-	-	-	-	-	-	-
35	South Carolina.....	25,105 26	Transport'n.	Dec. 31.	-	1,425 75	10,155 00	11,580 75	20,310 00	21,735 75
36	McMinnville and Manchester.....	-	-	-	-	-	-	-	26,198 54	26,198 54
37	McMinnville and Manchester.....	-	-	-	-	198 60	1,541 97	1,740 57	10,793 66	10,992 26
	Totals.....	\$114,650 11	-	-	\$277 22	\$175,309 42	\$1,991,915 15	\$2,167,224 57	\$5,393,081 94	\$5,568,391 36

I certify that the above report is correct:

S. R. HAMILL,

Brevet Major, A. Q. M., in charge U. S. Military Railroads.

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Report on Southern Railroads.

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Showing the indebtedness of each road on the 31st day of January, 1867, amounting in the aggregate to \$5,568,391 36; also, tabular statement from pages 89 and 90 of Report No. 3.

Statement of the Indebtedness of Railroad Companies for Purchases of Railway Material of the United States, under Executive Orders of August 8 and October 14, 1865, showing the Appraised Value of Property Purchased, Amounts of Payments Made, and Total Balance due, including interest, on November 1, 1867.

Name of railroad company.	Value of property sold.	Payments by—			Payments.	Dates between which payments were made.	Balance due Nov. 1, including interest.
		Cash.	Transportation accounts.	Mail service.			
Wills Valley.....	\$30,248 52	\$3,300 00	-	-	\$3,300 00	November 30, 1865, and November 1, 1867.	\$31,261 32
Edgefield and Kentucky.....	114,772 86	-	\$287 12	-	287 12	November 30, 1865, and November 1, 1867.	131,340 24
Macon and Brunswick.....	93,237 50	79,551 06	520 95	\$549 64	80,621 65	November 30, 1865, and November 1, 1867.	15,556 12
Montgomery and West Point.....	33,559 66	15,308 43	14,333 96	9,866 67	39,509 06	November 30, 1865, and November 1, 1867.	2,233 70
Southwestern.....	46,159 89	46,159 89	-	-	46,159 89	November 30, 1865, and May 4, 1866.	-
Rome.....	22,086 05	18,425 26	1,424 88	2,024 88	21,875 02	November 30, 1865, and November 1, 1867.	1,930 77
Memphis and Ohio.....	106,929 13	27,001 40	3,477 80	15,142 50	45,621 70	November 30, 1865, and November 1, 1867.	75,082 04
Memphis, Clarksville and Louisville.....	337,993 72	2,245 67	439 97	-	2,685 54	November 30, 1865, and November 1, 1867.	382,777 27
Mississippi and Tennessee.....	127,750 52	32,755 52	2,309 05	10,229 17	45,293 74	November 30, 1865, and November 1, 1867.	97,887 55
Alabama and Florida.....	51,912 00	20,649 93	13,801 27	17,417 59	51,868 79	November 30, 1865, and November 1, 1867.	13,983 44
East Tennessee and Georgia.....	368,183 02	25,690 76	15,333 46	26,192 18	67,206 40	November 30, 1865, and November 1, 1867.	353,153 15
Muscogee.....	5,244 20	5,645 11	2 89	-	5,648 00	November 30, 1865, and May 15, 1867.	-
Macon and Western.....	88,638 15	56,387 46	27,250 69	-	83,638 15	November 30, 1865, and November 24, 1866.	-
Nashville and Chattanooga.....	1,568,551 73	137,553 59	76,192 58	25,202 72	238,948 89	November 30, 1865, and November 1, 1867.	1,556,893 57
Mobile and Ohio.....	505,143 70	173,753 02	96,478 19	80,787 95	351,019 16	November 30, 1865, and November 1, 1867.	198,745 35
Mobile and Great Northern.....	14,637 73	620 00	10,405 41	8,109 88	19,135 29	November 30, 1865, and October 12, 1867.	-
Memphis and Charleston.....	547,494 09	467,971 72	61,179 17	48,680 14	577,831 03	November 30, 1865, and October 16, 1867.	-
Alabama and Tennessee river.....	183,276 49	15,340 18	2,793 64	7,324 86	25,458 68	November 30, 1865, and November 1, 1867.	183,348 62
Mississippi, Gainesville and Tuscaloosa.....	\$3,476 39	6 00	1,299 49	-	1,305 49	November 30, 1865, and November 1, 1867.	37,143 89
Georgia Railroad and Banking Company.....	11,935 05	-	11,935 05	-	11,935 05	January 4, and January 12, 1866.	-
New Orleans and Ohio.....	32,150 00	-	4 46	7,116 36	7,120 82	November 30, 1865, and November 1, 1867.	29,537 12
Nashville and Decatur.....	405,193 92	121,061 53	16,185 07	18,276 19	155,522 84	November 30, 1865, and November 1, 1867.	283,638 14
Western and Atlantic.....	472,944 66	447,989 74	27,197 05	24,728 26	499,915 05	November 30, 1865, and November 1, 1867.	42,453 29
East Tennessee and Virginia.....	265,655 65	8,939 10	10,985 02	27,326 61	47,270 73	November 30, 1865, and November 1, 1867.	259,164 51
Southwestern Iron Company.....	32,515 00	32,515 00	-	-	32,515 00	December 13, 1865.	-
Adams Express Company.....	4,361 45	4,361 45	-	-	4,361 45	December 18, 1865.	-
Nashville and Northwestern.....	525,400 26	1,476 82	26,243 13	3,611 25	31,331 20	November 30, 1865, and November 1, 1867.	575,920 56
Mississippi Central.....	78,460 00	12,360 00	12,346 05	33,799 83	63,505 88	November 30, 1865, and November 1, 1867.	20,982 28
New Orleans, Jackson, and Great Northern.....	200,865 58	149,851 15	5,543 46	35,929 02	191,323 63	November 30, 1865, and November 1, 1867.	24,512 86
Selma and Meridian.....	146,327 92	15,033 22	70,270 69	8,575 00	93,878 91	November 30, 1865, and November 1, 1867.	65,645 47
Virginia and Tennessee.....	102,880 00	5,689 97	21,959 66	41,000 00	68,649 63	December 31, 1865, and November 1, 1867.	46,299 10
Wilmington and Weldon.....	110,000 00	43,854 38	17,574 13	35,213 94	96,642 45	November 30, 1865, and November 1, 1867.	22,525 91
Atlantic and North Carolina.....	51,453 93	151 56	9,060 48	7,989 81	17,201 85	December 3, 1865, and November 1, 1867.	40,636 85
Western North Carolina.....	14,269 82	-	2,583 58	3,680 70	6,264 28	December 12, 1865, and November 31, 1867.	9,632 14
Petersburg.....	65,000 00	33,798 54	24,025 67	9,790 23	67,614 54	July 20, 1865, and July 31, 1867.	-
Virginia Central.....	70,000 00	15,062 27	21,419 18	23,778 21	60,259 66	August 1, 1865, and November 1, 1867.	18,186 31
Richmond, Fredericksburg, and Potomac.....	7,449 27	7,449 27	-	-	7,449 27	January 3, 1866.	-
Orange and Alexandria.....	118,895 74	58,887 52	12,214 25	32,827 25	103,929 02	December 31, 1865, and November 1, 1867.	26,522 26
Alexandria, Loudon, and Hampshire.....	62,592 96	-	-	2,764 56	2,764 56	December 30, 1865, and November 1, 1867.	68,205 38
Manassas Gap.....	4,623 51	309 09	-	-	309 09	March 17, 1866.	4,855 01
McMinnville and Manchester.....	46,508 54	-	-	-	-	-	49,043 21
South Carolina.....	23,458 50	-	25,105 26	-	25,105 26	January 31, 1867.	-
Memphis and Little Rock.....	153,275 01	1,496 11	66,386 71	-	67,882 82	November 1, 1865, and November 1, 1867.	103,041 73
New Orleans, Opelousas, and Great Western.....	113,773 45	68,249 41	-	8,292 89	76,542 30	February 23, 1866, and November 1, 1867.	44,510 77
San Antonio and Mexican Gulf.....	48,775 19	6,102 78	-	-	6,102 78	March 25, 1866, and November 1, 1867.	47,526 97
Knoxville and Kentucky.....	12,385 63	2,532 62	-	-	2,532 62	August 6, 1866, and November 1, 1867.	10,793 65
	\$7,456,396 39	\$2,169,546 48	\$708,569 42	\$581,223 39	\$3,459,344 29		\$4,884,500 62

QUARTERMASTER GENERAL'S OFFICE, November 26, 1867.

Showing the indebtedness of each road on the 1st day of November, 1867, amounting in the aggregate to \$4,884,500 62, this being the most recent date up to which information on this point could be obtained.

The committee are next required to report "all other facts that may be deemed of importance in connection with these subjects."

DEBTS CREATED FOR GOVERNMENT PROPERTY.

This indebtedness of said railroads, as already stated, accrued for "Government property," purchased from the Government at prices and for amounts ascertained and agreed upon, and for which bonds were given by the roads.

This is shown by both documentary and oral testimony. Therefore the committee here give copies of two executive orders, which may be found on pages 259, 260, and 261 of Report No. 34, as follows:

WAR DEPARTMENT,
WASHINGTON, August 8, 1865.

GENERAL: It having been determined by the Government to relinquish control over all railroads in the State of Tennessee and their continuations in adjoining States that have been in charge of or are now occupied by the United States military authorities and no longer needed for military purposes, you are hereby authorized and directed to turn over the same to the respective owners thereof at as early a date as practicable, causing, in all cases of transfer as aforesaid, the following regulations to be observed and carried out:

1. Each and every company will be required to reorganize and elect a board of directors, whose loyalty shall be established to your satisfaction.

2. You will cause to be made out in triplicate, by such person or persons as you may indicate, a complete inventory of the rolling stock, tools, and other materials and property on each road.

3. Separate inventories will be, in the same manner, made of the rolling stock and other property originally belonging to each of said roads and that furnished by and belonging to the Government.

4. Each company will be required to give bonds satisfactory to the Government that they will in twelve months from the date of transfer as aforesaid, or such other reasonable time as may be agreed upon, pay a fair valuation for the Government property turned over to said companies, the same being first appraised by competent and disinterested parties at a fair valuation, the United States reserving all Government dues for carrying mails and other service performed by each company until said obligations are paid; and if, at the maturity of said debt, the amount of Government dues retained as aforesaid does not liquidate the same, the balance to be paid by the company in money.

5. Tabular statements will be made of all expenditures by the Government for repairing each road, with a full statement of receipts from private freights, passage, and other sources; also, a full statement of all transportation performed on Government account, giving the number of persons transported and amount of freight, and the distance carried in each case—all of said reports or tabular statements to be made in triplicate, one for the Secretary of War, the military headquarters of the department, and the railroad company.

6. All railroads in Tennessee will be required to pay all arrearages of interest due on the bonds issued by that State prior to the date of its pretended secession from the Union, to aid in the construction of said roads, before any dividends are declared or paid to the stockholders thereof.

7. Buildings erected for Government purposes on the line of railroads, and not valuable or useful for the business of said companies, should not form a

legitimate charge against such companies, nor should they be charged for rebuilding houses, bridges, or other structures which were destroyed by the Federal army.

8. You are authorized to give any orders to quartermasters within your division which you may deem necessary to carry into execution this order.

By order of the President:
EDWIN M. STANTON,
Secretary of War.

Major General GEORGE H. THOMAS,
Commanding Military Division of the Tennessee,
Nashville, Tennessee.

WAR DEPARTMENT,
WASHINGTON, D. C., October 14, 1865.

GENERAL: The provisions and benefits of the executive order of 8th August are hereby extended to all railroads within the limits of your command desiring to purchase railroad rolling stock and materials from the United States, for the purpose of repairing the losses of the war.

You are also authorized to direct the sale to any such railroads of rolling stock now within the limits of your command and not needed by the United States for actual use, upon the following conditions, if they are preferred to the terms of the order of 8th August, and the individual security required by you under that order.

You will take care that this property is distributed among the several roads in proportion to their actual needs, and that none is sold to any railroad in excess of the reasonable requirements of its business, or to be used for purposes of speculation, sale, or hire to other roads.

You will require from all such railroad companies satisfactory bonds, in the form herewith included, binding them to the payment to the United States of the full appraised value of the property sold to them, in equal monthly instalments, with interest at the rate of seven and three tenths per cent. per annum,

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within two years, credit being allowed to them on the first of each month for any service of military transportation rendered by them during the preceding month, at the established rates now allowed to northern railroads for such service.

Full reports of all sales under this order will be made to the War Department from time to time, as required by existing orders.

The serviceable railroad iron in possession of the quartermaster's department at Chattanooga and Nashville is excepted. It will be sold only for cash, at the prices fixed by the War Department.

By order of the President:

EDWIN M. STANTON,
Secretary of War.

Major General GEORGE H. THOMAS,
Commanding Military Division of the Tennessee,
Nashville, Tennessee.

The following is a copy of the bonds required under said orders, the amount in each case to be double the valuation of the property sold and delivered, and which will be found on pages 461 and 462 of report No. 34, to wit:

Bond.

Know all men by these presents that the ——— Railroad Company, duly incorporated by the act of the ——— of the State of ——— by ———, its president, acting for and in behalf of said railroad company, do hereby acknowledge itself and its successors held and firmly bound unto the United States of America in the full and just sum of ——— dollars, lawful money of the United States; for which payment, well and truly to be made to the disbursing quartermaster of the United States military railroads at his office in Nashville or to such other disbursing quartermasters may be designated by the War Department within two years from the date of these presents, the said railroad company, by its president, hereby binds itself and its successors firmly by these presents.

Sealed with its corporate seal, attested by the signature of its president, and affixed by the express authority of its directors, this ——— day of ———, in the year of our Lord one thousand eight hundred and sixty, (186.)

The nature of the above obligation is such that, whereas the above bounden railroad company has purchased and received, or shall receive, from the War Department of the United States, rolling stock, iron rails, cross-ties, chairs, spikes, timber, and other materials for repairing and operating its railroad, in quantities, at prices, and to an amount and value, which shall be evidenced by the receipts given for the same by the said railroad company to the proper officer of the said War Department upon a credit of two years from the date of these presents, payable in equal monthly installments, with interest, at the rate of seven and three tenths per cent. per annum, within the said two years, either in cash to the disbursing quartermaster of the United States military railroads at his office in Nashville, or to such other disbursing quartermaster as may be designated for this purpose by the War Department, or in transportation of the troops or military supplies of the United States, under the orders of the proper military authorities, at the rates of fare and tolls allowed for such service to northern railroads; and

Whereas the said railroad company desires, and by these presents intends, to secure to the United States the complete and punctual payment as aforesaid of the amounts which may be due for the said materials received or to be received by it from the United States:

Now, therefore, if the said railroad company shall well and truly pay as aforesaid, either in cash, in equal monthly installments, or in transportation as aforesaid to the United States within two years from the date of these presents, all that shall be due as aforesaid to the United States on account and in payment for all the materials received as aforesaid from the United States, then this obligation shall be void and of no effect.

But if the said railroad company shall fail to pay to the United States all or any portion of what may be due to the United States on account of the said materials received from the United States within two years from the date of these presents either in cash as aforesaid, or in transportation as aforesaid, shall fail to pay any of the monthly installments aforesaid punctually when due, then this obligation shall remain in full force and effect to the extent that may be necessary to fully repay to the United States for the full amount which may be due on account of the said materials so received as aforesaid, and all loss or damage which may have been incurred by the United States by reason of the said railroad company's failure to pay for the same what shall be due therefor when the same shall be due; and, as a further security for such payment and indemnity to the United States, the United States shall have a lien upon the property sold to said company, and in default of such complete and punctual payment of all moneys which may be due on account of the aforesaid purchase of materials, be fully authorized to take possession of and sell said property, and also to place in charge and control of the said company's railroad an agent of the said United States, who shall be fully empowered, and by these presents is fully empowered, in case of such default as aforesaid, to collect all the revenues of the said company, and apply the same to the payment to the United States of all the moneys which shall be due at the time of such application of such revenues to the United States for any such materials which shall have been delivered by the United States to the said railroad company, or by reason of any loss or injury to the United States resulting from such default

in payment of the same. And the said company shall have no authority to sell or convey out of its possession, without the consent of the United States first in writing obtained, any of the property referred to in this agreement; but shall hold and retain the same to the exclusive use of said company in carrying on the business of transportation of persons and property over its line and road until the whole is fully paid for as aforesaid.

In witness whereof, the corporate seal of said railroad company is affixed hereto, by authority of its directors, and attested by its president.

Witness: ———

The executive order of 14th October, 1865, modifies that of 8th August by dispensing with individual security which had been required by General Thomas, and extends its provisions from "railroads in the State of Tennessee and their continuations in adjoining States to all railroads within the limits of General Thomas's command," which was the department of the Cumberland.

And on page 275 of Report No. 34 Secretary Stanton testifies:

"I think all the railroads in the rebel States have been surrendered under the executive order of August 8, 1865, and its modifications which appear in the Quartermaster General's report."

And on page 38, Report No. 34, General McCallum says:

"The United States military railroads were transferred by executive order of August 8, 1865, to the original owners."

From paragraph three of said executive order of 8th of August, 1865, it will be perceived that "separate inventories" were required "of the rolling stock and other property originally belonging to each of said roads" and "that furnished by and belonging to the Government;" and, from paragraph four, that "each company was to be required to give bond for payment of a fair valuation of the Government property turned over." Therefore that order contemplated that property "originally belonging to said roads," although captured property, should not be considered "Government property," and it was not included in the amounts for which bonds were required and given.

J. B. Hoxie, superintendent of the East Tennessee and Virginia road, on page 39 of Report No. 34, testifies:

"The stock that had originally belonged to the companies was very much mixed up and scattered about over the country." "The companies were allowed to go and get it wherever they could find it." "In every instance where we could prove it satisfactorily to the Government those cars were struck off the list charged against us."

On page 148 of Report No. 34, Brevet Colonel Francis J. Crilly, assistant quartermaster United States Army, Washington city, testifies he had "charge of turning over the roads in the military division of the Mississippi;" was "on duty then as chief quartermaster of military railroads in the Southwest," and that "the property, such as engines, &c., that could be identified as belonging to a particular road, was returned."

Assistant Quartermaster S. R. Hamill, Washington city, who, as assistant chief quartermaster at Nashville, Tennessee, assisted in turning over said property to the railroad companies, testifies on page 179 of Report No. 34: "The bonds were for property turned over merely, exclusive of improvements."

And, on page 180:

"The roads were simply surrendered to the owners and they were charged with such property as they chose to buy and give bonds for."

On page 278, Report No. 34, Michael Burns, president of the Nashville and Chattanooga road, and likewise of the Nashville and Northwestern road, testifies:

"They (the Government) restored everything I could claim or swear to."

On page 5 of Report No. 3 the president of the Richmond and Danville Railroad Company, and also the president of the Richmond and Piedmont Railroad Company, testifies:

"From fifteen to twenty-five locomotives were on the road prior to our purchase from the Government; some of them had been for ten years on the road,

and on the termination of the war they were given back to the company without any equivalent or consideration." "The rolling stock of the company taken by the United States Government and restored again must have been worth from three to four hundred thousand dollars, exclusive of what was on the Piedmont road and returned."

Although the testimony is very full and clear on this point, the committee will not here quote more, as it cannot be denied that all railroads and railroad property were restored and no compensation required by the Government. But for the benefit of those who desire to read interesting statements on this point the committee refer to the following additional pages of Report No. 3, to wit: 6, 8, 10, 14, 17, 18, 21, 23, 24, 27, 30, 33, 40, 41, 45, 53, 64, 75, 76, 107.

FAIRLY VALUED.

The testimony discloses the fact that this "Government property" sold to the roads was appraised by experienced railroad men at a fair cash valuation. On page 84 of Report No. 34 Major General George H. Thomas testifies:

"I selected three of the most distinguished railroad men throughout the country that I knew of, with an officer of the Army, and a recorder, who was also an officer of the Army, to make this appraisal," &c. "I have every reason to believe that the appraisal was very fair."

FREELY RESTORED.

Thus this fact is arrived at: that twenty-five hundred and thirty-eight miles of railroad track, originally belonging to forty-two different railroads in the late rebel States, actually seized, possessed, and used, together with a very large amount of rolling stock, all captured property, that had been used against the Government, have been restored, freely, without money and without price, to those enemies who had so used it against the Government; and that over seven million dollars' worth of rolling stock (almost seven and a half millions) to equip their roads, has been sold by the Government, for their promises to pay, to those who had so used their former means. "Treason is made odious" by a surrender, a restoration of this vast amount of wealth, of productive wealth, to the most influential participants in the rebellion; not only productive wealth, but, in the language of General Meigs, "most powerful and efficient instruments of war"—to the traitorous enemy from whom they were seized because they were powerful and important instruments of war; to an enemy, conquered to be sure, but still claiming the right to rule in the Government they had then but recently failed for want of strength to destroy.

WERE USED IN AID OF THE REBELLION, AND VOLUNTARILY.

It is an important fact that should not be lost sight of, not only that this vast amount of property restored had been used in aid of the rebellion, but used voluntarily by and for those in sympathy with the rebellion, of which, apart from the familiar history of the war, there is abundant testimony.

To substantiate this statement, the committee extract the following testimony, from Report No. 3, of railroad officers, directors, &c., in the South, summoned as they could be found, to wit:

On page 2 the president of the Richmond and Danville Railroad Company, and also of the Richmond and Piedmont Railroad Company, testifies:

"So far as I am informed all railroads in the South were used in aid of the rebellion." "I think the companies were all disposed to aid, as far as I know."

On page 7, the general superintendent of the Virginia Central railroad testifies:

"I do not think there were any roads in Virginia taken charge of, but continued to be operated by the regular officers." "I presume the service rendered to the confederate government was voluntary." "I believe in my mind that all the railroads were heartily in that matter." "I know (page 9) all railroad men in Virginia, some in North Carolina, a few in Tennessee, and I meet a few other southern railroad men occasionally." "None of them would admit, during the war, that they were loyal to the United States Government. Some of them were accused of

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it. I was accused of it myself, but I know I was not. Those parties here who are now loudest in their professions of Unionism were as active confederates as any during the war. Of course there are some exceptions."

On page 12 the president of the Virginia Central railroad testifies:

"Employment, so far as the confederate government was concerned, was the transportation of troops backward and forward and munitions of war." "It was never a question whether the companies were willing or not." "I cannot say I know an instance where the services had to be compelled by the confederate government." "I have a general acquaintance with railroad men in Virginia." "I do not think I know any leading railroad men, presidents and other officers, who were called during the rebellion loyal to the United States Government."

On page 18, the treasurer of the Richmond and York River railroad testifies:

"I think the service was voluntary." "They performed for the confederate government every service they could possibly perform in the transportation of troops and munitions of war."

On pages 16 and 17 the superintendent of the Richmond, Fredericksburg and Potomac railroad testifies:

"Southern railroads were operated by the managers of the roads in the transportation of troops and munitions of war." "I think, as a general thing, the service was voluntary."

On page 19 the president of the Richmond and Petersburg railroad testifies:

"As to services being voluntary the question was never brought up. There was no resistance whatever. The general impression in Virginia, as a matter of course, was that every individual owed his allegiance to the State first of all, and therefore when the State gave instructions our citizens gave the matter acquiescence."

On page 22 the treasurer of the Richmond, Fredericksburg and Potomac railroad testifies:

"The roads of the South during the rebellion were in charge of their officers," &c. "All the services were rendered to the confederate government that were required of them in the transportation of troops and munitions of war." "It may be said to have been done voluntarily." "I know nearly all railroad officers in Virginia and some in other States." "I do not know any who were regarded as loyal to the United States Government during the rebellion."

On pages 23, 24, and 25 the president of the Northeastern railroad, South Carolina, testifies:

"Southern railroads were left entirely under the direction of their officers, more or less under military supervision. The roads were used for the purpose of general transportation as well as in the transportation of troops and supplies." "It was never necessary for the confederate authorities to resort to force to compel service." "I am familiar with railroad presidents and officers of railroads in this State, more or less." "I do not think I am acquainted with any who were considered loyal to the United States Government during the rebellion."

On page 29 the superintendent of the Charleston and Savannah railroad testifies:

"I do not know that I can mention any instance in which resistance was shown by those who controlled the roads." "I do not know that I know of any men here connected with railroads who were loyal, in your meaning, to the United States Government."

On page 32 the president of the South Carolina railroad testifies:

"The roads were not taken out of the hands of their owners." "The services rendered for the rebel government were the transportation of troops, supplies, and munitions of war." "I do not know any instance in which resistance was manifested by those controlling the roads to those requirements." "My company rendered (page 36) a cheerful acquiescence to all the requirements of the rebel authorities." "My acquaintance (page 34) is reasonably extensive with railroad officers in this and in the adjoining States." "I do not know a railroad president who was not doing precisely what I did."

On pages 39, 40, and 42 the president of the Georgia Central railroad, at Savannah, Georgia, testifies:

"So far as I know, southern railroads were operated during the rebellion by the officers of the companies elected by the stockholders." "They transported troops and supplies upon the orders of the then authorities." "I cannot state any instance in which service was refused by any road because the officers of the road were opposed to the rebellion." "I cannot say that I can give the name of any officer of a railroad who was considered or called loyal or known by general reputation to have been during the rebellion loyal to the United States Government." "I do not know any stockholder who did not generally acquiesce in the action of the State after it had decided on its course; but I do know stockholders who were opposed to the rebellion and

who never believed that it would succeed." "But they afterward acquiesced in the rebellion." "These were what we understand here as Union men." "I take it for granted that those in the North were loyal to the United States Government. Those in the South, I presume, were as the southern people generally were."

On pages 43 and 44 the secretary and treasurer of the Atlantic and Gulf railroad testifies:

"During the rebellion the road was operated by the company exclusively." "Performed all the services required of it in the transportation of troops and supplies." "There was nothing compulsory." "I do not know any railroad officers who were loyal to the United States Government during the rebellion."

On page 48 the master of transportation of the Georgia Central railroad testifies:

"I can hardly say I know of any opposition ever having been manifested to a military order of the rebel government for railroad service in consequence of opposition to the rebellion." "I cannot say I opposed the rebellion." "I have an extensive acquaintance with other railroad officers in this and the adjoining States." "I know many who thought that the rebellion was a very indiscreet thing; but I do not know that I can say exactly that they were loyal to the United States Government." "So far as I know there was a general acquiescence in the rebellion." "I do not mean to say a general sympathy, but a general acquiescence."

On pages 51 and 52 the President of the Macon and Western road testifies:

"The road was used in the transportation of supplies for the confederate government and for whoever desired it to do business for them, just the same as before the war." "I know of no instance in which it was necessary to use force." "We were willing to take all the freight offered to us." "An account was kept with the confederate government, but very little of it was paid."

On pages 55 and 56 the president of the Southwestern railroad of Georgia testifies:

"I do not remember any case of any resistance having been made to the rebel government by any of the roads." "We transported provisions for the confederate government." "You will find all railroad men were opposed to secession." "They were very quiet." "Certainly, they all acquiesced."

On pages 57 and 58 the president of the Macon and Brunswick railroad testifies:

"At the beginning of the rebellion their services were rendered voluntarily; no doubt about that." "In the transportation of troops and supplies." "I really do not know of any railroad officers who were loyal to the United States Government during the rebellion."

On page 60 the master of transportation at Atlanta of the Western and Atlantic railroad testifies:

"No; it was not necessary to resort to force to secure their services." "It transported troops and munitions of war," &c. "My acquaintance is extensive with railroad officers in this and adjoining States." "I do not think I do know any who were loyal to the United States Government during the rebellion."

But why quote more testimony on this point? It is invariably of the same import, if not the same language, from railroad officers, &c., who resided during the rebellion in the late rebel States. The committee have quoted on this point, as the testimony presented itself, in Report No. 3; and the curious may proceed and will find the remaining testimony of the very same character on this point; and they refer to pages 62, 63, 74, 77, 78, 79, 81, 86, 92, 96, 105, 106, 110, 115.

This positive and uncontradicted testimony as to the use of this property in aid of the rebellion, voluntarily on the part of presidents, directors, and stockholders of railroads, removes the necessity for relying upon the decision of the Supreme Court of the United States expressed in the prize cases, 2 Black, pages 666, 667-8, that—

"Persons residing in the rebel States at any time during the civil war must be considered as enemies during such residence, without regard to their personal sentiments or dispositions."

WHO RESPONSIBLE?

It may be well for the House to know who is or are responsible, directly or indirectly, to be charged or to be credited, in public estimation, for these orders restoring such property.

The first record correspondence on the subject of the surrender of captured railroads and rolling stock to the original companies is a letter of Quartermaster General M. C. Meigs

to Hon. E. M. Stanton, Secretary of War, dated 19th May, 1865, which is here copied from pages 451 and 452 of said report of testimony, No. 34, as follows:

Letter of the Quartermaster General, dated May 19, 1865, proposing and recommending to the Secretary of War a plan or basis upon which the transfer of United States military railroads might be effected.

QUARTERMASTER GENERAL'S OFFICE,
WASHINGTON, May 19, 1865.

* * * * *

The question of the disposition of the railroads in the States lately in rebellion is a large one, and after reflection I have the honor to advise that the following principles be established to govern the action of the quartermaster's department and of the military authorities in disposing of all of them.

1. The United States will, as soon as it can dispense with the military occupation and control of any road of which the quartermaster's department is now in charge, turn it over to the parties asking to receive it, who may appear to have the best claim and be able to operate it in such manner as to secure the speedy movement of all military stores and troops; the Quartermaster General, upon the advice of the military commander of the department, to determine when this can be done, subject to the approval of the Secretary of War.

2. No charge to be made against the railroad for expense of material or expense of operation.

3. All materials for permanent way used in the repairs and construction of the road and all damaged material of this class which may be left along its route, having been thrown there during the operations of destruction or repair, to be considered as part of the road and given up with it.

4. No payment or credit to be given to the railroad for its occupation or use by the United States during the continuance of the military necessity which compelled the United States to take possession of it by capture from the public enemy. The recovery of the road from the public enemy and its return to loyal owners, with the vast expenditure of defense and repair, are a full equivalent for its use.

5. All movable property, including rolling stock of all kinds, the property of the United States, to be sold at auction, after full public notice, to the highest bidder.

6. All rolling stock and material, the property before the war of railroads and captured by the forces of the United States, to be placed at the disposal of the road which originally owned it, and to be given up to those roads as soon as it can be spared and they appear by proper agents authorized to receive it.

7. When a State has a board of public works able and willing to take charge of its railroads, the railroads in possession of the quartermaster's department to be given up to the board of public works, leaving it to the State authorities and to the judicial tribunals to regulate all questions of property between rival boards, agents, or stockholders.

8. Roads not being operated by the United States quartermaster's department not to be interfered with unless under military necessity. Such roads to be left in possession of such persons as may now have possession, subject only to the removal of such agents, director, president, superintendent, or operative who has not taken the oath of allegiance to the United States, which rule should be rigidly enforced.

9. When the superintendents in actual possession decline to take such oath some competent person to be appointed as receiver of the railroad, who shall administer the affairs of the road and account for its receipts to the board of directors, who may be formally recognized as the legal and loyal board of managers. This receiver to be appointed, as in the case of other abandoned property, by the Treasury Department.

10. I recommend that the Governor of the State of Virginia be informed that the War Department will interpose no obstacle to the board of public works of the State taking possession of all the railroads in the State not in use and occupation of the military forces of the United States by the quartermaster's department, and that as soon as the military occupation of any of these roads can be safely dispensed with the road will be transferred to the charge of the board of public works.

In some of these States the State is a large bondholder in the roads, and though there may be in such States no board of public works, it is probable that the State authorities will be willing to receive and take charge of the road; if not, receivers should be appointed by the Treasury Department, upon application of the War Department, to take charge of them as abandoned property.

I have the honor to be, very respectfully,
M. C. MEIGS,
Quartermaster General and Brevet Major General.
Hon. E. M. STANTON, Secretary of War.

A true copy.
ALEXANDER BLISS,
Brevet Colonel United States Army.

The next correspondence is a letter from same Quartermaster General to same Secretary of War, dated 17th July, 1865, as appears on page 458 of Report No. 34, as follows:

QUARTERMASTER GENERAL'S OFFICE,
WASHINGTON, D. C., July 17, 1865.

SIR: I submit herewith an estimate for funds required by the disbursing officer for railroads at Nashville, Tennessee.

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The remittances to Nashville on account of railroads in the southwest in 1865, are as follows namely:

	Estimate.
In March, on the November, 1864.....	\$1,805,500 00
In March, on the December, 1864.....	1,000,000 00
On May 2, on the January, 1865.....	1,400,000 00
On May 2, on the February, 1865.....	1,400,000 00
On May 30, on the April, 1865.....	1,400,000 00

\$7,005,550 00

The estimate for March was held back by General McCallum, it being supposed that the sums required on the previous estimates and on that of April would be sufficient to pay off all his indebtedness to the 30th of June, owing to expected reductions in the establishment.

General McCallum reports, on the 3d instant, that \$1,000,000 will be sufficient, on the estimate for March, to enable Captain Crilly to pay off his indebtedness.

It will be perceived from the foregoing statement that these railroads have been costing, during the present year, upwards of \$1,300,000 monthly, and the expenditures are still going on.

These expenditures were necessary during the war, but it appears to me that the Government should be relieved from this heavy expenditure by the restoration of the railroads to the companies, and I recommend that this be done as soon as it is possible to make arrangements for the transfer on the basis of my report of 19th of May last.

The appropriation for transportation of the Army is exhausted, and there is no money in the Treasury for Army appropriations against which requisitions can be drawn.

Very respectfully, your obedient servant,

M. C. MEIGS,

Brevet Major General U. S. A., Quartermaster General.
Hon. E. M. STANTON, Secretary of War,
Washington, District of Columbia.

Which last letter was indorsed as follows:

The recommendation of the Quartermaster General is approved, and he is directed to turn over the roads immediately.

By order of the Secretary of War:

THOMAS T. ECKERT,

Acting Assistant Secretary of War.

WAR DEPARTMENT, July 21, 1865.

The following order, as appears on page 450 of Report No. 34, was then issued, to wit:

QUARTERMASTER GENERAL'S OFFICE,
WASHINGTON, July 27, 1865.

Respectfully referred to Brigadier General D. C. McCallum, general manager military railroads, together with a copy of the report of the Quartermaster General of May 19, 1865.

General McCallum will at once transfer all the railroads in the military division of the Mississippi which are controlled at Nashville, in accordance with the recommendation of the Quartermaster General, as approved and directed by the Secretary of War.

General McCallum will please report what railroads will remain in the possession of the military authorities when this transfer shall have been accomplished.

By order of Quartermaster General:

ALEXANDER BLISS,

Brevet Colonel United States Army.

These orders were next followed by executive orders of August 8 and October 14, 1865, as heretofore copied into this report.

It will be perceived that the recommendation of the Quartermaster General to sell the property of the United States at public auction was not adhered to in the executive order, but the companies were permitted to purchase at a fair valuation, which is believed by the committee to have been the better plan, provided the policy of returning the roads to the companies were the correct one.

The essential and very important difference between the recommendations of the Quartermaster General, approved by the Secretary of War, and the executive order of August 8, is that, while the Quartermaster General recommended, as per paragraph four of his letter, "no payment or credit to be given to the railroad for its occupation or use by the United States during the continuance of the military necessity which compelled the United States to take possession of it by capture from the public enemy," the President required, as per paragraph fifth of 8th of August order, "tabular statements to be made of all expenditures by the Government for repairing each road, with a full statement of receipts from private freights, passage, and other sources; also, a full statement of all transportation performed on Government account, giving the number of persons transported and amount of freight, and the distance carried in each case." While in the former, the Quartermaster

General's recommendation, no payment was to be made to the captured roads for their use, in the latter, the President's order, it is apparent that it must have been contemplated that, at some future period, a general settlement would be made with the roads, and that the evidence should be preserved of their use, with receipts from all sources and charges for all transportation credited to the roads and all expenditures "for repairing" charged.

This belief is strengthened by the fact, as disclosed in the testimony, that when extensions of payments on bonds maturing were sought by various roads, and the President saw proper to order payments to be unconditionally suspended, claims were then distinctly made against the Government for the use of the roads. Michael Burns, president of two of those roads, as hereinbefore stated, testifies on page 278 of Report No. 34 that he "got possession of those two roads in 1865, by an order from the War Department, at Washington, through General Thomas."

A second question brought the reply that it was "the order of August 8, 1865."

On page 280, Report No. 34, to the question, "Have you paid up your indebtedness to the United States, from time to time, according to the terms of your bond?" he replied:

"I have carried the mails, troops, supplies, &c., faithfully, in accordance with my agreement, and any other work I was called on by the Government to do."

A second question on this point seemed to be necessary—the answer related to the Nashville and Chattanooga railroad. To the question, "Did you pay any of your indebtedness in money?" he replied—but before giving that reply it may be well to state that the value of property sold to this road and amount secured by its bond, in 1865, was \$1,566,551 73; and that its indebtedness on 31st January, 1867, was \$1,532,740 60; and on the 1st day of November, 1867, \$1,556,893 57—he replied (page 280, Report No. 34) on 25th day of February, 1867:

"I paid, I think, \$67,000; I was led by the order of August 8 to believe I would get a just settlement. The Government is indebted to the company \$3,766,915 64, as shown by the Quartermaster General's account."

To the question, "What is your claim for?" he replied, "For the use of the road during its occupancy by the United States."

Mr. Burns also testifies, on page 283 of Report 34:

"That the Government is indebted to the Nashville and Northwestern road \$818,160 over and above the work done in completing the road," "for property used, property taken, and property destroyed."

He likewise testifies, on page 290, Report No. 34:

"I came myself to Washington to see about this debt, and to get the time extended for payments; and the company have employed agents from time to time for that and other purposes."

With what success Mr. Burns met may be seen in order on page 221, Report No. 34, of which the following is a copy:

QUARTERMASTER GENERAL'S OFFICE,
WASHINGTON, D. C., May 5, 1866.

CAPTAIN: An order of the President of the United States, dated April 25, 1866, and referred to this office by the Secretary of War April 30, 1866, directs that collection be suspended until further orders of the indebtedness of the Nashville and Chattanooga Railroad Company to the United States. You will be governed accordingly. By order of the Quartermaster General.

Respectfully, your obedient servant,

ALEXANDER BLISS,

Brev. Col. and A. Q. M., in charge of Fourth Division.
CAPTAIN S. R. HAMILL.

Assistant Quartermaster, Nashville, Tennessee.

All railroads were restored to the original companies, under executive orders of August and October, 1865, or under orders substantially the same as hereinbefore shown.

Orders issued by commanding generals prior to executive order of 8th of August, 1865, under which some roads were restored, were subsequently modified to conform to its requirements.

For instance, it appears on pages 237 and 238 of Report No. 34, that General Canby, then in command of the military division of the west Mississippi, by orders ratified by General Grant as early as June, 1865, relinquished some roads to the companies upon conditions different and more favorable to the Government, and more in accordance, as the committee believe, not only with rights growing out of the laws of war, but with principles of justice and considerations of the future safety of the country.

General Canby testifies:

"They were turned over to the companies provisionally, subject to the condition that the right of confiscation was reserved, and that all the property to which the Government had title by capture or otherwise should be paid for by the companies."

The evidence shows that General Canby's orders were afterwards modified, by orders through the Quartermaster General, to conform to that of August 8.

VALUE OF RESTORED PROPERTY.

It is interesting and not unimportant to know the value of the property restored, that the loyal people may know whether to say of those who have been intrusted with their interests "Well done, good and faithful servants," or no.

On page 325 of Report No. 34 Colonel Alexander Bliss's report shows that one hundred and twelve engines and five hundred and ninety-one cars captured by the United States were returned to former owners. The committee, therefore, present a statement of the value of such property as appears from the report of the military railroad department to have been returned, to wit:

2,538 miles of railroad, worth \$30,000 per mile.....	\$76,140,000
112 engines at \$15,000 each.....	1,680,000
591 cars (91 at \$2,000; 500 at \$400).....	382,000
A total of.....	\$78,202,000

In addition to this a very large amount of property once possessed was suffered to fall back into the hands of the original owners of which the committee can find no account in detail, such as shops and contents at Knoxville, Nashville, and Chattanooga, Tennessee, and Savannah, Georgia. The very extensive workshops at Savannah alone were worth millions of dollars.

But it is sufficient to add to the amount just named..... \$78,202,000 the amount expended in labor and materials on said roads to suppress the rebellion, aided by their officers, directors, and stockholders..... 45,367,480

to make..... \$123,569,480 which could have been rightfully demanded or obtained under the laws of war by right of capture, but which was freely restored.

TO PAY FOR USE OF.

But large as the amount is for an apparent reward to those who had struck down three hundred thousand defenders of the Government, and incredible as it is that high Government officials, who were in such position as to be compelled to witness the heavy drafts for men and money upon the Government, should approve and advise such reward to treason, it was left for President Johnson to take the initiative, in his order of August 8, for paying for the use of such property. Forty-five million three hundred and sixty-seven thousand four hundred and eighty dollars and twenty-seven cents were expended in "labor and materials" on said roads. Four million seventy-nine thousand five hundred and eleven dollars and thirty-three cents were expended upon the Nashville and Chattanooga road. That road claims \$3,766,915 64 for the use of the road by the Federal Government. The other roads claiming in the same proportion would bring the Government, after the \$123,569,480 surrendered and relinquished, in debt to this portion of her conquered enemies for use of this property alone, \$41,889,266; that being

\$34,445,192 over and above the seven or more million dollars' worth of rolling stock sold the roads on credit.

If the justice of such claims be recognized by allowing one, all the roads will press their claims, although some railroad officers testify they do not contemplate doing so.

Again, if repairs should be charged to roads on a settlement with credit given for their use by the Government, then under the same principle, and with manifest justice, charges should be made for repairs in cases where no use has been made of a road.

Still the testimony discloses the fact that that policy was not adhered to; and that accounts for repairs done have not been made against the roads by the Government when the repairs overbalanced the use. As one illustration of this the committee refer to the testimony of Major General Sheridan, page 168 of Report No. 34, who states that "the New Orleans and Opelousas road is eighty miles long;" that "we used it and it was under military control and was run by the quartermaster;" that "all the bridges had been repaired by the Government after having been destroyed by the enemy, and the road was put in very good repair;" that "he turned it over, under order of August 8, 1865, making no account whatever for the work that had been done on the road in putting it in repair;" that, in fact, he "took a road that had been destroyed by the enemy, put it in good running condition, and, when done with it, handed it over, taking no account of it so far as the road was concerned." No parallel can be found for such action; repairing and restoring to an enemy property which he himself had destroyed.

NO CHARGE FOR REBUILDING.

But of the same nature as this monstrosity, a most extraordinary rule for government in these cases is laid down in the President's order of 8th of August, 1865, which appears in the last clause of the seventh paragraph, as follows:

"Nor should such companies be charged for rebuilding houses, bridges, or other structures which were destroyed by the Federal Army."

In other words, the order is this:

"Houses, bridges, and other structures should be rebuilt without charge for such companies as had voluntarily engaged in the rebellion, and had made their destruction a necessity."

If this theory be correct, then the railroads themselves of the enemy destroyed by the Federal Army should be reconstructed and restored without charge, or the companies should be paid the cost of reconstruction. What would be that cost?

It would be well for the representatives of a loyal people, heavily taxed to pay bounties and pensions to those and their representatives whom a grateful nation will ever honor; heavily taxed in consequence of the crime, among others, of the stockholders, directors, and officers of railroads, to look at the inevitable result of a recognition of such a traitor-favoring policy. No one can fail to see it would be just what the enemies of the Government desire—its bankruptcy.

Take, for instance, the Georgia Central railroad, running from Savannah to Macon, one hundred and ninety-two miles; of that road the president testifies, on page 40 of Report No. 3 of Fortieth Congress,

"It was almost completely destroyed by General Sherman;" "I spent about two million dollars in repairing it since I have had charge of the property."

The president of the Virginia and Tennessee railroad testifies, on page 91 of Report No. 3:

"Of the damage by the United States forces I can only judge from the amount already expended, that it was about six hundred thousand dollars."

On page 167, Report No. 34, Major General Sheridan testifies:

"The roads to Charlottesville and Gordonsville we found in good condition. They were destroyed by our troops. I think I burned every bridge from Lynchburg to Richmond on the Lynchburg and Gordonsville road, and from Gordonsville to Richmond on the Central road; also, the Fredericksburg road. I tore up the track at Charlottesville; I spent two days in destroying the track, and destroyed, I think,

about eight miles of the road pretty thoroughly; I destroyed the road at a great many points," &c.

In addition to these, calculate the amount of destruction to other roads in Georgia than the one named, and in the track made desolate by Major General Sherman's army in its march that caused the rebels of the Carolinas to experience the realities of war; apply the principle of seventh paragraph of 8th of August order and then ask can the nation endure the taxation to pay for such destruction. But this is not all. Upon such a theory other property of rebels than railroad property should be paid for. The places where now along that track of desolation from Chattanooga to Atlanta, from Atlanta to Macon and Savannah, and from Savannah to Columbia and Petersburg, the hand of an angry God has placed the blight of His withering touch, and almost every mile the saddened traveler sees but naked chimneys to mark the abodes of former affluence and contentment; but where the disposition to oppress predominates there can be no true refinement, and where wealth is wrung from the tears of the enslaved no true contentment. The committee say, upon such a theory, those waste places, cursed by God, must be built up from the national Treasury.

Who can calculate the amount of taxation? And if the powers of calculation be not exhausted they may be extended to the property of rebels elsewhere destroyed and of other kinds.

LOYALTY.

But the subject of loyalty necessarily enters into this report, because the President, in the first paragraph of Executive Order of 8th of August, 1865, says: "Each and every company will be required to reorganize and elect a board of directors whose loyalty shall be established to the satisfaction of" the commanding general; and, further, because the committee are desirous that the principle be recognized, so far as it can be in legislation, that loyalty and the right of protection to life and property by the national Government are inseparable; and still further, because remarks made on the floor of the House on the 12th day of July last plainly indicate that it is to be contended that "northern capital," though invested in roads used in aid of the rebellion, should not be confiscated, because it is northern capital, as though "loyal" and "northern" are synonymous.

Upon the last idea presented the committee are content to say that history shows that, while loyalty to the United States Government most abounds in the North and disloyalty in the South, the one is not indigenous to the North or the other to the South, but that conspicuous exceptions can be found in either clime.

Those at all cognizant with such investigations of loyalty know they are the merest farces. The notorious ease with which sympathizers, who secretly encouraged rebellion, but committed no public act, were able to prove loyalty and the freedom with which they swore to loyalty caused a suspension of the law paying loyal slaveholders for slaves enlisted into the Army.

But in the case now presented, it appears to the committee that there is a most glaring attempt at deception. That property is to be restored by a "loyal" directory is calculated to draw attention from the fact that it was to be restored to disloyal stockholders.

As to "loyal" boards Major General Thomas, on pages 83 and 84 of Report No. 31, testifies:

"I required the President to report the names of the directors, and then I made inquiry among those persons on whom I could rely as to the political status of the persons named." "I think some of them were not very loyal; but in the majority of the cases they complied with the terms laid down for them." "The men generally selected were men who, I think, were honestly supposed to be fair men if they were not truly loyal."

General Canby testifies on page 238 of Report No. 34:

"I required as a necessary antecedent condition

that they should conform to the President's order of April 29, 1865, by taking the oath of allegiance prescribed in the regulations under the order." "At some time subsequently General Beauregard was appointed chief engineer or superintendent of the New Orleans and Jackson railroad until such time as he became president, some time in 1865."

On page 45, Report No. 3, the secretary and treasurer of the Atlantic and Gulf railroad testifies:

"I know the whole of the directors took the oath of allegiance—the amnesty oath. There was a general order given by General Gilmore, the commander of the district at the time, to restore the road to the directors."

On page 42 of Report No. 3 the president of the Georgia Central railroad testifies:

"Under these conditions [of loyalty] there remained directors and officers who managed the road who were also directors and managers during the rebellion;" "and who had been true to the rebel government."

Such is uniformly the character of the testimony on this point.

But the committee submit that it would be a difficult task to select a loyal board from disloyal presidents, directors, and stockholders; and repeat that the effect, if not the object, was to restore captured property to disloyal stockholders.

DISLOYAL STOCKHOLDERS, ETC.

In Report of Testimony No. 3, Fortieth Congress, the following testimony appears on pages as named, to wit: The president of the Richmond and Danville, and Richmond and Piedmont roads, on pages 3 and 4, testifies:

"Nine tenths of these roads is chiefly owned in the State of Virginia, the greater portion of it in the city of Richmond and along the line of road." "The State of Virginia owns three fifths of the stock." "I do not think the State owns quite that proportion of all the railroad stock of the State." "She does in all the leading roads—the costliest roads." "I have no doubt there are some loyal, but I cannot recall them now." "I am not aware of any of the stock of the company being now held in the North."

On page 9 the general superintendent of the Virginia Central railroad testifies:

"The stock is principally held in Virginia. The State owns three fifths and private stockholders own the rest. I do not think that \$50,000 is held outside of the State." "I should suppose there are very few compared with the large mass of stockholders who were called loyal during the rebellion to the United States Government."

On page 15 the treasurer of the Richmond and York River road testifies:

"The stock of the road is principally held in Tidewater, Virginia." "Some of it is held in Baltimore." "Virginia owns five sevenths really" &c. "I really do not think I do know any stockholders in that road who were called loyal to the United States Government during the rebellion."

On pages 17 and 18 the superintendent of the Richmond, Fredericksburg, and Potomac road testifies:

"The majority of the stock is owned in Philadelphia, Pennsylvania; two fifths of the stock of the road between Richmond and Fredericksburg is owned by the State of Virginia." "I am not aware of any protest or remonstrance on the part of the northern stockholders against the use of the road in aid of the rebellion."

On page 19 the president of the Richmond and Petersburg road testifies:

"A large portion of the stock is held in this State, (Virginia)." "There is a very appreciable amount held in Philadelphia; a portion in New Hampshire, some in Georgia, and I think some in New York. The State of Virginia owns more than one third of the whole stock."

On page 25 the president of the North-eastern road, South Carolina, testifies:

"The stock of the road is owned entirely in the State and in Charleston." "The State owns \$225,000 of it." "There is not a dollar of northern capital in any way invested in the road, that I am aware of."

On page 29 the superintendent of the Charleston and Savannah road testifies:

"The stock is entirely owned in the city of Charleston." "There is a little of it owned in Savannah, Georgia."

On page 40 the president of the Georgia Central road testifies:

"The stock is principally held in Georgia, and there is some of it held in the northern States." "I take it for granted that those in the North were loyal to the United States Government; those in the South, I presume, were as the southern people generally were."

On page 44 the secretary and treasurer of

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the Atlantic and Gulf railroad, Georgia, testifies:

"The stock is principally owned in Georgia. There are only a very few shares held at the North; I think only about twenty." One million dollars was owned by the State."

On page 51 the president of the Macon and Western railroad, Georgia, testifies:

"A very large portion of the stock is owned in the northern States, principally in New York; a portion in Charleston and Savannah; a little in the State of Georgia, and a good deal in Europe."

On page 55 the president of the Southwestern road, Georgia, testifies:

"The stock is owned principally in Georgia."

On page 57 the president of the Macon and Brunswick road testifies:

"The stock is owned principally in Macon. The city is a large stockholder in the road."

On page 60 it is in testimony that "the stock of the Western and Atlantic road is owned entirely by the State," and of the Montgomery and West Point road "in Alabama and in Georgia entirely."

On page 62 that the stock of the Atlantic and West Point road:

"Is owned by the Georgia Railroad Company and by individuals in Augusta, Georgia, and a good deal on line of road between Atlanta and West Point."

Pages 91, 96, 106, and 110 are also referred to; all which show that the stock in the roads in the late rebel States is owned principally in the South by those disloyal during the rebellion.

And, in connection with this subject of loyalty, the committee would direct attention to a few roads in Tennessee, in the interests of which, it seems, from the testimony, that claims are to be pressed based to some extent on loyalty. It has been the duty of the committee to scrutinize the testimony in these cases, that justice may be done both to the roads and to the Government; and that, if the claims are unjust in these few cases, in which alone it is presumed that claims can be established on the ground of loyalty, they may never be allowed to open wide the door to the national Treasury.

First. As to the East Tennessee and Virginia railroad.

Brigadier General L. S. Trowbridge, late of Knoxville, Tennessee, on page 23 of Report No. 34, testifies that

"He had been appointed a commissioner, by the Governor of Tennessee, to aid in procuring against the bonds of that road, and the East Tennessee and Georgia railroad in favor of the Government, officers."

and that, in case of the East Tennessee and Virginia road—

"the offset is for material and supplies turned over by the road to the Government when General Burnside occupied East Tennessee, and for the use of rolling stock which was turned over at that time for the transportation of troops and other Government business, and for damages done to the road in the destruction of bridges and track. There are two accounts, the first one for materials, supplies, &c., which is \$210,000; and the other for damages to the road, which is \$276,000." The Government received materials, rolling stock, &c., to that value, voluntarily turned over to the Government by the company."

It is worthy of notice that to press the claims of the two roads just named a commissioner is sent to Washington, and that a former United States volunteer general officer becomes that commissioner. The testimony may disclose the fact that very unreasonable views were entertained as to the justice of such claims and the policy that should be pursued.

On page 24 of Report No. 34 this former general officer testifies:

"I have no doubt that the damages were sustained, because I helped to do a great deal of it myself. It is for the destruction of large bridges," &c.

He testifies further, on same page:

"My own judgment would be in the matter, so far as this road was concerned, (the East Tennessee and Virginia road,) that it ought to be paid, because they have pursued such a just course towards the Government, and therefore ought to be treated with much consideration. The fact that they retained all their rolling stock at Knoxville, furnished General Burnside with all the rolling stock he had, and which

was the salvation of our troops there. He would not have had any rolling stock except for these cars retained by the president and Mr. Hoxie. This account is made up of large items for the destruction of large bridges, and amounts to \$276,000. I have no doubt of the correctness of the account."

This commissioner bases this claim upon "the just course pursued toward the Government," and that "just course" is in having "voluntarily" turned over property to the Government and retained rolling stock and supplied General Burnside with the same. And to prove the correctness of his statement that such a just course was pursued he testifies on page 23 of Report No. 34:

"It was all voluntarily done; when General Burnside came into East Tennessee the directors of the East Tennessee and Virginia road held a meeting and resolved to retain all the rolling stock at Knoxville, and not to run it off. I have a copy of that resolution."

The same is found on page 23 of Report No. 34, as follows:

"The following is a true copy of the preamble and resolution passed at a meeting called by John R. Branner, president of the board of directors of this company, held at Rogersville Junction, September 2, 1863:

"Whereas the president and directors of the East Tennessee and Virginia Railroad Company, having met for the purpose of taking into consideration our duty, under the present condition of the country, have come to the following conclusions: That whereas the road-bed, rolling stock, with all the fixtures appertaining thereto, belong to the stockholders, a great portion of whom reside in East Tennessee and on the line of the road, and that we are nothing more than their trustees; and, unless instructed by them or compelled to do so by military authority, we do not feel authorized to remove the rolling stock or fixtures off of said road; and whereas we are to-day informed and believe our machine-shops, tools, &c., in Knoxville, are in the hands of the Federals: Therefore,

"Resolved, That we deem it impossible, under these circumstances, to run our trains upon said road, and now suspend the running of them for the present; and, in the event it is possible and prudent to run said road or a portion of it, the president and superintendent are authorized to resume it and suspend as the emergency under the circumstances requires."

The committee earnestly ask attention to this resolution and the statements of the witness. The resolution does not read, as witness says; "it is resolved not to run off the rolling stock;" but "we do not feel authorized to remove the rolling stock," &c. The resolution does not read: "it is resolved to retain all the rolling stock at Knoxville;" but "we are to-day informed and believe our machine-shops, tools, &c., in Knoxville, are in the hands of the Federals."

The committee see in this resolution no evidence of a "just course," "no voluntary act." The recollection of the witness, based on this resolution, is not sustained by the resolution itself, for it shows that machine-shops, &c., "were believed to be in the hands of the Federals, and that it was deemed impossible to run trains," &c.

And the testimony of another witness, although an interested one as superintendent of the road, is, on page 37 of Report No. 34, to the effect that the cars and locomotives were in Knoxville when it was captured by General Burnside; for he says:

"I was in Knoxville when General Burnside entered, and we succeeded in turning over to the Federal authorities thirty-six cars and five locomotives."

This would seem to be a good reason why it was deemed impossible to run trains. And the committee would suggest that in a manner very similar to this General Lee succeeded in turning over to General Grant a very large amount of munitions of war and a large number of prisoners.

The committee certainly have no disposition to do injustice to any individual or to any road, and would most gladly recognize loyalty where ever it may be found, and doubt not history will disclose many individual cases of self-sacrificing devotion to the flag of their country in the mountain regions of East Tennessee; but at the same time they are desirous, for the future safety of the country, of elevating the general standard of loyalty, that after genera-

tions may discover that even interest points to that loyalty which is shown by works and aids in the active defense of the Government when it is attacked. In other words, the committee would compensate that loyalty only which has been proven by works.

Therefore, and as the testimony is convincing that the first and great effort is to come from the State of Tennessee to obtain pay for property destroyed or damaged that had been used in war against the Government, and for the very use of such property by the Government, the committee think it important to investigate somewhat further the subject of loyalty in connection with this East Tennessee and Virginia road, in favor of which a more plausible argument may be made than any other.

The testimony inclines the committee to the belief that the president of this road, Mr. Branner, and the superintendent, J. B. Hoxie, preferred the United States Government, under the circumstances, to the rebel government; but there is an entire absence of testimony to show opposition to, or even open disapprobation of, the rebellion or earnest sympathy with the United States Government.

Take the resolution, which has been copied, of the board of directors, and it contains no words offensive to rebels. It speaks of duty "under the present condition of the country," the Federal arms, for the time being, being victorious. We find no words of greeting for the flag of the Union, for that would be offensive to rebels, but we "believe our shops, &c., are in the hands of the Federals." Had a reverse in arms occurred and the "Federals" been driven from Knoxville, a resolution of the same board that "under the present condition of the country we deem it our duty to run trains," &c., would not have been inconsistent.

And General Trowbridge, on page 23, Report No. 34, testifies that the above resolution was adopted "when General Burnside came into East Tennessee," while the resolution itself shows that it passed at a meeting held September 2, 1863. That was after the evacuation of Knoxville by the rebels, the "American Conflict," by Horace Greeley, page 428, showing that the Federal cavalry advance occupied it on the 1st of September.

Mr. J. B. Hoxie, superintendent, appears so anxious to be regarded as having been thoroughly loyal that on page 37 of Report No. 34 he testifies:

"Immediately after General Burnside entered he appointed me military superintendent of the road."

While history furnishes the fact that General Burnside entered Knoxville in person on the 3d of September, amid great demonstrations of loyalty, and on page 27 of Report No. 34 it will be seen that Mr. Hoxie was appointed on the 9th of September.

Looking a little further at the subject of loyalty and at facts connected with this road, apparently more loyal than any other, on page 36, Report No. 34, J. B. Hoxie is seen to testify as follows:

"My residence during the war was at Knoxville." "A portion of the time I was an engineer connected with the road." "During the rebellion we were engaged in carrying troops, munitions of war, and everything else that was offered," "by the direction of the officers of the road."

On page 51, Report No. 34, Mr. P. Dickinson, a stockholder and director in this road, testifies:

"Before Burnside came he [Mr. Branner, president of the road] was at home." "His road was run under his own control." "In the transportation of troops for the rebels from one part of the country to another, and their supplies," &c. "He pursued the same course in regard to the road that he did for the Federals, that is, he permitted the road to be used by the rebels in the same way that he permitted Burnside to use it; he allowed it to be used by the power that held the country." "Burnside took the road out of his possession, and he had nothing to do with it after Burnside arrived there until it was returned."

This is certainly an instance of submission to "the powers that be." Whether the gov-

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erning spirit was a Christian one or the prevailing desire was to save property remains to be seen. On pages 52 and 53 of Report No. 34 John Williams testifies:

"Mr. Branner was, I unhesitatingly say, a Union man in his sympathies. "I was a Union man myself, and he expressed himself very freely to me." "Besides I have knowledge of his having done some acts there as a railroad president that no man would have done had he been in sympathy with the rebellion. I think, so far as Mr. Branner was able to do so he had Union men on his road in his employment. He could not, however, fill all the places in that way, because some of them were in there when the rebellion commenced; and if he had turned them out it would have looked as if he had done so because they were rebels, and he would have been charged with being a Union man, and in all probability had his road taken away." "Mr. Moxie was situated in this way. He is a northern man, and, as you know personally and by proof, there are a great many of these northern men in Tennessee who had to get along with the rebels the best way they could. He was very quiet." "There were some persons in East Tennessee who were real Union men at heart and yet who played rebel during the rebel occupancy of that country. They did so for the purpose of protecting themselves and their property."

So here we have Union officers running their road more than two years in aid of the rebellion in such manner as not to be charged with being Union men, in order to protect themselves and their property.

They were "very quiet." This brings to mind the Christian who says nothing for his Saviour, but is ever ready when about to fall into the hands of the devil, to say, "Old fellow, I am glad to see you; I have been doing all I could for you on these low grounds of sorrow."

The committee would ask: Is the country prepared to say Union men are justified in aiding the rebellion to save their property? The committee think not. And this is the most favorable aspect of this case.

The committee would say there may here be evidence of neutrality—of indifference, except as to saving property. But is the country prepared to call neutrality loyalty—such loyalty as must be rewarded by a remuneration for losses incurred in consequence of their own lukewarmness to the Government? If so, patriotism is a mockery, and it is more than folly to pay bounties to those earnest men who stood by the country in its danger or to acknowledge our debt of gratitude by paying pensions to the bereaved survivors of her defenders.

If neutrality be loyalty then the Claib Jackson administration in Missouri, which said, "not a man nor a dollar to aid in the unholy war," was loyal.

If in religion such neutrality, lukewarmness, caused mere professors, "neither hot nor cold," to be spewed out of the mouth, so should it be in cases of neutrality toward the Government.

The committee take the position that active loyalty alone is that genuine loyalty that should be recognized and rewarded.

But the committee would pursue the loyal branch of this subject further and investigate this East Tennessee and Virginia road, as the testimony will not admit of an argument for a moment in favor of the loyal sympathies of the directory or of the stockholders of any other road during the rebellion, except only one short road, the Rogersville branch of the East Tennessee and Virginia road.

This professedly loyal railroad president, Mr. Branner, does what? Complies with the executive order requiring a bond to be given for the payment of the debt contracted by the purchase of rolling stock to the amount of \$265,655 65; but complied, as the testimony discloses, to violate it, having obtained the advantage of the Government.

On page 203 of Report No. 34 it appears that this railroad president "represented that for various reasons it was impossible for him to commence and continue regularly the monthly payments, but that he would be able to do so after July, 1866;" and that thereupon General Thomas ordered that—

"In view of the statements made, the time for paying the first monthly installment be extended until the first day of August, 1866, when it is expected that they will be ready to commence their payments and

continue them regularly thereafter, according to the terms of their bonds."

It will be perceived, on page 327 of Report No. 34, from statement heretofore copied into this report, that this road had, on the 30th June, 1866, paid but little more than half the interest due and none of the principal, the payment on the interest being by an account for transportation, and therefore that the debt had increased between six and seven thousand dollars.

It will be seen on page 204 of Report No. 34 that this railroad president had no regard to his promise "to pay after July" and to General Thomas's order to pay 1st August: but that on 22d August, 1866, it became necessary for Major S. R. Hamill, chief quartermaster United States military railroads, to notify him that the time granted had expired. This caused Mr. Branner, as seen on same page, to address Major Hamill by letter, 29th August, 1866, presenting considerations which he trusted would "be sufficient to induce the United States Government to act with patience, lenience, and liberality:" among which considerations are expenditures for the road in its repairs, &c., and having "met the interest due July 1, 1866, on State aid furnished the road."

The committee here only remark that the bond of the road to the Government is violated and promise disregarded partly to pay interest on obligations to the State of Tennessee, entered into prior to its act of secession.

This letter was referred to General Thomas, and in due course to the Quartermaster General, for the orders of the Secretary of War; and for a more satisfactory understanding of the case the committee here give the various letters of transmittal, to be found on pages 205, 206, 207, and 208 of Report No. 34, as follows:

DEPT. OF THE TENN.,
CHIEF QUARTERMASTER'S OFFICE,
U. S. MILITARY RAILROADS,
NASHVILLE, TENN., August 31, 1866.

Respectfully forwarded to Brigadier General W. D. Whipple, Chief of Staff, Department of the Tennessee.

When the time for the payment of the first installment due from the East Tennessee and Virginia Railroad Company was extended until August 1 the major general commanding directed me to insist upon prompt payment of all installments due after the extension should expire. No arrangement was made by the East Tennessee and Virginia Railroad Company to meet the amount due August 1, 1866, nor did they even express their disability to pay until after I had notified them that unless they took immediate steps to make the payments due I should enforce the penalty of the bond. The extension was granted by the major general commanding upon terms proposed by Mr. Branner himself, and upon the same reasons shown in his present letter.

It will be noticed that Mr. Branner mentions no time when he expects to be able to commence the payment of the installments due. Under the circumstances I do not feel authorized to recommend the extension; but being firmly convinced that it is the settled policy of this as well as of other roads to postpone the payment of the sums due the United States indefinitely, hoping eventually to have the whole indebtedness cancelled by legislative enactments, I, on the contrary, recommend that further extensions be not granted, unless the claim of Mr. Branner for supplies furnished General Burnside be considered a valid one. Regarding the merits of this claim I have no information.

I would respectfully urge a more decided policy toward these companies who fail to make payments even under the extended terms granted by the Government, for the following additional reason:

Roads which are financially in as bad condition as those to which extensions have been granted, but which have succeeded in making payments promptly as they become due, without in any manner crippling the operations of the roads, learning the terms granted to other roads, or that payment is not exacted from them, claim, with truth, that they are entitled to the same terms.

I cite, as an illustration of this, the case of the Nashville and Decatur railroad line, which has paid promptly, while other roads, possessing greater facilities for and doing a larger business, have made no payments except in transportation, which barely absorbed the interest due, if it even did that, as is the case with the East Tennessee and Virginia railroad.

The original purchase charged against this road amounted to \$265,655 65. It will be seen by reference to the inclosed statement of account that the amount now due from this road is \$273,286 58.

S. R. HAMILL,
Capt., Assistant Quartermaster, Brev. Maj. Vols., &c.
A true copy: S. R. HAMILL,
Brevet Major, Assistant Quartermaster.

[Indorsement.]

HEADQUARTERS DEPARTMENT OF THE TENNESSEE,
NASHVILLE, TENNESSEE, September 3, 1866.

Respectfully forwarded to the Quartermaster General United States Army, for the orders of the honorable Secretary of War.

W. D. WHIPPLE,
Brev. Brig. Gen. and Acting Adj. Gen., (in absence of the Maj. Gen. Commanding.)

QUARTERMASTER GENERAL'S OFFICE,

WASHINGTON, D. C., September 18, 1866.

SIR: I have the honor to forward herewith the application of the East Tennessee and Virginia Railroad Company for an extension of its time of payment of its debt to the United States, transmitted from headquarters Department of the Tennessee, through this office, for the orders of the honorable Secretary of War.

This railroad leads from Knoxville to Bristol, Tennessee, and is one hundred and thirty miles long. It is charged with \$265,655 65 for material purchased of the United States in September and October, 1865, under executive orders of August 8 and October 14, 1865, for the prompt payment of which in equal monthly installments within two years, with interest at the rate of seven and three tenths per cent. per annum, the railroad company, through John R. Branner, president, has given bond, December 9, 1865, to the amount of \$500,000. The time for the collection of the first monthly installment, payable per terms of bond December 1, 1865, was deferred to August 1, 1866, by Major General George H. Thomas, to whom the executive order committed the transfer of railroad rolling stock in the southwest.

A second indulgence is now asked, no time being stated when the road will commence payment of installments due. Major General Thomas, in granting the previous extension, directed that prompt payment of all installments due after its expiration should be insisted upon. This application has not received the recommendation of Major General Thomas.

The application is forwarded by Brevet Major S. R. Hamill, in charge of United States military railroads, Nashville, Tennessee, with a statement of the indebtedness of the road on August 31, 1866, showing it to be \$273,286 58, or nearly eight thousand dollars greater from accumulation of interest than the original debt. I invite attention to the report of Major Hamill and concur in it.

No disposition whatever appears to be evinced by this road to meet its engagements with the United States, (the comparatively small sum paid (\$2,341) being an account for transportation, which the company had no choice but to place to the credit of their account with the United States. It would be, I think, to the detriment of the interests of the Government to encourage the non-compliance with the obligations voluntarily and formally entered into with it, and would cause other roads which now manifest a willingness to abide by their obligations to complain of partiality and to fail, also, hereafter in the discharge of them.

I respectfully recommend that the application be not granted.

Very respectfully, your obedient servant,
M. C. MEIGS,
Quartermaster General U. S. A. and Brevet Maj. Gen.
Hon. E. M. STANTON, Secretary of War.
A true copy: ALEXANDER BLISS,
Colonel Quartermaster Department, &c.
A true copy: S. R. HAMILL,
Captain, Acting Quartermaster, Brevet Major.

[Indorsement.]

WAR DEPARTMENT, September 27, 1866.

The recommendation of the Quartermaster General of the Army is approved.

By order of the Secretary of War:
L. H. PELOUZE,
Assistant Adjutant General.
A true copy: ALEXANDER BLISS,
Colonel, Quartermaster Department, &c.
A true copy: S. R. HAMILL,
Brevet Major, Assistant Quartermaster.

QUARTERMASTER GENERAL'S OFFICE,

WASHINGTON, D. C., October 6, 1866.

GENERAL: Herewith are respectfully transmitted for your information copies of the papers in the application of the East Tennessee and Virginia Railroad Company, for an extension of time of payment of its debt to the United States, forwarded by you September 3, 1866, and of the decision of the Secretary of War thereupon.

Very respectfully, your obedient servant,
M. C. MEIGS,
Quartermaster General, Brevet Major General U. S. A.
Major General THOMAS, Commanding Department Tennessee, Louisville, Kentucky.
A true copy: S. R. HAMILL,
Brevet Major, Assistant Quartermaster.

[Indorsement.]

HEADQUARTERS DEPARTMENT OF TENNESSEE,
NASHVILLE, TENNESSEE, October 12, 1866.

Respectfully returned to Brevet Major S. R. Hamill, assistant quartermaster in charge of United States military railroads.

By command of Major General Thomas:
W. D. WHIPPLE,
Brevet Brigadier General, Assistant Adjutant General.
A true copy: S. R. HAMILL,
Brevet Major, Assistant Quartermaster.

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CHIEF QUARTERMASTER'S OFFICE,
UNITED STATES MILITARY RAILROADS,
NASHVILLE, TENNESSEE, October 16, 1866.

SIR: I have the honor to inclose herewith a statement of the indebtedness of the East Tennessee and Virginia Railroad Company to the United States on account of purchase of material under executive orders. You are respectfully informed that your application for a second extension of time in which to make payments of interest and installment, having been referred to the honorable Secretary of War, has been returned to this office disapproved.

My orders in the premises are imperative, and no further delay pending application for extension of time can be allowed; and you are further informed that unless the payment of all arrears from the expiration of your extension ~~are~~ provided for by the 27th instant I shall proceed to enforce the terms of the bond executed by your company.

Very respectfully, your obedient servant,

S. R. HAMILL,

Brevet Major, Assistant Quartermaster.

JOHN R. BRANNER, Esq., *President East Tennessee and Virginia Railroad Company, Knoxville, Tennessee.*

A true copy:

S. R. HAMILL,

Brevet Major, Assistant Quartermaster.

[Telegram.]

WASHINGTON, D. C., October 23, 1866.

The President of the United States directs proceedings against the East Tennessee and Virginia Railroad Company, on account of its alleged indebtedness to the United States, to be suspended until further orders.

M. C. MEIGS,

Quartermaster General

Major S. R. HAMILL, *Assistant Quartermaster.*

A true copy:

S. R. HAMILL,

Brevet Major, Assistant Quartermaster.

QUARTERMASTER GENERAL'S OFFICE,
WASHINGTON, D. C., October 24, 1866.

MAJOR: You will report without delay the amount claimed by the East Tennessee and Virginia Railroad Company to be due them for transportation services not credited, and what portion thereof should be credited on their account.

By order of the Quartermaster General.

Respectfully, your obedient servant,

ALEXANDER BLISS,

*Colonel Quartermaster's Department,
in charge Fourth Division.*

Brevet Major S. R. HAMILL,
Assistant Quartermaster, Nashville, Tennessee.

A true copy:

S. R. HAMILL,

Brevet Major, Assistant Quartermaster.

In which correspondence it will be perceived that Major S. R. Hamill says:

"Under the circumstances I do not feel authorized to recommend the extension; but, being firmly convinced that it is the settled policy of this as well as of other roads to postpone the payment of the sums due the United States indefinitely, hoping eventually to have the whole indebtedness canceled by legislative enactments, I, on the contrary, recommend that further extensions be not granted, unless the claim of Mr. Branner for supplies furnished General Burnside be considered a valid one." "I would respectfully urge a more decided policy toward these companies who fail to make payments even under the extended terms granted by the Government."

And Quartermaster General M. C. Meigs, in his letter of transmittal, remarks:

"I invite attention to the report of Major Hamill, and concur in it. No disposition whatever appears to be evinced by this road to meet its engagements with the United States. It would be, I think, to the detriment of the interests of the Government to encourage the non-compliance with the obligations voluntarily and formally entered into with it, and would cause other roads which now manifest a willingness to abide by their obligations to complain of partiality and to fail, also, hereafter in the discharge of them."

The recommendation of the Quartermaster General was approved by the Secretary of War.

Mr. Branner, president of the road, was duly informed that the application for a second extension of time was disapproved. This was under date 16th of October, 1866; and he was also then informed by Major S. R. Hamill that "unless payment of arrears should be provided for by the 27th of that month, he would proceed to enforce the terms of the bond."

On 23d of same month the President directed proceedings against that road to be suspended until further orders.

On 24th January, 1867, (see pages 209 and 210, Report No. 34,) Secretary of War E. M. Stanton addressed a communication to the President, reiterating the facts upon which was based the recommendation of the Quartermaster General, approved by the Secretary of

War, that the extension requested should not be granted, and recommending that the case be referred to Major General Thomas for report, whether any, and, if so, what further, extension should be granted.

This reference to General Thomas was approved by the President. It was in due course referred to Mr. Branner, president of the road, and by him replied to on the 19th February, 1867. (See pages 211 and 212 of Report No. 34.) This reply of Mr. Branner was referred to Major S. R. Hamill, and by him, on 4th March, 1867, returned to Major General Thomas (see pages 213 and 214 of Report No. 34) with a report. In that report Major Hamill says:

"There is abundant reason to believe that the East Tennessee and Virginia Railroad Company is able to pay at least a large portion of their indebtedness, nor is such ability denied by Mr. Branner. To make such a settlement as is suggested by Mr. Branner with any of the railroad companies of the Southwest without doing gross injustice to the Government is absolutely impossible. The only manner to make such settlement without stultifying and disgracing the Government would be to pay each stockholder, upon proof of loyalty to the Government, the amount of his individual loss as a member of the corporation, and let the disloyal submit to at least one of the just results of treason and rebellion. If this claim is admitted as an offset to the indebtedness the precedent will not only impede but stop collections from every railroad in the Southwest, and render treason not only respectable but pecuniarily advantageous. Mr. Branner's present letter is only a repetition of that of August, 1866, in detail; and I can see no reason for changing my recommendation. I respectfully recommend that no further extension be granted, but that payment be exacted."

The committee have been able to find no revocation, in consequence of the recommendation of Major Hamill, of the President's order directing proceedings to be suspended; but that order of 23d October, 1866, is still in existence, with all the virtue it ever had.

And how hopeful Mr. Branner is of ultimate success may be readily seen by a reference to page 89 of Report of Testimony No. 3, of Fortieth Congress, and heretofore copied into this report, where it appears that that road had reduced its indebtedness on 1st November, 1867, to the Government only \$6,500, leaving a debt, originally \$265,655 65, of \$259,154 51.

But it may be well to notice the testimony of this railroad president, who claims to have been loyal. On page 115 of Report No. 3 he testifies:

"I do not deny but I played sometimes to save my road and myself a little secession, as we all did down there. There is no secret about that. Every prominent man had to do so who staid there."

How easy it is for one who "played secession" to save his property to play Union likewise when interest dictates we can understand when we find this witness and railroad president testifying on page 118, Report No. 3:

"My feelings and sentiments were Union, and all prominent Union men in the country knew it;"

and on page 115, Report No. 3, presenting a copy of an account of his road against the United States, of which \$276,726 are for destruction of bridges, rolling stock, depot buildings, &c.; and on page 117, Report No. 3, replying, in answer to questions:

"I suppose we ought to entertain, in addition to these accounts, at some time or another, an account for the use of the road by the United States Government."

The committee have spoken thus at length of this East Tennessee and Virginia road because the indications are that Tennessee roads will be used in the attempt to open the way to the United States Treasury for the payment of such claims as have been alluded to. Should it be contended that such accounts should be allowed, and especially of this road, because of the loyalty of stockholders, the testimony of Mr. Branner himself, whose neutral position certainly does not entitle him to the character of a competent judge of the loyalty of others, shows that a portion of them were disloyal. (See pages 115 and 116, Report No. 3.) Neither are prominent men of Tennessee united in their opinion as to the loyalty of Mr. Branner, for, while Joseph A. Cooper, general

commanding State militia, on page 86, Report No. 3, testifies:

"He [Branner] was a Union man at the breaking out of the war, and so continued during the war;"

Major Samuel Hunt, on page 79, Report No. 3, testifies:

"During the rebellion I resided a portion of the time in East Tennessee, and I was a portion of the time a private soldier, and a portion of the time major of the ninth Tennessee cavalry;"

And—

"I have understood, since the Federal Army came into East Tennessee, that during the rebellion Mr. Branner was not considered a Union man. I never heard any one accuse him of it."

And it is well to remark here that this witness, who proved his loyalty by risking his life, does not agree with Mr. Branner, an interested witness, in his opinion as to the loyalty of the stockholders of this road. On page 79 of Report No. 3 he testifies:

"The majority of them were not loyal, but participated in and sympathized with the rebellion. I apply this to the directors, officers, and stockholders of the road."

THE EAST TENNESSEE AND GEORGIA ROAD.

But the importance of this subject compels the committee to direct attention to another road—the East Tennessee and Georgia—that it may be seen how formidable is the combination to press the unjust claims of these roads.

On the 20th day of November, 1867, the following joint resolution was adopted by the General Assembly of Tennessee—(see page 27, Report No. 34:)

General Assembly of Tennessee—Joint Resolution No. 1.

Whereas the State of Tennessee has invested in the East Tennessee and Virginia, and the East Tennessee and Georgia railroads over four million dollars; and whereas when the military authorities turned over these roads to their owners the companies were compelled to purchase largely of the rolling stock and fixtures, thus incurring large debts; and whereas the Government is pressing the collection of these heavy debts notifying the companies of its purpose to take possession of the roads; and whereas the companies claim that after all just credits are given for the use of these roads by the Government but little, if anything, will be owing to the Government: Therefore,

Be it resolved by the General Assembly of the State of Tennessee, That the Governor be, and he is hereby, authorized to appoint a commissioner on behalf of the State to proceed at once to Washington, with books and accounts, to act in connection with two other commissioners appointed by Presidents Branner and Callaway, and effect a final settlement.

Be it further resolved, That the commissioner on the part of the State be allowed a fair compensation for his services, to be approved by the Governor; and that the comptroller issue his warrant for the same after said services shall have been rendered: *Provided*, That the Governor shall have power to appoint similar commissioners for other roads when in his judgment it is necessary: *And provided, further*, That the expense incurred for the pay and expenses of said commissioners shall be paid by the said roads.

Adopted by the Senate November 16, 1866.

Amended and concurred in by the House of Representatives November 17, 1866.

Amendment concurred in by the Senate November 20, 1866.

WILLIAM HEISKELL,

Speaker of the House of Representatives.

JOSHUA B. FRIERSON,

Speaker of the Senate.

And the following appointment was made, (see page 28 of Report No. 34:)

STATE OF TENNESSEE, EXECUTIVE DEPARTMENT,
NASHVILLE, November 23, 1866.

GENERAL: In accordance with the provisions of the foregoing joint resolution, you are hereby appointed commissioner in behalf of the State, to cooperate with the representatives of the East Tennessee and Virginia, and East Tennessee and Georgia railroads, in effecting a settlement with the United States Government in their accounts with the aforesaid roads.

You will at once enter upon the duties of said office and report your action to this department.

WILLIAM G. BROWNLOW, Governor.

By the Governor:

A. J. FLETCHER, *Secretary of State.*

General L. S. TROWBRIDGE, *Knoxville, Tennessee.*

A true copy:

L. S. TROWBRIDGE.

So that the General Assembly of Tennessee seem to have forgotten their duty to uphold the national credit, and blinded by the investment of a few million dollars in railroads, encourage in effect the roads to dishonor their bonds when, in the words of Major Hamill, (page 213, Report No. 34,) "their execution was certainly known to be a prerequisite to the transfer of the property."

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And the language of the preamble of that resolution is calculated—the committee will not say intended—to deceive. If the “companies” were compelled to purchase largely,” &c, the testimony is conclusive that the necessities of the roads, not Government officials, compelled the purchase. On this point there is nothing in the testimony as to any of the roads to contradict that of J. B. Hoxie, superintendent of the East Tennessee and Virginia road.

On pages 38 and 39 of Report No. 34 he testifies:

“They told us that any stock which we then wanted we could have, and we made a selection of such stock as we needed, and retained it.” “The prices were very high, indeed.” “We were compelled to have the property.” “We could not carry on our business without it.”

And bearing that joint resolution an ex-general of the Union Army is in Washington, January 14, 1867, as a commissioner, to effect a settlement with the United States Government; and, in behalf of a road, the East Tennessee and Georgia, that nine months after that time, November 1, 1867, is owing the Government (see page 89 of Report No. 3) \$353,153 15, having reduced its indebtedness only about sixteen thousand dollars, is of course prepared to adopt the language of the preamble of the resolution which he holds in his hand: “This company claims that, after all just credits are given for the use of this road by the Government, but little, if anything, will be owing to the Government,” while on oath he testifies, page 26 of Report No. 34:

“Although I am representing the interests of the East Tennessee and Georgia road, I must say that they did run off their stock and machinery, too.”

And the committee will add, although it seems, from the testimony that the president of this road during the rebellion, Campbell Wallace, was notoriously disloyal. Of him, the present president of that road, Thomas H. Callaway, testified on page 96 of Report No. 3:

“I suppose the fact is not controverted at all that he was a rebel.”

And as to the loyalty of the stockholders of this road, Mr. Callaway, the present president, testifies on same page:

“I cannot tell with certainty as to the whole of the stockholders. There was a portion of them thorough Union men; there was another portion of them, and a large number of them, that were southern in their feelings and were for the confederacy.” “A great many of them lived in Augusta and Charleston.”

This testimony comes with much force, as it is from a railroad president as to stockholders of his own road; and from one “neither hot nor cold;” for he testifies, same page:

“Union men understood one another and talked freely,” &c.; “but they did not talk so that confederates would know and hear it.” “I was opposed to the war, &c.; still I was forced not to talk, and I had to seem to go with it at times.”

As to this road, so far as the committee have been able to procure testimony, it appears, on pages 201, 202, and 203 of Report No. 34, that after the time had expired for extension of payments on bonds, 1st August, 1866, and Major Hamill had notified the president of the road that without immediate steps for payment of the amount due he would proceed to enforce the terms of the bond, the Secretary of War, E. M. Stanton, ordered, 30th August, 1866, proceedings to be suspended until further orders. So far as the committee can ascertain there has been no revocation of that order.

NASHVILLE AND CHATTANOOGA RAILROAD.

For reasons heretofore stated, the committee must notice the Nashville and Chattanooga road somewhat further.

It has already been shown in this report that the value of property purchased from the Government, and for which bond was given, by this road in the fall of 1865 was \$1,566,551 78, (page 327, Report No. 34,) and that its indebtedness on 31st January, 1867, was \$1,532,740 60, (page 190, Report No. 34,) being a reduction in fifteen months of but \$33,811 13, the collection having been suspended on May 5, 1866, (see page 221, Report No. 34,) by

order of the President, and that Michael Burns, president of the road, was pressing claims “for its use during its occupancy by the United States.”

To fully understand the *animus* of Mr. Burns and the feeling of security he evidently indulged while failing to comply with his bond, the committee direct attention to the correspondence on pages 218, 219, 220, and 221 of Report No. 34, where it will be seen that three letters, bearing respective dates 31st March, 3d April, and 4th April, 1866, from Major Hamill, under instructions from General George H. Thomas, were necessary to draw from Mr. Burns a reluctant reply, as follows:

NASHVILLE AND CHATTANOOGA RAILROAD COMPANIES, PRESIDENT'S OFFICE.
NASHVILLE, TENNESSEE, April 5, 1866.

CAPTAIN: I have the honor to inform you that the Nashville and Chattanooga Railroad Company will pay you one installment of the amount due the United States Government for purchases of material under the executive orders of August 8 and October 14, 1865, together with accrued interest on the amount of purchase, within five days from this date. I have further to state that as far as it is in the power of this company installments and interests will be paid in the future as they fall due.

Very respectfully,
M. BURNS,
President Nashville and Chattanooga and Nashville and Northwestern railroads.

Captain S. R. HAMILL, Disbursing Quartermaster
United States Military Railroads.

A true copy:
S. R. HAMILL,
Brevet Major, Assistant Quartermaster.

This was referred to General Thomas on same day, and on 17th of April, 1866, returned to Major Hamill with a communication as follows:

HEADQUARTERS DEPARTMENT OF THE TENNESSEE.
NASHVILLE, TENNESSEE, April 17, 1866.

CAPTAIN: I have the honor to acknowledge the receipt of your letter of April 5, transmitting a proposition from M. Burns, Esq., president of the Nashville and Chattanooga Railroad Company, of same date, to commence the payment of the monthly installments due the United States, together with accrued interest, in five days. Your letter invites attention to two facts in connection with the Nashville and Chattanooga Railroad Company, the first of which is that the company has not availed itself of the act of Assembly permitting it to fund arrearages of interest upon their mortgage bonds, by doing which they would have been fully able to pay all installments now due to the United States.

The second is that at a late meeting of the board of directors the president of the road was directed to pay at once the debts incurred by the Nashville and Chattanooga Railroad Company while operating within the lines of the military authorities of the late rebel government, and that the debts of this character already liquidated amount to over one hundred thousand dollars.

The major general commanding is of the opinion that these acts constitute a breach of faith with the United States on the part of the board of directors, and lays the board open to at least the suspicion of a deliberate intention to defraud the United States, when purchases were made from the latter and bonds executed to secure the payment of the debt, and the effect must be to prevent such fraud in future by compelling the regular payment of monthly installments due the United States, with accrued interest.

As the money which should have been applied to the liquidation of the debt due the United States has been paid out, and gone beyond the control of the company, we can do no better than accept the proposition of M. Burns, which you are authorized to do, and compel prompt compliance with the conditions thereof in the future.

Inclosed herewith I return Mr. Burns's letter to you, above referred to.

Very respectfully, your obedient servant,
WILLIAM D. WHIPPLE,
Brevet Brigadier General and Chief of Staff.

Captain S. R. HAMILL,
Chief Quartermaster United States
Military Railroads, Nashville, Tennessee.

In obedience to which, on 5th May, 1866, Major Hamill addressed Mr. Burns requesting a check for the balance due and unpaid, which was replied to by an order of same date from the President of the United States, directing that collection be suspended until further orders, &c.

There has been no revocation of that order, and the effect is that on 1st day of November, 1867, (see page 89 of Report No. 3,) this road was owing the Government \$1,556,893 57, only \$9,658 16 less than in the fall of 1865, showing an increase of debt in nine months preceding 1st November, 1867, of \$24,152 97; this road which, as early as 5th April, 1866, “had liquidated debts incurred while operating within the lines of the military author-

ities of the rebel government amounting to over one hundred thousand dollars,” and which, according to the testimony of Mr. Burns himself, on page 282, Report No. 34, had paid “nearly five hundred thousand dollars interest on the bonds of the company indorsed by the State, and which were held in New York and other places during the rebellion,” “out of the net earnings of the road for the fifteen months ending on the 1st January, 1867, which was about five hundred and twenty-four thousand dollars or little over that.” There is also testimony to show that dividends have been paid to stockholders.

Of this road, Michael Burns, on page 296, Report No. 34, testifies:

“After the fall of Fort Donelson the then president, V. K. Stevenson, or the rebel so-called government of the road, took off the rolling stock down South. During the rebellion he was there; he was running this stock on other roads,” &c.

Of this road, William Spence, a farmer, residing at Murfreesboro', Tennessee, on pages 77 and 78 of Report No. 3, testifies:

“My home has been at Murfreesboro' for forty years, two and a half miles south of the Nashville and Chattanooga railroad. I was a director from the commencement of the road until 1858. I am now a director appointed by the State. If my recollection serves me right, the directors were all rebels, from the president down. I do not suppose there were ten loyal stockholders on the whole road, and of the directors every one of them was disloyal.”

Of this road, the present president, Michael Burns, testifies, pages 236 and 297 of Report No. 34:

“During the early days of the rebellion I was in Nashville engaged in the saddlery, hardware, and shoe-finding business, and remained there and in that business until the Federal Army took possession of that part of the country. I sold it all through the country. I had an extensive trade in Tennessee, Kentucky, Georgia, and Alabama. I did a very large wholesale and retail business. I declined to supply the confederate government, but I sold to persons whom I suppose sold to it. I was compelled to take confederate scrip or not sell my goods, &c. I remained at home. I was opposed to the war, and would not vote for secession because I thought it unnecessary and uncalled for. I had two alternatives—either to leave the country or stay at home. I staid at home and sympathized with the southern people, but took no active part in anything. I never took the oath of allegiance to either government during the war. I was not very violent on either side.”

Of this road's present president, Michael Burns, on page 83, Report No. 3, W. E. Gleaves, secretary and treasurer of the Nashville and Chattanooga Railroad Company while down South during the rebellion and after the war for about nine months, testifies:

“Mr. Burns was a member of a vigilance committee here. This committee was to decide who was loyal or disloyal to the confederate government. This committee was appointed by the confederate government, and if they found the presence of a man objectionable in the community they could remove him. Mr. Burns also equipped an artillery company which served in the confederate army.”

And of him Mr. Spence, a resident of forty years, who testified above on another point, testifies on page 78, Report No. 3:

“I was not well acquainted with Mr. Burns's political status. When Governor Johnson was appointed military governor he sent for me and asked me several questions about Mr. Burns. He had been applying to the governor for something, and he doubted his loyalty. I could not give him the information he wanted. Afterward he told me that Mr. Burns had been a pretty bad rebel. Shortly after that he got into considerable favor with Governor Johnson and was considered a good loyal man.”

Of this road Enos Hopkins, on pages 83 and 84 of Report No. 3, testifies:

“We built the bridges, repaired the track, and put the road in running order. The bridges were all destroyed. I worked at both ends of the road. At one end the track was in very bad order and the road nearly a wreck,” &c. “When the road was turned over to the company it was in very good condition,” &c.

And on pages 67 and 68 of Report No. 3 William P. Innis testifies:

“I was superintendent from September 15, 1865, until September 1, 1867. My connection with it before that was during the war, when I built some bridges and laid the track,” &c. “Considering road-bed, buildings, and all, in the road was in better condition when restored to the company after the war than when first taken possession of by the United States troops, by \$150,000.”

Ho. OF REPS.

Report on Southern Railroads.

40TH CONG....2D SESS.

Of this road the testimony is, on page 329 of Report No. 34, that "the cost of materials used and labor performed for its construction and maintenance of way," exclusive of the labor of troops, "was \$4,079,511 33;" and we have already seen that rolling stock, &c., were sold to it more than two years since to the value of \$1,566,551 73; and still its rebel sympathizing president testifies on page 290, Report No. 34—

"Upon a just and fair settlement the United States Government would be largely in its debt."

And on page 300—

"I made this claim to get payment for the use of the road during its occupation by the military." "The United States owes us a good deal, and we should insist on a settlement. There is no use in making payments when there is money due to you."

NASHVILLE AND NORTHWESTERN ROAD.

It would generally be presumed that even rebel shamelessness could not exceed in impudence this last demand; but the committee would present another case for the consideration of the House and of the country, that of the Nashville and Northwestern road.

From tabular statement heretofore embodied in this report, taken from page 323 of Report No. 34, of railroads seized and operated by the Government, it appears that this road was taken possession of February 4, 1864, and that the terminal points of the road operated were Nashville on the east, and Johnsonville, on the Tennessee river, on the west, and the distance seventy-eight miles.

William P. Innis, superintendent of this road, on page 65 of Report No. 3, testifies:

"The greater part of that road was constructed by me." "In the spring of 1862 I was ordered by General Roscerans to make a reconnaissance and to estimate to him what it would cost, which I did." "The road at that time was built from this end (meaning Nashville) and the track laid for a distance of twenty-seven miles. From the other end, called Johnsonville, it was laid about five miles in this direction. The balance of the road was pretty nearly graded, and the ties had been procured for it. Some, however, had been destroyed by guerrillas. Some of the bridges had been destroyed and some were not built, but the timber was ready." "I took four companies of my own regiment and two regiments of colored troops, with such civilians as I could have." "I remained in charge until General Sherman's advance on Atlanta." "At the time I left the road the bridges were nearly all built, the grading nearly all done, and the iron laid to about section thirty-four from this end. I was ordered by General Roscerans to purchase the iron for the balance of the road, about three thousand tons; and the iron was all here at Nashville at the time I was relieved." "At the time I left I estimated it would take from one hundred thousand dollars to one hundred and fifty thousand dollars to put it in order." "I do not include the labor of the troops; merely the hired labor of civilians."

Of course the iron purchased was not included, as it alone had already cost double one hundred and fifty thousand dollars.

But, without going more into details, the tabular statement on page 329 of Report No. 34, made by Colonel Alexander Bliss, in charge of fourth division of quartermaster's department, shows that the cost of materials and labor performed for construction, &c., of this road, for about forty-six miles, by the Government was \$1,471,397 96.

And yet the president of this road, Michael Burns, who is also, as has been seen, president of the Nashville and Chattanooga road, claims, as seen from his testimony on page 283 of Report No. 34, "\$848,160 96 over and above the work done completing the road." And on page 284 it appears that of this amount "\$449,074 96 are for the use of the road and the remainder for materials taken and engines and cars used."

Let it be borne in mind that the same one who acknowledged himself a southern sympathizer is president of this road as well as of the Nashville and Chattanooga.

And as to the loyalty of the stockholders of this road, the superintendent of the road, on page 66 of Report No. 3, testifies:

"There are very few of what you call loyal men in this country, but some of them are fair men." "I do not think any of them were what you would term loyal men."

He likewise testifies, page 66, in Report No. 3:

"The stock of the Nashville and Northwestern road is owned principally in this city [Nashville] and on the line of the road."

And as still further indicating the rebel sympathies of the directors and stockholders of this road, its president, on page 277 of Report No. 34, in reply to the question, "Had any work been done on the road during the rebel occupation?" says:

"Before the fall of Fort Donelson there was some work being done by the company, but it ceased after the fall of that place."

The committee have already directed attention to the testimony that this railroad president came to Washington and employed agents to press the claim of this road against the Government and to procure extensions of payments due on the bond.

The indifference with which he treated the pressing demands for payments by Assistant Quartermaster Hamill may be better understood when the testimony shows that there is actually an increase of the indebtedness of this road under the operation of the order of suspension of proceedings against it. On page 90 of Report No. 3, in tabular statement of indebtedness of railroads on November 1, 1867, which statement is heretofore copied into this report, it will be seen that the value of property for which bond was given by this road was \$525,400 26 in the fall of 1865, and that on November 1, 1867, it was \$575,920 66, and that of \$31,331 20 of payments in all but \$1,476 82 were in cash, the remainder being by transportation accounts and mail service.

Where this railroad president finds encouragement to continue to disgracefully suffer the bond of this road to the Government to be dishonored others can conjecture as well as this committee. But it is not in consequence of inability to pay, for at a late day—30th November, 1867—this Michael Burns testified before the committee, and to the question "In regard to the Nashville and Northwestern railroad, what has been lately done in reference to its construction?" he replied:

"Since the cessation of hostilities the work from Johnsonville to the Mississippi river has been built; the distance is about ninety-three miles. There was a portion of this road built before the war and I completed the rest. The company gave \$350,000 in Tennessee bonds, \$100,000 in cash, and \$380,000 in second mortgage bonds of the company. In March last we had a freshet and the contractors refused to work, and the company gave them \$30,000 in addition to finish the work. This does not include the iron or spikes or chains; the company paid for them. The \$130,000 in money were derived from the sale of Tennessee bonds partly, partly from the earnings of the road, and from some little collections made from old subscriptions. The earnings were light, and we used them in the construction of the road and in paying some old debts."

There is enough in this testimony to show that \$130,000 cash have been lately expended in the construction of the road west of Johnsonville to the Mississippi river, and still an unnamed sum in paying some old debts, instead of those amounts having been in good faith applied to payment of debt due the Government; but more, it shows, also, that for this new portion of road iron, &c., have been paid for; and so far as the committee are informed for about eighty-six miles—say about six hundred thousand dollars. And this railroad president suffers the interest on the road's bond to the Government to accumulate; this president who testifies on page 291 of Report No. 34:

"As long as I represent the interests of others, if the Government should attempt to seize the road I will bring the matter into the courts, and I will go to the utmost end to oppose them."

As this president of two important roads, owing large debts to the Government, almost defies the authorities to attempt to enforce the bonds of these roads, and at the same time pays, from the earnings of the very rolling stock for which the bonds are given, debts contracted by the roads while in rebellion and interest on bonds indorsed by the State of Tennessee before the rebellion, the committee consider

it their duty to present other facts, as shown by testimony, which may or may not explain his defiant and remarkable conduct. On pages 634, 635, 643 and 644 of the testimony in the impeachment investigation it appears that Andrew Johnson, President of the United States, holds \$30,000 of bonds, \$19,000 of which are of the Nashville and Chattanooga Railroad Company, indorsed by the State of Tennessee; \$1,000 of the Tennessee and Virginia road, indorsed by the State of Tennessee, and \$10,000 State bonds of Tennessee; and that on the \$19,000 interest from in 1861 was paid in 1866 (say for five years some \$5,000) and new bonds issued for the interest on the remaining bonds. These facts, taken in connection with the sixth paragraph of Executive Order of 8th August, 1865, "all railroads in Tennessee will be required to pay all arrearages of interest due on the bonds issued by that State, prior to the date of its pretended secession from the Union, to aid in the construction of said roads, before any dividends are declared or paid to the stockholders thereof," are, to say the least, significant.

LEGISLATION NEEDED.

But it cannot be expected that the committee will take up and discuss the case of each railroad separately. That would require volumes. Enough has been presented to satisfy the House that most unjust claims are being entertained against the Government, and so far urged to at least retard or prevent the collection of debts due the Government, and that there should be at once some decided legislation on this subject, and that, even if Congress decide to pay for property captured from rebels and destroyed or for the use of such property restored, it should be made the duty of some committee or court, established or to be established, to investigate each case.

ROADS WITH INCREASED INDEBTEDNESS.

It will be perceived, from tabular statement above extracted from pages 89 and 90 of Report No. 3 that the following roads, in addition to those above commented upon, have suffered their indebtedness to increase by an accumulation of interest, to wit: Wills Valley; Edgefield and Kentucky; Memphis, Clarksville, and Louisville; Alabama, and Tennessee river; Mississippi, Gainesville, and Tuscaloosa; Alexandria, Loudoun, and Hampshire; McMinnville, and Manchester; and that the indebtedness of the following is very slightly diminished, to wit: New Orleans and Ohio, Memphis and Little Rock, Knoxville and Kentucky.

ROADS PROMPT, ETC.

It is but just to all railroads to say that those not named above as having increased or but slightly diminished debts are presumed to have acted in good faith and entirely paid, or to be giving evidence of laudable efforts to pay, their indebtedness.

CLAIMS ENTERTAINED BY OTHER ROADS.

Still, some of the companies that have paid and are paying their bonds are preserving evidence of damage to and use of their roads; and it is in the testimony that their claims will be presented and urged if Congress should adopt the policy to pay for such damage or use.

DELINQUENCY OF TENNESSEE ROADS.

And in the spirit that chastisement is most readily inflicted when deserved upon those most loved, the committee would most kindly remark that the roads of Tennessee deserve a severe rebuke; for they have not only not been prompt but lamentably delinquent, and not only delinquent but also persistent in demands which, if allowed, would lead to the payment of untold millions of money as rewards to treason.

A glance at the statement extracted above, from pages 89 and 90 of Report No. 3, will show that but five of these roads—Nashville and Chattanooga, East Tennessee and Virginia, East Tennessee and Georgia, Edgefield and Kentucky, Nashville and Northwestern—

owed the Government \$2,876,472 03 on 1st of November, 1867, being considerably more than half of the whole amount of \$4,884,500 62 of railroad indebtedness.

The conduct of the roads in the rebel States further south than Tennessee should bring the blush of shame to their cheeks.

UNDER WHAT POWER?

This brings the committee to inquire: under what power were these millions of dollars worth of railroads and other railroad property restored to their former owners, and what is the legal effect of their restoration?

The committee find there is no authority in law for it. There being none, the right was assumed and exercised under the war power.

This is evidently implied in Secretary Stanton's reply to an interrogatory on page 271 of Report No. 34. To the question: "I understand, as the result of your statements, that in turning over these roads when you had no further use for them for military purposes, you were governed by your views of the general public policy of the country?" he replied:

"Yes, limited by what I supposed to be the legitimate powers of the War Department. I do not mean to say I had the right to assume the powers of Congress to determine the general policy; but within the scope of what I thought to be the power of the War Department I was governed by what I assumed to be the good of the country. I did not intend my authority to determine the general question of policy."

It is, in the opinion of the committee, a mistake as to the "scope" of the powers and their not confining their action within "the legitimate powers of the War Department," that render the solution of the questions in the premises now the more embarrassing, if not difficult.

The Secretary's further answer, to be after a while quoted, implies that the restoration of this property passed no title. Then the committee think their action should have been strictly confined to their "legitimate powers," because possession gives a show of title.

Those "legitimate powers" were to inflict injury in every way possible upon the enemy; to destroy, to weaken, to subdue. That is the object of a War Department.

But an enemy being subdued, there is in that department no express or implied power to make that enemy whole, to strengthen him and build up his waste places. There is no power given to this department nor to any executive officer after peace, nor is it implied to exercise discretion and to do what he or they may assume to be for "the good of the country." There is no limit to discretion. One may assume it to be "for the good of the country" to restore railroads, while another may be governed by feelings of a still larger love of country, and, with equal propriety, draw upon other property of the Government, and "for the good of the country" give forty acres of land and a plow-horse to each destitute family. Such power belongs to a monarch in an unlimited monarchy. Under our government of laws such power belongs to the people in the law-making department or branch of the Government, and, in imparting such power, they only trust themselves, represented by their own chosen agents. No such power can be found delegated under any law to any department, military commander, or civil officer, and the exercise of any power not delegated by law is an assumption by an executive officer who is chosen to execute laws, and can legally go no further than authorized by them.

Then the question arises, what right or title passed with such restoration? An illegal, unauthorized transfer passes no title. No one will venture to contend that the title to property captured from a public enemy, and especially that which had been used by that enemy for war purposes, does not vest by such capture in the captor. Therefore in the cases under consideration the title passed to the

captor. And who is the captor? The Government, of course. No one will say the President or any military commander or officer of the War Department, who are merely chosen to execute laws for the Government, and whose acts without law are invalid and not binding. The act of a President unauthorized by law is as invalid as that of a private citizen. No title passes except under a law. In the cases under consideration the right vested in the Government, and could only be divested by the Government, through its laws. There being no law for it, the transfer was invalid, null, and imparted no right. The restoration, therefore, amounted merely to possession without title, with the legal right still in the Government to resume possession at pleasure.

And on this point Secretary Stanton, on page 271, Report No. 34, says:

"The question of title which the persons acquired when they [the railroads] were turned over to them was a legal question, which would have to be determined by Congress or the judicial tribunals, if any dispute arose in regard to them." "I do not mean to say I had the right to assume the power of Congress to determine the general policy."

And General E. R. S. Canby, on page 243, Report No. 34, testifies:

"We simply relinquished the military right; the civil right was in full force if the Government saw fit to enforce it."

And here the committee remark that their proposition, that "the restoration of this property amounted merely to possession without title, with the legal right still in the Government to resume possession at pleasure," disposes, without further comment, of the late argument of General J. T. Boyle, president of the Evansville, Henderson, and Nashville railroad, which is not in the testimony, but should be noticed, as it was referred, on 11th November last, by Governor W. G. Brownlow to the members of the Tennessee Legislature, and discloses the grounds upon which that State may possibly press her railroad claims to the exclusion of those of the United States.

That argument is that that State before the rebellion issued State bonds to the amount of \$16,000,000, and, under the provisions of an "internal improvement law," created a prior lien upon each road to secure the payment of their respective bonds and of the interest accruing on the same, and enacted that the roads should create no other conflicting liens; that the claims of the Government of the United States are accounts for property sold to the roads, secured by bonds which are secondary, subordinate, to the State bonds; that, therefore, "the State and the railroads should refuse to pay the claims without a settlement and an allowance of what may be fairly due the State and the roads; and, if any military officer attempts to enforce the bond and remove the property or take possession of the railroads, apply to the Federal courts for injunction and for relief;" at the same time the attempt being made, on page 12 of said argument, to show the balance due the State and one road—the Nashville and Chattanooga—to be, \$987,826 92 after crediting the Government, not with over \$4,000,000, as estimated by the quartermaster's department, for constructing, repairing, &c., that road, but with \$2,500,000 and rolling stock, purchased \$1,526,578, and charging the Government with "\$5,014,404 for use of the road and earnings thereof from 1st March, 1862, to 15th September, 1865."

The position of the committee goes behind all this and places the title in the Government, with the right to repossess at pleasure. These roads did not and do not belong to Tennessee, but to railroad companies, the State merely holding liens to secure her against loss. This is clearly shown in the argument of General Boyle itself.

These roads were used, as has been shown, in aid of the rebellion, by the voluntary action of presidents, directors, and stockholders, with very few exceptions, probably not ten, who

could be named by all the witnesses examined from several States. They were then, after use, captured; and it is not necessary to notice the statement in that report, "that a State cannot rebel; a State cannot be convicted of treason or punished, or its property confiscated." Still, it is well to remark that the logical result of such teaching would be to induce the wealthy, disloyal, cunning, and designing, when preparing for a second rebellion, to seek security for their property under the guise of State investments. But such teachers should turn to the opinion of the Supreme Court of the United States delivered in the Prize cases, and read, on page 673, 2 Black, as follows:

"Now, it is a proposition never doubted that the belligerent party who claims to be sovereign may exercise both belligerent and sovereign rights," &c. "Under the very peculiar Constitution of this Government, although the citizens owe supreme allegiance to the Federal Government, they owe also a qualified allegiance to the State in which they are domiciled. Their persons and property are subject to its laws. Hence, in organizing this rebellion, they have acted as States claiming to be sovereign over all persons and property within their respective limits, and asserting a right to absolve their citizens from their allegiance to the Federal Government. Several of these States have combined to form a new confederacy, claiming to be acknowledged by the world as a sovereign State." "It is no loose, unorganized insurrection, having no defined boundary or possessions," &c.

The committee wish it understood that they are in sympathy with the loyal people and the present loyal government of Tennessee, and prepared to aid in sustaining them and their State credit; but do not desire to do so at the expense of principles that would deprive the Government of the power of self-protection. That State should recollect it was its misfortune to have had so much disloyalty within its borders that, on the 16th August, 1861, the President of the United States proclaimed and declared that the inhabitants of this State, among others, were "in a state of insurrection against the United States, &c." It therefore becomes her to come before the parent Government in a proper spirit of, the committee will not say humiliation, but respect, asking favors and not demanding.

Then the committee suggest that it would be much less iniquitous to make the proposition recommended in said report of said General J. T. Boyle, that—

"The State could memorialize Congress on the subject, and ask that the whole matter be settled by the United States donating to the State the amount of the claim she holds against the roads, on condition that the State of Tennessee shall assume and settle all the claims asserted by the State and railroad companies against the United States."

A yielding to demands contrary to law and justice opens the door for remuneration for treason; for other late rebel States are interested in railroads as stockholders, and Virginia largely.

CONTRARY TO EXPRESS LAW.

But the committee say, not only that the property in question was restored to the original owners without authority of law, but in direct violation of law, and ask attention to the act of 6th August, 1861, (12 United States Statutes, page 319,) the latter portion of the first section of which reads as follows:

"Or if any person or persons, being the owner of owners of any such property," [any property or whatsoever kind or description,] "shall knowingly use or employ or consent to the use or employment of the same as aforesaid," [in aiding, abetting, or promoting insurrection or resistance to the laws, or any person or persons engaged therein,] all such property is hereby declared to be lawful subject of prize and capture wherever found; and it is the duty of the President of the United States to cause the same to be seized, confiscated, and condemned."

In the cases under consideration the property so used and employed was seized in due course of war, but restored in open disregard of this plain provision of law and of the spirit of the law of 3d March, 1863, providing for the appointment of agents by the Secretary of the Treasury for the collection and sale at auction of abandoned or captured property, and of the spirit of the law of 2d July, 1864.

HO. OF REFS.

Report on Southern Railroads.

40TH CONG. ... 2D SESS.

AND WHEN RESTORED?

But if that law were not deemed sufficiently plain for the guidance of the executive officers of a loyal people who had, after the sacrifice of many lives and much treasure, saved their country from rebel grasp, it certainly indicated their (the people's) sentiments so clearly that the restoration of this vast amount of property at the time it was restored was an outrage upon their rights; for it was restored but a short time preceding the December session, 1865, of Congress, when they, through their Representatives, could have been consulted.

Between the time of the return of these roads and the assembling of Congress, at a regular session, only about three months and less, in the most important cases, intervened.

The amount of \$123,000,000 and over would have justified calling an extra session of Congress a month or two in advance, even though the subject of reconstruction had been of no importance.

But this haste for returning property to rebel hands is somewhat attempted to be accounted for by General M. C. Meigs, who, on page 259 of Report No. 34, testifies:

"It will be perceived that these railroads have been costing during the present year \$1,300,000 a month, and the expenses are still going on."

The committee submit that this only proves that the Administration gave away \$123,000,000 and over of Government property to save \$3,900,000, the expense of running the roads three months, until the assembling of Congress; and that it does not prove the roads could not, together with rolling stock, have been sold to companies who would have operated them profitably for themselves under the management of experienced railroad men. No one doubts they could be so sold to-day. But executive officers had no right to exercise their discretion or judgment. Their duty was to obey the law, or, in the absence of law, to inform the law-making power.

THE POLICY PURSUED.

But the committee would present the subject as they see it in the light of policy, and if the restoration of this property is both unauthorized by law and impolitic the possession could be resumed by the Government.

While the committee have much respect for the high officials who advised restoration, they are constrained to express the opinion that, in the exercise of their magnanimous liberality in the disposal of property not their own, they lost sight of justice, and were misled by too high an estimate of the character of the enemy that had deliberately assailed the Government. It should have been borne in mind that the war of rebellion was waged to perpetuate human oppression by those who, with their ancestors, had for many years gratified that disposition to oppress that destroys all the noble sentiments and feelings of the soul. This seems to have been forgotten.

The high standing socially, and, in time past, politically, of railroad presidents and directors, and the influence which wealth and intelligence ever give, seem to have caused sight to be lost of the enormity of the crime of treason, so much so that while the only horse of a poor, ignorant man, led into the rebellion by this very intelligence, is retained and never returned, when captured conveying information even that the enemy may escape death, these engines of power, this wealth, amounting to one hundred and twenty-three million dollars and over, is returned to the intelligent, wealthy, and influential, whose only magnanimity had been to surrender when they could no longer fight—returned, too, before the basis had been determined upon for their return as citizens under recognized governments of States restored to the Union—engines of power that could be used again against the Government with rebellion revived.

If desiring to renew rebellion, what more in the premises could these former enemies have

desired than they have received? Roads repaired and constructed, equipped, made ready for profitable use, and returned!

An individual would consider it blind policy to put his enraged antagonist upon his feet and restore to him his deadly weapon. It would be considered madness in a keeper to turn from the cage an untamed beast, with food administered to strengthen him for another effort to take his life.

Is the life of the nation less precious, or maddened rebel enemies less to be dreaded? And those who regard oaths of loyalty as safeguards would do well to remember that almost yesterday there were in the halls of Congress those who disregarded oaths, and, by concocting treason, blackened their souls with perjury.

The policy in the past had been, with all governments, to impoverish an enemy. In the cases being considered it has been to enrich. The policy pursued can only be justified on the ground of magnanimity and charity—charity blinded to justice; and such magnanimity can only be excused, if at all, under supposition of bewilderment growing out of the magnitude of the war, and the momentous questions connected with it and growing out of reconstruction.

The desire for peace was laudable; but that had been conquered. The desire for general prosperity was praiseworthy, and may have shown goodness of heart; but justice and the security of after generations forbid rewards for treason. The "Highest Ruler," who offers mercy to all, rained fire upon the disobedient, and a Dead sea remains as a reminder.

To show utterly the failure to appreciate the disposition of the enemy that had interrupted the peaceful relations of the country and destroyed trade and commerce, and the magnanimous but ill-timed spirit manifested by high officials of our Government, the committee here quote from page 267 of Report No. 34, the words of Secretary Stanton. He testifies:

"I must say that from the moment of the surrender of the rebel armies my own consideration was earnestly directed to all measures coming within my sphere of action that would tend to promote the general pacification of the country and the restoration of its trade and commerce to its original channels. This I deemed to be not only the most effectual, but by far the most economical, system of policy that could be pursued, and also the most safe and certain in its results. From early study I had been led to the belief that one of the chief purposes for the establishment of the Union originally formed between the States was for the promotion and encouragement of peaceful commerce, industry, and intercourse between the inhabitants of the respective States, and I therefore believed that whatever would tend to that object, either in the disposition of surplus materials or in other exercise of the powers of the Government, would be incumbent upon the Executive, and of benefit to the whole nation, and none occurred to me as being more speedy in its beneficial results than at once to open the channels that had been broken up or obstructed by hostilities; and that, in comparison with the improvements that would thus result, the value of the property that might be turned over would be comparatively of insignificance."

The committee appreciate the eloquence but not the force of the argument. Under a different state of facts the argument would be good and the spirit admirable. If the Government and her enemies had been equally responsible, chargeable, for the "hostilities" that had "obstructed or broken up the channels of trade, peaceful commerce, industry, and intercourse;" if strife had been equally avoided by both sides and sought by neither; if peaceful pursuits and friendly intercourse had been sought by one as by the other, such magnanimity might have been appreciated and the return of commerce and industry would have far more than compensated for the value of the property turned over.

But the history of the rebellion shows that the hostilities that "broke up and obstructed" these channels were voluntarily brought on by one side against all remonstrance and entreaty on the part of the friends of the Union; that no terms or compromise would be listened to by those who deliberately resolved to break up those channels.

Under this state of facts, while it was "incumbent upon the Executive" and upon all others to promote and encourage trade, commerce, and industry, the committee do not come to the conclusion that this desirable object would be reached or advanced by placing what General M. C. Meigs calls "powerful and efficient instruments of war," and what the Secretary himself, on page 266 of Report No. 34, says "are of importance, in a superior degree, to the success of military operations," in the hands of those unrepentant rebels who had then but recently destroyed our trade and commerce and struck at the life of the nation, and whose only expressed regret had been the want of success.

The Administration was magnanimous, but failed to see that pearls may be thrown where they are not appreciated; and were blind to the Christian instruction that "the ruler beareth not the sword in vain, for he is the minister of God, a revenger to execute wrath upon him that doeth evil."

The committee prefer to adopt the words of another as expressing their sentiments and indicating the true policy; of another who cannot be objected to by those favoring the policy that has been pursued; words memorable as burning with the heat of loyalty and patriotism, and which electrified the loyal heart of this nation, which responded by conferring honors upon the distinguished individual.

As early as the 9th day of June, 1864, this "individual" said:

"Before these repenting rebels can be trusted let them bring forth the fruits of repentance. Treason must be made odious and traitors must be punished and impoverished. Their great plantations must be seized and divided into small farms, and sold to honest, industrious men." We get men in command who, under the influence of flattery, fawning, and caressing, grant protection to the rich traitor while the poor Union man stands out in the cold."

But, contrary to such wise teaching, these roads, that should have been sold for the benefit of poor Union men who have endured cold and heat, have been restored, in effect, to preserve the property and wealth in the hands of rich traitors and influential against the Government for which the poor have fought. And will it be denied that the officers and stockholders in these roads represent much of the social power and influence in the rebel States? Certainly not.

Hear then, again, the words of wisdom coming from this distinguished individual as late as the 21st day of April, 1865:

"They must not only be punished, but their social power must be destroyed. If not they will still maintain an ascendancy, and may again become numerous and powerful; for, in the words of a former Senator of the United States, 'when traitors become numerous enough treason becomes respectable.'"

The committee are of the opinion that not to preserve the majesty of the power of the nation, but to preserve the wealth and social influence of those desiring the nation's life, is not only to eventually destroy "trade and commerce," but to defeat the very object of government by overthrowing its free and righteous institutions. Let rebellion become a success and all is destroyed. Then the arguments as to the efficiency, economy, certainty, and safety of such policy are all together, at an end. But the testimony of some witnesses may be quoted who say the plan pursued by the Administration was "judicious."

The words of Major General George H. Thomas may be quoted against the opinion of the committee. On page 83, Report No. 34, he said:

"I think the course pursued was the most economical: that of turning over the roads to the companies and paying for transportation."

The committee would direct attention to the fact that those words were in reply to a question that presented but two plans, and he was asked which of the two would have been most judicious: one, to have kept the roads in the possession of the Government and run them for its own use; or the other, to have

turned them over to the companies and let them run them as common carriers and the Government to pay them for transportation. Deciding between the two plans his answer was correct; but the question implied that there was no other plan that could be pursued. It implied the necessity for one or the other.

Now, the committee fail to see the necessity or policy of either. If the Government had the right to retain possession, which is implied in both question and answer, and which no one will deny, then she had the right to dispose. The title being in her, she could and should have sold the roads. Then, on economical ground, there could be no objection, because the purchasers would have run them, after paying millions of dollars to the Government, and would have, equally with others, encouraged the industries and developed the resources of the country.

The same implication may be drawn from the reply of General M. C. Meigs. On page 263 of Report No. 34 he said:

"If within the proper legal authority of the Administration, then I think it was wise and expedient. I think it would have been to the interest of the United States to have sacrificed every dollar of the seven millions at which it valued the rolling stock, &c., rather than to have compelled the quartermaster's department to carry on the roads to this day," &c.

Now, the committee say there was no necessity to have compelled the quartermaster's department to have run them to this day. They should have been sold.

But in quoting distinguished opinions and arguments as to the disposition of the roads, the committee give from one or two others, first remarking that those already given are from those removed from the active scenes of hostilities, and who were not, by contact, as those in the field, acquainted with the spirit of the rebellion.

General Canby, who, as has been seen, required, by an order afterwards modified, captured rolling stock to be paid for, testifies, on page 240, Report No. 34:

"After these roads passed out from under my control some questions were referred to me in connection with the New Orleans and Opelousas and New Orleans and Jackson roads, which I thought manifested such bad faith on the part of the managers of this road that I recommended a resumption of the military control of these roads and that they should be sold and the proceeds paid into the Treasury." "I thought at the time it was made that it was a good measure; but with the knowledge we have now, it would have been made on more stringent terms and more limited than it was. This right of the Government to captured property should have been enforced to a greater extent than it was. The management of the roads has been very different from what I anticipated at the time it would be."

But the committee would, on this point, quote the words of one other, who had something to do with rebels in the field, and whose ready intellect became brightened by rebel contact, as shown by his executive ability in the administration of civil affairs.

One Philip H. Sheridan, a major general in the Union Army, testifies, 11th February, 1867, on page 172 of Report No. 34, and to the question "Suppose, in taking command, you found a railroad which had given aid and comfort to the enemy, would you take it as being disloyal?" replied:

"That would depend a good deal upon who owned the road: the road could not help itself. If the road was owned entirely by loyal men in the North, it would put a new phase in it. There were undoubtedly northern interests in these roads, and that was the reason why I made the recommendation at one time to sell the roads and pay the loyal men their shares and then appropriate the balance to the Government."

And the committee would direct attention to the remarkable similarity of views of distinguished men on important questions and show how these expressions correspond with that of a distinguished individual known to fame, made on 21st April, 1865:

"I say that after making treason odious, every Union man and the Government should be remunerated out of the pockets of those who have inflicted this great suffering upon the country."

The foregoing statement of facts and opinions had prepared the committee for the submission of the resolutions that will follow, in compliance with the instructions of the House, that—

"They shall also report what, in their opinion, would be the proper course to be taken by the Government in regard to such railroads or railroad companies."

But at the very time the above was prepared there was referred to the committee other testimony, which is cumulative, upon various points heretofore submitted, and, as though by design, is overwhelmingly convincing, removing any lingering doubt as to the correctness of the conclusions arrived at as to the disloyalty of those connected with and interested in southern railroads and as to the animus of particular roads already named.

This additional testimony is Executive Document No. 74, Fortieth Congress, second session, House of Representatives, which was referred by the House on the 7th, and delivered to the committee, printed, on the 16th January, 1868. It is a report from Brevet Colonel S. R. Hamill, assistant quartermaster, who, as General Ulysses S. Grant says in his accompanying letter, "has had charge of the subject of the indebtedness to the United States of some of the railroad companies in the southern States." This report is to Major General G. H. Thomas, dated 30th September, 1867, but showing the indebtedness of railroads on 31st October, 1867, and corresponding with tabular statement already in this report. It is in due course transmitted, with letters from General Thomas, D. H. Rucker, acting quartermaster general, brevet major general United States Army, and from General Ulysses S. Grant.

As to the Nashville and Chattanooga Railroad Company, the statements already made are strengthened. After a minute detail of facts as to the demands on the road for payments on its bond, its ability to pay, its broken promises, its extensions, on pages 4, 5, 6, and 7, the Report says on page 7:

"The management of this road have manifested the most contemptible bad faith in every action regarding the indebtedness, outraging every principle of integrity." "The duplicity and unscrupulous meanness of the management of this road has forfeited every claim the company could ever have upon the Government for liberality and leniency. It is only by a continual checking of their apparently instinctive tendency to rascality that the interests of the Government can be protected. As they took the lead in reason so they have always taken the lead in every scheme which would interfere with the just claims of the Government. So far from manifesting any gratitude for the leniency of the Government, they have used that forbearance to assist them in swindling it."

As to the Nashville and Northwestern road the Report says, on page 8, after a statement of facts already disclosed in this report:

"The remarks made regarding the management of the Nashville and Chattanooga railroad apply as well to the Nashville and Northwestern, the management being the same."

Of the Nashville and Decatur road it says on page 11:

"The management has been economical and judicious. The company have at all times acted in entire good faith with the Government, as with all its creditors."

And on page 12:

"In one thing only have the Nashville and Decatur Railroad Company manifested any of the antagonism to the Government common to so many of the indebted roads. Following the inducements of the Nashville and Chattanooga, and similar cases, they are about to assert a claim for use, occupation, and damage of \$625,000. The cost to the Government of constructing and repairing this road amounted to \$1,638,642 04. The setting up of this claim will not be matter of astonishment when it is considered that the management of the Nashville and Chattanooga, East Tennessee and Georgia, East Tennessee and Virginia, and Memphis and Charleston railroads have labored most industriously to organize a powerful combination against the Government, and have not been modest in asserting their power to control congressional action. They have repeatedly stated that prominent members of Congress and other public men are pledged to them."

Of the East Tennessee and Georgia road it says, on pages 18 and 19:

"During the time the collection was delayed the company commenced asserting a claim for occupancy, use, and damage."

In the assertion of their claim "they rely upon the success of other companies as a precedent, the loyalty of East Tennessee, and a certificate said to be in their possession given them by Major General Ambrose E. Burnside."

Of the East Tennessee and Virginia road, the opinions already expressed in this report are more than sustained. It says on pages 17 and 18:

"The East Tennessee and Virginia railroad was captured by the United States forces, under General Burnside, in September, 1863. It is claimed by Mr. Branner, in behalf of the company, that they held their rolling stock on the line of their road for General Burnside's use. The truth is that out of eighteen or nineteen engines all but three were taken inside the rebel lines, and two of these were on their way when captured, the other being comparatively worthless."

"Out of about ninety cars, five flat and two box cars only were left, the latter not being on trucks."

"All the stock was removed within the rebel lines, voluntarily, by the management of the road, several days after the evacuation of Knoxville by the rebels."

Mr. Branner and the management of the East Tennessee and Virginia railroad were not only disloyal but enthusiastically so during the time the rebellion was initiated and was in the ascendant in Tennessee, even after the line of their road was captured by the Union forces.

"Any manifestation of affection for the Union cause while in rebel lines must be considered as merely pocket-book loyalty, and attributed to the same grasping spirit that actuated others who fêted our officers and gave unmistakable (?) evidence of their patriotism, while they were investing their means and using the information they obtained within our lines to fill their coffers by blockade-running."

"Since the close of the war, there being no further pecuniary incentive to treasonable action, they have been patriots, indeed, and boast how they risked life and property in the cause of their country."

"Not content with the restoration of their property, and the munificence of the Government in extending to them pecuniary aid, they have played the same game in peace that was so profitable in war, and have used the very leniency of the Government to defeat its just claims."

"The East Tennessee and Virginia Railroad Company are abundantly able to pay, under the extended terms granted them, and could have commenced payments long since without interfering with the practical operation of the road, had they been required to do so, instead of appropriating their earnings to the payment of other claims, or instead of refusing to avail themselves of the aid they received from the State. A large amount of the bonds indorsed by the State, instead of being used for the benefit of the road, are, I am reliably informed, held as capital in a bank owned by certain of the management."

"Mr. Branner (president of the road) at first declined to confer with me regarding the indebtedness, saying that he could do better by going to the authorities at Washington; that he had been informed by persons connected with the War Department that the matter would be permitted to rest, if I 'was not continually stirring it up.' When I insisted upon his making all communications through my office and called his attention to the positive order of the major general commanding, he became excited, and replied that he did not care for General Thomas or the military; that the President was a friend of his, and he did not intend to be scared into any arrangement. I assured him that, while I had no intention of attempting to scare him or any one else, I should enforce some arrangement for payment if I could not secure one amicably. He replied that he should like to see me doing so—civil law was now supreme, and I should find myself incarcerated in the county jail if I attempted to place a receiver upon his road."

These extracts from the very able report of Assistant Quartermaster Hamill are sufficient for the purposes of this report; but the committee recommend it as most deserving of consideration.

The committee invite attention to the letter of Major General George H. Thomas, accompanying that report, as follows:

HEADQUARTERS DEPARTMENT CUMBERLAND,
LOUISVILLE, KENTUCKY, November 23, 1867.

Respectfully forwarded to the Adjutant General of the Army.

The attention of the honorable Secretary of War *ad interim* is respectfully invited to this report as giving a complete statement of the indebtedness of the southern railroads to the United States at this time, and of the efforts of some of these corporations to evade or defer payments.

As, under recent instructions from the War Department, the charge of the collection of these debts is to be transferred to the Quartermaster General at Washington, relieving me from further responsibility, I can only recommend that the Government hold these

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railroads to their contracts—that they be compelled to liquidate their indebtedness upon the terms now granted, without consideration or recognition in the least degree of any claims for damages or use by occupation of the United States, such claims being believed to be without foundation in justice or right.

A persistent and combined effort on the part of these corporations to compel the recognition of these claims has as persistently been ignored and repudiated by me, until the efforts, from want of success, have gradually been relaxed. It is believed that now, under the prospective change of affairs, these claims will again be urged and pressed for recognition; hence this earnest recommendation.

GEORGE H. THOMAS,

Major General United States Army, Commanding.

He recommends "that the Government hold these railroads to their contracts."

Attention is also invited to the accompanying letter of Acting Quartermaster General D. H. Rucker, as follows:

QUARTERMASTER GENERAL'S OFFICE,
WASHINGTON, D. C., December 21, 1867.

SIR: I have the honor to return herewith the report of Brevet Colonel S. R. Hamill, assistant quartermaster, relative to the indebtedness of southern railroads for railroad property purchased of the United States.

This report has been carefully examined. I fully concur in the indorsement of Major General George H. Thomas, namely: "As, under recent instructions from the War Department, the charge of the collection of these debts is to be transferred to the Quartermaster General at Washington, relieving me from further responsibility, I can only recommend that the Government hold these railroads to their contracts, that they be compelled to liquidate their indebtedness upon the terms now granted, without consideration or recognition in the least degree of any claims for damages or use by occupation of the United States, such claims being believed to be without foundation in justice or right."

"A persistent and combined effort on the part of these corporations to compel the recognition of these claims has as persistently been ignored and repudiated by me, until the efforts for want of success have gradually been relaxed. It is believed that now, under the prospective change of affairs, these claims will again be urged and pressed for recognition, hence this earnest recommendation."

Under orders of the 1st ultimo, from the War Department, further measures with a view to collection of these debts were suspended, pending an examination of a committee of the House of Representatives.

In the opinion of the acting Quartermaster General, the information contained in this report and accompanying papers would be most valuable to the select Committee of the House of Representatives on Southern Railroads; it is therefore most respectfully suggested that they be furnished for that purpose. In view of such action, copies of all the papers have been retained in this office.

Very respectfully, your obedient servant,

D. H. RUCKER,

Acting Quartermaster General,
Brevet Major General United States Army.

He says: "I fully concur in the indorsement of Major General George H. Thomas."

PROPER COURSE TO BE TAKEN.

Thus the committee are brought to "report what in their opinion would be the proper course to be taken by the Government in regard to such railroads or railroad companies."

That opinion is embodied in the following resolutions, the passage of which they most earnestly desire:

Resolved, That the Committee on the Judiciary be, and they are hereby, instructed to report to this House without delay a bill or joint resolution declaring in substance that no claim shall be entertained by any officer or department of the Government in favor of any railroad or railroad company in any of the late rebel States, or in favor of any such State, for the use of any such road, or rolling stock, or other property, by the Government, or for any damage inflicted by the United States military forces on such railroads, rolling stock, or other railroad property, or for the transportation of troops, Government property, or passengers or mails, for any portion of time during the late rebellion, or prior to the date of the restoration or return of any road to the original owners after the cessation of hostilities.

Resolved, That the Committee on the Judiciary be, and they are hereby, instructed to report to this House without delay a bill or joint resolution requiring a strict accountability from all railroads in the late rebel States; that they may "be compelled to liquidate their indebtedness upon the terms now granted without consideration or recognition in the least degree of any claims for damages by or use by occupation of the United States;" to the end that payments shall be enforced according to existing bonds, or in default thereof that the Governments shall exercise her legal right to possession and disposal.

J. W. McCLURG,
ULYSSES MERCUR,
H. D. WASHBURN,
PHILETUS SAWYER.

Reconstruction.

SPEECH OF HON. AARON F. STEVENS,
OF NEW HAMPSHIRE,
IN THE HOUSE OF REPRESENTATIVES,
February 8, 1868.

The House being in the Committee of the Whole on the state of the Union on the President's annual message.

MR. STEVENS, of New Hampshire, said:

MR. CHAIRMAN: In rising to address the committee upon some of the questions now before the country I disclaim all expectation of advancing ideas or propositions not common to the extended debate which has taken place upon these subjects in the progress of their discussion. The questions arising out of the public measures now before Congress have been discussed in all their length and breadth and presented in every light in which logic can enforce or rhetoric embellish them. But in so interesting a crisis of our legislative history I have thought it my duty, sir, to seize the opportunity of the hour and place before the committee and before my constituents, briefly and imperfectly perhaps, my views upon these questions. And I desire to say, sir, that I come to the consideration of them now with a conviction that we should meet them as practical men, that we should discuss them as questions of inexorable necessity, as questions which, like the war, have been thrust upon us by the enemies of the Government, and which are now resisted in like spirit as our arms were resisted by those enemies during the dark hours of the rebellion. I assert here, sir, without fear of just contradiction, that the Republican party of the country, represented by a majority of this Congress, is not responsible this-day for the disturbed and destitute condition of the rebel States or the burdens that in consequence of war now rest with such appalling weight on the American people. To the people of the rebel States and their allies at the North, who invited and encouraged the rebellion, are we indebted for those burdens, for that destitution, and for the thousand perils and misfortunes that still environ us. And, sir, it is a mortifying and humiliating fact that history will record these attempts to defeat the restoration of the rebel States, on principles drawn from the Declaration of Independence, as the renewal and continuation of the proslavery rebellion which four years of war and desolation could not quench or eradicate.

MR. CHAIRMAN, no government can be respectable or respected unless it possesses and exercises sufficient power to crush out and place under foot its enemies. It may, indeed, properly be generous and magnanimous to its enemies, but it must first assert and maintain its power to subdue and punish them. The imbecile and halting Administration of James Buchanan, representing for the time being the Government, was the scorn of its enemies and the shame of its friends and supporters; while the irresistible power of the nation, under the Administration of Abraham Lincoln, was its strength, its glory, and its salvation. And it is the duty of this Government now, sir, to maintain its supremacy over its enemies not only by the power of its arms but by every mode of legislation authorized or not prohibited by its fundamental law. To yield to a false sense of philanthropy, however specious or seductive, and thereby entail the spirit of rebellion upon its future career, would indeed be a blunder worse than a crime. It is, therefore, a necessity imposed upon Congress to so deal with these rebellious States that there shall be no possible recurrence of the rebellion in all time to come; and, let me add, this can only be effected by giving full development and power to that loyal element of the South which resisted the rebellion, disclaimed its theories and its acts, and which is now entitled to claim its full rights under the Constitution as it stands changed by

the fortunes of war and the acts of the civil power. It is the object and purpose of the Republican party to do this in its broadest and most liberal sense. We propose to attain this purpose by acts of reconstruction in such form and of such legislative power as will meet and subdue all opposition from whatever source it may come, and erect these stricken communities once more into States in form republican and in truth free.

I am convinced, sir, that nothing can aid our policy or justify our course more powerfully than a review of our history.

The events of the last seven years have taught the world the character of the American people and the power of the American Government. Within that period we have trod the terrible paths of civil war, with divided sentiment it is true, on the cause and merits of the great controversy, but with a spirit and success which proclaim to the civilized world the resources of our Government, the irresistible power of our arms, and the great truth that it can be only overthrown by the annihilation of its citizens.

It will be acknowledged by all that the period immediately preceding the breaking out of the rebellion was marked by a wide division of sentiment in the country, upon which parties had been organized and campaigns had been fought. On the one hand was a party which had declared that slavery was the corner-stone of a free government. They proclaimed that it rested upon divine authority, and demanded its extension and protection as the price of national existence. It gathered to its support the most formidable elements of political power and the bitterest energies of avarice and lust; it sapped the foundations of public virtue by insidious yet powerful and successful approaches; it gathered at last within its terrible folds that powerful organization known as the Democratic party, and monopolized and engrossed its power to perfect measures for the perpetuity and extension of the institution.

On the other hand, there had grown up in the country a party embodying the idea and sentiment that slavery, not only abstractly but practically considered, was a moral and political evil, and that its encroachments and extension ought to be resisted by all the lawful combinations and power at the command of its opponents. This feeling was profound enough to take hold even of the religious sentiment of the country, and it culminated at last in a political organization which, in 1861, accomplished one of its main purposes in its accession to the control of the General Government.

In anticipation of this accession to power on the part of the Republican party the slaveholders of the South had declared their purpose of seceding from the Government of the United States and forming a confederacy whose corner-stone should be the favorite institution. To such an extent were they aided by the Democratic party, then holding the administration of the Government, that when Mr. Lincoln assumed the office to which he had been elected he found a pretended government in revolt against the authority of the United States and preparing to seize the forts and other public property of the Union. The rebellion had begun, and it had gained great strength and power during the last Democratic Administration. It had been almost incalculably aided by the action of that Administration. The then President of the United States, under the advice of that distinguished Democrat, his Attorney General, had declared that there was no power in the General Government, either under the Constitution or upon the principle of self-preservation, to "coerce a State;" in other words, to prevent or punish the rebellion of its citizens.

That great party whose boast it was that in the former trials of the country and in two wars it had maintained the integrity of the flag of the Union, now quailed before the advance

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of this rebellion, succumbed to its pretensions, asserted its inability to stem its advancing tide, and fled in dismay before its organized efforts. Here was a Democratic Administration that held in its grasp the mighty power of a great nation that would have risen at its patriotic call like a giant refreshed from sleep—an Administration possessing the prestige and example of Andrew Jackson, and sustained by a loyal and indignant people, lacking no power to preserve the Union; this Administration that might have laid its hands upon the leaders of the rebellion, have arrested and imprisoned them, and used the power of the Government—its armies and navies—for the purpose of protecting the public property and maintaining the national integrity, went down in terror on its knees before this advancing rebellion, and left to the incoming Administration of Mr. Lincoln the great task and duty of suppressing an existing rebellion by repelling the forces of the insurgents and restoring a divided country. We all know, sir, how this work has been done. We all know that from the hour that Mr. Lincoln assumed the reins of Government that great party upon whose successful tide he came into power has never failed in word or act to maintain the integrity of the Union, but has put forth the whole strength of its party organization, calling to its aid the nerved patriotism of the country, and successfully carried it through its terrible trials until it once more planted our flag high in the temple of the nations. And, sir, let me say that they have done this in defiance of all the power and the strength which the national and State organizations of the Democratic party could bring to bear in opposition to them, by voting against appropriations of money to carry on the war, and by resisting coercive measures necessary to a subjugation of the armed hosts of the rebellion. Its leaders declared all through the war that it was an unholy, unjust, and "unconstitutional" war; and solemnly averred in 1864, when the lines of Grant were encircling Richmond, that the war was a failure. This Democratic party has never ceased its opposition nor lost any opportunity of throwing the whole moral and political force of its organization in aid of the rebellion and against the Republican party and the loyal men of the country who were engaged with all their energies in attempting to quell it. Upon this point I defy successful contradiction.

Why, sir, a few months before the rebellion commenced, a Democratic ex-President, a citizen of my own State, in writing to that arch-traitor, Jefferson Davis, declared, in encouragement of the views and efforts which he was prepared to make against his country, that if there was to be a struggle over this great question of secession the first blow would be struck north of Mason and Dixon's line, and that blow would be in defense of what he termed "the rights of the South." I assert here, sir, and it is not capable of truthful contradiction, that while there were many instances of patriotism in the ranks of the Democratic party—men who rallied to the defense of their country in the hour of its peril—the leaders, the men who are now assuming to control the party and are acknowledged as its standard-bearers, were engaged in the unholy and unpatriotic work of placing every obstacle in the way of the Government in its efforts to subdue the rebellion, and were aiding the enemies of the Government in their mad scheme of separation.

And let me pause here, Mr. Chairman, to gather up a few Democratic gems by way of authority for these statements. Hear what Mr. Pendleton, who seems just now to be *par excellence*, if we except Mr. Vallandigham, the leader of the western Democracy, has to say on this subject of maintaining the Union at all hazards. As early as the 18th day of January, 1861, he spoke in this persuasive style:

"I beg you, gentlemen, who with me represent the Northwest; you who with me represent the State of

Ohio; you who with me represent the city of Cincinnati; I beg you, gentlemen, to hear that voice. If you will not, if you find conciliation impossible, if your differences are so great that you cannot or will not reconcile them, then, gentlemen, let the seceding sisters depart in peace; let them establish their government and empire and work out their destiny according to the wisdom which God has given them."

Such was the cowardly key-note struck by this great leader when the bursting flames of the rebellion were flashing up before the eyes of a loyal and indignant people. And now, sir, as I am alluding to the western Democracy let me introduce another character—a Mr. Henry Clay Dean, from Iowa, I believe, and whom the Democrats of my State are just now patronizing, having taken him from his pleasant home in the West to aid in the Democratic education of the people who dwell in the valleys of the Connecticut and Merrimack, and by the sea. According to a circular which I have received this gentleman was present at the McClellan Chicago convention in 1864, and spoke in this wise:

"Since the day when Ahasuerus issued his edict for the murder of the Jewish nation a more gigantic crime has not been recorded than the recent edict of the ignorant baboon at Washington calling for half a million more of your sons and brothers for a fresh immolation to the abolition god."

"For over three years Lincoln had been calling for men, and they had been given; but with all the vast armies placed at his command he had failed, failed, failed! Such a failure had never been known. Such a destruction of human life had never been known since the destruction of Sennacherib by the breath of the Almighty; and still the monster usurper wanted more men for his slaughter-pens. Ever since the usurper, traitor, and tyrant had occupied the presidential chair the Republican party had shouted war to the knife, and the knife to the hilt. Blood had flowed in torrents, and yet the thirst of the old monster was not quenched. His cry was for more blood."

But I must not slight my Democratic friends in New Hampshire. In May, 1861, the Union Democrat, one of the ablest of that class of papers in the State, and then and now in regular standing with its party, gave us its sentiments as follows:

"Men talk of 'fighting for the Union.' It is likely that many believe in that remedy; but is it not possible that vengeance against the South rather than love for the Union prompts the fighting which some are so anxious to do or have done? We are very free to say that we have no faith in the remedy. Upon whatever grounds we may vindicate the war it will not be that the Union may thereby be saved, for we know better. There is not one chance in a million that it can have this effect. We will not deal dishonestly with our readers. If you think the South ought to be subjugated, call it that; that the property of the nation ought to be repossessed, call it that. Fight for what you please, but do not call it 'fighting for the Union.' For fighting is certain to destroy the Union."

And as the rebellion grew worse and tottered to its fall, and we were rallying for the final blow, the editor did not seem to get any better, for in January, 1865, he says:

"We desire to commit ourselves to the most inveterate type of hostility to this war."

And again:

"Our first impressions of facts and duties have been confirmed, and it is to us a source of pride and satisfaction that we have done nothing voluntarily to encourage and support this war."

Mr. Chairman, I might multiply these examples of Democratic obstruction in the beginning and progress of the war, but I have neither time nor taste for the task. I will, therefore, close with a couple of extracts from the leading Democratic organ in "our county of Rockingham," the States and Union, of May 13 and July 15, 1864:

"Whether Grant still thinks he can take Richmond we know not; but, to our view, his chances are not remarkably promising. We suppose the fighting may perhaps still be going on, but it is business the black infamy of which no tongue can describe."

"If there is any officer of any note in the Federal Army now invading the southern States who is not a thief and a robber it would benefit his reputation somewhat if he would stand out somewhere so the people can look at him. We have come to the conclusion that they are all very nearly alike."

I have no comments to make on these disgusting specimens of Democratic literature. They speak for themselves, and the vindication of history is the only apology I have to make for their introduction here, in this day when

they are crying aloud for the aid and the votes of the soldiers of our State.

And here I might diverge from the line of my remarks to inquire of this House and of the country who is responsible for the burdens now resting upon the shoulders of the people in the shape of heavy taxation and the unsettled and disturbed condition of a great portion of our country. The answer is at hand. It is the Democratic party, under whose auspices and during whose administration this war was inaugurated, and which has persisted in its opposition to the Republican policy of reconstruction from the hour when Lee surrendered his sword to Grant on the soil of Virginia. But what do we hear said by this party at the present time? The cry of the Democratic party now is that the Republicans have caused these great burdens of taxation. But, aside from the origin of the war, let the people remember that had it not been for obstructions thrown in the way of restoration by the Democracy, we should to-day be burdened with less than half the debt that the people of this country stand bound to pay as a part of the price of their national existence. I feel justified in the light of history in declaring that this rebellion was a Democratic rebellion; that the opposition to our arms was a Democratic opposition; that the rejoicings over our defeats were Democratic rejoicings; and that the disappointments at our successes were Democratic disappointments; that our war burdens are Democratic burdens; and that the failure to restore fully the insurgent States is the consequence of Democratic opposition and obstruction.

Mr. Chairman, fortunate, indeed, would it have been for the country if this spirit of hostility to the Republican Union party and its measures during the war had ceased with the surrender of the rebel forces; fortunate if, when the rebels had confessed themselves conquered and humbled and prostrate before the proud power of the Government, and when they were prepared to accept such terms of restoration as might be dictated to them by their conquerors, we had found that spirit of loyalty and patriotism among the Democratic party and its leaders which would have united with us in just and prompt measures by which these rebellious States might have been immediately restored, and which would have made this Union safe and perpetual in all future time. But it was not so to be. That party which had opposed the coercion of their "southern brethren," opposed the emancipation proclamation, opposed the arming of negro soldiers, and which had declared the war a failure, with restless activity at once organized with the intent and purpose of undoing so far as they could what had been accomplished by the triumphal success of our arms. Sir, from that day to this no opportunity have they neglected to obstruct and hinder the restoration of these States to the Union on the plan adopted by the Republican party—a plan which aimed to render justice and give equal rights to all their citizens. I solemnly believe that the Democratic party are at this very hour prepared to renew this great struggle, even at the risk of revolution and bloodshed, to the end and for the purpose of once more attaining party supremacy in this country. And on this floor within the last few days the gentleman from New York [Mr. Brooks] has declared the intention of his party to undo what we have done for the last three years, to send us back to the uncertainty, the anarchy, the chaos of 1865.

Mr. Chairman, we have now a new combination, actuated by the same spirit and governed by the same purposes which animated the Democratic party during the dark hours of the rebellion. It consists, sir, in the first place, of the Democratic party proper, headed by such men as Vallandigham, Pendleton, and others whom it is unnecessary to name, of the unpar-

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done and unrepentant rebels of the South, and last of the Administration of Andrew Johnson. Thus a new coalition has been formed for the purpose of utterly defeating the Republican policy of reconstruction. The point of their resistance at this hour is the measures which Congress by a lawful majority has adopted for the restoration of the insurgent States upon a basis of equality and justice to all loyal citizens. I need only allude to these measures, sir, for they have been before the country so long and have been discussed so thoroughly that their main purposes, as well as their principal features, are fully understood by every intelligent man. The purpose of this coalition is to wield the vast power and patronage of the Government to defeat these measures and eventually restore the rebels at the South to power, disfranchising and crushing out its loyal citizens.

Our opponents declare that we have no authority or power to legislate for these States. They place their opposition, to be sure, on different grounds, but the most specious of all is that which declares that these States during all the time they were in rebellion were in all respects still "States within the Union," their constitutions in full force, their citizens entitled to all the rights they ever had under those constitutions, and holding the same legal and constitutional relations to the Union as before the rebellion.

Now, sir, it might be sufficient answer to say that every department of the Government has hitherto disputed this doctrine both by word and act. Every department of this Government has solemnly declared that the civil governments of those States were by the acts of the citizens of the several States disturbed in their relations to the Union and had forfeited to a greater or less extent their rights as members of the Union. Why, sir, even a distinguished Senator from Indiana, who a few days since declared that the rebel States had never ceased to be States in the Union, and that their constitutions had never been abrogated by any act, and that legally their relations with the Union were undisturbed, made that declaration in the face and eyes of his own vote in the Senate less than four years ago. Let me call the attention of the House to that vote.

On the 1st day of July, 1864, the Senate of the United States adopted this resolution:

"That when the inhabitants of any State have been declared in a state of insurrection against the United States by proclamation of the President by force and virtue of the act entitled 'An act further to provide for the collection of duties on imports, and for other purposes,' approved July 13, 1861, they shall be, and are hereby, declared to be incapable of casting any vote for electors of President or Vice President of the United States, or of electing Senators or Representatives in Congress until said insurrection in said State is suppressed or abandoned, and said inhabitants have returned to their obedience to the Government of the United States, nor until such return to obedience shall be declared by proclamation of the President, issued by virtue of an act of Congress hereafter to be passed, authorizing the same."

Upon which the Senator from Indiana [Mr. HENDRICKS] gave an affirmative vote. On the 8th day of February, 1865, he again voted for the following resolution:

"Whereas the inhabitants and local authorities of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee rebelled against the Government of the United States, and were in such condition on the 8th day of November, 1861, that no valid election for electors of President and Vice President of the United States, according to the Constitution and laws thereof, was held therein on said day: Therefore,

"Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the States mentioned in the preamble to this joint resolution are not entitled to representation in the Electoral College for the choice of President and Vice President of the United States for the term of office commencing on the 4th day of March, 1865; and no electoral votes shall be received or counted from said States concerning the choice of President and Vice President for said term of office."

Thus we see, Mr. Chairman, that a most distinguished leader of the Democratic party in the Senate has declared on two several oc-

casions that these rebellious States, so far from being sovereign States in the Union with all their rights intact and inviolate, had, in fact, ceased to be States in the Union having the right to take part in the election of President and Vice President. Sir, what kind of a State is that which has no right to share in the leading and paramount privilege which belongs to the people of every loyal State, of participating in the election of the two highest officers within the gift of the people? When the distinguished gentleman denied by his share in this solemn enactment the right of these States to participate in that election and to be counted in the Electoral College he declared in effect that these States were no longer States in full and unimpaired relations with the Union—that they had not the rights which they possessed previous to the war, but had forfeited them by the acts and treason of their citizens. Let the people of my own State, to whom this speech, I learn, is being sent by thousands, understand, when they read it by their firesides and in the light of their intelligence, that the author of it has declared by his vote in the Senate that the proposition which he now enunciates as a part of the Democratic platform has no foundation either in law or fact.

But, sir, we do not stop there. The Supreme Court of the United States has declared these States and their people to be "enemies." In the case of the *Brilliant*, which may be found in 2 Black, the court says:

"When the regular course of justice is interrupted by revolt, rebellion, or insurrection, so that the courts of justice cannot be kept open, civil war exists, and hostilities may be prosecuted on the same footing as if those opposing the Government were foreign enemies invading the land."

And again, in the same case, the court says:

"The law of nations is also called the law of nature; and it contains no such anomalous doctrine as they are now, for the first time, desired to pronounce, to wit: that insurgents who have risen in rebellion against their sovereign, expelled her courts, established a revolutionary government, organized armies, and commenced hostilities, are not enemies because they are traitors; and a war levied on the Government by traitors in order to dismember and destroy it is not a war because it is an insurrection."

Thus we see that the Supreme Court has declared these States and their citizens "enemies," and I ask, sir, what right has an enemy at war with this Government except the right to be treated as such according to the rules of civilized warfare; and when he surrenders to the conquering power is he not by every rule of law subject to the will of the conqueror? Can such enemy be said to be a sovereign State?

Nor do we stop here, sir. I might cite here, against this proposition of the Democratic party, the whole course of our legislation in this regard, where Congress has by repeated acts dealt with these rebellious States as public enemies in the measures which were adopted for carrying forward the war to a successful result. And if we resort for authority to the executive department of the Government, we find it enunciated with the utmost clearness and precision by the President himself that these States "are without any civil government;" for he declares in his proclamation appointing a provisional governor for North Carolina, in 1865, (and which has been more fully recited in the very valuable speech of my colleague, Mr. ELA,) that the rebellion had in its revolutionary progress "deprived the people of that State of all civil government." This is the language of Andrew Johnson, and it is perhaps as complete an answer to the positions taken by him in his last annual message as could be afforded by any official declaration. But aside from this, and as if to strengthen and intensify his expressed opinion, the very act of President Johnson in undertaking to establish governments in these rebel States by virtue of his executive authority is the strongest admission, nay, the strongest assertion, that could be derived from executive action of the abrogation of the governments which existed

at the commencement of the rebellion, and of the absence of any government which, under the Constitution and laws of the United States, Congress was bound to recognize.

Mr. Chairman, I take no delight in citing these changes of opinion in high places, and especially, sir, when they relate to such important and solemn affairs of state, and touch so nearly and affect so deeply the peace, prosperity, and common welfare of our beloved country. But I hold it to be a high and solemn duty to do what I can in my humble sphere to justify and uphold before my constituents and before the country that view of public affairs and those principles of action which lie at the foundation of the measures of restoration inaugurated and sustained by the Republican party, and which commend themselves so strongly to my own judgment. And therefore I have spread out before you to-day briefly, but clearly, I trust, this record of individual and official opinion and action, which proves conclusively that we are in accord with, and that our action is based upon, the identical principle in regard to the status of these rebel States, which controlled the action of every department of Government during the war, and up to that unfortunate hour when the defection of Mr. Johnson originated motives in high places for an abandonment of this safe and constitutional rule of action. And, sir, I present this evidence of the early views and acts of the President as a complete and perfect answer to the specious reasoning, the false assumptions, and the unwarranted conclusions put forth in his last annual message.

And now, what boots it that these men have changed? Suppose the distinguished Senator from Indiana now declares, as he has in his speech, that during all the years of the rebellion these constitutions continued to exist in all their integrity, and that when peace came it found the State with its constitution and laws unreppealed and in full force, and holding and binding that State to the Federal Union. Suppose the President of the United States now asserts the same doctrine, and maintains that these rebel States are entitled to representation in Congress under their present laws, which were made in pursuance of his own authority. Suppose even the Supreme Court should decide in conflict with its former opinion to the same effect, which I do not believe they will do. This retraction of former sentiments, well considered and distinctly enunciated, is only another instance of many in the history of political disturbances of the sudden departure from first principles and first declarations. All this can furnish no reason why the Republican party should give the lie to its former utterances, should depart from its settled principles or rules of action, and by its indifference or neglect give over these rebel States and their new-born citizens, loyal as they have proved themselves to be through four years of civil war, to the tender mercies of unpardoned and unrepentant rebels.

No, sir; we see clearly in the light of this history that the legislative, the executive, and the judicial departments of the Government have heretofore united in declaring the condition of these rebel States as one of disturbed relations to the Union, as that of enemies, and as States without civil government. And now, sir, it is as clear as the light of heaven that whoever of all these high authorities shall to-day declare that the status of these States is the same that it was before the rebellion; that they have by laying down their arms been restored to all their rights as they existed before the war, and are now entitled to assume all the functions of States within the Union; are retracting their own words, faltering in their former purposes, denying their declarations, and assuming that by this great war, which has cost so much blood and treasure, unpardoned traitors and public enemies have forfeited no rights, but are still clothed in all

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the panoply of American citizenship. Sir, I repudiate, the Republican party repudiates, these new and false doctrines. I care not who falters, we shall not; I care not who, in this great crisis, proves false, the Republican party of Congress will prove true, not only to its own policy, but to the early declarations and policy of every branch of the national Government.

I am aware that confusion sometimes arises out of the question which is so often put to us, "whether these rebel States are in or out of the Union." Let us not be misled or dismayed by the use of phrases in themselves figurative. I hold, sir, that it does not follow that because a State has abrogated its form of government or destroyed its domestic or municipal institutions, or by its acts become a public enemy, it is necessarily "out of the Union," as that phrase is properly understood and interpreted. It may, in fact, sever its connection and isolate its people by force of arms from the Union so far that the national Government may not be able to control its people or hold possession of its territory. Such was actually the case for a time in some of the States during the rebellion. Yet, I hold that each and all of those States, in one sense, remained in the Union, and were theoretically and legally a part of the United States. The vicissitudes of war cannot destroy the rights of the General Government any more than the civil condition of the Territory or people of a State can affect its authority, though such vicissitudes may seriously affect the condition of traitors or insurgents. Let us examine this question with a view to its answer.

A State, or, more properly speaking, the people of a State, have the power to alter, amend, or abolish their constitution. I suppose no one will deny that. But such amendments or abrogation of its constitution does not necessarily take it beyond the operation of a paramount law of the United States. We may still occupy its territory, we may still collect our duties at its ports and our taxes from its people. We may arrest, try, and punish its citizens under the laws of the United States, and do everything within its territory which is required to assert and maintain the power of the Union under our Constitution. We may say, indeed, that no State has the right to secede from the Union, and I think we may say correctly that she has no legal power to secede, which means, correctly speaking, that she has no power to take her territory or her subjects from under the control and authority of the United States and the jurisdiction of the Constitution and laws thereof. In that sense the people of a State remain in the Union. But I think it a gross absurdity to say that the people of a State may not by their own acts—by violence against the General Government, by resisting its authority, by confederating for its overthrow—become a public enemy, interrupt their relations with the General Government, thereby forfeiting their rights to share in the administration of its affairs, and become the objects of just and proper force and legislation in order to restore them to obedience and enable their loyal citizens to resume their proper position in the national family. Sir, these rebel States may be dealt with as conquered enemies or as communities who by their own acts and crimes are "deprived of civil government." The people of the State "are in the Union," subject to such legislation as may be necessary to their restoration to a republican form of government.

I desire to add here the suggestion made by my distinguished friend from Pennsylvania [Mr. WILLIAMS] in a very able speech made by him in this House February 10, 1866. In speaking of the condition of the States in regard to their civil government at the close of the rebellion and the ambiguity of expressions and phrases used to designate that condition, he says:

"The difference is perhaps only the result of a want

of precision in the use of terms or a diversity of opinion in regard to their meaning. Mr. Burke has furnished us with a distinction here that meets the case precisely. "The word State," he remarks in his letter to Sir Hercules Langrishe on the subject of the extension of the elective franchise to the Irish Catholics, "is one of much ambiguity. Sometimes it is used to signify the whole Commonwealth, comprehending all its orders, with the several privileges belonging to each. Sometimes it signifies only the higher and ruling part of the Commonwealth, which is commonly called the Government." In the former of these senses it is not to be doubted that these communities still exist and are in the Union or of the Union, because their Territories belong to it and their people owe it allegiance. In the latter, however—and that is the one that connects them with our political system, as the proclamations concede—they are admitted by the same proclamations to have been destroyed, and can, of course, be nowhere. And this will be found to reconcile the apparent contradiction between the language of the proclamations and the accordant practice of the Government on the one hand and the theory of those who are supposed to speak its opinions, and infer from some unhappy phraseology of the former, as well as from the more recent utterances of the message, the repugnant idea that there was a constitution of government left existing amid the general wreck in a case where it had been previously declared in terms that there was "no civil government whatever."

I find this doctrine of the inviolability of State constitutions to be a corollary from the doctrine that this Government is a compact between the States. In this heresy originates the Democratic sophistry of which we hear so much. Mr. Chairman, this Union was formed by the people, and is a Government of the people. So viewing it, I do not admit, nay, I deny the doctrine, that "State constitutions are the bond of our Union," even though such an erroneous and dangerous doctrine is asserted by gentlemen as distinguished as the Senator from Indiana. Therefore, I hold that a State government may be abrogated and even destroyed by the acts of its own people without any dissolution of the Union. If the people of South Carolina had done as many of their Democratic leaders desired them to do, and established a monarchy upon the ruins of their State constitution, entirely abrogating the latter, so that in fact the State as such had no existence, still there would have been no dissolution of the Union; because, this being a Government of the people and not a compact of independent States, her people and her territory would still remain subject to the national power and control. As I have said before, we could march our armies across her territories, collect our duties at her ports and taxes from her people, holding and enforcing our national jurisdiction throughout her borders. It is only by admitting that as a State she is a party to the compact, and that our Government is a Government of States instead of a Government of the people, that her destruction as a State can operate as a dissolution of the Union.

Sir, the people of a State can be said to be "out of the Union" only when either by force of arms they maintain a position independent of the national Government until recognized as sovereign by the nations of the earth or are permitted by the consent of the people of the United States to assume that high position. In the one case it is successful revolution, in the other peaceable and permissive separation. The latter mode, if it exists as a principle in our form of government, is certainly of very doubtful origin, and, like the acquisition of new territory, "outside of the Constitution." The rebels attempted the first; many of the Democratic leaders advised the other. Either would have been disunion. But to say that because a State constitution once recognized as republican by the Government has been impaired, altered, or destroyed by the action of its people or from any other cause, the Union has therefore been dissolved, and the Government of our fathers has lost its power and control over the people and territory of such State, is to assert by figure of speech what does not exist in fact and what cannot take place in law. And further, sir, it is no less an absurdity to assert that this Government has no constitutional power to guaranty a republican

form of government to those shattered States, stricken down and deprived of all government, save by assuming the false position that the State governments cannot be destroyed, but must exist forever against the will and wishes of their people. The people of a State may be swept or driven from her borders, her constitution be overthrown or become without effect, but the Union still exists; the national power and protection still continue over her territory; and when that territory is repeople Congress is bound to guaranty to it a republican form of government.

Mr. Chairman, the admission by the American people that a rebel State or the people of a State in rebellion could emerge from that condition after four years' duration with all the civil and political rights and powers with which they were clothed before the commission of their great crime would render, and justify so, this American nation the scorn and laughing-stock of the civilized world, and do more to bring republican institutions into disrepute and ridicule, and prove more strongly the weakness of a republican Government such as ours, than all the combined assaults of the despotisms of the world. I hesitate not to say that the dissolution of the Union and the formation of independent confederacies within the present limits of the United States would be far preferable in its results to the practical recognition of such a heresy as this.

Mr. Chairman, let us look for a moment at the effect of this Democratic doctrine, that the relations of these rebel States have never been changed or altered in consequence of their rebellion and insurrection. Let us see what the consequences are practically, if, when they surrendered to our arms, they were instantaneously restored to all their rights in the Union and at once stood erect side by side with the loyal States of this Government, who had maintained its supremacy and preserved its national life. Of course, sir, it follows that all this time they would have been entitled to their representation in the Halls of Congress. It follows that while they were waging war with all the power which they could command against this Government they held at the same time, as States and State governments, the right, by their Senators and Representatives in Congress, to vote upon every question, important or unimportant, which might arise in regard to the raising of troops, of money, or upon any other subject connected with the prosecution of the war against them in their confederate capacity. If this were true, then they possessed the right to have united with the loyal States in choosing a President and Vice President of this Union, and might have sent their electors to claim their seats by the side of the loyal men of New Hampshire, Ohio, and Indiana in the Electoral College of 1865. And not only that, sir, but this doctrine carries us still further, and defeats to all intents and purposes one of the most magnificent results of the war—the emancipation of those who had for two hundred years been held in servitude under the laws perpetuating slavery in the southern States. To show that this is exactly so let us consider that by this Democratic proposition every constitution in the rebel States was in full force at the commencement of the rebellion, during the rebellion, and at its close, and from that time to the present, and that they are to-day as unimpaired and in as full relation with the Federal Union as when their constitutions came from the hands of the original framers. Those constitutions, each and all, recognize and legalize African slavery. Therefore slavery existed and still exists untouched and unimpaired under the authority of the constitutions of the rebel States. It will not do to say, sir, that it has been abolished by proclamation, for the Democratic party always denied any legal or binding force to that great act. They cannot say that it has been subsequently abolished by the acts of these States themselves, because

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those acts were not performed under the authority of the old constitutions, but under the authority of the governments set up and instituted by President Johnson.

Such, sir, being the doctrine of the Democratic party this day touching this great question, according to their theory slavery exists in full power and force, and the favorite "institution" is only temporarily suppressed by "military satraps," "Federal bayonets," and "congressional usurpation." I do not wonder, sir, under these circumstances, and in this view of the law, and the want of power in the national Government over these States lately in rebellion, that the Democratic government of Maryland has proceeded to register the emancipated slaves within her borders with a view of calling upon the General Government to pay from its Treasury the full value of their manumitted freedmen; nor do I wonder, sir, that on this theory they should deny civil and political rights to the colored people, or that they should still continue to regard them as an inferior race. I am not surprised in this view at that coalition which now exists between the former slaveholders of the South and the leaders of the Democratic party of the North; but I solemnly believe that should that coalition be successful in its efforts to obtain control of this Government there would not be virtue enough in any Democratic Congress to withstand and resist a combination which seeks remuneration for four million manumitted slaves. Sir, the very scheme itself, supported by national power, would corrupt the country from one end to the other.

The propositions which I have endeavored to enforce may be stated thus:

1. Previous to the rebellion the rebel State governments existed in constitutional and friendly relations with the Union.

2. The people of those States having a right to change, alter, or abolish their State governments, accomplished that work by their own act, and set up new governments in the several States.

3. In and by those new State governments they undertook to sever the connection and allegiance of their people from the Union, and by so doing placed their State governments and their people in the position of public enemies, compelling and justifying war against them on the part of the United States.

4. By the power and fortunes of war these newly-erected and hostile governments were overthrown, leaving the people of the several States "without any civil government whatever."

5. Under the Constitution Congress is bound to guaranty a republican form of government to those States, and possesses all the power to enable it to perform that high office.

6. In the exercise of that power Congress has the right and must necessarily discriminate between the classes of persons existing within the several States, in order that the new government may not only be established but that it may be republican in form. And this is all that Congress proposes to do.

Mr. Chairman, I have no time to pursue this matter further. I have only time to refer to the measures, which I contend that Congress, the law-making power of the country, has full authority within the scope of the Constitution to originate and pass, and which the Executive is bound by his oath of office to execute with fidelity and promptness. These measures, sir, have now been before the people of this country for nearly a year. Our opponents say they are unconstitutional. I have already considered this question, and do not propose to pursue it further; but I will say that this is the same old state objection which we have heard from the Democratic party from the day when our late President called upon the country for seventy-five thousand men to protect our flag and advance her arms against the common enemy. Yes, sir; this cry of unconstitutionality was raised then, and even before that time.

When, in 1860, the President was called upon to protect our flag from the insults of traitors, and should have taken steps to crush out the then incipient rebellion; he was counseled by the same men to desist, and we were told that there was no power in this Government to "constitutionally" resist the efforts of armed traitors to overthrow it. In my own State, sir, leading Democrats declared that if the people of New Hampshire left their homes and sprang to the aid of the General Government they should be followed by a fire from the rear from thirty-thousand Democrats, the movement (not the shooting) being considered quite "unconstitutional."

When the Republican party appropriated money in support of the Army during the war these Democrats declared that unconstitutional, and resisted it by every means in their power. When that great military measure aimed against the common enemy—the emancipation proclamation—was adopted, there came from the Democratic party everywhere a great howl of "unconstitutionality." When we placed in the hands of the loyal men of the South arms to resist the enemy, and, although colored, gave them the opportunity of fighting for the old flag and the sweet boon of personal liberty side by side with us, the objection was again raised that this was unconstitutional. So it has been, and so it is now. The same old objection is brought forward by the Democratic party, and when we endeavor to restore the late rebel States upon a just basis, and one which will guarantee a perpetual Union by giving power to the loyal people, they cry: "This is unconstitutional," and brand the Republican party as traitors to the trust bequeathed to us by our fathers. But, sir, this old and worn-out howl has no force as it is applied to us. For me it has no terrors. Like the siren cry of "Peace" it has been drowned by the roar of battle. I think the soldiers of our now disbanded Army, when they left their homes and were ordered across the Potomac and first stepped on the "sacred soil" of Virginia, did not stop to search the Constitution for some clause which would justify them in their action, or heed the clamor which the allies of the rebellion raised in the rear; nor when they assaulted the works and scaled the parapets of the enemy intrenched around Richmond, did they hesitate to press forward because such a proceeding was not provided for in terms by the Constitution; but they saw an army of traitors arrayed against their country and their flag, and, pressing forward to victory, gave us again the blessing of peace. They knew that a Government which was worthy of the name must contain principles if not provisions for its own preservation, and satisfied with that they did not hesitate to exercise that power until the rebellion had succumbed to their victorious arms, and our flag again waved from the Potomac to the Gulf, the symbol of a free and undivided people.

But they say these measures we have adopted are not only unconstitutional but that they are harsh and cruel. Sir, is there a man within sound of my voice or anywhere, intelligently reading the current events in the rebel States, who does not know that the Federal arms, as the representative of the Federal authority, are to-day the only guarantees which the loyal Union men of the South have of their safety, the security of their property, and even their lives? Can any gentleman tell me of a single instance where cruelty and injustice have been practiced or inflicted under the orders of any of the military commanders of the five districts or of any such injury unredressed? I know of none; I have heard of none. But, on the other hand, let this military power be lifted entirely from the South and the rebellious citizens left in charge of all matters appertaining to their civil affairs, and instead of the occasional instances of robbery and murder now occurring throughout that section of the coun-

try, and brought to public notice, there would be bloodshed and rapine everywhere; the law of force would be the rule rather than the law of courts and civil tribunals, and the loyal people alone would be the victims.

Mr. Chairman, when I review the history of events for the last few years I am amazed that the Republican party has made any progress in this great work of reconstruction in defiance of the many obstacles thrown in its way. Not the least of these obstacles—perhaps the most formidable of all—is the course which the President has thought proper to pursue since he assumed the office to which he acceded through the act of an assassin.

This officer who, previous to his election to the Vice Presidency, was so violent and extreme in his denunciations of traitors, and who declared his purpose to make the rebels take back seats in the work of reconstruction, and even advocated the confiscation of their property, and its division among loyal men, has not only modified his views in this respect, but is now looked upon and claimed by the Democratic party and their southern brethren as their leader and chief in these efforts to obstruct and defeat every honest and just plan which Congress has sought to adopt. He has vetoed our bills in defiance and contempt of his own former expressed opinions; he has removed and attempted thereby to disgrace our gallant and patriotic officers who were charged with the execution of the laws passed by Congress, while they were earnestly and conscientiously endeavoring to carry out the policy determined upon by the representatives of the people, and he has removed them to the end that those measures might be defeated through the administration of other military commanders whom he has selected for the purpose of carrying out his theories of reconstruction. Against these and other obstacles are we contending to-day. But let not our enemies exult in the prospect that these obstacles will discourage and deter us from carrying forward these measures to final success according to our convictions of duty. No, sir; Congress will take no backward step. In spite of all opposition, all threats, and all intimidations, Congress will pursue its policy to its final issue. And let us rejoice that the people of this country have already recognized in the four million freedmen of the South their aid in this great work. We know who it was that befriended the Union man in his perilous residence in that country; who aided the Government to the best of their ability, always and under every circumstance; who rescued our soldiers from the hunt of the bloodhound and the terrible horrors of starvation, and yet who are now persecuted, ostracised, and decried as something less than human beings with human rights by gentlemen upon this floor. But let me say, sir, it seems to me that man is mad who stands up to assert here that he will undertake to undo what Congress has done during the past three years in that direction. The man who asserts that as the ground of his action has not, I think, yet seen enough of blood in his day and generation.

When the Democratic party gets ready to reassert that slavery still exists in the southern States; when it is really earnest in its attempts to reestablish the institution, then, sir, it may summon courage to undertake to deprive these new-born citizens of the rights to which they have attained. But if they love their country and desire peace, and if they dread a renewal of bloodshed, let them stop in their mad endeavor to array their party against the rights of these true and loyal men, who, though they may be ignorant and humble, are none the less true and loyal to the Government, and as citizens entitled to its protection.

Mr. Chairman, I regret that the hour to which I am limited does not permit me to speak at length upon the other questions to which the President in his message has called the attention of Congress, particularly the question of tax-

ation and finance. Let me say here, however, that Congress ought, in justice to the country, to modify the costly and expensive systems of finance and taxation to which the President and Secretary of the Treasury seem so strongly disposed to adhere. The country, sir, can hope for no measures of relief from them. Their political motives and interests require that those burdens should still be pressed upon the people; that these costly systems of finance should be upheld, and that reform should await the advent to power of that party so auspiciously inaugurated at Philadelphia in August, 1866—a most indefinite period, sir! But I have no lingering doubt that Congress is awake to its duty in this respect. I can see clearly that before its adjournment we shall send to the country most useful as well as most radical reforms in this particular. Already the Committee of Appropriations report the estimates reduced to \$276,000,000, and I am assured by gentlemen on the Committee of Ways and Means that they are prepared to recommend a reduction of taxes from all the great branches of industry, and to place it upon liquors and luxuries. Such assurances the distinguished chairman of that committee gave us here on this floor a few days since. Such unquestionably will be the policy of this House. Let this be done, sir, and let our taxes be laid so that capital of every kind, whether invested in banks or bonds, shall bear its share of the burdens of the Government, and we may hope by the blessings of God to attain our former prosperity.

Mr. Chairman, great indeed has been the struggle of this country and great the sacrifices of its people within the last seven years. With a great price have we purchased this liberty. It is not alone the heavy burdens of taxation under which we are staggering and the great debt we stand pledged to pay that witnesses these our sufferings and our sacrifices. Not only our treasure, but the blood of our fellow-citizens has been poured out like water to purchase and maintain the national life. On the mountains of Virginia and Tennessee, along the banks of southern rivers, and by the sounding sea lie buried the heroes to whose valor and whose sacrifices we owe the existence of our Government to-day. In the households of the nation there is weeping and mourning still for those that come not back from the hospital and the field of battle. Let us be true to the memory of our dead heroes and true to the pledges we have given their surviving dependents, and never falter in those principles that they have suffered and died to maintain.

"Scattered on southern fields they lie,
Where tropic breezes gently sigh;
Under the shade of orange tree,
Upon the fields of Oluisee,
Or on the sandy drifts that pile
The barren waste of Morris' Isle;
Buried in melancholy lines
Along the swamps of Seven Pines.
And hundreds more half-buried still
On slopes of Gaines' and Malvern Hill;
Lying beneath the waving grain
On broad Manassas' war-scarred plain;
Scattered 'mong gloomy woods that dress
The lone haunts of the Wilderness;
Adown the Mississippi's coast,
Among the winding bayous lost;
Or with a nation's tears interred
In thy great tomb, O Gettysburg,
Rest, ye brave men, where'er ye lie!
Your valor brought us victory,
Green be the sod above your graves
O'er which your flag in triumph waves;
Green be your memory that lives
With all the brightness valor gives;
Hallowed by nations saved from wreck,
Hallowed by friends your graves shall deck;
Hallowed by patriotic men,
Orator's tongue and poet's pen;
Though in uncoffined graves ye lie,
Ye are of those not born to die."

Above all, let us not defame the memory of these men by declaring, either by language or our policy, that they fought only to reinstate rebels once more in power. While we cherish their memories let us vindicate their motives and their actions.

In conclusion, let me add, in behalf of the people whom I have the honor to represent, and in behalf, I am sure, of my own gallant State, that they will take no backward step. With them the issues are made up and the champions selected. On the one banner are inscribed the principles and the policy which carried us triumphantly through the war and, borne aloft by a brave and gallant soldier who can both fight and speak, is to-day the herald of victory. On the other are written the restoration and supremacy of rebels, and it boasts a champion worthy to speak and act for the "lost cause," a champion who, looking on the honored and torn flag of the eleventh regiment, whose old commander now leads our home column, uttered these bitter words:

"That flag speaks more eloquently to-day than human tongue can speak of the carnage of hell which abolitionism has brought upon the country—that flag, until it was seized by red-handed abolitionism, floated on every sea, was respected in every land, and never trailed in the dust."

And who, when the friends of the Union soldier were struggling to admit him to the privileges of the ballot, declared that—

"The Democracy of the country will never submit to the result of an election decided against them by soldiers' votes."

Between these principles and these candidates who can hesitate? New Hampshire soldiers, I am sure, will not. Their duty and their feelings unite to guide their action. New Hampshire knows her duty and will perform it. From her mountains and her valleys, from her farms and her workshops, and throughout her borders we still hear the same clear, clarion notes proclaiming her firm and steadfast in the principles she has maintained for the last twelve years, and which she will again vindicate in her coming election. On the 10th day of March her Republican columns file out into line of battle, and every soldier will fix his beaming eye on that unmatched chieftain destined to command the republican army and to lead the destinies of this Republic for four years to come. Even now, sir, by their quiet firesides, around their family hearths, are they reading these noble words of vindication and appeal:

"And now, Mr. President, when my honor as a soldier and integrity as a man have been so violently assailed, pardon me for saying that I can but regard this whole matter, from the beginning to the end, as an attempt to involve me in the resistance of law, for which you hesitated to assume the responsibility in orders, and thus to destroy my character before the country."

And, sir, let me say that as they read with glistening eyes and flushed cheek, not only the soldiers who have marched under his victorious banner, and who remember him with pride and affection, but the young and old, the true-hearted men of the Granite State, will rally to the support of that banner now inscribed with the names of "Grant and Harriman," and send their answering shout of triumph to the gallant State of Ohio, just awakening from her lethargy to renew the contest for liberty and Republican supremacy.

Southern Land Grants.

SPEECH OF HON. W. S. HOLMAN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

February 4, 1868.

The House having under consideration the bill to subject to the provisions of the homestead law lands heretofore granted to and forfeited by railroad companies—

Mr. HOLMAN said:

Mr. SPEAKER: I am in favor of the object which this bill seeks to secure, and I have sought the floor to enter my protest against the assumption of gentlemen, that the support of this measure necessarily implies hostility to the interests of the southern States. It is an unwarrantable assumption. I speak only for

myself. As a member of this House I have witnessed the passage of the bills by which millions of acres of the public lands have been granted to railroad corporations, and I have witnessed the passage of other bills by which such corporations have been relieved from their forfeitures and by which grants originally large have been enormously increased, and I have uniformly voted against them. I have never voted to grant a single acre of the public lands to a corporation nor to reinvest such corporation with the title to lands after a forfeiture. I have voted against such an appropriation of the public lands in the West, and in supporting this bill I apply the same principle to the public lands in the South. I have resisted this favoritism of corporations without reference to the section of the Union in which the congressional bounty was to be bestowed.

In my judgment the whole policy has been a fatal error; and I cannot be deterred, sir, from following this conviction of my judgment by the assumption of gentlemen that this measure is a discrimination against the South. I disclaim this, sir, the more earnestly because, as a result of an unwise partisan policy, we are affecting by this measure, for good or for evil, a section of the Union unrepresented on this floor; and because, sir, if this was a measure of vengeance for the punishment of a whole people I should deem it of all measures the most pernicious. A great and victorious people can afford to be magnanimous. By clemency and forbearance we may restore peace and fraternity, and assuage the bitter memories of war. But laws conceived in hatred and enacted in the spirit of vindictive passions will provoke resentments which no lapse of time will palliate, rendering still insecure all that we have gained by victory. But I deny, sir, that such is the purpose of this bill, whatever may be the motive of gentlemen in giving it their support. On the contrary, I insist that it is a measure in the interests of the whole people. Indeed, sir, so far as these railroad corporations are concerned they are in the main formed and their stock owned by citizens of the North, and the resistance to the passage of this bill is from New York more than from the cities of the South.

What is the purpose of this bill, sir? In 1856, by several acts of Congress, grants of public lands were made to certain railroad companies of the South, such grants being of every alternate section to the width of twelve miles through the entire length of the proposed roads, the companies to receive the title to and have the right to sell one hundred and twenty sections of land on the completion of each twenty miles of road, but with this condition, that "if the said roads are not completed within ten years no further sales shall be made, and the land unsold shall revert to the United States." These ten years have elapsed; some of these roads have not even been commenced and none are completed, and those that are in part completed have received their one hundred and twenty sections—seventy six thousand eight hundred acres of land for each twenty miles of completed road; and having forfeited every claim in either law or equity to the residue of these lands, amounting to more than five million acres, this bill proposes to throw them open to the provisions of the homestead law and give them to actual settlers—to the landless and the homeless, who will occupy and improve the lands and add to the wealth of this country by their labor instead of to these wealthy corporations. Can there be any objection founded on public policy to such a bill? In a country like ours is it not wiser to bestow lands on the landless, to the men who will make them produce their harvests by their own labor, rather than on rich corporations for the purposes of speculation? Is it not better to have many citizens masters of their own homesteads, the owners of the land they cultivate, than to centralize this wealth of the

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soil in the hands of a handful of men who are already rich, and create in the progress of time a nation of tenants? The most precious wealth of a republic is an independent and prosperous people. Will we promote this, sir, by centralizing the wealth of the soil and creating a nation of landlords with overgrown estates and hopeless tenants? And yet, sir, every grant this nation is making of these millions of acres to favored corporations tend to that result. I will never vote, sir, for a measure so manifestly hostile to our free institutions, I care not what may be the pretense. There is always, sir, a specious pretense in behalf of the demands of rapacious capital.

The question here is plain and direct: Shall these lands be given to our landless and homeless people or to these corporations? I cannot hesitate in deciding this question for myself. I should have voted against the original grants; I shall now vote against renewing these grants when these corporations have forfeited all claim upon the lands. If I had voted for the enormous grants which have been made in the last eight years to railroad corporations in Iowa, Michigan, Wisconsin, Minnesota, Kansas, and Nebraska, I should vote on the same principle to grant these lands to the railroad corporations of the southern States. The results would be the same, for whether the lands are in the West or the South the grants are, in fact, made to the great capitalists of New York, of London, and of Paris, who are in fact the corporators and receive the benefit of these grants. Gentlemen refer complacently to the benefits we have derived from the grant of lands to the Illinois Central railroad, and urge as an argument for these grants that the roads constructed by such grants transport our troops and munitions of war free of charge. The war has proved this to be a miserable delusion. The choice lands of Illinois, of the estimated value of \$47,000,000, were granted to that company. The road was actually constructed by the land grant, but when war came were your troops and munitions of war transported over that road free of charge? No, sir. In spite of the united vote of this House that corporation received from your Secretary of War their full charges for such transportation, exceeding \$3,000,000, and that road was and still is the property of British capitalists, and pours its annual flood of wealth into British coffers.

It is urged that these land grants encourage the construction of railroads and develop the resources of the country. If the business of the country require them railroads will be constructed, and constructed, too, by the capitalists who are to reap their benefits. By the land grants the best of the public lands are monopolized; they embrace every alternate section to the width of twenty miles, as is now your policy, for the entire length of the road, with the permission to select the most valuable sections within the width of fifty miles; and the whole lands are withheld from the actual settler until the agents of the corporation have selected the choice of the lands. These lands are held by the corporations until enhanced in value by the labor of enterprising settlers on adjacent lands. Their price is beyond the reach of any but wealthy purchasers; and thus, sir, these more than princely estates, these imperial possessions, granted to favored corporations, are placed forever beyond the reach of the laboring people, who, of all others, are entitled to the munificence of the Government. In vain, sir, under this system of land monopoly, will the laboring citizen, with his wife and children, emigrate to the South or West, hoping by honest labor to improve his fortunes and give to his children a foothold on the face of the green earth. In a very short period, sir, he will find every inviting spot already seized upon by these wealthy favorites of Congress, and will remain, in spite of his manly struggles and his patient labor, home-

less and landless, and his children become in time the hopeless tenants of lands which should have been their own; and this is done on the pretense of developing the resources of the country, but done, indeed, sir, in a spirit of unworthy favoritism, that a few wealthy citizens may erect still more stately palaces in your great cities and riot in the excesses of wealth, consigning how many to a hopeless poverty?

Individuals are taught by the lessons of example, but a nation never takes counsel from the experience of other nations. The hopeless peasantry to which the masses of the people in every nation of Europe are reduced excites with us no apprehensions, for the public lands seem still inexhaustible. Is it not time, sir, that we should know that monopoly is rapidly appropriating every acre of public land that is fit for cultivation?

No fact has been more uniformly asserted by the far-seeing statesmen of this Republic than that the permanency of our free institutions is greatly dependent on securing to the great body of our people an independent freehold in the soil. And who can doubt this, sir? Popular government can only be created or maintained by a body of independent citizens. How inseparably is monarchy connected with a landed aristocracy and a nation of dependent tenants, with a strong government to maintain the ascendancy of the one and the submission of the other. Hence standing armies are everywhere the agents of power. No nation ever had such an opportunity as ours to establish the permanency of free institutions in the general distribution of the lands and the independent freehold of the citizen, for we are necessarily a nation of farmers. We could not be a free people if we were not. The rich inheritance of the nation was a vast domain of virgin soil, inviting, by its fertility, the freeman to manly independence and virtuous labor. Who can doubt, sir, that it was the true policy of the nation to hold the public lands—this bountiful gift of nature—not for speculation, nor to invest with princely estates favored classes, but in trust for the whole people, to secure as a homestead to every tiller of the soil the land on which he labored and which he enriched by the sweat of his brow. The reverse has been our policy; and I submit, sir, in view of the future of this country, that the policy which secures to the few enormous landed estates, condemning multitudes of laboring men to the remorseless cupidity of the landlord, is a monstrous crime against republican government, and that the most fatal of all the mistakes which we and our fathers have made in these eighty years is the mistake of permitting this land monopoly, on the pretense of developing the resources of the country, enriching the nation at the expense of the manhood of its people, implanting into this new Republic the curse of the old monarchies, the monopoly of the lands, reducing the nation to the decrepitude of old age when it should be in the early vigor of youth. That the mistake is but partially seen and now scarcely felt only renders it the more fatal.

The absurdity of the proposition that these enormous grants of lands to corporations are necessary to develop the country is manifest when we remember that great States of this Union were covered with prosperous homesteads and filled with an intelligent and virtuous people without any such appliances. The gradual and even the slow growth of a State is better than its rapid growth and the centralization of its wealth.

The measures of Congress in the last six years have been fatal to the homestead policy. That great and beneficent measure, which was first brought before Congress by the present Chief Executive, and assumed the form of law after the Republican party came into power, and which received, I believe, every vote of this House, has been rendered virtually inoper-

ative by these enormous grants of lands to corporations.

Since I have been honored with a seat on this floor I have never known the time when some ingeniously devised bill giving millions of acres to some favored corporation was not slowly but surely wending its way step, by step, through the two Houses of Congress, and backed, too, by a powerful lobby; but I have never seen a lobby here, sir, in the interests of the people, in the interests of labor. These land monopolists exulted in the opportunities furnished them by the war. While the heart of the nation quivered the railroad corporations were pushing forward their bills! And such has been the liberality of Congress, in the eagerness to develop the resources of the country, that in the new States and Territories, with as yet but a handful of people, there is but little public land left for the landless citizen, and monopoly is grasping at it all.

During these six years Congress has granted to these corporations one hundred and twenty-five million acres of the choicest of the public lands. One hundred and twenty-five million acres! And within the same period you have granted for colleges over seven and a half million acres, the scrip for which has been sold at a nominal price; three hundred and ninety thousand acres of which, granted to my own State, sold for less than sixty cents per acre. A few men have monopolized it all. The grants to the States for common schools have been in the interests of the people, while all these other grants have manifestly been in the interests of monopolies, and wholly unjustified by any sound public policy. A few more years of this policy and the public lands will be wholly appropriated. Congress, in its eagerness to promote the fortunes of favored citizens, wealthy capitalists, will not have left an acre of land, even on the barren peaks of the Rocky mountains, upon which the laboring man may establish his homestead. And then, sir, labor, even for a home, is forever at the mercy of capital. These six years have been fatal years in our history; memorable years, sir, in the display of the self-denial and patriotism of our people, yet fatal in the measures of public policy, in the centralization of political power, in the centralization of wealth, and in the monopoly of the public lands.

And yet, sir, in spite of all this, who would abandon the pleasing hope that this nation will again listen to the counsels of that great statesman of a better era who assured his countrymen "that it is not in a splendid Government, supported by powerful monopolies and aristocratical establishments, that they will find happiness or their liberties protection; but in a plain system, void of pomp, protecting all, granting favors to none, dispensing its blessings like the dews of heaven, unseen and unfelt save in the freshness and beauty they contribute to produce."

Kentucky Election—Disloyalty a Disqualification.

SPEECH OF HON. HENRY L. DAWES,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

February 13, 1868.

The House having under consideration the following resolution reported by the Committee of Elections in the contested-election case of Smith vs. Brown, from the second congressional district of Kentucky:

Resolved. That John Young Brown, having voluntarily given aid, countenance, counsel, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Representative in this House from the second congressional district of Kentucky, or to hold a seat therein as such Representative—

Mr. DAWES said:

Mr. SPEAKER: The Committee of Elections, fully conscious of the importance of this case,

have endeavored to so conduct it, as well in committee as before the House, that, whatever may be the final determination of the House, there shall not lie at their door any just accusation of an attempt to arrive at their conclusion without the fullest and most perfect discussion of the case that the House might desire, and without hearing in full all parties affected by it. It has been long before the House and the committee. It has been heard from time to time, and it has been postponed now ten days, in order that the gentleman against whom this report is made may be heard before the House, as he had been before the committee, in his defense. He has now been heard. Having occupied the attention of the House in opening this case as fully as I desired, I recognize it to be my duty to confine myself at this time entirely to a reply to such suggestions and arguments offered in opposition to the report as I think deserve or are capable of being answered. Before proceeding, however, to offer such considerations I beg leave to call the attention of the House to some remarks that fell from gentlemen, in the former discussion of this case, to which, it seems to me, I ought to allude—to the attempt on the part of the gentleman from Kentucky who first addressed the House [Mr. BECK] and the gentleman from Indiana, [Mr. KERR], a colleague of mine on the committee, to insist upon it that this is a partisan proceeding.

The gentleman from Kentucky [Mr. BECK] says, with a meaning that cannot be mistaken: "I know it makes a great difference before some tribunals whose ox is gored."

And the gentleman from Indiana [Mr. KERR] says, with more direction:

"It is my opinion, Mr. Speaker, that had it been the good fortune of Mr. Brown, after that letter had been written and after the war was over, to become a member of the Union party, 'so called,' as my friend from Illinois [Mr. ROSS] suggests, and had been elected as such to this House, he would have had no trouble in gaining admission to a seat here, notwithstanding that letter."

To the gentleman from Kentucky, who thinks that it makes a great deal of difference before this tribunal whose ox is gored, I submit this question: whether he owes his own seat here, after a unanimous report of the Committee of Elections in his favor and under the adoption by this House of that report without a division, to any such rule as he suggests? Do the gentleman's colleagues—one, two, three, four, five of them—whose cases have been submitted to that committee, and been reported upon unanimously by that committee, and placed in seats here by a unanimous vote of the House, owe their seats here to the rule he suggests? I leave him to answer that question to himself. But to the gentleman from Indiana, my colleague on the committee, who not only knows all these facts, but knows all the proceedings in the committee, I suggest that this comes with a poor grace from him, when he knows that there has been not a single vote, save this one, in that committee touching the right of any man to a seat upon this floor upon which there has been any division of sentiment, one way or the other; that there has been no report brought by that committee into this House in the result of which he himself, in common with all the other members of the committee, has not concurred, and in which this House has not supported him and me in that report; and when he knows that the vote in the committee on this very question now before the House is a refutation of any such idea as that suggested in his remarks. I do not care further to discuss this question; but I am happy to say that upon no question but this—a simple question of fact—has the committee differed at all; and the gentleman had arrayed with him in this case such a vote as should have prevented him from making any such statement to this House.

But, sir, I have to answer not only in behalf of the committee, in regard to the rule by which it has been governed in its votes, but I have to answer for myself to the arraignment

of the gentleman from Indiana. The gentleman, in the remarks which he submitted in support of his minority report, found it necessary for his case to arraign me upon the floor of this House and to charge me with misrepresentation of the testimony in this case. He says:

"Now, I know not whether to characterize that as adroitness or maladroitness in torturing, if you please, the evidence that is brought here and upon which it is sought to convict Mr. Brown. There is no such thing in the record; and it is to that I call the attention of the gentleman and of this House. Why drag in that kind of interpretation when in this record there is nothing to justify it? Then why indulge in this kind of stuff to control the action, to control and prejudice the conscience, of this House against its plain duty in this important case?"

"Now, Mr. Speaker, is it justifiable, is it right, for a gentleman in this sort of a case, acting in this solemn capacity, thus to challenge his imagination to come to the aid of his facts, and to interpolate into this record what there is not one solitary particle of evidence to prove?"

And then, growing more earnest and zealous, he solemnly admonishes me for the future to take better care of my duty upon this floor when next I presume to address this House. Sir, I am aware that this sounds tame when read ten days after its delivery without the tone and temper which helped it on. I know very well that you, Mr. Speaker, up there behind your barricade, may have felt safe enough against the onslaught and charge of the gentleman, and yet I have before me an Indiana paper which represents that charge of the gentleman to have been so terrific and irresistible that nobody upon this side of the House could rally for any other purpose than to move a postponement of this case for one week to enable us to gather up the scattered fragments of our arguments. So bold and swift was this charge, and the gentleman had such a keen scent of blood, that he would not permit me even to correct and explain the statement that he made. I could think of nobody like him but the man

"Who roared so loud and looked so grim
That his very shadow dare not follow him."

Now, sir, what was all this about? The gentleman from Indiana [Mr. KERR] says there is not one particle of proof in the record to justify the statement which I made. These are my words:

"And while they were doing so John Young Brown confessed that he also secretly and privately went about whispering in their ears that if any man joined the Union Army in Kentucky he ought to be, and he believed he would be, shot down before he left the State."

Sir, what did John Young Brown confess? He confessed this:

"I frequently uttered publicly and privately"—
What did he utter? This:

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern army shall attempt to cross our borders we will resist it unto the death; and if one man shall be found in our Commonwealth to volunteer to join them he ought, and I believe will be, shot down before he leaves the State."

Here is the letter in full:

ELIZABETHTOWN, April 18, 1861.

Editors Louisville Courier:

My attention has been called to the following paragraph which appeared in your paper of this date:

"JOHN YOUNG BROWN'S POSITION.—This gentleman, in reply to some searching interrogatories put to him by Governor Helm, said, in reference to the call of the President for four regiments of volunteers to march against the South:

"I would not send one solitary man to aid that Government, and those who volunteer should be shot down in their tracks."

This ambiguous report of my remarks has, I find, been misunderstood by some who have read it, who construe my language to apply to the Government of the confederate States! What I did say was this:

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern army shall attempt to cross our borders we will resist it unto the death; and if one man shall be found in our Commonwealth to volunteer to join them he ought, and I believe will be, shot down before he leaves the State."

This was not said in reply to any question propounded by ex-Governor Helm, as you have stated, and is no more than I frequently uttered publicly and privately prior to my debate with him.

Respectfully, JOHN YOUNG BROWN.

Now, I thought that "privately" and "secretly" were convertible terms; and that if John Young Brown "frequently" uttered these words he was not likely to confine his utterances to the same place, but most likely he went about uttering them privately or secretly. And I am very certain that if he uttered these words privately he did not do so "upon the housetops." Therefore it was I said that he "privately and secretly went about whispering" these things in the ears of these men in Kentucky. That is all I did say upon this subject to justify my colleague upon the Committee of Elections [Mr. KERR] to charge me with a disposition to interpolate into the record what was not true.

The gentleman from Indiana, as well as the claimant for the seat in his remarks to-day—and in that particular the gentleman from Kentucky [Mr. BECK] who first addressed the House on this subject—used the same language in respect to the course and conduct of Mr. Brown here charged as disloyal. The gentleman from Indiana [Mr. KERR] has embodied it in these words—

"The whole record shows, from the very inception of this trouble"—

I ask gentlemen to bear these words in mind as I go along—

"The whole record shows, from the very inception of this trouble until this present hour, Mr. Brown, among his neighbors, whether they were Union men or secessionists, assumed the office of peace-maker and did nothing inconsistent therewith. That is what the record shows. That is what the evidence shows. That is what the witnesses produced both by Mr. Smith and Mr. Brown swear."

That covers the whole ground, I suppose, and therefore gentlemen who arraign me for interpolating into the evidence anything not found in the record will be patient and bear with me as I go along. The first thing after the "inception of this trouble," and after President Lincoln called upon Kentucky for her quota of seventy-five thousand men, and after the Governor of Kentucky had declared that that State would furnish not a man or a dollar—the first thing after that which Mr. Brown did was also to declare that if any man did go into the northern Army he ought to be, and he [Mr. Brown] hoped he would be, shot down in his tracks.

Now, I agree—and I give the gentleman the benefit of it—that so far as any doubtful or uncertain act or expression of the man is concerned, it is due to him to look to surrounding circumstances, to subsequent acts, to the daily life of the man, to find an explanation or interpretation of such act, and give to it its true and legitimate and proper force. If there were anything in these words of his which admitted of any doubt I would hail anything to be found in this record that would relieve it from that doubt in favor of his loyalty.

But, sir, I am sorry to say the record is too plain; the words themselves do not admit of explanation by other words, because they are clear and positive. And yet, sir, I am not willing to pursue this line of argument altogether in reference to this claimant. I am willing to try him by the test he himself desires to be tried by and to see if there is anything, any one single act of his, any one single measure, purpose, pursuit of his, which he put forth to the world after he wrote that letter that will interpret it in favor of loyalty.

Sir, it is said that that which he confesses he had been in the habit of doing frequently and privately around his district he did in favor of neutrality in Kentucky. Sir, what is meant by neutrality? Is it enough for the defense of Mr. Brown to say that other men who occupied that doubtful and ambiguous position in the early part of the war were men who since have shown themselves, by their acts, to have been bold, fearless, and energetic champions of the Union and the cause of their country? Certainly not; because neutrality being a doubtful and uncertain position, their subsequent con-

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duct demonstrated, so far as they are concerned only, for what purpose those men went into it. It demonstrated, for instance, why Mr. Crittenden and Mr. Speed and Mr. Guthrie went into it. Those men in Kentucky were drawn into that awkward and indefensible position by what they believed at the moment to be the necessity of the hour. As soon as the mask fell off and the scales dropped from their eyes, then they took their position on the side of the Union. They exhibited by their acts what they had meant by their words.

But, sir, there were two kinds of neutrality in Kentucky. There was the neutrality advocated by such men as I have just mentioned, whose loyalty was shown by their subsequent conduct. There was another kind of neutrality, the object of which was to paralyze the Union arm in Kentucky while the rebellion could gather strength and volume and proportion. Which of those kinds of neutrality did the gentleman now claiming this seat advocate? On which side did he array himself? The gentleman from Kentucky [Mr. BECK] who first addressed the House appealed to this doctrine of neutrality as a vindication of the course of his colleague, as he called him; yet he failed to tell us to which kind of neutrality his colleague adhered. He failed to call attention to the fact that he had in his own case proved the distinction between the kind of neutrality supported by Mr. Brown, and the neutrality supported by the glorious names behind which Mr. Brown seeks shelter to-day. The gentleman from Kentucky, [Mr. BECK,] when conducting his own case before the Committee of Elections, called upon the stand Governor Robinson, and in his remarks before the House has reinforced this witness. To the testimony, therefore, of Mr. Robinson, I appeal for the explanation of the different kinds of neutrality advocated and supported in the State of Kentucky. I read from the gentleman's examination of his own witness:

"Question. Was I not endeavoring to show that Kentucky ought to maintain her condition of neutrality?"

The gentleman from Kentucky, it seems, was himself wedded to that doctrine. Let me read the answer of Governor Robinson, his own witness:

"I think Mr. Beck occupied that ground—that Kentucky should maintain a neutrality, such as I claimed she had never taken, and such as I was opposed to. He was for a neutrality by which Kentucky refused the General Government aid and assistance, and refused it permission to march troops across the State. I, on the contrary, advocated that her neutrality was simply a quiescent state for the time being; that she should maintain her allegiance to the United States Government, subject to whatever calls might be made upon her for men and money, and that her territory should be open for any purpose of the General Government. That was the neutrality I was for. Mr. Beck was opposed to furnishing men and money. I was for furnishing just as many men and as much money as would maintain the Union and put down the rebellion. Mr. Beck advocated the resolutions of 1798-99 in their full extent. He took the ground also that if his State went out the man who went with it could not be a traitor. He would either be hung by his State for disobeying her, or by the General Government for disobeying it. Those were the issues generally, as far as I recollect."

"Question. Is it or not true that the Union men of Kentucky, in the spring and early summer of 1861, through their meeting at Louisville, and the address of their central committee, urged the condition of neutrality with a good deal of vigor?"

"Answer. That is my recollection. The Union men of Kentucky did occupy the ground of neutrality in the early stages of the canvass, but not the neutrality which some gentlemen advocated. Their neutrality was not a neutrality by which they should resist or disobey any order of the General Government, any demand for men or money, or the right of transit for troops."

Then a question is put by a member of the committee:

"Did not Mr. Beck make speeches inviting men to join the confederate forces?"

"Answer. I do not know exactly how to answer that question. I have information that at the very discussions between myself and Mr. Beck there were men recruiting for the confederate service. I do not know that Mr. Beck had the slightest knowledge of that fact. I never heard him, directly or indirectly, urging any man to join the confederate army; but he was a southern rights man and advocated the doctrines which I have stated. He advocated the

doctrine, virtually, of State supremacy, and I suppose the tendency of that would be to show that it was right and safe to join the rebellion. I do not think that Mr. Beck did anything farther than that. I have no doubt that the effect of his whole stand was to give strength and power, and a very great deal of strength and power, to those who were in favor of the South and of rebellion; but he did not in any speech advise any one to join the rebel forces."

I do not read this testimony, Mr. Speaker, to arraign the gentleman from Kentucky, [Mr. BECK.] His case has been passed upon by this House, and passed upon with my concurrence. My object is, from the mouth of a witness produced on that side, to put an end to the idea that because a man belonged to that party of so-called "neutrality" he was therefore an advocate of the Union, that in proclaiming that neutrality he was taking the side of the Union.

But, sir, although Mr. Brown fails to give to these doubtful acts any interpretation which would mitigate the full force and effect of the promulgation to the people of Kentucky that every Union soldier ought to be shot down, what did he do? What became of this gentleman afterward? Did he, like the other men whose names we have brought forward here, take position by the side of the Union Army and labor with life in hand for the cause? Has there been one particle of evidence produced here which shows one act or speech of his or one prayer of his offered up in the secret recesses of his chamber, or anywhere else, calculated to encourage the hearts of the true Union men of Kentucky in that fearful conflict within their own borders and in their own families, by their own firesides, in the struggle for the life of the nation?

Sir, the most that can be said in his behalf is said by his own friend and witness from whom he has quoted this day. The most that can be said in his behalf was testified to by Mr. Mallory, whom he has summoned here to-day. Let me read it. A question was put to him by my colleague on the committee, [Mr. SHELLEBARGER,] now absent on account of sickness:

"After neutrality was abandoned in Kentucky do you know what side Mr. Brown took?"

"Answer. I cannot answer that question of my own knowledge; but from public report he took no side; he subsided."

That, sir, does not help a man when it is necessary for him to produce positive acts, positive demonstration, in order to relieve himself of something which he has done which is equivocal, which may be for or against the life of the nation. The most that can be said in his behalf has been said by his own bosom friend, who sat by his side during his former service in Congress, and who went back with him to Kentucky, carrying a full sense of his obligation to report to his constituents of that treason hatched within ten feet from where I stand.

Now, who are the witnesses called on the one side and the other to whom my friend from Indiana [Mr. KERR] appeals? He says the whole record shows he was a Union man who earnestly endeavored to prosecute in his way the Union cause.

A. S. Hicks, testifies, in answer to interrogatories, as follows—page 97, Document 47:

"By Mr. Smith:

"Question. The speech which Mr. Brown made at Hebbardsville in 1865, was it not intensely disloyal?"

"Answer. That is what I thought about it. I considered it disloyal. I never heard him say that the South had done anything but what was perfectly right, or that the Federal Government had done anything but what was wrong."

What encouragement, what a stimulant to the drooping spirits of the Union men of Kentucky! What lifting up of the arms of Crittenden and Rousseau and the gallant men from Kentucky who fought and fell in the cause of the Union! This man was making speeches that everything the Union Army did was wrong and everything the confederate army did was right.

"Question. Was it charged upon Mr. Brown last April at Hebbardsville that he had been a rebel from the beginning of the war until that time?"

"Answer. Yes."

"Question. Did he deny it?"

"Answer. He did not deny acting with that party. He denied being a rebel at that time, because he said there was no rebellion."

Mr. Brown, in 1865, thought the President, by paper proclamation, had put an end to the rebellion. He did not think at that time he belonged to the rebellion. That is the first witness.

Mr. ELDRIDGE. I understand the gentleman from Massachusetts to say the gentleman from Kentucky [Mr. Brown] declared everything the Union Army had been doing or was doing was wrong and everything the confederate army was doing was right. I am not aware there is any such testimony before the committee. I wish to know whether that is the gentleman's comment, or is he stating that as actual testimony?

Mr. DAWES. I read the words taken from the book. If the gentleman will please to turn to page 97 of the book he can look over me while I read.

Mr. ELDRIDGE. I ask the gentleman whether he means to argue—

Mr. DAWES. I have the floor.

Mr. ELDRIDGE. I hope he will not refuse to answer my question.

Mr. DAWES. I will answer any question.

Mr. ELDRIDGE. I wish to know whether the gentleman from Massachusetts does assert that the gentleman from Kentucky ever used the language which he imputes to him. I ask him in sincerity and desire a candid and precise answer.

Mr. DAWES. Mr. Speaker, I read the precise answer, and I then commented upon it. If the gentleman had given me that attention which his own interest in the case should induce him to he would have seen that I read the testimony word for word. If he is not satisfied that I have done so let him turn to page 97. I commented upon what I thought was the force of these words. I will read them again. I will not rest under any imputation of having laid a straw at the door of that gentleman that the testimony does not bear me out in:

"Question. The speech which Mr. Brown made at Hebbardsville in 1865, was it not intensely disloyal?"

"Answer. That is what I thought about it. I considered it disloyal. I never heard him say that the South had done anything but what was perfectly right, or that the Federal Government had done anything but what was wrong."

That is the testimony. I suppose he discussed public affairs in that speech, and I mean to say that the testimony of this witness is that Mr. Brown took the ground that the acts of this Government were wrong and that the acts of the South were right. If he discussed that question he must have discussed it just as I stated or else the witness was mistaken.

Mr. ELDRIDGE. Allow me to ask this further question: if it is not unfair to charge him with saying everything is wrong because a witness comes before the committee and swears he did not hear him say that anything was wrong? Is it fair to base such a charge upon such testimony?

Mr. DAWES. Of course the House will pass upon the fairness of my remarks. But I say it is perfectly fair to say that this witness meant to testify that whatever Mr. Brown did say about the Federal Government it was all wrong, and whatever he did say about the South it was all right.

Mr. TRIMBLE, of Kentucky. I desire to ask a question just here: whether or not that speech was made after the war commenced, and whether or not that same witness testified that he classed all the Democrats of Kentucky with the rebels.

Mr. DAWES. Mr. Speaker, I have alluded to the fact that when Mr. Brown was asked if he did not act with the rebel party he answered by saying that after the war closed there was no longer any rebellion. Whether this witness classed the whole Democratic party with the rebels or not I do not now remember, but I do

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not. There are a great many Democrats whom I believe to be true patriots. Mr. Brown then put a question himself. I will read the question and answer:

"Question. In the first speech which you heard me make at Hebbardsville did I or not state that at the beginning of the war I opposed secession and made speeches all over my region of Kentucky discouraging enlistments in the confederate service?"

"Answer. You may possibly have said so, but I do not recollect."

"Question. Was there anything in that speech inflammatory or calculated to excite the minds of the people?"

"Answer. I thought there was. I am satisfied there was."

The next witness that I call to the stand, in answer to my colleague on the committee, [Mr. KERR,] is James McIntyre, on page 100:

"Question. Is it not notorious through the second district of Kentucky that Mr. Brown since 1861 has been a member of the disloyal party of Kentucky and has been acting in concert with it?"

"Answer. In my county, Muhlenburg, and in McLean county, so far as I have correspondents, and in a portion of Daviess, and, in fact, wherever his statements have been brought before the people, either in conversation or otherwise, the current opinion is that he was a rebel sympathizer; that his feelings and sympathies were for the success of the rebellion."

Mark you, I am not arraigning a man for his sympathy; I am answering the charge that I have misstated this testimony, and I am showing how utterly the subsequent course of Mr. Brown in Kentucky fails to relieve him from the act of which the most he can claim was that it admitted of two interpretations.

On page 94 is the testimony of H. S. Parks:

"Question. Is it not a notorious fact in the second congressional district of Kentucky, and particularly in the county of Henderson, that Mr. Brown is and has been disloyal to the Government of the United States?"

"Answer. All Union men there look upon him as belonging to that party."

I read now from the testimony of F. H. Little, page 92:

"Question. Did not Mr. Brown in that speech say that in 1861 and up to the close of the war he had been a rebel, but that the confederate soldier had stacked his gun and furled his banner, and there was no longer any rebels?"

"Answer. I think there was something of that kind said."

"Question. Did Mr. Brown deny in that speech that he had been a rebel?"

"Answer. I do not know that he did."

"Question. Was it not directly charged upon him that he had been?"

"Answer. I think you charged him with it. I heard his reply, but I do not think he alluded to it."

"Question. Was or was not Mr. Brown asked whether he intended that letter to refer alike to confederate and Union soldiers?"

"Answer. I think he was."

"Question. Did he not decline to answer the question?"

"Answer. I do not know that he declined to answer it. I heard no reply."

"By Mr. SCOTFIELD:

"Question. How was that question put?"

"Answer. I think it was put by Mr. Smith."

"Question. To be answered immediately, or in the course of Mr. Brown's reply?"

"Answer. My understanding was that Mr. Brown was expected to reply to it in his speech. He had fifteen minutes for reply."

I come next to the testimony of Thomas F. Cheaney:

"Question. Did Mr. Brown remain in the town of Henderson during the entire war?"

"Answer. Yes, sir; that was his home from some time in 1861."

"Question. Do you not recollect of his having left Henderson on one occasion and gone to New York and Canada?"

"Answer. I recollect hearing of it. I do not know of it personally. I was a farmer and lived some twelve miles from the town, which I seldom visited."

"Question. In what year did it occur?"

"Answer. I think it was in 1863 or 1864."

"Question. Did not Mr. Brown say in those conversations that although he opposed secession he would throw his destiny with the South; that as she had seceded he would go with her, and was in favor of the people of Kentucky doing so?"

"Answer. I think he expressed himself in that way, that he would prefer a dissolution of the Union to the policy of the Administration."

Here is the testimony of Joseph I. Landes, in document No. 6, a report with accompanying papers made at the July session. On page 23:

"Question. Did you or not hear a discussion between Hon. John Young Brown and Hon. B. C. Ritter, candidates for Congress, some time in April, 1867, at Hopkinsville, Kentucky?"

"Answer. I did."

"Question. Please state how the announcement by Mr. Brown, in the discussion aforesaid, of his authorship of said letter, was received by his political friends in hearing, and what (from your knowledge of those you observed) was the political standing of those friends during the late war?"

"Answer. At the time above stated Mr. Brown's avowal of his authorship of the letter aforesaid was received by a portion of the audience with vociferous applause. My impression and best recollection is that most of those who on that occasion so loudly manifested their approval of the sentiments expressed in that letter were rebels during the war; or, if not actually engaged in the rebellion, were its most earnest advocates and sympathizers."

Walter Evans testifies as follows, page 5:

"I have examined the printed copy of said letter, and refer to it as attached by Mr. Landes, and marked with his signature, as a part of my deposition. In a discussion which I had in this place, early in April of this year, between Mr. Brown and his then only opponent, Mr. Ritter, Mr. Brown, in answer to Mr. Ritter's inquiry, avowed its authorship, amid the wildest cheers of his admiring friends in the audience. No one of those friends that I observed had for a long time been accused of any sympathy for the Government in its arduous trial of war, and many of them I know to be late rebel soldiers; all were rebel in sentiment, so far as I knew, and I scanned the crowd as closely as was necessary to ascertain this. Hon. John Young Brown was known and recognized during the whole canvass as having been a rebel sympathizer; that gave him applause here and was the basis of his strength, but of those who voted for him in this county I doubt if there were ten men who could truthfully claim to be Union men. I never heard him express a regret for having written the letter, and, from the manner in which it was treated, I entertain no doubt that he regarded it as perhaps his most efficient campaign document. It certainly did him no injury here with his friends."

Mr. KERR. I desire to inquire of my colleague on the committee whether the evidence which he has just now been reading is taken from the record in this case or from a former report?

Mr. DAWES. From the report that preceded this.

Mr. KERR. Then I desire to ask the gentleman the further question, whether he does not know that that publication—I will not call it evidence, because it is not evidence—does not constitute any part of the record in this case at all, is not in the evidence and was not in the proof, because it was not taken according to law?

Mr. DAWES. No, sir; I do not know that.

Mr. KERR. You do not know it?

Mr. DAWES. I do know that I read from depositions taken on notice to Mr. Brown, filed here and made the basis of one of the reports and published for the use of the House.

Mr. KERR. I desire to ask the gentleman one further question and then I will not ask him any more. I desire to ask him if it is not true that that from which he has just read is entirely *ex parte* evidence, taken long before this controversy commenced in the form in which it is now before the House, and taken as the basis on which a charge of disloyalty was made against Mr. Brown?

Mr. ELDRIDGE. Say whether it is so or is not.

Mr. KERR. I say that it is so, and that it therefore constitutes no part of this case.

Mr. DAWES. I will state precisely the facts of the case. It is taken from depositions by interrogatories upon notice served upon Mr. Brown, which were brought here in July, and upon which a report was made to this House by the Committee of Elections; and it was published as the evidence upon which that report was based.

Now, I pass over the first charge in this case made by the gentleman from Indiana against me, that I have interpolated into the record. I think I have answered that count in his indictment. But upon the conclusion of that charge the gentleman announces that he was not yet done with me. He says:

"Mr. Speaker, I have not yet done with my honorable friend, the chairman of this committee. I now invite the attention of this House and his attention to some of the authorities which it was his pleasure to present before the House on Friday for the pur-

pose of maintaining or supporting the proposition of constitutional law he then laid down. He undertook to inform this House that it possesses the constitutional right to exclude whom it pleases if the public safety requires it. He laid down the broad doctrine, not in terms but in legal effect, that the guide which this House must follow in the adjudication of this case must be its own will. It has but to consider what the public welfare requires, what the public safety requires, what the public interests demand, and then to do it; and in order to sustain that startling proposition, unquestionably, revolutionarily, he cited two or three authorities."

And then my distinguished friend from Indiana charges me with an attempt to deceive this House by quoting and misquoting as authorities, in support of what he says was my proposition, the great names of Hamilton and Madison in the Federalist; and then growing, as he did before, righteously indignant—

Mr. KERR. Allow me to interrupt the gentleman a moment.

Mr. DAWES. My friend will excuse me if I decline to be interrupted just now. I suppose when the gentleman took me up in that way it troubled him just as much as he wanted to be troubled; and I felt it incumbent upon me, after his paying his respects to me in this kind way, to respond to him. He grew righteously indignant, and broke out in this strain—

Mr. KERR. I never charged the gentleman from Massachusetts with misquoting authorities.

Mr. DAWES. Mr. Speaker, either the gentleman from Indiana or myself has the floor. Let us understand how that is.

The SPEAKER. The gentleman from Massachusetts [Mr. DAWES] is entitled to the floor. Does he decline to be interrupted by any one?

Mr. DAWES. No, sir; I do not say that. But when I intimate to a gentleman that I cannot be interrupted just at this time I mean what I say. The gentleman from Indiana [Mr. KERR] went on to say:

"Now, Mr. Speaker, I ask every intelligent gentleman on this floor, every fair-minded lawyer in this House or this country, if it is fair, if it is just in this way and by this means to undertake to control the judgment of a court and jury of which the gentleman who uses this language in this way is a member and a part?"

Now, mark what the gentleman says:

"It is, perhaps, pardonable for lawyers, pleading before courts and juries, where the court and the jury alone are charged with judicial functions and duties, and other lawyers are watching to catch and expose their tricks and errors, to indulge in this kind of argument, this kind of arts, to give unjust support to untenable propositions; but is it pardonable, is it justifiable in circumstances like those which surround us to-day?"

You will observe, Mr. Speaker, that he reserves the right to cheat a court and jury and indulge in tricks in certain cases. But only for the purposes of this case is he desirous of enforcing the rule of fair dealing. He says that tricks are perhaps pardonable, where men are on the watch to catch those who use them. But, sir, I deny the whole charge. There is no more foundation for it than there is for the miserable rule of ethics here advanced. I never misquoted the authorities for this proceeding. I said in the outset that this case was without precedent. In the first words uttered by me upon this floor in this case, I said:

"This proceeding, Mr. Speaker, is not only unusual, but it is without precedent in the history of the Government."

I had, therefore, no precedents to cite. What further did I say?

"Sir, I admit for myself—every other gentleman, of course, may come to any other conclusion that he finds the Constitution to authorize him in coming to—I admit that there is no express authority in this Government under the Constitution to exclude from Congress a man for the offense here charged."

I could not cite any "express authority" after this admission, for I confessed I had none to cite.

But, Mr. Speaker, does not the gentleman understand the difference between an authority and a principle; I attempted, with what success it is not for me to say, to summon to my aid the great names of Hamilton and Madison

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in their expositions of the great principles and powers of our Government; and from them I deduced—does the gentleman understand what that means—an argument that we had the power I had claimed. These are the words I used:

"But, Mr. Speaker, there is a further consideration underlying this matter, and that is this: the Government of the United States is bound to preserve itself. It is clothed with the power, and in the absence of any inhibition of means."

Is this laying down the broad doctrine that the guide this House must follow in the adjudication must be its own will?

"It is clothed with the power, and in the absence of any inhibition of means, it is authorized to avail itself of all means necessary or proper contributing to the end to preserve itself. I think these are propositions which do not admit of doubt. When the Government is once established, and does not limit its own duration, and does not limit its own means of self-preservation, it is authorized by all the laws of human society and government to resort to all means whatever they are that will contribute to that end."

"Mr. Speaker, this was the view of the framers of the Constitution themselves."

That, in the absence of any inhibition of means, they were empowered to resort to all the means calculated to preserve the existence of the nation.

"This was the view of Hamilton, the greatest of all those who discussed the powers and participated in the framing of the Constitution, and I beg the House to do me the honor to listen to the views of Mr. Hamilton on this point."

I then read from the twenty-third number of the *Federalist* a statement of fundamental principles, universal in their application, on which the life of the nation rests. I will read them again, and gentlemen may observe whether Mr. Hamilton did not utter them as fundamental truths, universal in their application, and essential to the existence of the Government:

"The circumstances that endanger the safety of nations are infinite; and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed. This power ought to be coextensive with all the possible combinations of such circumstances; and ought to be under the direction of the same councils which are appointed to preside over the common defense."

This is one of those truths which, to a correct and unprejudiced mind, carries its own evidence along with it, and may be obscured but cannot be made plainer, by argument or reasoning. It rests upon axioms."

What is an axiom? Is it an authority—a case cited, running on all fours, as the lawyers say in a justice's court?

"It rests upon axioms as simple as they are universal: the means ought to be proportionate to the end, the persons from whose agency the attainment of any end is expected ought to possess the means by which it is to be attained."

"Whether there ought to be a Federal Government intrusted with the care of the common defense is a question, in the first instance, open to discussion; but the moment it is decided in the affirmative it will follow that that Government ought to be clothed with all the powers requisite to the complete execution of its trust. And unless it can be shown that the circumstances which may affect the public safety are reducible within certain determinable limits—unless the contrary of this position can be fairly and rationally disputed, it must be admitted as a necessary consequence that there can be no limitation of that authority which is to provide for the defense and protection of the community in any matter essential to its efficacy."

And, sir, after having read these truths, foundation-stones upon which is reared the Republic itself, it did not occur to me that it was necessary to read the title affixed to the article in the edition I read from by somebody, whether Mr. Hamilton or not I do not know, showing that the subject under consideration was "the necessity of a government at least equally energetic with the one proposed." Nor did it occur to me that it was necessary to inform the House that these great truths were separated by merely a semicolon from the particular branch of power which had called out their utterance.

Sir, I think the mind that would fail to comprehend and grapple the sublime truths here uttered and would stick at a semicolon would repose with ease on a pin head, and there I would leave it undisturbed were there not

occasion to follow it a little further. The gentleman says he is not done with me, and, of course, I cannot leave him. He says:

"But I am not yet done. The honorable gentleman further invited the attention of the House to a citation or two from another of the great luminaries of our early laws and Constitution and history, John Marshall, and from his opinion in the case of *McCulloch vs. The State of Maryland* he undertakes to find comfort, to find support, to find some sort of justification, for what is proposed to be done here."

"Mr. Speaker, I say without fear of contradiction—I say it to every lawyer upon this floor, I say it to the honorable gentleman himself, and I say it with the utmost confidence—that there cannot be found in that great opinion one solitary line of authority, one single syllable of countenance or encouragement even, for this kind of doctrine; not one."

That is modest, to say the least, Mr. Speaker; and a man ought to be pretty certain he knows what he is talking about before he thus heralds his own views. Now let us see how accurately he has studied that case. He says:

"What did that opinion decide? It decided these three points: that the National Bank of the United States, organized in 1811, I believe, involved a constitutional exercise of the power of Congress; that that bank had a right to organize a branch in the State of Maryland; and that the State of Maryland had no right to tax that branch. That is what that case decided, and that is all that the case decided."

That is pretty good, since Chief Justice Marshall, who delivered that opinion, had been dead going on ten years in 1841, and there has not been a bank chartered by the United States since 1816, and the decision itself was given in 1819. But this is of small consequence, Mr. Speaker, only showing that the report itself was either not read at all or was not comprehended when I was arraigned for misquoting it. It is only equalled by the announcement that it was the absence of the Constitution of the United States which caused André to be hung, because he had Arnold's treason in his boot.

But, sir, what is of more consequence is the attempt to narrow and belittle this great discourse of Chief Justice Marshall upon the constitutional powers of this Government to simply an authority in a tax case. Take these truths, sir, which I quoted the other day, and tell me how large is the mind, how broad and comprehensive the statesmanship, that attempts to shrivel them up to a simple authority upon the legality of a tax:

"The Government which has a right to do an act, and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means; and those who contend that it may not select any appropriate means, that one particular mode of effecting the object is excepted, take upon themselves the burden of establishing that exception."

"Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional."

Does anybody but the gentleman from Indiana suppose that the following, quoted by me from the same great source, is to be confined in its application to a tax case?

"The powers vested in Congress may certainly be carried into execution without prescribing an oath of office. The power to exact this security for the faithful performance of duty is not given, nor is it indispensably necessary. The different departments may be established, taxes may be imposed and collected, and money may be borrowed, without requiring an oath of office. It might be argued with as much plausibility as other incidental powers have been assailed that the convention was not unmindful of this subject. The oath which might be exacted—that of fidelity to the Constitution—is prescribed, and no other can be required. Yet he would be charged with insanity who should contend that the Legislature might not superadd to the oath directed by the Constitution such other oath of office as its wisdom might suggest."

Now take the Rhode Island case of *Luther vs. Borden*; which the gentleman in his argument on the reconstruction bill brought before this House, and read as an authority, I suppose, and as laying down fundamental principles. That was a simple case of *trespass quare clausum*, and according to his rule and doctrine it is one to be read only in a justices' court at the cross-roads in a two-dollar trespass case. And in the same way the great case of *Marbury vs. Mad-*

ison is to be used only when one man will not give up another man's justice's commission.

Take that great debate between Webster and Hayne which took place on a resolution not to sell the public lands, but in which Mr. Webster "ground to impalpable powder the doctrine of nullification," and drove it from the forum of reason to the wager of battle and to annihilation. According to the gentleman from Indiana it is only to be referred to whenever my distinguished friend, the chairman of the Committee on Public Lands, [Mr. JULIAN,] proposes a land grant to some railroad, and antagonizes with the gentleman from Illinois, [Mr. WASHBURN,]

Take the Garland case, and all the great principles discussed on the one side and the other are confined, according to the gentleman from Indiana, to the question whether a man has a right to practice in a court of justice? Sir, these great discourses on the fundamental powers of the Government, these magnificent discussions out of which were evolved the great truths upon which the Government rests, as foundation stones, are not to be beshriveled and dwarfed to any such mean and pitiful purposes. They are the armory from which those who care to defend the life of the nation in this great struggle have drawn weapons sufficient to meet all its foes in the forum or in the field.

But, sir, I beg leave to call the attention of the House to one other point submitted by the gentleman from Kentucky [Mr. BECK] and the gentleman from Indiana, [Mr. KERR.] The gentleman from Kentucky proposes to rescue the gentleman who claims this seat from the force of the law of 1832, which prescribes the oath of office, and from the force of all law under the Constitution by saying that he is no officer under this Government. The gentleman from Kentucky says:

"Since the dismissal of the impeachment against Senator Blount, of Tennessee, himself one of the signers of the Constitution, by the Senate of the United States, upon the sole ground that a member of Congress was not an officer of the United States, but one placed in this Hall by the people of his State or district as their agent and representative, no man and no authority has ever treated a member of Congress as an officer of the United States."

Well, sir, since the authority of the Senate in the case of the impeachment against Senator Blount, declaring by a vote of 14 to 11 that he was not such an officer of the Government as rendered him liable to impeachment by that body, the gentleman says no man or authority has ever asserted that a member of Congress is an officer of the United States. Yet that same Senate, three years ago, by a vote of 28 to 11, decided the other way, and that this law did apply to a Senator; so that if there was any authority in the vote of the Senate that Mr. Blount was not deemed such an officer as could be impeached and tried by that body, then the same body has reversed that decision by a vote very much larger than that by which it asserted it.

The gentleman from Indiana, [Mr. KERR,] however, goes further, and insists upon it that he is not an officer under this Government, but he is a State officer. The gentleman says:

"Now, what are offices under the United States? Do we hold office here under the United States? Does the gentleman before me hold an office under the United States? Does any gentleman in the other end of the Capitol hold an office under the United States? Does any gentleman on that side of the House contend or admit that he sits here as an officer of the Federal Government, as holding an office under the Federal Government?"

Mr. Speaker, where is the office created? In the Constitution of the United States. Where are the terms of qualification for it prescribed? In the Constitution of the United States. Where are times, places, and manner of election prescribed? In the Constitution of the United States. Where is the qualification of the voter for a member of Congress prescribed? In the Constitution of the United States? Take this Constitution of the United States away and it

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falls in an instant. The officer draws the breath of life from it. Every function which he performs is prescribed in it. No State officer or State Legislature can add to or take from any function of his, or add one jot or tittle to or take the breadth of a hair from the qualifications prescribed in the Constitution. He is, so far as the Constitution and laws are concerned, as independent of the State as if he were a foreigner. Here in the Constitution the length, breadth, height, and depth of all power, duty, and obligation of a Representative begin and end—and, yet, we are told that he is no officer under this Government!

One word more. I assume that the gentleman from Kentucky and the gentleman from Indiana would expel a man from this House if he were guilty of treason, although I do not know that either of them has thus said in so many words. If I misstate them in this argument I yield for a correction. I assume that both of them would do it. The gentleman from Kentucky [Mr. BECK] put his idea of it in this form:

"The power to expel a member, two thirds voting therefor, is the only protection (and that is ample) against improper persons, under that law, holding seats in this body. While the right of a Representative to hold the position to which he has been chosen by his people, unless two thirds of this House expel him therefrom, is equally clear."

If he has a right to enter this body notwithstanding disloyalty, what right have we to expel him afterward for that disloyalty? And if we have a right to expel him for disloyalty, have we not a right to keep him out for the same disloyalty?

But assuming, Mr. Speaker, that both these gentlemen would expel a man from this House if he were a traitor, I desire to inquire what for? Why would they expel a man from this House if he were a traitor? To punish him? Certainly not, for that is not the punishment prescribed for treason. Is it to overawe and restrain treason? That is puerile and ridiculous. What is it for? There is no other reason assignable except for the public safety. If I misjudge these gentlemen I want to know it. If they would not expel a man for treason from this House, or would not expel him from it because the public safety demands it, I want to know for what they would expel him? Now, sir, if it is because the public safety demands the expulsion of the man, I would like to inquire if the measure of the danger to the public safety must not govern and limit the means by which you insure that safety? Hamilton says that the means must be adequate to the end. If it is unsafe to intrust the life of the nation to the keeping of traitors in this Hall by permitting them to remain in their seats here, is it not equally unsafe to admit them into those seats? Is not the public safety jeopardized by the very means thus resorted to—by the very admission of these men to their seats? If the public safety calls upon us to expel a man after he has put himself into his seat because he has the life of the nation in his keeping, is not the public safety regarded more, is not the public safer by not letting him into the seat at all? The custody of the citadel is intrusted to your hands; the enemy approaches; you are bound to use all the means that are required to make that citadel safe. Are you to admit the enemy within the walls and then drive him out? Or are you rather to consult the highest safety of the citadel itself by keeping him out?

Sir, the homely verse into which the speech of Colonel Titus was put two hundred years ago in the British Parliament, when Charles II undertook to batter down the doors of the House of Commons and trample under his feet the liberties of England, are a better commentary upon that position than anything I can say:

"I hear a lion in the lobby roar!
Say, Mr. Speaker, shall we shut the door
And keep him out, or shall we let him in
To try if we can turn him out again?"

I leave this doctrine of public safety there.

Mr. Speaker, one word more and I will leave the question with the House. The gentleman from Indiana [Mr. KEAR] says that the evidence is defective, that it is not competent, that written words are not evidence of treason. I quote his language:

"I assume without fear of contradiction from a single respectable authority in this or any other country that a man's mere written words can never constitute the crime of treason. It is so laid down in every respectable text-book in the country. It is the established and accepted law of this land to-day."

Well, Mr. Speaker, I have no occasion to controvert that doctrine to-day. Neither the report of the committee nor the discussion rests upon any claim in conflict with it, and therefore, I will not stop to inquire whether it be law or not. But I have still to ask, may not mere written words be evidence of treason? That is what the report says, and it says nothing more. The report has not arraigned this gentleman for writing the letter, and the gentlemen who have come to his support have fallen into the broad mistake that he is arraigned here for writing this letter. Not so. The evidence relied upon in support of the charge of disloyalty against Mr. Brown is contained in the letter. If it be true that mere written words cannot be evidence of treason, then no general order issued from headquarters by Robert E. Lee at the battles of Antietam or Gettysburg would be evidence of treason; no message of Jeff. Davis to the rebel congress would contain evidence of treason; no death-warrant issued by him to the jailors at Andersonville or Libby prison for the blood of a Union soldier would be evidence of treason, and no dying confession of Barksdale on the field of battle would be evidence of his treason.

Sir, the evidence is in the letter. The letter states that Mr. Brown went about his district inciting men by his words, by the encouragement he gave them, and by his declarations to enter the confederate army, and to deter them from entering the Union army by his threats of assassination, which he says in this letter he frequently publicly and privately made all about his district.

That is what he is arraigned here for, and I pray him, and those who speak for him, to answer that. He is arraigned here because he confesses in this letter that at a time when the public mind was all alive in Kentucky; when the young men were inquiring which side they should take in the conflict then coming upon the country; when the young men were inquiring whether they should enroll themselves under the stars and the stripes, or whether they should join their fortunes with the rebellion; when the whole southern sky was lurid with the flames of civil war, he says in this letter that he went to them and told them that if they joined the army of the Republic they ought to be, and he hoped they would be, shot down before they left the State.

And that leads me to inquire what had the mere leaving the State to do with Kentucky neutrality? It seems to me that all anxiety concerning Kentucky neutrality should cease with the limits of Kentucky; and that leaving it would not disturb that neutrality. But no; not only shall Kentucky fold her arms in this great struggle, but if any of her sons, too ardent in their patriotism to continue in this quiescent state while the whole Union was in the throes of civil war, should desire to actually assist his Government beyond the borders of Kentucky, Mr. Brown says he told them that if they stepped beyond the limits of the State, if they lifted a hand in aid of the Republic in its death struggle, they ought to be, and he hoped they would be, shot down. That is what he confesses he did. The letter is not the treason itself, but it is the evidence of the treason.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman allow me to ask him a question?

Mr. DAWES. I hope the gentleman will excuse me if I do not yield now.

Sir, the country will mark the tenderness with which these disloyal acts have been commented upon by gentlemen on the other side. And the people will not fail to observe that it was not always so, even in these quarters. There was a time when treason was odious with these men. There was a time, even in Kentucky, when voices were raised condemning letters containing evidences of treason not quite so palpable as this, that sound strange now by the side of the words used by the gentleman from Indiana and the gentleman from Kentucky.

I will first read a little confession of treason from another letter, and which called out the discussion to which I am about to allude. Before the rebels fired upon Fort Sumter, before the President of the United States had called upon Kentucky for men and arms, when no actual outbreak had yet been perpetrated, a member of the Senate wrote these words:

WASHINGTON, March 1, 1861.

MY DEAR SIR: Allow me to introduce to your acquaintance my friend Thomas B. Lincoln, of Texas. He visits your capital mainly to dispose of what he regards a great improvement in fire-arms. I recommend him to your favorable consideration as a gentleman of the first respectability, and reliable in every respect.

Very truly, yours, JESSE D. BRIGHT.
To His Excellency JEFFERSON DAVIS,
President of the Confederation of States.

In regard to that letter, the present Chief Magistrate of the United States, then a Senator, used these words, referring to subsequent acts throwing light upon the letter:

"Then, Mr. President, what has been the bearing and the conduct of the Senator from Indiana since? I desire it to be understood that I refer to him in no unkindness, for God knows I bear him none; but my duty I will perform. 'Duties are mine, consequences are God's.' What has been the Senator's bearing generally? Have you heard of his being in the field? Have you heard of his voice and his influence being raised for his bleeding and distracted country? Has his influence been brought to bear officially, socially, politically, or in any respect, for the suppression of the rebellion? If so, I am unaware of it. Where is the evidence of devotion to his country in his speeches and in his votes? Where the evidence of the disposition on his part to overthrow and put down the rebellion? I have been told, Mr. President, by honorable gentlemen, as an evidence of the Senator's devotion to his country and his great opposition to this southern movement, that they heard him, and perhaps with tears in his eyes, remonstrate with the leaders of the rebellion that they should not leave him here in the Senate, or that they should not persist in their course after the relations that had existed between them and him and the other Democrats of the country; that he thought they were treating him badly.

"This was the kind of remonstrance he made. Be it so. I am willing to give the Senator credit for all he is entitled to, and I would to God I could credit him with more.

"But do Senators remember that when this battle was being fought in the Senate I stood here on this side, solitary and alone, on the 19th day of December, 1860, and proclaimed that the Government was at an end if you denied it the power to enforce its laws? I declared then that a Government which had not the power to coerce obedience on the part of those who violated the law was no Government at all, and had failed to carry out the objects of its creation, and was, *ipso facto*, dissolved. When I stood on this floor and fought the battle for the supremacy of the Constitution and the enforcement of the laws has the Senate forgotten that a bevy of conspirators gathered in from the other House, and that those who were here crowded around, with frowns and scowls and expressions of indignation and contempt toward me, because I dared to raise my feeble voice in vindication of the Constitution and the enforcement of the laws of the Union? Have you forgotten the taunts, the jeers, the derisive remarks, the contemptuous expressions that were indulged in? If you have I have not. If the Senator felt such great reluctance at the departure from the Senate of the chiefs of the rebellion, I should have been glad to receive one encouraging smile from him when I was fighting the battles of the country. I did not receive one encouraging expression; I received not a single sustaining look. It would have been peculiarly encouraging to me, under the circumstances, to be greeted and encouraged by one of the Senator's talents and long standing in public life; but he was cold as an iceberg, and I stood solitary and alone amid the gang of conspirators that had gathered around me."

Now, sir, the distinguished Senator [Mr. DAVIS] who now represents the State of Kentucky in the Senate used this language in reference to the same proceeding:

"Mr. President, these authorities prove conclusively that we are bound now, in giving our judgment in this case, by no positive principle of law,

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There is and can be no controversy as to the proofs in the cause, and therefore I will make no remark on the law of testimony that would apply to the case, if there was any such controversy. The principle deduced from the authorities is this: there is no common law, no statutory law, there is no parliamentary law, that binds the Senate to any particular definition of crime or offense in acting in this or any other case of the kind. On the contrary, as these authorities establish, it is a matter coming within the discretion of the tribunal trying the Senator. They establish this general principle, that where the evidence makes out a case against him which, in the judgment of the triers, unfits him for his parliamentary duties, it is their duty to expel him.

"When this great Government and country have been in the throes of this mighty rebellion; when no man has been able to say whether to-morrow's sun would shine upon the reestablishment or the dissolution of the Union, and whether the Government would ever rally energy and power and means and men enough to reconstruct it; when the President proposes to Congress, the law-making power, a series of measures to procure the means to enable him to raise and to equip armies for the purpose, not of subjugating the States, but of compelling obedience to the laws; when the gentleman either votes against every such proposition or does not vote for it, and offers no measure, no proposition, himself as a substitute for the various propositions the President has made; when he declares in the most explicit language, and reiterates it, reiterates it here upon this floor while he is under trial, 'I am opposed to the whole system of coercing these States, and will not vote a dollar nor a man nor a gun to the President of the United States to crush out this rebellion!'"

Does that sound like anything in this letter of Mr. Brown?

"I ask if he does not demonstrate to the world, and beyond all doubt, that he is an unfit Senator in the present great exigency of the country, and that he ought to be removed from his seat? I think he does."

Sir, how do my friends on the other side treat this case to-day?

The gentleman from Kentucky [Mr. BECK] gently criticises this confession of disloyalty as simply "a hasty letter, and, if you please"—yes, mark how softly it is drawn—"if you please, ill-considered language." And the gentleman from Indiana, [Mr. KERR], quite as moderate, says, "I admit that it was imprudent." What an admission! Imprudent, indeed, to declare that—

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this northern army shall attempt to cross our borders we will resist it unto the death; and if one man shall be found in our Commonwealth to volunteer to join them he ought to, and I believe will be, shot down before he leaves the State."

"I admit," says the gentleman from Indiana, "that it was imprudent, it was passionate, to write that letter, to put his words in such a form." Sir, the poet says that—

"Vice is a monster of so frightful mien,
As, to be hated, needs but to be seen;
But seen too oft, familiar with her face,
We first endure, then pity, then embrace."

Has it come to be thus with treason, not a vice merely, but the highest crime against country and God? Is it true of these men that treason was once a "monster of so frightful mien, as, to be hated, needs but to be seen?" And has it come to this, that, having seen it too oft and become familiar with its face, they have first endured, then pitied, then embraced?

This, sir, is no new proposition. The doctrine that this House had the right and the power and the duty incumbent upon it to exclude disloyal men from seats on this floor has been held by all parties ever since the war ended. All parties have asserted it and defended it. It has been part and parcel of every policy proposed or adopted on all sides of this House. It was proposed in the early part of this attempt to reconstruct and build up States on the ashes of this rebellion.

The President of the United States, in the first message he sent to this House, in the first year of his Administration, in answer and in refutation of the charge against his policy that it would admit rebels upon this floor, set forth the very proposition now before this House and called upon us to sustain it. I will read it from his very first message to this House:

"In the admission of Senators and Representatives from all of the States there can be no just ground of apprehension that persons who are disloyal will be clothed with the powers of legislation, for this could not happen when the Constitution and the laws are

enforced by a vigilant and faithful Congress; each House is made the judge of the election, qualifications, and returns of its own members; and may, with the concurrence of two thirds, expel a member. When a Senator or Representative presents his certificate of election he may at once be admitted or rejected; or should there be any question as to his eligibility, his credentials may be referred for investigation to the appropriate committee." If admitted to a seat it must be upon evidence satisfactory to the House of which he thus becomes a member that he possesses the requisite constitutional and legal qualifications. If refused admission as a member, for want of due allegiance to the Government, and returned to his constituents, they are admonished that none but persons loyal to the United States will be allowed a voice in the legislative councils of the nation, and the political power and moral influence of Congress are thus effectively exerted in the interest of loyalty to the Government of the United States and fidelity to the Union."

There is the identical recognition of authority; and after two years of experience on his part and on the part of Congress in an effort to reconstruct the rebel States he sent into this House, on the 2d of March last, a veto message, in which he repeats, word for word, the very language I have read; and it so commended itself to my distinguished friend from Indiana [Mr. KERR] that he voted to sustain him in it, and so did all his political friends. Only three or four days since the distinguished Democratic Senator from Indiana, [Mr. HENDRICKS,] speaking of the law that prescribes the oath of office, used this language:

"As I participated somewhat in the debate on Governor Thomas's case, and as I was a member of the committee who reported upon that case, perhaps the Senator may refer to my views upon that question; and if so he does not correctly state them. My views upon the constitutionality of that law were expressed in the Senate some two or three years ago; but always when the question has been before the Senate I have said this: that while that law remained upon the statute-book I should not vote to allow any man to take his seat if in taking that seat he had to swear falsely in that oath; that I thought such a man ought not to be admitted."

Now, sir, what are the qualifications of a member? The Constitution says:

"No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not when elected be an inhabitant of that State in which he shall be chosen."

Here it ends. These qualifications a Representative must have. It speaks of no disqualifications. Do any exist? Can any be created by statute?

I understand the gentleman from Indiana to say there is the beginning and the end of the matter. Suppose an insane man should present himself at the bar of this House, twenty-five years old, and seven years a citizen of the United States, and a resident of Kentucky, the gentleman from Indiana would not administer the oath to him. Suppose he were *non compos*, I submit to the gentleman it would be an absurdity; and he would never say in the face of that absurdity admit him to take the oath of office. Suppose he attempted to bribe a judge; the act of 1793 states that conviction therefor shall disqualify him. Suppose he had been a member and was convicted of having received a bribe; the statute of 1853 says that shall disqualify him from taking the seat, although he may be qualified in all other respects.

The act of July 17, 1862, enacts as follows—its last two sections:

"SEC. 2. And be it further enacted, That if any person shall hereafter incite, set on foot, or assist, or engage in any rebellion or insurrection against the authority of the United States or the laws thereof, or shall give aid or comfort thereto, or shall engage in or give aid and comfort to any such existing rebellion or insurrection, and be convicted thereof, such person shall be punished by imprisonment for a period not exceeding ten years, or by a fine not exceeding \$10,000, and by the liberation of all his slaves, if any he have, or by both of said punishments, at the discretion of the court."

"SEC. 3. And be it further enacted, That every person guilty of either of the offenses described in this act, shall be forever incapable and disqualified to hold any office under the United States."

And yet the gentleman from Indiana [Mr. KERR] says that it begins and ends with the three qualifications expressed in the Constitution. You will observe, Mr. Speaker, that

this last statute is unlike the two older ones I have cited. They make conviction work a disqualification. This says that any one guilty—not convicted of, but guilty—of any of the offenses described, shall be forever incapable and disqualified to hold any office under the United States. Why this change? Necessity, the public safety, is the answer. No State that would elect a man to this high trust who had been guilty of these offenses would ever convict him. Therefore, if you waited for a conviction you would wait in vain. You would leave the door open; the traitor would enter, and the Government would fall.

Now, let us follow the requirements of this statute. A man presents himself at the bar of this House and demands to be sworn in. He is charged at the threshold with having committed some one of these offenses. How are you to determine whether he is guilty or not without referring his case to a committee, to examine the facts and report, and then upon their report taking action? That is just exactly what we ask here—just exactly what we are doing to-day.

One word more. By the fourteenth article of amendment to the Constitution this gentleman is excluded by the very words of it, he having heretofore taken an oath as a member of Congress. The third section of that article is in these words:

"SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President or Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability."

Now, sir, to those of us who believe that that fourteenth article is already a part of the Constitution there is an express inhibition upon this man contained in that article. I do not care to take the time of the House in discussing the question whether it is or is not a part of the Constitution. I plant myself upon the Constitution without amendment. I hold that in its life blood there is power to protect itself by all means not prohibited and adequate to the end. Sir, the glory of the Constitution, that for which it will shine out in all coming time with lustre unsurpassed, is, that though its framers saw not in the distant future this great rebellion of eleven States to overthrow it, this mighty internal war convulsing the nation, yet in the wisdom which God gave them they so framed that instrument that it has proved before the world sufficient for every emergency, for every trial, for every crisis. It has outriden the storm, and if we are true to the high behests of the hour it will surely enter the haven of peace and security.

Contested Election.

SPEECH OF HON. J. YOUNG BROWN,
OF KENTUCKY,
IN THE HOUSE OF REPRESENTATIVES,
February 13, 1868.

The House having under consideration the report of the Committee of Elections in the contested-election case of Smith vs. Brown, from the second congressional district of Kentucky—

Mr. BROWN (contestant) said:

MR. SPEAKER: I thank the House for the courtesy which has been extended to me on this occasion; and if there shall be any want of compactness and method in the thoughts and facts which I shall submit I plead, as my apology, lack of sufficient time for preparation. I have just reached the capital from my home in Kentucky. I came at the urgent request of my colleagues. I was here in July and again in December, and the Committee of Elections fail-

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ing to report in my case, I returned to my home to resume the practice of my profession, leaving to others the discussion of my right of admission as a member on this floor. Added to diffidence and distrust of my ability I feel a sensitive reluctance in appearing as an advocate in my own case—a peculiar one—involving, as it does, the right of my constituents to representation upon this floor, involving my rights as a citizen and also affecting my personal honor. I was willing, indeed preferred, to confide my vindication to friends, and to such as have spoken in my behalf, or, I should rather say, in vindication of a great principle, I return my thanks and the thanks of my people for the zeal and ability which have distinguished their efforts. So full and exhaustive have been their arguments that nothing is left for me to say without a repetition of what you have heard. I said this case involved a principle—yes, a high, sacred, precious right, the right of a State in this Union—paying taxes—to be represented in the Halls of this national Legislature. That right in our system of government is the keystone that gives strength to the arch. Deny it, and the citizen sees the queen jewel that gives luster to the group torn from the tiara of his liberties. The rights of the people without it are a fable, a myth, a mockery. Our ancestors placed an unspeakable value upon it. They watchfully guarded and jealously loved it, for they won it by an incalculable cost of the brain-sweat and brow-sweat and heart-sweat of patriots. They enshrined it in the Constitution, there to remain inviolable for all time to come.

Mr. Speaker, I am here claiming my seat in the Fortieth Congress of the United States. I come commissioned and accredited by a certificate of election signed by the Governor of my State. I possess the qualifications required by the Constitution of the United States. I am twenty-five years of age; I have been more than seven years a citizen of the United States, being native born, and I was a resident of the State of Kentucky at the time of my election. Beyond these qualifications, in my judgment, this House has not the right to inquire; to them it has no power to add.

Then here I enter, in the name of my constituency, my solemn protest against the proceedings which have been instituted against me, as being without warrant in the Constitution. I claim that you cannot qualify my right of admission by other conditions than those prescribed in that instrument. But I do not propose to argue that question. It has already been presented with signal ability by my colleagues.

I stand here asking my seat, not only ready to take the oath prescribed by the Constitution, but also ready and willing to take the additional oath prescribed in the statute of 1862. When I offered myself as a candidate in my district for Congress I did so with the consciousness that I had the legal qualifications of a member, constitutional and statutory. A convention in my district was held, and to its decision were submitted the names of various gentlemen, three of whom have done honorable service in this body, and other names of distinction in Kentucky. I received the nomination. I had two competitors, the contestant here and another.

The election took place, and my majority over the contestant was over six thousand votes, and my majority over the other candidate approached eight thousand votes. I came here in July with my colleagues. My case and all the other cases from my State, save one, were referred to the Committee of Elections. I returned here in December. The committee failing to report, as I have said, I returned home to resume the business of my profession. I am here again, and confronted by the adverse report of the Committee of Elections, denying me my right to be admitted upon the ground of my disloyalty, that alleged disloyalty being based upon no act that I have ever done, upon

no direct aid that I have ever given the enemies of my country, but upon a letter written by me upon the 18th of April, 1861.

Now, what were my surroundings when that letter was written? What were my personal political antecedents? What was the attitude and what was the feeling of my State? In March, 1861, when I returned from these Halls to my constituency, what was my political status? From one end of my district to the other my voice was raised in behalf of peace, imploring all those with whom I had any influence not to rush madly to arms.

What was the position of the Union party in Kentucky, with which I was identified? Upon the 8th of the January preceding, at one of the largest Union conventions ever held in the State of Kentucky, a resolution was passed, which I hold in my hands, and which was indorsed by the leading spirits of the State—men whose names are historic. They resolved that "a Union held together by the sword was not worth preserving."

Upon the 15th of April there issued the call of Mr. Lincoln upon the Governor of Kentucky for four regiments of militia. The Governor of Kentucky responded that he would send no troops. Did the Union party approve that action or not? I hold in my hand the address of the Union central committee, to which I invite the careful attention of this House. It was issued on the 17th of April, 1861. Who signed that address? No unknown or unimportant men. But there is appended to it the name of a gentleman who was afterward in Mr. Lincoln's Cabinet; the names of two gentlemen, distinguished then and distinguished since as the leading Union editors of the State; and what do they say:

"The Government of the Union has appealed to her (Kentucky) to furnish men to suppress the revolutionary combinations in the cotton States. She has refused; she has most wisely and justly refused. Seditious leaders in our midst now appeal to her to furnish men to uphold those combinations against the Government and the Union. Will she comply with this appeal? Ought she to comply with it? We answer, with emphasis, no."

"The present duty of Kentucky is to maintain her present independent position, taking sides not with the Government and not with the seceding States, but with the Union against them both, declaring her soil to be sacred from the hostile tread of either, and, if necessary, make the declaration good with her strong right arm." "What the future duty of Kentucky may be, we, of course, cannot with certainty foresee; but if the enterprise announced in the proclamation of the President should at any time hereafter assume the aspect of a war for the overthrow and subjugation of the seceding States, through the full assertion therein of the national jurisdiction by a standing military force, we do not hesitate to say that Kentucky should promptly unsheathe her sword in behalf of what will have then become her common cause."

Who said this? John H. Harvey, the distinguished editor of the Louisville Democrat; George D. Prentice, the distinguished editor of the Louisville Journal; Charles Ripley, Nathaniel Wolfe, Judge Bullock, James Speed, afterward in Mr. Lincoln's Cabinet, and a number of other distinguished Union leaders of my State.

It was upon the 17th of April, 1861, when these men declared that "if the enterprise announced in the proclamation of the President should at any time hereafter assume the aspect of a war for the overthrow and subjugation of the seceding States, Kentucky should promptly unsheathe her sword in behalf of what will then have become her common cause." Upon the 18th of April a Union convention was held in the city of Louisville, the largest Union convention ever held in that city, or, perhaps, in the State of Kentucky. I invite attention to an account of the proceedings of that convention, as published in the Louisville Democrat of the succeeding day:

Great Meeting—Kentucky to stand neutral in the Union—Holds off on both sides—Five thousand Union men—Eloquent speeches by Hon. James Guthrie, ex-Senator Dixon, Hon. John Young Brown, and Judge Bullock—Resolutions worthy of Kentucky.

"One of the grandest and largest public meetings ever held in Louisville filled the great east hall of

the court-house last night, in response to a call for a sober expression as to the proper position for Kentucky to assume in the present crisis. It was a splendid meeting, both as regards numbers and material. It was a closely attentive and understanding assemblage of the best intelligence of the city, and its effect must be wide and wholesome. If the warring sections will but respect Kentucky's position and her advice all may yet be well, civil war averted, and peace restored. We were more than gratified with the meeting and its works. The stars and stripes were on both sides of the speaker's stand, and were frequently cheered as allusions to the national banner were made."

My exclusion here is based upon a letter dated April 18, 1861. I will read that letter:

ELIZABETHTOWN, April 18, 1861.

Editors Louisville Courier:

My attention has been called to the following paragraph which appeared in your paper of this date:

"JOHN YOUNG BROWN'S POSITION.—This gentleman, in reply to some searching interrogatories put to him by Governor Helm, said, in reference to the call of the President for four regiments of volunteers to march against the South:

"I would not send one solitary man to aid that Government, and those who volunteer should be shot down in their tracks."

This ambiguous report of my remarks has, I find, been misunderstood by some who have read it, who construe my language to apply to the government of the confederate States! What I did say was this:

"Not one man or one dollar will Kentucky furnish Lincoln to aid him in his unholy war against the South. If this Northern Army shall attempt to cross our borders we will resist it unto the death; and if one man shall be found in our Commonwealth to volunteer to join them he ought, and I believe will be, shot down before he leaves the State."

"This was not said in reply to any question propounded by ex-Governor Helm, as you have stated, and is no more than I frequently uttered, publicly and privately, prior to my debate with him.

Respectfully,

JOHN YOUNG BROWN.

I claim, Mr. Speaker, that at the time I wrote that letter I was for Kentucky neutrality. I was seeking to maintain the position in which my State had been placed by the solemn resolves of two of her conventions, by the solemn resolve of her State Legislature, by the address of the Union central committee. It was to that doctrine that I was pledged, and it was in behalf of that position that I was laboring.

But the committee, in arguing upon my letter, claim that it was not for neutrality; that my language was applied to the northern Army, and that I said nothing about the confederate army. That letter was written upon the morning of the 18th of April. On that very day was held the meeting in the city of Louisville to which I have just been calling attention, and which was addressed by Hon. James Guthrie, General Rousseau, Governor Dixon, Judge Bullock, and others.

Most diligent inquiry has been made in Kentucky with regard to my antecedents. A searching investigation has been made of every act and every word of mine from the inception of the war to its close. Every one of the twelve counties of my district has been ransacked for testimony upon which to secure my exclusion. All, everything is comprised in this letter. There is no other charge against me. There is no other proof against me. By it alone am I to be judged.

How am I to be judged? In the light of surrounding circumstances, by contemporaneous events, the sentiments of others with whom I stood politically identified. And what were they? Here is this address, to which I have called your attention, of the State Union central committee, and they say the very moment the war assumes "the aspect of a war for the overthrow and subjugation of the seceding States" they would have Kentucky make common cause with her sister southern States. In this grand meeting, addressed by the leading Union spirits of Kentucky, Mr. Guthrie speaks, and he says:

"Let us stand boldly and fearlessly, as is characteristic of Kentuckians, and cry peace! Hold fast to that we know to be good, and let those men who want to make the experiment of secession go as individual amateurs, and find congenial spirits for their work."

"If the North comes to ravage our land we will meet them as Kentuckians always meet their foes. We will meet them as Kentuckians should meet them,

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so long as there is a tree for a fortification or a foot of land for a freeman to stand upon."

Who ever doubted the loyalty of Senator Guthrie here, in Kentucky, or in the Union? Now, take up my letter and contrast its utterance with his. Can you, with metaphysical scissors, cut a line of difference or distinction between the two?

Following on in the account of this meeting, it says I addressed it. After speaking in complimentary terms, too complimentary for me to read in this presence, at the close it says Mr. Brown—

"Earnestly urged the neutrality of Kentucky in the present crisis as the best and most practicable position for Kentucky to maintain her integrity in the Union, and to mediate between the antagonistic sections."

"The meeting, which was entirely orderly, adjourned after giving rounds of cheers for the Union and for the American flag."

The gentleman from Massachusetts, [Mr. DAWES,] the honorable chairman of the Committee of Elections, in commenting on this speech of mine, read its expressions, but with the adroitness of an advocate omitted that part of it which stated the stand from which I spoke was draped with the American flag, and that the meeting which I addressed adjourned with cheers for the Union and for that American flag. Now, what were the resolutions passed by that meeting?

"4. That secession is a remedy for no evils, real or imaginary, but an aggravation and complication of existing difficulties."

"5. That the memories of the past, the interests of the present, and the solemn convictions of the future duty and usefulness in the hope of mediation, prevent Kentucky from taking part with the seceding States against the General Government."

"6. That 'the present duty of Kentucky is to maintain her present independent position, taking sides, not with the Administration nor with the seceding States, but with the Union against them both, declaring her soil to be sacred from the hostile tread of either, and, if necessary, to make the declaration good with her strong right arm.'"

"7. That to the end Kentucky may be fully prepared for any contingency, 'we would have her arm herself thoroughly at the earliest practicable moment' by regular legal action."

"8. That we look to the young men of the Kentucky State Guard as the bulwarks of the safety of our Commonwealth, and that we conjure them to remember that they are pledged equally to fidelity to the United States and Kentucky."

Such were the resolutions, such were the speeches, made at this convention.

The position Kentucky assumed has been denounced upon this floor. Neutrality has been called treason; but before you too hurriedly judge her remember the position she occupied; remember her surroundings; remember the elements that made up her population; remember her proximity to the States, sister States, which had seceded; and remember that this position was taken at the instance and with the approbation of all her leading Union spirits, including John J. Crittenden, and that Lincoln himself respected and recognized it. We find here, in a letter from Mr. Underwood, that—

"In reference to Kentucky, Mr. Lincoln told me he hoped Kentucky would stand by the Government in the present difficulties, but if she would not do that let her stand still and take no hostile part against it, and that no hostile step should tread her soil."

That was on the 1st day of May, 1861. Nearly one month after writing that letter, which is the groundwork for the charge upon which I am to be excluded, I announced myself in my district as a candidate for reelection to Congress. With what party did I then stand identified? By what newspapers was I supported? With whom did I politically affiliate? I hold in my hand the indorsement of the Louisville Democrat, and the Louisville Journal of that card of announcement for reelection. The card reads as follows:

"To the Voters of the Fifth Congressional District."

"ELIZABETHTOWN, May 13, 1861."

"FELLOW-CITIZENS: In compliance with the wishes of my friends throughout the fifth congressional district, I announce myself as a candidate for reelection

to Congress. My opinions are the same as heretofore expressed in public speeches made in seven counties of the district. I have seen no reason to change them, and I have not changed them."

"Kentucky's present position should be maintained."

What was that position? It was a position of impartial neutrality.

"With coolness and firmness and courage let her brave and patriotic sons struggle hopefully and unpausingly to preserve her present proper and commanding attitude. By her recent unparalleled vote our State has sent up from the depths of her great heart a prayer for peace, and given a pledge of her noble conservatism. As she is free from the guilt of the unhappy troubles of the nation let us shield her, if we can, from their harmful consequences."

The Louisville Journal, speaking in complimentary terms of me, concludes the article as follows:

"There are other noble Union spirits in the fifth congressional district, but we have no doubt that our friends in that district will, by common consent, hail John Young Brown as their champion in the congressional canvass."

The Louisville Democrat speaks of me in this language:

"We all feel and know that in his hands the district's and the State's interests will be safely guarded. We suppose from the universal sentiment in his favor that he will be chosen by acclamation."

Now, it is charged that this letter of 18th April of mine gave aid, countenance, counsel, and encouragement to those engaged in armed hostility to the Government. It was not till the 3d day of May that the southern States were declared in insurrection; it was not till the 15th day of April that a call was made upon Kentucky, not for volunteers, but for four regiments of militia. It is charged that my letter encouraged men to go into the confederate ranks and discouraged men from joining the Federal Army. If I am to be judged by the earnest and incautious utterances of that letter, did I not stand with the Union party in my State? Did I not stand with the Union Legislature? Did I not stand with Crittenden, with Guthrie, with Speed, with Dixon, and with the whole host of leaders of the Union party? If you judge me by that letter did not the leading Union prints of New York say, "Let the erring sisters go in peace?" Did they not go so far as even to admit the right of the States to separate themselves from the General Government? But, sir, both before the writing of that letter and after the writing of it I stood identified with the Union party of my State, and if I was wrong then the party was wrong.

Now, what is the rule by which I am to be judged? The Committee of Elections in the Kentucky cases say this:

"Whenever it is shown by proof that the claimant has by act or speech given aid or countenance to the rebellion he should not be permitted to take the oath, and such acts or speech need not be such as to constitute treason technically, but must have been so overt and public and must have been done or said under such circumstances as fairly to show that they were actually designed to, and in their nature tended to, forward the cause of the rebellion."

Can you say of my letter that it was actually intended and designed to forward the cause of the rebellion, that it encouraged enlistments in the confederate army, when upon the very day it was written, as I have shown, in the presence of five thousand people, side by side with the distinguished gentlemen I have named, I addressed a Union meeting and spoke in support of the resolutions that have been read in your hearing in favor of the impartial neutrality of Kentucky? It was an anomalous position that the State assumed; it was a singular position for the State to take; but at that time a political necessity, and was so recognized by all the parties of that Commonwealth.

What is the proof in my case? Hon. Robert Mallory, who was my colleague in the Thirty-Sixth Congress, was examined by the committee and testified as follows:

"I live in Lagrange, Kentucky. I have known Mr. Brown a good many years; my intimate acquaintance with him commenced during the last Congress of Mr. Buchanan's Administration, when we were

colleagues together in the House of Representatives; Mr. Brown was elected to that Congress before he was twenty-five years old, and he did not take his seat until the second session, by which time he had attained his twenty-fifth year. In all our intercourse, during that session, when the question of secession was so much mooted, he was unequivocally opposed to it, and took issue with some of his colleagues in Congress at that time, as I did. He was, with me, a Union man, against the secession of the southern States, and a total disbeliever—as he said to me on many occasions—in the doctrine of secession as a constitutional right."

Question. Please to state my political status in the spring and summer of 1861?

Answer. I recollect having frequent conversations with Mr. Brown in the spring and summer of 1861, in Kentucky, when that question was rife here. He was a Union man then. I remember a speech he made in Louisville, in May, 1861, at the convention, when Mr. Guthrie made what I thought to be a rather wild and rapid speech, of which, I may say, I did not approve. Mr. Brown avowed himself a Union man then and opposed secession."

He says my speech was in May; it was really in April. Now, the committee go on in their report to say:

"The committee cannot avoid the force of another consideration in this connection. Mr. Brown himself, so far as is shown, never, till the hearing before the committee, put upon this letter the construction now claimed for it. As late as during the canvass for the seat now claimed, in April last, it was publicly charged upon him as a treasonable document, and nowhere, as far as the committee can learn, did he disavow the plain import of the words or claim for them any other interpretation, but, on the other hand, received the plaudits of rebel sympathizers upon his announcement that the letter still expressed his sentiments."

I am amazed that the committee should make this remark in the face of the proof which I will now read. Mr. Reno, examined as a witness for the contestant, says:

"To Mr. Brown:

"If I can recollect properly your speech at Greenville, your remark was, that at that time you were a Union candidate, and that Governor Helm was then advocating the cause of secession, and that you had written this letter under those circumstances."

Question. Did I or not make reference to the position of the Union party of Kentucky, as evidenced by its party platform and the resolution of the two State conventions, and quote the position of Senator Guthrie, Attorney General Speed, General Rousseau, Senator Davis, and cite extracts from the Louisville Democrat and Louisville Journal, going to show that the whole State was committed to the doctrine of neutrality, and that my position was in strict accord with that of the whole Union party in Kentucky?

Answer. You made reference to those conventions, and stated that those men approved of your action at that time. That was my understanding. You made it appear from your speech that those men approved of your position."

Here is the testimony of another witness, Mr. Little:

"By Mr. Brown:

"Question. Did I not in that speech cite the position of Mr. Prentice of the Louisville Journal, Mr. Harney of the Louisville Democrat, Mr. Guthrie, United States Senator, General Rousseau, late United States Congressman, and Mr. Speed, Attorney General in Lincoln's Cabinet, and cite the address of the Union Central Committee to show that the sentiments expressed in my letter were the same as those held by the entire Union party of Kentucky?"

Answer. Yes.

Question. Did I not state that at the time I wrote the letter I was a Union man?

Answer. Yes.

Question. Did I not state that at the time I wrote the letter, and at any time during the war, I would have been willing to give my life to restore the country to what it once was?

Answer. I think you did."

And yet the committee, in reporting against my admission, state that at no time did I ever put a construction upon that letter different from that which it bears upon its face, when the proof goes to show that from one end of my district to the other, when this letter was read by both of my competitors and my attention was called to it and an explanation demanded of it, I gave the same then in Kentucky that I am giving now to this House.

The gentleman from Illinois [Mr. Cook] in his speech said:

"I beg leave now to call the especial attention of the House to the fact that at the time that the sentiments contained in this letter were publicly avowed by Mr. Brown in a speech at Hebbardsville, in the beginning of April, 1861, a rebel agent was recruiting among the audience for the confederate army."

I assert that the proof nowhere, from the

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beginning to the end of it, shows that I made a speech at Hebbardsville in 1861, for I lived more than three hundred miles from that place. Colonel Philip Lee says:

"I live in Louisville, Kentucky; I have known Mr. Brown since 1855; I was in the confederate army from the summer of 1861 to 1865. I heard Mr. Brown make a speech at Shepherdsville, Bullitt county, at the end of March or beginning of April, 1861. He was then our member of Congress, and we looked forward to his speech with great interest and to the positions which he would take. I remember that I was very greatly disappointed, and I opposed him as a candidate for Congress. He took the ground that Kentucky ought to maintain a neutral position. In his speech he opposed the doctrine of secession. I thought his speech calculated to discourage enlistments in the confederate army, and I was engaged in that business at the time. Therefore I and the other southern men opposed Mr. Brown and determined to bring out a candidate of our own, thinking that Mr. Brown was too much opposed to us. My recollection is that he took ground against the war on either side; he was opposed to coercion; said that it was a duty which the young men of the State owed to the State to remain in it; that Kentucky would act as a peace-maker, and that it was the duty of young men not to go into the southern army."

Mr. COBURN. I desire to ask the gentleman a question.

Mr. TRIMBLE, of Kentucky. I hope the gentleman will not interrupt my colleague.

Mr. COBURN. I merely desire to ask a question.

Mr. BROWN. I yield for that purpose.

Mr. COBURN. Was not the letter dated April 18, 1861, and printed in the Louisville Courier May 15, 1861, again and again published during the late canvass in which you were a candidate for Congress in the newspapers of your district and of Kentucky, and by them charged against you as a treasonable document? Was it not printed in handbill form and by thousands circulated in every part of the district, and was it not publicly read by your competitors, B. C. Ritter and Samuel E. Smith, in all parts of the district, and the charge made by them in your presence that by this you had aided, countenanced, and encouraged rebellion, and that the utterance of this letter would be a sufficient cause to keep you out of Congress under the provisions of the statute of 1862, known as the "test-oath" law?

Mr. BROWN. As I have said before, that letter was printed in handbill form and circulated throughout my district. It was printed in the newspapers of my district; it was read on every occasion upon which my competitors and myself publicly addressed the people; but then and always, as now, and upon every occasion, I stated that at the time I wrote that letter I was a Union man; I stated that at the time I wrote it I was in full sympathy and accord with the Union party of Kentucky, struggling for peace, and I claimed that the doctrines of Mr. Speed, the ex-Attorney General, and Mr. Guthrie, United States Senator, and General Rousseau, who has since sat on this floor, went as far as the sentiments of my letter did.

Now, Mr. Speaker, if I be judged in the light of surrounding circumstances; if I be judged by the contemporaneous political events of the time at which this letter was written, and if the sentiments of that letter be contrasted with the utterances of those gentlemen to which I referred, if they are to pass unchallenged, why is it proposed to martyrize me? I stand where they stood. Is it to be supposed that I would write to a secession paper a letter of this character, and upon the very day that I wrote it address five thousand people in mass convention, advocating the doctrine of neutrality, if I had not meant that the letter, which was then in the possession of the editor of the Courier, should mean precisely the same thing? And if that editor had not recognized as true that I was identified with the Union party, that I was sincerely and honestly in favor of the neutrality of Kentucky, would he not have at once exposed that letter to the people of the State?

I wish now to read an extract from a letter written by an honorable gentleman who holds a seat upon this floor, and I do it respectfully.

I refer to the letter of Hon. Mr. STOKES to Mr. Duncan, written at McMinnville, Tennessee, on the 10th of May, 1861. In that letter will be found the following:

"I have been a zealous advocate of the Union up to the time of Lincoln's call for seventy-five thousand troops; that being in violation of law and for the subjugation of the South. I commend Governor Harris for his course and for arming the State and resisting Lincoln to the point of the bayonet, and have enrolled my name as a volunteer to resist his usurpation. I have, in Congress and out, opposed coercion and all forced measures, believing that it was better to recognize the independence of the 'southern confederacy' than to attempt to coerce them back."

The honorable gentleman came here and admitted that he was the author of that letter, yet he was admitted upon the floor of this House. He not only aided, counseled, and encouraged rebellion, but he enrolled himself as a volunteer in the rebel army. How much better is his position than mine? Is there not a distinction between his case and mine?

Mr. STOKES. Will the gentleman yield to me for a moment?

Mr. BROWN. I do.

Mr. STOKES. I wish to inquire of the gentleman from Kentucky if, after he wrote the letter which he admits he wrote, he ever entered the Union Army, ever went into the field as a Union soldier, and, if so, how long was he engaged in the United States military service?

Mr. BROWN. I am not conscious of ever having violated any law, State or Federal; I never was in either army. But I am at a loss to understand how the having gone into the Union Army or having remained out of it alters the fact which stands upon the record, that the gentleman from Tennessee [Mr. STOKES] was a volunteer in the confederate ranks.

Mr. CAKE. Will the gentleman yield to me for a moment?

Mr. BROWN. I trust the gentleman will not interrupt me now.

Mr. CAKE. Merely for a question, which will not take half a minute.

Mr. BROWN. I prefer to go on without interruption.

In the Hall at the other end of the Capitol there now sits, as a Senator from the State of Tennessee, one who was a judge under the confederate government, who took the oath to support the cause of the confederate government. Yet he is admitted to a seat in the Senate of the United States. I think that both Senator PATTERSON and the gentleman from Tennessee [Mr. STOKES] upon this floor were rightfully admitted to seats in Congress.

But this House has no pardoning power. Under the oath which the law requires to be administered this House has no power to grant an amnesty unless by solemn vote, to be ratified by the other branch of Congress. It was not done in the cases I have mentioned, and there stands the record.

Now, this being a case unprecedented in the history of this Government, I put it to this House, I put it to the American people, if I am to be denied my seat here merely for the expression of an opinion, in the absence of any proof of any act of mine, directly or indirectly, aiding the government of the confederate States? Can it be, will it be, the judgment of this House that words constitute treason? I think not. Do not all the circumstances surrounding me show that I was cooperating with distinguished Union leaders for the Union cause, and maintaining the position to which Kentucky had been pledged over and over again?

The sentiments of my letter have been spoken of with some degree of severity. I dislike personalities, but when my motives are aspersed or my character assailed, here or elsewhere, I will defend my reputation, for my honor is precious to me; and, so far as the remarks made during the progress of this debate may have

had a personal reference, I feel it due to myself and to my constituents to repel them with indignation, as being unmanly, ungenerous, and false. What have my sympathies to do with my admission or my non-admission? Do a man's sympathies constitute treason? Are the windows of my bosom to be opened with inquisitorial hand and the secret recesses of my heart searched to see whether there ever swelled there an emotion of sympathy for my kindred and my friends of the South? I boast not the stern, inexorable patriotism of the elder Brutus, who could, for a violation of law, sacrifice the child of his own loins. I have not the sublime faith and devotion of Abraham, who could take an Isaac to the altar and lift above him the sacrificial knife. My heart and nature are of softer stuff, and my sympathies ever go forth and are with those whom I love.

This letter of mine was written one year before the law prescribing the test-oath was enacted. I submit whether, so far as my case is concerned, this act is not an *ex post facto* statute, making criminal an act of mine which was no crime when committed?

I have always loved my country. In my childhood I gloried in her liberties. In my young manhood I was proud of the heritage that came to me. The right of *habeas corpus* and of trial by jury, the freedom of elections, the freedom of the press; the freedom of religious worship—all these I cherished as inestimable rights guaranteed to the American citizen. I felt that my home was my castle. I have wept that terrible civil war, of the causes and consequences of which I am guiltless, should come upon a country so fair and prosperous as ours, and divided a people that should have been forever one. I have wept for the desolation which the war has brought upon us—the ruined homes, the wrecked fortunes, the broken hearts, the anguish of the widow and orphan, and all the destruction and misery that have followed in the train of civil strife. But, believing in the existence of

"A divinity that shapes our ends,
Rough-hew them how we will,"

I have never ceased to hope that the future of our country will yet be prosperous. In my view it were infidelity to doubt the ultimate unity, power, and glory of the American Republic. The pillars of her strength must rise massive and high, and the mighty fabric of our Government be the most imposing on earth. The storms of ages, beating with fury against the pyramids, have not weakened those stupendous structures, but, drifting the sand to their bases, have strengthened their foundations.

My profound hope is that civil convulsions may not wreck us; that the lesson of tribulation and endangered liberty may make our people everywhere wiser and better, strengthening the foundations of civil liberty; that the error of the past will be shunned in the future; that battle-scars may be healed; that as one united Government, one people with a common destiny, we may reënter an unpausing and unmatched career of prosperity and power.

Never have I been guilty of anything which can be tortured into the crime of treason, and am I now to be pronounced by a solemn vote of this House to be unfit to sit in these Halls because of the utterance of an opinion, incautiously expressed it may have been, but uttered under influences and with motives which I have explained? Am I to be adjudged a political leper, an outlaw? Am I to be ostracized—I who never stood in battle-line, and against whom, after diligent and searching investigation, nothing is proved? Am I to be declared under the ban of the Government, branded as unworthy to hold any office of trust or profit under the Government of the United States? I stand here as no supplicant. I stand here begging no favor. Panoplied with the consciousness of right, I would be less than man if I failed to assert that right. I ask nothing

but justice. I trust that my case will not be decided as if I were a candidate in a political caucus; but that every man who records his vote upon this question will do it according to the purest dictates of his conscience, that he may be enabled to feel in after time that he has pursued the course which he sincerely believed to be right. I want it understood that I was opposed *toto celo* to the policy of the late Administration, and that I am as unalterably opposed to the policy of this Congress. But it is not proper to discuss these now.

It has been charged as a singular fact that after the indorsement of the Union press of my district in May, 1861, I did not continue a candidate. Circumstances, which it is needless here to explain, caused my removal to a remote part of the State—to the district from which I have now the honor to be elected.

Mr. COOK. I ask the gentleman to yield to me for a moment for an explanation.

Mr. BROWN. Certainly, sir.

The SPEAKER. The hour of the claimant has expired.

Mr. DAWES. I hope the gentleman from Kentucky will be permitted to conclude his speech.

There was no objection, and it was ordered accordingly.

Mr. COOK. Mr. Speaker, I was in error in the statement I made in my remarks in locating the speech of the gentleman from Kentucky at Hebbardsville. I referred to the testimony of Colonel Lee; and meant to have alluded to the speech at Shepherdsville, Bullitt county, Kentucky, instead of at Hebbardsville. He testified that he heard Mr. Brown make a speech at Shepherdsville at the end of March or the beginning of April, 1861, very nearly the time he published that letter. In his testimony he says during the time that speech was being made he was recruiting in the audience for the confederate army.

Mr. BROWN. To show the gentleman's conclusions are unwarranted I invite his attention to that paragraph. I read from the Globe. The gentleman from Illinois said:

"I beg leave now to call the especial attention of the House to the fact that at the time that the sentiments contained in this letter were publicly avowed by Mr. Brown in a speech at Hebbardsville, in the beginning of April, 1861, a rebel agent was recruiting among the audience for the confederate army."

Who was that rebel agent? Colonel Lee. What does Colonel Lee say?

"I live in Louisville, Kentucky; I have known Mr. Brown since 1855; I was in the confederate army from the summer of 1861 to 1865. I heard Mr. Brown make a speech at Shepherdsville, Bullitt county, at the end of March or beginning of April, 1861. He was then our member of Congress, and we looked forward to his speech with great interest, and to the positions which he would take. I remember that I was very greatly disappointed, and I opposed him as a candidate for Congress. He took the ground that Kentucky ought to maintain a neutral position. In his speech he opposed the doctrine of secession. I thought his speech calculated to discourage enlistments in the confederate army, and I was engaged in that business at the time. Therefore I and the other southern men opposed Mr. Brown, and determined to bring out a candidate of our own, thinking that Mr. Brown was too much opposed to us. My recollection is that he took ground against the war on either side; he was opposed to coercion; said that it was a duty which the young men of the State owed to the State to remain in it."

The gentleman would have the House to infer I was proclaiming these sentiments and giving aid and encouragement to the confederates when the witness he refers to says I discouraged enlistments in the confederate army and spoke in behalf of the neutrality of my State, and he was enlisting secretly, a matter of which I knew nothing.

Mr. Speaker, Hon. Mr. DAVIS, Senator from Kentucky, occupied the same position of neutrality I did. He took his seat in the other end of the Capitol unchallenged. Secretary Guthrie occupied the same position I did, uttering the sentiment that he would make every tree in Kentucky a fortification behind which to fight the invading army from the North. He unchallenged took his seat as a Senator from

Kentucky. General Rousseau was one of the committee to report these resolutions, and was a member with me of that great meeting at Louisville to which I referred. He came here and took his seat unchallenged in this House. Why is it mine shall be made the exceptional case when I have done nothing, as the proof shows, save speaking words intended at the time to mean neutrality.

If the language will not bear that construction, at least it was so meant and so intended. Upon my rights I stand, and if it be the judgment of the House I am not entitled to a seat here I can go back to my constituents with the proud and consoling reflection and consciousness that I have discharged my duty in claiming it and in this vindication of myself. And if this brand be put upon me that I am unworthy to hold a seat here then I could not be a postmaster at any of the cross roads in the United States.

If that is to be the judgment of this House, I am ready for the sacrifice. Do it, and you commit a foul wrong upon me; an outrage upon my rights and those of my constituents. Do it, and in my humble person American liberty receives, in the house of its professed friends, a dangerous blow. Establish the precedent that mere words, spoken a year before the law under which you are trying me was passed, are sufficient to justify you in refusing me my seat as a member of this body, to which I was duly elected, and it may in time return "to plague the inventors." But I will say no more. I thank the House for its courtesy.

REPORT

OF

THE COMMITTEE ON ACCOUNTS,

ON

Certain Charges preferred against N. G. Ordway, Sergeant-at-Arms of the House of Representatives.

IN THE HOUSE OF REPRESENTATIVES,
February 19, 1868.

The Committee on Accounts, to whom were referred certain charges preferred by J. W. Wilkinson against N. G. Ordway, Sergeant-at-Arms of the House of Representatives, imputing to him fraud and malfeasance in office, make report:

That your committee have investigated the said charges, and in the progress thereof have heard the said Wilkinson and other witnesses produced by him, and have examined all papers and accounts referred to by him in support of his said charges, and have also heard the said Ordway and witnesses produced by him in his defense.

It appears by the testimony, which is reported herewith, that Mr. Wilkinson was employed by Mr. Ordway as a clerk in his office about May 2, 1866. In a short time, probably a month, a difficulty grew up between the clerk and his employer about the amount of compensation to which he was entitled. Mr. Ordway, it seems, had procured Mr. Wilkinson to be placed on the pay-roll of the Doorkeeper at \$100 per month, and detailed to assist him. Mr. Wilkinson contended that, according to the agreement between them as first made, he should have appeared upon the records of the House as temporary clerk to the Sergeant-at-Arms, under a resolution of the House allowing him such clerk. In that position he would have received \$125 per month. This difficulty has never been settled, though Mr. Wilkinson retained his situation for about ten months and drew his pay at \$100 per month, with the addition of twenty per cent. for either three or four months, whether one or the other does not very clearly appear.

The dispute about compensation is of no importance to the investigation except so far

as it may show a motive for the prosecution, and hence affect the credibility of the prosecution. About the time the controversy began Mr. Wilkinson conceived the idea of watching his employer with the design of discovering and exposing irregularities in the administration of his office; and in June, 1866, he began to make memoranda and to copy papers with a view, as he alleges, to this investigation. The result of this system of espionage, continued secretly for about nine months, is the series of charges against Mr. Ordway referred to the committee.

It is due to Mr. Wilkinson to say that he swears he was actuated by no selfish motive, no malice, no desire of gain, but purely by an abstract love of justice. The committee do not gainsay this. Every man best understands his own motives. But the quarrel about pay and the formation of the design to prosecute happened singularly near together in point of time, if they are to be considered mere accidental coincidents.

The charges made by Mr. Wilkinson are as follows, stated in his own language:

"1. That Mr. Ordway has, to my certain knowledge, made out bills (and received the amount of such bills) in the name of S. S. Bean, (his brother-in-law,) for services as clerk in his office, when said Bean was, during the time charged for, cultivating his farm in New Hampshire.

"2. That in making out bills against committees for serving of subpoenas and travel after witnesses he has, by changing the dates, charged, in some cases, two, three, and four times the amount he was entitled to, and has implicated the chairmen of the committees in these overcharges, to this extent that he did it under instructions from them, which I do not believe was the case.

"3. That he has made bills of travel of himself for journeys he did not perform.

"4. That he has, after getting bills 'approved' by chairmen of committees, increased the footing of such bills.

"5. That it was by his means that the resolution which passed the House July 3, 1866—which was designed, as the resolution itself shows, to guard the interest of the Government against false accounts being paid—was virtually repealed.

"6. That he has, as I verily believe, sacrilegiously availed himself of the occasion of the death of honorable members of the House to feed his appetite for gain."

The first, fourth, and fifth of these charges the committee find wholly unsustained by the evidence. D. S. Bean, not S. S. Bean, as stated in the charge, was employed during a part of the first session of the Thirty-Ninth Congress as temporary clerk in the office of the Sergeant-at-Arms. The time he served in that capacity does not clearly appear by the testimony of the witnesses. Mr. Rollins says he thinks about two months. Mr. Wilkinson, on the other hand, says not as long as a month. The records of the Clerk show that he received two months' pay, and Mr. Rollins says he carried the money to him in New Hampshire, he having returned to his home on account of sickness before payment. Mr. Ordway received no part of it, and if this was important to the investigation it is not to be presumed without proof that the Clerk of the House paid Mr. Bean more than he was entitled to.

The fourth charge is frivolous, unless the element of fraud is intended to be implied in the language; and of this there is no reliable evidence whatever.

Mr. Wilkinson testifies to what he calls the fraudulent alteration of one of the bills of expenses incurred by the Committee on Public Expenditures while sitting in New York; but he is expressly and pointedly contradicted by Mr. HUBBARD, the chairman of the committee, and by Mr. Rollins, one of its members.

The fifth charge is directly disproved by Mr. Lloyd, the chief clerk, and is known to be without foundation by the members of this committee who were members of the Committee on Accounts of the Thirty-Ninth Congress. The resolution of July 3, 1866, emanated from the Committee on Accounts. It was mainly intended to apply to purchases and bills for labor and repairs in the Clerk's department. It was soon found to embrace objects not contem-

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plated by the committee, and was modified with the concurrence of a majority of the committee, at the instance of the chief clerk, Mr. Lloyd.

The second and third charges relate to services performed for committees charged with special matters and empowered to send for persons and papers. The substance of these charges is, that Mr. Ordway claimed and received mileage for journeys not performed, or not necessarily performed, in the service of subpoenas for the committees.

The committees designated by Mr. Wilkinson are the select committee appointed to investigate the affairs of the Provost Marshal General; that appointed to investigate the condition of southern railroads; the Committee on Public Expenditures, and the joint Committee on Retrenchment.

The evidence upon this point, as given by Mr. Wilkinson, is that he summoned in the aggregate twenty-one witnesses from different points, making five trips, and that Mr. Ordway charged and received mileage for seventeen trips.

It must be borne in mind that this witness can only know that he made five trips in summoning these twenty-one witnesses. He cannot know that he attended upon his subpoena nor that other officers did not serve process upon them. Upon this point the testimony of Mr. HULBURD, the chairman of one of the committees, is important. He cannot remember the circumstances attending the procuring of all the witnesses, but he singles out eight of the twenty-one and testifies that these were summoned by other officers at successive periods and at times different from those sworn to by Mr. Wilkinson. These eight cases for which separate mileage could, according to his testimony, be properly charged, added to the five cases admitted by Mr. Wilkinson, make thirteen instances of legal mileage out of the seventeen charged for.

The testimony of Mr. Wilkinson was rendered of very little account, in the estimation of the committee, by the fact that it is in conflict with almost all the other testimony in the case. He swears to certain alterations in papers which upon examination prove to be wholly untrue. He swears to conversations with other witnesses which the other witnesses not only do not remember but positively deny having occurred. He is contradicted in several material and distinct matters by the testimony of his own witnesses, Messrs. Conn and Dillon, and also by Messrs. HULBURD, Rollins, Lloyd, and Cheney.

The material and almost the only witness upon this point standing thus impeached, the committee do not consider the charge of receiving illegal mileage by any means clearly established.

But, assuming that the testimony of Wilkinson is true, then another question arises. It is clear to the committee that since the act of February 5, 1859, the Sergeant-at-Arms cannot legally claim mileage for the service of process except for the distance actually and necessarily traveled. But very recently the House of Representatives maintained that there is no law to prevent it itself from allowing its employes and officers in special cases compensation out of its contingent fund beyond the amount to which they are entitled by law. Whether this be sound or not, it will not do to charge its employes and officers with fraud in receiving such compensation so allowed. A committee charged with a special object, and armed with all the power of the House in the premises, has all the right of the House, subject to its control and supervision, of procuring necessary services and awarding the adequate compensation. This position may be disputed, it may be overthrown, but not so clearly and successfully as to justify the imputation of fraud either to the committee or the persons it employs.

The bills in which these alleged illegal charges were made were passed upon respectively by the committees for whom the services were rendered and approved by the chairmen.

This was according to the universal custom in both branches of Congress. The committee call the attention of the House to the testimony of Mr. Brown, Sergeant-at-Arms of the Senate, upon this point. He swears that extra compensation for services rendered to investigating committees, in cases where the ordinary fees are found to be inadequate, is very common, and that the action of the committees in the premises is never inquired into by the Senate.

This custom is founded upon reason. The difficulty of procuring the attendance of unwilling witnesses is well known to every one who has served upon investigating committees. Days and weeks are sometimes expended in search of a single man. It is frequently more trouble and expense to the officer to procure the attendance of five witnesses subpoenaed at a single trip than would be compensated by five separate mileages. Now, the committee procuring the services best know the amount and the value of them, and when they have once awarded what they consider the proper compensation their action is not to be disturbed upon slight grounds.

Your committee do not maintain that that action is final and conclusive, but they do maintain that the presumption is in favor of its fairness and correctness, and that it must stand until successfully impeached. To do this it is not enough to show that the officer was allowed too much compensation for some particular item of service contained in a bill. That may be balanced by the want of compensation elsewhere in the same bill. It must be shown that the officer received too much compensation in the aggregate. The bill in each particular case is made up after all the services are rendered. The tribunal passing upon the compensation is supposed to have the whole of the services in view, and a mere improper apportionment of the compensation is no just cause of complaint.

But the ground-work of the charge is not that the Sergeant-at-Arms received too much money for the services rendered, but that he claimed and received it knowingly and fraudulently; and the committee cannot, upon any such testimony as that produced before them, impute fraud, either to those who awarded or to the officer who received the alleged illegal compensation.

The sixth charge was abandoned by the prosecutor himself, except as far as it related to constructive mileage claimed and allowed for his attendance upon the escort of the remains of the late Hon. Philip Johnson. It appears that when the witness was ordered to attend the escort he was in New York; that he was directed by telegraph to join it at Trenton, on its way to Easton. He alleges he did this, and says his mileage was computed from Washington, District of Columbia.

The committee do not find that the allowance of constructive mileage in such a case is in violation of any law. The act of February 5, 1859, is limited by its terms to mileage for service of process. The amount claimed was allowed by the committee of escort, who must have known all the circumstances, and whose action in the premises your committee do not feel at liberty to call in question.

Upon the whole matter the committee find none of the charges sustained by the evidence as far as they impute fraud to the Sergeant-at-Arms. They therefore recommend the passage of the following resolution:

Resolved, That the committee be discharged from the further consideration of the subject.

J. M. BROOMALL, *Chairman*.
E. R. ECKLEY
WILLIAM C. FIELDS,
S. M. ARNELL.

Impeachment.

SPEECH OF HON. WILLIAM A. PILE, OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,
February 22, 1868,

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

Mr. PILE. Mr. Speaker, seldom in the history of legislation has it been the duty of the Representatives of a great people to discuss and vote upon a question of this character. The course of legislation has flowed on for thousands of years in the various Governments of the earth. Commerce has been established and developed; currency and exchange regulated; taxes have been levied, and provisions made for their collection; treaties and alliances entered into; armies raised and equipped; wars prosecuted and peace many times established; amid all this there has been much of conflict in interest; many scenes of blood and violence; many occasions of great public excitement; many sublime moments when the destinies of peoples were suspended in the balance; yet, it has comparatively but rarely occurred that the trusted ruler of a great nation upon whom rested the sworn obligation of preserving the public peace and executing the law has become the disturber of public order and quiet; the violator of law; the enemy of his country, and the foe of the liberties of his own people.

In this country, sir, we have gone on for nearly a century legislating upon the great questions of national polity that have arisen during our history. We have raised armies, prosecuted wars, established peace. Yes, sir, we have met and vanquished the mightiest rebellion of history; we have overthrown the most powerful evil, the strongest organized aristocracy and basest type of society that ever existed among men—American slavery; but never before has it been the duty of the people's Representatives, assembled in these halls, to arraign the President of this great country before the bar of the only tribunal authorized by the Constitution of the country for the trial of such a case. Such a duty, sir, is now imposed upon this House. The President has violated the plainest terms of the law solemnly enacted by the Congress of the people, according to and in pursuance of the provisions of the Constitution. Amid the momentous and multiform duties of this body arising from the condition of the country emerging from a great war, with industrial pursuits deranged, business depressed, trade stagnant, values disturbed, the people overburdened with taxes, capital timid and withdrawn from business, and the public mind feverish and unsettled, every man going to his chamber at night with an undefined and therefore all the more disturbing conviction that ere he wakes in the morning some new danger may threaten the peace or life of his nation—amid all this the highest officer known to the Constitution and the laws startles the nation, from the shores of the Atlantic, "where the sons of the Republic keep watch at the rising of the sun," to the golden shores of the Pacific, "where they keep watch at the going down of the same;" has startled and moved the public mind and heart to its profoundest depths by a violation of law at once so flagrant and assumptive as to leave him without excuse and to make his defenders on this floor morally participants in his crime. By these acts, sir, the President and his advisers become the disturbers of public peace, and upon him and them rest the responsibility for all the derangement of business and depression of trade arising from these proceedings.

I come to the consideration of this subject with profound regret that such a duty should be imposed upon this House, but also with the deliberately formed judgment that has had no

shade of variation for months; that no peace or quiet can come to the country until this bad man is removed from his high office. And with the additional belief that it is fortunate that a clear and uncomplicated case has been made by the rashness of the President so that the process of impeachment may be speedy, and the country soon restored to peace and quiet.

Under a true sense, as I trust and believe, of the importance of the case, and in the discharge of my duty as an humble Representative of a part of the great people, I shall vote for the pending resolution; and in giving to the House and the country the reasons that impel me to this course, I shall first review the course of this debate up to this time, answering such of the points made by gentlemen on the opposite side of the House as seem to me worthy of notice; second, I shall call attention to the specific acts of the President that are in violation of law and in contemplation of the Constitution and the laws high crimes and misdemeanors; and, third, I shall review the public conduct of the President in order to show the criminal intent and motive that have inspired and prompted him to these acts.

The very first element of this discussion thrown in here by the opposite side amid the excitement of such an occasion is that of threatening and bombast. The gentleman from New York, [Mr. Brooks,] after deploring in measured phrases and with plaintive tones the hasty and excited character of these proceedings, launches out into an hour's speech, delivered in most excited tones of voice and with very violent gestures, in which he warns and threatens by turns—now imploring us to pause and consider before entering upon the impeachment of the President and then lashing himself into fury he threatens with blood—parades before us the muscle and prowess of the "peace party in war and war party in peace"—the Democratic party; and with uplifted hands and upturned eyes piously calls God to witness that he and his Democratic associates will not submit. Other gentlemen follow in the same strain. Now, sir, the only answer I care to make to all this "dunder-un-blixen" talk is that it has ceased to frighten school-boys or disturb the nerves of hypochondriac old ladies. After meeting and defeating treason and revolution on hundreds of battle-fields, amid the conflict of arms that has rocked the continent; after beholding this hydra-headed monster of rebellion, we are not likely to be frightened by the dying wriggling of its tail on this floor.

The first attempt at an argumentative defense of the President was made by the gentleman from Kentucky, [Mr. Beck.] His first position is: that the President has the right to test the constitutionality of any law before the courts; and all he designed in the acts for which he is arraigned was to make a case before the courts and test the constitutionality of the tenure-of-office law. In order to avoid the charge of misstating his position, I quote his own words:

"I maintain that the President of the United States is in duty bound to test the legality of every law which he thinks interferes with his rights and powers as the Chief Magistrate of this nation. Whenever he has powers conferred upon him by the Constitution of the United States, and an act of Congress undertakes to deprive him of those powers, or any of them, he would be false to his trust as the Chief Executive of this nation, false to the interests of the people whom he represents, if he did not by every means in his power seek to test the constitutionality of that law, and to take whatever steps were necessary and proper to have it tested by the highest tribunal in the land, and to ascertain whether he has a right under the Constitution to do what he claims the right to do, or whether Congress has the right to deprive him of the powers which he claims have been vested in him by the Constitution of the United States, and that is all that he proposes to do in this case."

"Now, if that is the object, and the only object, of the President, as I contend the facts show, then I can hardly bring myself to believe that any set of sane men can seriously entertain the opinion that in anything the President has done in the removal of Mr. Stanton he has been guilty of either a high crime or misdemeanor. But 'whom the gods wish to destroy,

they first make mad,' and if ever a party was stricken with judicial madness and blindness the action of this party now prove that they are the victims of it."

The conclusive answer to this is that the courts were open to the President without violating the law. A writ of *quo warranto* could have been invoked requiring Secretary Stanton to show by what authority he held and exercised the functions of his office contrary to the will and desire of the Chief Executive of the nation. Under this process a direct appeal to the courts, involving the constitutionality of the very law the President violated, would have ensued. If he violates the law, in order to make a case before the courts, when a peaceful and more direct method is open to him, he does so at his peril, and must take the consequences.

The second position taken by the gentleman from Kentucky [Mr. Beck] is that the power of removal is a part of the executive power of the President conferred by the Constitution; that it is incident to and inherent in this executive power, and therefore the "tenure-of-office law," forbidding such removal, is unconstitutional and void, and no crime can be committed in violating its provisions. I shall examine the several parts of this position separately. The quotation made by the gentleman from Mr. Madison in support of the power of removal refers to the power of the President during the recess of Congress, and not to his power during the session of the Senate, and, of course, cannot apply to this case. The opinion of Chancellor Kent, which I here requote, is in the following words:

"On the first organization of the Government it was made a question whether the power of removal in case of officers appointed to hold at pleasure resided nowhere but in the body which appointed, and, of course, whether the consent of the Senate was not requisite to remove. This was the construction given to the Constitution while it was pending for ratification before the State conventions by the author of the Federalist. But the construction which was given to the Constitution by Congress, after great consideration and discussion, was different. The words of the act (establishing the Treasury Department) are: 'And whenever the same shall be removed from office by the President of the United States, or in any other case of vacancy in the office, the assistant shall act.' This amounted to a legislative construction of the Constitution, and it has ever since been acquiesced in and acted upon as decisive authority in the case. It applies equally to every other officer of the Government appointed by the President whose term of duration is not specially declared. It is supported by the weighty reason that the subordinate officers in the executive department ought to hold at the pleasure of the head of the department, because he is invested generally with the executive authority, and the participation in that authority by the Senate was an exception to a general principle and ought to be taken strictly. The President is the great responsible officer for the faithful execution of the law, and the power of removal was incidental to that duty, and might often be requisite to fulfill it."

This opinion shows that this matter of removal, even in the recess of Congress, was made a question in the very first organization of the Government; that men of great ability held that no such power of removal existed in the Executive of the nation without the consent of the Senate; that the sense of the Constitution in this regard was only given by the act of Congress establishing the Treasury Department. Now, all this is said in reference to the power of the President in the recess of Congress. If Congress could fix the sense of the Constitution in the act referred to above in 1789 the Congress can reinterpret the Constitution on this point in 1867. But, sir, this removal is attempted during the session of the Senate, after they had solemnly non-concurred in the suspension of this same officer under the provisions of the very law that he now violates. I undertake to say that no respectable authority can be cited in support of the power of the President to remove, during the session of the Senate, an officer whose appointment has been confirmed under the law by the Senate; and I challenge the production of one single precedent for the exercise of such power.

But, sir, there is another important count in

the indictment of the President that I shall refer to at greater length after awhile, that the gentleman from Kentucky wholly ignores, namely, the illegal appointment of Lorenzo Thomas Secretary of War *ad interim*. The gentleman from Pennsylvania, [Mr. Woodward,] who assumes to lead the opposite side of this House on law questions, maintains that Mr. Stanton is not embraced in the terms of the act regulating the tenure of certain civil offices because he was appointed by Mr. Lincoln and not reappointed by the present incumbent of the presidential office.

This assumption rests upon two grounds, neither of which is tenable, namely, that the term for which Mr. Lincoln was elected expired when he was murdered by that desperate man, J. Wilkes Booth, and that the recognition of Mr. Stanton as Secretary of War by President Johnson, and the transaction of business with him as Secretary of War for more than two years by the President, did not make him *de facto* and *de jure* Secretary of War. Now, sir, each of these assumptions is so palpably a violation of all common sense and all admitted legal principles that to stop to expose them would seem to be to insult the intelligence of the House and the country. I come now, sir, to notice the acts for which, acting upon my judgment and conscience, I shall vote for the impeachment of the President, and the law he violated by those acts.

In 1861, for the purpose of preserving inviolable official positions conferred by law, Congress solemnly passed an act making it a high crime and misdemeanor, punishable by fine and imprisonment, for two or more persons to conspire together and by force, threats, or violence attempt to prevent any person from holding or executing the duties of any office to which he had been appointed under the law. In 1867 Congress passed an additional law, being "an act regulating the tenure of certain civil offices," the first section of which reads as follows:

"Be it enacted, &c., That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified."

The sixth section of the same act is as follows:

"And be it further enacted, That every removal, appointment, or employment, made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and upon trial and conviction thereof every person guilty thereof shall be punished by a fine not exceeding \$10,000, or by an imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate."

The acts of the President in removing Secretary Stanton and signing and issuing the letter of authority to Lorenzo Thomas, authorizing him to take charge of the War Office and to enter upon and discharge the duties of the office of Secretary of War *ad interim*, violated the express terms of the act above quoted. And by conspiring with the said Lorenzo Thomas to prevent, by violence and threats, the discharge of the duties of the office of Secretary of War by Edwin M. Stanton, then in the lawful possession of said office, the President violated the provisions of the act of Congress of 1861, above referred to. Fortunately, there is no question about the commission of these acts nor of there being in violation of law. The provisions of the statutes are plain and unambiguous. The proof of the acts is documentary and conclusive. The letter of the President removing Mr. Stanton and the one appointing Lorenzo Thomas Secretary of War *ad interim*

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have been quoted repeatedly in this debate and need not be recited here.

After thus flagrantly violating the law, the President, with indecent haste, without waiting to be asked for information, by formal message informs the Senate that he has done these things, the Constitution and the laws of the country to the contrary notwithstanding; thereby challenging Congress to proceed against him and bring him to answer before the only legally constituted tribunal authorized to hear and determine such a case. The only alternative left to us is either to accept the challenge and proceed to impeach the President, or to allow him to violate and override every law that conflicts with his wishes, prejudices, or corrupt designs. With such an alternative before us, our duty is too plain to be misapprehended, and our responsibility too direct to be avoided.

I come now, sir, to examine the circumstances connected with these acts of the President, in order to see what was his motive and intention in their commission. This will require that I go back and trace, briefly, the record of his public conduct since he has assumed and discharged the duties of President of the United States. This record will disclose, in the most unmistakable manner, his deliberately-formed purpose to restore to political power, in all the ten rebellious States, the men and the classes who had precipitated the country into all the horrors of civil war and brought upon us all the woes and misery of the fearful conflict through which we had passed. It will also disclose the fact that, in order to defeat the purpose and will of the people's Representatives in the reconstruction of these States upon the principles of justice and equity, he has usurped extraordinary and illegal authority and deliberately and criminally violated the laws.

First came his message of December, 1865, that clearly discloses this purpose; and then his indecent harangue to a Washington rebel mob from the steps of the White House, February 22, 1866, in which he violently assailed Congress, and declared the loyal States and the loyal millions public enemies and traitors, and announced his purpose to put them down. Then came pardons from his hand for the worst rebels of the South, thick and fast as the falling leaves of autumn; his surrender of abandoned lands formerly set apart by the law for the negroes and loyal refugees of the South; his illegal restoration, to rebel owners and corporations, of property costing the Government many millions in money and the labor of tens of thousands of men, namely, the railroads constructed in the South by the Government. The same settled purpose is exhibited by his messages vetoing the civil-rights bill and the several acts of reconstruction; by his removal of the gallant Sheridan; by his suspension of Secretary Stanton in August last; by his attempt to involve the General of the Army in the violation of law and make of him an agent for the accomplishment of his own fell purposes; by his efforts to bribe the hero of the grand and romantic march to the sea, with promotion and flattery, that he might make of him the agent and instrument of carrying out his wicked and corrupt designs; and by his endeavor, through the same means, to secure the aid of the brave, patriotic, and lofty-souled General George H. Thomas in defeating the execution of law. Thus, step by step, this bold, bad, and little-understood man has gone on, never swerving either to the right or to the left, steadily pursuing the same purpose, constantly laboring and plotting for the accomplishment of the same end. Discouraged at no difficulties, heedless of the voice of public sentiment expressed by the people at the polls in 1866, in unprecedented majorities, and in violation of the oft-expressed will of Congress, with a persistence worthy of a better cause, he has continued to conspire against the liberties of the people, and endeavor to surrender to the

tender mercies of the men who starved and murdered our soldiers at Libby, Belle Isle, Salisbury, and Andersonville, the emancipated blacks and loyal whites of the South. Finally, and at last, to accomplish these purposes, and control the coming presidential election by military authority exercised through the War Department in all these ten rebel States, under the pretext of making a case for the courts in order to test the constitutionality of the tenure-of-office act, he overrides the Constitution, and violates the laws passed in pursuance thereof.

Can there be a doubt about the motive and intention of such acts, committed by such a man, under such circumstances as these? Does not the whole record bear upon its face the unmistakable marks of usurpation and crime? What insolent and brazen effrontery is it for his friends on this floor to claim for him innocent intentions and pacific motives! It will be difficult to find, in the annals of all the past, so many acts of a single tyrant disclosing the same wicked purposes and exhibiting the same criminal intentions as are found in this record of infamy made by Mr. Johnson.

Having, as I think, established clearly the violation of law by the acts of the President, and shown conclusively that these acts were committed with criminal intent and purpose, I desire, Mr. Speaker, in conclusion, to say that the violated supremacy and outraged majesty of the law demands the impeachment of the President of the United States for high crimes and misdemeanors. I further urge and press his impeachment in the name and for the sake of the toiling millions of my countrymen who are wearied and exhausted by the long and fearful struggle of the past and the unsettled and deranged condition of the present. In the interest of the industrial pursuits of the country, unsettled and depressed as they are; in the interest of stagnated trade and commerce, and deranged and fluctuating finance; and for the sake and in the name of the humanity and civilization of the age, I ask that the official career of this man shall be speedily and forever terminated, in order that the country may have rest, quiet, and prosperity, and that the nation may continue in its high career of progress and civilization.

In the name of the half million brave men whose ghastly corpses lie beneath the green-sward of the South, and who died for liberty and loyalty, I demand the impeachment and removal of this man, who, in the exercise of the great power of his high office, seeks to betray into the hands of its enemies the country for which they fought and died.

In the name of the armless and limbless men who go maimed and halting to the tomb, the widows and orphans, the desolate hearthstones, and the bereaved families, let this process of impeachment be carried to a speedy and conclusive determination.

Inspired by the memories of the historic and heroic past and the hopes of the on-coming and glorious future, let us do our duty fearlessly and promptly; and a country restored to peace and prosperity will gladly hasten to pronounce its approval of our action, and unborn millions will rise up to call us blessed.

Impeachment.

SPEECH OF HON. J. K. MOORHEAD,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

MR. MOORHEAD. Mr. Speaker, I do not rise for the purpose of making a speech, but merely to say that I have heretofore on all occasions voted against impeachment. I did hope, sir, that our Government would escape

the trial of its strength, as well as the odium that would fall upon it, by instituting proceedings for the impeachment of its chief executive officer, and it was my purpose that no such proceeding should be instituted on doubtful or debatable ground.

The President has been guilty of many, very many, official acts that I most heartily condemn, but they were generally of a political character, prompted by his base treachery to the party that elected him, and used for the purpose of receiving the confidence and aid of those who opposed him then, but by whom he now vainly hopes to be again elevated to the chair he has disgraced.

I therefore, with a majority of the Republican members of Congress, preferred to bear with him during the balance of his term rather than convulse and disturb the country in trying to get rid of him. I did hope that the efforts or attempts made to impeach him would have taught him prudence if not wisdom, and his efforts to interfere with and set aside the action of Congress would have ceased. I regret to say that this hope has been vain. Instead of conforming more to the lawful enactments of Congress he has become more defiant and aggressive. He has evidently construed the conservative action of those who have heretofore voted against impeachment to be cowardice, and to believe that, do as he pleased, the House of Representatives would not call him to account. He has, therefore, thrown himself openly and defiantly against a plain enactment of law.

It is, therefore, the duty of the Congress to resist this usurpation; "longer forbearance would cease to be a virtue." And while I am glad that a majority of the House of Representatives have heretofore resisted impeachment, yet now, unfortunate as it is that such a necessity exists, and sad as every patriot should feel at the spectacle of the Chief Magistrate of the United States being brought before the bar of the Senate to answer articles of impeachment, I shall with pleasure, as a matter of duty to myself, my country, and posterity, vote in favor of the resolution.

It is well, Mr. Speaker, that the issue is so clear, plain, and distinct. It is no less than an open and defiant refusal to obey the law and Constitution that he has solemnly sworn to support. The evidence of it bears his own signature; there can be no cavil nor prevarication about the commission of the offense; let us, therefore, impeach him, and have the country relieved from the annoyance and disgrace it has suffered in consequence of the bad conduct of Andrew Johnson.

Impeachment.

SPEECH OF HON. J. M. BROOMALL,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

MR. BROOMALL. Mr. Speaker, if I were to consider the subject now before the House in a purely political point of view, and ask myself, "What is best for the party to which I am attached?" I should probably say, let the President alone; let him go on piling iniquity upon iniquity until he shall drag his entire party down with him so low that there shall be found no trace of it or him in the future history of the country. But I can let myself be actuated by no party motives. The President of the United States is charged with a high misdemeanor, and, like every other person similarly charged, he is to be tried by the law and the evidence.

The charge against the President is that of usurpation—the highest crime of which a ruler can be guilty. The particular act of usurpation

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charged is that of taking upon himself, without the consent of the Senate, which, by the Constitution, is made a coordinate power with him in the matter, to remove the Secretary of War and to appoint another person in his place. This act is made a high misdemeanor by the law of March 2, 1867, the sixth section of which is as follows:

"That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and upon trial and conviction thereof every person guilty thereof shall be punished by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate."

The question for us to decide is, whether or not there is sufficient ground to bring the President before the tribunal appointed by the Constitution to try him and to arraign him at the bar of that tribunal for this offense. Is he *prima facie* guilty or not guilty?

Now, I am not of the opinion that this last act of the President is the greatest one of his enormities. On the contrary, I am inclined to think that in its consequences it is among the smallest, a mere foiled attempt at dictatorship. But it is the crowning act. It is the apex of the great pyramid of his iniquities—the act which has driven the American Congress, reluctantly and against its predetermination, to a point where forbearance not only ceases to be a virtue but becomes a positive crime.

Fortunately, Mr. Speaker, there is no dispute about the facts of this case. All parties admit the acts which are charged against the President to have been committed. The evidence is over his own signature, neither denied nor proposed to be brought in controversy on this floor. The only question raised here is, whether by the commission of those acts he has brought himself within the operations of this penal statute? The reading of that statute would seem to bring his case clearly and plainly within it; and but for the ingenuity of astute lawyers who have undertaken to do what they are always ready to do—to invent legal quibbles for the protection of great criminals who can pay—but for this there could not be uttered on this floor one word in his defense. It is contended that the President had the right to commit the acts charged. Let us look at that question. The Constitution, in article two, section two, provides:

"That the President shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, Judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law."

The office of Secretary of War is one of those not provided for in the Constitution, but to be established by law. Accordingly Congress, on August 7, 1789, created the office and defined the duties of the officer. The provision of the Constitution which I have quoted contains all that is said on the subject of appointing this class of officers. It will be seen that nothing is said in the Constitution about the term of office, nor, except by the process of impeachment, about the power of removal. These were very properly left to be regulated and fixed by legislation. The power of appointment being complete in the organic law, it is clear that Congress can neither abridge nor enlarge it. But it is otherwise with the term of office and the power of removal. By the eighth section, first article of the Constitution, Congress is empowered—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers vested by this Constitution in the Government of the United States or in any department or officer thereof."

Under this no one can question the right of

Congress to limit the term and provide for the removal of any officer where the same is not already done by the Constitution itself. Until the act of March 2, 1867, Congress had never exercised this power with respect to this class of officers. Before that time the whole subject was suffered to remain where the Constitution itself left it.

Mr. LAWRENCE, of Ohio. Mr. Speaker, the gentleman, is mistaken. Congress has legislated on this subject before; and I desire to refer the gentleman from Pennsylvania to several enactments on the subject.

The act of February 25, 1863, creates the office of Comptroller of the Currency, and provides that—

"He shall be appointed by the President on the nomination of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years, unless sooner removed by the President by and with the advice and consent of the Senate."

A similar provision is carried into the act of June 3, 1864.

The act of July 13, 1866, says:

"And no officer in the military or naval service shall, in time of peace, be dismissed from service, except upon and in pursuance of the sentence of a court-martial to that effect or in commutation therefor."—*Section 5, Session Laws, 92.*

This was approved by President Johnson.

Mr. BROOMALL. I thank the gentleman from Ohio for the interruption; because it furnishes me with an argument. He has, however, to some extent misunderstood my remarks. I have been speaking of a certain class of officers, to wit: the heads of Departments. The power to limit the term of officers appointed by the President has, as the gentleman says, been repeatedly exercised by Congress, and it is significant that even President Johnson, whose friends now deny the power, actually approved the bill last cited by the gentleman, thereby closing his mouth upon the power of Congress to fix the term of an officer appointed by him.

I repeat my remarks had reference to the class of offices embracing that of Secretary of War; and of these I again affirm that the term was never fixed by legislation until the act of March 2, 1867. I pass over the constitutional provision authorizing the President to fill vacancies during the recess of the Senate and the several acts of Congress providing for filling vacancies caused by death, resignation, or absence, as having no bearing upon the question. The act complained of was committed in the presence of the Senate, and there was no vacancy except what the President made of his own wrong.

It is said the power of removal is necessarily incident to the power of appointment. This proposition does not seem to me to be very clear. I think it is not generally comprehended. How is the power of removal incident to the power of appointment? There is no necessary connection between the two powers. It is incident to the appointing power in this way: the power of the President to nominate officers for confirmation by the Senate is a continuous power. It exists at all times, so that the President may, while an officer is in, nominate his successor, and when that successor is confirmed it operates as a *supersedeas* upon the incumbent and finishes his term by indirection. It is in that way the power of removal is incident to the power of appointment, but in no other.

The power of removal provided in the Constitution therefore requires the concurrent action of the President and Senate, and such has been the practice under this Government from the time of the adoption of the Constitution up to the present time, as far as I know. Until now, I believe, no President, even the most grasping after unlimited power, has ventured to remove an officer appointed by and with the advice and consent of the Senate, during the session of that body, without its consent. Everybody knows that the universal practice during the session of the Senate is to

terminate the term of office of an incumbent by appointing and having confirmed his successor.

It was not without reason that this daring act, committed by a man who openly boasted a short time since that he could seize the Army and Navy and set himself up dictator if he chose; it was not without reason that this daring stride in that direction should have alarmed the people and their Representatives.

But it is said that there is something in the second section of the act of August 7, 1789, which empowers the President alone to remove these officers. Let us look at that question. The only section of that act which touches the power of removal is the second section, which creates the chief clerk of the War Department and defines his duties. Among them there is that of having charge of the public records of the War Department whenever the chief office shall be vacant, from any cause whatever, or whenever the principal officer shall be removed from office by the President. Now, I say that with the exception of that passage there is not in the entire legislation of Congress, from the adoption of the Constitution to the act of March 7, 1867, one single word in any single act that touches the question of the removal of the Secretary of War. I therefore quote the entire section:

"There shall be in the said Department an inferior officer, to be appointed by said principal officer to be employed therein as he shall deem proper, and to be called the chief clerk in the Department of War; and who, whenever the said principal officer shall be removed from office by the President of the United States, or in any other case of vacancy, shall, during such vacancy, have the charge and custody of all records, books, and papers appertaining to the said Department."

Now, by the wording of this act, it would appear that the framers recognized the possibility of the Secretary of War being removed by the President. They did not expressly confer upon him the power. They seemed rather to speak of such a possible power than to confer it. If the power did not exist those words would not grant it. The most that can be claimed for them is that the framers thought such power existed then, or might at some future time be granted.

Now, if the power of which the act speaks was a power then existing, it must have been that power in the Constitution incident to the power of appointment, which could only be exercised with the consent of the Senate, because certainly no other power then existed. If it was a power to be created afterward, then the allusion to it was not itself a grant of power. This hypothesis is a very probable one, because, in the creation of the office of chief clerk, the future was to be looked to. All duties which future legislation might give rise to, as far as they could be foreseen, might well be provided for, and who could say that the power of removal might not at some time be conferred on the President alone? In either or any point of view this statute cannot be construed by the most ingenious reasoning as conferring on the President alone any power of removal whatever.

But let us look at the absurdity into which the opposite argument would lead us. If the President has power to remove, then by the act of 1795 and the act of 1863 he has the power to defeat the constitutional provision altogether and take the entire government of the country in his own hands in defiance of the Senate. Because by those acts he may fill vacancies for six months, and if he can create them at will he may fill them at successive intervals of six months during his entire term.

But, sir, grant the absurdity, if it is possible, and then comes the act of March 2, 1867, the first section of which is as follows:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office and shall become duly qualified to act therein, is, and shall be entitled to hold such office until a successor shall have

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been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

This act for the first time fixes the term of the Secretary of War, and forbids his removal except under its provisions. The term it fixes is until a successor shall be duly appointed and qualified, except first that it empowers the President during the recess of Congress to suspend for cause—a feature which I am not considering now, because it is immaterial—and second that it makes a provision with reference to Cabinet officers, which I will hereafter consider. If there is anything in the act of 1789, or any other act which confers the power of removal on the President alone, this act repeals it, and the whole power of appointment and removal rests solely upon the Constitution and the act of 1867. Now, this act operates upon all officers who come within its provisions; but it is said by my colleague [Mr. WOODWARD] that Mr. Stanton does not. I am curious to know why not? He holds a civil office. He was appointed by the President and confirmed by the Senate. In these particulars he answers the description of persons embraced in the provisions of the statute.

It is contended, however, that somehow the proviso takes the case of Mr. Stanton out of the act. How does it do so? It only limits the term of the Secretary of War still further than it is limited by the law itself; that is, it makes it expire one month after the end of the term of the President by whom he was appointed. Does that take him out of the statute? It is difficult to see how it does. He was an officer of the Government; he had been appointed and confirmed; he answers all the requisites of the statute. Now, it may be that the proviso does not relate to his case, and this is all that can be said. If it does not relate to his individual case, then as to him the statute stands without the proviso, and then his term will expire when his successor shall have been duly appointed and qualified, and thanks to an overruling Providence that time has not yet arrived.

But suppose the proviso relates to Mr. Stanton, then what does it do? It limits his term more than the act itself limits it; that is to say, it ends his term on April 4, 1865, one month after Mr. Lincoln's first term ended, or on March 2, 1867, the time of the passage of the act, or on April 4, 1869, the end of the term of Mr. Johnson, unless he shall have justice done him before that time. Now, the first of these is impossible. We can do a great many things, but we cannot enact that an officer who holds his office under the laws as they existed before our action shall have his term of office cut off at a time antecedent to our action. I submit that that is an impossibility.

The second supposed ending of the term is inconsistent with the acts of all the officers of the Government, from the President down, all of whom have recognized Mr. Stanton as Secretary of War since that date. But let it be noted that not only Mr. Stanton but the Secretary of the Navy, the Secretary of State, and the Secretary of the Treasury, all come within the same category; and if the term of Mr. Stanton ended with the passage of the act then the term of Mr. Seward ended, and it is barely possible that we have not got Alaska and St. Thomas, the icebergs and the earthquakes, for want of a proper Secretary of State to negotiate the bargain. The argument proves too much if it proves anything, because it proves that every contract entered into by Mr. McCulloch, from the date of the statute to the present time, is null and void for want of a competent Secretary of the Treasury, and it would be curious to know what the public creditors would say to that.

I submit, then, that only the third alternative, the third date for the ending of the term, is possible; and that is the 4th day of April, 1869, one month after the termination of the term of the present incumbent of the presidential chair, and before that date shall have arrived the power of this bad and desperate man to do mischief will, in one way or the other, by lapse of time or by impeachment, have ceased.

What is meant by the "expiration of the term of the President by whom he was appointed?" Let us look at the object of the act. It was to prevent the President from corrupting what are improperly called his "constitutional advisers." It was to prevent him from bribing them with offices to which high pay and honors are attached to give him opinions and advice only such as are palatable to him. Now, I am inclined to think the history of the country will show that there has been necessity for an enactment of this kind, for he has succeeded in getting in that way a good deal, far too much for the country, of this bad and bribed and paid advice. The proviso was inserted with no reference to the present President. His officers were included in the act itself. It was inserted with no reference to him. It was intended for the purpose of allowing his successor one month in which to change his Cabinet, if he should be so disposed.

But there is another view of this question I desire to present. At the expiration of Mr. Lincoln's first term Mr. Stanton needed no reappointment to be continued in office; neither did he when Mr. Johnson became President. By the law as it stood before the act of 1867 his continuance in office and his recognition were equivalent to a reappointment. He was, therefore, in effect, as the law then stood, really appointed by Mr. Johnson.

That is the only way in which the proviso can be held to apply to Mr. Stanton. I repeat, then, the statute embraces Mr. Stanton's case in so many words; and the proviso, so far from exempting him from the act, only still further limited his term of office, and in no point of view can his term of office be yet held to have ended.

Hence Mr. Stanton is within the act, and the President is properly chargeable with violating the law. Let him, then, be impeached, tried, and, if found guilty, punished according to the Constitution and laws. If we cannot impeach this man of the crimes that are charged against him, and of which the country knows him to be guilty, it will be better that we should abolish the impeaching power altogether, and declare to the world that the President of the United States, like the king, can do no wrong. Let us open the jails and turn loose the weak and the poor and the lowly who are charged with crime, or let us mete out to those in high places the even-handed and exact justice which we mete to the meanest and the lowest criminal.

Impeachment.

SPEECH OF HON. T. A. PLANTS,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

Mr. PLANTS. Mr. Speaker, the question now before us is, in my opinion, one of too grave and transcendent importance to be discussed or decided upon any mere partisan considerations. It is a question that will try to its center the stability of our very form of government; but, sir, it is a question that we, as Representatives of the people, dare not evade. Sir, through all the long controversy between the President and Congress, I have steadily voted against resorting to this last extreme

measure. I have not so voted and acted because I believed the President was honestly striving to perform his great and difficult duties as the Constitution, the laws, and his oath of office required, but because I have felt myself in part responsible for his occupancy of his position, and because I hoped that we could save the Republic even with him at its head.

I do not propose to recount the scenes through which we have passed in the last six or seven years. These scenes have passed into enduring history. No other nation upon earth could have survived the conflict through which we have passed. Treason, in the grandest form and magnitude ever embodied in armed rebellion, struck at the life of the Republic, and held its destiny in doubt through years of devastating war and carnage. Hundreds of thousands of the bravest and best of our people gave their lives that our country might live. The resources of the land were exhausted to meet the expenses of the great conflict. Our homes were draped in mourning for the untimely dead. The maimed and mutilated survivors meet us at every step we take. Widows and orphaned children, with which the land is full, are perpetual reminders of the matchless crime of those who inaugurated the step. Sir, at the cost of these and other nameless sacrifices, the armed rebellion was at length crushed, and every patriot hoped that the country would have repose and be permitted to restore the waste of the war; to establish our finances upon a sound basis, that labor might find an adequate reward for its toil and our institutions become firmly established upon the solid foundation of justice and freedom defined by law.

And to this end those who had saved the life of the nation were disposed to go to the extreme of leniency and forbearance to those who had brought upon us this great calamity. But, unhappily, it soon became manifest that although the physical power, the armed legions, of treason had been broken, its spirit, its hatred of the Government, its vindictive purpose still lived, and only waited an opportunity to gratify its vengeance upon those who had conquered it. If this spirit and purpose were confined to the States which formed the confederacy, and relied for its success upon another trial at arms, we might well regard it with indifference. But such, I regret to say, is not the case. The sentiment of loyalty or of treason cannot be bounded by geographical lines. The defeated leaders of the South have their sympathizers everywhere. It is not more strange that they should be found in Massachusetts and New York than in Virginia and Texas. Bold, bad, ambitious men are found in all latitudes and in all countries. All history is but the record of such men seeking power by whatever means promise them success. Men of genius and power to command, like Napoleon, will seek it by force of arms. Smaller men adopt the arts of the demagogue, and attempt to do by fraud and deception what they have neither the intellect nor the courage to do in a more manly way.

And here, Mr. Speaker, is, I apprehend, the real source of our danger. I know that the air is rife with muttered threats of driving the Representatives of the people from these Halls by force. But I do not anticipate such a movement under present circumstances. What the danger might be if we had a mercenary Army, officered by ambitious leaders who could be made the pliant tools of an aspiring and able chieftain, we need not stop to inquire. Happily we have no such able chieftain. And more happily still, we have no such pliant tools in the persons of our noble military officers.

Louis Napoleon, the perjured President of the French Republic, was able, by means of his army, to overthrow the constitution which he had sworn to support, to murder the representatives of the people, to drench the streets of Paris with the best blood of the citizens of

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France, to fill his dungeons with victims whose only offense was their love of country; and to send uncounted thousands to die in exile—a fate infinitely worse than sudden death. He was able, by these means, to usurp supreme power, and, clambering over the ruins, the constitution, the liberties of the people, slaughtered thousands of French patriots to seat himself on the throne of his bastard empire, where he still sits the unquestioned despot. But Louis Napoleon was a man of genius, and he was surrounded and sustained by a set of ambitious military chieftains, willing to be his tools—"To bow the pregnant hinges of the knee where thrift would follow fawning." And he and they had a mercenary army to obey and execute their bloody edicts.

I know, sir, the President has told the country that he could have followed this example and made himself Dictator. I do not know that he has come to the conclusion at last to make the attempt. I know he has been called upon through his partisan press to do so. I do not know but those who surround him may have kept this bright example before him until his reason has been disturbed and he fancies the prize within his grasp. If such is the case he is simply an object of pity. I have never had an unkind feeling toward the President. I have no private grievances. I would to-day give the best year of the few remaining of my life if I could, with safety to the country, stop this proceeding and blot out the shame to my country. But this cannot be.

But, sir, fortunately for our country, if any such scheme has been meditated, the President is not Napoleon. Grant and Sherman and Thomas and Sheridan and Pope and Meade and Schofield and the rest of our immortal heroes are not the tools Napoleon had to work with. And, last of all, the loyal millions of free American citizens are not the stuff that slaves are made of. There will be no *coup d'etat*!

But, sir, a citadel may be mined as well as taken by storm. And those who have failed in their bold and bloody attack upon the citadel of the Republic and still cherish their hatred, by allying themselves with others of like sympathies, are mining beneath you to-day. And, sir, I am compelled, regretfully as I am forced to the conclusion, to believe that our President is engineering the desperate work.

Mr. Speaker, I have no time in the few minutes allotted to me to enter upon the discussion, and close by saying that, however unpleasant the duty, I must vote for the resolution.

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SPEECH OF HON. G. S. BOUTWELL,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

MR. BOUTWELL. Mr. Speaker, it would not be strange if there were those in the House and the country who have reached the conclusion that, upon the subject of the impeachment of the President, I have on former occasions exhibited an unwonted degree of zeal, mingled possibly with rashness. Heretofore I have endeavored to do what it is my purpose to do on this occasion. I shall follow the dictates of my judgment upon the most solemn question which has been presented to this country during its existence.

But, sir, I do not hesitate to say what I believe is due to this House, that this is a more fortunate moment for the consummation of a great act of public justice than the former occasion when I pressed the subject upon the attention of this body and the country with more zeal than I can now command. I had followed

the windings and the machinations of the President for nearly twelve months. I had studied his character with the advantage of greater opportunities than most of my associates here possessed, and I had endeavored to ascertain, as well as I might, the ultimate purpose which he had in view. Having become convinced, from the testimony presented to the House and the country, and from other circumstances which were known to me upon evidence which I was not permitted upon my conscience and judgment to question, that he was guilty of purposes not disclosed upon the printed page, I could not hesitate in reaching the conclusion that upon the report of the majority of the Committee on the Judiciary, Andrew Johnson was, in contemplation of the Constitution, guilty of high crimes and misdemeanors. But I saw then what I see with more clearness now, that it was not possible to arraign, to try, to convict the Chief Magistrate of a country like this, unless that proceeding were sustained by the judgment of the House of Representatives, of the Senate, and of the country. I cannot speak of the Senate, but by the House of Representatives and by the country such demonstrations have already been made as must satisfy us that there is no question as to what the judgment of the House is to be here and now, or that that judgment is finally to be sustained by the judgment of the Senate.

His crime is presented to us to-day in two forms, based, however, upon the same facts. First, he is guilty of having violated the Constitution and his oath of office, by which he pledged himself to the country to sustain the Constitution in good faith and in all its parts. If he has violated the Constitution he is guilty of the highest crime for the purposes of impeachment of which he could be guilty. In sustaining the position that he is so guilty I shall be obliged to refer, but with great brevity and only for the purpose of stating a view of the question which has not been presented, to the provisions of the Constitution upon this subject.

It is provided, in reference to the President, in the second section of article two of the Constitution, that—

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law."

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session."

It is clear from the text of the Constitution, as well as from all the commentaries thereon, from its adoption to the present day, that there is here no power to remove from office. The power is to appoint. Under the first clause of the constitutional provision I have read the power to appoint can be exercised by the President only upon a given condition; and that is, the Senate being in session, that the Senate concur in the appointment, which of itself works a removal from office of the previous incumbent.

All the authorities are to the point that the power of removal is in the President and that the proceeding cannot be initiated by any other officer or branch of the Government; but it is a power to be exercised only by the concurrent action of the Senate sustaining the appointment which, when so sustained, in itself supersedes the officer who previously held the place and he is thereby removed. Can anything be plainer than the proposition that when the President of the United States laid his hand upon the Secretary of War and removed him from office and appointed another person Secretary of War *ad interim*, and all without the advice and consent of the Senate,

he violated the Constitution and stands upon his own confession and upon the record already condemned?

Secondly, he is guilty of a high crime in that he has violated the tenure-of-office act. An examination will show that he is guilty whether the tenure-of-office act be unconstitutional, as claimed by his friends, or whether it be constitutional. An examination of the first section of the tenure-of-office act will show it covers all time, as well when the Senate is in session as when the Senate is not in session. When the Senate is in session the operation of the tenure-of-office act is in strict accordance with the provision of the Constitution which I have already read. If the tenure-of-office act had never been passed it would still have been unconstitutional for the President, during the session of the Senate, to have removed Mr. Stanton or any other officer appointed by and with the advice and consent of the Senate without obtaining such advice and consent.

I beg the indulgence of the House while I read that first section. It is as follows:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

Assume that the tenure-of-office act is unconstitutional in that it does not allow the President to remove an officer when the Senate is not in session, yet it must be admitted that if the tenure-of-office act were not in existence the President could not, under the Constitution, have removed Mr. Stanton during the session of the Senate without first submitting his successor to the Senate and securing the approval of that body of the nomination thus made. To this extent, then, the tenure-of-office act is but an affirmation of the constitutional provision that I have read.

In the tenure-of-office act we have done that further, also, which we had a perfect right to do, imposed a penalty declaring its violation to be a misdemeanor punishable with fine and imprisonment. Under and by this act, therefore, a violation of the Constitution in the particular stated, is a high misdemeanor indictable and impeachable. The President has made himself amenable for a violation of the Constitution, and in that particular he is subject to the penalties imposed upon him by the sixth section of the tenure-of-office act. So, sir, whatever theory of law may be entertained in this House or country, he is still convicted on the facts before the House and country of having violated the Constitution, of having violated the tenure-of-office act where it reaffirms the provision of the Constitution, and made himself subject to the penalty imposed upon him. Consequently, he is amenable to that provision of the Constitution which enables this House to arraign him and bring him before the Senate for trial; and if there convicted and adjudged guilty, the Senate will remove him from office, and may declare him forever incapable of holding any office of honor, profit, or trust in the United States.

I proceed now to call the attention of the House to the constitutional meaning of the word "term" used in the tenure-of-office act. We find in the Constitution itself the definition of this word. It is by no means doubtful. I understand from the discussion that the friends of the President claim that Mr. Stanton was serving as Secretary of War in the term of Mr. Johnson. Mr. Johnson, by the Constitution, has himself no term as President of the United States. The word "term" is defined in

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the Constitution, and is used in this law in its constitutional significance.

"The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice President, chosen for the same term, be elected as follows:"—*Article 2, section 1.*

"In case of the removal of the President from office or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve upon the Vice President."—*Article 2, section 1.*

Not the office, not the term, but the duties and powers of the office during the term for which the President was elected shall devolve upon the Vice President. Nothing can be clearer than that the word in the first section of the tenure-of-office act is necessarily defined by the Constitution; and it was in Mr. Lincoln's term that Mr. Stanton was removed by the usurpation of Mr. Johnson in violation of the tenure-of-office act.

The gentleman from Ohio [Mr. CARY] says that the opinion of the Supreme Court upon the tenure-of-office act is required. Will he try the President upon the opinion of four judges of the Supreme Court, that number being a majority of a quorum under the law? The Constitution itself has furnished better protection for the President. There are fifty-four Senators, and he can claim acquittal unless thirty-six Senators pronounce him guilty.

But, sir, more than that; the Senate for this purpose is the highest tribunal of the land. I not only hold that there is no reason or right in the assumption that the Senate should take the judgment of the Supreme Court or any other court, but I hold with unflinching fidelity that it will be the duty of the Supreme Court, as well as any other, to accept the decision of the Senate for all the purposes of this inquiry. But, in any event under the Constitution for the purposes of this trial, there is no appeal from the decision of the Senate to the Supreme Court.

But, sir, I understand that very recently, following the suggestion made upon the other side of the House, the President has informed the Senate that his intentions were not bad. Sir, it is too late to enter this plea. The evidence is too massive and overwhelming as to his intentions. In a criminal court a person convicted may plead good intentions, previous good conduct, and reputation in palliation of the sentence; but when he does offer that plea he opens an inquiry as to what his conduct has been. And I ask, concerning the President of the United States, what have been his purposes and what have been his intentions? Sir, upon the record, the correspondence between the President and General Grant, it is conclusively shown that not only did he not intend to appeal to the courts of law for the purpose of ascertaining whether Mr. Stanton had a legal right to the office, but he intended by a contrivance, by a fraud, by a conspiracy, by a usurpation, in defiance of law, to oust Mr. Stanton from the office. If, then, General Grant was not disposed to hold the office against the judgment of the Senate, should that body not sustain the suspension of Mr. Stanton, he asserts upon the record that it was his purpose to appoint a successor who would resist the reinstatement of the lawful Secretary of War.

Upon his own confession and the testimony of his Cabinet officers, it was his purpose to introduce a man who would resist the restoration of Mr. Stanton upon the judgment of the Senate under the law. Is it for him to say that it was his intention to take the judgment of the courts? But in any event can a man, much less a public officer, break a law without peril to himself upon the plea that he desires to test the validity of the law. The crime is in breaking the law with the intention of so doing. More than that, the testimony of Mr. Brown, his own witness, is that he went so far as to say that he would vicariously suffer the im-

prisonment which the law would have meted out to General Grant if he had entered into the conspiracy.

Sir, I am not accustomed to eulogize public men. During the war through which we have just passed my heart was filled with emotions of gratitude to those who stood by the country in the hour of its peril—Grant, Sherman, George H. Thomas, their associates, and followers. But, sir, in these recent days when this man, imitating Sylla, the dictator of Rome, who subverted the liberty of his country through the corruption of the army; imitating Louis Napoleon, who trampled the republic under his feet and raised an empire upon its ruins through the corruptions which he introduced into the armies of France, it is the most glorious, ennobling, heart-cheering evidence of the existence of the highest quality of Roman virtue in the present generation that those three men, leaders in the recent contest for liberty and Union, have spurned the inducement of power, have withstood Mr. Johnson's efforts to corrupt them and alienate them from their country. They have rebuked, as words cannot, the assumption of the gentleman from New York [Mr. Brooks] that three fourths of the Army are with the enemies of the country.

Now, sir, what is the history of this man, for he puts his character into the case now before the country. Is not he the man who in the Senate Chamber on the ever-to-be lamented 4th of March, 1865, humiliated the nation and all the people, dishonored us in the presence of the civilized world, disgraced the office he held, while Booth was wending his criminal way through the crowds in the areas of the Capitol for the purpose of assassinating the President of the nation who within forty days thereafter was destined to fall by the hand of the assassin? Is not he the man who, in violation of his oath of office, appointed men to places of trust and power throughout the ten States of the South who could not take the oath of office prescribed by the law of the country? Is not he the man who disseized the recently emancipated freedmen of millions of acres of the public domain which had been solemnly dedicated to them by the laws of the country, and turned those lands over to rebels who had brought upon us the misery and woe through which we had then just passed? Is not he the man who surrendered without compensation, without limitation, without condition, railways on which the Government had expended \$40,000,000 of money and the labor of thousands and tens of thousands of men in the Army? Is not he the man who by his machinations has kept ten States unreconstructed, who has trampled under foot the laws, who has given encouragement, aid, and comfort to the enemies of the country throughout those ten States? Is not he the man who used his power as Chief Magistrate to delay and postpone the collection of debts due to the United States by railways for rolling-stock sold them on credit by his order, and then by virtue of another order issued by himself received and appropriated that money to his personal use? Ay, sir, is he not the man who if his crimes were marshaled and arrayed before the country would be, in the public judgment, condemned as the greatest usurper of modern times? He offers his character, his reputation. He challenges an examination of his conduct. His crimes are multiplied; his virtues can not be discovered.

Mr. Speaker, in the ten minutes that remain, I can but indicate the plot in which the President is engaged. He desired first to get control of the War Department, in order that, as in 1861, the munitions of war, arms, and material might be used for the purpose of enabling him to succeed in his aspirations to be President of the United States. He knew that if he could corrupt the leaders of the Army, if he could bend these men to his will, these ten States were in his control, and that he could send to the Democratic convention to be holden

on the 4th of July next men who would sustain his claim for the Presidency. Then, upon the allegation which he could well carry out and which no other man could make good, that with the Army and his influence among the rebels of the South, whom he had brought to his support by his previous violations of law, he could secure the electoral votes of those ten States by excluding the negroes whom we have enfranchised from all participation in the election. Succeeding in this, we were to be met next February with the electoral votes of those ten States given for himself as President of the United States. If by fortune, as was his hope, he should receive a sufficient number of votes in the North to make a majority, then, with the support of the Army which he had corrupted, he had determined to be inaugurated President of the United States at the hazard of civil war. To-day, sir, we escape from these evils and dangers.

He will soon be deprived of the power to carry on his machinations. Of all the Army but one man has been found to obey his will, and he old and impotent and weak, an object of sympathy and compassion rather than the subject of hatred and revenge.

Sir, this day the country is saved. There may be momentary excitement, pecuniary interests may for a brief period suffer, but the sun himself often sets behind the clouds of the West while distant thunders alarm the timid and the lightnings that illumine the firmament terrify the weak. Yet the king of the heavens reappears in the morning and bathes the earth in celestial beauty.

Remove this man from the office he holds. Redeem the Republic. Set an example that all posterity will gladly imitate if unhappily like circumstances should again arise. And, sir, to posterity and to history we may safely appeal. Reluctant in action, tardy, possibly, this House and the people of this country have been; but they are wedded to justice; they believe in duty. The people who furnished two and a half million men for the suppression of the rebellion, who passed safely through the crisis of the murder of a beloved Chief Magistrate, can now remove from office a man who has broken the laws, violated the Constitution, usurped power, and attempted to seduce and corrupt the Army. In due form and under the Constitution this proceeding will go on. Private rights will be respected, the public interests will be guarded and fostered, and the nation itself, in reputation and power, sensibly advanced among the peoples of the earth.

Impeachment.

SPEECH OF HON. MICHAEL C. KERR,
OF INDIANA,
IN THE HOUSE OF REPRESENTATIVES,
February 24, 1868.

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

Mr. KERR: Mr. Speaker, in the views I shall express upon the grave matter now pending before the House, I shall divest myself of every impulse of the mere partisan. This solemn occasion affords inspiration that should elevate every gentleman charged with any duty here above the passions and motives of either personal or party interest. I, and those with whom I act in this House, had no knowledge whatever of the purpose of the Executive to do the act for doing which this movement is again inaugurated for his deposition. We are therefore free in every sense to submit to the guidance alone of reason and duty. I do not make these remarks by way of reproach against the President, nor to express or intimate any objection to his course. I shall present to the House and the country my own opinions as fully and frankly as my poor ability

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shall enable me to do. In this hour of the nation's peril, I know not how to be false to my convictions.

Mr. Speaker, why is it proposed now to take the official life of the President? What great public interest demands that a coordinate department of the Government shall be stricken down? Is it to complete the subordination of every function and power of the Government to the legislative will? Is it to clinch and rivet forever upon the people of this country a centralized congressional despotism? It would seem so. But if not so intended it certainly can bear no other fruit unless speedily rebuked by an indignant people.

Are the institutions of our country, the already shaken foundations of our Government, to be subjected to this fearful trial, to be put to this final test to maintain one man in office? I trust Congress is not so wedded to the service of Mr. Stanton as to be willing, for his sake, to invite the return of civil strife, to neglect and imperil every material interest of the people, and, in the midst and by the aid of the pervading excitement, to depose the Chief Magistrate of the Republic. He has not entitled himself to such devotion either by his example or his past or present conduct. He seeks now to be kept by the power of one Department in the service of another, in the Cabinet councils and confidence of another to whom his presence is offensive, and who desires to be relieved of all official or personal association with him. His conduct in this particular has, to the honor of mankind, no parallel in the history of civil and civilized Governments. His indecent, unnatural, and cruel attempt to force himself by such means upon the Executive can excite nothing but odium, disgust, and abhorrence in all just-minded men. It violates at once every rule of good taste, good breeding, and official propriety, and is shocking and repulsive in itself.

Mr. Speaker, it is said by his defenders that he is afraid the President may violate some law, if he be removed from the War Department. It is pretended by them that some great conspiracy may be conceived and executed against the Radical party if Mr. Stanton be not maintained in forced and hateful official relations with the President. It comes with evil and Jesuitical consistency from them or him, after the President by their joint action has been stripped of almost all power, to pretend any honest fear that he will either violate the laws or endanger any interest of the country. They have signally failed by any decent legal proof to establish against him one single act or fact that indicates an unpatriotic purpose, although they have instituted against him an inquisition that has not hesitated to resort to open and shameless perjury, and subornation of perjury.

These baseless, if not insincere, pretensions of fear come with infinitely detestable grace from Mr. Stanton, who has in the last seven years violated, a hundred times and more, laws of most precious and vital importance to the well-being of society and the liberties of the citizens. These violations have been so numerous and so palpable, that he invoked the protecting shield of congressional legislation against their consequences. He did not appeal in vain to Congress for such aid, for his partisans here speedily interposed the impassable barrier of indemnity laws between him and the victims of his illegal acts. He was not willing to attempt to vindicate himself before the judicial tribunals of the country, where he could have a fair and impartial trial before a jury of his peers, more or less of whom he could challenge from the jury peremptorily, and from which he could challenge jurors indefinitely for cause, for the forming and expression of opinions as to the merits of the case, or for any cause which would render any juror incompetent, under the established rules of law, to give him an impartial trial.

Yet by a refinement of partisan malignity and cruelty the President is to be impeached by a grand inquest, the House of Representatives, more than three fourths of the members of which are bitterly and avowedly, and many of them personally, hostile to him. In the presentation of articles of impeachment, the members of this House must act judicially; but to act judicially in any just sense there must coexist entirely unprepossessed, unprejudiced, and impartial minds. Can any degree of charity persuade any sane man that these indispensable requisites to a fair trial have for months past existed amongst any considerable number of the majority of this House toward the President? Every intelligent man in the House or the country knows they have not—knows that for a year past, by many here, he has been denounced as guilty of the violation of numerous laws subjecting him to impeachment. But he is to be compelled to answer at the bar of the Senate to an indictment found against him by such a grand jury. The most petty criminal in the country—the man who should steal a loaf of bread, or rob a hen-roost, or swindle his fellow at a game of chance—would be awarded protection against the presentments of such a grand jury.

But if such persons should be indicted by a partial or an impartial grand jury, they would, under every system of criminal jurisprudence known to our country, be entitled to a trial by an impartial jury, elected and chosen in such manner as to exclude all incompetent persons. The meanest violator of his mere civil contracts or duties, as well as the lowest offender against any criminal law, is guaranteed a fair and impartial trial. But how is it with the Chief Magistrate of the nation when summoned to answer for "high crimes and misdemeanors?" Is common sense, common justice to be stultified by the assumption that he is entitled to a less fair and impartial trial? Does the Constitution, or did its wise and just framers intend to exclude him alone from the protection of such a trial? Who are his triers, his judges, to whose jurisdiction he is compelled to submit, whether they be his friends or his enemies, whether their minds be prepossessed and prejudiced against him or not, whether they have formed and expressed their opinions against him or not? They are the Senators who constitute the Senate of the United States.

But that body, without inquiry or evidence, or giving him an opportunity to be heard in person or by counsel, have in secret session, with partisan zeal and indecent haste already condemned the President. When he communicated to them on last Friday, the fact that he had removed Mr. Stanton and appointed General Thomas, Secretary of War *ad interim*, they went into executive session and adopted the following resolution:

"Whereas the Senate have received and considered the communication of the President, stating that he had removed Edwin M. Stanton, Secretary of War, and had designated the Adjutant General of the Army to act as Secretary of War *ad interim*; therefore,

Resolved by the Senate of the United States, That under the Constitution and laws of the United States, the President has not the power to remove the Secretary of War and designate any other officer to perform the duties of that office."

Yet to their bar he is to be summoned for trial. It is a solemn mockery of justice to call any such proceeding a fair and impartial trial. When the Senate resolves itself into a high court of impeachment it cannot divest itself of the recollection or the influence of what it has just done in its political character. It would seem to any common and fair mind indelicate, if not impossible, for honorable Senators to assume the sacred office of judge after having thus committed themselves against the President and prejudged his case. This conduct on their part is a sad but logical commentary on the folly and crime of giving to the Senate any agency or control whatever in the

removal of such officers. It does not belong to them under the Constitution. It is claimed by them in violation of the settled construction of the Constitution and the uniform practice of the Government for a period of over seventy years.

The framers of the Constitution conferred upon the Senate a mere advisory duty in connection with the appointment of such high officers. This duty is not executive; it is merely designed to impose a check upon the selection of unsuitable or incompetent officers. The Senate can well concur in appointments without destroying its capacity to sit as an impartial court for the trial of impeachments. The Constitution declares that "the executive power shall be vested in a President of the United States," and that "he shall take care that the laws be faithfully executed," and makes him Commander-in-Chief of the Army and Navy. How can he discharge these high duties if he is to be made a mere satellite of the Senate or of Congress? If the Senate is invested with a part of the executive power the unity and efficiency of the executive department are thus impaired, if not destroyed. The wise and philosophic purpose of the framers of the Constitution was to keep the several great Departments of the Government as distinct and separate from each other as possible, to the end that neither should invade the functions of the other or usurp its powers in order to strengthen itself and erect a centralized despotism on the foundations of the Republic. The history of the formation of the Government sustains these views in the fullest and amplest manner.

But, Mr. Speaker, the power of removal is an executive function. It most directly affects the capacity of the President to see that the laws be faithfully executed. Give this power in whole or in part, and if you give it in part you do thereby for all practical purposes give it absolutely to the Senate, and you at once destroy the efficiency and equality of the executive department. You also, as the pending controversy between the Senate and the President painfully illustrates, utterly destroy the judicial fairness, purity, and impartiality of the Senate. It cannot be otherwise until Senators cease to be human beings and become better than men.

The President finds it necessary to remove an offensive, unfaithful, or corrupt member of his constitutional official household, and, under the civil-tenure law, he reports the fact with his reasons to the Senate, being thus compelled to assume the odious character of a public prosecutor, and the Senate refuse to consent to the removal. But the House, possessing the sole power of impeachment, may then impeach the officer so retained in his position, and present formal articles of impeachment to the Senate. But the latter have already decided that he shall not be removed. Then what becomes of their judicial impartiality to try an impeachment?

Suppose, again, Mr. Speaker, that the Senate consent to his removal, that consent does not make it the legal duty of the President to remove him; and he then, upon further reflection or mutual explanations or additional evidence, refuses to remove him, and then the House prefers against him articles of impeachment, is the Senate in any better condition to try him with decent impartiality and fairness? It thus becomes apparent that the violation of the Constitution involved in the enactment and enforcement of the civil-tenure law can only lead to conflicts between coordinate departments of the Government, disturbing the public peace, destroying the harmony that is so vitally important to the successful administration of the Government, and rapidly undermining its fundamental principles. Besides, the moment a Cabinet officer loses the confidence of the President, and his removal is desired by the latter, he then natu-

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rally turns to the Senate for protection against the removal, which a proper sense of honor should compel him to avoid by an immediate resignation. He becomes a satellite and partisan of the Senate, and transfers his allegiance from his constitutional chief to them. The very fountains of confidence, private and personal honor, are corrupted, demoralization intervenes, and the people suffer.

Mr. Speaker, these great dangers were distinctly foreseen by the framers of the Constitution, and guarded against by them both in that great instrument and in the practical organization of the Departments of the Government by the first Congress in 1789. In the act of August 7, 1789, organizing the War Department, the exclusive power of the President to remove the Secretary is distinctly and expressly recognized. That contemporary construction of the Constitution has been ever since acquiesced in by the people, recognized by the courts, adopted by every Executive, and has never failed to protect and promote the public welfare. The Congress by which this construction was adopted was preëminently qualified to construe the Constitution, because very many of its ablest members were also members of the convention by which it was framed. Mr. Madison was a member, and during the discussion of the subject in the House in 1789 he indulged in the following exceedingly forcible and just reflections:

"In another point of view it is proper that this interpretation should now take place rather than at a time when the exigency of the case may require the exercise of the power of removal. At present the disposition of every gentleman is to seek the truth and abide by its guidance when it is discovered. I have reason to believe the same disposition prevails in the Senate. But will this be the case when some individual officer of high rank draws into question the capacity of the President, with the Senate, to effect his removal? If we leave the Constitution to take its course it can never be expounded until the President shall think it expedient to exercise the right of removal if he supposes he has it; then the Senate may be induced to set up their pretensions. And will they decide so calmly as at this time, when no important officer in any of the great Departments is appointed to influence their judgment? The imagination of no member here or of the Senate or of the President himself is heated or disturbed by faction. If ever a proper moment for decisions should offer it must be one like the present."—*Annals of Congress*, vol. 1, page 547.

Mr. Madison, in the same debate, further said:

"On the constitutionality of the declaration of presidential power I have no manner of doubt."

The most distinguished men in that Congress sustained the same views, and they were incorporated into the laws then enacted. Need I add that they are worthy of profound respect? That they announce the true interpretation of the Constitution on this great question seems to me to be so clear as to remove all serious doubt. The unvarying subsequent practice of the Government certainly establishes that construction, and reduces the civil-tenure law to the character of a law enacted for the accomplishment of mere partisan ends. But gentlemen should be able to point the country not only to a law whose validity is clear, but especially to such overwhelming proofs of criminality as remove all doubt of guilt, before they shock the country and surprise the civilized world by the removal of a Chief Magistrate legally chosen by the people and fill his place with a man never chosen by the people—a man chosen to another office by the people of a single State, and now repudiated by his own constituency.

But I invite special attention to another citation, bearing directly upon this point and affecting one of the parties to this controversy. I read from the message of the President to the Senate giving his reasons for the suspension of Mr. Stanton in the first instance, and every statement I read remains wholly uncontradicted, and cannot be truthfully contradicted. He says:

"That tenure-of-office law did not pass without notice. Like other acts it was sent to the President for approval. As is my custom, I submitted its con-

sideration to my Cabinet for their advice upon the question whether I should approve it or not. It was a grave question of constitutional law, in which I would, of course, rely most upon the opinion of the Attorney General, and of Mr. Stanton, who had once been Attorney General.

"Every member of my Cabinet advised me that the proposed law was unconstitutional. All spoke without doubt or reservation, but Mr. Stanton's condemnation of the law was the most elaborate and emphatic. He referred to the constitutional provisions, the debates in Congress, especially to the speech of Mr. Buchanan when a Senator, to the decisions of the Supreme Court, and to the usage from the beginning of the Government, through every successive Administration, all concurring to establish the right of removal as vested by the Constitution in the President. To all these he added the weight of his own deliberate judgment, and advised me that it was my duty to defend the power of the President from usurpation and to veto the law."

Mr. Stanton is forever estopped to question the patriotism of the President for desiring his removal, or to say that in removing him he has committed any high crime or misdemeanor. He must be faithless, indeed, who can thus advise his chief, and then seek advantage by repudiating his own advice, his own judgment. Such conduct involves a degree of moral and political self-stultification never surpassed. His partisan supporters cannot avoid the odium of becoming voluntary parties to it, if not participants in it.

But, for the purposes of this argument, it becomes necessary to admit the validity of that law. Then let us examine its provisions, and especially those alleged to have been violated by the President. The act itself is entitled "An act regulating the tenure of certain civil offices." Its first and most material section reads as follows:

"SEC. 1. Every person holding any official office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

It is charged that the President has violated this section by the removal of Mr. Stanton. Let it be remembered that Mr. Stanton was never appointed by President Johnson. He was appointed by President Lincoln during his first term, about seven years ago, and has never been reappointed by any one since. Is the present Executive guilty "of high crimes and misdemeanors" by reason of his removal?

Sir, what constitutes crime? It is composed of two elements, both of which must coexist and be established by proof in every case before there can be any conviction. There must be the criminal act and the criminal intent to violate the law. Has either element been shown to exist against the President in this case? I assert, with the utmost sincerity and confidence, that there has not been and cannot be. It is assumed by the distinguished gentleman from Iowa [Mr. WILSON] that the President possesses no power of construction whatever; that that power, in every form and degree, belongs to the judiciary, and that if the law is admitted to be unconstitutional it is still the duty of the President, without question, to execute it. These positions, sir, are plausible but not tenable. The humblest officer ever charged by law with the performance of any executive or ministerial duty, by the very necessities which attend all human conduct, is compelled first to construe the law, unless it has previously received authoritative judicial construction, and then, according to his construction, to execute it. If the law, in its terms and requirements is so clear and specific as not to admit of construction at all, then it is the duty of the officer to execute it accordingly; but human laws are not always, are not generally, so framed. When they are not; when they are in terms ambiguous and their

true legal meaning is uncertain, the duty of construction becomes as imperative as the duty of execution. In such cases misconstruction by the officer charged with the execution of the law is attributed to error of judgment, and not to a wicked intent to violate the law. Error of judgment is not crime, and is not punishable as such. The party who may consider himself injured thereby can always find redress by appeals or applications to the courts of justice.

Mr. Speaker, these rules and principles apply with singular appropriateness and force to the conduct of the President under the civil-tenure act. The first section of that act is ambiguous in its terms, uncertain in its meaning, susceptible of several constructions by equally honest and intelligent men or jurists, and presents a case in which presidential interpretation in the first instance became, therefore, an imperative duty. The most cursory analysis of that section discloses the fact that the heads of Departments are expressly excepted from the terms of the first part of it, and that the tenure of their offices, so far as it is fixed at all, is made different from that of other officers by the proviso to the section. They—

"Shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal sooner by and with the advice and consent of the Senate."

Mr. Stanton was not appointed by President Johnson. What effect then does that proviso have upon him? Does it prolong his tenure indefinitely so that he can never be removed unless the Senate happen to concur in the propriety of a removal? Or does it leave him to hold his position in the Cabinet at the mere pleasure of the President with a right of removal at any time under the Constitution and the preëxisting practice of the Government? Or does it absolutely, in legal effect, legislate him out of office? The act only purports to fix the tenure of Cabinet officers who were appointed by the President in whose Cabinet they are members. It certainly does not in terms embrace Mr. Stanton. It is not just or reasonable to infer that the intention of the law-makers was to compel the President to retain in his council an officer whom he does not choose. An interpretation obnoxious to so many objections ought not to be accepted unless made so clear by the terms of the law as to admit of no doubt. I think the only fair and rational construction that can be given to the act is, that it was the intention of Congress to leave the President at liberty to remove at pleasure any officer in his Cabinet not chosen by himself. This construction is, at least, in harmony with decency, official propriety, and the clear personal rights of the President. The others are not.

It is also in exact harmony with the construction placed upon the act by Senator SHERMAN when the bill was on its passage in the Senate. He, in reply to the suggestions of a Senator, that it would prevent the President from removing the Secretaries whom he did not appoint, (Secretaries Stanton, Seward, and Welles,) said:

"That the Senate had no such purpose is shown by its vote twice to make this exception. That this provision does not apply to the present case is shown by the fact that its language is so framed as not to apply to the present President. The Senator shows that himself, and argues truly that it would not prevent the present President from removing the Secretary of War, the Secretary of the Navy, and the Secretary of State. And if I supposed that either of these gentlemen was so wanting in manhood, in honor, as to hold his place after the politest intimation by the President of the United States that his services were no longer needed, I certainly, as a Senator, would consent to his removal at any time, and so would we all."

Yet, when the President, acting upon the suggestions thus made by the distinguished Radical Senator from Ohio, politely requested Mr. Stanton to resign, he peremptorily refused, and when the President suspended him, and reported his reasons therefor to the Senate,

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they repudiated this construction of the act, and refused to consent to his removal; and now that the President has removed him, they declare his act of removal unlawful and unconstitutional, and threaten to remove him, to depose him, to put in his place a gentleman whom his own constituency, his own State, have repudiated. If they fear not the verdict of history on this extraordinary conduct, they furnish a signal example for the application of the ancient maxim that "whom the gods would destroy they first make mad."

I hold, therefore, that there is an absolute and disgraceful failure in this case to establish against the President the commission of any high crime or misdemeanor. If the law be valid, and he has misconstrued it, still his act is but an error of judgment, and lacks every element of crime. If he has erred in judgment that error has been prompted in great part by the opinions of Mr. Stanton and the constructions of this civil-tenure act by Radical Senators. It is wonderful, it is amazing, that gentlemen are willing to go upon the record in so solemn a matter upon so shadowy and flimsy grounds.

But if my construction of this civil-tenure law is not the true and correct one, then I submit, Mr. Speaker, that the men who framed and passed it did it for the purpose of laying a trap, of building a net-work, into which they hoped to entice this high officer of the Government for the very purpose of giving them an opportunity to depose him from power and to usurp functions that never did and never ought to belong to the legislative department of the Government. But I will not put upon it this construction. I prefer to give it the other. I prefer to believe that this law was enacted, as all laws ought to be enacted, with the honest intention on the part of the law-makers to enact a law and leave it to the other proper tribunals of the country to construe and execute it until its authoritative interpretation shall have been determined by the judicial department of the Government.

Now, sir, we are told by the learned gentleman from Massachusetts [Mr. BOWWELL] who last addressed the House that Mr. Johnson has no term of office; that he is simply the representative of the unexpired term of President Lincoln. We have it announced to this House for the first time in the history of legislation that a dead officer can have a term! What is Mr. Lincoln's term that President Johnson is called upon to fill? The Constitution says that when the President dies the duties of his office shall devolve upon the Vice President. What does that mean? It simply means, what in the uniform experience and practice of the Government it has always been held to mean, that the Vice President thenceforward becomes the President of the United States—neither more nor less. I hold, then, that every power that Mr. Johnson would possess as President of the United States, if he had been directly elected by the people, he does now possess; and those powers cannot, either by a decree of this House or by any other power, be taken from him so far as they are secured by the Constitution of the country.

Mr. Speaker, it is also urged by the majority in this House that the President has committed a high crime or misdemeanor in appointing General Thomas to act as Secretary of War *ad interim*. If my view as to his right to remove Mr. Stanton be correct, then it follows as an inevitable legal conclusion that his power temporarily to fill the vacancy caused by the removal exists also. The right to fill all such vacancies is expressly provided for by the act of February 13, 1795. That act gives the President power to authorize any person for a period of six months to perform the duties of the head of a Department in case of a vacancy from any cause. That act, therefore, embraced the power to supply temporarily any vacancy arising from removal or the expiration of term

of office. It is said that that act has been repealed by the law of February 20, 1863, but by its terms the latter act only gave power to the President to authorize the head of any other executive Department, or any officer in either of said Departments appointed by the President, to perform for six months the duties of any Secretary whose office shall be vacant by reason of "death, resignation, absence from the seat of Government, or sickness," and in no other case. It therefore does not repeal the law of 1795 as to the power to fill temporarily any vacancy in such an office occasioned by removal or the expiration of an official term.

These several laws do not purport in terms to repeal any particular preëxisting laws, and can only do so, therefore, by implication. But, by a settled canon of legal construction, no subsequent enactment shall be allowed to repeal a former one by implication, except so far as the provisions of the last act are manifestly inconsistent with the preceding one. There is in the civil-tenure act no repealing clause. So far, therefore, as it operates to repeal former laws it must do so by implication alone. It is clear, in my judgment, that, rightly construed, the civil-tenure act leaves the power and right of the President to remove the Secretary of War untouched, unchanged, and that, therefore, the provisions of the act of 1795 are unrepealed, and give ample power to the President to authorize the Adjutant General to perform the duties of Secretary *ad interim*.

In conclusion, Mr. Speaker, it does appear to me—and when I say it I mean no personal offense or parliamentary discourtesy—that this third attack by this House upon the President, bitter, fierce, and malignant as it appears to me to be, is, if possible, more baseless and unjustifiable than either of the others, and betrays a wicked purpose, by the merciless exercise of the despotism of a dominant majority, to override and trample down the Constitution and to subordinate a coordinate department of the Government to the legislative will. I confess my inability to express the painful and disquieting extent of my conviction that, day by day and step by step, the most cherished principles and most valuable and effective safeguards in our institutions are being stricken down, and we are very rapidly approaching a complete subversion of our system of government.

It is to me a source of unfeigned surprise that intelligent and learned gentlemen can persuade themselves or attempt to persuade others that they see in the conduct of the President any evidence of unlawful, unconstitutional, wicked, or even unpatriotic intentions. It does appear to me that, beset by embarrassments unparalleled in our history, subjected to trials and tests of fidelity almost without precedent in number and character, pursued by a spirit of persecution and cruelty never equalled in our partisan struggles, the great wonder is that the President has not committed more errors than he has, that he has been at all times so self-possessed, and has maintained with such unflagging zeal his devotion to the Constitution and to its reëstablishment throughout our whole country. Whatever may be the issue of this struggle, I feel profoundly assured that the verdict of future history will afford him a just and triumphant vindication.

Reconstruction and the Record and Policy of the Democratic Party.

SPEECH OF HON. JACOB BENTON,
OF NEW HAMPSHIRE,
IN THE HOUSE OF REPRESENTATIVES,
February 25, 1865.

The House, as in Committee of the Whole, having under consideration the President's annual message—

Mr. BENTON said:

MR. SPEAKER: The Constitution declares that the President shall from time to time give to

Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. When this constitutional duty is discharged in a candid and statesmanlike manner, the statements and recommendations of the chief executive officer of the nation are not only entitled to the respectful and careful consideration of Congress, but, as all will admit, should exert an important influence in legislation. The President, in his late annual message, instead of giving to Congress and the country a just exposition of the state of the Union in respect to the condition of the revolted States, and the true cause of the delay in the work of reconstruction, presents a portraiture as false to the living reality, as verified by the current history of the times, as his whole administration has been to the party which elevated him to power, and to the great cause of just, impartial, free institutions in this country. With the air of an autocrat and the assurance of one "wiser in his own conceit than seven men that can render a reason," he arraigns Congress and hurls his denunciations and anathemas at the Representatives of the people and of States as if he were indeed sole monarch instead of a mere servant or agent of the people to execute their laws. When the President of the United States so far departs from the appropriate sphere of his high office as to engage in mere personal or partisan controversies, he thereby, in a great measure, forfeits and sacrifices his influence, not only with the people, but with the legislative branch of the Government.

Andrew Johnson has, therefore, no just cause to complain, as he does, that the Executive has, in a measure, become powerless with Congress. If such be the fact in respect to himself, it is but the legitimate result of the extreme and arbitrary measures which he has attempted to force upon the country, of his gross and dangerous usurpations of power, and of his persistent determination to dominate the law to, instead of receiving it from, Congress.

On the 29th day of May, 1865, after the close of the war by the surrender of the confederate forces in the field, the President declared by proclamation all governments in the rebel States overturned or destroyed by the rebellion in its revolutionary course, and undertook to reorganize and restore those States to all their former rights and privileges in the Union, dictating who should vote and participate in reconstruction, and who should not, and what acts and measures should or should not be adopted. On the assembling of Congress in December of that year he called upon its respective bodies to acknowledge the work as accomplished by an immediate admission of Senators and Representatives, chosen by such portion of the people as he himself had enfranchised, and under such organizations as he had seen fit to prescribe and control.

But an American Congress, in view of the terrible sacrifices of blood and the enormous expenditure of treasure that had been made to save the life of the nation, and with a high sense of duty and of obligation to the loyal people and the brave defenders of the Republic, was not thus to be ignored, or overruled by the one-man power. With a degree of firmness and patriotism commensurate with the momentous issue at stake, Congress at once took measures to assert its constitutional prerogative. Still the President persisted, and arrogantly denied to Congress all rightful authority or constitutional power over the subject, and attempted to coerce and drag Senators and Representatives into a surrender of their legislative functions, by the adoption of his policy for the restoration of the rebel States.

Being unsuccessful in this, his first well-matured, bold plan, to betray the loyal people of those States and of the country into the hands, power, and control of the rebel traitors

of the South and their confederates of the North, and stung with mortification and madness at the defeat of his favorite scheme, on the 22d of February, 1866, in a public speech from the steps of the White House, in the most violent, vindictive, and excited language personally assailing individual members of Congress, the President of the United States proclaimed his implacable hostility to the policy of a majority of that body; which, from that day to this, he has maintained with a zeal, a perseverance, a determination, and a measure of ability which, had he employed it in aiding Congress in the restoration of the Union upon a just basis, and the adoption of appropriate measures for the elevation of his countrymen to the full enjoyment of their civil and political rights, his name would have been enrolled, not where it stands to-day among the oppressors and persecutors of the weak and the lowly, but among the distinguished benefactors of mankind. And, in respect to the former bondmen of this country, while history will assign to the late lamented martyred Lincoln of immortal fame the high distinction of a Moses, it would have accorded to him the scarcely less proud preëminence of a Joshua, who succeeded the great Hebrew leader just as he had conducted the children of Israel to the borders of the promised land. So Andrew Johnson became the successor of Abraham Lincoln just as the shackles fell from four million bondmen. But instead of leading them forth to the inheritance of their Canaan—the promised land of liberty, the whole vast power and patronage of his Administration have been employed to restore them to the exclusive power and dominion of their former task-masters and oppressors—a condition scarcely less to be deplored than slavery itself. Who ever so utterly failed to comprehend his high providential position? Whoever, in all history, for want of faith in the eternal principles of justice and the sublime teachings of God's providence, discarded such an opportunity to enroll his name on records of a fame as wide as the world, and as enduring as time?

But the cause will not be lost; it may be delayed because men in high places of power prove faithless, and refuse to share in the glorious work of deliverance to the captive. The work will go on. The just and the good are already enlisted in its behalf. God has decreed it, and "the gates of hell" and all the powers of darkness and Democracy cannot prevail against its final consummation.

I now invite your attention to the action of Congress in respect to reconstruction. Its first measure was the submission to the several States, for their adoption, of the fourteenth article as an amendment to the Constitution of the United States; and the general understanding, both in and out of Congress, was that if the South, as then understood, should ratify and agree to that amendment, then her State governments would be accepted by Congress. That amendment was as follows, in substance: By the first section, all men born upon our soil were declared to be citizens of the United States. The second section provided, that when a race or class of men were excluded from the right of suffrage, they should not be counted in the basis of representation. The third, that the leaders of the South who had taken an oath to support the Constitution of the United States, and who had afterward engaged in the rebellion, should be ineligible to any office under the Government of the United States or of a State. The fourth section provided, that the United States should never assume, or pay, any portion of the rebel debt, and that it should never pay the rebels for their slaves. Terms more liberal or lenient were never before offered by a conquering to a conquered people. Still, such terms, so generous, so mild and pacific, extended as an olive branch of peace to the South, to harmonize and restore the Union, were at once most violently assailed by Andrew Johnson and his Conservative and

Democratic supporters all over the country, as unjust, arbitrary, and unconstitutional.

The South, instigated and inspired by this opposition in all the States of the rebellion, scornfully, defiantly, rejected those proffered terms for harmony and conciliation. Then, from the stern exigencies of the case, growing out of the rebellious spirit of unrepentant rebels in all those States, and the cries for protection that came up from that devoted land like the wail of despair from millions of the oppressed, persecuted, and down-trodden loyal friends and defenders of the Union, Congress, after hesitating and delaying long, too long, at last interposed, and asserted its authority by extending over those people the strong arm of the military power. Then denunciations fiercer still came forth from the White House, echoed and reëchoed by Conservatives, Democrats, and their rebel brethren both North and South. These measures are constantly assailed by prominent Democrats on this floor in the severest terms of which the English language is capable. They have been characterized as a "disgrace to the age, an outrage upon civilization."

I submit, then, that this must be an age in which it has become disgraceful for a great nation to enact laws for the protection of its own defenders and to stay the hand of vengeance, cruelty, and crime, and that civilization one whose institutions are still based upon the principles of injustice and slavery as their chief corner-stone. That Congress has ample power and constitutional authority to adopt these measures is affirmed by the highest legal authority in the nation. In fact, it has hardly been questioned by the ablest lawyers among those who participated in the rebellion. It has been reserved for Andrew Johnson and the leaders of the Democratic party to discover their unconstitutionality.

Now, Mr. Speaker, I prefer to rest my judgment on the plain reading of the Constitution, on the authority of the first legal mind of the nation, and the solemnly expressed opinions of the many able and distinguished lawyers who have sanctioned the constitutionality of these measures upon their oaths, than on any such declarations in opposition as have been expressed in this House, the Senate, or the country. To narrow the question down to the authority of two men I must say that I have rather more confidence in the judgment, upon a question of constitutional law, of the ripe statesman, the able and distinguished jurist, REVERDY JOHNSON, who has affirmed the constitutionality of these measures with his vote and his oath, than in that of Andrew Johnson, although the latter may have more recently occupied a seat upon the bench.

The constant assertions of the President and his Democratic allies of the unconstitutionality of these measures challenge a comparison in this respect with the executive Democratic policy of reconstruction. The President undertook to reconstruct the rebel States on the ground that the people of those States had been deprived by the rebellion of all civil governments therein, as appears by his own proclamation, under which he undertook the work of reconstruction in North Carolina in 1865.

I refer to this as containing the substance of all his other proclamations to the other several rebel States. In this proclamation he says:

"And whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof, in the most revolting form, but whose organized and armed forces have now been almost entirely overcome, has, in its revolutionary progress, deprived the people of the State of North Carolina of all civil government."

Here the destruction of the government in North Carolina is expressly asserted by the President, and he bases his authority for his action, as appears by the same proclamation,

on the fourth section of the fourth article of the Constitution of the United States. This article provides that the United States shall guaranty to every State in the Union a republican form of government. Now, how shall the United States execute this guarantee? This question is answered in the plainest language in the eighth section of article first of the Constitution, to wit:

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or any Department or officer thereof."

It would seem that this language of the Constitution is so clear, so direct and comprehensive, that no one need err as to the grant of the power or how it is to be executed.

The Constitution, then, having charged upon Congress the execution of the guarantee of a republican form of government to each of the States, all the power and discretion necessary to be exercised in the performance of that guarantee are also conferred. This I apprehend to be a principle too well settled to be questioned. That Congress is to be the sole judge of what government in a State is republican in form has long since been affirmed in the case of *Luther vs. Borden*, in the Supreme Court of the United States, as reported in 7 Howard. In this case the court decide that the right to execute the constitutional guarantee is placed in Congress alone; therefore, the plain reading of the Constitution is confirmed by the highest judicial authority in this country. The case also decides—the late Chief Justice Taney delivered the opinion—that the power is not judicial, but that it is one of the highest powers conferred upon Congress, and that it is not subject to be reviewed by the Supreme Court, because it is political in its nature. The principle is clearly deducible from the case that neither the President nor the court has power to execute the guarantee. Congress must execute it by adopting the necessary legislation, to be submitted to the Executive, as in other cases, for his approval; if he disapproves, it may become a law by being repassed by the requisite two-thirds majority.

Congress has provided measures which have been so adopted for the more efficient government of the rebel States and to enable the people of those States to organize loyal republican State governments, preparatory to their restoration to all their former rights and relations to the Union. In providing these measures Congress has only exercised the power and discretion conferred by the Constitution; and being alone expressly charged with the execution of the guarantee, as before stated, its action is conclusive and binding upon all other departments of the Government. The power necessary to accomplish the end and the means to be employed are left entirely to the judgment and discretion of Congress. Now, I submit; what right or authority had the President, under the foregoing or any other provisions of the Constitution, to reconstruct or to direct or control the reconstruction of civil governments in those States? None, I answer, unless he is the United States or could exercise the functions of the Congress thereof. Therefore, after the surrender of the Confederate forces in the field, in what he did to provide State governments for those States he exercised powers invested in the Government of the United States, to be enforced and put into execution by Congress, subject only to the negative power of the President by veto. The President then, after the assumption and exercise of powers not conferred upon him by the Constitution, but upon Congress, turns around and denounces that body for attempting to perform the work required of them by the express terms of the Constitution. He denounces Congress for the exercise of no greater authority or powers by the express provisions of the Constitution than he has attempted to exer-

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cise, not only without the authority of the Constitution, but in direct violation of its express terms.

And this is the man who assails and condemns a majority of Congress as violators of the Constitution, in the measures they have adopted to protect the people of those States from domestic violence, and to guaranty to them governments republican in form, and loyal to the Union! And his allies, the leaders of the Democratic party, join in the chorus, with an appendix, which they chant with great apparent devotion, "Well done, good and faithful servant; thou hast been faithful" as the great vindicator of the Constitution which a Republican Congress has sought to overturn and destroy; we will make thee our ruler or leader so long as thy warfare upon a Republican Congress shall continue, and by way of encouragement to persevere in the good work we will talk of thee as our candidate for next President, until the meeting of our nominating convention.

Now, if the leaders of the Democratic party were half sincere in what they have said to sustain the position of the President as against Congress, he has suffered, in their estimation, great injustice and prosecution for his firm and devoted adherence to the Constitution and the rights of the people of this country. And that party, which has been galvanized into life by his policy, is bound in honor, gratitude, and consistency to rally around his standard as their candidate for next President of the United States. But will the Democratic party accept Andrew Johnson as their standard-bearer for that office? Never; for whatever he may have done for them since, he was guilty during the war of fighting against the rebellion, and that—with a majority of the leaders of that party—constitutes one of the unpardonable political transgressions never to be absolved, never to be forgotten.

But, to repeat, the President undertook to accomplish reconstruction with no authority to stand upon but his own policy. Congress bases its action upon the express requirements of the Constitution. The plan of the President surrenders the loyal defenders of the Government to the tender mercies of the rebels; while Congress intrusts the power with the whole people, excepting not more than fifty thousand rebel voters in all the South, and those the most guilty leaders who were mainly instrumental in plunging the country into the vortex of civil war. The practical effect of the President's plan would not only surrender the non-voting class in those States to the entire power and control of the voting class, but the white rebel voter there would be invested with a twofold power over the white loyal voter of all the former non-slaveholding States; and the representative of that privileged class of voters would wield a twofold political power over the representative from the North and Northwest, both in Congress and in the Electoral College. This is a specimen of modern Democratic equality. Why should not the soldiers and loyal voters of the country support such a policy and the party which upholds it?

That the leaders of the Democracy should support the plan of the President is both logical and consistent with its well-defined policy of concentrating all power in the Government in the hands of the few, and their well-known sympathy with their rebel brethren of the South in their late terrible struggle to overthrow the Constitution and the noblest fabric of civil government ever established by man.

In all the contests between the President and the Representatives of the people that party has uniformly rallied to the standard of the one-man power. In the case of the recent bill before this House, to define the quorum of the Supreme Court and regulate the jurisdiction thereof, every member of that party upon this floor maintained the policy of retaining the power in the hands of a single judge of that court, to nullify or set aside the legis-

lation of Congress though adopted by a two-thirds majority, or even by a unanimous vote of both branches and the concurrence of the Executive. And this is the party that styles itself Democratic, and professes to be governed by the great cardinal principle that the will of the people is the great paramount law, above Congress, the court, and the President.

Congress, as a means to reorganize loyal State governments in the South, has provided that all adult male citizens not disfranchised for disloyalty and crime in the States in which they reside shall vote and take part in forming anew governments for those States. This provision, as adopted, is not only republican and just, but a necessary means to be employed to restore to the people of those States such governments as the Constitution requires to be provided and maintained. It is evident that that result could not be successfully accomplished by intrusting the work to white voters alone; for that experiment has been tried by the President in all those States without securing a loyal republican government in one single State, and that, too, when the number of rebels disfranchised by the President was at least seven times greater than under the present congressional plan. And, again, the evidence is now conclusive that a large majority of the white voters of those States are at this day as disloyal in spirit and as inimical to the Government of the United States as when the first gun was fired on Fort Sumter, or when the rebel army, under Lee and Johnston, surrendered to the victorious legions under Grant and Sherman.

Then, I submit, what other alternative was left to Congress but to adopt the great principle of manhood suffrage, by the enfranchisement of the freedmen in those States. And why should they not be allowed a voice in the formation and control of governments to which they are to be subject, and interested in all their rights equally with the whites? They were born in this country. They are now free American citizens. In slavery even they were submissive, patient, and laborious for the benefit of their masters and the support of the Government. In peace, ever faithful and true; in war, loyal and brave. When the whites of those States conspired and confederated together to destroy the Government of our fathers, the black man rallied to the defense of the flag and bared his bosom to the storm of battle. Now, shall a great nation, after rivers of blood have been shed and countless millions have been expended to conquer those people in war, ignominiously transfer the political rights and privileges of the Government of those States to the hands of its enemies, and deny them to its friends and protectors? No, never; I cannot believe that the loyal people of this nation will ever sanction a policy so fraught with danger, ingratitude, and dishonor.

Away with that miserable dogma—a white man's government; it was born of slavery, let it be entombed with it. As a principle it is narrow, illiberal, anti-republican, unconstitutional, and all unworthy of a liberal and progressive age, in the high noon of the nineteenth century.

But a new doctrine has recently been promulgated by the conservative friend and mouth-piece of Andrew Johnson, Senator DOOLITTLE, of Wisconsin—that of qualified negro suffrage. It is proposed by that conservative gentleman to allow certain classes of blacks to exercise suffrage! Those who have served for a stated period in the Union Army are to be allowed to vote side by side with the whites who served in the rebel army. This, I suppose, is a conservative measure to reward loyalty. The second class, those who, either in their own right or that of their wives, own property to a certain amount are to be allowed to vote with the poor white who never owned a dollar in his life, although always free, with every means to acquire a competency. There is another

specimen of conservative justice. The third and last class of blacks, those who can read and write, (a qualification which by law all slaves were denied the right to acquire,) shall be allowed to vote by the side of the rebel white who, although always enjoying freedom, beside belonging to the so-called superior white race, has never had ambition nor intelligence enough to learn even the first letter of the alphabet.

This is, I suppose, a conservative measure to encourage the education of the inferior black race. I ask, Mr. Speaker, is this a fair specimen of conservative justice and statesmanship? It is, however, significant and important in two respects: first, it concedes the principle of the enfranchisement of the blacks; and second, it explodes the theory of an exclusive white man's Government in this country. But apply these tests to the white voters, and where would the Democratic party be in every State in this Union? In certain localities it would be necessary to issue a search-warrant to get enough eligible Democratic voters together to organize a school-house caucus. Away with such invidious distinctions as these. The people of this country will never be misled to sanction a measure of such manifest injustice. To vote is the freeman's right. Without that right he is not free nor the equal of the freeman. Without it he is defenseless, and deprived of the means of protecting his political rights. It is a right as undeniable as liberty or the pursuit of happiness. It rests on the same broad basis of equality and eternal justice. It cannot be denied without discarding the great cardinal principle set forth in the Declaration of Independence, that all just Governments derive their authority from the consent of the governed.

But negro suffrage is no new thing under the sun; the right was exercised prior to the adoption of the Constitution and at that time. This is important; for the Constitution makes no exceptions or distinctions on account of color or race. This right has been exercised by the free blacks, even in many of the former slave States, through the greater period of our national existence. It was not prohibited in those States till within less than forty years, and then on the ground not that it was dangerous to freedom but to slavery. The high-sounding phrases of the President's message in regard to negro supremacy and negro domination are all answered and refuted by the stern logic of facts, as appears by the following table of figures, showing a large majority of white voters in nearly all of the unreconstructed States. This table was prepared and is presented by Hon. A. H. CRAGIN in his late able speech in the United States Senate on the subject of reconstruction:

	White.	Colored.	For.	Against.
Virginia.....	116,000	104,000	107,342	61,887
North Carolina.....	103,060	71,657	93,266	32,661
South Carolina.....	45,751	79,585	67,709	2,236
Georgia.....	95,214	93,453	102,283	4,127
Mississippi.....	48,926	88,925	60,739	4,272
Louisiana.....	44,732	82,407	75,063	4,006
Florida.....	11,100	15,357	14,327	139
Texas.....	50,603	47,430	Not voted.	
Arkansas (total).....	68,805	—	27,576	13,558

Then, even in those States where the blacks constitute a majority, how can there be any danger of negro supremacy? How can the poor blacks, without education, without position, without property or lands, or permanent homes, or skill and experience in political affairs, control or dominate over the wealthy, highly educated, trained, and able politicians of those States? Has the maxim that knowledge is power become reversed, so that ignorance is power and knowledge is weakness. But why attempt to answer a proposition so manifestly absurd as to defeat itself? The fear is not of negro but of loyal supremacy. I trust that that supremacy will be maintained even to the discomfiture of traitors and their rebel sympathizers—whether North or South.

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The outcry against allowing loyal men a voice in the government in the disloyal States is paralleled only by the audacity of the leaders of the Democratic party in asking the loyal people of this country to commit the control of the Government to their hands, while their garments are still reeking with the blood of three hundred and fifty thousand young men, who offered their lives, a holocaust, self-sacrificed upon the altar of their country, to prevent the destruction by that party of this great Republic, the home of free institutions and the hope of the world.

But the leaders of the Democratic party deny that they are responsible for the war or that the charge of disloyalty can be justly made against them. Now, let us test those questions by a few plain interrogatories. What party inaugurated and carried on for four long years a cruel, wicked, and destructive war against this Government? I answer, the southern half of the Democratic party, aided and encouraged by a majority of the leaders of that same party in the North. Who proclaimed at the commencement of the war the doctrine that the United States Government had no constitutional power to coerce a sovereign State? James Buchanan and the leaders of the Democratic party both North and South. Who declared it unconstitutional for the United States to raise an army to put down the rebellion? A majority of the leaders of that same party. Who ridiculed the volunteer soldiers, who rallied to the defense of the flag, and stigmatized them as "Lincoln hirelings" and "legalized murderers?" Many of the present leaders of the Democratic party. Who discouraged enlistments and opposed the draft? A large proportion of the leading northern Democrats.

Mr. SITGREAVES. I understand the gentleman from New Hampshire to say the Democratic party was everywhere opposed to the draft and discouraged enlistment. I wish to know whether he includes the Democratic party of New Jersey in that anathema?

Mr. BENTON. The gentleman did not understand, perhaps, the class of Democrats to which I referred. I alluded to the majority of the leading, controlling Democrats throughout the country.

Mr. SITGREAVES. I inquire whether Joel Parker, then Governor of New Jersey, is not a leading Democrat, and whether he includes him in his anathema?

Mr. BENTON. I have not said every leading Democrat, but the majority of the leading Democrats. And I affirm now, and I defy successful contradiction, that a majority of the leaders of the Democratic party during the war were opposed to the general policy of the administration of the Government; that they were opposed to the prosecution of the war and sympathized with the rebellion. Is the gentleman answered?

Who openly denounced the employment of colored soldiers as a species of barbarous warfare and a disgrace to the nation? The highly refined leaders of the Democratic party. Who rejoiced all through the war over rebel victories and hung their heads with dismay at the success of our arms? Many of the present leaders of the Democratic party all over the country. Who proclaimed the great emancipation proclamation, which carried consternation and dismay to the very heart of the rebellion, unconstitutional, "a legal fiction," "a mere paper bulletin?" The astute lawyers and leaders of the Democratic party. Who pronounced the war a failure, while the gallant Union Army, under Grant, was successfully beleaguering the devoted rebel city of Richmond, and Sherman was marching his victorious legions through the very heart of the rebel dominions? All the leaders of the Democratic party all over the land. Who opposed and denounced every effective measure employed by Congress or Abraham Lincoln to suppress the rebellion as

unconstitutional? The leaders of that same party, both in and out of Congress. Who denounced Andrew Johnson with the bitterest scorn and hatred all through and even since the war? The same leaders of the Democratic party, who now sing psalms of praise for his treachery to the party that then defended and protected him. Who got up a sham Union convention in the great City of Brotherly Love in the summer of 1866, and yoked themselves up with unrepentant and unwashed rebels and traitors against this Government? Democrats and Andrew Johnson conservatives. Who predicted a great uprising of the people in support of the policy of Andrew Johnson against Congress when he "swung round the circle," and William H. Seward waved his magician's wand to lure the people to his support? The leaders of the Democratic party, with a large proportion of the rank and file.

When the southern portion of the Democratic party precipitated upon the country the fearful issue of secession and civil war the northern portion of the party, while not generally conceding the right of secession, with few honorable exceptions, made no manly or patriotic efforts to prevent the dissolution of the Union.

What would then have been the fate of the nation had the Government during the war been intrusted to the Democratic instead of to the Republican party? Can any one doubt as to the result? Which party to-day embraces within its ranks the disloyal and which the loyal people of this country as they are already mustering for national supremacy in the great presidential contest of 1868? The line of demarcation between the friends and enemies of the Government is now scarcely less distinctly drawn than during the progress of the war. Politicians of the Democratic school profess to favor equal taxation; the Republicans claim and have exercised the right to discriminate in favor of those classes of the people least able to bear the burdens of taxation. This principle has been adopted in the Republican legislation of Congress. I refer, by way of illustration, to the taxes on incomes, licenses, &c., from which the masses of the people are entirely exempt; also, to the high taxes imposed on many articles of foreign importation used and consumed, and consequently the duties paid, almost exclusively by the wealthy. The Republican policy is to tax at highest rates luxuries and those articles not included in the list of the actual necessities of life.

But the protective policy which affords a large revenue to the Treasury and stimulates and fosters and rewards domestic enterprise and labor is opposed, and sought to be supplanted by the Democratic policy of free trade. The whisky ring opposes the collection of the tax on that article, and, by complicity with Johnson-Democratic officials, is daily defrauding the people and the revenue of enormous sums, nearly sufficient to pay the whole interest on the public debt. Still we hear no outcry against these frauds from our Democratic tax-saving doctors, who would flood the country with an issue of \$2,000,000,000 of greenbacks to avoid the interest on that portion of the public debt as a temporary expedient or a mere makeshift, for surely the exchange of one kind of security for another cannot amount to payment. But let the Government bonds, like other property, be subjected to local taxation, says another Democratic doctor. That cannot be done without repudiation, as they are, by law of Congress, exempt from such taxation. Undoubtedly the United States may tax them as a source of profit or income, the same as any other productive, taxable property; they are exempt from local, not national, taxation. Then I maintain that they should be taxed, and that the bondholder can well afford to contribute his share in that way toward the extinguishment of the public debt, and as an additional

security or safeguard against the rebel Democratic doctrine of repudiation.

But the Democratic leaders claim that the party is not so disloyal in fact or in sympathy as their record would seem to indicate, and that they excel in economy, and should be intrusted with power on that ground, if on no other. Modest, indeed! After plunging the country into war and bringing a debt of mountain weight upon the tax-payers of the nation they now propose to exhibit their financial skill, and, in the practice of their peculiar style of economy, to relieve the burdens of the people. Look at their economy under the last Democratic administration of James Buchanan, which cost the country more than thirty-one millions over the average ordinary expenses of Abraham Lincoln's administration, not to include the wholesale robbery of the Treasury by John B. Floyd, and the defalcations, peculations, and frauds of other Democratic officials. That administration commenced with a large surplus in the public Treasury and left it bankrupt and a large national debt created in time of peace, with our credit as a nation greatly impaired at home and abroad. Mr. Brooks, of New York, discoursed to this House a few days ago on the subject of economy. I was interested in the gentleman's remarks, but at the same time it seemed to me that practice was better than precept, and I would now respectfully commend to the attention of that gentleman the familiar adage, "Charity begins at home." It seems to me that that gentleman will find an excellent field for the practice of a little of his skill in that line in the great city which he in part represents on this floor. Where can be found another instance of such a prodigal expenditure of the people's money as in the case of the administration of the city government of New York, costing for that single city over twenty-one million dollars annually as administered by the Democratic party, nearly double the whole national expenditures under the administration of John Quincy Adams, which was repudiated by the people as extravagant?

The Democratic party to be restored to power for the sake of economy! Absurd in the extreme. Their record for economy is scarcely better than for loyalty. There never was a party, in this or any other country, with professions of economy on their lips, more profigate in the expenditure of the people's money. Instead of relief to the tax-payers, by a restoration of the Democratic party to power in this nation, there is much more reason to apprehend a vast increase of our national debt, to pay for the slaves of rebels and their war debt. I declare this, because it has been claimed by many of the leading rebels in the unreconstructed States of the South, and it is now claimed by former slaveowners in Kentucky and other States, that such is the just obligation of the United States, because their slaves were emancipated without their consent. I say this, because every one of the unreconstructed rebel States refused to adopt the fourteenth article as an amendment to the Constitution of the United States, which prohibited the assumption of the rebel debt or payment by the General Government for emancipated slaves. I say this, because the past action of the Democratic party justifies the apprehension in case of their accession to power. That party never can be restored to power, except in connection with the leading Democrats of the South. The southern wing of the old Democratic party always dictated and controlled the policy and measures of that party. Then, in the event of such a reunion and restoration of the party to power, the men of the South will again assume the leadership, and whatever they persistently demand in the future, as in the past, will in the end be conceded. What was the result of the Missouri struggle, in which the issue was squarely made between the northern and southern wings of the party,

in the first instance? How was it on the tariff question, first forced on the country and then rejected by southern politicians? How in regard to the repeal of the Missouri restriction? How in regard to popular sovereignty and Kansas, and all other questions when northern and southern Democrats came in conflict? The South always prevailed, and always will, in that organization. Then the only safety for the people of this country is to intrust the ark of their political covenant in none but true, firm, and loyal hands, or its Government, in these perilous times, only to the care of that great liberty-loving party which, with the patriot soldier and the captain of the age as a leader, has conducted the nation to a successful issue through the ordeal of battle and the conflict of arms in the greatest civil war the world has ever known.

Impeachment.

SPEECH OF HON. G. F. MILLER,
OF PENNSYLVANIA,
IN THE HOUSE OF REPRESENTATIVES,
February 24, 1868,

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

Mr. MILLER. Mr. Speaker, the question of impeachment of the President of the United States for high crimes and misdemeanors now under consideration, founded upon the report of the Committee on Reconstruction, made through their chairman, [Hon. THADDEUS STEVENS,] is a grave one, and ought to be approached with due and solemn consideration, discarding all political considerations or bias. On the 4th of July next it will be ninety-two years since the Declaration of Independence, and it is eighty-six years since our independence was conceded by Great Britain. Eighty-one years ago the Constitution of these United States was adopted by the Convention presided over by General George Washington, who is denominated the Father of this Republic, and ratified by the then existing States two years thereafter. In that Constitution are contained several provisions in regard to impeachment. The fourth section provides that—

"The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

In section second of the first article it is declared that—

"The House of Representatives shall have the sole power of impeachment."

And the third section of the same article provides that—

"The Senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the President of the United States is tried the Chief Justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present."

It also provides that—

"Judgment in case of impeachment shall not extend further than to removal from office and disqualification to hold or enjoy any office of honor, trust, or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law."

Thus it will be seen that a judgment of impeachment is very severe and degrading, as it disqualifies the person impeached from holding and enjoying any office of honor, trust, or profit under the United States. It is held in sixth volume of State Trials, under title "Evidence"—

"That the same evidence is required in an impeachment in Parliament as in the ordinary courts of justice."

In 2 Hale's Pleas of the Crown, page 150, it is laid down that—

"An impeachment before the Lords by the Commons of Great Britain is a prosecution of known

established law, and hath frequently put in practice, being a presentment to the most high and supreme court of criminal jurisdiction, by the most solemn and grand inquest of the whole kingdom."

And it is also laid down (Tomlin's Law Dictionary, second volume, page 156,) that—

"The articles of impeachment are a kind of bills of indictment found by the House of Commons, and afterward tried by the Lords, who are, in cases of misdemeanors, considered not only as their own peers, but as the peers of the whole nation."

The mode of conducting such proceedings in England is to exhibit articles in behalf of the Commons and managers appointed to make good their charge and accusation before the House of Lords. In the United States the mode of procedure, after a resolve by the House of Representatives to impeach, is to appoint a committee to go to the Senate, and at the bar thereof, in the name of the House of Representatives and of all the people of the United States, to impeach, (naming the person to be impeached) for high misdemeanors (or high crimes or misdemeanors) in office, and acquaint the Senate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him and make good the same, and that said committee do demand the Senate to take order for the appearance of the person charged to answer said impeachment.

The House then appoints a committee to prepare and report to the House articles of impeachment against the person charged for misdemeanors in office, which articles being reported to the House and agreed to, managers are appointed, who are to carry to the Senate the articles agreed to by the House, to be exhibited in the name of themselves and of all the people of the United States against the person charged; if against the President, it would be against Andrew Johnson, President of the United States; and these managers conduct the impeachment. Under the provisions of the Constitution of the United States it does not follow that in order to sustain an impeachment the offender should be guilty of such an offense as would sustain a conviction in a criminal court for a high misdemeanor. There are many offenses that might be denominated "high misdemeanors" that are not indictable either by statute or at common law in our courts, so that the English rule as to what is necessary to sustain impeachment is not, as a general rule, applicable to cases under the Constitution of the United States.

And the question presented here, Mr. Speaker, is whether Andrew Johnson, President of the United States, has been guilty of such "high crimes and misdemeanors," or high misdemeanors, as will justify the House in preferring articles of impeachment against him and sending him to the Senate for trial. It is to be deplored that this great Republic, not yet a century old, commencing with a population of less than three millions, and now reaching thirty-seven millions, should have placed in nomination and elected a man who fills the highest office in the gift of the people, who has become (as charged) so depraved, corrupt, and defiant to the laws as to render his impeachment necessary. When we look into ancient history and see how republics that once flourished, and were the nurse of arts and sciences, the fruitful mothers of philosophers, law-givers, and heroes now lie prostrate under the iron yoke of ignorance and barbarism, and especially when we reflect that monarchical Governments look upon republics as a failure, and that France, though she struggled hard for a republican form of government, and shed immense quantities of blood in favor of that cause, is under the rule of an absolute monarch.

It is enough to make us fear and tremble. But we are told by the historian "That nothing is insurmountable to the unconquerable hand of liberty when backed by public virtue and the generous resolution of a brave and

willing people." We, as a nation, must stand firm and shrink from no duty, however painful. The highest officer of our Government is, and of right ought to be, as amenable to the Constitution and laws as any of our humblest citizens. On the 7th of January, 1867, Hon. JAMES M. ASHLEY, a member from Ohio, rising to a privileged question, charged Andrew Johnson, Vice President and acting President of the United States, with impeachable offenses, namely, with "high crimes and misdemeanors;" to which was appended a resolution directing the Judiciary Committee to make a thorough investigation in the matter, which the House adopted by 107 yeas (my name being recorded among the yeas) to 39 nays. The committee began to take testimony on the 6th of February, and continued, at intervals, for several months. On the 25th of November they sent in an enormous mass of evidence, (printed in 1163 pages,) and submitted therewith three reports—the majority report in favor of impeachment, and the other two against it. The consideration was postponed until the 6th of December, in order to give members an opportunity to examine the evidence presented by the committee, and on that day the case was taken up, when a lengthy speech was delivered by Mr. BOUTWELL, of Massachusetts, (a member of the committee,) in favor of impeachment, in which he said *inter alia*:

"Others have received the impression that the suspension of the President would follow the impeachment by this House. It certainly will not be out of place for me in this connection to present the views I entertain on this subject. After much deliberation I cannot doubt the soundness of the opinion that the President, even when impeached by this House, is still entitled to his office until he has been convicted by the Senate."

On page 12, of the same speech, he says:

"The country was disappointed, no doubt, in the report of the committee, and very likely this House participated in the disappointment, that there was no specific, heinous, novel offense charged upon and proved against the President of the United States."

The honorable gentleman also referred to a conversation had in February, 1865, in Cincinnati, when Andrew Johnson was on his road from Tennessee to Washington to take the oath of office of Vice President, between him and Judge Mathews, in which Mr. Johnson should have said that the Judge and himself were old Democrats, and "if the country was saved it will be done through the Democratic party."

This speech was followed by one from Mr. WILSON, chairman of the Judiciary Committee. A vote was then taken, and the result was 56 in favor of impeachment and 109 against it; of those who voted against impeachment sixty-eight were Republicans and forty-one Democrats. This vote shows there was twelve majority against impeachment without counting the Democratic voters. Even of the delegation from the Radical State of Massachusetts, represented by ten members, all of whom are Republicans, only two voted for impeachment upon the case as presented, and, no doubt, on that evidence must have failed before the Senate. I am aware that it has been said in some quarters that the vote by Republican members was an indorsement by them of the course of Andrew Johnson, the President of the United States. I will say, however, Mr. Speaker, that the charge against these Republican members is unfounded! They are, and have been, as much opposed to the course of Mr. Johnson and his policy as those who voted in favor of impeachment on that occasion, but were unwilling to establish a precedent that might remove upon flimsy testimony any President, and thus sap the foundation of the Government.

The Committee of the Judiciary were instructed to report the evidence for our examination and decision; it was, as it were, a sealed book until printed and laid on our desks the 6th of December last, and then it was no easy

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task to undertake to examine eleven hundred and sixty-three pages of printed matter. I can say, however, for one, that I undertook the task, and gave the evidence adduced a careful examination, (and I have no doubt many other members did the same,) and I must say here, in the language of the gentleman from Massachusetts, [Mr. BOWWELL,] who was strongly in favor of impeachment, I was "disappointed" at the proof against the President, as I had supposed there would have been evidence to sustain impeachment, but in that I, as well as other members, was disappointed; and although I condemned the political course of Andrew Johnson and his policy, and notwithstanding he had deceived the party that elected him, of which I am a member, I could not vote for impeachment merely on such considerations; and our constituents must remember that this was not a political, but a judicial question, which we, sitting in the capacity of judges or jurors, were to decide upon our oaths. I looked to nothing but the facts as presented in the printed testimony which had been laid before us. When the case was before the House on the 7th of March, 1867, I then entreated our friends on this floor not to prejudge the case, but to wait until the committee should report the evidence on which we were to act.

I wish, however, Mr. Speaker, to be understood as casting no reflections on those who on that occasion voted in favor of impeachment; on what they based their decision it is not for me to conjecture. There is one thing may be said, and that is, that those of the leading journalists of our country that examined the testimony did not after such perusal advocate impeachment, but approved of the majority vote of Congress. It was this want of sufficient evidence that induced me, notwithstanding the bad treatment received from Mr. Johnson (for whose election I labored hard) by my party, my friends, and myself, to vote against impeachment on that occasion. However strong my party ties may be, I trust I shall never let them betray my judgment when called to decide a judicial question, and one that might be the means of sweeping away the hard earnings of a lifetime of many of our most worthy citizens. There was another question in the case as then presented, that I have no doubt had some influence upon the vote of some of the members, and that was the assertion of Mr. BOWWELL in his speech, that the President during the trial could not be suspended. If that is correct, then with the wide range taken by the testimony when could the trial have been brought to a termination? Surely not during his continuance in office. Such a wide range was taken in the trial of Warren Hastings, who was impeached before Parliament for misconduct as governor general of India, and his trial lasted from 1787 to 1794, a period of seven years, and then acquitted.

I may say here that it was solemnly determined in that case that an impeachment is not abated or put an end to by the prorogation or dissolution of Parliament. When we were furnished with the printed evidence, Mr. Johnson had not quite sixteen months of his presidential term remaining, so that as the case then stood, if articles of impeachment had been preferred, the trial could not well have been brought to a close prior to the expiration of his term. I am sure that those who shall give the case due consideration will approve of the action of the majority of this House on that occasion. I may repeat that it would endanger the permanency of this Republic to establish a precedent by which any President could be removed unless based upon sufficient grounds, regardless of party considerations; and I trust that our party will hereafter be more cautious with regard to whom they place in nomination, and not elect a man who is hardly installed in the party, and not trust to mere professions of men who

are seeking office. I do not refer to this party matter as having any bearing on impeachment, for as to that Andrew Johnson has already been effectually impeached by public opinion.

The refusal to impeach on the evidence formerly presented gave no assurance that Andrew Johnson, the President, would not be impeached when a proper case should be presented, and if he so considered it he was woefully mistaken. Those Republicans who voted against the resolution of the majority of the Judiciary Committee were at all times ready and willing to impeach the President or any other officer of the Government when a proper case should be presented with evidence to sustain it. During the second session of the Thirty-Ninth Congress an act was passed by both Houses entitled "An act regulating the tenure of certain civil offices." It was sent to the President for his approval, which he refused to give, but returned it with his objections. It was then passed by both Houses over his veto by a two-thirds vote, and thus became the law of the land with the like effect as if the President had signed it. The several sections thereof are as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: Provided, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate.

SEC. 2. And be it further enacted, That when any officer appointed as aforesaid, excepting judges of the United States courts, shall, during a recess of the Senate, be shown, by evidence satisfactory to the President, to be guilty of misconduct in office, or crime, or for any reason shall become incapable or legally disqualified to perform its duties, in such case, and in no other, the President may suspend such officer and designate some suitable person to perform temporarily the duties of such office until the next meeting of the Senate, and until the case shall be acted upon by the Senate, and such person so designated shall take the oaths and give the bonds required by law to be taken and given by the person duly appointed to fill such office; and in such case it shall be the duty of the President, within twenty days after the first day of such next meeting of the Senate, to report to the Senate such suspension, with the evidence and reasons for his action in the case and the name of the person so designated to perform the duties of such office. And if the Senate shall concur in such suspension and advise and consent to the removal of such officer they shall so certify to the President, who may thereupon remove such officer, and by and with the advice and consent of the Senate, appoint another person to such office. But if the Senate shall refuse to concur in such suspension, such officer so suspended shall forthwith resume the functions of his office, and the powers of the person so performing its duties in his stead shall cease, and the official salary and emoluments of such officer shall, during such suspension, belong to the person so performing the duties thereof, and not to the officer so suspended: Provided, however, That the President, in case he shall become satisfied that such suspension was made on insufficient grounds, shall be authorized, at any time before reporting such suspension to the Senate as above provided, to revoke such suspension and reinstate such officer in the performance of the duties of his office.

SEC. 3. And be it further enacted, That the President shall have power to fill all vacancies which may happen during the recess of the Senate by reason of death or resignation by granting commissions which shall expire at the end of their next session thereafter. And if no appointment, by and with the advice and consent of the Senate, shall be made to such office so vacant or temporarily filled as aforesaid during such next session of the Senate such office shall remain in abeyance, without any salary, fees, or emoluments attached thereto, until the same shall be filled by appointment thereto, by and with the advice and consent of the Senate; and during such time all the powers and duties belonging to such office shall be exercised by such other officer as may by law exercise such powers and duties in case of a vacancy in such office.

SEC. 4. And be it further enacted, That nothing in this act contained shall be construed to extend the term of any office the duration of which is limited by law.

SEC. 5. And be it further enacted, That if any person shall, contrary to the provisions of this act, accept any appointment to or employment in any office, or

shall hold or exercise, or attempt to hold or exercise, any such office or employment, he shall be deemed, and is hereby declared to be, guilty of a high misdemeanor, and, upon trial and conviction thereof, he shall be punished therefor by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court.

SEC. 6. And be it further enacted, That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and, upon trial and conviction thereof, every person guilty thereof shall be punished by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: Provided, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate.

SEC. 7. And be it further enacted, That it shall be the duty of the Secretary of the Senate, at the close of each session thereof, to deliver to the Secretary of the Treasury, and to each of his assistants, and to each of the Auditors, and to each of the Comptrollers in the Treasury, and to the Treasurer, and to the Register of the Treasury, a full and complete list, duly certified, of all persons who shall have been nominated to and rejected by the Senate during such session, and a like list of all the offices to which nominations shall have been made and not confirmed and filled at such session.

SEC. 8. And be it further enacted, That whenever the President shall, without the advice and consent of the Senate, designate, authorize, or employ any person to perform the duties of any office, he shall forthwith notify the Secretary of the Treasury thereof; and it shall be the duty of the Secretary of the Treasury thereupon to communicate such notice to all the proper accounting and disbursing officers of his Department.

SEC. 9. And be it further enacted, That no money shall be paid or received from the Treasury, or paid or received from or retained out of any public moneys or funds of the United States, whether in the Treasury or not, to or by or for the benefit of any person appointed to or authorized to act in or holding or exercising the duties or functions of any office contrary to the provisions of this act; nor shall any claim, account, voucher, order, certificate, warrant, or other instrument providing for or relating to such payment, receipt, or retention, be presented, passed, allowed, approved, certified, or paid by any officer of the United States, or by any person exercising the functions or performing the duties of any office or place of trust under the United States, for or in respect to such office, or the exercising or performing the functions or duties thereof; and every person who shall violate any of the provisions of this section shall be deemed guilty of a high misdemeanor, and, upon trial and conviction thereof, shall be punished therefor by a fine not exceeding \$10,000, or by imprisonment not exceeding ten years, or both said punishments, in the discretion of the court.

After the adjournment of Congress in July last the President suspended Hon. Edwin M. Stanton, Secretary of War, and appointed General Ulysses S. Grant Secretary of War *ad interim*. At the next meeting of the United States Senate the President returned to that body the reasons for the suspension of Mr. Stanton, whereupon the Senate, after due consideration, refused to concur, and decided that the suspension was made on insufficient grounds, of which non-concurrence the President had due notice, and Mr. Stanton was restored to his position as Secretary of War, and discharged and continues to discharge the duties thereof. Afterward, to wit, on the 21st of February, 1868, Andrew Johnson, the President, issued and sent to Hon. Edwin M. Stanton, Secretary of War, an order to remove him, of which the following is a copy:

EXECUTIVE MANSION.

WASHINGTON, D. C., February 21, 1868.

SIR: By virtue of the power and authority vested in me, as President, by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon the receipt of this communication.

You will transfer to Briget Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully yours, ANDREW JOHNSON.
To Hon. EDWIN M. STANTON, Washington, D. C.

The Senate, being notified of the action of the President in attempting to remove Mr. Stanton, the Secretary of War, the second time, took the matter into consideration, and

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promptly passed the following resolution, a copy of which was sent to the President:

"Whereas the Senate have received and considered the communication of the President, stating that he had removed Edwin M. Stanton, Secretary of War, and had designated the Adjutant General of the Army to act as Secretary of War *ad interim*: Therefore,

"Resolved by the Senate of the United States, That under the Constitution and laws of the United States the President has no power to remove the Secretary of War and designate any other officer to perform the duties of that office *ad interim*."

It will be seen by the second section of the civil office tenure bill, hereinbefore set forth, that the President, for reasons he may deem sufficient, may suspend an officer of the Government during the recess, and designate some suitable person to temporarily perform the duties of such office until the next meeting of the Senate, and until the case shall be acted upon by that body; and such person designated shall take the oath, duly appointed, to fill such office; and in such case it shall be the duty of the President, within twenty days after the first day of such next meeting of the Senate, to report to the Senate such suspension, with the evidence and reasons for his action in the case, and the name of the person so designated to perform the duties of such office; and if the Senate shall concur the same shall be certified to the President, who thereupon may remove such officer; but if the Senate shall refuse to concur in such suspension such officer shall forthwith resume the functions of his office.

The fifth and sixth sections provide penalties for a violation of the provisions of that statute. It therefore clearly appears, Mr. Speaker, that the President, in defiance of the provisions of the act regulating the tenure of certain civil offices, has undertaken to remove Mr. Stanton, the Secretary of War, and appointed Brevet Major General Lorenzo Thomas Secretary of War *ad interim* to take his place, who is and has been attempting to force himself into the office and eject Mr. Stanton. This House, being officially notified of the action of the President in removing Hon. Edwin M. Stanton, Secretary of War, the second time, regardless of the action of the Senate of the United States, and in violation of the provisions of the civil office tenure bill, referred the whole subject-matter to the Committee on Reconstruction, who made a report, accompanied with a resolution impeaching Andrew Johnson, President of the United States, of high crimes and misdemeanors. However I deplore the necessity of removal by impeachment of the Chief Magistrate, who was elected on the same ticket with the lamented Lincoln, and who is the seventeenth man that has occupied the presidential chair of these United States, and the third Vice President that succeeded to that position by the death of the regularly-elected President. When a proper case is presented I am willing to act, and act promptly. It is clear to my mind that Andrew Johnson, President of the United States, has at last committed an overt act by attempting to supplant Mr. Stanton, the lawful Secretary of War, in defiance of the action of the Senate; to place in his stead Brevet Major General Thomas, who seems ready and willing to perform such daring acts, was a high usurpation of power by setting the laws of the land at defiance and offering an insult to Congress. His course is not, as contended by gentlemen on the Democratic side of this House, justifiable under the provisions of the act of Congress approved August 7, 1789, entitled "An act to establish an executive department to be denominated the Department of War," but in direct violation of the provisions of the act of 1867, above referred to, and also in violation of the provisions of the third section of the second article of the Constitution of the United States, which declares that the President "shall take care that the laws be faithfully executed."

It is our duty, Mr. Speaker, as the Representatives of a free people, to assert our constitutional prerogative by impeaching him. Let us pass this resolution and prefer articles of impeachment and send them to the Senate, and if he should be sustained in his usurpation let the responsibility rest on the shoulders of that legislative branch of the Government. The President's offense, as charged by the report of the Committee on Reconstruction, is within a narrow compass, so that the trial need not necessarily be protracted. In coming to this conclusion I am not influenced by any matters outside of the facts laid before us. Mr. Johnson, whether through bad advisers or his own perverseness, has rendered his removal from the presidential chair necessary. The evidence to warrant such a procedure is now unmistakable. I would say to the honorable gentleman on the other side of the House [Mr. Brooks] that his threats made in behalf of himself and party will have no influence upon the Republican members of this House. They have heard such declamations often before; they will do their duty, and whole duty, irrespective of menaces from any quarter. This country must be saved from misrule. The United States, as the Constitution declares, shall guaranty to every State in the Union a republican form of Government, and the late rebellious States must and shall be so reconstructed as to carry out that requirement, and to place the governments thereof in the hands of such as are loyal.

Whenever any officer of the Government, no matter how exalted a position he may occupy, undertakes to thwart the laws of the United States, he will meet his deserts at the proper tribunal; and President Johnson, for his recent conduct in setting at defiance the plain mandates of a statute, will be arraigned before the Senate for trial, for I have no doubt of his impeachment by this House. He will learn to his sorrow that Congress will not allow usurpation even by the highest officer in the land, and that the former vote on impeachment was no license to him to disregard the laws passed by Congress. I will therefore, Mr. Speaker, as the case now stands, cast my vote in favor of impeachment.

**National Expenditures—Retrenchment—
The National Debt—The Mode and Measure
of National Taxation—The National
Currency.**

**SPEECH OF HON. W. LAWRENCE,
OF OHIO,**

IN THE HOUSE OF REPRESENTATIVES,

February 25, 1868,

The House having under consideration the President's annual message.

Mr. LAWRENCE, of Ohio. Mr. Speaker, there are four subjects of absorbing interest which now engage the public attention—the national expenditures, the national debt, the mode and measure of national taxation, and the national currency.

WHAT IS NEEDED.

The people justly demand a reduction of national expenditures; that the public faith shall be preserved inviolate, but that the burden of interest on the national debt should be made less, with just provision for the ultimate payment of its principal; that national taxes should be reduced in amount, removed from manufactures and all products of labor, except luxuries, and be faithfully collected, and that a settled policy shall be adopted which will secure to the public the benefits and give a supply of national currency adequate for all the business wants of the country, and which will encourage and stimulate productive industry, and thereby restore universal prosperity.

With all this and the speedy reconstruction

of the rebel States on the basis of loyalty and justice, with guarantees for the future security and peace of the country, a policy will be adopted which will command the public approval. While there is apparently a general concurrence in the desire to accomplish most of these purposes, the mode of doing so is not so readily agreed upon.

THE PUBLIC EXPENSES—THEIR REDUCTION.

I propose now to speak of the national expenditures, the responsibility for their increase, and the proper mode of their reduction.

The expenditures during the fiscal year ending June 30, 1860, paid in gold, were as follows:

To civil service, including legislative, executive, judiciary government of territories, surveyors, Mint, assistant measurers, and inspectors—total civil list.....	\$6,148,655 41
Foreign intercourse.....	1,163,207 15
Miscellaneous services.....	20,658,007 92

Total.....	27,969,870 48
Service of Interior Department (Indians and pensions).....	3,955,686 59
Service of War Department.....	16,409,767 10
Service of Navy Department.....	11,513,150 19
To the public debt.....	17,613,628 00

Total.....\$77,462,102 36

(House Ex. Doc. 2, 36th Cong. 2 Sess.; An. Rep. Secretary Treasury.)

The revenues were then derived from customs, public lands, loans, and Treasury notes, with a little over one million dollars from miscellaneous sources, and none from what is now known as "internal revenue."

THE DEMOCRATIC PARTY RESPONSIBLE FOR THE DEBT.

The great rebellion has imposed new burdens on the people, in the form of a national debt, on the 1st February, 1868, of \$2,651,498,601 98, besides the annual expenditures for pensions, bounties, and interest, requiring a system of internal revenue taxation hitherto almost unknown. The people feel this grievous burden, and they will hold in eternal remembrance the fact that the Democratic party is responsible for it all. The rebellion, in its origin and progress, was exclusively chargeable to the Democratic party. Not one Republican was engaged in it. During its mad career the Democratic party gave it "aid and comfort" in the northern States, and to-day there is scarcely a political demand made by southern rebels to which northern Democrats are not ready to assent.

WHAT DEMOCRACY HAS DONE.

The rebellion has not only left us a legacy of national debt, but has entailed upon us an annual charge, which for the fiscal year ending June 30, 1869, will be:

For pensions to soldiers, their widows, and orphans.....	\$30,330,000
Bounties to soldiers.....	25,000,000
Interest on the public debt.....	130,000,000

Total.....\$185,330,000

If we add to this for collecting internal revenue the amount it cost in 1867, \$7,712,089, the total will be \$193,042,089. If we should now add the expenses of the last year of President Buchanan's administration as I have shown, \$77,462,102 36, and then add the difference between gold paid in Buchanan's last year and paper payable now at forty per cent., \$30,984,840 80, it would make a total of \$301,489,032 16.

REPUBLICAN AND DEMOCRATIC ECONOMY CONTRASTED.

That is, the cost of administering the Government for a year now with the same economy practiced during the last year of Democratic rule, adding the inevitable burdens growing out of the rebellion, and allowing for the difference between paper and gold would be \$301,489,032 16. In this estimate, too, no addition is made for increase of officers made necessary in auditing and paying pensions, bounties, and interest on the public debt.

The appropriation bills now before Congress, if passed in the form reported by the Commit-

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tee of Appropriations, will work a great reduction on this estimate.

They are as follows:

To civil service, including legislative, executive, judicial government of territories, foreign intercourse and miscellaneous.....	\$36,430,912 32
Pensions.....	30,330,000 00
Indians.....	3,000,000 00
War Department.....	33,082,093 00
Navy.....	18,096,045 00
West Point Military Academy.....	803,000 00
Interest on public debt.....	130,000,000 00
Bounties to soldiers.....	25,000,000 00
Total.....	\$276,242,050 32

This is a reduction on the basis of the last year of Democratic rule of \$25,246,981 84. The civil and miscellaneous service in the last year of Democratic rule was \$27,969,870 48 in gold, equal now in paper to \$39,157,818 67, while the proposed appropriations are only \$36,430,912 32, being a reduction of \$2,726,906 35. The estimate of Mr. Wells, Special Commissioner of the Revenue, is that the expenditures for the fiscal year ending June 30, 1869, would be:

Civil service.....	\$40,000,000
Pensions and Indians.....	25,000,000
War Department.....	53,000,000
Navy.....	21,000,000
Interest on the public debt.....	130,000,000
Total.....	\$270,000,000

(House Ex. Doc. No. 81, 40th Cong., 2 Sess., January, 1868.)

General Grant asks for the War Department \$33,000,000. (Blaine's speech, February 6, 1868.) If Congress shall indorse the appropriations asked by a Republican Committee of Appropriations the public burdens will be greatly reduced, but I demand a still greater reduction, so that we may deserve to have it said, "We knew our duty and did it fully."

The Secretary of the Treasury tells us—

"That the contracting of large public debts is unavoidably attended with imprudent, if not reckless, expenditures, and that when those intrusted with or possessing governing power have once enjoyed the luxury of using or expending freely the moneys under their control, (and this is always the case during the progress of expensive wars,) proper economy is afterward exceedingly difficult to be enforced."—*Annual Report, November 30, 1867.*

DEMOCRATIC EXTRAVAGANCE.

And now, sir, I charge upon the administration of Andrew Johnson, supported as it is by every rebel South and every Democrat of the North, a deliberate purpose to oppress the people by extravagant and profligate public expenditures.

The Secretary of the Treasury asks for appropriations for the fiscal year ending June 30, 1869, as follows:

For the civil service.....	\$51,000,000
For pensions and Indians.....	35,000,000
For the War Department, including \$25,500,000 for bounties.....	120,000,000
For the Navy Department.....	36,000,000
For the interest on the public debt.....	130,000,000
Total.....	\$372,000,000

(House Ex. Doc. No. 2, 40th Cong. 2d Sess.; An. Rep. Sec. Treasury.)

The pending appropriation bills propose \$276,242,050 32, being a reduction of \$95,757,950 68 on the estimates of the Secretary of the Treasury.

The Secretary of the Navy asked for appropriations for the fiscal year ending June 30, 1869, to carry on ship-building, for the repair of navy-yards, and for expenses, amounting to \$47,317,183 95, (Rep. Sec. Navy, Dec. 2, 1867.) But Congress having revolted at such a demand, he sent in revised estimates, in which he says:

"In the revision the contemplated reduction of the naval and marine forces, in accordance with bills now before Congress, and the expression of the House of Representatives that 'it is unnecessary to proceed further at present in building or equipping ships of war,' has been considered."

"The estimates submitted last year for the navy-yards, and which have this year been repeated—Congress declining at its last session to make the appropriations asked—indicate, in part, what is required to place the navy-yards in an efficient condition, and

at no distant day the improvements called for should be made."

"In view of the obvious disposition to curtail expenditures and to postpone to a future day the improvement of our navy-yards, as well as to reduce the number of men in the Navy and Marine corps, I have thought proper to revise the bureau estimates, and to indicate the appropriations considered essential, and without which the service may be seriously crippled."

"The estimates submitted with my annual report amount to \$47,317,183 95; the revised estimates, herewith transmitted, to \$24,924,478 03; a reduction of \$22,392,705 92."—*House Ex. Doc. 111, 40th Cong. 2 Sess., Jan. 22, 1868.*

The expenditures for the fiscal year ending June 30, 1867, were:

For the civil service.....	\$51,110,027 27
For pensions and Indians.....	25,579,083 48
For War Department.....	95,224,415 63
For Navy Department.....	31,034,011 04
For interest on the public debt.....	143,781,591 91
	\$346,729,129 33

Loans paid.....	\$746,350,525 94
Receipts from loans.....	640,426,910 29

Reduction of loans.....\$105,923,615 65

(House Ex. Doc. 2, 40th Cong. 2 Sess.; An. Rep. Sec. Treas.)

The proposed appropriations will be a reduction of \$70,487,077 01.

Mr. Speaker, I have said I am in favor of a reduction in the proposed appropriations.

DO JUSTICE TO SOLDIERS, THEIR WIDOWS, AND ORPHANS.

The people ask no reduction of bounties to soldiers nor of pensions to them, their widows, or orphans. For one I am in favor of extending and increasing some of them until justice is done to every living soldier and to the family of every one who is dead. I have voted and will again vote to do justice to the needy soldiers of the war of 1812.

HOW TO REDUCE EXPENSES.

And I would economize and provide the means of doing this by a general reduction in the number of officers and in the amounts of some of the salaries and expenditures in nearly every department of the Government.

In many branches of the public service there are thousands of officers whom I would not underrate, but whose duties do not require the talent, learning, or skill of those who print the books and papers that educate the young and the old, or of the mechanic whose genius and intellect, aided by strong arms, create the houses we live in, the steam-engines, ships, and railroads cars that facilitate and carry on commerce and travel, or the implements of husbandry and art which develop the wealth and ornament the land. Many of the offices do not require the talent or skill necessary to till the earth successfully and produce the bread upon which we live. Yet in a large majority of the districts represented on this floor these officers, for the performance of duties less onerous than the labor I have described, are receiving a compensation largely in excess of the rewards of skilled industry. The rewards of labor, I know, should be increased. But I know of no rule of justice which will not compensate the various forms of labor equally with official duties requiring no greater learning and skill, and official salaries should be conformed to that standard. But what is the proper mode of retrenching?

WHERE TO BEGIN RETRENCHMENT.

Mr. Speaker, I would begin here in this Capitol. I would cut down the salaries of members of Congress.

In a speech which it was my privilege to make in this House December 20, 1866, in favor of a bill I introduced for that purpose, I gave my views fully, and I need not repeat them now. That bill did not receive a favorable consideration.

On the 25th of March, 1867, I introduced another bill, now pending in the Committee of the Whole, to restore the salary of members of Congress to what it was prior to the increase,

but to cut down mileage one half. The gentleman from West Virginia [Mr. HUBBARD] has introduced a joint resolution, now before the Committee on Appropriations, proposing a reduction in the annual salary and mileage. On two other occasions I have urged a reduction of mileage—on the 26th of March, 1867, and February 7, 1868.

The argument used against this is that the pay now allowed in currency is no greater than the former pay in gold; that the order of talent employed here in many cases could earn more in other pursuits; that the law which increased the pay cut down mileage one half, and so equalized the compensation of members without materially increasing the aggregate expenses; and finally, if the suggestion be entitled to respectful notice, we are told that members in favor of a reduction may decline to receive the increased salary. My views are already known; and I will only now repeat that if it be a sacrifice on our part to reduce the compensation it is one we ought to make in view of onerous taxation, and to put us in a position consistently to reduce salaries generally. Every effort at reduction is met with the objection that our own pay should be reduced; and the evil is not remedied if one or a dozen members should decline to accept the compensation fixed by law. If a single member should do so only one dollar in every two hundred and forty-two would be saved to his constituents. They would still be taxed to pay all others the full salary, while they would receive none of the benefits accruing therefrom.

THE NEXT STEP IN RETRENCHMENT.

The next step in retrenchment, in my judgment, should be more sweeping in its character.

There is one fact well known here not so generally understood by the people.

Each standing committee in Congress represents and has charge of some one branch of the public service, which is also represented itself by a department of the Government. Thus the Judiciary Committee, of which I have the honor to be a member, is charged with the duty, among others, of supervising bills affecting the courts and law officers of the Government. The Committee of Ways and Means has charge of the internal revenue laws, and in part passes on matters affecting the Treasury, and especially that branch of it known as the internal revenue department. So various other committees have charge of military and naval affairs, public lands, commerce, pensions, &c. The duties of the Committee of Ways and Means and the Departments of the Government it represents involve more labor and expense and require greater responsibilities than the whole government of several of the States.

No one member of Congress ever did or ever will understand all the details of bills reported by all the committees, much less of the Departments of Government they represent. This Government is a vast and complicated machinery.

We are compelled to rely on the reports of committees in very many matters to govern our votes.

Now, sir, as no one member can learn all the details of needed retrenchments, we should require each Cabinet officer to report what reductions of expenses can be made in his Department, and instruct each standing committee of the House to report such bills affecting the public service as will reduce expenses to the lowest point compatible with justice and the national interests. This mode, I believe, will be effectual; any other, I fear, will be a failure.

HOW SOME EXPENSES INCREASE.

I will present a few examples of the mode in which an increase has been made in some Departments, and that will serve to illustrate how they and others may be remedied.

In the naval appropriation act of April 17, 1866, a clause was inserted repealing the act

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of March 3, 1835, prohibiting certain allowances to naval officers. (14 Statute, 38.) The result is an increase of a million or two in naval expenditures.

A reference to other statutes will show an increase in other expenditures after the war is over and prices receding. (Act of March 3, 1835, 4 statute, 755, sec. 1; act of July 16, 1862, 12 statute, 686; act of July 28, 1866, 14 statute, 322, sec. 8; act of February, 28, 1867, 14 statute, 416; act of March 3, 1857, 11 statute, 252, sec. 1; act of April 1, 1864, 13 statute, 39, sec. 3.)

REVISE THE ESTIMATES.

The Secretary of the Navy heard the distant thunder and gave us a specimen of "revised estimates;" but they should again be revised. The Secretary tells us that 103 vessels are now in use, with 898 guns, 49 iron-clads are laid up, and 86 are not completed or repairing.

One of the best business men of the nation, familiar with the foreign and domestic commerce of the country, E. B. Ward, of Detroit, in a recent publication, says:

"I took especial pains to ascertain what reductions ought to be made in the War and Navy Departments, and, so far as I could, in the civil service, and I am entirely satisfied that the number of ships in actual service should be reduced from one hundred and three to not over thirty in all, and that the whole naval expenditures ought not to exceed \$12,000,000 for the current year. The great naval expedition now on exhibition in Europe ought to be ordered home at once and laid up; twenty ships are all that are now needed to protect our interests abroad."

That, Mr. Speaker, is the kind of retrenchment we need.

EXTRAVAGANCE OF TREASURY DEPARTMENT.

The Secretary of the Treasury recommends "that retrenchment be introduced into all branches of the civil service;" by which he evidently means in all branches except his own, for he proceeds to say:

"The Secretary also renews the recommendation contained in his last annual report, of a reorganization of the bureaus of the Department, and most respectfully and earnestly solicits for it the favorable action of Congress. The compensation now paid is inadequate to the services performed, and simple justice to gentlemen of the ability and character of those employed in the Department requires a liberal addition to their present compensation. Since the rates of compensation now allowed were established the duties, labors, and responsibilities of the bureaus have been largely increased, and the necessary expenses of living in Washington have been more than doubled."—*Annual Report, November 30, 1867.*

It was under the influence of counsels like this that the joint resolution of February 23, 1867, gave an "extra allowance" by an increase of twenty per cent. for one year, from June 30, 1866, in the pay of most of the civil employes at Washington whose salaries do not exceed \$3,500 per year, (14 Statute, 569,) and which cost the nation nearly two million dollars, being more than double the whole annual salary of all the members of the House of Representatives, and five times as much as the increase in their compensation by the act of July 28, 1866.

The proposition is renewed to continue this "extra allowance," and here, too, is ample room for the exercise of economy. The expense of collecting our revenue is made too large by the number and pay of some officers. On the 25th February, 1867, I had the honor to propose a reduction which would have saved to the nation annually nearly two million dollars.

REDUCE THE TAXES.

The people have been taxed too heavily. For the fiscal years ending June 30, 1866 and 1867, respectively, the receipts into the Treasury were:

	1866.	1867.
From internal revenue.....	\$310,906,984 17	\$265,920,474 65
From customs (coin).....	179,046,651 58	176,417,810 88
From public lands.....	665,031 03	1,163,575 76
From miscellaneous sources.....	67,119,369 91	42,824,852 50
From direct taxes.....	1,974,754 12	4,200,233 70
	\$559,712,790 81	\$490,526,947 49

(House Ex. Doc. 81, 2d Sess. 40th Cong.; Wells's Rep., January, 1868.)

This is over fourteen dollars *per capita* of population.

WHY TAXATION SO GREAT?

This enormous taxation was secured through the gross demands and worse estimates of this Democratic administration.

The following are the receipts as estimated by the Secretary of the Treasury to guide the action of Congress, and the actual receipts thereby secured:

For fiscal year ending June 30, 1866.

	Estimated receipts.	Actual receipts.
From customs.....	\$70,000,000	\$179,046,651 58
From internal revenue.....	300,000,000	310,906,984 17
From lands.....	1,000,000	665,031 03
From miscellaneous.....	25,000,000	69,094,124 03
Total.....	\$396,000,000	\$559,712,790 81
Difference.....		\$163,712,790 81

(Secretary's Report, December 6, 1864, p. 12.)

For fiscal year ending June 30, 1867.

	Estimated receipts.	Actual receipts.
From customs.....	\$100,000,000	\$176,417,810 65
From internal revenue.....	275,000,000	265,920,474 88
From lands.....	1,000,000	1,163,575 76
From miscellaneous.....	20,000,000	45,025,086 20
Total.....	\$396,000,000	\$490,526,947 49
Difference.....		\$94,526,947 49

(Secretary's Report, December 4, 1865, p. 20.)

The Committee of Ways and Means have not yet reported a bill for the reduction of internal revenues and taxation; but the expenses of the nation should be so reduced as to raise from all sources not more than \$275,000,000 annually. The amount collected in 1867 was \$490,526,947 49. This would make a reduction for the fiscal year ending June 30, 1869, of \$215,526,947 49.

The Secretary of the Treasury estimates the receipts for the fiscal year ending June 30, 1869, as follows:

From customs.....	\$145,000,000
From internal revenue.....	205,000,000
From lands.....	1,000,000
From miscellaneous sources.....	30,000,000
	\$381,000,000

If Congress should only reduce expenses to \$300,000,000, and if his estimate from customs, lands, and miscellaneous sources should be realized, making, as they do, \$176,000,000, the internal revenue can be reduced to \$124,000,000. But if \$150,000,000 of internal revenue should be required, Commissioner Wells estimates that this can be collected as follows:

From distilled spirits (new system).....	\$50,000,000
From fermented liquors.....	6,000,000
From tobacco and its manufactures.....	20,000,000
From income.....	35,000,000
From stamps.....	17,000,000
From legacies and successions.....	2,000,000
From banks, railroads, &c.....	10,000,000
From salaries.....	1,000,000
From gross receipts, including receipts of telegraph, express, and insurance companies, passenger receipts of railroads, steamboats, stages, lotteries, and theaters.....	7,440,000
From miscellaneous (schedule A, &c.).....	2,100,000
From fines, penalties, &c.....	1,460,000
	\$152,000,000

(Wells' Rep. Jan. 1868; House Ex. Doc. 81, 2d Sess. 40th Cong., p. 41.)

And this, the Commissioner says—

"Would permit the removal substantially of nearly all of what are understood to be industrial taxes, and also offset the amount derived during the last fiscal year from the tax on raw cotton."

And he recommends a system which will remove annual taxes heretofore collected as follows:

Raw cotton.....	\$23,770,000 00
Iron and manufactures of.....	7,920,000 00
Cotton manufactures.....	9,230,000 00
Woolen manufactures.....	4,800,000 00
Other textiles.....	1,800,000 00
All other manufactures, except liquors and tobacco.....	44,020,000 00
Total.....	\$91,540,000 00

(Report. p. 14.)

This will approximate a system of taxation which will relieve great burdens, increase industry, and on this subject give satisfaction to the people.

In brief, then, on behalf of my constituents, I demand—

"That the Army, at the earliest practicable moment, be reduced to the minimum required to garrison forts and preserve the peace on the frontiers and along the lines of the Pacific roads; that the expenses of the Navy be reduced as far as can be done consistently with the protection of our commerce and the maintenance of our reputation as a maritime Power; that retrenchment be introduced into all branches of the civil service, and that there be no payment of damages which were unavoidable incidents of war in the rebel States."

THE FINANCIAL POLICY OF THIS DEMOCRATIC ADMINISTRATION.

The financial policy inaugurated by President Johnson and his Secretary of the Treasury, Mr. McCulloch, and by the aid and sanction of the Democratic members of Congress, has unnecessarily added to the public burdens, and is now working ruin to the business interests of the country. The public debt was created with gold at a high premium and war material and supplies at more than double the prices of former years.

On the 31st August, 1865, the legal-tender Government currency in circulation was:

United States notes.....	\$433,160,569 00
Five per cent. notes.....	33,954,230 00
Compound-interest notes.....	217,024,160 00
Total.....	\$684,138,959 00
In addition there was fractional currency.....	\$26,344,742 50

Making a total Government currency of.....\$710,483,701 50

(House Ex. Doc. 2, 1st Sess. 40 Cong.; 2 Rep. Sec'y Treas'y, Nov. 30, 1867.)

On the 1st day of February, 1868, the legal-tender Government currency in circulation was:

United States notes (greenbacks).....	\$356,000,000 00
Compound-interest notes.....	53,145,170 00
Total.....	\$409,145,170 00

In addition to this there was—

Fractional currency.....	\$32,087,311 51
Postal currency.....	159,127 00
Total.....	\$441,391,608 51

Thus, from August 31, 1865, to February 1, 1868, the Government currency was reduced \$269,092,092 99. Much of this reduction was effected under the act of April 12, 1866, voted for by nearly every Democrat in this House, and which I opposed as well as I was permitted, (57 Globe, second session Thirty-Ninth Congress, part 2, pages 1466, 1608, 1614.) A bill suspending the power of the Secretary of the Treasury further to contract the currency finally passed both Houses of Congress January 16, 1868, which the President, though not approving, permitted to become a law by retaining more than ten days. But within the next ten months \$53,145,170 of compound-interest legal-tender notes will become due and be paid or changed into other securities and cease to be money or a legal tender in payment of debts. (Act March 2, 1867; Annual Report Secretary of the Treasury, November 30, 1867, page 6.) There will then be outstanding less than \$300,000,000 of legal-tender national currency, and the national bank circulation is now about \$300,000,000. The business of the country demands at least \$800,000,000 of paper money.

In January, 1861, the gold and silver coin in the United States was \$385,000,000, and the actual bank-note circulation was \$202,005,767, making a total of \$587,005,767, and with \$800,000,000 of paper money now not more than \$600,000,000 would be in actual circulation, because the money held in reserve by banks and in the Treasury now exceeds \$200,000,000. With increased prices and national taxes more money is required now than prior to the rebellion. Congress has adopted the wise policy of prohibiting the further con-

traction of the currency, and trade and industry would be stimulated and made productive after the compound-interest notes shall be canceled by a further increase of legal-tender notes to supply in part the amount withdrawn from circulation by the Secretary of the Treasury.

OBJECTIONS TO A REDUCTION OF CURRENCY.
A reduction of the currency is objectionable because—

1. The conversion of legal-tender notes bearing no interest into bonds bearing interest increases the burden of taxation.

2. It diminishes the prices of labor and property, and thereby requires more days' work and more of the products of industry to pay the interest and principal of the national debt and all other debts, taxes, and salaries of officers than if an adequate currency is maintained and the standard of prices preserved to which the business of the country has been adjusted and adapted, and which is now below that upon which the public debt was contracted.

The Secretary of the Treasury says:
"The prices of most kinds of property in the United States advanced near threefold during the war." "If the paper currency should during [the next year] be reduced fifty per cent, and prices of property should decline correspondingly, would it follow that the real value of property would thus decline? In the one case the value of the currency would be reduced in proportion to its increase in amount. In the other, the currency would be increased in value as it was diminished in amount. The increase or decrease of prices would, if no counteracting causes intervened, be the natural result of the increase or decrease of the measure of value, while real values remained unchanged."—*Report*, page 15.

A decline in prices is not a decline in values, says the Secretary! But a decline in prices affects no reduction in the amount of public or private debts. A decline in prices reduces the paying value of labor and property, and this is no small matter with \$2,600,000,000 of national debt, with \$700,000,000 of State, municipal, and corporate debts, and untold millions of individual indebtedness, and with annual taxes, State and national, amounting to \$600,000,000.

It is sometimes said that greenbacks are an irredeemable currency. True, the nation cannot now pay gold. But they are redeemed every year in paying taxes and are again paid out, giving a currency alike useful and acceptable to the people.

DEMOCRATIC OPPOSITION TO GREENBACKS.

The Democratic party during the war opposed the issue of our "greenback" currency—declared that it would become worthless, denied the constitutionality of the legal-tender law, and since in Congress its members voted almost solid for its speedy withdrawal. (Globe, vol. 57, p. 1014.) Their President and Secretary of the Treasury now demand that we shall continue the process of contraction which, in its progress, has sent the premium on gold up from twenty-five to forty per cent., and produced wide-spread ruin and bankruptcy already. It has been recently stated—

"That about one hundred thousand people are thrown out of work in Massachusetts alone; in New Hampshire twenty thousand; in Maine ten thousand; in Connecticut thirty thousand—in all, about one hundred and sixty thousand persons. In Pennsylvania mills are being closed, workshops stripped of their hands, wages reduced, and employes, when kept, put upon half time."

Capital has laid idle because business men were alarmed and unable to embark in enterprises that would give employment to labor and add to the wealth of the country.

THE RUINOUS DEMOCRATIC POLICY OF CONTRACTION.
Yet all the while this "Johnson Democratic" administration has been urging contraction.

The Secretary of the Treasury, in his last annual report, says:

"The measures regarded by him [the Secretary] as important if not indispensable for national prosperity, and, as a consequence, for a permanent resumption, are the funding or payment of the balance of the interest-bearing notes, and a continued contraction of the paper currency."

His "funding" and "contraction" mean to convert the currency interest debt and the non-interest-bearing greenbacks into gold interest

six per cent. bonds, thus increasing the burden, but destroying the money with which to discharge it. For one, sir, I repudiate the policy of this administration in all its parts.

THE NATIONAL DEBT.

And now, Mr. Speaker, a few words as to the national debt.

Upon this subject the questions which mainly engage public attention are *when* and in *what* shall it be paid, and shall it share the burden of taxation? On the 20th February, 1868, the Republican State convention of Indiana adopted a "platform of principles," in which it is declared:

"Third. The Government of the United States should be administered with the strictest economy consistent with the public safety, and internal revenue should be so laid as to give the greatest possible exemption to articles of primary necessity, and fall most heavily upon luxuries and the wealth of the country, and all property should bear a just proportion of the burden of taxation.

"Fourth. The public debt, made necessary by the rebellion, should be honestly paid, and all the bonds issued therefor should be paid in legal tenders, commonly called greenbacks, except where, by their express terms, they provide otherwise, and paid in such quantities as will make the circulation commensurate with the commercial interests of the country, and so as to avoid too great inflation of the currency, and an increase in the price of gold.

"Fifth. The large and rapid contraction of the currency, sanctioned by the votes of the Democratic party in both Houses of Congress, has had a most injurious effect upon the industry and business of the country, and it is the duty of Congress to provide by law for supplying the deficiency in legal-tender notes, commonly called greenbacks, to the full extent required by the business wants of the country."

The national debt on the 1st of February, 1868, was \$2,651,498,601 98, as follows:

"Five-twenty" bonds, redeemable five years from date, but which are not required to be paid for twenty years, with six per cent. interest, payable in gold.

Amount redeemable April 30, 1867.....	\$514,780,500 00
Amount redeemable October 31, 1869.....	129,443,800 00
Amount redeemable June 30, 1870.....	330,934,150 00
Amount redeemable October 31, 1870.....	195,927,250 00
Amount redeemable June 30, 1872.....	227,403,150 00
	1,398,488,850 00

"Seven-thirty Treasury notes"—Interest seven and three tenths per cent. in currency.

Treasury notes payable in three years from date, all due June and July, 1868, but convertible by law into five-twenty bonds, and which may therefore be redeemable July, 1873, or payable July, 1898.....	216,696,500 00
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Total of these two classes.....\$1,615,185,350 00

"Ten-forty" five per cent. bonds, interest and principal in gold, redeemable, at the pleasure of the Government, February 28, 1874, or may run to 1904.....\$180,717,200 00

Bonds not due until 1881, interest payable at six per cent. in gold.....264,316,550 00

Total of these two classes.....\$445,033,750 00

Debt bearing no interest.
United States notes called "greenbacks".....\$356,000,000 00

Fractional currency.....32,087,311 51

Total.....\$388,087,311 51

The residue of the debt consists of six per cent. bonds due in 1867-1868, Navy pension fund, compound-interest notes, Treasury notes, three per cent. certificates, matured debt, and gold certificates, &c., \$203,192,190 47.

THE TEN-FORTY BONDS—THE BONDS OF 1881.

Of this debt, it is conceded on all hands that the ten-forty bonds are payable, principal and interest, in gold, and that the bonds payable in 1881 cannot, by the law under which they were issued, be sooner paid. (Act of March 3, 1864; act of March 3, 1863.) The greenbacks and fractional currency should now remain undisturbed.

MISCELLANEOUS MATURED DEBT.

The several classes of debt, making the aggregate of \$203,192,190 47, including compound-interest notes, will be paid out of funds in the Treasury, or are already provided for.

THE FIVE-TWENTY BONDS.

The great body of the debt, \$1,615,185,350, consists of five-twenty bonds and seven-thirties, convertible by law into five-twenties. With

regard to all this, the Secretary of the Treasury proposes no change, but demands that it shall run the full period of twenty years, and in his last annual report he says:

"The bonds should be paid, principal as well as interest, in coin."—*Annual Report*, page 23.

THE TRUE INTEREST OF THE BONDHOLDERS.

Mr. Speaker, I have no sympathy with the men who would attack the capitalist or undervalue the patriotism of those who, in the perilous hours of the rebellion, came forward and contributed to aid the Government in carrying on a war which saved the life of the Republic. I would stand by the contracts we made with them, and with the widows and orphans whose means are invested in Government bonds; but I warn them that their only safety is to accept justice, make no demand beyond their contract, and assume a share in the burden of Government. If they fail in this, and terrible retribution follows, no part of the responsibility will be mine.

THE FIVE-TWENTIES MAY BE PAID IN GREENBACKS.

The original act of Congress authorizing the issue of five-twenty bonds is that of February 25, 1862. That act also authorized the issuing of "United States notes," commonly called "greenbacks," and provided that:

"Such notes" * * * "shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall be lawful money and a legal-tender in payment of all debts, public and private, within the United States, except duties on imports and interest aforesaid."

And this was printed in substance on every greenback issued, and was notice to all the world of what the contract was and is with the holders of this class of bonds. Congress refused to insert a provision making the principal payable in coin. (Brooks's speech in House November 27, 1867; also, BURLEIGH'S—see Globe, volume 53, page 3187, in House, June 22, 1864.) The interest is payable in coin—the principal in any "lawful money." The act of March 3, 1864, authorizing the issue of ten-forty bonds made them payable, principal and interest, in coin.

It is not for us to determine the wisdom of these laws; we are to deal with contracts as we find them. Congress carefully omitting to make the principal of the five-twenties payable in coin and expressly declaring greenbacks a "legal tender in payment of all debts, public and private," except where otherwise specified, may have supposed that the same currency which paid the soldiers and which now pays pensions to them, their widows, and orphans—which pays all other loans, public and private, might equally pay this great debt of the nation.

All the States, except Massachusetts and California, pay in greenbacks the principal and interest of State debts contracted before they were known, and \$700,000,000 of public indebtedness—State, city, county, township, railroad, and other bonds—all rest on the same form of payment.

The Treasury notes issued under the act of July 17, 1861, before greenbacks were known, were refused payment in gold when they matured three years from date. About six hundred and eighty-four thousand four hundred dollars of the \$139,999,750 issued were paid in greenbacks and the residue converted into bonds.

THIS QUESTION MATERIAL NOW.

But it may be asked, how is it material now to inquire into the mode of paying the five-twenty bonds? I answer, by law the Government has the right to redeem these bonds after five years from date or elect to let them run on fifteen years longer.

If \$1,615,185,350 of debt can be so renewed as to save to the taxpayers only one per cent. per year, it will amount to \$16,000,000 in gold,

equal to nearly twenty-three million dollars in currency, which in fifteen years makes an aggregate of \$345,000,000.

If the debt is payable in gold it must run to maturity at six per cent. interest in gold, for it is impossible now to procure the means of paying this great debt; but if it may lawfully be redeemed in "greenbacks" it can soon be paid or funded at a less rate of interest. But shall "greenbacks" be issued to pay at once the whole debt? I answer no. The whole debt is not yet redeemable. Of the \$1,615,185,350 of bonds \$514,780,500 are now redeemable, and the residue at different periods. The amount of currency should be measured by the business wants of the country, and beyond this there should be no inflation, because this would disturb all values, change the relation of debtor and creditor, depreciate our currency, and produce bankruptcy and ruin far beyond any saving of interest effected on the public debt. It should be remembered, too, that such an issue of greenbacks would not pay the debt. They would constitute a liability to be paid sooner or later by taxes collected from the people, for no one anticipates an endless debt in any form. Our policy is not to inflate and depreciate the currency, but to consult the substantial interests of the productive industry of the country.

But the Government has the right to offer to the holders of the bonds now redeemable, and those hereafter to become so, the option to receive payment in "greenbacks" or in Government bonds running on long time and at a less rate of interest than is now payable. If the Treasury, from taxes or otherwise, cannot supply the greenbacks they can be borrowed, as they were during the rebellion, either on new bonds payable in greenbacks or gold, as may be most advantageous to the public.

This will work no injustice to bondholders. It is a faithful performance of the national obligation. The right of redemption was reserved to be exercised for the public benefit. It leaves the investment in bonds, at least, fairly remunerative. They were paid for, not in gold, but in greenbacks. The average price of gold and greenbacks has been thus stated for four years preceding 1866:

	Average price of gold in greenbacks.	Average value of greenbacks in gold.
1862.....	113 1-5	89¢
1863.....	145¢	68 4-5
1864.....	203¢	50¢
1865.....	132¢	64 15-16

The average price of gold in greenbacks for the four years was \$1 48 9-10, and the average value in gold of greenbacks was \$0 68 5-16. (Hays' Report to Secretary of the Treasury, January, 1866; New York Social Science Review, April, 1866, vol. 2, Nos. 1 and 2.)

Public creditors who paid for bonds with greenbacks at sixty-eight in gold have no right to complain if they are paid in greenbacks worth, as now, seventy-one cents in gold. The interest they have received at six per cent. in gold has been worth eight per cent. in greenbacks, and has been free from all State tax. With greenbacks at sixty-eight in gold when loaned to the Government the gold value invested has produced a rate of interest equal to nearly nine per cent. in coin.

The public debt, so far as it cannot be paid, should be put on a less expensive rate of interest as rapidly as it is or may become redeemable or may be practicable. This can be done and the bonds left at par in currency. The bonds are now at a premium. The quotations at the stock-board in New York for a given day in February, 1867 and 1868, were:

	Feb. 6, 1868.	Feb. 8, 1867.
United States 6s 1881, coupon.....	111½	108½
United States 5-20s 1862, coupon.....	111½	108½
United States 5-20s 1864, coupon.....	109	106
United States 5-20s 1865, coupon.....	110	107½
United States 5-20s 1865, new coupon.....	107½	105½
United States 10-40s, new coupon.....	104½	100½
United States 7-30s June.....	107½	105½
United States 7-30s July.....	107½	105½

Prior to the war our national six per cent. bonds commanded a premium of sixteen per cent.

Gold is now worth a premium of over forty per cent. on greenbacks.

THE RATE OF INTEREST.

If new bonds, bearing four per cent. interest in coin, or five per cent. in currency, at the option of the Government, should now be issued in exchange for greenbacks, the holders would have a profitable investment. If greenbacks should be estimated at eighty cents and gold at 125 the annual interest would be five per cent. gold interest on gold value invested; five per cent. currency interest on currency value invested; six and one fourth per cent. currency interest on gold value invested; and if the principal of the bonds be made payable in gold there would be the additional profit between the currency investment and the gold payment.

The legal rate of interest in most of the States does not exceed six per cent. in currency, and in some cases subject to tax. It is true sometimes the limitation and the tax are alike evaded; but nations should always borrow money at lower rates than individuals, because they pay without the risks and expenses attending individual loans.

On the 6th January, 1866, British three per cent. consols were worth in London eighty-seven and one eighth per cent. in gold, equivalent to a rate of interest of three and four sevenths per cent. A British consol bearing three and four sevenths per cent. interest, was therefore worth par. On November 1, 1867, consols sold at ninety-four and a half cents. If it be conceded that the greater abundance of capital there will secure money at a less rate of interest, our national credit should at least command equal confidence.

It is true, also, that in this country the annual increase of wealth is greater than in England, and hence we can afford to pay a larger interest. In 1861 the real and personal property in England was estimated at \$31,512,000,000, with an annual increase of three per cent. The value of real and personal estate in the United States by the census of 1860, was \$16,159,616,068.

The gross earnings of the entire people during the fiscal year 1860, were estimated at \$6,794,624,000; the consumption at \$6,085,463,259; net earnings, \$709,160,781; being five per cent. on the capital value of all the property. (Social Science Review, vol. 2, Nos. 1 and 2, page 29, for 1860.)

The actual increase in wealth is thus shown by the statistics from the Census Bureau:

Decades.	Population.	Valuation.	Increase, per cent.	Decades.
1790 to 1850	3,939,827	\$619,977,247		1850 to 1860
1850 to 1860	22,191,876	7,133,790,223	1,061	1860 to 1870
1860 to 1870	31,443,321	16,159,616,068	128 45-100	1870 to 1880
*Returned by individuals.				
		\$19,080,120,289	167	1880 to 1890

Real and Personal Estate in the United States.

But this includes additions by new farms, immigration, &c., so that the net earnings of

the people do not exceed five per cent. on the total capital, and the nation, therefore, cannot afford to pay exorbitant rates of interest.

WHY ENGLAND WAS OUR ENEMY—CAUSE OF HIGH RATE OF INTEREST.

During the rebellion various causes combined to require a high rate of interest. England sent out from her ports pirate ships to prey upon our commerce, while the great Democratic party of the North, scarcely less piratical, attacked the national credit, destroyed all foreign market for our bonds, and induced our European rivals to aid the rebel cause. The capitalists of Europe, save only in Germany, to a limited extent, refused to buy our bonds and the loyal people of the Republic, almost alone and unaided, supplied the sinews of war. The life of the nation was in peril and doubt. But now, with the Republic saved, new loans should be effected on better terms. The first loans made on the national credit, soon after the Government was organized, were mainly at an annual interest of six per cent., and now in the maturer years of the Republic better terms should be secured.

KEEP THE BONDS IN THIS COUNTRY.

When the national bonds are renewed our policy should be to discourage their sale abroad by providing that if so sold the rate of interest should not thereafter exceed three per cent. in currency.

It is estimated that \$600,000,000 of our bonds are now in Europe sold at seventy cents on the dollar for brandies, wines, silks, and other fabrics. (See Finance Rep. 1856, p. 12.)

On this we are to pay \$36,000,000 annual interest in coin, equal to \$45,000,000 in currency, and if we adopt the theory of Mr. McCulloch, ultimately pay the principal in gold.

A nation whose bonds are sold at seventy, to be paid in par after receiving that seventy in commodities which destroy its own productive industry is on the high road to bankruptcy.

Europe holds \$200,000,000 of our State, city, and railroad bonds, requiring annually \$12,000,000 for interest.

During the past year we imported ninety million pounds of wool, worth \$25,000,000 in gold. For the three years ending June 30, 1867, our imports were \$1,038,669,207 gold value, equal to nearly fifteen hundred million dollars in currency, and in four years coin has been carried out of the country to pay for foreign goods amounting to \$302,690,253. (House Ex. Doc. 2, 2d Sess. 40th Cong., Delmar Rep., 396.)

For the year ending June 30, 1867, the balance of foreign trade was \$51,000,000 in gold against us, besides \$48,000,000 for interest on bonds. On the 30th November, 1867, our fifty-two six per cent. bonds sold in London at seventy and five-eighths cents, while New Brunswick and Cape of Good Hope six per cents. sold at 105, Russian five per cents. at eighty-five, and Brazilian five per cents. at seventy-five. (House Ex. Doc. 81, 2d Sess. 40th Cong., 24.)

Our policy should be to reduce our imports, put an end to the exports of gold, discourage the ruinous traffic in our bonds abroad, and supply more extensively the wants of our people with the products of our own industry.

If the capitalists of Europe refused our bonds in war they should not reap golden harvests from them now in time of peace. I agree with the Secretary of the Treasury, who, in his annual report, says:

"Every tax-payer is personally interested in having the public debt placed at home, and at a low rate of interest."

Within the hour allotted to me I cannot discuss the subject of taxation, and I leave it, therefore, for another occasion.

Great as is our debt, the American people will maintain inviolate faith, preserve the national honor untarnished, and pay it to the uttermost farthing. If we now adopt a wise

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National Expenditures, &c—Mr. Lawrence.

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financial policy the nation will go on advancing in its career of unexampled prosperity, and the ages to come will attest the statesmanship of our times.

For the purpose of illustrating what I have said I ask to incorporate in the Globe with my remarks the following statistical tables:

*Statement showing the legal rates of interest in the several States, and the market rates of first-class commercial paper, sixty days, indorsed in the principal cities; also, the rates of taxation for State purposes, levied on assessed value of real and personal property.**

States.	Legal rates of interest.	Special rates of interest allowed by law.	Market rates of interest on first class commercial paper, sixty days, indorsed as returned Nov. 1, 1866. No later data.	Rates of taxation per \$1,000 of assessed value of real and personal property.*
	Per cent.	Per cent.	Per cent.	
Alabama.....	8	-	-	-
Arkansas.....	6	-	-	-
California.....	10	any rate agreed.	15	\$9 60
Connecticut.....	6	-	6 to 8	3 50
Delaware.....	6	-	6	-
Florida.....	6	8	-	-
Georgia.....	7	-	-	-
Illinois.....	6	10	10	7 00
Indiana.....	6	-	-	6 42
Iowa.....	6	10	10	2 00
Kansas.....	10	20	12	-
Kentucky.....	6	-	9	4 00
Louisiana.....	5	8	-	3 00
Maine.....	6	8	7-3-10	-
Maryland.....	6	-	-	3 00
Massachusetts.....	6	any rate agreed.	5½	4 40
Michigan.....	7	10	8 to 8½	8 50
Minnesota.....	7	any rate agreed.	10	6 00
Mississippi.....	6	10	-	-
Missouri.....	6	-	-	3 00
Nebraska.....	10	15	-	-
New Hampshire.....	6	-	-	-
Nevada.....	10	any rate agreed.	-	-
New Jersey.....	6	-	-	-
New York.....	7	-	6	5 00
North Carolina.....	6	-	-	-
Ohio.....	6	-	9	-
Oregon.....	10	-	-	5 50
Pennsylvania.....	6	-	9	3 50
Rhode Island.....	6	un- less differ- is specified.	ent rate	-
South Carolina.....	7	-	-	4 50
Tennessee.....	6	-	-	-
Texas.....	8	12	-	-
Vermont.....	6	-	-	4 50
Virginia.....	6	-	12	-
West Virginia.....	6	-	6	4 20
Wisconsin.....	7	12	10	5 75

Statement showing the circulation of the banks in the United States on or about January 1, 1854, to 1863, inclusive, as published on page 233, Finance Report for 1863.

1854.....	\$204,689,207
1855.....	186,952,223
1856.....	195,747,950
1857.....	214,778,822
1858.....	155,208,344
1859.....	193,806,818
1860.....	207,102,477
1861.....	202,005,767
1862.....	183,792,079
1863.....	238,677,218

For estimates of coin and bank-note circulation see Finance Report, 1863, page 224, and Finance Report, 1861, page 62.

The coin in the Treasury and public depositories is about.....	\$98,500,000
Coin estimated in circulation in the far West, California, and Pacific States.....	40,000,000
In private hands, estimated.....	60,000,000
Total.....	\$198,500,000

Table showing the annual production of gold and silver in the United States from the date of the discovery of gold in California to the present time—divided into two periods, namely: 1848-60, and 1861-67, inclusive.

Calendar Year.	Amount.	Total.	Authority.
1848.....	-	-	Hunt's Merchant's Magazine and Commercial Review for March, 1866, page 222.
1849.....	-	-	
1850.....	-	-	
1851.....	\$254,000,000	-	
1852.....	-	-	
1853.....	-	-	
1854.....	-	-	
1855.....	325,000,000	-	
1856.....	-	-	
1857.....	-	-	
1858.....	47,500,000	-	Shipments. From Carman's Review of Pacific States for 1866, San Francisco, 1867, page 24. Product of Mines of Pacific coast, Kellogg's United States Mercantile Register for 1867-8, page 127.
1859.....	47,600,000	-	
1860.....	42,400,000	\$716,500,000	
1861.....	53,000,000	-	
1862.....	58,000,000	-	
1863.....	61,000,000	-	
1864.....	65,000,000	-	
1865.....	69,500,000	-	
1866.....	76,000,000	-	
1867*.....	75,000,000	457,500,000	
Total.....		\$1,174,000,000	

*Estimated.

Table showing the annual coinage of gold and silver in the United States from 1849 to 1867, inclusive.

Calendar year.	Period.	Amount.	Total.
1849.....	-	\$11,122,712	-
1850.....	-	33,847,839	-
1851.....	-	63,388,890	-
1852.....	-	57,845,597	-
1853.....	-	64,291,478	-
1854.....	-	60,713,866	-
1855.....	-	56,296,702	-
1856.....	-	64,540,035	-
1857.....	Jan. 1 to June 30, inclusive.....	26,784,784	-
1858.....	Fiscal year.....	61,123,088	-
1859.....	Fiscal year.....	37,243,575	-
1860.....	Fiscal year.....	26,697,920	\$563,896,486
1861.....	-	83,592,708	-
1862.....	-	64,907,658	-
1863.....	-	24,210,027	-
1864.....	-	24,832,835	-
1865.....	-	31,635,919	-
1866.....	-	39,026,077	-
1867.....	-	41,401,573	309,606,197
			\$873,502,683

Table showing the annual exports, re-exports and imports of gold and silver, from 1849 to 1867 inclusive—divided into two periods, viz: 1849-60 and 1861-67.

Fiscal years.	Exports and Re-exports.	Imports.
1849.....	\$5,404,648	\$6,651,240
1850.....	7,522,994	4,628,792
1851.....	29,472,752	5,453,592
1852.....	42,674,135	5,505,044
1853.....	27,486,875	4,201,382
1854.....	41,281,504	6,939,342
1855.....	56,247,343	3,659,812
1856.....	45,745,485	4,207,632
1857.....	69,136,922	12,461,799
1858.....	52,633,147	19,274,496
1859.....	63,887,411	7,434,789
1860*.....	66,546,239	8,550,135
1861*.....	29,791,080	46,393,611
1862*.....	36,896,936	16,415,052
1863*.....	64,156,611	9,584,105
1864*.....	105,244,350	13,115,612
1865*.....	67,613,226	9,810,072
1866*.....	85,044,071	10,700,092
1867*.....	60,975,186	22,308,345
Total.....	\$953,880,935	\$217,240,944

*From the Woss. Records, November 26, 1867.

Statement showing the Population and bank note circulation of Great Britain and France.

Great Britain.*		
Years.	Population exclusive of Army, Navy, and merchant seamen.	Bank note circulation December returns.
1861.....	28,974,362	£83,167,154
1862.....	29,204,983	£7,102,942
1863.....	29,395,051	38,054,513
1864.....	29,566,316	36,642,501
1865.....	29,768,089	38,550,138
1866.....	29,935,404	39,924,203
Average.....		£38,081,242
France.†		
Years.	Population.	Bank note circulation December returns.
1861.....	37,472,432	£28,030,000
1862.....	-	31,250,000
1863.....	-	30,200,000
1864.....	-	29,690,000
1865.....	-	34,580,000
1866.....	-	38,320,000
Average.....		£32,113,333

NOTE—The specie in circulation in Great Britain was roughly estimated a few years since as £60,000,000, or..... \$300,000,000

To which add average bank circulation £38,081,242, say..... 185,000,000

Total..... \$485,000,000

Which would give an average circulation, per capita, of about \$17.

The specie in circulation in France in 1850 was roughly estimated at about..... \$900,000,000

To which add average bank circulation, say..... 160,000,000

Total..... \$1,060,000,000

Which would give an average circulation, per capita, of about \$28.

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF CURRENCY,
WASHINGTON, October 30, 1867.

Abstract of quarterly reports of the national banking associations of the United States, showing their condition on the morning of the first Monday in October, 1867, before the commencement of business:

RESOURCES.	
Loans and discounts, including overdrafts.....	\$600,608,065 35
United States bonds deposited to secure circulation.....	338,540,150 00
United States bonds and securities deposited to secure deposits.....	38,211,450 00
United States bonds and securities on hand.....	42,173,150 00
Other stocks, bonds, and mortgages.....	21,375,403 92
Due from national banks.....	95,212,308 45
Due from other banks and bankers.....	8,386,000 00
Real estate, furniture, &c.....	20,637,011 95
Current expenses.....	5,295,738 33
Premiums.....	2,758,753 78
Checks and other cash items.....	131,550,948 96
Bills of national banks.....	11,828,056 00
Bills of other banks.....	333,209 00
Specie.....	10,253,114 80
Legal-tender notes and fractional currency.....	100,511,924 83
Compound-interest notes.....	56,565,410 00
Total.....	\$1,496,552,355 97

LIABILITIES.	
Capital stock paid in.....	\$419,973,415 00
Surplus fund.....	65,695,537 01
Undivided profits.....	33,302,032 41
National bank notes outstanding.....	233,804,831 00
State bank notes outstanding.....	4,062,153 00
Individual deposits.....	537,922,575 83
United States deposits.....	23,078,315 71
Deposits of United States disbursing officers.....	4,637,264 92
Due to national banks.....	93,111,240 89
Due to other banks and bankers.....	19,644,940 20
Total.....	\$1,496,552,355 97

JNO. JAY KNOX,
Deputy and Acting Comptroller.

*Statistical Abstract No. 14, published by order of Parliament, 1867.

†Supplement to London Economist, March 9, 1867.

*There are other State taxes in many of the States, to furnish the details of which would involve the making of very lengthy tables.

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Impeachment—Mr. Beaman.

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Acts issued under.	When due.	Issued.	Redeemed.	Outstanding.
1863. March 30.....	1867. June 10.....	\$17,250,000	\$16,038,730	\$311,270
1864. June 30.....	1867. July 15.....	20,000,000	22,290,610	719,380
June 30.....	1867. August 15.....	68,120,000	66,227,930	1,892,070
June 30.....	1867. October 15.....	31,920,000	30,318,100	1,601,900
June 30.....	1868. December 15.....	57,252,000	34,953,180	2,436,820
June 30.....	1868. May 15.....	88,700,000	14,538,750	24,161,250
June 30.....	1868. August 1.....	20,000,000	7,491,880	12,508,120
June 30.....	1868. September 1.....	8,900,000	5,772,710	3,127,290
June 30.....	1868. September 15.....	3,000,000	1,818,010	1,181,990
June 30.....	1868. October 1.....	4,000,000	2,034,620	1,965,380
June 30.....	1868. October 16.....	6,000,000	2,993,250	3,206,750
		\$265,182,000	\$212,038,830	\$53,143,170

Statement showing the amount of compound-interest notes outstanding February 1, 1868; also the acts issued under, and when same become due.

Impeachment.

SPEECH OF HON. F. C. BEAMAN,
OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,
February 22, 1868,

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

MR. BEAMAN. Mr. Speaker, I have on two different occasions—once in the House and once in the Committee on Reconstruction—voted against proceedings for the impeachment of the President. Having regard to the condition of the country, the unsettled state of public sentiment, the sacred character of the presidential office, I have been unwilling to attempt a movement so delicate and so important in its consequences, unless upon the clearest proof, not only of a violation of the law, but of a corrupt intent on the part of the President of the United States in the administration of the executive department.

But on the 21st day of the present month the House and the country were startled by the appearance of an order which I will read:

WAR DEPARTMENT,
WASHINGTON CITY, February 21, 1868.

SIR: General Thomas has just delivered to me a copy of the inclosed order, which you will please communicate to the House of Representatives.

EDWIN M. STANTON,
Secretary of War.

HON. SCHUYLER COLFAX, Speaker of the House of Representatives.

EXECUTIVE MANSION,
WASHINGTON, D. C., February 21, 1868.

SIR: By virtue of the power and authority vested in me, as President, by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully yours, ANDREW JOHNSON.
Hon. EDWIN M. STANTON, Washington, D. C.

This order was by the House referred to the Committee on Reconstruction, who reported it back, accompanied by a resolution for the impeachment of Andrew Johnson, President of the United States, for high crimes and misdemeanors. By the terms of the order the President assumes to remove the Secretary of War from his office and to appoint a Secretary

of War *ad interim*. Two questions arise here: first, had he lawful authority to make the order; second, if he had not the power, was the act performed with corrupt intent? The authority of the President touching appointments, in so far as it is derived from the Constitution, is to be found in article two, section two, of that instrument, in which it is provided that—

"He shall nominate and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

And in the same section it is further provided that—

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session."

It will be seen that the Constitution provides for only two classes of cases in which the President may appoint, the one with the advice and consent of the Senate, (when in session,) the other to fill up vacancies that may happen during the recess of the Senate. It does not, in express terms, authorize him to remove an officer in any case. I do not forget that it has been insisted that the power of the President to remove from office without the consent and advice of the Senate arises by necessary implication; yet I do not stop to discuss the power of removal. But in the order in question the President assumes not only to remove but to appoint on his own responsibility; and this he does, not during a recess of the Senate, but on the day and at the very hour when that body is in session, ready to receive and act upon all proper executive messages. He assumed to appoint without the advice and consent of the Senate, for which, in the Constitution, he had no authority. He did not appoint to fill a vacancy, under the last clause of article two of the Constitution, because, first, there was no vacancy, and secondly, the act was not performed during a recess of the Senate.

It is said that the President created a vacancy by the same act which made the appointment; but this will not help his case, because, if it be conceded that he could remove, the Senate was in session, and no clause in the Constitution, under such circumstances, authorizes him to appoint, and the vacancy would remain until filled by the consent of the Senate.

The language of the Constitution seems to be plain and unambiguous touching the appointing power. What was the intention of its framers? Our fathers were jealous of executive power, and therefore they determined to put a check upon executive appointments. They therefore provide that appointments shall be by and with the advice and consent of the Senate. And yet a contingency might arise in which such consent could not be obtained. There might be a vacancy by death or resignation, or by removal, if you please, occurring in vacation, which the public interest would require to be filled; but even in such a contingency the framers of the Constitution were careful to provide that the appointment should be temporary, by commission to expire at the end of the next session of the Senate.

Now, in view of these provisions of the Constitution, will any candid man assert that the President is authorized, in the presence of the Senate in open session, to create a vacancy in the office of a head of a Department in order to fill it with an officer *ad interim*, thus relieving himself from the plain obligation to consult and advise with that body? What would result from such a construction of the organic law? Simply this, that though appointments by the express terms of the Constitution are to be made by and with the advice and consent of the Senate, nevertheless, by the President's interpretation, he may dispense with the services of a Secretary of War, the officer provided by law, altogether; and in lieu thereof

he may employ a Secretary *ad interim* during his entire term of office. At the commencement of his term he may remove the Secretary of War and appoint an officer *ad interim*. This he may do while the Senate is in session. He fills the vacancy which he himself has created with a creature subservient to his will, and this being done, despite the wishes of the Senate, he may continue this officer *ad interim* during his entire administration.

Such a theory as that of the President needs only to be presented in order to be rejected. It is evident, then, that General Thomas has not been appointed Secretary of War *ad interim* under any authority contained in the Constitution.

But the gentleman from New York [Mr. Brooks] relies upon acts of Congress to sustain the President's position, and quotes from the act of 1792, as follows:

"And be it further enacted, That in case of the death, absence from the seat of Government, or sickness of the Secretary of State, Secretary of the Treasury, or of the Secretary of the War Department, or of any officer of either of the said Departments whose appointment is not in the head thereof, whereby they cannot perform the duties of their said respective offices, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons at his discretion to perform the duties of the said respective offices until a successor be appointed, or until such absence or inability by sickness shall cease."

But it is sufficient to say of this section that the Secretary of War was neither dead, nor absent from the seat of Government, nor sick, whereby he could not perform the duties of his office, and his case is not brought within the statute.

The gentleman from New York also cites from the first section of the act of February 13, 1795, as follows:

"That in case of vacancy in the office of Secretary of State, Secretary of the Treasury, or of the Secretary of the Department of War, or of any other officer of either of the said Departments, whose appointment is not in the head thereof, whereby they cannot perform the duties of their said respective offices, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons, at his discretion, to perform the duties of the said respective offices until a successor be appointed or such vacancy be filled."

Upon this section of the act of 1795 I remark that it is clear that at the time of its passage it was not understood or pretended that the President was invested by the Constitution with an unlimited power of appointment beyond the control of Congress. It was not pretended that Congress could not limit or enlarge or regulate the power to appoint; otherwise this law never would have been passed. And by parity of reasoning it is evident that the Congress of 1795 did not believe that the Constitution gave to the President power to make temporary appointments except as is provided in the last clause of article two of the Constitution.

It must also be remembered that the statute of 1795 is to be construed in connection with the Constitution, and so interpreted as to be in harmony with that instrument. The language of the statute is—

"To authorize any person or persons at his discretion to perform the duties of the said respective offices."

When? Why, "in case of vacancy in the office of Secretary of State," &c., "whereby they cannot perform the duties of their said respective offices." It was intended clearly to provide for cases of emergency when for the time being the vacancies could not be filled in accordance with the provisions of the Constitution. Now, in the case of the Secretary of War there was no vacancy. The same order that assumed to appoint General Thomas Secretary of War *ad interim* undertook to remove Mr. Stanton. The latter was not incompetent to discharge the duties of the office.

And it is very clear that unless you propose to charge the Congress of 1795 with the stupidity and wickedness of attempting to nullify the Constitution of the United States, and with an

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Impeachment—Mr. Orth.

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attempt to authorize the creation of an irresponsible officer *ad interim*, to continue without limit, you cannot believe that the statute was ever intended to cover a case like the one now under consideration. It was never intended to exclude the Senate from a supervising care over Executive appointments. It was never intended to authorize the President to remove officers and make appointments without the advice of that body during its session.

But, suppose you assume that by the act of 1795, the President was authorized to make the order in question, then the answer is, that act is repealed. Was it constitutional to enact a statute giving the power to appoint and regulating the power of appointment? Then it is equally constitutional to repeal such statute and to make other regulations touching appointments. Was it competent to provide by law that the President might appoint a temporary officer or an officer *ad interim*? Then it was equally competent to declare that no such officer should be appointed. Is the tenure-of-office bill unconstitutional because it assumes to interfere with the appointing power? Then the law of 1795 was void for the same reason. Let it be borne in mind that I am not now discussing the power of removal; I am considering the power of appointment without the advice and consent of the Senate when in session.

The first section of an act entitled "An act regulating the term of certain civil officers," approved March 2, 1867, provides—

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

The sixth section of the same act declares:

"That the removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be high misdemeanors, and upon trial and conviction thereof every person guilty thereof shall be punished by a fine not exceeding ten thousand dollars, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate."

Does the law of 1795 authorize the appointment by the President of "a person or persons" in case of vacancy during the session of the Senate? Then the act of 1867 repeals it and makes the appointment or employment of any such "person or persons" a high crime and misdemeanor. It is clear, then, that the order of the President of the United States, whereby he undertakes to remove the Secretary of War and to appoint an officer *ad interim* to fill the assumed vacancy, was unconstitutional, illegal, and void.

Hence we are led to inquire, was this act of the President corrupt and criminal? This question is important, because I frankly admit that a violation of the law by the President would not, of necessity, be ground for impeachment. If under any great, pressing, public necessity the President should go beyond the strict letter of the law by mistake or even with knowledge whilst acting in good faith with the view to avert national danger, for such act he would not necessarily be impeachable.

But was there in this case any such urgent necessity? Was Mr. Stanton incapable of discharging the duties of his office? Was there any malfeasance in office? Was there any vacancy to be filled? Was the Secretary of War a dangerous man? The Senate had just de-

clared that he was not; and had recently disapproved of his suspension. The Senate was in session, and a nomination could have been made and confirmed, if need be, in thirty minutes. Unfortunately for the honor of the President, we have conclusive evidence that he was not trying to obey the law, but, on the contrary, he was seeking to evade—nay to violate it. His correspondence with General Grant is before the House and before the country. This correspondence shows that he knew that the removal of Mr. Stanton was contrary to the wishes of the Senate, contrary to the will of the loyal people of the country. He knew that among all the distinguished men who rendered valuable services to the country during the civil war, no one was more firmly seated in the affections of the people than the Secretary of War.

He had conceived the intention of overthrowing the liberties of his country, and that man who had, with so much ability and fidelity, resisted the rebel hordes, was in his way. He must have some pliant tool in the Department of War through whom he could issue secret orders to the Army. In the recess of the Senate he suspended the Secretary, and on the reassembling of that body, under color of a pretended compliance with the tenure-of-office bill, he communicated his flimsy reasons for the suspension, which were not approved. He was not disappointed by the decision. He knew they would not be approved. He knew that his reasons were invalid and malicious. It was a mere trick to get Mr. Stanton out of office under color of law, and then to keep him out by force. Hence, anticipating the decision of the Senate, he attempts to draw General Grant into a conspiracy to violate the law; but that sturdy soldier had dealt with rebels and traitors before, and he could not be induced to do an improper act even by the desire of the Commander-in-Chief of the Army and the Navy. In this transaction the conduct of the President was not simply illegal; it was intriguing, corrupt, criminal, and an outrage upon all the patriotic sentiment of the country.

I regard the issuing of the order in question as a high crime and misdemeanor in office, for which Andrew Johnson, President of the United States, should be impeached and removed from his high office; yet, in candor, I must say that I do not regard this as the greatest of his offenses. True, I have twice voted against impeachment; but not because I had any doubt that he was an enemy of his country or that he was an insidious usurper. For two years I have been satisfied that he richly deserved impeachment; but until this last act the evidence did not seem to be of that direct, pertinent character, pointing to a distinct, criminal act which would appear to be necessary for the arraignment and trial of the President of the United States.

On the 22d day of February, 1866, his real character and designs became obvious; nevertheless, he attempted, in a certain degree, to mask them under professions of regard for the Constitution and laws; yet he has practically set at defiance the laws of Congress and resisted the restoration of the rebel States.

While professing to execute the reconstruction laws he has been plotting to obstruct them. Whenever he has found a district commander disposed to execute the laws in good faith he has removed him. He has removed loyal civil officers and put rebels in their places. For the greater portion of the thousands of murders that have been perpetrated in the rebel States during the last two years he is responsible. He has denounced the law-making branch of the Government as an unconstitutional body. His entire administration has been characterized by tyranny, corruption, disregard of the Constitution and laws, and a revolutionary spirit; and lately he has been attempting to tamper with the

Army. His attempts upon Grant, Sherman, Thomas, and others show but too plainly his ulterior designs, and we have to thank these patriotic gentlemen that we are not falling under a military despotism.

But the time has arrived for misrule to cease. His boldness has increased and kept pace with the progress of his iniquity, and he has gone on from one step to another until at length his crimes have become so manifest as to produce conviction in the minds of all loyal men. Andrew Johnson, as President of the United States, obstructs the due execution of the laws of the land. He stands in the way of the restoration of thirty-five million people to peace and prosperity. He must be put aside in order that the nation may live.

Impeachment.

SPEECH OF HON. GODLOVE S. ORTH,
OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

MR. ORTH. Mr. Speaker, among the most important principles of republican government, that which we teach our children in their earliest lessons, and which is constantly impressed upon every citizen, is that the laws of the land must be respected. Under the influence of this principle we grow to man's estate, and upon its enforcement is based alike the security of the individual and the perpetuity of the Republic. Habitual respect for law has always characterized our people and made our nation one of the best and strongest of governments—a strength not upheld by the bayonet and the sword, but by the indomitable will of a pure and patriotic people.

Public sentiment, springing from and based upon virtue and intelligence, is more potent than armies or navies, and that which can only be accomplished in other lands by the use of material forces, by bloodshed, and revolution is here obtained by the potent voice of the people, expressed through the forms of law which they themselves have placed upon the statute-book. This is, therefore, a Government of the people, organized by themselves, founded by their own volition, based on the natural rights of man, and erected for the maintenance of those rights and the security of individual and general welfare. The several powers of the Government under our Constitution are divided into the legislative, executive, and judicial departments; the former springs directly from, and is also directly amenable to, the people. In theory, as well as in practice, it represents more nearly than either of the other departments the sovereign will of the people, from whom all political power is derived. The executive and judicial departments of the Government are amenable to the people through the power of impeachment, which, by the Constitution, is reposed in the Senate and House of Representatives, the latter having "the sole power of impeachment" and the former "the sole power to try all impeachments."

By another provision of the Constitution—"The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors."

In my judgment the offenses here contemplated are not merely such "crimes and misdemeanors" as the criminal courts take cognizance of under the laws of the land, but embrace such acts of omission or commission in the discharge of official duty as in the judgment of both Houses of Congress render the officer impeached unfit as the further depository of power. This House, as the grand inquest of the nation, is now considering the subject-matter of

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the pending resolution, declaring that the President of the United States shall be impeached of high crimes and misdemeanors in the exalted official position he now occupies. In the consideration of this question we should exercise the utmost calmness and caution, and deliberate with that spirit of candor and justice befitting the Representatives of a great people, sitting in solemn judgment upon the acts of their Chief Executive. In this spirit we have thus far acted, and I doubt not the same spirit will characterize our proceedings to the end. These are no "Star-Chamber" proceedings, hidden from the outside world. The eyes of the American people, yes, of all Christendom, are upon us, and what we shall do or shall fail to do will undergo the ordeal of the severest and most searching criticism.

In this grand drama there is no place for the partisan—the feelings of the hour must die with the hour—but our acts will rapidly assume the form of solemn records and pass into history, in whose cold and stern spirit they will be examined and approved or condemned. Who, then, is Andrew Johnson, and what are some of his official acts which now demand our attention? These questions can only be answered very briefly, indeed, in the limited time allowed me by the rules of the House.

During the convulsive throes which preceded the outbreak of the late rebellion he occupied a seat in the Senate of the United States as a Senator from the State of Tennessee. In the debates of that stormy period we find him hurling unmeasured anathemas against the embryo traitors who then occupied seats in that Chamber. In season and out of season, in the Senate and out of the Senate, he continued these philippics, which, by their force and virulence, soon attracted the attention of the public.

An ever confiding people, always willing to accord the purest motives, regarded these efforts as the outbursts of patriotism and loyalty, but which, viewed in the light of his subsequent career, are now seen only as the effervescences of personal hatred against those who, while plotting their treason, were unwilling to take him into their councils. Being thus separated from his former political, personal, and sectional friends—a separation made deeper and wider by the rapidly succeeding events of the rebellion—but one course remained to him, and this was to join his fortunes with those who were struggling for the maintenance of the Union.

During the rebellion the separation was complete, and a grateful but woefully deceived people, out of gratitude for patriotism apparently so disinterested, nominated and elected him to the second office in their gift.

He left his home in February, 1865, to assume the reins of office at the national Capitol. It appears from the testimony on the files of the House that while at Cincinnati he had an interview with Colonel Stanley Matthews, during which he remarked to Colonel Matthews, "You and I were old Democrats." Receiving an affirmative response, he continued, "I will tell you what it is, if the country is ever to be saved, it is to be done through the old Democratic party."

I submit, Mr. Speaker, that this most remarkable conversation furnishes a key by which to unlock all the subsequent character, conduct, and actions of Mr. Johnson. The loyal men of the land, who had submitted to every sacrifice, endured every hardship, and periled life and limb to save the Republic; these men who had so generously taken him into their confidence and made him one of their chosen and trusted chiefs; these men, in the language of Mr. Johnson, were unequal to the task of saving the country. If it were to be saved at all it must be through the instrumentality of the old Democratic party. Could unblushing impudence and effrontery go further?

"The old Democratic party alone can save

the country," says the man who was about to assume the duties of that high office, conferred, not by the old Democratic party, but by the men who had rescued the country from the traitorous grasp of that party. Who were the "old Democratic party" who are thus lauded and thus to be trusted? Jeff. Davis, Toombs, Slidell, Mason, Vallandigham, and the long list of Johnson's former friends and associates, who, after being humbled, defeated, destroyed, are now to be trusted by him; to these he is willing to go, if now, in their low estate, they are willing to receive him as an associate whom they formerly rejected from their councils. I repeat, this conversation with Colonel Matthews solves the whole enigma of his subsequent conduct.

But let us proceed. He arrives at the Capitol, and on the allotted day of inauguration he appears in the Senate Chamber to take his official oath, in a state of beastly intoxication. Those of us who witnessed that most disgusting scene will never forget the ineffable disgrace which Johnson then brought upon the American people. The President-elect, his Cabinet, Senators, Representatives, judges of the Supreme Court, ambassadors from the nations of the earth, and thousands of citizens, all, all hung their heads in very shame.

Here, Mr. Speaker, was the first opportunity for impeachment, and the remedy provided for his removal should then have been used.

Shall it be said that the commission of a crime *eo nomine* must be committed before an officer can be impeached? Shall it be said that our people must endure the nuisance of a drunken President or Vice President for four long years, and have no power to remove the nuisance? Preposterous! A drunken debauchee is unfit for political station, and the Constitution gives ample power of removal in all cases of unfitness. It is that, among others, which constitutes the "misdemeanors" spoken of in the Constitution.

While this opportunity for impeachment was neglected his debauch continued. He had said that the "old Democrats" alone were capable of saving the country, and it is fair to presume, under all the circumstances, that he now sought and obtained association with "old Democrats." But how could these "old Democrats" save the country so long as the reins of Government were held by that great and good man, Lincoln? The rebel army was scattered, the rebel government was crushed, the "old Democrats" could not even "save" the confederacy; and all over the land the glad tidings of peace and of a living, undiscovered Union were hailed with words of joy and hymns of praise.

Men felt everywhere that the country was saved, and saved, too, despite the efforts of the "old Democrats," who had plotted its destruction. All men felt and believed this except, alone, Andrew Johnson and his "old Democratic friends."

Lincoln yet lived. His pure and elevated character, his lofty patriotism, his untiring energy and watchfulness, aided by millions of countrymen, were equal to the great task; and the Republic also lived. But while Lincoln lived how could the "old Democrats" have an opportunity of "saving the country"? He would not associate with them; he would not take counsel of them; he would not repose any confidence in their professions of patriotism; he would not confer upon them the high offices of the Government; he would not be governed by their wishes; he would not set aside the tried men of the country at their bidding; he would not recognize traitors as patriots, and hence, while he lived, he was a stumbling-block in the way of the "old Democrats" "saving" the country. This stumbling-block must be removed. The "old Democrats," who struck at the life of the country, would not hesitate very long in striking at the life of Lincoln, and thus remove this obstruction in their path to

power. Lincoln fell, fell by the hands and under the machinations of the "old Democrats," whom Johnson affirmed were alone able to save the country.

Johnson succeeded to the vacant Presidency, and was now in a position to render aid and comfort to his "old Democratic" friends. But not so fast; the country must not be roused into suspicion by any hasty or injudicious action. On the contrary, it must be made to feel that a sterner man has succeeded to the Presidency; instead of suspicion being aroused it must be allayed, and the confidence of the loyal millions, bewailing the untimely death of their beloved Chief Magistrate, must be secured.

Johnson to his many other vices adds that of a most accomplished demagogue; and he felt called upon to play his rôle of deception, and he played it well. He denounced traitors more rigorously than ever; he became perfectly frantic in his assimulated ferocity—"traitors must be made to take back seats;" "traitors must be impoverished;" "traitors are unfit to live"—these are only a few of the choice epithets which he daily furnished to a confiding public. The caught and convicted murderers of the President must be speedily executed. His indignant wrath can hardly even thus be appeased. Whether this hasty and almost indecent execution was upon the principle that "dead men tell no tales" is best known to his own soul.

But the traitors, these "old Democrats," did not quake at his threatenings. They knew their man; alas! they knew him much better than those of us who had elevated him to power. They feared not, neither did they tremble, but approached him, not on bended knee, but with upright mien, and soon became the welcome guests and associates of the new major-domo of the White House.

With a profligacy amounting to corruption he pardoned thousands of these traitors, restored to them in violation of law the large estates, amounting in the aggregate to millions of dollars—estates which had been forfeited to the Government by the treason of their owners, and the proceeds of which should have been placed in the public Treasury to relieve a tax-ridden people from the burdens which the unholy rebellion had placed upon us. Not satisfied with this he issued pardons to leading rebels, whose hands were yet crimsoned with the blood of the bravest and best in the land, and appointed them to high offices of trust and responsibility, made them Governors of States, collectors of internal revenue, postmasters, district attorneys, and enabled them to become members of conventions to frame new constitutions for governments overthrown by the rebellion. Why should he not do these things? Was it not in full accordance with his declaration "that if this country is saved it must be saved by the old Democrats?" But because he does these things must we stand by and see him trample under foot the laws of the land, which by his oath of office he was bound to execute? In his public and official acts he entirely ignored the true and loyal men of the South who, at double peril of life and property, defied the power of the "confederacy," and in the midst of persecutions, trials, and hardships unparalleled in history dared to stand up for the defense of the old flag and the old Constitution.

He not only ignored this meritorious class of our fellow-citizens, but did all in his power to place them under the iron heel of their former masters, the self-styled aristocracy of the South. And yet, forsooth, he is not guilty of any "crime" or of any "misdemeanor" within the true intent and meaning of the Constitution!

But let us proceed. A great and powerful people can afford to be magnanimous even to its greatest criminal. We have been accustomed, throughout our entire history, to bear wrongs and outrage with a patience that was

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almost commendable. His purpose was deliberately formed; and, to its accomplishment, he brought all the vast powers and resources with which the Executive of our Government is clothed; and that purpose, judging from the testimony before this House and from the public acts of his administration, was to place the entire political power of the Government in the hands of the traitors who had attempted its destruction, and thus enable them to do precisely what they had failed to accomplish by their rebellion. In open defiance of the law he appointed traitors to office, who were unable, in consequence of their treason, to take the oath prescribed by the act of Congress of July 2, 1862, and in equal defiance and contempt of law he paid these officers their salaries out of the Treasury of the United States.

To thwart the efforts of a loyal Congress, in providing for the speedy restoration of peace and the adjustment of our troubles upon a liberal and enlightened public policy, he used the veto power on the false assumption that said Congress ought not to legislate upon questions of national concern without the unconditional admission of the rebel States to representation in Congress. He maliciously and wickedly used every effort in his power to bring Congress, the direct Representatives of the loyal people, into public contempt, by proclaiming that it was an unconstitutional body hanging on the verge of the Government. The same Congress which had provided the men and the money to crush out the rebellion; the same Congress which, during the four years of Mr. Lincoln's administration, had passed all the laws necessary to restore peace at home and command respect abroad; the same Congress which the sovereign people had time and again fully indorsed, was not a Congress of "old Democrats," and hence, in his judgment, not able to save the country.

Knowing well that there are those in every community who are ever willing to

"Crook the pregnant hinges of the knee
Where thrift may follow fawning,"

he has corruptly used his vast patronage in bestowing office upon those who became the laudators of his policy, thus attempting to demoralize the people and break down the serried ranks of the friends of the Union. Without law he has handed over to the rebels of the South, without money and without price, the railroads of the confederacy, with all their rolling stock, amounting to many million dollars. roads which were conquered by our Army, and many miles of which were constructed by the toil and labor of our own soldiers.

When Congress, in June, 1866, with singular unanimity, submitted to the several States of the Union an amendment to the Constitution, known as article fourteen—an amendment which addressed itself to the patriotism, the justice, and the mercy of our people, and calculated to rebuild the shattered portions of our Union upon the enduring basis of an elevated republicanism—he steps aside from his path of duty, impugns the motives of the Congress, misrepresents and distorts the principles of the proposed amendment, opposed its ratification, and willfully and maliciously uses the power and patronage of his office to accomplish his purposes.

In violation of law and the solemn obligations of our Government, he has given to red-handed rebels millions of acres of the finest lands of the South, which the former owners had forfeited, and which had been given to the freedmen for purposes of ownership and cultivation, depriving them of homes to which they were entitled, as a small recompense for the years of abject slavery which a cruel and bloody "patriarchal" system had forced upon them. Did he not incite, aid, and abet the riot in New Orleans, where peaceable and unoffending citizens were maltreated, wounded, and murdered without provocation and without

cause? But the mind shrinks with horror from the contemplation of these multiplied wrongs, these gross infractions of the law. And yet we must be told that these atrocious and wicked acts are not high crimes and misdemeanors.

Mr. Speaker, at the first opportunity which presented itself to this House, I voted to impeach Andrew Johnson. I did so under a sense of my responsibility as a Representative of the people and the obligations of my oath to discharge my duty faithfully. Time and much reflection have but served to confirm me in the correctness of that vote; and, acting in the light of the evidence then presented, I cannot hesitate as to my duty to-day, when other wrongs, other crimes, other misdemeanors have been added to the long, dark, and bloody catalogue. Emboldened by our non-action heretofore—a failure not the result so much of a disbelief in his guilt as a belief that it were better for the country not to press impeachment, all of which he has woefully misinterpreted—the President has proceeded with rapid and insane strides in his treasonable designs.

Having read enough of history to know that all revolutionary purposes, to be successful, must have the support of military power, he sets himself to work to seduce our brave soldiers from their path of duty and their love of country.

He approaches the General of the Army, the great captain of the age, with his seductive wiles, but finds Grant as devoted to the Union as he was brave and brilliant in battle. Failing in this, he seeks to degrade this noble soldier or entangle him in the cunning toils of an unscrupulous politician. He turns toward Sherman for comfort, offering advanced rank for no other purpose than to complicate him with his comrade in arms and in victory, but the offer is repelled with the just indignation of a gallant and chivalrous chieftain. Foiled again, and still intent upon corrupting the Army, he makes court to the grim hero of Nashville, and with the same result. Johnson ought to know that the soldiers who for long and dreary years were battling for the Republic cannot be seduced from their integrity and made the supple tools of a corrupt Executive in his attempt to subvert the institutions of his country.

The possession of the War Office was long an object of his heart's desire. He recollects how, during Buchanan's administration, this office, under the auspices of the traitor Floyd, was made subservient to the purposes of the rebellion; how the arms and munitions of the country were placed within reach of the rebels; how the Army was so stationed as to be of no service to the then incoming Administration in stemming the torrent of treason then threatening to overwhelm the land. Johnson knew all this, and hence his anxiety for the control of this most important Department of the Government; but he saw it in the possession of a brave, true, and resolute man, who could not be swerved from his duty—neither cajoled by flattery nor intimidated by threats. When requested to resign, as early as last August, he told the President plainly that he should refuse, that he should hold possession of the office, because he believed the public good required it. Stanton was then suspended by virtue of the provisions of the "tenure-of-office" law, and by this act the President acknowledged the binding force and validity of that law, for he submitted the reasons for such suspension to the Senate. These reasons were afterward adjudged to be insufficient, and Stanton thus reinstated in his former position. Stanton thus became the President's Mordecai, and sat in the gate through which the President expected to pass in his revolutionary march. Blinded with rage at this "obstruction" in his path, he attempts a removal, and in this attempt palpably violates the plain letter of the Constitution and the equally plain letter of the law.

I will not stop to present this violation in

detail, for it has already received ample elucidation.

In conclusion, Mr. Speaker, permit me to say that our duty in the premises is clear and simple. We present the President to the Senate charged with the commission of "high crimes and misdemeanors." It is the duty of the Senate to try the question of guilt or innocence. Let the charge be preferred, and let the trial be had. For three long years the country has been agitated, when it should have had peace; for three long years the people have been arrayed against their Executive; for three long years the struggle has continued to the detriment of the material interests of the country; and it is high time that this unnatural and unnecessary state of things should cease. If the President be found innocent the people will acquiesce in the judgment of the court; if found guilty, as I honestly believe him to be, let such be the judgment of the court, and that judgment will be sustained by the same stout arms and brave hearts which have thus far saved the nation. The instrument of mischief will be removed—the criminal receive the punishment his acts have merited—the country restored to a condition of peace, progress, and prosperity, and the world will be furnished with another proof of man's capacity for self-government.

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SPEECH OF HON. C. SITGREAVES,

OF NEW JERSEY,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868.

The House having under consideration the following resolution, reported by the Committee on Reconstruction:

Resolved, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors in office—

Mr. SITGREAVES said:

MR. SPEAKER: I do not rise for the purpose of attempting to dissuade this House from its manifest determination to impeach Andrew Johnson, President of the United States, for high crimes and misdemeanors, for I well know that such an attempt would be futile.

I rise only to vindicate the history of facts, and to protest against a great wrong, in the name of justice and the people of a State who have ever stood firmest among the firm for the impartial administration of the laws and for the compacts of the Constitution in all their entirety, both in letter and spirit.

Andrew Johnson will be impeached by this House of Representatives, and in all probability the impeachment will be sustained by the Senate. The malignity of partisan hate will then be fully gratified. The last bulwark erected by the Constitution against the consolidation of power in the General Government will be broken down. With the judicial branch rendered powerless by your legislative acts, and with a creature of Congress in the executive chair, the work of consolidation will be complete.

We sit here as a grand inquest of the nation under that article of the Constitution which ordains that—

"The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment."

Against the display of partisan hate, partisan denunciation, and appeals to partisan vengeance so freely indulged in the debate on this floor by members sitting in the high capacity of national grand jurors I have no protest to make. The propriety and justice of such a course are matters to be settled by members with their consciences, their country, and their God. But I do protest against the extraordinary efforts to excite the prejudices of the members of this great inquest on this great

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question by personal and political charges against the President not included in the indictment. I refer more particularly to the charges impeaching the private character of the President just made by the gentleman from Illinois, [Mr. WASHBURN,] and the charges made on Saturday by the gentleman from Pennsylvania, [Mr. KELLEY,] when he affirmed his belief that on the 22d of February, 1866, it was the intention of Andrew Johnson—

"To overthrow the Government and execute the purpose he had intimated before leaving Tennessee, to wit, that should he become President, and believe it to be necessary to save the life of the nation, he would perpetuate his power."

Now, sir, let facts answer this last charge. It is a fact that on the 6th of February, 1866, Congress passed a bill which was presented to the President for his signature, entitled "An act to amend an act entitled 'An act to establish a Bureau for the Relief of Freedmen and Refugees,' and for other purposes." It is a fact that this bill extended the military power over every State in the Union containing freedmen and refugees, loyal or disloyal. It is a fact that this bill invested Andrew Johnson with the power of an autocrat—a bill which enabled him, with fifty thousand bayonets at his back, to imprison, try, and condemn the citizen without even the forms of law; to drag the judge from the bench and to "ride booted and spurred" over the Constitution and the liberties of the people. It is a fact that Andrew Johnson spurned this more than imperial power so freely laid at his feet by a Republican Congress, then representing, as they alleged, a large majority of the people. It is a fact that Andrew Johnson vetoed that atrocious bill on the 19th of February, 1866.

If Andrew Johnson then intended (as solemnly affirmed by the gentleman from Pennsylvania) to overthrow the Government, an opportunity was here offered to him by Congress that he, nor no other man ever dreamed would be offered by the Representatives of a free people to any man in any age or in any clime. Why, I ask, did he "reject the crown?" And for this bill the gentleman from Pennsylvania recorded his vote. Sir, if he knew that Andrew Johnson on the 22d of February, 1866, was plotting to overthrow the Government in accordance with his intimations given before leaving Tennessee, why, I ask, did the gentleman from Pennsylvania vote on the 6th of February, 1866, in favor of a bill which would have given Andrew Johnson this very power to subvert the Constitution and overthrow the Government?

We have been reminded by the gentleman from Ohio [Mr. BINGHAM] that we only prefer charges of impeachment but do not try the impeached, implying, I suppose, by this gratuitous information that we are not responsible for the result. Sir, we are responsible for the result. There is not a member on this floor but knows that if the Senators are true to their utterances on Friday last, the moment that the resolution of impeachment passes this House Andrew Johnson is, in effect, convicted of high crimes and misdemeanors, that all the subsequent proceedings of an appearance at the bar of the Senate to prosecute the impeachment, the organization of the court, and trial and conviction are but the enactment of a miserable farce, because the Senate have pronounced a decision by deciding the law and the facts in advance. I refer to the proceeding of the Senate convened in executive session on Friday last, and quote from the Globe:

"Whereas the Senate have received and considered the communication of the President, stating that he had removed Edwin M. Stanton, Secretary of War, and had designated the Adjutant General of the Army to act as Secretary of War *ad interim*: Therefore,

Resolved by the Senate of the United States, That, under the Constitution and laws of the United States, the President has not the power to remove the Secretary of War and designate any other officer to perform the duties of that office."

Mr. Speaker, I quote this to let the country know that Andrew Johnson cannot have that

fair and "impartial trial" which has been awarded to criminals of every grade by the usage and laws of centuries, and which is incorporated in the Constitution. I protest against it as a great wrong in every case to the individual, but in this case as an outrage and wrong to the people of the United States. I quote from Story's Commentaries on the Constitution of the United States, volume one, pages 517, 518, and 519; sections 743, 744, and 745:

"It is obviously incorrect in theory and against the general principles of justice, that the same tribunal should at once be the accusers and judges; that they should first decide upon the verity of the accusation and then try the offenders."

"The practice of impeachments seems to have been originally derived into the common law from the Germans. When it was adopted in England it received material improvements. In Germany, and also in the Grecian and Roman republics, the people were at the same time the accusers and judges, thus trampling down at the outset the best safeguards of the rights and lives of the citizens."

"The great objects to be obtained in the selection of a tribunal for the trial of impeachments are impartiality, integrity, intelligence, and independence. To insure impartiality the body must be in some degree removed from popular power and passions, from the influence of sectional prejudice, and from the more dangerous influence of mere party spirit."

Sir, I want the country to know that the charge of high crimes and misdemeanors against the President of the United States, upon which in a few hours we will record our votes, was first made by the Senate of the United States; that they have decided the verity of the facts; and that they have decided the removal of the Secretary of War to be a violation of the Constitution and laws of the United States; yet they, the accusers, will be the judges. Sir, I protest against this grim joke of the form of a trial before a tribunal who have pronounced judgment on the law and the facts in advance, as an act abhorrent to every principle of justice, as abhorrent to the instincts of every honest heart. The form of the trial will be in accordance with the forms of the Constitution, but what is form without the spirit? Sir, I am sick of hearing these words "forms of the Constitution" and "forms of republican Government," while the spirit is ignored or repudiated. Destroy the spirit of the Constitution and you have anarchy or the worst of despotisms under the form of a Republic. Destroy the mind or spirit of a man and you will have, indeed, the form of a man but that form will be a loathsome corpse or a drivelling idiot.

From the judgment of the Senate Andrew Johnson can appeal to God and his country, and if history, as it is said, reproduces itself, that appeal will not be in vain.

An American Senate, in a spirit of party hate, once declared that Andrew Jackson, in his acts relative to the removal of the deposits from the Bank of the United States, were not warranted by the Constitution or laws, but in derogation of both. The malignity of party hate triumphed over that incorruptible patriot, that great and good man, for a brief season; but what was the result. The hand of an indignant people expunged the resolution from the records of the Senate, and a hand, like the hand on the walls of Belshazzar's palace, wrote a sentence of political annihilation on his enemies, and now there are none so poor as to do reverence to that act of that Senate.

Mr. Speaker, if the President should be convicted by the Senate, and if history should repeat itself, the future student of history will learn the astounding fact that a personal and political enemy of the Chief Executive was forced by a party controlling the Government on that Executive as a confidential adviser; that when the Executive, impelled by his duty to the Constitution, the country, and himself, removed that adviser, he was impeached before the grand inquest of the nation for that act as a high crime and misdemeanor, with furious appeals to party vengeance, and tried and convicted by a Senate who had decided on the law and the facts in advance.

Mr. Speaker, I have no doubt of the result

of an appeal to God and the country from such an impeachment. History will again repeat itself. The principles of right will triumph. There are some within the hearing of my voice who will live to see the black lines of expurgation traced around your resolution of impeachment. The memory of Andrew Johnson, now the victim of party vengeance, will be cherished as a bold and able defender of the Constitution when the memory of some of his persecutors is forgotten, or remembered only to be denounced by the patriot of future ages.

The Funding Bill.**SPEECH OF HON. JOHN SHERMAN,**

OF OHIO,

IN THE UNITED STATES SENATE,

February 27, 1868.

The Senate having under consideration the bill (S. No. 207) for funding the national debt and for the conversion of the notes of the United States—

Mr. SHERMAN said:

MR. PRESIDENT: The attention of the Senate has been so long occupied with grave political questions deeply exciting the public mind that I have no doubt it will appear a dull change in our debate to turn to questions purely of a financial and economic character; yet, as our constituents are laboring under the burdens of taxation and the acknowledged evils of a depreciated currency and demand relief from us, it becomes the imperative duty of Congress to give attention to this subject. The House of Representatives is now engaged in the performance of its constitutional duty of diminishing taxes; and your Committee on Finance deem it their duty to lessen, if possible, the burdens of the public debt and to give increased value to the United States notes, now made the compulsory basis of your circulation. We have, therefore, reported this bill after careful consideration. In advocating it I do not appeal to any political bias; I do not appeal to any sectional interest; nor have I any pride of opinion; and I shall only appeal to those considerations which actuate us all alike, the desire to relieve our people from all the burdens of taxation consistent with the public faith.

The Committee on Finance acknowledge that it is the first and highest duty of a Government to maintain inviolate the public credit. A strict compliance with public engagements is the first duty of every legislative body. Public credit is the highest property of a nation, its sure reliance in time of danger and war; it is a more valuable property than any other, and is not to be tarnished or soiled by any consideration whatever. But, subordinate to this great principle, it is our duty as legislators to relieve our constituents from every exaction not demanded by the national safety or the public interests. We have a right to take from our people their money to the extent necessary to carry on the ordinary expenses of the Government and maintain the public faith, but not one cent further. The great mass of mankind have nothing to protect except the reward of their daily labor. This is their only capital. In every community—and ours is more favored than most in this particular—the majority of men depend only upon their daily labor and enjoy nothing of the blessings of civil government except in the protection of the result of their labor. It is, therefore, our duty to take not one cent from them unless it is demanded by the public exigencies.

It is with this view, and actuated by this principle, that the Committee on Finance have endeavored to make this bill a bill of relief, reducing, if possible, consistent with the public faith, the interest of the public debt, and giving increased value to United States notes. We have endeavored in this bill to accomplish three results: first, to reduce the rate of in-

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terest with the voluntary consent of the holders of our securities; second, to make a distinct provision for the payment of the public debt; and third, to give increased value to United States notes, and to provide for a gradual resumption of specie payments. All these are objects admitted to be of the highest importance. The only question is, whether the measure proposed tends to accomplish them.

PRESENT CONDITION OF THE PUBLIC DEBT.

The body of our public debt consists mainly in the form of securities commonly known as the five-twenty bonds. Nearly all of the debt of the United States is either reduced already to that form of security, or is reducible within a very short period of time. I have prepared a statement from the official documents showing the amount and time of maturity of the five-twenty bonds. There are of the first issue, which became redeemable on the 30th of April, 1867, now outstanding \$514,780,500. Of the second issue there will be redeemable on the 31st of October of next year \$129,443,800; there will be redeemable on the 30th of June, 1870, \$301,880,250, and on the 31st of October, 1870, \$181,427,250. There are of the seven-thirties, which have either been funded into five-twenties or are in process of being funded, something over \$480,000,000, making an aggregate of what might now be regarded as five-twenty bonds of \$1,618,442,650, of which a little over \$200,000,000 is yet in the form of seven-thirties, and will be funded before the 1st day of July next. In addition to this, there are of debts that are now matured, or which will mature this summer, an aggregate amounting to \$106,042,949, the chief part of which are the compound-interest notes and the three per cent. certificates, making an aggregate of \$1,719,485,599, all of which are either redeemable now or become so within five years from this period; the great body of them, however, are redeemable within the present and the next year.

REDEMPTION OF THIS DEBT MUST NOW BE CONSIDERED.

The first question that arises, Mr. President, is whether it is wise now to provide for the redemption of these bonds. If we were at liberty to choose we have not the power to choose. We are compelled to consider this question. It is already made the subject of political disputes. While it is being considered by us in Congress it is being considered by the people, and it is daily discussed all over this broad country as to how and when the five-twenties shall be redeemed. Especially in the West this has been made the subject of political contention. I might show you by the resolutions of political parties, both Republican and Democratic, that we cannot avoid or evade this issue. We must meet it. I have here the resolutions of both political parties in the State of Indiana, both declaring that these bonds ought to be paid in greenbacks and differing only as to the limit of greenbacks. I have also resolutions adopted in different parts of the country. The tendency of the Democratic party is to drift into a political declaration that these bonds shall be paid in greenbacks; and great masses of patriotic men all over the country of the political faith to which the majority of the Senate belong have come to the same conclusion. We are, therefore, compelled to consider this question. It will be made the basis of every election next fall in nearly all the northwestern States. No man can be elected to Congress unless he commits himself for or against this proposition. Therefore we are not at liberty to choose whether or not we will consider this question.

Sir, it was the first topic that was introduced into this session of Congress in both Houses. My honorable friend from Vermont, [Mr. Edmunds,] in a very elaborate speech, and altogether the best yet presented on his side of the case, introduced it on the first or second day of the session. The same subject was presented in the House of Representatives by

a distinguished Representative from the same portion of the country, taking the opposite view. It is now more discussed than any other question except the question of reconstruction. It must be met by us here, and in anticipation of the movements of political parties. If other Senators have not, I certainly have been overwhelmed with propositions of all kinds and character from every part of the country, from every State in the Union, proposing various schemes of finance affecting the very question proposed to be dealt with by this bill.

My own conviction was, that two years ago this question ought to have been settled, and the ground and character and mode and manner of redemption of these bonds ought then to have been settled. I addressed the Senate on this subject on a bill containing similar provisions to this, on the 22d of April, 1866. I will read what I said then:

"Now, Mr. President, the only additional question I need present in this connection is: is this the time to fund the public debt? I say emphatically it is. I believe we have wasted four or five precious months in doing it. I believe that the process would have been easier at the beginning of this session than it will be now; and why? In order to fund the public debt of the United States a large amount of currency is necessary; but it is necessary for us to reduce our currency as soon as possible. We cannot get back to specie payments without some reduction of the currency. Every one desires to resume specie payments. Before we return to specie payments this debt ought to be funded. It cannot be funded on as favorable terms after we return to specie payments. The very abundance of the currency obviously enables us to fund the debt at a low rate of interest; and it is just and right, as this debt was contracted upon an inflated currency, that upon that same currency the debt ought to be funded in its permanent form."

THE POLICY OF CONTRACTION.

Mr. President, I believe that most reflecting men will now admit that if two years ago we had adopted some provision, comprehensive in its character, to fund the public debt and to provide for the redemption of the five-twenty bonds when they became redeemable, it would have been wiser. At that time no portion of them were redeemable. The first became redeemable about one year ago; but the whole country was then filled with the idea of Mr. McCulloch, that the only safety was in contraction, to get back to specie payments before anything was done with the public debt; and the policy was adopted of authorizing a contraction of the currency without any regard to funding whatever. That policy was entered into; and by the act of April 12, 1866, passed against my earnest protest, we gave to the Secretary of the Treasury almost unlimited power over the currency and over the public debt. We authorized him to convert every form of indebtedness into any form of indebtedness provided for by previous acts. There was no other limitation upon his power over the public debt or the currency except that he could only reduce the greenback currency at the rate of \$4,000,000 per month. In every other respect he had the most unlimited power. I have no doubt that he exercised his power conscientiously; I have never thought otherwise; but what has been the result? Within two years he contracted the legal-tender currency \$160,000,000, and the plain United States notes over forty million dollars. He also converted all the floating-currency debt into gold-interest bonds. At the time this law was passed, April 12, 1866, the total amount of five-twenty bonds was \$666,000,000, and the great mass of the debt was in what are called currency obligations, the principal of which, undoubtedly, could have been paid in currency. But conscientiously believing, as he did, that the best way to the resumption of specie payments was by a rapid and steady contraction of the currency, he entered upon the policy I have stated.

Now, what has been the result? Why, sir, in April, 1866, the price of gold was 125. It had steadily declined from the close of the war until it had reached its lowest point, I believe, in April, 1866, the very time of the passage of

this law. What was the result? I do not attribute it all to that measure; but what was the result? From that time to this gold has advanced, varying between 130 and 140, and has never from that day to this reached the price at which it stood at the passage of the act; and are we any nearer specie payments now than we were then? Not at all. We have converted our debt into a more oppressive form of obligation. The interest of the great mass of it is now payable in gold at the high rate of six per cent., and the bonds are less valuable in gold than then. I still think that if we had looked rather to the funding of the debt with the currency then afloat we could have passed the whole of it into a five per cent. instead of into a six per cent. loan. The state of the money market from that day to this justifies the assertion that the whole of this maturing and redeemable debt might have been converted at par into a five per cent. ten-forty bond. If the bill I refer to had passed two years ago a great part of our debt would have gone into the five per cent. loan provided for by it, and the country would have been saved many millions of gold per annum, and would have escaped the dangerous question now presented to us.

FIVE-TWENTY BONDS—THE RIGHT TO REDEEM THEM.

Let us now consider the legal meaning of the contract between the United States and the holders of the five-twenty bonds.

Mr. President, this form of debt contains one feature that was considered its chief virtue, and that is the right of redemption after five years. We all remember the time when this first five-twenty loan was introduced. Up to that moment the bonds that had been sold were long bonds, payable twenty years after their date, now called the bonds of '81; but in February, 1862, Congress, for the first time, upon the recommendation of the then Secretary of the Treasury, introduced the idea of retaining the right to redeem the bonds after five years. That provision was inserted in the act of February 25, 1862, by which after five years the United States had the right to redeem the principal of the bonds upon paying the amount of them. The right of redemption was considered the most favorable feature of that loan. The Secretary of the Treasury, in his report to Congress, said it was important to always retain the right to redeem the principal debt with a view at any time to take advantage of the money market and reduce the rate of interest; and he proposed, and upon his recommendation Congress concurred in the idea, that in future loans a short time should be fixed after which the debt might be redeemed, while a longer time was fixed within which the debt must be paid. This was a valuable privilege reserved by the United States for a valuable purpose. We were then engaged in war, and by the experience of nations it was known that during war we must submit to hard and exacting terms in order to borrow money; but the right to get better terms was reserved at the end of five years.

HOW FIVE-TWENTIES ARE REDEEMABLE.

Now, the question arises, how may these five-twenty bonds be redeemed? Four different modes have been suggested, in regard to each of which I intend to make a few observations:

First. That these bonds may be paid, the principal in gold, at any time after five years.

Second. That these bonds may be paid by a new issue of legal tenders similar in character to the kind issued when they were sold.

Third. That either by selling a new bond or by levying taxes we may draw into the Treasury existing United States notes, and with those pay off or redeem the five-twenties.

Fourth. The plan suggested by the committee of giving to the holder of the bond at his option the right to take another bond bearing a less rate of interest.

Mr. President, let me briefly present the view taken of these different propositions. Is

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the United States bound in law or equity to postpone the redemption of the five-twenties until they rise to par in gold? My friend from Vermont discussed this question with great ability, and he affirmed that we were so bound; that we had no right to redeem these bonds until the bonds rose to par in gold. That is his position, and he maintained it with great force.

Mr. EDMUNDS. If my friend alludes to me as the Senator from Vermont, he does not quite apprehend my position. It was not that we were bound to postpone, but that if we exercised the option we must pay in what the bond called for, and that was coin.

Mr. SHERMAN. Yes. In other words, that we could not exercise this right until the bonds rose to par in gold. That would be the legal effect.

Mr. EDMUNDS. We have the option to pay them in coin after five years. If we have the coin, we are not bound to wait. Whether we have the ability is quite a different question.

Mr. SHERMAN. That comes back to the point that he would postpone the exercise of this right of redemption until these bonds rose to par in gold.

Mr. CAMERON. Will the Senator allow me to interrupt him a moment?

Mr. SHERMAN. Yes, sir.

Mr. CAMERON. I did not understand the Senator from Vermont as saying that we were bound to pay in coin at the end of five years.

Mr. SHERMAN. Oh, no, not at all; I understand that; but we could not exercise the right to redeem after five years until we could redeem them at par in gold.

Mr. CAMERON. In other words, if we do not exercise the right to redeem after five years, we cannot until the twenty years have gone by.

Mr. SHERMAN. And then we must pay in gold.

Mr. CAMERON. Of course; and long before that we shall be able to pay in gold.

Mr. SHERMAN. Mr. President, I intend to put this question with the greatest candor, and if possible to present the argument in as fair a light as I can, because I do not wish to misrepresent any one.

AS TO OLD BONDS ISSUED PRIOR TO 1862.

Now, I confess that this would undoubtedly be the rule as to all the old bonds issued before the act of February 25, 1862; and why? Because those bonds were issued when no one could have contemplated any other mode of payment except in gold; and therefore the Secretary of the Treasury has always decided, and properly decided, that bonds issued before the legal-tender act took effect must be paid in gold to the last dollar; and why? The bonds issued in 1861, the bonds issued many years ago, were all issued when no one contemplated any other mode of payment, when there was no other money in which to pay except gold and silver coin; and as a matter of course these old bonds must be paid in that way. This question was first presented to Secretary Chase and decided by him when a portion of the Texas loan matured in the fall of 1862. A small portion of that debt matured, and he paid it in gold because it had been issued at an old date. His decision, to which I shall have occasion to refer in discussing another point of this subject, was not based at all upon the question of legal tender; it did not raise the question; but it was decided upon the ground that as gold was paid for those bonds gold must be returned to the bondholder.

A Government may, as a matter of paramount authority, compel its citizens as between each other to receive and pay out its notes as money on preëxisting contracts; but it cannot debase its money to make the payment of its own debts easier. We have no right to debase our coin so as to make the payment of our debt easier. We may, if there is no stipulation to the contrary, pay in that kind of coin or money which existed when the debt was

created; but after we have created a debt and after we have received gold or good money we cannot then debase that coin and pay it in inferior coin. That principle I admit. Although we may do it as to contracts between individuals, because we have the power over individuals, we have no right to do it as between ourselves and public creditors. A nation in dealing with a public creditor stands on a different footing from what it does in transactions between individuals of that nation. We may prescribe a rule as between our own people; but subsequent to a contract entered into by us as a nation we have no right to vary the contract between ourselves as a nation and our public creditor. The only rule is the contract, the law, and we have no right to change that without being guilty of repudiation. That is the doctrine. I therefore assume that all the old bonds issued before the legal-tender act are payable in coin.

AS TO BONDS ISSUED UNDER LEGAL-TENDER ACT.

But the question is, whether the bonds issued since the legal-tender act took effect may be paid in legal tenders. Upon this question I may as well state now, the Committee on Finance do not pass any opinion, and in the observations I make on this point I speak for myself, not for them. They deem the occasion a proper one to offer an exchange to the public creditor, leaving for the future to settle the result of a refusal. When we look at the law, which is the contract, it so happens that the identical act which provided for the legal tenders also provides for the five-twenties bonds. Every man who bought a bond bought it under an act which also provides for the legal tenders. They were contemporaneous. However, the notes were issued before the bonds were issued. The notes were all outstanding before a single bond was issued.

Mr. EDMUNDS. What was the limit of the legal tenders?

Mr. SHERMAN. I will come to that presently. Now, this legal-tender clause provides that—

"Such notes herein authorized shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin, and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid."

Does not this act, in so many words, declare that while coin shall be paid for the interest of the public debt, yet the notes provided by this act shall be a lawful tender in payment of all public debts?

Mr. EDMUNDS. Will my friend permit me to inquire whether he ought not to read what he has read in connection with the succeeding clause, which authorizes the conversion of the legal tenders into bonds? Take the whole statute together.

Mr. SHERMAN. I will come to that. I cannot read it all in a minute. But here is the legal-tender clause which I have read. Now, I will come to the point. If this case stood upon this legal-tender clause alone, if there was no other provision of law, would the Senator from Vermont have any doubt of the legal construction of that clause?

Mr. EDMUNDS. Probably not; but there is another provision, and I think my friend will agree that we are bound to look at the whole of the statute in order to get at the meaning of any of its parts, to construe it altogether.

Mr. SHERMAN. My friend has already stated all I expected him to state. He admits the meaning of the legal-tender clause, but answers me now, by reference to another clause in the act, that it could not have been contemplated that under this act the principal of the debt should be paid in legal tenders. Why? Because the clause he refers to limits

the amount of legal tenders to \$150,000,000, and with this limit it could not be presumed they would fall much below par in gold.

Mr. CAMERON. If the Senator will allow me—

Mr. SHERMAN. Let me answer my friend from Vermont first.

Mr. CAMERON. I wish the Senator to answer what I shall say at the same time if he will allow me. It seems to me the remarks the Senator is making would come better after he had read that clause which relates to the issuing of the five-twenties bonds. If he will defer his remarks until then he will be able to give us some information; but I think he is now explaining his opinions upon a part of the text which will have no influence upon the decision of the country when it comes to pay the debt. In other words, I think that that part of the law creating the debt, authorizing the issue of five-twenties bonds, settles the whole question. I will not interrupt the Senator further.

Mr. SHERMAN. Mr. President, I intend to meet all these points as near as I can, and to read the sections of the law; but I trust Senators will allow me to do it in my own way.

My friend from Vermont admits that if the matter stood on the legal-tender clause there would be no doubt, there could be no resisting the conclusion, that the legal contract between the Government and bondholder was that the interest should be paid in coin and the principal should be paid in the kind of legal tenders specified by this act. That is the point he wishes to make, and I agree that if these bonds were issued under this act and under the restrictions contained in it, namely, that the legal tenders were confined to \$150,000,000, with the right to convert them into bonds, then his argument would be irresistible; but the misfortune of his argument is, that these restrictions were repealed before the bonds were issued, but I anticipate the argument and wish again to refer to the act of February 25, 1862. This act further provides that the amount of legal tenders shall be limited to \$150,000,000. It also provides that the holder of these legal tenders may at any time convert them into five-twenties bonds, the very bonds we are now discussing; and the second section goes on and provides for the issue of those bonds. If those bonds had been issued and negotiated solely under the act of February 25, 1862, it would have been irresistible logic that it was not contemplated that the \$500,000,000 authorized by this act should be paid with \$150,000,000 legal tenders, themselves convertible into bonds. But here is the weakness of the argument, in my opinion, of my friend from Vermont: no bonds were issued under that act.

Mr. EDMUNDS rose.

Mr. SHERMAN. I trust my friend will not interrupt me, because I have not the time.

Mr. EDMUNDS. Certainly not, if my friend does not wish it.

Mr. SHERMAN. Every one of these restrictions was removed and repealed before these bonds were negotiated. In July following, before a single bond was sold, the limitation as to the amount was increased to \$300,000,000. In December following the Secretary had failed to negotiate the five-twenties loan; and in his report, to which I will now refer, he says to Congress that it is impossible for him, under the restrictions contained in these acts, to sell these bonds; that after all his efforts he has sold only a few millions; that the loan has been a failure, and asks us for additional legislation. I now ask attention to the report. In a previous part of it he states the failure to negotiate the five-twenties loan, and that he had received but a small amount, comparatively, from it. He then says:

"The act of last session"—

The one to which I have already referred—"authorized the Secretary to issue bonds of the United States, already often mentioned as five-twenties,

to the amount of \$500,000,000, and to dispose of them for coin or United States notes at the market value thereof. In the same act authority was given to issue \$150,000,000 in United States notes, which authority was afterward enlarged to \$250,000,000; and it was provided that any holder of such notes to the amount of fifty dollars, or any multiple of fifty, might exchange them for five-twenty bonds at par.

"The effect of these provisions was to make negotiations of considerable amounts impossible; for considerable amounts are seldom taken, except with a view to resales at a profit, and resales at any profit are impossible under the law."

Then he goes on to say:

"The Secretary respectfully recommends the repeal of both these provisions. The first imposes, it is believed, a restriction which Congress did not intend; and the second has been followed by the inconveniences which were feared, rather than by the benefits which were expected."

Then he goes on to say:

"Should Congress, however, be of opinion that these clauses should be retained, it will be necessary to provide for other laws, at rates more favorable to the takers than convertibility into five-twenties. This can be done either by authorizing bonds at longer time or by increasing the rates of interest offered."

"The Secretary cannot recommend either course except as an alternative to no provision at all."

My friend from Maine [Mr. FESSENDEN] will remember that when we were called upon to consider this question we had to choose between three alternatives: the repeal of these restrictions which prevented the sale of five-twenty bonds, or selling the bonds at a higher rate of interest, or selling them below par. We all remember that. The Senator from Maine, in reporting the bill, stated these alternatives. Finally, after long consideration—for the subject was debated over and over again—the Committee on Finance agreed upon the act to which I will now refer, the act of March 3, 1863. That act repealed the limit as to the amount of circulation and raised it to \$450,000,000; and it also took away the right to convert, which the Secretary said was the other restriction that prevented the sale of the bonds; and by an ingenious device, suggested by the then Senator from Vermont, [Mr. Colamer,] it was proposed to limit to the holders of the outstanding greenbacks the right to convert them up to the 1st of July then next; but if they did not do it by that time the right was to cease. By this legislation in the act of March 3, 1863, the limitations which prevented the sale of the first five-twenty bonds were repealed, and then, for the first time, this loan was taken. Then it was that an agency was organized and means were taken to spread these bonds all over the country, and they were sold; but they were not sold until these restrictions were removed, and they were sold upon a basis of \$450,000,000, without the right of redemption, with no privilege whatever except that of being receivable in payment of taxes. That was the state of the law upon which the legal right of the holders of the five twenties rests. They refused to buy these bonds upon the terms of the act of February 25, 1862. They did buy them under the act of March 3, 1863; and it is idle to rest their claims upon restrictions repealed before their bonds were issued.

I wish to read a little further, to show that the Secretary of the Treasury, Mr. Chase, a year afterward, in December, 1863, in his report, again stated that Congress, having relieved him from the restrictions of the act of 1862, enabled him to sell the five-twenty bonds. He says:

"On that day, March 3, 1863, the act to provide ways and means for the support of the Government received the approval of the President and became law. In addition to various provisions for loans, it contained clauses repealing the restrictions affecting the negotiation of the five-twenties, and thus disengaged that important loan from the embarrassments which had previously rendered it almost unavailable."

Then he goes on and says that every dollar of it was sold in a short time, presenting a remarkable case of success; but it was not sold, as my friend from Vermont says, under the act of February 25, 1862. On the con-

trary, there was an utter failure to sell the loan under that act. It was sold under the subsequent law which repealed the restrictions of the act of 1862, and it was sold upon a basis of currency amounting to \$450,000,000, and when the notes had been so depreciated by our legislation, purposely, for wise purposes, when the right to fund was taken away, and no right was given to these notes except to be paid to the Government in the way of taxes.

AS TO REPRESENTATIONS BY AGENTS.

Now, Mr. President, there is another point in the argument of my friend from Vermont that is much more difficult to answer. It is true—and he has collated the proof in his speech very well—that the various agents of the Government stated that these bonds would be paid in coin, and that creates the embarrassment in regard to this matter that has always affected my mind more than any legal difficulty in the way; because I think the nation is not only bound to observe the law, but it is bound to pay a reasonable degree of respect to the representations made at the time these bonds were sold. It is true, as matter of law, that no agent could vary the contract; that every man who bought these bonds bought them upon the face of the law, and not upon the mere advertisements of agents; still every wise legislator would consider the extent of those representations and how far they affected the public mind.

It has been sometimes said, and my friend from Vermont said that this was done, and Congress silently acquiesced. Congress never acquiesced in it. Congress was not in session when any portion of this loan was sold. We adjourned on the 4th of March, 1863, and did not convene here until the December following, and within that time all these bonds were sold. The silence of the subsequent Congress could not change the contract which was made in March, 1863, and has no effect upon the case.

The first reference made by the Senator from Vermont is to the decision of Secretary Chase on the payment of the Texas bonds in December, 1862. The Senator in his speech states this decision too strongly. He says that the Secretary of the Treasury then decided that the legal-tender clause did not apply to Government securities. Now, I will read the decision of the Secretary. I read from his letter of January 5, 1863, in reply to a resolution of the House of Representatives. He states that he concluded to pay this loan in coin for these reasons:

"My judgment was determined in favor of payment in coin, not merely by the weighty considerations growing out of its beneficial influences on public credit, but by the circumstance that I found myself able to obtain the needed specie at a cost so small that payment in coin was, in fact, a less inconvenience to the Treasury and a less interference with payments to and for the Army and Navy than payment in notes would have been. The whole amount of coin required was advanced by moneyed institutions, most of which, it is believed, had no interest in the loan, nor any interest in the transaction, except what arises from the general support of the public credit; and the advance was made without premium and at an interest of four per cent., and is not to be called for until it can be reimbursed from receipts from customs, dedicated by act of Congress to the payment of interest and to the redemption of the principal of the public debt."

In this decision there is no reference whatever to the right to redeem the new debt in currency. It was an old debt, and he merely paid it in gold because he thought that would have a beneficial effect on the public credit and because he could negotiate for a loan of gold at a cheaper rate and on more favorable terms than for a loan of paper. Even if the question had been so decided in that case it would apply to no loan except one which was issued before legal tenders were thought of. The only decision furnished by the Senator in his ample collections of the representations made by the officers of the Government (which after all, it seems to me, are rather bare) was a letter which he introduced signed by George Harrington, Assistant Secretary, dated May

26, 1863, pending this loan, and a letter of Mr. Field, also Assistant Secretary. Mr. Harrington said in his letter:

"The five-twenty sixes, payable twenty years from date, though redeemable after five years, are considered as belonging to the funded or permanent debt; and so, also, are the twenty-years' sixes, into which the three-years' seven-thirty notes are convertible. These bonds, therefore, according to the usage of the Government, are payable in coin."

The Senator also introduced a letter of Mr. Field when he was Assistant Secretary, the only other letter introduced from the Treasury Department before these bonds were all negotiated; and that simply stated as a fact that they would be paid in gold. There was no reference to the law, no decision upon the terms of the law, but a mere reference to the custom of the Department as to old bonds issued before the legal-tender act, and no doubt it was made upon the common expectation that long before the five years should run out specie payments would be resumed in this country; and no doubt they would have been if our arms had been victorious during that summer; but certainly none of these letters can be regarded as a formal construction of the legal-tender act, which is not even referred to.

Mr. President, I will not follow this matter further, because it is not necessary for my argument that I should do so; but I submit to Senators whether the presentation of the law and the facts in regard to the five-twenty loan does not at least raise a reasonable doubt upon which honest men may disagree. All that is necessary for my argument is to show that a doubt does rest upon the mode and manner of paying these bonds. I am not here to advocate either view of the question, although I am willing to express my own opinions. I merely show you that there is such a doubt that reasonable and honorable men may differ as to whether or not the Government of the United States may pay these bonds in some other way than in coin. If so, that doubt ought to be removed, or some other bond substituted, and not leave this question unsettled to poison the public credit.

REDEMPTION IN NEW LEGAL-TENDER NOTES.

There is a second mode proposed by partisans in which to pay off the five-twenty bonds, and that is by issuing a new batch of greenbacks. This is a plausible and a dangerous device. No man can justify it. Why? Because the very acts under which these bonds were issued contain limitations which we cannot and dare not exceed. These limitations were put in every loan act and finally embodied in the form of a guarantee in the act of June 30, 1864, to which I will now refer. The limitation contained in the last preceding act, that of March 3, 1863, in force when the five-twenties were negotiated, was \$450,000,000. The act of June 30, 1864, modified and repeated this limitation, as follows:

"Nor shall the total amount of United States notes issued or to be issued, ever exceed \$400,000,000; and such additional sum, not exceeding \$50,000,000, as may be temporarily required for the redemption of temporary loan."

This limitation upon the amount of greenbacks was always a part of the loan laws, and why? Because the amount of those notes issued would regulate and fix the value of the bonds themselves. In all the loan acts, therefore, the amount of greenbacks issued from time to time was limited by law, and that limitation was a part of the contract under which the bonds were issued, and hence any proposition which looks to an increase of the legal tenders with a view by this increase to pay off the five-twenties would be a plain, palpable violation of a public engagement, just as much as would be a clipping of the coin, or, to follow the example of the Middle Ages, a debasement of the coin with more alloy. Every additional greenback issued tends to depreciate the value of the security, and therefore, as the law itself limits the amount, it must be complied with, whatever is the consequence.

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I take it, then, that no proposition will ever receive the sanction of Congress in the face of this law, providing that the five-twenties shall be redeemed with any other notes than those in existence at the time they were sold; that any proposition of that kind would be dishonorable to the country and dishonorable to any one who should seriously propose and advocate it. It would be to create a depreciated currency in order to evade the payment of an honest debt.

But, sir, aside from that, as an act of public policy, it would be fatal and injurious. It would reopen the flood-gates of paper money. It would impair all values; it would unbinge all standards; it would affect all prices. None would suffer from such a debasement of the currency so much as the laboring man. Labor is the last thing, except real estate, to feel the effect of a change in the currency; because labor is more abundant than any other commodity. Labor feels last the advance caused by the inflation of paper money. I trust this proposition when discussed by the people will be generally repudiated, and I believe it will be. I regard this limit upon the amount of greenback currency as the sheet anchor of public safety; that in no event whatever is it to be violated.

BANK NOTES AND LEGAL TENDERS.

It is sometimes said, why will not the proposed increase of banking circulation have the same effect as the increase of greenbacks. This question is put in regard to the bill reported by my friend from Missouri [Mr. HENDERSON] to repeal the limitation upon the amount of banking circulation. I answer that the effect is very different. The amount of bank notes may be left free without any legal limit if only the right to present the note for redemption is always enforced.

Mr. MORTON. Redemption in what?

Mr. SHERMAN. Redemption at present in legal tenders, but we all look to an early resumption of specie payments. There is no check on banking, there is no use in banks, unless you have specie payments. Bank notes, unless they are based on the payment of specie or something that is equivalent or will soon be equivalent to specie, are injurious, and therefore I am not in favor of any increase of the bank note circulation unless it is in view of the speedy resumption of specie payments. But, sir, if bank notes are based on coin, or if they are redeemable in coin, their amount may be left to the demands of trade, to the wants of the community. The power to present them for payment at any time is a sufficient check on the amount. That is shown by the experience of many countries. In England the limit is very rarely reached. In New York they had a very good State system, which, if it had been extended all over the United States, under the control of the General Government, would have been a wise one. That was a system of free banking under which any man might bank who would keep up the specie standard, and give the requisite security to the public and redeem his notes in specie.

REDEMPTION OF BONDS IN EXISTING CURRENCY.

I come now to the third mode that has been suggested, and that I have necessarily discussed as I have proceeded. I here again desire to repeat that, in what I have to say in regard to the manner of paying or redeeming the bonds, I do not speak for the Committee on Finance, because, in the view which they took of it in the bill which they reported, they did not decide that question. I merely present the argument. I say that equity and justice are amply satisfied if we redeem these bonds at the end of the five years in the same kind of money, of the same intrinsic value it bore at the time they were issued. Gentlemen may reason about this matter over and over again, and they cannot come to any other conclusion; at least, that has been my conclusion after the most careful consideration. Sena-

tors are sometimes in the habit, in order to defeat the argument of an antagonist, of saying that this is repudiation. Why, sir, every citizen of the United States has conformed his business to the legal-tender clause. He has collected and paid his debts accordingly. Every State in this Union, without exception, has made its contracts since the legal-tender clause in currency and paid them in currency. Indeed, every State in this Union except Massachusetts has gone further, and, as I think, improperly, in paying either principal or interest of preëxisting debts contracted on the basis of gold.

Mr. COLE. The Senator must except California from that statement.

Mr. STEWART. And Nevada also.

Mr. MORRILL, of Maine. And Maine also.

Mr. SHERMAN. Maine paid her interest in paper, even on old debts, and certainly on new.

Mr. MORRILL, of Maine. I think not.

Mr. DIXON. The Senator should except Connecticut.

Mr. SHERMAN. Connecticut pays her interest in paper.

Mr. DIXON. Only on debts contracted since the passage of the legal-tender act.

Mr. SHERMAN. That is what I said, and that is all I propose the United States shall do. In the Pacific States, where they have always had a gold circulation, their contracts are based on coin, and they have always paid gold. Massachusetts is the only other State that has done what the United States has done, and always will do, pay preëxisting debts in gold.

Mr. DIXON. Allow me to say to the Senator that Connecticut had no debt before the war. Her debt has been contracted in view of the legal-tender act, and for that reason she has paid the interest in paper.

Mr. SHERMAN. Certainly, and that is precisely what I say the United States may lawfully do. Every citizen of Connecticut, rich and poor, has availed himself of that privilege, and has paid his debts in paper; and every community, every city, every town, every municipal organization in Connecticut has availed itself of the privilege of paying its debts in paper, and in ninety-nine cases out of one hundred have paid debts contracted before the legal-tender act in paper.

Mr. DIXON. But the Senator began by saying that there was a wide distinction between the right of a citizen to pay a debt under the legal-tender act and the right of a State or a Government to do it.

Mr. SHERMAN. I do say that as to preëxisting debts, but as to debts contracted since the legal-tender law took effect, they were contracted in currency, and upon the express stipulation in the law that their principal should be paid in legal tenders and the interest in coin. If that stipulation was not in the law the right to redeem would only rest upon the general principle that a debt may be paid in the kind of money in which it was contracted.

But public as well as private debts contracted since the legal-tender act do not rest upon inference but upon the express stipulation in the law; and it is equitable and right that the United States should avail itself of this part of the contract.

IS THE OFFER TO EXCHANGE A THREAT.

Sometimes this bill has been regarded as a threat. We do not so intend it. We say to the holder of our demand notes, we say to the holder of our bonds, we say to the holder of a compound-interest note, we say to the holder of any public security, except the existing ten-forties, "We will give each of you, at your option, this form of security in exchange for that which you now have; if you accept this offer by the 1st of November next we will give you certain exemptions; if not, you stand upon your existing right, and all questions affecting it shall be postponed until the next session of Congress."

It is said that this is a threat. I do not so regard it.

Mr. FESSENDEN. Will my friend allow me to ask him a question, with his permission?

Mr. SHERMAN. Certainly.

Mr. FESSENDEN. I ask whether the committee have provided any alternative in case the bondholders do not accept?

Mr. SHERMAN. None. Their bonds still stand, and no one proposes the alternative adopted by the English Government, which I intend to refer to in a moment, of stopping the interest, or the alternative adopted by our own Government under Hamilton's plan of reducing the interest. We leave the bondholders to stand precisely as they are, and they will be paid their six per cent. interest in gold until their bonds are redeemed, and they cannot be redeemed under existing laws without further legislation, and that legislation will have to be provided by the present Congress at its next session or by some future Congress. All that the Committee on Finance do in this bill—and, perhaps, in discussing the other points I have gone beyond the necessity of the case—is to offer to all the public creditors these new bonds in exchange for the old, to be done without expense to the Government, to be done without sacrifice by any one, leaving every man to judge for himself whether his interest and substantial equity would not be promoted by this exchange. If he does not do it he stands by his bond, and then the next Congress or the present Congress at its next session will decide the question whether the redemption of these bonds shall be postponed to some indefinite future when we may be able to pay gold for what we received in depreciated paper. We do not decide it and do not undertake to decide it, but we simply submit that option.

Even if Senators do not agree in the view that I take of this matter, it is necessary to provide this new loan for this reason: we must provide for the funding of some one hundred and odd millions of loan that is maturing; we must provide for the redemption of the compound-interest notes; we must provide for the conversion of the greenbacks, which we do in another section; we must provide some bond into which even the floating debt may go; and it is necessary in making that bond to select, if possible, a bond into which the whole mass of the public debt may from time to time be converted according to our future laws.

Mr. FESSENDEN. Are not those obligations convertible into five-twenties as the law now stands?

Mr. SHERMAN. Undoubtedly; but would any Secretary now convert any more of our currency debt into five-twenty bonds bearing six per cent. interest in gold? As I shall show hereafter, there is no such burdensome loan negotiated by any civilized nation in the world as our five-twenty loan, if it is to be paid in gold. Therefore, I would say, in reply to my friend's question, as I said two years ago, that I never would issue another five-twenty bond, because it is the most expensive form of loan. Just consider it: seventy-six dollars of gold will buy a five-twenty bond bearing six per cent. interest in gold, and that bond cannot be redeemed, according to one construction, until the United States are ready not only to pay six per cent. on \$100 for the use of seventy-six dollars, but also to pay \$100 in gold for what now costs seventy-six dollars. That is the proposition, and I say I never would issue another five-twenty bond. I think our great mistake has been that we have funded a great mass of our floating debt already into five-twenties and given to the public creditors the right to demand this large rate of interest for so long a time.

FUNDING OF ENGLISH DEBT.

Now, I wish to show, as we are governed in a great measure by example, that the proposition made by the Committee on Finance is in exact accordance with the course that has been

pursued in England six or seven times, and once in our own country. In England, prior to 1715, the rate of interest was six per cent., which was reduced by an act of Parliament to five per cent., and without negotiation. In 1725, after the explosion of the South Sea bubble, the rate of interest on the mass of the public debt was reduced from five per cent. to four per cent. This was done mainly by negotiation through the great corporations of London, the Bank of England, the South Sea Company, and one of the India companies. They reduced the interest by issuing four per cent. annuities in payment of five per cents., paying off what were called the dissentients.

In the middle of the eighteenth century the rate of interest all over Europe became lower than ever was known before. It fell to three per cent. In 1737 it was proposed in England to reduce the interest on the public debt from four to three per cent. I read now from a well recognized authority on finance:

"In 1737 the three per cents. being at 103½ to 107 the House of Commons came to a resolution that all the public fund, redeemable by law, which carry an interest of four per cent. per annum be redeemed according to the respective provisos or clauses of redemption contained in the acts of Parliament for that purpose, or be converted into an interest or annuity not exceeding three per cent. per annum."

This passed the House of Commons two readings and was lost on the third. In 1742 a similar attempt was made to reduce the rate of interest, and in 1749, under the administration of Mr. Pelham, it was carried into execution, and we have in Hansard's Debates, and also in the biography of Mr. Pelham, an exact account of this transaction. Mr. Pelham was warned before he made this proposition of the effect upon himself, but he persisted in it and finally carried it through, after quite an extended argument. His proposition, in short, was that any holder of any security bearing four per cent. interest might, within a given time, present it; not for redemption, but to receive in exchange a security bearing three and a half per cent. interest for four or five years, and after that bearing three per cent. interest. Nothing was said about redemption; but it was understood, no doubt, that in case holders did not accept it their securities would be redeemed. The result was an angry debate, in which it was alleged that this was a violation of the public faith. I read a note in Hansard's Debates, taken from Tindal, and also one from Smollet. Tindal says:

"This was generally looked upon to be a very bold measure in the minister, and some of his best friends, even the day before the vote passed in the House of Commons, endeavored to persuade him against it. But he appeared determined, and in a few weeks they approved of his steadiness as much as before they blamed his obstinacy."

Smollet says:

"The capital measure which distinguished this session of Parliament was the reduction of the interest on the public funds; a scheme which was planned and executed by the minister, without any national disturbance or disquiet, to the astonishment of all Europe; the different nations of which could not apprehend how it would be possible for the Government, at the close of a long, expensive war, which had so considerably drained the country, and augmented the enormous burden of national debt, to find money for paying off such of the public creditors as might choose to receive their principal, rather than submit to a reduction of the interest."

The proposition is given in full in the biography of Mr. Pelham. He was then Chancellor of the Exchequer, and I find there his speech reported at length, in which he goes over the ground which had been made by the speeches in opposition, which were very much such as have been made on this question. It was argued that, while there was a right to redeem the public debt, the plan proposed would be substantially a violation of the public faith. I read from Mr. Pelham's biography what is there said on the subject:

"Duly impressed with the importance of his financial plan, Mr. Pelham suffered no avoidable delay to intervene before he submitted it to the House. By this promptitude he manifested the decision of a great minister, for the proposal was at first so un-

popular or so little understood that even on the very day before the resolutions were brought forward some of his friends endeavored to dissuade him from his purpose; but their remonstrances were ineffectual. He persevered in his determination, and the event fully justified his expectations. On the 28th of November a motion was made for a committee of the whole House, to take that part of his majesty's speech into consideration which related to the national debt. The expediency of reducing the interest had been so clearly demonstrated by Mr. Pelham, that his plan was unanimously approved."

The great corporations which had aided in the former reduction in the interest of the public debt combined against it, and for two years defeated it. The House of Commons was firm and threatened to repeal some of their privileges, and finally compelled them to acquiesce.

Mr. FESSENDEN. I desire to ask my friend what the character of the security was that it was proposed to reduce the rate of interest upon. Was there any time within which the Government might redeem it?

Mr. SHERMAN. These were annuities. There was no stipulation as to redemption.

Mr. FESSENDEN. Precisely. They differ from our securities. It was not a question there as to the right to redeem. There is no doubt about our right to redeem.

Mr. SHERMAN. There is no doubt about our right to redeem; but the question is as to the mode of redemption.

Mr. FESSENDEN. There was no such question in that case, and hence, I suppose, the ground of opposition.

Mr. SHERMAN. There is a still more interesting case, and one more applicable to our present condition, which occurred in England in 1822. During the wars which probably tested the power of England more than any event in her history—her wars with Napoleon—she was compelled to resort to great sacrifices. She issued all manner of securities; she sold her bonds at one time at fifty or sixty cents on the dollar; she issued five per cents., four per cents., and three per cents., and all other forms of security. After the war was over, before the resumption of specie payments, Mr. Vansittart, then Chancellor of the Exchequer, proposed to fund the public debt by a proposition very similar in language to the one submitted now by the Committee on Finance. The great mass of their floating debt consisted of five per cent. exchequer bills—navy bills, as they were commonly called—which were very much such bills as our five-twenty bonds. They bore five per cent. interest. Mr. Vansittart introduced his bill on the 25th of February, 1822; and we have the whole debate in Hansard. His proposition is in substance like our own. It simply declared that the holders of those five per cent. bills might present them at such a time for exchange for a four per cent. annuity. If they did not present their securities their assent was implied. There was some opposition to the measure. It was alleged to be a violation of the public faith; it was before specie payments were resumed in England, when all payments were made in Bank of England notes. It was finally carried, after debate, and acquiesced in. His funding bill had this feature: it only proposed a reduction of interest of one half per cent. for the first five years, and then a reduction of one per cent. He proposed a reduction to four and a half per cent. until 1828, and then a reduction to four per cent. In this way the navy fives, as they were called, the great mass of the English floating indebtedness, were funded. One gentleman, opposing it, said he would like to ask the honorable gentleman how, with an impoverished treasury, &c., he was going to pay off £142,500,000. It is the same objection we hear here. The answer was that it took a very small amount of currency to pay a very large amount of debt, and if the present holders would not make the exchange others would be found to furnish the money to pay them off. The plan was carried into execution and was acquiesced in; and this

very debt which was reduced in 1822 and 1823 was afterward twice reduced, and is now part of the three per cent. debt of England.

There is also one case in our own history, and that is the funding system adopted by Alexander Hamilton. The Constitution of the United States declared that the public debt of the United States should be inviolate, and the new Government assumed the debt of the old confederacy; but, as a matter of course, it was in a condition of great uncertainty; the interest had been unpaid for a long time, and there were disputes as to the amount. Alexander Hamilton, as first Secretary of the Treasury, proposed a plan of funding and grouping together all this mass of indebtedness. His report on the public credit was regarded by his friends, and has been regarded by the whole world, as a remarkable production; and yet, what was Alexander Hamilton's funding plan? He proposed first, to ascertain the amount of the national debt, which was finally computed to be and was settled at \$54,000,000, foreign and domestic. Did he propose to pay that off in precise conformity with the terms on which the debt was contracted? Not at all; he took that and he also ascertained the amount of the State debts? Nearly all the States were overwhelmed with debts that grew out of the revolutionary war, and they were ascertained and apportioned; the general aggregate of all was \$74,000,000. How was this funded? By offering the fundholders six per cent. bonds for two thirds of their debt, and the other third was paid by three per cent. bonds, some of it by four per cent. bonds, some of it by public lands, and some of it by annuities. The plan of Alexander Hamilton embraced various forms of loan, all of which was submitted to the voluntary will of the fundholders. Some of them refused to agree. What did he do then? He only paid them in accordance with the stipulations made as to the rest of the loans. I will read a short paragraph or two from this document of Mr. Hamilton to show how he regarded the public debt:

"The interesting problem now occurs: is it in the power of the United States, consistently with those prudential considerations which ought not to be overlooked, to make a provision equal to the purpose of funding the whole debt, at the rates of interest which it now bears, in addition to the sum which will be necessary for the current service of the Government?"

"The Secretary will not say that such a provision would exceed the abilities of the country; but he is clearly of opinion that to make it would require the extension of taxation to a degree and to objects which the true interests of the public creditors forbid. It is therefore to be hoped, and even to be expected, that they will cheerfully concur in such modifications of their claims, on fair and equitable principles, as will facilitate to the Government an arrangement substantial, durable, and satisfactory to the community. The importance of the last characteristic will strike every discerning mind. No plan, however flattering in appearance, to which it did not belong, could be truly entitled to confidence."

Then his first proposition was "that for every hundred dollars subscribed payable in the debt, (as well interest as principal,) the subscriber be entitled at his option either to have two thirds funded at an annuity or yearly interest of six per cent.," the residue to be paid in three per cent. annuities, the interest on which did not commence till 1802. As an alternative for a part of the debt he proposed a system of annuities in which a small portion of the debt was finally paid.

Mr. FESSENDEN. What provision did he make for those who did not agree to the offer?

Mr. SHERMAN. He merely provided for four per cent. interest to be paid to them, two per cent. less than they were entitled to under the law creating the debt. After speaking of those who might refuse the offer he proceeds to say:

"Hence, whatever surplus of revenue might remain, after satisfying the interest of the new loans, and the demand for the current service, ought to be divided among those creditors (if any) who may not think fit to subscribe to them. But, for this purpose, under the circumstance of depending propositions, a temporary appropriation will be most advisable, and

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the sum must be limited to four per cent., as revenues will only be calculated to produce in that proportion to the entire debt.

"The Secretary confides for the success of the propositions to be made on the goodness of the reason upon which they rest; on the fairness of the equivalent to be offered in each case; on the discernment of the creditors of their true interest; and on their disposition to facilitate the arrangement of the Government, and to render them satisfactory to the community."

Mr. FESSENDEN. Four per cent. on the principal.

Mr. SHERMAN. But their debts bore six per cent. really. Subsequently the dissentients came in, but it was after three years, when, by a subsequent law proposed by Mr. Hamilton, they were allowed the same privileges as if they had assented in the first year. That was the plan of Alexander Hamilton, which finally led to the consolidation of the national debt. I say the plan now proposed by the Committee on Finance is in accordance with precedent, holds out no threats, deals with all alike, holders of five-twenty bonds, greenbacks, and all. It gives them a proposition to fund their debt at their own option by the 1st of November next, or if they will not choose to do it, then, as a matter of course, the question is to be decided at the next session of Congress, what provision ought to be made, whether or not Congress will redeem the five-twenty bonds in the currency in which they were contracted or postpone its redemption, paying the interest at six per cent. in gold, until we can redeem the principal in gold. Whatever view Senators may take of this, they cannot avoid making some provision by some loan less onerous than five-twenties for funding the greenbacks and for funding the floating debt of the United States; and into that loan, whatever it may be, the whole debt may eventually float.

TERMS OF THE NEW LOAN.

Now, Mr. President, the question is whether the terms of the proposed loan are reasonable and fair, such as we ought to propose to our own citizens, and such as our constituents may reasonably hope to fulfill, such as are equitable and fair as between creditor and tax-payer. The first question that arises is the exemption from State taxation.

No Government that I have been able to find ever allowed its bonds or securities to be taxed. The United States never did. In the absence of stipulations to the contrary the courts have always held that no State or subordinate authority could tax the national securities. It has been so held by every judge who ever sat upon the supreme bench, because it has happened that cases of the kind were brought before the courts from time to time from the earliest foundation of the Government until the last case in 2 Black, in 1862, and it has been uniformly held that there is no power in the States to tax Government bonds. It may, it is true, be made a part of the loan that the States shall have a power to tax them, but who would buy such bonds? I never would vote for such a provision. I never would allow a subordinate authority to thus control the public credit of the United States or have a voice in the matter. The effect in time of war would be disastrous. Such a power would prevent the citizens of a State where the power was exercised from loaning money upon Government securities. I take it, therefore, as an axiom, that in no event shall we allow subordinate authorities to tax the national securities. I need not refer to the authorities on this subject. I have done that before, and I suppose that Senators are familiar with them. There are at least five or six different decisions of the Supreme Court to this effect.

The next provision is the exemption from any discriminating property tax. Men who do not understand the question have proposed to tax Government securities specially, like a special tax on manufactures; and the proposition has been, perhaps, broached in Congress to tax Government securities one or two per cent.

in lieu of all other taxes. Such a provision would be a clear and palpable violation of the Constitution and of the law. It would be worse than repudiation; it would be the meanest kind of repudiation. Why? Because it would be a special discriminating tax on property. A tax on manufactures is a tax on consumption. The manufacturer may add that tax to the cost of the article, and the consumer who finally uses the article pays the tax. That is the principle upon which it rests. A special tax on property is a diminution of the property. It cannot be collected from any one else or shared with any one. It is a direct tax—as much so as if levied on farms—and being a direct tax is unconstitutional, unless apportioned among the States according to population.

One of the earliest cases which came before the Supreme Court was the well-known case involving a tax on carriages. There the court held that it was the use of the carriage which was taxed, and that was a proper tax, because it was a tax on the use of a luxury. It was the enjoyment or use of the carriage that was taxed, not the property in the carriage. No special tax can be levied on property. If this principle once prevailed, that we might select any kind of property and levy a discriminating tax on that property, the time might come when shipping might be selected as the subject of a special tax; when property in lands, plainly against the intention of the Constitution, might be selected for the levying of a discriminating tax. We propose, therefore, to avoid all controversy, to put a stipulation in the new loan law exempting these bonds from all discriminating taxation by Congress, but leaving them subject to the same income tax that other income is subject to.

This question was once presented in the English Parliament; and it is a little remarkable that as early as 1724 a proposition was made to levy a tax of one per cent. on Government securities. That was before the second reduction of interest I have referred to. A remarkable pamphlet then appeared on the subject, the writer of which, to this hour, is unknown; or, at least, it is disputed who wrote it. This secrecy is as remarkable as the authorship of the Junius papers. It was a pamphlet on the inviolability of the public securities, which attracted so much attention as utterly to defeat the proposition. It is preserved now, and is regarded as one of the most remarkable and beautiful productions in the English language. It answers now, as well as then, the argument for taxing public securities. From that time to this in England it has never been proposed. It has not heretofore been proposed in this country, and it ought not to be thought of.

AS TO THE RATE OF INTEREST

There is some difference of opinion; and you will hear more of it from my friend from Missouri [Mr. HENDERSON] as to the rate of interest of the new bonds. The Committee on Finance took great care in deciding this question. We believed that five per cent. was as low a rate as we could now hope to negotiate a loan. It is the lowest rate of interest ever provided for in any loan act of the United States, except in the funding scheme of Alexander Hamilton, already referred to, where a certain portion of the debt was funded at three per cent. I have looked with care into recent foreign loans, and I find that no Government in Europe has recently sold its bonds at a less rate of interest than five per cent. When the nominal rate was lower they were sold at a discount. The English loans, during the Napoleonic war, yielded the lender a rate of interest averaging over five per cent. I have on that subject a number of authorities, and I will refer to one or two of them.

In the compendium of finance which I have before me there is a statement of the amount of the various loans negotiated by the English Government during the second French revolutionary war. The whole amount of loans ne-

gotiated was £420,905,400 sterling, or over two thousand million dollars. The amount actually received from those loans by the Government was £266,800,000 sterling, or at the rate of about sixty per cent. The securities were mainly three per cents, though large sums bore four and five per cent., so that the rate of interest actually paid was over five per cent. In 1815, after Bonaparte had left the island of Elba, when it became necessary for the English Government to negotiate a large loan, they sold £66,000,000 of three and four per cent. consols for £36,000,000 sterling, or about fifty-six cents on the dollar. I have a statement of the whole national debt of Great Britain, and it is apparent from it that the English Government has paid at the rate of about five per cent. interest. As a matter of course, this has been done by selling their three and four per cent. securities below par.

So it is in France. We have all heard about the popular loan in France during the Crimean war, and it was regarded as a remarkable success in its time. It was undoubtedly very popular in France. The first loan, on the 14th of March, 1854, was for 250,000,000 francs. It was sold at the rate of 100 francs of three per cents. for sixty-five francs and twenty-five centimes, and at the rate of 100 francs at four and a half per cent. for ninety-two francs and fifty centimes, making really a little over five per cent. So the second loan of 500,000,000 francs was issued at the rate of 100 francs of the three per cents. for sixty-five francs, 100 francs of the four and a half per cents. for ninety-two francs. So the subsequent loan of 750,000,000 francs in 1855 was issued at about the same rate, being a little over five per cent.

I have also a statement of the debts of various foreign countries showing that the rates of the most powerful nations of Europe are nearly always five per cent. or, if less, have been sold under par. When we reflect that in this country the rate of interest is necessarily higher than in most of the countries of Europe, this being a new country, with a vast development, and active population increasing rapidly all over our diversified area, it is perfectly idle to suppose that the United States can get money at a less rate than five per cent. The ordinary legal rate of interest in most of the States is seven per cent., and the actual rate among merchants often amounts to ten per cent. We have by the discrimination made in favor of these bonds reduced the rate to five per cent., and it seems to me that is as low as it is possible to negotiate this loan. As a matter of course, if I believed it was in the power of the Government without adopting measures injurious to the public interest to negotiate a bond at a less rate of interest, I would gladly do it; but after full examination of this question the Committee on Finance came to the conclusion that five per cent. was as low a rate of interest as the loan could be negotiated.

There are various reasons why the rate of interest all over the world is now higher than it was one hundred years ago. The artificial wants of society have been very much increased. We have railroads and steamboats and telegraphs, vast avenues and sources and demands for wealth and capital that one hundred years ago Benjamin Franklin and Doctor Johnson never thought of. The railroads in this country at this time are worth more than all the country was worth at the time of the revolutionary war. All these new elements of social progress make demands for money, and therefore raise the rate of interest. There is another remarkable fact which causes a general advance of the rate of interest all over the world in this as compared with the last century, and that is the vast addition made to the coinage of the world. The discovery of gold and silver has caused an advance in the rate of interest. Why? Because every man who loans money now, especially on long time, knows that he will be paid off at the end of the period in a commodity with less

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productive, purchasable power than he loans. The actual depreciation in gold and silver coin for a number of years has been a little over one per cent. per annum, so that if a man now lends \$1,000. payable in gold twenty years hence, he will get back his \$1,000 at the end of twenty years with one fifth of its purchasable power shorn off by the additions in the meantime to the value of the gold and silver of the world. The truth is now that while real estate is advancing money is depreciating. All productions are advancing, while the relative power of gold and silver coin to other commodities is diminishing. A productive four per cent. investment in real estate is a more profitable investment than six per cent. in the best bonds in the world. Why? Because those bonds in the future will be paid off in gold and silver coin when it has less purchasable power than it has now, while the lands, by the gradual increase of the country, are increasing in value. The one diminishes at the rate of one per cent. per annum, according to the best statisticians, and the other increases in this country at the rate of one and a half per cent. per annum.

Mr. STEWART. Allow me to suggest that that depends on the continued production of gold.

Mr. SHERMAN. If California and Nevada give out there is plenty of gold in other portions of the world. There is no danger of any diminution of the quantity. It has been going on increasing year by year, and I have no doubt this process will go on for a hundred years, perhaps for a thousand years, to come. The gradual diminution of the relative value of gold and silver has gone on since the dawn of light in the Middle Ages. In England the difference between the intrinsic value of the pound sterling now and what it was three hundred years ago is nearly six hundred per cent. I believe Macaulay puts it much higher than that for even two hundred years. This process is going on continually; and therefore the rate of interest is increasing as the commodity in which the money is to be eventually repaid is diminishing in value.

Besides that, we have the new wants of mankind—wants that our ancestors never dreamed of. The value of the steamboats of this country is more than the whole amount of the national debt at the close of the revolutionary war. You cannot, therefore, test this question by what England may have done one hundred years ago. She may have reduced her rate of interest to three per cent.; but how was it done? It was done by selling her bonds in time of war at a discount of twenty, thirty, or forty per cent., and then, when peace came, availing herself of the condition of the money market at favorable moments to reduce the rate of interest.

I say, Mr. President, we cannot negotiate a bond bearing a less rate of interest than five per cent. except first by increasing and depreciating the greenbacks, and that certainly we ought to oppose to the utmost; or second, by the English plan of selling the loan below par, to which our people are not accustomed, and to which they would not submit. That resort would increase nominally the public debt. Even if the rate of interest should be more favorable, the popular judgment would condemn it, because they look upon a debt as a temporary thing to be paid off in full, and not, as in England, a permanent thing, the principal of which is never to be paid, and the interest only to be provided for.

There is this great difference between our system and the English system. In England they sell their credit below par. They fix the rate of interest and they sell securities in open market at what they will bring. In this country we fix the price of our bonds at par and ask money lenders at what rate of interest will you loan us money. That is the difference. Why is it so? Because in England they do not anticipate the payment of the principal. I have before me the statement of one of the most

eminent writers on English finance, who says that the system of England is a vicious one. William E. Gladstone, in a recent speech made by him in Parliament, declared that the system of finance by which the English have perpetuated their debt for ages is a vicious one. Here is what Sir Robert Hamilton says on that subject:

"In the early part of the funding system the capital assigned to the public creditor seldom exceeded the sum advanced by him. We find only two slight deviations from this rule during the seven years' war and one in the American war, before 1781. Annuities for years or lives were granted as a bonus on many of the loans during these periods. Afterward, when the difficulty of raising loans increased, capitals were assigned to the creditors much higher than the sums advanced, and this practice has been continued since to a great extent.

"It has been maintained in the House of Commons on the part of the ministry, and, if we mistake not, even admitted by the Opposition, that it was the duty of a financier to raise the loan at the least annual expense it could be procured for, without regard to the amount of the nominal capital. We apprehend that this opinion is indefensible, except upon the supposition that all views of discharging the national debt, or any part of it, are forever laid aside; and that the measures founded on it are very pernicious. The nation ought to pay no more in discharge of debt than the sum borrowed, together with the interest during the time the debt subsists. By the system now followed it pays, besides, the excess of the capital assigned above the sum borrowed, in case the redemption be at par; or, if the price of the funds enable the public to redeem the debt on lower terms, the nation pays, in addition to the sum borrowed, the difference between the price of stock at the times of borrowing and paying, which is always great."

There is another way in which I suppose we might negotiate a bond at a low rate of interest; and that is, by postponing the payment of the principal to an indefinite period. That, however, is against the American notions of finance. Our people have always looked upon a debt as a burden to be paid off as rapidly as possible, and public opinion and good policy would not tolerate the making of a very long loan, and I for one would not, under any circumstances, vote for one which it would not be within the power of the Government to redeem within twenty years. When we were involved in the war we always reserved the right of redemption. The idea of redeemability was always ingrafted in all our loans. I would not desire to see loans made except with that power reserved, so that when a favorable opportunity offered we might step forward in strict accordance with the public faith and redeem the principal of the bonds by paying the amount.

The public is already familiar with the ten-fifty five per cent. loan. They know what it is. It is known in every cabin in all this land. A bond at four per cent. or any other less rate of interest would be looked upon as confiscation; you could not negotiate it; five per cent. is now about par, and we can sell a five per cent. bond without increasing the greenbacks a single dollar. I do not desire to see the greenbacks increased beyond their present amount. There is no necessity for it. We can reduce the rate of interest from six to five per cent. without increasing the volume of greenbacks, and we can thus save to the people of this country \$17,000,000 in gold per annum without deranging the currency, without disordering the money market, without depreciating our credit. I do not desire to force upon the market a loan bearing a lower rate of interest, which will either require more greenbacks to float it, or require us to sell it below par, or require us to prolong the time of payments. We can negotiate a five per cent. loan now in the present state of the money market, disordered as it is by political complications, and I desire to secure that, maintaining, however, the right within a reasonable time, say ten years, to make a further reduction to four per cent., if we can, after that to three per cent. or whatever public credit will allow; but the attempts now to reduce the rate of interest to four per cent. would be regarded in this country and abroad as a species of confiscation.

THE PAYMENT OF THE PRINCIPAL.

The section of this bill in regard to the pay-

ment of the principal of the debt only establishes the general idea that the debt itself shall be paid in a period of time. The Committee on Finance, after much reflection, agreed to fix the amount which should be annually applicable to the payment of the principal and interest of the debt at \$135,000,000. The amount of the interest now is \$129,500,000, so that we appropriate about five and a half millions to the payment of the principal; but, as a matter of course, this sum being applied annually, while both the principal and the interest of the debt is being reduced, partly by funding, partly by payment, partly by the operation of this law, the interest will gradually be decreased, and the amount applicable to the principal will thus annually increase. If all our debt is funded into a five per cent. loan except the long bonds of 1881, and the amount should be \$2,200,000,000, leaving outstanding the present amount of greenbacks and no more, the interest on the debt would cease to be a burden, and the difference between the amount appropriated and the amount required to pay the interest would gradually pay off the principal of the debt. I have a table, prepared at the Treasury Department, showing the precise operation of this plan, by which it will appear that it would pay off the debt by 1909.

This plan is free from the objection made to our former sinking fund, which is a fund placed in the hands of commissioners, to be invested annually. It is in constant danger of being diverted from its purpose. This appropriation will, on the contrary, be applied constantly to the payment of the national debt. It so happens that our debt can be arranged under this funding bill so that some of it will be due every year for many years. Some of it will be within our reach within periods of two years for more than twenty years to come; so that by the application of this specific sum we can pay off the principal of the debt. When the bonds are below par we can buy them in the market; when they are equal to par we can pay them off; and under the operations of the bill, which, I believe, received the general assent of the committee, the whole debt will be paid off in a period of forty years.

CONVERSION OF UNITED STATES NOTES.

Mr. President, I desire now to make a few observations in regard to the sections of the bill relating to the United States notes; and these I consider as vitally important. We propose to restore to the United States note the right to be funded at the pleasure of the holder into the new bonds whenever he desires. There is more ground of discontent and more real discontent among the people of this country because of the discrimination made between the bondholder and the holder of the greenback than from any other cause. You compel every citizen of this country to take the greenback as money, willing or unwilling. It is the measure of the value of his labor; and yet it has no purchasable power except the hope that in some future time the United States will redeem it. It may be forced upon another man in payment of a debt; it may be applied to pay taxes; but it cannot be converted into income except at a discount.

A man cannot take United States notes payable on demand to any broker and receive in exchange any form of security issued by the United States. There is a wide discrimination made between the bondholder and the noteholder, which gives rise to popular clamor and is the cause of a great deal of just complaint. In 1863 we were compelled for wise purposes to take away the right of the holder of the greenback to fund it, because we wished then to force our loans upon the market; and while that right was outstanding we could not do it. Now that the war is over, that the whole process of funding is intended to be voluntary at the discretion of the noteholder, we ought promptly to restore this right to allow the note to be converted at any time into some kind of

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bond; and we propose also to allow the bond to be converted into notes keeping within the limit of notes fixed by law. Then there is no discrimination; the bondholder and the noteholder are both public creditors; both depend upon the public faith. The noteholder may go to the Treasury of the United States and demand his bond; the bondholder may go also and demand his note. They are put on a basis of equality. This destroys all speculation in Government securities. Both will then stand on the same footing, and both will be of equal value. The noteholder may at his option draw interest in gold by converting it into bonds, and the popular cry of demagogues that we have provided gold for the bondholder and notes for the people will be silent.

And, sir, there is now no reason why the note issued to the laboring man should now be less valuable than any other form of Government security. It makes one of those salient points before a popular audience just and correct, which is the cause of complaint, and will be until it is removed. An important effect of this provision will be to furnish money to redeem the bonds or any other securities that offer, and without resorting to a sale of bonds. I do not propose, nor do the committee contemplate, the issue of any new greenbacks. We suppose that the process of funding these notes, they pouring into the Treasury, will furnish ample means to redeem all the outstanding bonds and securities as they become redeemable. I have no doubt the same process will go on here that occurred in Europe—a very small amount of money will pay a large amount of bonds. The mass of the bonds will be exchanged without money. The transactions paid by money compared with the transactions paid by checks and other forms of paper are as one to a thousand. The daily balances in the exchanges in the New York clearing-house amount to many millions, and yet the amount of currency to pay these balances is often less than one per cent. of their nominal amount. Other reasons may be given for the new feature of this bill giving the holder of these bonds the right to convert them into notes. This is indispensably necessary to guard against sudden contraction and panic. There are times when the notes will float into bonds so rapidly as to contract the currency, and thus derange business and prevent the movement of crops. This privilege will give flexibility and movement to the currency of the country. Every exchange will be a benefit to the Government. If the holder of a Government security bearing interest surrenders it to the Treasury for a note without interest the United States saves the interest. If, on the contrary, the notes are funded for a bond the notes may be used in the redemption of other bonds bearing a higher rate of interest. If the money-market becomes stringent, if currency becomes scarce, the holder may be willing to surrender his bond bearing five per cent. interest in gold in order to get currency with which to pay his debts, and why not give him that privilege? It is a benefit to the United States, and it is the only mode by which, during the suspension of specie payments, we may make a flexible currency.

And, sir, this loan will be the great saving fund of the people of the United States. Every man having money for a time idle will float it into these ten-forty bonds, and while we have the money we shall pay off bonds bearing a higher rate of interest. When he desires it again, he can come back and get the bond, and so this operation may be carried on with perfect safety. Now the deposits in the saving banks amount to over five hundred million dollars. Why should not this money be deposited in the Treasury? Why should not these little streams of the savings of the laboring man help to float the public credit? The Government of the United States ought not to feel too high to acknowledge the services of such a fund. They will be useful. They will enable the depositor

to get the full value of his money. Now he deposits in savings banks, where he gets four or five per cent. interest in paper money. Under this provision he may put his money in these bonds, and the money thus deposited will enable the Government to pay off bonds bearing a higher rate of interest. In every view we could take of this proposition, after the most ample consideration, we thought it was a wise provision, and would work well. The trouble and cost of printing these bonds and exchanging them one for another, being carried on at the Treasury Department or at the depositories, or other proper places of exchange, will be done without cost except that of printing. It is purely voluntary, and will be adapted to the wants of trade. It will tend to give increased value to the United States notes; and my firm conviction is that under this process both notes and bonds will gradually rise, step by step, until they reach the standard of gold, and then this whole process ceases according to the provisions of the bill. I look upon this provision as the most rapid way to specie payment.

The only other section of the bill to which I have not alluded is that which legalizes contracts in gold. That is right in itself. I always supposed that the legal-tender act was not intended to affect the right of the people to negotiate, buy, and sell gold, if they chose. Some of the courts, however, have decided otherwise. Whatever the law may be, there is no objection to unlocking the hoards of gold, and allowing the people to deal in it as they choose. It makes another addition to the currency, and will gradually make our people become accustomed to dealings and transactions in gold and will tend in the right direction. Where one man lends gold to another man, it is equitable that he should have gold back in payment, and it is very inequitable for the debtor in such a case to refuse to pay it, and make a fraud of the law. I think it will be beneficial to insert this provision, because dealing in gold will have a tendency toward specie payments.

I have thus, Mr. President, presented the leading provisions of this bill. I appreciate the difficulties of the subject and the personal responsibility I assume in advocating a measure that may fail of its purpose. It is far easier to sit quiet, to propose nothing, and criticize the measures of others; but such I do not understand to be the duty of your Committee on Finance. We are actuated by the earnest desire to reduce the burdens of the people without injury to the public credit or injustice to the public creditor, by a firm conviction that the offer here made to the bondholder is fair, equitable, and honorable, and that its acceptance would not only save an annual expenditure of \$17,000,000 in gold, but would settle, upon a proper basis, all uncertainty as to the mode of payment of the public debt, and still leave open, after a reasonable time, a further reduction of interest, if practicable. Further than this the committee does not go. It does not provide for a rejection of this offer; but I repeat, that if this offer is rejected I will not hesitate to vote to redeem maturing bonds in the currency in existence when they were issued and with which they were purchased, carefully complying, however, with all the provisions of law as to the mode of payment and as to the amount of currency outstanding. This conclusion I have arrived at against the earnest arguments of personal and political friends and against my own personal and pecuniary interests.

But, sir, I saw two years ago—and we all see clearly now—that the existing relation between the public creditor and the tax-payer, by which the former enjoys all the blessings of a Government without cost, receives without diminution a higher rate of interest than your courts would enforce between citizens, and may demand payment of the principal in gold for paper lent, while your courts refuse to enforce a special contract for the return of gold for gold.

Such a system cannot endure in a Government not entirely despotic without creating discontent that may endanger the fair and equitable performance of the public engagements. You cannot disguise your knowledge of this growing discontent. The unavoidable effect of approaching specie payments in reducing prices and shrinking values will increase this discontent. In that painful process the people will see that the untaxed productive annuities of the bondholder alone will be increased in value, while all other forms of property will be reduced in value. It is not the interest, nor do I think it will be the desire, of the public creditor to invite this discontent. The same motive that induced him to trust the Government in its hour of peril will induce him to accept equity from those who are willing to do equity. And, sir, his patriotism will not be lessened when he reflects that while his money aided in the good cause it has been the most profitable investment of capital he could have made.

Senators often tell us that we must not be influenced by public discontent or clamor. I agree with this when the discontent is not founded upon substantial equity, but when it is founded upon equity it will make itself felt through you or over you. And Senators must remember that this is a Government of the people, for the people, and by the people. It is not, like the Government of Great Britain, a despotic oligarchy, where the rights of property override the rights of persons; where the laws are made to add to the accumulations of the rich, though hundreds of thousands may thereby be pinched with poverty. That is the land of entails, where the offices of the church are bought and sold as property, and where all that is good in life—office, honor, property—is confined to less than one tenth of the population—where the laws are studiously framed to exclude the poor from all political rights. We borrow from these people of kindred blood many of the best guards of liberty, but we must take care not to ingraft on our republican system the leading feature of their present Government, the supremacy of property over labor.

Their wealth consists of vast accumulations of property produced by ages of labor. A generation adds but little to this aggregate of wealth; therefore their laws protect property at the sacrifice of labor. Here all the acquisitions of the past, all the accumulations to this hour, are only equal to the accumulations that will be made by labor during the next ten years. Our wealth is in the energy and sinews of thirty million free people—all equal—each working for himself, with no privileged hand to press him down in the race of life. It is this that has made our history like the tales of Arabian fiction. Our railroads alone, built since we were all young, are worth \$1,600,000,000, or more than the property of the United States when she took her place among the nations of the earth. The property of the State of Ohio is now worth more in gold than that of all the colonies when they proclaimed independence, and yet Ohio was then a pathless wilderness where no white man dwelt.

The entire debt of the Revolution, which Alexander Hamilton approached with terror, which our ancestors debated over for years, upon which parties were formed and dissolved, was \$75,740,111 80, including over seventeen million dollars of State debts assumed; and yet now we appropriate one half of that sum for pensions, and will this year reduce our current expenses more than that sum. All this vast progress is the result of labor. To encourage, maintain, and reward labor must be the principal object of our legislation. Capital can take care of itself. It has many advantages in competition with labor. It may be idle—labor cannot be. It does not grow hungry; it does not become cold or sick, while the hand of labor must be supported by food and clothing, and awaits sickness and death. Capital is only useful to the country as it gives employment

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to labor, as a means to further development, while all labor tends to create new wealth.

When capital is invested in Government bonds it is useful, so far as further development is concerned, only in supplying the wants of the owner. When employed in most other pursuits it adds to the national wealth. Certainly it is not the public interest to make this investment so profitable and attractive as to draw into it the capital of the country or to make it so permanent as to become a privileged aristocracy. No privilege should be granted to the bondholder that is not granted to the noteholder. Both are public securities, and both, and equally, can appeal to the public faith. No privilege should be given to the bondholder unless it is compensated for by some advantage reserved by the Government, and the whole public debt should be made to assume such form that it may be a part of the circulating capital of the country bearing as low a rate of interest as practicable, and only with such exemptions as will maintain it at par with gold. Whether this bill will promote these objects it is for the Senate to say. I confidently believe it will. I do not appeal to any party for the support of this measure, for it affects all alike. All must contribute to the public taxes, and all will share in the benefits of any relief.

But while we trust our political adversaries may support this as a measure of relief to our constituents, yet the fate of the bill must rest mainly upon the Republican party. It is my pride and hope that this powerful political organization, having conducted the country with safety and honor through the most memorable scenes of our history, may, still retaining the confidence of the people, gradually guide them back into the channels of peace, reduce their burdens, relieve them from oppressive taxes, and start again in productive labor the millions now waiting to develop the greatest country God ever gave to man.

Now distrust seizes upon every one. Wild schemes have been proposed, which drive capital from its moorings. Taxes are bearing heavily upon unprofitable industry, and complaints are made of the burden and distribution of these taxes. Sectional divisions are already showing their hydra heads, and disputes as to the terms of public engagements cast doubts upon the public faith. It is in such a time that Congress is able to perform its highest duty—that of an arbitrator. Upon questions involving the public debt it is the only arbitrator. It cannot shrink from this duty. I trust, sir, before this session closes, that Congress will provide for the redemption of our maturing bonds, thus saving ultimately \$17,000,000 a year; that it will adopt such measures as will gradually make the dollar in greenback in the hands of the laboring man equal to a dollar in gold; that it will throw off the great mass of our internal taxes, and reduce our ordinary expenses to the lowest practicable limit. These measures adopted, we may safely leave to our constituents the renewal of trade, the restoration of confidence, and the development of industry.

Statement of five-twenty bonds, and when redeemable.

April 30, 1867, act February 25, 1862.....	\$514,780,500
October 31, 1869, act March 3, 1863.....	\$3,882,500
October 31, 1869, act June 3, 1864.....	125,561,300
June 30, 1870, act April 12, 1863.....	129,443,800
October 31, 1870, act March 3, 1865.....	301,880,250
7-30s funded into 5-20s.....	181,427,250
7-30s to be funded before August next.....	270,957,000
	214,953,850
	\$1,613,442,630
To be added:	
6 per cent. currency bonds.....	\$22,470,000
Compound-interest notes.....	46,244,780
3 per cent. certificates.....	25,010,000
Matured debt payable on demand.....	12,288,169
	106,042,949
Total.....	\$1,719,485,599

Statement of British loans—1802 to 1815.

Date.	Money borrowed.	Stock created.	Nature of security.
1803.....	\$12,000,000	\$9,600,000 9,600,000	3 7/8 ct. consols. — reduced. 38,500 long annuities.
1804.....	14,500,000	11,800,000	3 7/8 ct. consols. — reduced. — consols. — reduced.
1805.....	22,500,000	33,750,000 4,950,000	5 7/8 ct. navy 75,000 long annuities.
For Ireland 1,500,000		360,000	3 7/8 ct. consols. — reduced. — consols.
1806.....	20,000,000	20,000,000	Reduced.
1807.....	14,200,000	9,940,000 9,940,000	5 7/8 ct. navy. 3 7/8 ct. consols.
For Ireland 1,500,000		1,505,200	4 7/8 ct. consols.
1808.....	10,500,000	2,409,625	4 7/8 ct. consols.
1809.....	14,600,000	12,408,375	3 7/8 ct. reduced.
		13,200,000	64,483.6; 8 long annuities.
1810.....	12,000,000	8,760,000	3 7/8 ct. reduced.
		15,600,000	— consols.
1811.....	12,000,000	1,245,000	3 7/8 ct. reduced.
		12,000,000	— consols.
		2,400,000	41,500 long annuities.
1812.....	22,500,000	27,000,000	3 7/8 ct. reduced.
		12,600,000	— consols.
1813.....	27,000,000	23,100,000	— reduced.
		12,600,000	— consols.
1813.....	22,000,000	89,250 long annuities.	3 7/8 cent. red' d.
1814.....	24,000,000	24,200,000	— consols.
		14,740,000	— consols.
		5,640,000	— consols.
1815.....	36,000,000	7,200,000	5 7/8 ct. consols.
		19,200,000	3 7/8 ct. reduced.
		46,800,000	
		3,600,000	
		15,840,000	
	\$266,800,000 Value.....	415,348,200	4 7/8 ct. consols.
		5,557,200	3 — consols.
		\$420,905,400	308, 733.6, 8 long annuities.

Table showing the annual progress of the interest-bearing debt of the United States, assuming the conversion, as fast as redeemable, into five per cent. securities, of the portion bearing other rates of interest than five per cent. and also assuming an annual appropriation of \$135,000,000 for the payment of the interest—the excess to be applied toward the redemption of the principal of the debt.

July 1 of each year.	Amount of debt outstanding.
1868.....	\$2,224,722,000
1869.....	2,230,798,000*
1870.....	2,230,754,000†
1871.....	2,229,515,000†
1872.....	2,223,087,000†
1873.....	2,216,436,000†
1874.....	2,198,389,000
1875.....	2,176,845,000
1876.....	2,254,124,000
1877.....	2,130,472,000
1878.....	2,105,532,000
1879.....	2,079,345,000
1880.....	2,051,849,000
1881.....	2,022,979,000
1882.....	1,992,664,000
1883.....	1,957,998,000
1884.....	1,921,597,000
1885.....	1,883,377,000
1886.....	1,843,246,000
1887.....	1,801,108,000
1888.....	1,756,864,000
1889.....	1,710,407,000
1890.....	1,661,627,000
1891.....	1,610,409,000
1892.....	1,556,629,000
1893.....	1,500,161,000
1894.....	1,440,869,000
1895.....	1,378,612,000
1896.....	1,313,243,000
1897.....	1,244,605,000
1898.....	1,172,535,000
1899.....	1,096,862,000
1900.....	1,016,705,000
1901.....	932,540,000
1902.....	844,197,000
1903.....	750,376,000
1904.....	653,944,000
1905.....	551,641,000
1906.....	444,224,000
1907.....	331,435,000
1908.....	213,007,000
1909.....	88,637,000
1910.....	600,000

*Including \$11,398,000 estimated increase of the Pacific railroad debt.

†Including \$10,000,000 estimated annual increase of the Pacific railroad debt.

Impeachment.

SPEECH OF HON. C. A. NEWCOMB,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

February 22, 1868,

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

Mr. NEWCOMB. Mr. Chairman, never since I have had the honor of occupying a seat on this floor have I had a doubt but that the country would be brought to this crisis, and when the question of impeachment was before this House in December last I voted to sustain the report of the majority of the Committee on the Judiciary. And yet, sir, I enter upon the discussion of the resolution reported by the Committee on Reconstruction with mingled feelings of sorrow and joy—sorrow in the consciousness that a man honored by the loyal and true men of the country with one of the highest positions in their gift, and by his right of succession elevated to the highest position on earth, should have so far fallen as to betray their confidence in a systematic career of State crime that has disgraced the American nation; and joy in the opportunity afforded the American people of demonstrating to the friends of liberal Government everywhere the superiority of Republican over monarchical institutions in the work of removing an unworthy and wicked ruler.

The impeachment and removal of Andrew Johnson will be looked upon all over the world as the grand crowning triumph of freedom and republicanism, and do more to overthrow arbitrary power and oppression and establish the universal Republic than any other act of this Government up to this present time. The war of 1812, the war with Mexico, and the late civil contest with rebellion demonstrated the power of the Republic to repel invasion, to prosecute foreign war, and defend itself against the machinations of internal foes. The impeachment and removal of Andrew Johnson will prove the power of the people, under the forms of law, to remove a ruler of their own selection whenever he proves false to the ideas that underlie the institutions of our country or his elevation to power. The contests of arms resulted in victories of force over force, while the successful impeachment of a criminal Executive will prove the grandest of the many grand victories of liberty and peace, more noble and enduring in its influence upon the future of the nation than ten thousand victories won upon the field of carnage and strife.

This one victory of peace is wanting to secure the perpetuity of the Republic and make impossible in the future internal wars for the attainment of political rule. And it is for the Fortieth Congress of the nation to determine whether this grand and final triumph of truth, liberty, and law over domestic treason and executive treachery shall be achieved. Approaching the subject with such views, and having no ambition beyond the good of my country and a desire to discharge my duty to my constituents under my oath, and fully realizing that the people demand action rather than words, yet I should not feel that I had discharged my whole duty should I remain entirely silent.

Mr. Chairman, I was scarcely prepared for the strange and violent utterances that fell from the lips of the learned gentleman from New York, [Mr. Brooks,] who intimates that this is a contest for the control of a few miserable offices. The gentleman would fain make the country believe this proceeding in regard to the removal of Mr. Stanton and the impeachment is a grand scramble for office and spoils—only a question about who shall control the offices. It would be natural to judge that persons who place so low an estimate

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upon the patriotism of others have but little themselves. If by a desire to control a few wretched places he means that the Representatives of the people have been keeping their vigils around the temple of American liberty for the last two years with an anxiety that has known no sleeping, and have worked steadily and faithfully to this day to save the nation from the rule of the treacherous, incapable, and corrupt incumbent of the executive chair, then he may be right.

Does the gentleman suppose men are actuated by no higher motive than a desire to control a few miserable offices? I tell the gentleman he little understands the character of the men he thus reviles, and it will be well for him to reflect that all the men of this Republic are not degraded to the level of the habits of the dens and stews of New York city, and all the Representatives on this floor do not owe their elevation to political gamblers who engage in the traffic in fraudulent votes in that corrupt metropolis.

Gentlemen of the Opposition comfort themselves with frequent reference to the Democratic gains in the elections of last year, and the gentleman from New York, in discussing this great question, by way of intimidation, speaks of "the thundering majorities whose voices are heard outside of this Capitol." I tell the gentleman he has much yet to learn of human nature. I see a very different significance in the result of the elections of 1867 from what the Opposition discover on this floor.

If the people faltered in the last elections, and failed to meet the great questions of the hour with the enthusiasm of 1866, it was because Congress had faltered and failed to do its duty the previous spring, and they intended to rebuke their unworthy Representatives. If the people failed to do their whole duty it was because Congress had failed to meet their expectations, and proved itself unequal to the demands of the hour. And if the Representatives of the people in either House fail again I trust in God the people will accept no excuse, but spur them out of their mouths, and confide the high trust to those who are worthy. To trifle longer with this momentous question is to trifle with the dearest interest of the Republic and with the demands of the true men all over the land; let him who falters now beware.

Let not the Opposition on this floor lay the flattering unction to their lips that the result of the elections of 1867 shows a reaction in favor of the party that declared "the war a failure." I tell them nay, verily, but rather a rebuke to Congress that they had not done their whole duty in the removal of a President whose continuance in office they feel to be a continual menace to the loyal people of the country, an obstruction in the way of reconstruction, and a disgrace to the American name.

The gentleman warns us to beware, for behind him are thousands and millions of the great Democratic party, the bone and muscle of the country, ready to sustain him. These Halls, sir, are not unfamiliar to such sounds as these. In 1861, when the Representatives from the rebel States were retiring from this Chamber, their words of warning, like the gentleman's from New York, echoed from this and the other wing of this Capitol; but now, as then, we heed them not. We hear not in such sounds the voice of friendly warning, but rather threats and menaces, and in the name of the loyal men of this nation answer, beware. The time was when the Democratic party was a great party; when in its ranks were found such patriots and statesmen as Thomas Jefferson, Andrew Jackson, Martin Van Buren, Silas Wright, Thomas H. Benton, Lewis Cass, and Stephen A. Douglas. Those were the days of its purity and greatness, and in those days the gentleman was its better enemy. But, sir, most that was good in that party has left it, and most that was bad in the old Whig party

has united with it, until now it is but little else than a party of treason and treason sympathizers, inspiring neither the fear nor respect of any loyal man in the nation.

I, too, could tell the gentleman that behind Congress, ready to vindicate its action in the enforcement of law against Andrew Johnson, stand a million of the survivors of the Grand Army of the Republic, and still behind them are the great loyal people of this country, who have made sacrifices for the maintenance of the Constitution and laws such as no other people ever made on the earth, and if the sound of your slogan again calls them forth, they will come from every hillside and valley, they will come from city and town. Sir, they will

"Come as the winds come when forests are rended,
Come as the waves come when navies are stranded."

But I tell you there is no need for alarm. The people of this country, through their Representatives, and under the forms of law, can impeach, try, and remove a bad President and scarcely produce a ripple on the surface of society beyond a momentary flutter in the gold market or a little variation in the scale of values, all to settle back at a lower point than has been touched since 1861.

The gentleman "bids us beware that in so doing you follow every form of the Constitution and every form of the common law." That, sir, is just what we propose to do. To prevent further violation of law and bring the guilty to justice is why this proceeding is now being considered. The loyal people of this country, by the sacrifices they have made of the best blood of the nation, fathers, husbands, and sons, have done quite enough to satisfy the world that they are in favor of law, and are determined to insist upon obedience thereto by all persons, be they high or low. I cannot conceive why it is that the resolution now before the House should be so bitterly opposed. It cannot be because gentlemen believe the proceeding one not authorized by the Constitution and laws of the land. But what are the points of law and the facts in this case? I propose a simple statement of them, without stopping to argue, in the few moments allotted me. The most learned lawyer on the other side of the House, the gentleman from Pennsylvania, [Mr. Woodward,] in a speech delivered a few weeks since on this floor, sustained the legal principles of the majority report of the Committee on the Judiciary on the subject of impeachment, and could not accept the narrow views of the minority report.

But what says the Constitution itself? Section two, article one, of the Constitution of the United States says:

"The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment."

Not only is the power to impeach conferred upon this House by the Constitution, but here rests the sole power. If the Representatives of the people refuse to enforce this remedy there is no appeal, for it possesses the sole power of impeachment. The Constitution further provides, in section three, article one, that—

"The Senate shall have the sole power to try all impeachments."

And from that high impeaching tribunal there is no appeal. So we see the Constitution places this high and responsible duty in the two Houses of Congress, and beyond that there is no such remedy. It must be too plain to admit of doubt that this House has the sole power to impeach and the Senate to try cases of impeachment. There is where the framers of the Constitution confided this power, after a searching debate upon the several propositions to give the Supreme Court or an independent court jurisdiction in such cases.

The Constitution further provides, in section four, of article two, that—

"The President, Vice-President, and all civil offi-

cers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors."

It is not necessary here to inquire what are high crimes and misdemeanors within the purview of the Constitution, whether the offense, as defined by common law, or, as some insist, that it must be defined by positive statute, for in this case all seem to agree that the offense charged against the President is a high misdemeanor.

The civil-tenure law, section six, says:

"SEC. 6. That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and upon trial and conviction thereof, every person guilty thereof shall be punished by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court."

The only question, then, for this House to consider is, have we such proof before us as should satisfy rational, sensible men that there is such cause for believing the Chief Magistrate of the nation guilty of an offense for which he may be held by this House to answer at the bar of the Senate, sitting as a high court of impeachment, to answer for high crimes and misdemeanors in office? This is the whole question before the House. The House of Representatives sits as a grand inquest to find a bill preparatory to sending him before the lawfully constituted tribunal for trial. It is not for this inquest to find him guilty or not guilty. All it has to do in the matter is to ascertain if the evidence is sufficient to satisfy the tribunal having jurisdiction of the offense, of the guilt of the accused, and if so, to present to the Senate formal articles of impeachment and make good the same. The House must be convinced that there is probable cause for believing the accused guilty. If, in the case before us, the evidence uncontradicted is sufficient to satisfy a reasonable man that there is cause for believing the Executive guilty of high crimes and misdemeanors in office, then every member on this floor is bound by his oath to vote for impeachment. As the members of the Opposition insist that everything shall be done in strict conformity with law, I say to them apply the law against the President in precisely the same manner you would apply it against the lowest offender in the land, were you trying such offender for violating a statute of the State. Apply to this investigation the strict rules of law, so much talked about, and I fear so little appreciated by gentlemen in the Opposition, and not one can escape from voting for impeachment. Therefore I say to Democrats apply the rigid rules of law and let Andrew Johnson stand or fall by law. Now, let us see from the facts as they are before us, how the case will stand with the President.

The civil-tenure law provides that—

"Every person appointed to office by and with the advice and consent of the Senate shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified."

The President may suspend any such officer for cause and certify his reasons for such suspension to the Senate, within a given time fixed by law. The President very properly gave his reasons to the Senate in the case of Mr. Stanton. The Senate considered the same and found they were not sufficient to justify the President in the suspension, and reinstated Mr. Stanton. And in the face of this proceeding it is said that Mr. Stanton was removed by the President when he assigned General Grant to duty as Secretary of War *ad interim*; but the fact that he sent his reasons to the Senate and addressed Mr. Stanton as Secretary of War in his notice of removal of February 21, sets this pretext aside. In his notice assigning General Thomas to duty he tells Mr. Stanton that his "functions will cease at the date of the reception of this communi-

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cation," clearly recognizing him up to that time. And in the notice served upon him he says:

"You will transfer to Brevet Major General Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge."

Can any one doubt but that this act of the President is a deliberate defiance of the Constitution and laws made in pursuance thereof, and is one of those acts defined to be a "high misdemeanor," and cannot be permitted to pass without appeal to the constitutional remedy if we would save the Republic from ruin and overthrow by executive usurpation.

That an open, willful violation of the provisions of positive law is an impeachable offense can scarcely be doubted by any one, and that the acts of the President in this case are in open and willful violation of a positive statute as well as the provisions of the Constitution of the United States I think his own acts and words clearly prove.

But it is claimed that the civil-tenure law is unconstitutional. The President has the constitutional right, if a bill is passed by Congress that he thinks is in violation of the Constitution, to veto the same, and return it with his objections to the House where it originated. If it is then considered and passed by a majority of two thirds of both Houses of Congress it becomes a law, the President's objections to the contrary notwithstanding; and such was the case with this civil-tenure bill. And it is now as much one of the laws of the nation as any other on the statute-books. After the President returns a bill with his objections to the House where it originated he has exhausted his constitutional power to prevent it becoming a law, and here his opposition must end. After it becomes a law his sworn duty is to see that it and all the laws of the land are faithfully executed. If we admit that the President is the judge of what laws are constitutional and what are not we exalt the President above the legislative and judicial departments of the Government, and invest him with an arbitrary power that would be subversive of all law and liberty. If the civil-tenure law should hereafter be adjudged unconstitutional, and such construction be given to the Constitution as the President claims is the true one, it would not relieve the President from the charge and guilt of violating the law, for he must obey and see that the laws are faithfully executed until they are repealed or adjudged to be unconstitutional.

In any other view of the subject what would prevent an ambitious and wicked President from declaring such laws to be unconstitutional as stand in the way of his ambitious plans? And as President and Commander-in-Chief of the Army assume to be the Government, might he not strike down the liberties of the people in a single day, or might not the transition from a Republic to an empire be as sudden as in France, when, on the night of the fatal *coup d'etat*, the day went out on the republic and the following one dawned upon an empire? And, sir, we have some reason to believe that but for the patriotism and incorruptibility of the commanders of our Army something more fatal to the liberties of the people might have been attempted by the man now acting President of the United States. But upon the question of the power of the President to remove from office we are not without authority. The question has been frequently before the courts and ably argued, but not as often decided. In *Marbury vs. Madison* (1 Cranch, 154) the court decided "when the tenure of office was fixed the President had no power over the officer." It has hardly been disputed for seventy-five years but that Congress has the right to regulate the tenure of such officers, and no attempt has been made for that length of time by any President to

remove such an officer as Secretary of War and to appoint a successor while the Senate was in session and without its consent.

I will now refer to another branch of the subject. In December last I voted for the impeachment of the President on the evidence reported by the Committee on the Judiciary. I regarded that all-sufficient then, and have seen no reason to change my opinion since. The facts since added are not more important than those then offered in evidence. The removal of Edwin M. Stanton from the War Office, in violation of the civil-tenure law, will hardly, in the eyes of posterity, be a justification of a great party for removing a ruler placed in power by the people. And I do not believe this House would resort to such a measure for that cause alone were it not for the multitude of other crimes he has committed in the last two years. The removal of Secretary Stanton from the War Office is, in my judgment, one of the smallest and least criminal of his many criminal acts, though it doubtless is the most direct and positive violation of positive law, and one violation of law, knowingly and willfully committed, is as much an impeachable offense as a thousand.

History, however, will justify this proceeding, if it justifies it at all, not only because the President has defiantly violated a positive penal statute of the country by appointing and removing officers, but because, to use the language of the minority report on a former occasion on this subject, the "President has disappointed the hopes and expectations of those who placed him in power, betrayed their confidence, and joined hands with their enemies."

Because he has proved false to the express and implied conditions which underlie his elevation to power, and deserves the censure and condemnation of every well-disposed citizen of the Republic, because, "guilty of many wrongs, he has been blind to the demands of the times and to the demands of a progressive civilization."

Because he is "incapable of appreciating the grand changes which the last six years have wrought, and seeks to measure the great events which surround him by the narrow rules which adjusted public offices before the rebellion and its legitimate consequences had destroyed them and established others."

Because he has created provisional governorships and other civil offices unknown to law, appointed persons to fill offices who were disqualified because of their participation in the rebellion from holding any office under the Government of the United States, and permitted them to exercise the duties thereof, fixed the salaries of such officers, and paid them with money belonging to the Government without authority of law.

He has assumed and exercised the right to form new State governments without authority of law, thereby usurping a power that belongs exclusively to Congress.

Because he has ordered officers of his own creation to call conventions for that purpose, and drew money from the contingent fund of the War Department, without authority of law, to pay said officers.

Because he has surrendered immense quantities of railroad property that belonged to the Government to the rebels—roads captured from the rebels in time of war, and completed with money drawn from the public Treasury.

He has attempted to corrupt the public service of the Government by offering bribes to his subordinates.

He, in the language of the majority report of the Committee on the Judiciary, "by public proclamation and otherwise did, in the year 1865, invite, solicit, and convene in certain other States then recently in rebellion, conventions of persons, many of whom were known traitors who had been engaged in an attempt to overthrow the Government of the United States, and urged and directed such

conventions to frame constitutions for such States.

"He used and applied property taken from the enemy in time of war for the payment of the expenses and support of illegal and unconstitutional governments set up in States recently in rebellion; and, for a like purpose, and in violation of the Constitution and of his oath of office, he authorized and permitted a levy of taxes upon the people of said States, thus usurped and exercising a power which, by the Constitution, is vested exclusively in the Congress of the United States.

"He has in messages to Congress and otherwise denied substantially the right of Congress to provide for the pacification, government, and restoration of the rebel States to the Union. And in like manner he has asserted his exclusive right to provide governments therefor, and to accept and proclaim the restoration of said States to the Union, all of which is in derogation of the rightful authority of Congress and calculated to subvert the Government of the United States."

He has encouraged the spirit of rebellion in the South after it was crushed out by armed force until the sentiment of loyalty could only assert itself at the peril of life and property. He has fanned the spirit of revenge in the minds of men recently in rebellion until it has exiled thousands of the best and truest men of the South from their homes and household gods.

He has encouraged the spirit of persecution and revenge toward the colored population of the South until ten thousand have felt victims to the hate and vengeance of their former masters, and their unburied and unsheltered bones are scattered from Richmond to the Rio Grande, and methinks they point their fleshless fingers toward Andrew Johnson and say, "I will meet thee there"—not at Philippi, in the night time in battle array, but at the judgment bar of the great future, when the hollowness of his pretensions to be the "Moses of the black man" will excite the jeers of the world.

He has from the hour when, in a state of inebriation, in the Capitol of the nation, in the presence of the people and in the presence of the representatives of all the nations of the earth, he took the oath of office, down to this day, been a perpetual reproach to his high position and a disgrace to the American nation.

For these and other reasons that will be faithfully preserved by the sleepless chronicler, history will justify this proceeding, and assign to Andrew Johnson a place with Nero, Torquemade, George Jeffries, and other names that stand out in history as warnings to those who come after.

Others who differ with me in opinion will justify their vote upon other grounds; with them I shall have no dispute. It matters but little to me by what process a man arises at a correct conclusion; I rejoice without stopping to criticise the process of reasoning that led him there. To-day I am glad to believe that all my Republican friends are ready to vote for a measure I have for more than twelve months looked upon as inevitable and necessary to national prosperity and peace. For, with Andrew Johnson in the presidential chair, reconstruction cannot take place, and public confidence will not be restored. Legislate as we may, the restoration of the rebel States to their proper place in the Union, after all lies at the foundation of confidence and security. It is vain to talk of confidence and stability in business matters, or of giving such security to values as will justify investments, while ten States are disorganized and business prostrated, and financial ruin spreads all over that territory, and the difficulty cannot be remedied as long as the Executive uses the whole power of his high office to thwart every measure of Congress looking to the restoration of those States.

And, in conclusion, let me say to Representa-

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tives on this floor, that the American people, the true Democrats and real Republicans of the nation, the men who make and unmake Representatives, Governors, and Presidents, expect their Representatives this day to do their duty and their whole duty, loving justice, hating treachery, admiring courage, they will tolerate no shirking of responsibility on the part of those sent up here to remove in their name the only remaining obstacle in the way of a speedy restoration to national Union and peace. Educated to believe "There can be offered to God no more acceptable sacrifice than the death of an unjust and wicked king," they require at our hands the most acceptable act we can in their name perform—the immediate impeachment and lawful removal of a depraved, wicked, corrupt, and treacherous President.

I will close in the language of St. Paul, that peerless man, whose words of wisdom and fervid eloquence has come ringing down through twenty centuries without having lost any of their strength or beauty. His words of instruction to the Ephesian church are peculiarly applicable to us this day.

"Put on the whole armor of God, that you may be able to stand against the wiles of the devil; for we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places. Wherefore, take unto you the whole armor of God, that ye may be able to withstand in the evil day, and, having done all, to stand."

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SPEECH OF HON. W. C. SMITH,

OF VERMONT,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolution reported by the Committee on Reconstruction for the impeachment of the President.

MR. SMITH. The question now suddenly and in a most unexpected and extraordinary manner forced upon the consideration and determination of the House is, indeed, one of surpassing interest and transcendent importance. In the decision soon here to be made rest great issues, issues commensurate with the greatness and fraught with the destinies of the Republic. Next, indeed, to the great measures inaugurated to save the life of the nation and preserve the entirety of the Union, no question has come before the American Congress for discussion and decision, affecting more vitally and permanently the welfare and safety of the country, and the perpetuity of republican institutions than the one now under consideration.

The great executive Officer of the American people—the representative embodiment of national honor, of national justice, and of national power, the sworn defender of the Constitution and the executor of the laws, is solemnly charged with such contempt and disobedience of law, such disregard and violation of the provisions and limitations of the Constitution, as, within the meaning and intent of that instrument, constitute high crimes and misdemeanors. It is incumbent on us, therefore, as Representatives of the people, watchful of their interests and jealous of their honor, to consider this great question with that candor and caution, that thoroughness and impartiality, which shall insure a wise and just decision.

On the 27th day of January last a resolution was referred to the Committee on Reconstruction authorizing them "to inquire what combinations have been made or attempted to be made to obstruct the due execution of the laws," and to report to the House "what action, if any, they may deem necessary." On the 22d instant they reported a copy of a letter or official order of the President removing Hon. Edwin M. Stanton from office as Secretary of

War, and also a copy of another letter or official order authorizing Brevet Major General Lorenzo Thomas to act as Secretary of War *ad interim*, and ordering him to immediately enter upon the discharge of the duties pertaining to that office. The committee further report that, upon the evidence collected by them, they are of the opinion that the President be impeached of high crimes and misdemeanors, and recommend the passage of a resolution to that effect.

Under the solemnity of our oath of office we are now called to weigh and act upon the testimony, and to declare for or against the resolution of impeachment.

Has the President, in the acts or either of them referred to, violated the laws and the Constitution; and is he, therefore, justly charged with high crimes and misdemeanors? If both acts—that of the removal of Mr. Stanton and the appointment of General Thomas—were authorized by the Constitution and warranted by law, then he stands justified. If, however, either or both were in opposition to or in violation of either the Constitution or the law, then he is liable to such judgment as the intent or purpose of his acts may justify. To the Constitution, then, we first refer the acts committed by the President for consideration and judgment in the light of, and according to the letter and spirit of that instrument.

It is important here to ascertain, if possible, what, if any, authority there may be in the Constitution itself for the existence of such an executive department as is now established and recognized as the Department of War, and whether such an officer as is now known and styled as Secretary of War is provided for; and, if so, what is the rank, or order, or classification, of such official; and how the appointment of such officer may be made, and to whom it is intrusted.

By referring to section two of article two of the Constitution, prescribing and defining the powers and duties of the President, it will be seen that he is empowered to "require the opinion in writing of the principal officer in each of the Executive Departments upon any subject relating to the duties of their respective offices." Here is first, and clearly found, constitutional authority and provision for the existence and erection of those Executive Departments which were afterward organized and regulated by law, and for the appointment of a "principal officer" to each, to be known and designated as an officer of the United States at the head of an executive Department.

The Department of War was organized by law, in pursuance of and under the authority of this clause in the Constitution, as one of the Executive Departments of the Government on the 7th of August 1789, and the "principal officer" thereof was designated and styled as Secretary of War; and hence and thereby the Secretary of War became an "officer of the United States," and brought within the provisions and limitations of the Constitution in that clause where only it provides for, and prescribes the mode of, appointment of public officers.

In the next paragraph of the same section of the Constitution, relating to the appointment of public officers, it is provided that—

"He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

It will be noticed that by the first clause of this paragraph relating to the making of treaties the language is permissive, and the exercise of the power conferred is optional and voluntary, not obligatory or mandatory. It is entirely within the will and discretion of the

President to propose for or to negotiate a treaty. Neither the Senate nor the House of Representatives, nor any power or department of Government, can require or compel him to undertake, or proceed, with any negotiation for any acquisition of territory, or for any treaty for any purpose, with any Power. Nor can he, for neglecting or refusing to undertake any negotiation for, or proceeding in regard to, a treaty, be held to account or justly chargeable with high crimes and misdemeanors. A wise restraint is, indeed, laid upon him from concluding or perfecting a treaty without the advice and consent of two thirds of the Senators present—and he is thus prevented from making, of his independent will or according to his individual judgment, unwise and unequal treaties, and from thus imposing upon the people, in the name of the Government, needless and burdensome taxation for the purchase of useless or undesirable territory. But, as before mentioned, neither the Senate, nor any department of the Government, can compel him against his will or judgment to initiate or to proceed in the negotiation for a treaty.

In regard, however, to the appointment of public officers the language of the Constitution stands in striking contrast. Here we find not a delegation of discretionary power, but a positive duty enjoined. The President has here no choice or discretion of nominating or withholding the nomination of any of the officers named. The Constitution designed and decreed that the Government which it ordained should be perpetuated in all its departments and functions, and it left to the President no power of choice to defeat its grand design.

And here, sir, I cannot forbear to express my constant wonder and admiration for the mastery and almost superhuman skill, and foresight, with which our great "Magna Charta" was formed and drawn. In every trial and every emergency of our eventful history as a nation, it has answered every want, and met every necessity. In the storm and waste of war—against riot and insurrection—against rebellion and invasion—against foreign enemy and domestic foe—against treachery and treason assailing the nation's life, and attempting its destruction—against all dangers and in every crisis, it has proved our shield, our guide, our guard, and the sure tower of our defense. Even if desertion and treachery are found intrenched in the very heart and citadel of the nation, attempting to corrupt the guards and undermine the very foundations of the fair fabric of our political structure, even then shall we find safety and deliverance in our Constitution.

With most remarkable skill and foresight, then, did the framers of the Constitution employ the language of compulsion, of command—in regard to the duty of the President touching the appointment of those officials named in the clause under consideration—and whose existence and continuance were deemed essential to the life and welfare of the Republic.

It therefore becomes not only the duty, but a binding obligation upon the President to nominate, and when, and as soon as, the Senate advise and consent—

"To appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for and which shall be established by law."

Observe, the language is, not that "he shall have power" to nominate—not that he may nominate—but he shall nominate. To refuse or neglect to do it is at his peril. And to what end or purpose is he so plainly required first to nominate, and the Senate consenting then to appoint, but for the purpose and to the end that the form of government ordained in the organic law shall not fail; but that the powers of government shall be neither consolidated nor usurped; but that justice shall be maintained and administered; but that judicial and administrative officers shall be perpetuated, and the appropriate duties and functions of their

several offices be continuously and independently discharged; and to the end that all the powers and departments of the Government shall move on, working harmoniously together for the promotion of the peace and prosperity of all the people, and the safety and glory of the Republic?

And how, except by asserting, and if need be enforcing, this duty and obligation of the Executive, can these high ends and purposes be secured? Indeed, the obligation of the President to nominate, and upon the assent of the Senate to appoint, is, therefore, in our view, essential to the preservation of our form of Government. And the admission of the right, or the concession of the power to the Executive to appoint such officers as are named in the clause under consideration, in the enumeration of which, we believe, all heads of Executive Departments are clearly included as being not only "officers of the United States," but necessarily such as being "principal officers" of such Departments, and essential to the administration of the Government, are utterly inadmissible, as being in violation of the express requirement of the Constitution, contrary to the genius of our institutions, and dangerous to if not subversive of the Government itself.

In the concluding clause of the paragraph referred to, it is declared that—

"Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

But we have already seen that the Department of War is, under the authority of the Constitution and by virtue of law, an executive Department with a "principal officer" styled and known as Secretary of War, and consequently an "officer of the United States," the mode of whose appointment is clearly and definitely prescribed. Congress has, therefore, no constitutional power to declare the Secretary of War—being the "principal officer" of an executive Department—to be an "inferior officer," and then by law vest his appointment "as they think proper" in the President alone, in the "courts of law, or in the heads of Departments." Indeed the absurdity and danger of the position are apparent when it is considered that if the executive department can by legislation be made an inferior department, and a Secretary of an executive Department be made an "inferior officer," Congress might by law vest the appointment of the Secretary of War or any other head of Department in the head of such Department himself, thus empowering a Secretary to perpetuate himself in office, or to appoint his successor at his own pleasure or option, and thus enable him to take his Department and administer its affairs outside and independent of the knowledge or control either of the President or the Senate. Such a doctrine is alike dangerous and absurd.

The concluding paragraph of the same section provides that—

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

This clause confers upon the President a wise, but limited power of temporary appointment to meet and supply the exigencies and requirements of the public service during the recess of the Senate. And here it seems worthy of special note, that only in this clause can there be found any grant of power to the Executive in relation to appointments or granting of commissions. But he cannot under this grant of power, make or force a removal, either while the Senate are in session or during their recess, nor can he of himself nor at his own option create a vacancy for the purpose of exercising the power to "fill it up." He can, constitutionally and safely, only use the grant for the purposes and under the con-

ditions prescribed and limited. It is his duty also as bound to "take care that the laws be faithfully executed" to exercise the power here conferred with a sound discretion, and with an honest purpose and sincere desire to serve the public interest, and promote the public welfare, otherwise he perverts his power and abuses his high trust.

In the limited time allowed for the consideration of so important a question as is now before us it is impossible to do more than to make brief allusion and reference to those provisions and limitations of the Constitution which bear directly upon it, and to indicate, rather than to present, the conclusions therefrom. In now bringing the official acts of the President, as reported by the committee and upon which the impeaching resolution is based, to the test of the Constitution, that touchstone by which laws are to be proved and official misdemeanors tried, I am for myself forced to the conclusion, that there is no warrant or ground there to be found upon which the President can rest or defend his recent acts of removing Mr. Stanton from the office of Secretary of War and of appointing Adjutant General Thomas to that office *ad interim*. And inasmuch as the Constitution neither provides for, nor allows to, the President any power of removal of such officers of the United States as are therein named and described; and inasmuch, further, as the Constitution seems to confer no power upon Congress to vest by law the power either of appointment or removal of such an officer of the United States as the Secretary or head of an Executive Department in "the President alone;" and inasmuch, lastly, as the President has, in the official acts referred to, assumed and usurped to himself and attempted to exercise the right of removal of an "officer of the United States," and the appointment of another person to the position and duties of such officer so attempted to be removed, while the Senate were in session, I am led to the further conclusion that such acts were known, willful, and flagrant violations of the Constitution; that they are usurpations of executive power dangerous to the liberties of the people, and hostile to the peace and safety of the Republic; and therefore that they were high crimes and misdemeanors within the meaning and intent of the Constitution.

But, sir, we are not restricted, nor, perhaps, allowed to restrict ourselves, to constitutional tests alone, clear and conclusive as they may be, in judging of the recent extraordinary acts of the President. We, as the Representatives of the people, are bound to see to it that the laws which are made in their name to protect their rights and secure their liberties are not, with impunity, disregarded and trampled under foot by him who is solemnly bound "to take care that the laws be faithfully executed."

On the 19th of February, 1867, the House passed a bill entitled "An act regulating the tenure of certain civil offices." The Senate having passed it on the previous day, it was sent from the House to the President for his signature. He refused to sign it, and interposed his constitutional power of objection, stating at length his reasons for vetoing the bill, and thus exhausted all his rightful power to prevent its becoming a law. The bill was reconsidered and passed by the requisite two-thirds vote in each House on the 2d day of March, and thus became a law, notwithstanding the objections of the President. By the first section of the law it is provided that certain officers, and among them the Secretary of War, shall not be removed except by and with the advice and consent of the Senate. Obedience to law lies at the very foundation of free government, for without law there can be no liberty, and is incumbent upon all, the high equally with the low. The Chief Executive of a free people, chosen and set for the faithful observance and execution of all the laws, is

especially bound to give all the force and authority of his high position and example to their maintenance and enforcement.

But what do we find the President's course to have been relative to the law under consideration. He first admits its binding force upon him by suspending, under the provisions of the second section of the act, the Secretary of War and assigning to the duties of the office the General of the Army as Secretary *ad interim*. He again recognizes its authority and validity in complying with its provisions by reporting to the Senate, within the time prescribed, such suspension with the evidence and reasons for his action. The Senate did not concur with the President in his order of suspension, and thereupon General Grant, in obedience to the law, retires from the position; and Mr. Stanton immediately and rightfully resumes the office of Secretary of War. The President then proceeds, in contempt of the lawful action of the Senate, deliberately and defiantly to violate the same law which he had but a short time before assented to and complied with. Foiled in his purpose of getting Mr. Stanton out of the War Department by suspending him and making an *ad interim* appointment; exasperated with General Grant for his manly and prompt submission to law and the expressed will of the Senate, obstinately determined to obtain control of the War Department for the accomplishment of unworthy, if not illegal and revolutionary purposes, he next issues an official order under date of February 21st instant, addressed to Hon. Edwin M. Stanton, removing him "from office as Secretary for the Department of War," and next an order of same date directed to Adjutant General Thomas requiring him to act as Secretary of War *ad interim*, and "to immediately enter upon the discharge of the duties pertaining to that office."

In contempt of the order of the Senate annulling the suspension of Mr. Stanton, regardless of his obligation to faithfully execute the law, determined in fomenting strife and dissension, usurping power, and violating both the letter and spirit of the Constitution, the President now forces upon this body a question and an issue which we can neither ignore nor defer. With a strange perversity and an unyielding obstinacy he hastens to the accomplishment of his own purposes and ends, regardless of, and opposed to the welfare and peace of the nation. Shall he longer go on unchecked and unchallenged?

Sir, resistance to law, violation of constitutional obligations, usurpation of power, and renunciation of rightful authority, inaugurated the recent unparalleled rebellion, and made necessary the costly sacrifice which a loyal people freely made for the honor, the unity, and the integrity of the Government. That sacrifice must not be in vain; the fruits of victory, so dearly won, must neither be surrendered nor lost.

A faithless Executive must not violate the Constitution and nullify the laws, nor seek unlawful power by obstructing the execution of laws and attempting the corruption of high officials, with impunity; and, forced as I am, sorrowfully, to the conclusion that there can be neither peace, nor security, nor unity, nor prosperity to the country while the President pursues his willful and mad career of usurping power, defying law, and inciting and encouraging insubordination, I can recognize no alternative but to pass the resolution reported by the committee—

"That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors."

and to present him before the high tribunal provided by the Constitution, for trial.

Liberty and justice, law and order, present peace and future security, the welfare of the nation, and the safety and glory of the Republic, all and alike require it.

Ho. OF REPS.

Impeachment—Mr. Lawrence.

40TH CONG....2D SESS.

Impeachment.

SPEECH OF HON. W. LAWRENCE,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolution for the impeachment of the President of the United States.

MR. LAWRENCE, of Ohio. Mr. Speaker, the resolution upon which we will soon be called to vote declares that the President of the United States should be impeached of high crimes and misdemeanors.

It becomes a solemn duty, therefore, to inquire what the President has done—has he violated the Constitution or any law of the land?

Fortunately for the country and for us, the question what he has done is one of fact, about which there is no dispute. A brief historical summary will enable us to comprehend this fact—its nature, magnitude, and consequences.

From the formation of the Government up to the 2d day of March, 1867, the Cabinet officers of the Government, and many others likewise created by law, were appointed by the President by and with the advice and consent of the Senate, and held their offices for no fixed term, but indefinitely until removed.

The Constitution had ordained that the President—

"Shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments.

"The President shall have power to fill all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."—Art. 2, sec. 2.

The Constitution neither created nor prescribed the term of office of any Cabinet officer, but this was left to Congress, having the constitutional power—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers"—

meaning those vested in Congress—

"and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof."—Art. 1, sec. 8.

Congress at an early day by law created various Departments of the Government with Cabinet officers at their head, but fixed no term of office.

When the First Congress established the Department of Foreign Affairs, the question arose whether its head should be made in terms removable by the President. On one side it was said that the power of removal was vested in the President, either as an executive power or as incident to the power of appointment, while on the other it was maintained that the power of removal, nowhere in terms being conferred on the President, could only be exercised with the assent of the Senate.

"The result was not a decision, but what better deserves to be characterized as a compromise or evasion of the question, by the substitution for the words, 'to be removable by the President,' of the phraseology, 'whenever the said principal officer shall be removed by the President, or in any other case of vacancy, the chief clerk shall take charge of the papers,' &c.

And so it stands in the law. (Act August 7, 1789, sec. 2; 1 U. S. Stat., 50.) From that time, for many years, the President had maintained and exercised as to all civil officers having no fixed terms the power of removal.

The practice had been when the Senate was not in session for the President to remove officers at his pleasure, and to issue commissions to new officers, as the Constitution requires, to "expire at the end of the next session" of the Senate.

But when the Senate was in session the practice had been for the President, when he desired the removal of an officer, not to issue an order of removal, but to nominate for confirmation to the Senate a new officer to supersede the one in office. The existing officer retained his place until the Senate confirmed the appointment of a successor, which *ipso facto* terminated the right of the incumbent and gave it to the new appointee. In no case had the President ever asserted the right to remove an officer holding by the advice and consent of the Senate except in this mode, that is, with the assent of the Senate. The President had, indeed, claimed that when the Constitution gave him "power to fill up all vacancies that may happen during the recess of the Senate" that he might create the vacancy by a removal "during such recess," but never when Congress was in session. The very fact that the Constitution had given the power to fill vacancies "during the recess of the Senate" had always been construed to mean that he might not create or fill vacancies during the session of the Senate without their consent. "*Expressio unius exclusio alterius*" is the maxim of the law.

Even this limited power of removal or creating a vacancy during the recess of the Senate was an innovation on the Constitution, which limited appointments in the recess to vacancies which might "happen;" and it was an unfortunate day for the Republic when the "removal" of an officer was regarded as presenting the occasion when a vacancy was said to "happen."

It made a vast army of officers dependent on the President's will, and subverted that freedom of thought essential to a republic. It inaugurated the political heresy that "to the victors belong the spoils of office."

It was contrary to the opinion of the framers of the Constitution.

Hamilton declared that the consent of the Senate would—

"Be necessary to *displace* as well as to *appoint* officers."—*Federalist*, No. 77.

But this has been so conclusively shown by the unanswered and unanswerable argument of my learned colleague on the Judiciary Committee, [MR. WILLIAMS, of Pennsylvania,] in his speech of December 5, 1866, in this House, that I leave the question with that masterly specimen of logic and eloquence.

But whatever views may have prevailed as to the true interpretation of the Constitution, in the absence of all legislation it cannot be doubted that Congress has power to regulate by law the subject of appointments, and not only so, a *tenure* or term of office may be prescribed.

Congress has power to and did create the Cabinet and other offices. The power to create carries with it the power to prescribe a term of office.

If, as claimed, the power of removal is an incident of the power of appointment, *a fortiori* the power to prescribe a term of office is incident to the power to create it. The power to regulate appointments and to prescribe a term falls within the authority of Congress "to make all laws necessary and proper for carrying into execution" the powers of the Government. (2 Story on Const., 1537; *Marbury vs. Madison*, 1 Cranch, 155; *Com. ex rel vs. Bassier*, 5 Serg. and Rawle, 457; *ex rel Heenan*, 13 Peters, 230; *United States vs. Guthrie*, 13 Howard.) This power has been repeatedly exercised by Congress with the sanction of Presidents Lincoln and Johnson.

The act of February 25, 1863, creates the office of Comptroller of the Currency, and provides that—

"He shall be appointed by the President on the nomination of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years, unless sooner removed by the President, by and with the advice and consent of the Senate."

A similar provision is carried into the act of June 3, 1864.

The act of July 13, 1866, says:

"And no officer in the military or naval service shall, in time of peace, be dismissed from service, except upon and in pursuance of the sentence of a court-martial to that effect or in commutation therefor."—Section 5, *Session Laws*, 92.

This was approved by President Johnson.

By the act of August 7, 1789, the power of removal was conferred as to the Northwestern Territory. (1 Stat. 53.)

The act of Congress of March 2, 1867, "regulating the tenure of certain civil offices," provides—

"SEC. 1. That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office and shall duly become qualified to act therein, is, and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

"SEC. 6. That every removal, appointment, or employment, made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and, upon trial and conviction thereof, every person guilty thereof shall be punished by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate."

The validity of this act has been recognized by the President in hundreds of commissions issued by him to officers to act for a term as prescribed in the law, whereas the former commissions were "during the pleasure of the President." (Impeachment investigation of 1867, page 767.) The form of the commission has been changed to correspond with the new law. It has been recognized in cases of many officers suspended under its provisions and by submitting to the Senate the reasons therefor.

It was recognized when on the 12th August, 1867, the President by virtue of its provisions suspended Edwin M. Stanton as Secretary of the Department of War from the exercise of his functions.

It was recognized when on the 12th day of December, 1867, the President sent into the Senate his reasons for so suspending the Secretary of War.

On the 13th day of January, 1868, the Senate refused to concur in such suspension, and refused to consent to the removal of the Secretary of War. The President and all Departments of the Government, with his approval, treated the law as valid from that day to the 21st of February, 1868, by recognizing Mr. Stanton as Secretary of War, without question or cavil.

On the 21st February, the President recognized the validity of the law and of the action of the Senate, by addressing Mr. Stanton as Secretary of War in the order for his removal. What occurred after this we learn from the following official documents:

WAR DEPARTMENT.

WASHINGTON CITY, February 21, 1868.

SIR: General Thomas has just delivered to me a copy of the inclosed order, which you will please communicate to the House of Representatives.

E. M. STANTON, Secretary of War.

Hon. SCHUYLER COLFAX,

Speaker House of Representatives.

EXECUTIVE MANSION.

WASHINGTON, D. C., February 21, 1868.

SIR: By virtue of the power and authority vested in me as President by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon the receipt of this communication.

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Impeachment—Mr. Lawrence.

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You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

ANDREW JOHNSON.

Respectfully yours,

Hon. EDWIN M. STANTON, Washington, D. C.

EXECUTIVE MANSION,
WASHINGTON, D. C., February 21, 1868.

SIR: Hon. Edwin M. Stanton having been this day removed from office as Secretary for the Department of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and will immediately enter upon the discharge of the duties pertaining to that office.

Mr. Stanton has been instructed to transfer to you all records, books, papers, and other public property intrusted to his charge.

Respectfully yours,

ANDREW JOHNSON.

To Brevet Major General LORENZO THOMAS, Adjutant General United States Army, Washington, D. C.

Official copy respectfully furnished to Hon. Edwin M. Stanton.

L. THOMAS,
Secretary of War *ad interim*.

On the same day the Senate adopted a resolution and furnished to the President, as follows:

"Whereas the Senate have received and considered the communication of the President stating that he had removed Edwin M. Stanton, Secretary of War, and has designated the Adjutant General of the Army to act as Secretary of War *ad interim*: Therefore,

"Resolved by the Senate of the United States, That under the Constitution and laws of the United States the President has no power to remove the Secretary of War and designate any other officer to perform the duties of that office *ad interim*."

In brief, then, on the 21st day of February, while the Senate was in session, the President, without their advice or consent, undertook to remove the Secretary of War and to appoint an *ad interim* Secretary. If he had power to do these things and did so for a legitimate purpose, he is guiltless.

But if he violated the Constitution or a law made in pursuance thereof in a mode calculated to subvert some fundamental principle of the Government, or if he attempted to do so, then he is guilty of high crimes and misdemeanors, and is amenable to the power of impeachment.

It has been said that this is a contest over an office, a mere controversy as to who shall be Secretary of War.

Sir, it is a contest to settle a grave principle of the power of Congress to pass the tenure-of-office law of March 2, 1867. It is a contest to determine whether every officer of the land, appointed by and with the advice and consent of the Senate, may be turned out of office at the mere whim and caprice of the President. It is a contest to decide whether this Government is worse than a monarchy or whether we shall have liberty regulated by law. It is the old contest of the ages between executive usurpation and the rights of the people. It is the contest which has dethroned monarchs and given liberty to the people or enslaved them by establishing despotism. What, then, are the crimes of the President?

They are four in number.

1. He assumed and attempted, in violation of the Constitution, to exercise the power of removing from office the Secretary of War when there was no recess of the Senate, and without their advice or consent.

2. He assumed and attempted to exercise the power of removal in violation of the tenure-of-office law.

3. He assumed and attempted to exercise the right to appoint an *ad interim* Secretary of War when no vacancy had arisen in any mode recognized by the Constitution or law.

4. He assumed the unauthorized right to adjudge the tenure-of-office law unconstitutional and refused to faithfully execute it, although he is clothed with no judicial power.

The attempt of the President to remove the Secretary of War is not an indictable offense under the tenure-of-office law. The articles of impeachment founded on this attempt or the order of removal will show no indictable

crime. I have examined that act of Congress critically, and no lawyer will controvert what I say. The signing of a letter of appointment is indictable, but not the issuing of an order of removal. (See section six of the act.) And this shows the absurdity of the claim that no act is impeachable unless indictable. But his conduct constitutes impeachable crimes.

A statement of these crimes, in view of the facts and the law presented, requires no extended argument.

If the power of removal exists in the President alone when the Senate is in session, it has been hitherto unknown and unexercised. It is a terrible power, and one which would make the President a dictator. In the absence of any law for a temporary or *ad interim* appointment, the President could vacate every office, and leave them vacant until the Senate would accept his nominees, if he may rightfully exercise the imperial power which he now claims.

Sir, it never was intended by the framers of the Constitution that the whole nation was to be made dependent on the imperial rule of one despotic master.

The President's act is a clear violation of the tenure-of-office law. It declares that every person holding office with the assent of the Senate shall continue to hold until a successor is appointed by and with the advice and consent of the Senate. By this law the rule of the Constitution, when the Senate is in session, is applied to cases when the Senate is not in session. It makes the same law in both cases.

The President has disregarded this law and said it should not be obeyed. And what is his excuse or pretended justification? It is said he adjudges the law unconstitutional. But I deny his power to do this. By the Constitution all judicial power is vested in the courts, (article three,) except that judicial power exercised by the Senate in cases of impeachments. He did not appeal to the courts, but took the decision into his own hands, in disregard alike of the law of Congress and of the courts.

It is said the tenure-of-office law does not apply to the case of the Secretary of War because he was not appointed by President Johnson. The proviso to the first section is:

"That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

The Secretary of War and of State were appointed by President Lincoln during his first term as President, and have continued in office ever since.

The Postmaster General, Attorney General, and Secretary of the Interior were appointed by President Johnson.

When the tenure-of-office bill was before Congress the Senate insisted on exempting from its provisions the Cabinet officers. The House insisted on making them subject to its provisions, differing from other officers only in this, that their terms should expire at the end of one month after a President should be elected who did not appoint them. Congress expressly intended that the Secretary of War should not be removable by President Johnson, and the necessity for this was apparent in the known treachery of the President.

It is unreasonable to suppose Congress would leave the President with discretionary powers over this office.

It is said that as President Johnson did not appoint Mr. Stanton that he can be removed at or following the expiration of a month after—

"The term of the President by whom he was appointed"—

and that President Lincoln's term expired with his death on the 15th April, 1865. But his term did not expire then.

The Constitution fixes the term at four years:

"He shall hold his office during the term of four years."

Now, whether he hold his office or not, his term is four years' time, and this is the period covered by the tenure-of-office law when it says that Cabinet officers shall hold during—

"The term of the President by whom they may have been appointed."

Any other construction of the proviso involves manifest absurdities. To hold that it does not apply to the Secretary of War is to say that he and the Secretary of State and the Navy, all appointed during President Lincoln's first term, and never reappointed, will continue indefinitely in office, while the Secretary of the Interior, Postmaster General, and Attorney General, appointed by President Johnson, will go out of office one month after the term of the next President-elect would begin.

To hold that the proviso applies to some but not all the Cabinet officers is to say that the term of office of every Cabinet officer appointed by President Lincoln expired one month after his decease on the 15th April, 1865, and had the retrospective effect of declaring them not to be officers from May 15, 1865, to March 2, 1867.

The proviso to the first section makes no distinction among Cabinet officers in office when the law was passed. It was not designed so much to protect the appointees of President Johnson as those he did not appoint. It put all on the same footing, and each is to be governed by the same law. As to each we may apply the rule of construction, *noscitur a sociis*.

If the construction contended for be correct, then all the multitude of officers in office when the law passed who had been appointed by President Lincoln are subject to removal by President Johnson in the same manner as the President claims he may remove Mr. Stanton, and this is precisely the evil, among others, the law was designed to prevent.

But if we could palliate the assumption by the President of a judicial power to pass on the constitutionality of the law, and then excuse his motives in its violation, the unheard of usurpation in removing from office in utter disregard of the Constitution, and while the Senate is in session, is without excuse, palliation, or parallel. It is one of the many outrages which we have so patiently borne, which we have so long endured, that the President imagined there was no retribution for any usurpation of which he might be guilty.

In attempting to appoint Lorenzo Thomas *ad interim* Secretary of War, when no vacancy had "happened" in any manner recognized by the Constitution or laws, the President was guilty of a high misdemeanor.

There are only four acts of Congress to which reference has been made in this connection. They are: act August 17, 1789, sec. 2, 1 U. S. Stat., 50; act May 8, 1792, sec. 8, 1 U. S. Stat., 281; act Feb. 18, 1795, sec. 1, 1 U. S. Stat., 415; act Feb. 20, 1863, Sess. Laws, 656.

These provide as follows:

"That there shall be in the said Department (of War) an inferior officer, to be appointed by the said principal officer, to be employed therein as he shall deem proper, and to be called the chief clerk in the Department of War, and who, whenever the said principal officer shall be removed from office by the President of the United States, or in any other case of vacancy, shall, during such vacancy, have the charge and custody of all records, books, and papers appertaining to the said Department."—Act August 7, 1789, sec. 2, 1 U. S. Stat., 50.

"That in case of the death, absence from the seat of Government, or sickness of the Secretary of State, Secretary of the Treasury, or of Secretary of the War Department, or of any officer of either of the said Departments whose appointment is not in the head thereof, whereby they cannot perform the duties of their said respective offices, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons, at his discretion, to perform the duties of the said respective offices until a successor be appointed, or until such absence or inability by sickness shall cease."—Act approved May 8, 1792, sec. 8, 1 U. S. Stat., 281.

"That in case of vacancy in the office of Secretary

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of State, or of the Secretary of the Department of War, or of any officer of either of the said Departments, whose appointment is not in the head thereof, whereby they cannot perform the duties of their said respective offices; it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons, at his discretion, to perform the duties of the said respective offices until a successor be appointed or such vacancy be filled; *Provided*, That no one vacancy shall be supplied in manner aforesaid for a longer term than six months."—Act February 13, 1795; *United States Statutes*, 415.

"SEC. 1. That in case of the death, resignation, or absence from the seat of Government, or sickness, of the head of any executive Department of the Government, or of any officer of either of the said Departments whose appointment is not in the head thereof, whereby they cannot perform the duties of their respective offices, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize the head of any other executive Department, or other officer in either of said Departments whose appointment is vested in the President, at his discretion, to perform the duties of the said respective offices until a successor be appointed, or until such absence or inability by sickness shall cease; *Provided*, That no one vacancy shall be supplied in manner aforesaid for a longer term than six months."

"SEC. 2. That all acts or parts of acts inconsistent with the provisions of this act are hereby repealed."—12 *Sess. Laws*, 656; See vol. 43 *Globe*, Part 1, 1860—1861, page 304; *Sen. Jour.* of 1860, 1861, 2d *Sess.* 36th *Cong.*, page 101, January 16, 1861; Message of President Buchanan, January 15, 1861.

The first of these acts confers no power of removal, but leaves it subject to the Constitution or laws thereafter enacted: The Constitution denies the power of removal during a session of the Senate without their consent, and the tenure-of-office law applies the same rule to vacations of the Senate.

There is no "death," "absence," or "sickness" to make a case for an *ad interim* appointment under the act of 1792.

No case of "vacancy" is presented under the act of 1795, "whereby they cannot perform the duties of their said respective offices."

There is no "death," "resignation," or "absence" to make a case under the act of 1863.

It is unnecessary therefore to inquire how far these laws remain in force.

The power of suspension independently of the tenure-of-office law is one never exercised and is now unauthorized except as prescribed in that statute. In any event the President is guilty of high crimes and misdemeanors.

His crime in the removal of the Secretary of War is magnified by the great principle that underlies it.

It is still more magnified by the manifest purpose to make the military power of the nation subservient to his will.

To accomplish this Sheridan and Sickles have been relieved of commands, and the President has successively tendered the brevet rank of General to Sherman and George H. Thomas. But they spurned the effort to win them over to the purposes of a corrupt President and rejected his bribes.

The unwavering loyalty and firmness of Stanton, the fidelity of the Army and all its officers, with scarcely more than an exception or two, have saved the nation from some of the meditated crimes of the President, and it only now remains for this House to arraign him before the bar of the Senate. The judicial power of impeachments is higher than Presidents or courts, and is competent to revise all their decisions and settle forever the fundamental principles of government. The Senate is the sole judge of impeachable crimes, and from its decision there is no appeal. It is the highest court of the nation, and when Presidents and judges seek to overturn the Constitution its ample jurisdiction may be invoked for the national safety and the public good.

During this debate the question has been to some extent discussed whether the President is liable to arrest, imprisonment, or suspension from office during a trial.

The facts upon which he is now charged are so brief as to require no material delay, and no necessity can arise for arrest, imprisonment, or suspension. Under the power to "make all laws necessary and proper," Congress may un-

doubtedly declare that the effect of preferring articles shall be to suspend the functions of the accused officer, and provide for arrest and imprisonment. But without this the Senate, as a necessary incident of the power to try the accused, may arrest and imprison.

The English practice sanctions this. It is said by May, in his treatise on the Law, Privileges, &c., of Parliament:

"If the accused be a peer, he is attached or retained in custody by order of the House of Lords; if a commoner, he is taken into custody by the sergeant-at-arms attending the Commons, by whom he is delivered to the gentleman-usher of the black rod, in whose custody he remains, unless he be admitted to bail by the House of Lords, or otherwise disposed of by their order."—*Chapter 23.*

Woodeson says it was customary for the Commons to request of the Lords that the person impeached—

"May be sequestered from his seat in Parliament, or be committed, or that the peers will take order for his appearance, according as the degree of the imputation justifies more or less severity."

The Commons demanded that Clarendon be sequestered from Parliament and committed. (6 *Howell's State Trials*, 295; 11 *Howell*, 733.) Lord Strafford was sequestered in 1641. (2 *Nelson's Collections*, 7.)

The Senate of the United States has asserted the same power.

In the matter of the impeachment of Blount it was ordered as follows, July 7, 1797:

"That the said William Blount be taken into the custody of the messenger of this House until he shall enter into recognizance himself in the sum of \$20,000, with two sufficient sureties in the sum of \$15,000 each, to appear and answer such articles of impeachment as may be exhibited against him."

On the 18th of June, 1788, in the Virginia convention, George Mason objected to the pardoning power vested in the President for ordinary crimes. Mr. Madison, in reply, said:

"There is one security in this case to which gentlemen may not have adverted: If the President be connected in any suspicious manner with any person, and there be grounds to believe he will shelter him, the House of Representatives can impeach him; they (evidently referring to the Senate, or the Senate in connection with the House,) can remove him if found guilty; they can suspend him when suspected, and the power will devolve upon the Vice President."

He doubtless contemplated a suspension in pursuance of law. For in Madison's report of the debates in the Convention which framed the Constitution it appears that on Friday, September 14, 1787—

"Mr. Rutledge and Mr. Gouverneur Morris moved that persons impeached be suspended from their offices until they be tried and acquitted."

"Mr. Madison. The President is made too dependent already on the Legislature by the power of one branch to try him in consequence of an impeachment by the other. This intermediate suspension will put him in the power of one branch only. They can, at any moment, in order to make way for the functions of another, who will be more favorable to their views, vote a temporary removal of the existing magistrate."

"Mr. King concurred in the opposition to the amendment."

This was rejected by eight States in the negative to three in the affirmative.

While the Convention were unwilling that an impeachment at the bar of the Senate should *ipso facto* suspend an officer it cannot be doubted that the Senate can imprison, and if necessary for the purpose of the trial, thus suspend the official functions of the officer impeached.

It is one of the inherent powers of every court to take the steps necessary to make its jurisdiction effectual. It might be necessary to suspend the President to prevent his forcible interference with the trial.

Imprisonment would present a case provided for in the Constitution, when in consequence of

"Inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President."—*Constitution*, Art. 2, Sec. 1.

But I refer to these questions now, not because I suppose they will be practically important on the impeachment of the President, but because of the allusion made to them in debate.

The presidential crimes which now demand our notice, though grave in their character, are

not the greatest of which he has been guilty; but they require the early and prompt action of Congress.

If in this hour we falter in our duty, usurpation will achieve a triumph from which the nation may never recover. If at last we meet this great occasion with that spirit of resistance to tyranny which inspired the founders of the nation, we will rescue the Constitution and the country from the usurper who imperils their safety and their existence, and new proofs will be given to the world that the great Republic is equal to every emergency, whether attacked by armed enemies from without or within our borders, or by the more insidious, but no less dangerous, encroachments of the highest officer known to the Constitution.

Impeachment.

SPEECH OF HON. J. S. GOLLADAY,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolution reported by the Committee on Reconstruction for the impeachment of the President.

Mr. GOLLADAY. Mr. Speaker, I desire to make my voice heard on this occasion in earnest and solemn protest against the resolution now before the House. At a time, above all others, when the American people in celebration of the anniversary of the birth of the "father of his country" should have been in a condition to tender to his memory every emotion of gratitude and love for the blessings derived from the form of government he was so instrumental in establishing, and giving up all other occupations to an innocent enjoyment of the day, we find that their Representatives, forgetful of all other considerations, spent the time in discussing the matter now before the House—that, too, in the presence of a vast, excited, and expectant throng, filling every seat and corridor of this large building, while an awe-struck nation, rudely awakened from its dreams of peace, quiet, and prosperity, stood appalled at the action of this House, and every city, town, and hamlet in our broad land sent forth their prayers for the preservation of peace and liberty; and the hope that the madness which now rules the hour may not be the herald of impending destruction.

I admit, Mr. Speaker, the wisdom and the excellence of that provision of our Constitution which gives to the Representatives of the people's will the right to impeach, try, and punish the President "on conviction of treason; bribery, or other high crimes and misdemeanors;" and it is not only our right but our duty to exercise it upon all proper occasions. But I assert that no evidence is before the House to show that we are justified in the exercise of our high prerogative upon the present occasion. And, on the contrary, I propose to show that Andrew Johnson has been guilty of no "high crimes or misdemeanors," and that the present attempt, after two signal failures to accomplish the same end, is solely the result of partisan prejudice and personal malice. It is well understood that the "report of the committee" now under consideration was based upon the President's action in the removal of Edwin M. Stanton as Secretary of War and the appointment *ad interim* of Lorenzo Thomas, the Adjutant General of the Army, to that position. It is alleged that he has willfully violated the tenure-of-office act and the Constitution, and hence has been guilty of such a high crime or misdemeanor as to demand impeachment at our hands. I propose to show that he has acted strictly within the limits of his constitutional privileges; that he has violated no law; that he has been guilty of no crime to justify the report we are now considering.

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Section two, article two, of the Constitution gives the President power to—

"Nominate, and by and with the advice and consent of the Senate to appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

In that instrument, which must be our highest guide in the consideration of this question, the appointment of Secretary of War is not "otherwise provided for," but it is "established by law" in the act of August 7, 1789, which created a Department of War and provided for its government. That Department has been in existence from that date to the present time. The right to appoint or remove its head at his own pleasure has never been denied to any of the predecessors of our present Executive, and such denial now is a gross outrage upon his prerogatives, an insult to his office, and violative of the Constitution.

It is well known that some months since Mr. Stanton was suspended from a discharge of the duties of the War Office and General Grant was appointed to discharge them *ad interim*, which he continued to do until the reasons assigned to the Senate for said suspension by Mr. Johnson were non-concurred in; when General Grant immediately, and with indecent haste, (if not with turpitude, and in accordance with a secret understanding to thwart and betray the trust of the Executive,) surrendered the office to Mr. Stanton. In bold defiance of the President's will the latter continued to hold the place, and still continues so to do. If any power on earth is possessed by the President of the United States it is the right to select and to remove at pleasure the members of his Cabinet, who are his constitutional advisers and a part and parcel of his political household. It was in the exercise of this power that Mr. Stanton was removed and General Thomas appointed to the place *ad interim*. It is alleged that in making this removal the President has violated the laws he swore to support. I deny it. Whether or not the concurrence of the Senate is necessary to a removal it is hardly necessary to discuss; the well-established usage of the Government for a long series of years has shown that it is not though the partisan efforts of the dominant party in the tenure-of-office act seek at this late day to establish a different doctrine; and while grave doubts of the constitutionality of this very measure pervade the minds of many of the gentlemen who voted for it with brazen effrontery the impeachment of the President is now sought, because he violated no law, but simply made an effort to have our judiciary decide whether or not this act is law at all. I am aware of the fact that in No. 77 of the *Federalist* Mr. Hamilton states "the consent of that body (referring to the Senate) would be necessary to displace as well as to appoint." In the foot note of the edition of that great constitutional authority, from which I quote, (edition of John C. Hamilton, page 568) on this very passage just cited, we find—

"This construction has since been rejected by the Legislature; and it is now settled in practice that the power of displacing belongs exclusively to the President."

This was the established law and doctrine of our land, as our records show—the wisdom of which is sustained by long experience—until an effort was made to change and overthrow the usage by the "tenure-of-office act," a measure violative of every sound principle of law or policy. Admit, for the sake of argument, that the act should eventually be decided constitutional, and still the President has done no wrong, and has violated none of its provisions. The second section of said act provides—

"That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of

the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

No one contends that Mr. Johnson appointed Edwin M. Stanton to the post of Secretary of War. He never sent his name to the Senate for confirmation; he never informed him that he was his choice for the position; he never signed his commission nor committed an act which estops him from exercising the power of removal under this very law and plainly granted therein, and for an alleged violation of which the President is now arraigned as a criminal by this House. Nor can any one with the most superficial knowledge of law or judicial procedures contend that a constructive appointment is to be implied from the fact that Mr. Johnson found Edwin M. Stanton in the War Office when he acceded to the Presidency and permitted him to continue in the discharge of those duties to which he had been appointed and assigned by President Lincoln. The object of this provision of the tenure-of-office act was clearly to limit the President in the power of removing any member of the Cabinet of his own appointment without the consent of the Senate, and by necessary inference he had and has the power to remove any member of the Cabinet appointed by his predecessor at his own pleasure and without the concurrence of the Senate in his action. The debates in the Senate when this very measure was under consideration there, more particularly the remarks of Senator SHERMAN, show that it was understood and admitted in that body that Mr. Stanton was not to be retained in the Cabinet by the passage of the act, but might be excluded therefrom at the pleasure of the President. It is a matter of history that Mr. Stanton himself, as an adviser of the President, declared in favor of the unconstitutionality of the act, and I have no doubt a majority of the finest legal minds in the nation concur with him in that opinion.

In support of this position, Mr. Speaker, I desire to read from the papers of the day the remarks made by several Senators at the time the recent action of the President, for which he is now threatened with impeachment, was first brought to their notice on Friday last:

"Executive Session on Friday.

"The President's Secretary, Colonel Moore, came in. Senator CONKLING was addressing the Chair on reconstruction. The executive documents were placed in a pile on the President's desk, and after a very brief lapse of time the Senate went into executive session, and the presidential documents were laid before the body, and Senator BAYARD took the floor in opposition to the resolution disapproving of the President's action and arraigning him for acting in opposition to the law, and argued at length upon both the unconstitutionality of the tenure-of-office bill and upon its entire inefficiency.

"Mr. DIXON followed, and took the ground that the President had the right to remove from positions in his Cabinet those whom he deemed were neither friends or advisers. The tenure-of-office bill contemplated nothing more than the protection of those who might be fairly designated enemies of the Executive. Mr. Stanton was included more especially in the number, and radical friendship for him sought, even at the expense of harmony in the Government, to retain him in defiance of law, common sense, and good taste, as so-called adviser, but really as a spy upon the Executive.

"Mr. HENRICKS spoke in very strong terms against what he designated an imposition on one of the coordinate branches of the Government, to which neither of the other two would tamely submit. He instanced the extraordinary change of sentiment which some Radical members of the Senate had undergone of late when an alteration of the political position seemed impending.

"Mr. SHERMAN, as chairman of the committee of conference on the part of the House when the tenure-of-office bill was under consideration, reported that the bill as amended and approved by both Houses did not attempt to restrain the President from changing his Cabinet.

"Mr. DOOLITTLE asked Mr. SHERMAN if the bill left the President power to remove Stanton?

"Mr. SHERMAN replied that it did.

"Mr. MORTON interrupted and said, at the time of the passage of the bill, it was admitted the power to remove Secretary Stanton was taken away from the President.

"Mr. FESSENDEN interrupted and said, nothing of the kind was understood by him, and if he had thought the bill meant to effect such an object as

taking away from the Executive one of its principal elements of unity and effectiveness he should have voted against it.

"Mr. HOWE argued that the Senate had no power to curtail the organic privileges of the Executive; yet, though he was opposed to the general scope of the policy embraced in the tenure-of-office bill, he was unable to decide in this instance who was most to blame, Congress or the President.

"Messrs. TRUMBULL, FESSENDEN, and DRAKE followed, and each in turn confessed his inability to give an opinion on the law which would favor the construction of the resolution offered that the President had violated the law.

"Mr. FESSENDEN said he desired to read statutes more fully, and that he had little doubt he should find some law which would justify the President in his present course.

"Mr. DRAKE, like FESSENDEN, was unable to form an opinion favorable to the resolution; neither could TRUMBULL.

Thus it will be perceived, beyond all controversy, that Mr. Stanton having advised the President that the tenure-of-office act was unconstitutional, and the action of the Senate at the time of its consideration pending the passage of the bill indicating clearly that it could not be construed to keep Mr. Stanton in power, Mr. Johnson was justified in acting on these opinions, and can with no consistency be blamed for their adoption. We see presented to-day the most extraordinary spectacle that ever occurred in the history of legislation. An excited and reckless body arraigning the Chief Magistrate, whose high office, if not his person, deserves our respect, for basing a certain line of action toward a minister upon the very advice given by that minister, and similar opinions expressed by distinguished members of the national Senate, which if not distinctly expressed in the form of a statute, are certainly by any sound system of reasoning to be deduced therefrom. There must be union of act and intent to constitute a crime. The intent to be inferred from the act only when the latter is clearly proven, and subject then to rebuttal upon proof of justification.

In the case now before the House, as I have already shown, no act of crime or even a misdemeanor appears to have been committed. This House, by a decided vote, having, upon two former occasions, given a negative to all charges against the President, we know that the only act he has committed for which impeachment is now sought, is the removal of a Cabinet minister, odious not only to him, but to every refined and respectable person in the country. That there was no intent of wrong on the part of the President is manifest from many considerations. He had no motive for wrong, because he could derive no benefit from it; he intended no obstruction to the public service, as he assigned an old and experienced Army officer to discharge the duties of the War Office *ad interim*, and has nominated to the Senate one of the most venerable, pure, and experienced statesmen in the land as Secretary of War, Hon. Thomas Ewing; further than that, every member of this House, and every intelligent person in this country, knows that the General and Lieutenant General of our armies, two soldiers honored by our people as military chieftains were never honored by them before, wrote to the President that they would advise Mr. Stanton to resign; the latter General saying, in the event of his refusal, "ulterior measures" could then be resorted to to enforce said resignation; and both undoubtedly show that the good of the public service required said resignation.

It is absolutely astonishing, Mr. Speaker, that gentlemen here should seek to impeach Mr. Johnson for removing a man whom General Grant and General Sherman both advised to resign for the public good, and who, following a base ambition and partisan feeling, shows his utter and total disregard for the best interests of the nation. The President would have been more guilty, with this information in his possession, if he had not removed Mr. Stanton than he can possibly be for the removal. He must "take care that the laws be faithfully executed." The Constitution and regard for

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public interest are his highest laws, far above any statute regulations. Advised by the highest authority that the laws could not be faithfully executed with Mr. Stanton in the War Department, his constitutional oath required him to remove the obstruction. He would have been guilty of gross neglect of duty if he had failed to do so. He committed no crime or misdemeanor in the act, and any intent so to do is repelled by every circumstance in the case. The Constitution is his highest law, and so far from violating it he has vindicated its supremacy, and shown his love for its provisions. Mr. Jay, in No. 64 of the *Federalist*, says that—

"All constitutional acts of power, whether in the executive or in the judicial department, have as much legal validity and obligation as if they proceeded from the Legislature."

Mr. Johnson in selecting a constitutional adviser of his own, was carrying out the policy of every President from Washington down to Lincoln. He sought to violate no law, and made resort to the "ulterior measure" to which General Sherman made reference in his letter, and strictly following the Constitution as he did, according to the high authority of Mr. Jay, his act is as valid and binding as if approved by both Houses in Congress. While it may be doubted whether a simple ministerial or executive officer has the right to question the constitutionality of an act it is his duty to execute, unless his personal rights are thereby invaded, it is manifest that in this case Mr. Johnson's personal rights were invaded, and he had absolute power to test the binding force of the tenure-of-office act in the courts, and pursued the only course by which he could have done so. One of his personal rights is to select his own constitutional advisers.

This act sought to deprive him of it, and force him to retain a man in his Cabinet in whose opinions he had no confidence, with whom he could hold no personal intercourse, and whose removal was required for the public good. This gave him a clear and undoubted right to pursue his remedy in the courts of the land. He has attempted no other procedure. With dignified forbearance he has avoided all rash methods of getting his offensive and rebellious minister out of the Cabinet; he has attempted no violence, has made no resort to military force, has violated no law, but, with the integrity of a good citizen, has made simply an effort to have our judiciary define and construe the law; and, when defined and construed by the only tribunal to which the power is given under the Constitution, no man in the country will obey the decision of the court and more cheerfully adapt his action thereto than the President. I am sustained in my assertion of the right of the President to select his own Cabinet, not only by numerous precedents in the history of former Administrations in this country, but by Mr. Hamilton, the greatest expounder of our fundamental law. In No. 66 of the *Federalist* he says:

"It will be the office of the President to nominate, and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the Executive and oblige him to make another, but they cannot themselves choose; they can only ratify or reject the choice he may have made. They might even entertain a preference to some other person at the very moment they were assenting to the one proposed, because there might be no positive ground of opposition to him; and they could not be sure, if they withheld their assent, that the subsequent nomination would fall upon their own favorite, or upon any other person in their estimation more meritorious than the one rejected. Thus it could hardly happen that the majority of the Senate would feel any other complacency toward the object of an appointment than such as the appearances of merit might inspire and proofs of the want of it destroy."

If to fetter the President in his selection of a Cabinet by partisan legislation is not to choose for him—a choice, too, made not only on the part of the Senate, but of this House, also—then words have lost their power and language its meaning. Again, Mr. Speaker, it is the duty

of the President to protect his prerogatives from illegal invasion, and stern dictates of self-defense made his recent action an imperative necessity. Elected by the Republican party, a Republican himself this day, for aught I know to the contrary, the vengeful course of his party friends toward him, their insidious efforts to so change the policy of our country as to strip the Executive of power, that it might be exercised by the Legislature—efforts, too, that are not dictated by honest conviction of their wisdom, but rather by fanaticism and personal hatred of the President—constitute a large part of the history of our legislation for the past two years. The experience of all forms of democratic government teaches us how great is the propensity of the legislative to usurp the power of the executive department of the Government. To again quote from Mr. Hamilton, in the *Federalist*, No. 78, we find:

"The propensity of the legislative department to intrude upon the rights and to absorb the powers of the other departments has been already more than once suggested; the insufficiency of a mere parchment delineation of the boundaries of each has also been remarked upon, and the necessity of furnishing each with constitutional arms for its own defense has been inferred and proved. From these clear and indubitable principles resulted the propriety of a negative, either absolute or qualified, in the Executive upon the acts of the legislative branches. Without the one or the other the former would be absolutely unable to defend himself against the depredations of the latter. He might gradually be stripped of his authority by successive resolutions or annihilated by a single vote, and in the one mode or the other the legislative and executive powers might speedily come to be blended in the same hands. If even no propensity had ever discovered itself in the legislative body to invade the rights of the Executive, the rules of just reasoning and theoretic propriety would of themselves teach us that the one ought not to be left at the mercy of the other, but ought to possess a constitutional and effectual power of self-defense."

How sadly prophetic these utterances of the great statesman appear in the light of recent events! Not satisfied with stripping the President of much of his power and concentrating it in your own hands, taking away privileges sanctified by custom and respected by law, enjoyed, as they were, by all of his predecessors, and never abused by him, you now seek his annihilation by a "single vote." I pray that passion may be still and reason remount her throne, and that we are not traveling to-day a road whose course will be reddened with the blood of our citizens, made wet with the tears of despairing widows and orphans, and to be filled with the wreck and mire of our once hallowed and glorious temple of liberty. Mr. Johnson, for asserting his own rights, for strictly heeding the Constitution and the laws, and for defending the executive branch of the Government from legislative encroachments, is to be hurled from power and disgraced in the eyes of the world. He knows full well that—

"Energy in the Executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws, to the protection of property against those irregular and high-handed combinations which sometimes interrupt the ordinary course of justice, to the security of liberty against the enterprises and assaults of ambition, of faction, and of anarchy. A feeble Executive implies a feeble execution of the Government. A feeble execution is but another phrase for a bad execution; and a Government ill executed, whatever it may be in theory, must be in practice a bad Government." (*Federalist*, No. 70.)

With these great truths firmly impressed upon his mind, it was the bounden duty of Andrew Johnson, a duty required by his solemn oath, to protect the Constitution, a duty he owed to the American people and the friends of liberty and popular government throughout the world, to protect his office from usurpation and defend himself from illegal attacks upon his rights as the Chief Executive Officer of the nation; and, so far from having been guilty of either a crime or misdemeanor, his action is worthy of our highest commendation, and for it his memory will be held in grateful consideration by those who really desire the perpetuity of our institutions. And I fear,

too, that the probable action of this House will furnish another argument to the enemies of representative government of the instability of freedom and the folly of vesting power in the hands of the whole people by giving evidence of the want of wisdom in its exercise and making manifest the fact that their Representatives are prone to be influenced by party faction and personal malice rather than by written constitutions and the forms of law their peers have enacted.

Mr. Speaker, I think I have shown beyond all question—

1. That Andrew Johnson has committed no high crime or misdemeanor; certainly none which could in any just sense be regarded as an attack upon the Constitution or any law passed in pursuance thereof, or that he has infringed or abridged the personal rights of any human being.

2. That in the removal of Edwin M. Stanton and the appointment first of General Thomas *ad interim*, and the nomination of Mr. Ewing to the Senate as Secretary of War, he exercised a constitutional prerogative, his right to which in law and in fact is recognized by Hamilton, Jay, Madison, Webster, and others of our greatest statesmen, and which has been exercised by all of his predecessors in office from the foundation of the Government to the present time.

3. That Mr. Stanton is not protected and kept in power by any just interpretation of the tenure-of-office bill, as he was not appointed or commissioned by Mr. Johnson, but owed his official existence solely to his sufferance, which he had a right to withhold at any time.

4. That while the power of rejecting a presidential nomination to office is clearly a right of the Senate, that body has no power to choose for him, and, least of all, to force upon him as a Cabinet officer a man with whom he can hold no friendly or confidential, personal or official, intercourse.

5. That his official and personal right to defend the executive from legislative encroachments is not only inferable from the very nature of the trust committed to him, but conceded and established by every sound writer upon constitutional law.

6. That the tenure-of-office bill, as admitted by its framers, was not designed to protect Mr. Stanton, and cannot be construed to a meaning opposite the intention of those who framed and passed it.

Mr. Speaker, I have now grouped together all the points that in my judgment bear upon this partisan iniquity for the purpose of showing to this House and the country the miserable and unfounded pretense set up by the calumniators and persecutors of the President.

No sane, unprejudiced man can for a moment doubt that all this "much ado about nothing" has its origin in virulent party malignity, and every pretense of legal argument or constitutional precedent proposed by these high-handed impeachers is but the dust under cover of which they hope to make an escape from that just public condemnation which awaits them at the hands of the sober, calm reflection of the whole American people.

It is of but little consequence to the American people whether Mr. Stanton, General Thomas, or Mr. Ewing is the Secretary of War, but the precedent to be established by congressional usurpation is altogether a different proposition.

Reflecting men have witnessed with pain the bitter contest which has been for nearly two years going on in the ranks of the Republican party between its President and its party dictators—the congressional majority. The President has seen fit to think for himself, and threw himself in every constitutional manner in the way of their vindictive and oppressive legislation, and they do not hesitate to denounce him in unmeasured terms as "traitor," "culprit," "great criminal," &c., for it. Indeed, they

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exhaust the whole vocabulary of Bilingsgate to show their contempt for him. I have listened to their denunciations with pain and mortification.

Mr. Speaker, why is this terrible excitement? Look at this vast multitude of excited men and women, as the lobbies groan with their weight of moving, interested spectators. Cast your eye over the trembling corridors of this vast Capitol, every niche and corner from turret to foundation-stones pressed by the foot of an excited people. The very wires of the telegraph corps fairly tremble with the electricity which flashes to all parts of this grand Republic the terrible information of the awful tragedy which is being perpetrated in the name of liberty—the impeachment of the President of the United States for high crimes and misdemeanors. Surely this man must be a great moral monster. He must have betrayed a generous and confiding people into the hands of a foreign Government, or he must have squandered the whole estate of that Government, or have brought down upon us war, famine, or pestilence, or surely this grand menagerie of howling patriots would not call him traitor, culprit, criminal, &c. Alas! no; nothing of that sort. Well, then, he has surely transferred the Government of the United States to the rebels, who, with bloody hands, are again wending their way to the capital to take possession of and destroy this vast Republic. No, sir. What has he done, then? Speak it, in God's name. Has he inaugurated civil war among us and shed the blood of our people to congregate the Republic's widows and orphans once more around graves wet with tears and slippery with human gore? No, sir; nothing of all this. He has been guilty of the folly of interpreting the Constitution of his country for himself under his solemn oath to protect and defend it.

The whole truth is that Andrew Johnson is a law-abiding man, and holds to the Constitution as the only bulwark of liberty and safety, and under its solemn and great teachings he has resisted the oppression of the congressional majority, some of whose leaders proclaim most unblushingly that their acts are not to be limited by such law, but exists by the divine right of their own self-will, incited to madness by the handwriting on the wall, indicating most unmistakably their approaching destruction. In their reconstruction policy their primary object is avowed negro supremacy, to be managed by military despotism at the expense of the General Government and in the interest of their own perpetuation in power. The impeachment outrage is but the "stop thief" cry to divert attention from themselves, the true criminals. They abused Mr. Johnson with fiend-like denunciation for removing some of the military satraps. They have called him every hard name but Democrat, and they even have the audacity to threaten that. They have used the great name and popularity of General Grant with which to assail the President. They have involved the name of Grant into, to say the least of it, a questionable statement of veracity with the President, and they howled with rage and disappointment when the President with calm dignity defended himself and "carried the war into Africa" by backing up his statements by his entire Cabinet to the consternation of General Grant and his corps of manipulators and wire-workers.

In my judgment this whole impeachment movement is a trump card, in the hope that they could provoke the President to some military resistance, that they might cry, "Rebel,"

"And let slip the dogs of war,"

and cry "Havoc," and all this regardless of its effect upon the life, property, and happiness of the great American people.

In proof of this theory just take a look at the honorable gentleman from Illinois, [Mr. FARNSWORTH,] who makes himself facetiously happy, though unhappily facetious, over the

oft-repeated and stale *alias* of rebel and Democrat; and, in blissful memory, doubtless, of his own chivalry in the late war, notifies the country, by inference at least, of his readiness to fight again and of his contempt of his enemy by the very tasteful announcement that he had about fourteen thousand majority in his district (popular General FARNSWORTH!) and that each one could whip two rebels or secession Democrats. "Talking is cheap" these times of political knighthood.

The notorious and distinguished gentleman from Pennsylvania [Mr. KELLEY] now appears for the purpose of political pirouetting, and in his usual rich, deep-toned, sounding style deals around the obloquy of rebels, criminal, usurper, &c., and the very significant idea, covert though it was, yet implied, if not intended, "Lincoln was murdered, and other distinguished patriots may be," and followed by "it is known that men ascend to power over bloody steps, and that they may do it in this country, and yet be tolerated." Mr. Speaker, there are two prominent ideas and insinuations in these extracts with which to beslime the fair name of Andrew Johnson, one at least of which we have heard only hinted at before. One that Johnson had complicity with Mr. Lincoln's murder; the other that he might procure the death of other distinguished patriots. Can political malice or personal malignity go further? Truly have we fallen on evil times when our rulers can thus be arraigned of such crimes as murder unsupported by the least shadow of a shade of foundation.

"Faith, frantic faith, once wedded to a dear falsehood hugs it to the last."

Last though not least comes our gallant and distinguished friend from Illinois [Mr. LOGAN] who boils the political caldron to fever heat, and exposes in patriotic fervor, and though not calling the President coward in addition to the oft-alluded-to hard names pronounced by others, yet by in-*uendo* and manner—

"Learning to lie in silence
Would seem wise,
And without utterance
Save the shrug or sighs;
Deal round to hapless souls
Its speechless obloquy."

The eloquent gentleman, after stating that nobody would follow the lead of Johnson, for he would desert them in a week, very satisfactorily and complacently stands him up with a bold front for the satisfaction, seemingly, of demolishing him. Well they meet in battle array, and I can almost hear the warning words of Scotland's minstrel:

"I'll fare it then with Roderick Dhu,
That on the field his targe he threw,"

and I hope I may be pardoned, Mr. Speaker, for the thought, that in this conflict a wonderful similarity can be traced in the fate of this challenger as in that.

Mr. Speaker, inasmuch as the "so-called" Secretary of War, Mr. Edwin M. Stanton, is the immediate agent used by the impeachers, and as his right to the place is a question of important consideration, I beg to append herewith a copy of the only authority Mr. Stanton ever had, and that is distinctly announced by President Lincoln as "during the pleasure of the President of the United States for the time being." Mr. Lincoln claimed the right while living to remove and retain at will, and died with it unchallenged. Mr. Johnson has done no more, and lo, what a criminal! Impeachment and degradation is to be his punishment. Will the reflecting people of the United States approve of it?

Abraham Lincoln, President of the United States: to all who may see these presents, greeting:

"Know you that reposing special trust and confidence in the patriotism, integrity, and ability of Edwin M. Stanton, I have named, by and with the advice and consent of the Senate, and appoint him to be Secretary of War for the United States, and do authorize and empower him to execute and fulfill the duties of that office according to law, and to have and to hold the said office and all the powers, privileges, and emoluments to the same of right appertaining unto him, the said Edwin M. Stanton, and during

the pleasure of the President of the United States for the time being.

In testimony whereof, I have executed these letters to be made patent and the seal of the United States to be hereunto affixed. Given under my hand at the city of Washington, the 15th day of January, in the year of our Lord 1862, and of the Independence of the United States of America the eighty-sixth.

ABRAHAM LINCOLN.

By the President:

WILLIAM H. SEWARD, *Secretary of State.*

Impeachment.

SPEECH OF HON. R. W. CLARKE, OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

Mr. CLARKE, of Ohio. Mr. Speaker, I rejoice that in the midst of so great excitement, produced by the most insulting usurpations of the President, that law is still supreme, and that order still reigns here and throughout the country. The lawless and defiant spirit of President Johnson, manifested in his recent violations of law and duty, indicate the *animus* that has for two years past borne him onward in his career of crime to the astonishment of everybody. If Washington had been Paris this morning would have found Andrew Johnson a fugitive, fleeing from an infuriated populace, or hanging upon a lamp-post in front of his mansion. For offenses no greater than his the slow but determined English seized upon their sovereign without law, organized a revolutionary tribunal, put him upon trial, adjudged him guilty, and cut off his head. For much less offense than is charged against President Johnson the French people dragged a Bourbon king from his throne to the guillotine without waiting for the slow process of law, and without taking the time to inquire into the guilt of the unfortunate monarch who had fallen under the ban of popular opinion, which was only appeased with his blood.

But, sir, in this country, happily for our peace and honorable to the force and power of the law-abiding sentiment that ever stands out prominent with our people in the midst of the most trying crisis, the law is still supreme. Two years have we been witnesses of the most flagrant and insulting violations of the Constitution and laws by the President; usurpations of power the most arrogant and defiant, and by a man who attained to the high office he has so long abused and degraded by the assassination of one who, by his many virtues, had become the idol of the people, and of whose blood the public judgment has not wholly acquitted the man who, of all others, was most benefited by its being shed. Still, sir, all is order; though the provocation is great, and the great national heart is deeply moved, yet the forms of justice and the great bulwark of law stand firm and unimpaired, and all the protection that the most favored of the nation could demand is accorded to the accused President; and, if innocent of the crimes alleged against him, his honorable and speedy deliverance is beyond all question; but if found guilty, as by the proof shall be shown upon full and fair public trial, as the Constitution and laws prescribe in such case, then let justice be done, though the heavens fall.

Who is Andrew Johnson, who when solemnly charged in all due form with high crimes and misdemeanors of the greatest magnitude, repeating them daily, and thereby involving the liberty and lives of thousands of the loyal people of the country, yet he shall not be subjected, as any other malefactor, to public accusation in due form and to a fair and impartial trial, and, if proved guilty, to receive the just punishment awarded to his crimes?

No one requires his conviction except upon full proof of guilt, and, if guilty, who so dis-

HO. OF REPS.

Impeachment—Mr. Welker.

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loyal as to desire his acquittal? But for his guilty connivance with the rebels of the South the ten insurgent States would long since have been restored to the Union upon terms of peace and unity, and much of the misery, oppression, and bloodshed which have fallen upon that distressed land would have been spared. For two years the White House has thrown open its portals to traitors, and of such the President has made his confidants and advisers, and in their interests he has controlled the power and patronage of his great office.

For two years loyalty has been at a discount and treason above par wherever in the Departments at Washington the President could infuse the political virus; to-day I venture the assertion that a majority of those participating in the favors of the Government in this city are out-and-out rebels or rebel sympathizers now and during the war. Honest loyal men have no standing with Andrew Johnson, unless it be when he seeks to seduce them into his schemes for overturning the Government and to deliver it into the hands of its enemies. General Grant refused to lend himself to the wicked machinations; and Sherman and Thomas declined with indignant scorn to accept the proffered brevets which were but sugar-coated bribes to lead them into the toils that were being spread for the betrayal of the country. Could any President in these times be honestly devoted to the best interests of his country and yet thrust out of its service such well-tried public men as Stanton, Sheridan, Pope, Sickles, and Swain, all of whom had distinguished themselves by the great services they rendered the Union cause in the period of its greatest need and greatest peril? Indeed, his best friends do not claim for him any sympathy with the party that saved the country from the rebels; he has long since abandoned them and turned his batteries against them and the Union; and for this warfare, this crime against his country, we demand his expulsion from power, that what has been saved of our Government by war from the grasp of treason shall not be surrendered to it by an unfaithful President in time of peace.

Sir, the rebellion is not ended, and the last organized effort to recover the lost cause will not be effectually subdued until Andrew Johnson is removed from power. He has told us in his message of December last that he will have his way, peaceably if he can, forcibly if he must. Every official act of his since that announcement shows but too clearly he means what he has said. He now claims the right to trample under his feet laws and Constitution whenever they embarrass him in his treasonable purposes; and we are no longer left to doubt his ultimate designs or the duty the hour demands of us. As he is striking at the life of the nation we must regard him as a public enemy and strike back. Past forbearance has only encouraged him in his crimes and increased the boldness with which he declares and executes them; bad men have his ear and his confidence and bad counsels control his action, and unless he is restrained at once no one can calculate the injury he may inflict upon the country. Sir, we are told by the friends of the President on this floor that it is revolutionary to impeach him! Then, indeed, it is revolutionary to bring offenders to justice. Sir, it is for just such purposes laws are made; it is to punish crime, and thereby conserve the public welfare; and if there ever was a time when a great example was needed that time has come, and a greater offender could not be found than Andrew Johnson. Let him be put upon trial, and, if guilty, lead him out of the high place he has so greatly dishonored, to bear through life the scorn and contempt of the people whose confidence he has betrayed, whose laws he has violated, and whose peace he seems resolved to destroy forever.

Impeachment.

SPEECH OF HON. MARTIN WELKER, OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

Mr. WELKER. Mr. Speaker, when the report of the Judiciary Committee was before the House I voted, with a majority of Republican members, against impeachment. The charges then made against the President covered a wide field, and involved so many different questions growing out of the results of the war that I feared the delay that would attend a trial in the Senate and its effects upon the great public interests of the country. There were so many subjects of legislation demanding the attention of Congress that I felt then it was best for the country to endure as long as possible the bad conduct of the President rather than resort to this extreme measure. But this forbearance on behalf of those who then voted against the proposition was regarded as a license for further assumptions of power. The charges now make a plain and simple issue, easily proven, and requiring but short time for trial, and involve the violation of the Constitution and the laws, in but a few particular acts committed since the former proceedings were terminated.

In the discussions on the first impeachment it was claimed that a President could only be impeached for indictable offenses. I did not then, and do not now, agree with that view of the law of impeachment. I believe that this remedy is provided in the Constitution for malfeasance in office, not amounting to an indictable offense, as well as for high and indictable crimes and misdemeanors; that the high court of impeachment, the Senate, must determine for itself what constitutes impeachable malfeasance, amounting to "high misdemeanors." But I will not argue this question, as it is not involved in the charges now made.

This resolution charges the President with high crimes and misdemeanors, for which his impeachment is demanded. We are now sitting as a grand inquest of the nation to consider whether he shall be placed upon his trial before the high tribunal designated in the Constitution. The authority for this proceeding is found in the Constitution, as follows:

"ART. 2, SEC. 4. The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

Now, what high crimes and misdemeanors has he committed? He has removed from office Edwin M. Stanton, Secretary of War, who had before that time been duly appointed and qualified as such officer. He has appointed Lorenzo Thomas, Adjutant General of the Army, Secretary *ad interim*, and ordered him to take possession of the office, both of which acts have been done while the Senate was in session. In doing this it is claimed that he has violated the Constitution and laws of the United States. If this be true, then he is liable to impeachment. It is made the duty of the President to preserve and defend the Constitution, and to see that the laws are faithfully executed. All officers, as well as citizens, must obey the laws. The President has no more right to disregard the Constitution, and refuse obedience of the law, than the humblest citizen of the Republic. His high office should, indeed, place him under greater obligations to obey the law than if a mere private citizen. Failing to comply with the law himself, he could scarcely expect to enforce obedience upon others. In this Government of Constitution and laws, it is important to the preservation of our free institutions that he,

as well as all others, shall meet the just punishment provided for violated laws.

In our discussions of this question we should lay aside all partisan feelings. Its great importance demands that we should approach it as sworn jurors to ascertain "the truth, the whole truth, and nothing but the truth," and "without fear or affection," and "without malice or ill-will."

As to the constitutional power of removal, article two, section two, says:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

It is claimed that under this section he has the power of removal as incident to the power of nomination. This is not tenable. Under it he has only the right and power to nominate and appoint with the advice and consent of the Senate. It does not provide for removal. The utter absence of such authority necessarily implies that the removing power, when the Senate can be consulted, is the same as the appointing power. Without the consent of the Senate he can make no such officer, and the same consent must be invoked to unmake him.

This removal and appointment is in direct violation of the Constitution. The fact that the Constitution provides that "the President shall have power to fill up all vacancies that may happen during the recess of the Senate," is a clear negation of his power to do so while the Senate is in session. Now, let us examine as to his powers under the law. In 1863 a law was passed which provides that the President may fill vacancies temporarily which occur by death, resignation, absence from the city, or sickness. This repeals all laws inconsistent therewith, and thus limiting his power by law to fill vacancies to only these four cases. Now the President has, while the Senate was in session, made a vacancy by removal, and filled it without any authority of the Constitution or the law.

On the 2d day of March, 1867, the law commonly called the "tenure-of-office act" was passed, the first section of which reads:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any office, and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, that the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

The sixth section of this act reads:

"SEC. 6. And be it further enacted, That every removal, appointment, or employment, made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and, upon trial and conviction thereof, every person guilty thereof shall be punished by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointments shall have been advised and consented to by the Senate."

Has the President violated this law? The removal of Secretary Stanton and appointment of General Thomas as *ad interim* Secretary, is plainly and palpably against the provisions of this act. He first suspended him under and by authority of this law and sent his reasons therefor to the Senate, but when assent thereto was refused by the Senate, an absolute removal

was made in defiance of the law. Thus when his purpose could not be accomplished under the law he does it in violation of the plain letter of it.

In this removal the President has usurped the powers of the Senate. He has undertaken to do what the law prohibits, and thereby brings himself within the penalties of the law. He has done this willfully and purposely, and in open defiance of the law-making power.

Who is the President that he shall thus defy the law? He is simply the agent, the high sheriff of the people, to see that the laws are faithfully executed. The laws are made by the people through their Representatives. All laws are the people's statutes, made by them, and for their government. In their enactment the President is invested with a negative power in the form of the veto. But when a law is passed by a two-thirds vote of each branch of Congress, as this one was, it then becomes the law of the land, and he as well as all others bound to obey it. He has no right to refuse its execution or obedience to it because he does not approve it. If he can repudiate this law he can any other, and if one then all, and he then becomes an autocrat and above all law.

The President has done what no other Chief Magistrate of this country has ever done, in thus making a removal of a Secretary while the Senate was in session. It may have been the practice to make such removals in vacation, but no case can be found where it was done as this was, in the very face of the Senate. It is claimed that this power of removal is given in the act of 1795, but that act was repealed by the act of 1863, before cited, and does not protect the President in this assumption.

The President in this removal and appointment, and his acts in reference thereto, has violated and brought himself within the provisions of another law, I mean the act of 31st July, 1861. This act provides that—

"If two or more persons, within any State or Territory of the United States, shall conspire together" * * * "by force to prevent, hinder, or delay the execution of any law of the United States" * * * "or by force or intimidation, or threat to prevent any person from accepting or holding any office of trust or place of confidence under the United States; each and every person so offending shall be guilty of a high crime, and upon conviction thereof" * * * "shall be punished by a fine not less than \$500 and not more than \$5,000, only imprisonment with or without hard labor, as the court shall determine, for a period of not less than six months, nor greater than six years, or by both such fine and imprisonment."

He has conspired with General Thomas and others, by force and intimidation, to prevent Secretary Stanton from holding the office to which he had a clear right under the law.

For these flagrant violations of the Constitution and the laws; for thus setting at defiance the laws of the land the President deserves impeachment. The safety of the country and the perpetuation of the rights of the people demand it; and we, the Representatives of the people, will fail to discharge our duty if we allow this conduct to pass without bringing him speedily before the constitutional tribunal for trial.

But it is said that these acts were only done for the purpose of appealing to the courts to settle the constitutionality of the tenure-of-office law. It is only necessary, in reply to this, to say that the courts were open for proceedings in *quo warranto* before these proceedings were had, and they were not necessary in order to reach the courts. It is only a subterfuge, an afterthought. The purpose was to remove and defy the law, and the consequences must be met. It is high time that the President should be taught that he is not above the law. For two years he has been making war upon the law-making power of the country. He has done all he could to bring it into disgrace before the people. In all these acts of his the faithful and incorruptible Stanton, in every way possible, stood in his path. The greatest war minister of any age or country,

he has performed such services as entitle him to the gratitude of all lovers of their country. His honesty and watchfulness since the close of the war has closed the nation's Treasury against the plundering avarice of fraudulent claimants, and for this his removal has been demanded by them.

The people of this country will not be confined to our charges and specifications against the President. They will go behind these charges, and in their discussions canvass his whole course of conduct. They will think of his desertion of the great party that elected him; of his treachery in transferring the influence of his high office to those who had been the enemies of the country; of his crime in raising up rebel resistance to acts of Congress made to establish the peace of the country and protect the weak and down-trodden; of the great obstructions he has placed in the way of the restoration of the rebel States, and of the wide spread of corruption under his administration, threatening the whole revenues of the country with destruction. But I have not time to speak of this further.

It is said that this impeachment proceeding is a war of Congress upon the President. It is, in truth, the result of a war of the President upon the rights of the people—a struggle between grasping and domineering power on the one side, and a bold and daring assertion of the great prerogatives of the people's Representatives on the other. In all such contests the people will prevail, and the executive power be confined within the limits of the Constitution and the law. No free Government was ever overthrown by curtailing the powers of the Executive. The danger lies in the other extreme, that of its increase and disregard of the voice of the people in the abridgement of their rights.

Impeachment.

SPEECH OF HON. W. B. ALLISON,

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

February 29, 1868,

The House being in the Committee of the Whole on the articles of impeachment reported from the committee.

Mr. ALLISON. Mr. Chairman, in discussing the question now before the committee I shall endeavor to treat the subject with that seriousness and gravity which its importance demands. The resolution proposes to demand of the Senate, sitting as a high court of impeachment, a trial of the highest executive officer of the nation for high crimes and misdemeanors in office. When this subject was before the House in December last I voted with the majority of Republicans against a similar resolution, rather because I believed it was better to endure, if possible, for a brief time, a bad President, than to undertake his impeachment, especially when I felt the importance of speedy legislation upon matters affecting the material and industrial interests of the country. I see, however, now, no alternative presented to us but the impeachment of the President or an absolute surrender of the legislative power of the nation to a usurping President. I do but state the truth when I say that the President has willfully, deliberately, and criminally violated the Constitution of our country, his oath of office, and the laws of the United States. Firmly believing this, I shall vote for the articles presented to us by the committee.

The facts now presented are so palpable that the friends of the President do not controvert them, but rather seek to excuse him on the ground that he is acting within the Constitution, and that the laws which he has so plainly violated are themselves in contravention of the terms of that instrument. The

President has pretended to remove from office by executive order the Secretary of War, and has pretended to appoint by a similar order another officer unknown to the law, designating him as Secretary of War *ad interim*, during a session of Congress, and while the Senate is in session. If he has under the Constitution and laws this extraordinary power, then the articles should not be adopted and sent to the Senate; if he cannot exercise this power there should be no objection to their adoption. I know of no instance in the history of our Government where such power has been exercised during the sessions of the Senate, and to admit of its exercise now would be sowing the seeds of the royal prerogatives, the end of which would be a subversion of the liberties of the people and place the civil administration of the Government and the Army and the Navy within the despotic will and control of one man unrestrained by law.

The Constitution is silent upon the subject of removals from office, except in case of impeachment; but, inasmuch as the judges of the Supreme Court and the judges of such inferior courts as Congress may from time to time establish by the terms of the Constitution, hold their offices during good behavior, it would seem that the framers of the Constitution intended that other offices would be held by a different tenure. It is true they provided in the Constitution for removals by impeachment, but this obviously slow method cannot always be resorted to, therefore it seems that impliedly the power of removal exists somewhere; it was claimed to-day by the honorable member from Pennsylvania [Mr. WOODWARD] that this power of removal is necessarily incident to the executive power, and is given to the President by the first clause of the first section of the second article of the Constitution, which says:

"The executive power shall be vested in a President of the United States of America."

And he quotes in support of his view the debates of 1789, wherein this power was claimed for the President by Mr. Madison and others in the House of Representatives. I have examined those debates, and I find a nearly equally divided judgment, the power being consented to by the vote of the Presiding Officer of the Senate, and the argument of those who favored this construction insisted upon it rather because they believed the power should be brought into requisition in extraordinary cases, during the vacations of Congress, when the Senate would not be in session. It is difficult to see how the power of removal is necessarily incident to the executive power in a republican government. If we assimilate it to the executive power under our various State constitutions we find that no State executive has ever assumed so extraordinary a prerogative. If this power is absolutely given in the first clause quoted it is not subject to legislative control, and the effect of its exercise would be to nullify the provision of the second section of the same article, which declares—

"That the President shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers, consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

But if the defenders of the President base his action upon this construction of the Constitution they must adopt the whole argument of those who early claimed this construction, all of whom declare in the debate referred to that a wanton removal of a worthy man from office or the abuse of the power, merely to gratify the caprice of a President, would, in itself, be a high misdemeanor in office and require Congress to invoke the power of impeachment. The better interpretation of the Constitution, it seems to me, is that the power of removal is incident to the power of appointment, and can only be exercised under the Constitution with the concurrence of the Senate.

HO. OF REFS.

Impeachment—Mr. Allison.

40TH CONG.....2D SESS.

This was the construction given to the Constitution while it was pending for ratification by the seventy-seventh number of the Federalist, wherein it is observed: "The consent of the Senate would be necessary to displace, as well as to appoint," &c., and in the debates during the administration of General Jackson was acquiesced in by the leading minds of the Senate, and resolutions were offered by Mr. Clay, March 6, 1834, and ably defended by him, embodying almost the language of the tenure-of-office act. During this debate he protested, as did others, against the interpretation made by the Congress of 1789, by the casting vote of the Presiding Officer of the Senate.

Those who framed the Constitution were not willing to trust this high power of appointment to a single man, but placed it in the hands of the President and the Representatives of all the States assembled as a Senate; and this has been the uniform construction of the Constitution, so far as I know, whenever the Senate has been in session, the power of removal being exercised by the nomination of the President, and the confirmation by the Senate of another person instead of the one sought to be removed. It is true that the practice has long prevailed of removing officers during the recess of the Senate, thus creating vacancies, which have been temporarily filled up by granting commissions under the last clause of the second section of the second article of the Constitution, but in no instance has this power been exercised during the sessions of the Senate.

But the President has not contented himself with removing the Secretary of War during the session of the Senate in a way unknown to the Constitution and contrary to the practice of the Government, but he has also appointed or attempted to appoint by letter of authority a person as Secretary of War *ad interim* in contravention of the plain letter of the Constitution, which declares that—

"The President shall nominate, and by and with the advice and consent of the Senate appoint."

I know of no pretense of authority for the exercise of this extraordinary power, and no argument has been submitted for it by the defenders of the President. It cannot be claimed under the second section of the act of August 7, 1789, creating the War Department, for that especially provides that in case of a vacancy the chief clerk of the War Department—

"Shall during such vacancy have the charge and custody of all records, books, and papers appertaining to the said Department."

Nor can it be claimed under the act of February 13, 1795, which declares that—

"In cases of vacancy in the office of Secretary of State, Secretary of the Treasury, or Secretary of the Department of War, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons, at his discretion, to perform the duties of the said respective offices until a successor be appointed or such vacancy be filled."

This act was absolutely repealed (as well as the second section of act of August 7, 1789) by the act of February 20, 1863, which last act particularly describes the cases in which the President may designate a person to perform the duties of a head of a Department, which cases are confined to the "death, resignation, absence from the seat of Government, or sickness of such head of Department." It cannot be claimed in this case that Secretary Stanton is dead, absent, or sick, nor has he resigned. On the contrary, he is active, watchful, and vigilant in the discharge of the duties of his Department.

If the act of 1795 is not repealed by the act of 1863 the repealing clause in that act is absolutely meaningless, as the acts of 1789 and 1795 were the only acts relating to this subject on the statute-book at the time; the eighth section of the act of 1792 having become obsolete by the passage of the act of 1795; indeed, the act of 1863 but revived the eighth section of 1792, and added a clause repealing all acts inconsistent with its provisions.

There being no other provisions of law upon this subject, it is clear that the appointment of Lorenzo Thomas is in violation of the letter of the Constitution as well as its spirit; and that the President by this unwarranted exercise of power has violated his oath of office, which requires him to "preserve, protect, and defend" that great instrument in an oath especially enjoined upon him by the Constitution and taken by no other officer of the Government. The power of the President to appoint during the sessions of the Senate is impliedly prohibited in the Constitution by the last clause of the second section of the second article, which gives the President—

"Power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session."

Thus it would seem clear that if the tenure-of-office bill had never become a law, under the powers granted to the President by the Constitution, there can be found no warrant for the extraordinary assumption attempted by the removal of the Secretary of War and the appointment of another person in his stead.

These two acts of the President are in clear violation of the first and second sections of the act regulating the tenure of certain civil offices, passed March 2, 1867, which law the defenders of the President insist is in conflict with the Constitution of the United States, because under that instrument the President is alone invested with the power of removal.

It seems to me clear that inasmuch as all civil offices under the Constitution, except those expressly provided for in that instrument, are created by law, their general power of regulating their tenure is within the province of Congress. This power has been frequently invoked by Congress, unchallenged by the Executive.

By act of May 15, 1820, it is provided by the first and second sections:

1. "That from and after the passing of this act all district attorneys, collectors of the customs, naval officers and collectors of the customs, navy agents, receivers of public moneys for lands, registers of the land offices, paymasters in the Army, the apothecary general, the assistant apothecaries general, and the commissary general of purchases, to be appointed under the laws of the United States, shall be appointed for the term of four years, but shall be removable from office at pleasure.

2. "That the commission of each and every of the officers named in the first section of this act now in office, unless vacated by removal from office or otherwise, shall cease and expire in the manner following: all such commissions, bearing date on or before the 30th day of September, 1814, shall cease and expire on the day and month of their respective dates which shall next ensue after the 30th day of September next; all such commissions bearing date after the said 30th day of September, 1814, and before the 1st day of October, 1816, shall cease and expire on the day and month of their respective dates which shall next ensue after the 30th day of September, 1821. And all other such commissions shall cease and expire at the expiration of the term of four years from their respective dates."

Thus early Congress, unchallenged by the Executive, provided for the term of certain officers, and also provided that at a certain time named in the statute commissions issued to certain officers should cease, and this power of regulating the tenure of offices by law has in various forms been exercised by Congress from the foundation of the Government without objection or protest until the present Executive sought to aggrandize all power over offices to himself. In the act of February 25, 1863, an officer was created in the Treasury Department denominated the Comptroller of the Currency. The first section of this act provides that such officer—

"Shall be appointed by the President on the nomination of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years, unless sooner removed by the President, by and with the advice and consent of the Senate"

thus fixing absolutely the term of office of such officer unless the consent of the Senate for his removal should be had. This act received the approval of President Lincoln. By the seven-

teenth section of the act of July 17, 1862, the President was authorized to dismiss and discharge from the military service either in the Army, Navy, Marine corps, or volunteer force in the United States service any officer for any cause which in his judgment rendered such officer unsuitable for or whose dismissal would promote the public service. Prior to the passage of this act the President in a few instances had exercised the power of removal of Army officers during the recess of the Senate, but the authority for such removal was regarded of so doubtful a character that Congress deemed it necessary to make provision for it by law. This law was passed at a time when a great army was in the field for the suppression of rebellion, and the power thus given was regarded as essential in promoting the efficiency of the Army. Afterward, however, when the necessity for this extraordinary power no longer existed, the Congress of the United States, by act approved July 13, 1866, repealed this provision, and provided in express terms that—

"No officer in the military or naval service shall in time of peace be dismissed from service except upon and in pursuance of the sentence of a court-martial to that effect or in commutation thereof."

This latter act received the approval of President Johnson himself, whose defenders now claim for him the right under the Constitution to dismiss or remove any officer of the Government at the will and pleasure of the President without any limitation whatsoever.

Again, the act of March 2, 1867, provides in the second section that the General of the Army—

"Shall not be removed, suspended, or relieved from command or assigned to duty elsewhere than at the headquarters of the Army in Washington, except at his own request, without the previous approval of the Senate."

This act also received the approval of President Johnson.

Mr. NICHOLSON. Will the gentleman yield a moment?

Mr. ALLISON. For a question.

Mr. NICHOLSON. I ask him if the President in returning that bill did not protest against the second section?

Mr. ALLISON. It is true, I believe, in approving the bill, the President sent in some arguments by way of protest against the second section of the act of 1867; but, Mr. Chairman, the President, without any objection or apology, placed his signature to another act having the same force and effect, to which I have just called the attention of the committee.

These two acts approved by President Johnson must have been regarded by him as constitutional; otherwise in their approval he violated his oath, which requires him to preserve, protect, and defend the Constitution. His defenders now claim for him an interpretation of that instrument which would not only remove the Secretary of War, who is obnoxious to him, but it would also give the President authority at his will and pleasure to remove the General of the Army without the advice and consent of the Senate, as required by law just referred to. And have we not good reason to apprehend that, inasmuch as the President has failed to subsidize the General of the Army to assist him in the accomplishment of his own purposes, this officer will be the next victim of presidential hate and malevolence; and every other officer of the Army in turn may be thus removed by the President who refuses to obey his despotic will, until the Army shall be placed under his absolute control. It may be answered that the President cannot fill up these vacancies without the consent of the Senate. But he has so undertaken to fill a pretended vacancy in the War Office, and may he not send to the Senate such persons for confirmation as would not be confirmed by that body, when the officer highest in rank in the Army, with the War Department under his control, would have necessarily the command of the forces of the United States. And here I might ask for the

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motive influencing the President to send to the Senate the names of high officers for promotion by brevet? This claim of power for the President could be urged with more plausibility than can be urged for the removal of merely civil officers, for by express language of the Constitution the President is made Commander-in-Chief of the Army and Navy of the United States; and if he is to assume powers by implication he could very easily say that such removals were necessary for the efficiency of the Army.

Indeed, this power is claimed for him under the clause making him Commander-and-Chief of the Army and Navy. The clause authorizing Congress to make rules for the government and regulation of the land and naval forces is no stronger in its grant of power to Congress than the clauses giving Congress authority to lay and collect taxes, to borrow money, to regulate commerce, &c., because, under the last clause of the eighth section of the first article, Congress may make all laws which shall be necessary and proper for carrying into execution the specified powers. It is clear that our assent to the assumptions of the President claimed for him and by him, as authorized by the Constitution, constitutes a virtual abandonment of the most important legislative functions long exercised by Congress and heretofore unchallenged by any Executive. Therefore, Mr. Speaker, it is not simply because the President has assumed to control the War Office absolutely, without asking the advice and consent of the Senate, as required by the Constitution and laws, that we invoke the power of impeachment as authorized by the Constitution, but it is because a failure now to exercise that power would be to surrender to the President the absolute and unlimited control, not only of the army of civil officers of the Government, but its Army and its Navy, without restraint or limitation of law.

It seems to me that the tenure-of-office act does nothing more than reaffirm the terms of the Constitution as declared by its provisions, unless it be to provide by law for the length of the term of office of heads of Departments which before the passage of that act was indefinite. The act provides that heads of Departments shall hold their office respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the consent of the Senate, and also to correct an abuse which had grown up in the practice of the Government of absolute removals during the recess of the Senate. To claim that Secretary Stanton does not come under the provisions of this act is to assert that he has not been Secretary of War since the passage of that act, which, I believe, is not contended for by any one; but the President is estopped from asserting now in defense that Secretary Stanton is not within its provisions, for in August last he was suspended from office by the President, and the reasons for such suspension were given to the Senate within the time required by the provisions of the act.

The Senate, having carefully considered these reasons, decided almost unanimously that they were not sufficient. After this decision the Secretary resumed his office under the law without objection from the President, and continued to exercise its duties for more than a month; and it will be observed that by the very terms of the order which pretended to remove him from office he notified the Secretary of War that—

"You are hereby removed from office as Secretary of the Department of War, and your functions as such will terminate upon the receipt of this communication."

Thus removing him in open defiance of a law which the President had observed from its final passage up to that time, and in defiance of the Senate, whose will and judgment he had himself invoked under the law.

The President by the Constitution is espe-

cially enjoined to take care that the laws be faithfully executed, and he is therefore not only bound as is every other citizen of the Republic to observe the laws that may be passed from time to time, but has the higher duty imposed upon him of seeing to it that every citizen obeys the laws; and if he can set at defiance this law he may with equal propriety disregard any law that may be found upon the statute-books, and set up in defense that he regards the law as unconstitutional. The very nature of the executive office requires him to obey the law, as it is involved in the executive authority conferred upon him by the Constitution, and as such executive officer he is bound to execute the laws, whatever may be his individual opinion as a citizen with reference to their constitutionality, and a failure on his part to execute any law not declared unconstitutional by the Supreme Court of the United States is to violate his oath of office, which compels him to take care that the laws be faithfully executed.

When laws are duly made and promulgated they only remain to be executed. No discretion is submitted to the executive officer. It is not for him to deliberate and decide upon the wisdom, expediency, or constitutionality of the law; that power he has exhausted when he returns a bill with his objections to the House in which it originated. What has been once declared to be law under all the cautious forms of deliberation prescribed by the Constitution ought to receive a prompt obedience; and a failure to obey in the President should be regarded as a high misdemeanor in office.

The violation of the tenure-of-office act is made a criminal offense by the provisions of the sixth section in specific terms, and declared to be a high misdemeanor, and punishable with fine and imprisonment. So that, when the President took the responsibility of violating this plain provision of law, he must have known that by such violation he would subject himself to the penalty declared in that section as well as to the high penalty of impeachment provided for in the Constitution for officers guilty of high misdemeanors in office.

But it is said in defense of the President that he only intended to test the constitutionality of this law. As well might any criminal plead such defense to an indictment found against him. On the contrary, we must judge of intent from the act itself. The circumstances are such as to preclude the idea of even this poor excuse for a palpable violation of law. He instructed General Thomas to assume the duties of the War Office, and he did actually assume such duties and signed communications and orders as such Secretary, and that, too, after the Senate, by an almost unanimous vote, had informed him that the removal of Mr. Stanton and his own appointment were in violation of the Constitution and laws of the United States.

But, Mr. Chairman, this is but one link in a long chain of usurpations on the part of the President. It is but a chapter (I hope the last) in the history of a great conspiracy, began by the President in December, 1865, and continued in perseveringly to the present moment, to turn over the government of at least ten States, if not of the whole country, to the enemies of the Republic.

It is possible, the first act by which he has brought himself within the provisions of a criminal statute, but only one of many instances in which he has used the powers of his high office to thwart the will and judgment of the people. He has attempted to usurp to himself the absolute control of the rebel States, and has sought by every means possible to thwart the execution of the humane laws passed for their restoration to the Union. Under his guidance life, liberty, and property in those States have been put in jeopardy, and the spirit of rebellion, though dormant, is as strong as during the war, all because this spirit has in him an advocate. Shielded and pro-

tected and powerful because he happens to hold the presidential office, he has tried in various ways to secure the Army to sustain him; and foiled in every way, under the forms of law he now seeks to wrest it by force, thereby seeking to place the War Department and the Army under the control of a weak, irresolute old man who will do his bidding. In the meantime every material interest of the country is suffering because this man persists in retaining in office men who are utterly unworthy of place. The country wants peace, and peace it cannot have while this criminal remains in office. If we allow this last act or acts of usurpation to pass without applying the peaceful constitutional remedy we may naturally expect that these usurpations will continue, until republican government itself will be destroyed, and upon its ruins a dictatorship established in the interest of the worst enemies of liberty and law.

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SPEECH OF HON. W. LOUGHRIDGE, OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

February 22, 1868,

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

MR. LOUGHRIDGE. Mr. Speaker, I approach this question with a full realization of its importance. I feel myself, and I have no doubt but that every member of this House feels, deeply impressed with the stern and solemn responsibility now thrown upon them. But, sir, I should be unworthy of the high and honorable position which I hold, as the Representative upon this floor of two hundred thousand American citizens, did I for a single moment hesitate to meet the issue thus presented fearlessly and firmly, and with a full determination to follow the path of duty regardless of all consequences to myself personally.

Sir, I shall vote for the resolution now before the House, declaring that Andrew Johnson, the President of the United States, should be impeached for high crimes and misdemeanors; and I do it with full knowledge of the importance of the act and of the responsibility which I take upon myself in so doing. A few weeks since I voted with fifty-six other members of this House for a resolution of impeachment, in the same words as this, reported to the House by the Judiciary Committee. That resolution failed to pass. We were on that occasion by the previous question deprived of the opportunity of giving the reasons impelling us to vote for that resolution, and I am on that account the more gratified to have the opportunity now to state fully my reasons, not only for the vote I propose to give now, but also for my vote upon the former resolution. The failure of that previous resolution of impeachment was occasioned by a desire on the part of those Republicans who opposed it to avoid if possible the necessity of the resort to so violent a remedy, the fear of its effect upon the business of the country, and the fact that the resort to it would necessarily impede for an indefinite length of time the general legislation of the country. And out of a fond hope that the acting President would for the sake of the peace of our common country, so long suffering from the effects of the cruel conspiracy against its existence, cease from his causeless and insane contest with the legislative power of the country, and his wicked efforts to render futile the will and wish of the loyal people of the land as declared and made known time and again, through the ballot-box, by their Representatives in Congress.

But, sir, those hopes have proved to be delusive, and have by the subsequent acts of the President been rudely dashed to the earth.

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The forbearance of the people's Representatives upon this floor and their hesitation to resort to the summary remedy of impeachment have been construed by the President as showing fear on the part of the House and a lack of courage to assert the dignity and the prerogatives of Congress; and such forbearance has been met with insult and defiance and by new and more direct assaults upon the rights and the jurisdiction of the legislative department of the Government and new violations of the Constitution and the laws of the country, until it is now demonstrated to the satisfaction of all honest and impartial men that there is no resort left to this House but to exercise the constitutional power of impeachment.

In giving the vote I do in favor of the impeachment of the President I do not confine myself to any one single transaction or violation of law, of which there has been on his part so many. From the time when he issued his first proclamation to organize and set up civil government in North Carolina, without the authority or sanction of Congress, down to the open, direct, and flagrant disregard and violation of the Constitution and of the statutes of the land in the attempted removal of the present Secretary of War and the appointment of another, his whole course has been one of continued usurpations of power and violation of his oath of office.

Refusing to convene Congress at the surrender of the rebel armies, as he could and should have done, he proceeded, without authority of law, in his own way and manner and upon his own responsibility, to organize governments for the conquered States and to appoint officers for the same. He appointed and commissioned governors for such States, prescribed to them their authority and powers, fixed their salaries, and paid them out of the moneys of the United States. He authorized such governors so appointed to establish the "rules and regulations" by which the people of those States were to be bound in convening constitutional conventions and in forming State governments; he prescribed the qualifications of voters in the elections in such States, in organizing State governments, denying the right of voting absolutely to fourteen different classes of white persons who had before been citizens and voters in such States, and denying to nearly one half the entire population of such States any civil rights whatever or any voice in the formation of the State governments, and that portion constituting four fifths of all the people of said States who had remained loyal to the Government, and thousands of whom had fought nobly in the ranks of the Federal Army during the rebellion; he dictated to the conventions assembled, by virtue of his said action, certain provisions which he required them to incorporate into their State constitutions, the acceptance of which he made a condition precedent to their readmission to their forfeited places in the Union, and in all matters connected with such reorganization acted the part of supreme dictator, as much so as if there were no other department in the Government, and under such dictation and control pretended State governments were formed in said States and members of Congress elected therein, all this before the meeting of Congress; and these governments of his own dictation and creation the President pronounced legal and valid; and when Congress for the first time after the termination of the war assembled in December, 1865, he coolly informed it that the rebel States were fully reorganized, and that all that remained for Congress to do was to judge each House for itself of the elections, returns, and qualifications of its own members.

Now, sir, in all this I deny absolutely the authority or right of the President to exercise any such powers, and I defy any of his apologists to place their finger upon the section of

the Constitution granting to the President any such power. It was the clearest usurpation of powers belonging solely and entirely to the people of the United States represented in Congress. If at the close of the war those States had legal State governments existing then the President usurped powers in overthrowing them and instituting those of his own creation. And if, on the other hand, they had no legal governments, his acts were equally unauthorized by the Constitution and a usurpation of powers which belonged to the legislative power of the United States vested in Congress. If these governments so instituted had been intended by the President as temporary, and simply to exist until Congress should meet and then to be submitted to the supervision and will of Congress, there would have been no objection taken to the illegality of his action; and I have no doubt but at that time it was the general understanding that such action was but temporary in its character, and that the President did not intend thereby to deny the final right of Congress in the premises to supervise and set aside or ratify, as it might see fit, all that was done by him.

I find in the testimony of Edwin M. Stanton, then Secretary of War, taken by the Judiciary Committee, the following statement by him upon this point. Referring to the North Carolina proclamation, he says:

"I supposed then, and still suppose, that the final validity of such State organizations would rest with the law-making power of the Government."

And General Grant, in his testimony before the Judiciary Committee, speaking of the North Carolina proclamation, says:

"I looked upon it as a temporary measure, to establish a sort of a government until Congress should meet and settle the whole question."

"I conversed with the President very frequently. I do not suppose that there were any persons engaged in that consultation who thought of what was being done at that time as being lasting—any longer than until Congress could meet and either ratify that or establish some other form of government. I know it never crossed my mind that what was being done was anything more than temporary."

Indeed, the President at the time of organizing those provisional governments did not claim that such governments would be permanent or independent of Congress. On the 24th of July, 1865, he sent to the Governor of Mississippi the following telegram:

WASHINGTON, July 24, 1865.

W. L. SHARKEY, Provisional Governor of Mississippi: Your telegram of the 21st has been received. The President sees no reason to interfere with General Slocum's proceedings. The government of the State will be provisional only, until the civil authorities shall be restored with the approval of Congress. Meanwhile military authority cannot be withdrawn.

WILLIAM H. SEWARD.

And Mr. Seward testifies that this was sent with the approval of the President.

It thus seems to have been the understanding of all parties at the time that whatever was done was temporary in its character and would depend for its validity upon the ratification of Congress, and if not ratified by Congress as a sequence would be void. And this statement of the case shows the injustice and falsity of the claim that the President's entire Cabinet and General Grant were in favor of the President's policy. They were in favor of it as it was then understood. They assented to it as a temporary expedient, subject to the controlling and supervising power of Congress, and not otherwise.

This is very different from the President's policy as subsequently defined and insisted upon by him. He says subsequently to Congress: these States are organized and now have valid governments and are fully restored to their places in the Union; all that I have done is valid and permanent, and all that you have to do or say in the matter, gentlemen of the Senate and of the House, is whether those members who are claiming their seats in Congress from those States have been duly elected and are properly qualified; and if they are reg-

ularly elected and properly qualified you have no right to exclude them.

This, sir, was the President's subsequent policy; very different, indeed, from what was the understanding at the time he originated it. Then it was temporary, and subject to the revision of Congress to ratify or reject it. Now it is absolute and final, and Congress has no authority to question it. When Congress adjourned in March, 1864, these rebel States were members of the southern confederacy, and their people in arms against the Government of the United States, shooting down our citizens upon the battle-field and starving them to death in prisons. On the first day of the next session ex-members of the rebel Congress and rebel generals and colonels, fresh from the battle-fields of the South, their hands scarcely yet dry of the blood of our slaughtered countrymen, are standing at the doors of this Capitol with commissions in their hands, demanding their seats as Senators and Representatives from southern States reconstructed by Andrew Johnson and fully restored to all their rights, and the President demands their admission as a matter of right. This, sir, was the President's policy as unfolded to the nation and all disguise thrown off.

And here, sir, arose the controversy between Andrew Johnson and Congress. Congress, as the supreme legislative power of the Government, made such by the Constitution of the Republic, claimed the right, and the exclusive right, to say at what point of time the rebel States, which had voluntarily severed their relation to the Union and had been out of it for five years fighting to destroy it, should be restored to their forfeited rights. After four years of bloody war the nation had finally succeeded in conquering their armies and wrenching their arms from their hands; they submitted to superior force; they were disarmed and conquered enemies, and ceased to fight only because they were overpowered. And Congress claimed, as the representative of the people, to determine whether such disarmed rebel enemies were really subdued, and, if so, to prescribe such terms as should be considered necessary for the security of the nation before admitting such conquered rebels to full power in the Government, and, claiming this right, refused admission to the claimants for seats from such States, elected under such governments so organized by the President.

This, sir, constituted the great sin of which Congress has been guilty; this the great usurpation of which the President has complained. Instead of submitting to the expressed will of Congress, thus clearly declared and made known, and endeavoring in good faith faithfully to carry out their wishes and faithfully execute the laws, the President determined to insist upon and enforce upon the country and force upon Congress his own policy and plan, and to maintain the legality of the governments instituted by him in the rebel States. And, carrying out this determination, shortly after the meeting of Congress, he vetoed the civil rights bill, and gave as one of his reasons therefor that the States lately in rebellion were not represented in Congress, and that by the Constitution all the States had the right to representation, thus declaring to Congress that they were an unorganized and fragmentary body, and could do no legal legislation until they admitted the members from the rebel States.

From that time down to the present the President has continued, persistently continued, his contest with Congress, insisting upon the validity of the State governments as organized by his authority, and their right to immediate and unconditional representation in Congress, and denying to the loyal people of the land, through their Representatives in Congress, the right to any voice whatever as to the terms upon which rebels should be readmitted to full rights and powers in the Government they had been four years trying to destroy, and saying

to the loyal people, who had sacrificed two hundred and fifty thousand lives of the noblest and best of the land and spent \$3,000,000,000 of treasure to subdue and disarm the rebels, "You have no right for one moment to deny admission to those rebels to the Halls of legislation, to your Senate, to your House of Representatives. Open the doors: Admit them to their seats within the sacred precincts of the halls of legislation, there to vote against all pensions to your wounded and invalid soldiers and your widows and orphans of those who have fallen for their country; there to vote in favor of the payment of the rebel debt, and there to unite with their friends of the North in all measures to crush out loyalty and reward and honor treason and traitors."

To this Congress did not deem it proper to assent, and reasserted, time and time again, its prerogatives and its rights.

In February, 1866, Congress passed, by a very large majority, the following resolution:

"Resolved, That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to representation."

Abraham Lincoln, the Chief Executive of the United States, elected by the people for this present term, distinctly recognized the right of Congress to decide upon this question. In a speech he made after the fall of Richmond, the last speech of his life, made but four days before his death, he used the following language, and I commend it to those who claim that Andrew Johnson is carrying out the plan of Mr. Lincoln:

"I distinctly protest that the Executive claims no right to say when or whether members should be admitted to seats in Congress from such States."

At that time the President and Congress were in perfect accord as to the power and jurisdiction of Congress over the admission to Congress of the rebel States. Mr. Lincoln freely acknowledged and accorded the power of Congress over the subject. And in the exercise of that power and as preliminary to the admission of such States, Congress, in January, 1866, proposed to the States for adoption certain amendments to the Constitution of the United States, which were in the judgment of Congress considered necessary for the future security and peace of the country and the rights of all the people.

Those amendments thus proposed provided:

First. For the full protection of all citizens, native and naturalized.

Second. For equality of representation among all the States of the Union and doing away with the unjust advantage in that respect that the southern States have always enjoyed.

Third. Prohibiting men who had once taken an oath to support the Constitution of the United States and held office, and afterward went into the rebellion, and thus committed the double crime of perjury and treason, from holding office.

Fourth. For the validity of the public debt and for the security of the payment of pensions to soldiers and their widows and orphans, and prohibiting the payment of the rebel debt.

These amendments were submitted to the States for ratification, and it was the well understood policy of Congress that upon the adoption of these amendments as part of the Constitution the rebel States should be readmitted to full participation in the Government. The President at once set about opposing the adoption of those amendments by the rebel States and used all the power and patronage of his office to prevent their ratification, and through his influence they were rejected by all the rebel States.

In the general election of 1866 for members of Congress this whole question was submitted to the people at the ballot-box, and the people

by overwhelming majorities decided in favor of the policy of Congress and against that of the President, and the members of the present House of Representatives were elected.

But, sir, strange, unaccountably strange to say, this decisive verdict of the people, spoken through the ballot-box and thundered in his ears, had no effect to change the course of the President. He has ever since blindly and obstinately continued his course of opposition to Congress.

After the election of 1866 the rebel States, having through the advice of the President rejected the proposed amendments Congress passed, what is known as the reconstruction acts, authorizing and empowering the people of the rebel States to call conventions and frame constitutions republican in form and to then apply for admission to Congress—this act was vetoed by the President, and was passed over the veto and became law.

It then by the Constitution became and was the duty of the President to "take care" that the law so enacted was "faithfully executed;" this was his sworn duty. Has he performed that duty? No, sir; on the contrary, while he executed it in form and under protest by appointing the officers required by its terms for the purpose of its execution, yet he has in every possible manner thrown obstacles in the way of the faithful execution of the law by the officers having its execution in charge.

He removed from the commands to which they had been appointed under the law the brave, gallant, and true soldiers, Sheridan, Sickles, and Pope, for no other reason than that they were endeavoring to carry out the law in good faith according to the spirit and purpose thereof. He continually and persistently denounced the law as unconstitutional, taking advantage of every opportunity for that purpose in his official communications to Congress, in his remarks to committees who from time to time waited upon him, and in his speeches to promiscuous crowds in the streets, and from the balconies of hotels as he journeyed around the country, with the apparent object of arousing in the minds of the people an antipathy against Congress. He has used all the patronage of his office, all his influence, public and private, to prevent the people of the rebel States from accepting the terms proposed by Congress and organizing under the law. And I have no hesitation in asserting that but for his influence against it all of the rebel States would have accepted the terms proposed by Congress, and would to-day have been fully restored and represented in the Senate and House of Representatives.

And now, sir, I come to the last and crowning act of infamy in the inglorious career of this unfaithful public servant. On the 21st of the present month, Edwin M. Stanton was, as he still is, Secretary of War, and in possession of the office and its records and papers. He had filled that position and performed its arduous duties during the greater part of the war against the rebellion; he had endeared himself to the country by the laborious and faithful discharge of the duties of the office during the dark days of the struggle for national existence, and I say, sir, what no candid man will deny, that no man in this country has done more hard labor for the Government, no man in civil life has contributed more to its success, than Edwin M. Stanton as Secretary of War. A true, faithful, and tried patriot and a public officer of distinguished ability, the feeling of the nation was that he was the right man in the right place; and yet on account of his refusal to join with the President in his opposition to the policy and laws of Congress he incurred the displeasure of that officer. And on the 12th of August last he was suspended and General Grant appointed Secretary of War *ad interim*; and on the meeting of Congress the President sent in to the Senate his reasons for such suspension. The Senate refused to con-

cur in such removal, and General Grant at once surrendered the office to Mr. Stanton. Having thus failed to obtain the consent of the Senate to the removal of Mr. Stanton, the President determined to remove him upon his own responsibility, the Constitution and laws to the contrary notwithstanding. And in pursuance of such determination, on the 21st instant, he sent the Secretary a written communication in the following words:

EXECUTIVE MANSION,

WASHINGTON, February 21, 1868.

SIR: By virtue of the power and authority vested in me as President, by the Constitution and laws of the United States, you are hereby removed from office as Secretary of War, and your functions as such will terminate upon the receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody or charge. Respectfully yours, ANDREW JOHNSON.

Hon. EDWIN M. STANTON.

On the same day the President sent to the Senate, then in session, a communication informing the Senate that he had removed Mr. Stanton and appointed General Thomas Secretary of War *ad interim*. The Senate immediately adopted the following resolution:

"Resolved by the Senate of the United States, That under the Constitution and laws of the United States, the President has no power to remove the Secretary of War and designate any other officer to perform the duties of that officer."

Copies of this resolution were immediately sent to the President and General Thomas; and yet, after this action of the Senate, and after he had been officially informed thereof, the President directed the said Thomas to enter upon the discharge of the duties of the office and to take possession of the books and papers of the War Department, and by virtue of such direction Thomas formally made demand of the same which was rightfully refused by Mr. Stanton. And there is no doubt but that for two days after said appointment the President meditated taking forcible possession of the War Office by the aid of the military. And it will, in my opinion, be shown hereafter that he attempted to control a portion of the military for that purpose, but failed to find any officers who would lend themselves to his revolutionary purposes.

Now, sir, here is an open, direct, and palpable violation both of the Constitution and of the statutes of the country. What are the provisions of the Constitution in relation to the power of the President to remove officers? All we find in the Constitution is in section five, article two, as follows:

"The President shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments. The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session."

Then, sir, it is plain that by the Constitution the President has no power to remove an officer when the Senate is in session, the appointment of which officer requires the consent of the Senate. He has no more power to remove the Secretary of War while the Senate is in session than he has the Speaker of this House or the President of the Senate. And yet, right in the face of the Constitution, of which he has prated so much in his demagogic harangues, and of which he claims to be the special defender, he has attempted to remove absolutely the Secretary of War and put another in his place when the Senate was in session and without the knowledge or consent of that body; and after the Senate notified him of the illegality of the act he still insisted upon carrying it out, and ordered his new appointee to take possession of the office. In this transaction

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he not only violated the Constitution, which is the highest law of the land, but he violated the plain provisions of the statute law. The act of March, 1867, regulating the tenure of civil offices, provides as follows:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and become duly qualified to act therein, is, and shall be, entitled to hold such offices until a successor shall have been in like manner duly appointed and qualified, except as hereinafter provided: *Provided*, That the Secretaries of War, Treasury, Navy, Interior, and Postmaster General shall hold their offices for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

By this act the term of office of Secretary Stanton does not terminate until April 4, 1869, and he cannot be removed until that time without the consent of the Senate. The President, then, in this matter, has clearly disregarded the provisions of this law and trampled it under foot.

Sir, I need say no more. Surely the cup of this man's iniquity is full and running over. The people of this country have demanded his removal long since, and they will brook no longer delay. The nation must be freed from the great incumbrance upon its happiness, its peace, its prosperity; and when that is done, and an honest man placed at the helm, and not till then, the nation will breathe free and settle down into tranquillity and peace. Gentlemen upon the other side talk very flippantly of resistance, bloodshed, and civil war. Sir, how can it cause bloodshed and civil war for Congress to exercise, according to the forms of law, a power given it by the laws, a duty devolved upon it by the Constitution? If any parties see fit to resist this constitutional proceeding and its legitimate results upon their heads be the consequences. I apprehend no danger. The conspirators against this Government and the enemies of its peace have had enough of war; they desire no more. If they should, all they will have to do will be to raise their arms once again against the lawful authorities of the Government, and I warn them here that if the sword is unsheathed once more in defense of the law and the Government it will not be returned to its scabbard until its work is fully completed and the disturbers of the public peace swept from the land.

The gentleman from Pennsylvania, [Mr. Woodward,] in his speech to-day, claimed that this Congress had no power to impeach the President for the reason that it is an illegal body and is not the Congress of the United States, because the rebel States are excluded from representation. Sir, by what right does that gentleman occupy a seat upon this floor and draw from the Treasury of the United States \$5,000 per annum for his services here if his position is correct? If he is right in this, then he is guilty not only of an inconsistency, but of a crime, in occupying a seat in this House, and by his presence and participation in its proceedings giving countenance and aid to a band of usurpers. If his doctrine is correct he is himself a usurper, acting as a member of an illegal body, which is day after day enacting important laws and voting away millions of dollars of the nation's money.

The gentleman is one of those who believe that the rebels forfeited no rights by their rebellion. But, sir, this is not a new doctrine; we have heard it often from that party here and elsewhere.

The only difference between that gentleman and myself is, that he thinks that by the rebellion they forfeited no rights, while I think that by the rebellion and their cruel war against the Government they forfeited all their rights, and when they surrendered were at the mercy of the Government. That gentleman, at the conclusion of his remarks, used the following language:

"If I were the President's counselor, which I am not, I would advise him, if you prefer articles of im-

peachment, to demur both to your jurisdiction and that of the Senate, and to issue a proclamation giving you and all the world notice that, while he held himself impeachable for misdemeanors in office before the constitutional tribunal, he never would subject the office he holds in trust for the people to the irregular, unconstitutional, fragmentary bodies who propose to strip him of it. Such a proclamation, with the Army and Navy in hand to sustain it, would meet a popular response that would make an end of impeachment and impeachers."

Sir, I am grieved and astounded that such sentiments should fall from the lips of that gentleman. Had the remarks been made by some fiery young orator in the heat of passion and the excitement of debate, without thought or reflection, there might have been in such case some show of palliation, but when made by a gentleman of age and experience, one to whom the people would naturally look for sound and sage advice, made with careful and grave deliberation, it is absolutely without the least shadow of excuse or palliation. Sir, this is but a specimen of the dangerous element with which the Republican party has had to contend in the North while prosecuting the war against the rebels in the South and struggling to save the Republic, the same element which at Chicago in 1864 declared the war against the rebellion a failure and demanded that it should cease; the same element which opposed the war at every step of its progress, and after the rebellion is suppressed and the nation saved they now come here upon this floor and openly advise the renewal of civil war and armed resistance to the constitutional authorities of the Government. Sir, the leaders of the Democratic party should beware that their feelings of sympathy with the traitors of the South do not lead them too far in that direction. They should remember that—

"Vice is a monster of so frightful mien,
As to be hated needs but to be seen,
Yet seen too oft, familiar with her face,
We first endure, then pity, then embrace."

The gentleman says, "with the Army and Navy in hand" "an end would be made of impeachment and impeachers." I suppose, sir, by this he means to be understood that at the head of the Army he would take possession of this Capitol, disperse this illegal Congress, and consign the people's Representatives here who advocate impeachment to the dungeon or the scaffold. This, sir, is the plain construction of his language; and I suppose, sir, that we may prepare for our fate. There is but one hope, and that is, that the Army may not be "in hand," as the gentleman terms it, to carry out this wicked programme thus marked out for Mr. Johnson by his venerable adviser from Pennsylvania.

Sir, the country will take notice of this last manifestation of the spirit of the leaders of the Democratic party, as made honestly, I suppose, but certainly rather imprudently, upon this floor, and made part of the records of the country.

I am glad of the frankness and candor of the gentleman, for to be forewarned is to be forearmed. But I would advise the gentleman from Pennsylvania that before the plot he advises is entered upon by the President, he be very sure that the Army is "in hand," for if that important auxiliary should happen to be out of hand it might prove an unfortunate undertaking for the President; and as to the Navy I imagine that it will not figure very largely in the conflict, for it will be entirely a land affair.

But, sir, this talk of forcible resistance to the lawful authorities of this Government, while it shows the corruption of the men who use it, is really deserving only of silent contempt. Resistance to the constitutional action of Congress! Let them try it. A million of true and tried veterans have but just laid aside their arms; the men who carried the starry flag of freedom in triumph over hundreds of battle-fields—

"Where the cannon mounthung loud,
Heavy in wide wreaths the battle shroud,
And gory sabers rise and fall
Like sheets of flame in midnight pall;"

and under the lead of Grant and Sherman and Thomas and Sheridan routed and destroyed the proud armies of the rebellion. And, sir, these men would quickly—

"With the stern joy that warriors feel,"

at the call of their loved and honored chiefs, fly once more to the rescue; and if they should be called upon again to suppress a rebellion on the part of rebels and rebel sympathizers, woe be to all who should oppose them. But, sir, I apprehend no danger of this kind, no danger of bloodshed, no danger of civil war. Let this House go on and fearlessly perform the duty imposed upon it by the Constitution, and for high crimes and misdemeanors committed by him impeach Andrew Johnson, and present articles of impeachment before the bar of the Senate of the United States, the high court of impeachment. Let him there be tried, and, if found guilty, from that judgment there is no appeal; he will be removed from the office he has so long disgraced, the majesty of the law will be vindicated; treason and insubordination rebuked, and the people will be satisfied.

Sir, I trust that this is the last struggle in the long continued contest between the loyal people of this land and those who have been endeavoring to subvert and destroy the Government, and that the result of this proceeding will put an end to the efforts so persistently made to open the doors of these legislative Halls to unrepentant rebels, to place the Government in the power of its enemies, and rob the loyal people of the land of the fruits of their toils, their sacrifices, and their victories. For myself, sir, I shall follow the path of duty. I see plainly open before me, and shall give my vote for the removal of this unfaithful public officer. And, speaking for my constituents, in their name I demand the impeachment of Andrew Johnson, President of the United States, for his usurpations, his violations of the Constitution and the laws of the country, and his crimes against liberty and the rights of the people. And let it be thus demonstrated and fully understood that, in this mighty Republic, no one, however high his official position, is independent of the people or above their power; that men occupying official positions in this free Government, instead of being rulers of the people, are the people's servants, and that the will of the people is the law of the land.

Impeachment.

SPEECH OF HON. CHARLES HAIGHT,
OF NEW JERSEY,
IN THE HOUSE OF REPRESENTATIVES.

February 24, 1868.

The House having under consideration the resolution reported from the Committee on Reconstruction for the impeachment of the President—

Mr. ELDRIDGE yielded to

Mr. HAIGHT, who said:

Mr. SPEAKER: In the brief time allowed me by the courtesy and kindness of the gentleman from Wisconsin, [Mr. ELDRIDGE,] for which I am grateful, I could not, if I would, enter into a very full discussion of the proposed action of this House in the impeachment of the President of the United States. Upon a question of such moment and importance to the people and the interest of the country, every Representative upon this floor should have the opportunity to express his opinions, and should be allowed a sufficient time to examine into and discuss the proposition that has been submitted for consideration; because, sir, the impeachment of the highest officer of the Government is a solemn act, and one that will leave its impress upon the nation long after the scenes and excitement of this hour have passed away. I know, Mr. Speaker, that I would do violence to the feelings and senti-

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ments of the conservative constituency I have the honor to represent, if I did not rise from my seat upon this grave occasion and protest in their name against this revolutionary act.

Mr. Speaker, the report and resolution presented by the Committee on Reconstruction on Saturday afternoon to this House had the effect not only to startle many of the members, but the people throughout the length and breadth of the land have been aroused to the most intense excitement and alarm, by the sudden and precipitate action of the committee in reviving a subject that every one supposed had been forever consigned to the tomb of the Capulets. This is the third attempt at impeachment, and from the evidence around us no one doubts but that this time it will prove successful. Why, sir, if we are permitted to judge from the declarations and acts of gentlemen on the other side of this House, in whom rests the power, it is already a fixed determination. Argument must and will fail to have any effect. The President of the United States will be impeached and as soon as possible arraigned at the bar of the Senate upon charges of high crimes and misdemeanors. Heretofore party passion, party prejudice, and party hatred has been stayed in its mad and revolutionary attempts to strike down the Chief Executive, and through him one of the coordinate branches of the Government. The time necessary to take testimony upon which charges could be predicated, and the reflection of the more moderate in council among those on the other side, and the potent voice of the people, has prevented its consummation. The undue haste that characterizes the present movement is the result of the failure to impeach the President on former occasions; but those who possess the power are determined that it shall not fail this time, for it is through impeachment that the majority hope to perpetuate their power, even if it should imperil the institutions of the country and destroy the liberties of the people. The object now so sure of accomplishment might be defeated by delay and careful deliberation.

Mr. Speaker, I confess never to have been a particular admirer of Andrew Johnson. He is not the President of my choice, or those with whom it is my pleasure to act. Yet I have never doubted his loyalty and patriotism, or his desire to advance the best interest of the country. He is the President of the other side, but we give him credit for the three years that he has stood as a barrier against which the surging tide of fanaticism has beat with impotent malice. It is the presidential office and not the President that we are defending from the attacks of radicalism.

The unlimited and searching investigation into the conduct and administration of the President by the Judiciary Committee, and the subsequent action of this House upon the evidence submitted to it by that committee, is conclusive that previous to the removal of Edwin M. Stanton from the War Department the President had not been guilty of anything upon which an impeachment could be based. It is known to this House and the country that every effort was made, and means of the most doubtful character, to say the least, resorted to, by those who were determined on his removal, to effect the result. It is fortunate for the ends of justice and the truth of history that the proposition now submitted is divested of all extraneous matters, and the question to be decided is simply whether the President, in the removal of Mr. Stanton, has violated the Constitution and committed an offense for which he is liable to be impeached and removed from office by the Congress of the United States.

I am persuaded that the verdict of the people and of history will be pronounced against the impeachers and in favor of the impeached. The attempt to disguise this proceeding will be ineffectual; the President has dared to oppose the unconstitutional acts and usurpations of

Congress, and in warning the people of the dangers that threatened them has incurred the hatred and animosity of the gentlemen on the other side, and, in order to remove an obstacle to their aggressive policy they seek to depose the President for the advancement of party purposes. The President in removing Mr. Stanton has only done what has been done by his predecessors from the formation of the Government down to the time of Mr. Lincoln. The right of removal by the President was settled at an early period in the history of the country. As early as 1789, when the question was before Congress, Mr. Madison said:

"That the power of removal was a power that belonged, under the Constitution, exclusively to the President and could not be interfered with, regulated, or controlled by the legislative department."

The decision upon this question by the First Congress has always been acquiesced in.

Judge Story and Chancellor Kent, in their Commentaries on the Constitution, have declared that the power to appoint and remove executive officers holding at pleasure is vested under the Constitution in the President. Chancellor Kent says:

"The President is the great responsible officer for the faithful execution of the law, and the power of removal was incidental to that duty, and might often be requisite to fulfill it."

Judge Story, in referring to this question, says:

"After a most animated discussion the vote finally taken in the House of Representatives was affirmative of the power of removal in the President, without any cooperation of the Senate, by the vote of 34 members against 20."

And further on he says:

"The public have acquiesced in this decision."

The decisions of the courts have been in the same direction. In order to secure the proper execution of the laws the framers of the Constitution made the right of removal an incident of the executive power. "He shall take care that the laws be faithfully executed."

How can the President have the laws faithfully executed unless aided by a Cabinet who entertain general views in accord with his? The President must have power over those who execute the laws; it inheres in him by virtue of his office. There must also be unity of purpose and action between the President and his Cabinet ministers, for the discharge of the responsible duties imposed upon the Executive by the Constitution. The power of the President over the various officers of his appointment has long been conceded. The Republican party, through its Senators, during the administration of Mr. Lincoln in 1864, held it to be the duty of a Cabinet minister to resign whenever he disagreed in political principle and general policy with the President; but not only that, they went further and declared it to be the right and duty of the President to make changes in his Cabinet, when there existed a difference between them in political sentiment. To substantiate this assertion I need only to call the attention of this House to a paper drawn up and signed by Senators, including many who now occupy seats in the other end of the Capitol, as indicating their views and opinions at that time upon the question of removal of a Cabinet officer.

In 1864 Montgomery Blair was a member of Mr. Lincoln's Cabinet, holding the position of Postmaster General. It became known that Mr. Blair differed from the President on political subjects connected with the Administration, whereupon the Radical Senators, nearly all of them being still in the Senate, caused to be drawn up and signed and presented to the President the following paper:

"The theory of our Government, the early and uniform practical construction thereof, is that the President should be aided by a Cabinet council agreeing with him in political principle and general policy, and that all important measures and appointments should be the result of their combined wisdom and deliberation. The most obvious and necessary condition of things, without which no Administration can succeed, we and the public believe does not exist, and therefore such selections and

changes in its members should be made as will secure to the country unity of purpose and action in all material and essential respects, more especially in the present crisis of public affairs.

"The Cabinet should be exclusively composed of statesmen who are the cordial, resolute, unwavering supporters of the principles and purposes above mentioned."

CHARLES SUMNER, } Massachusetts.
HENRY WILSON, }
BENJAMIN F. WADE, } Ohio.
JOHN SHERMAN, }
PRESTON KING, } New York.
IRA HARRIS, }
DAVID WILMOT, } Pennsylvania.
EDGAR COWAN, }
L. M. MORRILL, } Maine.
W. P. FESSENDEN, }
JAMES DIXON, } Connecticut.
L. S. FOSTER, }
SOLOMON FOOT, } Vermont.
JACOB COLLAMER, }
DAVID R. CLARK, } New Hampshire.
JOHN P. HALE, }
H. B. ANTHONY, } Rhode Island.
ZACHARIAH CHANDLER, } Michigan.
O. H. BROWNING, } Illinois.
LYMAN TRUMBULL, }
JAMES HARLAN, } Iowa.
JAMES W. GRIMES, }
S. C. POMEROY, } Kansas.
J. R. DOOLITTLE, } Wisconsin.
T. O. HOWE, }

Many of the Senators who signed that paper now vote to keep a Cabinet officer in office against the President's will.

But is claimed that under the first section of the act to regulate the tenure of certain civil offices, passed March 2, 1867, the right to remove the Secretary of War was taken from the President. The section reads as follows:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office and shall become duly qualified to act therein, is, and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

By this section of the tenure-of-office bill it is provided that the Cabinet officers "shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter." It is very evident that the foregoing section of the bill does not prevent the President from removing the Secretary of War, because Mr. Stanton was not appointed by President Johnson and never held any commission under him. He was appointed and commissioned by Mr. Lincoln during his first administration on the 15th of January, 1862. The only commission Mr. Stanton ever held as Secretary of War is the following, and it is important in view of the proposed action of this House and the course Mr. Stanton has pursued:

ABRAHAM LINCOLN, *President of the United States.*
To all who may see these presents, greeting:

Know you, that reposing special trust and confidence in the patriotism, integrity, and ability of Edwin M. Stanton, I have named, by and with the advice and consent of the Senate, and appoint him to be Secretary of War for the United States, and do authorize and empower him to execute and fulfill the duties of that office according to law, and to have and to hold the said office, and all the powers, privileges, and emoluments to the same of right appertaining unto him, he said Edwin M. Stanton, and during the pleasure of the President of the United States for the time being.

In testimony whereof I have executed these letters to be made patent and the seal of the United States to be hereunto affixed. Given under my hand at the city of Washington, the 15th day of January, in the year of our Lord, 1862, and of the Independence of the United States of America, the eighty-sixth.

By the President:

WM. H. SEWARD, *Secretary of State.*

It is only necessary for me to direct attention to the language of this commission. Edwin M. Stanton is appointed Secretary of War to hold "during the pleasure of the President of the United States for the time being."

The construction placed upon the tenure-of-office bill by the President is in accordance

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with the declarations of distinguished Senators who helped to frame the law, made in the Senate when it was under consideration. It was expressly stated that in the passage of the bill it was not the intention or purpose, and the law itself did not prevent the present President from removing the Secretary of War, the Secretary of the Navy, and the Secretary of State. I know of no better rule to be relied upon in the construction of a law than the expressed intention of the legislators in making it. And we are not left in doubt upon the right of the President to remove the Secretary of War under this tenure-of-office bill, if we go to the record. When the bill was pending before the Senate, Mr. DOOLITTLE said:

"I suppose it is aimed at the present head of the executive department, to bind him to keep certain members of his Cabinet, for it was openly avowed in the discussion of this bill when it was up before, that it would be intolerable to allow the present Executive Magistrate to have the power of removal over certain members of the Cabinet mentioned by name. Now, this project does not reach those members at all. The terms of this provision are:

"That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed; and for one month longer."

Now, let us look at the facts. The Secretary of War was appointed by Mr. Lincoln during his first term; he never has been appointed since; he has never received any appointment since. Mr. Lincoln gave him no appointment during his second term, but he held over. Mr. Johnson has given him no appointment, but he has held over. So of the Secretary of the Navy, and so of the Secretary of State. The Secretary of the Interior, to be sure, and the Postmaster General and the Attorney General have been appointed by Mr. Johnson since the presidential office devolved on him; and by the terms of this law the Secretary of the Interior, the Postmaster General, and the Attorney General must remain during Mr. Johnson's term; but the Secretary of State, the Secretary of War, and the Secretary of the Navy, according to the terms of this provision, may be removed by him to-morrow."

Again:

"I referred not to the committee of conference, but I referred to the debate on the original bill when it was pending, in which debate it was openly stated by some friends of this restriction on the President's power over the Secretaries that it was not to be tolerated that the present Chief Magistrate should have the power to remove the Secretary of War by name."

Mr. SHERMAN. Some Senator may have had that purpose.

Mr. DOOLITTLE. I heard it in debate; I speak not of what may have been the views of individual Senators not expressed on the floor of the Senate. I allude to what was openly stated in debate.

Mr. SHERMAN. That the Senate had no such purpose is shown by its vote twice to make this exception. That this provision does not apply to the present case is shown by the fact that its language is so framed as not to apply to the present President. The Senator shows that himself, and argues truly that it would not prevent the present President from removing the Secretary of War, the Secretary of the Navy, and the Secretary of State. And if I supposed that either of these gentlemen was so wanting in manhood, in honor, as to hold his place after the politest intimation by the President of the United States that his services were no longer needed, I certainly, as a Senator, would consent to his removal at any time, and so would we all."

But, Mr. Speaker, suppose the President did commit an error in the construction of the tenure act, which I deny, is that sufficient cause of impeachment for high crimes and misdemeanors? I think I cannot be mistaken as to what will be the verdict of the people upon this question. It is the merest pretext, seized upon to accomplish what is rendered necessary in the opinion of the majority of this House by party exigencies. Mr. Stanton is in charge of the War Department, the President requests him to resign, and, in the language of Senator Sherman, he is so wanting in manhood and honor, as to hold his place contrary to the wishes of the President. The President then attempts to remove him, as he had a right to under the Constitution and the laws. Mr. Stanton declines to surrender the War Department, and that brings the constitutional right of the President to remove Mr. Stanton before the courts—which is not desired by the gentlemen on the other side—for it is admitted that they often act outside of the Constitution, and in this we have the cause of the President's

offending, and for which he is to be impeached for high crimes and misdemeanors.

Mr. Speaker, the tenure-of-office bill was a direct attempt on the part of the legislative branch of the Government to encroach upon a coordinate branch and absorb its powers. In the wise distribution of political power into three distinct and independent branches—the legislative, judiciary, and executive—each one possessing its proper and legitimate functions, consists the strength of the Government; and the attempt of the legislative department to appropriate to itself the powers that belong to the other departments is inconsistent with the principles that underlie our system, and if persisted in will result in its destruction. For two years Congress has been acting independent of the Executive, and has lately made war on the Supreme Court. The object of these innovations is to consolidate the powers of the coordinate branches of the Government wholly in the legislative. The Government that the gentlemen on the other side are preparing for the people of this country, is one in which the power to pass laws, decide their validity, and provide for their execution, shall be lodged in one department.

Mr. Speaker, I have been surprised, and the people of the country will be surprised, when the record of the last two days' proceedings in the American Congress are spread before them. When they are informed that at this moment the War Department is an intrenched camp, ready at any time to be used as the basis of civil war, they will realize the perils of the hour. When the bitter denunciations of partisans, sitting in the capacity of a grand inquest of the nation under the solemn obligations imposed upon them by the Constitution, are read, as they will be, by the people, these proceedings will appear in their true light, and be understood; but not, Mr. Speaker, as some gentlemen have said, for an officer, but for officers, and to perpetuate the power of a party. The President of the United States is to be impeached by a partisan House, and removed from office by a partisan Senate, who have already by their course prejudged the case. The President of the Senate, Mr. WADE, is to be placed in the executive chair, and the whole power and patronage of the Government thereby secured to the radical party. The policy thus determined upon is to be followed by the passage of an act by Congress conferring the right of suffrage upon the negroes in all the States against the expressed will of the people and in utter disregard of their rights. This is the programme adopted to secure a continuance of Radical power. Having unbounded confidence in the intelligence of the people we can well afford to abide their decision; from it we seek no appeal.

Impeachment.

SPEECH OF HON. J. A. NICHOLSON,
OF DELAWARE,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolution that Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors.

Mr. NICHOLSON. Mr. Speaker, the evident determination of the majority of the House to adopt this resolution fills me with dread and deep concern for the future of my country; and I am so overwhelmed with a sense of my inability to say aught that can for a moment arrest the headlong fury of this onslaught against the Chief Executive of the nation, that I am almost deprived of the power of opposition. But, sir, that the voice of my constituents may be heard at this solemn moment, and that I may not go down to history as silent when such a foul wrong as this is attempted, I must briefly protest against

what I can consider neither more nor less than the climax of those revolutionary acts which have marked the existence of the Republican party ever since they came into power.

Having plunged the country into civil war of a magnitude unparalleled in modern history; created in four years a public debt exceeding in its enormous proportions the debt of Great Britain, which had been accumulating for a century, and which will burden with oppressive taxes this whole people down to the latest posterity; having desolated the fairest and most productive half of our common country, refused to restore it to such a position as would enable it to contribute its full share to lighten the burden of taxation, but rather hastened by unjust legislation to complete so much of the work of destruction as the war had left unfinished; having upturned society and reversed the former natural relation which existed between the races by causing the worth, virtue, intelligence and genius of the South to pass under the yoke, and grace the triumph of their former slaves, they now propose in the very wantonness of power, and as if to exhibit to the utmost their powers of destruction, to convulse the whole land throughout its length and breadth, and perhaps bring upon us again all the horrors of civil strife by impeaching the President of the United States.

I will briefly consider the cause and consequences of this strange, unexampled proceeding. The assumed violation of the tenure-of-office act seems to be the cause of this sudden outburst of fury. Those on the other side who take to themselves credit for having heretofore voted against impeachment acknowledge as much. The long list of high crimes and misdemeanors enumerated in the report of the Judiciary Committee furnished no just ground of accusation against the President to their conservative minds. But let him no sooner exert the executive power vested in him by the Constitution in the attempt to relieve himself of the hated presence of an obnoxious Secretary who no longer possesses his confidence, and from whom he can no longer receive advice, than at once the scales fall from the eyes of these conservative gentlemen and they behold a dreadful crime and misdemeanor. The images of Cæsar, Napoleon, Charles I., James II, and other horrid tyrants start up before their affrighted vision. With what virtuous indignation do they declare that "forbearance has ceased to be a virtue." And their sudden yearning for peace is such that to obtain it they are also ready to join in the cry "off with his head!"

The unanimity of opinion thus far expressed is most astonishing. There seems to be no doubt, no hesitation whatever. The offense of the President appears to be regarded as so plain and palpable a violation of the Constitution and laws that gentlemen declared that, however reluctant they may be, they are irresistibly brought to the conclusion that the safety of the country demands his instant impeachment and removal from office.

Now, sir, assuming that gentlemen are only desirous that the Constitution and laws should be vindicated, I am unable to perceive any just correspondence between the cause as stated and the effect. And I feel very confident that upon calm reflection and "sober, second thought" they will discover that they have in hot haste placed themselves in a position which they cannot maintain, and taken a step which they cannot justify before the world. My only solution of the problem presented is that in a moment of irritation consequent upon the act of the President in removing Mr. Stanton they have allowed themselves to be adroitly managed by their more Radical brethren, or else that they are animated by a purpose that lies deeper than the surface, and that the necessity of party success drives them to the adoption of measures which their better judgment abhors.

Is the removal of Mr. Stanton such a plain

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and palpable violation of the Constitution and laws made in pursuance thereof as to justify the impeachment of the President? Clearly not, if it shall appear that in this matter he has acted with a just conception of the executive power vested in him by the Constitution; or if the law, which was passed for the purpose of limiting and restraining that power, shall appear to be unconstitutional; or waiving that question, if a fair construction of the law would show that Mr. Stanton is not included within the provisions of the first section. Article two, section one, of the Constitution, reads:

"The executive power shall be vested in a President of the United States of America."

"And he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, Judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

The President's oath of office is—

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Article six:

"This Constitution and the laws of the United States which shall be made in pursuance thereof, &c., shall be the supreme law of the land."

Now, under the sanction of his oath, the President is undoubtedly authorized to exercise some discretion in the administration of the laws; and may rightly refuse to execute them if they shall not be made in pursuance of the Constitution, or if they shall plainly violate its provisions. Suppose you were to enact a law abolishing the mission to Spain and declare that no minister should be sent to that kingdom, it could have no influence upon the action of the Executive; for the Constitution authorizes him to nominate, and by and with the advice and consent of the Senate to appoint, ambassadors, other public ministers, &c. Suppose that in the exercise of this power he were to nominate such an officer to the Senate in the very teeth of the law prohibiting it, could you impeach him? Perhaps you might try it for what you would call an insult to your assumed superiority.

The extent of the executive power in making removals has been as well settled as any other power from 1789 down to the present time; and on this point I must necessarily, to some extent, repeat what has already been cited by others, as our authorities are the same:

"In the debate in the First Congress in 1789 upon the bill organizing the Department of State this very question was discussed; and the final vote seems to have expressed the sense of the Legislature, that the power of removal by the Executive could not be abridged by the Legislature, at least not in cases where the power to appoint was not subject to legislative delegation."—*Story on Constitution, note to section 1537.*

"After a most animated discussion the vote finally taken in the House of Representatives was affirmative of the power of removal in the President, without any coöperation of the Senate, by the vote of thirty-four members against twenty. In the Senate the clause in the bill affirming the power was carried by the casting vote of the Vice President."—*Story on Constitution, section 1542.*

During that debate Mr. Madison spoke as follows:

"The Constitution affirms that the executive power is vested in the President. Are there exceptions to this proposition? Yes, there are. The Constitution says that, in appointing to office, the Senate shall be associated with the President, unless in the case of inferior officers, when the law shall otherwise direct. Have we (that is, Congress) a right to extend this exception? I believe not. If the Constitution has invested all executive power in the President I venture to assert that the legislature has no right to diminish or modify his executive authority. The question now resolves itself into this: is the power of displacing an executive power? I conceive that if any power whatsoever is in the Executive it is the power of appointing, overseeing, and controlling those who execute the laws. If the Constitution had not qualified the power of the President in appointing to office by associating the Senate with him in that business, would it not be clear that he would have the right, by virtue of his executive power, to make such appointments? Should

we be authorized, in defiance of that clause in the Constitution—"The executive power shall be vested in the President"—to unite the Senate with the President in the appointment to office? I conceive not. If it is admitted that we should not be authorized to do this, I think it may be disputed whether we have a right to associate them in removing persons from office, the one power being as much of an executive nature as the other; and the first one is authorized by being excepted out of the general rule established by the Constitution in these words: "The executive power shall be vested in the President."

Upon the same point Chancellor Kent remarks, (Kent's Com., sec. 14, pp. 310, 311:)

"On the first organization of the Government it was made a question whether the power of removal in case of officers appointed to hold at pleasure resided nowhere but in the body which appointed, and, of course, whether the consent of the Senate was not requisite to remove. This was the construction given to the Constitution while it was pending for ratification before the State conventions by the author of the Federalist. But the construction which was given to the Constitution by Congress, after great consideration and discussion, was different. The words of the act (establishing the Treasury Department) are: 'And whenever the same shall be removed from office by the President of the United States, or in any other case of vacancy in the office, the assistant shall act.' This amounted to a legislative construction of the Constitution, and it has ever since been acquiesced in and acted upon as a decisive authority in the case. It applies equally to every other officer of the Government appointed by the President whose term of duration is not specially declared. It is supported by the weighty reason that the subordinate officers in the executive department ought to hold at the pleasure of the head of the Department, because he is invested generally with the executive authority, and the participation in that authority by the Senate was an exception to a general principle, and ought to be taken strictly. The President is the great responsible officer for the faithful execution of the law, and the power of removal was incidental to that duty, and might often be requisite to fulfill it."

And he further observes, "it may now be considered as firmly and definitely settled, and there is good sense and practical utility in the construction."

I need to add nothing more by way of argument to these high authorities to show that the "act regulating the tenure of certain civil offices" is not warranted in the Constitution. But I am not required, for my present purpose, to prove this law unconstitutional; for I contend that the President can only be impeached for a knowing and willful violation of the Constitution or a law made in pursuance thereof with the intent to usurp a power not conferred upon him by the Constitution or to pervert his power to the injury and not the welfare of the people. The President, with all this weight of authority on his side, the common consent given to this construction through all this lapse of time, had a right to exercise the power of removal, hitherto unquestioned, without being charged with the commission of a "high crime and misdemeanor;" and, being in the possession of a *prima facie*, if not an absolute, right, the burden of proof must rest upon those who question his authority, and they should be willing to invoke a decision of the Supreme Court to settle the controversy. But, so far from doing this, they have, in every possible way, manifested their dread of that august tribunal. They have attempted to close the mouth of the court and prevent them from passing upon the constitutionality of a law of Congress, and have resorted to every device that they may defeat the purpose and desire of the President to obtain from the court a decision upon this newly-vexed question.

But, if any additional authority were needed to sustain my position as to the constitutionality of this law, I have only to add what is notorious and uncontradicted, and what should have great weight with gentlemen on the other side, and that is, that when the act was sent to the President for his approval his entire Cabinet were of the opinion that it was unconstitutional, foremost among whom was Mr. Stanton, who was so positive and expressed himself so lucidly upon the subject that he was requested by the President to write the veto. This he declined, on the plea of physical inability, but offered to and in fact did furnish the principal points and authorities.

But ignoring all this, and unwilling to have a judicial decision upon the subject, gentlemen are rushing on with furious haste to impeach the President, in the hope of accomplishing his removal for the violation of a law which the Supreme Court must, as soon as the case can be presented to them, pronounce unconstitutional. Nothing but the fiercest malignity could prompt to the commission of so gross an act of injustice, which would be still more shocking from the fact that a wrong would be accomplished for which there would be no remedy.

But, Mr. Speaker, for the sake of the argument, let us waive the question of the constitutionality of this law, and address ourselves to the next inquiry, whether Edwin M. Stanton, the late Secretary of War, though still usurping the functions of the War Office, is included in and subject to the terms and provisions of the first section, which reads as follows:

"An act regulating the tenure of certain civil offices."

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

The exception here is in favor of the President, that he may have counselors and advisers of his own choice, and not have the Cabinet of another President thrust upon him against his will.

They are to hold their offices respectively during the term of the President by whom they were appointed, and one month thereafter.

Now, by whom was Mr. Stanton appointed? The commission, by which alone he "sticks," like another Tite Barnacle, to the War Department, will speak for itself. Here is a copy of it:

ABRAHAM LINCOLN, *President of the United States, To all who may see these presents, greeting:*

Know you, that, reposing special trust and confidence in the patriotism, integrity, and ability of Edwin M. Stanton, I have named by and with the advice and consent of the Senate and appointed him to be Secretary of War for the United States, and do authorize and empower him to execute and fulfill the duties of that office according to law, and to have and to hold the said office, and all the powers, privileges, and emoluments to the same of right appertaining unto him, the said Edwin M. Stanton, and during the pleasure of the President of the United States for the time being.

In testimony whereof I have executed these letters to be hereunto affixed. Given under my hand, at the city of Washington, the 15th day of January, in the year of our Lord 1862, and of the independence of the United States of America the eighty-sixth.

ABRAHAM LINCOLN.
By the President:
WM. H. SEWARD, *Secretary of State.*

When he was appointed there was no law limiting the President's power of removal. The very title by which he attempts to hold his place gives him notice that he holds it "during the pleasure of the President of the United States for the time being." And here it occurs to me, Mr. Speaker, that there are grave doubts whether the tenure by which any person holds an office to which he had been appointed before the passage of this act could rightfully be altered, or must not its provisions apply to those officers appointed subsequent to its passage. But I will not press that point.

Mr. Stanton having been appointed by Mr. Lincoln, the question is, when did Mr. Lincoln's term expire? For the purposes of my argument it matters not whether it expired on the 4th of March, 1865, or at his death. Mr. Stanton's term expired either one month after the 4th of March, 1865, or one month after the death of Abraham Lincoln. Certainly, ac-

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cording to the provisions of this act, one month after Andrew Johnson became President, Edwin M. Stanton became, by reason of the expiration of his term, a mere tenant at sufferance, which gentlemen know is the most precarious of all titles, and subject to instant removal by the President at any time. The words "subject to removal by and with the advice and consent of the Senate," at the close of the first section of the law, qualify the otherwise absolute duration of the term for which he may have been appointed, but have no application whatever after the expiration of the term. That this was the view entertained at the time of the passage of the act by all concerned there can be no doubt. As proof, however, of the fact, I will read a portion of the remarks of Mr. SHERMAN, February 18, 1867, as reported in the Congressional Globe. He was one of the managers on the part of the Senate of the committee of conference, and was explaining the report of that committee:

"I agreed to the report of the conference committee with a good deal of reluctance. The Senate had by two deliberate votes declared its purpose not to make the duration of the Cabinet officers fixed by any time, but that they should hold their offices at the pleasure of the President; and that was the original design in the creation of their offices; but the general purpose of this bill is so very important, it establishes so salutary a reform, that I thought it ought not to be endangered by a dispute on a collateral question."

"The proposition now submitted by the conference committee is that a Cabinet minister shall hold his office during the life or the term of the President who appointed him. If the President dies the Cabinet goes out; if the President is removed for cause by impeachment the Cabinet goes out; at the expiration of the term of the President's office the Cabinet goes out; so that the Government shall not be embarrassed by an attempt by a Cabinet officer to hold on to his office despite the wish of the President or a change in the Presidency. The great danger that might have arisen from the bill as it stood amended by the House is relieved by this amendment, and I think it is much better for us to agree to this modification rather than endanger the passage of the bill. I therefore signed the report of the conference committee, though with some reluctance. I think, under the circumstances, the Senate had better agree to it. If it shall be found to work badly at any time it will be very easy, by a law or joint resolution, to change it."

Now, Mr. Speaker, as I stated in the commencement of remarks, I cannot for my life see any relation between the act removing Mr. Stanton, of which gentlemen complain, and the hue and cry about impeachment. And I would here remind gentlemen who have heretofore voted against impeachment, and who will, in all probability, decide this question, that they are restrained to this act. All that has been complained of by others amounts to nothing in their estimation. They complain of this as the most enormous of his offenses.

As I cannot regard it as an offense at all, but as a perfectly legal and proper act, and one which, if it had been done long since, would have conferred incalculable benefit upon the country, I am driven irresistibly to the conclusion that the reasons for this action on the part of the House are other than those assigned. I feel that I have a right to look into the history and condition of the Republican party to discover the true reasons which are now controlling their conduct.

Why do they attach so much importance to Stanton's remaining in the War Department? Because he is the willing tool of Congress in their nefarious scheme of what they call reconstruction; but which is and never has been anything else than a scheme for the election of the next President. To their shame be it said that they have prostituted all the powers of this mighty Government to the base purposes of party. For the first time in the history of the country has the Congress of the United States stooped from its high position to legislate directly for the interests of their party. With the powers of Congress they combine the spirit and ethics of a party convention. Their course to this end has been systematic since the surrender of Lee gave us hope of peace and union again. It was this instinct which first prompted them to refuse to restore the South to her place

in the Union, knowing, as they did, that the vote of those States would be given against the Radical candidate for President, and they had not the hardihood, at that time, to hint even at the disfranchisement of whites and the enfranchisement of negroes to accomplish their purpose. Now their purpose is changed. Despairing of carrying more than half a dozen of the northern States at the next election, they have turned to the South, and by the most arbitrary, cruel, and barbarous legislation that ever disgraced a civilized Government, they have made of her a moral monster fit for their embrace. Everything that endangers the success of their scheme excites them to frenzy. They have now, Cortez-like, burned their ships, and their struggle is becoming desperate.

If the policy, which is called the President's policy, but which is also the policy which common sense, justice, honor, self-interest would have dictated, had been carried out in 1865, every scar made by the war would now have been healed, trade and commerce would now have been flourishing, the South would have been pouring her millions into the national Treasury, taxation would have been so diffused as scarcely to be felt; but the blessing of a radical President could not be conferred upon us in that condition of things.

From the moment when President Johnson was first recognized as an obstacle in the way of radical destructions with the most subtle ingenuity his enemies have toiled and conspired to strip him of his power and bind him hand and foot. They had an ally in the Secretary of War. They courted the General of the Army until they were satisfied of his disposition, when they slipped into an appropriation bill the following section, signed under protest by the President, March 2, 1867:

"SEC. 2. That the headquarters of the General of the Army of the United States shall be at the city of Washington; and all orders and instructions relating to military operations, issued by the President or Secretary of War, shall be issued through the General of the Army, and, in case of his inability, through the next in rank. The General of the Army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at said headquarters, except at his own request, without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void; and any officer who shall issue orders or instructions contrary to the provisions of this section shall be deemed guilty of a misdemeanor in office; and any officer of the Army who shall transmit, convey, or obey any orders or instructions so issued, contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon conviction thereof in any court of competent jurisdiction."

"SEC. 6. That all militia forces now organized or in service in either of the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Louisiana, Mississippi, and Texas, be forthwith disbanded, and that the further reorganization, arming, or calling into service of the said militia forces, or any part thereof, is hereby prohibited under any circumstances whatever, until the same shall be authorized by Congress."

The tenure-of-office law was intended to fill the offices of the country with their own creatures, and that they supposed that they had rendered the President helpless and powerless to interfere with their schemes explains, to my mind, the failure heretofore of the attempts to impeach him. What did they care for the President, stripped of executive power, while they had Stanton and Grant? They felt that the action of the Senate in reinstating Stanton had secured him firmly in that position. That explains the failure of the second attempt at impeachment, after the Johnson-Grant correspondence.

Now they have discovered that the President's regard for his oath "to preserve, protect, and defend the Constitution of the United States," his duty to the people to maintain the dignity of his high office, will not allow him tamely to surrender the executive power conferred upon him by the Constitution. Their control through Mr. Stanton and the General of the military arm of the Government seems

uncertain. They are startled with a sense of insecurity. They have so often told the people that none but loyal men must rule, and they are the loyal, and that the salvation of the country depends upon their success, that they act as if they believed it themselves, and do not hesitate to imperil the very existence of the Government, and shake it to its very center, for what the people and the whole world must know is the success of a political party. The effect of the simple attempt to do this is bad enough, and must have an unhappy influence upon our future; but should you succeed in passing articles of impeachment, and finally convict and remove the President, while every one must know that it is only for the sake of party success, then, indeed, will I despair of the Republic. Those high hopes that I have always entertained of the continuance of her greatness and glory will be dashed to the ground. Then will be an end of our experiment of self-government, and we can read our fate in the history of our neighbor republic. Violence will take the place of law and order. Every President will be at the mercy of the congressional party. In your attempt to niggerize the Republic you will Mexicanize it, and our star, which rose so bright and gave such promise to the world, will set in darkness and blood.

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SPEECH OF HON. JEHU BAKER,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

March 5, 1868,

On the joint resolution (H. R. No. 214) relative to R. R. Butler, Representative-elect from the State of Tennessee.

Mr. BAKER. Mr. Speaker, being now definitely advised that the case of Mr. Butler is within the third section of the fourteenth amendment to the Constitution of the United States, I am of opinion that the course which is now proposed by my colleague [Mr. Cook] is the proper one to meet not only this case but all such cases. The Thirty-Ninth Congress had this subject under consideration, and, if I may so speak, has set the die of a permanent national policy in regard to the incapacity of holding office by persons who, having once taken an oath of fidelity to the Government of the United States, afterward participated in rebellion against the Government. It was thought, however, and wisely thought, that a proper element in that provision should be an arrangement by which, in fit cases, the disability might be removed, and a proviso was accordingly inserted that such disability might be removed by a two-thirds vote of both branches of Congress. Mr. Butler having, as I am advised, taken, perhaps, several oaths at different times before the rebellion of fidelity to the Constitution of the United States, and having in form, not in spirit, or with really treasonable intent, as I am persuaded, yet having in form taken the oath which he did as a member of the Tennessee Legislature in 1861, he is, so to speak, upon the record and by the force of that oath, brought within the disabilities of the fourteenth article of amendment.

Now, Mr. Speaker, I am as firmly in favor as probably any gentleman on this floor of adhering to the true intent and meaning of that provision of the fourteenth article of amendment. I am clear that the general principle is a sound one which declares that the crime of rebellion against this liberal Government is so great that a man who has once taken an oath of fidelity to it and has afterward engaged in conscious, willful, treasonable hostility against it should not be intrusted with office under it.

Mr. HARDING. I would like to ask my colleague if he thinks we could safely trust the interests of the cause of liberty in these hours

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of peril to the words and declarations of men that they will be faithful to those interests? Can we afford thus to throw down all the defenses which the people and Congress have erected against their enemies?

Mr. BAKER. Undoubtedly I would not think it safe thus to throw down these defenses; but nothing can be plainer, it seems to me, to any one who will only open his eyes and exercise a little dispassionate understanding than that the course proposed in this case will produce no such consequence. The record of the gentleman who seeks a seat here shows that he is, to say the least, substantially a tried and sound Union man. What I maintain here, and what I hope will be sustained by a vote of two-thirds of this House and two-thirds of the Senate, is, that a man occupying the position which Mr. Butler occupies, as shown by the record in his case, is just the man, if there be any at all, who ought to be released from the disabilities of the third section of the fourteenth article of amendment to the Constitution.

Why, sir, it was wisely foreseen that a provision of this kind would be needed. It was foreseen that some cases, at least, would arise where, as in this case, there might be rather the form than the purposed, intentional reality of offending. Where a man is shown to possess real Union principle, and where he has rendered valuable service to the country, it would be inhumane, it would be short-sighted, it would be narrow, it would be unjust in a high degree, to make no discrimination in his favor.

To my mind two things are to be looked at in order to embrace the whole meaning of the subject. First, the object of the disability imposed by the fourteenth article of amendment was to provide against that bad, that iniquitous, that monstrous result—that men whose hands may be red with the blood of the defenders of the Union, who had plotted and schemed to overthrow and destroy this Government, who had helped to fill the graveyards of the North and the battle trenches of the South with the half million martyrs who died to defend and uphold our system of Government; that such men should come in here and make laws for the people of the United States! That, sir, I am intensely against, and that, I can see, is the grand object of the amendment. There are, however, some men who might technically be embraced within the phraseology of the amendment, but who are substantially sound, true men; men who, though temporarily betrayed into error, retraced their steps and did works meet for repentance. In these cases the disability should be removed. These two elements and applications, taken together, constitute the whole reason of the amendment. Let the rule be enforced rigorously and persistently in bad cases; in good ones let it be relaxed in conformity with the spirit and the letter of the rule itself. Being convinced that the case of Mr. Butler comes within the latter category, I am of opinion that he should be admitted, in the manner now proposed, as a member of this House.

Impeachment.

SPEECH OF HON. W. MUNGEN,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 22, 1868,

On the resolution to impeach the President of high crimes and misdemeanors.

Mr. MUNGEN. Mr. Speaker, "whom the gods would destroy they first make mad." History furnishes no parallel to the proceedings of the majority in this House. Madness rules the hour. Party prejudice overrides all barriers. An unbecoming display of partisan bitterness and rancor pervades the doings of the dominant party. Our institutions—the foundations of our Government—are being

sapped and undermined by what to my mind is clearly unconstitutional legislation. Congress, under the specious pretext of "restoring the Union," has passed act after act of "reconstruction," each so inherently rotten and worthless that it breaks to pieces from its own weight. As soon as one of them fails amendment after amendment of, if possible, worse legislation is attached. All these various legislative acts and all the concordant and discordant elements of the present mischief-making, corrupt, presumptuous, and revolutionary party are held together by the adhesive force of public plunder and intense desire for party power.

Gentlemen on the other side of the House, who claim to be very loyal, and several of them extremely brave, sneer at my democratic friends who respectfully, by able arguments, suggest and show that the peace of our country will be endangered by the passage of this impeachment measure. But they do not and cannot answer those arguments. Some of them, who "sauff the battle from afar," belch forth torrents of fiery rhetoric and invective, not only at the Chief Executive, but at all who venture to suggest that civil war may, and perhaps will, be the direct result of the present course of legislation. They seem disposed to take the executive department by storm and by the same agency resorted to by Joshua at Jericho. It is difficult to imagine how the ram's horns used upon that august occasion could exceed the "sound and fury" launched at the President. My radical friends have twice marched around the circumvallations of the executive department, sounding their impeachment trumpets, and are now starting on their third expedition. Joshua went around the walls seven times before they fell. If the executive department fall before the seventh attack it will only go to prove that the radicals blew louder and stronger than did the Israelites with their horns.

It is not for the occupant of the presidential chair, as an individual, that the American people are so solicitous; for no one man can be of vital importance among thirty or forty million people; but this attack is directed, not only against the high office which he holds, and which, as a coördinate branch of our Government, can only be sacrificed at the cost of our liberties or the peace of the American people; this attack is directed against the walls of our Government, which were reared by the patriot fathers, and whose foundations were laid deep down in the Constitution of our country—the fear is they will not be able to resist the fury of this tornado of fanaticism. How long can our Government exist when congressional legislation is in direct conflict with the Constitution? To show that such has been the character of republican legislation it is but necessary to refer to the acts of Congress passed since the suppression of the rebellion. Who can point to authority in the Constitution for any of the reconstruction acts? Who can show authority for the five military satrapies of the South? Who, under the Constitution, can justify martial law and military despotism in time of peace? Who can demonstrate the rule by which the ignorant, degraded, and naturally inferior negro is to be placed over the white man in the South, and made equal, if not superior, to the white man in the North? Who will deny that well-settled principle, the vindication of which inaugurated the American Revolution, that taxation without representation is a fraud and a wrong? And who dare deny that this fraud and wrong has been and is now being practiced daily by radical power, in violation of the fundamental principles of our Government? Who but the radical Republican party is responsible?

Where does Congress get power from the Constitution to fix the status of voters in any State or portion of this Union? All powers not clearly delegated to Congress by that instrument are reserved to the States and to the

people. By what authority does Congress assume to disfranchise white men and enfranchise negroes? If this can be done in one State or portion of the country it can be done in any other State. If this power rests with Congress why did they permit us to vote on the question in Ohio last fall? If negro equality is a matter to be controlled by Congress why submit the question to the voters of Ohio? But what act has Congress passed for the benefit of the people? Let their acts reply. Instead of any measures to relieve the laboring classes, to resuscitate our commerce, to improve the finances of the country, to aid in developing the resources of the land, and thus lighten the burden of an overtaxed people, they have found time for nothing but partisan measures and the advancement of party ends. Party success and public spoils, these and these alone, are the objects and ambition of this party of boasted loyalty and patriotism. No one measure has been adopted or recommended by either branch of the present Congress looking to the welfare of the country and not calculated and intended to advance party. I challenge gentlemen on the other side to mention one measure introduced into this House or discussed in caucus not intended for party use and for party success. For this the country has been robbed of the fruits of her costly victories in the field; for this the Union has been pronounced dissevered; for this the ballot, which should be the reflection of education and intelligence, has been forced into the dirty palm of ignorance; for this has the power of the Supreme Court been usurped, and for this the attempt to decapitate the President is now made in the interest of a reckless and unscrupulous party.

It is evident from the course pursued in this impeachment that gentlemen fear a judicial determination upon their unconstitutional acts until the deposition of the President and the substitution of one of their own number in his office is an accomplished fact.

Having to some extent discussed the *animus* governing the party desiring to impeach the President, I come now to the question of his guilt or innocence. Of what crime is the President guilty? It is claimed on the other side that the President has violated the provisions of the first section of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, which is as follows:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

In the first place, it will be remembered when this law was passed—on the eve of a presidential election; in the second place, the American people know very well why it was passed—to influence that election. It is an exception in legislation, not to call it a clear usurpation of the rights of the Executive. As well might the President presume to appoint the Clerk, Sergeant-at-Arms, Doorkeepers, messengers, and pages of this House as for the House to undertake to appoint, retain in office, or force upon the President his Cabinet, his clerks, or his servants. There is as much justice, sense, and right in one proposition as the other.

The main point upon which the impeachers hang their hopes is that during the session of Congress the President undertook to remove Mr. Stanton. That we may not make any mistakes, allow me to state the facts of the case. During Mr. Lincoln's first term, and in January, 1862, Mr. Stanton was appointed by him in

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place of Hon. SIMON CAMERON, and the appointment was approved and confirmed by the Senate. Mr. Lincoln was reelected and Mr. Stanton received no new appointment from Mr. Lincoln either with or without the consent of the Senate, although some of the Cabinet were reappointed and confirmed. Soon after Mr. Lincoln entered upon his second term as President and Mr. Johnson as Vice President the office of President became vacant by the death of Mr. Lincoln. The duties and responsibilities of President of the United States at once devolved upon Mr. Johnson. The Cabinet met for consultation as usual. No change was made or proposed by him, and Mr. Stanton remained in the War Office. Since that time President Johnson never appointed Mr. Stanton either with or without the consent of the Senate. He did request him to resign, which he refused to do, and the President suspended him. As soon as the Senate met they forced him back into the War Office despite the well-known wishes of the President and the residue of the Cabinet. Mr. Stanton is, therefore, in the War Office not by "appointment by the President by and with the advice and consent of the Senate," but by appointment by the Senate alone, who, in this instance, has apparently assumed the entire responsibility.

Mr. Stanton never was appointed Secretary of War by President Johnson, either with or without the consent of the Senate, as before remarked; therefore it is clear that he has not violated the first section of the act already quoted. The proviso is very plain in its terms:

"Provided, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they were appointed, and for one month thereafter, subject to removal, by and with the advice and consent of the Senate."

By the very terms of this proviso Mr. Stanton's term of office would have expired one month after the expiration of President Lincoln's first term of office, which would have been April 4, 1865. The furthest that could be claimed is that it expired one month after his decease.

The mode of appointing the Secretary of War is pointed out in the Constitution. In the second clause of the second section of the second article are these words:

"He (the President) shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur. And he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

It is charged that the President has violated the Constitution in attempting to get rid of Mr. Stanton, who was merely an incumbent of the War Office by sufferance. It would be more easy to convince me that the Senate had violated the provisions of the Constitution in placing Mr. Stanton back in that office. The President is not bound to consult the Senate as to whom he shall appoint. If he appoint a person to an office and the Senate see proper to confirm the nomination, it does so, and this is "the advice and consent" spoken of in the Constitution. It has the same right to reject the nomination; but in no case can the Senate nominate. Mr. Stanton never having been nominated by President Johnson is he not now in the War Office by the nomination or procurement of the Senate, contrary to and beyond their powers and in violation of the Constitution?

Great stress is laid upon the letter of the President touching the removal of Mr. Stanton during the time when the Senate is in session. Congress, by the tenure-of-office bill, attempts to prevent the President from removing any officer whom he himself appointed. Gentlemen say there is no authority

granted in the Constitution for the removal by the President of any one. Neither is there for Congress to prevent the removal; and, by the terms of that instrument, all powers not clearly granted to Congress are reserved to the States and to the people.

This point of removal from office is no new one. It was ably and fully discussed in the Congress of 1789, the first which ever assembled under the existing Constitution of the United States. That legislative decision is almost a supplement to the organic law itself. (See Marshall's *Life of Washington*, chap. 3, p. 199; 1 Lloyd's *Debates*, p. 599; 2 vol. Lloyd's *Debates*, p. 12; Senate Journal, July 18, 1789, p. 42.)

Justice Story, in his *Commentaries on the Constitution*, volume two, page 403, section fifteen hundred and forty-two, says, in speaking of this:

"After a most animated discussion the vote finally taken in the House of Representatives was affirmative of the power of removal in the President, without any cooperation of the Senate, by the vote of thirty-four to twenty. In the Senate the clause of the bill affirming the power was carried by the casting vote of the Vice President."

Here is the expression of this body when it was composed in great degree of the fathers and framers of the Constitution on this very point; and it establishes, as settled law, that neither Congress nor the Senate alone have any constitutional right to interpose in removal of officers appointed by the President. All that the Senate can do is to assent or object to the nominees of the President, and thereby determine whether he may commission them or not. In this view of the case the tenure-of-office bill is clearly unconstitutional.

Justice Story says:

"The public acquiesced in this decision;" * * * "nor is this general acquiescence without a satisfactory explanation. During the administration of President Washington few removals were made; few were made in that of the first Adams; in that of President Jefferson the circle was greatly enlarged."

Madison, Monroe, and John Q. Adams all exercised the power. During President Jackson's term of office Justice Story says:

"A system of removals and new appointments to office was pursued so extensively that it reached a very large proportion of all the offices of honor and profit in the civil departments of the country."

Chancellor Kent says:

"Between the 4th of March, 1820, when President Jackson came into office, and the 4th of March, 1830," * * * "there were removed eight persons in the diplomatic corps, thirty-six in the Executive Departments, and in the other civil departments, including consuls, marshals, district attorneys, collectors, and other officers of the customs, one hundred and ninety persons. These officers include a very large proportion of all the most lucrative offices under the national Government. Beside these there were removals in the Post Office Department during the same period, four hundred and ninety persons."

In proof of this he cites Postmaster General Barry's report of March 24, 1830; also the *National Intelligencer* of September 27, 1832.

General Harrison swept the offices entirely of their old occupants, and filled them with his friends in 1841. Polk did the same. President Taylor did the same; so did Pierce; and so, again, did Lincoln. Not a Democrat was left, as far as I know, when he came into power, in any civil office. It was all right then; he was the Government. It is all wrong now; Congress is the Government.

In Sergeant on the Constitution, chapter 29, (chapter 31,) this language is used:

"Another question occurred, upon carrying into effect the act of Congress of 1821 for reducing the military establishment. President Monroe, on that occasion contended that he had a right, in filling the original vacancies in the artillery and in the newly created office of Adjutant General, to place in them any officer belonging to the whole military establishment, whether of the staff or of the line."

In filling original vacancies, said he—

"That is, offices newly created, it is my opinion that Congress has no right under the Constitution to impose any restraint by law on the power granted to the President, so as to prevent his making a free election for these offices from the whole body of his

fellow-citizens. If the law imposed such a restraint it would be void."

Compare these views of President Monroe, so far as applicable, and also Justice Story's remarks, with the tenure-of-office bill, and it is easily seen to my mind that the bill is wrong, and the action of Congress a usurpation in so far as it interferes with the well-settled prerogatives of the Executive.

The most illustrious of American jurists, in a great case, regarded by the partisans of the time as pressing the executive powers into the smallest possible space, yet expounded the present principle thus:

"The President is invested with certain important political powers, in the exercise of which he is to use his own discretion, and is accountable only to his country in his political character, and to his own conscience. To aid him in the performance of these duties he is authorized to appoint certain officers, who act by his authority and in conformity to his orders. In such cases their acts are his acts; and whatever opinion may be entertained of the manner in which executive discretion may be used, still there exists and can exist no power to control that discretion. The subjects are political. They respect the nation, not individual rights, and, being intrusted to the Executive, the decision of the Executive is conclusive."—*Chief Justice Marshall in Marbury vs. Madison*, 1 *Cranch*, 137.

In 1789, when the Constitution was under consideration, and before the vote was taken to which I have alluded, Mr. Madison made a powerful speech in favor of that clause leaving to the President the removal of officers at his pleasure who had been appointed by him. But the very commission from President Lincoln by which Stanton held the office of Secretary of War provides by its own terms and language that he only holds it during the pleasure of the President. Such has been the tenor of every Cabinet officer's commission since 1789. The words are these:

"To have and to hold said office during the pleasure of the President of the United States for the time being."

Plain Anglo-Saxon words. No double meaning about them. "During the pleasure of the President." Mr. Stanton and other gentlemen who claim that he is the legal Secretary of War must reason thus: President Lincoln commissioned Mr. Stanton and made him Secretary of War. He never told Mr. Stanton, while he was alive, to resign; therefore, Mr. Stanton held "during the pleasure" of the President; since the President's decease he is doubtless enjoying the pleasures of heaven; therefore, Mr. Stanton must be Secretary of War through all eternity, or as long as the late President's pleasure lasts.

But seriously. Whatever may be the power of Congress in the premises, it will not be pretended that any statute could give Mr. Stanton any other or any more of an office than that which was already expressed in his commission. If a law would be constitutional which should give any one hereafter to be appointed a life tenure, certainly Mr. Stanton could not get the benefit of it without being appointed to a life tenure office under the law. Even if Congress could repeal his commission certainly they cannot issue a new one to him. The Constitution provides "the President shall commission all officers of the United States." But Mr. Stanton's commission expressly makes his tenure "during the pleasure of the President," &c. If the President, then, even on the theory contended for in favor of the law, has withdrawn his pleasure, what becomes of the commission of Mr. Stanton, notwithstanding the office-tenure law, even if it is valid? If he is in office he is an officer without a commission of office. If he is a commissioned officer his commission has become void by the happening of the contingency expressed in itself upon which it was to cease to be a commission, namely, absence of "the pleasure of the President of the United States for the time being." From this result there can be no escape without denying that Mr. Johnson is "President of the United States for the time being."

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It will be recollected that on a certain occasion the Senate wished to interfere with President Lincoln's business, and many of them desired him to remove Mr. Seward. Mr. Lincoln gave them to understand that he had the power to do so, but refused to exercise it. The very request of those Senators acknowledged clearly and fully that Mr. Lincoln, as President, had the power to remove a Cabinet officer. More than this; the reason given by Senators was that the Secretary of State was not in harmony with the President and the balance of the Cabinet; and they argued that no man ought to remain in the Cabinet who was not agreeable to the entire body. It is for this very reason President Johnson wishes Mr. Stanton dismissed—because he has been a spy upon the President, and is so utterly repugnant to the members of the Cabinet that they will not meet with him, and he does not go to Cabinet council at all.

Is it remarkable that with a purer patriotism and with intellects freer of fanaticism the statesmen of better days actually foresaw the very usurpation in question? Fisher Ames, in the great debate of 1789 referred to, thus depicts what is now before our eyes:

"If the Senate are to possess the power of removal they will be enabled to hold the person in office, let the circumstances be what they may."

"It creates a permanent connection; it will nurse faction; it will promote intrigue to obtain protectors and to shelter tools. Sir, it is infusing poison into the Constitution; it is an impure and unchaste connection; there is ruin in it; it is tempting the Senate with forbidden fruit; it ought not to be possible for a branch of the Legislature even to hope for a share of the executive power; for they may be tempted to increase it by a hope to share in the exercise of it. People are seldom jealous of their own power; and if the Senate become a part of the executive they will be very improper persons to watch that department; so far from being champions of liberty, they will become conspirators against it."

"The executive department should ever be independent and sufficiently energetic to defeat the attempts of either branch of the Legislature to usurp prerogatives." * * * "Gentlemen are undertaking to amuse the people with a sound of liberty. If their ideas should succeed a principle of mortality will be infused into a Government which the lovers of mankind have wished might last to the end of the world. With a mixture of the executive and legislative powers in one body no Government can long remain uncorrupt. With a corrupt Executive liberty may long retain a trembling existence. With a corrupt Legislature it is impossible; the vitals of the Constitution would be mortified and death must follow on every step. A Government thus formed would be the most formidable curse that could befall the country. Perhaps an enlightened people might timely foresee and correct the error. But if a season were allowed for such a compound to grow and produce its natural fruit it would either banish liberty or the people would be driven to exercise their inalienable right, the right of uncivilized nature, and destroy the monster whose voracious and insatiable jaws would crush and swallow up themselves and their posterity."

Allison, the historian, says:

"It is the nature of fanaticism, whether religious or political, to cause the most atrocious actions to flow from the purest and most benevolent expressions."

In the name of religion and guided by fanaticism the most horrid deeds have been committed. In the name of liberty the most detestable and cruel despotisms have been established. The great speech of Robespierre, in 1794, on the immortality of the soul and of the existence of the Supreme Being, stands in strange contrast with his bloody and tyrannical actions.

When Augustus became consul, *pater Senatus, imperator*, and finally *Cæsar*, it was all accomplished in derogation of the fundamental Roman law. He caused the right of suffrage to be extended first to the allies; then to all the tribes and nations subject to Roman government. There was no authority anywhere in the Roman form of government for the assumption of those titles; yet he assumed them, and the Roman people submitted. But after that Rome soon began to show signs of decay, and ere long was numbered with the nations of the past. Let us beware. The American people are looking on anxiously, fearful that this or some new step of the party in power will plunge the country

into another civil war, which, if it shall commence, will be far worse than the late rebellion in its consequences, if that be possible. I will not attempt to portray the result, but will respectfully refer the most violent of the impeachers, if the word be parliamentary, as well as others, to the fifteenth chapter of Allison's History of Europe, where the horrors of Jacobinism and of the reign of terror are portrayed.

Allow me to say, very respectfully, that I am exceedingly anxious to have any of my Radical friends who may not be perfectly familiar with the chapter to peruse it carefully. If I were to undertake to draw parallels between the legislation of this Congress and the proceedings of the Jacobin clubs headed by Robespierre it might not be parliamentary. But I hope it is not out of order for me to request my Republican friends to look for parallels. Robespierre in 1794 was at the zenith of his popularity with his faction. Has he a parallel in the Radical faction? He was called the Great Man of the Republic—who is now the great man of the Republicans? His virtue, genius, and eloquence were in every mouth—whose words are listened to, genius extolled, and virtues dwelt upon here? Corneille represents his heroes justifying all their excesses on the ground of State necessity—have we any among us who justify their course or the course of others on similar grounds? When the son of the immortal Buffon was brought before the revolutionary tribunal in France, under a charge of being implicated in the conspiracy among the Luxembourg prisoners, he said: "I was confined in the St. Lazare and could not have conspired in the Luxembourg." "No matter," said Fouquier Tinville "you have conspired somewhere"—and he was executed. Have we a revolutionary tribunal in our midst; and have we a man that it is necessary, from any cause, to say those words to: "No matter; you conspired somewhere?"

Allison was an Englishman and a monarchist, and in his history of Europe has said many bitter things against democracy and a democratic form of government which I cannot at all indorse. He charges many of the atrocities of the Reign of Terror to a democratic form of government; and he called the Jacobins the type of democracy. This was wrong, as every fair-minded man will admit. But let the people answer here whether we have any bodies, political or civil, which resemble the Jacobins. In the declaration of the "Rights of Man" by the Jacobins in the French Assembly they claim "the original equality of mankind"—are there any persons who are contending for that here? They said that "the elective franchise should be extended to all"—what party in this House and the country says so now? They said "that law is the expression of the general will." I appeal to the speeches of honorable gentlemen in favor of impeachment whether they do not declare substantially the same thing, and even go further, and make it criminal to say anything against any law they pass. And especially is this so in regard to reconstruction acts and the tenure-of-office bill. Have not my impeaching friends attempted to a considerable extent to prevent the Supreme Court from expressing its views on these acts in the usual way? Have they not passed a bill through this House requiring more than the usual majority of the supreme judicial tribunal of the country for deciding the question of the constitutionality of those reconstruction acts? Their course indicates to my mind their own views and fears of the correctness and justice of those laws.

Robespierre, Danton, Marat, Conthon, and Barrère were loud in their vociferations of loyalty to republican ideas; yet who can regard them as republicans or as anything but the enemies of the human race; fiends incarnate, monsters in human form, who, in the name of liberty, sought power at whatever cost, even of liberty itself? They made use of the passions

of the mob to elevate themselves first and their friends next. Those who wish to seek a parallel in this country are at liberty to look for it. They will not have far to look. If they find it we can but affirm the truth of the axiom that history repeats itself. There are men in this country who, to use a couplet from Milton, would be willing to say:

"Here we may reign secure, and in my choice
To reign is worth ambition, though in hell."

It would be discourteous to impugn any gentleman's motives here, but one of Shakespeare's ambitious characters is made to say:

"I would remove these tedious stumbling blocks,
And smooth my way upon their headless necks."

Do the executive and judicial departments of this Government stand as stumbling blocks in the way of a party which has revelled in plunder and wallowed in corruption and played the tyrant for years past? It seems to me they do. If not, why the anxiety to dispose of them?

At the beginning of the Fortieth Congress immediate steps were taken to strip the Executive of every possible source of power. He was bound hand and foot—"bucked and gagged"—the President no longer the Government—Congress the Government. Now he is to be decapitated. How long will it require? It took nearly seven years to end the trial of Warren Hastings. It required some three weeks to perform a kind of semi-judicial murder upon the person of Mrs. Surratt. It will, doubtless, take more than three weeks to strangle the President. Where now is the fury which used to find vent against Jefferson Davis? The president of the southern confederacy running at large—the President of the Republic, who performed soldier's duty in the war for the country, about to be impeached for an honest difference of opinion as to the constitutionality of a law. Truly, republics are ungrateful.

In these days and hours of frantic party madness, hate, and lust of power how glorious it would be if we could look back to the happy days of the Republic and feel that we were a united people! May heaven grant reason to our people, and especially to our legislators! Would that we could now say with Macaulay, when speaking of the prosperous days of Rome and the gullant Horatius:

"Then spake the bold Horatius, the captain of the
gato.
'To every man upon this earth death cometh soon
or late;
Then how can man die better than facing fearful
odds
For the ashes of his fathers and the temples of his
gods?"

"Then none were for a party and all were for the
State.
The proud man helped the poor, and the poor man
loved the great;
Then honors were fair portioned and lands were fairly
sold;
And the Romans were like brothers in the brave
days of old."

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SPEECH OF HON. JOHN LYNCH,
OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868.

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

Mr. LYNCH. Mr. Chairman, the question under consideration is one of great magnitude and importance. The power to impeach the President of the United States is one of the highest prerogatives of this House. The reasons for conferring this authority upon this body lie at the foundation of our form of government. The fundamental principle of this Government is, that all power is derived from the people. "That all just governments derive their authority from the consent of the governed." Acting upon this principle in the

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formation of our Government, its founders provided for three grand departments through which its powers should be exercised, the legislative, the executive, and the judicial. The legislative branch of the Government represents the people. It is the medium through which the will of the people finds expression in the form of law. The executive and judicial departments execute and administer its will. It possesses the comprehensive power "to provide for the common defense and the general welfare of the United States." In providing for an executive officer, to be called President, whose term of office was fixed at four years, the people prudently reserved to themselves the right to remove that officer by impeachment, when, in their judgment, he became guilty of high crimes or misdemeanors. They did not define in the Constitution the official misdemeanors for which the exercise of this power should be evoked, but wisely reserved the right to judge for themselves in each case that might arise. To this House is delegated the sole power to impeach and to the Senate the sole power to try impeachments; and from this high tribunal there lies no appeal. Impeachment is not the infliction of a punishment, as its effects extend only to removal from office. Its object is to secure the faithful administration of office, and thereby to preserve the Constitution and the liberties of the people. ~~As~~ holding office is not a right, but a privilege conferred by the people, the lawful deposition from office by the people through their Representatives is not the deprivation or violation of any personal right whatsoever. It is simply the assertion of the right to unmake by the power that made; the demanding by the master of the unfaithful steward the talents he has misused. As the people cannot act directly upon great public questions but only through their chosen Representatives, and as they cannot reach any executive or judicial officer during his official term except through this representative agency it becomes us to be vigilant and watchful of the great interests committed to our charge, and to see to it that no officer, however high, chosen to execute the people's will, as expressed through their Representatives, shall, in the fancied security of his official tenure, betray the high trusts committed to his charge. Congress, as the agent of the people, has all the right of its principal, with all the duties of an agent.

It is the exercise of this high prerogative and the discharge of this sacred duty that Congress, as the agent of the people of the United States, is now called upon to assume and fulfill. Entertaining these views as to the power and duty of Congress, and believing that Andrew Johnson has, during the past two years, disgraced the high office whose duties he has been called to discharge; that he has used his position for his own ambitious purposes and to the detriment of the best interests of the country, I have, during that time, entertained no shadow of doubt, either as to the constitutional right of Congress to impeach him, or as to the expediency of its exercising that right. And, sir, when in December last I gave my vote in this House for his impeachment I did so only regretting that an earlier opportunity had not been afforded me, and that the requisite majority was wanting to make that vote effective. It is not strange that in 1860 and 1861 Congress should have sat here discussing legal quibbles until waked from their lethargy by an actual conflict of arms. The threats of a great party, just then defeated in a political contest, to resist the authority of an Administration which they declared to be sectional and unconstitutional, were very naturally regarded as idle vapors, unworthy of serious consideration.

But, sir, after the terrible experience through which we have passed since that time, and knowing as we now do the desperate character of the adversary with which we have to con-

tend, and knowing as we do that Andrew Johnson is as much the agent of the rebellion as was Jefferson Davis, it is strange that we have so nearly repeated the folly of those days. Sir, what has Andrew Johnson done? What acts has he committed? What constitutional duties has he neglected, which render him liable to and deserving of impeachment independent of this last act of open violation of law for which he is now arraigned? He has usurped the prerogatives of Congress in assuming to set up governments in the rebel States; persisting in his usurpations after the assembling of Congress, and insolently informing us in his first annual message that he had completed the work of reorganization, and that we had nothing to do but to accept it and to judge of the election and qualification of such members as his States might send to us.

Sir, whatever excuse might have been offered for the Executive's taking the preliminary steps in this work of reorganization, his subsequent course in using all the power and patronage of the Government to sustain his usurpations and to force his reconstruction policy upon the country in opposition to Congress, which alone had jurisdiction of the matter, admits of no palliation or defense. This action of the President has been denounced as a high-handed usurpation by all the leading republicans in Congress and in the country, and has been condemned by overwhelming majorities in nearly every loyal State in the elections by which the Representatives of this Congress were chosen. And yet the great usurper has been allowed to go on, using every means in his power to sustain his usurpations and defeat the action of Congress and the will of the people as therein expressed. In attempting to carry out his policy he has stirred up the worst passions of the people and kept the country in an excited and unsettled condition, to the injury of all its great material interests. Two years ago, on the 22d day of February—a day hallowed in our calendar—he harangued a mob within sight of this Capitol, and endeavored, by the most violent and incendiary appeals to its worst passions, to incite it to violence against Congress, then in session. He has repeatedly denounced Congress as an illegal and unconstitutional body, whose acts were of no binding force, thus using the influence of his high position to bring the law-making power of the country and the laws which it passes and which he is sworn to execute into contempt.

He has disgraced his high office and humiliated the nation before the world by traveling through the country making low and indecent political harangues. He has thwarted every measure passed by Congress for reorganizing the southern States, encouraging the people in those States to continue their hostility to the Government, and thus prevented a restoration of the Union. By misconstruing laws and evading their execution according to their true intent and meaning he has compelled Congress to prolong its sittings and to hold extra sessions at great inconvenience and expense, in order to prevent or repair mischief caused by his obstinate lawlessness. The difficulties in the way of reconstruction from the assembling of the Thirty-Ninth Congress, in December, 1865, to the present time, have not arisen from any defects in the laws passed for that purpose, but from the fact that those laws have been perverted and their execution obstructed by a faithless Executive. The various amendments which we have from time to time been called upon to make to the reconstruction acts have been necessitated by the hostility of the President to those laws. When I say that Andrew Johnson has for the last two years used his official influence and official patronage to prevent the execution of the laws passed by Congress for the reorganization of the southern States, I only state that which is a matter of public notoriety, and what the President him-

self has in substance publicly proclaimed a hundred times.

Notwithstanding all these high official misdemeanors, any one of which should have sufficed for the impeachment of this man, so reluctant has Congress been to use this extreme constitutional power for the removal of an unfaithful and dangerous Executive that I doubt not, had the President violated this tenure-of-office act in a less defiant manner, (as he has often heretofore violated other laws,) we should have taken no notice of his offense, but have allowed him to continue in his course until he had bound us hand and foot. Fortunately for the country this last violation of law by the President has been so open and so defiant as to challenge congressional action. His recklessness rather than our courage has saved the nation. Fortunately, too, this last act of lawless usurpation has united as one man the great party which carried the country triumphantly through the war and thus far saved it from destruction in a determination to hurl from power this officer who brings disgrace upon our Government, disturbs the public peace, and imperils the institutions of the country. Equally fortunate is it that the Democratic party, which inaugurated the rebellion, sustained and encouraged it during its progress, and now strives to fan into a flame its smoldering embers, has arrayed itself with unbroken ranks in support of the President in this last attempt to subvert the Government.

It is fit, proper, and consistent that the party which attempted, under the leadership of Jefferson Davis, to regain its lost political power by means of a civil war, should now seek the same end under the leadership of Andrew Johnson, by the more peaceful but more dangerous method of usurpation. The Democracy having taken this "old Man of the Sea" on its shoulders the power of both for mischief will now be lessened. But, sir, we are warned by gentlemen on the other side of the House that the Democratic party will resist any attempt to impeach the President. The gentleman from New York [Mr. Brooks] declares that the Democracy will never, never, so help him God, never submit to the exercise of a power by Congress expressly conferred upon it by the Constitution. And why? Why not? Why, because it is unconstitutional. Of course it is unconstitutional. According to this same Democratic authority the Republican party is a sectional, and therefore an unconstitutional party, and its very existence justified the rebellion. The war was an unconstitutional war, and not conducted on constitutional principles. Congress is an unconstitutional body, because rebels are not represented in it. I presume if the northern Democracy had a majority here it would answer every purpose, and would, in that case, be a perfectly constitutional body. Abraham Lincoln was, according to this same authority, an unconstitutional President, while Andrew Johnson, made his successor by an assassin, is not only a constitutional President but is above the Constitution and the laws.

Before the abolition of slavery that was constitutional. The Democratic party and the rebellion were also constitutional, because they were necessary to sustain slavery. Since slavery has become defunct there is nothing now constitutional but the relics of the rebellion, Andrew Johnson, and the Democratic party. All else is unconstitutional, and must be put down; and the gentleman from New York [Mr. Brooks] calls upon the bone and muscle of the Democratic party to resist this unconstitutional attempt of an unconstitutional Congress to impeach the President. Well, sir, like appeals to resist the Government were made by the Democratic leaders during the war. The constituency of the gentleman from New York [Mr. Brooks] responded, and for days the city which he in part represents was the scene of violence and bloodshed. I never heard that any of the gentle-

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men who incited their poor deluded followers into the insurrection led them in the fight; and this perhaps accounts for the fact that this northern wing of the confederate army was subjugated by the metropolitan police, and afterward held in quiet submission to the laws by the distinguished gentleman from Massachusetts, [Mr. BUTLER,] whose military prowess these valiant gentlemen now affect to despise.

Now, sir, I give the gentleman from New York, [Mr. BROOKS,] and the gentleman from Pennsylvania, [Mr. WOODWARD,] this friendly warning, to beware how they undertake to inaugurate a second rebellion, for they may fall into the hands of an Executive that will be disposed not only to make treason odious but dangerous. I am aware that the gentleman from Pennsylvania proposes to avert this unpleasant consequence of treason by making the Executive not only a party to, but also the leader in such treason. He says:

"Mr. Speaker, so sure I am that the American people will respect this objection [the unconstitutionality of Congress] that I will say, if I were the President's counselor, which I am not, I would advise him, if you prefer articles of impeachment, to demur both to your jurisdiction and that of the Senate, and to issue a proclamation giving you and all the world notice that while he held himself impeachable for misdemeanors in office before the constitutional tribunal he never would subject the office he holds in trust for the people to the irregular, unconstitutional, fragmentary bodies who proposed to strip him of it. Such a proclamation, with the Army and Navy in hand to sustain it, would meet a popular response that would make an end of impeachment and impeachers."

Only three parties are necessary to make advice like this safe to the counselor who gives and the President who follows it. They are those named by the gentleman himself: the people and the people's Army and Navy. But not one of these three has shown any willingness to support such counsel. They each and all execrate it, and alike stand ready by ballot or in battle, by land or sea, to conquer and to crush it. If the gentleman desires to know how his treasonable appeals will be responded to by the people he has only to look around among his associates on this floor and count up the constituencies that will tolerate in their Representatives the utterance of such sentiments as I have quoted. Without any expectation of silencing the everlasting ding-dong about the Constitution, the Constitution, the Constitution, which is so continually kept up by these constitutional shriekers, I propose to examine some of the constitutional arguments which have been made, some of the constitutional objections which have been raised to the proposed impeachment and in justification of the President by those defending him. They contend, first, that the removal of the Secretary of War by the President was authorized by the Constitution, and that the tenure-of-office act being in derogation of this constitutional power is unconstitutional and void. Second, that the removal from office of the present Secretary of War is not prohibited by the tenure-of-office act; and finally, that the present Congress is not a constitutional body, and therefore cannot lawfully impeach the President, though he be guilty of high crimes and misdemeanors. These specifications of defense are certainly very comprehensive, and if sustained would render conviction impossible, not only in this particular case, but in any case that could be imagined.

As the question of jurisdiction goes to the root of the whole matter, it may be as well to examine that first in order; for if we have no constitutional right to try and convict it is hardly worth our while to discuss the matter of guilt at all. This is not the first time the legality of this body has been called in question. It has been done repeatedly by the President himself, by the whole democratic press of the country, and, strange to say, by members upon this floor who sit here as the accredited Representatives of legitimate constitutional constituencies, take part in every form of legislative action, vote to collect revenue

from the people, make appropriations of public moneys, and regularly draw their salaries and mileage. The gentleman from New York [Mr. BROOKS] denies the constitutionality of Congress, and the gentleman from Pennsylvania, [Mr. WOODWARD,] reiterating the denial, says:

"Mr. Speaker, I shall not feel that my whole duty to the House and the country is done unless I allude to another objection to this impeachment movement, which my friend from New York [Mr. BROOKS] glanced at, and for which the gentleman from Ohio [Mr. BINGHAM] and the two gentlemen from Illinois [Mr. FARNSWORTH and Mr. LOGAN] poured out upon his head a flood of vituperative eloquence. At the risk of similar denunciations I take it upon me to deny your right to impeach anybody and the present Senate's right to try any impeachment."

"Says the Constitution: 'The House of Representatives shall have the sole power of impeachment, and the House of Representatives shall be composed of members chosen every second year by the people of the several States.' This House of Representatives is not so composed; but, on the contrary, the Representatives chosen from ten of the several States have been and are excluded from these Halls. I do not say if they were absent voluntarily they could prevent your exercise of the impeaching power; for then they would form, though personally absent, a part of the composition of the House; but so long as you prevent their entering into its composition you are not the House of Representatives to whom the Constitution commits 'the sole power of impeachment.'"

The gentleman thinks while the Representatives from the rebel States were voluntarily absent they formed a part of the composition of this House. According to the gentleman's logic, as they formed a part of the composition of this House during their voluntary absence and lost none of their rights, these Representatives were at liberty to return here during the war and unite with their northern allies in voting against appropriations for our armies and thus insure their defeat. But the gentleman is not correct in his facts. The Representatives and Senators of ten of the States of the Union have not been excluded. They voluntarily withdrew, and have never returned. No Representative or Senator from any of the States which went into the rebellion has ever appeared here chosen under authority of any State organization which was ever represented in the Congress of the United States. The Representatives from some of the rebel States presented themselves for admission to the Thirty-Ninth Congress, but they came from constituencies manufactured by Andrew Johnson, constituencies which had no legal or constitutional right to representation.

And to this present Congress no one of the rebel States has sent Representatives and Senators who have presented themselves for admission. With the exception of Alabama we have no evidence that any one of them has held an election for Representatives to this body. But, admitting the gentleman to be correct in his facts, they would not warrant his conclusions that this Congress is an illegal body; not even if the exclusion of the States were illegal. The most that could in that case be claimed would be that the State excluded would not be bound by our legislation, while all the States represented would be bound. Will the gentleman contend that Pennsylvania, with her representatives in both branches of Congress, may question the legality of the body in which they sit because some other State is, from any cause, unrepresented? Will he contend that all the States that adhered to and maintained the Government during the rebellion should be disfranchised, even if those States which withdrew their representatives and made war upon the Government should be denied representation in Congress? If South Carolina should be denied representation does it follow that the right of every other State in the Union to representation thereby becomes invalidated? Such is the gentleman's logic.

The gentleman entirely ignores the fact that Congress has a constitutional quorum of legally elected Representatives and Senators, even counting in the States which Andrew Johnson declared had been deprived of all civil governments. If the gentleman will follow out his

own proposition to its legitimate conclusions he will find that Congress is a legal body, but that Andrew Johnson has no legal title to his office. It is claimed (which I do not admit) that the President is the representative of the people of the United States. Now, it is a fact that eleven States were denied the right of participating in the election of President and Vice President. Some of the States were prevented by military force, others, among which was the State of Tennessee, were prohibited by law from representation in the Electoral College. The gentleman from Pennsylvania [Mr. WOODWARD] and his associates contend that these electors were deprived of their rights, which, if true, invalidates the election. It follows, then, according to the logic of these gentlemen, that Congress, being composed of members legally elected and from States entitled to representation, and having a constitutional quorum, is a legal body; but that the States wrongfully, as they allege, deprived of representation are not bound by the acts of Congress. And it also follows that the President is an illegal President, a large part of the electors making his constituency having been illegally deprived of their rights to participate in his election, just as depriving unlawfully any portion of the electors in a representative district of their rights to participate in the election of a representative would invalidate the election of a representative, while it would in no way affect the rights of others or the character of the body to which they claimed an election.

But, sir, if the gentleman from New York [Mr. BROOKS] and the gentleman from Pennsylvania [Mr. WOODWARD] believe their own doctrines on this subject; if they really believe that the exclusion of the southern States disfranchises all the loyal States, what business have they here, drawing their salaries, and voting to tax the people? Their official acts contradict their professions and stamp them with insincerity. It has been contended by the defenders of the President's usurpation that the Constitution gives him the power of removal, not in express terms, but by implication, as a necessary incident to the executive power. The gentleman from Pennsylvania [Mr. WOODWARD] contends that the whole executive power of the Government is vested in the President, and that this executive power necessarily includes the power to appoint and remove from office; that the President, being the chief executive officer of the Government, and being responsible for the faithful execution of the laws, should have the control, direction, and power of removal of all subordinate executive officers. That I may state the gentleman's position fairly I quote from his speech, as follows:

"The Constitution distributes the powers delegated to the Federal Government among three great and coordinate departments—the legislative, the executive, and the judicial. To the legislative department are given 'all the legislative powers herein granted.' Article two, section one, reads:

"The executive power shall be vested in a President of the United States of America."

"And, says article three:

"The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish."

"The power is vested—all the power delegated to the Federal Government. What powers these are must be seen in the Constitution or learned from political science as applicable to a confederacy of States in union under a Federal Constitution."

"But whatever executive power the Federal Government possesses is vested in the President. He is made the sole trustee of the people in this regard. In the matter of appointments to office and the treaty-making function a check is imposed upon the President by the provisions which require the consent and concurrence of the Senate; but even in these instances the power exercised is the President's. The concurrence of the Senate is only a regulatory discretion—not an executive power. The Senate possesses not an iota of executive power. Its functions are all legislative, except when it sits upon impeachments, when they are judicial. The separateness and completeness of this executive power in the hands of the President are a doctrine that is very

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essential to the harmony of our system and to the responsibility of the President to the people. He is a trustee for them, and that he may be held to a strict account of his stewardship, the individuality and exclusiveness of the power with which he is clothed are not to be questioned. And if Congress meddle with it they become trespassers—their act is an impertinent nullity, and the President is not to be impeached for disregarding it.

"Now, sir, see what the Constitution says about his appointing power. Article two, section two, says:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

Could there be a more complete refutation of the gentleman's proposition, that the executive power vested in the President by the Constitution necessarily carried with it the power of appointment and removal from office? Could there be a more conclusive answer to his whole argument on this head than is furnished by the last clause of the gentleman's quotation from article two, section two, of the Constitution? "But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments." Here we see that this appointing power, which according to the gentleman belongs so exclusively to the President by virtue of his office, that if Congress meddle with it they become trespassers, and their acts are to be treated as impertinent nullities, is, by the Constitution itself, in express terms placed so far under the control and jurisdiction of Congress that they may divest the President of it, (so far as all inferior officers are concerned,) and vest it exclusively in the Supreme Court. Or they may (as they have done) by law vest the power to appoint certain inferior officers in heads of Departments, transferring it from time to time, at their discretion, to the President. The appointment of other inferior officers they have vested in the Supreme Court; and they have, I believe, the power to vest the appointment of the heads of Departments in the Supreme Court.

The President being the chief executive officer, it follows that all below him must be inferior; and as the Constitution, in giving to Congress this authority to transfer the appointing power, makes no discrimination and fixes no limitation within the range of inferior officers of grade to which the power should apply, I think it clearly includes all executive officers below the President, except those whose appointment is, by the Constitution, specifically vested in the President. But the gentleman from Pennsylvania, [Mr. Woodward,] in speaking of the officers to which this clause applies, says:

"They could not be heads of Departments, for the power to appoint inferior officers might be vested in heads of Departments, and the Constitution was not guilty of the solecism of making heads of Departments appointable by themselves."

If Congress could only vest this power of appointment in heads of Departments this point would be well taken; but they can by law vest the power to appoint heads of Departments in the President alone or in the courts of law, allowing the heads of Departments to appoint officers inferior to themselves. The gentleman says this whole question was settled, as a matter of constitutional construction, by the First Congress. The First Congress had the same constitutional power and authority to construe the Constitution as has the present Congress—no more, no less; and they never assumed any such authority as is here claimed for them. No Congress is bound (except in the fulfillment of the obligations of contracts) by the action of its predecessor. Each must judge for itself of the constitutionality of the

acts it is called upon to consider and pass. I have carefully read the debates in the First Congress establishing the Executive Departments of the Government, referred to by the gentleman from Pennsylvania, [Mr. Woodward,] and have them now before me.

May 19, 1789, the act to establish the Department of Foreign Affairs being under consideration, Mr. Smith, of South Carolina, moved to strike out the words "who shall be appointed by the President by and with the advice and consent of the Senate." He conceived the words to be unnecessary; besides it looked as if they were conferring power, which was not the case, for the Constitution had expressly given the power of appointment in the words there used. He also objected to the subsequent part of the paragraph, because it declared the President alone to have the power of removal. The words "who shall be appointed by the President by and with the advice and consent of the Senate" were stricken out. The debate upon striking out the words "to be removable by the President" was continued at great length, some members affirming and others denying that the Constitution conferred the power of removal upon the President. The arguments in favor of retaining the words in the bill were based principally upon its expediency. It was contended that the power should have been, rather than that it was, conferred by the Constitution. The inference is that the majority did not believe the power of removal vested by the Constitution in the President, hence the necessity of conferring it by legislative action. The minority did not believe the Constitution vested the power in the President, and were opposed to conferring it upon him. In closing the debate, Mr. Sherman said:

"I wish, Mr. Chairman, that the words may be left out of the bill, without giving up the question either way as to the propriety of the measure. Many of the honorable gentlemen who advocate this clause have labored to show that the President has, constitutionally, the power of removal. If this be a well-founded opinion, they ought not to let the words remain in the bill, because they are of such a nature as to imply that he had not the power before it was granted him by the law.

"If gentlemen would consent to make a general law, declaring the proper mode of removal, I think we should acquire a greater degree of unanimity, which, on this occasion, must be better than carrying the question against a large majority.

"The call for the question being now very general, it was put, shall the words 'to be removable by the President' be struck out?"

"It was determined in the negative—there being yeas 20, nays 34."

The question of striking out in the Senate was decided in the negative by the casting vote of the Vice President.

The fact that this power of removal was conferred upon President Washington at a time when the Federal party (whose policy it was to strengthen the executive department) was in power by the casting vote of the Vice President, shows how jealously our fathers guarded the rights of the people. And the fact that the Democratic party of to-day are claiming for Andrew Johnson autocratic powers, shows how far that party has fallen from its early pretensions as guardians of republican liberty against the encroachments of executive power.

As I have shown, the First Congress, in the exercise of its legislative power, conferred upon George Washington the authority to remove certain civil officers. In March last the Thirty-Ninth Congress, in the exercise of the same constitutional prerogative, limited the power of Andrew Johnson over removals by the passage of the bill known as the civil-tenure bill. The first section reads:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any office, and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the

President by whom they have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

And the sixth section provides—

"That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and upon trial and conviction thereof every person guilty thereof shall be punished by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court."

It is contended by gentlemen on the other side of the House that the removal of Secretary Stanton is not prohibited by section six, as he was appointed by Mr. Lincoln and not by Mr. Johnson, and consequently that his term of office expired one month after the death of Mr. Lincoln. They maintain that the term of Mr. Lincoln terminated with his death. The gentleman from Pennsylvania [Mr. Woodward] says:

"The term became Mr. Johnson's term for its unfinished period, as much so as the right to possession of the White House, the right to the salary, or to any of the perquisites and functions of the office. It would be as unreasonable to call Mr. Johnson's possession of these Mr. Lincoln's possession, or Mr. Johnson's administration Mr. Lincoln's administration, as to call Mr. Johnson's term of office Mr. Lincoln's term. Neither in popular language nor in constitutional phrase can such a misnomer be found. It would be as absurd as to confound their names or the identity of their persons."

The Constitution, article two, section one, speaking of the President, says:

"He shall hold his office during the term of four years."

And the same section further declares:

"In case of the removal of the President from office, or his death, resignation, or inability to discharge the powers and duties of said office, the same shall devolve on the Vice President."

The term for which Mr. Lincoln was elected commenced March 4, 1865, and will end March 4, 1869. The death of Mr. Lincoln did not affect the term for which he was elected. That is fixed by the Constitution. Upon his death "the powers and duties of said office devolved upon the Vice President" (Mr. Johnson) for the unexpired term of Mr. Lincoln. If, as the gentleman contends, this is Mr. Johnson's term, it does not expire on the 4th day of March, 1869, for the Constitution in express terms provides that the presidential term shall be four years, and this construction is in strict accordance with "popular language and constitutional phrase." The term of a Senator is fixed at six years and that of a Representative at two years. The powers and duties of their offices do not devolve on any officer inferior to them in case of death or resignation; but a successor is chosen—for how long? For a term? No; but to fill the unexpired term of his predecessor. The language of the proviso is "the Secretary of State, &c., &c., shall hold their respective offices." Does this language imply that the act is retroactive in its operation?

At the expiration of one month after President Lincoln's second inauguration or death Mr. Stanton was lawfully holding, and continued lawfully to hold, the office of Secretary of War. The fixing of a limited term of this office, by the tenure-of-office act, in no way affected such holding. It could not and did not attempt to do so. It only aimed to act upon the future. By the proviso the power of the President to remove a Cabinet officer without the advice and consent of the Senate was absolutely taken away during the term.

If, as the gentlemen contend, the present Secretary of War is not included in the proviso, then he is a person holding a civil office, as mentioned in the body of the section, and removable only as therein provided. The section in terms includes every one holding civil office by appointment, with the advice and consent of the Senate, at the time of the passage of the act, March 2, 1867. Mr. Stanton so held the

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civil office of Secretary of War on that day. The section makes no exceptions, save by inclusion in its proviso. If the case of Mr. Stanton is not included in the proviso it is contained and provided for by the body of the section, and he is not removable save by the advice and consent of the Senate.

Let us see how Mr. Johnson himself construed the act. In returning it to the Senate with his objections, March 2, 1867, he says:

"In effect the bill provides that the President shall not remove from their places any of the civil officers whose terms of service are not limited by law without the advice and consent of the Senate."

Section two of the act provides that if an officer during the recess of the Senate be guilty of crime or misconduct in office, or from any cause becomes disqualified from performing its duties, in such case, and no other, the President may suspend such officer, and designate some suitable person to perform temporarily the duties of such office until the next meeting of the Senate, and until the case shall be acted upon by the Senate; that it shall be the duty of the President within twenty days after the first day of such next meeting of the Senate to report to the Senate such suspension, with the evidence and reasons for his action in the case, and the name of the person so designated to perform the duties of said office.

During the recess of the Senate Mr. Johnson suspended Mr. Stanton and designated General Grant to perform the duties of the office *ad interim*. Within twenty days after the meeting of the Senate he sent in his reasons for the suspension, all in exact accordance with the requirements of this law and under the authority of no other law, as there is no other law authorizing such temporary appointment of a civil officer. The Senate disapproved of the removal of Mr. Stanton and reinstated him, when Mr. Johnson attempts to remove him again, in defiance of law. Under these circumstances how can it be claimed that Mr. Johnson understood the law differently from Congress?

But, sir, it is urged that something more than an unconstitutional act of the President must be shown in order to justify his impeachment. All men are liable to err in opinion, and an unauthorized official act may be the result simply of an honest error of judgment, and as such furnishes no good ground for dismissal from office. To justify removal by impeachment there must be shown an evil purpose, a willful disposition to disregard the laws, a cherished intent to violate the Constitution, to usurp unlawful power, to disturb the public peace, and prevent the public prosperity. That on the part of Andrew Johnson there have been in the performance of the act which is the chief basis of the proposed articles of impeachment such purpose, disposition, and intent is easy to prove.

That his violation of the laws of Congress was deliberate and premeditated, and that his purpose was to sustain his usurpation of authority by force, had he not been thwarted by the General of the Army and the Secretary of War, is clearly indicated by the following extract from his annual message, submitted to the present Congress on its assembling in December last:

"How far the duty of the President 'to preserve, protect, and defend the Constitution' requires him to go in opposing an unconstitutional act of Congress is a very serious and important question, on which I have deliberated much and felt extremely anxious to reach a proper conclusion. Where an act has been passed according to the forms of the Constitution by the supreme legislative authority and is regularly enrolled among the public statutes of the country executive resistance to it, especially in times of high party excitement, would be likely to produce violent collision between the respective adherents of the two branches of the Government. This would be simply civil war; and civil war must be resorted to only as the last remedy for the worst of evils. Whatever might tend to provoke it should be most carefully avoided. A faithful and conscientious Magistrate will concede very much to honest error, and sometimes even to perverse malice, before he will endanger the public peace; he will not adopt forcible

measures or such as might lead to force so long as those which are peaceable remain open to him or his constituents. It is true that cases may occur in which the Executive would be compelled to stand on its rights and maintain them regardless of all consequences."

Here is a President of the United States deliberating upon what? How far is he required to go in opposing an act of Congress which he may deem unconstitutional? He is contemplating executive resistance to an enactment passed in constitutional form by the supreme legislative authority, and regularly enrolled among the public statutes. Such resistance as would lead to violent collision and produce civil war. He is studying the limit of concession beyond which he may proceed to endanger the public peace. He is considering cases where he must resort to forcible measures, or measures which lead to force, regardless of all consequences. These are his forms of expression, his very phrases. And they indicate, not that he is meditating a resort to the adjudication of the courts, an appeal to the judicial tribunals, or any lawful arbitrament under the Constitution; but that his thoughts dwell on revolutionary measures of violent collision and civil war. Has any previous President of the United States furnished any precedent for the use of such language in his message to Congress? Not one. This extraordinary and revolutionary language, addressed by an executive officer to the people's Representatives, has no parallel in the annals of our country. Its counterpart is only to be found in the proclamations of usurpers of the liberties of the people. In the light of these and other previous declarations of the dark workings of the President's mind it is easy to see that his attempted removal of Secretary Stanton from the War Department was a first step in opposition to an act of Congress. His efforts to induce the General of the Army to retain or surrender the office of Secretary of War *ad interim* "in the interest of the President," against the authority of the Senate, was a piece of executive resistance likely to produce violent collision and civil war. His appointment of Adjutant General Thomas to the office of Secretary of War *ad interim*, the same not then being vacant, but lawfully filled, was a forcible measure, or one leading to force. And his conversations with General Emory and Lieutenant Colonel Wallace were inquiries for means which would enable the Executive "to stand on his rights and maintain them regardless of all consequences." Acts like these, following, as they did, previous declarations, showing such revolutionary and usurping intent, cannot be attributed to the motive of a mere honest opinion. They are not consistent with the character of a loyal and law-abiding officer. They do not spring from the patriotic zeal of an Executive intent merely upon preserving, protecting, and defending the Constitution. On the other hand, they partake of the character of the lawless aggressions of an Executive willing to subvert the Constitution for the success of his own schemes and the perpetuation of his own power.

Finances.

SPEECH OF HON. ALBERT G. BURR,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

In Committee of the Whole on the state of the Union.

MR. BURR. Mr. Speaker, in this moment of intense excitement it is my privilege to occupy for an hour the attention of the House; and not desiring to add in any degree to the wildness of the hour by an irregular discussion of recent events or action contemplated, either by the President or the Congress, I will devote my brief hour to the consideration of matters that will be of great and continuing interest to

the people long after the excitement of to-day shall have subsided and the action of to-day passed into history.

Before, however, entering into a discussion of the financial affairs of the Government, on which I have decided to speak, I must notice briefly the speech to which we have just listened from the eloquent Representative from Ohio, [MR. LAWRENCE.] Assuming, as he does, to be one of the leaders of the majority on this floor, he has chosen on this occasion to arraign the present Administration for its deeds and misdeeds, and, in tones of most impudent coolness, tells this House that the present is a Democratic Administration. Yes, sir; he asserts truthfully that great corruption exists to-day in the administration of public affairs; that extravagance marks our expenditures; and adds that, so far as congressional action is responsible, it has all been in answer to the demands of "this Democratic Administration!"

Now, sir, it is nows to me, and the country will be astonished to learn that any act of this Congress has been in answer to the existing Administration. On the contrary, every act, every rule, every resolution, every bill, has been intended to be, and in fact has been, in defiance of the Administration. Public expenditures have been diminished in such directions as Congress could diminish them unjustly and to the detriment of the President and most of his Cabinet officers; but then not for the purpose of economy, but from the motives of malice and resentment. And, sir, in dismissing a few executive clerks heretofore aiding the President, Congress claims great credit for economy, expending, in the meantime, untold millions in furtherance of unconstitutional plans and projects, not only without executive demand, but against executive remonstrance and protest.

But, sir, I am curious to know when this became, in the language of the gentleman from Ohio, [MR. LAWRENCE,] a "Democratic Administration." Was the present occupant of the White House elected by Democrats? Be he right in policy or wrong in principle; be his intentions good or his purpose bad: I did not vote for him; did my friend from Ohio? And looking beyond the Chief Magistrate to his Cabinet, what one of them owes his position to his Democracy? What one went into his Cabinet because of past services to the party—or even because of present acceptability to it? None. When the great State of New York sent her illustrious Senator (Mr. Seward) into the Cabinet of Mr. Lincoln was he sent as a Democrat? When Mr. Lincoln called to his councils, as the successor of his former Secretary of the Treasury (Mr. Chase) a prominent citizen of Indiana, of spotless reputation and known integrity, did he call him as a Democrat? When New England sent here as her contribution to the Navy Department her "old Man of the Sea," with flowing beard and lofty bearing, did she send him as a Democrat? When he who had, by Republican votes, held the office of Governor of Wisconsin, left all other fields of labor and honor to accept the position of Postmaster General, did he enter the Cabinet as a Democrat? When the death of Senator Douglas was announced to the country in 1861, and it became necessary for a Republican Governor to appoint, during the vacation of the Legislature of the State, a man to fill the place of Douglas, that Republican Governor [YATES] commissioned as the successor of Douglas a man whose whole history was one of life antagonism to Democracy, and the Republicans of Illinois gladly indorsed his action in sending Orville H. Browning to the Senate. When called by Mr. Johnson from the Senate to the Department of the Interior was the transfer made because Mr. Browning was a Democrat? Further, when President Lincoln made Edwin M. Stanton Secretary of War was it the appointment of a

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Democrat? And when Mr. Johnson appointed Mr. Stanberry Attorney General, did he appoint him as a Democrat?

Let gentlemen, when they call this a "Democratic Administration" reflect on the ridiculous position they assume before the people. We confidently expect, sir, to have a Democratic Administration after the next presidential election; until then we decline both the honor and the responsibility.

Why, Mr. Speaker, it would be very convenient for these Radical legislators, after bringing the country to the verge of bankruptcy and disrupting the Union by the expulsion of ten States from the great family represented by the flashing constellation of stars on our national banner, to answer public indignation and avoid public condemnation by pointing their unholy and polluted fingers at the President and his Cabinet and say, "They are responsible; we only did it in answer to a Democratic Administration."

If this Administration be as odious as they assume, how can they expect the people to trust them in selecting another? What assurance do they give that they will not repeat the sad mistake they made in selecting the present officers? If they have made, as they claim, an almost fatal mistake in selecting those whose lives and principles were known and read of all men, do they think the people will acquiesce in their selection of one whose principles are unknown? Do they know the true full sentiments of him they now purpose to trust? If so how? Should some Radical tell us how he knows the political sentiments of General Grant his answer would be poetic—

"I know by the smoke that so gracefully curls,
Tis a statesman I see firm and true—
For the circle of smoke which so rapidly whirls
From his lips has the color of blue."

But, sir, to the subjects embraced in the speech of my friend from Ohio, [Mr. LAWRENCE,] I will ask the brief attention of the House, and will try to show that under Radical rule there is no hope of financial relief to the people, while under the control of the Democracy our burdens can be lessened, our debts honestly paid, and our country saved from financial and political ruin.

I ask attention first, sir, to some thoughts bearing upon the subject of our national debt. On the 1st day of this month the amount of that "national blessing" was over and above cash on hand \$2,527,815,873 19. But why array figures or refer to numerals when from their very magnitude they are incomprehensible? That debt amounts to about eighty dollars for every man, woman, and child in the United States. Of this aggregate sum, \$2,000,000,000 in round numbers, is drawing interest payable in gold; \$300,000,000, in round numbers, is drawing interest in currency, and exclusive of the matured debt not presented for payment, about four hundred and eighteen millions drawing no interest whatever. Of the debt bearing gold interest much the larger portion is made up of the six per cent. five-twenty bonds, which mature in five years from date of issue or run the period of twenty years, at the option of the Government. Many of these bonds have already been out more than five years, others are by that measure of time rapidly maturing, and within a very brief period all will have been five years in circulation and liable to be taken up by the Government as a right reserved in the law under which they were issued. Outstanding as they now are, and drawing interest payable semi-annually in gold, the cost to the people to furnish gold to meet that interest is immense and grievously burdensome. Six per cent. interest on \$2,000,000,000, the amount of indebtedness bearing gold interest, is \$120,000,000. An immense sum, sir, truly, for our people to pay every year. Why, sir, this yearly interest alone is more in twelve months than was required to pay all the expenses of Government dur-

ing three years of war with Great Britain. Yes, sir, fifty per cent. more; for the whole expense of our Government during that period of war, lasting three years, and including cost of Army and Navy, was only seventy-six million and some odd dollars, against \$120,000,000 of this yearly interest.

But, sir, this is not all. Growing out of this system of bonded indebtedness is an aristocracy taking root in our soil, nourished by the shoddies of capital and protected by national legislation. It is not an aristocracy of rank and title truly, but may be the stepping-stone to both. Nor is it an aristocracy of intellect nor yet of labor; for both intellect and labor are subservient to it and taxed for its support. It is an odious aristocracy of wealth, of privilege; and this aristocracy has, as I said, the sanction of law—yes, is directly established and maintained by law. Whatever legislation imposes burdens on one class and bestows corresponding advantages upon another is creating and protecting an aristocracy. Now, sir, while the masses of our people are paying this enormous semi-annual interest, they are required to pay it, not in that common circulating medium called "money," which pays all ordinary debts; which pays the farmer for his produce, the mechanic for his labor, the merchant for his wares, and the wounded soldier for his sacrifices and his services; but the masses are required to pay this tribute in gold. But as gold is no longer circulating as money, but is only a commodity of trade, classing with jewelry and precious stones, the difference between the value of the circulating medium and gold must be added to ascertain the amount which this yearly interest really costs the people.

That difference I assume to average thirty-three per cent., which, added to the gold sum of interest, makes \$40,000,000 more, or a total of \$160,000,000 yearly for interest on only a part of our public debt. And, sir, these bonds, thus burdening our people by the continual drain upon our Treasury to meet gold interest, are increasing in amounts daily. The seven-thirty Treasury notes are being continually converted into this class of indebtedness. By the middle of July next the small sum of \$200,000,000 will be added to this gold interest-bearing debt from the conversion of these seven-thirty Treasury notes alone, thus increasing the burdens to the people in paying gold interest on that much more bonds. But, still further, they are being increased by another process shown by comparing any of the monthly statements of the public debt. Our Treasury notes, which are a legal tender, and which bear no interest at all, are decreasing in quantity, and the interest-bearing bonds are increasing in proportion. These notes and bonds are both debts against the Government, or rather they are evidence of indebtedness to that extent, the one drawing interest in gold, the other bearing no interest whatever.

Now, sir, why not reverse this policy and increase the quantity of paper bearing no interest, at the same time and to the same extent reducing the amount of paper that does bear interest? Suppose a man of ordinary business capacity to owe a note of \$1,000 bearing interest and another of like sum bearing no interest; suppose, further, he can make a payment of \$500 on one of these notes, will he hesitate as to which should receive the payment? Certainly we would not expect him to execute still another note bearing interest in order to procure means with which to pay off his note bearing no interest at all. Yet this is just what we are doing day by day. Every time that some "loyal citizen comes to the rescue of his Government" and buys its bonds the Government, in the exchange, increases the debt that bears interest and receives in payment for that debt an equal amount of indebtedness bearing no interest.

By this process greenbacks are going out of circulation and into the Treasury, while

bonds are going out of the Treasury into the pockets of an aristocracy who are to-day controlling the financial affairs of the Government. And, as if to make the enormity of this proceeding more palpable, these bonds are issued in denominations so large as to prohibit any but rich men from handling them; and then, by the most shameful and barefaced partiality for this privileged few who hold these privileged bonds, they are by law made free from assessment by any State, county, district, or city, and thereby a very large proportion of the wealth of the country is exempted from taxation; and that, as I have said, is in the hands of rich men. But while this wealth is free from taxation and semi-annually drawing its gold interest the expenses of the Government are still going on and must be paid. And by whom paid? Not by the rich man, for he has transferred all his taxable property into bonds and laughs at the collector of taxes. His millions, which in better days bore a share of taxation, are now exempt without decreasing the amount to be raised by taxation; ay, rather it increases the amount to be raised, by the partiality which gives him gold for his interest, while the producer gets paper for his commodity. This greatly increased amount, then, is paid by the laboring classes, who now pay the taxes which should be paid by the bondholder in addition to the share which justly falls upon themselves.

But, sir, even this is not all. Under our ruinous financial system these same bondholders have the privilege of depositing their bonds in the Treasury, receiving from the Government an almost equal amount of national currency, in sums intended to be adapted to general circulation; and with this machinery national banks are established all over the country, loaning out this currency at heavy rates of interest, secured generally by real estate, to the same classes of men who are paying the gold interest on the bonds which furnish the foundation for this currency, thus paying interest both on bonds and the representatives of the bonds; while the bondholder receives interest on both bonds and currency, mean time paying nothing for protection, education, nor even the costly and delicate luxury of reconstruction.

What, then, is in the future? Under this system nothing but increase of taxes, a multiplication of burdens for the farmer, mechanic, trader, and laborer; with still greater exemptions and favors to the capitalists. Nothing but the harm of the many for the benefit of the few. Nothing but making the rich richer and the poor poorer. In this connection let it be also remembered that the leading idea of those who are managing, or rather mismanaging, our financial affairs is to convert all our public indebtedness into these bonds with many years to run, and with interest payable in gold semi-annually. This is said to be for the purpose of keeping up our national credit. What, sir; increase our debt to keep up our credit? Tell the trader who is badly involved in debt, with ruin staring him in the face, to go still further in debt in order to keep up his credit? Let him try the experiment, and soon his assets will not be sufficient to justify a court of bankruptcy in closing out his estate. Suppose all our debt bore interest to-day at the same rate as the bonds in question, and all the holders of that debt exempted from all taxation. Our people crushed, disheartened, impoverished; our manufacturing interests ruined, or else protected at the cost of the poorer classes; our commodities taxed out of existence, and our produce barred from the markets of the world by the greatly increased price of production—how long would the patience of people so oppressed forbear?

But another demand upon our people is now made, and with the pertinacity that always characterizes an aristocracy is insisted upon by the capitalists. And those capitalists are

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controlling the dominant party in urging this demand. Not only gold for interest; not only exemption from taxation; not only banking privileges with extraordinary facilities of transferring wealth from tax-paying laborers to untaxed aristocrats; not only sixteen hundred national banks running at the cost of the many for the benefit of the few, but a demand absolute and imperative, that the enormous amount constituting the principal of these same bonds shall also be paid in gold. When the poet wrote

"Gold many hunted—toiled and sweat for gold," he expressed the idea that possession of the glittering treasure was at the cost of labor and sweat; but, sir, we are showing how the toil and sweat of one man only increase the golden treasure of another who is exempt from the judgment passed by the Almighty when He said: "In the sweat of thy face shalt thou eat bread." Wealth is his without labor; his bread without sweat; grasping his yellow dust in eager hands, and heedless of the general ruin mocking his countrymen he realizes from his selfish stand-point that "this is the best Government the sun ever shone upon." He is intensely loyal, for loyalty pays a large dividend and pays it in gold. He is patriotic, for patriotism of his standard means large balances in bank stock and heavy mortgages on the homestead of the poor laborer. He is in favor of "keeping up the credit of the Government," for by that he means helping himself to the public treasure. In his judgment patriotism calls on the people to pay heavy taxes without murmuring, for well he knows that the collector will only seek out the laboring classes while the paymaster will call on him.

Sir, this burden once assumed will never be laid down. Let the capital of the country saddle a burden on labor, and in its greed of gain it will never consent to a release. All the industry of the country must be devoted to the payment of this semi-annual interest; and when, finally, passing years shall have matured the whole debt and thousands of millions are presented at one time, can then the tax-payer meet that demand? No, sir, it is beggary in the present and irretrievable ruin in the future—both to the tax-payer and the Government.

But, sir, what is the remedy? Retrace our steps—reverse the policy of the past few years. Let all men stand on equal footing. Inasmuch as greenbacks paid the Government for bonds, let greenbacks also pay the bondholder for the same bonds. Let him take that which he gives. By public declaration announce a readiness to pay off bonds with greenbacks, which constitute the money of the Government. This public notice, being equivalent to a tender of payment on so much of the bonds as have been outstanding for five years, will stop the interest on such bonds, and to that extent relieve the people of taxes, whether such bonds be actually presented for payment or not.

In this last event such bonds not presented would continue to be a debt against the Government, but it would be a debt bearing no interest and finally payable according to the terms of such public notice, except where otherwise specifically provided in the act under which they were issued. Let us briefly trace out the operation of this plan. The first result, as I have said, would be to stop the interest on all matured bonds, thereby saving over a hundred millions yearly. As a further result, those bonds which are now on deposit in our Treasury, in exchange for national bank bills, and drawing now gold interest, would cease to be profitable as idle capital, and as a consequence would be converted into shape adapted to commercial and business purposes. This withdrawal of the bonds could only be effected by a return of the currency issued on them; and by the same process all the national currency, or as it is sometimes called, "black-backs," would go out of circulation, and its place supplied by greenbacks which pay off the

bonds. So by quiet and expeditious means, alike just and necessary, we would get rid of every national bank and save to the people all the profits that these banks make on both bonds and currency; and in lieu of both, furnish a circulation uniform and equal to all classes of citizens. Why, sir, the question of bank or no bank once shook this Government to its center, and all parties to-day laud the independence with which Jackson once crushed it out. Yet we have to-day a national banking system exercising almost paramount control in political affairs, and under the present policy permanent in existence. And, sir, when did the people consent to the establishment of this giant financial monopoly? When did they stipulate that their material interests should be controlled and their finances regulated by bankers and bondholders? They have never agreed, and I predict never will agree, to bow submissively and wear the chain of servitude to financial task-masters, even though that chain be forged of gold.

But, sir, let us still further trace the result of this plan. What will be its effect on the business of the country? To answer that question properly let us understand what is the present condition of business in the Union. Trade is paralyzed, industry crippled, labor inadequately rewarded, and manufactures, except such as are protected by enormous tariffs, crushed out of existence. And one of the main reasons for this condition of affairs is, in my judgment, the scarcity of money. Commerce demands capital—not idle, dead capital in bank vaults, but live, stirring, moving, available capital—money. Business requires a ready circulating medium, proportioned to the producing and purchasing power of the country, and that quantity is not in reach of the people to-day. During the past year it was with great difficulty that western produce could be moved to market for want of means to command transportation and pay freights. In the West the great cause of business stagnation is lack of money. Men owning large tracts of valuable real estate and possessed of much substantial wealth are troubled to raise even enough money to pay their enormous taxes. Shippers and traders in produce and stock—men who never before permitted a contract to overrun a day—are begging for time on shipments or paying heavy rates of interest to national banks for "black-backs" to pay contracts, and mortgaging their real estate to secure payments of such compulsory loans.

Before the war our money in circulation was estimated at, I think, about four hundred millions, which sum was required to meet the demands of business. Of this a very considerable proportion was coin. The expenses of the General Government in all its outlays were inconsiderable, compared with the estimates of the present day. The whole expense of Government during the year 1860, under Buchanan, for civil service, War Department, and Navy, was less than thirty-five millions. The estimates for the present year for the same service is \$182,000,000. So far, then, as governmental affairs are concerned, it reasonably requires five times as great a volume of the circulating medium as it did before the war; in other words, it takes five times as much money for the Government to do business on as in 1860.

Take every department of business, and prices of freights, materials, and everything else which enters into the estimates of expenses in conducting business are largely increased. The cost of living is more than doubled. Why, sir, a seat in Congress was once considered a fair thing at \$3,000 per year, which was itself a great advance on early salaries. Now \$5,000, with mileage and stealage included, is considered a very small compensation! But, to be serious, it costs at least thirty-three per cent. more money to conduct the same business than it did before the war. Make now

some allowance for a great increase of population through our producing regions, and admit the influence of greater facilities for travel, and you are not far wrong in saying that fifty per cent. more of money is now needed over and above the amount which answered the purposes of trade, commerce, and general business in 1860. And still another point requires consideration in estimating the capital needed by the country to-day. In 1860 money used in trade was worth par, judged by the gold standard, or so nearly par as to pass without challenge, whereas now, judged by the same standard, a dollar of money "so-called" is worth a measure varying from sixty to seventy-five cents, and of course a greater quantity is now required to accomplish the same results. In considering these facts, and measuring present and future necessity by these facts, I am led to the conclusion that an increase of say two hundred millions of active capital would stimulate all branches of industry and prove a blessing alike to producer and consumer.

But, sir, as I maintain, no prostration of business would follow this increase of money, for in the very measures resulting in the increase you add gradually but surely \$2,000,000,000 to the taxable values of the country and produce a corresponding increase of business, lightening at the same time the burdens borne by labor. As part of this same reform necessity requires economy in the administration of public affairs—not, sir, this party cry of economy, this hypocritical profession in public speeches and farcical demand in verbose resolutions, intended only to deceive the people, but actual, practical, rigid economy, that pays no more for needed supplies than such supplies are worth, and dispenses absolutely with all expenditures, large or small, that could be avoided. Withdraw military rule in southern States, saving thereby directly and indirectly \$100,000,000 yearly; abolish the Freedmen's Bureau and save thereby \$15,000,000 more of direct outlay; reduce the Army to a real peace basis and save thereby many millions more; provide remedies for existing evils in the revenue system and thereby save another \$100,000,000, as well as perjury, fraud, deceit, and outrageous stealing which are brought into existence and perpetrated by our revenue laws. Do this, sir, saving in the grand aggregate \$500,000,000 yearly of the people's money. Out of this great saving set apart an annual sum to constitute a sinking fund, out of which to pay by degrees the public debt when reduced or converted into greenbacks, and in a comparatively short time our debt will be paid, our taxes be discontinued, our national credit fully sustained, our laboring classes liberally rewarded, our people prosperous and happy.

But, sir, this cannot be the result of continued Radical rule. Radicals protest against the payment of the public debt in greenbacks, but prefer to withdraw the greenbacks and increase the bonds. The result of this is to make money for poor people scarce, but for rich men plenty. Until lately our Secretary of the Treasury, under direction of a Radical Congress, was withdrawing \$4,000,000 per month of greenbacks from circulation; and even now that process is only for the time being suspended. By Radical rule the burdens of the present hour were fastened on the people, and will not be removed but by a change in political control of the Government. Not a branch of industry escapes taxation. Assessors, collectors, inspectors, agents, seek out every avenue through which toil produces wealth, and lay their unyielding fingers in eager clutch on the hard earnings of honest poverty. Not the living only are sought out and laid under tribute, but accounts are kept with the dead; and by operation of the "succession tax" the meager pittance which a father's frugality saved up for his helpless child is counted over and a portion taken therefrom, under plea of

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"public necessity," before the child receives the orphan's portion.

And what proportion of this money thus wrung from producers finds its way into the Treasury to be used in payment of either bonds or greenbacks under Radical rule? Not one half—not one half! No, sir; there is no hope of improvements but by peaceful, political revolution. That only will save us from bankruptcy as a nation and demoralization as a people. If wrought out that revolution will save us from both; and the people who are now laboring under loads unbearable are understanding the evils and will apply the proper remedy.

But, sir, we will be told this fall that "these questions are not in issue." That has been the answer to all protestations the people have heretofore made against negro suffrage—"it is not in issue." But it is in issue. The great mass of the people, honest, patriotic, willing to bear necessary burdens, but unwilling to be trampled down by legislative tyranny and surrender all their hard-earned means to the demands of the wealthy, petted bondholders, have decreed that this issue shall be met. Another answer will be in the mouths of politicians, and given to the people by those who are themselves powerless and faithless to perform what they promise. Radical candidates, when unable to satisfy their people by evasive replies, will exclaim in the boldness of practiced falsehood, "We, too, are in favor of paying our debt in greenbacks."

Already, sir, have several members on this floor made speeches looking in that direction. But what is done whilst they are talking? Nothing—absolutely nothing for public relief. But much in another direction is being accomplished. Our debt is increasing and our interest growing larger day by day. This individual vaporing of our Radical friends is only to appease the people, to quiet apprehension, to begot hopes not to be realized, and secure a return to office and power. If they are in earnest in wishing to pay the national debt in greenbacks, as the people demand, let them first admit that the question is in issue; and then, taking the people's side in a practical way, let them help us elect George H. Pendleton, or some one equally favorable to the people's interest, as next President, and a financial reform will commence. Taxes will be reduced one half, expenses largely curtailed, our debt honestly paid in a very few years, and our country restored to unity, peace, and prosperity.

But, sir, let us not be deceived in seeking a remedy for existing evils, or in applying a corrective to errors glaring and enormous. Relief from the financial burdens of the hour is a practical question. That relief cannot be secured by mere general declaration, nor will it come in answer to professions of superior patriotism and wisdom. It will not even be commanded into being by the talismanic influence of a great name. National prosperity and individual thrift are inseparable. Individual prosperity cannot be true and permanent while irregularities mark all public transactions, and profligacy characterizes all public expenditures. There is, between the various communities of the United States, a relation of necessary dependence; and one portion of our people separated from another portion by mere geographical lines cannot enjoy permanent prosperity while another portion is borne down and oppressed with burdens. And here I may remark that no true, general, permanent prosperity can be secured to our people until all communities of our citizens are secured in such enjoyment of peace and industry as will enable them by their trade, produce, and labor to bear their just proportions of the public burdens, and, at the same time, receive and enjoy their share of the public benefits and advantages resulting from free government, properly administered. Let the southern States be restored to their constitu-

tional relations to the other States in the Union, and, as a result, the people of those States, realizing the blessings of "liberty regulated by law," will add their offerings to the substantial wealth of the nation, and contribute their proportion of taxation for the public good. They would cease to be idle consumers, without resources and void of energy, and become producers of wealth for the general good, at the same time furnishing, as of old, the best market for the surplus produce of the West. The natural dependence of the South and West upon each other can never be changed by legislation, nor even permanently suspended by revolution. The great staples of western agriculture can never be profitably created in the South; nor can the Northwestern farmer, by any degree of industry or skill, secure from our colder soil the valuable products growing in profusion in the warmer soil of the gulf States. Therefore, we of the West earnestly protest that no permanent relief and general prosperity can be ours until again our relations of commerce, trade, and friendship is restored with our customers in the South. That restoration can only result from wise statesmanship and such patriotic measures as will secure equal and general good. Denunciation should be withheld, crimination cease, and recrimination be forgotten. Sentiments of friendship should be cultivated, more of the spirit of conciliation should be manifested, and, above all, the voice of the people should be heard and heeded by those controlling the Government.

In conclusion of these rambling and desultory remarks let me sum up what I deem to be the measures on which the people depend for relief, immediate and permanent.

Stop the payment of interest by placing the bondholder on the same footing with others, and pay his demand, as you pay others, in "greenbacks." Let him receive what the crippled soldier receives for pension. Adopt and act upon the motto that what is money for one is money for all.

Add to the taxable property of the Union by such legislation as will force idle capital from bank vaults into active circulation, and convert non-taxable bonds into taxable currency or substantial wealth. Abolish the "so called" national banks, and protect laborers more and bankers and bondholders less. Reduce the Army and Navy to a peace basis and reduce expenses in proportion. Encourage trade and promote industry by releasing both from unnecessary and tyrannical burdens imposed for party purposes in derogation of the public good. Restore civil government in place of military rule in the southern States, thereby saving to our people the cost of the last and securing to all the benefits of the first.

The people demand these measures; and inasmuch as these measures are repudiated by the party in power, the people, who are the source of all political power, are repudiating them; and will, in the next election, secure relief by electing to office such men as are willing for relief to be granted. And when individual members of the dominant party come before the people and beg for return to office, saying, "I favored these measures although my party would not act—in your name I made long speeches for economy—in your name I offered resolutions for reform," the people will indignantly respond, "Inasmuch as you adhere to a party opposed to reform, and are controlled by men in the interest of banks and bonds, you are not true to us—no man can serve two masters." And in the majesty of that sovereignty which abides with and resides in the "American people," a peaceful and constitutional revolution will be decreed that will secure uniformity of taxes, currency, burdens, and blessings, to rich and poor—high and low alike—and extend to all citizens the equal protection of the Constitution and laws of a restored and prosperous Union of all the States.

Impeachment.

SPEECH OF HON. A. H. BAILEY,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolution reported by the Committee on Reconstruction for the impeachment of the President.

MR. BAILEY. Mr. Speaker, in December last I voted against impeachment. I did so for prudential reasons. There were many questions of vital importance demanding the attention of Congress, and it was desirable that nothing should prevent their immediate consideration. It was manifest that the trial of the President upon the charges then made would require the examination of a large number of witnesses, and consequently would engross the time of the Senate, and perhaps that of the House also, for months. But, sir, I did not so vote because I thought the President innocent of those charges or that he deserved forbearance at our hands. Neither had I any doubt of the right of the House to impeach the President for gross official misconduct, although that misconduct might not amount to a common law crime or misdemeanor or a statutory offense. To say nothing of the many able arguments upon this side, the speech of the learned gentleman from Pennsylvania [Mr. WOODWARD] on the 13th of December, 1867, was entirely conclusive upon that point. I cite his opinion because he is distinguished as a lawyer and has served many years upon the bench, and because, also, he is a violent opposer of our present action, as we have just heard from his own lips. I take the liberty of making a few extracts from the speech to which I refer, as I find it printed in the Globe of December 13, 1867:

"Now let us try to get at the meaning of this word 'misdemeanor,' because, after all, the discussion must come down to that. I submit that the constitution of Pennsylvania, formed in 1790, soon after the adoption of the Constitution of the United States, defined that word 'misdemeanor,' as employed in the provision for impeachment. The constitution of Pennsylvania defines it to mean a 'misdemeanor in office.' It says:

"The Governor and all civil officers under this Commonwealth shall be liable to impeachment for any misdemeanor in office."

I submit, sir, that this is an interpretation of the word 'misdemeanor' as used in the Federal Constitution, and that we should understand by that word a misdemeanor in office, a violation of any of the tacit or express conditions upon which the office is held, whether or not that violation be indictable under the criminal law of England or the criminal law of the United States. It may be such an offense, or it may be something which is not indictable under either of those codes."

He then quotes from Curtis's History of the Constitution, among other things, as follows:

"Although an impeachment may involve an inquiry whether a crime against any positive law has been committed, yet it is not necessarily a trial for crime; nor is there any necessity in the case of crimes committed by public officers for the institution of any special proceeding for the infliction of the punishment prescribed by the laws, since they, like all other persons, are amenable to the ordinary jurisdiction of the courts of justice in respect of offenses against positive law. The purposes of an impeachment lie wholly beyond the penalties of a statute or the customary law. The object of the proceeding is to ascertain whether cause exists for removing a public officer from office. Such a cause may be found in the fact that either in the discharge of his office or aside from its functions he has violated a law or committed what is technically denominated a crime. But a cause for a removal from office may exist where no offense against positive law has been committed, as where an individual has from immorality or imbecility or maladministration become unfit to exercise the office."

And adds:

"Now, I suppose that to be a fair construction of the Constitution and law in regard to impeachment; and I cannot help thinking that if the lawyers of this House would apply their minds to a true analysis of this subject they would come to this conclusion."

Near the close of his speech he reiterates as follows:

"I say it is incredible that the people of this country in adopting their Constitution meant merely to guard themselves against such delinquencies of pub-

lie officers as should be indictable under the narrow criminal code of the United States. I say that such a construction restricts this constitutional provision far too much. And this is the view of Mr. Curtis. If a man in office has committed an indictable crime let him be indicted; and that will remove him from office; that will send him to the penitentiary or the gallows. You do not need the impeaching power for the criminal offender. But what if an officer has not committed an indictable offense, and yet has done that which by common consent violates the purposes for which his office was instituted? If I understand my friend from Ohio [Mr. VAN TRUMP] and other gentlemen to whom I am extremely sorry to find myself opposed, and for whom I entertain great respect, such an official must go unwhipped of justice, because, forsooth, the wrong which he has committed has not been defined in the criminal statutes of the United States! In other words, the people have no power of protecting themselves against a delinquent or unfaithful public officer, except, indeed, by defining as an indictable offense every possible delinquency, every possible act of maladministration, and thus imbedding it in their criminal law.

"I have no idea that the people of this country entertained any such view in adopting the Constitution."

I have heard no answer to this lucid exposition, nor can I conceive any that can be made. Such, then, being the jurisdiction of Congress over this matter of impeachment, it is quite plain that we might have preferred charges to the Senate for trial long ago; for all Union men, in and out of the House, have all along substantially agreed that the President has heretofore been guilty of deliberate and gross official misconduct in repeated instances which has disgraced the country and endangered its peace and safety. But, notwithstanding this, I and those with whom I have acted have heretofore believed that the country could better endure this disgrace and peril for a few months longer than suffer the further postponement of the questions to which I have alluded and the strife and bitterness which must inevitably attend an impeachment. I think, sir, I fully realize the nature, the importance, and the solemnity of such a proceeding. I do not forget that the impeachment of a President of the United States is without precedent. I concede that it should not be done except in cases of extreme necessity. But I know also that the framers of the Constitution, seeing that just such a necessity might come, placed the power to impeach distinctly in that instrument. Nor can I doubt either that the authority so conferred impliedly imposes upon us a positive obligation to exercise it whenever such a necessity arises. We cannot in that case avoid the responsibility if we would. To do so would be both weak and criminal.

Does such a necessity now exist for the impeachment of Andrew Johnson, President of the United States? I would gladly say no, but I cannot. With every disposition to avoid this conclusion, as my past acts have shown, the recent conduct of the Executive compels me to vote for his impeachment. I must now see that this country cannot have peace or even quiet so long as Andrew Johnson occupies his present position; that the making of laws is a solemn farce while he remains the Executive; that the restoration of the southern States to their practical relations to the Union is impossible while he, as President, can hinder and delay it; that a great portion of the time of Congress must be engrossed in protecting the country against his misconduct and usurpations, to the exclusion of all other legislation, so long as he remains in power.

He has at last broken through all restraints and deliberately and wantonly violated the laws of the land. If I understand him, he does not deny that he has violated the tenure-of-office act. His only excuse is that in his judgment that act is unconstitutional, and consequently no law at all. And yet it was passed in the manner prescribed by the Constitution and duly placed upon your statute-book. The Constitution declares it to be a law. As such it is binding upon every citizen of the Republic, from the President to the beggar. The latter has precisely the same right as the former to treat it as invalid. I shall not argue so plain a

proposition, neither shall I argue the constitutionality of the act itself. That is not the question which Andrew Johnson must answer or with which we have now to do. The real question is whether Andrew Johnson, exercising presidential functions, shall be permitted to trample under his feet any and all acts of Congress passed into laws in accordance with the Constitution which he chooses to pronounce invalid? This, I repeat, is the sole question. Let us not be diverted from it, nor permit him or his defenders to make side issues. And, confining him to this bold issue, which he himself has here so defiantly made, how can he be defended?

But, sir, bad as is this act of his, if it stood alone and nothing further was to be apprehended, I would be strongly inclined to meet it, annul it, and let it pass. But the history of the last three years, teaching us by example after example of a settled determination on his part to accomplish his own usurpations, and to override every other department of the Government for that purpose, satisfies us that this is but one part of the drama he would perform. Allow him impunity here and the Fortieth Congress might as well adjourn *sine die*. If he did not kick you out of the Capitol, as he told the people of St. Louis he would do in 1866, he would treat you as "traitors hanging on the verge of the Government," of no account to gods or men. Your proposed constitutional amendments, your numerous statutes for the reconstruction of the southern States and the safety of the country would be regarded by him as so much rubbish to be destroyed, while that system known as "my policy" would be administered as the law of the land. I do not think I exaggerate the audacity and foolhardiness of this man or mistake his arrogant pretensions. I do not believe there is another living American of whom, under like circumstances, such things could be said, but we must willfully shut our eyes to the past conduct of Andrew Johnson not to know that he will do anything to accomplish his own purposes. And if he be now allowed to escape the consequences of this deliberate violation of the tenure-of-office law, enacted among other things for the very purpose of preventing his doing just what he has done, who will pretend to say what he will not do hereafter, or where his defiance of law will stop?

"I conclude, therefore, that there is a great public necessity for the impeachment of Andrew Johnson. Since we cannot avoid the constitutional responsibility imposed upon us let us act in this matter calmly, but promptly and decisively. The excitement, and perhaps uneasiness also, it may cause, we cannot prevent. But I think I understand the temper of the people of this country well enough to say that they will insist that no unnecessary delay attend these proceedings. They will recognize the propriety of all needful time for the defense of the accused, but they will not tolerate delays unnecessary for the purposes of framing articles of impeachment, and of a fair and impartial trial.

I assume from the general tenor of this debate that we shall confine our articles of impeachment to these last acts of the President in violation of the tenure-of-office law. I earnestly hope that this purpose will not be changed. It presents a simple, plain case, requiring no proofs, I suppose, except the record. It will be impossible for the ingenuity of counsel to protract a trial upon such a charge before a body like the Senate. And surely there can neither be a necessity nor a propriety in delaying our action here. The legal and constitutional questions relating to impeachment generally were exhaustively discussed on this floor last month. The present case presents but a single point, which needs only to be stated to be understood.

Of course the other side will clamor for time

to discuss this matter. With well-affected indignation they will protest against passing this resolution "in hot haste, without debate, and in violation of their rights." All this we must expect, for denunciation of the tyranny of the majority, recitals of their own political griefs, and blocking all action of this kind, constitute the heaviest portion of their congressional labors. If they had a week for debate all to themselves they would say the same things when we at last demanded a vote. Of course, also, the other side will continue as they have already done, to denounce this resolution as ridiculous, tyrannical, infamous, Jacobinical, suicidal, revolutionary, and above all and most detestable of all, Radical! But we have heard all this over and over again. These epithets, and a long list in addition, are in turn applied by these gentlemen to each measure devised by Congress for the safety of the country. Their repetition has become "stale, flat, and unprofitable." Billingsgate is evidently exhausted. The other side have not been able to find one new term of vituperation for this occasion.

But there is a style of speech indulged in here and elsewhere, in reference to our proposed action, which demands more than a passing allusion. I refer to the grandiloquent threats thundered in our ears, that the deposition of President Johnson will not be submitted to by the patriotic, high-toned Democratic party. Like all the rest of their talk this threat is old and worn out. It is only a burlesque upon, or a feeble imitation of, the memorable scenes in this Capitol in the winter of 1860-61, when the arch-traitors stood here in their places and declared that the people of the South, constituting the Democratic party of the South, would not submit to the ascendancy of Abraham Lincoln and the Republican party, so help them God. If this language means now what it meant then—indeed, if it means anything, it is that the Democratic party, in a certain contingency, will take up arms to overthrow Congress.

The gentleman from Pennsylvania, [Mr. WOODWARD,] who has just spoken, used language which I trust will be known to every man in this country. After arguing that this is a rump Congress, because the South is not represented therein, and consequently that the House cannot constitutionally impeach the President nor the Senate try him, he closed his speech as follows:

"Mr. Speaker, so sure am I that the American people will respect this objection that I will say, if I were the President's counselor, which I am not, I would advise him, if you prefer articles of impeachment, to demur both to your jurisdiction and that of the Senate, and to issue a proclamation giving you and all the world notice that while he held himself impeachable for misdemeanors in office before the constitutional tribunal, he never would subject the office he holds in trust for the people to the irregular, unconstitutional, fragmentary bodies who proposed to strip him of it. Such a proclamation, with the Army and Navy in hand to sustain it, would meet a popular response that would make an end of impeachment and impeachers."

The honest Democratic masses throughout the country should mark these declarations. They should know the line of conduct to which their leaders are committing the party; they should see that these leaders are unchanged at heart by the events of the war; that they sympathize with the rebels to-day as they did in 1861 and throughout the war, and if they mean what they say, that they are ready to incite a fresh insurrection against the constituted authorities of the United States. A large portion of these honest Democratic masses repudiated these false leaders and their principles during the war and stood shoulder to shoulder with us in defending the life of the nation. I feel entirely confident that such men, Democrats though they be, will never follow such leadership as this, nor support the principles here avowed. They love their country; they know that the land can have neither peace nor safety without submission to law on the part of every

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citizen, be he President or Congressman, high or low, rich or poor. They will also take care that political power be not committed to men capable (according to their own declarations) of enforcing their opinions by bullets when ballots fail them.

No, sir; I will not believe that those who make these threats speak the sentiments or declare the purposes of the respectable members of the Democratic party. And yet I must concede that the declarations here and elsewhere made, that the Democratic party will not submit to certain specified congressional action, is true to a limited extent. I concede that the whole party at the South, and hundreds of thousands of its members at the North, are now ready and willing to take up arms, not only to oppose our present action but to overthrow and disperse Congress. The southern portion of this party did actually try for four years to accomplish this, and they had the sympathy of their northern allies in the attempt. There is no doubt whatever that these same men, North and South, would renew the struggle to-day if they dared. It is unquestionably true that every living rebel and every rebel sympathizer in the land is now a roaring Democrat, and a defender of the usurpations of Andrew Johnson. It is true, also, that all the rum-holes, brothels, gambling-hells, and other sinks of iniquity which curse our cities are ready, now as ever, to fight for the lost cause.

It is, moreover, true that all the scoundrels from the Atlantic to the Pacific, from the lakes to the gulf, who, during our momentous struggle, rejoiced at rebel victories; who threatened blood and carnage in our own streets; who actually destroyed orphan asylums and attempted to sack and burn our cities, now constitute no small part of the strength of the Democratic party; and they are ready to-day, as they always have been, to steal, burn, rob, and murder in aid of any movement having for its object the overthrow of Republican ascendancy and the restoration to power of the worst traitors that ever encumbered the earth. Yes, sir; it is, indeed, true that we must beware of these wretches. We know them, and society has guarded itself against them as far as possible. Hence our penal statutes, criminal courts, sheriffs, marshals, constables, prisons, and police arrangements generally. If these be not sufficient to restrain them from crime; if they venture to undertake the work threatened upon this floor; in short, if they dare to raise armed hands against any of the constituted authorities of this nation, or in defense of official usurpation, I, in turn, warn them that swift destruction will overwhelm them. We have had quite enough of these threats of armed resistance to Congress. I want these gentlemen upon the other side to cease this talk and begin their action. If the defense of the Constitution and laws; if the complete triumph of right and order requires further bloodshed, let that fact be determined now. If these men really mean rebellion, let them inaugurate it at once. Let them marshal their forces, let them summon the disbanded rebel armies, telegraph to the militia of Maryland, said to be ready and willing, call for volunteers from the slums of our cities and other localities furnishing the necessary breed of Democrats, appoint confederate generals over the gathered clans, (for no Federal officer would accept such a position,) and when all is ready let them seize the Departments and oust the Secretary of War, clean out this Capitol at the point of the bayonet, garrison the White House, and proclaim Andrew Johnson dictator, and thus give the country a specimen of their patriotism and statesmanship.

Again, I say, let this empty gasconade cease, or let them make their words good by corresponding deeds. And these are the men who are constantly boasting here that the people are about to sweep the Republicans from power

and give the control of this Government to the Democratic party! If such a result was ever possible the time has passed away. They themselves have destroyed the only chances they ever had. Deceived by the apathy of the people last fall, intoxicated by political victories in certain quarters involving local and comparatively unimportant issues, they at once jumped to the conclusion that a change had come over the people; they thought them ready to abandon the principles for which they had so long struggled and to accept those against which they had so long contended. In this state of mind they have been for some three months throwing off the prudential disguises which concealed their actual intentions and boldly avowing their real principles and policy. They have themselves demonstrated, by speech and pen, that they, like the Bourbons, have forgotten nothing and learned nothing.

They themselves have shown that the elevation of the Democratic party to power would be the triumph of the rebellion and the loss of every principle for which we fought. And this is all that has been wanting to call forth once more those irresistible energies which recently crushed the rebellion with one hand and repressed the Democratic party with the other. Not many weeks will elapse before the whole country will be ablaze with patriotic ardor. The millions who stood by the national flag during the war will not now desert the cause it then typified. They will not go over to the black flag of the enemy, nor permit that emblem of a lost and infamous cause to be planted upon this Capitol.

No, sir; these gentlemen utterly mistake, as they always have, the character of the American people. They cannot understand or appreciate that the masses of our countrymen, of all parties, are intensely loyal; that they have party predilections certainly, but that party interests are secondary to the prosperity, the honor, and the safety of the country; that they will follow no leaders and no party that will sacrifice or surrender these essentials; that they are well informed and understand these questions as well, and sometimes better, than their self-constituted leaders; that they hate secession, rebellion, and all its works and sophistries; that they dislike strife, but when it is forced upon them they will contend at the polls and peril their lives in the field, if need be, in defense of their nationality. Since our opponents have kindly warned us of what they deemed our dangers, simple courtesy requires that we should, in turn, warn them of the certain disaster which awaits them. When the results of the fall elections shall have been announced they will be the most mortified men in America. They will find their policy buried fathoms deep beneath the majestic wave of popular indignation now rising, and which is about to sweep irresistibly over the whole Union.

Impeachment.

SPEECH OF HON. HIRAM PRICE,
OF IOWA,IN THE HOUSE OF REPRESENTATIVES,
March 2, 1868,

The House as in Committee of the Whole having under consideration the articles of impeachment reported from the committee.

MR. PRICE. Mr. Chairman, from the birth of this nation to the present hour its bravest and noblest minds and its truest sons have been laboring for the elevation of right and the overthrow of wrong. And now, after having avoided perils and conquered difficulties which have caused the downfall of other nations and the overthrow of other republics, and when we had just begun to congratulate ourselves that we had passed all points of danger, we find ourselves suddenly face to face with a new difficulty and at the threshold of an untried danger.

For the first time in the history of this Government the life of the Republic is threatened by him who occupies the chief seat of power, and whose sworn duty it is to support and defend it. When in the past danger has come upon us from without we were prepared for defense and have successfully beaten back the armed oppressors; and when more recently the rebellion of more than one third of our own people took the form of a bloody civil war we met and subdued it as none but a brave people, influenced by high moral principles, could have done.

For all of the past the history of other nations furnished us at least with partial precedents, but for the case now before us history is silent. It is true, sir, that other nations have sometimes removed their rulers, but in a majority of cases such removals have not been peaceably made, in accordance with the rules of well established laws.

When the dial of the clock to-day marks the hour of four I will be required to cast my vote for or against the articles of impeachment reported to this House by the committee appointed for that purpose. As was my duty, I have examined those articles carefully, and am much gratified to find that they present the plain, unvarnished facts, free from all ambiguity—so plain, straightforward, and in such common sense terms that every man, woman, and child in the land who can read will fully comprehend why their Representatives felt it to be an imperative duty to make an effort to stop in his mad career the man who, by the act of an assassin, has, for the time being, had placed in his hands the reins of power.

In this country sir, the people are the sovereigns; they not only make the laws, but they also make the officers to execute those laws, and when they become dissatisfied either with the laws or those who execute them it is their province, their prerogative, to change either or both. Hence, in a matter of so much importance as that in which we are now engaged, it is all-important that every step be clearly marked, and the issue so sharply cut and well defined that none need misapprehend the threatened danger or the pressing necessity for prompt action to avoid it. The committee that reported these articles are entitled to the thanks of the House and of the country for the plainness and transparency which characterize them.

A continuation of abuses and usurpations marks the actions of Andrew Johnson for more than two years, all having for their object and design the restoration to power of traitors and red-handed rebels. For these abuses and usurpations thousands and tens of thousands of the loyal people of the country have long since demanded his impeachment. But the history of these two years has only added another proof to those already existing that we are disposed to bear the evils of oppression and usurpation so long as they do not destroy the very life of the Republic rather than resort to violent remedies for redress. The committee have, therefore, wisely, as I believe, passed all these by and confined their specifications to the last wicked and foolish act of this bold, bad man. They have done this, I suppose, on the ground that a conviction of an individual for one willful murder being sufficient to hang him, a conviction for one hundred murders could add nothing to his punishment in this world.

Mr. Chairman, it would seem that the forbearance of the people under Andrew Johnson's usurpations has only made him more bold, and that their remonstrances and expostulations have only made him more determined in his reckless and mad career, until an outraged and insulted people, who have long since passed the point where forbearance ceases to be a virtue, are now about to arise in their might, and by a vindication of the majesty of law exhibit to the world a verification of the declaration made long since that "He who, being often reproved, stiffeneth his neck, shall

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suddenly be cut off, and that without remedy." If Andrew Johnson had been content; without any flagrant interference on his part, to allow the laws enacted by the legally constituted law-making power of the land to be executed, he might have used his immense power and patronage to oppress the loyal and encourage the disloyal men of the nation until the 4th of March, 1869, because the American people are a patient people, (much too patient in this case, in my judgment,) and in this instance seemed disposed to let patience have more than her perfect work. But this would not satisfy him. Urged on by his rebel supporters of the South, and determined to please them at all risks and hazards, he could not refuse them when they demanded of him the official head of the War Minister in a charger. But, sir, the guards sent to consummate the deed returned to their master without the much desired head, the owner thereof not being disposed to part with it until he could see the work which he had charge of intrusted to safe and reliable hands. And, sir, that refusal of the noble Secretary of War to obey Andrew Johnson by violating law sent a thrill of delight to the hearts of the loyal millions from the Atlantic to the Pacific; but from no class of our citizens was the response of approval so warm, deep, and earnest as from the soldiers of the Republic, who in the dark hours of trial had presented a "breathing wall of free-born breasts" as a shield to protect an imperiled nation.

If Andrew Johnson could remove Edwin M. Stanton, Secretary of War, without authority of law and contrary to the express provisions of law, what is there that he cannot do? But, say the defenders of Andrew Johnson, this civil tenure-of-office law is unconstitutional, and therefore not binding. By what authority do these men declare this law to be unconstitutional? Is it by the same authority that they declared the war unconstitutional? Or is it because all the States were not represented in Congress when it was passed? I notice, sir, that some professed Democratic Senators are claiming now that the President cannot be impeached unless all the States have their Representatives in Congress. If these objections are valid, then no law passed since the southern members of Congress angrily left these Halls at the commencement of the rebellion is of any force or effect. Then slavery is not abolished. The rebel debt must be paid. Then all the slaves set free by the war must be paid for, and the loyal men of the nation taxed to raise the money. And, by the same rule of reasoning, Andrew Johnson never was legally elected Vice President; and, consequently, is not now President. This proves a little more, I presume, than these gentlemen wish.

But if the civil tenure-of-office law had never been passed the Constitution of the United States, in very plain and explicit terms, settles this question. By that instrument the President is authorized, by and with the advice and consent of the Senate, to make appointments. When the Constitution specifies thus particularly how he may make appointment it follows, as a consequence, that he cannot make them in any other way. The Constitution says the advice and consent of the Senate is necessary to the making of an appointment by the President. Therefore he cannot make an appointment without such advice and consent. In this case the Senate not only did not advise and consent, but declared in express terms that a certain thing should not be done, and that very thing the President, in the face of the senatorial prohibition, did do or attempt to do, in plain violation of the Constitution as well as of the statute in that case made and provided.

The Constitution also provides that if a vacancy happen during the recess of the Senate the President shall have power to make an appointment to fill it, which appointment shall

continue until the end of the next session. If this means anything it means that he shall not fill a vacancy occurring while the Senate is in session without the "advice and consent of the Senate;" and it certainly does not mean that the President may create a vacancy and then fill it without the consent of the Senate, because if he can do this he can continue creating vacancies and filling them, thus rendering that part of the Constitution utterly null and void.

These things are so plain as to render argument a work of supererogation. Everybody is satisfied on these points, and no man knew that better than Andrew Johnson; but he, blinded by passion and prejudice, and drunk with power, determined at all hazards to remove an officer who was an obstruction to the accomplishment of his unrighteous purposes. Andrew Johnson viewed Edwin M. Stanton in the War Office as in time past Haman did Mordecai sitting at the king's gate; and he soliloquized thus: "I have been alderman of my native village, and have held all the intermediate offices up to Senator of the United States and even Vice President thereof. Yea, verily, more than this; for do I not now, by the assistance of J. Wilkes Booth, occupy the highest seat of power in the greatest nation on earth. But all these things avail me nothing so long as I see Edwin M. Stanton sitting in the War Office. He bows not down to me, nor does me reverence." I am resolved, therefore, that in spite of the plain provisions of the Constitution, in spite of the Representatives of the people of this nation in Congress assembled, in spite of laws, ordinances, or decrees, I will remove him, and will place in his stead one who, for the sake of the office, will

"Crook the pregnant hinges of the knee,
That thrift may follow fawning."

Andrew Johnson had some reasons for supposing that he could commit this act with impunity. He had been successful up to this time in thwarting the will of the loyal people and accomplishing his purposes. Sometimes by threats he awed into silence those who refused obedience to his mandates. Sometimes he punished the refractory by removing their friends from office, if he could not remove the persons themselves. Sometimes, when he thought he could accomplish his purposes better, he has "stooped to conquer." He has tried "dining and wining" those whom he supposed could be influenced in that way, and by all these various means he had succeeded up to this hour, notwithstanding his gross violations of the sacred trusts confided to him, of keeping his neck out of the halter. By his operations the rebels were fast regaining the ground from which they had been driven by the noble and brave men who periled life and fortune in behalf of their country on the bloody battlefields of the rebellion. By his influence maimed and scarred heroes were being removed from post offices and other offices and clerkships, where they were trying by a faithful discharge of duty to earn enough to support a widowed mother or a helpless family, and their places given to men who denounced the war, prevented enlistments, or fought in the rebel ranks. All these things has Andrew Johnson been doing for the last two years, and yet during all that time he has been countenanced, visited, and shaken by the hand by good and true men. If he could do all these things and yet not be treated with scorn and contempt why could he not go one step further and defy the law, and sweep from his pathway a man who loved his country too well, and who had too much Roman firmness, to bow his neck to the usurper.

Nor was this all that Andrew Johnson had to encourage him. He had the support of all in the North who declared the war to be "unjust, unnecessary, and unconstitutional," of all who opposed coercion, all who opposed the draft, all who discouraged enlistments, all who cried

down the currency, and, added to all these, every vile traitor and bloody-handed rebel of the South. To complete this list we may add all those who during the years of the war had been hidden away in dens and caves and other secret places, but who in the last two years have crawled into daylight, and, uncoiling themselves as they have been warmed into life by the smiles of Andrew Johnson, might have been heard exclaiming, as they congregated in the liquor shops and other disreputable localities, "Now is the winter of our discontent made glorious summer by this modern Moses."

Mr. Chairman, the country looks for the success of this impeachment, expects it, demands it. It is a legal, a financial, a political necessity. Sir, the voice of the people is in this case the voice of God, and that speaks to us today in the same words used to the children of Israel when they stood on the margin of the Red Sea threatened with destruction, and says to us, "Go forward." They could not retreat nor can we. The path of duty is plain before us, and if we are worthy of the places we occupy, we will not shrink from the responsibility which is ours. We war with principalities and Powers and political wickedness in high places, but if we gird on the whole armor of truth, justice, and patriotism we shall be more than equal to the emergency. If we hold the ship of State steadily in her course all will be well. If there be any fearful, any timid, to such we would say:

"Fear not each sudden jar and shock,
'Tis of the wave and not the rock;
'Tis but the flapping of the sail,
And not a rent made by the gale."

Yes, sir—

"In spite of shock and tempest's roar,
In spite of false lights on the shore,"

We shall sail on and breast the sea.

Impeachment.

SPEECH OF HON. R. P. BUCKLAND,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolution reported by the Committee on Reconstruction for the impeachment of the President.

Mr. BUCKLAND. Mr. Speaker, the question before the House has been so ably discussed by others that I should not have felt myself called upon to say one word upon the subject but for the fact that when the resolution impeaching the President, reported by the majority of the Judiciary Committee, was before the House I was constrained from a sense of duty to the public interests to vote against it. I shall not, on the present occasion, stop to give all the reasons which brought my mind to that conclusion. I was just as well satisfied then as I am now that Andrew Johnson deserved impeachment, but our friends on the Judiciary Committee and in the House were divided in opinion, not only as to the expediency of impeachment under the then existing circumstances, but also as to the sufficiency of the facts proven to sustain an impeachment by the testimony taken and reported by the committee. That Andrew Johnson was in conspiracy with the enemies of the Government to defeat the legislation of Congress for the restoration of the rebellious States, and finally to place the Government in the power and control of those who but recently were in arms for its destruction, I entertained no doubt.

Many years ago a conspiracy was initiated by John C. Calhoun, having for its object the subjection of the Government to the control of the slave aristocracy of the South, or the dismemberment of the Union and the formation of a confederacy founded on human slavery. That conspiracy culminated in rebellion, and would have ended with the infamous assass-

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sination of Abraham Lincoln but for the perfidy of Andrew Johnson. If Andrew Johnson had been true to the patriotic people who in the midst of terrible war intrusted him with the second office in the Republic, the constitutional amendment known as the fourteenth article, establishing equality of civil rights and assuring justice and protection to every American citizen, would have been gladly accepted and adopted by the people of the States lately in rebellion, and to-day the Union would have been restored and the nation on the high road to prosperity and grandeur.

Andrew Johnson is responsible for the present unfortunate condition of the southern people, and they will soon find that he has been their worst enemy. Under his influence the conspiracy which had been crushed by the patriotism of the people and the valor of our armies revived. At what particular period he became a party to that conspiracy it is impossible to determine from any evidence yet brought to light; but it was certainly not long after, if not before, the assassination of Mr. Lincoln. It is doubtful whether the truth as to that question will ever be known to the public. His conversation with Judge Mathews, at Cincinnati, in February, 1865, shows that he at that time contemplated treachery to the loyal people who elected him, if nothing worse. During several months after Andrew Johnson assumed the executive office he continued, in speeches and in conversations with loyal men, to express his determination to "punish traitors and make treason odious," when, at the same time, it is said upon good authority he was giving, privately, assurances to traitors that he was their friend. His first object was to deceive and distract the loyal people of the country, as a necessary means to enable him to accomplish his purposes. Much of his success in this respect is due to the unwillingness of the people to believe that any man could be so faithless and so lost to his own fair fame as to betray a confiding people who had already sacrificed thousands of millions of treasure and hundreds of thousands of their patriotic sons to save the life of the nation. His constant effort has been to make use of this confiding spirit of a patriotic people by constantly proclaiming his own boundless patriotism and great love for the Constitution, and charging the representatives of the people with the design of overthrowing the Constitution. In this he has but followed the example of all men who have heretofore usurped, or attempted to usurp or destroy, the rights of the people. Notwithstanding his efforts to cover up and conceal his real designs, they have been plainly visible in all his conduct since the meeting of the Thirty-Ninth Congress. Yet the facts which it would be necessary to prove to sustain an impeachment for his official misconduct, and his connection with the conspiracy to give the control of the Government to its enemies are so numerous and spread over so much time that impeachment could not be accomplished without seriously damaging all the greatest interests of the country depending upon the legislation of Congress. His trial would have absorbed the time and attention of Congress, to the exclusion of other business, for the next six months at least.

Now, we have a plain, premeditated violation of the Constitution and laws of Congress, requiring but few if any witnesses to establish the fact, the President having himself furnished the necessary proof of his guilt in writing. The time had come when it was necessary for the success of the conspiracy that he should have control of the Army. He had utterly failed in his attempt to inveigle or seduce General Grant to the support of his plans. His only remaining chance of success was to secure a pliant tool in the War Department. General Lorenzo Thomas, Adjutant General of the Army, who was kept out of the Adjutant General's office during the war because he was incompetent or

could not be trusted or for other reasons, was just the man for the occasion, and the President determined to attempt a *coup d'état* in hopes to find that Congress had not the courage to meet the issue. He labored under the delusion that a majority of the Republicans in the House had heretofore opposed impeachment from fear of his power, whereas they were actuated, in a great measure, from the belief that his power for mischief had been so completely limited by the legislation of Congress that it would be better to endure him for another year than to spend the larger part of that year in impeaching him for his many abuses of power. They believed that the President could not defeat the reconstruction of the rebellious States on the congressional plan without resorting to direct violations of the Constitution and laws, for which he could be impeached without much trouble or delay. They knew that General Grant and the Army could not be used to overthrow the Republic at the instance of a recreant usurper. In this they were not mistaken.

The President has violated the Constitution and the laws of the United States, and attempted to involve the General and other officers of the Army in his unlawful acts. He underestimated the integrity and patriotism of these officers and failed in his object. What are the powers and duties of the President of the United States which are necessary to be inquired into in order to determine whether the President has been guilty of the offense charged, rendering him justly liable to impeachment? The Constitution defines his powers and duties in regard to removals and appointments, as follows:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they may think proper in the President alone, in the courts of law, or in the heads of Departments."

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session."

The Secretary of War is one of the officers who can only be appointed by and with the advice and consent of the Senate except where a vacancy occurs during the recess of the Senate. The Constitution nowhere gives him the power to create a vacancy by removal even during the recess of the Senate. It is true, it has become the practice for the President to exercise that power during the recess of the Senate, a practice in my opinion not warranted by the Constitution and never ought to have been allowed.

The powers and patronage of the executive office have been constantly increasing by usurpations and misconstructions of the Constitution, and unless these usurpations and misconstructions are checked all the powers of the Government will soon be concentrated in the President, and we shall have a monarchy or despotism instead of a free Republic. It is perfectly clear that the Constitution gives the President no power to remove the Secretary of War during the session of the Senate, and no other President ever dared to attempt such an act of usurpation.

The motive which induced Andrew Johnson to make the attempt is plain. He wanted a tool in the War Office who would aid him in his determination to transfer this Government into the hands of its enemies. He had good reason to believe that the Senate would not consent to the appointment of such a man. He must have well understood that the Constitution gave him no such power; but he determined to disregard the Constitution and to use force, if necessary, to eject Mr. Stanton and force his man into the War Office without the consent of

the Senate, in flagrant violation of that Constitution which he had taken an oath to support.

I have thus far considered the question of the power of the President to remove from and appoint to office, as granted by the Constitution, without reference to the action of Congress upon the subject. The Thirty-Ninth Congress, foreseeing that the President would seek to use all the power of the Government and the Army to defeat the laws of Congress and carry into execution his own designs, enacted a law regulating the removal from and appointment to office, the first section of which provides—

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

It is contended by some that this section authorizes the President to remove the Secretary of War because he was appointed originally by President Lincoln and continued in office by Andrew Johnson. But the President did not so understand it when he suspended Mr. Stanton during the recess of the Senate by virtue of the authority given him in the second section of the law referred to, instead of removing him, as he undoubtedly would have done but for that law. This is only a weak subterfuge resorted to after he found that he could not use General Grant.

The second section authorizes the President to suspend, during the recess of the Senate, any officer appointed as aforesaid, excepting judges of the United States courts, who shall be guilty of misconduct in office, or crime, or for any reason shall become incapable or legally disqualified to perform its duties, and says:

"In such case, and in no other, the President may suspend such officer and designate some suitable person to perform temporarily the duties until the next meeting of the Senate."

The President is required to report his reasons for the suspension to the Senate within twenty days after the first day of its next meeting, with the evidence on which his action is founded.

"But if the Senate shall refuse to concur in such suspension, such officer, so suspended, shall forthwith resume the functions of his office," &c.

The sixth section reads as follows:

"SEC. 6. And be it further enacted, That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and, upon trial and conviction thereof, every person guilty thereof shall be punished by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate."

This law does nothing more than to enforce obedience to the Constitution in letter and spirit, and prescribe the penalty for the violation of it, making the violation a crime or high misdemeanor. The President so understood it, and recognized its validity in suspending Mr. Stanton instead of removing him during the recess of the Senate. But he expected to induce General Grant to take the responsibility of violating the law, and he used every artifice to accomplish that object. He even promised to pay the fine and endure the imprisonment himself if Grant would only commit the crime. I suppose if the crime he wished Grant to commit had been the murder of some Radical he would have just as readily promised to suffer the hanging in the place of the General. Gen-

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eral Grant had no disposition to violate the law, and if he had placed any reliance whatever on Andrew Johnson's promises he would have shown himself a greater fool than his worst enemies take him to be.

Having entirely failed to implicate General Grant in his unlawful purposes the President finally determined to take the bold step on his own responsibility, and issued the following order :

EXECUTIVE MANSION,
WASHINGTON, D. C., February 21, 1868.

Sir: By virtue of the power and authority vested in me, as President, by the Constitution and laws of the United States, you are hereby removed from office as Secretary of the Department of War, and your functions as such will terminate upon the receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully yours,
ANDREW JOHNSON.
Hon. EDWIN M. STANTON, Washington, D. C.

On the same day this order was served upon Mr. Stanton and a copy sent by the President to the Senate of the United States, Lorenzo Thomas appeared at the office of the Secretary of War, demanding possession and threatening to take possession by force unless Mr. Stanton voluntarily surrendered it. Upon receipt of the President's message transmitting the order the Senate went into executive session to consider the subject, and after discussion passed the following resolution :

IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
February 21, 1868.

Whereas the Senate have read and considered the communication of the President, stating that he had removed Edwin M. Stanton, Secretary of War, and had designated the Adjutant General of the Army to act as Secretary of War *ad interim*: Therefore,

Resolved by the Senate of the United States, That under the Constitution and laws of the United States the President has no power to remove the Secretary of War and designate any other officer to perform the duties of that office *ad interim*.

Here, Mr. Speaker, is a palpable and defiant violation, not only of a law passed by Congress under the Constitution of the United States, but of the Constitution itself. By this act Andrew Johnson committed a crime or high misdemeanor, punishable by fine and imprisonment, for which he is also liable to impeachment, and ought to be impeached and removed from the high office which he has so long and so often abused. I do not subscribe to the doctrine that the President of the United States can only be impeached for offenses made indictable by statute or at common law; but that question does not arise in this case, and I shall not stop to discuss it.

Andrew Johnson has been guilty of many acts of official misconduct, for which I think he deserved to be impeached, and I hope hereafter no President who follows in his footsteps will be permitted to escape so long. It is high time that all men should be made to understand that it is the duty of the President to execute the laws, not to make them, or to dictate to Congress what laws it shall pass, or to assume to himself the judicial function of deciding upon the constitutionality of any law duly passed by the legislative department of the Government.

Andrew Johnson has not only failed to execute the laws in good faith, but has conspired with others to defeat them. He would have succeeded to a much greater extent in his nefarious designs than he has but for the precautionary laws passed by Congress to prevent him. No doubt he would have long ago ordered General Grant away from Washington, or placed him under arrest, but for the provisions of the second section of a law passed March 2, 1867, which I will read :

"SEC. 2. And be it further enacted, That the headquarters of the General of the Army of the United States shall be at the city of Washington, and all orders and instructions relating to military operations issued by the President or Secretary of War shall be

issued through the General of the Army, and in case of his inability through the next in rank. The General of the Army shall not be removed, suspended, or relieved from command or assigned to duty elsewhere than at said headquarters, except at his own request, without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void; and any officer who shall issue orders or instructions contrary to the provisions of this section shall be deemed guilty of a misdemeanor in office; and any officer of the Army who shall transmit, convey, or obey any orders or instructions so issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon conviction thereof in any court of competent jurisdiction."

The President's attempts to get around or over this law have been not only shameful but amusing. Finding that General Grant stood between him and the Army, and could neither be persuaded nor driven to lend himself to the unlawful designs of the President, and would not allow the Army to be used in violation of law, he attempted to supersede General Grant in command at Washington by creating a new department with headquarters at Washington, with the intention of placing General Sherman in command with a nomination as brevet general, which he supposed the Senate would not dare to reject. But General Sherman was not to be caught with such chaff. Failing in this by the good sense of General Sherman, he tries General George H. Thomas with the same bait, and with like success. Having failed to entrap the leading generals, and induce them to take a position antagonistic to General Grant, he next tampers with officers lower in command to ascertain whether they could be induced to obey orders directly from the President in disregard of the law. But he could find none so forgetful of duty or so void of patriotism as to lend themselves to his base purposes. Yet some have feared and others have threatened that the President will use the Army to resist the action of Congress if he should be impeached and sentenced to removal from office upon conviction. All such talk is idle nonsense. Andrew Johnson will be impeached by the House, convicted by the Senate, and removed from office without the firing of a gun or the loss of a man. The country will then be rid of an incubus which has retarded its prosperity, encouraged its enemies, and discouraged its friends during the last two years. The moment honest BEN WADE takes charge of the helm of State traitors will be silent, patriots will rejoice, and confidence in the stability of our free institutions will be restored, and Andrew Johnson will be remembered only to be despised for his faithlessness. On the 4th of March, 1869, General U. S. Grant will be inaugurated President of the United States, and the great conspiracy of the slaveholders and their Democratic allies of the North against the inalienable rights of man and to perpetuate human slavery will be crushed forever.

Impeachment.

SPEECH OF HON. RUFUS MALLORY,
OF OREGON,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolution reported by the Committee on Reconstruction for the impeachment of the President.

MR. MALLORY. Mr. Speaker, it may not be doing more than justice to myself to ask the indulgence of the House for a few moments to state the reasons that will control my action on the resolution now here pending. I am one of those Union men who, when a resolution similar to the one now under consideration was reported by a majority of the Judiciary Committee, opposed its adoption. The considerations that controlled my action then are not necessarily involved in this discussion, yet

it may not be out of place for me here to say that in wandering through the labyrinthine mazes of the ponderous volumes of testimony presented by the Judiciary Committee to the House, I failed to find in it that which in my humble judgment would justify me, as a sworn Representative, to declare that upon that testimony the President of the United States was guilty of high crimes and misdemeanors, and ought to be called to answer at the bar of the high court of impeachment for his wrongful action and for his willful and wicked violation of the law. The charges of usurpation of power, the abuse of the appointing, the pardoning, and the veto power which the Executive is authorized to use in his discretion, having no rule defined and fixed by law within which such discretion shall be confined, requires of us, in the consideration of these charges, that we forget not the frailty of human wisdom and the proneness to err in the human judgment without a willful intent to commit a crime or do a wrong. It was the lack of sufficient proof to show the *animus* of Andrew Johnson in these acts that caused me to vote against his impeachment then, but it was far from being a declaration that I approved his conduct.

The honorable gentleman from Kentucky [Mr. Beck] intimates that it is the purpose of the dominant party to hurry this matter through for the purpose of lashing the "timid and conservative of the party into voting for it." I desire to say to the honorable gentleman, if the fact of my having opposed this proposition induces him to class me among the timid or conservative who are to be lashed in by this haste to vote for the resolution, he is very much mistaken. I, sir, am here to act under the "lash" of no political party. The excitement of the hour in no manner affects my judgment or controls my reason. I have no feeling of hate or desire for vengeance. Against Andrew Johnson I have no animosity; he has done me no personal wrong, save as he has wronged the great American people, of whom I am one; but having wronged both them and me, in their name I demand that by the forms of the Constitution and the laws he shall be brought before the bar of justice to answer for his offending. In the performance of such a duty I shall proceed with clean hands and a pure heart. I shall act with the ever present consciousness that I am under the solemn obligation of an oath to support the Constitution and the laws, and that for my action I must answer to God and the country. The question as it is now presented to the House is without intricacies, and in no way surrounded with doubt. The act is a plain one, and is affirmed and entered upon the record over the President's own signature. He has removed Edwin M. Stanton, Secretary of the Department of War, and has appointed and commissioned Brevet Major General Lorenzo Thomas to be Secretary of War *ad interim* without the advice and consent of the Senate while that body was in actual session, contrary to and in express and positive violation of an existing law of the United States making such removal and appointment a high misdemeanor.

Take for a moment the most favorable view in which the President himself demands that his case shall be considered. Admit, as he claims, that under the Constitution he alone possesses the power of removal from office, and how does he stand before the country? I know of no higher or better rule by which he shall be tried, in this view of the case, than that laid down by one of the most eminent of the framers of the Constitution, James Madison. He, sir, while holding that the Constitution granted to the Executive the power of removal from office as a necessary incident to the exercise of the executive power, has not failed to place upon the record a clear and distinct definition of the very offense of which Andrew Johnson stands now charged, even though the tenure-of-office law had never been enacted.

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Among other things, says Judge Story, speaking of the President of the United States:

"He must be presumed to possess integrity, independence, and high talents. It would be impossible that he should abuse the patronage of the Government, or his power of removal to the base purpose of gratifying a party or ministering to his own resentments, or of displacing upright and excellent officers for a mere difference of opinion. The public odium which would inevitably attach to such conduct would be a perfect security against it. And, in truth, removals made from such motives, or with a view to bestow the offices upon dependents or favorites, would be an impeachable offense. One of the most distinguished framers of the Constitution on that occasion, after having expressed his opinion decidedly in favor of the existence of the power of removal in the Executive, added: 'In the first place, he will be impeachable by this House before the Senate for such an act of maladministration; for I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his high trust.'"—2 *Story on the Const.*, sec. 1541.

Apply this rule to the case of the President, now under consideration, and he stands impeached by this House, and, sir, is already impeached by the great people of the nation, for a "wanton removal of a meritorious officer," for the purpose of ministering to his own resentments, and placing in his stead some fawning sycophant who, for the sake of his patron, will consent to become a pliant tool in his hands for the accomplishment of his base purpose. Whatever may have been his own opinion of the conduct of the Secretary of War to justify him in suspending Mr. Stanton from the War Office during the recess of Congress in 1867, certainly no consideration that induced that action can be urged as a defense for this. He communicated to the Senate his own action in the suspension of Mr. Stanton and his reason for that action. After a full and deliberate consideration of the reasons assigned and the charges so presented the Senate found that there was no cause for his removal. Since that decision the President has refused to require Mr. Stanton to perform any of the duties of his office, and he cannot, therefore, have been guilty of any new official offense. And besides, sir, in sending to the Senate his message informing them of his removal of Mr. Stanton and the appointment of General Thomas *ad interim*, he makes no new charges against Mr. Stanton, but leaves him as the Senate left him, acquitted before the country of any offense that would justify his removal. What, then, has prompted him to this last act but a willful purpose to set at defiance the high authority of the Constitution by the "wanton removal of a meritorious officer" for the base purpose of gratifying a party and ministering to his own resentment and vengeance—an act which Mr. Madison says "would subject him to impeachment and removal from his high trust." Here, then, sir, he stands condemned by the construction which he himself claims for the Constitution, as that construction and acts like his under it are passed upon by Mr. Madison himself. He is condemned out of his own mouth; destroyed by his own philosophy; guilty by his own law.

But let us now examine upon what ground this power of removal from office is vested alone in the President. The President asserts that the power is derived solely from the Constitution, that it is a power that has been recognized and exercised by every President from the adoption of the Constitution to the present time. Let us see the authority. Says Judge Story:

"It is observable that the Constitution makes no mention of any power of removal by the Executive of any officers whatsoever. As, however, the tenure of office of no officers, except those in the judicial department, is by the Constitution provided to be during good behavior, it follows by irresistible inference that all others must hold their offices during pleasure, unless Congress shall have given some duration to their office."

The only ground, then, that the President finds in the Constitution upon which to base this sole power of removal from office is its utter silence and omission to vest that power in any single individual or body of men. It is not

a power vested in the Executive in express terms, nor is it a power that arises as a necessary implication from the language used. The appointing power is specially defined in the Constitution. The language is:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur. And he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for and which shall be established by law."

"The President shall have power to fill up all vacancies that may happen during a recess of the Senate by granting commissions which shall expire at the end of their next session."

The power of appointment is given to the President, but that power can only be exercised "by and with the advice and consent of the Senate." He may nominate without their "advice or consent," but he can only appoint by and with it. Is it a plainer inference to be drawn from this language that it was the intention of the framers of the Constitution to vest the power of removal in the Executive alone than that it should be vested in the power authorized to appoint? If the power to appoint was too great to be vested in one man I can see no reason that would justify that conclusion that would not apply with equal force when it is sought to give him the sole power of removal. If the former is a power so arbitrary and monarchical as to make its exercise dangerous to the best interests and liberty of the country the latter is not less so. Says Judge Story:

"It would convert all the officers of the country into mere tools and creatures of the President. A dependence so servile on one individual would deter men of high and honorable minds from engaging in the public service."

The silence of the Constitution upon the power of removal, and the specific declaration of who shall appoint, leads to the irresistible inference that, in the absence of legislation fixing a different rule, the power to remove is vested in and is inseparable from the power to appoint, which is not the President, but the President, by and with the advice and consent of the Senate. The events and discussion that took place contemporaneous with the framing and adoption of the Constitution are as likely to lead us to the true object of the framers of that instrument as any other to which we can refer. To the framers of the Constitution this matter was familiar. The construction claimed for this clause by those who sought to defeat it was the same as that which Andrew Johnson places upon it now. Such a construction was never claimed for it by any of its friends until long after its adoption; but the position was combated and so successfully refuted that the States were induced to adopt it, acting upon the belief that the power of removal was vested in the same hands as the power of appointment. Alexander Hamilton, writing to the *Federalist*, on the 4th of April, 1788, says:

"It has been mentioned as one of the advantages from the cooperation of the Senate in the business of appointments that it would contribute to the stability of the Administration. The consent of that body would be necessary to displace as well as to appoint," &c.

Here, sir, it is established beyond peradventure, by events contemporaneous with the adoption of the Constitution, that the friends of that instrument contended for the concurrence of the Senate in the removing power, while its enemies then, as now, claimed that this power belonged to the Executive. A further and still stronger evidence that the statesmen of that day did not claim this construction is shown in the fact that no such power was exercised or claimed to exist until, by legislation, after thorough and protracted discussion, it was given to George Washington, then President of the United States, and the splendor that attached to his character did

more than any other thing to bring about that result; and it will be proper to observe that the act of July, 1789, conferring the power of removal in certain cases upon the President, only passed the Senate by the casting vote of the Vice President, when that power was to be conferred on no less pure and faultless a man than George Washington. In this decision the public have acquiesced. Judge Story, in his *Commentaries on the Constitution*, section fifteen hundred and forty-three, volume two, page 343, gives the following opinion on this subject:

"That the final decision of this question so made was greatly influenced by the exalted character of the President then in office was asserted at the time and has always been believed. Yet the doctrine was opposed as well as supported by the highest talent and patriotism of the country. The public, however, acquiesced in this decision; and it constitutes, perhaps, the most extraordinary case in the history of a Government of a power conferred by implication on the Executive by the assent of a bare majority of Congress which has not been questioned on many other occasions. Even the most jealous advocates of State rights seem to have slumbered over this vast reach of authority, and have left it untouched as the neutral ground of controversy in which they desire to reap no harvest, and from which they retired without leaving any protestations of title or contest. Nor is this acquiescence and silence without a satisfactory explanation. Until a very recent period the power had been exercised in few cases, and generally such as led to their own vindication. During the administration of President Washington few removals were made, and none without cause; few were made in that of President Adams. In that of President Jefferson the circle was greatly enlarged, but yet it was kept within narrow bounds, and with an express disclaimer of the right to remove for differences of opinion or otherwise than for some clear public good. In the administration of the subsequent Presidents, Madison, Monroe, and John Q. Adams, a general moderation and forbearance were exercised, with the approbation of the country, and without disturbing the harmony of the system. Since the induction into office of President Jackson an opposite course has been pursued, and a system of removals and new appointments to office has been pursued so extensively that it has reached a very large proportion of all the offices of honor and profit in the civil departments of the country. This is matter of fact, and beyond the statement of the fact it is not the intention of the Commentator to proceed."

"This extraordinary change of system has awakened general attention, and brought back the whole controversy with regard to the executive power of removal to a severe scrutiny. Many of the most eminent statesmen of the country have expressed a deliberate opinion that it is utterly indefensible, and that the only sound interpretation of the Constitution is that it avowed upon its adoption; that is to say, that the power of removal belongs to the appointing power."

Thus it will be seen, according to the learned commentator, that it was not only the express understanding of the Constitution at the time of its adoption that the removing was vested in the appointing power, and not alone in the Executive, but that that power was never claimed or sought to be exercised by him until conferred by act of Congress, and it is regarded as most remarkable that such a grant of power by a "mere majority of Congress" should have been so long and so silently acquiesced in. The people are referred to as having "slumbered over this vast reach of authority" upon such legislation sustained only by an implied power in the Constitution.

The First Congress that assembled under the Constitution and passed the act of 1789 granting this power of removal to the Executive evidently did not regard it inherent in the President under the Constitution, else they would not have deemed it necessary to confer it by law.

The right of the President to exercise this power under and by virtue of the Constitution is at once negated when the fact is established, as it has been, that such power was conferred in the first instance by congressional enactments, which may, by any subsequent Congress, be altered, amended, or repealed, thereby changing, modifying, or even destroying the power. The right to pass a law conferring a power implies the right to repeal the law and destroy the power. This power, conferred by act of 1789, continued in force until 1867, when the Congress by another act changed that law and deprived the President of the power. The

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law conferring it he recognizes and seeks to avail himself of for the accomplishment of his foul purposes, while that denying it he denounces as not within the pale of the Constitution, and arrogates to himself the right to act in the capacity both of judicial and executive officer. He flaunts his insolent denunciations into the face of the Congress, and bids them and the people an insulting and menacing defiance. No man was ever found who dared, even under the operation of the law of 1789, to assume the right to do what Andrew Johnson here stands charged with doing, and whose only plea to the charge is "guilty"—that of the wanton and unjustifiable removal of a meritorious and efficient officer from a high position in the Government while the Senate is in actual session. The Constitution provides that—

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions, which shall expire at the end of their next session."

But where, sir, does he find the power to cause a vacancy to happen by his most royal order, his most princely order, that he may fill it with an *ad interim* appointment during the session of the Senate? It is not found in the written words of the Constitution, nor does it come as necessary inference from the language used; but, sir, it is in direct opposition and bold defiance of the plain letter and spirit of the written law. The Constitution gives him power to fill vacancies that may happen during the recess of the Senate, but it gives him no more power to create a vacancy as he has done here than it gave to John Wilkes Booth the right by the use of the assassin's pistol to create the vacancy in the presidential office which Andrew Johnson fills to-day but to disgrace. If he may exercise such a power in this case he has only to remove every civil officer who will not consent to be a fawning slave to his will, obedient to his nod, ready and willing to be a tool in his hands to perpetuate his power and destroy the Republic, and appoint others, *ad interim*, whom he can control and retain them in power, independent of the Senate, by sending to them for confirmation such men as that body could not and would not indorse and confirm, thus enabling him to hold within his single grasp the whole power of appointment, as well as removal, in spite of the Constitution and in defiance of the Senate. Like any tyrant, he commends the act that confers power upon him; but upon those who dare assert the right to take that power away he would visit speedy and sure destruction. He essays to place himself upon the Constitution as he interprets it, and defy the law. He assumes that a power once vested by law comes to have the dignity of a constitution and cannot be changed—a position which needs only to be stated to be denied. Having never possessed any power to remove from office other than that conferred by legislation how does he stand in the light of the last legislation upon that subject? Let us see. On the 2d day of March, 1867, the Congress passed by a two-third vote of both Houses, and after the same had been vetoed by the President, a bill of which the following is a part. Section one provides—

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner duly appointed and qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, and the Postmaster General and Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

Section six provides:

"That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing,

countersigning, or issuing of any commission or letter of authority, for or in respect to any such appointment or employment, shall be deemed, and are hereby declared, to be high misdemeanors, and upon trial and conviction thereof every person guilty thereof shall be punished by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court."

By the first section of the act of March 2, 1867, the act of 1789 is changed so as to take from the President the sole power of removal and vesting it in the President by and with the advice and consent of the Senate, going back to the rule as it was understood to exist in the Constitution at the time of its adoption. The sixth section fixes the penalty for its violation. This law Andrew Johnson has in the removal of Edwin M. Stanton, Secretary of the Department of War, purposely and willfully violated, and in the most insolent and arrogant manner—in a manner better becoming a tyrant or a despot than a President of a free, constitutional, republican Government, defied the law-making power, and assumes to become a law unto himself. He has removed Mr. Stanton without authority of the Constitution, removed him without authority of and in direct and positive opposition to the letter and spirit of the law; removed him that in the act he might the more effectually advertise his contempt for the Congress which he so bitterly characterized as "an unconstitutional body hanging as it were upon the very verge of the Government;" removed him because it was the boldest, plainest, surest act he could commit to tell this Congress that in his most gracious judgment they are a set of arrant cowards, and, bidding them do their worst, stands here to defy them; removed him to notify the people that he had concluded to become what he assured them he might before have been—a dictator. The nation's escutcheon is so stained and blackened with his offendings that we should be cowards, indeed, if we did not purge it of this pestiferous plague spot, that we may hand it down to those who shall come after us bright, pure, and spotless as in days of yore.

But we are told that it was only his intention to try the question of the constitutionality of the law in the courts, and no more. Mr. Speaker, I have to say that, so far as I am concerned, in this he shall not be disappointed. He may not be pleased with the details of the trial; but I can assure him that he shall have the full benefit of my little influence to have the question tried in the highest court of the nation; not, sir, as he may have hoped it would be, General Grant at the bar of justice, with the President's promise of vicarious suffering in case he should be found guilty; not with Mr. Stanton to answer for offenses of which Johnson alone is responsible, but with the chief criminal arraigned for his own offenses, crimes, and misdemeanors before the bar of the high court of impeachment, there to have determined whether or not a law passed by Congress, according to the forms of the Constitution, is for him to obey or defy. There is no higher court than this, none that possess higher power or judges better skilled in the meaning of the Constitution. If Andrew Johnson finds himself in a higher court, and in a closer relation to it than he expected to be, he ought to be more than satisfied. He clamors for justice and the law, and I propose that he shall have it, and even more than he desires.

But, Mr. Speaker, the gentleman from New York [Mr. Brooks] raises a voice of warning, and bids us beware! beware!! beware!!! how we proceed to impeach the President. Sir, that advice is well; that warning is well. It is not best that we proceed with indecent haste with so grave a matter; but, sir, if the honorable gentleman meant by his remarks to insinuate that the Democratic bone and sinew and muscle of the Army and the country to which he referred would take up the gauntlet to keep Andrew Johnson in power by force and make him dictator and supreme ruler of this nation, I will

tell him, sir, that if a million of swords leaped from their scabbards to put an end to rebellion and anarchy, ten millions will more quickly leap forth to strike down any and all who dare presume to attempt build a despotism upon the ruins of this Republic; and I thank the gentleman from New York for the word he has taught me; I bid him and his boasted Democratic bone and muscle to "beware" how either he or they engage in such an undertaking. For the corrupt use and the vile abuse of the power he claims that the Constitution gives him he is impeachable by the highest authority he urges in his own defense. For the willful usurpation of power which he cannot claim to possess, either under the Constitution or the act of 1789, in causing a vacancy to "happen" in a high civil office, and making an appointment to fill that vacancy without the advice and consent of the Senate, when that body was in actual session, he stands impeachable. For the removal of Hon. Edwin M. Stanton from the office of Secretary of the Department of War, in opposition to and in defiance of the act of March 2, 1867, he stands impeachable. For appointing and commissioning General Lorenzo Thomas to be Secretary of the Department of War *ad interim*, without the advice and consent of the Senate, when that body was in session, and contrary to and in defiance of the act of March 2, 1867, he stands impeachable. For these and each and all of these offenses Andrew Johnson, President of the United States, ought to be, and under God I believe he will be, impeached of high crimes and misdemeanors in office, and will be brought down from the high position he has proved himself unfit and unworthy to fill.

Impeachment.

SPEECH OF HON. JULIUS HOTCHKISS,
OF CONNECTICUT.

IN THE HOUSE OF REPRESENTATIVES,
February 24, 1868,

On the resolution reported by the Committee on Reconstruction for the impeachment of the President.

MR. HOTCHKISS. Mr. Speaker, it is with mingled feelings of grief and alarm that I address the House on the present occasion—in grief on account of the fact that I see the machinery of Government contrived for our safety prostituted to mere party ends and purposes by a proceeding not only entirely uncalled for upon any facts which have come to our knowledge, but altogether unwarranted by the Constitution and the laws; alarm, because every lover of his country and his kind must look upon the proceedings of the House during the past two days as most signal yet most lamentable evidences of that destruction that threatens not only our form of Government, but the principles upon which it is founded. We are so rapidly removing the ancient landmarks, those metes and bounds of the Constitution that define the duties and preserve the individuality of each branch of the Government, that, in a few years, instead of a republican form of government, we will have resolved ourselves into a radical despotism of unbridled and omnipotent parliament on the one hand, or into an unchecked, uncontrolled, and autocratic tyranny on the other.

It has been the hope of the American patriot, the fond dream of the American statesman, that although heretofore every republic in the world has degenerated into an unlicensed democracy, only to be crushed eventually under the armed heel of a military dictatorship or the scepter of an absolute despotism, yet the Republic of the United States would prove an exception to this general rule. Is this hope of the patriot to be so shortly dashed to earth? Is this dream of the statesman to be nothing but a dream after all; and simply for the rea-

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son that in order to preserve the ascendancy of a faction the Constitution is to be violated whenever necessary to that end, and laws are to be constantly passed to meet emergencies that seem to threaten not the integrity of the Government but the safety of a party? In any Government, republican or monarchical, when laws are passed for mere personal or party ends, when the Constitution is constantly violated; both in spirit and letter, in order to preserve the life of a failing faction, the result must surely be the destruction of the rights, liberties, and property of the people, and thus the subversion of all true order. Heretofore, in our country, parties have aimed ostensibly, at least, at perfecting laws designed to benefit the whole body-politic. Now, however, the sole end and aim of modern radicalism appear to be to perpetuate its party power through a series of acts which are not only rapidly undermining the personal rights and liberties of the people, but are changing the entire structure of the Government, limiting, curtailing, and destroying the functions of certain departments of it on the one hand, and on the other enlarging, extending, and making despotic certain other departments. It is claimed by the advocates of radicalism that the executive department is assuming arbitrary and unconstitutional powers. At the same time these powers so charged as thus assumed are so clearly within the constitutional scope of its functions that it has been found necessary on the part of Congress to pass special acts curtailing those functions, and thus causing the presidential office to be shorn of rights that it had exercised from the very foundation of the Government. The civil tenure act, under which it is proposed to impeach the President, is a specimen of these special acts.

But it is strange that the very department of the Government which the Radicals desire to deprive of its functions as delegated to it by the Constitution, on the ground that the President is usurping authority, is that very department which the fathers of the Constitution regarded as least likely to usurp authority not conferred upon it. They justly considered that our Government was not one in which numerous and extensive prerogatives are placed in the hands of an hereditary monarch. Were this so the executive department might be very justly regarded as the source of danger and watched with all the zeal which patriotism and a love of liberty would naturally inspire. Says the Federalist:

"In a democracy where a multitude of people exercise in person the legislative functions and are continually exposed by their incapacity for regular deliberation and concerted measures to the ambitious intrigues of their executive magistrates tyranny may well be apprehended, on some favorable emergency, to start up in the same quarter. But in a representative republic, where the executive magistracy is carefully limited, both in the extent and duration of its power, and where the legislative power is exercised by an assembly which is inspired by a supposed influence over the people, with an intrepid confidence in its own strength, which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions by means which reason prescribes, it is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions. The legislative department derives its superiority in our Government from other circumstances. Its constitutional power being at once more extensive and less susceptible of precise limits, it can with greater facility mask under complicated and in direct measures the encroachments which it makes under the coördinate departments."

And is not this what Congress is now doing and has been from the day the Radical party came into power to the present, when this crowning act of usurpation, the proposed impeachment of the President, is about to be consummated?

Mr. Jefferson had a thorough appreciation of the dangers of legislative usurpation. In the case of his own State (Virginia) he took strong grounds against the intermingling or intermixing of the three great departments of the State. In order to convey fully the ideas

with which his experience had impressed him on this subject allow me to quote a passage of some length from his "Notes on the State of Virginia," page 195:

"All the powers of government—legislative, executive, and judiciary—result to the legislative body. The concentrating of these in the same hands is precisely the definition of despotic government. It will be no alleviation that these powers will be exercised by a plurality of hands and not by a single one. One hundred and seventy-three despots would surely be as oppressive as one. Let those who doubt it turn their eyes on the republic of Venice. As little will it avail us that they are chosen by ourselves. An elective despotism is not the government we fought for; but one which should not only be founded on free principles but in which the powers of government should be so divided and balanced among several bodies of the magistracy as that no one could transcend their legal limits without being effectually checked and restrained by the others. For this reason that convention which passed the ordinance of government laid its foundation on this basis, that the legislative, executive, and judiciary departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time. But no barrier was provided between these powers. The judiciary and executive members were left dependent on the legislative for their subsistence in office, and some of them for continuance in it. If, therefore, the Legislature assumes executive and judiciary powers, no opposition is likely to be made, nor, if made, can be effectual, because in that case they may put their proceedings into the form of an act of Assembly, which will render them obligatory on the other branches. They have, accordingly, in many instances, decided rights which should have been left to judiciary controversy, and the direction of the executive during the whole time of their session is becoming habitual and familiar."

Thus, while we have the testimony of the fathers of the Constitution that it is from usurpations of the legislative department that the liberties of the people have most to fear, we have the acts of a revolutionary faction in the country proclaiming to-day that this very condition of things of which the fathers so repeatedly warned us has reached such a point as to threaten the very existence of the Government. Under the pretext of checking some contemplated or threatened usurpation of the Executive Congress is constantly passing acts depriving him of privileges and prerogatives exercised by that department since 1789. The result is that the President is completely restricted in the selection of his Cabinet officers; and, instead of being his confidential advisers, under the immediate influence of no other branch of the Government, but unbiased in their judgments, he is surrounded by a set of men who are not in sympathy with him, either socially or politically; and thus, instead of being left free to exercise his judgment as provided for by the Constitution, and in strict accordance with the genius of the Government, he becomes the mere tool and instrument of Congress, bound to do its behests without reflection or question. Under such circumstances of what use is the office of President? Congress might as well decree that its own officers sign its acts as that they should be sent to such an automatic Executive as they would constitute Mr. Johnson.

Let me review the case. Let us, then, impeach and remove the President, and install Senator WADE, President of the Senate, in his place. Suppose, in that case, that Messrs. Seward, Wells, McCulloch, Stanbery, Randall, and Browning refuse to retire from the Cabinet, in what sort of a position would Mr. WADE find himself? How could he or how would he counsel with these gentlemen? If they were any of them like Mr. Stanton, morally or socially, to say nothing of politically, destitute of ideas and principles which regulate the intercourse between gentlemen, they would have it in their power, as it was in his, to act as spies upon the new President; and that Stanton acted in such a despicable capacity is a matter of public notoriety. In such a case what man on the Democratic side of the House would be found so recreant to all ideas and principles, as respects the amenities of life and of those courtesies that characterize the association of gentlemen with each other, to say nothing of the traditions of the Government and the well-known rules laid down in the case

of the President and his Cabinet ministers, as to compel the President to daily counsel with men with whom he cannot politically be in accord? It is true that Mr. WADE might get along socially very well, and keep on excellent speaking terms with the above gentlemen, knowing them to be gentlemen who have not violated the plainest duties and commonest courtesies of official and social intercourse. But how could he possibly be expected to associate with them on terms of respectful and kindly intercourse which demanded the cordial greetings habitual to the association of gentlemen with each other if he knew these persons to be common spies upon his actions and common informers, hanging upon every word that fell from his lips like a detective upon the words of a supposed criminal, and anxious to entrap him in some careless moment into an expression that might be tortured into something approaching to a violation of law. No, gentlemen; he could not be expected to do this—to associate with men who in that case would be worse than criminals in the eyes of society; and all because Congress considered that he was an obstacle to the consummation of certain measures it desired to force upon the country. The party that would force a President to do this; the Congress that would so pervert the principles of the Constitution, so outrage the genius of the Government, and so stultify itself as regards an appreciation of the nature and character of our institutions, would be simply guilty of a profanation of republicanism. But is not this what the Radical party appears determined to do in the case of the President and Mr. Stanton, and which is the cause of this terrible impeachment movement?

When Mr. Montgomery Blair, Mr. Lincoln's Postmaster General, fell under the displeasure of the leading Radicals, a number of them, including several Senators, addressed a letter to Mr. Lincoln asking Mr. Blair's removal from the Cabinet, on the ground that the President should be aided by a Cabinet council in perfect accord with him and his measures. Mr. Blair immediately tendered his resignation to Mr. Lincoln, which that gentleman subsequently accepted. Had Mr. Blair then acted as Mr. Stanton has acted with Mr. Johnson what a howl these Radical gentlemen would have raised against him. Indeed, could any one at the time have been found in either party to sustain him in such a course as Mr. Stanton has since pursued?

Who is Edwin M. Stanton? Is it not on record that he is a spy upon the President and an informer in the service if not the pay of the Radical party? Here we have a Cabinet officer passing from the presence of the President, after cordially greeting him, and immediately proceeding to the residence of some prominent Radical, into which he steals, perhaps, under cover of darkness in order to betray the confidence of the man he had just left. Does history exhibit a record of such baseness as this? In all the ages have we presented to us a similar instance of such utter and unmitigated treachery? It is scarcely necessary for me to refer to this man's political record in order to paint his character in any darker colors than it is presented to the people of the United States in his intercourse with President Johnson in his capacity as Cabinet adviser. I need not tell you that he kept our poor soldiers starving at Andersonville; I need not tell you of his paid spies in private families; I need not tell you of his instrumentality in the official murder of an innocent woman; I need not tell you of his encouragement of secession until the country was plunged into a terrible war, and of his sudden conversion to radicalism; I need not tell you of the perfidy of his nine reasons for condemning the gallant Sherman, wherein he attempted to blast the fame of the noblest soldier of the war, nor of the sheepishness with which he quailed before the scornful glance of

that proud and honest soldier, when, in the face of the world, he refused to take his hand, and turned his back upon him as he would upon a loathsome reptile. But, in all the history of this man's checkered social and political existence, of all the crimes of which he has been guilty, this base treachery, this foul perfidy of his to President Johnson stands out so prominently as to dwarf the rest by comparison with its unparalleled and unapproachable villainess and its unmitigated meanness. Yet this is the man for the removal of whom from his Cabinet and his presence we are called upon to impeach the President. This is the poor, despicable character for whom this country is to be plunged into the vortex of perhaps a bloody revolution. Can radicalism, in the very ecstasy of its madness, in the blindness of partisan passion, go further than this?

I come here, Mr. Speaker, from the busy scenes of a business life. I only review this question from the light of that experience and common observation outside of those legal acquirements possessed by the great majority of this House. In the absence of the more cultivated reasons of the schools, truth often, as by intuition, drops its sacred light into the inquiring mind. I believe a good deal in that native wit which goes straight to the mark, which strips the sophistries the lawyer has flung around the naked truth or the naked falsehood from the form thereof, and reveals it to the world in all the elegance of its beauty or all the hideousness of its deformity. I am not skilled in the subtleties of legal ratiocination, of that art which sometimes clothes falsehood with the garb of truth, and thus often deceives the honest inquirer after the genuine article. I leave the task of making the worse appear the better reason to the gentlemen of the legal profession, who compose two thirds of the radical side of the House, which fact alone would almost indicate that the whole proceeding is a conspiracy of lawyers for partisan purposes. And who so able to carry such a conspiracy forward to ultimate success as the members of a profession whose business as often leads them to engage on the side of evil as on the side of good, to take part with the wrong as often as with the right, with the oppressor as often as with the oppressed? To my poor judgment a lawyer, especially a radical lawyer, though calculated to make a very respectable politician and a very unscrupulous partisan, is as often liable to fail as a clear-headed and dispassionate statesman.

But before reviewing the action for which it is proposed to impeach the President in a necessarily cursory manner let me call attention to the man himself. I must confess that I have sympathy for him on account of his origin. He is what we call a self-made man; a man risen from obscurity to the highest position by the force of his native genius, and in spite of the obstacles which surrounded him. I might say that he was compelled to fight his way through life; all the time, as it were, "wrestling favors from fortune," not by means of superior literary attainments, but in spite of them, and in defiance of those fine-drawn sophistries which spring from the continual use of cultivated intellectual weapons and artificial intellectual armor in the battle of life. When Mr. Johnson entered the political arena, in the arena of the profession which he chose as his means of livelihood, he was compelled, like the simple squire of old, to fight the mailed knight armed with his sword and spear with the quarter-staff or the rude bill-hook; he was compelled to break through the guard of his adversary by the sheer force of his resolute will and indomitable courage. There is nothing of the cunning of the conspirator by nature or of the man whose profession teaches him how to break the laws by simply evading their pains and penalties in Mr. Johnson. He is evidently a man rugged almost to rudeness in the honesty of his speech, and open and above board in all his actions. He believed this

tenure-of-office bill unconstitutional. He repeatedly so declared. He vetoed it on that ground. He thought he had a right to test its constitutionality in the courts, and he went about doing so in the only way open to him.

The terms of the law are such that he was unable to test the legality of the bill before the courts without (according to the lawyers on the other side of this House and of the Senate) exposing himself to impeachment. He could not obtain a *quo warrant* without removing, or attempting to remove, Mr. Stanton. But, according to the lawyers, who must have made this law especially with the purpose of entrapping him, he could not remove Mr. Stanton, even in form, without impeachment. Thus was he left with this obnoxious man in his Cabinet, like a horse-leech upon the human body while the hands of that body were tied, and with no possible means of ridding himself of him. Like a hungry dog whose fangs "stick," Stanton could neither be coaxed nor pulled away from his prey. From the hour that the Senate had reinstated him in his position, in the teeth of the opposition of the President, who could scarcely be expected to associate with a skulking spy, to the present, he has remained actually camped in the War Department, which he has had guarded with a detail of troops from the regular Army. Of late no one is admitted into his presence except those who are conspiring with him to prostitute the Government of the United States to a military despotism, or a consolidated and centralized oligarchy, part civil and part military—the civil portion being controlled by the votes of negroes just released from slavery and totally ignorant of the rights and duties of freemen or of the laws necessary to regulate the interests and protect the rights of a civilized people. Mr. Stanton's continuance in the War Department is part of the programme of the party that is determined to retain possession of the Government by fraud and even force. I have said that Mr. Stanton could not be coaxed or driven out of the War Office. General Sherman, for the good of the country, consented (notwithstanding that he despises the man and would have no communication with him except he considered the most urgent necessities of state required it) to call on Mr. Stanton and request him to resign. On this subject he wrote to the President on the 18th of January, as follows:

"The General (Grant) proposed this course. He will call upon you to-morrow, and offer to go to Mr. Stanton, to say, for the good of the service and of the country, he ought to resign. This on Sunday. On Monday I will again call on you, and, if you think it necessary, I will do the same—call on Mr. Stanton and tell him to resign. If he will not, then it will be time to contrive ulterior measures."

General Grant, in his late correspondence with the President, admits that he agreed with General Sherman upon the propriety of Stanton's resignation. He says on this subject:

"On the 15th ultimo, in presence of General Sherman, I stated to you that I thought Mr. Stanton would resign, but I did not say that I would advise him to do so. On the 18th I did agree with General Sherman to go and advise him to that course."

But why did not Mr. Stanton resign, as thus requested? Simply because the revolutionary cabal would not let him. It would disarrange their presidential programme. It would jeopardize the interests and even the existence of the party. Accordingly the same men who forced him to refuse to yield up his portfolio to General Thomas forced him to turn a deaf ear to the requests and entreaties of Generals Grant and Sherman. No, gentlemen; it was all in vain. General Grant and other members of his own party coaxed him; General Thomas was sent to put him out; but he was deaf as well to the entreaties of the former as to the demand of the latter. According, then, to the view of the men who framed this law, the President had no means of testing its constitutionality except through the branch of the Government which enacted it, and which is certainly an anomaly in our legislation.

Now, then, consider the natural character and constitutional idiosyncracies of Mr. Johnson when brought in contact with such an extraordinary act as this, levied, as it were, at his own person, intended to fit his individual case, and his alone; for it was never intended it should apply to his successor, especially if that successor is a Republican. He naturally chafed under the act itself, but more at the fact that such a person as Stanton, a man despised by all respectable people not blinded and warped by partisan prejudices, should be forced into daily personal contact and intercourse with him. Feeling as he did, was it any wonder that he desired to test the constitutionality of the law in the only way in which he supposed it could be tested? In fact, was it not just the way in which such a man as Andrew Johnson would proceed to test it? I am only surprised, judging from the President's past history, that he did not procure a guard of soldiers, and, sending them with the newly-appointed Secretary, order them to eject the old with whatever force was needful for that purpose.

"But," say the advocates of impeachment, "Mr. Johnson had no business to violate a law of Congress; he should have gone to the courts." Yes; but, as I have shown, he could not go to the courts. That way was blocked. At the same time the President, backed by every member of his Cabinet, who had given their opinions on the subject, including the President's legal adviser, believed and declared this law to be unconstitutional. Mr. Stanton himself denounced it as unconstitutional. Desirous, then, of legally testing this law, and having the opinions of the ablest legal gentlemen in the United States that it was unconstitutional, Mr. Johnson found himself compelled to appeal to the courts in the only way left open to him, and that way was by the appointment of an *ad interim* Secretary of War, and by directing him to demand of Mr. Stanton that he yield up his portfolio to General Thomas. And this is the head and front of the President's offending, no more and no less.

But, Mr. Speaker, though myself no lawyer, I can at least read the history of the legislation of the country as respects the constitutional right of the President to appoint and remove his Cabinet ministers at will. Among the earliest records on the subject of this right is the act of Congress of August 17, 1789, creating the War Department and providing for its administration. The second section of that act says:

"That there shall be in the said Department an inferior officer, to be appointed by the said principal officer, to be employed therein as he shall deem proper, and to be called chief clerk in the Department of War, and who, whenever the said principal officer shall be removed from office by the President of the United States, or in any other case of vacancy, shall during such vacancy have the charge and custody of all records, books, and papers appertaining to the said Department."

Now, sir, if this section does not give the President power to remove the Secretary of War there is no force in language. What is the meaning of the words, "and who, whenever the said principal officer shall be removed from office by the President of the United States?" Thus, according to the words of the original act creating the Department of War, the President had full power of removal. But, Mr. Speaker, I find, by consulting the records of the First Congress of the United States, that the power to remove Cabinet officers was not only believed to be, but declared to be, vested in the President. On the 19th day of May, 1789, the House of Representatives of the Congress of the United States being in the Committee of the Whole, Mr. Trimbull in the chair, a motion introduced by Mr. Madison was under consideration. The motion was as follows:

"Resolved, That it is the opinion of this committee that there shall be established an executive Department, to be denominated the Department of Foreign

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Affairs, at the head of which there shall be an officer, who shall be appointed by the President, by and with the advice and consent of the Senate, and to be removable by the President."

Also a similar motion was made in regard to a Treasury and a War Department. Mr. Smith, of South Carolina, moved to strike out the words "who shall be appointed by the President, by and with the advice and consent of the Senate." He conceived the words to be unnecessary; besides, it looked as if they were conferring power, which was not the case, for the Constitution had expressly given the power of appointment in the words there used. He also objected to the subsequent part of the paragraph, because it declared the President alone to have the power of removal. Mr. Madison thought there would be no injury in declaring in the resolution the constitutional mode of appointing the heads of Departments. "However," said he, "if gentlemen were uneasy he would not object to strike it out." The question was then taken on striking out those words, and carried in the affirmative. After this vote the committee proceeded to the discussion of the power of the President to remove this officer. Mr. Madison, Mr. Clymer, Mr. Goodhue, Mr. Smith, and others took part in the debate. Mr. Smith took the present radical ground upon the question. He said he had doubts whether the officer could be removed by the President. He apprehended he could only be removed by impeachment before the Senate, and that being once in office he must remain there until convicted by impeachment. Mr. Madison did not concur in this interpretation, and took the ground that we Democrats now take upon this subject. Among other things he said "that such a construction of the Constitution would, in effect, establish every officer of the Government on the firm tenure of good behavior; not the heads of Departments only, but all the inferior officers of those Departments would hold their offices during good behavior, and that to be judged of by one branch of the Legislature only on the impeachment of the other. "If the Constitution means this to be the case by its declarations we must submit, but I should lament it," said he, "as a fatal error interwoven in the system, and one that would ultimately prove its destruction." "I think it absolutely necessary," continued Mr. Madison, "that the President should have the power of removing from office; it will make him in a peculiar manner responsible for their conduct, and subject him to impeachment himself if he suffers them to perpetrate with impunity high crimes and misdemeanors against the United States, or neglect to superintend their conduct." Mr. Madison concluded by saying: "Of the constitutionality of this declaration I have no doubt." Mr. Goodhue concurred with Mr. Madison, as did also Mr. Clymer. This gentleman said:

"The power of removal was an executive power, and as such belonged to the President alone, by the express words of the Constitution, which are: The executive power shall be vested in a President of the United States of America." The Senate was not an executive body; they were a legislative one. It was true, in some instances, they held a qualified check over the executive power, but that was in consequence of an express declaration in the Constitution; without such declaration they would not have been called upon for advice and consent in cases of appointment. Why, then, shall we extend this power, to control the removal which is naturally in the Executive, unless it is likewise expressly declared in the Constitution?"

After a lengthy discussion by the members of the House in the Committee of the Whole, the question was taken and carried by a considerable majority in favor of declaring the power of removal to be in the President. Thus the declaration that the power of removal rests with the President was made in the First Congress of the United States seventy-nine years ago. And it will be recollected that Congress was composed in part of the members of the Convention that had framed the Constitution. They declared, after a full consideration of, and

a lengthy and free (not gagged) debate upon the subject, that the President derived the power of removal from the Constitution itself. What is this, also, but an emphatic avowal and assertion that Congress has no power to constitute the Senate a judge or court to decide the question of removal? Yet, in face of this avowal of the fathers who framed the Constitution, and for merely maintaining the principles therein maintained, it is proposed to impeach the President, and to impeach him by a Congress which, in this as well as in other numerous instances, has been guilty of violating the express provisions of the Constitution under the forms of which it is proposed to try the Chief Magistrate of the nation.

But I need not go back to the fathers of the Constitution, for I can show that the original earthly father of the Radical party himself, and, indeed, the original father of this whole impeachment movement, (the Speaker might rule me out of order were I to designate it a conspiracy,) held precisely the same views as those I have quoted from Mr. Madison and Mr. Clymer, and held them no longer ago than the year 1837. In that year he was a member of the Pennsylvania constitutional convention, and on the 13th of June thereof he made as strong a protest against a proposition to restrict the Governor in the appointment of officers as he now does in favor of restricting the same power in the President. He said:

"Why take the appointment of the heads of the Departments—the surveyor general, attorney general, secretary of the land office, and auditor general—from the Governor? They are essentially a part of his Cabinet. His own comfort and the comfort of each of them, as well as the public interest, require that there should be perfect harmony and unity of views and action among them. But if you take the appointments from the Governor it may, and probably often will, happen that he will be of one party and entertain one set of principles and they be of another party and hold entirely opposite principles; discord and opposition must then disturb their councils and injure the interests of the State." "It is far better to have less efficient public agents acting in friendly concert for the public good than to have able but hostile men plundering the public to provide means and the instruments for carrying on a contest against each other, founded on personal hatred or political rivalry. Why vest the power of appointment in the Legislature? Their legitimate duty is to enact laws, and not to appoint those who are to execute them. Sufficient inducements are now held out to them to make them swerve from the path of duty without multiplying the temptations by placing the patronage of this great State at their disposal."

The Governor and the Senate would either be of the same political or hostile parties; if of the same party the Senate would be no check upon the Governor, as there would be perfect concert before the nomination, and therefore this supervising power would be useless. If they were of hostile parties, constant and bitter collisions would exist between them, which would greatly disturb the faithful discharge of their other duties."

Are not these words of the father of this impeachment movement prophetic? Does he not faithfully predict and portray the very evils which this tenure-of-office law, enacted entirely to subserve partisan purposes, have brought upon the country? Has it not brought discord and disunion upon the country and into its councils? Has it not raised up a host of "hostile men plundering the public to provide the means and instruments for carrying on a contest against each other, founded on personal hatred and political rivalry?" Has it not made Congress "swerve from the path of duty" by "multiplying the temptations" and by "placing the patronage of the State at their disposal?" Has it not created constant and bitter collisions between the President and Congress, which have "greatly disturbed the faithful discharge of their other duties?" In fine, has not this odious bill done all, and more, than Mr. STEVENS declared a similar provision would do if incorporated into the organic act of the State of Pennsylvania? Yet it is for a constructive violation of this odious law, the principle of which was so terribly denounced by Mr. STEVENS in former days, that that gentleman would ignominiously bring the President of the United States to the bar of the Senate in order

that he might be impeached for high crimes and misdemeanors. It seems to me that Mr. STEVENS should rather say to the President, "Well done, good and faithful servant of the people, who has personally vindicated the Constitution and maintained the law!"

But the advocates of impeachment charge that even if the tenure-of-office law were unconstitutional Mr. Johnson was not the judge; that he is bound to obey a law of Congress until it is declared unconstitutional by the court of last resort. Now, admitting this to be so, although it was contrary to the belief and acts of one of the ablest Presidents of the United States, General Jackson, the question comes up did Mr. Johnson really violate the tenure-of-office act when he appointed General Thomas Secretary of War *ad interim*? The first section of that act reads as follows:

"That any person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and any person who shall hereafter be appointed to any such office, and shall be duly qualified to act therein, is, and shall be, entitled to hold office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretary of State, of the Treasury, of War, of the Navy, of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

This proviso only applies to heads of Departments, and says they shall "hold their offices during the term of the President by whom they may have been appointed, and for one month thereafter." Mr. Stanton certainly was not appointed by Mr. Johnson. Consequently the proviso does not apply to him, and the President is thus left free to act under the law of August 7, 1789, creating the War Department and providing for its administration. In case of the death of the President, the Vice President succeeds to the duties and responsibilities of the President. The death of Mr. Lincoln in 1865 closed his term of office and opened or inaugurated that of Mr. Johnson. The contingency of the death of the President fixes the duration of the Chief Magistrate's office. This gives, then, the general term of four years, and the contingent term from the death of the President and the assumption of the Vice President of the duties of the office. They are both of them constitutional terms of office, and have always been so recognized. Mr. Stanton remained in office on sufferance. He was not appointed by Mr. Johnson. His term of office expired one month after the death of Mr. Lincoln. So well has this been understood that the Secretaries have always tendered their resignations upon the occasion of the death of the President. This was so in the cases of Generals Harrison and Taylor, and would be so in Mr. Stanton's case if the latter possessed the honor of a gentleman, and if the radical programme did not call for his retention of the War Department, honor or no honor, law or no law. It was in the power of Mr. Johnson to remove Mr. Stanton at any time under the tenure-of-office law. So Mr. SHERMAN and other gentlemen declared in the Senate, and so Mr. Johnson believed was the correct understanding; so Mr. Stanton himself repeatedly declared in Cabinet councils. When the civil-tenure bill was passed by Congress the President submitted it to his Cabinet. They unanimously pronounced it unconstitutional. The President, in giving his reasons for the removal of Mr. Stanton, on this subject writes as follows:

"Every member of my Cabinet advised me that the proposed law was unconstitutional. All spoke without doubt or reservation, but Mr. Stanton's condemnation of the law was the most elaborate and emphatic. He referred to the constitutional provisions, the debates in Congress, especially to the speech of Mr. Buchanan when a Senator, to the decisions of the Supreme Court, and to the usage from the beginning of the Government through every successive administration, all concurring to establish the right of removal as vested by the Constitution in the President. To all these he added the weight of his own

deliberate judgment, and advised me that it was my duty to defend the power of the President from usurpation, and to veto the law.

"I was so much struck with the full mastery of the question manifested by Mr. Stanton, and was at the time so fully occupied with the preparation of another veto upon the pending reconstruction act that I requested him to prepare the veto upon this tenure-of-office bill. This he declined on the ground of physical disability to undergo, at the time, the labor of writing; but stated his readiness to furnish what aid might be required in the preparation of materials for the paper."

Thus the President cites Mr. Stanton as denouncing in the Cabinet meeting the tenure-of-office bill as unconstitutional, at the same time that when removed from the Cabinet he endeavors to hold on to this very office through a law which he himself had pronounced unconstitutional, and summoning the Army to sustain him in his usurpation. Was there ever such an exhibition of inconsistency, treachery, and want of political and personal honor exhibited in the history of the world?

Here, then, we have the case in its legal and political bearings. And on what is it based? It is based on the mere fact that the President did that which every one of his predecessors did before him. He is to be impeached, forsooth, for doing what Washington, Adams, Jefferson, Madison, Monroe, the second Adams, Jackson, Van Buren, Harrison, Tyler, Polk, Taylor, Fillmore, Pierce, Buchanan, and Lincoln did, time and time again; what I have shown Congress, after mature deliberation in 1789, declared he had a right to do; and what every other Congress from that day to this admitted to be legal. If he is impeached, you impeach all his predecessors; in fact you impeach the fathers of the Constitution themselves. Indeed, if the President had not this power of removal, in what a dilemma it would place, for instance, the proposed constitutional successor of Mr. Johnson, should the Radical majority of this Congress succeed in its efforts to depose the President from office! He could not remove the present members of the Cabinet except by a *quo warranto*, and he could not sue out a writ of that kind without violating the tenure-of-office law. But gentlemen on the other side may say that if he appointed other gentlemen in place of the present members of his Cabinet, the Senate would certainly confirm his selections and sanction his removals. And here is just where the defect of the law lies. It is intended to fit a particular case. When it is broken by any one else than President Johnson there is no violation. When it is broken, or attempted to be broken by him, he renders himself liable to impeachment. Any other man in the presidential office might break the law with impunity. I believe that even a straight-out Democrat might do so, as the Senate would hardly dare compel a Democratic President to accept a Republican Cabinet as his private and confidential advisers, as the persons through whom he must issue his orders to his subordinates. But does the Constitution of the country and the usage of the Government make a distinction in the operation of the law, so that it can be construed to mean nothing whatever when applied to a Republican President by a Republican Senate, or to a Democratic President by a Republican Senate; but that when it is applied to a President who defected from his party, then it is to have full force and effect? Is it for the violation of such a law as this that we are called upon to impeach the President?

But let me inquire whether even Mr. Johnson is amenable to the operations of the law simply because, as the Radicals say, he has turned traitor to his party? If I can show that it was the party turned traitor to the President then do I not demonstrate that it was the Radicals in Congress themselves who turned traitors to the party and not the President, and consequently that the majority in Congress ought to be impeached and not President Johnson? Mr. Johnson's political record has been consistent from the commencement of the war to

the present time. At the extra session, in the summer of 1861, Mr. Johnson introduced in the Senate and pressed to a vote that famous resolution declaring that the war was not waged for any purpose of conquest or subjugation, but that when resistance ceased the rights of the States would remain unimpaired. At the same session he took a leading part in giving seats to the new Virginia Senators who had been elected after the secession of that State. He thus recorded his opinion that a State did not lose its right of representation because it had engaged in rebellion. Later, in 1864, when nominated by the Republican party to the Vice Presidency, he reiterated the same views. Indeed, he pointedly alluded to the fact of such a nomination as a most unanswerable argument and proof that the Republican party did not consider the southern or seceded States out of the Union; and certainly his point was well taken. Upon his nomination the news was telegraphed to Nashville. In a speech to the friends who assembled to congratulate him on that occasion, he said:

"Next it [the nominating convention] said, (if I may be permitted to speak of myself, not in the way of vanity, but to illustrate a principle,) 'We will go into one of the rebellious States and choose a candidate for the Vice Presidency.' Thus the Union party declared its belief that the rebellious States are still in the Union, and that their loyal citizens are still citizens of the United States."

But the beauty of it was that the only Republican of any note in the party who took the opposite view to President Johnson at that time was Mr. STEVENS; and Mr. STEVENS vainly urged the objection to Mr. Johnson that the party was taking a man from a State which was outside of the Union; but they would not hear him. His advice was disregarded, and his voice of warning drowned in clamors for a Democratic Vice President in place of Mr. Hamlin, who was a Republican. If, then, there is any treachery to principle in the party to which Mr. Johnson belongs it is on the part of his opponents, not on his. He has always stood upon the platform on which he stands to-day. It is not because he stands upon the original Republican platform, but because he cannot be coaxed or driven off of it that he is to be impeached, and impeached for evading a law made purposely to entrap him, and which must be repealed so soon as he is gotten out of office, unless we are to have constantly the most annoying, perplexing, and ultimately disastrous contests waged between the executive and legislative departments of the Government.

I have thus shown that Mr. Johnson, instead of being a traitor to the principles as laid down by the Republican party at Baltimore, and most emphatically indorsed by the selection of himself, a citizen of one of the excluded States, as Vice President on the ticket with Mr. Lincoln, has continued to be almost their only exponent and upholder in that party. And why is this? Simply because since the death of Mr. Lincoln the Republican party has been controlled by the radical element that forms the most active and aggressive faction in it. That element sways the party in all its political movements. It first compelled the abolition of slavery by amendment to the Constitution ratified by the States. It found that even then it might not be able to retain control of the Government. It next pronounced the South still rebellious, in spite of the statements of Generals Grant, Sherman, and others, to the contrary, and demanded negro suffrage as a measure precedent to admission. Still, fearing this would fail, the more recklessly radical in the party gaining strength daily as the people of the North grew restive under the continued exclusion of the southern States, initiate and finally threaten to carry this impeachment programme to a successful termination, as they have heretofore carried their other measures, in spite of the opposition of the more conservative spirits of the party.

But where is all this thing to stop? Suppose the people still continue obstinate, still refuse to acquiesce in radical rule, what is the next measure? Why, nothing more nor less than a military dictatorship, to which all these other measures are but the steps of a ladder, necessary in order to carry the party to the culminating point of all its legislation, from the day that it attained the control of the Government to the present. Without this last measure, the complement and continent of all the others, and to which they are but the initiatory steps, radicalism will not have completed the circle of its existence. With this measure as the apex of the legislation with which it has so sorely afflicted the country, its programme will be completed, for there will be nothing further which its most fanatical leaders and their followers can desire.

But there is one phase of this impeachment business to which I beg leave most respectfully to call the attention of the House, and that is its effect upon our agricultural and commercial interests. I cannot believe the gentlemen who so pertinaciously urge it have well considered its effect upon the industry and finances of the country. We hear of the burdens of taxation, of the depreciation of our currency, while the dim shadow of repudiation has sometimes presented itself along with the results contingent in the future. Consume your impeachment measure and shadow becomes substance, our popular greenbacks and national currency will be greatly depreciated. Enforce this measure and you remove the Rio Grande boundary to our northern border; and the unstable and revolutionary Governments now lying below it will be extended all over our fair domains. Gentlemen when reminded of results sure to follow the course they are bent on pursuing, tauntingly remind us that they have heard similar warnings, that they are prepared to take the consequences; and the honorable gentleman from Illinois [Mr. FARNSWORTH] boasts that of his large majority of constituent supporters each one is physically equal to two that might be brought to oppose. Talk of this kind is not altogether new here. The earnestness of the times and facts to which he refers were no idle unmeaning expressions, but have had their fulfillment in cruel, relentless war, while desolation, destruction, and mourning have followed in a pathway of tears. The gentleman has heard similar warnings; the country has heard declarations similar to those made by the gentleman as to the prowess of men in certain localities over those in others. Are those repetitions of warning, those vaunting expressions of superior ability pleasing to the gentleman? Do they fall upon the ears of this House with no apprehensions of consequences? Are gentlemen prepared to enter on a renewal of the scenes of the past few years, and to plunge our country into another civil war? Are they anxious to again cast us adrift upon the sea of anarchy with the guiding star of the Constitution blotted out? So it would seem. And unless a greater than human arm is extended to our aid we sink beneath the waves of party fanaticism, weighted down with all the errors and falsities that surround the position of the lost. And here, standing in my place, I enter a solemn protest in the name of my people, whose voice in these Halls through her Representative declares these measures revolutionary, treasonable, disloyal to the fundamental law, and usurpations.

Mr. Speaker, the people will endure the condition of things brought upon them by such revolutionary measures as this but little longer. The only remedy that appears to be left the country is with them, and they will take it into their own hands; for the passions natural to the era of strife are fast subsiding, and "the still, small voice" of the Great Master is finding its way to charitable hearts. They are impressed that we have not been altogether right from the beginning, and deprecate this pro-

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longed strife after the conflict is ended. They know, every one knows, that the material interests of the country would have been vastly improved had the policy of Lincoln, sanctioned by all of his Cabinet, and enforced by Johnson in 1865, been allowed to stand. They feel that the interference with it has at every step made matters worse, cost the country untold millions, and placed us a great deal further from harmonious settlement to-day than when Congress asserted its right to undo what had been so justly done; undoing it, too, in a spirit of hate and revenge, of exultation in being able to place its feet upon a prostrate and helpless victim. I feel sure the policy inaugurated by the radical faction, and about to culminate in this mad impeachment scheme, can never produce prosperity. To put down that well-established class that alone has ascended the heights of civilization and put imbecility and incapacity in its place will not do it. Places the Almighty has designed for each to fill must be recognized. Capacity and ability alone can inaugurate and restore a successful order of industry, while those fitted only for subaltern positions must make themselves useful in their proper places. If the black race was to receive any substantial benefit in the measures of the dominant party, if we were meeting the demands of enlightened, benevolent effort, we would consent to suffer on. But in view of the history of that race and its present condition we honestly doubt the result.

We cannot point in their history to any noble effort in the way of advancement. In their native country they fail to accept the proffered missionary effort of civilization, and, after more than a thousand years and the loss of hundreds of self-sacrificing men, who have thrown away their lives in this direction, no trace of their labor outlives their personal presence. They are in their native country to-day living, as they did thousands of years ago, in a state of simple nature, with but little more power to originate methods of clothing than even the surrounding animals that fall below any claims to humanity. In this state they were brought to this country, so low in the human scale that a system like the one they have passed through was absolutely necessary to beget in them any of the proprieties of civilization. Through the power of imitation, which they largely possess, they could be forced to do many things required of them, and they have performed a use in the world, while controlled by masters, greater than their entire race ever before performed for the world's common good, at the same time approximating nearer civilization and Christianity than ever before. To say that this race did not originate from the same human parents as ourselves may be deemed presumptuous by those who, with myself, acknowledge the divinity of the Word, yet I do so assert, and leave for the near future to harmonize science with revelation in this case, as the last quarter of a century has the six literal days of creation.

That slavery was an evil as affecting our race I admit, and should rejoice to see the subjects of it within the "boundaries of their appointed habitations" as fixed in their creation, there to fulfill the objects of their peculiar organisms as destined by creative wisdom. I know it is said that the negroes will do better in the future. I venture to say they will do worse; that they will continue to slide downward until they reach the position in which they were found in Africa, and made slaves by our English grandfathers; and that this attempt at reform, like all others in their interests, will, when the controlling hand is removed, fall back to the unchangeable order of their native instincts, weakened by the unnatural strain made upon the negro to stand in relations for which he had no power to occupy and exercise. Those making use of him now to secure political ends are falsely representing the rela-

tions he sustained during the rebellion, and the aid the northern cause received through his willing efforts. During the larger part of the conflict he was as ever passively submissive to his master, toiling for the support of his family, building breastworks over which thousands of our young men laid down their lives; scarcely, and without exception, on all occasions loyal to the southern cause, and with not a single instance of an attempted rebellion on his part to hasten the overthrow of the power that enslaved him. It was not until our armies inclosed him within our lines, and the alternative was left to join with us or starve, that his reluctant loyalty was born, and then generally at the demand of a recruiting officer, to make merchandise of the operation in filling the quota of some northern State.

Mr. Speaker, to retrieve the errors of the past, to restore, in some measure, our former prosperity and prevent the continuance of this complete prostration of business and reward for useful labor, we must, for the time being, at least, cease to be partisans and view the case as philanthropists and statesmen. We want peace, we want quiet, we want "all the States with their rights unimpaired." We want all of our kindred race to know what is protection and equality in one section is protection and equality in another; that the great law of charity exists everywhere; that wherever an opportunity offers of being magnanimous, of forgetting bygone errors, that there the Christian heart is made glad in this exercise.

The startling fact is made known that values of southern real property have depreciated seventy-five per cent. How is it at the North? Are we prepared to see an approximating reduction in our manufacturing property? I greatly fear a similar result and warn the country to prepare for a great depreciation in value on this kind of property. The farmer, also, must prepare to see his former customer and consumer enter into competition in agricultural pursuits, become a joint producer, and lessen the prosperity that has of late years been so abundantly his. Will this impeachment imbroglio help the country forward in the road to prosperity which has been so terribly cut up by the war and the subsequent prolonged political agitation, not less deleterious in its effects, and which has unfortunately been kept up at fever-heat since its close? It certainly will not. On the contrary, it will cause every material interest to still further and more deeply suffer. In a few weeks the spring trade will be upon us, from the opening of which it was hoped the business of the manufacturer and the merchant would receive such an impulse as to enable them, in some degree, to recover from the terrible depression of the past three years. Keep up the present political strife during the four to five or six months necessary to carry this impeachment scheme to its consummation, and what is the result? Why, you prolong an agitation that verges upon actual revolution through a period during which the country needs peace more than at any other time. You introduce a disturbing element into the commerce and manufactures of the country at a time when we need firmness and stability in values, and such a condition of things generally that the business man will be able to face the future with some assurance that his transactions are predicated upon a basis which affords reasonable hopes of living profit.

The business men of the country look on with amazement mingled with fear while Congress takes step after step in the programme of usurpation, in the progress which the country is so rapidly making toward a consolidated despotism. The people are beginning to sensibly feel the effects of these revolutionary movements. Already even the financial men in the radical party are becoming alarmed at the prospect of a long and doubtful impeachment trial, or, rather, contest; for if there be a trial the accused will be condemned from the mo-

ment that he is arraigned. If brought to the bar for trial the President will not be brought face to face with a court which will give him a fair and impartial hearing; he will be brought face to face with the Radical party, hounded on by the fanatical leaders who are thirsting for his political execution with as mad a passion as burned within the hearts of the maniacs who deluged France with the blood of her noblest sons and daughters during the reign of terror. Imagine, gentlemen, the condition of the country as regards its financial and commercial interests during the progress of a trial which, of necessity, can be nothing but a heated political contest prolonged for months and gathering intensity as it proceeds and as it feeds upon the agitation which it creates. The radical financiers, in the interest of their own business, will be compelled to press their party to dispen- with the forms of law, and hurry the trial through as rapidly as possible. They will be compelled to do this in order to avert a commercial revulsion, and to gain time to rally the party for the coming presidential contest. On the other hand, all those in the country who love justice, and are not altogether under the influence of partisan passion and prejudice, will demand that the President be fairly dealt with; that he will be permitted every form of legal procedure; that he shall not be condemned unheard, and that he shall have no mock trial by judges and jurors who have already prejudged his case. At any moment a spark may ignite the elements of strife brought into such active contact and close proximity by this unusual proceeding, and, extending themselves on all sides through the entire community, the result no man can foresee. Gentlemen, every step you take in this business is fraught with untold dangers to the country. Let me beg of you to pause before it is too late; to let reason and reflection take the place of prejudice and passion. If you will not pause, if you will not substitute reason for passion in this particular case, you will as surely plunge the country into an abyss of ruin as that every individual who refuses to be led by the teachings and the promptings of his higher and better nature is sooner or later overtaken by that retribution which inevitably follows the disregard of justice and the despoliation of equity.

Impeachment.

SPEECH OF HON. O. FERRISS,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1868,

On the articles of impeachment reported from the committee.

Mr. FERRISS. Mr. Chairman, when a resolution to impeach the President of the United States for high crimes and misdemeanors was before this House in December last, with a conscientious regard to a faithful discharge of my duty as one of the Representatives of the people, and fully impressed that it would best serve their interests, in common with a majority of the Republican members upon this floor, I voted against that resolution. A few brief months have sufficiently demonstrated the wisdom of that action. Emboldened by the hesitation and unwillingness of this House to resort to extreme measures, and mistakenly attributing that hesitation to a cowardly fear upon its part to redress the wrongs which, in the name of liberty, and with a hypocritical regard for the Constitution, were being perpetrated upon the loyal people of this country, the President has boldly, defiantly, wickedly, and maliciously violated, not only the spirit and very letter of a plain criminal statute, but has arrogated to himself powers not found in the Constitution itself. For this House to hesitate longer would be, indeed, a cowardly abandonment of the great interests

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committed to its charge, and a deliberate surrender of those interests to the enemies of the Republic and of constitutional liberty.

On the 2d day of March, 1867, the act known as the tenure-of-civil-office act became a law. The first and sixth sections of that act are as follows:

"Be it enacted, &c., That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate.

"SEC. 6. That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and upon trial and conviction thereof every person guilty thereof, shall be punished by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate."

It is said that "the Secretary of War does not come within the provisions of this law; that he is one of the officers named in the proviso of the first section; that he was appointed by Mr. Lincoln, was never reappointed, and is holding over by sufferance, the month named in the proviso having long since expired." Let us see whether this reasoning is good. Mr. Stanton was appointed by Mr. Lincoln during his first term, and whether reappointed upon Mr. Lincoln's second election is perfectly immaterial. He was the Secretary of War regularly appointed, continuing in office without any limitation of his term by law or otherwise; was acknowledged and recognized as such by the acting President, even in his orders to remove him and appoint a successor. The month mentioned in the proviso, if it applied to the first term of Mr. Lincoln, expired before his death. This being the state of affairs when the law was passed, the proviso only did not include the Secretary of War, otherwise the law would be retroactive.

In direct violation of the Constitution and of that law, the President has, during the session of the Senate, issued an order removing Edwin M. Stanton, Secretary of War, and appointing in his place Lorenzo Thomas Secretary of War *ad interim*, and General Thomas has, under the direction of the President, given notice of his acceptance of the place, demanded possession of the office, and notified the Secretary that he should take charge of the mail matter pertaining to the War Department. The President had before suspended the Secretary of War from the exercise of the duties of his office, and the Senate refusing to confirm the President's action Mr. Stanton had been regularly, and in pursuance of, returned to his place at the head of the Department. This act of the President is not only a violation of the statute, but an assumption of power not granted by the Constitution of the United States, either expressly or by implication. It is the first time since the organization of the Government that a President has appointed a Cabinet officer during the session of the Senate and attempted to induct him into office. If ever claimed that power has never been exercised and is not granted, but, on the contrary, clearly prohibited by implication. The Constitution provides that—

"He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges

of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

It further provides that—

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

And neither the law of 1795, the civil-tenure act, nor any other law of Congress has enlarged the power here given and defined.

The constitutionality of the law of March last is questioned. Upon that subject it might be sufficient to say the President is not the proper officer or tribunal to pass upon the constitutionality of any law. He finds it upon the statute-book, and among the duties he has assumed "he shall take care that the laws be faithfully executed." It is so enjoined by the very Constitution he invokes to his aid. If he ignores the law upon the ground that it is unconstitutional he does so at his peril. Like the plea of insanity to escape the penalty of murder the unconstitutionality of a law has become a common excuse for its violation. Whether a public officer is justified in refusing to execute a law of doubtful validity it is unimportant to discuss. The President has no such case to justify him. He had already been informed, in a manner and from a source he is bound to respect, that the civil-tenure act was in all its parts constitutional. It will be observed that this law was passed near the close of the last session of the Thirty-Ninth Congress, sent to the President for his signature, and returned with his objections, prominent among which are objections to the constitutionality of this identical sixth section. The bill and these objections were reconsidered by the Senate and passed over the presidential veto by the constitutional majority of two thirds, and, being passed by the same majority in the House, thus became the law of the land, the President's objections to the contrary notwithstanding. The majority of two thirds required to pass the bill is the same majority required to convict upon impeachment, and the men constituting that majority are there now to try the President upon the charges of high crimes and misdemeanors. In deciding questions presented as legislators they were impelled by the same convictions of duty and moved by the same reasons as must control them when sitting as a court. The Senate has peculiar powers. It is one of the coordinate branches of the law-making power, and in cases of impeachment it is the court to enforce the law of its own creation. The constitutionality of this law was, therefore, practically settled. The Senate has passed upon that question. It is in vain that gentlemen may appeal to the Supreme Court of the United States. I respect that learned body as one of the branches of the Government, and I have no doubt, were the question fairly presented, that court would sustain this law. If it did not, the decision would be of no possible consequence whatever, except as the opinion of men learned in the law, and would be of no more binding force upon the court for the trial of impeachments than the decision of a police justice of the District of Columbia. No case that comes before the Supreme Court can possibly come before the court for the trial of impeachments. The Senate has the sole power to try impeachments. In this regard it has original and sole jurisdiction. It has no other jurisdiction as a court, and no other court can in any way take jurisdiction of persons impeached or the subject-matter of impeachments. There is no appeal from the decision of the Senate as a court. It is the highest court known to the Constitution and laws of our country. Its judgment is final and irreversible. No power on earth can review it.

I have spoken of the Senate as the highest court known to the Constitution and the laws. It is nowhere called a court. It is the Senate

which is to try impeachments. For that purpose it is clothed with the powers of a court. All there is upon that subject is contained in the last paragraph of section three of the first article of the Constitution, and is in these words:

"The Senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the President of the United States is tried the Chief Justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present.

Judgment in case of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States, but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law."

The calling of the Chief Justice to preside in cases where the President is tried does not change the character of the Senate. Whether it was thought the Vice President would have such an interest in the trial which, if it resulted in a conviction, would make him President, as to render it improper for him to preside, or, what is much more probable, it was to provide a presiding officer in case the President was suspended from exercising the duties of his office and the Vice President was discharging those duties while the trial was progressing, as was stated by Mr. Madison in the debates in the Virginia convention, is of no importance whatever. The Vice President is not a Senator any more than the Chief Justice. Which ever presides it is still the Senate, which, by the provisions of the Constitution last quoted, has power to try and render a judgment—attributes pertaining to all courts. It passes upon and decides, while trying impeachments, similar questions, and in the same manner as tribunals known only as courts. In this manner it must determine the validity of laws. So must every court, high and low; and so must every tribunal, man, or number of men upon whom devolves the duty of doing any act whatever in pursuance of a written law.

The Supreme Court is not created for the purpose of passing upon the constitutionality of the laws. It must perform that duty when the laws or a law is called in question in a case regularly before it. Its decision is conclusive in such case, so far as that court is concerned, and is only binding as authority upon inferior tribunals from which an appeal may be taken to that court. Such decision does not blot out the law; it remains upon the statute-book. It is true the same court may overrule its own decision, and declare void a statute which it had before sustained; but while the law is unrepealed and the decision stands it is controlling upon inferior tribunals and all persons whose acts may come within the jurisdiction of those tribunals. It is no less true that the Senate, while trying an impeachment, may overrule its former determination as a branch of the Legislature, but until it does so its conclusions are binding authority and notice to all persons who may be brought within its judicial jurisdiction. He is a bold man, then, who proclaims the civil-tenure act unconstitutional. The President, in this respect, has assumed an unenviable responsibility.

In the remarks submitted on Monday last, by the gentleman from Pennsylvania, [Mr. Woodward,] I was not surprised to hear that gentleman characterize Congress as "irregular, unconstitutional, fragmentary bodies." He might, without in the least marring the harmony of his speech or weakening his argument, have added in the emphatic language of the distinguished individual whose cause he advocates, "hanging on the verge of the Government." Sir, if this is not a constitutional Congress, if it has no right to make laws, and the Senate is not authorized to act as a court in cases committed by the organic law to its jurisdiction, if this House is an "irregular, unconstitutional, and fragmentary body," with all due respect to that gentleman I would like to know what brings him here? In what capacity

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is he acting, and for what purpose does he take part in the work of making laws and the other legitimate business of Congress, such, for instance, as taking action upon the resolution presenting the Chief Magistrate for high crimes and misdemeanors? If he entertains the opinions he has given utterance to has he no conscientious scruples about receiving the people's money in pay for his salary as a member of Congress? Is he acting with and as one of an unlawful body in the making of laws which are void and of no effect whatever, and does he still claim pay for such services? Who is to-day the acting Chief Magistrate of the United States, whose term in office we propose to shorten, and by what authority does he assume to sign or veto laws, issue proclamations and orders, appoint men to and remove them from office, and exercise all other powers pertaining to the chief executive officer of the nation? Fewer States than are represented upon this floor placed him in the second office in the gift of the American people. His own State of Tennessee had no part or lot in it. Through the misplaced confidence of Republicans of the loyal States alone he became Vice President of the United States. A contingency occurring for which provision had been made the duties of President devolved upon him. How faithfully and well he has discharged those duties I propose to show hereafter. Is he a fragmentary President? Perhaps so, but whether a fragment or an entirety he is certainly near "the verge of the Government," and if justice is done will soon be beyond that verge. If this is not a constitutional Congress then we have no Government at all, and secession accomplished its purpose. The voluntary withdrawal from Congress of the Senators and Representatives from a single State would at any time have broken up the Union. These States are held together by no such watery tether as that. Suppose the Representative from the State of Delaware should die, must the business of legislation be delayed until the vacancy is filled? It would be very strange, indeed, if the wheels of Government could be blocked in that way. The right to exclude Representatives for crime cannot be questioned; and the effect whether excluded for good reason, or the States remain unrepresented of their own choice, can make no difference.

Mr. Chairman, I was not honored with a seat in the Thirty-Seventh Congress, but, sir, I was not indifferent to the stirring events of that period. The bitter denunciations and covert threats in the form of warnings which fell from the lips of my colleague [Mr. Brooks] in the early part of this debate, and the incendiary language with which the gentleman from Pennsylvania [Mr. Woodward] closed his remarks, forcibly remind me of the hour when treason, which had been thirty years incubating, threw off the shallow covering which concealed it from the public view and stood forth in all its naked and hideous deformity armed for the destruction of the Republic. I remember well, sir, how the loyal people of this nation stood appalled as the traitors, ripe for their hellish work, one by one abandoned their places and went forth from these Halls to take part in the bloody contest which they had here matured. Sir, I am unwilling to pursue the parallel further. When I reflect that the chief conspirator is to-day an indicted felon, awaiting his trial before a jury of his countrymen for the highest crime known to our laws, and those of his coconspirators who, escaping the sword, fled from the land of their birth, whose benignant laws and liberal institutions they sought to destroy, are now fugitives in a foreign land, without a home or a country, without considering the miseries and desolation that follow in the train of war, I will not believe there is a single Representative upon this floor who would knowingly or intentionally inaugurate another rebellion. Does the gentleman from Pennsyl-

vania fully realize the full import of his words when he says:

"If I were the President's counselor, which I am not, I would advise him, if you prefer articles of impeachment, to demur both to your jurisdiction and that of the Senate, and to issue a proclamation giving you and all the world notice that while he held himself impeachable for misdemeanors in office before the constitutional tribunal he never would subject the office he held in trust for the people to the irregular, unconstitutional, fragmentary bodies who proposed to strip him of it. Such a proclamation, with the Army and Navy in hand to sustain it, would meet a popular response that would make an end of impeachment and impeachers."

Such language grates harshly upon loyal ears. Such advice is seditious, rebellious, revolutionary. Its impotency excites ridicule, and alone shields it from fitting rebuke. I would not, under any circumstances, willingly trust with power the head or heart that could give utterance to such sentiments. How any man who has been long clothed with judicial power, learned and schooled in the civil law, and accustomed to see its decrees and judgments respected and enforced, can advise forcible resistance to a proceeding in pursuance of the provisions of the Constitution is utterly incomprehensible. Such advice, if followed, leads straight to civil war.

The same gentleman characterized the charges against the Executive as both "false and foolish," words whose use is not prohibited by any parliamentary rule, if it accords with the taste of the speaker to adopt them. Folly is more frequently a misfortune than a crime. The Creator has not endowed all men with equal mental powers or equal moral graces, and, while a reasonable allowance should be made for the excitement of debate, the wisdom is not enviable or the morality commendable which, with the light and experience of the past few years before it, would advise the President to issue his proclamation of resistance to the law and call upon the Army and Navy to sustain him. His repeated attempts to seduce Grant, Sherman, Thomas, and their compatriots in the Army from their allegiance to their country have signally failed. His last attempt to subordinate the War Department to his unholy purposes has been thwarted; the citizen soldiers who stood by the flag in the dark days of the rebellion are true to it still, and if the question were asked them, "Will you have Andrew Johnson for President or king," the response from half a million voices would be, "Neither." What! call upon the Army and Navy to sustain him; as well might the evil one call upon saints to aid him in enticing victims to his infernal regions. The Army and Navy of the United States do not answer to such calls as that. He may call, but, like calling spirits from the vasty deep, they will not come.

The material power of this Republic has been settled. After four years of such strife as the world had never witnessed; after five hundred thousand of our youth had found an early, bloody grave; when every hamlet in the land was draped in mourning, and thousands of households were bowed down with grief and sorrow; after towns and cities were laid waste, and the desolation which follows in the track of war marred the fair face of our common country, treason and rebellion, powerful beyond any previous conception, went down before the armies of the Union, and the starry banner of the Republic floated high above the sea of blood, peacefully, gracefully, triumphantly inviting beneath its protecting folds the oppressed of all the nations of the earth. The power of this Government to defend itself and maintain its existence and integrity against its enemies, internal as well as external, was fully determined and forever settled.

We are now about to test the moral power of the Government. A resolution impeaching the President for high crimes and misdemeanors has already passed this House. Articles of impeachment have been presented charging him with deliberate violation of both the Constitution and a law of Congress. The act

is not denied. It only remains to establish the criminal intent. Unfortunately for the President, he has no good character to fall back upon. His previous course has not been such as to disarm suspicion. In arraigning the President I would not indulge in generalities; but his moral turpitude is so engraven upon the public heart that specifications would be superfluous. Foremost among the public men who denounced treason in his inception he stole the confidence of Republicans throughout the Union. Alone of all the Senators from the seceding States he stood firmly by the Union when the day of separation came. As military governor of Tennessee he was the personification of loyalty itself. Bold, defiant, energetic, and untiring in battling the enemies of his country, he became the special object of rebel vengeance and copperhead abuse. He was profuse with denunciations of treason and traitors. He went further than the Republican party of to-day have ever gone or thought of going. He declared that traitors must be punished and impoverished and treason made odious. He insisted that their social power should be destroyed, that Union men should be remunerated out of the pockets of the rebels. His language in reference to protecting Union men and restoring the States to the Union is so significant that I quote it entire:

"I hold it a solemn obligation in every one of these States where the rebel armies have been beaten back or expelled, I care not how small the number of Union men, if enough to man the ship of State, I hold it to be a high duty to protect and secure to them a republican form of government until they again gain strength. They must not be smothered by inches."

In calling a convention to restore States he said:

"Who shall restore it? Shall the man who gave his influence and means to destroy the Government? Is he to participate in the great work of reorganizing the Government who brought this misery on the State?"

He said if there were but five thousand loyal men in a State they should govern it. He favored a division and partition of large plantations among the loyal men of the South. He promised protection to the freedmen, and assured them, if no other leader appeared, he himself would be their Moses to lead them from a worse than Egyptian bondage.

With such promises and professions as these he secured the confidence of the Republican party and cheated them out of a nomination and election to the Vice Presidency. Now comes another chapter in the history of this man: on the day of his inauguration, in the presence of the nation's Representatives and the representatives of foreign Governments, he disgraced himself and dishonored his office. He brought shame and humiliation upon all the people, and how has he kept his promises and pledges given during the rebellion? Instead of punishing traitors he has pardoned thousands, and the whole rebel host are now his most ardent admirers and earnest supporters. Not one has been brought to trial before a civil tribunal. What kind of a Moses he has proved to the colored race is answered by the massacres of New Orleans and Memphis, and the blood of thousands of these people, murdered by rebels, and no effort made to mete out punishment to the murderers. Has he compelled traitors to take back seats in the work of reconstruction? His persistent efforts to restore rebels to power, the appointment of scores of men to office throughout the southern States who could not take the oath of office without committing perjury, furnish ready answers. Have traitors been impoverished? The restoration to rebels, without compensation, of railway property of incalculable value, and upon which the Government had expended more than forty million dollars, the stripping of freedmen of thousands of acres of confiscated land which had been dedicated to them by law, and turning over these lands to their former rebel owners, are facts which furnish a reasonably satisfactory answer to that question.

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He created officers unknown to the law, and used the public money to pay their salaries without authority or color of right. He has refused to recognize the right of Congress to institute measures for the restoration of the rebellious States and the protection of Union men in the enjoyment of property and liberty. He has sought to obstruct the execution of the laws of Congress. He has taken to his confidence and council men who, during the rebellion, were open-mouthed in their sympathy with traitors. Men who, during the war, found no warrant in the Constitution for calling out volunteers to defend the nation's life, who pronounced the draft unconstitutional, and could find no power in the General Government to coerce a sovereign State, are now his most earnest supporters and defenders, and would, if they were his counselors, advise him to call upon the Army and Navy to "put an end to impeachment and impeachers." Such a record as this leaves no room to doubt criminal intent in his last attempt to get forcible possession of the War Department by ejecting a faithful public servant, in violation of both the Constitution and the statute. The record opens with the humiliating and mortifying spectacle at his inauguration, and will end with impeachment and removal from office.

There is one more prominent incident in the career of the President which cannot be omitted without leaving the picture incomplete. Just two years before the debate began upon the resolution which we have already passed, in a speech to an excited mob of rebels and copperheads the President, forgetful of the obligations he was under to the Republican party, with base ingratitude toward the men to whom he was indebted for more official honor than the Democratic party will ever be able to confer upon him, from the steps of the White House denounced Republicans in the most bitter terms, two of whom he stigmatized as "traitors." On that day he transferred to the vanquished rebels and their sympathizers all the favors and patronage he had to bestow. Then commenced the struggle between the Executive and the people, which has been continued without interruption to the present time. The contest is nearly ended. On Tuesday last the distinguished gentleman from Pennsylvania, whose efforts in the cause of freedom have marked him as the champion of equal rights, and whose name is graven high upon the temple of liberty, as a messenger from the House, announced to the Senate that, "in the name of the House of Representatives and of all the people of the United States we do impeach Andrew Johnson, President of the United States, of high crimes and misdemeanors in office." Loyal men who listened to his words felt that the day of the nation's deliverance was at hand. He was a fit messenger for such a message. It was retributive justice for the unfounded and malicious accusation of the 22d of February. One of the distinguished individuals whom the President had branded as traitors was now his accuser, and the other was about to sit in judgment to try the accusation. Law and order had triumphed—a triumph which will yet be more full and complete.

The events of to-day mark an epoch in the history of our country. An apostate Executive, who has used the power of his high office to thwart the will of the people, whose perfidy had well-nigh rendered of no avail all the fruits of a terrible but successful civil war, has completed the full measure of his infamy by the deliberate violation of a criminal statute in a last abortive attempt to absorb in himself all the powers of the Government. His defenders upon this floor remind us of incidents in English history. Are these happy reminders for their apostate chief? It was Charles the First, I believe, who quarreled with his Parliament because they opposed his unlawful measures and exercised the privilege of voting for or opposing such measures as they saw fit. At the

head of a handful of soldiers he marched to the Commons and demanded the surrender of Hampden and others, with the intent to try them for treason, simply because they opposed his outrageous and tyrannical policy. The end of Charles was speedy. He inaugurated civil war and died upon the scaffold. Some of the same race of men who dealt with the first Stuart came over in the Mayflower. They were the founders of constitutional liberty upon this continent. The institutions they established lie at the foundation of our Republican structure, and their descendants are the men—the hated Yankees—who led our armies in the rebellion against the representatives of the Cavaliers and Huguenots. Perhaps the President will attempt the rôle of the English king; men in confederate gray can be found to follow him. It is their arms that now uphold him and their voices plead for him, and a fawning sycophant, without character or capacity, might be found here and there wearing shoulder-straps who would obey executive mandates, whether legal or illegal, and whether issued in defense of the Government or to destroy it. With such support is a *coup d'état* advisable? If he attempt it history will repeat itself. The great heart of the loyal people beats to the music of the Union, and it is in vain the organs of the Democracy attempt to inflame the public mind.

The President's mouth-piece in this city calls upon the people "to rise in their might and majesty and eject the Goths and Vandals who have desecrated the temple of freedom with their foul deeds." Such ebullitions are the expiring throes of that false civilization whose corner-stone was slavery. These people have yet to learn that "this is a Government of the people for the people." The mission of the Republican party is not yet ended. Slavery, which had so long cursed our land, went down in the bloody conflict inaugurated by its worshippers to extend its area and perpetuate its existence. The chivalry will not believe it dead. They are like the Eastern princess whose liege lord had died and was laid out in state: living, she loved him to adoration and would not believe him dead, but sat day by day watching his return to life, until the stench of the decaying corpse drove her away. These men are now watching over the carcass of slavery in the hope of resurrection—just when and how they do not know. They hope in vain. Its vitality has forever fled. Its rotting carcass pollutes the atmosphere, and the Democratic circle who were sincere and genuine mourners at its obsequies is fast receding, and the day is not far distant when none will be found so poor as to do honor to its memory.

The contest in our country has been between republican ideas on one side and aristocracy on the other—the Pilgrims and the Cavaliers. Jamestown typifies the one and Plymouth rock the other. Weeds and thistles have overgrown the site of the first settlement on the banks of the James, but Plymouth rock remains; and ages after the waves of the ocean shall have worn away the last vestige of that rock the free civilization and social ideas of New England shall be doing their work of christianizing the races and inculcating a love for liberty which is as broad in its philanthropy as the universe, and knows no distinction of race or color.

Reconstruction.

SPEECH OF HON. JAMES DIXON,

OF CONNECTICUT,

IN THE UNITED STATES SENATE,

March 11, 1868.

The Senate having under consideration Senate bill No. 207—

Mr. DIXON said:

MR. PRESIDENT: The Senate of the United States entered upon this great debate upon the

question of reconstruction, so called, at a moment when three years of civil discord, following four years of actual war, found at their close this country still distracted, disunited, overburdened with debt, and paralyzed in every department of business. In ten southern States, if we may credit impartial witnesses, destitution has reduced many to imminent danger of actual starvation, and the people are sunk in utter despair. In the States represented in Congress industry seeks in vain its accustomed occupation; the apprehension of want saddens many hearts who never before knew such a fear, and in silent perplexity men are everywhere awaiting the developments of the future, full of uncertainty and distrust.

If at such a time there are Senators who suppose that those who differ from them can be silenced by words of reproach, of personal abuse, of vituperation, they have already found themselves mistaken. If there are Senators who suppose that to assail the motives or denounce the action of other Senators is the style of argument demanded by the necessities of the times, and desired by a suffering and patient people, they are equally mistaken. For myself, I choose rather, if possible, to imitate those who meet us with calm and dispassionate arguments. In assailing measures, as I shall feel bound to do, it is not necessary to impute to their authors and advocates unpatriotic designs. Of what consequence is it to an agnized people what are the designs and motives of the authors of the measures under which they are suffering. If it be true that the ruling party in this Congress do not intend to produce the wide-spread distress which their measures may cause, that truth alleviates no suffering, feeds no starving family, brings hope to no despairing breast; rather it may bring deeper discouragement and dispel all hope of a change of policy. It is, therefore, no source of relief to the people to be convinced that the Congress by which all the Departments of this Government, to an extent never contemplated by the Constitution, are now carried on, believe their measures to be wise and proper. The question, sir, is not what are your designs and motives, but what is the necessary effect of your policy. That is a question in which the people are beginning to perceive they have some interest. For the effect of that policy you will be held responsible. For that you are now on trial before the intelligence of the whole country.

Mr. President, in the labored defenses to which we have listened of the legislation of Congress respecting the portion of the Union lately in rebellion, the opponents of this legislation have been charged with a clamorous expression of regard for the Constitution. Even during the war, we are told, they demanded that constitutional measures should be adopted for the suppression of the rebellion. Then, as now, it is alleged, they insisted that, as the object of the war was to defend the Constitution and reassert its supremacy, its plain, indisputable provisions should not be violated in the attempt to reestablish them. Now that the war is over, and the supreme authority of the Constitution is acknowledged and obeyed in every part of our national territory, the same demand, we are told, is still made; so that the position occupied by the opponents of the congressional policy is that of the peculiar champions of the Constitution. As such they are assailed and reproachfully reminded of the fact that in the dark hours of the war they were also champions of the Constitution. "Constitution savers," they are sneeringly called. Sir, if this charge is well founded, permit me to say it redounds to the eternal honor of those against whom it is brought. The Constitution of the United States is amply sufficient for all purposes, both of war and peace. It provides for both. Its restraints may be even more necessary in war than in peace, and they do not in any manner weaken, but rather give added strength to, the

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administration of the Government. Our fathers did not ordain a Constitution which in time of peace should limit and direct the action of the different Departments of the Government, but which in time of war should leave them without a guide, unrestrained, and clothed with despotic authority. Powers which are dormant in peace may, it is true, spring to life in war; but under the Constitution the powers necessary for conducting a war are full and ample. Those, therefore, who object to the control of the Constitution in war, either misunderstand our system of government or else they utterly disregard and are willing to overthrow it. I repeat, then, that whatever party demands obedience to the Constitution in war as in peace is right in so doing. Especially are those right who, after the close of a war waged in defense of the Constitution, demand that the great organic law which has been vindicated and defended on the field of battle shall be obeyed as the supreme law of the land. I accept, therefore, for myself and for those with whom I act, the charge of being Constitution savers, with all the reproach that charge may convey. I do desire to save the Constitution, and the present, in my judgment, is the hour of its greatest peril.

Sir, the contest in which we are now engaged is one of far greater danger to the Constitution and to our federal system of government than the struggle of material forces which took place during the four years of actual war. The result of that struggle, though sometimes it might have given us solicitude, was never really doubtful. The victory was sure to be with the strongest. But subtle forces are now at work which may silently change the whole character of our institutions. Unseen dangers surround us. Causes, the effects of which may not be fully seen during this generation, and may be developed in future centuries; hatreds which may slumber till opportunity shall wake them to life, differences of race, diversities of interest, which will deepen and intensify as our continent becomes more populous—all these, and numberless other circumstances, which to the thoughtful mind need scarcely be suggested, give an incalculable importance to the mode to be adopted of restoring the harmonious relations of the States. The permanence of our federal system of government will be far more endangered by an error at this stage of our condition than it was by any open acts of hostility to which it has been exposed. To save and perpetuate the Constitution, if any patriotic party is endowed with the wisdom to perform such a work, is indeed a task for the wisest and the best; let them not be driven from it by the denunciations of the thoughtless and inconsiderate.

I listened with interest to the speech of my colleague, and in one portion of his remarks, at least, I found myself able to agree with him, if his meaning is limited, as I suppose it to be. I believe with him that the people of the United States constitute one nation. Yet I believe, and so I think must my colleague, that the Government established by the Constitution is limited and restricted in its powers. The very design of our constitutional form of Government was to delegate, or, to use another word of the Constitution, to grant, certain specified powers. The people undertook to do what never before had successfully been done, to grant to the Government they were about to establish certain powers, and to reserve to themselves (or to the States) the powers not granted. The Government thus created is not, therefore, in the sense in which the word is used in Europe, sovereign. It has limitations and restrictions. There are certain acts which it cannot perform—certain functions of Government from which it is prohibited. It cannot, for example, establish a national religion. Mr. Webster, in his reply to Mr. Calhoun, admirably describes and defines its character

in view of these limitations of its power. I read from volume 2, page 185, of his works:

"The nature of sovereignty or sovereign power has been extensively discussed by gentlemen on this occasion, as it generally is when the origin of our Government is debated. But I confess myself not entirely satisfied with arguments and illustrations drawn from that topic. The sovereignty of Government is an idea belonging to the other side of the Atlantic. No such thing is known in North America. Our governments are all limited. In Europe sovereignty is of feudal origin, and imports no more than the state of the sovereign. It comprises his rights, exemptions, prerogatives, and powers. But with us all power is with the people. They alone are sovereign. None of these governments is sovereign in the European sense of the word, all being restrained by written constitutions. It seems to me, therefore, that we only perplex ourselves when we attempt to explain the relations existing between the General Government and the several State governments according to those ideas of sovereignty which prevail under systems essentially differing from our own."

My colleague speaks as if we supposed the character of our Government had been in dispute from its formation to the end of the late war. But by all that portion of the southern people who agreed politically with Mr. Clay and Mr. Webster, and by almost the entire intellect of the North, the doctrines of Mr. Webster in his reply to Mr. Hayne in 1828, and in his reply to Mr. Calhoun in 1833, have been accepted as correct and unanswerable. In those speeches may be found a perfect exposition of the true character of our federal system and of the relations and rights of the States, which, so long as our constitutional form of government shall remain, will require no further comment or elucidation. Perhaps my colleague, in his theory of nationality, does not wish to be understood to differ materially from the doctrines of those discussions. Possibly, if he had entered more fully into the subject, he might somewhat have limited and restricted his meaning. Certainly he cannot mean to deny that powers not granted are reserved, nor that the State of Connecticut, within the sphere of her legitimate powers, can exercise the very highest attributes of sovereignty by the enactment of laws which have strength enough to deprive a human being of liberty and life. He cannot mean to deny that all the domestic relations, speaking generally, are there regulated by laws enacted by the State Legislature, with which the Government of the United States has no power to interfere. Marriage, divorce, the descent of real and personal estate, the punishment of every species of local crime, the regulation of suffrage, all these are wholly within the control of the Legislature of Connecticut, and in relation to them, within the jurisdiction of a State, the Government of the United States is wholly powerless. I know not, therefore, precisely what my colleague means when he speaks of "all municipal and State organizations revolving around the great central orb, the nation!" Can he possibly suppose that the relations of a State to the Federal Government are similar to those of a "municipal organization" to the State government? The municipal organizations, or in other words incorporated cities and towns, exist by the permission of the State; can at any moment, by an act of State legislation, be changed or abolished or extended, always provided that no contract is violated. They are, indeed, mere creatures of the State—municipal corporations, created by law. Is that the character of a State? I think my colleague must have used language hastily and unguardedly; yet, if uncorrected, his speech must mislead those, and I know they are many, who rely on his teachings.

Permit me here, as this is a matter which ought to be fully understood by the people, to read two extracts which throw a clear light upon the subject of the relations of the Federal and State governments, and the peculiar mode of existence of both. The first extract is from the opinion of the late Chief Justice Williams, of Connecticut, in the case of Pratt vs. Allen, 13 Connecticut Reports, page 119. I will barely read the marginal note of the case:

"The Constitution of the United States is a grant

of powers where they did not before exist; but the constitution of this State is a limitation of powers already existing, leaving the legislative department, subject to the limitation specified, as it found it."

The second extract is from the speech of Mr. Webster in reply to Mr. Calhoun, from which I have already quoted. Works of Mr. Webster, volume 2, page 117:

"The people, sir, in every State, live under two governments. They owe obedience to both. Those governments, though distinct, are not adverse. Each has its separate sphere and its peculiar powers and duties. It is not a contest between two sovereigns for the same powers, like the wars of the rival houses in England, nor is it a dispute between a Government *de facto* and a Government *de jure*. It is the case of a division of powers between two Governments made by the people, to which both are responsible. Neither can dispense with the duty which individuals owe to the other; neither can call itself master of the other; the people are masters of both. This division of power, it is true, is in a great measure unknown in Europe. It is the peculiar system of America, and, though new and singular, it is not incomprehensible. The State constitutions are established by the people of the State. This constitution is established by the people of all the States."

It thus appears that within its proper sphere of action, and in that vast region of governmental function, where it cannot possibly come in conflict with the Government of the United States, the government of Connecticut, and of every other State, is as truly a government and as completely sovereign as any such organized power can be, limited, of course, by the restrictions placed upon it by the people in their State constitutions. The Senator, my colleague, says:

"Thus far I may seem to have been arguing truisms. I now go a step further, and assert that this sovereignty [of the people of the United States] is exercised primarily through suffrage."

That assertion, if my colleague will permit me to say so, does not seem to me a very wide step from "the truisms" which he had already asserted. Of course, sovereignty is exercised primarily through suffrage, and nobody will undertake to deny what the Senator proceeds further to assert, that "the right of suffrage in the individual man is derived from his participation in the sovereignty of the Republic, and that if all participation in it is lost suffrage is lost." That, I take it, is only a mode, perhaps not very clear, of saying that every man must exercise his sovereignty by voting, and that his right of voting may be forfeited or abandoned. My colleague will pardon me if I find some little obscurity in this part of his speech. But I only notice it lest under it should lurk some hidden heresy like that on which those Senators rest who claim that Congress may enact suffrage laws for the States. If that notion is concealed under his peculiar phrasology I beg my colleague not to consider me, by acquiescing in a degree in his doctrine of nationality, as waiving my right to protest against the heresy in question.

I have been led, Mr. President, to a longer digression into the path of discussion opened up by my colleague than I intended. I now proceed to the line of argument which, in my own mind, I had assigned to myself in this debate. I claim that the conservative people of the country—it is immaterial by whatever name they are called, whether Conservatives or Democrats—are justified in their present demand, that the mode of reconstruction, so-called, and all the action of the Government with regard to the States now unrepresented in Congress, shall be controlled by and founded upon the Constitution of the United States, and should be in harmony with the true theory of the relations of the States and the Federal Government, as heretofore understood and acknowledged. To establish this I lay down three propositions, which I shall attempt to prove.

1. That the war was avowedly conducted, on the part of the President and of Congress, on the theory that their action was to be controlled by the Constitution and that it was so controlled, if their professions could be relied on.
2. That the war was also conducted on the

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theory that the rebel States were States in the Union, with valid constitutions, and that their loyal people had a right to representation in Congress, which right was constantly acknowledged, and actual representation was permitted and invited in both Houses of Congress.

3. That after the close of the war this theory continued to control the action of the Government until the passage of the reconstruction act, so called, when the constitutional theory was abandoned, and it was proclaimed for the first time by the chairman of the Reconstruction Committee of the House of Representatives, the acknowledged leader of that body, that the entire legislation of Congress on this subject was outside of the Constitution.

I propose to take up these three propositions in their order.

1. That the war was avowedly conducted, on the part of the President and of Congress, on the theory that their action was to be controlled by the Constitution and that it was so controlled.

What was the first act of President Lincoln after the actual outbreak of hostilities by the assault on Fort Sumter? The first resort was to the Constitution, and to the law passed in conformity with it, for instructions. In obedience to that law, and in strict compliance with its provisions, he issued his proclamation of April 17, 1861, calling for seventy-five thousand men to suppress the insurrection. So careful was he to obey the injunctions of the law that we can now scarcely repress a smile at the almost grotesque formality of his compliance with the requirement that he should order the insurgents to disperse to their homes within the period specified in the statute. The time of service required of the troops was limited to the period of three months, the utmost extent allowed by the law. Having thus done all that the Constitution and the laws permitted, the President summoned Congress to meet on the 4th of July. Meanwhile, Virginia passed her ordinance of secession, and a rebel army approached within thirty miles of Washington, where an unsuccessful attempt was made with the troops thus legally called out to suppress the insurrection.

The battle of Bull Run took place on the 23d day of July, 1861. Two days after that battle both Houses of Congress, with almost entire unanimity, issued a manifesto declaring the purposes and objects of the war in the form of the following resolution:

"Resolved, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States now in revolt against the constitutional Government, and in arms around the capital; that in this national emergency Congress, banishing all feeling of more passion or resentment, will recollect only its duty to the whole country; that this war is not waged, upon our part, in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States; but to defend and maintain the supremacy of the Constitution, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

Why was this resolution adopted? In the House of Representatives it was offered by John J. Crittenden, of Kentucky. In the Senate it was offered by Andrew Johnson, of Tennessee. Was it the offspring of fear? Our Army had been defeated, and our capital lay at the mercy, as some supposed, of the rebel invader; yet neither in this body nor in the House of Representatives were there any signs of fear. Cowardice did not dictate that resolution. It was a calm, deliberate expression on the part of the nation's representatives of the nation's purpose. It declared to the world the theory of the war. It disavowed any purpose of subjugation, and declared that the institutions, the rights and dignity of the States were to be maintained. To the rights and dignity of what States did it refer? Of course the States in which the insurrection prevailed. The rights and dignity of no other States were in

peril. Was there, Mr. President, a single Senator voting for that resolution who then believed that after the war it would be repudiated, and that subjugation would be avowed as its accomplished end? My friend from Massachusetts [Mr. SUMNER] smiles. He is somewhat relieved from responsibility with regard to it, although he did not meet it with his usual courage. His silence, perhaps, gave consent.

Mr. SUMNER. My friend knows I did not vote for that resolution.

Mr. DIXON. He sat in his seat, I remember, on that occasion.

Mr. SUMNER. I refused to vote for it.

Mr. DIXON. Yes; I listened for the tones of his voice in vain. But, sir, it was, I think, unanimously adopted, with the exception of the Senator from Illinois, [Mr. TRUMBULL,] who denied the truth of the allegation that the rebels were surrounding the capital, and for that reason, as he stated, voted in the negative. I shall allude again to this resolution in another part of my remarks, but I now wish to advert to the claim sometimes made, that necessarily its provisions were abandoned in the progress of the war, and particularly in the subsequent abolition of slavery. I deny that the action of the Government on the subject of slavery was, in any respect, a departure from or a denial of the true intent and meaning of this resolution. Slavery was abolished by three different proceedings, all of which were entirely consistent with its language. First, by the proclamation of Abraham Lincoln, President of the United States, issued in September, 1862. This proclamation was merely a war measure, as much so as the firing of a cannon or the explosion of a mine. It was only as such a measure that it had any legal effect. That this was so understood is proved by the fact that it excepted from its operation the States of Delaware, Maryland, Kentucky, West Virginia, Tennessee, and all that portion of Louisiana which was in the actual control and possession of the Federal power. The dignity and the rights of the slaveholding States not in rebellion were held sacred, and where in the rebel States the Government had actual possession and physical power to abolish slavery it was not abolished. Thus far, then, slavery had only been attacked as a stronghold of the enemy and as an act of war. The next step in the abolition of slavery was the liberation of the slaves in the District of Columbia by act of Congress. To the owners of these slaves full compensation was made. The law passed for this purpose was an ordinary act of legislation, which, by the express terms of the Constitution, Congress had full power to enact.

The next step in the progress of emancipation was the amendment of the Constitution of the United States, by which slavery was abolished in all the States. This amendment was proposed and ratified in the mode pointed out by the Constitution itself, was cheerfully consented to by most, if not all, of the rebel States, and was in no respect inconsistent with the letter and spirit of the resolution of July, 1861. Thus it will be seen that the action of the Government in relation to slavery was neither in point of fact nor intention a repudiation of that resolution. Those, therefore, who declare that the progress of events has rendered it impossible to carry into full effect its meaning, and mention as a proof of this the subsequent abolition of slavery, entirely misunderstand the nature and mode of that proceeding.

Secondly. I now proceed to my second proposition, that the war was conducted on the theory that the rebel States, so called, were States in the Union, with valid constitutions, and with a right on a part of the loyal people thereof to representation, which right was constantly acknowledged, and actual representation in both Houses of Congress permitted. And here I call your attention again to the resolution already quoted of July, 1861. That resolution

speaks expressly of the rebel States as States, and of their dignity and rights and separate existence. But I pass from this resolution to another even more solemn proceeding of Congress, and more conclusive as to the real intentions and purposes of the Government, inasmuch as it took the form and was clothed with the authority of law. I refer to the act passed December 31, 1862, by which the State of West Virginia was created from a portion of the territory of the State of Virginia. The Constitution provides that no new State shall be made from the territory of an existing State except by its own consent. It was necessary, therefore, before the State of West Virginia could be formed, that the State of Virginia should perform the most solemn and the most important act of legislation of which we can conceive, namely, its own subdivision and disintegration. The State of Virginia performed this act; or if this fact is denied, then it follows that the State of West Virginia has now no existence. The preamble of the act of Congress creating the State of West Virginia is in the following language:

"Whereas the people inhabiting that portion of Virginia known as West Virginia did, by a convention assembled in the city of Wheeling on the 20th of November, 1861, frame for themselves a constitution with a view of becoming a separate and independent State; and whereas at a general election held in the counties composing the territory aforesaid, on the 3d day of May last, the said constitution was approved and adopted by the qualified voters of the proposed State; and whereas the Legislature of Virginia, by an act passed on the 13th day of May, 1862, did give its consent to the formation of a new State within the jurisdiction of the said State of Virginia, to be known by the name of West Virginia, and to embrace the following named counties, to wit:—
* * * * * "And whereas both the convention and the Legislature aforesaid have requested that the new States should be admitted into the Union, and the constitution aforesaid being republican in form, Congress doth hereby consent that the said forty-eight counties may be formed into a separate and independent State."

It is too late for the Government of the United States, or for any member of Congress who shared in that legislation, to deny that, at that time, Virginia was a State in the Union with a valid constitution, with a Legislature capable of performing any legislative act, and with a government as sovereign and as complete in all its parts as that of any State in the Union. Yet rebellion and insurrection held a large portion of that State in adverse possession and forcibly excluded the Government of the United States from the region so held. A large majority of the people of Virginia were then rebels against the authority of the United States, claimed to be freed from that authority by the ordinance of secession, and assumed to be citizens of a foreign government. Yet the Congress of the United States and the President of the United States, in spite of all this, took the correct ground that Virginia had an existing Legislature and retained all the powers and was subject to all the duties of a State within the Union of States.

I now proceed to show under this head that the Government also acknowledged the rebel States to possess valid constitutions and the right to representation in Congress, and that actual representation was allowed and invited in both Houses. Without a valid State constitution it is difficult to see how an act of legislation can be performed by the Legislature of a State. The constitution of Virginia, as of every other State, defines the separate action of each branch of the Legislature, regulates the veto power of the Governor, and, in short, under its directing provisions all legislation is performed. To acknowledge, therefore, valid legislation on the part of a Legislature of a State is to acknowledge the validity of its constitution, and if the constitution of Virginia was valid two years after the passage of the ordinance of secession and while the war was flagrant it remains valid to this day, unless repealed by proper authority.

I now come to the right of representation. I call to the recollection of Senators the fact

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shown by your own records, and by solemn credentials now on file in your archives, that after the passage of the ordinance of secession the same Legislature of Virginia, whose power you recognized as sufficient to consent to the division of that State, elected and returned to this body two Senators of the United States for the State of Virginia, namely, Mr. Carlile and Mr. Bowden. Both these Senators were qualified and admitted as members of this body. One of them, Mr. Bowden, died before the expiration of his term. The other, Mr. Carlile, continued to hold his seat during his term of service, and was a Senator of the United States from Virginia almost to the time of the surrender of General Lee's army. In the House of Representatives a similar condition of things existed. Several districts in Virginia were represented in that body during nearly the whole continuance of the war. Nor was Virginia the only seceding State represented in both Houses of Congress. Who then denied the right and duty of Andrew Johnson to continue to act as a Senator from Tennessee, although that State was swept by the hostile armies of the confederacy, and had undertaken to secede from the Union? Yet the Senator from Oregon [Mr. WILLIAMS] argued that every citizen of Tennessee was an alien enemy during the war, and, as such, liable to forfeit life, liberty, and property. We acted on a very different theory. Our Government admitted the right of representation on the part of loyal citizens of all the States. Nor was this all. The Executive of the United States, being then authorized by act of Congress to offer terms at his discretion to the insurgents, on the 22d day of September, 1862, issued his first premonitory proclamation relating to the emancipation of slaves. From that proclamation I quote the following:

"That the Executive will, on the 1st day of January aforesaid, by proclamation, designate the States and parts of States, if any, in which the people thereof, respectively, shall then be in rebellion against the United States; and the fact that any State, or the people thereof, shall on that day be, in good faith, represented in the Congress of the United States by members chosen thereto at elections, wherein a majority of the qualified voters of such States shall have participated, shall, in the absence of strong countervailing testimony, be deemed conclusive evidence that such State and the people thereof are not then in rebellion against the United States."

What do we here find? An express invitation to rebels in arms to occupy seats in the Congress of the United States as Senators and Representatives, and an express promise that if they will consent to do so the proclamation of emancipation shall be withheld and slavery be permitted to live forever. This, Mr. President, was from Abraham Lincoln, the great apostle of liberty, and yet we are told that when his successor, following in his footsteps and pursuing his policy, proclaims his belief that the war being over and slavery forever abolished with all its incidents, the loyal people of the South ought to be represented in Congress, he is a traitor and a usurper.

If, in reviewing the action of the Government during the war, we turn our eyes to the debates in Congress, we shall find that the leaders of the Republican party were almost unanimous in the support of the doctrines upon which I have shown that the Government proceeded. One Senator only, Mr. SUMNER, of Massachusetts, propounded a different theory.

By reference to the Congressional Globe of April 2, 1862, page 1493, the following extract may be found from the speech of the Senator from Ohio, [Mr. SHERMAN.] Senators who were then present will remember that the Senator from Massachusetts [Mr. SUMNER] was informed in that debate that he stood alone in his theory with regard to the rebel States. The opinion then entertained with regard to it by Republican Senators was correctly expressed in what I will now read from the speech of the Senator from Ohio:

"I, therefore, cannot help but say that, while I respect the motives of the honorable Senator from

Massachusetts, while I give him credit for consistency, ability, and a great deal of culture, and am always glad to hear him speak, yet I must confess that, when I looked over his resolutions, they struck me with surprise and regret. They would revolutionize this Government. Sir, strike the States out of this system of government, and your Government is lost and gone. I cannot conceive of the United States governing colonies and provinces containing millions upon millions of people, black and white. I do not think such a thing can exist. I do not believe it is in the power of secession to bring us to such a state of things. I can draw no distinction between the resolutions of the Senator from Massachusetts and the doctrines that are proclaimed by Jefferson Davis. If a State can secede the people of the State can make a new government. If the people of South Carolina are firm and united in their policy, which no man doubts; if they have power to secede, they have seceded, and their doctrine is true. But I do not believe they have the power to secede. They may go in banishment, wandering all over the face of the earth, but they cannot take with them a single foot of the soil of this country over which our flag ever floated. The doctrine of the Senator from Massachusetts is substantially an acknowledgment of the right of secession, of the right to secede. He, however, puts the States in the condition of abject Territories, to be governed by Congress. Jefferson Davis puts it in the power of the people of the States to govern the States themselves. As to which is the most dangerous or obnoxious doctrine I leave every man to determine."

The progress which has been made since that day is instructive. Opinions held by men capable of forming and holding an opinion have been abandoned, and doctrines which then shocked the candid and well-informed minds of distinguished Senators are now accepted as the basis of their actions. Sir, it is not my province to condemn others, but having at that time taken ground in the Senate against the theory then first proposed by the Senator from Massachusetts, I have, as yet, seen no reason to change my opinion. I stand where I then stood, and there I propose to stand. If others find sufficient reason to change their deliberately expressed opinions, they should be slow to condemn those who may not change with equal facility.

I now come to the close of the war, and shall, in the third place, show that the constitutional theory on which the war was conducted continued to control the Government until the passage of the reconstruction act, so called, when it was abandoned, and it was proclaimed for the first time by the chairman of the Reconstruction Committee of the House of Representatives, the acknowledged leader of that body, that the entire legislation of Congress on this subject was outside of the Constitution.

President Lincoln had then been reelected. Andrew Johnson had been rewarded by a grateful people for his fidelity to the Constitution by the second office in the Government. President Lincoln had announced only three days before his death, in a public speech, his policy of reconstruction. The sworn testimony of Mr. Stanton before the Impeachment Committee shows that his policy was taken up and pursued by President Johnson, under the advice of the Cabinet, which, as a unit, he inherited from his predecessor. Everything which President Lincoln had done up to that period, and everything President Johnson afterward did, in pursuance of President Lincoln's plan, had been ratified and confirmed by the people at the preceding presidential election. Had President Lincoln lived, this policy would have been pursued by him, and in it he would have been sustained by a majority of Congress. But after his lamented death the spirit of Radicalism revived. At first the great end at which it aimed—the elevation of the negro race to political supremacy in the southern States—seemed only dimly to be apprehended by itself. Then that bolder line of policy, since adopted, the disfranchisement of a sufficient number of the white race to make the black element controlling in the South, had not been entered upon, perhaps not even imagined.

President Johnson was, of course, unable, opposed as he was by two thirds of each House of Congress, to give affirmative force to the plan of reconstruction which he had inherited from his predecessor. He, however, did all that the executive Government could do to restore

the Union. And finally, on the 20th day of August, 1866, he issued his proclamation declaring to the nation the perfect and entire restoration of peace throughout all the States of the Union. Was that proclamation of binding force? The Senator from New Jersey [Mr. FREELINGHUYSEN] declared that the President had no power to declare the return of peace, and that such a declaration on his part had no authority unless ratified by Congress.

I find on the pages of the statute-book a ratification of that proclamation by solemn act of Congress, passed on the 2d day of March, 1867. Section two of an act entitled "An act to provide for a temporary increase of the pay of officers in the Army of the United States, and for other purposes," approved March 2, 1867, reads as follows:

"That section one of an act entitled 'An act to increase the pay of soldiers in the United States Army, and for other purposes,' approved June 20, 1864, be, and the same is hereby, continued in full force and effect for three years from and after the close of the rebellion, as announced by the President of the United States by proclamation bearing date the 20th of August, 1866."

Peace, then, was restored, as all must admit, on the passage of this act.

Before proceeding to the consideration of the new policy inaugurated by the reconstruction act, so called, I ask a moment's attention to the resolution proposing an amendment to the Constitution of the United States, known as the fourteenth article. The provisions of that section, with the causes of its rejection by the States of the South, have been fully discussed by the Senator from Wisconsin, [Mr. DOOLITTLE.]

When that resolution was proposed by Congress, only a little more than one year ago, the project of universal negro suffrage and restricted white suffrage at the South had not been conceived. The proposed amendment proceeded on the ground of exclusive white suffrage. It proposed to leave the question of suffrage where the Constitution left it, with the people of the several States, South as well as North. On that issue the present House of Representatives was chosen. On no other issue could a House of such a political character have been chosen. Yet, suddenly, at the first session of the legislative body thus elected, a new edict went forth from their great political leader, to which, with almost entire unanimity, his followers yielded submissive, unquestioning obedience. Here is the letter in which he boldly declares to the country that all the Radical leaders agreed that their action was outside of the Constitution and that they had repudiated that sacred instrument:

COLUMBIA, PENNSYLVANIA, August 24, 1867.

DEAR SIR: Several of your intelligent constituents in this region, no doubt from want of proper information, are complaining of mistakes made by Congress in not passing laws at the last session restraining the removals of certain officers engaged in reconstruction. I contended that you had passed an act at the very close providing for that very contingency, but which is not executed. Will you be so good as to inform me now? for our Representative is responsible for this omission, if omission it be. You know we are in the habit of dealing familiarly with the member from the ninth. A brief answer will much oblige.

Your friend,
HON. THADDEUS STEVENS, Lancaster, Pennsylvania.

LANCASTER, PENNSYLVANIA, August 26, 1867.

DEAR SIR: You are right in supposing that Congress makes mistakes, as is the inevitable lot of man; but you mistake in supposing that there is any law to prohibit the removal of district commanders without the consent of the Senate. Soon after the commencement of the last session of Congress I reported a bill from a committee of the House of Representatives which contained provisions prohibiting removals without the consent of the Senate. It passed the House and was sent to the Senate. The Senate struck it out and returned it to the House, who refused to concur in the amendment. The result was a committee of conference, where an animated contest ensued. There were several other questions in controversy between the Houses, which the House offered to yield if this would be granted. The Senate perseveringly refused, declaring that they would sooner lose the bill. As that would frustrate all our legislation it could not be allowed. The House yielded, with a warning of the evil it would inflict upon the

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country. Some of the members of the Senate seemed to doubt their power under the Constitution which they had just repudiated, and wholly outside of which all agreed that we were acting, else our whole work of reconstruction was usurpation; or, perhaps, they had a desire to be thought to be grossly conservative and magnanimous. The ideas seemed to control the action of some half a dozen Senators, who preferred trusting the President. My dear Colonel, a few Senators of great ability, undoubted patriotism, and purity have become so saturated with what they are pleased to call conservatism (whose meaning, I confess, I am unable to understand) that I fear they will forget the monster that was slain in 1776 and again in 1861; and will thus do great damage to the creation of a Government now so capable of being converted into a political paradise. This is liable to happen, not so much by a direct and palpable attack upon its framework as by gradually forgetting the vital principles of the Declaration of Independence. Strike out one of the living sparks which gave life to our Goddess of Liberty, and a mysterious and intense heat, whose welding fires near a century ago and at present are fusing principles of freedom and reducing despotism to cinders, will gradually cool, until the most conservative despot could thrust his sword into it without affecting its temper. I have said above I did not know the meaning of conservatism. I have since seen the report of a speech said to have been made by an Ohio Senator at Canton, Ohio, which, if it be truly reported, and is to be considered as a definition of that doctrine, then it to me is very alarming, worse than copperheadism. It is legislation without authority and reconstruction by usurpation.

I am, very respectfully, your obedient servant,
THADDEUS STEVENS.
Colonel SAMUEL SCHOCH, Columbia, Pennsylvania.

With the passage of the first reconstruction act, so called, commenced the final and complete triumph of ultra-radicalism in the Republican party. If there were some feeble struggles to resist the inevitable tendency they were unavailing. On the 2d day of March, 1867, the first of the series of measures now appearing as laws on your statute-book and proposed to be supplemented by the bill now under consideration was enacted. The whole country was in a state of actual peace, so declared to be by the proclamation of the President of August, 1866, ratified and recognized by the act of Congress of March 2, 1867, as already cited. In the language of Mr. THADDEUS STEVENS "it was legislation without authority and reconstruction by usurpation." I can only rapidly glance, at the extraordinary provisions of this bill pushed through the House by Mr. STEVENS under the previous question. The whole country knows its contents by heart. The writ of *habeas corpus* it suspends, unless its issue be authorized by a military officer; it establishes a military despotism throughout the ten States so harsh and severe that one of the officers in command has been charged with violating the law and threatened with dismissal for intimating a design to give the civil authority, in some few instances, supremacy over military power. Under the pretense of establishing a republican form of government every vestige of liberty has been blotted out and every guarantee of human rights known to our Constitution utterly abolished and destroyed. The right of suffrage has been indiscriminately extended to an ignorant race, many of whom have not the slightest conception of the meaning of the act of voting.

Sir, here I would gladly stop. I am not unmindful that there are men of generous and magnanimous natures who, forgetting the high and sacred character of the voter's duty, and the dependence upon its proper and intelligent exercise of the very existence of republican institutions, imagine we have a right indulgently to confer the privilege of suffrage, as we would confer a private benefaction, upon all alike, whether qualified or not for its exercise. But, if we acknowledge that the honest advocates of universal suffrage are not without a claim to our sympathy, even when their arguments do not convince our judgments, what shall we say when we find that this show of universal suffrage now made by the advocates of the congressional policy is only a pretext and a delusion. You do not, after all your pretenses, mean universal suffrage. On the contrary, your law actually disfranchises a large portion of the white people. You refuse to

adopt intelligence as a test, and then you proceed to strip that class whom you know to be most intelligent of the right of voting which they have always enjoyed. Thousands upon thousands of the thinking minds of the South find themselves deprived of the right of voting by a law which you dare to tell the country is intended to make suffrage universal. I find, sir, under this law, that almost every man capable of holding the pettiest office comes under the ban of your proscription, and is to be allowed no share in the government of the community in which he lives. How is this done? Not on the face of the law, but in a manner furtive and deceptive. The fourteenth proposed amendment to the Constitution provides that a certain specified class, including all who ever held any office, shall, under certain circumstances, be deprived of the privilege of holding office under the State or Federal Government. The reconstruction law simply provides that all who, by this proposed amendment, were to be excluded from office shall be refused registration as voters. Thus the work is done. How many white men are thus reduced to a political condition beneath that of their former slaves it is difficult accurately to ascertain. The Senator from Indiana [Mr. MORRIS] admits the number to be fifty thousand. I have no doubt, judging from the effect which such an exclusion would have if existing in my own State, that the number disfranchised in the entire South is at least two hundred thousand. But take the estimate of the Senator from Indiana, namely, fifty thousand; that number accomplishes the object of the disfranchisement. We find that the negro majority on the total registration lists of the whole South, as given in the Tribune Almanac, is about forty-five thousand in the aggregate. The disfranchisement of fifty thousand white men accomplishes, therefore, the intended object, negro supremacy. In five States this supremacy is complete and overwhelming. In Virginia, by the same authority, the white majority is only six per cent., and in Georgia only one per cent. So that in those two States, also, the black vote, controlled as it is and held in one compact body by emissaries from the North, governs the State.

But, sir, even this is not all. The supremacy of the colored population is not, as some Senator has claimed, temporary, and confined to the election for members of the conventions and the ratification of the State constitutions. The perpetuity of this supremacy is provided for by a contrivance which exceeds in diabolical ingenuity anything ever recorded in the annals of political management. The new constitution of Alabama, which we now propose to ratify and confirm, although supposed to be rejected by the popular vote in that State, contains the following provisions, which continue in force the disfranchisement of the white population whose registration as voters is now prohibited by congressional legislation, and also forever disfranchise every man who will not bind himself by oath, in effect, never to oppose unqualified universal negro suffrage. These provisions will undoubtedly, under instructions from headquarters, be copied into all the southern State constitutions. Here they are, as they stand in the new constitution of Alabama:

"It shall be the duty of the General Assembly to provide, from time to time, for the registration of all electors; but the following classes of persons shall not be permitted to register, vote, or hold office:

"Those who may be disqualified from holding office by the proposed amendment of the Constitution of the United States known as article fourteen, and those who have been disqualified from registering to vote for delegates to the convention to frame a constitution for the State of Alabama, under the act of Congress to provide for the most efficient government of the rebel States, passed by Congress March 2, 1867, and the acts supplementary thereto, except such persons as aided in the reconstruction proposed by Congress, and accept the political equality of all men before the law: Provided, That the General Assembly shall have power to remove the disabilities incurred under this clause.

"All persons, before registering, must take and sub-

scribe the following oath: 'I, —, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the constitution and laws of the State of Alabama; that I am not excluded from registering by any of the clauses in section three, article seven, of the constitution of the State of Alabama; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men; and, furthermore, that I will not in any way injure, or countenance in others any attempt to injure, any person or persons on account of past or present support of the Government of the United States, the laws of the United States, or the principle of political and civil equality of all men, or for affiliation with any political party.'

What, sir, is the object of this? Is it pretended that it is needed to protect the black man in a State where he is a voter, and where his race has an immense majority of registered voters? No, sir; that is a mere pretext. He needs no such protection. It is designed to continue, as it will ever continue in force, the disfranchisement and humiliation of the white population. Sir, apply it to your own State. How large a proportion of your own people would be disfranchised if you demanded of them an oath never to vote against negro suffrage? How many of my own? And yet the people are told that negro supremacy at the South is a fable devised for political effect.

My colleague has discovered an excuse for the disfranchisement of this large proportion of the intelligent white people of the South, which certainly is new with him, and the ingenuity of no other Senator has suggested it. He does not trouble himself as to the fact, nor attempts to diminish the estimated number; but he boldly asserts that nobody is disfranchised at all, because, by the rebellion the whites had all forfeited the right of voting; and, as it only has not been restored to them, they were disfranchised already. Does my colleague suppose that by such a technicality he can satisfy honest, plain people, who desire to do right? When he argues that the blacks of his own State ought not to be disfranchised would he be satisfied with the answer that we do not disfranchise them because they were disfranchised already? Sir, my colleague knows very well that if the disfranchised white people of the South ought to be permitted to vote—now the more especially, as their emancipated slaves have that privilege—it is the merest mockery to say that our law does not disfranchise them because they were disfranchised already. Remove, then, the disfranchisement if it ought to be removed, as, by your law, you have power to do. If you refuse to do this, then boldly avow your purpose, and do not seek refuge in technicalities like these. But, in point of fact, my colleague is entirely mistaken in supposing that the white people of the southern States, who are now refused registration as voters, were disfranchised before the passage of the act of Congress, by which they are denied the right of suffrage. It is not true that they were, as my colleague alleges, disfranchised already. On the contrary, their right to vote was fully recognized by the proposed fourteenth amendment of the Constitution, which proceeded on the idea that suffrage was confined to the white people of the South. The Legislatures which refused to ratify that amendment were chosen by white voters only. The blacks were then the only disfranchised class; so that my colleague's technical defense is unsupported by the facts in the case.

Sir, I have observed that very few Senators openly excuse and defend the disfranchisement of white men at the South. Some declare that it was forced upon them by the House of Representatives; some deny that it exists to so great an extent as is actually shown; but nearly all, by their mode of treating it, acknowledge it to be a great wrong. Why, then, is not the evil remedied? It is not, even now, too late. You have power to, at one

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blow, strike off the shackles of the white race and make them at least the equals of the blacks. Will you do it? By so doing you will, at this late hour, remove one of the principal objections to your reconstruction acts. The time has now actually come when we stand here in the Senate of the United States and ask you to give the right of equal suffrage to the white man. You refuse. Is there no purpose in this? Sir, I think there is a purpose, and I believe it is revealed in what I now propose to read, in an extract from a speech delivered at this session of the Senate, by the Senator from Massachusetts, [Mr. WILSON.] I had occasion once before to allude to the remarks in question, and lest I should misquote the Senator, I have obtained from our faithful reporter, Mr. Sutton, from the short-hand notes taken at the time, the precise words uttered by him. They were as follows:

Extract from notes of Mr. Wilson's speech, Dec. 4, 1867.

"Since the morning of creation no seven hundred thousand men have shown more principle, more patience, more devotion, more of all the virtues to be commended than the seven hundred thousand black men of the rebel States into whose hands we have put the ballot and put the destinies of that portion of the country; and whoever says otherwise slanders and maligns them."

Mr. EDMUNDS. Does the Senator understand that the Senator from Massachusetts was speaking for anybody but himself?

Mr. DIXON. Of course not; but I claim that the honorable Senator from Massachusetts is a representative man. He represents a large body of the people, and is generally accepted as a representative of his party.

Mr. EDMUNDS. He only represents the people of his own State.

Mr. DIXON. "The destinies of the South to be placed in the hands of the black man." That, in few words, gives the design and effect of the congressional policy. On that question I await the final verdict of the people.

Mr. President, there is but one more point in your reconstruction policy to which I wish to allude, and my work is done. I find on your table a bill which has already passed the House of Representatives by a strictly party vote, by which the power which has heretofore existed in the Supreme Court of the United States to decide impartially all cases involving constitutional questions, as they decide all other questions, is, under certain circumstances, taken from that august tribunal. I find, also, in another bill, which passed the House of Representatives and is now before the Senate, a prohibition, complete and entire, against any decision whatever on the question of its own constitutionality, by that ancient and venerable court, in which the Constitution declares the judicial power of the United States to be vested. I find another bill reported in one House which takes from the same great tribunal its time-honored and long-exercised appellate jurisdiction, in certain cases involving the constitutionality of an act of Congress. Can the people of the United States look without deep emotion, without alarm, without indignation, upon the bare statement of such a series of measures.

My colleague, who seems himself shocked at their enormity, satisfies himself with the assurance that these measures are not yet adopted. Sir, if my colleague had enjoyed the benefit of even my own imperfect experience in the peculiarities of radical legislation he would at once dismiss from his mind any expectation of relief from these radical measures to which I have alluded, on the ground that they have not yet been adopted. The word, let me tell him, has gone forth. By a party vote, two of them have already passed one House, and if my colleague supposes he can safely indulge in the luxury of exercising his private judgment in the vote he may give upon them in this body, his confiding inexperience is truly painful to behold. Sir, there is no right of private judgment permitted in the Radical party.

There are Senators before me who have attempted to exercise it, and any comment by me on the result might probably be considered unkind and offensive. The Senate knows and the country knows when and how the lash has been held in readiness; its application has been witnessed; the recreant and straying members have meekly returned to the fold, and the lesson has not been forgotten by their fellows. I commend it to the careful consideration of my colleague.

The honorable Senator from Indiana, [Mr. MORTON,] whose views now differ so widely from those advocated with equal ability by him three years ago, accounts for his own acknowledged inconsistency by saying that he has been educated by the progress of events. But while it is true that newly-discovered facts may properly change opinions as to the expediency of measures, yet great constitutional principles do not rest upon events. State constitutions which were valid at the close of the war have not lost their validity by the varying events to which the Senator alluded; nor have the people of the rebel States lost any power which they then possessed to form constitutions. If, for example, Tennessee had a valid constitution in 1865, established by the people while the State was said to be in rebellion against the Government of the United States, it is impossible for the Senator from Indiana to show that valid State constitutions did not or might not, at the same time, exist in other States similarly situated. How can the Senator claim, in view of the joint resolution readmitting Tennessee into the Union, from which I now read, that other seceding States, as well as Tennessee, had not by their people formed valid constitutions, or had no power so to do?

That resolution declares, as follows:

"Whereas, in the year 1861, the government of the State of Tennessee was seized upon and taken possession of by persons in hostility to the United States, and the inhabitants of said State in pursuance of an act of Congress were declared to be in a state of insurrection against the United States; and whereas said State government can only be restored to its former political relations in the Union by the consent of the law-making power of the United States; and whereas the people of said State did, on the 22d day of February, 1865, by a large popular vote, adopt and ratify a constitution of government whereby slavery was abolished, and all ordinances and laws of secession and debts contracted under the same were declared void; and whereas a State government has been organized under said constitution which has ratified the amendment to the Constitution of the United States abolishing slavery, also the amendment proposed by the Thirty-Ninth Congress, and has done other acts proclaiming and denoting loyalty: Therefore,

Be it resolved, &c., That the State of Tennessee is hereby restored to her former proper, practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress."

I ask Senators to remember that the constitution of Tennessee, which, by this act, is declared to have been in force in 1865, was amended by the people of that State in the year 1863. The fact of its amendment, of course, implies its valid existence. How was it amended? In the first place, President Lincoln, on the 3d day of March, 1862, appointed Andrew Johnson military governor of Tennessee by the following order:

WAR DEPARTMENT, March 3, 1862.

SIR: You are hereby appointed military governor of the State of Tennessee, with authority to exercise and perform within the limits of that State, all and singular, the powers, duties, and functions pertaining to the office of military governor, including the power to establish all necessary offices, tribunals, &c.

EDWIN M. STANTON,
Secretary of War.

Hon. ANDREW JOHNSON.

On the 19th day of September, 1863, President Lincoln issued an additional order as follows:

EXECUTIVE MANSION.

WASHINGTON, D. C., September 19, 1863.

You are hereby authorized to exercise such powers as may be necessary and proper to enable the loyal people of Tennessee to present such a republican form of State government as will entitle the State to the guarantee of the United States therefor, and to be protected under such State government by the United States against invasion and domestic violence. All

according to the fourth section of the fourth article of the Constitution of the United States.

ABRAHAM LINCOLN.

Hon. ANDREW JOHNSON, Military Governor of Tennessee.

Thus it appears that a republican form of government was to be established in Tennessee by order of President Lincoln. The Senator from Indiana [Mr. MORTON] now says that no valid government was thus established. His entire argument rests on this basis. Congress, however, declared otherwise. The government existing in Tennessee in 1865 is declared by the act of Congress restoring Tennessee to have been a government which had power to abolish slavery in that State, to ratify an amendment of the Constitution of the United States, and to do other acts, &c.

I invite the Senator from Indiana to show, if he can, in what respects the government and constitution of Tennessee in 1865 were more valid and legal than those of other southern States whose constitutions had been in a similar manner amended. President Johnson commenced and carried on the work of restoring civil governments in those States in a manner copied exactly from President Lincoln's mode with regard to Tennessee. Congress declared that State to have been possessed of a valid constitution and State government in 1865. The Senator then acquiesced and now acquiesces in that declaration. Yet he insists in his elaborate argument that action in other States precisely similar to that in Tennessee, and had under precisely the same circumstances, is usurpation.

He assumes on the entire foundation of his argument that there were no valid governments at that time in any of the seceded States. Such is the absurdity to which he and others who agree with him are driven. Sir, the truth is, there have been no events of such a character as to justify the change in the Senator's opinions. He may have changed those opinions for reasons perfectly satisfactory to himself, and no doubt honestly entertained; but he held them and ably advocated them three years since, under a state of circumstances precisely similar as to their effect to those now existing. The validity of State governments and of State constitutions after the war, the power of the people of States lately in rebellion to form constitutions for themselves, and the existence of organized civil institutions there were then admitted by the Senator himself, or nearly every Senator, as I have already shown. The honorable Senator from Indiana then supported the true doctrine by arguments which his own power of reasoning has not been able satisfactorily to answer. And the doctrine which he now advances, that Congress has a right by military force to overthrow existing State governments and set up others in their place, to compel a people to adopt a constitution at the point of the bayonet, was condemned in this body in the strongest language by Senators who now lead in the Radical councils. Sir, I propose to recall to the recollection of the Senate some utterances on this subject which have been quite too soon forgotten. With due respect for the Presiding Officer of this body, I shall read some extracts from a speech delivered here by him so late as January, 1866:

"The Senator began by invoking the principles and aid of the preceding Administration, and informed us that the present Administration was proceeding upon the same principles that Mr. Lincoln had adopted. It is true that Mr. Lincoln had entered upon a certain policy in regard to the admission of some of these States; the question was agitated before us, I believe, during the whole period of the last Congress; but, notwithstanding my anxiety to find some way by which these States could be safely admitted into the Union again, all the arguments that were made for that purpose during that whole Congress entirely failed to convince me that the time had arrived when it was safe to admit any of them; and therefore, for one, I contended against it, and with a good deal of zeal; and for that I, with some others here, was accused of being a little factious, and sometimes it was said we flustered against the will of the majority to keep these States out."

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I call the attention of the Senate to these remarks of the honorable Senator from Ohio:

"Now, sir, I wish to say that in my judgment President Johnson has made a great improvement upon the state of things that existed during the last Congress, although, as yet, he has not reached the point where I think the difficulty begins."

Mr. HOWARD. What is the date of that speech?

Mr. DIXON. January 18, 1866; but little more than two years ago.

He continues:

"Mr. Lincoln advised us to admit Louisiana into the Union at a time when probably more than one half her territory was trampled beneath the hostile feet of the enemy. Our flag did not cover her territory, and perhaps not half her population, when he thought it would be safe to permit her to come back into the councils of the nation and participate with us Union men in the great work of legislation. I had not seen anything in the proceedings of the people there that warranted me in saying that that would be safe, and therefore I thought it best to make what stand I could against that measure. You will recollect, sir, that Mr. Lincoln did not then require, if I recollect aright, in order to the admission, anything more than that one tenth part of the population of Louisiana should take a certain oath, and that not a very difficult one, and when they had done that the State was to be in a condition to be admitted. Mr. Johnson, I repeat, has made an improvement, and a great improvement, upon all this, for he does require, if I understand him, that they, by their fundamental law, shall abolish slavery; he requires at their hands that they shall repudiate the rebel debt; he requires that they shall renounce the right of secession; he requires that they shall agree to the constitutional amendment abolishing slavery forever. These, in my judgment, are great improvements upon the system adopted by Mr. Lincoln. Had Mr. Lincoln himself?"

And here I beg to call the attention of the Senate particularly to this—

"at that period, required these things, and had the States assented to them, I believe I should then have yielded to his wishes and given my support to the measure."

Sir, that is very significant language, and it comes from a very important source. I am now denounced, and every conservative man here is denounced, as desiring to bring bloody-handed rebels into Congress, when so distinguished a leader as the honorable Senator from Ohio, now in the chair, declares to us that if Mr. Lincoln's policy, which he then opposed in a written protest, had been as good as Mr. Johnson's he would have adopted it. The ground taken by President Johnson satisfied him, and if President Lincoln had taken the same ground he would have yielded.

"Had Mr. Lincoln himself, at that period, required these things, and had the States assented to them, I believe I should then have yielded to his wishes."

It seems President Lincoln had wishes on this subject as well as a policy—

"and given my support to the measure."

But that is not all. Sir, there was no more able and eloquent defender of President Johnson two years ago in this body than the present Presiding Officer of this body. I well remember his speech. Again he says:

"Why, then, did the President impose these conditions on the seceded States? Because they are out of the Union, and therefore he was right in demanding conditions. I say he has done well, so far as he has gone."

Of whom was the Senator from Ohio then speaking? What was the subject under discussion? It was denied here that President Johnson had a right to impose conditions upon the southern States, and the honorable Senator from Ohio says:

"Why, then, did the President impose these conditions on the seceded States? Because they are out of the Union, and therefore he was right in demanding conditions."

He adds:

"I say he has done well, so far as he has gone."

That was on the 18th of January, 1866. I thought so, too. I think so still. Other Senators have changed their opinion. Then the Senator went on to give his views as to a military organization in the southern States. There were some then who, anticipating events, propose to adopt what we have now adopted, a military organization to govern the southern States; and if there was a Senator in this body

who denounced it, as we should have expected him to do from his known character and love for free institutions, with more force and ability than any other Senator, it was the honorable Senator from Ohio, [Mr. WADE,] then sitting on my left. He says:

"Again, sir, I deny that the organization of these State governments in the South has begun at the right end so far. I contended during the last Congress that the President had no right by Military Order No. 37, or any other military order, to organize a State government anywhere. Our Government must be a Government of the people. In this country you cannot force a Government upon anybody. It might be very convenient if we could. A despotic Government may do it with perfect ease. When Russia conquers Poland she may trample her under foot, because armed with despotic, irresponsible power. When we conquer a people we must deal with them within the pale of the Constitution, in analogy to the great principles of our glorious free Government."

That is the very ground I took then and take still. When we deal with a conquered people we must deal with them within the pale of the Constitution, not "outside of the Constitution." The latter was a recent discovery reserved for another distinguished gentleman who also claims to be a leader of the Radical party and whose claim must be admitted. The Senator from Ohio tells us that "when we conquer a people we must deal with them within the pale of the Constitution, in analogy to the great principles of our glorious free Government"—not as Russia conquers Poland. Why, sir, that illustration seems to be resorted to at this time by men of conservative views. Some historical allusions have been made here. Two years ago an honorable Senator known as a Radical member of the body could refer to the course pursued by Russia toward Poland.

"Who has asked the President and Congress to establish civil government in the South? How can Democrats contend that a people shall be bound by an organization emanating from the center? That is not the place for it to originate. These people must be held under military subjugation (though an equitable one I would contend for) until they themselves shall see that the time has come when they can act in accordance with the old Constitution and Government of the United States. They have not come to that yet, and nobody is surprised that they have not. Do you suppose that in a moment the temper and disposition of men who breathed fire and wrath against you for four long years, and murdered three hundred thousand of your bravest sons, and committed all the atrocities to which I have alluded, have been so changed that they will ask to be taken back into that Government which they had invoked foreign despots to overthrow, and to destroy which they had hazarded their lives and fortunes?"

"I know that the southern people will come back. I know it is as much for their interest, and infinitely more for their interest than it is for ours. We all have a pride in the whole nation; as the Senator from Wisconsin said, we will never consent to lose a single star from the old flag; but when we repair this breach I want it to be done by the people of the South becoming convinced that it is for their interest, and telling us, 'We are sick of war; we are sick of contending against the power of the United States, and we ask and petition Congress now to permit us to organize a State government in accordance with the Constitution of the United States.'"

Then he goes on to say:

"I know that they will come in due time, but you cannot force it."

He was for waiting, giving them an opportunity. He did not denounce them because they were not ready to return at that moment. He adds:

"What I wish to impute and insist upon is the utter absurdity of supposing that a democratic people can force another people to join them and comply with the forms of the Government when their hearts are at variance with it. The old maxim was that one man could lead a horse to water, but ten men could not make him drink. You cannot make a people drink in democracy until they are ready for it. You may give them the forms, but they are all idle ceremonies unless they are imbued with the spirit. Govern them justly by the strong arm of the nation until such time as they themselves shall have had an opportunity to reflect, to cool off, to become willing that a State government should be revived over them, when they see their interest plainly in that direction. When that is done there is no doubt they will come asking to be allowed to have a State government, some sooner, some later. Time is a great element in all such cases."

The Senator did not denounce them at that time, but they have been bitterly denounced since by Senators because they did not accept

our terms in a moment. The fourteenth amendment to the Constitution was proposed in July, 1866, and when we came together in the following December it had not been ratified. This was held up as proof of the fact that that people were still rebels because in three months they had not accepted those propositions. The Senator from Ohio took a very different and much more statesmanlike view of it.

He said:

"And until the people themselves can agree to it it is vain and idle, and worse, to contend that you can force them into this Government by this house operation, and induce them to harmonize with you. They will come back in due time, no doubt, and no man will rejoice more than I shall when that time shall come, and I can tell you when it will come. Leave them to themselves; do not send your great officers down there to persuade them."

I wish that advice had been followed.

"Do not send your great officers down there to persuade them; do not leave your conqueror with arms in his hands to say to them, 'Come up and make such and such a constitution, and come into the Union with it.'"

The very thing you propose to do to-day, and those of us who have followed this advice are now called rebels and traitors. Mr. WADE added:

"That is not the way; but govern them equitably until it is shown by their petitions, by their speeches, by their actions, which nobody can mistake, that the great heart of that people has relented and repented of the crimes they have committed, and that they are willing and anxious to come back to the Union as the ark of their safety, and there lodge and travel and act with us."

"Sir, I shall look as anxiously as any other man to see that there is this repentance, this temper and disposition, that will enable us, when they ask it, to say to them, 'You shall have the right hand of fellowship, you shall stand on as high ground as you ever stood on before;' but I can never consent that a government shall be organized from this central point to bring States into the Union."

Do we understand the English language? Is not that what you now propose to do—to organize a government here from this central point to bring States into the Union?

"You can bring them in by the Army of the United States; you can force them to go through the form of making a State government and send their Delegates here; but would that be a republican government? Would that be a democracy? Would it be a government having its authority in the consent of the people, such as our great Declaration of Independence calls for?"

Mr. SUMNER. Who says that?

Mr. DIXON. I have already said, the Senator from Ohio, now presiding over this body, [Mr. WADE.] The Senator considers him authority—one of the greatest. Sir, I had not long to search for that speech in the Congressional Globe. Its echoes have been ringing in my ears for the last two years. I listened attentively to the speech at the time of its delivery, and it was not easily forgotten. I thought it right then, and I think it right now.

Mr. President, what was then denounced in such able and eloquent terms is the very thing now proposed. Where are we? Is it so that there is no such thing as consistency? Are events rushing on at such tremendous speed that in two years what was anti-republican, anti-democratic, wrong, unstatesmanlike, improper, becomes right, becomes republican, becomes correct, and a policy which the Government and the people of the United States are called upon to adopt and accept? Now, sir, at that time this distinguished Senator not only said that up to that period President Johnson's policy had been a vast improvement upon that of President Lincoln, but he also said that if President Lincoln had advanced so far, had raised himself to so high a plane as Andrew Johnson, he would have adopted the policy.

If it was a right policy to adopt under President Lincoln, it was a right policy to adopt under President Johnson. What did the Senator mean? There are some things which finite minds cannot understand. It was either right or wrong. If it was right, it was right under Andrew Johnson as it would have been under Abraham Lincoln. But I am not criti-

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cising the precise language. There is the statement, that Andrew Johnson's policy at that day was correct, and if Abraham Lincoln had adopted it the honorable Senator from Ohio would have consented to it. Furthermore, we are told that the policy then foreseen by this honorable Senator of sending a great military ruler to govern the South and forcing a government in that way upon that people is wrong in itself and should not be adopted.

Here, sir, is what the honorable Senator from Ohio [Mr. WADE] then thought of a project, not then supposed possible to be executed, for forcing constitutions by armed force on the southern States. Here is his idea of the propriety of sending "great officers" there to rule them with despotic sway. And here, sir, is what he then thought of the policy of Andrew Johnson. He was then the defender and eulogist of this policy as compared with that of Mr. Lincoln. That policy was then so commendable that had Abraham Lincoln in his time attained to its high merit, the Senator from Ohio declared he would himself have supported it, and the excluded States would have been restored under it! Let the people mark this, and let them remember that it is for his perseverance in this policy, honestly adopted by him from his predecessor, and improved to such an extent as to command the warm approbation of the present Presiding Officer of this body that President Johnson has been assailed, vilified, and denounced as a traitor.

Mr. President, there are many conservative and patriotic men who then believed, with you, that President Johnson's plan was copied, with improvements, from that of President Lincoln. They saw him honestly endeavoring to complete the work of his predecessor by the restoration of the Union. They gave him their confidence and their support. When he was assailed, reproached, vilified, hunted down, they came to his defense. When the party with which they had acted departed from its established, conservative, constitutional policy and took ground outside of the Constitution they refused longer to act with it and took up their position outside of the Radical party. There they still remain in earnest hostility to the ruinous and destructive measures which have at last brought the country to the verge of ruin. Many of these men are found among my own constituents. If my voice could reach them I would entreat them to cast their eyes backward on the events of the last three years and calmly consider whether all that they apprehended as the consequence of the radical policy has not been more than realized. Do they find in its full development anything which invites them to aid in establishing it as the permanent policy of the Government? Do they not see more plainly than ever before that it is incompatible with constitutional freedom and the true interests of the people? It is now fully exposed to their view, with its military despotism, its contempt of the supreme judicial power of the nation, its usurpation of executive authority by Congress, its instigation of a conflict of races for supremacy, by refusing to an immense class of white men the privilege of suffrage granted indiscriminately to uneducated blacks, its sectional bitterness, its spirit of undying revenge, its gospel of hereditary hatred. It is in the power of this great body of intelligent conservative voters, with whom party ties are less strong than love of country, to overthrow this policy and restore peace, good-will, and unbounded prosperity to a suffering and distracted people. It is in their power even now to compel the adoption of a policy modified and amended in the manner proposed by the Senator from Wisconsin, consistent with all the rights of humanity in which the intelligent minds of the North and the South shall cordially agree and which shall harmonize conflicting opinions in both sections.

If they exert their power, and, by a united effort through the ballot-box, accomplish this great work, our Union may yet be restored upon the constitutional basis, the rights of every human being may be protected, liberty may be established upon the same foundation of law, and, through all the years of the nation's life, the people of the North and the South, having no further possible ground of quarrel, may become more and more harmoniously joined together in the willing bonds of fraternal union. But if the policy and the spirit which now control our legislation are to receive the popular sanction, and be perpetuated, our history will be no longer a glorious record of human progress and of unexampled national and individual prosperity, but its dark and bloody pages will be written, like the roll seen in the vision of the prophet, within and without, with lamentations and mourning and woe.

Impeachment.

SPEECH OF HON. JOHN COBURN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolution reported by the Committee on Reconstruction for the impeachment of the President.

Mr. COBURN. Mr. Speaker, I have been pained to hear during the course of this debate the statement made by some of the advocates of impeachment that the recent acts of the President in violation of the law prescribing the tenure of civil offices and of the Constitution, in relation to the removal of officers during the session of Congress, as trivial matters compared with other acts of his administration in violation of law. It may be a quiet and simple act to remove a Secretary of War, injuring the person or the property of no one, and be consummated by the writing of an official note dispatched in a minute, but it is none the less an open, intentional, willful, and flagrant breach of law. Parallel with this are many of the acts which have become memorable in history and mark epochs in the life of nations. The crossing of the Rubicon, an insignificant stream which was the boundary of Caesar's province, was the first act, bloodless and quiet, of a war which broke down the oldest and strongest Republic that ever existed, and paved the way for that imperial dominion which is the great prototype of despotism. The refusal by John Hampden to pay a few shillings of ship-money demanded of him as a right began the contest which ended in the overthrow of the monarch of England, cost him his head, and for a time gave to the despised Puritans the control of the foremost nation in Europe. The refusal of our forefathers to pay the tax on stamped paper and the duties on tea, light though they were, and not intended to harass or oppress, but done rather in denial of the right of representation, kindled the flames of a war which raged seven years, and resulted in the lasting independence of our people.

In this simple act of defiance to law in the removal of Mr. Stanton, done without arms, without warning, without the demand of public necessity, in cool, impudent, insolent disregard of the plain words of law, I see a movement as radical in its intent and as searching in its effects as any one could be thought backed by the Army and Navy and driven through with all their power. What is it, then, that the President has done that has deserved the instant and indignant rebuke of the Representatives of the people? On the 2d of March last Congress, having long had reason to doubt the patriotic purposes of the President, passed a law in relation to the tenure of civil offices, providing, among other things, that Cabinet officers should hold their offices during the term of the President by whom they were appointed and

for one month thereafter, unless removed by and with the advice and consent of the Senate; and that no such officer should be removed from office without the consent of the Senate; and that if, during a vacation of Congress, a suspension should be made of such officer, and on being reported to the Senate in twenty days after meeting, and the cause be deemed insufficient, he should resume the duties of his office. It is further provided by the sixth section of this act that every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed and are declared to be high misdemeanors, and upon trial and conviction thereof every person convicted thereof shall be punished by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both. Here, then, was this simple provision of law, so plain that the fool might run and read, governing the President, and which he deliberately chose to violate. There could be no mistake about its meaning, no doubt as to its intent, no cavil as to its scope.

Again, there was just as plain a provision of the Constitution which gave the President power to nominate, and by and with the advice and consent of the Senate to appoint, all officers of the United States whose appointments are not therein otherwise provided for, and which shall be established by law, and to fill all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session. These are his powers of nomination and of supplying vacancies; no power of removal or of creating vacancies is given during a session of the Senate. And yet he has usurped this power not given him, gone beyond the restrictions of the Constitution, which no sane man could for a moment misunderstand, and assumed to make a removal, create a vacancy, and fill it.

On the 21st of February, 1868, he transgresses the statute and the Constitution by successive acts without excuse or palliation or provocation by ordering the removal of Mr. Stanton from the office of Secretary of War and the appointment of Lorenzo Thomas as Secretary *ad interim*. That he failed to remove Mr. Stanton is no defense; that he did not create a vacancy is no defense; that he did not succeed in getting Thomas into office is no defense—no more than that the murderer is caught in the overt act and prevented from the consummation of his deadly purpose.

It is no defense to say that the tenure-of-office law does not apply to the case of Mr. Stanton because he was appointed by Mr. Lincoln, and could only hold his office, under that appointment, during Lincoln's life, and not afterward, except by sufferance, for Mr. Stanton, by the terms of that law, holds his office not during the mere continuance in office of the President appointing him, but "during the term of the President by whom he was appointed."

Now, the person who was President might continue in office a half, a quarter, a tenth part, or the whole of his term. That term was fixed and unchangeable, and was four years. So Mr. Lincoln did not serve out a thirtieth part of his term, and Mr. Johnson is now serving it out and may not complete it, but some other incumbent may come in and complete Mr. Lincoln's second term of four years.

Nor is any defense to say that the President is the sole trustee of the executive power of the nation, and that the required concurrence of the Senate is only a regulation for the exercise of this power. For the executive power of this nation is not an unlimited one, but is very narrowly limited and guarded, and at all points controlled by laws. The President is the sole trustee of

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very few powers, and the regulations binding him in their exercise are not to be violated with impunity. It is certainly a new doctrine to say that because an officer is an executive one he is not to be arraigned for a violation of law, and that because he has the appointing power he has another distinct one, and that is the removing power, where the Constitution does not confer it and the law plainly forbids it. It would seem but reasonable that if the power of removal had been expressly conferred on the President by the Constitution, that it should be exercised, like the appointing power, by and with the advice and consent of the Senate; but in a case where the power of removal is conferred by law and limited in its exercise to the consent and concurrence of the Senate, it would seem absolutely preposterous to say it should be exercised totally independent of the Senate. To sustain this position the tenure-of-office law is declared to be unconstitutional, and the essential absolutism of the Executive asserted in this matter of removal. To a mind imbued with the simplest ideas of republican government such an assertion is abhorrent, and to one at all regardful of public policy or the public safety it never would occur.

The absolute power of removal from office is a relic of monarchy; at war with our whole system; dangerous to liberty; corrupting in its exercise and effects; begetting a slavish subserviency to the Executive.

The madness and folly that claim despotic power for our Chief Magistrate are fitly akin to the treason which has for six years labored so sedulously to destroy the Constitution. The executive power of the nation may be limited and hedged in, not only by the terms of the Constitution, but by legislative enactments, and it is the duty of the national Legislature whenever it perceives a dangerous exercise of such power to put on it the necessary restraints. True enough, the President is the sole trustee of the executive power of the nation, but that power is guarded by a flaming sword at every point; and executive powers are not to be set up, like kingly prerogatives or divine rights, in defense of transgressions. The Executive, like the citizen, is the subject of law, bound by its requirements, amenable to its penalties. But we are warned that it is dangerous to interfere with a coördinate branch of the Government. Coördinate in what? In power, in importance, in use, in extent—in what respect coördinate? Coexistent rather; not coördinate. As well say the streams are coördinate with the ocean into which they pour. As well say the planets are coördinate with the grand luminary about which they revolve, as to say, that the executive and judiciary are coördinate with the legislative branch of this Government. The one is the center, the depository of power, the seat of life, the source of progress and improvement, while the others are rigidly confined by strict laws and jealously guarded in their obedience.

We have too long been in the habit of regarding the executive and judiciary branches of the Government as of equal dignity with the legislative, while in no sense can the executors and construers of law be said to equal in importance the makers of law. For the time being an adventitious importance may attach to them; but in a Government whose great distinctive feature is this, that it is based on representation in its Legislatures, and not on judges or presidents or kings, the law-making power must forever be preëminent. It is a misuse of terms to talk about coördinate branches of the Government in the presence of the legislative which can create and destroy, which can impeach and remove, which can make war or peace, which knows no restraint imposed by judge or President, and is bound only by the Constitution.

In the presence of this majestic power all other powers of our Government shrink into insignificance; and when the President attempts to assert a policy and lay down rules of action

he is as much a usurper as if he violates a public law. He has no more right to a policy than a constable or sheriff in the exercise of his functions as such. He is to look to his writ, his letter of authority, and execute it, and then and there stop and be silent till his master, the people, speaks.

Who, then, shall interfere with these branches of the Government for their regulation and correction if the people, through their only mouthpieces, their Legislatures, cannot? In fact, it is no interference; it is the bounden duty of the legislative branch to step in promptly and check every assumption of power by the other branches of the Government.

Again, it has been said that the President may disobey an unconstitutional law, that he is to look at the higher rule of the Constitution, and if, in his judgment, the latter overrides the former he is guilty of no crime, making crime a matter of opinion and not of fact, and the guilt or innocence of the offender dependent on his own sense of duty, regardless of the enactments of Congress—a new rule, certainly, in jurisprudence. But it is said the act is unconstitutional, and therefore the President may disregard it. If it be so he is bound by it until in a legal way it is set aside, and he who violates it sets the bad example of disobedience, and subjects himself to the penalties prescribed for it.

But what is there in the assertion that the tenure-of-office law is unconstitutional? The idea is based upon the opinion of public men at an early period of our history who thought it to be the duty and peculiar province of the President to superintend the conduct of his appointees and remove them summarily, thus checking their excesses and arresting their violations of law or malfeasances in office; some going so far as to say that the President would be impeachable if he did not remove officials he had appointed who were guilty of crimes and misdemeanors.

But the history of the Government and all our public experience have shown that the danger does not lie in that direction, but rather in the opposite one. The arbitrary removal of men from office by the President for mere opinion sake has been a crying evil since the days of Andrew Jackson, who initiated proscription for political opinions, and began that system which soon degenerated into one whose motto was "To the victors belong the spoils." Here began the dark days of the Republic; here the greed of gain, the thirst for office, the struggle for preferment at any cost, entered side by side with the war of opinions and the debates of political projects and principles, and corrupted and defiled them; and right here lies the most dangerous rock ahead of the ship of state. To guard against this unwarranted, almost unlimited, almost despotic power of removal and appointment the whole nation for years has been anxiously looking for a method, and were at last driven to the adoption of this law relative to the tenure of civil offices. The reasons that operated on the minds of our fathers when they were silent on the power of removal were found to be of no force, and the fears they entertained of the corruption of inferior officers, unless guarded and checked by the executive head, were proved to be vain and futile. It was found that there was much more danger in a corrupt and powerful executive officer, wielding and molding all his inferior officers to base purposes, than in their becoming, individually, unfit to exercise the functions of offices.

The struggle to expel from office Mr. Stanton began soon after the passage of the reconstruction acts of last March. He had honestly and faithfully undertaken to carry them into execution, while President Johnson, with dogged and willful determination, resolved to thwart and defeat them; first, by his vetoes, insulting in tone and unlawful in spirit; then by his private declarations, and then by his

unwarrantable interference with the officers to whom were entrusted the administration of affairs. When it was found that the southern people were about to acquiesce in these measures Mr. Johnson and his emissaries, by all means, endeavored to dissatisfy them; and, finally, to prevent the permanent reorganization of certain States, removed successively the most faithful, honest, and gallant district commanders—Sheridan, Sickles, and Pope. When it was found that the people of the South were going on to register themselves, preparatory to an election, white and black alike peaceably acquiescing in the mode of procedure; when it was found that the rebel soldier was forgetting the wrongs and ills of war, and was emerging from the shadows of despair cast upon him by the mistakes and crimes of his leaders; when he was again beginning to resume cheerfully the duties of life, and again taking upon him the rights and obligations of a citizen; when it was found that Longstreet, Barringer, Beauregard, Joe Johnston, Wade Hampton, and even Lee counseled acquiescence in the law, and some of them even urged a cheerful concurrence in its execution by all the people; when it was found that soon these regenerated States would range themselves in the line of the Union, loyal to the core and Radical Republican, then it was that President Johnson, at all hazards, resolved to prevent it—to stop the wheels of progress, to check restoration, to keep up the reign of anarchy and misrule, to perpetuate the disorders, the distractions, the enmities, the perpetration of crimes—then it was that he resolved that, come what might, be it war, with its waste of treasure and blood, be it an overthrow of the Constitution, he would trample on the law, defy it, and put it down forever. Reconstruction should not take place as Congress had determined.

The removal of the district commanders was followed, in August last, by the suspension of Mr. Stanton and the appointment of General Grant in his place, who in his turn yielded to Mr. Stanton under the decision of the Senate. And here, for a time, the grim tragedy which has so long strutted the stage suddenly degenerates into a farce. General Grant is assigned the duty of playing *hocus pocus* with the War Department; of acting the part in which, "now you see it, and now you don't see it;" but the grave and silent man stubbornly refuses to play as directed. General Sherman is suddenly honored with a brevet as general, and he is expected to put on the dress of a mountebank and play for Mr. Johnson some feats of ground and lofty tumbling in the face of the nation; but the great flanker declines to be outflanked by an empty brevet, and goes off toward the sunset to look after the Indians. Quick as the changing scenery of the stage another doubly breveted veteran is marched out with solemn face and stern bearing—the old hero of Nashville. His surprise at his sudden honors bewilders him for a moment, and he wonders what mean thing he has done to deserve all this from the President. At length, fairly awake, he says he can remember nothing that he has done since the battle of Nashville that is worthy of mention, and to the high-sounding titles offered him by the presidential hand bows himself off the stage with: "No, sir; I thank you." Well done, George Thomas. You never did a manlier thing in your life. The people will never forget your answer in this brevet business. Then comes the last act of this low comedy. Lorenzo Thomas reels upon the stage with a commission in his pocket and claims of Mr. Stanton the keys of the War Office. Has the President at last found a tool? Has he found one so weak or so wicked, or both, among those whom the nation has long supported and honored with high official position? It is but too true.

This trifling must be stopped. These flagrant violations of law must have an end. The

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patience of the people will not endure forever. They are determined that their measures of reconstruction shall go on; that Andrew Johnson, Lorenzo Thomas, or whoever else he may be, who sets himself in the way of their progress, shall go down. The future welfare of ten States is not to be periled by the unlawful interference of a President who madly proclaims and dictates to them a policy of reconstruction. The mighty future of the whole nation is not to be endangered by the despotic assumptions of a President who hates the trammels of law, who forgets the obligations of his oath, who rudely scorns the voice of the people.

This is no mere contest in the interest of Mr. Stanton. The right to violate one law implies the right to violate all; and to basely submit to the arrogance of the Executive in this would be as shameful as the subserviency of vassals to the crowned heads who tax them and work them and fight them at their will. One man has set himself up against the power of the people; one man has said my will, not theirs, shall be obeyed; one man has said my word is worth more than the word of all my countrymen. This day we call upon him to make that assertion good. This day we impeach him in the name of an outraged people, whose Constitution he has broken, whose law he has defied, whose majesty he has mocked and insulted.

His whole history as President has been marked with usurpations of power and violations of rights. His assumption of the right to reorganize the rebellious States; his appointment of traitors to office; his proclamations of pardon and amnesty; his open attempt to surrender all the power, snatched by our brave soldiers in arms from the enemies of the country, back into their hands; his indecent and insurrectionary denunciations of Congress in public speeches; his retention in office of wicked, dishonest, and thievish officials who are plundering the Treasury before his eyes; his constant efforts to render null and void the reconstruction acts in the southern States; his unjust removal of the most faithful officers; his insulting, arrogant, and rebellious veto messages, can all be passed by in view of the facts, so startling, which have occurred within the past week. Not content with his former aggressions against popular rights he repeats the blows, confident that a forgiving and indulgent public will still disregard them. He has gone too far. He cannot retrace his steps. Already they lead down to that raging whirlpool of popular condemnation from which there is no rescue.

Impeachment.

SPEECH OF HON. CHARLES E. PHELPS,
OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,
February 22, 1868.

The House having under consideration the resolution reported by the Committee on Reconstruction for the impeachment of the President—

Mr. PHELPS said:

MR. SPEAKER: The House of Representatives, in the capacity of grand inquest of the United States, and for the first time in its history, seems about to enter upon the impeachment of the President of the United States. Upon this day, the anniversary of the birth of Washington, and upon this judicial question, the most momentous within the compass of official duty, the clamors of partisan tumults should be awed to silence by the deep-toned voice of law. Before proceeding to the consideration of the resolution this day reported from the Committee on Reconstruction, with notice of its being forced to a passage before the setting of the sun of the next legislative day, I propose very briefly to advert to the preliminary stages of the impeachment move-

ment as essential to a just conception of its true character and real purpose. The agitation of this question was foreshadowed; it was actually commenced during the term of the predecessor of the present incumbent. A bill was passed by the Thirty-Eighth Congress providing for the reconstruction of the States then in rebellion. The President did not approve that act, nor did President Lincoln veto it. He kept it during the constitutional period necessary to prevent its becoming a law, and sent to Congress a proclamation of the reasons which had induced him to suppress it.

That proclamation, like many previous measures of the President, developed a radical antagonism between the policy of the prevalent majority here, and the policy of the Executive upon the question of reconstruction. It went further. Its purport plainly was that with the views then held by President Lincoln, that official would be found by Congress an inconvenient constitutional obstruction in its design of converting the apparatus of a defensive war into the machinery of conquest and subjugation.

It was at that prospect, thus presented, that the specter of impeachment first stalked across the congressional stage. A Senator from Ohio, now acting Vice President of the United States, and heir presumptive to the executive chair, [Mr. WADE,] in concert with a Representative from Maryland, the reputed author of the reconstruction bill, [Mr. H. Winter Davis,] and my immediate predecessor in the seat which I hold upon this floor, were delegated or assumed to speak for Congress to Mr. Lincoln, and they did speak to him in a very plain message, known at the time (July, 1864) as the "Wade and Davis Manifesto," a document which the proceeding inaugurated upon this day is destined to immortalize. It was nothing less than the voice of the partisan majority in Congress, speaking through the leaders of the respective Houses, denouncing President Lincoln as a usurper, and threatening him with impeachment.

But, sir, for the purposes of those who furthered that enterprise, the movement was made at the wrong time and initiated in the wrong manner. It was not for want of support in this House as then constituted, or in the other as then constituted, that it failed. It is well known that the enemies of Mr. Lincoln in that Congress, within the lines of his own party, were many and bold, and that his friends were few. But he was sustained by the people of the country, and by the same people his accusers were condemned. One of them, [Mr. Davis,] whose lamented death has been publicly mourned in this Hall, with such national obsequies as have been accorded to no other private citizen in this generation, and to whose gifts of oratory no man has succeeded, was promptly and almost unanimously repudiated by the district I now represent. The retribution of his colleague [Mr. WADE] was longer delayed, but not longer than the first opportunity which his constituency were offered. That Senator, his political course condemned and himself repudiated by his State, steps from the Senate Chamber either into the plenitude of executive power, as President of the United States, or into the private obscurity to which his own people have consigned him, according as the programme originally foreshadowed in the document referred to now succeeds or fails. And, sir, had Abraham Lincoln lived and prosecuted the line of policy laid down by the proclamation thus assailed, as faithfully and as fearlessly as his successor, this movement to-night would have been directed against Abraham Lincoln instead of Andrew Johnson.

Let us trace the history of impeachment still further before coming directly upon the merits of the present prosecution, in order to throw light upon its *animus* and aim, and strip it of all extraneous matter.

The Thirty-Eighth Congress was distinguished by the Wade and Davis manifesto. Another

abortive impeachment experiment was conducted in the Thirty-Ninth Congress, under the lead of the member from Ohio, [Mr. ASHLEY,] at much greater expense to the public Treasury.

On the 7th of January, 1867, the Committee on the Judiciary was instructed to inquire and report upon articles of impeachment of Andrew Johnson, President of the United States, for high crimes and misdemeanors, presented by the gentleman referred to. The President was charged with a usurpation of power and violation of law, in having corruptly used the appointing power, in having corruptly used the pardoning power, in having corruptly used the veto power, in having corruptly disposed of public property, and in having corruptly interfered in elections. The committee was composed of nine members, all of whom but two were politically hostile to the President. They labored upon these charges for nearly a year. The investigation was strictly an *ex parte* one, and the sessions secret and confidential. Every advantage was afforded the accusers. The whole contingent fund of the House was at their service, backed by the Treasury of the United States. The widest range of inquiry was freely allowed, not only into public conduct, but private character. Cabinet ministers were made to disclose the confidences of the executive council. Confidential secretaries and household domestics were brought to the rack of confession. Spies, detectives, and informers, convicted perjurers and suborners of perjury were mustered into the service. The whole country was searched by a drag-net in the hands of professional experts. Every malicious whisper, and every item of scandal, rumor, and personal gossip was eagerly caught and received with approbation. Witnesses were fished for in dens of infamy and the dungeon of the convicted felon. Every resource of malignant cunning was exhausted to fasten a stigma of moral turpitude upon the personal character of Andrew Johnson. And most shameful of all, there were those among his accusers who did not scruple to darkly insinuate complicity with assassination.

It may be said without disparagement that few men either in public or in private life, subjected to such an ordeal, would have emerged from it with as pure and unspotted a reputation as was conceded to Andrew Johnson by the reluctant confession finally extorted from his prosecutors themselves. With the recorded result of ten months prodigious effort before the House, in the shape of a portentous volume of more than a thousand printed pages, it was so apparent that the cloud of defamation could not be condensed into a drop of even *prima facie* proof, that the prosecution was definitely abandoned by one of the most decisive votes ever taken in this body.

But, Mr. Speaker, it may well be doubted whether, after all, the failure of this formidable attempt at impeachment was owing so much to the failure of evidence, as to the unmistakable signs of popular disapprobation and well-founded fears of public indignation. The fall elections of 1867 had but recently taken place, and in their result the impeachers had found themselves impeached. The reaction against revolutionary usurpation which had commenced the year before in Maryland now extended from Maine to California, reversing majorities in many States and reducing them in all. To insult the sense of public justice by impeaching and removing the constitutional Chief Magistrate for simply endeavoring to restore harmony to the country and stability to its credit, because in so doing he necessarily obstructed to some extent a congressional scheme of partisan supremacy, required a greater depth of audacity than was yet attained by the requisite majority of numbers.

At all events, Mr. Speaker, the Judiciary Committee were regarded as hopelessly demoralized, and entirely useless for the purposes

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of impeachment, and another agency was selected. On the 27th of January last a resolution was passed which in effect authorized the Committee on Reconstruction to inquire into the propriety of renewing the prosecution of the President, with particular reference to his controversy with General Grant. The investigation of the committee elicited nothing more than the well-known fact of the President's anxiety to test the validity of the tenure-of-office act by proper judicial proceedings, and this third impeachment movement was strangled in the committee-room.

Mr. Speaker, it is fortunate for the President and for the country that by these repeated experiments and repeated failures the subject has been cleared, carefully and sedulously cleared, of all extrinsic matter, and the House is now called upon, and the Senate will probably be called upon, and the country in turn will be called upon, to pronounce upon a single and specific act which is relied upon as in itself sufficient to warrant this gravest of all judicial proceedings against a coordinate branch of the Government of the United States. No charge of general official misconduct or corrupt administration and no suspicion of personal turpitude appear in the case as finally presented. Congress passed an act on the 2d of March, 1867, and it is charged that on yesterday, the 21st of February, instant, the President undertook to perform an executive function in direct contravention of the terms and meaning of that statute. The high crimes and misdemeanors which he is alleged to have committed have all been perpetrated in the single act of sending to Mr. Stanton an official note, which reads as follows:

EXECUTIVE MANSION.
WASHINGTON, D. C., February 21, 1868.

SIR: By virtue of the power and authority vested in me as President by the Constitution and laws of the United States you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon receipt of this communication.

You will transfer to Brevet Major General Lorenzo Thomas, Adjutant General of the Army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

Respectfully, yours, ANDREW JOHNSON.
Hon. EDWIN M. STANTON, Washington, D. C.

It is claimed that in thus ordering the removal from office of the Secretary of War, and authorizing the Adjutant General of the Army to act as such *ad interim*, the President has violated the provisions of a penal statute, and committed the identical act which is defined by its express terms to be a "high misdemeanor." The act of March 2, 1867, provides, in its sixth section:

"That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and, upon trial and conviction thereof, every person guilty thereof shall be punished by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate."

The questions that first arise upon this section are, first, whether any removal or appointment have yet been made, in point of fact? And second, whether, if made in fact, such removal and appointment were made "contrary to the provisions of this act?"

So far as anything contained in the record before the House is concerned, or so far as anything is known outside of that record, there can be but one answer to the first inquiry. Mr. Stanton has flatly refused to obey the order of removal, or to recognize the Adjutant General in the capacity of Secretary *ad interim*. On the contrary, he has intrenched himself in the War Office, and, notwithstanding the order of the President, assumes at this moment to act

in the lawful discharge of all the duties, and claims the title, honor, and emoluments of the office of Secretary of War. So far, then, it is clear that there has been neither an accomplished "removal, appointment, nor employment" within the terms of the act. There has been no "removal," for Mr. Stanton has forcibly prevented it. There has been no "appointment," for the order of the President did not "appoint" a Secretary of War, but only "authorized and empowered" a named officer to act as such *ad interim*, that is, until a Secretary of War should be appointed by and with the advice and consent of the Senate.

And there has been no "employment," so far as any evidence now before the House is concerned. The whole offense, therefore, is narrowed down to the "making, signing, and issuing of a letter of authority, for or in respect to such appointment or employment."

But this is not an offense, unless the removal, appointment, or employment were "contrary to the provisions of the act." Those provisions which relate to this particular case are all embraced in the first section:

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

Now, Mr. Speaker, is the case of Mr. Stanton within the law at all? Was his removal, assuming the removal to be accomplished, a removal contrary to its provisions? Manifestly it was not by any rational construction of the law itself. His case, with that of the other Cabinet officers, is expressly excepted from the general application of the statute, and is by the proviso distinctly placed upon a separate footing. The tenure of his office is secured to him "during the term of the President by whom he was appointed, and for one month thereafter," and during that period he is "subject to removal (only) with the consent of the Senate." Here, then, is a clear authority by manifest implication from the letter of the act itself, to remove him at any time after one month from the expiration of the term of the President who appointed him. If doubt had ever existed as to the power of the President under the Constitution to remove a Cabinet officer without the consent of the Senate, that doubt is removed by the proviso to the first section of the tenure-of-office law, at least so far as the present case is concerned. It is notorious that Mr. Stanton was never appointed by President Johnson at all, but by his predecessor, whose term of office expired with his brutal assassination in April, 1865. To interpret the language of this proviso so as to bring Mr. Stanton's case within it it is necessary to assume for fact the absolute fiction that Mr. Stanton was actually appointed by President Johnson, or else to maintain the palpable absurdity that a dead man is holding a term of office. No such forced and violent construction even of an ordinary act of Congress or of a State Legislature would be listened to in any court of justice in an action of trespass on the case, much less in the interpretation of a highly penal statute in a criminal proceeding. For a violation of this law the penalties prescribed are of a character hitherto unknown in this class of legislative enactments. Not only removal from office and disqualification with the attendant disgrace, but the penitentiary for five years and a fine of \$10,000. The character of the act, penal to the last extreme of severity, in derogation of the common law, in derogation of personal liberty, and in derogation of the Con-

stitution as will shortly be shown, demands the strictest rule of construction.

I do not deem the question either doubtful or debatable, but if authority were needed to sustain this view it is furnished in the contemporaneous exposition of the framers of the bill. On the 13th February, 1867, Mr. DOOLITTLE called the attention of the Senate to the language of the proviso in the first section, and remarked:

"By the terms of this law the Secretary of the Interior, the Postmaster General, and the Attorney General must remain during Mr. Johnson's term; but the Secretary of State, the Secretary of War, and the Secretary of the Navy, according to the terms of this provision, may be removed by him to-morrow."

He then added that notwithstanding the plain terms of the bill it had been said in the debate upon the original bill, "by some friends of the restriction of the President's power over the Secretaries, that it was not to be tolerated that the present Chief Magistrate should have the power to remove the Secretary of War." To which it was immediately replied by Senator SHERMAN, of Ohio:

"That the Senate had no such purpose is shown by its vote twice to make this exception. That this provision does not apply to the present case is shown by the fact that its language is so framed as not to apply to the present President. The Senator shows that himself, and argues truly that it would not prevent the present President from removing the Secretary of War, the Secretary of the Navy, and the Secretary of State. And if I supposed that either of these gentlemen was so wanting in manhood, in honor, as to hold his place after the politest intimation by the President of the United States that his services were no longer needed, I certainly, as a Senator, would consent to his removal at any time, and so would we all."

No voice was raised in the Senate in opposition to this view, and under this undisputed construction the bill was shortly after put upon its final passage. I conclude, therefore, that by the very terms of the act itself, assuming for the moment its constitutionality, the President was empowered to remove Mr. Stanton from office as Secretary of War. Such removal, of course, created a vacancy. How could that vacancy be lawfully filled?

It is not contended that the President may absolutely appoint a Secretary for any Department without the advice and consent of the Senate; nor has such power been claimed or exercised in the present case. The authority conferred upon the Adjutant General was temporary and qualified, and in pursuance of the act of 13th February, 1795, section one—

"That in case of vacancy in the office of Secretary of State, Secretary of the Treasury, or of the Secretary of the Department of War, or of any other officer of either of the said Departments, whose appointment is not in the head thereof, whereby they cannot perform the duties of their said respective offices, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons, at his discretion, to perform the duties of the said respective offices until a successor be appointed or such vacancy be filled: *Provided*, That no one vacancy shall be supplied, in manner aforesaid, for a longer term than six months."

This law remains upon the statute-book in full force and effect, unrepealed by the tenure-of-office act or any other legislation. It applies to all cases of vacancy, however created, and whether during the session or a recess of the Senate. It is one of those laws which the Constitution enjoins the President to "take care" shall be "faithfully executed."

I have thus shown, Mr. Speaker, that, assuming for argument sake and for the sake of nothing else, the validity of the so-called tenure-of-office act, the President was fully warranted by its express and undisputed provisions in taking the measures he yesterday adopted, "by virtue of the power and authority vested in him by the Constitution and laws of the United States," and that the Committee on Reconstruction have failed to present to this House even the baldest *prima facie* case for an impeachment.

The Constitution of the United States provides that—

"The trial of all crimes, except in cases of impeachment, shall be by jury."—Art. 1, sec. 2.

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In section two of the first article it is declared that—

"The House of Representatives shall have the sole power of impeachment."

And the third section of the same article provides that—

"The Senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the President of the United States is tried the Chief Justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present."

It also provides that—

"Judgment in case of impeachment shall not extend further than to removal from office and disqualification to hold or enjoy any office of honor, trust, or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law."

The second section of article two vests in the President the—

"Power to grant reprieves and pardons for offenders against the United States, except in cases of impeachment."

The fourth section of the second article defines the persons amenable to impeachment, and the cases to which that remedy is applicable:

"The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

These are all the provisions in the Constitution of the United States upon the subject. They indicate that a resort to impeachment should be had only for the most grave and weighty causes, and especially in the case of the chief executive officer of the Government. Blackstone, in the fourth volume of his Commentaries, quoting from Hale's Pleas of the Crown, lays down that—

"An impeachment before the Lords by the Commons of Great Britain is a prosecution of known established law, and hath been frequently put in practice, being a presentment to the most high and supreme court of criminal jurisdiction, by the most solemn and grand inquest of the whole kingdom."

The power of impeachment is expressly limited to the cases of "treason, bribery, or other high crimes and misdemeanors." No charge is preferred against the President other than the official act which is by a forced construction of the tenure-of-office law claimed to be a "high misdemeanor."

A remarkable fact, and one to which I desire to call the particular attention of the House, is that this new offense of exercising the constitutional power of removal of a Cabinet officer was actually created by Congress and named by the unusual and extraordinary term of a "high misdemeanor," while a movement for the impeachment of the President was in progress. The act was passed on the 2d of March, 1867, and in the month of January preceding the impeachment resolutions of the member from Ohio [Mr. ASHLEY] had been referred by the House to the Judiciary Committee, which was engaged in the investigation while this act was being passed into a law. Nothing could more clearly demonstrate the factious character of the prosecution. A "high misdemeanor" is manufactured while a proceeding is in progress the object of which is to impeach the President of "high crimes and misdemeanors," and that "high misdemeanor" is nothing more than the constitutional exercise of an executive power conceded since the foundation of the Government.

The Constitution, in the first section of article two, declares that—

"The executive power shall be vested in a President of the United States of America."

The second section of the same article provides that—

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise pro-

vided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

"Before he enters on the execution of his office he shall take the following oath or affirmation: 'I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States.'"—Art. 1, sec. 1.

The third section of the same article requires that—

"He shall take care that the laws be faithfully executed, and shall commission all the officers of the United States."

Not that he is to execute some one particular law, nor that he is to be confined to faithfully executing all the laws. He is to "take care"—that is the language—to "take care" that the laws—all the laws—be faithfully executed.

Now, in what way can the President take care that the laws be faithfully executed, except by supervision and control of the agents he must employ to execute them? Had he the hundred arms of Briareus he could not penetrate all the channels of public exigency which require the interposition of executive power. He must act through agents; he can act in no other way. Who are those agents? Primarily and chiefly the heads of the various Departments, among which, for convenience of public business, the functions of the executive branch of the Government are distributed. It is through them he acts; it is from them he receives information; it is with them, severally or jointly, that he advises; it is to them he looks to enable him to discharge his constitutional obligation to take care that the laws be faithfully executed. He, and not Congress, is responsible for their acts.

How can the President possibly discharge his exclusive constitutional duty when he has no confidence in the agents through whose interposition he is forced to act—when Congress has undertaken to devolve upon Mr. Stanton or anybody else the exclusive duty of taking care that the laws or any one of them be faithfully executed? And yet that is just what Congress has endeavored to accomplish in this tenure-of-office law, if the construction of it, which I contend against, be correct, by taking from the President the power of removal, which has been conceded to the Executive since 1789, and by making the exercise of that power dependent on the pleasure of the Senate.

The power of removal is an executive power, and the whole executive power is vested in the President. The power of removal is indispensable to full responsibility, and without it the injunction to take care that the laws be faithfully executed is a dead letter, and might as well be erased from the Constitution. The power of removal, especially of heads of Departments, is a power without which confusion and chaos would sooner or later overtake unity and efficiency of administration; without which, indeed, there would soon be no such thing as an executive administration possible.

Such considerations as these prevailed in the First Congress that assembled under our Constitution in 1789, and secured a contemporaneous exposition of that instrument from Madison and his associates in that body which has been recognized by concurrent authority and uniform practice from that early period down to the date of the passage of this act. Never, since the year that the Constitution went into effect, has it been doubted that the President's right of removal as to all officers except judges was absolute, without consent of the Senate, as a part of his constitutional executive power, until the tenure-of-office bill became a law over the President's veto on the 2d March, 1867.

Here, then, is a case of plain usurpation of executive power, in clear violation of the organic law, and in a point vitally touching the faithful discharge of executive duty. The Pres-

ident is sworn to "preserve, protect, and defend the Constitution." Such is the oath. Congress cannot take from it nor superadd to it. Congress can pass no dispensing act to discharge the President, in whole or in part, from its obligation. It is the President's oath, and his only. It is neither imposed upon nor is it allowed to any other officer, executive, legislative, or judicial. We swear to "support" the Constitution. Senators swear to support it. Members of State Legislatures swear to support it. Every other officer, civil or military, executive or judicial, State or Federal, throughout the country, swears to support it. But, sir, the President of the United States, and the President alone, is, by the express command of the Constitution itself, solemnly sworn, not to support, not to obey, but "to preserve, protect, and defend the Constitution of the United States."

Mr. Speaker, it is not necessary for the purposes of this argument to claim, nor would I claim, even if it were, that the President has judicial power to pass upon the constitutionality of an act of Congress as a general proposition. As a general proposition I concede that his constitutional prerogative is exhausted with the exercise of the veto power. As a general proposition I hold that an act of Congress constitutionally passed over the President's veto is binding upon him as it is upon the people, and becomes, to all intents and purposes, a law, until annulled by the judicial power.

But, sir, this is no ordinary case. We are dealing now with high crimes and with high misdemeanors. We are dealing with a legislative enactment altogether *sui generis*, exceptional in its character, without precedent, without parallel, and, it is to be hoped, without imitation. The question is not one simply of the doubtful exercise of undelegated powers. It is not only whether Congress has undertaken to assume a legislative power not granted by the charter. It is not a question of the imposition of an unequal tax, of a disputed appropriation, of an *ex post facto* law, of a law impairing the obligation of contracts, of tariffs, banks, or internal improvements.

The truth is, Mr. Speaker, that the tenure-of-office act is more than a mere assumption of power. It is a usurpation of power at the expense of a coördinate department of the Government; it is an invasion of the province of the Executive; it establishes a precedent which, if followed, would lead to the practical abolition of that department. The abolition of the executive department would in turn involve the overthrow of the judiciary. The absorption of the powers of those departments in Congress would be the end of the experiment of free government on this continent. We would have the vilest and the meanest form of despotism—the tyranny of a mob of politicians.

What, then, is the President to do? How is he to meet the obligation of his oath, his personal, exclusive oath, to "preserve, protect, and defend the Constitution?" Is he to stand tamely passive while the Constitution is being mutilated and the powers of the Executive are being one after another stripped and absorbed by the legislative branch? If there is no constitutional, peaceful remedy provided for the emergency he must do so, or risk the existence of the nation on an appeal to arms. Such a peaceful and legal remedy does exist, and to that remedy he has resorted in the present case.

By the first and second sections of the third article of the Constitution "the judicial power of the United States is vested in one Supreme Court, &c., and shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties." A tribunal exists competent to decide this question of conflicting opinion and contested prerogative upon a proper case being made and submitted to its jurisdiction. That tribunal can-

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not interpose as an umpire of its own mere motion. It can only exercise its judicial power when a "case" is brought before it involving the question at issue.

Such a case must have parties as well as a subject-matter, and one of those parties must be the actor and the other the defendant. It was to make those parties and that case that the action was taken which, and which alone, forms the basis of the proposed impeachment. In no other conceivable mode could the arbitrament of the judiciary have been invoked upon this grave question of controverted power between two coördinate departments of the Government, involving in its issues no less than the very existence of one of them and the preservation of the Government itself.

Sir, what, let me ask, is after all the real character and object of this proceeding? The alleged technical violation of the tenure-of-office law is the pretext. The pretext is both frivolous and false. The cause for the attempted removal of the President, elected by the people, in the interest of a successor who has been repudiated by the people, is manifest from the history of the impeachment movement from its inception in the Wade and Davis manifesto to the present hour. It is nothing more nor less than the adoption and practice of a policy of administration which is supported by one and opposed by the other of the great political parties into which the people of this country are mainly divided. This is the case of a political prosecution for political offenses and for a partisan purpose. The object is, in reality, not to punish a criminal but to remove an obstacle. The design is not to vindicate justice but to grasp power.

Any party which embarks itself upon the experiment of a political prosecution as a means of getting rid of an obnoxious opponent mistakes the character of the American people. A political martyr in this country is a dangerous foe. The Senate of the United States made Martin Van Buren President by rejecting his nomination as a foreign minister. The same Senate endeavored to extinguish Andrew Jackson by a vote of censure. You know the result.

English history is crowded with such lessons. Some of them are quaintly summed up in the famous speech of Lord Carnarvon on the impeachment of the Earl of Danby. Carnarvon said:

"My lords, I understand but little of Latin, but a good deal of English, and not a little of English history, from which I have learned the mischiefs of such kind of prosecutions as these, and the ill-fate of the prosecutors. I could bring many instances, and those ancient; but, my lords, I shall go no further than the latter end of Queen Elizabeth's reign, at which time the Earl of Essex was run down by Sir Walter Raleigh. My Lord Bacon he ran down Sir Walter Raleigh, and your lordships know what became of my Lord Bacon. The Duke of Buckingham he ran down my Lord Bacon, and your lordships know what happened to the Duke of Buckingham. Sir Thomas Wentworth, afterward Earl of Strafford, ran down the Duke of Buckingham, and you all know what became of him. Sir Harry Vane, he ran down the Earl of Strafford, and your lordships know what became of Sir Harry Vane. Chancellor Hyde Lord Clarendon ran down Sir Harry Vane, and your lordships know what became of the Chancellor. Sir Thomas Osborne, now Earl of Danby, ran down Chancellor Hyde, but what will come of the Earl of Danby your lordships best can tell. But let me see that man that dare run the Earl of Danby down and we shall soon see what will become of him."

A great deal has been said about the usurpations of Andrew Johnson, and the danger of his becoming a tyrant. This is the old story of the wolf, the muddy water, and the lamb. It is the detected pickpocket crying "stop thief!" Under the arrangement of powers in the Federal Constitution, the Executive is so limited that danger to our liberties can never arise from that quarter unless the President should accomplish his designs in the name and as the tool of Congress. But no Executive who is not the mere creature of a factious Congress, no Executive who is watched and thwarted by a hostile Congress, no matter how ambitious of aggrandizement, can possi-

bly encroach either upon the lawful domain of the legislative branch, or upon the liberties of the people. Congress has the President under constant control through their command of the sources and resources of his power. Lying, as it does, between each of the other departments and the people themselves, Congress has its powerful hand at all times upon the lever which can put in motion or bring to a dead stand the whole machinery of administration. The sages, whose authority we are accustomed to invoke, all admonish us that if the liberties of this people are ever lost, if the experiment of self-government upon this continent is destined to fail, it will be through the usurpations of a partisan Congress, countenanced by the very people they enslave.

Story, in his Commentaries on the Constitution, has written, as if in anticipation of the existing emergency:

"It has been remarked with equal force and sagacity that the legislative power is everywhere extending the sphere of its activity and drawing all power into its impetuous vortex."

"There are many reasons which may be assigned for the engrossing influence of the legislative department. In the first place its constitutional powers are more extensive and less capable of being brought within precise limits than those of either of the other departments. The bounds of the executive authority are easily marked out and defined. It cannot transcend them without being brought in contact with the other departments. Laws may check and restrain and bound its exercise. The same remarks apply with still greater force to the judiciary. The jurisdiction is or may be bounded to a few objects or persons; or, however general and unlimited, its operations are necessarily confined to the mere administration of private and public justice. It cannot punish without law. It cannot create controversies to act upon. It can decide only upon rights and cases as they are brought by others before it. It can do nothing for itself. It must do everything for others. It must obey the laws, and if it corruptly administer them it is subjected to the power of impeachment."

"On the other hand, the legislative power, except in the few cases of constitutional prohibition, is unlimited. It is forever varying its means and its ends. It governs the institutions and laws and public policy of the country. It regulates all its vast interests. It disposes of all its property. Look but at the exercise of two or three branches of its ordinary powers. It levies all taxes, it directs and appropriates all supplies, it gives the rules for the descent, distribution, and devise of all property held by individuals. It changes at its will the whole fabric of the laws. It molds at its pleasure almost all the institutions which give strength and comfort and dignity to society. In the next place it is the direct, visible representative of the will of the people in all the changes of times and circumstances. It has the pride as well as the power of numbers. It is easily moved and steadily moved by the strong impulses of popular feeling and popular odium. It obeys without reluctance the wishes and the will of the majority for the time being. The path to public favor lies open by such obedience, and it finds not only support but impunity in whatever measures the majority advises, even though they transcend the constitutional limits."

"It has no motive, therefore, to be jealous or scrupulous in its own use of power, and it finds its ambition stimulated and its arm strengthened by the countenance and courage of numbers."

"These views are not alone those of men who look with apprehension upon the fate of republics, but they are also freely admitted by some of the strongest advocates for popular rights, and the permanency of republican institutions. Our domestic history furnishes abundant examples to verify these suggestions."

Stripped of all disguise, the real, and indeed only cause for the attempted removal of the constitutional obstruction, is to be found in the conflict between the executive and congressional policies of reconstruction. Briefly stated, the issue is whether white men or negroes shall control ten States, and through them the nation. Whether the deranged balance of the Government shall be restored to harmony by the restoration of all its constitutional members, or whether a party monopoly shall succeed in maintaining a permanent two-thirds control of both Houses of Congress, drawing after it an absorption of the executive and judicial powers of the Government, and a practical consolidation of all these departments in the legislative branch. No better definition of a perfect despotism has ever been given by the experience of ages and the uniform testimony of all recognized authorities than the junction of legislative, executive, and judicial power in one and the same man or body of

men. Montesquieu, Blackstone, Washington, Hamilton, Madison, Story, Webster, Kent, all agree that whatever may be the nominal form of government under which this concentration is effected, whether a republic, an aristocracy, or a limited monarchy, no matter whether by a single ruler or by a multitude, from the moment the junction of power is practically accomplished there is an end of public liberty. Cruelly as mankind has suffered from the selfish ambition of solitary usurpers no more odious or fatal despotisms have cursed the race than those of insolent and irresponsible pluralities. The Decemvirs of Rome; the thirty tyrants of Athens, with their impeachment and judicial murder of Socrates; the rump Parliament of England; the Jacobin revolutionary convention of France, with its guillotines and its San Domingo, each had its carnival of brutal tyranny, and each relapsed into the milder despotism of a monarchical or imperial sovereign. This is not the place nor the occasion for bluster and bravado. If the American people, besotted with party rage, have lost the spirit and forgotten the example of their sires; if the fatal proceeding inaugurated on this, the birthday of Washington, is to be carried to consummation with the approval of a majority of the people, then, and not till then, we have an accomplished revolution, a successful rebellion against the Constitution of our country, and triumphant treason to the cause of republican liberty throughout the world.

Impeachment.

SPEECH OF HON. DEMAS BARNES,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolution reported from the Committee on Reconstruction for the impeachment of the President.

MR. BARNES. Mr. Speaker, I rise upon this solemn occasion overpowered by the responsibilities of the hour. But a few days are wanting to complete a year since the assembling of the Fortieth Congress—the most remarkable for what it has done and for what it has failed to do of any Congress since the establishment of the Government. And now, when this most important measure of any which has ever been considered by an American Congress is forced upon us—introduced at two o'clock on Saturday, to be completed at five o'clock on Monday—we are denied the poor privilege of entering our protest against its adoption. When messages and appeals are reaching us hourly to avert this act, which may precipitate us into anarchy and revolution, more than half the members of the House are unable to say one word. During the different sessions of this Congress I have been content to listen to debate upon merely political questions. I have been well content to give way to others who, by experience and wisdom, are better entitled to the attention of the House; but when such measures are brought forward as are this day thrust upon us I feel it to be my duty, to be the duty of every man, to raise his voice, however feeble, in behalf of the Constitution, in behalf of justice, in behalf of order, and in behalf of the institutions of our country.

THE EXECUTIVE AND THE CABINET.

The engrossing of the functions of the executive department of this Government by the legislative, the impeachment and overthrow of the President, the conspiracy of members and of Senators with military commanders to defy and entrap the President, involves too much that is dear to us, takes too deep a hold of the fundamental principles of our Government, and interferes with too many vested rights, to be thus summarily, flippantly, and lightly disposed of.

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The President of the United States is to be deposed. For what? The subordinates through whom the President directs the Army, the Navy, and the other departments of the Government constitute his Cabinet and his advisers. When the opinions and attitude of any of the heads of Departments are in conflict with the President, when they become refractory and refuse to obey his orders, the interests of the Government suffer, and every dictate of prudence demands that this officer be dismissed, and that his place be filled by one who will obey orders, and whose views are in harmony with those of the President. The President has solemnly sworn to see that the laws be faithfully executed. Without the power of selecting subordinates and advisers how can he execute the laws?

THE PRESIDENT, CONGRESS, AND STANTON.

Relations wanting in cordiality of opinion between Edwin M. Stanton, Secretary of War, and the President have grown into utter insubordination on the part of Mr. Stanton, and caused the President to suspend him from office in September last.

Since the advent of President Johnson to office Congress has sought to tie his hands, to impair his political freedom, and to strip him of power. Among other things Congress has passed what was known as the tenure-of-office bill, which undertakes to prevent the power of removal by the President of his subordinates. A portion of the language is, "and that the Secretary of State, of the Treasury, War, Navy, Interior, and the Postmaster General, and Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate." This bill was vetoed by the President as being in conflict with public interest and the Constitution. The correspondence recently published between the President and General Grant reveals the fact that every member of his Cabinet, not excepting Mr. Stanton and the Attorney General of the United States, also pronounced the bill unconstitutional. The view of the most prominent Republican Senators was, that if it restricted the President's power to regulate his own Cabinet no man with self-respect would consent to stay for a day in a family where he was not wanted.

Nevertheless, a partisan Congress passed the bill over the President's veto, and it became a law on the 2d of March, 1867. When he (Mr. Stanton) was suspended by the President he appealed to the Senate to reinstate him. The Senate, being forty-three Republicans to ten Democrats, espoused his cause and restored him to office. Had Mr. Stanton resumed the office in an unobjectionable manner that would have ended the difficulty. But he did not. He returned there as a victor, defiant in manner and insubordinate in duty. Friendly or profitable intercourse could not be resumed.

The President's orders were again disobeyed, and on the 21st instant Mr. Stanton was removed from office. The War Department building is said to have been filled with military; the door was closed against the President's acting Secretary. Simultaneous with his orders to General Thomas to act as Secretary *ad interim* the President communicated his action to the Senate, reserving a full statement of the reasons therefor until he had time to prepare them, with documentary evidence, &c. Upon receipt of this partial information the Senate immediately closed its doors and went into a secret session, remaining for seven and a half hours. Acting only upon partial knowledge and wild rumors, without request and without jurisdiction, a portion of the Senators sent a resolution of condemnation to the President, while another portion of the Senators and members of the House repaired to the office of Mr. Stanton, remained with him

during the night, advising him to resist the President and keep his appointee out of the office.

Never was so high-handed an outrage perpetrated under a free Government in a time of peace. The Senate is the court before which the President is to be tried—one of its members succeeding to the high position of President of the United States in case of conviction. Mind you, fellow-members, the insult by Mr. Stanton to the President was not denied. The tenure-of-office bill was considered unconstitutional by the President; it had not been considered otherwise by the proper legal tribunal; the facts reciting Mr. Stanton's misdemeanors had not yet reached the Senate; yet they prejudged the case and were afterward to hear the evidence. If the participants in this revolutionary scheme have not subjected themselves to arrest there can be no such thing as encroachment upon civil liberty, and there can exist no guarantee for civil liberty for a single day.

Why, what have they done? They have openly conspired with subordinate military officers to defy the will of the President; they have resisted the President's appointees; they have prejudged a case on which they are to be the court, and in the face of the fact that the Senate has a direct personal interest in the conflict, inasmuch as it can elevate one of their own number to the position of President, and they are at this moment assisting Mr. Stanton to remain in the War Office, which he and his guards have not left night or day since the order of his dismissal.

If the tenure-of-office bill is constitutional—and I hardly think any lawyer will now claim that it is—it does not prohibit the removal of Mr. Stanton. It only prevents the President from removing his own appointees during the existing term of his office. Mr. Stanton held his place only by the sufferance of President Johnson. He never was appointed by Mr. Johnson. He was appointed by Mr. Lincoln, during Mr. Lincoln's first term, not even during the term the balance of which Mr. Johnson is now serving. There is no doubt whatever that this tenure-of-office law, if constitutional, has no jurisdiction over or application to this case. It is the President's sworn duty to see that all laws are faithfully executed. This law is in conflict with public interest and with the Constitution. The President has taken measures to have its validity tested—nothing more—although the provocation was extreme. The right to command implies the right to obey. If the President can appoint he necessarily must have the right to remove. Section two, article two, of the Constitution says:

"The President shall be the Commander-in-Chief of the Army and Navy of the United States."

How can he be Commander-in-Chief without power to appoint and remove subordinates? The supposition is a paradox, and such a law would be a farce. Section three, article two, of the Constitution further says:

"It shall be the duty of the President to see that the laws be faithfully executed."

How can he faithfully execute laws if compelled to retain subordinates who will not obey his orders? That such a bill could have passed two Houses of Congress seems most wonderful. It only shows to what extent passion and party discipline have crowded out reflection and warped judgment.

THE MOTIVE FOR CRIME ON THE PART OF THE PRESIDENT UTTERLY WANTING.

Crime is measured by intent. What are the actual and the circumstantial evidences of crime or usurpation surrounding this action of the President, for it is the intention that is to be punished. No man asserts or thinks public injury can follow the removal of Edwin M. Stanton.

The President has satisfied every impartial mind that Mr. Stanton is wanting in the elements of modesty, courtesy, and obedience,

and that he ought not to have occupied his position as long as he did.

The President has sent prompt and good reasons to the Senate, he has employed no force, he has simply expressed his wish to conduct the affairs of the Department for the public interest; he has not filled the vacancy by an untrustworthy successor, but has this day nominated to that position Hon. Thomas Ewing, a man whose whole life and every part of it is a guarantee that the office in his hands would be as safe as if in the hands of George Washington.

The precedents of all other Administrations give indorsements to what the President has done—the Constitution justifies, the public good demands it. The law which the President is arraigned for having violated has been pronounced unconstitutional by all authorities who have voted upon it. The section applying to this removal has no application, Mr. Stanton not having been appointed by the President. Do these facts look like usurpation, like crime? Section four of the Constitution provides—

"That the President shall be removed from office upon trial for and conviction of treason, bribery, or other high crimes and misdemeanors."

Is this act of the President in removing a refractory and disobedient servant, and nominating to his place, subject to the approval of the Senate, one of the first citizens of the United States, high crime? Is it a misdemeanor? Does not this whole proceeding develop designs, intentions, and reasons still sought to be hid from the public eye, and not intended for the public good? The construction of the Constitution in our day is well understood.

THE OPINION OF THE FRAMERS OF THE CONSTITUTION.

Let us see what was the construction of its framers. In the Convention of 1787 Mr. Madison said:

"A dependence of the executive on the legislative department would render the legislative the executor as well as the maker of the law. It is essential that the appointments of the executive should be drawn from some source, and be held by a tenure independent of the legislative. A coalition of these two powers would be dangerous to public liberty."

Gouverneur Morris said:

"The Legislature will seek to perpetuate and aggrandize themselves, and will seize those critical moments produced by war, invasion, or convulsion for that purpose. It is necessary that the Executive should be the guardian of the public against legislative tyranny. It is his duty to appoint the officers and to command the forces of the Republic."

He again said:

"When a strong personal interest happens to be opposed to a general interest the legislative cannot be too much distrusted. In all public bodies there are two parties. The Executive will necessarily be more connected with one than with the other. There will be a personal interest of one of the parties to oppose and one to support him. Much has been said of the intrigues that will be practiced to get the Executive into office. I have heard nothing said of the greater danger—the intrigues which will be practiced to get him out of office."

Mr. Pinckney indorsed all that had been said upon this subject; and went further as to the proposed court of impeachment. He said:

"The two Houses of Congress ought not to be the court of arraignment and trial upon a charge of impeachment. They are political bodies, strongly swayed by political prejudices. If the Executive opposes a favorite law of the dominant party the two Houses will combine against him, and under the influence of heat and faction will throw him out of office."

I ask the majority, what then are the reasons for this extraordinary proceeding, for this hot haste in pushing through this revolutionary measure? The framers of the Constitution never supposed that in case of treason and impeachment of a President of the United States that a duly-elected Vice President would not stand ready to assume the presidential functions. But now it happens that the Vice President is President. If Congress can get him out of the way it transfers one of its own number to this powerful position. This accident, this opportunity, has developed the motive. I say, without fear of successful denial—and I leave the proof to the record of

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history—that the reasons for this dangerous action are political, and only political. Can any public good ensue if you are successful in your design? None.

THE RADICAL PARTY OF THE COUNTRY.

The dominant party in this country are without fundamental principles of government; unless they are aggressive upon individual or public rights they must recoil and fall behind. This party cannot stand still, must advance even into barbarian confiscation and bloody revolution, or it is dead. The leaders of this party well know that they are to-day in a political minority throughout the country, and unless something can be done to give them unnatural power, unless they can illegitimately perpetuate the power which the convulsion and passions of the recent war have placed in their hands, their former acts will be repudiated, and the party dies. They are the same men who preferred a lingering war, to obtain political power, to a short and decisive one under the Constitution and within the law.

INEQUALITY OF REPRESENTATION—THE DEMOCRATIC AND REPUBLICAN PARTIES.

The legislation of the Radical party has been to one end, aim, and effect. In the last fall's election in the eastern, middle, and western States, in all the non-excluded States, the Republicans had 2,134,554 votes, while the Democrats had 2,190,169, a Democratic majority of 55,615. Instead of forty-four Republican and only ten Democratic Senators, as now, we should stand twenty-eight Democrats and twenty-six Republicans, and the House would be Democratic by one majority. New England has six Senators more than would be her proportion under an equal distribution of one Senator to four hundred and fifty thousand population. The party do not mean to lose the strength of these unfair advantages. They go further. Nevada, with 10,000 voters, is here with two Senators; Nebraska, with less than 9,000 votes, is here with two Senators; and Colorado is soon to be here with her two Senators and only 10,000 votes; while New Mexico with 17,685 votes, Montana with about 11,000, Utah with 16,280, and Idaho with about 16,000 votes, are excluded.

This is not strange, for Nevada, Nebraska, and Colorado are Republican, while New Mexico, Montana, Utah, and Idaho are Democratic. Democratic members are excluded from both Houses by a strictly party vote, and their places given to Republicans. Mr. Stockton, of New Jersey, was thus thrust from the Senate, and my colleague, Mr. Brooks, of New York, Mr. Baldwin, of Michigan, and Mr. Voorhees, of Indiana, were also thrust from this House. Three years have been spent to see how the votes of the southern States could be absolutely controlled by a central directory, and five bills have passed this House to that end. You have not only calculated the physical capacity of the population of that section to vote, but you have nicely weighed the dignity, endurance, and humiliation of its more intelligent population to define what would cause them to refuse to vote, and just how far it was necessary to go in enfranchising the negro and disfranchising the whites to have your conditions—return here either negroes or profligate whites who would do your bidding.

The number of the Supreme Court has been reduced and its entire integrity attacked by your legislation for party purposes. The dignity of the presidential office and the powers of the Executive have been so impaired as to interfere with the collection of the revenue and the interests of the country. Bills are passed over the President's veto without one moment's discussion. A perpetual Congress has been instituted, and now it is sought to elevate one of your own number, one of the most extreme men of either House, over the ruins of the Republic to the presidential chair.

PASSION AND IMPEACHMENT.

The *ex parte* evidence upon which this House

proceeds to act, and upon which the Senate has acted in this important measure, and the solid party lines by which the action is supported, leave no doubt in my mind that when these *ex parte* statements and wild rumors are thrown out before a final court by intelligent lawyers, when facts only are presented, and when circumstantial evidence is weighed, if this case is not dismissed, it can only and will only, be executed against necessity, against facts, against law, and by force and blood.

AN APPEAL TO DOMINANT PARTY.

I ask, gentlemen, what is to be the effect of thus hurrying this nation into the jaws of a revolution, the end of which no man can foretell? Can the material interests of the country survive such a precedent? Can the public credit sustain such a strain? Every condition exists, and every element in this country is ripe for revolution. The increase of population for eight years is unproductive in its character and has been almost entirely in towns and cities. The agricultural population has not increased—agriculture needs labor, and agricultural products are in short supply and command high prices. The bonds of the Government are in the hands of the few; the votes here, unlike those of England and France, are in the hands of the masses. Impoverished labor will not always voluntarily tax itself to pay interest upon the rich man's bonds. When machinery has more fully stopped, &c., when industry will not feed and clothe those who are dear to us, I say unto you that these questions will have to be met.

I beseech you to pause in these high-handed, these useless, these dangerous measures. Behold the stagnation, destruction, sorrow, and death which have already followed as the results of your legislation. Tell it not in the Halls of this national Capitol, or let the sound reach the hills and valleys of our distant homes, how liberty is this day to be sacrificed upon the very altar of her citadel; how the pillars of our Constitution this day tremble to their foundation; how vengeance here seeks another victim; how party has risen superior to country; how justice is overthrown by passion, and how not one voice among you all raises its thundering tones to avert these crimes. The history of the past admonishes you, the uncertainty of the future warns you, of what may follow. You are certainly sowing the seeds of anarchy, destroying national credit, and disheartening our already despondent people. You may be placing us within a step of the yawning gulf of revolution.

Robespierre, Marat, and Danton were less vindictive than many of the members of these Houses; and the bloody rule of the Jacobins was mild compared to that which is sought to be established by many here who now seek power. Tread not too far. Your vengeance must react. Your threats will not always meet abject or even patriotic hearts.

Retaliation is an element of human nature. Long pent-up rage strikes with mighty force when its chains are broken. Your zealous, enthusiastic, ambitious, and dangerous men control the action of unthinking good men. Your speeches here this day, and the vote you are to give here this day, show that the shackles of party are upon you. Will you not rise and break them in pieces before the car is in motion, and inflamed passions compel you to take a part which now you would shrink from with horror? The hand-writing is upon the wall. Be wise, be just, be humane, while yet you can. The memories of the past, the hopes of the future, our own liberties, the liberties and the prosperity of our children and of our children's children are involved in the vote you this day give. As for me, if you this day agree to impeach the President upon the evidence now before us, I shall consider our liberties less secure, our property less valuable, our honor tarnished, our country disgraced, our rights invaded, and you responsible.

Impeachment.

SPEECH OF HON. F. A. PIKE,

OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1868,

On the articles of impeachment reported from the committee.

Mr. PIKE. Mr. Speaker, the resolution proposing the impeachment of President Johnson for "high crimes and misdemeanors" was properly passed by the House. The recent disregard and contempt of the act of March 2, 1867, regulating the tenure of civil offices are peculiarly offensive, because the Senate has so recently passed upon his action in the suspension of Mr. Stanton in August last, and that, too, after an elaborate debate, in which the whole matter was fully considered. The President has thus taken occasion, in the immediate presence of Congress, to defy its action. The first section of that act reads:

"SEC. 1. That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as hereinafter otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

The question of the constitutionality of this act I do not deem open to the House. For all our purposes it must be considered constitutional. It was considered, discussed, passed by both branches of Congress, vetoed by the President, and, in accordance with the terms of the Constitution, "reconsidered" and passed by the requisite two-thirds majority.

Upon what principle, then, can the House act upon the possibility of this law being unconstitutional? Shall the House wait for a court somewhere, somehow constituted, at some future time, more or less remote, to pass upon the question of the constitutionality of this law? And is anybody green enough to suppose that a court will decide this question free from the bias of politics? The Democrats of this House, without exception, so far as I know, those who have been on the bench and those who have not, pronounce the law unconstitutional. Every man in the country who thought it "unconstitutional to coerce a State" will deem this law unconstitutional. Shall we wait for an expression of opinion from such of them as happen to be on the bench? Would that be wise?

It is clear that we must treat this statute like all others and regard it in full force and vitality until the proper judicial authority shall pass upon it. It may be brought before the Supreme Court of the United States, and it may not. Should it be carried there, and should the court pass upon it unfavorably, I should cease to act upon it. Until then I know of no way that any member of this House may properly discharge his duties while disregarding it. For one I cannot shirk my obligations in that way. My oath of office, as I construe it, forbids me thus to trifle with my position. Members of this House should act on the law as they find it, and members of courts must pass upon the law when it comes before them.

What, then, does this section of the act mean? Does it include the case of Mr. Stanton? It is said Mr. Stanton was appointed by Mr. Lincoln, and must be considered as his appointee under this act. And it is said, further, that Mr. Lincoln's "term of office" expired with his death; and, therefore, according to this section, Mr. Stanton's term expired thirty days thereafter. Suppose this to be so; how, then, does the case stand? Mr.

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Lincoln died April 14, 1865, and according to this mode of reasoning Mr. Stanton's term of office ended in thirty days thereafter, and so ever since the passage of this act, March 2, 1867, Mr. Stanton has been holding place without authority of law. In other words, there has been no legal Secretary of War since that date. If this be so, the Secretaries of State, of the Navy, and of the Treasury are in the same category. Being illegally in office, their doings are void. This looks like the most wholesale repudiation of the public debt that has yet been made. Hundreds of millions of the public debt depend upon the action of the Secretary since the passage of the act a year since. Old bonds have been taken up and new ones substituted, and the whole vast operation of the Treasury Department, embracing at least \$500,000,000 of valuations has been conducted as though we had a Secretary of the Treasury with full authority. Shall they all be repudiated? And whose fault is it? The President examined this act when it passed. If under it and in accordance with its provisions Mr. Stanton's term expired, and Mr. Seward's and Welles's, why did he not make other appointments? Is he guilty of nonfeasance, or rather is he not guilty of malfeasance in holding out to the public that these men were Secretaries when they were not? And would it not be gross misdemeanor to do this? Surely, if this has been done, the offense is even greater than that alleged against him. It is clearly his duty to fill these high offices, and failing to do so he would be guilty of the grossest dereliction, and should be punished accordingly.

But the President has treated Mr. Stanton as Secretary of War. He has consulted him, and in common with Mr. Seward and Mr. Welles Mr. Stanton has formed part of the Cabinet. Does it now lie in Mr. Johnson's mouth to deny his being a Cabinet officer? In addition to this the President has "suspended" Mr. Stanton. He could only do this on the ground that he was a member of his Cabinet and came within the provisions of the tenure-of-office act. There is no other law except this that gives the power of "suspension." This power is quite different from that of removal. An executive of a State may remove a sheriff—unless he be elective—but he cannot say to him that he shall be "suspended" for a specified time, and after that may exercise his functions. And in the appointment of General Grant as Secretary *ad interim* he also recognized the tenure-of-office act, and that Mr. Stanton was "suspended" under it. The act of February 13, 1795, gives the President power to appoint *ad interim* in case of a "vacancy," and he claims under that act to have appointed General Thomas after he had made the "vacancy" by the removal of Mr. Stanton. But in August there was no such "vacancy." Unless he had authority given him by the second section of the tenure-of-office act to appoint General Grant he had no authority anywhere. It follows, then, that in the appointment of General Grant temporarily he recognized the validity of the tenure-of-office act, and that Mr. Stanton came under its provisions. And Mr. Johnson clearly recognized Mr. Stanton as coming under the provisions of the second section of that act when, in December, he sent in his reasons to the Senate for the suspension of Mr. Stanton. In these four different ways Mr. Johnson has recognized Mr. Stanton as coming within the provisions of that act; and how can he now deny the position? He has acted with deliberation, and after full discussion and consultation with his advisers, and how can he now say his whole conduct shall go for naught? Can he be allowed to say so? But if not, then, without further discussion, Mr. Stanton must be taken as coming within the provisions of the first section of that act, and is still properly Secretary of War.

That section provides for one method of removal, and that is "by and with the advice and consent of the Senate." No other. That con-

sent has not been obtained; and consequently Mr. Stanton, whether he be considered as Mr. Lincoln's appointee; holding during the term for which Mr. Lincoln was elected, or as Mr. Johnson's appointee by adoption, is still Secretary of War.

And the removal or attempted removal of the Secretary of War is in direct conflict with the sixth section of that act, which provides that "removals," and "issuing letters of authority for or in respect to any appointment or employment," contrary to the provisions of the act, is a high misdemeanor, and punishable by fine or imprisonment.

If, then, Mr. Stanton comes within the provision of the first section of that act it is clear that the President has laid himself liable to its penalties, because he has committed a flagrant violation of its provisions. But if that statute does not apply to this case still the President has no right to remove Mr. Stanton. The Constitution, article two, section two, gives him authority to appoint during the "recess of the Senate." This right of appointing has been construed to involve the right of removal. And such has been the practice. But it has only been done during the "recess of the Senate." When the Senate is in session there is no constitutional or other right of removal. And in no other case has Mr. Johnson, in his whole career of wild audacity, attempted the removal of an officer while the Senate was in session without first asking the consent of that body.

On the 21st of February Mr. Stanton was in his place in the War Office. He had been "suspended" under the tenure-of-office act by the President, and according to the terms of the same bill he had been restored by the Senate. No attempt had been made to "remove" him. He was still Secretary of War. Such being the case, it is clear that, whether his case came within the tenure-of-office act or not it was a palpable usurpation of authority on the part of the President to remove a faithful officer while in the discharge of his duties, and against the provisions of the Constitution itself. Such being the President's offense, the committee has done well to found charges upon it. A case is thus made out upon which judgment may well be based. But I wish the committee had gone further, and put in the indictment some of the other, if not graver, offenses of which the President has been guilty. The additional article proposed by the gentleman from Massachusetts [Mr. BUTLER] I shall vote for with pleasure. It supplies the want, in part, perhaps as fully as it can be supplied, consistently with a reasonable time, in the trial of the case.

It would, of course, be more satisfactory to the House and the country if the reasons for removing President Johnson could all be spread out on the record. The whole catalogue of offenses against the State—not doing what he ought to do, and doing what he ought not to do—is almost continuous with his official life. A brief display of extraordinary determination to teach the country its duty to hate treason and punish traitors, and that display limited to words only, is all that can be found in the history of his administration of the qualities that attracted the attention of the country and induced a powerful political organization to go out of its way and heed the strong persuasions of his friends to give him the second office in the gift of the people of the Republic.

Under one pretext and another he has utterly failed to meet the just expectations of the country. He has abandoned his friends. He has broken without hesitation all the implied obligations to the men who placed him in power. Those who gave their best exertions to defeat his opponent and give him place he has constantly termed fanatics and compared with the traitors of the South. And by rapid stages of degradation he soon came to abandon both his party friends and the friends of his Government during the great struggle, and on all

occasions to ally himself with those friendly to the rebellion.

Could all his various alliances, addresses, conferences about appointments, and real reasons for public action be spread out on the record, no man could hesitate to say he should be ejected from place for the good of the Republic and in the interest of sound principles of political action for all time to come! The most those who now oppose this proceeding in the hope of party advantage could say would be that they "loved the treason and despised the traitor!"

And it is only in oblivion of history that any one can suppose Congress at fault in this difference that has been distracting the country for the last two years between the legislative and executive departments of the Government.

Mr. Johnson took possession of the office early in 1865, and Congress did not assemble until December. But it is susceptible of proof that in the autumn of that year he allied himself to the Democratic party and endeavored to defeat his friends in the fall elections! Montgomery Blair went through the State of New York speaking for the Democratic candidate, and alleging everywhere that the President was with him in feeling and desire, and when Republicans wrote the President for authority to contradict the statement he refused to furnish it! This was more than a month before Congress assembled.

And when Congress did meet he made no effort and tolerated no advances looking to mutual coöperation. It was evident that from the first he had determined to destroy the organization that had elevated him to place, and in its stead to create a new one made of hostile elements and devoted to his personal interests.

All this shows political turpitude of the most heinous kind, not of the character of "crimes and misdemeanors" specified in the Constitution. Such conduct still evinces a baseness that among honorable men prepares the way for belief in the most marked official misdemeanor that supposed personal interest might render necessary.

Congress and the country have already passed upon Mr. Johnson's usurpation of power in setting up States in the place of those in which, according to his Holden proclamation of May 29, 1865, "all civil government had been destroyed." If any popular verdict can be pronounced at the polls one was given in the election of the Fortieth Congress. The question then was: "Has the Executive usurped the power of the nation?" Discussed thoroughly everywhere, beginning with Johnson himself, the country understood plainly what the controversy was between the Executive and the Congress, and it returned a hundred majority here to pronounce its judgment.

The verdict was marked and distinct, and should be reckoned as conclusive, as that against the Bank of the United States or the Dred Scott decision. And usurpation of power is the highest of "crimes," leading, if unchecked, to a change in the form and a destruction of the Government itself. Thus usurping the power of Government, Mr. Johnson proceeded, in derogation of his high duties, to endeavor to excite the passions of the multitude against a coördinate branch of Government. Beginning at Washington and traversing half the States of the Union, he everywhere endeavored to bring Congress into derision and contempt, that thereby he might strengthen his own illegal purposes and defeat propositions for amendments to the Constitution submitted by Congress to the several States in accordance with the terms of the instrument itself.

Elected by the same constituency, and no greater than the Congress, he did not hesitate repeatedly to denounce it as no Congress, but a body "hanging on the verge of the Government."

Thus the "crime" of usurpation was endeavored to be supported by "misdemeanor;"

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a misdemeanor so flagrant as to make the head of the nation a scoff and jest and by-word—bringing himself and the office, so far as lay in his power, into contempt among the people.

In pursuance of the same purpose to sustain this great usurpation, he has prostituted both the appointing and the veto powers. In a public speech at St. Louis he threatened both to "kick out of office" those opposed to his policy and to veto all measures that might be passed to override it. And how doggedly he has adhered to his purpose we who have been here the last two years know right well. No more active and persistent use of both veto and appointing powers could be made than has been made by him. On all occasions, everywhere, he has asked of applicants for place and of purpose of laws passed by Congress but one question, and that whether it favored or opposed his usurpation. Thus the executive authority has been prostituted on behalf of a great "crime."

And mean time Congress has protested and made laws for the purpose of restraint. Overruled by construction, which was but a subtle form of obstruction, Congress has repeatedly passed laws to make more plain its purpose of subjecting the rebel States to the authority of the laws of the United States, and has once assembled here for that sole purpose. And those laws have as constantly been met by the veto power in the first instance, and subsequently by continual obstructions in their enforcement. Whenever an officer has endeavored to discharge his duties under the provisions of the law for the government of the rebel States, he has been treated with hostile criticism on the part of the Executive, and upon the slightest provocation been removed. Sickles, Sheridan, Pope—men in whom the country has the highest confidence, and men who have given extraordinary proof of the warmest patriotism—have each in turn been removed for no other reason than a zealous performance of duty under the reconstruction acts.

Encouragement has in all possible forms been given to rebels, and their dormant hostility to the Government quickened into such active opposition that conflict has ensued, and murders without number have been committed; and the restoration of the whole southern country to a state of peace and comparative prosperity has been thrown back for years.

Had Mr. Johnson not advised the rejection of the mild and wise and moderate constitutional amendments those States would long before now have been restored to the Union, and the whole controversy settled.

And still Congress has foreborne to exercise the power of removal vested in it by the Constitution. Wisely or unwisely, it forebore with the hope of amendment. Pursuing toward the rebel States a policy which had in it no vengeance, and so presenting to the world the remarkable spectacle of a Government suffering the greatest rebellion, with the greatest sacrifice of life and property, and with the least attempt at punishment of crime. Congress has continued the same policy toward the Executive.

But the President has only become more and more set and fixed in his purpose. Instead of responding to forbearance, he has only been emboldened by it to more violence of action, until now he has undertaken openly to set aside laws of the United States under the pretense of a desire to test their constitutionality. Failing in his attempts to construe, he claims to abrogate by virtue of his position as President of the United States.

But the President has no more right than other citizens of the Republic to violate a law of the land. His oath of office to "preserve, protect, and defend the Constitution" is of no more scope than that taken by every officeholder in the United States to "support the Constitution." You cannot "preserve, pro-

tect, and defend" without "supporting," and if you fail to "support" you certainly fail "to preserve, protect, and defend." The duty imposed by either oath is the same; and the justice of the peace who has taken the official oath to "support the Constitution of the United States" may as well claim immunity from the laws because he believes them unconstitutional as the President. There is one law for all, the rich and the poor, the high and the low.

And the new plea that he violates to test the question of unconstitutionality, and therefore is not criminal, is equally unsound. It of itself shows an intention to violate, and that is all that is necessary to make out the crime.

It is no new plea. During the war we had just such propositions in relation to the enrollment law. It was alleged to be unconstitutional, and it was claimed that Mr. Lincoln should allow that question to be tested before it was enforced. The mob in New York was egged on in its mission of destruction with the claim that the enrollment law was unconstitutional and should be tested. The southern States seceded under claim of constitutional right. They desired to test the question of the constitutionality of secession, and they did. And any citizen of this country is at liberty to do the same thing. The only penalty that attaches is the penalty of the law. If he violates the law he must take what follows thereon. If he be part of a mob testing the question of constitutionality, he is liable to be shot down by the officers of justice or subsequently punished. If he be part of an army aiding States to test the question of the constitutionality of secession he must triumph or fail according to the fortunes of war. And if he be the President of the United States he must be dealt with according to the magnitude of the offense, and impeached and removed if the House of Representatives and Senate concur in thinking fit to do so.

In this case no one can presume him innocent of offense. The removal of Stanton and the appointment of Thomas is but part of a series of offenses in support of his great usurpation. It is the culmination of misdemeanors. It is the keystone of a whole arch of wrong doing. He would make his control of the Government complete. He would have his own creatures near him not to execute the laws, but to further his personal desires.

He would have no intervention between his own will and the power and Treasury of the Government. And so a faithful officer is removed, and a worn-out, imbecile old man selected to take charge of an important Department. The current history of the Administration connects the whole together, and so they must go into history.

The amendment proposed, or rather the additional article proposed, is necessary by way of spreading out on the record the purposes and designs of this man at the head of the Government, and by the light of it we read the criminality of his official acts. I would rather it should have included the principal transactions of his Administration that I have so hastily sketched; but I forbear to press any further amendment for that object, because the country is anxious to have an end of these proceedings.

I have voted against impeachment, but only for prudential considerations. Believing him guilty of high misdemeanors within the scope and meaning of the Constitution, I yet forbore by my vote to bring him to trial because of possible damage to the industrial interests of the country. It seemed to me better to "bear the ills we have than fly to those we know not of." I never believed it necessary to find an indictable offense in order to get a cause for impeachment. Small crimes against the individual are indictable, and great offenses against the State are not. It is indictable to steal a chicken, but not to usurp the powers of a State.

Sir, we ought not longer to delay. The highest interests of the Government demand immediate action. The offense is clearly made out. The law is plain. The remedy should be applied at once. And whatever hesitation I may have had heretofore, I am now satisfied that the business and material interests of the country will be immensely benefited by energetic action. The perverse action of Mr. Johnson has cost this nation thousands of lives and millions of money, and it will continue to be of immense injury. Every day's delay protracts business, uneasiness, and adds to the intolerant and cruel abuse of loyal men in the rebel States. Both sections of the Union are looking to us for relief. They have a right to demand of us a determined exercise of constitutional power. By impeachment only can the contest be ended. Impeachment is peace. Impeachment is reconstruction. It insures prosperity and relief to our burdened taxpayers. If it makes a martyr for the use of the Democracy they are welcome to him. He has in him the poorest stuff that ever martyr was made of. Let him be removed as soon as the forms of law will allow, and the whole country will rejoice!

Impeachment.

SPEECH OF HON. SIDNEY PERHAM,
OF MAINE,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1868.

On the articles of impeachment reported from the committee.

Mr. PERHAM. Mr. Chairman, we are today summoned to one of the most important duties that falls to the lot of the American House of Representatives to discharge. The President of the United States has been charged with high crimes and misdemeanors in office, which, by the law of the country, should the charges be sustained before the high court authorized by the Constitution to try the issue, would result in his removal from office. This is no ordinary occasion. Never before in the history of the country has the President been arraigned to answer to articles of impeachment, and we devoutly hope such an occasion may never arise again. It is no occasion for the partisan, but for the impartial exercise of a solemn and important duty.

I do not propose to make an argument on the legal questions involved in the subject before us. That has been ably done by others who have preceded me in this debate. I shall content myself with a brief statement of some of the facts in the case and the law appertaining thereto. And here it is well to remember, what some people seem to overlook, that the President has no authority beyond that of the humblest citizen, except such as is conferred by the Constitution and laws. His powers are all subject to the limitations and restrictions of law. By the Constitution the judiciary power is "vested in the Supreme Court and such other inferior courts as Congress shall establish."

The President is the executor, not the expounder, of the law, and has no right to disregard it because it does not meet his approbation. No position in this country is so high as to authorize its occupant to substitute his own will for the law or to violate its demands with impunity. When the tenure-of-office act became a law by a vote of two thirds of both Houses of Congress it was a law to him just as much as if he had given it his approval, and he had no discretion except to execute it. With remarkable foresight the framers of the Constitution guarded against the power of the President to make his own will the law, and appoint important officers without the consent of the Senate. If they had foreseen distinctly just the present state of things they could not have expressed their intention to make the

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power of the President to appoint "officers of the United States" subordinate to the action of the Senate any clearer.

In support of this position I quote from an official opinion upon the powers of the President given by the then Attorney General, Jerry Black, and addressed to President Buchanan, in 1860.

Mr. Black says:

"To the Chief Executive Magistrate of the Union is confided the solemn duty of seeing the laws faithfully executed." * * * "But his power is to be used only in the manner prescribed by the legislative department. He cannot accomplish a legal purpose by illegal means, or break the laws himself to prevent them from being violated by others.

The acts of Congress sometimes give the President broad discretion in the use of the means by which they are to be executed, and sometimes limit his power so that he can exercise it only in a certain prescribed manner. Where the law directs a thing to be done without saying how that implies the power to use such means as may be necessary and proper to accomplish the end of the Legislature. But where the mode of performing a duty is pointed out by statute that is the exclusive mode, and no other can be followed. The United States have no common law to fall back upon when the written law is defective. If, therefore, an act of Congress declares that a certain thing shall be done by a particular officer, it cannot be done by a different officer. The agency which the law furnishes for its own execution must be used to the exclusion of all others."

The provision of the Constitution applicable to the case is as follows:

"He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session."

This authorizes the President to appoint "with the advice and consent of the Senate," but in no other method, during the session of the Senate. Neither can he create a vacancy. He has only power to nominate, and, after the Senate shall have given its consent, to appoint. This is the extent of his power, so far as the officers named are concerned, while the Senate is in session. During the recess of the Senate he can fill any "vacancy that may happen by granting commissions which shall expire at the end of the next session." I take this provision of the Constitution to be conclusive that its framers did not intend to give the President the power either to create a vacancy by removal or to make a permanent appointment. During the recess of the Senate the President has power only to grant temporary commissions, limited in their duration to a time within which the Senate would have an opportunity to decide whether a permanent appointment should be made; thus keeping the whole power of permanent appointments within the control of the Senate. Does any one suppose that it was intended to give the President absolute power of appointment during the session when it was expressly prohibited during the recess?

Mr. Johnson has violated these plain provisions; first, by attempting to remove Mr. Stanton and creating a vacancy; and secondly, by appointing General Thomas, without the consent of the Senate when that body was in session, neither of which he had any authority to do.

"He shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States."

The Secretary of War is an "officer of the United States," and, by the plain terms of the Constitution, is to be appointed with the consent of the Senate, and in no other way. The Constitution confers no power of appointment upon the President except through the Senate, as follows:

"Congress may by law vest the appointment of such inferior officers as they may think proper in the President alone, in the courts of law, or in the heads of the Departments."

The Secretary of War is not an "inferior officer," and the Senate cannot, if it desires, clothe the President with absolute power to appoint such an officer. It can only "vest the appointment of inferior officers" in the Executive.

The tenure-of-office act seeks to give practical effect to the spirit of that clause of the Constitution already quoted, a part of the law being simply a reenactment of its provisions. The first section of this act reads as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

Nothing is plainer than that under this section an officer who has been appointed "with the advice and consent of the Senate" cannot be removed without "the advice and consent of the Senate." But it is contended that the proviso so modifies the first part of the section as to allow Mr. Johnson to remove such of his Cabinet officers as have not been appointed by him without consulting the Senate. The officers named in the proviso may hold their offices "during the term of the President by whom they may have been appointed, and for one month thereafter." The word "term," as here used, evidently has reference to the time for which the President is elected. The President is elected for a term of four years, and, of course, the term for which he is elected does not expire until the end of four years from his inauguration. Mr. Lincoln was elected for a term of four years from the 4th of March, 1865, and, though he has ceased to perform the duties of the office, the "term" for which he was elected will not expire until the 4th of March, 1869. Four years are a presidential term. No presidential term less than four years is recognized by the Constitution or the laws. Mr. Johnson is now serving not his own term, but the unexpired portion of Mr. Lincoln's term. If I am correct in this statement, the term for which Mr. Stanton was appointed will not expire until the 4th of March, 1869, and by the terms of the act under consideration he is entitled to hold his office "for one month thereafter, subject to removal by and with the advice and consent of the Senate," but in no other way.

That the proviso was not intended to give the President power to remove his Cabinet ministers is apparent, when we remember that its object was to restrict, not to enlarge, the powers of removal given in the first part of the section; and that the bill was violently opposed both in this House and the Senate, because that under it the President could not remove his Cabinet officers unless the Senate should concur. And the President himself, in whose behalf this interpretation is set up, took the same view of the act. In his message vetoing the bill, he said:

"In effect the bill provides that the President shall not remove from their places any of the civil officers whose terms of service are not limited by law without the advice and consent of the Senate."

As late as August, and again in December last, the President himself recognized the binding force of this act in suspending Mr. Stanton under it and proceeding in exact conformity with the forms prescribed. This interpretation of the act, now for the first time set up to justify the President in his flagrant violation of the law, is an afterthought, and without the least grounds of support. There is little doubt

that the President when he vetoed the bill had Mr. Stanton, whom he and his friends had been endeavoring to "smoke out" of the Cabinet, especially in his mind as one of the men that he would be expressly forbidden to remove if that act should become a law, and that this increased his opposition to the measure. The other sections of the act applicable to this case are as follows:

"Sec. 5. *And be it further enacted*, That if any person shall, contrary to the provisions of this act, accept any appointment to or employment in any office, or shall hold or exercise, or attempt to hold or exercise, any such office or employment, he shall be deemed, and is hereby declared to be, guilty of a high misdemeanor, and, upon trial and conviction thereof, he shall be punished therefor by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court."

"Sec. 6. *And be it further enacted*, That every removal, appointment, or employment made, had, or exercised, contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and upon trial and conviction thereof every person guilty thereof shall be punished by a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court: *Provided*, That the President shall have power to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointment shall have been advised and consented to by the Senate."

The President's shameful attempt to induce General Grant to violate this act and become liable under this fifth section, by promising to suffer himself vicariously its fines and penalties, is too fresh in the minds of the people to need more than a passing notice. I greatly fear the President has already more sins of his own than he will be able to atone for, without making any contracts to suffer vicarious atonement for others. Certain it is that if he has many pledges of this kind it will be an act of great mercy to remove him from the scenes of his present temptations before the accumulation of his own political sins become any greater.

Mr. Johnson had suspended Mr. Stanton and had sent to the Senate his reasons therefor, according to the provisions of the act under consideration and by law. "If the Senate shall refuse to concur in such suspension, such officer so suspended shall forthwith resume the functions of his office." No language could be plainer. All the functions of the office from which Mr. Stanton had been suspended were restored to him when the Senate refused to concur in the suspension, and he became "forthwith" Secretary of War with all the rights belonging to the office, and the President had no more right to prevent his return to office by the appointment of General Grant, General Thomas, or any other man, than he would have to send either of those men to the office of Mr. Seward or Mr. McCulloch to take possession of the places occupied by the rightful incumbents. It is therefore plain that the President is guilty not only of conspiring to keep Mr. Stanton out of the office to which he was entitled by law, but of endeavoring to involve General Grant in the conspiracy, as well as to make him liable under the tenure-of-office act to "a fine not exceeding \$10,000, or by imprisonment not exceeding five years, or both."

The sixth section provides, with remarkable clearness, for the punishment of just such offenses as the President has been guilty of. He has attempted to remove Mr. Stanton "contrary to the provisions of this act." He has appointed a man to fill his place in defiance of law. He has issued a "letter of authority" to one Lorenzo Thomas without law, and in violation of its express provisions. These acts are declared by the law to be "high misdemeanors," and "high misdemeanors" are not only punishable under the law "by a fine not exceeding \$10,000 or by imprisonment not exceeding five years, or by both," but, under the Constitution, they render the perpetrator liable to "impeachment and removal from office, and disqualification to hold any office of honor,

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trust, or profit under the United States." I submit this brief statement of a few of the facts and the law applicable to the question before us, as I understand it, and challenge contradiction to the general correctness of my conclusions.

But, Mr. Chairman, the charges in the articles before us include but a small portion of the crimes of this man, which may properly be presented to show his motives in the commission of the acts specifically charged.

The danger is more in the spirit which these acts reveal than in the acts themselves. The firing upon Sumter, considered apart from the spirit that prompted it, would not have aroused the people of this country as it did. But they had seen for months the preparations that had been made to break up the Government; they had heard the threats of disunion, and recognized in the firing of the first gun not only the signal of war, but the terrible spirit that prompted it. It was the revelation of the wicked determination which lay back of and inspired the overt act that aroused the people to a sense of danger and made every loyal heart beat in unison and nerved every patriot arm for battle. So in this case the people have looked on with anxious dread for the last two years. They have noticed with fear and trembling that the curses which the President was once wont to pour out upon rebels were changed to words of commendation. They had witnessed his efforts to install the leaders of the "lost cause" in power and subject the Union men of the South to rebel domination. They had seen his shameful disregard of all his promises made to them in his better days, and still they were not without hope that he would cease his wicked purposes to some extent, and that the balance of his political life might be endured. But they have been disappointed. His last acts have opened their eyes to see the spirit that controls him and the dark designs that lie back of and inspire these acts. They are now fully aroused to a sense of the danger that environs them, and with a unanimity scarcely less than that which followed the attack upon Sumter they demand his removal; and as before the war prominent northern Democrats assured the rebels that an army would never be raised in the North to subdue them, and that a battle must first be fought at home, and talked about marching over Democratic bayonets, &c., so now we hear from the same men threats of terrible things the Democrats of the country will do if the representatives of the people dare to restrain Mr. Johnson from the commission of further crimes against the Government.

What deeds of darkness and usurpation Mr. Johnson may have had in his purposes for the past and future we may never know, and it is perhaps better that they should not be revealed. Certain it is that all his talk about making himself "dictator" and "perpetuating his power," and the question so significantly asked by Mr. Seward, whether we would "have Mr. Johnson for President or king," could not be without some meaning.

In a speech delivered by Mr. Johnson on the 18th and 19th of December, 1859, he said, "I do not differ with my southern friends, only as to the mode of redress. I shall take other grounds while I try to accomplish the same result." This was said just previous to the commencement of hostilities. He did "take other grounds" from those taken by his "southern friends." How earnestly he has tried "to accomplish the same result" that they endeavored to effect the country knows too well.

Our financial interest calls loudly for the removal of the President. Property belonging to the Government to the amount of many millions has been illegally surrendered to parties in the South, a part of which is said to inure to his own personal benefit. Frauds unprecedented in the history of the Government are being perpetrated by officers that Mr.

Johnson and his subordinates are continuing in office, and have refused to remove after due notice of their crimes.

Ex-rebels from the confederate army, who have been appointed to lucrative and responsible offices, have been permitted to draw their salaries without taking the oath required by law. In this very large sums have illegally been drawn from the Treasury.

No American citizen can contemplate the frauds that are constantly being perpetrated under the supervision and protection of corrupt officials without a sense of shame and disgrace. There is no good business man in the country who would not be willing to pay the Government \$130,000,000 annually, above all expenses, for the privilege which it has under the law of collecting the tax on spirits. There is little doubt that the tax if honestly collected would amount to very much more than the sum named. The president of the convention of distillers, held in this city in December last, stated that not more than five cents, instead of two dollars, per gallon have been collected. If this gentleman is correct—and he has much better opportunity to judge correctly than I—the sum we are losing is much more than that I have named. But allowing the lowest possible calculation, the Government is cheated out of \$100,000,000 of revenue annually through frauds of this description alone. We are informed by the revenue officers that the frauds in the manufacture of tobacco have been almost equal to those in the manufacture of spirits. Various measures have been devised from time to time to prevent these frauds, but to no purpose; and so long as corrupt officers, under whose jurisdiction these frauds have been committed, are continued no legislation can secure an honest collection of the revenue.

It was very unfortunate for the country that so many revenue officers were appointed during the year 1866, while the President was turning his back upon the men who elected him, and seeking to form a sort of mongrel party, with such men from the Republicans and Democrats as were willing to abandon their political principles and rally to the "bread-and-butter" standard. Many good men were removed and their places filled with bad ones, and but few of the new appointments were fit to be made. The larger portion of those who rushed eagerly and swiftly, like hungry buzzards, to the embrace and patronage of Mr. Johnson in the summer and fall of that year were men who had failed to receive what they believed their services merited in the parties to which they belonged, and who were willing to sell their political principles and souls, too, for the sake of the crumbs that fell from their newly-chosen master's table; political weather-cocks who had no convictions that they could not easily waive for the sake of obtaining an office or continuing in one already obtained.

These men, for nearly a year, literally swarmed around the President, and while with one breath they praised him as the greatest statesman of the age, with the next they demanded the price of their devotion. A man who will sell himself for a place will sell himself for gold when the offer is made. The returns some of these men have made of the production of distilleries and other businesses which they have been placed fully prove that bribery is a principle to which they have become thoroughly accustomed. In no other way can the facts that are continually coming to light be explained. The overtaxed people of the country have been swindled out of from one hundred to one hundred and fifty million dollars, at the lowest calculation, within the last year by these Johnson officials. I am constrained to believe that a straight-out Democratic Administration would have made better appointments than these I refer to; and I am certain that the Republican party, to do its worst, could not find in its ranks another installment of men so wanting in all the elements

that go to make up a good public officer as those who went out from them to espouse the cause of Andrew Johnson.

These remarks are not by any means to be understood as applying to all the men who hold official positions in the revenue department. Very many good and true public officers appointed by Mr. Lincoln the President has (thanks to an incorruptible Senate) been unable to remove. It is also very probable that Mr. Johnson has appointed some good men, though it has not been my good fortune to know many such. Once secure for the revenue what we are now losing by these dishonest officials and we can relieve the people from nearly all the burdens of internal taxation except on spirits and tobacco. This result, however, cannot be accomplished while the President is allowed to perpetuate, through his chosen instruments, these disgraceful frauds.

Mr. Rollins, the Commissioner of Internal Revenue, has struggled hard to secure a faithful execution of the law, but, with the men who have been forced upon him as revenue agents and other officers, his efforts have been but partially successful. From time to time he has earnestly pleaded for some action that would remedy the evil, but without success. I quote a few extracts from his communications to the Secretary of the Treasury, to show that the attention of the Department had often been called to the enormity of the frauds of which we complain:

"The laws themselves, and their construction, with rules, regulations, and instructions under them, are of little profit if assessors and collectors lack either integrity or ability. A tarnished reputation even is a hindrance to success, and as much disqualifies a man for either of these positions as for the pulpit or the bench. He, too, should only receive appointment who has won the confidence of his community by fidelity in other places of trust, and who will give character to the office, rather than he who seeks prominence and importance through official position, and whose principal claim is political service."

"Unworthy men of little ability may possibly answer for other positions on the civil list where there is less opportunity for fraudulent collusion without detection, and where incompetency will not prove such a terrible cost to the Treasury; but unless great care is exercised in the appointments of which I am speaking, the administration of the revenue laws will be a reproach, and the laws themselves will soon become insufferable to the public, regardless of party."

"Frequent changes of officers I have always regarded as inconsistent with the successful administration of the revenue laws, and because of this I have deeply regretted the many changes of the last two months, and cannot but hope that with the vexed political questions measurably concluded removals and appointments may be substantially returned by the President to the Treasury Department, where alone they can be considered in connection with the good of the revenue."

"In the collection of the tax on distilled spirits these frauds have become so monstrous as to excite serious alarm, and unless they can be suppressed or materially checked will still further reduce the revenue and bring disgrace upon this office and upon the Treasury Department."

"It is because of this that the many and oftentimes repeated changes during the past year have prejudiced the revenue to the extent of many million dollars. I speak of this, and in this connection, with a hope that those may be appointed to place of the character I have indicated."

"I neither ask nor expect the preferment of men merely because they are Republicans. I ask nothing at all, nor do I claim anything, from personal or political considerations, for I would, if possible, take the service altogether out of party politics. I do not ask you even to hear me for the appointment of any particular man, although I believe that the practice which long prevailed under which nominations were made by this office to yours can alone secure thorough discipline and efficiency; but as Commissioner of Internal Revenue, charged with important public trusts, and solicitous for the success of the Treasury Department, I do pray you that in Ohio and elsewhere, wherever vacancies exist or shall hereafter occur, they shall be filled by those whose past lives and present reputations shall entitle them to the unmeasured confidence of the Department and the public."

"In many districts, as I have frequently stated to you before, and as you are aware, the officers are incompetent or unfaithful, and in others they are corrupt."

"For a time I hoped that good results might follow from the appointment of special agents and inspectors, but there is reason to fear that many of these have yielded to temptation, and as their number has been multiplied frauds seem to have increased."

"An efficient remedy is imperatively demanded. No legislation, however stringent, can avail without

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honest and capable officers, and I see no reason to change the views I have so often expressed to you that inefficient or dishonest officers must be removed and men of integrity and superior ability appointed in their places."

"I therefore respectfully refer you again to my communication of the 15th of July last, in which I recommended the retirement of the several officers therein named. I have seen no reason to change that recommendation, and now earnestly renew it."

Thus it will be seen that the Commissioner of Internal Revenue, in subdued terms and modest language, as becomes a subordinate officer, often and earnestly called the attention of the Department and the President to the folly of the course they were pursuing, and appealed to them to appoint better men; but his appeals fell on ears deaf to everything except to "perpetuate his power" through the very men who were thus swindling the Government while sworn to guard its interests. Mr. Rollins, it appears, stands in the way of the complete consummation of Mr. Johnson's unholy purposes, and because of his fidelity to duty—for there can be no other reason given—he has attempted to remove him, and is only prevented by the fidelity of the Senate. His shameful exhibition of himself on the day of his inauguration before the American people and the representatives of foreign nations—to say nothing of similar disgraceful scenes since that time—was a disgrace to the whole country, and, under the circumstances, well deserving impeachment and removal.

When, after the fall of Richmond, in the streets of Washington and other places, in exciting and intemperate language, he demanded the punishment of the rebels who had just surrendered to our victorious Army, and, breathing indignation and slaughter, invoked the curses of Heaven upon their heads, the whole country shuddered lest by some possibility this bloodthirsty man might be placed in a position to wreak his seeming vengeance in punishment and death upon those he then declared to be the enemies of the country to an extent that would be a disgrace to the nation and a foul blot on the civilization of the age in which we live. I confess that when he was elevated to the position he now occupies by the hand of the assassin I greatly feared that his treatment of the rebels would be unnecessarily severe. Immediately, however, a change came over him. The confiscated lands he promised for homes to the loyal poor were restored to their former rebel owners in violation of law; the men he had so recently denounced as traitors, and about whom he had called high Heaven to witness that if the power should be given him he would have them "tried, convicted, and hanged as traitors," became his confidential advisers and boon companions. All his terrible anathemas, once so vehement against the men who sustained the rebellion, were hurled at Union men North and South who aided in crushing treason on the field. The men who were to take "back seats" in the process of reconstruction were invited to the front, and the work of reorganization placed in their hands. And when these bloodthirsty tyrants, in pursuance of these wicked designs to crush out the loyal sentiment of the South, had rendered the condition of the Unionists intolerable, and when they, including the colored people, many of whom had bared their dark bosoms to the storm of battle that the country might live, appealed to him who had solemnly promised to be their "Moses" for protection, they were heartlessly remanded back to the tender mercies of their oppressors, and insultingly told that "this is a white man's government;" and when the public sense of the country became aroused and indignant at these unholy proceedings, and the representatives of the people remonstrated against the President's treasonable conduct, they were met with the insulting declaration that Congress itself is an illegal body "hanging on the verge of the Government."

Instead of organizing the States recently in rebellion, in the interest of loyalty he has

persisted in forcing an organization that gives rebels absolute power and places the Unionists bound hand and foot under the control of those who but yesterday were attempting to destroy the nation's life. He has doggedly insisted in enforcing what he terms his "policy" upon the people, and every man who does not support this policy is, to use his own characteristic language, to be "kicked out." In the face of all these oppressions, usurpations, and lawless exercise of power, there is not a man in this country who eulogizes himself so much as Andrew Johnson. He is constantly proclaiming his own disinterestedness, his purity of motives, his unequalled love for the Constitution, law, and order, and that he is incapable of doing any wrong, either as alderman of a village in Tennessee or through all the grades of office up to President of the United States. Sir, there is much of the teachings of history in the remark of Mr. Johnson when he said:

"When you hear a man prating about the Constitution spit him; he is a traitor."

While the Constitution itself is the sheet-anchor of our national security, its name has been prostituted for the basest of purposes. In the name of that instrument, which the rebels were trampling under their feet, they protested against our right to interfere with their treasonable work. In that name their friends in the North protested against our right to coerce a "sovereign State," and opposed every really earnest and effective measure to crush the rebellion. In that name they demanded from time to time during the rebellion, and especially at their national convention in 1864, that the war should cease. In the name of that sacred instrument they have opposed, with Andrew Johnson at their head, the enfranchisement of the black man, and struggled for the restoration to power of the men who, by their treason, have loaded us with debt and filled the land with mourning.

The pretended religionist who talks most about his own piety is usually the greatest rascal. The politician who talks loudest about his regard and love for the "dear people" before election forgets them soonest after his purposes have been accomplished. The greatest criminals of which history gives any account have endeavored to put their intended victims off their guard by protestations of honesty of purpose. When a man has made up his mind to do a bad thing he usually attempts to make the people believe him incapable of doing such a thing.

Mr. Johnson is not an exception to this general truth. No man in the country has ever denounced and threatened traitors like him; and no man is now a greater or more intimate friend to them and their principles, or so earnest to shield them from the very punishment he once invoked. No man in the country was so loud or seemingly more honest in his promise to the Union men of the South as Mr. Johnson, and no man betrayed them so soon or has proved so great an enemy to them. If there is any one thing that surprises me more than another in regard to this subject it is that I, in common with others, did not, in the unusual demonstrations and professions made by this man before his elevation to his present position, detect the faithlessness of his motives which he has since so palpably revealed. After this it is hoped we shall be on our guard against such noisy pretenders.

It has been said by nearly every man who has spoken in defense of the President since this discussion commenced that this is a partisan movement, inspired by a desire to get control of the Government for the special benefit of the Republican party. Sir, I hurl back with scorn and indignation the charge. The patience and long suffering exercised by the majority of this House toward a man who has shamefully betrayed them and broken every pledge he has made to them for the last four

years, and who has committed a series of disgraceful usurpations unequalled in the history of the Government, is a sufficient answer to this charge. We have earnestly desired to avoid impeachment, and have borne with his outrageous conduct until further forbearance not only ceases to be a virtue, but becomes a crime. Our desire to avoid the disgrace of having given our votes four years ago for a man whom we were obliged to impeach for high crimes and misdemeanors in office, and an earnest effort to avoid the excitement in the country incident to impeachment, he has construed into cowardice, and his friends have given out that we dare not impeach him. He has, however, seemed to be determined to force us to this measure, and has at last put himself and us in a condition that leaves us no alternative. To pursue his present course is ruin to the country, and he has gone so far in his mad career and is so thoroughly committed to the rebels that he cannot retrace his steps. Even if he could and would, he would forfeit what regard his present pretended friends have for him, and could not regain the confidence of those he has betrayed. He is very much in the condition of one of Milton's noted characters, who is represented to have said:

"Which way I fly is hell; myself am hell."

The loyal people of the country, whom Andrew Johnson has betrayed, ask not for his blood; they only demand that he shall be restrained from further mischief. We deplore the necessity for impeachment, but we cannot disregard the stern demands of the law. In my judgment the time has come when we, as the representatives of the people, can no longer delay the resort to the method provided in the Constitution for the removal of a faithless Executive without becoming partakers in his guilt. In no other way can the majesty of the law and the safety of the Republic be maintained. The presentation of articles of impeachment is due to the President as well as to those who demand it. A very large number of the people believe him to be a bad man, guilty of misdemeanors, deserving of impeachment, and utterly unfit for the high position he holds. If their views are correct he ought to be impeached and removed from office. If he is innocent it is right that he should have an opportunity to vindicate his conduct before the country. The trial will give him ample opportunity to do this.

We ask to be relieved from the rule of a bad man, accidentally in the presidential chair, by the peaceful mode provided in the Constitution, and we are met at the threshold by the gentleman from New York [Mr. Brooks] with threats of war and blood, and are given to understand that he and his Democratic associates will "never, never, never" submit to such an outrage.

Sir, these threats, coming from the party notoriously the party of peace in time of war, and of war in time of peace, have no terrors for the people of this country. They will, through their Representatives, vindicate the genius of their Government and its ability to execute peacefully their desires. The rebels, through their armed resistance, have been crushed out by the valor of our soldiers—have, as they proposed to do, by the aid of their political friends in the North, transferred the conflict from the field to the ballot-box and the coordinate department of the Government. We meet to-day on this floor, and in the country, the same elements that our armies contended against in the field. The difference is not in the spirit of the contest, but in the fact that Andrew Johnson leads the rebels and their friends instead of Jeff. Davis. The issue is not uncertain. The friends of American liberty will triumph here as they did in the field. The nation has before it a future which history will record in spite of rebel hands. The gentleman from New York [Mr. Brooks] said the other day in a speech on this subject: "It is his

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[the President's] right and that of every citizen to judge of the constitutionality of any act of Congress." And this he said in justification of the President's attempt to remove Mr. Stanton. The right of private judgment in regard to an act of Congress or any other subject no one will deny, but this does not carry with it the right of President or people to violate an express provision of law, however obnoxious it may be to them. By this doctrine, enunciated by the gentleman from New York, taken in connection with the application he made of it, every citizen in the land may justify himself in the violation of any law that might interfere with his unholy desires. It is the doctrine of anarchy and revolution. It is the doctrine that inspired the nullification ordinance of South Carolina in 1832, which was so summarily trodden in the dust by Andrew Jackson. It is the same which was resurrected again in 1861, and became the watchword of the rebellion. We have been told that this doctrine had been abandoned, that it had been burned out of southern soil by the fires of war. Mr. Chairman, this is but another evidence that the spirit of rebellion, overpowered and vanquished on the battle-field, is again reappearing in these representative Halls; and it is a striking admonition to the people of this country that men with the least taint of sympathy with the spirit of rebellion should not be trusted in responsible positions. It is said that the President only desired to test the constitutionality of the tenure-of-office act in the courts. This, at least, is a very poor excuse for a violation of law. Other methods were open to him. Indeed, the President has facilities for this that the other party does not possess, and the course he has chosen indicates that he did not desire that the case should be settled by the courts, but to avoid it. A writer on this subject, an able jurist, has presented the case very clearly, as follows:

"It has already been shown that a *quo warranto* could at any moment have been issued, if applied for by the Government, to try the right of Mr. Stanton to remain in the Department of War, and it is right to infer that this writ would have been applied for if the real purpose of the President had been to try the validity of the disputed law.

"But let us go one step further. Suppose the President had, by any of his efforts, succeeded in keeping Mr. Stanton out of the office, or in turning him out, as attempted, through General Thomas, what then would have been the condition of things?

"Simply this: no writ of *quo warranto* could have been issued, and the President would have been master of the situation, without any danger of a decision by the courts.

"The writ of *quo warranto*, as has been said, is the king's writ, and issues only at the instance of the sovereign to remedy some encroachments upon the privileges, franchises, or officers of the sovereign. It is not given to settle private and individual rights, and does not lie at the instance of one individual against another.

"This is fully settled by the following case which is familiar to lawyers, and to which I refer: Wallace vs. Anderson, 5 Wheat., 291. Mr. Chief Justice Marshall delivered the opinion of the court, that a writ of *quo warranto* could not be maintained except at the instance of the Government, and as this writ was issued by a private individual, without the authority of the Government, it could not be sustained, whatever might be the right of the prosecutor or the person claiming to exercise the office in question. The information must, therefore, be dismissed.

"It will thus be seen, at a glance, that had the President induced General Grant to hold on to the War Department, or had he placed General Thomas in the Department after ejecting Mr. Stanton, either through deception or by the use of the Army or Navy, both of which he attempted to use, there could have been no case made by *quo warranto* for trying the validity of the disputed law, unless such writ had been applied for on behalf of the Government; and there is nothing in this case to warrant the opinion that Mr. Stanbery would have made such application at the instance of Secretary Stanton.

"We are thus brought to conclude that the President did not proceed in the business for the purpose of having this law brought before the courts, but in order to keep it from the courts; and his present pretense being false, accumulates evidence that his motive was from the beginning criminal."

It is possible that now, when the President's so-much-talked-of desire to have the case tried in the courts promises to be gratified by giving him an opportunity to have it settled by the people's court—the highest known to the Constitution—he may adopt the course that has

been open to him all the time, and by which he might have had his powers determined without a resort to revolutionary measures. I venture the opinion, however, that he will avoid anything of the kind.

But the friends of Mr. Johnson say he has committed no crime deserving of impeachment. So the same men say of Jeff. Davis and all the other traitors. They do not believe any rebel has committed any crime for which he should be punished. The South held that they had a right to secede and set up a government of their own, and they did so, and attempted to maintain it by force of arms. Mr. Johnson holds—or his friends on this floor hold for him—that he has the right to defy such laws as do not meet his approbation, and he has done so. He also held that he had the right, without consulting Congress, to reorganize governments with traitors at their head, and he did so, and the same men who sustained the former applaud the latter. In proof that I do not state the case too strongly I have but to refer to the remarkable speech made a few days since on this floor by the gentleman from Pennsylvania, [Mr. WOODWARD.] He declared, in substance, that rather than submit to impeachment and removal by Congress the President would be justified in using the Army and Navy in such a manner as would "make an end of impeachment and impeachers." Coming, as it does, from a gentleman standing high in his party, this is a startling declaration, and if it came from a source having power to execute such a threat might well create alarm and consternation. As it is, the possibility that an attempt may be made should not be overlooked; and, being thus so explicitly forewarned, it is the part of wisdom to be forearmed.

But any effort of this kind would signally fail. The Army and Navy cannot be used for any such purpose. They are composed of law-abiding men, who cannot be induced to oppose the execution of the laws or to act in violation of their provisions. For months the President has been approaching one officer after another of the Army to persuade them to assume a position against law, and which General Grant has flatly refused to occupy, and he has but recently found one officer only who can be induced to do his bidding in this regard.

In view of threats that have been made on this floor, and, if we can credit popular rumor, at the other end of the avenue, it is a source of very great encouragement and congratulation that all the most successful soldiers of the country are ready to sustain the Constitution and the laws against presidential usurpation. Grant, Sherman, Sheridan, George H. Thomas, Sickles, Burnside, Chamberlin, Butler, Logan, Banks, Meade, and a host of others not less worthy in their sphere have proved themselves to be incorruptible. Many of them Democrats at the beginning of the war, they abandoned the party when it became the party of treason, and, mindful only of duty, contended successfully against treason in the field, and are now ready to fight the same enemies in their attempt to accomplish in the national Councils what they failed to do by the sword. With such men, aided by the rank and file of the Army, most of whom are now engaged in the pursuits of civil life, but ready to spring to arms whenever the liberty of the nation should again be imperiled, with glorious old Farragut ready to lash himself again to the mast-head, and his faithful officers and seamen, and with the millions of patriotic civilians who keep watch at the citadel of liberty, the country will stand any shock that the removal of a faithless President will cause.

But the removal of the President will produce no shock to any of the interests of the country. The threats of the friends of the President, heard on this floor and elsewhere, will end in smoke. Nobody is going to make war on Andrew Johnson's account. The gold gamblers managed to carry up the price two

or three cents when the House first took action on the 22d of February, but were unable to keep it there except for a single day, when it fell back as if nothing had happened. What the business of the country needs is stability, unanimity in the councils of the nation, which cannot be had while Andrew Johnson is fighting with all the power of his high office the legislative branch of the Government. The prospect of his removal has already aroused the indignation of every rebel in the land. This we might reasonably expect. And it is not strange that those in the North who opposed us in all the most important measures to crush the rebellion should oppose us now in our attempt to remove the last hope on which they depend to establish and perpetuate rebel ascendancy in the South. On the other hand, the men who never faltered in the dark days of our history are all for impeachment. No event since the surrender of Lee has created such joy and inspired so much confidence in the hearts of the loyal millions of the country as the movement now being made to relieve them from the power of an Executive in whom they have lost all confidence. They will hail his removal from office with profound gratitude as the beginning of better days.

If it could be positively known to-day that the President would be impeached and removed from office within the next month the country would breathe freer and there would be more confidence in business circles than there has been since the beginning of the war.

In the name of the loyal people of the South struggling for free governments against presidential persecution and rebel hate; in the name of the business of the country now deranged, and in some instances paralyzed, by this obstructionist; in the name of nearly a half million brave men whose spirits went up to God from the thunder and smoke of a hundred battle-fields; in the name of the thousands of mourning widows and unprotected orphans of the men whose graves declare the price of liberty in this country; in the name of the maimed and broken-down heroes who crowd our streets, painfully reminding us of the danger of allowing bad men to continue in important official positions; in the name of that quiet and peace which the country so much needs, and of which the lawless acts of this man have so long deprived us; and in behalf of the loyal people I have the honor to represent, I demand the trial of the President of the United States for high crimes and misdemeanors in office, and, if found guilty, his removal from the high position he has too long disgraced.

Impeachment.

SPEECH OF HON. A. J. GLOSSBRENNER,
OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1868,

On the articles of impeachment reported from the committee.

MR. GLOSSBRENNER. Mr. Chairman, if I could permit myself to disregard the grave consequences to the country that may, and in all human probability must, follow the consummation of what is manifestly the purpose of the majority of this House, I might contemplate with pleasure the unmistakable indications that the ultra Radicals are about to overcome all opposition in the councils of the Republican party.

If I could look with mere partisan eyes upon the events now passing before us in historic march I would be inclined to rejoice at this self-destruction—this political *hari kari*—of the party which has so long and successfully maintained internal dissension and estrangement throughout the land, and kept alive, by wicked appliances contrived with devilish ingenuity, a war, of which the American people hoped they

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had witnessed the termination when the Confederate forces under Generals Lee and Johnston were disarmed, surrendered, and disbanded.

So far, indeed, from attempting to prevent the effort to impeach the President on the flimsy pretext presented—disgraceful to its inventors, even if it were not a mere pretext—I would, as a partisan merely, aid in clearing the way, and in facilitating the progress of the now dominant Radicals to their doom.

What is this latest pretext for impeachment? The President will not consent, until it is ruled by the judiciary that he must submit to such insult and humiliation, to have thrust upon him, in intimate official relation, in close personal association, as confidential adviser, a man who has permitted himself to be guilty of what a distinguished Radical Senator has declared "a gentleman" or "a man of honor" to be incapable. This judgment of Senator SHERMAN is, by the way, accepted by all who possess a spark of manly instinct. The attempt to foist this man into the Cabinet of the President against the will of the latter will find speedy condemnation at the hands of the people, who are always just, and who instinctively love fair play. It does not require profound learning, or much consumption of oil in midnight lamps over books of law or ethics, to reach the common-sense conclusion that the President, who is held responsible for the acts of his Cabinet, should be permitted to select its members. In the merest fairness to him this should be a rule without an exception. His counselors should be friends, not enemies; they should be supporters, not opponents; they should be not only trustworthy, but trusted; certainly they ought not to be acknowledged spies in the interest of his personal and political enemies; nor should they be persons so devoid of all honorable instinct as to be willing to remain an hour in such a position after an intimation from the President that personal association with them is to him distasteful and offensive.

My distinguished friend and colleague from the Luzerne district, [Mr. WOODWARD,] with an ability so marked as to be worthy even of his exalted character as a profound and conscientious jurist, has with inexorable logic exposed and pitilessly demolished the small and shallow fallacies of those who assail the legality of the President's effort to unseat the Stanton incubus. My excellent friend from Indiana, [Mr. KERR,] whose clear perceptions of right and whose legal ability and acumen the members of this House, on all sides, when partisan prejudice does not obscure judgment, all acknowledge, has shown that "the wise and philosophic purpose of the framers of the Constitution was to keep the several great departments of the Government as distinct and separate from each other as possible, to the end that neither should invade the functions of the other or usurp the powers of that other in order to strengthen itself, and erect a centralized despotism on the foundations of the Republic." The history of the formation of the Government amply sustains these views. Other gentlemen of the legal profession on this side of the Chamber, among the ablest of the House, have shown how utterly destitute of a decent semblance of legal support is this legislative assault—I was about to say conspiracy, but that might not be parliamentary, and I therefore term it assault—upon a constitutionally coördinate branch of the Government. With these arguments upon the legal aspect of this question—for, as exceptional cases, in the debate so far, they do indeed rise to the dignity of argument—I feel that the Conservatives may safely go before the people, our masters, and, gentlemen of the Radical party, your masters as well.

But, in addition to the impregnable positions taken by able members of the legal profession, we have the unerring, sober second thought of the people upon which to rely for a righteous judgment upon what you are doing here this day. Hope not to escape that judgment.

Clothe the pretended offense of the President in what garb of language you may; envelop it if you will in clouds of pompous and stilted lexicographical mystification, still will it not escape the discernment of the people. As little will the popular judgment fail to perceive the motive that prompts this prosecution in form, this persecution in fact.

Feeling that, in common with "all the people of the United States," in whose name the perpetration of this great political crime is audaciously and most unwarrantably to be urged, we must bear our share of the national shame which even the attempt without the consummation must bring; and, in common with all mankind, our portion of the incalculable injury to republican institutions that must be involved in this measure, if, in God's wrath against this nation, it should become more than an attempt, the little band of Democratic Representatives with which it is my pride to be numbered and associated on this floor have opposed this unrighteous movement step by step. Outnumbered, our rights as a minority trampled upon, every barrier established in the rules of the House by our predecessors for our protection swept away at the behest of party impatience or party convenience, we cannot prevent, and under the recently emasculated rules of the House we can no longer even postpone, this wrong. It is destined to prevail so far as this House is concerned.

The best interests of the country must undoubtedly suffer by an affirmative vote on the question before us. But within an hour this House will pass the articles of impeachment. Commerce, manufactures, all the interests of labor, mechanical and agricultural, will feel the baleful influence of this measure. Yet party malignity will not be restrained by any such considerations. The finances of the Government and the people will be ruinously embarrassed and deranged by this day's work. I can hardly conceive it possible that the majority do not perceive this to be inevitable. But not a moment will this consideration delay the passage of this indictment, nor will it affect a single vote on the opposite side of the House. The traditional and habitual trust of the American people in the security and stability of republican institutions may be impaired if not eradicated, and the hopes of all friends of civil liberty in all lands may be crushed and extinguished by the deed initiated in this House, and now only awaiting the formality of a recorded vote. Yet there will be no pause in the proceedings here. All appeals to reason, all sense of justice, all considerations of the national welfare, will be lost in the clamor for impeachment.

Why, sir, but a few days ago, the less unscrupulous members of the Republican party in this House, a majority of that party, indeed, declared formally, under oath and by vote, after months of search by a diligent, eager, able, and impeachment-seeking committee, who spared no pains to find some act, or suspicion of an act, of the President on which to hang a pretext for his impeachment, that no such act had been discovered. The President's words and actions had been subjected to examination as with a microscope, with a degree of minuteness that permitted absolutely nothing to escape rigid scrutiny—his private conversations and his private bank account not being exempt from impertinent and ill-mannered discussion—yet nothing was found involving him, even by unfriendly inference, in any act or deed that would warrant impeachment.

What has the President done since that verdict of acquittal, a verdict wrung by stubborn facts from the reluctant judgment of his enemies? Nothing more than to exercise a constitutional power that has existed and been exercised by every President, from the days of the first, greatest, wisest, and best, down to the present hour. These gentlemen of the Republican party at that time demanded triumphantly of the friends of impeachment, as

Pontius Pilate did of the accusing high priests more than eighteen hundred years ago, "What hath this man done?" They could only imitate those ancient impeachers by clamorous reiteration of their demands, substituting the cry, "Impeach! impeach!" for that of their prototypes in Jerusalem, which was, "Crucify! crucify!" I make no irreverent reference to the meek and lowly Nazarene, against whom the latter cry was directed. I institute no comparison between Him and any human being, none whatever between the objects of those cries. I deal only with accusers and judges in both cases. In each there were intemperate and bigoted accusers and clamorous denunciations. In each there was a Judas. Pilate was evidently inclined to be conservative—at first; but he quailed before the clamor of the Jerusalem radicals, and although he "found no fault in this man," he did consent to his condemnation, initiating the punitive proceedings by scourging him. If that model judge were a member of the House of Representatives of the Fortieth Congress he would probably have voted with the majority on Andrew Johnson's first and second trial before this House in favor of acquittal. But, unless he had become a better man and a more inflexible judge than history records him, the name of Pontius Pilate would be found recorded, before five o'clock this evening, in the affirmative upon the pending proposition.

Proceed, gentlemen. Go to the Senate and tell your story. You have not much of a story to tell; therefore make the most of it. Parade your ten articles—preceding the parade with a magnificent flourish, assuming that you speak for "all the people of the United States." This will be peculiarly appropriate while nine tenths of those same people stand ready to-day to impeach and convict the impeachers. Deliver your budget in small parcels, as prepared, thus:

Article 1. The President of the United States has attempted to remove Edwin M. Stanton from the office of Secretary of War.

Article 2. He has appointed "one Lorenzo Thomas" to act as Secretary of War *ad interim*.

The foregoing two articles would seem to ordinary intellects to embrace the whole matter, but your committee require you to further represent, in

Article 3. That the President did appoint "one Lorenzo Thomas" Secretary of War *ad interim*.

Article 4. The President attempted to oust Stanton.

Article 5. The President, on the 21st of February, 1868, agreed with "one Lorenzo Thomas" to attempt to oust Stanton.

Article 6. The President did on the same day twice agree with "one Lorenzo Thomas" or once with each of "two Lorenzo Thomases" to attempt the same thing.

Article 7. The President did agree with "one Lorenzo Thomas" to prevent Stanton from holding the office of Secretary of War.

After proceeding thus far, the Senate will be pretty well prepared to learn, as they will by—

Article 8. That the President did agree with "one Lorenzo Thomas" to attempt to put the latter in possession of the War Department as Secretary of War *ad interim*.

And by—

Article 9. That the President did appoint "one Lorenzo Thomas" Secretary of War *ad interim*.

Tell the Senate further that the President has audaciously ventured to express an opinion as to the constitutionality of a certain provision in an act of Congress.

Be sure to label each parcel distinctly, as you deliver it, "high crime," or "high misdemeanor," or "high crime and misdemeanor," as the case may be, lest the Senate might not perceive the character or quality of the articles so delivered, and might fall carelessly into the

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error of supposing that the numerous offenses alleged, or the one offense alleged numerously, were, after all, not very "high."

Tell the Senate, in conclusion, that in presenting these ten articles you do not by any means estop yourselves from the presentation of other accusations. Say to the Senate that you will look about and see if you can pick up anything else that the President may have done, or might, could, would, or should have done, said, or thought, of a character unpleasant to members of the legislative "Government."

Do this, and you will have complied with every requirement of "the committee"—you will have exhibited the perfection of discipline—and you will be fitted to take an humble position by the side of your leader, who boasts that he stands "outside of the Constitution."

Democrats and Conservatives can hardly bring themselves to look resentfully upon the proceedings in this House upon this question of impeachment. The whole thing is so bald and transparent a political, partisan movement that nobody can possibly mistake its character, and its effects upon the popular mind cannot but be such as to hasten and render more emphatic and terrible the fate of the moribund organization to which we are indebted for this last excellent argument against its own life. The people have already prepared a grave, wide and deep, for radicalism and its one idea of Africanization. If those for whom this grave is provided will insist upon digging it wider and deeper we should not object. Let them proceed. The people have foreshadowed their determination to put down and keep down the "cherished central thought" of this party, and have prepared to cast upon its place of sepulture mountains—

"To o'er top old Polon, or the skyish head
Of blue Olympus."

If to this comfortable and safe quantity of mundane monument those who are to enjoy repose under it will insist upon superadding—if they cry out with the frenzied Dane—

"Millions of acres on us, till our ground,
Singing his pite against the burning zone,
Make Ossa like a wart!"—

why so be it, and *bon repos*. To the dying, one is always inclined to be indulgent.

I am the less inclined to complain of the exhibition before us, Mr. Chairman, because I cannot be persuaded that the Senate of the United States, once the most august deliberative body in the world—that Senate where in better days intellectual kings sat enthroned in the admiration, respect, and reverence of the people—can even now, fallen as it is from its high estate and shorn of its brightest beams, seriously entertain a proposition to remove from office a President of the United States upon articles of impeachment such as these—articles that I may not characterize in fitting terms without transgressing the rules of parliamentary decorum.

I rejoice, Mr. Chairman, that when these famous ten articles are presented at the bar of the Senate there will be a larger audience than can be encompassed in the Senate Chamber. The nation will be listeners; "all the people of the United States" will hear what outrages are proposed in their name. They will hear; they will make themselves heard in return.

Impeachment.

SPEECH OF HON. GEORGE F. MILLER,
OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1868,

On the articles of impeachment reported from the committee.

Mr. MILLER. The question now before the House is not whether Andrew Johnson,

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President of the United States, ought to be impeached for high crimes and misdemeanors in office, for that has been already decided by a more than two-thirds vote, of which the Senate has already been advised. The discussion has taken a wide range upon a question already determined. The matter now for us to pass upon is the articles of impeachment reported by the committee appointed for that purpose. They have for our action ten articles. The first three charges the President with the violation of the provisions of the act of Congress of 2d of March, 1867, entitled "An act regulating the tenure of certain civil offices" in the attempt to remove Hon. Edwin M. Stanton, Secretary of War, and appointing in his stead Brevet Major General Lorenzo Thomas, Adjutant General of the Army, Secretary of War *ad interim*, while the Senate was in session.

The next five articles, to wit, numbers four, five, six, seven, and eight, charge the President in different forms with entering into a conspiracy with one Lorenzo Thomas, and with other persons to the House unknown, with intent by intimidation and threats to hinder and prevent Edwin M. Stanton, the Secretary of War, from holding said office, and in violation of the Constitution of the United States, and the provisions of an act entitled "An act to define and punish certain conspiracies," approved July 31, 1861. The ninth article charges that the said Andrew Johnson, the President, unmindful of the high duties of his office, and of his oath of office, unlawfully attempted to control the disbursements of the moneys appropriated for the military service and for the Department of War; and the tenth and last article charges the President that, in disregard of the Constitution and laws of Congress duly enacted, as Commander-in-Chief of the Army of the United States, did on the 22d day of February, 1868, bring before himself, then and there, William H. Emory, a major general by brevet in the Army of the United States, actually in command of the department of Washington and the military forces thereof, and did then and there as such Commander-in-Chief declare to and instruct said Emory that part of a law of the United States passed March 2, 1867, entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes," especially the second section thereof, which provides, among other things, that "all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and in case of his inability, through the next in rank" was unconstitutional and was not binding on him as an officer in the Army of the United States.

These several articles, with some amendments which I propose to offer, I deem sufficient, if the charges therein contained can be substantiated, (of which I have no doubt;) but that, however, as I have already stated, is not the question now before us. We are preparing articles in the nature of an indictment preferred by a grand jury; and the question is whether all that is set forth in any of the different charges should be substantiated by evidence, or, the same being demurred to, would justify a conviction under the provisions of the Constitution. This is an important question, as we must expect to be met, on the part of the President, with some of the best legal talent in the land; and every technical objection, no doubt, will be taken, and we must not expect that the undertaking of an impeachment is so easy a task as some on this floor seem to imagine.

It must be remembered that the court before which this House will be called upon to substantiate the charges against the President is an august body, being the highest tribunal in the land, and presided over by an able jurist, (the Chief Justice.) All political considerations ought and must be discarded, for every man, however, derelict in duty, is entitled to a

fair and impartial trial. I think the committee have been very careful in drawing up the articles, but I would suggest that in the different articles where the President is charged with violating his oath of office, that it be set forth that he was, on the death of Mr. Lincoln, the regularly elected President of the United States, duly sworn in to discharge the powers and duties of that office of President; for when a charge can be made clear and beyond cavil it had best be done, which may save considerable time in the trial.

The first charge which is contained in the first three articles, of violating the provisions of the act of 2d March, 1867, entitled "An act regulating the tenure of certain civil offices," if made out, is sufficient to convict the President of a "high misdemeanor." It is no excuse for him or his friends to say that the law is unconstitutional, for it is his sworn duty to "take care that the laws be faithfully executed," and as long as any law remains on the statute-book unreversed it is his sworn duty to obey it; and it is no palliation for him that he withheld his signature, for when it was returned with his veto and passed both Houses by a two-thirds vote it became a law, under the Constitution, with a like effect as if it had received the signature of the President.

But I do not wish to be understood, Mr. Speaker, as doubting the constitutionality of that law. Then, as to the conspiracy charged in articles four, five, six, seven, and eight, seem to be properly laid and with due caution in various forms to avoid cavil. I would, however, advise, as I have already stated, to set forth that Andrew Johnson, the Vice President, on the death of Mr. Lincoln was sworn by the Chief Justice to discharge the powers and duties of the office of President.

The ninth article, which charges the President, in violation of his oath of office and duties, with attempting to control the disbursements of moneys appropriated for the military, seems to be laid with caution; and if substantiated by proof and found by the Senate to be true will of itself be sufficient to remove Mr. Johnson from office.

Then the tenth and last articles, which charge an attempt to induce General Emory to violate the clear mandates of the statute, seem to be very properly laid; so that as a whole, Mr. Speaker, the committee deserve credit for the careful manner in which they have prepared the several articles; and I am glad that they have confined the charges within reasonable bounds, which will render it unnecessary to have the trial prolonged, and at the same time give the party accused ample time to present his defense. The two additional articles I intend to offer will, in my opinion, save cavil; and in presenting a case of such vast importance we ought to be cautious and allow no escape upon a mere technical objection, and especially when we can lay every charge in such a way as to meet all legal objection that might be made, it is our duty to do so.

Now, Mr. Speaker, we are about to vote upon these articles; and though much has been said by both parties on this floor as to the guilt and innocence of Mr. Johnson, the acting President of the United States, upon whom, under the Constitution, were devolved the powers and duties of President for the balance of the term for which Mr. Lincoln was elected, provided he so long lived or committed no offense for which he should be removed from office. The only question is as to the sufficiency of these articles, which, if approved by this House, are to be sent to the Senate, at whose bar it will devolve upon us to maintain the charges therein contained; and I trust the trial may be conducted (as I have no doubt it will) with due regard to its magnitude, so that the country and the world may see that this young Republic, whenever assailed, will vindicate its integrity, and that no officer thereof, however high, shall

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escape condign punishment if guilty. And in conclusion, let me say that I trust this great work may be entered upon with due deliberation and that justice may be done to both the United States and the accused.

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SPEECH OF HON. W. S. HOLMAN,
OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,
March 7, 1868.

The House, as in the Committee of the Whole, having under consideration the President's annual message—

Mr. HOLMAN said:

Mr. SPEAKER: The attention of the House has been called this morning to two of the great subjects of this period, the tariff and the payment of the public debt. The gentleman from Maine [Mr. BLAINE] has argued that the public debt should be paid in coin, while the gentleman from Pennsylvania [Mr. BROOMALL] urges that the prosperity of the country demands an increase of the tariff. These gentlemen present the views of the Republican party, of which they are distinguished members, in their respective sections of the Union. The tariff and the public debt are closely allied. The tariff and internal taxation being the only agencies by which the public exactions can be met, I differ with these gentlemen on both of these questions. If the payment of the entire national debt in coin and the increase of the tariff, which now almost reaches the point of prohibition, are measures calculated to promote the interests of the people of Maine and Pennsylvania, I am very certain, sir, they are measures at war with the interests of my constituents. I do not pretend, sir, to any peculiar learning on the great questions of finance and political economy which affect the destinies of nations—questions which have staggered the greatest intellects of every age; yet, sir, the main questions of finance connected with the public revenue and the public debt and the duty of the people of this Government with regard to their national obligations are clearly within the comprehension of every citizen. For the first time in history the people themselves, on whom the burdens of Government rest, decide the questions connected with a great national debt, and fortunately, sir, the whole people are informed of the nature of their obligation, and able to determine with justice the rights of the public creditors.

And here, sir, there occurs inevitably a divergence of opinion, for political parties in a free State are the inevitable result of difference of opinion on fundamental principles of Government. The questions which affect the relations of labor and capital are either directly or remotely the foundation of all political parties. In monarchies the interests of capital are always in the ascendant, for it is manifestly the policy of a strong Government to centralize its wealth; hence the universal oppression of labor. Hitherto in our own country the general distribution of wealth has prevented any direct antagonism between the interests of capital and the interests of labor, yet on the incidental questions which have sprung up in our country affecting these two great interests capital has ever obtained the advantage, for from its very nature it can readily concentrate its power, and never hesitates to demand the advantage, and is never wanting in a plausible pretext.

We encounter for the first time in our history a great national debt. The debts created by former wars were too inconsiderable to excite solicitude, but the debt now upon us, from its magnitude and the nature of the obligations, justly excites a serious apprehension that it will for many years greatly oppress

every department of industry, and, more than all, tend to change the genius and spirit of the Government. With every consideration for the magnitude of the war, it is scarcely credible that a debt of such magnitude could be contracted in so brief a period. A few men, officers of the Government and capitalists, have determined the magnitude and regulated the form of this debt. While the war absorbed the attention of the whole people public vigilance was impossible, and the most remarkable feature, next to the magnitude of the debt, is the unexampled rapidity with which the wealth of the nation has been centralized and the comparatively small number of persons who have become the holders of the vast body of the public securities.

It was apprehended by the holders of these securities both in Europe and at home that a people who had been so long almost exempt from taxation would be restive under the heavy exactions of such a debt, a debt greater, the rate of interest considered, than was ever before born by any people; hence the effort of the bondholders in 1866 to secure the adoption of the fourteenth amendment to the Constitution before the nature of the debt had been fully considered, that the people might be precluded from considering the nature of their obligations. But that ingenious device failed; and the forbearance with which the people are now considering the nature of the debt and what is justly due to the bondholders furnishes the highest guarantee that the public honor will be maintained. On what basis shall the debt be paid?

The drift of the great political parties of the country on this question cannot be misapprehended. The gentleman from Maine has spoken the general sentiment of the Republican party, the party which represents the great body of these public securities—a party which, from its very nature, from the character of its leaders, from its elements, and its theories of public policy, is, on a question like this, inevitably on the side of capital. The gentleman insists that the debt should be paid in coin, and with his usual ability and force of argument has presented the whole question, and insists that every consideration of public policy demands that the bonds shall be paid in coin.

The gentleman demands justice for the bondholder. For one I am in favor of even-handed justice to that class of our citizens; or, whether they be citizens or not, I am in favor of even-handed justice to the holders of our public securities. I do not think the nation can afford to violate its plighted faith. I think that every consideration of honor, of national preservation, and of regard for the future calls upon the nation to carefully preserve its honor from even the taint of suspicion.

But, on the other hand, I think nothing is clearer than that, in determining what is just to the holders of our public securities, the fact cannot be lost sight of that those upon whom rests the obligation of paying these public securities, and the annual interest accruing thereon, have the same right to demand even-handed justice at the hands of their Representatives.

The capitalist has no greater claim to justice than the masses of our people, upon whose labor the whole fabric of the public debt rests, who give to these bonds all the value they possess, and in whose keeping is the public faith. To the bondholder the public debt may be a public blessing, but to the laboring taxpayer and to his wife and children it is a grinding curse. The laboring men, in the main, filled the ranks of your gallant army. The capitalists furnished the money, and the laboring men are now called upon to pay the debt. The capitalists have made no sacrifice at all, and yet claim every exemption, no taxation, and gold for bonds purchased with currency depreciated from thirty to one hundred and eighty per cent. below the value of gold.

Mr. Speaker, common justice to the bondholder and to the people who are to pay the bonds demands that the debt should be paid off upon the basis upon which it was made, and it cannot justly be paid off upon any other basis. The Representative who favors the interest of bondholders at the expense of the labor which gives value to the bonds is chargeable with manifest injustice, for if either interest is to be preferred, capital or labor, does not the conscience of every man tell him, unless it be influenced by mercenary considerations, that labor should have the preference?

On the last day of March, 1868, our debt amounted to \$2,519,829,622 84. The interest for this current year is \$129,678,078 50, and of this amount of interest \$119,961,958 50 is payable in gold. The appropriations for the expenses of the Government for this current year, as estimated by the Secretary of the Treasury, besides the interest on the debt, is \$182,183,736 92, making the entire expenditure for this current year, according to the estimates, \$311,861,804 92. And to illustrate the magnitude of the expenditures for the present year, it will be remembered that the appropriations for the last year of Buchanan's administration were \$66,703,592 46. It cannot be disguised that even if the Government was administered on principles of severe economy the burdens upon the country would be exceedingly oppressive, and it is certainly proper to reduce the demands upon the industry of our people to the lowest point consistent with justice. The nation can afford to be just, but nothing more. The principal of the public debt, except the ten-forty bonds, amounting to \$212,784,400.00, is clearly payable in lawful money. The greenbacks now in circulation amount to the sum of \$356,157,747.

If the people pay this debt of \$2,519,828,622 on the basis on which it was contracted—dollar for dollar—if they pay in lawful money that part of the debt which is not specifically payable in coin, and pay in coin that portion expressly payable in coin, it is all that the bondholder can ask. When he asks more he asks that, for his benefit, injustice shall be done to the people on whose industry rests the value of his securities. The gentleman from Maine dwells on the consequences of issuing the vast amount of legal-tender notes necessary to extinguish the debt, and predicts universal ruin. I do not understand that any person proposes to issue enough legal tenders to pay off this entire debt at once. I understand that those who demand justice for the people take the simple ground that the basis on which the debt was contracted is the basis on which it should be paid. If, while this debt was being contracted between the year 1861 and 1865, we had outstanding currency amounting to some eight hundred and fifty million dollars, and on the basis of that amount of currency this debt was contracted, on that basis it ought to be paid. It is scarcely possible for any gentleman to argue that if it is necessary to raise \$300,000,000 a year for the purpose of paying interest on the public debt and carrying on the Government, that that sum can be raised as well with a currency of \$650,000 as it could be on a basis of currency corresponding with that which existed at the time the debt was contracted—\$850,000,000. Indeed, it would probably be just to assume that the currency of the country during the time our debt was being contracted, every element of currency considered, actually exceeded \$900,000,000.

The bonds were purchased with this currency dollar for dollar, while the difference between the currency and gold was from thirty to one hundred and eighty per cent. Is it an unreasonable proposition that it is the right and duty of this Government, while this heavy weight rests upon its industry, to keep in circulation, stimulating the various branches of labor, an amount of currency substantially equal to that on which the debt itself was

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made? Can the public creditor complain of this? Why, sir, the holders of our securities—the five-twenty bonds of the classes that were first issued purchasing with currency—hold them at a cost to them of about forty-three cents on the dollar on the basis of gold. I assume, therefore, not as the result of any investigation of my own, but on the authority of those who carefully investigate questions of finance, that if you reduce the currency until you can reach specie basis you in fact increase the value of the bond the difference between currency and gold at the time the bond was issued, the value of the bond in gold will after all substantially depend upon the amount of lawful money in circulation, if the debt is redeemable in currency. If you reduce the paper until you reach a point where gold and paper are worth exactly the same you have really added fifty-seven per cent. to the value of the security in the hands of the holder, so that you may as well pay the whole debt in gold as to reduce the currency to the gold standard. Nothing can be more manifestly unjust than this, for if the debt had been made on the basis of gold it would have scarcely exceeded \$1,250,000,000, instead of \$2,500,000,000; and it requires no knowledge of finance to perceive it. It is not necessary to master more than the simplest rules of political economy to see that if you contract a debt on an inflated currency of \$850,000,000, and then reduce that currency down to \$425,000,000 for the purpose of making currency and gold of the same value, you by that process inevitably increase the value of a bond payable in currency to the amount of difference between the value of gold and currency with \$850,000,000 of it in circulation.

It is against this that the Democratic party protests. And here the different positions of the advocates of the interests of capital and the advocates of the interests of labor are clearly developed. The Democratic party of the great West and, in the main, throughout the country—for we have voices from the Democracy of the States of Maine and Pennsylvania echoing back the voice of the West—are resolved on the payment of this debt upon the basis on which it was contracted, dollar for dollar, maintaining good faith to the bondholder and good faith to the laboring man.

Mr. UPSON. I desire to ask the gentleman whether he is anxious to have the paper currency of the country continue depreciated?

Mr. HOLMAN. My answer is no. The whole antecedents of the great party with which I have acted have favored a specie currency as favorable under ordinary circumstances to the interests of labor. For there can be nothing clearer than that a currency, the value of which is recognized by all nations, is the best representatives of value. Gold is a currency better adapted to the interest of the whole people, bringing capital down to a proper basis and securing to labor a just and certain equivalent.

But, sir, we are in an anomalous period of our history, and the question is not what is the best currency for the general business of the country, to regulate or represent the value of labor and capital, but what currency will justly meet the present exigency of the nation. We have contracted a great debt in a currency greatly under the value of gold. Shall we pay the debt in the same currency, or pay in a currency of much greater value? You increase the value of the legal-tender currency just as you diminish the amount in circulation. If we had no debt we should have no divided opinion. The question is not what is the best currency, but in what currency should this debt be paid? If you reduce the currency and reach a specie basis you inevitably increase the burdens of the people, because in fact you require them to pay a larger sum of money—a greater value—than they received for the bonds they are required to pay.

Mr. UPSON. I wish to ask the gentleman

this question: if we raise the value of paper currency to par, do we thereby increase the value of gold?

Mr. HOLMAN. Certainly not. The pertinency of the question is not very apparent. Either the gentleman or myself do not fully comprehend it.

Mr. UPSON. My point is this: if the paper dollar is worth a gold dollar I do not know why it would not pay the debt just as well as gold.

Mr. HOLMAN. There is no question about that. Does not the gentleman know that if you contract a debt on the basis of a volume of currency amounting to \$850,000,000 and you reduce the currency to \$300,000,000 to reach a specie basis, you do in fact, waiving any fine-spun theory of political economy, substantially if not more than double, the value that must be paid to redeem the debt? The gentleman would reach the point where the gold and paper dollar would be of the same value, but to do this you must increase the value of the paper dollar by reducing the amount in circulation. If you can do it in any other way you will not increase the burden of payment, and yet you would increase the value of the security as you would pay in a more valuable currency. But this is mere speculation; you can only for the present increase the value of legal-tender notes by reducing the amount in circulation, and just to that extent you pay more than you agreed to pay by your bonds. If you increase the currency beyond what it was when the bonds were issued and pay the bonds in that currency the holder of the bond may complain. If you diminish the currency as you have done you simply enhance the currency value of the bond by increasing the value of the currency in which it is to be paid, and the people may justly complain of this.

The gentleman says it is the interest of the Government to come to a specie basis. The general proposition is correct. But I answer that the condition of our affairs renders it impossible, and unjust if it were possible; because in doing it you double the burden upon labor and increase the value of capital represented by these bonds.

Gentlemen talk about justice to the bondholders. It may be regarded as a settled law of this land that a debt incurred prior to the issue of legal tenders, or by its terms expressly payable in gold, is payable in lawful money, made lawful money and a legal tender by act of Congress. If the gentleman owes me a debt incurred on the 7th of March, 1861, and I demand payment, he pays me in lawful money of the country; so if the debt is expressly payable in gold. The courts have deliberately held it to be a lawful payment, although at the time the debt was contracted it was then payable in specie, then the only lawful money recognized by our laws. We issue bonds, sell them for the lawful money in circulation, the bondholder becomes a creditor of the Government, the bond payable in lawful money, and he demands payment of his debt in gold. Will any fair-minded man say that his debt is entitled to any greater consideration than any other debt? If it was just for the Government to pay the pensions of the soldiers of the Revolution, three of whom survived until near the close of the late war, and the pensions of the soldiers of all the subsequent wars up to the late civil war, when at the time their pensions accrued gold and silver were the only lawful money, in lawful money, greenbacks, is the bondholder entitled to greater consideration?

Mr. AXTELL. Will the gentleman allow me to ask him what are the greenbacks to be paid in?

Mr. HOLMAN. They are payable, sir, at the pleasure of the Government in whatever the Government of the United States declares to be lawful money. It must be regarded as the established law of the land by judicial decisions, that United States notes made lawful

money by act of Congress are lawful money—not a promise to pay a debt hereafter or at present, but money—representative of value for all the uses of social, domestic, and political life. Congress may regulate the value of money, and the fact that United States notes are money rests upon not only the acts of Congress, but also on the almost uniform decisions of the courts of justice, and, more than that, on the public wealth and faith of the nation. When in the future we shall reach a specie basis coin will be lawful money as it is now, and it will then be to the interest of the whole people that the currency that shall regulate values shall be the currency which is lawful money in the judgment of all nations. But, sir, the legal-tender notes, "United States notes," are money, legal representatives of value in the proper sense of the word, and have just as much value as an artificial representative of values as pieces of gold and silver on which the Government has stamped a similar declaration of value. I say this with reference to legal representatives of value, the artificial convenience of commerce and of political society. We have acted on this idea without embarrassment for seven years; and all this is true while gold has an intrinsic value which paper does not possess.

Mr. BLAINE. Each legal-tender note says upon its face that the United States promises to pay a dollar. What is that dollar that they promise to pay?

Mr. HOLMAN. The dollar which they promise to pay is what they themselves declare to be a dollar.

Mr. BLAINE. What do they declare to be a dollar?

Mr. HOLMAN. They declare that United States notes shall be received in payment of all dues, except certain duties on imports, and shall be lawful money.

Mr. BLAINE. The gentleman does not touch the question. I hold in my hand a note on which "the United States promises to pay ten dollars." It does not promise to pay that note. That is the evidence of the promise. Now, what is it that they promise to pay?

Mr. HOLMAN. Is not the gentleman a little technical? Is not that looking at the form of the instrument instead of the substance of the instrument? When Congress declared that paper which the gentleman holds in his hand to be lawful money, did they not give it the effect of lawful money as a means of representing values for the extinguishment of debt just as much as if they had declared a piece of gold to be of that value as lawful money?

Mr. BLAINE. No, sir.

Mr. HOLMAN. Will the gentleman from Maine mention the difference?

Mr. BLAINE. I will mention the difference. The gentleman will see that the United States have, by various laws, established that a certain number of pennyweights of gold shall constitute a lawful dollar, and when this war broke out the United States issued some paper promises to pay, which were redeemable in those dollars. They found they were not able to redeem them, and they then issued indefinite promises, not being able then to assign a date when they would give gold, but it was none the less an honorable obligation on the part of the United States to pay a dollar at some time; and the gentleman entirely confuses logic and history and fact when he says the United States declares that that piece of paper is a dollar. On its face it is a promise to pay a dollar. It nowhere says that it is a dollar. It is merely a promise to pay a dollar; and so long as it is not redeemed—and here is the gentleman's point—the United States says that that promise of its own shall circulate between its citizens as though it were paid; but it is not a dollar; it nowhere declares itself to be a dollar; it is nothing else than a promise to pay a dollar, and so long as it is not paid it is suspended paper, just as much as the gentleman's

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paper would be if he did not pay it when it fell due.

Mr. HOLMAN. What is money? A convenient agent of commerce, a method of exchange, a representative of value, a regulation of political society. I owe the gentleman ten dollars and I promise to pay him that much money. I tender him such a note as he holds in his hand. The law has declared it to be lawful money—lawful ten dollars, which he is bound to receive in extinguishment of his debt. The Congress, with the sanction of the courts of justice, have declared the paper which my friend holds in his hand to be ten dollars and receivable in extinguishment of a promise to pay that much money by the citizen or by the Government. To draw a distinction between this money and any other kind of money is a mere play upon words. Congress has declared that these United States notes shall "be lawful money and a legal tender in payment of all debts, public and private, within the United States," except duties on imports and interest on bonds and notes payable in coin; these notes are money by the same authority that gold coin is made money, their commercial value as money is fixed by law. There is nothing in the objection that this money is not money; it is money after all. The people themselves fully appreciate this money. They are satisfied with the lawful money they have made. They insist that it is sufficient for the ordinary transactions of business between citizen and citizen. And if a debt payable by a citizen to a citizen is under the law of the land redeemable in this lawful money, declared to be lawful by a law of the land for the payment "of all debts public and private," will you tell me why a similar debt should be paid in gold, when the nation—the whole people are the debtor?

But I do not propose to stand upon that ground. I think, as a matter of public policy, it is better that this nation should pay off this debt upon the exact basis upon which it was made, in gold where the agreement was to pay in gold, and in lawful money where the agreement was to pay in lawful money, or where the particular money was not expressed, and the justice of paying in lawful money where the debt is not expressly payable in coin, is clearly manifest; indeed, the agreement to pay in coin a debt contracted in a currency of less value is clearly unjust to the people. But it is better to live up to our contract, hard and unconscionable as it was, than that the slightest suspicion should rest upon the integrity or honor of the nation. Until we can pay the principal of the debt in lawful money let the interest be paid in coin.

Mr. BROOMALL. Will the gentleman allow me to interrupt him a moment?

Mr. HOLMAN. I will yield to a question.

Mr. BROOMALL. The gentleman says that the paper greenback dollar is a dollar because it is made lawful money by the Government of the United States. I want to know whether he means us to understand him to say that the paper dollar and the gold dollar are precisely equal in value because the law of the United States also makes the gold dollar lawful money?

Mr. HOLMAN. Certainly. I suppose there is actually but little intrinsic value in gold or silver in comparison with the value attached to it as a circulating medium by the common consent of civilized nations. I suppose nothing is more clearly established in this Government, now, though certainly it was not dreamed of eight years ago, than that the Government can impress upon whatever it thinks proper a given value as an agent of commerce; and that for all practical purposes in all dealings of the Government with its citizens, and between citizen and citizen in the extinguishment of debt and the ordinary business relations of life, that which is declared to be money by the supreme law of the land becomes in fact the standard of value, just as much as gold and

silver are made the representatives of value by law.

I know there is a greater intrinsic value in a piece of gold than in the bit of paper I hold in my hand. It is valuable for many purposes of civilized life. It is valuable because of its comparative scarcity and durability; it furnishes a convenient medium for the commerce of the world. Iron is also one of the most valuable of metals, actually of infinite more value than gold. The Spartan law-giver thought an iron currency better than a gold or silver currency. Iron and paper are the great agents of civilization; they are of actual and inestimable value, while the value of gold is purely artificial. Yet it is valuable as a common representative of value among all nations. The artificial interests of commerce have made it money just as our laws stamp this monetary value upon a piece of paper. The value of the gold dollar and the value of the paper dollar equally depend on the law of the land as an agent of commerce. In the ordinary channels of business in the common, every-day affairs of this nation, this paper dollar becomes in fact as it is in law a legal standard of value.

But all this develops the fact that the Republican party, which now controls this nation, and has done so for eight years, the policy of which rendered this money indispensable, has always, in its ingenious theories, its modes of thought and methods of reasoning, favored that policy which would promote the interest of capital, making the rich richer and the poor poorer. You put out this money; you contract an enormous debt on the basis of this money; you pay the pension of the widow and orphan child of the dead soldier in this money. It was good enough to pay for the blood of the soldier; it is good enough for the people; but the bondholder must have a more valuable money; it is not good enough for the wealthy capitalist. You never lose sight of the peculiar interests of capital; and the theory upon which the Republican party seek to control the destinies of this Republic is in fact the supremacy of capital; and that party now seeks, as it has from the beginning, to make that interest paramount to the interest of labor. That labor, which upholds the whole fabric, Government and debt, must dig the soil and toil in the workshop, but its privations and sufferings excite no compassion. The overgrown power of this party, conscious of its strength and deluding to its purposes even the honest patriotism of the people, bends its energies to the interest of capital alone. In the same line of policy, following the same mode of reasoning, that party established the national-banking system.

And, sir, while three months ago there was reason to indulge the hope that the common demand of the people would speedily result in the removal of that feature of financial policy, to-day the power of this national-bank system is clearly seen. I believe that this Congress will go on, not simply through its present session, but the next, and this measure of oppression, this great financial and political power, will remain unshorn of its strength. Under this system an organization, with a mere handful of capitalists, obtain the benefit of \$300,000,000 of money; the interest on this vast sum and the benefit of the political power which it commands. Yet the condition of the country and of our public affairs was such that without any embarrassment, and in perfect harmony with our financial system, the people might have had the benefit of this enormous amount of circulation in the form of legal-tender notes. One of the elements of the profits of this banking system is the interest on \$300,000,000 of currency furnished to the banks by the Government, which, at six per cent., only secures them the annual sum of \$18,000,000. At the lowest rate of interest, \$18,000,000 a year as a bonus from the Government!—a sum equal to one fourth part of the entire appro-

priations made to carry on this Government in the last year of a Democratic administration. And yet, gentlemen say that this party is not in the interest of capital. The enormous profit resulting from this vast volume of currency should inure to the benefit of the whole people. What right has a few bondholders to this enormous profit at the expense of the people? The system should be abolished and \$300,000,000 of the money of the people substituted for the currency of the banks, and thus paying off \$300,000,000 of your gold-bearing bonds, saving \$18,000,000 per annum in gold. When the people shall have an opportunity to speak, when the issue shall be fairly presented, the wrong and injustice involved in this entire system of policy will be remedied; the people will demand the abolition of the national banks, and the substitution of the lawful money of the country for the circulation of the banks, so that the people themselves may have the benefit of the enormous profit resulting from the system of paper money. To doubt this, sir, would be to underrate the intelligence of the people and their appreciation of their own rights.

But the party that has built up this policy will stand by their offspring. They will rely on their enormous financial power and their political influence upon the affairs of the country. That great statesman, Andrew Jackson, trembled for the political rights of the people of this nation when it was proposed to organize a national banking system with \$60,000,000 of capital. But now labor is obliged to resist a system in which \$600,000,000 of capital are concentrated in a common interest for a common end, the interest of capital. These banks are vigilant in evading taxation. In the State which I in part represent the poorest citizen who is subject to a tax pays a larger amount of tax to the town or city in which he lives than the overshadowing national bank organized in the same community. In Indiana these banks are totally exempt from municipal taxes. Taking the country throughout, the taxation borne by the national banks is nothing compared with the benefits of the capital which they enjoy. They pay but the pitiful sum of one per cent. per annum as a tax on their \$300,000,000 of circulation and nothing on their \$300,000,000 of bonds; and they loan out to the laboring men and smaller capitalists of the country at twelve and fifteen per cent. per annum the money furnished them by the Government, on which they pay but one per cent. This is but a specimen of the unconscionable profits realized under this system since its first organization.

As a result of all this, these national banks, after declaring annual dividends of from ten to twenty per cent., have actually in three years added more than sixty-five million dollars to their capital. See how carefully the Republican party has nurtured these objects of their munificence. Three hundred millions in bonds, on which they receive their six per cent. interest in gold, wholly exempt from taxation; \$300,000,000 in national bank currency, which is printed and furnished to them by the Government for one per cent. per annum; and the shares, at least in Indiana, wholly exempt by a Republican Legislature from all municipal taxation. No wonder they have accumulated in three years \$65,000,000 of a surplus fund, every dollar of which is wrung from overtaxed labor.

The gentleman from Illinois [Mr. Logan] some days since proposed that a tax of two per cent. for national purposes should be imposed on the national bonds. Under the acts of Congress and the decisions of the Supreme Court of the United States the States have no power to tax the securities of the Government. But the proposition of the gentleman from Illinois is one clearly admissible. Nothing can be clearer than that the very proposition which denies the power of State and municipal bodies to impose a tax on such securi-

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ties implies necessarily that a tax may properly be imposed on such securities by act of Congress; and it seems to be the wiser policy that the tax should be imposed by the General Government. It is better, because then the tax would inure to the benefit of the whole people and would be properly applied to the immediate extinguishment of the debt, or rather, to the extent of the tax, would be in effect a reduction of the interest.

But, Mr. Speaker, whatever may be the purposes of the gentleman, I apprehend his proposition receives little favor at the hands of his political friends in this House. I apprehend this measure will not even be pressed upon the serious consideration of Congress by the men who control legislation in such a form as will be at all likely to secure its enactment into a law. I hope I am mistaken, sir; but, with the strong sympathy of Congress with these overgrown capitalists, I see but little hope for a measure in the interests of the people.

Mr. BLAINE. Will the gentleman state it as his judgment that the Democratic side of this House will vote for that proposition or anything like it? Will the gentleman himself vote to tax United States bonds two per cent. and take the amount of the tax off the coupons?

Mr. HOLMAN. Yes, sir.

Mr. BLAINE. And take it off the coupons?

Mr. HOLMAN. It has to be taken off the coupons.

Mr. BLAINE. Does the gentleman know that the forty-five members on his side of the House will vote with anything like unanimity for that?

Mr. HOLMAN. This has not, so far as I am aware, been the subject of any consultation among the Opposition members of the House. As for myself, I introduced a proposition in the early part of the session that a tax should be imposed by the General Government upon these bonds—the purpose to tax them being by strong inference expressed in the laws authorizing their issue—substantially equal to that imposed on other property for State and local purposes in the various States. I assume that, for the present, at least, the tax imposed for State municipal purposes throughout the northern and western States of the Union—I do not know how it may be in the South—is now equal to about two per cent. on the general value of property. There is not even a plausible argument against imposing upon these bonds a corresponding tax, and thus substantially equalizing taxation.

The argument against allowing State taxation was apparently a sound argument. It was made here years ago; I have heard it time and again on this floor. It was that if a State was permitted to tax the Federal securities it might, in an unfriendly spirit, render them worthless by excessive and unequal taxation. That argument, however, does not apply to a tax imposed by the Federal Government.

Mr. BLAINE. I understand the gentleman as speaking for the Democratic side of the House—of course he must be speaking for that side when he arraigns the other side—and I understand him to say he is opposed to local taxation of the national bonds.

Mr. HOLMAN. Will the gentleman allow me to ask him a question?

Mr. BLAINE. Certainly; if he will answer my question first he may catechise me as much as he pleases. Do I understand him to be opposed to State or local taxation?

Mr. HOLMAN. The gentleman did not so understand me, and he has got to be franker and fairer if he expects me to yield to him. I have not said a word from which he can fairly draw the inference he does.

Mr. BLAINE. You said you had heard the argument fifty times that States might tax these bonds out of existence, and you said that was a good argument.

Mr. HOLMAN. I say it was a good argument. The gentlemen will remember years ago when both of us were here, a proposition was brought forward to allow the States to tax these bonds to the same extent and in the same manner as other similar property. I say that that principle is right. I have always contended for it. But the gentleman's State, perhaps, being favorably located for many appliances connected with the war, has become more extensively a bondholding State than my own.

Mr. BLAINE. No, sir; the State of Maine suffered ten dollars *per capita* where yours did one.

Mr. HOLMAN. The facts are shown by the bank deposits, and appear from the last annual message of Governor Andrew, of Massachusetts. The eastern States were enabled to accumulate vast sums in the shape of Government securities. These securities are held mainly in the East. I submit that inasmuch as the national debt rests upon the labor of the whole people it is just and proper that the tax should be imposed upon the national securities in such manner as that its benefits shall inure to the whole people. This you accomplish by a national tax. If you tax the six per cent. bonds two per cent., reducing the interest in effect to four per cent. in gold, you would still pay a greater interest than England pays on any of her securities. It is the only practical mode, too, of reaching the whole of the bonds, less subject to exception, fairer in the estimation of all fair-minded men, than the project either of the Senate or the House, refunding bills upon a basis of a five per cent. security.

I answer the question of the gentleman from Maine. I thought, at the period this debt was being made, the States should be allowed to impose a tax upon the bonds to the same extent, and no more, that they should tax other similar property in their limits, thus guarding against the bonds being improperly taxed. I submitted such a proposition repeatedly to the House; but now the only way you can reach the bonds, whether held by American or foreign capitalists, is for Congress to impose a tax to be taken from the coupons. It must be manifest that this is a fair and legitimate mode of taxation, and we do not require any new funding scheme, to result in the expenditure of millions in making the exchange, and opening up new expedients for the capitalists. If you tax the bonds of course you reduce their value to the extent of the tax; so you do all other taxable property, and of course you would reduce the interest to the extent of the tax. You would reduce the value of the bonds and the interest on the bonds in the same manner and to the same extent that all other property is reduced in value by taxation; to that extent you would reduce the interest. Can the bondholder justly complain of this? It only imposes on him the tax which every other citizen is compelled to pay.

Mr. BLAINE. I want to understand what the gentleman means. Do I understand the gentleman from Indiana to say that a tax of two per cent. is the tax he refers to? Does the gentleman say he is ready, and his party are ready, to tax United States bonds two per cent.?

Mr. HOLMAN. I cannot say what other members of the House will do. I am quite confident the Democratic party are in favor of the taxation of the bonds to the extent of other property.

Mr. BLAINE. Well, yourself?

Mr. HOLMAN. I have said that I avor the taxation of United States bonds to the same extent, substantially, as the tax imposed in the various States of the Union upon similar property for State purposes.

Mr. BLAINE. And then you would exempt them from local taxation?

Mr. HOLMAN. They are not subject to

local taxation now. Does the gentleman say under the laws now in force, with the decision of the Supreme Court unversed, there is any mode by which, for State or municipal purposes, these bonds can be taxed?

Mr. BLAINE. Now?

Mr. HOLMAN. Yes, sir; now.

Mr. BLAINE. They are exempted by special contract.

Mr. HOLMAN. In the absence of that exemption?

Mr. BLAINE. They cannot. In the absence of that I have no idea they could be taxed by local authority.

Mr. HOLMAN. Then they cannot be taxed by local authority. It is clear that the legitimate and fair mode of taxation, one that no capitalist, foreign or American, can with justice object to, is to impose a tax directly by the national Government. In this way every bond will be taxed, whether held by American or foreign capitalists, and that, too, without expense, for the tax is simply deducted from the coupon. The right is unquestionable. The language of the act of Congress is—

"And all bonds, Treasury notes, and other obligations of the United States shall be exempt from taxation by or under State or municipal authority."

Mr. BLAINE. Then I understand the gentleman to say that when bonds have been issued at a certain rate of interest, and running a certain number of years, Congress may come in afterward and at its mere discretion, without involving a breach of faith, resolve that those bonds shall be taxed. The gentleman from Illinois, [Mr. LOGAN,] you say, proposes two per cent. Now, some other gentleman may propose three per cent. The next Congress may desire four per cent. Now, is it fair, after you have issued bonds and your creditors have paid their money for them, the mere discretion of Congress shall be the rate and measure of the tax on those bonds, and therefore the rate and measure of the interest the creditors shall receive?

Mr. HOLMAN. Does the gentleman say it is wrong that Congress should impose this tax?

Mr. BLAINE. I most unqualifiedly do say so.

Mr. HOLMAN. Does the gentleman say that Congress has not the power to do it?

Mr. BLAINE. I say, sir, Congress has no more power, in honor, to violate a contract than you have.

Mr. HOLMAN. Has Congress agreed not to tax them?

Mr. BLAINE. When Congress issued a six per cent. bond they agreed it should be a six per cent. bond. They did not say it should be a four per cent. bond or a three per cent. bond. No State ever taxed a bond it issued. The gentleman cannot show where a State which issued a six per cent. bond has itself taxed that bond by withholding a portion of the interest. No instance can be shown in history where a nation has ever taxed a bond that it has itself issued. If the gentleman knows of any such instance I will be glad if he will tell us where it is.

Mr. HOLMAN. I do not yield for a speech. I say to the gentleman—and I hope he will note the fact—I represent a State which has never violated its faith, and that State has issued five per cent. and two and a half per cent. bonds, and taxed them as she taxed other property. No capitalists who held those bonds ever dreamed they were exempted from the usual burdens of the citizen. Yes, sir; I tell the gentleman they have been taxed.

Mr. BLAINE. Were they taxed at the State treasury?

Mr. HOLMAN. They were taxed like all other property of the State. Does the gentleman make any difference as to the mode of taxation?

I do not propose, I say to the gentleman—I am not proposing to reduce the interest upon these bonds by a mere arbitrary act of Gov-

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ernment. I only propose that the Government should exercise the ordinary power of taxation, a power which Congress has not and could not surrender. The bonds can well bear a reasonable taxation. The Government ought not to have fixed on so high an interest as six per cent. I insisted at the time that the interest was too high payable in gold.

Mr. BLAINE. It is a contract.

Mr. HOLMAN. I am not proposing by act of Congress to reduce the interest, but I do say those bonds, like other species of property in the United States, or the value of which exists by virtue of the laws of the United States, are the legitimate subject of taxation. And I say, further, that the capitalist who assumes that he alone shall be exempt from the ordinary burdens of taxation which rest upon the poorest laboring man in the land is the last of all mortals whose opinions or wishes are entitled to be considered by any legislative body. Shall he whose wealth is protected by Government heap on the shoulders of labor all the burdens of Government? Shall we permit the most offensive form of aristocracy to obtain a foothold in this Republic? Why, sir, it is monstrous. Inequality of taxation is the purpose and the great evil of monarchy. It grinds the face of labor. It gives the lordly, domineering spirit to the favored class which in Europe has rendered labor hopeless for centuries. It is this, sir, that breaks the manly spirit of a people. Disguise it as you may, and it is still the fatal enemy of a republic. Here, upon our own soil, in a Republic, gentlemen in the interest of capital stand up and press the argument of a pretended contract by which capitalists are to escape all taxation, while the poorest soldier in the land, wounded perhaps in the cause of his country, who, if he furnished no money, was at least content to shed his blood in its defense, is by your legislation loaded down with taxation. It is monstrous that labor should bear burdens from which wealth is exempt. It is unendurable that a citizen with a comfortable income shall pay less tax for the education of his own children than the laboring citizen of his neighborhood. Yet such is the policy which gentlemen defend; for a citizen holding your six per cent. gold-bearing securities to the amount of \$16,600 (greatly above the average wealth of our people) is absolutely exempt from taxation, State or national. I believe that gentlemen on this side of the House generally favor the taxation of these securities. And I know this, sir, that the Democratic masses of this country, demand just and equal taxation and that the wealth of the country whether in the form of bonds or any other form, shall bear its just proportion of the burdens of Government.

I hope the gentleman from Maine is not overlooking all this, that when Congress adjourns, and we go before our people on appeal from the acts of Congress, the people themselves will arraign this Congress on solemn impeachment for favoring the interest of capital to the utter prostration of the interest of industry. I know that the gentleman from Illinois and other gentlemen have brought forward propositions to relieve the labor and business of the country from the present oppression. If the Republican party approved these measures why are they not adopted? The legislation of the country is absolutely in the hands of that party; a party with unexampled power. If this party is willing to promote the interest of the producing and laboring classes by proper measures of legislation why are not these measures adopted? What apology will be given to the people? What subterfuges will be resorted to? In order to escape from public indignation will gentlemen pretend that temporary obstacles were in the way of reform? What obstacles are in the way? If they are acting in good faith in these measures they will press them forward to con-

summation. I have no doubt, sir, without having consulted with gentlemen on this side of the House, that every gentleman here will give his support to that fundamental principle of Democratic faith, equal taxation, that labor shall not be oppressed for the benefit of capital. They will protect with even-handed justice the rights of every citizen, the rights of capital, and the rights of labor. But, if there must be discrimination, it shall be for the interests of industry and the rights of labor. But these measures of reform are in your own hands, not ours. Our number is too inconsiderable to render our support or opposition of any moment to the great party which has for the present the destinies of this nation in its keeping.

Mr. LOGAN. I desire merely to ask the gentleman a question. I hope he does not intend to do any gentleman injustice by intimating that a measure has been introduced into Congress merely for political effect?

Mr. HOLMAN. I did not intimate anything of the kind, so far as the gentleman himself is concerned.

Mr. LOGAN. Your remark was that it had been introduced by the gentleman from Illinois, but you had no idea it would be pressed?

Mr. HOLMAN. I have not questioned the sincerity of the gentleman's motives.

Mr. LOGAN. No; you said you had no idea it would be pressed, meaning that it was introduced merely as a political dodge. Now, I say to the gentleman that I introduced that proposition in good faith. I am in favor of it. If I had not been I would not have introduced it. Part of the machinery of the proposed law is to collect the tax from the coupons, for the reason that I thought that would be a less expensive mode than assessing the bonds and collecting the tax as is done with reference to other property. That was the reason for it. It makes no difference whether you collect the tax from the coupons or assess the bonds and collect it like other revenue.

Mr. VAN TRUMP. Allow me to suggest that it is the only mode in which it could be collected from the foreign bondholders.

Mr. LOGAN. I was going to say that that was a part of the reason that I gave in speeches last summer, that you could not collect the tax from foreign bondholders unless you collected it from the coupons when presented for payment.

Now, I say that I do intend to press that measure. I care not what may be said. I have introduced it because I believe the bonds should be taxed the same as any other property by the national Government, but not by State organizations. I intend, at the proper time, to press the bill in the House, that the House may vote on it, and the gentleman from Indiana and his friends will have an opportunity then of voting for or against it.

Mr. BLAINE. I do not want to prolong this discussion, but I would like to ask a question either of the gentleman from Indiana [Mr. HOLMAN] or the gentleman from Illinois, [Mr. LOGAN,] for they seem united on the proposition that the Government of the United States should tax its bonds two per cent., and that the tax should be taken out of the coupons and made sure of at the Treasury, which, of course, reduces the bonds to four per cent. securities. It would take actually two per cent. on the full, entire value of the investment. Now, the question I want answered by either of these gentlemen is this: whether, taking the United States throughout, the property of this country owned by individuals, estimated at its full cash value, pays anything like two per cent.

Mr. VAN TRUMP. It does more in Ohio. Mr. LAWRENCE, of Ohio. Oh, no.

Mr. VAN TRUMP. Yes, sir.

Mr. LOGAN. I will say, in answer to the gentleman, that, making a calculation of the taxation, municipal and national, in all the

States, and aggregating it, the average is a little over two and one eighth percent. instead of two per cent.

Mr. BLAINE. I beg to say that I think the gentleman is grossly mistaken.

Mr. HOLMAN. I really cannot yield further.

Mr. BLAINE. Let me make one statement. Take the city of New York as an example. The city of New York pays taxes on its personal property and its real estate on a basis of \$700,000,000, and there is no doubt that there are \$1,200,000,000 of personal property held in that city, to say nothing at all of the value of real estate.

Mr. BARNES. I will say to the gentleman that the rate of taxation in New York is over four per cent.

Mr. BLAINE. On what?

Mr. BARNES. On the personal property and the assessed value of real estate.

Mr. BLAINE. On a one fifth valuation.

Mr. ELDRIDGE. Will the gentleman yield to me a moment?

Mr. HOLMAN. Certainly.

Mr. ELDRIDGE. I wish to say to the gentleman from Maine [Mr. BLAINE] that the rate of taxation he has referred to would be considered very light in Wisconsin, for there our average taxation upon the actual property valuation is over three per cent.

Mr. NICHOLSON. Will the gentleman from Indiana allow me to make a suggestion?

Mr. HOLMAN. Certainly.

Mr. NICHOLSON. Has not Congress already done the very thing which the gentleman from Maine [Mr. BLAINE] says would be a breach of faith, if applied to bonds, in imposing an income tax upon the salaries which the Government had agreed to pay, thus reducing the amount it had agreed to pay?

Mr. BLAINE. There is no contract at all about salaries; they can all be taken away if Congress chooses.

Mr. HOLMAN. The soldier went into the Army for a fixed salary or compensation, and yet Congress exacted a portion of it from him in the shape of a tax. And I have never in this House heard the right of the Government to impose that tax at all questioned.

Mr. ELDRIDGE. We upon this side of the House protested in our feeble way, and it was but a feeble way, against the tax which my friend has referred to. It is the fact, however, that upon the part of the majority side of this House no *bona fide* effort has ever been made to relieve him from that burden.

Mr. BLAINE. Relieve whom?

Mr. ELDRIDGE. The soldier.

Mr. HOLMAN. I know that any protest from this side of the House has been of but little avail. I answer the question of the gentleman from Maine, that the average tax in Indiana, State and local, exceeds two per cent. And I wholly deny the proposition of the gentleman that by any contract we are estopped from taxing these bonds. On the contrary, there is a strong implication in the laws under which these bonds were issued open to the whole world that the Government of the United States, not negatively, but affirmatively, reserved to itself the right to tax them. I deny that Congress can surrender that right. [Here the hammer fell.]

Mr. LYNCH obtained the floor.

Mr. HOLMAN. I have been interrupted so much I trust the gentleman will yield me a few minutes of his time.

Mr. LYNCH. How much does the gentleman desire?

Mr. HOLMAN. I think fifteen minutes or less.

Mr. LYNCH. I will yield fifteen minutes of my time to the gentleman.

Mr. HOLMAN. I thank the gentleman for this courtesy. As I was saying, the Government of the United States impliedly reserved to itself the right to tax these bonds. It said

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in the law authorizing the issue of the bonds that those bonds should not be subject to State or municipal taxation. In saying that the Government by strong implication said that they should be subject to national taxation. There being the two taxing powers, State and national, and only the one excluded, it is too late now, with the implied reservation, for gentlemen to insist in the interest of the bondholders that the bonds shall not be subject to the same burdens as the property of other citizens. It is most unreasonable that holders of securities which you propose to pay in gold, dollar for dollar, the interest on which you are paying in gold—bonds purchased, too, with a currency greatly inflated—should have the presumption to ask for such exemption, and, more unreasonable still, that the leaders of a great party, representatives of the people, should concede their right to such exemption, and insist that they shall be entirely exempt from the burdens which press heavily upon every other class of citizens. Gentlemen forget the ancient maxim of liberty, "The safety of the people is the supreme law."

If anything could be done which would weaken the faith of the laboring portion of the people in the value of our institutions it would be this oppressive discrimination against them.

The gentleman from Illinois may press his measure for taxation, but I have no hope of its success; the Republican party is too completely under the control of the bankers and capitalists to yield to such a reform. Among other grave grounds of complaint which the people will have against this party will be that the measure which was demanded by the people with unexampled unanimity—the homestead policy—has been virtually defeated by granting away those very lands which the people expected to secure for themselves and their children to those overgrown corporations whose special agents are now thronging our lobbies. It should excite the apprehensions of the people that their interests are in peril, that the lobbies of Congress are crowded by agents in behalf of every interest of centralized wealth, tariff and banks and bonds and corporations; every interest except the interests of industry and the men of toil. This lobby influence has grown up with the Republican party into gigantic proportions and greatly controls your legislation.

It is the dangerous feature of this Government. For capital easily combines its energies; it comes here with united force; it stands at every door of the Capitol; you see it everywhere demanding protection for its own peculiar interests, while no voice is raised here in behalf of the toiling millions upon whose labor rests the whole fabric of this Government and gives to every interest its only value.

Mr. TRIMBLE, of Kentucky. Will the gentleman yield to me one moment for a question?

Mr. HOLMAN. Yes, sir.

Mr. TRIMBLE, of Kentucky. The gentleman from Maine [Mr. BLAINE] seems to complain that if bonds be taxed two per cent. they will yield but four per cent. net interest to the bondholder. I desire to ask the gentleman from Indiana [Mr. HOLMAN] whether there is any interest in his State, taking it generally, which yields to the owner that rate of interest—whether Government bonds at four per cent. would not pay better than any interest in his State?

Mr. HOLMAN. I think there is no interest connected with labor or industry that yields so great a return.

Mr. DAWES. How is it as to lands?

Mr. HOLMAN. Lands do not yield more than three per cent. on their estimated value. I know that in New England, where, under the protective policy, large profits are realized, realized at the expense of the labor of the western country, four, five, or six per cent. may appear a low interest, but with us it is a high in-

terest, so far as productive industry is concerned. I do not speak of the rates of interest on money or invested capital.

But, sir, I find a key-note to the present condition of affairs in a paper published in the exclusive interest of capital. This paper furnishes some explanation of the remarkable spectacle before the country—the impeachment of the national Executive. The paper from which I propose to read a paragraph is the *Iron Age*, a paper devoted to the interests of the capitalist and manufacturer alone, with no word for the interests of industry, except so far as it is made subservient to accumulating and building up the fortunes of those who are already the favorites of fortune.

Mr. ELDRIDGE. The paper is well named.

Mr. HOLMAN. Yes, sir; it is called the *Iron Age*, and it is as cold and remorseless as iron. The laborer may toil and suffer, but this "iron age" has no sympathy with his struggles. I propose to read a passage foreshadowing the time when the resolute citizen who is standing up against the assailants of constitutional government shall be set aside and the Senate, not the people, shall elect a President (if such shall be our evil fortune) of the United States. Then capital may hold high carnival. When Mr. WADE becomes President, says this paper—

"No tariff act can be passed by Congress"—

I call the attention of western men particularly to this utterance—

"No tariff act can be passed by Congress too protective to receive the assent of a President who is almost a prohibitionist in his wise zeal for the development of his country's industry."

"Almost a prohibitionist!" Wisely did the people of Ohio repudiate this man, who would grind down the labor of his own people for the benefit of the capitalists of other sections of the Union, and to build up their already excessive wealth.

Again:

"No railroad-aid legislation will be too liberal to frighten an Executive who knows that the growth of a country's foreign as well as domestic trade is in exact proportion to the extension of its railway system."

Congress need not be afraid. They cannot be too liberal to railroad corporations for this generous gentleman. They may grant whatever subsidies they please, amounting it may be to millions of dollars, not to be earned by themselves, but by the toiling and tax-oppressed masses. They may grant to the railroad brokers of your great cities millions of acres of the public lands, denying to the laboring man every hope or prospect of a homestead. Oh, no; Congress cannot frighten this courageous Executive. He will be too willing to approve these schemes of plunder. Congress need not be afraid to grant these subsidies to corporations. This liberal gentleman will more than approve them. A new era is to be inaugurated; a new man is to be at the head of public affairs; a man bound hand and soul to the interests of capital. In six years you have given one hundred and twenty-five million acres of the people's land to corporations. But you need not be afraid to give more.

Sir, I wish that these two utterances could be heard and taken to heart at every fire-side in the whole northwest. I wish that every constituent of the gentleman could hear them. Let the people understand that the party in power is making a tremendous effort to thrust from the presidential office a man constitutionally elected by the voice of the people, and to place there a representative of capital eager to tax the producing interests of the northwest to swell the wealth of New England, and rob the poor man and his children after him of every hope of a homestead on God's green earth by giving the public lands to railroad corporations. Yes, sir, the rapacious grabbers at the public lands, the wealthy manufacturers, the railroad kings, and the holders of bonds may well rejoice! But there is a

day of reckoning; the destinies of this nation are still in the hands of its people.

Resisting the manifest designs of the leaders of the Republican party, those opposed to their policy and who demand reform in the administration of public affairs, will appeal to the people in behalf of these great measures.

1. The payment of the public debt on the basis on which it was contracted, in the lawful money of the country, except where by express stipulation we have agreed to pay in coin.

2. The taxation of the bonds by the Federal Government to amount substantially equal to the tax imposed on other property for State and local purposes in the several States, the tax be deducted from the coupon.

3. The abolition of the national banks and the substitution of \$300,000,000 of United States notes for the \$300,000,000 of national bank paper.

4. Reform in national expenditure and no taxation of the people to give lands or moneys to railroad corporations.

5. A tariff for revenue and not to protect the manufacturers at the expense of the producing interests; and, more than all,

6. The speedy restoration of the Union.

Sir, at no period of history have a people encountered a power of centralized wealth equal to that which is now arrayed against the people of this nation. If they would save the Republic and hand down to their children the blessings of a Government securing the equal rights of the whole people, they must reform the administration of their public affairs, and remember that "the price of liberty is eternal vigilance."

Impeachment.

SPEECH OF HON. J. R. McCORMICK,
OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,
February 24, 1868,

On the resolution reported by the Committee on Reconstruction for the impeachment of the President.

Mr. McCORMICK. Mr. Speaker, for the first time in the history of the country this House has met to consider the question of impeaching the President of the United States. A step so full of consequences to the whole country should only be taken after it is apparent that the acts of the President are so willfully perverse, so clearly in violation of law, and so deeply injurious to the country that a longer toleration of them is incompatible with the public safety. I confess I enter upon the discussion of this subject with feelings of deep anxiety, believing as I do that if this measure is adopted it will prove a calamity to the whole people and to all their interests. Viewing the condition of affairs from the standpoint which I have occupied during this unhappy controversy between the Executive and Congress, I can see nothing in the conduct of the President which should forfeit our confidence or justify his impeachment. It is true the President has from time to time recommended a system of public policy wholly differing from that pursued by Congress; it is true he has again and again, by the exercise of the veto power, attempted to control the action of this House; but does any one or all of these acts furnish ground upon which his removal from office may be justified?

These are the questions to be met and answered, and their importance demands the most careful deliberations of the hour. Three years have almost passed away since the close of the rebellion, and yet Congress has failed to restore the Union which has been preserved at such an immense sacrifice of life and treasure.

As one means of reconstructing the Union upon the congressional plan a Freedman's Bureau has been established by which millions

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of money have been expended; and after an experiment of two years we are told the condition of the black man in the southern States is worse than at the close of the war. As another means to the same end a standing army has been kept in every southern State to aid in enforcing the reconstruction laws passed from time to time by Congress; and now we are met by the humiliating confession on the part of Congress that the reconstruction acts heretofore passed by this body and vetoed by the President have utterly failed in their object, and that the millions expended by their provisions are worse than losses to the country.

To amend these abortive efforts at reconstruction this House a few weeks since presented the country with the reconstruction measure now pending in the Senate, which finds no parallel in the history of modern legislation, and which is rather the offspring of blind fanaticism and partly folly than the result of wise legislation. The first section of this act strikes from existence every vestige of civil government in ten States, obliterating State lines from the Potomac to the Rio Grande; and the vast territory thus stricken from the Union is erected into one military district, over which General Grant is placed and clothed with the untrammelled power of an autocrat.

Thus the Fortieth Congress, while acknowledging the requirements of the Constitution to secure to each State a republican form of government, has attempted to subjugate ten States to one military despotism and one third of the people of this Republic to the domination of a single man who stands above and beyond the civil law and from whose decision there shall be no appeal.

Nor is this all. The judiciary of our country, the most sacred department of the Government, is by the provisions of this act throttled in the temple of justice and denied the right to pass upon the validity of this act or extend protection to its victims. The President of the United States, because of his opposition to this system of legislation; because of his defense of the Constitution, and because of his maintenance of the prerogative of the Executive, is now held to answer for high crimes and misdemeanors by a Congress which declines to submit its own acts to a decision of the Federal judiciary. The President has stated it to be his conviction that the policy recommended by himself would have wrought a speedy restoration of the Union, would have avoided large expenditures of money involved by the congressional plan of reconstruction, and would have prevented the present unhappy condition of affairs.

It is true the President cannot demonstrate the fact that his plan of reconstruction would have been a success, because it has not been put into execution; and for the same reason Congress cannot assert it would have been a failure. That the congressional plan is a failure cannot be denied. The President declares that in his judgment the reconstruction acts passed by Congress are in violation of the Constitution. This being his conviction, he could do nothing less than by the use of the veto power attempt to prevent them becoming laws; and it may here be stated that so far as the judiciary have made decisions involving the constitutionality of principles embraced in these laws they have been in favor of the views expressed by the Executive. After a long and thorough investigation of the conduct of the President made by a committee of this House, a majority of whom are politically opposed to him, they failed to find cause of accusation against him. This result not proving satisfactory to a certain class of men in the House they succeeded in having the whole matter referred to the Committee on Reconstruction, who after another investigation arrived at the same result. But after the removal of the Secretary of War by the President a third investi-

gation has resulted in the introduction of the resolution now under consideration. It is therefore reasonable to infer that the only ground of accusation against the President is because of the removal of Secretary Stanton, which by the committee is held to have been in violation of an act regulating the tenure of certain civil offices and a justifiable cause for impeachment.

It may be proper here to state that the act in question was devised by this Congress for the avowed purpose of controlling the President in his prerogative of removals from office, and when sent to the President for his approval he submitted it to his Cabinet ministers, each of whom pronounced it unconstitutional; and that Mr. Stanton, who now by virtue of its authority proposes to thrust himself upon the President as a member of his Cabinet, was unqualified and prominent in its condemnation as invalid, and expressed his willingness to aid the President in preparing his veto message against it. During the recess of the Senate circumstances arose which, in the opinion of the President, were sufficient cause for the removal of the Secretary of War, to do which the President believed he had the constitutional right without consulting the Senate. Nevertheless, when the Senate met he submitted to that body the reasons for his action, whereupon the Senate, by virtue of the law in controversy, claimed the power to reinstate Mr. Stanton, which it did in violation of established usage of the spirit of the Constitution and of the plainest dictates of common courtesy. Mr. Stanton, thus reinstated in the War Office, without consulting the President, and with the arrogance of usurpation itself, assumed to discharge the duties of Secretary of War independent of the President. For this insubordination Mr. Johnson again removed him, notifying the Senate of the fact, and asking the confirmation of another person, (Hon. Thomas Ewing,) whom he appointed as Secretary of War, stating it was his wish to test the constitutionality of this law by which he is deprived of the privilege of removing an objectionable officer of his Cabinet, when, under the Constitution, he is held responsible for his acts. I am unable to see in what the recent action of the President was a violation of law. His first removal of Mr. Stanton is held by no one to have been a violation of law, because the Senate was not in session at the time. It may be said, the Senate having reinstated Mr. Stanton, a second removal was a violation of law. This argument would have some plausibility if the second removal had been for the first cause; but this is not the case. The second removal was for the all-sufficient cause of insubordination.

And I aver this act of the President was in violation of no law. The act of March 2, 1867, which it is charged has been violated, provides as follows:

"Sec. 1. That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any office and shall be duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of the War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

By the provisions of the law just quoted Cabinet ministers hold their offices during the term of the President "by whom they were appointed, and one month thereafter."

Secretary Stanton having been appointed by Mr. Lincoln, and Mr. Lincoln's term of office having ended with his life, the continuance of Mr. Stanton in the Cabinet of Mr. Johnson could only be at the option of the latter.

In construing a law it is always proper to bear in mind the intention of those who made

the law. That it was not the intention of Congress, in passing this law, to deprive the President of the power to choose his own Cabinet, may be proven from speeches made in Congress at the time the law was under consideration. Senator SHERMAN, in combating this very idea that the law prevented the President from removing members of his Cabinet except by and with the consent of the Senate, used the following language:

"That the Senate had no such purpose is shown by its vote twice to make this exception. That this provision does not apply to the present case is shown by the fact that its language is so framed as not to apply to the present President. The Senator shows that himself, and argues truly that it would not prevent the present President from removing the Secretary of War, the Secretary of the Navy, and the Secretary of State. And if I supposed that either of these gentlemen was so wanting in manhood, in honor, as to hold his place after the politest intimation by the President of the United States that his services were no longer needed, I certainly, as a Senator, would consent to his removal at any time, and so would we all."

It is therefore evident the removal of Mr. Stanton does not come within the meaning of the act of March 2, 1867.

I now propose to show that this or any other law depriving the President of executive power is a violation of the Constitution, which provides "the executive power shall be vested in a President of the United States of America." In defining the powers of the President the Constitution provides:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

It is therefore evident the appointing power is not exclusively with the President, for the reason that the wisdom of both the President and Senate is deemed to be necessary in judging of the capacity of those to be appointed to important offices, and to prevent an abuse of the appointing power, which might arise if confided wholly to the Executive. But so soon as the appointments are made the legislative department of the Government, as it were, loses sight of the appointee, and the whole duty of seeing that the laws are faithfully executed by those appointed to office devolves upon the Executive.

It therefore follows that to the Executive legitimately belongs the power of removal from office, a power in the hand of the Executive essential to good government, which, if exercised by and with the advice and consent of the Senate alone, would of necessity render the execution of the laws faulty and inefficient, as the President, in that state of the case, could only suggest the removal of incompetent or unfaithful officers, and that only during the session of the Senate. The Constitution confers the power and makes it the duty of the Senate to aid the Executive in appointing to office, but for the reasons just noticed it devolves the whole power of removal upon the Executive, because he is held responsible alone for the execution of the law and for the conduct of those whom he has nominated to office, and any attempt to deprive the Executive of this prerogative is in violation of the Constitution and subversive of good government. We can, therefore, arrive at but one conclusion in reference to the act of March 2, 1867, which is that it is an encroachment upon the prerogative of the President and in violation of the Constitution.

Sir, the proceedings of this day will find a place in the records of history, and men, in time to come, will point back to this Congress as a legitimate child of revolution, who, impatient of restraint and intolerant of those who differed with its views of public policy, did not hesitate to exclude from its deliberations the

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representatives of ten States, in violation of the Constitution of the United States, which each of its members had sworn to support, and which provides:

"No State shall be deprived of its representation in Congress except by its own consent."

And which further provides:

"The House of Representatives shall be composed of members elected every second year by the people of the several States."

And which, in addition to these, provides:

"The House of Representatives shall have the sole power of impeachment."

In violation of each and all of these requirements of the Constitution, and after having excluded from Congress the representatives of ten millions of their countrymen, they then, in the House of Representatives and in the name of all the people of the United States, impeached Andrew Johnson, President of the United States, of high crimes and misdemeanors, preferring the same at the bar of a Senate in which the representatives of ten States have been denied admittance, and which Senate assumes all the powers and prerogatives of the Senate of the United States, in violation of the Constitution, which provides:

"The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote."

In violation of the Constitution of the United States, which provides "The Senate shall have the sole power to try all impeachments," this partial assemblage of Senators, after having hushed the voice of ten States in their council, proceed to try and vote upon the guilt or innocence of the President of the United States, assuming to themselves the power to degrade him from his high office, and by their verdict elevate their own Presiding Officer to the power and dignity of his position. I repeat the proceedings of this day will be pointed to by the future historian as another example of the unhappy effect which revolutions induce upon the human mind, and it may be for him to point to us as another evidence of man's incapacity to govern himself and the events of this hour as another step in the decline and fall of a great Republic. But I have a better hope for the country than this. I still have confidence that with the people there is safety, and that when the judgment of this House and of the Senate shall be reviewed by the people of this great Republic, they will administer to their Representatives a rebuke which will effectually put to silence that which much is heard.

Impeachment.

SPEECH OF HON. C. T. HULBURD,
OF NEW YORK,
IN THE HOUSE OF REPRESENTATIVES,
February 24, 1868,

On the resolution reported by the Committee on Reconstruction for the impeachment of the President.

MR. HULBURD. Mr. Speaker, I desire the indulgence of the House the few moments allotted me to state with utmost brevity some reasons impelling me to vote as I shall on this occasion. I the more desire this opportunity in that hitherto I have steadily, though quietly, resisted the conclusion now forced upon us and the action consequent thereupon.

When the impeachment of the President was first formally brought before the House by the Judiciary Committee I voted against a continuance of the prosecution, or a further consideration of the subject at that time. This was done, not that I did not then believe the President quite likely more than once had overstepped the law; not but that I thought in the unprecedented turmoil of the times more than once he had trespassed very considerably upon the spirit, if not the very letter of the Constitution. I confess, however, I was slow to be-

lieve that, deliberately, persistently, he purposed such violations. I did not, therefore, feel like imputing criminality for what might but have been an error of judgment or an unconsidered inadvertence; I did not feel like hastily putting on trial—and a most damaging trial I knew it must be, however it technically eventuated—the Chief Magistrate of this nation. Others may make light of such a spectacle; others, as was said by the gentleman from Illinois, [Mr. LOGAN,] may feel that "it is not a solemn occasion," to arraign as a criminal before all the people of the United States the constitutional head of this great representative Government; the only existing Government whose free institutions have made it the envy and the jealousy of the peoples and the potentates of the universal world. I am not ashamed to confess I contemplate such a spectacle and the results with sorrow and solemnity, and great humiliation of soul. Yet to-day, penetrated with the conviction that it must needs be, I bow in acquiescence, and take my humble place in the procession of this day's momentous proceedings.

I do not propose to catalogue the President's minor malfeasances, short-comings, or oversteppings. I freely admit that the rôle which circumstances have compelled him to enact has been unprecedented, most diversified, and most difficult. But he will not be tried for mere derelictions, party-wise or political; but for "high crimes and misdemeanors" positively committed against the laws and Constitution of his country.

He will not be arraigned for his unparalleled and profligate exercise of the pardoning power in behalf of deserters, rebels, and counterfeits; he will not be arraigned for removing loyal, upright, and faithful officials, and appointing in their stead and retaining in office incompetent, flagitious, and corrupt men, obsequiously zealous only to do his bidding; he will not be arraigned for surrendering millions of public property to unshriven and unrepenting traitors, without compensation, right, or reason, or cause, save his own autocratic will. Passing over all such petty peccadilloes in his executive career, I might, perhaps, instance as deserving impeachment his usurpation and continued exercise of political—perhaps I ought rather to say legislative—functions clearly outside of the executive prerogative. I refer particularly to his management of the rebel States from and after the collapse of the rebellion. Whether this chiefest feature of his "policy" will be made one of the counts of his impending indictment I know not. The people have already passed upon it in accord with the saying of the wise man of old, "in the multitude of counselors there is safety," more than in the heart of one ruler, though that ruler should proclaim himself a modern Moses.

It is true there is nowhere found in the Constitution a "thus saith," directing how States in such an exigency should be treated, for the reason the framers of the Constitution never seriously contemplated the probability of such an emergency. But there had been more than one judicial deliverance by the Supreme Court of the United States setting forth clearly that the recognition and supervision of organic, political power for, of, and in the States, belonged to and inherited solely in the Federal Legislature, the Congress of the United States. The citation of one example will suffice, and that shall be the famous Rhode Island case, reported in 7 Howard, and the words shall be those of Chief Justice Taney:

"Moreover, the Constitution of the United States, as far as it has provided for an emergency of this kind and authorized the General Government to interfere in the domestic concerns of a State, has treated the subject as political in its nature, and placed the power in the hands of that department. The fourth section of the fourth article of the Constitution of the United States provides that 'the United States shall guaranty to every State in the Union a republican form of government,' &c. Under this article of the Constitution it rests with Congress

to decide what government is the established one in a State.' And its decision is binding on every other department of the Government, and could not be questioned in a judicial tribunal."

Further on in this opinion the Chief Justice takes occasion to say:

"Unquestionably a military government, established as the permanent government of the State, would not be a republican government, and it would be the duty of Congress to overthrow it."

The Constitution says, in the first section of its first article:

"All legislative powers herein granted shall be vested in a Congress of the United States," &c.

The fourth section of the fifth article declares:

"The United States shall guaranty to every State in this Union a republican form of government," &c.

A section of the first article, in enumerating some of the powers to be exercised by Congress, contains this authorization:

"The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States," &c.

I think it appears from these clauses of the Constitution, and from Chief Justice Taney's exposition, that Congress had, beyond question, supreme jurisdiction over the insurrectionary States on the collapse of the rebellion; that disorganized and anarchized by the rebellion and its chaotic collapse ever thereafter, and until properly reconstructed and restored and in full Federal accord, the sole right of determining when, and how far forth, each rebel State had such "form of government" as guarantied by the Constitution, "rests with Congress" alone; that the right of setting aside or "overthrowing" any other "form of government" by the Constitution inhered in Congress alone. If, then, a necessity seemed to exist justifying the President in setting up, in the first instance, State governments in the rebel States, that necessity, of course, ceased to exist on the coming together of Congress, when and to whom the whole subject of the political condition and government of those States of right should have been referred.

No doubt, at first, Mr. Johnson entertained such views and purpose. Such, too, were the declared views of some of his Cabinet. Had the President, on the surrender of Lee, convened Congress with all convenient dispatch and devolved upon it the management of the insurgent States, however matters were treated, his responsibility would have ceased. Had he even, on the assembling of Congress at the next regular session in December, turned over to it the whole subject of reorganization and reconstruction, and thenceforth forbore all further personal and official intervention therein and thereabouts save as required by law, doubtless he would have been held blameless. He chose to take a different course. He inaugurated his policy of reconstruction—a policy directly, if not designedly, tending to the re-instating and re-establishing as the controlling, governing element in all the South unpurged, unrepenting, remorseless, red-handed rebels. I pause not to speculate on his motives; I have no time to set forth the bitter, bloody fruits which have sprung from the loins of this untoward, misbegotten "policy." Suffice it to say robbery, rapine, riot, unpunished murder, in no local or stunted streams, have flowed in every section of southern soil unguarded by "the boys in blue" so be, a loyal freedman or a "Union white," had property to tempt or an unprotected life to lose. The close connection of the Memphis and New Orleans riots with the purposes, if not the expectations, of the President shocked the sense of the nation. No wonder he sought to escape the odium of this complicity. The subterfuges, transparent as mean, availed him nothing. Exposed and rebuked, and even warned, he did not desist or slacken in the prosecution of his "policy." Nay, for aught known to the country or to this

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House, he still rigidly, callously, defiantly adheres thereto. In furtherance of it he has, beyond all question, exerted to the utmost available extent the influence and the power of the Executive to oppose and to defeat any other method or plan of reconstruction than that embodied in "his policy."

To this end he has used, nay, prostituted, the executive patronage; and, as far forth as he could, that of the Departments. To this end he has repeatedly changed, removed, and appointed military commanders to obtain those sufficiently subservient to do his bidding, despite right, law, Congress, Constitution, and even humanity to the contrary notwithstanding. In view of the law and of the Constitution and of all these his doings, how strangely sounds his pretense and that of his abettors, that he and they are the sole custodians of order, law, the Constitution, restoration, readmission to Congress of the southern States, &c., when it is so well known here and over all the South that he and his have done their utmost to thwart and delay this much-wished consummation.

In this connection listen to what the Mobile Register says of General Wager Swayne, that true soldier and noble son of an honored father, commissioner of Freedmen's Bureau in Alabama. Such a man was in the way:

"Swayne was an adroit and unscrupulous politician, and Swayne had no gerrymandered and pipelaid as to make the ratification of the constitution a sure thing. Swayne was, therefore, an obstacle to fair play and justice, and when we wrote to Mr. Johnson that an order to remand General Swayne to his regiment would be worth twenty thousand votes against the constitution we wrote an opinion on a fact that events have justified."

But for such interposition and intervention in behalf of "policy" to-day there would be no question as to the present status of Alabama and of her speedy representation on this floor. Who, then, is responsible for her non-representation? Surely not Congress; not the malignant Radicals? No body or other person is but the Executive himself. Shall such obstructive proceedings, in defiance of law, of Congress, of the Constitution, and of the sense of the country be permitted to be enacted, unchecked, unrebuked, and unpunished? I trust not. The country hopes not; expects not.

The gentleman from Maryland [Mr. Phelps] rung the changes very freely and trippingly upon the sanctities and obligations of the President's oath of office, but forgot to define the difference between executing and evading the law, of the distinction between which Mr. Johnson seems to have very confused ideas. In all his southern "policy" he seems to have sought rather how to evade than how to execute the law. It is true he opposed his veto to the reconstruction acts; but, passed over the veto, are they not as authoritative and obligatory, as much entitled to be respected and executed by civilian, soldier, judge, and President, as any act in the statute-book of the Republic, until the constitutional review-tribunal has declared them unconstitutional? For this disregard of the obligations of his oath, for this his neglect and virtual refusal to execute the law, because not in the line of his pet "policy," I never doubted but that he might rightfully be arraigned and impeached. When the impeachment was first brought before this House the remainder of his term seemed to me so short, the disturbing and paralyzing influence of impeachment so imminent, far-reaching, and enduring—hoping, too, almost against hope, that he would forego and yield his autocratic views to the deliberations and decisions of that department of the Government with whom the Supreme Court had declared the Constitution had lodged the right and the power to say, and to direct by law him to do—on a former occasion I voted yet further to bear and to forbear, and, with others, set myself to watch and pray and hope for a more benign future. Hardly had we left these seats after the July session ere he made a further

stride, a yet bolder strike, in suspending Mr. Stanton from office. This bold blow at the fearless and the incorruptible Secretary, to whom, more than any other living man, the country is indebted for being brought triumphantly through and out of the great war of the rebellion, so startled and angered the people that had Congress been then in session, or convened immediately thereafter, impeachment would at once have taken place. The general expectation that the Senate could and would restore the Secretary and thus vindicate the majesty of the law ultimately so allayed public exasperation that another flagrant presidential obliquity, or rather outrage, was added to the many others unnoticed, at least unchallenged, before the appropriate constitutional tribunal.

The Senate reinstated Mr. Stanton. The President, instead of deferring to the almost unanimous expression of the body constituted by the Constitution his advisers, at once set to work to nullify as far forth as he could its action in this particular, and to evade all laws pertaining thereto, by himself ignoring the Secretary and requiring his subordinates to do the same. Was this decent respect to the Senate? Perhaps a grave impropriety is not impeachable. But how about such evasion, nay, violation, of law by him who was sworn to the faithful execution of the same?

Again, no action was had, no notice was taken of this continuous outrageous executive procedure. This long-enduring forbearance, this slowness to smite, instead of abating seemed to embolden to the commission of other and more flagrant audacities.

The next step was in another direction; it was no less than a mean attempt to inveigle into violation of law an honest and unsophisticated soldier. Foiled in this endeavor, then followed a dastard effort with venomous pen to write him down; to which was superadded the aid of a not overscrupulous, I may say most obsequious, Cabinet. In its great forbearance and unwillingness to proceed to extremities again Congress allowed to pass unrebuked offense and offender.

The cup, however, was surely and not slowly filling. The Stanton-Thomas imbroglio almost immediately followed. This is of too recent occurrence; the particulars are too well known to the House to need from me a moment's consideration. In this matter an *ex post facto* plea has been put forth in behalf of the President, that his only object in moving as he did was to secure a speedy and harmless test in the courts of the constitutionality of the troublesome tenure-of-office act. This is a most shallow pretext, or a not very profound precautionary after-thought.

Let us look at the legal usage and practice in such cases made and provided, and the proper legal course which should have been taken by the President to secure his avowed purpose will at once appear. He could have made a *pro forma* removal and a *pro forma* appointment, and directed his *pro forma* appointee to proceed by a *quo warranto* writ against Mr. Stanton, to inquire by what warrant (right) he continued to exercise the functions of Secretary of War. Every lawyer knows the nature of this writ, that it is the prescribed Government means of bringing into court for examination a person alleged to be wrongfully exercising a privilege or a franchise, or holding an office by supposition emanating, at some time, from the sovereign power. This would have been a proper and decisive proceeding to test before the courts the constitutionality of the act. At the instance of the Attorney General, in behalf of the Government, this writ might have been issued at any time, to inquire by what right Mr. Stanton assumed to continue to exercise the functions of Secretary. Failing to make good and sufficient that right the Secretary's displacement must immediately, as a matter of course, have followed.

Does any one ask, "Why did not Secretary

Stanton 'give place,' and himself resort to this writ against General Thomas to regain possession of the War Department?" Simply because he could not sue it out or cause it to be sued out in his behalf. By common law it was the king's writ, and could only be issued to remedy some encroachment or remove some alleged usurpation upon the crown's prerogatives. It was never issued in England, from whence we derive it, nor has it ever been in this country as a private process to redress or vindicate individual rights. That this writ is the exclusive royalty of sovereignty in this country was clearly put by Chief Justice Marshall in *Wallace vs. Anderson*, 5th Wheaton, 291:

"That a writ of *quo warranto* could not be maintained except at the instance of the Government, and as this writ was issued by a private individual, without the authority of the Government, it could not be sustained, whatever might be the right of the prosecutor or of the person claiming to exercise the office in question."

Had Grant surrendered, as Johnson wished, instead of vacating to Stanton; or had Stanton been caught napping and Thomas been *de facto* installed, as Johnson wished and hoped, no *quo warranto* writ could have been obtained against the *ad interim* Thomas by Stanton or anybody else, and thus the President would have accomplished his purpose, obtained possession of the War Department without danger of an adverse decision by the courts. In fact he would thus have made himself master of that most important situation without further let or hindrance, save this House alone.

To my mind this does not look like a desire on the part of the President to get the case before the courts, but rather like an exhaustive effort to keep it from the courts. It is true, Mr. Stanton might not have stood "upon the order of his going;" he might have allowed "one Lorenzo Thomas" to come in and then proceeded to procure a mandamus to be issued to oust him and regain a possession he had voluntarily surrendered. Nobody better knew than Mr. Stanton that possession is half the case. Nobody better knew than he did that the country neither expected nor would stand any such foolery. Mr. Stanton did not yield, neither did he exemplify the olden saying, "the Secretary stood alone." Immediately on serving Mr. Stanton with notice to quit, the same day the President, by special message, communicated to the Senate his action, and that he had made a Secretary *ad interim*. For once the Senate acted promptly—that same day declaring, after long debate, that he had transcended his power, that he possessed no such right as he had assumed to exercise. Equally prompt next day was the action of the House. And now ere we have done with this case, with no undue haste, with no asperity, in the calmness of rectitude and of reason, do I trust it will be made to appear that,

"Though the mills of the gods grind slowly, yet they grind exceeding small;
Though he stands and waits with patience, with exactness grinds he all."

If the "all" is duly meted and milled between the upper and nether millstones of Senate and House, then it is my belief a condemnation will ensue in the Senate Chamber and go forth into the forum of mankind commensurate with the high office Mr. Johnson has so desecrated. Perhaps no other official finale was to be expected from the man the manner of whose induction into office so humiliated the whole heart of the nation.

Mr. Johnson claims that he essayed to remove Mr. Stanton in virtue of divers provisions in sundry old enactments creating, defining, and regulating the Department of War. The bearing of these exhumed statutes has already been too elaborately discussed to require a moment's time from me. He also claims in extenuation, if that removal was in seeming contravention of the tenure-of-office act, he and every member of his Cabinet believed the

act unconstitutional, as though such belief, even if honestly entertained, justified a direct violation of its provisions. Right here it may be well to pause for a backward look to "those days" when there were "giants in the land."

"On the 16th of February, 1835, when the United States Senate had under its consideration a bill to repeal the act of 1820, commonly called the four years' law, passed in restraint of the power of the executive, Mr. Webster, among other things, said: 'Since the President could not appoint without the consent of the Senate, so he ought not to remove without the concurrence of the Senate.' He contended that a mere nomination of a new candidate did not vacate the office; that if the Senate rejected the nomination, the incumbent officer should continue in his place. If the Constitution had given to the President the power of appointment without the aid of the Senate then he might also exercise the power of removal.

"There had been another proposition thrown out in the course of debate, that was, whether the Executive power was subject to constraint or not by law. He believed it might be, for if it was absolute or beyond the control of law then nothing could be done respecting it, but all knew that offices could be created or abolished by Congress, at its pleasure. Even the time of the continuance of an office might be fixed. The power exercised by Congress in passing the four years' law, was a proof of it. That law not only limited the term of holding office, but actually took away commissions which had been signed by the President and sanctioned by the Senate."

"He considered the proposition before the Senate, rather as a bill to regulate the tenure of office," &c.—*Congressional Globe*, Twenty-Third Congress, second session, vol. 2, pages 250-1."

Has a clearer, stronger light dawned upon us since those days? when limitation, abridgment of executive power, even tenure-of-office acts were enacted and not deemed contrary to law or unconstitutional by the great "expounder and defender of the Constitution." Well might it now be asked, when, where, was the modern discovery made of a clause of the Constitution or a statutory provision conferring upon President Johnson and his Cabinet revisory powers, judicial functions, or any appellate jurisdiction whatever over the legislation of Congress? If this revisory power exists and can be exercised respecting one statute, it exists and can be exercised in respect to any and every statute that has not been "passed" by the Supreme Court. If that sequence is logical and forcible—and I see nothing to the contrary—the President may choose to regard and treat any statute unconstitutional which lies athwart the pathway of his policy or any of his purposes. Are his defenders, is the Democratic party which just now occupies that relation, prepared to take that ground and accept the consequences? If they are, I cannot believe they can carry with them the country to that most dangerous position. Take, as an example, the act making appropriations for the support of the Army, passed March 2, 1867. It established the headquarters of the General of the Army of the United States in this city; it directs that "all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General," &c. It prohibits the General being removed, suspended, or relieved from command, or assigned to duty elsewhere, &c., "without the previous approval of the Senate;" declares "any orders or instructions relating to military operations issued contrary to these requirements," &c., "shall be null and void;" declares the issuance of any such orders, transmission of the same, obedience thereto, shall make the offender "liable to imprisonment for not less than two nor more than twenty years," &c. We can better apprehend now than we could four days ago the dangers that lurk in such executive assumption. Perhaps we shall soon know elsewhere, and perhaps we shall never know, what those thoughtful clauses have saved us from; the extent and the intent of the approaches made to officers commanding military forces in this city and elsewhere. Thanks to their patriotism and to their intelligence, as far as yet made known, all, save the Adjutant General of the Army, proved true and faithful, and better posted as to the law and duty, than seem-

ingly was the "Commander-in-Chief of the Army and Navy of the United States."

The President's official oath requires him faithfully to "execute the office of President." The Constitution requires him to "take care that the laws be faithfully executed"—not to construe, not to pass upon the constitutionality, but to obey them himself, and to cause others to obey them! How has he performed that duty? How is he now performing that duty in the South and here in the capital of the nation? He seems to have forgotten and to forget that Mr. Johnson, as President, is himself as much the creature of the Constitution, that both he and his high office are now as amenable to law, statutory metes and bounds, as when he himself was "an humble plebeian," or discharging the lowly duties of an "alderman."

His misapprehension may have arisen in this wise: it is generally conceded that the powers of the Executive in war far transcend those that may be exercised in times of peace. The terrible war of the rebellion for the first time revealed "the hiding" of these powers in the Constitution. They were brought out and put to utmost requisition by Mr. Lincoln. In succeeding Mr. Lincoln Mr. Johnson seemed to think he succeeded to the rightful exercise of all the power wielded by Mr. Lincoln to suppress the rebellion. Ignoring the vast difference of situation, without a public necessity, in time of profound peace, he has, in despite and in defiance of plain law, assumed to exercise uncalled for, unwarranted, absolute powers, to promote his own personal purposes.

In that he did this knowingly, willfully, persistently, does he not deserve impeachment? Judging by the past, can there be any security for the future while he wields the executive power? He suspended Mr. Stanton; the Senate declared his reasons insufficient; in other words, that the Secretary was out "contrary to law." He next issued an order for his absolute removal. Again the Senate considered the case and declared the President had, in thus doing, acted "contrary to law." Notwithstanding that formal and well-considered deliverance of his constitutional advisers, he has since, as President, issued two formal orders "to Adjutant General Thomas" to take possession of the War Department as Secretary *ad interim*. To this hour, as far as known, does he persist in endeavoring to compass the removal and actual ejection of Secretary Stanton and the installment instead of General Thomas, notwithstanding the solemn, formal declaration of twenty-nine out of thirty-six Senators that such proceeding of his is in violation of law.

Did I not thus well say he knowingly, deliberately, persistently disregarded, broke the law, and deserved impeachment? And I now further say we have no reason to believe that he will desist or do different while permitted to be President of the Republic. Instead of forbearing and hoping from him better things, is it not a natural, inevitable presumption that his official *regimen* will be, as it heretofore has been, continually from bad to worse?

The tenure-of-office act of March, 1867, originated in this settled conviction, and that what security against his encroachments and usurpations law could give must be invoked *pro bono publico*. It did not originate so much in restraint of Mr. Johnson's exercise of the usual prerogatives of the Executive as in his refusal to respect, in removals and appointments, the constitutional "advice and consent of the Senate." But for another purpose I turn to that act now. The sixth section sets forth:

"That every removal, appointment, or employment made, had, or exercised contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed and are hereby declared to be high misdemeanors," &c.

Was or is the Secretary of War included in the provisions of that act? The first section,

among other things, after enumerating the Secretaries of Departments officially *eo nomine*, declares they—

"Shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

Mr. Johnson was never elected President; he is but serving out Mr. Lincoln's second "term;" that second "term" expires March, 1869. Mr. Stanton, duly commissioned, was serving as Secretary of War in the very midst of that second "term" when he was so summarily removed, or attempted to be, last Friday, without the advice and consent of the Senate, and another was directed by the President's express letter, if not commission, to take his place.

If English words, marshaled into the formality of a statute, do not lose their usual force and significance, if facts are not falsehoods, then has Andrew Johnson, acting President of the United States, beyond all cavil and all doubt, in disregard of his oath, violated, broken, both the spirit and the letter of the first and sixth sections of the "act regulating the tenure of certain civil offices," passed March 2, 1867. Shall he, for that transgression, be arraigned and impeached? He did it deliberately; he did it after the Senate had solemnly declared his "reasons" for the removal of that officer were insufficient. It has not been pretended, it will not be, that since his resumption of "the functions of his office" Secretary Stanton has given any fresh occasion or reason for this last outbreak. The act of the President last Friday was then, as I said, deliberate, and, in view of the previous suspension and restoration of Mr. Stanton, with no new or additional provocation, insolent and defiant to the Senate and to the sense of the country; not, perhaps, in itself of the gravest importance, yet, viewed in connection with the previous unsustained suspension, and as one of a series of illegal acts, in my judgment, it is sufficient to admonish us that the hour has fully come when we must resort to that great supreme remedy provided in the Constitution—impeachment; impeachment for the past, impeachment for the present, impeachment that we may have speedy reconstruction, restoration, peace, quietness, and assurance throughout all the borders of our land. Is it not palpably evident that with this man in his high office we cannot have present tranquillity and prosperity or any reliable assurance for the future? My vote must be, therefore, in favor of putting him on trial; and believing, as I do, that he is guilty, greatly guilty, I cannot, much as I pity him, find it in my heart to repeat, in his behalf, the old formula, "May God grant him a safe deliverance."

Impeachment.

SPEECH OF HON. G. W. JULIAN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1868,

On the articles of impeachment reported from the committee.

MR. JULIAN. Mr. Speaker, I do not rise for the purpose of discussing the articles of impeachment reported by the committee, but to submit a general observation or two by way of explanation of their spirit and purpose. Should these articles be adopted by the House, the President must be tried upon the specific charges which they recite; and the proof of them being almost wholly matter of record, the trial can be speedily concluded, and the removal of the President as certainly secured as it could be done on a full review of all his past misdeeds. The people will not fail to see this; and under the impelling desire for the restoration of order and peace throughout the coun-

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try will fully justify our action in confining the material grounds of the inquiry within the narrowest limits.

But it must not be understood that in bringing this great national criminal to trial on the particular charges specified, he is to stand acquitted of the transcendently greater crimes which have been laid at his door. History will make no such record. On the contrary, his conviction as charged must carry with it his moral conviction of the whole series of usurpations and wrongs of which he has stood impeached by the country within the past two years. Does any one believe that if he had faithfully performed the duties of his high office up to the 21st of February last, the thought of impeachment would have occurred for the attempted removal of the Secretary of War, or for any of the particular acts now charged against him? Sir, it is only when these acts are interpreted in the light of his past course of lawlessness that his real character and guilt are made to appear. It is the infernal back ground of his other villainies that gives to them their enormity, and makes them the timely occasion for laying the nation's hand upon him and hurling him from his place. Not alone the relatively trifling offenses now charged, but the deeply-rooted conviction of his previous guilt has at last brought Congress and the people to their feet in demanding his removal. They regarded him as a monstrous criminal, who was in a fair way to escape justice, but who, by his own act, has at last brought himself within the sure grasp of the law; and with gladness and thanksgiving they have come to the rescue of the country. Our Democratic friends are very sorry we did not make our charges as comprehensive as we believed his guilt, and try him upon the whole ground of his public delinquency. Sir, our charges are broad enough for the end in view, and in effect he *will* be tried upon the whole question of his official action. It is as impossible to separate it from this proceeding as it is for a man to run away from his own shadow, or to dissolve the relation between cause and effect. Andrew Johnson will be tried for usurping the legislative powers of the Government, for appointing traitors to civil offices, for trampling the laws of Congress under his feet, for the monstrous abuse of the pardoning power, for the massacre at New Orleans, for the corrupt transfer of southern railroads to rebels, for his indecent abuse and defiance of Congress, for his drunkenness before the representatives of the people and of foreign Powers, for the murder and rapine that have been inspired by his influence, sweeping over the South like a tempest, and for delaying, in ten thousand forms, the return of peace, order, and security to these States. These are the counts in the indictment on which he has been arraigned by the people of the United States and adjudged guilty; and his conviction by the Senate on the charges now made will only seal the judgment of his country, and fix, beyond all question, his high rank among the greatest malefactors of the world.

Impeachment.

SPEECH OF HON. J. M. HUMPHREY,
OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 29, 1868,

On the articles of impeachment reported from the committee.

Mr. HUMPHREY. Mr. Chairman, in the brief time allowed me under the tyrannical rule of the majority of this House, I can but glance at the topics which present themselves for consideration, now that a partisan caucus has determined to complete the usurpation of the Government by the impeachment and removal of the President.

I will show that if the President has violated

any law it is not the tenure-of-office law, and he has been twice acquitted by this House and the judgment of the country of the violation of any other law of the United States. By the terms of the tenure-of-office act it is provided—

"That the Secretaries of State, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they were appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

This act in no way forbids the removal of Edwin M. Stanton, who was appointed Secretary of War by President Lincoln during his first term of office, was not reappointed by Mr. Lincoln in his second term, and has never been appointed by President Johnson. An appointment contemplated by this act to executive office can be made only in one of two ways. When the Senate is not in session an appointment can be made by the President, who issues a commission to the officer. When the Senate is in session the nomination must be sent to the Senate, and if it is confirmed then the President issues the commission. Edwin M. Stanton has been appointed in neither of these ways during the administration of President Johnson, and the term of the Presidency during which he was appointed expired at twelve o'clock m. on the 4th of March, 1865, the time at which Mr. Lincoln took again the oath of office for a new Presidency. Since this time, and prior to the appointment of General Thomas, he had been acting Secretary of War by sufferance of the President merely.

When called upon to vacate the clerkship he had disgraced he denied the power of the Executive to displace him, disobeyed the order to hand the War Department over to his successor *ad interim*, entrenched himself in the War Office under military guard, and from thence openly defies the executive and judicial departments of the Government. Having procured the arrest of General Lorenzo Thomas by criminal process on the charge of high misdemeanor, in that "on the 21st day of February, 1868, he did unlawfully accept the appointment of the office of Secretary of War *ad interim*, and did then and there unlawfully hold and exercise the office," and when summoned to appear in court and show his commission as Secretary of War, Edwin M. Stanton, with the connivance of the judge upon the bench, fails to show by what warrant he holds the office, and General Thomas is discharged. He has no commission; he holds the position by force.

It is said by those who extenuate this usurpation that the President has acknowledged Mr. Stanton as Secretary of War. This is true, and yet the fact that he was suffered to remain in charge of the Department was no appointment of the man. It is urged, also, that by the previous suspension of Mr. Stanton under the tenure-of-office act, the President has admitted that the act is applicable to him. Not so. Because the President, for the purpose of testing the constitutionality of this statute, acted under it, he is not stopped from availing himself of the power he possesses to remove the Secretary absolutely. According to the theory of the usurpationists, if he had not acted under this statute in the suspension, he would have had the power of removal. This is absurd. He had the right to choose which of the powers granted him he would exercise in the first instance. He had the power both to suspend and to remove, and the exercise of either power cannot estop him from resort to the other. In law General Thomas is Secretary of War while Stanton maintains himself in office by military force and appeals to Congress to sustain him in rebellion.

A parallel case would be that of a postmaster who, after having been removed, should refuse to deliver his papers and keys to his legally-commissioned successor and barricade himself in his office. The War Department is one branch

of the executive department of the Government—a part of the Presidency itself—and Congress has no more power to legislate the President out of the control of this portion of the Presidency than it has by legislation to deprive him of the Presidency altogether. It is proposed, however, in the first place, to deprive the President of one seventh of his office—the War Department—and then, by his impeachment, to seize upon the remaining six sevenths, for the avowed reason that he has endeavored in a legal manner to rid himself of an obnoxious and insubordinate clerk. With the same propriety might Congress, when General Grant was engaged in crushing the rebellion, have endeavored to force General Butler upon him as a confidential aid or a division commander.

The President is formally charged by this House with having committed high crimes and misdemeanors. What are his crimes? As I have said, he has sought lawfully to remove a subordinate who defies his authority and who teaches rebellion to the Army and the people; to change one member of his official family, one of his advisers, who has no legal powers except those derived from the Executive. The President has no motive in this except to better enable himself to carry out the policy which he deems essential to the restoration of peace and Union; a policy which he inherited from President Lincoln; a policy which was inaugurated by the Republican party in 1864 as the one best adapted to secure the results of the war; a policy which was opposed only by the extremists of that year on the ground that it contained the element of "charity for all, malice toward none," who also resisted the renomination of Abraham Lincoln because he was too tender-hearted, too conservative. Look for one moment at the record of Andrew Johnson! A member of the Senate when the southern conspirators were developing their treason in Washington, he severed his connection with his colleagues and stood up boldly in his place to denounce both the treason and the traitors. While Andrew Johnson, the patriot, was thus engaged the Representative at large from Illinois, Hon. JOHN A. LOGAN, one of his impeachers, was telling his constituents "that the Republican party was a sectional party, designed by the Radicals and rebels of the North to abolish slavery, to establish negro suffrage, to inaugurate a war which would result in the overthrow of the Constitution and the erection of a despotism on its ruins." While the Radicals then denounced are now laboring to convert his prophecy into history Johnson is resolutely now, as then, observing his oath to preserve and defend the Constitution. As the secession movement progressed Andrew Johnson never faltered in his loyalty to the Union. He was driven by the rebels from his own State; he periled his life in the conflict; in short, he so commended himself by his whole career during the rebellion to the favor of the party that then professed to be anxious to restore the Union that, to the exclusion of other able men, he was nominated for the second office in the gift of the people, against the protest of the extremists who now jostle each other in the front rank of his revilers and accusers.

The majority of the delegates to the Baltimore convention of 1864 had not been educated up to the idea that the rebellion was a success, and they voted down the disunionists, who demanded the Vice Presidency for a New England Radical, and who subsequently nominated John C. Frémont for the Presidency. Lincoln and Johnson were elected, and when, shortly after their inauguration, the bullet of a cowardly assassin had deprived the country of its chosen President, and Mr. Johnson had succeeded to the executive office, the Radicals were delighted that a man of sterner stuff was to deal with the questions of the day. They hastened to tempt him with the bribe of absolute power, to be exercised as they should direct and in the interest of faction. They

tendered him a standing army of five hundred thousand men in time of profound peace, as the nucleus of a consolidated Government, and he rejected the proffer. They tendered him the unlimited patronage and the unlimited millions of the Freedmen's Bureau bill, which made him despot of ten States and master of the remainder, and he spurned the proposition. Andrew Johnson had registered an oath in heaven to be faithful to the constitutional rights and liberties of the American people.

And what is the record of Edwin M. Stanton, the chief conspirator against Andrew Johnson and the Republic? While Senator Johnson was denouncing secession as a treasonable crime history proves that Stanton was a blatant rebel in the streets of Washington. When the venerable Cass retired from the hesitating Cabinet of Buchanan Stanton remained, the friend of rebels and rebel sympathizers. At the time that Andrew Johnson was breasting the storm of secession in the Senate Chamber Stanton was grasping by the hand the rebel Senators as they abandoned their seats and left the Senate Chamber forever, and advising them to stand firm by the rebellion they had already inaugurated. He never took the iron-clad oath of office, and cannot take it without perjury. He dare not take it to-day. When, feigning conversion to Radicalism, he crawled into the Cabinet of President Lincoln, he signaled himself as the marplot of the Army. He ruined generals who incurred his displeasure. He proved the most insubordinate and disobedient of officers, the most treacherous and tyrannical of men.

When the war closed by the surrender of all the rebel forces to Generals Grant and Sherman the people expected, as they had a right to expect, a restored Union, with all the dignity, equality, and rights of the States unimpaired. This had been promised them by the solemn declaration of Congress. It was the wish that every patriotic heart breathed first. While fathers and mothers all over the land were mourning their lost sons and lamenting the empty chairs around their hearth-stones they could not but rejoice that national integrity and constitutional liberty were assured, that republican institutions were vindicated against foes from within and without, and that henceforth the American flag would symbolize a State for every star. In the fall of 1865 every Republican State convention indorsed the policy of President Lincoln, adopted by President Johnson, and exemplified in the appointment of provisional governors for the southern States. "Peace has been conquered; we stand on the threshold of reunion," was the universal thought.

But this was not to be. On the first day of the first session of the Thirty-Ninth Congress THADDEUS STEVENS, pursuant to caucus decision, introduced a resolution in this House which gave vitality to the startling proposition that the rebellion had triumphed, that the States were not in the Union, and that Congress had the power to reconstruct and recreate them in its own likeness. A reconstruction committee was appointed, and this was the first step toward the consummation of this policy of disunion now about to triumph in complete usurpation. Under the auspices of reconstruction committees the restoration of the Union has been prevented; the vacant chairs in Congress, so touchingly alluded to by Secretary Seward, have not been filled; the millions expended in the war for the Union have been supplemented by other millions wasted in perpetuating disunion; laborers worthy of their hire are without work and without bread; manufactures are crippled, and every business and commercial interest is suffering, while debt and taxation increase. Three reconstruction laws, each more futile and unconstitutional than its predecessor, have been passed, and the fourth is now pending. The sole purpose of these measures has been, by successive

steps, to arrive at the complete usurpation of the Government by a faction, so that all its power may be exercised in the interests of the faction.

The ten southern States having been seized upon and placed under military despotism, the usurpationists have only two more obstacles in the way of unlimited power, and these are the executive and judicial departments of the Government. The plan of removing these obstructions is already developed. The President is to be deposed by a partisan vote, and the Supreme Court is to be made powerless to declare any legislation of Congress on political subjects unconstitutional and void. A bill to authorize a minority of the justices of the Supreme Court to control its decisions only awaits the crack of the party's whip to become a law. With the consummation of this conspiracy (destined, I trust, to be overthrown) would perish the Republic. A government of force would succeed to one of constitutions and laws. Negro suffrage would be declared in every State and enforced by bayonets if necessary. Elections, if they are permitted, would be liable to military interference. All this and more may be in the near future. Senator WADE, rebuked and repudiated by the people of Ohio, is already in training for the White House. With his accession would come the change of every Cabinet officer, except Stanton, the personification of force and Seward, the personification of duplicity and left-handed diplomacy, who publicly declared Stanton "divine," and more recently branded Grant as guilty of falsehood. Within thirty days every officer of the Government suspected of the slightest reverence for the Constitution would give place to a thorough-paced Radical. The Army and Navy would be promptly weeded of every officer who, from any veneration he might have for ancient usages, would hesitate to act "outside of the Constitution" and military and naval regulations. Protesting clergymen would be silenced, as was the Rev. Mr. Benedict, of my district, by abduction and imprisonment. Dissenting orators would be persuaded to waive old-fashioned declamation about the Declaration of Independence, the Constitution, and Washington's Farewell Address by shoulder-strapped officials armed with Seward's little bells and backed by a corporal's guard. The press would be no longer free, and editors who dared to denounce the crime against liberty would be consigned to a bastille and their offices seized, as were those of the New York World and Journal of Commerce during a recent reign of terror, which it is a part of the plan to renew.

If all these appliances should fail to overawe the citizens and decide the presidential election in favor of the usurpers, does any sane man suppose that the electoral votes of the States of New Jersey, Maryland, and Kentucky would be counted, since the majority in Congress has not hesitated to exclude Senators and Representatives from these States? Does any one suppose that the vote of the Empire State, with her one hundred thousand majority for the Union, would be counted if it were not more than overbalanced by that of the States reconstructed and handed over to despotism and the ignorant blacks, whose ballots are as unerring as the bayonets that direct them? When these openly-avowed purposes of the usurpationists are accomplished the revolution will be complete, and a nation of white men will have parted with their birthrights forever, unless they are regained as the fathers of the Republic won their independence.

To tamely submit to the consummation of this Radical conspiracy would be cowardly. National pride, the instincts of the white race, adherence to the principles of republican government, the interests of capital and labor, alike demand that this treasonable plot be checked. The bondholder, the manufacturer, the artisan, the masses of workingmen all over

our community, are deeply interested in the pending issue. The remedy lies in an appeal to these classes, without distinction to party, to unite in protest, in organization, in action, against the usurpationists.

When southern rebels in arms were menacing Washington, the cry rang through the land, "There are only two parties now, Union men and rebels." So, too, to-day, there is no middle ground between the Unionists and the usurpationists, so far as the freemen of the northern States are concerned. Ten States have passed under the yoke of despotism, and the only remaining question is, "Shall the despotism be made complete?" It is not possible that military governments can exist south of the Potomac, and free institutions flourish north of this river. One destiny awaits the whole country. We must either struggle into freedom or degenerate into serfdom. The beds that we make for the people of the South are those upon which we must seek our only repose. It is idle to say that the faction which is indorsed in the seizure and exercise of unlawful power will voluntarily surrender it to the people. The love of absolute authority increases with its possession, and those who have perpetrated crimes against liberty never sentence themselves to the dungeon and the scaffold. George Washington, who took the sword to establish the right of the people to self-government, and the principle that taxation without representation was full justification for revolution, heroically surrendered it when victory was won; but men like Stanton and his co-workers, once in full possession of the sword, will never return it to the plowshare. We must now reestablish the Republic or lapse into monarchy. Not a day nor an hour is to be lost. Gradually but certainly, since the close of the war, the consolidationists have been centralizing their forces and perfecting their schemes, and at this very moment the very existence of a democratic Government hangs trembling in the scale of chance.

In the name of larger liberty the American people are asked to consent to the embrace of a monster whose hidden mechanism is managed by the unprincipled Stanton, aided and abetted by the controlling men of the Radical party. I charge, upon the floor of this House, that for four years the steady efforts of Mr. Stanton have been directed to throw the influence of the War Department, which he has so corruptly controlled, and to shape the legislation of Congress—the acts of which, down to the tenure-of-office bill, have been largely inspired and often written by him—to establish an armed despotism in this country under which he shall hold permanent power. And I charge that this plot is reaching its culmination now in the recent action of this body in impeaching a President of the United States whom every honest man knows has done no wrong. If Mr. Stanton and his associates suppose that the people of the United States can be betrayed and subjugated to such a tyranny without an appeal to that God of battles who protects the right I fear they will find that they have underrated the intelligence and patriotism of the American people.

Impeachment.

SPEECH OF HON. J. LAWRENCE GETZ,
OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1868,

On the articles of impeachment reported from the committee.

MR. GETZ. Mr. Speaker, I cannot attempt in the few minutes to which the arbitrary rule, or rather suspension of all rules, confines each member during this debate to speak what I know to be the sentiments of my constituents

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upon the gravest measure that has ever been presented to the consideration of the American Congress, and that we shall to-day be compelled to see hurried through the House in a hot haste which betrays the conscious fear among its supporters that it cannot bear the calm and deliberate investigation which its importance demands. For the first time in the history of our Government the impeaching power is invoked to depose a President of the United States for alleged "high crimes and misdemeanors;" not such as were in the contemplation of the framers of the organic law under which these proceedings have been instituted, but offenses purely political; if, indeed, it be an offense in the President, obedient to his oath "to support, protect, and defend the Constitution," to interpose its salutary checks and limitations for preventing the consummation of the partisan designs of those who, by the bold admission of their accepted leader in these proceedings, are "acting outside of the Constitution."

The articles or charges upon which the House is asked to impeach the President are ten in number, covering five closely-printed pages; and, with due respect to the learned gentlemen of the committee from whom they have emanated, they appear to me one of the most remarkable performances of the difficult feat of playing a thousand tunes upon a harp of a single string that has ever been achieved. If this extraordinary paper shall not fill a conspicuous page in the legal or judicial annals of the United States it will, at least, merit preservation among the curiosities of American literature as a brilliant example of the facility with which those who are skilled in the use of words can expand "a single tuft of thought into a great prairie of language."

Nine of these articles may be resolved into one—a conspiracy by the President with Adjutant General Thomas to remove Edwin M. Stanton from the office of Secretary of War, in violation of the provisions of the so-called "tenure-of-office" law.

The tenth article is unsupported by the fragment of testimony which has been laid upon our desks as the warrant for its introduction. On the contrary, it proves, if anything, directly the reverse of what the article charges, namely, an attempt to induce General Emory to place the military forces under his command in the department of Washington, in obedience to the direct and exclusive orders of the President. What is the nature of this law which the President is accused of having violated? Partisan in conception, partisan in its birth, and partisan in its every feature, its manifest and only object was to limit and curtail, so far as an act of Congress could do, the constitutional power of the President to make appointments to and removals from office, a power which has been exercised from the days of the first President down to the present time without dispute or denial by any competent authority, and with no restriction save "the advice and consent of the Senate."

Waiving the question of the constitutionality of this partisan law—which its advocates dare not submit to the test of a judicial tribunal, and which, if we may believe testimony that has not yet been controverted, Mr. Stanton himself pronounced unconstitutional a year ago—in what respect has the President violated any of its provisions? He must have violated the first section or none. What is that section? It has been repeatedly quoted, and reads thus:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Post-

master General, and the Attorney General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."—*Statutes-at-Large*, Thirty-Ninth Congress, second session, chap. CLIV.

Here, then, by the proviso, all the Cabinet officers, the Secretary of War included, are expressly excepted from the operation of this law. By what process of special pleading can it be made to appear that Edwin M. Stanton—Mr. Lincoln's appointee, not President Johnson's—has, or ever had since the latter's accession to the Presidency, any other title to the office he now holds by the aid of a body-guard of soldiers save by the permission or sufferance of his superior? For the first time in the history of this Government (and let us hope it may be the last) the disgraceful spectacle is presented of a Cabinet officer, one whose relations to the President should, and must be, of necessity, to a great extent personal and confidential, insolently refusing a civil request to resign, after it had become apparent that the President could no longer, with proper regard to his own self-respect and the dignity of his station, hold official intercourse with him; and, contrary to all precedent and in base violation of the recognized rules of good-breeding and honor, insisting upon remaining as an intruder in the place he can no longer competently fill as an officer, since he has forfeited every claim to recognition as such by the superior whose authority he has defied. Such conduct has been condemned in language more forcible than any that I could utter, and certainly more authoritative, by two leading Republican Senators. I quote their very words, from the Congressional Globe, volume sixty-three, part three, page 1515. The report of the committee of conference on the tenure-of-office bill being under consideration, Senator HOWARD said, in reference to the proviso I have above quoted:

"I have no doubt that any Cabinet minister who has a particle of self-respect—and we can hardly suppose that any man would occupy so responsible an office without having that feeling—would decline to remain in the Cabinet after the President had signified to him that his presence was no longer needed."

"For I presume that whenever the President sees proper to rid himself of an offensive or disagreeable Cabinet minister he will only have to signify that desire, and the minister will retire and a new appointment be made."

Senator SHERMAN, on the same occasion, spoke even more emphatically:

"I take it that no case can arise, or is likely to arise, where a Cabinet minister will attempt to hold on to his office after his chief desires his removal. I can scarcely conceive of such a case. I think that no gentleman, no man with any sense of honor, would hold a position as a Cabinet officer after his chief desired his removal, and therefore the slightest intimation on the part of the President would always secure the resignation of a Cabinet officer."

With this sweeping condemnation of the conduct of Mr. Stanton before us, pronounced in advance, and therefore dispassionate and impartial, by his own political friends, I may well leave him to the justly provoked odium and contempt of the American people. But not only do Republican Senators bear testimony against him. The two officers of highest rank in the Army—General Grant, the idol of the Republican party and their fore-determined candidate for the Presidency, and Lieutenant General Sherman, his inferior in rank only—unite their voices in condemning him. I make this assertion advisedly upon the authority of the following autograph letter now in the hands of the President:

WASHINGTON, Saturday, January 13.

I neglected this morning to say that I had agreed to go down to Annapolis to spend Sunday with Admiral Porter. General Grant has also to leave for Richmond on Monday at six a. m. At a conversation with the General after our interview, wherein I offered to go with him on Monday morning to Mr. Stanton, and to say that it was our joint opinion he should resign, it was found impossible by reason of his going to Richmond and my going to Annapolis. The General proposed this course. He will call upon you to-morrow and offer to go to Mr. Stanton, to say, for the good of the service and of the country, he ought

to resign. This on Sunday. On Monday I will again call on you, and, if you think it necessary, I will do the same—call on Mr. Stanton and tell him to resign. If he will not, then it will be time to contrive ulterior measures. In the mean time it so happens that no necessity exists for precipitating matters.

Yours, truly,

W. T. SHERMAN,
Lieutenant General.

Here, Mr. Speaker, we have in effect the President justified and Mr. Stanton denounced out of the mouths of the latter's own party friends. Senator HOWARD says that no Cabinet officer who has "a particle of self-respect" would act as he has done. Senator SHERMAN, more particularly, says "No gentleman, no man with any sense of honor, would hold a position as a Cabinet officer after his chief desired his removal." Generals Grant and Sherman volunteer to say to this shameless intruder, "For the good of the service and of the country he ought to resign." And yet, sir, he holds on; and Congress is called upon to justify and maintain this flagrant act of insubordination—this usurpation by an inferior officer of the authority he can constitutionally exercise only at the will of his superior, the Commander-in-Chief—by the summary removal of the executive head of the nation! Can partisan malignity go further? Could a sacred provision of the Constitution, inserted for the wisest and best of purposes, be prostituted to baser ends? The object of this disreputable proceeding is too transparent to be concealed from the notice of an intelligent people. It is the last desperate struggle of an unscrupulous party to continue and perpetuate their controlling power in the Government. They must elect the next President by fair means or foul. Andrew Johnson stands as "the lion in their way." Depose him, and thrust in his place the repudiated Senator from Ohio, who will do their bidding to the very letter, and they regain control of the executive branch of the Government. Nominate Grant, the General of the Army, who already practically outranks his Commander-in-Chief, and they have control of the Army—an engine whose potent influence the people have seen and felt in previous elections. The judicial power is virtually ignored; and the legislative power they now hold unrestricted. By such agencies they "lay the flattering unction to their souls" that they may hazard the forms of an election for President with no apprehensions about the result.

That the impeachment of the President is instigated solely with a partisan intent, and demanded for partisan purposes, I think I might prove if permitted to ask the chairman of the committee that has reported these articles two questions. I should expect no answers, but they will suggest themselves. The questions are these:

First. Is it the intention of Congress, after the political assassination of Andrew Johnson shall have been accomplished and the President *pro tempore* of the Senate has taken his place, to repeal the tenure-of-office law?

Whether the reply would be yes or no, is not material. If affirmative, we have but to fall back upon the Constitution and "the laws of the United States which shall be made in pursuance thereof;" which, in my opinion, agreeing for once with Mr. Stanton, the law in question was not.

Second. Should Mr. WADE succeed to the Presidency by means of this impeaching process, and should he, in the exercise of a reasonable desire to make his Cabinet a unit, request one or all of the present Cabinet officers who hold over under Mr. Lincoln's appointment to resign, and should one or all of them, with Stantonian insolence, refuse, if then Mr. WADE should undertake to remove them, one or all, and designate officers to discharge their duties *ad interim* until he should have time to select proper persons to nominate to the Senate for permanent appointment, would the majority of this House upon the instant impeach him of high crimes and misdemeanors?

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Impeachment—Mr. Cobb.

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Surely not, Mr. Speaker. Then, sir, the high crimes and misdemeanors for which Mr. Johnson is to be impeached are confessedly partisan and political, and not such offenses as any court of justice could or would take cognizance of. Much less, then, should that august tribunal, the Senate, sitting as a high court of impeachment, entertain them.

I cannot, sir, more forcibly denounce this unparalleled exhibition of the vindictive frenzy of unbridled party spirit, whose watchwords are "rule or ruin," than in the eloquent words of the chairman of the Judiciary Committee, [Mr. WILSON, of Iowa,] spoken on the 19th day of July last, when the first proposition to impeach the President was pending. Alas, sir, that he and others of the majority of this House have been "turned aside from the conscientious discharge of duty" by the "political pressure" they then so manfully resisted.

"When the House of Representatives charged the Committee on the Judiciary with the investigation of this case, I did not understand that it was for the purpose of having it disposed of as a partisan question. I understood that, so far as the reference of the subject imposed an obligation upon me as a member of the committee, it was to investigate fearlessly and faithfully the subject, not merely as a member of the Republican party, but as a member of the Law Committee of the House of Representatives. I have pursued the investigation with that view and in that spirit, and I affirm here to-day that no amount of political pressure shall turn me aside from a conscientious discharge of the duty thus imposed. I will be controlled by the law and the facts, and by nothing else. I have no sympathy with the course of political conduct which has been pursued by the President of the United States. He is not entitled to my sympathy or respect in this regard; but, sir, he is entitled to have the charges made against him determined according to law, and to have the case decided as the facts and the law warrant and demand. The lowest criminal may demand this, and the President is entitled to the benefit of this rule.

"The gentleman from Pennsylvania [Mr. STRYKER] has said that there are secret influences at work in this matter. Sir, it is very easy for any man to cast suspicion upon others when it becomes necessary to do so in order to carry by force of party organization anything which he may desire to invest with success. I do not know to what influences the gentleman referred. The gentleman says that secret influences will not only control the action of members of this House, but will control the judgment of members of the Senate sitting as a high court of impeachment under the solemnity of their oaths as judges. Sir, is every man to be denounced because he cannot look upon questions just as some other man view them? Is every man to be hounded down because he will not surrender the right of private judgment and follow men regardless of law and the directions of conscience? Have we come to that, sir?"

In view of what the House is now doing, and what the Senate will be commanded to do, under the "political pressure" which has at length become irresistible, the people, with fearful solicitude for their country's future, may well exclaim: "Have we come to that?"

Impeachment.

SPEECH OF HON. AMASA COBB,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1868,

On the articles of impeachment reported from the committee.

MR. COBB. Mr. Chairman, if this debate be confined to the form of the articles of impeachment against the President, which this House has ordered to be prepared, and of which the loyal people of the country have declared him worthy, its scope would be narrow, indeed, and the fifteen minutes to which I am entitled would be more than sufficient to enable me to express my views on that subject. But as the general subject of impeachment has been considered in order, I have sought the floor to give my views on this grave question, for it is a grave and important one. A legal proceeding against any citizen which may deprive him of his political rights, should always be approached by lawyers, courts, and jurors with a due sense of official responsibility, and it adds somewhat to that sense of responsibility

when the accused has stood high in the estimation of the community.

While it is the duty of courts and juries to protect the rights of the meanest and lowest of mankind when placed upon trial accused of crime, it is equally their duty to administer the law without fear, affection, or hope of reward, when the accused chances to be the possessor of vast influence by reason of official position, wealth, or talent.

This House has been admonished in tones of solemn warning against laying its hand upon the sacred head of the President. While listening to some of the gentlemen on the other side of the House one could almost imagine himself carried back to the days of the Stuarts and listening to a bull of excommunication against the regicides read by the Pope's nuncio. But let it be borne in mind that this impeachment of the President is no impious uprising of ungrateful subjects, forgetful of the favors of a kind sovereign and restive under the measures of chartered privileges, seeking to lay their impious hands upon the sacred head ruling by divine right. Oh, no; this is a case of the sovereign people calling to account an unfaithful steward, one whom, in an unguarded and unfortunate hour, they had taken from obscurity and generously placed in a service of great honor and emolument.

Although most of our legal terms are borrowed from the mother country, yet in their meaning and application they are often necessarily reversed in consequence of the radically different nature and character of our institutions. Under monarchical institutions the people and their rights are matters of secondary considerations. The ruler, the sovereign, and his privileged class of office-holders are "the State." Hence to impeach one of these was considered a high-handed proceeding. It has been sometimes held in England that impeachment would only lie for an indictable offense—or at least it is so claimed, and I admit it for the purpose of this illustration. And certain it is that there many of the rules governing trials in criminal courts have been held to be applicable to trials of impeachment.

But in this country and under the genius of our free institutions all of this is reversed. It is a wise maxim of the common law that "every man shall be deemed to be innocent until his guilt is proven beyond a reasonable doubt;" and, again, that "it were better for ninety and nine guilty men to escape than for one innocent man to suffer;" but I have met with no such maxim as that every man shall be deemed entitled to hold a lucrative office until the contrary is proven, nor that it were better for ninety and nine rogues to remain in office than for one honest man to lose an office. No, sir; in this country offices were made for the people and by the people. When they make a grave mistake and elect an unworthy man to office the mistake is their own, and the misfortune must be borne until a lawful opportunity occurs for remedying it. This opportunity generally occurs at the recurring periodical election, but sometimes the recipient of public favor is so unworthy and so forgetful of the people whose servant he is that he recklessly places the remedy into their hands for earlier use.

By the terms of the Constitution the House of Representatives—you, Mr. Chairman, and I with our fellow-members—are made the sole judges of the time and occasion when the people of the United States shall call to the bar of the high court of impeachment any one of their public servants, be he President of the United States or be he justice of the peace for the District of Columbia, to answer for high crimes and misdemeanors in office. To fail in the discharge of this duty would be as great a dereliction on our part as to fail in the discharge of any other duty clearly enjoined upon us by the express terms of the Constitution.

Is he a high officer whom it is sought to impeach? The people, whose servants we are, are higher than he. We seek to deprive no man of his office. We seek to restore to the people their office which, in the keeping of this man, has been sadly abused.

Then, Mr. Chairman, let us enter upon the discharge of our duty unawed by the solemn warning of the gentleman from New York, [Mr. BROOKS] who has not failed on any occasion to raise his voice of warning against any measure for the suppression of the rebellion, be it organized and entrenched in Richmond or at the other end of the avenue.

The gentleman from Illinois [Mr. BURR] warns the House and the country that this matter of impeaching the President is an effort on the part of this House to place a man in the presidential chair who was never voted for by the people. Sir, the impeached President was not elected to that office by the people of the United States, and it seemed to me little short of cruelty on the part of the gentleman to call special attention to the manner in which Andrew Johnson became President. The most distant allusion to the bloody hand which, sending Abraham Lincoln to a martyr's grave, elevated Andrew Johnson to the presidential chair, sends a thrill of anguish to every loyal heart; and if it is now a theme of pleasant reflection to him who profited most by it, I believe that the time will come when he would give the recollection of all his many honors and offices to have it effaced from his memory forever.

In some one of his numerous public addresses I believe that the President, ascribing his elevation to office to the workings of the Constitution, claims for his tenure of office something higher and more sacred than though he had been elected in the usual way. I think that I can assure the gentleman from Illinois that whatever view the people of the United States may take of the impeachable conduct of the President, the manner of his elevation to office was not such as to give him an unusual hold upon their affections, or to render his removal the cause of an indignant uprising or revolution; and let it not be forgotten that the same Constitution, by the working of which Andrew Johnson became President, has made it the duty of this House, elected by the people of the United States, in a certain contingency to make a President, and again to initiate proceedings for the unmaking of that President who, unmindful of his high duties, shall be guilty of high crimes and misdemeanors in office.

Has Andrew Johnson committed acts in office which, in view of the Constitution, render him worthy of impeachment and removal from office? In endeavoring to answer this question in the affirmative, as I think it must be answered, I will only speak of those acts of his which are grouped together in the articles presented by the committee as the culmination of that career of usurpation, of crime, and of misprision of treason upon which he entered in May, 1865, and which from that day to this has saddened the heart of every loyal man and woman in the country, and made the veterans of the Army doubt whether after all we did not surrender to the rebels at Appomattox Court-House and at Salisbury, and whether it was not our President, and not Jefferson Davis, who, becoming entangled in crinoline and things, had surrendered to his captors.

The attempted removal of the Secretary of War and the attempt to seduce a gallant officer of the Army from his duty, are, in my opinion, ample cause for the impeachment of the President. Upon these overt acts the articles of impeachment are framed, and to these, under the rules, perhaps this debate should be confined; but for the purpose of illustration I desire to call the attention of the committee to a few antecedent facts which in my mind afford the only true key to the motive for this extraordinary conduct. In the brief time allowed

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Impeachment—Mr. Paine.

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me, I can, of course, only enumerate a part of the many acts of the President, which I have always considered impeachable, and cannot elaborate my views upon any of them. The Constitution of the United States provides that "he," the President, "may, on extraordinary occasions, convene both Houses or either of them." I believe that it is a well-settled principle of law that the word "may," when used in a statute prescribing the duties of a judicial or civil officer, implies a duty and not a mere discretion to do the particular act upon the happening of the contingency specified.

Mr. Chairman, can there be any doubt that the middle of April, 1865, was an extraordinary occasion in the meaning of the clause of the Constitution of the United States above quoted? The armies of the rebellion, which had for four long years occupied the greater portion of eleven of the States of the Union, which had many times carried the bayonet and the torch into the very heart of the North, which had more than once beleaguered this the capital of the nation, in that month struck their flags and laid them at the feet of our gallant generals. Our own gallant Army which, under God, had overthrown its enemy after four years of gallant fighting, unremitting toil, and patient suffering, was ready to be disbanded and return its million of men to the pursuits of civil life. And in the midst of the nation's rejoicings and praise to that God who giveth the victory Abraham Lincoln, the President of the United States, the head of the nation, twice elected, honored and beloved of all loyal men, was basely murdered by an assassin. Was not this an extraordinary occasion? In my opinion, if ever a plain duty rested upon mortal ruler, Andrew Johnson was that ruler; and to call Congress together as the first act of his official life as President was that duty. It was not performed. And why? Because that Congress was elected, in part by the soldiers who at such a sacrifice had overthrown the rebels and believed that to the loyal people of this country belonged the right and that upon them rested the duty of settling, in the interest of loyalty, of universal liberty, and universal suffrage, the condition of that country which they had rescued from the despotism of the rebellion.

Andrew Johnson never believed that he had the right to set up State governments in any of the rebel States; neither did any member of his Cabinet; but he believed that if he could accomplish it by usurpation of power, that such was the desire of the people for peace after the long war of ideas and of force that they would tamely submit. Hence, when Congress assembled in December, 1865, he pointed them to ten sovereign States which he had set up in less than half that many months. He pointed to reconstruction as an accomplished fact, and asked—nay, demanded—of the Congress that it should open wide its portals and admit Senators and Representatives from such States, most of them prominent rebels; all of them elected by rebel votes, the loyal men, the soldiers of the Republic, being excluded from the polls.

This, I believe, was a usurpation of power in the interest of reaction, of counter revolution, and of tyranny over a portion of the loyal people of the United States for which the President ought long since to have been removed from office.

Mr. Chairman, my time will not admit of more than an allusion to the shameful scenes of February 22, 1866, when the President, addressing a crowd composed in great part of returned rebel soldiers in gray uniforms, sought to arouse their passions against the representatives of the people, singling out and coupling with terms of ribaldry two members of either House, who, by virtue of their long and faithful services in the cause of freedom had become prominent leaders of public opinion. And I certainly cannot follow the President in his western tour, commonly known as "swinging

round the circle," more than to allude to his denunciation of Congress as an illegal and unconstitutional body. Indeed, it is needless to enumerate the particular acts of the President further to show that his whole course, from the commencement of his Administration, has been in the interest of the defeated rebellion. Being firmly convinced that his object has been to shield all that was left of rebellion from the just consequences of its great crime, to save the property, the influence, the pride, and the prejudice of the rebels, I have scarcely been surprised at anything he has done—certainly not at his complicity in the New Orleans massacre, the removal of the gallant Sheridan, or his attempt to remove the Secretary of War.

The President of the United States is possessed of great patronage. If he is a good and wise man this enables him to accomplish much good; but if he is a low, tricky, dishonest man it becomes in his hands an engine of corruption and great abuse. How this patronage has been used by the present Executive let the disorganized condition of all branches of the public service answer.

Mr. Chairman, there is one accusation against the President which I have not heard made on this floor, but which, in my opinion, is not the least one which he will have to answer to at the bar of public opinion. The manner in which he has made the appointments in the regular Army to fill the original vacancies caused by the increase of the Army. Upon the disbanding of the volunteer forces there were many hundred young men who had served with great gallantry and efficiency, and had become so habituated to Army life, and having served their country during those years of their lives when young men usually learn a trade or study a profession, they were desirous to obtain commissions in the regular service and devote their lives to the military service of their country. Who shall describe the feelings of these expectant waiting boys in blue when it became evident to them that the President, from whom their commissions must come, had gone over to the enemy; that their recommendations, signed by such of their old commanders as BOUTLER, LOGAN, SCHENCK, Sheridan, and PAINE were worse than waste paper at the presidential counter, and that the royal road to the President's slate lay through the influence of certain heroes who had been distinguished for resisting the draft and voting "No" on all measures for supporting the Army or defending the country in any manner.

Mr. Chairman, I can scarcely allude to the well-known and dogged opposition of the President to the reconstruction of the rebel States according to laws of the United States. But I will assume that holding these laws to be unconstitutional he has obstructed them in every manner. Indeed, Mr. Chairman, I think that his name will go down to posterity as "the great obstructor." He has thrown himself across the track of the progress of the country in its sure and certain march to universal freedom, universal education, and universal suffrage. He has thrown himself in the way and is an obstruction to justice to the soldiers who saved the Republic.

Of the Cabinet of President Lincoln in office when Andrew Johnson succeeded him one only has remained at his post and true to his trust. Some of them resigned as soon as the apostasy of the President became apparent, and some of them seem to justify the treachery of their chief, even if they are not originally responsible for it. But Edwin M. Stanton has not only refused to support the policy of the President, but has refused to abandon his post and allow the vast armament of the nation to pass under the control of another, who would allow it to be used in the interest of the reviving rebellion. For this refusal the President has sought to dispossess him by the appointment of his successor without the advice and consent of the Senate, the same being in

session, and thus violating the Constitution, as well as the law known as the tenure-of-office act.

Mr. Chairman, as I have already stated, I consider this act as only one link in the chain of illegal acts by which the President has sought to obstruct the execution of the laws and thwart the will of the loyal people of the United States as expressed by their Representatives in due form of law. On the 7th of December last I was of the opinion that the President was guilty of impeachable offenses, and so cast my vote for his impeachment. I then differed with the majority on this floor. I may have been wrong in my conclusions, but I have not regretted my vote on that occasion. But, of course, the subsequent acts of the President, which have united the Republican members of this House in favor of his impeachment, would have removed all doubts, had any existed, as to the correctness of that vote.

Mr. Chairman, let us remove this bad man from the presidential chair. Let us see to it that his successor appoints honest men to collect the revenues of the country. I need not ask the present occupant of the chair [Mr. WASHBURN, of Illinois] to go with me in reducing the expenses of the Government to the lowest possible limit, as that is his own well-known policy. Then let us reduce taxation to a point barely sufficient to pay such expenses and collect that on articles of luxury only. Let us provide for paying off the national debt in lawful money, excepting only that portion of it which was expressly agreed to be paid in coin; and then, sir, we can return to our constituents feeling that we have done our part of what Andrew Johnson promised to do, but broke his promise—"to make loyalty respectable and treason odious."

Impeachment.

SPEECH OF HON. H. E. PAINE,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

February 29, 1868,

On the articles of impeachment reported from the committee.

Mr. PAINE. Mr. Chairman, what official designation is to be given to Andrew Johnson in these articles of impeachment? Shall we indict him as President of the United States, or as Vice President of the United States, or as Vice-President discharging the powers and duties of the office of President? The honorable chairman of the committee who reports these articles, [Mr. BOUTWELL] submits this question to the consideration of this House, whose duty it is to decide it. The question is a grave one on account of its possible connection with another question soon to be decided at the other end of the Capitol. That other question will be who is to preside over the Senate during the trial of Andrew Johnson? Does the Constitution impose that duty upon the Chief Justice or upon the President of the Senate? If the Chief Justice is to preside then it is probably proper to impeach Andrew Johnson as Vice President discharging the powers and duties of the office of President, and at the same time it is certainly proper to impeach him as simply President. But if the President of the Senate is to preside at his trial we ought not to indict him as President. I will state, sir, the reasons which satisfy me that the Chief Justice is, by the Constitution, authorized and required to preside at this trial.

I will not deny that the case is beset with many difficulties. It happens that the provisions of the Constitution which bear upon this question, that is to say, the provisions relating to the office of Vice President and to the subject of impeachment, are more defective and imperfect than any other parts of the

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Constitution. In the Constitution it is declared that the President and Vice President shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors. But to this day we are not agreed even on this side of the House, to say nothing of the country at large, whether such high crimes and misdemeanors must have been first created by statute or established by the common law. In the Constitution can be found no allusion to the subject of suspension from office pending the trial of an impeachment, and to-day thoughtful minds disagree on the question whether the power of suspension exists at all, and whether, if it exists, it is vested in the Senate alone.

But the provisions of the Constitution for the impeachment of the Vice President would, in case of their practical application, appear so monstrous as to require prompt amendment; for if Abraham Lincoln were still living and Andrew Johnson Vice President, and we should find it necessary to impeach the Vice President, he would actually have the constitutional right to preside over the Senate during his own trial. The Constitution provides that the Vice President shall be President of the Senate. It is only when he is absent, or is exercising the duties of President of the United States, that a *pro tempore* President of the Senate is authorized by the Constitution; and it is only when the President is on trial that the Chief Justice is authorized to preside. If, then, Mr. Lincoln were still alive, and this impeachment were to proceed against Andrew Johnson as Vice President, nothing could prevent him from presiding at his own trial, if he should see fit so to do, except a prompt assertion and exercise, either by Congress or by the Senate, of the power of suspension. I have no doubt, sir, that such a *reductio ad absurdum* would satisfy even my friend from Massachusetts, [Mr. BOWWELL,] who so stoutly denies the existence of this power of suspension. More than that, sir; I venture to predict that if the Chief Justice shall resign or die pending the impeachment now commenced, so that we shall find ourselves face to face with the necessity of either terminating the proceedings at once, or permitting Andrew Johnson to nominate a Chief Justice to complete his own trial or suspending him from office, we shall all be ready to reconsider the constitutional question respecting the power of suspension.

The uncertainty of many of the provisions relating to the office of Vice President is hardly less striking. It is provided that—

"In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President."

Does this mean that the office itself or the powers and duties of the office shall devolve upon the Vice President in the cases indicated? In that part of the clause which declares that in case of the President's "inability to discharge the powers and duties of the said office" the same shall devolve on the Vice President the gentleman from Massachusetts [Mr. BOWWELL] finds what, in his judgment, warrants the construction that the words "the same" refer not to the office itself, but to its powers and duties; whereas, on the other hand, in that part of the clause which declares that "in case of the removal of the President from office, or of his death (or) resignation, the same shall devolve on the Vice President," I find that which compels me to believe that the words "the same" refer to the office itself.

But there are other difficulties in this clause. Who is to determine when this inability of the President exists, when it begins, when it ends? What would be the constitutional position of the President if, during his temporary inability, the Vice President should act as President? Which of the two would be President? Or should we have two Presidents? Suppose the inability, for example, to result from insanity

or bodily disease. Who is to decide when the disease of mind or body reaches such a stage as to amount to "inability to discharge the powers and duties" of the office? Shall an insane President decide when to surrender his power? Shall an ambitious Vice President decide when to assume the powers of a President sick in body or in mind, and when to restore them to a convalescent President; when to wrest his office from a President alleged to be insane, and when to restore it? Or shall these questions be decided by the courts, the Senate, Congress, the Army, or the people?

Suppose, again, that the assassin's bullet had robbed Abraham Lincoln, not of his life, but only of his reason, and after Andrew Johnson had exercised the powers of the presidential office for a year Mr. Lincoln had recovered and resumed the office, what would have been Mr. Johnson's official position under the Constitution during that year? And what would have been Mr. Lincoln's official position? Which would have been President? Or should we have had two Presidents at the same time?

The considerations which satisfy me that, notwithstanding these difficulties by which the case is beset, the Chief Justice and not the President of the Senate is to preside during the trial of Mr. Johnson, are these: the reason of the rule requiring the Chief Justice to preside over the Senate during the trial of the President is that the Vice President, who is the President of the Senate, succeeds to the office of President of the United States upon conviction and removal of the accused. This reason exists in full force in the present case. If Mr. Johnson shall be removed the President of the Senate will succeed to his office. Besides it is clear to my own mind that under the first section of the second article of the Constitution the office itself fully and completely devolves upon the Vice President upon the death of the President. At the same time I think it is the essential character of the powers and duties constitutionally discharged which is to determine the question, and not the official title of the man by whom they are discharged. So far as this question is concerned it is, therefore, in my judgment, after all quite immaterial whether we say that the office of the President or the powers and duties of that office devolved on Mr. Johnson upon the death of Mr. Lincoln. So far as this question is concerned, he who exercises the powers and performs the duties of President is for the time being President. And while I admit that the phrase "Vice President discharging the powers and duties of the office of President," or the phrase "Vice President acting as President," would indicate the mode of accession to, as well as the nature of, the office held, at the same time I think that the word "President" accurately and sufficiently designates the office.

This, in my judgment, is all that is required in the case. I cannot see why the articles should show how Andrew Johnson acquired his office any more in this case than if he had been elected to it by the people. If the committee had in their report described Mr. Johnson as "Vice President acting as President," or as "Vice President discharging the powers and duties of President," I think they would have made no serious mistake. And yet I very much prefer the form which they have adopted. If Abraham Lincoln were now President, after a period of inability during which Mr. Johnson had acted as President, and Mr. Johnson were now Vice President, and we were about to impeach the Vice President for crimes and misdemeanors which he had committed as President, we might be embarrassed by the question whether the Chief Justice or the President of the Senate should preside at his trial. And if we were now about to impeach Mr. Johnson for offenses committed during Mr. Lincoln's life, and while Mr. Johnson was simply Vice President, we might experience similar embarrassment. But no such difficulty attends the case

before us. We arraign Mr. Johnson for high crimes and misdemeanors committed since President Lincoln's death, while Mr. Johnson was discharging the same powers and duties which he now discharges.

Again, sir, both the Senate and the House of Representatives have repeatedly, by solemn acts and joint resolutions, recognized the full official character of Andrew Johnson as President of these United States. Time will not permit me to refer to more than one or two of these cases. In the act to reimburse the States of Indiana and Ohio for certain moneys expended, which act was passed by this Congress and approved by Mr. Johnson on the 29th of March, 1867, we used the following words:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That immediately after the passage of this act the President shall appoint three commissioners by and with the advice and consent of the Senate," &c.

And in the preamble of a joint resolution approved by Andrew Johnson March 29, 1867, we used these words:

"Whereas on the 3d day of April, 1866, by the authority and direction of the President of the United States, agricultural colleges, covering nearly two hundred and seventy thousand acres, was issued and delivered to the State of North Carolina," &c.

Mr. Johnson himself has, on scores, if not on hundreds, of occasions, within the last year, asserted his position as President of the United States. In his last annual message, in which he denounces Congress for attempting to strip him of some of the prerogatives of the presidential office, he again and again reiterates this assertion. In the very order for the removal of Mr. Stanton upon which the first of these articles of impeachment is founded, and which bears the date of February 21, 1868, Mr. Johnson says to Mr. Stanton:

"Sir: By virtue of the power and authority vested in me, as President, by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon receipt of this communication."

This question, then, seems to be closed, so far as the accused is concerned, and so far, also, as that tribunal is concerned in which is vested absolute and exclusive power to decide it—I mean the Senate of the United States.

I pass now, sir, to the consideration of the second of the articles of impeachment presented by the committee. I shall, probably, have no time to discuss any others.

By the second section of the second article of the Constitution officers of the United States are, so far as their mode of appointment is concerned, divided into two distinct classes. The first class embraces those officers who can, under the Constitution, only be appointed by the President, by and with the advice and consent of the Senate. The second class embraces those who are styled inferior officers, whose appointment may be vested by law in the President, or in the courts of law, or in the heads of Departments, at the discretion of Congress. Congress may authorize the President or the courts of law or the heads of Departments to appoint inferior officers without the advice and consent of the Senate, but cannot authorize them so to appoint any officers except inferior officers. In the absence of legislation vesting the appointment of inferior officers in the President, courts of law, or heads of Departments, the Constitution requires them to be appointed, like officers of the other class, by the President, by and with the advice and consent of the Senate. The Constitution contains no provision for or allusion to the removal of officers of either class as a distinct and isolated act. How, then, may an officer be constitutionally removed whose appointment must be made by and with the advice and consent of the Senate? And how can an officer be removed whose appointment may be vested by law in the President, or courts of law, or heads of Departments? It seems to me that, upon principle, the answers to these questions are very plain. Officers of

the first class, that is, officers who, under the Constitution, can only be appointed by the President, by and with the advice and consent of the Senate, may, in the first place, be removed by the appointment of their successors, by and with the advice and consent of the Senate. This mode, and this mode only, is expressly prescribed in the Constitution. They may, perhaps, in the second place, be removed by an order of removal made by the President, by and with the advice and consent of the Senate, without an appointment of a successor. This second mode is not expressly provided by the Constitution, and is only authorized, if authorized at all, by implication from the power to appoint. I am willing to concede, for the purpose of this argument, that a removal may be so made.

In the case of one of the second class of officers, those inferior officers whose appointment may be vested by law in the President alone, or the courts of law, or the heads of Departments, the mode of his removal will, in the first place, depend upon the question whether his appointment or removal has or has not been vested by law in the President, the courts of law, or the heads of Departments. If it has not been so vested he can only be removed by the President, by and with the advice and consent of the Senate, either by the appointment of his successor, under the express power of the Constitution, or by mere removal under a power possibly to be implied therefrom. But if his appointment or removal has been vested in the President alone then the President alone may remove him, either by the appointment of a successor, as expressly provided, or, possibly, by a mere order of removal under an implied power. The result is that inferior officers may be removed by the President alone if their appointment or removal has been vested in the President alone. If it has not been so vested they can only be removed by the President, by and with the advice and consent of the Senate; and as to all other officers it is quite immaterial what acts Congress may pass; they cannot be constitutionally appointed or removed save by the President, by and with the advice and consent of the Senate.

The President, in his last annual message, earnestly insists that unless the Constitution gives him by implication the power of removal, he is held to an official responsibility for the acts of his subordinates, of which he cannot possibly acquit himself. But, sir, the Constitution actually authorizes Congress to vest absolutely in the courts of law or heads of Departments the appointment of every inferior officer in the executive branch of the Government, without exception, and without any possibility of interference by the President; and if you admit what his defenders claim, that the Cabinet officers are, under the Constitution, inferior officers, then Congress may at any time by law, deprive the President of the power of appointing or even nominating a single one of the many thousand executive officers required in the Government. But if you deny, what his defenders assert, that the members of the Cabinet are inferior officers, then the Constitution authorizes Congress by law to deprive him of the power to nominate or appoint any except Cabinet officers. The power of appointment, therefore, has no intimate relation to the President's responsibility for the official conduct of his subordinates. How absurd, then, to make this responsibility the basis of an implied power of removal!

Now, if the Secretary of War is not an inferior officer within the meaning of this provision of the Constitution, he can neither be appointed nor removed except by the President, by and with the advice and consent of the Senate. In that case an examination of the statutes will be quite superfluous. It is only necessary to look into the Constitution itself. Is the Secretary of War an inferior

officer within the sense of the constitutional provision referred to? Does not the very phraseology of the clause which relates to the appointment of these inferior officers exclude the idea that the head of the Department of War is one of them? These are the words of the clause:

"But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

Is it reasonable to suppose that one of these very inferior officers has been selected as an authorized depository of this power of appointment of inferior officers? Is not the idea excluded by the very collocation of the words "inferior officers" and "heads of Departments" in this clause? But, sir, the consequences of such a construction as will make the head of the War Department an inferior officer under this clause are most absurd. If he is an inferior officer, Congress is expressly authorized by this clause, at its discretion, to vest his appointment absolutely in either the President, or the courts of law, or the heads of Departments. That is to say, Congress may authorize the Supreme Court, or any other court of law of the United States, to appoint and remove the Secretary of War without the interference of the President, or the approval of the Senate. More than that, sir, Congress may authorize the Secretary of War to appoint the Secretary of War without the interference of the President, or the advice or consent of the Senate, and thus by a single act enable every Secretary to designate his successor and so establish a perpetual succession, which neither the President nor the Senate nor the people can interrupt. Sir, you cannot avoid these most absurd consequences of the construction proposed unless you take the ground that the Secretary of War is not one of the heads of Departments referred to in the Constitution. But that the term "heads of Departments" does apply to the Secretary of War and other Cabinet officers is placed beyond a doubt by that passage in the same section wherein it is provided that the President—

"May require the opinion in writing of the principal officer in each of the Executive Departments."

If I am right, sir, in my opinion, that the Secretary of War is not an inferior officer within the meaning of the second section of the second article of the Constitution, then the Constitution does not permit, nor can any statute empower the President to appoint a Secretary of War except under the last clause of the section, to fill a vacancy which may happen during the recess of the Senate, by granting a commission which shall expire at the end of the next session. This, of course, disposes of one branch of the case now before us. If I am also right in my opinion that under the Constitution officers who can be appointed only by and with the advice and consent of the Senate can only be removed by and with the advice and consent of the Senate, then it is unnecessary to examine the bearing or meaning of statutory provisions on this subject.

I therefore take the position that the Constitution itself, any statutory legislation to the contrary notwithstanding, forbids the appointment or removal of the Secretary of War without the advice and consent of the Senate while the Senate is in session. And the President of the United States, having violated this provision of the Constitution for the corrupt and wicked purpose of placing the military power of the Government in the hands of its enemies, is subject to impeachment.

But, sir, for the sake of argument I will grant that the Secretary of War is an inferior officer, whose appointment and removal may be constitutionally vested by law in the President alone, without the advice and consent of the Senate; and I will also, for the sake of argument, admit all the other premises upon

which the defenders of the President rest their legal argument, that by the act of 1789 the President alone was authorized to remove the Secretary of War, and that by the act of 1795 the President was empowered to fill, for a period of six months, by *ad interim* appointment, a vacancy in the office of Secretary of War, whether it was or was not, in the language of the statute, a vacancy, whereby the Secretary of War could not perform the duties of his office. I will admit, too, that the Adjutant General of the Army was eligible to such an *ad interim* appointment, and, finally, that by the proviso of the first section of the civil-office tenure act of 1867 the Secretary of War was empowered to hold his office for and during the term of office actually held by the President who appointed him, and one month thereafter, and not during the term for which such President was elected. These are all the premises claimed by the President's defenders. Admit them, and still their conclusion does not follow. Most of them can be admitted only for the sake of argument. I have already shown what absurdities are involved in the doctrine that the Secretary of War is, within the meaning of the second article of the Constitution, an inferior officer. It is not to be forgotten that if any power of removal is conferred upon the President by the act of 1789 it is not expressly conferred, but only by implication from the clause which provides that the chief clerk—

"Whenever the said principal officer shall be removed from office, by the President of the United States, or in any other case of vacancy, shall, during such vacancy, have the charge and custody of all records, books, and papers appertaining to the said Department."

Whether this clause of itself confers a power of removal, or merely defines the powers of the chief clerk, in case of vacancy by removal or otherwise, leaving the power of removal to be determined by other statutes, is a question of construction. It should also be remembered that the act of 1795 only authorizes an *ad interim* appointment to fill a "vacancy whereby the Secretary of War cannot perform the duties of his office." And if under the civil-office tenure act of 1867 Mr. Stanton's term ended, and his office became vacant one month after Mr. Lincoln's death, or when the law took effect, the same was true of the terms of Secretaries Seward, Welles, and McCulloch, neither of whom was ever reappointed, and this day the President retains them in violation of the law.

Assuming these premises, however, let us ascertain the official position which Mr. Stanton actually maintained under the Constitution and laws on the day before the civil-office tenure act took effect—that is to say, on March 1, 1867. Mr. Stanton had been appointed by President Lincoln, by and with the advice and consent of the Senate, during his first term. Under that appointment his official character remained absolutely perfect up to the close of Mr. Lincoln's first term. If Mr. Lincoln had the power to remove him without the approval of the Senate he had not exercised that power. Nor had he removed him or attempted to remove him with the approval of the Senate. Inasmuch as the office of Secretary of War, like that of chief clerk of the War Department, was, by the act of 1789, made of indefinite duration, with no provision for its termination, except by new appointment or removal, Mr. Stanton continued to be the constitutional and lawful Secretary of War from the commencement of Mr. Lincoln's second term until his death. And, for precisely the same reason, he continued to be the constitutional and lawful Secretary of War from the date of Mr. Johnson's accession to the Presidency until March 1, 1867. If the law or the Constitution had expressly, or by implication, limited the duration of the office of the Secretary to the term of the President by whom he was nominated, then of course a new appointment would have been necessary at the commencement of Mr.

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Lincoln's second term. And if the law or Constitution had expressly or by implication limited the duration of the office of the Secretary to the lifetime of the President by whom he was nominated, then a new appointment would have been necessary at the accession of Mr. Johnson to make Mr. Stanton, to all intents and purposes, the lawful incumbent of the office. But no such provisions existed up to March 1, 1867. Under the law, as it stood from the organization of the Government up to March 1, 1867, the first Secretary of War of President Washington might have retained his office through the successive administrations until March 1, 1867, if he had lived so long, without any new appointment, unless displaced by removal or by the appointment of a successor.

If President Johnson had the power, under the act of 1789, to remove Mr. Stanton from the War Office between the date of Mr. Lincoln's death and March 1, 1867, yet, as a matter of fact, he did not exercise that power. On the contrary, he declined to accept Mr. Stanton's resignation, tendered soon after the death of Mr. Lincoln. Nor had President Johnson up to that time removed or attempted to remove the Secretary by and with the advice and consent of the Senate. On the 1st day of March, 1867, therefore, Mr. Stanton held the office of Secretary of War by a title as good as that by which any Secretary has ever held the office since the organization of the Government, or ever can hold it in the future—by a title absolutely perfect and unquestionable. Grant that up to that day the act of 1789 did permit Mr. Johnson to remove Mr. Stanton without the approval of the Senate, yet on the 2d day of March, 1867, whatever power of removal had been previously conferred by statute was withdrawn by statute, whatever had been conferred by the act of 1789 was withdrawn by the civil-office tenure act, the provisions of which clearly take away whatever power may have been by statute previously granted for the removal of any civil officer without the advice and consent of the Senate. After the passage of the civil-office tenure act of 1867 the President had no independent power of removal by virtue of any statute, whether the act of 1789 or any other. If he claimed any such power after the passage of the act of 1867 he must have based his claim upon constitutional, not statutory grounds; for whatever the statute had given the statute had taken away. If the Constitution had given or could give any power of removal which the statute could not take away, the statute certainly had not given, could not give, any power which the statute could not also take away. Unless, then, the Constitution *proprio vigore* invests the President with the absolute power of removing civil officers of the United States he could not have so removed Mr. Stanton after March 2, 1867, if he had himself nominated him to the office which he held. I think this proposition is too clear for doubt or dispute.

Now, how is the case affected by the circumstance that Mr. Stanton was not nominated by Mr. Johnson, but was nominated by Mr. Lincoln? To this circumstance, of course, is applied the proviso of the first section of the civil-office tenure act, wherein it is declared that the Secretary of War shall hold his office during the term of the President by whom he was appointed and for one month thereafter. It is claimed, in the first place, that the expression "term of the President" in this proviso means the term which he actually holds and not the term for which he is elected—that in the case before us it means the term which President Lincoln actually held and not the term for which he was elected; and, in the next place, that after the expiration of the month so limited the President had the right to remove Mr. Stanton at any time. Admitting, for the sake of argument, that the term meant in the act is the term actually held by the President, what legal and constitutional powers and rights had President Johnson in the

premises, after the civil-office tenure act became a law? It may possibly be a question when the month practically ended; whether it ended by retroactive operation of the law, on the 15th day of May, 1865, one month after Mr. Lincoln died, or on the day when the law took effect, or at the expiration of one month after the law went into operation. To this question let the defenders of the President choose their own answer. They may assume that this proviso applied to Mr. Stanton and may fix the end of the term therein designated at either one of those three dates. How now stands the case? The most that can possibly be claimed, indeed all that can possibly be claimed, from this proviso is that upon the day fixed a vacancy occurred in the office of the Secretary of War, which could be filled according to law.

The case will be strongest for the President if the end of the term be fixed at the expiration of one month from and after the passage of the act, that is, on April 2, 1867. Up to that time the President never, in fact, attempted to remove or suspend Mr. Stanton, either with or without the consent of the Senate; up to that time he was clothed with the complete official character of Secretary of War. Now, if the proviso of the act of 1867 applied to his official term on the 2d day of April, 1867, its effect was not to enable the President to remove the incumbent at his pleasure on or after that day, but to create a vacancy at that time by the mere operation of the law itself. But for the vacancy so created Mr. Stanton would have been entitled under the clause which precedes the proviso to hold his office until his successor should have been lawfully appointed, by and with the advice and consent of the Senate, just as Postmaster General Randall and Secretary Browning, who had been nominated by Mr. Johnson, were entitled to hold theirs. If Mr. Stanton's office did not fall within the class covered by the proviso, so as to become vacant at the end of the month, then it did fall within the class covered by the first clause of the section, and all statutory power to remove the incumbent was withdrawn by the act. If the first clause, which authorized civil officers appointed by and with the advice and consent of the Senate to hold their offices until their successors should be appointed in the same way, was rendered inoperative in Mr. Stanton's case, by the proviso limiting his term to April 2, 1867, then the only result was that a vacancy in the office occurred on that day. The law did not authorize Mr. Johnson to remove Mr. Stanton, but did itself remove him and create a vacancy in the office.

Let it be admitted, then, that on that day a vacancy arose, and that nothing in the act of 1867 exempted this particular case from the operation of the act of 1795, authorizing the President to fill vacancies by *ad interim* appointments, or from the operation of the act of 1789, authorizing the chief clerk, during a vacancy, to have the charge and custody of the records, books, and papers of the Department. What disposition was it competent for the President to make of the War Office on that day? And how did he, in fact, dispose of it? Four courses were open to him. He could either put the chief clerk in charge under the act of 1789; he could make an *ad interim* appointment under the act of 1795; he could make a full appointment by and with the advice and consent of the Senate, supposing the Senate to be in session; or, finally, if the Senate was not in session, he could make a temporary appointment, to terminate, unless approved by the Senate, at the end of the next session of Congress. What course did the President adopt? He did not put the chief clerk in charge of the office. He did not nominate to the Senate, nor did he appoint an officer to hold until the end of the next session of Congress. There was only one other lawful course open to his choice. That was to make an *ad interim* appointment. Did he make

such an appointment? Certainly he did not. But, inasmuch as an *ad interim* appointment, under the act of 1795, required no particular ceremony for its consummation, I have no doubt that the mere permissive retention of Mr. Stanton by the President might have been a substantial compliance with the act.

And conceding all the premises claimed by the President's defenders, you can place his retention of Mr. Stanton upon no other legal ground than that of an informal *ad interim* appointment. Precisely the same thing is true of the cases of Secretaries Seward, Welles, and McCulloch. But the act of 1795 expressly and peremptorily provided that no single vacancy should be filled by *ad interim* appointments for more than six months; therefore it became the duty of the President to nominate to the Senate, on the 2d of October, 1867, or as soon thereafter as the Senate should be in session. If, then, Mr. Stanton's retention is assumed to have been virtually an *ad interim* appointment under the act of 1795, and the subsequent substitution of General Grant for the suspended Secretary is also assumed to have been virtually an *ad interim* appointment, under the same act, yet the six months had expired before the present session commenced, and since the first day of this session it has not been lawful for the President, under any conceivable construction of any statute, to make an *ad interim* appointment. Giving to each of these statutes any phase of construction claimed by the President's champions there has been no day since the first day of this session when he could lawfully make any appointment except a full appointment, by and with the advice and consent of the Senate. Their defense on this ground, be it remembered, would gain no strength from an admission of the unconstitutionality of that feature of the civil-office tenure act which prevents the removal of officers without the advice and consent of the Senate, for I am now reasoning upon the admitted ground that a vacancy actually existed in the War Department by virtue of the law itself. Admitting all their premises, then, their conclusion does not follow.

The attempted appointment of the Adjutant General was absolutely without warrant of law, even though the proviso of the act of 1867 applies, as the President's friends insist it does apply, to Mr. Stanton. And if it does apply to him, then it also applies to Secretaries Seward, Welles, and McCulloch; and their offices have been vacant and their acts void at least since April 2, 1867. On the other hand, if it does not apply to him, the power of removal, without the advice and consent of the Senate granted by the act of 1789, is withdrawn from the President, so far as his office is concerned, by the act of 1867.

Of course it cannot be said that it was for the President to decide, under the act of 1867, whether a vacancy did or did not occur in Mr. Stanton's office, or when it occurred. The law itself did or did not create a vacancy. If it did not, then all pretext of authority to make an *ad interim* appointment disappears. If it did, then the vacancy occurred at the time fixed by the law, which was either on the 15th day of May, 1865, or on the 2d day of March, 1867, or on the 2d day of April, 1867. Giving the President his choice in these dates, he was by the express provision of the act of 1795 forbidden to fill any one vacancy by appointment *ad interim* for a longer term than six months. And whether you do or do not regard the retention of Mr. Stanton up to the date of his suspension, and the subsequent appointment of General Grant, as virtually *ad interim* appointments under the act of 1795, yet the period of six months fixed by that act began to run at the very latest on the 2d day of April, 1867, and ended on the second day of October, 1867. After the first day of the present session, therefore, it was too late for an *ad interim* appointment under any possible construction

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of the law or Constitution. It results from this reasoning that the appointment of General Thomas was a violation of the Constitution. It will not help the case on this point to say or show that the President has, under the Constitution, a right to remove the Secretary of War at his pleasure without the advice or consent of the Senate. Grant all that; the right to appoint is quite another thing. The Constitution does not vest that power in the President. If it be construed to authorize Congress so to vest that power, and if, at the same time, it be assumed that the act of 1795 did so vest it as to *ad interim* appointments, still the period to be covered by such appointment was limited to six months, and that period had expired long before the appointment of General Thomas.

For precisely the same reason it is of no avail to show that the feature of the act of 1867, which requires the advice and consent of the Senate in cases of removal, is unconstitutional. And for the same reason, also, is it of no avail to show that the act of 1789 expressly authorized the removal of the Secretary of War.

Admitting, then, all of the premises claimed by the President's defenders; admitting that the President has, under the Constitution, absolute power of removal, that the act of 1789 expressly authorized him to remove the Secretary of War, and that the civil-office tenure act, of its own force, created a vacancy in that office; and permitting the President to select, at his pleasure, either one of the three possible dates of the occurrence of such vacancy; admitting, also, that, by the act of 1795, the President was authorized to supply such vacancy for six months, by *ad interim* appointment; admitting all this, we still find the President without justification for the appointment of Lorenzo Thomas as *ad interim* Secretary of War.

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SPEECH OF HON. JOHN F. DRIGGS,

OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

March 2, 1868,

On the articles of impeachment reported from the committee.

Mr. DRIGGS. Mr. Chairman, in rising to discuss the subject before the House, I am impressed with the knowledge that it is useless to attempt to say much without going over, to some extent at least, the same ground occupied by those who have preceded me. For the first time since the organization of the Government we are considering charges against the Chief Magistrate of the nation, who is now arraigned before the Senate, the whole people of the United States and of the world, for high crimes and misdemeanors, and having prepared these grave charges against Andrew Johnson before such an august tribunal, it is incumbent upon those instigating the same to make good their promise to sustain these accusations.

Sir, a man's neighbors, those who are familiar with the character of a man, whether he be a private or public citizen, scarce ever make mistakes in estimating his moral worth and standing. If he is a good citizen and neighbor, a sober man, industrious, honest, and truthful; if he obeys the laws, both of God and man; it will be known and acknowledged, and no one will commit errors in forming a judgment of his character. On the other hand, if he be idle, vicious, dishonest, untruthful, quarrelsome, self-willed, intemperate, a known violator of the laws of God and of his country, disguise these qualities as he may, his character will be known and a proper estimate given of such a man everywhere. No matter, sir, if he shall be clothed in the robes of piety and shielded by the garb of religion; no mat-

ter though he may offer long prayers in the sanctuary and make oft-repeated professions of pure motives and good intentions, he cannot long deceive the world as to his real character.

Mr. Chairman, the history of crime and of its perpetrators shows that some of the most notorious criminals and felons in all times past, and especially political offenders, have been more conspicuous and celebrated for their skill and cunning in covering over their motives and the evidence of their guilt than for the very crimes themselves. The history of Greece, of Rome, Carthage, France, and even that of this country, proves this fact. When the Trojan horse disgorged its armed soldiers within the secure and impregnable walls of Troy, and by treachery and professions of friendship this monster gained a position in the citadel of that confiding city, Troy fell. Other nations have had similar experiences.

Mr. Chairman, I have shown that political crimes are conceived and carried into execution almost always under extreme professions of patriotism, love for the people, and veneration for law, the very letter and spirit of which are cunningly violated and rendered inoperative by every act that can be devised, till, by slow degrees, veneration for law is gone and with it the liberties of the people. What is the history of the great political offender who now stands charged with high crimes and misdemeanors and with attempting to corrupt the officers of the Army, to destroy the citadel of this great and free republic? Why, sir, it is the same as that of many others who have gone before him.

But, more fortunate for the safety of our liberties, in his maddened zeal to accomplish his evil designs, he has at last openly and without disguise violated and set at defiance the laws and law-making power of the land. More fortunate for our liberties, because had he continued, as in times past, to artfully embarrass and prevent the execution of law by continuing to submit to the treasonable advice and more able judgment of his friends, he might have brought ruin to the cause of liberty and justice, and possibly have escaped the punishment due to his crimes. But, not content with the progress made, he attempted a little too soon to declare himself superior to and above the law. And more fortunate still, our fathers who organized this Government and gave us the Constitution as a guide gave us also a power in the land higher than the one-man power accidentally and unfortunately, and, God be praised, temporarily, held by Andrew Johnson. That power, sir, was given to the people's representatives, the Congress of the United States. It is their mission to defend the liberties of the people, and that high and holy duty they will perform without regard to the threats of rebels or their allies.

Sir, it is not given to man to read the thoughts of the human heart. He may only judge of men's motives and wicked designs by their acts. Judging by this rule, and taking as my guide the whole course of Andrew Johnson since the murder of Abraham Lincoln, I cannot doubt that Andrew Johnson was as guilty of moral and political treason before he had thrown himself openly in the face of law by the attempted removal of Mr. Stanton as he is to-day by the commission of that act. Sir, I believe he is guilty, and that he ought to and will be removed not only for the violation of the tenure-of-office law, but, as Commander-in-Chief of the Army, in attempting to corrupt inferior officers, and thus violating military law. Not only this; but for violating the plain letter of the Constitution which he had sworn to protect.

Sir, Andrew Johnson is to this nation what the Trojan horse was to Troy—he is all fair without while within is concealed instruments of death to the liberties of the people.

I earnestly trust that the great fraud has been discovered in time to save this nation from the wicked designs of its enemies, and to this end

I hope he may have a fair trial and a speedy exit from the high station he fills, that his example may deter others for all time from a similar fate, and that peace, confidence, and prosperity may again be restored to our distracted country.

Reconstruction.

SPEECH OF HON. GARRETT DAVIS,

OF KENTUCKY,

IN THE UNITED STATES SENATE,

February 11 and 20, 1868.

The Senate having under consideration the bill (H. R. No. 439) additional and supplementary to an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and to the acts supplementary thereto—

Mr. DAVIS said:

Mr. PRESIDENT: I am very deeply impressed with the importance of the pending bill and the measures to which it is supplemental; and a consciousness of my inability to examine and dissect them as they should be is a source of real grief. I am, however, sustained by this reflection: that in opposing congressional reconstruction I am wholly free from party prejudice or party predilection. In attempting an humble part in the exposition of measures of such transcendent interest I am happy to be free of such unworthy influences.

Without intending to be egotistical I announce that I am an old Whig. I learned my politics in the school of the great statesman, Mr. Clay, and I still adhere to his teachings, to his interpretation of the Constitution, which he deduced from the instrument itself, illustrated by the Federalist, and which is made all luminous by the subsequent writings of Mr. Madison, recently published. When I was proximating manhood the trouble incident to the admission of Missouri as a State into the Union sprung up, and was composed by the celebrated compromise which has ever since borne that name. The paternity of that measure has been generally attributed to Mr. Clay. Its author was Senator Thomas, of Illinois; but it was the matchless powers of Mr. Clay that procured its adoption.

MISCELLANEOUS REMARKS.

I believe that Congress had no power to impose its conditions, but had I been an actor in that important transaction, the same stress that controlled the great and patriotic spirit of my leader would doubtless have borne me along. That compromise averted a threatened dissolution of the Union at that early day of our national existence, allayed the strife of sections and discordant institutions, and gave to the whole country peace and repose for the third of a century. The repeal of that compromise, if not a crime, was a great political blunder, and has been the fruitful mother of all the great political ills that have since afflicted the people of the United States. Though but a private citizen, I was open in my opposition to its repeal or disturbance; and not only to the Kansas-Nebraska bill, but also to the Lecompton constitution. No power can legitimately make the constitution and the government of a State but its own people, and I could not doubt that that constitution was not made by the people of Kansas, but by a small fraction who attempted to foist it upon the great mass of her protesting people. I also opposed the secession of the southern States, both on principle and policy. I believed it to be not only without any authority of the Constitution, but simply revolution attempted to be disguised by another name, and I never doubted that it would produce a great civil war and all its concomitants; but of the terrible extent, character, and consequences I had not approximated a foreshadow. The people of the southern States had had long and great cause of complaint of many of the free States and their

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people, but none against the Government of the United States; their grievances at the hands of the former were far from being sufficient to justify a movement for peaceable separation, and they did not form a plausible pretext for attempting it by the sword. Therefore when the authority of the United States was thrown off by the southern States and their people became armed insurrectionists, I advocated their suppression by military force; and when our Government passed beyond the pale of its constitutional power, which was merely the suppression of the insurrection, and struck for the subjugation and conquest of the southern States and people, I opposed and condemned this unauthorized assumption of power, and the rights of the conqueror claimed under it.

I have succinctly stated my position in relation to these interesting questions, and as to each I believe I was right, and I still adhere to that position. I have done this to support my declaration that in condemning the reconstruction measures of Congress I was free from party prejudice or party predilection, and was actuated solely by devotion to our country and its Constitution.

Mr. President, in the career of the United States there have been four principal epochs:

1. Their revolt against the mother country, and the establishment of their independence.
2. The formation and adoption of their Constitution, after a few years of experience in peace had demonstrated the utter and hopeless insufficiency of the Articles of Confederation to give them external security, and internal union, peace, order, and prosperity.
3. The recent great and most extraordinary revolt of the people of eleven of the United States, and its still more extraordinary suppression, in its suddenness and completeness, ending so abruptly and squarely.
4. The imminent danger of the overthrow of our Constitution and system of mixed national and State governments by the party in power, in a series of unconstitutional and destructive measures, devised by them to break down the checks imposed on Congress by the organization of the other departments, and to defeat the legal and proper efforts of the people to displace them from power.

This fourth epoch is not yet consummated, and what remains to be done will determine its character. It has interest greater than those which preceded it, because the essential good that each of them brought to the American people is all involved in it, and is now to be lost or continued to them; and its importance is proportionably augmented. The authors of secession did not propose or desire war with the United States; on the contrary, their earnest wishes, their great hope was, that they would be allowed peaceably to secede. They were moved by no hostility to our form of Government, for they framed one for themselves differing from it only in one principle, the admission of the right of secession. The southern States admitted their consanguinity, and made strong professions of friendship and peace for the adhering States and their people. They, and some of the other States, had become deeply dissatisfied and embittered with each other; and they sought a peaceful separation from, as they believed, their northern enemies. The publicly expressed opinions of the late President of the United States, of the President *pro tempore* of the Senate, of the Chief Justice of the Supreme Court, of Horace Greeley, and others, that if it was their settled wish they should be permitted to separate from the other States, aided them to reach the conclusion that in adopting that measure they would not precipitate war. It is now certainly a debatable question whether it would not have been better for all the States and all the people that "the erring sisters should have been permitted to depart in peace." Each one had the right, under the constitution of the southern confed-

eracy, at any time to secede from it; and their position in the United States would have been soon demonstrated to be so much more eligible than membership in the southern confederacy that before this time all of them, one by one, would have returned to the old Union, contrite as was the prodigal son.

But if their military coercion is to result, not only in their conquest and subjugation and the destruction of their governments and institutions, but also in the overthrow of the Constitution and the mixed system of national and State Governments and the liberties of the people of the United States, and the erection upon their ruins of a military despotism, better a thousand times that the right of the southern States peaceably to secede had been at once fully admitted. One third of the dominion of the imperial Republic would have fallen from it, but liberty, regulated and secured by the Constitution, would have remained to all the people.

The rebellion has been successfully and signally suppressed, and the conflict of arms by which it was effected terminated about three years since. The rebels had made their experiment, and the completeness of their overthrow was only surpassed by that of their submission. Their country and its resources were utterly exhausted, and their hopes and spirits broken down. They submitted in perfect obedience to the Constitution, laws, and authorities of the United States, greatly needing and earnestly invoking their protection, prepared and asking to be allowed to resume their place in the Union and Government, to perform all their duties, and to be admitted to the possession and enjoyment of all their rights. They have been purified in one of the severest ordeals through which any people ever passed, and to-day, in principle and spirit, they are nearer to true loyalty to the Constitution than any portion of the people of the United States. Their present true allegiance to it is in striking contrast with the disloyalty of the Radical party; they sought some years ago to separate themselves from it, even at the hazard of civil war; but the Radicals are now subverting it to enable them to hold on to power, to continue their possession of the form of government for its honors, its offices, its spoils, and plunder. The simple but momentous question now is, which shall succumb, the constitutional Government and liberties of the people of the United States or the Radical party? They cannot both exist; one or the other must perish. Even to produce its overthrow, I have no wish that this party should persist in its mischievous measures, which have regularly proceeded from bad to worse, until they have culminated in the one now under consideration, and which, in view of the early age of our country, the general intelligence and virtue of its people, their watchfulness of their individual interests and prosperity, their devotion to the principles of liberty, and the constitutional defenses of them built up so recently by men whose memories we worship, is the most startling and monstrous measure that was ever devised in a legislative assembly to be imposed upon any people. I sometimes have to summon my cold reason to verify, that the strange and terrible events of the past eight years are reality; they seem so like the unsubstantial, shifting, but always horrible creations of a fever's delirium; and certainly of all the strange phenomena the most startling is the bill under consideration.

GENERAL PRINCIPLES OF THE GOVERNMENT.

The Government of the United States was formed by the action of thirteen sovereign States. They made a Constitution for the organization of a Government for the whole, by which they delegated to it some general powers necessary and proper for the management of their common affairs; and all the powers not invested by the Constitution in the common Government were reserved by a special provis-

ion. The powers of each State to form its own government and make its own laws for the regulation of its people and domestic affairs, were not only not delegated to the common Government, but were comprehended by the words describing the reserved powers of the States. The validity of the common Government resulted wholly from the adoption of the Constitution by the States, and no amendment can be made to it but by their ratification.

The General Government was not only made by the States, but their governments were incorporated as part of its machinery. The members of the Senate can be chosen only by the Legislatures of the States; the qualifications of the electors of representatives to Congress are fixed by them exclusively; and "the times, places, and manner of holding elections of Senators and Representatives shall be prescribed in each State by the Legislature thereof; but Congress may at any time by law make or alter such regulations except as to the places of choosing Senators." Each State appoints, in such manner as its Legislature may direct, its presidential electors; and if, in the presidential election, no candidate shall have a majority of the whole number of electors appointed, and if the States, by their representatives, would not vote or would divide so that no candidate could get a majority of them, there could be no presidential election. The Government of the United States was then formed with the knowledge and purpose by those who made it, that it could in various modes be brought to a final and peaceful end by these States.

1. By the people of the States refusing to elect Representatives to Congress.
2. By their Legislatures refusing to choose Senators.
3. By the refusal of their Legislatures to direct the manner in which presidential electors may be appointed.
4. By the failure of their representatives to go into an election of President when there has been no election by the electors.
5. By the States, when they proceed in such a state of case, to attempt an election, refusing or failing to give the vote of a majority of them to one candidate.

This view of the subject shows how the States and their governments are blended with the Government of the United States, that they are in truth a part of its essential framework and machinery, and that it could not be administered or exist without their friendly coöperation. The men who framed the Constitution comprehended fully what they were doing, and they not only did not intend that the Government created by it should manage the domestic affairs of the States, nor absorb any of their reserved rights and powers, but that it should be dependent for its continued existence upon the States. All the publications of the time show, that its best friends had serious doubts of the success and continuance of the new Government; that they clearly understood the different modes in which it could be terminated; and if it should from any cause come to an end, that every State should have a completely organized government, fully competent to take care of its affairs. Every intelligent man who has carefully read the history of that period, knows that the government of each State and its sovereign and exclusive control of all its own domestic affairs, were objects which greatly more absorbed the affections and solicitude of its people than even the great necessity for a common Government, and all the fruits which it could be expected to bring to them. When the work of the members of the Convention had been finished, and those great and virtuous men were about to affix their names to the draft of the Constitution, if it could then infallibly have been revealed to them, that the reserved sovereignty and rights of their respective States would be subject by the new Government to such atrocious violations as we have witnessed in the last few years, the pen would have dropped

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from the hand of all of them, and the unsigned Constitution would have been abandoned forever. Such a revulsion would have originated in exalted and far-seeing patriotism, for the reserved sovereignty and rights of the States are, beyond all measure, of more value to the people of each State than all the good which the Government of the United States can confer on them. Its chief end was to secure to them the reserved sovereignty and rights against foreign and domestic dangers, and when it destroys them it becomes a direful curse.

This atrocious bill strikes down all the reserved sovereignty and rights of ten States and their people, abrogates their governments and the States, notwithstanding Congress and the President and the Supreme Court have each, in many solemn, official acts, recognized their existence both during and since the suppression of the rebellion; wrests the Constitution and all its guarantees and protection away from their people; declares who shall and who shall not vote, and who shall and who shall not be candidates in the work of constructing the governments of those States; sets up the General of the Army as an absolute military dictator in them; ejects from them the jurisdiction and power of the Supreme Court, and of the President of the United States, both as Commander-in-Chief of the Army and Navy, and as the chief executive officer of the Government, on whom the Constitution specially devolves the duty to see that the laws are faithfully executed, and whom it requires to swear that he will faithfully execute the office of President of the United States, and will to the best of his ability preserve, protect, and defend the Constitution of the United States; and then declares all attempts of those high functionaries to perform their constitutional duties in those ten States to be crimes, and visits them with infamous punishment.

Here is the very frenzy of faction in its mischievous and deformed wickedness. The authors and supporters of this measure or I labor under mental and moral insanity, and it does not seem to me to be I.

Mr. President, some of the defenders of this reconstruction policy, and particularly its great champion in the other House, frankly declare that it has no warrant in the Constitution. That admission should end the controversy, for Congress derives all its powers from the Constitution, and when it attempts to exercise any outside of it becomes simply a revolutionary assembly. Several Senators have claimed that the reconstruction measures are authorized by the Constitution, but most of them who support the policy have not disclosed their position on this question. He is a bold man who, notwithstanding the public declaration of his conviction that the Constitution gives no authority to pass these acts, yet supports them; to be so convinced and to conceal it while voting for it is the easier part.

I propose to examine the provisions of the Constitution which have been relied upon as conferring on Congress the power to pass the pending and previous reconstruction bills. The fourth section of the fourth article, in connection with the provision which invests Congress with a power of incidental legislation, have been conjointly claimed as the source of this power by all the Senators who have spoken to this point, except my honorable friend from Wisconsin, [Mr. Howe,] who repudiates wholly the former provision and claims the power exclusively from the latter one, which is in these words:

"Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States or any department or officer thereof."

The power conferred by this clause is of an incidental and secondary character, and the laws it empowers Congress to pass, are such as may be necessary and proper to execute some other and enumerated power vested in

the Government, or some of its departments or officers. This power of incidental legislation is a very extensive field, but any act of Congress under it must have three indispensable conditions. First, it must be to execute another power, named in the Constitution; second, it must be necessary and proper to carry that other power into execution; and third, it must itself be consistent with the letter and spirit of the Constitution. This whole class of legislation is of a parasitical character; it is the vine, and the enumerated power which it isto aid is the tree to support it, and without which it falls. The reconstruction acts find no authority in this provision of the Constitution *per se*. That it is not authorized by the fourth section of the fourth article, or both of them together, is equally certain, though it requires more of argument to demonstrate it.

To aid in this task I will read from Kent's Commentaries, and the writings of Madison, recently published, in explanation of the nature and general principles of our system of Government:

"The Constitution of the United States is an instrument containing the grant of specific powers, and the Government of the Union cannot claim any powers but what are contained in the grant and given either expressly or by necessary implication. The powers vested in the State governments by their respective constitutions, or remaining with the people of the several States prior to the establishment of the Constitution of the United States continued unaltered and unimpaired, except so far as they are granted to the United States. We are to ascertain the true construction of the Constitution and the precise extent of the residuary authorities of the several States by the declared sense and practice of the governments respectively when there is no collision, and in all other cases where the question is of a judicial nature we are to ascertain it by the decisions of the Supreme Court of the United States; and those decisions ought to be studied and universally understood in respect to all the leading questions of constitutional law. The people of the United States have declared the Constitution to be the supreme law of the land, and it is entitled to universal and implicit obedience. Every act of Congress, and every act of the Legislatures of the States, and every part of the Constitution of any State, which are repugnant to the Constitution of the United States are necessarily void. This is a clear and settled principle of constitutional jurisprudence. The judicial power of the Union is declared to extend to all cases in law and equity arising under the Constitution; and to the judicial power it belongs, whenever a case is judicially before it, to determine what is the law of the land. The determination of the Supreme Court of the United States in every such case must be final and conclusive, because the Constitution gives to that tribunal the power to decide, and gives no appeal from the decision."—1 Kent's Commentaries.

Mr. Madison, in what are called the Madison Papers, volume 4, page 394, dated in 1834, says:

"As the legislative, executive, and judicial departments of the United States are coördinate, and each equally bound to support the Constitution, it follows that each must, in the exercise of its functions, be guided by the text of the Constitution according to its own interpretation of it; and consequently that in the event of irreconcilable interpretations the prevalence of the one or the other department must depend on the nature of the case as receiving the final decision from one or the other, and passing from that decision into effect without involving the functions of any other."

"It is certainly due from the functionaries of the several departments to pay much respect to the opinions of each other; and as far as official independence and obligation will permit to consult the means of adjusting differences and avoiding practical embarrassments growing out of them, as must be done in like cases between the different coördinate branches of the legislative department."

"But notwithstanding this abstract view of the coördinate and independent right of the three departments to expound the Constitution, the judicial department most familiarizes to the public attention as the expositor, by the order of its functions in relation to the other departments, and attracts most the public confidence by the composition of the tribunal."

"In the judicial department, in which constitutionality as well as legality generally find their ultimate discussion and operative decision; and the public deference to and confidence in the judgment of that body are peculiarly inspired by the qualities implied in its members and by the gravity and deliberation of their proceedings, and by the advantage their plurality gives them over the unity of the executive department, and their firmness over the multitudinous composition of the legislative department."

"Without losing sight, therefore, of the coördinate relations of the three departments to each other, it may always be expected that the judicial bench, when happily filled, will, for the reasons suggested, most engage the respect and reliance of the public as the surest expositor of the Constitution, as well in questions within its cognizance concerning the bound-

aries between the several departments of the Government as in those between the Union and its members.

These great authorities here state most important fundamental principles: that the Government of the United States is not of original and plenary, but wholly of delegated powers; that the Constitution is the source of all its powers, and it has none but what are expressly or by necessary implication conferred upon it by the language of that instrument; that all the other powers of political sovereignty and government are reserved to the States respectively and the people; that the powers organized by the Constitution are divided and apportioned by it among three separate and coördinate departments; and the legislative is vested in Congress, the executive in the President, and the judicial in the courts; that in all cases before the Supreme Court in which the constitutionality of any law of Congress or of a State, or any act of the President or other officer of the Government, arises, that court has the power to decide it, and its decision is binding upon the other departments of Government and all persons; and on all other questions of constitutionality each department to which it might come for action must decide for itself, and the decision of the one last having the charge of the matter must prevail. It results, necessarily, that where Congress has passed acts the constitutionality of which cannot or have not been brought before the Supreme Court for its judgment, which require the intervention of the President, either as the chief executive officer of the Government or as the Commander-in-Chief of the Army and Navy, to give them effect, he is the final judge of their constitutionality, and may upon his proper responsibility refuse to execute them.

The powers of government naturally assume a threefold form—legislative, executive, and judicial. A limited and free government can be organized only on the principle of separating those powers and assigning each class to a different and coördinate magistracy. Their union, however effected, and whether in one or a body of men, has been given by English as well as American statesmen to be the definition of a despotism. This partition has been made and guarded with jealous care by our Constitution. The legislative power is vested wholly in Congress; the executive in the President, except the Senate shares with him the power to make treaties and to appoint to office; and the entire judicial power is vested in the courts, with the special designation of the Senate to try all cases of impeachment. Neither department has any authority to review, control, or interfere with another in the performance of its functions, but the independent action of each was designed to check the abuse of power by the others.

Having stated these general principles, I again ask whence the power of Congress to pass this bill and the other reconstruction measures, as they are termed? The Senator from Indiana [Mr. Morton] and the Senator from Oregon, [Mr. Williams,] with a very confident manner and language, claim this authority under the fourth section of the fourth article of the Constitution, in these words:

"The United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature or of the Executive—when the Legislature cannot be convened—against domestic violence."

That provision of itself certainly does not give the power, nor does it with the clause conferring the power of incidental legislation superadded. Before attempting to ascertain the meaning and effect of this fourth section I will premise that the Constitution vests certain specified powers in Congress, others in the President, and others in the courts, *eo nomine*; and some it confers on the United States by that designation. Among the powers thus vested in Congress is—

"To provide for calling forth the militia to exe-

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oute the laws of the Union, suppress insurrections, and repel invasions."

This is a congressional power exclusively. But the fourth article presents instances of other special congressional powers, and also of powers conferred generally on the United States. It provides:

"New States may be admitted by the Congress into this Union."

And—

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory and other property of the United States."

But the guarantee to every State in the Union of a republican form of government against invasion and domestic violence is intrusted to the "United States." The powers vested in Congress, or other department or officer by particular designation, cannot be exercised by any other department or officer; but those conferred generally on the United States are to be executed by Congress, by the President, and by the courts, as they can severally properly take hold of the subject.

The incidental power of legislation vested in Congress is not only to aid in the execution of its own enumerated powers, but "all other powers vested by the Constitution in the Government of the United States or any department or officer thereof." The act of 1795, to provide "for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," is legislation of this incidental character. The Supreme Court, in the case of *Luther vs. Borden*, decided that by the Constitution and that law the President alone had the discretionary power to intervene with the Army of the United States to suppress the domestic violence in the State of Rhode Island, produced by the attempt to supersede the Charter government with the Dorr government. But it cannot be reasonably doubted, that if the act of 1795 had not been enacted, on the application of the proper authority of Rhode Island, the President would have possessed the power, and it would have been his duty, to have made the same interposition. The Constitution requires him, before entering upon the execution of his office, to take an oath that—

"He will faithfully execute the office of President of the United States, and will to the best of his ability preserve, protect, and defend the Constitution of the United States."

And he is also commanded to "take care that the laws be faithfully executed." The Constitution further appoints him—

"Commander-in-Chief of the Army and Navy of the United States and of the militia of the several States when called into the actual service of the United States."

If the execution of the laws of the United States were resisted by an armed force, or a State were invaded or disturbed by domestic violence, it is clear that the President, under these various provisions of the Constitution, irrespective of the law of 1795, would have the power, and he would be bound to interpose in each case with the military forces of the United States. That act is in aid of his power, and gives him facilities for a more prompt and efficient intervention.

GUARANTEE OF REPUBLICAN FORM OF GOVERNMENT.

But it is the first clause of the fourth section of the fourth article, that is generally relied upon by the friends of reconstruction as conferring upon Congress the power to pass those measures: "The United States shall guaranty to every State in the Union a republican form of government;" and this is claimed to be exclusively a congressional power. Neither the language nor the subject warrants that position, although its execution might generally require an act of Congress to give it full effect. But if a State were to abolish its republican form of government, and in its stead were to set up a monarchical or aristocratic government, the United States courts would have the power by its writs to restrain the persons charged

with the powers of the new government from executing them, and if their execution were attempted by an armed force the President could meet that force with the military power of the United States, before Congress had proceeded to declare null and void the new State government.

But if the power in question were wholly and exclusively a congressional power, it gives no authority for the passage of the reconstruction measures. The power to guaranty to the States a republican form of government, though most important and delicate, is a narrow power. It imparts no authority on the part of Congress to make a government for a State; the first and essential idea of a republican government being that it must be made by the people or agents chosen by themselves, whom it is intended to govern. They must give it a republican form, and if they should not, Congress, the legislative power of the Government of the United States, under this provision of the Constitution, could expunge its anti-republican features or refer it back to them with that direction, and thus secure, guarantee to the State a republican form of government. Every State has a sovereign and unlimited right to make its own government, subject to the single restriction that it must be republican in form; and the whole power of the United States over the subject is to obliterate, or to require the State to obliterate, its features that are not republican.

But this power has no application whatever to the present or past condition of the ten southern States. Four of them were of the original thirteen, and all of them were States of the Union, and had governments republican in form when they attempted to secede; and the governments of those four States were then more popular in their character than those they had when the Constitution of the United States was formed and adopted, and the other six had governments equally popular and republican in form. The Federal Constitution was not made by the people of the United States, but by the States and their people severally, and each existing as an independent political sovereignty. They all had governments formed by each State for itself. Rhode Island and New Hampshire adhered to their charter governments granted by the British king, but modified them after the Declaration of Independence, and this modification was a remaking of them by their people. The government of New Hampshire then, and for fifty years afterward, excluded all Roman Catholics from office, and for the same period that of Rhode Island continued a property qualification to invest the right to vote. Many of the other States had property qualifications, both to vote and to hold office; and in some the Governor, one branch of the Legislature, and the judges were not elected immediately by the people, but were chosen by agents elected for that purpose, not by all the people, but by that portion of them in whom the right of suffrage was vested. There was not one of these governments that was purely popular in its character; there was much diversity among them in their minor principles and features; yet they had been formed and were administered by agents chosen directly or indirectly by that portion of their people who held their primary political power, the right of suffrage; and those agents, except the judges, whose tenure was generally during good behavior, held their offices for limited terms. None of those State governments were monarchical or aristocratic, but they were all of what this provision of the Constitution denominates "a republican form." Each of those governments was the very thing, the embodiment of what those who made the Constitution intended by "a republican form of government." The whole purpose of this provision of the Constitution was to prohibit the States then forming the Union, and new ones that might be admitted into it, from making monarchical or aristocratic govern-

ments, and requiring them to adhere substantially to the form of the State governments then in existence.

No position could be more unsound than that this provision of the Constitution was intended to condemn and proscribe, and require to be pulled down the existing State governments, and others to be substituted in their stead. There was not a single State that would have made, or submitted to the incorporation of such a principle in the Constitution; and the fact that every State, without question from any quarter, retained the government it then had for twenty, forty, or fifty years by its own sovereign will, and made others from time to time substantially of the same form, proves that the idea that those governments were not republican in form never entered into the imagination of the men of that day. Those State governments were closely scrutinized, and well understood by the statesmen who framed the Constitution of the United States. They fully comprehended that the right of suffrage in all of them but three, was restricted to half or less than half of the adult white population, and their partition and particular investment of all the powers of Government, and the modes by which their officers were elected and appointed. Instead of being repudiated, these State governments were the republican models upon which the Government of the United States was fashioned; and the Federalist and other publications of the day, that so powerfully commended it to the people of the States for their adoption, made the existing State governments the standards by which to prove that the proposed Government of the United States was republican in form.

These positions are fully sustained by the highest authorities. The thirty-ninth number of the *Federalist* says:

"If we resort for a criticism to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on a government which derives all its powers directly or indirectly from the great body of the people and is administered by persons holding their office during pleasure or for a limited period or during good behavior. It is essential to such a government that it be derived from the great body of the society, not from an inconsiderable proportion or a favored few of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans, and claim for their government the honorable title of republic. It is sufficient for such a government that the persons administering it be appointed, either directly or indirectly, by the people; and that they hold their appointments by either of the tenures just specified; otherwise every government in the United States, as well as every other popular government that has been or can be well organized or well executed, would be degraded from the republican character. According to the constitution of every State in the Union some or other officers of the Government are appointed indirectly only by the people. According to most of them the Chief Magistrate is himself so appointed. And, according to one, this mode of appointment is extended to one of the coordinate branches of the Legislature. According to all the constitutions, also, the tenure of the highest office is extended to a definite period; and, in many instances, both within the executive and legislative departments, to a period of years. According to the provisions of most of the constitutions, again, as well as according to the most respectable and received opinions on the subject, the members of the judiciary department are to retain their offices by the firm tenure of good behavior."

"On comparing the Constitution planned by the Convention, with the standard here fixed, we perceive at once that it is in the most rigid sense conformable to it."

In reference to this constitutional guarantee by the United States of a republican form of Government to every State, Judge Story, in his *Commentaries on the Constitution*, says:

"The *Federalist* has spoken with so much force and propriety on this subject that supersedes all further reasoning. In a confederacy, says that work, founded on republican principles and composed of republican members, the superintending Government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations. The more intimate the nature of such a union may be, the greater interest have the members in the political institutions of each other; and the greater right to insist that the forms of government under which the compact was entered into should be substantially maintained."

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"It may possibly be asked what need there could be of such a provision, and whether it may not become a pretext for alterations in the State governments without the concurrence of the States themselves? These questions admit of ready answers. If the interposition of the General Government should not be needed, the provision for such an event will be a harmless superfluity only in the constitution. But who can say what experiments may be produced by the caprices of particular States, by the ambition of enterprising leaders, or by the intrigues and influence of foreign Powers. To the second question it may be answered, that if the General Government should interpose by virtue of this constitutional authority, it will be of course bound to pursue the authority. But the authority extends no further than to a guarantee of a republican form of government, which supposes a preexisting government of the form which is to be guaranteed. As long therefore as the existing republican forms are continued by the States, they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms they have the right to do so, and to claim the Federal guarantee for the latter. The only restriction imposed on them is, that they shall not exchange republican for anti-republican constitutions; a restriction which it is presumed will hardly be considered as a grievance."

But, because the Declaration of Independence sets forth that all men are free and equal, some wild theorists claim that it invests Congress with the power to pass its reconstruction measures. Congress derives its powers, not from the Declaration of Independence, but from the Constitution alone. The Declaration of Independence is simply a statement of facts and principles to justify the separation of the Colonies from the mother country. It was not the purpose or effect of it to change the individual condition of any person, of whatever race or color, in the Colonies. It made none free who were slaves; it gave not a single right, civil or political, to a human being; it left the status of all as it was before; it had no force whatever of law or constitution; and the States made independent received no other result from it.

What idea the men who made the Constitution intended to express by the phrase "republican form of government" is illustrated by the substantial form of the State governments subsisting at the time; and he who in sincerity contends that they, and the other similar governments since organized by the States, are not such republican governments as are contemplated by the Constitution, is not competent to reason or to comprehend an argument on that subject.

Having ascertained what is a republican form of government exactly in the sense of the Constitution, I assert that each one of the ten southern States had, when this reconstruction policy was inaugurated, valid governments, republican in form; and that Congress had not only no power to abolish them, but none to interfere with them, under the pretext that they were not republican in form—that they were wholly outside and beyond the power of Congress. I believe this position can be established beyond reasonable doubt. No one will deny that those States were in the Union up to the time of passing their ordinances of secession. Previously they had regularly elected their Senators and Representatives to Congress, who were always admitted to their seats; and the Supreme Court, in the case of *Luther vs. Borden*, held that such admission was a recognition by the proper constitutional authority of the State and the republican form of its government, under which those members of Congress had been chosen.

There is no warrant for secession in the Constitution; it was revolution attempted to be disguised under another name, and success alone could have given it any validity. Its ordinances were absolutely void. A State in the Union is there as long as our system of government endures. There is no power anywhere to throw out or to expunge them. The organized States are parts of the framework of the machinery of our mixed system of national and State governments, and can no more be dispensed with than the Presidency or Congress or the Supreme Court. Their action is not so frequent in the operations of

the General Government, but is not less necessary. The Federalist declares most truly that "the State governments may be regarded as constituents and essential parts of the Federal Government;" and to prove the position, adds:

"Without the intervention of the State Legislatures the President of the United States cannot be elected at all."

The Constitution makes provision for the "junction of two or more States, or parts of States, by the consent of the Legislatures of the States concerned as well as of Congress;" but none for the annihilation or suspension of States, or for their trial or punishment by any mode whatever. The punitive power of the United States is directed exclusively against individuals, natural persons, not at all against States. The persons administering the State governments may commit treason and other crimes against the United States, for which they may be tried and punished by their laws and courts; but not so with the States or their governments, or their departments, or governmental machinery. Members of the Senate, or all the Senators and Representatives, the President, and the members of the Supreme Court, may be guilty of treason and other crimes, and be individually and personally punished therefor; but not Congress, or the Senate, or the House, or the Presidency or the court; but they, like the States, exist in perpetuity, as parts of the machinery and organism of our system of government, to be occupied and held and administered by true men, as traitors and criminals are expelled from them. These are essential and inherent principles which continue our Government, and without which it would fall into chaos and dissolution.

THE PUNISHMENT OF FORFEITURE OF STATES.

I then state these propositions to be true: that the union of the States, and the Government of the United States, and the States and their governments are constituent parts of the machinery of our complex system of government, and equally necessary to its continuance; that to constitute a State, a country with a boundary, a people, and a government, either in actual operation or in suspension are all indispensable requisites; that a State cannot secede, or commit suicide or self-destruction, or be expunged, suspended, or excised from her position and rights and powers in the Union by the Government of the United States; that a State can be displaced from the Union only by the successful revolt of her people, or by the conquest and permanent occupation of it by a foreign Power; but the people of a State or of several States may rise in insurrection or rebellion against the United States. Such a trouble was anticipated, and provision made for it by the Convention which framed the Constitution. It may be suppressed by armed force. Congress has not only an indefinite power "to raise and support armies," and "to provide and maintain a Navy," but also to provide for calling forth the militia of all the States to suppress it; and the President, as Commander-in-Chief, and in the performance of his duty to see that the laws are faithfully executed, must move with this military force upon the insurgents to what end? To suppress the insurrection. That is the power, and the whole power, which the Constitution gives to Congress and the President—to the United States—in the premises. When the insurrection is crushed out and the insurgents return or are reduced to submission and obedience to the laws, the power of arms by our Government is exhausted; and the laws and the courts only can then deal with the insurgents for their punishment.

CONSEQUENCES AND POST LIMINUM.

This is not a war, for that imports conquest and acquisition to the victors and loss to the vanquished, according to the law of nations regulating war. The idea of the United States conquering a portion of themselves and abolishing the State governments and suspending

the Government of the United States to the extent of the conquest, is not only without any authority in our system, but utterly destructive of it. The United States cannot declare or make war against a State. To enforce the execution of the laws and to suppress insurrections and rebellions and domestic violence in the States, is not the exercise of the war power organized by the Constitution and vested by it in the Government of the United States, but of the great national police power. The one is an internal and conserving power, the other an external and destructive power acting on foreign nations. This national police power is of the same nature with the enforcement of the governments of cities and the States, of their police power in the suppression of insurrections against them. In none of those cases can arms be resorted to by the government until they are first used by the insurgents, and then only to quell the insurrection and to reduce the insurgents to obedience to the laws. This is a conflict of arms, and while it is raging and in operation, the parties are held to the usages and practices of war by civilized and Christian nations. If the insurgents are successful it is revolution, and results in the establishment of another national power; if they are suppressed and submit, that ends the right by the Government for the farther use of arms, and the treatment of those engaged in the insurrection then passes from the military to the civil authorities, and no other consequences can rightfully ensue than their punishment according to law. Immediately upon the suppression of the rebellion, by the operation and effect of the principles of the Constitution and the law of nations, both of which as to this matter are in perfect accord, things, except so far as positively destroyed by the conflict, as regards governments, institutions, persons, property and rights, public and private, are restored to the same condition in which they were before the insurrection.

This position is sustained by all approved writers on the law of nations, but I will read from one only. Vattel, pages 392, 394, 397, says:

"The right of *post liminium* is that in virtue of which persons and things taken by the enemy are restored to their former state on coming again into the power of the nation to which they belonged."

"The sovereign is bound to protect the persons and property of his subjects, and to defend them against the enemy. When, therefore, a subject or any part of his property has fallen into the enemy's possession, should any fortunate event bring them again into their sovereign's power, it is undoubtedly his duty to restore them to their former condition, to reestablish the persons in all their rights and obligations, to give back the effects to the owners; in a word, to replace everything on the same footing on which it stood previous to the enemy's capture."

Again:

"Prisoners of war who have given their parole, territories and towns which have submitted to the enemy and have sworn or promised allegiance to him, cannot of themselves return to their former condition by the right of *post liminium*; for faith is to be kept even with enemies."

"But if the sovereign retakes those towns, countries, or prisoners who had surrendered to the enemy, he recovers all his former rights over them, and is bound to reestablish them in their pristine condition."

"Provinces, towns, and lands which the enemy restores by a treaty of peace, are certainly entitled to the right of *post liminium*; for the sovereign, in whatever manner he recovers them, is bound to restore them to their former condition as soon as he regains possession of them."

This principle of *post liminium* has been recognized by our own courts. During the war of 1812, the British forces conquered and held possession of a part of the district of Maine, then attached to Massachusetts, within which was the port of Castine. This occupation expelled the authorities and laws of the United States and the State of Massachusetts, and the commander of the British forces established other laws, comprehending a system of import duties. An American ship entered the port and paid duties to the English custom-house officers, under their regulations. After peace was made, and the army and authority of England had been withdrawn from Maine, the

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United States district attorney had this ship and her cargo libeled for violation of the laws of the United States in not having paid duties in conformity to them. The case was tried in the United States circuit court by Justice Story, and in his opinion he says:

"The second objection is, that the court directed the jury that Castine was, under the circumstances, a foreign port. By 'foreign port,' as the terms are here used, may be understood a port within the dominions of a foreign sovereign, and without the dominions of the United States. The port of Castine is the port of entry for the district of Penobscot, and is within the acknowledged territory of the United States. But, at the time referred to in the bill of exceptions, it had been captured, and was in the open and exclusive possession of the enemy. By the conquest and occupation of Castine that territory passed under the allegiance and sovereignty of the enemy. The sovereignty of the United States over the territory was, of course, suspended, 'and the laws of the United States could no longer be rightfully enforced, or be obligatory upon the inhabitants, who remained and submitted to the conquerors. Castine, therefore, could not, strictly speaking, be deemed a port of the United States; for its sovereignty no longer extended over the place. Nor, on the other hand, could it, strictly speaking, be deemed a port within the dominions of Great Britain, for it had not permanently passed under her sovereignty. The right which existed was the mere right of superior force, the allegiance was temporary, and the possession not that firm possession which gives the conqueror *plenum dominium et utile*, the complete and perfect ownership of property. It could only be by a renunciation in a treaty of peace, or by possession so long and permanent as should afford conclusive proof that the territory was altogether abandoned by its sovereign, or had been irretrievably subdued, that it could be considered as incorporated into the dominions of the British sovereign. Until such incorporation, by a recapture or repossession, the territory would be entitled to the full benefit of the law of *post limine*."

The United States, under and according to the Constitution, holds all over their territory a common, uniform, and equal limited sovereignty which has no sliding scale, but is the same in war and peace. They have many powers, for the execution of which there is no occasion but in times of war; but that state of things make no addition to their powers, nor does a state of peace subtract anything from them, except in relation to the single point of the suspension of the writ of *habeas corpus*. During the late rebellion, this limited sovereignty of the United States was expelled from the eleven States whose people entered into it; but there was no annihilation, but only a suspension of that sovereignty. The moment the authority of the United States regained possession of the whole or any part of those States the Constitution, laws, and jurisdiction of the United States, and the constitutions and laws of the States respectively were restored *de jure* without the aid of any act of Congress or the President, but by the effect and operation of the Constitution and general law. When there is an insurrection in a city or State against the Government thereof, on its suppression the previous government and order of things are always reinstated by the operation of the general principle of *post limine* and without any legislation. The domestic violence in Rhode Island was an insurrection by Dorr and his followers against the charter government, and it was so formidable that the State authorities invoked military aid from the Government of the United States. The President ordered the march of troops to suppress it, and when the insurgents learned this fact they abandoned their enterprise and dispersed.

But for this interposition the rebels would, in all probability, have driven out the lawful government and have taken possession of the State; and if this had been effected before the United States authorities had interfered, and afterward their armies had been marched into the State, and had suppressed the insurrection, immediately thereupon, without any legislation, State or national, but by the effect of the general principle of *post limine* the charter government and all its officers and authority would have been reinstated. When the British power abandoned Maine the same principle restored the government of Massachusetts and of the United States, without any legislation by

either, over the whole country in which the sovereignty of both had been suspended by the occupation of another Power.

On the suppression of the rebellion in the southern States, this principle should, and probably would, have been applied, and have tranquilized the whole country but for their institution of slavery, which also would have been restored. But that is no difficulty now to the application of this healing remedy, because all the late slave States except three, by their own amended constitutions and laws, abolished slavery within their limits; and the thirteenth amendment of the United States Constitution abolished it throughout their entire jurisdiction. No power can ever restore slavery in the United States or any of them.

OUR GOVERNMENT SUI GENERIS.

If it be a general principle applicable to all Governments, though they have no fixed constitutions, that when a part of their country has been conquered and occupied by a foreign enemy, upon its reconquest all things are restored as though there had been no conquest of it: with what added force does this principle apply to our Government and country, when there has been an insurrection or rebellion of sectional and temporary success. The general purpose and spirit of our system finds an embodiment in that principle; indeed, could not be preserved without it. On the suppression of the rebellion everything that had been done to give it form, effect, and permanence passed away; the previous order of things stood at once *de jure* restored. During the whole period every person within the United States was under their jurisdiction and laws, and in all respects amenable to them.

The body of our Constitution is remarkably condensed and its language concise but clear; and if examined in an honest spirit there could not be essential difference in its construction. But there are three principal sources of its various and erroneous interpretation: first, persons have particular theories, and read and wrest its language to sustain their theories; second, it is often construed with a purpose to maintain the measures of party and faction; third, it is frequently attempted to explain and illustrate its provisions and powers by comparison with other Governments. It is the written law of a Government differing from all others; and the true light in which it should be studied is its own language, the defects of the system it was intended to remedy, the debates of the conventions which framed and adopted it, and the contemporaneous expositions of it. I will read from Mr. Madison in relation to this matter. On page 61, volume four, of his writings, he says:

"It has been too much the case in expounding the Constitution of the United States that its meaning has been sought in the peculiar and unprecedented modifications of power but by viewing it, some through the medium of a single government, others through that of a mere league of governments. It is neither the one nor the other, but essentially different from both. It must consequently be its own interpreter. No other Government can furnish a key to its true character. Other Governments present an individual and indivisible sovereignty. The Constitution of the United States divides the sovereignty; the portions surrendered by the States composing the Federal sovereignty over specified subjects, the portions retained forming the sovereignty of each over the residuary subjects within its sphere. If sovereignty cannot be thus divided the political system of the United States is a chimera, mocking the vain pretensions of human wisdom. If it can be so divided it ought to have a fair opportunity of fulfilling the wishes and expectations which cling to the experiment."

On page 74 Mr. Madison writes:

"I must say that the real measure of the powers meant to be vested in Congress by the Convention, as I understand and believe, is to be sought in the specifications; to be expounded, indeed, not with a strictness applied to an ordinary statute by a court of law, nor, on the other hand, with a latitude that under the name of means for carrying into execution a limited Government would transform it into a Government without limits."

Mr. Madison, in these passages, gives the true key to the meaning of the Constitution. It was made by preëxisting sovereignties surren-

dering a portion of their sovereignty, to form a Government having jurisdiction over common objects and retaining the entire mass of sovereignty that they did not give up to this new and national Government. This surrender of powers is wholly expressed in the Constitution which creates the Government, and none can be claimed or exercised by it but such as are conferred by the Constitution, that the powers with which it invests Congress are written and specified in the Constitution, and are all substantive and primary, except a grant of a general power of incidental legislation to pass laws necessary and proper to carry into execution the enumerated powers of Congress and all other powers vested by the Constitution in the Government of the United States. All agree that this provision gives only the power of incidental and auxiliary legislation, and this is the plain meaning of its language. The reconstruction measures are framed upon the idea that this is a power limited only by the discretion and will of Congress; and that the courts even cannot question the constitutionality of any such legislation. Never was there a more unsound, licentious, and dangerous position assumed. The Constitution expresses in all its provisions, principles, and language that the Government created by it is one of limited powers; but this interpretation of that clause authorizing incidental legislation would make the powers of Congress illimitable. It of itself would confer on that department vastly more power than is given by all the other provisions of the Constitution to the whole Government. It would break down every check, restriction, and limitation, demolish the other departments, and erect Congress into an absolute despotism. Until now the powers of Government, expressed and enumerated in the Constitution, have been regarded by every American statesman as the body and substance of the Government; and the power of incidental legislation as merely auxiliary to them, not capable of existence except in connection with them, the two occupying the relation of substance and shadow. But this monstrous heresy would make the incidental power swallow up not only the specified, primary, and substantive powers, to minister to which is its only office, but the entire Government in a congressional despotism. Such an idea could have originated only in the madness of faction.

Chief Justice Marshall, in the case of *McCullough vs. Maryland*, has given a very liberal construction of this power of incidental legislation by Congress; but he rules explicitly that while Congress acts within the pale of its constitutional power, it has the sole discretion to select the means; yet if the means selected are not necessary and appropriate, or if they violate the letter or spirit of the Constitution, or, under the pretext of executing its powers, pass acts for the accomplishment of objects not intrusted to the Government, it would be the duty of the court to pronounce them not to be the law of the land.

CASE OF LUTHER VS. BORDEN.

But the supporters of congressional reconstruction all assume most confidently, that the case of *Luther vs. Borden*, 7 Howard fully and clearly recognizes the power of Congress to pass them. I take issue with them, and assert that it denies to Congress any and all such power. Preliminary to the investigation of this question, I will read such parts of that opinion as bear upon it:

"Certainly the question which the plaintiff proposed to raise by the testimony he offered has not heretofore been recognized as a political one in any of the State courts. In forming the constitutions of the different States after the Declaration of Independence, and in the various changes and alterations which have been made, the political department has always determined whether the proposed constitution or amendment was ratified or not by the people of the State, and the judicial power has followed its decision. In Rhode Island the question has been directly decided. Prosecutions were commenced against some of the persons who had been active in forcible opposition to the old government, and in

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more than one of the cases evidence was offered on the part of the defense similar to the testimony offered in the circuit court and for the same purpose; that is, for the purpose of showing that the proposed constitution had been adopted by the people of Rhode Island, and had, therefore, become the established government, and consequently that the parties accused were doing nothing more than their duty in endeavoring to support it."

Again:

"But the courts [of Rhode Island] uniformly held that the inquiry proposed to be made belongs to the political power and not to the judicial; that it rested with the political power to decide whether the charter government had been displaced or not, and when that decision was made the judicial department would be bound to take notice of it as the paramount law of the State without the aid of process or the examination of witnesses; that according to the laws and institutions of Rhode Island no such change had been recognized by the political power; and that the charter government was the lawful and established government of the State during the period in contest, and that those who were in arms against it were insurgents and liable to punishment."

"This doctrine is clearly and forcibly stated in the opinion of the supreme court of the State against Thomas W. Dorr, who was the Governor elected under the opposing constitution, and who headed the armed force which endeavored to maintain its authority."

"The point then ruled has been clearly decided by the courts of Rhode Island. The question relates altogether to the constitution and laws of that State, and the well-settled rule in this court is, that the courts of the United States adopt and follow the decisions of the State courts in questions which concern merely the constitutions and laws of the States."

"Moreover, the Constitution of the United States, so far as it has provided for an emergency of this kind, and authorized the General Government to interfere in the domestic concerns of a State, has treated the subject as political in its nature, and placed the power in the hands of that department."

"The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guaranty to every State in the Union a republican form of Government, and shall protect each of them against invasion; and, on the application of the Legislature or of the Executive, (when the Legislature cannot be convened,) against domestic violence."

"Under this article of the Constitution it rests with Congress to decide what government is the established one in a State; for as the United States guarantee to each State a republican government, Congress must necessarily decide what government is established in a State before it can determine whether it is republican or not."

"And when the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority; and the decision is binding on every other Department of the Government, and could not be questioned in a judicial tribunal. It is true that the contest in this case did not last long enough to bring the matter to this issue, and as no Senators or Representatives were elected under the authority of the Government of which Mr. Dorr was the head, Congress was not called upon to decide the controversy. Yet the right to decide is placed there, and not in the courts."

"So, too, as relates to the clause in the above-mentioned article of the Constitution, providing for cases of domestic violence. It rested with Congress, too, to determine upon the means proper to be adopted to fulfill this guarantee. They might, if they had deemed it most advisable to do so, have placed it in the power of a court to decide when the contingency had happened which required the Federal Government to interfere. But Congress thought otherwise, and no doubt wisely; and by the act of February 28, 1795, provided that, 'in case of an insurrection in any State against the government thereof, it shall be lawful of the President of the United States, on application of the Legislature of such State or of the Executive (when the Legislature cannot be convened) to call forth such number of the militia of any other State or States, as may be applied for, as he may judge sufficient to suppress such insurrection."

"By this act the power of deciding whether the exigency had arisen upon which the Government of the United States is bound to interfere is given to the President. He is to act upon the application of the Legislature or of the Executive, and consequently he must determine what body of men constitute the Legislature and who is the Governor before he can act. The fact that both parties claim the right of the government cannot alter the case, for both cannot be entitled to it. If there is an armed conflict, like the one of which we are speaking, it is a case of domestic violence, and one of the parties must be in insurrection against the lawful government. And the President must of necessity decide which is the government and which party is unlawfully arrayed against it before he can perform the duty imposed upon him by the act of Congress."

"It is true that in this case the militia were not called out by the President. But upon the application of the Governor under the charter government, the President recognized him as the executive power of the State, and took measures to call out the militia to support his authority if it should be found necessary for the General Government to interfere; and it is admitted in the argument, that it was the knowledge of this decision that put an end to the

armed opposition to the charter government, and prevented any further efforts to establish by force the proposed constitution. The interference of the President, therefore, by announcing his determination, was as effectual as if the militia had been assembled under his orders. And it should be equally as authoritative. For, certainly no court of the United States, with a knowledge of this decision, would have been justified in recognizing the opposing party as the lawful government; or in treating as wrong doers or insurgents the officers of the government which the President had recognized, and was prepared to support by armed force. In the case of foreign nations the Government acknowledged by the President is always recognized in the courts of justice. And this principle has been applied by the act of Congress to the sovereign States of the Union."

"It is said that this power in the President is dangerous to liberty, and may be abused. All power may be abused if placed in unworthy hands. But it would be difficult, we think, to point out any other hands in which this power would be more safe and at the same time equally effectual. When citizens of the same State are in arms against each other, and the constituted authorities unable to execute the laws, the interposition of the United States must be prompt, or it is of little value. The ordinary course of proceedings in courts of justice would be utterly unfit for the crisis. And the elevated office of the President, chosen as he is by the people of the United States, and the high responsibility he would not fail to feel when acting in a case of so much moment, appear to furnish as strong safeguards against a willful abuse of power as human prudence and foresight could well provide. At all events, it is conferred upon him by the Constitution and laws of the United States, and must therefore be respected and enforced in its judicial tribunals."

"A question very similar to this arose in the case of *Martin vs. Mott*, (12 Wharton, 20.) The first clause of the first section of the act of February 28, 1795, of which we have been speaking, authorizes the President to call out the militia to repel invasion. It is the second clause in the same section which authorizes the call to suppress an insurrection against a State Government. The power given to the President in each case is the same, with this difference only, that it cannot be exercised by him in the latter case, except upon the application of the Legislature or executive of the State. The case above-mentioned arose out of a call made by the President, by virtue of the power conferred by the first clause; and the court said that whenever a statute gives a discretionary power to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction, that the statute constitutes him the sole and exclusive judge of the existence of those facts. The grounds upon which that opinion is maintained, are set forth in the report, and we think are conclusive. The same principle applies in the case now before the court."

These positions are clearly ruled by this opinion. What is the government of a State, and who are the persons administering it, is a political question, and is to be decided by the political power of the government of the State and the United States. When the political power of the State has decided that question, the decision is binding upon its courts; and after it has been ruled by those courts the Supreme Court of the United States will adopt and follow their decision."

That under the Constitution and law of 1795, the President alone has the absolute and unappealable power to decide that question for the United States, and his decision is binding on all the departments of the Government; and that in the contest between the charter and Dorr governments of Rhode Island the President, without any intervention by Congress, did decide that question in favor of the charter government—his decision is approved by the courts. That when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority."

The principles recognized by the Supreme Court in this case utterly explode the power of Congress to pass the reconstruction measures. The court does not give any precise definition of "political questions" or "the political power" of the Government; but it treats both Congress and the President as that political power. Besides the legislative powers, all that are vested specially in Congress are to propose amendments to the Constitution and to admit new States into the Union; while in addition to the internal executive powers, the President holds the national intercourse with foreign Governments, recognizes their political exist-

ence, and, by and with the advice and consent of the Senate, makes treaties and nominates and appoints ambassadors, other public ministers and consuls, fixes the position of our disputed boundaries, and decides for our Government what are the possessions of foreign Powers. It is not material to the measure before the Senate to decide what is the political power of our Government, and where it is vested; but there is as much reason to contend that it is in the President as in Congress; it is probably correct to say it belongs partly to both."

After the surrender of Lee and Johnston and the submission of all the insurgents, and when there was no longer an arm raised by them against the United States, the people who had been in the rebellion, were properly exhorted by the President to rehabilitate their State governments and to resume their proper relations with the Government of the United States. They severally called conventions, which took up the constitutions and governments that they had before the insurrection, repealed their ordinances of secession, and renounced its principle, abolished slavery within their limits, repudiated their debts created by their rebellion, and adopted the thirteenth amendment of the Constitution, which abolished slavery throughout the United States."

RECOGNITION OF SOUTHERN STATES BY THE GOVERNMENT OF THE UNITED STATES.

During the whole war the United States Government, by all its departments, not only recognized the States which had attempted to secede as being *de jure* States in the Union, but also steadily and truthfully maintained the position that their ordinances of secession were null and void; that the people who had risen in their support were insurgents, and the conflict on the part of the United States was for no other purpose than to hold those States in the Union, and to reduce their people to the laws and authority of the United States, declaring the war was then to terminate. After the rebellion had broken out, and before the surrender of Lee and Johnston, Congress passed laws to apportion representation and direct taxes among all the States, including those that had passed ordinances of secession; to lay off the States, comprehending the whole, into circuits for holding the United States courts by the judges of the Supreme Court; and another law reducing the number and increasing the extent of those circuits; and has passed other laws to remove suits pending in the State courts in those States into the United States courts; to establish widely over them post offices and post routes; to change the places of holding the United States courts in Tennessee and Virginia; admitting West Virginia as a State into the Union, and reciting in the act that the State of Virginia had given her consent to the erection of the new State within her jurisdiction. Congress also submitted the thirteenth and fourteenth propositions to amend the Constitution to all the States, including the rebel States, and in the latter submitted a special proposition to them."

Andrew Johnson, President of the United States, was a Senator from Tennessee at the beginning of the insurrection, and was admitted and welcomed to his seat for three successive sessions, as MAYNARD and CLEMENTS were admitted as Representatives at the same time; and Senator Johnson was appointed military governor of Tennessee by President Lincoln, and afterward nominated and elected Vice President by the Republican party."

At the session of Congress beginning in December, 1861, CARLILE and WILLEY appeared at the bar of the Senate as Senators from the State of Virginia, and elected after her ordinance of secession had been passed. Their admission was resisted. The question was debated, and their right sustained by an almost unanimous vote, including every Republican Senator. CARLILE attended each session of the Senate until the expiration of his term,

which was after the surrender of Lee and Johnston. The organization of West Virginia into a new State removed WILLEY as a Senator from Virginia in 1862, when Bowden was elected as his successor, admitted, and continued to act as her Senator until his death. The House of Representatives admitted Representatives from the State of Virginia to the Thirty-Seventh Congress.

The judges of the Supreme Court allotted among themselves the several circuits comprehending the rebel States, as they were organized by acts of Congress both before and since the capitulation of Lee and Johnston. It has tried cases coming up to it from the insurgent States prior and subsequent to the suppression of the rebellion; and its judges have held courts and issued writs of *habeas corpus* and other process operating within those States from the time of the proclamation of the President declaring the rebellion to be suppressed.

GENERAL CONCLUSIONS.

From that time the President has extended and put into operation the post office and internal revenue systems, with their extensive machinery, all over those States, and, by and with the advice and consent of the Senate, has appointed in them judges, marshals, assessors, collectors, custom house and other officers, as in the other States, who have been regularly paid their salaries from the Treasury of the United States.

It is thus shown that the Government of the United States, by all its departments, in multi-form and important official acts extending through six years and up to the time of the inauguration of the reconstruction policy in March last, had recognized that the southern States were States in the Union and had governments of a republican form.

Mr. President, I believe I have demonstrated these positions to be true:

1. That the States and ~~the~~ governments are an essential part of the machinery of the Government of the United States, and cannot be expunged or suspended by it.
2. That it is as much the duty of the Government of the United States to defend, preserve, and protect the States and their governments as its own particular organization.
3. That in our system, forfeiture and all other punishment are personal visitations, and could not be inflicted upon the States without disorder and revolution.
4. That Congress has power to admit new States into the Union, and when a State is admitted that power is exhausted, and the State is one of the States of the Union until she is displaced by successful revolution.
5. That the guarantee by the United States to every State of a republican form of government, confers upon Congress no power to make the government, but only to require its people to make a republican government; and a government substantially similar to those of the States when the Constitution was adopted comes up to this constitutional standard.
6. That all the States, including those involved in the rebellion, up to the time of their respective ordinances of secession, had governments republican in form.
7. That secession is without any authority in the Constitution, and the attempt of the southern States and their people to secede was to make a revolution under another name; and having failed is wholly null and without effect.
8. That the whole power of the Government in relation to the rebellion was simply to suppress it; and that this power was to be executed by Congress and the President, and was exhausted by the suppression of the rebellion, and thereupon all other power over the rebels rested with the courts and the laws.
9. That upon the suppression of the rebellion, by the force and effect of the Constitution and the universal principle of *post liminy*, the jurisdiction of the United States in the States

from which it had been excluded, and the governments, laws, and institutions of the States as to persons and things in them, were, without any legislation, State or Federal, restored to the same condition in which they were before the rebellion.

10. That after the suppression the people of the southern States set up their preëxisting governments, submitted fully and according to the Constitution to the authority of the United States, called conventions, declared null and void their ordinances of secession, repudiated their rebel debts, and adopted the amendment of the Constitution abolishing slavery throughout the United States.

11. That those modified governments of the southern States were republican in form, and more popular than their previous governments, and the States; that those governments were recognized by the United States acting by Congress, the President, and the Supreme Court severally in many official acts, and that neither of those departments can now take ground that they are not States in the Union.

AGGRESSIVE AND USURPING TENDENCY OF CONGRESS.

Why, then, Mr. President, has the deranged condition of our country, of its Government, and all its affairs not only continued, but progressively augmented as to have become almost unendurable? What is the disturbing and malign power that still continues to defeat general peace, order, prosperity, liberty, and security upon the principles of the Constitution? It is faction acting by a spurious Senate and House of Representatives, both mutilated by itself, and perverting and transcending its own powers and seizing upon others not intrusted to the Government, and breaking down the coordinate departments to perpetuate its own lawless and licentious rule. Let us hear how the prophetic and warning voice of Jefferson and Madison spoke to their countrymen of this overruling, aggressive, and absorbing power.

Mr. Jefferson, in his Notes on Virginia, says:

"All powers of government, legislative, executive, and judiciary, result to the legislative body. The concentrating these in the same hands is precisely the definition of despotic Government.

"It will be no alleviation that these powers will be exercised by a plurality of hands and not by a single one. One hundred and seventy-three despots would be as oppressive as one.

"Let those who doubt it turn their eyes on the republic of Venice. As little will it avail us that they are chosen by ourselves. An elective despotism was not the government we fought for, but one which should not only be founded on free principles, but in which the powers of Government should be so divided and balanced among several bodies of magistracy as that no one could transcend their legal limits without being effectually checked and restrained by the others.

"For this reason the Convention which passed the ordinance of government laid its foundation on this basis: that the legislative, executive, and judiciary departments should be separate and distinct, so that no person should exercise the powers of more than one of them at the same time; but no barrier was provided between those several powers. The judiciary and executive members were left dependent on the legislative for their subsistence in office, and some of them for their continuance in it. If, therefore, the legislative assume executive and judiciary powers no opposition is likely to be made, nor, if made, can be effectual; because in that case they may put their proceedings into the form of an act of assembly, which will render them obligatory on the other branches. They have accordingly in many instances decided rights which should have been left to judiciary controversy, and the direction of the Executive during the whole time of their session is becoming habitual and familiar."

In the forty-seventh number of the Federalist, Mr. Madison, says:

"The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one or few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."

And in the forty-eighth number he says:

"It is agreed on all sides, that the powers properly belonging to one of the departments ought not to be directly and completely administered by either of the other departments. It is equally evident, that neither of them ought to possess, directly or indirectly, an overruling influence over the others in the administration of their respective powers. It will not be denied that power is of an encroaching nature, and that it ought to be effectually restrained from passing the limits assigned to it.

"Will it be sufficient to mark, with precision the boundaries of these departments, in the constitution of the government, and to trust to these parchment-barriers against the encroaching spirit of power?"

"But experience assures us that the efficacy of the provision has been greatly overrated, and that some more adequate defense is indispensably necessary for the more feeble against the more powerful members of the Government. The legislative department is everywhere extending the sphere of its activity, and drawing all power into its impetuous vortex.

"But in a representative Republic, where the Executive Magistracy is carefully limited, both in the extent and duration of its power; and where the legislative power is exercised by an assembly which is inspired by a suppressed influence over the people, with an intrepid confidence in its own strength, which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions by means which reason prescribes; it is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions."

"The legislative department derives a superiority in our Government from other circumstances. Its constitutional powers at once more extensive and less susceptible of precise limits, it can, with greater facility, mask, under complicated and indirect measures, the encroachments which it makes on the coordinate departments. It is not unfrequently a question of real nicety in legislative bodies whether the operation of a particular measure will or will not extend beyond the legislative sphere. On the other side, the executive power being restrained within a narrower compass, and being more simple in its nature; and the judiciary being described by landmarks still less uncertain, projects of usurpation by either of these departments would immediately betray and defeat themselves. Nor is it all; as the legislative department alone has access to the pockets of the people, and has in some constitutions full discretion, and in all a prevailing influence over the pecuniary rewards of those who fill the other departments, dependence is thus created in the latter, which gives still greater facility to encroachments of the former."

These were the views of Mr. Jefferson and Mr. Madison, on the State constitutions and their administration before the formation of the Constitution of the United States. On its adoption, Mr. Madison was elected a Representative from Virginia, and while attending Congress in New York, wrote a letter to Edmund Randolph, dated June 21, 1789, in which there is this passage:

"In truth, the legislative power is of such a nature that it can scarcely be restrained, either by the Constitution or by itself; and if the Federal Government should lose its proper equilibrium with itself, I am persuaded that the effort will proceed from the legislative department. If the probability of encroachments on the part of the Executive or the Senate were to be compared, I should pronounce the danger to lie rather in the latter than the former. The mixture of the legislative, executive, and judicial authorities lodged in that body justifies such an inference; at the same time, I am fully of the opinion that the numerous and immediate representatives of the people composing the other House will decidedly predominate in the Government."

That the dominating faction in Congress should have proceeded to shut the door of the Senate against twenty Senators and of the House against fifty Representatives, and to expel other members from both Houses to secure a majority of two thirds of the remainder, and proceed to overrule the President's veto of their oppressive and unconstitutional acts; to propose amendments to the Constitution; and not only without any color of authority, but in defiance of the most vital principles of the Constitution, should pass acts to overthrow ten States and their governments, and dominate them with martial law and five military tools, whom they have abstracted from the control of the Commander-in-Chief, and by this instrumentality set up governments in those States made to their bidding, to be administered by their creatures to secure their ambitions and selfish ends and their continuance in power, constitutes bolder, more hardy, and startling political enterprise, taking into view every condition and circumstance, than was ever before set on foot by man; and the apathy of the country to it is of more discouraging and fearful import than even the audacious spirit of its projectors. The faction now so wildly dominating, or the one that may succeed it will have equal authority, reinforced by this precedent, to assault any of the other States and their governments and make other revolutions.

SENATE.

Reconstruction—Mr. Davis.

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We are, indeed, treading in the footsteps of Mexico and the countries of South America.

Mr. President, a serious cause of increasing weakness in our system of blended national and State governments, is the greatly increased and still increasing number of the States, which is proportionably augmenting the power and influence of the General Government and decreasing that of the States. A single State cannot make herself felt in a Union of forty as she could in thirteen States. But the great weakness of our Government is the impeachability of the President and of the judges of the Supreme Court by the two Houses of Congress. It establishes on the part of Congress a perpetual and irrepressible aggression upon the other departments, that must sooner or later subvert their independence and break up the great principle of separating the powers of Government into three classes, and vesting each in a different magistracy. That inherent weakness of our system even now threatens it with utter overthrow, and fully justifies the serious apprehension of it which Mr. Madison expressed in the Convention. The impeachment will be generally not for crime or moral turpitude, but for political differences. It will require all the jealous watchfulness of the people to restrain the encroaching spirit of Congress.

CONCLUSION.

Mr. President, while factions are the bane of popular Governments, parties formed and maintained truthfully and temperately upon opposing principles and policies, tend to their safety and preservation. All strong parties that are possessed of the powers of Government for a long time, necessarily degenerate into factions, and abandon principle to follow the lure of ambition, avarice, revenge, and other debauching passions. For the safety of the country the duration of parties should be short, and follow each other in succession, and the party administering the Government should have a strong, able, and vigilant Opposition; nothing can long prevent its degeneracy, and that can only delay it. The Republican party has existed too long, and seized *fas aut nefas* upon greatly too much power, and aggregated too much in numbers. The best good of the whole country, the very existence of our system of mixed national and State governments, require that it should come to an end, and a speedy end.

Mr. President, do not your political friends give their opponents grounds thus to arraign them. The motives and ends of your whole policy of reconstruction are palpable and transparent, and none are so blind, so stupid, as not to see and understand them. Humanity and philanthropy, to benefit and elevate the freed negroes, are but pretexts. You know the inferiority and incapability of that race; but their liberation having been effected chiefly by your efforts, and knowing that this has bound them strongly to you, your conclusion is, that if they possessed the right of suffrage they would exercise it in the interests and conformably to the will of their benefactors. You persuade yourselves that you would get and hold possession of them, and that their votes would add so much to your political power. No man so credulous as to believe that if the negro population was as large in the former free States, respectively, as it is in the ten southern States, that any considerable number of your party would advocate their right of suffrage; and every one knows that if you were convinced they would as generally vote against you, as you now believe they would for you, the vehemence of your opposition would greatly exceed the zeal of your present advocacy of that proposition.

If you are true and sincere in supporting the right of suffrage to the hundreds of thousands of negroes in the southern States, why do you withhold it from the few thousands in your own? If you and the southern white people

were in exactly reversed situations as to the freed negro, there is none of you, not one, that would now be found advocating negro suffrage. If you are such disinterested and generous friends of that downtrodden race, and you in truth believe that they are still wronged and outraged by their former owners, why do you not hold out to them inducements—great inducements—to leave such unfriendly society and come to your fraternal arms, where you could give them full community of civil, political, and social rights and privileges with the white race? You ostentatiously proclaim that it is only prejudice, senseless prejudice, that operates upon any white persons to bring them to reject the negro race from this full community. You who take this ground have the privilege to prove the truth of your professions by your works. Have you done so? How many of you have negro wives, negro sons-in-law, and daughters-in-law?

Who of you, when you spread your feasts and have your convivial parties, when you gather to your hospitable mansions the white youth and beauty and innocence of your circles, invite and mingle with them the black skins, the woolly heads, and the odoriferous effluvia of the sons and daughters of Africa? If upon these points you are as exclusive as others, does it not prove that when you take position in favor of negro equality you are only attempting to cajole them and their weak friends by shallow and false demagogery to cheat them of their votes? If they would go and reside among you they could receive at once, if you were disposed to confer it upon them, free and unobstructed suffrage and the fullest equality with you. A few years since a proposition was made in this Chamber to distribute the whole negro population of the United States among the several States, in the ratio of their white people, and you voted against it. You are opposed to that race being colonized out of the United States; many of you are unfriendly to its removal from the southern to the northern States, and to foreign white immigration into the southern States; but you are all in favor of the negroes in the southern States staying there and being enfranchised, and large numbers of the whites being disfranchised, so that the few white Radicals and all the negroes may cast the votes of those States at the presidential and congressional elections in your interests and for your candidates.

In furtherance of this policy you have passed laws to enfranchise seven hundred thousand negroes and to disfranchise three hundred thousand white men in the ten southern States. You have abolished the governments formed by their white people under the guarantees of their independence and the Constitution of the United States, and instead you have substituted a military despotism to organize negro governments, to be administered under your tutelage and to secure your continuance in your power. You carry forward this work of usurpation, revolution and tyranny by the organization of five extraordinary military departments in those States, and by the presence and surveillance of large bodies of soldiers, commanded by five willing and active epauletted tools, and you propose its consummation by the erection of a military dictatorship in the person of the General of the Army of the United States. You forbid any further recognition of the State governments in those States by the executive or judicial departments, although the Constitution vests the cognizance of State government in each department of the Government of the United States for its appropriate constitutional action, and from which Congress has no more authority to exclude the executive and judicial departments than they have to exclude Congress. Over this, and all other subjects confided to the several departments, they are coördinate and coequal and neither can affect any control or superiority over the others. Without a particle of consti-

tutional power you prescribe who shall and who shall not vote, who shall and who shall not be candidates in those ten States, and your edicts are to be enforced by the bayonet. This is equivalent for you yourselves, without the intervention of any agency to make governments for those States. This mocking burlesque of the enactment of the sovereign power of the people of a State to form their own government, you declare in the bill to be "to the end that the people of the said several States may speedily reorganize civil governments, republican in form, in said several States, and be restored to political power in the Union."

The Constitution invests the President with the power, and charges him with the duty, of having the laws faithfully executed; and makes him the Commander-in-Chief of the Army and Navy of the United States. It tolerates no partition of these great powers, but organizes them as units, and vests them in the President alone. From his exercise of them there is no appeal, no revision, but his action is final and absolute. Yet the terms of this bill divest the President of both those powers for an indefinite time in the ten southern States, and clothe the General of the Army with them. Those powers form most important parts of his office, which he has sworn faithfully to execute, notwithstanding this bill declares any attempts by him to execute them in the ten States to be crimes for which it subjects him to ignominious punishment. The bill invites and urges the General of the Army and other military officers to insubordination and disobedience of the authority of the Commander-in-Chief, and if any of them should be weak enough to yield and incur the guilt, they would be subject to die by the sentence of a court-martial.

But your reconstruction bills not only violate the Constitution by seizing upon powers which it does not confer upon Congress, and forbidding their exercise by the departments to which it has confided them, and by stripping the white people of ten States of their power to form the Governments and control the internal affairs of their respective States, but they have also torn from the southern people all the rights, privileges, and liberties guaranteed to them in common with all the people of the United States by the Constitution. Those States were during the whole war *de jure* States of the United States, with the proper relations between them and the Government of the United States and the other States suspended by actual hostilities; but when those hostilities terminated, by the operation of the Constitution and laws, the States involved in the rebellion rightfully resumed the same relations in the Union which they had occupied before the revolt; and they and their people became entitled to all the rights, liberties, and privileges, and subject to all the duties and obligations, of the other States and their people; but all persons of every State who had entered into the revolt were liable according to law, both civilly and criminally, for their acts. That the citizens of the States whose relations with the United States were suspended by the insurrection that remained faithful to the Constitution, laws, and authorities of the United States, notwithstanding, become alien enemies, and subject to all the consequences which the laws of nations extend to alien enemies, is as unsound and as untrue as it is unjust and cruel. The case is not controlled by the law of nations, but by the principles of our own Constitution and mixed system of national and State Governments; and it must be decided by them alone, and between them and the doctrine regulating alien enemies there is irreconcilable and fatal conflict.

But to concede for argument that the State governments of the ten southern States were abrogated by the rebellion and its suppression, their people continued to be citizens of the United States. Is there any one so demented

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HO. OF REPS.

as to contend that the portion of people of the revolted States who continued true and faithful to the United States throughout the rebellion at its close were and yet continue to be alien enemies? The people of those States now are, and throughout the whole rebellion were, citizens of the United States; most of them were criminals, but all were citizens. Every citizen of the United States, whether a resident of a State or a Territory, or of any spot within the boundary of the United States, although outside of the States and organized Territories, is entitled to all the rights, liberties, privileges, and protection organized by the Constitution. If the southern States are in truth blotted out their people are not, and with all their follies and crimes they have the right to put on the panoply of the Constitution, which also provides for their trial and punishment.

What are the rights and liberties which it assures to them in common with every American citizen? The freedom of religious opinion and worship; the privilege of the writ of *habeas corpus*, subject to be suspended by Congress only, when the public safety may require it in times of rebellion and invasion; that treason shall consist only in levying war against the United States, or in adhering to their enemies, giving them aid and comfort—no person to be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court; the freedom of speech and the press; the right of the people to keep and bear arms, and to be secure in their persons, houses, papers, and effects against unreasonable searches; no warrant to issue against any one but on probable cause, supported by oath, and particularly describing the place to be searched and the person or things to be seized; no person to be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the military or naval forces; no person to be twice put in jeopardy of life or limb for the same offense, or to be compelled in any criminal case to be a witness against himself; nor to be deprived of life, liberty, or property without due process of law; private property not to be taken for public use without just compensation; in all criminal prosecutions every person to have secured to him a speedy and public trial by an impartial jury of the State and District wherein the crime shall have been committed, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have assistance of counsel in his defense; no excessive bail or excessive fines, and no cruel or unusual punishments.

What a noble summary of justice and freedom and fundamental law to secure it, comprehending the essential, natural, and civil rights of universal humanity; and all acts of Congress impairing them are declared null and void. They are the true ends of all just and legitimate government, and that is the best government which assures them in the greatest perfection to every citizen. But you have swept them all from the southern States, and stripped alike the loyal and the disloyal of all their benefits; and you have the same power so to despoil any other portion of the American people. Before the age of Alfred the Saxon mind and heart of England had fully compassed those great rights and liberties, and organized them into immortal principles of the common law; and during the long intervening ages the grandest struggles ever made by man have been for their reinstatement, as from time to time they were borne down by the forces of despotism. They have often been overthrown but never crushed out, for they "spring eternal in the human breast." Without their enjoyment, or the hope for them that never dies, neither government nor life would be desirable.

This immortal aspiration peopled the New World with its votaries, carried our ancestors through the long struggle of the Revolution, and incorporated those principles of liberty as of the very body of the Constitution, to be handed down a priceless heritage to posterity through indefinite ages. Those principles were imbedded deep and strong in our fundamental law, that they might abide inviolate all the mutations of peace, all the storms of war, and all the machinations and assaults of the demon of faction. Their enemies are the enemies of our country and mankind. Factionists in the possession of power make loud but hollow professions of devotion to them while trampling them under foot; and to continue their rule and their plunder of the nation they are now offering to immolate the Constitution and all the rights and liberties guaranteed by it, because they stand in their way.

A Government that cannot defend that Constitution and those liberties is worthless; one that will not be criminal, but one that operates to destroy them is wicked to the last degree, and deserves the abhorrence of all patriotic men. When that Government, embodying a desperate faction, proceeds practically to break up this Constitution and crush those liberties, to abolish the governments of ten States, to absorb all the powers of the several departments, and to usurp other and vast powers for the perpetuation of its rule, and to make certain the consummation of this great scheme of parricidal ambition, organizes a military dictatorship, the rally cry of every true patriot should be, "Down with the revolutionary Congress and the iron-mailed dictator set up by it!"

Relief from Political Disabilities.

REMARKS OF HON. J. P. C. SHANKS,
OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

March 17, 1868,

On the bill (H. R. No. 778) to relieve William W. Holden and others from disabilities.

MR. SHANKS. Mr. Speaker, the proposition before the House is the beginning of a new series of troubles unnecessarily being brought upon us by our own hands.

A measure that discourages and discounts those who have remained loyal during the years when all these men sought to be relieved by this bill were traitors, and many of them engaged in open war on their Government. This bill offers a premium upon treason and crime by raising them in defiance over loyalty and virtue. These men when pardoned will, as they do now, despise those whose loyalty aided in defeating the purposes of their treason. This bill puts the weapon at the heart of our friends and encourages our enemies to strike. It in effect says, that patriotism has no virtues or honors that treason may not claim and receive. These men can never atone for their great crimes and should not be released from their voluntary disabilities under the law. If these men are true and worthy they will not ask place in the Government they sought to destroy. If not, they should not be permitted to receive it. If they were honest they would bow down in humility before the wide-spread evidences of their great crimes, and repair with their property and their labor, to the utmost of their ability, the wrongs they have committed upon their country and kind. But this proposition comes not from meekness under repentance. It is not the humble prayer of the Republican, who, with a contrite heart, "smote upon his breast, saying, God, be merciful to me a sinner." But it is the mockery over petition which finds its counter part in the arrogance of the Pharisee in public places who said, "God, I thank thee that I am not as other men are." What atonement have these men made for their

offenses? Have they atoned to the loyal people of the southern States whose persons have been wronged and property wasted in the war provoked by these traitors? Have they atoned to the much-abused poor but loyal colored people for the wrongs inflicted and still being inflicted on them, the result of these men's treason and oppression?

Have they atoned to the Treasury of the nation and to our tax-burdened people for the great debt they aided in imposing on them by the rebellion? Have they atoned to their own misguided neighbors and people for the loss of life and property they caused by their reasonable teachings to them by which they induced the war? Have they atoned to the hundred thousand widows of loyal and brave men who died to save their country from their treason? Have they atoned to the half million orphans whose sires fell victims to the war these men provoked and waged? Have they atoned to the mothers of the country who sent their loved ones to do battle for their fatherland, and who watched the sun as it rose and set, counting with a mother's devotion the hours of their absence, and with hopes and fears awaited their return? Have they atoned to the fathers of this land for the sons they have lost—murdered by traitors? Have they atoned to the maimed soldier or seaman for the wounds their treason gave him? Have they atoned to the flag they insulted, the Constitution they violated, and the land they drenched in blood? Have they atoned to the civilization of this age for the attempt to destroy this free, republican Government and to erect upon its ruins a despotism the chief corner-stone of which should be human slavery? Have they atoned for the crimes of Andersonville, Millen, Macon, Salisbury, Libby and Belle Isle, Fort Pillow, Memphis, and Orleans? Have they atoned for the cold, deliberate treason by which they contracted with crowned heads of Europe for the sale of the liberties of the people and the overthrow of the Government? Have they made any atonement? No, sir; while the wide-spread desolation caused by their treason is weighing as a mountain upon the people, while there are in the seceded States loyal men by the thousand who have been wronged in person and robbed of property by these men and their criminal coadjutors, who have made no amends for their many crimes, they, in common with their treacherous associates hold their property protected to them by the Government they sought to destroy, and of which they now, with villainous arrogance, demand to be released from the disabilities their voluntary crimes have imposed on them under the law, the Representatives of the loyal people, who have suffered these great sacrifices in defense of the Government, are told that we should vote for this bill of release.

Sir, in the name of the people I represent; in the name of the stricken soldiers and seamen of the country; in the name of my country, burdened with debt consequent upon the war; in the name of the wronged loyal citizens of the southern States, victims of treason; in the name of the parents who gave their sons in this struggle; in the name of the widows and orphans this war has made; in the name of the poor, unlearned, long-suffering, but loyal colored people of the South; in the name of justice, my country, and a common humanity, I protest against this untimely proceeding; this invidious distinction in favor of traitors, setting them up in defiance of the loyal people they and their coadjutors wronged, the country they betrayed, the Union they attempted to disrupt, the flag they insulted, the peace they disturbed, the Constitution they mocked, the property they wasted, the homes they desolated, and the blood they spilled. Sir, the sun might well refuse to shine when this deed is being consummated here by the people's Representatives.

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SPEECH OF HON. H. P. H. BROMWELL,
OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

March 14, 1868.

The House, as in Committee of the Whole, having under consideration the President's annual message—

Mr. BROMWELL said:

MR. SPEAKER: So far as regards this question of Alaska and the treaty-making power I only wish to say that I cannot understand how the Senate and the President can annex foreign territories, introduce foreign countries, and incorporate them as parts of the community of the United States without consulting the law-making power of the Republic. My idea is that the annexation of any portion of a foreign country to this, so as to make its territory a part of our domain and its people a part of our community, capable of exercising a voice in this Government, requires the disposing power of this nation, which is in the law-making department and not in the executive arm, which is but to execute laws, nor in the judicial arm, which is but to interpret them, but in the law-making department, which exerts the disposing power of the Republic. Notwithstanding what the gentleman from California [Mr. HIGBY] has urged, I still hold the belief that it is competent for this House, holding the people's power in trust for them, to exercise a proper discretion in granting or withholding appropriations of the public money to pay for the annexation of land or people. Otherwise, by the exercise of power on which the people can express no opinion, the Republic itself might come to be utterly changed in its boundaries, in its population, and its character, and so the actual institutions of the country be wholly subverted.

Now, sir, I wish to speak in behalf of a class of the community who seem to be very seldom represented on this floor by one of their own number. I refer to those whom we in the West call the "old settlers" of this country. [Laughter.] There is and always has been a numerous body of people who dwell upon the borders of the wilderness. They have much to do with the welfare of the country. They are the sappers and miners, who subdue the forests and make way for the march of civilization. Simple-minded as they may be, and unskilled in letters or arts, they are devoted to the welfare of their country.

The reason why I speak for them now is that every year gives additional evidence to my mind that the forces of capital and its kindred influences, which assume to themselves the patronage and proprietorship of all that is excellent and progressive, are becoming each year more and more powerful in this Republic, as in all other countries. They stifle the voice and crowd out the interests of the mass of the common people, who are, nevertheless, the class most entitled to be heard in this great experiment of self-government, which has failed in all other hands from the beginning.

I speak for those whose hands have shared the toils of frontier life from youth, because they have a right to be represented here according to their own sentiments and opinions, and particularly by one of their own number, for such am I. I was surprised the other day on being asked by a member from a State not very distant from mine, what was meant by an "old settler," and when I answered by saying that they were the men who knew how to use the ax, the maul, the log-chain, and the frow, he further asked "What in the world is a frow?" If our people and their occupations and habits are so lost sight of here, I will say, for the information of all present, that it is an implement that is used by operative "old settlers" to convert the bolts of living timber into

shingles, clapboards, laths, and staves, and though not much used at present with us is still kept bright on the frontier and among the pineries, and but few years ago furnished the finishing lumber of the best houses in all the regions represented by a majority of this Congress.

Sir, of the people whom I represent not less than twenty thousand voters belong to the class I have mentioned. They may be divided in politics touching certain questions which divide other portions of the country. A portion of them may be opposed to the policy adopted by the majority of this House with whom I act, nevertheless I feel bound upon other questions than those in issue, when they cast their votes, to stand by the great body of people who sent me here and to represent their views as nearly as possible on the subjects I shall now present.

It is well known that the truths which are most valuable in all the practical relations of life are those which are known and felt by common perception. Though by continual study, lucubrations, and ratiocinations the learned may give out theories concerning political economy, finance, and other matters; although men may become skillful in arts and learned in many sciences of great interest and use from the perusal of books, yet the fact remains that the most fundamental and valuable truths are perceived and recognized by the common perception of the common people, and made practical by experience in common things. This common perception is called by the "old settlers" "wild-hog sense." It is also to the common people that we look to maintain the laws of the land and to uphold and defend in war the character and integrity of the Republic. But because the common mind in its simplicity looks for light to the more learned, to those who assume more scientific knowledge and possess skill in laws and public affairs, many of our people may be misled, yet it is not to be denied that they have the welfare of their country at heart and rejoice in its prosperity and power.

In discussing the question of finance, when we hear learned addresses on this floor, whom do the gentlemen speaking represent? Do they represent the interest of capital or the interest of labor? Are they standing by the men who work with their hands and brains, or are they representing those sentiments and opinions naturally engendered and kept in vogue in all communities where the influence of capital has laid its hands on every energy and every interest and twined its meshes around every enterprise of society? To read the books which men put forth, the circulars which are so frequently laid on our table, as well as many of the articles of the public press, a man would scarce suppose there was an interest in the world to be looked after until capital should be first provided for.

When gentlemen talk of reducing the currency and coming to a specie standard, as though that of itself would open the gates to the golden age and bring about a political millennium, they speak for capital, they look too much from the stand-point fixed for them by capital, and overlooking labor in its low estate they seem to think that hard money should be the only currency of the country, and if any other is to be permitted it must be furnished by capital on its own terms and not by the people. Mr. Speaker, I undertake to say there never was a day when there was hard money enough to carry on its business and give to the laboring man his fair share of the general prosperity, although it is true there never was lacking gold and silver enough in the country to give to capital a grasp upon the earnings of labor. But when was there a time when the common business of the country was done or attempted to be done by gold and silver alone? On the contrary, it has been found during the whole experience of the Republic that no party

could rise with power enough to put in execution a project of resorting to gold and silver alone. There are, perhaps, enough of the precious metals in some countries for all their purposes, and some of them seem to have tried that system for a sufficient period of time. It has been tried, in Persia, in Arabia, in Syria, and in other countries of the Asiatic continent, from before the day when Abraham weighed out the money for the cave of Machpelah; and what do you find? That they have stood by gold and silver, and still the labor of men's hands has had no value compared with the worth of labor in this country; and you find that those nations are where they began. The squalid slave still follows the stolid ass or buffalo, dragging the wooden plow; the indolent caravan plods its painful way along roadless deserts with troops of guards who camp in the open air and spend as much time and labor to convey a few car loads of merchandise as far as from here to Pittsburg as an American contractor would require to move the material of this Capitol to the Mississippi valley.

While ignorant poverty crouches beside the ruins of luxury and vanity throughout all that continental expanse, America, and even Europe, have wrought wonders in the amelioration of man's condition, to say nothing of the stupendous advance in knowledge and the arts.

In this country we have so far made long strides in progress toward the freedom of the people in thought and act, and such has been the advancement that every man's hands are untied, every man is invited to cooperate and compete, every man is challenged to take up every implement of labor, to pursue every honorable vocation, and make himself busy and useful to his country and his kind. Is there anything in common between a country in which society runs in the old grooves of four thousand years of despotism and debasement, reaching to every corner of the land, and to every hearthstone, and a country where every man is supposed to be a citizen and a king; between the shiftless drudgery of Oriental serfdom and the buoyant and bounding enterprise of American free labor? Yet men high in authority in this country tell us that gold and silver must be made the currency, and wages and prices lowered to a European standard, not seeing that the door which opens for their golden age brings in the squalid poverty and doleful poor-house system of Europe with all its miseries and sin.

I undertake to say that it will be found the rule from the beginning to the end, that in proportion as wages are high and a man by the earnings of his hands acquires a greater proportion of the circulating medium, whatever it may be, in that proportion he enjoys a larger share of the valuables of the community; and this should be the end and object of the distribution of wealth. Not that a man shall have so much money, but that he shall have so much of that which is of use to him for his body or his mind, for when wages and all other things are high labor is sought for and commands its price; but when all things are low, labor begs for opportunity and capital commands its price.

Writers and speakers are continually dwelling upon the amount of our currency before the war, and estimating the same at so many or so many millions; but where is the man, either in office or out of office, who has counted or computed the currency existing before the war at an amount anything like what it really was? They will tell you there were so many bank notes of those pet banks which infested the country, and so much gold and so much silver, and they foot up these amounts and tell you that before the war began we had so many millions of currency, and since the war we have so many greenbacks, and so much national paper, so much gold, and so much silver, and

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these they also add together as the existing currency.

But, Mr. Speaker, where are the promissory notes and the book accounts which before the war took the place of currency, and exceeded the amount of all our greenbacks? Who has taken these into the calculation?

The Secretary of the Treasury puts forth his report and discusses this subject. I do not wish to attack him. I am not here to-day for the purpose of making an assault upon his conduct. I know of no facts that would bear me out in saying anything derogatory to the honest management of the Department's accounts; that is, I see nothing with any certainty that would justify me in accusing him. I shall, therefore, treat him as he has always treated me—with the courtesy due to an officer of this Government.

But with this official paper of his we all have to do, and upon this I beg leave to submit a few reflections. And the reflections I will submit are those which strike the common mind of the common people, whom I have the high honor to represent here, and are not the ratiocinations or conclusions of political scholars, financial experts, agents of capital, or millennial harbingers, now abounding in the political and financial world. The Secretary says in one place in his report:

"A certain amount is required for facilitating exchanges and determining values. The exact amount required cannot of course be accurately determined, but the excess or deficiency of money in a country is always pretty accurately indicated by the condition of its industry and trade. In all countries there is just as much money needed as will encourage enterprise, give employment to labor, and furnish the means for a ready exchange of property, and no more."

Now, if the Secretary will stand by and carry out that doctrine he might, it seems to me, accomplish all we desire. I also say that the state of trade and industry in a country indicates whether there is or is not a sufficient amount of money in circulation, and that being admitted, I desire in behalf of myself and all the "old settlers," without distinction, to say to Secretary McCulloch and others who are pressing contraction, that the course he has seen proper to advocate in this country is calculated to bring great numbers of able-bodied men to idleness; and whether that makes a difference or not in his calculations it will, in our opinion, make a vast difference in this country's prosperity whether all hands are set to work with energy, as we propose, or more than five hundred thousand independent citizens are wearing holes in their coats, and particularly in their trousers, sitting on store-boxes and horse-blocks about the country-seats and cross-road groceries, watching the neighbors pitch horseshoes for dog-leg tobacco for want of better employment, as has always been the case in times of contracted currency.

When the war broke out our surplus population went into the Army. When the war closed, and they came back to the number of a million, the country then had what it never had before; that is, good money enough to set all hands at work of the myriads of men who had followed General Grant and his illustrious comrades in the armies of the Republic. They went with alacrity into all the departments of life. They opened new avenues of business; they entered upon new projects; they brought forward many new industries. The whole land teemed with activity and energy. Railroads were extended, farms opened, cities built; the arts flourished. Every species of industry, mechanical, commercial, and agricultural, went forward; the tools of all craftsmen were in motion, and the musical sounds of prosperity from forest and field and forge and factory filled all the land.

I venture to say from this experience that he who adds ten per cent. to the energies of the people has done more than he who doubles their capital; for one hundred minds, impelled by even a small increase of energy in product-

ive pursuits, will bring a power to add material wealth to the nation more than thousands sitting upon doubled capital, managing and working to make that capital, sponge-like, suck and draw proportionate returns from the proceeds of struggling industry.

Mr. Speaker, I cannot now, for want of time, go through all this paper of the Secretary, particularly as I speak without preparation, according to the usage of my people in such cases, for the "old settlers" never require a man to say more than he knows at one time; but if time were allowed I think I could go on just now and make a speech on this subject so nigh like a good one that you would not notice the difference. But I have not intended to do more than present the general views of the people with whom I have grown up, and who send me here to represent them before you. [Voices. "Go ahead, you shall have time," &c.]

Again, the Secretary says:

"The prices of most kinds of property in the United States advanced near threefold during the war, but this advance was mainly the result of the increase of the circulating medium, and in reality only indicated its depreciation. The purchasing power of the money in circulation was diminished in the ratio that its volume was increased. The farmer, for example, received three dollars a bushel for his wheat, but, except for the payment of his debts, these three dollars were of no more value to him than one dollar was before the suspension of specie payments."

Here is logic for you! According to this report, as I will shortly show, the excess of greenbacks makes the difference between them and gold, which is now say forty per cent., but the same excess makes wheat worth three times as much. Now, if the premium on gold to-day is in proportion to the excess of paper money, of course forty per cent. of paper withdrawn would not make gold even. Then what would become of the price of wheat, and how much more would wheat fall than gold? If no more, then the price does not depend entirely on the amount of currency and farmers may continue to be distressed with high prices for their products.

Mr. MULLINS. I wish before the gentleman closes that he would give us to understand whether he proposes to liken this Walrusia to the land of Canaan, where Abraham bought the cave of Machpelah?

Mr. BROMWELL. If I have time, and I can think of anything to say that would be interesting upon that point, I will certainly do so before I sit down.

Secretary McCulloch then says:

"The policy of contracting the currency, although not enforced to the extent authorized by law, has prevented an expansion of credits, to which a redundant and especially a depreciated currency is always an incentive, and has had no little influence in stimulating labor and increasing production."

And again, in continuation of the same views, he says:

"An increase of money beyond what is needed for the purposes above named, according to all experience, not only inflates prices, but diminishes labor; and coin, as a consequence, flows from the country in which the excess exists to some other, where labor is more active and prices are lower."

"Where labor is more active and prices are lower," says the Secretary. Now, sir, since I was old enough to shoulder an eggshell I have never heard it said by any party or any man representing any set of opinions that to squeeze down the money and make "wages lower" rendered "labor more active;" that to take away the reward of labor "stimulates industry and promotes production." How can that be? If this were true, it would have been better during the war to burn the money we had than to increase its amount, and thereby our industry would have been increased; whereas the people saw and felt that the increase of the currency was accompanied with remarkable energy in every branch of business, and the people were stimulated to labor because the facility with which they could change that labor into valuables brought the valuables, as it were, to tempt their very eyes. For

to make money plenty is to the man who labors to put him comparatively nearer on a level with the class who holds that money.

Why, sir, how very industrious the people ought to be in Syria, in Persia, in Arabia, or on the northern coast of Africa, and in all those countries where wages are so low that labor is in contempt by reason of the scarcity of money circulating among the common people! Does not every man know that this country is great only because of its immense enthusiasm and energy, and that these depend upon the reward of labor, and that the reward of labor must be ready and waiting for the grasp of the men who are to undergo the hard toil, and on whose Atlasan shoulders the real burdens of the Government must be borne? Governments and nations are not built up by smart writing in books and pamphlets; they are not built up by men becoming rich or learned in the lore of political economy and writing books—teaching the arts of sharp trading and speculation. They become strong because of material wealth so diffused as to permit diffused education and enterprise and of the power consequent thereon, and this comes from the hands and the brains of men engaged in productive industry, and not otherwise.

Again, the Secretary of the Treasury makes another declaration to which I wish to call attention:

"In all countries there is just as much money needed as will encourage enterprise, give employment to labor, and furnish a ready exchange of property, and no more. Whenever the amount in circulation exceeds the amount required for these purposes the fact will become apparent by a decline of industry, an advance of prices, and a tendency to speculation."

All this is my opinion exactly; yet still I wish to say a word about speculation. The people whom I represent would rather see a hundred men speculating on the prosperity of this country than one man speculating on its necessities.

Men will speculate forever, and they will speculate either on the prosperity of their neighbors or on their adversity. They will either speculate because the universal energy develops new fields of profit, or they will speculate because hard times have closed around the people; and creditors resort to the law, judgments fill the dockets, and executions cover all the court-house doors, and the majority of the people are at the mercy of the money monger. Let me say to the Secretary of the Treasury that the speculations which cut the vitals of the community are made in hard times, when money is scarce, as it was in 1841 and in 1857. Let him but bring the country again to that pinch, and though speculations may not be on so gigantic a scale, in great railroad enterprises and getting up paper cities, they will be in those small but infinitely numerous operations which capital enables men to make upon the small means of a neighborhood. In a State oppressed by want, tied down by straitened circumstances, and stripped of currency, men have not the means of doing what they will with their own. A man is not really free to act when he must wait from day to day to barter and make exchanges, and by this slow means arrive finally at that which he needs.

Now, further, concerning the time before the war, not only are the promissory notes and the book accounts left out of the calculation, but all that immense mass of business which was nothing but barter. In "hard times" before the war a man owning oxen and wanting to procure sheep did not sell his oxen and buy sheep. He had to wait until he found a man who wanted to make the exchange. Sometimes he had to travel till he found a man who would trade something else with him. He might have to trade first for horses, then trade the horses with another man for land, and finally exchange the land for sheep. So that after he had spent weeks in waiting to accomplish the exchange he would succeed in procuring what he wanted

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in the first instance, but then, perhaps, of an unsuitable quality.

This was the way business was transacted quite commonly in this country during all the hard times from 1840 to 1862. But where there is money in circulation a man sells to one and buys of another, and in an hour's time he has done his business. His energy is all in force and his time is not wasted, and when the energies of people are alive the country, as we have seen, becomes filled with new farms, houses, churches, school-houses, mills, factories, and depots, so that it is a matter of astonishment that improvements can be so rapid. Indeed, if a stranger had visited my section of country at the beginning of the war and should go there now he would throw up his hands in admiration as the Queen of Sheba did when she stood at the portals of Solomon.

Is it contraction of the currency that has produced this? Let me ask the Secretary of the Treasury to take upon himself for three months the business of dealing in cattle and produce in the western States and he will soon see what the policy of contraction is doing and like to do for the benefit of the country, and whether there is too much money in the country to carry on business in such a way as to give every man the advantage of his labor. A pilgrimage of that sort through the central, that is, the western States, would bring more knowledge of the condition and wants of the people to the Treasury Department than is to be found in all the books of finance that were ever written by lamp-light or gas light since the art of printing was brought out of darkness. The Secretary further says:

"Money is simply a medium of exchange and measure of value. As a medium it facilitates exchanges, and by doing this necessarily stimulates production."

True. But, sir, how much is needed? I say as much as will put all the people at work. So long as you find men seeking employment without being able to find it, the country needs more money. When you find men of means hunting for workmen but unable to find them, then the country has sufficient money—then the country is prospering; and much as some may dread such a state of things, the only danger will be that men who boast of wealth may have to go to work when their poorer neighbors are all employed. I would to God there was enough of the medium of exchange, whatever it may be, so that every man in the United States could, to some extent at least, be the master of his own hands. That cannot be realized under a contracted currency. Capital will own him body and soul, and, like the giant cuttle, will fasten its grasping tentacles about him as long as the amount of currency is kept at the low rate required by capital to insure its own reward.

But the Secretary goes on to say:

"No sane man supposes that his own wealth, or the wealth of the nation, is increased by the depreciation of the standard by which it is measured. If the paper circulation of the United States should be doubled during the next year, and the prices of property should be likewise doubled, would it be imagined that the real value of property would be thus advanced?"

He argues, first—as I said I would show—that the doubling of the currency doubles values, which is not true and never was, as this very report proves, in speaking of which; and secondly, that it would add no thing to values, to which last I agree. But I wish to say that it is not of the prices of articles which I now speak when I say that the wealth of the country is increased by an abundant currency. I know that appraising an article at a certain price adds nothing to its intrinsic value; but I say that a system which puts better clothes on men's bodies, better boots on their feet, better horses in their stables, better wagons on their roads, better implements on their farms, and better furniture in their houses, is the better system for the community. Judging by this test, I feel justified in saying that the people of this

country added more to their material wealth in the two years prior to 1867 than in any five years before. And by this means the national debt was in effect diminished, for to increase the valuables of the country makes the debt proportionally smaller, and to diminish prices and values makes the debt proportionally greater, as all can see.

MATERIAL PROSPERITY.

This, I undertake to say, has diminished in proportion as we diminished the amount of current money below what the amazing expansion of industry and business in this country made necessary two years ago.

For the purpose of doing this the Secretary of the Treasury was authorized by a law of this Congress to burn \$4,000,000 of greenbacks a month, a privilege which he seemed to greatly enjoy. What followed? A universal cry arose among those who are paying the inflated taxation of this country. It is very well to talk about "inflated currency," but I wish to suggest that at the same time we are paying and must pay an inflated taxation, and nothing but that inflated currency, as it is called, ever enabled our officers to collect the taxes for one month without public distress. Neither will they be able, under any circumstances, any longer to collect internal taxation such as we have had for one single month whenever we shall return to what they are pleased to call a specie basis. Now, sir, in my humble judgment, I considered, and I did hope when I offered a joint resolution to that effect that this Congress would consider, it better to collect \$48,000,000 a year of our bonds of any description and burn them instead of our money. It would have been better for the country to do that than to burn \$48,000,000 of the circulating medium, leaving the bonds to bear interest, as has been done. For to burn \$48,000,000 of money it must first be collected as tax, so that amount of tax was actually collected for the fire. The House, however, has not seen fit to direct any such action, neither do I know that it will do so. If \$48,000,000 of anything is to be burned the old settlers live so far from Wall street that they cannot see why it should be the circulating medium and not the interest-bearing debt of this country. I would that this Congress would make the amount of bonds to be called in and destroyed more than \$4,000,000 a month, so that there should be a material reduction in our interest-bearing indebtedness, for by this means greenbacks may come to par. The Secretary argues that by contraction greenbacks will be brought to par. He has been contracting for two years, and where is the par to which he has brought greenbacks? His theory has been "tried by fire" and is found wanting. The truth is, so long as these bonds, which the greenbacks represent in a certain sense, are at so great a discount, the greenbacks will be below par. If the bonds were being taken up, or by any other means the credit of the Government were kept up, so that they were not being hawked about the markets of the world at seventy cents on the dollar, then we might expect some advance in greenbacks.

I wish, sir, to compare for a moment, before I go further, the condition of the country as it really was before the war and as it really is, and not as pictured by the imagination of political writers. Before the war, let the amount of currency be what it might, the dockets of the circuit courts in every county that I know anything about west of the Alleghany mountains were black with decrees in chancery foreclosing mortgages and executions upon promissory notes and obligations. The court-house doors were placarded with advertisements of masters' and sheriffs' sales; and advertisements of sales of lands for taxes filled up the county newspapers over a year from the title page to the end. Why was this? Was not the currency scarce enough? It had been so for several years.

How is it now? How was it two years ago? How was it after the people had enough legal-tender ready money with which to transact their business? And yet Secretary McCulloch, in speaking of these very greenbacks, uses this language:

"Regarding, as he does, the issue of United States notes, in the first instance, as having been a misfortune," &c.

He, the Secretary of the Treasury, admitting that necessity required it, still regards the issue of this money, which unlocked executions and stayed the sheriff's hammer on one half of all the real estate in this country, and which saved the country from executions upon the personal property of tens of thousands of men—he regards the issue of greenbacks as a misfortune!

Let me say here that it cannot be doubted that the making of these greenbacks legal tender saved this country from financial ruin. Without it we should have been involved in universal bankruptcy, such as now afflicts all the communities of the South. Without these greenbacks having been made legal tender there would have been nothing in the shape of industry, no business from which to have raised the taxation which supported the Government. Without it, since the war, you would have been precisely where the people of the confederate States were when they came out of the contest, without anything but chaff and dust and ashes in your hands with which to meet legal obligations, or with which to make exchanges of any merchantable value. And yet the Secretary regrets the passage of a law giving the people the power to use their own credit and resources, to take the burden off their own backs, to untie their own hands and put their industry to profit.

I undertake to say, further, that but for the acts which brought out the legal-tender notes and the national currency this country, from the very necessity of the case, would have been overwhelmed with the issues of wild-cat banks in every town and county-seat from Maine to California, excepting the gold-producing States and Territories. Let me say further to this House that unless this Government does see to it that its people have a currency sufficient for their wants the local Legislatures will again begin the work of spreading irresponsible notes of corporate banks broadcast throughout this country. They will do it because the public distresses will compel the people to pay any price rather than to be ground down again as they have been heretofore. It may not be wise, but it will nevertheless be done.

MR. DAWES. I have listened with a great deal of gratification to the able remarks so far made by the gentleman from Illinois, [Mr. BROMWELL.] But there is one point upon which I desire to obtain his opinion. I perceive by the newspapers published in Cincinnati, where this plan originated which he is advocating, that the proposition is to issue \$2,500,000,000 of greenbacks, and divide them up among all the people of the country, and they have figured out that it will give \$400 to each man, woman, and child in the country. Now, I want to ask my friend if he will not go for the proposition to make it \$450 each? It will be necessary for us, if we would not lose the popular favor in such a matter, to go at least that far beyond what the other side proposes. [Laughter.]

MR. WASHBURN, of Wisconsin. With the permission of the gentleman from Illinois, [Mr. BROMWELL,] I will correct a misstatement, or an error of fact, on the part of my friend from Massachusetts, [Mr. Dawes.] The gentleman from Massachusetts says that this plan originated in Cincinnati, Ohio. Now, I think in that statement he does great injustice to a person well known, and whose proposition dates far back of any proposition the gentleman alludes to as having originated in Cincinnati.

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I allude to a person no less distinguished than Mr. Wilkins Micawber. [Laughter.] Mr. Micawber was indebted, as we are unfortunately indebted. Mr. Micawber was indebted to his friend Thomas Traddles, and he knew not how to get the wherewithal to pay his indebtedness. A lucky idea occurred to him, which he announced in this way:

"To leave this metropolis and my friend, Mr. Thomas Traddles, without acquitting myself of the pecuniary part of this obligation, would weigh upon my mind to an insupportable extent. I have therefore prepared for my friend, Mr. Thomas Traddles, and I now hold in my hand, a document which accomplishes the desired object. I beg to hand to my friend, Mr. Thomas Traddles, my I O U for forty-one, ten, eleven and a half, and I am happy to recover my moral dignity, and to know that I can once more walk erect before my fellow-men."

[Great laughter.]

Mr. DAWES. It is very likely that the original invention dates as far back as my friend from Wisconsin [Mr. WASHBURN] has suggested. But the reissue of the patent dates from Cincinnati. And I wish to ask my friend from Illinois [Mr. BROMWELL] if he will not go the \$450? [Laughter.]

Mr. BROMWELL. The gentleman wishes to extend the terms of the patent. [Renewed laughter.]

Mr. DAWES. Yes; and unless he goes for that I cannot go for his policy.

[Here the hammer fell.]

Mr. SELYE obtained the floor.

Mr. BROMWELL. I hope the House will allow me a little more time, as I have been interrupted by this patent case.

The SPEAKER *pro tempore*, (Mr. BLAIR.) How much time does the gentleman desire?

Mr. BROMWELL. I think I can say all I desire to say in fifteen minutes.

Mr. SELYE. I will yield fifteen minutes of my time to the gentleman.

By unanimous consent Mr. BROMWELL's time was extended by the House fifteen minutes.

Mr. BROMWELL. I understand the House has kindly consented to allow me fifteen minutes.

Mr. DAWES. Provided you answer my question.

Mr. BROMWELL. Very well; I will come to it. The question now raised by the gentlemen is whether this Government will pay its obligations in good faith or not. That has nothing to do with the question I was discussing.

Mr. DAWES. The question is whether it is to be paid in good faith or in mere promises to pay.

Mr. BROMWELL. I will say, first, that the discussion upon this point hinges on the word irredeemable. I have never advocated, and never intend to advocate, keeping our currency irredeemable. I have said nothing about paying anything. [Laughter.] Gentlemen are talking about a matter as foreign to that which I was discussing as astronomy.

Mr. MILLER. I do not understand the gentleman to say that he intends those greenbacks shall never be paid.

Mr. BROMWELL. I have said nothing of the sort. I have said nothing about the payment of our indebtedness or any of the modes or manners thereof, and gentlemen know it. Either they do not know what I was talking about or their object in interrupting me is to introduce new matter about which I was not speaking. The question of how much money we want is one thing. How we shall pay our debts is another. I desired to finish what I began, and not attempt a new matter just as I must close; but, being called upon, I will leave the matter I was speaking of and answer this.

So far as regards any scheme of paying our creditors by issuing an increased quantity of greenbacks, increased in such numbers as to make them comparatively worthless, I conceive that that would be bringing upon this country as great a calamity as would be brought upon labor by the scarcity of money, and, at

the same time, disreputable. Nay, more; it is worse than simple repudiation by the Government, because it, in effect, would turn the money to waste paper in the hands of its own people. Any scheme to dilute the currency until it shall be worth comparatively nothing is only a fraud upon the public creditors, and worse than a fraud upon the laborers of the country, who must have some species of available currency for the common business of life.

I recognize as fully as any man on this floor that a Government bond is a contract obligatory with interest, and a Government greenback is a Government due-bill without interest. I have never paid the creditor who held my note payable with interest by asking him to take my due-bill without interest. The American people, and particularly the old settlers, will never consent to treat their creditors in that way. It is not the way my State acted when pressed by a debt heavier in proportion to her means than than this of the United States now is. In order to secure our creditors in the most ample manner we made a new constitution, levying a special tax to pay our bonds and interest, and we paid them; for though some may boast of paying their debts according to law, the "old settlers," I am proud to say, pay according to contract.

Nevertheless, it is true, as I have already said, that the American people do demand of their Government enough money—good money; not depreciated money—to carry on their daily business; and they can have it if this Government will but put the same energy and the same intellect into devising ways and means for that purpose which they put forth in the stupendous efforts of the war. I feel certain that the American people will never relinquish their hold on paper money of some description. They will never come down to that state of society which depends on gold and silver as the only circulating medium. You might as well expect them to carry scales to weigh their money, as Abraham did, as to do this. But the people do demand of their Government one kind or another of United States money which shall be as good in the State of Illinois as it is in the State of Maine.

When men cry out about "irredeemable paper" is that any argument against this Government supplying its people with its Treasury notes called greenbacks? What is the necessity of making this currency irredeemable? Some men seem to take it for granted that a greenback must be, *ex necessitate rei*, irredeemable. The Government now has in its vaults \$100,000,000 in gold; and this amount, if it had started in the first place in that way, would have been enough, with such credit as the Government has, to keep those greenbacks at par by redemption at the Treasury. It could not, however, I feel sure, be done to-day, although it has been proposed in this House. In my humble opinion to attempt a resumption of specie payments with that limited amount now would but result in a general rush upon the Treasury and the exhaustion of its funds as fast as they could be counted out, because the notes are all out before any redemption begins. But had the Government begun in the first place, after the manner of banks, with such a fund as that on hand, and with proper means to keep it replenished, the greenbacks to-day might be upon a par with gold; and we may yet make redemption possible.

One more reflection I will make on this point. I know of no use for gold in this country, under the present circumstances, except to buy foreign merchandise of various sorts for importation and to pay duties thereon.

Does any man know for what purpose he would buy gold in Wall street except for the purpose of importing merchandise? Whenever this country shall import as much gold as it exports, or, what is the same thing, export as much in value of merchandise as it imports, I would like to know who could sell gold at

a premium in New York or anywhere else. Who would buy it? No man would want it to pay a debt with, for the very money with which he would purchase it would pay that debt. No man would want it to pay an execution or redeem land with, for the courts have declared and must declare that greenbacks are a legal tender and the end of the law. The truth is, if this country will, either by the adjustment of a tariff or by any other means, balance exports with imports, the question of paying our bonds in greenbacks will never trouble us at all.

Mr. Speaker, I am opposed to keeping up the controversy as to what we shall do with our public creditors. Every speech made about paying greenbacks to our public creditors costs us money. Every man who writes a letter discussing the question whether or not these bonds are legally payable in legal tenders makes the matter worse. As long as that controversy is maintained it is impossible for us to keep up our credit in the markets of the world with our bonds, and our bonds being at discount what better can Treasury notes be? What the Government wants is credit at a low rate of interest. How can we expect to get it by agitating the question how we will pay our present creditors? A man who is caviling on the legal terms of his contracts for borrowed money is in no situation to borrow more on favorable terms. There can be no denial of that. Let this controversy rest; manage the affairs of the country until greenbacks are on a level with gold; and then it will make no difference whether these bonds call for paper or specie. The controversy now going on may be good to get up party capital, but it is bleeding the Treasury in advance for the benefit of politicians.

We are not now prepared to pay them in gold, because we have been preventing ourselves from borrowing by keeping up the controversy, and we cannot pay them in greenbacks without flooding the country and making the money almost worthless. I believe in husbanding our resources, in diminishing our taxes, in keeping out as far as possible importations, and bringing the country up to the point at which greenbacks are on a par with gold. All proper means should be resorted to for the purpose of giving the people some description of currency, so that every hand shall be employed throughout the length and breadth of the land, and then paying our creditors as we would expect to be paid if we held the paper of others.

I know the people prefer the greenbacks to the national bank currency. I know, also, that there is a great deal of humbug in the talk about locking up \$300,000,000 at interest with the national banks, because there are large sums to be deducted for revenue from those very banks, arising in several ways. Nevertheless there is some truth in it. We are paying more for the national bank currency than we would pay for a redeemable currency furnished from the Treasury of the United States. But, after all, the people are not going to stop the issue of paper money on that account. We are obliged to accept paper money of some kind; and it will be either greenbacks, national bank currency, or wild-cat notes. Every man looks to one or the other of these alternatives, for it is apparent that there is not enough gold and silver, and never will be enough, for currency, and paper must therefore be substituted. The evils of State bank currency in this country have been prodigious. Whole communities have been driven to desperation; the people have been plundered and devoured by speculators who embarked in banking enterprises and made their harvest off the disasters of the people.

But I will not continue this discussion further than to say this: that this whole money question is involved in the causes of the war through which we have recently passed. It takes hold on the interests adverse to and destructive of the country on one side, and the

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restoration and integrity of the Union on the other. If this country is ever prostrated in its credit with the elements of discord now within it, then, indeed, it will be like Sampson shorn of his locks and deprived of his sight in the hands of the Philistines.

I believe, as I said the other day, that the contest between those interests and elements which seek the disruption and dissolution of this Republic and those which seek to perpetuate it in its integrity must go on, whether it be attacked by striking at the currency, and so, in fact, bringing greenbacks to be lampblack and rags, by striking at the Union, or by striking at its laws, until either the disloyal elements shall have succeeded in their designs or the true friends of humanity and progress shall have triumphed in the contest which has raged so long.

I thank the House for its courtesy in extending my time.

Impeachment.

SPEECH OF HON. FREDERICK STONE,
OF MARYLAND,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolutions reported by the Committee on Reconstruction for the impeachment of the President.

MR. STONE. Mr. Chairman, the articles of impeachment reported to this House are ten in number, but substantially there are but two offenses charged. I may say, indeed, that there is only one offense charged, for the tenth article charges, in fact, no offense heretofore known to our laws and is sustained by no proof whatever. The only offense charged in the first nine articles is one violation of the tenure-of-office bill, the alleged offense being set forth in nine different forms only.

The distinguished gentlemen who report and sustain these articles claim that the President is guilty under the law; that the question is a purely legal one; that he should be tried by the law and condemned or acquitted as the law may justify. I propose, therefore, to examine the question legally, and see if it will stand the test the friends of impeachment claim for it.

I do not propose to discuss the constitutionality of the tenure-of-office act. Although I deem that act as clearly unconstitutional as any act ever passed, yet, as that question has already been so fully discussed, I do not deem it necessary again to refer to it.

But, if the Chief Magistrate of the country, now on his trial, has only the common privileges extended to him that are daily extended to the meanest criminal that ever disgraced a dock; if he is tried by those rules of justice, law, and right which the experience of a thousand years has proved the benefit of; if the Senate shall do "impartial justice according to the Constitution and laws," then the President need not apprehend the result, even should that Senate think the tenure-of-office act constitutional and binding.

The second section of article third of the Constitution says:

"The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States," &c.

The command thus given by the Constitution is imperative. It says that the judicial power shall extend, not that it may extend. The jurisdiction thus given to the judiciary of the United States is beyond the power of Congress. No act of Congress can take away from the judicial power of the United States the right to decide cases arising under the Constitution and laws of the United States. That power, authority, and right are expressly given to that great coördinate branch of the Government by a higher authority than Congress, and a higher authority alone can take them away.

While the section quoted gives this power to the judiciary of the United States, it also gives

another not less important right to the people. In saying that the judicial power shall extend to all cases in law or equity arising under the Constitution and laws of the United States, it unequivocally gives to every citizen of the United States who has a case arising under the Constitution and laws of the United States the right to appeal—to appeal to that judicial power for protection and redress.

Congress cannot shut the doors of the courts of the United States against any man who has a case at law or equity under the laws of the United States. The words of the Constitution are sweeping. It says "all cases." This includes civil and criminal cases. The power to punish crimes committed against the laws of the United States is coextensive with the right to obtain redress from laws of the United States. No exceptions whatsoever are made by the Constitution. He who has a case arising under the laws of the United States has the right of trial by the judicial power of the United States, let his position be what it may. All are equal under that supreme law of the land. The President of the United States, a member of the Congress, a judge even of the Supreme Court, and the beggar in the streets are all equally liable to be punished by that judicial power whenever they infringe the penal statutes of the United States.

The President is not excepted from this clause of the Constitution. If he has a case arising under the "Constitution and laws of the United States" he has the same right to have it settled by the judicial power that any other citizen has. The duties of the President with regard to the Constitution are peculiar, and as they differ somewhat from the other departments, a brief notice of them may not be amiss.

The President is required, by the oath he takes, to "preserve, protect, and defend the Constitution," while all the other departments are only required to support it. He is required by his official oath to do more. His duty is not passive obedience merely, but active, and, if need be, active protection. The Convention of 1787 drew a marked distinction between the oath which they required the President to take and the one they required of any other department of the Government.

They required the Executive to swear to "preserve, protect, and defend," the legislative and judicial to "support and obey" only. Unless he chooses to perjure himself, the President must take all the constitutional means at his command to "preserve, protect, and defend" the Constitution. He has no choice. If he believes that any part of the Constitution is infringed or broken he must take the means the Constitution gives him to repair it. He must take all the constitutional means. He must not take one only if there are several, but he must exhaust all the means that the instrument has placed in his hands to "preserve, protect, and defend." Until he does so his duty is not done, his sacred oath not fulfilled. But the advocates of impeachment say that the only means given to the President to "protect, preserve, and defend" the Constitution is the veto; that when he has used that without avail he has no other constitutional weapon to "preserve, protect, and defend" the Constitution with.

This assumption I utterly deny. By the clause of the Constitution just quoted every citizen has the right, the unquestioned right, to test the constitutionality of an act of Congress before the judicial power of the Government, whether the act was passed by a majority only, by a two thirds, or even a unanimous vote. Because an act of Congress is passed by a two-thirds vote it is not for that reason necessarily constitutional. If this were so then two thirds of Congress are superior to the Constitution. There is nothing to prevent, or which ever has prevented, a private citizen from questioning an act on constitutional grounds which

has been passed by a two-thirds vote. The President has certainly as much right to appeal to the courts to test the validity of such an act as a private citizen. He has the same right of resort to the judiciary as any other citizen. The veto power is only one check on unconstitutional legislation which the President alone has and the private citizen has not. But by giving the Executive the veto the framers of the Constitution did not take away from him other rights which he had in common with other citizens. Because he has the veto he is not deprived of the protection of the judiciary.

If the theory of those who say that the President is bound to execute every law of Congress passed by a two-thirds vote is right, then if this Congress should by a two-thirds vote pass a law giving the command of the Army to the Speaker of this House it would be the duty of the President to hand it over to him at once; that all that it would be necessary to do would be to make it a high crime in him not to do it, and you could then impeach him if he did not. If the President has the right to appeal to the courts he certainly has the right to take the steps necessary to bring the case before the court. It would be strange, indeed, if Congress could impose a penalty upon any one who takes the preliminary steps to bring his case before the courts. They cannot say the doors of the Supreme Court are open to you by the Constitution, but we can impose a penalty on you if you seek to enter these doors. And yet this is the very thing that this impeachment amounts to. It is, in fact, a penalty attempted to be imposed on the necessary effort to obtain an undeniable right.

The facts are very brief, and consist only in an order for the removal of the Secretary of War without consent of the Senate. The tenure-of-office act is so drawn that it is impossible to test its constitutionality in any other way. The President must pass an order of removal and make an appointment before the question can be settled judicially. This act was aimed at and intended for the President only. He must go on and execute what he believed to be an unconstitutional law, and, therefore, no law, or bring the matter before the courts of the country. He must do one or the other. The most astute lawyer that ever drew a brief cannot examine the tenure act and say that its constitutionality can be tested in any other way. The President has sworn to preserve, protect, and defend the Constitution, and not sworn to do everything that two thirds of Congress may require him. If anyone else could have tested the law without the President's passing an order in conflict with its provisions the President would no doubt have left it to the party aggrieved to carry the case into court. But, unlike any other law ever passed, this law affects the Executive only, and no one but the Executive could take the steps necessary to test it. A great deal of clamor has been raised upon the subject of the President's executing the laws until the courts pronounce them void. But this law could never be declared void by the proper authority without the President took steps such as he has taken.

But the advocates of impeachment say that he who does an act forbidden by a penal statute acts at his peril; that if the statute is valid he incurs the penalty, whatever may be his motive. This is true—no man denies or disputes it. It is the very thing the President is ready and willing to do, the risk that he is willing to incur. It is all that he asks, to be allowed to try his case and submit to the penalty if he fails. But that is the very thing that Congress will not allow. The tenure-of-office bill makes a removal without the consent of the Senate punishable by fine or imprisonment upon conviction by the courts. This is the whole penalty imposed by that act. It does not mention the word impeachment; it

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does not impose any further punishment or penalty except fine or imprisonment. The House proposes to add a new and additional penalty not mentioned in the law. The House seeks, under color of that act, to inflict pains and penalties not imposed by the act itself. Is this just, fair, or legal? By every fair and known rule of construction we must conclude that no other pains and penalties were intended by the framers of the law except those mentioned in the law itself.

It was perfectly competent for Congress to have imposed the penalty of impeachment in lieu of fine or imprisonment, or in addition thereto; but they did not do it. They now seek to add it after the act is done. It is a rule without exception in the United States that penal statutes are construed strictly. No sentence is ever imposed not warranted by the plain language of the statute. A common thief would laugh to scorn the idea of imposing upon him any penalty except that mentioned in the statute itself. Constructive penalties are not allowed in any case to be imposed; and yet you do not give the Chief Magistrate of the country the benefit of the rules of law that the common thief claims and always obtains.

But it is said that the Senate, sitting as a court for impeachment, is the highest judicial tribunal known to our country; that it is, in fact, a tribunal superior to the Supreme Court. He who thus asserts has read to little purpose the Constitution of his country. The Senate has the sole power of impeachment; that is all the judicial power it has. It is a jury to sit on official life or death, but nothing more. But the powers of the Supreme Court are much more extensive. They extend to all cases except impeachment, and their decisions are authoritative and binding on all. Their decisions on a question of law is binding on the Senate, while the decisions of the Senate are not binding on them. Take this case as an example: the question of the constitutionality of the tenure-of-office bill will arise in the trial of the President before the Senate. Suppose the Senate were to decide that it was constitutional, would any man out of his horn-book say that when the act is hereafter brought before the Supreme Court to decide upon its constitutionality that the Supreme Court would be bound by that decision? If so, then no act can ever be declared unconstitutional by the court, because by its very passage the Senate expresses its opinion upon the constitutionality of an act. But it is the decision of the court, and not of the body that makes the law, which controls by the express provision of the Constitution.

The Senate may convict and may ground their conviction upon an opinion of the constitutionality of the tenure-of-office act, and the Supreme Court may afterward decide the act void. They may, in fact, settle the question that the President was right, and you are then powerless to repair the wrong you have done. It will be a great wrong to the President, but a greater wrong still to the people who placed him there and whose servant and representative he is.

But the Constitution itself settles, I think, most conclusively the question that the Senate is not of equal dignity and authority with the courts. It says that conviction on impeachment shall not prevent trial or conviction for the same offense by the courts of law; that after a person has been convicted of the high crime on the impeachment trial he may still be convicted by the courts of law of the same crime, and the legal and prescribed penalty inflicted. Now the converse of this proposition must be true. He may be acquitted by the Senate and yet convicted by the courts of law and punished.

Acquittal or conviction by the Senate cannot be held a plea in bar on a trial at law. The Supreme Court would go on and give judgment without any sort of reference to the action of the Senate sitting as a court for im-

peachment. It [the court] would not be bound in any way by any judgment the Senate might render. How, then, can it be said that the Senate is the highest court? The Senate sitting as a court for the trial of impeachments is nothing but a court of special criminal jurisdiction, nothing more or less. Their duty is to ascertain whether just cause exists for the removal of a public officer. The Constitution has prescribed what that cause must be. It must be the commission of a high crime or misdemeanor.

Intention is the essence of all crime, and cannot, in the nature of things, but be so. There is no moral turpitude involved in the mere act of removal of an office-holder. It cannot be made morally wrong. It must always belong to the class of *mala prohibita* and not *mala in se*. The Parliament of England, in the plenitude of its imperial power, once made it penal to bury the dead except in the prescribed burial clothes, or for the living to wear shoes with points over a certain length. But neither the Parliament nor Congress can make such acts morally wrong. The only offense is in the violation of the statute, and the party is liable only to the penalty the statute inflicts.

Now, the intention of the President is as clear as intention ever can be made. It is shown by words and acts. It is shown by his repeated declarations to General Grant as well as to others. It is shown by only passing an order for removal. These all demonstrate beyond a doubt that his sole intention was to test the validity of the tenure-of-office act. For the proper tribunal to determine the question whether it was or was not a law, and for exercising the right secured to him by the Constitution to bring his case into court, you impeach him. In vain the President points to his scrupulous execution of all the laws you have passed, whatever he might think of their constitutionality whenever any one except himself had the right to bring to the test of a judicial decision, and assures you that he only declines to execute this because that is the only possible way that it can be tested, and that he has no idea of refusing to execute it for any other reason. In vain he tells you that the Constitution is his highest law; that he has sworn to "preserve, protect, and defend" it, and in this case he must appeal to the only tribunal competent to instruct him as to what is his duty, and that, and that alone, is all he desires. You answer that is a high misdemeanor, and he is no longer worthy to sit in the presidential chair. The term high crimes and misdemeanors as used in the Constitution means nothing more nor less than aggravated or atrocious crimes and misdemeanors. In your judgment, the mere order of removal of Edwin M. Stanton is a crime so atrocious or aggravated that the punishment imposed by the act which made it a crime is not sufficient. The penalty imposed by the act is not enough, but you add a constructive penalty.

Pretexts for wrong are never wanting. Of all the wrongs those perpetrated under color of legal proceeding are the most abhorrent to those who have known the blessing of law. It is the using a noble means for an unworthy end. The perpetrators of the wrong are in comparative safety. It does not require the courage of the open and avowed wrongdoer. It did not require any courage in Jeffries to murder Lady Alice Lisle with all the forms of law. She was tried with all the forms of law. She, too, was tried for a high crime, convicted, and executed. The judgment, the unanimous judgment, of all succeeding generations has been that her trial was a mockery of justice and law, and a century and a half has not lessened the indignation that the forms of law were made subservient to so great a wrong. This trial will soon pass into history, and every lover of his country regrets that coming ages will pass the same verdict on this case.

Freedmen's Bureau.

SPEECH OF HON. GEORGE M. ADAMS,
OF KENTUCKY,
IN THE HOUSE OF REPRESENTATIVES,
March 17, 1868.

The House having under consideration House bill No. 598, to continue the Bureau for the Relief of Freedmen and Refugees, and for other purposes—

Mr. ADAMS said:

Mr. SPEAKER: As one of the minority of the committee by which the bill under consideration was reported, and in which report I did not, therefore, concur, I desire briefly to offer a few reasons why, in my judgment, this measure should not become a law. As yet I have heard no good reason assigned for its enactment and no argument advanced in its support. The honorable chairman of the committee [Mr. ELLIOT] has not yet, I believe, presented to the House (as I understand he contemplates doing) a written report of the reasons and considerations which induced the committee to recommend to the House the passage of this bill; and in regard to his remarks in the House a few days since upon this subject I must say, with all due respect for that gentleman, that they seemed to me to be a denunciation of the President of the United States and a tirade of abuse against the Democratic party rather than a speech in support of his bill or an argument in favor of its passage.

This bill proposes to reenact and continue in existence the measures heretofore enacted for the relief of refugees and freedmen, together with such amendments and modifications as are herein contained. What, then, is the character of the measures heretofore passed and thus proposed to be reenacted, and what the nature of the amendments and modifications now proposed by this bill?

The first of these measures was passed March 3, 1865, and provides for the creation of a new bureau in the War Department, to be termed the Bureau of Refugees, Freedmen, and Abandoned Lands, to be continued for one year after the close of the war, to which shall be committed, in the language of the bill itself—

"The supervision and management of all abandoned lands, and the control of all subjects relating to refugees and freedmen from rebel States, or from any district of country within the territory embraced in the operations of the Army under such rules and regulations as may be prescribed by the head of the bureau and approved by the President."

The bill goes on and provides for the appointment and pay of a commissioner, assistant commissioners, and other officers who are charged with the execution of the law. The Secretary of War is authorized to make such issues of provisions, clothing, and fuel as he may deem necessary for the relief and support of destitute refugees and freedmen. The abandoned lands, as they are termed, are to be set apart for the use of the freedmen and refugees, each one of whom is to be allowed to rent forty acres thereof, and be protected in the use and enjoyment of the same for the term of three years, and then, if he choose, to purchase the same from the United States. Thus, Mr. Speaker, this bureau is authorized to take possession of and exercise ownership over land to which the United States has no title and to which it has never professed to make any claim; to rent, and ultimately to sell, the same in utter disregard of the rights of the legitimate owner who may happen to be temporarily absent therefrom. It is also to exercise exclusive control over all subjects relating to refugees and freedmen. And this control is to be exercised how, to what extent, in what manner, and under what limitations? Not in such manner as may be prescribed by a constitutionally enacted law, but in such manner and to such extent as the chief of this bureau may dictate, in the language of the bill itself:

"Under such rules and regulations as may be pro-

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scribed by the head of the bureau and approved by the President."

And finally, the Secretary of War is authorized, as before remarked, to issue, not a definite or limited supply of stores for the support of the refugees and freedmen, but without limit, and in his own discretion, regardless of cost to the Government, to issue such supplies as he may see proper to appropriate to these purposes.

Such, sir, are the provisions of the act of March 8, 1865, which created the bureau, and which we were then told was to be a temporary measure, intended to continue during the war and for one year thereafter, and which would, therefore, have long since expired by limitation but for the act of July 16, 1866, which provided for its reenactment and continuation for the term of two years thereafter, with certain amendments and modifications therein contained, which increase and enlarge the powers of the bureau, and still further encroach upon the rights and liberties of the people. The Secretary of War, in addition to the issues of provisions, clothing, and fuel, provided for in the act of March 8, 1865, is also authorized to issue such medical stores, transportation, and other aid as he may deem necessary for the relief of refugees and freedmen.

Section fourteen, to which I wish more particularly to call attention, provides that in the rebel States, as they are called—

"The right to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to have full and equal benefit of all laws and proceedings concerning personal liberty, personal security, and the acquisition, enjoyment, and disposition of estate, real and personal, including the constitutional right to bear arms, shall be secured to and enjoyed by all the citizens of such State or district without respect to race or color or previous condition of slavery."

Again, it goes on to say:

"And no penalty or punishment for any violation of law shall be imposed or permitted because of race or color or previous condition of slavery other or greater than the penalty or punishment to which white persons may be liable by law for the like offense."

Here Congress undertakes to confer upon the negro population of these States all the civil rights and immunities that are enjoyed by white persons, and declares that they shall be subjected to no punishment other than that to which white men are subjected for the commission of like offenses.

If Congress has the right to determine who shall testify in the courts, to say what shall be the nature and extent of punishments to be imposed for the commission of offenses against the State laws, and to determine who shall make and enforce contracts, and, consequently, who may marry and intermarry—for marriage is in law nothing but a contract—then why may it not also determine who shall vote and hold office in the different States, and what questions have the States the right to determine for themselves?

Now, sir, in the State of Kentucky, which I have the honor in part to represent, we think that the good of society and the welfare of the country require that there should be some limitations to both the civil and political rights of these colored persons whom we sometimes call negroes, but whom I ought not, perhaps, here to characterize by such an objectionable term, as it would doubtless sound harshly upon the ears of the gentleman from Massachusetts.

But, sir, I shall not stop here to inquire whether it is best that all these rights should be conferred upon the colored people, for I maintain that, whether best or not, these are all local questions, over which Congress has no control and which are to be regulated by the people of each State respectively, to whom is left by the Constitution the right to control their own domestic institutions in their own way.

How is it provided that these rights thus

attempted to be conferred shall be protected and enforced? Not through the agency of the civil courts and legal tribunals, by which alone the rights and liberties of any class of people can be secured, but through the instrumentality of military orders and the bureau courts. On this subject the act goes on to declare that—

"The President shall, through the Commissioner and the officers of the bureau, and under such rules and regulations as the President, through the Secretary of War, shall prescribe, extend military protection and have military jurisdiction over all cases and questions concerning the free enjoyment of such immunities and rights."

But the enlarged powers and increased jurisdiction conferred by this section of the law were to extend to and be exercised only in the States that had been engaged in the rebellion, and in which it was claimed there were no civil governments, and were to cease as soon as such States should be restored to their constitutional relations in the Union. It was not then claimed, or pretended to be claimed, that Congress could interfere with or exercise any control whatever over the internal affairs and local institutions of States which had not been thus deranged and disorganized. It is now, however, proposed to reestablish this bureau in all the States where it has been wholly or in part withdrawn, and to continue its operations and extraordinary powers in the States from which it has not thus been withdrawn, provided the Secretary of War may think necessary to do so.

It is proposed not certainly to reestablish and continue it in certain States for a definite term, but to let the Secretary of War say when and where it shall be reestablished and continued. In other words, not to enact a definite and fixed law, because it is known the public good requires it, but to leave it discretionary with the Secretary of War to determine whether it shall or shall not be a law so far as certain States are concerned.

Mr. Speaker, if this measure is thus to be enacted, if this systematized anarchy is to be thus inaugurated in this country, and the rights and liberties of the people are no longer to be regulated and protected by fixed laws, but left to the whims and caprice of any one man who may happen to be Secretary of War, then I for one can only pray that some more just, upright, and liberal-minded man may occupy that position than the one who now claims to be the incumbent of that office and has possession of its records.

I have thus, Mr. Speaker, alluded to some of the leading features of the laws establishing and continuing this bureau, which, in my opinion, are subversive of the ends for which all good Governments are established. Governments are not formed, sir, for the purpose of preying upon the property and overriding the rights of their citizens, and more especially is this the case with our free Government, the preamble to which declares:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."

And yet, sir, in the face of this declaration, the lands of private citizens are taken possession of in the name of the Government by this bureau, to which the United States never held the shadow of a title, and the President of the United States, for restoring the possession of these lands to their legitimate owners, and for thus refusing to become a party to this wholesale robbery, is denounced in these Halls as an unworthy and unfaithful Executive.

But, sir, we are told that these lands were the property of rebels, and that they have therefore been forfeited and confiscated, and all that. These lands are confiscated; how, sir; under what law; by the judgment of what court? Before a man's property can be confiscated he must have violated some law previously passed pro-

viding such penalty, and must have been pronounced guilty by the judgment of some tribunal competent to try the case. Under what law, then, were these lands confiscated? There was, I believe, a confiscation law passed in 1862, but if it apply to these lands, then, I ask, by what tribunal, under the judgment of what court, have they been declared forfeited? By what tribunal have the parties owning them been pronounced guilty of a crime which works forfeiture or confiscation? By no tribunal, sir, unless it be by the edict of a petty agent or the mandate of an assistant commissioner.

I desire here to remark that while I am utterly opposed to this bureau and all its operations I have no warfare to make against its chief, General Howard; indeed, from all I have ever seen or heard of General Howard, I have reason to believe him a most estimable gentleman and a good officer, against whom or whose administration of the affairs of the bureau I have no cause of complaint; but, sir, against the bureau itself and its alarming powers I do complain, and in the name of my people here protest against its continuation.

The laws establishing and continuing this bureau are, in my opinion, and as I shall attempt to show, not only unauthorized by the Constitution, but in open violation of its plainest provisions. What right has this Government to take possession of and appropriate to public use the property of its citizens without just compensation therefor? Where in the Constitution do you find authority to feed, clothe, educate, and support one class of people to the exclusion of all others equally as destitute and much more deserving? What clause of the Constitution confers upon Congress the right to regulate the internal affairs and local institutions of the States as is provided by this and the previous bills, which confer upon the officers and agents of the bureau these extraordinary powers? Where, from the beginning to the end of that instrument, does Congress get the right to authorize the trial, conviction, and punishment of civilians by military courts?

We look in vain to the Constitution for authority to Congress to exercise these alarming powers. This being so, I might here close my argument, and in the absence of such a grant of authority by the Constitution confidently appeal to the House not to reenact these measures; for it must be borne in mind that Congress has not the inherent and unlimited right to do whatsoever it may choose; on the contrary, it possesses only the delegated powers conferred upon it by the people in the formation of the Constitution of the United States.

Now, sir, in the formation of that Constitution which gave existence to the Congress certain powers theretofore passed by the people of the several States were conferred upon it. And Congress being simply the creature of the Constitution thus formed by the people possesses such powers, and such only, as are there granted to and conferred upon it, the remaining powers not thus granted to Congress nor prohibited to the States being, of course, reserved to the people of the States. This, sir, is manifest from the very nature of the case; but, sir, lest in coming time Congress should attempt to exercise powers not granted, an amendment was added to that instrument which declares that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Hence, in determining the powers of Congress, we look to the Constitution to see whether the authority in question is by express terms or necessary implication conferred, and if not, then there can be no such authority.

But, sir, the officers and agents of this bureau are exercising, in pursuance of these congressional enactments, not only powers not conferred by the Constitution, but also those which are in direct conflict with its provisions.

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In General Howard's report for 1866, page 15, I find, among other things, the following regulations for carrying out these congressional enactments:

"I. Bureau courts shall be composed of three members, to be appointed by the assistant commissioner, subject to the approval of the Commissioner, one of whom shall be an officer or agent of this bureau, and the other two citizens of the county in which the court is organized.

"II. Bureau courts shall have jurisdiction of cases relating to compensation for labor of refugees or freedmen, and may hear and determine other civil cases between refugees, freedmen, and others not involving more than the sum of \$300; they may also try offenses committed by or against freedmen, provided the punishment imposed shall not exceed a fine of \$100 or imprisonment at hard labor for thirty days. The judgment of these courts may be enforced by military authority, and shall not be obstructed by the stay law of any State."

Thus authorizing these bureau courts, composed of three persons, to determine questions of property where the amount does not exceed three hundred dollars, and to inflict punishment not exceeding a fine of one hundred dollars or imprisonment for thirty days. The Constitution of the United States declares that—

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed."

And in another article it says that no person "shall be deprived of life, liberty, or property without due process of law." And again it declares:

"ART. 7. In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of the common law."

But, in utter disregard of these provisions, citizens are deprived of their property without legal proceeding, and are tried and sentenced to imprisonment, not by a jury of their peers, but by the judgment of a bureau court, consisting of an irresponsible agent and two other men, who are to compose the court.

But, sir, it is, perhaps, idle for me to quote here the Constitution of the United States, which has been characterized by persons of the same political school with the gentleman from Massachusetts as a "league with death and a covenant with hell," and outside of which prominent members of the Republican party of this House declare they are acting in all their legislation respecting the rebel States.

I beg, however, to read from another document, which, I am sure, the Republican side of the House will recognize as entitled to their consideration. One of the resolutions of the platform of the Republican party upon which Mr. Lincoln was first elected, and by which the party were pledged to stand, reads as follows:

"That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its domestic institutions, according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depends; and we denounce the lawless invasion by armed force of the soil of any State or Territory, no matter under what pretext, as among the gravest of crimes."

Now, sir, when the officers and agents of this bureau are sent into States, with a military force to protect them, and instructed to take possession of the lands of the people, and to override their civil laws, what is it but "a lawless invasion by armed force of the soil" of such State, which was then declared by the Republican party to be "among the gravest of crimes?"

Sir, I indorse to-day the doctrine then promulgated by the Republican party in this resolution; and I hope I may be pardoned for saying that I regard the operations of this bureau as nothing less than an armed invasion of the States, and, in the language of the Republican party, "as among the gravest of crimes."

But, Mr. Speaker, even if Congress had the clear and unquestioned right to pass such laws, I deny that there was ever any necessity for the establishment of this bureau, and especially do I deny that there is any necessity for its

continuation at this time. The avowed object for which the bureau was established, and for which it is proposed to be continued, is twofold: first, to protect the freedman in the enjoyment of certain rights; and second, to afford them relief and assistance. Now, sir, there can be no possible necessity for the continuation of this bureau for the purpose of protecting them in any right. The civil rights bill, passed March 9, 1866, provides abundantly for that. The first section provides:

"Be it enacted, &c., That all persons born in the United States, and not subject to any foreign Power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, shall have the same right in every State and Territory in the United States, to make and enforce contracts; to sue, be parties, and give evidence; to inherit, purchase, lease, sell, hold, and convey real and personal property; and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding."

And, lest the local tribunals in the States should deny some of the rights thus conferred, the act goes on to provide that any person who shall refuse to recognize these rights and enforce this law shall be fined \$1,000, or imprisoned one year, or both; and as a further means of securing these rights the United States circuit and district courts are opened to the freedmen and given original jurisdiction over all cases affecting persons who are denied these rights in the State courts; and, still further to provide facilities for securing these rights to the most obscure person in the most remote part of the country, the act provides for the appointment of additional commissioners to assist in its execution. On this point it says:

"And with a view to affording reasonable protection to all persons in their constitutional rights of equality before the law, without distinction of race or color, it shall be the duty of the circuit courts of the United States and the superior courts of the Territories of the United States, from time to time, to increase the number of commissioners, so as to afford a speedy and convenient means for the arrest and examination of persons charged with a violation of this act."

Thus, Mr. Speaker, this civil rights bill confers or attempts to confer upon the freedmen all the rights proposed to be conferred by the bill under consideration; and provides the means by which the humblest freedman can avail himself of its benefits.

But, sir, in addition to this, another act was passed March 2, 1867, establishing military governments in ten States of this Union, the professed object of which was to punish crime and protect all persons in their rights.

I beg to read some of the provisions of this bill:

"Whereas, no legal State governments or adequate protection for life or property now exist in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas:

"SEC. 2. Be it further enacted, That it shall be the duty of the President to assign to the command of each of said districts an officer of the Army not below the rank of brigadier general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

"SEC. 3. That it shall be the duty of each officer assigned as aforesaid to protect all persons in their rights of person and property: to suppress insurrection, disorder, and violence, and to punish or cause to be punished all disturbers of the public peace and criminals; and to this end he may allow local civil tribunals to take jurisdiction of him and to try offenders; or when, in his judgment, it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and all interference under color of State authority, with the exercise of military authority under this act shall be null and void."

Thus, sir, military dictators, with an army sufficient to enable them to enforce their orders, are sent into these States, and there, uncontrolled by any law, are directed to exercise absolute and unlimited control over the lives, liberties, and fortunes of the people of one entire section of this Union, and all this under pretense of protecting the rights of the people. And now, Mr. Speaker, after the pas-

sage of both these arbitrary and unconstitutional laws, each of which stands unrepealed and in full force, both protecting the freedmen, one by the civil and the other by the military arm of the Government, we are to-day urged to pass yet another law for the protection of the freedmen. If it be claimed, under these circumstances, that another law should be passed for this purpose, then it must be admitted that the military governments in the southern States, the support of which has already cost so many millions of the people's money, are a failure and should, therefore, be abolished.

As to the propriety of continuing this bureau for the purpose of affording relief to the destitute freedmen, I hold that this country, under its present financial embarrassments, is not able to continue in existence a bureau for the support and maintenance of any class of its people, and more especially for the support and education, as proposed by the bill, of this class of roving vagabonds called freedmen, whose only idea of freedom is that it confers upon them the right to be idle, and whose destitution is the result of their own indolence.

Sir, the country is to-day groaning under the weight of a public debt, the amount of which can hardly be estimated, and the people are harassed with the burdens of taxation to such an extent that they cry for relief from every section of the whole country, and at this time, laboring as we are under such financial embarrassments, it is proposed to continue a bureau which has already cost the Government immense sums of money.

And here, sir, while alluding to the cost of this bureau, I desire to notice some statements made by the gentleman from Massachusetts in his remarks upon this subject a few days since.

In alluding to a remark made by the President of the United States in the latter part of the summer of 1866, and repeated on several occasions, to the effect that this bureau had then cost the Government \$12,000,000, the gentleman from Massachusetts used some extraordinary language, which I was surprised to hear fall from the lips of that gentleman, who is ordinary so polite and courteous toward others. He indulges in the following intemperate, and I may add, unjust remarks:

"It is difficult to characterize, in fit phrase, without transcending far beyond the line of courteous debate, these statements which I have read, made officially by the President of the United States; first, in his veto; second, in the speech to the delegates at Philadelphia; and again in the course of his journey through the West. And yet these statements have been taken up by gentlemen who have affiliated politically with the President in this House, on the stump, through the country, in the South, in the North, and in the West, everywhere, as though in very truth they rested upon the authority of one who ought to be credited."

Now, Mr. Speaker, with all due respect for the gentleman, I assert here on this floor that the statement then made by the President was true, notwithstanding the assertion of the gentleman from Massachusetts to the contrary. I do not say this amount of money had been appropriated to the bureau out of the Treasury, but I do say that the money and the property which had at that time gone into the possession of the bureau from various sources amounted to something near twelve million dollars, as stated by the President.

And again, in answer to certain interrogatories put by the gentleman from Wisconsin, [Mr. EDWARDS,] he says: "every ration that has been given out under the administration of the bureau has been charged, so far as I know." Now, sir, if the gentleman had investigated this subject as carefully as he might have done, he would have found that not only rations, but also immense supplies of medical stores and quartermaster's stores, including transportation, have been issued under the direction of this bureau, which have never been accounted for or paid out of the funds of the bureau.

The fact is, sir, as General Howard himself admits, that from the organization of the bureau

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down to the 1st of July, 1866, none of the commissary, medical, or quartermaster's stores, including transportation, issued under the direction of the bureau, were ever charged to or accounted for out of the funds of the bureau.

I do not, however, charge the gentleman with any intentional misrepresentation of the facts, and shall not, therefore, indulge in any unbecoming remarks such as were employed by that gentleman in reference to what he supposed to be an incorrect statement of the President, but shall content myself with supposing that it was only a mistake on his part, which can be accounted for in a more charitable way than by charging an intention to mislead the House.

The gentleman from Massachusetts told the House, in the course of his remarks, that the whole amount of money appropriated to this bureau out of the Treasury, from its origin down to this time, was \$10,780,750, which is very nearly correct, the true amount being \$10,820,750. But, sir, in order to determine the cost of this bureau we must not look merely to the appropriations of money from the Treasury; for to these must be added the large sums of money and the immense amount of property, which, from various sources, have found their way into this vortex of abominations, beneath whose depths have been buried so much of the treasures and so large a share of the liberties of the people of this country.

I have endeavored to ascertain from the reports of the Commissioner the cost of maintaining this bureau, the result of which I shall state in a moment. In the first place, I may remark that the accounts of the bureau have been kept in such a manner that it is very difficult to determine from them the cost connected with its operations. I have, however, made an estimate, which, I think, approximates the true amount. It is as follows:

Total money received from all sources.....	\$13,434,771 82
Deduct amount held as retained bounties.....	\$115,236 49
Deduct pay, bounty, and prize money collected for freedmen.....	882,586 06
Voluntary contributions.....	1,000 00
	908,832 55

Leaves public funds chargeable to bureau.....	\$12,435,939 27
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To this must be added the pay of officers of the Army on duty in the bureau and not paid out of its funds, estimated at \$1,500,000. Also, the money value of commissary, medical, and quartermaster's stores, including transportation furnished prior to July 1, 1866, and never paid for out of the funds of the bureau, \$2,541,180 64, making an aggregate of \$16,477,069 91.

And to this, perhaps, ought to be added the immense amount required to feed, clothe, and pay the army which is sent along with the officers and agents of this bureau to assist in its operations; for this I regard as an expenditure legitimately chargeable to the bureau; which, if added, might run the expenditures of this bureau up to \$50,000,000, and, perhaps, to \$100,000,000.

How long, sir, will a tax-burdened people consent that their hard earnings shall be thus taken and appropriated to the support of a bureau by which the negroes of this country are to be fed, clothed, educated, doctored, and transported to wherever they may choose to go.

If this Government feels able thus to care for any class of its people, I ask, in God's name, that the wives and children of those who have died in defense of their country may first be provided for. Let this Government, which their fathers and husbands died to defend, first provide for the support and education of this class of persons before it undertakes thus to support in idleness these roving vagrants called freedmen.

Mr. KELLEY rose.

Mr. ADAMS. I have already given notice that I decline to be interrupted.

Sir, the soldiers of this country have been

appealing from time to time to Congress to grant them a bounty of \$100 for each twelve months of honorable service.

The SPEAKER. The gentleman's hour has expired.

Mr. ADAMS. As the gentleman from Massachusetts had his time extended, and as I am hardly through with my remarks, I ask the indulgence of the House for a few minutes longer.

The SPEAKER. It is not usual to extend the morning hour, but it was extended on this same bill for the gentleman from Massachusetts. How much time does the gentleman want?

Mr. ADAMS. About fifteen minutes.

There was no objection, and it was ordered accordingly.

Mr. ADAMS. I was about remarking, sir, that Congress has persistently refused to give to the soldier a bounty of \$100 for each year of honorable service, for the reason that the Government, under its present financial embarrassments, could not afford to do so.

Now, sir, I say if the Government can afford to establish and continue a bureau for the support and education of negroes, who have no claims upon the gratitude of the country, then it can and ought to give to the soldier these bounties which he has so dearly earned upon the battle-field, and which he so richly deserves at the hands of the Government which he fought to defend.

Mr. Speaker, this bureau has now been in operation for three years, and is now proposed to be continued one year longer, and at the end of that time we will doubtless be asked still further to prolong its existence. While we continue to feed and clothe these negroes they will remain a destitute and dependent people. If the letters which the gentleman from Massachusetts read to the House from officers and agents in different sections, urging the continuation of the bureau, are to be relied upon, the negroes are still as helpless and dependent as they were at the close of the war, and it is upon the ground of their ignorance and dependence that the continuation of the bureau is urged. Sir, when the reconstruction measures, as they are called, were passed the freedmen were not certainly regarded or treated as an ignorant and dependent people. They had, by these enactments, the whole civil and political control of ten States of this Union intrusted to their care. They were then considered not an ignorant, benighted, and dependent people, but, by solemn enactment, were declared to be sufficiently enlightened and intelligent to make constitutions, enact laws, and establish governments; not only able to take care of themselves, but to take care of the white people also.

Mr. Speaker, among the letters presented by the gentleman from Massachusetts to the House, urging reasons for the continuation of the bureau, is one from a certain Hiram Willis, who seems to be an agent of the bureau in the State of Arkansas. I beg to read to the House one of the reasons urged by this gentleman for the continuation of this bureau. He says:

"3. The bureau should be continued one year longer to act as a sort of moderator between white and black during the exciting contest now impending over the whole country. It can thus assist wonderfully in reconstructing the South on a loyal basis. To continue the bureau one year more than is provided will cover most all the exciting political issues about to be made in the election for President, and this is of no little importance to the whole country."

Thus, sir, one of the reasons assigned for continuing the bureau by this correspondent, and which the gentleman from Massachusetts adopts as his own by incorporating it into his speech in support of the bill, is the political influence it is to wield in the coming presidential election, which he announces is of the utmost importance.

And the gentleman from Massachusetts classes his speech in support of the bill to continue this bureau with the following significant declaration:

"We propose to attack; to attack here in the

House, at home, upon the stump, by speech and by voice, by vote, and by press everywhere, to attack this slave power, beaten in the field, but hopeful yet, by cunning counsel and political stratagem to undo the work our armies have accomplished."

Now, Mr. Speaker, if the object of this bill be protection to the freedmen I cannot see the necessity or propriety of its passage, the rights of the freedmen being abundantly protected by other laws, as I have already endeavored to show. But, sir, if the object be to organize an army of office-holders, and by the patronage and intimidations of this bureau to control the political destinies of this country, then I admit that the bill under consideration is eminently adapted to the accomplishment of that end.

Mr. Speaker, if the gentleman from Massachusetts intends to organize this bureau into an engine of political warfare, and intends thus to attack the Democratic party, which he is pleased to call the slave-power, I say to him that when he does it he attacks the Constitution of the United States, which he is sworn to support and uphold. When he does it he attacks the rights and liberties of the people which he is sent here to protect and defend. When he does it, sir, he does what he and his whole party declared in 1860 to be among the gravest of crimes.

Pacific Railroad Freight Tariff.

SPEECH OF HON. C. C. WASHBURN,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

March 20, 1868.

The House having under consideration the joint resolution (H. R. No. 168) to regulate tariff for freight and passengers on the Union and Pacific railroads and their branches—

Mr. WASHBURN, of Wisconsin, said:

Mr. SPEAKER: I ask that the consideration of the joint resolution now on the Speaker's table providing for a board of commissioners to fix a tariff for freight and passengers over the Union Pacific and Central Pacific railroads and their branches, be considered now; and I desire to offer some reasons why it should be passed.

The SPEAKER. The joint resolution will be read.

The Clerk read the joint resolution. It proposes to constitute the Secretary of War, the Secretary of the Interior, and the Attorney General of the United States a board of commissioners, whose duty it shall be on the 1st day of July in each year to establish a tariff for freight and passengers over the Union Pacific and Central Pacific railroads and their branches, which tariff shall be equitable and just and not exceeding double the average rates charged on the different lines of railroad between the Mississippi river and the Atlantic ocean in latitudes north of St. Louis, Missouri, and that it shall not be lawful for said railroad companies to charge any sum in excess of the rates so fixed.

Mr. WASHBURN, of Wisconsin. Mr. Speaker, at a very early day in the session I introduced a bill and had it referred to the Pacific Railroad Committee providing for a commission, consisting of the Secretary of War, Secretary of the Interior, and Attorney General, whose duty it should be on the 1st of July in each year to revise the tariff of rates for transportation over the Pacific railroads. Waiting for a long time for some action from that committee, and becoming satisfied that there would be great delay and perhaps the bill would "sleep the sleep that knows no waking," I endeavored to arrive at the same result by the means of a joint resolution. But, sir, the House refused to second the previous question, and this resolution, which was introduced by my friend from Minnesota [Mr. WINDOM] at my request, as he at the time had the floor, went upon the Calendar, and when it came up in regular order for consideration the other

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day a motion to lay it on the table failed, and for want of time to consider it it went to the Speaker's table.

Mr. PRICE. Will the gentleman yield one moment?

Mr. WASHBURN, of Wisconsin. Not now.

Mr. PRICE. I would like to correct the gentleman.

Mr. WASHBURN, of Wisconsin. I state nothing but what is correct. The gentleman from Iowa I have spoken with several times, and I have understood from him that the committee had had the matter under consideration, and I think that he is in favor of the measure, but that a majority of the committee have no intention of reporting that bill.

Mr. PRICE. That is a mistake.

Mr. WASHBURN, of Wisconsin. I am glad to know that it is a mistake, and that the committee intend to report a bill so necessary and just as this. That this proposition should meet with any opposition here is most astonishing, not to say alarming. I must believe that the measure is not understood, and that members do not understand the necessity for it. As I intend to press it or some kindred measure at every opportunity until it becomes a law, I claim the attention of the House for a short time while I state some of the many reasons why we should act at this time.

No one sees more clearly than I do that the Pacific railroad is a work of necessity or will go further than I to hasten it to a completion, due regard to the protection of the rights of the people being had. So far as I know any of the parties connected with these roads I entertain for them the most friendly feelings. I have no private griefs to avenge or personal wrongs to complain of, but I am speaking, as in duty bound, in the interests of the people, who have no lobby to work for them.

The Pacific railroad is the greatest enterprise of modern times. The completion of it is an object of universal desire among the American people. So great is the public anxiety for the road that our people have been willing to shut their eyes to every consideration in regard to it, and to give absolute control to the parties engaged in its management, regardless of all future consequences. It is a characteristic of our people that when they want a thing they will have it, cost what it may, but often, when too late, have cause to regret their own short-sightedness and lament their extravagance and folly. If they want a railroad they are always ready to yield a willing ear to the voice of the railroad syren, who whispers them to loan the credit of their counties, towns, cities, or farms to aid an enterprise which promises to make all rich, but often results in repudiation, bankruptcy, and ruin.

No great work has ever been started in this country in which the great public has so vast an interest as in the Pacific railroad. It is a work in which over sixty million dollars of the people's money is to be invested, a work in which the prosperity and growth of the country are involved, a thoroughfare that is to furnish transit for the commerce of Asia and the Pacific coast, a corporation exceeding in power and magnitude any upon earth, and one that will hold hereafter, if not checked, the destinies of this country in its hands. Yet, sir, notwithstanding this, I will undertake to say that outside of the parties interested as stockholders or employees there are not ten men in the United States who understand the history of these different Pacific railroads, how they have been brought into existence and prosecuted up to the present time. This Congress ought to understand the question and the public ought to understand it; and if then they see fit to sacrifice posterity for all coming time to the grinding control of a giant monopoly they can do so. I propose to relieve myself of any responsibility if Congress does not at once interfere, for it is not difficult to see that if we allow matters to progress as they have done until

these roads are completed and they have \$100,000,000 of our money in their hands they will successfully defy any legislation that may ever be attempted here.

The first bill enacted into a law in regard to building a Pacific railroad was passed July 1, 1862. It contemplated an organization composed of men from all quarters of the country, and that the stock should be distributed in an equitable manner to the different parts of the country. The names of the corporators were one hundred and fifty-eight in number, taken from all parts of the country. The main features of the act were: first, to incorporate the persons named, with five commissioners to be named by the Secretary of the Interior, under the name and style of the Union Pacific Railroad Company, who were authorized to build and maintain a railroad from the one hundredth meridian to the western boundary of Nevada Territory. The capital stock named was \$100,000,000, divided into shares of \$1,000 each, not more than two hundred shares to be held by any one person. Bonds were to be opened, and as soon as two thousand shares or two per cent. of the stock was taken up, and ten dollars a share or one per cent. on a dollar paid in, then the president and secretary of the board of commissioners were to appoint a time for the first meeting of the subscribers to the stock, who should meet and elect officers for the corporation, and vast powers were given to the corporation thus constituted; right of way was granted through all the public domain, with all necessary grounds for stations, buildings, workshops, side tracks, &c., and alternate sections of land for ten miles on each side of the road. There was also granted in aid of the road United States bonds at the rate of \$16,000 per mile for about five hundred and fifty miles, \$48,000 per mile for three hundred miles, to include the sections crossing the Rocky mountains and Sierra Nevada, and \$32,000 per mile for about eight hundred and fifty miles included between the two ranges named. These bonds were declared to be a first mortgage upon the road, and the grant was made on the express condition that they should be paid at maturity, and all compensation for services rendered to the Government was to be applied to pay the principal and interest on said bonds, and five per cent. of the net earnings of the road was to be reserved and applied to the payment of said bonds.

In section nine of the same act the Leavenworth, Pawnee, and Western Railroad Company of Kansas, a corporation under the laws of Kansas, was authorized to build its road from the mouth of Kansas river to connect with the Union Pacific at the one hundredth parallel; and the Central Pacific railroad, a company chartered by the State of California, was authorized to build its road to the eastern border of said State, and both said last-named roads were granted the same aid by the Government as to the Union Pacific.

By section thirteen of said act there was also granted to the Hannibal and St. Joseph road a subsidy from the Government of \$16,000 for one hundred miles, and that road was authorized to connect with the Union Pacific, eastern division. That road has obtained its subsidy for one hundred miles, and is now clamoring for more.

By section fourteen the Union Pacific Railroad Company was also authorized to build from the west boundary of Iowa to the one hundredth parallel, and was authorized and required to build a road from Sioux City to connect with the Union Pacific road on the "nearest and most practicable route," and the same subsidy was granted.

And now, right at this point, though it may break the continuity of my statement of the legislation had upon the subject, I desire to call attention to the manner in which this Sioux City road has been built, and to the utter violation of the letter and spirit of the act of Congress. I state it as a matter of history that this Sioux City branch road was incorporated in the

first Pacific railroad bill, at the instance and demand of the members from Minnesota, and that but for that the bill would have had their opposition instead of support. The reason for this will be obvious when you look at the map I now have before me.

It is here discovered that from a given point on the Pacific railroad, less than one hundred miles west of Sioux City, it is one hundred miles nearer to the head of Lake Superior than to the city of Chicago. The importance, therefore, of that provision to the people of Minnesota and to the people of Superior City, in my district, must be apparent to every gentleman, because the proposed road would bring Superior City one hundred miles nearer to the Pacific than Chicago, and would place the State of Minnesota and the cities of St. Paul and Minneapolis on the shortest Pacific highway. I wish to call the attention of members of the House to what has been done in that matter. The object of the members from Minnesota I think I have made perfectly apparent. But, instead of building the road which was contemplated by the original law and as good faith required, and where the law declared it should be built, namely, in a direct line from Sioux City to the Pacific railroad, on the "nearest and most practicable route," so as to have a short and direct line to Lake Superior, what have they done? What have they obtained from this Government? Instead of building the road so as to bring Superior City one hundred miles nearer than the city of Chicago to the Pacific ocean they have built the road from Sioux City down the valley of the Missouri river, upon the dead level bottoms of that stream, and have obtained a subsidy of \$16,000 a mile and a grant of lands at the rate of twelve thousand eight hundred acres per mile, provided there was unappropriated land to that extent, and have built seventy-two miles of that road within the State of Iowa; and I assert here that for sixty-eight miles of that distance every mile after they leave Sioux City takes them further from the Pacific coast than they were at the end of the preceding mile. I assert that at the end of sixty-eight miles from Sioux City they are twenty miles further from the Pacific ocean than they were at the point whence they started, and that after traversing one hundred miles from Sioux City and joining with the Pacific road they are but six miles nearer the Pacific than the point of departure. If gentlemen will look at the map they will see the correctness of that statement.

After running in a southeasterly direction for sixty-eight miles from Sioux City the road turns westward and crosses the Missouri river some thirty odd miles above the city of Omaha, so that that city, which, like Jonah's gourd, springing up in a night through the impetus given by this road, is destined by the same cause that created it to hasten to swift decay, as it will be left upon a side track about thirty miles removed from the direct line to the Pacific, and thus that till now flourishing city, which had made great gifts to this company, is to be sacrificed by a soulless corporation without regret or remorse.

Mr. DODGE. Is the gentleman from Wisconsin [Mr. WASHBURN] acquainted with the country west of the Missouri river, and does he undertake to say that a line of road from Sioux City west of the river is as practicable as the one already built?

Mr. WASHBURN, of Wisconsin. I am not acquainted with the country west of Sioux City. But any gentleman must see and know that Congress never could have contemplated the building of any other road than the one in a direct line leading toward the Pacific; it never contemplated giving \$16,000 a mile for a road in Iowa running southeast down the valley of the Missouri river upon a dead level plain. And it certainly never contemplated the building of sixty-eight miles of the road in Iowa to carry it twenty miles further from the Pacific ocean than where it started from.

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Mr. PRICE. Has the Government given one dollar more of subsidy to the road on that route than it would have been obliged to give had the road been built on the other route?

Mr. WASHBURN, of Wisconsin. Yes, sir; but suppose it had not, that would not help you any; because, had you built one hundred miles of road west, you would have joined the Pacific road forty-five miles further west than you now do. This Sioux City Railroad Company is practically a private company, and is no more a Pacific railroad than the Illinois Central; and what business had the Secretary of the Treasury to appropriate to this company \$16,000 a mile within the limits of Iowa, on the pretense of building a Pacific railroad, when, as I have asserted, after building sixty-eight miles, they are twenty-four miles further from the Pacific ocean than when they started? Thus the Government has paid, or will pay, a subsidy of \$1,200,000 to build a private road in the State of Iowa which is in no sense a Pacific railroad.

I am not familiar with this country. I have never lived in Nebraska; I never set foot in that State; but I say that the Congress never could have contemplated such a grant as has been conceded to these parties by somebody; I do not know who. I see the gentleman from Nebraska [Mr. TAFÉ] sitting near me. I do not know how long he has lived in Nebraska, but I presume he has lived there long enough to be somewhat familiar with the nature of the country there. I will ask him to state to the House whether it is practicable to build a road from Sioux City on anything like a direct line to connect with the Pacific railroad?

Mr. TAFÉ. I have lived in Nebraska for about twelve years, and have a general acquaintance with the country through which such a road would have passed. I have lived opposite Sioux City for about seven years. Of course I do not propose, by mere assertion, to contradict professional statements of fact made by engineers; but, from my general knowledge of the country, I have no hesitancy in saying that there is a practicable route for a railroad from Sioux City to Columbus, and a good route; and this I say in opposition to any published report of any engineer who professes to have examined this route.

And let me state further: the engineer's report, which I have seen and read, and which I believe was made to a party who has an interest in that road, states that the engineer has examined every ravine and creek from Sioux City down to the Omaha reservation; and then it goes on to make some general statements about the character of the country. Now, so far as that is concerned, I will say that there is not a ravine and only one creek between Sioux City and the Omaha reservation. I state that from a personal knowledge of the country, acquired by a seven years' residence there.

Mr. WASHBURN, of Wisconsin. I state from information from reliable gentlemen who have resided for years between Sioux City and Columbus, Nebraska, that the route for a railroad between these points is an excellent one, and entirely practicable to the point of intersection with the main Pacific railroad at Columbus or any point east of it. I have no doubt it was for the interest of these parties to build a road down the valley of the Missouri river, over dead level ground, and obtain a subsidy of \$16,000 per mile, together with a grant of land, so as to enable them to intersect with another road of theirs running west from Cedar Rapids; but, sir, it is a violation of law and a fraud upon the people of the United States. I do not call attention to this with the expectation of remedying anything that has already been done. Our land is gone and money spent, and there is no help for it. The Secretary of the Treasury issues to a railroad company, in no sense a Pacific railroad company, \$1,600,000 in Government bonds, in direct and positive violation of the law. The Secretary of the Interior certifies to

the same company a vast body of land, equally without law, and the people are, I fear, without remedy. If they may issue \$1,600,000 without law, why not \$100,000,000? I advert to the matter now for the purpose of urging upon Congress, in the future, when disposing of various railroad schemes (for such in great numbers and in great power are afoot, and some already before Congress) to be more guarded. It is safe to say that \$125,000,000 in additional bonds will not satisfy present demands. The fact is, you can never satisfy these railroad lobbyists. Their cry is still "give, give." The more you give the more they demand. Increase of appetite grows by what it feeds upon.

In speaking of this Sioux City outrage I have been a long way diverted from the main line of what I intended to say, but before leaving it I wish to call attention to what seems to me another outrage of a kindred nature to this. I now allude to a misallied Pacific railroad in California, running from Sacramento City, via Stockton, to San José, a road one hundred and twenty miles in length, starting from the navigable waters of the Sacramento river, and running upon a very indirect route, not to San Francisco, but to a point not on the Pacific or the navigable waters connecting with the Pacific, but the inland town of San José.

Now, let us see under what law this road, called the Western Pacific railroad, from Sacramento city to San José, has been built. Under the first Pacific railroad act, passed in 1862, in the ninth section, it is provided that—

"The Central Pacific Railroad Company of California, a corporation existing under the laws of the State of California, are hereby authorized to construct a railroad and telegraph line from the Pacific coast, at or near San Francisco or the navigable waters of the Sacramento river, to the eastern boundary of California," &c.

Now, here was an alternative proposition, to build either from or near San Francisco or the navigable waters of the Sacramento river. They adopted the latter alternative, and commenced their road at Sacramento City, on the navigable waters of the Sacramento river, and that is the starting-point of the Central railroad of California; but, by a strange kind of sleight-of-hand, another company, chartered by the State of California, claiming to have an assignment from the Central Pacific, proceeds to build a road from Sacramento, via Stockton, to San José, not on the waters of the Pacific, a distance of one hundred and twenty miles, and receiving a subsidy of \$1,920,000, besides a large grant of land. The right under which this is done, it is claimed, is an act of Congress passed March 3, 1865. That act professes to give no greater right to this Western Pacific than was given to the Central Pacific, and as the Central Pacific never had the right to build a railroad from Sacramento to San José, and if it had it had waived it when it adopted for its starting-point the navigable waters of the Sacramento river, then it may safely be said that the subsidies given to this road are in violation of law. I say what I do on this subject only to call attention more forcibly to where we are drifting, and to point out the dangers that so constantly beset us.

Now, sir, to return to the point from which I was diverted. I was then detailing in brief some of the provisions of the original Pacific railroad bill, passed in 1862. By section sixteen of the act (to which point I had reached) it is provided that all railroad companies named in the act, or any two, are authorized to consolidate and form themselves into one company. Under this section the following-named roads may, and probably at no distant day will, be consolidated into one vast corporation, wielding a capital greater than was ever consolidated on the face of the earth, exercising a power that will successfully defy all legislative control; a power that will make and unmake Presidents, Senators, members of Congress, Governors, Legislatures, and judicial officers of States, and endanger the liberties of the people;

a power that can and will force every interest of the country to pay it tribute as the price of its existence. The companies thus authorized to consolidate are the Union Pacific railroad, the Leavenworth, Pawnee and Western Railroad Company, or what is known as the Eastern Division, the Hannibal and St. Joseph road, the Sioux City railroad, the Central Pacific railroad of California, and, by subsequent act, the Burlington and Missouri River road, and Western Pacific. By section seventeen it was provided that if the companies failed to comply with the act that the roads should be forfeited to the United States, and that on a part of the road twenty-five per cent. and on the rest fifteen per cent. of the bonds were not to be delivered until the roads were completed. By section eighteen, after the net earnings should exceed ten per cent., exclusive of five per cent. reserved to pay the United States, or, in other words, after the net earnings should exceed fifteen per cent. per annum, Congress reserved the right to fix the rates of fare by law; but in the same section Congress reserved the right to alter, amend, or repeal the act, due regard being had to the rights of said companies.

I have thus, in as brief a manner as possible, gone through and stated the main conditions of the first Pacific railroad act. It was regarded as liberal beyond precedent at the time, providing, as it did, for a gift outright of a vast body of land and a loan of over sixty million dollars, with no greater security than what the Government had itself furnished the means of offering, and, indeed, far less.

Though the act was carelessly drawn some regard appears to have been had for the interests of the Government, and the following provisions were made for the public security:

1. The Government was to have a first mortgage on the road to secure its advances.
2. Twenty-five per cent. of the bonds on a part of the line and fifteen on the rest were to be reserved until the road was completed.
3. The price for the transportation of Government freight and passengers was to be applied in liquidation of the bonds, and five per cent. of the net earnings were also to be set aside for the same purpose.
4. The amount of stock held by any one man was limited to two hundred shares.

Parties were not long found wanting to avail themselves of this act.

It has already been seen that to complete the organization it only required two thousand shares to be subscribed, and one per cent. on a dollar, or \$20,000, paid in to perfect the organization. Parties were ready and prompt to act and obtain control and cut out the public, in violation of what was contemplated in the act naming a large number of corporators in all parts of the country. The organization being completed, what was next to be done? Go on and build the road? Not a bit of it.

With the first grant secured—a grant worth untold millions—instead of proceeding to build the road, this Union Pacific, before spending a dollar in building the road, or, as I believe, in moving a shovelfull of earth, came down upon Congress—

"Like the wolf on the fold,
And their cohorts were gleaming with purple and gold."

and in 1864 succeeded in securing the passage of an act to wipe out every provision made in the original act for the security of the public.

Of the manner by which said last act was passed I care not to speak. It is of the act itself that I speak. Who voted for this amended act it is impossible to ascertain, as the record shows that all attempts to obtain the ayes and noes on its final passage failed. We know this, that every interest of the people that was guarded in the first act was sacrificed in the second. We know that the security of the Government was subordinated to a first mortgage amounting to over sixty million dollars, that the reservation of any part of the bonds

until the road should be completed was repealed, also the five per cent. net earnings to apply to liquidate the bonds, and the provision for applying the earnings of the road on Government transportation was also altered so as to require but one half to be so applied, and all restriction as to amount of stock that any one man could hold was removed. The land grant was doubled, giving the different Pacific roads a territory, according to the report of the Commissioner of the General Land Office, "within one fourth of twice the area of England, Scotland, Wales, Ireland, Guernsey, Jersey, the Isle of Man, and the islands of the British seas, and less than a tenth of being equal to the French empire proper," and nothing that the ingenuity of man could invent for their benefit was withheld. This is the present aspect of affairs.

Mr. WASHBURN, of Illinois. I think there is a history about that matter which ought to be published to the country.

Mr. HIGBY rose.

Mr. WASHBURN, of Wisconsin. I do not yield to the gentleman from California. He shall have full opportunity on this subject, and I want to hear from him and the other California members, for no part of the country is so much interested as is that State.

The work is progressing with unexampled rapidity, as well it may, since Government furnishes every dollar in money that is necessary to build it. The public are rejoiced to know that it is going so rapidly forward; and, as I have before said, no one will go further than I to hurry its early completion, due regard to the rights of the people being in the meantime had; and what I now wish to show is that before issuing any more bonds we should insist upon securing the rights of the public for all coming time. Failing in this, let the Government at once take the control of the road and build it through as early as possible, and make it a cheap line of commerce between the Atlantic and Pacific. Why not? If the Government furnishes the money to build it why should it give it away to a company of monopolists, who are free from all control in their dealings either with the public or Government?

Now, how all these changes were wrought by which the public interests were sacrificed is not for me to say or even conjecture.

Mr. WASHBURN, of Illinois. If the gentleman from Wisconsin will permit me, I can tell him something about how it was passed. I was here.

Mr. WASHBURN, of Wisconsin. I must decline to yield for that statement. No matter now how the act was passed. I suppose it is no use to advert to that matter. I, of course, do not believe that any corrupt influence was ever used upon any member of Congress; I would not intimate anything of

the kind; but I believe I state nothing more than what is notorious when I say that the vice president of that road has charged the company with \$500,000 as having been expended in Washington to secure the passage of that act; claiming that the money was expended in a confidential way, and declining to furnish any vouchers.

Mr. PRICE. The gentleman is referring to the first act.

Mr. WASHBURN, of Wisconsin. No, sir; the act of 1864. The company had not the money in 1862.

Mr. HIGBY. I am sorry to hear the gentleman make the statement which he has just made. This is the first time I have ever heard it intimated that any money was used to procure the passage of the act of 1864.

Mr. WASHBURN, of Wisconsin. I make no reflections whatever. I will simply say that I state what is a notorious fact: that the vice president has claimed that he used money in a confidential way in Washington. But there is one significant fact which I may be pardoned for adverting to, and it is this: that in this act of 1864, virtually voting away \$60,000,000 of the people's money, the opponents of it in vain demanded the yeas and nays upon the final vote on agreeing to the report of the conference committee of the two Houses, and by which vote the bill was finally passed.

Nothing shows more clearly where we are drifting than the fact that this Pacific Railroad Committee, only three or four days ago, attempted to report another Pacific railroad bill, from Portland, Oregon, to connect with the Pacific road at the north bend of the Humboldt river. In looking at the line for this road I find that for the first one hundred and twenty-five or one hundred and fifty miles it will run south, up the rich and thickly-settled Willamette valley, and then, turning in a southeast direction, cross mountains and plains, until it reaches the Humboldt river, a distance of six or seven hundred miles, and requiring subsidies at the rate of \$18,000, \$32,000, and \$48,000 per mile, together with the usual land grant of twelve thousand eight hundred acres per mile.

Mr. PRICE. The gentleman is mistaken.

Mr. WASHBURN, of Wisconsin. I am glad to hear that I am mistaken. I know that my friend tried to report a bill from his committee, but he informed me that his only object was to have it recommitteed and printed. I do not understand that he is in favor of any such bill, but I speak of it to show that there is no end to the demands of these men who want Government subsidies. Now, Mr. Speaker, I will assert, prove, and maintain that the Government of the United States will furnish every dollar necessary to build these roads, and that for these vast advances Government has practically no security whatever. By computation it

appears that the Government subsidy will average about thirty thousand dollars per mile for the entire distance. In the judgment of reliable railroad men there is not to exceed three hundred miles of the entire line that will cost to exceed that sum per mile, while a large part of the rest of the line will cost far less; yet, I find that when the bill of 1864 was up for consideration it was stated on the floor of the House that there were many miles that would cost \$500,000 per mile.

Mr. DODGE. I hope the gentleman will allow me to ask him a question.

Mr. WASHBURN, of Wisconsin. Certainly.

Mr. DODGE. I want to know how a railroad can be constructed from the Missouri river to the Pacific ocean at that price, when there is not a road running in his own State that has not cost from twenty-five to sixty-five thousand dollars a mile.

Mr. WASHBURN, of Wisconsin. They cost anywhere from twenty-five to two hundred thousand dollars because of the rascality which prevailed in the early management of those who built and controlled them. There are hundreds of miles of railroad in my State that could be built to-day and fairly stocked for \$25,000 per mile, yet these same roads, by a kind of conjuration known only to railroad men, represent a cost on paper of four times that sum.

There is great exaggeration about the difficulties attending the building of these Pacific railroads. If gentlemen want information I will give it to them. I will give the gentleman from Iowa, [Mr. Dodge,] the very able and distinguished engineer of the road, some of his own figures. I will refer to his report of 1868. It was asserted in Congress in 1864 that there were miles of this road that would cost \$500,000 per mile to build. Here is my friend's own report made in 1868; and I will ask the reporter for the Associated Press to take down the figures I shall read, so the public may see for themselves. I read from the engineer's report, page 22. I will publish the entire table in the Globe, but will only here state the result of the figures, and leave gentlemen to form their own opinion as to how much it will cost to build such a road. The table of grades shows upon the line from Omaha to the eastern line of California a distance of one thousand six hundred and twenty-two and a half miles; of dead level ground two hundred and seventy-two miles; from level to twenty feet per mile, six hundred and sixty-five miles; ranging from twenty feet to forty feet three hundred and forty-three miles; from forty feet to sixty feet per mile, ninety-six miles; from sixty to eighty feet per mile, eighty-one miles; from eighty to one hundred feet per mile, forty-five miles; from one hundred to one hundred and sixteen feet per mile, thirty-seven miles:

Table of Grades, Union Pacific Railroad, Omaha to California, 1867.

Distance.	Level miles.	0' to 20' per mile.		20' to 40' per mile.		40' to 60' per mile.		60' to 80' per mile.		80' to 100' per mile.		100' to 116' per mile.		Miles length.	Ascent in feet.	Descent in feet.
		Miles ascent.	Miles descent.	Miles ascent.	Miles descent.	Miles ascent.	Miles descent.	Miles ascent.	Miles descent.	Miles ascent.	Miles descent.	Miles ascent.	Miles descent.			
First hundred miles.....	30.32	52.14	1.38	6.44	6.23	-	-	2.82	.76	-	-	-	-	100.09	797	289
Second hundred miles.....	20.99	63.61	4.96	6.88	.57	-	-	-	-	-	-	-	-	100.01	745	69
Third hundred miles.....	19.43	63.47	6.63	8.12	2.36	-	-	-	-	-	-	-	-	100.01	790	103
Fourth hundred miles, to mouth of Lodge Pole.....	9.08	45.53	6.99	12.90	1.84	-	-	-	-	-	-	-	-	76.34	780	122
Mouth of Lodge Pole to Crow Creek.....	20.20	37.12	3.68	61.26	4.17	9.52	1.36	-	-	-	-	-	-	137.31	2,682	169
Crow Creek to Laramie river.....	7.49	.51	2.61	1.42	4.33	5.91	1.64	9.00	3.91	13.54	7.27	-	-	57.63	2,285	1,129
Laramie river to Green river.....	31.81	21.53	53.14	17.88	17.84	21.53	16.17	15.19	16.26	8.82	5.23	3.00	12.55	240.95	3,733	4,774
Green river to Salt Lake City.....	26.50	34.20	25.62	19.05	41.19	7.12	19.00	8.90	9.43	1.08	4.68	7.76	9.89	214.42	2,880	4,729
Salt Lake City to Desert.....	17.79	20.96	18.99	4.49	3.44	3.54	.45	1.77	.95	.42	.28	.38	.72	74.08	684	434
Across Desert.....	20.00	.05	.66	16.00	.14	.05	.10	.12	.08	.03	.07	.04	.16	116.00	2,492	1,410
West side of Desert to Reed's Pass.....	3.80	8.52	10.64	4.17	10.30	.66	2.27	.12	1.42	-	.85	-	-	42.63	231	708
Reed's Pass to California line.....	65.39	38.60	141.93	42.34	50.08	6.33	1.02	7.43	3.37	2.92	.57	.95	2.10	363.03	3,093	3,448
														1,622.50	20,192	15,965

NOTE.—In location all grades can be brought to a maximum of ninety feet to a mile. On Humboldt river valley grades, by following river or cañon, can be reduced to a maximum of eighty feet to a mile.

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Such are the grades of this Pacific road as determined by their own engineers. The almost impassable mountains of which "Pathfinders" and others give such marvelous accounts, when brought to the unerring test of the engineer's level dwindle into insignificance; and I think I can safely assert here that there is no sixteen hundred miles of road running in any given direction in the United States that show such easy grades as from Omaha to the line of California. There was much difficulty in determining where the base of the Rocky mountains was, but it was finally determined in the level valley of the Platte river at Crow Creek Crossing, and from that point to the summit of the mountains the distance is only between thirty-one and thirty-two miles, although we give them a subsidy of \$48,000 per mile for one hundred and fifty miles at this point of the road.

Mr. DODGE. I desire to state to the gentleman that the report to which he refers only reaches the California State line. It does not show the grade over the heavy mountain ranges in crossing to the Pacific.

Mr. WASHBURN, of Wisconsin. That is true. This report purports to give the line of the road from Omaha to the eastern line of California. But that part of the road over the Sierra Nevada belongs to another road—the Central Pacific railroad. I have not the grades of that road. In looking over their report I do not see that they state them, but I see this, that they claim and receive a subsidy from Government of \$48,000 per mile within seven miles of Sacramento.

Now, I am not speaking against any road; I am speaking purely in the interest of the public; but knowing that there is to be but one Pacific railroad for some length of time I say that unless we place a restriction upon it now it will become a stupendous monopoly, and one that all the people of the country will have occasion to regret. I give this as my deliberate opinion. These people say, "All we ask is to be let alone." But, sir, I am willing to let them alone only when the road will consent to a restriction such as I propose. I am not particular that it should be put on to take effect now; if it can take effect when the road is finished, so that the public may have the benefit of it then that is sufficient.

Now, sir, I have asserted that this road can nearly or quite be built with the Government subsidy. The first five hundred miles are nearly a dead level. I am assured by gentlemen who have traveled over the route that up to the base of the Rocky mountains it is a dead level, so that the sleepers are laid down for miles and miles on the naked soil without any grading, only a ditch on each side.

Mr. DODGE. I do not see how it can be a dead level when the rise from the Missouri river to the base of the mountains is five thousand feet.

Mr. WASHBURN, of Wisconsin. When I say a dead level I should say that the average rise from the Missouri up the valley of the Platte, a distance of five hundred miles, is about ten feet per mile. They lay the sleepers down on the bare sod, and there is very little grading.

Mr. DODGE. I undertake to say that the sleepers are not laid on the bare sod, and I see gentlemen here who have some knowledge on the subject who will say that it is one of the best built roads in the United States.

Mr. WASHBURN, of Wisconsin. I have not disputed that fact. I do not say that they lay their sleepers on the bare sod to detract at all from the road. I believe they have been doing the work very well. Doctors will disagree. Some very able railroad men tell me it is better, where it is level and requires no grading, to lay the sleepers on the bare sod. I am not undertaking to decide that question. I merely state what I understand and believed to be the fact, that the country is so level that all they

had to do for many miles was to lay down the sleepers on the sod, and if they are not so laid it is not because the ground requires to be graded.

Now, certainly there can be very little grading, at all events, for the first five hundred miles. Gentlemen can figure for themselves, and tell me how much per mile the road would cost built in this level valley of the Platte. A mile of iron (it is very light iron, fifty-six pounds to the yard) will cost about eight thousand dollars laid down at Omaha; and two thousand five hundred ties for a mile, at two dollars apiece, a very high price, would cost \$5,000 a mile; the ties and iron would cost perhaps \$13,000 a mile, and you may throw in whatever you please for grading and bridging; but suppose we allow you \$30,000 a mile to build the road up the Platte valley over nearly dead level ground, which is a great deal more than it can cost, and where do we stand?

Let me remind you here that from what they call the base of the Rocky mountains the company receives \$48,000 per mile for one hundred and fifty miles, and from that distance to the eastern slope of the Sierra Nevada, a distance of about eight hundred miles, \$32,000 per mile; and I will say that I am informed by gentlemen who know that this eight hundred mile stretch has few heavy grades and follows the line of water-courses a large part of the way. There cannot be a shadow of doubt that your subsidy in bonds will nearly or quite build and equip the road, for this part of the line at least, with the vast grant of lands thrown in.

Now, sir, what security has the Government for the repayment of this money or the people that the monopoly you have created will not be wielded for their oppression? Absolutely none. You say that the company is bound to pay the bonds in thirty years, and as security you have a second mortgage. That is true. But suppose they do not pay? Then there is ahead of this mortgage a first mortgage of \$60,000,000. That mortgage will be foreclosed as soon as the roads are fairly completed, and the whole thing will be bought in and the roads operated by other organizations. The experience of all other railroad companies justifies me in saying this. The Government, of course, will not pay off the first mortgage, for that will represent all the road actually cost. It will be sold and pass to other hands, and Government will be left out entirely. The obligation which the present company is under to apply the price of carrying one half of the Government freight in liquidating the interest on these bonds will be wiped out with the foreclosure, and the Government will be left with absolutely nothing to show for its untold millions of dollars and acres.

My object, as will be seen, is to point out these dangers now and apply the remedy before it is too late, for I need not tell you that after we shall have issued these companies \$60,000,000 bonds and their roads are completed the people will seek in vain for any legislation that is opposed by these companies. I have already indicated what I desire, and that is to establish a perpetual board, whose duty it shall be to fix an annual tariff for these roads.

It may be said that under section eighteen of the original charter we have no right to do it until the earnings exceed ten per cent. of the cost of the road, and five per cent. to be reserved under that act as a sinking fund. But the act of 1864, under which these companies are acting, and through which they derive these vast and practically unsecured subsidies, fortunately contained a provision that that act might be altered, amended, or repealed at pleasure. But, sir, I would have no objection to the parties who put their money in this great enterprise receiving ten per cent., and more. I think they ought to; but when they so contrive matters as to evade this provision and give themselves forty or fifty per cent. on the money the Government has furnished it is necessary

that they should be exposed. I have already said that this road could be built for the Government subsidy, and I reiterate that, provided it is built as other roads are built, by contracting with the lowest bidder. To make the road cost the stockholders no more than absolutely necessary, and at the same time to make it represent a nominal cost that would relieve the stockholders from the appearance of not putting in money of their own, and also to relieve them from the ten per cent. dividend proposition, they resort to a device unheard of before in this country.

The stockholders in the Pacific road are few in number. They could easily have made a contract with themselves for the building of the road, without bids or advertisements of any kind. They could have agreed to have paid themselves one or two hundred thousand per mile, swelled the nominal cost to such a figure as to neutralize the ten per cent. provision in regard to earnings. But would such a transaction have been regarded as an honest or legitimate and straightforward one, and binding on the Government? Clearly not. Would a transaction which amounts to precisely the same thing, arrived at in an indirect manner, be any more honorable and straightforward or binding on the Government? Instead of contracting for the construction of the road as all other roads have been built, what do they do? A, B, C, and D are the stockholders of the company. A, B, C, and D, under a charter from the State of Pennsylvania, organize themselves into a company called the Credit Mobilier of America. A, B, C, and D, stockholders, enter into a contract with the Credit Mobilier to build this road at fabulous prices, and the Credit Mobilier lets out the contract at the lowest figure at which the road can be built, making a clear profit of the difference between the price at which the contract is taken and the price actually paid to those who do the work, a sum, I am assured, that will not fall short of many, many millions of dollars. It will readily be seen from this that the company practically contracts with itself to build the road, and that the enormous figures they exhibit as representing the cost of the road are absolutely fictitious.

Let me now call your attention to one other fact. The company say here in their report that they have contracted to build nine hundred and fourteen miles of the road at \$68,000 per mile, \$5,000 of which is to be in rolling stock. Well, for the present, suppose that it will cost \$30,000 per mile to build the first five hundred miles of the road, the level part of it up the Platte; that will leave their contractor, whoever he may be, \$116,962 per mile for the remaining four hundred and fourteen miles, a sum which no man in his senses will pretend to say it actually can cost, or anything approaching it.

Mr. INGERSOLL. If the gentleman will yield to me, I desire to inquire of the Chair how much time the gentleman has left of his hour?

The SPEAKER. Eight minutes.

Mr. INGERSOLL. I move that the gentleman's time be extended for fifteen minutes.

The SPEAKER. That will require unanimous consent.

Mr. HIGBY. I will not object, provided time is given to others to speak upon this subject.

Mr. WASHBURN, of Wisconsin. Certainly; I do not propose now to call the previous question. I want this subject to be fully discussed, and I want particularly to hear from my friend from California, [Mr. HIGBY.]

No objection being made, the time of Mr. WASHBURN, of Wisconsin, was extended for fifteen minutes.

Mr. WASHBURN, of Wisconsin. I have stated that the Government has actually no security; that in my judgment these bonds never will be paid by these companies. I make this

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statement from what I know of the history of other railroads.

And I will state, further, that the security for the first mortgage Pacific railroad bonds is the most perfect security ever offered by any railroad company. That is so; there is no doubt of that fact. It could not be otherwise, for we expended \$80,000,000 to make them so, and have allowed these companies to establish a thoroughfare with enormous privileges which I undertake to say will be the greatest thoroughfare in the world. No man in this House who hears my voice to-day can comprehend the extent of the business which will be done over that road. It is to be the great highway of nations.

Every intelligent member of Congress knows that any company representing a capital of \$100,000,000 can defeat any legislation that ever may be sought here in the interest of the public. They already publish to the world their immense receipts, greatly in excess of the amount they have to pay for interest on their bonds and on the bonds of the Government. The Central Pacific Railroad Company declares that they are earning four times the amount required to pay the interest on their indebtedness. They say in their report made in October, 1866, as follows, namely:

"The statements of the present revenue of the company from the traffic on seventy-three miles only of their road are very important, as showing that the local trade of California and Nevada alone is sufficient to make the enterprise immensely profitable, independent of the through traffic which may be looked for when the completed lines shall span the continent."

And the Union Pacific Railroad Company say in the report of their treasurer, John J. Cisco:

"It must be remembered that for many years to come the Union Pacific railroad and its western connections will be the only Pacific railroad."

I have no doubt of that fact.

"And being without competition it can always charge remunerative prices."

In other words it can always charge what it pleases, because there will be no competition:

"And while the present rate is four times the tariff of the eastern roads—"

That they themselves admit.

Mr. PRICE. Will the gentleman yield to me for one question?

Mr. WASHBURN, of Wisconsin. Yes, sir.

Mr. PRICE. I want to ask the gentleman whether, in making that statement he does not know that the law organizing this company declares in express and positive terms that when this road is finished the freights and fares may be regulated by Congress.

Mr. WASHBURN, of Wisconsin. If the law did declare that, I would not be willing to postpone this action till the road is completed.

Mr. PRICE. Will the gentleman permit me to read the law?

Mr. WASHBURN, of Wisconsin. Yes, sir; the gentleman may read the law.

Mr. PRICE. Section eighteen of the act of 1862 provides—

"That whenever it appears that the net earnings of the entire road and telegraph, including the amount allowed for services rendered for the United States, after deducting all expenditures, including repairs, and the furnishing, running, and managing of said road, shall exceed ten per cent. upon its cost, exclusive of the five per cent. to be paid to the United States, Congress may reduce the rates of fare thereon, if unreasonable in amount, and may fix and establish the same by law."

Mr. WASHBURN, of Wisconsin. Why, where has the gentleman been while I have been speaking?

Mr. PRICE. Right here.

Mr. WASHBURN, of Wisconsin. I have adverted to that very paragraph of the law. I have said it provided that whenever the net earnings shall exceed ten per cent. on the cost of the road, with this additional five per cent., Congress may regulate the rates for freight and passengers. But I have shown that by some slight of hand, some *hocus pocus* peculiar to this company, they make the cost of the road

appear to be two or threetimes what it actually is. I have adverted to that point, and I thought had made myself perfectly understood. I have shown by the company's own statement that they are charging four times the rates charged by other roads, and that they are now earning a great deal more money than is needed to pay the interest on all their bonds, Government and otherwise.

Mr. DODGE. Do I understand the gentleman to say that this company is charging four times the rates charged by any other roads?

Mr. WASHBURN, of Wisconsin. I do. The company says so in its report. By the same document it appears that its bonds have advanced in price from ninety to ninety-five and are now at par. And no wonder these bonds are in demand. I will read from the report of the treasurer of the company:

"It must be remembered that for many years to come this Union Pacific and its western connections will be the only Pacific railroad, and as it will be without competition it can always charge remunerative prices."

Mr. DODGE. I ask the gentleman to yield to me for a moment.

Mr. WASHBURN, of Illinois. I object to the gentleman from Wisconsin yielding to the agents of the road, unless some of the Representatives of the people can be heard.

Mr. DODGE. I will say to the gentleman from Illinois that I stand here as—

The SPEAKER. Does the gentleman from Wisconsin yield to the gentleman from Iowa, [Mr. DODGE?]

Mr. WASHBURN, of Wisconsin. I decline to yield. I think there is no necessity for any controversy just now between the gentleman from Iowa and the gentleman from Illinois.

I call attention still further to the language of this report:

"While the present rates are four times the tariff of eastern roads they are not one fourth of the former cost by teams, of which twenty-seven thousand left two points on the Missouri river on their westward journey within a single year."

From this we can gain some idea of the amount of business to be done by this road. I take issue, however, with the statement that they are not charging nearly as much as the teams charged. I think that the people are actually paying more for the transportation of freight since this great railroad company broke up the established lines of teams than they did before. I have been so assured by gentlemen from that section of the country, who, having noticed that I had introduced so proper a resolution as this, have written to me in great numbers from along the line of the road to say that since this railroad company have succeeded in driving off the organized means of transportation they are charged more than they were before the road was built.

Mr. DODGE. I would like the gentleman to yield to me for a moment.

Mr. WASHBURN, of Wisconsin. I must decline for want of time. The gentleman will have an opportunity hereafter.

Now, the Central Pacific Railroad Company says in its report that "the rates received by the company are very remunerative, being at the rate of ten cents per mile, and fifteen cents per mile per ton for freight in gold."

Now, I want my friend from Iowa [Mr. PRICE] to do a little figuring while I do a little more talking. I desire him to calculate how much it will cost to transport a ton of freight from California to Omaha at the rate of fifteen cents in gold per mile per ton.

Mr. PRICE rose.

Mr. WASHBURN, of Wisconsin. I decline to yield.

Mr. PRICE. I thought the gentleman wanted me to answer his question.

Mr. WASHBURN, of Wisconsin. I wanted you to do the figuring while I did the talking. Any gentleman can satisfy himself how much it will come to at ten cents a mile for a man to travel to San Francisco from Omaha, that

is, if he be not a member of Congress and have not a free pass, which few of our constituents have. Freight from Omaha to San Francisco at fifteen cents per mile would cost about five thousand dollars per car load in gold.

Now, sir, this is getting to be a serious matter. I see that the people of California are crying out about it. A dispatch from San Francisco represents that the Central Pacific Railroad Company has bought up every other railroad company in California, and the people there are seriously alarmed. Some person in California, to me unknown, did me the favor a short time since to send me a copy of the report of the Central Pacific railroad, together with a San Francisco paper, from which I read the following:

"For a Reduction.—We notice that more petitions are flowing into the State Legislature from citizens of the counties depending on the Central Pacific railroad for passenger and merchandise conveyance asking for a reduction of the rates of fare and freight. In addition to the needs or selfish interests of the people, the petitioners point to the assertions of agents of the company that it is earning a very large interest on the cost of the road, which cost has been mainly paid by the people."

I have before me the freight tariff of the Union Pacific railroad, forwarded to me from Nebraska. From Omaha to Cheyenne, five hundred and sixteen miles, the rates are per hundred pounds for first class, \$3 85; second class, \$3 70, and third class, \$3 65.

Mr. PRICE. Is that fifteen cents a mile?

Mr. WASHBURN, of Wisconsin. It is so much per hundred pounds. Figure it up and you will see how much it is per mile per ton; you will find it fifteen cents per ton per mile for first-class freight.

Here is a letter I will read that I have received from a gentleman on the line:

COLUMBUS, NEBRASKA, January 16, 1869.

DEAR SIR: I this day forward you a copy of the freight and passenger tariff as issued by the Union Pacific Railroad Company.

I have received letters from every station of importance along the line of the road that they are forwarding you petitions similar to the one I sent. This grasping and selfish monopoly has no friends with the settlers along the line of its road. We are now carting our freight from Omaha to this place twenty cents per hundred weight cheaper than railroad tariff. How long this will continue we know not.

Wishing you success in your efforts to properly restrain this great monopoly, I am, truly yours,

Hon. C. C. WASHBURN, M. C., Washington, District of Columbia.

Mr. WASHBURN, of Illinois. I hope the gentleman will not give the name of the party writing that letter, or he will fall under the ban of this road.

Mr. WASHBURN, of Wisconsin. Of course I will not give the man's name, for I have no idea of subjecting him to the hostility of this corporation.

Mr. DODGE. I only wish to know the station.

Mr. WASHBURN, of Wisconsin. Columbus.

Mr. WASHBURN, of Illinois. They will now find out who he is.

Mr. WASHBURN, of Wisconsin. If they do I presume he can take care of himself. The people out there are with him. And when they are on the side of a man he can defy even such a corporation as this; but I do not think it fair to give his name. To the same point is the letter I read from the Chicago Tribune:

CHEYENNE, DAKOTA TERRITORY, February 24.

To the Editor of the Chicago Tribune:

I desire to call your attention to a most flagrant outrage perpetrated upon the people living upon the line of the Union Pacific railroad. I refer to the exorbitant tariff imposed by said company, both for fare and freight. The fare from the terminus to Omaha, a distance of five hundred and thirty-seven miles, is \$52 50, almost ten cents per mile. The fare from Omaha to New York, three times the distance, nearly fifteen hundred miles, is only a trifle over forty dollars. Freight is charged in proportion, and I venture nothing in saying that freight can be shipped cheaper from New York to Cheyenne than from Omaha to Cheyenne. What is the result of this short-sighted policy? People are deterred from traveling or shipping over a road charging such excessive rates. I will illustrate a case in point. On my last

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trip from Chicago there were on board the train representatives of several commercial houses from that city, who intended passing over the Union Pacific railroad to Cheyenne, but, upon learning that the fare was \$52 50, they each and all declined making the trip, as the round trip would cost from one hundred and twenty-five to one hundred and fifty dollars. One of them remarked that he could make a trip to Europe for that sum.

MERCHANT.

Mr. Speaker, lest it should be thought that my remarks are intended to apply particularly to the Union Pacific railroad, I wish to say that is not my intention. They apply with equal or greater force to them all. We pretend to hold some control over the Union Pacific by appointing directors, while the eastern division, the Central Pacific, Sioux City, Atchison and Pike's Peak, and Western Pacific roads, companies organized under State legislation and receiving about \$36,000,000 of bonds and vast land grants, are subject to no such control.

Now, sir, can there be any doubt as to our right to put a restriction upon this company before they go further and before we issue any more bonds? Can there be any doubt as to our obligations to our constituents to say that after having given over twenty million acres of land and furnished money to build this road, we will demand that the road shall deal fairly by the people? I propose to deal fairly with the company. I propose that they shall not charge more than double the average rates charged between the Mississippi river and the Atlantic ocean. That is enough, because it is going to be an immense thoroughfare; and the day is not distant when they can afford to carry freight and passengers as cheap as any other road.

Mr. DAWES. Why not apply your rule to the New York Central and Erie roads?

Mr. WASHBURN, of Wisconsin. The gentleman from Massachusetts [Mr. DAWES] is attempting to divert me from my point; but I thank him for his interruption, for it reminds me to call attention to the great railroad war now being waged in New York between Vanderbilt and Drew. He asks why do we not end that quarrel? Simply because we probably have not the right to do so. If we had the right I believe we should exercise it, and that speedily. What does that quarrel mean? It means that if one party is successful there shall be but one management of all the lines of travel between New York and the great West. With the Erie and the New York Central consolidated there would still be for the time being some other highways by which we could get home; so it would not be so bad as this uncontrolled Pacific; but if Vanderbilt succeeds in securing the Baltimore and Ohio and the Pennsylvania Central then our people would be in the position that they are likely to be in with the Pacific roads, at the mercy of a gigantic monopoly. It is a most fortunate thing, Mr. Speaker, that no man can live to more than eighty or one hundred years, for I believe Vanderbilt, if he lived for the next fifty years, would own the whole world. [Laughter.]

A few words more, and I close what I have to say. I have omitted to give an estimate of the amount of bonds issued to Pacific railroads or to be issued under existing laws. The following table, furnished by the Secretary of the Interior, shows the amount to be \$60,669,120:

Name of road.	Distance in miles.	Total amount of bonds to be issued.
Union Pacific railroad.....	955.705	\$24,726,560
Central Pacific railroad....	701.235	24,726,560
Union Pacific railway, eastern division.....	381	6,096,000
Western Pacific railroad....	120	1,920,000
Atchison and Pike's Peak railroad.....	100	1,600,000
Sioux City and Pacific railroad.....	100	1,600,000
Total.....	2,358	\$60,669,120

There are many other matters of great importance connected with this subject to which

I would gladly advert, but, the House having already kindly extended my time, I will not further abuse its patience than to thank gentlemen for the attention they have given to my remarks.

Rights of Colored Citizens.

SPEECH OF HON. C. A. NEWCOMB,

OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

March 21, 1868.

The House, as in Committee of the Whole, having under consideration the President's annual message—

Mr. NEWCOMB said:

Mr. SPEAKER: The provision of the reconstruction acts above all others most objectionable to our opponents is that conferring the right of suffrage upon all loyal citizens, regardless of race, color, or previous condition of servitude. At this opposition I am not surprised. No other provision of those acts will or can accomplish so much in the work of destroying all that is left of rebellion and securing the full and perfect triumph of a pure and enlightened Democracy. That principle once permanently established, and radicalism, freedom, and progress, instead of conservatism, decay, and aristocratic rule, will be the governing idea of the American Union.

Manhood suffrage is now the cardinal doctrine of the Republican party faith, the grand inspiring idea underlying the present contest for political supremacy in the American Republic, and it is high time Representatives on this floor quit the girlish practice of standing timidly on the defensive and discussing the question as though of doubtful propriety and requiring an apology. We have reached that crisis in national affairs requiring the people's Representatives to boldly assert, zealously maintain, and aggressively promulgate the doctrine that every citizen of the Republic grown up to maturity and unconvicted of crime has an inalienable right, derived from his Creator as part of his humanity, to participate in the choice of the rulers and making of the laws by which he is to be governed.

If the Republican party at its national convention, to be held at Chicago in May next, fails to assert fully and unequivocally its belief in that faith, defeat—ignominious defeat—will, in my opinion, be its fate at the elections in the November following. No party, no matter how glorious may have been its past history, nor how much it may have contributed to the greatness of the Republic, can rally around its standard the earnest radical masses after failing in courage to assert boldly the eternal principles of universal freedom and the common brotherhood of all mankind; and no man, not even General Grant himself, no matter how loyal and devoted he may have proved himself during the bitter contest with rebellion, nor how brilliant may have been his services in the cause of Union and liberty in days gone by, is strong enough to draw to his support the true Republicans and true Democrats of the nation after failing to enter the contest with liberty and equality for a rallying cry. Contests won by timidly ignoring agitating questions have always proved victories barren of results, and hastened the dissolution of the party winning them. The old Whig party met its death dodging questions and from lack of courage, and the old Democratic party fell from honor and power to treason and infamy in disgraceful attempts at stifling the agitation of principles underlying the structure of our Democratic institutions; and well will it be if the Republican party profits by their example.

The Republicans of my own State are rallying for the approaching contest under the banner of loyal manhood suffrage, and no doubt or fear is entertained of the result. The loyal

voters of that State have suffered too much in the recent contest with rebellion to permit thus early a base prejudice, conceived in oppression, brought forth in injustice, and nurtured in hatred and passion, to rob them of the fruits of the nation's victories on the battle-field. No matter how much the Republicans of other States, from whom we had reason to hope for better things, may play the coward's part, the loyal, radical, liberty-loving Republican voters of free Missouri will never consent to "dash to earth the victor's plume," and permit prejudice and policy to regain to rebellion "what arms have lost." Missourians have paid too dearly for their tuition in the school of humanity and freedom, and suffered too intensely in their devotion to the cause of Union, to forget the terrible lessons of the recent bloody contest ere the grass has had time to grow over the graves of husbands, brothers, sons, and friends murdered by those now arrayed in opposition to the national Republican party. Let the same determined spirit animate the Republican voters of other States that gives inspiration to those of Missouri, and next November will witness the dying out of the last hope of rebellion, cowardice, prejudice, and conservatism in every State of the Republic.

I am conscious of the fact there are persons on this floor professing all republicanism, and elected by earnest radical voters, who assert manhood suffrage is not now and will not in the ensuing contest be a principle of the party faith. They even go so far as to tell the nation there is no inconsistency in their position in voting for the insertion of such a principle in an act providing for the reorganizing of a rebellious State and refusing to recognize it as an article of party creed. Without stopping to admit the soundness of such a position or expose its fallacy, I will now offer a few reasons for the adoption of manhood suffrage in the States recently in rebellion on the ground of sound policy. Policy, I claim, outside of any ideas of natural rights, requires its adoption.

The close of the rebellion found those States without lawful State governments. Being without lawful State governments, it became the duty of Congress to provide for organizing such governments. In organizing those governments it was the duty of Congress to see that they were placed in loyal hands. Those governments could not be organized on any principle of loyalty to the General Government without enfranchising the loyal men of all colors and nationalities. Those facts stared Congress in the face, and it had no alternative left but the enfranchisement of the colored man or surrender the rule of those States to persons hostile to the existence of the General Government. Now, no truly patriotic friend of the Union would for one moment desire to see the State governments of ten States in the hands of persons hostile to the continuance of the Union and opposed to the principles of free government. It would be better for the interests of freedom, better for the interests of the white race, better for the interests of the nation, that none but black men should vote or hold office for twenty-five years in those States than that they should be organized in the hands of white rebels opposed to a loyal State government and opposed to educating the masses of the people, as they assuredly would be if loyal black men are not permitted to vote and take part in the elections.

The safety of the Republic must be provided for in the reorganization of the southern State governments; this is of the first importance, and cannot be done except by placing political power in the hands of men who will respect loyalty and protect the loyal sentiment of the country; and that can only be permanently secured by providing for the interests and elevation of the laboring masses. Unless the laboring classes of those States are furnished at public expense with the means of education we have nothing to hope in the future for free-

dom in those communities. The leading ruling white people who have always governed the people of those sections are now, and always have been, opposed to a system of public education of the laborers, and could not be trusted in the work of reorganization. The black loyalists are all true to the Government, and, whenever they have had an opportunity, have shown themselves favorable to a system of common schools that shall elevate and improve the lower and laboring classes. It becomes really necessary to clothe the black man with political power in order to place the means of education and elevation within the reach of the poor laboring white man of those States. Strange as it may seem, yet it is true that the ignorant colored people of the South are the only friends of popular education, save a very small portion of the white people.

As a means of elevating the white race negro suffrage is a wise provision in the acts of reconstruction. But I am met with the claim that the negro is ignorant and unfit to perform the duties of a voter in a free Republic. I admit he is unlettered in the education of the schools, but he is vastly more intelligent than we give him credit for, yet not intelligence derived from books and received in schools, but gained by observation and contact with the world. In this very essential kind of education the negro excels many who have had great advantages of schools, and we are often astonished at the extent and accuracy of his knowledge of the institutions of our country. But suppose they are ignorant; intelligence or education is not a qualification of voters in this country, and if it was it would very much reduce the number of voters. Besides that, if the colored people are ignorant, it is not their fault. It is the fault of the very rebel whites who now so strenuously object to his voting in the States recently in rebellion. Had he been permitted to do so he would have been educated and better fitted for citizenship.

It is criminal, it is wicked on the part of a Government to hold a people in ignorance against their will and then disfranchise them or deny them the right to vote because they are ignorant. One thing is true of them that is not true of the educated white. They are and have been sensible enough through the recent war to be and remain true to the Government, and it is but an act of simple justice to give them the ballot instead of the white man who tried to destroy the Government. Colored men have made quite as much advancement in education, religion, intelligence, and everything that belongs to a good citizen as we had any right to expect. In my own State, and from what I read and learn from well-informed men from the South, the colored people are making unusual efforts to establish schools, build churches, employ and pay teachers, and fill their pulpits with preachers of their own color, and I undertake to say here in my place in the American Congress that the colored people of our land are manifesting as much interest and zeal in building school-houses and churches, and in encouraging every enterprise that belongs to a well-ordered life, and expending as much money in proportion to their means to accomplish these objects, as are the white people of any community in the nation. And, sir, I say, in the name of all that is just in government and holy in religion, the black population shall be encouraged in their laudable zeal for improvement, until those sections they inhabit shall be dotted with school-houses filled with children, and until their churches shall be built on every prairie, and their altars be erected on every hill-top, from which shall ascend the praises of the zealous hearts of our once slaves. It is already the exception to find a negro in my State that cannot read, and very many read and write, and are quite familiar with subjects of general interest in the country, and talk with much intelligence about matters of legislation. Indeed, I have been surprised to find so many who read

the newspapers, and many who are regular subscribers to the popular periodicals of the day.

There is nothing in the reconstruction acts, so far as they confer suffrage upon the negro, that is not justifiable on grounds of public policy and not required as a measure of security against future attempts at rebellion. The qualification of loyalty is more important, if possible, at this time than intelligence, and from the condition of things in the South it is vitally important, and Congress would be criminally negligent in duty did it not make loyalty one of the qualifications for electors in providing State governments for the communities recently in rebellion, otherwise we would only be organizing States in hostility to the General Government, and ready at any time to join hands with its enemies. No one doubts but that the colored population of the country are loyal and true to the Government. Certainly no one can doubt it who has witnessed his devotion and sacrifices during the war; or who has read of the heroism of the colored soldier at Milliken's Bend, Fort Pillow, Port Hudson, Fort Wagner, Drury's Bluff, and Petersburg mine, where they won the praise of the Commander-in-Chief of all the armies; or who has read of the personal daring and bravery of such men as James Reader, Potomac Jim, and a thousand others that might be named? And who has not heard with thrilling interest, as one of a multitude that might be mentioned, the history of Black Tom, who came into our lines on the banks of the Mississippi river. He follows the Army in the long march, a soldier dies by the roadside, Tom picks up the musket, fills his place in the ranks, and does good service for the cause of the Union. Tom gets permission to go through the rebel lines for his wife and children, rescues the loved ones, returns with them, rejoins the Army, fights for the country, and dies in the service. An eye-witness has poetized the dying scene:

"One day Tom was marching with us
Through a forest, as our guide,
When a ball from traitor rifle
Broke his arm and pierced his side.
"On a litter white men bore him
Through a forest drear and damp;
Laid him, dying, where our banners
Brightly fluted o'er our camp.
"Pointing to his wife and children,
While he suffered racking pain,
Said he to our soldiers round him:
Don't let dem be slaves again."

The colored man has ever yielded a faithful allegiance to the Government, paid taxes, and faithfully discharged the duties of citizenship in time of peace. He has rendered gallant service in all the wars of our nation, winning the highest commendation of Washington, Jackson, and Grant. His deeds of heroism and valor are most honorable. They are forever treasured up in the history of our country. They are immortalized by the speech of the orator and the poet's song; and, sir, I do insist that while we require and accept his service in support and defense of the Government it is an act of injustice and cowardice to withhold from him his rights of citizenship that will some day call down upon this nation the scorn and reproach of mankind.

But we are told that this is a white man's Government, and that the Republican party of the country is Africanizing it and turning it over to the rule of another race. Mr. DOOLITTLE, in a recent speech at Concord, New Hampshire, says:

"He impeached the present policy of Congress in regard to the negro as a crime against nature, against the law of civilization, and against the Constitution of the United States. To attempt to give the suffrage to the colored people might, if it were not so grave a matter, be called a parody and burlesque upon republican institutions. He impeached this policy because it was an attempt to trample upon the rights of States and to transfer the franchise to persons utterly incapable of comprehending the duty imposed upon them."

It is strange that the opinion has obtained among so many of our people that this is a white man's Government in such a sense that the col-

ored American never did have and never can have the rights of other persons in the Government. This seemed to be the feeling in my own State when application was first made by Missouri to be admitted into the Union. In the constitution presented to Congress in 1819, and under which she asked for admission into the Union, the fourth clause of the twenty-sixth section of the third article provided that the Legislature should pass laws to "prevent free negroes and mulattoes from coming to and settling in the State." This question was ably debated at that time in Congress, and Mr. Clay, as chairman of the committee of the House to report on the expediency of admitting Missouri, reported a resolution providing for the admission of Missouri in the Union on an equal footing with the original States, upon the fundamental condition that the provision of the Constitution I have just recited—

"Shall never be construed to authorize the passage of any law by which any citizen of either of the States of this Union shall be excluded from the enjoyment of all the privileges and immunities to which such citizen is entitled under the Constitution of the United States."

When it is remembered that at this time the colored man was a citizen in several States then in the Union, and entitled to the rights of citizens, including the right to vote, we must recognize this act of the Congress of 1821, composed, as it was, of many of the ablest statesmen and purest patriots that ever held seats in these Halls, as a clear recognition of the doctrine that the colored man is not excluded from citizenship, and that they are an integral part of the nation, and a denial of the doctrine that this is exclusively a white man's Government.

The word white, in connection with the Constitution and laws of our country, has an early origin in our history, and a brief reference thereto may not be unprofitable, as I trust we are very soon to settle this great question for all time, and place it beyond the reach of political influence and party issues. South Carolina (the home of all political heresy) proposed when the Articles of Confederation were under consideration in Congress to insert the word "white" between the words "free" and "inhabitant" in the fourth article of that instrument and make it read that "The free white inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States." Eleven States voted on the proposition—two for it, eight against it, and one was divided in its vote; so we see as early as 1778, but two years after the Declaration of Independence was signed, our fathers, with a remarkable unanimity, branded the doctrine that this is a white man's Government and that colored men have no rights under it, as unworthy to be received, and gave the weight of their great authority to the doctrine that the colored man is, and may be, a citizen, and that citizenship is confined to no color or nationality. And that is not only the teachings of the fathers of the Republic, but it is the great vital, inspiring American idea which forms the substratum and underlies the whole fabric of republican government in this country. About nine years subsequent to this, or in 1787, the Northwestern Territory, ceded to the Government by Virginia, became the subject of special legislation by the Congress of the Confederation; and the ordinance of 1787 was adopted for its government, which is so often referred to, and has become celebrated as giving expression to the sentiments of the great men of that day upon the question now at issue between the Republican and Democratic parties of the country. The word white is not to be found in that ordinance, and under it colored men claimed the rights of citizenship and exercised all the rights of citizens, including the right to vote. This Congress of the Confederation appointed a Convention to frame a Constitution for the United States to take the

place of the Articles of Confederation, which Constitution was adopted on the 17th of September, 1787; and in that Constitution it is required that every person who seeks to vote for a member of the House of Representatives from the State in which he resides "shall have the qualifications required for electors of the most numerous branch of the State Legislature," no more, no less, no distinction on account of color. In no article, line, or word did Washington or his compeers, directly or indirectly, or by any discrimination, deny to any class of our people their rights, but carefully guarded them all.

It is probably known to every member on this floor that when the Constitution of the United States was ratified, free colored men were voters in a majority of all the States then in the Union. They voted in North Carolina, Maryland, Delaware, New York, Rhode Island, Connecticut, New Hampshire, Massachusetts, and Pennsylvania; afterward they were admitted as voters in Maine, Vermont, and Tennessee, and I believe in New York and all the New England States, except Connecticut, they continue to vote to this day. In some of the States intelligence, in others a certain amount of property, in all freedom was considered a prerequisite to the privilege of voting, but in none was color made a condition. In 1817 Connecticut denied to her colored people the right to vote. Maryland changed her law in regard to colored voters in 1810, and deprived them of this privilege. In Tennessee they voted down to 1834. In North Carolina as late as 1835, and in Pennsylvania they changed the law in 1838. Thus we see that colored persons have been voters in more than half the original States of the Union, and some that have been admitted since; hence must fall the position that this is a new doctrine introduced by the Republican party of the country. It is familiar to the Government, has been recognized by all political parties, and is the law of several States of the Union at this time. This great national apostasy on this subject commenced in 1812, in the act passed organizing the Territory of Missouri. In this act, for the first time in the Federal legislation of the country, was distinction made with regard to citizenship on account of color. In the organic acts, organizing ten Territories which had been admitted into the Union up to this time, no distinction was made among their citizens by the General Government on account of color. It seems that upon the territory embraced in my own State the great battle commenced, and that has been one of the main theaters of war ever since, and it is not unfit that there the first great battle should be won, and there we expect it will be won at the next election. Here our national apostasy commenced and reached its culminating point, in the opinion of Justice Taney, delivered in the celebrated *Dred Scott* case. So great had our national demoralization become that it reached the judiciary, that department of the Government intended to be removed and kept from the contaminating influence of politics. Yet the majority of the Supreme Court in that case, in utter disregard of our history, the opinions of the fathers of the Republic, and the uniform practice of the Government, first announced the false and unwarranted doctrine that colored men were not intended to be included in the word citizen in the Constitution of the United States, and, as a consequence, can claim none of the rights or protection of citizens under the Government of the United States; a doctrine not only in conflict with the history, practice, and philosophy of the Government, but in violation of the higher principles of humanity. And this decision was accepted and indorsed by the Democratic party all over the land; and upon that issue the parties went before the country, and the doctrine was repudiated by the people. And here we see an example of the discriminating justice of the American people,

who scarcely ever make a mistake when they carefully examine a question of public policy. Though this monstrous doctrine had the sanction of the highest judicial tribunal of the country and the indorsement of a great political party that had controlled the Government most of the time for a quarter of a century, yet, when the people saw the injustice of such a principle, they repudiated it and defeated the party pledged to its support. But we are not left to conjecture and chance to determine who are entitled to citizenship, as we have already seen. But the true doctrine, the American doctrine on this subject, is clearly laid down by the ablest jurists and writers on law in this country. In the second volume of Kent's Commentaries, he clearly enunciates the principle I am insisting upon. In the able opinion of Justice Gaston, in the case of *North Carolina vs. Manuel*, and especially in the able dissenting opinions of Justices Curtis and McLean, in the case of *Dred Scott*, is the same doctrine laid down and insisted upon. In that opinion Justice Curtis says:

"To determine whether any free persons descended from Africans held in slavery were citizens of the States under the Confederation, and consequently at the time of the adoption of the Constitution of the United States, it is only necessary to know whether any such persons were citizens of either of the States under the Confederation at the time of the adoption of the Constitution."

It is not necessary to trouble the House by reading further from this opinion, for I have already shown that colored persons, though descended from African slaves, were citizens in several States at the time of the adoption of the Constitution, and Judge Curtis says this is conclusive on the subject, and when the appeal was made to the American people at the polls the opinion of Justice Curtis was indorsed. I will trouble the House by reading a brief extract touching this question of citizenship from the able opinion of Justice Gaston in the case above referred to, (*North Carolina vs. Manuel*):

"According to the laws of this State (*North Carolina*) all human beings within it who are not slaves fall within one of two classes; whatever distinction may have existed in the Roman laws between citizens and free inhabitants, they are unknown to our institutions. Before our Revolution all free persons born within the dominion of the king of Great Britain, whatever their color or complexion, were native-born British subjects; those born out of this allegiance were aliens; slavery did not exist in England, but it did in the British Colonies. Slaves were not in legal parlance persons, but property; the moment the incapacity, the disqualification of slavery, was removed they became persons, and were then either British subjects or not British subjects according as they were or were not born within the allegiance of the British king. Upon the Revolution no other change took place in the laws of North Carolina than was consequent on the transmission from a colony dependent on a European king to a free and sovereign State. Slaves remained slaves; British subjects in North Carolina became North Carolina freemen; foreigners, until made members of the State, remained aliens; slaves manumitted here became freemen, and therefore, if born within North Carolina, are citizens of North Carolina; and all free persons born within the State are born citizens of the State. The constitution extends the elective franchise to every free man who had arrived at the age of twenty-one and paid a public tax; and it is a matter of universal notoriety that under it free persons, without regard to color, claimed and exercised the franchise until it was taken from the freeman of color a few years since by our amended constitution."

Now, it is certainly settled beyond all question, both by authority and precedent, that free colored persons are citizens, and as such have been admitted to and exercised the right to vote. Why, sir, the assumption that persons of color born in this country, though they may be the descendants of slaves, are not capable of being citizens of the United States, is a naked assumption, not authorized by any word of the Declaration of Independence or of the Constitution of the United States; and I have read with more than ordinary interest all that has been written on this subject, and have failed to find an argument that proves that the Constitution or the Articles of Confederation made color a qualification of citizenship. If color is the test of qualification of citizenship, where does qualification begin and where end? Some sections of our coun-

try have been so long under Democratic proslavery rule and domination that the most experienced ethnologist could not determine where the African ends and the Caucasian begins. So unreasonable and unnatural is such a test that it has never found advocates of any respectability in any nation but our own, and if we persist in excluding any portion of our people from the rights of citizenship for no other reason than a difference in the complexion of the skin it must call down upon us the scorn and reprobation of every nation of Christendom.

It seems to me so clear from history and authority that persons of color were citizens under the Confederation, and at the time of the adoption of the Constitution, that it does not admit of a doubt; and it is equally clear that they were citizens and voters in a majority of the original States of the Union, and subject only to the qualifications that were required of other persons. If this be true, the charge made on this floor that the Republican party is introducing new and strange doctrines into the Government touching the rights and qualifications of citizens must fall to the ground. The right of colored persons to become citizens and voters is as old as the Government itself, and has the sanction of the ablest statesmen and purest patriots of all parties that adorn the country's history; and the brightest luminaries of the bench have given the weight of their opinion and authority to the same doctrine. And while insisting upon impartial suffrage in the Government as the right of every man of sufficient age, and not disqualified by crime, we are only asking that the original intention of the Government shall be carried out by guarantying to each citizen all the rights, privileges, and immunities that belong to them, according to the spirit and true intent of the founders of the Government.

Sir, we hear a great deal said about conferring the right of suffrage upon classes of citizens. Are we to understand that law-makers are authorized to traffic in principles and franchises? It is no part of the duties and province of this Government to confer the franchise upon any person or persons further than to secure equal rights among all the citizens. This Government was formed to secure the people in the enjoyments of all their inalienable rights, not to deal out privileges as it may suit the pleasure of parties and party leaders. The moment a Government commences the trade of conferring favors upon one class of citizens and refusing them to another it is guilty of usurping powers not properly conferred upon it. It is said the world is governed too much, and this Government is not an exception. The injustice practiced upon the individual citizen or classes of citizens of all Governments every few years yields its legitimate harvest of war and devastation. The only way to prevent such mischief is to enforce the principle of absolute equality of rights among all the citizens, which is the true principle of this Government, and the one that must and will be enforced.

As long as the Government continues to wander from its legitimate sphere, and enfranchise one man and disfranchise another at pleasure, so long will the people be discontented, and at every election we will hear the popular cry about rights withheld or privileges granted. Confine the Government to its proper sphere of securing the people in the enjoyment of natural rights, and the period of wars and bloodshed will have passed away forever. There is not an instance in the history of the nations of the earth of a war that was not caused by unjust discriminations on the part of the Government in favor of one class of citizens and against another. No Government is, in any true sense, a republic that disfranchises one citizen grown up to manhood unless for cause affecting the public safety. The Declaration of Independence declares what is republicanism, and I am satisfied Congress will soon be compelled to enact that Declaration

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into positive law. That Declaration declares all Governments derive their just power from the consent of the governed. That consent, in this country, can only be given or withheld at the ballot-box, and the whole adult population must have a legal right to participate in that consent. It is all folly to claim that a State has a republican form of government that disfranchises its citizens grown up to manhood for any cause except the commission of crime. If we as a nation desire to travel the only sure pathway to safety and empire in the future, we must see to it that no citizen, however black and humble he may be, is disfranchised for any cause save for crime.

But, sir, the Democratic party must not be permitted to evade any responsibility in this matter of suffrage, nor must they be deprived of any credit they may be entitled to. The Democratic party in most of the States of the Union where colored persons have been permitted to vote have recognized the right and did not question it under the Constitution of the United States. And where the franchise has been taken from the negro it has not been done because they used it to the danger of the State. No such charge has been made, and it has never been claimed but that the colored voter used the ballot with as much good judgment as the white man. And it is not to be forgotten that the Democratic party is on record on the question of colored suffrage. The Democratic party made the negro a citizen and voter in Maine and New Hampshire. They made the negro a citizen and voter on a property qualification in New York, indorsed and approved by leading Democrats of national character and reputation. The Democratic party repealed the laws of Ohio requiring negroes to give bonds and security before settling in that State. Justice Wood, of Ohio, when on the bench, decided that mulattoes were entitled to the franchise.

The Democratic party afterward elected him Governor of Ohio. The Democratic members of the Legislature of Ohio voted to permit negro children to go to the same schools with white children, and yet in these days that party is perpetually whining about colored suffrage and negro equality and charging us with being a negro party. The Democratic party to-day is in spirit committed to negro suffrage as much as any other party, and always has been. Do they not base representation upon the number of people, whatever may be the color; and when they recognize the negro as a person to be counted in the enumeration when they determine how many Representatives shall be selected to act as the people's agents to carry on the Government? When they do that they concede the whole question. For illustration, we may take the most extreme Democratic State; they adopt the doctrine that representation in their Legislature as well as in Congress shall be founded on numbers of people. All are taken into the count; the negro is considered one of the integral parts of the people who are to be represented, and this virtually gives the suffrage to the negro. He is as much represented in these Halls as any other equal number of the population.

The difference between the Democrats and myself on this question is simply that they virtually give him the ballot, but want some white man to deposit it for him. They are willing they shall be counted to make up and increase the number of Representatives, but want to do the voting and representing themselves. While I say he shall be counted and be permitted to take the ballot in his own hands and deposit it in the ballot-box, the Democrat is willing that the negro should be counted in forming the basis of representation in the rebel States, but wants some white rebel to cast the ballot for him, while I say he shall be counted and vote for himself; and he is more worthy to be trusted than the rebel white man. This attempt to obscure the question and blind the people by

charging the Republican party with being in favor of negro equality will hardly stand the test of examination by an intelligent and thinking people.

But it may be said that this would include females and children as well as colored persons, and that they are as certainly embraced in the terms used as are the persons of whom I have been speaking, and that it is essential that they should be included in order to a republican form of government. So far as this argument relates to children it is easily answered. They have certain rights which are as inalienable as those of adults, and, so far as their participating in the Government as voters is concerned, all agree that a time must be fixed uniformly when they are supposed to have sufficient judgment to exercise, safely to themselves and the State, the duties of citizens and voters, and to perform the duties of citizens in every respect. Our laws have fixed the age of twenty-one years. I shall not say whether it is too long or too short; but all must admit the wisdom and necessity of fixing an age, whatever it may be. As to females, if the time comes when they shall demand to be admitted to the franchise, myself and those who act with me now will not be found fighting them because we are afraid to measure intellects with them on terms of equality, as are our Democratic friends afraid to raise the negro to a condition of political and legal equality for fear he will outstrip them in the race of education and progress; nor am I prepared to say how soon some change may be necessary to secure the female in her rights of person and property. Yet the fact that woman does not vote is not inconsistent with the theory of a republican government. The first and natural division of human society is into families, so ordained by the God who made us, and this is recognized in all religions and all systems of law; and the same power that established this relation ordained that there should be but one representative head in that family; and this has been observed by the common consent of mankind, and we have no reason to believe that the best interests of society are not subserved by the male representing the family in the affairs of Government. But I only intended to say on this point what I thought necessary to relieve my argument from any imputation of inconsistency, for this question of female suffrage does not enter into this discussion.

In conclusion, I say, there will never again be as favorable a time as the present to settle this great question. Now, while we are readjusting the stones in the great temple of American freedom; while we are relaying the foundations of the Republic; a Republic that, within the lifetime of some now living, will contain a hundred million souls, and be extended over a territory covered by every zone of the earth, limited only by the continent; controlling a trade and commerce compared with which the boasted commerce of Europe or fabled wealth of the ancients will dwindle into insignificance; with a sea-coast equal to all the world besides; with navigable rivers and inland seas more extensive than can be found in all other lands; with a soil yielding every product of the earth, extending from the fisheries of Sitka and Newfoundland to the orange groves and spice-producing regions of the tropics; with such a prospect and destiny it becomes us to dig deep and lay our foundations upon the rock of Eternal Truth, that when the "winds blow and floods come they fall not." Such a people as are to inhabit this country can only be governed by laws that are just to all, high or low, rich or poor, black or white. No burdens imposed on one class not felt by all; no duty required of one not demanded of all. A Government, thus founded in truth and justice, and fortified in the affections of all the people, we may hope will live as long as human government endures on the earth.

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SPEECH OF HON. J. K. MOORHEAD,
OF PENNSYLVANIA,
IN THE HOUSE OF REPRESENTATIVES,
March 28, 1868.

Mr. MOORHEAD. Mr. Speaker, after every great war it is necessary that there come the solemn seal of legislative or constitutional enactment before the just and proper fruits of the victory can be secured to the victor and those he represents. Especially is this true after our great war, which is, in many respects, without a parallel in history for destructiveness and violence, and which is chiefly distinguished by the fact that its beginning was predicated upon the overthrow of one set of political ideas and its progress uprooted a system of labor which for hundreds of years had molded the opinions and given tone to the thoughts of many millions of the governing race. The victory would have been but half won if the laying down of arms had not been followed by such legislation as would have firmly knit into the very framework of the Government and the very texture of society the great ideas which the war had evolved and to which its close has given immortal life. The details of the struggle, great as it was, protracted as it was, and desperate as it was, may be soon forgotten; but if the principles it has settled be treasured among our national jewels and be kept untarnished, the glorious story of our triumph over treason will prove the richest legacy any people ever left to their children.

We are now in this stage of effort. The Republican party propose to make the nation's victory effective by incorporating its principles into the national Constitution, and thereby making these results coextensive with the nation's limits and as perpetual as the nation's life. The Democratic party, on the other hand, demand that the wrecks of shattered theories and institutions be suffered to lie across the nation's pathway to obstruct its passage, to weaken its power, and ultimately form a shield and bulwark for the nation's enemies. Every consideration combines to bid us resist this negative, timorous, and treacherous policy. The country's salvation in the dark hours of the war depended, under God, upon brave hearts and bold yet just action. So, now, if the rescued nation is to be preserved undefiled from the corruptions of the past and unharmed by the pestilential dangers of the present, it can only be done by freely but wisely applying to the diseased parts the treatment their condition demands.

Immediately upon the close of hostilities the national heart naturally accepted suggestions of conciliation; and the people acquiesced while President Johnson experimented with these southern communities. They remained quiescent until his policy developed the fact that the southern people were unwilling to accept manfully and honestly the results of their defeat, and that the harmonious existence of the two sections was incompatible with the injustice, vengeance, and hatred upon which their reconstructed governments were based. Congress, the immediate representatives of the people, alarmed by the dangers which threatened the national security, disented from this policy, and after patient investigation inaugurated another, which was submitted to the people in the year 1866, and which proposed as a basis for adjustment the incorporation into the Constitution of what is known as the fourteenth amendment. This amendment commanded the assent of overwhelming majorities of the people in the loyal States, and was ratified by the Legislatures of all but Delaware, Maryland, and Kentucky. But it was rejected by the (so-called) Legislature of every rebel State, whose people thereby exposed their unrelenting purpose to resist any restoration to the Union which involved the

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surrender by them of rights and powers which they believed ought not to be yielded. They thus effectually obstructed reconstruction and forced on the Congress the alternative of either abandoning all claim of guaranties for the future or taking the only adequate means, that of forcing guaranties upon those whom our arms had conquered. Of course, the latter alternative was promptly taken, and the organization of what is known as the congressional scheme was begun. This system necessarily involved the temporary exercise of military power to repress disorder and protect Unionists from rebel hate, and the creation of a new class of voters who, loyal to the nation and willing to accept its terms, could be relied upon to give their influence to the cause of peaceful and loyal reconstruction. This scheme is in the course of accomplishment. State conventions in nearly all those States have prepared constitutions which the people are discussing and adopting. Arkansas will come asking readmission into the national councils within a few days; and in the next two months we may hope to welcome back to their old places Virginia and North Carolina, Georgia and South Carolina, Florida, Mississippi, and Louisiana. Soon loyal governments will be erected over all that region; manhood suffrage will prove to be the happy solvent of a treason-cursed South; that great region, with its unsurpassed resources and capacities, will be restored to more than former prosperity; and a united America—purified by the fires of revolution—will again reappear with a mightier power and a brighter future than ever before.

This auspicious result, which has been delayed by the mad ambition and treacherous conduct of the President, and for which he is now answering at the bar of the Senate, will cheer the heart of every patriot. To my eyes it will be the more grateful, as my congressional life began with the Congress in which the madness of secession was rampant. I saw the seceding delegations depart with scornful brows and hating hearts. How agreeable now, in the closing months of my congressional life, to see those States returning in the persons of Representatives whose hearts beat with affection for our common flag, whose fealty is freely and sincerely offered to our common country, and whose hands are ready to aid us in strengthening our common institutions. Sir, as the victories of peace are greater than those of war, so will my joy be unbounded at this, the complete fruition of all my hopes, the long-anticipated, the wearily-waited-for end of all our labors and sacrifices!

While I thus felicitate the country upon the early close of this long contest over reconstruction, I would not conceal the fact that while this is the greatest need it is not the only one. On the other hand, the condition of the laboring interest demands prompt and effectual relief. During the war, when there were about one million men in the field, who were thereby withdrawn from industrial operations, the Government was a customer and purchaser of nearly everything which our people could manufacture or produce. Prices were high; the demand for labor was in advance of the supply; wages were correspondingly good; manufacturers readily sold their products, and the internal revenue taxes, necessarily enormous, were freely and easily paid. Now, however, all is changed. The Government has in a great measure ceased to be a purchaser, and the demand for the products of labor has greatly fallen off. The million men lately in arms have in considerable part returned to their ordinary pursuits; and the result is that the supply of labor is in advance of the demand, and thousands of our brave soldiers are now unsuccessfully seeking employment with which to earn subsistence for themselves and families. Mills, factories, and workshops, mining operations, and all the usual means of developing wealth are in great measure suspended, and

general stagnation prevails. This, Mr. Speaker, is preëminently the case in my district, where the stagnation of business operations is greater now than it has been for a quarter of a century, and this I believe to be the case in most of the mining and manufacturing districts of the country.

It is the duty of Congress to provide the remedy for this state of things. Various plans of relief have been proposed. If "in the multitude of counselors there is wisdom," so in the multitude of schemes there may be confusion. But it is our task to examine all, select what may be good in each, and combine them into a harmonious system which will give employment to our labor, business for our capital, and prosperity for all. If this can be accomplished, our absolute recovery from financial embarrassment will prove to be but a question of time; for with the diversified labor of the country steadily and fittingly employed, each in its proper department, the accumulating wealth of the nation will inevitably raise us above all our difficulties and embarrassments, and secure a higher relative position than we occupied before the war.

In the mean time retrenchment in all public expenditures must be the rule. The machinery of the Government must be run at the lowest possible cost. All appropriations and subsidies to States, corporations, or individuals—no matter how noble the object or how valuable the enterprise—must be postponed. In everything, except pensions and bounties to the suffering and deserving among our defenders, let us find the minimum and adhere to it.

It is also important that the labor of the country should be relieved from the taxation imposed by existing laws upon articles of manufacture. A step in this direction has been wisely taken in the passage of the bill recently reported from the Committee of Ways and Means "to exempt certain manufactures from internal tax," the chief object of which is to relieve those pursuits engaged in producing the necessities of life and to reduce the number of taxable articles, thereby at the same time reducing the expenses of the internal revenue system. This bill and that which will follow from the same committee of which I am a member, will provide such checks upon illicit traffic as will, I hope, enable the officers of the Government to collect the tax. The penalties for violation of law will be increased and all persons committing fraud upon the revenue be subjected to fine and imprisonment. It is a disgrace to the nation that the tax upon whisky, tobacco, and some other articles cannot, under the present law, be collected; but it is lamentably true. The committee have tried faithfully to supply any defects in the law, and hope that by a strict and vigorous enforcement of it and by sending all violators of it to the penitentiary existing fraudulent rings and conspiracies will be broken up. Should we succeed in this the amount realized thereby, added to the duties on imports, will not only pay the expenses of the Government and the interest on the public debt, but also largely reduce the principal. In that event we can afford to relieve other articles of taxation and gradually reduce the business of the country to its former condition; for I do not hold it to be desirable to raise from taxation out of the present generation the amount necessary to pay or greatly reduce the principal of the public debt. The burdens consequent upon the war have fallen upon us with heavy, almost crushing weight. Let those who are to come after us and who are to gather the lasting benefits of the struggle, and whose enlarged wealth and power will readily enable them to meet it, provide for the redemption of the principal in like manner as the successors of the men who waged our previous wars were obliged to cancel the indebtedness therein incurred.

It is believed by many that a return to specie payments is the great specific for the evils which

now afflict the country; and it is urged that it is imperative on us to contract the currency until there is but a small volume to redeem. I am as anxious for a return to specie payments as the most radical advocates of that doctrine; but I am not in favor of reaching that result over the shattered fortunes and general bankruptcy of the active business men of the country, the pioneer men whose sagacity, courage, and industry have added untold millions to the national wealth, and whose interests are a valid claim upon the consideration of a just and enlightened Legislature. I do not believe, sir, that the amount of currency now in circulation in the United States is in excess of the necessities of business, nor do I believe it is sufficient for the legitimate wants of trade. While I am not an inflationist, and do not advocate an increase or new issue of "greenbacks," yet I find that the volume of our currency now is not more than equal to what it was before the war, when wheat was one dollar per bushel, iron forty dollars per ton, wages from seventy-five cents to one dollar per day. The rates now are more than double, and some of them are quadruple, these figures. In this condition of affairs a larger capital is required to carry on business, to raise and move crops, to pay for subsistence, &c.; and it appears to me to be a folly to attempt to force specie payments by reducing or contracting the currency.

The true plan is so to legislate as to keep our gold and silver at home and strengthen business channels, instead of weakening them by exporting gold, and then destroying them by contraction in order to restore them to health and activity! We are now producing more gold and silver annually than any nation on the globe, and I believe about as much as all combined. What becomes of it?

I ask the attention of the House to some statistics which appear to me to throw a flood of light upon this subject.

I find that from 1857 to 1867, inclusive—eleven years—we exported of gold and silver \$702,945,883; during the same time we imported, of gold and silver coin and bullion, \$175,994,108; excess of coin exports \$526,951,775. I give the table in full that the movements of the various years may be observed:

Fiscal year, ending—	American gold and silver coin, &c.	Foreign gold and silver coin, &c.	Imports of gold and silver coin and bullion from 1857 to 1867, inclusive.	Excess of exports over imports.	Excess of imports over exports.
1857.....	\$60,078,352	\$9,053,570	\$12,461,799	\$36,675,123	
1858.....	42,407,246	10,223,201	19,274,466	33,328,651	
1859.....	57,503,305	6,383,105	7,434,789	56,462,622	
1860.....	56,946,851	5,980,208	8,570,135	67,996,104	
1861.....	25,426,115	4,361,965	46,339,611		\$16,945,531
1862.....	51,034,651	5,009,662	16,412,082	20,472,588	
1863.....	55,993,611	8,163,049	9,594,105	54,972,506	
1864.....	100,321,371	4,922,979	13,115,612	92,128,758	
1865.....	65,126,319	2,522,937	9,810,072	57,833,134	
1866.....	82,518,274	3,400,637	10,700,092	75,348,979	
1867.....	55,116,384	5,838,502	22,308,345	38,660,841	
Totals.....	\$632,500,530	\$70,345,333	\$175,994,108	\$526,951,775	

During the last six years the excess of gold and silver exports has been nearly three hun-

Statement showing Exports of American and Foreign Gold and Silver Coin from the United States from 1857 to 1867, inclusive.

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dred and fifty millions. If our annual product had remained in the country, even in considerable proportion, it is very certain that we could soon resume specie payments, for the product of a very few years, added to the sum on hand, would form a basis sufficiently deep and broad to float \$1,000,000,000 of currency instead of the six or seven hundred millions now in existence, and it would, at least, be abundant for resumption.

HOW CAN GOLD BE KEPT AT HOME?

How can this gold be kept at home? Not by arbitrary enactments forbidding its exportation and affixing penalties therefor; but the true and the traditional plan, taught us by our fathers and by their English ancestry under like circumstances, is for the Government to legislate so as to develop its own resources, encourage and protect its labor, guard the interests of producers against hurtful and unequal competition, increase old products and create new ones, and, by the benefits of a diversified industry, add to the wealth of the nation, swell its exports, and give the country commercial strength and character. It was from this general view that I voted for the repeal of the tax on cotton. I believed that the production of that article might be stimulated and largely increased by the removal of this exceptional and heavy imposition, and that its reappearance among our articles of commerce would be attended with unspeakable benefits to the section producing it, to the carrying trade of the country, to the cotton manufacturing interest, and to the general interests of all classes. This bill, I am glad to say, has become a law; and Congress has established a precedent which may be wisely followed in the future, as circumstances may permit.

During the eleven years referred to—from 1857 to 1867, inclusive—I find, on examining statistics from official sources, that—

The total imports of foreign merchandise were.....	\$3,468,234,718
The total exports of domestic merchandise.....	2,680,509,640
Total excess of imports over exports..	\$378,725,078

This sum has been contributed by this country, during these eleven years, to the support of European labor, the encouragement of European institutions, and the maintenance of European ideas, to the direct denial of the claims, interests, and prosperity of our own people. The nation has thus been buying an annual average of over thirty million dollars more than it has sold, and has gone in debt to that amount—a course of trade the direct result of unwise legislation, which, if persisted in, will lead necessarily and inevitably to bankruptcy and decay.

PECULIARITIES OF THE AMERICAN MARKET.

The position of our country as a market is peculiar. Under the high prices of labor and subsistence created by the war the cost of all manufacturing, mining, and agriculture has been greatly increased, while prices have been substantially unchanged in Europe. Our market has, therefore, become the best in which to sell, and foreign products are thrown upon us beyond all precedent. Were it not that duties on imports are required to be paid in gold we would be entirely tributary to the manufacturers of the Old World. This, I fear, will yet be the result if specie payments should be reached before we return to our normal condition. The rapid contractionist seeks to hasten this result, forgetting or disregarding the pregnant fact that this result would be reached through the desolation of business, while ours would be reached harmoniously with general prosperity.

A GENERAL SYSTEM PROPOSED.

I would have this Congress so legislate that foreign imports would be reduced to a sum for which our exports, without gold and silver coin or bullion, would be an equivalent. In doing this I would increase the duties upon all arti-

cles of luxury which the rich who use them can afford to pay for. On articles, also, manufactured in this country I would increase the duty to the point of protection, so as to reduce the quantity received rather than open freely the flood-gates and be submerged in the flowing tide; but so adjusting the system as not to reduce the revenue below the existing yield, but giving us a smaller quantity of goods with which to glut our market.

This legislation is practicable as a system, and if adopted would inevitably produce results of the highest value to the whole country. Adopt it and our industry will be awakened, the balance of trade will be in our favor, skilled laborers will flock to us for homes and fortunes, manufacturing will spread throughout our borders, producer and consumer will be brought together, and this nation will soon become, as I believe it is her destiny to be, the wealthiest, most prosperous, and most powerful of all nationalities, thus, at the same time, most effectually crushing all propositions, under whatever pretexts, which are aimed at the national credit, or if adopted would tarnish our financial honor.

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SPEECH OF HON. H. E. PAINE,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

March 21, 1868,

The House being in the Committee of the Whole on the President's annual message.

Mr. PAINE. Mr. Chairman, the burdens of taxation beneath which our people now struggle are so oppressive that I for one cannot vote to appropriate \$7,000,000 of their money to pay for the Russian possessions in America, unless convinced that as a Representative I am constitutionally, and therefore morally, bound to fulfill the promise which the President and Senate have made. Most of the advocates of this appropriation insist that we cannot withhold it without a breach of solemn duty on our own part and of plighted faith on the part of the nation. With me the only question in the case is that which I now rise to debate, whether we have or have not a constitutional right to grant or refuse, at our discretion, an appropriation of the money promised by the President and Senate to the Russian emperor for his American possessions.

It is provided in the Constitution of the United States that the President—

"Shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur."

The treaty power conferred by this provision must assume one of the three following forms, namely:

1. The power to make all engagements recognized as treaties by the law of nations, whether the acts to be performed fall within the scope of the powers delegated by the Constitution to the United States, or within the scope of the powers reserved to the States and to the people.
2. The power to make such, and only such, treaties as can be fulfilled by the exercise of the powers delegated by the Constitution to the United States.
3. The power to make such, and only such, treaties as are not only included within the scope of the powers delegated to the Federal Government, but are also capable of fulfillment without the exercise of any of the powers vested exclusively in the legislative department of that Government.

If we find the last to be the correct interpretation of the Constitution, if it confers upon the President and Senate the power to make only such treaties as fall within the limits of the Federal powers delegated by the Constitution, and can at the same time be fulfilled without the exercise of any of the powers vested ex-

clusively in Congress, then we shall also find it to be both our right and our duty to exercise the freest discretion in deciding whether to grant or withhold the appropriation of the amount stipulated in the recent treaty with Russia. But if either of the other interpretations is correct, I admit that we are bound by the strongest obligations, constitutional and moral, to make the appropriation without stopping to discuss the merits of the treaty.

The first question encountered, then, is whether all the treaty power of sovereignty is conferred by the Constitution upon the Federal Government. Let us decide this question, if we can, before we inquire by what branch of the Government or in what manner this power is to be exercised. The extent of the treaty power vested by the Constitution in the Federal Government would involve comparatively little difficulty if our Government were a simple and not a complex sovereignty; if it were a single, central Government, clothed with all governmental powers, and not, as it is, a compound Government, with one portion of them vested in the Federal Government, and the residue reserved to the States and people. If ours were such a Government, it would not be possible to doubt that the treaty power, conferred by the Constitution upon the Federal Government, was the entire treaty power of sovereignty as known to the law of nations.

But inasmuch as the powers of the Federal Government are limited, and all not delegated by the Constitution to the United States nor prohibited by it to the States are reserved to the States respectively or to the people, the question arises whether the President and the Senate in the exercise of the treaty power are excluded from those reserved powers of the States and people, or may, through the device of a treaty, invade them at their discretion; whether the Federal Government, while in the exercise of the treaty power, is restricted to certain subjects and modes, or is absolutely unrestrained; whether the Federal Government can, by means of a treaty, compel a State to perform an act the performance of which is, by the Constitution, left to the discretion of the State; whether the President and Senate can do by treaty that which the whole Government is forbidden to do in any way.

The clauses of the Constitution relating to the treaty power are in the following words: The President—

"Shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur."

"No State shall enter into any treaty, alliance, or confederation." "No State shall, without the consent of Congress, enter into any agreement or compact with another State or with a foreign Power."

In 1857 the President, at the request of the Prussian minister, required the opinion of Attorney General Cushing respecting this power of the President and Senate to override State laws by treaty stipulations. Mr. Cushing, in his opinion, holds that the power which the Constitution bestows on the President to make treaties, by and with the advice and consent of the Senate, is not only general in terms and without any express limitation, but is accompanied with absolute prohibition of the exercise of treaty power by the States; and that, therefore, in the matter of foreign negotiation, the States have conferred the whole of their power, in other words, all the treaty powers of sovereignty, on the United States. He bases his conclusion upon two assumed propositions of fact: first, that the treaty power conferred by the Constitution upon the Federal Government is undefined; and second, that all treaty power is withheld from the States. Granting, for the sake of argument, that these propositions are true, will they sustain his conclusion? Is it reasonable to assume that the framers of the Constitution, which withholds such a large proportion of public acts from the jurisdiction of the Federal Government altogether, intended to authorize that Government, by

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means of a treaty of the President and Senate, to perform or compel the States or people to perform all of these acts? Is it reasonable to suppose that all the guards thrown around the States and the people by that instrument were intended to be nugatory whenever the President and Senate should, by a resort to the treaty power, attempt to impose upon them an obligation to do that which the Constitution gives them full discretion to do or not to do?

This reasoning of Mr. Cushing involves many fallacies. In the first place, it supposes our Federal Government to occupy, so far as this question is concerned, the attitude of a Government in which all sovereign powers are concentrated. It overlooks the material fact that a large portion of these powers are, by our Constitution, reserved to the people and the States for the specific purpose of security against just such oppressions as would inevitably result from the exercise of this form of the treaty power. If the British Government, the king and Parliament cooperating, make a treaty binding England to the performance of such acts as in this country can only be performed by the States, the obligation may be perfect, because the king and Parliament have all power, and can perform or compel the performance of the stipulated acts; but in this country the central Government has no such omnipotence.

It is not reasonable to say that a power conferred upon this limited Government is absolute and unlimited merely because it is undefined, although it might be reasonable to say that of an undefined grant to such a Government as that of Great Britain. Nor would the fact, if it were the fact, that the Constitution forbids States to stipulate with foreign nations to perform acts which they alone have power to perform, tend to authorize the Federal Government to bind the States to perform such acts. Mr. Cushing's opinion involves the further fallacy that unless the Federal Government can make treaties of this class a portion of the treaty power, well known to the law of nations, cannot be exercised at all. If treaties of this kind are required they can easily be made, without any invasion of the jurisdiction reserved by the Constitution to the States, in the very mode adopted in the northeastern boundary treaty with Great Britain, and proposed by the President in the French treaty of 1853, leaving to the States concerned their constitutional right to do or not to do the acts proposed, and making the consummation of the treaty dependent on the action of such States.

The Government of the United States declared to the British Government, pending the questions respecting our northeastern boundaries, that it had no power to cede any part of the territory claimed by the State of Maine without the consent of that State. Nor did the Federal Government act on the subject until it had provided that commissioners, on the part of Maine and Massachusetts, should be present at the negotiation and assent to the boundary line agreed upon. In the treaty with France of 1853 the President only stipulated to recommend to the several States the enactment of laws to relieve French subjects from disability to hold land in the United States.

But we should not forget that there is a positive provision of the Constitution which preserves this branch of the treaty power the possible loss of which occasions so much apprehension. I refer to the section which permits States, with the consent of Congress, to enter into agreements or compacts with other States or with foreign Powers. Mr. Justice Story, in his Commentaries, considered the distinction between "treaties," which are absolutely prohibited to the States, and "agreements or compacts," which they are permitted to make with the consent of Congress. He observed that this distinction was nowhere explained, and had never been subjected to any exact judicial or other examination, and stated

his own conclusion in the following words, namely:

"The latter clause, compacts and agreements, might then very properly apply to such as regarded what might be deemed mere private rights of sovereignty: such as questions of boundary, interests in land situated in the territory of each other, and other internal regulations for the mutual comfort and convenience of States bordering on each other. In such cases the consent of Congress may be properly required in order to check any infringement of the rights of the national Government; and at the same time a total prohibition to enter into any compact or agreement might be attended with permanent inconvenience or public mischief."

But the consequences of Mr. Cushing's interpretation would be most intolerable. If the Federal Government could by treaty bind the nation or the States to the performance of acts within the exclusive cognizance of the States it could compel the States to enact, enforce, or repeal laws affecting not only the tenure of lands within the States, but also marriage, divorce, guardianship, testaments, administration, incorporations, crimes, and all the other innumerable subjects most wisely left by the Constitution to State legislation. For example, the President and Senate, by a treaty with the Sultan of Turkey, could provide that his subjects resident in the United States should be permitted to bring hither all their wives and practice polygamy in any of the States. By a treaty with the Pope they could compel particular States to make marriage an ecclesiastical ordinance for one portion of the people and a civil contract for another. By treaties they could compel particular States to make divorce the subject of ecclesiastical cognizance in some cases and of judicial cognizance in others, and to grant divorces for one cause to residents of one nationality and for another cause to residents of another.

The first article of the amendments of the Constitution provides that Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the Government for a redress of grievances. But Congress only is prohibited. If, therefore, the treaty-making power of the President and Senate embraces in its scope those subjects which are reserved to the control of the States and people, it may provide for an establishment of religion, or prohibit the exercise thereof, or abridge the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the Government for a redress of grievances.

Mr. Cushing relies upon the following judicial authorities: *Fairfax vs. Hunter*, 7 Cranch, 627; *Ware vs. Hylton*, 3 Dallas, 199; and *People vs. Gerke*, 5 Cal., 381.

But what is the precise point decided by the court in the case referred to in 7 Cranch? The opinion was pronounced by Mr. Justice Story, and includes a statement of the facts on which the decision is founded. The ninth article of the treaty of 1794 is in the following words:

"It is agreed that British subjects who now hold lands in the territories of the United States and American citizens who now hold lands in the dominions of his majesty shall continue to hold them, according to the nature and tenure of their respective estates and titles therein, and may grant, sell, or devise the same to whom they please, in like manner as if they were natives; and that neither they nor their heirs or assigns shall, so far as respects the said lands and the legal remedies incident thereto, be considered as aliens."

Lord Fairfax, a citizen and resident of Virginia, died in December, 1781, during the Revolution, seized of certain lands in that State, which, by his last will and testament, he devised to Denny Fairfax, a British subject and alien enemy. The question was whether the lands were vested in the Commonwealth of Virginia or in the devisee. The court held that, by the common law, Denny Fairfax, an alien, could take lands by purchase, though not by descent; that it was immaterial whether the purchase was by grant or devise; that his

title could not be divested before office found; that by no public acts of Virginia were the lands ever vested in the Commonwealth, during the war or after the war; and that no act subsequent to the treaty of 1794 could so vest them, because that treaty protected the title of the devisee. The decision was not that the President and Senate could, by treaty, compel a State to permit aliens thereafter to acquire lands and to hold them, but that the State of Virginia had not, since the treaty of 1794, attempted by legislation to appropriate these lands to herself, and could not have done so if she had attempted it. It is obvious that the weight of this authority would be much greater if the court had found subsisting State legislation which it was necessary to override, and had overridden it. But the court expressly declared that no such legislation was in the way, and then, by what amounts to little more than an *obiter dictum*, declared that if any such obstacle had existed they would have removed it.

In *Ware vs. Hylton*, the second case referred to by Mr. Cushing, it was held that by our treaty of peace with England, concluded September 3, 1783, the Virginia statute of 1779 confiscating debts due British enemies was annulled. But this treaty was made under the Confederation, four years before the establishment of our Constitution. The case, therefore, has no weight as an authority. While it is true, as Mr. Cushing states, that the supreme court of California, in 1855, in a case involving one of the articles of our Prussian treaty of 1828, did decide that the President and Senate had the power, by treaty, to provide that upon the death of a person holding real estate within one of the States which would, by the law of such State, descend to a Prussian subject, but for the disqualification of alienage, such Prussian subject should be allowed a reasonable time to sell the real estate and withdraw the proceeds. But even this decision was repudiated by the same court in the next year (1856) in the case of *Siemssen vs. Bofer*, in which Chief Justice Murray said:

"The treaty-making power can only be coeval with the express grant of power to the Federal Government, and can never be extended, by implication, to the reserved powers of the States, or matters which belong to State sovereignty, or the right which appertains to govern her own domestic concerns and establish her own police regulations; neither can the exercise of this power, on the part of the President and Senate, be extended to matters which are the proper subject of congressional legislation."

These considerations, sir, render it perfectly clear to my mind that the treaty power of the President and Senate only extends to such engagements as can be fulfilled by the exercise of the powers delegated to the Federal Government without invading those reserved to the States or people.

The next question is whether the President and Senate can bind the nation by treaties which involve the exercise of all the powers delegated to the Federal Government, or only by such as do not involve the exercise of powers exclusively vested in the legislative department of that Government.

The provisions of the Constitution specially relating to the treaty power have been already cited. That instrument contains also the following provisions:

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." "All bills for raising revenue shall originate in the House of Representatives." "The Congress shall have power" [to do the acts specified in the seventeen sub-divisions of the eighth section of the first article.] "No money shall be drawn from the Treasury except in consequence of appropriations made by law."

It is a familiar canon of interpretation that if two provisions are susceptible of different interpretations, that which would destroy one of them is to be rejected, and that which would preserve both is to be accepted.

Let us apply this rule to the constitutional

provisions conferring treaty power upon the President and Senate and to those conferring legislative power upon Congress. We shall find that the interpretation which empowers the President and Senate by treaty to bind the United States to the performance of acts which can only be performed by the exercise of powers vested exclusively in the Legislature, and to impose upon Congress the duty of discharging these obligations, virtually annihilates the legislative power of Congress. For under that interpretation the President and Senate could, by treaty, bind the United States to such a system of duties on imports and internal taxes for fifty years, as would for that period prevent the payment of a penny of the interest or principal of the national debt, or to such rates of taxation as would compel us to pay, if possible, half or even the whole of the debt in a single year; and Congress, which under the eighth section of the first article of the Constitution has power to impose taxes and tariffs, would be constitutionally bound to discharge the obligation.

They could in like manner, by treaty with a European Power, bind the United States to take a European loan at such rates, on such terms, for such purposes, and in such amounts, as they might in their discretion determine; and Congress, which alone has power to borrow money on the credit of the United States, would be bound to carry out the treaty stipulation. They could, by commercial treaties with all of the commercial nations of the earth, actually regulate all our foreign commerce, so that Congress, which by the Constitution is vested with exclusive power to regulate our commerce with all foreign nations, would by the act of the President and Senate be divested of the power to regulate it with one of them. They could by treaties with foreign Powers stipulate to adopt certain regulations for our inter-State commerce; and Congress, which has the power to regulate commerce among the several States, would be bound to fulfill the contract, surrendering its own discretion, and recognizing, as its rule of action, not the good of the people or the States, but the letter of the bond held by a foreign Power.

They would have the constitutional power to regulate commerce with every Indian tribe; and thus Congress, which is by the Constitution authorized to regulate commerce with all Indian tribes, would be permitted by the President and Senate to regulate commerce with not one of them. They would have the constitutional power to stipulate with the queen of England or king of Prussia for such modifications of our naturalization laws as would render it permanently impossible for the Irish subjects of the former or the German subjects of the latter to become citizens of our Republic. In truth, they would enjoy the constitutional right of establishing, by means of treaties with foreign Powers, a rule of naturalization applicable to all immigrants, which would make acquired citizenship as cheap or dear as they might see fit to make it, and would leave Congress, which has, under the Constitution, exclusive control of naturalization, absolutely divested of all control over the subject.

They would have the power to provide by treaty for the interests of foreign creditors in cases of bankruptcy; and Congress, though invested by the Constitution with the power to establish uniform laws on the subject of bankruptcies throughout the United States, would be bound to carry out their provisions and surrender its own power.

The President and Senate could, by treaties with foreign nations, regulate the entire subject of the coinage, fixing the weight, size, form, and composition of the several pieces, their value as compared with each other and with gold, and their value in the coins of the other nations; and Congress would be bound faithfully to execute the stipulation, although itself exclusively invested by the Constitution

with the power to coin money and regulate the value thereof, and of foreign coins.

They could adopt by treaty a common standard of weights and measures, and Congress, although clothed with the exclusive power to fix the standard of weights and measures, would nevertheless be bound by the Constitution to exercise no power over the subject.

They would have the right, by a treaty with the emperor of China, to fix the punishment to be inflicted upon his subjects resident in California for counterfeiting our coin, and to indicate the tribunal and manner of trial. They might make similar stipulations with the emperor of France for the punishment of counterfeiters of our national bonds. In both cases we should be held by the agreement, although invested by the Constitution with the exclusive power to provide the punishment for counterfeiting the securities and current coin of the United States.

They could determine by treaty the rates of postage on matter mailed or received by foreigners resident in the United States, and agree to establish routes and offices for their benefit, and we should be bound to fulfill their engagements, whether they secured to foreigners the most valuable advantages or imposed upon them the most oppressive disabilities.

They would have the power to bind the United States to all conceivable modifications of our patent and copyright laws to the advantage or disadvantage of the citizens of, or emigrants from, one or several foreign nations, and we, with plenary power over patents and copyrights in our own hands, would nevertheless be morally bound to discharge the obligation.

They would have the right by treaties to determine the constitution of inferior United States courts for the trial of all cases cognizable by Federal courts, to which immigrants from certain nations should be parties, whether Irishmen, Germans, Englishmen, Scandinavians, Africans, or Chinese; they might even stipulate as to the nationality of judges, jurors, and witnesses; and yet Congress would be bound by their engagements, although clothed with the exclusive power to constitute these tribunals.

They would have the constitutional right to bind the United States by a treaty of alliance with England to declare and prosecute war against Russia, and Congress, which has under the Constitution exclusive power to declare war, would be obliged to carry out the agreement. They would have the same constitutional right, by a treaty of alliance offensive and defensive with the king of Abyssinia, to bind our Government to grant letters of marque and reprisal against England, and to impose the duty of performing the stipulations upon Congress which alone has power to grant letters of marque and reprisal.

And they would have the right to provide by treaty stipulations for disposing of captures made in either of those cases, which stipulations would be obligatory upon us, notwithstanding the exclusive power of Congress to make rules concerning captures on land and water.

They could bind us at their discretion, by a treaty of alliance with France, not only to declare war against Mexico or England, or both, but also to raise and support armies, of whatever size, for operations in Mexico or Canada or elsewhere; and it would be our imperative duty to make the declaration, to raise the armies, and to maintain them during the period covered by the treaty, although Congress alone has power to raise and support armies as well as to declare war. And if, under the clause which ordains that no appropriation of money to raise or support armies shall be for a longer term than two years, it should indeed be impossible for them to dispense with the formality of biennial appropriations, the result would be the same, because we should

be bound by the contract to make every stipulated appropriation by a purely perfunctory vote.

By the same treaty, and for the prosecution of the same war, they might bind Congress to provide a navy of any size, and to maintain it for any length of time, and, naval appropriations not being limited by the Constitution, to make at the outset any stipulated appropriation of money for the entire period. By the same treaty, also, they might agree to rules for the government and regulation of the allied armies and navies; and Congress, although it has exclusive power to make rules for the government and regulation of the land and naval forces, would be absolutely bound by such a treaty. They could stipulate with foreign nations that the militia to be called forth to execute the laws, or suppress insurrections, or repel invasions in certain cases, should consist wholly, or in part, or not at all, of alien immigrants from such nations; and Congress, which has power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions, would be bound by their stipulations.

The President and Senate could, in a treaty of alliance, fix the number of militia to be called forth in case of invasion, determine what classes of native-born or naturalized citizens or resident aliens should or should not be embodied in such militia, and how they should be organized, armed, disciplined, and governed; and nothing but obedience would remain for Congress, which, under the Constitution, has power to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States. They would have the constitutional right, by treaty, to stipulate, to the advantage or disadvantage of immigrants from this or that foreign nation, that the statute laws of the District of Columbia should receive certain modifications affecting the inheritance and purchase of lands by aliens, marriage, divorce, incorporations, guardianship, administration, crimes, the tribunals for the cognizance of civil and criminal cases, and even the elective franchise itself, and we should be in honor and by the Constitution bound to make the promise good, although Congress has power to exercise exclusive legislation in all cases whatsoever over the district in which is located the seat of government of the United States. And, furthermore, Congress would be bound to make all laws necessary and proper for carrying all these stipulations into execution.

These, sir, are some of the consequences which would inevitably follow if the President and Senate had power to bind the Government by treaty to the performance of acts which Congress only can perform. These results would spring, not from the gross abuse, but from the simple exercise of constitutional power. If the President and Senate are clothed with this power, they have precisely the same right to exercise it, at their discretion, in good faith, and in a patriotic spirit, which they have to exercise any other constitutional power. Indeed, it will be their duty to exercise it whenever, in their judgment, its exercise will promote the public good.

Bear in mind that each of the stipulations which I have supposed falls clearly within the classes of engagements recognized as legitimate treaties by all expounders of the law of nations. And I have considered, in their order, all of the powers, exceeding forty in number, specifically vested in Congress by the well-known eighth section of the first article of the Constitution. I have shown that if the treaty-making power extends to contracts which Congress, and Congress only, can fulfill, then the President and Senate have the power and the right, whenever in their judgment the public good shall warrant it, to prevent, compel, or regulate the exercise by Congress of any of these powers.

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But, sir, these are not all of the absurd results of such a construction. The Constitution declares that no person holding any office of profit or trust under the United States shall, without the consent of Congress, accept of any present, emolument, office, or title of any kind whatever from any king, prince, or foreign State. If, therefore, the President and Senate can constitutionally make any treaty engagements, being legitimate under the law of nations, which Congress, and Congress only, can fulfill, then, by a treaty of alliance with Russia, nay, by this very treaty itself, they might compel us to consent that the emperor should confer upon our Secretary of State the title of baron of Alaska or nabob of all the Walrussias.

Again, the Constitution provides that no State shall, without the consent of Congress, enter into any agreement or compact with a foreign Power. If, then, the President and Senate have the treaty-making power supposed, they have the right, in a commercial treaty with England, to stipulate that Congress shall consent to the negotiation of an agreement or compact between the British Government and the State of Maine, and our consent must be given and the compact sacredly observed, even though it should involve the most radical changes in our commercial, maritime, and financial legislation. In precisely the same way the President and Senate might be able to enforce the consent of Congress to the levying of imposts and duties upon exports and imports, to the laying of differential duties of tonnage, to the keeping of troops and ships of war in time of peace, and to the waging of war, under compacts or agreements with foreign Powers by one or several States of the Union.

Nay, sir, upon the same principle of construction, the President and Senate would have the constitutional right to provide, in a treaty of alliance, not only what subsidies should be contributed, but also what revenue bills should be originated by the House and enacted by Congress for the payment of such subsidies, and could prescribe the rules and regulations to be made by Congress respecting acquired territory and the terms of admission of new States and oblige Congress to admit such States, and could actually bind Congress to propose specified amendments to the Constitution of the United States.

The Constitution requires the rule of naturalization established by Congress to be uniform. But if the President and Senate can by treaty touch the subject of naturalization they are not governed by this rule of uniformity. The Constitution, in like manner, requires laws enacted by Congress on the subject of bankruptcy to be uniform throughout the United States. But if the treaty-making power can embrace the subject of bankruptcy it will be governed by no rule of uniformity.

In the ninth section of the first article it was provided that the importation of slaves should not be prohibited by Congress prior to the year 1808. No such prohibition was laid upon the treaty power. But it is hardly possible to conceive of the wrath of the slave power if the President and Senate had, before 1808, by treaty, ventured to terminate our slave trade, as they certainly had a constitutional right to do if our opponents are correct in their views of the obligation of the House to make this appropriation.

Mr. Fisher Ames, in the memorable debate of 1796, insisted that the doctrine which gives the House of Representatives a discretion in treaty appropriations, while ostensibly yielding the treaty power to the President and Senate exclusively, does virtually assert for the House either the right to make treaties or the right to break them. But it might, with equal propriety, be said that the British American Provinces were parties to the reciprocity treaty of 1854, for the reason that it contemplated the enactment of certain laws by the several provincial parliaments. Those stipu-

lations of a treaty made by the President and Senate, which involve the exercise of powers vested exclusively in Congress, while they cannot *proprio vigore* pledge the faith of the nation, may, nevertheless, be rendered valid *in presenti*, or of perfect obligation *in futuro*, by antecedent or subsequent legislation. Stipulations for the present or future performance of acts within the exclusive jurisdiction of Congress are not, and cannot be, absolute, whatever they purport to be, unless Congress provides the requisite antecedent or subsequent legislation. In no other way can they become a part of the supreme law of the land. This involves no participation by the House of Representatives in the treaty-making power. This House is no more a party to such a treaty, for the mere reason that it cannot be consummated without our deliberative action, than is an individual a party to a contract for the mere reason that the contract is conditioned upon the performance of certain acts by himself, any more than a railway company is a party to a contract of an express company for the mere reason that the contract can only be fulfilled by using the railway.

It is said that if the House of Representatives may at its discretion withhold this appropriation it may, for the same reason, withhold an appropriation to pay the expenses incident to the negotiation or execution of a treaty admitted to be within the constitutional power of the President and Senate. But this is not true. The House, although it may have the power, has no more constitutional right to withhold an appropriation necessary to defray the expenses of negotiating or executing a treaty which comes within the treaty power, than to withhold the salaries of the President and judges, despite the positive provisions of the Constitution on the subject. In the present case the appropriation is not asked to defray the expense incident to an obligation which the President had a right to make, but to pay the principal of a debt which he had no right to contract.

It is urged that the small States have a right to insist that the President and Senate shall exercise the treaty-making power. But they certainly have no right to insist that they shall exercise the legislative power conferred upon Congress. And the question still remains, what is included in the treaty-making power?

We are assured that it is our duty to make this appropriation because a treaty is the supreme law of the land. But the question again recurs, is this now a treaty in the constitutional sense? If not it is no supreme law, merely because its friends see fit to style it a treaty. But if it is a valid treaty, and therefore the supreme law of the land, it is to be remembered that the very same clause of the Constitution which makes a treaty the supreme law of the land makes something else also the supreme law of the land. This is the language of the clause:

"This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

The Constitution, then, is the supreme law. So are the statutes. If treaties are the supreme law they are not the only supreme law. Are they supreme over both the Constitution and statutes? I should be glad to know why. Are they supreme over the statutes? I should be glad to know why. Certainly if there is anything in the order of statement in this section to indicate the relative rank of Constitution, statute, and treaties the last are lowest. But, granting that the Constitution is supreme over both the others, we certainly must insist that if statutes are not supreme over treaties so, also, are treaties not supreme over statutes. In my judgment they stand, within their

respective spheres, on a footing of equal dignity and authority; and if the Constitution is scrupulously obeyed neither can, by any possibility, be placed in supremacy over the other. On the 4th day of July, 1789, President Washington approved the second act of the First Congress. This act contained a provision that certain teas imported from China in American bottoms should pay specified duties. Now, if President Washington had attempted by treaty to annul or repeal that act he would have failed. Over it his treaty would not have been supreme. By such a treaty the faith of the nation would not have been, in any way, pledged to the Chinese empire. But if that act had provided that these duties should be reduced one half, whenever the Chinese Government should, by treaty, secure to us in return certain advantages for American productions, then such a treaty, duly made, would have been stronger than subsequent legislation, because it would have been a valid contract pledging the faith of the nation.

Assuming that treaties and statutes are of equal dignity, some jurists and statesmen have supposed them to occupy common ground, so that either could repeal the other. Of course a treaty might, by its terms, be made virtually repealable by statute and *vice versa*; but neither can of its own force repeal the other. Whether equal in dignity or not, they do not stand on common ground. Hence neither can be supreme over the other. Both are subordinate to the Constitution, but both are supreme over State constitutions, and State laws; and are supreme laws, under the Constitution, for all the people of the States.

The doctrine laid down in Jefferson's Manual is in these words:

"By the Constitution of the United States this department of legislation is confided to two branches only of the ordinary legislature; the President originating and the Senate having a negative. To what subjects this power extends has not been defined in detail by the Constitution; nor are we entirely agreed among ourselves. 1. It is admitted that it must concern the foreign nation party to the contract, or it would be a mere nullity, *res inter alios acta*. 2. By the general power to make treaties, the Constitution must have intended to comprehend only those subjects which are usually regulated by treaty, and cannot be otherwise regulated. 3. It must have meant to except out of these the rights reserved to the States; for surely the President and Senate cannot do by treaty what the whole Government is interdicted from doing in any way. 4. And also to except those subjects of legislation in which it gave a participation to the House of Representatives. This last exception is denied by some on the ground that it would leave very little for the treaty power to work on. The less the better say others. The Constitution thought it wise to restrain the Executive and Senate from entangling and embroiling our affairs with those of Europe. Besides, as the negotiations are carried on by the Executive alone, the subjecting to the ratification of the Representatives, such articles as are within their participation is no more inconvenient than to the Senate. But the ground of this exception is denied as unfounded. For examine, *e. g.*, the treaty of commerce with France, and it will be found that out of thirty-one articles there are not more than small portions of two or three of them which would not still remain as subjects of treaties untouched by these exceptions."

The emperor of Russia is, by the law of nations, bound to take notice where the power to appropriate money resides and how far the treaty power extends under our Constitution. This rests upon a principle of international law too well established to admit of argument.

The claim that the President and Senate may make treaties which involve the exercise of powers conferred by the Constitution upon Congress is supported by no judicial authority. The cases in 2, 6, and 7 Peters and 1 Barbour do not touch this question. In 5 McLean, 344, it is expressly denied that Congress is bound without discretion to appropriate money called for by treaty. The language of the court is this:

"And in such a case the Representatives of the people and the States exercise their own judgment in granting or withholding the money. They act upon their own responsibility and not upon the responsibility of the treaty-making power. It cannot bind or control the legislative action in this respect, and every foreign Government may be presumed to know

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that, so far as the treaty stipulates to pay money, the legislative sanction is required."

The arguments of some of the text-writers in support of the power of the President and Senate to bind the nation by treaty as to matters of exclusive legislative cognizance are characterized by remarkable inaccuracy of statement. Chancellor Kent, in his Commentaries, states that the House of Representatives, in 1796, declared by a resolution that when a treaty depended for the execution of any of its stipulations on an act of Congress it was the right and duty of the House to deliberate on the expediency or in expediency of carrying such treaty into effect.

He adds that this circumstance could not be mentioned without equal regret and astonishment. And he attempts to avoid the force of this resolution by the following remarkable discolorations of the facts of history. He first asserts that the resolution was a naked abstract claim of right never acted upon, and that Congress shortly after framed a law to carry into effect the very treaty with Great Britain which gave rise to the resolution. Whereas the fact is that the constitutional right of Congress to withhold the legislation required by the treaty and the expediency of withholding it under the circumstances of the particular case were two distinct questions before the House; and ten of the Representatives, who believed in their right to withhold the legislation and voted for the resolution setting forth that right, did also believe in the expediency of the particular treaty, and therefore voted for the law—just as the gentleman from Ohio [Mr. SPALDING] proposes to do in the case of the treaty now before the House.

He observes that President Washington, in his message of March 30, 1796, explicitly denied the existence of any such power in Congress. His message, however, was received by the House eight days before the adoption of the resolution. And the authority of the resolution of 1796 is augmented by the circumstance that, notwithstanding such a message from such a source, the vote stood:

Yeas in the House.....	57
Yeas absent.....	6
	63
	—
Nays in the House.....	35
Nays absent.....	1
	36
	—

He concludes with this confident assertion, that the argument in favor of the binding and conclusive efficacy of every treaty made by the President and Senate is so clear and palpable that it has probably carried very general conviction throughout the community, and this might be considered the decided sense of public opinion; and that this was the sense of the House of Representatives in 1816, and the resolution of 1796 would not be repeated. But the fact is that in the case of 1816 referred to by Chancellor Kent, which was the debate and vote upon the bill for carrying into effect the convention of commerce between the United States and Great Britain, every speaker opposed to the House bill, including Calhoun, Pickering, Gaston, and Hopkins, took the ground that the President and Senate had the power to modify duties by treaty, and that confirmatory legislation was superfluous and an invasion of the prerogatives of the President and Senate; whereas all who spoke for the bill, including Randolph, Gholsen, Lowndes, King, and Reynolds, took exactly the opposite ground, and insisted that the treaty required confirmatory legislation to make it valid. And the House bill was passed January 13, 1816, by a vote of 85 to 71. The sense of the House of Representatives in 1816 was exactly the opposite of what Mr. Kent states it to have been. And the resolution of 1796 was rather affirmed than repudiated by that vote. The Senate had three days earlier passed their own bill, enacting that

all acts in conflict with the treaty should be deemed and taken to be of no force or effect. This was tantamount to a declaration that the treaty could not, without an act of legislation, alter the duties. And by the statute, passed after conference by both Houses, it was enacted that so much of any act as imposed higher duties on British than on American bottoms, contrary to the treaty, should be deemed and taken to be of no force or effect.

In his letter to Mr. Giles, dated December 31, 1795, Mr. Jefferson expressed the opinion that it was the true theory of our Constitution that when a treaty is made involving matters confided by the Constitution to the three branches of the Legislature conjointly the Representatives are as free as the President and Senate were to consider whether the national interest requires or forbids their giving the forms and force of law to the articles over which they have a power. And in a letter to Mr. Madison, of date March 27, 1796, he said that, while this doctrine was not without its difficulties, they were not so insuperable as those of the opposite theory, which he insisted would in fact annihilate the whole of the powers given by the Constitution to the Legislature.

Of course, if we look to the executive department of the Government for authorities, we shall find many to sustain the broadest possible construction of the treaty power. But it is certainly remarkable that in Mr. Wheaton's treatise the instructions of Mr. Calhoun, Secretary of State in 1844, to Mr. Wheaton, then minister to Prussia, respecting a proposed customs treaty with the Zoll-Verein, in which he asserted the right to change and regulate duties by treaty, and said:

"So well is the practice settled that it is believed it has never before been questioned."

Are cited as authority, when not only had scores of statesmen, from 1796 to 1840, repeatedly and successfully assailed that precise practice, but in 1843 Mr. Upshur, the predecessor of Mr. Calhoun in the office of Secretary of State, had actually instructed Mr. Wheaton, respecting the very same treaty, to bear "always in mind that the sanction of Congress, as well as of the Executive, will be indispensably required;" and this was the precise issue in the great contest of 1816, in which Mr. Calhoun himself was a conspicuous leader and was signally defeated; and, moreover, scores, if not hundreds, of statutes refute the assertion.

Mr. Wheaton declares that—

"Under the Constitution of the United States, by which treaties made and ratified by the President, with the advice and consent of the Senate, are declared to be 'the supreme law of the land,' it seems to be understood that the Congress is bound to redeem the national faith thus pledged and to pass the laws necessary to carry the treaty into effect."

This statement must have had no little weight, not merely in foreign countries, where there is comparatively little opportunity to verify it, but also in our own country, even upon reflecting minds not specially informed upon this subjects.

Now, Mr. Wheaton was himself a diplomatist for more than twenty years. The ordinary *esprit du corps* and natural inclination *ampliare jurisdictionem*, abundantly explain and excuse what only purports to be a mere expression of opinion. But Mr. Lawrence, his annotator, seems to have been betrayed, by devotion to a favorite constitutional theory, into an unfair statement of the legislative and judicial authorities bearing upon the question. He states the results of the contests of 1796 and 1816 to have been exactly the reverse of what they were. He asserts, also, that President Jackson's recommendation of reprisals upon France, in case indemnity should not be made by the French Legislature for spoiliations on our commerce, is an authority for the doctrine that Congress is bound to appropriate money to carry out treaties when made by the President and Senate. Accepting General Jackson as an expounder of the Constitution,

for others as well as for himself, we shall find his exposition very different from that indicated by Mr. Lawrence.

For a quarter of a century the French Government had, under circumstances of great aggravation, postponed the payment of claims due to our citizens for the most indefensible wrongs and depredations. At length a treaty was made by which these demands were liquidated. But for two years the French Chamber failed to appropriate money to pay them, and President Jackson, in his annual message of 1834, suggested compulsory measures in the event of further delay. But the *gravamen* of his charges against France was, not that the Chamber had neglected to appropriate when required by the king's treaty, but that it had neglected to appropriate when called on to discharge a long-deferred and most urgent demand of American citizens. General Jackson stood not upon his bargain, but upon the merits of his claim, which was older than the treaty by twenty-five years. If by the treaty the king had agreed not to pay an old debt, but to pay five million francs for a new island, and the Chambers had declined to appropriate, exercising a right secured to them by the French Constitution, President Jackson's message would have been, not just and patriotic, but barbarous and preposterous.

Mr. Lawrence refers to the fact that the Senate declined to ratify the treaty with the Zoll-Verein of 1844, the Committee on Foreign Relations having reported that it was—

"An innovation on the ancient and uniform practice of the Government to change (by treaty) duties laid by law?"

And that—

"The Constitution in express terms delegates the power to Congress to regulate commerce and to impose duties, and to no other, and that the control of trade and the function of taxing belong without abridgment or participation to Congress."

And he proceeds to say that these objections made to the Zoll-Verein treaty seem no longer to be deemed tenable, inasmuch as the Canadian reciprocity treaty, though materially varying the existing tariff, was at once ratified and a law to carry it into effect passed, as of course, through Congress. But, if he did not know, it was certainly his duty to know that by the express terms of that treaty it was not to take effect at all, unless or until Congress should provide the legislation necessary to carry it out. Congress enacted a law exempting the specified Canadian products from duty, so as to give the treaty validity, and then the President proclaimed the treaty.

Another important fact is to be mentioned. By a joint resolution approved January 18, 1865, Congress directed the President to notify the British Government of the termination of this treaty, and Mr. Seward, in obedience to this resolution, on the same day sent the notice in a dispatch to Mr. Adams, although the treaty in terms authorized the "high contracting parties" to give such notice without specifying Congress at all.

Among the Representatives who in the memorable debate of 1796 took the position that Congress was bound to carry out the treaty were Murray, Smith, Harper, Griswold, Sedgwick, and Buck. These were their arguments:

Mr. Murray was of the opinion that, inasmuch as a treaty, if constitutional, was the supreme law of the land, the House had no right to inquire into its merits.

Mr. Buck said: the executive power is vested in the President, as is also the treaty-making power; and treaties are the supreme law. The House must, therefore, grant appropriations, otherwise it makes treaties. The House might as well withhold appropriations for the salaries of the United States judges.

Mr. Smith reasoned as follows: the President and Senate have the power to make treaties; the Representatives, in common with their fellow-citizens, are bound to do all in their power to carry them into operation, except when

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clearly unconstitutional. They have no right to inquire into the merits of a treaty. It is the law of the land, and they must carry it out or resist the constituted authorities. A law must be repealed or obeyed or the Government will be dissolved. Can the House repeal a treaty? No; it must therefore obey it. Mr. N. Smith believed that if Congress had a discretion as to appropriations for treaties it virtually had a part of the treaty power; that Representatives had no more right to inquire into the merits of treaties, when called upon to appropriate money to carry them out, than to inquire into the merits of the President or judges when called upon to appropriate for their salaries. He held a treaty to be not merely a law which Congress could not repeal, but a contract; that the House was in duty bound to deal with a treaty as a court is bound to deal with a law: to execute, not discuss it; that the House had a discretion, but that discretion was limited by the Constitution, the treaty, and the law of right and justice, and was bound to fulfill the contract.

Mr. Harper's opinion was, that when we are called upon to carry a treaty into effect our discretion permits us to ask, not whether it is good or bad, but whether it is so bad that the public welfare requires it to be broken; and that the same is true of appropriations for the military establishment.

Mr. Griswold's reasoning was this: treaties may repeal laws. For Congress by law declares war; the President by treaty makes peace, and so repeals the law. The people have the same right to repeal statutes through the treaty power which they have to enact them through the legislative power. A treaty is a law with which the House has nothing to do except provide for its execution. It is said that the President and Senate might repeal half the laws. But such is the Constitution. All power is liable to abuse. It has been said that a law can only be repealed by consent of parties. But the House of Representatives is not a party to a law. The people are parties, and may make a law by one set of agents and repeal it by another. There is no check on the treaty power. The duty of Congress to appropriate is the same, whether the debt springs from the Constitution, from a law, or from a treaty. As to appropriations, Congress is merely the treasurer of the United States.

Mr. W. Smith reasoned as follows: Representatives are bound by laws in their legislative as much as in their individual capacity. Treaties are laws. When they prescribe a duty for legislators the latter have not a discretion to perform or not perform, but only as to the mode and circumstances. Thus they have not a discretion to decide whether or not to appropriate money to carry on the Government, but only what fund shall furnish it, and other matters of detail. Upon the application of two thirds of the States Congress is bound to call a convention to amend the Constitution. So treaties may impose duties, and then they must be obeyed. The discretion of Congress is the same in one case as in the other. The fact that military appropriations are limited proves that others are not. Appropriations for the support of the Government and even for pensions are annual, and yet cannot be honestly withheld. The House cannot repeal a law by withholding an appropriation. The power which enacts can alone repeal. A treaty can only be annulled by consent of parties, by breach of faith, or by war. After the embargo act the President released Swedish vessels under a treaty, and thus set aside a law.

These arguments are answered by Gallatin, Madison, Giles, Nicholas, Swanwick, Havens, Page, Findley, Livingston, and S. Smith. The substance of Mr. Gallatin's reasoning was this: A treaty is unconstitutional which provides for doing things forbidden by the Constitution. But a treaty, though not unconstitutional, if it requires legislative action, will not become the

supreme law of the land until such legislation is had. The general treaty-making power is *limited* by certain positive clauses of the Constitution, and *checked* by certain powers vested in other branches of the Government. It is *limited* by the section granting all legislative power to Congress and checked by the provision that no money shall be drawn from the Treasury except in consequence of an appropriation by law. Wherever the powers exercised in making or executing a treaty clash with powers specifically granted to another branch of the Government that branch must assent to render the treaty *completely* valid. If a treaty is the supreme law so is a statute. Neither can repeal the other. Both must operate, if at all, subject to the Constitution. The opposite doctrine gives to the President and Senate all legislative power. For example, by making use of an Indian tribe the treaty-making power would be able to borrow money, regulate commerce, &c. Congress is not a part of the treaty power, but only a check upon it. A treaty which clashes with the power of Congress is not "made under the authority of the United States," and is not the supreme law. It is over State laws, not Federal laws, that treaties are supreme. As to the salaries of the President and judges the Constitution expressly forbids their diminution and enjoins their payment. Hence Representatives are merely bound to appropriate. No such thing is true of treaties.

Mr. Madison's view of the subject was this: treaties are supreme not over Federal but over State laws. The word "treaty" is not used in the Constitution in an unrestricted sense. If the treaty power can perform one act for which the authority of Congress is required by the Constitution it can perform every such act. If the President and Senate can, by treaty, regulate trade, they can also declare war, raise armies, levy taxes, borrow money, appropriate money, &c. No line can be drawn. By a treaty of alliance with a nation at war they may make the United States a party to the war, stipulate subsidies, borrow money to pay them, furnish troops to be transported to Europe or Asia, and maintain a standing Army. It is no answer to say that they could only pledge the public faith to all this. If we are bound to fulfill their pledges the result is the same. The specific powers conferred upon Congress are subject to certain restrictions imposed by section nine of the first article of the Constitution and by the Amendments. But these powers exercised by the President and Senate will be subject to no such restrictions. The limitation of military appropriations to two years would be defeated if the President and Senate could pledge them for four, whereas the framers of the Constitution intended to enable either branch of the Legislature to discontinue a military establishment at the end of two years. When the Constitution enjoins upon Congress a particular act there is no discretion. But when the act of one department interferes with a power expressly vested in another the latter must be exercised according to its nature. It is claimed that a treaty is paramount because the President and Senate are agents of the people. But so is Congress the agent of the people. It is objected that the treaty power would be absolutely frustrated by these limitations. But the several departments form one Government of our people, who may express their will through one Government, operating under checks, on this as well as any other subject.

Mr. Giles said, in substance, that the supremacy of treaties was over State constitutions and laws; that treaties could not annul, but could be annulled by statutes; that they were always in fact annulled by the war power, never by convention; that if England should fail to ratify the treaty of 1794 our ground of complaint would be a breach, not of treaty promise, but of antecedent obligation. In his

opinion there were two restrictions on the treaty power. First, all legislative power is vested in Congress; and second, appropriations must be made by law, not treaty law, but statute law, which is an expression of the legislative will, and cannot be made without discretion. If the President can by treaty—by the aid of a foreign Power—legislate against the right of Congress to legislate, there is an end of all discretion. If he can thus declare what commerce shall not be regulated, what property shall not be sequestered, what shall or shall not be adjudged and punished as piracy, what will prevent an agreement to keep on foot a standing army of ten thousand men?

The view taken by Mr. Nicholas was this: if the power of the President and Senate as to treaties is unqualified, then the House must appropriate. But is that power unqualified? Suppose the Constitution had expressly given Congress the control of money stipulations in treaties, would not that constitute a qualification of the treaty power of the President and Senate? But on this point the Constitution, though not explicit, is clear, if fairly construed. Congress has discretionary power over appropriations, but it is lost if Congress can, by treaty, be forced to make them. The circumstance that appropriations for the Army and for the public debt are specially regulated by constitutional provisions shows that Congress has, in general, a discretion. The President and Senate hold the treaty power with qualifications in matters of money. Unless Congress sees fit to appropriate the money it is so far no treaty.

Mr. Swanwick said, in substance: Article first, section eight, of the Constitution, confers upon Congress not only certain specified legislative powers, but also the general power to make all laws necessary and proper for carrying into effect both these specified powers and all other powers vested by the Constitution in the Government or any department or officer thereof. But this implies discretion. The House has the right to originate money bills. What does this amount to if the President and Senate can make a contract which will compel the House to raise money? The Constitution, statutes, and treaties are made the supreme law, and State judges are bound thereby, anything in State laws or constitutions to the contrary notwithstanding. This clause, taken as a whole, shows that treaties are supreme over State, not Federal laws. The gradation is: first, the Constitution; second, the statutes; third, treaties. Can the third override the second? Encroachments are not more likely to come from Congress than from the Executive.

Mr. Havens: The grant of legislative power is in terms as unlimited as the grant of treaty power. If Congress had no right to refuse appropriations then a treaty might embrace an appropriation clause, and, being a supreme law, might dispense with all legislative action. But statutes are as truly supreme as treaties.

Mr. Page: If the President and Senate can regulate commerce with one nation they can with all. What will remain for Congress to regulate?

Mr. Findlay: It is not more extraordinary to give Congress a discretion in the enactment of laws to carry out treaties than to give the President the veto power after conferring all legislative power upon Congress.

Mr. Livingston: It is immaterial whether a treaty can, *proprio vigore*, appropriate money, or can only compel us to do it. Both doctrines are equally subversive of the principles of our Government. But the latter is more degrading to us. If the framers of the Constitution had intended to make appropriations obligatory upon us they would have said "Congress shall pass laws to carry into effect all treaties." If Congress is to exercise no discretion, why act at all? Why not leave it all to treaty? The Constitution, statutes, and treaties are to have

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force in the order indicated by the Constitution. He argues at length to show that his view is sustained, first, by the construction prevalent at the time the Constitution was framed; second, by the practice of the Government since; and third, by the public sentiment of his own time.

Permit me to say, sir, in conclusion, that not the least of my objections to this appropriation is the danger that it will be drawn into precedent as an acknowledgment that we have no discretion in the case, but are obliged to vote the money. I know of no advocate of this measure except the gentleman from Ohio [Mr. SPALDING] who does not, in the most positive terms, insist that we are in duty bound to carry out this treaty.

Impeachment.

SPEECH OF HON. J. V. L. PRUYN,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

February 24, 1868,

On the resolution reported from the Committee on Reconstruction to impeach the President of the United States of high crimes and misdemeanors in office.

Mr. PRUYN. Before I proceed to the general views which I wish to present I ask the House to consider the circumstances under which this very important subject comes before it.

On the 27th of January last certain papers and documents in regard to the affairs of the southern States were referred to the Committee on the Reconstruction of those States. On the 21st of this month (Friday last) a letter from Mr. Stanton, communicating his removal from office as Secretary of War, was referred to the same committee. On the next day, after a meeting by the committee of one hour only, and that during the sitting of the House, and without leave, as we have been informed by my colleague, [Mr. BROOKS, a member of the committee,] the chairman [Mr. STEVENS, of Pennsylvania] presented the report now before us. It sets forth the removal of Mr. Stanton by the President without any notice of the documents referred to the committee in January last, and concludes as follows:

"Upon the evidence collected by the committee, which is herewith presented, and in virtue of the powers with which they have been invested by the House, they are of the opinion that Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors."

And thereupon the committee recommended to the House the adoption of the resolution of impeachment which they presented.

That is all there is of this report; and I venture to say that no deliberative assembly in the world was ever called upon to act on a matter of such grave, such vast importance, on so brief a notice, and on so meager a statement. It seems there was no testimony taken, no inquiry made, no explanation sought for, no notice given to the President of the reference to the committee, or even of the time and place of its brief, irregular session. No despatch could have worked more rapidly, nor could the restraints of constitutional government have been more effectually thrown aside; and this course was followed up in the House. The chairman of the committee, in presenting the report, speaking evidently for the political majority of the House, said:

"It is not my intention, in the first instance, to discuss this question; and if there be no desire on the other side to discuss it we are willing that the question should be taken upon the knowledge which the House already has."

And he stated further—and this I understand not only from what the chairman said, but from the remarks of several gentlemen who advocate impeachment, is the *gravamen* of the charge against the President—to wit, that—

"The fact of removing a man from office while the

Senate was in session without the consent of the Senate, if there were nothing else, is of itself, and always has been considered, a high crime and misdemeanor, and was never before practiced."

This brings up in its whole length and breadth, without regard to the tenure-of-office act, the question of the constitutional power of the Executive to remove from office; and I hope to show that in the assertion thus made by the gentleman from Pennsylvania he is entirely mistaken. In the incidental discussion which occurred on Saturday last between the gentleman from Illinois [Mr. INGERSOLL] and myself, and in that, also, which took place this morning, this proposition was again put forward, and on both occasions I promptly controverted it. And as it forms the very groundwork on which the superstructure of impeachment has been raised, I had expected it would have been fairly met, but in this I have been disappointed.

The Constitution of the United States declares that—

"The executive power shall be vested in a President of the United States of America."

Such are the exact words of the grant. There it stands in all its length and breadth, to be judged of by its own strong and comprehensive terms. The exercise of the power is, indeed, in some cases, regulated by the Constitution; but where not so regulated it stands in its full, unassailable integrity. A stable government cannot be maintained without ample executive authority to enforce the laws; and the framers of our Constitution clearly intended to vest that power in the President only; and with their great knowledge of the science and principles of Government none knew better than they the necessary and legitimate extent of that power. It may be said it is a great power, and its exercise may be abused. All power, as we well know, may be abused. But when you look at the guards which surround the election of President, the limited term for which he is chosen, his almost direct accountability to the Representatives of the people, the chances of abuse are much less with him than with a Senate composed of a large body of members on whom influences may be exerted in various ways, sometimes without their being aware of it. Indeed, every good appointment to public office made by the President does so much to strengthen and create respect for his administration. The distinguished gentleman from Pennsylvania, [Mr. WOODWARD,] who addressed the House this morning, briefly referred to a discussion in the First Congress on this subject. That discussion, considering the circumstances which attended it, was one of the most important which has taken place in our constitutional history. At least fifteen of the thirty-nine persons who signed the Constitution were members of that Congress. The debate was so thoroughly exhaustive of the subject that even with our experience at this day scarcely anything of importance can be added to it. And I do not hesitate to say that no member of this House should venture to vote in favor of the proposition to impeach the President until he has studied that discussion. It is unfair to the President, it is unjust to the great interests involved in this question, that gentlemen should act upon it without the views as to constitutional principles which the debate referred to affords. It will be found reported in the first volume of the *Annals of Congress*, and I shall refer to it very freely.

By the consent of all parties, from the foundation of the Government down, Mr. Madison's views on constitutional questions have been looked to not only with the greatest respect, but, I may almost say, as conclusive on all controverted points. The prominent part he took in the Convention which formed the Constitution, the clearness, the calmness, and, at the same time, the vigor of his views, his active interest in the adoption of that instrument as evinced in the *Federalist*, which was so largely written by him, and in the councils of his own State, all combined to give him this position.

The debate of 1789 took place on the bill organizing the Department of Foreign Affairs, afterward called the Department of State. The first section of the bill, as reported, provided for the appointment of the officer named; "to be removable from office by the President of the United States;" and this brought up the whole subject of the power of appointment and removal under the Constitution.

Mr. Madison, (at page 481,) after referring to the distribution of the powers of the Government under the Constitution—into the legislative, executive, and judicial—and claiming that this distribution could not be interfered with by Congress, remarked—

"The legislative powers are vested in Congress, and are to be exercised by them uncontrolled by any other department, except the Constitution has qualified it otherwise. The Constitution has qualified the legislative power by authorizing the President to object to any act it may pass, requiring, in this case, two thirds of both Houses to concur in making a law; but still the absolute legislative power is vested in the Congress with this qualification alone. The Constitution affirms that the executive power shall be vested in the President. Are there exceptions to this proposition? Yes, there are. The Constitution says that in appointing to office the Senate shall be associated with the President, unless in the case of inferior officers, when the law shall otherwise direct. Have we a right to extend this exception? I believe not. If the Constitution has invested all executive power in the President I venture to assert that the Legislature has no right to diminish or modify his executive authority."

"The question now resolves itself into this: is the power of displacing an executive power? I conceive that if any power whatever is in its nature executive it is the power of appointing, overseeing, and controlling those who execute the laws. If the Constitution had not qualified the power of the President in appointing to office by associating the Senate with him in that business, would it not be clear that he would have the right, by virtue of his executive power, to make such appointment? Should we be authorized, in defiance of that clause in the Constitution, 'The executive power shall be vested in a President,' to unite the Senate with the President in the appointment to office? I conceive not. If it is admitted that we should not be authorized to do this I think it may be disputed whether we have a right to associate them in removing persons from office, the one power being as much of an executive nature as the other; and the first only is authorized by being excepted out of the general rule established by the Constitution, in these words, 'The executive power shall be vested in the President.'"

"The judicial power is vested in a Supreme Court; but will gentlemen say the judicial power can be placed elsewhere unless the Constitution has made an exception? The Constitution justifies the Senate in exercising a judiciary power in determining on impeachments; but can the judicial power be further blended with the powers of that body? They cannot. I therefore say it is incontrovertible, if neither the legislative nor judicial powers are subjected to qualifications other than those demanded in the Constitution, that the executive powers are equally unassailable as either of the others; and inasmuch as the power of removal is of an executive nature, and not affected by any constitutional exception, it is beyond the reach of the legislative body."

Again, at page 514:

"However various the opinions which exist upon the point now before us it seems agreed on all sides that it demands a careful investigation and full discussion. I feel the importance of the question, and know that our decision will involve the decision of all similar cases. The decision that is at this time made will become the permanent exposition of the Constitution; and on a permanent exposition of the Constitution will depend the genius and character of the whole Government. It will depend, perhaps, on this decision whether the Government shall retain the equilibrium which the Constitution intended or take a direction toward aristocracy or anarchy among the members of the Government. Hence, how careful ought we to be to give a true direction to a power so critically circumstanced."

Let us look at the views of others of the distinguished members of the First Congress. I will quote the remarks of Mr. Boudinot, of New Jersey, whose memory commands the most profound respect as one of the great men of our early history:

"Let us examine whether it [the power of removal] belongs to the Senate and President. Certainly, sir, there is nothing that gives the Senate this right in express terms; but they are authorized in express words to be concerned in the appointment. And does this necessarily include the power of removal? If the President complains to the Senate of the misconduct of an officer, and desires their advice and consent to the removal, what are the Senate to do? Most certainly they will inquire if the complaint is well founded. To do this they must call the officer before them to answer. Who, then, are the parties? The supreme executive officer against his assistant; and the Senate are to sit as judges to determine

whether sufficient cause of removal exists. Does not this set the Senate over the head of the President? But suppose they shall decide in favor of the officer, what a situation is the President then in, surrounded by officers with whom, by his situation, he is compelled to act, but in whom he can have no confidence, reversing the privilege given him by the Constitution; to prevent his having officers imposed upon him who do not meet his approbation. But I have another more solid objection which places the question in a more important point of view. The Constitution has placed the Senate as the only security and barrier between the House of Representatives and the President.

"Suppose the President has desired the Senate to concur in removing an officer, and they have declined, or suppose the House have applied to the President and Senate to remove an officer obnoxious to them, and they determine against the measure, the House can have recourse to nothing but an impeachment, if they suppose the criminality of the officer will warrant such procedure. Will the Senate then be that upright court which they ought to appeal to on this occasion, when they have prejudged your cause? I conceive the Senate will be too much under the control of their former decision to be a proper body for this House to apply to for impartial justice.

"As the Senate are the dernier resort, and the only court of judicature which can determine on cases of impeachment, I am for preserving them free and independent, both on account of the officer and this House. I therefore conceive that it was never the intention of the Constitution to vest the power of removal in the President and Senate; but, as it must exist somewhere, it rests in the President alone."

I may here add the following remark of Mr. Goodhue, (page 555:)

"It moreover appears very clear to me that the Senate, who are a judicial body, ought not to meddle with the business of removal, because they will have prejudged the case if an impeachment should thereafter be made."

Is it not, Mr. Speaker, a most striking comment on the broad and sagacious views of Mr. Bondinot, that he looked into the future with such prophetic clearness? The case of Mr. Stanton is before us almost in name and words, in spirit and substance entirely so. The evils to follow from an act containing the principles of the tenure-of-office act are stated almost as clearly as if the act itself had been before the speaker in written words; and the Senate by the resolutions which they adopted a few days ago, denying the President's right to remove Mr. Stanton, will be placed, should the President be impeached by this House, in the position which it was predicted would be so unfortunate for the cause of "impartial justice." I know it may be said that Senators never could have supposed at the time those resolutions were adopted that this House could be guilty of so great an act of folly as to impeach the President for having removed Mr. Stanton, and I trust that their expectations in this respect will prove to have been well founded. Any other view of the action of the Senate will, I am sure, do injustice to many of the members of that body, if not to all who voted in favor of the resolutions to which I have alluded. The Senators certainly would not have rushed on to judgment in advance could they for a moment have believed that for the act referred to the House would impeach the President.

I add extracts from the remarks of that great man and orator, Fisher Ames, who said;

"The Constitution places all executive power in the hands of the President, and could he personally execute all the laws there would be no occasion for establishing auxiliaries; but the circumscribed powers of human nature in one man demand the aid of others." * * * "He must therefore have assistants. But in order that he may be responsible to his country he must have a choice in selecting his assistants, a control over them with power to remove them when he finds the qualifications which induced their appointment cease to exist." * * *

"The executive powers are delegated to the President with a view to have a responsible officer to superintend, control, inspect, and check the officers necessarily employed in administering the laws. The only bond between him and those he employs is the confidence he has in their integrity and talents; when that confidence ceases the principal ought to have power to remove those whom he can no longer trust with safety. If an officer shall be guilty of neglect or infidelity there can be no doubt but he ought to be removed; yet there may be numerous causes for removal which do not amount to a crime. He may propose to do a mischief, but I believe the mere intention would not be cause of impeachment. He may lose the confidence of the people upon suspicion, in which case it would be improper to retain him in service; he ought to be removed at any time when, instead of doing the greatest possible good, he is

likely to do an injury to the public interest by being continued in the administration."

"But why should we connect the Senate in the removal? Their attention is taken up with other important business, and they have no constitutional authority to watch the conduct of the executive officers, and therefore cannot use such authority with advantage. If the President is inclined to shelter himself behind the Senate, with respect to having continued an improper person in office, we lose the responsibility, which is our greatest security; the blame among so many will be lost.

"Another reason occurs to me against blending these powers. An officer who superintends the public revenue will naturally acquire a great influence. If he obtains support in the Senate, upon an attempt of the President to remove him, it will be out of the power of the House, when applied to by the First Magistrate, to impeach him with success; for the very means of proving charges of misconduct against him will be under the power of the officer; all the papers necessary to convict him may be withheld while the person continues in his office.

"Protection may be rendered for protection; and as this officer has such extensive influence it may be exerted to procure the reelection of his friends. These circumstances, in addition to those stated by the gentleman from Jersey, (Mr. Bondinot,) must clearly evince to every gentleman the impropriety of connecting the Senate with the President in removing from office."

I quote what Judge Benson said, (page 525:)

"I will not repeat what has been said to prove that the true construction (of the Constitution) is, that the President alone has the power of removal; but will state a case to show the embarrassment which must arise by a combination of the senatorial and legislative authority in this particular. I will instance the officer to which the bill relates. To him will necessarily be committed negotiations with the ministers of foreign courts. This is a very delicate trust. The supreme executive officer, in superintending this Department, may be entangled with suspicions of a very delicate nature relative to the transactions of the officer, and such as from circumstances would be injurious to name; indeed, he may be so situated that he will not, cannot give the evidence of his suspicion. Now, thus circumstanced, suppose he should propose to the Senate to remove the Secretary of Foreign Affairs, are we to expect the Senate will, without any reason being assigned, implicitly submit to his proposition? They will not. Suppose he should say he suspected the man's fidelity; they would say we must proceed further, and know the reason for this suspicion; they would insist on a full communication. Is it to be supposed that this man will not have a single friend in the Senate who will contend for a fair trial and a full hearing?

"The President then becomes the plaintiff and the secretary the defendant. The Senate are sitting in judgment between the Chief Magistrate of the United States and a subordinate officer. Now, I submit to the candor of the gentlemen whether this looks like good government? Yet in every instance when the President thinks proper to have an officer removed this absurd scene must be displayed. How much better, even on principles of expediency, will it be that the President alone have the power of removal."

Here, again, we have the present condition of things stated with as much clearness as if it had transpired in 1789.

I shall only add what was stated by one of the most eminent of the great men of his day; and you will observe that he, also, was fully aware of the difficulties which would grow out of the power of removal, if it could be exercised by the President only by and with the advice and consent of the Senate.

Mr. Sedgwick said:

"Suppose the President has a Secretary in whom he discovers a great degree of ignorance or a total incapacity to conduct the business he has assigned him; suppose him inimical to the President, or suppose any of the great variety of cases which would be good cause for removal, and impress the propriety of such a measure strongly on the mind of the President, without any other evidence than what exists in his own ideas, from a contemplation of the man's conduct and character day by day, what, let me ask, is to be the consequence if the Senate are to be applied to? If they are to do anything in this business, I presume they are to deliberate, because they are to advise and consent. If they are to deliberate, you put them between the officer and the President. They are then to inquire into the cause of removals; the President must produce his testimony. How is the question to be investigated? Because, I presume, there must be some rational rule for conducting this business. Is the President to be sworn to declare the whole truth and to bring forward facts? Or are they to admit suspicion as testimony? Or is the word of the President to be taken at all events? If so, this check is not of the least efficacy in nature. But if proof be necessary, what is then the consequence? Why, in nine cases out of ten, where the case is very clear to the mind of the President that the man ought to be removed, the effect cannot be produced, because it is absolutely impossible to produce the necessary evidence. Are the Senate to proceed without evidence? Some gentlemen contend not. Then the object will be lost. Shall a man, under these circumstances, be saddled

upon the President, who has been appointed for no other purpose but to aid the President in performing certain duties? Shall he be continued, I ask again, against the will of the President? If he is, where is the responsibility? Are you to look for it in the President, who has no control over the officer, no power to remove him if he acts unfeelingly or unfaithfully? Without you make him responsible you weaken and destroy the strength and beauty of your system."

Such were some of the views urged in favor of the executive power of removal from office. They were met with vigor by gentlemen of ability, some of whom claimed that impeachment must be resorted to if an officer had become unfaithful. Others that the President could remove only in the manner he appointed, that is, by and with the advice and consent of the Senate. The debate, as I have already said, was very thorough and comprehensive, and on what may be considered as the test question it was held that the Constitution conferred the power of removal on the Executive, by a vote of 31 to 19; and on the third reading the bill passed by a vote of 29 to 22. As the Senate then held its sittings with closed doors, we have no reports of the debates in that body, but the bill passed by the casting vote of the Vice President.

Such are the facts which relate to this deeply interesting event in our constitutional history.

Chancellor Kent, speaking of the subject in his Commentaries (the first edition of which appeared forty-two years ago) and of the debate in Congress, to which I have referred, says that the question may be considered "as firmly and definitely settled, and there is good sense and practical utility in the construction."

Judge Story, in his Commentaries on the Constitution, (the first edition of which appeared thirty-five years since,) considers this matter very fully, gives the arguments on both sides, and concedes that it will be difficult, perhaps impracticable, after forty years' experience, to change the practice which has existed since 1789. But as "inferior officers," which designation includes the great body of public officers, may be appointed in one of several modes prescribed by the Constitution, he considers the remedy for any abuse of power by the President to be within the control of Congress.

This disposition of the matter has at times been questioned by some of our most distinguished statesmen; but I believe that the conclusion was uniformly arrived at that the question had been fairly settled. Mr. Webster, in the Senate some thirty years ago, while censuring the manner in which the power of removal had been exercised, did not question its existence in the President; and a committee of the Senate, as early as 1826, proposed to reach the matter, not by legislation, but by an amendment of the Constitution. Whether the decision of the Congress of 1789 was wise or not, it is clear that the practical construction of the Constitution has been uniform from that time till the passage of the tenure-of-office act in 1867, the long period of seventy-eight years. Seventeen distinguished persons had, in that long period, occupied the presidential office. Thirty-eight Congresses had followed that of 1789; thousands of officers had been removed by the Presidents during that time and appointments made to fill those and other vacancies; in short, the principle had been recognized by every department of the Government in every possible way. And is all this to go for nothing? Six years, by the statute of limitations in almost every State of the Union, as to personal property, and twenty years as to real estate, disposes of claims on which large rights and often the welfare of individuals and families, and even important interests of communities, depend. According to the usual rules of computation, four business generations have nearly passed away since this question was disposed of after most deliberate consideration. Are we now to overturn it? Are decisions on constitutional questions never to be respected? Is the President, who alone, of all

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the officers of the Government, is bound by his oath of office "to preserve, protect, and defend the Constitution of the United States," to be judged harshly for seeking to enforce respect to that instrument?

In further answer to the denial that the President ever made removals from office while the Senate was in session, I have to say that he not only uniformly made such removals, but that no other person or body did. The Senate never made them, or gave their "advice and consent" to any removal, and no record of the kind will, I venture to say, be found on the Journals of the Senate.

I will now read copies, from an official source, of messages sent by several of the Presidents to the Senate on making nominations to office. The first will be one of John Adams. It is as follows:

Gentlemen of the Senate:

I nominate Hon. John Marshall, esq., of Virginia, to be Secretary of State in the place of Hon. Timothy Pickens, esq., removed.

JOHN ADAMS.

UNITED STATES, May 12, 1800.

Mark the language—"removed," not "to be removed," or "whose removal I recommend"—no separate writ of *supersedeas* may have actually issued, but the right to do so existed and it might have been issued. It was only a question between the President and the incumbent whether this should be done or whether the new commission should, when presented, operate as the *supersedeas*. Mr. Webster stated, in the discussion before referred to, that a notice might be given by the President that the removal would take place on a certain day, which is no less a removal than the same act would be on a later or an earlier day.

I give a message by President Taylor, omitting the names:

EXECUTIVE OFFICE, December 18, 1849.

To the Senate of the United States:

I nominate _____ to be marshal of the United States for _____, in place of _____, removed.

Z. TAYLOR.

I give another:

To the Senate of the United States:

I hereby nominate _____ to be deputy postmaster at _____, in place of _____, the present incumbent, removed.

FRANKLIN PIERCE.

WASHINGTON, 13 February, 1856.

One more, and I have done:

WASHINGTON, March 13, 1861.

To the Senate of the United States:

I nominate _____ to be collector of the customs for the district of _____, in the place of _____, removed.

ABRAHAM LINCOLN.

These examples might be multiplied almost indefinitely from the files of the Senate, as all the occupants of the presidential office have pursued a uniform course in this respect.

Let me also refer the House to the language of the commissions issued to the heads of Departments, diplomatic and consular officers, attorneys, marshals, and many other officers of Government, from General Washington's day down to the passage of the tenure-of-office act. The party is appointed (to office, and such is the commission Mr. Stanton holds,) "during the pleasure of the President of the United States for the time being." How could language show more conclusively that the President may at any time remove from office?

There is a strong case on record (and more may, I presume, be found) in which the President made an absolute removal from office during the sitting of the Senate and without even naming any successor till a long time afterward. I refer to the case of a former postmaster at New York. The facts are set forth in Executive Document No. 91 of the House of Representatives, first session of the Thirty-Sixth Congress. The postmaster at New York was believed to be a defaulter, and he was promptly removed by an order, in the nature of a *supersedeas*, issued by President Buchanan, on the 10th of May, 1859, without any communication with the Senate. The present

Judge Holt was then Postmaster General, and seems to have taken the entire direction of the matter. Congress remained in session till the 25th June, but no nomination to the vacant office was made by the President up to that time. It may be said that the public funds were in jeopardy, and the President was therefore bound to make the removal. But it is clear that this of itself would afford no apology for an act unwarranted by the Constitution. The question was one of power; he either had or had not the power, and the exercise of it, in the case referred to, was of such marked notoriety, that had there been any person in the land disposed to question it the objection would certainly have been made.

Mr. Madison's views on this subject were freely expressed in his later days, and after his long experience of the operations of the Government were entirely in conformity with those he entertained in 1789. They will be found in his letter to John M. Patton, dated March 28, 1834.

In a letter to Mr. Coles, of October 15, 1834, he said, page 464:

"The claim on constitutional ground to a share (by the Senate) in the removal, as well as appointment of officers, is in direct opposition to the uniform practice of the Government from its commencement. It is clear that the innovation would not only vary essentially the existing balance of power, but expose the Executive occasionally to a total inaction, and at all times to delays fatal to the due execution of the laws."

General Jackson's views were given on his protest to the Senate of April 15, 1834. I present brief extracts from this document:

"The whole executive power being vested in the President, who is responsible for its exercise, it is a necessary consequence that he should have a right to employ agents of his own choice to aid him in the performance of his duties and to discharge them when he is no longer willing to be responsible for their acts. In strict accordance with this principle the power of removal, which, like that of appointment, is an original executive power, is left unchecked by the Constitution in relation to all executive officers, for whose conduct the President is responsible, while it is taken from him in relation to judicial officers, for whose acts he is not responsible."

After having referred to the debate in the Congress of 1789, he said:

"Here, then, we have the concurrent authority of President Washington, of the Senate, and the House of Representatives, numbers of whom had taken an active part in the Convention which framed the Constitution, and in the State conventions which adopted it, that the President derived an unqualified power of removal from that instrument itself, which is beyond the reach of legislative authority. Upon this principle the Government has now been steadily administered for about forty-five years, during which there have been numerous removals made by the President, or by his direction, embracing every grade of executive officers from the heads of Departments to the messengers of bureaus."

This question has also been passed upon by the judiciary, and I refer to this very briefly.

In the case of Hennen, reported in 13 Peters' Supreme Court Reports, page 259, the Supreme Court of the United States fully recognized the doctrine established by the Congress of 1789, and we thus have a substantial agreement on this subject between all branches of the Government, for the long period of seventy-eight years, from 1789 to 1867.

I have thus, I think, established the statement made in the outset—that the chairman of the committee, Mr. STEVENS, is entirely wrong in claiming that the President never removed from office during the sitting of the Senate unless with the consent of the Senate—and have shown that the President alone makes removals, the Senate taking no part whatever in them, but only approving or rejecting nominations to fill offices which the President may send to them, and that this will be proved by reference to the Journals of the Senate. If I am wrong in my position it is due to the importance of the subject that the committee should, before this discussion closes, state the facts on which they base their extraordinary statement.

We now come to a change in the policy of Congress by the passage of the tenure-of-

office act in 1867. The first clause of that act provided—

"That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office and shall become duly qualified to act therein, is, and shall be, entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided*, That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General, and the Attorney General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

This act was passed after a long debate in both Houses, especially in the Senate, and was met by a veto message from President Johnson, sent to the Senate on the 2d of March, 1867, in which he reviewed the history of the executive power of removal with great clearness and ability, and contended that the proposed statute would be a violation of the Constitution as it had been understood and acted upon by all the departments of Government since 1789. The bill, notwithstanding the veto, became a law by a two-thirds vote of both Houses of Congress, and it thus stands on the statute-book.

As Mr. Stanton, the Secretary of War, had been appointed by Mr. Lincoln, and held his office without any new commission having been issued to him by President Johnson, the latter claimed that Mr. Stanton's case was within the very terms of the proviso in the act of 1867, and deeming that the public interests required a change in the War Department he suspended Mr. Stanton from office (after his refusal to resign) on the 12th of August, 1867, and appointed General Grant Secretary of War *ad interim*.

It has been said that the proviso in the tenure-of-office act does not cover the case of Mr. Stanton, for the alleged reason that Mr. Johnson is serving out the "term" of office of Mr. Lincoln. That this construction does not meet the spirit of the proviso, by which it was clearly intended that the President should always have a Cabinet of his own choice, is so clear to every candid mind that it does not admit of question. It is entirely inconsistent with the discussion had in Congress, where no such forced construction was hinted at. The Constitution says of the President, "he shall hold his office during a term of four years." The office and the term, be it more or less, evidently and of necessity go together. Can it be said of any man that he holds a term of office after death? Or of any person that he holds an office, and that it is the "term" of a person who is dead? That it would have been the term of such other person had he lived is quite true, but death severed his connection with all earthly things. The "term" is no longer his. Whatever was left of it passed to his successor.

If the discussion referred to be carefully examined it will be seen that several Republican Senators stated unhesitatingly that the act was not a party measure; that they desired to respect the office and the rights of the President; that they took it for granted that no person fit to occupy the position of a Cabinet minister would hold the place when his relations were unfriendly and hostile to the President, and also that they considered it important that there should be a cordiality of feeling and an agreement as to matters of State policy between the President and those who are his confidential advisers. (See the remarks in the Congressional Globe of 1866-67, of Senators HOWE, FESSENDEN, EDMUNDS, SHERMAN, WILLIAMS, TRUMBULL, and others. I have no time to read them, and can only refer to them.) The idea that the act could be so construed as to place it beyond the power of President Johnson to remove members of his Cabinet, not appointed by him, is entirely at variance with the views expressed during the discussion, and if we are to believe, as I do, what

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many honorable Senators said as to their motives, no such thing was thought of or intended.

With a sincere desire, as it seems to me, to avoid any collision or question with Congress, the President submitted to the Senate by his message of the 12th December, 1867, all the papers connected with the removal of Mr. Stanton, and a statement of the reasons which led him to the performance of that duty. In this document the President stated that when the tenure-of-office bill was before him he consulted his Cabinet in regard to it, and that every member of that body advised him that the law was unconstitutional—the condemnation of Mr. Stanton being “the most elaborate and emphatic.” He referred, as the President states, “to all the arguments on the subject, and added the weight of his own deliberate judgment, and advised me that it was my duty to defend the power of the President from usurpation, and to veto the law.” The Senate did not agree with the President as to the sufficiency of his reasons for suspending Mr. Stanton and he was consequently reinstated in office. Having failed to secure Mr. Stanton's removal in this way, and Mr. Stanton not having resigned, as some of his friends expected him to do, the President, treating the tenure-of-office act as unconstitutional, removed him absolutely under his constitutional executive authority, and, under the act of 1795, designated Adjutant General Thomas Secretary of War *ad interim*, and there the matter now stands, Mr. Stanton having refused to surrender the office to General Thomas. The Senate, having been informed of this action, thereupon adopted the resolutions of disapproval to which I before referred. For this act of removal it is proposed that this House do now impeach the President.

President Johnson stands before you charged with no offense against good morals, with no want of personal or official integrity or capacity, with no inattention to or neglect of duty, but simply with having ventured to differ from Congress as to the constitutionality of the tenure-of-office act, a difference which all the facts show was a conscientious one, and having acted accordingly.

In his construction of this act he is supported, as I hope I have already shown, by the uniform course of all departments of the Government from 1789 to 1867; and in the debate in the Senate on the act of 1867 it was admitted by some of the friends of the bill, and claimed by all its opponents, that its constitutionality would be questioned and disputed. That the President was bound by his oath of office, of such marked significance, to defend his power from usurpation, and to veto the law was particularly urged upon him by Mr. Stanton, who still claims the administration of the War Office.

Is the President of the United States for such a cause and under such circumstances to be impeached? Are we to resort to this extraordinary remedy, one which would draw upon us the comments of the world, because Congress and the President differ as to the constitutionality of a certain statute, when the Supreme Court could in a few weeks hear and finally dispose of the question? What is the world to think of constitutional government, when he who has been specially chosen to maintain it is struck down by the House of Representatives while gallantly standing up in its defense?

Some gentlemen may consider this a very pleasant political episode, and think it will work out well for party purposes. But let me warn them that years hence, this thing, if now accomplished, will return to shame and to plague them. Impeachment, if it now succeed, will become a favorite political remedy for a strong legislative majority in many of our State Legislatures, when the greater part of them happen to differ from their executive on public matters, and once taught how the power is to be used the use will not readily

be abandoned. Like some burden once imposed for some alleged temporary purpose, it is easily fastened upon community, while years of effort are necessary to remove it. What is the end to be gained? The decision, if adverse to the President in this case, will not settle the law as to other incumbents of the executive office. The question will still remain to be settled in the future. Should the Senate find the President guilty of a violation of the law, they surely would not undertake to remove him from office for venturing to differ from Congress on a doubtful question of law. This would virtually be claiming infallibility for themselves. I am quite aware that there are persons who look upon this question as more of a political than a judicial question, but I am sure that the large number of gentlemen of high character in the Senate who will try this matter if it reaches them, will act the part of impartial judges, feeling conscious that they are accountable not to any political party, but to the cause of truth and justice here, and hereafter to a higher tribunal whose administrations are infallible.

Admission of Southern States.

SPEECH OF HON. H. E. PAINE,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

May 14, 1868.

The House having under consideration the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Georgia, and Alabama to representation in Congress—

Mr. PAINE said:

Mr. SPEAKER: I propose to occupy the floor only a few minutes; and before proceeding with my remarks wish to say, for the information of the House, that after the close of the speech of the gentleman from Ohio, [Mr. BINGHAM,] who will follow me, the chairman of the committee [Mr. STEVENS, of Pennsylvania] will call the previous question at a quarter before three o'clock.

Mr. HIGBY. I wish to inquire what disposition it is proposed to make of this bill, whether it is to be left open for debate.

Mr. PAINE. I presume the gentleman did not hear the remark which I just made. I will state again, for the information of the House, that it is the purpose of the chairman of the committee to demand the previous question at a quarter before three, and as soon as he concludes his remarks, which cannot exceed one hour in length, to ask for a vote.

Mr. HIGBY. I hope that the chairman of the committee, or whoever reports this bill, will leave it open for further debate. I wish to say something on this subject; and I do not wish to be confined to five or ten minutes. This is a very important question.

Mr. PAINE. It will be competent for the gentleman to induce the House, if possible, to vote down the call of the previous question.

Mr. Speaker, I shall not detain the House by replying at length to the general and indiscriminate denunciation which you have heard, both from the gentleman who has just taken his seat and from those who have heretofore spoken against the bill. I wish to address myself to certain particular objections which have been urged against this bill elsewhere, as well as on this floor. Most of the objections which have been raised in this House have consisted of loose denunciations of the spirit and policy of the Republican party, and bitter declamation against the action of the people of the States. But the gentleman from Kentucky yesterday referred to and adopted a remonstrance which has been placed before the Committee on Reconstruction, and perhaps laid before the House. This remonstrance is addressed to the Senate and House of Representatives of the United States, and is signed

by Wade Hampton, John P. Thomas, Joseph D. Pope, F. W. McMaster, Samuel McGowan, and W. M. Shannon. The name of one of these remonstrants is not altogether unknown to members of this House.

The gentleman from Kentucky [Mr. BECK] concludes his comments upon this remonstrance with the following words:

“Mr. Speaker, no man can read the remonstrance from which these extracts are taken and lay his hand on his heart and say that he honestly believes he is doing justice to his country and his race by forcing such a constitution on that people.”

Sir, I purpose to examine this remonstrance of these sorrowful knights of the lost cause. I shall do so not only because it excites such fervent admiration in the breasts of my friends on the other side of the House, but because this remonstrance really presents, in a concise form, all the objections which have been or can be, with any degree of plausibility, urged against this bill. The first objection made by these remonstrants, and repeated by the gentleman from Kentucky, is that—

“Article one, section nineteen, of the Declaration of Rights gives justices of peace jurisdiction of all offenses less than felony, and in which the punishment does not exceed a fine of \$100, or imprisonment for thirty days. This is a gross invasion of that boast and bulwark of Anglo-Saxon liberty, the trial by jury. Any one may be arrested and ‘tried summarily,’ before a justice of the peace or other officer authorized by law, on information under oath, without indictment or intervention of a grand jury.”

Let me read the section which so shocks the sensibilities of these liberty-loving patriots. It is in these words:

“Sec. 19. All offenses less than felony, and in which the punishment does not exceed a fine of \$100, or imprisonment for thirty days, shall be tried summarily before a justice of the peace, or other officer authorized by law, on information under oath, without indictment or intervention of a grand jury, saving to the defendant the right of appeal; and no person shall be held to answer for any higher crime or offense unless on presentment of a grand jury, except in cases arising in the land and naval service, or in the militia when in actual service in time of war or public danger.”

Now, sir, I hold in my hand the constitution of the State of Iowa, and I see that the eleventh section of the Iowa bill of rights is identical with that which I have just read. Not a single word is found in one of them which is not found also in the other. The corresponding provision in the bill of rights of the State of Maine is in the following words:

“No person shall be held to answer for a capital or infamous crime unless on a presentment or indictment of a grand jury, except in cases of impeachment, or in such cases of offenses as are usually cognizable by a justice of the peace, or in cases arising in the Army or Navy or in the militia, when in actual service, in time of war or public danger.”

That of New Hampshire is in these words:

“Nor shall the Legislature make any law that shall subject any person to a capital punishment (excepting for the government of the Army and Navy and the militia in actual service) without trial by jury.”

The general, if not universal, practice of the States of the Union is opposed to the assumption that the trial of petty offenses by justices of the peace or police magistrates is an invasion of the right of trial by jury. Even Kentucky provides by her bill of rights for jury trials only in prosecutions by information or indictment.

The next objection is, that—

“Section twenty-four enables the Legislature to authorize and empower any one—a police or military officer—to suspend the laws of the State or the execution of the laws.”

The fact, however, is that section twenty-four is in these words:

“Sec. 24. The power of suspending the laws or the execution of the laws shall never be exercised but by the General Assembly or by authority derived therefrom; to be exercised in such particular cases only as the General Assembly shall expressly provide for.”

And the twentieth article of the bill of rights of Massachusetts is identical with this, substituting the words “ought to” for “shall,” and “Legislature” for “General Assembly.” The sixteenth section of the Kentucky bill of rights is in these words:

“And no power of suspending laws shall be exercised unless by the General Assembly or its authority.”

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The twelfth section of the bill of rights of Pennsylvania is in the same words. So are the tenth section of the bill of rights of Delaware, the seventh of that of Maryland, and the seventh of that of Virginia.

This provision of the South Carolina constitution is copied literally from the bill of rights of the State of Massachusetts into that of Vermont, and is substantially embraced in the constitutions of nearly all the States, generally in the form which it assumes in the constitution of Kentucky, the State represented in part by the gentleman who urges this objection. The next objection is that section twenty-five authorizes the General Assembly to subject any one to martial law, or to the pains and penalties of martial law, whenever they think proper. On the contrary, section twenty-five provides that—

"No person shall, in any case, be subject to martial law, or to any pains or penalties by virtue of that law, except those employed in the Army or Navy of the United States, and except the militia in actual service, but by authority of the General Assembly."

This provision is copied from the constitution of the State of Massachusetts. It is also found in the thirty-fourth section of the bill of rights of New Hampshire, and is repeated substantially in many of the constitutions of the States of this Union, and is moreover in strict accordance with the provisions of the Constitution of the United States, which does not withhold from the State Legislatures the right to suspend the writ of *habeas corpus* when in case of rebellion or invasion the public safety may require it. This bill of rights neither authorizes nor attempts to authorize a suspension of the writ in any other case.

The next objection is, that—

"Section twenty-eight clearly and distinctly empowers and authorizes the Legislature to keep, up and maintain a standing army in time of peace."

Now, sir, section twenty-eight is in these words:

"Sec. 28. The people have a right to keep and bear arms for the common defense. As in times of peace armies are dangerous to liberty, they ought not to be maintained without the consent of the General Assembly. The military power ought always to be held in an exact subordination to the civil authority, and be governed by it."

This is copied literally from the corresponding provision in the constitution of the State of Massachusetts, which is repeated literally in that of Vermont, and also substantially in that of Kentucky, Pennsylvania, and other States.

The next objection is thus stated:

"Section two of article four provides that the judges of the supreme court shall be elected for six years; and section thirteen of the same article ordains that circuit judges shall hold their office for a term of four years. This destroys the independence of the judiciary, and makes them political partisans, with all the temptations and corruptions of politicians." "Heretofore the judiciary of this State, elected for life, have always been above reproach, and their crime has never been sullied with a stain of suspicion. Henceforth the judiciary of South Carolina will be corrupt and subservient."

These wise men are evidently satisfied that a life tenure is better for the judiciary than a term of years. They may be right in this, but unfortunately for them the weight of authority is against them. The contrary doctrine is generally, if not universally, recognized by our State constitutions, and South Carolina certainly ought to be the last State to assume to teach anything on this or kindred subjects, either by precept or example. I presume no gentleman will consider this a serious objection to the constitution. I doubt not almost every member of the House will consider it a strong recommendation.

The next objection is, that—

"Section twenty-two of article four of the constitution gives justices of the peace jurisdiction in cases of bastardy and all contracts and torts as high as \$100."

The first branch of this objection is remarkably suggestive; but I will make no comment upon it.

So far as the provision of the constitution goes which gives justices of the peace jurisdic-

tion of contracts and torts where the amount claimed does not exceed \$100, I believe this constitution forms no exception to the general principle which obtains throughout the United States. It is, perhaps, not a universal rule, but it is a general and almost universal rule that justices of the peace should have such jurisdiction up to a maximum amount fixed by the constitution or law.

But these remonstrants are very careful not to state that section twenty-four secures appeals in all such cases.

The next objection is, that—

"Section twenty-six of the constitution denies to the judges the right of charging juries in respect to matters of fact."

This section is to be found on page 13 of the constitution, and is in these words:

"Sec. 26. Judges shall not charge juries in respect to matters of fact, but may state the testimony and declare the law."

These gentlemen and their friends on the other side of the House who adopt their remonstrance desire the judges, I suppose, to have the right to find and inform the jury what facts are established by the testimony in all cases; but this constitution only gives them the right to state the testimony and declare the law applicable to it. Certainly South Carolina would seem to be the only spot out of Ireland capable of producing men who could preach such a doctrine and clamor for jury trials all on the same day.

The next objection is, that—

"Section thirty-three takes from the Legislature all discretion as to the adoption of the proposed amendment to the Federal Constitution disfranchising the people of South Carolina."

Now, sir, this is the only objection that I can find that has any validity, if, indeed, this has any validity, against the constitution of South Carolina. If any objection to this section is entertained in this House it is not because any gentlemen on this side of the House are opposed to requiring the Legislature of South Carolina to vote for the adoption of the fourteenth article of the amendments to the Federal Constitution, for we ourselves by our reconstruction laws require that. All of us believe, as a matter of principle and policy, they ought to be compelled to adopt that amendment before admission, and all of us, so far as this question is concerned, will heartily rejoice that the constitution of South Carolina embraces this provision if it shall be found in conformity with the Constitution of the United States. Now, the Constitution of the United States provides that these constitutional amendments shall be submitted to the Legislatures of the several States as one of the modes of their ratification. If this gives to the Legislatures of the States chosen under the Constitution the exclusive right to pass upon these constitutional amendments, and to the convention, which makes the organic law itself, no such right, then the result is that this provision in the constitution of South Carolina is null and void, and does not fetter the Legislature of the State of South Carolina. But, sir, whether it is nugatory or valid, it would be no excuse for any gentleman upon this side of the House to reject that constitution; that it contains a provision, which if binding, is right and beneficent, and which, if null and void, is harmless.

The next objection is, that—

"Section thirty-four declares null and void all contracts for the purchase of slaves, in violation of the Constitution of the United States, which declares that no State shall pass any law impairing the obligation of contracts."

I will make no comment upon an objection of that kind to the constitution of the State of South Carolina, or these other constitutions presented for our approval or disapproval.

The next objection is, that—

"Section two of article eight enfranchises every male negro over the age of twenty-one, whether a convict, felon, or a pauper, and disfranchises every white man who has held office in South Carolina."

Now, sir, the language of that section is this:

"Sec. 2. Every male citizen of the United States, of the age of twenty-one years and upward, not laboring under the disabilities named in this constitution, without distinction of race, color, or former condition, who shall be a resident of the State at the time of the adoption of this constitution, or who shall thereafter reside in this State one year, and in the county in which he offers to vote, sixty days next preceding any election, shall be entitled to vote for all officers that are now or hereafter may be elected by the people, and upon all questions submitted to the electors at any elections."

I have no comment to make on that objection to the constitution of South Carolina.

The next objection is, that—

"Section eight expressly prohibits the Legislature passing any law depriving a convict of larceny of the right of suffrage."

I will read that section:

"Sec. 8. The General Assembly shall never pass any law that will deprive any of the citizens of this State of the right of suffrage, except for treason, murder, robbery, or dueling, whereof the persons shall have been duly tried and convicted."

That is a most righteous and politic provision, made to prevent these patriotic remonstrants from disfranchising or selling into servitude for a period of twenty years or more, as they have already done in repeated instances, men charged with petty offenses, because they happened to be black.

Mr. UPSON. I desire to ask the gentleman if that is the clause which specifies the offenses which the gentleman from Kentucky [Mr. BECK] said "gentlemen" were not likely to commit?

Mr. PAINE. I do not know what the gentleman from Kentucky did say on the subject. I did not happen to hear it.

I now read another and the next objection to the constitution:

"Section sixteen provides that no debt contracted by this State in behalf of the late rebellion, in whole or in part, shall ever be paid. Why should the non-property holding negroes, Yankees, and southern renegades in the convention prohibit the property holders from paying these debts if they see proper to do so, and preserve untarnished the honor of their State?"

I make no comment on that. It speaks for itself.

The next objection is this:

"Section three of article ten establishes a uniform system of free public schools throughout the State, and provides for the division of the State into school districts."

What a commentary on the character of the wise men who utter it and of the State which produces such wise men! It certainly behooves the "ancient chivalry" of South Carolina to "remonstrate" vigorously against such calumnies.

The next objection is that—

"Section four makes it compulsory for all children between the ages of six and sixteen to attend school for two years. The compulsory system may suit the genius of a despotic Government like Prussia, but is at war with the spirit of our free institutions."

This, too, is strikingly characteristic of the source from which it emanates. It reminds us of the night of bondage from which these States have just emerged, and into which these remonstrants seek again to force them, and it lifts the veil and reveals to us the future prosperity and advancement and glory of these regenerated States.

The next objection is that—

"Section eight provides for the establishment of State reform schools for juvenile offenders."

I make no comment on a provision so common in constitutions of the United States and so beneficent in its results.

The next objection is this:

"Section five of article eleven forces each county to provide for the support of the aged, infirm, and unfortunate."

This section is in these words:

"Sec. 5. The respective counties of this State shall make such provision as may be determined by law for all those inhabitants who by reason of age and infirmities or misfortunes may have a claim upon the sympathy and aid of society."

This power would exist without special grant in a State Legislature, and is universally exer-

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cised. The same provision is made in section three, article ten, of the constitution of Indiana, and I doubt not in the constitutions of many other States.

The next objection is this:

"Heretofore South Carolina has pursued a wise policy in refusing all divorces. The marriage contract is not like that of any other, which the parties may rescind at pleasure, without injury to society. There is a third party—innocent and helpless children—who are deeply interested in all divorces. Moreover, it tends to demoralize every community where it is allowed or tolerated. But section four gives the courts power to grant divorces. This section was intended, perhaps, for the especial benefit of the negroes. It ought also to have legalized polygamy, which has likewise great favor with this class of people."

It seems to be the judgment of the large majority of the American people that courts should be permitted in certain cases to grant divorce. Accordingly in almost all of the States courts are clothed with this power. Of course the wise men of South Carolina think differently and know better. There is nothing novel in this. But that they should express the opinion that polygamy ought to be legalized is certainly surprising when we consider how little concern they have felt heretofore about the legality of such practices.

The next objection is stated in the following words:

"The settlement of a wife's property, provided for in section eight, might have been left to the discretion and wisdom of the Legislature. It is an experiment, and, if found mischievous or unwise, the Legislature ought to have the power of changing or altering the law. But this ordinary act of legislation has been incorporated in the constitution as a fundamental law, not to be repealed."

I will read the section referred to:

"Sec. 8. The real and personal property of a woman, held at the time of her marriage, or that which she may thereafter acquire, either by gift, grant, inheritance, devise, or otherwise, shall not be subject to levy and sale for her husband's debts, but shall be held as her separate property, and may be bequeathed, devised, or alienated by her the same as if she were unmarried: *Provided*, That no gift or grant from the husband to the wife shall be detrimental to the just claims of his creditors."

I now read the corresponding provision in article fourtgen, section five, of the constitution of Oregon:

"The property and pecuniary rights of every married woman at the time of marriage, or afterward acquired by gift, devise, or inheritance, shall not be subject to the debts or contracts of the husband, and laws shall be passed providing for the registration of the wife's separate property."

The fourteenth section of the eleventh article of the constitution of California and the nineteenth section of the seventh article of the old constitution of Texas are both in the following words:

"All property, both real and personal, of the wife owned or claimed by her before marriage, and that acquired afterward by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife in relation as well to her separate property as that held in common with her husband. Laws shall be passed providing for the registration of the wife's separate property."

The next objection requires no comment. It is that a certain ordinance invalidates the rebel State debts.

The next objection also answers itself. It is in these words:

"The ordinance to create a board of land commissioners authorizes the purchase of lands for the purpose of selling them out in small tracts to purchasers on credit."

The next objection is that—

"The principle which pervades that entire instrument is that all taxation, except for a single purpose, shall be imposed upon real estate and upon the income from the sale of merchandise."

To show the real character of this objection I will read all the provisions bearing on this point:

"ARTICLE IX.—Finance and Taxation.

"Sec. 1. The General Assembly shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal, and possessory, except mines and mining claims, the proceeds of which alone shall

be taxed; and also excepting such property as may be exempted by law for municipal, educational, literary, scientific, religious, or charitable purposes."

"Sec. 2. The General Assembly may provide annually for a poll-tax, not to exceed one dollar on each poll, which shall be applied exclusively to the public school fund. And no additional poll-tax shall be levied by any municipal corporation."

"Sec. 4. No tax shall be levied except in pursuance of a law, which shall distinctly state the object of the same; to which object such tax shall be applied."

"Sec. 5. It shall be the duty of the General Assembly to enact laws for the exemption from taxation of all public schools, colleges, and institutions of learning, all charitable institutions in the nature of asylums for the infirm, deaf and dumb, blind, idiotic, and indigent persons, all public libraries, churches, and burying grounds; but property of associations and societies, although connected with charitable objects, shall not be exempt from State, county, or municipal taxation: *Provided*, That this exemption shall not extend beyond the buildings and premises actually occupied by such schools, colleges, institutions of learning, asylums, libraries, churches, and burying grounds, although connected with charitable objects."

"Sec. 6. The General Assembly shall provide for the valuation and assessment of all lands and the improvements thereon, prior to the assembling of the General Assembly of 1870, and thereafter on every fifth year."

"Sec. 8. The corporate authorities of counties, townships, school districts, cities, towns, and villages may be vested with power to assess and collect taxes for corporate purposes; such taxes to be uniform in respect to persons and property within the jurisdiction of the body imposing the same. And the General Assembly shall require that all the property, except as heretofore exempted within the limits of municipal corporations, shall be taxed for the payment of debts contracted under authority of law."

The next objection is set forth in the following graphic and characteristic language:

"We have thus suggested to your honorable body some of the prominent objections to your adoption of this constitution. We waive all argument upon the subject of its validity. It is a constitution *de facto*, and that is the ground upon which we approach your honorable body in the spirit of earnest remonstrance. That constitution was the work of northern adventurers, southern renegades, and ignorant negroes. Not one per cent. of the white population of the State approves it, and not two per cent. of the negroes who voted for its adoption know any more than a dog, horse, or cat what his act of voting implied. That constitution enfranchises every male negro over the age of twenty-one, and disfranchises many of the purest and best white men of the State."

This raises the great question of the enfranchisement of the loyal colored men of the South, which question the American people have, thank God, resolved not to submit to the decision of southern rebels. I will only detain you to hear the modest plan for the solution of this question presented by these remonstrants. I read from their manifesto:

"Resolved, That under the action of the State of South Carolina, heretofore taken, we recognize the colored population of the State as an integral element of the body-politic; and, as such, in person and property, entitled to a full and equal protection under the State constitution and laws. And that, as citizens of South Carolina, we declare our willingness, when we have the power, to grant them, under proper qualifications as to property and intelligence, the right of suffrage."

I have now examined *seriatim*, in the presence of the House, all the points of this remonstrance, and, if I were given at all to theatrical attitudes, I should be ready, in compliance with the request of the gentleman from Kentucky, to lay my hand upon my heart and declare that this constitution, which no one proposes to force upon the people of South Carolina, as he asserts, but which has been framed by them and adopted by a majority of forty-three thousand votes, is as near faultless as any State constitution now in force in the United States. Is it possible, sir, that the gentleman from Kentucky can lay his hand on his own heart and declare that in all this thin balderdash of Wade Hampton & Co. he can find any decent pretext for denying to these people the constitutions of their choice, which they themselves have by such overwhelming majorities adopted?

Now, Mr. Speaker, these objections really comprise the substance of all the objections that have been urged on this floor against these constitutions. I believe that no member of this House will find here any excuse for rejecting the constitutions presented to this House to-day, and under which these States ask for

admission to representation in this and the other branch of Congress.

Mr. PHELPS. Will the gentleman yield?

Mr. PAINE. I have already transgressed the limits of the time that was allotted to me, and have been expecting to hear the hammer fall. I yield now to the gentleman from Ohio, [Mr. BINGHAM.]

Internal Tax.

SPEECH OF HON. R. C. SCHENCK,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

June 1, 1868.

The House being in Committee of the Whole on the state of the Union on the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes—

Mr. SCHENCK said:

Mr. CHAIRMAN: A great deal that I may have to say on this project of a law which we have now placed before the House and the country, I shall reserve for the debate that will necessarily arise on the various amendments that may be offered and points made in the progress of its consideration and discussion. The bill is long—the longest, perhaps, ever submitted to Congress; but gentlemen must not be alarmed on that account. It need not occupy our time in disposing of it at all in proportion to that length. The long and patient labor of the Committee of Ways and Means will be found to have abridged in considerable degree, I think, the labor of this committee.

Gentlemen will please to observe the title of this bill. It tells truly and succinctly the character and extent of our work. It is "a bill to reduce into one act and to amend the laws relating to internal taxes."

When the Committee of Ways and Means at this session entered first on the task of considering what legislation might be required in relation to internal taxes, it was with the expectation—an expectation shared in probably by most members around me—that their attention and their labor might be confined to changes of some parts of the law to meet generally the altered condition of things in the country, and particularly to satisfy the reasonable desire of the people for relief to be extended to some of the industrial interests which had been heavily burdened under the necessities of a state of war, but from which a portion at least of those burdens might now be lifted. Added to this was the conviction of an evident need for more ingenious devices, and more vigorous provisions, to prevent or punish the sadly, dreadfully increasing growth and boldness of fraud in the practices of tax-payers and of officials—practices which were threatening, if unchecked, to rob the Government of a large proportion of the revenue legitimately accruing and needed for its uses. It was soon apparent, however, that our work, to be thorough, could not stop with such partial accomplishment.

The present laws relating to internal revenue are embraced in twenty-five different acts, spreading through the statute-book from August, 1861, to the present session. These acts, in succession, enlarge, restrict, modify, repeal, and not unfrequently repeat or contradict, much of what goes before, so that the whole mass of them, if not chaotic, are at least, in many respects, anything but clear and easy to be understood by the people who are to obey or by the officers who are to enforce them. The obscurities are only in a degree removed by interpretations and regulations. I beg to be understood, in speaking thus, as not meaning to imply any disparagement of the work of any former committee or former Congress. Internal taxation was an experiment—a necessity on which we were driven; and it was not to be expected that a new system should be

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built up and adapted to the business and habits of our country and people hastily and under the pressure of circumstances without its being in many respects imperfect in form, if not crude in substance. So we found it.

I do not for a moment pretend to claim perfection for the bill before you, and by which we have sought to remedy some of these defects and evils in the existing law. But we have done the best we could, with these views of what it was our duty to attempt. The compilation and condensation of the internal revenue laws, prepared at the office of the Commissioner of Internal Revenue, a copy of which I hold here in my hand, contains one hundred and forty-one pages of closely printed matter. The pamphlet edition of the bill we present shows one hundred and twenty-four pages, but, allowing for the difference in the width of the print, the contents are perhaps about the same. This is owing to the fact that while we have codified, and very much compressed and abridged what is now in the law, we have also added a great number of new provisions that seemed necessary for effective legislation. I do not wish to be thought to magnify the labor of the committee, but some idea of the nature of our work may also be obtained by the inspection of this curiously mottled copy of the bill which I now exhibit to you. I will explain what it is. Mr. Bassett, the very intelligent and faithful clerk of the Committee of Ways and Means, has ingeniously prepared for my convenience a copy which shows over all its pages and on the margin by distinctive red and blue pencil marks what sections or portions of each section are new matter, and what parts are reenactments of the existing provisions of law. Gentlemen will observe what a perfect piece of mosaic work he has made of it. For instance, one section on which I now cast my eye I see by the markings and marginal references is made up by selecting here a sentence and there part of a sentence, and there a separate clause, collected from as many as six different places scattered through the present statutes, all on the same subject, and intimately related, but now for the first time brought together in their proper connection.

Having said this much in regard to the general scope of our labor and the spirit in which we have conducted it, I will proceed now, Mr. Chairman, to make some brief explanations and analysis of the bill we are considering, so as to give gentlemen some idea of its structure, and the most material points in which it differs from the present law. The key-note of one great change which we propose, and which pervades and distinguishes our bill throughout, is to be found in the first and immediately succeeding sections. We propose, it will be seen, to make of the office of the Commissioner of Internal Revenue an independent department. By this I do not mean a department with an officer at its head who is to be expected, under the usage of the Government, to be invited to the Cabinet councils of the President; but one rather like the Department of Agriculture with a chief, styled, not a secretary, but a commissioner. The provisions which follow immediately after this will make our purpose obvious. We desire to give this independent character to the Commissioner of Internal Revenue in order not only to mark and secure his own responsibility and accountability for the conduct and management of all affairs in the department, but to enable him, under the Constitution, as "head of a Department," to appoint all his subordinates, for whom and whose conduct also we intend he shall be in the fullest degree responsible.

No one could have studied or observed, even in the most casual way, the working of our internal revenue system without having been forced to the conclusion that the greatest present evil under which we labor, and that which contributes most to defeat the collection of our

taxes, is the dishonest character of the officials employed, and when remedies for these are sought the impossibility of finding anybody responsible for the appointment of such agents or for their conduct. In short, there is no head to the establishment; or perhaps it would be more nearly true to say that, worse than that, it is a triple-headed monster. We have the President, Secretary of the Treasury, and the Commissioner of Internal Revenue, to look to—all and each—and yet in fact neither of them acknowledging full responsibility.

What is the consequence? Tax-payers commit frauds, officers connive at them, often they even give active assistance in the stealing that is going on; complaints are made; the Commissioner replies that he has no power over these officers to remove the thieves and appoint honest men, because the selections are made through the Secretary of the Treasury and by the President. The Secretary, if appealed to, explains that he can do nothing but advise the President, and shelters himself in that way. The President interposes both the Secretary and the Commissioner between himself and the people; and the simple result of it all is, that, with the whole country looking on, the stealing is not stopped, but proceeds, growing worse and worse, and the scoundrels bolder and bolder from day to day, until the whole aggregate evil is appalling, and it has become a question who rules this country—whether its proper constituted authorities or gangs of tobacco thieves and a "whisky ring?"

That I do not speak too strongly, in explanation of this first section of the bill upon which I am commenting, I will undertake to show by a brief reference to some facts which may be considered more fully hereafter when we come to debate the particular sections of the bill involving the questions under consideration, the independence of the department.

The New York Evening Post charges that the Committee of Ways and Means, and their chairman, by introducing a bill of the character of that now before you, embracing as one of its distinguishing characteristics the feature to which I am now referring, are assuming to be king-makers. It says that to give such power to a commission or to any officer of this Government, as is provided for by the various sections of this bill, is virtually to confer power equal to royalty. And the writer in that paper illustrates this by reference to one of the sections, section ten, a section which gives to the Commissioner power to change and alter the existing collection districts as may seem to be expedient, or may become necessary in the execution of the law.

Sir, that was an unfortunate illustration, for it so happens that that section ten is one of the sections copied from the existing law, with the single exception of changing the head of the department. It is proposed by this section to confer upon the Commissioner of Internal Revenue a power before vested in the Secretary of the Treasury and the President. If it be admitted that there must be an individual responsible, a certain head of the department, then you admit the necessity of that among other provisions of the law, and in looking around for some exemplification of the kingly power to be exercised by this head of the department, it was unfortunate that the writer of the article should have stumbled upon that which is virtually now in the law.

Mr. Chairman, I admit that this bill will confer very large powers upon the Commissioner of Internal Revenue, and powers which ought not to be delegated to him or to any officer of the Government, unless made necessary for the due and secure enforcement of the law. The question is not upon the delegation of authority. Everybody will admit that a head of the department must have this power. The true question is, whether this one person clothed with these extraordinary powers, but restrained by a proper accountability or responsibility, will

not secure for us, from the general fund of collected taxes, a larger amount for the use of the Government than the present system yields.

The writer in the New York Evening Post seems to have no fear (and perhaps such is the prevailing sentiment in these days) of the President being made a king. But I say that whether it be President, Secretary, or Commissioner, there ought to be no fear in placing the power somewhere and with some officer, who can be distinctly known and who can be distinctly held by the people to the performance of his trusts.

If this House and the Congress should not agree with us in doing what we have thought to be most expedient—to create this department and put at the head of it an officer, saying to him, "There are the powers; here is the revenue to be collected; the whole accountability is thrown upon you; collect these taxes, or neglect to do it at your peril"—if Congress, I say, should not agree to that, then I will at least ask that, refusing to confer this power upon the Commissioner with such instructions, they shall confer it upon the Secretary of the Treasury without the intervention of the commissioner, or upon the President without the intervention of the Commissioner or Secretary; upon somebody, somewhere, so that we may know who to hold to account for that which is done, and for that which is omitted to be done. I am pleading a cause of vital interest to the country, the raising of revenues honestly, fairly, and without fraud and robbery, to the amount of our necessities.

I say there is in fact no head now. How do I prove this? Take a report which came in the shape of a letter from the Secretary of the Treasury to the Senate on the 14th of February last in answer to a resolution calling for information. If any gentleman will take pains to look at that document he will find that it embodies, among other things, this statement by the Secretary:

"The recommendations of the Commissioner in regard to some fourteen officers are still under advisement, and proper means are being used to ascertain whether or not the incumbents ought to be removed, and whether removals, if considered advisable, are likely to be effected by the confirmation by the Senate of such nominations as may be made by the President."

"It must be obvious to the Senate that the failure of an effort to effect the removal of an inefficient and dishonest officer would prejudice rather than benefit the service, and that, therefore, it is not only necessary that the character of officers should be subjected to proper scrutiny, but that the practicability of changes should receive careful consideration."

And there comes in another element of necessity to be calculated when we are proposing to make this Commissioner not only the single head of the department, but to confer upon him the power of removal and appointment. You have now not only a triple head to the department, responsibility being divided between the President, the Secretary, and the Commissioner, but a fourth body comes in to share in the responsibility, to wit, the Senate; and if the Secretary, the Commissioner, and the President can be agreed as to what shall be done in reference to removals and appointments, then arises the other difficulty. They express a doubt as to whether there can be anything like accord between them and the Senate, so as to procure confirmation of those who may be appointed.

What further does the Secretary say? He claims that all recommendations for removal during the session of the Senate have received prompt and proper attention by the Executive, and complains further that much of the difficulty arises from the restraint under the tenure-of-office law. Now, what are the facts? Here are the names of twenty-seven persons, the list being confined to assessors and collectors alone, the removal of about one half of whom was called for in July last, nearly a year ago, and the removal of the others in December last. Of the whole twenty-seven, how many, think

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you, have been displaced up to this time? I believe but one.

Let me give you a few items upon these points, obtained by investigation at the Commissioner's office. I find that on the 15th of July, 1867, while the Senate was in session, the Commissioner made recommendations for the removal of four assessors and three collectors; that all of those assessors are still in service; and that one of the three collectors was suspended in September last, but the case has never been disposed of by the Senate; and another of the collectors afterward resigned. So that of these seven recommendations for the removal of officers not a single recommendation has yet been effective. All the assessors are still in office; one of the collectors has resigned, and one only has been suspended. Therefore if it can be claimed that there has been any action upon the recommendations in these cases, it amounts simply to the suspension of one of the seven officers, not one of them having been removed.

Again, on the 30th of December, 1867, eight collectors and two assessors were recommended for removal. One of these collectors, Steadman, afterward resigned; one of the assessors of the first district in Mississippi has been removed; but all the others of the ten are still in service.

On the 15th of January, 1868, three assessors and two collectors were recommended to be removed; the recommendation being made as in all the other cases by the Commissioner. In reference to those no change whatever founded upon these recommendations has been made. A man by the name of Hopkins, in the first district of Georgia, was suspended, although he was not on the list made up by the Commissioner. The Secretary is mistaken in this respect; at least in the Secretary's reply, which contains all the letters of this kind, I find no letter making the recommendation. But this officer was suspended upon a charge of perjury in taking the test-oath at the time of entering on the duties of his collectorship. But it was not until a year after the taking of that oath, nor until immediately after his election to the constitutional convention of Georgia, that the suspension was made; but no successor has been appointed.

In short, of all the removals recommended by the Commissioner it seems that only one has been made. Four suspensions have been made by the President during the recess last summer, and one in January, while the Senate was in session; but neither of these has been acted upon by the Senate. Several recommendations, I find, have been made by the Commissioner since the letter of the Secretary, dated on the 14th of February last, one recommending the removal of the collector of the first South Carolina district, and also of the collector in the first district of Mississippi; but upon neither of these recommendations, so far as I can ascertain, has there been any action by the Secretary or the President. The office of assessor in four districts has been vacant since the 3d of March, 1867; in one district since the 15th of November, 1867; in two districts since December, 1867; and in one since January, 1868.

But I will not detain the committee with further facts of this character. I give them by way of illustration; and what I say is that although a year ago it was manifest to the Commissioner that fraud and peculation and the connivance at fraud were marking the career and course of a great many subordinates in the internal revenue service, and the proper authorities were appealed to as the laws now exist to have these delinquent and scoundrel officers removed, such is the diffusion of responsibility between the President, the Secretary of the Treasury, and the Senate, that little or no regard, you may say almost none at all, has been paid to this or any subsequent recommendation.

What I claim, therefore, is, that it has become

apparent to the country, as it has to us while looking into this matter, that if we would have the revenue of the country collected it is time to stop this diffusion of responsibility, existing under the present law to such extent that it seems to rest upon nobody with sufficient weight to procure a certain performance of the duty of seeing that we have good and faithful officers to assess and collect the tax. Look at one of these consequences. Here is the second district in Indiana, where a vacancy occurred on the 3d of March, 1867, nearly fifteen months ago, and yet that district is vacant to this day. In the first New York, tenth Pennsylvania, fourth Wisconsin, in all these districts the vacancy in the assessorship has continued from the 3d of March, the same date, up to this time. In the fourth district of Virginia no assessor since the 15th of September, 1867. In the fourth district of Ohio none since the 20th of December, 1867.

Mr. NIBLACK. The gentleman from Ohio refers to the second district of Indiana. I see that my colleague, [Mr. KERR,] who represents that district, is not now in his seat; and I wish to say that that vacancy continues by reason of the failure of the Senate to confirm such persons as have been nominated. Repeated nominations have failed to be confirmed on account of the disagreement between the Senate and the Executive. I presume in the other cases the difficulty has arisen in the same way.

Mr. SCHENCK. The committee will bear me witness that I have not in the course of this argument been laying the responsibility upon any particular branch of the Government. I have said that the law is such that between the President, the Senate, the Secretary, and the Commissioner, there is such division of responsibility that we can get nothing done.

Mr. NIBLACK. I thought it added force to the gentleman's illustration.

Mr. SCHENCK. It does. I am obliged to my colleague on the committee for the suggestion. It proves even if the President were all right, if the Secretary were all right, if the Commissioner were all right, it might yet be that there is another body that would fail to meet the necessity in not acting upon the recommendations made by the proper Department. I do not say it is so. I repeat, from the divided responsibility and the want of accord between them we have no proper officers, I might almost say none, with exceptional cases, to collect the revenue, and the stealing goes on.

But my argument is, at present at least, confined to this point, that whether it be the fault of the President or of the Senate we have no accord between them; or whether the Commissioner has not enough influence with the Secretary, or the Secretary not enough with the President, or whether nominations are not made at all, or if nominations are made, they are so improper that the Senate in the discharge of their duty do not feel they ought to confirm them, wherever the fault be, every one of these facts tends to illustrate the one single proposition, we have an establishment without a responsible head, and the law will never be executed and the tax never collected until we reduce our system to one of concentrated responsibility.

Our method of effecting this is to give to the head of the Department, whoever that head may be, entire power over the subordinates of the Department; to appoint them for sufficient reasons, to fill vacancies when they may occur, and to remove them when, in his judgment, they are not properly qualified to discharge the duties confided to them.

There are three ways in which the responsibility of subordinates might possibly be provided for, and every one of them received, before we came to the conclusion we have embodied in the first sections of the bill, attention and discussion by the committee.

It was thought by some that one mode of get-

ting good officers, as it was vitally necessary to secure intelligence and honesty, would be to adopt for the internal revenue department something like the provisions of the civil service bill, which is now pending in this House, and which has been so admirably presented and firmly insisted on as a cure for these evils in our political system by the accomplished gentleman from Rhode Island, [Mr. JENCKES.] But there was a difficulty in legislating differently for this department from other Departments. There was a difficulty in adopting all the machinery of a board of examiners as contained in that bill now pending before you, (and which I intend, for myself, most heartily to support,) and it was thought better not to attempt such special legislation in reference to one particular department, but to apply a cure for the evil now, even if that cure should come hereafter in another shape by a general bill on the subject.

Another proposition, and by some at first insisted upon, was that good officers would be secured if you required that all the inspectors, special agents, storekeepers, and other subordinates should have the confirmation of the Senate superadded to the nomination of the President, and thus, by concurrent action of the President and Senate, the best men might be selected. I think a sufficient answer to that proposition has already been made by the illustration I have given in regard to assessors and collectors. If with a limited number of these officers, two hundred and forty only of each kind, assessors and collectors, we cannot have that coöperation between the President and Senate which is requisite to secure honest men of these classes, how much worse would "confusion be confounded" if we were to throw upon the Senate the burden of considering, examining, and deciding upon the case of each one of the inferior officers?

I concluded then (and others agreed with me) that the proper mode was to concentrate the responsibility in one particular head of department; and confessing that the powers are great, I maintain that the emergency is greater, and to meet this emergency this plan is presented in the full confidence of its success.

The collection of an internal tax must always be accompanied with much that is disagreeable to an officer of the law, and much that makes it odious to the people who are compelled to submit to what are naturally unpleasant requirements. But one reason for that is, if you are to collect the excise at all, if you are to impose an internal tax to meet the necessities of the Government, it is a tax of a nature which requires above all others, perhaps, that there should be a prompt, ready, almost arbitrary power exercised at each stage of collection. Taking for granted, then, that power of this kind must be lodged somewhere and with some officer, and satisfied that if you distribute it the power will not be exercised for the benefit of the country at large, but that those whose duty it is to enforce the law will escape responsibility by division of their accountability to the public, we have settled upon the conclusion that the true way to get the tax collected is to have it done under one officer strongly empowered and armed for the purpose, and to hold him to the strictest account for everything that he shall do under the law, under such circumstances that all public observation and all watchfulness of the law may be concentrated upon him without the possibility of his escaping from that accountability.

Does this House recollect a very remarkable communication made by the Secretary of the Treasury a few months ago touching this subject? It was found during the last session of the Thirty-Ninth Congress, some time before we adjourned, that there had been established or grown up under the authority of the Treasury Department, in the city of New York especially, but also in some of the other cities of the Union, what were called metropolitan boards. As it

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was a provision for the investment of power in officers not recognized nor provided for in the revenue laws of the country, I myself offered a resolution calling upon the Secretary of the Treasury for information as to the reason for their creation, and the conferring of power upon them outside of the law. You may remember his answer. It is on record. The Secretary of the Treasury, in explaining what he had done, informed us that his action was necessary, because he could not trust the officers of the revenue who were employed in these different cities, but was compelled to create a board to sit perpetually and watch them. We said then it would have been far better for the Secretary of the Treasury to have removed the defaulting and rascally officers; but he threw himself upon that confession before Congress and before the country, and I am very well satisfied that the confession did but disclose the proof that he stood aghast in the center of his cordon of officials, knowing that they were stealing the revenue which it was his duty to see collected, and he had deemed it impossible to correct the evil without setting somebody else to watch the rogues he had in his employ.

Now, then, I want to get rid of that whole necessity, and I end upon this point, as I began, with admitting that this is very great power to be conferred upon a single officer—not much greater, however, by the way, than is exercised under some degree of supervision, it is true, but almost without control, by the collector of customs having an official army under him at the port of New York; but it is great power to be conferred upon any one officer. And yet while this great power is thus conferred, and as I claim necessarily conferred, I hope gentlemen will find as they advance further through the bill and see its different provisions, that we have taken good care to hold this officer himself to the completest account for that which he may be called upon to do. When we come to discuss those sections of the bill it may be that I shall have many more illustrations to give to the House from facts which I have collected by investigations made at the revenue department in relation to the bad working of the present system; but I leave it for the present.

I desire now to ask the attention of the committee to the peculiar features of the law which we propose as it regards the organization of the internal revenue department. I have prepared the following table, which exhibits in brief a statement of the number of officers employed in the department proper or office of internal revenue under the existing law, and the number which we propose by the bill:

OFFICERS AND CLERKS IN INTERNAL REVENUE DEPARTMENT IN WASHINGTON.

Present law.	
1 commissioner.....	\$6,000
1 deputy commissioner.....	3,500
2 deputy commissioners, at \$3,000.....	6,000
7 heads of departments, at \$2,500.....	17,500
1 solicitor.....	4,000
34 clerks, class 4.....	61,200
45 clerks, class 3.....	72,000
50 clerks, class 2.....	70,000
37 clerks, class 1.....	44,400
55 female clerks, at \$900.....	49,500
5 messengers, at \$840.....	4,200
3 assistant messengers, at \$720.....	2,160
15 laborers.....	9,750
Total.....	\$350,210
Proposed law.	
1 commissioner.....	\$6,000
1 assistant commissioner.....	4,000
6 deputy commissioners, at \$3,000.....	18,000
1 solicitor.....	4,000
25 clerks, class 4.....	45,000
40 clerks, class 3.....	64,000
40 clerks, class 2.....	56,000
25 clerks, class 1.....	30,000
50 female clerks, at \$900.....	45,000
3 messengers, at \$810.....	2,520
3 assistant messengers, at \$720.....	2,160
10 laborers, at \$650.....	6,500
Total.....	283,180
	350,210
Less cost by proposed law.....	\$67,030

It will be seen that under the present law there is one commissioner at a salary of \$6,000. We propose to retain him at the same salary. There are three deputy commissioners at salaries of \$3,500, \$3,000, and \$2,000 respectively. Instead of these three deputy commissioners, we propose one assistant commissioner and six deputy commissioners, for reasons which I shall presently explain. Under the present law there are seven heads of divisions, at \$2,500 each. We propose to dispense with them altogether. The solicitor we retain. The thirty-four fourth-class clerks we reduce to twenty-five; the thirty-five third-class clerks we make forty; the fifty second-class clerks we reduce to forty; the thirty-seven first-class clerks we reduce to twenty-five; the fifty-five female clerks we reduce to fifty; the five messengers to three messengers; the three assistant messengers we retain; and the fifteen laborers we reduce to ten. Under the present law a number of officers are provided for, with salaries amounting in the aggregate to \$350,210. We, although we have the six deputies I have spoken of, have provided only for a number of officers with aggregate salaries amounting to \$283,180—a saving of \$67,030 per year on salaries in this organization.

There are other officers, however, in the general service of the Department under the present law. During the last month, when the numbers were obtained, I find that there were two hundred and forty collectors and two hundred and forty assessors, and there were three thousand four hundred and forty-four assistant assessors. These three thousand four hundred and forty-four assistant assessors I must, in justice, however, to the Department and its administration, admit have now been reduced by some four or five hundred, mainly under the effect of the law which we passed relieving manufacturers from assessment upon valuation.

There are eleven revenue agents under the existing law, ten under one clause, and one appointed under another; with an aggregate salary of \$23,000. There are two hundred and eighty-eight revenue inspectors. There are thirty special agents of one class at five dollars a day, two of another class at six dollars a day, two of another class at seven dollars a day, and one of ten dollars a day, making an aggregate of \$67,890 for those inspectors and agents. This gives, however, but a shadow, as it were, of the whole number employed, because I find that in addition to the officers I have named, on the 10th of April last, there were six hundred and thirty-eight general inspectors of spirits, six hundred and ninety-one inspectors of tobacco, snuff, and cigars, and one hundred and forty-five inspectors of coal oil. What we propose is a system by which we shall sweep out of existence, as gentlemen will find on reading further in the bill, all this array of inspectors of spirits, coal oil, and tobacco, who are now employed by the Government nominally, but paid by distillers and others, and belong to the distillers or manufacturers. We propose to do away with all these revenue agents and with all special agents of every kind, and to confine ourselves to storekeepers and gangers who, under the direction of the local officers, shall perform the duties of these inspectors, but who shall be paid some proper compensation by the Government.

On comparing the present law with the proposed law, we find that the aggregate cost under the present law for the officers whom I named was \$4,362,170, and under the proposed law we provide for \$3,672,200, being \$689,970 less than the existing law, with this, however, to be considered in that connection: that is, that we shall probably make no reduction of the actual direct expenses on the part of the Government, because in this statement is not included storekeepers. We propose that storekeepers hereafter shall be paid by the Government at the different distilleries and warehouses where they are employed.

That being the case, it will probably take nearly a million of dollars to pay the per diem of all these storekeepers, at four or five dollars; whatever sum may be fixed by the House. We have reported it at five dollars per day. Thus the actual expenditures for all these outside officers in the revenue service may even be some two or three hundred thousand dollars more than under the existing law.

Why are we willing to do that? Because we believe that for that direct expenditure in the payment of these classes of subordinate officers we will be many hundredfold reimbursed by having them depend upon the Government and not upon those to whom they are sent.

How does this thing work now? Probably some gentlemen may have been making the same observations I have, and will confirm what I am about to say. In some country district represented by some gentlemen here upon this floor there is possibly a distillery, and the same is, I suppose, equally true, in some form or other, in regard to distilleries in the cities. An inspector is sent to that distillery to remain there in charge under a law which provides that he shall receive a per diem compensation from the distiller.

What is the consequence? The moment he arrives at the distillery he is taken into the confidence of the distiller, perhaps carried to his house to board, free of all expense, made to feel in every way that he gets his pay and employment from the distiller, and not from the Government he professes to serve; and by a natural process of reasoning and feeling on his part he very soon settles down into a habit of thought conforming to the idea that he belongs not to the Government but to the distiller.

A gentleman near me asks if he will not get pay from both sides if the Government pays him, instead of from one side, as now. We have recommended in our bill, and I will presently refer to it, a system of supervision in the different judicial districts by competent and responsible officers provided for that purpose, with power on the part of those officers and with the Commissioner of Internal Revenue alike to change storekeepers from distillery to distillery and warehouse to warehouse; thus preventing them from growing fixed in their places, like snails and barnacles attached to the particular distillery to which they may have been originally sent, and keeping them going from place to place under the eye of the Government.

[Here the hammer fell.]

The CHAIRMAN, (Mr. POMEROY in the chair.) The gentleman's hour has expired.

Mr. NIBLACK. I move that the gentleman's time be indefinitely extended.

No objection was made.

Mr. SCHENCK. I thank the committee for this extension. I had no idea that in the explanation I am making I had occupied so much of their time, for I have not been watching the clock.

To resume. We are willing, for the sake of asserting the great principle that each officer must be employed by the Government, and look to the Government, and be responsible entirely to the Government, to adopt a system which shall cost possibly some two or three hundred thousand dollars more in the collection of the taxes, while we shall save, perhaps, more than millions upon millions by changing the system and the practice.

There is another thing to which I have but alluded, but which I will now explain. I have said that we get rid of the whole tribe of revenue and special agents. Under the present law a revenue agent, operating in a certain district, it may be in Illinois, Indiana, or New York, is sent with power to go into any district and make seizures right and left; assume all the functions of the local officers; be accountable to none of those local officers, and in practice, I must confess, scarcely accountable to the central officer here. And yet the col-

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lector, as well as the assessor, has certain duties imposed upon him which he is expected and required to perform.

Some stranger, some one of these fellows with a roving commission, goes into a district, elbows aside the collector and assessor, and undertakes to perform the functions of either or both of them, to make seizures, to decide questions, and to do everything connected with the collection of the revenue.

The consequence is that your assessor or collector, finding his jurisdiction thus invaded, if he be dishonest colludes with the agent (who, without much violence I may assume, is generally dishonest,) or else runs a little opposition "ring" against him; or if he be honest, folds his arms, feeling that he is thus thrust aside to make room for another who is sent there to usurp his functions, and lets everything go as it will. We propose to get rid of all that by holding each assessor and each collector to the strictest account for all that takes place within his local jurisdiction, and not to give him the excuse that some man comes in from the outside and exercises independent functions within that jurisdiction.

There is another feature in the present law which we have undertaken to sweep away. It is provided now that a collector of any one district may have a special commission to invade any and every other district within a region of country and perform the duties of collector, assessor, and all other revenue officers within these districts which he visits. There is an example of this going on just at this moment in the State of New York. A Mr. Bailey, who is the collector of the fourth collection district of that State, has a sort of general roving commission under the law to go into all the neighboring districts, to make seizures right and left, and exercise all the functions of the local officers, without either coöperating with them or regarding what may be their particular duties. Now, it may be that it was felt to be very necessary to send one collector to watch other collectors and assessors because one or all were dishonest, and, in the opinion of the Department, "rogues must be set to watch rogues." I mean nothing personal or disrespectful to Mr. Bailey. I am only using this case to illustrate a vicious system and practice. If that is not the reason, then it may be a great refinement upon the idea of responsibility to send one honest collector to look after the various other honest collectors and assessors, and thus make the action under the laws, in the collection of revenue in the different districts, conform to the action here, where responsibility is thus divided.

But in framing this bill, we have set our faces against all division of responsibility. We have provided, in lieu of these special agents, a system of this kind: we propose that in each judicial district, (except in the cases of Florida, Delaware, and like small districts, where an attachment to an adjacent district is suggested,) there shall be a supervisor of internal revenue; but instead of being a wandering officer he is to be a responsible man, properly paid by the Government, having a fixed office. In fact, an officer to whom reference may be made, and whose duty it shall be to supervise and report upon the conduct of all the local revenue officers within his district. But even he is to refer the cases for final action to the Commissioner of Internal Revenue.

Thus a system of responsibility from the head downward is to be maintained. So that if there be anything wrong in the division of an assistant assessor, that assistant assessor shall be held accountable. If there be anything wrong in the collection district, the collector and assessor, according to their particular duties, shall be held responsible for derelictions and omissions of duty. If there be anything wrong in a judicial district, the supervisor of revenue for that district, who is no mere temporary or ambulatory official, but a

man of responsibility, with a fixed office, shall be held responsible. And if there be anything wrong in the collection of the revenue of the whole country, in the general conduct of its officers or their particular conduct in any special district, the Commissioner of Internal Revenue, standing at the head, is to be held responsible for the whole and for all the particulars. But I have already, I think, detained the committee too long on that point, and I will leave it.

The next explanation I desire to make is in regard to the particular portion of the bill which relates generally to manufactures. The policy of the Committee of Ways and Means, according, as I think, with the general policy expected and desired by the country, was indicated by the act which was passed by the present Congress on the 31st of March. Gentlemen on the Democratic side will excuse me for quoting a good sentiment; no matter whence it comes if they are but fond of that kind of literature; I commend it heartily to their attention. They will find it in the Republican platform adopted the other day at Chicago—a principle and a rule by which the committee seeks to square its action. The fourth resolution in that platform declares—

"That it is due to the labor of the nation that taxation should be equalized and reduced as rapidly as the national faith will permit."

Mr. BURR rose.

Mr. SCHENCK. The gentleman will have an opportunity afterward.

This resolution, Mr. Chairman, is but in conformity to the views of the Committee of Ways and Means as declared by them in a resolution familiar to this House, passed by the committee and made public in January last, soon after we entered upon our duties in connection with this subject. We then declared, as the sense of the Committee of Ways and Means, "that while we would endeavor to provide for \$150,000,000 as the amount of revenue necessary to be obtained from internal taxes, the same should, as far as practicable, be collected from distilled spirits and fermented liquors, tobacco, and manufactures of tobacco, stamps, special taxes, incomes, dividends, luxuries, and amusements, banks and railroads gross receipts, legacies and successions gross receipts, leaving the least possible sum to be collected from the industrial pursuits, or relieving that class of interests entirely." Entire relief of the industry of the country is not possible; but we thought one step was made toward it when, on the 31st of March, there was matured and passed through both Houses of Congress, and approved by the President, a bill, the main and most important feature of which was the relief of the manufacturers of the country from that heavy *ad valorem* tax of from two to five per cent. charged upon certain commodities. They were remitted to a small tax on sales of only one fifth of one per cent., and that only when those sales exceeded in amount \$5,000 per annum.

We have carried that provision in regard to manufactures into this bill, with one exception, upon which I have no doubt we will hear in due time from our friend from the Northwest, who sits in front of me, [Mr. FERRY.] That exception is the exemption of breadstuffs and unmanufactured lumber. I give my friend notice that in the bill we have presented here we have left out those exceptions, and we have taken the ground that all manufacturers are to be treated, not with reference to the particular thing they produce, but with regard to the capital they employ and what they do with it, and how much they succeed in producing and disposing of. We tax the sales of the great body of these manufacturers equally, and whether any exemption is to be made or any particular manufacture favored will be a matter to be discussed when we reach that point.

Following out the idea contained in the resolution to retain luxuries, if gentlemen will look into this bill as it progresses they will find

that while we put only this two tenths or one fifth of one per cent. upon the sales of manufacturers generally, we have given less favor to manufacturers of certain luxuries; as, for instance, the manufacturer of fine confectionery is charged six dollars a thousand, or six tenths of one per cent. on all over \$5,000. On ornamental jewelry we have charged one per cent. on all over \$5,000. On gold and silver ware and fire-arms we have charged the manufacturers one-half of one per cent. On billiard tables and playing cards we have put one full per cent. Our idea has been that, while we adopt the general system of placing a tax on the sale of manufactured articles of one fifth of one per cent., we might still select certain articles used only or generally by those who are wealthy and put a heavier tax on the sales of such articles. Such a tax will be collected mainly, if not entirely, at last from the consumers; and those consumers will be limited, in number and such as are most able to pay.

Gentlemen will find a portion of the bill devoted to the subject of special taxes. Special taxes are what were formerly known as licenses and permits, for which an annual sum was paid. Gentlemen will recollect that the Supreme Court has decided that a law of Congress could not be sustained which required the payment of money for a privilege to carry on a business in the future. They held, however, that they would recognize the right of Congress to impose special taxes on persons engaged in particular pursuits, the carrying on of the business being a condition incident to the levying of the tax. Conforming to that decision of the Supreme Court, for the last two years these have been called not licenses but special taxes. In the existing law there are fifty-one of these subjects of special taxation. We have increased that number to seventy-one, partly by separating from the general mass of manufactures some which were, as I have said, specially to be regarded as objects of luxury, and partly by extending this special taxation to additional occupations which do not come within the class of manufactures. But we have made other changes as to these special taxes. We not only introduce twenty-one more objects of taxation, but we make alterations in regard to particular subjects of tax as now existing.

The retail dealers of the country are now all subject to special taxes upon sales above \$1,000. We propose that small retail dealers in goods, wares, and merchandise shall be subject to no tax whatever, unless their sales amount to \$5,000 a year or more. Thus very small establishments for neighborhood convenience, in the villages and at the cross-roads, are relieved from any taxation whatever. We have thought it was not so much an act of favor toward these retailers themselves as it was an advantage to the public to leave dealers in future, below so small a limit, free from any burden on their trading.

Wholesale dealers now pay one tenth of one per cent. on their sales above \$50,000. We propose to put them on the footing of manufacturers, and charge them two tenths of one per cent.

Lottery managers now are classed with lottery dealers. We make a distinction in this bill between managers and dealers in lottery tickets. While we continue the present tax of \$200 on each lottery dealer we hold them to a strict responsibility, and make the managers give bonds for their observance of the law; and we charge each lottery manager who is not thus distinguished under the existing law, \$3,000 as his special tax; and I am glad to know that this class of tax-payers have made up their minds to submit contentedly to this increased demand.

We have taxed places of public amusement, theaters and other institutions of that kind, much more heavily than they are now taxed, classifying them, but taking care in the classification to leave out all exhibitions connected

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with schools, fairs, benevolent institutions, or churches, in which the people have a general interest.

Hotels we have classified by their yearly rental, in such a manner as to bear lightly upon small taverns and inns, and to gain increased revenue upon the large establishments like the Fifth Avenue, Astor House, or Continental, and, perhaps, without offending anybody, I may say Willards.

There is another class of persons brought into the special tax list never before looked after. These we have denominated foreign commercial brokers. I do not know that I ought to explain that provision here, nor will I do so any further than to say this: there is a class of agents coming from Europe taking rooms at the Astor House or Metropolitan Hotel, or some other place in New York or Philadelphia, having no offices nor goods in store, but by samples which they exhibit negotiating the sales of millions of dollars' worth of property, receiving orders which they transmit to Europe, never paying any tax on their sales or their income, and claiming that no officer has the right to impose any such tax. We have, therefore, provided as a measure of protection toward the regular dealers in our country, that while a commercial broker, known and responsible as such, pays his twenty dollars, one of these foreign brokers or agent of a foreign house who is without any fixed place of business, and escapes payment upon his sales, shall pay for his special tax \$5,000, and shall be put in the penitentiary, I may add, if he be found exercising his functions in wandering about the country without having paid that special tax.

I touch now upon a fruitful subject—the tax that we put upon distilled spirits. We have provided in reference to retailers of spirituous liquors, that instead of paying twenty-five dollars each they also shall be classified and each pay according to the amount of the business, \$25, \$50, \$100, \$200, or \$1,000. And we have defined a retail dealer, not, as in the present law, to be one who sells a certain quantity of liquor, \$25,000 worth a year, but any person who sells liquor in quantities less than one quart, or sells it to be drunk at the place where it is sold, thus following the definition in the statute-books of most of the States. Wholesale liquor dealers at this time pay one-tenth of one per cent. upon all sales they make above \$50,000. We propose that they shall pay hereafter two and a half per cent.—twenty-five times as much—and shall pay it upon all sales above \$2,000 instead of on sales above \$50,000. I have made an estimate of what we may reasonably expect to obtain by a tax on sales of retail and wholesale liquor dealers at the rate charged in our bill, even if there should not be a further increase on retail dealers, who, I have always thought, ought to pay, in one way or another, about double as much, if not more, than wholesale dealers. And I believe we can obtain from these sources, and from the special taxes on distillers and taxes on the capacity of distilleries, to which I will presently allude, an aggregate revenue of \$24,000,000.

I come, then, to the special tax which we would impose upon the distiller himself. We have made this, as gentlemen will observe, \$100, and one dollar upon each barrel produced. And here I beg the committee to bear with me a little, while I diverge from this subject of the special tax to other things connected with the sale and production of distilled spirits, naturally connecting themselves with it. I say we have put a special tax upon distillers of \$100, and a further special tax of one dollar on each barrel produced. Proceeding further in the bill, gentlemen will find that we have added to those taxes also a tax upon capacity, and that we provide that there shall be three dollars a day paid upon the capacity of every distillery that mashes and ferments one

hundred bushels of grain and less, and an additional three dollars a day for every additional one hundred bushels mashed and fermented.

Now, all this is part of a system; all this is a part of the machinery in relation to a revenue to be derived from distilled spirits, and although found under different heads and in different parts of the bill, it must all be in some degree considered together. We have retained, gentlemen will observe, the tax of two dollars a gallon as a direct tax upon whisky; but I take occasion to say here now that it is not the expectation, I believe, even of the committee, that that amount of direct tax will be retained by the House or by Congress. If we had let it be known four months ago that whisky was to be taxed only a dollar or seventy-five cents or some less sum per gallon, we should have lost about four million dollars of revenue, which, within that time, has been derived from the two-dollar tax, under the impression that the two-dollar tax would be continued. Revenue at the rate of about thirteen million dollars a year, to which it had been reduced during the past year, has continued to come in, and we have obtained within the last four or five months, since this matter has been considered, some four or five million dollars which we would not have obtained at all had it been known, with any degree of certainty, that the tax would be reduced. I do not know whether this Congress will agree to reduce the tax. I for one have come very reluctantly to the conclusion that it must be done. From the very beginning I was inclined, much as General Grant was, "to fight it out on that line." But, Mr. Chairman, I, for one, am now convinced that keeping this tax up to two dollars will certainly tend to continue the rule of too whisky ring, and that it is better to reduce it in order that that ring may be broken. We must not be controlled, we must not be governed by these whisky men, who are even at this very moment, many of them, swarming in this city, especially anxious to know whether or not the tax is going to be kept at such a rate that they can continue their speculative or fraudulent operations.

Step by step, therefore, I have brought myself—and I speak now only in my own behalf—to the conclusion that the direct tax on distilled spirits ought to be brought down to something like seventy-five cents on the gallon. The reason why I would be disposed to agree to seventy-five cents is, that from an examination of many witnesses and an investigation of the whole subject, I believe that is about the rate at which it can be fixed and make it impossible for illicit distillation to be carried on with profit. Distillers, or persons so disposed, cannot make spirits from molasses in concealed places, cellars and garrets, in Chicago and Philadelphia, the two great points at which most of this enormous rascality is now carried on; they cannot do it anywhere with anything like their present profit, or, perhaps, with any profit at all, if we underbid them in the market.

And yet I was unwilling to come down to such a low standard of direct taxation on spirits without having put into this bill machinery by which we could collect a very considerable additional tax from it in other ways. By dividing the points where the temptation is felt, we at least put it upon such footing that nothing can be made to any great extent by defrauding the Government in any one particular. The temptations will not be concentrated so that enough can be made in one direction to justify or make profitable the rascality.

What is that machinery? I have already indicated it. If you put your direct tax down to seventy-five cents per gallon raise your special tax upon distilleries from one hundred to five hundred or a thousand dollars, and on each barrel of whisky from one to three or four dollars. Let your tax upon capacity remain

where the committee have fixed it, or increase it; and let your tax upon sales, retail and wholesale, be retained to some such amount as we have proposed. If you do all this and pass this bill with its rigorous and carefully prepared administrative sections, I cannot, from a number of calculations made from time to time, come to any conclusion other than that we shall get at least \$70,000,000 out of whisky in the coming year instead of \$13,000,000 per annum to which the revenue from that source is now reduced.

So much will probably be said about distilled spirits before we get through this bill, and about the various, and, as some think, too severe restrictions on its manufacture and sale, that I shall reserve very much of what I have to say to the discussion of those points when we come to them. But I thought it was not proper that I should fail to present a general view of the machinery in relation to distilled spirits at the beginning of the consideration of this bill, in order to show how this part of the system hangs upon the rest. We have proposed some other changes, which I will briefly recapitulate.

Banks now pay a tax of one twenty-fourth of one per cent. upon their capital and their deposits, and we propose to continue that tax. But we have increased the tax upon the circulation of banks from one twelfth to one sixth of one per cent., just doubling it; and we have included the national banks in this provision, as they were not before.

Brokers now pay upon all their enormous sales, made upon the street and at the broker's board, of stocks, bonds, gold, &c., one cent for every hundred dollars. We propose to double that, and make it two cents for every hundred dollars. Small as that tax seems, gentlemen perhaps will be astonished at the large results.

In regard to incomes we propose but a slight change. While we have revised the whole law and given it, we hope, much greater clearness and perspicuity, we have not materially affected any of the particulars of the law except upon one point. As the law now stands, those who draw salaries from the United States have the five per cent. income tax deducted from the salary when it is paid. And what is the consequence? Let me illustrate. One of your clerks, it may be, is paid \$1,500 a year for his services. When he receives that amount, \$1,000 being exempt, he pays five per cent. upon \$500, being twenty-five dollars, which is deducted at the time his monthly payments are made to him. He has a wife and family, hires a house, has some few transactions, some bad debts, losses by fire or otherwise. His neighbor, receiving \$1,500 a year as the proceeds of his earnings or his business, or income from other sources, is allowed from that amount to deduct his house rent, his expenses, his losses. But the clerk, on receiving his salary, has paid his twenty-five dollars tax and never gets anything back again. And what applies to him applies to the officers of the Army and of the Navy, your postmasters and all other officers, including yourselves. It is unequal and unreasonable. We have therefore made this small change, affecting a very large class of persons, that salaries shall be returned in incomes, like all other profits, receipts, or earnings, and shall, like other incomes, have the benefit of all legitimate deductions.

Gentlemen will find in the bill a change in regard to the taxation of railroads. Street railroads are by the existing law permitted to charge over against their passengers the tax which they pay to the Government. I will not stop now to inquire whether they have or have not very often collected one cent from their passengers while paying but the eighth of one cent to the Government. This will be the subject of a good deal of discussion, I suppose, as it has been here before. The committee pre-

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sent this bill without that present feature. They have taken the ground that railroads must be subject to taxation out of their proceeds in the same manner as other corporations or as individuals are; and if they need relief because of being limited in the amount they are entitled to charge they must seek relief from the State or municipal authorities from which they have derived their charters or with which they have made their contracts. I heartily agree to this decision of my committee and this amendment of the law, because it establishes a principle which I think clearly just, and for which I have always contended.

Mr. BLAINE. Does that apply to horse railroads?

Mr. SCHENCK. Horse railroads particularly are included and affected by it.

It will be observed that we have conformed the tax upon mineral oil to what was determined upon by the House, reducing it from twenty cents to ten cents; and we have introduced all the sections necessary to enforce the collection of the tax at that rate. I do not know whether the Committee of Ways and Means will be sustained in this or not. I am not quite certain whether they ought to be. I do not know but we shall be enabled to show such a condition of the public revenue that we may afford to put mineral oil upon the footing of all other manufactures. But that will be a matter for consideration when we reach that part of the bill. On the part of the committee, I request that the House will either sustain the committee by permitting the law to be as it was made last March, or, if any change be made, not to make again two bites of the cherry, but put mineral oil upon a footing with all other manufactures, and thus dispense with a large amount of machinery relating to the collection of the tax on it and its transportation similar to that which is provided for tobacco and distilled spirits.

As to tobacco, we have made a great many amendments in the law in respect to the manner of securing the collection of the taxes. I will not stop to dwell upon these changes now. We have endeavored to make the law rigorous, to make it certain of execution, to have the collection through the medium of stamps, and we trust we have succeeded in presenting sections which will accomplish in a good degree these objects.

While on this subject I may say that while the country has been astounded at the enormous frauds committed in relation to the tax on whisky, the case has not been much better with tobacco. Whisky somehow or other enters more into the politics, if not the daily life of our people, and is therefore perhaps more closely observed than tobacco is. But really there is not much to choose between them, although possibly I ought to confess that whisky is a little ahead in the race of rascality.

We have not retained the present rates of taxation on tobacco—forty cents, thirty cents, and fifteen cents—but instead of three classes, we have from the testimony submitted to us, and from our investigations of the subject, thought proper to reduce the tax to two rates, and make them respectively forty cents and sixteen cents. We have also provided that smoking and chewing tobacco shall be put up for the most part, if not entirely, in small packages and marked with stamps. Under this system the revenue from this article is, we think, sure of collection, as it could not be if the present system were continued.

The present tax on cigars is five dollars a thousand. The committee submit to the House the question as to the propriety of doubling that tax, but this increase will not perhaps be insisted upon. It seems that if the present high tariff upon cigars is to be maintained, taking this addition to the cost ultimately out of the consumer, as is the case more or less with all these luxuries, we might afford to

increase the tax at home. But my own opinion is that we ought to reduce the tariff, as not affording the protection that was intended to the domestic manufacturer, and that in that case we might, perhaps, afford to leave cigars at the present rate of taxation, five dollars a thousand, for the benefit of the cheap classes of cigars, which might otherwise be driven out of the market, and the manufacturer of them broken down.

Have gentlemen remarked the great difference between the internal tax on cigars and the tariff upon imported cigars? The tax is five dollars a thousand upon cigars manufactured in the United States without reference to value, thus giving advantage to the higher classes of cigars, but not overburdening the cheaper sorts, of which immense quantities are manufactured. But the charge upon imported cigars is so high that, as I have already remarked, it defeats itself. The tariff is on the average seventy-six dollars a thousand. It is three dollars per pound, cigars upon the average weighing fourteen pounds to the thousand, and to this is added an *ad valorem* tax of fifty per cent. Every gentleman familiar with the trade knows that the average cost in gold of cigars in Havana is about forty dollars a thousand. When you take forty dollars per thousand and calculate three dollars per pound on the weight, and fifty per cent. upon the valuation, all in gold, you will find that this tax reduced to its equivalent in currency is seventy-six dollars a thousand. The effect of this great charge has been that by concealment in boxes, under hatchways, in pockets, in trunks, and by all sorts of means usually resorted to for the purpose of bringing in contraband goods, cigars have been smuggled into the country in countless numbers; and instead of the high tariff being as was intended a protection to our cigar manufacturers at home, it has defeated itself. These smuggled cigars, in quantities so enormous as to exceed calculation, have come into competition with the domestic article.

I will not add anything as to the next part of the bill to which we come, as it relates to distilled spirits, which I have already, perhaps sufficiently, considered.

Before closing this very long exposition, which I have been attempting to give in this familiar and conversational way, I desire to submit some facts in regard to the resources of this country and its expenditures; in other words, its financial condition. I am one of those who believe that, however we may dispute in regard to the changing of one form of public security for another, the amount or volume of the currency to be kept up or its contraction to be made—viewing this financial question in all lights as connecting itself with the public debt—there is, after all, but one way in which the debt of this country is to be paid; and that is, it is to be worked out. The industry of the country, the productions of our labor and of our soil, are eventually to pay our debts; and as this is to be done, we have endeavored throughout this whole system of internal taxation to take care, as far as might be, to keep in view the cardinal principle which I stated in the outset, that we must equalize the taxes as far as practicable, and make them bear as lightly as possible upon the industry of the country, while yielding sufficient revenue for the needs of the Government.

What is the condition of our country now at the close of the long and expensive war through which we have passed—a condition which ought to astonish, and I believe does astonish, the world; a condition which will astonish any one who looks carefully into the facts and figures. To make an American admire his great country and wonder at its enormous resources, it is only necessary that he should go through such an investigation as I have attempted in reference to what are now the prospective means of the country to meet the

great liabilities and burdens of obligation under which it lies.

While I am speaking, Mr. Chairman, of the extraordinary capabilities of this country as developed through the perils of war (and war, as every one knows, is always a profligate in its expenditures,) I ought also, it seems to me, to pay a passing tribute of admiration to the people of this country, who have unmurmuringly and cheerfully submitted to all the burdens necessary to be imposed upon them in order that their form of government and all that they held so dear might be preserved.

I propose to conclude what I have to say to-day, as I have already remarked, by an exposition in figures of what we find to be our present condition as to resources and estimated expenditures. And I hope if, by this exposition, I shall show that we are capable of sustaining the country through its burdens and advancing its prosperity, this good condition and prosperity will not be made the occasion by anybody here for extravagance in his votes before we separate. It is not only necessary to raise revenue, but there follows a necessity to be economical in the use of these our great resources. And in submitting the statement I am to make I desire to say in behalf of the Committee of Ways and Means that we beg of the House that they will enable any future committee, any future Congress, any future representative in any sense of the Treasury of the country, to make as good and better exposition of affairs by adhering to the strictest economy in the appropriations from the Treasury, we may yet be called upon while we are together to make. What I have here prepared I will read to the House knowing, although it is but a dry detail of figures and calculations, it will possibly be interesting to all who hear me; yet, as I give it here it cannot carry all its weight to the minds of the gentlemen who listen to me, and so I beg that when it shall appear in print it may, from its common importance to us all, command your careful consideration and your criticism.

REVENUE RECEIPTS AND NATIONAL EXPENDITURES FOR THE FISCAL YEAR ENDING JUNE 30, 1867.

Receipts.

The receipts of national revenue for the fiscal year ending June 30, 1867, were as follows:

Currency.....	\$314,100,136 61
Coin.....	176,417,810 88

Total (coin and currency).....\$490,526,947 49

Expenditures.

The expenditures for the fiscal year ending June 30, 1867, were as follows:

For civil service (legislative, judiciary, executive, and diplomatic).....	\$51,110,027 27
Pensions.....	20,936,551 71
Indians.....	4,642,551 77
Navy.....	31,034,011 04
War, exclusive of bounties.....	83,841,555 80

Total ordinary expenditures.....	191,564,677 59
Interest.....	143,781,591 91
Bounties.....	11,382,859 83

Total expenditures.....\$346,720,129 33

The balance of receipts over expenditures for fiscal year ending June 30, 1867, was \$143,797,818 16.

By the acts of July 13, 1866, and of March 2, 1867, internal taxes were repealed or abated to an extent sufficient to occasion an annual loss of revenue from internal sources, taking the returns of the preceding fiscal year as a precedent, of at least \$90,000,000: of which amount some sixty to seventy millions were made applicable for the reduction of taxes during the fiscal year ending June 30, 1867, the balance taking effect during the succeeding or present fiscal year.

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National Receipts and Expenditures for the Current Fiscal Year, Ending June 30, 1868, Actual and Estimated.

Sources.		Receipts.		Expenditures.	
		Three quarters, from July 1, 1867 to March 31, 1868.	Fourth quarter, from April 1, 1868 to June 30, 1868.	Total revenue for fiscal year ending June 30, 1868.	Total expenditure for fiscal year ending June 30, 1868.
Customs	Actual.	\$121,208,374 87	\$44,000,000	\$165,208,374 87	\$13,000,000
Lands	Actual.	866,387 81	300,000	1,166,387 81	28,783,337 29
Internal revenue	Actual.	140,686,426 44	50,000,000	190,686,426 44	123,858,496 82
Direct tax	Actual.	1,413,960 46	300,000	1,713,960 46	25,613,678 53
Miscellaneous	Actual.	35,019,360 71	12,000,000	47,019,360 71	149,418,383 87
Total		\$299,194,459 29	\$106,600,000	\$405,794,459 29	\$379,178,066 83
Sources.		Receipts.		Expenditures.	
Civil—legislative, executive, and foreign intercourse	Actual.	\$38,554,175 32	\$13,000,000	\$51,554,175 32	
Interior—pensions and Indians	Actual.	24,733,337 29	4,000,000	28,733,337 29	
War	Actual.	88,858,496 82	35,000,000	123,858,496 82	
Navy	Actual.	19,113,673 53	6,500,000	25,613,673 53	
Interest on public debt	Actual.	109,418,383 87	40,000,000	149,418,383 87	
Total		\$280,678,066 83	\$98,500,000	\$379,178,066 83	

RECAPITULATION.

Receipts and expenditures for fiscal year ending June 30, 1868.

Total receipts.....\$405,794,459 29
Total expenditures.....379,178,066 83

Estimated balance of receipts over expenditures for fiscal year ending June 30, 1868.....\$26,616,392 46

NATIONAL RECEIPTS AND EXPENDITURES FOR THE FISCAL YEAR ENDING JUNE 30, 1868.

Under this head it is proposed to first consider the necessary and probable expenditures of the Government for the next fiscal year; and secondly, the revenue which may be legitimately anticipated during the same period.

The appropriation bills for the next fiscal

year, which have passed, or are now pending, are as follows:

Deficiency bill, (S. No. 320,) passed.....	\$12,839,196 21
Deficiency bill, (Senate contingent, No. 462,) passed.....	82,000 00
Deficiency bill, (reconstruction, No. 1045,) passed.....	87,710 50
Relief bill, (District Columbia, March 10,) passed.....	15,000 00
Military Academy, passed.....	234,004 50
Consular and diplomatic, passed.....	1,206,434 00
Post Office, passed.....	1,545,000 00
Pensions, pending.....	30,350,000 00
Army, pending.....	33,081,013 00
Navy, pending.....	17,500,000 00
Legislative, executive, and judiciary, pending.....	16,880,672 00
Sundry civil expenditures, pending.....	6,020,376 32
Indian, pending.....	2,500,000 00
River and harbor, pending.....	6,000,000 00
Deficiency bill, pending.....	1,912,960 00

Total.....130,304,366 53

Miscellaneous, (including appropriations for New York city post office, private bills, and judgments of Court of Claims,) estimated.....	10,000,000 00
Permanent appropriations for collecting the revenue, &c.....	9,960,000 00

Interest on public debt.....150,273,366 53

Extraordinary expenditures: 129,678,078 50

Bounties estimated.....279,951,445 03

Alaska.....40,500,000 00

Total.....7,200,000 00

Total.....\$327,651,445 03

To this aggregate there should also be added

"lapping" appropriations heretofore made that will not be expended until next year, namely, \$24,669,184, making a total probable expenditure, during the next fiscal year, for which revenue must be provided, of \$352,320,629 03.

REVENUE.

To meet the above estimate for expenditures the following receipts may be estimated:

Customs.....\$165,000,000

It is difficult to imagine a contingency which shall, for the present, reduce the customs receipts below the above figures. If the average annual gold value of imports into the United States (exclusive of specie) for the last five years, and the present tariff be maintained, an annual gold revenue from the customs in excess of \$165,000,000 is absolutely certain; and if the tariff is reduced, an increase of importations is likely to far more than compensate for any reduction of rate—inasmuch as the duties on some classes of products, formerly of extensive importation, are at present nearly or quite prohibitory.

INTERNAL REVENUE.

The receipts of internal revenue for the current fiscal year ending June 30, 1868, will, as already stated, approximate and probably slightly exceed, \$190,000,000.

The internal revenue derived from manufactured articles or products on which the taxes have been abated or repealed since the commencement of the last fiscal year (July 1, 1866) yielded for the same fiscal year (ending June 30, 1867) the sum of \$87,244,275; of which amount \$23,769,080 were derived from the tax on raw cotton. As many of the taxes upon which this sum was raised were repealed by the Thirty-Ninth Congress during the course of the last fiscal year, and have not been operative during the current fiscal year, it would be erroneous to assume that the sum of \$87,244,275 represents the reduction of internal revenue likely to be experienced for the next fiscal year in consequence of the repeal by the present Congress of nearly all of the so-called "manufacturers' taxes," and of the tax upon raw cotton. On the contrary, the reduction legitimately to be anticipated will be considerably less; and, as deduced from an examination of the receipts of internal revenue since July 1, 1867, and assuming the passage of the bill as reported from the Committee of Ways and Means without essential modifications, will be substantially as follows: From the act of Feb-

ruary 3, 1868, repealing the tax on raw cotton, \$23,769,080; from the act of March 31, exempting certain manufactures from internal tax, (including the abatement of taxes on gas and petroleum,) \$45,000,000. Total, \$68,769,080. The revenue, therefore, from internal taxes for the next fiscal year, assuming all other matters in respect to taxes and administration in this branch of the revenue service to remain unchanged, must necessarily be predicated on the basis of the aggregate receipts of the current fiscal year, less the amount of taxes abated or repealed during the present session of Congress; or \$190,000,000—\$68,769,080—\$121,231,000.

That the present state of affairs is wholly exceptional cannot be doubted; neither does it seem possible that fraud and neglect can again reduce the receipts from those two great sources of revenue—distilled spirits and tobacco—to so small a minimum as the returns of the present fiscal year have exhibited; the estimated receipts from distilled spirits for the current fiscal year being less by fifty per cent. than the amount received during the preceding fiscal year, namely, \$29,151,000, in 1867, as compared with (an estimate of) \$13,500,000 in 1868.

With the passage of the amended law, a very considerable gain in internal revenue from other sources is also reasonably certain—especially from the tax on the sales of manufactures, and the modification of the other "special taxes."

The estimates of receipts of internal revenue from various sources, as predicated on the passage of the amended law reported by the Committee of Ways and Means, may be stated as follows:

Formed liquors.....	\$6,000,000*
Gas and refined petroleum (reduced).....	3,500,000*
Incomes and salaries.....	36,000,000*
Gross receipts.....	7,500,000*
Stamps.....	17,000,000*
Legacies and successions.....	2,000,000*
Bank dividends, circulation, and deposits.....	10,000,000*
Fines and penalties.....	1,460,000*
Miscellaneous, (Schedule A, &c.).....	2,100,000*
Special taxes (exclusive of the special taxes on the sales of distillers and rectifiers, and inclusive of taxes on sales).....	25,000,000
Total.....	\$115,560,000

The receipts from distilled spirits during the last fiscal year ending June 30, 1867, were \$29,151,840; and from tobacco and cigars, \$19,705,827. With the passage of the amended law it seems impossible, even with the continuance of a defective administration, that the receipts from distilled spirits for the next fiscal year can fall short of \$70,000,000, or from tobacco of \$25,000,000.

Assuming the correctness of these latter estimates we have then the gross sum of \$210,560,000 as the receipts from internal revenue, which may be reasonably anticipated for the fiscal year ending June 30, 1869.

On the other hand, if we fail to secure any increase of revenue from distilled spirits and tobacco beyond what was secured during the last fiscal year, the receipts of internal revenue for the next fiscal year cannot well be estimated at less than \$164,000,000.

PUBLIC LANDS.

From the sale of public lands the revenue of the current year, namely, \$1,169,000, will undoubtedly be continued.

MISCELLANEOUS RECEIPTS.

For the revenue receipts from miscellaneous sources, i. e., premium on gold, sales of property, consular fees, &c., I adopt the estimate of the Secretary of the Treasury, in his last annual report, namely, \$30,000,000. The receipts from miscellaneous sources, exclusive of the premium derived from the sales of gold coin, for the fiscal year ending June 30, 1867, were \$28,670,008 95. For the first

*Substantially the same receipts as during the last fiscal year.

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three quarters of the present fiscal year, or from July 1, 1867, to March 31, 1868, the receipts from miscellaneous sources, other than the premium on gold, were \$19,415,280 69, or at the rate of \$25,887,000 for the entire year. These receipts were in great part derived from the sale of military stores, vessels, and other condemned property, and are certain to be much less in the future. During the last ten months the amount of unexpended requisitions, and sales of property covered into the Treasury from the War Department amounted to \$8,912,800.

RECAPITULATION.

A recapitulation of these estimates gives the following as the total anticipated revenue for the next fiscal year.

Customs	\$165,000,000
Internal revenue	210,500,000
Public lands	1,000,000
Miscellaneous	30,000,000
Total	\$406,500,000

Supposing no increase of receipts from distilled spirits and tobacco over the receipts for the fiscal year ending June 30, 1867, this estimate would be reduced to \$360,560,000. Deducting the estimate of expenditures for the next fiscal year, \$352,320,629, the balance to account of surplus revenue would be \$18,239,371. But with the estimated increase of receipts from spirits and tobacco, this balance would be \$54,239,371.

Gentlemen may be astonished at this showing, yet I think it is not an unfair one; for I am of opinion that even if we should exempt petroleum oil from all internal taxation, the revenue from internal taxes other than on tobacco and distilled spirits, would be about the same as during the last fiscal year; and then, if I am right in my estimates concerning the revenue to be derived from distilled spirits and tobacco, we shall be able to present a balance of receipts over expenditures for the next fiscal year far beyond what the most sanguine have anticipated. I am highly gratified that I am able to make this exhibit, for I think there has been a disposition to underestimate our resources, and also, perhaps, the expenditures that are likely to be made during the next fiscal year.

Mr. BROOKS. What will be the expenses of the War Department for the next fiscal year?

Mr. SCHENCK. The gentleman asks in regard to the expenditures of the War Department. I am glad of an opportunity to give him some explanations in that connection.

The expenditures of the War Department for the coming fiscal year were originally estimated by General Grant, as Secretary of War *ad interim*, at \$51,039,134 20. He carefully revised that estimate in December and reduced it to the sum of \$37,611,512 20.

Disregarding these estimates made by the competent and responsible head of the War Department, aided by long-experienced and able bureau officers, the Treasury Department assumes that General Grant's estimates are too low and will not meet the expenditure, and that a large deficiency will have to be provided for.

In opposition to this view, and in support of General Grant's reduced estimate, it is to be noted that the war expenditures of the current fiscal year, estimated at \$123,000,000, are not a proper measure for the estimates of the coming year for various reasons, of which some of the principal may here be specified.

The expenditures for the year about to expire included large payments consequent upon Indian hostilities and armies employed by department commanders against frontier Indians, the cost of which has been variously estimated at from twenty to thirty millions. No Indian hostilities now exist or are apprehended; no army or large force is now in the field, but the troops are so disposed under the

skillful command of General Sheridan that there is no probability of any serious hostilities nor occasion for unusual expense for supplies, transportation, subsistence or other extraordinary military expenditure on the western frontier.

This condition admits, also, of a reduction of troops and consequent transportation and supplies, thus diminishing the expenses of the Quartermaster's Bureau; to which must be also added a reduction in the pay of the Army, consequent on a reduction of the forces. The total reduction under these heads, will, it is estimated, be also about nine million dollars.

Mr. BROOKS. I desire to ask the gentleman whose remarks are those? He seemed to be reading.

Mr. SCHENCK. They are my own remarks. I have derived my data from various sources, from the Treasury Department, from General Grant, and from the late Secretary of War; and in all this examination I have been most materially aided by the able and efficient Special Commissioner of Revenue.

Mr. BROOKS. Let me ask the gentleman, who is a reader of the newspapers as well as myself, how he can arrive at the conclusions that the Indian expenditures will be so much less the coming year, when the indications are already on the frontier that the Indians are very troublesome; for example, on the Pacific railroad, which is now running six hundred miles, it is unsafe to run a train without sending a locomotive in advance to look out for the Indians, and when station-guards on the line of the road, in several places, have been killed by the Indians. There seems to be no safety as yet on that great line of road, and I wish to inquire how the gentleman arrives at the conclusion that the expenditures of the Indian department are to be so much less for the coming year than the present fiscal year.

Mr. SCHENCK. I have no objection to giving the gentleman and the country not only these facts and conclusions, in which I feel fully sustained by the information I have obtained, but also the sources of my information to the fullest extent. We get the first facts in regard to the actual expenditure during the last year, carefully made up, on application at the Treasury Department. We have consulted the officials at the War Department in regard to the probabilities for the future; and not satisfied with that, we have applied in person—I have done so, and so has the Special Commissioner of the Revenue—to General Grant; and have had a full and free consultation with and advice from him as to what will be, according to the present prospect of things on the frontier, the probable expense arising from Indian difficulties in the coming year.

Mr. BROOKS. These, then, are but surmises, guesses, which more or less all of us will make from our general knowledge of public affairs, and of which we will be as likely to be as well informed as military men—I mean the probability of future hostilities by the Indians.

Mr. SCHENCK. No sir; not guessing. I think the gentleman has not regarded the explanation that I have been giving. When I say that there are no Indian hostilities existing to any great and organized extent now, nor likely to be, I am but stating the actual fact of the day. And I will further illustrate the explanation by adding that during the last fiscal year we not only had Indian hostilities, but active operations conducted by large armies collected in the field to move against them. General Hancock, for instance, thought it advisable to resist Indian hostilities and to seek to crush out any movements on their part by assembling many thousands of men together in a moving army. General Augur was also sent North, I believe, upon the plains, with a large assembled army. There are no such assembled armies upon the frontier now. A disposition has been made of our troops on the frontier, under General

Sheridan, by establishing them at the different posts from which relief may be afforded to different parts of the country, and any hostile demonstrations made at once repelled. And the gentleman needs not to be informed, nor does any one, that it is these large assembled armies, with the enormous cost of transportation and of quartermaster stores, which add so very much to the expense either on the frontier or wherever else military operations are conducted.

Mr. BROOKS. Once more, for information. I am not seeking party objects; but the last news from Oregon brings a report of an Indian fight there and the loss of some lives on our side. And if the gentleman heard the debate the other day respecting the Navajo Indians it would seem to be necessary to keep a large force there. What I mean to say is this: during the last year on the Missouri river, on the Platte, at Denver, and in various parts of the Indian country, it costs as much to support and feed them or more as on the route of the Pacific railroad.

Mr. SCHENCK. I beg pardon. The gentleman seems to know very little of military operations—

Mr. BROOKS. I do not know much, and I never wish to.

Mr. SCHENCK. He knows very little of military operations if he has not observed that an army in motion, with all its enormous demands, especially for transportation, is in a very much more expensive condition than an army in posts or inactive.

But I have been drawn away from the explanation which I was about to give, and which will be open to the criticism of the gentleman, if in any respect he thinks I have been misled or have come to wrong conclusions, when he shall have seen the whole presented together. Unless he desires to interrupt me further, I will proceed with the explanation.

Mr. BROOKS. I beg the gentleman's pardon for interrupting him.

Mr. SCHENCK. That is not necessary. I have been glad to explain.

I was speaking at the time I was interrupted of a reduction of expenditures consequent upon a reduction of the pay of the Army. Gentlemen may ask how is this arrived at. Simply thus: upon application to the General of the Army I find that under the system of economy adopted by him, and upon which he based his estimate for \$37,000,000 for the War Department a few months ago, was a proposed reduction of the rank and file of the Army to the minimum of the companies and regiments, and in pursuance of that arrangement, soldiers are being discharged at the rate of eight hundred men per month. It is a matter of mathematical calculation, then, how far such reduction will reduce the demand for expenditures on that account.

The Treasury estimate includes also the sum paid for soldiers' bounties under the act of Congress. But this sum is in no sense a regular expenditure of the military establishment. For convenience examinations and payments are made through the pay bureau of the Army; but in every practical sense the bounties are a special expenditure, not chargeable, nor to be provided for as a current expenditure of the War Department; so that it is not properly embraced in the war estimates of that Department. The amount of this expenditure for the current year is estimated by the Treasury Department at an average of \$20,700,000 for the ten months past. Striking this bounty item from the regular war estimates, to which it does not belong, would reduce the Treasury estimate for the year about thirty-two million dollars.

Further reduction of the Treasury estimates for the ensuing fiscal year, based on the expenses of the current year, should be made by striking out the payments made on Treasury settlements of State claims for war expenses,

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and Treasury settlements of private claims for war damages. These war claims of the States have heretofore been the occasion of a large expenditure, but are now all, or nearly all, extinguished. The State claims paid during the first ten months of the present fiscal year have amounted to \$9,250,693 25, while the private claims settled by the Treasury, and paid by the War Department, during the same time, have amounted to \$5,116,300.

These private claims are such as pass through and under the supervision and action for the most part of the Third Auditor of the Treasury. They are claims coming from individual sources on various accounts charged against the Government, and are, of course, not part of the regular expenditures of the War Department from year to year; but yet in looking forward and seeing what will probably be demanded from us as a draft upon our revenue, we must of course take them into the account.

These private claims settled by the Treasury have heretofore been paid out of the general and current appropriations of the military service by the bureau to which it belongs. They should only be paid by some specific appropriation after settlement by the Treasury. Whether a general appropriation be made in advance from year to year, or for the specific claim, the supervision of Congress in either case over this important and dangerous branch of expenditure would be secured as it is not now.

Striking these Treasury settlements from the estimates of regular expenditures of the War Department, in which they are improperly included, makes a further reduction of \$14,366,993 25. The reduction of expenditures for the Military Academy, ordnance, and engineer bureaus, forts, arsenals, &c., including also items covered by "lapping" appropriations, may be estimated at about five million dollars. A further reduction should be made by striking out the expenditures for the Freedmen's Bureau. This bureau is merely a temporary organization, the operations of which are daily diminishing, and may soon wholly cease. Its expenditures are made under the general supervision of the Secretary of War, but are in no sense regular current expenses of the military service. The expenditures for this bureau during the first ten months of the present fiscal year amounted to \$2,000,000, and that amount should be stricken from the Treasury estimate of war expenditures. No appropriation is asked for on this account for the coming year.

The Indian hostilities and negotiations have compelled the War Department to make advances of subsistence stores at times and places of special emergency, upon the express stipulation of reimbursement by the Indian Bureau which has hitherto been disregarded. This expenditure, during the first ten months of the present fiscal year, amounted to the sum of \$277,831 86, and should be stricken from the estimate of war expenditures. This is exclusive of the expense incurred by the War Department in subsisting the Navajoes and other Indians held as prisoners of war, which have created a heavy burden on the War Department, increasing the sum on Indian account to about one million dollars.

It will therefore be seen that by making the proposed reductions in the Treasury estimates—to which the gentleman called my attention—for the War Department, there will be found nothing to impeach the accuracy of the estimates communicated to Congress by General Grant; and furthermore, they are in the main corroborated by the estimates of the Special Commissioner of Revenue, derived from the Treasury Department itself.

I will now recapitulate what I have been saying on these points:

The total expenditures through the War Department for the current fiscal year will be, as before stated..... \$123,859,496

Under this head, however, are included the following items, none of which can be classed as among the regular "Army" or "war" expenditures:

Bounties.....	\$32,000,000
Reimbursing State war claims.....	9,250,693
Private claims for war damages.....	5,116,300
Freedmen's Bureau.....	2,100,000
Subsistence of Indians and advances on account of Interior Department.....	1,000,000
Total.....	\$49,466,993

This leaves \$73,382,503 as the aggregate expenditures proper of the War Department for the current year; an aggregate which has been largely augmented by the existence of Indian hostilities on the frontiers during the summer and fall of 1867.

The above expenditure of \$73,382,503 will, it is believed, be reduced during the next fiscal year by the following items:

From discontinuance of Indian hostilities.....	\$20,000,000
From reduction of pay of Army, (the current reduction of the Army being at the rate of eight hundred men per month.)	
reduction of quartermasters' and other expenses.....	9,000,000
Estimated reduction of other expenditures—Military Academy, Ordnance and Engineer Bureaus, &c., including items covered by "lapping" appropriations separately estimated.....	5,000,000
	\$34,000,000

Assuming the above estimates as correct, the regular expenditures of the War Department for the next fiscal year may be taken to be about thirty-nine million dollars; which is nearly in accordance with the revised estimates submitted by General Grant, acting as Secretary of War, in December last.

Gentlemen who may have been alarmed lest we might be expected to expend \$123,000,000 during the next fiscal year on account of the War Department and the Army may therefore feel relieved. They may feel assured that, making the deduction from what has been spent during the last year of those items which are not likely to be required for the next, and also of the expenditures which, although charged to the War Department, are in no way connected with its regular business, and coming down to the requirements of the War Department proper, we shall find that General Grant's revised estimate cannot vary much more than a million one way or the other from what that branch of the public service will really demand.

I have felt it necessary to enter into a somewhat elaborate and particular explanation in relation to this branch of the public expenditure, at the close of the other general estimates which I have submitted, as it was called for by the gentleman from New York, my colleague on the Committee of Ways and Means.

I now go back and repeat my conviction, arrived at with all the care possible and all the exercise of my own judgment, and relying still more upon the detailed and accurate information, as it seemed to me, which has been furnished by the Departments, and by the General commanding, that if we collect, as I trust the passage of this bill will enable us to do, \$70,000,000 from the tax on distilled spirits, we shall have an amount of receipts at the end of the next year exceeding by about fifty million dollars all needed expenditures.

And now, Mr. Chairman, in concluding this review of the policy and purposes of the Committee of Ways and Means, as indicated in the bill which we have offered, let me express to gentlemen around me my thanks for the kind attention and patience with which they have so long listened to me. With this submission of our work to their consideration and action our responsibility in some degree ceases, and theirs begins. We shall be well rewarded if any considerable part of what we have done shall meet approval and contribute to the common good.

Contested-Election Case.

SPEECH OF HON. G. W. MORGAN,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

June 2 and 3, 1868.

The House having under consideration the contested election case of Delano vs. Morgan, from the thirteenth congressional district of Ohio—

MR. MORGAN said:

MR. SPEAKER: "Whom the gods wish to destroy they first make mad." I do not rise Mr. Speaker, to ask a favor, but to demand and insist upon the right of the people of the thirteenth district of Ohio to be represented by the person of their choice. Of the 26,185 voters who cast their ballots in that district at the October election 1866, there are not ten who are not fully satisfied that a majority of the legal votes cast at that election were against the contestant [Mr. Delano] in this case. They witnessed the election; they saw how it was conducted; they knew and know now on which side extraordinary, illegal, and corrupt means were used, and knowing these facts as they do know them, they will not be deceived by the action of this House.

The electors of the thirteenth district further know that at the congressional election of 1860 the counties of Coshocton, Knox, Licking, and Muskingum gave an aggregate Democratic majority of 549, the aggregate vote being 25,122. That at the congressional election of 1862, the first election under the new apportionment, said counties, composing the thirteenth district, gave O'Neil, Democrat, 8,064 majority over Wright, Republican, the aggregate vote being 22,462. That at the congressional election of 1864 in said district, on the "home vote" Follett, Democrat, had 1,222 majority over Delano, Republican, which was overcome by Army certificates sufficient to show a majority for Delano of 239, the aggregate vote being 23,560. That in 1864, on the aggregate home and army vote of said district, Mr. Lincoln had a majority of 10 votes over General McClellan. That at the gubernatorial election of 1865 G. W. Morgan, Democrat, had a majority in said district over J. D. Cox, Republican, of 787, the aggregate vote being 24,251. (H. Mis. Doc. No. 38, part 2, p. 725.) That at the congressional election of 1866 in said district the majority of Morgan over Delano was 271, the aggregate vote being 26,185. That at the gubernatorial election of 1867 in said district the majority of Thurman, Democrat, over Hayes, Republican, was 2,178, the aggregate vote being 27,906.

The gentleman [Mr. SCOFIELD] who has laid upon your desks the remarkable paper called the report of the majority of the Committee of Elections seems to have forgotten that the Constitution of the United States secures to the people of the respective States the right to elect their own Representatives to this House.

MR. MULLINS. Will the gentleman allow me to ask him one question?

MR. MORGAN. No, sir.

MR. MULLINS. Just one question.

MR. MORGAN. Not one.

MR. MULLINS. I only want to ask if the Constitution does not give the right to judge of the election returns and disqualifications of members?

MR. MORGAN. The issue before this House is of very small concern to the people of the country so far as the contestant and the sitting member are concerned as individuals, but the principle involved is vital to the dearest rights of the people. Were the contestant and the sitting member to be blotted out of existence to-day they would not be missed to-morrow. Like two pebbles dropped upon the bosom of the sea, we should at once sink beneath the surface, and only for a few moments would a few circling eddies mark the spots where we

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had disappeared, and oblivion would cover us forever. And I cannot but congratulate the contestant [Mr. Delano] upon the fact that when he shall have passed from off the stage of action that his name and political misdeeds will be forgotten together. Not so, sir, with the great principle—the right of representation—involved in this case. Not so as to the dangerous precedent to be established by this House, that the citizens of Massachusetts, Vermont, and of other States, can disfranchise the citizens of Ohio, and in contempt of their wishes determine who shall sit in this House as the pretended representative of the people.

Sir, no citizen in the thirteenth district knew better than Mr. Delano that it was Democratic. He knew that he had obtained his seat in the Thirty-Ninth Congress by means of Army certificates pretending to represent votes which in fact were never polled. And knowing that he could not be fairly elected, three days before the election took place he publicly avowed in a speech at Millwood, "I may be beaten, but I won't stay beaten." This, sir, was the estimate he placed upon this House, this was his threat that he would do what he had before done, obtain a seat on this floor as the Representative of the people who had refused to be represented by him.

Sir, the political career of the contestant has indeed been remarkable. The testimony in this case shows that in 1844 he was returned to this House by a majority of only twelve votes but from a democratic district and he was allowed to take and retain his seat without a contest, although no one believed that he was fairly elected. Should it be the pleasure of this body now, in the exercise of a power which in their hands is absolute and from which there is no appeal except to the people, to give to Mr. Delano, that which the people denied to him, it will be the only instance in the history of the country where the same individual has three times occupied a seat in Congress without having been once elected.

The real issue involved in this case, Mr. Speaker, is not between George W. Morgan and Columbus Delano, but between this House of Representatives on the one part, and the people on the other. It is to determine whether in contempt of all, the dominant party on this floor will arrogate to themselves the right to elect each other, and to treat with contempt the will of the people. This question, sir, is of vital moment; it reaches down deep into the very foundations of our Government, and its solution is to determine whether we have a representative government or a despotism; whether the people are masters or slaves.

Sir, were this question purely personal to myself, under the circumstances by which I am surrounded I should not have risen to utter one word in this case. But a sense of duty to the people of my district, whose rights are threatened with outrage, demand that I should resist and expose the great wrong which is about to be committed. So far as the members of the Committee of Elections, who by a strict party report advise the House to commit this wrong are concerned, I have but a word to say. Did I desire vengeance against them, it would be that they should sign the report they have sent to this House, and that it should be left as a heritage for their children to gaze upon after they are dead. But, sir, I desire no such act of cruelty against the innocent, and I leave the members of the majority to the judgment of their own consciences, and the much more certain judgment of the people.

Sir, I do not wish to ascribe evil motives to any one, and the mildest opinion that I can express in regard to the gentleman from Pennsylvania [Mr. Scofield] is that the report shows that he is totally ignorant of the law and the facts in this case, for to think otherwise would be to ascribe to him motives of a far different character.

Now, sir, to the report of the gentleman from

Pennsylvania, [Mr. Scofield.] It claims for Mr. Delano 81 majority—not 80, but 81—which indicates a nice and conscientious calculation. By what sleight-of-hand has the official majority of 271 for the sitting member been frittered away? We shall see. First, 292 electors, Democrats and Republicans, of Pike township, Knox county, are disfranchised by the entire vote being rejected. But why rejected? Was there fraud on the part of the judges of the election? No; that is not claimed. Was there any fraud of any kind? No; for it is admitted by the report in favor of Mr. Delano that all of the votes in Pike township are legal votes except 11. But there are only 11 illegal votes. Why reject more than them? Because that would not be sufficient to give Mr. Delano the seat refused him by the people.

But upon what ground, upon what pretext is this House asked to disfranchise the electors of Pike township, Republicans and Democrats alike? I will tell you, sir. The true ground is, because that township gave 140 majority against Mr. Delano. That is the real objection to the vote of Pike township. But what is the pretext for disfranchising 292 voters? It is charged in the report of the majority that Salathiel Parrish, one of the judges of the election in that township, failed to report to the draft, and upon this flimsy and contemptible pretext the House is asked to throw out the vote of Pike township. Is the pretext true? No; it is wholly false. What are the facts? David Porch, one of the trustees of that township, testifies that Salathiel Parrish was drafted, but that prior to the draft Parrish, with the aid of other persons, collected a sufficient sum of money to raise recruits to clear that township of the draft. That fourteen recruits were raised and accepted.

Mr. Porch says:

"They [Parrish, Scoles] and others were making an effort before the draft to clear the township by putting in substitutes or recruits, and after the draft, finding that they were going to be successful, they paid no attention to it."

Well, Mr. Speaker, the recruits were raised and accepted; the township was cleared from the draft by the aid of Parrish, and the provost marshal told Porch that as recruits had been put in the men who had been drafted were released, or "would not be troubled." Now, sir, I challenge the gentleman from Pennsylvania, [Mr. Scofield,] I call upon the contestant, [Mr. Delano,] to produce the testimony of a single witness contradicting the testimony of Mr. Porch. The gentlemen do not answer. Sir, they do not answer because there is no answer to give. And that each member may examine for himself I refer the House to page 276, H. M. D. 48, part 2. But what, sir, is the law as to what constitutes a deserter?

The thirteenth section of the act of March 8, 1863, provides—

"That any person failing to report after due service of notice as herein prescribed, without furnishing a substitute or paying the required sum therefor, shall be deemed a deserter, and shall be arrested by the provost marshal and sent to the nearest military post for trial by court-martial, unless, upon proper showing that he is not liable to do military duty, the board of enrollment shall relieve him from the draft."—*United States Statutes-at-Large*, vol. 12, p. 731.

Well, sir, by the very terms of the law, Salathiel Parrish was not only not a deserter, but he did more than the law required. He did not wait for the draft, but before it took place he was engaged in raising means to put in recruits. The recruits were obtained, and the township released from the draft. And yet, sir, upon this pretext, at once frivolous, wicked, and false, this House is asked to reject the entire poll of Pike township, and thereby disfranchise 292 citizens. Sir, will this House entertain a proposition so atrocious? Dare the dominant party upon this floor disfranchise the people of an entire township, when no fraud was alleged, when no fraud was proved, when even the contestant does not so much as pre-

tend there was fraud or unfairness of any kind? I am not surprised, sir, at the often-repeated declaration of the gentleman from Pennsylvania [Mr. Scofield] that he wished this case through, that he never again desired to hear of the case of Delano vs. Morgan. Ah, sir, well may the gentleman desire to still the spirits he has raised; but this case will haunt him like a ghost, and he will ever hear singing in his ears the case of Delano vs. Morgan; and when the indignant cry comes from an outraged people he will learn that he has only commenced to hear the cry of Delano vs. Morgan in connection with this infamous report.

Mr. DAWES. I call the gentleman to order.

Mr. MORGAN. As it may be held out of order, I withdraw the word infamous.

It is not my intention to make an elaborate law argument in this case, because the contestant and the committee were at fault wholly as to the facts, even were the law as claimed by them. But, sir, the committee show an utter disregard of the law in reference to the very question involved in reference to Pike township.

The claim of the contestant [Mr. Delano] is this: that Salathiel Parrish failed to report to the draft, and that thereby he ceased to be a citizen of the United States, and consequently could not be an elector of Ohio. I have already proved, sir, that the charge against Salathiel Parrish is false, and that is an end to the whole question. But, sir, suppose that it were true that Salathiel Parrish had been guilty as charged by the contestant, [Mr. Delano.] What then? He was one of the trustees of Pike township, and, by the force of the statute, one of the judges of the election. Hence, even had he been a deserter, (which is false,) he was acting under the color of office, and his acts were lawful so far as third parties (the voters) were concerned. The contestant [Mr. Delano] claims that Parrish could not act as judge of election for the reason that the law requires that there shall be three judges.

It so happens, Mr. Speaker, that this very question has been already determined by the highest tribunal in Ohio; and it has been time and again decided that this House is bound by the laws of a State as construed by its own courts in reference to all questions connected with elections. Well, sir, in February, 1866, there was tried in the Senate of Ohio (being three fifths Republican) the contested election case of Grosvenor vs. Golden. The former a Republican, the latter a Democrat. And one of the grounds of contest was—

"That one Edwin Moore, who was a trustee of Bloom township, Fairfield county, acted as a judge of the election in said township, while he was at the same election a candidate for the office of county commissioner of said county."

A majority of the Committee on Elections reported that—

"As to the second charge above, the committee find that the said Edwin Moore was a trustee of Bloom township, Fairfield county, and as such acted as a judge of the said election, and was at the same time a candidate for commissioner of Fairfield county."

"The committee find this contrary to a provision of the statute. But they further find that he did not act corruptly, but in ignorance of the law. The committee regard said action as irregular, yet they are of opinion, and so find, that all the really essential requisites to constitute a valid election were observed in this case. The election was held at the proper time and place, and by competent authority, (to wit, the township trustees.) That there was no evidence of fraud in conducting the same, and no doubt about the result. In view of these facts, we are unable to assign any satisfactory reason for rejecting this return. The object of the law, as we think, in directing that a candidate shall not act as a judge of election, is to remove an inducement to fraud in his own case. It affords no such inducement in the case of any other candidate. But if it does, that presumption is rebutted in this case. The evidence is clear and decisive that the election was conducted with entire fairness. We are therefore of opinion that we can neither allege want of authority in the election board, fraud in conducting the election, nor any uncertainty about the result."

The supreme court of this State have decided—in the case of Ohio vs. Choate, 11 O. R. 511; Ohio vs. Alby, 12 O. R. 16; Ohio vs. Jacobs, 17 O. R. 151-2—that where an officer acts under color of authority

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his acts will be binding, although, in point of law and of right, he was no such officer. And if the acts of a person who proceeds by color of authority only will be sustained, there is certainly much greater reason for sustaining the acts of a real officer, although the mode of his action has been irregular."

And the Senate of Ohio, which was strongly Republican, sustained the majority report in favor of Golden, Democrat, against Grosvenor, Republican, by a vote of twenty-three to eleven.

Now, Mr. Speaker, this case of Bloom township is much stronger than the case against Pike township, even were the charge of desertion made by contestant [Mr. Delano] against Mr. Parrish true. A candidate acting as judge of election would have an inducement to commit fraud to secure his own election; but in the case of a man who was a deserter, if not a candidate, no such inducement exists.

This, sir, must be conclusive to every intelligent mind as to Pike township, and if its vote is now rejected the people—that great and higher tribunal, to which this case will be taken on appeal—will reverse this decision in such tones of thunder as will be a warning in the future for the House of Representatives not to tamper with the dearest rights of freemen.

Now, Mr. Speaker, Pike township out of the question, allowing the contestant [Mr. Delano] all that he claims, he is still beaten by a majority of 59, without going into the case of the sitting member against him. But it is far from conceded that the contestant has made out his case in regard to the 26 alleged deserters, exclusive of those charged to Pike township, all of whom were exempted by putting in substitutes. On the contrary, sir, I here declare and stand ready to prove that the contestant [Mr. Delano] has not made out a case against thirty out of the 126 alleged deserters, and I challenge the committee, I challenge the contestant, to grant me the time necessary to take up each case, that I may expose to this House and to the world the character of this whole proceeding. I regret, sir, that my proposition is not accepted, and I am forced to expose the pretended case of the contestant by citing a few examples. It is claimed by the report made by the gentleman from Pennsylvania [Mr. SCOFIELD] that William Murray, of Coshocot county, No. 16 on contestant's brief, is a deserter, and his vote is taken from the vote of the sitting member. Now, sir, I assert and defy the gentleman from Pennsylvania [Mr. SCOFIELD] or the contestant to show to this House one single word of testimony tending to show that William Murray is even charged with desertion. The charge does not even exist. In his brief, contestant cites pages 351, 351, and 355, part first, and there is no further testimony as to William Murray. Pages 351 and 355 show that William Murray is a Democrat, and page 355 that he voted; but there is not a word, not the shadow of a pretense that he was ever charged with desertion.

Now, sir, let us take a few other cases, and they will illustrate the character of the rotten fabric upon which contestant's case rests. Take the case of David Ford, No. 10 on contestant's brief, charged in the report as a deserter, and his vote deducted from the sitting member. Now, sir, I turn to page 366, part second, and there find the following certificate:

We, the subscribers, composing the board of enrollment of the thirteenth district of the State of Ohio, provided for in section eight, act of Congress for enrolling and calling out the national forces, approved March 3, 1863, hereby certify that David Ford, of Franklin township, Coshocot county, State of Ohio, having given satisfactory evidence that he is not properly subject to do military duty as required by said act and the act approved February 24, 1864, by reason of his having furnished an acceptable recruit is exempt from all liability to military duty for the term of the draft.

JOHN A. SIMMETT,

Provost Marshal and President
of the Board of Enrollment.ISAAC HADLEY, Member of the Board of Enrollment,
Newark, Ohio, this 1st day of November, 1864.

But this is not all, sir. By reference to the testimony of contestant, pages 250, 251, and

253 of contestants own testimony, it will be found that David Ford is not on the Provost Marshal's list of alleged deserters. And yet, sir, the contestant [Mr. Delano] and the majority of the committee have the temerity to set down David Ford as a deserter, and to deduct his vote from the sitting member. The same precise state of facts exist as to Josiah Pepper, No. 12, page 5 of the contestants brief; and he, too, is put down as a deserter, and his vote is deducted from the sitting member. And so, Mr. Speaker, I might go on case by case and show to the satisfaction of every honest man that out of the whole number of 137 alleged deserters, the charge is not made out against thirty of the whole number, and if it was sustained, which cannot be, for the testimony does not exist, there is not evidence that twenty of the entire number voted for the sitting member. Mr. Speaker, I will not occupy further time by going into the case of the contestant, for I have already shown that upon his own case he has no right to a seat on this floor.

The official majority of the sitting member (Morgan) was 271. From which deduct votes due contestant: illegally rejected, 5; Linton township, 48; Monroe township, 20; Minors, 3; non-residents, 32; alleged deserters, 30; total, 133; still leaving Morgan's majority 138. So that were everything granted to the contestant which can be done without rendering this whole proceeding a shameless farce, the sitting member still has a majority of 138, without going into his case against the contestant. Now, Mr. Speaker, you have gazed upon that picture, and I now wish you to look upon this:

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Uncontradicted testimony shows that there were 120 names on the poll-book of Blue Rock township in 1866 which were not on the poll-book of 1865. That at the October election, 1865, in that township the aggregate vote for Cox and Morgan, opposing candidates for Governor, was 208; and while the sitting member polled 10 more votes in 1866 than he had done in 1865, the contestant [Mr. Delano] polled 206 votes, or within 2 votes of the aggregate Democratic and Republican vote of the previous year; and all this in a county township. Nor is this all. John M. Harlan, who voted for Mr. Delano, testifies that there were 87 more votes polled in Blue Rock township in 1866 than in 1865, while the official vote of 1867 shows that the vote of Blue Rock was 37 less than in 1866, while the vote of every other township was greater than the vote of the previous year. And while Cox only beat Morgan 50 votes in that township in 1865, Delano beat him 117 votes the next year, although the vote of Morgan was 10 greater than in 1865. These facts alone conclusively establish fraudulent and corrupt voting for contestant.

But this is not all. Where did these fraudulent voters come from? The testimony of several witnesses shows that they came from West Virginia, Pennsylvania, New York, and from various districts in Ohio. That in the fall of 1865, a great oil excitement broke out, and that "speculators" came and went "like the crowd going up and down in the streets of Zanesville." They did not even pretend that they went to Blue Rock to make it their residence, and many of them avowed they only remained to vote for Delano; and the witnesses concur in saying "that the oil men (as those people were called) left immediately after the election." Mr. Speaker, by the laws of Ohio, it is made a felony, punishable by imprisonment in the penitentiary from one to five years for the judge of an election to refuse to administer the required oath to a person whose vote is challenged. And yet, sir, in contempt of the law, and for the purpose of fraud, the judges of that election refused to administer the required oath to the non-residents who presented themselves to vote.

James White says (H. Mis. Doc. 38, part 2,

pp. 609-10) he has resided over fifty years in Blue Rock township.

"Q. State what you know relative to the judges of election refusing to swear non-resident oil men when they were challenged.

"A. I thought that, as I was an old man, I had the right to challenge strangers' votes.

"Q. State what was the conduct of the active friends of Mr. Delano toward Democrats while at the polls.

"A. I thought they were a little rougher than I had ever seen them. I have been a voter there all my life, and never saw as much abuse to old citizens; they called them rebels and everything they could lay their tongues to. There were three old Democrats of us went into the house, and thought we would challenge some of their votes; they commenced abusing us till I backed out, and went out of the house and stayed out. They did run two Democrats off; the Democrats came and would go right off again."

Joseph McDonald (H. Mis. Doc. 38, part 2; p. 624) says he has resided in Blue Rock township since 1816.

"Question. State what you know relative to the judges of the October election, 1866, in Blue Rock township, refusing to swear non-resident oil men when they were challenged.

"Answer. They said they fetched them in as stragglers, or Methodist preachers, who had a right to vote wherever they were. There were some few sworn; the balance were not sworn; the judges said it was not worth while.

"Question. Please state who requested the judges of said election to have the non-resident oil men sworn.

"Answer. I did myself, and also heard other persons do so, but do not recollect who. They said they had not time to swear all of them, and they passed the oil men into the class of stragglers, and Methodist preachers. The judges of the election were Republican.

"Question. Were Democrats intimidated from exercising the right of challenge?

"Answer. They were. The non-resident oil men belonged to the Republican party; there were few Democrats."

John Silvey says (H. Mis. Doc. 38, part 2, pp. 633-34) he has resided in Blue Rock township forty-three years.

"Question. State what you know relative to the judges of the election held in Blue Rock township, October, 1866, refusing to swear non-resident oil men when challenged.

"Answer. Mr. McDonald and I went into the polls and requested them to swear the oil men; the reply was that it was not necessary; that Mr. Peyton's reference was enough; that they are the same as a Methodist preacher on a circuit, wherever they were at the time was their residence."

He says that Democrats were intimidated from challenging by the active friends of Mr. Delano. "If a Democrat were to speak, fifteen or twenty would run up and shake their fists at you, and threaten to beat or whip you. As a general thing they (non-resident oil men) acted with the Republican party."

The sitting member attempted to prove who these non-residents were and for whom they voted. But to such an extent were they strangers in the township that no one knew them; it was only known that at the election "they acted with the mob," fighting for the contestant, and that immediately after the election, with carpet-bag in hand, they disappeared like so many shadows.

THE POLLS ILLEGALLY CLOSED.

I have already shown, Mr. Speaker, that the frauds in Blue Rock were so numerous that it was impossible to separate the illegal from the legal votes, and that according to all the precedents in similar cases that the poll of that township must be rejected. But there is another point, sir, to which I desire to call the attention of the House. The officers of the election, all the political friends of contestant, closed the polls in this township during one hour, and carried the ballot-box and poll-books away from the polls, thereby depriving the electors of that precinct from having an opportunity to vote as prescribed by the law. It is clear that if the officers of the election can at their own option close the polls, and stop the election during one hour on the pretext of going to dinner, they have equal right to close the polls at five o'clock p. m. for one hour to go to supper. They would then return at six o'clock, when by law the polls are required to be closed.

Now, Mr. Speaker, I would not ask that the

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poll of this township should be rejected upon that ground alone; but when it is considered that the action of the judges of the election was grossly corrupt, criminal, and that a large number of the citizens of other States were there allowed to vote, it makes a case of such accumulated wrongs that there can be no doubt that both law and justice demand that the entire vote be rejected. And I now call the attention of the House to the ruling of Justice Brinkerhoff, of the supreme court of Ohio, concurred in by Murdock, Cox, and Force, J. J., (all members of the Republican party,) at the district court for Hamilton county, Ohio:

"It was correctly stated by Mr. Pugh as a universal law governing all elections that, throwing aside mere forms, the only question is, who has received the most legal votes? The point as to the want of the signatures of the judges to the papers touched a mere matter of form. The object was only to authenticate the paper, and it was competent to authenticate by other means as it was by the oath of the recorder. So, also, as to the administration of an oath to the judges. They were sworn as a matter of fact, and acted as judges *de facto*.

"It was beyond dispute, however, that for about the space of two hours the judges and clerk of election left the polls and took the ballot-box away, returning afterward and resuming the election. There is no pretense that the ballot-box was tampered with, but that the judges rather acted in ignorance of what their duties were.

"The court is of opinion that such conduct on the part of the judges goes to the substance of the election, and renders it void *in toto*. The statute prescribes that the polls shall be opened at a given hour in the morning and closed at a given hour in the afternoon. It was the express design of the Legislature that all the time between these hours the polls should be kept open for the convenience of any elector who may choose to present his ballot. The court does not agree with counsel that it lies on the party contesting the election to show affirmatively that the closing of the polls influenced the result. The law gives the elector the privilege of consulting his own convenience as to what hour of the day he will visit the polls, and it is a fair presumption that if the polls were temporarily closed for dinner, as was proved, a portion of the electors were deprived of that privilege. The writ was, therefore, well brought against Mr. Ritt, who claimed the majority, but the same state of facts also excludes Mr. Brown, the relator, from the office of mayor.

"Murdock, Cox, and Force, J.J., concurred.

In the case of *Burch vs. Van Horn*, decided during the present session of Congress, the Committee of Elections, by their unanimous report, say:

"Each of the States of the Union have hitherto regulated suffrage in their own limits for themselves and in such manner as the people of the State deemed most conducive to their own interests and welfare."

Such a remarkable concession on the part of the Committee of Elections is encouraging. But if the State has the right to pass laws regulating elections within the State, it will not be denied that it belongs to the State courts to construe those laws; and the House of Representatives has even professed to be governed in its action as to State laws by the construction given to those laws by the State courts. And now, Mr. Speaker, with these facts before them, I ask the members of this House, whether they are prepared to assume the responsibility of rejecting the vote of Pike township against which no fraud has been even charged; and retain the vote of Blue Rock township, all steeped in fraud, illegality, and corruption as it is? If they are, then they should frankly declare that they reject Pike township, though free from the taint of fraud, because it gave the sitting member 140 majority; and that they retain the vote of Blue Rock, although reeking with corruption, because that township gave a Republican majority of 117 votes, being 60 more votes than there were legal voters in the township. Sir, such action may satisfy the conscience of this House, but it will not satisfy the people, for intelligent men of all parties will feel that in the action of this House, a serious blow has been struck at the right of election by the people.

CLINTON TOWNSHIP.

Among the grounds urged by the contestant why he was entitled to a seat upon this floor, was that the judges of the election in a number of townships had commenced to count out the vote before six o'clock in the evening. He

did not charge or attempt to show by proof that any fraud had been committed or even attempted, or that any advantage had been taken by the friends of the sitting member; but, sir, he asked the committee to throw out the entire vote, to disfranchise all the citizens; Republicans and Democrats alike, of the townships of Adams, Crawford, and Oxford, in Goshocton county; of Liberty, in Knox county; of Harrison, in Licking county; and of Muskingum, Perry, and Washington townships, in Muskingum county. Nor did he stop here. He asked to have the vote of Harrison township, Knox county, thrown out, solely because the judges of the election adjourned the counting out of the vote precisely as they were authorized to do by the laws of Ohio. Well, sir, representing the people whose rights were assailed by the contestant; defending the right of the majority to be represented by the person of their choice, in my answer I alleged certain grave illegalities against the vote polled in the city of Mount Vernon and the township of Clinton. And as to the law and the facts relative to the vote of this township, I read from the minority report:

"Within the corporate limits of this township is situated the incorporated city of Mount Vernon, divided into five wards. The constitution of Ohio requires electors to vote in the county, township, and ward in which they reside. The laws of that State require:

"That each township in the several counties shall compose an election district, unless such township is now, or shall hereafter be, divided by law into more districts than one; the election to be held at such place in such township or district as the trustees in each township shall direct; and each ward of any city that is or may be divided into wards shall compose an election district; the elections therein to be held at such places as the members of the city council for their respective wards shall direct; and in all elections held under this act they shall serve as judges, and perform the duties required of township trustees in like cases." (Act of May 3, 1852; 50 Ohio Laws, 311; Swan and Cr., Stat. p. 532, secs. 15, 16.)

"That if either of the trustees, common councilmen, or clerk of any township shall fail to attend at the time and place of holding elections, or if either of them should be a candidate for a State or county office, then it shall be the duty of the electors present to choose *viva voce*, suitable persons, (as the case may require,) having the qualifications of electors, to act as judges or clerk (as the case may be) of the election. (Act of April 2, 1859; 66 Ohio Laws, 119; 1 Swan and Cr., p. 533, sec. 20.)

"No person shall be permitted to vote at any election unless he shall have been an actual resident of the State for one year next preceding the election, and an actual resident of the county for thirty days next preceding the election, and an actual resident of the township or ward twenty days next preceding the election. (Act of May 1, 1857; 54 Ohio Laws, 136; 1 Swan and Cr., p. 543, sec. 71.)

"Any person who shall willfully vote in any township or ward in which he has not actually resided for twenty days next preceding the election, shall, on conviction thereof, be imprisoned in the jail of the proper county not more than six months nor less than one month." (Act of May 1, 1857; 1 Swan and Cr., p. 544, sec. 85.)

"Nothing in this act contained, so far as the same relates to the length of time required of a voter to reside in the township or ward where he offers to vote, shall be held, taken or construed to apply to any voter who is the head of a family, who shall *bona fide* remove with his family from one ward into another within the corporate limits of any city within the same county." (Act of May 1, 1857; Swan and Cr., p. 544, sec. 85.)

"That all elections hereafter to be held for" * * * * "Representatives to Congress shall be held and conducted in the manner prescribed by this act."

"In the city of Mount Vernon no election was held according to law. No attempt was made to hold any election in said city as such, or in the respective wards thereof. An election was held within the territorial limits of the fourth ward, but it was held as a township not as a ward election, and was held by the trustees of Clinton township, neither of whom was a councilman or officer of the city. At this election the electors of the township, including the city, voted. The votes of the citizens of the city and those of the citizens of the township outside the city were all deposited in the same ballot-box. The polls were closed by the officers of this election from thirty to sixty minutes between twelve m. and one o'clock p. m., and the ballot-box and poll-books were carried away and kept by the officers, all of whom were the political friends of the contestant. (See the decision of Justice Brinkerhoff, referred to in connection with Blue Rock township.) The workingmen in the foundries and workshops of the city generally voted during their dinner hour, from twelve to one o'clock, and were liable to lose wages if absent to vote at another hour. (Pt. 2, pp. 285, 287, 291, and Pt. 1, pp. 132, 133.) The general elections for Clinton

township appear to have been held on this election was during the preceding thirteen or fourteen years, for some unexplained reason ignoring the existence of the city and disregarding the plain letter of the law. One of the officers of the election, John Y. Reeve, refused to administer the oath to many persons challenged by the friends of the contestant, and unlawfully and fraudulently deposited their ballots in utter disregard of the demands of competent challengers, and thus committed felonies punishable by imprisonment in the penitentiary of the State. The law says that—

"If any judge" * * * * "shall refuse or sanction the refusal by any other judge of the board to which he shall belong to administer either of the oaths or affirmations prescribed by the thirteenth and fifteenth sections of this act" * * * * "(to be administered to any person whose right to vote is challenged,) he shall be imprisoned in the penitentiary and kept at hard labor for not more than five years nor less than one year."

But, Mr. Speaker, notwithstanding all these violations of law, notwithstanding the majority of the committee have rejected this vote, as judicially they were bound to do, I do not ask that the vote of Clinton township and of the city of Mount Vernon shall be rejected. For allowing the contestant the entire majority declared for him in that township and city, illegal votes and all, the sitting member still has a majority of 361 over the contestant.

Mr. Speaker, this is probably the first time in the history of our Government that a report of the majority of a committee seeking to give a seat to the contestant, shows in their report that a majority of the legal votes polled at the election were against him. In order to give Mr. Delano 81 majority it became necessary to disfranchise 292 votes; every one of whom, with the exception of the 11 claimed to have not reported under the draft, are acknowledged to be legal voters.

The fact stands thus: while it is admitted that a majority of the legal votes cast at that election in the thirteenth district were against the contestant, and while that fact is undisputed either by the contestant or by the gentleman who represent him; still with that majority acknowledged and reported against him, it is proposed to oust the Representative chosen by the people and place in his stead the candidate rejected by the people.

The facts in regard to Pike township I will very briefly repeat out of consideration to honorable gentlemen whom I now see upon the floor who were not present when I discussed that subject. By the laws of Ohio the three township trustees constitute the judges of election. At the election in Pike township the three trustees did preside as judges of election. No fraud, no illegality of any kind is charged against those judges or any of the electors of that township. But it is simply claimed that one of the judges neglected to report when drafted; and for this reason, and for this alone, it is proposed by the majority of the committee to disfranchise the entire township.

I desire to call the attention of the House to another fact in the case. The law regulating contested elections passed in 1851 requires that the contestant shall serve upon the sitting member a notice, in which he shall particularly specify the grounds of contest. Now, sir, in the notice served upon the sitting member there was no allegation made in regard to the township of Pike. The sitting member received no notice that any question would be made before this body upon any such ground, and he was only made aware of that fact when the brief of the contestant was filed before the Committee of Elections.

Now, I beg leave to correct a statement made by my honorable colleague, [Mr. LAWRENCE, of Ohio,] when he stated that there is no instance in the history of Congress in which a defective notice decided the action of the House against the contestant. The honorable gentleman is mistaken. I refer him to the case of *Wright vs. Fuller*, Barclay's Contested Elections, 152. In that case one of the specifications set forth, as a ground of contest, that there was illegality "in the reception of votes

by the officers of both election boards from persons who were not, at the time, qualified electors within the meaning of the statutes of Pennsylvania; the said persons being, at the time, either under the age of twenty-one years, non-residents, foreigners not naturalized, or persons not regularly assessed or returned; neither of which classes of persons are, by the laws of Pennsylvania, entitled to the elective franchise, so as to be legally qualified to vote for a candidate for the office of member of the House of Representatives of the United States." It will be seen that in this notice the contestant undertook to show the facts constituting the illegality complained of. One point held by a majority of the committee was, that it was not necessary to furnish the incumbent with a list of alleged illegal voters; but it was further held "that the intent of the law requiring notice to be given specifying the particular grounds of the contest, was to prevent any surprise being practiced on the sitting member, and to put him upon a proper defense."

In the foregoing case there was a minority report from the committee, (see p. 161.) It was insisted that the contestant's specifications were insufficient, and upon this point the reasoning was as follows:

"The first section of the act of Congress of 19th February, 1851, requires that whenever any person shall intend to contest the election of any member of the House of Representatives of the United States, he shall, within thirty days after said election, give notice in writing to the member whose seat he intends to contest, and in such notice shall specify particularly the grounds on which he relies in said contest."

The majority of the committee reported a resolution declaring the seat vacated, but the House laid the whole subject on the table, thereby allowing the sitting member to retain his seat.

So, in *White vs. Harris* (Bartlett's Contested Elections, 257) the majority of the committee held that the election should be treated as a nullity; but the minority objected, among other things, to the want of particularity in several of the allegations of the contestant, and the House laid the whole subject on the table. In their report the minority of the committee say:

"Not only are the allegations of the contestant insufficient in view of the above authorities, but they do not even indicate the class of the voters objected to as illegal, which was held to be the saving point as to the allegations of contestant in the case of *Valandigham vs. Campbell*, by a portion of the committee in their report upon that case."

Now, in this case the notice was not only insufficient, but there was no notice at all as to Pike township. The sitting member was not put upon his guard; he was not warned of the ground upon which the contestant would come into this House and claim a seat on this floor against the wishes of the majority of the electors of the thirteenth district. I would not make this point did it stand alone; but inasmuch as it is proposed to disfranchise the electors of this township, inasmuch as it is proposed to disfranchise two hundred and ninety-two citizens upon a technicality, I throw myself upon my legal rights and deny that the contestant had a right to introduce any evidence before the committee or before this House upon the subject of Pike township at all.

The testimony of the contestant shows that in the thirteenth district there are charged 774 deserters. Of these 774 deserters it is claimed by the majority report that 186 voted for the sitting member. Now, I ask for whom did the remaining 638 vote? Had they voted the Democratic ticket, the contestant, with all his ingenuity and industry and his large moneyed ability would have established that such was the case. But, it may be said if these 638 alleged deserters were Republicans why did not the contestant show the fact? The answer is a simple one. The sitting member believed, as he believes now, that not one of those 774 persons could be legally regarded as deserters. He did not dream that a body of intelligent men, composed in a large part of lawyers,

could for a moment entertain the proposition that a man is to be held guilty of crime because he is accused of crime; that a citizen is to suffer the penalty of crime without the opportunity of defense.

Sir, the doctrine seems to me so atrocious, that I would have deemed myself insulting the intelligence and integrity of this honorable body if I had attempted to present any such claim for consideration.

Now, sir, upon the contestant's own showing, unless this House is ready to disfranchise 292 voters upon the pretext, which is proved to be false, that one of the judges of election had failed to report under the draft, then upon the contestant's own showing the sitting member has a clear majority of 59 votes allowing all else as claimed by contestant.

But I ask the members of this House whether they will, with their responsibility to the people, with their responsibility to their own consciences, undertake to disfranchise the township of Pike and return the vote of the township Blue Rock?

If so, then, sir, I can only conclude, the country will conclude, that if this seat, in violation of the will of the majority of legal voters of the thirteenth district, is to be given to the contestant, it will be done on party grounds, and the right of election will have been taken from the people and usurped by this honorable body. Then, instead of the people of Ohio having the right to choose their own Representatives, the question is to be decided by the gentleman from Pennsylvania, the gentleman from Vermont, the honorable gentleman from New York, and honorable gentlemen from other States, instead of by the people of Ohio.

Mr. Speaker, my time is too brief to enter upon a new argument. I will, therefore, only suggest, with great deference to this honorable body, that if it be their good pleasure to deny to the people of the thirteenth district of Ohio the right to be represented by the person of their choice, the resolutions introduced by the gentleman who made the majority report be amended so that they may read thus:

Resolved, That George W. Morgan, being a Democrat, is not entitled to a seat in the Fortieth Congress from the thirteenth congressional district of Ohio.

Resolved, That Columbus Delano, supposed to be a Republican, is entitled to a seat in the Fortieth Congress from the thirteenth congressional district of Ohio.

Mr. Speaker, if it be the pleasure of this honorable body to set aside the election made by the people, and to establish the doctrine of self-election as to members of Congress, conscious of having discharged my full duty to my constituents, I will retire from this Hall without a regret. With confidence I will return to the people, and give to them an account of my stewardship. And in now taking leave of this House, I will not say with Fitz James—

"Twice have I sought Clan-Alpine's glen
In peace; but when I come again,
I come with banner, brand, and bow,
As leader seeks his mortal foe."

No, sir, not with "banner, brand, and bow," but I will be sent back by the majestic voice of an outraged people—not by three hundred, but by ten times three hundred majority.

Representation in Congress.

SPEECH OF HON. GEORGE VICKERS,

OF MARYLAND,

IN THE UNITED STATES SENATE,

June 8, 1868.

The Senate having under consideration the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Florida, and Alabama to representation in Congress—

Mr. VICKERS said:

Mr. PRESIDENT: The bill before the Senate is one "to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and

Florida to representation in Congress." The amendment proposed by the committee imposes two conditions upon the admission of these States. The first is, that they shall ratify what is called the fourteenth amendment of the Constitution; and the second is, "that there shall never be in such State any denial or abridgement of the elective franchise to any person by reason or on account of race or color, excepting Indians not taxed." An amendment has also been proposed to insert "Alabama" in connection with these States. I have discovered during my brief experience in the Senate that upon a motion to amend the merits of the bill are generally debated. My object, therefore, will be to discuss a few of the principles involved in the bill, and also of the reconstruction measures upon which it is predicated.

The third section of the fourth article of the Constitution authorizes the admission of new States. It does not, as alleged by the Senator from Vermont, [Mr. EDMUNDS,] as I understood him in the discussion of the bill for the admission of Arkansas, authorize Congress to reorganize new States upon republican principles and give to it plenary and absolute power to effect such organizations. I understand the admission of a State to be one with a constitution duly organized by the people of the State before admission is applied for, and the only condition upon which that admission is to be effected is that the constitution in its principles shall be adapted to the political principles of the Government to which application is made, being homogeneous to it and formed by the people of the State. The power to admit presupposes a State duly organized before application is made for that admission, not a power to organize or reorganize States, but only a power to admit them when duly organized, if their constitutions are of such a character as should receive the approbation Congress.

I have looked in vain for any clause in the Constitution which authorizes Congress to organize or reorganize States or to impose conditions upon States that apply for admission. If it is not in the simple power to admit, then I suppose it must be claimed under that to guaranty a republican form of government. But the same difficulty is presented here as in the case of admission, for the power to guaranty presupposes something to be guaranteed. It necessarily implies that the constitution which is to be guaranteed is in full force and existence. If a debt is to be guaranteed, that debt must have a previous existence. The guarantee can apply only to that which has such existence; and so it is in regard to the guarantee of a republican form of government. The forty-third number of the *Federalist*, written by Mr. Madison, page 201, after quoting the provision in the Constitution which authorizes the Legislature to guaranty a republican form of government, says:

"In a confederacy founded on republican principles and composed of republican members, the superintending Government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations."

Again, on page 202:

"But the authority extends no further than to a guarantee of a republican form of government, which supposes a preëxisting government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States, they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms they have a right to do so and to claim the Federal guarantee for the latter. The only restriction imposed on them is, that they shall not exchange republican for anti-republican constitutions; a restriction which, it is presumed, will hardly be considered as a grievance."

Again, in the thirty-ninth number of the *Federalist*, page 174, speaking of a republican government, Mr. Madison says:

"If we resort, for a criterion, to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on a government when

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derives all its power directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior."

I have also an authority from a distinguished member of the Senate, who has been long in public life, who has age, experience, and judgment, and has been associated with some of the most brilliant men in either House of Congress who have shed luster upon the history of the country. I refer to a speech made by Hon. BENJAMIN F. WADE, Senator from Ohio, on the 7th of March, 1866, upon the question of the admission of Nebraska into the Union. He said:

"I do not desire to enter into a discussion; but I will say that the committee had before them first the constitution of the State of Nebraska, which they examined and found a very liberal and a very good constitution, analogous to most of the constitutions of the States, indeed almost a copy of the constitutions of many of the western States. There is nothing in it to which any gentleman here would object, except that clause which restricts the franchise to white persons. That question I do not propose to discuss, because no new light can possibly be thrown upon it."—*Congressional Globe*, first session Thirty-Ninth Congress, page 4207.

Again, in the same speech, he said:

"In the next place, as for the Senator from Massachusetts, he challenges me to show that this constitution is republican in form. Well, sir, it is republican in form, but is not that kind of republicanism that I approve of. If I had my way about it nobody would be excluded from the franchise that was a male citizen of proper age, let his color be what it would. That would be the color of republicanism that I should like the best; but to deny that, under the Constitution of the United States, this constitution is republican in form, is to deny that we have a republic at all, for when the Government was formed I believe there was not more than one State at all events that was republican in form unless this is republican in form. It is republican in form and also in substance, for I do not suppose (and I am informed that there are not) that there are fifty colored persons in the whole Territory; but they ought to vote if there was but one."—*Ibid.*, page 4208.

We have this high authority as to what constitutes a republican government. Here was a constitution presented in 1866 with a restriction confining suffrage to white persons; but the Senator from Ohio said that such a constitution, which prohibited free negroes from exercising the right of suffrage, was a republican constitution; and further, that there was perhaps but one State when the Union was formed whose constitution did not contain alike prohibition. He said further, that that constitution was not only republican in form, but republican in substance, although by it free negroes were excluded from the right of suffrage.

The policy of Congress in the bills which have been submitted to the consideration of the Senate, in regard to the admission of the southern States, must proceed upon the assumption that these States are out of the Union. Then I ask, having once been in the Union, when and how did they get out of it? Was it by the ordinances of secession? Did those ordinances separate or sever them from the Union? I understood the honorable Senator from Michigan, [Mr. HOWARD,] while discussing this bill on Saturday—and if I am mistaken in his position he will correct me—to say that the ordinances of secession on the part of these States did forfeit all their political rights.

Mr. HOWARD. Followed by acts of war upon the Government of the United States was the ground upon which I put it.

Mr. VICKERS. Followed by acts of war upon the Government of the United States; and further, that by the conquest of those States all the political rights to which they had previously been entitled were acquired by, and accrued to, the United States, who had the right to impose any conditions they pleased upon them. Was that the honorable Senator's position?

Mr. HOWARD. Not exactly; but I will not interrupt you further.

Mr. VICKERS. The ordinances of seces-

sion of themselves certainly did not take these States out of the Union, because they were of a peaceable character; and if by peaceable measures they could become disunited from the Government, then the Government would not have prosecuted the war which they did upon those States; but it was upon the principle that the Union was indissoluble. It could not have been successfully waged upon any other principle. The whole North and the border States fought it out on the principle that the Union was not dissolved. If it had been proclaimed at the beginning of the war that these acts of secession, even if followed by acts of hostility, had taken those States out of the Union, the combat never could have been successfully ended.

If the war was carried on to preserve the Union, not to restore it, it was upon constitutional principles, and the ordinances of secession had no effect in dissolving the connection of these States with the Government of the United States. If it was fought to preserve the Union, I ask how is it possible that the success of our arms could effect that which the contest was prosecuted to prevent? Did the triumph of our arms in that great conflict dissolve the Union? If the ordinances of secession did not, how could the success of our arms produce that result?

But I understood the Senator from Michigan to say that the ordinances of secession, followed by acts of war upon the Government, forfeited all rights on the part of those States. Mr. President, was that the view which Congress took in 1861? In the month of July, 1861, after the first battle of Manassas, did the Congress of the United States entertain the opinion that this Union had been dissolved? No, sir.

There was no declaration of war unless the declaration made by Congress of the objects and principles upon which it was prosecuted be considered such. Why, sir, had not this country a very serious difficulty with the Government of Great Britain because that Government acknowledged the southern States to be belligerents? If they were out of the Union they were a distinct and separate nation, and Great Britain had the right to acknowledge them as belligerents. That difficulty has not yet been fully adjusted. We have denied that they were belligerents or that that Government had any right to recognize them as such.

Then upon what clause of the Constitution was this war prosecuted? Not upon the power to make war, because there was no declaration of it; but upon the power to suppress insurrection, to execute the laws, and to repel invasion. If there is any other portion of the Constitution under which this civil conflict was conducted, I have been unable to discover it. If the Union had been dissolved by the ordinances of secession would the war have been fought to suppress insurrection or to repel invasion or to execute the laws? Does not the fact that insurrection and the execution of the laws negative the idea of a dissolution? The declaration which Congress made on the 24th of July, 1861, and which was proposed by the present President of the United States, then a Senator from the State of Tennessee, after the first battle, was in these words:

"Resolved by the Senate, That the present deplorable civil war has been forced upon the country by the disunionists of the southern States now in arms against the constitutional Government, and in arms around the Capital; that in this national emergency, Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

It was not prosecuted on the part of the

United States for conquest or subjugation, not to interfere with any of the established institutions of the southern States, but merely to preserve the Union and the supremacy of the Constitution. The Constitution is the supreme law of the land; and it was to enforce the supremacy of that law that the war was waged. Law is a rule of action. That rule must have been binding upon the southern States when this declaration was issued, or the supremacy of the law could not have been asserted over them. Then it was to assert the supremacy of this Constitution and of this law over those States that this declaration of Congress was made. It was not for the purpose of subjugation, but merely to maintain and enforce the law, a law which bound the southern States, and was supreme because constitutional. It was for the execution of that law by all the power of the Government that the war was prosecuted, and not for the purpose of subjugation or of conquest. Congress did not then consider that the Union was dissolved, or that the southern States had forfeited any rights which they had under the Government. On the contrary, they asserted that whenever the law was practically admitted to be supreme the war should cease; that it was not prosecuted for the purpose of impairing the dignity, equality, and rights of the southern States. It recognized those States as in the Union, and said that as soon as the war ceased they should have the same dignity, the same equality, and the same rights unimpaired that they had when the conflict commenced. That was the declaration Congress made, not only to the southern States, but to the whole nation; a declaration upon which the war was fought; and I say it could not have been successfully fought upon any other principles.

Mr. President, if this bill passes, what becomes of the "dignity" of the southern States? Have they the same dignity that New York, Pennsylvania, or other States have in this Union? When they are commanded before their admission to accept the constitutional amendment, and never to alter or change their organic law; that before they shall be admitted here, they shall be deprived and forever deprived of the right to amend their constitutions, so as to make a distinction in regard to suffrage on the ground of race or color—is that the dignity of which the resolution of Congress spoke? Are those the equal rights which the other States possess, and which were meant by Congress when it passed this resolution? Are these the rights which the southern States possessed when the rebellion commenced and when this proclamation of Congress was made? They are asked to come in not upon equal terms, not having the same dignity, not having equality of rights with the other States.

I heard it said—I think it was by the honorable Senator from Ohio, [Mr. SHERMAN,] when discussing the Arkansas bill—that Arkansas should be admitted because Congress had offered inducements to Arkansas, had made propositions to her. She had complied with all those propositions except one, which had reference to the ratification of the fourteenth article of amendment to the Constitution; but that, as Arkansas had done all she could by a compliance with the propositions which Congress had submitted, therefore she ought to be received. Apply that doctrine to the amendment now before the Senate for the admission of Alabama. The amendment proposes to admit that State, not because she has complied with the propositions submitted to her by that body, but because she has not complied with them. Arkansas was to be admitted because she had complied, and Alabama is now to be admitted because she has not complied. The one complied with the requisitions of the law, and the other has not complied with those requisitions.

Then upon what ground can Alabama be admitted? It must be upon the ground of the

absolute right of Congress to admit or reject without reference to the law which was submitted to that State as a condition when she held her election. If she can be admitted because a majority of her registered voters have not ratified the constitution where is the necessity of requiring a majority of the votes cast at the elections in the other States to entitle them to admission? If Congress has the power to say to Alabama, "You shall be admitted because a majority of your people have not ratified the constitution," it has the same right to say to South Carolina and the other States that they shall be admitted although their majorities may or may not be in favor of the constitution. The fact that those States gave a majority for the Constitution does not alter the case nor vary the principle. If they had given majorities against the constitution they could be admitted upon the same principle and with the same propriety that it is now proposed to admit Alabama. It resolves itself into a question of power, and not of right.

If the proposition submitted to Arkansas, as argued by the Senator from Ohio, should have force, should not this proposition, also, submitted to the whole country by Congress in 1861, when it declared the purposes for which this war was conducted? If the proposals of Congress to Arkansas should have force, should not these proposals submitted not only to the South, but to the nation, be respected?

I understood the Senator from Vermont [Mr. EDMUNDS] to say, in his discussion of the Arkansas bill, that a State had a right to enter into a compact to deprive itself of political power; that the States could divest themselves of political power by a compact with the General Government. But can the people of a State surrender the power to regulate suffrage? Can it be possible that a State can make a compact for the surrender of that right which affects the life of the State, which is the life of the State, to the General Government? It was well said by the honorable Senator from Wisconsin that if a State surrenders her power over suffrage she ceases to be republican.

But the provisions in the bill now before the Senate in regard to suffrage apply not only to the election of President and members of the lower House of Congress, but also to the election of a State Legislature. Can it be said that Congress has a right to prescribe terms to a State which are to affect her internal condition, her local affairs, which have no connection with the General Government? Can it be that Congress has a right to say to a State that the qualifications of electors for her Legislature shall be of a certain description? Can a State bind her people in future generations to surrender a right which belongs to them as well as to the present generation? The power over suffrage is inalienable. It is like some other powers which are not the subject of contract, and all compacts in reference to them are nugatory and void.

It was said by the Senator from Vermont, in the discussion of the Arkansas bill, that a State had a right to surrender a portion of her sovereignty in regard to taxation, and also the administration of justice. But could a State government surrender to the General Government the whole power of taxation over her people? It would be impossible. Could she surrender to the General Government all power over descents? These are inalienable powers, with which she cannot part. The cases cited by him relate to partial taxation for benefits received and the titles of individuals to certain property, which do not affect the sovereign character of the State.

It must be recollected that the General Government is one of delegated and limited and defined powers, not a nation as Great Britain or France or Austria or Prussia. It received its existence from the States for the purposes of common defense, general welfare, and the security of liberty, and is hedged in by defined

boundaries. It is the creature of the States, made by a surrender of certain of their powers for specific purposes, the proper execution of which was to inure to the mutual benefit of all the States. It can exercise no power nor claim any attributes of sovereignty inconsistent with the independence, dignity, and equality of the States. The idea that the child and creature of the States and the people of the States, created and brought into being by their coöperation, to preserve, protect, and defend the common interests against foreign nations, and to promote the general welfare, should become the master and monster to absorb the powers of the States, take from them their chief attributes of sovereignty, and degrade them, was never before heard of. In the forty-fifth number of the *Federalist*, written by Mr. Madison, I find these words:

"The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce, with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

Here is a Government of limited powers, expressed, defined, and bounded by provisions of the Constitution, while the powers remaining in the States are unlimited and indefinite; and now this Government of limited and defined powers seeks to obtrude a constitution upon a State of unlimited and undefined powers. Could it be said that under the Articles of Confederation the Congress of the United States would have such a power as is now claimed by this Congress in regard to imposing restrictions upon a sovereign State? No such power was given to the Confederacy, and no pretense was ever set up that any such had any legal existence. If under the Articles of Confederation no such power existed, does any such exist under the Constitution of the United States? I read again from the forty-fifth number of the *Federalist*, written by Mr. Madison.

"If the new constitution be examined with accuracy and candor, it will be found that the change which it proposes consists much less in the addition of new powers to the Union than in the invigoration of its original powers. The regulation of commerce, it is true, is a new power; but that seems to be an addition which few oppose, and from which no apprehensions are entertained. The powers relating to war and peace, armies and fleets, treaties and finance, with the other more considerable powers, are all vested in the existing Congress by the Articles of Confederation. The proposed changes do not enlarge these powers; it only substitutes a more effectual mode of administering them. The change relating to taxation may be regarded as the most important; and yet the present Congress have as complete authority to require of the States indefinite supplies of money for the common defense and general welfare, as the future Congress will have to require them of individual citizens; and the latter will be no more bound than the States themselves have been to pay the quotas respectively taxed on them."

No such power as that claimed by this Congress existed in Congress under the Articles of Confederation; and if any one will take the trouble to read the preamble to those articles and the preamble to the Constitution they will find them substantially the same, with the addition that the Union was to be formed by the adoption of this Constitution. Here is a Constitution having no new powers but that in reference to the regulation of commerce; a Constitution with no enlarged powers; no additional, except that with reference to commerce; a Constitution which merely gave additional vigor to enforce the powers which were in Congress under the Articles of Confederation; and under this Constitution, with such an interpretation as that, we are now called upon to exercise a power not in the Articles of Confederation, not in the Constitution, but which can be found only by some implication which I cannot make nor understand.

In regard to the rights of the States even after their admission, in the case of Pollard's

Lessee vs. Hagan, in 3 Howard, which was referred to in the discussion of the Arkansas bill, the Supreme Court of the United States say:

"The right of Alabama, and of every other new State, to exercise all the powers of government which belong to and may be exercised by the original States of the Union, must be admitted and remain unquestioned, except so far as they are temporarily deprived of control over the public lands."

"Whenever the United States shall have fully executed these trusts, the municipal sovereignty of the new States will be complete, throughout their respective borders, and they and the original States will be upon an equal footing in all respects whatever. We therefore think the United States hold the public land within the new States by force of the deed of cession and the statutes connected with them, and not by any municipal sovereignty which it may be supposed they possess or have reserved by compact with the new States for that particular purpose. The provision of the Constitution above referred to shows that no such power can be exercised by the United States within a State. Such a power is not only repugnant to the Constitution, but it is inconsistent with the spirit and intention of the deed of cession."

Further, the court say:

"It cannot be admitted that the king of Spain could, by treaty or otherwise, impart to the United States any of his royal prerogatives; and much less can it be admitted that they have capacity to receive or power to exercise them. Every nation acquiring territory by treaty or otherwise, must hold it subject to the constitution and laws of its own Government, and not according to those of the Government ceding it."

The court say that although the king of Spain had this eminent domain, although he had a right to grant the land under the water, yet, when the United States took the territory, they did not take with it such a power over the land covered by the water as that they could patent it; in other words, that they took it in trust for the people of the United States; that they could not take this right which the king of Spain had in the soil; they could not grant it; and that the State of Alabama could not be deprived of her use of the navigable waters by a grant of the land.

The same doctrine was held in *Withers vs. Buckley*, (20 Howard's Report, page 92,) where the Supreme Court in the opinion say:

"It was contended that the Mississippi river, and the navigable rivers and waters leading into the same, shall be common highways and forever free, as well to the inhabitants of the State of Mississippi as to other citizens of the United States."

In considering this act of Congress of March 1, 1817, it is unnecessary to institute any examination or criticism as to its legitimate meaning, or operation or binding authority, further than to affirm that it could have no effect to restrict the new State in any of its necessary attributes as an independent sovereign government, nor to inhibit or diminish its perfect equality with the other members of the confederacy with which it was to be associated.

These conclusions follow from the very nature and object of the confederacy, from the language of the Constitution adopted by the States, and from the rule of interpretation pronounced by this court in the case of *Pollard's Lessee against Hagan*, 3 H. p. 779.

Although the State of Mississippi made a compact with the General Government upon her admission, it was held that such was not valid, no such agreement could be entered into, and that the people of Mississippi had the right to the free waters of the State. Before the General Government can acquire power over the right of suffrage in the States there must be a change of the Constitution. It is contrary to the spirit and the genius of our Government that with such limited powers it should have the right to control suffrage or to make a contract for the control of it or its prohibition in any of the States. It has no existing capacity to acquire or use such political power. It could not obtain by treaty the absolute power to control the soil and waters ceded to it so as to make a condition relating to them in the nature of a compact when providing by law for the admission of Alabama and Mississippi, because the exercise of such a power by a Government of limited and specific powers was inconsistent with the nature and rights of State governments as they existed at the time of the formation of the Constitution, and of all such which should be admitted into the Union, and which, of constitutional

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necessity, must be upon terms of equal dignity and rights. By what authority, express or implied, can it now receive and hold alleged forfeited rights of sovereign States in trust to be dispensed at pleasure on a subsequent recognition of those States? The theory that the General Government can become a trustee of sovereign political State power is a pretension which finds no sanction or color of authority in the letter or spirit of the Constitution, nor in the history of the Government, nor in analogy, nor in any of the discussions of statesmen, commentaries, and written dissertations upon our frame of government, nor in any known traditions or speculations prior to the year 1861.

As a further illustration of the superiority of the State governments in reference to their reserved power and dignity, and of the proper relation of the General Government to the States, I refer to the forty-fifth number of the *Federalist*, which declares—

"That the State governments will have the advantage of the Federal Government, whether we compare them in respect to the immediate dependence of the one on the other; to the weight of personal influence which each side will possess; to the powers respectively vested in them; to the predilection and probable support of the people; to the disposition and faculty of resisting and frustrating the measures of each other. The State governments may be regarded as constituent and essential parts of the Federal Government; while the latter is nowise essential to the operation or organization of the former. Without the intervention of the State Legislatures the President of the United States cannot be elected at all. They must in all cases have a great share in his appointment, and will, perhaps, in most cases, of themselves determine it. The Senate will be elected absolutely and exclusively by the State Legislatures. Even the House of Representatives, though drawn immediately from the people, will be chosen very much under the influence of that class of men whose influence over the people obtains for themselves an election into the State Legislatures. Thus each of the principal branches of the Federal Government will owe its existence more or less to the favor of the State governments, and must consequently feel a dependence which is much more likely to beget a disposition too obsequious than too overbearing toward them."

We have thus presented to us by the able and enlightened pen of Mr. Madison, who assisted to frame the Constitution, who understood thoroughly the nature and extent of the powers of the State governments, imparted and reserved, and without whose aid and influence the Constitution would probably not have been adopted, a statesman's account of the character, attributes, and relations of the States and General Government, and the dependence of the latter for its continued existence upon the former; and now at this enlightened period we have the extraordinary exhibition of a Government which he foretold would be more likely to become obsequious, arrogating to itself original and sovereign functions and powers over the existence and organic laws of State governments, sitting in judgment upon them, prescribing conditions of a fundamental nature upon their constitutions, and attempting to fasten a perpetual restriction upon the right of the people to alter their form of government!

A pamphlet in reference to the State of South Carolina has been laid upon my table, and as that is one of the States included in the present bill, I beg permission to read some extracts from it. It is signed by Wade Hampton, Joseph Daniel Pope, John P. Thomas, Samuel McGowan, F. W. McMaster, and W. M. Shannon, State Central Executive Committee. These gentlemen say:

"The State is now sadly impoverished. The property which her people had in her slaves has been swept away; it is true, given up by and with the consent of the State; nevertheless, that property no longer represents capital and value. The ravages of war, the marks of the conqueror's torch, are everywhere visible. The labor of the country is passing from one State to another, and is disturbed and demoralized. The flower of the Commonwealth has fallen on the battle-field, and the broken fortunes and disappointed hopes of a proud people weigh heavily upon the energies of at least the old and the less sanguine among us. Yet, under these circumstances, affecting enough to touch the sympathies of every manly nature, and in violation, as we conceive it, of

the political inheritances of our forefathers, herein South Carolina was threatened with the onus of a monstrous plan of public spoliation under the guise of an equitable system of taxation. Under the forms of law it is proposed to take away the little that the war has left us. 'Taxation without representation' is combined with 'representation without taxation.' Thus, in South Carolina, it is contemplated to revive the tyranny of the British Parliament in 1776, and to add thereto a new and startling feature."

The Constitution which we are now called upon to recognize, and upon which this State is to be admitted, was framed principally by negroes. I read from the same pamphlet:

"The constitutional convention was composed of—

Whites.....	47
Colored.....	74
	121

Seventy-four colored pay of taxes.....	\$117 93
One alone paying.....	85 35

Hence seventy-three colored pay.....	\$32 58
or less than fifty cents each.	
Forty-seven whites pay.....	761 62
One white (conservative) paying.....	508 85

Hence forty-six whites pay.....	\$252 77
or less than six dollars each.	

"Of the forty-seven white members, twenty-three pay no tax at all, and of the seventy-four colored members, fifty-nine pay no tax at all. Of the whites, at least one fourth were Government employes and northern adventurers, and of the colored men, a goodly number were from abroad."

I have thus given a description of the component parts of the convention which framed the constitution in South Carolina. Under that constitution they have elected a Legislature thus composed:

"The Legislature elected under the new constitution stands thus, exclusive of the districts of Marion and Lancaster, as the Democratic success in these districts is contested:

<i>Senate.</i>	
Whites.....	20
Colored.....	12
Total.....	32

<i>House of Representatives.</i>	
Whites.....	37
Colored.....	86
Total.....	123

<i>Recapitulation.</i>	
Whites.....	57
Colored.....	98

Whole number..... 155

or nearly two colored to one white.

Ninety-eight colored pay of taxes.....	\$143 74
One colored paying.....	83 35

Hence ninety-seven colored pay.....	\$60 39
or less than seventy cents each.	

Fifty-seven whites pay.....	\$491 49
Eleven conservative whites pay.....	194 43

Hence forty-six whites pay.....	\$297 06
or less than seven dollars each.	

"Of these fifty-seven white members twenty-four pay no taxes at all. Of these ninety-eight colored members sixty-seven pay no taxes at all.

"With regard to the State government: the officers consist of seven whites and one colored; the colored man having the paid office of least profit.

As to taxes:

The Governor pays.....	\$00 00
The Secretary of State.....	00 00
The Comptroller General.....	00 00
The Treasurer.....	00 00
The Attorney General.....	00 00
The Superintendent of Education.....	00 00
The Lieutenant Governor.....	15 99
The Adjutant and Inspector General.....	1 00

Making..... \$16 99

"Thus the eight members of the State corps of officers pay on an average each \$2 11."

Mr. President, I ask if the Senate of the United States will receive a State into this Union on a constitution thus formed and a government thus instituted? It was "taxation without representation" that produced in a great degree the war of our independence; it was one of the great burdens and evils complained of by our fathers that they were taxed

without representation; but here in this Government we have not only the people taxed without representation, but we have this grievance doubly intensified by having representation virtually without taxation. Could there be a more flagrant wrong upon any free people than we impose by accepting this constitution and form of government? In these southern States, according to their constitutions, the emancipated slaves are entitled to suffrage. They are more numerous in some than the white population; while in all many of the whites are disfranchised.

If I understood the Senator from New Hampshire, [Mr. PATTERSON,] he said that intelligence was necessary for self-government as well as for political government. Now, I ask where is the intelligence upon which this constitution of South Carolina is based? Where is the intelligence that elected her Legislature, composed principally of the recently emancipated slaves? I have always been taught to believe that no republican Government could exist unless it was predicated upon the intelligence and virtue of the people. These negroes have had no opportunity to become intelligent. They were born and reared in ignorance, uneducated, unlettered, superstitious, and credulous, and I would almost be inclined to assert that one half of them never heard the word "loyalty" or the word "Union" until they were told when these elections were about to be held. Why, sir, what do they know of the constituents of a republican Government? What about the coordinate departments of Government? the checks and balances that regulate a republic. They comprehend nothing in this respect, and in their present condition are unable to understand even the elementary principles of a republican Government; and yet we are to admit a State founded by ignorance, not by intelligence. I know that "liberty and loyalty" is a favorite theme with some gentlemen here; but are they alone a sufficient foundation for a republic? These people have no intelligence, not sufficient at least to engage in the formation of a constitution or of ordinary legislation. What is our practice when we alter a constitution of one of our State governments? Is it not to elect the most intelligent men in the community, gentlemen of experience and of some political distinction, who have a knowledge of the nature and the workings and operations of government; but here we have a constitution formed by men who could not, perhaps, spell the word "constitution," and who know nothing of the rudiments of a constitution.

To show that these people are ignorant, and known to be so, let me read an extract from a recent number of the New York Tribune:

"Republicans in all the States had better make up their minds at once that there cannot be two policies in the party at once, one for the North and one for the South. We cannot give the ignorant millions of freedmen in the rebel States the ballot, and the same time refuse it to the educated thousands in the North. If we attempt such a jugglery we shall find out that we have not cheated the negro, but ourselves."

I read this for the purpose of showing the opinion of one of the leading editors of this country, publishing, perhaps, one of the most influential papers, that these are "ignorant millions." Is it possible that we are to give to these "ignorant millions" the preponderance over the white race who own the land and other property of the South, and enable them to impose taxes without limitation. The committee from South Carolina, to whom I have alluded, have given in their appeal the items of taxes to be raised in that State. I will not trouble the Senate by going over the details, but will give the aggregate, which is \$2,230,950. These gentlemen say:

"The late assessment of real estate throughout the State, city, town, and country, is \$7,507,075, on which a tax levied of three per cent, will raise \$2,115,212. If real estate owners are to defray the expenses of the State, it will require more than three per cent. to

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meet them. Formerly it was about one half per cent., and that, too, when lands and real estate in general had not depreciated in value."

Shall we, by the adoption of this bill, commit the whole property of that State, valued at \$70,000,000, and the taxes of the State, amounting to \$2,000,000, into the hands of these men who pay no taxes comparatively—many of whom pay none absolutely—and who therefore have no interest but to increase taxation and expenditures?

But upon what ground do we give to these people the elective franchise? Is it for their benefit? I have always understood that when a franchise of any sort was bestowed, it was intended for the advantage of the persons upon whom it was conferred. But is the elective franchise conferred upon these negroes who do not understand it, for their benefit and advantage, when they have not the qualifications to exercise it? It cannot be bestowed on them for such a purpose, because they cannot appreciate nor properly enjoy it. But is it conferred on them as a punishment of others? If that be the object of it, I submit whether there is any constitutional power to punish any portion of the people of a State by giving the elective franchise to those who are not worthy of it?

We ought to confine ourselves as closely to the Constitution as we can; and upon that subject I have a very high authority which I will read to the Senate. It is a speech made on the 7th of March, 1860, by the Senator from Ohio who now occupies the Chair, in answer to a speech made by Mr. Toombs of Georgia. The debate was as to the right to carry property into the Territories. The Senator from Ohio said:

"Take another case, one that is, perhaps, likely to occur a little sooner. Suppose Brigham Young should come from the State of Utah and bring with him his forty wives, and the State has a law that a man shall have but one wife. Brigham says 'These are my property; yea, more than my property; yea, they are forty ribs taken out of my body while I slept; I must bring them in here, or the State of Utah will not be on equal footing with the other States of the Union.' Away with such logic. There is no guarantee in the Constitution of the United States for such a position as that. Our safety, Mr. President, consists in keeping close to the Constitution. Whatever we claim let us find the direct warrant for it there, or the necessary implication to carry out some other power that is manifestly granted. The moment we go astray from this we are in the fog; we are in dispute; we endanger the harmony of our action; and it is done in this instance." In this great departure from the early principles of this Government you have involved portions of the nation in almost irretrievable hostility to each other. Let us go back to the Constitution and follow it."

That is the language of a statesman who has had opportunities to acquire a knowledge of the Constitution and its principles, and these are his doctrines: "Keep close to the Constitution." Never was better advice given by any statesman or patriot. The closer we keep to the Constitution the better for the country, for this Government, and for the States. "Whatever we claim, let us find the direct warrant for it there." I ask, where is the "direct warrant" for imposing these conditions on the southern States? Is there any warrant in the power to admit new States or in the clause relative to the guarantee of a republican form of Government? Is there any power anywhere in the Constitution of the United States to authorize such an assumption of authority as prescribing conditions to a free and sovereign State?

"The moment we go astray from this we are in the fog; we are in dispute; we endanger the harmony of our action, and it is done in this instance."

Nothing truer was ever said. The very moment we depart from the Constitution that very moment we are in the fog; the ship of State cannot be steered safely into harbor, but our only safety is in keeping "close to the Constitution."

As I have stated, negroes cannot properly be associated with the whites in the governments of the States or in the General Government. They are of a different race, and their

incorporation into government will not produce harmony and concord. Let me read further from the same speech of the Senator from Ohio:

"There is one thing more that I will say before I sit down: but what I am now about to propose is not part and parcel of the Republican platform, that I know of. There is in these United States a race of men who are poor, weak, uninfatuated, incapable of taking care of themselves. I mean the free negroes, who are despised by all, repudiated by all; outcasts upon the face of the earth without any fault of theirs that I know of; but they are the victims of a deep-rooted prejudice, and I do not stand here to argue whether that prejudice be right or wrong. I know such to be the fact. It is there immovable. It is perfectly impossible that these two races can inhabit the same place and be prosperous and happy. I see that this species of population are just as abhorrent to the southern States, and perhaps more so than to the North; many of those States are now, as I think, passing most unjust laws to drive these men off or to subject them to slavery; they are flocking now into the free States, and we have objections to them. Now, the proposition is, that this great Government owes it to justice, owes it to those individuals, owes it to itself and to the free white population of the nation, to provide a means whereby this class of unfortunate men may emigrate to some congenial clime, where they may be maintained, to the mutual benefit of all, both white and black. This will insure a separation of the races. Let them go into the tropics. There, I understand, are vast tracts of the most fertile and inviting lands, in a climate perfectly congenial to that class of men, where the negro will be predominant; where his nature seems to be improved, and all his faculties, both mental and physical, are fully developed, and where the white man degenerates in the same proportion as the black man prospers. Let them go there; let them be separated; it is easy to do it."

That was in 1860, and what was true then is true in 1868. He said that it was "impossible that these two races can inhabit the same place and be prosperous and happy;" that they are "as abhorrent to the southern States, perhaps more so, than to the North;" "they are the victims of a deep-rooted prejudice;" "it is there immovable." If this deep-rooted prejudice exists, if it is ineradicable, if the two races cannot live together prosperously and happily, I ask how they can live together when they participate in the same Government, with the same rights and privileges? If they cannot live together in an inferior state when this prejudice exists how can they live together amicably, prosperously, and happily when they are to have equal power with the white population? Is it not absurd to suppose that they can get along peaceably and harmoniously when enjoying those equal rights and privileges, when there is this deep-rooted prejudice of which the Senator truly spoke?

But I have heard it said that these States are to be admitted because their loyal inhabitants have asked for their admission, that they have complied with the requisitions of Congress by forming constitutions and electing State Legislatures, that these loyal citizens of the South now come and ask for admission. When did the negroes of the South become loyal? Was it during the war? Did they not labor to support not only the armies of the rebellion, but the families of those who were engaged in it? They knew nothing about loyalty except to their owners. They were loyal to them, and labored with industry and fidelity, and by their efforts the armies of the South were partially sustained. How, then, can it be said that these are loyal people now when they were neither loyal nor disloyal during the war; or if they had any loyalty, it was to the South.

Mr. President, a great responsibility devolves upon the Congress of the United States in reference to the matter under consideration. Perhaps no subject ever was presented to any deliberative body of such magnitude and involving such momentous consequences as this. It affects, or may affect the interests, the lives, and the property of millions of persons; and the consequences will be with this Congress. Daniel Webster was once asked what was the greatest thought of which the human mind had ever conceived, and his reply was "individual responsibility." It reaches through the past, comprehends the present, and in its consequences may extend into the future. That

responsibility is now upon the Senate of the United States and cannot be avoided; neither can it be divided. It is indivisible in its nature. Every Senator who supports this measure will be answerable for the full and aggregate amount and weight of the responsibility which will grow out of it if it shall prove disastrous and appalling.

In my opinion this subject rises infinitely higher than all party considerations. It is one of such a character that party spirit ought not to approach it. It is a great constitutional question, such as no country ever had to consider. We can get no precedent from the history of other countries and none from the annals of our own; but we are to act upon it according to the lights we have before us and in view of its tremendous import and immensity.

I contend that this bill ought to be postponed, because it cannot be a permanent measure. It is impossible in the nature of things that it can produce peace, harmony, and prosperity in the South. I suppose no Senator who looks at it can fairly conclude that this measure can be permanent in its character and productive of happy and fortunate results. I know the question is a troublesome one to Congress, and I have no doubt they are anxious to dispose of it. I am as anxious as any member of the Senate; but when it is disposed of let it be once and forever. Who will answer for the consequences that may follow if a conflict should ensue between the races if we pass this bill? Senators, it is not a permanent measure; it is not one fraught with good, but it may be laden with evil. I hope it is not. I earnestly hope that it may redound to the interests of my country; but I can see nothing but trouble, strife, and calamity before us if it is forced upon the South. You had better defer it until a more auspicious period.

Deal not harshly with these people. If we attempt to bring them again into political and personal fellowship, let us do it with fraternal affection and interest, and not in a manner calculated to embitter that relation and to keep alive the remembrance of the dreadful conflict through which they have passed. Let us not extend the right arm of friendship and invite them to our embrace, and at the same moment denounce them as rebels and traitors—words which were opprobriously applied to our fathers who won our independence, and which can never be used to promote unity and concord. We have decided by the wager of battle that we cannot be separated, but that we have a common country, Constitution, and destiny; and have been joined together by political ties which can never be broken; should we not resolve to live in unity and peace?

Let us remember that these brethren of the South have passed through ordeals of fire and sword; of blood, havoc, and ruin; their brightest jewels have been destroyed and lost; their fondest hopes blighted and gone; husbands, sons, wives, and daughters involved in a common calamity; that the passions have been lashed by events into the fury of the whirlwind, and hate and anger inflamed by the torch and ravages of war; that want and suffering have succeeded plenty and luxury; poverty, humiliation, and sorrow have entered the households where competency and comfort and happiness held sway. Let the softening hand of time be laid upon that unhappy and desolated country. Let the passions and animosities engendered by the war have time to ebb and subside, and at a season not far distant these people will be able to accommodate themselves to their new condition, and return in peace and unite harmoniously with the Congress of the United States, under constitutions framed by themselves, in that spirit of justice and liberality which the progress and spirit of the age will prompt and justify, and which will place them upon terms of perfect equality and dignity with the other States of the Union.

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SPEECH OF HON. W. T. WILLEY,
OF WEST VIRGINIA,
IN THE UNITED STATES SENATE,
June 9, 1868.

The Senate having under consideration the bill (H. R. No. 1053) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress—

Mr. WILLEY said:

Mr. PRESIDENT: It was not without some reluctance that I rose yesterday evening to claim the courtesy of the Senate to make some remarks upon the amendment immediately pending as well as the bill generally. I am aware of the impatience of the Senate, and equally aware of the fact that I shall not be able to throw any new light on the subject; but inasmuch as I do not trouble the Senate very often I thought perhaps I might be allowed to occupy its attention for a few moments, if to accomplish no other purpose, at least to let my constituents know once in a while that I am here in my place.

In regard to the immediate proposition before the Senate, the amendment of the Senator from Massachusetts [Mr. WILSON] proposing to include Alabama in the bill, I have to say that in voting for it I am not at all embarrassed by my previous opinions on the provision in the reconstruction bill requiring a majority of the registered votes to be cast at the election. When that bill was under consideration I took occasion to say, among other things:

"The amendment of the House, it seems to me, settles the question of reconstruction under this bill; that is to say, it settles the question by leaving the States as they are. From what I know of southern sentiment, and what I know of the condition of affairs in the South, I believe most sincerely that the bill in the form in which it comes from the House will result in nothing. I do not believe that you can get a majority of the registered voters in the South upon the adoption of the constitution which will be presented to them to vote upon it either on the one side or the other."

And I concluded my remarks on that subject as follows:

"The bill, if passed as it is, settles the question, not of reconstruction, but of non-reconstruction. You will have no practical relations restored to the government of the southern States under the operations of this bill, in my opinion."

I do not pretend to be a prophet, nor the son of a prophet; but the result has verified my opinion exactly. The only State which undertook to restore its practical relations and to entitle itself to representation in Congress under the operation of that bill as it passed failed in the effort, and Congress, under the teachings of experience, found it necessary to repeal that restrictive law and to allow the rebel States to come back to representation in Congress under the operation of the ordinary principles prevailing in elections. I am not, therefore, embarrassed in voting for the pending amendment by the necessity of any change of opinion, although that would not embarrass me if I thought circumstances required a change.

Now, Mr. President, what was the design of having an election in Alabama upon the constitution? What fact was it proposed to ascertain by submitting the constitution to the vote of the people? It was to ascertain whether the constitution was agreeable to a majority of the people of that State. I might confine the proposition within a more limited application if I were to consult my own sense of propriety as to how that constitution ought to have been submitted. I think all we are required to ascertain, in order to justify ourselves in the action now proposed, is whether a majority of the loyal people in the State of Alabama have given evidence that the constitution which was presented to them is agreeable to them and meets their approbation.

Let us look at the facts surrounding this case with a view of ascertaining the main fact

to which I allude; that is, does the constitution, as it was presented a few months ago to the people of Alabama, meet the wishes of the majority of those people? I shall not weary the Senate by entering into the figures and details, and recounting what has been so often recapitulated here; but there is one material fact admitted on all hands, that this election was held under most unfavorable circumstances in respect to the weather at that time. A severe storm had passed over the State; the waters were high; and it was with great difficulty that the people could get to the voting places. That is one fact that must be taken into consideration. There is another fact: that in two counties, I think, no vote at all was taken. There is another fact: in two more counties in which the vote was taken the vote was set aside and not counted.

But there still remains the great fact which I predicted would prevent any election under the act requiring a majority of registered votes to be cast at the time of its passage, and that is, the hostility of a large proportion of the people of Alabama and of the southern States to any constitution, to any reconstruction, to any plan, or to any principle that will bring them back into submission to the Constitution of the United States and into loyal practical relations to the General Government; and the result verified my prediction exactly. I knew very well, when it was required that a majority of the registered votes in Alabama should be cast in order to the ratification of the constitution which should be submitted to them, that the disloyal portion of the people of Alabama, who compose to a large extent the intelligent portion of them, who embrace the controlling social influence of Alabama to a very great extent, would stay away from the polls, and that it would be understood that they should stay away from the polls, and it being thereby known that every man who deposited his ballot was depositing it in favor of reconstruction the men who did so would feel that they were marked by the intellectual and moral influences alluded to the other day by the Senator from Wisconsin, [Mr. DOOLITTLE,] and this moral and intellectual influence being brought to bear upon them, thousands upon thousands of honest, loyal, patriotic white men would be deterred from casting their votes. Is not such the fact, sir? Were not thousands who were willing, and who else had been able to cast their votes in favor of the constitution, deterred from doing so by fear, by menace, by this social influence? There can be no question about that. And yet, sir, under all these adverse influences, under the hindrances of the bad weather and the high streams, notwithstanding the fact that several counties did not cast a vote at all and the vote of others were not counted, and notwithstanding the menaces and threats that were brought to bear upon a large proportion of the people of that State, they nevertheless cast a vote in favor of this constitution of sixty-nine thousand.

Now, sir, recurring again to the proposition which I have stated, which was that the principal fact that it was desirable to ascertain on the part of the Senate, was whether a majority of the people of the State of Alabama were in favor of the constitution as presented to them, I demand of any Senator here to answer candidly whether, from all these considerations, it is not perfectly apparent that at the day of the election, and at this day, an overwhelming majority, not only of the loyal people of Alabama, but of all the people, both loyal and disloyal, were in favor, and are in favor of the constitution which was submitted to them. That was the only fact that it was necessary for us to ascertain. It was to ascertain that fact that the constitution was submitted to the people; and if there can be no doubt that such is the fact, that a majority of the people of Alabama are in favor of this constitution, why should we hesitate about including them in the

bill admitting all these States to representation in Congress?

It is said it will be acting in bad faith to do this. Bad faith with whom, Mr. President? Bad faith with men who purposely stayed away from the polls; bad faith with men who refused to avail themselves of the privilege and right of voting for or against the constitution; bad faith with men who used their social, moral, and physical influence to deter honest, simple-minded Union men from casting their votes in favor of this constitution? Sir, if there was any obligation of good faith on the part of Congress to those men, we are absolved from it by the bad faith of the other party in attempting to prevent a fair election, which they did prevent, and which every member of the Senate must acknowledge they did prevent. Therefore, I am in favor of the amendment of the Senator from Massachusetts; and am ready and anxious to recognize Alabama as again entitled to representation here, and to all the rights and privileges of one of the United States.

Now, sir, while I am up, I propose, if the Senate will indulge me, to submit a few remarks in regard to the principle of the bill generally. I am aware that every Senator's opinion is made up upon it, but there have been some objections made to it, and there are some considerations connected with it that I propose to detain the Senate a few moments in noticing.

Mr. President, several Senators have deemed it proper, as they had a right to do, to go back into the records of the past to bring up in judgment against other Senators the opinions and expressions of opinions entertained and made in times past, two or three or five years ago. Sir, there is in one of the inimitable romances of Sir Walter Scott—Guy Mannering I think it is—a most admirable character called the Pedagogue. It so happened that while he had charge of the young child of a Scottish nobleman some smugglers along the coast abducted the child and carried him away, and he was lost among the gypsies, and eventually got over to the East Indies and into the British army. In the arrangements of Providence—the providence of the tale at least—some twenty-five years afterward he found himself in the vicinity of his old home. He was recognized by his friends and the remaining members of the family, and at last by this honest-hearted, simple-minded old pedagogue, who had taught him his letters in his infancy. The manifestation of his joy was a little remarkable. After the truth had gradually revealed itself to him that this stalwart man, this sunburnt soldier from the Indies was the veritable little boy that he used to lead by the hand, he drew him again to his knee, and opening the primer at the very place where he left off twenty-five years previous attempted to teach him his lesson as of old.

And now, sir, after the revolution of the past few years, we have a good many pedagogues. The foundations of society as they existed six years ago have been utterly broken up, and there is a new surface of political affairs, requiring new adaptations of our policies; and it would be just as foolish and as ludicrous to attempt to apply now policies that were proper and right five years ago as it was for that simple-minded schoolmaster to attempt to teach the young man of thirty years his a b abs. Sir, we must have new policies. There must be a new adaptation of things. There is great wisdom in the old maxim that "circumstances alter cases;" and what was proper a year ago is highly improper now, highly impolitic now, and it would be unwise to embarrass ourselves by a foolish sense of consistency in adhering to obsolete and impracticable ideas, when in point of fact we would only be inconsistent if we did so under the different state of circumstances that surround us.

The debate for a few days past, the remarks

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of the honorable Senator from Maryland [Mr. VICKERS] yesterday, and the remarks of my friend from Delaware, [Mr. SAULSBURY], have revived the questions of the constitutional authority and propriety of the reconstruction bills upon which the pending bill is predicated. I shall not enter into an argument on those questions, but I desire to submit a few facts as illustrative of the state of the case in reference to them, if not for the Senate, at least for the country.

Mr. President, the issue to-day involved in this bill and dividing the Senate is between the reconstruction policy of the President of the United States and that of Congress. That is the real antagonism of this debate. Let us look at the facts surrounding the case. I suppose, though I do not know whether I should not err in the supposition, that there is hardly a Senator here who would say that the confederate governments in the southern States existing at the time of Lee's surrender and of the overthrow of the rebellion had any legal validity; and yet I doubt whether Senators can make their arguments thoroughly logical unless they trace them back to the acknowledgment of the fact that these governments existing at the time of the collapse of the rebellion were in some form or sort legal governments, to be recognized at least as *de facto*. To such Senators who are disposed to follow the lead of Mr. Johnson a few facts from his record ought to settle that question, and I shall read them without any commentary. I refer first to an executive order, dated "Executive Chamber, Washington city, May 9, 1865." It will give the Senate and the country the views which the Executive at that time entertained of the validity of these southern State governments:

"Ordered, 1. That all acts and proceedings of the political, military, and civil organizations which have been in a state of insurrection and rebellion, within the State of Virginia, against the authority and laws of the United States, and of which Jefferson Davis, John Letcher, and William Smith were late the respective chiefs, are declared null and void," &c

So much for Virginia.

And again, carrying out the same views, we have the following dispatch from Major General Canby to Major General Warren, commanding the department of Mississippi, dated May 21, 1865:

"By direction of the President, you will not recognize any officer of the confederate or State government, within the limits of your command, as authorized to exercise in any manner whatever the functions of their late offices. You will prevent, by force, if necessary, any attempt of any of the Legislatures of the States in insurrection to assemble for legislative purposes, and will imprison any members or other persons who may attempt to exercise these functions in opposition to your orders."

Here is a complete repudiation of the legal validity of all the confederate State authorities existing at that time. But, sir, as I said just now, the real question at issue is between Mr. Johnson's system of reconstruction in the southern States and the congressional plan of reconstruction; and the congressional policy is objected to by Senators because they believe, as I suppose, that the existing State governments in the South as reorganized by Mr. Johnson are constitutional and valid, and that these governments in the southern States as thus organized through the Executive being so valid, legal, and constitutional, Congress has, therefore, no right to set them aside and institute others in their stead. Let us see how that is in the opinion of the President himself. I need hardly refer the Senate to dispatches which have been so often repeated here; but perhaps it will do no harm to recount them very briefly. I assert, therefore, that at the time of the institution of these governments in the southern States by the present Executive he had no idea that they were to be binding, valid, perpetual, legal governments; that at the time he instituted them he did so with the express understanding and reservation that they were to be submitted to the judgment of

Congress and to the approval of Congress, in evidence of which fact you have the dispatch to W. L. Sharkey and the dispatch to William Marvin. Governor Sharkey having requested, under date of July 24, 1865, that military interference with the civil tribunals of that State might be prohibited, the President replied:

"The government of the State will be provisional only until the civil authorities shall be restored, with the approval of Congress. Meanwhile military authority cannot be withdrawn."

The dispatch to Governor Marvin was in these words:

DEPARTMENT OF STATE,
WASHINGTON, September 12, 1865.

SIR: Your excellency's letter of the 29th ultimo, with the accompanying proclamation, has been received and submitted to the President. The steps to which it refers, toward reorganizing the government of Florida, seem to be in the main judicious, and good results from them may be hoped for. The presumption to which the proclamation refers, however, in favor of insurgents who may wish to vote, and who may have applied for, but not received, their pardons, is not entirely approved. All applications for pardons will be duly considered, and will be disposed of as soon as may be practicable. It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress.

I have the honor to be, your excellency's obedient servant,
WILLIAM H. SEWARD.

His Excellency WILLIAM MARVIN.

But there are some other facts that have a bearing upon this aspect of the subject. I allude to the manner in which the President has regarded these States after they were thus instituted by him, to show that by his own action he repudiated their authority, their binding force, and their validity as State governments independent of Executive control or of congressional control. I refer you to an instance, perhaps forgotten by Senators; when General Terry, then in command at the city of Richmond, set aside an act of the Virginia Legislature, called "the vagrant act." General Terry undertook, upon his military authority, to set that act aside. From his order in the premises an appeal was made, and a delegation was sent to Washington, and an interview was had with the President. The order of General Terry was in these words:

"It is, therefore, ordered that no magistrate, civil officer, or other person, shall, in any way or manner, apply or attempt to apply the provisions of said statute to any colored person in this department."

This was in contravention of an act of the Legislature of Virginia passed under the reconstruction policy of Mr. Johnson, and when the matter was laid before Mr. Johnson he overruled the petitioners' application and allowed General Terry's order to stand.

Again, we all know that when the pirate Semmes was elected a probate judge at Mobile, and the matter was brought to the notice of the Executive at Washington, he immediately telegraphed orders that Semmes should be ousted from office, and designated a military officer, to act as judge of probate in Mobile in his stead.

Why, sir, the history of the past few years is full of instances corroborating the same fact. As late as July, 1866, General Grant, then under authority of the President, his Commander-in-Chief, issued the following sweeping order in reference to the authority of these State governments in all the southern States:

[General Orders, No. 44.]

HEADQUARTERS OF THE ARMY,
ADJUTANT GENERAL'S OFFICE.

WASHINGTON, July 6, 1866.

Department, district, and post commanders in the States lately in rebellion, are hereby directed to arrest all persons who have been or may hereafter be charged with the commission of crimes and offenses against officers, agents, citizens, and inhabitants of the United States, irrespective of color, in cases where the civil authorities have failed, neglected, or are unable to arrest and bring such parties to trial, and to detain them in military confinement until such time as a proper judicial tribunal may be ready and willing to try them.

A strict and prompt enforcement of this order is required.

By command of Lieutenant General Grant:
F. D. TOWNSEND,
Assistant Adjutant General.

Such was the manner in which the President of the United States regarded the authority of these State governments which he set up in the South; and which he and Senators who sustain him now desire us to recognize as legal and as beyond the reach and control of congressional legislation.

But there is another objection alleged to this bill now pending that I may notice in passing. My friend sitting by my side [Mr. SAULSBURY] claims these southern States being States in the Union, we have no authority to impose upon them any fundamental conditions in the restoration of representation; in fact, denied that we had any authority in the premises to impose any conditions whatsoever, as I understood him. Now, what kind of a record does his leader, the President of the United States, exhibit in the premises? The plan of the President is the antagonistic plan.

Mr. SAULSBURY. Will my friend allow me to interrupt him for a moment?

Mr. WILLEY. Yes, sir.

Mr. SAULSBURY. When I am to be the follower of any man, Mr. President, I beg leave to say to my honorable friend, I wish to have some voice in the choice of my leader. I cannot consent that the Republican party, of which the Senator is a member, shall select a leader for me. Four years ago the party to which he belongs, with his hearty approval, took the present President of the United States as its second great leader, and commended him to the people of the United States. I did not accept him as a leader then; I do not choose to have him imposed upon me as a leader now by the honorable gentleman. But I will say that when he seeks to do injustice to his own leader, believing his leader to be honest in his present policy and in the course which he is pursuing, a sense of justice prompts me to vindicate the character of that distinguished leader of the gentleman against his own assaults.

Mr. WILLEY. Mr. President, in assigning my friend to a position under the leadership of Mr. Johnson, I merely designed to designate the fact, which I do not understand him to deny, that he is following in his footsteps; that he is a friend of his policy—especially of his policy in regard to what is called the reconstruction of the late rebellious States.

Mr. SAULSBURY. One word more, and I will not interrupt the Senator again. As to being the friend of the President of the United States, I was his personal friend before he was President; I am his personal friend still. I believe him to be an honest man, a patriot, and acting with an eye single to the good of his country. But if the Senator will observe the speech which I made on this floor this winter on the subject of reconstruction, I dissented from the policy of the President or the basis of authority which he claimed for his plan of reconstruction, while also dissenting from the plan or the basis of authority of the plan of the Congress of the United States. I hold, as I held then, that the guaranty clause of the Constitution gave no authority to the President of the United States or to Congress to intervene in regard to these southern States; that they were States in the Union before what you call the rebellion; that they were States in the Union during that rebellion; that they were States in the Union subsequent to that rebellion; that the constitutions which they had previous to the rebellion were valid constitutions; that the constitutions under which they lived during the rebellion were valid, subsisting constitutions of a government *de facto*, to which the people owed obedience, and by which they could be punished in case of disobedience; and that the governments which they formed subsequent to the termination of the war were valid and subsisting governments; in other words, that they never have been, since they have been in the Union, without valid, subsisting, obligatory governments upon them, to which their obedience was due; and I cited

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authorities, both from English and American law, to show that such had been the recognized doctrine for hundreds of years past.

Mr. WILLEY. I understand the Senator, then, to say that the State governments to which Mr. Johnson, in his proclamation which I read of May 9, 1865, in which he said—

"That all acts and proceedings of the political, military, and civil organizations which have been in a state of insurrection and rebellion, within the State of Virginia, against the authority and laws of the United States, and of which Jefferson Davis, John Letcher, and William Smith were late the respective chiefs, are declared null and void."

I understand the Senator to say that those governments are not null and void, but that to-day they are the State governments on the basis of which Congress should recognize them, and they are the governments on the basis of which we should restore their practical relations to the Government of the United States.

Mr. SAULSBURY. I do say that while those State governments were in existence, in so far as they were not repugnant to the Constitution of the United States, they were valid and subsisting governments; that they regulated all the title to property and gave all the security to life and to person; that they were valid subsisting *de facto* governments so far as they were not repugnant to the Constitution of the United States.

Mr. WILLEY. Why, Mr. President, they were set up from the beginning to the end as utterly repugnant to the Constitution of the United States, as in utter defiance of the Constitution of the United States; and these men referred to by the President, who were at their head, Jefferson Davis and Governor Smith, whom the logic of the Senator would recognize as the legal, proper officers of the valid and subsisting governments, were the men who had sworn to support the governmental organizations set up to overthrow that of the United States. If that be the view of the Senator, I leave him to entertain it, and to answer to the country for it. I shall not detain the Senate by pausing to controvert a proposition so monstrous; a proposition which thousands upon thousands of our fellow-citizens laid down their lives on many a battle-field to denounce and to deny. It is nothing less than a recognition of the rebellion, and a setting up here to-day, two or three years after the standard of the rebellion has fallen, that that standard was a legal standard and ought to be recognized by the Senators of the United States here in their places. Sir, the people of this country will tolerate no such doctrine. It is abhorrent to every sentiment of the loyal heart. The blood of the Senator's own fellow-citizens, shed in defense of the contrary doctrine, cries this day from the ground against a proposition so monstrous and so abhorrent to the feelings of every patriotic heart.

But, sir, this is going aside from the line of remark which I was following. I only intended to invite the attention of Senators who deny the authority to impose the conditions on which the bill under discussion proposes to admit representatives from the States mentioned in it, and who, nevertheless, are the champions and defenders of the State governments now existing in said States, as organized by Mr. Johnson, to some very prominent facts which I think are worthy of their consideration. Let us see how these States were reorganized by Mr. Johnson. Now, let us see what Mr. Johnson himself did about imposing fundamental conditions. One of the objections to this bill is that it undertakes to impose fundamental conditions upon the States; that they shall not be restored to representation except on certain conditions prescribed in the act itself. Sir, is it possible that Congress has no right to impose conditions, and yet that the President, who has no legislative power, and, as I think, had no authority whatever in law to set up these

southern State governments, has the power to impose fundamental conditions. Let us see what the President did in the premises. Here is a dispatch to Mr. Johnson, provisional governor of Georgia, dated Washington, October 28, 1865, to which I ask the attention of Senators:

His Excellency JAMES JOHNSON,

Provisional Governor of Georgia:

Your several telegrams have been received. The President of the United States cannot recognize the people of any State as having resumed the relations of loyalty to the Union that admits as legal obligations contracted or debts created in their name to promote the war of the rebellion.

WILLIAM H. SEWARD.

WASHINGTON, October 28, 1865.

He imposed this condition. He did not call it a fundamental condition, but the terms in which he proposed it made it fundamental. It is a condition without a compliance with which he told them plainly the State could not come back into practical relations with the Government, and be restored again to its condition as a State. But, sir, that was not all. In his communication to Governor Marvin, under date of September 12, 1865, he concluded his dispatch, as follows:

"It must, however, be distinctly understood that the restoration to which this proclamation refers will be subject to the decision of Congress."

He makes our approval a fundamental condition. Then again, in a dispatch to Governor Perry, under date of November 6, 1865, among other things, he says:

"The President considers the acceptance of the amendment by South Carolina as indispensable to a restoration of her relations with the other States of the Union."

That was the thirteenth constitutional amendment. This bill has been denounced by Senators on this floor because it requires these States, before they shall be entitled to representation on this floor to adopt the fourteenth constitutional amendment; and this objection comes from the apologists of the President and the men who declare that his system of reconstruction is valid and right and legal to-day and ought not to be overthrown; and yet Mr. Johnson himself made the very condition which this bill makes, requiring the rebel States to adopt as a fundamental condition to his favor and acceptance the thirteenth constitutional amendment.

But, sir, I have been carried off at much greater length into these matters than I intended. My main object in rising was to notice some objections urged against the bill under consideration, which I will now proceed to do in a very brief manner.

One of the objections to the congressional plan of reconstruction, and to this bill, which is the capstone and completion of that plan, is that it disfranchises a part of the white men of the southern States, and thus punishes them by an *ex post facto* law, and that such a punishment under the circumstances is cruel in the extreme and in opposition to the genius of our institutions and the spirit of our Constitution. It strikes me that this is a total misapprehension of the purpose of this disfranchisement. Its purpose is not punishment. It does not look to the past. It has reference alone to the future. It is true it may be punitive in its effect; it may hurt. If my hand were lacerated and it became necessary to amputate it that my life might be saved, and if a surgeon were to say so, and perform the operation, it would not be for the purpose of hurting me, for the purpose of punishment, although it would be a severe punishment; it would hurt me severely; the object would be to save my life. That is the sole object of this restriction; that is the sole object of this disfranchisement. Here are men proposed to be temporarily disfranchised who have shown themselves faithless in the past; here are men who went out of these Halls with the oath of fidelity to the Constitution of the United States warm on the altar of their hearts, and the breath

hardly dry from their lips on the Bible, to lift up the arms of rebellion against the Government that had nurtured and cherished them; and these men are seeking a reintroduction into the body-politic. If they perjured themselves to destroy the Government in times past, ought they to be trusted without restriction in the future? Does not every motive of expediency, to say nothing of every principle of justice, require that the custodians of the liberties of this country should look well to it that there should be some guaranties that will protect the country from the treachery of these men by introducing them again into the body-politic, into the political power of the country? Sir, we are required by every principle of expediency not to punish these men for what they have done—that is not the object of this restriction and disfranchisement, but to take care that they shall not have the opportunity to betray us again by abusing political power that might be intrusted to their hands.

Then there is another objection relied on, to which I beg leave to allude for a moment; and that is the objection of negro suffrage. I am not here to say that there are not difficulties connected with this question; I do not pretend to say that there are not; and especially difficulties connected with universal, unlimited negro suffrage. I appreciate those difficulties; but, sir, let us look at the surrounding facts. The negroes are here in this country, and we cannot prevent it. They are free, and we cannot prevent it; and I hope there is no Senator who would desire to prevent it if he could. What is to be done? They must be either enfranchised or not. There may be difficulties connected with their enfranchisement. But these are not the only difficulties. Now, what is the part of wisdom? What should be done in view of all the surroundings? You say there will be danger in enfranchising them. You say, among other things, that the result will be a conflict of races, which must necessarily ensue. Is there not more danger from their being unenfranchised? Will there not more likely be collision because they are not enfranchised? Will there not be more danger from three or four million men, increasing yearly in our country, under the light of our institutions, under the liberalizing influences of our laws, reading daily that there ought to be no taxation without representation, reading our bills, reading our laws, reading our political textbooks, associating with freemen, drinking in the spirit of liberty, existing in our midst deprived of the franchise, than there will be in extending it to them, at least in some prudent manner? Sir, this will be the danger of collision if there is any collision in this country.

But why should there be a collision? Who is to bring about this collision? Is it the negro? Who ever heard of a race in any country so inferior as the negroes are, numerically and in every other way, being the aggressors? No, sir; the fact is that if we have a conflict it will be a conflict brought on by the proud, overbearing Anglo-Saxon seeking to trample the weaker race under his feet. The conflict will come from the white men if it come at all. The negro, at least, has discretion and sense enough to know that in such a conflict, brought on by himself, the white man must triumph. We have these difficulties to meet on either hand. But between the two kinds of difficulties which shall we select? I have indicated that, in my opinion, we would be more likely to encounter less danger by enfranchising the negro; and I am the more led to this conclusion because enfranchisement is more consistent with the spirit of our institutions, and with the spirit of human liberty and eternal justice and equity. A policy extending equality of political rights to a race ought to be less dangerous than a policy withholding it. Is the principle than all just government is founded on the consent of the gov-

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erned less applicable to the black man than to the white man?

Mr. President, look at the matter. Here, for instance, are two men—I am now speaking not figuratively, because I have the men in my mind. Here is a farmer; he has one hundred acres of land; he is an industrious, sober citizen; he works on the highways; he pays his tax; he yields a ready obedience to all the laws of his country. He sent some of his sons to aid in suppressing the late rebellion, one of whom remains sleeping in death on the field of battle. Here is another man, also a farmer, in about similar circumstances. He has not quite so much land; he had no son to send to the field, but he is an obedient citizen; he renders obedience to all the laws of his country; he submits himself to all the obligations society imposes upon him. He is a white man; the other is a black man. Why should the white man have a vote and the black man not have a vote? They are equally intelligent, equally obedient to the laws, equally contribute to the welfare of the country, except that the black man contributes the life of a son to its defense and the white man contributes none. Why should one vote and not the other? In the name of common justice, in the name of liberty, in the name of all that is right, why should the extension of the right of suffrage to the black man necessarily bring on a bloody conflict between the races in this country?

I propose to notice another objection which has been mentioned to this bill; and that is the question of negro supremacy.

Mr. President, that is the cry; we hear it on the Senate floor; we hear it on the mountain sides; we hear it in the villages; we hear it in the cities, "negro supremacy." I am sorry to say that we hear it even from the lips of some Senators. "Negro supremacy!" What does that mean? Here we are the white race, thirty millions strong, having wealth and intelligence and the social and moral position. Here are a parcel of poor negroes with their arms still bearing the marks of the manacles of their bondage, just emancipated, comparatively ignorant, helpless, three or four millions strong; and the clamor is "negro supremacy;" "will you make the negro superior to the white man?" "Will you place the white man under the domination and government of the negro?" That is the cry. Why, sir; it is a senseless clamor. There is no propriety in it. It is an appeal to the passions of the unthinking multitude. It ought not to be addressed to an intelligent man. That is not the purpose of it. It is the clamor of the demagogue and nothing else. Negro supremacy in this country! It is utterly impossible that the thing should be. It never can be possible.

But, sir, I am happy to say that I have before me the argument of my honorable friend from Wisconsin, [Mr. DOOLITTLE,] the other day, fresh in our memory, who takes such a proper, statesmanlike, and national view of this subject that I propose to read it, that it may be incorporated in my remarks, and that it may go to my constituents, that the opinion of one of the leaders of the Democratic party in the Senate may be known, who is ashamed to reëcho the demagogue cry of "negro supremacy," and who boldly, manfully in his place in the Senate, tells the people of the United States what will be the probable result of negro enfranchisement in the southern States. Here it is:

"Mr. President, it is not upon any party ground or party considerations that I am opposed to the present bill; for, sir, were the bill to pass and become a law, and the people of the southern States—I refer to the intelligent white people of the southern States—should find themselves placed in a position where it would be necessary for them to exercise their intellectual and moral power, not only among their own race, but among the colored people of the South, I have no doubt what the result would be in the large majority of the southern States. That the intellect and moral power of the South will rule all races there when you come to the struggle is just as certain as the revolutions of the earth, as that water

will find its level. The moral power and intellectual power which the white people possess in the South, my honorable friend from Massachusetts will find, will control the half-civilized negro element whenever they desire to do it. And there is a very noted case arising in the last election in the State of Georgia, in the most numerous negro district in that State, where the majority of the negroes was about seven thousand."

That, I think, is about the correct view of the case that I imagine will inevitably be the result to a considerable extent. Thus is dissipated by the judicious, philosophical, and very proper remarks of the Senator from Wisconsin—this idle apprehension of negro supremacy.

But, then, there is another objection made even more ridiculous than this; and that is the plan of social equality. Why, Mr. President, that is the silliest of all pretensions, the silliest of all objections. Social equality is not a matter to be adjusted by law. It is a matter of taste; it is a matter of choice; it cannot be enforced by any legislation; it always regulates itself. But then, sir, I have in my hand here the remarks of a negro bishop who recently went from this city as a delegate from the conference, then sitting here, of the Methodist Episcopal Zion church to the general conference of the Methodist Episcopal church recently convened in Chicago, with a message of fraternal regards, and with a proposition for a union of these two religious bodies; and I desire to commend to the Senate and to the country, on this question of the social relations of the races, the very appropriate and intelligent remarks of this black bishop, which ought to put to shame the men who are trying to excite popular prejudice by the constant cry of "social equality!" This black man said:

"I am here, therefore, for the purpose of ascertaining whether we can live together again. We have found no difficulty in living together as masters and slaves; let us hope in God's name that we shall find none in living together as freemen and as Christians. We ask for equality because, as members of the Christian church, as partakers of the Divine nature, we dare not, for the dignity of our Christian principles, ask anything less than equality. By that equality, we mean not, Mr. Chairman, to thrust ourselves upon you, nor to have you thrust yourselves upon us. We propose, sir, to walk into your parlors and sit down there as men when you invite us to do so, and we do not propose that you shall walk into our parlors and sit down there as men until we invite you."

Sir, that is worthy of our common manhood, and I hope it will be considered worthy of our approbation upon this floor.

Mr. President, to bring my remarks to a conclusion, because I had not intended to protract them to such length, why all this hostility to the negro; because after all it is hostility to the negro which constitutes the main objection to this bill and to all these reconstruction measures? What has he done to merit this perpetual denunciation? Is it his presence on this continent? Is that the reason of our hostility? Sir, he is not accountable for that; he came not here by his own consent, but was brought hither in chains, snatched from his own native shore by the guilty hand of our fathers. His emancipation is not his own act. If there were any guilt in that he is not accountable for it. The chains of slavery were struck from his limbs by our own act; by our own free act, not altogether free either, Mr. President, because we were rather constrained to do it that we might bring him to our aid in defending the Republic.

Is he ignorant? Is that a reason why we should denounce him? Why is he ignorant? How became he ignorant? Do we not know that almost every code in the southern States, (the provisions now, thank God, are obsolete,) until within a very few years past, contained inhibitions and penalties of the severest character for teaching the negro even his letters, for teaching him to read even the very record of his salvation? Do we not know that his ignorance is attributable to the white man who has held him in bondage and sold him as a beast in the shambles? Sir, his ignorance is not his reproach, but our shame. Is he hum-

ble? Is he helpless? Is he defenseless? Is that a reason why a magnanimous race should trample upon his rights? Should it not rather appeal to our magnanimity and our manhood? When the spirit of more enlightened civilization shall have dissipated these mists of error and prejudices of education the inexorable hand of history will write a terrible judgment against men who are disposed to trample upon the race simply because it is helpless and defenseless.

It strikes me, Mr. President, that instead of this unseemly vilification, this constant derision of the negro because he has crisp hair, because he has long heels, because he has a black skin, because he is in a degraded condition, the result of our own oppression, every principle of justice and every sentiment of honor and charity should impel us to give him all the aid we can in lifting him from his degraded condition, and giving him every support and encouragement, moral and intellectual, within our power. Why, sir, how was it a few years ago, when the issue of the life or death of this nation hung trembling in the balance? Was he then the despised being that gentlemen would represent him to be now? No, sir. Then one hundred and eighty thousand strong he rallied to the rescue of the Republic, and on a hundred fields of blood more than thirty thousand of this race yielded up their lives in battle or perished from disease in the hospitals in defense of the Republic. And how much we owe to the negro, whether in fact it was not the case that it was his additional aid that saved this nation, no man living can tell.

We hear often from the Senator from Wisconsin about the imbruted character of the negro, about his ignorance. Sir, let me ask the Senator from Wisconsin how long it has been since his own fellow-citizens, soldiers in the Army of the Republic, escaping from Salisbury and Andersonville and Libby, and a hundred prison dens in the South, dens of death, famishing soldiers of the Union, were eating the divided crust with the negro of the South, sleeping in his cabin while he stood sentinel at his door, piloted by him through the morasses, and guided around the sentinels of the enemy that they might escape to their homes or rejoin their regiments, and were sent on their way rejoicing by these black benefactors? And yet these are the men the Senator denounces and reviles and traduces here day after day as not entitled to the franchise, and not worthy of the confidence of the American people. Sir, there is another kind of slavery than that which degraded the negro; it is the slavery of passion, the slavery of education, the slavery of prejudice. Thank God, that slavery, too, is passing away; and the time is not far distant when, discarding these foolish ideas about negro supremacy and social equality, the American people will recognize the common, genuine manhood of the human brotherhood, and each of the races will take its proper position in the body-politic, and all will be well.

Mr. President, one other remark, and I have done, asking pardon of the Senate for having detained them thus long. We need the reconstruction of these States forthwith. Society in those southern States is disorganized. The industrial interests of the South are all perishing. The common prosperity of the Union, to say nothing of the South, demands a speedy restoration of these States to practical relations with the General Government. This may not be the best plan; but it is the plan presented. It is a plan which has been accepted by a majority of the people in the South. Why should we hesitate to receive them? Why this resistance, especially on the side of the Chamber that has been denouncing us for two years past because we have been keeping these States out of the Union? Now, when we present a plan which a majority of the people themselves in these States have accepted, why should these

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objections be raised in opposition? Sir, the peace of the whole country, the prosperity of the southern States and of the whole country demands a speedy restoration of these people to their ancient practical relations to this Government.

In conclusion let me say, Mr. President, in the language of a distinguished personage now attracting so much of public confidence and consideration, "Let us have peace"—the peace which this measure only can secure.

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SPEECH OF HON. M. C. HUNTER,
OF INDIANA,
IN THE HOUSE OF REPRESENTATIVES,
June 3, 1868.

The House being in Committee of the Whole on the state of the Union on the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes—

Mr. HUNTER said:

Mr. CHAIRMAN: The tax bill presented by the Committee of Ways and Means regulating the internal revenue I regard of the highest importance, and its provisions should receive the most careful consideration from every member of this House. There is no subject in which our constituents are so much interested as in the subject of internal taxation, for revenues derived from that source must pay at least one half of all the expenses of this Government, and in the end liquidate a large portion of our public debt; and these revenues must be derived in a great measure from the luxuries of the country or they must come from the honest toil of the people. The question is from which shall they come; and for the answer we give to this question we shall each be held to a strict accountability. I for one answer from the luxuries, because when derived from that source their burden is not felt by the laboring men of this country; but when you have to go directly to the necessities of life, and place upon them taxes sufficient to raise the amount of internal revenue that will be required toward the support of this Government and the payment of our debt, you place upon the laboring men a burden that they are unable to bear, and one that will forever keep them ground to the earth.

Our present internal revenue law, as well as the system presented by this bill, I regard as vitally defective, for the reason that they proceed, in the main, upon the principle of preventing the whisky frauds by throwing guards and restrictions around its manufacture which are so cumbersome in their machinery and so difficult of execution that I fear all honest men will be deterred from engaging in the business; and even if they did, the system of identification of liquors is so defective that liquors upon which the tax has not been paid could be continually thrown upon the market without the proper means of detection, which would enable scoundrels who thus evade the law to undersell the honest manufacturer and break him down in his business, and the result would be a depleted Treasury and dishonest men made wealthy at the expense of the labor of the country.

What we want, then, to prevent these frauds and to collect our taxes upon whisky and tobacco, even under an honest administration—which I hope and believe our next will be—is a law so plain and simple in detail and so easy of execution that an honest man can manufacture and sell under it without fear of harm, and at the same time be so certain and severe in its punishment that even a thief will not dare to violate it. Such a law, in my judgment, can be made, and certainly the necessities of the times, as well as the interests of the laboring men of this country, require it, in

order to save them from taxes that will otherwise have to be paid by them.

Not having time to discuss the provisions of this bill and point out what I regard as its defects, on account of its great length, I will only detain the committee by giving a brief outline of the kind of law we need, and one that, in my judgment, will collect the taxes we levy, unless the Executive should hinder and prevent its execution.

1. Every person or persons desiring to engage in the business of manufacturing liquors should be required to make an application in writing to the Commissioner of Internal Revenue for that purpose, in which should be stated the kind of business proposed to be followed—whether distilling, redistilling, rectifying, fermenting, or brewing—accurately describing the premises on which such business is to be done, and stating about the amount of business to be done each year, in all cases the person or persons making the application to own in fee simple the premises described therein. If the application be approved by the Commissioner—which it should be, unless he is satisfied that the statements in the same are untrue—such person or persons named therein, before doing any business thereunder, should execute a bond, with one or more sureties, to the satisfaction of such Commissioner, in the penal sum of not less than \$500 nor more than \$50,000, conditioned for the faithful performance of all the duties required of him or them by law; which sureties should in all cases own in their own right unincumbered lands in the county where such place of business is situate of the full value of such bond, which bond should immediately be recorded, at the expense of such applicant or applicants, in the recorder's office in such county; and it should, from the date of its record, be a preference lien on all the lands in such county owned by the persons executing the same, such lands to be released by such Commissioner upon other and similar bond being executed, or when the business named in such application is discontinued, upon condition that such business had been honestly and fairly conducted, and not otherwise. Such approval, after the execution and recording of such bond, should authorize such person or persons making such application to carry on the business specified on the premises therein stated to the fullest extent asked for, providing the same be done according to law. The object of requiring the application to be made to the Commissioner of Internal Revenue is this: it enables the Commissioner to keep a record of all the authorized manufacturers of the various kinds of liquors, and insures to the Government good men to engage in the business, for rascals could not easily give such bond.

2. Such person or persons named in such application should at the close of each day be required to make out in triplicate written statements of the amount of liquors distilled, redistilled, rectified, fermented, or brewed that day; and at the close of each week, unless oftener required by such Commissioner, to deliver such daily statements to such inspector as such Commissioner should direct, to the correctness of which statements such person or persons should be sworn by such inspector, who should have power to administer oaths in such cases; and such person or persons should at the same time deliver to such inspector all of the liquors named in such daily statements, neatly put up in barrels or casks, each barrel or cask numbered, commencing with one and continuing regularly, as one, two, three, &c., as long as he or they should manufacture, so that no two should have the same number, and be neatly marked in plain letters and figures, as follows: first, the name of the manufacturer or manufacturers; second, the place and date of such manufacture; third, the kind, quality, and quantity of liquor contained in each. If such inspector should find the statements correct in form, and agreeing in every respect with the

marks and brands on such casks or barrels, he should inspect the liquors and put such marks or brands on each barrel or cask as such Commissioner should require, and then make out his inspection report in triplicate, under seal such as the Commissioner of Internal Revenue should require, one copy of which inspection report he should deliver to such manufacturer or manufacturers; one copy, together with one copy of each of such daily reports he should on same day mail or deliver to the assistant assessor of such county or district where such liquors were made, and the other copy of his report, together with one copy of each of such daily statements he should upon the same day mail to the Commissioner of Internal Revenue, and the other copies of such daily statements he should preserve, and record his own report in a book to be kept by him for that purpose.

3. Such liquors after their inspection should be safely stored on the premises where manufactured, or in a bonded warehouse to be provided by such manufacturer or manufacturers convenient thereto. And the collector of such district where such liquors are stored should be responsible for the tax on the same from and after their inspection, and for that reason the same should be kept under his charge, or the charge of such revenue storekeeper as he might designate, until the tax thereon should be paid or the same should otherwise be disposed of according to law; such liquors to be sold in the same packages in which they were inspected, the tax in all cases to be paid before removal, and the same to be removed within twenty-four hours after sale. In all cases of such sales bills of sale should be made out in triplicate by such storekeeper, and sealed with such seal as the Commissioner of Internal Revenue should require; such bills of sale should state the place and date of sale, the name of the person or persons to whom sold, and his or their place of residence, each article sold and price paid therefor, with an exact copy of all the marks and brands placed upon each by such manufacturer and inspector as required by law; one copy of which bill of sale should be delivered to the purchaser, one copy on same day mailed or delivered to the assistant assessor for such county or district where such liquors are stored, and the other copy on same day mailed to the Commissioner of Internal Revenue. Such liquors in no case to be sold by such collector or storekeeper who may have charge of the same except at the request of such manufacturer, and all money received for such liquors over and above the tax thereon should be paid to such manufacturer without any charges of any kind. No liquors to be placed in bond except by manufacturers, and the tax in all cases to be paid thereon before removal therefrom, except removals by manufacturers. The manner in which that shall be done I will next explain.

4. In case such manufacturer should desire to remove such liquors to any other bonded warehouse within the United States for sale before the tax should be paid thereon, he should first procure a permit therefor from the Commissioner of Internal Revenue, which permit should state each barrel or package to be removed, giving an exact copy of all the marks or brands on each, as in case of bill of sale, the bonded warehouse to which the same should be shipped, and the time within which the removal should be made. Such removal should not release the collector charged with the tax on such liquors until the same should be delivered in the bonded warehouse named in such permit and the proper collector of such district where such bonded warehouse is situate properly charged with the tax thereon by the assessor of such district. But such collector charged with the tax on liquors, which the manufacturer desires to remove without paying the tax thereon, as aforesaid, should have power before such removal to require bond of such manufacturer in double the amount of

the tax on such liquors, with good freehold security, for the purpose of securing such collector in the amount of such tax in case such manufacturer failed to deliver such liquors in such bonded warehouse named in such permit within the time specified therein, and have the proper collector charged with the tax thereon.

5. All persons engaging in the business of selling liquors should be known as wholesale or retail liquor dealers; but the same person, firm, or company should not be both at the same time. Each, before engaging in business, should be required to make written application to the Commissioner of Internal Revenue for permission so to do, and to execute bond, and have the same recorded in like manner as manufacturers of liquors, which bond should in like manner be a lien and the lands be released therefrom, as provided in the case of manufacturers. No person but a wholesale dealer in liquors should be permitted to break a package of liquors and place the same in other packages for the purpose of sale; and in all cases where he should break any package and put the same in bottles, cans, jugs, kegs, or any other kind of vessel or package, he should on the same day remove all such liquors from such package so broken, and immediately thereafter by letter notify the Commissioner of Internal Revenue and the assistant assessor of the county or collection district in which his place of business is situate of the fact of his having broken such package, and in what kind of vessels he had placed the same. And such wholesale dealer should place upon the outside of each of such bottles or other package in which such liquors were by him put a label securely attached thereto, on which label should be stated in plain letters and figures the number of the barrel or cask from which the same was taken, the name of the manufacturer, and the place where and date when manufactured, the quality and quantity therein, and the name of the wholesale dealer who did it.

In case such liquors should be put in bottles, they should hold at least one pint each; and all other packages in which such liquors should be placed should hold at least one gallon each. And such bottles, before sale, should be, by such wholesale dealer, put up in boxes or baskets of not less than one dozen in each. And upon the outside of such box or basket a label should be securely attached, upon which label should be stated, in plain figures and letters, the number of the barrel or cask from which such liquors were taken, the name of the manufacturer, the place where and the time when manufactured, the number of bottles contained within, and the quality and quantity of liquor in each bottle, and the name of the wholesale dealer who broke the original package. No wholesale dealer in liquors should ever sell, at one time, of bottled liquors less than one of such boxes or baskets, and in no case should he ever sell any other kind of package of liquors containing less than one gallon. And at each sale he should make out bills of sale in triplicate, under seal, such as the Commissioner of Internal Revenue should require. Such bills should state the place and date of sale, the name of the purchaser in full, and the place of his residence, the articles sold, and the price paid therefor; and opposite each article should be stated in full, all the marks, brands, figures, and letters thereon, as required to be placed there by law; and the same should then be signed by such wholesale dealer; one copy of which bill of sale should be delivered to the purchaser, one copy, on same day, should be by such wholesale dealer mailed to the assistant assessor of such county or district where his place of business is situate, and the other copy should be by him mailed to the Commissioner of Internal Revenue. Such wholesale dealer should, at the close of each month, make out an invoice in duplicate, under oath, of all the

liquors he then had on hand, giving an exact copy of all the marks and brands upon each package, as required to be placed there by law; one copy of which invoice he should, so soon as completed, mail to the assistant assessor of the county or district in which his place of business is situate, and the other copy he should mail to the Commissioner of Internal Revenue. No retail liquor dealer should ever be allowed to sell more than one quart of liquor at any one sale, neither should he be permitted to sell to any one person more than two quarts of liquor upon the same day.

6. Every place where liquors are manufactured or sold there should be painted in large letters, on the most conspicuous place on the building, the kind of business done there, whether manufacturing or selling of liquors, under which should be the words, "Authorized by the United States."

7. All liquors brought into any county or collection district, which were not manufactured therein, either for sale or storage, the person so owning or claiming the same should, within forty-eight hours thereafter, and before sale or storage of them, file with the assistant assessor of such county or collection district into which the same should be brought, an invoice in duplicate of all such liquors, which invoice should state in full all marks and brands on each package required to be placed there by law, which invoice should be signed by such person owning or claiming such liquors; one copy of which invoice should be by such assistant assessor preserved in his office, and the other copy he should mail to the Commissioner of Internal Revenue. Marks and brands placed upon barrels or other packages containing liquors, should not in any case be sufficient evidence that the liquors contained therein were legally manufactured or that the tax thereon had been paid, but if the claimant of them possessed a bill of sale, made out in full compliance with the law, and such bill accurately described each package and gave all the marks and brands thereon, then such marks and brands in connection with such bill of sale should be *prima facie* evidence that the liquors were legally manufactured and that the tax thereon had been paid. And in all controversies about the tax not having been paid on such liquor the burden of proof should be upon the party other than the claimant.

8. The Commissioner of Internal Revenue should be required to open an account with each distiller, redistiller, rectifier, fermenter, and brewer in the United States; and he should keep an accurate account of each barrel or cask of liquor made by such persons; and should from day to day, as he is informed, note in such record the names and residences of the various persons into whose hands each barrel or cask passed until the same should be consumed or broken, and in case it should be broken he should trace its contents in same manner to its consumption; and in every case where he should discover persons in possession of any of such liquors, and his books did not show that they were legally entitled to the same, or he should find any discrepancy in amount of liquors, or find any persons in possession of liquors that he had no record of their manufacture or sale, he should in all such cases immediately institute inquiry into the matter, and ascertain who was in fault, and in case he should discover any willful violations of law he should at once have the proper proceedings commenced to correct the error and punish the offender. And for the purpose of keeping an accurate account of all liquors legally manufactured and sold, and of detecting frauds, such Commissioner of Internal Revenue and such assistant assessors should carefully preserve all papers required by law to be sent or given to them, and such as are sent or given to such assistant assessors they should keep them conveniently arranged and open for inspection each week day during office hours.

9. In cases where manufacturers should desire to ship any of their liquors to foreign countries, warehouses should be provided at convenient ports for the reception and safe keeping of such liquors until ready for shipment. In all such cases such manufacturer, before shipment, should procure from the Commissioner of Internal Revenue a permit therefor, which permit should accurately describe each package of such liquors to be shipped, giving all the marks and brands on each, stating to what warehouse they should be shipped and within what time it should be done; and each barrel or package so described in such permit should be painted all over except where the marks and brands are with black paints mixed with oil; and such liquors, after their removal from place where manufactured, should never, under any circumstances, be sold or offered for sale in the United States, except they should be returned after their shipment from the United States as imported liquors, and pay the regular duty as required on foreign liquors imported to this country.

10. All cars, boats, vessels, wagons, drays, carts, or other conveyance by which any liquors should be removed from place where manufactured before the tax should have been paid thereon, except as expressly provided by law, such cars, boats, vessels, wagons, drays, or carts so used in such removal of such liquors should be forfeited to the United States, and the persons so aiding in such removal should be severely punished by fine and imprisonment.

11. No liquors should in any case be sold for less than the tax on the same, except a special permit should be obtained by the person owning the same upon good cause shown from the Commissioner of Internal Revenue for that purpose. And in all cases of sale of liquors for a less price than the tax thereon except where permission should be granted by the Commissioner of Internal Revenue, it should be *prima facie* evidence that the tax had not been paid thereon; and the liquors in all such cases should be seized and forfeited to the United States, and the seller and purchaser each punished by fine and imprisonment therefor, unless they could show upon trial that the tax had been legally and properly paid thereon before such sale.

From what I have stated it will be seen that under the plan I propose liquors can be cheaply manufactured, and without any unnecessary hinderances or restraints—providing the manufacturer desires to comply with the law and did not seek to evade or violate it—and the system of identification of liquors is so easy and perfect and the records so convenient to establish the same that spurious liquors could not be got on to the market without detection, hence none would be deterred from engaging in the sale of liquors upon condition that they desired to comply with the law. Now for the purpose of preventing the illegal manufacturer of liquors, as well as the keeping or selling of them, the law should in the twelfth place provide, that every place where liquors should be manufactured in violation of law, and every place where such liquors should be kept, whether for sale, storage, or otherwise, that such liquors, together with the real estate where manufactured or kept and all personal property found thereon should be forfeited to the United States, upon condition that such person or persons so manufacturing or keeping such liquors in violation of law owned such real estate. In case such real estate, where such liquors were made or kept in violation of law, was rented property, then the same should not be forfeited to the United States, except it could be shown that the owner thereof had had forty-eight hours' notice of the fact that liquors were manufactured or kept on his premises, in violation of law, and he did not within such forty-eight hours notify the internal revenue

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collector of such county or collection district in which such property should be situate, of the fact of such illegal manufacture or the keeping or selling of such spurious liquors, by letter, telegraph, or otherwise, it should be taken for granted that he was consenting thereto, and in such case such real estate should be forfeited to the United States the same as though the owner was manufacturing or keeping such liquors on his premises in violation of law, except in case of infants, idiots, and insane persons; but no land deeds to an infant, idiot, or insane person after the taking effect of the law should be so exempted.

And in addition to such forfeitures such persons so making or keeping such liquors in violation of law should be severely punished by fine and imprisonment. And in order to insure a detection of all violations of the law, and a certain and speedy punishment of all persons so violating the same, provision should be made for all persons to inform that desired to in case of such violations; and as an inducement for such information such informers should have all or a very large share of the proceeds of such forfeiture, after the tax and expense the Government had been put to in proving the same were deducted therefrom.

A section should be added embracing a system of penalties, including fine and imprisonment, for every willful violation of the law, and an express provision should be made preventing the compromising of cases instituted for violations of the law, or the compounding of felonies under it.

The law should also provide that all liquors found within the United States after the 1st day of September, 1868, which had been manufactured prior to the taking effect of the law I propose, and upon which the tax had not been paid, the burden of proving such payment should be upon the claimant of such liquors; such liquors, together with the real estate and all personal property found thereon, should, in like manner, be forfeited to the United States as provided in the case of illegal manufacture of liquors, unless such person or persons claiming the same should, on such 1st day of September, 1868, pay the tax due thereon, or show that the same had been paid previous thereto. This last provision would put millions of dollars into the Treasury out of which it has been swindled, and thereby justly punish men who have been willfully violating the law.

With such a law upon the statute-book, in my judgment no man would dare to undertake the manufacture or sale of spurious liquors. Such liquors upon a man's premises, with a law of that kind, would be worse than a mad dog, for it would not only subject him to fine, but his person to imprisonment, and at the same time destroy his property by causing it to be forfeited to the United States. Such a law as I have stated all honest men could easily comply with, and no man, not even a thief, would dare hazard a violation of it.

Some may insist that the law I propose is too severe, and that public sentiment would not be in favor of its enforcement. I insist that so soon as the people once understand the extent of the frauds now being practiced upon the Government by the class of persons known as the whisky ring, they would favor the enforcement of any law that would break down that ring and collect the revenues. In its enforcement it can injure none but willful violators; and it matters but little to me how much they may suffer providing honest men can be benefited thereby. Our revenues must be collected and laws must be made strong enough and enforced, at all hazards, to accomplish that, even if we have to imprison and forfeit the property of every scoundrel in the land who undertakes willfully to violate it.

Similar provisions to those I have named could be enacted to prevent tobacco frauds.

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SPEECH OF HON. LEWIS SELYE,

OF NEW YORK,

IN THE HOUSE OF REPRESENTATIVES,

June 13, 1868,

In Committee of the Whole on the state of the Union on the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

Mr. SELYE. Mr. Chairman, the attention of honorable members has been largely occupied since the opening of the present session of Congress with the consideration of questions connected with the finances and currency of the country. Numerous suggestions have been made for expediting the return to specie payments; projects in great variety have been presented for reducing or paying in a manner little burdensome to the people the public debt, and multiplied proposals of the most opposite and diverse character have been offered for the amendment of our present system of currency.

The restless anxiety of the public mind on these subjects, and the zeal and persistency with which they have been discussed in both Houses of Congress, give evidence that our whole financial and monetary system is out of order, and that disease is deep-seated in the body-politic, which must be removed before the restoration of sound national health is possible. I have no desire, sir, to undervalue the importance of the efforts that are being made by honorable gentlemen to restore specie payments, and bring back the currency to a sound and normal condition; I have no wish to obstruct any measure calculated to lessen the weight of debt which presses so heavily on the country, or to lighten the taxation rendered inevitable by that debt.

But I believe, Mr. Chairman, that a broader statesmanship and a sounder political philosophy would teach us to look deeper than the external symptoms of the disease, and investigate the source from which it springs. That this has not been already done by abler men is my apology for now addressing you.

I had hoped that the report of the Special Commissioner of the Revenue would have offered to us such a statement of the national disease as would have exhibited not only the extent, but the causes of our present industrial and commercial depression, and at the same time have suggested a remedy adequate to its removal. But able and valuable as that document unquestionably is for the extent and variety of the information it contains, collected with great industry and presented with great clearness, it yet fails, as I conceive, to offer to our consideration any complete or well adjusted system of national finance, for the reason that it ignores, or more strictly speaking, evades, by postponement, the discussion of that essential feature—the adjustment of the tariff question.

That depression severe and universal in all our industrial and commercial interests does exist will not be denied. Thousands of unemployed laborers throng our cities; the capital invested in our varied manufacturing enterprises lies unrewarded; the tax gatherer enforces his relentless demands in a period of universal depression, and the unemployed workman and the overburdened employer alike look forward with gloomy anticipation to a period of suffering and privation, of bankruptcy and disaster. All our great manufacturing interests—cotton and wool and iron—are languishing; all the lesser industries connected with or depending on them languish too. The demand for manufactured goods has dwindled to a point less than has been reached for many years, and in an inverse ratio with the diminished consumption of the country have declined the profits of its production.

Following this decline in the profits of production, so plainly felt now by all classes of the community, is necessarily a commensurate decline in the tax-paying power of the people, and as this depression sinks into prostration will this inability to bear taxation be increased, until universal commercial bankruptcy supervene, and the advocates of national repudiation shall have placed within their reach the coveted opportunity of accomplishing their guilty and unpatriotic object.

I hold, then, Mr. Chairman, that first in the discussion of the means by which the national financial and industrial prosperity may be restored, comes the question, *How is the productive power of the country to be maintained and increased?*

I answer; by the development of our industrial resources and the healthy stimulation of our national production. In accomplishing this I do not underrate the importance of enforcing a rigid economy in the public expenditures, and of lessening the burden of taxation. I do not underrate the importance of securing a sound currency as well as a wise administration of the public debt. But I hold that not less important than any or all of these, it is to protect our own industry from the destructive effects of foreign competition, and thus to render it profitable and prosperous, and by the same means to turn back the stream of gold which is now flowing to Europe in such mighty volume to pay our foreign trade balances.

REVISION OF THE TARIFF.

This subject, sir, of the necessity of the revision of the tariff, so as to render it truly effective not only to secure sufficient revenue for our Treasury, but adequate protection for our industry, has been, I observe, studiously avoided, as well by Mr. Commissioner Wells as by many honorable gentlemen in this House, whose zeal and eloquence had placed them, in former sessions, among the foremost advocates of protection to American labor. Feeling, sir, the immeasurable importance of this subject to my country, I can be no party, from any considerations of personal interest or political expediency, to its further neglect by Congress. In undertaking to discuss it, sir, I make no pretensions either to oratory or philosophy, and shall endeavor to treat it in a manner at once plain and practical, looking rather for my guidance to the teachings of experience in my own and other countries than to the generalities and abstractions of so-called political economy, by which the friends and advocates of the manufacturing interests of foreign countries have so unremittently and so successfully sought to deceive and mislead our people.

Springing from the working classes, and sympathizing with the men who toil, I am not here the advocate of protection to any special class or interest or section of the country; but I am here the advocate of protection to AMERICAN INDUSTRY of every branch and in every State.

The production of the country, sir, is one; whether it be from our forests or our fields, from our mines or from our factories, the people, all the people, are interested in the common produce of the nation, whatever their pursuits or wherever their locality may be. Thus, sir, neither championing the interests of the East nor the West, the North nor the South, I aim at the enforcement of a grand NATIONAL POLICY of complete industrial independence, the effect of which will be not only to secure the comfort and independence and elevation of the people, but also the power and solvency and honor of the nation.

Mr. Chairman, I am not ashamed of this doctrine of protection; I am not afraid to speak the word, and tell honestly what I mean. The specious sophisms of the so-called free trade philosophers of Manchester and Paris have not deceived me. I regard man, made in the image

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of his Creator, endowed not only with the physical capacity to labor, but with an intellect to think and a soul to live hereafter, as something different from a mere machine to be used as an instrument of production at the smallest possible cost to its possessor; and I hold that there is something more important to a nation than the ability to undersell its neighbors or competitors in the markets of the world. If, sir, the penalty of making cheap goods is the moral and intellectual debasement of a people, then do I affirm that in a country the power and prosperity of whose Government depends (as it does in the United States) on the intelligence and virtue of its citizens, the policy of degrading labor here to an equality with its condition in Europe would not only be a political blunder, but a moral crime.

PROTECTION MAINTAINED BY THE FATHERS.

The principle, sir, of protection for which I contend, is no novelty in American politics. It has been held from the beginning by the founders of this Government, and the great political teachers of the people—men whom we are accustomed to honor, and whose opinions on all other subjects are regarded as authorities. Among these I may enumerate the reverend names of Franklin, and Jefferson, and Madison, and Jackson, and, in his earlier and better days, Calhoun, and Clay, and Webster, and Lincoln, and many others.

FRANKLIN.

Franklin, in a letter to Humphrey Marshall, written in London in the year 1771, says on this subject:

"Every manufacture encouraged in our country makes part of a market for provisions within ourselves, and saves so much money to the country as must otherwise be exported to pay for the manufactures he supplies. Here in England it is well known and understood that wherever a manufacture is established which employs a number of hands it raises the value of land in the neighboring country all around it; partly by the greater demand near at hand for the produce of the land, and partly from the plenty of money drawn by the manufacturers to that part of the country. It seems, therefore, the interest of all our farmers and owners of land to encourage our young manufactures in preference to foreign ones imported among us from distant countries."

JEFFERSON.

Jefferson, in a letter to J. B. Say in 1815, enforces the policy of protection, even to prohibition, of articles which we are capable of producing at home. The words in which he asserts the importance of securing by governmental interference national industrial independence are so remarkable that I am induced to quote them:

"Experience has shown that continued peace depends not merely on our own justice and prudence, but on that of others, also; that when forced into war the interception of exchanges which must be made across a wide ocean becomes a powerful weapon in the hands of an enemy domineering over that element, and to other distresses of war adds the want of all those necessities for which we have permitted ourselves to be dependent on others—even arms and clothing. This fact, therefore, solves the question by reducing to its ultimate form whether profit or preservation is the first interest of the State? We are, consequently, become manufacturers to a degree incredible to those who do not see it, and who only consider the short period of time during which we have been driven to them by the suicidal policy of England. The prohibitory duties we lay on all articles of foreign manufacture which prudence requires us to establish at home, with the patriotic determination of every good citizen to use no foreign article which can be made within ourselves, without regard to difference of prices, secures us against relapse into foreign dependency."

And, in a subsequent letter, the great statesman distinctly records his opinion in favor of a protective tariff. Writing, January 9, 1816, to Mr. Benjamin Austin, he says:

"You tell me I am quoted by those who wish to continue our dependence on England for manufactures. There was a time when I might have been so quoted with more candor." * * * "We have since experienced what we did not then believe—that there exists both profligacy and power enough to exclude us from the field of interchange with other nations; that to be independent for the comforts of life we must fabricate them ourselves. We must now place the manufacturer by the side of the agriculturist." * * * "He, there-

fore, who is now against domestic manufactures must be either for reducing us to dependence on that foreign nation, or to be clothed in skins and to live like wild beasts in dens and caverns. I am proud to say that I am not one of these. Experience has taught me that manufactures are now as necessary to our independence as to our comfort; and if those who quote me as of a different opinion will keep pace with me in purchasing nothing foreign where an equivalent of domestic fabric can be obtained, without any regard to difference of price, it will not be our fault if we do not have a supply at home equal to our demand, and wrest that weapon of distress from the hand which has so long wantonly violated it."

MADISON.

Madison, one of the wisest and greatest statesmen this country has produced, thus opposed the "let-alone" doctrines of the free-traders, in a letter addressed to Mr. Joseph C. Cabell, in 1828:

"The theory of 'let us alone' supposes that all nations concur in a perfect freedom of commercial intercourse. Were this the case they would, in a commercial view, be but one nation, as much as the several districts composing a particular nation; and the theory would be as applicable to the former as to the latter. But this golden age of free trade has not yet arrived, nor is there a single nation that has set the example. No nation can, indeed, safely do so until a reciprocity, at least, be insured to it."

"A nation leaving its foreign trade, in all cases, to regulate itself might soon find it regulated by other nations into subservience to a foreign interest. In the interval between the peace of 1783 and the establishment of the present Constitution of the United States the want of a general authority to regulate trade is known to have had this consequence." * * * "The theory supposes, moreover, a perpetual peace—a supposition, it is to be feared, not less chimerical than a universal freedom of commerce."

And in giving this summary of the opinions on this question of our illustrious statesmen, I may fitly refer to the recorded views of

ANDREW JACKSON.

although they have been often quoted. Writing to his friend, Dr. Coleman, in 1824, the honored patriot says:

"You ask my opinion on the tariff. I answer that I am in favor of a judicious examination and revision of it; and so far as the tariff bill before us embraces the design of fostering and protecting, preserving within ourselves the means of national defense and independence, particularly in a state of war, I would advocate and support it. The experience of the late war ought to teach us a lesson, and one never to be forgotten. If our liberty and republican form of government, procured for us by our revolutionary fathers, are worth the blood and treasure at which they were obtained, it is surely our duty to protect and defend them." * * * "This tariff—I mean a judicious one—possesses more fanciful than real danger. I will ask: what is the real situation of the agriculturist? Where has the American farmer a market for his surplus product? Except for cotton he has neither a foreign nor a home market. Does not this clearly prove, when there is no market either at home or abroad, that there is too much labor employed in agriculture, and that the channels for labor should be multiplied? Common sense points out the remedy. Draw from agriculture the superabundant labor; employ it in mechanism and manufactures, thereby creating a home market for your breadstuffs, and distributing labor to the most profitable account and benefit to the country. Take from agriculture in the United States six hundred thousand men, women, and children, and you will at once give a home market for more breadstuffs than all Europe now furnishes us. In short, sir, we have been too long subject to the policy of British merchants. It is time that we should become a little more Americanized, and, instead of feeding the paupers and laborers of England, feed our own, or else in a short time, by continuing our present policy, we shall be rendered paupers ourselves."

To this brief selection from the declarations of the fathers I might add the recorded utterances of nearly, if not quite all, the statesmen of this country, whose experience has guided the national councils, and whose wisdom has been acknowledged by the people.

PROTECTION MAINTAINED BY THE RULERS AND STATESMEN OF EUROPE.

Nor are the statesmen of this country alone in their teachings on this subject—Colbert, the father of the economical system of France, two centuries ago, avowed and enforced them, and in a single passage in one of his reports to Louis XV expresses the cardinal principles of his system: "Reduction of export duties upon all domestic products; diminution of import duties on raw materials; exclusion of

foreign manufactures by means of increase of duties."

We know how well the first Napoleon understood the principle of protection—how well, too, he understood the dangerous fallacies of the free-traders of his day. "If the empire were of adamant," said he, "political economists would grind it to dust;" and he answered their sophisms by the resistless logic of a blockade all round the maritime coast of Europe, and by this means released forever France and Germany from the industrial domination of Great Britain. And in this matter the present emperor of France has shown himself an apt disciple of his great teacher—the Anglo-French treaty of 1860, so boasted as a "free-trade treaty," being in fact a wisely concocted protective measure, by which the interests of French industry were intended to be secured in a manner much more effective than those of American industry by the Morrill tariff of 1861, which has been the object of such virulent and unreasonable assault by the friends of British traders and manufacturers at home and abroad.

CHEVALIER.

M. Chevalier, the celebrated French economist, notwithstanding his opposition to the policy of protection, as applied to France, presents this strong plea for the principle itself:

"It is not an abuse of power on the part of the Government; on the contrary, it is the accomplishment of a positive duty, so to act at each epoch in the progress of a nation as to favor taking possession of all the branches of industry whose acquisition is authorized by the nature of things. Governments are, in effect, the personification of nations, and it is required that they should exercise their influence in the direction indicated by the general interest, properly studied, and fully appreciated. Therefore (he continues) I shall carefully avoid censuring Colbert, in France, or Cromwell, in England, for the effort to establish, in his own country, a powerful commercial marine. I regard as excellent the desire of some of the eminent men of the principal nations of Europe to establish around them the various branches of manufactures, although I may not praise without distinction all the measures by them adopted for the accomplishment of their object."

These words were written in the year 1852.

Nor is the French economist alone in the admission of the inherent soundness of the principle of protection.

John Stuart Mill, the illustrious political philosopher of England, whose advocacy of "free trade" is so well known, avows in his work entitled "Principles of Political Economy," the opinion that "the superiority of one country over another in a branch of production often arises only from having begun it sooner. There may (he alleges) be no inherent advantage on one part, or disadvantage on the other, but only a present superiority of skill and experience. A country which has this skill and experience yet to acquire may in other respects be better adapted to the production than those which were earlier in the field; and, beside, it is a just remark, that nothing has a greater tendency to produce improvement in any branch of production than its trial under a new set of conditions. But it cannot (he proceeds) be expected that individuals should, at their own cost, introduce a new manufacture, and bear the burdens of carrying it on until the producers have been educated up to the line of those with whom the processes have become traditional. A PROTECTIVE duty, continued for a reasonable time, will sometimes be the least inconvenient mode in which a country can tax itself for the support of such an experiment."

SARCASMS AND FALLACIES OF FREE TRADE.

Sir, we are accustomed to hearing from the advocates of free trade sarcastic insinuations against the "narrow and antiquated notions" of protection, as though it were the remnant of a by-gone barbarism, which was destined rapidly to disappear before the science and the wisdom of an enlightened civilization. We have been accustomed to hearing the tariff

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legislation of the country held up to public execration as intended to benefit a class of grasping and selfish manufacturers at the cost of the workingmen and the farmers of the country.

Efforts have been made to mislead the people by the statement of vague, but plausible, generalities; and so persistent has been the zeal of these missionaries of a foreign interest that millions of our countrymen are to this day deceived upon the subject and verily believe that it is better to import our fabrics from foreign countries than to manufacture them at home!

Mr. Chairman, it is time that this delusion should be dispelled; and therefore I have occupied the time of the House in establishing this fact: that the principle of protection, for which I contend, has the direct sanction and authority of the great statesmen of American history; the example and the teachings of the wisest and greatest rulers and ministers produced in Europe for the last two centuries. Yea, more, sir, the very apostles and prophets of free trade themselves have been adduced as witnesses to prove the argument for it to be unanswerable.

So much, sir, and for the reasons I have stated, have I thought it well to say in defense of the principle of protection. I shall now, with your permission, look at the practical working of that principle, as we see it illustrated in the experience of our own and other lands.

HISTORICAL EXAMPLES—GREAT BRITAIN.

And first, let us turn to Great Britain—that land from which we import so many, not only of our goods, but of our opinions, and from whose philosophers and statesmen have emanated that pernicious system of "free trade" which has been used—sometimes by visionary theorists, sometimes by selfish demagogues—but always with the effect of misleading the unwary and deceiving the ignorant of our people.

It may then be well to inquire what has been the experience and the practice of Great Britain in this matter of free trade, respecting which her economists profess with patronizing pity to instruct the people of this benighted land.

Great Britain, Mr. Chairman, with an area of only one hundred and twenty-one thousand nine hundred and twelve square miles, (less than many of our individual States,) possesses a commerce far surpassing that of any other nation on the earth. Her imports and exports of merchandise for the year 1866 amounted to the value of £534,135,956, or \$2,670,979,780. The foreign commerce of our own country is for the same period not one third as much, and when I add that the annual exports of British manufactures now amount to \$750,000,000 the predominant interest to which that people are indebted for a foreign trade so vast and so various is manifest.

What are the causes, sir, which have given England this mighty manufacturing supremacy? She possesses no natural advantages which can be considered as peculiar or controlling. On the one hand, she depends, and always must depend, to a great degree, on other lands for her food and raw materials. She owes much, it is true, to the industry and perseverance of her people; much to her iron and coal mines, so rich and so accessible; much also to her insular position, which makes it so easy for her to receive her supplies and distribute her productions. But all this would have availed but little without governmental aid. Long and steadily, sir, has England maintained the policy of protection; and the English manufacturer for generations—alike in peace and in war—under every dynasty and administration, has been enabled to rely on the steady and enlightened coöperation of his Government. To protect, extend, and encourage the manufactures of Great Britain has been the traditional policy of her statesmen. The result is seen in a man-

ufacturing prosperity without a parallel on the earth.

She resolutely and systematically began her system of protection in the year 1338.

And, first, with regard to woollens, Edward III, seeing the absurdity of growing wool in England, which had to be sent across the channel to be converted into cloth, set himself to work to induce Flemish artisans to come over and settle in England to teach the English workmen the arts of spinning, dyeing, and weaving. He accordingly sent abroad agents to induce them to come over, promising them protection and holding out liberal offers to those who should accept his invitation. The provision of law by which foreigners are entitled, except in case of treason, to trial by a mixed jury—half natives and half aliens—a provision which has recently attracted so much attention by reason of the refusal of such a jury to some of the Penians, was one of the assurances of fair play he established in their favor. That provision is found in his statute of 1353, for the regulation of the staple, that is, for the establishment and government of markets for the purchase and sale of wool and of woollen cloths, the last place where a man would think of looking for it who did not know that it was a part of the system for the protection of domestic industry—a temptation to the workman to transport himself, once for all, to the place where the food and the raw material are grown, instead of sending barrels of flour and pork and bales of wool over the sea for his whole lifetime just to bring them back again in the shape of cloth, burdened with the costs of transporting tons of matter both ways, when by bringing the man once you get him and his posterity forever.

Fuller, in his *Church History*, gives this quaint account of the means resorted to by Edward:

"Englishmen at this time knew no more what to do with the wool than the sheep that wear it as to any artificial and curious drapery, their best cloths being no better than friezes, such was their coarseness for want of skill in the making. Unsuspected emissaries were employed by our king in those countries, who wrought themselves into familiarity with such Dutchmen as were absolute masters of their trade, but not masters of themselves as journeymen and apprentices. They bemoaned the slavishness of those poor servants, whom their masters used rather like heathens than Christians; yea, rather like horses than men; early up and late in bed, and all day hard work and harder fare, as a few herrings and moldy cheese, and all to enrich the churls, their masters, with profit to themselves. But Oh, how happy should they be if they would but come into England, bringing their mystery with them, which would provide them welcome in all places. Here they should feed on fat beef and mutton till nothing but their fullness should stint their stomachs. Yea, they should live on the labors of their own hands, enjoying a proportionable profit of their gains to themselves: their beds should be good and their bed-fellows better, seeing the rudest yeoman in England would not disdain to marry their daughters unto them, and such English beauties that the most envious foreigner could not but commend them."

In the reign of James I, about the time our ancestors were landing at Plymouth, agents were employed to bring from Rochelle, in France, "three prime workmen," to instruct his subjects in the process of manufacturing the alum used in dyeing; and the three prime workmen were smuggled out of the French port in hogsheads.

In 1654 the stocking weavers said, in a memorial to Oliver Cromwell, that their success had "vindicated the nation against that old proverbial expression, 'The stranger buys of the Englishman the case (skin) of the fox for a groat, and sells him the tail again for a shilling;' for we may now retort and say, the Englishman buys silk of the stranger for twenty marks, and sells him the same again for a hundred pounds."

The statistics and regulations of this long period would fill a volume, and I have cited only a few pertinent facts. Honorable gentlemen will remember that in the period to which I refer, Edward III forbade, under the

severest penalties, the exportation of sheep and wool from the kingdom. The punishments affixed to the violation of this law were among the most cruel of England's sanguinary code. Fines, maimings, imprisonment, death, and confiscation, were the penalties ruthlessly enforced until 1746, when they were mitigated to transportation for seven years, and this was subsequently repealed, but not until 1825. The British tariff act of 1819 imposed a protective duty of fifty per cent. on woollens, and by a later act (1834) fifteen and twenty per cent. were still retained upon them.

Thus, sir, we see that from 1338 to 1834 the woollen manufacture in England was protected by absolute prohibition, first enforced by penalties, and afterward enforced by taxes.

Nor, sir, is the history of the iron industry in England less significant and pertinent. In 1610 the protective duty laid on foreign bar iron was £2 10s., or \$12 50 per ton; in 1782, £2 16s. 2d., or \$14; in 1808, £4 4s., or \$21; in 1806, £5 7s., or \$27; in 1819, £6 10s., or \$32 50 in British vessels, or £7 18s. 6d. in foreign; in 1826, it was reduced to £1 10s., or \$7 50. Why? *Because through an unwavering policy of protection for a century and a half her iron had obtained the mastery over all competition.*

The prices of bar iron at the works in 1825 were: In France, £26 10s.; in Belgium and Germany, £16 14s.; in Sweden, £13 18s.; in St. Petersburg, £15 18s.; in England, £10. Truly, it was time to pull down the scaffolding when the building was erected and covered in, and it became wise to admit at as small a cost as possible, as raw material, such qualities of iron as she did not herself produce.

If it should be said that England's early command of the finest wool, and her possession of iron ore and coal gave her such natural advantages as secured her superiority in these industries, I would refer to another of her manufactures for which she does not produce any portion of the raw material. England grows not a pound of cotton, yet, in 1860, the real value of the manufactures of cotton exported from Great Britain amounted to £52,000,000 sterling, or over two hundred and fifty million dollars; while the amount of her exports of all other manufactures amounted only to £41,000,000 or \$2,000,000,000. Here we see her naturalizing an utterly foreign manufacture so as to make its products exceed one half her total foreign commerce in her own manufactures and productions. How was this accomplished? The manufacture of cotton was first introduced into England about 1740, and at that time the East India article could be sold at less than one third the price of the domestic; and had its importation been permitted the British manufacture could not have been established against the competition of the Asiatic product. But, notwithstanding all the disadvantages under which the domestic manufacture labored, the British found a way of meeting the difficulty. It was at once simple and effective, and was done by an act of Parliament, which reads thus:

"Calicoes, painted, stained or dyed, in Persia, China, or the East Indies, shall not be worn or used in this kingdom."

And further:

"All such goods, whether mixed, sewed, or made up together for sale with any other goods, shall be forfeited; and the person in whose custody, knowing thereof, the same shall be found, or that shall dispose thereof, shall forfeit £200."

The British tariff upon cotton goods passed in 1819 still prohibited the manufacture of all countries east of the Cape of Good Hope, and upon all produced elsewhere charged fifty to sixty-seven per cent.

The history of England's protective policy may be best seen in a tabular statement, showing the duties imposed on foreign manufactures imported at various epochs; and with your

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permission, sir, I shall read such a statement to the House:

In 1787, woolens.....	Prohibited.
European cotton *.....	44@50 per cent.
Glass.....	60 per cent.
Iron.....	£2 16s. 8d. per ton.
In 1819, woolens.....	50 per cent.
Cottons.....	50@67 per cent.
Glass.....	80 per cent.
Iron.....	£6 10s. per ton.
In 1834, woolens.....	15@20 per cent.
Cottons.....	10@20 per cent.
Glass.....	37 per cent.
Iron.....	£1 per ton.

* Those of the East prohibited in 1787 and 1819.

Mr. Chairman, I am speaking the facts of history when I thus point out the means by which England established her manufacturing supremacy. They were first *prohibition*, and afterward protection.

ENFORCED UNDER SO-CALLED FREE TRADE.

But within a few years past England professes to have made a radical change of policy; and now proclaims herself not only the pattern, but the champion of "FREE TRADE" before the world. And yet the tariff of 1842, with its subsequent modifications, was essentially discriminating in behalf of domestic interests. It secured an average duty of twenty per cent. *ad valorem* on manufactured articles, and effected a most important saving in the cost of production, by opening the ports for foreign food.

But, sir, although a quarter of a century has scarcely passed since this free-trade revolution in Great Britain has occurred, there are already manifest unmistakable symptoms of its injurious effect upon the industry of the country. Orders are being sent from Great Britain to Belgium and France for iron, for locomotives, for machinery, and for many articles in the production of which England, up to a very recent period, had held the place of admitted superiority in the world. Germany is becoming an active competitor of hers for the supply of cutlery, steel, and various articles of lighter hardware; and thus markets, which have been heretofore controlled by Great Britain, are now slowly but surely receding from her.

I take the following extract from a recent number of *Engineering*—an able London journal, devoted to the discussion of industrial and mechanical subjects—which frankly admits the danger of which I speak:

"Of all this, however, the consideration is now useless. What we have done we cannot undo; nor is it in the nature of man, with all his thousand channels of intercourse, to now preserve a monopoly of ideas, nor, indeed, any exclusive information in practical science or art. *Between ourselves and engineers on the continent the race has become one, not of engineering and manufacturing instinct, knowledge, and fitness, but one merely of commercial resources.* They have plenty of coal and plenty of iron for generations to come, even if they have not so much as we have."

"The whole question of British vs. foreign competition is virtually narrowed to that of the cost of labor, since, whatever our mechanical resources, our competitors will employ as good if not better machinery, and we can look for no advantage, therefore, in that respect. At present, labor is dearer in England than in France and Germany. There are many reasons for this. While we are importers of food at high prices the leading continental nations are exporters. Again, and for the very reason we have just given, they are more especially agriculturists and not manufacturers, and in all agricultural communities the value of labor is much lower than in manufacturing districts. And yet again, the French laborer can live upon far less than an English worker so far as provision for bodily wants is concerned."

"Steam is better and cheaper than horse-power, and law better than bull-dog courage, and this, we know, is the sentiment entertained abroad. The attention required for modern machinery—and it is modern machinery which now enables continental engineers to compete with us—is not a matter of strength and courage, nor of beef and mutton, but of thought, dexterity, and skill. *And in these respects the Continental workman is in advance of our own, and his lodging and keep cost less than here.* We are not supposing our workmen to change places with him, nor are we weighing the scale of relative comfort. As a rule he is more frugal, temperate, docile, and pliable."

And, sir, on this subject I may appropriately mention that the observation of many intelligent American manufacturers who have, during the past summer, made an extended tour

of Great Britain and continental Europe, for the purpose of investigating, in the light of their practical experience, the industrial systems of those countries and the true condition of their working classes, corroborates this opinion. These gentlemen all concurring in the opinion that the fears now so generally entertained in England of the danger to her industry from the growing competition of Belgium, France, and Germany, are neither exaggerated nor unfounded. And in illustration abundant facts have been cited to show that the labor of these countries commands a price very much less than that paid in England. Thus I learn that at this moment rails and bars and beams of iron are laid down in Liverpool, of Belgian manufacture, at prices from five to ten per cent. less than the cost of their production in England, and that the wages paid the iron-workers of Belgium are less by half than those paid the iron-workers of England, everything at the same time betokening such steady progress on the part of the Belgian manufacture as threatens the eventual and possibly the early overthrow of the manufacturing supremacy of England, which is based upon her iron production.

No wonder, then, that the English operatives, discouraged and depressed at the new competition which has arisen, should cast around them for relief. At home they have, under their free-trade system, no resource, and accordingly they must look abroad. Therefore, such notices as the following are frequently found in the columns of the British journals:

"*Depression of the English Iron Trade.*—A great meeting of iron-workers was held on the 17th of December at West Bromwich. There were present upward of five hundred iron-workers, representing nearly the entire trade of West Bromwich, Wednesbury, Tipton, Billston, Walsall, Smethwick, and Oldbury. The question of the proposed reduction was specially discussed; and after mature deliberation the meeting were of opinion that reducing iron and wages would not causany material improvement to the trade, and they entered their protest against such a proceeding. Emigration was preferred, and it was thought probable that it would be adopted on a large scale.

"It is said that a great reduction of wages is about to take place at the various iron works in South Wales. In some places where works are closed there is great distress."

RETURN TO PROTECTION DEMANDED.

But, sir, not only are her manufacturers thus embarrassed and her operatives distressed, but her farmers are crying out despairingly for relief. In an article in the *London Farmer* (an influential agricultural journal) upon this subject, I find the following significant words:

"Such language gives some indication of the present condition of England as a great manufacturing nation, and the risk we run—from the various causes in operation, among which there is, perhaps, none so formidable as the transfer of our skilled foremen and artisans, as well as improved machinery, to the continent of being eventually outstripped in many branches of industry by foreign competitors. *Indeed, although no alarmists, we can hardly prevent the conviction that, with the above facilities and the lower rate of wages and cheaper rate of living on the continent, we shall at no distant day, not only be equalled in the quality but surpassed in the cheapness of almost all classes of British goods.* Taking these views into consideration, and accepting them as sound and well-founded, the question arises, How are we to maintain the present high position of England as a manufacturing country, and prevent her from being outrun in the march of improvement?" * * * "So long as England can compete with other countries, and excel in the production of the principal wares and articles of commerce, her policy is certainly to adopt such a system of open ports as will tend to facilitate and promote the trade and exportations of the kingdom. But as there are exceptions to many excellent rules and modes of procedure, so we think, at the present era, when all our energies and genius are required to maintain our prestige as a manufacturing nation, such an exception may, and does actually arise. If a system of husbandry such as above referred to would increase the supply of animal food at home, and not materially diminish our yield of corn, and at the same time not only maintain, but, in all likelihood, augment, the present amount of rural employment, as well as effectually prevent a repetition of the infliction which we have just sustained from cattle disease, *undoubtedly a prohibitory duty would be permissible, for it is obvious the supply of foreign corn would increase in the ratio that foreign stock would diminish.* Moreover, the well being of the agricultural community at home would be improved, and while the energies of employer and em-

ployed would be devoted to the cultivation of stock on the one hand and the production of manufactures on the other, the two staples for which this country is best adapted, the great surplus of goods available for exportation, which could, in all likelihood, be produced at less expense than at present, would thereby be rendered more remunerative and less likely to suffer from foreign competition."

Here is an appeal from the farmers of free-trade England for a prohibitory duty upon foreign cattle. Thus does it seem certain, sir, that the boasted experiment of British free trade is to terminate in failure.

HISTORICAL EXAMPLES OF THE EFFECT OF FREE TRADE.

Fifty years ago all nations that are now regarded as "Powers" defended their domestic labor market from foreign invasion as vigilantly as they did their territories from hostile armies. The principal countries which failed to do so, seduced by free trade wiles, are Portugal and Turkey. The former country, in 1703, then one of the leading commercial nations of the globe, entered into a commercial treaty with England, by which she bound herself to admit British wares into her ports at fifteen per cent. duty, for the favor of an English tax on her wines one third less than that imposed on the wines of France. The latter, fearing no rivalry in her own markets, or in the world's commerce, proclaimed absolute free trade. With what result in both cases I shall inform the House on the highest free trade authorities. Mr. J. K. McCulloch thus reports the effect on—

PORTUGAL.

"Formerly Lisbon had about four hundred ships, of from five to six hundred tons burden, employed in the trade with South America, but at present there are not above fifty ships engaged in foreign trade, and of these the average burden does not exceed one hundred and fifty tons. The produce of Portugal sent to foreign countries is almost entirely conveyed in foreign ships."

TURKEY.

And with regard to Turkey the same writer says:

"The Turkish manufacturers of muslins, gingham, handkerchiefs, &c., have suffered severely from the extraordinary importation of British goods, so much so, that of six hundred looms for muslins in Scutari, in 1812, only forty remained in 1831; and of two thousand weaving establishments in Tournovo, in 1812, there were only two hundred in 1831."

The same authority continues:

"Though our (British) muslins and chintzes be inferior in fineness to those of the East, and our red dye (a color in great esteem in Turkey, Persia, &c.) be inferior in brilliancy, these defects are more than balanced by the greater cheapness of our goods; and from Smyrna to Canton, from Madras to Samarcand, we are everywhere supplanting the native fabrics."

And Mr. Cobden himself, the apostle of free trade, about twelve years ago, summed up the effects upon other countries of the policy he was advocating, in these words: "Turkey and Portugal have become a burden and a curse to England." The decay of their manufactures had so impoverished and enfeebled them as to leave them valueless as customers, and conquered, not by British arms, but by British free trade, she made them her dependencies, and they are now upon her hands like the worn out slaves of a southern plantation, "a burden and a curse." Thus is the disease of the "sick man" of the East accounted for—thus can we understand the ruin of the fairest and the finest of the lauds of western Europe.

These countries, sir, voluntarily bowed their necks to the yoke of British trade, and if they are ruined and degraded, they have at least to blame themselves; but there are other lands unhappily placed within the power of England, on which she has forced her free trade principles at the cannon's mouth. Among her wretched victims in this respect, the most conspicuous are India and Ireland.

INDIA.

With regard to the former country, Mr. Chairman, the results of the British policy in India were described in a speech delivered some ten or twelve years ago in the British House of Commons by a man whose name is

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known and honored wherever slavery is detested and liberty understood and loved—George Thompson, of England—in which he used these words:

"At the close of the last century cotton abounded, and to so great an extent was the labor of men, women, and children applied to its conversion into cloth that even with their imperfect machinery they not only supplied the home demand for the beautiful tissues of Dacca and the coarser products of western India, but they exported to other parts of the world no less than two hundred million pieces per annum."

But in 1818 India was thrown open, and the native industry was exposed to unlimited competition. British free trade was let loose upon that beautiful but fated land; men, women, and children were driven from the workshops to the fields, and all demand for labor ceased, except in raising rice, sugar, indigo, cotton, and opium. Under the altered circumstances here is the description given of the condition of the country by the same authority:

"Some of the finest tracts of land have been forsaken and given up to the untamed beasts of the jungle. The motives to industry have been destroyed. Go with me to the northwestern provinces of the Bengal presidency and I will show you the bleaching skeletons of five hundred thousand human beings who perished from hunger in the space of a few short months. Yes, and of hunger in what has been called the granary of the world. Famines have continued to increase in frequency and extent under our sway for more than half a century."

IRELAND.

And with regard to Ireland, sir, her story is still sadder; the lessons of her experience still more emphatic. Endowed by the Creator with advantages of soil and climate and geographical position unparalleled; producing a race hardy, intelligent, laborious, and enthusiastic; with vast capacity for industrial development and commercial prosperity, we yet see her to-day prostrate and writhing at the feet of England, at once a rebel and a slave. Why is this? For centuries it had been the steady policy of England to discourage all manufactures in Ireland (except, indeed, that of linen;) and with the exception of the brief interval between 1782 and 1800, (when she was governed by her own Parliament, and during which her material condition was improved and advanced with a rapidity unexampled,) she was forcibly subjected to the same treatment as that which was afterward applied to India, and with what effects let the sufferings of that beautiful land to-day attest. I have not time to cite the melancholy statistics of the decay and exhaustion of Ireland under the policy of her British taskmaster, but shall briefly quote from a declaration put forward by an important body of Roman Catholic clergymen recently convened in the city of Limerick, in which the whole sad story is condensed:

"The governing country, [this document states] had grown passionately jealous of the activity and success of the small minority whom she permitted to aggrandize themselves. 'The export of cattle was not allowed, lest it should lessen the value of English land. Then the export of wool was forbidden, unless under great restrictions, and only to a few places. The export of cloth was then prohibited, and almost every kind of import, too, unless the cargo was first discharged in England. A king promising from his throne to 'discourage the woolen manufacture of Ireland,' and essay after essay showing how to utilize Ireland for English wealth, without seeming to deem it worth a thought whether Ireland decayed to ruin or not, are the singular phenomena of English rule and Irish subjection from the reign of James I till the year 1782."

Thus it came to pass that those we call the native population found no country before them in 1772, when they were allowed some of the privileges of Irishmen. A Parliament that, to retain the enjoyment of its prejudices, took every royal message as law, sold their best interests for the pride of ascendancy, and brought Ireland to the verge of bankruptcy. 'The year of free trade' (that is, liberty to export) came with England's 'necessity'—always, alas! apparently Ireland's 'opportunity.' In the history of mankind such notional progress is not recorded as that which brightens the annals of Ireland from 1782 to the year of the Union, (when a highly protective tariff was in force.) With the consciousness of power there came an exhibition of independence which was fatal. Ireland lost her Parliament. It can be no harm to say that England thought the advantage of extinguishing our Legislature a great one, for she paid £1,420,000 to the parties in the country who gave her the key to Irish resources and the control

of Irish liberty. Thus, from the very beginning of English rule, the Irish population may be said to have been impoverished by law."

If the theory of free trade were worth anything, Ireland, rich in agricultural resources, with an abundant population, adapted to its culture, and in close proximity to the best food market in the world, would necessarily afford a conspicuous example of its advantages, but we read in her ruin the undeniable evidence of its fallacy.

EFFECTS OF PROTECTION—GERMANY.

In contrast to this, let me for a moment ask the attention of the House to the condition of Germany, a country whose industrial history affords at once such a parallel and a contrast to our own as makes its intelligent study the more important.

GERMANY BEFORE THE ZOLLVEREIN.

I have said that in Napoleon's celebrated decree was laid the foundation of the German as well as the French manufacturing systems, and all enlightened statisticians furnish the evidence that with that blockade commenced the upward impulse of German manufactures of every kind. But at the return of peace in 1815, the manufacturers of England, at that time greatly strengthened by their long monopoly of the markets of the world, renewed their formidable competition with those of Germany, inundated the country with their goods at prices which the native manufacturers under the free-trade system, at that time introduced and advocated even as it is now with us, were unable to meet, and universal distress prevailed. It was in reference to this policy that Henry Brougham (a name once honored but now justly despised in this country) declared that "England could afford to incur some loss in the export of English goods for the purpose of destroying foreign manufactures in their cradle"—a principle ten years afterward reiterated by another British liberal statesman, Joseph Hume, who desired "that the manufactures of the Continent should be strangled in the cradle." In three years after the battle of Waterloo, so sudden and so universal was the depression which prevailed that notwithstanding the theories of the economists deeply imbued with the teachings of Adam Smith, and (like our free traders Perry and Walker, and the Evening Post and Chicago Tribune, &c.) slow to abandon them, a demand for protection to domestic industry was made which could not be resisted, and the Zollverein or Prussian Custom League was established. Since that time nearly all Germany, except the Austrian territories, has joined the league. For five and thirty years this league, embracing a population larger than that of our own country, has had a constitution for all the purposes of foreign commerce parallel to that of the American Union, and industrially and commercially formed the United States of Germany. With what result is shown by the present proud position of Prussia and the North German Confederation. Before the establishment of the Zollverein, Germany had been held to be greatly overpopulated; it was divided and disturbed, its internal commerce embarrassed, its people and Government very poor—selling their raw products and cheap labor to the outside world. Its condition was thus pithily described by Chevalier Busen: "The national sin for the last two centuries had been poverty—the condition of all classes with few exceptions."

GERMANY SINCE THE ZOLLVEREIN.

And now, sir, what is the condition of Germany? She has gone on steadily in the work of her industrial development until she has proudly placed herself at the head of the nations of Europe, and elevated her people to a condition the first on that continent in point of intellectual development, and now advancing in their physical and moral condition with a rapidity exceeding that of any other portion of the Eastern Hemisphere. That condition

has been well described by one of our greatest writers:

"An empire has been constructed embracing a population little short of forty millions, among whom education is universal; with a system of communications not excelled by that of any other country, with the exception of those provided for the very dense populations and limited territories of England and of Belgium; with an internal commerce as perfectly organized as any in the world, and growing from day to day with extraordinary rapidity; with a market on the land for nearly all its products, and, as a necessary consequence, with an agricultural population that grows daily in both intelligence and power; with a mercantile marine that now numbers more than ten thousand vessels; with a public treasury so well provided that not only has the late war left no debt behind, but that it has been at once enabled to make large additions to the provision for public education; and with private treasuries well supplied as to enable her people not only with their own means to build their own furnaces and factories, and construct their own roads, but also to furnish hundreds of millions to the improvident people of America, to be by them applied to the making of roads in a country the abundance of whose natural resources should long since have placed it in the position of money-lender rather than that now occupied of general money borrower."

And growing out of this industrial prosperity has arisen the political power of Prussia—a power that has humbled Austria, with her vast wealth of natural resources, but yet emasculated and bankrupt from her free trade policy; a power that has, by the exhibition of its moral and military force, has effectually wiped out the disgrace of Jena, and frustrated the designs of the successor of Napoleon, as though conflict of arms had actually passed between her soldiers and the soldiers of France.

To what foreign and domestic policy, sir, is this growth within the lifetime of a man, of a people from weakness, poverty, and political bondage, to such overtowering strength, to be attributed? It is to be attributed, sir, to its steady development of the productive power of the people.

TARIFF OF THE ZOLLVEREIN.

The tariff of customs duties under which this wondrous progress has been attained is distinguished by three grand principles:

1. It has the stability of treaty stipulations. Diets or Congresses cannot alter its provisions once or twice a year.

2. Its duties are all specific. The Zollverein tariff has not a single *ad valorem* duty in it.

3. It is strictly for protection, and ignores all notion of taxation for revenue.

Mr. Chairman, let not the glorious example of Germany be forgotten. We have reached a point in our history just parallel to that of the German States after the close of the Napoleon wars. Our industry, temporarily stimulated into activity by the abnormal circumstances of the war, is now exposed to the assaults of the manufacturers of Europe, and it is ours now to decide whether we shall follow the example of Turkey or of Prussia.

I shall give one further example, sir, of the beneficent effect of protection, derived from the history of another of the nations of Europe—I mean the small but prosperous kingdom of Belgium. That little country, with a territory of eleven thousand three hundred and thirteen square miles, (less than one-fourth the area of the single State of New York,) has a population of four millions nine hundred thousand, being three times as dense as that of Massachusetts. In 1846 she raised a million tons of iron ore and ten million tons of coal, nearly equal to two thirds the coal product of the United States the same year. In 1845 Belgium produced one hundred and thirty-four thousand five hundred and thirty-six tons of pig iron, and in 1864 four hundred and forty-nine thousand eight hundred and seventy-five tons, increasing to more than to threefold within twenty years.

But the increase in the aggregate product of her blast furnaces, iron foundries, iron works, and machine shops was three hundred per cent.; the product of her machine shops alone rising from fifty-six thousand six hundred and ten tons in 1845 to three hundred and twenty

thousand six hundred and forty-two tons in 1864, or to nearly sixfold. At the time of this immense growth of the iron industry, it is to be observed that the prices were reduced in these twenty years full twenty-five per cent.

Nor, sir, was it in the production of iron alone that the Belgians progressed at this marvellous rate. There success in the manufacture of silk, glass, linen, and woollens has given them a reputation in all the world's markets. To carpets and laces their name is given as distinctive of the finest.

Belgium secures a home market for her raw materials by defending and maintaining her manufactures carefully and adequately. She finds a home market for her own breadstuffs and provisions by employing all her hands busily in every form of converting industry. She fosters her skilled industry by barring out from her home market all competition with its products. Her lands are cultivated like garden grounds. Her factories are alive with industry, and are carrying away the iron trade of northern and eastern Europe from England. Her foreign commerce grew, after it was liberated from the rule of Holland and Spain in 1830, so rapidly that it stood in 1860 at double its due proportion to that of the United States.

How, Mr. Chairman, was this wondrous progress in material prosperity accomplished? How came it, sir, that this little kingdom has risen within a quarter of a century to a rank in manufacturing which is driving England to despair? I shall tell the House, sir, it was by means of the tariff of import duties imposed upon foreign manufactures.

The tariff contained such provisions as the following: *Raw wool*, (not produced in Belgium,) *free*. *Woolen manufactures*, twelve, twenty-one, twenty-six, and thirty-two cents per pound, varying according to quality and quantity of labor employed. *Silk cocoons*, (not produced in Belgium,) *one tenth of one per cent*. *Silk manufactures*, bleached, died, or printed, eighty-seven and one half cents per pound. *Hides and skins, raw*, (not produced in Belgium,) *two cents per ton*; tanned and dressed, three cents per pound, or \$67 20 per ton. *Sugar, raw*, (not produced in Belgium,) *two cents per ton*; refined, \$185 68 per ton. *Raw cotton*, (not produced in Belgium,) *two cents per ton*; manufactured, seven, nine, and fifteen cents per pound. *Flax, undressed*, (not produced in Belgium,) *nine and three fourth cents per ton*; pickled, \$20 72 per ton.

These rates, Mr. Chairman, fairly represent the policy and provisions of the Belgium tariff; it aims at and effects a decided and avowed protection to the labor of the people. The consequence is seen in the growth and prosperity of her population. In ten years (1840 to 1850) her population increased sixteen per cent., while that of Great Britain increased but eight per cent., and now her industry is so established and so diversified that she is almost ready for "free trade." The effect of her system having been so to diminish the cost of all her products as to enable her to outrival the great monopolist of the earth, GREAT BRITAIN.

If, sir, we would "subdue England without fighting her," and secure the permanent prosperity of our own industry, we will heed the lesson taught us by little Belgium.

THE UNITED STATES.

But I must refer to the experience of our own land—and, sir, I make this general statement, that our industrial history establishes this fact, that in times when the policy of protection prevailed, general prosperity existed among all classes of the people and in all sections of the country, while in times when the free trade policy prevailed, as uniformly, universal industrial depression prevailed, and commercial disaster was the invariable result.

In support, sir, of this statement, so important to this argument, I shall place on record the testimony of that great political economist,

Henry C. Carey, who, in a published letter, has given a condensed synopsis of the history of our tariff legislation and its consequences for the last fifty years. I shall not apologize for the length of this extract, for the historical facts it states are so pertinent to this discussion that you will perceive at once the value of the testimony:

"Fifty years since, the second war with Great Britain came to a close, leaving our people well provided with mills and furnaces, all of which were actively engaged in making demand for labor and for raw materials of every kind. Money was then abundant, and the public debt was trivial in amount.

"Two years later, we entered upon the British free trade system, and at once all was changed. Mills and furnaces were closed; labor ceased to be in demand; and our poor-houses were everywhere filled. Money becoming scarce and interest high, land declined to a third of its previous price. Banks stopped payment. The sheriff everywhere found full demand for all his time, and mortgagees entered everywhere into possession. The rich were made richer, but the farmer and mechanic, and all but the very rich were ruined. Trivial as were then the expenses of the Government, the Treasury could not meet them. Such wastefulness of things that induced General Jackson to ask the question, 'Where has the American farmer a market for his surplus produce?'

"To the state of things here described we were, in 1823, indebted for the first thoroughly national tariff. Almost from the moment of its passage, activity and life took the place of the palsy that previously existed. Furnaces and mills were built; labor came into demand; immigration increased, and so large became the demand for products of the farm that our markets scarcely felt the effect of changes in that of England; the public revenues so rapidly increased that it became necessary to exempt from duty tea, coffee, and many other articles; and the public debt was finally extinguished.

"The history of the world to that hour presents no case of prosperity so universal as that which here existed at the date of the repeal of the great national tariff of 1823. Had it been maintained in existence, we should have had no secession war, and at this hour the South would exhibit a state of society in which the land owners had become rich while their slaves had been gradually becoming free, with profit to themselves, to their owners, and to the nation at large. It was, however, repealed in 1833, and the repeal was followed by a succession of British free-trade crises, the whole ending, in 1842, in a state of things directly the reverse of that above described. Mills and furnaces were closed; mechanics were starving; money was scarce and dear; land had fallen to half its previous price; the sheriff was everywhere at work; banks were in a state of suspension; States repudiated payment of their debts; the Treasury was unable to borrow a dollar, except at a high rate of interest; and bankruptcy among merchants and traders was so universal that Congress found itself compelled to pass a bankrupt law.

"Again, and for the third time, protection was restored by the passage of the tariff act of 1842. Under it, in less than five years, the production of iron rose from two hundred and twenty thousand tons to eight hundred thousand tons; and so universal was the prosperity that large as was the increase, it was wholly insufficient to meet the great demand. Mines were everywhere being sunk. Labor was in great demand and wages were high, as a consequence of which immigration speedily trebled in its amount. Money was abundant and cheap, and the sheriff found but little to do. Public and private revenues were great beyond all previous precedents, and throughout the land there reigned a prosperity more universal than had in the whole history of the world ever before been known.

"Once more, in 1846, however, did the Serpent—properly represented on this occasion by British free-traders—make his way into Paradise; and now, a dozen years elapsed, in the course of which, notwithstanding the discovery of California mines, money commanded a rate of interest higher, as I believe, than had ever been known in the country for so long a period of time. British iron and cloth came in and gold went out, and with each successive day the dependence of our farmers on foreign markets became more complete. With 1857 came the culmination of the system, merchants and manufacturers being ruined; banks being compelled to suspend payment, and the Treasury being reduced to a condition of bankruptcy nearly approaching that which had existed at the close of the free-trade periods commencing in 1817 and 1834. In the three years that followed, labor was everywhere in excess; wages were low; immigration fell below the point at which it had stood twenty years before; the home market for food diminished, and the foreign one proved so utterly worthless that the whole export to all the manufacturing nations of Europe, as I have already stated, amounted to but little more than \$10,000,000.

Thus do we see, that while for long centuries all western Europe, (except Portugal and Ireland,) has maintained constant, persistent, and adequate protection, secured, it may be well to remark, in most cases by specific duties, our manufacturing system has not had any such constant or adequate protection for more than

four years at a time, and that only twice in all our history before the rebellion.

If I have failed, sir, to prove the necessity and wisdom of governmental aid to stimulate the industry of a country into active life, then history has been written in vain and the experience of the past is valueless.

REVISION OF THE TARIFF ESSENTIAL FOR THE NATIONAL CREDIT.

At any time, sir, this would be a question of interest to the nation; but at this crisis it becomes of vital moment. How may we avert this fatal paralysis that is creeping over our industry? How quicken the energies of our producing population and make profitable the labor that now slumbers unemployed in the arms of our artisans? How revive the commerce of the country and restore hope to our laborers and confidence to our capitalists? On the answer to these questions depends how we shall be able to discharge our national obligations and maintain the financial honor of our country before the world.

NECESSITY OF DEVELOPING OUR RESOURCES.

I say, sir, it is to be done by turning to profitable account the mighty and the varied resources which God has given to us. With iron ore of every quality and description, and coal and wood in limitless abundance, from Lake Superior to Chattanooga—why should we import a single bar or rail or pig of iron? With pastures adequate to feed unnumbered flocks, why should we look to foreign countries for a single fleece of wool, except it may be of some rare and special qualities peculiar to some other soil? With a steam and water power of incalculable capacity at our command, and with skill and energy and capital abundant, why should a yard of cloth be worn not woven in America? With the richest cotton land in all the earth, and a patent conferred by heaven itself upon some descriptions of our fiber, which no human skill or ingenuity can defeat, why should we suffer our market to be supplied, to the value of a single dollar, by the fabrics of European looms? With an area of arable land that practically knows no bounds, rich and fertile, and possessing every variety of climate, capable of producing food from the coarsest and most necessary vegetable and cereal, to the highest and rarest fruits, why should we not sustain a population of five times our present numbers, and thus at once give relief to the suffering toilers of western Europe and coin into national wealth the boundless and undeveloped agricultural resources of our land? With such deposits of the precious metals as God has placed in no other country, why should we not have such accumulated treasure here of gold and silver as would make us the dispensers of bullion to the world?

RECKLESS IMPORTATIONS.

The answer, sir, is at hand. It is because we have been running the spendthrift's course, and with a reckless, I might say a wicked, prodigality, expending more than we have been earning, and madly incurring a debt to foreign creditors for the supply of articles, some of which were useless luxuries, and others might have been far better furnished by the labor of our own workmen.

I learn, sir, from the official report to the Secretary of the Treasury on the commerce and navigation of the United States for the fiscal year of 1866, that we imported, in the following amounts, the descriptions of goods enumerated, estimated in their gold value at the port of exportation:

Cotton and manufactures of cotton.....	\$30,844,391
Iron and manufactures of iron.....	18,755,000
Wool and manufactures of wool.....	66,800,000
Silk and manufactures of silk.....	28,350,000
Making a total of.....	114,749,391
To this should be added, according to the estimate of the Secretary of the Treasury, for undervaluation, at least twenty per cent., being.....	28,951,878
	\$143,701,269

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which would represent an amount in our currency of at least \$250,000,000 expended in a single year for four classes of staple articles produced in foreign countries, which possess no natural advantages over our own for their production. I cite these four classes simply as illustration, not that the amount here stated represents by any means the total value of articles imported into this country which had much better be produced at home. But, sir, the fact is sufficiently startling that we prefer to pay the manufacturers of Europe for silk and cotton and iron and woolen goods \$250,000,000 which, if we chose, we could have made at home.

FATAL IMPROVIDENCE IN INCURRING DEBT.

If, from the superabundant production of our land, we, indeed, paid for these goods by our exports to foreign countries, and so kept our balance square, no result of disaster to our commerce or dishonor to our country would ensue, however unwise or injurious such a policy might be. But when we examine the facts we find that we are recklessly consuming these foreign goods *without paying for them*, putting ourselves of our own will under bondage to Europe, the most degrading and the most helpless—the bondage of a debtor to a creditor.

Sir, when we call to mind the experience through which our country has passed for the last seven years—the terrible drain that has been made upon her resources in the suppression of the rebellion, the enormous loss of productive labor, the unparalleled expenditure of treasure, the unstinted sacrifices which were made for the maintenance of the integrity and honor of the nation—we should suppose that a sober sense of the necessity of economy and retrenchment, both individual and national, would possess us all. Instead of such being the case we find the fiscal year succeeding the termination of the rebellion to have been distinguished as *the one* in which we received the largest amount of foreign goods ever imported into the United States in a single year!

Our imports for that year, (the fiscal year of 1866,) as by the report of the Secretary of the Treasury, were as follows:

Aggregate imports.....	\$487,600,000
Less specie imported, about.....	9,000,000
	478,600,000

Add to this sum twenty per cent. for undervaluations.....

	\$514,320,000
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Actual value of imports..... representing the amount payable in gold to the producers of foreign countries, an amount exceeding by more than one hundred millions, the aggregate imports of any preceding year in the history of the Republic. And, sir, although the importations for last year exhibit some slight abatement, still they have amounted to a figure absolutely startling. They were as follows:

Aggregate imports for the fiscal year ending June 30, 1867 (less specie imported).....	\$388,751,086
Add to this sum 20 per cent. for undervaluations.....	77,750,217

Actual value of imports.....	\$461,503,303
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AMOUNT OF OUR FOREIGN INDEBTEDNESS.

It is difficult, sir, to estimate with any accurate precision the amount of American indebtedness existing in Europe; but approximation may be made to it.

In the report of the Secretary of the Treasury on our foreign and domestic commerce of 1863, the amount of capital held by foreigners in the United States, including State, national, railroad, and municipal stocks, is estimated at \$500,000,000. This amount has been largely increased since that date. What amount of our bonds are now held by the capitalists of Germany and England and other European countries, it is impossible to tell; but those most competent to judge, fix the sum at not less than \$1,000,000,000. Certain it is that

great efforts have been made to promote the sale of these bonds in the money centers of Europe, and that for years the weekly remittance of them by private parties, in liquidation of trade balances, has been regular and large. Thus only have we been enabled to meet our foreign mercantile indebtedness, by selling our national securities at a disgraceful *shave*.

If then, sir, it be correct to estimate the amount of our foreign debt, on which interest must be punctually paid, at a rate in gold of probably six per cent, at \$1,500,000,000, it is clear that we must remit \$90,000,000 of gold annually in payment of this charge. And, sir, at the rate at which for the last two or three years we have been importing goods, we must to this add not less than \$60,000,000 more to pay the balance of our foreign mercantile indebtedness. Thus we have an annual demand for gold payment to Europe beyond the value of our merchandise exported of at least \$150,000,000.

We do not pay this balance in gold, sir, but we pay it in our depreciated bonds, and so help still further to depreciate them, while we rivet more firmly the shackles on our national industry and degrade still lower our financial standing before the world. Sir, this is a humiliating topic for an American citizen to discuss who is conscious—and who is proud in the consciousness—of the power and stability and wealth of his country. But we must not conceal nor deny the fact that our paper in Europe is not “gilt edged,” that, “not to put too fine a point upon it,” it can only be negotiated at a ruinous discount. Shall we continue to submit to this indignity? Shall we continue to pursue this course of reckless spending of borrowed money? I pray this House, by every consideration of national honor and solvency, to answer emphatically and promptly, “No!”

How, then, is it to be helped? Reverse the motion, sir; stop the inundation of foreign fabrics that now floods the land! If the people of the United States have not self-control enough voluntarily to forego the consumption of foreign luxuries for which they are unable to pay in honest money, and to procure which they are compelled meanly to run in debt, then, in the name of justice and of honor, I conjure Congress to put such a tax upon these needless articles as will at least secure some recompense in the way of increased public revenue for the injury inflicted on the country, and at the same time serve as a check upon the guilty extravagance of the people.

Put such additional and permanent duty upon articles imported from Europe which are also manufactured here as will encourage capitalists to invest their money in manufacturing enterprises, and will give profitable employment to our own mechanics and unskilled laborers in manufacturing, mining, and farming pursuits, and at the same time stimulate the emigration to this country of the suffering and ill-paid artisans of Europe.

HOW TO RESUME SPECIE PAYMENTS.

Thus, sir, and in no other way, can the depreciation of our national securities and the consequent premium upon gold, which is simply the consequence and evidence of the weakness of the national credit in the world's money market, be removed. The able Secretary of the Treasury may with prophetic finger point to the hour on the clock when, a year and a half hence, we shall, with a great flourish, “resume specie payments.” Honorable gentlemen, in this and the other House of Congress, may wisely talk about “the volume of the currency,” and enact laws for the regulation of the same, hoping thus to remove the malady; the editor of the New York Tribune may advise us that “the way to prepare for resumption is to resume;” but I say, sir, that the only way to restore our national credit is to restore our industrial prosperity; to make the labor of our people profitable, to increase the production of the country; to give wholesome and remunerative employment to our

capital in industrial development. Thus, without depending upon foreign labor or foreign money for anything essential to the comfort of our people, shall we supply our own wants, multiply the wealth of our own citizens, and thus increase the tax-paying power of the country. Thus shall we put our balance with Europe on the other side of the ledger, and selling more than we are buying, have gold flowing *inward*, instead of *outward*. The return to specie payment will be the natural result of a policy like this.

PROTECTION FOR THE BENEFIT OF THE CONSUMER.

It is an objection, Mr. Chairman, flippantly but commonly made by the advocates of the so-called free-trade policy that protection to domestic production is a tax upon the many for the benefit of the few. This allegation is rarely attempted to be sustained by specific facts, but is put forward as one of those “grand principles” by which the teachers of the British philosophy delight to enlighten our ignorance. Now, sir, I distinctly and unequivocally deny the truth of this position, and on the contrary affirm that *the speediest and the surest mode to cheapen the cost of goods to the consumer is to encourage their home production*, thus reducing the question to the lowest possible ground, it becomes a matter affecting the pecuniary interest of every man in the community, as it influences the price of the commodities he consumes. And here, Mr. Chairman, I may be allowed to protest against the unjust and unfounded obloquy which the public advocates of free trade are wont to cast upon the class of our citizens who invest their money and employ their time in manufacturing enterprises, and are stigmatized as “selfish” and “greedy” and “grasping” by the very men who are fattening on the profits derived directly or indirectly from the unrequited toil of the white slaves of England. As to this question of the inordinate profits realized by manufacturers, let me, sir, adduce the testimony of a man as competent as any in the United States to speak on this subject, and whose veracity as well as competency will be admitted by the people of the United States. I mean Mr. Peter Cooper, of New York. He, in a recent published letter, makes the following statement upon this point.

PETER COOPER'S TESTIMONY.

“During a period of over thirty years engaged in the manufacture of iron, the capital invested by me has not, on the average, yielded me *four per cent. per annum*, and this with all the skill and energy and perseverance which I was able to command in promoting its profitable employment, and that my own case was not exceptional may be gathered from the fact that during the same period nearly, if not quite all my brother manufacturers who were engaged largely in the same industry were compelled to succumb to the pressure of adverse circumstances caused by the fluctuating policy of the General Government, and pass into bankruptcy. Such has been the experience through which the men of enterprise and genius and capital have passed, who were induced to volunteer, at the time of the country's greatest need, as pioneers in the great work of establishing our manufacturing independence, and at the sacrifice, in most cases, of their own fortunes, laid the foundation of that noble fabric of industrial independence which we rejoice to see now rising solid and symmetrical in this great land.”

This statement, I believe, sir, fairly describes the experience of the adventurous men who embarked their money and employed their genius and their time in the early efforts to establish American manufactures. They should be honored as patriots and benefactors, at whose cost the country has been immeasurably benefited.

PROTECTION FOR THE BENEFIT OF THE WORKINGMEN.

But, Mr. Chairman, while, as Mr. Cooper shows, a very large proportion of our early manufacturers have sacrificed their fortunes, there can be no doubt that the artisan and the unskilled laborer have reaped the benefit of their efforts. The effect upon these has been to cause increased demand for their labor, and, as a consequence, increased remuneration for it. The result is exhibited in a table, compiled before the war, for the report of the Secretary of the Treasury on the finances for 1856

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and 1857, and shows the annual *per capita* production to each man, woman, and child, white and black, in the respective States. No doubt the amount of this annual production would now be considerably greater; but I am satisfied that the proportions between the annual production of the population of the manufacturing and of the agricultural States therein stated would be more than sustained at the present moment.

Massachusetts.....	\$166 60
Rhode Island.....	164 61
Connecticut.....	156 05
California.....	149 66
New Jersey.....	120 82
New Hampshire.....	117 17
New York.....	112 00
Pennsylvania.....	90 30
Vermont.....	96 62
Illinois.....	86 94
Missouri.....	88 06
Delaware.....	85 27
Maryland.....	83 85
Ohio.....	75 83
Michigan.....	72 54
Kentucky.....	71 82
Maine.....	71 11
Indiana.....	99 12
Wisconsin.....	68 41
Mississippi.....	67 50
Iowa.....	65 47
Louisiana.....	65 30
Tennessee.....	63 10
Georgia.....	61 45
Virginia.....	59 42
South Carolina.....	56 91
Alabama.....	55 72
Florida.....	54 77
Arkansas.....	52 04
District of Columbia.....	52 00
Texas.....	51 13
North Carolina.....	49 38

Thus we see, sir, that where employment is most varied there is labor most productive, and consequently best rewarded.

PROTECTION CHEAPENS GOODS.

I have said, sir, that the speediest and surest mode to cheapen the cost of goods to the consumer is to encourage their home production, and I only regret that I am compelled by the limit of my time to restrict my proof of this position to a few facts. Perhaps one of the most pertinent I can adduce is derived from the cotton industry. By the tariff acts of 1816 a duty of twenty-five per cent. was imposed on all cotton fabrics, requiring that they should be taken at a minimum valuation of twenty-five cents per square yard. By the acts of 1824 and 1828, this minimum valuation was increased first to thirty and afterward to thirty-five cents the square yard, being in effect a specific duty of nearly nine cents a yard; and we see the effect upon the price of the article in the following table of prices, compiled by Mr. Appleton:

	Cents per yard.
1816.....	30
1819.....	21
1823.....	13
1829.....	8
1843.....	6½

The same fact is illustrated by the prices at which "prints" were sold, commencing at the date when the manufacture was first successfully established—1825:

The average price per yard in 1825 was.....	\$23 07
The average price per yard in 1830 was.....	16 36
The average price per yard in 1835 was.....	16 04
The average price per yard in 1840 was.....	12 09
The average price per yard in 1845 was.....	10 90
The average price per yard in 1850 was.....	9 24
The average price per yard in 1855 was.....	9 15

How rapidly the cotton industry has grown, and how firmly it has been established, may be gathered from the fact that the number of spindles in New England in 1850 has been estimated, upon reliable authority, at 2,751,078; according to the census, the population in New England in 1850 was 2,728,106, making an average of 1,008 spindles to every thousand of its inhabitants. The population of Great Britain in 1850 was 20,798,552, and the number of spindles was 20,857,062—equal to a thousand and eight spindles to a thousand inhabitants. Thus, in less than fifty years, the productive power of the people of New England in this manufacture had become

fully equal to that of the greatest manufacturing nation on earth. The number of spindles in the whole country in 1860 was 5,035,798. In Great Britain, in 1862, the number was 30,387,457.

Let me draw another illustration from the shoe manufacture, now strengthened through our protective legislation as to be almost entirely independent of foreign competition. It is asserted by persons competent to pronounce an opinion, that we now furnish boots and shoes cheaper than they could be imported, and that American leather, the manufacture of which was protected by the early tariffs, is superior to that which is commonly used in Europe. Thus has this important industry established itself impregnably, and secured the supply of shoes to the people cheaper than it would be possible to import them.

The manufacture of cotton hosiery supplies another evidence of the truth of my position. Before the war this manufacture was thought by practical men acquainted with the subject impossible, but I learn, on reliable authority, that in 1860 cotton stockings were sold at three dollars per dozen, which can now be freely had at \$1 60, and that with cotton at fourteen cents a pound a good article may be furnished to the consumer at twelve and a half cents a pair, being one half the price paid before the war.

But although I might multiply proofs from the experience of almost every branch of industry of the proposition I have advanced, I shall refer only further to the iron manufacture, the foundation, sir, of all our industry, and the basis of the world's material prosperity.

Not more than thirty years ago our annual production of iron did not exceed fifty thousand tons, now it is not less than one million five hundred thousand tons. With all the disadvantages it had to contend with of competition with British capital and skill, and of the vacillating and uncertain policy of our Government, it has been able to obtain a foothold in the country from which it now cannot be dislodged, but only through the effect of protective legislation. During the protection period between 1828 and 1832 its production was doubled; for eight years later, under a free trade policy, until 1842, although the population increased at the rate of thirty per cent., production made no progress. In the years 1848, under protection, the amount reached eight hundred thousand tons, and then, under the influence of low tariffs, it receded to less than five hundred thousand tons. In six years, under the influence of the MORRILL tariff, the production has reached the large amount of one million five hundred thousand.

CONCLUSION.

I have trespassed on the attention of the House too long, and I hasten to a conclusion. My object has been to show that the principle of protection to domestic industry has been proclaimed and maintained by the great statesmen of this country almost without exception; that it has been proclaimed and maintained, too, by the rulers and ministers of all the nations of Europe which have succeeded in establishing their manufacturing systems; that the operation of this principle of protection has been uniformly beneficent, securing individual prosperity and national power; that the countries which have been excluded from its operation have invariably sunk into poverty and degenerated into political vassalage and helplessness; that this great gain has been accomplished without loss to any class or section of the people, inasmuch as its effect invariably has been to cheapen the cost of goods to the consumer, while at the same time it secures such just and liberal recompense for labor as enables the workingman to educate his children and beautify his home, and himself to fill the place of an enlightened citizen; and, sir, I have also shown that in the perilous condition

in which our country stands to-day, with the mighty debt that presses so heavily and so injuriously on her productive energy, her credit dishonored abroad, her currency depreciated at home, her people recklessly consuming foreign luxuries, for which they pay in borrowed money, obtained at the disgraceful sacrifice of the nation's credit, the necessity exists for action, at once prompt and decided, to arrest the drain of gold to Europe that is depleting and enervating the nation.

The revision of the tariff thus, sir, I assert, demands the immediate attention of this House. To revive the flagging industry; to stop our reckless expenditures in Europe for commodities which may either be dispensed with altogether or made at home; to secure profitable employment to our laboring population in all departments of our industry; to open the mighty resources of our undeveloped country to the millions of honest workers that now look to this nation as the only land of hope from depressed and suffering England and from famine-stricken Europe, should, Mr. Chairman, be our first care, either as legislators or as patriots.

Representation in Congress.

SPEECH OF HON. RICHARD YATES,

OF ILLINOIS,

IN THE UNITED STATES SENATE,

June 11, 1868,

On the motion to reconsider the vote on the passage of the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida, to representation in Congress.

Mr. YATES said:

Mr. PRESIDENT: The war through which the country has passed and its incidents have waked up a new spirit of inquiry into the powers of the Constitution, the relative powers of the General Government and of the States, of the President and of Congress. It seems that the doctrine of State rights or State sovereignty, which was undoubtedly the father of secession and the cause of the war, and which, upon the construction given to it by the Democratic party, is certainly the gateway to the dissolution of the Union, is now revived, and Senators even on this side of the Senate seem to give color to the dangerous pretension that it is settled that the States are sovereign in the power to limit the right of suffrage to as many or as few of the people as in their discretion they may deem proper. Mr. President, I declare myself opposed to that sort of logic which opposes every measure of reform upon the ground that "the question is settled." Moreover, I am not in favor of applying the precedents of slavery to the altered state of things brought about in this country by emancipation. In advocating the cause of human rights I do not like to have a merely legal plea interposed, a special demurrer, a musty precedent brought up to prevent the saving action of Congress for a wholesome and permanent reconstruction of the Union.

Sir, I do not decry precedents. I belong to the profession of the law, and I am proud to be a member of that profession. I know, however, that precedents are as useful sometimes to show the errors of the past, as they are as examples for our imitation.

Slavery was once the rule and freedom the exception, and whatever else might be disturbed, slavery was sacred. All constitutions, laws, and usages were to bow submissively before the Moloch of slavery. Even the good Lincoln—who was a radical anti-slavery man, and who said if anything was wrong slavery was wrong—said it was no part of the war to interfere with slavery, and up to the beginning, and during the war, statesmen denounced it apologetically. Even Congress raised a rampart for its protection by an apologetic resolution that

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it could not be interfered with, and that it was no part or purpose of the war to put it down. Behind the parapets of judicial decisions, and clothed with the imperial panoply of law and precedent, it stood impregnable and defiantly secure. The cry from all the hustings was "the question is settled."

But, Mr. President, it perished with the rebellion. Brightest among the trophies of the war is slavery destroyed and the supremacy of the slave power annihilated. In America, all, thank God, are free.

And yet, sir, when the proposition is introduced here to append a fundamental condition to the admission of a State, and that fundamental condition is to be in aid of human rights, we are told that that is an old question, and has long been settled.

We now have a new rule. Freedom is now the rule, and slavery the exception. It is now settled that all constitutions, laws, usages, and precedents, and all constructions against human liberty, are but cobwebs, to be swept away, in the march of events, with the institution of slavery in aid of which they were set up and established. Whatever may be the precedents or the rule of construction heretofore, it is now settled that all future constructions are to be given in favor of liberty and the extension of the rights of all men.

How long will it take statesmen to learn that nothing is to be considered as settled which is not settled upon the principles of right, truth, justice, and liberty?

The Senator from Pennsylvania [Mr. BUCKLEW] says that, as "this question has been settled from the foundation of the Government to the present time, surely no man can be hardy enough to question it." My colleague [Mr. TRUMBULL] says that all such conditions are inoperative and void.

Mr. President, when the other day I referred to some illustrations showing the applicability of the ordinance of 1787, and of the Missouri compromise of 1820, the Senator from New York [Mr. CONKLING] said I was exceedingly unlucky in introducing those precedents. Sir, the bad luck is on his side. The bad luck is on the side of any man who now, in the altered state of things in this day of emancipation, casts his vote against a fundamental condition by which the rights of every American citizen are recognized and secured. Suppose that condition was inoperative, as the Senator from Nevada [Mr. STEWART] very justly asked, "what harm could there be in it?" Would it weaken the Constitution to require the people, through their Legislature, to give their assent to such a condition? Such consent would be in the nature of a compact, and the idea of good faith would enter into it, to last during all the generations of the people of the State. The word of a great State must be kept. With a bad grace could the State ever attempt to alter this great fundamental cornerstone of the institutions of the State.

Mr. President, upon the subject of the power to impose these conditions the argument of the Senator from Vermont [Mr. EDMUNDS] has not been answered, and cannot be answered. The precedents which he offered are to the point, and they sustain the power of Congress over the subject. I shall be able to show, during this argument, that every Senator who has voted for imposing this condition upon Nebraska and upon Alabama has positively committed himself to the power of Congress over the question of suffrage in all the States. Senators may as well consider this. They are committed to the principle; their mouths are closed; they cannot explain away this committal; no technical quibbles will avail them. You cannot say by your votes that the State shall never have power to change its constitution in regard to suffrage, and yet say that Congress has not the power over the question of suffrage in the States. Every Senator upon this floor who has committed himself by his vote in favor of imposing

a condition preventing the States from changing their constitution so as to exclude a large portion of the people from suffrage has asserted the power of Congress, the unlimited power of Congress, over the subject of suffrage in the States. And it will not do at all for Senators, when they, by their votes, have appended to the Nebraska and Colorado bills a fundamental condition prohibiting those States from disfranchising their citizens, to say now that it has been settled that Congress has no power over the question of suffrage.

But, sir, I referred to the ordinance of 1787, not simply because Congress had the power to pass that ordinance, but to show the salutary effects of fundamental conditions, such as the bill before us proposes, on the future of a State. What I asserted was, that the ordinance of 1787 did keep slavery out of the Northwestern Territory. Those five States, which were carved out of the Northwestern Territory, would have been slave States, inevitably slave States, but for the effect of the ordinance of 1787. The slave emigration which went to Missouri would, at least one half of it, have gone to Illinois and the other western States; and instead of this ordinance being inoperative, as contended by the Senator from New York, it was regarded as having almost the sanction of a constitutional provision. All petitions to Congress to suspend the operations of the ordinance, even temporarily, failed. It is a historical fact that slave-owners who emigrated to Illinois in many instances hired out their slaves in Missouri, fearing that if taken to Illinois, they would become free by operation of the ordinance. So troublesome did the slaves hired out in Missouri, by residents of Illinois, become, that the Legislature of Missouri, not being able to reach the owners, passed a law, making the resident agents of the owners responsible for the mischiefs they committed.

When the people of Illinois came to adopt their constitution, they declared in the preamble, that it was made consistent with the ordinance of 1787, and provided in the constitution against the future existence of slavery in the State. All efforts to amend the constitution so as to admit slavery, failed, all that has been said to the contrary notwithstanding. I say, that the people held in high estimation this condition prohibiting slavery. As they regarded the title to their homesteads; as they regarded the Declaration of Independence; as they regarded their right to worship God; so they regarded that ordinance, which made their prairies the home of freemen, and which dedicated the Northwestern Territory to freedom and free institutions.

And sir, what has been the effect? Under that ordinance those five Territories became free States, and the power of this continent is there; they are running their race to glory, and inspired by the energizing power of free labor and free institutions they have taken their position, and already of themselves, constitute an empire.

When I referred to the Missouri compromise, I did it to show that that compromise had the effect to keep slavery out of the territory north of the parallel of 36° 30' north latitude. Will any Senator deny that, in the absence of that ordinance, slavery would have entered into those Territories, under the State-rights doctrine that slave property could go, under the constitution and the laws, into any State or Territory of the United States? That compromise you may now call a foolish thing; but the Senator from Maryland [Mr. JOHNSON] will remember that Mr. Clay said of it, the bells rang, the cannons were fired, and every demonstration of joy was made throughout the Republic, on account of the passage of the Missouri compromise. You remember Mr. Douglas said, though afterward he attempted to break it down: "That it was a compromise akin to the Constitution; that it had its origin in

the hearts of patriotic men of all sections of the country, and was canonized in the hearts of the American people as a sacred thing, which no ruthless hand would ever dare to disturb." This was the effect of that compromise. Slavery could not enter that Territory. This compromise stood as a wall against slave immigration, and protected those Territories from the blighting curse of human bondage.

It is said by the gentlemen who contend that these fundamental conditions are null and void, that the condition which was imposed on Missouri in 1821 was all right enough. It seems that in the adoption of her constitution, one clause excluded the immigration of free negroes into the State. Congress put a condition in the act of admission which provided, that nothing in that clause should be so construed as to interfere with, or deprive citizens of the United States of their rights. This it is admitted was a good condition; and why? Because it prevented the State of Missouri ever afterward from violating the Constitution of the United States, by the exclusion of citizens of the United States from entering that State. Now, sir, our argument is this: that this condition, which we offer to impose upon the States which are to be restored to their full relations in this Union, is to prevent the State from violating the Constitution of the United States, in that most important and vital of all points, the depriving a whole race of their right of suffrage, and other rights under the Constitution.

The doctrine for which I contend is, that Congress has the right and the power to enforce by laws "necessary and proper," in the language of the Constitution, a republican government in every State of the United States, whether that State is to be received into the Union, or is already in the Union. The power to establish republican governments devolves upon Congress in the last resort. In the first instance, it may be committed to the States; but Congress has the revisory power. Congress, under the Constitution, is required to guaranty to every State in the Union a republican form of government. Then the concluding clause of the eighth section of the first article of the Constitution declares, that Congress shall have authority to carry into effect all the enumerated powers of the Constitution, by passing laws necessary and proper for that purpose, and also shall have power to pass all laws necessary and proper to carry into effect any power vested in the Government of the United States, or in any department or officer thereof. The power is vested in, and the duty imposed upon, Congress of guarantying to each State, a republican form of government, and Congress is authorized, and, in fact, required, by necessary and proper laws, to carry into execution that guaranty.

This doctrine is not at all startling when Senators look at the ground whereon they stand, and see how they have already committed themselves, and consider what immeasurable benefits will flow to the people of this country, by settling the question of slavery and all its incidents by taking the question of suffrage out of the arena of American politics, by settling it upon principles just and fair to every section of the Union, by placing each State upon an equal footing with every other State, and each citizen of the United States upon an equal footing with every other citizen of the United States. Sir, when this doctrine can be sustained upon such clear demonstration, it ought not to startle Senators.

Mr. President, it has been said sarcastically, that upon this question, the Senator from Massachusetts [Mr. SUMNER] is radical. It is said to me, that I follow in the wake of the Senator from Massachusetts. Sir, I do not follow in any man's wake; but I do not object to this accusation. I do not deem it a reproach to be a disciple of that distinguished Senator, the worthy representative of that grand old

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Commonwealth "where American liberty raised its first voice."

For a quarter of a century that Senator [Mr. SUMNER] has been the fearless champion of human rights. He has occupied the advanced guard, the outpost in the army of progress. Triumphant over calumny and unawed by personal violence, with a keen, prophetic eye upon the great result to be attained, with the scimeter of truth and justice in his hand, and the banner of the Union over his head, he has pressed onward to the goal of final victory. Although yet in the vigor of his manhood, he has lived to see the small band of pioneers who stood by him swollen to mighty millions. His views have already been embraced and lauded as the wisest statesmanship. They have been written upon the very frontispiece of the age in which he lives; written in the history of the mighty events which are transpiring around us; written in the constitutions and the laws, both national and State, of his country. Where he stood yesterday other statesmen stand to-day. Where he stands in 1868 other statesmen will stand in 1872. Say what we may, there are none in this country who can contest the right of his tall plume to wave at the head of freedom's all-conquering hosts.

Mr. President, I wish it understood that I do not antagonize the Chicago platform. The ground that I take is in entire accord and harmony with it. That platform says what I do, that the question of suffrage belongs to the States—so I say, that the question of suffrage belongs in the first instance, to the States, but if the States shall in prescribing the qualifications of voters so prescribe them as to disfranchise a portion of citizens arbitrarily, and thus render the government anti-republican, then Congress is required to intervene and make it a republican form of government.

I confess that recent events, and especially the course of President Johnson, have satisfied me that too much reliance is not to be placed upon mere paper edicts which we style platforms. Measures, not men, was once the doctrine, but my doctrine now is: both men and measures. A good platform in the hands of bad men is of not much avail. With men of the unquestioned integrity, wise statesmanship, and lofty patriotism of Grant and Colfax, we can trust the helm of the ship of State, and feel secure that no narrow creeds, but the good of the people and the prosperity of the Republic, will be the pillars of fire to lead and guide them in the administration of the Government.

I consider myself fortunate in being able to sustain the view of the case I have taken, by the strong authority of Mr. Madison, as set forth in the Debates of the Virginia Convention, page 261:

"With respect to the other point it was thought that the regulation of time, place, and manner of electing the Representatives should be uniform throughout the continent. Some States might regulate the elections on the principles of equality, and others might regulate them otherwise. *The diversity would be obviously unjust.* Elections are regulated unequally now in some of the States, particularly in South Carolina, with respect to Charleston which is represented by thirty members. Should the people of any State by any means be deprived of the right of suffrage it was proper that it should be remedied by the General Government. It was found impossible to fix the time, place, and manner of the election of Representatives in the Constitution. It was found necessary to leave the regulation of these in the first place to the State governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity and prevent its own dissolution. And considering the State government and General Government as different bodies, acting in different and independent capacities, it was thought the particular regulations should be submitted to the former and the general regulations to the latter. Were they exclusively under the control of the State governments, the General Government might easily be dissolved. But if they be regulated properly by the State Legislatures, the congressional control will very probably never be exercised."

I add to this the declarations of Alexander Hamilton, set forth in the following extract from the *Federalist*, paper No. 69:

"It will, I presume, be as readily conceded, that

there were only three ways in which this power could have been reasonably organized; that it must either have been lodged wholly in the national Legislature, or wholly in the State Legislatures, or primarily in the latter, and ultimately in the former. The last mode has with reason been preferred by the convention. They have submitted the regulation of elections for the Federal Government in the first instance, to the local administrations; which in ordinary cases, and where no improper views prevail, may be both more convenient and more satisfactory; but they have reserved to the national authority a right to interfere, whenever extraordinary circumstances might render that interposition necessary to its safety.

Nothing can be more evident than that an exclusive power of regulating elections for the national Government, in the hands of the State Legislatures, would leave the existence of the Union entirely at their mercy. They could at any moment annihilate it by neglecting to provide for the choice of persons to administer its affairs. It is to little purpose to say, that a neglect or omission of this kind would not be likely to take place. The constitutional impossibility of the thing, without an equivalent for the risk, is an unanswerable objection. Nor has any satisfactory reason been yet assigned for incurring that risk. The extravagant surmises of a distempered jealousy can never be dignified with that character. If we are in humor to presume abuses of power, it is as fair to presume them on the part of the State governments as on the part of the General Government. And as it is more consonant to the rules of a just theory to intrust the Union with the care of its own existence, than to transfer that care to any other hands; if abuses of power are to be hazarded on the one side or on the other, it is more rational to hazard them where the power would naturally be placed, than where it would unnaturally be placed."

I shall embody in my speech, the positions assumed by Senators on this floor. For instance, I refer to the position which was taken by the Senator from Indiana, [Mr. MORTON,] who said a day or two since:

"I contend that every State has the right to regulate the question of suffrage and to amend her constitution in any particular from time to time, so that it does not cease to be republican in its character."

"Mr. EDMUNDS. Who is to judge of that?"

"Mr. MORTON. I suppose that is a question to be judged of by Congress."

Suppose the State fails to establish a government republican in its character, what then? Who is to judge whether it is republican or anti-republican? "I suppose," said he, "that is a question to be judged of by Congress." My colleague, [Mr. TRUMBULL,] while he asserts the exclusive power in the States over the suffrage question, still admits enough for the purposes of this argument:

"Sufficient unto the day is the evil thereof." When the times comes that any of the States of this Union so change their constitutions as to set up something different from a republican government, the Government of the United States may interfere."

He and I may differ as to what may be a republican form of government, but that he commits himself to the power of Congress to intervene, in case the State government is not republican, is, I think, to be inferred from his speech.

He says further:

"I am not prepared to say what steps should be taken in case the State of Nebraska should hereafter change its constitution, and in that change adopt a different rule in regard to suffrage from that which was recognized at the time the State was admitted. Perhaps we could find some way to compel the State of Nebraska to allow the same persons to vote that it agreed it would allow to vote when it was admitted into the Union; but we should have to find that way out then; we cannot provide for it now."

He acknowledges that perhaps there is power somewhere, in cases of failure on the part of the State to comply with the condition, and I assert, you cannot trace it to any source except Congress. The remarks of other Senators go to show that they admit that this revisory power is in Congress. I read from the same debate, the views taken by the Senator from Nevada [Mr. STEWART] and the Senator from New York, [Mr. CONKLING:]

"Mr. STEWART. We do not pretend to determine at what point Congress should interfere under the authority of the guarantee clause. That will be for a future Congress when the question comes up. That there are times when it should interfere the Senator from New York now admits."

"Mr. CONKLING. Certainly."

"Mr. STEWART. Every man who reads the Constitution must admit that there may be times when the Congress should interfere upon the question of suffrage."

Now, sir, here these Senators, who have

asserted that the exclusive power over suffrage is in the States, admit away their whole case. They admit fully the power of Congress to revise the action of the States upon the suffrage question. The right to exercise the power is clearly admitted. Whether it shall exercise the power to pass all laws which are necessary and proper to carry into execution this clause of guaranty, depends upon whether the State government is a republican form of government. That is the question.

On the 22d day of January, 1866, I introduced a bill into the Senate of the United States, and defended it in a speech of considerable length, in which I took the position that Congress had this revisory power, and that wherever a State had an anti-republican government, it was the duty of Congress to interfere and make it a republican form of government; and I am glad to be supported in that view now, by such distinguished authorities as the Senators whose remarks I have quoted. If that bill had then become a law, by this time, no vestige of this question would be left to disturb the harmony of the nation.

I quote from the speech of the Senator from Massachusetts [Mr. SUMNER] March 7, 1866, which will show that I was in advance even of him for congressional legislation for suffrage in the South as well as the North:

"Something has been said of the form in which the proposition has been presented. There is the bill of the Senator from Illinois, [Mr. YATES,] which he has maintained in a speech of singular originality and power, that has not been answered, and I do not hesitate to say cannot be answered. By this bill it is provided that all citizens in any State or Territory shall be protected in the full and equal enjoyment and exercise of their civil and political rights, including the right of suffrage."

"Not doubting the power of Congress to carry out this principle everywhere within the jurisdiction of the United States, I content myself for the present by asserting it only in the lapsed States lately in rebellion, where the twofold duty to guaranty a republican government and to enforce the abolition of slavery is beyond question. To that extent I now urge it."

Now, I come to consider the clauses of the Constitution affecting the question of the power of Congress, or the States, over the question of suffrage. My friend from Kentucky [Mr. DAVIS] thinks that the whole gospel of the Constitution is contained in chapter ten of the amendments, which provides that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

Unfortunately for his position, this power to guaranty republican governments is "delegated to the United States," and the Constitution says, that wherever a power is vested by the Constitution, in the Government of the United States, Congress shall execute that power. I quote the clause:

"ART. I. Certain powers having been enumerated, these words follow in section eight: 'To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.'"

Thus it is seen, that it is for Congress to carry into effect the various powers vested in the Government of the United States. How is Congress to do this? By all laws necessary and proper to that end.

The thing is very plain. We see that the same clause which authorizes Congress to pass all laws necessary and proper to carry the enumerated powers into effect, says, that Congress shall have power to pass all necessary and proper laws to carry into effect "all other powers" vested by the Constitution in the Government of the United States.

I say, then, that it is the duty of Congress, to do what I propose: by a necessary and proper law, to guaranty to every State in the Union, a republican form of government. Article four, section four, of the Constitution is as follows:

"The United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion; and on

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application of the Legislature or of the Executive (when the Legislature cannot be convened) against domestic violence."

A guarantor is one who undertakes to do a thing, which another has undertaken to do, provided that other fails. Now, suppose South Carolina, or any other State, should in its constitution insert the word "black" before the word "inhabitants," so as to provide that "all black inhabitants shall be electors," would Congress intervene? Would Congress, having the power to guaranty republican forms of government, sit still, and see white citizens excluded from the suffrage by the constitution of South Carolina? Does any Senator dare to answer categorically "Yes" to that proposition? I should like to see the Senator who is bold enough to answer it in that way. Kentucky says that her electors shall be all white inhabitants, and she excludes every other than the white race. Maryland does the same thing, and Illinois does the same thing. Will you intervene, will you exercise the power conferred on you by the Constitution, or will you bow ignobly to the prejudice of caste and race? Will you decline to intervene where black people are excluded, and intervene where white people are excluded?

Mr. President, if we had expended the time to find out power in the Constitution, for Congress to confer upon men their rights, and to establish and preserve a republican form of government, if we had examined the Constitution closely and critically with a view to find out this power, instead of trying to find that Congress has not the power to guaranty a republican form of government, by securing to all men their rights, we should have been more successful. For instance, take section two of article one. This is the groundwork of the claim of exclusive State jurisdiction over the question of suffrage. It is as follows:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

If the States have exclusive power over this question they get it from that section of the Constitution. How do they get it from this section? According to the construction of the Senator from Wisconsin [Mr. DOOLITTLE] they get it by implication, in this way: it provides that the Legislatures shall be chosen by the people of the State, and these same people who choose members of the Legislature, are made the electors of Representatives in Congress. Is there any more implication in favor of the exercise of the power in this clause by the Legislatures of the States, than there is implication in favor of the exercise of the power by Congress itself? It may be said to me, "Surely you would not contend that Congress should declare who shall elect members of the State Legislature." I would not; I would not think that very appropriate; I would not think it was doing the thing in the right way exactly. But is it more appropriate, that the Legislature shall decide who are to vote for members of the Legislature, than that Congress should say who are to vote for members of Congress? With much propriety can I say, that Congress shall define the rights and qualifications of the citizens of the United States, for the sake of uniformity in citizenship, and as a matter of self-national preservation, and not leave the question, who shall be citizens of the United States to thirty-six different States, and have as many different standards of citizenship as there are States in the Union. But, sir, I waive this view of the case, because the uniform construction has been that the question belonged to the States in the first instance, and I do not propose now, to question that construction.

But this section of the Constitution says that the House of Representatives shall be composed of members "chosen every second year." By whom? "By the people." Suppose that any

State constitution says that a part of the people shall not be embraced in choosing Representatives; suppose it excludes any particular class: is not that State in conflict with this provision of this Constitution, because all the people are not represented, and are not consulted in choosing their Representatives? There can be no mistake upon this point. Members of the Legislature, and members of Congress are to be chosen "by the people." The "people" in each case are to be the electors; and those who vote for members of Congress, are to have the same qualifications as the electors of the most numerous branch of the State Legislature.

Most clearly, if the Constitution of a State, or the laws of a Legislature, so fix the qualifications of voters as to exclude any portion of the people on the ground of race or color, it is in conflict with this clause of the Constitution, which provides that the people, not a part of the people, not half of the people, not white people, or black people, but all the people, shall be represented in the choice of their representatives, State and national.

I think I have shown, that all Senators on this side of the Chamber admit that Congress has a right to pass all laws necessary and proper to guaranty to a State a republican form of government, provided the States adopt constitutions which are not republican forms of government.

Then, sir, the issue is clearly narrowed down to the question, What is a republican government? Whenever it can be shown that States have violated this great fundamental idea, it is clearly the duty of Congress to intervene.

My colleague [Mr. TRUMBULL] says, in a letter, published in *The Advance*, a newspaper in Chicago, that "a republican form of government does not depend upon the numbers of the people who participate in the primary elections for members of Congress." It is true, that it does not exclusively depend on the numbers of people who vote. Minors may be excluded; other persons may be excluded on account of certain disabilities. But while a republican government does not depend on the numbers who constitute the body politic, it does depend largely on the question, whether any large portion of the people are excluded from the benefit of suffrage, on the ground of race, color, or previous condition. Let me put a case to test the question. Suppose that in carrying out the provision of the second section of the first article of the Constitution, the constitution of some State should say, that Germans should not participate in the choice of members of the Legislature and Representatives in Congress; would that be a republican form of government? Suppose that Illinois, where we have a large mass of Germans, a most intelligent, industrious, and thrifty population, who constitute a large portion of the Republican strength in that State, and who are almost universally the friends of freedom, loyal to the Government, and gallant defenders of the flag; suppose that the constitution of the State of Illinois should be altered so as to say, that the people who are to choose members of Congress and members of the State Legislature should not include any person of German birth, would it not be anti-republican in form? Does any man dare to say that it would not be the duty of Congress to intervene to restore to those Germans their rights, to declare the constitution of the State, so far as it excluded this large class of our fellow citizens, to be not republican in its features? Suppose that the people of Utah should exclude from the polls everybody but Mormons, followers of their faith; suppose that Connecticut should exclude everybody except Congregationalists; or Maryland everybody except Catholics, would it not be our duty to intervene, and make those governments republican in form? And yet, when it is proposed to enfranchise the negro, we bow to the prejudice of caste, and say that

a State government is republican in form, whether it excludes the colored man or not.

If I am asked whether there must not be some limitations, I reply, yes; but not total exclusion; there may be temporary disabilities, of age, residence, and other disabilities; but the difference between making temporary provisions as to a class, and the total exclusion of a whole race of our fellow-citizens, is very apparent.

Mr. CONKLING. By permission of the Senator I beg to ask him a question. He says that fixing qualifications as to residence and age is within the power of the States, as I understand him. I beg to inquire whether, if the State of Illinois should say that voting should be confined to persons upward of forty-five years of age, and who had resided in the State of Illinois at least twenty-five years, such a provision as that would be republican, in his judgment?

Mr. YATES. Exclusions from suffrage for a time, and which apply to all men alike, are allowable. If all men are excluded, men of all races, unless they are of suitable age, from voting, I do not see anything which would conflict with its being a republican form of government. Equality is the basis of a republican government. The Senator seems to forget the idea which enters into the definition of a truly republican government. He was very sound yesterday, or some other Senator was very sound in my view, when he said, it did not depend on Congress to say what sort of statutes of limitation a State should have as to the payment of debts, applicable to all citizens alike, but Congress shall guaranty to every State a republican form of government; and the test whether a government is republican, depends upon whether it grants to all citizens alike the same privileges, and imposes upon all citizens the same disabilities and duties. To define the length of residence necessary to enable a man to vote, to say what his age shall be, is one thing; and to say that he shall not vote at all because he is black or white, is an entirely different thing. In the latter case, color is made the disqualification, just as race would be if Germans were excluded from the ballot-box. The State may preserve a right; it may fix the qualifications; it may impose certain restrictions so as to have that right preserved in the best form to the people; but it is not legitimately in the power of the State, it is not in the power of the Congress of the United States, it is not in any earthly power to destroy a man's equal rights to his property, to his franchise, to his suffrage, or to the right to aspire to office—I mean according to the true theory of a republican government. That is the one thing, that in this country, the Government cannot do.

The Senator from New York [Mr. CONKLING] will remember, that if a State constitution should do so unwise a thing as to debar from the polls all men till forty-five years of age, there is a question behind that. Who made the constitution? Were all men, of all races and colors permitted to vote on the question whether that limitation should be put on all alike? If he means that in the State of New York, where only a portion of the people can vote, that that portion of the people have a right to impose such a limitation on others who have no voice in making the limitation, then most clearly such a provision would be anti-republican. My answer to him is, that such a provision as he mentions, would establish an oligarchy, and therefore be unconstitutional, while a reasonable limitation as to age is not only proper, but absolutely necessary, and if made applicable to all men alike would be constitutional.

The Senator from New York will ask me, perhaps—I address myself to him simply because he sits before me—"Do you not consider Illinois a republican government? Do not you consider New York a republican government?"

I answer that question by asking another: Does New York exclude from suffrage, among the people who are to choose members of the Legislature, any large class of its citizens? and then I leave him to answer whether a government that does that is republican.

Mr. President, I say to Senators that we must look at things as they are. The disabilities which heretofore existed against the black man have been removed. Even admitting the soundness of the hard ruling of the Dred Scott decision, what was it? That the black man was not a citizen because he belonged to a subject race, because a slave has no will, and therefore cannot vote, and hence is excluded from the body-politic. But now, that disability is removed; slavery is dead and will have no resurrection; the genius of civilization touched it, and it fell; the light of the nineteenth century blazed upon it, and it faded away. By the thirteenth amendment of the Constitution, slavery was abolished throughout the land, and Congress was required "by appropriate legislation" to enforce emancipation. By this emancipation, the disabilities which attached to the colored race are removed, and the colored man stands before the country and the world a freeman and a citizen; emancipated into the sovereignty, one of the people, one of the body-politic, and is entitled to the same rights and privileges that any other citizen, of whatever color, may enjoy.

I admit, sir, in the language of the Chicago platform, if you choose, that in the first instance, the right of suffrage belongs properly to the States to regulate for themselves; but it is subject to the Constitution of the United States, to the Constitution as it is amended; and especially to that particular clause in the Constitution which says, that Congress shall guaranty to every State in this Union, a republican form of government.

Now, let me repeat the question: What is a republican form of government? Mr. Madison, in the forty-second number of the *Federalist*, says: "The definition of the right of suffrage is very justly regarded as a fundamental article of republican government," and he speaks at length on that subject. I only read enough to show that the question, who shall vote, is of the essence of a republican government, and enters into the definition of what is to be considered a republican form of government.

Mr. Madison further says in the *Federalist*, No. 57:

"Let me now ask, what circumstance there is in the constitution of the House of Representatives that violates the principles of republican government, or favors the elevation of the few on the ruins of the many? Let me ask, whether every circumstance is not, on the contrary, strictly conformable to these principles; and scrupulously impartial to the rights and pretensions of every class and description of citizens? Who are to be the electors of the Federal Representatives? Not the rich, more than the poor; not the learned, more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscurity and unpropitious fortune. The electors are to be the great body of the people of the United States. They are to be the same who exercise the right in every State of electing the correspondent branch of the Legislature of the State."

Now, what I say emphatically, and what the people of this country will indorse, is, that in the light of the Declaration of American Independence, in the light of the Constitution of the United States as amended, any State government which excludes one large class of citizens from suffrage is not a republican government. It must embrace the representation of the great body of the people without distinction of race or color. I maintain that proposition, and I say that no Senator can maintain the reverse. I say emphatically, that the equal right of every man to vote and to aspire to office is essential to republican government, and if he is deprived of that right, the government which deprives him of it is not republican.

Sir, in its spirit and in its letter, and in substance, the adverse plea is bad. The very

essence, marrow, and life of a republican government, the very basis of republican government, is equality of all its citizens. The question whether any class of citizens can be excluded from the right of suffrage, is a vital and a fundamental question. It is the only question to be decided in this argument. It is subterranean, it runs under the very foundation corners of republican government, and if you acknowledge the right to thus exclude any class of citizens, you loosen the earth around and beneath the corner-stones and the structure will fall. Whenever a Government attempts to exclude any large class of its citizens from the rights which it gives to other citizens, it ceases to be republican. Such exclusion stamps it with the brand of an oligarchy as indelibly as did the spot of blood on the hand of Lady Macbeth stamp her as a murderess.

And the argument that Illinois or New York or Ohio is a republican form of government, if it excludes any large class of citizens on account of race, color, or previous condition, if we are to judge it according to the foundation theories of our governmental system, is not worthy of a child ten years old.

The Republican masses of the country understand it, and last year the Republicans of Ohio tried to make their government republican, to make it conform to the Constitution of the United States, by conferring the elective franchise upon all her people without regard to race, color, or previous condition.

I am not asking what is an approximation to a republican form of government; I am not inquiring whether Illinois is not more republican than some Government in Europe or than some other State. I am not trying to decide that question; but I am trying to decide the only issue that is before the American people, and that is presented by the Constitution of the United States, namely, whether any Government which excludes a citizen from his rights, except for mere temporary disability, such as age, or residence, or crime, is a republican form of government. Why, sir, a man's right to vote is as sacred as any other right that he has. To rob a man of that right is as wicked as the law of slavery, which robs him of his wife, or child, or of himself.

What is the theory upon which the Government of the United States was built? What was the cause of the Revolution? For what did our fathers fight, but the principle that taxation and representation must go together, and that all just government must be founded upon the consent of the governed, not a part of the governed, not half of the governed, not an oligarchy, but upon the consent of *all* the people? A majority of all the people of the United States are to decide those questions by which the rights of all are protected, the will of all is represented, and the Government itself is maintained and preserved. Go back to revolutionary days; go back to the door-steps of those little meetings of our fathers, as they stood up with wounds yet bleeding, fresh from the Revolution, and with the blood and sweat of battle running down their furrowed cheeks; listen to their discussions, and what do you hear? Their only remonstrance against the mother country was her asserted right to tax the Colonies without their consent. This was the initial cause of the Revolution. It was for this that the blood of our fathers consecrated the battle-fields of the Revolution; it was for this that John Hancock and James Otis spoke; it was for this that Warren fell—a denial of the right of Government to tax the people without their consent.

This power in Congress to guaranty a republican form of government to the States is a mighty and a vital power. It is the wisest power in the Constitution. It is the only power by which the national Government can preserve its nationality, by which it can secure equal representation, by which it can

put the States upon an equality. It is the doctrine that was designed to protect the States in their rights in the true sense of "State rights," so that all the States should be upon an equal footing, and the citizens of each State should enjoy all their rights in every State of the Union. As the Senator from Massachusetts well said in one of his speeches, "this guarantee clause has been a sleeping giant but recently awakened during the war, and now comes forth with a giant's power."

Sir, what is the duty of the Republican party? What position should the Republican party take? Will they stand back appalled by the statement that the question is settled? Will they join the State-rights party upon the other side of the House, and in the South, and say that Congress has not the means for its own preservation in its hands, and assert the doctrine of State rights, by which the leaders of the rebellion are to control the legislation and the destinies of this country?

Mr. President, I wish to say to Senators and Representatives, and to all of the Republican party, that we have to meet this question of suffrage. It must be met. It confronts us in the next elections. It confronts us in the new relations of five million people set free. It confronts us in the imperious demand made by the emancipated race for enfranchisement. We cannot ignore the question. Burying your head in the sand will not obscure you from the keen gaze of the pursuer. Your opponents will meet you upon every stamp, and ask you whether you are for universal manhood suffrage. It cannot be dodged. No question of finance, or banks, or currency, or tariffs, can obscure this mighty moral question of the age. No glare of military glory, not even the mighty name of General Grant, can stifle the determination of the people to finally consummate the great end and aim for which the Republican party was brought into being. We are to be for or against suffrage. If we are for it, how many States shall we lose? I mean as a State question. How many will there be like Ohio, bowing to the prejudice of color and caste and afraid to proclaim their honest sentiments? How many States shall we lose if we are for it? If we ignore it, if we give the lie to the whole record of our lives and evade it, try to dodge it, then, I think I can speak for Illinois alone, we shall be beaten by fifty thousand majority upon a vote taken in that State.

How, then, do I propose to settle this whole question? The States have in the first instance acted upon it; they have established governments which are not republican in so far as they exclude portions of the people from the ballot-box, and I would by a bill not ten lines in length declare that no State shall in its constitution or laws, make any distinction in the qualifications of electors, on the ground of color, caste, or race, and that all the provisions of any constitution, or law of any State, which exclude persons from the elective franchise on the ground aforesaid, shall be null and void.

Such a law would be constitutional and just to every section, just to all the people; and the people instead of opposing it, would hail it with joy and gladness. They would pronounce it the wisest act that the Congress of the United States had ever performed, because it would remove this bone of contention from the arena of State politics; it would forever settle this disturbing question; it would make citizenship uniform in every State of the Union. And if we would exercise our power "by laws necessary and proper" to pass such a bill as this, the effect would be salutary, and would result in the final and certain triumph of the Republican party. I know, sir, what timidity suggests to the minds of Senators, but a bold, honest, straightforward course would set this country right upon this question, and we should gloriously triumph in every election.

Shall the party which has come up through

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great tribulation, has faced all these questions, the abolition of the slave traffic in the District of Columbia, the abolition of slavery in the District, the fugitive slave law, the emancipation of the slaves, the employment of colored troops, the establishment of negro suffrage in the District of Columbia and in the rebel States, shall the party now hesitate before it takes the last final step of a full, complete, and glorious triumph?

Sir, the people do not understand that argument which says that Congress may confer upon a man his civil rights and not his political rights. It is the pleading of a lawyer; it is too narrow for statesmanship. They do not understand why a man should have the right to hold property, to bring suits, to testify in courts of justice, and not have the right to a voice in the selection of the rulers by whom he is to be governed, and in making the laws by which he is to be bound. Shall he have civil rights without the power of protecting himself in the enjoyment of them? What is liberty, what is emancipation without enfranchisement? What is the abolition of slavery, unless you employ the power conferred upon you by the Constitution, as amended, "to enforce by appropriate legislation" the rights of the emancipated slave? Shall this party which has been the champion of the equality of all men, which has proclaimed it upon the housetops everywhere throughout the land, now shrink from asserting practically the equal rights of all men of this race? Shall we draw Mason and Dixon's line between the right to vote in the North and in the South? Shall we impose on the South, the votes of four or five million ignorant people just released from slavery, and refuse it to the more enlightened and intelligent colored men of the North, who are much fewer in number? Is that the position of the great Republican party? Will it hesitate to exercise a power clearly vested in Congress by the Constitution of the United States, and to confer the same rights upon all the people, in every section, North as well as South, East as well as West? Will you by doing injustice—yes, sir, absolute injustice—to the free colored men of the North, lose their votes in the coming presidential election, and in the States where the balance of power would be in their hands?

You know well that the argument was used with wonderful effect in Ohio, that argument which lost us our valued Senator, [Mr. WADE]; that while we, the great Republican party, could impose equal suffrage on the southern people, we were not willing to impose it upon ourselves; that while we could do justice to the loyal millions of ignorant black men in the South we could not do justice to the loyal thousands of intelligent black men in the North. I refer to this because to this issue we are forced, and we might as well face it at once. The power is with us. We have exercised the power in the southern States. We have the same power in the northern States, and every consideration of justice, expediency, and success demands the prompt exercise of the power.

I know it is asked, Why not have the Constitution amended? I ask, why have it amended? When the Constitution says, that we shall by necessary and proper laws, carry into effect this provision of the Constitution, when we have the power by law to do it already, why have a constitutional amendment? We have not time—we cannot wait for an amendment to the Constitution. How long would it be before Kentucky would consent, by agreeing to ratify such a constitutional amendment, to give enfranchisement to her colored population? At least fifty years; and so of Maryland, and of many northern States. A constitutional amendment will not accomplish the object. By waiting for that we shall commit the same mistake that we committed when we did not, at the end of the war, declare all the slave States, except Missouri, disloyal, and act for

them all as disloyal States. Such a constitutional amendment would, perhaps, never be adopted. I say there is no necessity for amending your Constitution in this way. Use the power; you have it. Read your Constitution; understand it; you need not amend it; but exercise the power it clearly confers.

It is said that such a law would be subject to repeal if Congress were to pass it. That is true; but then I have the authority of my colleague, and I have the authority of the Senator from Ohio, [Mr. SHERMAN], for saying that such a law would not be repealed. The Senator from Ohio [Mr. SHERMAN] said the other day, that when these rights are once conferred, they will never be given back. My colleague said, and truly said, that when these men once get these rights, they will never give them up, and as the Senator from Ohio well said, the tendency of all legislation of this day, is in favor of the extension of the right of suffrage.

Mr. President, it is "the era of good feeling" we want, such as existed in Monroe's administration, when all questions were settled, when all the States were in harmony each with the other. This question settled we will have an "era of good feeling," States all the same in their rights, individuals having the same rights, no sectional jealousies, this disturbance removed from politics entirely. There is no way under the sun by which it can be done, but for Congress to exercise its just and constitutional powers by a law for that purpose, and not throw the question into the caldron of State politics, a bone of contention, there to divide the people, it may be for fifty years to come. Rather let us, by one sublime act of nationality, broad as the clause of the constitution abolishing slavery, confer these rights upon every citizen in every State of the Union.

The Republican party cannot stand still. If it stands still, or recedes, it dies. It must move forward. When we set five million people free they had to be taken care of. They had to be made citizens. But are they taken care of, when we deprive them of the rights which belong to other citizens? Will the Republican party fail to take this last final step in this mighty onward movement of human progress? Sir, suppose the almighty Architect of the Universe, after he had created the heavens and the earth, the sun and the moon and the stars, on the sixth day, had ceased his work, and not created man and breathed into him the breath of an immortal soul. So would it now be, if the Republican party, after vindicating the beautiful and beneficent system of government designed by the genius of our revolutionary sires, should fail to consummate the last great act, and admit to equal enjoyment with themselves, the immortal millions, who for two hundred years have sighed and suffered under our rule.

I know, sir, that the other party say that the Republican party are attempting to establish the supremacy of negro rule. I wish to say in regard to that, simply that with no decent regard to truth can any man say that the Republican party propose to establish the supremacy of negro rule. You cannot point me to the declaration of a Senator, or of a politician; or of a newspaper of the Republican party, that says the Republican party is proposing to establish the dominion of negroes over the country. No, sir; that is not the doctrine of the Republican party. The doctrine of the Republican party is the equality of all men, and the supremacy and rule of all men. I might, with much more propriety, say that the Senator from Wisconsin [Mr. DOOLITTLE] is trying to establish rebel rule in this country than he can say the Republican party is trying to establish negro rule, because, he is willing to enfranchise the leaders of the rebellion, the men who organized civil war, the men whose hands are red with the blood of our country's defenders, and whose lips are fresh with perjury; when he is willing to take them

into the high places of the Government, to allow them to resume their former positions of power, and sway, I may truly say that he is in favor of rebel rule, but I deny that it can be said that any Republican Senator has ever declared anywhere, that he was in favor of negro rule.

Now, Mr. President, the cry of negro equality is equally senseless and groundless. Statesmanship, nor constitutions, nor laws, nothing can make all men equal in fact. From what a lofty, shining light would Frederick Douglass have to fall, to reach the low level of Andrew Johnson? Far as the angels fell.

"Hurled headlong flaming from the ethereal sky."

* * * * *
"Nine times the space that measures day and night
To mortal men."

Statesmanship, however, can confer upon men the same chances in life, the same protection, the same laws, the same privileges, the same rights of every kind.

The fact that one race is superior to another is no warrant for its having superior advantages; on the other hand, if there is any advantage, it should rather be in favor of protection to the meek, the humble, and the lowly. I believe, myself, that the pure American Anglo-Saxon man is the highest style in all God's created humanity, and therefore I believe he can fight his way through, without having an advantage by law over his poor colored neighbor and fellow-citizen, and that he is not in danger of being subjected to that negro rule and supremacy, of which so much is said.

It is contended by the Senator from New Hampshire [Mr. PATTERSON] that there should be a qualification, that only those who can read and write should vote. I reply to this, that we ourselves, by our own action, have conferred suffrage upon those who cannot read and write. Providence overruled us in this regard. In order to have loyal States in the South, we were compelled to confer suffrage upon those who could not read and write. On the other hand, there are thousands of white men in the State of Kentucky, and in the State of Illinois, and in every other State, who cannot read and write, and yet who make good citizens. We cannot, by any principle of equality, confer suffrage upon any favorite class, either of intelligence, wealth, birth, or fortune. There is this advantage in universal suffrage: that the masses, though ignorant, are honest, and they are a check upon the intelligent oligarchy, to whom, I am sorry to say, have been traced mistakes and corruption upon many and many a bloody page of history in all times past.

The true theory is to trust the Government of the American people as our fathers made it, to the consent of the governed, founded upon the rights of all the people, to the strong common sense of all the people. There is more virtue and more intelligence in all the people, than there is in a part of the people. All the people, all the virtuous people, all the wise people, all the ignorant people, must be consulted. We must trust that one force will counterpoise the other in the future, as it has done in the past.

The Senator from Massachusetts [Mr. SUMNER] is a very learned man; but I would not be willing to trust the legislation of this country in the hands of a hundred men like him. Professor Agassiz is a very classic man. We live with Longfellow in his poetry. Henry Ward Beecher and Theodore Tilton are men of rare genius, sparkling wit, and surpassing eloquence; and yet I would not trust the government of this people in the hands of such men alone. I take it that the banker knows more about finances than the Senator from Michigan [Mr. HOWARD] does, because his pursuits are different; the merchant knows more about barter and trade, and the poor man knows the wants of poverty, and the wants of the people, better than the rich or the intelligent. Jeff. Davis is an educated man—educated at the

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expense of that Government at whose throat he made an infernal leap. Robert Toombs is an educated man. I would rather trust the government of the people of the United States to the hands of all the people, to the hands of the humblest laborer who was loyal, and who had an honest heart, who was devoted to his country, than to any oligarchy or favored few.

Sir, it is the ballot which is to be the great educator. The fact that men have an interest in the Government, that they have the right to vote and hold office, is an incentive to them to inform themselves. This is the reason why education is more universally diffused in the United States than in any other country. This is the reason why we have schools and colleges everywhere in our midst. They are the offspring of the molding influences of our free institutions. They are born of the ballot.

Much has been said about the results of the recent elections. Mr. President, if the Republican party will stand to its guns, will stand upon the platform which in its past record it has made for itself, will stand by the consequences of its own teachings, I have no fears for the result. As for myself, sir, as I did three years ago, so now I "accept the situation." I nail the colors of universal suffrage to the masthead; and I am for it by act of Congress, guarantying a republican government to every State in the Union, East as well as West, North as well as South.

I do not propose to arraign the Democratic party. I will only say this: they have been the consistent opponents of the war from the start. The rebellion could not have stood on its legs a single year without its aid and cooperation. The Democratic party, as an organization, has been part and parcel, yea, the very heart and life of the rebellion itself. It has furnished it its leaders, its aid and sympathies. In their conventions, in their platforms, in their presses, in Congress, in their Legislatures, they opposed every measure for a vigorous prosecution of the war. Sir, I well remember when in the western States, in 1862 and 1863, the Democratic Legislatures were nothing more nor less than rebel camps in the capitals of those States in which they met. They passed resolutions denouncing the war, and threw every obstacle in our way, as ever since, they have persistently resisted every measure by Congress, for the speedy and proper reconstruction of the Union.

What patriot can ever forget the Democratic National Convention at Chicago of July 29, 1864, presided over by Horatio Seymour and engineered by Vallandigham, when the whole weight and power of the Democratic party were thrown in favor of the enemies of the country? It was at that fearful crisis in the history of the country, when the scales hung even, when Sherman and our brave boys in blue were moving on through Dalton, over Lookout mountain, and Mission Ridge, and from Atlanta to the sea, amid shot and shell, and the war and thunder of battle; when Sheridan was sweeping along the valley of the Shenandoah, and when Grant was struggling in that hand-to-hand fight through the Wilderness; when our losses were counted by thousands; when the question of English intervention hung doubtful in the scales; when the good Lincoln, through the weary watches of the night, with long strides nervously paced his executive chamber awaiting, tremblingly, dispatches from the Army. It was while events like these were transpiring that the Democratic National Convention in Chicago, representing the party in every State of the Union, passed, amid heaven-rending huzzas, with all the forms of parliamentary solemnity, that resolution, forever black with the imperishable stain of treason, that the war, after four years of fighting, was a failure, and that the public welfare demanded an immediate cessation of hostilities.

That party even now charge it as the great crime of the Republican party, that it disfranchises the leading rebels. They proclaim that those States which made war upon the Government, and set up governments in direct antagonism to our own, are lawful States in the Union, having the right all the time during the war, and now, to send their Senators and Representatives unquestioned, to take their seats in the Congress of the United States.

And, sir, to the great shame of the Democratic party, while they would receive with open arms into Congress, the leaders of that party which organized the rebellion, brought on the war, filled the land with mourning and desolation, and by plunder and piracy, by arson and murder, by perjury and by poison, by the slow tortures of starvation, and by every savage and infernal cruelty shocking in the sight of God and man; while they would bring them back, and introduce them to the high places of power, to resume their former influence in the Government, they descend to the unworthy work of belittling the loyal blacks, and unblushingly advocate the disfranchisement of those men of another race who guided and cheered our boys in blue, and won their title to the nation's gratitude by deeds of imperishable valor.

If I had time I could turn to the brighter record of the Republican party, show its record bright with the country saved from the hands of the spoiler, and the banner of the Union planted upon every battlement where traitor hands had put it down. But I refer to it only in one aspect, as it may bear upon the enfranchisement of the race it set free.

Deplorable as war was, it has had its compensations. Slavery is dead, and will know no resurrection; that most accursed chatteling of human beings, the auction-block, the tearing asunder of mother and child, the day of stripes and the lash, the revolver and the bowie-knife, are past. Dens and caverns, the pursuing bloodhounds, mountains climbed and rivers crossed and no escape from the Constitution and the laws—these have past. What a sublime result, that not a single slave clanks his chains upon one inch of American soil, and that the nations hail with shouts of joy the banner of universal emancipation! Thanks to God; thanks to the Anti-Slavery Society; thanks to Parker, Garrison, Henry Ward Beecher, Wendell Phillips, and all the pioneers in the anti-slavery cause; thanks to the Republican party and the Thirty-Ninth Congress; thanks to Grant and Sheridan and Sherman and our brave boys in blue everywhere; thanks to Abraham Lincoln for the proclamation of emancipation; thanks to all who labored, suffered, and achieved, who fought and who fell for this lifting up to light and liberty and citizenship five millions of God's long-oppressed and downtrodden poor; but thanks also to the poor freedman himself, for he, too, has borne himself most nobly. Of them it may be said, "Blessed are the meek, for they shall inherit the earth." How humbly have they walked, poor slaves and outcasts! no law for them, no home, no property, no name, no wife nor child he could call his own, no heritage but hopeless bondage—borne down for centuries by the iron heel of foul oppression, they never aspired to rule over us; they only asked to be bachelors of wood and drawers of water, and for a place to lie down and die. Instead of insurrections and massacres of women and children, as we feared, no instance is on record of a single act of savage cruelty on their part during the war. It was said they were too cowardly to fight, and yet they fought more daringly than Napoleon's veterans, and threw themselves headlong on the battlements of the enemy and into the mine of Petersburg, and into the breach at Port Hudson, and into the jaws of death everywhere, with an irrepressible ardor and lofty daring, equaled only by that of our own unmatched and dauntless boys in blue, fighting for a flag, which for two hundred years has been the ensign of liberty for all but them.

In all the long and fearful struggle of the war, not one of these sable millions ever proved faithless to the flag. Did one solitary one of them ever refuse to share his scanty loaf with the sick and wounded soldier? Who, when night spread its dark robes over the earth, led our worn and wearied soldier through bayous, swamps, and by-paths, and bid him God speed to his home, and the headquarters of our Army?

And now, after having secured our own safety and the life of the nation aided by his acts of valor, in common with those of our brave soldiers; if, after they have been called to be soldiers of the Army of the Union; if, after we have clothed them in the uniform of the United States Army; if, after they have flashed two hundred thousand bayonets in the face of Jeff. Davis and his traitor hordes; if now, we open the portals of the American ballot-box to bloody-handed traitors, and leave them to the tender mercies, and hostile legislation of their former owners, we shall commit the crime of history, and write upon the nation's name, in lines dark as night, and deep as hell, a stigma which all the ages cannot wash away.

Let no friend of the Republican party be discouraged through any temporary defeat. Let him remember, that despite occasional defeats, the true center of gravity in a republican Government like ours, is in that power which represents the theory of liberty on which the Government is based. Remember that the march of our republican army, has been through storms of persecution, iron walls of prejudice, and through defeat after defeat to final triumph. There are men here who remember the time, when to speak against slavery, was denounced as a crime against society. It was death for Lovejoy, imprisonment for Parker, and mob-law and lynch-law for the early pioneers in the cause of freedom. Any other sin might be atoned for, but, clad in iron mail, slavery was secure behind its impregnable bulwarks. Only in 1837, the blood of Elijah Lovejoy sprinkled the soil of my own State, while bravely defending his press against an infuriated mob. But from that blood men sprang, as Minerva from the head of Jupiter, full armed with buckler, lance, spear, and helmet of living truth, to fire the world against the accursed system of human bondage. Only in 1849, as a member of the Legislature of my own State, I introduced a resolution to abolish the slave traffic in the District of Columbia, and it was voted down by an overwhelming majority. I remember well the time when it was just as unpopular to advocate the abolition of the slave traffic in this District, where men were sold upon the auction block, and shook their chains in the face of the Capitol, as it is now to advocate the passage of an act by Congress, where the States have failed to secure suffrage in every State in the Union. Twice has it been my pleasure to witness these colored men, in all the dignity of enfranchised manhood, march to the polls and rescue this capital from the long dominion of copperheads and a slave oligarchy. How long since statutes of the States were black with cruel legislation, expelling these colored men from the States, and subjecting them, for small or no offenses, to the penitentiary, jail, and the whipping-post? In my message of 1865 to the Legislature of Illinois, I called upon it to sweep them from the statute-book, with a swift, resistless hand, and they did it, leaving not a section to mar and darken the face of the revised statutes of that great State. You remember, that when in 1862, Mr. Lincoln issued that conditional proclamation of emancipation, the Democratic party rallied and carried almost every State. But we did not give up; defeat did not hurt. Like the bombardment of Fort Sumter, it roused the nation, and we gloriously triumphed in the reelection of Mr. Lincoln. And now, through all these defeats and triumphs we reach the final great consummation, the complexion to which it must come at last, the summing up of the whole matter, the simple freedom and

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equality of all men, the enfranchisement of all men made in the image of God, to a perfect and universal equality of rights.

And, sir, do you suppose we will falter before taking this last step. The true-hearted Republican is never deterred by election returns. He expects some defeats. He expects to triumph amid the storms of defeat, as well as in the sunshine of victory. I hail it, not as a defeat, but as a glorious harbinger of victory, that, notwithstanding the timidity of politicians in Ohio, two hundred and sixteen thousand freemen dashed away their prejudices, and voted for suffrage; not as a defeat, but as the herald, the John the Baptist, the "prepare-yet-the-way" of speedy, glorious, and final victory.

The shortest way to reconstruction is the simplest, the plainest, the easiest; and the only way is the straightforward road to the impartial and equal rights of all men.

I believe in a special providence in the affairs of men as well as of nations. I believe, colonization, emigration, and the march of empire having completed the circle of the globe, that upon this North American continent, between the Atlantic and the Pacific, is to be "Time's noblest empire—the last." I believe that this is the chosen nation of Heaven, where the experiment of the self-government of man is to be made. I believe that light from Heaven blazed along the pathway of the Mayflower, and guided our fathers through the storms of revolutionary preparation to the Declaration of Independence. I believe that God meant that we should highly appreciate our privileges by making them cost dearly; I believe that He gave us slavery, with all of its accursed ugliness and deformity, as the appalling contrast to the beauties and blessings of liberty. I believe that He thrust across our path the Ethiopian, that we might learn that all men, without regard to color or the accident of birth, are brothers, and that of one blood are all the people that dwell upon the face of the earth. I believe He gave us Lincoln as He had given us Washington—Lincoln so good, so grand, and so great—as an example for statesmanship, and that from his martyrdom should spring the seed of the church, the gospel of liberty, and human rights.

And, in a word, that in all these providences, sad experiences, fearful wars, prejudices of caste, virtues, and wickedness of rulers, "God moves in a mysterious way His wonders to perform," and is leading us through the red sea of trouble and the wilderness, to a bright Canaan of national deliverance. Having solved the problem of the ages, the equality and brotherhood of the race of man, and vindicated his eternal justice, this nation will move forward in the van of material progress and Christian civilization, and scale height after height of power, glory, and grandeur, such as no people in the world has ever yet achieved.

Mr. President, I have not gone one solitary step further than I thought it was necessary for me to go for the best interests of my country. I do not antagonize the Republican platform. I leave the question of suffrage where the Constitution leaves it, with the States in the first instance, but I reserve the power to the Congress of the United States, contained in the Constitution of the United States, by laws necessary and proper, to see that every State has a republican form of government.

Contested Election.

SPEECH OF HON. COLUMBUS DELANO,
OF OHIO,
IN THE HOUSE OF REPRESENTATIVES,
June 3, 1868.

On the contested-election case of Delano vs. Morgan, from the thirteenth congressional district of Ohio.

Mr. DELANO. Mr. Speaker, before proceeding to discuss the question on which the decision of this case rests, I will briefly refer

to the circumstances which led to the contest. I can do so with greater propriety since the sitting member has spoken, because, in his remarks, he has not answered the conclusions of the Committee of Elections, nor has he confined his remarks to the questions made by the majority and minority reports. On the contrary, he has indulged himself in such observations as seem to me more appropriate from the hustings than on the floor of this House. If his observations were intended as a campaign speech to be used on some future occasion, and not appropriate here, then I may say I think his object has been attained. But in that event, at the proper time, I shall be willing to accommodate the gentleman.

Briefly, then, the circumstances which led to this contest are as follows: the canvass for the seat now contested was very ardent on both sides, and the result before the election was regarded as uncertain by all who were intelligent and candid. The returns at first received indicated clearly the election of the contestant. This soon became so highly probable that the sitting member retired, admitting his defeat by 400 majority.

Afterward this impression was removed by returns from remote townships, partly in Coshocton county, which changed the result; and almost simultaneously with these returns contestant was informed that frauds upon the ballot-box had been perpetrated and detected. As it was then well known that a large number of deserters had voted for the sitting member it was demanded by the political friends of the contestant that these alleged frauds should be at once investigated. This examination was made, and it was ascertained that in three townships in Coshocton county, (giving the sitting member an aggregate majority of 159 votes) there had been practiced by the political friends of the sitting member gross and palpable frauds. This was done by judges and clerks of the elections who were corrupt enough to take out of the ballot-box Republican tickets, and replace them with Democratic tickets, making each change equal to two votes.

In one township in Coshocton county (Jefferson) one of the judges was three times detected in making such change by those who were in the room while the ballots were being counted. He was then accused of his crime; and being exposed probably did not repeat it.

In two other townships this species of fraud was so clearly proved by the evidence that the sitting member could not deny it; and the minority and majority reports each concur in its existence, and correct it as far as possible by striking from sitting member's majority 46 votes in Linton, and 20 in Monroe township, in Coshocton county.

It is not probable that all the frauds of this character were discovered; but enough has been proved to induce a fair and reasonable presumption that there was a systematic plan among certain political friends of the sitting member to pollute the ballot-box, in the manner already indicated, whenever an officer could be found venal enough for such a job. In one instance the fraud was probably committed by a clerk; in another, by the judge who took the ballots from the box while counting, and in others the presumption is very strong that the entire board of officers participated in the crime. Having shut themselves up during the reception and while counting the votes, they refused to permit anyone to be present to observe their conduct.

But the fraud did not stop here. It was ascertained that aliens had been taken from Knox to Licking county to be fraudulently naturalized, and upon investigation it was proved that both forgery and perjury had been practiced by certain friends of the sitting member in order to obtain fraudulent final certificates of naturalization.

Nor did the discovery of fraud end even here. It was ascertained, and is in proof, and the proof is uncontradicted, that a car load of non-residents (some sixty in number) were imported into the district by friends of the sitting member on the night preceding the election. These non-residents were distributed in squads, of from five to ten in number at each railroad station, where the train stopped in passing through the district. They were heard to say that they were going into the thirteenth district to vote for the sitting member, because they could do no good by voting in Mr. BINGHAM'S district; and they were in charge of a special manager, who was inquired of as to what he was doing, and who replied that "they had been fixing up things to beat Delano, and would beat him whether or no." All this and much more is proved by Mr. Krumbaker, a respectable merchant of Zanesville, who happened to be a passenger on the train that evening, and whose character is well established and above reproach. No attempt was made to contradict or impair the evidence of Krumbaker on this subject.

It was under circumstances thus briefly referred to that contestant felt himself compelled, in deference to the feelings and wishes of his constituents, to undertake this contest.

It is due, however, to truth and justice, to say that contestant was so reluctant to enter into the contest after all these frauds were exposed, and when he knew that besides these frauds more than two hundred deserters had voted for the sitting member, that he applied to the central committees of the several counties to be relieved from undertaking it. But these committees in all the counties except the one in which contestant resides refused to assent to an abandonment of the contest, and urged its prosecution with such vigor and decision as to compel contestant to proceed with it.

Having made this reference to the circumstances which led to the contest, I will at once, Mr. Speaker, consider the question on which this contest rests as the case is now presented by the report of the committee. By reference to the reports of the majority as well as the minority of the Committee of Elections, it will appear that after reducing the official majority of the sitting member by deducting the fraudulent votes in the townships of Linton and Monroe, in Coshocton county, he must be declared *not entitled* to the seat, provided the House shall decide that deserters are not qualified electors in Ohio.

Thus we see that the first question to be determined is this: "Are deserters from the military and naval service of the United States entitled to vote in Ohio?"

Before considering this question, however, we must inquire whether persons drafted in 1862, who failed to report, are deserters. Those drafted in 1864, who failed to report, are deserters by express provision of law. The draft of 1862 was under a different enactment, and the law and circumstance governing this draft must first be considered.

First, then, I affirm that those persons who failed to respond to the draft of 1862 are deserters.

The draft of 1862 was made by authority of an act of Congress, approved July 29, 1861, entitled "An act to provide for the suppression of the rebellion," &c., the first section of which provides—

"That whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or rebellion against the authority of the Government of the United States, it shall become impracticable, in the judgment of the President of the United States, to enforce by the ordinary course of judicial proceedings the laws of the United States within any State or Territory of the United States, it shall be lawful for the President of the United States to call forth the militia of any or all the States of the Union, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States, or to

uppress such rebellion in whatever State or Territory thereof the laws of the United States may be forcibly opposed, or the execution thereof forcibly obstructed."

The third section is as follows:

"That the militia so called into the service of the United States shall be subject to the same rules and articles of war as the troops of the United States, and be continued in the service of the United States until discharged by proclamation of the President: *Provided*, That such continuance in service shall not extend beyond sixty days after the commencement of the next regular session of Congress, unless Congress shall expressly provide by law *therefor*: And *provided, further*, That the militia so called into the service of the United States shall, during their time of service, be entitled to the same pay, rations, and allowances for clothing as are or may be established by law for the Army of the United States."—*U. S. Statutes-at-Large*, vol. 12, pp. 281, 282.

Congress afterward, and on the 17th day of July, 1862, passed the following enactment:

"Whenever the President of the United States shall call forth the militia of the States, to be employed in the service of the United States, he may specify in his call the period for which such service will be required, not exceeding nine months; and the militia so-called shall be mustered in and continue to serve for and during the term so specified, unless sooner discharged by command of the President. If, by reason of DEFECTS in existing laws, or in the execution of them, in the several States, or any of them, it shall be found necessary to provide for enrolling the militia, and OTHERWISE PUTTING THIS ACT into execution, the President is authorized in such cases to make ALL NECESSARY RULES AND REGULATIONS; and the enrollment of the militia shall in all cases include all able-bodied male citizens between the ages of eighteen and forty-five, and shall be apportioned among the States according to representative population."—*U. S. Statutes*, sec. 1, vol. 12, p. 597.

By virtue of these provisions the President did on the 4th of August, 1862, issue General Orders, No. 94, by which he ordered:

"1. That a draft of three hundred thousand militia be immediately called into the service of the United States, to serve for nine months unless sooner discharged. The Secretary of War will assign the quotas to the States and establish REGULATIONS FOR THE DRAFT."

"2. That if any State shall, not by the 15th of August furnish its quota of the additional three hundred thousand volunteers authorized by law, the deficiency of volunteers in that State will also be made up by special draft from the militia. The Secretary of War will establish regulations for this purpose."—*Compendium of General Orders*, A. G. O., for 1861-62-63, p. 90.

Afterward on the 9th of August, 1862, the Secretary of War issued General Orders, No. 99, which contained the regulations for the enrollment and draft for three hundred thousand militia, as he was authorized to do by the President by General Orders, No. 94, before quoted. (See *Compendium of General Orders*, Adjutant General's Office, for 1861-62-63, pp. 93, 97.)

In this order the manner of the enrollment and draft are minutely pointed out, and it is, among other things, provided that—

"6. A printed or written notice of his enrollment and draft, and of the place of rendezvous of the drafted military force, shall thereupon be served by a person to be appointed by the commissioner, upon each person so drafted, either by delivering the same in person, or by leaving it at his last known place of residence.

"8. The persons thus drafted shall assemble at the county seat of their respective counties, within five days after the time of drafting, whence transportation will be furnished them by the Governors of the several States to the place of rendezvous."

"Fifth. Provost marshals will be appointed by the War Department in the several States, on the nomination of the Governor thereof, with such assistants as may be necessary to enforce the attendance of all drafted persons who shall fail to attend at such places of rendezvous."

Afterwards, by General Orders, No. 140, dated September 24, 1862, it was provided as follows:

"Third. It will be the duty of special provost marshals to arrest all deserters, whether regulars, volunteers, or militia, and send them to the nearest military commander or military post, where they can be cared for."—*Compendium of General Orders*, A. G. O., for 1861-62-63, p. 120.

Article twenty of the Articles of War is in these words:

"ART. 20. All officers and soldiers who have received pay, or who have been duly enlisted in the service of the United States, and shall be convicted of having deserted the same, shall suffer death, or such other punishment as by sentence of a court-martial shall be inflicted."—*Rev. U. S. Army Regulations*, p. 488.

The law does not define the term *deserter* or *desertion*, but leaves that to be determined by the tribunal that may be called upon to pass upon the act of desertion.

What, then, is a deserter? I answer, a per-

son liable to military duty who abandons his military post without proper authority therefor.

How does a person become liable to perform military duty?

In two ways. First, by voluntarily enlisting in the military service; and second, by being drafted and compelled to go into the military service.

In either case he is regarded in the military service. In the case of being drafted it is the draft and the order to appear at a given time and place that puts him in the service. The draft is equivalent to an enlistment. There is no particular form required of a drafted man to put him into the service. The fact of being drafted is sufficient, and after that, and notice, he is in the military service and bound to obey all military orders coming from his superior officer; and if he does not obey he is subject to military punishment.

By the provisions of the law the President was authorized to make such rules and regulations concerning the draft as he might deem necessary. He did make such rules and regulations. He prescribed how the draft should be conducted; that notice should be given to the drafted person; that he should appear at a given time and place; and that if he did not a provost marshal might arrest him and take him to the place of rendezvous.

Here is express provision of law for treating a drafted man who fails to report as a deserter.

He is just as much a deserter as an enlisted man who obtains a furlough and remains away without authority after his furlough expires.

The furloughed man is bound to report at the end of his furlough. The drafted man is bound to report within five days from the draft. What is the difference between them? We all know that during the war men drafted before the law of 1863, were arrested and carried into the service and treated as deserters by the War Department. In fact, General Orders No. 99 made the fact of being drafted equivalent to being in the service.

Section nine is in these words:

"As soon as the draft has been made and the names marked on the enrollment lists, the commissioner will send a copy of the draft to the commandant of the rendezvous, and another of the same to the adjutant general of the State, who will immediately organize the drafted men into companies and regiments of infantry, by assigning one hundred and one men to each company and ten companies to each regiment, and send a copy of the organization to the commandant of the rendezvous.

"10. At the expiration of the time allowed for the drafted men to reach the rendezvous, the commandant shall proceed to complete the organization of the companies and regiments," &c.

Thus showing by the very terms of the order that the men were regarded as in the service of the United States as soon as drafted.

It has been held that the order of the President under the act of July 17, 1862, has all the force of an act of Congress. (*Commonwealth vs. Audress*, 10 Pittsburg Legal Intelligence, page 211.)

To show how this matter has been understood in the War Department, I call the attention of the committee to the following circular, No. 47:

[Circular, No. 47.]

WAR DEPARTMENT,
PROVOST MARSHAL GENERAL'S OFFICE,
WASHINGTON, D. C., July 7, 1863.

I. Drafted men become soldiers in the service of the United States by the fact of their names having been drawn in the draft. The notification, served upon them by the provost marshal, is merely an announcement of the fact, and an order for them to report for duty, at a designated time and place.

II. The following opinion of Hon. William Whiting, Solicitor of the War Department, is published for the information of all concerned:

"If a person after being drafted, and before receiving notice, deserts, the notice may still be served by leaving it at his last place of residence, and if he does not appear in accordance with the notice, or furnish the substitute or pay the \$300, he will be in law a deserter and must be treated accordingly. There is no way or manner in which a person once 'enrolled,' can escape his public duties, and when drafted, whether present or absent, whether he changes his residence or absconds, the

rights of the United States against him are secured, and it is only by performance of his duty to the country that he will escape liability to be treated as a criminal.

WILLIAM WHITING,
"Solicitor of the War Department,"
JAMES B. FRY,
Provost Marshal General.

Secondly. I now propose to consider whether deserters, under the act of Congress approved March 3, 1865, are voters in Ohio.

Also, if a conviction for desertion is necessary before such votes can be rejected by judges of elections.

The constitution of Ohio limits the elective franchise to citizens of the United States:

"Every white male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county, township, or ward, in which he resides such time as may be provided by law, shall have the qualifications of an elector and be entitled to vote at all elections."—Art. 5, sec. 1.

The twenty-first section of the act of March 3, 1865, is as follows:

"That in addition to the other lawful penalties of the crime of desertion from the military or naval service, all persons who have deserted the military or naval service of the United States, who shall not return to said service or report themselves to a provost marshal within sixty days after two proclamations hereinafter mentioned, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their right to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof; and all persons who shall hereafter desert the military or naval service, and all persons who being duly enrolled shall depart the jurisdiction of the district in which he is enrolled or go beyond the limits of the United States with intent to avoid any draft into the military or naval service duly ordered, shall be liable to the penalties of this section. And the President is hereby authorized and required forthwith, on the passage of this act, to issue his proclamation setting forth the provisions of this section, in which proclamation the President is requested to notify all deserters returning within sixty days as aforesaid, that they shall be pardoned on condition of returning to their regiments and companies or to such other organizations as they may be assigned to, until they shall have served for a period of time equal to their original term of enlistment."—*United States Statutes-at-Large*, vol. 13, p. 487.

Briefly analyzed, this act provides that deserters from the Army or Navy who fail to return within a given time after proclamation, to be issued by the President, shall be considered to have renounced and forfeited their citizenship and their rights to become citizens, and shall be incapable of holding office under the United States.

In this way Congress accepts their resignation of citizenship, and they lose their condition of citizens.

It is not *ex post facto* legislation because it inflicts no penalty; penalties are left for the courts, civil and military. It is not *ex post facto*, because future continuance in the neglect to perform their duties is superadded to past disobedience as a cause for accepting their conduct as an abnegation of citizenship.

Where, then, does the power to confer or take away citizenship rest in the United States?

I answer, in the national Government, first, because the Constitution has conferred upon the nation the power "to establish a uniform rule of naturalization." (Art. 4, sec. 8.)

It is impossible to execute this power and make citizenship uniform, unless the United States have exclusive and entire control over the subject; and hence it must be admitted that all the powers which the States previously had over this subject were surrendered and vested in the nation.

This seems to be so palpably just and necessary that it requires no argument, illustration, or authority; but lest it may be denied, I will venture to refer to the following cases: *Wheaton* 900, and cases there cited.

In the case of *Lynch vs. Clark*, 1 Sanford's R., 583, citizenship is said to be "a natural right or condition;" and in 2 Kent's Commentaries, s. p. 30, note, "The question of citizenship is one of national, and not of individual [or State] sovereignty."

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Judge McLean, in the 19 Howard, page 533, declares—

"That a State may authorize a foreigner to hold real estate," but it has no power to naturalize foreigners and give them the rights of citizens. Such a right is opposed to the acts of Congress, and subversive of the Federal powers.

"Every person who is a citizen of the United States whether by birth or naturalization, holds his great franchise by the laws of the United States and above the control of any particular State."—Attorney General Bates's Opinion, 29th Nov., 1862.

And to such an extent has this doctrine been carried that it has been clearly established by law and logic that no State can confer the elective franchise upon one who is not a citizen of the United States. There is no such thing as State citizenship. It is the nation and only the nation that makes and unmakes citizens; and if the elective franchise can be conferred by a State upon persons not citizens, it enables a State to subvert and overthrow our institutions and change our form of Government. Upon this point I refer to a few opinions of the ablest of our jurists and statesmen.

Judge Curtis, in 19 Howard, 581, before referred to, says:

"The enjoyment of the elective franchise is not essential to citizenship. It is one of the chiefest attributes of citizenship under the American constitutions; and the just and constitutional possession of this right is decisive evidence of national citizenship."

Judge Story elucidates this question with admirable power and precision in 1 Story on the Constitution, page 1103, as follows:

"If aliens might be admitted indiscriminately to enjoy all the rights of citizens at the will of a single State, the Union itself might be endangered by the influx of foreigners hostile to its institutions, ignorant of its forms, and incapable of a due estimation of its privileges."

In Wheaton, page 910, Mr. Lawrence says:

"If the States can admit to the elective franchise those who are not citizens, thereby neutralizing the votes of citizens, not only the Federal power of naturalization becomes a nullity, but a minority of actual citizens by the aid of aliens may control the government of the States, and through the States the Government of the Union."

Once more. Mr. Calhoun, in Wheaton, 905, puts the question so distinctly and clearly that without intending to indorse his opinions in other things, I think it will shed light on this question to quote from his argument. He says:

"Whatever difference there may be as to what other rights appertain to a citizen, all must agree that he has the right to petition and also to claim the protection of the Government. These belong to him as a member of the body politic, and the possession of them is what separates citizens of the lowest condition from aliens and slaves. To suppose that a State can make an alien a citizen or confer on him the right of voting would involve the absurdity of giving him the direct and immediate control over the action of the General Government, from which he can claim no protection and to which he has no right to present a petition."

"Now, admit that a State may confer the right of voting on aliens, and it follows that we might have among our constituents persons who have not the right to claim the protection of the Government, nor present a petition to it."

"But a still greater difficulty remains. Suppose a war should be declared between the United States and the country to which the aliens belong. They as alien enemies would be liable to be seized under the laws of Congress, and to have their goods confiscated, and themselves imprisoned or sent out of the country."

Notwithstanding a contrary practice in regard to suffrage for aliens has been adopted in some States, surely it is quite impossible to justify it, either in argument or on solid and well-considered opinions of eminent jurists.

In Ohio, by her constitution, United States citizenship is necessary to suffrage; and these authorities, and this argument to this point, are to show that by the Constitution of the United States, as well as from necessity, all the power once residing in the States over citizenship is now vested in the nation.

Let us consider what this power is:

Every nation is bound to preserve itself, and since so bound "has a right to everything necessary for its preservation." (Vattel, p. 62, Northampton, Mass., ed.)

Wheaton, page 105, section two, says:

"Of the absolute international rights of States, one of the most essential and most important, and that which lies at the foundation of all the rest, is the right of self-preservation. It is not only a right with respect to other States, but a duty with respect to its own members, and the most solemn and important which the State owes to them. This right necessarily involves all other incidental rights which are essential as a means to give effect to the principal end. Among these is the right of self-defense. This again involves the right to require the military service of all its people, to levy troops and maintain a full force, to build fortifications, and impose and collect taxes."

Let us reflect on these principles for a moment as connected with the law under consideration and the circumstances under which it was enacted. The nation was in the midst of an enormous and alarming rebellion. It required the military service of the people for self-preservation. Self-preservation was its duty, its right, and this right carried with it "necessarily all other incidental rights." Persons, citizens, owing military service, which, as Wheaton says, the nation had a right to require, were fleeing from the country, had fled the country and deserted the United States, refusing to render such military service as was due from them to the nation and such as the nation had a right to demand.

They are, under these circumstances, called upon to stop and to return, and are informed by this law that unless they do return to duty and their allegiance to the Government in a given time, after proclamation by the President, that they shall cease to be citizens. It is simply this, that they shall no longer enjoy the privileges and immunities incident to citizenship, if they longer refuse to perform their duties to the State which is the consideration for such privileges and immunities.

Can anything be clearer than the right of the State to take away citizenship with all its privileges from those who cease and refuse to perform such duties to the State as they owe in consideration for the privilege?

Justice Blackstone says:

"Allegiance is the tie or ligament that binds every subject to be true and faithful to his sovereign in return for protection which is afforded him."

The Attorney General, in his opinion of 29th November, 1862, says:

"The duty of allegiance and the right to protection are correlative obligations, the one the price of the other, and they constitute the bond between the individual and his country."

This principle is thus expressed by Vattel, (s. p. 106:)

"If the body of society or he who represents it (the Government) absolutely fail to discharge their obligations toward the citizen, the latter may withdraw himself, for, if one of the contracting parties does not observe his engagements the other is no longer bound to fulfill his, as the contract is reciprocal between society and its members."

It is on the same principle also that society may expel a member who violates its laws.

It must be distinctly understood and well remembered that the law under consideration applies only (as here claimed) to deserters; that is, to men who belong to the Army or Navy, who are or were subject to the rules, regulations, and articles of war, and who, thus situated, violated their oaths and deserted, and that, too, during the war.

It is only this class of flagrant culprits who were subject to court-martial and sentence of death for desertion, and whose resignation of citizenship Congress has simply accepted, saying to them that for this failure to perform these duties due from them as citizens, and made infinitely imperative by their having been made actual members of the Army or Navy, for this failure and continued failure, after notice, you shall cease to have the right to vote or hold office, and thereby direct the administration of the Government. You have renounced and are no longer worthy to enjoy these great principles.

It must also be remembered that this act was passed during the war, while Congress was in the full and rightful exercise of all the

powers which a state of war confers upon Congress; and that these powers, by express constitutional provision, authorized Congress—

- I. To declare war;
- II. To raise and support armies;
- III. To make rules for the government and regulation of the land and naval forces; and
- IV. To make all laws which shall be necessary and proper for carrying into execution the foregoing provisions. (Art. 1. sec. 8, Constitution United States.)

Without resorting to the power of self-preservation and all the powers necessary for its execution which is conferred on States by the law of nations, I find in the text of the Constitution full authority for the law applied to these persons during a state of war; and to deprive the nation of this power is to surrender the elective franchise and the control of the Government to deserters who merit death and do not deserve and are not entitled to be citizens and electors. Surely argument nor authority need be longer employed to establish the proposition that duty and fidelity to the nation by its citizens is the price paid for citizenship, with its privileges and immunities, and that when the citizens fail in the discharge of their duties and refuse, as the disfranchised in this law did refuse to render military service for the Government in an hour of imminent need and peril, but fled and hid and skulked in foreign lands and secret places at home, and thus became deserters from the Army and Navy—surely, I say, under such circumstances to deny the right to take away citizenship from such persons, such deserters, is to make this Government a helpless, weak, and powerless thing, incompetent to defend itself, unable to command and enforce the military services either of its citizens or the members of its Army when imperiously required for the preservation of its life!

But it has this power; it is a power incident to sovereignty, necessary to the discharge of its duties and as certain as its other powers. It is also a power which once belonged to and was frequently exercised by the original States before the Federal Constitution was formed, and which passed from the States to the Federal Government when the Constitution was adopted. This I will establish by reference to history, (see remarks by Hon. Samuel Shellabarger, April 21, 1866, first session Thirty-Ninth Congress, vol. 58 Congressional Globe, pp. 2102, 2103, 2104, 2105, and 2106,) as follows:

History.

"I assert that there is not, and never was, a civilized nation in which the sovereign did not both hold and exercise the power of forfeiting and taking away, and that by law or edict of the sovereign rights of citizenship, when its duties were not recognized or rendered."

"Accepting foreign citizenship forfeits all its rights in France; and so does taking a foreign office. (Wheaton, 922.) The same is true in Prussia. (Ib., 922.) One who abandons his country forfeits citizenship in Austria. An Englishman loses his rights as a British subject by adhering to a foreign Power. (Wheaton, 917; 2 Blackstone, 410.) The same is the law of Bavaria, of Wurtemberg, of Russia, and of Spain. The same law has been enforced again and again by Switzerland, and by every other European State; and that throughout all the period of civilized history."

"Mr. HALE. I desire to inquire whether this forfeiture of which the gentleman speaks can ever operate until office found by a court of competent jurisdiction?"

"Mr. SHELLABARGER. I answer the gentleman that it does take effect by act of the sovereign in the enactment of the law or edict, whichever may be the channel of communicating the national will upon that subject-matter; and he will so find upon an examination of the authorities."

"I have not appealed to these to show that our Government has the arbitrary power over the citizen which is held by the absolute powers of Europe, for it is not so. I appeal to these to show that, during all time, and in every truly sovereign State which has the power to demand allegiance, and to confer citizenship, and to define its duties, whether that State be, like Austria and Russia, an absolute monarchy, or, like England, a limited one, or, like Switzerland and Rome, republics, they could also withdraw the same citizenship from them who performed none of these duties."

"The two powers of conferring and withdrawing are in their nature inseparable. That would be a pre-

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posterior state of national sovereignty that can define by general law what kind of faith, allegiance, and duties done shall alone admit one to become a citizen and to demand his Government's protection, and yet that Government be utterly powerless to declare by similar law that the citizenship had ceased when all the duties of citizenship were utterly discarded and incorrigible treason was put in their place.

"The United States.

"I now assert that this very power in question, of withdrawing and withholding either some or all of the rights of citizenship from them who renounce their allegiance, has been exercised by your Government ever since it was in existence, and by the States before it was a Government. There was not a State in which during the war of the Revolution laws were not passed forfeiting rights of citizenship of them who adhered to the enemies of the country. The dates and titles of these acts will be found in *American State Papers*, page 198. I cannot here refer to more than one or two, which will give a just idea of the character and legal effect of all.

"Two years after the treaty of peace of 1783, Georgia and South Carolina passed laws forever disfranchising them who had made war against the United States; and Sir George Hammond, the British minister, in his elaborate debate with Mr. Jefferson as to these laws disfranchising and impoverishing these rebels, shows that these laws were in force in a majority of the States ten years after that treaty, and long after the adoption of our present Constitution. In 1787, Massachusetts passed a law which, for three years, excluded from voting, holding office, teaching school, and keeping hotel, all citizens of Massachusetts who had the year before engaged in the insignificant rebellion against Massachusetts which was headed by Daniel Shays. Those who had fired on or had wounded any citizen was forever deprived of citizenship, as was Shays and his principal officers. Afterward some of them who had fired upon citizens were permitted to recover their citizenship by proving penitence and loyalty, and by taking an oath of allegiance.

"Mr. HALE. Did not every one of those laws to which the gentleman has referred involve the trial, conviction, and sentence of the persons thus disfranchised before a court of competent jurisdiction?

"Mr. SHELLBARGER. I answer the gentleman, no, sir. Besides, the gentleman will find that one of our naturalization laws, that of 20th March, 1790, was repealed, in part, because it excluded from citizenship only those 'proscribed' by the State laws, and did not include, in terms at least, those 'legally convicted.' And the repealing act of 29th January, 1795, added to those proscribed the other class of them heretofore, making the clause read: 'No person heretofore proscribed by any State, or who has been legally convicted of having joined the army of Great Britain,' &c. So the law of 1802, now in force, is. So that either and both classes, the proscribed and the convicted, are excluded from American citizenship.

"Now, then, I go on with my argument; and the gentleman will see as I proceed how unimportant are the suggestions he makes.

"The power of these States to pass these laws forfeiting the right to vote, and these other rights, was, I believe, never disputed in this discussion with Mr. Jefferson by the British Government. Many of these laws were long after the treaty. By both the British and American interpretation of that treaty they who were in the United States at its date, and who adhered to our Government, thereby became citizens of the United States. These acts of the State Legislatures, especially that touching Shays's rebellion, turned them into disfranchised men who never adhered to any foreign Government, never were out of the United States, and who, but for these laws, would have been citizens of the United States. And yet some of these laws, without any trial or conviction, forever disfranchised them. Some of these laws punished particular individuals by name for specified offenses. These were acts of attainder or of pains and penalties, and such the United States may not now, owing to an express constitutional provision, pass. But such as provided generally for forfeiting citizenship where men had renounced their allegiance, were not bills of attainder, are not prohibited by our Constitution, and are a most ordinary and just exercise of sovereign power which was and is conceded by all our history to have been possessed by every one of the Colonies. And shall it be endured now, that this great nation shall hold less power over national allegiance when it is voluntarily discarded by a traitor than these Colonies had?

"The obligations of citizenship are as old as the Government; as old as any Government. They arise not at all out of any criminal law. Their violation is a violation of civil and political obligations, and works a forfeiture of the right to demand national protection and rights, as well where there is no law defining or punishing the act, either as treason or as any other crime; and also as well where the act of forfeiture is no defined crime (such as abandoning country to avoid defending it) as where it is treason. When, through Mr. Webster, this Government withheld from Thresher the rights of an American citizen to demand the Government's protection, and thus forfeited the highest rights of the citizen, the Government did not thereby impose new or *ex post facto* punishment, because that no law existed prohibiting the acts (which worked the forfeiture) of going abroad and engaging in the Lopez expedition. Of course these forfeitures by act of law ought never be resorted to except where the abjuration of allegiance is open and notorious; and then should not be extended to forfeiture of property, but only, as in

Thresher's case, to withholding political power and protection.

"But, sir, I go on. From the day of its birth to this hour your Government has by acts of Congress both asserted and exercised this identical power for which I argue. These acts bear date respectively April 14, 1802, and March 29, 1790, and were signed by Washington and Jefferson. These acts all expressly provide that no person proscribed by any of these State laws to which I have alluded shall ever be admitted to become citizens of the United States without the assent of the States."

The power of Congress to enact this law may be further enforced by reference to the arguments of members during the pendency of the bill. Senator JOHNSON said "it vested not upon *past* neglect of duty, but required also future dereliction and disobedience."

In regard to the necessity of previous conviction, a careful analysis of the act under consideration will show that it does not, in any legal or technical sense inflict or pretend to inflict a penalty.

It provides that "in addition to the lawful penalties for the crime of desertion," certain persons therein described shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their right to become citizens; and such deserters shall forever be incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens.

I think I have already established by authority, as well as argument, that obedience and fidelity to the Government are the price paid for the privileges of citizenship; and these two are correlative, binding the citizen and the Government together, constituting what *Blackstone* calls the "ligament" of Union.

These same authorities show that when either party breaks *this bond*, or severs the "ligament," both parties are discharged. The obligation and contract are thereby annulled, and the philosophy of government, as well as all law and logic, seems to me to make this so clear that it is beyond controversy. For example, no one in the United States denies, or even doubts the right of expatriation. This acknowledged, allows the citizen voluntarily to renounce his allegiance and surrender the privileges and immunities of citizenship; and when he does this and the fact can be proved will anybody be found bold enough to claim that he is still entitled to these privileges until he shall be tried and convicted?

It is hardly necessary to prolong argument on this point. The records of our diplomacy furnish numerous and complete evidence of its accuracy. I cannot omit, however, to refer to an opinion of Judge Black when Attorney General, dated August 17, 1857, *Wheaton*, page 924, wherein he says:

"There is no statute or other law of the United States which prevents either a *native* or naturalized citizen from severing his political connection with this Government, if he sees proper to do so in time of peace." * * * "There is no mode of renunciation prescribed. In my opinion, if he emigrates, carries his family and effects with him, &c., this would imply a dissolution of his previous relations with the United States."

I return to the question. Cannot Congress accept these acts of renunciation, and say, when duty and obedience are refused, and that, too, under the flagrant and criminal circumstances which constitute *desertion* and high crime, that protection and the rights of citizenship shall cease? To deny this doctrine or to abandon this policy seems to me to be monstrously absurd.

Let it be supposed that one of these deserters, having located among a congenial community, is elected to a seat in the House of Representatives. The evidence of desertion is clear, proven by the records of the War Office, by witnesses acquainted with the fact, perhaps by his own admissions, as in this case, in many instances. You tell him that seven years' citizenship of the United States are required to make him eligible, by article one, section two of the Constitution of the United States. He demands his seat, but you doubt. He urges that he has

not been convicted. You answer it is true, and therefore you have not been and cannot be punished for your crime. But the law declares that for certain acts, punishable by penalties, after conviction, you shall, moreover, "*be deemed and taken to have voluntarily relinquished and forfeited your rights of citizenship and be incapable of holding office.*"

"We find you clearly guilty of these acts; you are not a citizen, having renounced and forfeited that condition. We cannot punish you pecuniarily; that is left to the courts after conviction; but in the face of the law and the facts we cannot pronounce a *judicial falsehood* in your favor, declaring that you are to be regarded as a *citizen of the United States*, and that as such, entitled to be a member of the House."

The question of citizenship, then, you would try—not by the record, but *in pais*. And this is the same question, in principle, as that involved in this controversy. Therefore, I claim that it is for the judges of elections to decide as to the right of voting under this law as you may decide on the qualifications for holding the seat. Hence, if such evidence is brought as to these *deserters* as would have justified the judges of elections in rejecting their votes, and that evidence is not refuted nor overcome by the sitting member, then all such votes should be, ought to be, and I trust will be, excluded and set aside.

The House is the sole judge of the elections, qualifications, and returns of its members. It is bound by no State adjudications, but may be advised by them as by argument, not as authority. It cannot admit a disqualified member nor count the votes of disqualified constituents, transient or permanent, and of these it is the sole judge.

I shall now attempt to show that this was the construction of this law by the Congress that passed it, and I will do this in the most explicit manner by the contemporaneous debate, by motions to amend, and by the votes on such motions, and on the final passage of the bill.

While the bill was under consideration in the House it was objected that no tribunal was provided for trying the question of desertion, and this objection led to the following debate:

"Mr. KERNAN. I do not understand how that is to be decided, or what tribunal is to decide it.

"Mr. WILSON. I do not suppose that there is any tribunal provided in the section for determining it; but I can suggest one way for determining it. If one of these persons should return, and should attempt to exercise the rights of a citizen, and he should be prevented from the exercise of those rights, then he can bring the question into the civil courts for determination.

"Mr. MALLORY. Will the gentleman agree to an amendment so as to make the section apply only to persons convicted of having done this?

"Mr. WILSON. That follows, as a matter of course, that a man shall not be deprived of his rights until he is convicted of the offense. He may be prevented from voting by challenge, and then he has the right to go to the courts to have the question decided.

"Mr. MALLORY. Many a man is punished now and convicted afterward.

"Mr. WILSON. This will place him exactly in the same condition, as to the right of suffrage, as an alien, a person of foreign birth, presenting a vote. His vote may be challenged on the ground that he is not naturalized, and the judges of election may refuse his vote. He then has his remedy against the judges of election; so would a man under this section."

* * * * *

"Mr. JOHNSON, of Pennsylvania. I desire to ask the gentleman from Iowa whether he will consent to an amendment inserting after the word 'section,' in the seventy-seventh line, the words 'upon conviction before a court of competent jurisdiction?'

"Mr. WILSON. I should not vote for it, but it is with the House to determine. I cannot, certainly, accept it.

"Mr. JOHNSON, of Pennsylvania. Then I will offer the amendment if it is in order.

"The SPEAKER. The amendment would not be germane to the amendment of the gentleman from Iowa.

"Mr. SCHENCK. Mr. Speaker, I move to close the debate on this section.

"The motion was agreed to; there being, on a division—ayes 71, noes 43.

"The question recurred upon the amendment of Mr. WILSON; which was agreed to.

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Reconstruction—Mr. Golladay.

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"Mr. JOHNSON, of Pennsylvania. I move to amend by inserting after the word 'ordered,' in the sixteenth line, the following words:

"*Shall be deemed guilty of a misdemeanor, and, on conviction thereof by any court of competent jurisdiction.*"

"On agreeing to the amendment there were, on a division—ayes 53, noes 59.

"Mr. JOHNSON, of Pennsylvania, demanded the yeas and nays; and being ordered, resulted—yeas sixty-three, nays eighty-two, thirty-seven not voting. So the amendment was rejected."

The proof produced in support of this contest would be sufficient before a military or civil tribunal, if unrebuted, to convict the persons whose votes I seek to reject of the crime of desertion.

This proof is unrebuted here, and hence these parties stand in this case proven to have renounced and forfeited their United States citizenship.

Would these facts, here established, have justified the judges of elections in rejecting their votes? If so, their votes are illegal and must be rejected here. There is no more difficulty in trying this question before election judges than there is in trying the question of residence or alienage or race. The records of the Army, such as here produced, with proof of identity before a court, established the guilt of a deserter until rebutted or explained. It is remarkably singular that proof sufficient to convict of high crime is not sufficient to show that a citizen has so behaved as to lose his right to vote or hold office.

Make conviction necessary before citizenship is lost, and the whole object and aim of the law will be defeated. The object of the law was to recruit the armies, to prevent their depletion, and to prevent those who abandoned the Government during the war from exercising any influence or control in the use of the elective franchise.

As I understand it, the Legislature of Pennsylvania and the courts of that State have virtually sustained the construction of this law for which I now contend. First, I am told that some court of that State divided three to two, in opinion, held that a conviction was necessary before the right to vote expired. This led to an act of the Legislature declaring conviction to be unnecessary, and providing that the official Army records, such as are here produced, should be evidence of the loss of citizenship. Acting on this law, some election judges have refused the votes of deserters on such evidence. Having been sued for so doing, they were justified and sustained by the lower courts and that decision having been taken up and sustained by the courts above. Thus I am informed. Here, then, is found the Legislature of Pennsylvania interpreting this law, and such interpretation the courts have sustained, and that interpretation is, and those decisions are, that conviction is unnecessary.

This is precisely the interpretation which I ask Congress to give the law, and I submit this question: "Does it require additional legislation to enable Congress to give such interpretation?"

It is then, after all, a question of construction as to what did Congress mean and what has Congress done; and on this question the Pennsylvania Legislature and the courts have decided that conviction is not required, and this decision accords with the plain and manifest intention of Congress when the law was passed, as well as the grammatical construction of the law itself.

I thus arrive by my argument at the following conclusions:

I. The right to create and take away citizenship is vested in Congress, and Congress has the right in all the plenitude of power which the States had over the subject prior to the adoption of the Constitution.

II. The States have no right to confer the elective franchise on persons who are not citizens of the United States, because thereby they might place the control of the States and finally

of the nation in the hands of aliens, deserters, and enemies hostile to the nation, and not even possessed of the right of petition.

III. States may limit the elective franchise among citizens: as where by constitution it is limited to white citizens, or where it is taken from persons convicted of crime, when the State constitution provides for and authorizes such legislative limitations and restrictions.

IV. In the case before us, the Ohio constitution requires United States citizenship as one qualification to vote, and thus recognizes the power of the nation over citizenship.

Then, if the law under consideration rightfully deprives deserters of United States citizenship, deserters were not legal voters in Ohio.

V. Citizenship rests upon a contract or bond between the Government and the citizen, by which, for fidelity and obedience to law on the part of the citizen, the Government renders protection and gives immunities and privileges.

VI. When the citizen fails to comply with this agreement and perform his obligation, the Government may refuse to give protection and the privileges and immunities of citizenship, and accept the renunciation of the citizen, and this act of the Government is not in any sense an *ex post facto* law, or a *penal law*.

VII. The delinquent having thus lost his right of citizenship in the United States, is not entitled to the elective franchise in Ohio. And when he offers to vote the judges of election have the right and power, and it is their duty, to inquire whether he is a citizen or not, just as they may inquire whether he is a resident or minor or alien or of a race of men that is disqualified.

VIII. No previous conviction is required, either in terms or by fair implication, in the act of Congress under consideration.

The penalties for desertion are all left to be inflicted by courts, civil or military, after conviction. And the right of voting is simply withheld because the deserter has refused obedience to the Government, when obedience was necessary to defend and protect the nation, and thus and thereby has renounced and forfeited citizenship.

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SPEECH OF HON. J. S. GOLLADAY,
OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

June 15, 1868,

In reply to Hon. HORACE MAYNARD on the reconstruction of Tennessee.

Mr. GOLLADAY. Mr. Speaker, I have sought the floor on this occasion to introduce a few thoughts suggested by the speech of the gentleman from Tennessee, [Mr. MAYNARD,] which was delivered upon this floor on the 12th of December last, in vindication of the State government of Tennessee. The length of time that has intervened since that date might to the superficial observer seem to preclude any reply at my hands. In consideration of the fact that both Houses of Congress are represented upon this floor by an accredited delegation it will be claimed, perhaps, by some as an act of supererogation for practical purposes; but in justice to truth and history, as in itself worthy of consideration, and the fact that I first saw the light in that once grand old State, that in youth I sported upon her friendly soil with my childhood's companions, and that in manhood I have traveled all over her length and breadth in far happier days, at least to her, when peace and plenty smiled upon her now desolate population, and her people were free, not only in name, but in fact; and in view of the further fact that she has no Representative in this Hall who dare now rise in his place and truly speak in her name and vindicate her outraged character from the unjust aspersions which have

been so wantonly and cruelly heaped upon her true citizens, I feel myself impelled by a love of the land of my nativity, by the respect for all the kindly associations and memories of other days, to strike one lick for "Faderland," and make some humble effort to place her grievances upon the records of this Congress, that in the hereafter some gifted son of hers, now struggling beneath the wave of tyranny and oppressive proscription which pervades her land, shall rise here in our midst, and in burning tones of eloquence and pathos make these walls ring with the story of her wrongs, and point to this my most feeble effort in tribute to a not ungrateful son.

Mr. Speaker, permit me to say in all kindness, and with high respect personally for the entire delegation from Tennessee, that in my judgment she has this day no constitutional or legal representation on this floor. They do not represent the sentiments of the people, the honest yeomanry of that Commonwealth. They represent no republican form of State government. They only represent a form of government established there by the chance of war, and sustained to-day alone by military power and oppression, neither republican in form or in spirit. Under the government which exists there to-day her laws are not made by the representatives of her people. Her constitution was not framed by her people.

My friend, the honorable gentleman before alluded to, who so ably misrepresents that people, and each and every one of his colleagues, in my judgment, are here against and not by the voice of her people. It is due to them to say that they stand alone on this floor in their glory, if such it be, as being chosen by the newly made characters now euphoniously styled freedmen voters, while the men of means and enterprise, of morality, intelligence, virtue, of their own color, are wholly disfranchised and valued chiefly because they pay in taxes by their sweat and labor the expenses of this new government machinery, not forgetting the salaries imposed upon them by the votes of their manumitted slaves, and a few native whites, and quite a sprinkle of transient gentlemen who, like our celebrated Micawber, are only there "waiting for something to turn up."

My honorable friend [Mr. MAYNARD] in his speech stated that he rose to vindicate the State government of Tennessee. As he represents not the people of his district, but the partisans of the State government—as he, I hope ironically, calls it—it is eminently right and proper that he should have done so. The father should always recognize his offspring, and great is the ingratitude of the child which honors not the author of its being, even though the creative act was consummated by violence and the result the birth of a monstrosity. The gentleman's published speech (see Globe, December 13, 1867) contains this astonishing declaration:

"In examining the charges negatively it is well to remark that no complaint is made of any social or civil rights violated, of any person, of whatever opinion, condition, or color, unprotected in life, liberty, person, reputation, property, or business; of any crime unpunished, or of any individual wrong unredressed. It is a significant fact that with respect to these primary and fundamental officers of government it is not alleged that the laws are not impartially made and impartially administered."

I am unwilling to permit this declaration to remain without a most emphatic denial, and in the name of thousands of brave and gallant men and heroic women I enter an earnest protest against it.

The gentleman, no doubt, is pleased with the labor of himself and friends, for his presence here to-day as a member of this body is one of the practical results that have followed it, and if his roseate picture was true to fact either in outline, detail, or perspective, right well would he merit his place, for such a laborer well earns his hire.

How pleasant the gentleman's description of the workings of his State government, and

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what a Utopia is Tennessee. I almost conclude that when Moore wrote his charming work he was imbued with the spirit of prophecy and had Tennessee in his mind, with Governor Brownlow as her ruler and the honorable gentleman as her Representative and vindicator.

Right well has the work been done; for, to use the gentleman's language and examine "the charges negatively," I can safely assert that he holds the affirmative of his propositions, though "no complaint" had been made of the non-existence of that beatific condition of things which he would have us believe exists in Tennessee.

I make "the complaint" now. I do it without fear of successful contradiction, and I select this particular time to do it in view of the fact that, as other similar State governments are about to be forced upon an unwilling people, we may expect them to fail as signally in securing and maintaining those great ends for which people ordain and establish particular forms of government, to which they give their allegiance and yield their support, as that of Tennessee has done.

I do complain that the State government of Tennessee represented now on this floor is not republican in form; that it does not subserve the ends of good government; that it is one of force, not of consent; one of injustice and wrong, not of justice and right; one of war, not of peace; and as *par excellence* just such a government as Daniel Webster called "a military republic"—a government formed on mock elections and supported daily by the sword. Social and civil rights of thousands of her citizens are daily violated. No adequate protection for life, liberty, person, reputation, property, or business has any existence in many parts of the State. Crime and outrages are constantly being committed, for which no punishment is inflicted and no proper redress attainable.

The laws are unjust and unfairly administered. Founded upon a departure from the great rule of right and impartial justice, this government has been an outrage and a reproach to the American system from its conception to the present hour; not the creation of peace, careful thought, calm deliberation, mutual conciliations, and nice adjustment of its parts to the wants of a suffering population, and interests the most conflicting; but it sprang from the very loins of war, and was cradled in the hour of passion, prejudice, and oppression. Put suddenly in operation over a territory still vibrating from the tread of mighty armies; still white with the ghastly skeletons and yet red with the blood of slaughtered men, and inhabited by a people torn with civil dissensions, thousands of whom still wear the ragged uniform of opposing belligerent hosts; thousands of whom were wandering amid the ruins of once happy habitations, and the dead but happy memories of a glorious past, while thousands of others wept in agony for the loss of dear departed ones, many of whom, scattered over half a continent, as they were by the fatality of war, filled unknown and unhonored graves; with the accumulated wealth of long years of toil swept away, their labor system totally destroyed, and in their midst a once servile and docile race now drunk on the sweets of its first taste of liberty; perfect results were not to be expected out of such chaotic condition of things; but for God's sake insult not the memory of our forefathers by calling such a governmental fabric as the Radical loom sent to market from Tennessee republican! Let us look into its history.

Supplied with the luxury of a military governor during the war, or, at least, the greater portion of it, with all the spirit, if not the very forms of civil government overthrown and uprooted by the presence of contending armies, and the absolute supremacy of military power over the soil, the property, the business, and

the inhabitants of the State, the war left Tennessee in a very singular and anomalous condition, regarding not alone her relations to the other States of the Union, but her form of government, or rather its want of form, as applicable to her own population. During its progress the presidential election of 1864 occurred. Preceding that election an electoral ticket favoring the claims of McClellan and Pendleton was put in the field.

President Johnson, then military governor of Tennessee, issued a proclamation governing said election, and prescribing conditions then unknown to the constitution and laws of the State. Among others, all voters were required to take the following oath:

"I solemnly swear that I will henceforth support the Constitution of the United States and defend it against the assaults of all enemies; that I am an active friend of the Government of the United States, and the enemy of the so-called confederate States; that I ardently desire the suppression of the present rebellion against the Government of the United States; that I sincerely rejoice in the triumph of the armies of the United States, and in the defeat and overthrow of the armies and navies and all armed combinations in the interest of the so-called confederate States; that I will cordially oppose all armistices or negotiations for peace with rebels in arms, until the Constitution of the United States and all laws and proclamations made in pursuance thereof shall be established over all the people of every State and Territory embraced within the national Union, and that I will heartily aid and assist the loyal people in whatever measures may be adopted for the attainment of these ends; and further, that I take this oath freely and voluntarily and without mental reservation, so help me God."

This attempt of Governor Johnson to control the elective franchise in the State in a manner different from that prescribed in the constitution was met by a very earnest protest from the McClellan electoral ticket in the State, which was delivered to Mr. Lincoln by Mr. John Lellyett, of Nashville, on the 15th day of October, 1865. The protestants, among others, made this strong declaration:

"We solemnly protest against these infringements of our law, conflicting as they do with the very letter of the Federal Constitution, because they are without authority, and because they will prevent a free, fair, and true expression of the will of the loyal people of Tennessee."

"The military governor expressly assumes, by virtue of authority derived from the President, so to alter and amend the election law of Tennessee, enacted under authority of the Constitution of the United States as above set forth, as to make the same conform to his own edict in the proclamation aforesaid. He assumes so to modify our law as to admit persons to vote at said election who are not entitled to vote under the law and constitution of Tennessee."

To this protest against the action of Governor Johnson Mr. Lincoln replied verbally, on the 15th of October, 1864, to Mr. Lellyett:

"I expect to let the friends of George B. McClellan manage their side of this contest in their own way, and I will manage my side of it in my way."

He replied further in writing, addressed to the protestants, under date of October 22, 1864, and therein, among other matter, after declining to interfere with Governor Johnson's proceedings, he said:

"I presume that the conducting of a presidential election in Tennessee in strict accordance with the old code of the State is not now a possibility."

To this the protestants, under date of October 28, 1864, replied:

"There will be no election for President in Tennessee in 1864. You and Governor Johnson may 'manage your side of it in your own way,' but it will be no election; and further, that 'in view of these things we announce that the McClellan electoral ticket in Tennessee is withdrawn.'"

My friend says there is "no complaint," &c. What is this? This ended the last attempt made by the patriotic men of Tennessee to hold any election under their old constitution. Men who had the power which military success always confers treated this constitution, under which the people had lived and prospered for so many years, with contempt, regarding it as practically abolished by the results and consequences of the war; and soon after steps were taken to establish what was called a new constitution in its stead. A convention of Unionists met in Nashville, January 10, 1865, and

adopted a series of resolutions, upon which Governor Brownlow was nominated, and on March 4 the form of choosing a Governor, Legislature, &c., was gone through with, soldiers voting therefor in hospitals and camps. But a small portion of the population took part, or were allowed to take part, in this election; and the form of inaugurating a State government having been gone through with, it was soon recognized as legal by President Johnson, and some time after by Congress.

President Johnson, in his proclamation of June 13, 1865, said:

"And whereas I am satisfactorily informed that dangerous combinations against the laws of the United States no longer exist within the State of Tennessee; that the insurrection heretofore existing within said State has been suppressed; that within the boundaries thereof the authority of the United States is undisputed; and that such officers of the United States as have been duly commissioned are in the undisputed exercise of their official functions also; and I hereby proclaim and declare that the insurrection, so far as it relates to and within the State of Tennessee, and the inhabitants of the said State of Tennessee as reorganized and constituted under their recently adopted constitution and reorganization, and accepted by them, is suppressed."

On March 4, 1865, under the organization effected by Andrew Johnson, William G. Brownlow was chosen Governor by a vote of 23,388. At the same time a so-called Legislature was chosen by about the same vote. An examination of this vote will show how small a portion of the people of Tennessee were permitted to take part in forming this so-called State government, or admitted the right of others to do so, upon the ruins of their old constitution.

In the presidential election of 1860 Mr. Bell received 69,274 votes against 64,709 cast for Mr. Breckinridge and 11,350 for Mr. Douglas, making a total State vote of 145,338.

Not five years after Mr. Brownlow is made Governor by less than one sixth of this vote, and the fact that he had no regular opposition, and that only thirty-seven scattering votes were cast against him, show how thoroughly and well the work of the bayonet was performed.

This was the veriest farce of an expression of the popular will of the people of a great State which up to that time had disgraced our country.

The frail structure thus propped up by the bayonets and erected on the soil of Tennessee, took upon itself all the power and legislation of the State.

On the 5th June, 1865, the so-called Legislature passed what is known as their franchise act. A more outrageous, vindictive, anti-republican measure was never attempted before under the Constitution of the United States, and I might say in no democratic government under the sun. By this atrocious measure more than half of the white men of the State were deprived of the right of suffrage, among whom were a greater part of those who were most interested in the State by reason of their ownership in the real and personal property thereof, and most of those who by their talents and accomplishments in the walks of science and literature had done honor to their State in the pulpit, the rostrum, and the forum. At one fell swoop the highest privilege of political manhood was swept away, and the State deprived of the services of thousands of brave, intelligent, and patriotic men, who would die to-day that glorious old Tennessee might again live an honored equal among the sisterhood of States.

To say nothing of its illegality and gross injustice, one sad effect produced by this measure upon the prosperity of the State was that it prevents men learned in the art of legislation from taking part in the action of any Legislature. It prevents able jurists skilled in the laws from serving on the bench and giving that interpretation to law which is sanctioned by illustrious precedent, the progress of time and the usages of our country. One may say these men were rebels. Rebels to what? To the United States, perhaps, which rebellion had

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already been suppressed by the force of arms; but not to the State of Tennessee or to her constitution. Again, the fact was illegally assumed that 23,352 men choose certain of their number to meet together and declare four times their number to be rebels and not fit to vote, and they provide the machinery for prying into the conscience of men and getting at this fact by a system of checks and oaths which would have done honor to the inventive genius of a Spanish inquisition. This act violated the great fundamental principle of "no taxation without representation," and exposed the property owners of the State to a system of taxation most onerous and oppressive. Since this pretended government was established in 1865 the taxation has been regulated in the main by men who owned no great interest in the property of the State, and the taxes are collected of those who have no voice in their assessment, but it is alleged without contradiction within my knowledge that the legislators thus assessing pretend to represent counties in some instances where they did not live, and with less than one hundred votes in some cases.

Such a system is perfectly appalling in the disastrous consequences it has entailed upon the prosperity, the resources, and the business of Tennessee. Such legislators chosen under the bayonet, and many of them adventurers from other States, care very little what happens in Tennessee so it does not happen to them; and having nothing to pay tax on, and even less to pay it with, the amount or equity of a tax never occurs to them. One object in passing this act was that the men who, without any regard to the former constitution of Tennessee, held the election for Governor and Legislature on the 4th of March, 1865, might perpetuate their power. They knew they represented a mere faction in the State, and that they must disfranchise somebody in order to do it. Hence all were excluded who could not comply with the tests provided in this act of June 5, a very singular feature of which appears in section six thereof, which gives the right of franchise to "every white man who voted in this State at the presidential election in November, 1864, or voted on the 22d of February, 1865, or who voted on the 4th of March, 1865, in this State."

This means simply that all who submitted to the bayonet election of those dates, and gave their approval to them by their votes, had purchased thereby the privilege of coming to the polls without the risk of being impaled on the end of a musket. After getting ready for the next election by the passage of this act, it was thought necessary to make success more certain that Governor Brownlow should issue his "address" to the people, and the power of the bayonet was again brought into requisition as will be seen by reference to said "address" and the dispatch of President Johnson sent to Governor Brownlow from Washington city under date of July 20, 1865, from which I quote:

"I hope, and have no doubt you will see, that the recent amendments to the constitution of the State, as adopted by the people, and all laws passed by the last Legislature in pursuance thereof, are faithfully and fairly executed, and that all illegal votes in the approaching election be excluded from the polls, and the election for members of Congress be legally and fairly conducted. When and wherever it becomes necessary to employ force for the execution of the laws and the protection of the ballot-box from violence and fraud, you are authorized to call upon Major General Thomas for sufficient force to sustain the civil authorities of the State.

"The law must be executed and the civil authorities sustained. In your efforts to do this, if necessary, General Thomas will afford a sufficient military force."

With this promise of national aid by national soldiers to sustain their form of government and the franchise act, the farce of an election was again gone through with, and members of Congress were chosen, but a small portion of the citizens being permitted to vote. This form of government continued its operation, and the franchise act was amended by the so-called

Legislature in May, 1866, providing, among other things, that its restrictions and disqualifications should not apply—

"To those who have been appointed to any civil or military office by Andrew Johnson, military governor, or William G. Brownlow, Governor of Tennessee, all of whom are hereby declared to be qualified voters upon their complying with the requirements of this act."—*Subdivision 3, section 1.*

Now appears a new element for the perpetuation of power and a new piece of party machinery to aid in securing the party power and enable a minority of the citizens of Tennessee to govern the majority as powerfully and as abjectly as the serfs of the feudal ages or the slaves of the South were ever governed. Section two of this amended franchise act provides—

"That the Governor of the State shall, within sixty days after the passage of this act, appoint a commissioner of registration for each and every county in the State, who shall without delay enter upon the discharge of his duties, and who shall have full power to administer the necessary oaths provided by this act."

A thought will convince any one of the workings of this section when he reflects that each commissioner of registration was an appointee of Governor Brownlow, and that his position, as well as that of the Governor, depended on the exclusion of a sufficient number of voters to enable the adherents of the new government to carry and control every election. Men of the most bigoted and partisan views were chosen, often of the most reckless and ignorant character, who sat in solemn judgment on the acts and opinions of men whose every thought, even if mistaken in their views, had been for the good of Tennessee. Notwithstanding this enginery of oppression and outrage, it is known that in sundry instances, when the results did not meet the expectations of Governor Brownlow and friends, he very deliberately wiped them entirely out by rejecting them entirely, or beginning again, as he was authorized by a law passed by this despotic Legislature on February 26, 1868.

This act was followed by the passage of another on the 18th of May following which disqualified certain persons therein specified from holding any office, civil or military, and excluded them from all offices, State, county, or municipal. An effort was first made to secure representation for this government in this House in a formal way when Mr. BINGHAM, on the 5th of March, 1866, made his report to that effect from the select joint Committee on Reconstruction, to which the matter had been referred.

In tracing the history of this matter I have clearly shown that this government, thus established over the State of Tennessee, was the offspring of military power, and could not have existed without constant appeals to its aid even for a day; that it was framed by a small minority of the people without any regard to the wishes of the large majority. They were denied any expression of their opinions. This extraordinary and anomalous condition was alone sustained by the aid and comfort afforded by Federal authority claimed to be founded on Mr. Lincoln's policy and upon the theory that the State was obliterated, her constitution destroyed, her form of government at an end, and that the few loyal people of the State, backed by the whole military power of the nation, had the right to make this a despotic oligarchy by wiping out all old republican forms of government.

The rebellion either succeeded or it did not. I take it that all of the acts attending its conduct, except the actual material changes from life to death, and the destruction of perishable property, and change of its tenure by military force, were null and void. If so, what becomes of the constitution of Tennessee as it existed when the rebellion broke out? The rebels most certainly failed to destroy it, or to make a new one; and I submit to every thinking man on this floor if, during the progress of this unfor-

tunate war, it was not authoritatively declared time and again that if the rebellion failed the State government would remain in its condition "*ante bellum*." In support of this assertion I quote from a speech delivered on this floor May 23, 1862, by the honorable gentleman himself, [Mr. MAYNARD.] He said:

"So far as there is a discrepancy in the statement of the facts it is needless to say on which side the truth lies, and as to the two philosophies no sane man can doubt which will be accepted by nine tenths of the American people. The death of States and the crushing out of institutions was not the purpose for which they entered upon the war. They intended the life of States and the preservation of institutions. Such has been, is, and I venture to affirm will be the policy of the President and his administration. It was this high conserving sentiment that led him to uphold of his sonatorial robes the great tribune of the people—Andrew Johnson—and intrust to his hands the labor of reinstating this great Commonwealth, in whose councils he had been so long conspicuous. He was sent not to destroy but to save, not to create new relations, but to restore and preserve the old.

"The State was not dead; its government was not destroyed; merely its functions for a time usurped and its action perverted; its relations to the Federal system suspended by violence. When the violence is overcome and the usurpation is subdued the former relations become active and the functions of the Government legitimate. The State exists as before. It has not been conquered; it has been rescued. It has not been subjugated; it has been disentrained. In times like these words are things and should be very carefully handled. In accordance with this theory has been the conduct both of the President and Governor Johnson. They do not believe a popular convention necessary to reorganize the community into a body-politic. They do not require new laws to authorize elections. They recognize the law anterior to the usurpation as still in force, and are providing for their execution. Justice, public and private, is administered in the Federal, State, and municipal tribunals; popular elections are held, and as fast as the State is delivered from the power of hostile troops the ballot-box resumes its sway;"

And much more of the same.

Who dare to challenge my witness? Verily "times change, and men with them." If my honorable friend was right then he is wrong now. If Mr. Lincoln and Mr. Johnson, with whom he so well agreed, were right in 1862, why is it wrong in 1868? Who has changed, Mr. Johnson or my friend? Let the record speak. The honorable gentleman came here in 1866 and again in 1868 as a Representative of Tennessee, not as she was, as shown by him in 1862, but as she is, with a government founded upon the overthrow of his theory then when, to quote his own expression, "Words were things, and required to be carefully handled."

No amount of special pleading can reconcile, no sophism of the human mind can dress his theory then and now with the slightest semblance of similarity.

If my friend had only adhered to his theory then it might have deprived the people of Tennessee of his learning and experience now, yet he would be consoled by the knowledge that he was consistent with himself and with Mr. Lincoln, who died in the faith of that theory, to say nothing of Mr. Johnson, who yet clings to it as the sheet anchor of constitutional right, and also with one of the greatest captains of the war, (General Sherman,) who in 1865 recognized and adopted it in his famous negotiations with General Johnson, and, by so doing, manifested more real statesmanship even than soldiership, great and deserved as is his reputation.

If this had been carried out in good faith, as so eloquently portrayed by the gentleman, we would to-day be in the enjoyment of a restored Union, in truth and in fact, instead of widespread discontent, dissatisfaction, and poverty that exists in eleven States, with the people pressed and bowed down and overawed by a standing army, many of whose officers and subalterns, in violation of the Constitution and of every principle of civil liberty, are attempting to fill both civil and military positions, and at the arbitrary appointment of military commanders are filling State and municipal offices that under law are entirely elective. At the time this despotic and anti-republican State government of Tennessee first sought representation on this floor it is certain that polit-

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ical and not legal or constitutional considerations secured the representation and an acknowledgment by the law-making power of the nation. If time would permit, I would quote from the debates in this House to show the opinions of such distinguished men as Governor BOUTWELL and others to show the outrage; but I pass on.

The so-called Legislature afterwards, in February, passed a bill striking the word white from the franchise law, thus establishing negro suffrage in the State. About the same time a law also passed containing this provision:

"That in all State, district, county, and all other elections such aliens as have resided more than one year in the United States and more than six months in the State of Tennessee shall have the right of the elective franchise, provided that such persons shall have previously declared their intention to become citizens of the United States and that they shall not have participated in the late rebellion."

This is another of the important laws the gentleman talks about. The ignorant black, who knows not his alphabet nor ever heard of a written constitution, can vote. The foreigner, who knows nothing of our language or form of government, but with the despotic ideas or servile vassalage of the Old World, can vote. The negro and the alien, neither of whom can read or write, walk hand in hand to the ballot-box and exercise every political manhood privilege; the ballot for which our race and nation have struggled for more than a thousand years, for which they have reddened the page of history with the details of more than a thousand bloody conflicts in their efforts for liberty and equality, while the right is denied to more than half of men who have been citizens of the State and who possess four fifths of the wealth and have nine tenths of the intellect and education of the State. In other words, one hundred thousand whites disfranchised by the most reliable estimates and controlled by the negro and a small minority white vote. If these are the gentleman's ideas of "laws impartially administered," God forbid that he should legislate or sit in judgment upon me and mine.

Now, Mr. Speaker, I have shown you the history of this Government, and I submit if I am not justified in my opinion as expressed, that the members from the State of Tennessee do not represent, and therefore cannot express, the voice of the people of Tennessee. To-day there are more white men disfranchised in that State than in any three unconstructed States in the South. We have shown that we got the State of Tennessee in the Union in 1866.

Now, of course, we have the paradise and smiling Utopia that my distinguished friend has painted upon the political canvas in the speech we have been reviewing.

Alas for human calculations! Let us examine the facts. In the fall of 1867, only last year, a difficulty sprung up between George Brownlow and the mayor of Nashville as to a municipal election provided for by law in the charter of the city of Nashville. Governor Brownlow insisting upon our construction and the mayor, under the written opinion of the leading lawyers of the Nashville bar, maintaining a different construction. Governor Brownlow summoned his State militia, which he had scattered all over the State, (as provided for by the Legislature under his recommendation,) to Nashville. The mayor and citizens were armed and prepared for a bloody resistance. Civil war within the State government was threatened by these oppressed citizens, and all they asked was for the United States to stand aside and let them settle it among themselves. Wiser counsels, however, prevailed, and the President and General Grant were telegraphed to, and I append their reply herewith, dated September 24, 1867, ordering General George H. Thomas, with national troops, to Nashville to keep the peace:

WASHINGTON, D. C., September 24.

Your dispatch of this date has been received. The following instructions have been sent by General

Grant to Major General Thomas, Louisville, Kentucky.

The mayor, city attorney, and president of the common council of Nashville express great fear of collisions at the time of the charter election, twenty-eighth, (28th.) Go to Nashville to-morrow, to remain until after the election, to preserve peace. If you think more troops necessary for that purpose, order them there from the most convenient point in your command.

The military cannot set up to be the judges as to whose set of election judges have the right to control, but must confine their action to preventing or putting down hostile mobs. It is hoped, however, by seeing the Governor and city officials here referred to your presence and advice may prevent disturbance.

Please keep me advised of condition of affairs.

By the President: ANDREW JOHNSON.

U. S. GRANT, Secretary of War ad interim.

Hon. W. MATT. BROWN, Mayor of Nashville.

I also append, for the information of this House, the correspondence between Major General George H. Thomas and W. Matt. Brown, the mayor, which speaks for itself, to wit:

HEADQUARTERS DEPARTMENT CUMBERLAND, NASHVILLE, September 28, 1867.

I have the honor to invite your attention to the following extract from your correspondence, as reported in the morning papers: "And General George H. Thomas having notified me officially, in writing, that he would use the military power of the United States in sustaining the Governor of the State in forcibly preventing a peaceable election," &c.

Referring to my communication, you will find that I did not so inform you. I did say that "a proper interpretation of General Grant's telegraphic orders is to sustain the State authorities in the execution of their orders."

I will further say that the troops under my command will not be used to prevent a peaceable election. On the contrary, they will be used to preserve peace. And, with that view, the troops are here to preserve order, peace, and quiet at the polls.

Your obedient servant,

GEORGE H. THOMAS, U. S. A.,

Major General Commanding.

Hon. W. MATT. BROWN, Mayor of Nashville.

MAYOR'S OFFICE, TWELVE O'CLOCK, NASHVILLE, September 28, 1867.

SIR: At the hour of ten o'clock a. m. of this day I received your communication of this morning, in which you quote these words from my communication to the public in to-day's paper: "And General G. H. Thomas having notified me officially in writing that he would use the military power of the United States in sustaining the Governor of the State in forcibly preventing a peaceable election," &c., and add, "referring to my communication you will find that I did not so inform you."

With deference, I cannot concede the correctness of this last assertion. The Governor of the State had issued a proclamation, in which he had distinctly announced that he would use the militia placed under his control by the last Legislature to execute the franchise law in the pending municipal election, and to prevent the holding of the election by the judges appointed by the board of aldermen.

Subsequently, by an order directed to General Joseph A. Cooper, commanding the State Guards, the Governor directs him to bring immediately to Nashville all the troops, infantry and cavalry, you can command, "to enforce the franchise laws." Immediately upon receipt of this order General Cooper, by published proclamation, warns all parties to desist from any attempt to hold any election in violation of the franchise law." Thereupon I, in my official capacity, in order to prevent civil strife between the citizens of the State and the militia, applied to the President of the United States, distinctly stating that it was not the wish of the authorities of the city of Nashville to prevent the judges appointed by the commissioner of registration from holding an election under the charter as heretofore; all questions arising to be submitted to the legal decisions of the courts. You, General, were thereupon sent here with instructions such as we all thought would enable us peaceably to exercise our rights.

Afterward, upon some private telegrams from yourself to General Grant, with the contents of which we were not made acquainted, another dispatch was received from General Grant, which was not so clear in its terms. Thereupon I addressed you a communication as mayor, copying this last telegram, suggesting the difficulty of construing it, and asking you to "inform me explicitly whether you deem it your duty under the order received by you to uphold General Cooper and his militia in their threatened attempt to prevent the peaceful holding of the election heretofore ordered by the corporate authorities of Nashville." Your answer was in these words: "In reply to your inquiry, whether you (I) deem it your (my) duty under the order you (I) have received to uphold General Cooper and his militia in the threatened attempt to prevent the peaceful holding of the election heretofore ordered by the corporate authorities of Nashville, I have to say that the proper interpretation of General Grant's telegraphic order is to sustain the State authorities in the execution of their orders."

Now, these orders were not merely to hold an election under the franchise law, but to prevent any other election; and the object of our communication, expressed in the clearest and most unmistakable terms, was to know whether you upheld them in their threatened attempt to prevent the peaceful holding of the election ordered by the corporate authorities. And your answer is that your orders are "to sustain the State authorities in the execution of their orders." We submit to your better judgment whether your words admit of any other interpretation than the one put upon them; and if we cannot rely upon your better judgment, we submit the same to the candid judgment of the public. Instead of undertaking to keep the peace, we understood you as deciding that your orders left you no discretion.

We cannot think, General, that you have resorted to the language used for the purpose of misleading. We must suppose that you meant what your words plainly import. But, General, it is not yet too late to rectify the error, if it be one. You may still permit us to hold our election to-day, late as it is, or permit us to hold the election at a future day.

The code of Tennessee provides, section thirteen hundred and seventy-eight, that the franchises of a corporation shall not be forfeited or discontinued by a failure to hold the election at the proper time, but the same may be held at any time thereafter, by giving five days notice in the mode prescribed. If you, General, desire to see equal justice done, you have nothing to do but to notify us that you will see that we are permitted to hold such an election, without interference from the State militia, and we will at once take steps for holding it. We ask you distinctly whether you will protect us in the exercise of this right. The election (so called) which is now being held is clearly illegal and void in the judgment of the corporate authorities and the best lawyers in Nashville.

We do not intend to recognize its validity. All we ask of you, if we have misinterpreted your meaning, is that you now permit us to hold an election according to law. We think we have the right to ask to this request a prompt and unequivocal answer.

With great respect, your obedient servant,
W. MATT. BROWN, Mayor.

Major General GEORGE H. THOMAS, Commanding.

HEADQUARTERS DEPARTMENT CUMBERLAND, NASHVILLE, September 28, 1867.

SIR: In reply to your communication of this date, received at two o'clock p. m., I have to state that I did not inform you officially in writing, as stated by you in your communication to the public, published in the papers this morning, that I would use the military power of the United States in sustaining the Governor of the State in forcibly preventing a peaceable election, &c.; but I did state in that communication that the proper interpretation of General Grant's telegraphic orders is to sustain the State authorities in the execution of these orders.

GEORGE H. THOMAS, U. S. A., Major General Commanding.

Hon. W. MATT. BROWN, Mayor, &c.

It is only necessary to add that the military of the United States backed Brownlow's militia, and with bayonets, in violation of all law, forced an election under the registration law; preventing the running of a ticket of the people even, and by the bayonet forced a new mayor on the people of Nashville who had hardly lived there long enough to be counted a citizen, and by the military militia of Governor Brownlow took forcible possession of the office, ejecting the mayor, as will be seen, by order of Brigadier General J. A. Cooper, October 2, 1867, herewith appended.

Mr. Speaker, I might very safely rest my case here, having established, in my judgment, every proposition I made. I prefer, however, to bring my proof down to April 21, 1868, but a few weeks ago. The next witnesses I introduce, and for convenience I group them, are the eight members of Congress on this floor from Tennessee, and first among them is my honorable friend, Mr. MAYNARD, himself, whose card, addressed to Governor Brownlow, dated 21st April, 1868, I find in the Chronicle of this city, in which they advise him to again organize at once the militia of the State to keep the peace, and I herewith append that interesting document as a pungent commentary upon the utopian dreams of my friend, whose edifying speech we listened to last December. I also attach the comments of the editor of the Chronicle, (as they are short,) with the publication of this card:

"Law and Order in Rebellion.—No better evidence could be given of the state of society in the South, even where, as in Tennessee, established government exists, than the fact that the loyal Representatives of that State have found it necessary to urge the Government to call the militia into active service, as

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will be seen in the following important document. We may readily infer what horrors would ensue in case the White House apostate now on trial should be allowed to pursue his infamous career. If such things are done in the green tree, what will be done in the dry?

WASHINGTON, D. C., April 21, 1868.

DEAR SIR: As constituents identified with you in the success of your administration, we beg leave to call your attention to what cannot have escaped your notice, the disorders prevalent in certain localities of our State. Lawlessness and violence have attained alarming proportions. Peaceable citizens are terrified by threatening missives; the sanctity of their homes is invaded, often in the hours of sleep; their property is consigned to the flames; some are seized and scourged and otherwise cruelly maltreated; others are shot dead, or hanged, or subjected to some other form of murder and assassination. Punishment rarely follows, and in most instances no form of legal redress is resorted to. On the contrary, the victims of these outrages are maligned and their characters defamed by the perpetrators, whose conduct finds many to connive at, and not a few openly to justify it.

Upon you, as the First Magistrate and peace officer of the State, devolves the duty, under the constitution and the laws, of seeing these disorders suppressed. Not the statute law merely, but the common law, even without legislative enactment, clothes you with very high powers. You do not bear the sword in vain. The safety of the people is the supreme law, and nothing less than the exercise of all the physical and moral force of the State, by summoning to your aid, if need be, all the good people of every age, sex, color, and condition, will satisfy its imperative requirements.

The community must be protected at all hazards and at whatever cost. Happily for our beloved State, the exercise of this extraordinary authority has seldom been required; so rarely, indeed, that some are possibly unaware of its existence. We refer to it, therefore, not only by way of admonition to evil-doers, but to shield you, so far as our counsel can do it, from the imputation of transcending your just and legitimate powers in taking all necessary measures to suppress the maladies afflicting the people.

We respectfully suggest the propriety of organizing and arming, under the recent act of Assembly, a small militia force, with judicious and competent officers, to be stationed at points where the civil law is found the least efficient, to repress and punish high-handed crime. We know your indisposition to impose unnecessary burdens upon our people, already oppressed with debt and impoverished by war; and have the utmost confidence that you will exercise your great official powers within the limits of necessity as defined by the demands of humanity. While we hope not to see our State government driven to dependence upon national protection, we, at the same time, hope soon to see the moral influence of the national Government exerted in its behalf or against its enemies.

We have the honor to be, very respectfully, your obedient servants,

HORACE MAYNARD,
JOHN TRIMBLE,
SAMUEL M. ARNELL,
W. B. STOKES,
JAMES MULLINS,
R. R. BUTLER,
JOSEPH S. FOWLER,
D. A. DUNN.

His Excellency WILLIAM G. BROWNLOW,
Governor of Tennessee.

How pleasant for brethren to dwell together in unity.

Mr. Speaker, I close by submitting the question to the earnest and patriotic men of all parties: Has the State of Tennessee a republican form of government to-day?

Thanking the committee for their patient attention and courtesy, I yield the floor.

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SPEECH OF HON. JOHN BEATTY,

OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

June 15, 1868,

In Committee of the Whole on the state of the Union.

Mr. BEATTY. Mr. Chairman, one of the greatest evils resulting from the war is the national debt. How to manage this debt at present and get rid of it in the future involves questions which cannot be too thoroughly considered by the Representatives of the people. Managed however skillfully it will continue a great burden to the country. Unwisely managed it must lead us to national bankruptcy.

At this time the people are looking with intense anxiety to Congress, apprehensive lest it may take some step in reference to the debt

which will prove disastrous, yet hopeful that it may determine on some plan which will enable them to carry the burden with greater ease, and open up in the early future a way to get rid of it forever.

This debt amounts now, in round numbers, to \$2,600,000,000. It matters not by whom the bonds are held; it is enough to know that the country owes the debt and it must be paid.

Much the larger portion of this debt will soon be represented by five-twenty bonds, which the Government has wisely reserved the privilege of paying any time after five and before twenty years from the date of their issue. In reference to the kind of money in which these bonds may be paid, the time of payment, the rate of interest which should be allowed on Government securities, and the kind of money in which the interest should be paid, there exists an essential difference of opinion among honest men.

JOHNSON-M'CULLOCH POLICY.

One party, respectable in numbers and influence, contends that the five-twenty bonds, according to law and equity, are redeemable only in coin.

PLATFORM OF THE OHIO REPUBLICANS.

Others hold that these bonds should be paid in any currency of the country which may be a legal tender when the payment is ordered.

SCHEME OF THE OHIO DEMOCRACY.

Another party, holding that they may be paid in the legal-tender currency of the country, and opposed, as they say, "to extending the time of payment," propose to issue an amount of greenbacks sufficient to pay off the entire sum represented by these bonds. To the latter proposition the objections are innumerable, and some of them of the most serious character. The first is the violation, which it proposes, of the solemn pledge of the Government made substantially in previous acts, and definitely in the act of June 30, 1864, as follows:

"Nor shall the total amount of United States notes issued or to be issued, ever exceed \$400,000,000, and such additional sum, not exceeding \$50,000,000, as may be temporarily required for redemption of temporary loan."

As an indication of the deplorable consequences certain to follow a departure from this limit, and as an illustration of the utter folly of those who favor the scheme under consideration, I read from Richard Horner Mills's "Principles of Currency and Banking," in reference to the practical workings of a similar scheme which doubtless had distinguished and learned advocates in its day:

"FRENCH ASSIGNATS.—Systems of currency have been from time to time established which, confiding the issue of the circulating medium either to the State or to private companies, have provided no limit to such issues but the discretion and caprice of the issuers. Such was the scheme of the French assignats in the year 1790. At the first issue of these assignats the amount was limited by law to 400,000,000 francs, but in spite of this enactment in the space of six years the issue amounted to no less a sum than 45,579,000,000 francs. So great was the depression occasioned by this over issue that in the year 1798, an assignat professing to be worth 100 francs, four pounds, (or about twenty dollars of our money,) was currently exchanged for five sous, six deniers, or rather less than threepence, (or about six cents American money,) and this, too, notwithstanding a law punishing with twenty years' imprisonment in irons any one who should be convicted of the offense of taking assignats at less than par. The ultimate result was that 32,835,000,000 francs, of the nominal value of £1,313,000,000 sterling, was left as mere waste paper in the hands of the holders. Such depreciation as this amounted practically to the rescinding of every contract in the country."

The impracticable schemer who would tell a farmer that if he were to use a hundred half bushels instead of one to measure his grain that it would increase the quantity in his bin would be laughed at for his folly. The man who thinks that wealth can be created in any other way than by laborious delving in the earth and skillful adaptation of the varied productions and acquisitions of labor to the wants

of life is an impracticable dreamer. The man who supposes that the Government, by the use of the printing press at its command, can at pleasure create wealth, is certainly not blessed with common sense. Notwithstanding all that may be said to the contrary, it is substantially true that a paper dollar is only valuable so far as it represents a gold dollar. Calculating money at the rate of four per cent. interest, a dollar payable fifty years hence without interest is worth less than fourteen cents payable at that time with interest; payable in forty years less than twenty cents; in thirty years less than thirty cents, and in ten years less than sixty-seven cents. The extent of the depreciation of paper depends on the certainty or uncertainty of its final payment, the time which must elapse before payment and the interest which it bears to time of payment. The public mind, taking all these things into consideration, discounts the paper which it takes, and this discount is the depreciation.

The depreciation of our present United States note is about forty per cent. If with less than four hundred millions there is a depreciation of forty per cent. from the true standard, what would be the depreciation if the amount exceeded two thousand millions? Would it not amount to eighty or ninety per cent.? What would be the expenses of Government as measured by this standard? What would be the taxes? A farmer under such a system would be compelled to carry his money to the county treasurer by the wagon-load, and in bags instead of in his pocket. But it is said that it will pay debts. Who would give credit and be compelled to take this depreciated paper in return? Who that had farm or stock, or anything valuable, would exchange it for such trash, which neither bore interest or any evidence that it would ever be paid? But it is said the amount would not exceed two thousand millions. How do we know it would not? It is said Congress would make that pledge; but Congress has already made such a pledge, and if it violates this pledge may it not violate that? Therefore, who would believe Congress? Who can doubt that the increase of Government expenses, as measured by the debased standard, would render additional issues necessary, and that these issues would continue until the paper ceased to circulate and the business of the country brought to a dead lock?

The act of June 30, 1864, is the embankment that protects us from a flood which threatens to overwhelm and utterly prostrate every material interest of the country. It stands up to-day between our people and bankruptcy. Disregard this pledge and you not only rob the bondholder, the holder of greenbacks, but also the widow and orphan of their annuities, the laborer of his salary, the soldier, the soldier's widow and soldier's children of their scanty pension. Those who favor this scheme would, in addition to the present sum, throw upon the country within the next five years over seventeen hundred millions of paper money, worthless as a medium of exchange, worthless as a measure of value, worthless alike to farmer, merchant, manufacturer, or laborer, so depreciated, cumbersome, and unwieldy, that it would be thrown away like the continental currency of our fathers as trash, which retarded and prevented, rather than facilitated, exchanges. The end would be a grand repudiation of all contracts between the Government and the people and between man and man. But suppose we grant that this currency would not depreciate to the extent described, and suppose, what is very improbable, that ten years hence it still retained some value, have you any doubt but that some patriotic and honest gentleman, who had an eye to the votes of his district, would rise in his seat and argue in favor of its repudiation upon the ground that capitalists had bought it up for a song, and therefore it would be a great outrage to require the people to be taxed for its redemption.

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If it needed an additional kick to send it to the rag-bag, it would in this way finally receive it. Repeal the act of June 30, 1864, and commence the further issue of greenbacks, to be governed simply by "the discretion or caprice of the issuers," and you will go back to specie payments with such tremendous force as to crush every commercial and industrial interest of the country. You may then look for the years of the lean kine, in which manufacturers would fail, merchants become bankrupt, credit annihilated, and laborers thrown out of employment; years in which cries would go up from thousands of famishing and desperate men, who, rather than suffer their wives or children to perish of hunger or cold, would bid defiance to all law and take whatever their necessities required. In our cities riot, debauchery, and crime would darken the day and make the night hideous, during which no property would be secure, and no person could hope to lie down in safety; and when these calamities shall have culminated, the storm of passion, misery, and crime abated, and order again restored, the nation would find that by this act of consummate folly it had lost the accumulated wealth of more than half a century. It is said, and I have no doubt truly, "that the distress and suffering occasioned by the depreciation and final worthlessness of the *assignats* in the time of the French revolution exceeded a hundredfold that caused by the prison and the guillotine."

The advocates of this scheme forget that our departure from the coin standard under ordinary circumstances would have been most unwise, and that we were driven from it by the necessities of the time. Becoming familiarized with the Government greenbacks they insanely imagine that an increase in the quantity of this money will in some way increase the commodities whose value it is intended to measure. They can conceive that lengthening the yardstick would in no wise increase the cloth to be measured, but appear blind to the fact that an increase in quantity of the measure of values cannot increase the value to be measured, nor can they conceive that the measure itself may be made so extremely long as to be unwieldy and utterly worthless as a measure.

PAYMENT OF THE FIVE-TWENTIES.

The proposition to continue the five-twenty loan, and ultimately to pay it in gold, is objectionable because it continues a burden undiminished, when we have the right, as well as the ability, to make it lighter, and put it in a form more satisfactory to those who are compelled to carry it. The loyal people, rich and poor, who stepped forward in the time of the nation's trial and manifested their confidence in the ultimate triumph of loyal arms by purchasing Government bonds, are entitled to the gratitude of the country and to the honest profit which resulted from their investments. They have lost thus far nothing by their loyalty. In fact those who had most confidence in the final success of our arms made, and deserved to make, the greatest pecuniary gains. The war is over and we can make better terms now, simply because that which many before considered doubtful is now a realized certainty.

The depressed and struggling operator, engaged in some new enterprise, the final success of which many doubt, is compelled to obtain money upon the best terms he can. He must pay for the risk which the lender assumes. He does this cheerfully, thankful that there are those sufficiently adventurous to take the risk. But when he emerges from his embarrassment; when he has demonstrated his ability to pay, and his credit is above suspicion, if a sensible business man, he considers the propriety of effecting a new loan upon terms more advantageous to himself. This is business like; and it is right. He proposes to injure no one, to violate no contract, or to turn his back upon no friend. He was from the first confident of

success, and reserved the right to pay at the expiration of a certain period if he found it to his interest to do so. He now chooses to make payment, and if he has not money enough of his own he proposes to borrow at a lower rate for the purpose. No one can question his right to do this. It is an honorable, manly, and sensible transaction. This is simply what the Government should do; that is, effect a loan at a lower rate of interest, pay off the matured debt, and the five-twenties so soon as the option in the bond will permit.

It is said, however, that these bonds are redeemable in coin only, and that it is impossible to obtain coin to pay the debt as proposed. Here I take issue with the objector, and deny that these bonds are payable only in gold. The act of February 25, 1862, authorizing the first issue of United States notes, declares in the first section that these notes—

"Shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due the United States, except duties on imports, and of all claims and demands against the United States of every kind whatsoever, except for interest upon bonds and notes, which shall be paid in coin."

The act provides further that they—

"Shall also be lawful money and a legal tender in the payment of all debts, public and private, within the United States, except duties on imports and interest on the public debt."

The second section of this act provides for the issue and sale of five-twenty bonds, "redeemable at the pleasure of the United States, after five years, and payable twenty years from date." It authorizes the Secretary of the Treasury to dispose of these bonds for "the coin of the United States, or for any of the Treasury notes that have been or may hereafter be issued, under any former act of Congress, (demand notes referred to,) or for United States notes that may be issued under the provisions of this act."

The acts of July 11, 1862, and March 3, 1863, providing for further issues of greenbacks, both reiterate that "they shall be lawful money and a legal tender in payment of all debts." All these laws were passed before these five-twenties were sold. Thus we find the law authorizes the issue of the greenbacks, and gives them power to pay all debts, except duties on imports and interest on the public debt. Then it authorizes and provides for the contraction of a debt; or, in other words, we find first, authority given to create a money which shall pay all debts; second, authority given to contract a debt. Is it possible, therefore, to resist the conclusion that this debt may be paid with this money?

It is said, however, by those who differ with us on this question, that the act of February 25, 1862, provided that any holder of United States notes depositing any sum not less than fifty dollars, or some multiple of fifty, should receive an equal amount of five-twenty bonds, and it is therefore claimed that these bonds cannot be redeemed with a currency which by law has a right to demand conversion into bonds. The act here referred to authorized the issue of greenbacks with this right of conversion. The greenbacks were issued and taken by the people, the bonds were not; and before the bonds were sold the act of March 3, 1863, was passed, which declared that—

"The holders of United States notes, issued under and by virtue of said acts, (February 25, 1862, and July 11, 1862,) shall present the same for the purpose of exchanging the same for bonds as therein provided, on or before the 1st day of July, 1863, and thereafter the right so to exchange the same shall cease and determine."

After the passage of this act, which also provided for a further issue of greenbacks, the five-twenty bonds were sold, and of course all who desired to take advantage of the right of conversion did so before July 1, 1863, and received from the Secretary of the Treasury five-twenty bonds in exchange for their notes. Those who preferred not to do so held the greenbacks with the full understanding that

the right to convert them had ceased. Those who bought the bonds did so after the passage of the act which settled definitely the power of the greenback over the bond.

But it is said that the agents of the Government declared the bonds were payable in gold. If this be true it was simply the unauthorized opinion of the agents, which might have been honestly entertained, but in this case could in no wise bind the principal. At the time many believed they would be so paid, and why? Not because the agent said so, not because the law contemplated or provided for such payment, but simply because they thought that before the bonds matured the Government would be ready to resume specie payments. This opinion, unwarranted by anything in the loan laws, was found to be erroneous; and because it prevailed to some extent is no reason why we should be bound either in law or in equity to do what we never agreed to do.

Jay Cooke, an honest and able financier, advertised and sold these bonds. His opinion as to the termination of the war, the resumption of specie payment, better, doubtless, than the opinion of most men, was, however, not infallible. As a warning to all not to trust too fully to what could then only be mere conjecture was the plain simple notice in the bonds, that they were "redeemable at the pleasure of the Government after five years, and payable twenty years from date." And the greenbacks for which they were exchanged bore the conspicuous notice, staring all men in the face, so palpable that the "wayfaring man, though a fool, could not err therein," that they were a legal tender for all debts, public and private, except duties on imports and interest on the public debt.

Can there be any doubt, therefore, in view of the law and the facts, that these bonds are payable in lawful money of the country; and is the bondholder injured by this conclusion? Certainly not. We have paid him thus far a good round interest. We propose to continue the payment of the interest until we redeem the bond. We propose to pay him money which has fully as much, if not more, purchasing power than that which he gave us for the bond. Can he have any ground for complaint? The broker who has been loaning money at two per cent. a month, may be somewhat loth to receive payment of the principal, because he regards it a profitable investment, and would be glad to continue it; but he certainly cannot refuse the money when tendered, nor can he consider himself injured because the debtor finds he can do better elsewhere.

It is asked by those who hold that these bonds can only be paid in coin, what is meant by the word "dollar," which the greenback promises to pay? I answer a gold dollar. These greenbacks must ultimately be paid in gold, but until they are so redeemed they are by law a legal tender in the payment of all debts, &c.

Because the "dollar" referred to in the greenback is so many grains of gold, it does not follow by any means that the "dollar" referred to in the five-twenty bonds, in the appropriation bills, in the laws giving soldiers bounty, widows pensions, or Government employes salary, must also be a dollar in gold. The "dollar" referred to in all these acts is the legal-tender "dollar" of the country. That foreign capitalists were governed by the letter of the law in the purchase of these bonds is evidenced by the fact that while bonds bearing less interest are now and have been selling at par our bonds have never brought more than seventy-five cents in any European market. I know that those who insist upon the redemption of these bonds in coin denounce those who differ with them as repudiators and violators of the faith of the nation. But these harsh words fall lightly, simply because they prove nothing, and proceed generally from the bank-

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ing institutions and men who took advantage of the law making greenbacks a legal tender, to redeem notes in a depreciated currency which they had promised to pay in coin.

A NEW CURRENCY BOND.

Taking it for granted, then, that law and equity authorize the payment of these bonds in lawful money, I would suggest:

1. That the Secretary of the Treasury be requested to reissue the full amount of United States notes which he has withdrawn from the circulation, and use the notes thus issued to pay off, as far as possible, the first series of the five-twenties, commencing with the first number, and calling them in in their order.

2. That a new bond be issued, principal and interest to be paid in the currency of the country, which may be a legal tender when such payment is ordered, making the rate of interest of the bond whatever the average legal rate of the several States may be for first-class securities, after deducting from the same an amount equivalent to the average rate of taxation in the several States.

It may be said that this bond would not sell. I think otherwise; there never was a more popular bond with the people than the seventy-three Treasury note. It may be claimed that the popularity of this bond arose from the fact that it was convertible into a six per cent. gold-interest bond. In my opinion very few of the original purchasers cared for the option, and at maturity did not seek to avail themselves of it, but sold the bonds for currency. A similar bond running for a longer term, bearing a lower rate of interest, with the understanding that the currency should remain undiminished, would sell as rapidly as the five-twenties would mature.

Thus money would be brought into the Treasury which would again flow out to the people in payment of the old bonds. The practicability of this measure can be easily and cheaply tried. If it fails entirely the loss will be trifling. If it succeeds but partially it will amply remunerate for all expenditures. If it proves successful, the bonds finding ready sale, it will save many millions to the Government. At all events, the effort to obtain a cheaper loan, whether successful or not, would satisfy the country that there existed an honest desire on the part of Congress to lighten the burden of the people. If it failed they would be to some extent responsible for the failure, and could not thereafter as justly complain. If the people, then, complain that the Government is paying too high a rate of interest Congress could say to them: in obedience to your wishes we have put a bond on the market bearing a less rate of interest, and stripped of the objectionable features of the old bond, and we now ask you to supply us with the money in exchange for the new bond to pay off the five-twenties.

It may be said the people have not the means to buy the new bond; but this is answered by the fact that the people and not the capitalists originally bought a large, if not the larger, proportion of the old bonds. If it is claimed that more can be made out of money invested in farms, merchandise, or manufactures, it will suggest the unfairness of the complaint made against those who make less out of money invested in bonds. By issuing this new bond in the denominations of fifty dollars and upward, you will give every man who pays taxes an opportunity to secure his fair proportion and place himself in a position where he will feel that just in proportion to the amount which his property is taxed to pay interest to others the property of others is taxed to pay interest to him.

The common sense of the people rejects with scorn the idea that a superior currency must be paid to one class of creditors and an inferior to another. Money good enough to pay the interest on a note of an individual

should be good enough to pay interest on a Government bond, the interest on ordinary debts, contracted in every-day transactions; should be as sacred as the interest upon the extraordinary debts of the Government. The Government discredits and depreciates its own paper when it acknowledges that it is money for some purposes and not for others, for this action must necessarily contribute to make it an imperfect medium of exchange and an uncertain measure of value.

NECESSITY FOR DEFINITE ACTION.

It is claimed that the increased production, resulting from the disbandment of the Army and return of our citizen soldiery to industrial pursuits, and the consequent decreased consumption on the part of the Government, led to a reduction of prices, and thus caused the depression in all branches of industry which prevails throughout the country. But this, I apprehend, is only partially true. The return of peace, and withdrawal of the Government from competition for further loans, by restoring confidence and rendering money more accessible to the people, would, under ordinary circumstances, having encouraged industry, stimulated legitimate speculation, and gone far toward maintaining prices at the old standard. Nor do I believe the present stagnation in business and stringency of the money market arise so much from a deficiency of circulation as from a general uneasiness and uncertainty on the part of the people as to the future action of Congress in reference to the currency. If it is to be contracted, no one desires to invest in produce, in real estate, or merchandise, because in the event of contraction such investments must necessarily be unprofitable. If Congress proposes to inflate, no one desires to sell, because property sold now could not be replaced for anything like the same money after inflation.

We are just in that situation where the buyer is afraid to buy and the seller afraid to sell, for both are anxiously waiting for Congress to settle down upon a definite and permanent policy. The business of the country had become adjusted to the currency of 1865-66, and had the Secretary of the Treasury not interfered with the amount then in circulation, and given the people ground to apprehend a further serious reduction, every industrial interest would, in my opinion, have continued buoyant and prosperous. The capitalist is now afraid to lend, because if the Pendleton scheme is adopted, and the land flooded with greenbacks, he will get returned to him not half the value he gave. He prefers, therefore, to keep his money in hand, locked up and inoperative, so that at the first appearance of the coming flood he may put his money in realty, and allow others less sagacious than himself to bear the loss resulting from depreciation. The intelligent borrower is afraid to borrow, because if the contraction mania which possesses the Secretary of the Treasury prevails he will be compelled to pay back money which will have perhaps twice the purchasing power of that he borrowed. You rob the creditor when you inflate, and you rob the debtor when you contract. Give steadiness of value to the currency and you will do justice to both. In reference to the evils resulting from inflation and contraction I read from a report of Sir Archibald Alison:

"Any rise in the discount of the Bank of England has been followed by increase of crime and civil suits. This is attributable to great increase in the transactions of the country, which originate in the circulation being much and often unduly stimulated; then followed by a sudden contraction of the currency, which disables persons from the performance of obligations which have been entered into. Thus one state of things produces a multiplication of contracts, and the other produces a disability for the fulfillment of them that throws people out of employment, and reduces them to a state of want, and makes such a number of people idle that crime increases, disease augments, and everything goes wrong together."

The Secretary's Fort Wayne speech was the first note of alarm. The contraction of \$4,000,000 per month which followed was evidence to the people that the theories therein expressed would be carried into effect, and that danger was imminent. To those who cannot conceive that so small a contraction, and a speech apparently so unimportant, can so greatly disturb the entire business of a nation, I refer the consequences of sudden and perhaps unfounded alarm as given by Mr. Huskisson:

"The consequences of sudden alarm cannot be measured; they baffle all ordinary calculations. Cash is then withdrawn; not because the circulation is excessive, but for the purpose of meeting possible demands, or for the purpose of hoarding. Each new calamity produced by such a state of things contributes to spread and increase the general apprehension."

Mr. Mills remarks:

"Prudence and intelligence in such a crisis avail nothing. Traders have been not inaptly compared to nine-pins, in which those who are not themselves struck are yet brought down by their neighbors in their fall, and by the failure of one the most remote may be affected through many intermediate steps."

This speech of the Secretary was the first intimation of approaching danger. The contraction of the currency which followed staggered and almost prostrated the business of the nation, not so much for the reason that that contraction made a deficiency of the circulating medium, but because it occasioned among the people an impression that there would be a deficiency. It was, to use the language of Mr. Mills, in reference to the commercial distress in England in 1847, "a case in which credit and confidence having been first shaken, ruin was brought to many by an apprehended scarcity of that circulating medium which they then had in excess, but that their alarm prevented them from making it available."

Allay all apprehension by restoring to the country the money which has been withdrawn, and by announcing that as the business of the country has adjusted itself to this volume of currency it shall remain; that you propose to let gold and silver grow up to the currency, and not to drag the currency down to it. Allow gold and silver to continue a commodity to be bought and sold like other metals, until by the natural increase of the population and wealth of the country, and by the development of our almost inexhaustible mines of the precious metals, the coin and the greenback shall at length correspond in value. Then the Government can resume specie payments, but need not necessarily withdraw the greenbacks from circulation. It can redeem them in gold on demand, and can give them out again to those who choose to take them instead of coin. The resumption of specie payment might be slow, but it would be gradual, certain, and without check or damage to the country.

Our business men, all men in fact who borrow, loan, or use money, would have a definite and permanent basis upon which to make their calculations. Here are \$400,000,000 to be continued, without addition or diminution, and to be received by the Government in all cases, and disbursed in every instance, except where the law has specifically provided for payment in coin, and to continue a legal tender in the payment of all debts. In the mean time Government recognizing no other money, and regarding gold simply as an article of trade, so long as it is held above the greenbacks in value, to be bought whenever required in the open market of the lowest bidder. It is impossible for me to think that gold would advance or the greenbacks depreciate under this arrangement. In my judgment, if Congress should announce this as the fixed, stable, and irreversible policy of the Government, every industrial interest would thrill with new vigor, the farmer, mechanic, manufacturer, and laborer would be quickened into new life, and the Republic move onward in a career of prosperity without check or hinderance.

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ONE MODE OF RESUMPTION CONSIDERED.

A proposition has been made by my colleague [Mr. GARFIELD] to resume specie payments at a certain period in the future. The time fixed upon for complete resumption is June 1, 1871. This plan, if adopted, would amount practically to immediate resumption. The effect would be discounted; a general break down of all prices to the gold level would follow, as was the case in England in the very instance cited in support of my colleague's proposition. "In May, 1819, the law was passed fixing the time and mode of resumption," and "specie payments were fully resumed on the 1st of May, 1821, two years before the time fixed by law." This sudden transition from an inconvertible to a convertible paper currency was doubtless a profitable arrangement for the few men in England who owned the revenues of the nation, and whose rents, annuities, and salaries were thus greatly enhanced in value; but it bore with crushing weight upon the laboring poor as well as upon the men of moderate means—the mechanics, tradesmen, farmers, who were in debt for their tools, their merchandise, their implements of husbandry. These found the value of the articles necessary for the prosecution of their various pursuits, as well as the products of their labor, suddenly stricken down in value, while their expenditures, their debts, the bond of the creditor, remained undiminished.

I admit that gold is the solid basis upon which to build, but I would not rush thither upon the prostrate forms of the debtors of the country. If my colleague's plan should be adopted, the debts of the debtor would remain undiminished, while his resources, his ability to pay, would be lessened from fifty to one hundred per cent., and every creditor, bondholder, holder of greenbacks, would have added to the value of promissory notes, bonds, and greenbacks from fifty to one hundred per cent. It would place one half of our people at the feet of the other half, where they must lie prostrate or undergo the humiliation of seeking relief in the courts of bankruptcy. In considering this question of resumption we should not forget the private debts of the people, or the debt of the nation, which is the public debt of the people, and that common justice requires that the measure used in the contraction of these debts should be the measure used in their liquidation.

We were forced to adopt this new standard. That its adoption worked injury to very many is undoubted. To use an illustration of my colleague, [Mr. GARFIELD,] "the man who loaned \$1,000 in July, 1861, payable in three years, was compelled to accept at maturity as a full discharge of the debt, an amount of currency equal in value to \$350 of the money loaned." We are not to blame for the loss resulting to this creditor, the sacrifice was necessary to save what to him was more valuable—the life of the nation. We cannot, however, now plead a like necessity for compelling the debtor who has borrowed \$350 to pay back \$1,000. We were forced to permit the one. If we permit the other, we do it voluntarily. Nor is it necessary, so long as peace continues, that either debtor or creditor should suffer, the only injury which can come to the creditor now must proceed from inflation—to the debtor from contraction. The financial distress of our own and of other countries in the past did not, I apprehend, arise so much from their first resort to paper money as from not stopping when they had issued enough. Their troubles grew mainly out of the overissue. They were deluded by the impracticable schemes of such men as John Law, and after rushing to the furthest limits of inflation became frightened and rushed back to the other extreme, beggaring one class of men in going out, and crushing another class in their return.

In conclusion, permit me to refer more fully to my colleague, [Mr. GARFIELD.]

ENGLISH PRECEDENT.

"I have not been," he remarked, "ambitious to add another to the many financial plans proposed to this Congress; much less have I sought to introduce a new and untried scheme. On the contrary, I regard it a strong commendation of this measure that it is substantially the same as that by which Great Britain resumed specie payments after a suspension of nearly a quarter of a century. The situation of England at that time," he continues, "was strikingly similar to our present situation; paper money had been issued in unusual volume, was virtually a legal tender, and had depreciated to the extent of twenty-five per cent. Every financial evil from which we now suffer prevailed there and was aggravated by having been longer in operation." My colleague here refers to years immediately preceding May 1, 1819, at which time the law providing for the resumption of specie payments was passed. In reply to his statement in reference to the condition of England before, at the time, and after the passage of this law, as well as to the effect which the law had upon the commercial and industrial interests of the country, I will read from Alison's History of Europe:

"The consequences of this abundant supply of the currency in Great Britain had been an extraordinary degree of prosperity to the country in the last months of 1818 and the first of 1819. In a word, the British empire in the whole of 1818 and the commencement of 1819, was beginning to taste the blessed fruits of peace and prosperity, and industry, vivified and supported by a currency at once adequate and duly limited, was flourishing in all its branches, and daily discovering new channels of profit and enterprise at the very time when scarcity of money on the continent was involving all classes in unheard-of disaster."

Now, in May, 1819, when the British empire was in this prosperous condition, and that, too, after a suspension of nearly a quarter of a century, Parliament passed a law substantially the same as that proposed by my colleague, [Mr. GARFIELD;] and what was the result? I read again from Alison:

"The effects of this extraordinary piece of legislation were soon apparent. The industry of the nation was speedily congealed as a flowing stream is by the severity of an Arctic winter. The alarm became universal—as wide-spread as confidence and activity had recently been. Prices in consequence rapidly fell; that of cotton in particular sank in the space of three months to half its former level."

"This sudden and prodigious contraction of the currency rendered the next three years a period of ceaseless distress and suffering in the British Islands. The effect upon prices was not less immediate or appalling. They sank in general within six months to half their former amount, and remained at that low level for the next three years. Imports sunk from nearly thirty-six million pounds in 1818, to £29,769,000 in 1821; exports from £45,000,000 in the former year, to £35,000,000 in the latter. Distress was universal in the latter months of 1819, and that distrust and discouragement was felt in all branches of industry; which is at once the forerunner and cause of disaster." * * * "The contraction of the currency and consequent fall of the price of agricultural produce fifty per cent. fell with crushing effect upon a country (Ireland) wholly agricultural, and a people who had no other mode of existence but the sale of that produce. This had gone on now for nearly three years, (1819 to 1822,) and its effect had been not only to suck the little capital which they possessed out of the farmers, but in many instances to produce a deep-rooted feeling of animosity between them and their landlords, which was leading to the most frightful disorders."

In short, this scheme which my colleague [Mr. GARFIELD] proposes to have us adopt, brought England from prosperity to the lowest depths of adversity, and filled the land with such terrible distress that Parliament could no longer remain deaf to the cries and importunities of the people, and in 1822 was compelled to repeal the most injurious parts of the act of 1819 by passing a law permitting the issue of one pound notes, and making them a legal tender everywhere except at the bank of England. "This," says the historian, "coupled with the grant of £4,000,000 Exchequer bills, which Government were authorized to issue in aid of the agricultural interest, had a surprising effect in restoring confidence and raising prices."

Relief from Disabilities.

SPEECH OF HON. J. MULLINS,

OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,

June 18, 1868,

On the bill relieving R. R. Butler from political disabilities.

Mr. MULLINS. Mr. Speaker, I beg leave to submit a few arguments, founded upon well-established facts, touching the pending contest for a seat in this Congress between Hon. R. R. Butler, contestee and member-elect from the first district of Tennessee, and Hon. Joseph Powell, contestant. And it is well to here respectfully state that in the course of my remarks I shall not consent to any interruption by any gentleman on this floor.

It is with no little degree of painful regret that I rise to enter a most solemn protest against the admission to a seat on this floor of a gentleman who presents to this honorable body the *prima facie* evidence of a right and title thereto. Especially does it afford me pain when I consider that this gentleman, who so confidently asserts his right to a seat in this legislative assembly, is a Tennessean, a fellow-citizen of the same great State in whose representation in the national Council I have the honor to participate. And, sir, the task becomes still more disagreeable when I remember that the gentleman was elected by the suffrages of a loyal, nay, a Radical constituency, who acknowledged him one of the leaders of the great Radical Republican party of Tennessee.

The only apology that can be offered on behalf of his constituency for thus electing a man whose previous record is one of disloyalty and instability is, that during the progress of the war the individual votes and doings of the members of the rebel legislature of Tennessee were seldom ever published, and the people were therefore kept ignorant of Mr. Butler's conduct as a legislator. Since the war, and at the outset of his congressional campaign, Mr. Butler denied his record in advance and thoroughly blinded and deceived the people by his strenuous protestations of loyalty and Radical faith; and gained their entire confidence by his deep-laid schemes, his honeyed sophistries, and the subtle persuasions of his seductive eloquence.

Here then, sir, is a gentleman who claims a seat in the Congress of the United States, who was duly elected by a majority of the loyal people of his district, and who presents to you his certificate of election signed by the Governor of Tennessee, and bearing upon its face the great seal of the State. But, sir, notwithstanding all these *prima facie* evidences of the gentleman's eligibility, there are many facts contained in the record of his conduct during the rebellion which ought forever to exclude him from all participation in the affairs of this Government.

I am prepared to show how, in the course of the rebellion, this gentleman, availing himself of the many advantages of the chameleon, and assuming the characteristics and instincts of that loathsome saurian, deceived the people with his ever-changing hues; one while showing to the Union people the splendid tints of the loyal "blue," and another while displaying to the rebels his true color, the tawny gray! I shall show how, in the course of his political intrigues, he accommodated himself to every change that characterized the progress of the war; how, in the palmiest days of the rebellion, when the cause of the Union seemed most doubtful of success, and when the efforts of all true patriots were most needed, this Christian gentleman, this model patriot, anticipating, no doubt, the honors, the glories, and the emoluments of successful rebellion, dedicated himself in the capacity of a State legislator to the cause of "southern independence," and gave his sanction and support to almost every im-

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portant measure that was adopted in the court of "King Harris" for the maintenance of the war and the promotion of rebellion against the Constitution and laws of the United States!

I shall also show how, when the pulse of the great rebellion, which had hitherto beat so high and so full, began to fail and grow feeble; when its hopes began to fade and to droop; when its once plethoric constitution began to sink and give way from loss of blood; when its "peculiar institution" had vanished, and, in short, when the whole frame of the monstrous giant began to quiver and sink in the throes of a disastrous death, this sprightly, sagacious patriot well knew how to adapt himself to existing circumstances; he did not forget the advantages of the many-colored lizard; his hue, which had so recently discovered the peculiar magnificence of gray chivalry, began gradually to change with the status of affairs to the soft splendors of the loyal "blue." The first unmistakable symptoms of Mr. Butler's disloyalty to the Government, and his espousal of the cause of secession, became apparent in 1861, when, pursuant to a call of Governor Isham G. Harris, for an extra session of the General Assembly of Tennessee, of which Mr. Butler was then a member, which extra session was for the purpose, as set forth in his proclamation, of legislating upon subjects touching the then incipient rebellion, and, among other things, for the perfecting of an act of secession, and an alliance of the State of Tennessee with the seceding States of the South, Mr. Butler made his appearance at Nashville among the other members, and, though at that very time under a solemn oath to support the Constitution of the United States and of Tennessee, voted for the following resolutions marked Exhibit No. 7, in the printed evidence before me, which exhibit is a certified copy of that in the House Journal of that Assembly.

SATURDAY MORNING, December 14, 1861.

Senate resolution No. 59, on the subject of a reconstruction of the Government of the United States, was taken up, and Mr. Jones offered the following resolutions in lieu:

Resolved, That it is the sense of this General Assembly that the separation of those States now forming the confederate States of America from the United States is, and ought to be, final, perpetual, and irrevocable; and that Tennessee will, under no circumstances, entertain any proposition from any quarter which may have for its object a restoration or reconstruction of the late Union on any terms or conditions whatever.

Resolved, That the war which the United States are waging against the confederate States should be resisted with the utmost vigor and energy, and until our independence and nationality are unconditionally acknowledged by the United States.

Resolved, That Tennessee pledges herself to herself and to her sister States of the confederacy that she will stand by them throughout the struggle; that she will contribute all the means which her resources will supply, so far as may be necessary, to the support of the common cause, and will not consent to lay down arms until peace is established on the basis of the foregoing resolutions.

Mr. Jarnagin offered the following amendment to the resolution in lieu:

Resolved further, That this assembly spurns with utter indignation the proposition which has recently been made in the Congress of the United States to appoint commissioners on the part of the Government to meet commissioners on the part of the confederate States, with a view to the reconstruction of the Union.

Pending which, on motion of Mr. Kennedy, the house adjourned to half past nine o'clock Monday morning.

In voting for these resolutions, Mr. Butler not only declared his sympathy with the cause of secession, but palpably, willfully, deliberately and without restraint, violated his oath to support the Constitution of the United States! But his treason does not stop here. This was only the initiative step in his mad career. After the secession resolutions of May 6, 1861, were passed, and the unwilling State of Tennessee had become, by their treachery, a member of the southern confederacy, Mr. Butler voluntarily became a candidate, was reelected, and became an actual member of the avowed rebel legislature of 1861-62, and took upon himself, voluntarily, an oath to sup-

port the pretended constitution of the so-called confederate States.

House Journal for 1861-62.

The General Assembly of the State of Tennessee, begun and held in the city of Nashville, State of Tennessee, on Monday, the 7th day of October, in the year of our Lord 1861, it being the first session of the thirty-fourth General Assembly of the State of Tennessee; on which day (it being the day fixed by the constitution of Tennessee for the meeting of the General Assembly) Frederick S. De Wolfe, clerk of the last house of representatives, called the house to order, and proceeded to call the State by representative districts, when the following gentlemen appeared, presented their credentials, and took their seats, the oath to support the constitution of the confederate States of America, and of the State of Tennessee, being administered by Hon. William R. Turner:

From the county of Sullivan—Alvin M. Willard.
From the county of Washington—S. R. N. Patton.
From the county of Greene—James P. McDowell.
From the county of Hawkins—William Simpson.
From the county of Cooke—J. H. Randolph.
From the county of Jefferson—J. Monroe Meek.
From the county of Grainger—D. W. C. Senter.
From the county of Claiborne—J. J. Bunch.
From the county of Knox—John M. Fleming.
From the county of Blount—Stephen J. Matthews.
From the county of Monroe—Joseph Walker.
From the county of McMinn—B. F. Martin.
From the county of Bradley—H. M. Edwards.
From the county of Marion—William R. Rankin.
From the county of Franklin—H. P. Carr.
From the county of Cannon—Stephen H. Woods.
From the county of Bedford—Daniel Parker.
From the county of Warren—John J. Lowry.
From the county of Overton—William Donaldson.
From the county of Jackson—E. B. Brooks.
From the county of Smith—Wilson Y. Martin.
From the county of Sumner—James M. Head.
From the county of Rutherford—E. A. Keeble.
From the county of Lincoln—William Talley.
From the county of Marshall—W. L. McClelland.
From the county of Williamson—Samuel S. House.
From the county of Robertson—John E. Garner.
From the county of Davidson—A. L. Demoss and Ira P. Jones.

From the county of Hickman—J. D. Earley.
From the county of Montgomery—D. N. Kennedy.
From the county of Stewart—H. C. Lockhart.
From the county of Dickson—J. Eubank.
From the county of Maury—H. T. Osborn.
From the county of Lawrence—Thomas H. Payne.
From the county of Hardin—Joseph M. Carter.
From the county of Henderson—William C. Tucker.
From the county of Carroll—J. C. Hawkins.
From the county of Henry—H. E. Camings.
From the county of Weakley—W. H. M. Brooks.
From the county of Obion—James R. Gardner.
From the county of Gibson—J. T. Carthel.
From the county of Madison—A. S. Rogers.
From the county of McNairy—W. D. Jopling.
From the county of Hardeman—Austin Miller.
From the county of Fayette—F. B. Ragland.
From the county of Haywood—Richard Hill.
From the county of Wilson—Abe Caruthers and W. L. Martin.

From the county of Shelby—John Martin and B. M. Estel.

From the counties of Carter and Johnson—R. R. Butler.

From the counties of Green, Hawkins, Hancock, and Jefferson—James Britton, jun.

From the counties of Knox and Sevier—R. II. Hodson.

From the counties of Anderson and Campbell—William Wallace.

From the counties of Smith, Sumner, and Macon—Nathan Ward.

From the counties of Polk, McMinn, and Meigs—A. S. Jarnagin.

From the counties of Rhea, Bledsoe, Sequatchie, and Hamilton—James C. Warner.

From the counties of Grundy, Coffee, and Van Buren—Isaac C. Garrettsen.

From the counties of Davidson, Robertson, Montgomery, and Cheatham—Alfred Robb.

From the counties of Rutherford and Bedford—Thomas G. Mosely.

From the counties of Lincoln, Giles, and Marshall—John Laws.

From the counties of Williamson, Maury, and Lewis—R. G. Ellis.

From the counties of Benton and Humphreys—J. N. Little.

From the counties of Carroll, Gibson, Madison, and Henry—William A. Dunlap.

From the counties of Dyer and Lauderdale—S. D. Whitten.

From the counties of Perry and Decatur—W. G. Fisher.

From the counties of Fayette, Tipton, and Shelby—R. B. Somerville.

[The above is to be found in book No. 1, pp. 1, 2, and 3.]

I, Andrew J. Fletcher, secretary of State of the State of Tennessee, do certify that the foregoing is a copy of an extract from the house journal of the confederate legislature of Tennessee, of 1861-62, the original of which is now on file in my office.

In testimony whereof I have hereunto subscribed my official signature, and by order of the Governor affixed the great seal of the State of Tennessee, at the department in the city of Nashville, this 11th day of December, A. D. 1867.

A. J. FLETCHER,
Secretary of State.

On the 3d of December, 1861, Mr. Butler offered a resolution tendering the hall of representatives to the presidential electors, in which to cast their votes for rebel president and vice president; which resolution Mr. Butler supported with his vote.

TUESDAY MORNING, December 3, 1861.

"Mr. Martin offered the following resolution, No. 82: *Resolved*, That the hall of the house of representatives be tendered to the electoral college on Wednesday, the 4th instant, to hold the election for president and vice president of the confederate States of America.

"Mr. Butler offered the following resolution in lieu: *Resolved*, That the hall of the house of representatives be, and is hereby, tendered to the presidential electors on to-morrow, from eleven o'clock a. m., and that they are hereby requested to meet in said hall to cast the vote for president and vice president.

"Mr. Robb moved to amend the resolution in lieu by inserting after eleven o'clock to half-past two o'clock.

"Which was adopted; and the resolution of Mr. Butler was then adopted in lieu of Mr. Martin's, and the resolution as thus amended was then adopted—yeas 47, nays 7.

Representatives voting in the affirmative are: Messrs. Bowden Brooks of Jackson, Brooks of Weakley, Butler, &c.

This is another fair specimen of the gentleman's loyalty and devotion to the cause of his country! Mr. Butler offered a resolution, December 5, 1861, instructing the senators and requesting the representatives of Tennessee in the rebel congress to procure the passage of a bill appropriating the fund seized by the authorities of Tennessee belonging to the United States for the payment of claims against the United States held by "citizens of the confederate States" for carrying the mails and taking the census of 1861.

THURSDAY MORNING, December 5, 1861.

"Mr. Butler offered house resolution No. 83, as follows:

"Whereas there are many citizens of the confederate States who have just claims against the United States for carrying mails and taking the census of 1860: Therefore,

Be it resolved by the General Assembly of the State of Tennessee, That our senators in congress be, and are hereby, instructed, and our representatives requested, to secure, at as early a day as possible after congress shall convene, a bill providing for the payment of said claimants, and they ask congress to appropriate the fund seized by the State authorities of Tennessee belonging to the United States to the mail contractors and census takers of Tennessee who have claims against said Government; and that the secretary of state be, and is hereby, requested to forward a copy of this resolution to our senators and representatives when congress assembles.

"Which on motion was referred to the committee on confederate relations."

On the 15th of February, 1862, Mr. Butler voted for a bill granting power to the banks of Tennessee to remove their location in order to escape being captured by the Union armies:

House journal of the Tennessee Legislature, session of 1861-62.

SATURDAY MORNING, February 15, 1862.

"On motion of Mr. House the rules were suspended, and senate bill No. 89, to grant power to the banks in the State of Tennessee to remove their location if they apprehend danger from an invading army, and for other purposes, was taken up and passed its third reading—yeas 56, nays 0.

"Representatives voting in the affirmative are—Messrs. Britton, Brooks of Jackson, Brooks of Weakley, Bunch, Butler, &c.

Under this act the Bank of Tennessee was removed South, which bank contained among its assets about ten millions of money belonging to the people of the State, and a large part of it constituting a fund appropriated to the education of the children of Tennessee. This money was all converted into confederate bonds and notes for the support of the rebellion, and consequently was lost irrevocably to the people, the rightful owners. The trifling sum of about four hundred and forty-six thousand dollars out of the bank's assets of above eleven millions was all that was recovered to the State at the end of the war. Thus it was that the gentleman, by voting for this measure, not only contributed to the cause of treason by securing this money to the use of the pretended confederate government, but cheated the poor children of the State out of their educational fund and the people out of their just rights. Mr. Butler amended and voted for a bill to

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amend "An act to abate the suits of aliens," passed July 1, 1861, which bill provided that so much of the said act as required the suits of all citizens of the United States (the "aliens" mentioned in the bill) then pending in the courts of Tennessee, to be dismissed, should be repealed; that said suits might be prosecuted to final judgment, and that such final judgment should inure to the benefit of the so-called confederate States under the "sequestration law."

A bill to amend "An act to abate suits of aliens," passed 1st July, 1861.

Be it enacted by the General Assembly of the State of Tennessee, That so much of said act as requires suits then pending in behalf of citizens of the United States to be dismissed is hereby repealed, and said suits may be prosecuted to final judgment. This act shall take effect immediately.

Indorsed: Mr. Butler. Strike out "immediately," and insert "from and after its passage."

Amendment to house bill No. 9, to be inserted immediately after the words "final judgment," which judgment shall inure to the benefit of the confederate States, under the sequestration law, and that fact shall be stated on the record.

Indorsed: "Adopted October 12."

Thus it will be seen that the gentleman, by giving his assent to this measure, defrauded many loyal citizens of the northern States of their just claims against the merchants and other citizens of Tennessee, and appropriated the money to the use of the rebellion.

On the 11th of October, 1861, Mr. Butler gave his vote for a bill to amend an act passed June 25, 1861, entitled "An act to raise and equip a provisional force, and for other purposes," which bill was passed.

"WEDNESDAY MORNING, October 9, 1861.

* * * * *
Mr. Osborne introduced house bill No. 6, to be entitled "An act to amend an act passed June 25, 1861, entitled 'An act to raise and equip a provisional force, and for other purposes,'" which was read a first time and passed.

* (The above is to be found in Book No. 1, page 28—Secretary State.)

"FRIDAY MORNING, October 11, 1861.

* * * * *

"House Bills on second reading.

"House bill No. 6 was read a second time, and the amendment recommended by the committee, striking out the first section of the bill, was, on motion of Mr. Martin, of Wilson, concurred in, and the bill passed—yeas 53, nays 13.

"Representatives voting in the affirmative are: Messrs. Butler, Carr, Carter," &c.

This "provisional force" was raised, organized, and equipped for the purpose of repelling the invasions of the Union armies upon the soil of Tennessee.

When, in 1861, at the request and by the authority of the Government of the United States, the Union men of upper East Tennessee had burned the bridges of the East Tennessee and Virginia railroad in order to retard the movements of the rebel armies in Virginia; and when the rebel authorities at Nashville and throughout the State were mad with rage and thirsting for the blood of those brave patriots who so daringly struck the blow, Mr. Butler, upon the floor of the house of representatives at Nashville, in the strongest terms and in a spirit of the bitterest malignity, denounced the perpetrators of that most righteous deed, and declared that they ought to be hunted down like wild beasts and brought to condign punishment.

Who ought to be brought to condign punishment? Those brave, dauntless Unionists who, at the behest of their Government, and although being in the very heart of the rebellion, dared to strike a blow for their struggling country? To what punishment should they be brought? To the punishment of the rope, the bullet, and the gibbet! And not a few, alas! of those brave men did suffer such a punishment for that act of injury to the rebel cause.

Some time in 1861 or 1862, when the rebellion was at the highest of its vigor and its prospects of success were brightest, Mr. Butler addressed a certain letter from Nashville to Colonel J. G. Fellers, of Carter county, Tennessee, than whom there is not a more honor-

able, loyal, and patriotic gentleman in East Tennessee. This letter set forth, in substance, that the independence of the southern confederacy was then a fixed fact; that it was useless for the people of East Tennessee to adhere any longer to their Union principles; and that now, while a fair opportunity offered itself to redeem their characters, so odious to their secession neighbors, they should forever renounce their fidelity to a Union which no longer existed, and join hand and heart with their patriotic fellow-citizens of the South (the rebels) in the cause of southern independence!

He therefore proposed to Colonel Fellers that if he would aid him in enlisting enough men in the counties of Johnson and Carter to constitute a full regiment for the rebel service, of which force Mr. Butler was to be colonel, he (Colonel Fellers) should be lieutenant colonel of such regiment. Colonel Fellers was highly incensed at such a proposition and treated it with utter contempt.

Mr. Butler subsequently made propositions verbally to Hon. E. Simerley, another Union man of Carter county, who can testify to such fact. Now, if the gentleman, as he tries to establish, intended only to deceive the rebels with the pretense of raising such regiment for their service, and when organized to send them through the lines to the Federal Army, why did he not communicate such intention to Colonel Fellers and Mr. Simerley when he made them the propositions? They were Union men, they were worthy of his confidence, and the propositions made were strictly private. They would never have betrayed him in such a design; and how could he have expected their cooperation in such an enterprise without communicating to them at first his alleged true intentions? No, sir; the gentleman was evidently in grave earnest as to raising a regiment to serve the rebel government; the circumstances will not admit of any other conclusion. The letter I have mentioned was read at that time by several reliable persons, by whom, as well as by Colonel Fellers himself, its contents, as just stated in substance, can be thoroughly established.

These are some of the many samples of the gentleman's acts of disloyalty and hostility to the Government of the United States for which he now professes so much deep reverence and devotion.

Such is the gentleman's record up to February 15, 1862. About this date, Sunday, February 16, 1862, to the great consternation and surprise of Harris and his legislature (of which Mr. Butler was then a member) the news of the fall of Fort Donelson reached Nashville. Instantly the whole city is thrown into the wildest confusion and dismay. The bells of the different churches, in which rebel congregations had gathered to pay their hollow devotions to the God of the universe by invoking the destroying wrath of Heaven upon the armies of the Union, were sending forth their wildest peals of alarm. The rebel citizens, horrified, dismayed, and pale with terror, are running from street to street, not knowing where to hide their guilty heads, as though the archangel of God was sounding the last trump of the resurrection! Harris and his band of guilty conspirators hastily convene at the capitol; the city of Memphis is fixed as the scene of their future operations; a precipitate flight is next agreed upon, and that devoted body of southern patriots is at once dissolved. The capitol is plundered, and its archives and movable property conveyed to the cars. A confused, terrified, surging multitude, consisting of his rebel excellency, his late august assembly, and his many citizen adherents, assemble in hotch-pot at the railroad depot; a victorious Union Army is thundering almost at the very gates of the terror-stricken metropolis.

The cars are boarded in hot haste, the signal given, and off they fly on the wings of steam

toward the city of Memphis. Nashville is soon entered by the loyal and victorious troops of General Buell, and the stars and stripes once more float from the capitol of Tennessee! But in the midst of these great events, so pleasing and so glorious to every loyal patriot of Tennessee and the whole country, where do we find this Union-loving gentleman who so persistently lays claim to a clear and irreproachable record? Did he embrace the opportunity that beckoned him to fly to the arms of his friends in the Union Army at Nashville? Did he throw off the galling yoke of rebel oppression and duress which he claims to have been forced to wear, and did he place himself under the protecting ægis of the Government he now professes to adore? No! Instead of gladly remaining in Nashville with the few faithful that were found there to welcome the advent of the loyal conqueror, and to greet with triumphant shouts the starry folds of that dear old ensign of American liberty, he fled like a guilty criminal who dreads the stern justice and retributions of the law, and we next find him more than three hundred miles from Nashville away up in the mountains of East Tennessee among his constituency! Why did he fly from Nashville at the approach of the Federal Army? Were they not his friends? Was not their cause his cause? Was he not a Union man? Had he not consented to become a member of the rebel legislature under Governor Harris merely to check and retard as much as possible a series of legislative enactments so destructive to the lives and property of his loyal constituents, and to protect with the influence of his position the Union people of Tennessee? Had he ever done a single act voluntarily to the injury of the Union cause? Did he not love the Union and revere the Government of our fathers, and did he not worship its flag? Was not his escutcheon bright, his record clean and unimpeachable? Undoubtedly the gentleman claims such a record. But if all this is true, why did he fly? That is the question, and there is the rub. No, sir! He fled from his loyal countrymen because of the secret though terrible condemnations of a guilty conscience, which makes cowards of us all! He dreaded to face the majesty of his Government, which he had offended and injured, and a just and expected punishment for crimes which he knew he had committed!

He fled to the bosom of a loyal constituency, it is true. But did he long remain there? Did he share with them their misfortunes, their perils and hardships?—did he conceal himself, as they had to do, in the dens and coverts of the rock-ribbed mountains to escape the vengeance of those blood-thirsty minions of treason who were daily plundering the community and murdering the inhabitants. No, sir. Instead of this, where do we next find him, and what is he doing? Contrary to everything we might naturally expect of a Union man, as he professes to have been, we find Mr. Butler, in obedience to the call of the rebel Governor Harris to convene at Memphis, stealing from his Union friends at home, and sneaking, like a sheep-killing spaniel, away around to the south of Nashville, through Alabama and northern Mississippi, and making a circuit of near a thousand miles in order to reach Memphis, the then new confederate capital of Tennessee, where he again joined his rebel coadjutors in their dark conclaves to plot, as usual, against the life of this Republic.

Sir, can there be any clearer evidence of the gentleman's voluntary complicity in the crimes of rebellion? Could any stronger or more overwhelming proof be desired to establish the guilt of his intentions? Yet in the very face of this dark record he took and subscribed the following oath which is required by a law of the State to be taken by candidates for Congress:

I, R. R. Butler, do most solemnly swear that I have never voluntarily borne arms against the Govern-

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ment of the United States for the purpose or with the intention of aiding the late rebellion, nor have I, with any such intention, at any time given aid, comfort, counsel, or encouragement to said rebellion, or to any act of hostility to the Government of the United States.

I further swear that I have never sought or accepted any office, either civil or military, or attempted to exercise the functions of any office, either civil or military, under the authority or pretended authority of the so-called confederate States of America, hostile or opposed to the authority of the United States Government, with the intent and desire to aid said rebellion; and that I have never given a voluntary support to any such government or authority. So help me God.

R. R. BUTLER.

Sworn to and subscribed to before me, this 21st day of June, A. D. 1867.

JONATHAN LAWRENCE,
Justice of the Peace for Jefferson county.

Sir, how could the gentleman escape the condemnation of a court of justice upon a charge of perjury with such evidence as this before them? Have not the honorable Committee of Elections already pronounced him "guilty" in declaring him unable to take an oath which, in substance, he has already taken? Does he not already stand convicted before the country of violating a law which forbids men to swear falsely? How can the gentleman, after having voluntarily become a candidate for the rebel legislature of 1861-62, and after having voluntarily taken an oath, as a member of that body, to support the pretended constitution of the so-called confederate States; after having voted for the appropriation of men and money to the rebel cause, and voluntarily proposed various measures looking to the promotion of the rebellion; after having made a speech in the house denouncing Union men for burning the bridges of the rebels at the request of the United States Government, and declaring that they should be hunted down and brought to "condign punishment;" after having attempted to draw Union men into the design which he had formed of raising a regiment for the rebel service; after having fled from Nashville at the approach of the Union Army, joined Harris and his legislature at Memphis, and persisted thereafter in legislative acts hostile and injurious to the United States Government—how can he solemnly swear before Almighty God that he "never sought nor accepted any office, either civil or military, or attempted to exercise the functions of any office, either civil or military, under the authority or pretended authority of the so-called confederate States of America, hostile or opposed to the said United States Government, with the intent and desire to aid said rebellion, and that he never gave a voluntary support to any such Government or authority?"

Whatever doubts might be entertained in favor of Mr. Butler's intention as a Unionist up to the fall of Fort Donelson and capture of Nashville, they are completely dissipated when we consider his shameful refusal to remain at Nashville within the Federal lines, his disgraceful flight, and his subsequent presence at Memphis in the rebel legislature.

But, sir, however revolting the gentleman's record of political crimes, as thus far traced, may appear, I do not hesitate to say that its facts must sink into utter insignificance when taken in comparison with what I have yet to charge and to prove by the printed evidence at hand.

In this age of Christian civilization, in this land of Bibles, whose humanizing influences flow out like streams of living water to soften and to soothe the wicked hearts of men, to teach them to love peace and gentleness, to hate crime, and to elevate them to that sublime standard of virtue to which God originally intended and still desires mankind to attain; in this glorious era of Divine revelation which teaches man his true relations to his fellow-men and to his God, which warns him of sin, of righteousness, and of judgment, and which points him continually to that bloody

cross on which an agonizing Saviour expired for his sins; what, I ask, does a Christian community in this age think of a man who can coolly and deliberately plot, and by trifling rewards procure the assassination of his fellow-being? Such, sir, is the charge I prefer, and propose to prove against the gentleman who claims a seat in the great council of this nation; and here is the proof:

"Question. Please state if Johnson county, where said R. R. Butler resided, was not infested by a rebel company of home guards, commanded by William K. Waugh, and if you, while in the United States Army, was not ordered to come to said county, and while in said county if it did not become necessary to kill said Captain Waugh, and if you did not kill him, and what took place between you and said Butler relative to said killing?"

"Answer. Johnson county, where said Butler resides, was infested by a rebel company of home guards, commanded by William K. Waugh, and while belonging to the United States Army I was ordered to come into said county; and while there it became necessary to kill said Captain Waugh; and I did kill said Captain Waugh; and after I returned to the Federal Army I told said Butler that I had killed said Captain Waugh; he told me I had done the best thing I ever did in my life, and told me to go to the store in Knoxville and help myself to the finest pair of boots in the store; and I did so.

"Further deponent saith not."

"Question. You say in your book (page 239) that Sam. McQueen, Greene Moore, and other rebels of Johnson county, had entered into a conspiracy to kill all the Union men of Johnson county and burn their houses. Please state if R. R. Butler did not come to you at Knoxville and agree if you would go through the rebel lines and go to Johnson county and kill said McQueen, that he would make you a present of a fine military suit, and if you did not agree so to do?"

"Answer. He did agree, if I would go through and kill McQueen, he would give me a suit of military clothes; I did go through the rebel lines and made the effort, but failed."

In these two instances Mr. Butler according to his own proof, is legally and morally guilty of the subornation of assassination, and is, therefore, just as much an assassin as those who committed and attempted to commit the infamous deed!

In the history of all great criminals it is their first and greatest aim to conceal, by every artifice that devilish ingenuity can fabricate, their dark deeds of villainy and murder. However vile and depraved, however lost to all sentiments of common humanity, they dread to be held up in the glaring light of truth to the gaze of mankind, as a spectacle of ignominy, and an object of universal execration. But this gentleman, unlike the common villain, despising the shame and condemnation of public opinion, disdaining the contempt of all good men, scorning the spirit of Christian civilization, and mocking at the law which punishes the assassin, comes up before the Congress of the United States, and with a bluish, shameless face, with all the brazen effrontery of a devil incarnate, points to the bloody garments of his murdered fellow-man, and says, "This is my deed; this is my recommendation to a seat in Congress; this is the proof of my loyalty!"

Will this honorable body accept the gentleman's complicity in the crime of assassination as a proof of his loyalty and as a virtue? Will they admit to a seat in the Congress of the American Republic a man who is shown to be a traitor, a perjurer, and an assassin? If this is the course you propose, if this is the precedent you intend to establish, go exhume from a dark and ignominious grave the decaying bones of the assassin who, in an hour of national rejoicing, struck down our beloved, our lamented Lincoln, and plunged the nation into the depths of a mighty sorrow; gather up his bones, build a splendid mausoleum to his fame, place them in its sacred vault, and in letters of gold, let this epitaph perpetuate his glory: "To the memory of Booth, the assassin of an American President!" Rest not till you have rescued from the condemnation of all mankind, and exalted to honor and to glory the memory of every murderer, every assassin that ever stained with his deeds of blood the historic page! The victims of the

gentleman's unholy revenge were rebels, it is true; they may have richly deserved death as a penalty for their offenses. But was there not a free and open field in which the gentleman might have displayed his valor and fleshed his maiden sword in honorable warfare? Or if he did not choose this method of chastising them, were there no laws of the land of which the gentleman might have availed himself as a means of his vengeance, instead of resorting to a crime blacker than treason itself, of which no man but a coward was ever known to be guilty.

And how peculiarly ill does it become the gentleman to allege their rebellion, with all its attendant crimes, as the reasons which impelled him to procure their assassination! Is he not, in a great measure, responsible for their disloyalty in his various treasonable acts in the Legislature; in his public expression of treasonable sentiments; in his proposition to raise and become the colonel of a regiment of his fellow-citizens for the rebel service? Is it not reasonable to suppose that by such an example, by such encouragements, many of his countrymen would become rebels? And yet the gentleman voluntarily brings up and displays to the world his complicity in their murder as a recommendation to a seat in this Congress, and as a proof of his loyalty! I have said what I have said not out of any motives of a personal character, but from a sense of duty to my constituency and to my country; and if the gentleman is offended I feel that I am not responsible; it is his record that has spoken, not I. I believe that the test-oath is a barrier absolutely necessary to the purity of the national council, and no man who cannot take it without swearing falsely ought to be admitted to a seat as one of its members.

Contested-Election Case.

SPEECH OF HON. L. S. TRIMBLE,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

June 20, 1868.

The House having under consideration the contested-election case of McKee vs. Young, from the ninth congressional district of Kentucky—

Mr. TRIMBLE, of Kentucky, said:

Mr. SPEAKER: I do not expect in the time that is allowed me to be able to discuss either satisfactorily to myself or so as to do justice to its importance, the question under consideration. It involves the right of the people of the ninth congressional district of Kentucky to a Representative of their own choice in the Congress of the United States. The Constitution of the United States fixes all the qualifications necessary to entitle a member to a seat on this floor:

"Sec. 2. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

"No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen. Representatives and direct taxes shall be apportioned among the several States, which may be included within this Union, according to their respective numbers."

John D. Young, more than twenty-five years of age, a native-born citizen of the State of Kentucky, and at the time a citizen of the ninth congressional district of the State of Kentucky, elected a member of this House by a majority of 1,479 votes cast for him in conformity to the laws of Kentucky, with the certificate of the Governor of Kentucky, in due form of law, presents himself at the bar of this House, and offers to take the oath prescribed by the Constitution, with the additional oath known as the test-oath, as follows:

"That hereafter every person elected or appointed to any office of honor or profit under the Government

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of the United States, either in the civil, military, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or other emoluments thereof, take and subscribe the following oath or affirmation:

"I, A. B. do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. And I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: so help me God.

"Approved July 2, 1862."

The oath of office prescribed in the Constitution of the United States, as follows:

"The Senators and Representatives before mentioned and the members of the several State Legislatures, and all executive and judicial officers both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution, but no religious test shall ever be required as a qualification to any office of public trust under the United States."

That requires a member of Congress to swear that he will support the Constitution. This is the qualification fixed by the Constitution itself, and is all that Congress ever had a right to ask at the hands of John D. Young or anybody else to entitle him to a seat as a Representative in this House. The framers of the Constitution, in my judgment, never intended or expected that the right to a seat on this floor would be touched by the Legislature of the country. They fixed the qualifications in the Constitution itself, which neither Congress nor any power in this country has a right to add to or diminish. Congress can add nothing to the oath. Hence I maintain that the test-oath prescribed and required to be taken by members of Congress is in violation of the Constitution, and therefore void. And while I say this, I would not, as a member of this House, take that oath unless truthfully and conscientiously. Nor do I believe John D. Young would take it unless he could do it truthfully and conscientiously. He presents himself here and asks to be admitted. He proposes to take your test-oath. He is met at the threshold and told to depart. Congress becomes the keeper of his conscience, and says to him you shall not take this oath nor occupy the position the people of your district elected you to fill.

This principle has been established and maintained by this Government from the commencement of it up to this time. It has been sustained by the Supreme Court in the case of Garland *ex parte*, which will be found in 4 Wallace, page 333.

Congress, by an act passed January 24, 1865, extended the provisions of the act of July 2, 1862, so as to require the oath therein prescribed to be taken by lawyers practicing in the courts of the United States. That act was declared by the Supreme Court, upon solemn adjudication, after thorough argument, to be unconstitutional, not only because it was in conflict with the inhibition against the passage of bills of attainder, but because it was to all intents and purposes an *ex post facto* law, besides being in contravention of that clause in the Constitution vesting the pardoning power in the Executive. But there is another and far weightier reason for holding the act of 1862 unconstitutional, when sought to be enforced as to members of Congress, and that is, that it superadds qualifications, or, which amounts to the same thing, prescribes disqualifications for Representatives unknown to the Constitution, which in the very nature of things

Congress has no power to do. That decision, it is true, only applied to attorneys-at-law; but the principle applies, with great force, to a member of Congress. This principle was early recognized by Congress in the case of *Barney vs. McCreery*, from Maryland, and reaffirmed in the cases of *Fouke vs. Trumbull*, and *Turney vs. Marshall*, from Illinois. In the latter case the distinguished chairman of the committee at that time, Mr. BINGHAM, says in his report:

"By the Constitution the people have the right to choose as their Representative any person having only the qualifications therein mentioned, without superadding thereto any additional qualification whatever. A power to add new qualifications is equivalent to a power to vary or change them."

This was the language of Mr. BINGHAM as chairman of the Committee of Elections. Can any proposition be clearer? That Congress cannot add to or diminish the requirements of the Constitution, either in the qualifications or in the oath of office. The Constitution is the great Magna Charta. It is the supreme law of this land in war and in peace, for rulers and people. I ask that it be obeyed. Obliterate your odious test-oath, and let it no longer stand as a monument of partisan legislation.

But, Mr. Speaker, I cannot hope that this House will concur with me in this opinion. You act, in the language of Mr. STEVENS, of Pennsylvania, your great chief, outside of the Constitution. I will proceed to argue this proposition, and yielding, for argument's sake, the full force and effect of the act of July, 1862, known as the test-oath act, I propose to invite your attention to the testimony elicited against Mr. Young, and on that testimony, in my judgment, if carefully weighed and considered by members and the rules of law applied that would be applied to the meanest and poorest criminal in this land, this House must render a verdict in favor of John D. Young and admit him to his seat. So far as the charge of giving aid and comfort to the rebellion is concerned, or any act that would preclude him from taking this oath, the evidence totally fails.

Now, what do they prove? What is the evidence? Take the strongest points relied upon by the friends of McKee—I will not say the committee, for they have said otherwise—for with them I propose to deal, as presented here, and apply the rule of law to them. Mr. Henry H. Ewing swears that Judge Young was at Prestonburg in 1861, long before the passage of this test-oath law, and when there was no law either of Congress or of the State of Kentucky preventing Mr. Young being at Prestonburg. The witness swears that confederates were organizing there, and he saw Mr. Young. He says:

"I do not know that he had a gun there. He showed me a gun standing in the porch of the house where he was staying, and asked me to take care of it. He said, 'There is a good gun; take care of it.' He never spoke to me about going into the rebel army."

This is the whole evidence in relation to the gun connecting Young with the gun. The witness at that time was not in the rebel army, and did not join the rebel army for more than one year after that time. Upon that testimony Mr. Young is told that he cannot take the oath truthfully, and that he must depart hence. There is no evidence in this record to show that Mr. Young took that gun there, that he owned it, or had anything to do with it. Nor is there any proof that this man Ewing intended to join his fortunes with the confederacy—none whatever. It was during a time of excitement in Kentucky, and Mr. Young might have been as loyal a man as any in Kentucky, and his motive, for aught I know, or the proof shows, might have been to give that gun to that man to prevent its going into the confederate service to be used against the Government of the United States. This man Ewing may have been a Union man at the time.

There are thousands of men in Kentucky who in 1861 opposed secession and revolution

with all their power, and who afterward united their fortunes with the confederacy when a change of policy was adopted, as they conceived, and you now admit. Moreover, the testimony of numerous witnesses shows that Mr. Young went to Prestonburg for the sole purpose of getting out of the confederate camp his brother-in-law, the brother of the partner of his bosom, and keeping him out of the confederate service. Was that giving aid and comfort to the rebellion? Was it not bringing within the lines of the Federal authorities a man who he was fearful would join the rebellion? It was clearly an act of direct and positive loyalty and aid to the Federal Government and against the confederacy. So far, therefore, as that circumstance in relation to the gun is concerned I do not think that it will weigh one feather with the House. It should not. It cannot with any fair mind disposed to do justice.

What next? Another witness swears that two years afterward he voted against Judge Young because he believed that Judge Young aided to break up that camp, and came very near doing it at that time. Did that aid the rebellion?

What else do you have against Judge Young? Mr. Nickell swears that he was in Owingsville, in Bath county; that he was brought in there as a prisoner; and some man that they called Judge Young, a man he did not know, told the confederate officer to go to a certain house where there was a Union soldier, to arrest him. What does the witness state in each of his examinations? That the only time he ever saw Judge Young—"if this was him"—was that time at Owingsville. Nowhere does he say that he knew that to be Judge Young; but he puts in this "if;" "if this was him."

If there is any doubt upon this question, in my judgment that doubt is the property of John D. Young, and not to be given to the party seeking to deprive him of his seat here. Judge Young should not be required here to prove his innocence; reversing the principle of law, a principle of law as old and as just as the law itself.

I will not comment upon the character of this infamous witness Nickell; that has been ably done by my colleague [Mr. GOLLADAY] and by the gentleman from Indiana, [Mr. KERR], a member of the Committee of Elections. I leave you to take his evidence, and give it the strongest force you can give it; and he exonerates John D. Young, because he does not identify him as the man who made the suggestion at Owingsville.

But it is said and argued in this case that the sympathies of John D. Young was not with the Federal authorities. In my judgment this House is estopped from making that argument in this case, for the Committee of Elections declared in the first cases reported from Kentucky that sympathy cannot preclude a man from taking his seat in this House. That report was made by Mr. Cook December 3, 1867, in which they say:

"That while mere want of active support of the Government or a passive sympathy with the rebellion are not sufficient to exclude a person regularly elected from taking his seat in the House."

The committee will not, I hope, ignore this sentiment and report.

Now this proceeding, so far as John D. Young is concerned, is one of great importance. It brands him as unworthy to hold any office in the gift of the United States, and if the constitutional amendment known as the fourteenth amendment shall become the law of the land, which I earnestly hope it never will, it will deprive him from holding any office within the gift of the people of his native State. He has the right, and the voters of that district have the inalienable right to the protection the laws of the United States and the State of Kentucky so plainly guarantees to them—their right of suffrage—and I, as one of the Representatives

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from Kentucky, demand that the rules of law shall be applied to his and their case according to your own decisions and as applied to all cases heretofore. You cannot deprive any man in this country of the right to his property, his life, or his liberty, or vote, without giving him a right to a trial by a jury of his peers, and giving him the benefit of all reasonable doubts as to his guilt or innocence.

He has a right, too, to have at your hands, as well as the voters sought to be disfranchised, the unanimous verdict of a jury declaring them guilty of violating some law the penalty of which is disfranchisement. This is no mere majority matter. It is one of the rights of an American freeman that cannot be taken away from him. But in this instance by a bare majority of this House it is proposed to take from over 2,200 voters of that district the right of suffrage, to take from John D. Young his right to a seat upon this floor. I ask you to apply the same rule to John D. Young that you would apply to yourselves. And if words and declarations that might be construed into aid and comfort of the enemy can be used to deprive a member of his seat here, then the same rule should be applied to Mr. Young that is applied to persons from the North.

While I have but little hope that this House will recognize the Constitution by giving to the ninth district of Kentucky John D. Young, the Representative of their own choice, thus acknowledging the principle our forefathers fought for, they offered up their lives and shed their blood in vain unless they established the principle that representation and taxation should go together. Can this great principle be less valued to-day than in 1776? No, sir; it will glow and burn until again enshrined in the hearts of every patriot in this great land. Sir, the Constitution will be preserved. The Republic must and will live.

I now turn to the report of the committee made in this case on the 23d day of March, 1868, eight months after that case was referred to them by order of this House. After that honorable and able committee had gone to Kentucky, investigated the case to their satisfaction, returned to this city, heard all the arguments on both sides, and considered the evidence maturely, they reported to this House that John D. Young was not entitled to his seat. They further reported unanimously—

"That Samuel McKee, not having received a majority of the votes cast for Representative in this House from the ninth congressional district of Kentucky, is not entitled to a seat therein as such Representative."

Mr. UPSON. Let me correct the gentleman from Kentucky. I dissented from that report, and it is therefore not unanimous.

Mr. TRIMBLE, of Kentucky. Unanimous, then, with the exception of the gentleman from Michigan. I do not desire to do him or any other member upon this floor any injustice. I, however, so regarded it, and so received it. I believed there was no dissent at that time; that, in fact, there was no dissent until within the last month.

Mr. UPSON. If the gentleman will read the report of the gentleman from Missouri [Mr. McCLURG] he will see he stated that I dissented at the time.

Mr. TRIMBLE, of Kentucky. It is far from me to do the gentleman injustice.

Mr. KERR. I simply desire to say, in reference to the remark of my colleague on the committee, that at the time the report was submitted I understood him to concur in that report with the understanding if thereafter he should conclude it was his duty to dissent he could do so and file a minority report.

Mr. UPSON. The gentleman has reference to the Missouri report. I did dissent from this report.

Mr. TRIMBLE, of Kentucky. At any rate there is the record. It was unanimous, with the exception of the distinguished gentleman from

Michigan and the two gentlemen who made their minority report, concurring with me in the tenor of my remarks, that John D. Young was entitled to his seat upon this floor. I ask them if they will not stand by this report to-day and the principles enunciated in this report? What new light has beamed upon these gentlemen to show that Colonel McKee is entitled to this seat as having been elected by the qualified voters of that district? I propose to argue the legal proposition presented and to draw deductions from the facts elicited in this case. I propose to show, by the constitution and laws of the State of Kentucky and by the laws of the Congress of the United States, that John D. Young received a majority of 1,479 votes. I propose to show further that Mr. Green received 800 and odd votes, and if this House, in violation of the laws of Kentucky, and in violation of the constitution of Kentucky, shall turn out John D. Young and put Mr. McKee in they will disfranchise 2,300 and odd voters of the ninth congressional district of Kentucky, who are as much entitled to vote under the laws of Kentucky as Colonel McKee, myself, or any one else.

Now let us see what that committee did on that subject:

"After an examination of the testimony the committee are not willing to say that more than 752 rebel soldiers voted for Mr. Young. Of those 88 are hereafter rejected in the entire vote of various precincts for other causes, which would reduce the vote of the rebel soldiers to 666. But the committee finding that there is no law of Kentucky disfranchising rebel soldiers have not been able to see how those votes can be rejected."

This elects Young. Will this House usurp the power and elect McKee? If you do, you had as well abolish all constitutions and laws and elections in Kentucky and elsewhere. Let the candidates announce themselves here and make the canvass before you, and not before the people.

Now, sir, let us examine the law applicable to the report made by my friend from Illinois, [Mr. Cook.] That presents to the House two propositions which he alleges gives to Colonel McKee this seat, first, 625 votes of rebel soldiers were cast for John D. Young, the votes of those who had no right to vote; and second, 883 votes or majorities were cast for John D. Young at precincts in that congressional district, at precincts where the officers of the election, or some of them, were rebels and rebel sympathizers. Under the construction of this report the votes of all confederate soldiers must be deducted; as also the precincts where the majority for John D. Young was 883, and where there was rebel officers, one or more at each precinct, were officers of the election must be deducted. This would elect Colonel McKee by 41 votes. That is the theory; that is the proposition; that is the resort to which they are driven to make a report at all that Colonel McKee is entitled to a seat upon this floor.

Now, let us see what the constitution of Kentucky says on the subject who shall be a voter. It says:

"Every free white citizen, of the age of twenty-one years, who has resided in the State two years, or in the county, town, or city in which he offers to vote one year next preceding the election, shall be a voter; but such voter shall have been, for sixty days next preceding the election, a resident of the precinct in which he offers to vote, and he shall vote in said precinct and not elsewhere."

That is what the constitution says; and in my judgment there is no power in Kentucky in the legislative or executive department to add to or subtract one iota from that provision. The only way that that can be reached is by amendment of the constitution. The framers of the constitution of Kentucky never intended that this great boon of American freemen, the right of suffrage, should be tampered with by partisan legislation. They fixed it in the constitution itself, intending it should stand until changed in the same way and manner by which it was incorporated therein. I

am supported in this declaration by the decision of the highest tribunal of my State upon the act known as the "expatriation law" of that State, passed March 11, 1863. Now, what does that law declare? Bear in mind this law could have had no application to many persons who joined the confederate forces prior to its passage. That law only attempted to disfranchise those who remained in the confederate forces after its passage or joined after its passage. All others were expressly exempted from the provisions of the law. The act will speak for itself.

The Kentucky Legislature passed this bill March 11, 1863, by a two-thirds vote over the veto of Governor Magoffin:

"An act to amend chapter fifteen of the Revised Statutes, entitled Citizens and Aliens."

"SECTION 1. Be it enacted, &c., That any citizen of this State who shall enter into the service of the so-called confederate States, in either a civil or military capacity, or enter into the service of the so-called provisional government of Kentucky in either a civil or military capacity, or having heretofore entered such service of either the confederate States or provisional government shall continue in such service after this act takes effect, or shall take up and continue in arms against the military forces of the United States or the State of Kentucky, or shall give voluntary aid and assistance to those in arms against said forces, shall be deemed to have expatriated himself, and shall no longer be a citizen of Kentucky, nor shall he again be a citizen, except by permission of the Legislature by a general or special statute."

"SEC. 2. That whenever any person attempts or is called on to exercise any of the constitutional or legal rights and privileges belonging only to citizens of Kentucky he may be required to negative on oath the expatriation provided in the first section of this act and upon his failure or refusal to do so shall not be permitted to exercise any such right or privilege."

"SEC. 3. This act to be in force in thirty days from and after its passage."

To give you a faint idea as to how this act was executed in my district and other parts of Kentucky, at the August election, in 1863, I give you one of the many infamous military orders issued and executed at that time.

Brigadier General Asboth's order, (McPherson's History Rebellion, page 313:)

"COLUMBUS, KENTUCKY, July 29, 1863."

That no further doubt may exist as to the intent and meaning of Special Orders No. 159, dated headquarters sixteenth Army corps, July 14, 1863, it is ordered that no person shall be permitted to be voted for, or be a candidate for office, who has been or is now under arrest or bonds by proper authority for uttering disloyal language or sentiments."

This was to cover the case of L. S. TRIMBLE, then illegally under arrest at Henderson, Kentucky, and a candidate for Congress.

County judges within this district are hereby ordered to appoint as judges and clerks of the ensuing August election only such persons as are avowedly and unconditionally for the Union and the suppression of the rebellion; and are further ordered to revoke and recall any appointments of judges and clerks already made who are not such loyal persons.

Judges and clerks of elections are hereby ordered not to place the name of any person upon the poll-books to be voted for at said election who is not avowedly and unconditionally for the Union and the suppression of the rebellion, or who may be opposed to furnishing men and money for the suppression of the rebellion.

The following oath is prescribed and will be administered by judges of elections to voters and to such candidates as reside within the district:

"I do solemnly swear that I have never entered the service of the so-called confederate States; that I have not been engaged in the service of the so-called provisional government of Kentucky, either in a civil or military capacity; that I have never, either directly or indirectly, aided the rebellion against the Government of the United States, or the State of Kentucky; that I am unconditionally for the Union and the suppression of the rebellion, and am willing to furnish men and money for the vigorous prosecution of the war against the rebellious league known as the confederate States: So help me God."

Any voter, judge, or clerk of election, or other person who may evade, neglect, or refuse compliance with the provisions of this order, will be arrested and sent before a military commission as soon as the facts are substantiated.

By order of Brigadier General Asboth:
F. M. HARRIS,
Assistant Adjutant General.

Under such orders in Kentucky Congressmen were elected to vote, and did vote, for the thirteenth amendment of the Federal Constitution. I refrain from comment.

But, sir, why argue upon that law? The

Legislature of Kentucky, after the war was over and peace had returned, blotted out that infamous statute and placed every citizen of Kentucky in the same position that he was before that statute was enacted by the Legislature. But in the meantime the Supreme Court had the question before them, and they decided that law to be unconstitutional and void: Here is the repeal of that unconstitutional act:

"SECTION 1. That an act entitled 'An act to amend the fifteenth chapter of the Revised Statutes, entitled "Citizens, Expatriation, and Aliens," passed March 11, 1862, be and the same is hereby repealed, and all persons who may have lost any constitutional, legal, or other right or privilege by operation of said act shall be, and are hereby, restored to the full and free use and enjoyment of the same, as completely as if said act had never been passed.

"SEC. 2. This act shall be in force from its passage, and may be pleaded in bar of any prosecution on any indictment, or other penal proceedings growing out of said act."—*Myers's Supplement*, p. 687, appendix.

Then why argue about this proposition? There can be no question that every one of the voters named and reported upon here had just as much right to vote as Colonel McKee and myself.

But what else do we find in this report? It is proposed to throw out six hundred and twenty-five voters who had been in the rebel army. The evidence does not warrant the committee in coming to that conclusion. I do not believe the proof shows that more than about three hundred and fifty or four hundred confederates voted for John D. Young, and in regard to many of them it is only hearsay testimony. That is the character of evidence by which he is sought to be deprived of a seat on this floor.

Now, what is the other proposition? It is that the Legislature of Kentucky have declared that no man who was in the confederate service should be an officer of election in that State. Now, sir, I deny that the Legislature of Kentucky ever could have passed such an act. There was no such law on the statute-book at that election. Long prior to the rebellion, when we had two great political parties in Kentucky nearly equally divided, the Legislature passed a law requiring that the judges of election, clerks, and sheriffs should be taken from each of the two political parties. It was merely directory to the county judge to select the officers of election from the two great parties. But in 1860 it so happened that there were three parties in the country, namely, the Douglas, the Bell and Everett, and the Breckinridge party. Under the law it was impossible to give to each political party one of the judges when there were only two judges. But after 1860 and 1861 there were but two parties, the Democratic and the Abolition or Radical party; and after the close of the war, for the purpose of avoiding any trouble the Legislature passed the act just read which restored every citizen to all his rights as fully as any citizen enjoyed them.

The last legislation of Kentucky was amnesty to all. This enabled the judges to give to the two political parties one of each upon the board of election. They recognized no secession party in the State of Kentucky at that time; there was none, and all our people arrayed themselves under the banner of one or the other of the great political parties of the country. And nothing could have been further from the intention of the Legislature of Kentucky than to deprive any one of his rights under the constitution of the State—either his right to vote or of his right to act as an officer of election as fixed by that constitution. Sir, the argument that they so intended is monstrous. It does violence to the enactments of the Legislature of the State, and violence to the candor of the gentlemen or their knowledge of the laws of Kentucky.

Sir, the Committee of Elections declared in their report that the absence of an active support of the Government was not sufficient to exclude a regularly elected member from taking

his seat in this House. When they declare that, so far as members are concerned, surely a man's sympathies cannot exclude him from acting as a clerk, sheriff, or judge of elections in Kentucky.

Sir, there is no law of the Government of the United States, or of the State of Kentucky, that disfranchises a single one of these persons named in this report, or disqualifies them from holding the office of judge of election; not a single one. You cannot do it under the war power, for here is an express declaration of the Congress of the United States, long prior to this election, that this war was over and that there were no longer any belligerents or rebels in this country. That is the fact. Here was a recognition by Congress itself indorsing the proclamation of Andrew Johnson in 1866, as follows:

"SEC. 2. *Be it further enacted*, That section one of the act entitled 'An act to increase the pay of soldiers in the United States Army, and for other purposes,' approved June 20, 1864, be, and the same is hereby, continued in full force and effect for three years from and after the close of the rebellion, as announced by the President of the United States by proclamation bearing date the 20th August, 1866."—*Statutes-at-Large*, 1866-67, page 422.

Now, let us turn to the evidence for a moment upon which these precincts are to be excluded from the count, and over 2,200 of the voters of the ninth congressional district of Kentucky disfranchised. The first that I shall allude to is in the county of Fleming. They exclude the vote of the precinct known as Centreville. Here is the testimony of Dr. Maguire, the only testimony and witness relied on:

"Question. Do you or do you not know if the men named in your last answer, Mason Caywood, W. H. Cord, John N. Proctor, David Adams, Charles Darnall, and Thomas Butler, are, and were during the late rebellion, 'rebel sympathizers'?"

"Answer. My personal knowledge extends only to John N. Proctor and David Adams. As to them I answer yes. Mason Caywood and William H. Cord have been, and are publicly known as southern sympathizers, and in favor of the so-called southern confederacy, both during and since the war."

He does not say he knows their position—Caywood and Cord, judges at Centreville—but gives rumors as to how they stood.

Now, Caywood is a man I have known from my boyhood. He was an honored representative in the last Legislature of Kentucky, and was as much entitled to vote or to act as a judge in that election as I am, or any other citizen in the Commonwealth of Kentucky who lived in that district. And yet, upon the mere impression made up by Dr. Maguire, by rumors, that precinct is to be disfranchised, which gave Judge Young 182 majority. Without this Young is still elected by 91 votes. If a man can be deprived of his seat here upon such illegal and flimsy testimony as that, who on this floor can feel any security or any guarantee of his right to a seat in this House? Is there a Democrat in the land who could feel secure in his right to a seat here? Nay more, are there not thousands of Republicans who have been charged with sympathizing with the rebellion, if that be a sufficient ground to exclude men from seats here and make illegal elections held by them? Where would your Chief Justice Chase, President Johnson, and many of your most distinguished men I could name be? Where would General Grant be?

I heard him in my own district denounced from one end of the town to the other as a "Copperhead" and a "traitor," and he has been charged, too, in the Senate with making a white-washing report in regard to the southern States. Who escapes such charges in times of high political excitement such as we have passed through? I ask you, then, to discard all such testimony, and to give it the weight to which it is entitled. You could not convict either one of these men of any offense in Kentucky or any other State unless by a unanimous verdict of a jury, and upon evidence that is legal and competent. How, then, can you deprive a whole precinct of its vote upon such testimony as this—nothing but rumor and hearsay?

In regard to the Orangeburg district, Mason county; what is the evidence? That precinct gave Mr. Young 67 votes; and the committee throw those votes out. The following is the testimony of Mr. Ballock in regard to W. D. Coryell, sheriff of election in that district:

"I know W. D. Coryell to be an out-and-out rebel. I heard him thank God for the destruction of the Union troops at the battle of Bull Run; he never claimed to be anything else but a rebel; he was elected magistrate at the election held May 4, 1867; when he acted as sheriff he accepted said office, and is now acting as justice of the peace of Mason county."

Now, this is the whole testimony upon which that precinct is denied its voice and its votes in favor of Mr. Young. In regard to the other officers of election the witness says:

"I am acquainted with J. D. Mayhugh and Richard P. Tolle, who acted as judges at the Orangeburg precinct, in Mason county, at the May election, with W. D. Coryell, who acted as sheriff, John Roe, who acted as clerk, and have been acquainted with them for many years. Mayhugh, Tolle, and Roe claimed to be conservative Union men."

These three officers of the election are constitutional Union men and one a rebel sympathizer, as proved by the testimony of the witness of the contestant himself. That is the testimony upon which these people of Orangeburg precinct, in Mason county, are to be deprived of their right to vote. You may, and I hope will examine this whole testimony. You will find it hearsay and uncertain, unreliable in every respect. The sole testimony bearing upon the point in issue at this precinct is the sympathy of W. D. Coryell. You are forced to throw out this precinct or you still elect Young.

Now, if this House will not recognize what I have shown to be the constitutional right of the people of Kentucky to vote, if you will not recognize the acts of Congress since this has been a Government in regard to this question, if you will not regard the decision of your own Committee of Elections of the 23d of March last, a unanimous decision with one exception, if you will not recognize any of those great principles which declare the right of the State of Kentucky to say who shall and who shall not vote at her elections, if you will not recognize any of these authorities, yet there is one authority which may be considered by Congress as a sort of higher law, a authority which I think I have a right to demand that this House shall respect. It is an authority which was enunciated at Chicago on the 20th of May last, of which convention the honorable Speaker of this House is one of the nominees.

Now, Mr. Speaker, I ask you to see that the pledge of your convention is carried out and executed in this instance. What is that principle so enunciated? It is a principle which recognizes the right of Kentucky, or the right of any of the loyal States of this Union, to say who shall or shall not vote. I refer to the second article of the platform of that convention, which is as follows:

"2. The guarantee of Congress of equal suffrage to all loyal men at the South was demanded by every consideration of public safety, of gratitude, and of justice, and must be maintained, while the question of suffrage in all the loyal States properly belongs to the people of those States."

The first part I do not indorse at all. The last, that clearly leaves the question of suffrage with the loyal States, I do indorse as far as it goes. Kentucky has never been out of the Union.

I ask you, then, to stand by that declaration of principle; I ask this House to stand by that resolution, and to give effect and efficacy to the constitution of Kentucky and to the laws of Kentucky, none of which are in violation or contravention of any act of Congress. By that constitution and by those laws each of these 2,370 odd voters, 800 and odd of whom voted for Greene, is entitled to representation upon this floor, and should not be represented by having placed in that seat a gentleman who did not receive the votes of the majority of the people of that district.

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Now, I have no doubt the distinguished gentleman from Illinois, [Mr. Cook,] in making this report, did not at heart intend to do injustice to Kentucky. I have no doubt that after his visit to Kentucky, after the welcome which he received there, and the observations he made of the law and good order prevailing there, he would not intentionally do injustice to Kentucky. He says:

"The evidence shows conclusively that in many parts of this district at the time of the election legal voters were prevented from voting by threats and intimidation; many witnesses testified that they wholly abstained from voting lest they should endanger their personal safety, and the proof shows these fears to have been reasonable."

The testimony abundantly shows this to be untrue.

And in my judgment this does great injustice to and is a libel upon that honorable Commonwealth and that district. They are a law-abiding people, and if there have been any violations of law in Kentucky the Democratic party there as a party has suffered under the infamous expatriation laws. My friends here were driven from the ballot-box at the point of the bayonet. I myself carried a prisoner by the military out of my district under the behest of a military tyrant. Under the pretext of executing this infamous expatriation law of Kentucky, every outrage has been committed in Kentucky known to the calendar of crime. Under it there have been foisted in this House of Representatives from Kentucky men elected by the bayonet who aided in carrying out the constitutional amendment which deprived citizens of Kentucky of their right to their property, without whose votes the first or thirteenth amendment to the Constitution could not have been carried through this House.

If there is any one anywhere who has the right to complain it is upon the other side, the true constitutional Union men, the Democracy of Kentucky.

Kentucky Contested Election.

SPEECH OF HON. G. M. ADAMS,
OF KENTUCKY,
IN THE HOUSE OF REPRESENTATIVES,
June 22, 1868,

On the contested-election case of McKee vs. Young, from the ninth congressional district of Kentucky.

MR. ADAMS. Mr. Speaker, I cannot, of course, hope that anything which I may be able to say is likely to influence the action of the House in this case; but, sir, interested as I feel in seeing the people of my State, in common with the other States, represented here by the man of their choice, and unwilling that the right of my colleague to this seat, and of his constituents to choose their own Representative shall be here denied, I desire in his name, and in their behalf, to protest against this whole proceeding from beginning to end, and especially against the resolutions now under consideration, in opposition to which I propose to submit a few remarks.

Before, however, alluding to this particular case, I desire to call attention to the extraordinary course which has been pursued with reference to the other members elected from the State of Kentucky, against whom, I hope I may be pardoned for saying, the most flagrant and unjust discrimination has been made by the majority on this floor. What, sir, are the facts? On the 3d day of July last, seven of the members duly elected and accredited from that State, were refused seats upon this floor. All of them against whom any charge of disloyalty was made, no matter how vague and indefinite the charge, were at once refused admission until their loyalty should be investigated and reported upon by a committee to whom their credentials were referred. And not only was this the case with those against

whom the charge of disloyalty was made, but three of those members, Mr. BECK, Mr. JONES, and Mr. GROVER, against whom no such charges were made, and against whose qualifications no objection could be urged, were also refused admission, and their credentials likewise referred to this committee for investigation and report. It may seem strange that these three gentlemen against whom nothing could then be urged and against whose admission you have since decided that there was no good ground for objection, should have been thus deprived for many months of the seats to which they had been constitutionally elected; but it is nevertheless true that at the time their credentials were thus referred no charge of disloyalty or disqualification had been made against them, and no member of the House then professed to know himself or to have information from others that any such charges could or would be made against either of them.

When, however, the Tennessee delegation, all of whom were known to agree politically with the majority on this floor, presented themselves in November following, a different rule entirely was observed. Charges of disloyalty were distinctly made, and the evidence upon which the charges were founded presented to the House against two of the members from that State, Colonel STOKES and Mr. MULLINS. Against the former was produced his famous letter of May 10, 1861, known as the Duncan letter, in which he commends Governor Harris for his preparations to resist the armies of the Union, and declares that he has enrolled his name as a volunteer for that purpose. Against the latter was produced the certificate of an officer of the Federal Army, declaring that he heard Colonel MULLINS in 1861, in a public speech encouraging and exhorting the young men of Tennessee to enlist in the rebel army, saying that he himself was prevented from doing so only in consequence of his infirmity and old age. And yet, these two gentlemen are at once admitted without even an investigation of these charges.

Sir, I cannot understand, and the country will not be able to understand why the charge of disloyalty should not exclude members from one State as well as from another. And especially why these members from Tennessee, thus charged and thus convicted of disloyalty, should be willingly admitted, while members from Kentucky, whose loyalty is unchallenged; and whose qualifications are unquestioned should, at the same time, be excluded. I allude to these things now, Mr. Speaker, not so much by way of complaint as for the purpose of showing to what an extent party feeling and political prejudice seem to have controlled the action of the House on these subjects, and for the purpose of appealing to the majority here to discard all such considerations in the investigation of this case, which I hope may be decided according to the requirements of justice, of reason, and of law. I know the partiality which, from political considerations, the majority in this House naturally feel for the contestant in this case, and I am aware of the prejudice and opposition which, for the same reason, is felt against the member-elect, Judge Young. But, sir, I beg to remind the House that this is not a political question, and is not to be decided according to our preferences or our feelings, but a question of right to be determined by this House in accordance with fixed laws and established precedents beyond which it cannot go for the gratification of any personal or political feeling.

The committee have, in this case, made two different reports, the first on the 23d day of March last, after several months' deliberation with all the facts of this case before them, in which they say that Judge Young has a majority of 5 votes, even assuming to be correct certain positions taken by the contestant, but as to the correctness of which they are careful not to express any opinion, as such opinion

(if consistent with their former rulings) must have been adverse to positions assumed by the contestant. They, however, further report that 8 persons who voted for Judge Young are proved to have been deserters. Thus leaving the House to infer, what they themselves were unwilling in terms to declare, that Judge Young's legal majority was only 5 votes, which might be overcome by excluding the 8 deserters named.

This report, however, not being deemed sufficient, the case was a few days since recommitted and accordingly a second report was made, declaring the contestant McKee elected by a majority of 41 votes. This last report not only differs widely from the first, but is in direct conflict with the opinions expressed by the committee in other cases. And I must say that they have in this case shown a facility for changing their opinions and for shifting around from one position to another such as I have never seen exhibited by any body of honest men charged with the investigation of so important a question.

It is admitted that the returns show the election of Judge Young by a majority of 1479. Let us see, therefore, how the committee dispose of this large majority and bring about the election of the contestant McKee. First, they report that of those who voted for Judge Young 625 were engaged in the rebellion, who are therefore disqualified from voting. But, sir, this class of persons have under the constitution and laws of Kentucky, the right to vote; and if the people of Kentucky have the right to determine who shall vote at their elections then there can be no doubt or question as to the legality of these votes. And as to the right of each State to regulate the question of suffrage for themselves it is a doctrine so well settled and so long and so universally admitted that no argument seems necessary now to establish its correctness.

It will certainly be admitted that the States originally had the right to control this subject, as, indeed, they had the right to control all other subjects by which they were to be affected. It is true, that in the adoption of the Constitution some of the original rights possessed by the States were surrendered for the common good of the country and many of them delegated to the General Government; but the right to regulate the question of suffrage for themselves is one of the original rights which has never been thus delegated or surrendered, and of course still remains with the States, where alone it can properly be exercised.

Besides, the Constitution itself is explicit upon this point. It says:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

Thus showing that it was not intended that the General Government should ever establish any qualification for voters except such as the States might require in the election of members to the State Legislature.

But, sir, in addition to this, I would commend to the consideration of the Republican side of the House one of the resolutions adopted by the national Republican convention, which recently met at Chicago, to which my colleague [Mr. TRIMBLE] has already alluded, and which, I imagine, all Republicans, at least, will regard as good authority on this subject. It says:

"The guarantee by Congress of equal suffrage to all loyal men at the South was demanded by every consideration of public safety, of gratitude, and of justice, and must be maintained; while the question of suffrage in all the loyal States properly belongs to the people of those States."

Here the Republican party declare that while Congress had the right to enfranchise the negroes of the South, the question of suffrage in the loyal States belongs not in Congress, but to the people of the States to regulate for themselves. How, then, can any man who belongs to that party and stands pledged to support the

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principles therein proclaimed afford to stultify himself by voting for these resolutions which propose to interfere directly with the question of suffrage in one of the loyal States. But whatever may be the opinion of this House in regard to the right of Congress to control this subject and to disfranchise these persons it is sufficient to say it has never exercised this right or attempted to pass any law for that purpose; and there is not to-day in existence any law, either of the United States or of the State of Kentucky, which makes these votes illegal or authorizes their rejection. These resolutions, therefore, assume not merely the right of Congress to interfere with the question of suffrage in the States, but the right of this House to do so without any law of Congress whatever upon the subject.

I am aware, sir, that many of the Republicans on this floor claim the right of Congress to regulate the question of suffrage in the States, and since their refusal to vote down the proposition of the gentleman from Pennsylvania [Mr. BROOMALL] to inaugurate negro suffrage in all the States of the Union, I have supposed that a majority of them advocated this doctrine; but, sir, I had not supposed that any man outside of a lunatic asylum would for a moment contend that this House, acting alone and independently of the Senate, and without any law whatever to authorize it, has the right in any way to interfere with this subject. And yet this is the position this House must assume before it can exclude these votes or admit the contestant McKee to this seat. If this House can say who shall and who shall not vote in the State of Kentucky, then it can enfranchise the negroes of that State, and can deprive the people of Kentucky of the right to exercise any control whatever over that subject.

The gentleman from Illinois [Mr. Cook] tells us that the rebels are all disfranchised, but he fails to show under what law and by what authority it was done. He seems horror-stricken at the idea that rebels who have been in arms against the Government should now be allowed to vote in the election of those who are to make its laws, and yet he knows that the reconstruction measures, passed by a Republican Congress and supported by himself, expressly recognize the right of rebels to vote in all the southern States, not only for members of Congress, but also upon questions much more grave and important. The gentleman and his party have been constantly demanding that they should adopt certain amendments to the Constitution of the United States; and will they now contend that the very class of persons whom they have repeatedly called upon to amend the Constitution have not now the right to vote for members of Congress who are to be controlled in their legislation by the very Constitution which they have by their votes helped to modify and amend? Such a proposition, sir, is simply ridiculous. And it only remains to be seen whether the majority on this floor will now attempt to regulate a question which they have in their party platform declared they had no right to control; and whether they will now attempt to reject votes the legality of which they have recognized in their own laws.

In addition to the 625 rebel votes, it is claimed that 8 deserters voted for Judge Young, who are also disfranchised, making in all 633 votes, which, it is charged, are illegal and ought, therefore, to be rejected. But even if these 633 alleged illegal votes be rejected it still leaves Judge Young with a majority of 706 votes, the legality of which are not questioned. But it is charged that at ten voting precincts, which gave Judge Young an aggregate majority of 882 votes, the laws of Kentucky were not complied with because some of the election officers had been engaged in or had adhered to the rebellion.

In the first place, sir, there is no proof that any of the officers at seven of the precincts

named had ever in any way adhered to or even sympathized with the rebellion.

It is simply proved that certain persons were engaged in the rebellion of the same name as those whom the poll-books show to have acted as officers of the election, but they are not identified as the same persons. For example, the proof shows that in Belhel precinct, Bath county, one of the ten precincts named, there is a certain R. M. Sharp who had been engaged in the rebellion, and the poll-books of that precinct show that a man named R. M. Sharp acted as sheriff of the election; but there may have been two men of this name in that precinct, for it not unfrequently happens that there are two and sometimes even three men of the same name in one voting precinct; and the proof does not show that R. M. Sharp who officiated at the election is the same R. M. Sharp who had been in the rebellion.

"I submit, therefore, that such proof as this does not establish the fact that any of these election officers had been connected with the rebellion. It is a circumstance which creates a suspicion that such is the case, but it is not such positive proof as would be deemed sufficient to settle any question even in a magistrate's court where not more than a sixpence is involved, much less to settle a question upon which it is claimed the rights of a whole district depend.

But, Mr. Speaker, there is nothing in the laws of Kentucky which prohibits this class of persons from acting as officers of elections. The statutes of Kentucky, upon which the committee place such a construction, are as follows:

"An act to amend section one, article three, chapter thirty-two, title 'Elections,' of the Revised Statutes.

"Be it enacted by the General Assembly of the Commonwealth of Kentucky, That hereafter, so long as there are two distinct political parties in this Commonwealth, the sheriff, judges, and clerk of election, in all cases of elections by the people under the Constitution and laws of the United States, and under the constitution and laws of Kentucky, shall be so selected and appointed as that one of the judges at each place of voting shall be of one political party, and the other judge of the other or opposing political party; and that a like difference shall exist at each place of voting between the sheriff and clerk of election: *Provided*, That there be a sufficient number of the members of each political party resident in the several precincts, as aforesaid, to fill said offices. And this requirement shall be observed by all officers of this Commonwealth who have the power to appoint any of the aforesaid officers of election, under the penalty of a fine of \$100 for each omission, to be recovered by presentment of the grand jury."

"MARCH 15, 1862.

"An act to amend an act entitled 'An act to amend section one, article three, chapter thirty-two, title 'Elections,' of the Revised Statutes,' approved February 11, 1858.

"SECTION 1. That in construing the act approved February 11, 1858, to which this is an amendment, those who have engaged in the rebellion for the overthrow of the Government, or who have in any way aided, counseled, or advised the separation of Kentucky from the Federal Union by force of arms, or adhered to those engaged in the effort to separate her from the Federal Union by force of arms, shall not be deemed one of the political parties in this Commonwealth within the provisions of the act to which this is an amendment.

"SEC. 2. This act to take effect from and after its passage."

It will be observed that the law does not apply to rebels as individuals but simply declares that they shall not as a class be considered one of the political parties of the State from which a part of the election officers shall be selected. It is not declared that this class of persons shall never act as officers of elections, provided they belong to one of the recognized political parties. The requirement is that the officers of elections shall be selected from a party which is recognized as one of the political parties in the State. And no matter what a man's past opinions or associations may have been, if he belongs at the time of his appointment to one of the recognized political parties of the State he is qualified to act within the meaning of these laws. It must, therefore, in view of all

these things, be admitted by every candid mind that there has been no violation of these laws in the ten precincts named.

But suppose there had been such a violation of the law as is complained of by the committee, there would then be no good ground for rejecting the vote of these ten precincts. These laws are merely directory in their character, and do not provide that a failure to comply with their requirements shall invalidate an election. A penalty is imposed upon the appointing officer who fails to comply with the requirements, and is the only consequence which the law itself provides shall result from such failure. This House would therefore certainly have no right to set aside the election in these precincts unless it should appear that one of the contending parties had been prejudiced by the failure to comply with these laws.

And finally, admitting that these laws have been disregarded, and that the failure to observe them renders void the election in the precincts named; conceding, for the sake of the argument, all that the committee claim in this regard, and even then I contend that no such result would follow as the election of the contestant. It is admitted that Judge Young has a majority of 706 of the legal votes cast, to say nothing of the 633 votes claimed to be illegal. And if an election has been so irregular and so illegally conducted that the will of the majority cannot be recognized and carried into effect, the only course left would be to have another election, that the majority might have an opportunity to give expression to their choice in the manner prescribed by law.

Nothing could be more unjust than to force upon the majority a Representative whom they have declared they do not desire. Upon this point the honorable chairman of the committee, in his report in the case of Smith vs. Brown during the present session, uses the following language:

"The will of the majority, expressed in conformity with established law, is the very basis on which rest the foundations of our institutions, and any attempt to substitute therefor the will of a minority is an attack upon the fundamental principles of the Government, and if successful will prove their overthrow. The committee shrink from this attack, and therefore they recommend the adoption of the following resolutions."

And yet that gentleman is willing in this case to substitute the will of the minority for that of the majority. He shrinks not now from the perpetration of an act which he then regarded as an attack upon the fundamental principles of the Government. He is understood to have given this report his sanction and approval, though he has not had the hardihood boldly to advocate it in this House.

I am not prepared, sir, to believe that this House will for the gratification of their personal preferences or party feelings undertake thus to deprive the people of this district of the right to choose their own Representative and force upon them a man whom they have not only rejected and repudiated, but whom they to-day execrate and despise. If the majority on this floor should so far forget themselves as to do this, and shall thus violate every sense of justice, renounce their own laws, and repudiate their own public pledges, then the honest masses of the people will, in my opinion as they should do, repudiate them, and at the ballot-box declare them unworthy to sit in an American Congress.

Mr. Speaker, the right of representation by the free and uninterrupted choice of the people is the highest and most sacred right to which the American people are entitled. It is a right which cost our ancestors years of privation, of suffering, and of blood; a right of which they were justly jealous, and which they certainly intended to secure, and doubtless thought they had secured to the people of this country, when they declared in the Constitution of the United States that—

"The House of Representatives shall be composed

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of members chosen every second year by the people of the several States."

"That the Senate shall be composed of two Senators from each State, chosen every second year by the Legislature thereof."

And

"That no State without its own consent shall be deprived of its equal suffrage in the Senate."

Here the right of the people to choose their own Representatives is distinctly declared, and the right of representation by such choice seems to be more securely guarded than any other right guaranteed by the Constitution; for while that instrument may in other respects be amended by a three-fourths majority, no amendment depriving any State of its equal suffrage in the Senate, can be made while the State itself objects. Yet, notwithstanding these declarations, we are asked to refuse admission to a member who, as I have shown, was duly elected; and who, I am now prepared to prove, possesses all the qualifications contained either in the Constitution or any law ever yet passed by Congress.

Sir, I deny the right of this House to refuse admission to a member under such circumstances as these. If it have this right where does it get it? It possesses no original and inherent powers, and can exercise none but the delegated and enumerated powers conferred. It has not even the right to an existence, and could not even sit here to-day but for the fact that the Constitution so provides. If, therefore, it possess this power of exclusion, the authority must be somewhere given, and if so, where, I ask, is the grant? We will doubtless be told that by the Constitution each House is made the judge of the qualifications of its own members, and that therefore it is competent for this House to admit or reject a member, as it may think proper; but, sir, this does not confer the right to determine what the qualifications shall be, but merely the right to judge whether the member possesses the qualifications required. The right to judge of qualifications does not include the right to prescribe new qualifications, but simply the right to judge of those already prescribed. The language of the Constitution is:

"That each House shall be the judge of the election returns and qualifications of its own members."

It will be observed that by this clause each House is as much and to as great an extent the judge of the elections and returns as of the qualifications of its members. Therefore, whatever construction is placed upon the right to judge of qualifications must also be placed upon the right to judge of elections and returns; and if being the judge of qualifications confers the right to say what those qualifications shall be, then being the judge of the elections and returns also confers the right to say how the election shall be conducted and what the returns shall be. But who has ever supposed or who will now contend that this House has anything to do with determining the manner in which elections shall be conducted or the mode in which the returns shall be made? On the contrary, the Constitution expressly declares that—

"The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof."

Thus showing clearly that all questions relating to the conduct of elections are to be determined not by this House, but by the Legislatures of the respective States. And in judging of the election of a member this House cannot undertake to determine how such election should have been conducted, but simply to judge whether it was held in conformity with the mode prescribed. Neither can it in judging of the qualifications of members undertake to determine what those qualifications shall be, but simply to judge whether the member-elect possesses the qualifications prescribed, for the power to judge is as great in the one case as in the other.

But, again, the Constitution, as I have heretofore shown, distinctly declares that Represent-

atives shall be chosen by the people; but if this House may arbitrarily admit whom it pleases and reject whom it pleases, then the right of choice is not with the people as the Constitution declares, but is here in this House. Now, it will certainly be admitted that there are some questions about which the people have the sole right to choose, and upon which their choice is final, and if so, what are they? Why, sir, the right of choice which is given them by the Constitution clearly implies the right to choose whom they please, subject only to the limitations and qualifications therein contained; and if this House can add one additional qualification why may it not add another? If it may impose one additional limitation why may it not impose any other? Where, sir, is the limit? Where does the jurisdiction of this House cease, and where does the choice of the people begin? If this House can interfere with the choice of the people in one particular, then it can equally interfere in any other; and thus effectually deprive them of any choice in the election of those who are to represent them; for of what value or importance is the right to choose if this House can at its pleasure refuse to admit the member chosen? The necessity for some fixed and definite standard of qualification for members, with which this House cannot interfere, must be apparent to every one; for otherwise, what this House may require might be very different from what would be required by the next, and thus leave the people always in doubt whether they were choosing a member possessed of the required qualifications. Indeed any other rule would transfer the choice of Representatives from the people themselves to these Halls.

Hence the founders of this Government declared in the Constitution what qualifications should be required. And when the Constitution declares that no person shall be a Representative who does not possess certain qualifications the fair inference is that any one who does possess the qualifications named may be a Representative. The maxim, *expressio unius est exclusio alterius*, must, if ever, apply in this case.

And on this point I am glad to call to my assistance the opinion of a Republican member now on this floor, no less distinguished than the honorable gentleman from Ohio, Judge BINGHAM, who as a member of the Thirty-Fourth Congress presented to the House in behalf of the Committee of Elections a report in the cases of *Turney vs. Marshall* and *Fouke vs. Trumbull*, in which he uses the following language:

"By the Constitution the people have a right to choose as Representatives any person having only the qualifications therein named without superadding thereto any additional qualifications whatever."

If the opinion then so forcibly expressed by that gentleman and which, I hope, he is now prepared to stand by and defend, be correct, it follows that this House is bound to admit any person whom the people may elect, provided he have the qualifications prescribed by the Constitution. What, then, are the qualifications required by the Constitution? It says that—

"No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of the State in which he shall be chosen."

That Judge Young possesses all the qualifications therein named no one will deny. But, in addition to this, Congress on the 2d day of July, 1862, passed a law prescribing an oath of office which is generally regarded as an additional qualification. Waiving all question as to the constitutionality of this law, which need not be here discussed as my colleague is willing and prepared to comply with its requirements, let us see what this law provides. It is as follows:

"That hereafter every person elected or appointed to any office of honor or profit under the Government of the United States, either in the civil, mili-

tary, or naval departments of the public service, excepting the President of the United States, shall, before entering upon the duties of such office, and before being entitled to any of the salary or emoluments thereof, take and subscribe the following oath or affirmation: I, A. B. do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have never sought nor accepted nor attempted to exercise the functions of any office, whatever, under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto. And I do further swear (or affirm) that to the best of my knowledge and ability I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God; which said oath, so taken and signed, shall be preserved among the files of the court, House of Congress, or Department to which the said office may appertain. And any person who shall falsely take the said oath shall be guilty of perjury, and on conviction, in addition to the penalties now prescribed for that offense, shall be deprived of his office and rendered incapable forever after of holding any office or place under the United States."

It will be observed that this law does not declare that no man shall hold an office under the Government of the United States who has engaged in or aided the rebellion, but simply provides that he shall first take an oath that he has not so aided the rebellion; and when he has taken that oath he has done all that this law requires. But it is claimed that this House has a right to first inquire and judge for themselves whether a member can truthfully and honestly take this oath. Where does this House get the right to institute any such inquiry? The law itself does not provide for any such thing; and it is only by virtue of this law that the right to do so is claimed. A party at law is required to make affidavit to certain facts before he can get an attachment; but when he makes such affidavit, whether true or false, he becomes entitled to his attachment; and so in this case a man is required before entering upon his office to take a certain oath, and upon taking that oath he has, so far as anything in this law is concerned, the right to enter upon the duties of his office.

But we are told that the spirit and intention of this law is to keep out of office those who have aided the rebellion; and this may be so; but if so, the means which it provides for ascertaining this fact is the oath of the officer himself.

The framers of this law evidently supposed that cases might arise in which parties would swear falsely in taking this oath, and they therefore provided a remedy for such cases; but what is that remedy? Not that this House or any other tribunal before which the oath is to be taken should first inquire and determine whether the party can truthfully take it, but that the person who falsely takes it shall be guilty of perjury, and in addition to other penalties imposed for this offense shall, on conviction, be removed from office. If an investigation is first had in every man's case, then the oath of the man himself becomes unnecessary. It will, however, be asked if a man who has engaged in the rebellion falsely and corruptly take this oath, and thus gain admittance to this floor, whether we would be compelled to let him sit here, perjured as he would be, until he could be removed by the slow and tedious process of an indictment and conviction in the courts. I answer no. In such a case it would be the right, as it would be the duty, of this House to expel him as an unworthy and dishonorable member, and I, for one, should not hesitate to vote for the expulsion of any such man.

But, Mr. Speaker, even if this House had the right to institute such an inquiry, there is nothing in Judge Young's past history which prevents him from truthfully and honestly

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taking this oath, as the proof in this case abundantly shows. It is true that Judge Young had sympathies with the southern people, but the proof shows that he was strictly a State-rights man, and would, no doubt, have followed his State had she united her fortunes with the rebellion; but when Kentucky decided to remain in the Union he felt that it was his duty as a good citizen to stand by her in that position. After the most thorough and searching investigation of his whole course during the war, in which his opponents brought to bear the most infamous and corrupt appliances, there is absolutely nothing proved which shows that he was ever in any way identified or connected with the rebellion. This branch of the case has, however, been so thoroughly discussed by my colleagues that I shall not occupy the time of the House on this point.

I will, however, notice the testimony of one of the witnesses, Greenup Nickell, which contains the strongest evidence presented against Judge Young. He swears, in substance, that in 1863 he was captured by a band of rebels and carried by them to the town of Owingsville; that as they entered the town there was a general rushing out of the citizens to see them, and among the citizens who came out was one whom he heard some one call Judge Young, and who pointed toward a certain house saying, to the rebels, that in that house there was a Yankee soldier, and to "go for him." He does not pretend to be acquainted with Judge Young, or, indeed, ever to have seen him; and does not know whether the man he heard called Judge Young, and who pointed to the house, was the member-elect or not. There is no proof, therefore, that the member-elect is the same man described by Nickell, and such a supposition is directly in conflict with the conduct of Judge Young during the whole of the war, as shown by the proof in this case. His Union neighbors not only acquit him of ever having encouraged rebels to arrest or in any way harass Union men, but also testify that he was always active in using whatever influence he had to protect and assist them; often sacrificing his own comfort, and in many instances his own property, to secure theirs. Besides, it is proved that this man Nickell is a man of notorious bad character; and even if his statement was positive as to Judge Young, I submit that the evidence of such a man should not be permitted to outweigh the oath of Judge Young, whom the proof in this case shows to be a man of spotless integrity, whose character is above reproach.

But, Mr. Speaker, even admitting the truth of this charge, (which I think I have shown has no foundation,) how much worse would Judge Young's case be than that of the gentleman from Tennessee, [Mr. STOKES,] who is now a member of the Republican party, and was admitted to his seat without a dissenting voice from that side of the House in the face of the following letter, which he himself acknowledges to have written:

LIBERTY, May 10, 1861.

DEAR SIR: I have just learned from a friend that there is some gross misrepresentation going the rounds in your section in regard to my position in this trying crisis, and for the benefit of yourself and others I write this.

I have been a zealous advocate of the Union up to the time of Lincoln's call for seventy-five thousand troops; that being in violation of law, and for the subjugation of the South. I commend Governor Harris for his course, and for arming the State and resisting Lincoln to the point of the bayonet, and have enrolled my name as a volunteer to resist his usurpation. I have, in Congress and out, opposed coercion and all forced measures, believing that it was better to recognize the independence of the "southern confederacy" than to attempt to coerce them back.

I have always opposed secession, but claim the right of revolution and the right to resist the oppression of the Federal Government, and to throw off their allegiance to the same when that oppression becomes intolerable. That time has now come. I have been, and am now, for standing by the border slave States, for they are to be the great sufferers during the conflict. I am opposed to being tacked on to the southern confederacy at present, (except as a military league.) But when peace is restored, if the two nations cannot live in peace, let all the

fifteen slave States elect delegates, meet in convention, frame their constitution, and submit it to the people for their ratification.

The South ought to be a unit during the war, by all means. I had announced myself as a candidate for reelection, but on seeing Lincoln's proclamation for troops abandoned the canvass at once, and I am no candidate. I claim to have done my duty in trying to heal our difficulties and restore peace. That having failed, I shall now march forward in the discharge of my duty in resisting Lincoln, regardless of false charges, or what not, by those who are trying to put me down. Time will tell where we all stand, and who have been faithful.

Hoping to hear from you soon, I remain, yours truly,

WILLIAM B. STOKES.

Mr. JOHN DUNCAN, McMinnville, Tennessee.

Here we find this gentleman in 1861, when the fires of civil war were being kindled, adding fuel to the flames which afterwards swept over the country, spreading ruin and desolation in their path. When the State of Tennessee was about drifting from her place in the Union we find him in the ranks of secession, shouting for the cause of the rebellion. When the Union men of his own State needed encouragement and assistance, and had the prayers and sympathies of the Union men everywhere, we find him enrolling his name as a volunteer in the ranks of their enemies. Why does he write this letter? He had, he says, been grossly misrepresented; he had been charged with being a Union man, and in order to correct this impression, in order to set himself right before the country; in order that no one might thereafter mistake his position; therefore he writes this letter. He had once been a Union man, but when he saw Lincoln's proclamation calling for troops he was a Union man no longer.

He commends Governor Harris for his preparations to resist Lincoln at the point of the bayonet, and has enrolled his name as a volunteer for that purpose. The gravest charge presented against Judge Young (which, however, he denies, and as to which the proof is not positive and the witness not credible) is that he encouraged a squad of rebel soldiers to arrest a Yankee soldier, saying to them to "go for him." But Colonel STOKES not only encouraged his people to do the same thing, but had enrolled his name as a volunteer to "go for" Yankee soldiers also. How, then, can any man who voted for the admission of Colonel STOKES now vote to exclude Judge Young?

Internal Tax.

SPEECH OF HON. HORACE MAYNARD,
OF TENNESSEE,

IN THE HOUSE OF REPRESENTATIVES,
June 4, 1868.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes—

Mr. MAYNARD said:

Mr. CHAIRMAN: Under all forms of government the assessment and collection of taxes is the highest exercise of administrative authority. The law comes to the citizen with imperative tone and exacts from him, whether he will or not, a portion of that which belongs to him, "Stand and deliver, at your peril," like the cry of the highwayman. That is the nature of the transaction; it adheres to the thing itself, no matter what the form of government or who may be the governed.

The revenues of the State are necessary to its existence, and they must be had. The law as it now stands upon the statute-book gives an authority that the Committee of Ways and Means do not by this bill propose to increase. The gentleman from Indiana [Mr. NIBLACK] last night intimated a doubt whether this authority would ever be very efficiently exercised in a Government like ours. I do not entertain that doubt. The experience of the last six years has demonstrated this, if nothing else: that a free government, a popular government, is the

most efficient of all forms of government. We have seen larger armies assembled, we have seen them wielded on the field with greater efficiency, and when the war was over dispersed more quietly to their homes, than was ever before exhibited in the history of nations.

Let the people understand that a certain amount of revenue is to be raised by taxation, let them see that it is equally, fairly, and justly imposed, and honestly collected and appropriated, and you will have the moral sentiment of the country on your side. Every honest man in the nation would be a self-constituted detective to see that the Government is not defrauded of its just receipts.

I have said that the bill now before us does not propose to increase the administrative powers that are conferred on officers concerned in the collection of the revenue. Had I time I could show by a comparison between this bill and the laws now upon the statute-book that in many respects the severity and rigor of former legislation, so far as it affects the tax-payer, are very considerably mitigated.

Let me instance. As the law now stands, when the assessor imposes a burden upon the tax-payer, however illegal and unjust, and the collector goes to enforce it, the tax-payer is without remedy. He is barred utterly and forever from any appeal for relief to the courts of the country. On the other hand this bill provides that in the case of one called upon to pay an internal tax, as in the case of one paying duties on foreign importations, he may pay under protest, and then if he deems proper bring suit to recover back the money which he supposes has been improperly exacted from him.

I might go further in illustration, but at this stage of the debate I will not refer to other portions of the bill which show the same general fact, that so far as it affects the tax-payer, instead of bearing upon him with increased rigor, it very much relieves the severity of the present law. The trouble is not with the power which the law now confers upon the officers of the revenue for the purpose of enforcing the collection of the taxes. The difficulty is that those powers are not accompanied by a proper degree of responsibility. And under any circumstances, and in any condition, power without responsibility is simply despotism. It is this that constitutes the intolerable oppression of oriental tax-gathering. Where there is no responsibility to the people they are liable to be oppressed. Where there is no responsibility to the Government it is sure to be defrauded.

In the present condition of things our taxes are collected by a body of officers, assessors, and collectors who are practically irresponsible both to the Government and to the people. They are removable only by the concurrence of the President and the Senate, a concurrence which, at the present time, is as matter of fact almost impossible. The President charges that the Senate improperly refuses to confirm his appointees. The Senate retorts that he makes no proper appointments for them to confirm. And between the two there is no responsibility. The result is a troop of worthless officials, incompetent, unfaithful, oppressive. Honest tax-payers are over-burdened because the dishonest escape. Fraud perpetrated and connived at pervades the entire revenue service. The rogues hold carnival. Whatever of honesty there is connected with the service, and there is a great deal, is paralyzed, practically helpless.

The same thing is true of the assistant assessors and assistant collectors, and to a still higher degree of that brood of inspectors who are swarming like locusts over the land, making unlawful seizures wherever they may, and exacting that most odious of all collections known by the name of "black mail." The natural consequences have followed, honest industry has been driven from the field and given place to knavery and its harlot crew. The public servants have become debauched, and that

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ingenuity which, properly directed, would have achieved valuable results, has been largely employed in cheating the Government. I know of no branch of business in which the upright dealer who, in good faith, pays his taxes can successfully compete with a dishonest rival who pays none. He must either give up his business or stoop to villainy. A few will do the one; the many will gradually give way to the other. Officials whose duty it is to see will find it more profitable to be blind. Their pay for being faithful will not compare with the bribes offered for being unfaithful. Corruption is organized, and the revenue is diverted from the Treasury into the pockets of the organization. The legislative halls are approached, and justice itself is sold in open market, thus turning against the Government the moneys so iniquitously plundered.

We have heard a great deal of what has come to be known as the "whisky ring." That is simply a combination of dishonest and irresponsible officials with dishonest and unscrupulous manufacturers and dealers, one part of the combination furnishing the official power, and the other part furnishing the means upon which to operate; a combination that wages war against the industrial interests of the country, and has so far succeeded in driving honest men out of the manufacture of distilled spirits that, six months ago, the Secretary of the Treasury informed a committee of gentlemen who waited upon him that he was not informed whether there was any considerable amount of that business carried on in the country by honest men. Illicit distillation is connived at. False returns are made and accepted. Worthless bonds are given and received for the storage, transportation, and export of spirits. Fraudulent permits are granted and a fraudulent use allowed of such as were fair on the face. Facts are certified which never occurred. Books are kept without any regard to the state of the business they profess to record. False gauging, false inspecting, false warehousing, aid in the work of fraud. Liquors are withdrawn clandestinely and removed from official custody. Casks filled avowedly for exportation are emptied and sent abroad refilled with water, their original contents thrown, without tax, upon the market. Fire has been invoked as an agency to conceal frauds by destroying the means of detection. Perjury has laughed to scorn the safeguards of official oaths. In a word, dishonesty has triumphed over the law and all the honest agents engaged in its execution. The revenues from this source have fallen off until they are little better than nominal. Immense fortunes have been realized; and, if current reports may be relied on, vast sums have been forthcoming to secure results favorable to the interests of this formidable and villainous combination.

What is the consequence? The establishments of the honest distillers throughout the country we hear are closed, and their manufactures lying in bond waiting for a rise in the continually falling market, until it shall reach a point commensurate with the tax and the actual cost of manufacture, the hope of any profit having long since been abandoned. What is true of distilled spirits is true to a very great extent of tobacco, of petroleum, and of various other industrial interests. When an honest manufacturer, seeing himself defeated and thwarted by these combinations all around him, comes here to Washington for relief, he goes directly, and of course, to the White House, to the President, in the first instance. The President, engaged in the reconstruction of the rebel States, a high measure of administration which he regards as paramount to all others, has very little time to hear his complaints, and sends him down to the Secretary of the Treasury. The Secretary of the Treasury, intent on the early resumption of specie payment, refers him to the Commissioner of Internal Revenue. The Com-

missioner of Internal Revenue, as we saw from his testimony, read here last night by the gentleman from Wisconsin, [Mr. Eldridge], is but a subordinate officer, and he refers him back again to his chief. He has made recommendations time and again, and those recommendations have not been regarded. And so, after the man has for days been passing between the White House and the office of internal revenue, stopping, as he goes, at the Treasury building, he returns home disheartened, unable to find any one responsible for this great machine for collecting the revenue, nobody before whom he can lay his complaint with any prospect of a hearing, or who will give him any hope of relief. That is the state of things at this time. Everywhere is presented a divided responsibility; and a divided responsibility is no responsibility.

Now, the feature of this bill which I propose to discuss comes in here, not for the purpose of giving increased power to the agencies employed in collecting the public revenue, but to fix upon those agencies a degree of responsibility which does not attach to them in the present state of the law; I refer to the provision contained in the first section, which erects the internal revenue collection into a separate and distinct department. This unquestionably we have a right to do, just as several years ago we erected the agricultural affairs of the country into a separate department, and a few years previous created a new department for the management of the Indian, Pension, Patent, and Land Offices. It does not follow that we make it a department of equal dignity with the State Department and the Treasury Department, or either of the other Departments. We make it a separate department. Gentlemen have said that we thereby create a head of Department, and consequently a new Cabinet officer. There is in our form of government, so far as I am aware, no such thing known as a Cabinet officer. The Cabinet is a body of such heads of Departments as the President chooses to invite into his political councils for the purpose of consultation on affairs connected with his administration. I believe it was not until Mr. McLean was Postmaster General, and during General Jackson's administration, that the head of the Post Office Department was invited to a seat in the Cabinet. Up to this time it had not been a political office. Some gentleman, perhaps, can correct me, if I misstate when it was that the Attorney General first took his seat at the council table of the President. If my memory serves it was at the same date, and Mr. Berrien, the incumbent. The head of the Department of Agriculture has never yet been asked to that board, so far as I am aware. The head of the Department of Internal Revenue may or may not be invited to take a seat as a Cabinet officer, just as the President may or may not think proper. That is no part of the purpose of this bill, and does not belong to it.

At this point, I may remark that some criticism has been made upon the present head of what is now a bureau of the Treasury Department, the office of internal revenue. I do not propose to defend that officer or to attack him. We have had since the internal revenue system was inaugurated four commissioners. The first was a gentleman who is an honored member of our own body at this time; the second was a citizen of Pennsylvania; the third served but a brief term; the fourth and the longest continued in office is the present incumbent. I believe it is conceded on all hands—at least I have never heard it controverted—that the Commissioner is an honest man. That is certainly something; it is a great deal. By his long connection with this department, from nearly the very first, he has come to be better informed respecting it than any other person with whom I am acquainted—probably better than anybody in the country. In reorganizing

this department it was deemed by the Commissioner important that we should have the benefit of his experience, his acquaintance with the working of the department, and especially his acquaintance with the subordinates in that department, so that he might select those who were honest and efficient and reject those who were dishonest and inefficient. Consequently it is contemplated and so provided that he shall continue in his present place under the existing law until the new bill is perfected and passed and until it is vitalized by the appointment and qualification of a head, practically until he has a successor.

If in the opinion of the President and the Senate he shall not prove adequate to the exigencies of the department after it is organized and gets to work, it will not be difficult to substitute another in his place.

It is objected that his authority to appoint the various subordinates gives him an undue patronage. How much higher will be his authority or greater his patronage than is now exercised by the collector of the single port of New York? How will it compare, pray, with that enjoyed by the Secretary of the Treasury, the Secretary of the Interior, or the Postmaster General? Why, sir, his authority is nothing compared with that of the military commander of a large department during the war. The collection of the internal revenue, as I have said, requires a high degree of executive authority; and it must be exercised in such a way as to throw the responsibility directly on some one. Let this officer be held responsible for the manner in which this department is carried on; then every unfaithful or dishonest official being subject to removal by him, if he does not make the removal he is held responsible by the President; he is held responsible by public sentiment; and especially is he held responsible by the political party to which he may happen to belong; because there is nothing which would so quickly bring reproach and obloquy upon any political organization as dishonesty and infidelity in the collection and disbursement of the public revenues.

But, Mr. Chairman, there is another reason why the patronage connected with this department should be taken away from the Chief Executive of the United States. Under our system of government the executive power is a very great one, guarded, hemmed in, restricted at various points, but still a power which, for the last forty years, has been continually and rapidly on the increase. As between the executive and the legislative department of the Government the power of the executive department has been constantly increasing, while that of the legislative has been as constantly decreasing in its influence upon public affairs. I will not stop to inquire the reason of this; I merely assert the historical fact. The last Administration, that of Mr. Lincoln, charged with the carrying on of an immense war, had no tendency to diminish the exercise of executive authority. The present Administration, under the charge of an officer having a most exaggerated estimate of the executive authority, was unfortunately brought at a very early period into direct and immediate conflict with the legislative department. That conflict went on until it was manifest that one or the other must take precedence or consent to fall into the rear. This House thought there was no alternative but to surrender the constitutional authority which it conceived belonged to itself, or to resort to the only constitutional remedy left, that of impeachment. Accordingly impeachment was raised and carried to the bar of the Senate. Though sustained by a majority of thirty-five votes to nineteen, it still lacked one vote of the two thirds necessary to a technical conviction; but it is not to be inferred that impeachment was a failure; that it accomplished nothing. While it did not effect the removal of the accused from office, it procured a declaration from both Houses of Congress

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that the legislative authority of this Government is paramount; that they who make the law exercise a higher function than he who executes the law. One thing, at least, has been established, that it is possible for this House to bring a President to trial; possible for the Senate to try him, and the power to acquit implies the power also to convict. On this subject spoke William Pinkney a half century ago:

"Of this, however, I feel assured, that if it should ever happen that the President is found to deserve the punishment which impeachment seeks to inflict, and this body should accuse him in a constitutional way, he will not easily escape. But be that as it may, I ask if it is nothing that you have power to arraign him as a culprit? Is it nothing that you can bring him to the bar, expose his misconduct to the world, and bring down the indignation of the public upon him and those who dare to acquit him?" (Speech in the House of Representatives upon the bill to carry into effect the British convention of 1815.)—*Wheaton's Pinkney*, 537.

Let all whom it may concern read and take note.

The same constitutional necessity which compelled a resort to impeachment had compelled much previous legislation, looking to the limitation of executive power within the bounds prescribed by the Constitution. Many prerogatives which rested on no better support than a very questionable precedent, some quite exceptional use of executive authority, have been laid under the stern interdict of positive law.

This bill has been prepared with the same intent and for like purpose, to curtail the executive power. It sedulously takes from the President all control over the internal revenue of the country save the nomination of the responsible head of that Department. To any one not intoxicated with the prospect of himself wielding this extraordinary patronage, through the President of his own choice, such a reform could not but be more desirable, as well as more feasible, than the limitation of the presidential office to a single term by constitutional amendment. Thus political reasons combine with financial reasons to segregate the internal revenues from the other departments of administration, and to make their assessment and collection as independent as possible of of extra-official influences, and directly responsible to an enlightened public judgment.

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SPEECH OF HON. S. SHELLABARGER,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

July 1, 1868.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. No. 1095) making an appropriation to carry into effect the treaty with Russia of March 30, 1867—

Mr. SHELLABARGER said:

Mr. CHAIRMAN: I think that it is not often that we are called upon to vote upon a question that is surrounded by more embarrassing circumstances than is this one now before us, not on account of the intrinsic merits of the treaty which we are considering, but on account of that which has occurred in regard to it. I admit that a few days ago my mind was not fully made up as to what was my duty in this case.

There is on the one side of the question these considerations: first, that one which has been just appealed to by the gentleman from Minnesota, [Mr. DONNELLY,] in his eloquent remarks; that is, that we are a land-stealing people by nature, and that our propensities and our manifest destiny are to steal land, until our "abutments," as the gentleman says, shall be the one on the Atlantic and the Pacific and also upon the Arctic and on the tropic seas. I know how that argument appeals to our Fourth of July natures; I know how that is calculated

to carry us off in that direction, and how I am and everybody else is disposed to fall into that kind of thing. That is one thing we have to encounter in dealing with this matter. Our propensities as Saxons, our vanity as Americans, our pride as a great and progressing nation, our love of dominion, our lust of power, our self-glorification, our notions of what a great thing in diameter our country ought to be, and, above all, our ideas that it is as unpatriotic and out of fashion to hold that our future glory is not to be found in owning all the continents and the islands between, all impel us to take this land.

Another consideration is this: that we deal with Russia; and that man must be exceedingly deaf to the ordinary impulses of gratitude and of magnanimity who does not feel that in our dealing with Russia our conduct ought not only to be fair, but to be magnanimous. In what is usually set down as the most despotic Government in the world, in that Government has been found always a friend and an ally, and at no time in our history was that alliance more cordial or the support more stupendous which the very fact gave to us that Russia was our friend than it was during our late war. I say at no time in our history was the value of that friendship so appreciated and so inestimable as during our late struggle. And as I would not in dealing with any nation, so I would not especially in dealing with Russia, do aught that could be construed by the very utmost stretch of construction or of imagination into an unfriendly act toward her. I approach the matter of voting upon this treaty under the enormous pressure which that feeling brings upon my mind, that it might be deemed unfriendly on our part toward Russia should we not ratify, so far as our action is needed for the ratification, this treaty with this friendly Power.

Now, those two considerations impel me to vote for this treaty. But they are about the only two considerations which do impel me to do so, I admit. I do not refer to the value or the valuelessness of this territory. But what belongs to the other side of this question? Let me remind gentlemen here of what they may remember without being reminded of it; let me, by way of stimulating our memories, remind gentlemen that we now stand upon the threshold of a new event in the history of our Republic. In the ratification or approval by appropriation of this treaty we are about to inaugurate a policy which is absolutely without precedent in the history of the Republic. The eloquent chairman of the committee appealed to our pride and our ideas of future magnificence by alluding to the acquisitions of territory which we have heretofore made. But did the chairman remember, does my country remember, that this is the first example in the history of the Republic where we have sought to acquire a foreign territory not contiguous to our own Republic—the first instance in which we enter upon the policy of those other nations in the far past that went down under that policy of foreign acquisitions. To day, gentlemen, we stand here debating, and are about to decide whether it is wise for this Republic, stretching as it does from the Atlantic to the Pacific, and almost almighty in its natural resources and in all its elements of power, to step now for the first time upon the policy of acquiring possessions across the world far remote, and of creating a system of foreign colonies. Four hundred miles, or about that, separate us from this country that we propose to buy. For one, and of course I speak only for myself, I pause, I hesitate, I start back; nay, I have decided to refuse to be a party to the beginning of this policy. Mr. Speaker, I fear this system of foreign colonial possessions upon which we here enter will be against us. That it will be I venture to put the prediction down.

Upon this momentous matter the great repub-

lic of the past speaks to the great Republic of this age in sad but most significant language. I only state what the axioms of history teach me when I say that the Governments of the world which are strong and which endure are those which are compact—compact in their territory, compact in the genius of their institutions, compact in their language, compact in their laws, and compact in their love of country. Somebody said rather facetiously that the country was so large already that he could only love half of it at a time. There was philosophy at the basis of that remark. That country which is compact is strong. I will not, therefore, be a party to the beginning of a policy by which we propose to acquire territories away off, a policy which, it was said on yesterday by the chairman, [Mr. BANKS,] is to soon bring us the Sandwich islands, and ultimately all other countries we may deem we want.

But, Mr. Chairman, notwithstanding what has occurred in regard to this treaty, I want to show that we approach the vote upon this treaty under exactly the same responsibilities under which every Senator acted when he agreed to ratify it. I hold that this House is absolutely free in the matter of making appropriations for carrying out a treaty which cannot be executed except by appropriations.

To show that we are I now proceed to notice what under the Constitution are the relations of this House to such treaties as require for their execution, or whose execution affects the constitutional powers of this House.

Mr. Chairman, it is impossible for us as law-makers not to feel, in voting for or against the appropriation for carrying out this inchoate treaty, the great constraint upon our private judgments as to duty which is occasioned by the facts which have transpired touching it. That it has been nominally made and ratified; that formal possession of Alaska by the Executive of our Government has been ordered and taken; that the Russian Government has surrendered possession to us, and that in all these things we deal with a Government so friendly to us as is Russia, are considerations which almost impel us to go through with the treaty, however unfit to be made we may deem it. Mr. Speaker, the unpardonable vice of the action which has occurred in this matter is in the fact that the President, in making this treaty, did not, as was done in the case of Louisiana by Mr. Jefferson, make the treaty, in its express terms, dependent for its binding force upon whether Congress appropriated from our Treasury the millions which it stipulated to pay for this Russian ice. The inexcusable sin of the transaction is in the President's and Senate's assuming that they could draw money from our Treasury "by treaty" in the very teeth of the express words of the Constitution that this shall never be done except "in consequence of appropriations made by law."

I wish now, Mr. Chairman, to devote a few minutes to showing how absolutely self-evident it is that we, notwithstanding what has occurred touching this treaty, have the right, and are under the solemn duty, to vote for or against the appropriation, as we would had the treaty not been yet entered upon, and with sole reference to the question whether, as an appropriation of the people's money, this is one fit to be made.

In entering upon the statement of the views which support this proposition—and I can here attempt nothing beyond the merest statement of them—I shall state the two principles which dispose of the whole matter in the very words of others the most eminent in the knowledge of our constitutional law.

The first I state from Story on the Constitution, (section 1502,) where, in speaking of this treaty power of the President and Senate, he says:

"But though the power is thus general and unrestricted, it is not to be construed so as to destroy the fundamental law of the State. A power given by the

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Constitution cannot be construed to authorize a destruction of other powers given in the same instrument."

The other I take from the words of Judge McLean, (5 McLean 344,) in speaking of a treaty attempting to appropriate money. "A foreign Government" (in treating with ours) "may be presumed to know that the power of appropriating money belongs to Congress."

Now, let us assume that these two propositions are not the law, and that the President and Senate, as the repositories of the treaty-making power, can complete and make perfect, and perpetually binding, as "the supreme law of the land," any treaty they may choose to make with any nation touching any public affair affecting our relations with foreign Governments and their people, what is the plain and inevitable result to which this would bring us? Plainly it would overthrow the Constitution and the representative character of our Government itself.

Assume that the people and their Representatives, when called upon under other parts of the Constitution than that creating the treaty power, to enact laws executing such treaties as the President and Senate have deemed fit to make, dare not judge whether these laws are fit to be made, or, on the other hand, fatal to the Republic, and you self-evidently not only strike from the Constitution all these parts which confide the making of such laws to the Representatives, but you do worse; you compel the law-makers first to take oaths to support the Constitution and then compel them to overthrow it by forcing them to become the mere clerks or puppets of the President in making every law which may be promised and contracted for by any treaty he may make, however monstrously destructive it may be of all the interests of the people or of the powers of their Representatives. If you, sir, reply that it is not such monstrous, but only proper and constitutional treaties which the President is permitted to make, you give up the whole matter in issue, and I agree with you. But when a treaty is such that it requires for its execution, or in its execution affects the laws which by the Constitution Congress only can make, then in making every such law it is the Congress to which the Constitution intrusts the making of that law, which by the Constitution is compelled to decide whether these parts of the treaty which can only receive their life from enactments of law are proper and constitutional parts of a treaty, and, as such, fit to be carried out by law. Let us now apply to our Constitution the doctrine that Congress is compelled to make laws to execute every treaty, however improper to be made.

By the Constitution Congress alone has power to declare war. But suppose the President and Senate conclude with France a treaty, offensive and defensive, stipulating that whenever France shall be in war with Great Britain, then the United States will also make war on Great Britain, and that supplies for such war shall be voted by Congress! Would such treaty compel us to pass such law and declare such war? By the Constitution Congress alone can grant letters of "marque" and make rules concerning "captures on land and water." Suppose the President and Senate conclude with England a treaty that Congress shall issue in any war with England no letters of marque or reprisal, nor make any rules permitting captures of English commerce, and should stipulate for laws executing these terms of the treaty; would Congress be compelled to enact the law that in all future wars with England there should be neither "reprisals" nor "captures?" By the Constitution Congress alone can assent to a State's making war on a foreign State. Suppose a treaty by the President and Senate stipulates with Mexico that California may engage with Mexico in a war for the joint acquisition of what the gentleman from Massachusetts [Mr.

BANKS] tells us we must have, the Sandwich Islands, and that Congress shall vote \$100,000,000 to aid California in this war! Can the President and Senate, by such treaty, compel us, as part of Congress, to "consent" to such a war and to pass such appropriation? By the Constitution Congress alone has the power to "lay duties" upon the importation of the productions of other nations, and Congress alone can consent to the laying of duties by any State on imports or exports. Suppose the President and Senate make with China a treaty that her productions shall be forever admitted into the United States on a duty of five per cent., and that Congress shall change our tariff laws to conform to this treaty; are we compelled, willing or unwilling, to so change the law? Or suppose the President and Senate agree with France that New York may forever protect her industry by levying upon French goods a duty of one hundred per cent., is Congress compelled by this treaty to "consent" (as it may) to this duty in favor of New York alone?

Congress alone has power to raise and support armies and maintain navies, but even Congress can appropriate money for such support for no longer term than two years. Suppose that the President and Senate by treaty agree with England that we will maintain on our northern frontier, for the preservation of order and during twenty years, an army of fifty thousand men, at an annual expense of \$100,000,000, is the Congress thereby compelled to "raise and to support" this army and to "appropriate" these moneys and for this term "longer than two years?" By the Constitution all bills to raise revenue must "originate" in this House, and the only power of the Senate over them is to amend them. Now, suppose the President and Senate conclude a treaty with Russia that, for the purchase of her Asiatic possessions, which the chairman [Mr. BANKS] is already coquetting with, and persuading us to covet because we can go there from our New Russia "in two days in open boats," we will assess upon our people and pay to Russia a revenue of \$1,000,000 each year for one hundred years, is this House forced by this act of the President and Senate to "originate" such a revenue bill. By the Constitution Congress only can borrow money on the credit of the United States. But could the President, by treaty, borrow of England the moneys to pay our public debt and compel Congress to pay ten per cent. interest therefor, because the treaty stipulated for ten per cent.? By the Constitution Congress alone can establish uniform rules of naturalization and admit new States into the Union, but could the President, by treaty, purchase all of the dominions of the Hottentots and agree that the Hottentots should, despite our naturalization laws and the exclusive powers of Congress to admit new States, become at once citizens of the United States and a new State of Hottentot, voters "in the Union?" By the Constitution Congress alone can regulate commerce with foreign nations. But could the President and Senate, by treaty, compel Congress to vacate all its power over commerce with foreign nations, and to either admit that commerce to come into our country free, or to be abolished entirely, or to be carried only in foreign ships, or to be subjected, in foreign ports, to ruinous levies; or whatever else the President and Senate might please?

If it be said that the cases I have supposed are extreme, and therefore prove nothing, I reply that they are, in their facts, no more extreme than the one now before the House, in which the President, the first time in our history, has assumed to purchase the territories of a foreign State, territories far separate from our own, to make their wretched inhabitants citizens of the United States, and without the assent of the people or their Representatives, to tax them millions of dollars to pay for these remote and frozen regions! No

case, I submit, can, as a usurpation of the rights of this House, be more extreme than that one with which we now deal, where the President assumes first to acquire foreign territory, the power of the whole Government to do which was once denied; by which he assumes to acquire lands far removed from our shores; by which he assumes the powers of Congress over the naturalization of their people; by which he assumes to compel this House to originate bills to raise revenues to pay for these lands, and by which he appropriates by treaty from the Treasury moneys of the people, which can only be done "by law."

I have referred to so many parts of the Constitution to enforce the absurdity of the claim that the President and Senate can, through treaties and by pledging the national faith, compel from Congress whatever laws they may choose to covenant, for touching our foreign affairs, not because so many makes the absurdity more plain than it is made by the one with which we deal to-day, for they do not and could not. But I refer to them all to show where the sanction of this one strange and startling usurpation, if submitted to by this House, will lead us to, and how complete the ruin of the Republic and the overthrow of its Constitution will be, if, by sanctioning this act of wrong against our representative Government, we declare a rule and begin a policy the consequences of which the examples I have appealed to but faintly indicate. I implore you, Representatives of a free people, if this policy must here begin, and this treaty must be executed by us, that you give your act such expression and form as that it cannot be construed into an affirmance of such a rule, and that it will not be the introduction of such policies and ruins as these!

No, Mr. Chairman, no. What I have been contending against is not our law. That simple and universal rule for attaining the sense of every instrument which all the world recognizes and employs, and which requires all the parts of the instrument to be considered in construing each one, furnishes us, instantly, on its application here, the meaning of the Constitution upon the extent and limitations of the President's and Senate's treaty power. That meaning and rule is that, touching our foreign affairs, the President and Senate can make and finally ratify all treaties which, by their terms, do not involve or affect matters over which the other parts of the Constitution have given the control to Congress or to some other part of the Government. But, whenever a treaty does, in any of its parts, stipulate for that, the doing or not doing of which the Constitution has intrusted to the decision of Congress, then that part of the treaty so stipulating is inchoate and not binding upon the Government nor a pledge of its faith until assented to by some action of Congress. And, to adopt here the language of Judge McLean, the Governments who treat with ours are "presumed to know" that such treaties are incomplete until fully approved by Congress.

But, Mr. Chairman, I go on; and to make here the assurance doubly sure that, on this stupendously important question I rightly announce our constitutional law, I appeal to those who made the Constitution and to those to whom, throughout its history, we have looked for its just interpretation.

And, sir, first of all I prefer to bring before this House him who was most illustrious in first giving to the Constitution, in all its parts, those interpretations which more than all other aids beside, have helped to make that great instrument throughout harmonious, just, beneficial, and enduring; I mean Chief Justice Marshall.

In *Foster vs. Neilson*, (2 Pet. 245,) he says: "Our Constitution declares a treaty to be the law of the land. It is consequently to be regarded in courts of justice as equivalent to an act of the Legislature whenever it operates of itself without the aid of any legislative provision. But whenever the

terms of the stipulation import a contract where either the parties engage to perform a particular act, the treaty addresses itself to the political, not to the judicial department, and the Legislature must execute the contract before it can become a rule for the court."

Next I cite the father of the Constitution, Mr. Madison. He made a powerful speech in favor of the resolution adopted during Washington's administration, and for which he, along with fifty-six others, voted. (See *Annals of Congress* of April, 1796, page 782.) The following is the resolution for which Madison and his compeers voted:

"Resolved, That it being declared by the second section of the second article of the Constitution that the President shall have power, by and with the advice of the Senate, to make treaties, provided two thirds of the Senate present concur, the House of Representatives do not claim any agency in making treaties; but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress it must depend for its execution as to such stipulations on a law or laws to be passed by Congress. And it is the constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

Next I call your attention to the author of the Declaration of Independence, Mr. Jefferson. In his letter to Giles (*Jefferson's Works*, vol. four, page 125) it will be found that he says:

"I am well pleased with the manner in which your House have testified their sense of the treaty. Randolph seems to have hit the true theory of our Constitution; that when a treaty is made involving matters confided by the Constitution to the three branches of the Legislature conjointly, the Representatives are as free as the President and Senate were, to consider whether the national interest requires or forbids their giving the force and forms of law to the articles over which they have power."

Mr. Randolph declares that—

"Where a treaty is made involving matters confided by the Constitution to Congress, the Representatives are as free as the President or the Senate were to consider whether the national interests requires or forbids their giving the forms and force of law to the articles over which they have this power."

I next beg the attention of the House and country to the declared law of the country as it has stood ever since 1796, expressed in a resolution of this House, and which gives express notice to all the nations which treat with us touching matters depending for their performance upon the action of Congress, in these words:

"That it is the constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to act thereon as in their judgment may be most conducive to the public good."

I next beg the attention of the House to the language of Judge Tucker (*Commentary on Blackstone*, 389) upon this question, where he carefully states the law upon this important matter. He says:

"It may not be improper here to add something on the subject of that part of our Constitution which declares that treaties made by the President and Senate shall be a part of the supreme law of the land. Acts of Congress, made pursuant to the powers delegated in the Constitution, are to be regarded in the same light. What, then, is the effect of a treaty made by the President and Senate, some of the articles of which may contain stipulations on legislative objects, or such as are expressly vested in Congress by the Constitution, until Congress shall make a law carrying them into effect? Is Congress bound to carry such stipulations into effect, whether they approve or disapprove of them? Have they no negative, no discretion upon the matter? The answer seems to be that it is in some respects an inchoate act. It is the law of the land, and binding upon the nation in all its parts, except so far as relates to those stipulations. Its final fate, in case of a refusal on the part of Congress to carry these stipulations into effect, would depend on the will of the other nation. If they were satisfied that the treaty should subsist, although some of the original stipulations should not be fulfilled on our part, the whole, except those stipulations embracing legislative objects, might remain a treaty. But if the other nation chose not to be bound, they would be at liberty to say so, and the treaty would be defeated. A contrary construction would render the power of the President and Senate paramount to that of the whole Congress even upon those subjects upon which every branch of Congress is, by the Constitution, required to deliberate. Let

it be supposed, for example, that the President and Senate should stipulate, by treaty, with any foreign nation, that in case of a war between that nation and any other the United States should immediately declare war against that nation, can it be supposed that such a treaty would so far be the law of the land as to take from the House of Representatives their constitutional right to deliberate on the expediency or inexpediency of such a declaration of war, and to determine and act thereon, according to their own judgment?"

I sum up all the legal propositions which I maintain in regard to the matter now before us in the language of McLean, from which I have already read, and which is as follows:

"A treaty is the supreme law of the land only when the treaty-making power can carry it into effect."

"Treaty which stipulates for the payment of money undertakes to do that which the treaty-making power cannot do; therefore the treaty is not the supreme law of the land."

"To give it effect the action of Congress is necessary. And in this action the Representatives and Senators act on their own judgment and responsibility, and not on the judgment and responsibility of the treaty-making power."

"A foreign Government may be presumed to know the power of appropriating money belongs to Congress."

"No act of any part of the Government can be held to be a law which has not all the sanctions to make it law."

Mr. Chairman, it is from these considerations that I conclude our national faith has not been, as it could not be, pledged to Russia that we would appropriate these millions. I conclude the votes we may cast upon appropriating these moneys places us in precisely the same condition as Senators with regard to their votes in ratifying the treaty. I understand the chairman of the committee to concede that. I am not permitted to defend myself before my constituents by saying, "The President and the Senate fastened this treaty upon us." They will point me to the provisions of the Constitution, to the authorities of all the eminent men who have spoken upon the subject. They will say, "No; as a member of the House you were as free as were Senators; and in voting to carry out this treaty you voted to impose upon your district \$150,000 to be raised by taxation to pay for Alaska ice."

We are, in the sense of the Constitution at least, responsible for this appropriation in the same sense we would be if this bill were brought before us, as in the case of some other territorial acquisitions before the ratification of the treaty. And I am of the opinion, if the question here presented to us were, not only in its legal sense, but also as a matter of fact, whether we should enter upon negotiations for such a treaty as this, it would have few votes on this side of the House. I need not repeat what was so singularly well stated by the gentleman from Iowa, [Mr. PRICE,] who I was so glad to hear speak as he did as to what is the paramount duty of the hour. I allude to the overwhelming necessity for the most unscrupulous economy. If it were the last thing I had to say in the hearing of my fellow members it would be just to say our people demand of us, and if they cannot have it from us, they will have it from our successors, the most rigid, unscrupulous, unrelenting economy. That is not because our people are not liberal. They are proverbially liberal; nay, lavish; but it has just come to pass, on account of this most stupendous rebellion from which we have just escaped, we are the most indebted, considering our rates of interest, and the most taxed people on the globe; that we are overwhelmed with taxation, and the result of all that can be said on that subject is that the necessity for this economy is imperative.

The only other suggestion I wish to make is in regard to what seems to control the votes of the larger portion of members than any other, and that is what has been stated by the gentleman from Massachusetts [Mr. BANKS] and also by the gentleman from Minnesota, [Mr. DONNELLY,] that this acquisition will bring to us the intervening British territory, which will be between the upper and nether millstones.

Mr. Chairman, if there is anything that has been recognized as controlling law in the dealings with each other of two great nations it is that whatever art or skill may be tolerated in dispatches and literature of the diplomats of the two nations there must be that directness and that fair play which men in the actions of these nations toward each other denominate by the word "honor." A great nation, proud of its power, its resources, its impending destiny, cannot afford to omit to be proud also of its honor. And, sir, the action of that nation is not honorable which seeks by sinister and covered indirections to attain an unfriendly end as against a nation with which we are on terms of friendship. Now, sir, what is said about this Alaska purchase putting British territory between the upper and nether millstones either means nothing; at all or else it means that by this means and these indirections we mean to constrain Great Britain to surrender these territories to us on terms on which we could not get it did we not have Alaska. The gentleman means by this process of "squeezing" between the upper and lower jaw, as he expressed it, to secure this territory by indirection, or it does not mean anything.

Mr. DONNELLY. I will simply say that I contemplated nothing more than that the large American population south of it and the large American population north of it, with the slight hold that England has on that country, will eventually gravitate into our hands.

Mr. SHELLABARGER. I will finish the remark I was about to make, and then allude to what the gentleman has said. I say, if the acquisition of British America is to be open, fair, direct, honest, the acquisition cannot be aided by the fact that we own Alaska beyond it. If our colony in Alaska is not to be the base of unfriendly acts against England, then the intervening British land will not, as a purchase, be cheapened to us by the fact that we have made it valuable by having what we are assured must soon be a prosperous and populous State "on ice" beyond these British lands. But if we do not propose to buy of England these lands, but to constrain England by the process of grinding between two millstones, I beg gentlemen to remember first, that we deal with Great Britain, and that Great Britain has not been in the habit of yielding her territories under constraint.

But gentlemen suggest that we are going to get a population there so large that it will invite intervening population. Now, I submit to the common sense of everybody whether there is anything in that. I suspect there will be no population there such as will invite intervening population. That never will be realized, from the inevitable laws of nature that have fixed icebergs there, notwithstanding the letters of the correspondent of the New York Herald and the old prophecies of French reviewers, of which the gentleman from Massachusetts [Mr. BANKS] tells us.

But if there were a population there, I beg to know whether it can ever be supposed that a state of things will occur so inviting to the migration of our people beyond forty-nine degrees into that country, as exists now in regard to those British lands that are far nearer to us? Near my own State they come down almost to my own doors. There is a vast country of inviting fertility and cheapness, under British rule, it is true. But still there is a vast country there, fields almost illimitable in extent and almost inexhaustible in fertility, and yet our people do not go there now. Why? Because it is not their country. Will gentlemen get up here and say our people will go to a country intervening between Alaska and the United States, while it remains British country, and yet admit that they will not go into the nearer and more inviting country at the very doors of our densest populations? Surely nothing was ever more utterly visionary than this.

HO. OF REPS.

Purchase of Alaska—Mr. Price.

40TH CONG. ... 2D SESS.

Purchase of Alaska.**SPEECH OF HON. HIRAM PRICE,**

OF IOWA,

IN THE HOUSE OF REPRESENTATIVES,

July 1, 1868.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. No. 1006) making an appropriation to carry into effect the treaty with Russia of March 30, 1867—

Mr. PRICE said:

Mr. CHAIRMAN: The proposition now under consideration, stripped of all verbiage and removed from all ambiguity, is simply this: whether we, the Representatives of the people, the men whose duty it is especially to levy taxes upon the people, and as specially to see that an honest and economical disbursement is made of the money thus raised, whether we, thus situated and thus charged with important duties, are prepared in the present financial condition of the country to purchase any more territory or any other property not absolutely necessary to the life of the nation. I understand this to be the question with which we are brought face to face by the bill reported by the Committee on Foreign Affairs for the purchase of Alaska.

I listened yesterday attentively and with much pleasure to the gentleman from Massachusetts, [Mr. BANKS,] the chairman of the Committee on Foreign Affairs, while he labored for an hour and three quarters to convince the House and the country that duty and interest both required us to complete this purchase. It is one of my weaknesses, sir, to bow, if not submissively, yet with great admiration at the feet of eloquence and oratory, and I could not help admiring the ingenuity with which he created his magnificent structure out of almost nothing. It is pleasant and refreshing to the mind, sir, to occasionally leave for a limited period the dry and dusty paths of toil that lead up the hill of difficulty, and in which we are continually meeting with such stubborn things as facts and figures, and to recruit our wasted energies in the green fields and cool shades which are to be found only in the domain of imagination and of fancy.

I think I pay no mean compliment to the chairman of the Committee on Foreign Affairs when I say that I found myself insensibly following him from the dead and heated atmosphere of this Hall to the cool shades and invigorating breezes of Vancouver; that with him I witnessed the selection of one of the forest trees of that region, and its transportation to Toulon, where an imperial commission was in session to decide upon the relative value of the timber of different countries for the masts of vessels; with him I saw it prepared and reared aloft as the mainmast of one of the largest vessels; and then in company with other vessels, when the sea was not calm nor the skies clear, but when the storm-king was abroad in his power, I saw these vessels with every inch of canvass that could be safely carried start upon the trial trip. With him I waited for the result and the decision, and with him my heart swelled with pride when the decision was given in favor of the timber grown upon the continent of America. It is true, sir, that my joy was slightly modified, when I remembered that as a rule that kind of timber is not found on fertile plains or in "wooded valleys warm and low," but upon the bleak mountain side, or on some beetling cliff, where for some half a century it has reared its head in defiance of the storms which have swept over and around it, and where a thousand times it has been bent like a bow by the power of the tempest, but each time springing back like a shaft has maintained its perpendicular, gaining by this discipline that strength and elasticity of fiber which are necessary to fit it to occupy the place of a main-

mast to carry the sails of commerce and flags of nations.

But, Mr. Chairman, the eloquence of the gentleman from Massachusetts did not allow me to stop here, but carried me with him to Russia, the party who seeks to make the sale to us. I traversed with him the governments of Smolensk and Novgorod and Olonetz. I stood with him on the banks of the Volga and the Minsk and the Dnieper. He showed me how the inhabitants of some of those countries could manufacture canvass and bags and mats and even shoes out of the bark of trees; and I confess that for a moment I forgot that the reason why this material was used for these purposes was because of the barrenness of the soil and the inhospitable character of the climate, but when I awoke from the hallucination into which the witchery of his eloquence had thrown me I found a barren soil and a half civilized people.

But, sir, I was not allowed to remain long there. By a movement as quick and a change as sudden as ever was produced by Aladdin's lamp, we were standing upon the margins of the inlets, bays, and water-courses of Alaska. There the gentleman from Massachusetts pointed out to me the fish with which these waters swarm; no, sir, I beg pardon, not swarm, there is no room for them to swarm, they are piled up fish upon fish, pile upon pile, solid columns of fish, no human arithmetic can compute their numbers. And, sir, such fish, shad, salmon, cod, according to the description a foot and over through the shoulders, with sides and tails to match. As I stood there, Mr. Chairman, listening to the gentleman from Massachusetts, with fish to the right of me, fish to the left of me, fish all in front of me, rolling and tumbling, I had to acknowledge that the picture, as painted, made Alaska a good country for fish.

Well, sir, to sum up in a word the influence which the speech of the gentleman from Massachusetts had upon me—and I presume upon others—I will confess that so attractive did he make it appear that almost unconsciously I was on the point of embracing the creations of his splendid fancy; but upon reflection and the exercise of sober second thought, when I come to strip it of the trimming and tinsel in which his imagery had clothed it, I found nothing but a cold, forbidding, ghastly, grinning skeleton, from which I turned with horror and disgust.

From the best information which I have been able to obtain I believe Alaska to be, in the language of an impartial historian, "very mountainous; some of them fifteen to seventeen thousand five hundred feet high, and volcanic, with a climate intensely cold and a sterile soil." But, sir, I do not propose to argue this question on that basis at all. I do not propose to discuss the question whether it is a desirable country or not. I care not, so far as this discussion is concerned and for the purposes of this argument, whether it be a good or a bad country; whether it be a volcanic country, with mountains rising seventeen thousand five hundred feet above the sea, or whether it contains smiling plains rivaling those of Italy. With me these are not the questions to be discussed; but what I propose to discuss is the question as to our right, our power, our obligation to perfect this treaty commenced by other powers of this Government; and a few of the reasons I propose to give are these:

First, sir, we do not want this territory, because as every one knows we have millions of acres of land now, more than we can properly care for or develop. Yes, sir, in the valley of the Mississippi alone there is land enough for an empire, uninhabited, unimproved, and its resources undeveloped because we have not the money to improve the channels and prevent the overflow of the rivers upon the banks of which those lands are situated. In the second place, Mr. Chairman, we have no money with which to make this purchase. I presume I need not inform this House and the country,

that as a nation we are in debt, and in debt, too, to such an extent, as to cause considerable anxiety as to how we are to meet our honest obligations. These two facts, sir, it seems to me, ought to settle the question at once and finally, for if an individual who was pecuniarily involved to such an extent that he was compelled to renew his notes from time to time, and beg time from his creditors, should take money which he borrowed at an exorbitant rate of interest to purchase a piece of property which he had no kind of use for, he would be called by all honest and prudent men either a very weak or a very wicked man, and I hold, sir, that the same rule that applies to individuals is equally applicable to nations. We have not one dollar, sir, in the Treasury of the United States to-day that does not belong to our creditors.

Only twenty-four hours ago, on this very floor gentlemen were debating the question as to the practicability and the ability of this Government appropriating a few thousand dollars for the removal of obstructions in the rapids in the Mississippi and Ohio rivers. Gentlemen who are advocating the purchase of Alaska at an expenditure of \$7,200,000 in gold, equal to \$10,000,000 in currency, doubted only twenty-four hours since whether we had the financial ability to appropriate a few thousand dollars for the removal of obstructions to the navigation of the waters of the Mississippi and Ohio. Now, what kind of a river is the Mississippi? Have gentlemen thought of it who advocate the purchase of Alaska? It is a river reaching from the frozen regions of the North, through every variety of soil and climate until it loses itself in the ocean in the region of eternal summer. It grasps in one hand the land of snow and ice and in the other that of the olive and the palm. Such is the great river that the great Architect of the universe has donated to us free of charge with but one or two small obstructions in it to be removed by the hand of man. And yet we stand here doubting whether we have the financial ability to expend a few thousand dollars for the purpose of giving uninterrupted navigation through two thousand miles, the grandest river on the globe, forming the boundary for twelve States of this Union, each of them large enough for an empire, a river having capacity enough to bear upon its bosom the commerce of many nations. Gentlemen who doubt our ability to do that are to-day ready to vote \$10,000,000 to pay for the icebergs of Alaska.

There are from fifty to seventy thousand Indians in Alaska, and from ten to twelve thousand white people of some kind. But, sir, who live on the banks of the Mississippi river, which we with some difficulty voted yesterday to improve so that the agriculturists of that great valley could get their products to the Atlantic sea-board? Who live there? Not fifty thousand Indians, not a few white men of doubtful color, but millions of intelligent, industrious, enterprising, thorough-going, reliable, loyal people, who to-day are making that valley the garden of the world and are prepared to make it the granary of the world. What is the object of improving the navigation of the Mississippi? Why, sir, that these same millions of agriculturists in the Northwest may produce cheap bread and meat for the toiling millions on the Atlantic sea-board. That was the object of that appropriation yesterday, and yet gentlemen know how bitterly, how determinedly it was opposed, and only passed by a very small majority. To-day, on the same floor, under the same circumstances, without a dollar more in the Treasury than there was then, we are prepared coolly to say that we have money enough to pay \$10,000,000 in currency for Alaska. Well, sir, I think when gentlemen view these questions from a proper standpoint, they will agree with me that there is but one conclusion to be arrived at in the premises. Let us take care of what we have. Let us cul-

tivate the soil that is already ours, over which the stars and stripes float to-day. Let us reclaim from overflow the lands lying on both sides of the lower Mississippi and remove the rapids from the upper Mississippi, so that the agriculturists and mechanics of that country may have a free market for their produce.

And I will say in this connection, before leaving the subject—and I wish gentlemen would remember this point—that the difference in the cost of transportation of the surplus agricultural products of the upper Mississippi alone in one year, between river navigation and a railroad transportation, will more than pay for all the appropriations that have been asked for in times past, that are asked for to-day, or that will be asked for in all the years of the coming future for the improvement of these rapids.

Mr. MAYNARD. Will the gentleman allow me a word?

Mr. PRICE. I will yield for a moment.

Mr. MAYNARD. The gentleman referred to some persons, I do not know to whom, who suppose our means are not sufficient to make these improvements. I would like him to say what his opinion is on that subject.

Mr. PRICE. I think that this nation has ability to improve her channels of commerce and protect her artisans and agriculturists, and develop to the fullest the resources of this God-given and noble country that we have been placed in possession of. It will pay back "some thirty, some sixty, and some an hundred fold."

Mr. MAYNARD. I desire simply to say that I was with the gentleman on that question and differ with him on this.

Mr. PRICE. Then my friend indorses what I have said in reference to the Mississippi, and I am glad to have so good an indorser.

But, Mr. Chairman, we have much more land now, much more territory than we actually need, and much less money than our pressing wants demand, and yet this bill asks us to increase what we do not want at the sacrifice of what is absolutely necessary for the life of the nation.

Mr. ELDRIDGE. I would like to ask the gentleman a question right at that point. I understood him to remark that we had a great deal more territory than we needed. I would like to have him tell us what portion of the territory of this country he would be willing to give away?

Mr. PRICE. No part of Wisconsin; I would not spare an inch of her.

Mr. ELDRIDGE. That is not quite answering my question. I wish he would tell us what territory we have that we do not need.

Mr. PRICE. With all due deference, sir, to gentlemen who advocate the passage of this bill, I must characterize such legislation as foolish, insane, and wicked, and I earnestly request gentlemen to use a little common sense in this matter, and to remember that "those who buy what they do not want will soon want what they cannot buy."

The \$7,200,000 of gold which we pay in the first place is but the "beginning of the end." That is but the first loss; the second is \$432,000 per annum interest on the purchase-money, for it must be remembered we borrow the money. The third loss is the expense of a territorial government, amounting to several thousands a year, to which must be added at least \$2,000,000 per annum for troops to watch the Indians. Have we not Indians enough on hand now to take care of? or do gentlemen think we had better buy a few more thousand of them, and thus furnish a field for still further cash expenditures, a few more Indian agencies, speculations, &c.?

But we are told by gentlemen who advocate the passage of this bill that there are several reasons why this purchase should be made. One of these reasons is that it is a splendid country, producing the most luxuriant corn and the

finest of fur. Now, sir, if this be true it is the only country heard of, since the ark rested upon Ararat, where good corn and fine fur could be raised upon the same acre. I fear, Mr. Chairman, that the gentlemen who thus paint the picture dip the brush in rather too strong colors.

Another and stronger reason which gentlemen give for the passage of this bill and the purchase of Alaska is that a refusal to do so may offend Russia. I trust, sir, I do not underestimate the friendship of Russia. I have not forgotten, and never shall forget, that she alone of all the important Powers of Europe stood by us amid the darkness of the trial hour through which we have just passed. I remember how gladly I hailed the appearance of her vessels of war in our waters when the English and French ports were open to our enemies to furnish their piratical crafts outfits and reinforcements.

I believe the demonstration made by the Russian fleet at that time was intended as a declaration to the English and French nations that if they moved beyond a certain point in their sympathy with the rebels the Russian flag would be twined with ours, and that, yard-arm to yard-arm, the American and Russian men-of-war would go into the contest against all comers.

Nor am I, Mr. Chairman, insensible to the fact that Russia has voluntarily struck the shackles from the limbs of millions of human beings. All these things I remember, and for all these things I honor her. But, sir, for all this I cannot consent to rob our own people. I cannot consent to take the money which is needed for the comfort of the widows and orphans and wounded soldiers of my own land and give it to Russia, noble, generous, and brave as she is.

Nor do I think so meanly of Russia as to suppose that because we refuse to do this she will withdraw her friendship. But, sir, if I know she would, yea more, if I knew that a refusal to vote this \$7,200,000 would forfeit the friendship of every nation on earth, I would not vote it until our own brave defenders were paid the last farthing due them. Blood, sir, is thicker than water, therefore the just claims of our own people must be met before we enter into real-estate speculations with Russia or any other nation.

Why, sir, the tables of your committees are loaded to-day with applications for relief from wounded soldiers and widows whose husbands have offered up their lives upon the altar of the country and in defense of the Government which we now enjoy. Many of these, sir, are looking grim want in the face and contending in a hand to hand fight with poverty in its gauntest forms, and yet, sir, every claim is scrutinized with an exactness and a particularity that leave the applicant no hope of relief unless every minutia of the law is complied with to the letter.

All over this land are scattered the children of these brave defenders of the Republic. When these men laid down their lives upon the battle-field they expected the Government they died to save would feed, clothe, and educate their children. But, sir, this duty is being performed not by the Government, but by States, by benevolent societies and by individuals, because to any and all such claims the answer is, the Government is not able. Not able, sir! How does that sound from a Government that is willing to pay \$7,200,000 in gold for an iceberg?

Think of it, and tell me where is our consistency, our honesty. Seven million dollars in gold! How many hearts would this lift from the verge of despondency? How many orphans' tears would it wipe away? How many widows' hearts would it make to sing for joy?

If this insane act should be consummated; if this \$7,000,000 of treasure should be filched from the suffering and the sorrowing of our

own land, to whom it is justly due, and squandered in this worse than useless purchase, we shall have cause to exclaim, "Tell it not in Gath, publish it not in the streets of Askelon," lest our financiers be treated with contempt and our legislators laughed to scorn.

But the argument most strongly urged, and upon which the friends of this bill rely principally for success, is that the treaty by which Russia agreed to sell Alaska to this Government is in the nature of a contract between two individuals, needing only execution, and that a compliance with the agreement and the execution of the contract is as binding in the one case as in the other. If this statement of the case were correct there would be no room for further argument, and all we would have to do would be to pay the money and make the best of our miserable bargain. But, fortunately for us, this is not the case. No contract binding on our Government to pay money can be made unless the whole people through their Representatives in this House consent and agree to it.

This safeguard to the financial interests of the country has been wisely imbedded in the foundations of the Constitution by the framers thereof, and Russia ought to have known—yes, sir, Russia did know—that the parties with whom she was contracting had no power to execute that contract, and that not one dollar of the people's money could be used for that purpose until the people through their agents in this Hall should consent thereto.

If it had been intended by the framers of the Constitution that the House of Representatives should of necessity make appropriations to carry out the provisions of any treaty, then, sir, the Constitution would have so specified, for it is well known that the manner of raising and spending money is very particularly described in that instrument. If an individual contracts with an irresponsible party he does so at his own risk, and must take the consequences. If the civilized world has yet to learn that no contract for the payment of money is binding upon this Government until agreed to and ratified by the people, through their immediate Representatives, it is about time that lesson was taught. This is a Government of the people, and of the whole people, and the day of our boasted freedom will be about at an end when we surrender the purse-strings to a few individuals, and thus centralize the power in a few men who are responsible to the people only at great distances and at long intervals.

All the people will then have to do will be to meekly bow their necks to the yoke and their backs to the burden, record the edicts of their masters, obey their behests, and from the fruits of their toil fill the coffers of their lords and masters to be squandered as fancy or pleasure may dictate.

The Constitution provides in express terms that no money shall be drawn from the Treasury except in pursuance of law. Well, sir, who makes the laws of this nation? Can the President and the Senate make a law? Can the President and his Cabinet make a law? No, sir; none of these, nor all of them combined; but, sir, the Senate and this House can make a law without the aid or consent of the President or any or all of his Cabinet.

The idea or assumption that this bargain attempted to be made with Russia is a treaty, and therefore, as gentlemen say, a part of the supreme law of the land, is preposterous in the extreme. If it is a law, why come to this House and ask for action? If it is a law, they are authorized by the Constitution to take the money without further action. No, sir; it is not a treaty, is not a law, and the very fact of coming here to ask for our favorable action is a clear admission on their part that they know this. An attempt has been made to make a treaty, and the parties have gone as far as they could in that direction, but finding

HO. OF REPS.

Purchase of Alaska—Mr. Pruyn.

40TH CONG....2D SESS.

themselves suddenly arrested by the barriers of the Constitution they turn to us; where alone the purchasing power is vested, and request us, seemingly as a matter of course, to breathe the breath of life into their lifeless creation. We say to them, "Gentlemen, it cannot be done; we are nearly out of breath; if we give vitality to your progeny, some of those who have claims upon us for life will die." If they complain of this we must reply by suggesting that they ought to have made some calculations about their motive power before they commenced constructing their machine.

If it be true, Mr. Chairman, that because of this attempted purchase we are under obligations to vote away this \$7,200,000 in gold, then by the same rule we may be required to-morrow to vote away seven hundred or seven thousand millions; and if these parties who make this requisition upon us have the authority to bind us by a bargain for Walrusia, they have the same authority to compel us to pay for old Russia and the balance of the world.

The Constitution of the United States very wisely puts the power of voting away money with the men who devise the ways and means of raising it by taxation. The people, through their immediate Representatives, say what shall be done with the money which they have themselves contributed.

The President may hold the sword; but, sir, we hold the purse, and are alone responsible to the people who sent us here for the use to which we put their money. Not our money, sir; not the President's money. No, sir; but the people's money; and when I discover that the people who pay the taxes wish to have their money invested in this way, I will be willing to vote for this \$7,000,000 expenditure, but until I do make this discovery, my voice and vote will certainly be against it.

Mr. Chairman, if this that is called a treaty, but which I deny is one, makes it obligatory on us to vote this money, then I ask gentlemen who are advocating this measure what is to prevent the same parties who made this bargain from buying the balance of the world and compelling us to pay for it. If this doctrine be true, the nation is financially at the mercy of the President and Senate, and we, the immediate Representatives of the people, are nothing more than so many clerks, whose duty it is to obey their commands and record their edicts.

For one, sir, I do not subscribe to this doctrine. I believe that now is the time and this is the occasion to say to all parties, at home and abroad, that money wrung from the overburdened tax-payers shall not be paid out on real-estate speculations, nor for any other purpose, unless the Representatives of the people decide that it is for the interest of their constituents and in accordance with their wishes.

Money, sir, not only furnishes the sinews of war, but it is also the life blood of a nation in time of peace, supplying the vital forces of all the industries of civilized life, and contributing to the prosperity and happiness of the people; and the men of any party who wickedly and foolishly squander it, and thus lay unnecessary burdens upon the people, deserve, and must expect, to be hurled from place and power, and their places supplied by more prudent and deserving men.

Let us, sir, not seek to stretch our arms like seas to take in all the shores, but let us rather protect and preserve what we have, develop the agricultural, mineral, and commercial possibilities which we already possess, and thus make this nation the home of hundreds of millions of happy and prosperous people.

And now, sir, one word further: an attempt has been made by the advocates of this bill to compare it with the French indemnity treaty. I undertake to say, sir, that there is no similarity in the two cases; and he who can draw a parallel between them could make his fortune as a contriver of new inventions.

The French indemnity treaty was made to secure payment to our citizens for property which had been destroyed, and for which the French nation was liable. Our citizens had been deprived unjustly and by violence of their property, the property could not be restored to them, and the only thing that could be done was to agree upon the value of it and require payment. This was agreed upon between the two Governments, but the French nation delayed payment until the old Hero of the Hermitage was placed in the seat of power of this nation, when he declared in emphatic language that it should be paid, and it was.

But, sir, we have not destroyed any of the property of Russia or of any of her citizens. Alaska in all its hideous proportions and native cheerlessness, with her icebergs, her volcanoes, her three hundred and sixty days in the year of clouds and storms, her harbors, streams, Indians, and fish, are all there, just where they were and as they were when these negotiations commenced, and Russia is welcome, so far as I am concerned, to remain in peaceable possession of all that region until the last echoes of the tramp of time shall have died away among the hills of eternity.

Purchase of Alaska.

SPEECH OF HON. J. V. L. PRUYN,
OF NEW YORK,
IN THE HOUSE OF REPRESENTATIVES,
June 30, 1868.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. No. 1096) making an appropriation to carry into effect the treaty with Russia of March 30, 1867—

Mr. PRUYN said:

Mr. CHAIRMAN: On a previous occasion when this subject came up somewhat incidentally before the House I made some remarks in response to what fell from the gentleman from Massachusetts, [Mr. BUTLER,] in reference to the treaty with Russia referred to in the bill before us. At that time I submitted extracts from Kent's Commentaries and from those of Judge Story on the Constitution bearing directly upon this question. I do not now propose again to cite those authorities at length, but simply to say that both those distinguished authorities looked upon it as a settled question that it is the duty of the House of Representatives to make appropriations to carry out a treaty which has been honestly and fairly made by the treaty-making power. Nor do I propose to say anything about Alaska, its extent, its character, its productions, its mines, its minerals, and its forests. A full statement on all these subjects was made to the House this morning in the very clear and able remarks of the chairman of the Committee on Foreign Affairs, [Mr. BANKS.] Nor is it my intention to deal with the matter of dollars and cents; whether the sum named is too much to pay for the territory acquired by the treaty, and whether the President, the Department of State, and the Senate were misled in this matter. Within certain limits the question is one with which this House has nothing to do. I, for one, do not mean to share any part of that responsibility.

I approved of the treaty when made, and was happy to find that the Senate confirmed it by an almost unanimous vote. But the matter of the consideration to be paid was one for the treaty-making power to deal with and does not belong to us. And I submit that in a great question of territorial acquisition like the present we are not to judge of it by the standard of money only. Considerations of national importance, of safety, of peace, of future influence and power should be fully considered and weighed. But passing this by, not a word has been said in the course of this discussion

by any member of the House by which the fairness of the treaty, or the honor and good faith of those who negotiated it, have been in any way questioned. Indeed, I understand it to be admitted on all sides that the treaty in all these points is beyond all cavil. We thus have the simple question presented to us, whether a lawful treaty made in the forms which the Constitution prescribes, and under such circumstances that the good faith and integrity of the parties making it cannot be questioned, shall be disregarded by us, or whether this House will make the requisite appropriation to carry out its stipulations. The treaty calls for an appropriation of \$7,200,000. Seven millions was the price originally agreed upon, but a question having arisen in regard to some alleged grants or concessions on the part of the Russian Government the President required that the treaty on that point should be explicit and clear, and that the territory should be ceded without burdens or reservations. This was agreed to by Russia, and the sum of \$200,000 was thereupon added to the original sum, making it \$7,200,000. The treaty, after it had been confirmed by the Senate, was on the 20th of June, 1867, duly proclaimed by the President to the country, to the end that the same and every part of it should be observed and respected by the United States, and by the citizens thereof, and shortly thereafter Alaska was surrendered to us by the Russian authorities, and from that time has been in our possession and under our control.

The question before us is one of peculiar interest, and merits the most careful attention of the House. I do not agree with the chairman of the committee that we may go into the broad question of public policy in considering the treaty. I understood him in his opening remarks to say that we might look at it with reference to the history and the condition of the country, and might inquire whether it interfered with what may be called its policy in any respect in which it dealt with the affairs or interests of the country.

Now, mere policy is one thing to-day and another thing to-morrow. We must look at the question in a different light. Could the treaty-making power under the Constitution lawfully make the treaty? Their views of policy may lean in one direction, ours in another; but it does not follow therefore that we are right and they wrong, much less that we can overrule their judgment. The Constitution on this subject is broad and at the same time explicit. In speaking of the powers of the President it says:

"He shall have power by and with the advice and consent of the Senate to make treaties, provided two thirds of the Senators present concur."

There it stops; there is nothing more of it. The power is as broad as language can make it. What a treaty was, I think was as well understood by the framers of the Constitution as by any men living. We had just passed through our revolutionary struggle during which a number of treaties of great importance had been formed by us with foreign Powers. They had been formed with deliberation and care, and excited great interest as to their terms; and when the Constitution used this language it used it in the broadest and most comprehensive sense.

We find treaties spoken of only once more in the Constitution, in the clause in which it is declared that the Constitution of the United States and the laws which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land.

It is claimed that this is somewhat qualified by what follows: "And the judges of every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding." You may strike out the word "supreme" if you please, and say

that the treaty is the law of the land. It amounts to substantially the same thing; or look at in another point of view and consider it, as many do, as indicating that it is to be considered as "supreme" only with reference to State legislation; that is, that the judges in every State shall be bound thereby, anything in the laws or constitution of any State to the contrary notwithstanding. It matters not which view you take the fact remains that a treaty is a law—a law made by the President and Senate, and just as much a law under the Constitution as any statute duly passed by the Senate and House of Representatives and approved by the President. The mode of making a treaty has been already pointed out. It is to be made by the President by and with the advice and consent of the Senate. It is a treaty on the part of the United States. The President and the Senate do not make it for themselves individually. It is made for the country, and in the name of the country. The criticism we have heard on this point it seems to me has no good foundation, and it is not to be regarded.

The great difficulty with certain gentlemen who oppose this treaty, or rather who claim that the House of Representatives can look at it in the same manner that Senators look at it when it is submitted to them, seems to be that they suppose that inasmuch as the law-making power has been confided to them for certain purposes that no law can be made for any purpose unless the House is consulted. But the power of the President, by and with the advice and consent of the Senate, to make treaties which are declared to be the supreme law of the land is just as full and ample as the power given to the House of Representatives and the Senate to pass laws which, when approved by the President, or by two thirds of each House, if he vetoes them, shall become effectual.

It is asked: is, then, this treaty-making power an absolute, unlimited power? Gentlemen seem to be very much alarmed on this point; they say if you once recognize this power in the President and Senate you in fact dispense with this House; anything and everything can be done under the treaty-making power. But this is not so; no person looking at this subject carefully can claim that there is any such broad, unlimited, irresponsible power given to the President and the Senate. What the authority is, what the limits are, of the treaty-making power are so clearly defined by the law of nations and by the effect and operation of the Constitution itself, that it is not to be supposed for a moment that it would undertake to depart from those well-established and well-settled principles which regulate and control it, and if these principles were violated the result would simply be that the treaty would be held to be unconstitutional, just the same as if it were an act of Congress or of a State Legislature, in conflict with the fundamental principles of that instrument. We are not to suppose that any one department of the Government will violate its obligations and duties at the expense of the others.

Mr. LOUGHRIDGE. I should like to ask the gentleman a question.

Mr. PRUYN. I will yield for that purpose.

Mr. LOUGHRIDGE. I would like to ask the gentleman to point out what there is in the Constitution of the United States making a treaty superior in binding obligation to a law of Congress?

Mr. PRUYN. I do not claim that there is anything, but that opens quite another field for discussion involving the question of contract, and also what the effect of a treaty may be with regard to past legislation, and the further question, whether a law of Congress can in any way operate upon an existing treaty. These questions I might discuss if time permitted me to do so; but I cannot.

Gentlemen inquire what can this House do? If this treaty-making power is absolute in the

President and Senate, we are bound hand and foot, they say, and can simply carry out their decree. This is a great error. Let us look at the matter. In the first place, the House can inquire into the constitutionality of a treaty; whether the treaty-making powers have acted within the limits of their authority under the Constitution in making the treaty which may be in question. This is a broad consideration to begin with. I believe it is no longer questioned that we may acquire territory by treaty. It was so held in the Louisiana case, in the Florida case, in the California case, and in the Gadsden purchase; and it may be looked upon as the settled practice of the Government.

The question of power not coming up in this case I may go on to say that we may look at a treaty in other points of view. Was any fraud or force or undue influence used? Were any misrepresentations made? None of these things are pretended in this case, while any of them if charged might properly be inquired into by this House.

It is only said that in view of the character of the country acquired by the negotiation, and in view, also, of the situation of our Treasury, this treaty was an unwise one. Well, sir, that may be so, and it may not. I admit that our debt is a very large one, and I agree with my friend from Pennsylvania, [Mr. BOYER,] who addressed the committee this evening, that it is not desirable to increase it. And although he admitted that, considering the question involved, \$7,000,000 in gold, or \$10,000,000 in currency, is not a very great amount, yet I would not engage to pay that or any other sum for what might be considered not worth it if I had the right to pass upon that question.

But I look upon this matter as one of national honor and good faith. The parties designated by our Constitution for the purpose of making treaties, known to the world as such, have made this contract as the representatives of the people of the United States. The people saw fit in forming their Constitution to give to the President and Senate the power to make treaties, and we are bound by their acts. It is our duty to preserve the faith and honor of the nation untarnished, and to pay this amount of money without further delay.

And in doing this we are not the mere instruments to carry out the provisions of a treaty made by the President and Senate, without reference to what those provisions are. We have an undoubted right to look at them in the several respects I have already mentioned; but when they are all unquestioned, as in this case, there should be no hesitation on our part in doing our duty.

Take, by way of illustration, the case of public officers—the President, the judges, the heads of Departments, members of Congress, and others. Certain salaries are attached to their respective offices by statutes heretofore passed and which are the laws of the land. We may refuse to vote the money to pay those salaries; but it would be a refusal grounded merely upon the possession of the arbitrary power which we possess over the Treasury. It would not be a refusal founded in good faith or on valid reasons, but simply upon the fact that we can sit here and refuse to legislate upon any subject within our jurisdiction. And the question is, Will this House place itself in that position before the world as to this treaty? I trust not.

How else, in what other way, could we have acquired this territory? Suppose that Congress had in advance passed a resolution requesting the President to open a negotiation for this purpose; that probably would have defeated the very end and object in view. But after all they could not have fixed the price. Who were the parties to agree upon it? The emperor of Russia, of course, on the one side, and the President and the Senate on the other; and they, with full power to do so, agreed upon the amount in good faith and in perfect integ-

rity on both sides. It remains for Congress to do its duty and to pay the obligation thus incurred without hesitation and without delay.

If, however, we are to look into this matter in the way claimed by some gentlemen; if we are to determine whether the sum named is a fair price or not, whether it is desirable to acquire Alaska by treaty or not, we become to all intents and purposes a part of the treaty-making power, and to just that extent we seek to diminish the constitutional power of the President and the Senate.

For one, as a member of this House, I am glad that the power is lodged with the President and the Senate. I have no feeling of jealousy in regard to it. On the contrary, I am very glad that the responsibility for such matters is placed where it is, and not with this House, except to the limited extent I have already mentioned.

The difficulty about this matter has arisen in a great measure from what occurred in the Congress of 1796 in regard to the legislation necessary under Jay's treaty. In that case Mr. Livingston offered a resolution requesting the President to communicate to the House the correspondence and papers connected with the negotiation. Pending the discussion of the resolution the mover, finding that this request was too broad, added to the resolution a proviso in nearly the usual form, "excepting such of said papers as any existing negotiation may render improper to be disclosed." A very long and very able debate followed, and the resolution was finally passed by a vote of 62 to 37. Many of the minority, as Mr. Madison said, admitted the right, but opposed the exercise of it in that case.

General Washington, for reasons which have been to a very great extent misunderstood, declined to accede to the request of the House, not, I will say briefly, from any unwillingness that the House should have the information, for he stated in his message that he had sent the papers to the Senate at the time the treaty was placed before that body, but from the fact that the discussions of the House showed that the resolution passed their body under the claim by many of the members of a right to the information, which claim of right he questioned, and gave his reasons for doing so. Notwithstanding the objections to the treaty, the resolution to bring in the bill to carry out its provisions was carried by a vote of 51 to 48, and everything necessary in the way of legislation, in order to comply with the treaty, was finally had.

But we must bear in mind, Mr. Chairman, that the objections raised to Jay's treaty were not occasioned wholly by the provisions of the treaty itself. The conduct of Great Britain in retaining possession of the military posts on our frontiers notwithstanding the provision of the treaty of 1783 that she should surrender them, and her persistence in making reprisals, had led Congress and President Washington to doubt to some extent the good faith of that Government in making the treaty, so much so that the President withheld the exchange of ratifications for some three months. Besides this the bitterness occasioned by the war, which had only closed a few years before, still remained to some extent in the public mind. All these considerations influenced Congress in the discussion of the treaty to which I have referred.

A debate took place on the President's message, during which Fisher Ames made the great speech which did more, perhaps, to establish his reputation as the first orator of the country than any of his other efforts. I am sorry that I cannot call the attention of the House to it at length; but will presently read one or two extracts from it. The discussion took place on a resolution offered by Mr. Blount, of North Carolina, which was as follows:

"Resolved, That it being declared by the second section of the second article of the Constitution that

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"the President shall have power, by and with the advice of the Senate, to make treaties, provided two thirds of the Senators present concur," the House of Representatives do not claim any agency in making treaties; but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its execution as to such stipulations on a law or laws to be passed by Congress. And it is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency or in expediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

Chancellor Kent, in his Commentaries, refers to the passage of this resolution as a matter of "regret and astonishment," and speaks of it as a naked abstract claim of right never acted upon; and argues strongly in favor of the binding and conclusive efficacy of treaties made in the manner provided for by the Constitution.

Mr. WILLIAMS, of Pennsylvania. I ask the gentleman whether the act passed at that time for the purpose of carrying the treaty referred to into effect was not in strict accordance in terms with the resolution he has read? I ask whether it did not say it was expedient to carry that treaty into effect.

Mr. PRUYN. If the gentleman intends to refer, as I presume he does, to the act of 1797, I beg to state that it does not contain any special clause of the character referred to. The statute-book is not before me, or I would refer to it. If Congress passed the law, as the gentleman virtually claims they did, on the ground of expediency only, it amounts to nothing, as it may be said that every act of Congress is passed upon the ground that it is expedient. If it went beyond this and contained unconstitutional provisions, it would be a nullity.

Mr. WILLIAMS, of Pennsylvania. I know Chancellor Kent holds that language, but without authority. It is said the assertion of power was a nullity, and that it was disaffirmed by Congress, whereas I say on the other side it was expressly affirmed.

Mr. PRUYN. This question turns on what expediency or in expediency means, and on what grounds legislation is placed. But I must pass on, as my time is limited. Mr. Madison's views were stated in the debate with his usual clearness and as he was an advocate of the authority claimed by the House, I quote from him *verbatim*. Speaking of the misunderstanding which existed in regard to the position of the House, he says:

"This, however, would well account for the misconception which had taken place in the doctrine maintained by the majority in the late question. It had been understood by the Executive that the House asserted its assent to be necessary to the validity of treaties. This was not the doctrine maintained by them. It was, he believed, fairly laid down in the resolution proposed, which limited the power of the House over treaties to cases where treaties embraced legislative subjects, submitted by the Constitution to the power of the House."

In the case under consideration I insist that the amount to be paid for Alaska was not, to use Mr. Madison's language, "a legislative subject," it was necessarily embraced in the treaty. It had to be settled at that time, and evidently could not remain an open question. It does not therefore come within the rule adopted in 1796, as Mr. Madison understood it, even if all the views then held were to be considered as sound.

Let us see what the views of Mr. Ames were. He said:

"If there be any inconsistency in the case it lies, not in making appropriations for the treaty, but in the resolution itself. [Mr. Blount's.] Let us examine it more nearly. A treaty is a bargain between nations binding in good faith; and what makes a bargain? The assent of the contracting parties. We allow that the treaty power is not in this House; this House has no share in contracting, and is not a party; of consequence, the President and Senate alone may rule a treaty that is binding in good faith. We claim, however, say the gentlemen, the right to judge of the expediency of treaties; that is, the constitutional province of our discretion. Be it so, what follows? Treaties, when adjudged by the public to be inexpedient, fall to the ground, and the public faith is not hurt. This, incredible and extravagant as it may seem, is asserted. The amount of it, in plainer language, is this: the President and Senate are to make

national bargains, and this House has nothing to do in making them. But bad bargains do not bind this House, and of inevitable consequence do not bind the nation."

Much has been said about Mr. Gallatin's views. I have before me a statement in regard to this matter by a gentleman who was Mr. Gallatin's intimate friend for many years, and was associated with him in official life, a gentleman well known throughout the country. I refer to Hon. William Beach Lawrence, the distinguished jurist who has edited Wheaton's treatise on international law with such conceded ability and thoroughness.

Mr. Lawrence informs me that Mr. Gallatin, referring to the discussion in 1796, said to him "that it was well understood by his associates that while exposing the defects of the treaty, and rendering the Administration responsible for them before the public, he (Mr. Gallatin) would not consent to any factious course, placing the country in a false position in reference to a foreign Power." We thus see that Mr. Gallatin, notwithstanding his very decided views expressed in the debate, had determined that under no circumstances would he be a party to defeat the treaty, and to place the country before foreign nations in "a false position."

That, I submit, is the view which should now be taken by the opponents of this treaty; and I am glad to find that the gentleman who preceded me [Mr. LOUGHBIDGE] is willing that the necessary amount should be appropriated, and the national honor saved by doing so, provided it be at the same time declared that this House consents to the appropriation under protest as to its rights. I do not consider such a protest necessary or called for. I think that this House cannot by any action on its part, whether by resolution or by incorporating any provision of this kind in a statute, either add to, diminish, or affect the treaty-making power under the Constitution. There it is for whatever it is worth. There it is in all its length and breadth. If it is too comprehensive amend and limit it; but as long as we have said to the world that this power is lodged in a certain quarter and with certain persons, let us, at least, respect our declaration and act up to it.

As further illustrating my position I wish to refer to what General Washington said as to the constitutional provision in his message of 1796, already referred to. I will quote only a single statement, which I deem very interesting, in reference to the powers of the House of Representatives. After adverting to other considerations, he says:

"If other proofs than those and the plain letter of the Constitution itself be necessary to ascertain the point under consideration, they may be found in the journals of the general Convention [which framed the Constitution] which I have deposited in the office of the Department of State. In those journals it will appear that a proposition was made that no treaty should be binding on the United States which was not ratified by a law, and that the proposition was explicitly rejected."

No stronger evidence can be given that it was the clear and decided intention of the framers of the Constitution that the House of Representatives should not in any way constitute a part of the treaty-making power.

There is also another interesting fact stated in Madison's Works, second volume, that pending the discussion of Jay's treaty an amendment to the Constitution was proposed by Virginia, giving to the House of Representatives the right to participate in the treaty-making power. This shows what the view of Virginia was at that time. But the proposition did not receive the vote of any other State.

I find in Lawrence's Wheaton a note on this subject, to which I wish to call the attention of the House. Reference is made to the discussions in 1796 and in 1816, (after the convention with England,) and to those subsequently in regard to the treaty with Mexico:

"The conclusion on all these occasions would seem to have been that as the President and Senate are

by the Constitution fully authorized to enter into treaties whenever the aid of Congress is required to carry out its provisions, if the treaty be within the constitutional limits, free from fraud, and not destructive of any of the great rights or interests of the country, then there is a moral obligation to grant the aid required. When a treaty comes before the House of Representatives they are not to proceed in the discussion and examination of it as an act of ordinary legislation. Such a construction would in effect repeal the constitutional provision respecting treaties and nullify the whole power of the Government in its intercourse with foreign nations."

References are made to authorities in support of this proposition, especially the views of Mr. Pinkney in the case of the British convention of 1815.

But the most marked instance in our history bearing upon this subject is that of our course toward France consequent upon the indemnity treaty of 1831, the stipulations of which that Government for some time omitted to fulfill.

The author before referred to (Mr. Lawrence) commenting on this says:

"That the omission of Congress to pass an appropriation act would be no answer to a foreign Government for the non-fulfillment of treaty stipulations, is to be deduced from the ground taken by the United States with France, when the legislative power of the latter State refused to vote the moneys required by the convention of 1831, by which indemnities were provided for spoliation on American commerce. The subject was brought to the notice of Congress by President Jackson in his annual message in December, 1834, with a recommendation that a law should be passed authorizing reprisals upon French property in case provision should not be made for its payment of the debt at the next session of the French Chambers."

Referring to the controversy, Mr. Wheaton said:

"Neither Government has anything to do with the auxiliary legislative measures necessary on the part of the other State to give effect to the treaty. The nation is responsible to the Government of the other nation for its non-execution, whether the failure to fulfill it proceeds from the omission of one or other of the departments of its Government to perform its duty in respect to it."

This treaty was made by the French king; but an appropriation by the Chambers was necessary to carry it out. They hesitated to make it. What course did General Jackson take on the part of our Government? He said, in substance, "We have nothing to do with the French Chambers; we have the guaranty of the French Government by a treaty duly made and the ratifications exchanged that the amount named as an indemnity shall be paid. We have nothing to do with the internal arrangements of the French Government. They agreed to pay the amount named, and we insist upon the payment." And he said to the French Government:

"Unless provision is made at the next session of the Chambers to pay the money, we will make reprisals on your commerce."

Mr. WILLIAMS, of Pennsylvania. I desire to ask the gentleman whether that case did not rest upon a preëxisting right asserted on the part of this Government?

Mr. HIGBY. Did France admit our right?

Mr. PRUYN. France made a treaty admitting our claims. The treaty was made under all the forms of law, and France agreed to pay a fixed sum within a certain time just as we have agreed to pay Russia for the territory of Alaska.

Mr. WILLIAMS, of Pennsylvania. It was to pay a debt she owed previously.

Mr. PRUYN. To pay claims of our citizens for spoliation on our commerce, the highest form of indebtedness. After the treaty had been duly ratified, the French Chambers, whose duty it was to make the appropriation, omitted to perform that duty; and this House is now urged to imitate their example in the case before us. The cases are perfectly analogous. General Jackson said to France what Russia may say to our Government if we follow the course of the French Chambers: "We have nothing to do with your internal arrangements; we ask you to pay what you have agreed to pay, and if you decline to do so after

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the next session of your Congress has ended, we will make reprisals on your commerce."

Mr. FERRISS. Allow me to point out the distinction between the two cases: in the case of France the sovereign power made the treaty, and when the sovereign power did so it was obligatory upon the people. France had no written constitution. The powers here are divided; and the treaty-making power usurps our power when it promises to pay money.

Mr. PRUYN. The gentleman is mistaken. The treaty was made with Louis Philippe, and the power of the king was limited. He could make a treaty, but under the constitution then existing he could not appropriate money without the consent of the Chambers.

Mr. FERRISS. Does the gentleman say that France had a written constitution?

Mr. PRUYN. Yes, a constitutional charter, which Louis Philippe took an oath to support.

Mr. HIGBY. What was the legislative power?

Mr. PRUYN. The legislative power was well defined and well understood. I cannot now undertake to state it in detail. No matter, however, as to this. It is sufficient to know that the necessity of an appropriation by the Chambers before the king could touch a dollar to pay any debt was conceded; just as we claim that the President or the Secretary of the Treasury would have no power to pay Russia out of the public Treasury without the consent of Congress.

One other reference and I will leave the subject. I make it for the purpose of showing the uniformity of opinion of all commentators on the public laws of this country in regard to this question.

I have heretofore referred to Kent, to Story, and to Wheaton. I now refer to General Halleck's work on international law. He states that this question came up at the different times I have mentioned, in 1794, 1816, 1842, 1848, 1853, and 1854. He then says:

"In each and every one of these cases appropriations were made for carrying into effect treaties duly entered into by the President and the Senate. If, when a treaty, duly entered into by the President, and ratified by the Senate, comes before the House of Representatives, that body were to proceed to discussion and to examine it as an act of ordinary legislation, and at its pleasure grant or refuse the requisite appropriation for carrying it into effect, it would virtually annul the present constitutional provisions with respect to treaties, and make that body a branch of the treaty-making power."

And then he goes on to take the same view I have already presented as to the effect of the omission of Congress to pass the necessary acts to carry a treaty into effect, and says that that would be no answer to a foreign Government for not following our treaty engagements.

An interesting question bearing on this point arose in the case of the State of Maine. At the time of the settlement of the northwestern boundary it became necessary for the United States Government to cede a portion of the State of Maine to Great Britain. The United States obtained in advance the assent of Maine and Massachusetts, the latter at that time having an interest in the territory about to be ceded. In the treaty between the two Powers, the United States undertook to pay a certain amount to Maine and Massachusetts; but the English negotiator said it must be distinctly understood that the Government of Great Britain in no way acknowledged any relationships with Maine and Massachusetts, or any liability to them; that Great Britain treated with the United States only; and that the United States must fulfill all obligations to Maine and Massachusetts.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman allow me to ask him a question just here?

Mr. PRUYN. Certainly.

Mr. WILLIAMS, of Pennsylvania. I wish to inquire whether in the correspondence of the British minister, on the occasion to which

he refers, it was not distinctly asserted on the part of the Government of the United States, that there was no power and no authority in the treaty-making power under the Constitution of the United States to cede away any portion of the territory claimed by the State of Maine?

Mr. PRUYN. I cannot say how that was. The facts were as stated, and the course taken by the General Government admitted the rights of Maine and Massachusetts, which is a sufficient answer to the question propounded. They, however, made no difference as to Great Britain. We undertook to make the transfer, and were responsible to that Power for our engagements. On this point I submit the following views from Lawrence's notes to Wheaton. He remarks:

"There is an apparent departure from the principle that all negotiations with foreign Powers must be with the General Government, and that foreign Powers are not to interfere in the relations between the United States and individual States, in the provision contained in the fifth article of the treaty of August 9, 1842, that certain payments should be made by the Government of the United States to the States of Maine and Massachusetts. This stipulation, which might be construed to justify foreign interference with our Federal relations, was deemed by Lord Ashburton to call for a disclaimer, on the part of Great Britain, of the assumption of any responsibility for this arrangement, his negotiations having been with the General Government only."

Allusion is made in the views of the minority of the Committee on Foreign Affairs, which are appended to the majority report, to the knowledge every nation treating with us is supposed to possess of our laws and our Constitution. It is said, in substance, that the accomplished and able representative of Russia in this country, Mr. De Stoeckl, had resided here for more than twenty years, and was thoroughly acquainted with the character of our institutions and with the provisions of the fundamental law of this country; and that the Russian Government were thus fully informed that the amount agreed to be paid must first be appropriated by Congress, and that the treaty itself was necessarily subject to this condition.

I only wish to say that if that accomplished minister communicated to his Government any information on this point, he also informed the Secretary for Foreign Affairs that never in the whole history of this Government, although this subject had been frequently and warmly discussed, had the Congress of the United States forfeited the good faith and honor of the country or failed to comply with its express treaty engagements.

Mr. WILLIAMS, of Pennsylvania. Before the gentleman takes his seat I would like to ask him a question. I wish to know whether he finds among the powers enumerated in the Constitution any authority to purchase land by treaty or otherwise?

Mr. PRUYN. No, sir; no enumerated power; but the power, as the gentleman from Pennsylvania well knows, has been exercised from an early period of our history.

Mr. WILLIAMS, of Pennsylvania. Has it ever been exercised in any other way than as the mere incident to the settlement of differences between nations?

Mr. PRUYN. Yes; it has been repeatedly exercised as an attribute of sovereignty. But the particular circumstances under which it has been exercised cannot determine the question of power.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman give me an instance?

Mr. PRUYN. The Gadsden treaty, among others.

Mr. WILLIAMS, of Pennsylvania. Is such a treaty a treaty strictly speaking, a treaty within the meaning of the publicists?

Mr. PRUYN. Yes; I think it is. It is so in terms. We have regarded it as such, and are concluded on that point.

Mr. WILLIAMS, of Pennsylvania. How are we concluded?

Mr. PRUYN. By our uniform practice.

Mr. WILLIAMS, of Pennsylvania. In the case of Louisiana, as the gentleman well knows, it was distinctly admitted by Mr. Jefferson, by whom the treaty was made, that there was no power whatever in the Constitution to authorize the acquisition of territory in that way.

Mr. PRUYN. Mr. Jefferson had doubts, but yielded them; otherwise the treaty could not have been made.

Purchase of Alaska.

SPEECH OF HON. N. P. BANKS,
OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

June 30, 1868.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. No. 1096) making an appropriation to carry into effect the treaty with Russia of March 30, 1867—

Mr. BANKS said:

Mr. CHAIRMAN: Regard for the business of the House, as well as personal considerations, make me reluctant to trespass upon the time of the committee. Were it not my official duty I would not do it.

The bill reported by the Committee on Foreign Affairs, making an appropriation to give effect to the treaty with Russia, is reported from a sense of duty alone, to accomplish what the majority of the committee believe to be an imperative obligation on the part of the House of Representatives. Were it not for this, I can say for myself—and I think I speak for other gentlemen of the committee who assent to the report—the bill would not be presented under present circumstances. It does not commit us to the expediency of the purchase of Russian America as an original question. It does not commit us to indiscriminate acquisition of territory elsewhere or hereafter. Upon that point we are free to act as duty may seem to prompt; but upon this particular question it has seemed to us that it is an absolute duty on the part of this House to provide the means and give effect to this treaty.

We do not deny, as was denied in the early history of this Government, the right of the House to information upon this subject, nor its right to consider a treaty in all its aspects and relations, or to determine its action upon its own discretion and judgment. For myself, I hold the authority to make a treaty conferred by the Constitution upon the President and the Senate of the United States to be a limited power; that the House of Representatives, as a coördinate branch of the Government, has a clear and unquestionable constitutional right to consider the subject of a treaty both before and after it is concluded, or at any time when it shall be the interest of the country so to do, to ascertain for itself whether it be within the scope of the treaty power, whether it be in contravention of the established policy and interests of the Government, or whether it be, on the contrary, destructive, as a treaty may well be, of the principles of the Constitution, the rights of the people, or the fundamental interests of the Government. This I hold to be the privilege of the House of Representatives upon this subject.

But, sir, if a treaty be found, upon just consideration, to be clearly within the power conferred by the Constitution upon the President and Senate, consistent with the established policy and interests of the Government, we hold a treaty so made to be the supreme law of the land, and that it is the duty of each coördinate branch of the Government to give effect to that law by such measures of administration or legislation as may be necessary. Perhaps in saying this I may speak a little too broadly. That is my own view of the question, and it is upon that view of the question

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that I ask the attention of the House to the subject.

The treaty of 1867 for the purchase of Russian America was suggested by those officious, inquisitive, energetic, enterprising, and powerful men who have made this continent what it is: by men who went from my own section—Massachusetts and Maine—and from the British provinces, when the trumpet sounded for emigration to California, and who, with a still more adventurous spirit than that which sent them to California, were led to the more northern territory, which was then thought to be a bleak and barren wilderness. They looked upon the broad Pacific ocean, the innumerable islands and bays that skirt and cluster upon and crown the northern Pacific, and they saw, from their experience in New England and in the British provinces, what they believed to be the germ of an inappreciable wealth and power for themselves and their country. They applied to the Russian Government for the privilege to share in what they might do to increase the prosperity of that country. The Russian Government refused it. Russia had ceded to the citizens of the United States by the convention of 1824 the right of fishery in those waters near the shore and other privileges connected with it. Russia believed that the privileges of that convention had been abused by American citizens; that the express reservation which she made had been violated; that the violation was inexcusable; that it was in disregard of her rights of sovereignty as well as the stipulations of the convention, and destructive of the interests of her people in that quarter of the world. And when, at the end of ten years, the privileges conferred upon us by the convention of 1824 expired by limitation, she declined to renew them, and thus deprived American citizens of the liberty of fishing in those waters.

Russia had always been liberal and friendly toward this Government. The Administration, perceiving the necessity and importance of this privilege, applied for a renewal of the treaty. But, upon a full discussion of that question and with a statement of her interests which we could not resist, she declined to accord it, and we were thus without any other right than that of pursuing our course upon the Pacific as upon the Indian or the other oceans of the globe. The enterprising citizens to whom I have referred, regarding with an experienced eye the importance of this privilege to our citizens on the Pacific coast, endeavored to persuade the Government to obtain for them the privileges which had been lost. The Russian Government declined as before, but it conceded what was better than the right of the extension of fishery; it conceded to this Government the right of purchase, and the territory to which the fisheries were incident was purchased for \$7,200,000.

It has been said that there was secrecy and mystery about this. Sir, there is no secrecy like that which conceals nothing. There was nothing to be covered in this negotiation. We wanted the privilege. She could not give it to us. She offered to sell it to us, and we purchased it. That is all there is about it. The motive, the animus, the conspiracy, existed in the minds of men from the Atlantic coast who, every step of the way from the Atlantic to the Pacific, had made this once bleak, bare, and desolate wilderness to blossom like the rose.

The territory that has been transferred to us by the treaty of 1867 is substantially contiguous territory to the United States. I speak of its contiguity, not as being entirely without interruption, but as contiguous to territory long claimed and unwisely surrendered by us, and as a part of the continent which we could not allow to pass into the hands of any other people on the face of the earth. It is necessary for the defense of this country, for the preservation of its institutions and its power. It cannot in the nature of things remain with

perfect certainty, and possibly not for a long time, in the possession of Russia. It is likely to be conceded and transferred to some other Power, and it is indispensable to us that in such an event it should in the nature of things be transferred to the United States. It is five hundred and seventy-four thousand square miles in extent, three hundred and ninety-four thousand miles on land and one hundred and twenty-six thousand on the sea, making in land and water jurisdiction between five and six hundred thousand square miles. It commands a most important portion of this continent which we cannot afford to leave to the control of other nations. The peninsula of Alaska, from the central part, extends into Behring's sea. It is continued by a succession of islands—one hundred or more—which carries the jurisdiction of the United States into Behring's sea within five or six hundred miles of the Asiatic coast, and thus offers to the American people a territorial connection and a political jurisdiction which brings us to such a point that the citizens of this country can pass in an open boat, not being at any one time more than two days at sea, from the American coast on the Pacific to the Asiatic countries on the same ocean.

It is said that this territory is worthless, that we do not want it, that the Government had no right to buy it. These are objections that have been urged at every step in the progress of this country from the day when the forefathers from England landed in Virginia or in Massachusetts up to this hour. Whenever and wherever we have extended our possessions we have encountered these identical objections—the country is worthless, we do not want it—the Government has no right to buy it.

Mr. Burke, in his speech upon American taxation, described well and truthfully, too, in some respects the general idea which the world had of America and the American Colonies at that time. Speaking of their prosperity, he said: I look upon the American Colonies as ancient nations, having acquired by a long series of fortunate events unparalleled prosperity and power by unequaled industry and energy, rather than as outcasts, not so much sent as thrown upon the barren shores of a bleak and desolate wilderness three thousand miles from any connection with the people of civilization. That was his view of America, and that was the view of all the world. If we read the early accounts of the colonists when they abandoned Virginia, or of the colonists of Massachusetts who did not desert their settlements, and what was said by their friends at home, we should learn something of the features of a worthless country. Every member of the House knows perfectly well that touching description given by Goldsmith of the followers of Oglethorpe into Georgia, how when about to leave their "smiling anburn" for the distant and dreary clime, they "returned and wept and still returned to weep" and with what suffering they encountered "the various terrors of that horrid shore" for which they had exchanged

"The breezy coverts of the warbling grove,
That only sheltered thefts of harmless love."

They remember what was said about Louisiana at the time of its purchase; when a Senator from Massachusetts declared that "it would benefit the Atlantic States to shut up the Mississippi river, and he should be glad to see it done." We remember what was said about Texas, that part of the country which from the same disregard of its value had been surrendered by the United States in its negotiations with Spain for the acquisition of Florida; that the country was barren, sterile, a wilderness never wanted by us; that it would cost more than it was worth to keep it. With declarations like these we gave Texas—not to Spain; for before Spain could get possession, Mexico conquered its independence from Spain, and with its liberty acquired the province of Texas.

There had never been, by any nation, a more unnecessary surrender of territory. We recovered it after the lapse of a quarter of a century with an expenditure of treasure and the sacrifice of life that did not terminate with those who fought or fell in the struggle for the reannexation of Texas to the United States.

The acquisition of California brought with it the same reproaches. It was called the end of creation, and it was said nobody would ever go there. I have many times heard the Governor of one of the western Territories speak of a debate upon a memorial he presented to the Senate at the session of 1845 or 1846 for an overland mail across the continent. One of the first Senators of this country said:

"What use, Mr. President, have the American people for the sandy deserts and arid wastes of the vast interior of the continent, or the rocky coast of the Pacific, destitute of harbors and unprofitable to commerce? Nothing whatever! I will not vote one red cent from the Treasury to place the rock-bound shores of the Pacific one inch nearer the Atlantic than it now is."

It was said at a later day in the Senate that the valley of the Columbia river was useless to us, costing more every year for its government than its entire value. "We are going to war," it was said, "for the navigation of an un navigable river."

Upon representations like these we surrendered British Columbia to Great Britain. Mr. John Quincy Adams said in this House that she had no title to it whatever. We acquired it by the treaty of Ghent, then unsettled our title by joint occupation, and finally gave it up altogether upon the pretext now urged in regard to Russian America, that it was worth nothing, costing more than its value every year to govern it.

It is but a few years since the whole world regarded the country between the hundredth meridian of longitude and the Oregon cascade as barren and worthless. It was compared by the officers of the Government in 1863 to the Asiatic deserts. This country is now organized into prosperous States and Territories, and in 1870 will contain more than six hundred thousand people; and one of the States of this region has given us in five years an industrial product of more than fifty million dollars.

The Hudson Bay Company's possessions in British America were constantly described in the House of Commons as "sterile, ice-bound, unfit for the support of human beings." It is now called "the fertile belt," which, through the medium of colonization and a Pacific railway, is to bind together the British American colonies, and preserve to the mother country her waning power on the Atlantic and Pacific oceans. During the present month it was declared in the House of Commons that "The British possessions on the Pacific united to the colonies east of the Rocky mountains would make the finest dominion in the world."

New Holland was regarded as worthless for three centuries; first by the Dutch, who discovered it, and then by Spain, who became acquainted with it. When it fell into the hands of Great Britain she made it an empire.

Great Britain has never committed the folly of regarding any country as worthless. She decries a territory to the possession of which she aspires; then makes a claim, obtains joint occupation, and at last acquires a right. It was thus she obtained of us British Columbia. With unnecessary zeal we declared our purpose to fight for its possession when action was unnecessary; and the same leaders who unnecessarily precipitated the controversy upon us were willing to escape its consequences by availing themselves of the traditions of our history, that everything is worthless which we do not possess. The policy of England was wiser. It gave to her the possessions on the Pacific, and in a similar manner out of a trading-post in India she has created an empire of a hundred million people. We have

not followed the traditions of the English Government in this regard as we have in many other cases, where its policy has less claim to our respect. A large portion of our people have rejected opportunities offered us, and after the fashion of Spain and some other countries depreciated as worthless everything which was not in our possession, as it is now done in regard to the subject before the House.

But there was one American whose whole career was guided by wisdom in this regard, not given to all his countrymen. That man was John Quincy Adams. Assailed by southern States and defeated by southern men in the political contests of his day and generation for having surrendered these Territories it now stands confessed, to his lasting honor, that no acquisition of territory was proposed that he did not sustain, and no surrender of territory that he did not oppose; and after the lapse of half a century, after he had encountered the storms of a tempestuous political life, after having filled with honor the highest official positions in the gift of his countrymen, he was able in this House, for which he always had a deep affection, and in which he died, as a Representative from Massachusetts, to lift his aged and palsied arm, as one treaty after another came under discussion, all of which had enlarged the boundaries of his country and given it new sources of wealth and power, to exclaim, as he did in one of the memorable sessions of the House, upon the subject of our possessions on the Pacific coast, which occupies us to-day, "It was this hand that wrote this treaty;" "it was this hand that wrote that treaty;"—treaties always identified with the expansion, and never by his consent with the depreciation or the reduction of its possessions or boundaries. There can be no earthly doubt what his counsels would be upon the question before us.

Now, sir, I propose for a few moments to consider what advantages Alaska possesses for the United States. Is it worthless? Do we need it? Has the Government the right to buy it? I have no desire to affect the judgment of the House. I do not care how gentlemen vote. I have no interest in the question. I discuss it because it is my duty. And first, I speak of its geographical, commercial, and political importance. No man who looks upon the political condition of Europe can fail to see that it is quite possible it may be thrown at a day not distant into the vortex of a terrible war. There are to be great changes in the future; and it is certain that Russia will be among the first and the greatest of the Powers of that future, whatever it may be. Whoever is engaged against her will strike for the conquest of this territory on the Pacific which did belong to her, and which will still belong to her if we refuse to execute the treaty for its purchase. This is not mere supposition. In 1790, when Russia declared war against Spain, one of the first enterprises of Spain was to organize a naval expedition in Mexico to take possession of the Russian territory on this continent. The events of the war prevented the success of this enterprise, and left Russia in possession. During the Crimean war, the French and English squadrons in the Chinese sea secretly departed in 1853 for the purpose of taking possession of the Russian possessions in America. The Russian admiral, Putzjelm, illy prepared as he was for their attack, encountered them successfully and they were defeated. The British admiral commanding the French and English squadrons, chagrined by the failure, or from some other cause, at the end of the first day's fight took his own life on board his own ship; and after a feeble and fruitless effort to complete the conquest the squadron withdrew from that quarter of the globe, and left Russia in peaceful occupation of her American possessions.

The British Colonist, published in Vancouver, speaking in view of these events and on

this subject, declared in 1853 that the Russian possessions must be English possessions. The Canadians at the same time echoed the same sentiment. Mr. Roebuck said in the House of Commons ten years ago that it was "the destiny of England to establish British colonies in India, Africa, and the whole of North America." And it is at least probable, if not certain, that if in the war in which we were recently engaged there had been a failure of our Government promptly to maintain its power and position, Russian America might in the end have gone to England, Mexico to France, and the Pacific coast would have been divided between them, as events might have allowed their great objects to have been accomplished. Such was the scheme of the French Government as early as 1833 or 1834; and until our triumph at the close of the late rebellion Europe had not surrendered, if she has now, the idea of acquiring the Pacific coast, and thus maintaining its supremacy upon the Pacific as upon the Atlantic oceans.

Here, sir, are events of three quarters of a century, showing the tendency and purposes of the European Governments, unmistakable indications that it is the destiny of this territory to be involved in the great contests of the future, and to be thrown by the chances of war into the possession of some Power or Powers less friendly to us than the Russian Government. When, therefore, the opportunity was offered to us upon reasonable and just terms to acquire this territory, we being the nation to whom in the nature of things it should and must ultimately belong, it was, in my judgment, neither expedient nor right to let the opportunity pass unimproved. However reluctant we might have been to advise it, it does not appear to us that a treaty negotiated under such circumstances and ratified by a full Senate, with only two dissenting votes, and those representing a small and distant part of the country, with somewhat of rival interests, can be held to be such a departure from duty and right as to justify the House in resorting to the extreme measure of attempting to defeat the treaty by refusing to pass measures necessary for its execution.

Now, sir, what is this territory? It begins at the parallel of 54° 40', running north to the seventy-second parallel north latitude. The territory has about the same extent in width. The southern portion, commencing at latitude 54° 40', the northern boundary of British Columbia, is the first feature of importance. It is a strip about three hundred miles in length and thirty miles wide, fronting upon British Columbia, and excluding it to this extent from the ocean. Governor Simpson said in reference to this strip of Russian America which had been leased by the Hudson Bay Company from the Russian Government, that without it the British possessions on the Pacific would be comparatively worthless. It was leased upon that view by the Russian Government out of regard for the English interest on that coast. This reduces the ocean frontage of the English on the Pacific coast to the possession of Vancouver's Island, and a small strip of coast further north, which, however, without Vancouver's Island, would be of comparatively little or no value to them.

In the controversy upon the Oregon question, it was the wish of a portion of our people, regarding it as a possession of small importance, to surrender altogether that Territory; and in the final settlement, to use the language of Mr. Adams, the Government gave up six degrees of latitude to England without any consideration whatever, and with it Vancouver's Island, which was as clearly ours as any territory we ever possessed. We surrendered it to England with the agreement that Vancouver should belong to her, but that the island of San Juan, between Vancouver and the continent, should be a part of the American possessions. The language of the treaty

was that the boundary should be the strait which "separates Vancouver from the continent." But since that time England has interpreted the treaty to mean a strait which "separates the continent from Vancouver's Island," thus establishing a boundary which gives her the island of San Juan as well as that of Vancouver.

Thus the British Government extends her claims—and if the philosophy for which gentlemen now contend here is allowed to prevail she is likely to be successful not only in obtaining possession of San Juan, but of adjacent territory, upon the general plea that it is worthless, that we do not want it, that it will cost more to govern it every year than it is worth, and that the Government has no right to maintain possession of worthless territory held by disputed or doubtful titles. We agreed to a joint occupation of this island with England a few years ago, and having accomplished a joint occupation she is likely to get undisputed and permanent possession without any consideration whatever if the philosophy now urged upon us is allowed to prevail.

In 1863 the colonial government of Vancouver's offered a prize for an essay upon the resources of that island, which was awarded to Mr. Charles Forbes, a surgeon of the royal navy of Great Britain, for a most excellent essay. Among other things it is stated in that essay that it was the intention of the British Government to transfer its invalids from the forces in China and India to Vancouver's Island, and to maintain them there on account of its healthful position and great resources. This subject has been often debated in the British House of Commons. In 1858 Mr. Lowe, speaking of transatlantic communications between England and the Pacific coast, which was proposed by Sir Edward Bulwer Lytton when at the head of the colonial offices thirty years ago, and the more recent propositions for the colonization of the Territories east of the Rocky mountains called "the fertile belt," said that "a colony accessible from Canada, which was accessible from England, they might hope to defend. But instead of making the fertile belt a settlement by itself, they had better turn it over to the Americans. A colony English in name only, consisting chiefly of Americans, would be the most fruitful source of differences between the two Governments which could exist." There can be no better description of the present condition of Vancouver's Island and of its ultimate destiny than that given by Mr. Lowe ten years ago of the probable fate of detached settlements in the Red river and Saskatchewan valleys east of the Rocky mountains. So, therefore, connection by railway and by water, both of which have been contemplated are necessary to preserve that coast to Great Britain. And, sir, within this month—it is June yet, I believe—on the 9th of June there occurred in the House of Commons an elaborate discussion of this subject. Lord Milton, who has, perhaps, written the best work on the British colonial policy on this continent, declared that "the time had arrived when it was necessary for the English Government to consider whether it wished to keep the Pacific colonies in their present state of loyalty; and that if anything was to be done to establish a through communication from the Atlantic to the Pacific they must look to the Pacific colonies rather than to the Atlantic; for the British Pacific colonies," he said, "derived even their food from the United States. There was every year a great influx of Americans into the colonies, and there was a growing desire on the part of the colonists to join the United States."

That is the view of Lord Milton, who is said to understand the position of the British colonies better than any other Englishman, and perhaps better than any American. And this is while Alaska is in the possession and under the control of the Russian Government, the Russian American Fur Company and the Hud-

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son Bay Company, and before it has gained any strength from its transfer to the American Government. It is the opinion of this very able statesman that, in view of the present condition of things and to prevent the transfer of the British Pacific colonies by the silent operations of the private and personal interests of the colonists themselves, it is necessary for the British Government to establish a railway connection across the continent to preserve them. The admission is most significant. Napoleon at the siege of Toulon, pointed out the place to the members of the constituent assembly, and he said to them "there is Toulon." When we speak of Alaska in view of such declarations in the House of Commons as those I have quoted from Mr. Lowe in 1858, and Lord Milton in 1868, in regard to the loyalty of the British colonies on the Pacific, we may very well point the House to the territory between the forty-ninth and fifty-fourth parallels north, and say "there is Alaska!" And that, too, upon their own admission without in any way infringing upon the rights of Englishmen or the English Government. The silent and irresistible influence of the American people will control the Pacific coast from the southern limit of California to Point Barrow on the Arctic ocean. This is the effect upon the British colonies of a contiguous southern American position according to the statements of the best informed English statesmen, when the British and Russian territories are in joint occupation of Russian and English fur companies, and Americans are excluded altogether from the land and the seas adjacent thereto, and the commerce, trade, and fisheries which give them value. What will that influence be when the occupation is north as well as south of the British possessions; when the Americans are in absolute possession of the commerce, trade, and fisheries which give value to the land and seas of the north Pacific, and the English and Russians excluded therefrom altogether; and what right has Great Britain, or any other European Government, to maintain colonies on this continent by the mere influence and force of European Powers? Of the maintenance of colonies that sustain themselves, that add to the revenues of the mother country, increasing its trade, strengthening its power, and forming in themselves an intermediate connection between us and European Governments by which the prosperity of both is improved and the chances of permanent peace between us made more positive and certain, such colonies may well claim our respect and recognition. But a colony thrust in upon us on the Pacific by an arrangement unjust to this country, affecting its society and never satisfactory to its people, and which cannot long exist, a colony which is restrained from coming to us by the active intervention of the parent Government, and is maintained upon considerations of foreign interest waiting for a moment when hostile demonstrations may be within its power, such a colony has not a natural existence, and can claim of us no consideration or support. It is not within the rule of international comity to insist upon maintaining and perpetuating its power by exterior aid where it has no self-supporting capacity which alone give governments a just claim to the respect of the nations of the world.

Well, sir, let me speak now of the advance of our power upon this continent, and what is likely to be its effect. Mr. Chairman, from time to time the law of the world changes. Napoleon said that the art of war should be changed every ten years. Every twenty or thirty years new ideas appear, new principles are announced. The government of the world changes once or twice every century, and the theater of human history is transferred to different parts of the globe in the course of one or two centuries. A change of this character is now dawning upon us. Hitherto the Atlantic ocean has been the theater of its power

and its triumphs. It has been the great ocean of the world. Those on one side and those on the other made it whatever they chose. They gave it to law. It was in fact an European sea. The control of the world hitherto has been in European hands, because Europe was the sovereign of this great sea. So long as the Atlantic ocean controls the destinies of men, so long the destiny and the idea of that control will be European, and so long as it is European it will stand in the way of the progress of civilization and bar the movements of the people to the acquisition or the resumption of the power that by the laws of nature belongs to them. How can it be changed? By intervention, by war? No, sir. The providence of God arranges other means for the control of the great families of men than such methods of violence. The changes in the theater of operation point out new fields, new pastures, green and beautiful, to which the children of creation may go. They come from the Atlantic, and they take their position upon what is called the great ocean of the world—the Pacific ocean. That with the Indian ocean, which is part of the Pacific, so spoken of by geographers, covers one hundred million square miles, and rolls between six hundred million people (Asiatics) on one side and about three hundred million (Americans and Europeans) on the other. That ocean will be the theater of the triumphs of civilization in the future. It is on that line that are to be fought the great battles of the hereafter. It is there that the institutions of this world will be fashioned and its destinies decided. If this transfer is successful, it will no longer be an European civilization or an European destiny that controls us. It will be a higher civilization and a nobler destiny. It may be an American civilization, an American destiny of six hundred million souls. Across that great ocean of the future there is not one that is not a friend of this country, nor a Government that is not willing to strike hands with us in any just movement for any just purpose. Russia, China, Japan, India—so far as she is left to herself—even Turkey, the whole of these Powers have been and are and still may be, even to the end, friendly to us. As for ourselves we have nothing to fear from Europe. In this future and in the presence of these Powers Europe loses, as every nation in time loses, her prestige and becomes subordinate to the new Powers in the progress of human civilization and the destiny of nations.

Now, sir, the possession of Alaska is the key of this ocean. It is to the North what the ocean is to the South, the controller of the destiny of nations and the progress of mankind. It brings this continent within seventy or eighty miles of the Asiatic coast on the north. It gives us the control of the Arctic, whatever it may be, and of that Arctic ocean we yet know nothing. This Arctic ocean, too, has a future, it may be a boundless and glorious future, and it is for us. The possession of Alaska makes Behring sea substantially an American sea. It throws out from its peninsula the mysterious chain of Aleutian Islands almost to the Asiatic coast. Our watermen can communicate with an open boat by this strange chain of islands between America and Asia, between the continents of the New and the Old World, and with the aid of the chain of Kurile islands, reach by the same boat China, Japan, or India, never being more than two or three days at sea, rarely or never out of sight of land, and exposed to as slight perils of the sea as mariners can ever expect to encounter. We can thus return, according to Chevalier, the visits which hundreds of years since the Asiatic people made to America by the same chains of Aleutian and Kurile islands, who first settled Alaska, California, Mexico, and Central America, and gave to this continent its first faint impress of the coming civilization, traces of which are still seen on the coast and in the interior, in the language and

in the customs of the people, from the Arctic ocean to the Gulf of Mexico. But our visits will be for a different purpose, with nobler results. These people of a former age came to this continent without a distinctive object. They brought nothing with them; they took nothing away. They returned nothing to the distant lands from which they came. In our return visit we take to the other continent civilization, laws, progress, and the ideas of justice between man and man in the government of nations. We take to them, not with the spirit of propagandists or conquerors, but as it was given to us, the revelation of the Scriptures and the Christian idea of government. Before we have time to go they come to us. The flag that floats on the avenue is an indication of the spirit and progress of the future. A tale of the Arabian nights has nothing so marvelous as the recent movement of the Chinese nation. Abandoning, of their own motion, the policy of isolation, placing themselves first in the great movements of modern nations, they come first to us because we are territorially nearest and most ready to receive them. They take as their representative one of our own citizens, perhaps least likely to have been selected in advance for such a mission, who has by great good sense, as well as great good fortune, impressed upon them his spirit, and to whom they have confided their hopes and their power. There is nothing left that is impossible. Hereafter our civilization may be theirs. It is based upon the same idea. The civilization of Europe rests upon education of masters, the ignorance of the masses. The civilization of America of the present age and of the future rests upon universal education and intelligence. In China every person of mature age can read and write. So deep is their veneration for learning that a Chinese will not, it is said, step upon a written or printed paper. Intelligence is at the basis of their Government and the source of their power. It is the foundation upon which they construct their classes of society and their orders in government. And however their institutions of the family or the State may differ from ours, where intelligence is the common bond of union and the representative of the common power, as it is with us and with them, we shall be led gently but surely to the same objects and the same end. And they come to us at the moment when by a strange coincidence we push our territorial jurisdiction toward them. Both were animated by the same spirit and without the knowledge of each other moving to the same end by different means.

Now, through the advent of this spirit and power by the possession of Alaska on the North, with the Aleutian Islands in the center, and amicable arrangements not for possession—because we do not press upon others, and certainly not upon feeble nations to deprive them of their property—but with amicable relations of commerce and trade with the government of the Sandwich Islands, which cannot be long postponed, we have in our grasp the control of the Pacific ocean, and may make this great theater of action for the future whatever we may choose it shall be. But it is indispensable that we shall possess these islands, this intermediate communication between the two continents, this draw-bridge between America and Asia, these stepping-stones across the Pacific ocean. If we give them to another Government, if we subject the Pacific ocean to the control of Europe and European civilization, the power of the future is theirs and not ours, and its progress is after their spirit and idea and not ours. Instead of giving new light and leading to new thought other nations, we lose our own, and are followers rather than guides.

One word, Mr. Chairman, with respect to the military position and influence of this territory upon our own Government; and in this I need not excite the apprehensions of the committee by anticipating new terrors. I have

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alluded to the designs of European nations upon the Pacific coast. There was a period within our own day when it was apparently in their possession. Twice the Government of the United States had offered to purchase California of Mexico, and our offers under adverse influences had been rejected. When war with Mexico occurred in 1846, England, France, Russia, and the United States were intent upon its possession, apparently with equal chances of success, except that Russia then held a *quasi* military position at Bodega, a short distance above San Francisco, with the assumed consent of Mexico. The United States was but a few hours in advance of Great Britain in taking possession of Monterey on the memorable 7th of July, 1846. The English fleets were close upon our flag, and did not conceal the fact that their object was to anticipate our occupation of this coast upon the ground of unsettled claims of British subjects against Mexico. Russia was then supposed by a portion of our people to be inimical, if not hostile to us. But her friendship was manifested by voluntary withdrawal of her colonists and forces from Bodega as soon as we had acquired permanent possession. Let me now ask the attention of gentlemen to a view of the military position of Alaska, as affecting the interests and safety of the United States, given in 1852, in view of these important events, by one whose words are entitled to our respect, the late Hon. Henry Winter Davis, so well known and so much lamented in this House, upon the supposition that Russia was the enemy we had to fear and possibly to encounter:

"From her Asiatic possessions, from the Kurile and the Aleutian Islands, she overlooks the natural and necessary course of our Asiatic trade—now, by the occupation of California, grown to stupendous magnitude, and soon destined to equal that of the Atlantic States. Her naval stations can command effectually the whole intercourse of California and Oregon with the chief seats of Chinese commerce, and render our communications insecure at any moment. She can transfer troops and munitions of war to the coast of Oregon more rapidly than we can from the Atlantic sea-board. She is a military power in direct contact with China; and her influence can stir up the Mongol tribes, and pour them like a hail-storm on the feeble and effeminate Celestials. She can now in a great measure balance the influence of England at Peking; her emissaries speak with almost as much authority there as at Constantinople; and a few years must give her the decided predominance. How that control would bear on our commerce with that empire in the events which have been indicated, it takes no prophet to foretell. We should be excluded from those markets, or subjected to burdens which would strip off the profits, impede the activity, and finally destroy our Chinese trade, or we should be forced to maintain our position against Russian armies, on the spot, across the track of Russian navies, and at an expense and sacrifice which the most lucrative returns would scarcely compensate."

So much for the general idea which is presented by a view of the geographical, political, and military situation of this possession. This territory is not worthless; it is necessary to us; the Government has not only a right, but it is bound by a solemn duty to itself, to the people, at a proper time and by proper means to obtain it if they can do it justly and upon just terms. I pass now to a consideration of the character and resources of the territory itself. I am not bound in this respect to rely exclusively upon the testimony of men. The gentlemen of the minority have done us the honor to speak with some contempt of the representations which have been made to us upon this subject by persons assuming to be acquainted with it because they were extravagant. They are extravagant, but, sir, they came from good men. That which has been presented to the House by the Committee of Foreign Affairs in relation to this territory has come from the best men in this country, representing interests entirely disconnected, both politically and financially with the administration of the Government; such men as the correspondents of the principal public journals of the country. The Boston Journal, the Alta Californian, the New York Herald, the La Crosse Republican, and many others to which

reference has been made in the majority report, all of whom have written from personal observation, and apparently with strict regard to truth, most interesting, instructive, and satisfactory accounts of this portion of the continent. I am led from a careful consideration of these reports to place them even above those of a more scientific character, given by the officers of the Coast Survey and the Smithsonian Institution, as more likely to satisfy doubting minds of the truth of their statements. They have given accounts of this territory which would satisfy any man who had passed his life in New England, in the middle or western States. We have given in the report a brief statement of these views, and I regret that I have not now time to repeat them.

I received only a day or two since a letter from Mark Whiteman, a native of Russian Poland, who has been in this country twenty-one years, who served the United States in the survey of New Mexico, who went to California in pursuit of gold, thence to Australia, thence to Fraser's river, and then with his companions from the sources of the Stikine in a direct line north, working his way through the whole of Alaska. He is not thoroughly master of our language. His statements, given in broken English—a mixture of Russian, Polish, and English—are stamped with truth. He does not describe the country through which he has passed like a topographical engineer, but in his simple and imperfect account he shows that he has traveled nearly through the whole of it, and he says that we know nothing of the great importance of these new possessions; that in every direction it is rich in minerals, and that the natives are peaceful, powerful, and friendly.

Mr. WASHBURN, of Wisconsin. Who is this?

Mr. BANKS. Mr. Mark Whiteman, a citizen of Idaho, now in New York. There are three men with him, and they say they want to tell the United States what sort of a country this is that we have bought. According to his report, and according to the report of the other persons I have mentioned, the country is rich in minerals.

But, as I said, I do not desire to put my statement solely upon human testimony. We are not reduced to that alternative. There are laws of nature, results of national experience running through many centuries, to which we refer for the support of our conclusions. We appeal to them, and we challenge from any quarter a denial of the result to which they lead us. Since the sixteenth century, until a very recent period, it has been the belief of everybody that the precious metals were confined to the tropics. For two hundred years nobody supposed or thought anything else except that gold, silver, diamonds, and other precious metals were confined to the tropical regions alone, and chiefly to South America. Every gentleman about me will be able to verify this fact for himself. It was not till California was acquired and gold discovered that this opinion ceased to have control of the public mind. So potential was it up to the discovery of gold in California that the Government of Mexico, desiring to obtain quicksilver necessary to work her gold and silver mines, and without which they were comparatively worthless, offered prizes for the discovery of quicksilver anywhere within the territory of Mexico: and for fifteen or twenty years, I believe, surveys were made, until every province, and, indeed, every square mile of the territory of the Mexican republic had been explored in vain for this material, so necessary to the development of other mineral resources. But when California came into our possession there was at once discovered the richest mine of quicksilver known to man, so rich that it was said in the Supreme Court, when the title of the mine came to be contested, that with regard to the interests involved it was the heaviest case that had ever been presented to any judicial

tribunal. It was going north that it was discovered. The Mexicans had never dreamed of that.

Moving from the tropics northward we found gold in California, even up to the very boundary of British Columbia. It was then discovered still further northward, at the sources of the Stikine, and the miners are still following it further northward. Mr. Taylor, in his report printed by order of the House only a few days ago, says there are thousands of miners in Montana and other Territories waiting for the promulgation of the discoveries now in progress to move northward into the provinces of British America for the purpose of working the rich deposits to be there found. It was this law of nature so recently discovered that led Mark Whiteman and his associates from the sources of the Stikine river, through Alaska, to the Arctic ocean, and that exhibited to them up to the ocean itself its limitless mineral wealth.

It is, then, the law of mineral deposits that they are found from the tropics northward, and that as you go northward the mines become more extensive and more valuable. And thus we follow it up in the same line of mountains from Mexico to California, from California to northern California, from northern California to British Columbia, from British Columbia to Alaska, all through the chain to the Arctic ocean. We receive from Alaska the confirmation of this fact. Exactly the same facts that were reported from South America, Mexico, California, and British Columbia are now reported from Alaska. Why should they be discredited? Every man who has been there, and every man who has seen those who have been there, knows that the evidences of these valuable mineral deposits are to be found in the possession of the natives, who do not know their value or how to work them. It was the same in Peru and throughout all portions of the American continent in all periods of its history.

Mr. WASHBURN, of Wisconsin. To what class of mines does the gentleman refer?

Mr. BANKS. To minerals of every description.

Mr. WASHBURN, of Wisconsin. In Alaska?

Mr. BANKS. In Alaska. He affirms the existence of most valuable mineral deposits of every character. I will refer to this subject again presently. We have from everybody in Alaska—from miners, from correspondents, from sea-faring men, from lumber-men, from explorers, from natives, from Russians connected with the Government there, and from Americans—confirmation of these deposits they found there. It was exactly the same evidences of the existence of these mineral deposits that were seen fifteen or twenty years ago in California, and later still in British Columbia.

Mr. WASHBURN, of Wisconsin. If the gentleman has any authority to show that there are precious metals of any kind in Alaska, I beg he will refer me to the document and page where I can find it.

Mr. BANKS. There is no authority which will convince the gentleman from Wisconsin, [Mr. WASHBURN.] If he could lay his hand on the print in the side he would not believe. I am not so unwise as to expect to convince him; but I will convince this House that Alaska contains large deposits of the precious metals, and that upon this consideration alone, if for no other, we should take this territory. I desire to read from the *Revue Contemporaine* of January, 1868, the statement of M. Roche, a French traveler, who had thoroughly studied this country, and who, fifteen years ago, predicted exactly what we are now seeing enacted, even to the movements of the English Government for its possession. M. Roche, in referring to the gold, silver, and diamonds that

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have been found in the Siberian regions, says that—

"Russian America possesses mineral wealth that surpasses the value of its furs, fisheries, and forests. The working of these mines would give more life to the country, causing villages and cities to spring up and flourish more prosperously than any in the less hospitable regions of Siberia.

"Comparing the geographical features of the two countries, he believes the American part of the country as rich in minerals as the Asiatic part, and is sure that gold might be found in all the rivers and valleys."

Mr. WASHBURN, of Wisconsin. "Might be found."

Mr. BANKS. I refer also to the statement of Mark Whiteman, who with other miners traveled over that country, visiting the tribes, resting and working with them, speaking the Cherokee, the Polish, the Russian, the English languages, and thus finding some one everywhere to give him some knowledge of the mineral resources of the country, which was the object of his visit. He found the precious metals himself, and brought them away with him; among others, platina in large quantities, the nature and value of which he did not understand until the specimens which he brought home were analyzed in California.

M. Roche also mentions platina, although it has not been mentioned by any of the officers of the Coast Survey, or by any of the correspondents, trappers, or natives, until the letter of Mark Whiteman brought it to light. Roche declared fifteen years ago that platina, lead, silver, diamonds, and other minerals found in Siberia would be discovered in the mountains of Russian America. In fact, he says that jet, kaolin, opal, black lead, gypsum, galena, porphyry, iron, carbonates, amber, sulphur, petroleum, variegated marble, iron ore, &c., have been brought to light. Many beds of bituminous coal have been discovered on the coast and in the Aleutian Islands. The Russian steamers have long taken coal from the mines of Kodiak, which can furnish it for future commerce for many years yet.

In support of this testimony of Roche, we have received within a few days a carefully prepared and elaborate statement of Professor Davidson, whose opinions cannot be discredited, who says that in this territory is to be found the purest and the best coal upon the Pacific coast.

Mr. WASHBURN, of Wisconsin. Will the gentleman be kind enough to refer to the page of Professor Davidson's testimony?

Mr. BANKS. I will give the statement hereafter in Professor Davidson's own words. Pure copper is found in large cubic masses. Copper plates, hammered out by the natives, and with hieroglyphics engraved upon them, the history of their tribes and families, have been found. Silver is also found in many places; also quartz, with sulphate of iron and lead. Gold has been reported at Cook's inlet, on the Stikine river.

Mr. WASHBURN, of Wisconsin. "Reported."

Mr. BANKS. Reported by men who have been there. There is no doubt whatever about the existence of large quantities of gold on the Stikine river, and also on other streams washing down from the mountains which extend through the whole of this territory. A correspondent of the La Crosse Republican, writing in excellent spirit, and, I have no doubt, in entire good faith, states the evidences which he saw of the existence of deposits of quicksilver—

[Here the hammer fell.]

Mr. WASHBURN, of Wisconsin. This is a very important question; and I desire, as I have no doubt the House does, that both sides shall be fully heard. I move, therefore, that the time of the gentleman from Massachusetts [Mr. BANKS] be indefinitely extended. I possibly may ask for myself a similar favor.

The CHAIRMAN. If there be no objec-

tion, the time of the gentleman from Massachusetts will be indefinitely extended.

There was no objection.

Mr. MILLER. Before the gentleman from Massachusetts resumes his remarks, I desire to ask him to explain what quantity of the land embraced in this purchase is susceptible of cultivation.

Mr. BANKS. I will do so.

Mr. MILLER. I have examined the gentleman's report very carefully, and I do not find anything on this point.

Mr. BANKS. The territory between the forty-fifth and sixtieth parallels of north latitude, west of the Rocky mountains, on the Pacific coast, embraces three hundred thousand square miles of cultivable, arable land, according to the statement of the land commissioner, based upon the authority of Mr. Blodgett, the climatologist, a gentleman of Pennsylvania, whose character is perfectly well known and highly appreciated in this country. There are three hundred thousand square miles of cultivable and arable land between the forty-fifth and sixtieth parallels, the greater portion of which is in Russian America—that part between the forty-fifth and fifty-fourth degrees above Vancouver's Island to the Russian possessions, west of the mountains, being narrow and unimportant—according to Mr. Blodgett's statement. The Commissioner of Public Lands says there are twelve million eight hundred thousand acres—twenty thousand square miles—of land which can be brought into cultivation by actual settlers under the present land system of the United States.

The correspondents of the Alta Californian and Journal say there are twenty thousand square miles of cultivable and arable lands in the vicinity of Cook's inlet, which they call the garden of Alaska. There is more arable land in Alaska, according to the official statement of the Land Office, than there was estimated to be in California when we purchased that country from Mexico.

The testimony of newspaper correspondents and of our own officers and scientific men show that in many portions of this territory herds-grass, of excellent quality, grows wild without care or culture; white and burr clover are found there; cattle are fat, and beef tender and delicate; oats and barley thrive like native grasses; peas grow at Oonalska in latitude 64°; turnips, potatoes, carrots, beets, cabbages, and other root crops are the main support of the people. Winter gooseberries, blackberries, cranberries, raspberries, huckleberries, and thimbleberries are abundant. The rose, poppy, marigold, astrea, and hollyhock grow in perfection in the gardens of the officers at Sitka. Plants are found in the Arctic regions which belong to a temperate climate. Poisonous plants are few and not virulent, and reptiles, toads, and lizards are never seen.

This is the character of the country in its agricultural aspect. It is covered with gigantic pine forests, with the exception of a strip of land upon the northern coast opposite Behring strait. Trees measure between three and six feet. I saw a gentleman here the other day, (Mr. Page,) a citizen of one of the Territories on the Pacific coast, who says he has seen a tree three feet in diameter growing over a fallen tree of nearly equal size, and as sound as the living tree above it. He is a man whose word I certainly have no right to question. He states a fact as within his own knowledge which without his authority I would not repeat. It is confirmed by what is said of the density and solidity of this timber by the officers of the Coast Survey, and by the naval commission at Toulon, made in 1860, when comparing it with the masts and spars from Riga. Such facts speak for the fertility of this country, if nothing else. As I have said, Alaska is covered with timber of this description except a strip of one hundred miles on Behring strait.

Mr. WASHBURN, of Wisconsin. Did Mr. Page say he saw it?

Mr. BANKS. He saw it and he affirms it. Every gentleman must judge for himself whether it is so or not.

Let me speak now of the timber of Alaska. It consists of white fir, spruce fir, white and yellow pine, cedar and hemlock, alder, some oak, and a few other species of timber of which we know little. The Alaska cedar for ship-building is the best in the world. An imperial commission of the French Government sitting at Toulon in 1860 reported that masts and spars from Vancouver's Island are superior to those from Riga. The timber of Alaska is of the same quality as that of Vancouver's Island. This is the opinion of the French imperial commission sitting at Toulon. It is also the testimony of Professor Davidson. The hemlock will be used for tanning hides, which are abundant in Siberia, and the alder is extensively used in curing fish. Upon the coast of Alaska and all through the country hemlock and cedar are abundant. That the whole territory is covered with forests, excepting a strip of one hundred miles opposite Behring strait, is another fact that is not and cannot be disputed. I will say no more for the timber of Alaska.

I will, however, with the consent of the committee, allude to a fact concerning the products of Russia in the same latitude as the timber forests of Alaska. In the interior of Russia, between the fifty-fifth and sixty-second parallels of latitude, in the provinces of Novgorod, Viatska, Kostroma, and Kasan there is found a tree of the lime, linden or basswood species called the tilleul. The bark of this tree has great commercial importance. Every year the bark of these trees is stripped by the people of these four provinces and manufactured into numerous useful fabrics. The whole population turn out for some two or three weeks during the season and devote all their time and energy to the gathering of this bark.

A MEMBER. What is the population of the provinces?

Mr. BANKS. It numbers many thousands; it is in the central part of Russia, where the population is very great. Of this bark they manufacture mats, envelopes for merchandise, carriage covers, carpets, ponton-bridges, sacks for corn, cords, cables, sails for their river and canal boats, roofs for their houses, and shoes for their feet, paper for writing used in place of parchment, and canvas for their paintings. Legal documents are written on the material manufactured from this bark. Now, this territory is in the same line exactly with Alaska, and it is the same kind of country in other respects. The two countries are the same in the matter of timber, and we have reason to suppose woods of the same class and character will be discovered in Alaska that grow in Russia. This, however, is problematical.

Gentlemen tell us, although this timber may exist in quantities and of the excellent character described, it is of no use, because we have enough elsewhere. They forget that the world changes. Whoever speaks in that sense must imagine that he is eternal and that everything else is mortal. Everywhere we see evidences that this continent is being rapidly stripped of its forests, which once covered it as they now cover Alaska. Even the prairies, occupied by gentlemen around me, are supposed to have been once covered by primeval forests. In Lapland there are evidences of the existence of immense forests. There are the remains of trunks of trees of gigantic size that bear incontestable evidence of having been grown on the land or ground where they now are.

Mr. PRICE. Will the gentleman allow me to state a fact just here?

Mr. BANKS. Certainly.

Mr. PRICE. In reference to the prairies I want to say that there is more timber to-day

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on the prairies of Iowa than there was twenty-five years ago.

Mr. BANKS. I understand that to be so. I am glad to know that I have not at least to convince gentlemen here of that fact. I will explain the reason of this new growth. The *Pyrenices* were once covered with gigantic forests. They have been swept away by the hand of man, until people are obliged to abandon their native mountain regions. But now the forests are being reestablished in the mountain country. *Acacia* seed is exported from Australia to distant parts of India and Asia, and planted upon the most sterile sandy deserts, where it takes root, and will at no distant day cover them with vegetation if not with forests. In our own country throughout Nebraska and all along the Missouri valley, according to the reports of the Land Commissioner, extensive experiments are being made in the restoration of the primeval forests by forest tree planting. And now my friend from Iowa [Mr. PRICE] says that there are more trees on the prairies than there were twenty-five years ago. He sees the result of that which all the world is engaged in performing, the reestablishment of forests wherever they have been destroyed. They are restoring the forests to the Alps. The roots of the trees fasten the soils to the mountain. Even the earth is carried away by the mountain cataracts, and nothing will keep it there but the growth of forest trees.

Mr. HIGBY. Will the gentleman allow me to put a question? Am I to understand the gentleman from Iowa [Mr. PRICE] to affirm that in twenty-five years they can grow good building timber of pines or evergreens?

Mr. HOTCHKISS. Yes, sir; they do.

Mr. BANKS. I do not doubt it. Now, sir, it is said by gentlemen that timber is plenty enough in British Columbia, and in the northern States and Territories of the United States, to supply the world forever. But it is not so. It may be but a week or a month before all of those forests may be swept away from us by fire. It has been the case elsewhere. We may not continue the possessor of this property and it may not exist for others another year. At any rate we cannot have too much of it. What is the market for the timber of the Pacific coast? It is, in the first place, Russia, China, Japan, India, Australia, California, Mexico, South America, all the countries that line the coasts of the Pacific ocean. We send it also to the Atlantic side of South America, and even into the Gulf of Mexico on that side. The unsurpassed masts and spars of the Pacific coast are sent to every port in every part of the world. Who is here to say that we have too much of this property, or that it is a crime to increase our supply?

Let me come now to the matter of the fisheries. When the committee were considering the matter of the fisheries, a statement from the officers of the Coast Survey relating to the quantity of fish found in these bays and rivers was presented, and it was so extravagant that gentlemen of the committee thought it would be better to omit it in the report. We therefore struck it out. But we find it repeated from so many sources that I was satisfied that it was not only true, but that it ought not to have been omitted. The other day Mr. Seth Green, who is known to all the members of the House as having had great experience in relation to fish and fisheries, told me that in the neighborhood of Lake Champlain he had seen the fish in the rivers there a foot thick, piled one on another, so that a man could not easily walk through them. I admit the extravagance of the statement, but I will give you the reason of it.

Mr. Chairman, there is in no part of the world, except on a small scale in the fiords of Norway, anything like the arrangement of the bays and rivers and islands on the Alaska coast. There it is continental; in Norway it is immaterial and unimportant, because of its small

extent. Here is an ocean covering a hundred million square miles—the Pacific and Indian oceans being, in the opinion of geographers—that has never been fished so far as we know. The English commission appointed to investigate the condition of the fisheries of Great Britain report that a single fish will lay in one year three million four hundred thousand eggs, and all fish have to a greater or less extent a similar fecundity. When we consider the vast multitude of fish that the Pacific ocean must contain, we can very well believe that when storms drive them into these bays they are as numerous as they are represented to be. It is not a matter of fancy, but a matter of fact. The Indians from all portions of Alaska go down to the coast when from indications which they get from the flight of birds, whose flocks darken the heavens, that the fish are coming in schools upon the coast, and lay in their supply for the year. These waters abound in whale, cod, halibut, salmon, and all the varieties of fish that inhabit the cold waters. Our fishermen do not cure their fish on the Aleutian Islands or the peninsula of Alaska, but are carried to California, or wherever the fishermen belong.

The Coast Survey department reports this fact: that the whale fishing grounds of the east coast of North America are one million three hundred thousand square miles; while the whale fishing grounds of the west coast of North America are one million one hundred and twenty thousand square miles—about the same extent of sea surface. But the whale has abandoned the seas of the northeast coast and is pursued to seas adjacent to Alaska, twenty thousand miles from whence he is followed into the Arctic ocean. The cod and halibut fisheries on the northeast coast of North America are eighty-four thousand two hundred square miles; on the northwest coast of North America two hundred and fifty thousand square miles, or three times the extent of sea surface. The Superintendent of the Bureau of Statistics informs me that there are sixty thousand men engaged every year in the fisheries of the northwestern coast of North America. Now, here are two hundred and forty thousand square miles of fishing grounds, which will give occupation to at least one hundred and twenty thousand men in the cod and halibut fisheries alone. The fisheries of the United States return every year a product of \$34,000,000, four fifths of which is from the whale and cod fishing. Of that we obtain our share now from the eighty-four thousand square miles of the fisheries of the northeast coast of America, sharing its wealth with England and France, who have by far the best opportunities, to whose fishing grounds we are admitted only upon the payment of onerous tonnage taxes. By this purchase we treble the extent of the fisheries, of which we have exclusive possession, and of course we obtain a corresponding increase of employment and product.

Now, let me say one word in regard to the rivers and harbors of this territory, and I will close what I have to say upon this subject. I have only to refer to what is contained in the report of the committee. These rivers of Alaska, unlike those of Russia, which run north into the Arctic ocean, run mainly southerly and southwesterly into the Pacific ocean, with one exception. And what is more rare in the dispensation of Providence, between these rivers is a system or chain of lakes, so closely connected that the traders and natives are able to pass by canoes from one to the other with very small portages. It is unlike anything else on our continent that we know of. I might speak of the numerous and valuable harbors of the Aleutian Islands, but time forbids.

I come now to a question of practical importance. What is the value of these things to us? They add to the industrial product of the country, from native industries alone,

employment for fishermen, lumbermen, miners, colliers, mariners, ship-builders, trappers, hunters, farmers, ice-cutters, and traders. From the native industries of this possession, carrying nothing there but men, we will find, when the resources of the territory are fully developed, employment for two hundred and fifty thousand persons. A quarter of a million of people will be engaged in peaceful, honorable, profitable, national, native industries in this territory alone. That is what we may do in the way of developing the country and the increase of industrial product.

I ask the gentleman from Wisconsin, [Mr. WASHBURN,] or any other man, no matter who he is, or where he may be from, to point to any part of this continent where there is material for an equal variety of native industries. I ask him to point me to any territory here or elsewhere where the materials for native industry can be accumulated to an equal or greater variety or extent. It cannot be done. I say here that such employments as are opened by this purchase will increase the industrial power of this country at home and abroad by a quarter of a million of persons. And allowing each man to represent a family of four persons, it will furnish a support for a population of a million souls.

Who is interested in this purchase? The Pacific States. Will you say to them that it is worthless; that we do not want it; that the Government has no right to acquire it? They know better. They know that the possession of this territory is hereafter identified with the prosperity of this Government and the development and increase of our industry. It was not General Grant alone who contributed to the great victories which crushed the rebellion. The Pacific coast has as well its share of honor. If California in 1861 had joined the rebels in striking against this Government we might not this day have conquered the peace we enjoy, or have still mourned over a divided country. If California had joined the rebels with France in the possession of Mexico and with England in the possession of Russian America, and they together had struck hands against this country, the United States to-day would not now have closed its great contest with its domestic enemies.

Mr. WASHBURN, of Wisconsin. Suppose Massachusetts had joined the rebels, what would be our position to-day?

Mr. BANKS. I shall be sustained by men who justly consider this question, when I say that had California joined the rebellion and given the Pacific coast to the enemies of the country South and North we might not yet have conquered in that struggle. It is of no account to me that the gentleman from Wisconsin takes issue with what I say. If my views of the public interests co-curred with his I would think there was no further use for me in this Hall and would resign my seat. I do not speak to convince that gentleman or to change his views. I say California proved herself a fast and important friend of this Government in our hour of trial, and did more than might have been expected of her, because she had been controlled by the enemies of the country up to the moment our flag was struck at Fort Sumter. But she did better than we expected; she "buiided better than we knew." She gave the whole Pacific coast to the cause of liberty and Union, and to us through the Providence of God the victory; but for that the blood of our brave soldiers would have been shed for naught; but for that hundreds of thousands of young men rushing forward from all parts of the country, from the Atlantic coast to the Pacific valley, to fight and die would have fought or died in vain. But the Pacific coast gave to us our triumph, and has preserved to us our country. She asks now the extension of our interests on the Pacific coast. With what grace can the East deny her request? With what justice can the Missis-

issippi valley, that was acquired by a similar treaty, deny to California a favor which, while it strengthens her interests, enlarges, consolidates, and extends those of the whole country?

And, sir, I need not remind this House to what extent Russia has been the friend of this country in trying emergencies. I remember that even before the Government of the United States was established, when we stealthily sent men from this country to the European Courts who scarcely dared to avow the objects of their mission, the American minister who represented this country at the Court of France was instructed to prevent, if possible, the Swiss and the Russians from furnishing troops to the English Government to destroy the independence of these Colonies. He reported to the Government—his declaration will be found in the archives of the Government—that of the Swiss he could say nothing; but as to the Russians we need have no fear; they were our friends and would not fight against us; and they did not.

At every step from 1780 up to this hour Russia has been our friend. In the darkest hour of our peril, when we were enacting a history which no man yet thoroughly comprehends, which has not yet been completed; when the heart of every lover of his country sunk within him, and few were bold enough confidently to hope for the success of our cause; in the midst of that great struggle against a gigantic rebellion, when France and England were contemplating the recognition of the rebel confederacy, and were about to spring that last card upon us, the whole world was thrilled by the appearance in San Francisco of a Russian fleet, and nearly at the same time, whether by accident or design, a second Russian fleet appeared in the harbor of New York. Who knew how many more there were on the voyage here? From that hour, France on one hand and England on the other receded, and the American Government regained its position and power. [After a pause.] I feel inclined to go still further, to say that when the Russian flag floated over its fleets in the harbors of San Francisco and New York, even then it was not intended that General Grant should successfully go through the campaign at Vicksburg; the officers of the volunteer army associated with him in the defense of the country were offered promotion and censured because they would not take from him the command of his army at Vicksburg—yes, sir, Russia and California in this dark hour of our country's history came to our rescue and gave us victory!

Now, shall we flout the Russian Government in every Court of Europe for her friendship? Having sought from her for twenty-five years the fisheries of the northwest coast, and having received from her not only the incident of the fisheries, but the substance of the territorial possession incident to the fisheries, shall we do what never before has been done, refuse to execute the treaty she has made at our solicitation with our own Government, upon the conditions and according to the letter of our own Constitution? I do not believe it! Whoever of the Representatives of the American people in this House on this question turns his back not only upon his duty, but upon the friends of his country, upon the Constitution of his Government, the honor of his generation, cannot long remain in power.

There is one precedent we must dismiss from memory before we can do that. We must erase from our history the glorious incident of Jackson's administration, when he compelled France to pay under a treaty contracted with us, and when France answered as we are now urged to answer, that the appropriation of money was another matter. Although she was the best friend we had, yet Jackson asserted he would compel the execution of the treaty at the hazard of war. Gentlemen cannot make a distinction between that case and the one now presented: and having taken 25,000,000

francs from the French treasury under a treaty with France by threats of war, under exactly similar circumstances, we cannot now turn our backs upon our own precedent. If we do refuse to appropriate this money, when we owe another Government under treaty stipulations, it will be a greater dishonor than our country yet has known.

I thank you, Mr. Chairman and gentlemen of the committee, for the great attention shown to me. It was not my intention to have detained you so long.

Purchase of Alaska.

SPEECH OF HON. C. C. WASHBURN,

OF WISCONSIN,

IN THE HOUSE OF REPRESENTATIVES,

July 1, 1868.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. No. 1096) making an appropriation to carry into effect the treaty with Russia of March 30, 1867—

Mr. WASHBURN, of Wisconsin, said:

Mr. CHAIRMAN: After the eloquent and lofty speech of the gentleman from Massachusetts, [Mr. BANKS,] the chairman of the Committee on Foreign Affairs, on yesterday, I shall consider myself extremely fortunate if I can command the attention of this committee to the remarks I desire now to make. But sir, if gentlemen will come down from the region of the clouds to which they were transported by the honorable gentleman, and from those realms of fancy and imagination in which he revealed, to plain matters of every-day fact, I shall not despair of doing something yet to protect the rights of my constituents and of the people of this country.

Gentlemen could not fail to observe all through the speech made by the gentleman on yesterday, the extreme lack of authorities to sustain his statements, and the great preponderance, instead, of spread-eagle oratory. Sir, I shall enter into no contest with the gentleman in the eagle business; I resign that to him altogether. But I shall ask those members who have not arrived at the sublime position of the gentleman from Massachusetts, who declared "that he did not rely on human testimony, that he was above it"—I shall ask those gentlemen who do care for such testimony to listen while I unfold the facts that surround this most extraordinary case.

I shall attempt to demonstrate five propositions, and if I shall succeed in doing so, I think I may claim the judgment of this committee and of the House. Those propositions are:

1. That at the time this treaty was negotiated not a soul in the whole United States asked for it.
2. That it was secretly negotiated and in a manner to prevent the Representatives of the people from being heard.
3. That by existing treaties we possessed every right that is of any value to us without the responsibility and never-ending expense of governing a nation of savages.
4. That the country is absolutely without value.
5. That it is the right and duty of the House to inquire into the treaty, and vote or not vote the money according to its best judgment.

My first proposition is that on the 30th day of March, 1867, the day on which this treaty was signed, there was not a man in the whole length and breadth of the United States who had ever conceived the idea that this territory of Alaska was a valuable territory for the United States to possess; not even the gentleman from Massachusetts, though he now declares it to be absolutely necessary to the very safety and existence of this nation. Sir, no one had discovered that fact before the 30th of March, 1867. You will look in vain for any such per-

son. You may look through the public press; you may examine every source of information, and you will not find a man in the whole United States who ever had even suggested that it was a desirable purchase for us to make, or a desirable possession for us to have. Even on the Pacific coast, which is now said to be clamorous for it, no such idea had entered the brain of any man there.

Sir, I had hoped that the speech of my friend from Massachusetts would appear in to-day's Globe. I made some very meager notes as he proceeded, and I intend to take up the points he made *seriatim*, and to answer them. I say here that the gentleman has made statements which there is no evidence to sustain; and I may say that he made no substantive statement that has any evidence to sustain it; and I go further, and will say here that every material statement made by him is contradicted by the most positive and certain evidence that I shall produce.

The gentleman set off with the declaration that the committee had thought it their duty to report this bill; that it was an unpleasant duty, and that had they not felt compelled to do so they would not have reported the bill. Now, sir, in order that there may be no misunderstanding as to the position of the committee, I think there will be no impropriety in stating what it was and what it is upon the subject. Although a report was allowed to be made to this House, I assert that no majority of the nine members of the committee ever concurred in that report. But four members were in favor of this purchase and four members were against it; and one member assured me he had given no opinion upon the subject.

Mr. BANKS. Will the gentleman allow me to correct his statement?

Mr. WASHBURN, of Wisconsin. Certainly.

Mr. BANKS. It was not stated that there was a majority of the whole committee in favor of this report, though I believe such to be the fact. The facts that at a meeting of the committee, more than a quorum being present, only two members voted against the report of the majority; and those two gentlemen have signed the minority report. That is the fact.

Mr. WASHBURN, of Wisconsin. Mr. Chairman, I do not wish to misstate any one, and I will not do so; I simply wish the facts not to be misunderstood. When the committee agreed to report this bill I was not present in the committee; I was confined to my house by illness. I addressed a note to my friend, the chairman of the committee, saying that if a majority of the committee should conclude to report the bill I desire to make a minority report. The gentleman will bear me witness that I have made no factious opposition to this matter at any time. I have said to him as I say to the House, that I am and always have been willing and ready to meet this question on its merits. I have never sought to have the bill put over till the next session of Congress. If I cannot show good and sufficient reasons for the position which I have taken in this matter I am willing to be overruled. I have made the best fight on this outrage on the rights of the people as I regard it that I could, and I intend to fight it to the bitter end; and I never will yield the rights of the people to be heard on questions so vital to them as are involved in this matter.

But, sir, the gentleman starts out with the most astonishing statement for a statesman to make. He says that the committee reported this bill because it was their duty to do so; that they felt Congress was compelled to appropriate this sum of \$7,200,000. Why was it a disagreeable duty? He afterward tells us that this territory is worth not only \$7,000,000 but \$700,000,000. Why should the gentleman regret to make a report in favor of the purchase of the territory for \$7,000,000 when he himself estimates its value at \$700,000,000? The gentleman from Massachusetts in his

speech lays down the same doctrine which he enunciates in his report. He says in his report:

"It is now conceded that the House is entitled to consider the merits of a treaty; that it may determine whether its object is within the scope of the treaty power; but, if it be not inconsistent with the spirit and purpose of the Government, Congress is bound to give it effect, by necessary legislation, as a contract between the Government and a foreign nation. If, on the contrary, it is found to be in conflict with the fundamental principles, purposes, or interests of the Government, it would be justified, not merely in withholding its aid, but in giving notice to foreign nations interested that it would not be regarded as binding upon the nation, in passing laws for its abrogation, and preparing the State for whatever consequences might attend its action."

The gentleman from Massachusetts and the gentleman from New York, [Mr. PRUYN,] though both advocating the purchase of this territory, are at issue on this question. When two such learned doctors disagree it is difficult to decide. The gentleman concedes when he says, if the treaty is contrary to the interests of the Government, the Congress has the right to interpose. This concedes the whole case. Yet he is not so clear as he usually is, at one moment he tells us we have the right, and at another that we have not the right. He tells us we have the right to interfere in a class of cases where we have no power to interfere; and in another class of cases, where we have the power to interfere, he tells us we have no right to interfere.

Now, I would inquire of my honorable friend how this House is to interfere to defeat a treaty unless by its terms it stipulates conditions that belong to the law-making power? Take the case of the infamous Osage treaty, now pending in the Senate, which stipulates for nothing that requires the action of Congress. Suppose the Senate confirms that treaty? There is no member of the House, I believe, who does not believe that that treaty was a fraud and an outrage on the American people. How would the gentleman from Massachusetts interfere to defeat it as he says we may? It is in no way referred to the law-making power, and if anybody can point out any method by which we may defeat it I should be thankful if he would do so.

I say, again, that the gentleman is not to my mind at all clear when he undertakes to show what this House may do and what not. Again, he says:

"But when a treaty is limited to objects consistent with the interests of the Government, which cannot be attained except by the treaty-making power, its first and highest duty is to enact such measures as are necessary to carry the treaty into effect. To say that a treaty is not a treaty until approved by the House is to make the House a part of the treaty-making power. To say that the House has no rights in regard to foreign treaties, except when they are referred to the House by its provisions, is to admit that the House is not a part of the Government."

There is wisdom for you! I have seen nothing better since the days of Jack Bunsby. When Captain Cuttle called on his friend, Jack Bunsby, for an opinion—and giving opinions was his forte—as to the fate of a certain individual who was supposed to be drowned, Bunsby in an oracular manner, only excelled by that of my excellent friend, gives "an opinion as is an opinion." Said he, while Captain Cuttle listened with as much astonishment and admiration as members listened on yesterday:

"If so be that the man is dead, then my opinion is he won't come back no more; but if so be the man's alive, then my opinion is he will. Do I say he will? No. Why not? Because the bearing of this observation lays in the application of it."

Now, sir, the doctrine I maintain, and the first point to be considered in this case, is as to the right of Congress when a treaty stipulates for an appropriation of money. I will concede for the sake of the argument that this treaty is within the limits of the treaty-making power. If, then, this House has no right to inquire into such treaties, treaties that are not tainted with fraud, but which, by their terms, are referred to the law-making power, there is

an end to the whole question and it is not necessary to discuss any other question connected with it. Now, sir, I undertake to say that that is not the doctrine, notwithstanding the *ipse dixit* of the gentleman from Massachusetts. I undertake to say that the whole weight of authority from the foundation of the Government is in direct contradiction to the position taken by the gentleman from Massachusetts. I will not undertake to quote the sayings of the different public men on these points. I will state the precedents, however. They are all to the same effect.

The first arose at the time of Jay's treaty, in which, by a very decided vote, the doctrine was laid down that is contained in this resolution, passed by the very decisive vote of 57 to 35:

"Resolved, That it being declared by the second section of the second article of the Constitution that 'the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided that two thirds of the Senators present concur,' the House of Representatives do not claim any agency in making treaties, but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress it must depend for its execution as to such stipulations on a law or laws to be passed by Congress; and it is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency or in expediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

That resolution was amply and ably discussed by the men who made the Constitution, Mr. Madison taking a prominent part. That doctrine was laid down during the administration of General Washington, and it has been reasserted on every occasion when the question has come up from that day to this. And, although it may be alleged that the House has never refused to appropriate money to carry out treaties on every occasion when the question has arisen, it has, nevertheless, asserted its right to do so, and the point has never been yielded; and when money has been voted to execute treaties it has always been on the ground that the House approved them, and not because it was believed that they were under any obligation to do so.

Now, sir, I have before me the opinions of the most eminent men in the constitutional convention which framed our Constitution, but I have not the time to read them.

I pass next to the treaty for the acquisition of Louisiana. The same doctrine was laid down there in the discussion, and no man had the hardihood to call it in question. They voted the money because they simply approved the treaty. Mr. Jefferson, before he negotiated the treaty, did the proper thing to call upon Congress to appropriate money to pay the expenses incident thereto. It was the case of the treaty in 1816 with Great Britain which I dismiss, simply declaring that the same doctrine was fully asserted then, as may be seen by looking at my report; and I come down to the Spanish treaty. The gentleman from Massachusetts says it is impossible to cite a stronger recognition of the obligation resting upon the law-making power to execute a treaty than that. My reading and the reading of the gentleman from Massachusetts is entirely different on that subject; and so far as any discussion of the subject of the Spanish treaty is concerned it sustains the position I have laid down. I defy the gentleman to cite an authority which sustains him in his assertion on this point.

I come now to the Gadsden treaty, the last precedent I shall cite in this matter. It will be recollected we made that treaty in 1854 for the acquisition of Arizona. General Gadsden was our minister to Mexico, and made the treaty. He was authorized to pay \$10,000,000, but he entered into the treaty and agreed to pay \$2,000,000. The treaty came to the Senate, but it was so barefaced a piece of villainy that they did not ratify it. They sent it back with instructions to insist on having it for

\$10,000,000; and as soon as a man could get there Mexico accepted the amended terms. There was a lengthy discussion in the House when the appropriation bill came up for consideration to pay for Arizona. In that discussion it was conceded on all hands that we had the right to refuse to make the appropriation if we thought fit so to do. It was carried on the ground that it was a wise and advantageous treaty, although there was a large minority voting against it. Some members now present were then members of the House. It was carried because the dominant party desired it, yet not one can be found who assumed the ground taken by the gentleman from Massachusetts. Mr. BAILEY, chairman of the Committee of Ways and Means, expressly declared that he put it on no such ground as claimed by the gentleman from Massachusetts. The bill passed the House and went to the Senate, and was then taken up and passed without one word of discussion; and it is worthy of remark that of those recorded as voting against the appropriation to carry out this treaty may be found the names of the negotiator of this treaty, Mr. Seward, and its great advocate in the Senate, Mr. SUMNER, also the present Chief Justice of the United States, Mr. Chase, the present Vice President, Mr. WADE, and Mr. FESSENDEN, the distinguished Senator from Maine. So that it will be seen that all these distinguished men then had no scruples about refusing money to execute a treaty. But that was with Mexico, a weak and friendless Power. How dishonorable would it be to say that we may rightfully do with such a Power what we may not do with one strong and powerful. My friend from Massachusetts was in the House at that time. He can doubtless tell how he voted on that occasion.

Mr. BANKS. I was not in the House when the vote was taken; I did not vote.

Mr. WASHBURN, of Wisconsin. I am justified, therefore, in saying these precedents establish that it is both our right and duty to exercise our best judgment in regard to this treaty. If we approve it we should appropriate the money; if not, we should refuse to do so. And I leave this part of the subject with a simple quotation from Mr. Jefferson. In a letter to Mr. Monroe (volume 4, page 184) he says:

"We conceive the constitutional doctrine to be, that though the President and Senate have the general power of making treaties, yet whenever they include in a treaty matters confided by the Constitution to the three branches of the Legislature an act of legislation will be requisite to confirm these articles, and that the House of Representatives, as one branch of the Legislature, are perfectly free to pass the act or to refuse it, governing themselves by their own judgment whether it is for the good of their constituents to let the treaty go into effect or not. On this depend whether the powers of legislation shall be transferred from the President, Senate, and House of Representatives, to the President, Senate, and a Plinking, or any other Indian, Algerine, or other chief."

I now come to the question of our obligations to Russia; and as pertinent to that matter I first invite attention to the following opinion of Judge McLean, of the Supreme Court of the United States. The case of Turner vs. American Baptist Missionary Union, (5 McLean, 344,) decides as follows:

"A treaty is the supreme law of the land only when the treaty-making power can carry it into effect."

"A treaty which stipulates for the payment of money undertakes to do that which the treaty-making power cannot do; therefore the treaty is not the supreme law of the land."

"To give it the effect the action of Congress is necessary. And in this action the Representatives and Senators act on their own judgment and responsibility, and not on the judgment and responsibility of the treaty-making power."

"A foreign Government may be presumed to know the power of appropriating money belongs to Congress."

"No act of any part of the Government can be held to be a law which has not all the sanctions to make it law."

In considering this question I have no hesitancy in declaring that in my judgment, whatever good faith and honor require, that should be done, and the nation cannot afford to count

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the cost in doing it. But there is no question of good or bad faith involved in this matter.

This is a plain business statement of the case. A contract is entered into by the President, acting through the Secretary of State, to purchase of the Russian Government the territory of Alaska. The contract contained stipulations which were well understood by Baron Stoeckl, the agent of the Russian Government. Those stipulations were such as the negotiators could not enforce, but which were necessary to be complied with before the treaty could become valid or binding. The stipulations were, first, that the treaty should be ratified by the Senate; and second, that the legislative power should vote the necessary appropriation. The first stipulation was complied with, and the second is the one now being considered. Each stipulation was independent of the other, and required independent powers to carry it into execution. The treaty-making power can no more bind Congress to pass a law than Congress can bind it to make a treaty. They are independent departments, and were designed to act as checks rather than be subservient to each other.

As was well said by Judge McLean, in the authority before quoted—

"A treaty is the supreme law of the land only when the treaty-making power can carry it into effect. A treaty which stipulates for the payment of moneys undertakes to do that which the treaty-making power cannot do; therefore the treaty is not the supreme law of the land. A foreign Government may be presumed to know that the power of appropriating money belongs to Congress."

In this particular case the foreign Government may not only be presumed to know, but it may safely be said that that Government did actually know, that the treaty was not complete and the law of the land until the action of the body stipulated in the treaty was had; and this declaration is based on the fact that the minister of the Government of Russia, who negotiated this treaty, has been a resident of Washington for over twenty years. He speaks the English language fluently and well. He is a gentleman of intelligence and well informed in regard to our system of government. It was impossible for him to be ignorant of the fact that the treaty he negotiated was not the supreme law of the land until it had received the sanction of Congress; and if he failed to make known the fact to his august master it is not the fault of the American Congress or the American people.

But it is said that Russia has given us possession, and for that reason we should vote the money. Quite otherwise. Why was possession taken by the Executive of this Government and yielded by Russia before the money was paid or even voted? No interest of this Government was suffering for the want of immediate possession, and it is believed that no benefit could arise to this Government from having possession before the time stipulated for the payment of the money. The same may be said in regard to Russia, unless the country was so worthless that every day she held possession was a positive damage to her, and for that reason she was in haste to be rid of it. It requires no great stretch of imagination to divine the scarcely hidden causes which governed the parties negotiating this treaty in stipulating for immediate possession. They could hardly have failed to foresee that this treaty would be strongly opposed in this House, and that upon its merits it could have no chance for the necessary appropriation. An extraordinary pressure was seen to be necessary, and that pressure was sought for in giving and taking possession.

Will this House allow itself to be coerced by any such performance? To state the question is to answer it. But it is said that Russia, our best friend, will be offended if we fail to appropriate the money. I fully recognize the friendly character of the Russian Government in the past, and the importance of cultivating

friendly relations in the future; but, for the reason stated, it is denied that any just ground of offense can exist if this House fails to sanction the treaty. The country is grateful to Russia for sympathy received from her during our late struggle for existence, and I should be very unwilling to do anything to justly offend that Power. It is maintained that the refusal to appropriate money to carry this treaty into execution would be cause of war on the part of Russia, and the action of President Jackson is cited, in the case of the refusal of France to pay the money stipulated to be paid in the treaty of Paris, negotiated in 1831. But that case is in no sense parallel to the one under consideration. There the claim of this Government existed long before the treaty was negotiated. The treaty merely liquidated the amount which France was to pay. Our right to the money was perfect and complete before the treaty was made, and a refusal to pay it was as much a cause of war before the treaty as afterward; and had there been no treaty liquidating the amount the right to demand payment would still have existed, and, if need be, to use force to compel it.

Now, my report seems to have thrown the friends of this measure into some consternation. In the National Intelligencer of the 19th ultimo appeared a letter over the signature of Alaska, which the Intelligencer says is from a statesman of forty year's standing, and I have since understood it was from Hon. Robert J. Walker. Such being the fact, I am justified in referring to it, not only because of the character of its author, but because I regard it as virtually an emanation from the State Department. He takes up my report, and the first statement he notices is in regard to the existence of previous treaties, because he saw, as my friend from Massachusetts must see, and as every intelligent man must see, that if my statement was correct, namely, that we had an existing treaty with Russia that gave us the right to trade on that coast, the right to fish on that coast, the right to land and cure fish on the coast, and the right to visit the interior waters and trade with the natives, we had virtually everything that is desirable, and that there could be no excuse for this treaty. Neither the chairman of the committee nor any other gentleman will dispute that if we could have those privileges it would be better for us to have them without the responsibility and never-ending expense of ruling and governing a nation of savages. I think no one will doubt that. Now, Mr. Walker, to get rid of my most fatal statement in my report, undertakes to say that we had no such treaty rights, and the gentleman from Massachusetts asserts the same on this floor. As these things are denied, it is made my duty to prove them.

In 1824 a treaty was negotiated at St. Petersburg between the United States Government and Russia. The negotiators of that treaty were Hon. Henry Middleton on the part of the United States and Count Nesselrode on the part of Russia. The treaty has never been abrogated, and was in full force when the treaty was negotiated which we are hereafter to consider. The first article of the treaty of 1824 is as follows, namely:

"ARTICLE I. It is agreed that in any part of the great ocean commonly called the Pacific ocean, or South sea, the respective citizens or subjects of the high contracting Powers shall be neither disturbed nor restrained either in navigation or in fishing, or in the power of resorting to the coasts upon points which may not already have been occupied for the purpose of trading with the natives, saving always the instructions and conditions determined by the following articles."

The instructions afterward named are such as were necessary to prevent illicit trade.

In 1832 another treaty was negotiated with Russia, the negotiators being Hon. James Buchanan on the part of the United States and Count Nesselrode on the part of Russia. That treaty was of full force and effect at the time of the negotiation of the late treaty for

the purchase of Russian America. The first article of that treaty is as follows, namely:

"ARTICLE I. There shall be between the territories of the high contracting parties a reciprocal liberty of commerce and navigation. The inhabitants of their respective States shall mutually have liberty to enter the ports, places, and rivers of the territories of each party wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all ports whatsoever of said territories, in order to attend to their affairs, and they shall enjoy to that effect the same security and protection as natives of the country wherein they reside, on condition of their submitting to the laws and ordinances there prevailing, and particularly to the regulations in force concerning commerce."

In the first treaty the fourth article provides:

"That during the term of ten years, counting from the signature of the present convention, the ships of both Powers, or which belong to their citizens or subjects, respectively, may reciprocally frequent without any hindrance whatever, the interior seas, gulfs, harbors, and creeks upon the coast mentioned in the preceding article, for the purpose of fishing and trading with the natives of the country."

The gentleman says that this treaty was abrogated. I take issue with him, and will state how I understand the matter. This treaty having been in existence ten years, that provision of it in article four, which allowed our people to go inland into the harbors and bays and rivers to trade with the natives, was abrogated, and the reason assigned was that our people went there not for the purpose of legitimate trade, but for the purpose of selling whisky and fire-arms to the Indians; and that provision was therefore abrogated after a long conference and correspondence between the State Department, through Mr. Forsyth, and the Russian Government. Mr. Forsyth maintained always, and never yielded the point, that under the first article of the treaty we had the right of landing on the coast, but not to visit the interior bays, and that right was not and could not be terminated.

Now, sir, in 1825 a treaty was entered into with Great Britain giving similar privileges, but the effect of the Crimean war was to abrogate all treaties between Great Britain and Russia, and in 1859, after the war was over, a new treaty was ratified between Great Britain and Russia. Before considering it, I beg to call attention to an article of the treaty with Russia of 1832, which treaty it is not pretended has been in any degree abrogated. The gentleman from Massachusetts does not claim that. The eleventh article of that treaty reads as follows:

"If either party shall hereafter grant to any other nation any particular favor in navigation or commerce, it shall immediately become common to the other party freely when it is freely granted to such other nation, or on yielding the same compensation when the grant is conditional."

Now, I assert that in 1859 Russia entered into a treaty with Great Britain, and that we are entitled to the benefit of it under this contract between us and Russia. That there may be no mistake about it I will read from the treaty between Russia and Great Britain:

"VI. It is understood that the subjects of his Britannic majesty, from whatever quarter they may arrive, whether from the ocean, or from the interior of the continent, shall forever enjoy the right of navigating freely, and without any hindrance whatever, all the rivers and streams which, in their course toward the Pacific ocean, may cross the line of demarcation upon the line of coast described in article three of the present convention."

"VII. It is also understood that for the space of ten years from the signature of the present convention, the vessels of the two Powers, or those belonging to their respective subjects, shall mutually be at liberty to frequent, without any hindrance whatever, all the inland seas, the gulfs, havens, and creeks on the coast mentioned in article three, for the purposes of fishing and of trading with the natives."

"VIII. The port of Sitka, or Novo Archangelsk, shall be open to the commerce and vessels of British subjects for the space of ten years from the date of the exchange of the ratifications of the present convention. In the event of an extension of this term of ten years being granted to any other Power, the like extension shall be granted also to Great Britain."

That treaty was negotiated with Great Britain in 1859, and by our treaty with Russia the same privileges inure to us. Then we already had this privilege without any expense what-

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ever, and our fishermen have been in the habit of going there to fish every year. My friend from Massachusetts shows in his report that in 1866, before this treaty was made, there were not less than twenty-three vessels, "ships, barks, brigs, and schooners," up there engaged in fishing.

Mr. PRUYN. May I make an inquiry of the gentleman?

Mr. WASHBURN, of Wisconsin. Yes, sir.

Mr. PRUYN. Do I understand the gentleman to say that in consequence of a general provision of the treaty by which, when any concession was made to any other Power, it should apply to this country, although that treaty with this country was a treaty for ten years only, that general provision is good for all time to come?

Mr. WASHBURN, of Wisconsin. I say no such thing. This treaty of which I speak—the treaty of 1832—has never been abrogated, and never can be abrogated until a certain notice has been given, which never has been yet given. It is a good and valid treaty to-day; and under that treaty we are entitled to all the rights which they have granted to Great Britain or to any other country.

Mr. PRUYN. But it may be terminated.

Mr. WASHBURN, of Wisconsin. It may be terminated upon a given notice; but it has not yet been terminated, and there is no reason to suppose that Russia, our best friend, ever would have terminated it.

Mr. BLAINE. How does it affect other treaties in relation to this territory which Russia has made with other Powers?

Mr. WASHBURN, of Wisconsin. I will answer that question. Gentlemen who have looked into this matter will have discovered that when this treaty was first negotiated the proposition was to pay only \$7,000,000; that was the original agreement. But Mr. Seward insisted that it should be free from all incumbrances; and Mr. Stoeckl agreed to that, and then Mr. Seward said very mildly, without inquiring what those incumbrances were, "I will give you a couple of hundred thousand dollars in gold in addition if you will do so." Of course Mr. Stoeckl agreed to take the additional \$200,000 in coin.

Now, I will tell you what those incumbrances are, and which are not yet removed, and which cannot be removed. First, the treaty with Great Britain, which cannot be abrogated for ten years from 1859, and which gives them the right to navigate these rivers forever.

Mr. BANKS. Allow me to correct the gentleman.

Mr. WASHBURN, of Wisconsin. Very well.

Mr. BANKS. It is not provided by that treaty that Great Britain shall have the right to navigate the rivers of Russian America forever. It provides that in relation to the rivers rising in British Columbia and passing through this portion of Russian America in front of British Columbia the right of navigation shall be secured to Great Britain. It is a right which covers the Stikine only, and it is a right which this country has claimed from its very foundation; that where a river takes its rise in one country and passes through another country, the people of the country where the river took its rise have the right to follow the river to its mouth.

Mr. WASHBURN, of Wisconsin. Well, sir, if we have claimed something of the kind the gentleman states, other nations have never conceded it, but always refused it. Have we the free navigation of the St. Lawrence, or any other river which discharges itself outside of our own territory?

Mr. BANKS. The St. Lawrence does not rise in our territory.

Mr. WASHBURN, of Wisconsin. Where then does it rise? But I beg leave to correct the gentleman in regard to his geographical statements, which are quite as wide of the mark

as most of his other statements. I state that this provision does not apply to the Stikine river only. I state that every river of any importance in Alaska rises in British America, and the British people have the right to navigate those rivers forever. I do not speak at random, as is so much the gentleman's habit, but I have the map of Alaska before me, which shows that every river of Alaska that is in any degree navigable takes its rise in British America. By that same treaty Sitka is guaranteed to Great Britain as a free port for the term of ten years. It is a free port to-day for the Government of Great Britain. Does the gentleman deny it? Yet here he asks us to pay \$7,200,000 in gold for this territory before these incumbrances are removed.

Mr. BANKS. The ten years will have expired next year.

Mr. WASHBURN, of Wisconsin. Very well; when the incumbrance is removed it will be time enough to talk about paying this money for it. And how do you propose to remove the incumbrances on the rivers which are made free to Great Britain forever? The sailors, traders, and fishermen of Great Britain have the right to-day to go into all the interior waters of Alaska under this treaty; just the same right that our people have. Great Britain to-day has the same right on the coast of Alaska that we have, except the miserable privilege of governing the fifty, sixty, or seventy thousand wretched savages there. And yet the gentleman comes in here and coolly asks us to vote \$7,200,000 in gold for this territory.

I assert that no incumbrance has been removed for which you propose to pay \$200,000 additional in gold. And the only possible incumbrance that can be removed is one that is said to consist of a franchise granted to an ice company.

It is said there is an ice company on a little island near the Island of Kodiak, an ice company from San Francisco. That is the only incumbrance that can possibly be removed, if it be true that such company has any monopoly there, of which I have seen no evidence. If such company really has any monopoly there I should like to be informed if that incumbrance has been removed?

The charter of the Russian American Fur Company expired in June, 1867, so that was not one of the incumbrances that Mr. Seward had in contemplation.

The gentleman says there was no secrecy about the treaty; and he tells us with his usual eloquence why this treaty was made. He says that our citizens could not enter successfully into competition with the people of Great Britain and of Russia upon that coast. With enterprise so peculiar to them they saw it was necessary for them to have this country in order to compete successfully with the citizens of Great Britain and of Russia. Well, sir, it is a pity to destroy so much fine speaking and so much fine writing as I find in this report. But I tell you, sir, there was no such moving cause in this matter. I say, as I have said heretofore, that there was no American citizen on this continent that had ever been so insane as to propose that we should buy this territory. No man had ever dreamed that it was necessary to our salvation, as the gentleman from Massachusetts now declares it to be. I can state the whole origin of this matter. A certain person who describes himself as a native of Prince Edward's Island in the British dominions, who had been fishing down on the coast of Maine and catching cod, and had experienced the effect of your beneficent fishing bounty laws, went to the Territory of Washington and got passed by the Legislature of that Territory a memorial. I have lived in a Territory and I have lived in a State, and I know it is a very easy matter to get a memorial through a Legislature for almost any purpose. All that was necessary was for Mr. McDonald, this gentle-

man from Prince Edward's Island, to go before the Legislature and ask the passage of that memorial. But, sir, had that memorial proposed the purchase of Walrusia, easy as it is to get memorials passed Mr. McDonald would have been hooted out of the capital of that Territory. That Legislature did not dream of such a thing.

It appears from the document sent us by the Secretary of State that Mr. McDonald was the father of this memorial. The memorial asked for three things, namely: first, to send some of our naval ships up there to explore for fishing banks; second, that they might have the benefit of the fishing bounty laws; and third, that certain privileges might be sought from Russia.

Mr. MYERS. The gentleman has said that we already had the privilege of landing and of curing fish. I would like him to tell us whether the memorial to which he has referred did not ask the Government to procure from Russia that very privilege?

Mr. WASHBURN, of Wisconsin. Yes, sir; I have said that, and say it again, and defy any man to gainsay it, that we already had these privileges. The man who got up that memorial was ignorant of the fact that we already had those privileges. If we did not exercise them it was no fault of Russia, but the fault of the climate where it rains three hundred days in the year, and where to cure fish is simply impossible. Mr. McDonald was also ignorant of the further fact that our fishing bounty laws had been repealed long before the passage of this memorial.

I find in this document, No. 177, two letters from Mr. McDonald, the father of this memorial. I cannot take time to read them; but they disclose clearly the milk in his cocoa-nut. First, he was after fishing bounties, and next he tells Secretary Welles that it will be necessary to have a large fleet on that coast since the purchase of Alaska, and that he has on Puget sound just the place for a naval station, which he would be glad to dispose of to the Government.

Now, sir, I have said that this treaty was negotiated in secret. I say it was negotiated in such a manner that the Representatives of the people might not know of it, as it was justly feared they would protest against it. The negotiation was carried on here while we were in session in March, 1867. Mr. Stoeckl, on the 25th of March, 1867, said to Mr. Seward that he would accept his proposition. The trade was closed between them, but they kept it a profound secret until our adjournment. Why? This House adjourned on the 30th of March, 1867, at twelve o'clock. On the same day was signed this treaty in Washington. I believe that signatures were withheld until after our adjournment that no remonstrance could be heard from the Representatives of the people.

I wish I had time to answer every proposition of the gentleman from Massachusetts at length; but I cannot follow him in his flights of fancy. He pictured Alaska as the finest country upon the face of the earth. He declared solemnly there was no country on the face of God's earth which could support as many industries as Alaska. He said it would support one million people in more industries than any other country. He told us it was a magnificent agricultural country. If gentlemen would like through the eye to have an idea of this territory of Alaska they can look upon a photograph of Sitka which I have here, the most favorable place upon the coast. [Here Mr. WASHBURN held up a large photograph.] They have established themselves on various places, but had finally to give them up and confine themselves to Sitka. We have testimony that there are not a dozen acres of arable land in the neighborhood of Sitka, yet we are told by the Commissioner of the General Land Office that there are twelve million acres of arable land in

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Alaska. He has no information of his own, and yet he undertakes to instruct us and make statements that have no foundation whatever. He has written a letter containing an "infinite deal of nothing." He has no authority for anything he says. There is not one grain of wheat in this bushel of chaff. He talks of deposits of gold. I defy any living man upon the face of the earth to produce any evidence that an ounce of gold was ever extracted from the territory of Alaska.

Sir, I do not bring in here any such kind of testimony as this afforded by Wilson, and which the friends of the treaty seemed to regard as their trump card. I bring you official reports. I am not compelled to go out hunting for adventures from which to manufacture testimony to prove that Alaska is a vile country. No, sir, I quote official documents. Mr. Wilson has volunteered his service on this matter. I believe he has lately been made for this service or some other a doctor of philosophy. Now, Dr. Wilson sends us a letter. I will not criticise as I think it deserves, but the mildest thing I can say, and that I must say or not discharge my duty, is that there is not a word of truth in that letter from beginning to end. I defy Mr. Wilson or any other man to substantiate any statement in that letter. Mr. Robert J. Walker quotes Mr. Wilson to prove how much arable land is there, and the great value of the country in other respects. We have Wilson quoting Blodgett, Walker quoting Wilson, and between them all we have not a solitary fact that can be traced to any reliable source. I am not going to quote any such kind of testimony as that. I have testimony here that is reputable and from a reliable source, to which I must invite your attention.

Now, sir, I will not go back to the time of the early explorations and show you the opinions of those explorers in regard to Alaska. It would take more time than is allowed me. But, sir, they all bear the same testimony. And it is not testimony of the character of the gentleman's friend from Idaho, formerly from Alaska, who found a tree there three feet in diameter lying upon the ground, overgrown by another tree of about the same size, and yet the first tree was as sound as when it was standing in the forest. That is the kind of statement the gentleman from Massachusetts asks us to receive; and yesterday when I asked him where he found his facts, he turned to me with apparent indignation, as though I was asking what I had no right to have answered, and said, "The gentleman would not believe though one should rise from the dead." Is that the way to treat a question of this sort? Sir, these are substantial questions, and if the gentleman has got any testimony I want him to produce it. When I asked him to show where there was any gold, he read a statement from some Frenchman fifteen years ago, who had never been there, but reasoning from analogy, because there was gold in Siberia, he said there was no doubt gold, silver, diamonds, rubies, amethysts, sapphires, and everything precious on or in the earth would be found in Alaska. But, sir, none of these things have ever been found, and I defy any man in this House or on the face of the earth to produce any testimony that the precious metals have ever been found there.

[Here the hammer fell.]

Mr. BLAINE. I move that the gentleman's time be extended indefinitely.

The motion was agreed to by unanimous consent.

Mr. PETERS. Will the gentleman allow me to state a fact?

Mr. WASHBURN, of Wisconsin. Yes, sir; I am in pursuit of knowledge.

Mr. PETERS. I desire to state a fact bearing upon the argument in relation to the use of rivers. The St. John river is the boundary line between Maine and New Brunswick for

about one hundred miles. Its largest tributaries rise in our State. Great Britain never acknowledged; and we never had the use of the lower waters of that river until the treaty of 1842, in which we bought the qualified use of that stream by giving up a very large area of territory belonging to the State of Maine.

Mr. BLAINE. We parted with \$15,000,000 worth of land, and the Government of the United States gave us \$150,000 for it.

Mr. PETERS. We have not got it yet, but expect it in an appropriation bill from the Senate to-morrow.

Mr. WASHBURN, of Wisconsin. I was aware of the fact stated by my friend from Maine, and it only proves what I have before asserted as the usages of other nations. Great Britain has the right to forever navigate the rivers of Alaska, though you pay Russia \$200,000 to be clear of that incumbrance.

Now, my friend from Massachusetts gets up here and coolly tells us, and from the earnestness with which he appeals to the House gentlemen will give him credit for the sincerity of his declarations, that there are over twelve million acres of arable land in Alaska, and that it is capable of sustaining a thrifty and happy population of over one million freemen. Now, sir, without resorting to that kind of testimony that he has brought in, I have official documents from St. Petersburg of a date no longer ago than August last. Mr. Seward, dear soul, in his simplicity of heart, wrote to Mr. Clay to ascertain what system of disposing of lands prevailed in Alaska. Well, Mr. Clay submitted that letter to the Russian Cabinet, and I think I see them reading it, and they must have had a very jolly time of it at the expense of the Secretary of State. Here is the answer they gave. The following is the title of the paper, and it is signed "Kostlietsov, Actual State Counselor:"

Translation of the Russian memorandum marked A A. by S. N. Buznitsky.

"Explanatory memorandum in answer to the communication of the ministry of foreign affairs, department of interior relations, dated August 31, 1867, No. 5790, pursuant to the communication addressed by Hon. W. H. Seward, Secretary of State, August 6, 1867, to St. Petersburg, to the American envoy near the imperial court."

After alluding to the question submitted, the counselor goes on to say:

"The native population of each separate island is so insignificant that the inhabitants of any one could not meet with the slightest cause of collision of interest in the use of lands; in addition to this, the soil itself being perfectly barren and unfit either for agricultural or grazing purposes, there was no reason why the natives should endeavor to extend the limits of their lands."

"There was even less ground for the enactment of any particular regulations in view of immigrant settlers. Who can ever have a mind to settle in that country, where permanent fogs and dampness of atmosphere and want of solar heat and light, leaving out of the question anything like agriculture, make it impossible to provide even a sufficient supply of hay for cattle, and where man, from want of bread, salt, and meat, to escape scurvy must constantly live upon fish, berries, shell-fish, sea-cabbages, and other products of the sea, soaking them profusely with the grease of sea beasts. The Aleutian Islands may attract transient traders, but no permanent settlers; to inhabit them one must be an Aleute; and if it were not for the sea surrounding the islands, this country, owing to its unfavorable climatic conditions and the sterility of its ground, would have never been inhabited at all; and, therefore, the American Government will have, as the Russian Imperial Government had, to protect the local natives against arbitrary taking of possession and violence, not in the interior of the islands, but from sea, because unsparing foreigners, prompted by avaricious hope of easy temporary gain, will, before all, endeavor to take advantage of the local population, which, being scarce, and rather fond of strong drink, will not long resist temptation, and shall perish, together with all those branches of trade for which islanders alone are fit, and particularly the Aleutes, these ancient, permanent, and practiced inhabitants of the ocean."

This is the paradise which we heard depicted in such eloquent terms yesterday, and I was almost led to believe that the generally received account we have that the Garden of Eden was on the green banks of the Euphrates was a mistake, and that the paradise of our first parents was really on "Oonalaska's shore."

But the counselor goes on to state further in regard to the continent:

"Such is, in general features, the character of the Russian American continent. From all what we said it clearly appears that in this region no attempts were ever made, and no necessity ever occurred to introduce any system of land-ownership; the country occupied by savages is too vast; they use to camp in certain fit places, generally marked by mountains, rivers, and streams, each having its name, but no fixed boundaries whatever, and their migrations are guided by wild instinct and unbounded will. All this region has neither past nor present, and it may be confidently said of the future, that it is far and impenetrable."

This is the delightful country where a million of freemen are to settle.

Mr. BLAINE. Who wrote that?

Mr. WASHBURN, of Wisconsin. A member of the Russian Cabinet.

Mr. BLAINE. Was it before or after the bargain for the purchase was made?

Mr. WASHBURN, of Wisconsin. After the bargain was made. He goes on:

"Every attempt of civilizing that country will stumble against unconquerable obstacles; the complete absence of local topography, the wild character of the savages, and no less wild character of nature; but, above all, the rigor and inconstancy of climate. To achieve any good results for the future of that country, by means of conquest and violence, would hardly be possible; to drive the savages further into the interior of the American continent, however difficult, would be possible; but this plan will be connected with irrecoverable money and material losses; the more so, that a civilized population will never be attracted to that country; there can be expected speculators, but no permanent settlers; there can be expected no civilized population, no permanent industry, but rather spoilers of the natives, and predatory working out of the riches as well on the surface as in the womb of the earth. Such system can devastate, but not organize the country."

This is what the acting counselor at St. Petersburg says of it. And this is the country which the gentleman from Massachusetts is so eloquent in praise of, and which he says is worth a thousand times the amount we have paid for it.

Again he says:

"To civilize the savages would seem to be a surer, although a more difficult, way of turning to account the country and its population. This could be effected by two means, working at the same time: by acquainting the natives with objects of material comfort and luxury, as, for instance, the use of bread, tea, and wearing ornaments, and by imparting to them religious instruction; but, to this last end, missionaries familiar with the local dialects are wanted. This system was lately adopted by the Russian American Company for the colonies nearest to the port of New Archangel, and although a decisive result was not yet attained, a visible progress in the intercourse with the natives was effected, so that Caloshes, one of the most savage and unyielding tribes, came to work in New Archangel, a fact which never happened before."

Well, I must pause. I have read enough to show you the opinion they have of this country at St. Petersburg. There is much more of the same sort. And yet Mr. Blodgett volunteers to say that there are twelve million acres of arable land there and Mr. Wilson sends in that statement, taking good care not to indorse it, but leaving us to infer that he does so.

Now, I wish to call attention to the machinery that has been brought to bear to carry this treaty through.

Mr. RAUM. May I ask the gentleman whether the description he has just read of the Aleutian Islands will apply to the whole coast?

Mr. WASHBURN, of Wisconsin. It applies to the whole country, only more so.

Mr. RAUM. It is a fair description of the whole purchase?

Mr. WASHBURN, of Wisconsin. Yes; the description applies to the whole country.

Mr. WILLIAMS, of Pennsylvania. Before the gentleman passes from the agricultural capabilities of this territory I desire to ask him a question. I understood the gentleman from Massachusetts [Mr. Banks] to say that he did not rely for his case on human testimony but upon the immutable laws of Nature.

Mr. BANKS. My statement was that we had evidence of the value of this territory

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apart from human witnesses, and we were not obliged to rely on what men said in regard to it.

Mr. WILLIAMS, of Pennsylvania. Well, that is only introductory to a question which I propose to ask, and that is this: in view of the meteorological table embodied in the report of the gentleman from Massachusetts himself, showing that during the summer months it rains about twenty-three days in every month, I ask is not that condition of things entirely at war with the idea of any agricultural capabilities, and this by the law of nature?

Mr. BANKS. The testimony of our own citizens who have gone to the territory since the purchase is conclusive and irresistible in regard to its agricultural capabilities.

Mr. WASHBURN, of Wisconsin. Mr. Chairman, I shall come to that directly. I agree with the gentleman from Massachusetts, that the testimony of the persons who have visited that coast since the purchase is irresistible in regard to agricultural capabilities, and fully sustains what I have said. The gentleman from Massachusetts stood up here and stated to the House that according to the best authority there were twelve million acres of arable land in Alaska. Now I ask the gentleman whether Colonel Bulkley is good authority?

Mr. BANKS. He is good authority.

Mr. WASHBURN, of Wisconsin. I will refer to his testimony in a moment. The southern boundary of Alaska is 54° 40'. From that point north to Mount St. Elias, a distance of three hundred miles, Russia owned a strip of land only thirty miles wide. On the whole of this narrow strip there are not a hundred acres of arable land. Sir George Simpson states that in passing from the southern border up to Sitka he could not find in the whole distance level ground enough for the establishment of a fort. So it is until you get up to Mount St. Elias, which is in latitude 60° or a little more. Now, sir, Colonel Bulkley, who my friend from Massachusetts says is good authority, says:

"North of Bristol bay all hopes of successful agriculture must be abandoned. The soil only thaws to the depth of about nine inches, below which we have dug twenty feet through the ice of ages without finding its limit."

Nearly all of Alaska is north of the latitude of Bristol bay, except the peninsula, which is known to be composed of rocks or almost inaccessible mountains. According to this report, which the gentleman from Massachusetts says is a truthful one, there is no agricultural land north of Bristol bay, and if you look at the map you will see that there is very little land south of Bristol bay, agricultural or otherwise.

But, sir, I desire to call the attention of the committee to the influences that have been brought to bear to induce this House to vote this appropriation. It dates back to the time when the treaty was first negotiated. I believe I state nothing more than the fact when I say that the Secretary of State did not act entirely upon his own judgment when he bought this territory. I believe the fact to be that when he conceived the idea of purchasing it he telegraphed to General Halleck, at San Francisco, to inquire of him how much it would do to pay for Alaska, and General Halleck replied that it would answer to pay from five to ten million dollars. Mr. Seward thought it would not be quite right to offer the smallest sum; so he split the difference and offered \$7,000,000.

The treaty having been negotiated, it became necessary to get it through the Senate; and the first piece of machinery is a telegram from General Halleck, as follows:

SAN FRANCISCO, CALIFORNIA, April 4, 1867.

Hon. EDWIN M. STANTON, Secretary of War:

I learn from a gentleman who has recently visited many parts of Russian America that its value is greater than has been supposed. The rejection of the treaty will cause great dissatisfaction on this coast, especially in California.

H. W. HALLECK, Major General.

This dispatch was instantly made public here to operate on the Senate. It will be observed that he says that its rejection would cause great dissatisfaction in California. How could he know that? No man in California or Washington not behind the scenes knew that any such scheme was on foot on the 4th day of April, the date of his dispatch. Yet immediately after the treaty had been negotiated, and while it was pending before the Senate, General Halleck telegraphs that the California coast is immensely anxious that this treaty should be ratified. Now, sir, there is no evidence produced that any desire for this acquisition existed on the Pacific coast, either at the time the treaty was negotiated or now. A leading Republican paper of California, one of the ablest if not the ablest in the State, the Sacramento Union, as late as November last speaks of the treaty in very contemptuous terms, calls Alaska a *terra incognita*, and says:

"That persons well informed as to Alaska are ungrateful enough to hint that we could have bought a much superior elephant in Siam or Bombay for one hundredth part of the money, with not a ten thousandth part of the expense incurred in keeping the animal in proper condition."

Well, the treaty was ratified. The next piece of machinery was another telegram from General Halleck; and this bears upon the agricultural question. Two days before we met last November General Halleck sends a telegram on here stating that it is very necessary to have the land surveyed upon the peninsula of Kenay, as agricultural settlers would be going there. Of course, this dispatch was not intended to have any effect upon Congress, which was to meet two days thereafter. But the importance of having these lands surveyed at once and in mid-winter, in latitude 65°, in the interests of agriculture, could not be overlooked or the information wait the slow progress of the mails. For the benefit of the agriculturists who are invited to Cook's inlet and Prince William's sound by the general commanding on the Pacific coast, I will set before them the entertainment to which they are invited. I quote from the report of Professor Davidson:

"Tebenkoff (1848) gives a dark picture of the appearance and climate of Prince William's sound, calling it desolate, gloomy, and deserted; surrounded by rocks and pine forests, mountains covered with eternal snow, and enveloped in perpetual fog or invisible with drizzling rain. Rain falls sometimes for a whole month; and there are not more than sixty or ninety sunny days in the year. During the months of July and August the thermometer showed 59° on fair days and 40° on rainy days. The frost in winter is very severe, but of short duration, for the south winds change it suddenly to thaw and rain."

The peninsula of Kenay is between Cook's inlet and Prince William's sound, and is the land which General Halleck wants to have surveyed in the interest of agriculture; and they all concede that this land thus described by Tebenkoff is the best land they have in the territory.

The gentleman from Massachusetts spoke of the correspondence that had been written from Alaska. He said we would be charmed with it if we could read it. Mr. Seward has sent us this correspondence, and it is bound up in this volume. In my report I took occasion to quote from a correspondent of the Alta Californian; and in consequence Mr. Robert J. Walker has seen fit to attack me in the article to which I have already referred, denouncing me as guilty of "vulgarity and blasphemy."

The quotation which I made and which so excited this irritable little gentleman was from the Alta Californian—a part of the correspondence which the gentleman from Massachusetts says we would all be charmed to read—one of the letters which Mr. Seward sent to this House. If it was fit for Mr. Seward to send to this House, certainly it was fit for me to incorporate in a report without subjecting myself to the charge of blasphemy.

As the gentleman from Massachusetts says

that this correspondence is "charming," and as Mr. Seward has thought it fit to lay it before this House, I will accept any censure that the public may visit upon me for having quoted one of these correspondents in my report. The correspondence which I quoted I again quote, that all except Mr. Walker may be equally charmed with the gentleman from Massachusetts. In quoting it I will say that I in no way indorse the form of expression of the honest Celt, though it is difficult to see how a more forcible expression could be made in regard to the country in so small a compass. It is from the correspondent of the Alta Californian, and is dated Sitka, October 25, 1867, and is found in Executive Documents before named:

"Meanwhile the weather has been unremittingly dubious. It was well the ceremonies of the transfer were held immediately on the arrival of the commissioners. Since then there has not been an hour of pleasant weather. In a word, reader, Sitka is the region of incessant storms, dripping forests, dank masses, dense mud, and drifting mists. There Pluvius reigns with undisputed sway. It is the paradise of ducks and sea-gulls, of salmon and shell-fish. Three Arizona miners, disgusted with the aridity of that sunny region, and yearning for the sight of a cloud, if no bigger than a man's hand, decided last June to come to Sitka. They arrived just in time to enjoy the delightful humidity of August, the rainfall averaging about an inch daily. The desire of their souls has been satisfied. This opens the way for me to say a few things upon the subject of

METEOROLOGY.

"We have now been here seventeen days. Of those, one was sunny, two cloudy, without rain, seven partially, and seven constantly rainy. According to the Russian meteorological tables, the average amount of rain falling the past fourteen years has been eighty-five and two third inches annually, a little less than Senator SUMNER's figures. May, June, July, January, and February are the driest months. All the rest are rainy, and August, October, December, and March intensely so. According to the measurement of Mr. Treskovsky, of the Russian observatory, over twenty-one inches of rain fell during last August. On the 26th of that month he reports a fall of three inches. When the sun does break through the clouds it is laughable to see the cattle, dogs, cats, and hens, as well as humans, seek the brief sunshine, and bask in its transient warmth."

"These constant rains are especially annoying to the soldiers. Since the transfer of the territory they have been detailed from the steamer, twenty-five at a time, to serve on guard about town. Returning last night, after a four hours' endurance of the pitiless storm, one honest Celt, as he came dripping from the boat up the gangway, vented his indignation by exclaiming, 'Be Jesus, who bought this country? It wasn't me!'"

Mr. Chairman, I am astonished that the gentleman has not alluded to any of the authorities in this book. I make no statement I cannot give the chapter and verse for. I do not ask you to take my word, or the manufactured testimony of adventurers picked up on the street. I consult the official documents sent here by the State Department. In December last I called for information as to what the State Department knew about this country. In answer they sent us this book. It shows that at the time they negotiated this treaty they absolutely knew nothing about Russian America. After the treaty was negotiated Captain Howard, of the revenue service, was sent up to explore. He was told to look for fishing banks, for coal, and for precious metals. I have his report here. It is lengthy, and I shall not be able to quote from it to any extent. Captain Howard, according to instructions, proceeded to San Francisco, and in the steam revenue-cutter Lincoln sailed for Sitka and Russian America on the 20th of July. On the 30th they arrived at what they supposed was the southern extremity of the territory. Captain Howard says in his first report, dated Sitka, August 17, 1867:

"Being aware that this was almost unknown territory, it was necessary, in order to work understandingly, to determine the boundary line. Finding that it was also the desire of Professor Pierce and Mr. Davidson to observe for that object here, I readily consented."

"Having remained six days without the least prospect of obtaining a sight at the sun or stars, we, on the 10th, at daylight, steamed for Fort Simpson into Chatham straits, through Dixon passage, en route outside to Sitka. It was our desire to verify the headlands of Prince of Wales, Ken, and Bancroft Islands, this passage being our boundary, in accordance with the treaty between England and Russia."

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The rain and fog, however, prevented our getting anything more than an imperfect bearing, without any observations; in fact, to this port it was so thick on our arrival in the bay of Sitka that we anchored without knowing our position in reference to the town. When the weather cleared sufficiently to show it to us, bearing north by northwest, four miles distant, we immediately got under way, and at ten a. m., August 12, moored ship off the town of Sitka. A boat, with the Governor's aid and captain of the port, came alongside with the compliments of the port.

"I fill up with coals and water here, and proceed direct to Oonalaska Island, in obedience to instructions; but I regret to say that, from information I have received from the prince and officers of the Russian American Fur Company, as well as captains trading in steamers on the coast, the coals on all the Aleutian Islands are too light, with too much residuum, for steaming purposes. The Russian American Fur Company gave up the attempted use of them long since, and obtained all their coals from Vancouver's Island."

Mr. BANKS. As the gentleman from Wisconsin refers to the testimony of Professor Davidson, I will ask to have an extract of a letter from him read.

Mr. WASHBURN, of Wisconsin. Give me the page, and I will find it.

Mr. BANKS. I will send it to the Clerk's desk to be read.

Mr. WASHBURN, of Wisconsin. I object to that letter being read. Anything Professor Davidson has reported officially I do not object to having read. But I am opposed to the reading of any of this manufactured testimony recently got up for the purpose of getting through the treaty.

Mr. BANKS. The gentleman asked for testimony as to coal in Alaska, and I have given it.

Mr. MUGEN. I ask the gentleman to yield to me for four minutes to make a proposition which I think will be acceptable.

Mr. WASHBURN. I cannot yield now. I will refer presently to Mr. Davidson's report, made after his return from Alaska; but at present I wish to attend to Captain Howard.

Mr. BANKS. I hope the gentleman from Wisconsin will allow Mr. Davidson's letter to be read.

Mr. WASHBURN, of Wisconsin. Well, as my friend from Massachusetts has shown anxiety to have the extract of the letter of Professor Davidson read, I will yield for that purpose. It is so seldom he produces any authority I like to oblige him, though his authority should prove nothing.

The Clerk read as follows:

"At Coal Harbor, on Unga Island, Graham harbor in Cook's inlet, and one locality in Chatham strait, the company had opened veins of lignite for fuel for their steamers, but the results were unfavorable and operations abandoned. At Tehugatchek bay, in Cook's inlet, there is a seven-foot seam of true coal, but it has not been worked, as I understand. It crops out at or near low water, and would require greater expense and more engineering talent than the company commanded. This out-crop exhibits itself at intervals for twenty miles along the shore toward the northwest. My party discovered water worn pieces of coal much intermixed with foreign substances for four or five miles along the head of a stream, coming through a heavy forest, and opening upon a fine bay. An examination of the specimens proves it bituminous, but the bed or beds from which it is broken will, when discovered, afford coal of vastly superior quality to any heretofore known to exist on the Pacific coast. Coal for steamship purposes is the great desideratum of the Pacific. With a supply of good coal within the distance of Sitka from San Francisco, California, Oregon and Washington will at once be relieved from the necessity of freighting their coal from fourteen thousand five hundred to seventeen thousand five hundred miles, at a cost to the consumer of twenty dollars per ton in gold. Appreciating this great drawback, and impressed by the analysis of the specimens we obtained and all the favorable geological indications, I have urged the importance of a special and exhaustive exploration of the locality."

Mr. WASHBURN, of Wisconsin. Mr. Chairman, I have listened to the reading of that letter, and I hesitate not to assert that there is no proof contained therein that there is a vein of coal any where in Alaska. Mr. Davidson does not pretend that he ever saw a vein of coal there. He says in his report, speaking on that subject, that he is informed there is coal there. He says in his letter, just read, that

coal is worth twenty dollars a ton in gold. Is it possible that a seven-foot vein of coal exists on Cook's inlet, and not opened while coal is worth twenty dollars a ton? The statement is preposterous. It is on a par with another letter that I have here by a Mr. Ballou, which I will read. One W. T. Ballou, of San Francisco, wrote the Secretary as follows:

SAN FRANCISCO, September 7, 1867.

MY DEAR SIR: Since my last with inclosures a vessel arrived in this port from Kodiak. The following is a copy of a letter received by me:

"Mr. BALLOU: We beg to inform you that we have at last found the seam of coal that we have hunted so long—no thanks to the R. A. Co. It is wonderful, over thirty feet deep, pure anthracite; we trace it one mile; good harbor; oak and fir timber. Our fortune is made; thanks to you alone. We hope to see you soon. A. & G. MARSH."

The above is *verbatim*. This is only one instance of the great mineral resources of that country. I know of others more astonishing, and had I funds sufficient, quickly would I develop astonishing facts that would soon make Alaska in many respects vie with almost any portion of our country; but, as I said in my first letter to you, it is no agricultural country. Its minerals, fish, and furs, are enough.

Should I not be honored by a Government position, as applied for in my last, and some of your eastern capitalists want to form a company whose capital shall be \$100,000 or more, I will take \$10,000 of stock and manage the affair so as to double the money in two years or I'll lose my head. To do this will require immediate attention and no delay, as the ground must be occupied before the immigration floods in. My reference can be had and money at any time required. As I suppose I am wearying your patience I close till some reply.

Yours, W. T. BALLOU.

Hon. WILLIAM H. SEWARD, Secretary of State.

It will be seen hereafter that Captain Howard, of the revenue service, was at Kodiak after this pretended coal discovery, and though constantly looking out for coal, failed either to discover or hear of any on that island.

There is also another letter to the Secretary in this book from another man that tells a wonderful story, almost equal to that of the gentleman from Idaho. He says he has discovered a stream of pure verdigris in Alaska.

Mr. Chairman, I have been furnished by a gallant gentleman, (a native of that country which has been absorbed by Russia; a gentleman who served gallantly and faithfully in our Army, and whom it was my pleasure to know during the war, while he was serving on the staff of one of our most accomplished commanders,) with a translation of some Russian documents on this subject.

Before, however, alluding to them, I wish to call attention to the concluding passage of Captain Howard's report, as I find that my time will compel me to dismiss him without further notice. This modern Jason, who was sent up to Alaska in pursuit of the golden fleece—

Mr. BLAINE. And came back shorn.

Mr. WASHBURN, of Wisconsin. Yes, and came back shorn, if we may judge by the conclusion of his report, which is as follows:

"On the 18th of November Captain Howard arrived in San Francisco. He says:

"Thus ended the observatory cruise of the Lincoln. Regretting that so little has been effected, by the lateness of the season and the extremely boisterous and rainy weather," "I beg leave, however, to bear testimony to the untiring exertions of Mr. Davidson and Coast Survey party to accomplish an almost impossibility. For many days and nights they watched in vain for sun, moon, and stars, which led us almost to believe that neither ever had been or would be seen."

I will now refer to the translation of the Russian document, being a description of that country. Captain Golovin, of the Russian navy, was sent out in 1860 and 1861, and made a report to the high admiral, Duke Constantine. I will read a passage for the satisfaction of my friend who has seen a man who saw a tree in Alaska three feet in diameter, that was prone upon the ground inclosed by the roots of another tree of the same size, and yet the first tree was as sound as when growing in the forest.

Mr. PETERS. Was the man who saw the tree named Munchausen?

Mr. WASHBURN, of Wisconsin. I have

forgotten his name. It sounded to me something like that. But I think Baron Munchausen never got off anything so good as that. Superintendent Chlebinkow (part 3, p. 95) states that:

"The houses, barracks, and other buildings, constructed under Baranow, who took possession of Sitka in 1805, were all rotten, and had to be rebuilt in 1817."

All the buildings rotted down in twelve years, so you will see how exceedingly probable is the tree story with roots fastening to the ground another tree perfectly sound that fell three hundred years ago. If the report of Captain Howard is not flattering, that of Dr. Kellogg, the botanist of the expedition, is hardly more so. He says:

"Unfortunately, this vast region of islands and continental coasts is not bordered at the bases of these lofty timbered ranges with sloping or level bottoms; but is gashed with precipitous and inaccessible gorges, the peaks, for the most part, being capped with snow, which, melting in summer, together with the continual rains, makes every rockless footstep a sphagnum, miry morass. Altitude passes for naught here; even the mountains are miry to their tops."

Professor Davidson says of the sphagnum here spoken of as—

"One of the main features of Alaska. It is described as a thick moss, seldom less than a foot and sometimes three feet deep, and covers the whole face of the country from the middle of Vancouver's Island to the end of the Aleutian Islands. It forms a soft cushion into which the traveler sinks at least to his boot-top at every step; and in this moist climate the sphagnum is always soaking wet."

In regard to minerals, the geologist of the expedition, Mr. Blake, says that "exaggerated ideas have been formed of the mineral wealth of Alaska." None of these gentlemen succeeded in finding mineral wealth of any kind there, although they were constantly in pursuit of it. Exaggerated reports in regard to this country in reference to its furs have been circulated.

Now, I assert—and I have the facts and figures to prove it—that the fur trade is becoming rapidly exhausted, and that the total value of all the furs gathered in Alaska is considerably less than two hundred thousand dollars a year, and is diminishing from year to year with great rapidity.

Mr. MAYNARD. Will the gentleman allow me to ask him if he includes in that the seal-fur trade?

Mr. WASHBURN, of Wisconsin. Yes, sir; and I will give the gentleman some figures.

Mr. MAYNARD. My information is quite different from that.

Mr. WASHBURN, of Wisconsin. I am aware of that. There has been a studied effort to deceive the public in regard to the value of this country and its different industries. Mr. Wilson in his letter says that the value of the fur seals alone is over half a million annually. I can show you that all these statements, if not false, have been much exaggerated. The total dividends of this fur company from 1850 to 1859 was 1,334,000 roubles, or an average of 133,000 roubles a year, (the rouble is equal to seventy-five cents of our money,) and only about four per cent. on the capital of the company. The total annual value of all furs gathered in Alaska does not exceed \$200,000 a year. Official tables to be found in part No. 2, Document 177, verify this statement. Mr. Bulkeley says that the seal fisheries alone could be made to pay for Alaska. He admits himself that unless the seal fisheries are protected as the Russians protected them they will not last any length of time. And Professor Davidson says that with the utmost care on the part of the Russian authorities the furs and fur-bearing animals have rapidly diminished from year to year. With the transfer to this Government, and the consequent invasion of the country by our people, it can safely be said that the fur trade will soon cease to exist. Under the Russian system they only captured about thirty-three thousand seals a year, which,

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at three dollars a piece, their highest value, is \$99,000; and yet we are told that the seal trade will pay for the whole purchase. Now, if under the Russian system, they received less than \$100,000 a year for the fur seals captured, how long would it take to pay off this debt of \$7,200,000? It is a good deal like the sum that used to be in the arithmetic about the frog at the bottom of the well jumping up two feet and falling back three feet each day, and about the time that the frog would get to the surface you would pay off this debt from the fur seal trade.

I have already spoken too long and feel that I am trespassing upon the patience of the House, but I have by no means exhausted the subject. There are a great many more important facts that ought to be made known to the House and the public. I want to speak farther about the fur trade, but I will append some official tables in the *Globe* and pass to the fisheries. I do not undertake to say that there are no fish at Alaska, but I do say, that so far as we know the fishing banks on that coast are of the most uncertain character.

On the 22d of August Captain Howard steamed out of the harbor of Sitka, destined for Kodiak and Aleutian Islands, sounding on the way for fishing banks, "in accordance with the wishes of the Department." He says:

"I reluctantly gave up the search. I want to not pretend to say that there are no such banks."

At Kodiak he found but one Russian and one German. The rest of the inhabitants were Aleutians. He afterward found one fishing bank, and its position was ascertained by Mr. Davidson, but I assert here that that fishing bank is not within the limits of the jurisdiction of Russian America. The gentleman from Massachusetts cannot point to a fishing bank on the coast of Russian America within the limits of the jurisdiction of Russia. I defy him to do it by any testimony. Captain Howard says these fishing banks are kept secret. He asks us to believe that they are there, but he says they are kept secret, an observation upon which I do not care to comment.

In regard to salmon we read of such immense numbers up those streams, that they are driven up on the shores, forming winrows three feet in depth, and that they sell for seven cents a pound in gold, and we are also informed that the bears come down from the mountains to feed upon them, their dainty appetites selecting only the heads, rejecting the other parts of the salmon altogether. This is told in the report of the majority of the committee, and we are gravely asked to believe it, and the gentleman from Massachusetts has stated substantially the same in his speech, and gave us the philosophy of it. Wilson, the philosopher, must look to his laurels.

Now, Mr. Chairman, I have no doubt that there are many salmon in the rivers of Alaska. That is also the case in regard to the rivers of Washington Territory and Oregon. Inexhaustible numbers of salmon annually visit the rivers, sounds, and bays of our western coast, and we have now no occasion, and will have no occasion for a hundred years to come, to visit the rivers of Alaska for salmon.

The gentleman from Massachusetts also quotes the testimony of Captain Bryant, who says that Behring sea is an immense reservoir for codfish. Yet Colonel Bulkley, of the telegraphic expedition, whom my friend from Massachusetts says is good authority, says there are few or no codfish in Behring sea, and he, too, gives the "philosophy" why codfish do not exist up in that sea.

There is one other subject that I ought to speak of, and that is the timber of this region. I will only say that it does not exist to any extent on the Aleutian Islands, nor north of Cook's inlet, and that what there is on the inaccessible mountains that skirt the coast south of Mount St. Elias, and along a strip of coun-

try but thirty miles wide. Professor Davidson is forced to say that—

"While the vast forests of wood exist upon the waters of Puget sound, Admiralty inlet, and Straits of Fuca, it may be commercially unprofitable to cut and ship even this yellow cedar to the California market, unless native labor can be obtained at low rates to get it out."

Now, I think, Mr. Chairman, I have pretty clearly demonstrated the utter worthlessness of this Alaska territory. You are not simply asked to appropriate \$7,200,000 in gold for a worthless country—if we could get off with that I might, perhaps, be content to submit to it—but with this \$7,200,000 come the annual expenses of this Territory, in my judgment amounting to several million dollars a year, with no corresponding return.

I have no means of showing how much money we have expended in Alaska up to this time; but I undertake to say it will count by millions. We have had several war ships there, and a portion of our Army has been there supported at an immense expense.

You will recollect, Mr. Chairman, that I called attention to the agency of a gallant general on the Pacific coast in forcing this purchase upon the country. I will now read from a letter of his of May 22, 1867, to the Adjutant General of the Army, in which he gives his opinion as to how much this country will cost us. After we had acquired it he began to see its true character. He says:

"This country and the adjacent British territory contains a very large Indian population, some of whose tribes are warlike, and of a character far superior to those of Oregon, California, Nevada, and adjacent countries. Should our Indian system, with its treaties, annuities, agents, frauds, and peculations, be introduced there, Indian wars must inevitably follow, and instead of a few companies for its military occupation, as many regiments will be called for, with the resulting expenditure of many million dollars every year."

General Halleck says if certain things take place, which we know will take place, there will be a resulting expenditure of several millions a year; and that he is badly frightened at what he has helped to accomplish is evident from his instructions to General Davis, commanding our troops at Sitka. He gives him to understand that these Indians are a pretty savage set, and that he had better look out. He says:

"It may be well to have guns charged with grape and canister always bearing on their village ready at an instant's warning to destroy them."

Such are the kind of inhabitants you acquire with Alaska. It is said this is only a little sum; only \$7,200,000. Yes, sir; it is only \$7,200,000. But let me tell gentlemen that if they pass this appropriation it will be but a few days before you will hear of the ratification by the Senate of the treaty for the purchase of St. Thomas; and if the doctrine of my friend from Massachusetts [Mr. Banks] obtains here, you cannot avoid paying \$7,500,000 more for the purchase of St. Thomas. Now, the gentleman will not say that St. Thomas is not as valuable a purchase as Alaska. If we pay for Alaska we shall pay for St. Thomas.

But are we to stop with the purchase of Alaska and St. Thomas? No, sir. I believe a treaty is now being negotiated with Denmark for the purchase of Greenland and Iceland. [Laughter.] Well, gentlemen, laugh at it. I tell gentlemen who go for Alaska that Greenland to-day is a better purchase. And the man who votes for Alaska must vote for Greenland or he will be an inconsistent man. This is not mere loose talk. I have had placed upon my table since I began to speak to-day some pages of a document now printing at the Government Printing Office for the State Department, which shows that the purchase of Greenland is in contemplation.

Mr. HIGBY. Was it written by Professor Davidson?

Mr. WASHBURN, of Wisconsin. No, sir. I have but a few leaves of the document, and have not had time to look even at them. But

upon glancing over them at this moment I observe a letter from Robert J. Walker, who figures wherever there is any territory to be bought, or any money to be appropriated to pay for it. Here are full descriptions of Iceland and Greenland. Gentlemen laugh at this; I tell them it is a serious thing. And if they do not believe it, I will read a few paragraphs, beginning with a letter from Hon. R. J. Walker to Mr. Seward:

"WASHINGTON CITY, April 24, 1868.

"SIR: When you did me the honor last summer to call my attention to the treaty negotiated by you with Denmark, by which we acquired the important islands of St. Thomas and St. John, I ventured to suggest to you the propriety of obtaining from the same Power Greenland, and probably Iceland also. You thought the suggestion worthy of serious consideration, and requested me to communicate to you in writing my views and the facts on the subject, that they might be on the files of the Department and ready for use whenever the question might be considered hereafter by the Government. In compliance with that request this report is made."

Further on, in speaking of Iceland, he says it has "fields beautifully green, mountains clothed in purple heath, and the atmosphere is of astonishing purity." Glancing further along I discover a report of Benjamin M. Pierce, of Harvard College, indorsed by the learned Professor Benjamin Pierce, superintendent of the Coast Survey. Professor Pierce discovers in Iceland "the sure promise of a rich prosperity." But, Mr. Chairman, I must pause; the more I say the more it seems necessary to say, for the subject is inexhaustible, and as I proceed new reasons are constantly arising to fortify the opinions I have before expressed, and though I may be threatened, as I was by the gentleman from Massachusetts, with the vengeance of the people if I opposed this measure, I say to him that he need give himself no uneasiness on my account. Men talk about "manifest destiny," and assure us that we are destined to absorb this entire continent, and the idea seems so grand that no one feels inclined to count the cost or inquire into consequences. When that day comes we shall cease to be the "United States," but "States dissevered, discordant, belligerent." Sir, I will be no party to the inauguration of this policy you now propose, of acquiring remote and worthless possessions at the expense of my constituents, and to them I appeal for my justification.

The following is the translation of Russian authorities, referred to in the speech of Mr. WASHBURN, of Wisconsin:

Russian Views and Estimates of the Value and Resources of the Russian-American Possessions.

The Russian-American possessions were explored and inspected at various times by parties sent for that purpose from St. Petersburg, and several of the reports of these exploring and inspecting expeditions were published by the naval department at St. Petersburg.

The following are some of the principal Russian materials about the Russian colonies, to wit:

Admiral Ludke's cruise round the world. Captain B. M. Golovin's account of his explorations in 1809, 1810, and 1811, published by the department of the navy in the appendix to the *Naval Collection*, (Morskoi Sbornik,) 1861, St. Petersburg.

Report of Superintendent Chlebnikov, of the Russian-American Company's service, published in part three of appendix to the *Naval Collection*, 1861.

Captain Zagoskin's explorations of the rivers Kwichpak and Kusowen, published by the Imperial Geographical Society, 1842.

Captain Tebenkow's Hydrographical Atlas of the Russian coast on the Pacific, accompanied by an explanatory text, published in Now Archangel and St. Petersburg.

Report of Captain P. Golovin to the High Admiral Grand Duc Constantin, of his inspection as imperial commissioner in Russian America in 1860 and 1861, published in the *Naval Collection* for January, 1862.

All of these writers were high officials, and their descriptions of the country are official reports made to the authorities in St. Petersburg. They all complain about the violent storms which reign throughout these regions, and complain about the inclemency of climate in the colonies. And all these writers came there from St. Petersburg, which has not been blessed with a very genial climate, their constant complaints are the more remarkable. In all these writings repeated mention is made

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of the thick, continuous fogs which render navigation extremely perilous.

Captain Tebenkow, who published the atlas of the country, speaks of the want of proper places for the landing of vessels on the continent; that the water is so deep close to the shore as to render it impossible to anchor, while at the mouth of the two large rivers, Kwichpak and Kuskowen, a line of shoals extends from Stuart Island to the Cape of Good News.

And Captain Zagoskin, who was sent to explore these rivers for three years, reports that he could not discover any channel over this line of shoals for the passage of vessels.

Captain Golowin states that the bays on the Aleutian Islands are unprotected and rendered perilous by projecting boulders and submerged rocks, added to which fogs prevail continually during the summer and autumn, and in winter and spring the bays are filled with floating ice.

In regard to the soil, climate, and vegetation, Captain Golowin states: "The islands of the Russian-American colonies are in general of volcanic formation; the elevated portions disclose on the surface granite, volcanic clay, and petrified shells, but the generality of the country presents large surfaces of 'thundra,' swamps covered with moss, and of morass. The tops of mountains are all covered with perpetual snow. On the Aleutian Islands there is no timber."—P. 28.

The attempt made in 1808 to plant trees on these islands proved a complete failure. The climate on the island is in reality the most unfavorable. Rain and fog reign continually. Clear days are very few. On the Kenai bay the cold is extremely severe. Berries on Kodiak are palatable, but those on Sitka are watery and without taste. On Kodiak potatoes and turnips are cultivated in gardens, but cabbage never forms heads. The experiments of raising rye have all been failures.—P. 27.

It is difficult to make any hay on account of the continuity of the wet season in summer.—P. 54.

As regards ship-timber, Captain Golowin states, on page 71: "New ships are but seldom built here and only small crafts, because it is more easy and profitable to contract for ships in the United States, as such vessels made of oak last five times longer than those made in New Archangel of cedar or pine wood.

Superintendent Chlebnikow states (part 3, p. 95) that the houses, barracks, and other buildings constructed under Baranow, who took possession of Sitka in 1806, were all rotten and had to be rebuilt by the company at his removal in 1817. Chlebnikow proceeds to enumerate eighteen public buildings at New Archangel which had to be completely rebuilt.

On page 136 Chlebnikow mentions the fact that by reason of the peculiarly wet climate buildings and ships rot very fast, and still more so is the case with the rigging and sails. On page 155 he speaks about the difficulty and expense of keeping cows, because of the scarcity of hay, which is very difficult to make or cure by reason of the continuous rainy and wet weather during the summer months.

Captain Tebenkow, in the text to his atlas, mentions that cows dislike the grass grown on the islands, and that they have to be fed mostly on imported fodder.

As regards the fur trade Captain Golowin states that it is continually on the decrease. His report is accompanied by full statistical tables, extending from 1842 to 1880. It is remarkable how the fur trade has been decreasing of late years; for instance, from the tables of the fur trade with the "Koloshes," at New Archangel, it appears that from 1842 to 1860 there were obtained of sea-otters (the most valuable fur) one thousand and forty pieces in the harbor and four hundred and ninety-five in the bays—together fifteen hundred and thirty-five pieces. But these were obtained almost exclusively in the first ten years. During the last five years of the period to which the table refers not a single sea-otter was obtained at New Archangel. The official tables show a similar decrease of the other furs at New Archangel; and the tables of the other districts disclose also a considerable gradual decrease in the quantity of furs obtained, and principally those of more valuable quality.

Hydrographic Atlas of the Russian Possessions on the Pacific, with descriptive text (in Russian) by Captain Tebenkow, St. Petersburg, 1852.

Captain Tebenkow, of the Russian service, remained many years in the colonies; the charts of his atlas were made and engraved under his direction at Sitka. In the text he states:

The rivers Kwichpak and Kuskowin have their entrances barred from the sea by a line of shoals extending from Stuart Island to the Cape of Good News. The surveys were made by Etolin, Chromchenko, and Vassilev.—Pp. 5 and 6.

The northern shore of the peninsula of Alaska has but few accessible points; the country is covered with lakes inclosed between steep mountains, and volcanoes of immense height, from nine thousand to eleven thousand two hundred and seventy feet.

The shores of Bristol Gulf present steep rocky ridges, the ground covered with sand and pebbles; inland innumerable lakes extend which are joined together by thousands of rivulets passing through swamps and "thundra."—P. 13.

The entrance to Kenai bay between Cape Douglas and Cape Elizabeth is very dangerous on account of a peculiarity called there "sulloy," which causes the water to rise and form, as it were, a wall six to ten feet higher than the water in the bay.—P. 18.

The Bay of Tschugatch presents no anchorage, being from seventy-five to one hundred fathoms deep.—P. 23.

The river Atna is not navigable, its entrance being barred by sand, while numerous rapids obstruct its course.—P. 24.

The width of the land (on the continent) between the sea and the mountains, covered with everlasting snow is not more than ten miles. It is much broken, steep, inaccessible to cultivation except in very few small spots, and exposed to tremendous blasts and snow avalanches.—P. 30.

French bay not fit for anchorage.—P. 34.

The islands compare with the fiords of Norway. They are inhospitable on account of rocks, reefs, sudden tides, storms, and fogs, and the floating ice crowding the bays nearly the whole year round.—P. 36.

The harbor of New Archangel is dangerous, with all east winds, and the fog renders navigation still more hazardous.—P. 38.

Captain Tebenkow says that of all the islands the best is Behring, most suitable for cultivation and having good harbors. But this is one of the islands reserved by Russia.—P. 127.

Where from.	Sitka, from the Koloshes, 1842 to 1880.	From the Koloshes in the straits.	By exchange with the British.	Kodiak department.	Omashka department.	Atka islands.	Unalaska islands.	Behring's island.	Michaelofsky island.	St. Paul island.	St. George.	Total production for ten years.
Sea beavers.	1,040	465	2,779	382	5,809	5,686	1,888	2,421	3,611	43,398	—	25,602
River beaver.	—	—	—	—	—	—	—	—	—	—	—	161,042
Otter.	1,196	181	21,873	9,558	329	—	—	—	—	4,954	—	68,826
Fox.	431	109	692	28,049	19,671	1,430	—	—	—	5,731	10,211	73,944
Bear.	282	89	1,597	14,206	—	—	—	—	—	1,403	—	2,283
Sable.	1,455	128	—	—	—	—	—	—	—	8,283	—	26,384
Fur seal.	3	—	—	—	—	—	—	—	—	—	—	338,604
Tails of sea beaver.	1,056	—	—	—	—	—	—	—	—	—	—	—
Lynx.	—	—	—	—	—	—	—	—	—	—	—	6,445
Wolf.	—	—	—	—	—	—	—	—	—	—	—	104
Muskrat.	—	—	—	—	—	—	—	—	—	—	—	19,076
Arctic fox.	—	—	—	—	—	—	—	—	—	—	—	55,540

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SPEECH OF HON. B. F. BUTLER,

OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,

July 7, 1868.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. No. 1096) making an appropriation to carry into effect the treaty with Russia of March 30, 1867—

Mr. BUTLER, of Massachusetts, said:

Mr. CHAIRMAN: I had intended when this subject was first opened to have, with some elaboration, brought together such views as

might occur to me on this great question and presented them to the House; for in my judgment it is one of the greatest which will ever occupy the attention of the American Congress. I am precluded now from so doing by the very able and exhaustive report and argument of the minority of the Committee on Foreign Affairs covering the whole ground; but with the leave of the Committee of the Whole I propose to state discursively perhaps, conversationally in any event, some of the reasons which will control my vote.

We are told here that our judgments are compelled, our consciences bound, our honor pledged in advance to appropriate this money because of the ratification of the treaty between us and Russia. If that be so, sir, why are we called upon to act on the question at all? because then we are as much tied down as ever Gulliver was with every hair of his head pegged to the ground. Why has the Constitution put into our hands the purse strings of the Government if there is any other branch or aggregation of branches or officers of the Government which can compel us to pay money at their pleasure? If the doctrine contended for here is the true one, there is the end of the House of Representatives in many of its functions. The doctrine contended for by the majority of the Committee on Foreign Affairs, as I understand it, is that wherever a treaty is made in due form by the President and ratified by the Senate, between any nation or nations and this Government, it becomes from that moment the supreme law of the land, part of the constitutional law of the land, above statutes, above Congress, and there can be no change in its provisions by legislation or otherwise any more than in the Constitution itself; for I understand the claim put forward here is not that a treaty is above the State laws alone, but that it is superior to any other law; that it controls Congress itself. Sir, if that be so, then the control over the revenues of this Government and the control over the expenditures of the Government have passed away from the House to the President and Senate acting together executively.

Let me call your attention to a single view, which will illustrate what I am saying. Quite all our treaties to-day require that we shall give to every other nation the same commercial privileges and rights that are enjoyed by the most favored nations under any treaty with us. Now, if the President chooses to make, and the Senate chooses to ratify, a treaty of free trade and commerce between this nation and any other, every tariff law you have is repealed, and the treaty stipulations in regard to these subjects cannot be interfered with by legislation, because they are the supreme law. Am I not right? Is there any escape from this position? Once more. If the President chooses and the Senate consents, a treaty may be made by which millions upon millions may be borrowed from another nation and we be made that nation's perpetual bond-slave for the debt; and we in Congress can do nothing in the world but to appropriate the money to pay the interest year by year in this House, that our master, the Executive, and our lords, the Senate, have bound us to pay by this supreme law enacted by treaty.

We are told that a treaty is the supreme law of the land, and we cannot in honor get away from it; that we cannot avoid it without war. That is the last argument addressed to us by my friend from Ohio, [Mr. SPALDING.] Let me pause here a moment and examine the bold contradiction in which he involves himself and see whether he himself will, upon examination, stand up to it. He made an argument to the House early in the session, proving, as I thought conclusively, that we had the full right to examine fully and pass upon every question in regard to the treaty; that it was not only our right, but our duty so to do. That I believe to have been and still to be per-

Exhibit of the Fur Production of Russian America.
(Compiled from the report of Golowin, 1880.)

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fectly sound constitutional law, with the limitation that the treaty calls upon the law-making power to do something to carry it into effect. The gentleman now says that the President and the Senate have so concluded as by their treaty and bound us to pay for this territory, that though it were an iceberg covered with walruses—whether that would make any difference in its value or not I do not know—yet he would feel himself bound to vote the money to pay for it. Why? Because the treaty compels his conscience and binds his honor so to vote; that he has no choice left, and he likens the case to the case of France in the contest with Jackson, from which there was no escape on her part save by war. What, then, becomes of his earlier argument that it was our right and duty to examine and determine all questions arising under a treaty if we are thus in honor and conscience bound to carry out its provisions whatever they may be? But is that doctrine true? It early challenged examination in the year 1795 upon the appropriation bill to carry into effect the Jay treaty, and there, after the fullest discussion, it was agreed that the House of Representatives has a right and that it is their duty to examine and determine upon every treaty that is not self-executing.

Now, what is a self-executing treaty? It is one which by its terms calls upon no branch of the Government to do anything to carry it into full effect after its ratification by the Executive with the advice of the Senate sitting in executive session, so that we may say simply a treaty to be carried into effect by the executive branch only which made and ratified it. But where the other branches of the Government are called upon to enforce it by law, there all nations have the fullest notice by the Constitution of our Government, and the discussions upon the first case arising under it, and a solemn resolution of this House declaring the doctrine that no nation is at liberty to act upon such a treaty until that branch of the Government having the right to examine and pass laws to carry it into full effect has spoken. This doctrine of the rights of this House has never since been challenged. Jefferson did not challenge it in 1800, in the treaty purchase of Louisiana, but expressly admitted it; and when we acquired territory from Mexico under the Gadsden treaty William H. Seward, the Secretary of State, who negotiated this treaty under discussion, voted in the Senate of the United States against appropriating the \$10,000,000 required by the Gadsden treaty to carry it into effect, although that treaty had been ratified by the very Senate in which he was sitting as a member. Ay, and not only that, but the present Chief Justice of the United States, bringing to the question all those great qualities of mind and stability and depth of thought which now challenge the admiration of the country, voted side by side with Mr. Seward against appropriating money for the Gadsden treaty, and that, too, after the House of Representatives had consented to the appropriation to carry it into effect. The order of business which strengthens the argument was this: in the first place, the Senate ratified the treaty; the House of Representatives then passed the appropriation necessary to carry it into effect; the appropriation bill went to the Senate for its concurrence, and Mr. Chase, Mr. Seward, and Mr. Wade, then, and in that stage of the bill, recorded their votes against it. I say, therefore, explicitly, that the doctrine never has been challenged down to this day that the House of Representatives have a right when called upon to carry out a treaty by appropriation of money or enactment of law to examine, to deliberate, and to decide whether to appropriate or not to appropriate, pass laws or not to pass laws, as they choose. All the nations of the earth, friendly or unfriendly, must take notice of that state of our constitutional law, and they have no right to

complain of the result of our deliberations in that regard.

But what says my friend from Ohio, [Mr. SPALDING?] He agrees that I am correct in every one of these positions, yet he says that he is bound to vote to carry into effect this treaty because the United States Government have taken possession of this Russian territory. I take issue with him upon the fact. That is exactly what the United States Government has not done. One branch of the United States Government, without any authority of law, without any act of Congress, without any constitutional right, did what our fathers never believed could be done, and what a whole party once rose up and objected to even in time of war. I say the Executive in time of peace marched an armed force on to foreign territory to take military possession thereof. Point me to the constitutional provision which allows the President of the United States in time of peace to march the Army of the United States upon foreign territory, and to take possession of that territory unsupported by congressional enactment. It was doubted, I say, by a great political party if that could be done constitutionally by the President, in the war with Mexico, even by the aid of an act of Congress. The action of the President of the United States in taking possession of this Russian land was wholly without constitutional authority, without right, and without law, and has no binding force and effect whatever, because he cannot bind the United States in that way. If we are bound by the treaty, be it so; but by the unconstitutional act of the President we cannot be bound; and, for one, I will never consent to so dangerous a precedent.

The next proposition put to us is that we are bound to pay this money because Russia is a friendly Power, and has been our friend for fifty years. Well, if we are to pay this price as usury on her friendship, we are paying for it very dear, indeed. If we are to pay for her friendship this amount I desire to give her the \$7,200,000 and let her keep Alaska, because I think it may be a small sum to give for the friendship if we could only get rid of the land, or ice, rather, which we are to get by paying it. Because, whatever may be the worth of Alaska, whatever may be its prospective value, one thing is certain, and there is no man here who doubts it, that the great question of cost is not what we have to pay for it, but what we shall have to pay to take care of it; to put ships of war there, to put the coast survey there, to institute a territorial government there, to make judicial districts there, with judges to decide disputes where there never will be any except between the Indians and the few who go there to plunder them. What is to be this expense? Your appropriation bills will show, year by year, an increase equal one half at least of the amount which is now to be paid for this territory, simply to take care of it, and this, too, without any returns. It is already in testimony before you, and I now hold it in my hand, that for ten years the entire product of all this country of Alaska did not exceed \$3,000,000. It is true there were other exports, but they were exports of imported articles, Alaska having had the monopoly of the tea trade.

I now say again, that if we are called upon to preserve the friendship of Russia by money I, for one, would prefer to pay her the money and let her keep Alaska. I have no doubt that she would rather give us Alaska and get rid of the expense of it to herself and throw her friendship into the bargain and let us keep our money than that she should keep the territory. I have no doubt that any time within the last twenty years we could have had Alaska for the asking. I have heard it was so stated in the Cabinets of two Presidents, provided we would have taken it as a gift. But no man, except one insane enough to buy the earthquakes in St. Thomas and ice-fields in Greenland, could

be found to agree to any other terms for its acquisition by this country.

I agree that Russia has been friendly to us. But I think that friendship has come from this, not that she has loved us any better, but that she has hated England and France more—England, our hereditary enemy, and France, who became our enemy through her attack upon Mexico. Russia looked to us and our moral, and if need be material, aid to keep them quiet while she pursued the grandest system of conquest and acquisition of territory that the world has ever seen. That system is just now culminating to the astonishment of the statesmen of England and France. While they thought they had humbled Russia by destroying Sebastopol, which would be about the same in comparison as dismantling Key West would be to check the career upward and onward of this country; while they dreamed they had humbled Russia and hindered her victorious progress, she was marching through Circassia, subduing to her will a province, nay a kingdom, greater than all the British isles. She has been marching on and on, further and yet still further, until after thirty years of steady and persistent progress in aggression and conquest she has now brought all Northern Asia within her grasp, and claims the rich country of Bokhara as her outermost possession. I cannot too much admire the power of that Government, that autocracy, not checked by the allied attack of France, England, Italy, and Turkey upon her outpost of Sebastopol, continuing her conquering march, even as the siege progressed, on and on until she has absorbed countries in the East fertile, populous, and powerful, greater in resources and wealth by many, many times than ever can be a score of Alaskas. Now, while she has thrown off what is to her an excrescence, a mere wen upon her empire, and we pick it up and pay her a great price for it, she absorbs countries enough to make her the most powerful nation on the globe. It is that she may have our assistance and our material and moral aid in this great march of progress that she has been our friend, anxious to maintain friendly relations with America. There can be, there has been; no particular kind-heartedness, cordiality, or affinity between autocracy and democracy. They are the positive and negative poles of governmental ideas and action. He must have illy read the history of the world who believes there is so much of disinterested, gushing friendship here. The secret of this friendship is that the empire of democracy in the West, threatening with her maritime strength the great nations of England and France, may hold them in check, while the great autocrat may make his conquering march to the very gates of British India, until, as we are informed by the latest telegram across the Atlantic, the question asked in England's Cabinet is, "Does Russia mean British India?" That is the next question to be discussed in the House of Lords.

Time warns me to hasten on. A single word further as to the value of this territory of Alaska. I do not know what it is worth; I cannot find out what it is worth. And my excellent friend and colleague, the chairman of the Committee on Foreign Relations, [Mr. BAXES,] has failed to bring me the best evidence of what it is worth when he had it in his power. He has brought me telegrams, newspaper articles, paragraphs from newspapers, written by some Bohemian who was dear at thirty dollars a week; and upon them he expects me to act in matters of the highest concern. Is not that all? Has any other evidence been produced here? Yet when he made his report to this House there was on the floor of this House General Rousseau, who had been in command of that country for six months, and who could have told us what sort of a country it was, what it was worth, and what it would

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cost to take care of it. He was here in person. Why did not the chairman of the Committee on Foreign Affairs summon General Rousseau and take his testimony, subjecting him to cross-examination, so that his means of knowledge might be probed? His observations in that country ought to have been extensive, for he resided there six months and has had nothing to do but observe and keep warm. Why was not his testimony brought before this House, testimony on which we might have placed some reliance? Why go to some newspaper paragraph written with the impersonal *we*, never used except by monarchs, editors, and the devil, so far as I know, to testify to us what is the condition of Alaska? Why not bring here the evidence of a general of the Army who spent six months in the country and knows all about it?

I pray, however, after I have made this suggestion, no gentleman will get any newspaper letter from General Rousseau about this country, because I give notice here and now that if any testimony from him is to be brought in, I humbly and respectfully desire to cross-examine the witness, as my friend from Wisconsin [Mr. WASHBURN] would have cross-examined him if he had been brought before the Committee on Foreign Affairs.

But I pass from the question as to the value of Alaska. I have what I think is a higher and a different reason for voting against the acquisition of Alaska, exercising the judgment which I trust I have demonstrated I have a right to exercise against carrying the treaty into effect. By this treaty, when this territory becomes ours the inhabitants of the territory, or at least a portion of them, become American citizens—how large a portion I am not quite certain, because I do not know precisely what has been the system heretofore pursued by Russia in the management of the Indian tribes, and how far the Indians may be counted as having rights as citizens or subjects under the Russian Government. Now, I remember, sir, that Rome carried her arms and her laws over the whole world as then known; but she restricted her citizenship to Latium, to Italy, and to those who, in the language of Chief Captain to St. Paul, had "with great price obtained this freedom." Our theory has been a different one. Wherever we have extended our Government we have at the same time extended our laws and the rights of citizenship, until there arises a danger from the heterogeneous masses of men of different races which are being brought in to help govern our country. We now, by this treaty, bring in these citizens of Russia, not from their own choice, not because they have chosen to emigrate in order to escape oppression, but we bring in as our citizens these people who have been component parts of an autocracy, and know no other government; we propose to clothe them with citizenship, to endow them with the high title of American citizens, to give them a share of our birthright, whether fitted to them or not. This country cannot go on with any safety to itself in this course of annexing—no, not annexing, acquiring foreign non-contiguous territory, giving promiscuously to the inhabitants of that territory the right to American citizenship. And, sir, I wondered to hear the spread-eagleism, the filibusteringism, and the manifest destinyism, and all that sort of doctrine which came from my conservative—shall I not say my worse than radical—friend from Ohio, [Mr. SPALDING,] why he desires to take in, as a part of our possessions, all the islands of the ocean, South America, including Patagonia, making all the inhabitants thereof all American citizens? Sir, I shall be ashamed of Congress if that ever takes place, whether the gentleman from Ohio is in or out of it. I want to enter my protest now as a lover of this country, one having its welfare at heart, against any further extension of the right of American citizenship. I am willing to extend the rights of citizenship to all

those now upon our soil; but if we are to acquire St. Thomas, Santa Cruz, Greenland, Iceland, and Alaska, with her walrusses and seals, and those made up of the blood and fat of both, I desire respectfully to enter my protest against a further extension of the right of suffrage. We must stop somewhere. Where are we to stop? Must we not take a leaf from the book of the history of Rome and Rome, I reiterate, while extending her laws and her arms over the world, took care to keep the governing power at Rome. Roman citizenship was not flung away to any such persons as the fat-sucking inhabitants of Alaska or the plantain-leaf-covered Patagonian, if he is not so far in the region of cold that the plantain refuses to yield its leaves to cover him.

Another reason, sir, why I propose to vote against Alaska is to record my protest against taking a foreign, uncontiguous country in as American soil; against having the President of the United States, with the consent of the Senate, without my assent as one of the Representatives of the people of the United States, yield up a portion of the rights of sovereignty now residing in us altogether. I cannot agree to dispose of those until my judgment is convinced and I see it is for the safety of the country. A great danger I see in the future extent of this country is from the want of homogeneity in the various races we shall take into our borders and make American citizens, unless we change our policy in this regard.

There is still another consideration, but I admit a weaker one, which is germane to the one to which I have just called attention; and that is this territory is not contiguous. While I agree fully that the American idea of government is to have all the land that join you, still I never knew the desire extended to the land that does not join you. Without objecting to taking in Canada, because she is, as it were, a part of us, yet, leaving out the Dominion of Canada, I would not take to-day, as a gift, the British possessions lying without Canada. You take here a country that you cannot get to, except by water, without crossing the territory of another Power. We are asked to make it a part of our country when we cannot reach it by land, to say nothing of the snow and ice.

Mr. PIKE. We never want to reach it.

Mr. BUTLER, of Massachusetts. Sir, we want no country we have no possibility of reaching. That is the point I wish to make.

I am reminded we have possession of it now. That I deny. True, General Rosseau has been there six months. But he had to sail either through other seas around Cape Horn, or go across foreign territory, where the right to cross may be interrupted any day before he could get there. To annex such territory is an entirely new departure in the growth of America. "I'll have none of it." But if you will have other lands, if you will have foreign territory, go take suffering, oppressed Crete from Turkey. You can do it for one half the money you are asked to pay for Alaska. If you will have other territory, extend your protectorate over Crete, ennobled by her suffering, the bravery of her men, the virtue of her women. She is much nearer to us than is Alaska. If you will have other territory go where somebody else has gone before you and take lands desirable by historical associations or of intrinsic value in themselves. But you should own no land that is not contiguous to your country, that is not part of your country, that is not to be under the eye of Government, to be reached by telegram, from which, in case of war with a maritime Power, you may not be cut off.

These, Mr. Chairman, are some of the grounds of opinion upon which I shall give my vote. I do not believe I am bound to vote for this bill except my judgment inclines in that way. My judgment is not overborne either by the action of the Executive or the Senate, or of the President in taking possession of Alaska, or by any supposed friendliness on the part of Russia. I

am not influenced, either, by any belief of the good bargain we have made. I shall be controlled by the reasons I have given.

There is another topic connected with the subject I wish to bring to the attention of the committee. If you propose to pay this money I wish you to see that your citizens are indemnified, before doing so. Eleven years ago Russia made an agreement with an American citizen during the Crimean war to purchase munitions of war. She received the property, but has not paid for it, and now owes the widow of the men who furnished her with those munitions of war. The State Department, in three several communications, has recognized the justice of this claim, and still Russia neglects to pay it. At some times she says there was only a verbal contract for the property she bought, and that a verbal contract is not binding, admitting that it was made. The justice of the claim she has never disputed, but she has always raised technical objections. Therefore I propose, if this \$7,200,000 are to be voted to be paid to her, to move the following proviso:

Provided, That the payment of \$500,000 of said appropriation be withheld until the imperial Government of Russia shall signify its willingness to refer to an impartial tribunal for adjudication and settlement all such claims by American citizens against the imperial Government of Russia as have been investigated by the State Department of the United States and declared by said Department to be just, and the amount so awarded to be paid from said \$500,000 so withheld.

Mr. BANKS. If my colleague intends to have the question put on that proposition at this time I must object to it as not germane to the bill, and therefore not in order, without expressing any opinion in regard to the subject-matter of the amendment.

The CHAIRMAN. The Chair sustains the point of order.

Mr. BUTLER, of Massachusetts. Will the Chair hear me a moment?

The CHAIRMAN. The Chair will hear the gentleman.

Mr. BUTLER, of Massachusetts. I am still on the floor. I only offer the proposition now for the purpose of arguing it. We are asked to appropriate money to be paid to Russia. Russia has refused to pay a just claim of our citizens, found so by the State Department. That my proviso presupposes. Now, I ask to put a proviso on this appropriation bill that so much money shall be retained as will furnish a fund out of which claims of our citizens may be paid when a fair and just tribunal shall decide that they are due. Am I to be told that that is not germane? Is it not exactly germane? It is proposed to send so much money to Russia. If it is appropriated it will be done in spite of my vote. But if you do appropriate it I desire that you should retain enough to meet the just claims of our own citizens, exactly as was done in the case of the Gadsden treaty.

Now, there is nobody in the world I have so much respect for as the gentleman who sits in the chair, [Mr. GARFIELD,] and yet, at the proper time I intend to appeal from the decision of the Chair. I want to see whether we have arrived at this condition of things that the Senate not only can make a treaty by which we must send away from this country so much money, but when the bill is before the House of Representatives, and our citizens come to us and ask us to step in between them and the autocrat of all the Russias and do them justice, we are to be told that it is not germane to put in a proviso as this limiting the payment of money to him until he pays his honest debts to our citizens. If this limitation to such an appropriation is not, what would be germane? That we shall lay our heads down before the autocrat of Russia that he may trample on them? Would that be germane? Where else is an American citizen to go for redress against the oppressions, the iniquity, the injustice of a foreign Government if he does not come to this

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House of Representatives at the moment it is voting away his own money to that Government which owes him a just debt which it refuses to pay. Is it not germane to any appropriation bill to protect the rights of American citizens by limiting the amount to be paid so our own debts may be collected? We are called upon to send \$7,200,000 out of this country to pay a debt to a foreign Power. I am opposed to letting so much of it go as is required to pay the just debts that country owes to our citizens. My friend says if I was called upon to pay a debt I would pay it, and then collect my money of my debtor. Sir, if I had refused to pay for eleven years until I had driven my creditor to his grave, and his widow had come and presented his claim in this way, I should expect she would protect herself by process of foreign attachment or a garnishee process. That is exactly what I ask this House to do. For eleven long years this claimant besought the justice of Russia for his money, but without avail. He is now dead, and his widow presents herself here and asks this House of Representatives, "If you are going to send \$7,200,000 out of the country hold enough of it back for me and my orphan children that I may get justice done me as against this autocrat." And what is the answer? It is not germane to our proceeding to do you justice. We must send your money over to Russia and you must go over there for it. That is germane. And the widow shall answer, "But it is unjust and cruel to your own citizen, and his widow and orphans, and that is never germane to the proceedings of an American House of Representatives. Justice, equity, and right are always in order and germane to every bill. They are the eternal law which the Constitution was designed to enforce here among men." Is not that germane, sir? I ask the committee to say whether it is not, on the precedent established in the Gadsden treaty, and the precedent which always has been acted on in all other treaties? If it is said that we can have nothing to do with it because we must carry the treaty into effect, why discuss further? Let us go home this hot weather and not trouble ourselves any more. But if we have anything to do with this business let us hold this money for this widow, if it is her due, and not let it go out of the country until she can have a fair hearing before an impartial tribunal. I now offer the amendment.

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SPEECH OF HON. H. MAYNARD,
OF TENNESSEE,
IN THE HOUSE OF REPRESENTATIVES,
July 1, 1868.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. No. 1096) making an appropriation to carry in effect the treaty with Russia of March 30, 1867—

Mr. MAYNARD said:

Mr. CHAIRMAN: I shall not stop to count the fish or to measure the trees in Alaska, nor yet to vex her soil in search of her mines. If that distant region is worth having it is worth buying; if worth buying it is worth paying for. The price proposed to be given is very inconsiderable, less, comparatively, than Florida cost us; less, absolutely, than we paid for the Mesilla valley under the Gadsden treaty. I think the acquisition important and necessary to this Government and opportune. I look forward to the time, not far distant, when the civilization of the world will be transferred from the Atlantic to the Pacific ocean, when what is excellent and exalted in human affairs will be found upon the shores of that benign sea. We occupy a geographical position which, if wisely improved, will enable us to control the commerce and the maritime affairs of that vast

ocean highway; and as long as I am connected with any branch of the public service I declare my readiness to grant subsidies and to take measures looking to our commercial and naval supremacy on the Pacific as complete as Great Britain has for two centuries enjoyed on the Atlantic ocean. We have it in our power to do this by fairly improving our opportunities without any special exertion and without invading the rights of any other nation of the earth.

The wealth and commerce of the Indies have given the ascendancy by turns to every nation that has enjoyed them; in ancient times Tyre and Alexandria, in more modern times Venice, Portugal, Holland, and lastly, England. That vast and lucrative trade has hitherto been approached by journeying to the East. It is given to us, of all the nations, to reach it by turning our bows to the West. Our India docks and wharves will be found, at no distant day, on our Pacific coast. There will be our great commercial marts with their accumulated wealth and population, reached from the East by us and by Europe over the lines of railway now rapidly stretching across the continent. Westward the course of empire takes its way. Westward, too, has been the course of Christian civilization from the cradle of Bethlehem. Every effort to turn it eastward has failed. And when the millions of China and Japan accept the Christian faith, and as a corollary, modern civilization, it will come to them, as it has come to us, in the direction of the morning. To them, as to the rest of the Christian world, the star of Bethlehem will still be the star of the East. I would by every prudent and reasonable polity anticipate these mighty changes in the world's affairs, and be found ready to accept them. They greatly err who think there is to be or ought to be an end of progress, a time to look on the plan of this mighty maze as finished, complete; who imagine themselves living in the old age of the world. The great, ever-teeming future before us, and not the receding past behind us, is the region of our hopes and our faith. And if we fail to keep steadily in view the future growth and progress of our country and our race our legislation will be narrow and poor and mean, and our recorded views will look as imperfect and incomprehensive as the views of men always do who fail to comprehend their own epoch.

Hence I am willing to vote appropriations for navy-yards, for maritime defenses, and for the improvement of the harbors upon that coast, for subsidizing any line of steamers sailing thence to any part of the other hemisphere, and for projecting across our continent as many lines of railway as substantial private enterprise shall be willing to undertake. It is the policy of progress, a policy far-reaching and eminently profitable to our country. This policy negotiated and ratified the treaty with Russia for the purchase of Alaska; and, acting under the same policy, I shall vote to execute it. No great amount of geographical knowledge is needed to demonstrate the value to us, nay, the necessity of that line of coast. To the nautical eye the simple inspection of the map is quite enough. Its acquisition is but a part of our great Pacific system, inaugurated in 1848, at the close of the Mexican war, by the treaty of Guadalupe Hidalgo, and prosecuted with undeviating energy ever since, a system destined to give us the control of that side of the globe. I confess my surprise that the honorable gentleman from Iowa, [Mr. PRICE,] the head of the Pacific railroad policy, should not recognize the acquisition of this lengthened coast-line as essentially a part of this same policy. Would it not be wise to extend our views a little and so modify our rules of order that the Committee on the Pacific Railroad should be made a committee on this Pacific system, of which the railroads are but a portion? The same wise economy which increases our public indebtedness to build these roads will also in-

crease it to secure this vast and important addition to the Federal domain; and it cannot have failed to attract notice that opposition to this measure and equally strenuous opposition to the Pacific railroads emanate from the same quarter.

The climate, soil, and productions of this region have been discussed in the light of our imperfect information. We must not forget that it lies on the west and not on the east of the continent; that the southern portion, between latitude fifty and sixty degrees, is in the same latitude as the British isles, and the northern, between sixty and seventy degrees, in the same as Norway and Sweden. The probabilities certainly are that it will be found equally habitable. If the number of rainy days in the year has been accurately stated, as a physical fact the climate cannot be rigorously cold. It is not to the purpose that the gentleman from Wisconsin, [Mr. WASHBURN,] or any one else, would not live there. Many persons, doubtless, would refuse to accept a home in the wintry latitude from which he comes. Man, the race, is cosmopolitan; man, the individual, is very local in his habits and tastes. It is too remote, says my friend from Ohio, [Mr. SHELLABARGER,] Distance, so far as it respects human intercourse, is measured by time, not by space. So reckoning, Alaska is nearer the capital to-day than was California when admitted as a State. We all recollect when the distance from Boston to St. Louis was longer than it now is from Boston to Sitka.

I do not agree with him, either, that in order to make a nation united and powerful it must be territorially compact, and as he rather intimated, territorially small.

The greatest nation of ancient or modern times, the most powerful that has yet been, is Great Britain. Her policy from the first has been to acquire and to hold every spot of earth, however insignificant and apparently worthless, however barren and unproducing, however expensive to keep and defend. She disdains no portion of this ball. We recollect that when, a few years ago, Mr. Webster apostrophised her in the Senate, as the Power whose morning drum-beat preceding the rising sun, and keeping company with the hours, encircled the earth daily with an unbroken strain of the martial airs of England, he gave a more magnificent conception of her national grandeur than all the tables of all the statisticians. The American people partake of the same spirit, the same resolute purpose to replenish the earth and subdue it, and have dominion over it. Our god Terminus is an advancing and not a retreating divinity. The stars and stripes and the eagle are symbols of progress, moral, material, territorial. It is that spirit of expansion, if you please, of aggression, that has already made this Republic one of the great Powers, and will eventually make her the mistress of the world.

But, sir, it was not of this that I proposed to speak. My object to-night is to inquire into the nature and legal effect of a treaty duly negotiated and constitutionally ratified, whether it has any obligatory force or whether it is a mere proposition to be accepted or disregarded at pleasure? I confess very much has fallen from gentlemen that not only did not meet my approval but which gave me absolute pain. By the Constitution the several States are forbidden to "enter into any treaty, alliance, or confederation." The President, with the advice and consent of two thirds of the Senators present, is authorized "to make treaties." He can also, with the advice and consent of the Senate, "appoint ambassadors, other public ministers and consuls;" and a treaty "made under the authority of the United States" becomes "the supreme law of the land." If language can make anything clearer, if there can be any more specific method of contracting an obligation or of asserting its validity when

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contracted, I do not know it. Gentlemen have attempted to refine upon the word "treaty" as though it were limited in its scope. The word treaty is a word belonging to international law, and as old as the existence of nations. It goes back to the time of Theseus and the demi-gods. Our fathers understood it as well as we understand it. It is a term that embraces all intercourse between independent nations, carried on in the name of the sovereign Powers, a word of the largest, of the widest import.

Mr. LOUGHRIDGE. I would ask the gentleman whether all contracts between nations are treaties?

Mr. MAYNARD. I will answer the gentleman's question.

Mr. LOUGHRIDGE. And then I wish to ask another.

Mr. MAYNARD. All treaties between nations are contracts under the sanction of the sovereign power, and the word treaty embraces leagues, alliances, pacts, conventions, confederations, and various other terms which are but subdivisions of the one great thing, the sovereign intercourse of nations, or rather the covenants between them made by the sovereign authority.

Mr. LOUGHRIDGE. Now, I would like to ask the gentleman whether under our Constitution a State has not a right to enter into a treaty with a foreign nation with the consent of Congress?

Mr. MAYNARD. No, sir; the language is clear and positive on that point: "No State shall enter into any treaty, alliance, or confederation."

Mr. LOUGHRIDGE. Look further down.

Mr. MAYNARD. "No State shall, without the consent of Congress, lay any duty or impost," &c. Our fathers in framing the Constitution did not intend to trammel this Government in its dealings with the other nations of the world; did not intend to send her forth on her national career cramped and fettered in her intercourse with other peoples.

We have had an argument based upon the extent, the magnitude of the treaty-making power, and the possibility of its being abused. All power is liable to abuse, and it does not disprove its existence to show that it may be abused. It is not a new argument. It has been often used in relation to this power in the Constitution, not only before the Constitution was ratified, but since. I hold in my hand the debates in the convention of Virginia, called to pass upon the Constitution then just submitted to the States for ratification or rejection. Among the ablest and most influential opponents of the newly-proposed scheme of Government was Patrick Henry. His revolutionary fame, his great personal influence, and his unrivaled oratory were arrayed against what he regarded as little short of a surrender of the recently-gained liberty. While this part of the instrument was under discussion he made use of language not unlike some things uttered here to-day:

"Mr. Henry begged gentlemen to consider the condition this country would be in if two thirds of a quorum should be empowered to make a treaty—they might relinquish and alienate territorial rights and our most valuable commercial advantages. In short, if anything should be left us, it would be because the President and Senators were pleased to admit it. The power of making treaties by this Constitution, ill-guarded as it is, extended further than it did in any country in the world. Treaties were to have more force here than in any part of Christendom; for he defied any gentleman to show anything so extensive in any strong, energetic Government in Europe. Treaties rest, says he, on the laws and usages of nations. To say that they are municipal, is, to me, a doctrine totally novel. To make them paramount to the constitution and laws of the States is unprecedented. I would give them the same force and obligation they have in Great Britain or any other country in Europe. Gentlemen are going on in a fatal career; but I hope they will stop before they concede this power unguarded and unaltered."

So spoke Patrick Henry of the treaty-making power before the Constitution was adopted, and in interpretation of that instrument and as a

reason why it should not be ratified by his native Virginia. Other gentlemen spoke to the same purpose. We have had precisely the same argument repeated in this House I know not how many times, and it has been repeated again and again in this present debate. The extent of the power was not controverted. It was merely a question whether it was necessary to a free government and was wisely located. Mr. Madison, who took part in defense of the article, did not deny the correctness of Mr. Henry's interpretation of it, but contended it was safest "to leave the power to be exercised as contingencies might arise."

Mr. LOUGHRIDGE. The gentleman did not fully answer my question. I understood him to say that all compacts with foreign Powers were treaties. I desire him to explain this clause of our Constitution:

"No State shall, without the consent of Congress, enter into a compact with a foreign Power."

Mr. MAYNARD. I read this clause:

"That no State shall enter into any treaty, alliance, or confederation."

That cited by the gentleman reads as follows:

"No State shall, without the consent of Congress, levy any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign Power," &c.

If the gentleman will pardon me, I did not use the term compact or agreement. I said that the term "treaty" was used where that word alone is used as a general term, *nomen generalissimum*, to include all diplomatic negotiations, and all contracts made by the sovereign authority. The treaty-making power, where ever it resides, is one of the attributes of sovereignty.

Mr. LOUGHRIDGE. I want the gentleman to explain the difference between a compact and a treaty.

Mr. MAYNARD. If that was at all important in the present debate, I would answer the gentleman that a treaty is a compact, though not every compact is a treaty. A treaty is an act of sovereignty. A compact may or may not be. But as I have only a limited time, and the difference is one readily found by referring to the elementary books on the subject, I trust he will excuse me for not devoting more attention to that collateral point.

In 1796, after the Federal Government went into operation, the anti-Federalists of that day, the opponents of the Government, the opponents of General Washington and of his administration, organized an attack upon it, under cover of assailing a treaty of amity and commerce that had been negotiated by Mr. Chief Justice Jay with Great Britain, availing themselves of the antipathy felt in this country toward that Power. That debate is frequently referred to. Speeches made on the one side or the other are cited. It is alluded to in the report of the Committee on Foreign Affairs upon this bill, by both the majority and the minority. Gentlemen have quoted at large from it in this discussion. Commentators upon the Constitution have appealed to it as a contemporaneous exposition, and therefore instructive, if not authoritative. As a precedent, a decision is valuable for what is decided, rather than for the arguments or the reasons supporting it. So the action upon Jay's treaty, as it is called, is more important than the discussion; what was done than what was said.

Now, let us see exactly what was done. I have before me the Journal of the House of Representatives, by which it appears that after a long debate in Committee of the Whole, the House, by something like twenty majority, called upon President Washington for the instructions, correspondence, and other documents connected with the negotiation of the treaty. General Washington met the call by a point blank refusal, sending in a special message, in which he argued the general question. I will cite a single passage as applicable to

much that has been said of the alleged secrecy with which the Russian treaty was negotiated:

"The nature of foreign negotiations requires caution, and their success must often depend on secrecy; and even when brought to a conclusion a full disclosure of all the measures, demands, or eventual concessions which may have been proposed or contemplated, would be extremely impolitic; for this might have a pernicious influence on future negotiations, or produce immediate inconveniences, perhaps danger and mischief in relation to other Powers. The necessity of such caution and secrecy was one cogent reason for vesting the power of making treaties in the President, with the advice and consent of the Senate; the principle on which that body was formed confining it to a small number of members."

Having been himself a member of the Federal Convention which framed the Constitution, and familiar with the principles which pervaded it, and the reasons of its different provisions, he made himself a witness and spoke from personal knowledge. In conclusion he adds:

"If other proofs than these, and the plain letter of the Constitution itself, be necessary to ascertain the point under consideration, they may be found in the Journals of the General Convention which I have deposited in the office of the Department of State. In those Journals it will appear that a proposition was made 'that no treaty should be binding on the United States which was not ratified by a law,' and that the proposition was explicitly rejected."

In this connection I will read a sentence from the minority report of the Committee on Foreign Affairs:

"George Washington, the President, in answer to the resolution, declined to give the information sought for, maintaining the doctrine that the House had nothing to do in the matter, but he was overruled by a vote of 57 to 35."

George Washington overruled upon a question of constitutional law! Overruled by a show of numbers or counting of noses! We have historical examples other than this of men being thus overruled and more emphatically. The Saviour of the world was overruled by the majority of numbers and went to his crucifixion. The apostles and martyrs were constantly overruled and suffered death in consequence. Socrates was overruled and drank the hemlock. Luther was overruled. And so was Galileo; and so have the great leaders of thought and opinion been overruled in all time. Washington was overruled less effectually than they, if, indeed, it is doing justice to affirm that he was overruled, or his authority as a public jurist in the least contravened.

Now, let us see precisely what was done. Washington pre-emptorily declined to give the information called for, and assigned his reasons for so doing. The House took the subject under consideration, and again went into Committee of the Whole. After debate they came out and adopted this resolution, which I beg to read:

"Resolved, That it being declared by the second section of the second article of the Constitution that 'the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur,' the House of Representatives do not claim any agency in making treaties; but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its ratification as to such stipulations on a law or laws to be passed by Congress; and it is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

In the precise terms of that resolution I should have no objection to voting for it myself. But the debate shows, and it is a part of the history of our country, that at that time originated the doctrine which, transmitted by lineal descent, attained full and logical development at four o'clock on the morning of the 12th of April, 1861, in the first gun that opened upon Fort Sumter. This was the doctrine of State rights in opposition to the doctrine of Federal nationality—the doctrine of secession, the doctrine of disunion, inculcated by every variety of teaching on all possible occasions in connection with every conceivable topic, until it resulted, as we have seen, in civil war; the doctrine being civil war inchoate, and civil war being the doctrine complete; one the

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germ and the other the fruit. For myself, I should think it safer to be wrong with Washington than to be right with Calhoun, supported by all the doctors of the secession school.

The report of the minority of the Committee on Foreign Affairs in this case cites its authorities as they are called, dismissing Chancellor Kent and Judge Story with such language as this:

"The minority of the committee is not unaware that so high judicial authority as Judge Story and Chancellor Kent have to some extent taken the ground now combated."

Then we have citations from William B. Giles, Professor Tucker, the commentator of Blackstone, and, for aught I know, John Taylor of Caroline—John C. Calhoun should have been added to the list—men who originated this pernicious heresy, who have taught it, and under whose teachings it has grown and flourished and brought forth its legitimate fruit.

General Washington, as I understand the history of the times, was a Federalist; a term which, though it afterward came to be opprobrious as a political designation, meant in his day precisely what the term "Union man" means in ours. He was in favor of the Federal Union and its paramount national authority against what was called State allegiance and State sovereignty, and the loose, vague, ill-defined theory of Federal power which, under the name of strict construction, was invented by the enemies of the Union after it had once been established and in operation. That element obtained in a few years the political control of the Government and had much to do in managing its affairs until the power was about to pass out of its hands, and then it put its peculiar doctrines into practice. We had a demonstration of State rights, the right of secession, and peaceable disunion. If it is permitted to regain the possession of the Government, as there is certainly great danger of its doing, we shall see the same thing repeated.

Foremost among the opponents of Jay's treaty was Mr. Jefferson. Not willing directly to assail General Washington, who was popular, he charged what he called the heretical doctrines upon Mr. Hamilton, who was unpopular. Afterward, however, he materially changed his own views when transferred from opposition to administration. In 1803 he found himself in such a position that it was convenient to make a treaty for the acquisition of the territory of Louisiana. Being apprehensive that unless the territory was then secured England would step in and snatch it away from us, and not having, as he said, time to assemble Congress and consult them, he privately sent Mr. Livingston and Mr. Monroe to Paris and negotiated the treaty by which we acquired that immense domain. This treaty, it appears, was not communicated to this House for twelve months after its ratification. Yet it was executed, and the money agreed on was paid. And from the beginning every treaty that has been made and ratified by two thirds of the Senate by which we have gained new territory has been followed by appropriate legislation, notwithstanding there has been from time to time the same opposition precisely which is exhibited in the present debate. Two treaties only have we made by which we parted with territory; perhaps the two treaties we have the least to admire or be proud of. I refer of course to the treaty by which a large portion of the State of Maine was relinquished to the neighboring Power of Great Britain; and that which at a later time surrendered to the same Power the Pacific coast from the 49° to the 54° 40' of north latitude. Suppose in both cases we had followed the policy of "masterly inactivity," and let the disputed country settle itself. Why, sir, we should have held our eastern frontier, and had every foot of coast-line from Lower California to Behring straits. The men of that day thought otherwise and so agreed Congress, and the country

have accepted the obligations as a part of the supreme law of the land.

I hold, therefore, a treaty, when negotiated and ratified by the Senate, becomes obligatory upon the American people and has the force of law. I do not mean that it takes money out of the Treasury or supersedes the necessity of a specific appropriation by Congress. It does not. Whatever the treaty stipulates to be done, to pay money, raise a commission, or maintain a fleet, it does not execute itself. It requires legislation to carry it into effect. If it undertake to establish a joint commission for the trial of pirates we must provide for the commissioner on our part and raise and appropriate the money to pay him. If it stipulates, as did the Ashburton treaty, for keeping upon the coast of Africa an adequate naval force for the suppression of the slave trade, legislation is required to build, to arm, and man the ships, and to provision and pay the officers and men. We can, if so inclined, refuse to execute the stipulations by withholding the appropriation, because all revenue bills must originate in this House. But what does that prove? Simply that the faith of the nation is in our keeping. The execution or non-execution of treaty stipulations, as well as of every other undertaking in the name of the United States, devolves upon us as the law-making department of the Government. It is a question of good faith, of what in private affairs is called integrity, honesty, uprightness, and names of similar import.

Mr. SPALDING. We do not differ widely; but I want to understand the gentleman in his present train of argument. Does he mean to say the money included in this treaty for the acquisition of Alaska, that treaty having been approved by the President and confirmed by the Senate, and the necessary interchanges having taken place between the two sovereignties, does he mean to say that stands as a debt of the nation, and we have the same right to withhold appropriation as we would have for any other debt of the Government?

Mr. MAYNARD. Undoubtedly.

Mr. SPALDING. And no other power.

Mr. MAYNARD. No other. We can refuse to pay taxes and make appropriations for the payment of every bond, principal and interest, issued in the name of the United States, and of every other debt, no matter how contracted, upon just the same principles as we can disregard the undertaking of a treaty. I will refer to that subject again.

It is said that the power to bind the nation by treaty is a very great power, and the President and Senate might, by the misuse of it, bring great disaster, if not ruin, upon the country, and subvert the whole scheme of our Government. Many possible inconveniences have been suggested. That is not a new argument. It was made in opposition to the British Commercial Convention of 1815. Mr. Pinkney, who was a member of the House, replied to it, and I will send to the Clerk's desk an extract from his speech to be read:

The Clerk read as follows:

"Many extreme cases have been put for illustration in this debate; and this is one of them; and I take the occasion which it offers to mention that to argue from extreme cases is seldom logical, and upon a question of interpretation never so. We can only bring back the means of delusion, if we wander into the regions of fiction, and explore the wilds of bare possibility in search of rules for real life and actual ordinary cases. By arguing from the possible abuse of power against the use or existence of it, you may and must come to the conclusion that there ought not to be, and is not, any government in this country or in the world. Disorganization and anarchy are the sole consequences that can be deduced from such reasoning. Who is it that may not abuse the power that has been confided to him? May not we, as well as the other branches of the Government? And, if we may, does not the argument from extreme cases prove that we ought to have no power, and that we have no power?"

Mr. MAYNARD. In further response to my friend from Ohio, [Mr. SPALDING,] I ask to introduce, as expressive of my own views, a part

of a letter addressed to me by a valued correspondent, formerly a member of this House, and now abroad, and ask that it be read.

The Clerk read as follows:

"1. The treaty-making power is vested exclusively in the President and the Senate, and a treaty made and ratified by them in due form is a part of the supreme law of the land. Whether this was a wise provision is a political question not now involved, but which was freely discussed in framing and adopting the Constitution.

"2. A debt contracted or any money-promise made by such a treaty necessarily occupies precisely the same position as any other public debt or money engagement entered into by law.

"3. Therefore the House has precisely the same power over such a debt as it has over the bonds for a public loan maturing in 1882. They cannot be paid without an appropriation, and the appropriation cannot be made without the consent of the House. In neither case can the creditor sue, obtain judgment, and have execution awarded. In both cases the only security is public faith and public sense of justice.

"4. A treaty which creates or defines the rights of certain persons in or to certain things may be directly acted upon by the courts, which must take judicial notice of it as a part of the law of the land. But a treaty which promises that something shall be done, internationally or infraterritorially, whether the payment of money, the passage of a law, or any other act, cannot be executed by the courts, but is only a promise on one sovereign to an equal sovereign, with no guarantee but that of good faith, and depends upon the political department of the Government for its execution.

"5. In most countries, as in England, the treaty-making power, embracing the power, of course, to promise whatever can be promised by a treaty, is vested exclusively in the Crown, while performance of the promise depends often on the concurrence of Parliament. In our case the full power to promise, to assume in such form as that the engagement is a part of the supreme law of the land, (which is not so in England and other countries,) is with the President and Senate, while President, Senate, and House must concur in performance. But the name to begin to non-performance, after a ratification by the Senate, is the same in the case of a treaty and of a bond for money, commonly called repudiation."

Mr. LOUGHRIDGE. Do I understand that those are the views of Mr. Madison?

Mr. MAYNARD. No, sir; they are the views of a gentleman now abroad, a correspondent of mine, whose name, for obvious reasons, I withhold. As they express succinctly my own views, I have presented them in that form, adopting them for convenience.

Mr. MILLER. What is the name of the writer?

Mr. MAYNARD. I prefer, as I stated, to withhold the name. We are all aware that a treaty stipulation to pay money is only a usual and ordinary one. Such a stipulation, made under the authority of the United States by the President, and ratified by the Senate, becomes an obligation of as high a character as can be assumed by this Government. Yet, like every other obligation, it may not be binding, because it may have been incurred under duress or by fraud, or through a mistake; or there may have been a partial or complete failure of consideration, or a breach by the other party. I suppose this nation would hardly plead either infancy or coverture. But an obligation fraudulently obtained, or obtained under a condition known in law as duress, or attended with such manifest abuse of authority as to affect with notice the other high contracting Power, we might disregard; and whenever such an obligation, so tainted, shall be presented to this House I shall be prepared to disregard it, and then to vote a declaration of war the next day. It would be an act of a hostile character, the legitimate result of which would be war. To repudiate the obligation because it is a hard or improvident bargain—in a word, a bad trade—because the money borrowed upon the bond was not needed, or was misapplied, or because, as is urged in this case, the territory acquired is not wanted, this is bad faith, pure and simple; the meanest and most ignoble species of perfidy.

I do not, therefore, agree with a portion of the majority report of the Committee on Foreign Affairs accompanying this bill, and I am sorry to see that they thought it necessary, in preparing their report, to indicate in advance the specific cases when in their judgment it would

be expedient or proper for Congress to interpose to prevent the carrying into effect of a treaty. We cannot anticipate in what circumstances our nation will find itself in all coming time, and what may or may not be expedient or proper. It is the part of a wise judge to decide those questions that are brought before him for decision, and to withhold his opinion on all others until they legitimately arise.

Reference has been made in this debate, as it was by Jefferson in his opposition to Jay's treaty, to our Indian treaties. We are asked is a treaty entered into with a small Indian tribe to become the paramount law of this wide land covering thirty million people? Whatever force there is in that suggestion bears not upon the negotiation of the treaty, but upon our whole Indian policy. Our policy has been to regard the Indian tribes as nations, and to be treated with as such. I am not prepared to say that this policy was wise. I am rather inclined to think a different course would have been preferable had it been practicable. But the moment we recognized them as nations, as distinct peoples, gave them a character of nationality, and condescended, if you please, to treat with them, then by every principle of national good faith we were bound to give effect to those treaties just as though they had been made with the most enlightened and powerful people on the face of the earth. The binding force of a treaty is in no wise enhanced by the dignity or power of the other high contracting party. That might increase or lessen the chances of impunity in case of its violation.

Now, what have we done in the matter of Indian treaties? Here we have a volume—and it is not a small one—of Indian treaties that have been standing upon our statute-books and in the State Department some of them for sixty or seventy years, and we have executed them, so far as I know, in good faith, by making appropriations from year to year to carry them into effect. These same Indian treaties are our title-deeds to half the national domain. And because it devolves upon us under the Constitution to originate revenue bills, to impose taxes, to raise money, and to make appropriations to carry these treaties into effect, does it follow, therefore, that we have the power to inquire into them and to execute them or not, at our convenience, and with no jeopardy to the public faith? I do not so understand our duty. I do not so understand the frame of our Government, and I do not so understand its relations to the other powers. For while there has been a class of political theorists, already alluded to, who have taken occasion, whenever the execution of a treaty was to be provided for by appropriate legislation, to assail the treaty-making power, and even to declare that a treaty fairly negotiated and deliberately ratified about a subject-matter within the scope of the treaty-making authority has no higher moral obligation upon the conscience of legislators than any ordinary measure to be determined at discretion by expediency alone, yet, as a matter of fact, it has been the uniform practice of the House to carry all treaties into effect. The good sense and fair-minded good faith of a majority have always prevailed over such political teachings. I should be very sorry to see this treaty an exception or to have this bill coupled with any such conditions as are proposed either by the gentleman from Iowa [Mr. LOUGHBRIDGE] or the gentleman from Massachusetts, [Mr. ELLIOT.] I am unwilling as a Representative to notify the nations of the world that our Constitution, giving the President and Senate the power to negotiate treaties, can no longer be trusted. I am unwilling to throw discredit on our ambassadors, our public ministers, and other representatives sent abroad to hold diplomatic intercourse with mankind. For such would be the effect, and is, perhaps, the intended effect, of these two propositions. They are conceived in a spirit of distrust on the part of the

movers, and if adopted would beget a corresponding distrust on the part of other Powers in any negotiation that we might propose to them.

I am unwilling to do anything that will in the slightest degree impair our public credit. We cannot afford to it. It would cost us too much, be entirely too expensive, if there were no other reason. If the favor of Heaven is given to that man who swears to his own hurt, and changes not, the good will of man is equally given to that nation which regards its plighted faith and never departs from it. No nation can survive the disgrace of bad faith. *Punica fides* was more fatal to Carthage than the battle of Zama. *Perfide Albion* was a stain upon the escutcheon of England which all the blood of Waterloo could not wash out. A gentleman of great distinction, the late Mr. Choate, used to say that the Democratic party had manifested "a gay and festive defiance" in its treatment of foreign Powers. We paid for it when we became involved in our terrible struggle. How many friends, pray tell me, did we find that we could rely upon for a moment when war sounded upon our shores and we found ourselves upon capital trial? One there was, only one, in the whole family of nations—the Power so often and kindly mentioned in connection with this treaty. But the nations generally, great and small, were against us. We cannot afford to excite foreign hostility by so much as the appearance of unfair dealing. The great element of weakness in the Government of Great Britain is precisely in that direction. She has been an oppressive, tyrannical, domineering Power to the other nations of the earth, and the day which sees her downfall approaching will be a day of general rejoicing the world over. Those that she has trampled upon will rise in their gladness and shout "ha, ha," in the day of her sorrow. Like Babylon, hell from beneath will be moved to meet her at her coming.

Mr. PRICE. I wish to ask the gentleman whether I am to understand and the country is to understand from this line of argument that the reason we had the opposition of France and England during the late rebellion was because we had acted in bad faith toward them? Am I to understand that? Does he wish to convey that idea to the country and to the world? That is a question I want answered.

Mr. MAYNARD. I wish to convey the idea to the gentleman, and, if he please, to the country and the world, that "the gay and festive defiance" of foreign Powers was one among others of the reasons that arrayed those Powers against us with such fearful hostility—less of bad faith than of unbecoming treatment. I do not say it was the only reason, but it was one of them. Although there had been a change of Administration and the Government had passed into other hands, they visited upon the Government as such much that had accumulated under former Administrations and under the influences of a previous day.

Mr. PRICE. And they opposed us for our bad faith toward them?

Mr. MAYNARD. I do not say bad faith. They were opposed to us for what they regarded as our uncivil treatment toward them on various occasions, and seized this opportunity of paying up old debts, of settling old scores.

Mr. PRICE. Does the gentleman mean to say that we had acted in bad faith toward England or any other nation on the face of the globe? I am not prepared to admit that, and I do not think he is.

Mr. MAYNARD. I have already said that in our action upon treaties, the treaty with England for instance, the Jay treaty—and I might specify others—there had been an element disposed to discredit the treaty-making power, to question its exercise, and to throw distrust upon its negotiations. Still, so far as the legislation of Congress has dealt with them, they have been carried into execution. But

the gentleman will perceive that he has touched a point hardly fit for discussion here, one that cannot be discussed without a certain feeling of embarrassment. I would approach the nakedness of my country with backward steps and averted face, and cover it sedulously from my own eyes as well as from the gaze of the world. My honorable and excellent friend, I am sure, would do the same.

The Public Expenditures—Purchase of Alaska.

SPEECH OF HON. B. M. BOYER,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

June 30, 1868.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. No. 1096) making an appropriation to carry into effect the treaty with Russia of March 30, 1867—

Mr. BOYER said:

Mr. CHAIRMAN: It is not without considerable reluctance that I have arrived at the conclusion that it is my duty to oppose the appropriation for the purchase of Alaska. But so ungracious at first view may seem such a course, after all that has been done in the matter, that I am not content to record my vote against the pending bill without some words of explanation.

I have heard or read most of what the able and eloquent chairman of the Committee on Foreign Affairs and other advocates of the bill have had to say in its behalf; but I have been little moved by any convictions of the substantial advantages likely to result from the acquisition of the inhospitable country we are invited to annex. The arguments which weighed most with me were those based upon what the treaty-making authorities of our Government had already done, and especially the circumstance of formal delivery of the purchased territory having already been made by Russia to the representatives of this country appointed by the President to receive it. The latter fact derives additional importance when we consider that such possession was permitted to be taken without any resolution of dissent or protest on the part of this House, although in session at the time and aware of the events which were transpiring. Under such circumstances courtesy to a great and friendly Power like Russia would seem to forbid retreat. Indeed, a retreat under such circumstances must be confessed to be somewhat humiliating, and probably will be so regarded by other nations. But there are still higher duties to be performed than those of courtesy, and a still higher ambition to fulfill than to stand well in the judgment of foreigners.

Our own national necessities and the duty of self-preservation being the higher law must determine my action upon this bill. Of all times for extraordinary expenditures of the public money this is the most inopportune and dangerous. The country is already struggling under a load of debt too heavy to be long endured, and it is extremely doubtful whether the next year we shall have the means to discharge its interest and defray the ordinary expenses of the Government. Seven million two hundred thousand dollars in gold, equal to \$10,000,000 of our currency, may, to be sure, seem to many an insignificant sum, so accustomed have we become of late to count millions by the thousands instead of by the tens and hundreds. But in the days of Washington and the elder Adams and Jefferson \$7,000,000 in gold was a sum more than sufficient to pay all the ordinary annual expenditures of the Government. A nation whose national debt has lately increased \$10,000,000 in a single month, and which is threatened with a deficit of \$30,000,000 at the

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end of the next fiscal year, is in no condition to speculate in the purchase of barren wastes of scarcely inhabitable territory.

This brings me to the single proposition as to whether we have the constitutional right to refuse this appropriation. In support of the affirmative of this question I find the highest authority among the framers of the Constitution, James Madison, and the greatest of American jurists, Chief Justice Marshall. With them I maintain that under the Constitution the President and the Senate may make a treaty, but it is binding upon us only when it is of a nature to be wholly completed by them. When it requires as an essential part of the contract the appropriation of money by the legislative branch of the Government the treaty is not the law of the land until completed by the grant of the appropriation. This position is sustained by reason as well as authority, and the House of Representatives pronounced a legislative construction upon their constitutional power in this regard when, in passing upon the very first foreign treaty ever negotiated by this Government after the adoption of the Constitution, they solemnly resolved, as early as 1796, that—

"It is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

Were it otherwise, the Executive, with the consent of the Senate, might deprive the House of Representatives of all control over this class of public expenditure, whether the treaty stipulated for the payment of seven or seventy million dollars.

But I put my opposition to this appropriation distinctly upon the ground that we cannot afford it. We are upon the verge of national bankruptcy, and if we would avert repudiation and financial ruin retrenchment and reform must become the rule of our action. I propose upon this occasion to review that wasteful and destructive policy which has reduced our country to its present deplorable condition. Professions of economy have been repeated often enough; but the louder the professions of the party in power the more recklessly extravagant has been their management of public affairs.

The seventh resolution contained in the Republican platform of principles adopted at Chicago this year declares that "the Government of the United States should be administered with the strictest economy." In this general proposition all parties must agree. So popular, indeed, is the enunciation of professions of economy by political parties upon the eve of a presidential election that it is sure to be repeated as often as the delegates of either party assemble in national convention. Much more emphatically and elaborately stated was this same doctrine when the Republican party first came into power in 1860. In their national convention at Chicago they then declared as follows:

"That the people justly view with alarm the reckless extravagance which pervades every Department of the Federal Government; that a return to rigid economy and accountability is indispensable to arrest the systematic plunder of the public Treasury by favored partisans, while the startling developments of frauds and corruptions at the Federal metropolis show that an entire change of administration is imperatively demanded."

Such was the doctrine proclaimed by a party which in a single administration of four years spent more public money than it cost to administer the Government from its foundation during seventy-two years of alternate peace and war, and in those four years piled up an accumulated public debt such as no nation in the world ever created in the same space of time.

I shall not pause to inquire how much of our present national debt may be set down to the wasteful extravagance with which the late

war was conducted, nor how much of it arose from the plunder of the Government by "loyal" contractors aided by their official confederates. But so shocking to the common understanding had these depredations become, that in the midst of the war one of the Republican leaders of Congress thought it his duty to say publicly in his place in this House that more had been stolen from the public Treasury by "loyal thieves" during one month of Mr. Lincoln's administration than it had cost for the maintenance of the Government during the entire four years of the administration of Mr. Buchanan.

Excuses are sometimes pleaded for these excesses on account of the unavoidable wastefulness of all wars, and the inexperience of our Government in the conduct of a great war which came upon us suddenly when we were unprepared. But what excuses can be invented to justify the continuance of the costly establishments of war in a period of profound peace? Why could not the ordinary expenses of the Government—exclusive of the interest on the public debt—have been brought back, at least in the second year after the restoration of peace, very nearly to the expenses of the Government during the administration of President Buchanan?

There is no answer to this question except that which is based upon the necessities of the so-called reconstruction policy of Congress. That is the consuming moth which is eating up the substance of the people. It is that which has involved the maintenance of a vast standing army in the time of peace, and the creation and support of the Freedmen's Bureau, and the establishment of military governments in ten of the States to enforce the peculiar legislation of Congress over the local State governments, and especially to aid in the unnatural subjection of white majorities to negro domination, an offense alike against the principles of republican government and against the civilization of the age, a usurpation over a people once free, which would be impossible without the employment of force.

These extravagant and barbarous contrivances have brought their logical results in the shape of vast expenditures and enormous and otherwise unnecessary and therefore intolerable taxation. They have produced a disturbance of social order and a general sense of insecurity for capital, labor, and political liberty throughout the southern States.

Not only has the policy pursued by Congress rendered necessary a fearful expenditure of the national wealth for purposes hitherto unknown to our laws, but it has at the same time crippled the national resources and hindered their development and increase. To postpone the complete restoration of any section of the Union to its material prosperity is plainly an injury to the whole country; for thereby the increase of taxable property is prevented and the population of the suffering section are less able to bear their proportion of the national burdens. By persecuting the South the North has afflicted itself. By impoverishing the South the North is made poorer. By trampling upon the constitutional rights of the South the North is preparing the way for its own political enslavement.

Unless the whole system of national legislation be immediately reformed financial disaster, bankruptcy, and repudiation must inevitably overtake us.

The national debt during the month of May (the last month of which, at this date, we have the official report) increased \$9,616,959 18, and the coin in the Treasury diminished \$16,681,058 69. It is estimated even by the chairman of the Committee of Ways and Means of the House of Representatives, [Mr. SCHENCK,] that the balance of receipts over expenditures for the current fiscal year ending June 30, will be only \$26,616,392. With a yearly balance

like that it would take nearly one hundred years to pay our national debt. The receipts for the year 1867 are officially stated at \$490,526,947 49; and upon the best showing which the chairman of the House Committee of Ways and Means could make in what must be conceded to be an able, candid, and statesmanlike speech, he set down the total receipts for 1868 at \$405,794,459 29, a falling off in one year of \$84,732,488 20.

But the prospect is at present even worse than that. The statistics of the Treasury Department show that while our annual expenses are decreasing very slowly the revenue is diminishing in a much greater proportion; and this is taking place under the operation of the most grinding system of taxation ever endured by any people.

If we compare the expenditures of the three last years and the estimated expenditures of the next with the expenditures of the Government during the four years immediately preceding the war, we shall arrive at the relative cost of Democratic and Republican administrations in time of peace. The public expenditures of each of the four years of President Buchanan's administration were as follows, namely:

For the fiscal year ending June 30, 1853:
Total expenditures, except interest.....\$72,291,119 70
Interest on the public debt.....1,652,774 23
Total expenditures.....\$73,943,893 93

For the fiscal year ending June 30, 1859:
Total expenditures, except interest.....\$63,327,405 72
Interest on the public debt.....2,637,084 39
Total expenditures.....\$65,964,490 11

For the fiscal year ending June 30, 1860:
Total expenditures, except interest.....\$60,010,112 58
Interest on the public debt.....3,144,620 94
Total expenditures.....\$63,154,733 52

For the fiscal year ending June 30, 1861:
Total expenditures, except interest.....\$62,537,171 62
Interest on the public debt.....4,034,157 36
Total expenditures.....\$66,571,328 92

Average annual cost of carrying on the Government during the four years of President Buchanan's administration, \$68,159,756.

I shall skip over the period of the four years of the war during which the average annual expenditures of Mr. Lincoln's administration were \$1,165,592,164 22, and during which a debt of nearly \$3,000,000,000 was created, and come down at once to the years which have elapsed since the return of peace. The public expenditures of the Government for each of the three years of peace since the suppression of the rebellion have been as follows:

For the fiscal year ending June 30, 1866:
Total expenditures, except interest.....\$387,683,198 79
Interest on the public debt.....133,057,741 69
Total expenditures.....\$520,740,940 48

For the fiscal year ending June 30, 1867:
Total expenditures, except interest.....\$202,947,537 42
Interest on the public debt.....143,781,591 91
Total expenditures.....\$346,729,129 33

For the fiscal year ending June 30, 1868, we have as yet the official statements for but three quarters. I shall therefore take for the fourth quarter the estimate of the chairman of the House Committee of Ways and Means, [Mr. SCHENCK.] And as his speech upon the tax bill contains a tabular statement of the expenditures for the fiscal year ending June 30, 1868, I shall take it entire from the Congressional Globe precisely as it came from

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him, in his exact words and figures. It is as follows:

Sources.	Three quarters, from July 1, 1867, to Mar. 31, 1868.	Fourth quarter, ending June 30, 1868.	Total expenditure for fiscal year ending June 30, 1868.
	Actual.	Estimated.	Actual and Estimated.
Civil—legislative, executive, and foreign intercourse.....	\$38,534,175 32	\$13,000,000	\$51,534,175 32
Interior—pensions and Indians.....	24,733,337 29	4,000,000	28,733,337 29
War.....	88,836,436 82	65,000,000	153,836,436 82
Navy.....	19,113,673 63	6,500,000	25,613,673 63
Interest on public debt.....	119,418,383 87	40,000,000	159,418,383 87
Total.....	\$280,678,066 83	\$68,500,000	\$349,178,066 83

RECAPITULATION.

Receipts and expenditures for fiscal year ending June 30, 1868.

Total receipts.....\$405,794,459 29
Total expenditures.....379,178,066 83

Estimated balance of receipts over expenditures for fiscal year ending June 30, 1868.....\$26,616,392 46

There are several striking inferences to be drawn from the foregoing exhibits which I have made:

1. The average annual cost of carrying on the Government during the four years immediately preceding the war of the rebellion, including the interest upon the public debt, was \$68,159,756, and, exclusive of the interest, it was \$65,291,452, while the average cost of carrying on the Government since the war has been, including interest on the public debt, \$415,552,712, and the average annual cost, exclusive of the interest, was \$276,796,803.

2. Leaving out the interest on the national debt it costs, on an average, \$211,505,350 more each year to carry on the Government in time of peace than it did during the last Democratic Administration. That is to say, it costs considerably more than three times as much, and counting in the interest on the public debt it costs six times as much.

3. The expenditures during the year just ended were greater than the year before by over thirty-two million dollars, (\$32,448,937 50.)

4. While the expenditures the last fiscal year were so much greater than the year before, the revenue of the Government was less by nearly eighty-five million dollars, (\$84,732,488 20.)

5. The national debt has increased about ten million dollars in the month of May, which is the last month of which we have any official account.

6. In the same month of May the gold interest-bearing debt has increased over fifty millions, (\$57,449,550,) and the coin in the Treasury decreased in the same time over sixteen millions. These facts may be seen in the published statement of the Secretary of the Treasury for that month.

Nor is all this the worst. The prospect ahead is still more threatening, as I shall show by the introduction of a few more official figures. The Secretary of the Treasury, in his official estimate of the expenditures for the next fiscal

year, ending June 30, 1869, sets them down as follows:

For the civil service, including the expenses of foreign intercourse, courts, loans, public domain, and all other expenditures except for pensions, Indian, and War and the Navy Departments \$37,860,400 03
For pensions.....30,330,000 00
For Indian department.....3,240,152 86
For Army proper.....51,639,134 20
For Military Academy.....335,012 00
For fortifications, armories, &c.....3,773,084 00
For harbor and river improvements, public buildings, &c.....8,233,769 88
For naval establishment.....47,317,133 95
For miscellaneous objects, including the expenses of collecting the revenue from customs.....9,059,000 00
For compensation to the Post Office Department for mail services.....700,000 00
For civilization of Indians.....10,000 00
For arming and equipping the militia.....200,000 00
For bounties, per acts of July 26 and 28, 1866.....25,500,000 00
For interest on the public debt.....123,678,078 50
For the service of the fiscal year ending June 30, 1869, but payable out of unexpended appropriations on account of War, Navy, civil service, &c.....24,609,184 58
Total estimated expenditures.....\$372,000,000 00

Supposing the revenue of the Government from all sources for the next year will be the same as the last, we should have \$405,794,459 29 to meet these expenditures, which would leave a surplus over expenditures of nearly thirty-four million dollars. But certain sources of internal revenue have been cut off by the repealing acts of Congress, such as the tax on raw cotton, and certain taxes on manufactured articles. From this cause the chairman of the Committee of Ways and Means of the House of Representatives has estimated there will be a falling off of \$68,769,000 from the receipts of internal revenue, which last year were \$190,000,000. His language is as follows:

"The revenue, therefore, from internal taxes for the next fiscal year, assuming all other matters in respect to taxes and administration in this branch of the revenue service to remain unchanged, must necessarily be predicated on the basis of the aggregate receipts of the current fiscal year, less the amount of taxes abated or repealed during the present session of Congress, or \$190,000,000—\$68,769,000—\$121,231,000."

If, then, there should be this anticipated falling off of internal revenue without a corresponding increase in some other direction it is plain that the end of the next fiscal year will probably disclose a deficiency of nearly thirty-five millions of income below expenditures—a most discouraging contemplation for a tax-ridden people, and if realized, a most disastrous blow to the national credit at home and abroad.

The chairman of the Committee of Ways and Means anticipates, to be sure, an increase of revenue under the operation of the new tax bill, if adopted. That anticipation, however, was chiefly based upon a radical reform proposed by him in the organization of the internal revenue department, a proposition rejected by the House. Under the present system, as I shall proceed to show, there can be no well-founded hope of essential improvement.

REVENUE FRAUDS.

The revenues are not honestly collected, and under the operation of the present system the business has been constantly advancing from bad to worse. Illicit manufactures and contraband merchandise everywhere abound. The people pay the price, including the supposed tax added on. But the superadded amount for the tax, which ought to have been paid to the Government, goes into the pockets of the ring. As during the war, enormous fortunes are still made by cheating the Government, and the thieves generally escape. The laws seem to have been made for their protection. It is estimated that about one hundred million gallons of whisky is manufactured in the country, counting all that is produced by the distilleries, great and small, engaged in the business. If so, the tax of two dollars a gallon ought to have realized to the Government a yearly revenue of \$200,000,000. Instead of

that the highest revenue from that source has been \$30,000,000, and it has now dwindled down to \$13,000,000 for the last year.

EFFECT OF THE CIVIL-TENURE ACT.

Under the operation of the civil-tenure act, which was invented by the party in power to baffle the Executive and keep their friends in office at any sacrifice, it is not possible for the President to protect the public from the depredations of dishonest officials. The power has been taken from the President, and there is no longer any responsibility anywhere.

Every practical man must recognize the frequent necessity of prompt removals from office, and especially in regard to those officers which are connected with the management and collection of the public revenues. As the law now stands, the President, who ought to be the responsible head, has been stripped of all authority to remove until the Senate have first deliberated and given their consent. He cannot even suspend except in the recess of the Senate, and even then he must furnish reasons satisfactory to the Senate at its next session or the deposed official will again be reinstated. The effect is to make the appointees of the Executive, when once in office, independent of the appointing power. The President is thus converted into a mere prosecuting officer and may be defied, baffled, and delayed until the time for efficient action has passed. During the pendency of such a controversy under the civil-tenure act before the Senate, a Cabinet officer is said to have written, upon a certain occasion, to the thieving official, begging him to consider his conscience and in the mean time steal as little as possible! The greater the office and the extent of its control over the public interests the more powerful is the dishonest incumbent in his means of defense and in the number and influence of his confederate friends and allies.

Suppose the President, acting upon reliable information, attempts to remove the collector of customs at one of the great ports or a collector of internal revenue in one of the principal cities where the tax upon whisky alone may amount to millions. Immediately upon the receipt of the telegram which brings the news the imperiled collector and his whole force of hireling dependents and confederate contraband traders, illicit manufacturers, and vendors who compose the ring are astir. As soon as steam can carry them to Washington the advance guard of these worthies appears at the Capitol to fight the Government with its own money. They lie in wait in the ante-chambers of the Senate. They button-hole Senators in the streets and capture them at their hotels and boarding-houses. They are not in want of help from men and women, too, of better looks and more alluring manners than their own. They bear with them also appointments to inspectorships and clerkships, if need be, for family friends of obliging Senators. They come armed with longlists of respectable signatures, such as may anywhere be cheaply got for the asking merely by any gentlemanly knave who lives in style and spends his money freely; certificates of leading merchants, lawyers, and divines.

By the same influences the new man appointed to the place is assailed from every point. Here, too, comes in the complication of outside rival claimants for the office. The President naturally prefers his own political friends for appointment. But the Senate, on that very account, refuses to confirm them, and regardless of mental or moral qualifications rejects them one after another. To get the office, therefore, it becomes necessary for the applicant to convince the President that he is his friend, and the Senate must be convinced that he is secretly the President's enemy. If he gets both the appointment and the confirmation it is because he has succeeded in persuad-

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ding the President that he will cheat the Senate, and he must have been equally successful in persuading the Senate that he means to cheat the President. Through such a gauntlet it is a rare miracle by which an upright man arrives at an office. The most artful sneak has always the best chance. What wonder, then, that the public is betrayed, and the Treasury plundered, and the laws evaded, and the public debt unpaid, and the people taxed in vain?

REPUBLICAN TESTIMONY RELATIVE TO REVENUE LAWS.

I could not better enforce this view of the virtual surrender of our public revenue to the manipulation of thieves than by quoting from the Congressional Globe the report of a recent debate in this House upon the tax bill, then under discussion. Mr. SCHENCK (chairman of the Ways and Means Committee) said:

"I would not give a sixpence for all laws, if you are to go on collecting the revenue with the President, Secretary of the Treasury, the Commissioner, and the Senate all to be consulted, and in the mean time nothing to be done except stealing—I steal; you steal; they steal; we all steal!" Such seems to be the conjugation of the verb with which we are engaged at this time.

Mr. PILE, (Republican.) I think instead of one fifth being in the hands of thieves that precisely the reverse is the truth—that one fifth, perhaps, are honest men, and four fifths are thieves.

Mr. RANDALL, (Democrat.) Will the gentleman allow me to ask him a mathematical question?

Mr. PILE. Yes, sir.

Mr. RANDALL. About seven eighths are Republicans; and I wish to know how many thieves belong to the Republican and how many to the Democratic party?

Mr. PILE. I hope we shall be able to keep the question of politics out of this bill."

NATIONAL DISCREDIT.

Look now at the low estate to which the national credit has been brought even at home by the profligacy, mismanagement, and plunder of the party in power. Government paper in Russia is at twelve per cent. discount; in Italy it is fifteen per cent. below par; in Turkey it is at twenty per cent. depreciation; but worse than all these, and below even the Turk in financial reputation, a gold dollar commands in our market a premium of forty per cent. in the currency of our own Government.

AMERICAN AND BRITISH TAXATION COMPARED.

Yet in the struggle to pay the current expenses of our Government, and but little more than the bare interest of our public debt, we are the hardest taxed people on earth. There was a time when the taxes of England were a by-word and a scorn among our people; and when each year the anniversary of our Declaration of Independence came round the poor, down-trodden, tax-ridden subjects of Great Britain were the theme of much compassionate eloquence and self-congratulation in our Fourth of July orations. The taxes of England conveniently illustrated the costly extravagance of royal pageantry and the grinding weight of aristocratic institutions, from which our own proud, free, and prosperous Republic was so happily exempt. Such was our country. But, alas, time changed the picture! How humiliating the confession that while the English taxes amount to \$10 92 *per capita* the taxes of the United States are sixteen dollars *per capita*. Even under the despotism of Napoleon III the French are taxed but \$7 97 *per capita*.

COMPARATIVE STATEMENT OF AMERICAN AND BRITISH EXPENDITURES.

Let us compare the cost of maintaining the British Government with the expenditures of our own for a single year. I shall take the year 1867, which is the last year of whose expenditures we have as yet any full official statement. According to the official report of the English Chancellor of the Exchequer the civil service of Great Britain for 1867 cost \$41,098 95, while it cost in the United States, exclusive of pensions, for the same year, \$51,110,027. The army of Great Britain numbers two hundred and thirteen thousand men, and cost in 1867 \$74,383,946. In this is included pensions, which are not embraced in our expenditures under the head of the War

Department, and is included every other item of military expense. In the same year our own Army, set down at seventy thousand men, cost (exclusive of bounties) and for ordinary expenses merely, \$83,841,555! being \$9,457,609 more than it cost Great Britain to maintain an army three times as large. If we add military bounties to our expenditures, and deduct the pension list from theirs, which would be the fairest way of stating the case, the difference would be far greater, as will presently appear from the comparative table which I shall present.

The English national debt, the accumulation of centuries, is larger than ours, but its annual cost in interest is much less.

The navy of England costs more than ours, but it is much larger in numerical force. The British navy, having one hundred and twenty ships on squadron duty, and counting its coast guard and marine force, numbers sixty-seven thousand one hundred and twenty men; ours numbers but eleven thousand nine hundred men.

The following comparative statement of some of the expenditures of the United States and Great Britain, compiled from the official reports of both countries, will show the state of the case, the English pound sterling being reduced to Federal money:

	United States.	Great Britain.
Interest on debt.....	\$143,781,591 91	\$128,807,270
Civil service.....	51,110,027 27	41,098,995
War Department.....		
Army proper.....	\$83,841,558 80	
Pensions.....	20,936,551 71	
Bounties.....	11,382,359 83	
Navy.....	116,160,967 34	74,383,946
Add Indian expenses, for which there is no corresponding item in the British budget.....	31,034,011 04	53,912,513
	4,642,531 77	
Total expenditures of the United States for the year.....	\$346,723,129 33	
Add to the other side the remaining items of British expenditure, for which there are no corresponding items in ours, namely: the consolidated fund, the revenue department, and packet service.....		37,101,504
Total expenditures of Great Britain for the year.....		\$385,308,418
Expenditures of the United States for one year in excess of the expenditures of Great Britain for the same year, both nations being at peace.....	\$11,425,711 33	

From this it is seen that American republicanism in the management of the Radical party is more profligate than British royalty, with all its courtly pomp and aristocratic appointments, its palaces, and its long lists of titled and official pensioners. Such was not the Government of our fathers.

EXTRAVAGANCE PERVADES ALL THE DEPARTMENTS.

If we analyze the expenditures of the Government in detail we shall find that their enormous increase is not confined to any one or two departments of the Government, but pervades them all. Since the 30th of June, 1865, the expenditures of the Army and Navy have averaged over \$200,000,000 for each and every year. But the expenses of the legislative, executive, and judicial branches of the Government which are grouped in the accounts under the head of the civil list, for example, cost in 1860, \$6,077,008 35; but in 1867 the same civil list cost \$15,585,489 55. The whole expenses of the Government which do not come under the heads of the War or Navy Departments, and do not include either pensions, bounties, or Indians, or interest, in 1860 cost \$27,931,336 17; while the expenditures for the same purposes in 1867 amounted to \$51,110,027 07.

RECONSTRUCTION AT THE SOUTH.

But the two greatest drains upon the public purse are those expensive and arbitrary establishments which have been created for the sub-

jugation of the southern States to the continued domination of the Republican party, and the perpetuation of that party in political power in the country by the aid of the negro vote. These establishments are the five military governments at the South and the Freedmen's Bureau.

I shall not upon this occasion dwell upon the violation of public and private rights which these institutions involve. My object now is to investigate their pecuniary cost.

MILITARY GOVERNMENTS OF THE SOUTH.

Ever since the surrender of the rebel forces in 1865, the southern people have in good faith kept the peace. Not an armed hand is there uplifted against the laws, yet an army of some sixteen thousand five hundred men, equipped, fed, paid, officered, and maintained at the national expense, is even now distributed throughout Virginia, North and South Carolina, Georgia, Arkansas, Mississippi, Louisiana, Alabama, Texas, and Florida, and during three years of profound peace quartered upon those States. They are there not to repress insurrection, for none exists. They are there not to uphold civil government, but to subvert it. They are there to enforce military despotism, to sustain usurpation, to guard the Freedmen's Bureau, and to help ignorant negroes, led by carpet-bag adventurers, to make governments and rulers for the intelligent white people of that unfortunate section of our country.

Every dollar spent to maintain that army is a dollar uselessly and wickedly wasted.

DETAILED STATEMENT OF THE TROOPS IN THE FIVE MILITARY DISTRICTS OF THE SOUTH.

There are stationed in the five military districts of the South, at this time, the following troops: In the first district, comprising the State of Virginia, there are one company of cavalry, four companies of artillery, and twenty-seven companies of infantry. In the second district, comprising the States of North and South Carolina, there are four companies of cavalry, three companies of artillery, and twenty-eight companies of infantry. In the third district, comprising the States of Georgia, Florida, and Alabama, there are two companies of cavalry, two companies of artillery, and forty-four companies of infantry. In the fourth district, comprising the States of Mississippi and Arkansas, there are two companies of artillery and forty-two companies of infantry. In the fifth district, comprising the States of Louisiana and Texas, there are twelve companies of cavalry and ninety-two companies of infantry. Making a total in the five districts of nineteen companies of cavalry, eleven companies of artillery, and two hundred and thirty-three companies of infantry.

The infantry companies have been reduced to about sixty men each, but the cavalry and artillery companies retain about their ordinary complements of men. All the companies together compose at this date a force of about sixteen thousand five hundred enlisted men. The yearly pay, subsistence, clothing, fuel, medical supplies, quarters, and transportation of the officers and men composing this force is at least \$16,500,000, or at the rate of \$1,000 per man, which is not equal in proportion to the actual cost per man estimated from the aggregate cost of the whole Army, as appears from the official reports of the Secretary of War.

ADDITIONAL EXPENSES.

There have been since March, 1867, four distinct appropriations by Congress of money to pay the expenses of organization of the so-called civil governments of the different States under the military reconstruction acts of Congress, amounting in the aggregate to \$2,224,701 55. But these appropriations were not nearly equal to the amounts called for by the different district commanders, and the last appropriation was drawn from the Treasury on the 8th of June, the very day the certified act of Congress appropriating the money reached

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the Treasury Department. The money has, therefore, been already absorbed under pressing need, and the cost is still going on. A deficiency bill of several millions to defray the additional expenses will be brought in at the next session of Congress, after the presidential election.

The actual direct outlay of money by the Government in maintaining its military establishments at the South in the interest of the Republican party may be set down as certainly over twenty million dollars a year.

FREEDMEN'S BUREAU.

Next to the southern army in cost, and a potent auxiliary of Radical reconstruction, is the Freedmen's Bureau. This has become a gigantic political machine. It was first organized under the act of Congress of March 3, 1865, and although limited by the terms of the original act to one year after the close of the rebellion, it has been continued ever since. There is nowhere to be found a full, fair, and precise account of what has been expended to sustain and extend it. Important omissions, underestimates, or a blending of periods of time in the statements of different classes of expenditures, characterize and confuse the fragmentary statistics which have thus far been furnished upon the subject. Enough, however, can be gathered from official figures which have escaped concealment to form a general estimate of that vast expenditure which in all its details will never be fully known or set down among the statistics of the Government.

It is true that Congress has as yet made but two direct appropriations of money for the support of the Freedmen's Bureau, amounting together to \$10,780,750. But the first of these appropriations was not made till July 13, 1866, when the bureau had already been in operation on a large scale for more than a year, and no money upon either of the appropriations was actually drawn from the Treasury until August, 1867, considerably more than two years after the expenditures of the bureau began. The explanation is this: by the provisions of the act which organized the bureau in March, 1865, it was invested with authority to seize and appropriate for its use the abandoned lands in the insurrectionary States and those to which the United States had acquired title by confiscation or sale. It also appropriated funds from various other sources of revenue, as, for example, fines, taxes, retained bounties, &c.

The bureau had been practically in existence long before its organization in March, 1865, under the name of the Department of Negro Affairs, and had property and funds on hand which were transferred to the bureau. But the bulk of its means were supplied from another quarter. The most important part of the Freedmen's Bureau act, touching its resources, is that part which authorizes the Secretary of War to issue for the use of the bureau unlimited supplies of provisions, clothing, and fuel, subject only to such rules and regulations as he might himself direct. These supplies were accordingly furnished in lavish profusion.

SUPPLIES OF FOOD.

During twelve months from June, 1865, to May, 1866, the number of rations accounted for as having been issued by the War Department for the use of the bureau were as follows:

1865.	
June.....	349,808
July.....	363,380
August.....	902,581
September.....	1,450,643
October.....	810,029
November.....	698,129
December.....	670,844
1866.	
January.....	720,415
February.....	988,006
March.....	1,029,112
April.....	908,892
May.....	1,145,878
Total in twelve months.....	10,042,719

At twenty-five cents a ration, which is the cost as stated in the official estimates of General Howard, the Commissioner of the Freedmen's Bureau, the money value of the rations distributed from the subsistence department of the Army upon requisitions of the bureau in one year was \$2,500,879 75. For the fiscal year ending June 30, 1867, Congress appropriated for this purpose alone the sum of \$3,106,250.

SUPPLIES OF CLOTHING.

But the bureau has clothed the freedmen as well as fed them. I have not been able to obtain any exact account of the clothing issued from the quartermaster's department upon the requisitions of the bureau in any one year, and of course not of those supplies which were issued without any requisition at all. But the amount in the aggregate must have been very large, as, according to Army estimates, it costs in general more to clothe than to feed a body of men supported by the Government.

In the report of the Commissioner of the Freedmen's Bureau of November 30, 1866, he says, "The value of quartermaster's property, including clothing, camp, and garrison equipage received by the bureau previous to April 1, 1866, was \$525,035 34." This valuation was probably at the low standard of Government sales, and does not include the large distribution in the department of negro affairs before the bureau was organized. Some idea of the supplies actually furnished by the War Department under this head may be formed from the fact that the Commissioner of the bureau in his first annual report (to be found in House Executive Document No. 11, first session Thirty-Ninth Congress) estimates the supplies of clothing needed by the bureau for distribution during the year 1866 at \$1,760,000, and the commissary stores for the same year at \$4,106,250.

COMMISSIONED OFFICERS IN THE PAY OF THE UNITED STATES EMPLOYED IN THE SERVICE OF THE BUREAU.

From the official statement of the Commissioner of the bureau, made in answer to House resolution of May 28, 1866, it appeared there were three hundred and sixty-eight commissioned officers paid by the United States, and employed wholly in the Freedmen's Bureau, namely:

1 major general, at.....	\$445 00 per month,	\$445 00
7 brigadier generals, at.....	299 50 per month,	1,997 50
9 colonels, at.....	194 00 per month,	1,746 00
7 lieutenant colonels, at.....	170 00 per month,	1,190 00
20 majors, at.....	151 00 per month,	4,379 00
157 captains, at.....	118 50 per month,	18,594 00
158 lieutenants, average, at.....	106 00 per month,	16,748 00
368 officers, pay per month.....		\$45,099 50

This gives a total yearly amount paid by the Government to officers serving in the bureau of \$541,194; nor are these the only commissioned officers paid by the Government to serve the Freedmen's Bureau.

ARMY SURGEONS IN THE FREEDMEN'S BUREAU.

In the report of Surgeon Caleb W. Horner, the medical head of the bureau, dated October 31, 1865, upon the medical department of the bureau, he says:

"In pursuance of the plan of organization determined upon application was made to the Surgeon General for the detail to the bureau of the following surgeons and assistant surgeons of volunteers who were assigned to duty in various districts, the ranking officer serving on the staff of the assistant commissioner as surgeon-in-chief."

Then follows a list of fourteen surgeons and three assistant surgeons.

From a tabular statement in the same official report we learn that the number of commissioned medical officers on duty in the service of the Freedmen's Bureau and paid by the United States from October 1, 1866, to June 30, 1867, was twenty-three, besides the one hundred and fifty-five contract physicians paid by the bureau.

HOSPITALS AND HOSPITAL EMPLOYÉS.

I take from the late report of Mr. Eliot,

chairman of the House Committee on Freedmen's Affairs—a report abounding in underestimates and important omissions—the following summary relating to hospitals supported by the bureau:

Greatest number of hospitals existing at any one time, (latter part of 1866 and early part of 1867.....)	48
Number in operation at present, (February 1, 1868).....	25
Number discontinued during year ending December 31, 1867.....	28
Largest number of medical officers at a given time, (September 1866).....	118
Number employed at present, (February 1, 1868).....	84
Greatest number of hospital attendants, stewards, nurses, cooks, matrons, &c., at a given time, (May, 1867).....	430
Number of attendants at present employed, (February 1, 1868).....	317

CIVIL EMPLOYÉS OF THE BUREAU.

I am tempted here to insert the complete list of agents, clerks, surgeons, and messengers now employed in the service of the bureau, with their salaries, as one means of conveying some adequate idea of the vast proportions and cost of this part of the machinery of the Freedmen's Bureau. The following list may be found in the last United States Official Register compiled under the direction of the Secretary of the Interior and just published. The statistics it contains are brought up to September 30, 1867, and does not include the hospital attendants, nor the superintendents and teachers of schools:

FREEDMEN'S BUREAU, HEADQUARTERS WASHINGTON, DISTRICT OF COLUMBIA.

Names and offices.	Compensation.
Henry M. Whittlesey, chief quartermaster.....	\$2,400 00
J. M. Langston, inspector of schools.....	2,100 00
William Fowler, agent in charge of division of claims.....	1,800 00
S. W. Saxton, agent.....	1,800 00

Clerks.

William P. Drew.....	1,800 00
J. A. Bemis.....	1,800 00
E. P. Rankin.....	1,800 00
John A. Duron.....	1,800 00
H. H. Ray.....	1,800 00
Frederick H. Johnson.....	1,800 00
John B. Davidson.....	1,800 00
James B. Littlewood.....	1,800 00
Henderson Hayward.....	1,800 00
T. F. Williams.....	1,800 00
B. Raleigh Raines.....	1,800 00
James V. Kearny.....	1,600 00
Henry D. Beam.....	1,600 00
Lamech Duvall.....	1,600 00
Joseph C. Rook.....	1,600 00
S. A. Terry.....	1,600 00
John C. Girard.....	1,600 00
Edward Johnson.....	1,600 00
Charles J. Johnson.....	1,600 00
William B. Gonsalves.....	1,600 00
Elias Shull.....	1,500 00
Charles Warren.....	1,500 00
T. J. Mackey.....	1,400 00
John H. Saxton.....	1,400 00
William Whittlesey.....	1,400 00
William F. McLeellan.....	1,400 00
Charles Von Willi.....	1,400 00
Charles H. Dow.....	1,400 00
Charles B. Chipman.....	1,200 00
S. R. Warren.....	1,200 00
Benjamin Ockert.....	1,200 00
Adolphus Myer.....	1,200 00
Calvin W. Brown.....	1,200 00
James J. Judd.....	1,200 00
A. N. Thompson.....	1,200 00
Hiram Robinett.....	1,200 00
John Philip.....	1,200 00
David S. Blue.....	1,200 00
A. B. Caswell.....	1,200 00
George E. Putten.....	1,200 00
Charles W. Banks.....	1,200 00
A. T. Kinney.....	1,200 00
C. E. Cady.....	1,200 00
E. S. Fowler.....	1,200 00
James T. Elliott.....	1,200 00
W. S. Eaion.....	1,200 00
C. N. Weiss.....	1,200 00
R. H. Manning.....	1,200 00
C. C. Wilson.....	1,200 00
J. H. Biggles.....	1,200 00
George W. Burnside.....	1,200 00
T. Taylor Page.....	1,200 00
Jesse H. Veirick.....	1,200 00
John A. Botts.....	1,200 00
William B. Cudlippe.....	1,200 00
John H. Cook.....	1,200 00
Samuel J. Dutcher.....	1,200 00
John R. Finney.....	720 00

Messengers.

C. C. Parker.....	780 00
M. D. Gonsalves.....	720 00
A. H. Taylor.....	720 00
George J. Ballach.....	600 00
M. J. Chipman.....	600 00
W. H. Parker.....	420 00

40TH CONG.... 2D SESS.

The Public Expenditures, &c.—Mr. Boyer.

HO. OF REPS.

EMPLOYED BY ASSISTANT COMMISSIONER OF
THE DISTRICT OF COLUMBIA.

Agents.

J. M. Brown, disbursing officer.....	2,400 00
John Kimball, superintendent of schools.....	1,800 00
George T. Marble.....	1,800 00
J. B. Johnson.....	1,800 00
J. V. W. Vandenburg.....	1,500 00
A. K. Brown.....	1,200 00
Henry Stockbridge.....	1,200 00
H. M. Wilson.....	1,200 00
E. G. Townsend.....	1,200 00
O. S. B. Wall.....	1,200 00
A. W. Freeman.....	900 00
H. L. Smith.....	900 00
Sarah A. Timmon.....	900 00
H. V. Daniels.....	900 00
J. H. Butler.....	900 00
C. W. Sharp.....	900 00
J. B. Abeel.....	900 00
D. R. Disbrow.....	900 00
Miss J. E. Griffing.....	900 00
S. S. Chamberlain.....	900 00
Miss Eliza Heacock.....	900 00
Elizabeth Brown.....	600 00
W. R. Wilmer.....	600 00
H. R. Bosley.....	600 00
Mrs. S. S. Griffing.....	600 00
E. Hennessey.....	600 00
J. A. Johnson.....	600 00
Sarah A. Williams.....	480 00
Thomas Colter.....	360 00
Louisa Davis.....	300 00
Mrs. M. V. Wright.....	240 00

Clerks.

E. J. Maddox.....	1,800 00
R. B. Tompkins.....	1,500 00
E. A. Holman.....	1,500 00
Joseph J. Ott.....	1,500 00
W. Gadsby.....	1,200 00
T. J. Collins.....	1,200 00
John Drummett.....	1,200 00
George D. Johnson.....	1,200 00
T. F. Fanning.....	1,200 00
Reynold Schoon.....	1,020 00
Robert Jaggard.....	960 00
T. J. Sullivan.....	960 00
H. V. Bogart.....	960 00
W. H. H. Eithian.....	960 00
J. G. Crosby.....	900 00
John Lynch.....	900 00
B. Lawhead.....	780 00
M. M. Wheelock.....	660 00
James Brown.....	420 00

Messengers.

Albert Parker.....	720 00
Elias Plummer.....	420 00
James L. Taylor.....	420 00
George Dixon.....	360 00
A. P. Bogue.....	360 00
Harrison Harris.....	360 00

EMPLOYED BY THE ASSISTANT COMMISSIONER OF MARYLAND.

Agents.

Samuel J. Wright.....	2,400 00
William Howard Day.....	1,800 00
B. F. Tanner.....	1,200 00

Clerks.

Edward H. Mowtieth.....	1,500 00
Edward J. Hyde.....	1,200 00
Charles W. Hildreth.....	1,200 00
James G. Glenn.....	1,200 00

Messenger.

George J. Pollard.....	720 00
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Laborer.

George J. Ford.....	480 00
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EMPLOYED BY THE ASSISTANT COMMISSIONER FOR VIRGINIA.

Agents.

S. C. Armstrong.....	1,800 00
R. S. Lacy.....	1,800 00
R. M. Manly.....	1,800 00
Edmund M. Webber.....	1,800 00
John W. Barnes.....	1,200 00
Alexander D. Bailey.....	1,200 00
John Burke.....	1,200 00
Charles P. Goodyear.....	1,200 00
Thomas P. Jackson.....	1,200 00
F. A. Morey.....	1,200 00
George W. Young.....	1,500 00
Charles Spencer.....	1,200 00
C. Deyher.....	1,200 00
R. M. Betts.....	1,200 00
Walter Woolcott.....	1,200 00
George K. Ingalls.....	1,200 00
John F. Dezendorf.....	1,200 00
A. L. Cassel.....	1,200 00
Milo V. Bailey.....	1,200 00
Alexander G. Baker.....	1,200 00
Joel R. Spahr.....	1,200 00
Frederick W. Poor.....	1,200 00
C. W. Hawks.....	1,200 00
J. B. Work.....	1,200 00
Addison F. Terry.....	1,200 00
J. O. DePutron.....	1,200 00
A. W. Weeks.....	1,200 00
D. V. Perrington.....	1,200 00
Frank H. Patrick.....	1,080 00
E. L. Kupfer.....	960 00
O. P. Raudall.....	960 44
James M. Wayt.....	960 00

D. C. F. Marx.....	960 00
Thomas B. Jacobs.....	960 00
Joseph M. Jones.....	900 00
John Raeburn.....	900 00
G. H. Smith.....	900 00
A. C. Joseph.....	900 00
J. Montgomery.....	900 00
Richard Baker.....	780 00
John B. Cooper.....	720 00
Elizabeth Devine.....	720 00
Edward S. Tenchie.....	600 00
William O. Austin.....	600 00
R. S. Jones.....	540 00
George Y. Brown.....	300 00

Acting Assistant Surgeons.

G. M. Baker.....	1,200 00
D. R. Brower.....	1,200 00
E. R. Carey.....	1,200 00
J. D. Harris.....	1,200 00
Joseph Jorgenson.....	1,200 00
A. B. Kinney.....	1,200 00
Ferdinand Leising.....	1,200 00
W. F. Letch.....	1,200 00
W. A. Nason.....	1,200 00
A. C. W. Young.....	1,200 00
A. W. K. Andrews.....	1,200 00
Thomas Turner.....	1,200 00

EMPLOYED BY ASSISTANT COMMISSIONER FOR NORTH CAROLINA.

Agents.

F. A. Fisk.....	1,800 00
H. C. Vogell.....	1,800 00
J. A. Sorlett.....	1,800 00
W. Bonnie.....	1,500 00
W. H. Doherty.....	1,500 00
W. McFarland.....	1,500 00
M. W. Weld.....	1,500 00
O. Eastmond.....	1,500 00
W. F. Henderson.....	1,500 00

Acting Assistant Surgeons.

A. B. Chapin.....	1,200 00
J. K. Fleming.....	1,200 00
William B. Moore.....	1,200 00
J. N. Niles.....	1,200 00
R. Harris.....	1,200 00
W. A. Myers.....	1,200 00
S. A. Bell.....	1,200 00
R. B. Matlock.....	1,200 00
John H. Archdeacon.....	1,200 00
Benjamin Denfee.....	1,200 00
George O. Spooner.....	1,200 00
W. Pritchard.....	1,200 00
A. Kilmer.....	1,200 00
C. W. Scarlett.....	1,200 00
A. S. Dunn.....	1,200 00
F. E. Fiske.....	1,200 00
R. E. Potts.....	1,200 00
James W. Bacon.....	1,200 00
L. Brown.....	1,200 00
R. Ebecke.....	1,200 00
F. G. Moore.....	1,200 00
James Coates.....	1,200 00
Edward Carter.....	1,200 00
W. E. Brady.....	1,200 00
C. H. Horton.....	1,200 00
H. H. Walton.....	1,200 00
G. M. Arnold.....	1,200 00
J. G. Colgrave.....	900 00
C. E. Kilmer.....	900 00
W. A. Thorne.....	900 00
J. H. Place.....	900 00
Robert Doherty.....	900 00
C. M. Fawcett.....	720 00
E. R. Dodge.....	720 00
J. H. Skanen.....	600 00
Y. A. Mitchell.....	300 00

EMPLOYED BY ASSISTANT COMMISSIONER FOR SOUTH CAROLINA.

Agents.

J. P. Low.....	2,400 00
R. Tomlinson.....	1,800 00
J. B. Dennis.....	1,800 00
H. McHenry.....	1,800 00
J. E. Lewis.....	1,800 00
J. A. Greene.....	1,800 00
S. R. Adams.....	1,800 00
E. F. Gary.....	1,800 00
C. S. Allen.....	1,200 00
R. Johnston.....	1,200 00
G. E. Truxbury.....	1,200 00
R. H. Willoughby.....	1,200 00
G. Pillsbury.....	1,200 00
W. A. Nerland.....	1,200 00
S. A. Swalles.....	1,200 00
S. L. Bennett.....	900 00
R. C. DeLarge.....	900 00
J. J. Wright.....	480 00

Contract Surgeons.

S. B. Thompson.....	1,200 00
Robert Ahern.....	1,200 00
Samuel L. Orr.....	1,200 00
J. F. Ensor.....	1,200 00
F. Stoddard.....	1,200 00
W. C. Flowers.....	1,200 00
William Roper.....	1,200 00
H. F. Heriot.....	1,200 00
K. J. Muirhead.....	1,200 00
L. P. Wagner.....	1,200 00
C. H. Brownley.....	1,200 00
J. E. Tatton.....	1,200 00
S. W. Van Dwyne.....	1,200 00
A. J. Wakefield.....	1,200 00
G. W. Benton.....	1,200 00

Clerks.

W. A. Carr.....	1,500 00
H. L. Tappan.....	1,500 00
J. L. Rutherford.....	1,200 00
H. A. Cohen.....	1,200 00
J. S. Kerritt.....	1,200 00
I. Q. French.....	1,200 00
C. M. Tucker.....	1,200 00
J. McCord.....	1,200 00
W. Lambert.....	1,000 00
T. E. Rabner.....	1,000 00
W. H. Lockwood.....	900 00
R. Stapley.....	900 00
C. J. Leahy.....	900 00

EMPLOYED BY ASSISTANT COMMISSIONER FOR GEORGIA.

Agents.

C. T. Watson, disbursing officer.....	2,400 00
J. M. Laing, surgeon-in-chief.....	2,100 00
E. A. Wane, superintendent of schools.....	1,800 00
Charles K. Holcombe.....	1,800 00
O. H. Howard.....	1,800 00
J. M. Robinson.....	1,800 00
Jacob R. Davis.....	1,500 00
Charles F. Sawyer.....	1,500 00
Charles Kaushenberg.....	1,500 00
James L. Dunning.....	1,200 00
W. J. Bryan.....	1,200 00
W. J. White.....	1,200 00
George M. Nolan.....	1,200 00
Ralph T. Finney.....	1,200 00
M. R. Archer.....	1,200 00
D. J. Curtiss.....	1,200 00
C. B. Blacker.....	1,200 00
Joe McWhirter.....	1,200 00
J. W. Barney.....	1,200 00
T. J. Herbert.....	1,200 00
Edwin Belcher.....	1,200 00
J. D. Rodgers.....	1,200 00
James R. Smith.....	1,200 00
William O. Moffitt.....	1,200 00
Daniel Josey.....	1,200 00
Thomas Holden.....	1,200 00
William B. Moore.....	1,200 00
Lewis L. Wheelock.....	1,200 00
Lumis North.....	1,200 00
William Royal.....	1,200 00
Horace F. Mills.....	1,200 00
A. B. Clark.....	1,200 00
W. C. Carson.....	1,200 00
J. B. Davenport.....	1,200 00
C. W. Chapman.....	1,200 00
William E. Wiggins.....	1,200 00
Andrew Clark.....	1,200 00
F. C. Genth.....	1,200 00
H. C. Hong.....	1,200 00
Walter Pickett.....	1,200 00
A. A. Buck.....	1,200 00
J. L. H. Waldrop.....	900 00
H. C. Flourney.....	900 00
E. A. Pollock.....	900 00
H. M. Joyless.....	900 00
James Thompson.....	300 00

Acting Assistant Surgeons.

George O. Dalton.....	1,500 00
N. D. Atvigny.....	1,200 00
M. F. Bowes.....	1,200 00
Thomas R. Clements.....	1,200 00
T. H. Matlock.....	1,200 00
D. D. Taulman.....	1,200 00
T. J. Harris.....	1,200 00
C. H. Taylor.....	1,200 00

Clerks.

John P. Haws.....	1,500 00
William Gray.....	1,500 00
William S. Davidson.....	1,200 00
William W. Lyon.....	1,200 00
E. A. Stratton.....	1,200 00
J. B. McQuithey.....	1,200 00
William Duty.....	1,200 00
R. H. Wirt.....	1,200 00
B. V. Jenks.....	1,200 00
N. P. Wooldridge.....	1,200 00
Charles S. Cook.....	1,200 00
David Holmes.....	1,200 00
William Tiller.....	1,200 00
Henry Martins.....	1,200 00
G. Schlodtfeldt.....	1,200 00
F. A. De La Mesa.....	600 00
A. L. Brack.....	600 00
H. Coleman.....	500 00

EMPLOYED BY ASSISTANT COMMISSIONER FOR FLORIDA.

Agents.

C. Thurston Chase, sup't of schools.....	1,800 00
S. C. Osborn.....	1,200 00
W. J. Purman.....	1,200 00
D. M. Hammond.....	1,200 00
J. L. Husband.....	1,200 00
S. F. Halliday.....	1,200 00
W. L. Apthorp.....	1,200 00
W. J. Reyes.....	1,200 00
A. A. Knight.....	1,200 00
G. E. Wentworth.....	1,200 00

Acting Assistant Surgeons.

S. G. Minassian.....	1,200 00
G. W. Edwards.....	600 00

Clerks.

C. H. Foster.....	1,500 00
L. B. Foster.....	1,500 00
William Jackson.....	1,200 00

H. O. OF REPS.

The Public Expenditures, &c.—Mr. Boyer.

40TH CONG....2D SESS.

<i>Messengers.</i>			<i>John Enoch.....</i>			<i>W. S. McCullough.....</i>		
John Robinson.....	360 00		Henry W. Barr.....	900 00		H. A. Millett.....	1,200 00	
Henry Johnson.....	360 00		John C. Ninkler.....	900 00		V. V. Smith.....	1,200 00	
EMPLOYED BY ASSISTANT COMMISSIONER FOR ALABAMA.			John C. McMullen.....	900 00		J. L. Thorpe.....	1,200 00	
<i>Agents.</i>			Joel B. Smith.....	900 00		<i>Acting Assistant Surgeons.</i>		
O. D. Kinsman.....	2,100 00		Fielding Hurst.....	900 00		J. E. Bennett.....	1,200 00	
W. C. Arthur.....	2,100 00		J. J. Howay.....	900 00		J. C. Elliott.....	1,200 00	
C. W. Buckley.....	1,800 00		John L. Postern.....	900 00		B. G. Jennings.....	1,200 00	
Robert F. Smith.....	1,800 00		S. E. Griffith.....	600 00		J. M. Lewis.....	1,200 00	
William E. Connolly.....	1,800 00		<i>Acting Assistant Surgeons.</i>			A. Mitchell.....	1,200 00	
Samuel S. Gardner.....	1,800 00		Robert McNulty.....	1,200 00		Thomas Smith.....	1,200 00	
R. R. Forney.....	1,800 00		W. R. Tompkins.....	600 00		John Seay.....	1,200 00	
Henry H. Benton.....	1,500 00		<i>Clerks.</i>			<i>Clerks.</i>		
James F. McGogy.....	1,417 50		George L. White.....	1,500 00		M. J. Boyles.....	1,200 00	
John C. Hendrix.....	1,200 00		A. L. Dean.....	1,500 00		John Brooker.....	1,200 00	
Robert Blair.....	1,200 00		H. F. Roll.....	1,200 00		E. O. Chapman.....	1,200 00	
J. B. Healy.....	600 00		George W. Carlin.....	1,200 00		Daniel Coats.....	1,200 00	
M. M. Gilbraith.....	500 00		R. Papendick.....	1,200 00		S. J. Clark.....	1,200 00	
J. N. Greene.....	500 00		S. G. Comstock.....	1,200 00		M. J. G. Colby.....	900 00	
D. C. Turrenton.....	500 00		M. H. Minchin.....	1,200 00		H. C. De Wolf.....	360 00	
C. C. Sheets.....	500 00		Paul Hoffman.....	1,200 00		J. T. Daniel.....	1,200 00	
C. C. Gwin.....	500 00		O. M. Hamilton.....	1,200 00		Albert Feugier.....	1,200 00	
James Danforth.....	500 00		A. K. Whiteside.....	1,200 00		Arlow Farmin.....	1,200 00	
T. J. Mitchell.....	500 00		Mark Edwards.....	1,200 00		A. Glasshoff.....	1,200 00	
C. A. Tinga.....	500 00		Sid. S. Palmer.....	1,200 00		J. A. Hammersley.....	1,200 00	
W. C. Garrison.....	500 00		John Walker.....	1,200 00		C. J. Hols.....	1,200 00	
W. T. Pointer.....	500 00		Charles Simpson.....	900 00		Fred. Krull.....	840 00	
<i>Clerks.</i>			EMPLOYED BY ASSISTANT COMMISSIONER FOR MISSISSIPPI.			E. Montgomery.....	1,020 00	
John U. Wager.....	1,500 00		<i>Agents.</i>			T. L. Martin.....	600 00	
William H. Hammill.....	1,500 00		H. K. Pease.....	1,800 00		H. G. Murphy.....	1,200 00	
John P. Miller.....	1,200 00		Thaddeus H. Preuss.....	1,500 00		E. M. Main.....	900 00	
George Henry Patrick.....	1,200 00		J. P. Bardwell.....	1,200 00		Alfred Mitchell.....	1,200 00	
David R. Smith.....	1,200 00		Allen P. Higgins.....	1,200 00		W. A. Patterson.....	1,500 00	
Henry Booth.....	1,200 00		A. S. Alden.....	1,200 00		L. D. Pense.....	1,200 00	
John T. Sims.....	1,200 00		Theodore Wiseman.....	1,200 00		Fred. B. Pooler.....	1,200 00	
E. Morgan, Jr.....	1,200 00		Andrew Thomas.....	1,200 00		William K. Rosa.....	1,200 00	
J. W. Dimmick.....	1,200 00		William K. White.....	1,200 00		Alfred Tufts.....	1,200 00	
William R. Noble.....	1,200 00		Charles A. Sullivan.....	1,200 00		A. J. Thompson.....	1,500 00	
John H. Walker.....	1,200 00		W. H. Ross.....	1,200 00		W. Wittenburg.....	1,200 00	
Augustus Pope.....	1,200 00		Charles A. Shields.....	1,200 00		D. M. Webster.....	1,200 00	
Mark D. Brainard.....	1,200 00		R. V. Montague.....	1,200 00		S. B. Wiggins.....	900 00	
John W. Raines.....	1,200 00		Charles C. Walden.....	1,200 00		LOUISIANA.		
Frank M. Bigelow.....	1,200 00		M. J. Manning.....	1,200 00		<i>Agents.</i>		
Henry C. Claus.....	1,200 00		J. L. Roberts.....	1,200 00		W. B. Armstrong.....	2,400 00	
Charles C. Bartlett.....	1,200 00		D. S. Harriman.....	1,200 00		J. P. Boyd.....	1,000 00	
D. H. Sayers.....	1,200 00		D. C. McMichael.....	1,200 00		St. Clair Mandeville.....	1,500 00	
John Burns.....	1,200 00		M. Lothrop.....	1,200 00		E. S. Stoddard.....	1,200 00	
R. W. A. Welda.....	900 00		H. W. Barry.....	1,200 00		O. H. Hempstead.....	1,200 00	
Thomas O'Connor.....	900 00		Alpheus K. Long.....	1,200 00		John T. White.....	1,200 00	
Dallas B. Smith.....	900 00		J. R. Webster.....	1,200 00		A. Finch.....	1,200 00	
Robert W. O'Connor.....	900 00		Henry H. Service.....	1,200 00		L. Jolissaint.....	1,200 00	
EMPLOYED BY ASSISTANT COMMISSIONER OF KENTUCKY.			John Williams.....	1,200 00		E. Lindemann.....	1,200 00	
<i>Agents.</i>			Lewis J. O'Neill.....	1,200 00		A. N. Martagh.....	1,200 00	
H. C. Howard.....	1,800 00		C. T. Lawson.....	1,200 00		D. W. White.....	1,200 00	
A. W. Larrwill.....	1,500 00		C. L. C. Cass.....	1,200 00		Charles Miller.....	1,200 00	
C. J. Tine.....	1,500 00		A. Warner.....	1,200 00		C. C. Swenson.....	1,200 00	
James M. Fidler.....	1,200 00		<i>Clerks.</i>			E. J. Sullivan.....	1,200 00	
N. C. Lawrence.....	1,200 00		M. Kretschmar.....	1,500 00		William Bishop.....	1,200 00	
Samuel Martin.....	1,200 00		John Kennedy.....	1,500 00		C. P. Varney.....	1,200 00	
Charles D. Smith.....	1,200 00		Samuel Gozee.....	1,200 00		M. J. Lennon.....	1,200 00	
Thomas F. Cheaney.....	900 00		John Payne.....	1,200 00		E. A. Clover.....	1,200 00	
John J. Evans.....	900 00		L. P. Smith.....	1,200 00		E. Henderson.....	1,200 00	
John G. Nain.....	900 00		C. A. Nelson.....	1,200 00		Christian Rush.....	1,200 00	
P. S. Reeves.....	900 00		Hubert Finigan.....	1,200 00		J. J. Walsh.....	1,200 00	
J. W. Read.....	900 00		Frank Packard.....	1,200 00		E. W. Dewers.....	1,200 00	
Joel B. Ramsdell.....	900 00		Jesse C. Shepard.....	1,200 00		C. F. Holle.....	900 00	
Thomas J. Hardiman.....	720 00		George Hubbell.....	1,200 00		<i>Acting Assistant Surgeons.</i>		
Lewis Landrane.....	600 00		John A. Wilkings.....	1,200 00		David Mackay.....	1,200 00	
John K. Richards.....	600 00		Daniel W. Oliver.....	1,200 00		Samuel Angel.....	1,200 00	
Joshua H. Thomas.....	600 00		James Connor.....	1,200 00		W. H. Wiser.....	1,200 00	
<i>Clerks.</i>			James H. Pierce.....	1,200 00		William Cleary.....	1,200 00	
R. H. King.....	1,500 00		Richard R. Robbins.....	1,200 00		W. H. Grey.....	1,200 00	
P. J. Overley.....	1,500 00		Isaac Cope.....	1,200 00		W. B. Rohmer.....	1,200 00	
Warner P. Barnes.....	1,200 00		Albert Inge.....	1,200 00		George Dolg.....	1,200 00	
Edwin W. High.....	1,200 00		L. C. Gardner.....	1,200 00		William M. Miller.....	1,200 00	
H. W. Kohlase, Jr.....	1,200 00		<i>Laborers.</i>			W. H. Riley.....	1,200 00	
J. Walter Luston.....	1,200 00		Isaac Griffin.....	300 00		A. C. Taber.....	1,200 00	
L. A. Reynolds.....	1,200 00		Tom Naks.....	300 00		E. Alexander.....	1,200 00	
John W. Bowren.....	900 00		Robert Williams.....	300 00		<i>Clerks.</i>		
W. W. Coyle.....	900 00		William Denson.....	240 00		S. M. Budlong.....	1,500 00	
John W. Hogue.....	900 00		Charles Ateman.....	240 00		D. H. Buckley.....	1,200 00	
W. R. Montmollin.....	900 00		Washington Scott.....	240 00		George William Dewhurst.....	1,200 00	
Theodore Stanberry.....	900 00		James Wells.....	240 00		Oscar H. Rice.....	1,200 00	
James B. True.....	900 00		David Swan.....	180 00		E. O. Parker.....	1,200 00	
N. B. Thomasson.....	900 00		William Moore.....	180 00		F. W. Jones.....	1,200 00	
C. C. Watkins.....	900 00		Anthony Mitchell.....	180 00		W. W. Wharton.....	1,200 00	
William H. Graham.....	600 00		Cæsar Whitfield.....	180 00		J. H. Warner.....	1,200 00	
Joseph H. Johnson.....	600 00		William Cannon.....	120 00		W. T. Houston.....	1,500 00	
<i>Acting Assistant Surgeons.</i>			EMPLOYED IN THE STATE OF MISSOURI.			G. P. Davis.....	1,200 00	
R. A. Bell.....	1,200 00		<i>Agent.</i>			C. D. Sturtevant.....	1,200 00	
John A. Oesterlong.....	1,200 00		F. A. Seely.....	2,400 00		F. Mandeville.....	1,200 00	
Henry H. Ruger.....	900 00		<i>Clerk.</i>			George Renshaw.....	1,200 00	
William Forrester.....	900 00		John F. Campin.....	1,200 00		C. L. Ede.....	1,200 00	
R. T. Tuggle.....	720 00		ARKANSAS.			S. L. Mendez.....	1,200 00	
J. J. Temple.....	720 00		<i>Agents.</i>			C. A. Myers.....	1,200 00	
B. P. Drake.....	600 00		Henry Page.....	2,400 00		Isaac Statham.....	1,200 00	
Frederick Hassig.....	480 00		E. V. Densell.....	1,800 00		J. C. Tyler.....	1,200 00	
EMPLOYED BY ASSISTANT COMMISSIONER OF TENNESSEE.			William M. Colby.....	1,800 00		R. P. Kennon.....	900 00	
<i>Agents.</i>			E. K. Miller.....	1,200 00		Edward Luther.....	900 00	
George W. Marshal, disbursing officer.....	2,400 00		W. W. Granger.....	1,200 00		Rudolph Gebner.....	1,200 00	
Rev. D. Burt, sup't of education.....	1,800 00		E. G. Barker.....	1,200 00		James Berthaume.....	900 00	
J. B. Coone.....	1,200 00		G. W. S. Benson.....	1,200 00		M. Basso.....	900 00	
J. K. Nelson.....	1,200 00		J. W. Carhart.....	1,200 00		E. B. Birchhoff.....	900 00	
J. H. McQuiddy.....	1,200 00		N. Coats.....	1,200 00		Ray Carey.....	900 00	
H. A. Eastman.....	1,200 00		A. G. Cunningham.....	1,200 00		N. T. Kendall.....	1,200 00	
K. J. Sample.....	1,200 00		A. E. Habicht.....	1,200 00		A. A. C. Le Blanc.....	900 00	
Thomas J. Rice.....	1,200 00		William A. Inneau.....	1,200 00		R. J. O. Keefe.....	900 00	
James M. Johnson.....	1,200 00		Simpson Mason.....	1,200 00		Charles Owen.....	1,200 00	
			George W. Mallett.....	1,200 00		A. B. Peterson.....	900 00	
						E. Darling.....	1,200 00	
						A. L. Post.....	1,200 00	
						J. L. Douglass.....	900 00	
						John S. Shaw.....	900 00	

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The Public Expenditures, &c.—Mr. Boyer.

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TEXAS.
Agents.

John H. Archer.....	1,200 00
Benjamin Brown.....	1,200 00
Dewitt C. Brown.....	1,200 00
A. M. Bryant.....	1,200 00
James P. Butler.....	1,200 00
Hiram Clark.....	1,200 00
Charles E. Culver.....	1,200 00
John Dix.....	600 00
P. F. Duggan.....	1,200 00
Ira H. Evans.....	1,200 00
Edwin Finch.....	900 00
William Garretson.....	1,200 00
Hardin Hart.....	1,200 00
William H. Horton.....	1,200 00
Philip Howard.....	900 00
D. S. Hunsaker.....	1,200 00
Isaac Johnson.....	1,200 00
H. S. Johnson.....	720 00
W. G. Kirkman.....	1,200 00
Charles Long.....	1,200 00
A. H. Mayer.....	1,200 00
M. H. Goddin.....	1,200 00
J. H. Morrison.....	1,200 00
Byron Porter.....	-
J. L. Randall.....	1,000 00
F. W. Reinhard.....	1,200 00
William H. Rock.....	1,200 00
G. T. Ruby.....	1,200 00
Charles C. Stiles.....	1,200 00
F. B. Sturgis.....	1,200 00
E. M. Wheelock.....	1,200 00
W. R. Maxwell.....	1,800 00
W. H. Sinclair.....	-
Mathew Young.....	1,200 00

Clerks.

E. C. Bartholomew.....	1,500 00
Alexander Ferguson.....	1,200 00
James D. Miller.....	1,200 00
Max Mobins.....	1,200 00
J. M. Murch.....	1,200 00
Thomas H. Waldron.....	1,200 00
L. J. Warner.....	1,200 00
L. Greenleaf.....	900 00
E. M. Wheelock.....	1,200 00
E. M. Harris.....	1,200 00
James Lowrie.....	1,200 00

Seven hundred and seventeen.....\$815,731 94

This gives a total expenditure for salaries to the seven hundred and seventeen individuals named in the foregoing list of \$815,731 94.

SCHOOLS.

The bureau has established and sustained on a grand and costly scale a system of schools for the freedmen throughout the limits of its jurisdiction.

The following statement is taken from the Fifth Semi-annual Report on Schools for the Freedmen, by J. W. Alvord, General Superintendent, dated January 1, 1868:

"Grand total: schools of all kinds, 3,084; teachers, 6,492; pupils, 189,517.

"It will be seen from the above table that there are regularly reported 1,486 day or night schools, with 1,744 teachers, and 81,873 pupils; 772 Sabbath-schools, with 2,105 teachers, and 57,177 pupils; and 39 industrial schools, with 1,603 pupils.

"Twenty-five of the above are high or normal schools.

"There are also 'within the knowledge of the superintendents, but not regularly reported,' 389 day or night schools, with 458 teachers, and 18,589 pupils; and 283 Sabbath-schools, with 2,185 teachers, and 30,270 pupils. Schools of all kinds, 3,084; teachers, 6,492; pupils, 189,517."

Of the whole number of schools the superintendent reports only one thousand as sustained either in whole or in part by the freedmen themselves.

The superintendent states the expenditures of the bureau in this department for the last six months as follows:

"This bureau has expended for rents, repairs, and construction of school buildings during the last six months, \$361,205 48; and for other educational purposes during the same period, \$97,201 87; making a total of \$458,407 15.

"This amount includes the \$67,208 48, as reported by State superintendents.

"The whole amount expended for the support of the above schools by all parties during the last half year has been \$571,446 11.

Congress directly appropriated in 1866 and 1867 \$1,046,000 to the support of these schools. Large sums are raised in addition by local taxes. But the bureau has not been particular from what source the funds were derived, and in case of need the Army funds, as usual, afford the never-failing resource, as the following extract from the report of General Ful-

lerton, then assistant commissioner of the freedmen's bureau in Louisiana, will show:

"In Louisiana there are one hundred and forty-one schools for freedmen, and attending them are nineteen thousand scholars. These schools have been supported in whole by funds of the bureau. There are employed twelve directors, at a joint salary of \$1,225 per month; three special agents, at a joint salary of \$300 per month; five clerks, at a joint salary of \$470 per month; twenty principals, at a joint salary of \$1,350 per month; twenty-eight first assistants, at a joint salary of \$2,080 per month; thirty second assistants, at a joint salary of \$2,070 per month; eighty-nine primary teachers, at a joint salary of \$5,340 per month; city superintendents of New Orleans, at a joint salary of \$150 per month; one acting assistant superintendent, at a salary of \$100 per month; added to the above are two members of the board of examination, who received five dollars per day while on duty, and eight janitors, who receive, each, from ten to twenty-five dollars per month. There are also several officers connected with the schools who draw salaries as officers in the military service. The cost of conducting these schools is now between seventeen and twenty thousand dollars per month."

In order, though, to support the schools, which were at once inaugurated, there was advanced by the quartermaster's department from the 1st day of May, 1864, to the 30th day of September, 1865, \$237,699 20; of this sum, \$158,229 70 were funds raised by an assessment on the corps d'Afrique, cotton crops, &c., and \$79,469 50 were quartermaster's funds proper."

A school tax was assessed, and the assistant commissioner says further on:

"Forty-two thousand dollars of this tax had been collected, but none of this sum was set aside for the purpose of reimbursing the Government for advances made through the quartermaster's department. It was all paid out for freedmen's schools and other bureau accounts."—See House Executive Document No. 70, first session, Thirty-Ninth Congress.

TRANSPORTATION.

The transportation of freedmen and refugees and the stores belonging to the bureau, and of the large army of officers, soldiers, agents, clerks, teachers, and other employes in its service, all of which are moved about from place to place at the public expense, constitutes another heavy item of expense to the Government.

For the fiscal year ending June 30, 1868, Congress appropriated, by act of March 2, 1867, for this purpose alone \$800,000; and the previous year, by act of July 13, 1866, Congress appropriated for this purpose \$1,320,000; making for transportation alone in two years the sum of \$2,120,000.

RESUMÉ.

From the statistics already furnished it is readily perceived that the yearly cost of so vast an establishment as that of the Freedmen's Bureau must be very great. But no precise amount will ever, nor probably can ever be made out.

The only official estimate of the probable expenses for any one year approximating to any honest result is the estimate made by General Howard, the Commissioner of the Bureau, for the fiscal year from January 1, 1866, to January 1, 1867. His words and figures are as follows:

"It is estimated that the amount required for the expenditures of the bureau for the fiscal year commencing January, 1866, will be \$1,745,050. This sum is requisite for the following purposes:

Salaries of assistant and sub-assistant commissioners.....	\$147,500
Salaries of clerks.....	82,800
Stationery and printing.....	63,000
Quarters and fuel.....	15,900
Clothing for distribution.....	1,750,000
Commissary stores.....	4,106,250
Medical department.....	500,000
Transportation.....	1,980,000
School superintendents.....	21,000
Sites for school houses and asylums.....	3,000,000
Telegraphing.....	18,000

This estimate is, in some particulars, much under the actual cost, as appears from the statistics already stated. As, for example, in the item of salaries the estimate amounting to but \$280,300, and the actual amount paid in one year being \$815,731 94, without including the large item of pay for school teachers, hospital attendants, and the army officers paid by the Government.

But, as before stated, no accurate statement can be made of the actual cost to the nation

of the operations of the Freedmen's Bureau. The appropriations made by Congress afford but a small proportion of the necessary data. The War Department has ever been the unfailing source of all needful supplies for the bureau outside of direct appropriations of money by law, and the supplies so furnished being blended with the accounts of the Army elude calculation.

The Commissioner of the Freedmen's Bureau says in his report of December, 1865:

"From section two of the law establishing the bureau, specific authority is derived for issuing certain quartermaster's stores, such as clothing and fuel, for the destitute. These were furnished upon my requisition by the orders of the Secretary of War."

"During the war many officers of the quartermaster's department were detached as superintendents of freedmen, accounting through their chief to the Quartermaster General. These officers were, many of them, transferred to me with the public property they had on hand."

The second Freedmen's Bureau act of July 16, 1866, to continue in force the Freedmen's Bureau and passed over the President's veto continued the authority to the War Department to assign military officers and enlisted men to the service of the bureau, and authorizes the Secretary of War to issue "such medical stores and other supplies and transportation, and afford such medical or other aid as may be needful," &c. Under this authority what supplies besides those purchased out of specific appropriations went to the Freedmen's Bureau out of the Army stores of the United States, and were purposely and inextricably blended with the expenditures for Army purposes, probably not even the private memoranda of Edwin M. Stanton would disclose. But, although not charged to the bureau nor credited to the Government in the accounts of the bureau, they went to swell the sum total charged to the people for the maintenance of a great war establishment in a period of profound peace. If all could be ascertained, it would probably be discovered that the Freedmen's Bureau had been maintained at an annual cost to the nation of considerably over twelve million dollars.

BUREAU TO BE CONTINUED.

Congress has lately passed a bill to continue its existence. Whether it is to become a fixed establishment will probably depend upon the result of the next presidential election. But upon that election it is designed in at least ten States to exercise a controlling influence. Its ample treasury and its thousands of hired agents will doubtless be used to obtain the outward appearance of a sanction by the southern people of their own degradation at the polls. Disfranchisement, coercion, and fraud still needed the machinery of the Freedmen's Bureau to make them effectual. Whether, with this potent instrumentality negro rule can be perpetuated in the United States for the advantage of the Republican party will depend upon the recuperative energies, patriotism, and common sense of the American people, North as well as South.

FUNDS ACCUMULATED AND ON HAND.

Mr. ELIOT, the chairman of the Committee on Freedmen's Affairs, in his late report already referred to, states the balance of unexpended funds in the possession of the bureau, January 1, 1868, as \$7,071,925 05, under the following heads, namely:

Balance on hand, refugees and freedmen's fund.....	\$61,601 39
Balance appropriation fund.....	6,332,835 61
Balance retained bounty fund.....	35,107 48
Balance school fund.....	7,118 71
Balance pay, bounty, and prize-money fund.....	585,201 86

Total balance on hand January 1, 1868, \$7,071,925 07

From this it appears that notwithstanding the enormous cost of the various establishments connected with the Freedmen's Bureau, its operators have contrived so to use its resources during the administration of the War Department by Edwin M. Stanton as to be enabled to

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Issues of the Campaign—Mr. Blair.

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accumulate the sum of over \$7,000,000 for its purposes, whatever they may be, on the eye of the approaching presidential election!

CONCLUSION.

But I am admonished that I must conclude. I have dwelt at length only upon a portion of the extravagance of this Government, and chiefly upon that part which belongs to the reconstruction policy of the Republican party. I have not time to discuss its profligacy in other directions; nor have I dwelt upon the smaller matters, such as the profuse expenditures out of the contingent funds of the Senate and House; as, for example, the pay of a crowd of useless clerks, the expenses of partisan investigating committees, and especially the expenses of the impeachment proceedings through all their costly stages of injustice and failure.

I have not even noticed that unwise and unjust legislation by which Congress has created an aristocracy of Government bondholders, by exempting from taxation their investments, amounting to more than one fifth of the entire capital of the country. All these and other unwise, unjust, and extravagant acts of legislation have assisted to reduce the nation to its present condition of almost hopeless indebtedness, discredit, and oppressive and unequal taxation.

Issues of the Campaign.

SPEECH OF HON. AUSTIN BLAIR,
OF MICHIGAN,

IN THE HOUSE OF REPRESENTATIVES,

July 13, 1868.

The House being in Committee of the Whole on the state of the Union—

Mr. BLAIR said:

Mr. CHAIRMAN: We are about to return to the people and to submit our work to their final judgment. To this it always comes at last. It is a healthful process both for Representative and constituent. It tends to cleanse the political atmosphere, removes doubts, spreads information, silences clamors, and finally settles every thing. Political creeds are brought to the test of discussion, political charlatanism exposed, and the truth vindicated. Parties are tried and judgment is pronounced upon their pretensions by the tribunal from which there is no appeal.

The ballot-box is the only infallible test of truth in our system of free representative government, and whoever shall refuse to obey its decision is neither a patriotic citizen nor a trustworthy man. There has been but one notable instance in the history of the country in which such a refusal has been made, and the result of that appeal is not such as to encourage future attempts. If there are any now who threaten to renew that experiment I believe they will find occasion to reconsider the determination before it is entered upon. The very healthful character of an appeal to the people was well illustrated two years ago. Before that election we heard very much, as indeed we do now, of the usurpations of Congress and its gross tyranny over the rebel States.

It was said by the President that it was "a pretended Congress hanging on the verge of the Government," and the people were significantly told that the remedy rested with themselves. That remedy they applied so effectually as to awe into silence and acquiescence for the time being even that turbulent disturber. Let us not doubt that the decision of next November will be equally wise and patriotic, and its effect equally conclusive and pacifying.

The Republican party, sir, enters upon this campaign joyfully. It at least has nothing to fear, but everything to hope from it. Between it and the people there has been full confidence and accord from the beginning. Ever since

its organization in 1856 it has remained faithful to the principles of republican liberty upon which it was then founded, when it resolved—

"That the maintenance of the principles promulgated in the Declaration of Independence and embodied in the Federal Constitution is essential to the preservation of our republican institutions, and that the Federal Constitution, the rights of the States, and the Union of the States shall be preserved."

Standing upon this platform it fought through its first great national battle, and though its candidate did not reach the Presidency yet it triumphed in twelve States, and proved that its platform was of solid timber and its forces equal to victory in the next succeeding trial.

Confident, but obedient to the verdict of the people, the Republicans bided their time. Amid fierce denunciations and threats of dissolution and war they met again at Chicago, in May, 1860, to nominate candidates for the Presidency and Vice Presidency and to prepare for the great struggle which every one saw must result in victory. They repeated their resolve of 1856, as follows:

"Resolved, That the maintenance of the principles promulgated in the Declaration of Independence and embodied in the Federal Constitution, that all men are created equal; that they are endowed by the Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed, is essential to the preservation of our republican institutions, and that the Federal Constitution, the rights of the State, and the Union of the States must and shall be preserved."

Thus, having reaffirmed its cherished principles, and inviting the coöperation of all citizens agreeing substantially with them, they nominated Abraham Lincoln and Hannibal Hamlin for President and Vice President, and entered upon the contest as we do now, with assurance of success. The result could not fail. Our enemies were already demoralized, divided, distracted. We were overwhelmingly successful, and the Government passed into Republican hands.

The invincible power of the party consisted wholly in the soundness of its principles and its unwavering fidelity to them. It is preëminently a party of principles. It has never failed to inscribe upon its banners the sacred and time-honored political creed upon which the Government itself is founded. It has fought all its battles "on this line," and has never failed of substantial victory. Since it took possession of the Government in 1861 the Republican party has been tried as no party in this country was ever tried before. It found the Union practically dissolved and eleven States in armed rebellion for the total overthrow of the national Government. Doubt and dismay were everywhere. The Treasury was empty, the Army betrayed, and the Navy scattered abroad.

It is not necessary to repeat the history of the four years that followed. Their record is written on the hearts of the people of this country by the untold agonies they suffered, and all the sophistries of a corrupt and unpatriotic Democracy can never obliterate it. The tall form of our great President, the wise, patriotic statesman and honest man, who guided us through the terrible four years of calamity and war, is still visible to our people. The grand achievements of our armies, which have given us a history, are not forgotten. The great events which have attended the struggle must pass out of men's minds before it will do to charge the Republican party with unfaithfulness either to its principles or to the country.

Let its record be inspected by the people, and then let the decision be pronounced for or against it. What has it done? or rather, what has it not done for the country in the eight years it has held the administration? It found secession bold, defiant, and triumphant, in possession of half the Union, and it has grappled with and crushed it. It encountered a powerful rebellion, organized, consolidated and equipped during a Democratic Administra-

tion and without resistance, and it has organized armies, constructed navies, and found the means to supply, equip, and support them, and it has cut in pieces the rebel power with the edge of the sword. In the midst of the great struggle it laid its heavy hand upon that gigantic system of force and fraud which from the foundation of the Government held one half the Union in the grasp of a despotism more blighting and cruel than that of Turkey, while it ruled the other half in its interests through the cohesive power of the public plunder, and it has perished miserably. The infamous pretension that one man may order another; the impious claim that one man may, without offense to the Creator, brutalize another, has gone to its own place, and the political atmosphere is cleared of the stench of its offensiveness forever. The sum of all the villainies, laid bare by the avenging sword of patriotism, is seen at last by the awakened conscience of the nation in all its hideous proportions, and the good and great unite together to bury it out of sight. So great a malefactor never died on any gibbet before.

If the Republican party had no other title to the confidence and gratitude of the country it might safely stand upon this and challenge a comparison with any. Having accomplished these great results it has devoted itself energetically and faithfully to the restoration of the revolted States in accordance with the settled principles of the party which have been deliberately and repeatedly approved by the people. That this restoration has not already been completed in all those States is to be attributed not to us but to our enemies. Steadfastly and resolutely has a Republican Congress pursued its just and righteous policy of reconstruction against obstacles and discouragements of no ordinary character. Embarrassed by judicial stupidity, delayed and hindered by the most stupendous presidential treachery that ever disgraced the annals of politics, the States have nevertheless all been restored to the Union with loyal governments with the exception of Virginia, Mississippi, and Texas, and it is not to be doubted that these will soon follow.

And now the National Republican party of the United States, congratulating the country "upon the assured success of the reconstruction projects of Congress," guarantying equal suffrage to all loyal men at the South, declaring that—

"We denounce all forms of repudiation as a national crime, and national honor requires the payment of the public indebtedness in the utmost good faith to all creditors, at home and abroad, not only according to the letter but the spirit of the laws under which it was contracted. That it is due to the labor of the nation that taxation should be equalized and reduced as rapidly as the national faith will permit. That the national debt, contracted as it has been for the preservation of the Union for all time to come, should be extended over a fair period for redemption; and it is the duty of Congress to reduce the rate of interest thereon whenever it can possibly be done. That the best policy to diminish our burden of debt is to so improve our credit that capitalists will seek to loan us money at lower rates of interest than we now pay, and must continue to pay so long as repudiation, partial or total, open or covert, is threatened or suspected. That the Government of the United States should be administered with the strictest economy, and the corruptions which have been so shamefully nursed and fostered by Andrew Johnson call loudly for Radical reform!"

comes before the people of the country who have so patriotically and earnestly supported it in all previous trials, and asks the support of their honest ballots.

We meet at the outset in this contest our old adversary, the Democratic party. It is the same enemy with which we have had to contend from the first. We are no strangers to its tactics, and shall not be misled by its false lights. If we speak severely of it it is because it deserves severity. Its very name is a fraud, its platform a delusion, and its pretended reverence for the Constitution and the Union a transparent cheat. Professing confidence "in the intelligence and discriminating justice of the people," it makes its appeals solely to

ignorance and vulgar hatreds, and its only hope of success at this time is in exciting the hostility of the different classes and races of our people against each other. No absurdity is too great for it, and no deception too profound for it to undertake. It perverts the language we speak when, with hypocritical inconsistency, it calls emancipation tyranny and universal suffrage a denial of rights. It was the responsible author of secession, and still remains the unwavering patron of rebellion. I know that gentlemen here feel called upon constantly and indignantly to deny this, but it is nevertheless perfectly true. To prove this conclusively it is only necessary to refer very briefly to the past platforms and history of the party.

The platform of 1856, adopted at Cincinnati, upon which Mr. Buchanan was nominated and elected, contained plainly the whole creed of secession. After denouncing slavery agitation as an unconstitutional interference with the rights of the South, "having a direct tendency to endanger the stability and permanency of the Union," it proceeds to resolve—

"That the Democratic party will faithfully abide by and uphold the principles laid down in the Kentucky and Virginia resolutions of 1797 and 1798, and in the report of Mr. Madison to the Virginia Legislature in 1799—that it adopts these principles as containing one of the main foundations of its political creed, and is resolved to carry them out in their obvious meaning and import."

The party here binds itself to those celebrated resolutions of Kentucky and Virginia of 1797 and 1798. I have not those resolutions before me now, but they are familiar I suppose to every member of this House. They are the foundation upon which all the theories of secession have been built. They were not recited in the platform of 1856 at Cincinnati, simply because it was not thought best to recite them in the hearing of the people of the country, but the politicians well understood their import; they affirm substantially that whenever any question arises as to whether the Constitution of the United States has been infringed against the rights of a State, the sole judge of the infringement is the State itself, and that if the State shall so judge, then she is also sole judge of the mode and manner of redress.

Now, sir, I ask if this is not the whole theory of secession; if it does not include the whole body of those vicious ideas upon which for a great many years the party of secession, which finally went into rebellion, was based in the South? If I am not mistaken in this, and I think no candid man will say that I am, it is correct to say that the Democratic party had made itself the party of secession in this country, and that from step to step for many years it had been approaching this result; that it finally affirmed in its platform the doctrine which was made the pretext, if it were not the cause of the secession of the southern States. And as the contest proceeded after the election of 1860, and the choice of Mr. Lincoln to the Presidency, and when secession commenced and Mr. Buchanan was still President of the United States, his conduct was in strict accordance with this idea of the platform. When the question was raised as to whether the power of the Union should be used to put down a revolt, that Democratic President said to the country that he found in the Constitution no power to coerce a State. Sir, that was not simply the assertion of Mr. Buchanan. It was the assertion of the principles which lay at the foundation of the platform.

It was the assertion of that upon which he had been chosen and upon which he had accepted the nomination. It was the logical consequence and deduction from the platform itself. He was in strict accord with it. The Republican party was stigmatized throughout the entire contest as an abolition disunion party. We were told all the while during that canvass that if we succeeded it would break

up the Union; that interference with the question of slavery was an infringement of the rights of the South. The contest was waged upon that principle; and I repeat that when Mr. Buchanan came finally to make the declaration he did he made it in strict accordance with the platform upon which he stood. Then I say that so far as any principles lay at the bottom of this rebellion it was the Democratic party that was responsible for it. The Republican party was the foe of the movement from the first, and it is so now.

Subsequent to that time the Republican party having taken the Administration of the Government went loyally about the defense of the country in the great emergency in which it was placed. The time for theories had gone by and it was necessary to resort to deeds. Words could no longer settle the question. Finally we stood face to face with the great issue which had been growing upon us for a series of years. It was no longer to be blinked or compromised, but it must be settled. The people of the country had it in their hands. With a foresight which they are apt to possess in cases like this, they had seen that the issue was likely to arrive, and they were prepared for it. They had brought into power a party in whom they had confidence to carry on this contest. They intended no infringement upon the rights of any, but they intended to preserve the country, and to give to their children after them the Government which our fathers had framed for us. It was a patriotic party. It was a party of principles, as I have said before. It had looked this question in the face, and was ready to act upon it. It did act. It took up the question in the spirit with which it was required to be handled. It went on to raise armies to construct and equip navies, and to raise the money to carry on the great war in which it found itself involved. It undertook to meet, to trample under foot, and to crush out forever, both secession and rebellion in this land.

Now, sir, I do not stop here to go over the ground of all this long contest. I only wish to refer to two or three things in connection with it. During this entire contest in which the country was engaged in this struggle for its life, to whom did the people of the country look for success? Upon whom did they rely to carry this contest to a successful issue? Did they look to the Democratic party for it? Did they expect that the party that had made this platform at Cincinnati in 1856, and elected James Buchanan to the Presidency of the United States, would carry the contest to a successful issue? Did they trust it in any instance to the extent of a single musket? Never, sir; from the first they trusted the Republican party alone.

Now, sir, in saying this I am not saying that every Democrat failed his country or was treacherous to his country, for that would be far from the truth. But I am saying, and attempting to maintain, that the party as a party was not loyal to the country, and that it proved it upon every occasion when the question arose.

The country has not forgotten, and it never will be forgotten, how, in the midst of the great struggle, in 1864, when our forces seemed to stand still, when the whole nation was looking on almost breathless, while Sherman was before Atlanta and Grant was marching on Richmond, that this Democratic party met at Chicago, under the presidency of Horatio Seymour, who is now its standard-bearer in this contest, and proclaimed to the country that the war was a failure, and demanded that it should be given up, and that peace should be made "by a convention of the States or other peaceable means." The country had never trusted them in this great struggle, and they proved at that time that it had done right well that it had never trusted them. There is very much beside this which I have not time to repeat. But all

along, from the beginning of the war up to that time, when they declared it a failure, the country remembers well how they stigmatized the war; how they sneered at those engaged in it; how they declared that it was an "Abolition war;" how they turned up their aristocratic noses and said it was a "nigger war;" and how some of their chieftains declared they would not fight in such a war and threw up their commissions and laid down their arms. The country has not forgotten and will not forget all these things. I do not need to repeat them. What I have to deal with more particularly here to-night is, the issue that we have to meet at this hour. To-day the two parties are again face to face before the country. The Republican party finds in its place again, as it always has, its old adversary. It renews again the battle of 1856 and the battle of 1860 and the battle of 1864. I warn the people of the country that it is the same party that proclaimed secession in 1856. It is the same party that it was when it blew up at Charleston in 1860. It is the same enemy that it was when it went to Chicago in 1864 and declared the war a failure, and cast contumely and reproach upon every soldier of the Union. It is the same party that bolstered up slavery and opposed emancipation, and that has given its voice and its power, ever since it had any power in this land, in behalf of all oppression as against all liberty.

But I am not in the least afraid that the people of the country will forget this. I know very well that we are assailed with a storm of unmeaning denunciations. They talk to us interminably about usurpations and all that sort of thing. But, sir, we bring them—and they shall hear it over and over again in this contest—back to the old issues where we met them at first. We shall show to the people of the country that we strike the same blows that we struck before; and that they ring on the same anvil upon which we smote them to pieces in our previous contests.

This Democratic party, as it delights to call itself, delighting always to wrest words from their proper legitimate meaning, perverts the very mother tongue that we speak. It calls itself Democratic, while it has long been the chief opponent of all true Democracy in this country.

This party met again lately in national convention in the city of New York. It had in that great city for auditors the "dead rabbits" and the asylum burners they had affiliated with in 1863; fit audience for the men assembled there. And there gathered together the members of both wings of that party. Wade Hampton and his fellow rebels of the Confederate armies, whose hands are yet red with the blood of Union soldiers, came up there and clasped hands with the sympathizers with their cause in the North. This they did for the first time in eight years. For eight long years these sympathizing brethren have been kept apart by the clash of arms, by the roar of artillery, and by the shock of contending armies.

Many times during that long contest we heard the sympathizers with rebellion, like Vallandigham and Horatio Seymour, on this side of the line expressing their sadness that they were not able to reach out their hands and clasp their brethren in the South. They blamed us grievously that they were not able to do so. But their prayers and their petitions the Union soldiers tossed away on the points of their bayonets, while those of the South in real earnest struck them with their bloody swords, and would have none of them. But the time finally arrived when they could meet again lovingly and ardently, as they did recently in New York. On that platform Wade Hampton and John A. McClelland shook hands together. Belmont and the butcher of Fort Pillow embraced each other, and the whole convention went off in loud acclaim over the loving spectacle.

HO. OF REPS.

Issues of the Campaign—Mr. Blair.

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Well, sir, not to stop too long upon the character of this convention, composed of the rebels on the one side and their sympathizing friends upon the other; I come now especially to consider the platform which they have submitted to the people of the country. I can hardly blame them that in setting forth this platform they have found it necessary to gloss over a great many things and to talk almost altogether in generalities. They have not said much distinctly and plainly, because it was impossible that they should safely do so. If they had spoken out, as they had done in 1856, the real principle which underlie their organization, it would have destroyed all hope of their success in this contest.

In adopting their platform they have started out with the assertion that the Democratic party puts "its trust in the intelligence and discriminating justice of the people of the United States." I am glad to observe that this is copied from the Buchanan platform of 1856. They put "their trust in the intelligence and discriminating justice of the American people;" they, whose sole hope of success in this contest is in arraying one class of our people against another; in exciting to war and bloodshed one race against another; they, who say to those who do not hold bonds—rob and strike down the bondholder; that they who do not have to pay taxes shall fight against those who do; that they who are white shall make it their principal business to put down and crush those who are not white. Yet they have the hardihood to talk to us of the discriminating justice to which they appeal.

And then they assert that they take their stand upon the Constitution of the United States and they hold it to be the only true foundation and limitation of the powers of the Government of the United States. And this from Wade Hampton, this from Forrest, this from the whole gang of unrepentant rebels at the South! They take their stand upon the Constitution of the United States! Having failed to break it in pieces, having baptized it in the blood of half a million of men in their attempt to destroy it utterly, these men come mouthing before the people of the United States, and tell them that they take their stand upon the Constitution of the United States! Why, sir, could impudence go any further than this! Is it possible to surpass it? I leave any man of sense to judge of the sincerity with which that declaration is made.

And then, sir, their next demand is for the immediate restoration of all the States to all their rights in the Union. Why, sir, these gentlemen are not satisfied to take their stand upon the Constitution of the United States, and to hold it to be "the sole measure of the powers of Government and the limit of those powers," but they are in hot haste to bring back all the States to the enjoyment of all their rights. How long, sir, is it since these gentlemen wished to do that? When was Forrest converted to the Constitution of the United States and to this very ardent affection for the Union, and this earnest desire for the immediate return of Mississippi to all her rights? How long, I ask, is it since they have been affected in this wise? And what hinders them from returning? What hinders the restoration of all these gentlemen to their former rights? Sir, you cannot find it out in this gingerly-drawn platform. If you read this platform all through carefully you shall not know that there has been any rebellion in the United States. No, sir; you cannot find out from the first letter to the last (and there are a great many of them) that there has been any rebellion in the United States. It is said just toward the close of the long stump-speech with which the platform concludes that our soldiers—and this is said very meekly—that our soldiers and sailors ought to be remembered for gaining "a victory over a most determined and gallant foe." Our soldiers and sailors are simply named as "sol-

diers and sailors;" but the rebels who undertook to destroy them are called "a most determined and gallant foe." Why, does not everybody know that this man, Wade Hampton, was the very pride of that convention in New York?

Their first object, then, as I have said, is to get back into the Union with all their rights; and they are entitled of course to all rights. There having been no rebellion, according to this platform, they are subject to no disabilities; but we are gross tyrants, we of the Republican party, because we do not run after them as the father did after the prodigal son, and, while their hands are yet red, clasp them in our arms and pardon them for all they have done.

Their first request, then, is to come back. Their second is for an "amnesty for all political offenses." "Pardon the men who butchered the prisoners at Fort Pillow," says this Democratic party. Pardon the wretches who made the prison pens at the South and starved to death your loyal Union soldiers, who would die rather than enlist under the rebel flag, and did it by the thousand. What a pity, Mr. Chairman, that we could not dig up out of their graves Booth and Wirz, in order that, when all political offenses are pardoned in the United States, these two special saints of the Democracy might also be pardoned! And then Jefferson Davis, waiting over yonder, hears this sweet and loving call from New York for the pardon of "all political offenses." He shall come back again to sit in the Senate. They have beaten the new constitution, it is said, in Mississippi. They are fighting for the original stamping ground of rebellion and secession. They have got Davis in training for the Senate of the United States. It is fair to say that these Democrats intend to bring him back, to pardon every offense, to strike down the fourteenth amendment, to put laurels on the brow of Davis and seat him again in the high places of the nation. If they do not, then I do not know what means this second claim here. They wish to pardon all political offenses. How will the gallant Union soldiers receive this demand?

Then having disposed of these things, having gotten themselves upon the Constitution, having gotten themselves back handsomely into the Union with pardon of all political offenses, rebels are as good and better than loyal men in the country. Then, Mr. Chairman, they are ready to deal with the public debt. That is the next thing which stands in their way. That they are going to pay as quickly as possible. This is the resolution:

"Third. The payment of the public debt of the United States as rapidly as practicable, all money drawn from the people by taxation, except so much as is requisite for the necessities of the Government, economically administered, being honestly applied to such payment, and when the obligations of the Government do not expressly state upon their face, or the law under which they were issued does not provide that they shall be paid in coin, that they ought, in right and in justice, to be paid in the lawful money of the United States. [Thunders of applause.]"

It was adopted with thunders of applause. What was the occasion of these thunders? The party has been converted to the new dispensation of "lawful money," which it seems is something infinitely to be preferred to actual money. It is a cheap and easy way, they think, of getting rid of a very troublesome subject. In a word, they will pay off the debt in "greenbacks."

Now, sir, I repeat the question which we have been putting to them sincerely and earnestly all along. Gentlemen, when you have paid off the public debt in greenbacks, what do you intend to do with the greenbacks? That is the important question, and to that question your platform furnishes no answer. Will you redeem them in money or will you sweep them out of the way as unconstitutional trash, and thus repudiate the debt altogether? The people have charged you with the latter purpose

and you have not denied it. As you were found untrustworthy in the great war out of which the debt grew, we believe you are not to be trusted now with the redemption of it, in which the national honor is concerned. The rebels that came to New York do not mean to pay the debt at all in any form. It was made in subduing them and they hate it.

Their fifth resolution is as follows:

"Fifth. One currency for the Government and the people, the laborer and the office holder, the pensioner and the soldier, the producer and the bondholder."

Granted—I find no fault with it—that there shall be the same kind of money for the bondholder, the soldier, the pensioner, and for every citizen. But what kind of money shall that be? Shall it be worthless, useless money for everybody, or shall it be equal to gold and silver? That is the issue between them and us. That is the issue between the Democratic party and the Republican party. The Republican party intends that there shall be the same dollar to pay the debt and for the use of every citizen, and it means it shall be an actual dollar. The Democratic party declares it shall have the same dollar for everybody, but it means it shall be a worthless paper dollar unless I misunderstand it. Then comes taxation. It says taxation shall be made equal, that it shall be lessened, and all that sort of thing; precisely what every one says. It proposes no distinct plan. It does not tell us what it will do. Those who wish to take that promise are at liberty to do it. I will not, and neither will my people. We will try them awhile before we trust them again with the great interests of the country.

Now, sir, this is substantially the platform. As I have said before, there is a long, tedious stump speech at the end of it. That stump speech arraigns the Radical party. It has been arraigning the Republican party ever since that party had a beginning, and it will keep on arraigning it so long as the Democratic party has an existence. We have been arraigned and tried and condemned so constantly that we have got used to it. It does not affect us particularly. In fact, I have the idea that the more this party clamors at us, the more it accuses us of all sorts of usurpation, the better the people like us and the more they vote for us, at least that has been the effect so far. I do not imagine they are about to change. But, sir, after adopting a platform this party nominated for itself candidates, and in order that everything should be in perfect keeping they got a candidate for the Presidency who, if he was particularly noted for anything, it was for having contradicted all the financial theories which the party had put forth in its platform. They had a greenback platform, and so they took a gold-paying candidate. They intend, I suppose, to repeat what they did so beautifully many years ago when in the State of Pennsylvania they preached "Polk and Dallas, and the tariff of 1842." When they come now to the people, as they find men who want to get rid of the payment of the public debt in gold, they will say, "My good fellow, do you want to be rid of your burden of public debt? Look at our platform. There it is. We will pay it off with the printing press." And when they get among the bondholders in the East, August Belmont and the rest of them, and they are asked what they are going to do about these bonds, they will answer, "Look at our candidate; hear what Horatio Seymour says. We had, to be sure, to throw this 'tab to the whale' in our platform, but you know Horatio is a bondholder himself, and likes the ring of the yellow metal in his own pocket. You can trust him, though the platform does seem a little awry on that question."

Compare, now, the magnanimous position of the Republican party on this subject. What it means to do will be found plainly set forth in the platform of the convention at Chicago.

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It means honest performance of an honorable obligation; it means to keep its promise in the letter and spirit in which it was made. It tells the country that it will go down with its flag flying at the masthead before it will yield a single iota of that which it has proclaimed as the honest duty of the country; it will pay the debt as we agreed to pay it. I think it will be a very pleasant task to meet the people on these platforms and to compare them. Mr. Seymour, as I said, is a very fit nominee for his party. They would gladly have won the soldiers' votes, but they could not nominate a soldier, because their whole record was against the soldiers and they have too many soldier-haters in their ranks. They did not like to nominate a man who was an open copperhead—though Seymour is very nearly that—because there were honest, soldierly Democrats in their ranks who could not vote for such a man. Therefore they made a sort of compromise, and nominated Horatio Seymour, a smooth, plausible gentleman, well informed in public affairs, who makes the promise strong to the ear but breaks it to the hope; a gentleman who is almost always uppermost in the business of his party, and yet who does not commit himself too far; who knows the whole theory of Democratic politics from first to last, a man who has done nothing in particular for his country, and who they hope to make the people believe has done nothing very particular against it.

I shall not detain the House long in commenting upon the Democratic candidate for President, but I will refer to two or three of his sayings during the war, which will show the principles upon which he acted. In January, 1861, he addressed the celebrated Tweddie Hall convention at Albany, and after arguing that we should have to fight a united South, and that therefore success was impossible, he declared that "successful coercion by the North was no less revolutionary than successful secession by the South;" a principle in strict accordance with the platform at Cincinnati, as I have been attempting to show in this discussion. In October, 1861, he declared in a public speech in Merchants' Hall, at Utica, that "if it is true that slavery must be abolished to save the Union, then the people of the South should be allowed to withdraw themselves from the Government, which cannot give them guarantees by its terms." Here again he maintained the right of secession, for he said "if you cannot maintain the slavery of the South it is your duty to allow the South to withdraw;" and this he said after the war had begun. Again, in 1863 he wrote a letter to the Democratic State committee of Connecticut earnestly urging the election as Governor of that State of Thomas H. Seymour, an undisguised southern sympathizer. He says:

"I feel an intense interest in the result of the election in Connecticut. I have known Thomas H. Seymour from his youth up, and I know that a more patriotic and honest man does not live."

Mr. Thomas H. Seymour was the head and front of the opposition to the war in Connecticut, as the country well knows. On the 16th of May, 1863, he addressed a letter to a Vandalism meeting in Albany, from which I make the following extract:

"Having given it (the Administration) a generous support in the conduct of the war, we now pause to see what sort of a Government it is for which we are asked to pour out our blood and our treasure."

On July 13, 1863, the roughs of New York gave practical force to Governor Seymour's denunciations of the draft, and commenced the terrible riots that are so well remembered. On July 14, Governor Seymour addressed the mob from the City Hall steps, and said:

"My FRIENDS: I have come down here from the quiet of the country to see what was the difficulty; to learn what all this trouble was concerning the draft. Let me assure you that I am your friend. You have been my friends, and now I assure you, my fellow-citizens, that I am here to show you a

test of my friendship. I wish to inform you that I have sent my adjutant general to Washington to confer with the authorities there and to have this draft suspended and stopped."

That was the aid he was giving the country in its hour of trial when a draft had been ordered and was about to be put in motion in New York. He had nothing then to say for the country but to make such a speech as that. "My friends," said he to the blood-stained ruffians who had been burning houses in the city, robbing the people, and murdering and burning the innocents there. I add only an extract from the Cooper Institute speech showing his financial views, as follows:

"If we debase the currency by unwise issues of greenbacks we shall equally perplex business and destroy sober industry, and make all prices matters of gambling tricks and chances. This will end as it did in the southern confederacy. At the outset the citizens of Richmond went to market with their money in their vest pockets and brought back their diners in their baskets: in the end they took their money in their baskets, and took home their dinners in their vest pockets."

Nor have I time to stop but a single instant upon the record of the gentleman who was nominated for the Vice Presidency of the United States by that convention. His letter to Mr. Broadhead fixes his position beyond all chance of mistake. It is as follows:

WASHINGTON, June 30, 1868.

DEAR COLONEL: In reply to your inquiries I beg leave to say that I leave to you to determine, on consultation with my friends from Missouri, whether my name shall be presented to the Democratic convention, and to submit the following, as what I consider the real and only issue in this contest.

The reconstruction policy of the Radicals will be complete before the next election; the States long excluded will have been admitted; negro suffrage established and the carpet-baggers installed in their seats in both branches of Congress. There is no possibility of changing the political character of the Senate, even if the Democrats should elect their President and a majority of the popular branch of Congress. We cannot, therefore, undo the Radical plan of reconstruction by congressional action; the Senate will continue a bar to its repeal. Must we submit to it? How can it be overthrown? It can only be overthrown by the authority of the Executive who is sworn to maintain the Constitution, and who will fail to do his duty if he allows the Constitution to perish under a series of congressional enactments which are in palpable violation of its fundamental principles.

If the President elected by the Democracy enforces or permits others to enforce these reconstruction acts, the Radicals by the accession of twenty spurious Senators and fifty Representatives will control both branches of Congress, and his administration will be as powerless as the present one of Mr. Johnson.

There is but one way to restore the Government and the Constitution, and that is for the President-elect to declare these acts null and void, compel the Army to undo its usurpations at the South, disperse the carpet-bag State governments, allow the white people to reorganize their own governments, and elect Senators and Representatives. The House of Representatives will contain a majority of Democrats from the North, and they will admit the Representatives elected by the white people of the South, and with the cooperation of the President it will not be difficult to compel the Senate to submit once more to the obligations of the Constitution. It will not be able to withstand the public judgment, if distinctly invoked and clearly expressed on this fundamental issue, and it is the sure way to avoid all future strife to put the issue plainly to the country.

I repeat that this is the real and only question which we should allow to control us: shall we submit to the usurpations by which the Government has been overthrown, or shall we exert ourselves for its full and complete restoration? It is idle to talk of bonds, greenbacks, gold, the public faith, and the public credit. What can a Democratic President do in regard to any of these with a Congress in both branches controlled by the carpet-baggers and their allies? He will be powerless to stop the supplies by which idle negroes are organized into political clubs, by which an army is maintained to protect these vagabonds in their outrages upon the ballot. These, and things like these, eat up the revenues and resources of the Government and destroy its credit—make the difference between gold and greenbacks. We must restore the Constitution before we can restore the finances, and to do this we must have a President who will execute the will of the people by trampling into dust the usurpation of Congress, known as the reconstruction acts. I wish to stand before the convention upon this issue, but it is one which embraces everything else that is of value in its large and comprehensive results. It is the one thing that includes all that is worth a contest, and without it there is nothing that gives dignity, honor, or value to the struggle.

Your friend,
Colonel JAMES O. BROADHEAD.

It is not the letter, bad as it is, that has so

much significance as the act of the convention in nominating General Blair after he had written it. They knew what it contained, and by his nomination after he had written that letter the convention has indorsed the terms of the letter, and stands before the country bound by it as part of its platform. I may add that there are words toward the close of the platform very similar in language to the letter itself. They declare that the reconstruction acts of Congress are usurpations, unconstitutional, revolutionary, and void, thus inciting their people to violent resistance of these acts. That is just what General Blair proposes. He is not satisfied with the one war we have had. He is not willing to obey the laws made by the law-making power. He proposes to have a President who shall compel the States that have come into the Union under the laws of Congress to go again out of the Union, and who will drive them out and set up in their places the bastard governments, the slave-holding governments established by Andrew Johnson in the South, or some other sort of government that will suit him better. To elect the Republican candidate, then, is to secure peace in the country. To elect the Democratic candidate is to open the whole contest and to renew the war.

Now, I have but a brief word or two more, and that upon the subject of the candidates which the Republican party has presented before the people of this country. I need not dwell long upon this part of the subject, for those candidates are not unknown to the people of the United States. Admonished by experience great attention was paid to the second office. Andrew Johnson has taught us how fatal an error it is to put into the Vice Presidency a man who has not been thoroughly tried and proved. But for the unparalleled treachery of Johnson reconstruction would have been completed long since and the spectacle of sickening corruptions now seen in public office would have been spared us. The assassination of Mr. Lincoln let loose upon the country such a brood of unclean beasts as was never witnessed before in our country, if it ever was in any other. The people have tried a constitutional remedy in the impeachment, but it has proved illusory, and all must bear with what patience we can this great debauchery until it can be corrected at the elections. In SCHUYLER COLFAX the people will recognize a man long tried in public affairs, of great abilities, unimpeached fidelity, and spotless reputation. We present him as a candidate of eminent qualifications for the office, who has been with us and of us from the formation of the party. He has never betrayed any trust nor failed to meet the full responsibilities of any position he has held. The interests and honor of the country will be safe in his hands.

The candidate we present for the Presidency of the United States is the nominee of the people themselves. The convention at Chicago went there to ratify the nomination; they never made it. Long before the convention assembled the common voice of the loyal people of the country had pointed out who the candidate was to be. They had followed him through four years of agony and blood. They had seen his loyal sword waving at the front of the hosts of the Union in battle, and they had never seen it sheathed before the enemy. They had known him as a man not of many words, but a man of very great deeds. They had seen him tried as no soldier in the country had ever been tried, and they had found him equal to every emergency. They had heard him scoffed at by enemies and doubted by friends. But when the outcome was reached he was always victorious.

There is victory in the very name of Grant. The air rings with it wherever he goes, as it did throughout the long four years' contest. But, say these Democrats, "Oh, he is not so much

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of a man after all! Very strange and extraordinary circumstances have put him into high position." For once it seems that according to these people lightning got into the habit of striking exactly in the same place all the time for four years, and it flashed brighter and brighter with every clap of thunder that came from the battle-fields of the Union. I said that the people of this country know this man; they know they can trust him; he has proved it on most of the great battle-fields of the war; and he has proved it since. In every position he has ever held he has shown himself steadfast, thorough, honest, and faithful. Modest he is, too, as greatness always is. Grant has never blown his own trumpet on any street in this broad land; that is not his fashion.

A deep thinker, a hard worker, and a harder striker, he has been found equal to the work which was given him to do. And when the people began to look about over this country, and to consider who it was that should complete the great work that the armies of the Union had begun, who it was who should lead them in peace as they had been led in war to victory, who it was who should garner in for them the great crop they had planted, and which was ready for the reaper, the finger of every loyal man in the country pointed out Ulysses S. Grant.

The loyal people of the United States intend to have no more war; they mean that this shall be the end of it. They mean to make sure what the Democratic party says in the beginning of its platform, that secession and slavery have been settled for all time by the events of the last eight years. Ay, indeed, they have been settled, provided the loyal and patriotic party which has settled it thus far can have the control of the country in the settlement of the future. If Ulysses S. Grant is elected to the Presidency, and I believe he will be as confidently as I believe in my existence, all that has been won shall be saved, and nothing lost.

I repeat, the election of our ticket is the final success of the principles established by the war. It is the only fit and consistent closing of the great struggle by a just and peaceful reconstruction.

"Let us have peace;" and to that end let us have Grant.

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SPEECH OF HON. T. WILLIAMS,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

July 7, 1868.

On additional articles presented to the House for the impeachment of Andrew Johnson, President of the United States.

Mr. WILLIAMS, of Pennsylvania. Before proceeding to state the reasons which have prompted me to submit the additional charges against the President which have just been read, it is proper, in view of my relation to this House as one of its managers, as well as to my associates themselves, that I should say in advance of what I may have to offer in their support, that what I now do is on my own responsibility alone, though not, of course, without such notice to them as a proper respect for their opinions required me to give. A majority of them did not agree with me as to the wisdom of their exhibition at the present stage of the proceedings. It is not for me to state the reason of their dissent. I may be pardoned, however, for suggesting, in the way of protest only against any different conclusion, that it was not, I think, on the ground that the matters involved were either not impeachable or not true, but rather because they were of the opinion that if the President could not be convicted upon the case already presented against

him, it was idle to suppose that there was any possible state of facts on which a conviction could be secured.

I do not concur in this opinion. Although agreeing that the case presented to the Senate, made up as it was of facts that were not open to dispute, was so entirely adequate as to have insured a conviction before any bench of judges learned in the law, it did not strike me as wise to leave the impeachment of the House against so high an officer, with all the power and all the prestige of his place, to rest before a tribunal compounded of such heterogeneous elements, upon any questions of law that afforded so large a scope for the ingenuity of professional men, when there was, I as think, another case in reserve, in which the offense was at least equally heinous, and the facts equally unquestionable, and where the law was so transparent that no false logic could darken counsel, or run away with the understanding of the judge, and no man, whether lawyer or layman, could frame an apology for mistake. If it was important to this nation to convict and remove a President who is admitted even by his apologists in the Senate to be utterly unfit for the high place which he occupies, it was equally important that no material part of his manifold offenses should be overlooked. A careful lawyer who was desirous to convict a great public malefactor, would count, of course, in his indictment on every aspect of his crime. In making up a case, however, against the Chief Magistrate of a great nation, which is a case not for our contemporaries only, but for history, it seemed to me essential, even though the Representatives of the people might convict upon a single head of accusation, that they should give their whole case to the world for the purpose of showing the incorrigible character of the delinquent, and the true magnitude and import of the crimes for which it had become absolutely necessary to the peace and welfare of the State that he should be removed.

In the present aspect of the case, however, it has become apparently an imperative necessity. The trial stands indefinitely adjourned, without an answer to the larger portion of the charges we have preferred. Judging from the vote already given, it is not expected by anybody that you will be able to convict upon them. Can you afford to stop there? With the enormous claims of power asserted on the record, and involved, of course, in the defense, which a verdict of acquittal must and does substantially affirm, are you prepared to accept at the hands of the Senate a result which will not only strip that body itself of its participation in the appointing power, but operate a thorough revolution in the Government by making the minister the master of the laws, without even a last struggle for life, where your means of humbling and deposing a great usurper and criminal, and vindicating your own rights and a violated Constitution, have scarcely yet been drawn upon? Will you be content to sit down and reproach the Senate for allowing him to escape unpunished, until you have at least put its fitness as an impeachment tribunal and its fidelity to the nation, to the last crucial test, by compelling it to pass upon a case which its members now publicly declare themselves compelled to ignore; not only because you have declined to present, but because they mistakenly suppose you to have disaffirmed, if not condoned it yourselves?

So long as the House has the power, as I believe it has, to readjust the balances of the Government by asserting its rightful authority as a branch of the Legislature to make the law and see that it is obeyed in every particular, by calling its ministers to a strict account for every infraction of it, I, for one, will never consent, as a member of it, after so long a struggle with the Executive in the defense of its own just powers, that it shall retire from the contest discomfited and overwhelmed, in the

presence of a triumphant usurper, amid the ruins of the Constitution, with—

"Less than half its strength put forth,
And all its thunders in mid-volley checked."

I turn, then, with the permission of the House, to the articles which have just been read, for the purpose of ascertaining whether there is no resource still left in this great extremity of the State, to bring a high offender to justice, and to save it from the disaster with which it is menaced in his absolute acquittal.

The first of these articles involves the charge of the usurpation of the just powers of Congress by the assertion of the more than kingly prerogative of erecting governments by proclamation within the rebellious States, under the pretense that it was his right and duty, as the incarnation of the sovereignty of the Union, to execute the constitutional guarantee, upon conditions of his own, and placing over them in the quality of provisional governors, which was an office unknown to the law, creatures of his own appointment, who were disqualified by law for their participation in the rebellion from holding any office whatever under the United States. I will not insult the understanding of the House by inquiring whether this was a usurpation, or whether, under the light of subsequent events, which showed its animus to be to take advantage of the interregnum of Congress, and oust its jurisdiction over the whole question of the readmission of the rebel States, it was not a crime of appalling magnitude. That it was tolerated by the press and people, so long as they were cheated by lying protestations into the belief that it was intended merely to be provisional and experimental, and subject to their will, is not to be denied. It did not deceive me for a moment. I never misunderstood the reasons which had prevented the assemblage of the Congress in that long interregnum, and I came here at the beginning of the next session, as a Representative, prepared to sound the note of alarm to the people; and to arraign the whole proceeding, as I did, at the first opportunity, as a monstrous usurpation, of the most dangerous example, involving a revival of the most odious of the royal prerogatives, in its double aspect of making laws by proclamation, and governing without a Parliament. The facts involved in this charge, except so far as they concern the disability of the appointees, are provable by the record.

The second of these articles charges the payment of salaries to sundry of these unlawful Governors, at rates fixed by the President himself, out of the contingent fund of the War Department in violation of the several statutes of the United States, one prohibiting the payment of money to any person as salary in any office not authorized by some preëxisting law, and the other requiring the previous administration of a test-oath in all cases whatever, as well as in further violation of a public trust, in the misuse of the funds appropriated by law to the contingent expenses of one of the Departments of the Government. It is scarcely necessary to inquire whether this is a misdemeanor, or a grave one. It may not be amiss, however, to suggest that the reason assigned by the Secretary of State for making this unlawful payment out of the funds of the War Department, was that they had no money themselves, to carry out the Executive policy, in the absence of Congress. The facts involved here are also provable by the record.

The third of the charges is the authority given to these officers to seize and appropriate to the payment of the expenses of these unlawful governments the floating property, or as it was denominated by the Secretary of the Treasury, the *debris* of the rebel confederate and State governments, which had become, of course, the property of the United States, and to eke out any deficiency by taxing the people for the same purpose, in violation not only of that clause of the Constitution which gives to Congress alone the power of disposing of the pub-

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lic property, but of that other, and perhaps still more important provision, which vests in the same body only the sovereign power of taxation. It will not be doubted, I suppose, that both these were high-handed usurpations of power which belonged to Congress exclusively. They stand on record evidence like the others. That the authority conferred was actually exercised is a fact confessed by some of these Governors themselves.

The fourth article is upon the surrender to his provisional government in South Carolina, on account of the expenses of its maintenance, of the State works at Greenville, erected by the confederate government for the manufacture of arms on lands donated for that purpose, and valued by appraisement at nearly thirty-four thousand dollars. The case is only distinguishable from the general authority to seize the floating timbers of the wreck of the rebel governments, in the fact that it concerns the realty. It stands also upon record evidence.

The fifth article has relation to the order of the President to the Secretary of the Interior, to issue to his government of North Carolina a large amount of land scrip, under the pretended authority of a law passed during the rebellion, and authorizing the distribution thereof among the States for agricultural purposes. And this was done, as stated, in pursuance of his settled policy to permit each of the rebel States to receive and enjoy all the rights and privileges of any other State in the Union, on the ground that they had been fully restored, and in defiance, of course, of the known will of Congress in the premises. Whether the act of the President in this particular was unwarranted and illegal it is unnecessary to inquire, for the reason that it has been so already solemnly declared in a law of the present Congress expressly prohibiting any further action of that sort, which was approved by the President himself. The charge itself is provable by the record, and the testimony of Mr. Harlan, the then Secretary of the Interior.

The next and sixth point is the surrender, without equivalent, to the stockholders of railroads within the rebel States which were largely employed in carrying on the war against us, of the roads so captured, and on which some forty millions of dollars had been expended by this Government, with all the rolling-stock, of unknown value, belonging thereto, and at least one road, the Piedmont, constructed by the rebel government, and one other, the Nashville and Northwestern, partly built by the United States itself. To estimate the value of all this immense property would be utterly impossible. That it had become, under the law, by reason of its uses and its capture, the property of the United States, is a proposition that cannot be successfully controverted. As such, of course it was, under the Constitution, subject to the disposal of Congress alone. That it could have been made to pay a large part of the debt of the war which its proprietors forced upon this Government, is unquestionable. The facts connected with this monstrous usurpation are provable almost exclusively by the record.

The seventh article of charge refers to the pretended sale of the railroad stock and machinery belonging to the Government in its own right, to the disloyal stockholders of southern railroad companies, upon the order of the President, at a private valuation, upon long terms of credit, and without any security whatever, explained and aggravated as it was by the postponement, after repeated willful defaults, on the part of the purchasers, of the debt due to the Government, which has never yet been paid, for the express purpose of enabling them to satisfy the claims of other creditors, along with arrears of interest on bonds of which the President was himself a large holder at the time. That there was no more power on the part of the President, under the Constitution, to sell this property even at public sale without

the authority of Congress than there was to give away any other portion of the property of the United States, is a point that has been already settled by judicial decision. That the colorable sale made here, as well as the gratuitous surrender to the rebel stockholders of all these roads themselves, along with their rolling-stock and equipments, was prompted not only by the desire to strengthen their hands, but to secure the payment of a large and otherwise desperate debt which was owing to himself, is very satisfactorily shown, I think, by his whole conduct in connection therewith. All of the facts involved are provable by the record, with the exception only of the pecuniary interest of the President himself, which is, however, not less provable by other and incontestible evidence.

The eighth article has relation to the surrender to the original rebel proprietors by special order, and under the claim that his pardoning power extended thereto, of an enormous amount of real estate, which had been duly libeled and condemned by judgment of the courts, under the authority of an act of Congress which expressly vested them in the Government of the United States, the President himself insisting, without legal advice and without warrant or color of law, that the proceedings were incomplete, and that the title did not pass without a sale. The value of the property surrendered under this order it is impossible to conjecture. It is sufficient, however, to remark that beside a considerable amount in New Orleans, it embraced about one hundred and twelve plantations or parcels of land in the State of Virginia alone. That it involved another flagrant violation of the Constitution on his part is not to be denied. As matter of fact it stands entirely upon the public records.

The ninth article refers to the surrender by the President of captured and abandoned cotton and other property, that had been seized under the law by the agents of the Treasury, and more particularly to the repayment by him to favored rebel claimants, to the amount of millions of dollars, of the proceeds of actual sales thereof, at his own discretion, and in utter contempt of the act of Congress requiring the same to be paid into the Treasury, and referring the owners for remedy, if aggrieved, to the courts alone. The fact in this case is that the moneys arising from these sources, amounting to some eighteen or twenty millions were endeavored to be kept out of the Treasury by the device of depositing them in the hands of the Treasurer as a sort of special trust fund, in order that they might be drawn upon without warrant of law. Whether the law would not regard them as being where they ought to have been, in the hands of that officer in virtue of his title, as Treasurer, to their custody, and whether the repayment did not therefore involve a violation of the Constitution itself, it is unnecessary to inquire. It is sufficient that the act of Congress was disregarded and defied, as the books of the Treasury and the testimony of Mr. Skinner and the Secretary himself will show.

The tenth article refers to the abuse of the pardoning power, by its exercise on system, and to the great damage of the country, in releasing the most active and formidable of the leaders of the rebellion, and restoring to them their property and means of influence, for the purpose of securing their coöperation in his plan of reconstruction by executive authority, as well as in substantially delegating that power to one or more of his provisional governors, by pledging himself in advance to pardon such persons as might be elected to his conventions, or might be recommended by them. That these things were done on system and for the purpose indicated is provable by the record. Whether the abuse of an admitted power for an illegal object amounts to misconduct in office, and is indictable as such, is not now an

open question. That it is a proper subject of impeachment follows as a corollary from this proposition. It was not doubted by Mr. Madison, and cannot be reasonably doubted by anybody. If the law was not so, the grossest and most ruinous acts of maladministration would be without remedy. I do not care, therefore, to waste words upon it.

The eleventh article has relation to the refusal to enforce the laws enacted for the suppression of the rebellion, and the punishment of those who gave it aid and comfort, by directing proceedings against them and their property, and the obstruction of the course of public justice by prohibiting the institution of legal proceedings for that purpose, by staying them indefinitely, or ordering absolutely the discontinuance thereof, and particularly to the case of Clement C. Clay, a State prisoner on parole, whose arrest was forbidden on proceedings instituted against him in the State of Alabama for treason and conspiracy, and whose property, when seized for confiscation under the law of Congress, at the instance of the proper district attorney, was ordered to be restored. It is not disputed, of course, that the President may under the Constitution exercise the pardoning power at his discretion, provided he does it honestly. Mr. Clay stood charged in his own proclamation not only with treason, but with complicity in the murder of Mr. Lincoln, and with organizing bands of robbers, pirates, and murderers in Canada, to burn our cities and ravage our coast. He did not choose to take the responsibility of pardoning him, although he suffered him to go at large on his parole, but he did undertake to interfere with the process of the law, by forbidding his arrest and ordering the restoration of his property, and ultimately removing the attorney whose super-serviceable zeal in behalf of the interests of the nation had rendered him obnoxious to its enemies. That this was a crime against public justice, and a great one, seems to be too clear for controversy. The facts here, too, are provable by the record.

The twelfth article has relation to the failure to prosecute the leader of the rebellion himself, and his surrender after arrest under a proclamation, charging him, among other things, with complicity in the murder of Abraham Lincoln, and offering a reward of \$100,000 for his capture, although that complicity had been found by a military commission organized at Washington for the trial of the conspirators, and although an indictment for treason was known to be depending against him in the District of Columbia, to the civil authorities in Virginia, to answer an indictment for high treason found against him there, upon a writ of *habeas corpus* contrived and concocted for that purpose, without making any return of the fact that he was held to answer for other crimes; and further, allowing him to go at large without any discharge, by due process of law, from the other crimes for which he was so held, without any claim to hold or detain him to answer therefor. The proof of these facts is clear upon the records. That the President did not intend that the leader of the rebellion should suffer for his crimes is apparent from the whole history of his detention. As in the case of Clay, he could not pardon him, of course, without a public outcry from one end of the land to the other. He was not willing to subject either of them to the risks of a trial by military commission, like that of the other conspirators, for the violation of the laws of war. He preferred the mockery, as it has proved to be, of an arraignment for high treason only, in a district where secession was not so regarded, and before a jury who had been, perhaps, accomplices in his guilt; and he contrived this process for the purpose of relieving himself from the burden of his own responsibility, and discharging the delinquent from the other charges on which he was held. The case is one of the like character with that of Clay,

and a like crime against the justice of the nation.

The thirteenth article relates to the abuse of the appointing power in the removal of meritorious public officers, for no other reason than because they did not favor his policy; in the refusal to nominate to places filled by him during the recess, and retaining his creatures in office after the adjournment of the Senate; and in reappointing, after their adjournment, men who had been rejected by them as entirely incompetent. The cases under this head are numerous and clear, as shown by the records of the public offices themselves. That they constitute an abuse of the highest and most dangerous character, is shown by the judgment of Congress in the passage of the law to which they so much contributed—for the regulation of the tenure of civil offices—the same law which the President now disputes and defies. And they are not obnoxious to a doubt upon the question, whether they present a case on which the claims of the Executive to an unlimited, and uncontrollable authority over the public offices, may be brought to the test of a fair and impartial trial.

The next and last, but not the least of all these articles, is that which charges the exercise of a dispensing power over the test-oath law, in the appointment to offices, and payment of salaries to men who were notoriously incapacitated thereby from entering upon the duties, or receiving salaries therefor; and that on calculation, on the false pretense that loyal men could not be had for that purpose, and for the avowed reason that a proper policy of conciliation required that the taxes levied from a lately rebellious people should be collected by themselves, and that Congress might be allowed the opportunity of reforming its policy by repealing or altering the law so as to make it correspond with his views of what it ought to be. The offense charged here is one which is distinguishable from all the others in the fact that it involved not only one or many casual violations of a law, but a declared and systematic purpose on the part of the Executive to suspend its execution altogether, and that not upon constitutional grounds, or because it interfered with any of the powers claimed by him under the Constitution, but because the policy of Congress did not harmonize with his own. It is only necessary to observe that the last claim of the prerogative in England, which was extinguished forever by the Bill of Rights, was the exercise of a dispensing power over the laws, and the last act of the ill-starred James II, the very same that has been rehearsed just here. In both cases the law involved was a test-oath law, with this only difference, that in one case the test was a religious, while in the other it was a political one.

And these, let me say, are but a part of the many enormities that have been perpetrated by Andrew Johnson in the pursuit of his illegitimate purpose of forcing the rebel States into the Union upon his own terms and against the will of Congress. It would have been easy to extend the list, if necessary, by comprehending within it the repeated abuses of the veto power; the attempt to secure the vote of the Colorado Senators as a condition of his approval of the bill to admit that Territory into the Union as a State; the wholesale pardon and restoration of pay to one hundred and ninety-three deserters, with a view to the return of a Representative in Congress who would support his policy; the wholesale proclamations of universal peace and universal amnesty; the resistance made by him to the congressional plan of settlement; the connivance in the butchery at New Orleans; and the systematic encouragement of a spirit of disaffection throughout the South, which has resulted in the exile or murder of thousands of loyal men, both white and black, whose only offense was their fidelity to the Union. It would be difficult, indeed, to say what provision of the Constitution, or what

law of Congress that stood in the way of his unholy purposes, has not been trampled under foot in his persistent, and thus far apparently successful struggle with the legislative power. There is enough here, however, to make the patriot turn away in despair at the idea that it is not sufficient in itself to draw from the surcharged heart of the American Congress a bolt of fiery wrath, that should blast the usurper in the midst of his rejoicings, and consign him to that infamy which shall not allow his memory to die among men.

Why, what and how many—to state the case in the fewest words—are the offenses charged here? Usurpations of power in every possible form that tyranny could have invented or imagined. Usurpation in legislating without the consent of Congress for the erection of governments by proclamation, and claiming for those proclamations the force of law; usurpation in raising moneys to a vast amount, without the consent of Congress, for the purpose of maintaining those governments by the appropriation of the public property and the exercise of the taxing power; usurpation in creating offices unknown to the law, and filling them with the enemies of the Government, and paying those enemies out of appropriations made by law for other purposes; usurpation in returning millions of captured property belonging to the Government to the original proprietors, without the consent or even the knowledge of Congress, and without any consideration whatever; usurpation and fraud in transferring, by a pretended private sale to the same individuals, other millions of Government property on long terms of credit and without security, and then postponing the payment for the purpose of securing his own private debt; usurpation in refunding to rebels large sums of money arising from sales of captured and abandoned property directed by law to be paid into the Treasury; usurpation in misusing and abusing the pardoning power to purchase the cooperation of the leading rebels in his unlawful plans of reconstruction; usurpation in not only refusing to enforce the laws enacted to put down the rebellion, but absolutely preventing their execution by arresting the process of the courts, and turning public malefactors loose without even a pardon; usurpation in the abuse of the appointing power by the removal of meritorious officers, and filling their places, without the consent of the Senate, with his own minions in aid of his unlawful purpose of maintaining his own governments and forcing them into the Union against the will of the loyal people; and to crown all, usurpation the most insolent and high-handed in the exercise of a dispensing power over the laws enacted to carry out the policy of Congress, by appointing rebels to office in open defiance thereof, and substituting his own will for that of the law-maker himself!

Is there nothing here to make his impeachment a duty, and his conviction a certainty if there is any virtue or honor or patriotism left among men? What could he have done more, if it had been his purpose to revolutionize this Government, and assume to himself the powers of a dictator? Why should you sit here to go through the forms of legislation, while there is a power at the other end of the avenue which is above the Constitution and the laws, and deals with you and your public property, and that, too, without inquiry and rebuke, as though it were the absolute master of both? Would the founders of the Republic, who staked their fortunes and their lives upon their resistance to the comparatively mild rule of a British king, have believed it possible that the time would come, and come so quickly, when all these accumulated outrages could be crowded into a single Republican Administration, and not only tolerated, but crowned with a final victory over the Congress and the people? What was there in the chapter of grievances with which the War of Independence opened—

what in the complaints of our ancestors—what even in the long history of the struggle between the royal prerogative and the privileges of the Commons in England, unless it be the stout and successful resistance of the latter, that has not been repeated and rehearsed in this nation within the last three years? Is it the right to legislate by proclamation, which was at one time, in the estimation of the Crown lawyers, the very flower of the prerogative, and received the sanction of a subservient Parliament in the reign of Henry VIII? That perished substantially with the Tudors, but you have it here in more than its pristine luxuriance, in the establishment of governments, as well as in the enactment of laws, until it has come to hold a conspicuous place in the very volumes of your Statutes-at-Large. Is it the right to govern without a Parliament, and to tax the people without their own consent? That was extinguished upon the scaffold from which rolled the head of the self-willed, and unfortunate Charles I; but you have it here in renovated strength in the whole history of that long interregnum of Congress, when Andrew Johnson was scattering your property broadcast among his retainers, and authorizing his governors to levy taxes from the conquered people. Is it that last remnant of the prerogative, the right to exercise a dispensing power over the laws? That perished with the last of the Stuarts, and was the very weight that pulled him down. But you have that too here, on American soil, in the confessed and intentional dispensation with your test-oath law. What more do you want, then, to convict this man?

If he had intended to make a case for you, could he have made it stronger? Where do the records of Parliament furnish one that combined so many atrocities, so many violations of law, so many open attacks upon the liberties of a free people? What was there in the attempt to remove a Secretary of War, great as was the offense, that could compare in real magnitude and probable influence as a precedent, upon future times, with such acts as these? If our ancestors thought it worth the risks of an unequal war to resist a claim of power that did not involve even the least of these imperial pretensions, how are we to excuse ourselves to posterity for the refusal to call this great delinquent to account for the much higher crimes which he has committed? Can we ignore these things and continue free? Are we degenerate? "Have our hands grown weak, or our hearts waxed cold," or are we to sit down and content ourselves with complaints about the shortcomings of the Senate, when we have ourselves refused to present to them a case wherein no sophistry, no scholastic refinements, no technical subtleties, no jugglery of words, can frame an apology for a refusal to convict?

But then it will be insisted, perhaps, as it has been on the recent trial by those who recognized the weight of these accumulated offenses, in the way of answer to the argument attempted to be drawn therefrom, that they were not made the specific subjects of accusation only because they had been already passed upon, and their truth either disaffirmed, or their sufficiency denied by the solemn judgment of this House.

That they were not charged is certainly no fault of mine. I trust I may be permitted to say, however, that the conclusion thus drawn from the previous action of this body is entirely unwarranted by anything that was done here. That there could have been any considerable number of men on either side who doubted as to the facts, in a case where they rested almost exclusively upon the absolute verity of the public records, and were, therefore, not even open to contradiction, was morally impossible. That there were any to speak of, on the Republican side, except the two dissenting members of the committee, who felt any difficulty in regard to their sufficiency in law to authorize an impeachment, I do not believe, and cannot, as I think,

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be shown. There might be, and unquestionably were, other reasons for refusing a resort to such a remedy at that particular time.

It would not be, perhaps, considered exactly parliamentary to say that the friends of all the aspirants for the succession to the Presidency might possibly have feared that the temporary elevation of Mr. WADE might disturb the prospects of other candidates, and therefore I do not say it. It might be equally objected, perhaps, that it was not respectful to the Senate, if I were to insinuate the possibility of a doubt in the minds of others, whether it could be relied on to convict under any circumstances. It would not be proper, perhaps, to suggest that there were men here, who could not see danger in the violation of a great principle, through oft-repeated and unrebuked encroachments on the powers of Congress, or in anything short of a rude exhibition that was palpable to the senses of everybody. It is not to be disputed, however, that the business men of the nation, and particularly the commercial classes and the money-dealers, were against it, because it threatened, as they thought, a protracted contest, which would interfere with the legislation of the country, and perhaps result in a great disturbance of values and the possible overthrow of the public credit, and that this sentiment was reflected by many here.

The same may be said of the timid Conservatives—the waiters upon fortune—who are always patient and long suffering, because they are always in terror of change, always hoping, without ever striving for the better, and always sure that even the worst must ultimately have an end. And, reflecting all these, if not forming and directing them, was the newspaper Press, the vaunted sentinels upon the watch-towers of liberty, sounding no note of alarm to the people, but either unconsciously or studiously withholding from their view a succession of atrocities that would have shaken all England to its foundations, while it was in some instances even disparaging the men who had labored to awaken the House and nation to a sense of the great danger with which they were menaced. Nothing is clearer to my mind than that the result was made up, as it is not questioned that it might legitimately be, out of a calculation of convenience and inconvenience, or, in mercantile phrase, a general account of profit and loss, and that the determination to resort at last to the extreme remedy of the Constitution, was only brought about by a conviction of its absolute necessity.

I shall be met, however, no doubt, at this point, by the argument to which I referred in the beginning, that if the House could not convict upon the case which it has already presented, it is idle to expect that it can succeed on any other. I now repeat that if this were even true, it should make no difference with us. The failure of another body to perform its duty will not serve with posterity as an apology for a failure to perform our own. It is for this House, on the contrary, to make its record so complete as to place the whole responsibility where it will then properly belong, and not allow it to be said hereafter that it had kept back a case, which was at all events essential to the understanding of the true crime of the President, and the precise import of the very isolated facts that have been on trial.

I do not agree, however, as I have already intimated, in the opinion that because we may have failed to convict upon the case presented, we can succeed in no other, and do not admit the right so to presume until the experiment has been at least fairly tried. I hold the opinion, as I have ever held it, that Andrew Johnson can be convicted yet, beyond a peradventure, if this House will present such a case as the facts will authorize. It makes no difference to me what influences may be supposed by anybody to have been employed to work any of the sudden and unexpected conversions which are said to have preceded the verdict of

the Senate. I make no imputations myself, and do not refer to these opinions as indorsing them. But with even the worst of juries there are cases where a false verdict would be morally impossible, and this I think is one of them. When I shall see and hear the high tribunal charged with the trial of this case, solemnly decide that the matters charged in the articles which I have had the honor to submit, are not sufficient to warrant the conviction and removal of the President, I must needs believe it, but not till then.

It will be objected, perhaps, that it is now too late. I beg to say that it is never too late to perform a duty like this, where the delinquent is the first officer of the Republic, and his term is not yet expired. If it were the last day of that term, the example alone would be of inestimable value to the nation, in the mere vindication of the public justice, and the admonition it will furnish to those who are to come after him. The cause is still depending on an indefinite adjournment, which never yet either dissolved a court, or discharged a criminal who was on trial. It is not decided, and cannot be decided, until the Senate has responded to each and every article of accusation which has been preferred before it; and it is the undoubted right of the House to exhibit new specifications, if it thinks proper, and either with or without them, to demand that it reassemble, and proceed to judgment upon the whole case as it may have been submitted.

If it refuses upon such a case and under such circumstances to perfect its presentment, it will be worse than idle to talk hereafter about constitutional limitations on executive power. A people that will permit the acts enumerated here to go untried and uncondemned, cannot long exist without a master, if they have not a master already. The example will find imitators, which a triumphant party with an army of hungry mercenaries, will justify, and this high precedent excuse. The time will hardly come again when an Executive of this nation will find himself with more than two thirds of both Houses of Congress against him. It will come in vain, if there are not in this House men sagacious and sensitive enough to feel and see when its liberties are wounded in a vital point, and brave enough to emulate the heroes who died to defend it from the first great treason, by meeting its greater enemy at the gate, and calling him to answer with his office for the greater crimes of which he has been guilty.

My duty thus performed, I leave the case with this House and Providence.

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SPEECH OF HON. T. STEVENS,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

July 13, 1868,

On the bill (H. R. No. 1096) making an appropriation to carry into effect the treaty of March 30, 1867.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I desire to add a short supplement to what I have heretofore said on the Russian treaty.

None of the arguments which I have yet seen satisfies my mind. The confusion arising in the minds of writers seems to come from their difficulty in distinguishing between natural individuals and individuals composed of aggregate masses.

In my judgment, there is not a particle of difference between the construction and binding obligation of a contract made between natural persons and one made between corporate persons. Once ascertain that in either case their compact has been duly executed and delivered by persons competent to exercise free will, then ascertain its meaning, and the whole question is solved. There is but one way to evade its execution. That is by bad

faith. Nations are precisely like individuals in contracting and executing contracts, except being aggregate bodies, the chart of their creation must bestow power upon them. But when a compact between nations has become complete, which includes delivery as the final act, it can no more be abrogated without the consent of both parties than a bond solemnly executed and delivered. Its binding power adheres to and follows the nation through its whole national existence, even in the midst of revolutions and change of the dynasties. Hence the true labor is to ascertain the power of the parties and the fact of their contract. This seems to me not difficult to do. Every nation is nothing more than many persons incorporated into one. That one becomes as capable of binding action as any one of their number separately. Every nation has its rules and laws which fix the mode of the action of the corporate persons. When it has acted its acts bind every one of its aggregate millions, how much soever they may dislike it. In most monarchical Governments the sovereign has the sole power of contracting. But for this purpose our Constitution has put the whole treaty-making power into the hands of the President and Senate. No other branch of the Government has any right to interfere, nor does it limit the power by any enumeration of subjects. It cannot encroach on any power granted to another department, beyond that it is absolute. The Constitution vests the right to regulate commerce in Congress. Hence I have never believed that commercial treaties were valid, though they have been so treated by the nations.

By the Constitution of the United States, as I have said, the whole treaty-making power is most distinctly given to the President, by and with the advice and consent of the Senate. By another provision it is expressly declared that a treaty made in pursuance of the Constitution is the supreme law. No branch of the Government nor any State law can resist it. By the Constitution not the least qualification or assistant power is given to the President and Senate, either as consultative or assistance. The treaty, when once ratified and proclaimed, is a perfect instrument, and absolutely binding on the parties according to its terms.

If the treaty provides that either of the parties should do any particular thing at a future or distant day, such as paying annuities, that does not in the least affect the perfect validity of the instrument or its binding power. A condition precedent prevents operation of an instrument. A condition subsequent never does. A breach of it may impose liabilities, but it does not affect the obligation on the delinquent party, or the rights of the other party. Our Republic has agreed upon a mode by which it witnesses its obligations, and to which all nations give full faith and credit. We take the following as the formation from this very treaty:

Done at Washington the 30th day of March in the year of our Lord 1867.

Fait a Washington le 18-30 jour de Mars de l'an de notre Seigneur mil huit cent Soixante-Sept.

And whereas the said treaty has been duly ratified on both parts, and the respective ratifications of the same were exchanged at Washington on this 20th day of June, by William H. Seward, Secretary of State of the United States, and the privy counsellor Edward De Stoeckl, the envoy extraordinary of his majesty the emperor of all the Russias, on the part of their respective Governments:

Now, therefore, be it known that I, Andrew Johnson, President of the United States of America, have caused the said treaty to be made public, to the end that the same and every clause and article thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed. Done at the city of Washington, this 20th day of June, in the year of our Lord 1867, and of the independence of the United States the ninety-first.

ANDREW JOHNSON.
By the President:
WILLIAM H. SEWARD, Secretary of State.

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This is the manual signature of the United States of America. Some contend that it is more binding than the hand and seal of an individual, because the broad seal covers many individuals. But how can one perfect obligation be more binding than another?

This obligation thus attested and proclaimed was given to the world on the 20th day of June, 1867. Every part of his stipulation was faithfully executed by the emperor of Russia. The treaty is duly enrolled in the chancery of the Russian empire. It is recorded in the permanent archives of the United States with her other treaties. Now gentlemen of great ability deny its validity because Congress has not sanctioned it. Will those gentlemen tell us at about what stage of the proceedings Congress should have been called in to intervene? Not, I suppose, before the negotiation commenced. When the terms had been ascertained should Congress have been convened for consultation? This would be a novel proceeding. When it was before the Senate in its final stage, if ever they must have been called in, will gentlemen look upon this all as anything but absurd? This treaty provides that the Government shall pay a certain sum of money in a given time. But that money cannot be drawn without an appropriation by Congress. Now, the remedy of these nullifiers is to get Congress to refuse to make the appropriation. That would prevent the execution of the treaty, but would not annul it. That would be a breach by one party only, whether a disgraceful one, the world must judge. It would require great fraud or subsequent misconduct on the part of Russia to justify it. No act of our Government could be the least palliation. All the departments of the Government, except the treaty-making power, might protest against it; it would not shake its validity. There it would stand a valid obligation repudiated by one party, but forever binding. This Government has issued millions of bonds held both in this country and Europe. The holders have no way to enforce payment but by an appeal to the national faith. Who would repudiate, and make American worse than Punic faith?

Let those who persevere in disregarding a valid act of any branch of our Government join the great repudiator, Jefferson Davis, and rake among the slime and mud of the Mississippi for the bundles of unpaid Mississippi bonds. They may still be as valuable as obligations of the United States if this appropriation should be rejected.

Impolicy of Land Bounties—The Homestead Law Defended.

SPEECH OF HON. G. W. JULIAN,

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

July 13, 1868.

The House being in Committee of the Whole on the state of the Union—

Mr. JULIAN said:

Mr. CHAIRMAN: I believe I am justified in saying that during my service in this House I have steadily defended the preemption and homestead laws of the United States. Whether the attack has come in the form of unwarranted grants of land in aid of railroads and other works of internal improvement, or atrocious jobs under the name of Indian treaties, or plausible schemes of bounty in the pretended interest of the soldier, or whatever other shape it may have assumed, I have constantly and resolutely maintained the rights of settlers on the public domain. I shall not now change my course of action. On the contrary, every passing day invites me to renewed vigilance and zeal by revealing some fresh conspiracy against the rights of our pioneer producers. I have already discussed at some length our general land policy, its evils, and their remedy,

during the present session; but I omitted in that discussion a question of grave magnitude, which I then hoped would not again be seriously agitated in Congress. I allude to the question of military land bounties, and I must avail myself of this occasion to consider it, and in doing so to perform what seems to me an imperative duty.

I am opposed, very decidedly, to all schemes providing bounties in land for our soldiers. My opposition is based upon grounds which I desire to state to this House and to the country, and which, in my judgment, leave no room for difference of opinion among intelligent men who will give the subject their attention. One bounty-land project only have I ever supported, and that was introduced by myself in the dark hours of the war, when our soldiers so much needed its encouragement and support, while it aimed a deadly thrust at the rebel power. Early in the session of Congress beginning in December, 1863, I reported from the House Committee on the Public Lands a bill providing that all lands which should be sold under the provisions of the act of 1862, for the collection of direct taxes in the insurrectionary districts, and under the act of the same year to provide internal revenue to support the Government, should be bid off to the United States at the minimum price mentioned in said acts, certified over to the Secretary of the Interior, and thenceforward become a part of the public unappropriated domain of the United States. It further provided that all lands against which proceedings *in rem* should be instituted under the act to suppress insurrection, to punish treason and rebellion, and to seize and confiscate the property of rebels, should, upon the rendering of final decrees of condemnation, be in like manner certified over to the Secretary of the Interior, and thereafter be regarded and treated in all respects as a further extension of the public domain. This bill, supposing the policy of confiscation to be exacted by the Government, would wrest from the rebels and set apart for loyal uses from one half to three fourths of the cultivated lands of the rebellious districts, and without disturbing the rights of property of the great body of their people, who were never permitted by the aristocracy to own land. It would simply reach the lands of the leading rebels, who were at once the chief landholders and slaveholders of the South; and it extended the homestead law over these lands, under carefully-considered restrictions, and provided for their distribution in small farms among the soldiers and seamen of the Army and Navy as a tribute to their valor, as a fit chastisement of the rebel chiefs, and as the basis of loyalty and democratic institutions in the States of the South. Had it become a law, coupled with the policy of striking at the fee of rebel landholders, to which Abraham Lincoln finally assented, the duration of the conflict would certainly have been greatly abridged, while many thousands of lives and many millions of treasure would have been saved. The great landed estates of the South would have been dismembered, and at the end of the war the Freedmen's Bureau would scarcely have been needed, since the return of order and peace would have been heralded by the advent of our loyal soldiers, with their muskets as their companions, prepared to defend as well as till their homesteads, while ready to act as policemen and avengers in the protection of the defenseless. The bill passed the House by a strong majority; but it failed in the Senate, as did the policy of confiscation, through the hostility of distinguished Conservative fanatics, who were then pettifogging the cause of the rebels in the name of the Constitution, including the most conspicuous of "the conscientious seven," through whose fatal agency the country was handed over to its enemies in the late trial of Andrew Johnson for high crimes and misdemeanors. So much, Mr. Chairman, for land bounties during the rebellion, the cir-

cumstances belonging to the history of the subject, and the moral to which they obviously point.

The war closed in the spring of 1865, and the history of the agitation respecting soldiers' bounties since that time is worth recalling. When Congress met in December following, the demand for an equalization of bounties had evidently been resolved upon by those of our soldiers who volunteered in the years 1861 and 1862. It was a reasonable demand, resting upon the fact that multitudes who had enlisted at the beginning of the war, and rendered the longest service, had received very little bounty, while most liberal bounties were awarded to those who come in toward the end of the conflict. Equality is equity; and the question was how to frame a bounty bill that would place all the soldiers of the war as nearly on a common level as possible. It was no easy task; and the financial situation of the country presented a serious obstacle to the passage of any bill on the subject. It was, however, earnestly agitated in both branches of Congress, and in the Executive Departments of the Government. The President was soon found to be decidedly hostile to any measure of equalization. He did not so avow himself, but his acts proved it. His provost-marshal general, as a sort of flank movement, made an official estimate of the amount required for the purpose of equalization, which, I believe, footed up from six to seven hundred millions of dollars. The pay department exhibited similar gifts in arithmetic, though it made the aggregate amount required some two hundred millions less. The Treasury Department tried its hand with similar results, several of its bureaus furnishing the most exaggerated calculations of the amount called for by the proposed measure, and Mr. McCulloch himself being especially active in the business of dissuading members of Congress from touching so dreadful a project. The effect of these executive demonstrations was soon made manifest. Congress admitted that justice should be done to our soldiers, but it was felt that insuperable financial difficulties were in the way; and the result was the birth of the project of land bounties, which rapidly began to take shape, and threatened to lure into its support a decided majority of both Houses. We had, it was said, over one thousand millions of acres of public lands, and with them we would pay off the soldiers without adding to the burdens of the people. I saw that the policy would be utterly ruinous to the country, while its promised justice to the soldier would prove a delusion. It was almost as wanton a conspiracy against the homestead law and the productive wealth of the nation as the kindred proposition of certain prominent politicians in 1863, to mortgage the public domain to our creditors in security for our debt, which I had the honor to expose and denounce at the time, on this floor. Earnestly entertaining these views, I was glad to find an early opportunity to express them in the form of a report from the House Committee on the Public Lands, in response to a memorial from New Hampshire soldiers praying bounties in land. That report, which was laid on the desks of members and considerably copied into the newspapers, showed so conclusively, by unanswerable facts and figures, the impolicy and iniquity of the proposition, that I hope I shall be pardoned for saying that it very materially aided in its defeat, and in thus saving the public domain from a most frightful scheme of spoliation and plunder.

The way was thus again opened, very naturally, for the consideration of bounties in money, and the subject was examined more earnestly than before. Calculations were made, which I believe were reliable, showing that about one hundred and fifty millions of dollars would be sufficient to pay and equalize bounties on the basis of eight and one-third dollars per month for the time of service; and after

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freely conferring with intelligent soldiers and sailors on the subject, I reported to the House a bill framed upon that basis, which was referred to the Committee on Military Affairs. General SCHENCK reported it back, with sundry modifications as to details, and it passed the House by an overwhelming vote. In the Senate, however, it encountered serious opposition. The executive agencies to which I have referred seemed to be far more potent in that body than in the House. The financial difficulty was regarded as insurmountable. Besides, many Senators declared that the soldier, having received what he contracted to fight for, was entitled to nothing more. These Senators, however, were quite anxious for the passage of a bill to increase their own salaries \$2,000 a year, which the House refused to agree to, for the reason, in part at least, that the Senate refused to concur in the bounty bill. The final result of this conflict was a compromise, by which the measure now known as the act of July 28, 1866, was indissolubly married to the proposition to increase the pay of members; and, under the motive power of an argument two thousand dollars strong, this cunning but discreditable project was carried. I am very glad that it had a Democratic parentage, and that a large wing of the Republicans in Congress opposed it from the beginning to the end. The bounty bill thus carried through was an insult to the very principle of equalization; and though it takes from the Treasury nearly sixty millions of money, it has proved almost as unsatisfactory to our soldiers as if no bill at all had been enacted.

The agitation of the subject, however, now gradually subsided. What had been done for the soldier, though it disappointed him, seemed to create a new obstacle in the way of doing more. The financial condition of the country did not improve, and although the House re-enacted General SCHENCK'S bill during the last session of the Thirty-Ninth Congress, it failed in the Senate, as was naturally to be expected. Thus the matter rested, Mr. Chairman, till the early part of the present session, when a bill was introduced and referred to the Committee on the Public Lands, providing for very large bounties in lands. The aggregate number to whom it promised bounty was two millions two hundred and forty-five thousand six hundred and fifty-nine, and it called for three hundred and thirty-four millions nine hundred and seventy thousand three hundred and sixty acres of land, for which warrants were to be issued and made assignable like those of our Mexican war. My facts are official, being based on the careful calculations of the War Department. The effect of throwing upon the market this immense issue of warrants would necessarily bring down their price so low that it would prove a pitiful mockery of the past claim of the soldier, while speculators would bring them up in vast quantities, and make them the basis of new and most fearful monopolies of the public domain. These and kindred facts were forcibly set forth by the committee in an adverse report, accompanied by a bill which they offered as a substitute, and which has passed the House, by which the five-dollar and ten-dollar fees required under the homestead law shall be remitted in the case of honorably discharged soldiers and seamen, while the existing conditions of settlement and improvement are adhered to.

Mr. Chairman, another land-bounty bill has been reported to the House and referred to the Committee on Military Affairs, and a majority of that committee, as I understand, have agreed to recommend its passage. Should it be reported at this late hour in the session no opportunity can be given for debate; and I therefore avail myself of the present occasion to discuss its provisions, and to protest against its enactment. It attempts to escape some of the difficulties already pointed out

respecting land bounties, by providing that, instead of assignable land warrants, there shall be issued to the soldier a certificate of indebtedness for the amount of his bounty, computed at the rate of eight and one third dollars per month for his time of service, and drawing six per cent. interest, which certificate shall be used only by him or his heirs, and be payable only in land. This, in effect, though in other words, is the same thing as so many non-assignable land warrants. These certificates, as I shall presently show, would certainly be made assignable by Congress at an early day; but for the sake of the argument I will admit that their non-assignable character is preserved, and that such is the *bona fide* purpose of the bill. It must follow, then, most conclusively, that its aim is not to give land to those who really need it for cultivation. The fraction of our soldiers who are farmers, and actually want homes on the public domain, can have them now, under the homestead law; and under the House bill before referred to, which will doubtless pass the Senate, the soldier can have a home on the lands of the Government without money and without price. Probably a small portion only of our soldiers and seamen desire to go out and settle on the public domain; but those of them who do would seek title under the homestead law, since a gift of lands under that would be just as good as a gift under a law providing the same thing under the name of bounty, while the certificates of indebtedness would of course be used in the purchase of other and additional lands, to be held for some indefinite time for a rise in the price. Who does not see that this would be the exact operation of this measure? The lands taken under it would be withheld from settlement and tillage, for the palpable reason that no man would buy them when just such lands could be had free of cost. To argue otherwise is first rate nonsense. The quantity of land which would thus be locked up from the landless and laboring poor of the country is given in the following official letter from Secretary Stanton, in April last, in answer to an inquiry addressed to him by myself:

"In compliance with the request of the chairman of the Committee on the Public Lands of the House of Representatives, for a statement of the amount of public land necessary to meet the requirements of the proposed bill, (H. R. No. 940,) 'to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union,' in the event of its becoming a law, I have the honor to communicate a report on the subject by the Paymaster General of the Army, dated the 2d instant, as follows:

"In a communication from this office to the Secretary of War, and dated March 31, 1866, will be found a carefully-prepared estimate of the amount of money required to pay the bounties under a bill then pending in the Senate introduced by the chairman of the Military Committee.

"That bill was substantially the same in its terms as this House bill No. 940, except as to the manner of making payment.

"The sum estimated was \$253,691,100.

"In my letter of August 6, 1866, addressed to General Vincent, assistant adjutant general, will be found another carefully-prepared estimate, showing the amount required to pay the additional bounties provided by the law of July 28, 1866.

"The sum estimated was \$38,634,300.

"Experience so far gives indication that this last estimate is rather short than in excess of the exact truth.

"Deducting this cost of the additional bounties from the amount of the first estimate for equalization of bounties, the remainder gives a pretty close approximate estimate of the further amount that would be required under the bill in question, namely: \$195,056,800, which, in land at \$1 25 per acre, will require one hundred and fifty-six millions forty-five thousand four hundred and forty acres. No note is taken herein of the local bounties not paid by the United States, for I have no means of ascertaining their amount."

The local bounties referred to, could they ever be ascertained, would somewhat reduce this estimate, but the aggregate amount may safely be set down as not falling very much below one hundred and fifty millions of acres. This immense area, enough for an empire, being equal in extent to the thirteen original colonies, save North Carolina and Pennsyl-

vania, double the area of Great Britain and Ireland; and nearly nineteen millions of acres larger than the French empire, and consisting, of course, of picked arable land, is to be withheld from cultivation and productive wealth, in order that the soldier, who needs his bounty now in money may at some future time get it in the price of his land, which is kept idle at the nation's expense, and to the cruel wrong of multitudes who long for homes. We convert him into a land-jobber, and conspire with him against the productive industry of the country. We set aside the homestead law as to more than one fourth of the tillable portion of the public domain by excluding from it the poor who would coin their labor into national wealth, extend the borders of our civilization, and realize the blessings of independence. It is said, I know, that we are not able to pay the soldier his bounty in money, and that we have nothing else but land with which to satisfy him. This I deny. The nation is able to do justice to its heroic defenders, and cannot honorably plead poverty as an excuse. But if that plea is to be accepted, then I reply that we are still less able to dedicate to solitude from one hundred to one hundred and fifty millions of acres of land, which else might be carved up into small homesteads, to be tilled by their owners and made the basis of revenue and of national wealth. The country, with all its great resources, is too poor thus to cut off its supplies by wholesale prostitution of its means and its opportunities, and it could far better afford to pay the soldier a reasonable bounty in money. Not one acre of land which any poor man needs for cultivation should be denied him in the interest of those who would grasp it for mere speculation. A member of this House from Illinois informs me that in the western border of that State George Peabody, years ago, purchased thousands of acres of wild lands, which he holds to-day.

Settlers have established themselves around these lands, built their houses, planted their orchards, and created wealth. The grain and other products of their farms which are annually shipped to market on the railways made necessary by the settlement of the country, go to make up the sum of our national wealth. These settlers are every day adding to the value of Mr. Peabody's lands, while other settlers, who would long since have made them productive, have been driven further West in search of homes. The Government thus entered into partnership with Peabody in cheating our pioneer producers out of the homes to which they were entitled on these lands, and in staying the industrial development of the West for the benefit of nobody in the world but a single monopolist, whose home is on the other side of the Atlantic. I do not brand George Peabody as a robber, for he is known as an honorable, patriotic, and liberal man. The Government of the United States licensed him to do these things, as it has licensed other land speculators, and has been itself the plunderer of its citizens and the practical foe of national progress. But these evils are multiplied and compounded by the bill I am now discussing, for instead of a few thousand of acres it grasps many millions, and although the owners are multiplied the homeless poor of the country are equally excluded from this immense area which the nation pledged to them by its pre-emption and homestead laws.

Mr. Chairman, I have discussed this measure on the supposition that the bounty it proposes is to go to the soldier only, or his heirs, and that the certificates of indebtedness are never to be made assignable. I have thus given the proposition its best possible face, and have shown, I think, the utter impolicy if not viciousness of the project. I speak of course of the measure itself, and not of the motives of its friends, which I doubt not are patriotic. But the truth is that should it become a law, the certificates of indebtedness would be made

assignable. On this subject I beg leave to quote from a recent letter of the Commissioner of the General Land Office, in which he speaks of this bill in the light of actual facts. He says:

"I have examined the inclosed bill (H. R. No. 940) to equalize bounties of soldiers, sailors, and marines who served in the late war for the Union, which I had the honor to receive from you with the request for a statement as to the probable effect of the measure in the light of the experience of this office.

"I find the bill provides for the issue to soldiers, sailors, and marines of interest-bearing certificates, to be used by them or their heirs in payment for public land which they may hereafter purchase from the Government; that such certificates are in no wise transferable, and that the interest may continue to accrue without limitation until the recipient may see fit to purchase land therewith.

"The act of September 28, 1850, granting bounty lands to soldiers who had served in any of the wars in which the United States had been engaged, contained a provision that the warrants thereby authorized to be issued should be located by the soldier or his heirs, thus preventing their assignment and sale. This provision gave such general dissatisfaction that Congress passed the act of March 22, 1852, authorizing the transfer of any warrant then issued or to be issued.

"The files and records of this office show that not one in five hundred of the land warrants issued and placed in the hands of the soldiers or their heirs have been located by them, or for their use and benefit; and further, that although the said act of March 22, 1852, made such warrants assignable, it is safe to assume that not to exceed ten per cent. of them have been used by preëmtors as assignees in payment for actual settlements, the most part having been used by persons to acquire title to the public lands for speculative purposes.

"Should the bill under consideration become a law, and by future legislation be so modified as to make the certificates assignable or available to the soldier or his heirs without becoming settlers on the public lands, there is no reason that can be suggested by this office why results like those in respect to the past issues may not be looked for in regard to the certificates contemplated by the present measure, the effect of which would be to transfer to non-resident proprietors large bodies of the public domain."

That, sir, is the authoritative statement of Commissioner Wilson, whose judgment, experience, and familiarity with the whole subject no one will question. That these certificates would be made assignable there can scarcely be a single doubt. The great body of our soldiers need their bounty now, and not the promise of it at some time in the uncertain future; and if the relative handful of the soldiers of our Mexican war were strong enough to carry a bill through Congress making their warrants assignable, it is quite certain the like thing would happen now at the bidding of the hosts who would demand it. Indeed, I believe some of the friends of the bill do not disguise the fact that ultimately these certificates are to become assignable by law, so that the holders of them may realize their value in money.

What, then, would be the effect of such legislation, both as to the soldier and the public domain? Mr. Wilson, in the letter I have quoted, says that not one in five hundred of the Mexican war land warrants were located by the soldiers or for their use and benefit, and that not to exceed ten per cent. of them have been used by preëmtors as assignees in payment for actual settlements, the most part having been used by persons to acquire title to the public lands for speculative purposes. He predicts very naturally the same mischievous results from the present bill should it become a law. But I ask particular attention to the following additional facts which I copy from the carefully prepared report of the House Committee on Public Lands already referred to:

"At the close of the last fiscal year there remained outstanding fifty-three thousand nine hundred and twelve military bounty-land warrants, issued under various acts of Congress, calling for the aggregate quantity of five million six hundred and three thousand two hundred and twenty acres. These warrants are selling at about one dollar per acre. Under the agricultural college act of 1862 scrip has been issued to non-public land-holding States to the amount of five million three hundred and forty acres; and when the States of the South shall have received their shares under the act, the whole amount of land covered by it will be nine million six hundred thousand acres. This will be the subject of monopoly in the hands of speculators, and the price of the scrip will depend, to a considerable extent, upon the quantity of it in market and of the unlocated military bounty-land warrants. The price has generally

ranged from sixty to seventy cents per acre, but has sometimes gone much lower. As further affecting the price of warrants and scrip it should be remembered that over forty-three million acres of "swamp and overflowed lands" have been granted by Congress to the States, more than one-half of which is probably in the hands of monopolists; that about two hundred millions of acres have been granted to aid in building railroads and for other purposes of internal improvements thus inaugurating further and fearful monopolies of the public domain; and that millions of acres of Indian lands, by virtue of the most pernicious treaty stipulations, are falling into the hands of monopolists, thus still further aggravating the wide-spread evils long since inflicted upon the country by the ruinous policy of land speculation. Every day gives birth to some new scheme of monopoly by which the paramount right of the people to homes on the public domain is abridged or denied, and its productive wealth seriously retarded; and no one will need be told that, should this policy be continued, the opportunities of settlement and tillage under the preëmption and homestead laws must constantly diminish."

Mr. Chairman, I ask gentlemen to keep these facts in remembrance in considering the effect of this measure upon the soldier. I ask them to remember the present price of college scrip, the quantity of which is yet to be almost doubled, and which at one time sold as low as thirty-seven and a half cents per acre. Let them bear in mind the amount of old bounty-land warrants yet outstanding, and the stupendous monopoly of the public domain which is going on in other directions and threatening to swallow it up, and then ask themselves what would be the effect of putting in the market from one to two millions of assignable certificates payable in land. Every man can answer this question for himself, but I believe I am safe in saying that the price would fall as low as twenty-five cents per acre. Our Mexican land warrants at one time sold at from thirty-five to forty cents per acre, and this, it must be remembered, was before the enactment of the homestead law, while the quantity of warrants was a small fraction only of that of the certificates now proposed to be issued. The Great Republic, in speaking of this bill, says that after paying notary and attorney's fees the whole money value to the soldiers of such a grant would not exceed \$20,000,000, and it would be a hundred times better for the country to make this payment in money, and thus leave the public domain to the laboring masses. The veil thrown over this hideous speculation is too thin to cheat the soldiers or citizens of the country. It should be stopped where it is. If further bounty is to be paid, let it be honestly paid in money, and thus close the door against further speculations in what is designed for, and should be reserved as, the homes of the industrious millions.

This is from the pen of Judge Edmonds, late Commissioner of the General Land Office, and one of the truest and most sagacious of our public men; and it appears in the columns of a well conducted and influential journal, which I understand to be one of the principal organs of the loyal soldiers and sailors of the United States. He adds, that "the soldiers have asked for no such measure, nor do they want to be made the objects of any such fictitious gratitude," and declares that "the obligations of the country to them would be nearly canceled should they knowingly and purposely allow so monstrous a scheme of monopoly against the laboring men of the country to be perpetrated in their name."

But while the bill would thus prove a violated promise to the soldier, its effect upon the public domain would be still more deplorable. On this point I take leave to quote again from the same report:

"All the evils of land speculation, to an extent as alarming as it would be unprecedented, would be the sure result. Capital, always sensitive and sagacious, would grasp these warrants at the lowest rates. Land monopoly in the United States, under this national sanction, would have its new birth, and enter upon a career of wide-spread mischief and desolation. Speculators would seize and appropriate nearly all the choice lands of the Government, and those nearest the settled portions of the country, while homestead claimants and preëmtors would be driven to the outskirts of civilization, meeting all the increased

expense and danger of securing homes for their families, and surrendering the local advantages of schools, churches, mills, wagon-roads, and whatever else pertains to the necessities and enjoyments of a well-settled neighborhood. This policy would stop the advancing column of immigration from Europe, and of emigration from the States, which has done so much to make the public domain a source of productive wealth, a subject of revenue, and a home for the landless thousands who have thus at once become useful citizens and an element of national strength. It would, in fact, amount to a virtual overthrow of the beneficent policy of the homestead law, which has, perhaps, done more to make the American name honored and loved among the Christian nations of the earth than any single enactment since the formation of the Government."

Mr. Chairman, I submit that the facts embodied in this brief summary ought to settle this question in the minds of all men who will lay aside passion and allow themselves for a single moment to think. With me they are absolutely conclusive. I claim to be as true a friend of the soldier as any man in this Congress or out of it; but I am likewise the friend of the millions who toil, whether soldiers or civilians, and cannot, therefore, unite with any man or set of men, for any purpose in opposing the homestead law, either by open assault or the insidious policy of indirection. I am quite as unwilling to aid in its overthrow now, on the pretense of giving bounties to soldiers, as I was five years ago on the specious ground of paying our national debt. Its policy is constantly invaded by stupendous grants to railroad corporations, by corrupt Indian treaties which sweep away the rights of settlers and curse vast districts of country, and by the growing spirit of monopoly, shown in multiplied forms and threatening the very principle of democratic equality in the Republic. Sir, the duty to which we are summoned is not that of submission or acquiescence but of unflinching resistance to these unchristian and anti-republican tendencies of our time. No ephemeral advantages, if they were attainable by an opposite course, could atone for the enduring mischiefs to the country which would certainly ensue.

Mr. Chairman, if any further argument addressed to this House is needed I find it at hand. This body, in March last, passed without a division the following resolution:

"Resolved, That in order to carry into full and complete effect the spirit and policy of the preëmption and homestead laws of the United States the further sale of the agricultural public lands ought to be prohibited by law; and that all proposed grants of land to aid in the construction of railroads, or for other special objects, should be carefully scrutinized and rigidly subordinated to the paramount purpose of securing homes for the landless poor, the actual settlement and tillage of the public domain, and the consequent increase of the national wealth."

Sir, I am quite sure the sentiment of this resolution would be most heartily indorsed by the great body of the people of the United States. Let us stand by it in the face of all temptations. It utters the true watchword and rallying cry of the people of all parties, and its gospel must be preached and practiced if our great national patrimony is to be saved from the greed of monopolists and the rapacity of thieves. I do not believe this House will now go back on the record it has made. Indeed, some of the friends of this bounty bill assure me that they desire its passage because they believe Congress will soon carry into effect the resolution I have quoted by providing that no more of our public lands shall be sold except under the preëmption and homestead laws, the effect of which, they say, would be to bring these certificates of indebtedness nearly to par. I sincerely hope Congress will be wise enough to do what is predicted. I even hope for it at this session; but I deny that any such effect on the price of certificates would result. Such a measure could not interfere with the holders of college scrip, nor land warrants, nor Indian scrip, through which land could still be bought without the condition of occupancy and improvement; nor could it undo those huge land monopolies already existing under our Indian-treaty policy and swamp-land legislation,

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through which the trade in land will be lively for a good while to come. There will be ways enough left to buy land without the obligation to live upon and cultivate it after the bill I reported to this House some months ago to prohibit further land speculation shall have become a law. In no event would the price of these certificates give the soldier the bounty he is entitled to ask; but if it would, the injury which this policy would inflict upon the country, as I have already shown, utterly forbids its adoption. The soldier, if he understands this, will not ask it, and the nation has no right to entail upon itself a great and irreparable wrong in order to prevent a minor one, which it may remedy in another way, if any present remedy is indispensable. The best friend of the nation's patriotic defenders is the friend of justice and the public welfare; and the men who were unselfish enough to offer their lives as a sacrifice for these will never ask the representatives of the people to trample them under foot.

Missouri Contested Election.

SPEECH OF HON. W. F. SWITZLER,
OF MISSOURI,

IN THE HOUSE OF REPRESENTATIVES,

July 16, 1868.

The House having under consideration the contested-election case of Switzler *vs.* Anderson, from the ninth congressional district of Missouri—

Mr. SWITZLER (the contestant) said:

Mr. SPEAKER: I had hoped the character of this discussion would have been such as to justify me, in view of my duty to myself and responsibility to the country, in refraining from all participation in it. Elected, sir, to the present Congress over the sitting member by more than a thousand majority, defeating him not only in the county of Callaway, but in the county of Pike, where he resides, by several hundred majority, and largely in other counties of the district, and my right to a seat here strongly affirmed by the almost unanimous report of your committee more than three months ago, yet in the face of these facts the sitting member has occupied my place in this Hall, misrepresenting the people of the ninth district, until near the close of the term for which I was elected. It cannot, therefore, be surprising, Mr. Speaker, that I am weary, weary of this long contest; and reluctantly protract it a single moment by any act or word of mine.

The fact is, I had no desire whatever to trespass upon the courtesy of this House, and I resolved not to do so except in one contingency, which I regret to say has already arisen, namely, that the gentleman from the eighth Missouri district, [Mr. BENJAMIN,] who acted as counsel for the sitting member before the committee, realizing here as he did there that his client has no case in the record, conceived it his duty on this floor to manufacture one outside of the record. This he has done by a new issue suddenly and without notice sprung upon me and upon the country, one about which the committee, under the pleadings in the case and the act of Congress, could legally hear no legal evidence.

READY TO MEET THE ISSUE.

I rise, Mr. Speaker, to meet this new issue; the issue of my personal disloyalty, unjust as it is to me and foreign as it is to the merits of this contest; an issue made here for the reason that the record of this case does not present a single fact or principle of law to justify the usurpation by which Mr. ANDERSON occupies a seat in this Hall; an issue which he at no time or place made during the canvass before the people, nor dared to make according to law in his answer to my notice of contest.

A QUESTION ASKED.

Sir, if at any time during the rebellion, in

the numberless speeches I made to the people in behalf of the Union and to raise troops to defend it, or in any one of the thousands of my public writings or personal or official acts, I proved myself a rebel and traitor to my Government; if at any period of this long and bloody strife I proved myself disloyal to the Constitution and the Union, why is it, sir, why is it that the sitting member did not arraign me on that charge during the canvass in our joint discussions before the people, or tender that issue according to law in the record of this case? Then I would have had notice of it and been fully prepared to disprove and disgrace it.

But, no, sir; the canvass before the people was entered upon and completed, the gentleman and myself often addressing the same audience from the same stand, and not a syllable or an insinuation escaped his lips in regard to my disloyalty. On the contrary, in this very county of Callaway, about whose vote his counsel has said so much and knows so little, the sitting member sought to prejudice me, in a speech, by reminding the people that for more than a year during the war I was one of "Abe Lincoln's provost marshals, and the very man who enrolled them and their negroes for the draft." More than this, after the election was over and the official returns proved that the gentleman was defeated by over one thousand majority, and after I gave him notice that I would appeal for justice to this House, in which his political friends have an overwhelming majority, he uttered not a word in his answer and elicited not a fact in his evidence on the subject of my being a rebel.

MR. ANDERSON CONCEDES THE LOYALTY OF CONTESTANT.

Not only this, sir, but at the time we were jointly taking evidence preliminary to this contest in my own county, the county of Boone, and while we were before the court, I called the gentleman's attention to the fact that I had summoned witnesses to establish my consistent and persistent loyalty to the Union during the rebellion; stating to him, that although there was no such question in the record, if I had to meet that question here, I would swear those witnesses. The gentleman assured me that there was no such question in the case, and that it would not be raised on the trial of this contest before the House; and hence, although some of the witnesses were in the court-house at the time, I dismissed them upon the assurance that such an issue would not be made before this House. This the gentleman will not deny.

Moreover, he stated to the committee itself he had no charge of disloyalty to make against me. Yesterday the chairman of the committee [Mr. DAWES] in addressing the House said:

"The sitting member has made no charge in the papers against the loyalty of this contestant. He took not a particle of testimony touching the loyalty of this contestant. He was heard before the committee at length, and at his pleasure, and at the end in response to the inquiry of the committee he stated he had no charge to make against the loyalty of this contestant."

YET IT IS TRUMPED UP NOW.

Now, sir, this gentleman has gone before a committee of his own political party, where he was fully heard by his counsel, and an almost unanimous decision has been given by that committee against his right to a seat on this floor. And now, upon the trial of this case here, with my personal and my official records, with my speeches, editorials, and the files of my newspaper, fifteen hundred miles distant, I am called upon suddenly and without notice to answer the charge of disloyalty!

Sir, I complain, and have a right to complain, that a charge so disreputable to me or to any other loyal citizen of the Government should be presented under such circumstances.

MR. BENJAMIN INCUBATING A SPEECH.

The counsel for the sitting member has been himself incubating for the last three months the remarkable speech which he read to this House yesterday and to-day. Having heard

of the speech and of its object, I called upon its author at his lodgings in this city and stated to him I was informed he had in type at the Congressional Globe office a speech on this new and irrelevant issue, to be read to the House when the case was called for consideration. I suggested that as no such issue was in the record it was but justice to me that he furnish me a copy of his indictment, that I might be the better prepared to meet so unexpected an assault.

He refused to give me a copy of it, stating at the time—

Mr. BENJAMIN. Let me say a word right here.

Mr. SWITZLER. The gentleman will keep just as cool as the temperature will permit.

The SPEAKER. Does the contestant yield to the member from Missouri, [Mr. BENJAMIN?]

Mr. SWITZLER. I do not yield. I will say that the gentleman at the same time that he refused me a copy of this speech which he had been hatching for three months, purported verbally to give me what the charges were that he would make against me, promising that a copy of the speech would finally be furnished to me. It has been furnished to me at the same instant of time that it has been furnished to this House and to the country.

But my friend, the sitting member, sadly beleaguered, is now passing through "the heated term," and is to-day seeking to buffet the waves of a terrible storm; and it is therefore not surprising that he and his counsel are perfectly willing to accept safe anchorage in any harbor, no difference where, no difference what.

Sir, I affect no contempt for the honor of a seat in Congress, especially as the Representative of so noble a constituency as mine, nor do I pretend to be unmoved by a generous ambition to achieve that great distinction, yet, be the consequences to me personally or politically what they may, no gentleman here or elsewhere, in Congress or out of Congress, shall with impunity assail my loyalty or the loyalty of my constituents to the Constitution and the Union.

THE WAR CARRIED INTO THE ENEMY'S COUNTRY.

During the bloody and fratricidal war from which our country is but too slowly emerging, I suffered and sacrificed too much for the brave old flag of the Republic and to overthrow the rebellion now to allow political partisans, especially for the purpose of foisting themselves upon an unwilling people, to misrepresent my opinions and conduct; and if in meeting this new issue and confronting this sudden assault I shall deem myself provoked to carry the war into the enemy's country, and to strip the lion's skin of superlative loyalty not only from the limbs of the sitting member, but from his counsel, by the most extraordinary exposure that was ever made in Congress of the unenviable record of any public man, let the gentlemen remember that this is an issue not of my seeking or provoking, nor shall it be one of my avoiding.

Before it is concluded, if I do not mistake the power of truth over this House and the country, these gentlemen will realize that there are blows to receive as well as blows to give; and that as long as they shall have here a habitation and a name or the memory of the indiscretions of this day survive them they will be pointed to as monuments of the truth of the old maxim, that those who live in glass houses should not throw stones.

PROVINCE OF THE HOUSE.

Mr. Speaker, if I do not mistake the functions of this House, called at this time to judge of the election, return, and qualifications of one of its members, it is here to decide a question of law and of fact, and that only. Certainly I do not understand that it is transformed into a body of electors, Democratic and Republican, assembled at the polls in the ninth congressional district of Missouri to de-

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clare through the ballot-box their party preferences, or to attest their adherence to party platforms by voting for the candidate who is the representative of a particular mode of reconstruction by Congress, by the President, or by neither, or of a particular measure of national finance, rule of suffrage, or foreign policy. The members of this House are not here, as I understand, to decide at this time whether the political party views of the sitting member or of the contestant are orthodox or heterodox; for if this were the province of this House, the sacred right of representation and of free elections by the people were a delusion and a farce. Recognizing the right of a free people to be represented in this Hall by the man of their choice, your Committee of Elections has been appointed, and you consider of their report, not certainly to decide whom a majority of this House prefer, but to ascertain and declare whom the people themselves have chosen.

To this end, therefore, this is not a partisan body. It is a court of law ordained by the Constitution; a court above the transitory and ever-changing platforms of political parties, and secure on the higher and ever-enduring plane of constitutional government, in which the voice of the people is the supreme law. The right of representation, the right of the people to choose their own rulers, underlies civil government on this continent. But for this right, no member of this House is secure in his seat. Planting myself on that right to-day, pledging myself anew to its defense, a right most flagrantly violated by the sitting member in assuming to represent a district in which he was defeated by more than one thousand majority, I realize that in confronting this usurpation, humble as I am, I am standing in the Thermopylæ of the people's liberties.

MR. BENJAMIN'S "LOYALTY" UNMASKED.

I do not know, Mr. Speaker, that in the time allowed me I shall be able to go through the record which I have before me; but while avoiding all discussion of the merits of this case, leaving that question with the committee and the House, my purpose will be first to measure these two gentlemen [Messrs. ANDERSON and BENJAMIN] by the standard of loyalty which they themselves erect, pledging myself to the House and the country that if I cannot establish a better claim to loyalty to the Union and the Constitution than either of them I will abandon this contest, pack my valise, and take the next train for Missouri. If I cannot establish that during the dark and bloody war through which we have passed I did more in behalf of the Union of the States and to crush out the rebellion and restore peace to the country than both of them put together, then I mistake the truths of our recent history and misjudge their power over the convictions of honest minds.

The gentleman who has appeared upon this floor as the counsel of the sitting member, as he appeared before the committee in the same capacity, referred in the speech which he made yesterday, in a spirit of censure and reproach, to the county of Callaway as being "under the domination of the old slave aristocracy;" and in the same connection he sought to prejudice the people of Boone county by the statement that "they rolled slavery as a sweet morsel under their tongues." Now, sir, if there be a gentleman in political life in the United States, North or South, East or West, who in times past oftener rolled slavery under his tongue as a sweet morsel and with greater relish than the gentleman who appears here as counsel of the sitting member I confess myself ignorant of his history; and this is true not only of the counsel, but the client; for these two gentlemen in the State of Missouri previous to the rebellion were regarded as the most radical, ferocious, uncompromising, and intolerant pro-slavery men in the State. No men North or South uttered,

previous to the rebellion, more bitter denunciations against the Republican party and the abolitionists than these two would-be patron saints of radicalism and negro suffrage. No two public men of our time affiliated more kindly with the old slave aristocracy or rolled under their tongues with greater relish the sweet morsel of slavery than ANDERSON and BENJAMIN; gentlemen who, for reasons good or bad, have abandoned the convictions of their former lives and now profess a living and an honest faith in the vagaries of the new philosophy; have like the pendulum of a clock vibrated from one extreme to the other—from radical pro-slaveryism to radical abolitionism.

THEIR BARK PRO-SLAVERYISM.

Now, the gentleman from the eighth district of Missouri [Mr. BENJAMIN] was previous to the war a pro-slavery Democrat of the most ultra type. He was a James Buchanan, Claiborne F. Jackson, pro-Leocompton, anti-Benton Democrat, who not only believed that slavery was an institution over which Congress under the Constitution had no power in Territory or State, but belonged to and was a leader of the party who believed that that which he and his *now* call "the sum of all villainies," the black prince of slavery, came in a direct line from the pure, white throne of Jehovah.

Sir, it was no idle menace of mine when I promised to unmask the unenviable and rebel records of these gentlemen, rebel according to the measure by which they have sought to determine my loyalty to the Union. Judged by this standard they are, or were, both disloyal and "steeped in treason;" and if the gentleman from Iowa [Mr. WILSON] be a fair-minded man, impartial, and superior to the tricks of party, he will amend his motion to recommit so as to charge the Committee of Elections with the duty of inquiring into Mr. Anderson's loyalty is well as my own.

Mr. WILSON, of Iowa. I desire to state to the gentleman that if charges are preferred against the loyalty of the sitting member I will amend my motion so as to include them.

Mr. BENJAMIN. Also include those against me.

Mr. SWITZLER. I will include the counsel as well as the client.

MR. BENJAMIN IN 1853.

Mr. Speaker, in order to conform to the example set me by the counsel for the sitting member, I shall send this letter of the gentleman to the Clerk that he may read it—a letter which will disclose to the country Mr. BENJAMIN's former estimate of those with whom he now politically affiliates.

The Clerk read as follows:

SHELBYVILLE, MISSOURI, June 29, 1853.

Editor Republican:

"Sir: My attention has just been directed to a letter in the St. Louis Democrat, in which a correspondent of that paper writing from Alexandria under date of the 13th ultimo, says: efforts are being made in this district to induce J. F. BENJAMIN, esq., of Shelby county, to become the free labor candidate for Congress in opposition to General Clark. As there is no person in Shelby county whose name exactly corresponds with the above, I presume I am the one alluded to. Permit me through your paper to say to the Democrat and its confederates in the third district that they need make no further "efforts" in that way; that I am a national Democrat; that at the ensuing election I shall support the Democratic ticket, as I always have done, including General Clark for Congress; that I have been fighting abolitionists for twenty years, and expect to do so for twenty years to come, should I live that long and they have a political existence. What could have led any person or party to suppose for one moment that I could be influenced to give "aid and comfort" to the abolition party of Missouri I am at a loss to conjecture. J. F. BENJAMIN."

Mr. BENJAMIN. What is the date of that letter?

Mr. SWITZLER. Shelbyville, June 29, 1853. The gentleman, it will be perceived, in this letter expressed great astonishment that any citizen would for a moment suppose that he would become the free-labor (free-soil) candidate for Congress. The mere suggestion was

taken by him in high dudgeon, and lost some citizen be misled by his silence Mr. BENJAMIN deems the suggestion worthy of formal contradiction in a card. And this is not all. He is as full of contradictions as he is prodigal of promises; for, it will be perceived, after recalling a twenty years' siege of his against abolitionism, he promises to enlist for twenty years more and to "fight it out on that line," should he and abolitionism so long live. Only one half of the period has passed and abolitionism still lives, but what of the hand to hand encounters, the heroic "fighting," in which the gentleman promised to figure?

HIS "LOYALTY" IN '61 EXAMINED.

I desire in the next place to give you a short extract from the gentleman's record a little later in life, after secession had culminated, to show you, while he has arraigned me before this House on the charge of disloyalty to the Government of the United States, because early in 1861 I was against coercion, (as I was,) he and his distinguished client are in the same category, the difference being that they were chairmen of committees in their respective counties, reporting anti-coercion, anti-Lincoln, anti-war resolutions, while I was not even a member of the committee which reported those to the Boone meeting. The chairman of that meeting was then, and is now, a citizen of my town, a personal friend of mine, but the leader of the Radical party of the county and a supporter of Mr. Anderson. I mean Colonel Francis T. Russell.

On the 6th of May, 1861, according to the Shelby County Weekly of the 9th of that month, there was a public meeting in the town of Shelbyville, the residence of Mr. BENJAMIN, and in that meeting he was chairman of the committee on resolutions. I desire to read a portion of the resolutions which were reported by this gentleman to that meeting, as I find them recopied in the Hannibal Republic:

"4. That we approve the refusal of the Governor of Missouri to furnish troops to coerce the seceded States; and that the best interests of Missouri imperatively demand that she maintain her present independent, peaceable position, taking sides neither with the Administration or the seceded States, but using every honorable means to bring about peace and thus avert the awful calamities that are about to burst upon us."

The eighth resolution reported by Mr. BENJAMIN, who now claims to be superlatively loyal and the exponent of superlative radicalism in Missouri, is as follows:

"8. That if the State Convention pass an ordinance of secession, and it be fairly ratified by a majority of the people at the polls, we will cheerfully submit. But we are prepared to resist any tyrannical usurpation of those in office, whether executive or legislative, to foist that measure on the people of Missouri."

Now, sir, these resolutions, according to the authorities cited, were introduced by Mr. BENJAMIN, chairman of the committee on resolutions, and passed in Shelbyville, Missouri, in May, 1861.

MR. ANDERSON'S "LOYALTY" EXAMINED.

Just previous to that time, that is to say, in April—the 25th of April, 1861—the sitting member [Mr. ANDERSON] was a prominent actor in a meeting in the county of Pike, where he resides. There, as chairman of the committee on resolutions, he exhibited that unadulterated and superlative loyalty for which he claims merit here, and in order that the House and the country may see that those who live in glass houses ought not to throw stones I beg to read some resolutions introduced by him at this meeting:

"Resolved, That the national Government should be tried by its acts, and the several States as its peers and in their appropriate spheres will hold it to a rigid accountability and require that its acts should be fraternal in its efforts to bring back the seceding States and not sanguinary or coercive."

"Resolved, That as we oppose the call of the President for volunteers for the purpose of coercing the seceded States, so we oppose the raising of troops in this State to cooperate with the southern States when the acknowledged intention of the latter is to march upon the city of Washington and capture the Capital."

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Missouri Contested Election—Mr. Switzler.

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tol, and when in its march thither it must pass through States which have renounced their allegiance to the Union."

Again, listen to the sixth resolution:

"Resolved, That the present duty of Missouri is to maintain her present independent position, taking sides not with the Administration and not with the seceding States, but with the Union against them both, declaring her soil to be *saved* from the hostile tread of either, and if necessary to make the declaration good with her strong right arm."

Here, plainly and vigorously stated, are the doctrines of non-coercion and "sacred soil," and opposition to Missouri's responding to President Lincoln's call for four regiments of volunteers "for the purpose of coercing the seceding States"—all to be made good with Missouri's "strong right arm."

A BRACE OF LOYALISTS.

Now, sir, a meeting was held in Boone county on the 3d of May of that same year, and what was done? Why, sir, the Union men of Boone county—for if there were at that time or if there are at this time any Union men in that county they were at that meeting—observing that these distinguished loyalists, one in the county of Shelby and the other in the county of Pike, had reported resolutions against the Governor of the State responding to the President's call for volunteers, observing that both Mr. BENJAMIN and Mr. Anderson had reported resolutions at their county meetings against coercion and in favor of neutrality, the Boone county loyalists simply followed their example. And, Mr. Speaker, I confess that in that meeting I, like other Union men in my county, followed these bright and shining lights of loyalty; but I declare, since they have arraigned me before this House on the charge of disloyalty because I simply followed them, that I never will be deceived by such false and delusive lights again.

Why, sir, verily these two gentlemen seemed to act in concert, and for each other must have had a fellow feeling wondrous kind. Indeed, most appropriately they might paraphrase a verse of the good old Presbyterian hymn:

"Blest be the tie that binds
Our hearts in 'loyal' love;
The fellowship of kindred minds
Is like to that above."

A DOUBLE CHERRY.

In truth, sir, this adorable brace of simon-pure loyalists recall an old apostrophe, which, altered for the occasion, may be rendered: BENJAMIN and Anderson, Shelby and Pike, counsel and client, Damon and Pythias, Hermia and Helen; a double anti-coercion, anti-Lincoln cherry. Why, sir, Helen in *Midsommer Night's Dream*, in addressing Hermia, photographs this transcendently loyal couple. Listen:

"We, Hermia, like two artificial gods,
Have with our needles created both one flower,
Both on one sampler, sitting on one cushion,
Both warbling of one song, both in one key,
As if our hands, our sides, voices and minds
Had been incorporate. So we grew together,
Like to a double cherry, seeming parted,
But yet an union in partition.
Two 'loyal' berries molded on one stem,
So with two seeming bodies, but one heart."

POSITION CANDIDLY STATED.

But this is not all. The good people of the terribly calumniated county of Callaway, and of Boone, have been arraigned by the sitting member on the charge that they are unfriendly to the Republican or Radical party. I have been arraigned both before the committee and House on the same charge.

Mr. Speaker, a large majority of the members of this House may not very well relish the fact, or contemplate it with either delight or composure, that there are in Callaway and Boone, and even in Pike and every county of my district, hundreds of loyal citizens who are earnestly opposed to the policy of the Radical party; but I hope all the honest members of that party in this House entertain no repugnance to candor and frankness in political opponents, or to honest men wherever found.

I claim to be very candid and frank and honest in my convictions of public duty. So are my constituents. In all candor, then, I confess that the charge is true that I am an enemy of the Radical party; the charge is true that I am not an abolitionist. I never was an abolitionist, and I declare to this House, with all the freedom and frankness of my nature, be the consequences to me what they may, I was not an abolitionist before the war, or during the war, and am not one since the war. During the contest preceding the rebellion I was an old-line, Henry Clay, Daniel Webster Whig. I never was an abolitionist, and never expect to be. I claim, however, honest convictions in reference to all great questions which divide the country, and I would not conceal from this House or from the country any sentiment I now entertain or ever entertained in order to obtain a seat in the Fortieth Congress or in forty Congresses like it.

MR. ANDERSON AS AN EDITOR—HE "GOES" FOR THE EMANCIPATIONISTS.

But, sir, am I the only gentleman who ever denounced abolitionists? Let us see what the sitting member himself said about them. We were told yesterday that the contestant had been an editor in Missouri for twenty-five years. Well, that is true. I have been an editor and am to-day, and unfortunately for the sitting member for two or three months in 1862 he was an editor, and a very poor editor at that. It was after Fort Sumter had been fired upon; it was after this capital was menaced by the Federal defeat at Bull Run; it was in an eventful and very critical period of the bloody and terrible war through which the nation was passing. At that crisis in the struggle for the life of the Republic the gentleman was editor temporarily of the *Louisiana Journal*, published in the city of Louisiana, Pike county, Missouri. This gigantic rebellion against the Constitution and Government of the United States had culminated; the respective armies of the two sections, North and South, had formed in line of battle almost across the continent, and the question whether there would be a recognition of the independence of the confederate States by England and other foreign Powers was trembling in the balance; yet at this very critical period in our history the gentleman wrote as follows in the *Journal* on the 22d of May, 1862. The editorial is headed "Emancipation in Missouri," and in it Mr. Anderson charged that F. P. Blair jr., and B. Gratz Brown (whom he styled the leaders of the "two parties of emancipationists") were "establishing newspapers all over the State" for the purpose of attaining emancipation, and invoked "the political death of both of them." In this article he says:

"We had hoped that Missouri would remain quiet on this question, at least at this election. Our hopes have been disappointed, and the issue must be met. We cannot avoid it if we would, we would not if we could. It is insisted that Missouri will have immediately to get rid of her slaves in order to invite immigration. This proposition is advanced in all seriousness by men who ought to have better sense. By what rule of calculation they expect to make the State ruler by depriving citizens of the State of millions of dollars' worth of property upon which they are paying high taxes is a mystery to us. Men opposed to emancipation must organize to prepare for the coming struggle. We have no fears of the result. Incredulous and argument will demonstrate the impracticability of emancipation, to say nothing of its injustice and inhumanity."

HE NEXT "GOES" FOR PRESIDENT LINCOLN AND THE RADICALS.

Then, on the 29th of May, speaking of Mr. Lincoln's proclamation of emancipation, Mr. Anderson says:

"The sooner the President wakes up to the fact that the border States do not intend to part with their slaves the better for him. It seems to us that he ought to know that the people of the slave States have more sense than to bite at the Yankee bait thrown out in his resolution. The resolution is not worth the paper upon which it is written. Father Abraham must cut loose from all connection with the Radicals if he would restore lasting peace to this

country. They cripple every effort made for the restoration of the Constitution and Union. Disunionists at heart, they only go for war because they believe it will destroy the institution of slavery. They go for the war, not to restore the old Union and the old Constitution, but to gratify a mere spirit of revenge. The President must continue to check the hellish schemes of these blackest-dyed traitors in the land. If he yields to them, there will be no end to this war."

THE ABOLITIONISTS THE MOST ATROCIOUS TRAITORS IN THE LAND.

Now, sir, this is not all. On the 5th of June, 1862, Mr. Anderson proceeded deliberately to write and publish his views of the political situation and the measures of Congress. It is made a charge and a very grave charge against me that I have constantly and conscientiously and honestly opposed the abolitionists. It has been a matter of grave complaint against me, even affecting my political integrity and loyalty to the Union, that I have been a political enemy of the majority of this House. Now, let us see what Mr. Anderson said, and I venture to declare that nothing which I ever uttered by tongue or press in the last quarter of a century against the Republican party before the war, or during the war, or since the war, will compare in bitterness and acrid epithet with it. He said:

"A man does not have to be an emancipationist or an abolitionist either to be a Union man in Missouri. Here an abolitionist is regarded as the deepest-dyed of all the damnable mean and atrocious traitors in the land."

And yet, notwithstanding this terrible anathema uttered by the gentleman in 1862, now that he is hard pressed by the facts and the law of this case, he is here before the House asking that he shall be allowed to retain the seat he occupies by usurpation and fraud because of the fact that he has recently fallen very much in love with those whom a few years ago he denounced as the most damnable and atrocious traitors in the whole land.

SELLING FREE NEGROES INTO SLAVERY.

But this is not all. I will give another fact and show how intensely and fanatically proslavery the sitting member was before the war, and how much in love with slavery he then was. To give this House an idea of the newborn and wonderful zeal recently manifested by the gentleman for abolitionism and the freedom of the slave, I desire to prove by this record that his conversion has been very sudden, if not very sincere.

In 1860, one year before the war, Mr. Anderson was a member of the Legislature of Missouri, from the county of Pike. While a member of that body one of the most atrocious and inhuman measures known to the history of our State or to civilization itself was introduced on the subject of slavery, namely: a bill to reenslave all the emancipated negroes in the State; to reenslave them by the diabolical processes of arrest and public sale by the sheriffs of the respective counties wherein they might be found—to arrest them, bring them to the county seat, and after advertising them for sale, put them up to the highest bidder on the horse-block, and consign them to slavery anew. I will read from the record in regard to that bill.

THE RECORD QUOTED.

I read from the official journal of the house of representatives of the Legislature of Missouri, adjourned session, 1859-60, page 282, so that there shall be no cavil about its authenticity. At the evening session of the 11th of January, 1860, in the Missouri house of representatives, Mr. Hardin offered the following amendment:

"Amend by striking out the third section and inserting the following in lieu thereof."

Listen to this third section:

"Every free negro or mulatto over the age of eighteen years, who shall have emigrated to and settled in this State since the 17th day of March, 1847, and his descendants, and who shall be a resident of this State on and after the first Monday in September, 1860, shall be reduced to slavery."

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The amendment was agreed to by yeas and nays. Among the yeas I find the name of "Anderson"—the same Anderson who, for nearly eighteen months, has occupied my seat in this Hall.

After various amendments had been adopted to the bill, the substitute as amended was then read a third time and passed by yeas and nays—"Yeas Messrs. Abney, Ament, Anderson, Anthony," &c.

A THRILLING PICTURE.

Sir, could I command the pencil of Hogarth or of Missouri's own gifted artist, Bingham, I would attempt to paint or draw in outline on canvas this thrilling picture. I would attempt to exhibit to the mind's eye of this House and of the civilized world the scenes which would have transpired in my State had this bill become a law. I can at all events venture to ask you to go in imagination with me to the county seat of some county of my district; for example St. Charles, and there in the presence of a large number of people brought together by the sheriff's advertisement of bargains, witness a sale of emancipated slaves, old and young, male and female, made under the provisions of this atrocious statute. One Henry C. Machens, the "loyal" sheriff of the county, aided in his Christian duties, it may be, by the sitting member, is the master of the solemn ceremony. There, gathered from city, town, and country, are the freedmen and freedwomen and their children—slaves who had been emancipated by some Christian master on his deathbed, or who, by years of toil by moonlight and on the Sabbath day, had purchased their own freedom. One is sold to some slave-driver from the South. Another to a slave-trader, who snatches his "chattel" from the sheriff's hammer and departs by rail or river to some distant mart. Parent is separated from child, husband from wife, sister from brother. Freedom is exchanged for slavery, and home and kindred for strangers in a strange land; and all this under the bill for which the gentleman voted in 1860.

How appropriate that he should be present to witness the scene, and to add to its interest by rising on the steps of the court-house, before the crowd disperses, and speaking as follows:

"CITIZENS OF ST. CHARLES: For this deeply interesting scene you are indebted in part to my speeches and votes in the Legislature of our State. Remember slavery is divine, and an abolitionist the deepest dyed of all the damnably mean and atrocious traitors in the land."

[Here the hammer fell.]

Mr. BENJAMIN. I move that the contestant be allowed to proceed further.

Mr. WILSON, of Iowa. I will yield for that purpose.

The SPEAKER. How much more time does the contestant desire?

Mr. SWITZLER. Fifteen minutes.

The SPEAKER. If there be no objection the gentleman will be granted that much additional time.

There was no objection.

CHARGE OF DISLOYALTY MET.

Mr. SWITZLER. Mr. Speaker, I am ready to meet this new charge of my disloyalty to the Government. Unprepared as I am, I am perfectly willing to go before the committee this afternoon and confront the issue. Indeed, sir, I will submit the question to the sitting member himself if you will swear him, unless it should appear that being a member of the Fortieth Congress so demoralizes a man that he cannot do justice to a political opponent. For if there is in my humble personal history any one fact which is better known in Missouri than another, it is the fact that from the inception to the close of the war I was a Union man.

A LETTER TO MR. PASCHAL IN 1861.

The suddenness of the emergency compels me to employ such evidence as I accident-

ally have in disproof of the charge of disloyalty. Had fair notice been given me that I would have been called upon to confront this great injustice I could have piled the evidence mountain high. But that which I have must suffice. First, I have here a private letter written by me January 21, 1861, to Mr. Paschal, then the principal editor of the Missouri Republican, but since deceased. It was found among his papers and handed to me by one of the editors as I passed through St. Louis to this city.

The Clerk read as follows:

[Private.]

COLUMBIA MO., January, 21, 1861.

DEAR SIR: I am glad to find that in reference to the great issue of secession the Republican and Statesman are together heartily coöperating in saving Missouri from the madness and folly of disunion.

Let us see to it that reliable, out-spoken anti-secessionists are elected, if possible, from every district. In this great work the Republican, with its large circulation and influence, will have much to do. I hope, therefore, to see you in almost every number unmask the demagogues who would rush this State headlong into the fearful vortex of secession, revolution, and war.

I write chiefly, however, to direct your attention to the doctrine promulgated in the Senate the other day in the debate on Hardin's amendment by Mr. Churchill; that is, that the Legislature has no power to bind the convention, and that, therefore, if a secession ordinance is passed, that body can refuse to submit it to the people, notwithstanding the explicit language of the tenth section. Let us, therefore, at once warn the friends of the Union to support no man for delegate who will not pledge himself unconditionally against a secession ordinance, but also that if one is passed he will vote to submit it to the people.

The secessionists will attempt to give us battle in every district, and by bravado, inflammatory appeals, and humbug, to tie Missouri to the perilous fortunes of South Carolina. Let us take timely action to circumvent and defeat them. I endorse for the Boone district.

Very truly, yours, &c.,

WILLIAM F. SWITZLER.

N. PASCHAL, esq.

UNION VICTORY AT THE POLLS.

Now, Mr. Speaker, I desire to send to the Clerk's desk another paper, being an "Extra Statesman" issued by me on the 20th of February, 1861, announcing the result of the election in my county for members of the State convention. The Clerk will do me the favor to read what is marked, and the House to listen and see how much disloyalty there is in it. This Extra was also found among Mr. Paschal's papers, and folded in the letter just read.

The Clerk read as follows:

"Last Monday was a very inclement day. It was cold even to the fire-eaters; and especially disagreeable (in more senses than one) to those who attempted to buffet the waves of popular enthusiasm for the Union. These sat in at every precinct quite early in the morning, and rolled and surged with increasing volume and strength to the close of the polls, each wave in its proud crest mirroring a gorgeous reflex of the star-spangled banner. So overwhelming and terrific was the storm that the frail bark of Secession was stranded upon the rocks and broken to pieces at the very onset. It had scarcely got under sail before its mainmast was swept away and its little shirt-tail flag went down in forty fathoms water.

The table which follows will show that the majority for the Union candidates is tremendous. It is about fifteen hundred in Boone and nearly nine hundred in Callaway—making an aggregate majority of about two thousand four hundred in the District. We move that a public meeting be called, and the election be declared unanimous."

LETTER AND SPEECH AT MEMPHIS IN 1862.

I will beg the indulgence of the House for another extract. I might pile them mountain high had I known I was to-day to meet this issue. In 1862, it will be remembered, President Lincoln appointed General John S. Phelps, of Missouri, military or provisional governor of the State of Arkansas, and I was appointed military or provisional secretary of State of that State. In August, 1862, pursuant to orders of the War Department, he left St. Louis for Helena, the headquarters of the provisional government. I accompanied him. On the way to Helena, Governor Phelps and myself stopped at Memphis. On the evening of our arrival, the 20th of August, 1862, there was an impromptu public meeting held in Court square, which was

addressed by Governor Phelps and myself, in the presence of the commander of the post, Union soldiers, Union citizens, and, I believe, General Hurlbut, and General Denver, now of this city, and General Snerman, who was then commanding that Department. On our arrival at Memphis, and after the Union demonstration in Court square, I wrote a letter to my paper at Columbia, Missouri, some extracts from which I beg to read.

Referring to the preparations in progress at Jefferson City as I passed through it, to reënforce the Federal garrison at Lexington, then threatened by Quantrel, Hays, and others, I said:

"When we viewed with delight all the paraphernalia of war before us—the squadrons of horse with guidons gaily fluttering in the breeze, the burnished bayonets gleaming in the sun, the brass field pieces as they defiantly looked upon the busy crowd, and hundreds of stalwart soldiers with hearts pulsating quickly at the thoughts of battle—we involuntarily said to the traitors who threatened the pillage of Lexington, 'Let them come.'"

"Not the least agreeable of our reflections, too, was the thought that for a short time at least we would be safe from the sudden calls, at unfashionable hours, and when not invited, of the guerrillas under Parrell and other rebel marauders, and by absence from homeescape, perhaps, assassination on the highway by some cowardly scoundrel who is hunting round for his 'rights' in the shape of good horses or good Union men—the former to steal, the latter to shoot or hang."

Alluding to what we saw at Cairo, I wrote:

"From the deck of the steamer, while at the wharf, we could see Fort Holt, on the Kentucky shore, and Bird's Point, on the Missouri, a spot the memory of which is sadly associated with the death of the heroic Lyon and the defeat of his brave forces at Wilson creek; for, to save Bird's Point from an attack by General Pillow, (which he never intended to make,) the then military commandant of Missouri, General Frémont, sailed down to Cairo in his fleet of boats and sailed back again, instead of reinforcing Lyon at Springfield. Bird's Point cost us Lyon! and if it were a point of gold, which it is not, instead of a point of sand, which it is, it would be dearly purchased with the life of such a man and the loss of such a battle."

Commenting on the Union meeting in Court square, Memphis, I said:

"A Union meeting in Memphis! Who, six months ago, when reading the venomous treason of the Avallanche and the red hot threatenings of the rebels here, would have thought of a Union meeting in Court square, every sprig of grass in which, and every leaf, and every flower, is impregnated with the crazy eloquence of traitors? Yet a Union meeting was held, a large and enthusiastic meeting, which responded vociferously and with a will to the utterance of loyal sentiments and to the denunciation of this causeless and diabolical rebellion."

All this looks very much like treason to the Government and disloyalty to the Union, does it not? So of the speech made on the occasion, which appeared substantially in the Bulletin of the next day.

PROVOST MARSHAL IN 1863-64.

Not to multiply extracts from my public writings or speeches, which might be done indefinitely, I nail to the pillory this shameful dodge by Abraham Lincoln's indorsement of my loyalty. In 1863, President Lincoln, without solicitation on my part, voluntarily appointed me to the office of provost marshal of the ninth congressional district of Missouri. Here is the commission, issued by President Lincoln and signed by Edwin M. Stanton, Secretary of War. In July of that year I entered on my duties, which were continued till October, 1864, when I was removed for supporting General McClellan for the Presidency, some of these very gentlemen then being in the Congress of the United States, and not one of them uttering a syllable or a whisper about Mr. Lincoln having appointed a rebel as provost marshal, and permitting him for nearly a year and a half to remain in office!

LETTER FROM A UNION OFFICER.

I will now ask the consent of the member from Wisconsin [Mr. SAWYER] that I may read a letter addressed to him by a Union soldier, a captain in an Iowa regiment during the war.

A MEMBER. He is not here.

40TH CONG....2D SESS.

Purchase of Alaska—Mr. Orth.

HO. OF REPS.

Mr. SWITZLER. I spoke to the gentleman on yesterday in regard to using this letter, and no objection was stated. At all events I will take the responsibility of reading it in order that strangers to me may not be misled upon the trial of this false issue. It is a letter of introduction to Hon. P. SAWYER:

FREMONT, WISCONSIN, April 20, 1868.

Hon. P. SAWYER, Member of Congress:

Will you allow me to introduce to you Colonel William F. Switzler, of Missouri, and to presume on my long acquaintance with you to offer a word of evidence in his behalf concerning the contest between him and Hon. Mr. Anderson for the seat of the ninth congressional district of Missouri. I "campaign" some in Colonel Switzler's vicinity during the war, and know that he stood up firmly and fearlessly for the "old flag" during our struggle; that he was considered a "marked man" by the rebel bushwhackers, and obliged to leave his house and sleep in the woods more than once to avoid being murdered because of his activity in the Union cause. He sheltered and fed our boys, of whom I was one; nursed them in sickness, and ever kept the "latch-string" out to us. I was left in his town sick, and his wife and himself sought me out, nursed me most carefully, and when well enough to rejoin my command the colonel himself became one of my escort to Centralia, where I took the cars for St. Louis. After the war I spent several months in his town and was almost daily in his society and that of his family. It was during the canvass which raised the present issue between him and Mr. Anderson, and although I do not agree with him in his political views of the present situation, I unhesitatingly say that I believe he was fairly and honorably elected by a majority of the legal votes cast, and should our House of Representatives so decide, I feel certain that no more fair, candid, and honest friend to the perpetuity of our Government will have a seat there than Colonel Switzler.

Your friend, E. A. SHERBURNE.

The writer was a captain of an Iowa infantry regiment; is an intelligent, noble-hearted gentleman, and a gallant soldier, to whom this House recently voted a pension because of disabilities incurred by him in the service of his country.

KILLING OF COLONEL ELLSWORTH.

But I must desist, for I shall not have time to go into all this record, comparatively small as it is. Once for all, however, and I trust for the last time, I will again *garrote* a paragraph from my newspaper, the Statesman, paraded by Mr. BENJAMIN in his speech, in regard to the killing of Colonel Ellsworth, early in 1861, at the Marshall House in Alexandria. The paragraph was published in my paper, a fugitive article from some other journal, just as there was recently a fugitive paragraph in the Evening Star, of this city, in regard to the Speaker of this House. I could not have written it and do not indorse its sentiments, as years ago I announced in my paper. It speaks of how Brownell "looks," evidently being written by some person who had seen him. I never saw him, and again thus publicly disavow the paragraph, hoping, perhaps, against hope that no Radical partisan will hereafter, even when impaled and hard pressed by the record, as the sitting member is in this case, palm it upon the country as uttering my views.

GOVERNOR FLETCHER'S LETTER—THE SLAVE COMMISSION.

Sir, unfair means have been employed to prejudice me and my case before this House, the whole object being to invent some subterfuge or concoct some sham issue in order to avoid a vote on the report of the committee and deny me my seat at this session of Congress. The Radical members from Missouri on this floor, as is evident from Mr. BENJAMIN's speech, are afraid that if the report of the committee be ratified Missouri will be lost at the next election. Hence the extraordinary efforts and the appeals to party power which have been invoked to shirk the issues of the record and to postpone final action. Hence the sitting member, although he had a full hearing before the committee and four months in which to take testimony according to law, has appointed his counsel "a smelling committee" to "nose" around this Capitol and elsewhere to trump up testimony *ex parte* and

illegal, to bolster a cause hopelessly lost before a committee of this House. Hence Governor Fletcher's letter and the note of Mr. Mills of the slave commission, both written since the committee reported, neither of them under oath and their testimony not subjected to cross-examination or the usual tests of truth before a court. Both gave testimony trumped up for the occasion to answer a special purpose, and without any notice whatever to me.

Sir, I have this to say in regard to the note of Mr. Mills, April 10, 1868, wherein he states that my claim for an enlisted slave was rejected by the commission on account of my disloyalty; that he does not specify who deposed before the commission, or what acts of disloyalty, or when or where committed, superinduced the decision; that I had no opportunity of being heard in explanation or defense, for it was all a star-chamber proceeding of which Mr. BENJAMIN's speech on yesterday gave me the first notice; that accidentally, a few days ago, meeting with Mr. Marsh in this city, he being also a member of the commission, I was informed by him that neither my own claim nor any from the county of Boone had been decided by the commission. So much, then, for that.

CONCLUSION.

Mr. Speaker, there are thousands of Union officers and soldiers to whom I would confidently submit the question of my loyalty during the war, and to none more confidently than the several commandants of the department of the Missouri and the provost marshals general of that department; Halleck, Curtis, Schofield, and Dodge, the latter a member of this House from Iowa, but now absent from the city. The present Secretary of War, General Schofield, knows me well, knew me during the entire war, and can easily be consulted. I will abide his decision in the premises; I will abide General Dodge's. A few days since I met in this city General Lewis Merrill and Colonel W. F. Shaffer, of New York, both of whom, for anything I know, may be in the gallery at this moment. Both of them differ with me politically, but they are gentlemen of honor and will testify the truth. Both of them, as officers of "Merrill's Horse," were in my town on duty with a portion of their regiment from January 3, 1862, to July of the same year. They know me well; and if either of them will say I was disloyal to the Union, was a rebel during the rebellion, I pledge myself to retire from this contest at once. Ay, more, if either of them will not declare that I was an active, outspoken Union man, unconditionally for the maintenance of the integrity and unity of the Republic, as an editor, as a citizen, and as an officer, I will trouble this Congress no further with this case.

Sir, the charge of disloyalty and the motion to recommit is a dodge, a sham; is a piece of poor party strategy designed to carry this case over to the next session of Congress. And this for the reason that the sitting member, notwithstanding his political friends outnumber mine three to one on this floor, is afraid of a direct vote on the merits of the controversy.

Gentlemen, do me justice. I am your political opponent, that is true, and expect to be to the end of the conflict. In this I am candid and honest. I come not here to ask favors, but to demand the rights of the people under the Constitution—their right to be represented by the man of their choice. Permit not the sitting member to take refuge behind this false and shameful issue, and thus retain to the end of the term a seat to which he is not entitled. Do me justice. See to it that he and his counsel face the line of battle as formed in the legal record. Your committee declare he is not entitled to the seat he usurps here, and that in law it is mine by more than a thousand majority. If I am entitled to it, vote it to me. If I am not and he is, confirm him in it, and thus end this protracted and vexatious contest.

Purchase of Alaska.

SPEECH OF HON. GODLOVE S. ORTH

OF INDIANA,

IN THE HOUSE OF REPRESENTATIVES,

July 10, 1868;

On the bill (H. R. No. 1096) making an appropriation to carry into effect the treaty with Russia of March 30, 1868.

Mr. ORTH. Mr. Chairman, we are now engaged in the consideration of a bill providing for the payment of the money as stipulated in the treaty by which we recently acquired from Russia her American possessions.

Notwithstanding the exhaustive debate which this subject has received, I feel it my duty to present some of the reasons which influenced my action in the Committee on Foreign Affairs, and which will determine my vote on the final passage of the bill. It is also due to that committee and the House, in view of our constitutional obligations, and the national importance which attaches to and surrounds this purchase that the principal objections which have been urged against the bill, should be fairly reviewed. This I shall endeavor briefly to accomplish.

What, then, is a treaty? It is "an agreement, league, or contract between two or more nations or sovereigns, formally signed by commissioners properly authorized, and solemnly ratified by the several sovereigns or supreme power of each State." Hence the power to make a treaty is an attribute of sovereignty, and one of the highest of those attributes. In despotic and monarchical Governments it is most generally lodged in the king or the emperor; in our Government this power, by virtue of the Constitution, is vested in the President and Senate of the United States. From the earliest history of our Government even down to the discussions which have arisen upon the treaty now under consideration there has been a wide difference of opinion among some of our most eminent statesmen as to whether the House of Representatives has any control over treaties so as to limit or restrict them or in any wise to interfere with their provisions.

This question, however, is more theoretical than practical, for amid all the various discussions which have ensued upon it from the Jay treaty in 1794 to the present time, the House of Representatives has never refused to carry out the provisions of a treaty solemnly made and ratified by the President and the Senate. Not a single instance is known where the House has ever refused to make necessary appropriations to carry treaties into effect, and it would seem that this universal practice on the part of the House would tend at least very strongly to settle the proposition that when the President and the Senate have, in pursuance of the power conferred upon them by the Constitution, entered into a compact or treaty that it is binding upon all departments of the Government and upon the people of the United States. What is the practical common sense view of this provision of the Constitution? By it we have proclaimed to the world that the President, with the advice and consent of the Senate, shall have right to make treaties. It is a power of attorney given by the American people to those two departments of their Government, giving notice to the nations of the earth that they are authorized to make contracts on behalf of the American people. It is a power conferred by the Constitution without limitation or restriction, and like a power granted by one individual to another authorizes the grantee to bind his grantor to the extent of the power vested. Speaking of this subject, Kent, in his Commentaries, volume one, page 165, says:

"If the treaty requires the payment of money to carry it into effect, and the money cannot be raised but by an act of the Legislature, the treaty is morally obligatory upon the Legislature to pass the law, and

to refuse it would be a breach of public faith. The department of the Government that is intrusted by the Constitution with the treaty-making power is competent to bind the national faith in its discretion."

And again, on page 175, he remarks:

"Treaties of every kind, when made by the competent authority, are as obligatory upon nations as private contracts are binding upon individuals."

Story, in his Commentaries on the Constitution, holds similar views on this subject.

Those gentlemen who, in previous discussions, as well as in debate upon this question, maintain the position that the House of Representatives has some control at least over a treaty, base their argument more upon their fears of the abuse of the treaty-making power than upon any logical deductions from the Constitution. It has been said, and repeated again and again, that the President and the Senate may act corruptly, may force partial and unsatisfactory contracts upon the people, and hence they draw the inference (a very slight one, it must be confessed) that the House of Representatives is a necessary adjunct to the treaty-making power in order to prevent frauds or abuses in the other departments of the Government. These arguments, if they have any weight at all, could with more propriety be addressed to a convention called to form or revise a constitution than to a branch of the Government deriving its existence from such constitution, and whose duty it is to give it support and efficiency. The treaty-making power must be lodged somewhere, and the framers of our Constitution, after mature deliberation and full discussion, deemed it most wise and prudent that it should be vested in the President and the Senate. They could hardly conceive that a President and two thirds of the Senators would ever consent to a treaty that was fraudulent in its character or inimical to the interests of the people. But it is said that no appropriations of money can be made without the consent of the House of Representatives; and hence the House, having this power over appropriations of public money, can refuse its assent to an appropriation to carry out the provisions of a treaty when those provisions are repugnant to its feelings and judgment.

But, are there not many instances in our legislative history where this House is called upon to make appropriations of money when the object of such appropriations may not be in accordance with their wishes? Take the case of salaries paid to any of our public officers—the law may long since have fixed such salaries—while the House may have endeavored to increase or diminish such salary, but failed for want of concurrence by the Senate, would the House be justified in refusing an appropriation under such circumstances?

Again, a law of a former Congress may have authorized a loan of money upon terms which are not acceptable to the present House of Representatives, would we for this reason refuse an appropriation necessary to meet the interest or to pay the principal of such loan. Let us not lose sight of the distinction between the words "power" and "right" as used in this connection. We may have the power to refuse all appropriations necessary to carry on the vast machinery of this great Republic, or to provide for the defense of its rights or the maintenance of its honor, but have we the right thus to act in our legislative capacity. Should we thus abuse the authority with which we are intrusted there would be no remedy until the close of our official term, when such authority would revert to the people to be by them transferred to other and more worthy hands.

But have gentlemen on the other side reflected how exceedingly limited a view of the rights of this House they have taken when they hold that we can only exercise a supervisory control over treaties which require appropriations of money. If the House can only exercise a control over such treaties, how are we to guard the honor and interests of the nation when these are attempted to be perverted by a

President and Senate who act unworthily of their high positions. Can it be possible that the House will only claim this power when mere pecuniary considerations are at stake, and fail to claim it when the honor and dignity and the highest interests of the people are concerned? We have this power over all treaties, or we have it over none. If we, as the direct Representatives of the people, assert any authority over these questions, let us assert it to the full extent, and claim that in every treaty we have power to say whether it shall become the supreme law of the land or not. Why is it that gentlemen who oppose the appropriation of this money are willing to limit their authority to the mere question of paying money and relinquish it when other questions far above and beyond any mere pecuniary considerations may be affected by treaties which the President and Senate may see proper to conclude? Does not this position carry with it its own inherent weakness and its own refutation? For no gentleman, so far as I have been able to learn, has yet taken the position that the control of this House extends to all treaties made by the President and Senate.

I will now consider some of the special objections urged against the passage of this bill. The gentleman from Wisconsin, [Mr. WASHBURN,] who has been most prominent in the lead of the opposition to this bill, plants himself upon three grounds. First, he tells us that the treaty was made in secret, and without consulting the American people. If he will look into the debates upon the formation of the Constitution, he will find that this was one of the reasons most strongly urged why the treaty-making power should be vested in the President and the Senate. It is frequently of the highest importance that transactions between one nation and another should be held in most profound secrecy until such transaction has been fully consummated. To make it known to the world pending the negotiations might and most probably would, in most instances, tend to frustrate the very object aimed at. Nations, in this respect, are like individuals. When A and B desire to enter into a contract with reference to the sale and purchase of land or other property, or with regard to any business or commercial transactions, they do not call in their uninterested neighbors and make known to them their objects and purposes.

Thus nations about entering into negotiations affecting their individual rights and interests are under no obligations, express or implied, to inform the world of their purposes and intentions. If treaties in their inception and progress to consummation were to pass through the ordinary forms of legislation, public to the whole world, intermeddling nations might resort to devices and schemes that would lead at least to entanglements, if not entirely prevent their consummation. If this treaty has been made in good faith by the high contracting parties; if it be within the constitutional purview of the power conferred upon the President and the Senate, the fact of its being made in secret is no argument against its validity. We must have faith in our Presidents, and we must have faith in our Senators. They are eventually responsible to the people, though not so immediately as we are. If in the exercise of their high functions they deceive the people or disregard their rights and interests, the time will come with them as it comes with us for the people to pass upon their acts, and to hold them to the same account as they hold all their public agents.

The next objection of the gentleman from Wisconsin [Mr. WASHBURN] is that "the property acquired by this treaty is utterly worthless." Now, admitting for the sake of the argument that this House can pass upon that question, I beg to take issue with the gentleman upon this proposition. Turn your eyes upon that quarter of the globe and see what has been transferred to us by the emperor of

Russia. A tract of land in extent five times greater than the State of New York, rich in minerals, in wood, in furs, and in fisheries, rich in its navigable streams and the fertility of its soil, rich in that grand chain of islands stretching out its arms from the American to the Asiatic continent, and forming, as must be apparent to the most casual observer, the key to the commerce and control of the Pacific ocean. Upon the American shores of that great ocean you already find a busy, teeming, prosperous, civilized, and Christian community, vying successfully in the arts and sciences, in everything that ennoble humanity with their fellow-citizens upon the Atlantic sea-board. Cities have sprung up as by magic where, within the present generation, the wild Indian or sluggish Mexican had entire control.

And the arguments which were used against the acquisition of California, both in the Senate and House of Representatives, as a reference to the debates of those times will show, were hardly less vehement, and certainly not more reasonable, than those which are brought to bear against the acquisition of Alaska. While the world beholds this gratifying spectacle upon our own borders of the Pacific, what does Asia present to us? Japan has already opened some of her principal ports to the commerce of the world, and is ready and willing to enter into still closer commercial relations. We are her neighbors, and must inevitably control her commerce. China, ready to abandon the seclusive policy which has characterized that rich empire for hundreds and hundreds of years, is now seeking a closer fellowship and a more intimate relation with the nations of the earth; and while we are debating as to whether the money shall be paid as stipulated for in this treaty, we find a Chinese embassy in our own capital, headed by one of our distinguished sons, coming to us with open arms, saying, we too are ready and willing to exchange our commodities with yours, to receive the benefits and advantages of your advanced civilization, and in return to pour into your laps the rich and inexhaustible treasures of the countless millions of our own people. These events are rapidly attracting to the shores of the Pacific, East and West, the attention of the civilized world. That ocean, commercially so long calm and quiet, as it always is physically, will soon be the center of a commerce and of business activity that will rival the stormy Atlantic.

With the possession of Alaska and her hundred islands we can command and control the commerce of that ocean; with Alaska in the possession of a commercial rival such as Great Britain our commerce will be crippled, if not destroyed; and yet, in view of these facts, the gentleman from Wisconsin assures this House that this purchase "is utterly worthless." Already we are stretching our railroads from the Atlantic to the Pacific. The great argument used to induce the American Congress to lend its munificent aid to the construction of these national works was that by their completion we could control the commerce of Asia, bring it over our own continent to our great emporium, the city of New York, thence to be distributed to the various parts of the world. When now we have it within our reach thus greatly to increase our commercial advantages in the Pacific and in a proportionate ratio control the trade of Asia, we should rather be found unanimous in our votes upon this question than to be higgling as to whether we will pay the pitiful sum of \$7,000,000 for so great a boon.

His third objection is that if we consent to the payment of this money it will be an inducement to the President and the Senate hereafter to make further acquisitions of territory. The gentleman has studied to little advantage the sentiments of our people if he supposes for a single moment that they are opposed to territorial extension. Does he recollect the

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history of the Louisiana purchase? Has he forgotten how intensely that purchase was ridiculed; how every argument which human ingenuity could invent was brought to bear against its confirmation? But the American people, imbued with a sentiment of greatness and grandeur which attaches to our country, not only consented to its purchase, but are ready, as recent events have abundantly shown, to sacrifice millions of treasure and thousands of lives rather than to lose the control of the lower Mississippi. So with the acquisition of Florida, itself almost a constant succession of marshes and morasses, with no mineral wealth, no large rivers, and with but little arable land, and to which the gentleman's term of "utter worthlessness" would be more applicable than it is to the territory of Alaska. But Florida is the key to the Gulf of Mexico, and we could not suffer it to remain in the hands of a foreign Power.

This argument will not deter me. We may need other acquisitions, and if so, in time we shall have them. No American having a due appreciation of the interests of his own country will hesitate for a moment to say that we must own the British possessions upon the Pacific, and having acquired the Russian possessions the inevitable tendency will be, and that, too, within a comparatively short space of time, to give us those possessions. Let us plant our free institutions, and the energy and activity for which our people are so preëminent on the northern limits of British America as they now exist on its southern limits, and it needs no prophetic ken to foretell the effects which will be produced upon the immediate future of those intervening possessions. In an evil hour we relinquished our right to this now British territory, for our title as far north as "fifty-four forty," was regarded by our citizens as clear and indisputable. This territory must sooner or later come again under our jurisdiction, and the statesmen who shall be able to accomplish this result will erect for themselves enduring monuments in the affections of the American people.

The gentleman from Ohio, [Mr. SHELLABARGER,] whose absence from this Hall on account of serious illness we all so much deplore, has stated as his principal objection that the territory of Alaska is not contiguous to the United States; that by this acquisition we are entering upon a new and untried experiment; that hitherto our acquisitions have been of territory contiguous to our own; that the strength of a nation depends upon its compactness, and that we weaken ourselves by acquiring territory lying beyond our own possessions. I cannot see the force of this objection. It is true that some five hundred miles of ocean travel lie between the northern limits of the United States and the southern boundary of Alaska, but has that gentleman or has this House forgotten that upon our acquisition of California, although the territory was contiguous, so to speak, to our own, yet we were separated from it by the almost impassable barriers of the Rocky mountains, and that our early emigrants and adventurers sought homes in that new acquisition by way of the Isthmus of Panama, through foreign territory, or else by doubling Cape Horn and incurring the perils of a sea voyage of thousands of miles?

But shall it be said that we will now lay it down as a principle to be adhered to in all coming time that we will only purchase or acquire contiguous territory? Would the gentleman from Ohio, or would any member of this House be willing to take the responsibility of refusing the acquisition of the Sandwich Islands, those beautiful islands of the Pacific, redeemed by American civilization and Christianity from heathenish barbarism, and whose people are almost ready even now to link their fortunes with our fortunes, to acknowledge our flag as their flag, and our Constitution as their

Constitution. The American people will never consent to the adoption of this principle. They will acquire territory whenever and wherever their interest or their honor may lead them to do so.

The gentleman from Massachusetts [Mr. BUTLER] opposes the passage of this bill with his usual vehemence and his usual ingenuity. His positions have been rather in the nature of attacks upon the executive department of the Government or by appeals to the fears of the American people than arguments addressed to our judgments and understanding. He has drawn a distinction between executed and non-executed treaties, and while he concedes to the President and Senate or to the other powers of the Government the right to act under executed treaties, he denies to them such power under what he esteems unexecuted treaties, the latter requiring something to be done, such as the payment of money, which can only be by the concurrence of the House of Representatives.

The treaty under consideration contains eight articles, and of these eight but one relates to the payment of money. If his position be true, then it follows that seven of the articles of the treaty are now a part of the supreme law of the land, while the sixth article can only become so after the House has consented to pay the purchase-money. He states that the President has taken illegal possession of this territory, and in support of this position alludes to the fact that the purchase-money has not yet been paid. Does the gentleman suppose that if the House of Representatives should refuse to pay this money the treaty would therefore become null and void? The treaty depends upon no such contingency, the sovereignty of the territory and our right of possession passed by its ratification, and by its sixth article we become the debtor of Russia to the amount stipulated. Where is the illegality of the possession we have taken? The fourth article of the treaty provides that—

"His majesty the emperor of all the Russias shall appoint, with convenient dispatch, an agent or agents for the purpose of formally delivering to a similar agent or agents appointed on behalf of the United States, the territory, dominion, property, dependencies, and appurtenances which are ceded as above, and for doing any other act which may be necessary in regard thereto. But the cession, with the right of immediate possession, is nevertheless to be deemed complete and absolute on the exchange of ratifications, without waiting for such formal delivery."

I understand that in pursuance of this article the Russian authorities formally delivered actual possession of the territory, dominion, property, and appurtenances to our Government, and by virtue of such delivery we are in just and rightful possession of the territory. There has been no illegal possession; there have been no illegal acts; whatever has been done was done in pursuance of a part of the supreme law of the land.

But again, he states that the acquisition of foreign populations is dangerous to the perpetuity of our institutions; that by this treaty we seek to incorporate among us and confer the right of citizenship to men, women, and children who are alien in sentiment, in civilization, and in religion to our own people.

Mr. Chairman, this with us is no untried experiment, and taken in connection with the limited number of the inhabitants of Alaska cannot, even by the most timid, be considered as dangerous to our institutions. What is the extent of the population of Alaska? It is variously estimated at from fifty to seventy-two thousand. Take the highest of these numbers and analyse its composition. Almost the entire population is composed of tribes of wild and wandering Indians. In 1857 it was estimated that there were six hundred and forty-four Russians, nineteen hundred and three Creoles, and seventy-two hundred and

forty-five aborigines under the direct government of the Russian Fur Company. The most reliable data do not place the present number of Russians and Creoles at more than twenty-five hundred, and the number of aborigines under control as aforesaid, at about eight thousand. Of course under the provisions of this treaty, citizenship is only conferred upon such Russians as may not return to their own country within three years, and to such Creoles as are now in that territory. To those who thus remain, as also the Creoles, this treaty gives, (as is usual in similar treaties) the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and provides that they shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The treaty further provides that the uncivilized tribes will be subject to such laws and regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country.

Looking, then, at these twenty-five hundred newly-made citizens, placing it at the highest number, is the gentleman from Massachusetts [Mr. BUTLER] really alarmed, and will this House believe that he has just cause for alarm? He certainly cannot have forgotten that in the acquisition of New Mexico we incorporated with our population and conferred rights of citizenship upon at least one hundred thousand people, who were ignorant of our language and our laws and professed a religion different from that of ourselves. Yet the people of New Mexico are peaceable, orderly, well behaved, law-abiding, and attached to our institutions. Quietly and imperceptibly they have been merged in our population; their foreign and antiquated ideas have given place to those of a more liberal and enlightened kind. They are rapidly adopting our habits, our laws, and our civilization; and hence I repeat that the experiment of incorporating a foreign element by the acquisition of territory is neither new nor untried, and our past history does not show that it is in any degree dangerous to the purity and safety of our institutions.

Mr. Chairman, I must not forget my friend from Iowa [Mr. PRICE] in this connection. His first position, if it were only a true one, would be the most formidable that has yet been taken. He asserts with boldness, and with apparent candor, that this instrument which has elicited so much discussion is no treaty, nor is it a law, and if he had only adduced some reasons in support of his position there would be an end to the argument, and the fate of this bill would be sealed. If no treaty has been entered into between Russia and the United States with regard to Alaska, then it is worse than idle to talk about paying to Russia any sum of money. Where there is no contract there can be no obligation. If we have received nothing from Russia, Russia can expect nothing from us. But I infer that the gentleman has but little faith in this position, for he immediately plants himself upon another, and that is that we have "already too much land."

An attentive observer of the proceedings of this House for the last five years, during which time (under the leadership of that gentleman as chairman of the Committee on the Pacific railroad) Congress has voted away the public domain of the Government by hundreds of thousands of acres, would come to the conclusion that the time has arrived when other lands will have to be acquired or else that gentleman's occupation will be gone. As already intimated, it would be about as difficult to convince the American people that they have too much land as it would be to convince a single individual that he ought not to enjoy and possess all that which adjoins him.

Following this up he takes another position, and that is that we have no money with which to meet this obligation. Is that gentleman

prepared to announce that our Government is too poor to pay the sum of \$7,000,000 in fulfillment of the sacred obligations of our treaties? Would such an announcement tend to enhance our credit in the money centers of the world, and at a time, too, when it is the interest of our Government to preserve its credit untarnished? He is too able a financier and too deeply interested in our financial success to assume any such dangerous position.

I have thus endeavored, Mr. Chairman, fairly to meet the objections which have been urged against the passage of this bill. They may serve to convince others that the bill should not pass; they have made no such impression upon my mind.

We have entered into a treaty with one of the most powerful nations of the earth, with whom our relations have always been amicable; a nation that, during the darkest hours of the rebellion, was our firmest and truest friend. When rebellion almost seemed a success, when the nations of Europe desired and were prepared to witness our downfall and dismemberment, when they had secretly aided the enemies of the Government, Russia hesitated not in her friendship. In those darkest hours she quietly moved one of her fleets, and anchored it in the harbor of San Francisco, and another in the harbor of New York. The movement of those fleets spoke a language which was well understood by the nations of Europe, and that language was "hands off!"

Suppose, for the sake of the argument, that this Territory is as worthless as the gentleman from Wisconsin in his wildest imagination has deemed it to be. Suppose it were as valueless as the parchment upon which it has been transcribed, are the American people prepared through their Representatives to say to Russia that we will not abide by our contract? Are gentlemen prepared to assume this attitude? Shall we say to the world that the American Government, whose honor has thus far been untarnished, will not abide by her solemn and plighted faith? Shall we by our act become open and avowed repudiators? If we do the people whom we profess to represent upon this occasion will most assuredly and most deservedly repudiate us. Our poverty will be no shield for this most flagrant breach of faith. Compared with our national honor this money is the merest pittance in the world. But who is prepared to weigh national honor against sordid dust!

No, sir, this treaty has been made in good faith, and in good faith we will observe all its terms and all its provisions. In doing so we but respect and reflect the wishes of those for whom we are now authorized to speak, and we show an example to the world that in our hands and under our control the nation's honor and the nation's dignity is as safe and as secure as it was in the hands of our patriotic ancestors who have heretofore been intrusted with its destinies. We have taken possession of this territory, our laws and institutions have been carried there by our authorized agents. The Russian ensign has been furled; the Russian authorities have taken their departure and in their stead are now the stars and stripes and the official insignia of our Government.

Shall that flag which waves so proudly there now be taken down? Palsied be the hand that would dare to remove it! Our flag is there, and there it will remain. Our laws and our institutions are there guaranteeing protection to its present inhabitants, and to the thousands who shall inhabit it hereafter. We shall take to those distant shores the arts, the sciences, and the civilization of the nineteenth century. Under our auspices they will grow and prosper, and commerce and intelligence, morality and virtue will still further attest the beneficence of American institutions, and add continually to the number of those who admire and love our country and her free institutions.

Taxation of United States Bonds.

SPEECH OF HON. FREDERICK STONE,
OF MARYLAND,
IN THE HOUSE OF REPRESENTATIVES,
July 15 and 16, 1868.

The House being in Committee of the Whole on the state of the Union—

Mr. STONE said:

Mr. CHAIRMAN: A great deal of the idle declamation on the subject of the finances is the result of the misconception of the law and a great deal of intentional misrepresentation. We hear repeated everywhere the importance of the Government maintaining its faith, but we do not very often hear it stated clearly and distinctly in what that keeping of faith consists. We have a large debt, and a portion of it is already due. There is already before this House a bill from the Senate, called a funding bill, which in fact was intended to provide for the payment of that which is already due. I suppose, sir, the only safe rule by which we can be guided in ascertaining in what mode the Government should preserve its faith with its creditors would be to ascertain precisely what contract it made with them, and whatever the Government may choose to pay more than its contract is a question for the Government itself to determine. The only rights which the creditors of the Government have are the terms of the contract that they made with the Government at the time they loaned the Government the money. In order to ascertain what that contract was we have only to refer back to the series of the acts of Congress. No one was authorized to speak for the Government except the Government itself. The acts of Congress spoke in language too clear to be misunderstood or misrepresented, and no man with a fair disposition to arrive at what is the true construction of these acts of Congress can read them and be for one moment in doubt as to the legal effect and equity of this contract.

In the month of February, 1862, Congress passed an act, called the legal-tender act, by which we made non-interest-bearing notes of the Government legal tender for all debts, public and private. They made in that act no exceptions but duties on imports and the interest on the public debt; these were declared to be payable in coin, but that every other species of indebtedness should be discharged and liquidated by non-interest-bearing Treasury notes of the United States, generally termed legal tenders. In the very same act, after declaring that these non-interest-bearing notes should be received in payment of every debt, public or private, in the second section they provide for the creation of a public debt making the duties on imports and the interest on that debt payable in coin.

Now, sir, is not that plain enough? If the law itself was constitutional, if Congress had the right to issue these non-interest-bearing notes and make them legal tenders in payment of debts public and private, when in the very act in which they contracted the debt they said the notes should be legal tenders, can the creditors who took the loan and advanced their money upon the faith of that act complain of any misunderstanding, that there was any ambiguity in the act?

But Congress did not stop here. To show that they thoroughly understood the import of the language they were using, two years afterward, in March, 1864, they passed another loan law in which they used this language:

"Payable at a period not more than forty years from date in coin, and of such denominations as may be found expedient, not less than fifty dollars, bearing an interest not exceeding six per cent. a year payable on bonds not over \$100 and on all other bonds semi-annually, in coin."

They first said that the principal shall be paid in coin, and then that the interest shall

be paid in coin, drawing a distinction between the bonds issued under the act of March 1864, and February, 1862. But that is not all. As late as 1865 Congress passed another act in which they gave the Secretary of the Treasury a discretion to make the principal and interest, one or both, payable either in currency or coin, so that it should be expressed on the face of the bond.

Now, then, here is an act of Congress in 1862 making these bonds payable in currency, leaving the Secretary of the Treasury no discretion. Then there is the act of March, 1864, leaving him no discretion whatever, for the bonds issued under that act must be paid, both principal and interest, in coin. Then as late as March 3, 1865, Congress passed a law giving the Secretary of the Treasury the discretion to make the principal or the interest, one or both, payable either in coin or currency, as he might deem expedient.

Now propositions are being pressed upon this House which amount to this: that although the Government obtained a loan during the pendency of the war and contracted with its creditors to pay in currency, a gold-bearing bond is to be substituted for the bonds already due and payable in currency. Five hundred million dollars of the five-twenty bonds that were payable by the express terms of the act of 1862 in currency are now due and payable at the Treasury, the five years' option having expired. How are they to be paid? If they are payable in currency, what is the object of imposing a vast coin debt upon the Government now at this late day? If by the terms of the contract they were payable in currency why now issue a new set of bonds payable in coin running a long period of years, and thus substituting a debt payable in coin for one clearly payable in currency? The question is what was the contract with the public creditors? Not what a broker or a banker might say, or what might be advertised in a newspaper by brokers and bankers whose only object was to make sales for the sake of their commission.

One of the arguments used on this question is, that if the debt were paid in legal-tender notes it would depreciate the credit of the Government, and that the greenbacks would become depreciated and comparatively worthless. That argument proceeds upon the assumption that a debt of the Government, while bearing interest, will preserve the credit of the Government; but that a non-interest-bearing debt will destroy its credit. I presume that scarcely any one will question the fact that the credit of a Government depends upon its ability and its willingness to discharge its just obligations. First ascertain what its just obligations are, and then show a willingness to discharge them, and you need not fear that the credit of the Government will suffer. I deny the fact that it would follow as a consequence of the substitution of non-interest-bearing debt for interest bearing, provided such were the terms of the contract, that the credit of the Government would suffer. On the contrary, I believe that it would be increased. If the debt could be discharged by legal tenders, so far from disturbing it would only improve the financial condition of the country.

There is no reason that can be urged why the Government should be held to a different rule in the payment of these five twenty bonds from the rule which it adopts in dealing with every other creditor. The Government contracts to pay its judiciary so much money. The judiciary receives it in legal-tender notes, and does not pretend that the Government violates its faith. It contracts to pay its Army so much money. The Army receives it in legal-tender notes, and sets up no pretense that the faith of the Government is broken. And thus the Government deals with every single creditor it has, great or small; and we hear no complaint of

a violation of faith except coming from the bondholders or their advocates. If we had contracted in the act of February, 1862, to pay the loan in gold, why we should pay it in gold. If it is perfectly clear that we contracted to pay it in currency, the holders of the loan have no just cause of complaint if the Government does pay it in currency.

Now, sir, we have had a great deal of discussion in the House to-night and some before as to the taxation of Government bonds. It is a part of the inherent power of Congress, given to it by the Constitution, to levy tax for the support of the Government, and to suppose for one moment that one Congress could bind a succeeding Congress as to any article to be taxed, whether Government bonds or anything else, would be to any one who had ever examined the Constitution at all, or the working of this or any other Government, the very height of absurdity. It would enable one Congress, as was very justly said by a distinguished gentleman from Pennsylvania, by exempting everything from taxation, to put an end to any Government. The right is unquestioned, and while an exception is made in the acts of Congress exempting the Government bonds from state or municipal taxation, no pretense is set up to exempt them from the power of taxation of the United States, whether the tax should be upon the principal or upon the interest, or upon both, is perhaps not a very material matter. That they should bear their fair share of the burdens of the Government is now almost a *concessum* in this country, and is certainly sustained by every principle of law and justice.

But the great principle to be kept in view, as was said by the gentleman from Massachusetts, [Mr. BUTLER,] is the equalization of three burdens. It is the correct principle at last that all classes and all property should bear their fair and just share of the burdens of the Government.

Sir, it has been sometimes argued by gentlemen that any material addition to the currency of the country would exercise an injurious effect upon the value of that currency. This is not so. More than one half of the country is this day without enough currency to transact their ordinary business. The business of the country would absorb and use profitably a great deal more currency than we now have.

Mr. BURLEIGH. Will the gentleman allow me to ask him a question?

Mr. STONE. Yes, sir.

Mr. BURLEIGH. I desire to inquire if I understood the gentleman correctly when I understood him to say that after the Government has called on its citizens for money to supply its wants, and has received it, and has passed a law declaring that the bonds given for that money shall not be taxed, then the Government has the right to turn around and pass another law taxing those bonds? Is not that in the nature of an *ex post facto* law? I do not know that I quite understood the gentleman. If I did not I should like to do so.

Mr. STONE. In answer to the question of the gentleman I would say that I deny utterly the right of one Congress to prohibit all succeeding Congresses from imposing a tax either upon Government bonds or any other species of property.

Mr. BURLEIGH. The gentleman does not quite understand me.

Mr. STONE. I think I understand the gentleman perfectly.

Mr. BURLEIGH. I will state what I mean.

Mr. STONE. I think I understand the gentleman perfectly. Every citizen or foreigner, or whoever he may be, who advances his money to the Government, is presumed to know and does know—for men who make these advances of money understand the workings and the authority of the Government as well as and perhaps better than any other class of men in the world—they know that the power of the Government to tax is inherent and inalienable.

And they take the loan always subject to the inherent right of taxation possessed by the Government.

Mr. BURLEIGH. Let me interrupt the gentleman again for a moment.

Mr. STONE. Very well.

Mr. BURLEIGH. The Government makes a contract with me, for instance; it asks me for my money and I give it. The Government then executes a bond to me and puts its seal upon it. Now, after having received my gold, can it tear that seal from the bond without my consent? I want to know if the Government possesses any such power as that. If it does, then I have yet to learn it.

Mr. STONE. I have already answered the question of the gentleman. I repeat again that no Government was ever instituted among men that did not possess this inherent and inalienable right. And no man scarcely out of a lunatic asylum ever supposed that this Congress or the Parliament of Great Britain or the Chamber of Deputies of France or the Diet of Germany, with all their executives combined, could strip the legislative department of the Government of this inherent and inalienable right. And these men took the bonds of the United States knowing that the Government always reserves to itself that power.

But the Government never did promise not to tax these bonds; they only declared that the States should not tax them. I will read from the act on that subject:

"All stocks, bonds, and other securities of the United States, held by individuals, corporations, or associations within the United States, shall be exempt from taxation by or under State authority."

That, I believe, is the utmost extent to which any of these laws go—that the bonds shall be free from taxation under State or municipal authority. Congress never for a moment attempted even to make them not taxable by the United States.

But, Mr. Chairman, the funding bill is simply a bill to exchange bonds payable in currency for bonds payable in gold; nothing more or less. Whether it is wise, when it is impossible to have full discussion upon so important a measure, to change the currency debt into a gold debt, and thus to impose a burden upon the people of this country of certainly between five hundred and one thousand million dollars, notwithstanding the lower rate of interest on the new bonds, I must leave the majority of this House to determine. I myself deem it both unwise and unjust to the people that they should be called upon to perform more than they agreed to do at the time they incurred the debt; and when every interest in the country is now so heavily taxed.

But, Mr. Chairman, in the few minutes allotted to me I feel inclined to adopt an expression used by General Blair in his late celebrated letter, in which he says the financial question is subordinate to the political one. This letter of General Blair seems to have created a great deal of interest in this House and out of it. It has been termed revolutionary and warlike. Now, I agree with and most cordially indorse every word in that letter. It is because I believe it is not revolutionary, that it is not warlike in the slightest degree, that I do indorse it. It is a plain statement of a question which he desires to submit to the people and to take their deliberate judgment upon it at the ballot-box. If you can term any question that is submitted to the people at the ballot-box, and upon which their deliberate judgment is evoked, if you term that war, then what do you term peace?

That letter of General Blair's simply declares that the governments set up in the ten rebel States were not warranted by the terms of the Constitution of the United States, and it proposes to submit to the deliberate judgment of the people whether the Executives should or should not be called upon to undo what the

writer of the letter believes, and what I believe, to be an unconstitutional usurpation of power.

It is impossible that any revolution or war can come of any deliberate appeal to the ballot-box. If the people declare by the election that those State governments are unconstitutional, and that they desire their Executive to command the Army to undo what the Army did, surely that cannot be termed a revolutionary measure.

But there is a small cloud on the horizon. The bill so recently passed by both Houses of Congress in relation to counting the electoral votes of the reconstructed States is, in my judgment, a measure fraught with danger to the country; for, as I construe that bill, it certainly claims for the two Houses of Congress the right to receive or to reject the vote of any one of the ten southern States as Congress may choose. The Constitution is explicit upon that subject. It gives to Congress the right to fix the day upon which the electors shall be voted for and the day upon which the electors shall cast their votes. There the whole authority of Congress over the subject ceases; everything else in regard to the election is entirely and exclusively under the control of the States themselves; and Congress has no right to reject the vote of any State where the constitutional requirements have been complied with by the electors being selected upon the day designated by Congress.

Who but Congress is to judge whether or not the State government spoken of by that act was made in compliance with the act of March 2, 1867? By the terms of that bill the States may be here represented; Congress may have already passed judgment that she had complied with the terms of the reconstruction acts, and yet that act gives to Congress the right to count such of the votes as they please and reject such as they please. Once concede to Congress that right, and the election of the President is in the hands of Congress and not of the people.

That act must have been passed with some purpose and for some intent. The act of March, 1867, after prescribing what a State should do to entitle her to representation here, provided that after Congress did admit her Representatives the act should be inoperative. What, then, does this bill mean when it says that the vote of none of those ten States shall be counted unless Congress is satisfied, (I do not quote the exact words, but recite the substance of the act,) that at the time she cast her electoral vote she had complied with all the requisites of the reconstruction act, to be judged of by Congress again. What is the effect of such a law? It is either entirely nugatory, or it would necessarily give this body the right to count the vote of one State and reject that of another, both States being represented on this floor—a right claimed in the very face of the Constitution, which gives to each State the right to choose the electors in the manner that the Legislature thereof shall direct. If this power is conceded to Congress then elections by the people are at an end.

Local Bounty Debts, Tariff, Retrenchment.

SPEECH OF HON. JOHN HILL,

OF NEW JERSEY,

IN THE HOUSE OF REPRESENTATIVES,

July 16, 1868.

The House being in Committee of the Whole on the state of the Union—

Mr. HILL said:

Mr. CHAIRMAN: I have listened with much interest to the many speeches that have been made on the floor of this House in relation to the public debt, and the various modes suggested to relieve the people from the burden of taxes imposed in consequence of it; and

also to the remarks that have been made in relation to retrenchment and curtailing the expenditures of the Government.

The people of this country are looking to Congress for relief, burdened as they are with heavy taxes. Any measure that looks to lessening their taxation will be received with favor by them. To my mind there is one way in which a large portion of the tax-paying community would be essentially relieved, and that is by the Government assuming the local war bounty debt incurred during the rebellion by the several States, counties, cities, and townships in the payment of bounties to volunteers.

These districts by reason of their exertions to promptly furnish their quotas for our armies, have incurred a great indebtedness, the payment of which now imposes a heavy and direct local tax which, in connection with other increased local tax and the direct taxes of the General Government, is felt throughout a great portion of our country as oppressive and burdensome, tending to depress commerce and industry, and thus weaken the resources of the Government, and as the people are manifesting uneasiness under such burden, and are expecting from Congress some relief, and under existing circumstances the only just and immediately available way to lighten the burden of our great debt is to increase the ability of the people to sustain it by relieving labor and stimulating industry. Such indebtedness of the cities, counties, and townships was the result of necessities imposed by the rebellion, and ought, therefore, as a matter of right and justice to be assumed by the Government and consolidated with the national debt, because being incurred by necessary and legitimate efforts to render prompt aid to sustain a common Government and defend a common country, it of right belongs to the general debt, in the payment of which the whole people should participate. Such consolidation would not increase the amount of general indebtedness resting upon the people as a result of the war, but simply bring together the parts into one whole, and lighten the burden by bringing more to contribute in just proportion to sustain it, and thus relieve the people from the oppressiveness resulting from its separate and local existence and direct bearing on a few; and as it is believed to be in the power of Congress to grant such relief, in a way equally just and fair to every section of our country, by adopting as a basis one year's service of a man in our armies, and allowing for such term of service a certain sum, and issuing national bonds therefore liable to taxation, which bonds may be paid over to each State in amount, and to be applied to the relief of the cities, counties, and townships in the State in proportion to the number of years' service rendered by the men furnished, and as the most productive and least burdensome taxes are levied exclusively by the national Government. With a view to strengthen the resources of the Government, by relieving the people from oppressive direct taxation and quickening trade and industry, and also with a view to promote the internal peace, unity, harmony and prosperity of the nation: It is the duty of Congress to assume this debt. A resolution was introduced by me in January last, of which the following is a copy:

"Resolved, That the subject of relieving, as far as practicable, the people of the different cities, counties and townships from the burden of a direct tax for their bounty war debt is deserving of our immediate and serious consideration, and that the Committee of Ways and Means be requested to inquire into the expediency of adopting such measures as will be proper and suitable to answer the demands of justice, and relieve the necessities of the people."

It was referred to the Committee of Ways and Means, and it is to be hoped that they will report a bill in accordance with the spirit of the resolution, and that it will meet the favorable consideration of this House. There is no good reason why the Government should not assume this debt, contracted as it was at a time when the immediate want of men to fill

up our armies made the paying of local bounties a necessity, for by so doing men were sent forward promptly, and many a victory won by having in the field in season plenty of men to fill up the broken ranks: Scattered as this debt would be if assumed by the Government, all over the country, the burdens of it would fall very light on the tax-payer and bring great relief to the suffering many. It is the duty of Congress to make these burdens bear as lightly as possible and equally upon all. The following article that has come to my notice bearing upon this question I will read:

Local bounty debts and expenses.—What Congress can do to relieve the people.—The difference in the amounts of expenses incurred during the rebellion, by the several States, counties, townships, and cities, in the payment of bounties to volunteers, and the difference in the amounts of existing local debts resulting therefrom, have heretofore presented difficulties, seemingly insurmountable, to a proper adjustment of such expenses and debts among the several States and localities, with a view to their assumption by the General Government. But at length the attention of Congress has been called to a way by which, it appears, these difficulties may be surmounted, and in which the Government can assume and consolidate with the national debt such existing local debts, in a manner equally fair and just to every section of the country: an object much desired, because its consummation would bring to the people substantial relief from onerous taxation. That way has been suggested in a resolution recently offered by Mr. Hill, a Representative from New Jersey. The method of adjustment therein proposed is simple and practicable, and, as stated in the resolution, is to assume as a basis one year's service of a man in our armies, and for such term of service to allow a given sum, for which national bonds are to be issued, liable to taxation, and paid over to the States in amount, and to go to the relief of the different localities in proportion to the number of years' service rendered by the men furnished.

By a little careful reflection the justness and fairness of this method will become apparent. It will be perceived that by it an equal amount will be allowed, for an equal term of service, to every section of the country, whether the men furnished were procured by high bounties or low bounties or even no bounty; or whether the expenses thus incurred have been paid or in part paid or remain in the form of local debts; and that thereby the people everywhere will be placed upon a perfect equality as to a just liability to taxation under the consolidated debt. It will also appear that no matter what bounties were paid in different places, by this method the expenses thus incurred are equalized so far as they are assumed, and, therefore, that the people in one township are relieved from liability to be taxed for any excess in price of bounty paid in another. From the effects of its operation in the particulars as just stated, it is evident that this method of adjustment is calculated to fully meet and remove the most serious objections which hitherto have prevented action on this subject. Yet to the proposed consolidation of these debts there may exist in the minds of some this objection, that it would increase too greatly our already heavy public debt. That it would necessarily increase the amount of United States bonds to be issued is true; but it is also true that it would not increase the amount of general indebtedness now resting upon the people as a result of the war. Such indebtedness includes not only the United States bonds and circulating notes already issued, but also these local bounty debts, because all these forms of debt were the result of one united purpose—to sustain the same Government and defend the same country. Their weight now rests upon the people, and evidently would not be increased simply in a change of form by bringing all the parts together into one. But on the contrary a great benefit would result in the relief that would be given to the people from the onerous burden now unequally imposed and in the form of a direct tax for the payment of these local debts.

Upon due reflection it will readily appear that what is proposed to be done is simply this: in an equitable way to remove these local debts from the communities where they now exist, and where they bear oppressively—tending to check trade and industry—and place them in the national debt, where they will rest equally upon the people of the whole country, for whose benefit they were incurred. In their local form they rest upon a few, and are sustained by a direct tax only. In the national form they would rest upon the many, and be sustained mainly by indirect taxation, which is easier for the people; and therefore, by the change, although they would not be diminished, yet their pressure would be greatly lightened. The question may be asked, what will become of the funds that would be received under the working of this plan by those localities that have no bounty debt or whose debt is nearly paid? The effect would be that such communities would be left with funds in hand. Yet no injustice would be done, for these funds could be applied to the payment of future taxes, which would give the people equal relief. As a preliminary step to taking action upon this matter it will be necessary for Congress to ascertain from the several States the number of years' service rendered by each, and also the amount of such local indebtedness existing in each; then it can readily be determined what sum should be allowed for a year's service, and to what extent it will be

practicable to assume those local debts. Such being the object of this measure, and such its manifest fairness and practicability, it is difficult to conceive of any reason why Congress should hesitate or delay to proceed at once to adopt the necessary measures to give the people the desired relief.

ONE OF THE PEOPLE.

The above fully accords with my view of the whole subject. The assuming of this debt by the Government does not, as some think, increase the public indebtedness, but simply changes it from local districts and States to the Government, and thereby places it in such shape that all parts of the country and all the States share equally in helping to pay it.

Mr. Chairman, another source of relief to our burdened tax-payers would be the modification of the tariff and the passage of a judicious discriminating bill protecting American labor and industry, which would create a revenue and give a healthful tone to the industrial interests of our country. Our manufacturing interests in many localities are prostrated; thousands of men have been thrown out of employment, and many more thousands dependent on them are almost without the necessities of life. The laboring interest of our country must be cared for. To this class of men are we, as a nation, most indebted for the present position we hold and enjoy, and no country thrives so well as that which protects and looks after the interests of the laboring classes. To make labor valuable, and have its rights upheld and protected, there must be a ready demand for it, and a ready demand is brought about only as all branches of industry are prospered and kept in successful operation.

The resources of our country are unlimited, abounding as we do in mineral wealth. Let these resources be brought out, our mines opened, forges, mills, and factories be built up, and thus plenty of labor will be found for all who desire work with good wages. Taxable property will be enhanced in value, and tax-paying inhabitants be multiplied. The revenue of the Government will be greatly increased, our public debt thereby reduced, and tax-payers generally be relieved. We all know that when our manufacturing interests are well protected, and in successful operation, then every other branch of business is successful. With our mines, forges, rolling-mills, factories, and machine-shops in full operation, with these thrive our agricultural interests. A ready market is created for the products our farmers may raise, with good prices for the same. Railroads and canals are wanted, and people, with plenty of work and good prices for their labor generally, have cash in hand and something saved for a dull day; can build themselves homes, and with their funds are enabled to patronize our railroads and canals. Thus the agricultural, railroad, and canal interests and all branches of industry are fostered and kept alive. Representing, as I do, a district that is identified with all these interests, I trust their wants will be regarded and adequate protection be granted to American labor and industry.

It is a well-known fact that our American manufacturers in many things are taking the lead of foreign manufacturers, and competing most favorably with them. We have seen it stated that when the war began—

"We could not make the iron for a gun-barrel; we can now export better gun-barrels than we can import. We then made no good steel, and had to rely on foreign countries for material for steel cannon and for those steel-pointed shot by which only we can pierce the five-and-a-half inch iron-clads with which we must contend in future warfare. Many of our regiments that came first to the capital came in rags, though every garment on their backs was new, and many of them of freshly imported cloth. But no army in the world was ever so substantially clothed and armed as was that which for two days passed in review before the President of the United States and the Lieutenant General after having conquered the rebellion, and which, when disbanded, was clad in the product of American spindles and looms, and armed with weapons of American materials and construction."

These facts alone should create a national pride among our people, and should stir up

Congress to do all in their power to foster and sustain our own American interests. Especially should we look after and see to it that the laboring interests of the country are protected, and not brought down to a level with the cheap labor of Europe.

The laboring classes of this country during our late war rendered valuable assistance. Hundreds of thousands of them, as call after call was made for men, sprang to arms to help defend us in the great struggle for the life of the nation, leaving good situations, and a large portion of them without bounties, but simply getting the small sum of thirteen and sixteen dollars a month for their patriotic services, and to them the country is indebted for the success of our arms in upholding our flag and breaking up the rebellion. I have seen whole companies, sir, from our mining regions tender themselves to our Governor at the capital of our State, and so thick and fast did they come in that many of them he was obliged to refuse and send back to their homes, which they went to very reluctantly, so intent were they to go forth to defend our common country, and afterward enlisted and went forth to the battle. And these, Mr. Chairman, and hundreds of thousands more, with all our laboring men in this country, we ask at the hands of Congress, may be protected. Living, as I do, in the midst of a large community of workingmen, and representing a district so largely made up of this class of citizens, honest, intelligent, and industrious, so long as I serve them I shall feel it my duty to look after their interests and see that they are respected. As in the past, so in the future my vote shall be given for such measures as shall best secure for them all their rights and proper protection. Let suitable protection be granted. The resources of our country would thereby be developed, and it would not be many years before our revenue would be largely increased, and our public debt reduced and paid.

The limited time afforded me forbids my saying anything further on this vastly important subject. I trust action will be had at once on this question, or if it cannot be reached at this session will be among the first to be taken up at the next meeting of Congress.

I hold, Mr. Chairman, that it is our duty also to curtail the expenses of the Government. Speeches on economy and resolutions are not enough. Every unnecessary officer about the Capitol and the Departments should be cut off, and members of Congress themselves should set the example. The franking privilege should be, to a certain extent, modified and regulated that it be not so much abused, and thereby hundreds of thousands of dollars be saved to the Government. We are paying now, and have been for the last fifteen or twenty years, \$700,000 per annum for free postage, and with proper restrictions on the franking privilege at least one half of this sum would be saved. Car loads of books are transmitted through the mails free, and in many instances are sold at the same price per pound as old rags. We know of an ex-member of Congress who had cart loads of public documents carried through the mails, and afterward sold for three cents per pound, the price of waste paper and rags, after having cost the Government a large sum for carrying them in the mails, for clerk hire, in handling them, and for bags, boxes, &c., to send them in. The restriction of the franking privilege would naturally stop the printing of many public documents which are worthless, and in that way hundreds of thousands of dollars be saved to the Government. I hope this matter will receive the earnest attention of Congress.

I have for some time been looking for an opportunity to introduce a resolution restricting the franking privilege, and now give notice that I shall at a proper time introduce a resolution bearing upon this subject.

The mileage allowed to members of Congress

is a matter that ought to cease. When first adopted it was at a time when it was very difficult to travel and get through the country. That evil is now remedied. The capital is very accessible from all parts of the Union. The salary of members has been increased, and the necessity for payment of mileage does not now exist. By cutting off the mileage many thousands of dollars would be saved. I trust at an early day some action will be taken in regard to this matter. More care should be exercised on the part of the Government in making of contracts, and thus thousands of dollars saved yearly.

Mr. Chairman, I have glanced hurriedly at a few of the retrenchments which I think ought to be brought about. The country demands it, the burdened tax-payer demands it, and as the Representative of a district composed largely of men who earn their bread by hard labor and toil, and who feel the heavy burden of taxation, I ask that they be relieved by adopting the retrenchments alluded to above. I admit that much has been done in curtailing expenses; and congratulate the members of this House that they have been able to effect so much, amounting to a reduction of expenses the current year of about sixty million dollars, but there is still room for more reductions. I have, sir, voted uniformly against all measures that called for additional expenses, or what I considered unnecessary appropriations at this present time. For this reason, I voted against the Alaska bill, for while it may be a good purchase for the Government, yet I did not feel that it was a proper time, while we are so heavily in debt, to pay out of the Treasury over seven millions in gold. I, sir, sympathize with my constituents, who I know from the many letters I receive are burdened with heavy taxes, and ask for all the economy that is possible in carrying on the Government—the same rigid economy they have to exercise at home; and while I represent them shall vote against every measure that contemplates unnecessarily the taking of money from the public Treasury. I believe, sir, strict economy, retrenchment, and curtailing expenses, whenever we can, should be one of the great efforts of Congress, and if careful in expenditures in all departments of Government, with the vast resources of our country to be developed, it will not be many years before we shall be out of debt, and free from the embarrassments and heavy taxes that now burden the people.

Contested Election.

SPEECH OF HON. G. W. ANDERSON, OF MISSOURI.

IN THE HOUSE OF REPRESENTATIVES,
July 16, 1868.

The House having under consideration the contested-election case of Switzler vs. Anderson, from the ninth congressional district of Missouri—

Mr. ANDERSON said:

Mr. SPEAKER: I rise for the purpose of replying to some things said by the contestant; but, before doing so, I wish to allude to a remark which has been made by the chairman of the Committee of Elections of this House. That gentleman [Mr. DAWES] stated to the House that he had asked me in the committee if I had any charges of disloyalty to make against the contestant, and I replied that I had not. With proper deference to what the gentleman has said, I must say that I have no recollection whatever of any such conversation. I know that in the record of the case, as made up, the question of the loyalty of the contestant was not raised, and it could go before the committee only as it was presented by my colleague [Mr. BENJAMIN] in the argument. I presume the House of Representatives will not fail to take cognizance of a direct charge of disloyalty made against the

contestant upon this floor by a member of this body.

Sir, I feel a deep interest in this case. The loyal men of Missouri feel a deep interest in its decision, and their interests are vastly greater than mine. The contestant talks about his "honor," and he speaks fluently of what he would not do and what he would do. Sir, I say to the House this day, (and no man knows the fact better than the contestant himself,) that with a fair and proper registration in the county of Callaway I would have received a majority of all the votes cast in our congressional district. No man in Missouri knows better than he does that the law was most infamously and outrageously violated in the county of Callaway, and no man contributed to that violation more than the contestant himself by his course toward the registering officers in public speeches in that county.

Peculiar efforts were made to induce the rebel element of that county to cast a large vote, the rebel sentiment being overwhelming there. Frank Blair, the present candidate of the Democracy for Vice President, was imported into that county, as the testimony shows, and he made a speech pretty much in keeping with the letter he has lately written about the reconstruction laws of Congress. I want to read the testimony in reference to the speech made by this gentleman, and show how it corresponds with the advice he has given the people of the nation in reference to the laws that have been passed by Congress.

Here is the testimony of William H. Burnham, a friend of the contestant, and a member of his party:

"Question. Where do you reside?

"Answer. In Fulton, Callaway county, Missouri.

"Question. How long have you resided in Callaway county?

"Answer. If I mistake not, it will be four years next August.

"Question. Are you well acquainted with the provisions of the third section of the constitution of Missouri?

"Answer. I may safely say that I am acquainted with it.

"Question. Were not the people of this county advised to take the oath imposed by the constitution, upon the ground that this provision of the constitution was unconstitutional, and the State had no right to impose that oath on the voter?

"Answer. I did hear the people so advised by Mr. Frank P. Blair, of St. Louis."

The speech of General Blair was made to arouse a spirit of resistance to the law in that county. The character of the speech shows that extraordinary efforts were to be made in this county to poll votes in violation of the constitution and laws of Missouri, in order to secure the election of the contestant. Sir, if these men were excluded from the polls who ought to be excluded by the constitution and laws of the State of Missouri, this contestant would not have the least ground to stand upon. If I believed under a proper registration of Callaway Mr. Switzler would have beaten me for Congress I would never have accepted a certificate of election.

The gentleman says that he was appointed provost marshal by Mr. Lincoln. That is true; but when charges of disloyalty were filed against the gentleman he was removed, because he was an unfit man to hold that office. When he was provost marshal of this district he had a good deal of trouble with the county of Callaway; and I have the testimony of his chief clerk, giving the opinions of the contestant in regard to the loyalty of this county, where there was a registered vote of two thousand:

"WILLIAM W. DAVENPORT, of lawful age, on his oath, depose and saith:

"Question. Mr. Davenport, where do you reside?

"Answer. Mexico, Audrain county, Missouri.

"Question. How long have you resided in this congressional district?

"Answer. Upward of twenty years.

"Question. Were you connected in any manner with the service of the Government during the war?

"Answer. Yes, sir.

"Question. What service were you connected with?

"Answer. With the conscription bureau, for upward of two years, from some time in the latter part of August, 1863, to the 1st of September, 1865.

HO. OF REPS.

Contested Election—Mr. Anderson.

40TH CONG....2D SESS.

"Question. What district was that conscription bureau for?"

"Answer. Ninth congressional district. I also hold the rank of deputy provost marshal.

"Question. Were you thoroughly conversant with the operations of the board?"

"Answer. I was, sir. I had entire charge of the records and correspondence.

"Question. Who was provost marshal of the district?"

"Answer. Colonel Switzler, and then Lovelace, and then Adams, who was president of the board, by virtue of his office of provost marshal.

"Question. While William F. Switzler, the contestant in this case, was president of the board, was there much difficulty in executing the conscript law in this county—Callaway?"

"Answer. There was, sir; the enrolling officers had to be furnished with heavy guards while performing their duties—being afraid to go out of town without them.

"Question. Did Colonel Switzler furnish to the provost marshal general any excuse for not enrolling the county of Callaway in time? and if so, what?"

"Answer. He did, letters reprimanding him for his tardiness in enrolling the district were received by him, both by the provost marshal general of this State, and the Provost Marshal General of the United States; he gave as his reason the condition of the county in which the officer had to operate. This county was about the last in the district in which the enrollment was finished, the reason for which was, as stated by him to the provost marshal general, that he could not obtain suitable escorts to accompany the enrolling officers.

"Question. Have you any knowledge of a communication while he was president of the board to the provost marshal general, in which he expressed an opinion as to the loyalty or disloyalty of the people of Callaway county?"

"Answer. My recollection is, that in one of his communications to the provost marshal general in regard to the dilatoriness in enrolling this county, he expressed the opinion that there were not two hundred loyal men in it.

"Question. What other means did you have of knowing his opinion of the loyalty of the county?"

"Answer. He was very much annoyed with the slow progress of the enrollment; frequently expressed himself in regard to it; frequently designating it as the South Carolina of Missouri. I repeatedly heard him say there were not two hundred loyal men in it, in his opinion.

"Question. What would be your opinion, with your means of knowing, as to the number of qualified voters in Callaway county, under a proper execution of the registry law?"

"Answer. I have no means of knowing, except information received while connected with the provost marshal's bureau. I thoroughly coincided with Colonel Switzler in his estimates as to the number of loyal men in the county then, and have had no reason to change my opinion since.

"W. W. DAVENPORT."

We see here, then, when he was occupying office and wearing the shoulder-straps Mr. Lincoln had put upon him, he thought there were but two hundred loyal men in the county of Callaway. When he expressed this opinion he was acting in an official capacity. To excuse himself for the slow progress of the enrollment he cited the rebellious condition of sweet Callaway, and characterized the county as the South Carolina of Missouri. To-day, if the contestant was placed on oath I cannot believe that he would fail to testify that the registry law was most shamefully violated in this county. Witnesses who had resided in the county twenty-five and thirty years testified without exception, that there were not over two hundred Union men in this county, backing up the official declaration of the contestant made before he thought of becoming the candidate of the rebels for Congress.

Now, sir, I say to this House that the indorsement of this registration in Callaway county is equivalent to saying to the rebels of that county or any other county in Missouri, "If you will intimidate and browbeat the registering officers and get yourselves placed on the registry list, the Congress of the United States will recognize the validity of the registration, and you will have no sort of trouble about it." The indorsement of the registration is saying to the rebels of Missouri where they have the preponderance, as in Callaway county, "Trample under foot the laws of the State; you are all right with the Congress of the United States. All you have got to do is to swear and to vote." This was the advice given to these men throughout the county, and pending the registration there was a meeting of confederate soldiers in that county with a view

to influencing the election, but finding the registrars were placing every man on the list who choose to take the oath, they adjourned without passing any resolution on the subject. Their end had been accomplished. They had intended to hold a meeting, but the ends and aims of the gentleman and his party were carried out in a complete nullification of the registry law in that county.

Now, go back with me to 1862. In August, 1862, the people of Missouri were called upon to enroll in the militia of the State. The county of Callaway did not pay any regard to this whatever. The testimony of Hiram Cornell shows that they did not pretend to organize under that call of the Governor of the State. It was December of that year before any attempt was made by the people of that county to organize. And how many men were found in that county in December, 1862, who were willing to do even militia service for the State of Missouri on the loyal side? There were but three companies that could be raised. Two of them were rejected on account of having elected disloyal officers, and only one company was mustered into the service. But when it came to voting over two thousand were registered as qualified voters where but one company of loyal men could be found to do service in behalf of the Government. In other words, when in 1862 the people of Callaway were asked to do the duties of loyalty they did not respond, but in 1866 they were clamorous to exercise the privileges of loyalty, and over two thousand men were found who swore they had always been loyal to the Government. The proper doctrine to teach is that he who will not perform the duties of loyalty shall not exercise its privileges.

Now, Mr. Speaker, I was surprised, indeed, to hear the distinguished gentleman from Vermont, who made this report from the Committee of Elections, say to the House that the registration officers were all my friends. Sir, I had not three political friends among the registrars of that county, and they all swear that the law was most infamously violated.

Mr. POLAND. I beg to correct the gentleman. What I did say was this: that so far as there was any evidence whatever in the case in relation to the political sentiments of these registrars, they were the political friends of the sitting member, that the superintendent of registration was appointed by the Governor, who was his political friend; and that there was no evidence to show that any single one of the district registrars was not his political friend. I say the same now.

Mr. ANDERSON. The truth in reference to the registering officers is that of the nine appointed but three were my political friends. Why? Because, as William H. Thomas testifies, he could not find men that were loyal to the Government in that country who would execute the registry law. There are whole townships in that county in which I did not receive a solitary vote. And why? Because those men had been imbued with the spirit of rebellion and not a political friend of mine could be obtained in some townships in the county to execute the registry law. Such was the condition of things in that county, and out of a registered vote of nearly two thousand one hundred, but forty-five votes were rejected in the entire county.

Mr. POLAND. I beg to correct the gentleman from Missouri in what he says in reference to the testimony of Thomas. Thomas certifies, in this certificate which he undertook to foist upon the copy of registration, that he was unable to find suitable men, and therefore appointed improper and unsuitable men. He does not testify to any such fact.

Mr. ANDERSON. Here is the testimony of Thomas, on page 20:

"Question. Were you present at the registration of voters at any time in the township of Fulton?"

"Answer. For some time previous to the registra-

tion in Fulton township I had been endeavoring to get various men whom I thought would carry out the law in Fulton township. I found it difficult to do so. As a final resort, I appointed Mr. J. D. Snedcor, who had acted as provost marshal for the county, who I thought had a better chance to do the work legally than any other man I could get. I went into his office soon after he commenced and saw him register a number of persons."

Now, after looking around for a good man to register in Fulton township, where nearly one fourth of the entire vote of the county was registered, he alighted on this man Snedcor; and Jesse Garner in his testimony swears that he told Snedcor when he registered that he had been in the rebel service, and had been wounded in it; and notwithstanding that Snedcor enrolled him as a qualified voter and put him on the list as such. This is the only man Thomas could find who would execute the registry law or promise to execute it in that township. He rejected few of those who applied and did not reject a solitary man who would come forward and take the oath. What did the law require the registering officers to do? It required them to diligently inquire into the loyalty of these men. Thomas swears that he furnished to the registering officers a list of those enrolled as disloyal men in the county. That list foots up some five hundred, and yet notwithstanding they were furnished with that list and the law required them to inquire diligently into the loyalty of those men they were registered as qualified voters. That is the manner in which the law was executed in that county.

Sir, I am perfectly satisfied that the law was most infamously violated in that county. I am equally well satisfied that the contestant himself knows that if there had been a proper registration I should have beaten him for Congress; and I know full well that in the coming contest in that district the gentleman will find himself in the vocative if he relies upon a repetition of the Callaway registration; for I tell you that the law will then be executed in that county, or some of the gentlemen's friends will be executed. [Laughter.] There is no solitary witness who has been called upon to give his opinion of the number of Union men in the county that has set it at over two hundred and eighty persons. It would have required a legal registration of five hundred and eighteen votes in the county of Callaway to have defeated me for Congress.

Who believes that there was any attention paid to the execution of the law with such a state of facts as this, shown by the testimony, and staring the House of Representatives in the face?

Mr. Speaker, I was pained to hear the distinguished gentleman from Vermont [Mr. POLAND] make the remarks he did in reference to the supervisor of registration of the county of Callaway. Sir, there is nothing which will better satisfy rebel malignity and rebel hatred than to find upon the floor of this House of Representatives a Republican member of the Committee of Elections denouncing William H. Thomas. That man has stood out against the traitors of Callaway county, and tried honestly and faithfully to execute the law. There is no more honest man, no better, no more faithful citizen, than William H. Thomas; and there is nothing that the rebel element of Missouri, and especially of this county of Callaway, will delight in more than to read the comments of the distinguished gentleman from Vermont, [Mr. POLAND,] upon what he calls this fly-blown registry of William H. Thomas. Sir, William H. Thomas is a true and loyal man, and there is not a man of intelligence in Missouri of any political party who does not know that William H. Thomas certified to the truth, the whole truth, and nothing but the truth, when he certified that the registry law had not been carried out in its letter and spirit in the county of Callaway. Sir, the law was shamefully violated, and it would have been

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better for the gentleman from Vermont [Mr. Poland] to leave the abuse of this faithful officer to the malignant traitors of Callaway county whose efforts to trample our laws under foot he has done so much to defeat.

The contestant has alluded to his indorsement by General Dodge. General Dodge indorses the contestant's estimate of the number of Union men in Callaway county, and has stated to me over and over again in this House that there were not two hundred loyal men in the county of Callaway, and there is no man who ever commanded that department who will not justify that declaration, a declaration made by the contestant himself.

Now, as to the charges of disloyalty preferred by my colleague [Mr. Benjamin] against the contestant, as also the like charge made by the contestant against myself. The contestant, in order to defend himself against the charge of disloyalty preferred against him by a member of this House, turns about and says that if he has a bad record I have one equally bad.

"Let the galled jade wince, our withers are unwrung."

William F. Switzler, in 1861, published these articles sent up to the Clerk's desk and read, and he dare not deny them. In 1860, 1861, 1862 I was a pro-slavery man. I did not agree with Mr. Lincoln when he issued his emancipation proclamation, but I did not intend to separate myself from the Union men of the county. I accepted that proclamation in good faith. I was the owner of some slave property, and the moment I accepted that proclamation I emancipated every slave I owned, and I did not reserve them for the purpose of presenting a claim for them. Sir, I state upon the floor of the House of Representatives that I was the first man in North Missouri that raised an armed organization against the rebellion. I was the first man to whom arms were furnished for the purpose of suppressing traitors. I had them in the service when the gentleman was writing articles against the country, and glorying over the death of its gallant officers. Yes, sir, while I was raising and arming men to put down the rebellion the contestant was writing an article for his paper glorifying the rebel Jackson for shooting down the gallant Ellsworth—glorizing over the fact that a traitor's hand had been bathed in the blood of a brave Union officer. This is the man who tells this House that he has always followed the brave old flag.

The gentleman has not pretended to controvert the charges that have been made here by my colleague on this floor, who, as a Representative in this body, has a right to prefer these charges. And the gentleman need not tell the House, after the extraordinary exhibition he has made, that he was unprepared for this charge. The charge of disloyalty was made in the committee-room, and he has been so careful, in order to get an indorsement here and there, by somebody who was loyal to the Government, that he has procured a letter written by a Wisconsin soldier to a member of Congress, to show that he gave the soldier something to eat when he was sick.

Replying to the charge of the gentleman that I have not been loyal to the Government, I will say, that from the beginning to the close of the late war I have had the unlimited confidence of the Union men of my State, especially of my district, senatorial and congressional. In 1862 I was indorsed by the people of my senatorial district as a Union emancipation candidate. In 1864 I was elected to Congress. In 1866 I was reelected, and nobody knows it better than the gentleman himself, because he is just as well aware of the frauds perpetrated in the county of Callaway as any man can possibly be.

I do not plead in this case for myself. What I have to say is in support of those laws which have been the sheet-anchor of the loyal men

of Missouri. We have passed through some terrific struggles in that State. We have had some bold, bad men to deal with. And to-day one of the boldest men in that State is upon the Democratic presidential ticket a candidate for the Vice Presidency. At the last election he went through my State denouncing the laws and telling the people to put their foot upon them, and to vote anyhow. He is now elevated to the dignity of Democratic nominee for Vice President and has written a letter pledging himself to wipe out the reconstruction laws of Congress.

Under the lead of that man there will be a desperate struggle in Missouri, and these men will again attempt to override and trample under foot the laws of my State. I say to this Congress, be careful how you add fuel to this flame. Be careful how you uphold, support, and sustain the rebel element in Missouri in this infraction and violation of our laws. The Union men of that State have had their trials and difficulties; but thank God, we have passed through them safely, and hope to do so again. But let it not be said that an American Congress, composed three fourths of Republicans, have indorsed the infamous violation of laws on the part of the rebels and traitors of Callaway county. Let me not go back to my people and say to the Union men there, "You have been stabbed in the house of your friends." I do not want to do it. I do not want a Congress of Republicans to give their indorsement upon a system which says to every traitor in Missouri, "You can violate our constitution and laws, and if you once can get yourself registered, if you can swear that you are sound you can get through perfectly safe as far as the American Congress is concerned."

Mr. Speaker, I have detained the House as long as I desired, and I am now willing to leave the question to its decision.

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SPEECH OF HON. J. M. BROOMALL,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

July 15, 1868.

The House being in Committee of the Whole on the state of the Union—

Mr. BROOMALL said:

Mr. CHAIRMAN: Four years ago the political party which has just fixed upon its candidates and laid down its principles at New York entered the contest for the Presidency by declaring the war in which we were then engaged a wrong and a failure, and with singular inconsistency placed at the head of its ticket a man who had gained all the celebrity he had in the prosecution of that war. It was not without good cause that the people refused to trust such a candidate accepting nomination by such a party upon such a platform. The men who had fought upon a hundred battle-fields could not consent that their well-earned fame had been won in an unholy or a failing cause, and it was not to be expected that they would accept as a civil leader one even of their own number who would denounce his own deeds. Few voters at that election had not some one who had given his life for his country upon some battle-field to be remembered at the same time with pride and sorrow, a son, a brother, a friend; and it was too much to ask of the voters to admit through the ballot-box that that some one died in an unholy cause, died in the act of murder, a felon and not a patriot. The result of that election justified the war and hallowed the graves of the dead.

A few months settled the question of success, though the same denunciation of the cause of the country, and the same prophecy of failure in which "the wish was father to the thought," continued and blended themselves

with the very shouts of victory. But the fact of success had at last to be admitted. The rebels had laid down their arms. There was no enemy in the field. It was then due to the country that these gentlemen should at least confess their error; that having blundered so fearfully upon the question of success, they should now admit the justice of the cause in which so many lives were sacrificed and so much treasure expended. But they have not the grace to do this. True to their old instincts of love for the enemies of the country, ever since the surrender they have espoused the cause of the vanquished and have conspired with them to gain by political management what was lost in the field. They were not satisfied with the terms granted by the victors, though those terms were more lenient than were ever before extended to a fallen foe in any country since the dawn of history. A stranger to the events of the last eight years, listening to a Democratic speech here or elsewhere, would suppose all the justice, as well as all the valor had been upon the side of the lost cause.

Yet these people, with all their predilections in favor of the enemy, are asking that the Government of the country should be intrusted to them. Was ever effrontery more glaring? What possible claim have they to public confidence? In 1860, when the destinies of the Republic were in their hands, they professed to know no legal means to sustain the Government against an internal enemy. Their President thought that though it might be treason to conspire to overthrow the Government yet it was equally treason to prevent the overthrow by force. His very Cabinet, while drawing their salaries from the public Treasury, plotted to dismember the country. Their Vice President and their candidate for the succession exercised his high office in the interests of the enemy, and left it to head their armies. With some honorable exceptions every Democratic officer of the Government joined the ranks of the rebels after doing all the damage to the country he could and dared while in power. And yet this party, without denouncing the crimes of its leaders in 1860, asks again to be intrusted with the destinies of the country! It is difficult to decide whether more to admire or to condemn the impudence of such a demand.

We sometimes speak of the outbreak which has recently yielded to our victorious arms as a rebellion of the South, a slaveholders' rebellion. This is a misnomer. Impartial history will write it down as a rebellion of the Democratic party—will say that this party, defeated at an election by honest votes, refused to submit, and appealed from the ballot-box to the sword. Impartial history will record that every prominent leader of the rebellion was a Democrat; that every northern man who favored or sympathized with the rebellion was a Democrat. Impartial history will record that the entire Democratic organization of the country was managed in the interests of the enemy. Every member of Congress who remained in that organization cast his votes during the whole terrible struggle as if they had been dictated by Jefferson Davis, and at every election in the North the contest was plainly and manifestly for or against the country.

It may be asked why the rebellion did not succeed since the Democratic party was in the majority prior to the outbreak? The answer is easy. The masses of that party in the North refused to follow their leaders. Their patriotism proved stronger than their party ties, and when the life of the nation was threatened they forgot that they were Democrats and only remembered that they were American citizens. They took arms for the defense of their country against their party. We owe these men a debt of gratitude which can never be forgotten. If the masses of the Democratic party in the North had been as faithless as their leaders

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the flag of the country would never have reappeared upon Fort Sumter.

And yet this organization asks again to be intrusted with the reins of Government? Has it changed its principles since eight years ago, when it believed the rebellion had a constitutional right to succeed? or since four years ago, when it denounced the attempt to uphold the Government by force as a wrong and a failure? There is nothing in the Constitution or the doings of the recent convention in New York indicating such change. Look for a moment at its constituent elements. Almost every delegate from the South was an active participant in the attempt to overthrow the Government. The notorious Forrest, the infamous murderer of the Fort Pillow prisoners, was there, and was fêted and flattered by his obsequious northern admirers. Wade Hampton was there, Stephens, the vice president of the late "confederacy," was there as an outside manager. His written sentiments were humbly received and respectfully submitted to the appropriate committee, to enter into the platform of the party. Almost every northern delegate was a sympathizer with the rebellion during its continuance and an honest mourner for "the lost cause." Members of Congress, who could boast that they never voted a man or a dollar to the cause of the country, were there. Seymour was there, who, as Governor of New York, thought that a mob had as good right to invoke the law of necessity as the Government of his country, and who, after thus stimulating resistance to the draft, called the ruffian hordes who acted upon his hint his friends. My colleague from the Luzerne district, who, in 1861, thought slavery "an institution divinely sanctioned if not divinely ordained," was there.

These gentlemen were a fair sample of the elements of that delectable body, and it may be well said that there was nothing in those elements to inspire the sober, thinking people of the United States with respect or confidence. It was the first national convention of the rebels and their northern friends since the beginning of the war, and the occasion was made peculiarly jubilant. The parable of the returning prodigal was somewhat changed. It was not the son coming home repentant, and asking only to occupy the meanest position in the household, but claiming rights, demanding the chief place at the family altar, and proposing condescendingly to forgive the father.

During the war these gentlemen were debarred the privileges of friendly consultation by the interference of armed forces. In 1864 the southern wing of the Democratic party could only pray for the election of McClellan, and prayers, as the result showed, were not as efficacious in such a cause as votes might have been. If the adherents of Jefferson Davis could have voted in 1864, the life of Lincoln might have been spared, and the country might have been saved from the disgrace of being ruled by his successor. But on the other hand the result would have been precisely as if Grant had surrendered to Lee at Richmond; and that result will be brought about in 1868, if under the decrees of an inscrutable Providence it were possible for the nominees of the New York convention to succeed in the coming election.

What a sublime instance of chivalric condescension it was in these gentlemen to admit, as they do in their platform, that they "stand upon the Constitution as the foundation and limitation of the powers of the Government and the guarantee of the liberties of the citizen," and that they "recognize the questions of slavery and secession as having been settled for all time to come by the war." It must have gone hard with these gentlemen to achieve that pinnacle of human virtue upon which they could thus acknowledge that they had been beaten. After taking this bitter pill, no wonder they should find it salutary and necessary to "demand immediate restoration of all

the States to their rights in the Union," and "amnesty for all past political offenses."

But what does the Democratic party propose to do in the event of their restoration to power? We have their word, at least by implication, that they will not reestablish the institution of slavery. Once, according to their teaching, it was the very bulwark of American liberty; it was the only sacred constituent of our national structure; the only thing which a majority of the people, acting in a legal and constitutional manner, dared not lay their hands upon. Now they consent to its abolition. They admit, at least apparently, that the country can survive its downfall.

We have also their word, at least by implication, that they will not again resort to secession as a remedy for a lost election. Once it was an important principle of their creed that any State might at will withdraw from her allegiance to the Union. Now they admit, or seem to admit, that the war, which in 1864 was a failure, at least has destroyed this right, and that now, at least, the Republic of America is a nation, and not a mere voluntary association of independent and sovereign States. Upon these questions they seem to have adopted the principles of the Republican party. This is hopeful. After a few more beatings at the ballot-box, if not in the field, they may become thorough converts to the cause of human progress.

It will not do, however, to count too confidently upon their conversion. A more full examination of their platform discloses a little of the old spirit of their leaders in 1861. What do they mean by saying that they "regard the reconstruction acts (so called) of Congress as usurpations, and unconstitutional, revolutionary, and void?" Now, a void act of Congress, an unconstitutional act of Congress, is no act of Congress at all, and the statute books of the nation remain precisely as if no such act of Congress had ever been passed. Yet, under the reconstruction acts, six Senators hold their seats at the other end of the Capitol, and four more are ready to be sworn in. Under these acts the Representatives from North Carolina, Georgia, and Florida now vote daily in this body upon important questions touching the government of the country, and the Representatives from Louisiana and Alabama are awaiting and will be allowed admission within three days. Long before the country will decide between the rival candidates for the Presidency ten States will be regularly organized and in successful operation under the reconstruction acts.

What does the Democracy propose to do with these States? If the reconstruction acts are unconstitutional, these States are not States at all, and their Senators and Representatives are not Senators and Representatives, but mere imposters. Before any remedy can be applied these States will be in operation at least until March 4, 1869. Their Legislatures will have enacted laws affecting for good or ill the lives and property of their citizens. Their courts will have adjudicated causes, perhaps will have condemned and executed criminals. Upon the Democratic hypothesis all these things will be null and void, and every State judge who sentences a murderer to death, every sheriff who hangs him, will be himself a murderer. Besides this, every act of Congress passed by the votes of these Senators and Representatives will be null and void, and what is and what is not United States law will puzzle the shrewdest lawyer in Christendom.

Now, what does the Democracy propose to do? They have solemnly adopted a theory which leads unavoidably to these monstrous results which unsettles questions of life and property for millions of human beings. What do they propose to do? To say nothing about the evils which will have been inflicted long before they can possibly come into power, what do they propose to do for the future?

Let these void States stand? Let these impostors, these false Senators and Representatives occupy the halls of legislation, affecting the interest of the entire country for good or ill by their votes? This would be too inconsistent for even the Democratic party. But what would they do? Repeat the reconstruction laws, and throw everything in the South again into chaos and anarchy? Monstrous as this would be in its consequences they could not do it. Grant that they could gain the Presidency. Grant that they could elect a majority of the members of the Forty-First Congress. Yet the Senate could not, by any possibility, be changed for years to come. And it requires both Houses of Congress to repeal a law. What then? Would they invoke the aid of the Supreme Court and get the acts declared void? This might possibly have done before the organization and recognition of the States under those acts, but it is too late for this even now. The Supreme Court has already decided in the case of *Luther vs. Borden*, that whether a given political organization is or is not a State is a political question with which that Court has nothing to do; that the recognition of a given organization as a State by Congress, by the admission of its Senators and Representatives, settles the question finally and forever for all departments of the Government. How, then, will the Democratic party right this alleged wrong? The platform is not very explicit upon this point. It points out the grievance, and imposes upon the party the necessity of applying some remedy. Now, there are but two modes conceivable; one is by civil process, and the other by revolution; one by law, and the other by war. I have shown that the civil, the legal mode is in the nature of things impossible. This the Democracy must have known. The inference is, therefore, that they intend to resort to arms.

But we are not left to inference alone upon this question. Among the candidates for the second position upon the ticket was a late major general of the Union armies. This gentleman had done due penance for his sin of supporting his Government against the Democratic party. With praiseworthy condescension his late enemies in the hostile field agreed to accept him as their Vice President. Before his nomination he wrote a letter to the convention, in which he denounced the reconstruction acts of Congress as unconstitutional and void, and declared the States organized under them to be without legal authority or existence. He recognized the fact and deplored it, that there was no peaceable and legal mode of overthrowing them, and therefore he declared it to be the duty of the proposed Democratic President immediately upon his inauguration to organize an army, march it into the South, and disperse those illegal and void State governments at the point of the bayonet!

But let the letter speak for itself, that there may be no misunderstanding. Here it is:

WASHINGTON, June 23, 1868.

DEAR COLONEL: In reply to your inquiries, I beg leave to say that I leave to you to determine, on consultation with my friends from Missouri, whether my name shall be presented to the Democratic convention, and to submit the following as what I consider the real and only issue in this contest:

The reconstruction policy of the Radicals will be complete before the next election: the States so long excluded will have been admitted; negro suffrage established, and the carpet-baggers installed in their seats in both branches of Congress. There is no possibility of changing the political character of the Senate, even if the Democrats should elect their President and a majority of the popular branch of Congress. We cannot, therefore, undo the Radical plan of reconstruction by congressional action; the Senate will continue a bar to its repeal. Must we submit to it? How can it be overthrown? It can only be overthrown by the authority of the Executive, who is sworn to maintain the Constitution, and who will fail to do his duty if he allows the Constitution to perish under a series of congressional enactments which are in palpable violation of its fundamental principles.

If the President elected by the Democracy enforces or permits others to enforce these reconstruction acts, the Radicals by the accession of twenty spurious Sen-

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ators and fifty Representatives will control both branches of Congress, and his Administration will be as powerless as the present one of Mr. Johnson.

There is but one way to restore the Government and the Constitution, and that is for the President-elect to declare these acts null and void, compel the Army to undo its usurpations at the South, disperse the carpet-bag State governments, allow the white people to reorganize their own governments, and elect Senators and Representatives. The House of Representatives will contain a majority of Democrats from the North, and they will admit the Representatives elected by the white people of the South, and with the cooperation of the President it will not be difficult to compel the Senate to submit once more to the obligations of the Constitution. It will not be able to withstand the public judgment, if distinctly invoked and clearly expressed on this fundamental issue, and it is the sure way to avoid all future strife to put the issue plainly to the country.

I repeat that this is the real and only question which we should allow to control us. Shall we submit to the usurpations by which the Government has been overthrown, or shall we exert ourselves for its full and complete restoration? It is idle to talk of bonds, greenbacks, gold, the public faith, and the public credit. What can a Democratic President do in regard to any of these, with a Congress in both branches controlled by the carpet-baggers and their allies? He will be powerless to stop the supplies by which idle negroes are organized into political clubs; by which an army is maintained to protect these vagabonds in their outrages upon the ballot. These, and things like these, eat up the revenue and resources of the Government and destroy its credit—make the difference between gold and greenbacks. We must restore the Constitution before we can restore the finances, and to do this we must have a President who will execute the will of the people by trampling into dust the usurpation of Congress, known as the reconstruction acts. I wish to stand before the convention upon this issue, but it is one which embraces everything else that is of value in its large and comprehensive results. It is the one thing that includes all that is worth a contest, and without it there is nothing that gives dignity, honor, or value to the struggle.

Your friend,

FRANK P. BLAIR.

Colonel JAMES O. BROADHEAD.

This letter secured General Frank P. Blair the votes of the rebels and the second place on their ticket. Did it express the views and purposes of the convention? There might have been some doubt upon this point if it had been written after the nomination. But it was written before, and was read to the delegates before they voted. Hence by their action they indorsed its sentiments and made it a part of their platform. Was the letter written in a spirit of bravado? Possibly so. Was it a mere bid for the position? Possibly so. But those who know General Blair would think this very improbable. Certainly it was received and indorsed by the convention in good faith and sober earnest.

We are therefore threatened with war in the event of the success of the New York nominees in the coming election. Let us beware how we disregard the threat. Let us learn wisdom from the past. Let us remember that when the Democratic party threatened war in 1860 they meant it, and they followed it up to the filling of many a soldier's grave and the grief of many a northern household. The South may have had enough of war, but the northern Democracy is still belligerent. It has never yet surrendered. What a pity it is for the good of the country that under the law of nations General Lee had no power to capitulate for his allies upon his defeat, and so to surrender the entire Democratic party, North as well as South, as prisoners of war.

General Grant, in his letter of acceptance of the Republican nomination, says in short, strong, and impressive language, such as he always uses, "Let us have peace." The Democratic platform proposes to do what can only be done by revolution; and its second candidate calls in so many words for war. Is the country ready for the question? Ask the soldiers, in whose memories the long and weary march and the awful carnage of close conflict are still fresh. Ask the mothers of fair, brave boys just approaching manhood. Ask the fathers of maimed and mutilated sons. Ask the toiling millions ground down already by debt and taxation. Is the country ready for the question? It will be upon us in Novem-

ber; and if we are disposed to treat it lightly let us bear in mind that when the Democratic party threatened war in 1860 it meant it.

Let it be understood that the clearest and best defined issue between the two great parties of the country is this one of peace or war; whether the southern States shall be maintained as their citizens have constituted them under the reconstruction acts, by peaceful and legal means, or, on the other hand, overturned by Federal bayonets and replaced by war and anarchy. There are other issues very important, but less clearly set out. Something in the New York platform looks fearfully like repudiation of the debt of the Government, fearfully like sapping the faith of the nation, which ought to be as dear to the heart of every patriot as the very life of the nation. But ingenious sophistry may possibly explain this away. However that may be, one thing may be said with safety and certainty. The public credit will be brighter and purer under the party which incurred the debt in defense of the country than under the party whose rebellion the debt was incurred to crush.

But the issue of peace or war stands boldly out. It is not attempted to be denied or even concealed. If there is faith in human promises, if there is consistency in human actions, then the election of Grant will continue the rule of law and order, will maintain the southern States as they are and restore their former prosperity and greatness, while the election of Seymour will destroy those States by the sword and inaugurate civil war, in which this time the United States will be the aggressor.

Let us now suppose General Frank P. Blair to be in error; let us suppose there is some peaceable and legal means of destroying the State governments of the South, is there any reason why they should be destroyed? They are republican in form. They are precisely what a majority of the legal voters in those States have made them, and they have been acknowledged as States of the Union by the Government of the United States. If the Constitution even gave us the right to interfere with them why should we do so? The New York platform implies, rather than expresses, the Democratic reason. It is because some of the legal voters in those States are black. Is that sufficient? Some of the legal voters in Massachusetts, in Maine, and in New Hampshire are black. Some of the legal voters in New York are black, and some of the legal voters in Ohio are of African descent. Does the Democratic party propose to march an army into New York and destroy that State government because it permits a negro to vote? I trust our opponents will be consistent, and if they attack universal suffrage in the South they will apply the same treatment to the northern States. If Arkansas should not be allowed to regulate the right of suffrage for herself, surely New York and Massachusetts should not.

The great leading feature of the southern States as now constituted is that the right of suffrage is extended to all adult males, excluding a very small proportion of the leaders in the late rebellion. If this is satisfactory to the citizens of those States nobody outside of them has any cause of complaint. If this state of things is not satisfactory to the citizens of those States it is open to them at any time in the regular legal and constitutional manner to change it.

Why, then, should we inaugurate civil war? What business have we to interfere with the institutions of South Carolina as long as her form of government is republican? If she likes it she will retain it. If she does not, she will change it, within the limits allowed by the Constitution of the United States; and General Frank P. Blair would be guilty of a very foul wrong in forcing upon that State, at the point of the bayonet, institutions of which her citizens do not approve.

Taxation of Government Bonds.

SPEECH OF HON. B. F. BUTLER,
OF MASSACHUSETTS,
IN THE HOUSE OF REPRESENTATIVES,
July 14, 1868.

The House being in Committee of the Whole on the state of the Union—

Mr. BUTLER, of Massachusetts, said :

Mr. CHAIRMAN: On the 22d day of May last, the representatives of the Republican party of the country assembled at Chicago, and laid before the country, as a portion of the policy which should govern it, the following almost axiomatic principle of political action:

"It is due to the labor of the nation that taxation should be equalized and reduced as rapidly as national faith will admit."

Shortly after, ninety-two Representatives of the people on this floor—almost an absolute majority of all the Representatives-elect, and an absolute majority of all the Republican party present—attempted to carry out this principle and make it the law of the land, as was their duty to do as Republicans, by voting to instruct their Committee of Ways and Means to bring in a bill for the taxation of the income derived from national interest-bearing securities. How that committee performed its duty, in obedience to such imperative order, I shall have the honor directly to bring to the attention of the House.

Let us at first, however, define carefully and distinctly what we mean by the equalization of taxation. I understand the phrase as used in the platform of our party to mean that all the invested capital of the country shall be subject to such rates of impost to be directly taken from its profits in such amounts and proportions as that in all its parts it shall bear its fair share of the burden of taxation equally relatively to productive capital and labor, due regard always being had to the amounts of such profits in comparison to other sources of income, discriminating with a sound discretion, if at all, against the profits of invested capital which are mere profits, and in favor of such profits as are derivable from labor alone or labor employed in conjunction with active capital. It is obvious to every one that this is the only definition of this plank of the platform which will bear examination for a moment.

What, then, are the interest-bearing securities of the United States? They make a peculiar class of property; invested productive capital to the owner, taxation to everybody else. If there were no tax to be paid by the people there would practically be no debt owed by the people. Everybody understands this. The public debt can affect the people in no other way than through taxation. Therefore I repeat the bonds of the United States are capital to the holder, but are taxation to every man in the nation.

Now, it will not be denied that all the securities of the United States, interest-bearing or other, substantially escape taxation. True we have an income tax of five per cent. upon them, but for reasons which will be seen in a moment, they in fact escape all taxation. When we first provided for these bonds we put an income tax upon them of one and a half per cent. That income tax was imposed in 1863, and kept on for two years; and returns can be found for those two years, from which it will be seen how nearly completely the capital invested in these bonds escapes all taxation. This income tax of one and a half per cent. was put on before the bonds were at all issued. In the year 1863 we ought to have received from this tax on the income derivable from the interest on the national indebtedness, if it had been honestly returned and collected, at least \$1,300,000. How much did we actually receive? I have it here from the income returns of the Commissioner of Internal Revenue that

we received \$75,000 only. For the year 1864 we should have received \$1,700,000 from income returns from the interest of our national debt, if it had been honestly returned, but we actually received only \$133,402 75, considerably less than one tenth. Therefore I have a right to say that quite all the income derivable from the interest-bearing securities of the United States escapes taxation. As all taxation upon incomes is now five per cent. since 1865, there have been no returns of the taxes raised on incomes from United States securities specifically, so that we can get no figures to verify the fact; but if the persons holding the United States securities in 1863 and 1864 would cheat the Government more than nine dollars out of every ten we should have received, to escape a tax of one and a half per cent. only, it is easy to imagine with sufficient certainty for all purposes of argument what is done to escape a tax of five per cent.

We have now \$2,500,000,000 of invested capital in the interest-bearing securities of the United States, the most profitable investments of any in the country, every dollar of which we have seen escapes substantially all taxation, municipal, State, and national. Is that "the equal and just taxation due to the labor of the country" which allows so large an amount of its most profitable invested property to escape taxation, both State and national?

This \$2,500,000,000 of capital is paying interest to the holders raised from the taxation of the people at such rates in gold or in currency that reckoning the premium forty-one and a half per cent. to-day it is less than the truth to say that it averages eight per cent. interest or \$200,000,000 of income, all of it mere profit without a blow struck, a spade uplifted, or business transaction done, and without possibility of loss.

To allow this vast income wholly to escape all taxation seems therefore not to be that equality of taxation due to labor of which the Chicago resolution speaks, especially as labor, and ultimately nothing but labor, is taxed to pay it all.

It is no answer in amelioration of this great injustice, and yet it is the only one which I have ever heard, that much of this debt is held by men of small means in comparatively small sums; here our sympathies are always appealed to in behalf of the widows and orphans who own bonds, lest they, too, should be taxed; because whoever owns these securities holds them as an investment, a surplus over and above his daily wants, as a source of income without labor, while the masses of laboring men and women, widows and orphans, are struggling for daily bread by daily toil, borne down in that struggle by the burden of the taxes which must be imposed on the very necessities of living to pay this untaxed income of two hundred millions, however the same may be held, whether as the small incomes which escape taxation by exemption or by the millionaire who escapes through fraud. It is all one and the same thing to the overburdened people who toil to earn the means of living out of which this vast income is at last paid.

To remedy this so apparent injustice and wrong; to carry into effect the Chicago platform in this behalf; to show to the country that the Republican party by its laws deals equal justice to all men, the House of Representatives by a most decisive vote ordered the Committee of Ways and Means to bring in a bill which should equalize taxation in some degree by imposing a tax upon this two hundred millions of income, which now escapes taxation, and thus make it bear a portion at least of its just share of the burdens of the Government of which this capital receives more than its share of the benefits.

This order of the House, so reasonable, so proper, so in accordance with party allegiance,

so patriotic, appealing to the conscientious sense of fair play in every rightly balanced mind, one would have supposed would have been obeyed by that committee with joyful alacrity, springing with eagerness to aid and lead the House in this so noble a work of true legislation for the benefit of the many although not against the true interest of the few. How did that committee obey the order of the House? "What private griefs they had that made them do it, alas! I know not; but they are all, all honorable men."

They were ordered to bring in a bill levying a tax of at least ten per cent. on the interest of the bonds of the United States, to be collected by those charged with the duty of paying the interest on the bonded debt of the United States. They do bring in a bill to reduce the rate of interest on certain of the securities of the United States, but do not take anything from the seven-thirty securities. Being directed to levy a tax on the bonds which bear the rate of five and six per cent. interest in gold, which, being a very valuable and profitable security, might well be able to bear that rate of taxation, the committee, apparently for the purpose of bringing into odium the order of the House, report a bill to reduce the interest on the Government three per cent. certificates three tenths of one per cent. The committee left undone what they were ordered to do and did that which they were not ordered to do, and we might well complete the paraphrase by saying "and there is no health in them."

To insure the rejection of this relief of the people from taxation the committee accompany their bill, which neither they nor any one else will vote for, with a report which is remarkable as showing two things with remarkable clearness and effect: first, the perversity of the committee on this subject; secondly, the apparent want of acquaintance with the subject upon which they report.

They say the committee are opposed to the proposition embraced in this resolution. They need not have said that; the House and country knew that long ago. It is too well known that that committee are opposed to relieving the burdens of the people by any measure of taxation of the income of the bonded debt which is effectual. They had frittered nearly the whole session away and no measure of relief had by them been reported, either in taxing or funding the public debt, although many propositions had been sent them by the House to direct them to this object.

And when they are acting under the mandate of the House to do something on this behalf, the committee further say in their report that—

"They reserve to themselves their rights, as members of the House, to oppose in every possible way the adoption of a measure which they regard as hostile to the public interest and injurious to the national character."

Now, as a leading committee, by keeping back measures and obstructing the passage of bills which they report, can under the rules of the House almost surely defeat any measure, it is to the Committee of Ways and Means, so far as the House is concerned, that the country owes the loss of all effectual measures of financial relief during this session of Congress, and the loss of the fifteen or twenty millions which might and ought to have accrued to a depleted Treasury and a burdened, tax-ridden people from the most proper and legitimate source of revenue. *Palnam qui meruit ferat.* Let the committee have the credit of it if the people believe this right. Their Representatives in the House, by a vote of 92 to 54, ordered otherwise, but the committee have thwarted the execution of the will of the House. If this measure of taxing the income on the bonds less than any species of property is taxed in this country is (as the committee say) "hostile to the public interest and injurious to the national

character," the people will condemn the House of Representatives for ordering it to be done. I speak this more in sorrow than in anger, but it is due to the House of Representatives that the country should know precisely why a measure of relief which I believe the people and the true interests of all demanded at our hands has failed, and why they must toil on another year to earn fifteen millions more of taxes. It is also due to the Republican party that it should be known that as a party we are not responsible for this failure. A majority of us voted for it. No man, Democrat or other on the committee, has raised a murmur against this its action. What I have here said will give each member of the committee an opportunity of saying whether he was for or against what the committee have done in this regard, and the country must judge. How much the committee are mistaken in the legal propositions upon which they found their report will be seen in the course of my observations.

The committee say, "But your committee have been unable to find in the statute-books of England or any other civilized country a law that could be regarded in any way as a precedent for the bill the House have instructed the committee to report, which, if enacted, will be simply a law providing for the payment of a rate of interest on the Government debt ten per cent. less than was agreed for."

The provisions of law which the committee are unable to find to justify the House in its vote in any civilized country are, therefore, first, a law providing for a tax of ten per cent. on the interest of the public debt; second, a provision of law that such tax shall be collected by the public officers paying that interest to the public creditors.

This is all the resolution the House ordered the committee to report a bill to do. This they refuse to do because they can find no precedent for it in any civilized country. In order to see how completely the law and precedents of taxation of England cover and justify the action of the House, I pray you, Mr. Chairman, to go with me in a cursory examination of the history of taxation in England. The importance and instructiveness of the topic will amply requite the tedium of the task.

In order that any gentleman may follow me and see if I am correct, and that there may be no mistake in what I say, that cannot be corrected in my citations of authority, (for citations of authorities are not always correctly given,) I will give the book from which I quote.

I have extracted the following provisions from Senior's Income Tax Law, London edition of 1863. It is the handbook of English tax duties, according to which their tax law is administered.

The first income-tax act was that of 1798, and was based on the taxation of incomes according to certain taxes already assessed upon a graduated scale. Thus if a person were assessed on servants, carriages, and horses, he was to pay additional duties as an income tax. Such persons were by this act, if assessed for under twenty-five pounds, to pay three times the amount; if for thirty, and under forty, to pay four times the amount; if fifty and upward, five times the amount, and another schedule fixed duties to be paid by persons assessed for houses, windows, dogs, clocks, and watches.

As it affected those persons exclusively who were already assessed certain taxes, this act was a failure, for by giving up the kind of property subject to these taxations they got rid of the new tax. Therefore, it became necessary in 1799, to try a duty of ten per cent. on all incomes above £200, with a graduated scale for those below.

The reasons for this new levy was, as the statute said, because there were sundry instances of evasion of the old act, and the new tax was laid "to establish an equalization of

taxation as far as practicable by human means."

It will be observed that here is a precedent for laying a *ten per cent. income tax*; so the House has English precedent so far.

Each person was required to give in the gross amount of his whole income according to a schedule of descriptions very like that of our income tax.

But while this taxation was very inquisitorial, it was also very unproductive, so much so that it continued but three years; and the present system in England of charging the income tax on all properties and incomes however derived, or their *source*, was introduced.

This was done by the act of 1803, which levied five per cent. on incomes at their sources, and was efficacious in bringing almost as much to the revenue as was obtained by a levy of ten per cent. on gross incomes.

In 1806 the rate was again fixed at *ten per cent.* Another precedent for taxing our bonds ten per cent. Prior to this time exemption had been granted for incomes on realized properties under sixty pounds.

It was found necessary to repeal this exemption and substitute a graduated scale, as it was productive of the greatest frauds upon the public.

The act of 1806 was repealed in 1816, but was substantially reenacted by Sir Robert Peel in 1842. In the meanwhile there was no income tax.

The duty imposed in 1842 was seven pence in the pound upon incomes, exempting those of certain classes under £150 a year. Peel's act relieved the farmers, however, by imposing the tax on rent of land in England at three and a half pence per pound.

This act remained substantially in force until 1853. On the declaration of war with Russia in 1854, the income tax was doubled; and a further increase was imposed of two pence in the pound on incomes of £150 and upward; and one and a half pence on incomes of £100; and a graduated scale for incomes under that sum.

Schedule C of this tax act comprises all profits due from interest, annuities, dividends, or shares of annuities, or, in other words, upon any portion of the public debt.

To prevent frauds in these taxations all incomes arising from interest or dividends, or anything in the nature of funded property, were required to be returned and accounted for by the persons paying them, not by the persons receiving the interest or dividend.

For example, on a loan on mortgage for £10,000, the mortgagor deducts the duty from his interest, paying that to the Government and the remainder to the mortgagee.

For taxes upon all profits arising from any interest, annuities, or dividends, payable from any *public funds* no return was required from the person receiving them as in the case of other species of property, but the taxes were retained half yearly by those Government officers having such public funds in charge, and paid to the receiver general of income tax by the officers charged with paying such interest, who were made assessors for that purpose. Such assessors certified the income tax at the time of the payment of the interest, annuities, or dividends of the public debt to the officer appointed to pay it, who retained it and paid it over to the receiver general, and this was the course pursued as to the taxes upon the national debt, the colonial revenue, and the foreign revenue.

It will thus be seen that the House has the fullest English precedent since 1799 for assessing the taxes on income of the public debt directly, and collecting it by the officer paying the interest to the public creditor, so that we have full and complete English laws for doing that which the committee reported they could find no precedent for doing in England or any other civilized country. The same law exists to-day

in Italy and Austria. It is to be feared that the committee did not search as closely as they might have done if they had not been hostile to the proposition!

I might stop here and the case of the House against the committee would be triumphantly won so far as precedent is concerned.

But there are objections raised by others to the taxation of the income upon the interest coupons which it may be well to consider, as they are answered by the English practice. One of these objections is that by so collecting your income-tax you would collect a tax on foreigners who may hold your bonds, and we are told that cannot be done consistently with public faith. Let us examine the English precedents a little further.

There were but *four* classes of exemption from this income-tax on public stocks, to wit: Stock held by friendly institutions or mutual relief societies and savings-banks, with certain exceptions, stocks of incorporated charities, religious houses and colleges, stock belonging to the national Treasury, her majesty, and foreign ministers actually resident in England. So it appears that England taxes all foreigners who own her bonds, an income-tax, unless they are foreign ministers actually resident there. But England went further than we propose to go. She taxed the principal as well as the interest of her public debt in certain cases, yet she is never called a repudiator.

All the English tax acts require the duty to be levied on each annuity of her public debt, as well those terminable as those perpetual or interminable; and this, too, whether the annuity arose from a loan to the Government or to private individuals.

Now, a *terminable annuity* popularly defined is an agreement on the part of the borrower to pay each year a sum, with a given rate of interest, which will repay the whole principal loaned and interest at the end of the agreed period.

Yet the English tax acts require that these annual repayments and their interest shall be assessed as other incomes or profits were, and the tax retained by the individual or Government owing them for the benefit of the Treasury.

It will be thus seen that the Government taxed the principal as well as the interest of so much of its public debt as was borrowed on terminable annuities.

This is the same as would be the taxing of its bonds, principal as well as interest, by the United States, and deducting the amount on the payment of the coupons; yet this was never deemed a repudiation of its debt by the English Government, or any part thereof, but simply a proper exercise of the right of sovereignty in equalizing the taxes upon its citizens.

It will be seen, therefore, that England taxed her public debt according to her exigencies up to ten per cent.; that she collected this tax from all those to whom she paid interest, whether citizens or foreigners, by deducting the tax at the payments; and that she taxed income derived from this source higher than some other sources of income.

Thus she taxes one half of the amount only of the income derived from rents or from occupied land or the farmer of land, and the whole amount of that derived from the public debt; in other words, her taxes on income from annuities and dividends, seven pence, and on her farmers or rents three and a half pence in the pound. Just one half. Mark that! Is not this a justification as a precedent for taxing the interest on our bonds ten per cent. while we tax other incomes only five per cent.? What answer can the Committee of Ways and Means make to this precedent?

Mr. GARFIELD. I took down the sentence as just spoken, and I desire to ask if it is correct. They tax the land at three and a half per cent. and the interest on the debt at seven per cent.?

Mr. BUTLER, of Massachusetts. Every body in the House who heard me will tell you it is not.

Mr. GARFIELD. I desired to get the gentleman correctly.

Mr. BUTLER, of Massachusetts. I have it written here, and I cannot have made such a mistake. The duty assessed was seven pence in the pound except on incomes of less than £150. They assessed the incomes derived from occupation of land at half its value, or three and a half pence, and that relieved the farmer. Therefore, the tax derived from income of rent of lands is one half that derived from other sources.

Mr. GARFIELD. The sentence I wrote down was, "The tax on land was one half the tax on the public debt." Is that true?

Mr. BUTLER, of Massachusetts. No, sir; the tax on the income derived from the occupation of land is one half that derived from the public debt in England. Understand me so that there may be no mistake.

Mr. PIKE. That is in addition to the tax on the value of the land.

Mr. BUTLER, of Massachusetts. Land bears its taxes there precisely as it does here, our local taxes. This tax of which I speak is upon the income from the occupation of the land, and that is one half of that taken from the public debt.

But this latter is collected by the person paying the interest on the public debt in whatever form it is found, and not from the person receiving it, not trusting to his conscience only to find out what his income is, and thereby losing nearly all your tax.

Better somebody take that down, for it is quite important.

Precisely as we instructed our Committee of Ways and Means to report a bill providing an income tax to be collected by the Treasurer of the United States on the coupons. In answer they report to the House, in a manner that would be impudently done if it were not ignorantly done, that there is no precedent for such a tax in any civilized country.

Let me repeat—England taxes the income of her national debt more than some other incomes, and has it collected by the person paying it on her behalf. Thus taxing all income—the public debt, the colonial debt, the foreign revenue, bank dividend, interest on mortgages, and annuities—everything of the sort, and collects the tax of everybody whose income is derived therefrom above a certain amount—and she has not always even exempted those—at home or abroad, domestic or alien, save religious and charitable societies, resident foreign ministers, and the queen.

England is wise enough (and has a committee of her House of Commons that will do its bidding in that behalf) to tax the source of income and not the stream; to levy the tax at the fountain of profit and gain of the tax-payer instead of attempting to collect it after it had been frittered away, dissipated, or concealed. She forces her subjects to be honest in their income returns and thus equalizes and lightens the burdens of her taxation. She does not frame her tax laws as ours are, to get only the tax upon the income of the upright and conscientious who will make true returns of their incomes while the dishonest and corrupt escape taxation on their incomes altogether.

There is one other fact about the taxation of England which may be instructive and useful to those anti-paying, anti-tax gentlemen who affect to believe that taxation of the income derived from the interest of our bonds is *repudiation*, and at the same time point to England as the exemplar of national financial faith.

England has for many years taxed the principal as well as the interest of her public debt in some of its forms. And although frequent attempts have been made in Parliament to procure a change of this mode of taxation.

they have always hitherto been unsuccessful. The tax comes in this way. Earlier than this century a large portion of her debt was in what is known as *terminable annuities*. It was then a successful method of raising money by the Government and a favorite investment by the subject, especially the retired capitalists.

A terminable annuity may be popularly defined and illustrated in its effect in this way: the Government borrows £100, agreeing to pay it back in twenty years in equal annual installments, with interest at three and a half per cent. There is paid, therefore, five pounds each year, and the interest on the balance remaining unpaid until all is paid. Now, if these annual payments, which are part of the principal, as well as the interest, are taxed as income, it will be seen at once that the principal is subject to a yearly tax as *income*.

Precisely as if, in our ten-forty bonds, we should agree to pay a fortieth part of the bond yearly and the interest, and we should then tax these yearly payments as income. This is precisely what England has done and is doing, and yet her committees of Parliament never charge her with repudiation or call hard names or refuse to obey the order of the House of Commons.

I have been thus careful in going over this matter, because I am combating what has been said here by a committee of this House, in solemn report to this House, to excuse them from neglecting to obey an order of the House passed by a larger majority than almost any other contested measure passed by the House in this Congress. What, then, is their claim? They claim that it will be repudiation to tax the income on our bonds. Repudiation is it? Let us see how that is. When we issued those bonds, the tax therefrom was only one and a half per cent. on the incomes derived from them, and it was three per cent. on all other income. Did anybody ever cry out "Repudiation" when we raised that tax on incomes to five per cent? Certainly not. And why? Because so long as we left the return of income to the oath of the bondholders, they cared nothing about the tax upon the income derived from bonds, although we more than trebled it.

But now, when we ask here for a tax of ten per cent. or only double the present tax, instead of treble as before, but levied in such a way that the rogue shall pay it as well as the honest man, there is raised the hue and cry of "breach of good faith," and "repudiation." It is not because the income had never been taxed before that all this cry is raised against such taxation. But because we raised it five per cent. and made it easier for a man honestly to return his income, by paying back to the Government five per cent. of the interest he receives. This will suit all honest men, but the rogues will howl. If every man would honestly return all the income he has, as the law is now, and we should get the five per cent. upon it, there would be no need for any legislation, except as it may be best to put a larger tax on the interest of the bonds which now escape all taxation, State and municipal, burdens which other property has to bear.

We propose, therefore, to add five per cent., so as to equalize the taxation of this property with other property, and to make men honest by taxing the income at the source. What is the objection to that? It is said that we repudiate by taxing the interest on bonds ten per cent. Is it not just as much repudiation to tax five per cent.? If our instructions to our committee had been to bring in a bill at five per cent. all the difference between that and the present law would have been that one proposal would have made men honest in spite of themselves in this matter at least. But whenever we undertake to do that by legislation nowadays, whether in regard to whisky or indeed anything else, men begin to cry out you must keep "faith," you are taxing us too much, your penalties are too severe.

Again, it is said, as a reason why we should not tax this source of income in a manner equal and just to all, that we have no right to tax foreigners. "You are breaking faith with some broker in Frankfort, Bremen, London, or elsewhere." Any cry will do to save the bondholder from having his fair share of the public burdens in return for his more than just share of the public benefits!

But we have a right to tax foreigners. Why not? If a foreigner, wherever he may live, owns any land in a State do you not tax that land and the income? Yes. If an alien owns any other property other than land in a city, do you not tax that property and the income thereof? Do they let the non-residents and foreigners all escape taxation in Ohio, for instance. There is a story, which I presume is a slander, that in that State, as well as some others, they tax the foreigner and non-resident a little higher than they do their own citizens. It may be said the property is taxed and not the owners in this case. So I say here the income is taxed and not the owner. But it is argued that the property which you tax in your State is there under your laws while the alien has the bond with him, so the property is not here. I pray judgment. The bond which the foreigner takes abroad is only an evidence of debt, property, the same as his deed of land is evidence of a title to property here. But the income of his property, evidenced by his bond, is earned here and is payable and paid here, comes from our citizens, their labors, their toil, is from us, is of us, and should be taxed as we are. Who shall gainsay this and not fail?

If this were a new question, were the proposition without precedent, which it is not, the argument would be irresistible.

I am not, however, left without the fullest authority and precedent of laws for taxing foreigners. We have already seen that England taxes all owners of bonds, alien and citizen; and you yourselves by your own act (tax act of July, 1866) have by very name taxed every foreigner owning any bonds or stock issued by any corporation in the United States.

We tax those bonds and collect the tax, too, in exactly the same way in which our proposed law taxes and collects the tax on the income on United States bonds. We collect the tax on the corporation bond by deducting it from the interest on the coupons. I read from section one hundred and twenty-two of your internal revenue law passed July 13, 1866:

"That any railroad, canal, turnpike, canal navigation, or slack-water company, indebted for any money for which bonds or other evidence of indebtedness have been issued, payable in one or more years after date, upon which interest is stipulated to be paid, or coupons representing the interest, or any such company that may have declared any dividend in scrip or money due or payable to its stockholders, including non-residents, whether citizens or aliens, as part of the earnings, profits, income, or gains of such company, and all profits of such company carried to the account of any fund, or used for construction, shall be subject to and pay a tax of five per cent. on the amount of all such interest, or coupons, dividends, or profits, whenever and wherever the same shall be payable, and to whatsoever party or person the same may be payable, including non-residents, whether citizens or aliens; and said companies are hereby authorized to deduct and withhold from all payments on account of any interest, or coupons, and dividends, due and payable as aforesaid, the tax of five per cent."

Is not this a complete answer to the suggestion that you cannot tax the foreigner on the income of his bond because he has it with him out of the country? Does he not have his railroad bond with him? It has been said that this taxation infringes on the maxim, "No taxation without representation;" but this suggestion has been overruled in every State that taxes the property of non-residents, and all so do. It is too puerile to need further examination.

If the foreigner living abroad owns bonds of the Illinois Railroad Company, for example, you, by the section I have just read, make it the duty of the treasurer of that company to

deduct from his coupon when he sends it here for payment five per cent. as an income tax. Why should you not in like manner direct the Treasurer of the United States to deduct a tax from the coupons of the United States bonds when they are presented for payment? Is there any other answer than to say, "Because we never have done it." I agree that we never have done it. England did not do it till she found she was cheated out of her revenue by false returns. We never had an internal revenue law till a few years ago. We always had slavery till 1863; is that a reason why we should have it now? This is the same argument by which the continuance of old abuses has always been advocated. We always have had by our internal revenue laws, unequal, and therefore unjust taxation. It has become a crying evil. Now we are instructed and pledged by the Chicago platform that "it is due to the labor of the country to equalize taxation." Shall we do it?

Mark now, and see how we stand! We do tax aliens. We do tax other bonds and collect it by deducting the tax from the coupons. Why should we not tax the United States bonds in the same way? Why do we tax in that way the bonds of canals, railroads, and other companies in order to get the full and honest tax? Why should we not tax and collect in the same way the taxes on their incomes of men holding Government securities? Why not equalize taxation so far as to make honest returns of incomes? This much equalization at least is due to labor according to the declaration of the Chicago platform; and is there any breach of "national faith" in so framing our laws that the rogues and rascals shall not cheat the Government out of these income taxes? Do we mean it, or is this plank in our party platform but the fly of a trap, as our enemies charge; a delusion and a snare by which to entrap the people to vote for that which we do not mean to carry out in our legislation? I here declare for myself and for the majority of the party whose Representatives on this floor voted with me, that we do mean it. We are honest about it, and intent upon it; and God giving us strength we will see that taxation is equalized, and our laws shall be framed so that all men, whether foreign or citizen, shall make honest and true returns of their incomes from all their profit; shall deal fairly and justly by the Government and bear their due share of our heavy burdens.

All admit that we have the right to impose an income tax. If men will return it under oath we are all willing to collect it. We are ready to take it from the honest men. Now, let us see whether we are not ingenious enough and steadfast enough to frame our laws so as to catch the rascals and make them honest men in this regard. They will howl, I know; but, sir, let them howl; they always do.

Have ever we pledged ourselves that we would not tax these bonds? Never. At the very time we issued them we put a tax on the income from them. We have always taxed the income. All that this bill which we instructed the Committee of Ways and Means to prepare and report would do would be to make the holders of our bonds, whether those holders be abroad or at home, honest in their returns of their incomes for taxation. The only change, theoretically or practically, if men were honest, is that we make the tax upon the income ten per cent. instead of five per cent., as now, and the reason to justify so doing I will advert to in a moment. It is said that the tax becomes repudiation because it is so large. It is only six tenths of one per cent. on the income of a six per cent. bond. One gentleman came to me and said, "Put the rate at five per cent. and we will agree to your proposition;" in other words, "If you will enact only a little repudiation it is not objectionable; infant repudiation is innocent, but full grown repudiation is intolerable!" It is not repudiation to tax

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five per cent., but ten per cent. is repudiation and a breach of national faith. Why do we put our mark of taxation on incomes at ten per cent. and five on other incomes derived from bonds? It is because it is both statesmanlike and just to discriminate, as all nations do, and as in our present tax acts, and we do discriminate against that property which is of the highest value and makes the largest returns. How else do we sustain ourselves in taxing so highly whisky and tobacco, petroleum and other like articles of great profit? It is because the largest returns for the amount invested may be got from them. The bonds have two other elements of value which would justify a higher tax than another investment; they are more certain and more safe and stable than other investments. That is one ground upon which we are able to sustain ourselves in our rate of taxation.

There is another reason why Government bonds should be taxed higher upon their income than other property. These investments have already doubled in value. Eight tenths of them were bought since the battle of Gettysburg, after the war was substantially settled, many of them with gold at 250 to 285 premium, costing from thirty-five to thirty-seven cents on the dollar. They have now gone up with gold at 140 only, and bonds at 118 to 118 premium. The property, therefore, itself has doubled. As an investment these have proved profitable to all; and is there any reason why they should not be taxed according to their value and profitability. If the bondholder gets twice as much income from his investment as another person does from his, then is there any reason why he should not pay twice as much, too?

It is said I am mistaken; that the bonds do not sell at so high a price. Has any gentleman a price-current list? Let me see what bonds are to-day.

A MEMBER. Here is to-day's Tribune.

Mr. BUTLER, of Massachusetts. That will do. To-day the highest were 118½. That is one kind. Then 108½, 108½, and 108½; that is for six per cent. bonds! Here we see before us a cogent reason for taxing these at a higher rate, thus discriminating against them.

But that is not all. These bonds of the Government are the only class of property which escapes taxation, State, municipal, and local. All other property a man owns upon earth in this country has to pay from one to two per cent. State and local tax. This one escapes all taxation, State and municipal, under the law. Nor am I to be told that because we promised not to allow the State and counties to tax these bonds that therefore we are never to tax the income derivable from them, taking into view in so doing their extreme profitability to the holder, because of this and other reasons? No, sir, I propose to keep faith with bondholders and uphold this promise, but as a legislator of the United States I may exercise my discretion to put them upon equal terms as to taxation with other property in the United States. The exemption from State taxation was not intended as a boon to the bondholder simply. It was an exercise of the sovereignty of the nation. And this exemption cannot interfere with our sovereignty over this and kindred questions. We may equalize taxation on this property by bringing it on a par as to burden and impost with other property. That rests in our discretion alone.

What is ten per cent. on the income? On five per cent. bonds, five tenths of one per cent. that is all. All we propose to tax this property thus exempted from all other taxes, duties, or imposts is one sixth of one per cent. on six per cent. bonds, and five tenths of one per cent. on five per cent. bonds. And the difficulty which presses me in this regard is that by so small a tax we do not, in the language of the Chicago platform, equalize taxation. Our proposition by no means brings this property up to an equal share of the burdens of taxation.

It is urged we must not impose this tax because it would be unjust to the banks; that they own large amounts of these bonds with which to secure their circulation upon which they pay a large tax. The Comptroller of the Currency in his report to Congress undertakes to argue this question in behalf of the banks. I wish to call the attention of the House to that argument. We had a right to ask at least that a high financial officer of the Government should not attempt to mislead us by a mistaken array of figures, manipulated to serve a purpose, but not to furnish information.

If it shall prove that the Comptroller, an officer of the people, perverts or falsifies data and amounts, and conceals facts of interest to the people which ought to be known to them, I ask you what faith you will put in a public officer who misstates, for the purpose of misleading, plain facts and figures?

I take my figures from the Comptroller's report, so that he is responsible for their correctness. The fact is, therefore, that on this 1st day of October, 1867, the national banks had in circulation in round numbers say \$300,000,000. Three hundred million dollars secured by a deposit of \$340,000,000 in United States bonds, bearing five and six per cent. interest in gold, to the amount of \$19,500,000. Now, assuming that these bonds cost the banks par in currency, they yearly receive interest from the Government in gold at forty-one premium, amounting to \$27,395,000 in lawful money. Besides for this deposit the banks receive from the Government three hundred millions of money without any interest, which they loan at bank interest, say eight per cent., and thus in fact receive twenty four millions more, making in all \$51,395,000, which they receive from the Government for a loan of \$340,000,000 only, or more than fifteen per cent. on their investment.

This pays no income tax, however. It is true that the banks pay other taxes on their business capital and dividends, as well to the General Government as to the States; but they pay the same and no more in proportion for their privileges than do other people.

How does the Comptroller of the Currency state these plain figures in arguing the case for the banks? Admitting that the banks receive \$19,500,000 from the United States, he states the case thus:

The banks have loaned the Government, as follows:
For bonds deposited to secure their circulation bearing six per cent. interest.....\$250,000,000
Bearing five per cent. interest.....90,000,000
Permanent reserve of legal tenders.....150,000,000

Total loan to the United States.....\$490,000,000

For which they receive—

Six per cent interest on \$250,000,000.....\$15,000,000
Five per cent interest on \$90,000,000.....4,500,000

Total.....\$19,500,000
But they refund in taxes.....16,000,000

Leaving.....\$3,500,000

Now, in this statement there are several very gross mistakes, calculated to mislead.

First. The "permanent reserve of legal tenders" are held by the bankers in interest-bearing notes of the United States, formerly largely in compound-interest six per cent. notes, so that they are always on interest, and the Comptroller gives no credit for that interest. Why not, if he means to state the case fairly?

Second. The \$19,500,000 interest which the banks receive is in gold, while the \$16,000,000 they refund in taxes (which, by the way, are the same everybody else pays for his capital and business) is in currency, which of itself would make a difference with gold at forty-one per cent. premium of \$11,395,000 in favor of the banks and against the Government. How could the Comptroller overlook such an item as that if he meant to be fair and just in his statements?

Third. Worse than all, the Comptroller for-

gets to state the \$24,000,000 at least of interest which the banks receive on the greenbacks which they get back as currency from the Government without interest. With these so patent omissions and misstatements am I not justified in saying that the argument of the Comptroller of the Currency, put forth in behalf of the banks to enable them to execute further taxation, is at once illusory and delusive, and yet it is the best argument that can be made in their behalf.

Shall we, therefore, stay our hand in equalizing taxation because of the bonds held by the banks on which they make such large profits? Clearly not. They should come under a just income tax with the rest of the people on the bonds the United States hold in trust to secure their circulation. I have not time to elaborate the argument as I might do as to the profits made upon Government deposits in the banks, and the necessity and justice of an income tax on the bonds held to secure those. The considerations which apply with equal force to that class of bonds held by the banks as to the other will at once suggest themselves to every intelligent and just mind.

I think, however, I may safely say further, that the most far-seeing bankers will themselves agree with me that it were far better for the holders of the bonds, whether corporations or individuals, that there should be a just and equal tax assessed upon their incomes in proportion to their profits, for no business or financial interest can long contend against a people feeling itself aggrieved by an apparent injustice and inequality in the execution of the laws.

Is it not unjust to other tax-payers to leave these bonds without taxation either on principal or interest, and if they are so left long there can be but one result. A man having ten thousand or one hundred thousand dollars' worth of property, and taxed thereon for State and national purposes in various forms two per cent. on his income, which may not be more than six or seven, will not long stand quietly by and see his neighbor with the same amount invested in bonds, on which he is receiving nine per cent. interest, pay, in fact, no interest whatever; because he knows, as all of us know, that so long as the incomes on bonds are taxable on the conscience of the holder only, the coupons being passed from hand to hand when they are collected, the owners of all this class of property escape taxation.

Let me briefly sketch another illustration of this inequality of taxation which actually happened in my own neighborhood. There is a farmer owning a farm worth \$10,000, upon which he does hard work enough every year to earn the support which he is able to give his family from his farm were he a mechanic. That farmer pays a tax to the State of \$180, in various forms of State, county, and town taxes, to support schools and highways; and to the Government he pays, directly and indirectly, a tax of \$200 more. His net returns from his farm are less than \$1,000. He has a neighbor living near by him owning \$100,000 of the bonds of the Government on which he receives as interest \$9,000 a year, on which no dollar of State, county, town, school, or highway taxes is paid. The farmer as he toils under the burning sun to earn the money to pay his taxes sees his neighbor riding luxuriously by in his carriage over the highway which farmers' taxes only have built and maintained. His neighbor's children and his own go to the same school supported by his taxes alone. He ponders, as he labors, upon the system of laws, which thus compels him to work to pay for the education of his wealthy neighbor's children, and as he reflects he will convince himself that he is suffering a bitter, burning wrong, and no argument will convince him to the contrary. If, then, you expect that farmer to vote for any man or party that retains a system of taxation which works such results, you expect what never

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has happened, what never will happen, and what ought never to happen in any civilized land. Change it how you will or can; but it must be changed. If you do not give relief by law the people will relieve themselves without you. The arguments by which you justify and sustain it, however specious or however sound, will fall unheeded on unwilling ears. You may cry out "good faith" till you are hoarse. You will be answered that there is no good faith which works injustice and wrong to a whole people. There is this alternative, no other. Ponder it well—*equalized taxation or repudiation*.

Comprehending this great fact, do not content yourselves with being angry with him who announces it to you. Vituperation, calumny, imputations upon his motives, will neither change the fact nor make it one whit less true, less formidable, or relieve you one jot from the necessity of meeting it and providing for it.

There is a mistaken idea honestly entertained by some persons which requires a single observation, because unfounded assertions of right, when conscientiously believed, are entitled to respect. An honest prejudice even should not be carelessly put aside without answer.

It is believed by some that Congress has given a pledge not to tax these bonds, and to do so would be a breach of national faith, and therefore of national honor, as it indeed would be if any such pledge had been given. No such pledge was given. On the contrary, it was expressly put in the law that the national securities should be free from State and municipal taxation, not from national taxation. Indeed, I doubt under the doctrines of the Supreme Court in the case of *Brown vs. Maryland*, and other kindred cases, whether national bonds could have been taxed by the States even if they had been expressly made so taxable by Congress. They certainly could not have been so taxed if Congress had said nothing on the subject.

We hold all our property subject to the action of Congress, to be taxed or not, as Congress pleases, whether bonds or other property. And so holding that property it is for the wisdom of Congress to tax it as much or as little as the exigencies of the Government demand and justice to all interests of the people require.

You have pledged no faith to the bondholder that you would not tax these bonds. They were not even sold by any broker under any such pledge.

Congress has said only that the States should not tax them; but has not said that you yourselves would not. On the contrary, you did tax the income upon them at the very moment you issued them; and you have since raised that tax from one and a half per cent. to five per cent.; and I only ask now that you shall raise this tax upon this species of property so as to make it nearly equal to the taxes on other property, and to take means to collect it of all the bad men as you do now the five per cent. of all the good men, allowing the bad ones to escape.

Taxation now falls only on the just and conscientious, those who truthfully return their incomes. The unjust, the rascal, the knave, the rebel, makes no return and escapes taxation. The State of Georgia, for instance, made a return of but a single gold watch; and I have not heard that it has made a return of any bonds. The true man, the honest man, the conscientious man returns his bonds and you tax him and let the rogue escape taxation. Such a state of the law can never be allowed to remain without convulsion. If not corrected soon it will not remain without resistance to it, and the man who feels its injustice and sees no hope of remedy would almost be justified in such resistance.

I speak, therefore, in the interest of the bondholder; in the interest of the banks, as well as in the far higher and greater interest

of the people of the country. Were I the paid advocate of the banker and the bondholder instead of the representative of the people; were I here to establish their investments on the surest and firmest basis, irrespective of any other consideration, I should still argue as I do.

In my poor judgment, permanency, quietness, and stability of investment are the first great needs of capital. Capitalists desire no controversy, fear lest their investments be involved in political changes, and are naturally conservative to the last degree; for their own sake it is desirable that the bonds be taxed, and taxed fairly, according to their productiveness with other property, so that there should be in holding them no apparent injustice or wrong that could appeal to honest prejudice even and they be made the football of party strife.

No people ever yet rested quiet under a sense of injustice. No free people ever did submit to allow a privileged class to draw their income from the public revenue without the fullest contribution of their fair share of that revenue. Equal taxation of the income of the debt or its repudiation is inevitable. He is short-sighted and ill-judging in the last degree who opposes the private interest of the few to the sense of wrong of the many; and it is no answer to that sense of wrong to say that many of the bonds are held in small parcels by men of moderate means, because whoever holds a Government bond holds it as an invested surplus of property. It is what he has laid by, and those who have it are but one in twenty to those who have it not, and the twenty have in this Government a score times as much political power as the one. No intelligent laboring man can ever be persuaded by any argument that invested capital, in amounts large or small, ought to escape the equal burdens of taxation which are laid upon his earnings.

If the capitalist shall choose to oppose himself and subject his investments to the operation of this sense of wrong, he will find that when aroused it will not content itself with righting that wrong simply, but will surge over in a wave of popular indignation, which will inflict irreparable injury upon him and his.

I speak in the interest of the Republican party, the party of equal rights, of equal justice to all men. We are responsible for the past, and I trust for four years to come will be responsible for the action of the Government, and the justice and propriety of the laws. Enjoying the high confidence of the people who have so largely put their trust in us, they will never suffer us to enact injustice. They will not permit us to recognize by our laws any favored class in this country; they will call upon us to make good our principles of equality of right, of equality of power, of equality of burdens of government to all men; and as surely as we fail to do this so surely will the people fail us. Looking, therefore, to the success of the Republican party as the success of the country, I cannot do otherwise than to impress upon the majority of this House the necessity of making that enunciation of our principles at Chicago which declares for the equalization of taxation a living and acting, as well as essential principle of our political ethics.

Lastly, I speak in the interest of the whole people of the country. I see, or think I see, in this question of the public debt a wedge by which the Union may be again riven asunder—not by a line dividing North from South, but another more fatal, running north and south, possibly along the ridge of the Alleghenies, separating the eastern creditor States, with their accumulated capital and commercial and manufacturing investments, from the western debtor agricultural States lying in the rich valleys of the Mississippi and its tributaries. I see the revolutionary and disorganizing party of the falsely-named Democracy, while differing upon

other issues, yet with their ranks serried, enthusiastically hailing the proposition to use the prejudices and discontents of the people in regard to the public debt as a means of placing again the Government in the hands of rebels and their associates that its great powers may again be used to accomplish its own destruction.

They have attempted to divide the whole country upon that most vicious dogma of a "white man's Government." That question, however, in its present attitude has nothing in it of sectionalism. It may divide parties but it cannot divide the Union, as its opponents and adherents are found in every portion of the country, and in it there can be nothing of sectional antagonism of interest. But if they can oppose the interest of the agricultural labor of the West to the manufacturing labor of the East, already in some degree antagonized on the subject of the tariff, by an exhibition of the apparent injustice of taxing the labor of the West while more than two billions and a half of most productive capital at the East goes untaxed; by showing, as they may do, that three fourths of the whole banking capital of the country, with its necessary privileges and specialties of legislation, is east of the Alleghenies, they will have injected into the politics of the nation an element the mischievous extent of which no man can fathom.

Let it be our part, having the power in our own hands, by carefully, judiciously, and firmly removing all source of complaint of inequality of taxation, by opening as far as possible to the West the benefits to be derived from banking associations, by establishing free banking, to thus take out of the political arena this apple of discord, so cunningly thrown in, which may engender a worse than Trojan strife.

Believing, as I most firmly do, that in this question much of the honor, the glory, and future of our country is involved; seeing it with a clearness of apprehension which compels my judgment, while I shall never attempt to reply to my enemies, I can only answer my friends who differ with me, in whose judgment I have confidence, as did Luther his religious associates when they reproached him for opposing them, "God help me, I cannot do otherwise."

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DEBATE IN THE HOUSE,

July 15, 1868,

The House being in Committee of the Whole on the state of the Union.

MR. GARFIELD. Mr. Chairman, I sympathize with every gentleman who has honored the speakers of the evening by sitting in this Hall, with the mercury at ninety-three degrees, and attempting to listen to a financial debate. But the subject discussed by the gentleman from Massachusetts [Mr. BUTLER] last evening was of such transcendent importance, and the views he submitted to the House seemed to me of so very singular a character in some of their aspects, that I feel justified in asking your attention to what I shall say in answer to them.

I ought to say in the outset that I had already prepared a brief in answer to a speech, not delivered, but printed, by the gentleman from Maine [Mr. PIKE] on this same subject not many days ago. And as the gentleman from Massachusetts, [Mr. BUTLER,] in his speech last evening, indorsed almost every position taken by the gentleman from Maine, especially his statements in regard to the history of English taxation as a precedent for the proposed measure, I can do no better than to consider first the points made by the gentleman from Maine, and then notice any special points made in addition by the gentleman from Massachusetts in his speech of last evening. And I desire in the outset to disclaim any purpose or

wish to exempt from its full and proper share of taxation any species of property in the United States, and least of all that kind of property which is not actively employed in the production of national wealth. I am not the defender of any particular class of property or property holders. I seek rather to defend the truth of history as it bears on this subject, and to defend our financial system from a most dangerous innovation, ruinous alike to the revenue and to public credit.

Let us examine for a moment the history of the issue raised by these gentlemen, in order to ascertain precisely what it is. The feeling has been, and still is, very general throughout the country that the holders of our national bonds do not bear an equal share of the burdens of taxation, and many plans have been proposed to readjust our financial machinery so as to levy on that class of the community a heavier tax than they now pay. Nothing is more gratifying to a Representative than to be able to meet and satisfy a popular demand. But how to meet this one lawfully, honestly, and wisely has been, and still is, a matter of great difficulty. The Democratic party proposed that the State should tax the bonds, just as they tax real and personal property. But the law creating the bonds specially declares them exempt from all State and municipal taxation, and even if the law were silent on the subject the Constitution of the United States interposes to prevent it. In a long line of judicial decisions, extending over nearly half a century, it has been again and again declared by the Supreme Court that such taxation is forbidden by the Constitution.

The payment of the bonds in depreciated paper currency has been another favorite plan for reaching the same result; but that dishonest scheme has been severely if not fatally damaged by the refusal of the late Democratic convention to nominate its most prominent supporter.

Many other schemes, which I need not stop to enumerate, have been offered during the present session, looking to the same ultimate result, such as taxing the principal of the public debt by Congress, and other similar plans. I will only state particularly those propositions recently made, which have resulted in the passage of a resolution by this House, which I believe the House will not sanction when it has maturely reviewed and considered the subject.

On the 26th day of June, while the bank sections of the internal revenue tax bill was before the House, the gentleman from Maine [Mr. PIKE] offered an amendment in these words:

"That upon all interest arising from bonds of the United States there shall be levied, collected, and paid a duty of ten per cent. on the amount of such interest, and the Treasurer of the United States, and such subordinate officers as shall be charged with the payment of said interest, shall assess and collect the duty hereby levied."

It was ruled out of order as not germane to the bill then pending. The financial leader of the Democratic party on this floor, [Mr. HOLMAN,] came to his support at a late period of the same day by offering a proposition differing from the above only in this—that it fixed the rate of taxation at sixteen and two thirds per cent. This was also ruled out of order. Still later in the day, the gentleman from Massachusetts [Mr. BUTLER] offered an amendment to the bank section of the tax bill which was in order, and under the cover of which the three gentlemen discussed their several projects. Their labor was not lost, though another has reaped whatever of glory may be supposed to result from the enterprise. Their propositions were embodied in a resolution of peremptory instructions to the Committee of Ways and Means to bring in a bill levying a direct tax of ten per cent. on the interest of the public debt and requiring the Secretary of the Treasury and his subordinates to withhold

that amount when the coupons were presented for payment. This resolution was introduced into the House on the 29th of June by the gentleman from Wisconsin, [Mr. COBB,] and was passed under the previous question, without a word of debate permitted. Every Democrat present save one voting for it.

Though the desire has been very general, I may perhaps say almost universal, among the members of this Congress to lay a heavier burden of taxation on the holders of bonds—yet the House had been restrained from such measures as the Cobb resolution—by a sentiment deeply ingrained into the Anglo Saxon character, that it is honest to pay what we fairly and lawfully promise, and dishonest to refuse. But the gentleman from Maine undertook to remove that ethical difficulty by assuring the House that Great Britain has long been doing precisely the thing he desires us to do. I have no doubt that many members, relying on the accuracy of the gentleman's statements, were relieved from ethical difficulties which would otherwise have prevented their voting for the resolution. The speech, though not delivered in full, was printed in the Globe from manuscript elaborately prepared, and was directed to the defense of his proposed amendment which I have already quoted. He offers what he calls three "reasons" in support of his proposition. His second and third are surely negative arguments, if arguments at all, and amount substantially to this: that as the Constitution *does not*, and Congress *cannot* confer upon the States the power to tax the bonds of the United States, and as he and those who agree with him have hitherto been defeated in their attempts to levy a direct tax of one per cent. on the capital of the public debt, there is no other method of reaching their object except the one now proposed, namely: to levy a direct tax on the interest of the public debt by declaring that the Government will hereafter pay but ninety per cent. of the interest it has promised to pay.

The first and only positive one of his three "reasons" is that "*it is the English precedent.*" This statement is most surprising. Doubtless many members were gratified to hear it; but I know of but one who indorsed it as true. The gentleman from Massachusetts, [Mr. BUTLER,] in speaking of the Cobb resolution a few days after, said:

"The tax which the resolution proposes is the same as the English Government impose on its bonds."

That a gentleman in the heat of debate or without reflection should make such a statement would not be remarkable. But the gentleman from Maine undertook to speak by authority, giving quotations from the English statutes, and citations from financial history. So fully does he assume the responsibility in the light of history and the law that he has arranged his summary of the subject under five separate heads, and has made his assertion as if with the full assurance of knowledge.

After a careful examination of the question I am compelled to say that I have never seen so many misconceptions and perversions of so important a subject crowded into the same space. That I may do the gentleman no injustice I quote his words:

"The income statute of 5 Victoria is very elaborate, occupying a hundred and twenty pages, with minute details of different subjects of taxations and modes of collection.

"Schedule B provides that upon incomes from landed estates—and from this source some of the largest English incomes are derived—there shall be levied two and a half pence upon every twenty shillings of value.

"Schedule C is as follows:

"Upon all profits arising from annuities, dividends, and shares of annuities payable to any person, body, politic or corporate, company or society, whether corporate or not corporate, out of any public revenue, there shall be charged yearly for every twenty shillings of the amount thereof the sum of seven pence, without deduction."

After stating the various rates of the tax at different times, he quotes section twenty-four,

and citing subsequent sections of the same act—which provides that the Banks of England and of Ireland, the South Sea and East India Companies, and the commissioners for the reduction of the public debt shall be commissioners for assessing and charging the duties levied under schedule C—he continues:

"The effect of these English statutes is:

"1. A larger tax is assessed upon the holders of property in the public debt than upon the holders of landed estates.

"2. Every holder of the debt, whether resident in Great Britain or not, is assessed.

"3. As a portion of the public debt of England is in terminable annuities, to that extent the principal of the debt is taxed, and that whether the holder resides in Great Britain or abroad. Leon Levi, one of the most eminent of English writers on finance, mentions this speciality of British taxation.

"4. As the payment of the interest of the debt is intrusted to the Banks of England and Ireland, the East India and the South Sea Companies, and the commissioners for the reduction of the debt, the effect of putting this tax into their hands to assess and collect is nearly the same as it would be in our case to deduct it from the coupons. I have, in my amendment, followed the idea of the British statute and charged the Treasurer with these duties.

"5. Schedule C provides for payment of tax 'without deduction.' In case of other property it is provided by the statute that income up to a certain amount is not taxed. In our case all incomes under \$1,000 are not taxed. The English limit is somewhat less.

"It is evident that my proposition is clearly within the English example."

The gentleman owes it to the House and to the country to explain why he drew the authority for his statements from the statute of 5 and 6 Victoria, a statute passed in 1842, and by its terms to continue in force but three years; and which, with the exception of some of the administrative sections, was repealed fifteen years ago. The very passage which the gentleman quotes in reference to the taxation of interest on the public debt is not now, and has not been, the law of England for fifteen years.

Mr. PIKE. If the gentleman will allow me, Sir Robert Peel's law of 1842 took this schedule from Pitt's law of 1803. Gladstone subsequently adopted the same schedule. He amended the income law, but it was in particulars I did not comment upon. Consequently the statements I quoted from Peel's law, and which were also in Gladstone's law, were properly quoted because they are to-day the income law of Great Britain. The fact is the law of 1842 is the income law that is usually quoted, unless as to the few particulars in which it was changed by Gladstone's law.

Mr. GARFIELD. I will not linger on this point only to repeat what I have already said, that the very section which the gentleman quoted was repealed fifteen years ago, and except some of the administrative sections Gladstone's law of 1853 has been the basis of all subsequent legislation on the subject. But against the gentleman's statements I bring a far more serious charge than that of quoting a dead law. He has utterly misrepresented the law which he attempts to quote.

1. To prove his assertion, that a larger tax is assessed on holders of property in the public debt than on holders of landed estates, he asserts that schedule B taxes income on landed estates only two and one half pence in the pound; while schedule C taxes interest on the public debt seven pence in the pound.

On the very page of the statute from which he quoted stood in plain print the following:

"Schedule A. For all lands, tenements, and hereditaments, or heritages in Great Britain, there shall be charged yearly, in respect to the property thereof, for every twenty shillings of the annual value thereof, the sum of sevenpence."

He utterly misrepresented schedule B, which if quoted would be fatal to his case, and he quoted schedule C in full, thus giving the appearance of accuracy to his statement.

Schedule B levies a tax, not on the *ownership*, but on the *occupation* of land—on the annual profits of the tenant farmer, over and above the rent he pays.

There are five schedules in the English in-

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come tax, and the profits arising under all are taxed, and have always been taxed, at the same rate, except those under schedule B, which are placed at a less rate, as a favor to laboring men, the renters and farmers of land.

Mr. BUTLER, of Massachusetts. I would ask the gentleman how it would help the poor man who rented land to tax the rent that went into the owner's pocket?

Mr. GARFIELD. I do not see that the gentleman's question is pertinent to the subject.

Mr. BUTLER, of Massachusetts. How would it help the poor man?

Mr. GARFIELD. The farmers, the laboring men were taxed only half as much on the profits of their labor as the owners of the land were taxed on their profits from rent, and thus the poor man was helped. A difference was made between rents in Scotland and in England because of the difference in the mode of charging. In one of the countries the landlords had to pay the tax, and in the other the tenant. For that reason a difference was made between the Scottish and English farmers. But the gentleman from Maine quotes the Scottish tax under schedule B, omitting the English, which was one penny in the pound higher.

Mr. PIKE. If the gentleman will allow me a moment. The English law always has been not only an income-tax law alone, but a property and income tax. That is the style of it, "property and income." I was discussing the income part. That part contained four schedules, beginning with schedule B. The first schedule that the gentleman speaks of now is the property schedule, and is a tax on the value of the land, somewhat similar to our real estate tax of 1861. But by our Constitution we can have no such property tax as the English, because with us it must be levied in proportion to the population.

I spoke also of the amount of these income taxes. Let me say that the largest income returned under any one single item under Peel's law was derived from this very schedule B. My statement was not about owners of land, but simply of holders of land. The holders of land hold it by long leases, and are one class of people, and the owners of the land who are taxed by rack-rent are another class, and on them the real estate tax is charged. That was the reason why I mentioned schedule B and not schedule A.

Mr. GARFIELD. My friend, I fear, has not helped his case by what he has just said. In the first place, he is mistaken in supposing that schedule A is not an income tax, but a tax on property. It is no property tax. I will read from the language of the statute schedule A:

"For all lands, tenements, &c., there shall be charged yearly, in respect of the property thereof, for every twenty shillings of annual value thereof, the sum of sevenpence."

The tax is levied on the annual value, the rental value, the annual income arising out of it. It is an income tax throughout; a tax on income, whether arising from property or business, capital or labor. In the early years of the tax there were no subdivisions at all, and these schedules were introduced to enable the assessors to ascertain more certainly the amount of incomes in the kingdom.

Mr. PIKE. I would ask the gentleman whether that schedule A, so far as it is a land tax, is not a tax by rack-rent?

Mr. GARFIELD. Not at all.

Mr. PIKE. I say that the English authorities everywhere specify it as a tax by rack-rent.

Mr. GARFIELD. The gentleman is quite mistaken. If an owner rents his land his income from it is estimated on the rental value, but if he farms his own land he is taxed under schedule A according to an assessment made on its annual value, and he is also taxed under schedule B for the profit he makes from farming it himself. It is the income in both cases,

which bears the tax. Under schedule A income from real estate is taxed. Under schedule B income from farm labor.

Mr. PIKE. Will the gentleman allow me? I know he desires to state the case fairly.

Mr. GARFIELD. Most certainly I do.

Mr. PIKE. He speaks of schedule A as if it was one item. Schedule B is one item, but schedule A contains fifty-four different items. Among those items are mortgages on houses, lands, &c., railways, canals, coal mines, fisheries, iron works, and other items of that sort, making fifty-four different items that go to make up the aggregate of schedule A.

Mr. GARFIELD. That makes the case all the stronger, and the gentleman himself exhibits the fact that the fifty-four items are items of landed property, real estate, and the tax is levied, as I have shown, not on the property, but on the annual income from it.

Mr. BUTLER, of Massachusetts. Railroads and canals.

Mr. PIKE. Schedule B, under Peel's act, yielded £46,769,000, and the highest item in schedule A was £45,750,000. I quote from Senior's Income Tax Law.

Mr. GARFIELD. The gentleman's figures cannot possibly be correct, for I have before me the full official records of the assessment and product of the income tax from 1798 down to 1863. I will quote from it in a moment.

The gentleman refers to schedule B as the source of some of the largest English incomes. In this he is greatly mistaken. Nearly two thirds of all who are assessed under it are exempted by reason of their small incomes. Levi, in his work on taxation, (page 151,) says:

"Of nearly seven hundred thousand persons assessed under this schedule [B] only about two hundred and eighty thousand were charged."

This shows clearly that the incomes under schedule B are those of small farmers, and not the "largest English incomes," as the gentleman supposes.

Mr. PIKE. I did not say the largest single individual income, but the largest income in the gross.

Mr. GARFIELD. The gentleman's statement is incorrect in either case, whether applied to individual incomes or to the total amount of incomes arising under this schedule.

In Sir Morton Peto's work on taxation, page 45, he states in tabular form the whole amount assessed under the five schedules of the income tax laws in 1861:

The amount under schedule A is.....	£131,680,497
Under schedule B.....	33,128,236

From a still later English work (Noble's Fiscal Legislation, p. 152) I find that British incomes, exclusive of Ireland, on which taxes were assessed, under the different schedules, in 1863, were as follows:

A. Ownership of land.....	£126,061,575
B. Occupation of land.....	16,052,671
C. Dividends.....	29,528,215
D. Trades and professions.....	93,322,564
E. Salaries, pensions, &c.....	19,463,635

£234,428,560

From this it will be seen that the incomes under schedule B amount to but one-eighth as much as those under schedule A, where the great incomes are found, and that schedule B is the smallest of the five.

2. The gentleman asserts that though under all the other schedules, incomes below a certain amount are wholly exempt from taxation, yet on incomes arising under schedule C the tax must be paid without deduction. In answer to this statement I affirm that such is not now and never was the law of England. The very act to which the gentleman appeals provided that incomes less than £150 shall be wholly exempt from the tax; and if any part of the tax on such an income has been paid it shall be refunded. Here is the passage

from his own authority, Statute 5 and 6 Victoria:

"SEC. 163. That any person charged or chargeable to the duties granted by this act, either by assessment or deduction from any rent annuity or other annual payment to which he may be entitled, who shall prove before the commissioners for general purposes, in the manner hereinafter mentioned, that the aggregate annual amount of his income, estimated according to the several rules and directions of this act, is less than one hundred and fifty pounds shall be exempted from the said duties, and shall be entitled to be repaid the amount of all deductions or repayments on account thereof in the manner hereinafter directed," &c.

Under that law, when holders of the public funds received their interest, the bank as the fiscal agent of the Government, withheld the amount of the income tax without deduction; but, on making proof to the commissioners of the inland revenue that his income, from all sources, was less than £150, the fundholder was paid the full amount which had been withheld by the bank. The gentleman has evidently confounded "deduction" with "exemption," for he speaks as though no exemption whatever was made under schedule C. In addition to the exemption of all incomes under £150, there were wholly exempted from taxation under that schedule the profits accruing to six classes of persons: 1, friendly societies; 2, saving's banks; 3, charitable institutions; 4, commissioners of the public debt; 5, the queen; 6, ministers from foreign countries. (See Statute 5 and 6 Victoria, section eighty-eight.) The words "without deduction" prohibited only the bank, not the commissioners of revenue, from making the deduction. In the statute of 16 and 17 Victoria (1853) these words are omitted, because that law provided that the commissioners might furnish the bank with a list of fundholders whose incomes were entitled to exemption, and from such the bank should withhold no part of the interest.

Mr. PIKE. Will the gentleman allow me to make a quotation to sustain my views?

Mr. GARFIELD. Certainly.

Mr. PIKE. Pitt's law of 1803 levied a tax of five per cent. It was subsequently raised in 1806 to ten per cent., and it was collected in exactly the way the gentleman says no tax ever was collected. That is, it was collected at the bank. And more than that, under schedule C, it was collected in full, and no exemption was allowed; exactly as I have stated. And under schedule D all incomes from fifty up to one hundred and fifty pounds were exempted. But the exemptions were limited to profits derived from "trades, professions, and offices." Thus the incomes from the debt were collected in full, while the incomes from other sources have exemptions to a certain extent. I quote now from Senior's Income Tax Law, page 80.

Mr. GARFIELD. Now, the gentleman has done precisely what I suspected; he has utterly confounded the words deduction and exemption, for I see that he uses them interchangeably.

Mr. PIKE. I quoted the law.

Mr. GARFIELD. I admit the law says "without deduction;" but it does not say "without exemption;" and therein lies the difference between the gentleman and myself.

Mr. PIKE. Let me read the very language.

Mr. GARFIELD. The gentleman will be kind enough to permit me to finish my statement. In a subsequent section (section eighty-eight) of the same statute, there are five exemptions under schedule C, which I have already quoted, and this proves beyond controversy that the words "without deduction" do not mean "without exemption." From the very volume which the gentleman holds in his hand, (Senior's Income Tax Law,) I can show him an instance cited to illustrate the law in which a part of a dividend on the public funds withheld by the bank was repaid to the citizen when he made proof that his income from all sources was less than the amount exempted by law. I think I pointed the case out

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to the gentleman a few days ago in the volume now in his hand.

Mr. PIKE. That is under another law.

Mr. GARFIELD. From the beginning of the English income tax down to the present day every man has been repaid, if he came under the exemption clause, for all moneys taken or withheld by the bank.

Mr. PIKE. Will the gentleman yield a moment?

Mr. GARFIELD. Yes, sir.

Mr. PIKE. Now, let me read what were the provisions of the English law.

"Up to this time exemption had been granted on incomes from realized property under sixty pounds a year. This was now, with few exceptions, repealed; and entire exemption was limited to incomes under fifty pounds a year in the whole; while a graduated scale was imposed upon incomes between fifty pounds and one hundred and fifty pounds a year, but limited to profits derived from trades, professions and offices. An official publication of the time explains the reasons for this alteration as well as some others effected about the same period."

The gentleman will see that I was entirely right, and he entirely wrong.

Mr. GARFIELD. It is manifestly a commentary, not a law, that the gentleman reads. What is the date of the law to which he refers?

Mr. PIKE. It is Pitt's income law.

Mr. GARFIELD. What year? There are several of Pitt's laws, extending from 1798 to 1816. If the gentleman has found an income law passed in the early years of that period, when the banks did not collect any part of the tax, his citation is fatal to the position he is attempting to establish.

Mr. PIKE. This was the law for ten years.

Mr. GARFIELD. The gentleman is mistaken. I cannot yield further now.

I proceed to notice another statement in the gentleman's printed speech.

3. He asserts that the principal of the British debt is taxed in so far as it consists of terminable annuities; and cites as proof the eminent authority of Leon Levi. This statement is more likely to mislead than any other in his speech, for it is likely to convey the impression by insinuation that while we refuse to tax the interest on our debt the British Government tax both the interest and principal of theirs. Now, I deny in toto that the capital of debt as such is taxed, or ever was taxed. Indeed, the gentleman does not assert, and I am sure he will not assert, that it is taxed as *capital*, but the whole drift of his statement insinuates it. The only ground on which he bases his assertion is that a terminable annuity is a debt, a part of the capital of which is virtually refunded to the holder each year, in the form of interest, and as the Government taxes the interest of such annuities at the same rate as the interest of perpetual annuities are taxed, it virtually amounts to a tax on the capital of terminable annuities. This statement of the case disposes of the gentleman's suggestion. It is, after all, the interest, and the interest alone that is taxed as a part of British incomes. From whatever source, in whatever manner the interest arises it is not taxed until it ceases to be capital and takes the form of interest.

Mr. BUTLER, of Massachusetts. Will the gentleman state again, if it will not be too much trouble to him, what is a terminable annuity, as he understands it?

Mr. GARFIELD. It is a form of English indebtedness from which the holder receives annually for a limited period, a larger sum than he would receive from a perpetual annuity, which brings him only three per cent.

Mr. BUTLER, of Massachusetts. The same difference there would be here between a three per cent. bond and a six per cent. bond.

Mr. GARFIELD. Not the same difference, for one terminates altogether in a given time, while the other is perpetual. And the argument which the gentleman attempts to make is this: that a part of the capital is returned to the holder in the annual payment, and therefore the capital is taxed. My reply is that,

strictly speaking, there is no capital at all in a terminable annuity. It is all income, and is taxed only as income. In support of this view of the case I refer to a report published in 1861 by Mr. Lowe, one of the ablest members of the House of Commons. That the tax on terminable annuities is one of the inequalities in the practical operation of the English law no one will deny. For twenty years English statesmanship has been baffled in the attempt to remedy this defect. In 1851 and 1852 a committee of the House of Commons sat for many months and printed a thousand pages of evidence on the working of the tax. Another committee in 1861, after a similar examination, reported a great mass of evidence. One of the chief objects of these investigations was to devise a plan by which this very inequality might be obviated. But both commissions failed to agree upon any plan, and the Chancellor of the Exchequer frankly confessed that with all the light thus thrown upon the subject, he saw no practicable method of curing the defect. Levi, whom the gentleman quotes, mentions the inequality of the tax when applied to the interest of terminable annuities, not to approve, but to denounce it; and he denounces it because in its effects it approaches so nearly a tax on capital. But in fact and in law it is no more a tax on capital than the tax which the States now levy on the shares of our national banks is a tax on the United States bonds, in which the capital of the banks is mainly invested. The principle involved in both these cases is precisely the same, and was clearly set forth by our Supreme Court in the case of *Van Allen vs. The Assessors*, (8 Wallace, 583-84) where it is held that a tax on the shares is not a tax on the capital of the bank; that the shares, though based on bonds which cannot be taxed by municipal authority, are a species of property distinct from the bonds, having many functions and uses which the bonds have not.

So with terminable annuities. Whatever elements may compose the interest arising from them, it is only when the annual proceeds from them assume the form of interest that the income tax applies to them. It is, therefore, not true, either in law or in fact, that the English Government taxes the principal of its debt.

Before leaving this point, in order to show to what desperate straits the gentlemen are reduced in their effort to find a precedent for taxing the principal of our debt, I will state that only a small portion of the British debt is in terminable annuities. The commission of 1861 stated the whole amount did not exceed £10,000,000, while the British debt was nearly seven hundred and ninety million pounds.

The gentleman asserts that every holder of the British funds, whether citizen or foreigner, is taxed, and hence concludes that we ought to tax the foreign holders of our bonds. There is just enough truth in this statement to make it dangerous, but not enough to make it true. From 1798 to 1842 every income-tax law of England contained a clause specially exempting from taxation all income from public funds in the hands of foreigners. The law, as revived in 1842 by Sir Robert Peel, placed the collection of the taxes under schedule B in the hands of the directors of the Bank of England and a few other corporations, and required them when paying dividends on the funds to withhold for the Government seven pence in the pound, the amount of the income tax. This plan was adopted because the tax would thus be more certainly collected. During the debate on the bill objection was made that this plan would not exempt the foreign holder of the funds; but it was answered that to exempt them would open the door to frauds, and that there were so few foreign holders as not to warrant a change in the whole plan for that reason. Peel said that all the tax which would be collected from foreign holders would not amount to more than ten or twenty thousand pounds.

England has long been a lender, not a borrower, of money; has no foreign loan, and though the taxation of income from the debt in the hands of foreigners is hardly a practical question with her, yet her leading statesmen strongly condemn it. While speaking on this very subject in 1853, Mr. Gladstone, the Chancellor of the Exchequer, said:

"It has been a popular doctrine to tax the foreigner, but I think that no person in this House would wish to tax the foreigner in this particular form. It has been a long-contested question with respect to income tax in England whether the foreigner is not entitled to exemption altogether. The late Sir Robert Peel subjected him to equal taxation in 1842; but even that proposition was strongly resisted, and I think every member of this House will agree that it would be very impolitic to lay an exceptional tax of this kind upon the foreigner."—*Hansard's Parliamentary Debates*, vol. 125, p. 1878.

I am in some doubt as to what the English law now is; but there is a citizen of this place who has held English funds within the last year, and who states that he was exempted from the tax on furnishing evidence that he was not a British subject.

Mr. PIKE. Who is the man?

Mr. GARFIELD. Mr. Corcoran, of this city.

Mr. BUTLER, of Massachusetts. I do not believe a word of it.

Mr. GARFIELD. I am not willing thus to impeach the veracity of a gentleman. Mr. Corcoran said what I have just stated in answer to the direct question of a leading member of the House.

Mr. PIKE. I may perhaps explain that matter about Mr. Corcoran. There are five exemptions in this case of incomes; and the fifth is the stock belonging to "her majesty or the foreign ministers resident in Great Britain." It may be that Mr. Corcoran acted as minister resident of the rebel confederacy when he was there, and thus got an exemption.

Mr. GARFIELD. I thought the gentleman said there was no exemption under schedule C. He now admits there are five. But whatever the British law may be at the present time in regard to taxing foreigners, this will not be denied; that whenever the foreigner has been taxed under the income law he has had the same benefits of exemptions and deductions as a British subject. Even under Peel's law the foreigner was exempt when his income from British sources was less than £150. This English practice bears no analogy to the scheme proposed by the gentleman from Maine. To quote it as an argument is to confess the weakness of his position.

In answer, therefore, to the gentleman's assertions, I affirm:

1. That there is not now, and never has been, a law in England levying a tax on the principal of the public debt.

2. That the interest on the British debt is not now, and never was, taxed, except when it takes the form and becomes a part of a taxable income. Whenever there has been no income tax there has been no tax on the interest of the debt. Whenever there has been an income tax the interest arising from the debt has been taxed at the same rate, and only the same, as the income from lands, hereditaments, trades, professions, salaries, pensions, and every other source except from the occupation and farming of lands.

3. That all the rules of exemption which apply to other sources of income apply equally to income arising from the funds.

In short, that the interest of the debt is not taxed at all as such, but only when it forms a part of an income amounting to more than one hundred or one hundred and fifty pounds, or whatever the amount exempted by law may be. And, finally, that the propositions of the gentlemen from Maine, Massachusetts, and Indiana, which afterward, in substance, passed the House as the Cobb resolution, is not within the English precedent, nor within any prece-

dent approved by civilized nations; but, if it becomes a law, will be a direct, palpable repudiation of \$13,000,000 of the annual interest on our national debt, for the payment of which the faith of the nation has been pledged in the most solemn manner.

The gentleman from Massachusetts [Mr. BUTLER] in his speech last evening alleged that our bonds were bought at a great discount, and are now at a premium, and therefore the bondholder could not complain if he should be taxed higher than the holders of other property. I desire to remind the gentleman that the English bonds were negotiated at a much greater discount than our own. A late English writer has shown that all the debt incurred from 1798 to 1815 was negotiated at a loss of nearly forty-three per cent., and that for every \$100 of money received from loans during that period the debt was increased £173.

But for one illustrious fact Great Britain would have fallen half a century ago into the abyss of hopeless bankruptcy, of irretrievable financial ruin; but for one fact her greatness and glory would now exist only in history. That fact is this: that while she had borne, for a hundred years, a greater burden of debt and taxation than any other nation, she has kept her financial faith untarnished. This fact has enabled her, within the last fifty years, to reduce the total amount of her annual interest twenty-five per cent., while the principal of her debt has been reduced less than nine per cent. In 1817 her annual interest was almost thirty-four millions sterling. In 1866 it was less than twenty-six millions. She has been able to fund her debt again and again at a decreased rate of interest, and the records of Threadneedle street show that the British three per cent. consols have been during the last half century the standard stock of the world. Though the British debt is nearly fifty per cent. greater than ours, yet her annual interest in 1867 was ten per cent. less.

Now, Mr. Chairman, I have said all I desire to in regard to the English precedent. Though the principles of political morality cannot be changed by any precedent, yet I admit that if the gentlemen had shown that the English tax law is framed on the same principle expressed in the Cobb resolution, it would be a very formidable argument in defense of that measure. These positive statements that it was so had a marked effect on the opinions of members of the House, and led them to assent to a proposition which I do not believe they will in-dorse after a full consideration of it.

I rejoice, sir, that the Committee of Ways and Means have responded to the order of the House in a manner which discloses in full the character of the proposition which these gentlemen desire to incorporate in the law. I sub-join their bill and report. On the 2d of July, Mr. HOOPER, from the Committee of Ways and Means, made the following report:

"The Committee of Ways and Means, to whom was referred the resolution of the House instructing them to report without unnecessary delay a bill levying a tax of at least ten per cent. on the interest of the bonds of the United States, to be collected by the Secretary of the Treasury and such of his subordinates as may be charged with the duty of paying the interest on the bonded debt of the United States, have had the same under consideration, and beg leave to submit the following report and bill:

"The Committee of Ways and Means are opposed to the proposition embraced in this resolution, and report the bill only in obedience to the positive mandate of the House.

"In the argument made in the House in favor of the resolution, the English income-tax law was referred to and quoted. There is a law, corresponding to that English law, on the statute-books of this country, imposing a tax on incomes of five per cent., while the English tax is less than three per cent. But your committee have been unable to find in the statute-books of England, or any other civilized country, a law that could be regarded in any way as a precedent for the bill the House have instructed the committee to report, which, if enacted, will be simply a law providing for the payment of a rate of interest on the Government debt ten per cent. less than was agreed for, ten per cent. less than is stated in the bonds, and ten per cent. less than was pledged to be paid by the solemn enactment of Congress, when the

money was required to carry on a war which threatened the life of the nation.

"The evil effects resulting to a nation, whether her national credit is guarded and protected, or whether by legislation of the character now proposed the confidence of all other civilized nations is forfeited, may not be felt or appreciated in times of peace; but the committee desire to call attention to the consequences that would follow the passage of a bill of the character now submitted, in case we should ever hereafter have occasion to use our credit for the purpose of providing means either to sustain ourselves at home or to defend ourselves in any collision with a foreign Power.

"The committee repeat, that in reporting this bill they act in obedience to the positive direction of the House and contrary to their own best judgment. They reserve to themselves their rights, as members of the House, to oppose in every possible way the adoption of a measure which they regard as hostile to the public interest and injurious to the national character."

The following is the bill, which full embodies the spirit of their instructions:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act there shall be levied, collected, and paid a tax of ten per cent. on the amount of interest hereafter due and payable on all bonds and other securities of the United States. To secure the collection of said tax, the amount of interest hereafter paid on any bonds or other securities of the United States, bearing interest at the rate of six per cent., shall be at the rate of only five and four tenths per cent.; and if bearing interest at the rate of five per cent., shall be at the rate of only four and five tenths per cent.; and if bearing interest at the rate of three per cent., shall be at the rate of only two and seven tenths per cent. per annum. No higher rate of interest than is herein prescribed shall be paid on any bond or other security of the United States now outstanding, or authorized to be issued, all conditions of any such bond or other security, and all laws and parts of laws to the contrary notwithstanding."

The gentleman from Massachusetts, in his speech last evening, that part concerning the report of the committee, charged them with going out of their way to discuss the British law, and said that the resolution sent to the Committee of Ways and Means was passed without debate, and under the previous question; and he asked, "What business had they to talk about the English example and the results of it? nobody raised that question." I will tell the gentleman why the committee discussed the English law. When the gentleman and his Democratic friends were carrying through the measure for instructing the Committee of Ways and Means he made a short speech of one sentence, although the previous question was pending, in which he declared that this was precisely the English method of taxing bonds.

Mr. BUTLER, of Massachusetts. No, sir.

Mr. GARFIELD. That sentence I quoted from the Globe during the first ten minutes of my speech.

Mr. BUTLER, of Massachusetts. The gentleman is not quoting it now.

Mr. GARFIELD. I beg the gentleman's pardon.

Mr. BUTLER, of Massachusetts. I said rate.

Mr. GARFIELD. To show that the gentleman is mistaken I will read, if he will allow me, exactly what he said. I quote from the Globe of June 30, 1868:

"Mr. BUTLER, of Massachusetts. The tax which the resolution proposes is the same that the English Government imposes on its bonds."

Mr. BUTLER, of Massachusetts. Is that fair? Read the question before it?

Mr. GARFIELD. There is no question before it.

Mr. BUTLER, of Massachusetts. I beg the gentleman's pardon.

Mr. GARFIELD. I will read:

"Mr. BUTLER, of Massachusetts, and Mr. PIKE called for the yeas and nays.

"The yeas and nays were ordered.

"Mr. GARFIELD. I suggest the tax on these bonds be made one hundred per cent. That will fill our Treasury still more rapidly."

"Mr. BUTLER, of Massachusetts. The tax which the resolution proposes is the same that the English government imposes on its bonds."

Now, I ask any gentleman present if this sentence refers to the *rate*; and if it refers to the rate is it true? If the explanation which

the gentleman now gives of his remark be correct, then the other remark itself is not true, and he can take whichever horn of the dilemma he chooses.

Mr. BUTLER, of Massachusetts. For a single moment. In 1806, first five per cent., and then raised to ten per cent.

Mr. GARFIELD. Now, Mr. Chairman, that is a most striking example of the gentleman's own sense of fair argument. Since 1806 there never was a ten per cent. income on British funds or on any other income. During the war with Napoleon a part of the time the British income tax was five per cent., and a part of the time it was ten per cent., but since that war it has never reached six per cent. It was less than six per cent. in the Crimean war when the tax was doubled. Yet the gentleman from Massachusetts says in the Globe, from which I have quoted, "the tax which the resolution proposes is the same that the English Government imposes on its bonds." Not that they *did* impose on their bonds fifty years ago, but "the same the British Government imposes on its bonds now." I deny that the British Government now imposes or has imposed on the interest of its bonds for half a century, a tax of ten per cent.; and, as I have already said, the statement of the gentleman plainly declared that the Cobb resolution was in accordance with the English precedent, and that proposition I have utterly disproved.

I say again, after such a sentence as the gentleman uttered in the House, it was eminently proper for the Committee of Ways and Means to refer to whatever instructions they had in the case, whether in the terms of the resolution itself or in the remarks of those who advocated its passage. The committee brought in a report precisely in the spirit and almost in the words of the resolution. They were ordered to bring in without delay a bill to tax ten per cent. on the interest of the public bonds, and to require the Secretary of the Treasury and his subordinates to collect that tax. And the only argument made in favor of the resolution at the time was the declaration of the gentleman from Massachusetts that it provided for taxing the interest on our bonds by the same method that the English Government taxes theirs. They took their instructions with the accompanying comment of the gentleman, and they brought in a bill in strict accordance with their instructions, that hereafter whenever the Government of the United States pays interest it shall withhold ten per cent.; that though it promised to pay six per cent. it should pay five and four tenths per cent.; in short, that it will pay but ninety per cent. of what was promised, any law, bond, or contract to the contrary notwithstanding. The country will thank the Committee of Ways and Means for the report with which they accompanied the bill, and I do not hesitate to declare that the proposition sent to the committee—though I cannot believe that the House so understood it—was a direct and palpable order to repudiate ten per cent. of the entire interest on our debt. We owe \$130,000,000 of interest annually, and the resolution declares that \$13,000,000 of it we will refuse to pay.

Mr. Chairman, I will cordially cooperate with any gentleman here in any honorable and proper effort to reduce the burden of taxation; but on no account and under no circumstances can I consent to such a measure as that resolution demands.

Mr. PIKE. Does the gentleman defend this remark of the Committee of Ways and Means in their report:

"In the argument made in the House in favor of the resolution, the English income-tax law was referred to and quoted. There is a law corresponding to that English law on the statute-books of this country, imposing a tax on incomes of five per cent., while the English tax is less than three per cent."

Does the gentleman say that that is correct in fact or in spirit or in results. I say it is neither correct in fact, in mode of collection,

nor in results. It has not a kinship to correctness.

Mr. GARFIELD. Now, Mr. Speaker, I have not gone into the special calculation made in the report of the Committee of Ways and Means, and am not responsible for its correctness; but according to my arithmetic, seven pence in the pound is less than three per cent. The Committee of Ways and Means takes the same view, but the gentleman seems to think otherwise.

Mr. PIKE. The tax by the English law is deducted from the payment of interest at the time it is made. Schedule C yielded during the Crimean war the sum of about nine million dollars in gold as a deduction from the amount of interest on the British debt; whereas our income tax is not assessed on a very large portion of our debt, there being large exemptions by the law. The whole amount owned by the banks is expressly excluded by the law, and we do not collect. I venture to say, after examination of the returns, \$1,000,000, probably not \$500,000, whereas Great Britain collected according to the returns £1,795,718 during the Crimean war. It is absurd to say or intimate that our tax is larger than the English, and it will be recollected that the interest on the English debt upon which the tax is levied is about ten millions less than our interest.

Mr. GARFIELD. Of course I decline to go into the arithmetical argument of the Committee of Ways and Means, as that is entirely aside from the subject I am discussing. But I have never before heard it denied that our income law is modeled after the English law. I have shown that the Cobb-resolution is not; and I say again I am exceedingly glad that the Committee of Ways and Means have uncovered the not quite transparent humbug of that resolution, as I must be permitted to call it.

Mr. PIKE. By a humbug in which there is not a particle of truth.

Mr. GARFIELD. That is my belief, [laughter;] and I congratulate Congress that the humbug has not the support of truth, and that it only needs exposure to explode it.

And now, sir, allow me to say that the gentleman from Massachusetts endeavored last night very adroitly to change the proposition so as to make a new issue altogether. He said that the Committee of Ways and Means ought to have brought in an amendment to the income-tax law to provide for withholding the amount of income tax due on the interest arising from the bonds at the original source, but instead of that they had brought in a bill having no reference to the income law, but levying the tax directly on the interest of the bonds. Now, sir, I take this as a confession that the Cobb-resolution is not defensible, for I call the House to witness that not one of the gentlemen who spoke on the subject gave the least intimation that they were amending or offering a substitute for the income law. There was nothing in the resolution that had the least reference to the income tax. It was clearly a measure aside from and independent of the income law. The tax it contemplated would be in addition to the income tax. Now, I do not propose to allow this escape from the issue raised. The two propositions are totally unlike. So long as we tax the interest of the bonds as a part of the income of the citizens, no man can justly find fault. It is not a tax on the bonds, not even a tax on the interest as such, but only a tax on such part of the interest as takes the form and becomes part of a taxable income. So long as we place income from the bonds on the same basis with income from all other sources and tax by a uniform rule, subjecting all incomes to the same deductions; exemptions, and limitations, we are not only within the English precedent, but we are on safe ground of constitutional right, where justice may be done to tax-payers, and the public credit will not suffer.

Now, if the House thinks it best to double

the income tax, let it be done. The holders of bonds cannot complain. Income from bonds should bear its equal proportion. The Constitution of the United States lays down two rules on the subject of taxation, namely: a direct tax on property must be levied by apportionment; an indirect tax must be levied by the rule of uniformity. It will not be claimed that our income tax is a direct tax—a tax on property; for it plainly falls under the rule of uniformity. But the tax proposed by the Cobb resolution is a tax on property—a special, exceptional tax, liable to measureless abuse. Should the principle prevail, to what extreme may it not be carried? It is now proposed to tax the interest of the bonds ten per cent. What will hinder the next Congress from making it twenty, forty, eighty, or any higher rate? Being exceptional it would directly hurt none but the public creditors. But under the wise provisions of the Constitution the rule of uniformity protects every class of citizens by making the protection of each the interest of all. The gentleman from Massachusetts was very energetic in his plea for equality of taxation, and quoted a passage from the Chicago platform on that subject, with the manifest purpose of making it apply to such a measure as he proposes. I suggest to the gentleman that he will find a much better text for his doctrines in the Democratic platform than he finds in ours. The language of Tammany Hall on this subject is explicit, and expresses in very vigorous terms the gentleman's ideas of taxation.

The language of their fourth article is as follows:

"Equal taxation of every species of property according to its real value, including Government bonds and other public securities."

This declaration must meet the hearty approval of the gentleman from Massachusetts. According to this doctrine the Democratic party are in favor of taxing equally all property, real and personal. Farms and bonds, wagons and billiard tables, wheat and whisky, bread and tobacco, all are to be subject to equal taxation according to their real value. Farms to bear less rate than whisky, potatoes no less than beer, corn no less than brandy, wheat no less than gin. All are to be taken together according to this new Democratic doctrine and subjected to a tax not levied as now by uniform rule, on the annual value of the income arising from it, but as a direct tax on the actual value of the articles themselves. This new definition of the meaning of equality ought to be entirely pleasing to the distinguished gentleman from Massachusetts.

Mr. BURLEIGH. I would like to inquire if the law under which the bonds were issued does not provide that they shall be exempt from taxation?

Mr. GARFIELD. Certainly. The law declares them exempt from taxation by all State and municipal authorities. Now, if this Democratic resolution means that the bonds are to be subjected to a direct property tax, it must mean State taxation, and that is forbidden, not only in the law that created the bonds, but according to repeated decisions of the Supreme Court is forbidden by the Constitution of the United States. If the resolution means that Congress ought to tax all farm and agricultural implements, all property, real and personal, according to its real value, the absurdity is so apparent as to need no comment. The established rule that the States levy direct taxes, and Congress indirect, would be utterly broken down. Now, Mr. Chairman, allow me to suggest that there are two ways of managing taxation and the public debt. One is to strike directly at the principal or interest of the bonds and greatly reduce their value for the sake of adding a little to the revenue. That seems to be the method of the gentleman from Massachusetts and his associates. For the sake of withholding \$13,000,000 from the pub-

lic creditors they would depreciate the value of every bond in the United States in existence. The bonds have already fallen an average of one per cent. since this resolution passed the House and threatened the country.

Mr. PIKE. Are they not to-day as high as they were before?

Mr. GARFIELD. No, sir; I have the exact quotation in to-day's paper, and they are more than one cent lower than they were before that resolution passed.

Mr. PIKE. In London?

Mr. GARFIELD. No, sir; here. If the country fully believed that this ruinous policy would become the law the depreciation would be very great. For every cent of depreciation \$21,000,000 are lost by our creditors, but not gained by us. The creditors lose the money and the nation loses credit. And under their system what would be our condition when we find it necessary to negotiate a loan? and that necessity is now almost upon us, for we have a bill pending to fund \$1,800,000,000 of our debt. Nobody expects that we can pay as fast as the debt matures, but we shall be compelled to go into the market and negotiate new loans. Let this system of taxation be pursued; let another Congress put the tax at twenty per cent., another at forty per cent., and another at fifty per cent. or one hundred per cent.; let the principle be once adopted—the rate is only a question of discretion—and where will you be able to negotiate a loan except at the most ruinous sacrifice? Let such legislation as the gentleman urges here prevail, and can we look any man in the face and ask him to loan us money? If we do not keep faith to-day how can we expect to be trusted hereafter? I have said there are two methods of managing debt and taxation. One is that I have just been considering. The other advocated, not by the gentleman from Massachusetts nor in the Democratic platform, but in the platform adopted at Chicago, in which it is declared that—

"We denounce all forms of repudiation as national crime; and the national honor requires the payment of the public indebtedness in the uttermost good faith to all creditors at home and abroad, not only according to the letter but the spirit of the laws under which it was contracted."

"It is due to the labor of the nation that taxation should be equalized, and reduced as rapidly as the national faith will permit."

"The national debt, contracted as it has been for the preservation of the Union for all time to come, should be extended over a fair period for redemption; and it is the duty of Congress to reduce the rate of interest thereon whenever it can be honestly done."

"That the best policy to diminish our burden of debt is to so improve our credit that capitalists will seek to loan us money at lower rates of interest than we now pay, and must continue to pay so long as repudiation, partial or total, open or covert, is threatened or suspected."

I quote these declarations with feelings of pride and satisfaction. I am proud of that great party which, having saved the life of the nation by its valor, now declares its unalterable purpose to save, by its truth and devotion, what is still more precious, the faith and honor of the nation.

There was a declaration made by an old English gentleman in the days of Charles the Second which does honor to human nature. He said he was willing at any time to give his life for the good of his country, but he would not do a mean thing to save his country from ruin. So, sir, ought a citizen of the United States to feel in regard to our financial affairs. The people of the United States can afford to make any sacrifice for their country, and the history of the last war has proved their willingness; but the humblest citizen cannot afford to do a mean or dishonorable thing to save even this glorious Republic.

For my own part I will not consent to any act of dishonor. And I look upon this proposition—though I cannot think the gentleman meant it to be so—as having in itself the very essence of dishonor. I shall, therefore, to the utmost of my ability, resist it. Suppose that the credit of the United States were as good

as the credit of Massachusetts. Only a few months ago that State negotiated a loan in London on terms so favorable as to put to shame our attempts at funding our debt. During the whole war her credit has been far better than ours. And how stand her old five per cent. bonds to-day? I hold in my hand the London Economist of a month ago, and I find the Massachusetts five per cent. bonds quoted at 89 and 90, while the ten-forty gold-bearing five per cent. United States bonds are 68½; a difference of twenty-one cents on the dollar. And why this great difference? Massachusetts has not only kept faith during all the trials of the war, but she has not sought technical grounds on which to escape from her obligations. She might have lightened the burden of her debt, as many other States did, by paying her interest in currency instead of in coin, as she could legally do under the legal-tender act. But she paid every debt in accordance with the letter and spirit of the contract. Her bonds exhibit the result. If the credit of the United States were as good as that of Massachusetts we could fund our whole debt at \$400,000,000 less cost to the nation than we can fund it on our own credit. This example fully illustrates the two lines of financial policy.

[Here the hammer fell.]

Mr. STONE resumed the floor.

Mr. BUTLER, of Massachusetts. Will the gentleman yield to me for five minutes?

Mr. STONE. Very well.

Mr. BUTLER, of Massachusetts. There is hardly time in five minutes to say much on a subject of this magnitude and complexity, but I will try to state a few points. I am very much obliged to the gentleman from Ohio [Mr. GARFIELD] for his compliment to the credit and stability of Massachusetts. She deserves it all and more. I only wish I could appropriate it to my State upon the ground it is put; but the gentleman really does not seem clearly to understand the subject upon which he speaks, for he must know that the element of time, other things being equal, enters largely into the value of a bond, Government security. The Massachusetts bonds of which he speaks have twenty years to run, while the United States bonds have only five years to run, at the option of the Government. If you were to settle your debt to-day in form of terminable annuities or terminable annuities of four per cent. on long time you could sell them in the markets of the world for more than the six per cent. bonds of Massachusetts. It is the length of time the bond has to run that gives value to it for an investment. That the gentleman does not seem to appreciate, if he understands it.

Another thing. The gentleman undertook to tell the committee that Great Britain does not take the principal of her debt when she taxes the dividends of her terminable annuities, and thus shows that he knows no more about that subject than he does about the Choctaw language.

Mr. GARFIELD. That is complimentary.

Mr. BUTLER, of Massachusetts. I asked the gentleman twice over what a terminable annuity is, and he failed to explain it to us. Now, what is a terminable annuity? For instance, a party loans to the Government \$1,000, or any other sum, for ten, twenty, forty, or one hundred years, and agrees to receive the whole of it back in annual, semi-annual, or quarterly payments, with interest on each payment. So that he gets the whole principal, and at the end of the limit or term, say ten years, the whole interest in the installments. Now, if you tax the whole installments of those annuities, you tax the principal as well as the interest. This is very plain.

Mr. SCOFIELD. Will the gentleman allow me to say—

Mr. BUTLER, of Massachusetts. I cannot yield when I have only five minutes. Give me

an hour, and I will allow everybody to ask anything or say anything. I am ready to meet all comers on this question if you will only allow me the time.

The gentleman from Ohio in his speech has not touched what are really the three points of my argument. The first question at issue is, do the English tax the income of their public debt? The gentleman does not deny that they do; and they tax it on the interest paid, or as we say on the coupon, as we propose to tax the income of our bonds; they tax it at the Bank of England where the interest is paid. Second, do they pay the amount of the interest due, or the "coupon," without any deduction? They do not. And in the case mentioned by the gentleman where the deduction was returned, Mr. Corcoran probably swore himself in as coming under the £150 income clause. Third, the gentleman said to me when the resolution was before the House, "You might as well take one hundred per cent. of the interest on the debt." I said, we propose to take no more in the form of taxation than England has imposed on the income of her public debt. I admit she does not do it to-day; but she has imposed ten per cent. tax on her public debt when it was necessary in time of war; and the gentleman from Ohio does not deny it. Yet he says her financial honor is untarnished, while admitting that she took from her public creditors ten per cent. in the form of interest. We ask no more, we propose nothing different, but we are denounced as repudiators for doing precisely what England has done with untarnished financial honor.

What was another point at issue? Whether England taxed foreigners? The gentleman admits that she has taxed and does tax foreigners by her laws, and how does he attempt to answer that? By bringing before us what Mr. Gladstone said in a certain debate. Why, sir, that is just the same as if any one should bring forward what was said by the gentlemen of the minority here, as showing what law this House enacts.

Mr. GARFIELD. Mr. Gladstone was Chancellor of the Exchequer at that time, and carried his bill.

Mr. BUTLER, of Massachusetts. He did not carry his bill on that point. There is no such provision on the British statute-book. The gentleman from Ohio attempts to show what the law is by reading what somebody said the law ought to be!

Mr. PIKE. The law was not changed.

Mr. BUTLER, of Massachusetts. Now, the gentleman says that for thirty-four years, from 1817 to 1842, there was no income tax in Great Britain on foreigners. I agree that there was not. But during the same time there was no income tax on anybody. So in this country, from 1798 down to 1864, there was no income tax on foreigners. Why? Because there was no income tax on anybody.

A single word further, and I shall be done. In all that the gentleman has said he has not undertaken to answer a single argument of mine. He has dealt with the argument of the gentleman from Maine, [Mr. PIKE] who is abundantly able to take care of himself. I established three points which the gentleman has not touched. First, a ten per cent. income tax has been imposed by England on her bonds, which has been collected as if off the coupon when the interest was paid. Second, she has taxed the principal of her debt where it was in the shape of terminable annuities. Third, she has taxed foreigners, and she does tax them by her laws to-day. That is all and more than all I have proposed shall be done by us.

[Here the hammer fell.]

Mr. GARFIELD. I ask the gentleman from Maryland [Mr. STONE] to give way for three minutes longer, that I may make a brief reply to the gentleman from Massachusetts.

Mr. STONE. I will do so.

Mr. GARFIELD. Mr. Chairman, if I do not understand what I am talking about any more than I understand Choctaw, I trust I shall never adopt the manners of a Choctaw in my treatment of an opponent in debate. The gentleman first charges that I do not know what a terminable annuity is, and then gives precisely the definition which I gave.

In the next place, he declares, in his elegant style, that "the gentleman from Ohio does not know that time to run makes the difference of value between the Massachusetts bonds and the bonds of the United States," and time, in his understanding of the matter, is of more consequence than rate of interest. Now, I cannot tell at this moment how much time the old Massachusetts five per cent. loan has to run, though my impression is that loan has not many years to run.

I call the gentleman's attention to this quotation of time as exhibited in two kinds of United States bonds. The six per cent. bonds of 1881, twenty-year bonds, having yet thirteen years to run, are to-day quoted at one hundred and thirteen. The five-twenty coupon bonds of 1862, bearing the same rate of interest, and which became redeemable last year, and may be paid any day the Government pleases—the time has gone, the Government may redeem them to-morrow—those bonds are to-day quoted at one hundred and twelve and three quarters, only one quarter of one per cent. less than bonds that have thirteen full years to run. This exhibits the influence of time.

Mr. BUTLER, of Massachusetts. What loan is that?

Mr. GARFIELD. Five-twenty coupon bonds of 1862. They are issued redeemable in five years and payable after twenty.

The gentleman says I have not touched his positions; that I have admitted all he claims. I appeal to the House whether I have not proven from the records that he has utterly misconstrued and misrepresented English law and history. And I have established the fact that the interest on the English debt is taxed as income, and only as income, just as our bonds are now taxed as income; and that the scheme of the gentleman is not according to the English precedent, nor any precedent approved by civilized nations.

I am content with the record between the gentleman and myself.

[Here the hammer fell.]

Mr. PIKE. Mr. Chairman, I think those who have listened to the speech of the gentleman from Ohio in reply to what I said in my remarks of June 26, must have come to the conclusion that I was correct. The gentleman has had a month to examine the subject. He has evidently been acting in conjunction with the Committee of Ways and Means, and although what I said occupied but half a column of the Globe, he comes in with an hour's speech, carefully prepared, to refute my positions, and now I am quite willing to submit the case to the country as he has thus made it up.

I gave the English statute under which the debt was taxed, and stated the amount of the various taxations, none of which are denied. What, then, are the questions at issue between us? The first, as I understand it, is whether the English discriminate against the debt as compared with some other interests. Is that so?

TAX ON HOLDERS OF LAND.

I gave in my remarks the gist of schedule B of the English income tax law. It is well known that Pitt divided the "property and income tax" among five schedules. The first pertained to property in land and other things pertaining more or less directly to the realty; the second to the occupants of land or land-holders; the third to the public securities; fourth, incomes from trade, &c.; and fifth, to incomes from offices. The first schedule is the "property tax," and so far as relates to ownership of land can have no duplicate with us, because

direct taxes upon land according to our Constitution must be assessed in proportion to population. The other four schedules could all be duplicated here, and have been in great measure, and it was of those that I spoke in the remarks which have been replied to.

These five schedules of Pitt have never been changed, and to-day they are part and parcel of the law. In 1798 Pitt laid his first income tax. It was similar to ours, and called upon the subjects of the kingdom to make returns according to the consciences just as our law does. But the law was greatly evaded. An official publication at the time says:

"It is notorious that persons in easy circumstances, nay, even in apparent affluence, have returned their income under sixty pounds, although their annual expenditures have been treble that sum. The incomes of whole parishes have been swept away by this fraud."

For this reason a change was made in the mode of collecting. The division into schedules was made, and the tax collected "at the sources." The tax on land, so far as the realty was concerned, was collected under schedule A and at rack-rent, and the occupiers of the land, the farmers, were taxed under schedule B and at another rate. When I spoke of the holders of the land as taxed under schedule B I made a distinction which has existed in the English law for over sixty years. And anybody at all familiar with England knows that the great body of the land is under lease, that large sums are paid for hire, and that many of these landholders are possessed of large means.

Sir Robert Peel reenacted the income law in 1842; and with it the Pitt schedules.

Schedule B, under Peel's income tax, returned a taxable income of £46,769,915, and the whole income of the kingdom was only £251,013,003. It may be determined from this whether I exaggerated the importance of this schedule. Still it was taxed only *one half* of the taxation that by the same law was put upon the income of the public debt, which that year returned an income of £27,909,793. Why was this? It was because Parliament thought the public good required them to discriminate in favor of the occupiers of the land as compared with the holders of the debt. I take my figures from Senior's Income-Tax Law, published in London in 1853.

I say, then, my first point is made out that holders or occupants of land were and are favored in England, and that the income from this source has been very large, among the largest in the whole range of taxation.

ARE FOREIGNERS TAXED?

The second question is, whether foreigners are assessed or not. I gave the law on the subject in stating they were assessed. The gentleman from Ohio has ransacked the whole library bearing upon the subject. He has examined Pitt's, Peel's, and Gladstone's Laws, and the Debates in Parliament, and still has found no law or authority for their exemption. The nearest he has come to it is some remarks of Gladstone's, commenting upon Peel's law as if it assessed foreigners, and objecting to it on that account.

The law itself assesses everybody, with five exceptions: 1, funds belonging to friendly societies; 2, funds belonging to savings-banks; 3, funds belonging to charitable institutions; 4, funds belonging to the lord high treasurer of England and commissioners of public debt; 5, funds belonging to her majesty and to foreign ministers resident in Great Britain.

All others owning in the British funds were assessed.

Mr. Gladstone amended Peel's law in 1853, after it had been in operation eleven years; but he made no change either in the schedules or in their five exceptions. He allowed both to stand. Indeed, for all the general purposes of taxation the law of 1842 is the law to-day, and it was for that reason I referred to it rather than to the amendments made by

Mr. Gladstone. It may be quite true that Mr. Gladstone did not favor the proposition to tax foreigners, but Parliament did favor it; or else the law would have been changed.

It would be strange should Congress tax those who took our bonds when taking them was esteemed a patriotic duty, and let slip, acquit of taxation, the bankers of Threadneedle street, or the Bourse, or at Frankfurt, knowing very well, as we do, that they did not buy until it was reckoned a sure thing that the Republic would live and pay. None of them took our bonds until after Vicksburg and Gettysburg. Why should they have the preference over our own home patriots? Why not apply the English rule to them?

TAXATION OF PRINCIPAL OF DEBT.

I said that the principal of the debt, so far as pertained to terminable annuities, was assessed. Leon Levi said so. The gentleman from Ohio does not deny it, but says Levi states that in his opinion taxation is wrong. A committee of Parliament examined the subject, under the lead of Mr. Joseph Hume, and found no remedy for this and other inequalities of taxation, and so the law stands. The amount is not large, but it is too plain to need argument that when the same tax is assessed on terminable as upon interminable annuities, the principal of the debt must be taxed.

EXEMPTIONS.

The English law, like ours, has varied considerably as to exemptions. For a portion of the time there have been no exemptions so far as regards the public debt. Pitt's income law provided that incomes from certain sources should be favored. Senior, page 8, says:

"Entire exemption was limited to incomes under fifty pounds a year in the whole, while a graduated scale was imposed upon incomes between fifty and one hundred and fifty pounds a year, but limited to profits derived from trades, professions, and offices."

Thus the income from the public debt was again discriminated against. The present rule, as I understand it, is to assess all, and then upon proof shown that the person owning in the funds has no income over the prescribed amount, a repayment is made. I should have no objection to a similar course here.

The other statement that I made as to the manner of collecting this tax at the bank is not controverted. Mr. Robert Lowe, the distinguished member of Parliament, says:

"There is no doubt, a great inequality in the present income tax. Schedule A is collected at the hands of the tenant, and schedules C and E at the bank. The income assessed is therefore identical with the income received. But schedule D depends on the consciences of the tax-payer, who often, it is to be feared, returns hundreds instead of thousands, and who is certain to decide any question that he can persuade himself to think doubtful in his own favor. Thus the committee have been informed by Mr. Till that a penny in the pound income tax produces in the city of London £50,000, and that it produced just as much twelve years ago."

These are all the points controverted between the gentleman from Ohio and myself, and I submit that my positions are maintained by the best authorities. I have shown that Parliament has constantly discriminated in its taxation against the holders in the funds as compared with others paying an income tax, and I challenge an instance where they discriminate in favor of such holders. How is it with us?

OUR INCOME LAW.

The Committee of Ways and Means, in its extraordinary report, say:

"In the agreement made in the House in favor of the resolution, the English income-tax law was referred to and quoted. There is a law corresponding to that law on the statute-books of this country, imposing a tax on incomes of five per cent. while the English law is less than three per cent."

I asked the gentleman from Ohio whether, in his commendation of the committee, he was prepared to maintain the truth of this statement? But he declined doing so. He acted wisely in so declining.

The income-tax law of this country is unlike the English in three vital particulars.

1. The English tax is assessed and collected at the bank counter; in other words, deducted from the payment of interest. Ours is made from returns prepared according to the elastic consciences of those making them.

2. No corporation in this country makes an income return that I ever heard of. A large amount of bonds are held by banks that make no income return at all and so escape this tax, while in England every bank and other corporation—except those I have enumerated—pays the tax whenever it receives its interest. The Bank of England always pays income tax on the large amount of Government securities it holds while our banks are specially exempt.

3. In the amount of tax actually received. The committee would evidently have the country believe that we actually assessed our securities more heavily through the income tax than the English do theirs through their income tax. How is it?

We began in 1862 by assessing the public debt one and one half per cent. on the interest, and that tax was collected for two years, the years 1862 and 1863. The public debt for July 1, 1862, was \$514,211,371; and July 1, 1863, it was \$1,098,793,181. The full tax on the interest in 1862 was \$462,790; and for the year 1863 it was \$1,088,943, and the amount actually paid was in 1862 the sum of \$75,373, and in 1863 the sum of \$193,402; in the first case in the flush of patriotism they paid one sixth as much as they ought to pay, but grown more wary the next year they paid but about one ninth of what they ought to pay.

In the year 1864 the tax on the debt was just the same as on other incomes and no separate return kept, so that we are without official data; but as our bonded debt is but about double what it was in July, 1863, it would be a stretch of imagination to suppose we receive now anything like \$1,000,000 from this source. It is not probable that we receive \$500,000 in currency from the whole of this income tax on the public debt which the Committee of Ways and Means would have the country believe was larger than the English; and the amount of interest we pay is about one hundred and thirty million dollars yearly. It is nearly ten million dollars more than the English interest, and yet schedule C, according to the English return, yielded as follows; and in order that there may be no mistake about schedule C, I give its language as found in the statute-book:

"Schedule C.

"Upon all profits arising from annuities, dividends, and shares of annuities payable to any person, body, or politic or corporate, company or society, whether corporate or not corporate, out of any public revenue, there shall be charged yearly for every twenty shillings of the annual amount thereof the sum of seven pence without deduction."—*Statutes-at-Large*, 5 and 6 Victoria, p. 343.

I say this schedule C yielded as follows:

In 1843.....	£812,982
In 1847.....	739,630
In 1850.....	744,925
In 1857.....	1,795,718
In 1865.....	735,552
In 1866.....	612,228

So this schedule C, which ever since Pitt's time—except the years when there was no income tax—has been the schedule for the taxation of the public debt, yielded in a time of need in the Crimean war nearly nine million dollars in gold! It was called upon again last year for the Abyssinian war, but how much it yielded I do not know.

If Great Britain taxes thus when she pays but three per cent. interest, how happens it to be repudiation if we take twelve or thirteen million dollars off a large amount of interest in the aggregate when our creditor is receiving six per cent.? And what becomes of the statement of the Ways and Means Committee that no civilized country taxes as we proposed to tax and the implied statement that our present tax is larger than the English?

And I desire to call the attention of the House to the fact that during the Crimean war

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the English deducted sixteen pence every time they paid out twenty shillings of interest on the public debt. In other words, instead of paying three per cent. interest on their consols they paid but two and three quarters per cent. Instead of paying five per cent. on terminable annuities they paid four and two thirds per cent. And still the Committee of Ways and Means say the proposition as it passed the House was merely to scale down the interest, and was such a proposition as no civilized nation ever tolerated! I say it was precisely similar to the English method, and that the only difference was that the English in the Crimean war taxed about seven per cent., and in Pitt's time ten per cent., and I appeal to the record for proof.

AMOUNT OF TAX.

One word as to amount of tax. *The mode of collection is of more importance than the amount of tax.* We have assessed as high as ten per cent., but leaving it to the individual conscience, got small returns. Pitt's tax was ten per cent., and collected at the counter of the bank.

If we measure the amount of this tax by that assessed on railroads ten per cent. would not seem too high. The railroad interest is a large one. The amount invested in the forty thousand miles of roads in the country is full two thirds of the vast total of the national debt. We tax dividends on railroads and bonds five per cent. and collect at the railroad office. We also assess them two and a half per cent. on the gross passenger receipts. The aggregate of the two is very much more than the proposed tax on the debt. And the answer that railroad proprietors can charge it off on the traveling public is not a full reply, because in many instances an increase of railroad tariff calls out rival modes of transportation or checks travel. It is to be considered, too, that railroad proprietors are taxed whether "*residents or non-residents, foreigners or citizens.*" And farther, it should be recollected that in case of railroads there are no deduction on account of the income not amounting to \$1,000. Every holder of a bond, no matter how poor, is assessed when he gets his interest. These facts show that in one law there is a discrimination in favor of the holder of our securities that is not to be found in the English law.

I would have no unfriendly discrimination against the holders of the debt whether citizens or foreigners. The debt is sacred. It must be paid according to the letter and spirit of the law creating it. But let us have this matter wisely arranged. The law is wrong as it stands. It is not in accordance with English precedent, and I cite that because that Government surely cannot be charged with discriminating against property in its taxation, and because they have managed a large debt wisely and successfully. If ten per cent. is too much as compared with other taxation, make the sum less, and if certain exemptions are proper to be made let them be made. I have said elsewhere that I am not in favor of a rebate of interest, as some have proposed. I am in favor of nothing that savors of repudiation, but I am in favor of such proper and fit taxation as will charge upon this great and lucrative property its share of the public burdens.

The difference between taxation for revenue and taxation for unfriendly purposes was seen between the ten per cent. tax levied on State bank bills for the avowed purpose of driving them out of existence and the tax now levied on national banks for the purpose of revenue; so in this case I would assess just the sum and no more than the property, as compared with other property, should fairly bear. There is no contract either here or in England to hinder this species of taxation, and certainly the "interests of labor," as well as all property interests, require that taxation should be equalized as rapidly as it can be fairly done.

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SPEECH OF HON. C. DELANO,
OF OHIO,IN THE HOUSE OF REPRESENTATIVES,
July 14, 1868.

The House having under consideration the bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867—

Mr. DELANO said:

Mr. CHAIRMAN: I presented to the House a few days since certain resolutions embracing my views in regard to the proper construction of the Constitution so far as it confers the power to make treaties. These resolutions had been previously laid before the Committee on Foreign Relations, and I have reason to know they commanded the assent of several members of the committee. It is my sincere opinion they were approved by a majority. The session was nearly closed when they were presented for the first time to the committee, and not having time then to obtain official action on these resolutions, they were afterwards presented by me to the House, and were referred by the House back to the committee, in the expectation on my part that the honorable chairman would call the committee together again before the subject should be finally disposed of. It has not, for some reason, suited the pleasure of the honorable chairman to do so, and hence I cannot say that these resolutions are approved or disapproved by the committee.

It was my purpose, sir, to present the substance of those resolutions in the form of a preamble, to this bill had they been approved by the Committee on Foreign Relations; but having failed, for the reasons before assigned, to obtain the sanction of the committee, and the gentleman from Iowa [Mr. LOUGHRIDGE] having already offered a similar proposition, I shall now read these resolutions, as the conclusions to be sustained and supported by the remarks I am about to make. They are as follows:

"1. *Resolved*, That all treaties made by the President and Senate which embrace stipulations on legislative subjects expressly vested in Congress by the Constitution, are in their nature incomplete and imperfect until Congress shall have passed such laws as are necessary to carry such treaties into effect; and that this House is not required, by a just interpretation of the Constitution, to pass laws necessary to the execution of such treaties unless it approves the objects and stipulations therein embraced.

"2. That a treaty which stipulates for the payment of money undertakes to do that which the treaty-making power cannot do without the aid of legislation, and therefore such a treaty is not the supreme law of the land until the required legislation has been obtained; and members of this House, while deliberating upon propositions for executing such treaty, act on their own judgment and responsibility, and not on the judgment and responsibility of the treaty-making power.

"3. That foreign Governments are presumed to know that the power to appropriate money is vested in Congress, and that no act of any one part of the Government can be regarded as a law until such act has the sanction of all Departments of the Government required by the Constitution to give it the force of law.

"4. That the integrity and limits of the territory of this nation cannot be altered or changed except by the will of the nation, given by express grant or implied by acquiescence; and therefore the treaty-making power has no authority under the Constitution to dispose of the nation's territory nor to acquire new territory without obtaining the assent of the nation therefor in one or the other of the forms herein indicated."

The treaty-making power, sir, has on several occasions since the formation of the Government been subjected to animated and exhaustive discussions. These discussions have been conducted by the ablest and purest statesmen of which the nation can boast. It is not, therefore, to be expected that new light can be thrown at this day upon that portion of our Constitution which provides that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur," or that other clause declaring that

"all treaties made or which shall be made under the authority of the United States shall be the supreme law of the land."

It would be well, however, for this discussion to call public attention to the construction which has heretofore been given to the Constitution on the subject of the treaty-making power by the great statesmen who have preceded us, and whose clear perceptions have been so distinctly expressed as to place this subject beyond fair and reasonable controversy.

Mr. Chairman, we are a forgetful people, especially when our ambition, our interests, or our cupidity makes it necessary to forget. I desire, therefore, to remind this House and the nation what those who have preceded us have decided in regard to this power of making treaties. I am the more anxious to do this now because I think I observe a growing disposition to enlarge and exalt the treaty-making power, to confer upon it a sort of omnipotence, that shall make it override and destroy other and coördinate branches of the Government; and I think I see in this disposition danger, great danger, for the future of this country.

If this power is not checked in its claims and assumptions it will swallow up and destroy the legislative authority, and it may, if it goes on to execute its exorbitant claims, totally change our form of government, and overthrow our republican institution.

Like the great, ever increasing, and never satisfied power of patronage, it needs to be checked, it must be checked, or our institutions are in danger.

Now, sir, we are invited to appropriate \$7,200,000 for the purchase of Alaska. A treaty for this purchase has been concluded, so far as the President and Senate have power to conclude it; and this House is now invited to make an appropriation to pay the amount which the treaty-making power has agreed to pay for this territory.

I said this House is "invited" to make this appropriation, but if the doctrine advanced by some persons on this floor is correct this House is *ordered* to make this appropriation. And this brings me to state what is the first great and important question growing out of this subject. It is this: Has this House any discretion, any deliberative will, any free judgment in this business, or is it bound blindly and like a well constructed piece of machinery to appropriate the money which the treaty-making power has agreed shall be paid?

I will concede for the sake of the argument that there is no fraud in the treaty. That it does not directly change nor tend to change our free institutions; in short, that we cannot say that it is in any manner so tainted by fraud, or so clearly without constitutional warrant as to be void *ab initio*; and then under this admission I inquire whether this House, when called upon to appropriate the money, may judge of the propriety and wisdom of the purchase, and if satisfied that it was a purchase unfit to be made refuse the money required to complete the purchase? Sir, if the House has not this right, it is not in this matter a deliberative body; it is only a wax figure, an ornament, or an appendage to the treaty-making power.

Mr. Chairman, the Constitution which defines the power to make treaties and vests this power in the President and Senate grants also certain powers to other departments of the Government, and in doing so provides that "no money shall be drawn from the Treasury but in consequence of appropriations made by law."

Now, sir, is it not an indisputable proposition that each grant of power to different departments of this Government must be construed in reference to other grants in the same instrument, so that each must be subordinated to the other? Without such a rule there can be and will be no harmony in your Government, unless it is the harmony which is pro-

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cured by allowing one department to override, swallow up, and destroy the other.

But I am told that a treaty is the supreme law of the land. The Constitution does not so read; but it does say, "that all treaties made" "under the authority of the United States shall be the supreme law of the land."

I now inquire of this House, and especially of its members belonging to the legal profession, under what circumstances are we authorized to say that a treaty is made "under the authority of the United States?" Think of this for a moment, and think carefully. If the treaty requires no money, and does not interfere with certain powers expressly conferred upon the Legislature, such as the power to regulate commerce, to establish a uniform rule for naturalization, or the like, then it may be said that the treaty executes itself; and if it is not tainted with fraud, and does not alter the form of our institutions, it may be said of it, under such circumstances, that it has been made "under the authority of the United States." But, sir, the case before us is very different. Here is a treaty which stipulates that \$7,200,000 shall be paid for the territory to be acquired. This money cannot be paid until it is appropriated, and this House has a voice, a will, and a judgment in this business; the treaty does not execute itself, it requires the sanction of the Legislature, and it is not made, cannot be completed "under the authority of the United States" until Congress has appropriated the money. Therefore I conclude that such a treaty is inchoate or incomplete until it has been approved by this House, and the money appropriated for its execution. Until this is done the treaty is not the "supreme law of the land."

Now, to say that in this act of legislation under the Constitution this House has no discretion but is bound, in blind obedience to the treaty-making power, to appropriate the money, is to deprive the House of all free, deliberative will and judgment, and to make the treaty power a despotic power, which may control, direct, and coerce this House into a grant of money, provided always the treaty is without fraud, and does not change the form of our Government or in some other manner violate the Constitution.

Sir, this monstrous doctrine alarms me; and I feel it to be a duty to denounce it and to deny its tyrannical assumptions. I am aware, sir, that this doctrine has been heretofore asserted. It was claimed during the discussions growing out of the so-called Jay treaty in 1796, but was refuted then and condemned by the great statesmen of that day, and it was overruled then by the solemn judgment of the House of Representatives. After a most exhaustive examination of the subject the House passed a resolution which concluded in these words:

"And it is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

Sir, here is asserted the right and power which I claim for this House now, the right to deliberate on the expediency or inexpediency of carrying into effect this treaty, the right to determine what in their judgment will be most conducive to the public good. Is it best for the welfare of this Government to conclude this treaty? Will it promote the happiness and prosperity of this nation? Will it tend to perpetuate, or will it tend to overthrow our institutions? These are the great and grave questions for each member of this House to decide for himself before he votes away \$7,200,000 of the people's money under the existing condition of the public debt and of our national finances.

Sir, for myself, I will never vote this appropriation until my judgment enables me to say that I believe this treaty is for the public good, and were I to say that now and here, with my

present information, I should say what I do not believe to be true.

The reasons given for the passage of the resolution of 1796, by the statesmen who voted for and advocated it, are conclusive and unanswerable. I do not propose to examine these reasons at length, nor to refer in detail to the exhaustive debate which preceded the adoption of the resolution; but I cannot omit one or two extracts from the remarks of Mr. Gallatin, whose clear and comprehensive views on this as on all other subjects are so remarkable as to be worthy of repetition. While advocating the right of the House to call on the President for information in regard to the treaty he said:

"He would therefore state his opinion that the House had the right to ask for the papers called for, because their cooperation and sanction were necessary to carry the treaty into full effect to render it a binding instrument, and to make it, properly speaking, a law of the land; because they had a full discretion either to give or refuse that cooperation; because they must be guided in the exercise of that discretion by the merits and expediency of the treaty itself, and therefore had a right to ask for every information which could assist them in deciding the question."

Mr. Gallatin then refers to British precedents, and shows that the Parliament has a controlling power over treaties, and that this controlling power was exercised in 1739, in the case of the treaty between Great Britain and Spain, and in the treaty of commerce between France and Great Britain. He then adds:

"It remains to be examined whether we are in a worse situation than Great Britain; whether the House of Representatives of the United States, the substantial and immediate Representatives of the American people shall be ranked below the British House of Commons; whether the legislative power shall be swallowed up by the treaty-making authority, as contended for here, though never claimed in Great Britain."

And Mr. Gallatin then concludes:

"If this doctrine is sanctioned, if it is allowed that treaties may regulate appropriations and repeal existing laws, and the House by rejecting the present resolution, declare that they give up all control, all right to the exercise of discretion, it is tantamount to saying that they abandon their share in legislation, and that they consent that the whole power should be concentrated in other branches. He did not believe such a doctrine could be countenanced by the House. If gentlemen should insist upon maintaining this doctrine, should deny the free agency of the House, and their right to judge of the expediency of carrying the treaty into effect, the friends of the independence of the House will be driven to the necessity to reject this treaty whether good or bad, to assert the contested right. If the gentlemen abandon this ground, then the policy of the measure could be weighed on fair ground, and the treaty carried into effect, if reconcilable to the interest of the United States."

During the debate in 1796 Mr. Gallatin was supported by Mr. Livingston, Mr. Madison, Mr. Murray, Mr. Baldwin, and others, and finally by the vote of the House itself.

Now, Mr. Chairman, I will leave this branch of the argument by simply referring to the additional authorities in support of it, which have been fully collated and are presented in the minority report in this case, prepared with great diligence, care, and ability by the honorable member from Minnesota, [Mr. WASHBURN.] Here then, sir, I take my stand on the same solid, constitutional ground upon which Mr. Gallatin placed himself in 1796. I will consider the expediency of your treaty, and weigh fairly the policy of the measure. When you concede in a tangible and efficient form the right of this House to a free judgment and a deliberative will, while considering and passing upon the proposed appropriation. If you do not concede this right, then I have to say I will assuredly refuse to vote for the appropriation. I will, if I stand alone, maintain the constitutional rights and the independence of this House.

I may be asked in what way shall it be conceded that the House has a right to judge of the policy and utility of the treaty? I answer by a preamble to be attached to the bill; a preamble that shall become part of the measure of appropriation; a preamble to which the Senate may agree when it assents to the appro-

priation; a preamble which shall admonish and notify the treaty-making power and foreign nations that treaties which require legislation before they are executed are incomplete and inchoate until such legislation is granted; and that this House when called upon for such legislation is not a blind tool and instrument of the treaty-making power, but is a deliberative body, having a discretion to give or withhold the required appropriation.

Mr. Chairman, the House having adopted the resolution of the gentleman from Iowa [Mr. LOUGHRIDGE] has substantially affirmed its right to judge and deliberate for itself when called upon to appropriate money for the execution of treaties; and having thus asserted itself, I admit that a very great objection to the bill as originally introduced has, in my opinion, been removed.

Having claimed this right it becomes our duty to exercise it, and thus we are brought to the consideration of the following question: Is it better for the welfare of this nation now, and hereafter, considering all the circumstances, that this treaty with Russia which the Executive has commenced shall be completed and executed? This question involves a wide range of thought, and leads to many reflections which time, or rather the want of time, must exclude on this occasion.

I recognize the desire, nay, the passion of the American people for the acquisition of territory. Being so universal and so powerful, it is dangerous to oppose it, and hence politicians and ambitious men not only yield to it, but inflame it, because it gives them a day or an hour of favor with the people. Wisdom, and judgment see in this constant expansion of territory that we are laying the foundation for discord if not for disruption. We are bringing under one government diversified and conflicting interests—unhomogeneous and dissimilar peoples—and above all, we are at too early a day, I fear, subjecting our institutions to the test as to their capacity and adaptation for the control of such conflicting elements.

There are in this Government, I think, two great forces which threaten to bring evil in their train—one is the force resulting from the desire for acquisition, the other is the force of patronage. These act and react upon each other. The acquisition of territory increases the power of patronage, and the power and influence of patronage aids and accelerates acquisition and expansion. Sincerely believing that these forces seriously threaten our future destiny, and that it is wiser to hold them in check than to stimulate them into increased vigor, I cannot do justice to my own convictions unless I seek to restrain the passion for acquisition. Let us develop what we now own. Our possessions are vast and our resources inexhaustible. Money, mind, muscle, and time are necessary to realize the greatness of our present empire. While engaged in this work we may be able to limit the power of patronage, so that it shall not boast of its ability to control every branch and department of the Government. Let us exhibit to the world the utility of our institutions by the justice and parity of their working; and then, when time shall have made us strong and exhibited the necessity of expansion, our descendants, if need be, may enlarge our boundaries. I would rather see this than to see posterity engaged in the work of dividing and separating into distinct and different governments, an overgrown, unwieldy, and discordant empire, hastened too early to the zenith of its glory by the unwise philosophy of yielding to the cupidity, ambition, or passion of the hour.

We are reminded, however, that we must execute this treaty or justify Russia in making war upon us, and the history of our relations with France, growing out of the treaty of July 4, 1831, is referred to as authority for this assertion. There is no analogy between the cases, and I cannot see why the chairman of

the Committee on Foreign Relations has ventured to assume the existence of such analogy. In the case before us the treaty is incomplete and the purchase not made until the money required has been appropriated. No liability exists while a contract is in process of making. Russia is presumed to understand our laws and Constitution, and therefore knew that the execution of this treaty depended upon the judgment and will of the national Legislature. She cannot therefore complain, for she has no cause of complaint, if the Legislature refuse the appropriation.

Here, then, is the case before us: Russia has surrendered possession before the treaty was completed; she had no right to do so; she was in too great haste in this; but the fault is hers, not ours. It would have been more respectful to the legislative authority of the nation if the Executive had not with such indecent haste attempted to embarrass the nation by taking possession of the ceded territory before Congress had any opportunity to act; and the Executive deserves to be informed that he cannot by such usurpations commit and bind the Government to injudicious and unwise negotiations.

Executive usurpations of late are so common and so flagrant, and the power of executive patronage so powerful, that we are in danger of forgetting that there is any branch or arm in the nation except the Executive. And while these usurpations, which lead to despotism, are being multiplied the cry is constantly made that Congress is the usurping power. This is simply the tyrant's plea and the tyrant's trick as if the people's Representatives who are elected only for two years, and are without the power of patronage, are likely to become usurpers. The absurdity of this charge is its best refutation. Let it never be forgotten, however, that if tyranny and despotism shall ever usurp the powers of this Government and overthrow our Constitution and laws, it will be done by the Executive, under the influence and power of the overshadowing and ever-increasing patronage of the President. Thus it may be seen that Russia will have no right to complain if the \$7,200,000 are not appropriated.

But how different were the circumstances in the case of our treaty with France. France had long been indebted to our citizens for unlawful spoiliations upon our commerce. The claims of these citizens were admitted, they were clear and incontestible. At length they were recognized by the treaty of 1831. This treaty did not create these claims, it simply recognized them and guaranteed their payment. There was no reason why these claims had not been paid long prior to 1831, and war to enforce their settlement and payment would have been justifiable prior to the signing of the treaty of 1831. To withhold the money longer after the treaty had been made was adding insult to injury, and therefore General Jackson but uttered the just sense of the nation and of mankind when he threatened France with war to enforce her duty to American citizens, so long and so unreasonably neglected and refused. What fair-minded statesman can discover any resemblance between this case and our incomplete, unexecuted treaty for the purchase of Russian America I leave the able chairman of the Committee of Foreign Relations to explain.

Now, Mr. Chairman, I will refer briefly to some reasons why the treaty should not be executed. First, then, it annexes territory not coterminous, but distant some four hundred miles from our present possessions, thus inaugurating a practice totally different from that hitherto prevailing, and furnishing an example for the annexation of any territory, island, or people, on the face of the globe. I declare, sir, that in my judgment this treaty, if consummated, will be a most dangerous precedent. We shall never be satisfied while own-

ing this territory until we also acquire the British possessions which separate us; and the desire of our people now so strong for the occupation of British North America—a desire, sir, that cannot be ignored—will be stimulated by this purchase of Alaska and intensified among our people to an extent that will not promote, if it does not disturb, the peace of nations.

But I may be told that we "want" the British possessions on our north. Certainly we do, and we want all other lands that adjoin us, and some that do not. What we desire is one thing; what we need is another. And how to proceed in obtaining that which we need or that which we desire is quite another question. To me, sir, it seems an alarming fact, boding no good for the future, that we are furnishing an example for the annexation of territory not contiguous, by which we may be led on to buy remote islands and to annex distant nations with populations that we cannot control by our own institutions, and to govern whom will only be preparing ourselves for the overthrow of a republican and the introduction of a despotic government.

All this, sir, may be called idle fear, and be scouted by gigantic intellects and comprehensive statesmen; but time, which is a great historian, if not a present prophet, will decide whether this passion, now to be converted into a governmental policy, for endless and unlimited expansion and acquisition, South, North, everywhere, is wise or unwise. I think it is better that we propagate our institutions by exhibiting to the world their utility, their beneficence, their adaptation to the happiness of our people, rather than by attempting to embrace this entire planet at once under the cover of our "eagle's wings." The extravagant and exaggerated eulogies upon the soil, climate, minerals, fisheries, &c., of this Russian territory, fail to convince me that this purchase is valuable. There are few of our people, sir, who will seek a residence under the tropic of the north star, unless they have a stronger love for inclement weather, unproductive soil, and savage neighbors, than the inhabitants of Russia. It is a remarkable fact that during the long ownership of this country by Russia, but few of her people have made it their home, their permanent residence; and when it is remembered that emigration is apt to follow the line of latitude on which it starts, it is to my mind a convincing argument that this country is unfit to be, and never will be, the abode and residence of civilization to any great extent. It is idle and absurd to presume otherwise.

A refutation of the extravagant accounts of Russian America, made by the chairman of the Committee on Foreign Relations for the House, could be easily presented if time permitted by introducing extracts from his report. For example, on page 24 of this document, which for the benefit of mankind is to be preserved in history, we read:

"Alaska is a region of contrasts in character, product, and climate. It is three countries rather than one, and that which is true of one part may have no relation whatever to either of the others. It has an interior, a Pacific, and an Arctic region wholly distinct from each other." "To assume that a fact applicable to a part of these greatly diversified regions, and especially a fact that describes Sitka, which belongs rather to British Columbia than Russian America, as a characteristic of the several Alaskan regions, would be wholly unjust. We know very little of these particular countries, and nothing at all of countries like them."

Here are some important admissions, to which I invite attention. This country is really "three countries," we are informed, totally different in "character, product, and climate," of which "very little is known;" and of countries like them, it is said, we know absolutely nothing. There is, in my judgment, quite as much candor in this extract as in any part of the report.

In the face of this admission, however, there is an attempt to describe with accuracy the

soil, climate, minerals, fisheries, and other characteristics and products of this territory, about which it has just been admitted we "know so little." It is also a remarkable fact that while describing and painting this territory, in order to induce us to purchase it, we are not very often informed to which of its "three divisions" the excellencies spoken of belong; whether it is the "interior," the "Pacific," or the "Arctic" division that is entitled to the particular eulogy is more than can be always ascertained by an examination of the report. However, if the aggregate of excellence described in the honorable chairman's report in climate, soil, and product be equally divided among the three sections of this country, we may, by assuming that the report is all fact and not fiction, presume that every inch of this territory is much to be coveted.

It is to be observed, however, by a very careless reading of this report (see page 26) that along the "sea-board" there is an "enormous amount of rainfall;" that the weather there is "essentially cloudy throughout the year;" and it is candidly admitted that "this has its normal effect upon the class of vegetation that will succeed in ripening under such conditions of climate."

It is also admitted on the same page "that the whole extent of country subject to these rains is covered with sphagnum (moss) from one to two feet in depth, and even on the hill-sides this carpet is saturated with water and renders progress through it very slow and difficult."

Elsewhere it is said this "moss" is used for fuel. Here, then, is one "division" of your triple country. This I suppose may be called the "Pacific" division. Having previously been informed by this report (see page 20) that the warm currents from the equator, which wash the shores of western America, cause such a modification of temperature as to create a mild climate in very high latitudes, I was prepared to suppose that the "Pacific" division would certainly be the most desirable part of Alaska. And I still think, if any of my friends remove to Alaska, I shall advise them to settle in this region rather than venture into the "interior," among the Esquimaux, or go to the unexplored "Arctic" divisions.

Referring again to the accounts in regard to the "Pacific" division, I find it said on page 22 that in latitude 55° "ground ice" is found at any time of the year six or eight feet below the surface. We are happily informed, however, that this "ground ice" does not prevent "berries" or "vegetables" from growing; but the kind of "berries" or "vegetables" that flourish in latitude 55° north, where an eternal bed of ice is to be found six feet beneath the surface, and where the surface itself is not thawed out more than three or four months in a year, I leave the able and candid author of the report to which I have referred to explain.

On page 22 of this report we are, however, informed that among the Esquimaux, where the moss or sphagnum which covers the whole country has been removed, as at Fort St. Nicholas, the ground actually thaws to an average depth of three feet from the surface.

This is refreshing, indeed, to the agriculturist, and will make him exclaim with rapturous delight this is the place where—

"Oats, peas, beans, and barley grow."

Only imagine, as soon as you get rid of this fungus, called moss, which covers the entire country, the surface will actually thaw out to the depth of three feet sometimes, and then you have nothing but a measureless depth of "ground ice" beneath, which keeps you cool and comfortable while cultivating corn or harvesting small grain, and relieves you from all unpleasant danger of sun-stroke.

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But the striking adaptation of this country for agriculture is established by some facts presented on the twenty-fourth page of this report, where we are informed that during the year there are one hundred and seventy-four days in which "snow and rain fall at intervals," one hundred and seventeen days when snow and rain fall continuously, and of pleasant days absolutely seventy-four, which make, all told, two months and a half of pleasant weather.

If this is not sufficient to induce our prairie and eastern farmers to abandon this abominable climate and flee to a country where they can stand on perpetual ice and be refreshed with showers of snow and rain two hundred and ninety-one days in each year, we shall be compelled to doubt their intelligence, and must say to them, "Ephraim is joined to his idols; let him alone."

Mr. Chairman, this purchase can do us no good; will do us much harm. It is without value either to agriculture, commerce, or manufacturing industry. It will be simply a source of expense, and will add to the taxation of an already over-taxed people. It increases executive patronage, and makes room for a score or more of Government employes who render no valuable service for their salaries. When first presented to the American people it was universally condemned, and would be now if the honest voice of the nation could be heard.

But, sir, by some means this voice has been suppressed. At first the entire press of the country condemned the treaty, but by some strange and unaccountable means, and for some reason not apparent to the majority of mankind, this voice of the press has been stifled. Nothing now can be published unless it favors the completion of this treaty, and everything admitted into the daily reports of the Associated Press must be in favor of its ratification. Time may disclose the reasons that have produced this wonderful change. Time may furnish information as to the inducements for so many voluntary essays in the daily journals in behalf of this treaty. The people may discover hereafter how public sentiment is manufactured when a great scheme, costing great sums cannot be consummated by great men without manufacturing a public sentiment in its favor.

Mr. Chairman, I condemn this treaty, and I regret that it was made. If the appropriation for its execution passes without the preamble which has been offered I shall esteem it a great calamity. With such a preamble I shall feel that some of the objections to the appropriation have been removed. I want the treaty-making power to understand that it is not omnipotent, and that it cannot buy and sell territory nor coerce appropriations without the consent of the popular branch of the Government.

In what I have said, sir, I do not wish to be understood as reflecting upon the conduct of the Secretary of State in negotiating this purchase. I do not sympathize with those who distrust his patriotism or depreciate his statesmanship. I believe, sir, that the nation owes this man a debt of gratitude it never will nor never can repay; and however much I may differ from him in regard to the propriety or utility of this purchase, I shall never forget his great services rendered to his country. Called to the office of Foreign Affairs at the inception of the great rebellion, he brought to the discharge of his difficult and delicate duties the high and rare excellencies of character which that position required. Wisdom, calmness, and discretion characterized his conduct in conducting our relations with foreign nations during the most critical period of the nation's history; and but for the possession and exercise of those high qualifications it is difficult to say what complications might not have arisen to embarrass the nation in the important work of self-preservation. For these inestimable services I shall always honor him, however I may disapprove other parts of his history.

Appeal to the Southern Whigs.

SPEECH OF HON. HORACE MAYNARD,
OF TENNESSEE,
IN THE HOUSE OF REPRESENTATIVES,
July 16, 1868.

The House being in Committee of the Whole on the state of the Union—

Mr. MAYNARD said:

Mr. CHAIRMAN: Once more, after an interval of eight years, the people of the South are called upon to take part in a presidential election. The part they shall take is a question of deepest moment to them and to their children. Shall they espouse the "lost cause" or the "living cause," is the practical issue. It is as clear as in 1864, when each had its flag in the field. There is no middle alternative; there can be none. All attempts to organize by ignoring the great struggle of the last eight years as presenting nothing but "dead issues" and "by-gones" have failed, and will constantly fail. All the men who aspire to rise, in forgetfulness of the lessons taught us in these years of carnage and devastation are doomed to perpetual defeat. They would climb by a rotten ladder.

THE LOST CAUSE.

What, then, is the "lost cause?" I shall indulge neither in epithet nor denunciation; but leave them to its devotees and mourners. There has from an early period been found in the South an element of opposition to popular government—a wide-spread distrust of man's self-governing capacity, accompanied with a kindred feeling that the ability to rule was limited to a small and favored class, comprising the wealth and culture and the social preëminence ascribed to the traditional "first families." These sentiments prevailed in South Carolina and Virginia; to some extent in North Carolina, less in Georgia. During the revolutionary war they developed strongly in the haughty and defiant Tory party, that looked contemptuously on the efforts to maintain the self-evident truths. After the war they struggled to perplex and dash the counsels of the men who, having secured for their country independence and a recognized place in the family of nations, were laboring to give it a stable government, as the best guarantee of their dearly-bought liberties. They resisted the formation and the adoption of the Constitution. When adopted they labored to emasculate it by such construction as would deprive it of its vital energy and reduce it to a limited partnership from which any member might retire at pleasure. By what arts they sought and gained ascendancy is of less importance to be known than the use made of it when gained.

That the country grew and flourished, not by reason of them, but in spite of them, is demonstrated by the growth of the last eight years, greater than that of any quarter of a century previous. Always loud in defense of the rights of the people and the rights of the States, they used this cry to cripple and embarrass the General or Federal Government, which was, in truth, the surest safeguard of both. They affected a superservicable reverence for the Constitution which they invariably interpreted in that sense least favorable to the dignity and efficiency of the national authority. Everything was opposed which appeared likely to attach the people more strongly to the Government by interest or pride; all measures fostering our commerce and commercial marine; for opening and improving highways and the great channels of internal trade; for providing a currency redolent of nationality; for encouraging American industry in its diversified pursuits, or for promoting amity and good-will among the other nations. Such ideas could not remain speculative and impersonal. They found many and zealous propagandists. A great, powerful, and successful political party was unconsciously manipulated in their interest.

NULLIFICATION.

One of the prodigious growths of South Carolina was John C. Calhoun. Gifted, educated in the best northern schools, he while young entered public life, and soon became conspicuous, no less for his talents and industry than for the breadth of his patriotism. He was a great man; he was then a thoroughly national man. In 1824, and again in 1828, he was elected to the second office in the gift of the people. He aspired to the first; and the aspiration became a possession which overmastered him, as it has done many others of greater or less note from that day down quite to the present. During his second term of service as Vice President and General Jackson's first term as President he encountered the devious methods of New York politics to his cost; as has happened in recent times. Calhoun went down; Martin Van Buren supplanted him in popular favor and in Jackson's support. Disappointed, defeated, outwitted, obagrined, maddened, he turned his great powers against the Government of which he no longer hoped to be the President. His first and immediate effort was to array his own little State in an attitude of hostility. But the determined bearing of Old Hickory, himself a southern man, and the utter want of sympathy with the movement outside of South Carolina, satisfied him that it was premature. So nullification, in the first act a tragedy, in the second ended as a farce; and its author was saved from disgrace, if not from something worse, by the interposition and compromise of Mr. Clay.

The pretext for this movement was commercial, a tariff act. General Jackson, who comprehended the situation, and knew that disunion was meant, knew also that the scheme was adjourned, not abandoned. "The next time," said he, in a letter to Mr. Forsyth, "the pretext will be slavery."

SOUTHERN DEMOCRACY.

Not long after the inauguration of Mr. Van Buren the country was surprised one day by Mr. Calhoun's visiting the White House and tendering to the President his friendship and support. The offer was embraced, and the Democratic party takes date from that period; the two elements, Van Burenism and Calhounism, working together, the one for ascendancy and place, the other for revenge, until they finally dissolved at the convention which assembled at Charleston on the 23d of April, 1860. They are now trying to recombine; with what success remains to be seen.

The platform of this party consisted of the Virginia and Kentucky State-rights resolutions of 1798-99, and a set of resolutions upon slavery prepared under the direction of Mr. Calhoun and offered in this House on the 11th December, 1838, by Mr. Charles G. Atherton, of New Hampshire. These were the staple; everything else was occasional and casual. The southern Democracy, as the Calhounists were called, controlled the organization. And never was rule more despotic. Complete subservience, unconditional surrender, were the only terms ever made with their northern associates. So long as they were obedient and not too aspiring they were held in favor. But let one of them become restive or seek a directing control, the curt mandate was, off with his head! so much for him! These were the men who foreordained nominations and adjusted anew the platform. One of their schemes was to prescribe what were called tests of Democracy; always some new measure, more and more obnoxious to northern sentiment, on the subject of slavery. By this operation men of principle and self-respect were continually driven from the party throughout the North until it was reduced to a minority in nearly every northern State. As the correlative of this process, and by the going to pieces of the Whig party, (broken up by the craft of the same men,) they obtained the ascendancy in nearly all the southern States.

The real object which the southern leaders kept steadily in view was disunion. They taught it in public and in private, by the press, in the pulpit, on the stump, at the schools, and where ever chance threw a promising disciple in their way. A generation of young men grew up and migrated to every part of the southern country as editors, politicians, and professional men, who had been taught the right of secession and the kindred heresies of the Calhoun philosophy. They familiarized the people with the idea of disunion and a southern confederacy. Southern grievances were continually paraded; northern men were constantly reviled and disparaged; hatred toward the whole section was artfully excited; jealousy of its prosperity, contempt for the alleged traits of its people; their own superior prowess dexterously extolled, and the charms duly set forth of a government that should have no North, in which there should come no Yankees, and where every man should either be a "nigger" or own a "nigger." Southern commercial conventions were annually held at which were industriously discussed the reopening of the African slave trade and the dissolution of the American Union. Books and periodicals, filled with the most atrocious utterances, were thrown upon the community. In this way public sentiment was operated upon, and the public mind was confused.

The other side was rarely heard. Few men thought their proslavery worth an answer; fewer still who cared to refute them and encounter the storm of invective and ribaldry, possibly insult and violence, which an answer would have been sure to arouse. For in practice, neither freedom of speech nor of the press was tolerated by these fierce spirits—fire-eaters they called themselves—except on their own side. A class of northern writers sometimes handled the topics with great vigor; but generally in such a style as unconsciously to lend plausibility to these pernicious heresies. Another class of northern partisan writers delighted to charge upon their opponents the most astounding designs against the whole population of the South. The words of the former class were carefully reproduced as expressing the opinions and the feelings of the northern people, while those of the latter were cited as evidence to establish the correctness of the inference. The Fourth of July, the Declaration of Independence, the flag and the eagle, and the national airs, the traditions and emblems of our happiest memory, were sedulously discarded. Everything was repressed which was calculated to stimulate patriotism or to awaken a love of country.

Under such influences and by such preparation was slowly and by degrees developed the "lost cause." The teaching of Yancey was "to fire the southern heart" in readiness for the first occasion. The election of Mr. Fremont in 1856, had it occurred, would have been such an occasion. It did not, and they prearranged for an election in 1860 which should furnish it. How paltered these juggling fiends at Charleston and then at Baltimore; how they passed the summer and autumn in denouncing every man in advance who should deign to hold office under a "Black Republican" President, or consent to live under his administration; how, when they saw the people inclined to submit to the laws and to wait for something more outrageous than a political defeat before they joined in rebellion against the Government, they threatened violent resistance, and, failing to provoke coercive authority, inaugurated their "cause" by bombarding an unfinished fort, containing a garrison of less than one hundred starving men; all this we knew very well at the time, though the immense volumes of subsequent experience have impaired the recollection of these earlier chapters.

THE SOUTHERN CONFEDERACY.

The "lost cause" was an idea, a sentiment, a principle of hostility to the Republican the-

ory of self-government, taking organic shape in the "southern confederacy," which its second officer declared to be based upon slavery, and which one of its leading organs, the *Richmond Examiner*, boldly announced to be "a distinct reaction against the civilization of the age." Never walked a fouler spirit upon this planet. Cruel, intolerant, overbearing, implacable, unforgiving, treacherous, perfidious, ungenerous, ungrateful, avaricious, penurious, tyrannical to the weak, insolent to equals and sycophantic to the strong, it combined the vicious defects of opposite systems without the redeeming traits of either; a strange coöperation of free and of arbitrary government to form a type of depravity that neither unaided could produce. It was the ideal of evil, villainy sublimed. Beginning in robbery and ending in repudiation, there was no crime in the catalogue of guilt that it did not commit. Reversing the Roman maxim it spared the strong and warred upon the weak. Old men and children and women, men defenseless and alone, were its victims. Prisoners were scourged and pillaged and then put to death under the prolongation of torture. The pathetic sanctity of the grave was denied, and trinkets were whittled from the bones of the slain.

Boasting of chivalry and a loftier honor than belonged to the rest of the country, it demonstrated beyond cavil that its honor was a sham and that its chivalry lacked every virtue and every grace belonging to the semi-civilized institution it affected to imitate. Its prison-pens at Montgomery, Andersonville, Salisbury, Libby, Castle Thunder, and Belle Isle have become historic to the relief of the Jersey prison-ship and the Black Hole of Calcutta. It idolized military heroes, who displayed the acquirements of the bandit, the foot-pad, and the blackleg, and neglected those of real merit. Its chosen civil rulers, both dishonest and incapable, understood neither the obstacles to be overcome nor the means at their command. Never did men, engaged in the great work they pretended to, exhibit such poverty of thought. Not a state paper exists worth being read. Not a lofty sentiment, not a generous appeal, not a noble or magnanimous defiance was ever uttered. There was neither grandeur in victory nor pathos in defeat. Eloquence attempted no successful flights; poetry felt no inspiration; music had none but borrowed melodies; art furnished neither statues nor pictures, and literature not a line to be remembered. Such was the "lost cause" in its heyday as it appeared to all but the deluded women and youth, who decked its hideousness in the hues of their own gaudy imaginations. Of such are not the kingdoms of earth. Nations are not constructed of so base material. Well is it called the "lost" cause, just as we speak of a "lost" woman, a "lost" spirit, a "lost" soul.

So understood, it is no paradox that it still abides, direful, portentous, a power for evil in the land. Hardly had it recovered from the first craven fear of hanging and confiscation which followed the defeat of its arms before it renewed the same vile practices which marked its progress from the outset. Clothed by the mistaken clemency of the Executive with local authority, it forebore hostility toward the Government and the northern people indeed, but exhausted its virulence upon objects at home, the emancipated and enfranchised colored people, the white unionists, and persons of northern birth, especially settlers since the war, or, to borrow its own dialect, the "niggers," the "scalawags," and the "carpet-baggers."

TREATMENT OF COLORED PEOPLE.

The hostility to the colored people amounts to passion, almost to madness. Everything likely to alleviate their hard condition has been resisted bitterly as leading to "negro equality," their freedom, their right to control their own labor, to own property, to testify in court, no less than the right to vote and to hold office. Efforts for their education have provoked espe-

cial persecution. School-houses have been burned and schools broken up; schoolmasters, white and colored, have been subjected to cruel scourgings and other nameless indignities, and driven away; schoolmistresses have fared only not so bad; and these outrages, not single acts of wickedness, confined in their locality, but so numerous and so far asunder as to demonstrate preconcert and purpose. The riots at Memphis and New Orleans in 1866 are but too well known. Murdered, shot at, whipped, robbed, disarmed, to say nothing of insults and contumelies numberless, what have these people done to provoke, I do not say deserve, such treatment? According to no man's theory were they the responsible cause of the war which resulted in their freedom. Not by their own seeking are they free. To them every franchise has come like unsought blessings from above. Nor can it be truthfully said that they have misused their gifts. The arson, rape, and slaughter traditionally in reserve for the master race whenever the slave should be made free have not, I believe, in a single instance occurred. With all their discouragements they have been more nearly self-sustaining than the same number of landless and homeless people of the white race.

The few millions wisely and humanely expended by the Freedmen's Bureau for the care of the very old and the very young, and for securing to all some degree of justice and fair dealing, have been rendered necessary by neglect and oppression where we should have expected better things. It was something else that aroused the ire against them. Every individual colored man surrounded by his little household, in his "castle of defense," though but the humblest cabin, is to the "lost cause" a badge of defeat, and he is visited with the wrath impotent against the power of the Government. It is the ignoble vengeance of the ruffian who, worsted in his public broils, takes satisfaction at home in beating his wife and children. Such is the spectacle nightly exhibited somewhere in the South of a party of young white men, claiming to be gentlemen, boasting of chivalry, stealthily surrounding the lowly home of an inoffensive colored man, generally one whose years and character give him influence with his race, dragging him from his bed to lacerate him with hundreds of stripes, if not to take his life. Brave young men! the pride of the "lost cause," soldiers, perchance, in the non-combatant departments of the confederate armies, figuring appropriately at "tournaments," as they call the puerile imitations of the cast-off rubbish of an obsolete age.

TREATMENT OF WHITE UNIONISTS.

Not black men alone are the objects of their spite. The Union white men, loyal to their Government, who either never joined the "lost cause" or have abandoned it, southern by birth, education, and constant residence, the "scalawags" of their vocabulary, come in for a heavy share. None so worthy or so worthless as to escape. The best talents, the highest culture, the purest morals, alike with the lowest and most degraded, fall into condemnation if not in sympathy with this accursed spirit. The recent assassination of Ashburn was a representative crime. The men who slew him were the type of their class; and they struck him down, not for any personal grievance, but as the embodiment of ideas and principles which they hated. It was an act truly worthy of the "lost cause," one of its most characteristic developments. An old man, much beyond the meridian, honored by being the chosen of his people, in the capital of his native Georgia, denied admission to the house of public entertainment, forced to accept obscure lodgings, is aroused from sleep at midnight by a band of wretches, and slain at the side of his bed. His murderers assume to be the first in what they call society. They plan the deed for days and execute it with as little

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mercy as a gang of pirates. He was a Radical, had been a consistent Union man, and favored the reconstruction acts of Congress and the new constitution. This was the head and front of his offending. To conceal their guilt they charged it upon his friends, the colored people. To palliate it they maligned his character. To justify it to their own consciences they cried, "One enemy less!" Fools! the number of the martyrs never grows less!

THE CARPET-BAGGERS.

Another class especially obnoxious to the "lost cause" is the men of northern birth who have gone into the South since the war, the "carpet-baggers," as they are sneeringly called. The greater part of them were Federal soldiers of greater or less merit, generally enterprising, sometimes aspiring, but whatever their character or pursuits they are made to feel that they are not wanted. If not openly insulted and forced into quarrels, or, perhaps, deadly encounters, they are shunned or met with supercilious politeness; their wives and children, little girls and boys, are constantly mortified and hurt in their tenderest feelings. No place is found for the divine precepts of hospitality, to feed even an enemy if he hunger, and if he thirst to give him drink. (See Appendix.)

I have not thought it necessary to make an array of proofs. They to whom these words are primarily addressed, the thoughtful and candid people of the South, know only too well that I do not exaggerate or overstate. Now I appeal to these people whether they have not had enough of the "lost cause" and its immedicable evils. What have they to gain by adhering to it or keeping alive its memories and traditions? To what purpose is it that secret clans are allowed to organize and in hideous garb to prowl and maraud? Do they imagine that a great people, a magnanimous people, will permit the black man, made free by their behest, to be trampled under foot and their boon turned into a curse? Can they believe that the country will not stand by the men who in the time of sore trial stood by the country? Are they conscious of no danger in practically denying to the citizens of other States their constitutional right of citizenship in all the States? Is it not about time to have done with these pestilent follies, or will they still sow the wind, not content to have reaped the whirlwind? Why not accept accomplished facts however unwelcome? Is not the southern confederacy defunct, exploded, collapsed, gone like the baseless fabric of a vision, burst like a bubble, and leaving nothing in its place? Is not slavery dead, very dead, dead beyond the hand of resurrection? Will not wise men act upon these two facts and all they import?

Then why contend against the inevitable? Why look mournfully upon the past, and not hopefully upon the future? Why seek to rebuild the wrecked and shattered fortunes of a party that has entailed so much sorrow upon the land? Why repeat the folly popularly described as "crying after spilled milk?" Why persecute the negroes; why curse the Radicals? Why waste your time in "tournaments" and in the obsequies of the "lost cause?" Why make yourselves ridiculous by mouthing of "negro equality?" Do you not see that while you were looking backward and trying to reverse the civilization of the age the world leaped forward more than a "cycle of Cathay?" Then dismiss the "lost cause" into the limbo of lost and forgotten things, and join that other "cause" which represents humanity and progress and civilization, keeping up with its ever-moving columns?

SOUTHERN UNIONISM.

I have appealed to the thoughtful, candid people of the South, knowing well how useless it is to expect anything from the others. Passion has reigned too long, prejudice is too firmly rooted and nurtured with too much

blood. There are those who, like the prophet by reason of his gourd, think they do well to be angry. Their madness is incurable. They never were good citizens, and they never will be. The best thing they can do, then, for themselves and the country is to die; the next best is to emigrate. Here they can be neither happy nor useful. The number of these I would fain believe to be small, confined principally to the original fire-eaters and the hopeless politicians. But there is all over the South a numerous element whose peculiar experiences should make them not only our best citizens, also, the most "radical" in their views, using that word as it is generally used to denote hostility to the rebellion and its principles; in other words, opposition to the "lost cause." This comprises the old Whigs and Unionists. They resisted secession and disunion when they appeared in the guise of the southern Democracy, and by success were very powerful if not respectable. They denounced with prophetic sagacity the very evils we have suffered as the result of their political heresies. Though reduced at last to a constantly diminishing minority they continued their opposition, after successive defeats, quite down to the presidential canvass of 1860, which they contested with a zeal stimulated by the gloomiest forebodings in case of failure. In talents and moral power they were strong, and in numbers they were not weak. They carried by pluralities the States of Virginia, Tennessee, and Kentucky for Bell and Everett, upon the significant platform of "the Union, the Constitution, and the enforcement of the laws," and secured for the ticket respectable minorities in every southern State except South Carolina; while a small popular vote was cast for Mr. Lincoln in each of the States of Delaware, Maryland, West Virginia, Kentucky, and Missouri. It is significant as showing the value of minorities under our system of government that neither of these last States could be drawn into the form of secession. In this House at that time there were fully twenty-five members elected distinctively as Unionists by southern constituencies, and in nearly every district a contest had been made on that issue for the seat. It does not alter the fact or diminish its value that many of these persons joined the rebellion and became prominent. Leaving out of view the turncoats, the Arnolds, the Judases that are found everywhere, fear, despair, personal attachment, local sympathy moved men against their convictions and moral judgments. They followed leaders that they despised into a service that they loathed. Others yielded a passive acquiescence, under more or less constraint; perhaps lent assistance to their sons and other kindred in the rebel army. At the close of the conflict they found themselves in the same condemnation with the original secessionists who have labored diligently to prevent their being distinguished from them. There is also a class pretty numerous in the border States who never joined the rebellion, but who opposed the leading measures for its suppression, especially every one that affected the condition of slavery. They have been represented in both Houses of Congress by gentlemen who have made their position well understood here; though professedly, and, I believe, really opposed to the rebellion, never giving a vote that the bitterest rebel would not have given. An insane fear of "Radicalism" and "negro equality" has driven all these men into a false position and ranged them among the supporters of the "lost cause." There is still another class always loyal, still truly so, who, nevertheless, are in doubt and are waiting for some new party that shall be more moderate than either, men of excellent lives, good citizens, prominent in the piping times of peace, but wholly unfit for a state of revolution and the rugged issues of war. They hoped much from the Philadelphia convention of August, 1866, and eagerly joined the Tennessee Conservative party of 1867, not perceiving that,

like the recent New York convention, they were both efforts to weld the copperhead Democracy with the southern rebellion, using them as a solder. Both the Philadelphia and the Tennessee movements were failures; so will the New York convention be a failure. The copperhead Democracy and the southern rebellion will be reunited; they are reunited already only to perish together. Let them perish, why cumber they the ground? The control of this country or any considerable part of it they will never have. Then why should men join them now in the day of their defeat, their weakness, their disgrace, their demonstrated and admitted incapacity and demerit, who eschewed and avoided and stubbornly resisted them when in power and full of high pretensions, which, by actual trial have been proven hollow and miserably false? How can a southern Whig or Unionist, who would have esteemed it little less than a personal dishonor to have supported the Democratic party under the lead of its former chieftains, now surrender to the same party under its present leadership? How can he thus give the lie to all the professions of his past life? What mighty influences have accomplished this great moral transformation? Will it be said that in the choice of evils this is the least, that it is either the Democratic party or the Union Republican party?

THE UNION REPUBLICAN PARTY.

Agreed. And what is the Union Republican party that any southern man, certainly any southern Whig or Union man should hesitate to join it and to support it? It is the party eminently of success. Taking the Administration of the Government at a period of depression unexampled in our history, encountering obstacles of a character and magnitude that have proved fatal to all previous Governments, this party rallied to its support the numbers, the intelligence, and the worth of the country, and succeeded in overcoming all obstacles and in raising the Government to a height never before reached both in the confidence and affection of its own citizens, and in the respect and good-will of the other nations. Such a party has in its composition the elements of indestructible power. Its conceded ability to save the Government will prove sufficient to administer it. Those who seek for faults are very apt to find them. But what party that has been compelled to do so much has done so little to justify hostile criticism? What party ever solved, so many problems, so vast and so complicated, with so few mistakes?

As an example of successful administration the last eight years are without a parallel. Leaving out of account the civil war which raged for half the period, and the embarrassing controversy during the other half between the executive and the legislative departments, more has been achieved of positive enduring good, more to make the American thank God that he is an American. The homestead policy; the telegraphs across the continent and across the Atlantic; the four Pacific railroads projected, one of them almost completed; the large additions to our domain by peaceful and honorable negotiation; the rapid and substantial growth of our domestic industries under the influence of fostering legislation; a currency at once national, convenient, and popular; the number of immense bridges built and rebuilt, and other extensions of preëxisting means of intercommunication; the development of our vast mineral resources, and the enhanced dignity and profit of agricultural pursuits; these are some of the material results of this ascendancy that commend themselves to all alike. Not a few all over the South will breathe more freely that slavery has been ended, and with it untold anxieties, possible evils, and more important to the sensitive nature, the gravest responsibilities. There was always in the South no little anti-slavery sentiment, formerly outspoken and active, of late years

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silent and hopeless. As late as 1849 Mr. Clay, the great Whig leader, publicly advocated gradual emancipation and urged its adoption into the new constitution of Kentucky. He was always an emancipationist. The end of slavery was a necessity of the war; the protection and enfranchisement of the colored race were but the logical sequel.

In this connection the great improvements of the national capital should not be overlooked. One of the most affecting proofs of sublime faith in our destiny was the daily click of the chisel upon the public buildings, never once intermitted during the war, even when the hostile flag was visible from the Dome of the Capitol. Our financial success was demonstrated by the increase of wealth and individual prosperity, while the enormous public demands never failed to meet a supply. A diplomacy, patient, forbearing, and always just, effectually defeating a predetermined intervention in our domestic strife, has at length achieved for us a place among the nations never reached before. No longer hostile or indifferent, each is emulous to outvie the rest in doing honor to our flag. Whatever this party has undertaken it has accomplished; whatever it shall undertake it will accomplish, so long as with faith and courage it adheres to the great principles of national union, individual freedom, and human progress. It is the party of the future, a live, not a lost cause.

But it was not of the general merits or the alleged demerits of the Union Republican party that I proposed to speak to-night. I have purposely limited myself to the aspects of the party as it is presented to the anti-secession part of the southern people and from their point of view. The character of a party usually appears in that of its representative men; I mean its chosen and not its self-appointed chieftains. The character of Mr. Lincoln, the first and greatest Republican leader, for those qualities which have secured for him an abiding place in the respect and affections of mankind, has already become historic. I turn to him who has been selected as the successor of Lincoln, the General of our armies, the invincible commander whose name stands as the synonym of victory.

ULYSSES S. GRANT.

In the character of General Grant, his history and his acts, is found the best epitome of the party which I call upon the Union men of the South to support. Not a politician, never having held a civil office, as I ever heard, before the war, having withdrawn from the Army to private life when it seemed altogether improbable that the nation which had educated him would ever again become involved in war or have any further use for his services as a soldier, subsisting and supporting his family by unostentatious industry, devoting his leisure to a professional study of the theory of the great art for which he had been educated, but which it seemed not likely he ever would practice, there was, of course, little in his personal history, to say nothing of his politics, that a mere politician would find of any special interest. His political associations were with the old Whig party. His father was a Whig, and he was educated in that school and acted with the party, as long as it continued in organization. He is what, in the parlance of northern politics, is called an "Old-line Whig;" that is to say, one who was nurtured in the party and adhered to it until it went to pieces after the presidential election in 1852, and then, as between the Democratic and Republican parties, inclined to the former. In the race for Congress in the St. Louis district between Messrs. Barrett and Frank Blair, well recollected in this House, he voted for Mr. Barrett. Having in 1860 removed to Galena, Illinois, too recently to be a voter in the presidential election of that year, he took no part whatever in the contest. So much I have deemed it necessary, and it is all

I have deemed it necessary to say of General Grant's early political education and associations, knowing that an effort has been made to reconcile southern Whigs to the Democratic party by representing him as having always belonged to that party.

His career during the war is a large portion of its early, middle, and latter history, and can be known and read by all who do not remember it in any of the multiplied books already written. I refer to it not in demonstration of his great military qualities, but to invite the attention of the southern people to the display of generosity, liberality, and humanity which distinguished his movements from the day of his taking command at Paducah to the surrender at Appomattox Court-House. No chieftain gained such multitudinous victories; none used them with such forbearance. His study was to assert the authority of the Government, and to suppress the rebellion with the least practicable suffering, loss, and humiliation to the vanquished. This purpose is emphatically and tersely declared in his first proclamation, the one addressed to the citizens of Paducah, Kentucky, on taking command of that post in September, 1861. At this time the document is of great significance, and I give it entire:

PROCLAMATION.

To the citizens of Paducah:

I have come among you not as an enemy, but as your friend and fellow-citizen; not to injure or annoy you, but to respect the rights and to defend and enforce the rights of all loyal citizens. An enemy in rebellion against our common Government has taken possession of and planted his guns upon the soil of Kentucky, and fired upon our flag. Hickman and Columbus are in his hands. He is moving upon your city. I am here to defend you against this enemy, and to assert and maintain the authority and sovereignty of your Government and mine. I have nothing to do with opinions. I shall deal only with armed rebellion and its aiders and abettors.

You can pursue your usual avocations without fear or hindrance. The strong arm of the Government is here to protect its friends, and to punish only its enemies. Whenever it is manifest that you are able to defend yourselves, to maintain the authority of your Government, and protect the rights of all its loyal citizens, I shall withdraw the forces under my command from your city.

U. S. GRANT.

Brig. Gen. U. S. A., Commanding.

PADUCAH, September 6, 1861.

The siege of Vicksburg is too memorable to require or to justify more than an allusion. It resulted, you know, in the surrender of the city and its starving garrison of, I know not how many more than thirty thousand as prisoners of war.

Mr. LOGAN. Thirty-two thousand.

Mr. MAYNARD. Thirty-two thousand, says my friend, who was prominently and very honorably connected with that campaign. The terms of surrender were fixed by a convention between the two commanding generals, and I refer to it as an evidence of the forbearance, the generosity, and wonderful liberality with which he treated the men whom he had reduced into his power.

On the 3d of July, (the year was 1863,) General Pemberton proposed to General Grant an armistice "to save," so he said, "the further effusion of blood which must otherwise be shed to a frightful extent." General Grant declined the armistice, but said:

"The useless effusion of blood you propose stopping by this course can be ended at any time you may choose by an unconditional surrender of the city and garrison. Men who have shown so much endurance and courage as those now in Vicksburg will always challenge the respect of an adversary, and I can assure you will be treated with all the respect due to prisoners of war."

"By agreement," so runs the military record, "Generals Grant and Pemberton had an interview on this day at three o'clock p. m." This ended with the following paper, which, with few and slight modifications, contains the terms granted by the victor, which allowed his captive thousands to return to their homes instead of being marched away to military prisons. To appreciate fully, not only the humanity, but the grave responsibility assumed by this act of magnanimity to a defeated adver-

sary, it is necessary to bear in mind the excited and embittered feeling, both in and out of the Army, growing out of the treatment of our men in southern prisons:

HEADQUARTERS DEPARTMENT OF THE TENNESSEE,
NEAR VICKSBURG, July 3, 1863.

GENERAL: In conformity with agreement of this afternoon I will submit the following proposition for the surrender of the city of Vicksburg, public stores, &c., on your accepting the terms proposed. I will march in one division as a guard and take possession at eight a. m. to-morrow. As soon as rolls can be made out and paroles signed by officers and men you will be allowed to march out of our lines, the officers taking with them their side-arms and clothing, and the field, staff, and cavalry officers, one horse each. The rank and file will be allowed all their clothing, but no other property. If these conditions are accepted, any amount of rations you may deem necessary can be taken from the stores you now have, and also the necessary cooking utensils for preparing them. Thirty wagons also, counting two two-horse or mule teams as one, will be allowed to transport such articles as cannot be carried along.

The same conditions will be allowed to all sick and wounded officers and soldiers as fast as they become able to travel. The paroles for these latter must be signed, however, while officers are present authorized to sign the roll of prisoners.

I am, general, very respectfully, your obedient servant,

U. S. GRANT,

Major General.

Lieutenant General J. C. PEMBERTON, Commanding
Confederate forces, Vicksburg, Mississippi.

The surrender by General Lee of the great army of northern Virginia was another occasion in which were displayed the grand moral attributes which constitute the great warrior also a great man. On the evening of the 7th of April, (it is now 1865,) he addressed the following note to General Lee:

HEADQUARTERS ARMIES OF THE UNITED STATES,
April 7, 1865, 5 p. m.

The result of the last week must convince you of the hopelessness of further resistance on the part of the army of northern Virginia in this struggle. I feel that it is so, and regard it as my duty to shift from myself the responsibility of any further effusion of blood by asking of you the surrender of that portion of the confederate States army known as the army of northern Virginia.

U. S. GRANT,

Lieutenant General.

General R. E. LEE,

Commanding Confederate States Army.

This led to a meeting and to the acceptance of the following terms of surrender:

APPOMATTOX COURT-HOUSE, VIRGINIA,
April 9, 1865.

In accordance with the substance of my letter to you of the 8th instant, I propose to receive the surrender of the army of northern Virginia on the following terms, to wit: rolls of all the officers and men to be made in duplicate, one copy to be given to an officer to be designated by me, the other to be retained by such officer or officers as you may designate. The officers to give their individual paroles not to take up arms against the Government of the United States until properly exchanged, and each company or regimental commander sign a like parole for the men of their commands. The arms, artillery, and public property to be packed and stacked and turned over to the officers appointed by me to receive them. This will not embrace the side-arms of the officers, nor their private horses or baggage. This done each officer and man will be allowed to return to their homes, not to be disturbed by United States authority so long as they observe their paroles and the laws in force where they may reside.

U. S. GRANT,

Lieutenant General.

General R. E. LEE,

Commanding Confederate States Army.

Another incident of the surrender, not appearing upon the papers, but well known to all present and to every soldier in the southern army, is thus related by an eye-witness:

"After the execution of the terms of surrender, General Lee remarked, in substance, to Grant: General, there is one thing I forgot to mention, and it is now probably too late to speak of it. By our service cavalrymen and some of the artillerymen own their horses. When General Grant, interrupting, said, in substance, that, such being the case, the men might retain their horses the same as was granted to the officers, and that he would so instruct his paroling officers. General Lee expressed with much emotion his gratitude at this exhibition of Grant's promptitude in anticipating his wishes, and remarked that this generous act would go far toward reconciling the minds of the southern people toward the North. The arrangement was faithfully carried out."

The value of this last act of generosity, outside of the stipulations already agreed upon and signed, is not likely to be underestimated by the paroled soldiers who were permitted to

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Appeal to the Southern Whigs—Mr. Maynard.

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retain for the purposes of peaceful life the faithful animals which had borne them in safety through the foray of many a battle-field. If perchance my words shall reach beyond the narrow limits of this Hall to any portion of the southern people, I would ask them to read again those extraordinary conditions accorded to an utterly defeated foe. Was ever conqueror so gentle? Was ever victory so graceful? War lost half its horrors by staying the carnage which proverbially begins when resistance is done. A generous, high-souled people can never forget or fail to appreciate one who wielded such irresistible power with more than a father's tenderness.

But he did not cease caring for his adversaries after their surrender, and when his own fame was so noised that smaller men would have found time for little else than to listen. As early as the 16th of May, 1865, he sent to General Halleck a dispatch, in cypher, from which I take the following passage:

"Although it would meet with opposition in the North to allow Lee the benefit of amnesty, I think it would have the best possible effect toward restoring good feeling and peace in the South to have him come in. All the people except a few political leaders in the South will accept whatever he does as right, and will be guided to a great extent by his example."

Again on the 13th of June he received from General Lee a letter, inclosing an application to the President for pardon. He made upon the letter an indorsement, of which I give the main portion. It is a striking instance of that downright honesty which in statesmanship, no less than in private affairs, is always the best policy:

"In my opinion, the officers and men paroled at Appomattox Court-House and since, upon the same terms given to Lee, cannot be tried for treason so long as they observe the terms of their parole. This is my understanding. Good faith as well as true policy dictates that we should observe the conditions of that convention. Bad faith on the part of the Government, or a construction of that convention subjecting officers to a trial for treason, would produce a feeling of insecurity in the minds of all paroled officers and men. If so disposed they might even regard such an infraction of terms by the Government as an entire release from all obligations on their part."

"I will state, further, that the terms granted by me met with the hearty approval of the President at the time and of the people generally."

We cannot forget that Mr. Lincoln was the President of whom he speaks, and that his "heartly approval" of the convention at Appomattox Court-House was one of the closing acts of his illustrious life. The indorsement upon the application for pardon I give entire:

HEADQUARTERS ARMIES, June 14, 1865.

Respectfully forwarded through the Secretary of War to the President, with earnest recommendation that the application of General Robert E. Lee for amnesty and pardon may be granted him. The oath of allegiance required by recent order of the President to accompany application does not accompany this for the reason, as I am informed by General Ord, the order requiring it had not reached Richmond when this was forwarded.

U. S. GRANT,
Lieutenant General.

He did not stop here his interference, in behalf of those to whom he had plighted his own honor and the faith of the nation. At an earlier period, during the present Congress, it became necessary for a committee of this House, charged with an important investigation, to examine General Grant as a witness. The inquiry touched the President's treatment of the vanquished rebels. I read from the testimony as given before the committee. General Grant, speaking of his interviews with President Johnson during the summer of 1865, said:

"I frequently had to intercede for General Lee and other paroled officers on the ground that their parole, so long as they obeyed the laws of the United States, protected them from arrest and trial. The President at that time occupied exactly the reverse grounds, namely, that they should be tried and punished. He wanted to know when the time would come that they should be punished. I told him not so long as they obeyed the laws and complied with the stipulation. That was the ground that I took. The conversations were frequent after the inauguration of Mr. Johnson. I cannot give the time. He seemed to be anxious to get at the leaders to punish them. He

would say that the leaders in the rebellion must be punished and that treason must be made odious. He cared nothing for the men in the ranks—the common men. He would let them go; they were led into it by the leaders. He claiming that the time must come when they could be tried and punished, and I claiming that that time could not come except by a violation of their parole. I claimed that I gave them no political privileges, but that I had a right, as military commander, to arrange terms of surrender which should protect the lives of those prisoners."

This testimony was taken and put upon record more than one year ago. The sentiments, acts, and opinions of General Grant were well known to the whole Union party the country over. Still with a unanimity that has hardly been equaled, excepting, possibly, in the case of General Washington, the first President, and Mr. Lincoln, the last, he was selected by that party as their candidate; their convention at Chicago not going there, to nominate him, but to ratify the nomination that had already and for months been made by the people. There was no juggling there, no paltering with words in a double sense, no mockery of pretending to decline honors the more effectually to mislead aspiring rivals, and consequently no heartburnings over thwarted hopes.

Now, I appeal to the men of the South, to men of all parties, who pray with Grant "let there be peace," who wish to see the prostrations of war lifted up, and your land recover from the sad effects of the struggle, can you find anywhere, in any condition of things, so much of promise, so much to encourage and console, so little of bad faith, so little to repel, so little to wound your self-respect or to remind you of an unsuccessful past, as in this great chieftain and the party of which he is the acknowledged and accepted head.

I know you will be told differently; I know that you have been so told; I know that you have been taught to hate the Radical party, as his supporters are called; that they have been maligned and arraigned, that they will continue to be, but not by the true friends of the southern people. It will be by the same class, mostly by the same men, who for years were active in arraying the southern against the northern people; the same men who always found it convenient to exhibit every unpalatable sentiment, every extreme opinion, every obliquity of conduct, every short-coming or over-doing reported in any corner of the vast and populous North, as characteristic of a distinct, hateful, and contemptible race. These men have always fastened upon some northern name to hold up continually to the public gaze as monsters of power and wickedness, types of all that is abominable in principle and fiendish in practice. There are some still living who can remember when all through the South the great name of Alexander Hamilton was a by-word of opprobrium and execration; and after him Timothy Pickens, the "blue-light" Federalists, and the Hartford convention. Daniel Webster succeeded to the inheritance of calumny and popular abuse. Then the great names of sorcery and evil omen were Seward, Giddings, Greeley, and abolitionism. At the present moment the hate-inspiring word is radicalism, and the execrated men are Charles Sumner and Old Thad Stevens. Will a deceived people never grow wiser, and learn to detect and despise such abominable trickery?

Mr. MULLINS. What do they say of Brownlow?

Mr. MAYNARD. He being native there and to the manner born falls into the class of "scalawags," the home-made Yankees, the traitors to the South, like my colleague himself.

SCHUYLER COLFAX.

Associated with General Grant, second on the ticket, as candidate for Vice President, is one well known, long the favorite of his party, not only for his amenity and the general excellence of his character, but for the signal industry and ability which he brings to the management of public affairs. I need not say to you,

sir, for the moment occupying his chair as the Presiding Officer of this body, that I allude to SCHUYLER COLFAX. An old acquaintance and personal friend, I will not trust myself to speak of him in such terms, as I could readily command lest the warmth of friendship should transport me beyond the limits of decorum and the prescribed rules of congressional debate.

An old Whig of the strictest sect, educated in the best school of the politician, the American press, such he was when I met him for the first time, in June, 1852, at the Maryland Institute, in the city of Baltimore. We were both members of that memorable Whig convention, the last that ever assembled, which nominated General Scott, the last Whig candidate, for the Presidency. It was an imposing assemblage; the noblest of the land were in conclave; the loyal, patriotic, Union-loving. The fervor of their protestations for the Union betrayed a strong consciousness of its imminent perils. As became young men in our novitiate, we were listeners and lookers on. Neither of us, nor others not a few, young and silent like ourselves, but since prominent before the country, have ever forgotten or disregarded the inculcations of that final gathering. The end of the grand old party was worthy of its career. It went down as the Cumberland went down, with the flag flying and the men at the guns. Of the party no less can be said than that no man was ever ashamed to have belonged to it.

Upon its dissolution Mr. COLFAX joined the Republican party, of which he at once became and continues a conspicuous leader; and the history of the party is his history. A few cardinal facts are all that is necessary to illustrate both his great personal popularity and his official success. As indicative of the former, it is not unworthy of the occasion to remark that more children, I venture to say, have been named for him than for any other living man, or for any dead man, except, perhaps, General Washington and General Jackson. By consecutive service he is all but the oldest member of the House, has filled the chair of the Presiding Officer of this body longer than any man except Henry Clay. His position as Speaker has not prevented him, whenever a bill has been offered in the House relieving from political disabilities persons involved in the rebellion, from casting his vote in favor of it, against almost the entire delegation from his own State. Liberality, generosity, unwearied kindness have marked his official conduct no less than his private intercourse.

These are the men, such their characteristics, that have been selected by the Union Republican party as their representative and chosen leaders. And this stands out as a fact, living, clear, bright, beyond all controversy and gainsaying, above all the denunciations and vituperations that have been or will be heaped upon them by political opposition.

CONCLUDING APPEAL.

Trusting that these humble words of mine may reach beyond the limits of this Chamber, perchance reach some portion of those for whom they are intended, I would ask whether their future, all they hope and expect, is not identified with the cause and the party which they have been taught to distrust and withstand.

I submit to the old Whigs and to the Union men of the South what have they to gain, suppose the ticket nominated the other day at New York should succeed. Suppose that old party which dominated the country before the war should again become lord of the ascendant, do they suppose for a moment that they would be among the favored ones? They would be sent to the rear along with the other prisoners, or, may be, permitted to take their share with the retainers and camp followers. The men who would come in for the chosen places, and oc-

Ho. OF REFS.

Indian Affairs—Mr. Burleigh.

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cupy the chief seats would be a very different class of people. If during the period of reconstruction any of them have perchance been put forward and have been favored it has been but for the time, and as a means of bridging over the chasm. Another class of men have sought by passing over their backs, making as it were a pontoon of them, to secure for themselves the supreme control, to which unaided they aspire in vain. When the fox escaped from the well, by the aid of the silly goat, he left him to perish, having no longer any use for him.

On the other hand, suppose they support General Grant: when he shall be elected President, as the omens all declare he will be, these men, the old Whigs and the Union men of the South—names in most instances, perhaps, synonymous, but not so universally, because there were Whigs who are not Union men, and there are Union men who were not Whigs—will naturally be intrusted with the control of public affairs in that portion of the country. Their cherished principles will then be triumphant, their teachings will at last be listened to with honor and respect. The recollection of what they said in the old times and the fulfillment of their dark predictions will give to their counsels for the future a degree of confidence and influence which no others will enjoy, especially those whose baleful precepts have clothed the land in mourning. Their natural associations are with this great party of the future. With their opponents they will never be at home, never be cordially received. This party, with these leaders, will give them welcome and admit them to a full participation in its affairs. They will no longer compose the hopeless minority to which for many years they have been condemned.

If, therefore, they are wise, if they are prudent, wise and prudent for the highest good of their country, even in the narrower and lower wisdom which looks alone to personal interest and self-advancement, they will discard that ominous thing, that "cause" of the devil which has loomed before them these last eight years as a terror and a trouble; they will condemn it, spurn it, and will strike hands with the friends of freedom and of free government all over the country; they will grasp the old flag-staff; they will rally to the old national airs; they will again keep step, as of old, to the music of the Union.

APPENDIX.

Since the preparation and delivery of this speech an official report has come to hand, dated June 30, 1868, made to the constitutional convention of Texas by its committee on lawlessness and violence. It is a collection of statistics from the records of the State Department, the records of the office of the Freedmen's Bureau, and the sworn statements of competent and reliable witnesses. I make a few extracts and then leave them without comment:

"We have directed our investigations to the homicides committed during the period of time intervening between the close of the rebellion and the 1st of June, 1868; and, from the three sources of information mentioned, we present the following statistics of homicides in Texas:

	Whites.	Freedmen.	Total.
Killed in 1865.....	39	38	77
Killed in 1866.....	70	72	142
Killed in 1867.....	166	105	271
Killed in 1868.....	171	133	304
Year unknown.....	24	21	45
Of unknown race.....	-	-	40
Total.....	470	429	899

making a grand total of nine hundred and thirty-nine homicides committed in Texas since the conclusion of the war, June 1865, to June 1, 1868, including a few cases casually reported in the present month. This gives an average of three hundred and thirteen per year.

"Of these nine hundred and thirty-nine homicides, there were—
By whites, 464 whites, 373 freedmen, total, 833.
By freedmen, 10 whites, 43 freedmen, total, 53.
And by parties whose race is unknown, 43."

"Many of these homicides have doubtless been committed for purposes of plunder and robbery. The

facts and the testimony show that many of our highways are infested by bandits who will take life for a horse or a pistol or a purse. These desperadoes, with very few exceptions, were either confederate officers or soldiers or bushwhackers during the late war, and now constitute one of the legitimate entailments of secession and rebellion. It is also true that many of these homicides have resulted from private quarrels. There is much bad blood in the land. But this wholesale killing cannot be accounted for by either or both of the causes named. The figures themselves shed some light on this subject. During the last three years, according to the reports consulted, three hundred and seventy-three freedmen have been killed by whites, while only ten whites have been killed by freedmen. Now it cannot be that all these colored people, or any considerable number of them, were murdered for their money; their extreme poverty forbids the supposition. Neither can it be that many of them were slain in personal altercations with whites; for in that event, there should have been as many whites killed by freedmen as freedmen by whites, the freedmen being it is said, generally as well armed as the whites. This great disparity between numbers of the two races killed, the one by the other, shows conclusively that 'the war of races' is all on the part of the whites against the blacks. The evidence in our possession also shows that a very large portion of the whites murdered were Union men, and that the criminals, with remarkably few exceptions, were and are disloyal to the Government."

"We have been challenged to produce cases of Union men and freedmen being persecuted for their loyalty. We now do so. Judge Black was a Republican; he was murdered in 1867 in Uvalde county by a rebel. Milton Biggs was a Union man, and had been appointed county judge of Blanco county; he was murdered in 1867 while plowing in his field, before he could qualify. Judge Christian, a loyal man, of Bell county, was pursued into Missouri, and murdered by a party of rebels. Mr. Wade and seven other gentlemen were killed in Lamar county last year for their Unionism. Four men were recently murdered in the county of Hunt, and six in Bell county, for their loyalty. Within the present month the county judge and the district clerk of Hunt county have been driven from their homes, and compelled to fly for their lives because of their unyielding attachment to the Government. Hundreds of loyal men, to our knowledge, are at this time forsaking their homes in Texas, fleeing from the assassin, forced away by rebel intolerance. And we here put it to record that honorable members of this convention are to-day exiles from their firesides and dare not return to their families, for the only reason that they will not forswear their principles. Now, while it remains true that the Union men of Texas constitute a very small proportion of the white population, and while it is true that they are being killed by rebels, it is impossible to escape the conclusion that they are killed for their Unionism. In other words, if they are rebels they would not be killed."

"And when we come to examine the persecutions suffered by the freed people, the mass of testimony is so overwhelming that no man of candor can for a moment question the statement that they are, in very many parts of the State, wantonly maltreated and slain simply because they are free and claim to exercise the rights of freemen. Some months ago, in Panola county, a party of whites rode up to a cabin wherein some freed people were dancing, and deliberately fired upon them, killing four, one a woman, and seriously wounding several others. In 1867, in Dewitt county, a white man met a black man riding, and asked him what he was going to do with the whip he held in his hand, and on being answered nothing, shot the freedman, killing him instantly. In the county of Fort Bend, last year, a white man was riding through town, and on seeing a negro man standing on the steps of the office of the Freedmen's Bureau he drew his revolver and shot him dead. The criminal had never seen or spoken to the freedman before. In Newton county, 1867, a white man met a colored man driving a team; the former made the freedman get out of his wagon, and then shot him seven times in cold blood. In Fort Bend county, same year, the freed people were holding a fair to procure funds to finish their church, and while they were singing a hymn, two white men rode by and fired their pistols into the church."

"In October, 1867, a white man was traveling in Grayson county and met a freedman; after passing him a few yards, he turned and fired upon him, hitting him in the back. The freedman died in a few hours; he had not spoken a word to the murderer—had never seen him before. But a few days ago a party of white men assaulted the family of an unfreeing freedman in Falls county, killing and dangerously wounding another freedman. In the same county, a few weeks ago two armed white men, in open day, went to the house of a colored man, and without any provocation murdered him. Soon after this, a white man, in the same neighborhood, rode up to two freedmen, and, without any known cause, shot one of them dead and fired at the other. Last week the colored registrar in Burleson county was found murdered; and in January last the colored registrar of Milan county was called to his door at night and shot. And so the bloody story runs."

"A white boy, thirteen years old, was waylaid and shot, and severely wounded, by a man named Johnson, in Hopkins county. Johnson was arrested by the sheriff, a loyal man, brought before Judge Mayberry, of the eighth judicial district, found guilty of a simple assault, and fined ten dollars. The sheriff

of Hunt county, a Union man, was resisted and shot while arresting a criminal; the said criminal was tried before the said Mayberry, bailed in a bond of \$600, and is now at large. In another county a rebel murdered a boy not fourteen years old; he was tried and acquitted on the ground that he had lost an arm in the confederate service. In another case, a loyal man was assaulted with intent to kill by a rebel, and, after being fired at once, shot and killed his adversary. He was promptly arrested, and compelled to give bond for \$50,000. Another loyal man was assaulted with deadly weapons three times by a party of rebels; he made oath to the facts before the proper authorities, but to this day the said authorities have refused to arrest the criminals, though well known to the sheriff."

Moreover, fuller reports show that since the policy of General Hancock was inaugurated, sustained as it is by President Johnson, the homicides in Texas have averaged fifty-five per month; and for the last five months they have averaged sixty per month."

Indian Affairs.

SPEECH OF HON. W. A. BURLEIGH,

OF DAKOTA,

IN THE HOUSE OF REPRESENTATIVES,

July 21, 1868,

On the Indian affairs of the country.

Mr. BURLEIGH. Mr. Speaker, it is always difficult to command the attention of men while discussing a question which they do not understand and in which they are not interested; especially is it the case in this House at the close of a protracted session. But, sir, there is one question of this character which is of the greatest moral and financial importance to the country, to which you, as faithful legislators, can neither close your eyes nor ears, a question which now presents itself and offers to this Government the alternative of peace and tranquility, or a long and costly war. I allude to our present relations with the Indian tribes of the country.

For years past, while Congress has been devising means to keep up our national finances, millions upon millions of money have been expended in the support of western armies whose sole duty it has been to preserve peace with the Indian tribes and protect the frontiers.

It was not until the second session of the Thirty-Ninth Congress that any well devised, practical plan was adopted which looked to the ultimate and final settlement of this important question. Having become satisfied that some decisive step must be taken by the Government to put an end to the murderous warfare that was going on upon our western frontiers, and stop the monstrous drain upon the Treasury of the nation which this war produced, Congress appointed a commission and charged it with the important duty of proceeding to the Indian country to ascertain the cause, and, if possible, put an end to these disturbances. This commission was composed of Generals Sherman, Harney, and Terry, Senator HENDERSON, Commissioner Taylor, General Sanborn, and Colonel Tappan.

In accordance with their instructions these commissioners proceeded to the Indian country—visited most of the hostile tribes—held frequent and protracted councils with their most influential chiefs and head men, and discovered (just what every intelligent frontiersman knew before) that the war was waged by the Indians in consequence of the invasion of their country by the white man. There is nothing new or strange in this. It is the old conflict renewed. The inevitable result of the juxtaposition of dissimilar races, with a determined effort on the part of the stronger to overpower and destroy the weaker. The result will be, as it ever has been, the triumph of the superior and the extermination of the inferior race if they remain together. All or nearly all of our Indian troubles have resulted from the invasion of their country by the whites, and there will be no permanent peace until the two races are separated or until one of them is exterminated.

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Indian Affairs—Mr. Burleigh.

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American enterprise first led our people around Cape Horn to the golden shores of California. They soon made up their minds that a shorter route must be found, and they crossed the Isthmus of Darien; but twenty days' time was of too much value to be lost and they demanded a railroad from the Atlantic to the Pacific.

To-day, sir, there are seventy-five thousand Indians roaming over the plains of the West between the Missouri river and the Rocky mountains in search of food and clothing. These are the Indians with whom our frontier settlers and miners have come in contact. It is through the country which they occupy, and which their ancestors occupied from time immemorial; it is through these plains, over these mountains that your two great railroads to the Pacific are now being so rapidly constructed. Thoroughfares of greatest national importance, the creations of American enterprise, surpassing in permanency of character and rapidity of construction anything which the world has heretofore witnessed; and when completed, will have cost the Government more than one hundred million dollars, and will be very cheap at that. It is over this country that all of the mighty commerce of the plains is carried on; it is through this country that tens of thousands of our citizens are daily passing and repassing to and from the mountains, the mountain cities, and the Pacific. But one year ago where now stands the beautiful city of Cheyenne there were encamped several thousand hostile Indians. Not a white man had a shelter there. To-day that "magic city" can boast of an intelligent, enterprising population of more than six thousand souls, with its schools, churches, hospitals, three daily papers, to say nothing of its weekly, commercial, agricultural, and religious publications. What is true of Cheyenne to-day will in a few short months be equally true of a dozen other cities between that point and Salt Lake.

Now, sir, this commission, composed as it is of upright, faithful men, having no other desire than to meet and settle this question, found the strong columns of western emigration forcing their way into the heart of the Indian country. The Indians resisted their advance, hence the conflict which followed. The commissioners became satisfied that it was impossible to secure a permanent, lasting peace with these people so long as they remained in contact with our own, each contending for the occupation of the country. The white man's foot had trodden the soil, his strong hand had already grasped the prize, and he would not relax his hold. This was the condition of things when they first visited these tribes and commenced their work of pacification. Having surveyed the field thoroughly and satisfied themselves of the true condition of things, the commissioners could discover no other practical plan for a final settlement of our Indian troubles but to remove them from the line of these roads and the mining districts of the country, and locate them upon reservations remote from these points, where they are to remain by themselves unmolested by our people. They next proceeded to negotiate treaties with all of these tribes, by the terms of which the Indians agree to abandon the whole middle belt of the country, cease their warfare upon our people, and go and remain upon the reservations which the Government should set apart for them, and there adopt the habits of civilized life. These treaties also provide that the United States shall aid the Indians by feeding and clothing them, provide them with cattle and agricultural implements, and give them such assistance as they need while in the transition state from savage to civilized life.

Mr. Speaker, a great deal has been said for and against the operations of this peace commission; but I tell you, sir, that from my knowledge of these Indians, and a pretty thorough

acquaintance with the plan adopted and carried out by the commissioners, that it is, in my judgment, the only one that promises a full and final adjustment of these difficulties. We have but the alternative to sustain their labors, abandon the country, or wage and prosecute a war of extermination against these people. This latter course cannot for a moment be thought of. The wrath of Divine justice would be poured out upon us as a nation if we determined upon an act so wicked. The civilization of the age would not tolerate it, while the sensibilities of the Christian world would revolt at such a thought.

But, aside from the moral question, it would bankrupt the national Treasury to maintain upon the plains and in the mountains of the West a hundred regiments of mounted men for the space of five years. I am confident that the work of extermination, or even the subjugation of these tribes by military force would require a much larger force and greater length of time than I have named. I am not unmindful of the fact that the adoption of the plan which has been inaugurated by the peace commission will largely increase the appropriations needed for our Indian service. Some may regard it as extravagant; but so far from this, so far from squandering the public moneys, I am confident that if it is carried out promptly and in good faith by the Government, it will be found one of the wisest and most economical measures which has received the consideration of this Congress. That the early appropriation of \$2,000,000 to enable the peace commission to go forward and complete the great work which they have so successfully begun, will save to the national Treasury \$20,000,000 a year, I have no more doubt than I have of my own existence, to say nothing of the suffering that will be prevented and the hundreds of human lives that will be saved to society and friends.

It is for the protection of life and property in the West against the hostility of these Indians, and for no other purpose, that we are to-day maintaining in that part of the country an army of about sixteen thousand men, at a yearly cost of \$24,000,000.

If these Indians were removed and located in other parts, as the commissioners recommend, you can then without danger disband this army and save these millions to the Treasury. I do not wish to be understood as finding fault with either the character or management of our military authorities either here or in the West. I believe they discharge their duties with the utmost ability and fidelity. I know General Augur, who commands the department of the Platte, which embraces a very large tract of Indian country. I know him well, and I do not believe that a purer patriot, a braver soldier, a more honest, upright man can be found in either public or private life.

As for General Terry, who commands the department of Dakota, where I reside, I will only say that he needs no applause or commendation from me. The transactions of his whole past life, both civil and military, have made for him a history of which any citizen or soldier might well feel proud. I might go on and pay a merited tribute to the patriotism and fidelity of many other officers in that country, but this is not the object of my remarks. What I desire is to let this House and the country understand that I object to continuing the miserable line of policy which the Government has heretofore pursued in its abortive efforts at settling our Indian difficulties—a line of policy which has been persisted in year after year without having accomplished a single useful, practical, desirable result.

Perhaps it may be thought by some gentlemen here that I have overstated the number of troops and the cost of keeping up our frontier military establishment in the Indian country. To such I will say that I am far below the actual mark: I have in my remarks confined

myself to the military posts in the vicinity of the two Pacific railroads.

The response of the Secretary of War to a resolution of the House, of recent date, shows the force now actually employed along the line of these two roads east of Salt Lake to be—

Companies.....	181
Commissioned officers.....	607
Enlisted men.....	15,070
Total.....	15,858

The cost to the Government of maintaining this force in that remote country will not fall one dollar short of \$24,000,000 a year.

Now, sir, this Indian question is the one which this Congress is called upon to meet and settle at this time. It must be met and settled now, or we shall have another Indian war before the close of this year—a war which will involve the whole extent of our frontiers from the British lines to the Gulf of Mexico, more savage in its character, more disastrous in its consequences, more costly in its prosecution, than any which has ever preceded it. They will take possession of your great overland lines of travel; tear up and destroy your Pacific railroads, drive in the frontier settlements, and entail upon the Federal Government an expense which can hardly be estimated. In fact, sir, I should not be surprised at any moment to hear that the conflict had begun. These treaties, which were concluded many months ago, are not yet ratified by the Senate. The means have not been placed at the disposal of the commission to enable them to redeem their pledges made to this people.

Less than eight weeks ago General Augur stated to me that if the treaties which the peace commissioners had concluded with the Indians of the Platte were not promptly fulfilled on the part of the Government we should again become involved in war with those tribes, and that he could not protect the line of the Union Pacific road alone with forty thousand troops.

General Sherman has written these things time and again. He has laid before the Government his views upon this subject, which are the result of close personal observation, and warned you, gentlemen, of the coming storm unless these Indians are removed and our treaties with them are carried out in good faith. If after having made these solemn treaties, and waited month after month for their fulfillment, suffering as they now are, these Indians again make war upon the inhabitants of the West, the guilt will attach to you who hold the purse-strings of the nation, and not to this commission, who have done their duty so well, nor to the Indians, who have trusted to the promises of your delegated agents; every one of which was made in good faith, but failed on your account. Our people have taken forcible possession of their country. We have driven off their game and reduced them to the very verge of starvation; yet, sir, by way of recompense, we have done nothing to teach them the arts of civilization.

As a people we have trodden them under our feet; we have robbed them of their birthright; and I say to you here that if this Congress adjourns without making an appropriation large enough to enable the peace commissioners to redeem the pledges which they have made these Indians, and by which our Government is in honor bound, these tribes will be forced to either rob and plunder our people or starve like dogs. The cravings for food when starvation stares its victim in the face have proven too strong for the moral sensibilities of civilized man, to say nothing of the savage. Already this commission has saved \$10,000,000 to the Treasury, as will be seen by examining General Grant's estimate for the support of the Army for the present fiscal year. Its members have visited these hostile tribes in person. They have assured them that if they would

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cease hostilities toward our citizens the Government, by whose authority they were acting, would make liberal treaties and fulfill them to the letter. Generals Sherman and Harney, as did the other commissioners, gave their personal assurances to the Indians that these things should be done; and, sir, Congress cannot with any degree of propriety adjourn without appropriating this money. To do so would be an insult to these commissioners and disgrace this body.

The old stereotype plea, that "If the money is appropriated it will be stolen," will not answer here. The brave Lieutenant General who, upon a hundred battle-fields, has bared his breast to the iron hail of death for his country's sake, who has directed the expenditure of untold millions of the public treasure, is not the man to countenance anything of the kind; and I venture the assertion that the individual does not live who dare approach either Harney or Terry with a proposition that savors of corruption. It would require stronger evidence than I have ever yet heard to satisfy me that a single dollar of the money which was placed in the hands of this commission has either been squandered or misapplied, or that either of its members would be guilty of such an act.

Now, sir, I have to say in conclusion, that justice to these Indians, economy in administering the affairs of the Government, security to the lives and property of our citizens, the growth and prosperity of the great West, all demand the settlement of our Indian difficulties; and to this end I ask that our treaty stipulations with these tribes be carried out in good faith, and that the necessary amount of money for this purpose be at once appropriated.

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SPEECH OF HON. JOHN COVODE,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

July 24, 1868,

On the bill to provide for the more speedy reorganization of the States of Virginia, Mississippi, and Texas, and for other purposes.

Mr. COVODE. Mr. Speaker, having no ambition higher than that of a practical and useful legislator, I have not sought to obtrude my opinions upon the attention of the House concerning the many grave and important questions which have excited such deep and pervading public interest during this session. Still, I have followed them with earnest anxiety in all the varying and stirring phases through which they have passed, and my recorded votes during a long period of struggle and difficulty between the Executive on the one side, sustained by all the powers and patronage which he controls, and the people's representatives on the other, must speak for me in the place of professions, which are easily made and as readily forgotten. Our acts are more enduring than our words, and in referring to my votes I have the consciousness at least of having endeavored to do right, and am willing to confront all the responsibility which they involve.

The people whom I have the honor to represent have large material interests, the prosperity of which greatly depends upon the wise and fostering legislation of Congress. They seek no undue privileges, and desire no unreasonable protection. All that they ask is that their honest labor shall not be reduced by a false and pernicious policy to the level of the pauper labor of Europe, with its ignorance, poverty, and degradation. They believe, as I do, that the encouragement of our home industry is the true path to national greatness, the best bond of real union, and the only certain means of restoring the national credit. Entertaining these convictions, my best efforts have been exerted to promote a policy which would give

them a practical effect and carry out in detail the benefits which that policy is intended to secure to American labor.

Various causes which are well understood by the country have prevented Congress from perfecting such a tariff bill as the friends of protection desire and intend to pass. But much progress has been made in shaping the measure, which will be brought forward in December next, and under circumstances far more advantageous than now exists. In this connection it may be stated that my personal endeavors before the proper committee were successfully employed in retaining the existing rate of duty on coal against a powerful effort made to reduce it. And in the new bill reported to the House the duty on salt has been so raised as to benefit that interest considerably.

Without adequate protection the laboring man who earns his bread by the sweat of his brow cannot be fairly rewarded for his toil. The cost of living and the prices of provisions have increased in a greater ratio than the wages of labor, consequently the miner, the coal-heaver, and the working masses generally have the greatest stake in the tariff.

And while upon this subject it is proper for me to call the attention of the House and of the country to a new combination that is now being formed to revive the reciprocity treaty with the British Provinces, which we succeeded in extinguishing not many years ago. If that scheme should succeed it would work immense injury to our laboring classes. The effect of such a treaty would be to admit the products of the low-priced labor of the British colonies into direct competition with our own better rewarded and superior labor, and to compel it to submit to the conditions of a system repulsive to every American instinct, or to remain idle.

For example, coal is now protected by a duty of \$1 25 per ton in gold, which experience shows to be absolutely necessary to sustain the trade and to furnish the miners with fair wages. Reciprocity, as it is called, would destroy that interest or so cripple it as to involve the ultimate ruin of all enterprise in mining operations, by which thousands of families would be involved in poverty and distress. Lumber and agricultural products would also suffer in a corresponding degree. If we are to return to specie payments and to resume what may be called the normal condition of peace, it is absolutely necessary to reduce the extravagance and to lop off the excrescences which have grown out of the war. A disturbed condition of things, naturally incident to the close of so mighty a struggle as that through which the country recently passed, has withdrawn attention from those practical and economical questions that are so important in adjusting the operations of Government and its relations to the industry and enterprise of the people. The time has come when they must be considered, if we would preserve our credits and avoid the danger of bankruptcy.

The first step in this direction is to reduce the public expenditures to the actual wants of the Government, fairly and even liberally administered. Let us retrench, not in a narrow or niggardly spirit, but by striking off what is not really needed in the Army, the Navy, the Indian department, and the civil service. It is competent to reduce at least \$50,000,000 a year in these different branches, which of itself would pay the interest on one third of our whole national debt, and thus diminish taxation to that extent.

The next step is to so modify and improve the tariff as that our home industry may be better encouraged and protected, and that excessive importations may be checked. Under the present system the day of specie payments is indefinitely adjourned and the hope of it is rendered both distant and dismal. Let us take a few startling facts to guide our conclusions

in this matter. The official return of importations for the eleven months ending May 31, 1868, amounted to \$223,241,447. Our exports for the same period summed up \$163,249,520. By deducting the one from the other it will be found that there was a balance of trade against us in these figures of some sixty million dollars in round numbers. And the Treasury reports show that we actually exported \$64,486,258 in gold to pay the difference during the past eleven months, thus exceeding by \$20,000,000 the export in a previous period. Thus it is seen that we are daily draining the country of those precious metals which ought to form the reserve for resuming specie payments by importations that are destroying our own industry and enriching the manufacturers of Europe. It may be safely assumed that every dollar of the \$75,000,000 of gold and silver produced in the United States goes abroad to pay for the extravagance and folly of our present ruinous system, to say nothing of the gold interest-bearing bonds which are constantly flowing in the same direction, and which are now held abroad to the extent of \$700,000,000! This vast leak must be stopped or it will involve us in discredit and financial revulsion. No nation can continue to expend its resources without augmenting its production and expect to escape bankruptcy. The road to ruin is certain unless we produce what we need and save our capital to extinguish an oppressive debt. We are now burning the candle at both ends, and must soon expect to be without light. Last year we bought sixty-five millions more than our income allowed or our production could pay for, and in order to make the difference good we took that amount from our gold capital which should have been applied to the development of enterprise at home or to the reduction of the public burdens.

Our expenses are far greater than is consistent with the simplicity of republican institutions or with duty to ourselves, in view of the enormous debt and obligations which the rebellion entailed upon the nation. But they have been vastly augmented by the culpable misconduct of the Administration. Instead of seeking to retrench, and to economize, they have striven apparently to squander the revenues, and to consume the taxes, by the most willful and wanton system of prodigality. I will barely glance at a few examples of this deliberate wastefulness, for which no color of excuse can be found. The expenses of the Navy Department are not only extravagant, but they are wholly indefensible for a time of peace, and particularly so in view of the financial condition of the country. And this responsibility belongs entirely to the head of that Department. During the civil war, when rebel cruisers, built in England and France, were roaming the seas and destroying our commerce, that officer failed to furnish ships for the protection of that great interest, and the American flag was almost swept from the ocean. The diplomatic correspondence reveals the most culpable neglect and inefficiency in this respect, and when, finally, in answer to the urgent appeals of our ministers abroad, a few vessels were detailed for that service, they were not only unsuited to the duty, but no system was adopted by which their imperfect qualities might be made useful. Thus we had to struggle through the war.

But when peace came and when every dictate of prudence counseled retrenchment, what course did the Secretary of the Navy pursue? One of his first acts was to fit out a magnificent squadron for Europe, consisting of seven or eight ships, without the least necessity whatever. That squadron has been parading through the waters of Europe for now nearly three years, mainly on cruises of pleasure and at vast expense, every dollar of which might be saved by its recall. We did without it in war, and we can certainly dispense with it in peace. Our ministers and consuls, if they

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do half their duty, can give all necessary protection to commerce, and two steamers of ordinary size would make whatever patrol may be required. If other ships should by any emergency be needed they may be summoned by the Atlantic telegraph. The cable has materially changed the naval service on foreign stations, and we ought to profit by the new state of things.

But in addition to this large and prodigal outlay for the European squadron it is of public notoriety that the expenses have been shamefully augmented by a costly favoritism, practiced with the knowledge, if not with the privy, of the Secretary of the Navy and his subordinates. The headquarters of the squadron for Europe and Africa are at Lisbon, and numerous officers who have returned home bear witness to the fact that nearly all the coals and other supplies, instead of being purchased in open market and of regular dealers, as heretofore has been the practice, and, indeed, the duty prescribed to the paymasters, are now bought through a middle-man, who is an unscrupulous speculator, a native of Morocco, and a pet of the Department, at large advances. It can be established by the most positive proof that this adventurer, whom the Department has taken up with a full knowledge of his bad antecedents, received within the last two months four or five shillings a ton above the market price for furnishing the vessels of Admiral Farragut's squadron with coals. Contracts were made with him here in Washington without any regard to the fluctuation of prices abroad, so that while the very best coals were selling in the Tagus at twenty-two and twenty-three shillings per ton this favorite was obtaining twenty-six and twenty-seven shillings. These facts cannot be disputed, and I challenge inquiry into the subject. Another fact is worthy of mention in the same connection. The United States steamer Shamrock recently required to be calked and repaired. Instead of employing the regular workmen of Lisbon, who are among the most famous in the world for that particular branch of industry, this speculator was given the job, who employed incompetent mechanics and slighted the work, so that the ship had to put back and incur the expense of being refitted. The lives of the officers and crew and the safety of the ship were thus risked to serve a selfish interest.

But what renders this case still more glaring, outrageous, and offensive is the fact that this man was nothing but an adventurer two years ago, engaged in no respectable business, and was the keeper of a notorious drinking saloon. The Navy Department took him up and made him a favored contractor. He was employed by the late rebel agents to sell their coal to our Government, and it can be proved beyond controversy that a large supply of coals, procured for the use of rebel cruisers and blockade-runners, to destroy American commerce, was actually sold to our ships of war at a large advance upon the market price through this intermediary. The Navy Department was informed of this outrage by its own officers, and instead of investigating and correcting the fraud it encouraged the rascality. Let Mr. Welles deny it if he dare. Let him ask inquiry if he be honest. If the supplies for the European squadron were purchased in open market there would be twenty-five per cent. saved to the Government; but there is a venal "ring" established on the other side, corresponding to some here, and my belief is that the spoils are divided between those who make these contracts in Washington and those who receive the favors in Lisbon. We want no such squadron in Europe. It is a barefaced waste of millions. Recall the ships, arrange our finances, and when we are able to pay our debts let these cruises be resumed if they are needed. The same remarks apply to all other squadrons. They are all daughters of the same horse-leech, and cry for "More, more."

Enormous frauds have been systematically perpetrated in the Indian Bureau by collusion between the employes inside and the contractors and plunderers outside, forming together an organized "ring" to rob the poor Indians of their annuities and to steal the provision generously made by the Government for their support. We have endeavored to break up this infamous combination by directing the appropriations to be paid through the supervision of Lieutenant General Sherman. But in order to introduce effective retrenchment in this branch of the public service we must encourage friendly relations with the different tribes, settle them permanently where they can support themselves by industry and receive the benefits of civilization. Peace is cheaper than war, even if there was no moral consideration to induce the preference of one over the other. We are now keeping up a force on the plains equal to our whole Army before the rebellion, and at a cost of nearly twenty-five million dollars a year. Interested parties, contractors, jobbers, and the host of plunderers who profit by war are inciting the Indians to strife, and there is great danger, unless the wise measures of the peace commission are carried out, that a wide-spread outbreak of the western tribes may occur, which will add tens of millions to the debt, and necessarily to the burdens of the tax-payer.

The time has arrived when the regular Army must be reduced to the peace footing, and the multitude of unnecessary officers be lopped off. They should bear their part of the load like the rest of us, since as citizens they enjoy the same benefits. Seven of the States that engaged in the rebellion have been reconstructed, and are now represented in Congress with all the rights of other members of the Union. We have stood by them through all the trying ordeal of the last three years. We have sustained their hopes, relieved their wants, contributed to their necessities, and removed their political disabilities when it could be done with safety. The Army has been maintained until now, so that these people should not be exposed to the violence of unrepentant rebels. Let us get back to the ways of peace, and to the economy of peace. Standing armies devour the substance of any country that attempts to support them, and are besides a standing menace to the liberties of the people. Let us get rid of ours by a radical reduction, which will save twenty or thirty millions a year.

It is known to every member of the House that I have been most anxious to reduce in every possible way the expenses of the Government, and by that means to diminish the burdens of taxation. We have already cut down the taxes in many essential respects, and have prepared the way for a still further reduction. The corruptions which have grown into such formidable proportions of late years are among the most serious obstacles to an economical and honest administration of the Government. It is not unknown to the country that I have turned much attention to this subject, and have had occasion to expose the profligacy of that party which now seeks to regain power by these same bad agencies. During the present session the committee of which I have the honor to be chairman has succeeded, with the support of Congress, in arresting various projected frauds upon the Treasury, by which hundreds of thousands of dollars were saved. And we have brought to light the outrageous manner in which contracts have been habitually let to the highest bidder instead of the lowest, because the contractor paid more money to the immediate friend of the head of the Department than the other bidders. This venal practice was illustrated in the case of the proposed jail for this city, the fraudulent contract for which was recently annulled by Congress upon my representation.

The unanimity by which a bill has just passed both Houses, vitiating a contract made by the

Secretary of the Interior for a large supply of stationery, because it was far higher than the proposals of other bidders, and which was doubtless procured through the same influences that prevailed in the jail job—influences that figured largely in the New York convention in the double capacity of manager and candidate—gives encouragement that Congress will not tolerate in the future any of these corrupt combinations, whether they be sustained by high officers of the Government or engineered by their favorite tools.

A sense of duty, as well as a principle of retrenchment, compelled me from the outset to oppose the proposition to increase the pay of the employes in the public Departments twenty per cent. They are now receiving more than double the average price paid for the same number of hours of service in other occupations, the cost of which falls upon my constituents and others like them, who are more than sufficiently burdened already. This is not the appropriate time for raising salaries. On the contrary we ought to lower them wherever it be practicable, and I am quite ready to practice what I profess by commencing with our own pay. Let us prove our sincerity by divesting it of every suspicion of selfishness.

The issues placed before the country by the Chicago and New York conventions are not essentially different from those between Lincoln and McClellan in 1864. The two parties joined issue on the question whether the attempt to carry on the war for the preservation of the Union had or had not been a failure; whether it were wise to abandon it by electing McClellan, or preserve it by electing Lincoln. The masses of the people attached themselves to the patriotic side by electing Mr. Lincoln, which ended the contest in the field. The work of reconstruction was then undertaken by Congress, who soon found themselves confronted by the appalling fact that the man on whom, after the assassination of President Lincoln, devolved the duty of carrying out the laws of Congress, had allied himself with the party which only the fall previously had sought to terminate the contest by a separation or a surrender. And ever since the spring of 1865 the Republican party has had to carry on its work of reconstruction in the face of the most violent and dangerous opposition from the President of the United States, with whom the Democratic party was in entire sympathy. The vast executive power of the nation was all against us; the patronage of the Government, except as it has been curbed by the laws of Congress passed over presidential vetoes, has been exercised in aid of our enemies; all possible aid and comfort have been given to the rebellious element of the South in their resistance to the congressional policy of reconstruction; the finances of the country have been kept from settlement by discord between the several departments of the Government, and by the persistence of the President in keeping bad officers and ousting good ones; the General of the Army has been quarreled with, and a purpose has been manifested to lend military assistance to the attempt to establish the old rebel governments in the South; and, finally, in every possible way, and with too great a degree of success, the party which tried to stop the war in 1864 has tried to stop the work of peace and restoration from 1865 to 1868.

But they have signally failed, and the old oligarchy that so long ruled the Democratic party while it was in power has been routed in its strongest fortresses, and now while on its ruins have arisen free ballots, free education, a free press and free speech, what object can any patriot have to turn backward and regenerate that social and political power that can breed only disorder and war?

The approach of the election, however, brings us again face to face with the oligarchy, which seeks now not only to perpetuate the discords of the last four years by continuing

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the contest between the Executive and Congress, but openly avows its purpose to break up and utterly destroy the new order of things at the South, and to restore under the name of a white man's government the rule of the dangerous oligarchy which has already been so fatal to our prosperity and our good name. The declaration of the Democratic candidate for Vice President, General Blair, in his letter of July 3d, that "there is but one way to restore the Government and the Constitution, and that is for the President-elect to declare these acts null and void, compel the Army to undo its usurpations at the South, disperse the carpet-bag State governments, allow the white people to reorganize their own governments and elect Senators and Representatives;" and that "we must have a President who will execute the will of the people by trampling into dust the usurpations of Congress known as the reconstruction acts," is nothing more than the equally mischievous declaration of the platform just adopted by the New York convention, which pronounces the reconstruction acts "a usurpation, and unconstitutional, revolutionary, and void."

Horatio Seymour, more cautious than Blair, did not brave the bullets of his "friends" in the South, but while they were wrestling with our boys in blue at Gettysburg he inaugurated a riot in New York city, and the unwashed rebels, whom he addressed as "my friends," murdered near a thousand people and burnt \$4,000,000 worth of property. Blair went to the front, but returned learning nothing, and forgetting nothing he offers his neck a willing victim for the yoke of the oligarchy, and seeks to become the leader in inaugurating a reign of terror in the southern States.

Partisan Vindictiveness.

SPEECH OF HON. L. S. TRIMBLE,

OF KENTUCKY,

IN THE HOUSE OF REPRESENTATIVES,

July 21, 1868,

The House being in Committee of the Whole on the state of the Union.

MR. TRIMBLE, of Kentucky. Mr. Chairman, we have witnessed, under the policy of our fathers, with a written Constitution as the guide for rulers and people in war and in peace, the rise and progress of a prosperous, great, and mighty people, with light and nominal taxation, which were fairly and equally imposed, with freedom from official meddling that made us the envy and admiration of the world. Sad and painful as it may be, oh, how terrible the change; for seven long, dreary years we have had war, strife, bloodshed, tyranny, and usurpation, led on by the policy of hate, the reward of which we are now reaping in unequal and oppressive taxes, grinding the very life out of the toiling millions who must continue to be the shield and protection of the Constitution and liberties of the people in the future as they have been in the past. The war has ended. More than three years ago the last confederate stacked his arms and gave a solemn pledge to the Constitution and for peace, which unwilling promise they have religiously observed. But peace has not returned. The flag of our Union was triumphant, but the Union is not restored. Our land is filled with widows and orphans; with mourning and distress. But anger, malice, and revenge are not softened, but revel in high carnival over forgiveness, mercy, and justice.

We hear much of congressional reconstruction. Congress alone stands in the way of a restored Union. They are entitled to the credit of dissolving the Union, blotting out ten States, erasing ten stars from that flag, establishing tyranny and despotism, denying the trial by jury, abolishing the writ of *habeas corpus*, suppressing free speech and free press, degrading

white men upon the ruins of republican States, establishing despotic negro commonwealths. Was it for this our brothers suffered and died upon the battle-field? Was it for this fathers and mothers offered up their sons? No, sir. No, sir. Was the war waged to destroy the States, to make rulers of ignorant and degraded negroes, or was it carried on by the Government, as you solemnly declared, for the avowed purpose of maintaining the Union, and preventing disunion, to preserve the national authority throughout the entire country, to enforce obedience on the part of the revolted States to the Constitution and the laws passed in pursuance thereof? It was so declared in the celebrated Crittenden resolutions; it was declared by Congress, again and again; it was so declared by President Lincoln and Secretary Seward; it was expressly declared and reiterated by every speaker in the land who advocated the war, that the sole purpose and object of the war was to maintain the Union, not to dissolve and break it up, and by it to crucify the States and State constitutions. Without that declared purpose, I do not believe the support that was given to it could have been wielded in the manner that it was. Had the present purposes then been avowed as now, the State that I now in part represent, instead of furnishing seventy thousand men for the war, would have furnished one hundred and fifty thousand against it, for the Constitution and Union of our fathers.

If you desire peace, liberty, and a restored Union, unroll the Constitution; let it be read and obeyed by all men. You have sworn to support it; observe your oaths, give force and efficacy to its glorious guarantees, by yielding to the Executive the exercise of his high constitutional prerogatives. To that august tribunal, the Supreme Court, the power to shield and protect the weak and the innocent from the invasion of their constitutional and inalienable rights. Give that instrument a strict construction. For by the Constitution certain duties were imposed upon the several States, and the exercise of certain of their powers was restrained, which implied their continued existence as States. But to remove all doubt, an amendment was added which declared that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people. The reserved rights of the States are treated by this Congress as nullities, not worth the paper on which they were written. I have ever believed, and sincerely believe to-day, that the only way or hope to save this Union and preserve the life of the Government will be to preserve inviolate the Constitution. Tell me not that you can preserve my life after you have torn out my heart. It is idle to talk of preserving this Government by overthrowing her Constitution.

Under no circumstances conceivable by the human mind have I, or would I, ever consent to violate that Constitution for any purpose. I will cling to it as the last hope of freedom, as the bond of unity in the past, as the only practical bond of union in the future; the only land lifted above the waters to which the ark of the Union can be moored. From that ark alone will go out the dove which shall return, bringing the olive branch of peace, and with it all the guarantees of constitutional liberty. The people of the State that I have the honor in part to represent are for peace, for the Constitution and laws passed in pursuance thereof, as understood by our fathers and practiced by them. If this be a crime then have I offended. Why pursue and keep up the strife of the late terrible war. Let us act like patriots and statesmen; let by-gones be by-gones; let us act for the living with charity to all and malice to none upon living issues, issues upon which we are to be saved or lost as a nation. I entreat you to pause in your career of madness and folly, of unequal and unconstitutional legisla-

tion. Repeal your Freedmen's Bureau bill, your civil rights bill, your reconstruction acts, your tenure-of-office bill, your odious test-oaths. Grant a general amnesty. Make good your Crittenden resolutions. Declare to the South and the world that this is a republican Government in the true sense of that much abused term; that we derive our just powers from the consent of the governed.

Under our Constitution the powers of Government naturally assume a threefold form, legislative, executive, and judicial. A united and free Government can be organized only on the principle of separating those powers and assigning each class to a different and coördinate magistracy. Their union, however effected, and whether in one or a body of men, has been given by English as well as American statesmen to be the definition of a despotism. This partition has been made and guarded with jealous care by our Constitution. The legislative power has been vested wholly in Congress, the executive in the President, except the Senate shares with him the power to make treaties; the entire judicial power is vested in the courts, with the special designation of the Senate to try all impeachments. Neither Department has any authority to control or interfere with another in the performance of its functions. But the independent action of each was designed to check the abuse of power by the others. Let us faithfully adhere to these great fundamental principles, if need be with all the tenacity of life itself.

In defiance of these great principles citizens have been arrested without cause, without warrant, have languished and died in bastiles without trial, and in many instances, as I can testify, have never known what offenses were imputed to them. Congress has passed a law to take away from the citizen the appeal to the courts in cases touching their dearest rights. In ten States military power tramples the judiciary under foot. While you arraign the President for observing the Constitution you should be admonished the free white people of this great country are arraigning and impeaching Congress.

Sir, the people demand your impeachment and conviction upon the following articles, that you cannot deny, because they are true.

Sir, they can and will make a law unto themselves at the ballot-box. I read from the Democratic platform at New York, which I pray you heed, as follows:

"In demanding these measures and reforms we arraign the Radical party for its disregard of right and the unparalleled oppression and tyranny which have marked its career, after the most solemn and unanimous pledge of both Houses of Congress to prosecute the war exclusively for the maintenance of the Government, and the preservation of the Union and the Constitution.

"It has most repeatedly violated that most sacred pledge under which was rallied that noble volunteer army which carried our flag to victory. Instead of restoring the Union, it has, so far as in its power, dissolved it, and subjected ten States in times of profound peace to military despotism and negro supremacy.

"It has nullified the right of trial by jury.

"It has abolished the writ of *habeas corpus*, that most sacred writ of liberty.

"It has overthrown the freedom of speech and the press.

"It has substituted arbitrary seizures and arrests, and military trials and secret star-chamber inquisitions for constitutional tribunals.

"It has disregarded in time of peace the right of the people to be free from searches and seizures.

"It has entered the post and telegraph offices, and even the private rooms of individuals and seized their private papers and letters without any specification or notice of affidavit, as required by the organic law.

"It has converted the American Capitol into a bastille.

"It has established a system of spies and official espionage to which no constitutional monarchy of Europe would dare resort.

"It has abolished the right of appeal on important constitutional questions to the supreme judicial tribunals, and threatens to curtail or destroy its original jurisdiction, which is irrevocably vested by the Constitution, while the learned Chief Justice has been subjected to great and atrocious calumnies merely because he would not prostitute his high office to the support of the false and partisan charges preferred against the President.

"Its corruption and extravagance have exceeded anything known in history, and by its frauds and monopolies it has near doubled the burden of the debt created during the war.

"It has stripped the President of his constitutional power of appointment, even of his own Cabinet. "Under its repeated assaults the pillars of the Government are rocking on their base, and should it succeed in November next and inaugurate its President we will meet it as a subjugated and conquered people, amid the ruins of liberty and the scattered fragments of the Constitution."

While we have sat here, behold the spectacle witnessed in the other end of the Capitol. The majority of this House drag the Chief Magistrate of our country, who has been stripped of rightful power and manacled with degrading restraints, before a tribunal (if the majority here are to be believed) who had already prejudged his case before the charges against him were framed. What are these charges? He dares to do his duty to his country and his oath of office, to defend, preserve, and protect the Constitution of the United States, as he understood it. For trying to do this according to his conscience he is impeached. If the Executive may not appeal to the courts; if he may not at all times by speech or writing warn the people of the dangers which environ their rights and liberties, what protection is left to the humble citizen? This great trial has ended, be it said to the honor of the Senate, in the acquittal of Andrew Johnson, thus saving the country from humiliation and disgrace. May I not admonish you in all sincerity and kindness, that no brave or free people did or ever will submit long to such tyranny and usurpations and galling despotisms with such onerous taxes as are now being imposed by a minority of the whole people? We are all virtually slaves without proper representation. Our forefathers fought for representation. They established the principle by the offering of their lives and their blood that representation and taxation should go together. Is that principle less dearer to American free-men to-day? No, sir; it will continue to glow and burn until again enshrined in the hearts of every true American in the land, and woe to the man or party that stands in the way of this inalienable right. While the majority her deny to my native State, Kentucky her rightful Representatives on this floor, I trust that gallant people will never surrender that right to the dictation of a partisan Congress. But, if need be, assert it with the offering of their lives, their fortunes, and sacred honor. Who that realizes the moral accountability of nations can doubt that we have fallen upon evil days? In this great crisis, oh that some great and good voice that never counseled aught to dishonor or injure this Union would rise as if from the grave and expose the specious pretexts on which a further prosecution of this war is now being waged upon a brave and vanquished people.

May I not exclaim, "Save us from the awful consequences of our own passions, malignity, and crimes!" It was an axiom of the old Roman Senate that "Rome could not triumph over herself." She did. May we not beware? As said by me on a former occasion in this House—

"I am frank to say I do not believe that the people who, for four long years, held at bay, and often drove back, nearly one million Federal troops, can be reduced to subjection (by unconstitutional laws) and the negroes established as the dominant race. If so, they have degenerated from their noble ancestors who drove back the British at King's mountain and upon the plains of New Orleans."

Nay, more. Will two million and a half of free white men, who are the peers of any in this land in every way, submit to the enslavement of nearly one half the country, the destruction of the executive department of the Government, and the emasculation of the Supreme Court, the last citadel of liberty? Sir, if you do not intend to have a Union under the Constitution upon terms of equality, you had better at once consent to dissolve the Union in peace rather than force it, as you are now doing, and will if you continue in power.

If it is not out of order I will earnestly invite the majority on this floor to their wasteful and profligate expenditure of the public money.

From tables now before me the entire expenditure of the Federal Government from March 4, 1789, to 1st of January, 1815, to the close of and including the last British war, exclusive of the public debt was \$172,697,779. Contrast this with the appropriations asked for by the Secretary of the Treasury for this year, as follows:

For the War Department, exclusive of bounties and pensions.....	\$95,000,000
For the Navy Department.....	35,000,000
For civil service.....	51,000,000

Add to this for bounties, pensions, contingencies, Freedmen's Bureau, reconstruction, &c., at least.....	100,000,000
Aggregate at least.....	\$232,000,000

for ordinary expenses of the Government.

For the present fiscal year, estimating our population at thirty millions, the people must be taxed about nine dollars and forty cents *per capita*, or about sixty dollars annually for each head of a family. I submit the following table showing the expenses of the General Government, exclusive of public debt, and the population shown by the census during each decennial year, from the foundation of the Government to the year 1868:

Year.	Expenses.	Population.	Rate per inhabitant.
1789-90 and 1791	\$1,919,589 52	3,929,827	\$0 48
1800.....	4,981,669 90	5,305,935	0 90
1810.....	5,311,082 28	7,239,814	0 73
1820.....	13,134,530 57	9,638,131	1 36
1830.....	13,229,533 33	12,866,020	1 03
1840.....	24,139,920 11	17,069,453	1 41
1850.....	37,165,990 09	23,191,876	1 60
1868.....	282,000,000 00	30,000,000	9 40

The foregoing shows that during Washington's administration the expenses of the Government amounted to but forty-eight cents *per capita*. In 1840, the last year of Van Buren's administration, to but \$1 41 *per capita*, and in 1850 but to \$1 60 *per capita*. They now, in a time of profound peace under Radical and negro rule, require of the people about nine dollars and forty cents *per capita*. The whole expenditures of the Government for the same service in 1860 (the last year of Mr. Buchanan's administration) were:

For civil list.....	\$6,077,000
For the War Department.....	16,563,000
For the Navy Department.....	11,514,000

Total.....\$34,154,000

Difference between the estimates for 1868 and actual expenditures for the same items in 1860.....\$147,846,000

Difference between the estimates for 1868, after adding bounties, pensions, contingencies, Freedmen's Bureau, reconstruction, \$100,000,000—which is a low estimate—making total for 1868.....\$282,000,000
Expenditures for same items under Buchanan, 1860.....34,154,000

Difference.....\$247,846,000

No small item to the tax-payer, including nothing for interest on the public debt, which is payable in gold, or the settlement of any of the just debts now repudiated by Congress and the Departments. There has been collected in the last three years from the people about sixteen hundred millions in the form of taxes without materially reducing the public debt or settling any of the outstanding debt. That Mr. DELANO, the chairman of the Committee of Claims of the Thirty-Ninth Congress, announces on the floor of this House, would bankrupt the country if allowed, and that they amounted to a sum as large as the present funded debt. It is a grave question how long the people can or will raise these enormous sums by taxation for the luxury of Radical and negro rule. While I have been a member of this House I have upon all occasions voted against these viola-

tions of the Constitution, and against all measures calculated to rob the people of their honest earnings. So help me God, I will never vote one cent to tax the people or their charred ruins in Kentucky to pay any of this monstrous debt except that incurred in vindication of the Constitution and laws passed in pursuance thereof.

The only remedy I can conceive for this and other monstrous evils will be found in the people of this great country once more rallying to the standard of the Constitution now sustained and borne aloft by those able, pure, and upright statesmen, Horatio Seymour and Francis P. Blair, who stand pledged to restore the Union and the Constitution with all their guarantees to each and every citizen, native and foreign born, in every State, in every district, in this great land, upon this platform of principles unanimously adopted at New York, a part of which I will read, as follows:

"1. Immediate restoration of all the States to their rights in the Union under the Constitution, and of civil government to the American people.

"2. Amnesty for all past political offenses, and the regulation of the elective franchise in the States by their citizens.

"3. Payment of the public debt of the United States as rapidly as practicable; all moneys drawn from the people by taxation, except so much as is requisite for the necessities of the Government, economically administered, being honestly applied to such payment, and where the obligations of the Government do not expressly state upon their face, or the law under which they were issued does not, provide that they shall be paid in coin, they ought, in right and in justice, to be paid in the lawful money of the United States.

"4. Equal taxation of every species of property according to its real value, including Government bonds and other public securities.

"5. One currency for the Government and the people, the laborer and the office-holder, the pensioner and the soldier, the producer and the bondholder.

"6. Economy in the administration of the Government; the reduction of the standing Army and Navy; the abolition of the Freedmen's Bureau and all political instrumentalities designed to secure negro supremacy; simplification of the system, and discontinuance of inquisitorial modes of assessing and collecting internal revenue, so that the burden of taxation may be equalized and lessened; the credit of the Government and the currency made good; the repeal of all enactments for enrolling the State militia into national forces in time of peace; and a tariff for revenue upon foreign imports, and such equal taxation under the internal revenue laws as will afford incidental protection to domestic manufactures, and as will, without impairing the revenue, impose the least burden upon and best promote and encourage the great industrial interests of the country.

"7. Reform of abuses in the Administration, the expulsion of corrupt men from office, the abrogation of useless offices; the restoration of rightful authority to, and the independence of, the executive and judicial departments of the Government; the subordination of the military to the civil power, to the end that the usurpations of Congress and the despotism of the sword may cease.

"8. Equal rights and protection for naturalized and native-born citizens at home and abroad, the assertion of American nationality which shall command the respect of foreign Powers and furnish an example and encouragement to people struggling for national integrity, constitutional liberty, and individual rights, and the maintenance of the rights of naturalized citizens against the absolute doctrine of immutable allegiance, and the claims of foreign Powers to punish them for alleged crime committed beyond their jurisdiction."

Upon this platform, so admirable in tone and so patriotic and national in sentiment, the great national Democratic party enters the momentous contest of 1868.

Who can doubt the result provided we have a free and fair election. This we intend to have. Sir, all of these outrages upon the rights of the people, diabolical and tyrannous as they have been, all vanish into insignificance when compared with this other infamous and monstrous crime of robbing a free people of their life long and inalienable right of suffrage by fraud or force. Sir, you may take my lands, my home, my idols, and almost everything dear to freemen, but, in God's name, leave me the right of suffrage, the last hope of liberty. With this as our shield the country may yet be saved. God grant the people may be prepared to meet this great crisis. I firmly believe they will meet it as becomes freemen worthy to be the descendants of our patriotic and revolutionary sires.

HO. OF REPS.

Purchase of Alaska—Mr. Miller.

40TH CONG....2D SESS.

Purchase of Alaska.

SPEECH OF HON. GEO. F. MILLER,
OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

July 14, 1868,

On the bill (H. R. No. 1096) making an appropriation to carry into effect the treaty with Russia of March 3, 1867.

Mr. MILLER. Mr. Chairman, the treaty between the United States and Russia for the purchase of Alaska, was signed in the city of Washington on the 30th of March, 1867, by Mr. Seward, Secretary of State, on the part of the United States, and Mr. Stoeckl, the Russian minister, on the part of Russia, ratified by the Senate on the 28th of May, and ratifications were exchanged and proclamation made thereof on the 20th of June, 1867, and we are told that a formal transfer of the territory was effected at Sitka, October 18, 1867, this House not being consulted upon the subject. This treaty proposes to transfer to the United States for the consideration of \$7,200,000 in gold, an area of country said to contain five hundred and seventy thousand square miles. It includes a margin of main land on the Pacific coast, in front of British America, thirty statute miles wide and three hundred miles long, extending from the forty-ninth parallel northward to Mount St. Elias. The coast line of the territory is said to be four thousand miles, and the peninsula of Alaska three hundred miles long, averaging thirty miles wide. The population of the said territory is estimated at seventy-five thousand, of which nine thousand are Russians, Creoles, Kodiaks, and Aleutes, and the remainder are Indians of different tribes.

Some of the gentlemen on this floor who have advocated the treaty have given a glowing description of the territory for agricultural purposes, lumbering, mining, &c. As for agriculture, it must be evident to every reflecting mind that a country of such high northern latitude would be of little account, and as to timber it is difficult to tell; if there should be any of value it is more than likely near the coast which seems to be mountainous; and as for minerals, it is principally conjecture. In fact, Mr. Chairman, little is known of that vast region of country, as it has not been traversed, in order to ascertain a description of it, even by the Russians who have so long held it, and that is no doubt owing to the danger and difficulty of exploring in such a severe climate and mountainous country. Though our Congressional Library is among the finest collections of books in the world nothing can be found in it giving anything like a satisfactory history of that territory, which goes to confirm the idea that it never has been fully traversed to ascertain the appearance of the country, and consequently as to the value of the territory little is known, and the description given on this floor can be but little more than conjecture. The only tangible advantage it might be to our Government would be in a commercial point of view by owning such an extensive coast.

I will consider, first, the power of the President with the advice and consent of the Senate to make the purchase, and, secondly, whether the concurrence of the House of Representatives is necessary to complete it, so as to make it binding. It is provided in the second section of the second article of the Constitution of the United States that the President shall have power, with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur. By giving this clause of the Constitution a strict construction it would be very doubtful whether it gave authority to make a purchase of foreign territory, and were it still an open question it might require serious consideration; but this

seems to have been settled by, I admit, a rather forced construction to permit the purchase of foreign territory, and that doctrine being acquiesced in by our country for more than half a century it ought to be considered as decided, and at this late day not to be questioned. Mr. Jefferson conceded the right to purchase foreign territory under a construction of the Constitution of the United States, but he puts it upon the ground of the necessity of the case; but, as I have already said, that right being so long acquiesced in must be deemed as settled.

Taking it for granted that after the purchase of Louisiana, Florida, and various other possessions, the authority will not be questioned, I proceed to consider for what a treaty may be set aside, and whether the concurrence of the House of Representatives is necessary to perfect it. A treaty is defined to be "a compact made with a view to the public welfare by the supreme power, either for perpetuity or for considerable time." (Vattel's Law of Nations, 192.) In the same book, page 193, it is laid down that—

"Since, in the formation of every treaty, the contracting parties must be vested with sufficient power for the purpose, a treaty pernicious to the State is null and not at all obligatory, as no conductor of a nation has the power to enter into engagements to do things that are capable of destroying the State for whose safety the government is intrusted to him."

And on page 195 it is laid down by the same author that—

"A treaty concluded for an unjust or dishonest purpose is absolutely null and void."

In the case of this treaty with Russia there has been no fraud shown, though the propriety of the alleged purchase may be doubted. Though the second section of second article of the Constitution seems to vest this authority in the President with the advice and consent of two thirds of the Senators present, yet the seventh section of first article of the Constitution of the United States declares that—

"All bills for raising revenue shall originate in the House of Representatives."

So that without an appropriation which must originate in the House of Representatives, it is utterly impossible to carry out a treaty where it requires the payment of money, hence the necessity of the concurrence of the popular branch of the Government to such treaties. Even in England, where the treaty-making power is lodged in the king (or queen) the assent of Parliament is necessary:

"It was always considered as discretionary with Parliament to grant money to carry treaties into effect or not, and to repeal or not repeal laws that interfere with them—*Debates in Annals of Congress*, Fourth Congress, first session, 1795 and 1796, page 470, on the treaty with Great Britain.

And in same book, page 471, it is stated that—

"Upon this principle, founded on almost immemorial practice in Great Britain, did the minister of that kingdom when introducing the late treaty with Prussia into Parliament, tell the House that they will have to consider the treaty and make provisions for carrying it into effect. On the same principle, when the debate took place on that instrument, it was moved to strike out the sum proposed to be voted, which would have defeated it, and afterward to strike out the appropriation clause, which would have rendered the bill a mere vote of credit, and would also have caused the treaty to fall to the ground, and on the same principle the king of Great Britain, when he mentioned the American treaty, proposed to lay it before them in proper season that they might judge of the propriety of enacting the necessary provisions to carry it into effect."

After a full discussion in the year 1796 upon the appropriation to carry into effect the Jay treaty, the following resolution was adopted by the House of Representatives:

"Resolved, That it being declared by the second section of the second article of the Constitution that the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present shall concur, the House of Representatives do not claim any agency in making treaties, but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress it must depend for its execution as to such stipulations

on a law or laws to be passed by Congress, and it is the right and duty of the House of Representatives in all such cases to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

Mr. Randolph, in regard to the purchase of Louisiana in 1803, said:

"I hold in the highest veneration the principle established in the case of the British treaty, and the men by whom it was established, that in all matters requiring legislative aid it was the right and duty of this House to deliberate, and upon such deliberation to afford or refuse that aid, as in their judgment the public good might require."

Mr. Jefferson, the President of the United States, on the 17th of October, 1803, sent into Congress, which he had convened, a message in regard to the treaty for the purchase of Louisiana, recognizing the right of the House of Representatives to take action in the premises. In 1820, after the Spanish Government had neglected to comply with the stipulations of a treaty settling the boundary line between Louisiana and the Mexican territory, Mr. Clay, then Speaker of the House of Representatives, speaking upon resolutions introduced by himself, said:

"The Constitution of the United States has not defined the precise limits of that power, because from the nature of it they could not be prescribed. It appears to me, however, that no safe American statesman will assign to it a boundless scope. I presume, for example, that it will not be pretended that in a Government which is itself limited there is a functionary without limits. The first great bound to the power in question, I apprehend, is that no treaty can constitutionally transcend the very object and purposes of the Government itself. I think, also, wherever there are specified grants of power to Congress they limit and control or, I would rather say, modify the exercise of the general grant of the treaty-making power upon a principle which is familiar to every one." * * * "But if the concurrence of this House be not necessary in the cases asserted, if there be no restriction upon the power, I am considering it may draw to itself and absorb the whole of the powers of the Government. To contract alliances, to stipulate for raising troops to be employed in a common war about to be waged, to grant subsidies, even to introduce foreign troops within the bosom of the country, are not unfrequent instances of the exercise of this power; and if in all such cases the honor and faith of the nation are committed by the exclusive act of the President and Senate, the melancholy duty alone might be left to Congress of recording the ruin of the Republic."

Without taking up more time in citing extracts from debates in regard to treaties, suffice it to say that the House of Representatives has never surrendered to the treaty-making power any of the prerogatives confided to it by the Constitution. I will, however, cite one judicial case upon the subject, and that is the case of *Foster vs. Wilson*, (2 Peters,) in which Chief Justice Marshall said:

"Our Constitution declares a treaty to be the law of the land; it is consequently to be regarded in the courts of justice as equivalent to an act of the Legislature whenever it operates of itself without the aid of any legislative provision, but when the terms of the stipulation import a contract, when either of the parties engages to perform a particular act, the treaty addresses itself to the political not the judicial department, and the Legislature must execute the contract before it can become a rule for the court."

This treaty in regard to the purchase of Alaska is not, as contended by some on this floor, the "law of the land," and the House of Representatives merely bound to appropriate money to carry out its stipulations; and in this view I am sustained by both legislative precedents and judicial decisions, and I may repeat what has already been said in this discussion, that even Mr. Seward, who negotiated this treaty with Russia, refused to vote for the appropriation to pay for territory acquired from Mexico under the Gadsden treaty, notwithstanding he was a member of the United States Senate when the treaty was ratified.

But the able chairman of the Committee on Foreign Affairs [Mr. BANKS] does not go so far as to deny the power of this House over such treaties. In his speech he says:

"We do not deny, as was denied in the early history of the Government, the right of the House to information upon this subject, nor the right to con-

40TH CONG....2D SESS.

Territory of Wyoming—Mr. Burleigh.

HO. OF REPS.

sider the treaty in all its aspects and relations, and to determine its action upon its own discretion and judgment. For myself, I hold the authority to make a treaty, conferred by the Constitution upon the President and the Senate of the United States, to be a limited power; that the House of Representatives, as a coordinate branch of the Government, has a clear and unquestionable constitutional right to consider the subject of a treaty both before and after it is concluded, or at any time when it shall be the interest of the country so to do, to ascertain for itself whether it be within the scope of the treaty-making power, whether it be in contravention of the established policy and interests of the Government, or whether it be on the contrary destructive, as a treaty may well be, of the principles of the Constitution, the rights of the people, or the fundamental interests of the Government. This I hold to be the privilege of the House of Representatives upon the subject."

My colleague, [Mr. STEVENS,] in an argument delivered yesterday, says:

"Our Constitution has put the whole treaty-making power into the hands of the President and Senate. Neither branch of the Government has any right to interfere."

In this my learned friend is mistaken, as I have already shown. My colleague says further:

"There is but one way to evade its execution; that is by bad faith."

Now, Mr. Chairman, as it must be conceded by every one who has given the subject a careful examination, that this House has a perfect right to say whether this treaty or purchase shall be carried out, and the question now recurs, ought this House to pass the bill now under consideration, appropriating out of the Treasury \$7,200,000 in gold, for a territory of which we know but little, and not contiguous to any that we own, but at least four hundred miles from it? I do not, however, put much stress upon the fact that the territory proposed to be purchased is not contiguous, as no one, I presume, would object to the acquisition of Cuba, if the same could be procured upon fair and honorable terms; nor am I opposed to the acquisition of foreign territory where it is evident that it would be of an advantage to our country, when it can be got upon reasonable terms, and can be paid for without oppressing the tax-payers.

Mr. Chairman, while I am in favor of extending our domain, I can see no good reason for adopting at this time the treaty with Russia for the purchase of "Alaska," a country which, as I have already said, we know but little about, and judging from its location, doubtful if any of it will be susceptible of cultivation, or at least such as will induce persons to settle there under a homestead law; and as to minerals, we have little or no reliable information, so that the main value, so far as can be gathered from the speeches, are fisheries, which from the glowing descriptions are evidently very much exaggerated; and to afford this alleged source of wealth to be derived from fisheries, we will have the expense of governing that territory which will be no small sum annually, and that, too, a people who do not understand our language or are in any way acquainted with our form of government; and if the Indians should commit depredations we may have the expense of an Indian war in that severe climate, and we all know what an enormous sum a war with Indians costs the United States. Then, Mr. Chairman, taking into consideration our large national debt, and the ardent desire of our tax-payers for a reduction of taxation, I deem it inexpedient to approve of the treaty, and will therefore vote against the appropriation of \$7,200,000 in gold to pay for the territory of Alaska; and in doing so I do not consider that I am in any way violating the provisions of the Constitution, or acting in bad faith with Russia, who I admit has been our friend during our late struggle, and I might add we have been hers; but notwithstanding the friendship there is no reason for us to vote away the people's money without an adequate consideration, and thus perform an act that may tend to increase our large national debt.

Territory of Wyoming.

SPEECH OF HON. W. A. BURLEIGH,

OF DAKOTA,

IN THE HOUSE OF REPRESENTATIVES,

July 23, 1868,

On the bill (S. No. 357) to provide a territorial government for the Territory of Wyoming.

Mr. BURLEIGH. Mr. Speaker, I did not intend to say anything upon the bill now before the House, to provide a temporary government for the Territory of Wyoming, and should not but for the extraordinary statements which have been made by the honorable chairman of the Committee on the Territories, [Mr. ASHLEY.] I feel that I should prove false to the interests of my constituents if I permitted those statements to pass unnoticed, or rather if I failed to lay the facts before the House as they actually exist after the misrepresentations which he has made. The territorial boundaries, as provided for in the bill, embrace an area of about one hundred and seven thousand square miles, or 68,480,000 acres, an extent of country almost three times as large as Ohio, that State having an area of only 39,684 square miles, or 25,578,960 acres. It is thirty-nine thousand square miles larger than the six New England States, and two thousand miles larger than New York, New Jersey, Pennsylvania, Delaware, and Maryland. It contains fifteen thousand miles more territory than England, Scotland, and Wales, while it is but seven hundred and sixty-two miles smaller than the whole kingdom of Italy, and fourteen hundred and forty miles less than that of Prussia.

Dakota as at present organized is larger than the Austrian empire, and has an area of thirty thousand square miles more than France; but to bring the comparison nearer home, it is twenty thousand miles larger than all New England, New York, New Jersey, Pennsylvania, Ohio, Delaware, and Maryland combined. Its mountains abound in the richest deposits of gold, silver, copper, and iron, while the whole surface of this vast Territory is underlaid with strata of bituminous coal of superior quality. As a stock and wool-growing country it possesses superior advantages. Most of its surface is covered with nutritious grasses, upon which cattle and sheep subsist the whole year. Its climate is more health-giving and delightful than can be found elsewhere on this continent. All along the line of our great national thoroughfare, which will soon connect the shores of the Atlantic and Pacific, towns and cities are springing up as if by magic power. It is along the line of this road, upon the fertile valleys of the rivers and streams, in the gorges of its majestic mountains, that tens of thousands of enterprising men are flocking from every State of the Union to seek homes in Wyoming. There they are now engaged in laying the foundation of what to-morrow will be a Territory; a few years hence a State of this Union.

These men have gone there from the older States, where they have been reared under the benign influence of civil governments regulated by civil law. They find themselves to-day in a new country where the protection of civil government cannot be successfully invoked, where the hand of justice does not reach. Sir, the thirty-five thousand loyal citizens of Wyoming are now pleading with this Congress to extend to them that measure of protection which the law alone can afford when administered by civil officers. I ask you, sir, and I ask this House, if there is anything unreasonable in the demand of these people? Is it not their right—more than this, is it not their birthright, as American citizens, to claim this, and is it not your duty as a part of the American Congress to guaranty it to them? What great crime have they committed, wherein is their offense, that you, the guardians of liberty, who are assembled here, should

withhold from these people this great boon which they invoke at your hands. For what sin of commission or of omission are the citizens of this infant Territory to be spurned with contempt from this great citadel of justice and turned over to anarchy, violence, and murder for another year? Is it the expense of a territorial government that is to work this great wrong to a loyal people? It will not be materially increased by giving them a government. Pass the bill providing for biennial sessions of the territorial Legislatures, and double this amount will be saved. The cost of life, liberty, and happiness cannot be computed in dollars and cents.

This proposed Territory has a white population, according to the estimate of the best judges, of at least thirty-five thousand souls, and is so rapidly increasing that it is believed it will contain at least sixty thousand within the next twelve months.

For a distance of more than three hundred miles this Territory is crossed by the great Union Pacific railroad, and will in ninety days more have the line of this road extended from its eastern to its western boundaries, a distance of about four hundred and eighty miles.

This proposed Territory did not originally belong to Dakota, but was laid out at the time Montana was organized, and was then only attached to Dakota for temporary purposes—there being but few white people within its boundaries. Since that time the Pacific road has been constructed very far across its southern half, the precious metals have been discovered in paying quantities, while thousands of men are flocking there to find homes. From the capital of Dakota to the city of Cheyenne is a distance of seven hundred miles, and between eleven and twelve hundred miles to the western boundary of the Territory on the line of the road. The cost to the Federal Government, I am confident, will not be increased, while the benefits and blessings that will accrue to that portion of the Territory by giving it a separate organization can scarcely be estimated.

When before in the history of this country has a Territory with the population and extent of Wyoming been denied the benefits of a territorial organization? Never, sir! There is no precedent for it at all. The whole past action of Congress has been the reverse. Early in the session memorials and petitions were referred to the Committee on the Territories in this House, asking for a temporary government for this Territory. Week after week passed away, and there was no action. It soon became apparent that the chairman, for reasons best known to himself, would not act in the matter at all. Time and again when spoken to upon the subject he stated that mob law was the only form of law adapted to the government of this Territory, and the vigilance committee were the proper parties to execute it. Petitions and memorials of a similar character were then referred to the Senate Committee on Territories. After a thorough investigation, its chairman was unanimously instructed by his committee to report a bill. The Senate spent nearly a whole day in its examination, and then passed it without one dissenting vote. And here I desire to remark that several of those Senators have within the last year visited that Territory, and from personal observation became satisfied that a territorial government is absolutely needed there. That bill is now before this House. As the Delegate from Dakota, as the legal representative of these people, I ask that it be put upon its passage, and not referred to the committee, as requested by the chairman, where it will surely die. It has been examined by the members of the committee, and I know that while they would like to accommodate the chairman a majority of them are at heart in favor of passing it at the present time.

Eight long months have elapsed since this

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session commenced. During all of this time the honorable gentleman [Mr. ASHLEY] has known that we were laboring for this bill; and now, sir, he modestly comes here, at this late day, at the very close of the session, and asks that he be intrusted to his tender, fostering care, that he may strangle it. If the honorable chairman of the Committee on the Territories deemed it so important to the passage of this bill that his eagle eye should scrutinize it, and his great brain infuse the guarantees of "life, liberty, and the pursuit of happiness" into it, why did he not take it up in his committee and report it to this House?

After spending eight long months here, during which time he has not made an effort for our relief, but, on the contrary, has persistently refused to do so; while thirty-five thousand American citizens have been left in a state of anarchy, with no laws for their government except that which is administered by the mob, and no punishment save at the end of the halter, the gentleman comes in here and asks the House of Representatives of the American Congress to allow him to subjugate the whole population of this great territory to mob law and violence for another year, or until he can create a government for them which shall suit his views.

For one, sir, I do not believe that this House is prepared to sustain the honorable chairman of the Committee on the Territories, but that it will listen to and answer the prayers of these people and afford them speedy relief, which can only be done by passing this bill.

American Citizens—their Rights Abroad; their Duties at Home.

SPEECH OF HON. C. H. VAN WYCK,
OF NEW YORK,
IN THE HOUSE OF REPRESENTATIVES,
July 17, 1868,

On the bill (H. R. No. 768) to protect the rights of American citizens abroad.

Mr. VAN WYCK. On the 19th day of June last, I introduced the following resolution:

Whereas foreign nations should not be allowed to raise the question whether American citizenship was acquired by birth or adoption, the rights of citizenship being the same to all citizens; and whereas this Republic has pledged its faith to persons of all nations that residence, renunciation of former allegiance, and compliance with our laws makes them citizens here, and the honor of the nation is pledged that such promises be redeemed, no matter whence came the citizen or how powerful the nation that denies it; and whereas Great Britain has, in defiance of the law of nations—a portion of her own history and the results of the war of 1812—lately established in her courts the dogma "once a subject always a subject," and has in repeated instances refused to recognize the rights of American citizens by denying them the privilege of mixed juries, treating as subjects of her realm many of our citizens who had periled life in defense of this Government during the war of the rebellion, in some cases arresting and imprisoning for words spoken in this country: Therefore,

Be it resolved, That the President of the United States immediately demand from any foreign country who may have imprisoned American citizens for words spoken in this country, acknowledgment as complete and ample as was made by this Government in the apology for the arrest of Messrs. Mason and Slidell; and if such apology be denied, he report the fact to Congress for its action. Also, that he demand reparation in all cases where American citizens have been treated as subjects of a foreign Power; and that to all such persons now imprisoned the rights herein claimed shall be granted; and that he report to this House what he has done, if anything, to secure such rights and redress the wrongs above set forth.

A question arising as to the treatment of American citizens by Great Britain, in order to ascertain the precise facts, on the 25th of June I submitted another resolution:

Resolved, That the President of the United States be requested to inform this House whether any American citizens have been arrested, tried convicted, or imprisoned in Great Britain for words spoken and acts done in this country; whether any American citizens have been by Great Britain denied their rights as such, or otherwise treated as English subjects; whether American citizens have been denied

the privilege of mixed juries; whether American citizens thus treated are now confined in English prisons; and what he has done to secure the release of any such persons, and why they have not been released.

Although the information must be on the files of the State Department, the questions easy of answer, no reply has as yet been made.

However, every reader of current history knows the present claims of Great Britain, of perpetual allegiance, that the accident of birth prevents a man from making any other the home and country of his choice. Practically with no other country in Europe is there necessity for solution of this grave question, for with no other is there a determination to ignore the American doctrine. We are boasting that treaties are about being made with the North German States recognizing the right of expatriation, but the North German States are not in the daily habit of insulting us by arresting and imprisoning our citizens.

Years ago Martin Kostza, a Hungarian, only having declared his intention to become an American citizen, while under the protection of the American flag, was seized by Austria. Captain Ingraham, though a thousand miles from home, with nothing of his country but the deck on which he trod, the flag above and the gallant men around him, demanded that the haughty tyrant release Kostza, and unless he was restored in the time limited the sound of American cannon should reëcho from the shores of the Mediterranean. Marcy, then Secretary of State, made haste to affirm the action of Captain Ingraham, and the great national heart, as if by electric impulse, sprang forth to greet him as a hero and doubly ratified the deed. Was it because Austria was weak we compelled her to her duty? Within a few months Great Britain has seized over three hundred American citizens, many of whom had defended the flag when in peril, placed them in dungeons, and at least a dozen are pining in a long series of penal servitude in defiance of our rights and contempt of our power as a nation. The Administration looks coldly on, and by its mere formal interference acquiesces in the conduct of Great Britain. Our citizens are subject to indignities such as no other nation, however powerless, would tolerate without at least a manly protest.

When the elder Adams was President, and Rufus King minister at St. James, and Irish patriots such as Emmet desired passports, he declined on the ground that America had enough such republicans. For just such acts the Federal party was hurled from power. Another Administration no better than the old Federal is now in place. The elder Adams is in his grave, but the family representative and the representative of federalism was minister at England, and he was ready to fawn on royalty and bend a supple knee to English dictation. He seemed to manifest no sympathy for the citizens of his country in prison. Many of those three hundred have been released, but upon conditions more humiliating than imprisonment, that they would never again return to that country. While fresh from our victory over the greatest rebellion the world ever witnessed, boasting our power against a world in arms, we concede an inability to protect our own citizens who have just come with the smell of battle on their garments and the scars of conflict on their persons. The representatives of this great Government stand trembling in presence of royalty, with hat in hand, instead of knocking at the door of her court and demanding, in the name of a free people, that the sanctity of the American citizen shall be respected. Is England so powerful she shall not do what Austria did? Are we so base that we demand from Austria what we beg from England? Before Great Britain would submit to such indignities her cannon would echo from mountain peak to mountain peak, until the circuit of the world would hear its roar.

However she may treat her own subjects, England stops not to count the cost when seeking redress for injuries inflicted by other nations upon them. Her citizens violate the laws of Theodore, King of Abyssinia, are imprisoned, and to relieve them an army marches into his dominions, slays the King, destroys his strongholds, and burns his capital, lest the Abyssinians may do some other injury to her subjects. England graciously assumes the labor of ruling that country for the future. For three hundred years the pretext of protecting her citizens has been more the reason for trampling on weaker nations to punish and subjugate them. So she did through tyranny in India, opium in China, and poison in New-Holland. When she plants her foot on a territory she never leaves it. She makes her depredations a right, her piracies a title. And during all the three hundred years the increase of her power, and the crimes she has committed against the nations, much of what she calls national glory has been upheld and sustained by her army, a large portion of which has been that very Irish population to whom this day she denies the right of expatriation.

In her treatment of other nations England has been a great freebooter, spurning the claims of others which she demanded with an iron will. We are to be restrained from exacting our rights lest the great rover may consider it a threat. England protects her citizens even in questionable rights, the world over, and makes it a pretext for extending her power and dominions, and shall we falter in demanding these rights which are the life of this Republic, without which we never could have existence or power among the nations?

We supposed this question had been settled with Great Britain in the war of 1812. Taking men, though born in England, from American vessels was no greater offense than immuring in English dungeons American citizens born in Ireland. But the gauntlet, though the bloody one of war, was thrown down by England; we took it up, and upon the land and upon the sea triumphed. Any other nation but England would have recognized the result of that war. Almost any Government but ours would have insisted that England respect those victories. Undoubtedly the British aristocracy do not like the Irish people, as they do not us. I mean the loyal portion of this Republic; for the rebels they did have some bowels of compassion. They loaned money and took cotton bonds as security; they built war vessels, manned them with English sailors, equipped them with English outfits, and let them forth to drive our commerce from the seas. They built fast steamers, loaded them with necessities, munitions of war, and then ran our blockade. She furnished a home in England for agents of the rebellion, and in Canada a rendezvous for the bandit crew to organize murder, arson, and scattering seeds of pestilence within our borders. When the Trent was boarded by Admiral Wilkes and the brace of traitors, Mason and Slidell, were arrested to answer the violated laws of their country, she made haste to demand restoration of their bodies and ample apology for the contempt we had shown to the offended sovereignty of Great Britain. Yet she must be allowed more zeal for American criminals than we can manifest for American citizens.

When we speak of England in this connection we refer to her ruling classes, to her aristocracy, to those who claim that they are booted and spurred and have a hereditary right to govern. We are to-day proud of English history, proud of the occasional triumphs of her steady yeomanry from the time when the Roman conqueror first planted the eagle of Italy on the rocks of Great Britain and returned to tell of a stony island in the ocean and of the rugged barbarians who dwelt in its glens and hunted on its cliffs. Many a time were English tyrants compelled to bow before the indignant Briton.

The pride of the Norman princes was humbled when upon King John the assembled barons imposed *Magna Charta*. The nation was avenged for the insolence and tyranny of the Tudors when a haughty line of monarchs went down in blood and the scepter was grasped by Cromwell. For centuries her struggling masses have been ridden by the few; now and then rising in the majesty of their power they have dashed their riders in the dust. Her middle classes sympathized with us in our contest, for in our success was foreshadowed their deliverance. For centuries the party of freedom, against great odds, have struggled long and patiently, gaining by slow degrees, rescuing little by little something of human rights from the grasp of the oppressor. Long has landed aristocracy held a vice-like grasp. The people were forbearing and forgiving. The corn laws, oppressing so many, were submitted to until to the sense of injustice the dread of starvation was added, and England's nobility were saved by consenting to blot out the infamous code.

Of the struggle of England, poor and oppressed for centuries, we are proud. All of her history and liberty that are valuable have been earned by them; each victory over wrong widened the plane of vision and gave hope of greater benefits. Liberalism obtained *Magna Charta*, and the centuries between her achieved liberties based on that victory, until the exertions of their immediate successions have culminated in the triumphs of the same class hated by Bright and Gladstone. To-day liberty-loving Englishmen, like Bright and Gladstone, acknowledge the hardship while they advocate the rights of Irishmen. We only arraign that portion of England which is in sympathy with oppression and wrong—that portion like unto Dickens, who had not one word of sympathy during our struggle, whose influence and assistance were against us; yet after rebellion had proved a failure, and Americans were frantic in an endeavor to dine and wine him, entertained them with the cheap declaration that next to their own flag they loved that of the United States, passing by entirely the love they had for the stars and bars. English aristocracy, which has always opposed us, to-day are denying the right of expatriation. Our national life depends on the recognition of this doctrine. We invite population from all nations of the earth, throw open our doors, give a farm of one hundred and sixty acres to whoever will come and occupy the land, expect them to be citizens in peace and soldiers in war; yet conceding we have not power to protect them in their chosen and cherished nationality, that if they desire to revisit the home and graves of their fathers, or business draws them thither, the dogma of perpetual allegiance enables the discarded Government to seize the person and compel allegiance by serving in their armies and navies.

Should war ensue between this country and Great Britain every naturalized citizen from England, Ireland, and Scotland who served in our armies would do so at the peril, if captured as a prisoner, of being tried and punished as a traitor against Great Britain. The proposition needs no argument. Its vital importance is evidenced by the mere statement, and the criminal neglect of a Government that would not demand it, as a Chicago platform says, "at all hazards," is open to the scorn of the world. When President Johnson was asked to secure the release of American citizens he asks for additional legislation. The Democratic party boasted the control of this Government for half a century, yet they failed to incorporate any such legislation on the statute-book. The law of nations gives authority necessary to save the nation's life and to defend its citizens. The Chicago platform pledges the party to the doctrine. The House of Representatives, by an almost unanimous vote, passed the bill providing for its enforcement, yet the Senate stand halting, fearing the

English lion may roar and shake its bloody mane at us if we dare declare what rights belong to American citizenship and how far the world must respect them.

England, true to her many inconsistencies, has acknowledged the right of expatriation, which is a necessary consequence of emigration. Old Pharaoh undertook to deny to the Israelites the privilege to emigrate from Egypt, but he failed badly in the attempt. Greece and Rome acknowledged the right. Systems of naturalization prevailed with them. Cicero says:

"O glorious right! by which no man can be a citizen of more than one Commonwealth; by which no man can be compelled to leave it against his will, nor remain in it against his inclination."

All writers on natural law admit that expatriation is a natural right, and may be exercised when it is not forbidden by law. In England there was never such a law.

In the year 1803 a society in Scotland procured from Parliament an act the object of which was declared to be to prevent the hardships and abuses to which the Highland emigrant was exposed—an act regulating, not restraining, emigration. The real object of this law, according to Lord Selkirk, was to discourage emigration; still, here was a sanction of the British Parliament. At an early period it adopted the idea that it was lawful to throw off allegiance, as appears by statute of 14 and 15 Henry VIII, passed in the year 1522, entitled "What customs and impositions Englishmen sworn to foreign princes shall pay." It also allowed foreigners to be citizens by a law passed in 13 of George II:

"Foreign seamen, who shall have served two years in a ship-of-war, or *ipso facto* naturalized British subjects. Other classes are by different statutes naturalized to all intents and purposes as if they had been born British subjects."

In the time of Queen Anne a law was passed naturalizing all foreign Protestants. This law was repealed because it was found to be inexpedient, and not from any doubt of the power or right of the Government on the subject of naturalization. The statute of 13 George II is confirmed by 20 George III, chapter 20, section second:

"From and after the 1st day of January, 1736, mariners who shall have served for the space of two years on board of any of his majesty's ships-of-war, merchant or trading vessels, shall to all intents and purposes be deemed and taken to be natural-born subjects of his majesty's kingdom of Great Britain."

Thus the British doctrine of perpetual allegiance is contradicted by the British practice of naturalization. English decisions, like English statutes, have made shipwreck of their own dogma.

The theory of perpetual allegiance grew out of the feudal system when fealty was due from the subject; as tenant came from tenure and not from birth, lands were held on condition of military service; why retain one of the incidents of this system when the system itself has perished?

In discussing the question we of necessity antagonize England, and are defending necessarily the rights among others of naturalized citizens from Ireland. Yet they are our own rights. Without their acknowledgment our boast as a Republic is gone; and of what value can it be to say I, too, am an American citizen? It is a matter of regret that many of our people say Irishmen are against universal liberty and free suffrage. Their sympathies in this country are with the conservative party, which has the sympathy of their conservative oppressors at home. It is also to be regretted that there is too much truth for such sentiment. It seems almost incredible that any foreigner whose neck has been chafed by the yoke of oppression should aid a party who denies the right of liberty to all men. In other countries men are treated as slaves, denied the rights of citizenship, who are white. In England and Ireland the white man is kept a hewer of wood and

drawer of water with the same indifference the black man was here. The argument is the same, that all men are not fit to be free and should not exercise the elective franchise. The man who has felt the yoke of bondage, and then wants to keep any portion of the human family, no matter the color of the skin, in slavery, does not desire himself to be free.

The meanness of caste in this country on account of color is no more wicked than the caste of nation, religion, or blood in Great Britain. Conservatives here talk of a white man's government; in Great Britain only a certain kind of white man's blood is entitled to consideration. One claim is equally as valid as the other. The only hope for the world is in liberty for all men, and until that thought is crystalized into warm, zealous action by all lovers of liberty there will be little of advancement for the oppressed. Restrict freedom to color, caste, and blood and you are turning back the hands on the dial of freedom. You are not ushering the world from the eclipse of ages of oppression, and for fear the unfortunate black man should be free you would turn upon the oppressed white man centuries more of burden. It may be natural for Irishmen to be Democrats. It is a tradition of his nation. He remembers the injustice of the administration of Adams, and that Jefferson, the father of Democracy, opened his heart and this nation as a refuge, that Jackson, himself an Irishman, was in sympathy with his fatherland. But Democracy then was not a conservative party. Jefferson and Jackson were radicals in those days; the vitality of Democratic principles was stifled when the old party came under the control as it did of the bidding of slave lords of the South, and was sought to be made the stalking horse to carry slavery throughout the Republic.

I ask an Irishman how much the conservative Democrat in this country would regard him were it not for the ballot he wields, and while he is chattering about the right of the negro let him ask himself the question, what would be his chance for protection in the country at the hands of conservatives without it? They would damn him with the same unction they do the negro. Have they forgotten even what they suffered a few years ago at the hands of mobs, who burned churches and convents, and also a few years later through Know-Nothing councils awakened national prejudices and religious hates. Yet to-day a large portion of the Irish are under the leadership of the Brookses and the class of men whose influence was to burn churches and "to put none but Americans on guard." The same men who awoke the spirit of violence to burn your churches aroused the hellish spirit of hate in the breasts of some of your people in an infamous riot in New York city to burn orphan asylums and murder women and children because they were black. Your churches were burned yet you were white. Was the crime any less than the other, when a mob destroyed asylums and murdered because the occupants were black?

You want Ireland free; it never will be until you love liberty for liberty's sake and believe in it enough that you desire men of all castes, religion, and colors shall enjoy it. Then the deliverance of your fatherland will be nigh. You are now only used as a tail to fly the Democratic kite; not so much to be censured as men like Brooks and Seymour, who seek to curtail liberty because they are opposed to its extension, whether to the children of Africa, Erin, or Crete. Strange that the Democratic party has infused its hatred into the Irish mind, for the Catholic church is the most liberal to the African of all religious denominations. The great O'Connell, whose heart was the home of Irish joys and Irish sorrows, the ocean of whose philanthropy knew no shore, despised slavery, and would not receive as a gift money from unrequited toil. With prophetic vision he said:

"I pray God that you may do away with this dread-

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ful system, and then your nation will be fair as the sun, clear as the moon, and more terrible to the gray-headed aristocracy of Europe than an army with banners."

The Republican party believes that all nations should enjoy liberty, and I here protest that any feeling of antagonism should exist against Ireland, even though a large proportion of our Irish-born citizens should attempt to restrict it to the condition of color in this country. We believe that the Cretan, the Hungarian, the Irishman, the African, all should be free, all shades of color, all grades, shades of religious faith, all races of men, not by reason of physical development or mental endowment, but alone by the title of manhood which the Almighty stamped at the day of his creation of man in his image, when he placed a heart in his breast and a brain in his head. We intend to struggle for that full fruition and complete development. Yet, Irishmen in this country by opposition to universal liberty may delay the coming of that glorious time. Had the bulk of the Irish population here warmly sympathized with us in our late struggle, had they steadily refused to be made the tools of Seymour and the copperheads, do they not know that the regard they manifested for us and universal liberty would have been doubly repaid, and that when the time came for them to strike the shackles from Ireland's nationality a power from this country would have gone up with them which would have opened every prison door, and if England staked the chances of opposition would have trampled her throne in the dust and thrown it in the sea?

To every nation in Europe striving to be free we owe a debt of gratitude. It is a tribute they are paying to the spirit of American liberty, and gives promise of the time when the chill of death shall gather about the heart of despotism. A cold conservatism has long enough deadened our sympathies for the oppressed. Monarchs may combine for the protection of each, and to preserve the balance of power. How soon would a republic in Europe be torn as a gentle kid by the fierce wolves of arbitrary power, so that freedom should never have a foothold? Italy must be sundered and Poland dismembered so that crowns should rest more securely on the heads of tyrants. In the fierce struggle of 1848 this Republic was as powerless as though European monarchs had bound her hand and foot. The time must come when we will be allowed the same sympathy and support to freedom that absolute power yields to despotism. Did we do our duty to-day the gallant band of Cretans in their island fortress would not single-handed be engaged in a deadly struggle with the Turk.

As the arguments so the customs and laws of despots in all ages have been the same. The English code in Ireland was an outburst of religious hate and a hate of races; the substratum of all despotism is hate. Pharaoh's oppression, England's oppression, and the slaveholder's oppression was substantially the same. White men in England governed white men in Ireland with the same code that rebels, galvanized into State governments by Johnson, endeavored to impose on the freedmen, no suffrage, while in Ireland was three per cent. to vote, and even then commenced a long martyrdom and terrible agony like that under which the negro bends to-day in ten States, with the empty mockery of the ballot at the peril of life; not allowed to carry arms; no education of children; not allowed to leave residence after sunset in Ireland after the curfew; no intermarriage of Catholics with Protestants; killing of an Irishman by an Englishman no felony; denial of the right to sit on juries, for England held the courts and press, and gave its own coloring to what it called Ireland's complaints and what she called Ireland's outrages. The outside world only knew

of Ireland through seven hundred of its dark and bloody years through English historians; so the world knew but little of the system of slavery except through the slaveholder's press. The African committed no crime whereby he was enslaved and is now sought to be disfranchised; the Irishmen committed no crime that for seven hundred years he has been deprived of his rights as a native, and subjected to all the indignities which cruelty could suggest.

It is natural English conservatives should oppose the enfranchisement of Ireland; it is natural conservative Democrats should oppose liberation and suffrage to the African, but it is unnatural that Irishmen should deny freedom and its benefits to any human being, no matter the color of his skin, the extent of his mental capacity, or the degradation from which he is raised. Slavery debased in ignorance the negro, and then pointed to that ignorance as a reason why he should not be elevated. England for centuries disrobed Ireland of its nationality, took away the land from its ancient owners, so that its peasantry had no claim to the cottage or the acre on which they lived, deprived them of the necessities of life, so they subsisted at one time on sea-weed and potatoes, and in miserable hovels; having stripped them of property, education, of everything that makes life happy, now point to their miserable condition as a reason they should be longer oppressed.

We have a right to sympathize with all nations struggling to be free. From all nations came those who planted the germ of a Republic amid the blasts of winter, the howlings of the wilderness, and the deadly whoop of the savage. From all nations were filled the serried ranks which carried the flowery standard through seven years of war. From then till now from all nations comes that continually recruited army which not less than the hosts that unfurled its standard at Bunker Hill and took the British colors down at Yorktown is entitled to be called the Army of Liberation, as the emigrant multitude, armed with implements of labor, smite the forest and the prairie from the morning until the evening, and plant in advance of the ages to come the starry banner of the nation against the frontier sky.

We do owe a debt of gratitude to Ireland for what she has contributed to the world's and our own history. She has given statesmen, orators, and poets, unrivaled in the earth; Sheridan, the finest of orators; Wellington, the great soldier. The sweetest poet of the language was Moore; the most vigorous writer was Swift; the greatest statesman was Burke. Commodore Perry, of our own Navy, whom the English could not bribe for £60,000 and a captaincy of an English frigate. The Irish have produced generals and marshals of France, Spain, Austria, Russia, and Sardinia; furnished magnates of the empire and grandees of Spain. They renewed the war against England under the banners of her enemies. Their valor was arrayed against her at Romillies, Almanza, and Lanfeldt. She encountered it in the service of Spain at Gibraltar, under Lally at Pondicherry, and it turned the day against the iron steadfastness of her infantry at Fontenoy. The Irish blood has given a ruler to Spain in the person of O'Donnell; a hero to France in McMahon.

After the revolution of 1688 William and Mary discouraged manufacturing in Ireland, and many came early to this country; men like the Clintons of New York, the Carrolls of Maryland. To Massachusetts came Berkely in 1729, who at his favorite retreat at Narragansett bay, wrote—

"Westward the course of empire takes its way,
The four first acts already past;
A fifth shall close the drama with the day,
Time's noblest offspring is the last."

They enlisted early in the war of the revolution. Patrick Henry was its most distinguished orator. In England headed by Burke, Barre

and Sheridan, spoke and wrote in our defense. While in France McMahon, Dillon, Fermoy, and Conway were ready to and did volunteer. Richard Montgomery, John Sullivan, George Clinton and Anthony Wayne were among the first brigadiers in the patriot army, and through the war one third of the active chiefs were of Irish birth or descent.

Our Navy was started under command of an Irishman; and when the flag of the Union was agreed on Captain John Baring, a wonderful man, was the first to hoist it over the Lexington. John Dunlap, an Irishman, in 1771, printed the first daily paper in America. He was printer to the convention of 1774 and the First Congress, the first who printed the Declaration of Independence, which was first copied by Charles Thompson and first read to the people by Colonel John Nixon, and in 1815 first published with *fac similes* by John Burns, all Irishmen. Nine out of the fifty-six persons signing the Declaration, and six of the thirty-six delegates by whom the Constitution of 1787 was promulgated were of Irish origin. The first Governor of Pennsylvania after the war was a native of Dublin. Among Senators were two and among Representatives in Congress the same number of Irishmen. From that race were early advocates of internal improvements. Sullivan, of Massachusetts, projected the Middlesex canal. In 1784 Christopher Colles petitioned the Legislature of New York on the importance of uniting the western lakes to the Atlantic; also Robert Fulton; while the most distinguished mathematician on the continent was Robert Adrain. These were some of the studious men, stout-hearted wrestlers with formidable problems, patient bearers for truth-sake of ridicule and reproach, we most boast of and enjoy.

In the Navy, 1814, Blakely commanded the Wasp, which defeated the Reindeer. Thomas McDonough, with Stephen Decatur, distinguished himself in the attack on Tripoli in 1805, and in 1814, on Lake Champlain, with eighty-six guns, defeated the British fleet with ninety-five. Charles Stewart was the fifth commodore Ireland gave to America.

Thus these noble men helped to make this a refuge for their posterity from the oppression of England. And they did hope in the coming time from out this Republic would go forth an influence which, if it did not redress the wrongs of seven hundred years, would at least plant the sunburst in glory once more, and the harp, if not rung again in Tara's halls, might sound notes of freedom through the Celtic heart, and proclaim that Ireland was not only restored to her place among the nations, but that the mantle adorned her shoulders, and the casquet of freedom, not with parti-colored stars, but refulgent with universal liberty might appear in enduring light to strengthen the hearts and nerve the purpose of Europe's struggling millions. That day must come, how soon will be determined by the manner in which Irishmen discharge their duties in America.

Treaty with Osage Indians.

REMARKS OF HON. SIDNEY CLARKE,
OF KANSAS,

IN THE HOUSE OF REPRESENTATIVES,

July 25, 1868,

On presenting the protest against the treaty with the Great and Little Osage Indians, and a memorial in behalf of the common schools of Kansas.

MR. CLARKE, of Kansas. Mr. Speaker, I ask consent to present to the House a series of resolutions protesting against the treaty with the Great and Little Osage Indians. The sentiments expressed in these resolutions meet with my cordial concurrence. The State Teachers' Association of Kansas is an organization representing the organized educational

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interests of my State; and, sir, these resolutions faithfully express the sentiments of the great body of the people. I move that the resolutions be inserted in the Globe, and also that they be printed.

I also present a statement of Rev. P. McVickar, State superintendent of public instruction, in the nature of a memorial, in behalf of the common schools of Kansas, which I desire to have printed in the same way:

An Appeal to the Congress of the United States in behalf of the Common Schools of Kansas.

OFFICE OF SUPERINTENDENT
OF PUBLIC INSTRUCTION,
TOPEKA, KANSAS, July 3, 1868.

I learn that a number of treaties for Indian reservations lying within the bounds of Kansas are now in the hands of the Senate Committee on Indian Affairs.

As representative of the educational department of the State government I earnestly request that in the consummation of said treaties the interests of our common schools may be so recognized as to secure, if possible, the sixteenth and thirty-sixth sections on said reservations for the support of common schools, in accordance with the plan of the act of admission.

I am aware that a wrong impression extensively prevails in reference to the amount of school lands in Kansas. Many are erroneously of the opinion that inasmuch as the sixteenth and thirty-sixth sections were granted for school purposes, consequently the common school endowment of Kansas is twice as large as that granted to other States. But the facts in the case go to show that the endowment of the common schools of our State is limited.

The policy of the General Government in the extinguishment of Indian titles in Michigan, Wisconsin, and other States, gave the Indian tribes so removed the privilege of selecting extensive reservations beyond the Missouri river and in what now constitutes the State of Kansas. The result was that the organization of Kansas as a Territory included a very large amount of our soil thus preoccupied. These reservations, too, were selected by the keen insight of the red man in the most valuable sections of the State, and with primary reference to streams, timber, and other valuable resources. The extent of territory thus preoccupied within the bounds of the State may be seen by a glance at the early maps of Kansas. In the Topeka United States land office district, the register, Mr. Ira H. Smith, reports a deficit of school lands on account of Indian reservations, amounting to 159,269 acres. The whole deficit of school lands arising from this cause is over seven hundred thousand acres.

In the southern portion of Kansas a vast body of land, fifty miles north and south, extending from the east line nearly to the west line of the State; in other words, almost one fourth of the area of the entire State of Kansas is included in what is called the Cherokee neutral lands and Osage reservations. The amount of school lands embraced in the sixteenth and thirty-sixth sections on the Osage reservation, the treaty for which is now pending, is four hundred and forty-four thousand four hundred and forty-four, or nearly half a million acres.

In behalf of the people of Kansas, I submit whether, in the extinguishing of Indian titles that policy is just to the State or to the Republic itself by which, including all the Indian reservations, more than a fourth of the area of Kansas, or an extent of territory larger than that of Massachusetts and Connecticut combined, is left without a single acre of school lands as an endowment for the education of the masses of the people.

Yours, very respectfully,

P. McVICKAR,
State Superintendent of Public Instruction
of the State of Kansas.

Resolutions passed by Kansas State Teachers' Association, Emporia, July 2, 1868.

Whereas a treaty has lately been negotiated between the Osage Indians and the Government of the United States by which the entire Osage reservation, amounting to eight million acres, is to be passed into the hands of a railroad corporation, without reserving the sixteenth and thirty-sixth sections for common schools; and whereas such treaty is now before the Senate of the United States for ratification or rejection; Therefore,

Be it resolved by the State Teachers' Association of Kansas: 1. That the education of the people is of paramount importance to the enriching of any private corporation,

2. That the surrender of one sixth of our entire State to foreign capitalists is an insult to the State and an outrage upon the rights of her citizens.

3. That Kansas has a right to, and does demand, of her Senators and Representatives, as well as of all other Senators and Representatives who are proud of her history, or realize the value of her common schools, to use their best endeavors to defeat this treaty.

4. That a copy of these resolutions be forwarded to our Senators and Representatives, and also to the press of Kansas.

M. J. WATSON,
Secretary.

Henderson Wounded.

REMARKS OF HON. B. F. BUTLER, OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES,
July 25, 1868,

In answer to Senator HENDERSON'S explanation on the subject of impeachment.

Mr. BUTLER, of Massachusetts. Mr. Speaker, from what happened in this city last evening, it becomes necessary to make a personal explanation as well for the committee of managers of the impeachment as for myself. A delicate and thankless duty was by the order of the House imposed upon its committee to investigate into the alleged corruptions connected with the late impeachment trial. As the inquiry must almost necessarily involve members of a coordinate branch of Congress, your committee were careful in nothing to overstep the limits of that parliamentary propriety which is due to the Senate. Very early in their examination they found both oral and written evidence, which appeared to involve the Senator from Missouri, chairman of the Committee on Indian Affairs, [Mr. HENDERSON]. Anxious that the Senator should have the amplest opportunity of explaining these inculpatory facts testified to against him, your committee addressed a note in the most courteous form of language they could command, in which he was requested to come before them, and, by giving testimony of such facts as he might know, to instruct the committee in their investigation. This the Senator from Missouri refused to do, but, on the contrary, made grievous complaint to that body that your committee's note of invitation was an insult to the body to which he belonged, and a breach of its privileges. In that, however, the Senate differed from him.

It may be observed here that upon a like request of your committee, both Senators from Massachusetts and the senior Senator from Kansas, among the very eldest of the Senate, came before your committee without objection and made answer and explanation of everything asked them, as might well have been expected of upright men, conscious of their integrity.

Notwithstanding such refusal of the Senator from Missouri to aid your committee in their search for the truth of the charges of corruption in the determination of the trial of the President, your committee, as was their bounden duty, because of the respect they owed to the Senate, refrained in their report from expressing any judgment of their own upon the significant and pertinent facts testified to touching the judicial conscience of that Senator in the trial. Feeling the delicacy of their position your committee did not deem it their duty to adjudicate according to the evidence given them, but in scrupulous regard to the privileges of the Senate contented themselves with reciting with a judicial severity of accuracy the testimony sworn to before them, grieving continually that, without the explanations of the Senator from Missouri of which he of his own will had deprived the committee, the evidence seemed to bear so hardly and conclusively upon him, and the more so as the refusal of the Senator to aid the committee in their pursuit of the truth in connection with such cogent evidence, was liable to be taken as a confession of guilt, particularly in the strong contrast with the conduct in that regard of the admittedly innocent and honorable Senators before mentioned. Indeed, so tender were your committee of all that concerned the Senate, that, learning an investigation had been ordered by the Senate, this committee did not ask to have the evidence taken by them printed lest its publication might embarrass that inquiry.

Thus much I have deemed it my duty to state in justice to a committee of the House, of which I was one of the humblest members. I take leave to say that the report of your committee was assented to by all the members of the committee then in the city.

A most unusual occurrence has rendered it necessary I should do so and ask further indulgence of the House on my own behalf.

On the evening of the Lord's day, yesterday, at a certain debating assembly held in this city, the Senator from Missouri made a most virulent attack upon myself under guise of a personal explanation.

Of the want of parliamentary propriety on the occasion, the manner and matter of the written remarks of the Senator, so far as regards the Senate, I shall not allow myself to comment lest I shall trench upon the same rule of parliamentary propriety which the Senator violated.

If that assembly to which I alluded deemed the holy Sabbath well spent in listening to such an harangue it is not for any member of the House to complain. Is not that assembly the guardian of its own honor? Indeed, it may well be justified by them under the precept that when a man's sheep or his ass hath fallen into a pit it is lawful to lift it out on the Sabbath day.

I am credibly informed that the reason why this particular Lord's day was chosen for an attack on a member of this House by the Senator, as himself has said, was that "General BUTLER had gone home, so there would not be any reply."

The manly bravery of such a choice of opportunity is only equalled by the candor and justice of the performance. You will remember, Mr. Speaker, that on Saturday I notified you of my intention after eight months of service here to return home, and was only detained by accident.

Stripped of adjectives and personalities the gravamen of the Senator's complaints of the report of your committee seemed to be: first, that he is therein charged with having been "seen" by one Lacey and one Craig; second, that he had some communication with Edmund Cooper, late the President's Private Secretary, on the subject of the impeachment, from which unpleasant inferences may be drawn.

For these inferences which he denies the Senator blames the committee. Now, we have made no charges against him. We have only carefully detailed the evidence which came before us. That this tends to show (how conclusively every man must judge) that at midnight on the 12th of May the Senator from Missouri had told his delegation that "he would vote for conviction on the eleventh article or resign;" that "he thought Johnson ought to be convicted and removed, and would give his delegation an answer whether he would resign at twelve o'clock, noon, of the 13th." A witness testified that unless "his delegation got the Senator's resignation before twelve o'clock of that day they never would, as Craig had gone to see the Senator with *carte-blanc* to fix him. Craig swears he did go to see the Senator at that time, and Lacey started to go with him. In two hours after Cooper, the President's Private Secretary, wrote to Andrew Johnson, as follows:

May 13.
DEAR MR. PRESIDENT: The HENDERSON matter all right. Lacey has been to see him with Craig. All right. So says Evans.

Truly,

COOPER.

The same day, soon after twelve o'clock, the Senator refused either to vote for conviction or resign; but gave as a reason, in substance, that if the President was acquitted he would give all the Cabinet offices to Republicans and forward the congressional plan of reconstruction. How well President Johnson has carried out the plan of the Senator we all know from

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Arms to Southern States—Mr. Dockery.

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his last veto messages. Now, it is not denied by the Senator that all this and much more, was sworn to before the committee; nay, it is not denied that each separate fact is true. Cooper does not deny he wrote the letter saying, "HENDERSON matter all right," but admits it. It is the inferences from these facts which seems so to enrage the Senator as to make him call hard names, but the Senator should remember that calling hard names hurts nobody; if it did, he who now addresses you would have been dead "long, long ago."

It is not my fault that people will so conclusively draw inferences so deadly to the Senator's peace of mind. It is not my fault that the Senator, by continually explaining his vote on impeachment (for the present is the fourth time in open and secret session he has done so) with such show of temper, will convince the country that his conscience accuses him. None of the Senators who voted guilty, as the Senator told the Missouri delegation he was convinced he ought to do and promised he would do the night before Craig had "seen" him or resign on that fatal morning, have felt called upon to explain their votes even once. When a fowler shoots at a blackbird or other winged vermin in a thicket he can always tell by the fluttering in the bushes whether the shot has told. The Senator flops. There is a curious piece of evidence put in by the Senator himself, as a part of his Sabbath day speech, that is conclusive to a just mind that the Senator is pleading specially to make show of a defense. He produces and has read a letter from himself to Cooper asking to be excupated by, among others, the following words:

"Please state also whether you ever had any conversation with me on the subject of impeachment?"

Of course, Cooper answers that the Senator never had any such "conversation." I have examined the original letter to Cooper from the Senator, and I find it was with the Senator's own hand first written, "whether you ever had any 'communication' with me on the subject of impeachment?" That was a little too strong for Cooper's conscience even, and before he answered it, apparently in Cooper's handwriting, "communication" was scratched out, and "conversation" inserted. The committee did not say there was any evidence of conversation between Cooper and the Senator, only of "communication." "Lacey has seen him with Craig" is the evidence. Cooper cannot deny he wrote this. So he scratched out "communication" and inserts "conversation," and then answers the letter, as he may do truthfully and save his confederates. I have here an examined *fac-simile* copy of the Senator's letter as altered to meet Cooper's conscience for the amusement and instruction of the House.

One good result, however, has come from the Senator's attack on the committee. In the course of it he has produced a letter from Mr. Evarts, in which I find a suggestive explanation of the phrase, in Cooper's letter to the President, "All right, so says Evarts," which did not before occur to me. It is this: that the words "all right" as used by Mr. Evarts in this connection, referred to the whole case of his client as being all right, an assertion which might be innocent enough, and not to the "HENDERSON matter" only.

This explanation seems a reasonable one, and I am glad it has been made, and I call attention to it in justice to Mr. Evarts.

Nor do I think it my fault that the Senator having told his delegation that a part of the consequences to flow from the President's acquittal was to be that the Senator was to control the Federal patronage in Missouri, now procures his father-in-law to be appointed to a high and for him very lucrative office, thereby showing that the President is carrying out his side of the bargain, and paying for the aid he got on his trial, as in the case of Perry Fuller,

A. T. Lacy, E. O. Perrin, Simeon M. Johnson, and many others to whom he has since given office, which is urged as a very strong fact against the Senator. The country will draw its own conclusions from such acts, and no amount of vituperation of the committee or any of its members will prevent it.

In this matter of the explanation, as well as in the matter of the office, the people will believe the Senator has put his *Foot* in it. For myself I have neither explanation or apology to make for anything I have done on the committee, and shall treat the Senator making this attack and all others like it as my Uncle Toby did the fly which he caught buzzing about his ears. Carrying it to the window, as he let it out of his hand, he pityingly said, "Go, poor devil; there is room enough in the world for both thee and me."

Arms to Southern States.

REMARKS OF HON. O. H. DOCKERY,
OF NORTH CAROLINA,
IN THE HOUSE OF REPRESENTATIVES,
July 25, 1868,

On the subject of the distributing of arms to the Governors of the various States.

Mr. DOCKERY. Mr. Speaker, I see no necessity at this time for the passage of this bill. In the present irritable condition of the public mind I fear the results therefrom would be attended with danger to the peace and order of southern society. Nor can I perceive any reason why this movement should be necessarily connected with the political issues of the country. In my opinion, politics, as such, has nothing whatever to do with the distribution of arms in the State of North Carolina. It is, as it should be, a mere matter in itself of right or wrong, expediency or in expediency, propriety or impropriety, of such distribution of arms, totally disconnected with and dis severed from any particular issues as yet presented by either party in its political organization.

Now, sir, it looks to me as if the Government was by this movement throwing down the "wager of battle" to the southern States, assuming thereby an attitude unwise, imprudent, distrustful, and menacing, which can be, during the exciting contest now pending, in the hands of unscrupulous demagogues and frenzied politicians, perverted to the disparagement of the Government and to the prejudice of the tranquillity and quiet of our common country. I am opposed, decidedly opposed, to any such seeming hostile attitude, and in my humble opinion it is the duty of Congress to manifest a spirit of leniency, indulgence, and kindness. It is true, sir, that we have among us some restless, turbulent, and discontented spirits, some of whom, bankrupt alike in character and fortune, with nothing to lose of either, but perhaps much to gain, openly and boldly avow revolutionary schemes of great danger, dangerous to the well-being of society and subversive, perhaps, of the elementary principles upon which our system of Government is based. Such men are ever dangerous, and such men have lived at all times and under all forms of government. Evil spirits, their machinations are devilish and their plots often treasonable. Mortified at the utter discomfiture which has befallen them in the overthrow of their favored projects of disunion, chafed at the loss of slavery—which they intended to plant firmly and not uproot fully—chagrined at the overthrow of their darling idol of secession, which has been completely routed "horse, foot, and dragons," and forced by the legitimate results thereof to be present and take a prominent part in the administration of the last rites of the burial ceremony, and lastly over all and above all other considerations, mortified by the loss of that prestige which was once theirs;

the loss of offices, of the honors and emoluments resulting therefrom, all, all together conduce to the general disquiet and uneasiness depicted in their countenances and unmistakably discernable in their political contortions. Such men are overweening in their ambition, and desperate in their efforts to regain lost honor and offices. In their estimation it were better to "reign in hell than serve in heaven." They may attempt to reconstruct their political ideas, to resurrect that demon of ruin, secession, but must and will fail. For them, sir, I have no word of defense; in their behalf I have nothing to say by way of justification, or yet of extenuation even. If suspected of dangerous purposes let their actions be closely observed; if convicted of traitorous designs let the strong arm of the Government be put forth for its protection, and let punishment signal, and severe, be meted out to them.

But, sir, the masses of the people, the yeomanry of the land, are loyal and true, honest, hitherto unsuspecting, but now jealous of their rights, as they are mindful of their best interests. I can vouch for them; and in their behalf and on their account, I deprecate the passage of this bill. A native, and "to the manner born," I am of them and with them. I know, with them, something of the horrors of secession, something of the arts and trickery resorted to by which the late fratricidal strife was inaugurated by which the southern heart "was fired" and the rebellion "precipitated" on the country—something, by sad experience, of the wanton loss of property by illegal and unfeeling "impressment laws," something of the loss of liberty by unwise and cruel suspensions of that great bulwark of civil liberty, *habeas corpus*; something of incarcerations, bastiles, dungeons; something, too, of the practical workings of that hateful exotic, the conscription act, born upon foreign soil, and reared by designing men during that "reign of terror," which threatened the peace of the world, and inundated the continent of Europe with waves of human blood. Something yet still of the utter destitution, impoverishment, complete exhaustion of the southern people. Knowing all this fully, thoroughly, I repeat, sir, I can vouch for their obedience to the laws and respect for the constitutional authorities.

The people, Mr. Speaker, of North Carolina, are tired of war. "Their thoughts are turned on peace." Quietly, unobtrusively, yet energetically, they are disposed to look after their private interests, in an honest effort to repair their shattered fortunes, to educate their children, to make their families happy and life comfortable. Let them alone in the pursuit of their peaceful vocations. Introduce not into their midst elements of discord. Alarm them not with the "grim visage of war." Excite not their fears at this time by unwise, unnecessary, and unjustifiable legislation. Southern society is yet unsettled; the constituent elements thereof are not homogeneous; old grudges are yet alive; feelings of resentment are still unquenched; much bitterness in localities prevails, and a spark thrown wantonly into this pile of combustibles may possibly produce an explosion which will jar our country to its center. Let the seething caldron boil down before adding additional fuel to the flames. Let time with its soothing influences mollify and soften the rancor of political hatred. Let the patriot, statesman, philanthropist, and Christian each proceed in his respective sphere to infuse new life into these disorganized communities by the assurance to them of a perfect reconstruction of the recently alienated States on the basis of good will, fraternal concord, and perfect equality. "Let us have peace." Forbearance and conciliation will insure harmony when threats and menace will produce discord and further strife. Permanent peace, lasting tranquillity, and quiet is essential to the

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well-being, if not to the existence of southern society, securing alike to both races, not necessarily divided in interest, but equally interested in social order and good government, political and civil equality, leaving to each, respectively, the right in the vexed question of social equality to chose their own associates, as taste or inclination may direct—for legislation on such a matter would be unwise if practicable. On such a basis society will of itself settle down "in the good old ways of our fathers." Slavery no longer exists; its baneful influence no longer blights our land. Let us meet the issues resulting therefrom in an honest effort to solve these distracting questions with an "eye single" to the best interest of our whole country, North, South, East, and West. The South has rights now, though she rebelled. She is entitled to consideration to-day, though she has been overrun and conquered. If her people are sincerely attached to the Union let the Government protect her in all her political and constitutional privileges; if she is a component part of the Union let the Government insure her the benefit of all the guarantees justly hers in return for that allegiance exacted of her.

Mr. Speaker, I have been an untiring advocate of the reconstruction of the State of North Carolina—I have been more than anxious to "get home." Let our return to the ark of our political salvation be greeted with joy; let "full fellowship" be granted us, and in the future, "discarding punctilio and the maxims adapted to more manageable times," let each section vie with the other in the cultivation of a feeling intensely national, ardently loyal, thoroughly American. I see no necessity at this time for any change in the question of suffrage. Universal suffrage seems founded on expediency, on right, in keeping with the march of events, and is to me the only sensible solution of the surrounding difficulties. It accords with the cherished maxim of the great apostle of Democracy, that he who was required to "pay taxes and fight for his country was entitled to the elective franchise." Universal suffrage, however, in my opinion, should be accompanied with universal amnesty. Not until these great principles are both established will our Government be fully and safely reconstructed. In this matter there should be no half-way house; no political purgatory, out of which treason and crime are hatched, but on conviction, either suitable punishment or full pardon. Proscription for opinion's sake has always recoiled on the heads of its authors, and from the temperament of man ever must. In a political view it is not only unwise, but suicidal, engendering opposition and forming combinations formidable in numbers and vindictive in character.

Then, sir, with conciliation and kindness on the part of the Government toward her late erring children, with manhood suffrage in every State, with amnesty for past political offenses, the rehabilitation of our country will be completed, restoration perfected, security obtained, and happiness secured. In my State, sir, we long for this condition of things. Peace and quiet are necessary, in our crippled condition, to the development of our immense resources. We have a climate genial and soil fertile, producing all the cereals known to our country, from the rice of the sea-coast to the buckwheat of the mountains, from the cotton of the southern to the tobacco of the northern portion, interspersed with almost boundless forests of pine, yielding turpentine and naval stores in greatest profusion; inexhaustible mines of gold, silver, copper, and coal basins of national importance; the home of the grape, both Catawba and Scuppernon, of early maturity and perfection of growth, all of which await development under the steady arm and unbending will of man, in the construction of railroads and opening of rivers for cheap and speedy transportation.

Let the country become quiet, and there "will be life in the old land yet," and this can only be established by a strict adherence to the graphic and beautiful expression of the founder of the Republican party, who had safely conducted the ship of state through the surging billows of an angry sea for four long, anxious, and bloody years, standing firm and unmoved amid the threatened ruin of the temple of liberty. Yet, when the billows gave way, the winds subsided, the war ended, the strife was over, the brave, though erring Lee was surrendering his sword, the serried host were being "mustered out," the stars and bars were being lowered forever, and the stars and stripes, as if cognizant of events, beamed forth with newness of life, then it was the pure and gifted Lincoln in that moment of joyous exultation exclaimed in language impressively eloquent, "Our country is saved, our Union is preserved, now with malice toward none, but charity for all, let us make it endure for ages to come."

Purchase of Alaska.

SPEECH OF HON. S. M. CULLOM,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

July 10, 1868,

On the bill (H. R. No. 1096) making an appropriation to carry into effect the treaty with Russia, of March 30, 1867.

Mr. CULLOM. Mr. Speaker, I shall vote against the bill making an appropriation of \$7,200,000 to pay for the Territory of Alaska. I shall give my reasons for so voting very briefly. The Constitution says that—

"The President shall have power, by and with the advice and consent of the Senate, to make treaties; provided two thirds of the Senators present concur."

It also says:

"That all bills for raising revenue shall originate in the House of Representatives."

"That Congress shall have power to regulate commerce with foreign nations."

"To establish a uniform rule of naturalization," &c.

By these provisions it is apparent that the treaty-making power of the Government under the Constitution is in the President and Senate; and that the power to raise revenue, regulate commerce, and make uniform rules of naturalization is vested in the Congress of the United States.

Congress cannot originate a treaty; nor can the President and Senate raise revenue nor regulate commerce.

But the question here is, is this House bound in good faith and under the Constitution to make this appropriation? The treaty made by the President and ratified by the Senate, provides for the payment of \$7,200,000 to the Russian Government for the Alaska territory. Now, are we as the House of Representatives, bound by the Constitution and in honor to provide for its payment? If we are, then, we should do so at all hazards; if we are not, then it becomes a mere question of expediency, to be decided by our estimation of the value of the contract, if such it may be called. On determining the question it seems to me there is but one point in the case to settle. Is the treaty perfect and complete, or is it unfinished and inchoate and dependent upon the very question we are considering, namely, whether we shall make the appropriation?

I fully understand the fact that Congress can, by mere force of its own will, refuse to make the appropriation; but the question is can it do so consistent with the honor of the nation and its constitutional prerogatives? If the treaty is perfect and complete, so that the nation is bound and may be held responsible by the Russian Government in case of failure to make the appropriation and payment, then I should vote the appropriation. But it seems to me that it is not. The Russian Govern-

ment knew that the power to raise revenue rested with Congress. There can be no pretense that that Government was ignorant of the provisions of our Constitution. It was well known that Congress would have to be invoked, and that that branch of the Government was free to act as its members might choose. It has been the settled doctrine of this country ever since 1794 that Congress has the right to deliberate and carry out or refuse to carry out a treaty as in their judgment might be for the public good, when such treaty contained stipulations which depended upon Congress for their execution. The resolution adopted by the House of Representatives of the Fourth Congress asserted that doctrine, and it has been adhered to ever since. I give the resolution:

"Resolved, That it being declared by the second section of the second article of the Constitution that 'the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided that two thirds of the Senators present concur,' the House of Representatives do not claim any agency in making treaties, but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its execution as to such stipulations on a law or laws to be passed by Congress; and it is the constitutional right and duty of the House of Representatives in all such cases to deliberate on the expediency or inexpediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

This resolution is explicit and clear in its declaration that when a treaty stipulates regulations on any subject which by the Constitution is submitted to the power of Congress, in such cases Congress has the right to deliberate on the expediency or inexpediency of carrying such treaty into effect.

Now, Mr. Speaker, I submit that if Congress has the right to deliberate and vote and pass whatever law may be necessary to carry out a treaty, where by its terms legislation is necessary, as in this case, an appropriation being necessary before the terms of the contract can be complied with in paying the money for the land, or to refuse to enact such legislation, is it not the inevitable conclusion to which you must come that such a treaty does not become the supreme law of the land until such legislation is had, and that it is a contract entered into between the parties, but not binding upon the Government because it remains in an inchoate condition? Of what consequence is the right to deliberate, if after all we are bound at last to come to but one conclusion, and that to do whatever may be necessary to carry out the treaty? The resolution of 1794 is nonsense if it simply means the House may consider and then vote as the President and Senate desire, or even if it means that we may deliberate and then violate a contract which is claimed to be the supreme law of the land, and to be such a contract as to give the other party the right to demand reparation for a violation. The doctrine of the Constitution and of the resolution of 1794 amounts to more than a declaration of arbitrary power; it amounts to a declaration, in my judgment, that a treaty which requires the action of Congress to carry it into effect does not become the supreme law of the land until such action by Congress is had.

Justice McLean, in my judgment, took the correct view of the matter in his opinion found in 5 McLean's Reports, page 314. He says that—

"A treaty is the supreme law of the land only when the treaty-making power can carry it into effect."

"A treaty which stipulates for the payment of money undertakes to do that which the treaty-making power cannot do; therefore the treaty is not the supreme law of the land."

"To give it the effect the action of Congress is necessary. And in this action the Representatives and Senators act on their own judgment and responsibility, and not on the judgment and responsibility of the treaty-making power."

"A foreign Government may be presumed to know the power of appropriating money belongs to Congress."

"No act of any part of the Government can be held to be a law which has not all the sanctions to make it law."

HO. OF REPS.

Irrigation and Forest Culture—Mr. Donnelly.

40TH CONG....2D SESS.

So, according to this decision, the treaty with Russia for the purchase of Alaska is not the supreme law of the land because it undertakes to do that which it cannot do. Justice Marshall also entertained the same opinion. In 2 Peters, page 258, he says:

"Our Constitution declares a treaty to be the law of the land. It is consequently to be regarded in courts of justice as equivalent to an act of the Legislature, whenever it operates of itself, without the aid of any legislative provision. But when the terms of the stipulation import a contract, when either of the parties engages to perform a particular act, the treaty addresses itself to the political, not the judicial, department, and the Legislature must execute the contract before it can become a rule for the court."

Then, if the treaty has not yet become the supreme law of the land, and if we have the right to deliberate and are left perfectly free to make the appropriation or refuse it, then the question recurs, What ought we do in reference to this appropriation? In other words, ought we to purchase, pay for, and own this territory now? I do not agree to the declaration that the territory is worthless. My opinion is that some day the territory will be valuable, but do we want it now, and are we in a condition now to begin a policy of acquisition? It seems to me not.

Our nation is in great financial embarrassment. We have just passed through a terrible war. We owe \$2,500,000,000. Our debt is enormous in its proportions. The people are staggering under the mighty load.

We are here working and trying to devise ways and means to raise money to pay the interest upon the public debt and to meet the current expenses of the country, and at the same time lighten the burdens upon the people. Our public domain, without that territory, is almost boundless. Thousands and millions of acres of our lands yet remain unsurveyed and unoccupied. Are we in this condition of our affairs to deliberately inaugurate a new policy, and by it saddle upon the country an increased debt? Are we in this state of things, while the people are appealing to us for help and relief, to begin a series of purchases of land not contiguous to our own borders?

While day after day we sit here and refuse appropriations for rivers and harbors and other internal improvements which should be made in the very centers of trade and commerce in our country, are we to vote money to buy a region which yet has scarcely been explored, and to say the least is of doubtful value? It seems to me, Mr. Speaker, that we should not. I do not agree that our country is as large as it ever ought to be. I believe that we are destined to own and control the whole western continent from Baffin's bay to the Caribbean sea. But, sir, we need not be in a hurry. When the fruit is ripe it will fall into our hands. We need not be in haste, especially in times like these, to buy this or any other territory. But it is said that by securing this purchase England will not get it, and we shall be clearing the way to get the strip she owns between us and Alaska. I have no fears on that point. England is not blind. She knows too well that all that country in the course of time is bound to form a part of the American nation, and that when the time comes, when the American Government needs it, she will own it, either by purchase or conquest.

France has had a little schooling in the business of undertaking to set up an empire in Mexico, and her failure is notice to all other Governments that the land between the Atlantic and Pacific oceans and north of the Caribbean sea is to be dedicated to free government and protected by the stars and stripes. It is only a question of time, and the time should be regulated by the needs of this country.

Mr. Speaker, I feel bound to vote against this appropriation because I desire to see this House assert what seems to me to be clearly its constitutional right in refusing this appropriation, because we do not need the territory at present, because our people are already bur-

dened with a public debt as much as they can bear, and finally, because we are sure of getting this territory whenever the growth of our young Republic may require it. Let us husband the resources of the nation, let us cut down expenses, let us make no new debts, let us favor the people in every possible manner consistent with the honor and integrity of the Government, until we come out of our pecuniary embarrassments, and then it will be time enough to treat for Alaska, St. Thomas's Island, Greenland, and Cuba. Until we do relieve the people of the burdens of taxation; until we get a little further along in the development of the resources of the country we already own; until we get able to improve the harbors and rivers in our midst, it seems to me we have no occasion to struggle to buy more land.

Irrigation and Forest Culture.

SPEECH OF HON. I. DONNELLY,

OF MINNESOTA,

IN THE HOUSE OF REPRESENTATIVES,

July 15, 1868,

The House being in Committee of the Whole on the state of the Union.

Mr. DONNELLY. Mr. Chairman, the great lines of the Pacific railroads are penetrating into a region with characteristics very different from those of the country bordering on the two oceans. Emigration is entering that region; considerable communities have arisen within it; States are being born there.

The administration of this great domain is part of our public duty. We must consider its capabilities and the means for their development.

This region possesses marked and singular characteristics. It is one of great aridity. As a consequence it is treeless.

It was for a long time believed that all this interior country would be uninhabitable. It was set down on the old maps as "The Great American Desert."

If the institutions of a country leave the energy and industry of man free, the obstacles of nature disappear from his path; if those great forces are checked and hampered he suffers in the midst of abundance.

It has been found that the "Great American Desert" recedes as the foot of the American advances into the wilderness. It is now believed that almost every part of that wilderness will yet be rendered habitable by man.

It is proposed to overcome the aridity of the atmosphere and the consequent dryness of the soil by irrigation.

Already several bills are pending before this body for grants of land to California, Nevada, and other States for the construction of great works of irrigation. It is proposed in these bills to form large central canals leading from the sides of the mountains or from lakes or rivers, and of a size fit for navigation by small boats; and from these main canals smaller canals are to branch off, and again from these other canals still smaller, until at last the water will be distributed over the land in the furrows drawn by a plough. It is proposed that Congress shall give the company constructing such works one half of all the lands they irrigate. The lands so proposed to be given are at the present time utterly without value, having been, in some cases for many years in the market without finding a purchaser. One half of the lands, rendered by irrigation fertile and habitable, will be worth more to the Government and the people than the whole of the lands in their present barren and useless condition.

Nor is the practicability of such an undertaking at all a matter of doubt. Even in our own country irrigation has already been carried on upon a large scale. The success of the attempt in the case of the Mormon colony in

Utah is well known to the world; and in California a large portion of the agriculture of the State is dependent upon irrigation for its success.

Nor must it be forgotten that in those regions esteemed "the cradle of the human race" the remains of ancient canals indicate that irrigation was one of the first instrumentalities employed by man to wring subsistence from the earth. In Persia, in Egypt, in India, and in China, irrigation far antedated recorded history. The desolation which has fallen upon Palestine resulted from the destruction of the reservoirs, canals, and terraces by which in the day of her prosperity irrigation was secured.

The dependence of Egypt upon irrigation is well understood. There is not a single spring in the whole land, and the rain-fall is but two inches in the year; and yet this land, surrounded by the arid atmosphere of the desert, was the granary of the ancient world, and is rapidly rising into importance in the markets of the present day. More unpromising than any portion of our great plains, it was made by the skill of man to sustain a population "as dense as any that ever existed in any part of the world."

In the south of Europe irrigation is extensively practiced. In Lombardy, upon each day in summer, an amount of water is distributed over the earth equal to the entire volume of the river Seine. In Sardinia and Savoy about six hundred thousand acres are cultivated by means of irrigation. In France two hundred and forty-seven thousand acres are irrigated. In Lombardy, Sardinia, and France more than three thousand square miles of land are watered by irrigation, while it is believed that the total amount of land irrigated in the Mediterranean basin is equal in area to the entire area of the Mediterranean sea.

The great Suez ship-canal is largely increasing the arable land of Egypt to the extent of hundreds of square miles.

These various facts all demonstrate that irrigation is not an experiment, but that it has been accomplished on a very large scale in other countries, and that millions of human beings depend upon it for their means of subsistence.

I hope to see these bills all passed. They should be properly guarded to prevent a monopoly of the water and to insure the rights of settlers.

Their success will lead to other experiments on a still larger scale until all the torrents of the mountains and all the rivers of the plains are brought under the control of man, and nearly all the level land of these great wastes are rendered fertile and populous and prosperous.

American enterprise will apply itself to these works as it has already applied itself to the construction of railroads. Capitalists will discover that at a comparatively small cost they can carry the waters of lakes and rivers for many miles and convert wastes of land which they receive as a gift into gardens of fertility of enormous value; while the Government will obtain in its reserved sections an equally large quantity of land for distribution among the people under the preëmption and homestead laws.

The highest statesmanship is that which calls out the capabilities and hidden resources of nature, and add to the happiness of man.

Another and a more surprising result will follow irrigation in our interior portions of the continent.

We find everywhere in the world that the density in the growth of the larger forms of vegetable life, the trees, is in exact proportion to the humidity of the atmosphere. Hence, as we recede from the oceans, the parents of the rain, we find the air becoming drier and the growth of the timber decreasing, until having passed the region of the prairies interspersed with groves and forests, we come at last to the

great treeless plains where, in some places, even the grass refuses to grow.

The absence of forests is simply the result of the aridity of the atmosphere. But it is found that where the soil is humid trees will flourish notwithstanding the dryness of the atmosphere. This is shown in those portions of the West where a clay sub-soil exists; there the rain is held as in a basin, the earth remains moist, and groves and forests arise in the midst of prairies. If, then, an artificial humidity can be produced in the soil by means of irrigation, forests can be produced.

Let us consider this subject in its several branches:

I.—THE NECESSITY FOR TIMBER.

During the first session of the Thirty-Ninth Congress, on the 18th day of May, 1866, I introduced in this House the following resolution; which was read and agreed to:

"Resolved, That in view of the almost complete absence of woods and forests in the interior regions of the continent, and of their paramount importance in the settlement and occupancy of the country, the Committee on the Public Lands be directed to inquire whether a system cannot be devised whereby the planting of woods and forests may be encouraged in regions destitute of timber by liberal donations of public lands in alternate sections to individuals or corporations, and the reservation of the adjoining sections by the Government at an increased price, as in the case of railroad grants; the lands so granted, or a proportional part thereof, to be planted with trees adapted to the climate and the needs of the community."

In answer to inquiries which grew out of this resolution, on the 28th June, 1866, Hon. J. M. Edmunds, then Commissioner of the General Land Office, in a communication to the Committee on the Public Lands, said:

"The subject of inquiry is one of vast importance to the future of this country. A large portion of the vast region between the Mississippi and Pacific is wholly destitute of timber, and this destitution is the great and principal hindrance to the rapid advance of settlements. These vast treeless plains and plateaus will be rendered habitable only by the presence of trees and groves, which will fertilize and moisten the soil, soften and modify the climate, and protect men and animals from the blighting effects of the dry and searching winds which now almost desolate that region."

A few facts will suggest the importance of trees and their products to civilized man. Bernard Palissy said:

"I cannot enough detest this thing, and I call it not an error, but a curse and a calamity to all France, for when forests shall be cut all arts shall cease, and they which practice them shall be driven out to eat grass with Nebuchadnezzar and the beasts of the field. I have divers times thought to set down in writing the arts which shall perish when there shall be no more wood; but when I had written down a great number I did perceive that there could be no end to my writing, and having diligently considered I found there was not any which could be followed without wood."

Palissy's apprehensions of the destruction of the woods of France were well founded. Mirabeau in 1750 estimated the forests of France at seventeen million hectares, while in 1860 it had fallen to eight millions, a loss of over one half in a century.

Rentzsch, in his work, "Der Wald," page 68, says:

"Spain, which by her position seemed destined for universal power, and once, in fact, possessed it, has lost her political rank, because under the unwise administration of the successors of Philip II. the empty exchequer could not furnish the means for building new fleets, for the destruction of the forests had raised the price of timber above the resources of the State."

War and peace, luxury and necessity, alike make their demand upon the forests.

During the first two years of our civil war twenty-eight thousand walnut trees were felled to supply a single European manufactory of gun-stocks for the American market.

Marsh in his work, "Man and Nature," says:

"The consumption of wood for Lucifer matches alone is enormous. I have heard of several instances where thousands of acres of fine forest have been purchased and felled, solely to supply timber for this purpose."

Rentzsch says, (page 68:)

"The demand for wood for children's toys is incred-

ibly large. The reports from the town of Sonneberg alone amounted in 1853 to sixty thousand centner or three thousand tons weight."

Bigelow (*Des Etats Unis en 1863*, p. 439) estimates that in 1862 the American railroads required ninety-seven millions two hundred thousand ties. Says Marsh:

"Enlightened individuals in most European States, governments in others, have made very extensive plantations, and France has now set herself energetically to work to restore the woods in the southern provinces, and thereby to prevent the utter depopulation and waste with which that once fertile soil and delicious climate are threatened."

Says the same author:

"The planting of the mountains will diminish the frequency and violence of river inundations, prevent the formation of torrents, mitigate the extremes of atmospheric temperature, humidity, and precipitation, restore dried up springs, rivulets, and sources of irrigation, shelter the fields from chilling and parching winds, prevent the spread of miasmatic effluvia, and, finally, furnish an inexhaustible and self-renewing supply of a material indispensable to so many purposes of domestic comfort, to the successful exercise of every art of peace and every destructive energy of war."

The insects most injurious to rural industry do not multiply in or near the woods. The locust which ravages the East with its voracious armies is bred in vast open plains which admit the full heat of the sun to hasten the hatching of the eggs, gather no moisture to destroy them and harbor no birds to feed upon the larvæ. It is only since the felling of the forests of Asia Minor and Cyrene, that the locust has become so fearfully destructive in those countries; and the grasshopper, which now threatens to be almost as great a pest to the agriculture of North American soils, breeds in seriously injurious numbers only where a wide extent of surface is bare of woods.

My own State has on several occasions suffered from the inroads of great armies of these insects from the treeless plains west of us; while they have on a still larger scale repeatedly desolated Kansas and Texas. This evil results from the fact that the exact balance between animal and vegetable life is not preserved in consequence of the absence of forests.

To supply the extraordinary demand for Italian iron occasioned by the exclusion of English iron in the time of Napoleon I, the furnaces of the valley of Bergamo were stimulated to great activity.

"The ordinary production of charcoal not sufficing to feed the furnaces and the forges, the woods were felled, the copses cut before their time and the whole economy of the forest was deranged. At Piazzatorre there was such a devastation of the woods, and consequently such an increased severity of climate that maize no longer ripened. An association formed for the purpose, effected the restoration of the forest and maize flourishes again in the fields of Piazzatorre."—*Report by G. Rosa, in Il Politecnico*, December, 1861, p. 614.

Says Dressard:

"Under the reign of Augustus, the forests which protected the Cevennes were felled or destroyed by fire in mass. A vast country, before covered with impenetrable woods—powerful obstacles to the movement and even to the formation of hurricanes—was suddenly denuded, swept bare, stripped, and soon after a scourge, hitherto unknown, the *mistral* or northwest wind, struck terror over the land from Arignon to the Bouches du Rhone, thence to Marseilles, and then directed its ravages over the whole maritime frontier. The people thought this wind a curse sent by God. They raised altars to it, and offered sacrifices to appease its rage."

Says Marsh:

"Under the consulate of Napoleon, the clearings had exerted so injurious an effect upon the climate, that the cultivation of the olive had retreated several leagues, and since the winters of 1820 and 1836 this branch of rural industry has been abandoned in a great number of localities, where it was advantageously pursued before. The orange now flourishes only at a few sheltered points of the coast, and it is threatened even at Hyeres, where the clearing of the hills near the town has proved very prejudicial to this valuable tree."

The influence of forests has long been recognized.

"Det gode Strøg i Afrika,
Der intet voxer kan, da ei det regner.
Og, omvendt, ingen Regn kan fælde, da
Der intet voxer."

Sir John F. W. Herschel accounts for the extreme aridity of Spain by the destruction of the forests of that country, and on the other hand declares—

"That rain has become more frequent in Egypt since the more vigorous cultivation of the palm tree."

In Malta rain became so scarce after the

cutting down of the forests that in 1841 not a drop of rain had fallen in three years.

Asbjörnson says:

"Palestine and many other parts of Asia and northern Africa, which in ancient times were the granaries of Europe," * * * "are now deserts, and it is the destruction of the forests which alone has produced this desolation."

With all these facts before us it can, I think, be safely asserted that any considerable increase of woods upon our extensive prairies would be followed by these results:

I. An interruption of the great winds which now sweep with unbroken force over those regions:

Says Bequerree:

"In the valley of the Rhone, a simple hedge two meters in height is a sufficient protection for a distance of twenty-two meters."

Says Marsh:

"If we supposed the trees of a wood to have a mean height of only twenty yards they often beneficially affect the temperature or the moisture of a belt of land two or three hundred yards in width, and thus, perhaps rescue valuable crops from destruction."

It is asserted in *Le Alpi che cingono l'Italia* that—

"In consequence of the felling of the woods on the Apennines the sirocco prevails greatly on the right bank of the Po, in the Parmesan territory, and in part of Lombardy; it injures the harvests and the vineyards and sometimes ruins the crops of the season. In Modena and Reggio where formerly straw roofs resisted the force of the winds, tiles are now hardly sufficient; in others where tiles answered for roofs, large slabs of stone are now ineffectual."

Those who have felt the sweep of the wind in Dakota Territory, Nebraska, Iowa, or Kansas, can appreciate the force of this description.

II. The production of flocks of insectivorous birds, which by destroying the larvæ of the grasshopper will put an end to that pest which now consigns vast regions to desolation.

III. A supply of wood for fuel and for building purposes, and for the thousand minor uses for which it is employed by civilized man.

Our Government has paid as high as \$150 per cord for wood at its military posts on the great plains. A civilized people cannot like the savage use the dry manure of the buffalo for fuel, nor can any frontier population afford to consume for fuel an article almost as scarce and as valuable as gold.

I pass to the next branch of my subject:

II.—THE FORESTS OF THE UNITED STATES.

According to the census of the United States for 1860, which gives returns of the "sawed and planed lumber" alone—excluding altogether timber for framing and for mechanical purposes—the value of the former material prepared for market in the United States was, in 1850, \$58,521,976. In 1860 it had nearly doubled in amount, being \$95,912,286.

Says Marsh, a very high authority:

"I greatly doubt whether any one of the American States, except, perhaps, Oregon, has at this moment more woodland than it ought permanently to preserve, though no doubt a different distribution of the forests in all of them might be highly advantageous."

Judge Edmunds, late Commissioner of the General Land Office, in the report from which I have already quoted, says:

"Till within a short time the advancing column of population has been composed of those who have been forced to contend with the densely-timbered region east of the Mississippi, carrying with them habits and tastes unsuited to the vast treeless plain now presented to our frontier settlements."

Having first learned that they could not live with forests, they have now to learn that they cannot live and prosper without them. Already the forests of New York, Pennsylvania, Indiana, and Ohio have been so far depleted that those States resort to Michigan and Wisconsin for lumber and timbers for domestic use."

But how long will the forests of Michigan, northern Wisconsin, and Minnesota stand between the treble drain of the older eastern States, the great prairies, and the valley of the Mississippi? Long before Michigan, northern Wisconsin, or Minnesota, the only States which can now export timber in large quantities, shall contain a population one half as dense as Massachusetts, they will not only cease to export, but will find a scarcity for their own local purposes.

* The three last named States are believed to con-

tain more available timber than all the territory between the Mississippi river and the mountains, and extending from the British possessions to the Gulf of Mexico.

Heretofore, as new sections of the country have been brought within the line of settlement, new sources of timber supply have been opened. Hereafter the advance of the settlements but increases the demand upon the already diminished and diminishing reserve.

It should be borne in mind that to this time our great forests have met the demands and destruction of a gradually rising population from three to thirty-three millions of people, while they were for nearly the whole time diving deeper into the recesses of the unbroken primal supply. We have now gone through and surrounded this great timber reserve, and we enter upon the margin of the great treeless waste with our original store three quarters consumed, the demand accelerated, and the consumers to rise rapidly from thirty-three to fifty millions within the last third of this century. A little common arithmetic will satisfy any thinking man of the consequences, and of the proportion which the demand and supply will bear to each other at the close as compared with the commencement of this century. Extend the time for another fifty years, with the added population, and it will be fortunate if our people get boards three inches wide, as in China at the present time. Is it not apparent that we should at once cease to destroy and commence to produce?"

Having, as I think, demonstrated the vast importance of the woods to the members of the human family, and especially to that most important part of the human family, the agriculturists, whose labor is the basis of all the wealth, industry, prosperity, and happiness of the world, I turn to the next branch of the question.

III.—CAN FORESTS BE CREATED BY THE LABOR OF MAN?

The experience of the past cannot fail to give to this question an emphatic and affirmative answer.

Forests have been created from the earliest times.

Ordericus Vitalis tells us that William the Conqueror destroyed sixty parishes and drove out their inhabitants, in order that he might turn their lands into a forest, to be reserved as a hunting ground to him and his posterity, and he punished with death the killing of a deer, wild boar, or even a hare therein.

His successor, William Rufus, according to the *Histoire de Ducs de Normandie et des Rois d'Angleterre* "was hunting one day in a new forest which he had caused to be made out of eighteen parishes that he had destroyed, when by mischance he was killed by an arrow from the bow of Sir Walter Tyrell."

In France great desolation and depopulation resulted from the encroachment of the royal forests over the cultivated country, and much of the violence and bitterness that marked the great revolution arose from the cruel game laws made to protect these forests and their inhabitants.

In Europe *sybviculture*, or the growth of artificial forests, has given birth to an entire literature, embracing many great and distinguished names. They divide the science into the *tailis* or copse treatment, and the *futale* or full-growth system. Great care is taken to mingle the various trees in the proportions found in the natural forests, to exclude domestic animals that browse upon and destroy the tender shoots, and to select such localities as are fitted for the growth of forests and which at the same time can best be spared from agriculture. There is no "primitive forest" in Europe, many of them are altogether of artificial growth, while the remainder have been greatly changed and affected by the labor of man.

In Scotland and in the South of France many square miles of forest have been created. In Egypt, Mahemet Ali planted more than twenty millions of olive and fig and cottonwood trees, &c.

In an interesting series of articles by Bände, in the *Revue des Deux Mondes*, there is this statement:

"A spectator placed on the famous bell-tower of the cathedral of Antwerp, saw, not long since, on the opposite side of the Schelde only a vast desert plain; now he sees a forest, the limits of which are confounded with the horizon. Let him enter within its

shade. The supposed forest is but a system of regular rows of trees, the oldest of which is not forty years of age. These plantations have ameliorated the climate which had doomed to sterility the soil where they are planted. While the tempest is violently agitating their tops the air a little below is still, and sands far more barren than the plateau of La Hague have been transformed, under their protection, into fertile fields."

A still stronger proof is afforded in the following extract:

"While Britain retains her awful situation among the nations of Europe," says Isaac Disraeli, father of the present prime minister of England, "the 'Sylvia' of Evelyn will endure with her triumphant oaks. In the third edition of that work the heart of the patriot expands at its result; he tells Charles II. 'how many millions of timber trees, besides infinite others, have been propagated and planted at the instigation and by the sole direction of this work.' It was an author in his studious retreat who, casting a prophetic eye on the age we live in, secured the late victories of our naval sovereignty. Inquire at the admiralty how the fleets of Nelson have been constructed, and they can tell you that it was with the oaks which the genius of Evelyn planted."—*Literary Character*, p. 274.

Mr. Greeley, in the New York Tribune of the 4th of June, 1866, said:

"Africa has her Sahara; Asia her Arabian sands and vast Tartar 'Steppes' or lofty, naked table-lands behind the Himalayan range; but America probably exceeds either in the extent of her area rendered uninhabitable by civilized man because of their arid desolation.

"This need not be, and must not continue. 'The plains' are not all sterile. Their soil is full of alkaline substances which strongly conduce to fertility. Salt Lake City is built on a bench or 'swale' five thousand feet above sea-level and nearly inclosed by lofty mountains, and no tree had grown on this or any kindred tract within the human tradition till the Mormons settled there; and now, being irrigated, it is embowered in shade and fruit trees. It might more easily have been converted into a dense forest. And we judge that there is no spot on the continent between the Isthmus of Darien and the sixtieth degree of north latitude where living water can be procured which cannot be readily covered with trees. Where water cannot be had, the case is more difficult; yet the red cedar and the mountain pine grow on the dryest, most sterile mountains; while the redwood and perhaps the big trees of California may be equally independent of water.

"Fire is the chief enemy of forests and dry regions, and had doubtless been dealing with them as man is now dealing with the buffalo for centuries. We saw ample evidence that timber was formerly less scarce on the plains and in the great basin than it now is, while in all the prairie States where roads and settlements have limited the sweep of prairie fires, there is a steady increase of timber. We do not say (as many do) that Illinois has more timber growing to-day than she had fifty years ago; but we do say that her timber is far better distributed than in 1815, and thus better adapted to the needs and uses of mankind."

The manner in which fruit trees of different kinds and originating in different regions and climates have been transferred to this country and successfully cultivated to the number of many millions is the most complete answer to all doubters. The orchards of the United States, if collected in one locality, would cover hundreds of thousands of acres. If such results have been achieved with these most tender and precarious foreign trees, why could they not be attained with the hardy forest trees of our own country? If we can raise groves of the peach can we not raise forests of the oak or the maple?

There is an additional fact to sustain Mr. Greeley's statement, that trees and groves may be grown by the aid of irrigation even in the midst of the sage and cactus plains. The French Government has been boring artesian wells in the great African desert, and wherever the water bubbles to the surface an oasis springs up. Laboulaye, in his beautiful tale of the "Four-Leaved Clover," has given a charming account of the development of such a well in the desert with its palm trees and its warbling birds. But there is a vast region of our country now almost uninhabitable which could be rendered so by the presence of groves and forests, and where they could be made to grow without irrigation. I refer to the Territory of Dakota, to Nebraska, and to western Minnesota and Kansas and Texas; in short, to all the border land between the timbered country and the arid interior. In the greater part of this country the forest would be almost spon-

aneous. Little would be needed but to protect the young growth from fire and domestic cattle; and where no spontaneous growth of brush appeared to plant groves in such localities as will be most favorable, along the banks of streams or lakes, or near moist and springy places.

I quote with pleasure the following extract from a late number of the Wisconsin Farmer:

"As an evidence of the facility with which timber may be produced, we have only to observe results in localities where the spontaneous growth has been preserved by provident farmers; and we have seen no better examples than are to be found in Grant county. There large tracts of grub land have been left to grow up where the timber had been cut off or nearly destroyed by fires, and these groves, of all sizes, from a few acres up to hundreds of acres which everywhere skirts the prairies, form one of the most delightful features of that region. These saplings are mostly oak and hickory, and cover the ground so thickly that at a little distance their tall, straight trunks seem to form an impenetrable wall of timber, and this new growth is already furnishing supplies of fuel and fencing.

"One gentleman in Potosi informed us that twenty years before he had a tract covered with heavy timber which he cut off clean and left to grow up to young timber, and that the young growth would cut twenty-five cords of wood to the acre. Indeed, it is thought by some that there is as much weight of timber in Grant county now as there was twenty years ago."

In my own State practical men are trying the experiment and with marked success, as the following letter will show:

ELGIN, April 29, 1867.

To the Editors of the Wabasha Herald:

As you have given, from time to time, some very good advice to the people of this county in regard to planting trees and seeds for timber, I send you as my experience in planting Maple seeds, the following: In May, 1866, I sent to William Closson & Son, Prairie Garden, Prairie City, Illinois, four dollars, for which they sent me by express one bushel of soft Maple seed. I prepared my ground as for corn, marking one way with single shovel plow, three feet and a half apart, dropped seeds two inches apart, covered two inches deep. The trees grow from six to thirty inches high last season, and are now looking very finely, having stood the winter well although not protected.

Seeds of the soft maple usually ripen and fall in May, and can be gathered wherever large maple trees can be found. There are many places in Illinois or Pennsylvania where they can be bought. One should be careful in planting to avoid places where the snow drifts on the plants. Keep clean, and transplant at one year old, and then cultivate well, and I have no doubt that in eight years the trees will be twenty feet high. Hoping that many of our farmers will plant out largely and profit thereby, is my wish. GEORGE BRYANT.

IV.—WHAT CAN BE DONE TO STIMULATE SYLVICULTURE?

Washington Irving said: "He that plants a tree labors for posterity."

The sentiment is a beautiful one, but the fact itself has been the great obstacle to tree-planting.

The present emperor of France in his wonderful development of the material interests of France has not lost sight of the great question of *sybviculture*. A project is now in execution to border with trees the principal railroad lines of the nation, so that while the wealth of the country and the beauty of the landscape will be improved the trains will run under one continuous and beautiful arbor of foliage. At the same time it is proposed to plant largely those trees upon which the silkworms feed, so as to add immensely to the facilities for the silk manufactures of France, from which hundreds of thousands of the French people derive their subsistence. How vastly does a slight exercise of human foresight add to the resources and the happiness of millions!

But without foresight nothing can be achieved. He must be something of a philosopher who plants an orchard from which he can expect no returns for six, eight, or ten years. He must possess still more of the higher qualities of the mind who will set out a grove from which he will derive no income for ten, fifteen, or twenty years. Yet he who plants an orchard can hope to add only to the gratifications of the palate; while he who helps to dot the landscape with groves of trees changes the face of nature, adds enormously to the comfort of mankind, and increases the area of the cultivable earth. He

does that which few men are able to do; he leaves a permanent trace of his own existence upon the bosom of the earth, to stand in stately monumental beauty long after he has gone back to the dust.

I hope the time is not far distant when every intelligent farmer in the sparsely timbered regions of the West will set out his grove of five, ten, or twenty acres, as regularly as he sets out his orchard. It is our boast that we Americans are unlike every other race of the world, and that neither nature nor our institutions can suggest any difficulty which we are not able to overcome. Hence we have readily and instinctively revived the irrigation of Asia upon the shores of the great basin; and we have brought to the work of mining for the precious metals in the mountains of California and Montana a degree of energy, invention, and skill unparalleled in any other quarter of the globe.

Shall our great flood-tide of immigration pause at the border of the treeless region, or shall it press forward, asking nothing of nature but soil and climate, and carrying with it not only the railroad for transportation but the very forest for protection? If the people who settled the Atlantic States were willing to toil for a lifetime to cut out of the dense forest an "opening" for cultivation, shall not this new race of pioneers be willing to exact a tithe of the labor to create a patch of forest as important to them as the forest "opening" was to their ancestors?

We are at the threshold of the greatest period of emigration ever known in the history of the world.

The earliest immigrants to America were forced away from their homes by a sublime religious enthusiasm. They chose the wilderness as they would have chosen the block or the stake, through devotion to their religious convictions.

The great diffusion of information has loosened the ties which bind men to their homes. A less motive now suffices to induce emigration. They have learned that the only escape from the density of population and the social inequalities of their native countries is to be found in those new lands of the earth which are in process of colonization. Education is producing amid its other marvelous results an equalizing of the populations of the world; a general shifting and unrest of enormous masses of men seeking an increase of their material welfare. The peace of the Old World, the growth of the New, and the happiness of mankind will all be increased by this process, until the time will come when the excellence of the Government of any country will be accurately tested by the emigration from or the immigration to its borders.

In this view every foot of the surface of the earth which can be rendered habitable becomes of importance. It may be that the very heart of the great plains cannot be made fit for the home of man even by the aid of irrigation; but at least we can drive the line of uninhabitability far inward; we can advance the leafy banners of civilization far toward the center of the continent, and we can turn the bare and desolate wilderness into a great garden of beauty, filled with all the comforts and all the abundance of civilized life.

III. WHAT HAS BEEN DONE IN THE INTEREST OF FOREST CULTURE?

On the 23d March, 1867, the Legislature of the State of Wisconsin passed an act entitled "An act relating to the growth of forest trees," creating commissioners to ascertain and report to the next Legislature in reference to "the injurious effects upon the climate of destroying the forests of the State; the evil consequences to the present and future inhabitants; the duty of the State in regard to the matter; what experiments should be made to perfect our knowledge of the growth and proper management of forest trees; the best method of

preventing the evil effects of their destruction; what substitutes for wood can be found in the State, and generally such facts as may be most useful to persons desirous of preserving or increasing the growth of forest and other trees in the State of Wisconsin."

That commission has now made its report in a volume of over one hundred pages, which cannot be too highly praised as an admirable compendium of facts and opinions upon the subjects referred to in the act.

The progress of man has been precisely commensurate with his power to subdue to his purposes the forces of nature. He found the whole of Europe a vast expanse of forests, resounding with the howls of wild beasts. He sheltered himself from their fury in the caves of the earth, or in villages built on piles in the shallow waters of the lakes. But as the immortal instincts of his intellect worked themselves out he drove back and exterminated the beasts and laid low the forests; and working through countless generations, he has transformed the formless wilderness into one continuous garden; and the villages in the lakes have grown into mighty cities, holding out their arms to all the lands and all the seas.

The world was made for man, and he is its master. He has transformed it; he has developed the wild grass of Italy into the wheat plant, and he has covered with it millions of acres on continents where nature never placed it; he has gathered into his garden the fruits of all lands; he has made of the hardest substances in nature implements with which to overcome nature. The fiercest elements bow to the majesty of his genius; the subtlest principle of the air carries his messages even under the bosom of the great deep, furrowed by the ceaseless movements of his innumerable vessels; the torrent turns his mill wheel; the winds are his servants; the stars are his chronometers; the sun becomes his portrait-painter; he measures the nebulae of the milky way; he weighs the planets; he analyzes the light of the meteors; he tells you the substances of which the burning comet is composed; he tunnels the mountains; he bridges the streams; he maps the celestial world, and he surveys the bottom of the great deep; and last, and mightiest triumph of all, he restrains the beast-like passions of men, and forms a nation held together by the coherent common sense of every member of society.

If the people of the West resolve upon it, they can in the next one hundred years cover with forests one third of the entire country between the prairies of Illinois and the sage bushes of the great plains; and who shall say what changes such a transformation would work upon the climate and productions of our entire country?

Which is the harder task, for savages working with stone hatchets and torches to subdue a primeval forest and tame the wild luxuriance of its soil, or for civilized, cultivated, educated men, with all the helps of science, to plant along the margins of artificial streams the seeds of forest trees, and permit willing nature to do the rest?

Wisconsin has done a great work in taking the initiative in this matter. I make one or two extracts from the report in question. It quotes the following from Mr. J. J. Thomas:

"Isaac Pullen, a well known nurseryman of Hightown, New Jersey, showed me last summer, 1864, several belts of evergreens which had sprung up from his nursery rows to a height of twenty-five or thirty feet in ten years, and he stated that within the shelter of these screens, his nursery trees as well as farm crops average fifty per cent. more than on bleak and exposed places. I have known an ordinary English thorn hedge, which had been allowed to run up twenty feet or more in height, to shelter and save from winter killing a crop of wheat as far as its influence extended, while beyond this the grain was nearly destroyed."

The report continues:

"If tree belts in New Jersey have been known to increase the production of the land fifty per cent., and if one half this increase could be realized in

Wisconsin, the surplus farm products of the year 1866 would have netted the State the sum of \$17,300,000. This sum would have been added to the wealth of the State with but very little additional expense. The estimated value of nine of the principal crops of 1866 is \$69,500,000."

I regret I cannot here find space to quote the numerous interesting facts mentioned in this report as to the clearly-defined influence of the destruction of the forests of southern and eastern Wisconsin upon the crops and climate of those regions. The report should be in every farmer's hands. I cannot refrain, however, from quoting the following:

"Such has been the change in the flow of the Milwaukee river, even while the area from which it receives its supply is but partially cleared, that the proprietors of most of the mills and factories have found it necessary to resort to the use of steam, at a largely increased yearly cost to supply the deficiency of water power in dry seasons of the year. The Menomonee river, a small tributary of the Milwaukee, has been effected in the same way and to a still greater extent, because a large proportion of the water supplying area has been stripped of its forest trees. Several of the mills that formerly found sufficient power on this stream have been entirely abandoned, others are propelled a large share of the time by steam."

"What has happened to the Milwaukee river and to those smaller streams has happened to all the other water courses in the State, from whose banks the forests have been removed."

"In the State of Michigan it has been found that the winters have greatly increased in severity within the last forty years, and that this increased severity seems to move along even paced with the destruction of the forests. Thirty years ago the peach was one of the most abundant fruits of that State; at that time frost—injurious to corn at any time—from May to October, was a thing unknown. Now the peach is an uncertain crop, and frost often injures the corn."

I find in one of the newspapers of the day the following:

"A bill has been introduced into the California Legislature to encourage the planting of shade trees. It is strange that such legislation is necessary in that land of big trees, but it is a fact that the waste and destruction of timber by the settlers of California have bared the soil in many places to the sun and winds for miles, and changed the cool groves and pleasant shady spots to dusty plains, as innocent of trees as the Arabian desert. This is especially the case upon the public roads. 'With the most attractive rural scenery in the world,' says a San Francisco journal, 'we have the dreariest roads and the balddest country houses and villages of any State in the Union. For fifteen years a warfare has been made upon the trees growing upon the plains and along thoroughfares until few of them are now left.'"

"It was one of the barbarous customs of the early settlers to cut down the trees in the neighborhood of their houses and whitewash the stumps, as a cheap and easy method at once of clearing the land and 'marking' the road; and this wholesale destruction was carried on with such utter lack of caution and judgment, that whole regions are now nearly destitute of the protection and advantages given to the soil and to its cultivation by the presence of forest trees. The consequences are that the winds have full sweep and the sun and storms full play throughout those regions: their fruitfulness is impaired and the health and comfort of the residents materially diminished, to say nothing of the desolate and monotonous aspect of these long reaches of shadeless roads, bald fields, and staring houses."

Michigan has already taken action in this matter. In 1867 a committee of the House of Representatives of that State reported to that body on the subject of forest trees, and stated that last year the loss on all that part of the State lying south of the Michigan Central railroad was estimated at no less than three fourths of their entire wheat crop! From what inquiries they had been able to make the loss on the wheat crop alone of that State for the last four years is not less than \$20,000,000. They fear that these vast losses are but "the beginning of sorrow," and "that the improvidence which laid open their fields to that scourge of God, the southwest wind, by the wholesale destruction of the forests, is now only beginning to reap its fruits, and that these losses can only be avoided by restoring, in part at least, the natural boundaries against the wind."

I make one more extract from this highly valuable document:

"Now, if we look over the State, we will see that in the southern, most populous, and least wooded portion of the State of Wisconsin the forests have been destroyed at such a rate that they do not yield a supply adequate for the wants of the present inhabitants; and the forests of the northern region, heretofore considered the inexhaustible storehouse of

wood for the adjoining treeless districts, will soon be so reduced that the people must look elsewhere for their supplies unless a better policy in regard to them be speedily adopted."

If heavily-wooded Michigan and Wisconsin are already becoming alarmed at the decrease of their forests and the injurious effects which their destruction produces on the climate, what shall we say of Iowa, southern and southwestern Minnesota, Nebraska, Dakota, Kansas, and all the rest of the great treeless region which stretches to the Rocky mountains? Without trees nine tenths of this region must continue uninhabitable. Without water the cultivation of trees on the great plains will be difficult.

In this region it will be wise for Congress to adopt some such policy as that suggested in the beginning of these remarks. If grants of land have led to the building of railroads where means of transportation were a necessity, will not similar grants lead to the dissemination of water and the planting of forests where forests and water are even as necessary as railroads? It will cost less to irrigate a mile and plant and protect forests thereon than it will to construct a mile of railroad, and the latter will be even more remunerative than the former.

The Government might also very properly give grants of land to institutions of learning, such as colleges and universities, situate in the treeless States to enable them to experiment in the planting and growth of forests.

The homestead law should also be amended so that whenever the claim of the settler does not contain any timber, and is five miles distant from any considerable body of forest, he should be required to plant with trees at least ten acres of the one hundred and sixty acres taken by him, and to protect the same until the expiration of his five years of settlement. This might at first seem an onerous requirement, but the settler would soon see that he derived all the benefits of his own labor, while the grove thus planted would add largely to the value of his land. An extensive tract of country so dotted over with groves of ten acres each would be transformed, not only in appearance, but in its climatic conditions, while its productive power would be largely increased by the protection the growing crops would receive from the sweeping winds.

The Agricultural Department, instead of flooding the country with common garden seeds, which can be procured at any seed-shop, should collect large quantities of the best forest-tree seeds and send them with accompanying directions to those on the frontiers who might apply therefor. A very few thousand dollars thus expended annually would produce an incalculable amount of good, which would be felt for many succeeding generations.

Mainly, however, in such a work, we must rely upon the wisely directed efforts of individuals, and on a healthy public sentiment to sustain them and to direct local legislation. The diffusion of information will do good. The example of a few far-sighted citizens in each community will be followed by a horde of imitators. This process is already at work. It is credibly asserted that there is more timber to-day in Illinois and Iowa than there was thirty-five years ago, and for the reason that from the very first the people felt the necessity for trees; they could not afford to recklessly destroy them, and they have set themselves to work to plant and protect them.

In the treeless regions every spot of land which shows a tendency to grow to brush should be carefully protected from fire and cattle. Such a spot is nature's hint—the prophecy of a forest. Where experiments are made they should be made upon such lands or those of a kindred quality. The banks of lakes, streams, and marshes should be taken advantage of, for there the moisture in the earth will compensate in part for the dryness of the atmosphere, while even the atmosphere itself is modified

by the proximity of any considerable body of water. The farmer should plant his groves on those sides of his land from which the prevailing winds blow, and in such form as will afford the greatest amount of protection to the growing crops. The subject of forest planting should be taken up by the agricultural journals and farmers' clubs of the West, and premiums be given to those who do most to develop the subject, either by essays or experiments.

Reconstruction.

SPEECH OF HON. GREEN B. RAUM,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

July 24, 1868.

The House having under consideration the bill to provide for the more speedy reorganization of the States of Virginia, Mississippi, and Texas, and for other purposes—

Mr. RAUM said:

Mr. SPEAKER: The country will not be surprised to see that no measure supported by the majority on this floor for the reconstruction of the rebel States meets the approbation of gentlemen on the other side of the House.

The reason, sir, is obvious. They hold to the proposition that when the rebellion was suppressed by the valor of our soldiers the people of the rebel States were entitled to and resumed all the rights and privileges which they possessed before the war, while we hold that by treason and rebellion the loyal State governments were destroyed, and that the people of the rebel States abdicated the right of self-government, and could only be restored to their former rights in pursuance of laws enacted by Congress, and that governments in the South could be established only by the same authority.

These inconsistent theories necessarily cause an antagonism between the Republican majority and the Democratic minority in Congress.

The real question involved in the contest of parties is whether loyal men or disloyal men shall rule this country; whether the men who voted and fought to preserve and maintain liberty and union in the United States shall control the destinies of this great Republic, or whether the criminal men of the South who fought for slavery and disunion and their allies in the North shall rule the country. This is the issue, the true issue, and it is upon this issue that parties must go to battle in the present campaign.

At the close of the war, Congress not being in session, Andrew Johnson, President of the United States, undertook without authority of law to establish civil governments in the rebel States. Forgetful of the fact that he owed his election to the office of Vice President to the votes of loyal men, he proceeded to rebuild the shattered fragments of State governments in the South upon disloyal foundations. But the Congress of the United States determined that loyalty should be the foundation upon which should rest civil governments in those States lately torn by rebellion.

And, sir, it was for the law-making power of the land to settle by acts of legislation the terms upon which rebels should be restored to political rights under the Constitution, and to settle the mode and manner that civil governments should be reestablished in the South.

Congress has undertaken to do this, and has passed laws for that purpose which have commended themselves to the people of this country as being founded in wisdom and justice. But, sir, the Democratic party has at all times and places, in season and out of season, opposed these measures upon the specious plea that Congress was establishing a military despotism at the South, and was trampling upon the rights of the southern people.

And now, sir, when we bring forward a bill which proposes to confer upon the constitu-

tional conventions elected by the people, the powers necessary for the protection of life, liberty, and property, and require the military authorities to render all necessary aid to preserve peace and enforce the laws, the Democracy are again up in arms in opposition to the bill. Why they oppose this measure I am entirely unable to comprehend, unless upon the general principal of total depravity. If it is wrong for the military authorities to administer public affairs in Texas, Mississippi, and Virginia, it must certainly be right for the civil authorities to be invested with all civil power. According to Democratic doctrine, however, it is wrong for those States to be governed by either military or civil authority, from which I necessarily imply a wish upon their part to see anarchy, confusion, and bloodshed prevail in those States.

Mr. Speaker, the constitutional conventions of Texas, Mississippi, and Virginia are composed mainly of loyal and patriotic men, who understand the condition of public affairs in those States and the wants of the people, and, in my judgment, it will be eminently proper and safe to intrust the administration of civil government to them until the work of reconstruction is completed. I therefore urge upon the Republican members to vote in a body for the bill now under consideration. This measure, just and proper in itself, is, in my opinion, made necessary by the attitude of the President and the Democratic party in respect to all the reconstruction acts of Congress. Heretofore contenting himself with veto messages and hostile inaction the President now assumes an attitude of defiance, and boldly asserts that the governments established in seven States of this Union in pursuance of law, and which are now represented on this floor, are illegal governments, and consequently not to be recognized by the executive department of the United States, and that the provisional governments established by him are legal, and their acts should be recognized as valid.

What does this mean, Mr. Speaker? It means, sir, that if a revolutionary movement is inaugurated in the southern States, headed by the rebels who, under the lead of Andrew Johnson, set on foot provisional governments, that the President will not upon the application of the legal and existing governments, aid to enforce the laws by military power, but that he will use the whole military force of this country to aid the rebels in overthrowing the loyal governments established in those States by virtue of the reconstruction acts of Congress.

And, sir, he would be upheld in an act of this kind by the entire Democratic party, for, sir, they are committed to such a scheme by the platform of their party, and more particularly by their candidate for Vice President, who in advance of his nomination, and for the purpose of securing it, in his letter of the 30th of June used the following extraordinary and revolutionary language:

"If the President elected by the Democracy enforces or permits others to enforce these reconstruction acts, the Radicals, by the accession of twenty spurious Senators, and fifty Representatives, will control both branches of Congress, and his Administration will be as powerless as the present one of Mr. Johnson."

"There is but one way to restore the Government and the Constitution, and that is for the President-elect to declare these acts null and void, compel the Army to undo its usurpations at the South, disperse the carpet-bag State governments, allow the white people to reorganize their own governments, and elect Senators and Representatives. The House of Representatives will contain a majority of Democrats from the North, and they will admit the Representatives elected by the white people of the South, and with the cooperation of the President it will not be difficult to compel the Senate to submit once more to the obligations of the Constitution."

Here, sir, is the old cry of defending the Constitution against encroachment. It was this cry at the South that carried the people into rebellion; it was this cry that drenched the land with blood, and now it is again invoked by the same party in the interests of the

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very same men who eight years ago threatened secession in the event their candidate was not elected President.

Rebellion was organized under Buchanan's administration. While he, a weak, vacillating old man, disclaiming the power to prevent secession, avowed himself for the Union, how much greater the danger now of insurrection and bloodshed with Andrew Johnson for President, who, denying the validity of the governments in the southern States, possesses the firmness of purpose, the maliciousness of intent and sympathetic devotion to the adherents of the "lost cause" to nerve him to enter upon the execution of any scheme of anarchy and bloodshed which might promise the restoration to power of the dethroned slave-oligarchy of the South and their subservient allies of the North. And, sir, I raise the note of warning to the country, impending, imminent danger hangs like a pall over the Republic; the enemies of liberty, union, and justice, in the name of the Constitution are making a final appeal to all the evil passions and prejudices of the people against the supremacy and enforcement of the laws enacted under and by virtue of the Constitution itself. But, sir, the men who, in the dark hour of the nation's peril, voted and fought in defense of its Constitution and its flag cannot be deceived by this gilded treason of those who were, and still are, the enemies of the Union, the Constitution, and the enforcement of the laws.

Funding the National Debt.

SPEECH OF HON. S. S. MARSHALL,

OF ILLINOIS,

IN THE HOUSE OF REPRESENTATIVES,

July 21, 1868.

The House having under consideration the bill (S. No. 207) for funding the national debt—

Mr. MARSHALL said:

Mr. SPEAKER: I regret that I have not had time to mature and thoroughly digest the views I desired to present on this important question, and to present clearly all the facts and figures which I deem important for its proper understanding and elucidation. The importance of the question cannot well be exaggerated. It involves at the same time the honor, character, and good faith of our Government and the happiness and well-being of our people. Its discussion brings prominently to view the issue made up on financial questions by the two great parties struggling to gain control of our Government by the verdict of the people in November.

POSITION OF THE DEMOCRATIC PARTY ON THE DEBT QUESTION.

On the one hand the Democratic party regard the public debt not as a "public blessing," but as a public curse, weighing like an incubus upon the energies of the people, eating up their substance, and demoralizing and destructive in all its influences upon society. They propose to get rid of it just as soon as possible consistent with the rights and interests of the people and the honor and good faith of our Government. They insist that the bondholder shall not be a peculiarly privileged class, but shall be subject to taxation, and shall receive for obligations due him the lawful money of the United States, just precisely as any other citizen, excepting always those cases where the Government has agreed by its contract, or by law, to pay him in coin. They will pay the interest on the five-twenty bonds in coin, because their Government, in its contract, has agreed that it shall be so paid; they will pay both principal and interest of the ten-forty bonds in coin for the same reason; but they will pay the principal of the five-twenty bonds with the legal-tender currency of the United States, and thereby stop forever the ruinous

coin interest—we are paying thereon, because it was that currency, greatly depreciated below its present value, that we received for the bonds when the loan was made, and more especially because by the contract the public creditor has neither a legal nor equitable claim to be paid in any other way. This, I think, is unquestionable, and this I shall endeavor hereafter to demonstrate. We do not propose, as is contemplated by this most suicidal—I am almost tempted to say, most infamous—act, without any consideration or claim of justice whatever, to increase this debt one third, or, in other words, vote the bondholders a bonus of nearly six hundred millions in gold; and then, by an inexorable and irreparable decree, fasten this accumulated debt upon our country for a period of forty years, with interest in gold, to be paid semi-annually, during all that time. I cannot see the justice or propriety of thus increasing and perpetuating the burdens of a patriotic people, already nearly driven to despair by the public demands upon their scanty means and the unhappy financial condition of their country.

POSITION OF THE RADICAL PARTY ON THE PUBLIC DEBT.

On the other hand, as already indicated, the Radical party now and for the last eight years unfortunately having absolute control of the Federal and nearly every State government, after having, by their extravagance and unparalleled corruptions, doubled the indebtedness of the country, are making herculean efforts to perpetuate their power and increase their ill-gotten gains. They have placed in the van, as their standard-bearer, a speechless sphinx, enveloped in a cloud of tobacco smoke, who professing no principles or political convictions himself promises most obsequiously to obey the behests of his party. And you now propose by this bill to convert a debt approaching two thousand million dollars, now payable in legal-tender notes, into bonds running forty years, payable in gold, exempt from all taxation, and the interest during all that time payable year by year in gold, to be coined from the sweat and toil and groans of an impoverished people.

You have arrayed yourselves on the side of the bondholders and the capitalists against the interest and rights of the tax-payers, and to give plausibility to your position raise the wolf howl of repudiation against the people who demand equal and exact justice for all, and indulge in stale platitudes about public faith and maintaining the public credit, when it is by your own extravagance and corruption that the public credit has been imperiled.

RADICAL PLATFORM ON FINANCIAL QUESTIONS.

There is an attempt in the platform adopted at Chicago to sugar-coat the purposes of your party by the use of popular and *ad captandum* phrases, and thus to make them acceptable to the tax-ridden portion of your followers. I will read from the platform all that is said upon the financial issues:

"Third. We denounce all forms of repudiation as a national crime, and national honor requires the payment of the public indebtedness in the utmost good faith to all creditors at home and abroad, not only according to the letter, but the spirit of the laws under which it was contracted.

"Fourth. It is due to the labor of the nation that taxation should be equalized and reduced as rapidly as the national faith will permit.

"Fifth. The national debt, contracted as it has been for the preservation of the Union for all time to come, should be extended over a fair period for redemption, and it is the duty of Congress to reduce the rate of interest thereon whenever it can possibly be done.

"Sixth. That the best policy to diminish our burden of debt is to so improve our credit that capitalists will seek to loan us money at lower rates of interest than we now pay, and must continue to pay, so long as repudiation, partial or total, open or covert, is threatened or suspected."

It is of course understood by all that this "covert repudiation" so boldly denounced refers to the proposition of the Democratic party to pay the five-twenty bonds, constituting the principal part of our indebtedness, in our present "greenback" currency. And

according to this platform the national debt is not only to be paid all in gold, principal and interest, but the principal must not be paid now at all, but must "be extended over a fair period for redemption," and this fair period, according to the bill before us, is forty years, during which we will have no right to pay the principal, but must continue to coin our toil and sweat and muscles into gold semi-annually to pay the interest, until we all now on the stage of action go down to our graves.

DEMOCRATIC PLATFORM ON FINANCIAL QUESTIONS.

In contrast with this bondholders' platform I turn with pride and pleasure to the bold, clear, ringing, patriotic enunciations of the Democratic platform upon the same questions, adopted in New York at our recent national convention. I will read them, that all Radicals may blush at and all Democrats glory in the contrast presented by the two platforms:

"Third. Payment of the public debt of the United States as rapidly as practicable; all moneys drawn from the people by taxation, except so much as is requisite for the necessities of the Government, economically administered, being honestly applied to such payment, and where the obligations of the Government do not expressly state upon their face, or the law under which they were issued does not provide that they shall be paid in coin, they ought, in right and in justice, to be paid in the lawful money of the United States.

"Fourth. Equal taxation of every species of property according to its real value, including Government bonds and other public securities.

"Fifth. One currency for the Government and the people, the laborer and the office-holder, the pensioner and the soldier, the producer and the bondholder.

"Sixth. Economy in the administration of the Government; the reduction of the standing Army and Navy; the abolition of the Freedmen's Bureau and all political instrumentalities designed to secure negro supremacy; simplification of the system and discontinuance of inquisitorial modes of assessing and collecting internal revenue, so that the burden of taxation may be equalized and lessened; the credit of the Government and the currency made good; the repeal of all enactments for enrolling the State militia into national forces in time of peace; and a tariff for revenue upon foreign imports, and such equal taxation under the internal revenue laws as will afford incidental protection to domestic manufactures, and as will, without impairing the revenue, impose the least burden upon and best promote and encourage the great industrial interests of the country.

"Seventh. Reform of abuses in the administration, the expulsion of corrupt men from office, the abolition of useless offices; the restoration of rightful authority to, and independence of, the executive and judicial departments of the Government; the subordination of military to civil power, to the end that the usurpations of Congress and the despotism of the sword may cease."

There is no equivocation, no disguise. We propose to place the bondholders, the capitalists, the wealthy classes upon an equality as to taxation and otherwise with the laborer, the farmer, and the artisan. We will not admit his claim that merely because he is a bondholder, without any contract to that effect, he has a right to be paid in gold, while the pensioner, the soldier, and the producer must be paid in a depreciated currency. Where he has no contract for coin we will pay him in the lawful currency of the United States, just as every other debt of our country is payable; and by economy in the administration of the Government, reduction of the Army and Navy, abolition of the Freedmen's Bureau, making the lazy vagabond negroes that are now being fed and clothed at public expense go to work, and thus become producers instead of consumers, and by the reform of a thousand similar abuses that have crept into the public administration, we will have a large sum the very first year to be applied to the payment of the principal of our indebtedness, thus not only liquidating the principal, but getting rid of the interest thereon forever. Thus each year, the interest being less than the preceding year, the amount to be applied to the payment of the principal will be greater; and getting started in the right direction our enormous public debt will dwindle before the sturdy blows of a wise and economical Administration as the iceberg disappears beneath the rays of a tropical sun. It can be demonstrated that it is perfectly feasible.

ible to pay off the entire debt without increase of taxation or inflation of the currency within twelve or fourteen years at the furthest. What a happy deliverance that would be, and how proudly we would stand forth in the presence of the world when emancipated, redeemed, and disenthralled from our slavery to the bondholders and capitalists of Europe, and which thralldom you now propose deliberately to perpetuate.

Why should this be done? Why should our entire public indebtedness be now converted into gold-bearing, non-taxable bonds, the payment of the principal of which is to be postponed for thirty or forty years? I wish to be perfectly decorous, and to use no unparliamentary language. But this seems to me, Mr. Speaker, like a bold attempt to mortgage our country, the present generation with their children, to capitalists and to the wealthy lordlings of Europe. I can never give my assent to any such scheme, and I now protest against it, and denounce it as most unjust, unholy, and ruinous to the best interests of our country.

If there was a necessity for postponing the payment of any part of the debt for thirty or forty years a judicious and feasible plan for reducing the interest would be worthy of commendation. But when, by a judicious and proper administration of our affairs, we can pay off the principal, and thus get rid of the entire interest forever, it would be most suicidal to execute this new mortgage upon the resources of our country.

FUNDING BILL GIVES A BONUS OF SIX HUNDRED MILLION DOLLARS TO THE BONDHOLDERS.

I have said that you by this bill propose to give the capitalists and bondholders a bonus of near six hundred millions without any consideration whatever. Let me be more specific. On the 1st day of June last, being the last official statement we have had of the public indebtedness, the five-twenty bond debt amounted to \$1,494,755,600, and the debt bearing currency interest, most of which is being rapidly converted into five-twenties, was \$203,117,540, making in the aggregate \$1,697,873,140, all of which under existing laws is legally and equitably payable in greenbacks. Let us for the sake of simplicity in the calculation estimate the discount on legal tenders as against coin at only thirty per cent. The above sum would at that rate represent a gold indebtedness of \$1,188,511,198, and could be paid off with that sum in coin. But you now propose to issue new bonds, free from all taxation, running forty years, with interest semi-annually, principal and interest in gold, for the full amount of \$1,697,873,140, thus adding to our indebtedness at one fell swoop \$509,361,942 in gold; equal to \$662,170,524 in currency. I have placed the present discount on our currency too low, and consequently the nation's loss by this scheme is underestimated. But this sum, as I have stated it, which you propose to do worse than give away, or cast into the sea, for you fasten it with interest in gold upon us for forty years, amounts to nearly four times as much as the entire expenditures of the Government on land and sea from the adoption of the Constitution to the close of the last British war. And this is your pet financial measure which you have kept back to the closing days of the session, and which you expect, like charity, will cover a multitude of your past sins against the people.

"COVERT REPUDIATION."

But, says the loyal Chicago platform, "this is open or at least covert repudiation." The claim and the attempt to pay these loyal bondholders "who saved the life of the nation" is infamous, and will make us bow our heads in shame and disgrace before the nations of the earth. True, these bondholders paid the Government for the bonds when they got them in currency only worth from forty to fifty cents on the dollar, and they have been receiving six per

cent. thereon in gold ever since; true, greenbacks are good enough money for the soldier, the laborer, the farmer, the merchant, and the pensioner, but to offer anything less than gold to these loyal bondholders is "covert repudiation," and "will brand us with infamy throughout all time." And this wolf howl is raised from one end of the land to the other to intimidate the people to submit to this outrageous robbery, and induce them to yield tamely to the avaricious demands of the money lords.

"Show me," says the polite, elegant, and "loyal" Vice President, BEN. WADE, "a man who favors paying the bonds in greenbacks, and I will show you a penitentiary bird." "The claim of the bondholders to be paid in gold," says the "loyal" president of the convention that nominated Grant, amid boisterous cheers, "is as sacred as the graves of our soldiers," and this sentiment is echoed through the "loyal" press from one end of the land to the other.

"THE DEBT A 'SACRED' ONE."

And whys this debt more sacred in its character, and to be paid in gold, when all others are paid in the lawful money of the United States? Government called for the services of a million soldiers and promised them so many dollars in monthly pay and bounties therefor. It has promised to pay the maimed soldier and the widows and orphans of those who died in battle pensions in dollars. It makes its contracts daily for thousands and millions of dollars for supplies for the Army and Navy and other branches of the public service. These are all sacred obligations, and yet who thinks of receiving their pay in anything but the legal-tender lawful money of the United States? This is good enough money for every other class of creditor, public and private, but to pay it, or propose to pay it, to the "loyal" bondholder is "covert repudiation," forsooth. Why is it so? "Oh, the contract, or at least the understanding at the time the bonds were sold, was that they should be paid in gold." I deny both these propositions, and as much will be said on this question during the canvass, and great efforts will be made to mislead the people, I propose now to submit the proofs.

REPUDIATION BY THE RADICALS.

I might, however, before going into the main question, here add that the very men who, in the interest of the bondholders, are so eager in their cry of repudiation, have themselves in numberless instances been guilty of not mere "covert" but open and barefaced repudiation. For instance, the first great loan made by our Government after it found itself involved in war—the seven-thirty three years' loan of July, 1861—\$139,999,750 in amount, was taken in gold, (the Government receiving gold on every dollar thereof,) and was paid by the Government at maturity in greenbacks and bonds at a lower rate of interest, with principal payable in greenbacks. Over six hundred thousand dollars of this loan were paid in that currency. Those who took this loan and paid their gold into the Treasury were legitimate business men, who from patriotic motives came forward in that hour of gloom and despondency to the support of the Government, and gave their means freely and willingly for its maintenance. But they had not formed a "loyal" ring, and we heard no outcry against this repudiation of the obligations of the Government to them.

And at the passage of the legal-tender act of February, 1862, there were many millions of private debts throughout the United States which, when contracted, were payable in coin, but for which the creditors were compelled to receive greenbacks at a great discount. Here was wholesale repudiation, both public and private, by the party who are now so eager to "maintain the honor of the country." But my business now is with the five-twenty bonds, constituting the principal portion of our pres-

ent indebtedness, and for which you now propose to issue bonds payable in gold, non-taxable, and running forty years. I propose to prove beyond all question that

THE HOLDERS OF THE FIVE-TWENTY BONDS HAVE NEITHER A LEGAL NOR EQUITABLE CLAIM TO PAYMENT IN ANYTHING BUT GREENBACKS.

On the 25th of February, 1862, Congress, to provide means to carry on the war, passed a law, the first section of which provided for \$150,000,000 of legal-tender notes, the language of which, as to their purpose and character, is as follows:

"And such notes herein authorized shall be receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports, and for all claims and demands against the United States of every kind whatsoever."

Except what?

"except for interest upon bonds and notes, which shall be paid in coin; and shall also be lawful money and a legal tender in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid."

Language could not well be more clear and explicit. This new money thus authorized is by express terms to be "receivable in payment" "for all claims and demands against the United States of every kind whatsoever, except for interest on bonds and notes, which shall be paid in coin." And it should be noted and remembered that it is only by virtue of this exception that the interest on the bonds authorized by this law can be paid in coin.

The second section of this act authorizes the issuance of \$500,000,000 of bonds, registered or coupon, payable at the option of the United States in five years, and in twenty years at all events, and bearing six per cent. interest, payable semi-annually. This is the act authorizing the issuance of the famous five-twenty bonds. There is not a word here said as to the money in which these bonds shall be paid, and were it not for the exception contained in the previous section authorizing the issue of this new lawful money the interest as well as the principal of the bonds would most clearly be payable in the legal-tender Treasury notes. And that there might be no misapprehension or misunderstanding on the subject, the Government published broadcast to the whole world that these notes were receivable for "all debts except duties on imports and interest on the public debt." Every man in the United States, indeed, throughout the world, who received or handled one of these "greenbacks" found printed in clear, legible characters on the back thereof:

"This note is a legal tender for all debts, public or private, except duties on imports and interest on the public debt."

If the law itself had not been sufficient notice to all the world, here was an additional notice more extensively published and circulated than any that has heretofore been given to mankind. And it was, in fact, this very money that was loaned to the Government with this notice on the back of each note when the five-twenty bonds were sold. And it is demonstrable that the creditors when the loan was made, and the bondholders into whose hands these bonds have passed, have all understood at all times that the principal of the bonds were payable in the legal-tender notes.

On this subject I find an argument cogent and explicit, made in December last by a "loyal" member of this House, [Mr. BROOMALL,] who I am sorry to find now favors the payment of these very bonds in gold, and will, I suppose, in obedience to the behests of his party, support this bill of iniquity now before us for consideration. I will give here his argument on the subject, which I defy even the learned gentleman himself now to answer:

"It makes no difference in the legal rights of these parties that this new kind of money was adopted before they loaned to the Government, and was the very kind of money which they did loan to the Government; but it takes from them all cause of complaint upon the score of fairness. If we had borrowed

when gold was the only lawful money, and had afterward created a different species of less value to pay in, we might have been accused of foul dealing, though in doing so we would only have followed the repeated example of Governments older than ours, and of much greater pretensions.

"Can the creditor complain that he had no notice of the new money when the very act that authorized the loan created the new money? Can he complain that he had no notice when he loaned the new money, every note of which told him in language which he could not mistake that he must take all his pay in it except the interest? He hoped the new money would soon be as good as coin, but he knew that it might not be. In taking the bond he took that risk, and, as I will show, he took the bond at a rate which fully paid him for the risk. If the Government owes the money in gold it should pay it in gold; if it owes it in currency it should pay it in currency. It is just as bad faith to pay the money of the people to those who are not entitled to it as to refuse to pay it to those who are. We administer this money as trustees, and bad faith toward the *cestui que trust* is worse, if different at all, than bad faith toward a stranger. Now, I admit the agents of the Government who negotiated the loan promised the lenders that the principal should be paid in gold. I admit that the chief one of them, Mr. Jay Cooke, in a letter which was published at the time, even went so far as to say that Congress had already made provision for the payment of the principal in gold. It is not pretended that these agents had legal power to vary the contract, but it is said that Congress, the only body authorized to bind the Government in the premises, acquiesced in the declaration of these agents by silence. Truly a novel mode of binding the Government to pay money. Hardly even an ingenious invention in the way of legislation. But was Congress silent? It had already spoken in the enactment that authorized the loan. It is constantly speaking in that enactment, published as it is to the world and made legal and binding and continuing notice to everybody. More than that; Congress circulated far and wide on the back of every legal-tender note issued its notice that the principal of these bonds was to be paid in currency, and its caution to everybody not to believe the false promises of these agents.

"Now, I would very much regret to believe that the holders of these bonds took them under a misapprehension that the Government had bound itself to pay the principal in gold. But did they do so? Were they deceived, or rather did they not know that these agents were hired to sell the bonds for a commission upon the amount sold?

"What I propose to show is, that the original holders of the loan took it at as one the principal of which was to be paid in currency, and that the loan has since that time passed from hand to hand in the markets of the country and abroad, and is at this time passing as one the principal of which is to be paid in currency.

"The bonds which are now maturing at the option of the Government were issued pursuant to the act of February 25, 1862. They were made payable in five years, though not demandable until the expiration of twenty. This was the act which created the new money, the legal-tender notes, called currency to distinguish them from coin, though with no great propriety. The loan, amounting to \$514,789,500, was all taken in currency and at par. I do not remember at what date after the passage of the act the negotiation began, probably about July 1, 1862. Up to June 30, 1863, \$168,880,250 had been negotiated. An additional amount of \$341,900,250 was negotiated during the year ending June 30, 1864, and the remaining \$4,000,000 during the following thirteen months.

"Now, during the year ending June 30, 1863, the average price of gold was \$137 83, and as the interest was payable in coin the average rate of interest at which the loan was taken during that year was \$8 27 per \$100. This was the rate which the lenders had a right to expect, but the rate actually received for that year was still more. The average price of gold in the November and May following, when the interest was payable, was \$163 75; so that the rate actually received for that year was \$9 82 per \$100. And all this, too, was over and above all taxation except the small pittance of income tax, amounting to but thirty cents per \$100 of loan.

"The average price of gold during the year ending June 30, 1864, the year in which nearly all the remainder of the loan was taken, was \$153 08. The rate of interest, therefore, which the parties had a right to expect was \$9 48; and the rate actually received, governed by the average price of gold in November and May of that year, was \$9 73.

"If the advocates of this claim of the five-twenty bondholders are to be believed, here was a contract under which the Government borrowed \$100 at an average rate of \$9 03 per annum, with a promise to pay \$151 33 at the maturity of the bond if the currency system should continue the same, and with no possibility of loss if it should not.

"Now, sir, bear in mind that during all this time there was the usual amount of borrowing and loaning going on in the community at six per cent. for permanent loans, payable both interest and principal, in currency; loans which were subject to United States, State, and municipal taxation to more than six times the amount of income taxation on the public bonds.

"Were the people afraid to trust the Government? Why, it could purchase in the markets on time on the same terms with individuals. All its promises to pay in currency passed even on more favorable terms than the average similar ones of individuals.

Its gold certificates, which were promises to pay gold, always passed for about the price of gold. More than all this, the public faith in the Government fulfilling its promises to the letter was tested and proved by placing the seven-thirty notes in the market side by side with these bonds. The notes bore a less rate of interest than the bonds. They were awfully payable, principal and interest, in currency. Yet they were taken at par and with great avidity. Yet they were convertible into the bonds. True; and this might make them as good as the bonds, but no better. Yet they were taken in preference to the bonds, and difficulty was experienced in inducing the holders to part with them for the bonds.

"Upon this branch of the argument, therefore, we have the facts that the original holders paid for the bonds in currency; they took them at a price which could only be justified upon the hypothesis that the principal was to be paid in currency; they had before them the acts of Congress which expressly told them that the principal was to be paid in currency; they took them at the same rate and side by side with the obligations of the Government known to be payable in currency and bearing a less rate of interest, and finally the gold certificates of the Government always sold in the same market for the price of gold. If, after all this, anybody will say that these original holders believed the Government to be bound to pay the principal in gold at maturity he will exhibit less faith in the intelligence of the bondholders than I have."

And it is as clear as any proposition can be that the bondholders have always understood the law and the obligation of the Government just as I contend it to be, and that they so understand it now. Look at the intelligence flashed across the Atlantic giving us daily information of the market value of our five-twenty bonds in Europe. The English three per cent. bonds are quoted at nearly par, while our six per cent. bonds, on which we pay the interest regularly in gold, is quoted at about seventy per cent.—or thirty per cent. discount. We have never failed for an instant to pay the interest faithfully and punctually. The ability and good faith of our Government are doubted nowhere. Six per cent. is a large interest in Europe, and yet our six per cent. bonds are and have been all the time at about thirty per cent. discount. This can only be accounted for on the ground that the bondholders do now, and have all the time, known that we have at any time after five years from the date of the bond a perfect and unquestionable right to pay the principal of these bonds in currency, worth about seventy cents to the dollar, and thereby stop the interest thereon forever. And they never would have thought of being paid in any other way if it had not been for the wolf cry of the astute and excessively loyal politicians of the Radical party. They have now very willingly formed a "ring" with the bondholders' candidate and the bondholders' party, and would very gladly divide with them this six hundred millions which it is proposed by this most bold and atrocious robbery of any age to filch from the already overburdened and overtaxed people of our country.

CAN WE PAY THE DEBT IN GREENBACKS WITHOUT RUINOUS INFLATION?

"But," says my loyal friend, "how do you propose to pay our debt in greenbacks? We have now in circulation only \$356,000,000 in legal-tender notes. How can you pay a debt of \$2,500,000,000 with that? If you put the paper-mills to work and grind out \$2,000,000,000 more in legal tenders, and thus pay the debt at once, you will flood the country with a depreciated and irredeemable currency, and bring disaster and ruin to every branch of business in the country."

Now, those who talk in this way either do not know what they are talking about, or they are trying willfully to deceive the people. When it is asked how we will pay our debt with greenbacks without a further or ruinous issue thereof, I might with greater propriety ask my "loyal" friend how he expects to pay that debt with gold. There is, in fact, no gold in circulation among us as money. It is known to all intelligent observers that there is not in the United States to-day exceeding two hundred million of gold, including the one hundred millions or thereabouts in the Federal Treasury. Our gold coin has become a mere commodity instead

of being used as a circulating medium. There is no demand for it among ourselves save for imports, neither is it hoarded here. But the demand from abroad is in excess of our supply. Indeed, if we possessed all the gold that has been coined in the United States from the foundation of our Government it would fall far short of paying our national debt. Ours has been the principal gold-producing country, and yet the gold coinage of the United States from 1792 to 1866 amounts to only \$845,536,591, not enough if we now had the whole of it to pay one third of the audited and ascertained public debt. But ours is and has ever been a gold-exporting country, and, as I before stated, we now have not in the entire country more than two hundred million dollars in gold, while our national indebtedness amounts to twenty-five hundred millions, and we annually export more than we produce. The production of California does not exceed \$50,000,000 per annum, while there were exported to Europe—

In 1866.....	\$86,044,071
In 1867.....	60,975,186

I have not the data to give the export for the present year up to this time. For January it was reported at \$8,000,000, or at the rate of ninety-six millions for the year. But as our supply is nearly exhausted, I do not suppose it will much exceed the production of our mines.

With these facts before us I again ask my loyal friend how he expects to pay these bonds in gold? If he admits that it cannot be done, and yet insists that we have no right to pay in anything but coin, it is he, and not I, that is the practical repudiator. But no man who has brains enough to count a hundred expects to liquidate this enormous debt at one time or by one single payment, and no sane man proposes to issue greenbacks merely for the purpose of paying the bonds therewith. We do not ask for an inflation of the currency. We do not argue that it would be right, wise, or just voluntarily to produce such inflation, nor do we purpose any such thing.

ALL RADICAL FINANCIAL MEASURES HAVE BEEN MISERABLE BLUNDERS AND FAILURES.

We ask you to stop your wolf cry of repudiation when we propose in good faith to pay these five-twenty bonds in strict compliance with the contract made by the Government, and to listen to us while we show how this can easily be done without additional taxation. All your financial schemes and measures are confessedly miserable blunders and failures, and notwithstanding the enormous sums wrung from the people by taxation the public debt now, in a time of profound peace, is actually increasing at the fearful rate of nearly ten million dollars per month, and the debt bearing coin interest is increasing at a still more fearful rate. Let me give the figures from the official reports of the Secretary of the Treasury.

THE PUBLIC DEBT NOW RAPIDLY INCREASING.

Debt bearing coin interest.

On the 1st of June, 1863, the debt bearing coin interest was.....	\$2,020,827,841 80
On the 1st of May it was.....	1,963,378,291 80.

Increase in one month.....	\$57,449,550 00
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Entire Debt.

June 1, 1863, the entire debt, less the cash in the Treasury, was.....	\$2,510,243,886 74
On the 1st of May it was, less the cash in the Treasury.....	2,500,528,827 56

Increase in one month.....	\$9,717,059 18
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Thus it is seen that the increase in the public debt for the last month of which we have any official information was nearly ten million dollars, while for the same month the increase in the debt bearing gold interest was over fifty-seven millions, or at the rate of nearly two millions per day. It is rumored, and currently believed, that if a report had been made from the

HO. OF REPS.

Funding the National Debt—Mr. Marshall.

40TH CONG....2D SESS.

Treasury Department on the 1st of July it would have shown a still more fearful increase in our public liabilities. I cannot see how our financial affairs could well be worse managed than they are under Radical policy; and it seems that when you have so utterly and so completely failed, you might listen with some respect and some diffidence in your own infallibility to those who propose to show that all those evils can be easily and speedily remedied by the introduction of reforms plain, simple, and easily understood.

The five-twenty bonds outstanding on the 1st day of June amounted to \$1,494,755,600, the annual interest on which amounts, in gold, to \$89,645,386. The principal of this debt is clearly payable in legal-tender Treasury notes, as I have heretofore demonstrated. If we can pay this debt and get rid of this heavy burden of annual interest the residue of the debt will scarcely be felt, and can easily be disposed of. That this can be done I propose now to show.

As I have already stated, no one expects to pay this debt at one time or in one year. In fact there is scarcely sufficient gold coin in the whole world to pay our public debt in one payment. And we do not expect, whatever we may use as money or for a circulating medium, to have in circulation or to put in circulation at any time an amount of it equal to our present public indebtedness. We do not think this desirable. But every one knows that when business is active and the country prosperous one dollar kept actively employed, and passing from hand to hand, may in one year supply the medium of exchange for hundreds of transactions of one dollar each, or liquidate debts amounting to hundreds of dollars. It is not absolutely necessary that there should be any increase in our currency to enable us by proper reform in the administration to pay off this debt in a very short time, although I believe a considerable increase is at this time necessary for the purpose of giving activity to business and restoring prosperity to the country.

WIND UP NATIONAL BANKS AND SUBSTITUTE GREENBACKS FOR THEIR CURRENCY.

As we have for the present abandoned coin as a medium of exchange, and cannot speedily return to it without reducing the whole country to bankruptcy, it is certain that no substitute has been so popular with the people, or has answered its purpose so well, as the greenback currency. I will not now discuss the wisdom or policy of introducing this currency. We must now deal with facts as they are. The establishment of the national banks was a great blunder, if not a crime. If we are to have a paper currency the Treasury notes are the most popular, the safest, and the best secured. And if there is any profit to be derived from the issuance of a paper currency the Government, representing the entire people, and not private corporations or individuals, should be the beneficiaries thereof. Why these national banks were established I never could understand. Enormous profits have been made thereby, but the Government has lost and the public have not been benefited. To show the iniquitous and ruinous working of this banking system I will repeat what a gentleman on this floor states as having occurred in an eastern State within his own observation.

An association of gentlemen raised \$300,000 in currency. They went to the office of the Register of the Treasury and exchanged their currency for \$300,000 in six per cent. gold-bearing bonds. They then went into the office of the Comptroller of the Currency, in the same building, organized a national bank, deposited their \$300,000 in bonds and received for their bank \$270,000 in the national currency. They had let the Government have \$30,000 in currency more than they received for banking purposes, and had on deposit \$300,000 in bonds,

on which they received as interest from the Government \$18,000 a year in gold. This was pretty good financing for these bankers to receive \$18,000 per annum in gold on the \$30,000 in currency which they had thus loaned to the Government. But this is not the whole story. They had their bank made a public depository. They soon discovered that there was scarcely ever less than \$1,000,000 of Government money deposited within their vaults. They did not like to see this vast sum lie idle. They therefore took \$1,000,000 of this Government money and bought \$1,000,000 of five-twenty bonds with it. In other words, they loaned \$1,000,000 of the Government's own money to the Government, and deposited the bonds received in the vaults of their bank, on which they received from that same Government \$60,000 in gold per annum as interest. Thus for the \$30,000 in currency which they originally loaned the Government they were receiving in interest annually in all \$78,000 in gold. And all this was under the regular operations of your banking law. This was certainly good financing for these cute Yankees, but what kind of financing is it for the Government, and when do you suppose we can get out of debt under such a system? All this must be changed. The Government has issued in this way to the various banks \$300,000,000 in bank currency, and has received \$330,000,000 in bonds on deposit as security. We propose to compel the withdrawal of this bank currency from circulation, and to substitute therefor \$300,000,000 in legal-tender greenbacks, with which we will pay off that amount in five-twenty bonds. We thus get rid of the payment of \$18,000,000 per annum of interest we are paying thereon, do not increase the volume of currency one cent, and have a better and more popular circulating medium. If we should set apart each year this \$18,000,000, which we would otherwise be paying as interest, we would, with accumulations thereon, in a few years have a sufficient sum to liquidate the residue of the five-twenty bonds.

EXTRAVAGANCE AND CORRUPTION OF THE RADICAL PARTY.

But we demand other reforms even more important than this. Your administration of the Government has been reckless and extravagant beyond all precedent. The speculations and robberies perpetrated since your party has been in power are without a parallel in the history of the world. I appeal to facts for an affirmation of these charges. You have taxed the people as no people have ever been taxed before in any age or in any country. In the three years of peace since the close of the war you have raised from their hard earnings by the drag-nets you have spread out all over the land \$1,500,000,000, a sum so enormous that the mind can scarcely grasp or comprehend it. If it were possible to raise this sum in silver dollars they would load forty-six thousand eight hundred and seventy-five wagons with two thousand pounds to each wagon; and if they were to be moved, allowing twenty rods for each wagon and team, it would form a train stretching out two thousand nine hundred and twenty-nine miles. You have raised from the people in one single year over five hundred and sixty million dollars. And yet with all this enormous taxation the public debt is at this moment rapidly increasing, as I have already shown. It has not required exceeding \$140,000,000 at any time to pay the interest on the public debt. I arraign you before the world as guilty of high crimes against the people. I demand of you to plead and tell us what you have done with this money. You are now upon trial at the bar of an indignant and greatly wronged people. It is impossible that this enormous sum could have been expended in a legitimate and honest administration of the Government. I will contrast this iniquity with the expenditures of Administrations before your party came into

power; and that the House and the country may fully comprehend the facts I will here produce some tables, one of which I have heretofore brought to the attention of the House:

Table giving the entire expenditures of the Federal Government, exclusive of the public debt, from the foundation of the Government to the close of the last British war.

From March 4, 1789, to December 31, 1791.	\$1,910,509 52
1792.....	1,877,903 68
1793.....	1,710,070 26
1794.....	3,500,546 65
1795.....	4,350,658 04
1796.....	2,531,930 40
1797.....	2,833,590 96
1798.....	4,623,233 54
1799.....	6,480,166 72
1800.....	7,411,369 97
1801.....	4,981,660 90
1802.....	3,737,079 91
1803.....	4,002,824 24
1804.....	4,452,858 91
1805.....	6,357,234 62
1806.....	6,080,200 36
1807.....	4,984,572 89
1808.....	6,504,338 85
1809.....	7,414,672 14
1810.....	5,311,082 28
1811.....	5,592,604 86
1812.....	17,829,498 70
1813.....	28,082,396 92
1814.....	30,127,606 38
Total.....	\$172,697,779 00

Thus it is seen that the entire expenditures of the Government from the adoption of the Constitution to the close of the last war with Great Britain did not amount to one third of what was raised from the people by taxation for the single year of 1866.

The average annual expenditures of the Government at different specified periods for the forty years immediately preceding the advent of the Republican party to power in 1861 were as follows, according to a table furnished by Hon. David A. Wells, Special Commissioner of Revenue, in his last annual report. Mr. Wells is a member of the Republican party, and of course does not misrepresent facts to the damage of his own party:

Average annual expenditures of the Government for periods of ten years each.

1821-31 (ten years).....	\$18,170,000
1831-41 (ten years).....	25,030,000
1841-51 (ten years).....	35,740,000
1851-61 (ten years).....	60,680,000

The third of these periods (from 1841 to 1851) embraces the time of the Mexican war, and yet the average annual expenditures of this decade, including civil list, pensions, Indians, Navy and War Departments, do not reach \$36,000,000. In view of these facts will some gentleman on the Radical side of the House tell the country why it is that it is necessary to raise from the people \$500,000,000 a year, and that even with this enormous taxation the public debt is now rapidly increasing? These are questions answers to which an indignant people will demand of you when you appear before them again asking their suffrages. But these expenditures are not and cannot be necessary. Abolish your military governments in the South, by which you are supporting the negro governments established there. Reduce your large standing Army to what it ought to be in time of peace, a mere police force. Abolish your Freedmen's Bureau, by which you are teaching politics and laziness and vagabondism to your negro *protégés*. Reduce your expensive Navy, go back to the principles of economy and honesty, and introduce the necessary reforms in every branch of the service, and you can in this way save one hundred or one hundred and fifty millions more to be applied annually to the payment of the principal of these five-twenty bonds. The interest will in this way year by year be rapidly diminishing, and the amount saved thereby each year can also be applied to the payment of the principal of those bonds, and it requires no mathematician to see that in this way the entire five-twenty bond indebtedness may be

liquidated in five or six years without any increase of either taxes or the currency.

DEMAND FOR AN ADDITIONAL ISSUE OF GREENBACKS.

But for myself I believe the business of the country requires and demands more money, and that we should have promptly an additional issue of the legal tender or greenback currency. I would make this not primarily to pay the public debt, but to supply the place of the millions destroyed under the mad and suicidal scheme of contraction, and because the money is needed by the people, would give renewed energy and activity to business, bring prosperity and joy to thousands who are now bowed down by embarrassments and despondency, enable the people more easily to bear the burdens of taxes, enhance the price of labor and produce, give a readier and more active market therefor, increase the public revenues, and thereby enable us the more easily and speedily to pay off our public debt.

"But," says my loyal friend, "an increase of the volume of the currency would depreciate its value and thereby produce widespread disaster." Facts are of more value than theories, however plausible they may be; and I propose to show by facts and figures that what I purpose would produce no such result. An unlimited issue would doubtless inflate and depreciate the currency, but I know of no one who contemplates any such thing.

CONTRACTION OF THE CURRENCY A GRAVE BLUNDER.

The scheme of forcing a return to specie payments by the inauguration of the policy of a rapid contraction of the currency was most fallacious, and in its results has almost brought bankruptcy and ruin to our doors. At the close of the war the party in power had, by adopting the legal-tender Treasury note as the "lawful money" of the United States, banished gold from the country as a circulating medium. The entire business of the country had adjusted itself to the paper currency in our midst, and with an abundant circulating medium business was active and profitable in all portions of our country. The laborer found employment for his hands, and industry, activity, and thrift were seen in all our borders.

Did we at that time have too much money? I think not. The demand for it was increasing every day. Ten States shut out from us for four years, now left after their long struggle without any circulating medium, held up their supplicating hands imploring assistance. These ten million people would soon have absorbed a large portion of our currency. New enterprises were springing up all over the land; the Pacific and other railroads, new towns, cities, factories, &c., all demanding and requiring the use of immense sums of money. Hundreds of thousands of enterprising immigrants were flocking to our shores, and our population and enterprise were rapidly increasing; thus constantly, day by day, swelling the demand and necessity for an abundant medium of exchange.

At this very time, of all others the most inopportune, the policy of contraction was inaugurated. The business of the country at first but slightly felt the shock, then staggered under the increasing weight of the burden imposed, and finally stagnation and threatened ruin hung over every branch of business. If this had gone on much longer the paper currency would have been destroyed, and there would have been nothing to supply its place. We would not have returned to specie payments, but bankruptcy and ruin would have crushed Government and people alike. None have been benefited except those who have bonds or hoarded wealth. The purchasing power of their money has been greatly increased, but we are not one particle nearer specie payments than we were when this policy was inaugurated. To understand fully why business is so greatly depressed let us see what has been the extent of this contraction. It is in fact much greater than is commonly supposed.

CIRCULATION COMPARED.

On the 1st of September, 1865, the circulating medium consisted, in part, as follows:

United States notes.....	\$433,160,569
Fractional currency.....	26,344,742
National bank notes.....	300,000,000
Compound-interest legal tender.....	217,024,160
Temporary loan certificates, 10 per cent.....	107,148,713
Certificates of indebtedness.....	85,093,000
Treasury five per cent. legal tenders.....	32,536,901
Treasury notes, legal tenders, past due and not presented.....	1,503,020
State bank notes.....	78,867,575

Total.....\$1,281,678,680

Of the above it will be noticed \$684,138,950 were legal tender, to wit:

United States notes.....	\$433,160,569
Five per cent. notes.....	33,954,230
Compound-interest notes.....	217,024,160

Total.....\$684,138,950

On the 1st of January, 1868, the amount of currency in circulation of the description above mentioned was as follows:

United States notes and fractional currency.....	\$388,405,565
National bank notes.....	300,000,000
Compound-interest notes and three per cent. certificates.....	78,165,170
State bank notes.....	4,000,000
Treasury notes.....	878,503
Temporary loan, 10 per cent.....	2,474,625
Certificates of indebtedness.....	30,000

Total.....\$773,953,863

Total contraction in two years and four months, \$507,724,847, being a reduction of forty per cent.

Thus it is seen that in the short time of two years and three months there was a contraction of the circulating medium of our country of over five hundred million dollars. The contraction in legal tenders was two hundred and fifty millions. Has this unparalleled contraction reduced the price of gold or enhanced the value of national securities? Has it promoted the prosperity of the country? We all know it has not. Its effect has been to paralyze trade, suspend industries, and throw labor out of employment. In May, 1865, gold sold at less than thirty per cent. premium. It is to-day over forty-two.

THE ISSUE OF TWO HUNDRED AND FIFTY MILLION DOLLARS IN GREENBACKS FAVORED.

As contraction has not increased the value of legal tenders, or brought them and gold nearer together, a reasonable expansion within the limits of the demands and necessities of the country will not depreciate their value. It will bring multiplied blessings to millions of households, and will injure no one. It will facilitate the collection of taxes, increase our revenue, and enable us more easily and speedily to pay off our public debt.

The country demands and needs more money, and must have it from some source. I say let the Government supply it. Reissue the \$250,000,000 in legal tenders that have been destroyed when it ought to have been paid on our bond indebtedness, and thus kept in circulation among the people. With this \$250,000,000 pay that amount of the five-twenty bonds, stop the interest thereon, unfetter that amount of capital that is now sunk, non-taxable, and a burden, and put it in circulation among the people. This is no inflation. The people need the money. It would lessen our taxes and burdens, the five-twenty debt would soon be entirely paid, and it will bring gladness and joy to thousands of homes now oppressed with embarrassments and despondency.

This would not be inflation. As our country increases in population, wealth, and enterprise we will need more than this. In no commercial and prosperous country in the world is the supply of money so small as in ours. England has twenty-five dollars per head for her inhabitants; France has thirty, while we now have scarcely thirteen. This is a demand that the people will insist on, and

your cry of "covert repudiation" will not turn them from their purpose.

ANOTHER REASON WHY THE BONDS SHOULD BE PAID NOW.

There is another reason strong and irresistible why we should commence paying off the bond debt now in the manner indicated, and complete it as speedily as possible. These bonds continually drain the money from the people, and tie up and centralize capital. Whenever an enterprising citizen makes one or two hundred thousand dollars, instead of building railroads, improving our farms or towns, or purchasing produce from the farmers, he will make an investment where he will run no risks, and can entirely escape the burdens of taxation. He will invest in these bonds, whereby in perfect ease and security he can retire from responsibility and duty to society, and as inevitably as fate draw his six or twelve thousand dollars per annum in gold as interest. You cannot tax him to support State, county, or town, or to keep up the roads on which he travels. If he has children his neighbor may be taxed to educate them, but you cannot reach him. Such a system cannot be defended. Those who try to fasten it on the country will soon hear the thunders of an indignant and aroused people.

CONCLUSION.

Let us pay off these bonds as speedily as possible. The manner in which it can be done has been in part indicated. Let us unfetter this capital that is thus tied up and put it in circulation among the people. Then again we will hear the hum of industry in our cities and in all our borders; towns and cities will spring up as if by magic; railroads and other means of intercommunication will be multiplied, and peace, prosperity, and happiness will bring joy and gladness to the hearts of our people. What a contrast this presents to the prospect held out by the bill now before us, of increasing the debt one third and fastening the incubus upon us without remedy or redress for forty years. Let the people without passion or prejudice judge between us, and settle this issue as their own interest, honor, and dignity demands.

NOTE.

The Funding Bill, which passed the House of Representatives during the last hour of its session, and the vote thereon in the House, are given below. It was not signed by the President, and consequently has not become a law. Those voting for it are all Republicans:

An act providing for the payment of the national debt, and for the reduction of the rate of interest thereon.

Be it enacted, &c., That the Secretary of the Treasury is hereby authorized to issue coupon or registered bonds of the United States, in such form as he may prescribe, and of denominations of \$100, or any multiple of that sum, redeemable in coin at the pleasure of the United States after thirty and forty years, respectively, and bearing the following rates of yearly interest, payable semi-annually in coin, that is to say: the issue of bonds falling due in thirty years shall bear interest at four and a half per cent.; and bonds falling due in forty years shall bear interest at four per cent.; which said bonds and the interest thereon shall be exempt from the payment of all taxes or duties to the United States other than such income tax as may be assessed on other incomes, as well as from taxation in any form by or under State, municipal, or local authority, and the said bonds shall be exclusively used, par for par, for the redemption of or in exchange for an equal amount of any of the present outstanding bonds of the United States known as the five-twenty bonds, and may be issued to an amount, in the aggregate, sufficient to cover the principal of all such five-twenty bonds, and no more.

SEC. 2. *And be it further enacted,* That there is hereby appropriated out of the duties derived from imported goods the sum of \$135,000,000 annually, which sum, during each fiscal year, shall be applied to the payment of the interest and to the reduction of the principal of the public debt, in such a manner as may be determined by the Secretary of the Treasury or as Congress may hereafter direct; and such reduction shall be in lieu of the sinking fund contemplated by the fifth section of the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and funding the floating debt of the United States," approved February 25, 1862.

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Position of our Country—Mr. Miller.

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SEC. 3. *And be it further enacted*, That from and after the passage of this act no percentage, deduction, commission, or compensation of any amount or kind shall be allowed to any person for the sale, negotiation, redemption, or exchange of any bonds or securities of the United States, or of any coin or bullion disposed of at the Treasury Department or elsewhere on account of the United States; and all acts and parts of acts authorizing or permitting, by construction or otherwise, the Secretary of the Treasury to appoint any agent, other than some proper officer of his Department, to make such sale, negotiation, redemption, or exchange of bonds and securities, are hereby repealed.

Vote in the House on its passage.

YEAS—Messrs. Allison, Ames, James M. Ashley, Bailey, Baldwin, Banks, Beatty, Benton, Bingham, Boies, Boutwell, Bowen, Boyden, Bromwell, Buckland, Buckley, Rodgers R. Butler, Calkins, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Covode, Cullom, Delano, Briggs, Eli, Eliot, Farnsworth, Ferriss, Fields, French, Garfield, Goss, Gove, Halsey, Haughey, Higby, Hill, Hinds, Hopkins, Chester D. Hubbard, Hunter, Jencks, Judd, Kelley, Kellogg, Ketchum, Koontz, Ladin, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Mallory, Maynard, McClure, McKee, McCreary, Miller, Moore, Mullins, Myers, Norris, O'Neill, Paine, Porham, Peters, Pike, Platts, Poland, Polisky, Prince, Raum, Sawyer, Schenck, Scofield, Shanks, Spalding, Aaron E. Stevens, Stewart, Stokes, Sypher, Taft, Taylor, John Trimble, Twichell, Van Arman, Burt Van Horn, Van Wyck, Vidal, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whittemore, William Williams, and John T. Wilson—100.

NAYS—Messrs. Adams, Delos R. Ashley, Axtell, Baker, Beck, Benjamin F. Butler, Cary, Deweese, Dockery, Eggleston, Eldridge, Getz, Grossbrenner, Grover, Ingersoll, Johnson, Thomas L. Jones, Kerr, Mann, Marshall, McCullough, Mungen, Niblack, Orth, Phelps, Randall, Ross, Taber, Thomas, Lawrence S. Trimble, Van Auker, and Van Trump—32.

NOT VOTING—Messrs. Anderson, Archer, Arnell, Barnes, Barnum, Beaman, Benjamin, Blackburn, Blaine, Blair, Boyer, Brooks, Broomall, Burr, Chandler, Clift, Coburn, Cook, Cornell, Dawes, Dixon, Dodge, Donnelly, Eckley, Edwards, Ferry, Finney, Fox, Golladay, Gravely, Griswold, Haight, Hamilton, Harding, Hawkins, Heaton, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Alexander H. Jones, Julian, Kelsey, Kitchen, Knott, Lash, George V. Lawrence, Lynch, Marvin, McCarthy, McCormick, Moorhead, Morrell, Morrissey, Newcomb, Newsham, Nicholson, Nunn, Pierce, Pike, Pomeroy, Price, Pruyn, Robertson, Robinson, Root, Selye, Shellabarger, Sturgeons, Smith, Starkweather, Thaddeus Stevens, Stone, Trowbridge, Upson, Robert A. Van Horn, Ward, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—58.

Position of our Country.

SPEECH OF HON. G. F. MILLER,
OF PENNSYLVANIA,
IN THE HOUSE OF REPRESENTATIVES,
July 28, 1868,

The House being in the Committee of the Whole on the state of the Union.

MR. MILLER. Mr. Chairman, the position of our country attracts the attention of all those who feel a deep and abiding interest in its perpetuity. We are a nation less than a century old, and a few Pilgrims who left the land of their birth to avoid persecution and enable them to worship God according to the dictates of their own conscience were in a great measure the founders of this Republic. We had to encounter severe wars. The first was that of the Revolution, which was caused by the cutting loose of our forefathers from the mother country on account of unjust laws and oppression. Seven years of bloody conflict achieved our final independence, which Great Britain reluctantly conceded on the 30th of November, 1782. The United States at that time contained a little less than three million people. The British Government not acting in good faith, a second war was declared on the 8th of June, 1812, in which our arms were again successful in maintaining our independence, and on the 24th day of December, 1814, a treaty of peace and amity between the United States of America and Great Britain was signed at Ghent. Our population at that time had increased to a little over eight millions. The next war we had with a foreign Power was with Mexico, declared in 1845, in which we were again successful, and our flag carried and planted in the

capital of that nation, which brought Mexico to terms satisfactory to the United States, and a treaty was concluded in February, 1848.

But of all our wars none equaled that of the late rebellion, known as the war of 1861. It was a mighty contest between freedom and slavery. On that issue depended this nation's destiny and the nation's life. More than half a million lives were sacrificed in defense of this Republic. For a while a dark cloud seemed to be hovering over us; but the hand of a beneficent Providence was with us, and freedom triumphed. Though we have succeeded by force of arms in putting down the rebellion, yet a great work remained to be done in regard to the eleven late rebel States, who claimed to have seceded, which, according to the census of 1860, contained in the aggregate, including slaves, a population of 9,259,677; and the question presented was upon what conditions shall they be admitted to representation, so as to afford a sufficient guarantee against another outbreak. The conflict of ideas is still upon us. Andrew Johnson, who had been put in nomination for Vice President in 1864, on the same ticket with the lamented Lincoln, when he was reelected as Chief Magistrate of this nation, and on the death of Mr. Lincoln succeeded to the Presidency, undertook to establish a policy of his own, by which those late rebel States were to be admitted to full political rights without any condition whatever or security against a future rebellion. This the Republican members of Congress would not assent to, and had they done so they would have been derelict in duty and proved false to the high trust committed to their charge. Hence the eruption between the Executive (Mr. Johnson) and Congress. The Thirty-Ninth and Fortieth Congresses had arduous duties to perform, and were determined to stand on the side of the people, notwithstanding the usurpation of the President, who vetoed every measure passed calculated to make sure and lasting peace to the country, and endeavored, with all the official power he possessed, to destroy the political party that placed him in office. But the Republican Congress were not to be daunted, and stood in solid phalanx, and by a two-thirds vote passed all wholesome and salutary laws over the vetoes. Congress, as a sure and safe guarantee, passed an amendment to the Constitution of the United States by a two-thirds vote, known as article fourteen, which is as follows:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring.) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of the Constitution, namely:

ARTICLE XIV.

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member

of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SEC. 5. That Congress shall have power to enforce by appropriate legislation the provisions of this article.

This was submitted to the several States for their ratification, but met with violent opposition on the part of the President. Tennessee, however, manfully adopted it, and was admitted to representation in Congress. It was then found necessary to adopt more stringent rules in regard to the government and reconstruction of the other late rebel States. And I am happy, Mr. Chairman, now to be able to say that all those eleven States, except three, have been reconstructed under the policy of Congress, and representatives therefrom admitted in both branches of Congress. The three remaining unreconstructed States and without representation are those of Virginia, Mississippi, and Texas, which, had it not been for the conduct of President Johnson, would also have adopted the proper measures to secure their admission. It was made a condition precedent that before any of the States who claimed to have seceded should be admitted to representation the Legislature of the State so applying should have ratified said constitutional amendment, and that now, by the notice published by the Secretary of State, it appears that three fourths of the entire States of this Union have ratified said amendment to the Constitution of the United States known as article fourteen, which makes it part of the Constitution, and affords security to these United States against the rebel debt, or any other unjust scheme that might be got up by those who were in sympathy with the late rebellion. When Ohio and New Jersey got a Democratic majority in their Legislatures they tried to withdraw the ratification of said amendment, but it was too late, and it only shows the opposition of the leaders of that party to any measure which is calculated to prevent rebels and their sympathizers from doing further mischief. As I have frequently remarked on other occasions, I look upon this amendment as the most important measure ever adopted, and the only one that gives adequate security to the tax-payers of the country and prevents a dismemberment of the Union. To change it will require two thirds of both Houses of Congress and three fourths of the States, which it is not likely can ever be obtained. We can now present to the country the prospect of a happy future, provided the policy already inaugurated by Congress should be sustained. Our national debt may be put down at \$2,500,000,000, which is not discouraging when we take into consideration that we have now a population of about forty millions, and the vast resources of our extensive country, compared with that of other nations. We have reduced taxation very considerably, and still our revenue will enable us to pay the expenses of the Government, the interest on the public debt, and leave some to be applied toward the extinguishment of the principal. But to keep our country in a prosperous condition it is necessary that the policy of Congress which has heretofore been so nobly sustained by a grateful people should be maintained, and that can only be done effectually by electing the Republican candidates for the two highest offices in the gift of the American people. One of them, General Ulysses S. Grant, the candidate for the presidential chair, has led our armies to victory and quelled one of the greatest

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rebellions ever known in any country, and has shown himself to be possessed of not only superior military power, but that of legislative. In his hands our ship of State must be safe.

In SCHUYLER COLFAX, our candidate for Vice President, we have a man possessed of superior legislative powers; a man who would never betray the trust committed to him. These two candidates, like the late President Lincoln, have by their own merits risen from the humble walks of life to the conspicuous positions they now and will hereafter occupy. The Republican party, though but about twelve years old, having its foundation upon that of the old Whig party, is a powerful organization. It withstood the great conflict in the gigantic rebellion, and battled for rights. It spurned with indignation executive encroachments which were calculated to endanger the safety of the Republic. This country has wiped from its escutcheon the dark stain of slavery, which was looked upon by the nations of the earth as a stigma and inconsistent with a republican form of government.

As to negro suffrage, which seems to have agitated the public mind, it has been adopted in the reconstructed States; but as to the States that remained loyal, it is left for the people to decide, though in the State of New York the negro long since exercised under their constitution that right, though with a property qualification attached, and it was also exercised in certain other northern States. As to Pennsylvania, that question rests entirely with the people, a majority of whom are to decide under our State constitution.

We are now, Mr. Chairman, soon to separate and return to our constituents, whom we have endeavored faithfully to serve, and it is for them to approve or disapprove of what we have done. One thing I can truly say, that our object has been to legislate for the welfare and perpetuity of this Republic, and I trust that this great nation, whose flag now waves in triumph in every ocean, shall continue to prosper, and our form of government be an example for other nations to imitate.

I will say, Mr. Chairman, in conclusion, that the masses of the late rebellious States will find that the policy of Congress is calculated to elevate and place their States in a higher and more prosperous condition than they ever occupied before, and one that a majority of the entire people shall govern, and not an aristocratic minority; one where the dignity of manhood shall be fully realized, the intellect expanded, and the achievements of free labor sought and developed to their highest and noblest ends.

Purchase of Alaska.

SPEECH OF HON. T. WILLIAMS,
OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

July 9, 1868,

On the bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867.

Mr. WILLIAMS, of Pennsylvania. Mr. Speaker, my apology for claiming the privilege of declaring my reasons for voting against this bill consists only in the transcendent importance of the principles involved. Next to the great work of reconstruction, I know no question of the day, or of any day, so full of interest to this nation, or bearing so largely on its welfare in the long future to which I had fondly hoped that it was destined. The step into which this reckless and ruinous Administration, with the aid of a subsidized press, and by the profligate use of all that machinery of fraud and imposture which it can so readily command, is endeavoring to hurry us without any intelligible motive, unless it be to revenge

itself upon the nation whose confidence it has so justly forfeited, involving as it does a first departure from our traditional policy, and launching us at once upon a new career, fraught, as I verily believe it is, with infinite perils to those who are to come after us, is one which I cannot contemplate without the deepest concern. I had hoped that this cup would be permitted to pass away. There was so little about it to invite, and so much to shock and repel, that it seemed impossible that this House could be brought to drink it. It looks now as though I was mistaken, and it is not in my judgment one of the least of the ill omens that cloud the horizon of the future, that such a result could have been achieved under such unpromising circumstances. I cannot hope to avert it by anything that I can say. If this House can listen with patience, and even with approval, to such arguments as have been employed to secure its suffrage for a measure such as this, it would be idle in me to expect that anything which I can offer would weigh a feather against it. All I have to ask, therefore, is the privilege of registering my earnest and solemn protest in such a form as will carry to the people the reasons upon which I have been constrained to think that fidelity to the Constitution and a proper regard for their highest and best interests imperatively required of me the warning I have to utter, and the vote which I am about to give.

The first question here is as to the power, not so much of Congress as of the House, to refuse the appropriation required to carry this so-called treaty for the purchase of foreign territory into effect—not the physical power of course—not the power generally to disregard a treaty at the expense of good faith and at the risk even of war—but the moral power, by which I mean the right, to refuse the aid which the contract stipulates, and without which it is well settled that it cannot have the force of law. And this, in the present case, is not the question of the right to refuse an appropriation generally, but only of the right to refuse it in the case of a negotiation for the purchase of foreign territory. If it has no such power, there is an end of all controversy except upon the single question—not whether the bargain, if fairly made, was a good or a bad one, but whether it is so manifestly against the interests of the nation to ratify the act, as to make it our duty to refuse the necessary aid at the risk of any legitimate consequences that might follow the refusal.

The report of the majority of the Committee on Foreign Relations admits that the House has a right to consider the merits of a treaty, and to determine whether its object is within the scope of the treaty power, and that, if found to be in conflict with the fundamental principles, or purposes, or interests, of the Government, it would be justified not only in withholding its aid, but in treating the agreement itself as not binding on the nation, while it is only claimed that Congress is bound to give it effect where it is not inconsistent with the spirit and purposes of the Government.

These admissions even with the exception claimed, which is obviously in conflict with the conceded right to consider the agreement on its merits, would seem to be broad enough to satisfy the extremist advocate of the powers of this House. If it may determine whether the object is within the scope of the treaty power; if it would be justified in not only withholding its aid, but in giving notice to the parties interested, that the agreement will not be regarded as binding on the nation wherever it finds it to be in conflict with the fundamental principles, purposes, or interests of the Government; if, in a word, it is only bound to give it effect as a contract, where it is not inconsistent with the spirit and purpose of the Government, then it has the entire control of the subject, and may do everything that has ever been claimed for it. The exception itself is but the affirmation

of the doctrine that wherever the treaty is in conflict with the true meaning of the Constitution it can have no binding force upon the country.

These opinions are but the expression of the rule of the public law, that no contract made by the sovereign is ever held to be obligatory on the nation, if it is at war with the fundamental law of the State. I should not, therefore, in the face of such concessions, have thought it necessary to say a word in their support, if the position taken by the honorable chairman himself in the debate had not seemed to me to be in such obvious conflict with his own admissions as to amount to a virtual retraction of all that he had previously conceded, while the arguments of most of his coadjutors, even while asserting, like him, the right of the House to deliberate, were equally inconsistent and illogical in the assertion that a bargain once made by the President and Senate, involving the payment of money for this or any other purpose, was binding upon the conscience of the nation, and could not be rightfully repudiated in any imaginable case. If I have correctly understood these gentlemen, they have left to the Congress, of which they are themselves a part, no more than the very humble duty of carrying out the will of an acknowledged superior; and judging from the general expression, I think it may be safely said that if this untoward measure is to pass, it will owe its success far more to the idea that we are concluded by what has been done by others without our knowledge or consent, than by any favorable opinion of the merits of a transaction which nobody here would have advised, and few would care to venture to defend. I do not so esteem of my own rights as a Representative. As a member of this House I cannot but deplore the self-abnegation which would ignore its high functions as a legislative body, intrusted specially by the Constitution with the control of the public purse, and degrade it into a mere subordinate to an inferior member of the State, the ordinary executor only of its own will. I trust, therefore, I shall be excused for giving to this worse than self-denying, this monstrous and indefensible heresy, a much fuller consideration than it might seem otherwise to have deserved.

The question as to the extent of the treaty-making power under the Constitution, and the general authority of Congress to deliberate, and of course decide for itself, upon the expediency of carrying into effect a treaty made by the President with the concurrence of the Senate, wherever it contains stipulations on any subject committed to its jurisdiction, is one that has been largely discussed on two several occasions in our history. The first was upon the treaty with Great Britain in 1794, for the adjustment of existing disputes, and the regulation of commerce and navigation between the two countries; and the second upon the treaty of commerce and navigation with the same Power in 1815. The result of the former was that although the laws required for the purpose eventually approved themselves to the judgment of the House, they were only passed on grounds of expediency, after a protest in the shape of a solemn resolution of that body, asserting that—

"In all cases where a treaty stipulates regulations on any subject committed by the Constitution to Congress it must depend for its execution as to such stipulation upon a law or laws to be passed by Congress, and that it is the constitutional right and duty of the House in all such cases to deliberate on the expediency or in expediency of carrying such treaty into effect, and to determine and act thereon as in their judgment may be most conducive to the public good."

In the latter case, where the effect of the stipulation was only to interfere with existing laws, the same doctrine was substantially affirmed by both Houses in the passage of a law agreed upon after a conference between them, declaring that—

"So much of any act or acts of Congress as imposed

a duty on tonnage contrary to the provisions of the convention between the United States and Great Britain should from and after the date of that instrument, and during its continuance, be void and of no effect."

How far this opinion was authorized, will appear by a reference to the Constitution and to those principles of public law that bear upon the case.

There are but two clauses in that instrument which refer directly to the treaty-making power. The first of these is that which provides that the President—

"Shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senate concur."

The second is that which enacts that—

"This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

It is not to be disputed, therefore, that the treaty-making power is exclusively in the President and Senate, and that the treaties made by them are to have the same force as the laws enacted by Congress itself, and no more, while in strictness of speech they are not laws except by force of the Constitution.

If this grant of power stood alone it would, of course, impart to the President and Senate all the faculties that ordinarily belong to the sovereign in this particular, it being an essential and inherent attribute of every sovereignty to make treaties for the regulation of its external relations and intercourse.

It is not to be understood, however, that even in this aspect of the case the authority of the usual organ is absolute. It is a well-settled principle of public law that—

"Any thing that has been promised by the chief or his agent beyond the limits of the authority with which the State has intrusted him, is at most no more than a simple promise, (*promissio*), which only obliges the promiser to use his endeavors to procure its ratification."—*Martin's L. U.*, chap. 1, sec. 3, p. 49.

Even the stipulation of a monarch, though he should be absolute, cannot be valid if it militates against the fundamental law of the State, unless ratified by the nation. (*Ibid.*)

But the treaty-making power is only a part, and a very subordinate one, of our Constitution of Government, which is a complex machine, whose several parts must be made to work in such a way as to move together without jar or collision, and in entire harmony with each other, so as to accomplish the general object to which they are all subordinate. That object has reference mainly to the interior life of the people for whose benefit the instrument was contrived. All that lies beyond this province, and relates to what is only external, is but incidental and auxiliary to the general purpose, and is not, therefore, to be interpreted so as to impair or destroy any of the vital functions of the State.

It is to be observed, however, in the first place, that as among the powers that are coördinate that which is endowed with the superior function of making the laws—of which the others are but the ministers—is, of course, preëminent in dignity and degree, so in the very forefront of the Constitution stands the great and fundamental provision that—

"All legislative power therein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives."

It seems clear, then, that although all treaties made under the authority of the United States are declared to be a part of the supreme law, and as such obligatory on the judges of the several States, it was not supposed by the framers of the Constitution that the function of making them was a legislative power. And this is in accordance with the general idea that they are but in the nature of contracts between nations, and are not to be regarded in courts of justice as equivalent to an act of the Legis-

lature except where they operate *per se*, and without the aid of any legislative provision. (Story's Com., sec. 1508; *Foster vs. Nielson*, 1 Peters; *Turner vs. Am. Bapt. Miss. Union*, 5 M'Clain, 344.)

But the Constitution does not stop here. After thus declaring that all legislative power therein granted shall be vested in a Congress, it proceeds to particularize and define precisely what these powers shall be, and among those enumerated are the authority to levy and collect taxes, to borrow money, to regulate commerce with foreign nations, to declare war, to raise and support armies, to provide and maintain a Navy, to dispose of and make all needful rules and regulations respecting the Territory or other property of the United States, and to pass all laws necessary and proper for carrying into execution any of these powers.

Is there anything, then, in the treaty-making power to interfere with, or abridge any of the important functions thus expressly assigned to the law maker? May it levy and collect taxes, or borrow or appropriate money, or regulate commerce, or declare war, or raise and support armies by virtue of an alliance offensive and defensive with one of two belligerents? Or can it legally stipulate to do either of these things without the voluntary consent or coöperation of that department of the Government to which they are especially intrusted? If it may, the express grant of the whole legislative power to Congress over all these subjects is subordinate to the claims of the treaty-making power, and it may revolutionize the Government and become the complete master of the State by usurping the whole functions of the Legislature. Nay, more; as it is unrestricted in its terms, as the Congress is not, it may even transcend the limits of that department itself upon the doctrine of the advocates of this bill.

But there is no rule of construction that can support such an interpretation. It is admitted by Story that "although this power is general and unrestricted it is not to be so construed as to destroy the fundamental law of the State." "A power given by the Constitution," he continues, "cannot be construed to authorize the destruction of other powers given in the same instrument. It must be construed, therefore, in subordination to it, and cannot supersede or interfere with any of its fundamental provisions. Each is equally obligatory and of paramount authority within its scope, and no one embraces a right to annihilate any other. A treaty to change the organization of the Government, or annihilate its sovereignty, or overturn its Republican form, or to deprive it of its constitutional powers would be void." (Story's Com., sec. 1508.) And Chancellor Kent, referring to the admission of Vattel, (book 1, chap. 20, p. 244; *Ibid.*, chap. 21, sec. 262; book 4, chap. 2, secs. 11 and 12,) that the fundamental law of a nation may withhold the power of alienation by treaty, remarks that—

"It would seem by necessary inference to be a violation of the fundamental law for the treaty-making power, acting under such an instrument as the Constitution of the United States, to agree by treaty for the abolition or alteration of any part of the Constitution. The stipulation would go to destroy the very authority, for making the treaty."—*Kent's Com.*, 166, Note.

It may be added to this that where a power is expressly conferred by description and enumeration, as in the case of those vested by the Constitution in Congress, it is not to be taken away by implication, or, in other words, by giving to the acts of another and coördinate authority the mere force of a supreme law so far only as regards the constitutions and the laws of the several States. Where it is general it may be limited by exceptions; but where it is special, even an express reservation to the extent of the grant itself, would be void for the repugnancy, unless upon the hypothesis that the powers in question were intended to be concurrent. That, however, is the very question

in dispute. The argument here is that the treaty-making power is supreme, and of course exclusive; that it may not only repeal all existing laws, but oblige the Legislature to enact just such others as it may stipulate on any of the subjects expressly committed by the Constitution to its own hands.

Nor is it an answer to say that the terms of the Constitution are satisfied by the fact that the office of executing the will of the treaty-making power is in the hands of Congress, and to be performed by it. The power to legislate is a power to deliberate, which implies a power to refuse. It is of its very essence that the will of the agent should be free. If it may be coerced by the pressure of a supposed moral obligation, reinforced by a possible menace of war, he is but the blind instrument of a superior, and it is difficult to see why he might not, on principle, be compelled by *mandamus* to the performance of what would then be no better than a mere ministerial duty. The councils or legislators of a political corporation have been more than once constrained to levy and collect taxes for the payment of a corporate obligation. The difference would be only one of dignity or degree.

But it does not follow that the treaty-making power must fail, because it cannot be allowed to displace the law-giver, by usurping his functions or subordinating him into the mere creature of its will. While it is clear that in a case of manifest repugnancy, the latter and inferior grant must give way, it is an equally well-settled rule of construction, that it must be supported, if it can be made to stand along with the other without a conflict, in order to give effect, if possible, to all the parts of the instrument, or, in the usual technical phrase, *ut res magis valeat quam pereat*. If the treaty-making power be so exercisable as not to interfere with the authority specially and expressly conferred on Congress, it must be held to operate only to that extent, and in that way.

The resolution of 1796 asserts that in all cases where a treaty stipulates regulations on any subject committed by the Constitution to Congress, it must depend for its execution as to such stipulations upon a law or laws to be passed by Congress; and the act of 1816, already referred to, affirms the same idea. It may be doubted, however, whether there is any possible case of a stipulation within the scope and meaning of the Constitution upon any subject that is not committed to Congress, as it seems clear that there is none outside of its constitutional powers, in which it could be made competent to act even by the authority of a treaty. The effect, then, of this doctrine would seem, in strictness, to be to require the assent of the Legislature in all cases whatever.

I am not quite prepared, however, to go that length, nor is it essential to the support of my conclusions in the present case, that I should. But it may be admitted that there are treaties that operate *per se*, or execute themselves, either by establishing a new rule, or possibly repealing an existing law, while there are others which involve stipulations that are dependent on the action of the Legislature, and necessitate its intervention to carry them into effect, and which, therefore, by the introduction of this new element, must necessarily turn over the whole question to the power which they have invoked, unless the action of that power may be bargained for in a way entirely at war with its very nature, and its whole constitution and purposes. In the one case the treaty is perfect, while in the other it is imperfect.

Nor is this distinction a fanciful one. It has the support of authority as well as reason. In the case of *Foster et al. vs. Nielson*, 2 Peters, 314, it is said by the Supreme Court:

"Our Constitution declares a treaty to be the law of the land. It is consequently to be regarded in courts of justice as equivalent to an act of the Legislature, wherever it operates by itself, without the aid of any legislative provision. But when the terms of

the stipulation import a contract where either of the parties engages to perform a particular act, the treaty addresses itself to the political and not to the judicial department, and the Legislature must execute the contract before it can become a rule of the court"—which is to say, in effect, "before it can become a law."

The same doctrine is held in the case of *Turner vs. the American Baptist Missionary Union*, 5 M'Clain, 344, where the court holds the following language:

"A treaty under the Constitution is declared to be the supreme law of the land. This unquestionably applies to all treaties where the treaty-making power, without the aid of Congress, can carry it into effect. It is not, however, and cannot be, the supreme law of the land, when the concurrence of Congress is necessary to give it effect. Until this power is exercised, as when the appropriation of money is required, the treaty is not perfect. It is not operative in the sense of the Constitution, as money cannot be appropriated by the treaty-making power. This results from the limitations of our Government. The action of no department of the Government can be regarded as law until it shall have all the sanctions required by the Constitution to make it such. As well might it be contended that an ordinary act of Congress, without the signature of the President, was a law as that a treaty which engages to pay a sum of money is in itself a law. And in such cases the Representatives of the people of the States exercise their own judgments in granting or withholding the money. They act upon their own responsibility, and not on the responsibility of the treaty-making power. It cannot bind or control the legislative action in this respect; and every foreign Government may be presumed to know that so far as the treaty stipulates to pay money the legislative action is required."

And again, in *Taylor vs. Martin*, 2 Curtis, 454, it is remarked by the court that—

"To refuse to execute a treaty for reasons that approve themselves to the conscientious judgment of the nation is a matter of the utmost gravity and delicacy; but the power to do so is a prerogative of which no nation can be deprived without deeply affecting its independence. That the people of the United States have deprived their Government of this power in any case I do not believe. That it must reside somewhere and be applicable to all cases I am convinced. I feel no doubt that it belongs to Congress."

But the present case is distinguishable from those which have been referred to, and indeed from all others that have gone before it, in the important fact that it is not so much a treaty (*foedus*) as a mere bargain (*pactum transitorium*) for the purchase and cession of a large territory separated from that of this nation by the dominions of another Power, and not in any way connected with, or incidental to the settlement of any dispute even as to boundaries.

Whether a transaction of this sort is to be regarded in strictness as a treaty, within the meaning of the terms as used by the framers of the Constitution, is a question that does not seem to have been even mooted in any of the debates, or by any of the commentators on that instrument. In my humble judgment it is not. Provinces and even kingdoms have often changed hands, we know, as the result of wars, but so unfrequently as mere subjects of traffic, that few, if any, even of the publicists, have condescended to include a negotiation of this sort in their disquisitions on the general question. But this is not all. It is said by Martens (*Lib. 2*, pp. 52, 53) that—

"It is only treaties of peace, alliance, commerce, and others of that sort, which are to be fulfilled respectively only as the occasion presents itself, which are called treaties in the more particular sense, (*foederata*), in opposition to transitory covenants."

And to the same effect Vattel defines a treaty, in Latin *foedus*, as "a compact made with a view to the public welfare by the supreme power, either for perpetuity, or for a considerable time;" (Book 2, chap. 12, sec. 152,) distinguishing in the next following section, the compacts which have temporary matters for their object, and are accomplished by a single act, and not by repeated acts, under the designation of "agreements, conventions, and pactions." (*Ibid.*, sec. 153.) And the same distinction is observed in our own public transactions with foreign Powers, as reference to the treaty volumes of the Statutes-at-Large will show.

It is not unworthy of remark at this point

that the word treaty, in its general sense, has been used among us to refer to the character of the parties rather than to the subject-matter of the contract, and, if correctly, would bring the purchase of a vessel of war by the emperor of Russia from the Government of the United States, as fully within its meaning as that of an unexplored and uninhabited territory. To suppose, however, that the power here given was intended to apply to such a case, would not seem to be reasonable in view of the fact that the object of the provision, as generally conceded, was only to regulate the intercourse with foreign nations, and to settle and adjust such controversies as might arise between them, which was, of course, an essential power. It cannot be said that it is an essential power to any Government to buy and sell and make merchandise of territorial possessions or people. To ascertain whether it exists here we must look into the Constitution itself. If it is not there, or if there be anything in the exercise of such a power at war with the spirit and genius of our institutions, then it clearly does not exist, and the word itself is entitled to no such construction, against the accepted sense, as will embrace it when it may be so justly interpreted as to save the Constitution.

There is no pretense, however, that the purchase or cession of foreign territory is within any of the powers expressly enumerated in the Constitution, (Story's Com., sec. 1285;) and it has been often remarked that it is incredible that any such overwhelming authority should have been confided to the national Government with the consent of the people of the old States. It is well known, moreover, that one of the principal objections urged against the Constitution itself was that even the original territory was too large for a national Government. With such an understanding, it could not obviously have commanded votes enough to secure its adoption.

It will be remembered, however, that even Mr. Jefferson himself, solicitous as he was for the acquisition of Louisiana, which was due, as we know to his own exertions mainly, was obliged to admit that there was no authority whatever in the Constitution for the purchase of that territory. In his letter to Mr. Breckinridge, of the date of August 12, 1803, he says:

"This treaty must, of course, be laid before both Houses, because both have important functions to exercise respecting it. They, I presume, will see their duty to their country in ratifying and paying for it, so as to secure a good which would otherwise probably be never again in their power. But I suppose they must then appeal to the nation for an additional article to the Constitution approving and confirming an act which the nation had not previously authorized. The Constitution has made no provision for our holding foreign territory, still less for incorporating foreign nations into the Union. The Executive in seizing the fugitive occurrence which so much advances the good of the country has done an act beyond the Constitution. The Legislature, in casting behind them metaphysical subtleties, and risking themselves like faithful servants, must ratify and pay for it, and throw themselves on the country for doing for them what we know they would have done for themselves."

He then proceeds to compare the case to that of a guardian who has invested the money of his ward without authority of law, and who if afterward challenged could only say, "I did this for your good. I pretend to no right to bind you. You may disavow me, and I must get out of the scrape as I can. I thought it my duty to risk myself for you." (4 Corr., 500.)

Again, in his letter to Mr. Nicholas of the date of September 7, 1803, he says:

"When I consider that the limits of the United States are precisely defined by the treaty of 1796, and that the Constitution declares itself to be made for the United States, I cannot help believing that the intention was not to permit Congress to admit new States which should be formed out of the territory for which and under whose authority they were then acting. I do not believe it was meant that they should receive England, Ireland, or Holland, which would be the case on your construction. When an

instrument admits of two constructions, one safe and the other hazardous, I had rather ask an enlargement of power than assume it by a construction that would render our power boundless. Let us not make it a blank paper by construction. I say the same as to those who consider the grant of the treaty-making power as boundless. If it is, then we have no Constitution."—4 Corr., 506.

It has been argued on the other hand that the right to acquire territory is an incident to national sovereignty; that it was a resulting power growing out of the aggregate powers; that it was for the common defense and for the general welfare. And it has been asserted by the Supreme Court that the Constitution confers the power of making war and making treaties, and consequently of acquiring territory, either by conquest or treaty. (*Am. In. Co. vs. Carter*, 1 Pet., pp. 511, 542, 517, note; *Story*, sec. 1287.)

How it can be shown that the right to acquire territory is an inseparable incident to national sovereignty is a point that is not explained. What national sovereignty is I do not know, unless it be the supreme power of the State, in which case, I suppose it would reside, of course, with the organ that enacts the laws. If it be, however, a necessary incident, then national sovereignty is absolutely impossible in a Government whose limits are so precisely defined by the terms of its fundamental law as to preclude any enlargement thereof. There is nothing, therefore, in this argument.

Is it to be found, then, as a result of the aggregate powers? That is but the totality of the specific and individual powers, which means no more than the Government itself, and is, in effect, but a repetition in other words of the proposition that goes before it. But by what chemistry is the sum of these powers to result in a product so different from the elements of which it is compounded? How is a sweet fountain to be made to send forth bitter waters? Is it essential to the exercise of any of these powers that the nation should acquire additional territory? Nobody will pretend it.

Is it essential, then, to the common defense and the general welfare? That was the argument in the Louisiana case, to which there is no parallel here; but it is to be remembered that it was invoked there not to give a construction to the Constitution, but only to excuse an admitted violation of it. It is sufficient to say, however, that it has not been usual for jurists to look for the law to the preamble of a statute, and that if the opinion of Congress as to what is necessary to the common defense and general welfare is to be the measure of its powers under the Constitution, instead of the body of the Constitution itself, then these powers are illimitable, and we might as well dispense with the instrument altogether.

But then it has been somewhat loosely said by the Supreme Court of the United States in the case already cited, that the Constitution confers the power of making war and making treaties, and consequently of acquiring territory by either conquest or treaty. This, I think, is about as fair a specimen of a *non sequitur* as could be well imagined. There may be wars without conquests. When we overran Mexico, one of the most desirable regions on the globe, we restored it, because it was not considered to be our interest, or perhaps our right, to acquire territory in this way, while it is now proposed to overleap the domains of another Power for the purpose of buying at a high price another territory that is not only forbidding in all its aspects, but absolutely worthless. And so, too, there may be treaties without the acquisition of territory. Even when it is an element, and but an incidental one, the cases are exceptional. Where, however, it is not only the principal, but the only object, it is not, as already shown by the authorities, the case of a treaty properly so called at all.

It is to be remarked, moreover, that it is not as an original power that the case is treated

by the judge. He does not find it there because there is anything in the Constitution to authorize a purchase, but only because it contains a provision to authorize a treaty, which is gratuitously assumed to authorize anything that may be made the subject of treaty between independent nations by the general public law, or, in other words, any imaginable contract without reference to the structure of the Government, or the limitations of its fundamental law. This, however, is a position which has the support of no authority, and is entirely at war with every sound principle of interpretation. It has never been pretended by anybody, until it became necessary in the present case, that the treaty power was not limited as to its objects by the Constitution. When it was objected in the great debate on Jay's treaty in 1796, by those who were opposed to it, that inasmuch as the powers of Congress were expressly limited, while those of the President and Senate in this particular were not, the effect of the doctrine contended for by its advocates would be to make the treaty power uncontrollable and absolute, it was well and conclusively answered that it was absurd to suppose that it was not subject to all the limitations of the Constitution. It seems to me, however, that most of the defenders or apologists of this unrighteous and unprecedented bargain have taken the ground that the treaty power covered every possible subject of negotiation, as they have generally assumed, in utter contempt of the decisions of the courts, that a contract made by the President and Senate was a perfect treaty, without conceding that it made any difference whether it came within the scope of the Constitution or not, and without even condescending to respond to the objection that there was nothing in the Constitution to authorize the purchase of foreign territory.

It may be assumed, then, I think, upon this presentation of principles and authorities not only that the large concessions of the report itself as to the powers of this House were well authorized by the law, but that there was nothing whatever in this grant of the treaty-making power even to furnish a color of authority for the making of such contract. As to so much of the argument as puts the case on the supposed technical advantage to be derived from the bald and unworthy trick of a hurried occupancy, intended so obviously to force upon the House and country an agreement which it was well understood that neither would have made itself, even in the most favorable condition of our finances, I shall reserve what I have to say until I come to look into the question of the friendly relations between the contracting Powers with which it has been so dexterously associated. And now as to the merits of the acquisition itself.

It was scarcely to be expected in the face of the notorious fact that the territory in question was a *terra incognita* even to Russia itself at the very time of the munificent and mysterious offer, by which the Czar was no doubt as much surprised as ourselves, that anybody would be bold enough to claim that it had anything to recommend it except, perhaps, an exaggerated application of the Monroe doctrine, in view of the fact that it was a part of the North American continent. No sooner, however, is the extraordinary overture of the Secretary, who, with the restless spirit of the wandering Jew, had just been scouring sea and land with a chest of gold in quest of something that he might buy, accepted, than every engine which the Government can command is set to work to impress Congress and the nation with the idea of the immense value of the miserable property for which their credit had been so wantonly pledged. Never was an honest cause supported or required to be supported by such extraordinary means. Never, indeed, in the annals of imposture has anything been witnessed so reckless and audacious in the way of inven-

tion as the statements which have been manufactured to accomplish this object. By a miracle as stupendous as that of Joshua when he held the sun spellbound on Gibeon and the moon in the valley of Ajalon, the very laws of nature—the same to which the honorable chairman so confidently refers—are not only suspended but overturned at the bidding of the wizard Secretary. The pen of the mercenary scribe is enlisted to furnish material for the statesman. The sybil-like leaves of these oracular personages, this hireling priesthood of the press, descend in showers like the snowflakes that load the atmosphere of this promised land. The icy barriers before which even the giant power that had cleft its way through the snows of Siberia to the shores of the Arctic ocean, was obliged to recoil, give way at once. The frozen rivers heave their flowing bosoms to the embraces of a tropic sun, and the rugged and inaccessible mountains sink down incontinently into the verdant slope and the grassy plain. And young America, always susceptible, yes, and very old America, too, listen and believe. Already they hear, or think they hear, the scream of the American eagle from the peak of St. Elias, and as their eyes are skillfully directed to the exiled banner of the Union drooping disconsolately from its staff amid the perpetual rains of Sitka, respond to the stirring appeal by swearing on the altar of the god Terminus that it shall never go back, even though the elements in mutiny may wage eternal war around it and against it.

Nay, even the grave chairman, to whom the nation looks for wise and wary counsel, transported by the glowing vision, is rapt into ecstasy himself, and even while challenging the wild fancy that peopled Oonalaska's shore with wolves, finds a new El Dorado among the icebergs and volcanoes of this new Eden, before which the riches of ancient Ophir and the marvels of Cathay must pale. The poet, who has a license, as the statesman has not, was true at least to the law of verisimilitude, when he assigned to that savage beast a home in this new purchase, for which he could imagine no other inhabitant. If he forgot that there are regions of the earth where even a wolf could not subsist, and would disdain to live, he has atoned at least for the error of the naturalist in the glorious rhythm that blends so well the dismal howl of that animal with the sullen dash of the breakers upon that desolate shore. But what is there in the way of license here to compare with the inventive genius that has sown the gifts of Ceres among the driving mists and the eternal snows, and with a marvelous alchymy transmuted the sterile rock and the inaccessible glacier into the richest of metals and the most priceless of gems?

Unlooked for as was the argument upon the intrinsic value of a region of the earth so marked throughout by all those features which have sealed it against human access, and stamped upon its face the irreversible decree of the Almighty, that it shall never be the home of civilized man, I think I do not exaggerate in what I have said as to the character of this argument. Those who will turn to the speech of the honorable chairman will find that it is upon this point mainly that he has expended his stores of rhetoric. Rich as he is in elocution, the powers of language almost fail him in his endeavors to depict the varied and endless resources of this new acquisition. Without even the trouble of an exploration, he gives his hand and his faith implicitly to the voracious penny-a-liner, who guides him to the mount of vision, and there unfolds to his wondering eyes the mysteries of this untrodden and enchanted land. He sees, not with the visual orb, but as Sancho saw his mistress, by hearsay, in this chaos of rock and mountain, and wintry flood, a boundless area of cultivable land, that only waits the surveyor and the plow to be thronged with settlers, and to dimple

into harvests; timber for construction and export, huge "as the pines hewn on Norwegian hills, to make the mast of some great admiral," and indestructible as the bodies of the unburi'd Esquimaux found by the first explorers on its northernmost point, which laughed the worm to scorn, and defied alike the tooth of time and of the polar bear; treasures of mineral wealth deep hid from mortal eyes, in beds of coal, and ores of iron, lead, copper, silver, and even gold, with probable platina and possible diamonds; forests alive with fur-bearing animals, just waiting to ornament the fair shoulders of some Atlantic belle, and fishes swarming upon the coast, until they are crowded out of their native element, and compelled to pasture upon the strand. And as he describes all this in a speech of two hours, with a creative power that never flags, we turn involuntarily to the six days' work so eloquently paraphrased by Milton for the only parallel. He speaks, "Let agriculture thrive and homes for settlers grace this rugged clime," and lo!

"The bare earth till then
Desert and bare, unsightly, unadorn'd,
Brings forth the tender grass, whose verdure clothes
Her universal face with pleasant green."

Let forests crown the hills!

"Straight rise, as in dance, the stately trees.
Let fish be multiplied, and in the seas
And lakes and running streams the water fill."

"Forthwith the sounds and seas, each creek and bay,
With fry innumerable swarm, and shoals
Of fish that with their fins, and shining scales,
Glide under the green wave in sculls that oft
Bank the mid sea."

Is it surprising that in view of all the facts he tells us of this new Arcadia, he should so far forget the miserable savage who has so despised the gifts of nature and of Providence, as to burrow in the earth for more than half the year, and draw his whole subsistence from the sea, as to ask, as he does, with an air of triumph, where is there a people in all the earth with the same abundant materials for industry? But why should he have found it necessary to verify them by the eminently logical inference that because those who decried the successive acquisitions of Louisiana, and Florida, and Texas, and California, have turned out to be mistaken, all that the Arctic voyager has told us of the frozen zone is necessarily untrue, when we all know so well that a Republican ownership of six months, with the concentrated blaze of a hundred hireling pens would thaw out even the pole itself? And why also should he have found it necessary to magnify the value of this priceless acquisition by a reference to the somewhat apocryphal and damaging fact, that two previous Administrations had been capable of the meanness of offering for it in vain the paltry sum of only \$5,000,000?

But how are the facts? Let me invite him and his auditors down for a little while from this glorious heaven of invention, and see how these things look, not through the kaleidoscope which the honorable gentleman presents to our eyes, but under the sober and philosophic light of the geography, topography, and history of the region in question.

The territory contracted for extends from about the sixtieth parallel to the latitude of 71° 20' on the Arctic sea, with a mean width of about 25°, or from seven to eight hundred miles, with two long tongues of land, one on the east, extending southwardly along the coast to the line of the British possessions at 54° 40', with an average width of about thirty miles, and the other on the southwest, comprising the peninsula of Alaska, along with the Aleutian isles. A large portion of it, therefore, is within the Arctic zone.

This part of the continent was first discovered in 1741 by the Russian admiral, Behring, who did not however land, but perished on his return voyage, along with his crew, of cold and hunger, on one of the islands near the Asiatic coast. It was again visited in 1778 by Captain Cook, who made the land at the inlet which has

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since borne his name, and which he supposed at first to be the northeastern passage around the continent, of which he was in search. Finding himself mistaken, he coasted westward along the southern shore, and the peninsula of Alaska, until he found a passage among the islands, which led him through the straits into the Arctic ocean, where he continued to push through the driving flocks as far as Icy Cape, in longitude 162°, where his further progress was arrested by a firmly frozen sea. For nearly half a century from this time no further exploration was attempted, until Captain Beechey in 1826 succeeded in penetrating as far as Point Barrow, in 71° 20', which is the highest northern latitude of Russian America. Some years afterward the attempt was made by Sir John Franklin to reach the same point from the mouth of Mackenzie river on the east, but he failed after the most persistent efforts to accomplish the task, and it was not until 1837 that the object was achieved by Dease and Simpson, two of the Hudson Bay Company's servants, with a boat's crew from the mouth of the Mackenzie, while within a few days afterwards, an expedition fitted out by the Russian-American Fur Company, succeeded in reaching the same point from the West, just in time to see the natives collected for the purpose of cutting off the British party, and were obliged to decamp at once in order to avoid the same fate themselves. And these are the only adventurers who have ever succeeded in tracing the coast line upon the Arctic ocean. Whether the United States Coast Survey, which will of course follow the disposition of the Arctic lands among American settlers, under the auspices of Mr. Seward, will fare better, remains to be tried.

In the mean while, however, a few Russian adventurers had founded an establishment at the island of Kodiak, with a view to the commerce in furs with the Asiatic coast, which was, however, subsequently removed to the island of Sitka. A fort was afterward established at Norton's sound, and several expeditions sent into the interior, which resulted in the establishment of a chain of trading posts from Dixon's entrance to Norton's sound, and the discovery of two considerable rivers, the Kuskokvim and the Yukon, with a country along their banks covered generally with lakes and morasses, and skirted by lofty and in some cases volcanic mountains. The latter and larger of these rivers was first explored in 1842-43 by Lieutenant Zagoyskin, who ascended it to a point about two hundred miles above Nulato, which is in latitude 64° or thereabouts, and about one hundred and fifty miles in a direct line from the coast; but the inherent difficulties of the task, along with the fierce and intractable disposition of the natives, who were, however, very few in number, discouraged any further efforts in that direction, and the territory passed into the hands of a private company.

And this is absolutely all that was known about it at the time of the purchase, or is known now, its very advocates in the Senate being compelled to admit that with the exception of the islands—themselves also unexplored—and its forbidding and almost inaccessible coast, the whole land was a *terra incognita* to civilized man, and nothing having since been done in the way of exploration except the alleged ascent of the Yukon by Lieutenant Ketchum, in 1867, as far as the British fort of that name, at the mouth of the Porcupine river, and about six hundred miles in a direct line from the coast, of which, however, we have no particulars. Why a treaty for the purchase should have been ratified under such circumstances, unless upon the principle of *omne ignotum pro magnifico*, which has entered so largely into the discussion here, is still a mystery, as will be the passage of this bill.

Upon this showing the laws of nature would seem to settle the question as to the agricul-

tural capabilities of this comparatively unknown region, which may be characterized, I suppose, as the *bucolic argument*. To meet, however, the presumption arising from a latitude so high as to preclude all cultivation of the cereals, the honorable chairman takes refuge in the insular position of Sitka, in latitude 57°, which is just three degrees south of the continental mass of this territory, and over fourteen degrees south of its northern boundary, where he shows a mean annual temperature of forty-two degrees, or ten degrees above the freezing point, a climatic condition resulting from no extremes of cold or heat, but from a uniformity which is only achieved at the expense of almost incessant rains and mists, which render the harbor and all the adjacent coasts at times inaccessible, and agricultural pursuits impossible, even if there were level ground enough for that purpose in a region where, according to Sir George Simpson, enough could not be found even for the location of a fort.

A writer of an article in the Atlantic Monthly, of June, 1867, not unfavorable to the purchase, and evidently designed to impress the public mind with a high idea of its value, remarks that it rains at Sitka almost, if not quite, every day in the year. The table embodied in the report itself shows two hundred and fifty days of rain in the year, and about twenty-three in each of the summer months; while it is admitted that it does not follow that the residue are clear, that kind of weather prevailing most generally in January, and always under the influence of north winds. The same climatic influences would, of course, prevail along the immediate coast of the mainland just opposite, which, as well as the islands, is covered with a deep coating of moss always saturated with water, even to the mountain tops. Whether this condition of things is at all fitted for the growth or ripening or curing of any crop whatever, or reconcilable with farm culture of any description, even supposing the land to be arable, is a question that does not admit of controversy, and it is only surprising that any body should have the hardihood to assert it on the face of the facts shown by the report itself.

Leaving the insular position, however, for the continental one, we part with the rains only to encounter the frosts, and find a region underlaid with perpetual ice at a depth ranging from a few inches to five or six feet, with the surface thawed out in the most favorable positions for, perhaps, three or four months of the year. In latitude 55°, which is more than two degrees south of Sitka, Major Pope, who was connected with the telegraphic expedition, reports ground ice at the depth of six to eight feet, with a surface which freezes in winter to the depth of two feet. The lands which the Government is in such haste to survey for the purpose of meeting the expected rush of American settlers—the same described in the report as "the garden of Alaska," and the same spoken of by Teubenkoff in 1848, as quoted by Professor Davidson, as "surrounded by rocks and pine forests, mountains covered with eternal snow, enveloped in perpetual fog, or invisible with drizzling rains"—are, according to the authorities relied on, in the peninsula of Kenay, or between Cook's inlet and Prince William's sound, and from five to six degrees further north.

Within only one or two degrees of latitude, however, from this "garden" spot, according to observations made at the Russian post of Ikagmut, which is on the Yukon river, in latitude 61° 47', and about one hundred and fifty miles from the coast, the mean annual temperature is reported at 24° 57', which is more than 7° below the point of congelation, while mercury, which freezes at minus 40°, has been known to solidify in February and March, and the soil never thaws beyond the depth of seven inches! Further north the cold is, of course, proportionally intensified. At Fort Yukon, in latitude 64°, the mean annual temperature is 16°.

92, or more than 15° below the freezing point. From the line of the Yukon northward the whole region is admitted to be purely arctic, where the days are shortened far beyond even the demands of the eight-hour advocates, and the sun himself, the great fountain of light and heat, plunges below the horizon at the winter solstice, and leaves behind him nothing but a disastrous twilight, shedding its sepulchral gloom over boundless and trackless wastes of snow. What an attraction for an American farmer! Here the regent of day rides through our harvests at an angle approaching 16° from the zenith, and never descends below one of about 28° above the horizon; while there, even at Sitka, if he shows himself at all in the summer, as it is admitted that he very rarely does, it is only to shoot at a long inclination a sickly and refracted ray through a watery atmosphere.

I beg to say to the honorable chairman that he makes a great mistake if he supposes that the romances of newspaper correspondents, or the outgivings of mercenary editors, just now seized with a sudden zeal for the propagation of the Gospel and finding in that region a commanding station for evangelizing all eastern Asia, or even the ignorant and interested twaddle of a land commissioner, will be taken by sensible men as an answer to such facts as these, or can have any other effect than to make the world laugh, and taint and discredit the whole proceeding. Even a good thing may be overdone. A large faith may perhaps lean safely on the probable; but when the case overleaps that line, and approaches the boundaries of the impossible, it is not always prudent to presume too largely on the credulity of the people.

But the whole question is disposed of by the answer of the Russian Government itself to the grave inquiry—*visum teneatis, amici?*—as to its system of division and measurement of landed property in such a way as not only to put it forever at rest, but to make it absolutely amazing that anybody should have thought it worth while to attempt to mislead either the House or country upon this subject. I quote so much of that answer as refers to this subject. And first as to the islands:

"The native population of each separate island is so very insignificant that the inhabitants of any one could not meet with the slightest cause of collision of interests in the use of lands; in addition to this, the soil itself being perfectly barren, and unfit either for agricultural or grazing purposes, there was no reason why the natives should endeavor to extend the limits of their lands.

"There was even less ground for the enactment of any particular regulations in view of immigrant settlers. Who can ever have a mind to settle in that country, where permanent fogs and dampness of atmosphere and want of solar heat and light, leaving out of the question anything like agriculture, make it impossible to provide even a sufficient supply of hay for cattle, and where man, from want of bread, salt, and meat, to escape scurvy must constantly live upon fish, berries, shell-fish, sea-cabbages, and other products of the sea, soaking them profusely with the grease of sea beasts. The Aleutian islands may attract transient traders, but no permanent settlers; to inhabit them one must be an Aleute, and if it were not for the sea surrounding the islands this country, owing to its unfavorable climatic conditions and the sterility of its ground, would have never been inhabited at all."

Then as to the continent:

"From all what we said it clearly appears, that in this region no attempts were ever made, and no necessity ever occurred, to introduce any system of land-ownership; the country occupied by savages is too vast; they use to camp in certain fit places, generally marked by mountains, rivers, and streams, each having its name, but no fixed boundaries whatever, and their migrations are guided by wild instinct and unbounded will. All this region has neither past nor present, and it may be confidently said of the future that it is far and impenetrable. Every attempt of civilizing that country will stumble against unconquerable obstacles; the complete absence of local topography, the wild character of the savages, and no less wild character of nature; but, above all, the rigor and inconstancy of climate. To achieve any good results for the future of that country, by means of conquest and violence, would hardly be possible; to drive the savages further into the interior of the American continent, however difficult, would be possible; but this plan will be connected with irrecoverable money and material losses; the more so, that a civilized population will never be attracted to that country; there can be expected

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speculators, but no permanent settlers; there can be expected no civilized population, no permanent industry, but rather spoliators of the natives, and depredatory working out of the riches as well on the surface as in the womb of the earth. Such system can devastate, but not organize the country."

The next question, as to the resources of this region in timber, is sufficiently disposed of by what has been already said in relation to its agricultural capabilities. The Arctic flora, as well as its fauna, is too well defined among naturalists to make it worth while to plant within that region a giant vegetation which does not belong to it. A soil that is permanently underlaid with ice, with a surface frozen to an unknown depth and thawed out only for a little while in the summer to a depth of seven inches, is obviously even more unfitted for the growth of timber trees than it is for the cultivation of the cereals. The testimony is that the Aleutian islands are so barren as to be absolutely treeless, while the forests along the coasts that are nourished by the incessant rains are practically inaccessible. Dr. Kellogg, the botanist of the expedition sent out last year by the Government, remarks that—

"Unfortunately, this vast region of islands and continental coast is not bordered at the base of these lofty timbered ranges with sloping or level bottoms, but is gashed with precipitous and inaccessible gorges, the peaks being for the most part capped with snows, which, melting in summer, make every rockless footstep a sphagnum, miry morass."

And now as to the mineral resources of this region.

While it is admitted that there is nothing in the element of latitude or climate, to prevent the existence of beds of coal and mineral ores within the territory in question, there is no part of the case in which the invention of its advocates has been more largely and freely indulged. Of all these supposed discoveries a careful examination of the report itself will show, that not a single one has any foundation of fact to rest upon, or any other existence than in the faith or the imagination of the relator, or the inventor. It is all hearsay, and all apparently manufactured by the relators themselves for this particular market. Thus, on page 28, "There is said to be an unworked vein of coal, seven feet thick, and similar veins are reported to exist" at another point. Professor Davidson, who, with other scientific men, was sent out by this Government along with Captain Howard, in the revenue-cutter Lincoln, to make a reconnoissance of that whole region, reports that the specimens examined by him were merely lignite, thickly marked with iron pyrites, and that the coal actually discovered had been faithfully tried on the Russian steamers, and found so worthless as to make it necessary for them to get their supplies from Vancouver's Island, which is a British possession. All he can say is that "he is informed that at a certain place described by him, there is an unworked vein of seven feet, but that it has not been opened." Again, on the same page, "silver is represented to exist in several places." "An assay of gold from other parts of Alaska made at California, January 16, 1868, was reported to the Secretary of State by W. T. Ballou"—the same who reported a vein of pure anthracite of thirty feet in depth, and only wanted funds to develop much more astonishing facts—"to yield \$13,000 per ton." "Miners made from two to seven dollars per day at the gold diggings in the Stekine river" without informing us, however, that this was in British territory. "Gold is reported to exist in the Kakmay river, at Cook's inlet, and at St. Nicholas." "Bismuth of a remarkably fine quality is reported by the Russians in the flanks of the Victoria mountains, and iron ore in the vicinity of Sitka," and "although no sufficient opportunity has been given the agents of the United States to verify the truth or falsehood of these reports, there is, scarcely a doubt that they will prove well founded." "There would seem to be no reason why the mineral wealth of this coast should

be less than that of Japan." "At Ikagmut Zagoyskin saw fine, clear earth of different colors. These, he thought, contained lead." Professor Davidson says that magnetic ore is reported to exist on Pateshiskof Island, "but the hurried surveys made by Mr. Blake for the discovery of the ore were unsuccessful." "Captain Demidoff expressed the opinion to the correspondent of the New York Herald that in the interior of Alaska would be found the richest auriferous sands in the world." "Lieutenant Pease found a copper-bearing rock in Behring's sea." "On the way down the Yukon the natives pointed out a hill where coal was worked by them for their own use." Zagoyskin found indications of lead on the lower Yukon." A French traveler named Roche "is sure that gold might be found in all the rivers and valleys. He wrote thus fifteen years ago, and his predictions have already been partially realized. He positively declared that platinum, lead, silver, diamonds, and other minerals found in Siberia would be discovered in the mountains of Russian America." "In fact, he says that jet, kalium, petroleum, variegated marble, iron ore, &c., have been brought to light." "Many beds of bituminous coal have been discovered on the coast and in the Aleutian Islands. The Russian steamers have long taken coal from the mines of Kodiak, which can furnish it for future commerce for many years yet." The last of these statements is now absolutely disproved, as has been already shown, as are all the rest, by the report of Mr. Blake, the geologist of the expedition, who says "he found no coal of any value, neither precious or base metals of any kind. He was told of the existence of various metals at different times, but when sought where they are said to be they were not there."

And here is a fair specimen of the stuff—if I may be allowed the expression—with which the House has been regaled, as evidence of the existence of mineral riches in this territory. There was a class of alchemists in the middle ages who spent many a weary year in the search of the philosopher's stone, as there was another class of mere pretenders who profited largely by the credulity of simpler men who were weak enough to lend a believing ear to their glittering promises. I am not sure that the founder of a certain German colony in this country, within living memory, did not claim the power among his followers, of transmuting the rocks which underlaid his settlement into gold. But was there anything more extravagant in these pretensions than what we are called upon to witness in the way of evidence and prophecy here? Surely these things require no serious answer.

And now as to the fishes, which may be called, I suppose, the *argumentum piscatorium*.

It is not denied or doubted that they do abound, as in most high latitudes, upon the western coast of Russian America, as the fact that they constitute the principal support of the native population sufficiently attests. Is it proposed, however, to bring the American settler down to this Lenten entertainment? I have seen it somewhere stated—perhaps by as great an authority as Agassiz—that there is a large amount of brain power, in the shape of phosphorus, locked up within the scales of the finny tribes. Does the gentleman from Ohio, [Mr. MUNGER,] who bids so high for this property, intend a colony from that unfailing fount of Democratic power, the Milesian element, which still cleaves with so much devotion to the claimed "successor of the fisherman," to inhabit a land where Lent may be made perpetual, and every day will be a fish day? Is it seriously proposed to educate a higher class of American voters, by converting them into *ichthyophagi*? Or is it the larger tenants of the ocean, the more gigantic game, from the whale, and seal, and walrus, down to the halibut and cod, of which it is intended to open the pursuit to the adventurous fishermen of the Atlantic coast, who are there already in a domain that is free to all? My venerable

colleague, [Mr. STEVENS,] who discourses as though he were a true brother of the angle himself, finds the foundations of this great Republic, like those of Venice and Genoa, among the fishermen. Beautiful as it shows above, like the fabled mermaid—

"Desinit in piscem mulier formosa superne," it ends, according to him, as does the Alaska argument itself, in nothing but a fish at last. But the resources of the Atlantic are now, he says, exhausted. The Falkland Islands are now only a resting-place in our maritime career, and American liberty can no longer live, except by giving to its founders a wider range upon a vaster sea. Think of it, he exclaims—I do not quote his precise language—what a burning shame is it not to us that we have not a spot of earth in all that watery domain, on which to refit a mast or sail, or dry a net or fish?—forgetting, all the while, that we have the range of those seas without the leave of anybody; that the privilege of landing anywhere was just as readily attainable, if wanted, as that of hunting on the territory by the British; and above all, that according to the official report of Captain Howard, no fishing-bank has been discovered within the Russian latitudes! I do not propose, however, to cast a line into these muddy waters. If it were all true, as represented, there is ample room and verge enough for the industry of our people, without wasting our substance, or loading ourselves and our posterity with a perpetual incumbrance like this. Is it expected that our fishermen, like the disciples of old, will be able by another miracle, and a greater than the former, to extract from the jaws of the first "catch," not only the penny wherewithal to meet the demands of the tax-gatherer, but enough to pay these \$10,000,000 in the money of the country, along with the additional annual and perpetual charge of several millions more, which this territory is to cost us?

I say nothing of the fur-bearing animals, which are known to be rapidly disappearing, and are, at all events, of so little consequence as not to deserve a place in the argument.

But, then, we are told by the honorable chairman that it is a contiguous territory; that it is "the germ of an inappreciable power;" that it is necessary for our defense, and for the preservation of our institutions and power; that it is the key of the Pacific; that it gives us the control of the Arctic coasts, and makes Behring's sea, and all beyond, essentially American; that by its hundred islands, which are but a stepping-stone to Asia, it brings us face to face with the ancient civilization of China; that the nations of the earth are looking upon it with greedy eyes; that Europe is destined to a terrible war, in which the first movement will be to get possession of this much-desidered land; that it makes us, in effect, the masters of the coast of British America, which is worthless without it; and that if we do not take advantage of the offer, it will fall inevitably into the possession of some hostile Power. All these are but the supplements to an argument upon the intrinsic value of the territory which is felt to require extraneous support. A few words, however, will suffice to show that they do not help the case.

The alleged contiguity, in the first place, which would have brought the case within the precedents, and was considered, no doubt, by the committee as a controlling argument, is a mistake—committed in apparent oblivion of the very recent controversy and settlement between Great Britain and the United States—of just 5° 40', or some four hundred miles, in latitude, which brings the territory about as near to our dominions as Russia itself is to France. But this is now answered by the suggestion, that it comes to the same thing, because if we could not get up from 49° to that point by negotiation, we can surely get down from the same point to 45°, by rendering the British possessions comparatively worthless, and squeezing

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her out entirely. This means war, if it means anything, as one of the first fruits of this acquisition; but that we can have as readily, and wage as successfully, without the disadvantage of an outlying possession, which could be seized at once by an enterprising enemy like Great Britain, if she considered it worth taking. How we are to be damaged now by its falling into the hands of the same Power which holds Vancouver Island already, or in what way it is necessary for our defense, or for the preservation of our institutions or power, that we should multiply our vulnerable points, has not been shown, and cannot be easily conjectured.

But then we are informed that it is the key of the Pacific! If the honorable chairman had asserted that it was the key to Behring's strait, and to the Arctic sea, over which it is supposed that it will give us the control—forgetting that Russia is still on the other side—as though we wanted a dragon there to guard his new Hesperides from other Powers, we could have understood him; but when he speaks of a region buried in mists and storms, away on the northern extremity of that great ocean, away out of the track of all its commerce, and visited only by an occasional whaler, I confess I am too dull to comprehend his meaning, as I am when he insists that it brings us face to face with the Celestial empire—which we face just now—by putting us away off on its flanks. Will the commerce of China ever take that route? Is it the greater proximity on which he relies? Does he think it is an easy leap to the old Continent? Behring and his crew were frozen to death in that passage. Where is there a port on the Asiatic shore in that high latitude which is approachable? Is it anywhere in Kamtschatka? Is it even in the Sea of Okhotsk? Or does he reckon upon this territory merely as an advanced post in that march to universal dominion with which we are now threatened? Does he propose to follow up this acquisition, by the bid of another \$7,000,000 in gold for Kamtschatka, to run down the coast, engage for a province or two of China, contract for Japan, and squeeze Great Britain out of the Indian seas? My venerable colleague complains, as I have already remarked, that it is "a burning shame" that we have not a spot of ground in the wide Pacific to dry a fish, or a stick of timber to repair a shattered mast. Is it not equally a shame that we do not own a continent or an island in the Indian ocean?

But if we do not take this property some European Power will. And here the honorable gentleman takes up the *role* of the prophet, and informs us that there is, ere many days, to be a terrible war in Europe, in which this event will be sure to happen. Well, be it so. I should not grudge any of them the acquisition, but would rather wish them joy of it, if a region so forbidding could be a "thing of joy" to anybody. But what Power in Europe would desire it? What would any of them do with such an elephant if they had it, when even Russia herself, though clothed in furs, and with her sub-Arctic population, could not afford to keep it? I trust the American Congress is not to be frightened by such an argument as this, into the ratification of so poor a bargain. It is only of a piece with the kindred argument, so obviously borrowed from the auctioneer who puffs his wares, that we have twice before been silly enough to offer to buy this property, and that it has been twice as silly refused.

If there is anything in this part of the argument, it means that we are now about to abandon our traditional policy, and enter upon a scheme of universal dominion; to absorb all surrounding nationalities, and then to spread our wings for foreign flight, till "the whole boundless universe is ours." This is the spread-eagle argument. It has great attractions for the young. When I was a boy myself, if I may be allowed the egotism, I was tempted to indulge on a Fourth of July in an aerial excursion of the same sort, which has perhaps done

more to keep my memory green among the boys than anything else that I have ever said or written. That, however, was only to the Western ocean, wherein the royal bird has long since dipped his wings. The gentleman from Minnesota [Mr. DONNELLY] and my junior colleague, [Mr. MYERS,] alike buoyed up by the tempestuous ardor that always animates the young—

"Their airy caravans high over seas
Flying, and over lands, with mutual wing
Easing their flight;"

have sped away under the convoy of the adventurous Chairman, above "the sea's tumultuous roar," over "Behring's rock," and even beyond the watery domain of the world's great ocean. Nay, even the Nestor of the Pennsylvania delegation, [Mr. STEVENS,] who has arrived by some new process at the philosophic conclusion that it is wise to emulate the greatness and the glory of imperial Rome by the same policy which rent her first in twain, and then gave over the dismembered fragments of the huge carcass to the fierce barbarians of the north, feeling the divine effatus, and kindling again, like the Phoenix, into new life under the inspiration of the clang with which his juniors spurn the ground, "his sail broad vans expands for flight," and lifts himself into the empyrean so far above his exemplars, as to take in at a glance, not only Alaska, but "all creation," with all its seas, and continents, and isles. Well, this is logical, as it is outspoken. He sees with the ken of a prophet, in the purchase of this desolate outlook, that "germ of inappreciable power" to which the honorable chairman so eloquently refers, because he sees in it the precedent, and in its volcanic peaks the starting point, in that grand march to universal empire, which, abandoning the pursuits of peace and happiness, is to give to our posterity a legacy of war, and prepare for the instruction of future generations another of those grand convulsions which have shattered the great empires of the earth into fragments. The last experiment of this sort upon the other hemisphere was checked disastrously among the snows of Russia, and brought the Cossacks of the Don to water their horses in the Seine.

I trust that the first step in our downward march is not to begin where that of another child of destiny came to an end. It is not so much the mere dross that this purchase is to cost us that disturbs me. It is not even the still heavier burden of governing an outlying possession such as this, at the expense of great corruption, and endless Indian wars. But we cannot afford to enter upon the new field to which we are now invited. It may suit a monarchical Government to hold remote dependencies, as Great Britain does. The genius of our institutions forbid us that privilege. We must associate them with ourselves, or change our Government. But we cannot grapple them to us by ties of fellowship, without a community of interest. Even the diversity that slavery produced had so far overcome the effect of juxtaposition itself, that nothing but this single fact could have saved this Union from destruction. How long will it be that the people even of our own race, upon the Atlantic and Pacific shores, will consider their interests the same? When they come to differ, what power is there here to hold the latter, with a population equal to that of the southern States, in case of a rupture? With the introduction of a foreign element, with the insane attempt to fuse down dissimilar and heterogeneous races in our national crucible, how long will it be till we shall find causes of quarrel that are irremediable, and coercion and reunion impossible? Settle the precedent that the American "Cæsar with a Senate at his heels" may pass beyond the boundaries of our own dominions, and beyond those of foreign Powers, to truck and traffic in provinces and kingdoms at his own mere will—accept the slavish doctrine that has

been enunciated here, in the very House of the people, and there are no limits to his power, or our responsibility in this direction. If he can buy Russian America without our consent, he may purchase Siberia, and China, and Hindostan, and the boundaries of our Republic are determinable only by his will. If he may engage us for ten millions here he may engage us for a thousand millions for the same purpose elsewhere. The Queen of England cannot do these things in the face of the great principle that the control of the public purse belongs to the Commons. Shame on the Representative in a free Republic, who would abdicate his trust and his power over the public moneys, by laying them down at the feet of any Executive!

If these things can be done in a case of the first impression, where there is so little to tempt, where the subject of purchase is so notoriously worthless that it is impossible even to construct a respectable argument in its support, where there was no intelligible reason for the act, and the condition of the country absolutely forbade it, where the whole management of the affair was notoriously reckless and indecent, and so obviously intended to conclude the House, and where the Administration itself which conducted it, had so entirely lost the confidence of the country, it is impossible to imagine another case in which the same thing will not be repeated. Precedents such as these become laws for future cases. When the chairman of the committee is asked where he finds authority in the Constitution to purchase and annex foreign territory, he very coolly answers that he finds it in the policy of the nation. The rule of the statesman is *obsta principiiis*. The first lapse from virtue is always fatal. To suppose that its repetition can be restrained by a mere verbal protest, is to deal with the subject not like statesmen, but like children. I had hoped and believed that there was a special providence in the facts to which I have referred. If they, however, are not sufficient to save us in a House so strongly Republican, and in a financial condition so embarrassing as ours, then I can only say God save the country, for man has failed us again!

But then it is urged, in default of all other argument, that although the bargain was an improper one, and although Congress has the right to inquire into the expediency of making the necessary appropriations to carry into effect a treaty made by the President and Senate, and to refuse the money if it be found in conflict with the fundamental principles, purposes, and even interests of this Government, it would have the aspect of bad faith in the eyes of the world to assert that right after possession taken by the Executive, and would probably give offense to the emperor of all the Russias, who has testified his good-will to us by adhering to his treaty stipulations during our recent troubles, when the two leading and rival Powers of western Europe were violating theirs.

This is, perhaps, the poorest and most unworthy of all the arguments that have been employed to force this indefensible contract upon the nation. It was intended, of course, only for the weak and the cowardly. It could hardly have been expected to move anybody else. To say that it would be acting in bad faith to assert a right that the Constitution gives us, and which is essential to its own preservation, is to affirm that the Constitution is not to be our rule, and that fidelity to our oaths, and to the people who sent us here, is bad faith to somebody outside, whose feelings or wishes or interests are to be consulted at the expense of disloyalty to them, which, if any offense at all, is but a venial one. I do not so rate my obligations. My duties are to the people who sent me here, and not to the emperor of Russia; and I am a stranger to that code of political ethics which would compel me to prefer him to my country. Duty under the Constitution is but the correlative of right. If that authorizes me to inquire into the expediency of

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voting money, whether the object is within the scope of the treaty power, or whether it is in conflict with the principles, purposes, or interests of the Government, then it makes it my imperative duty to make the inquiry, and vote accordingly, and I cannot escape the responsibility by shifting the burden upon the shoulders of the President and Senate. Nor does the act of the President, done without my authority, amount either to a waiver or an estoppel. I may debar myself in equity from the assertion of a right which is my own. I may be estopped perhaps by the act of my own private agent, when he is acting within the scope of his authority. I know, as a lawyer, no principle that will give to the acts of a public one that sort of virtue or efficacy. Those who deal with him are bound to look to the letter of his authority. If the President has overstepped the line of his duty by prematurely asking and obtaining possession of the territory against all precedent and all decency, and for a fraudulent purpose, that is no fault of ours, if even the action of Congress itself could be taken as a waiver in any case. The emperor of Russia knew, or was bound to know, that the treaty was not perfected, and was not even a law to our courts, under the interpretation which the Constitution had already received from them. He could not but have known that the object was a fraudulent one. If he has assisted the President in his shameful device, when the purpose was so obviously to place the Government in a position where timid men might find an apology, and dishonest ones a pretext for ignoring a solemn duty, and where he was himself so largely interested in palming off on us at a great price a worthless and burdensome property, then he has placed himself, by the collusion, in the attitude of a *particeps criminis*, and so far from being allowed to profit by the joint fraud, has furnished a conclusive reason for the repudiation of the whole transaction, and made himself obnoxious to the very imputation of bad faith which is now threatened and apprehended here, by his so dealing with Congress and the people of the United States; and instead of ratifying the act, we should rather have censured him, and impeached the President and Secretary both.

I do not intend to say that the emperor of Russia was personally consant of the fraudulent intention, or capable of doing what the present Administration would have no scruples about itself, while it would be a great stretch of charity, and no compliment to the shrewdness or tact of his ambassador here, to suppose that he could have been ignorant of the fact that the treaty was unpalatable to the nation, and that its execution must depend on the assent of Congress. But whether the emperor of Russia was informed or not, is a question only between his minister and himself.

But then it is insisted that he is a friend; that in our darkest hour he kept faith, if he did not sympathize with us, while the great Powers of England and France were contriving and conspiring for our destruction. Nay, it is even more than hinted here, that we owe our preservation to the fact that his fleet appeared at a critical time in our waters; and upon these considerations it is urged that it would be ungracious to offend him, and better to take the risk of the destruction of this Government, by a departure from its traditional policy, and even a violation of its Constitution, than to do anything to incur the displeasure of so great a monarch.

Well, I admit that the contrast between the conduct of the Czar, and that of the more enlightened nations of Western Europe, in observing his treaty stipulations with us, was well calculated to inspire a friendly feeling toward him on this side of the ocean, although I am not prepared to concede that he did any more than his duty, or that there was any risk of European interference here, unless it was such

as was invited by the pusillanimous and unmanly tone of the instructions of our own Secretary of State to the nation's representatives abroad. I am rather surprised, however, that gentlemen claiming to be statesmen, should be ready to surrender, like so many sentimental, love-sick school girls, to demonstrations such as these. Do they really believe that the emperor of all the Russias, the absolute lord and master of more than sixty million slaves, is so smitten with affection for the democratic idea, that he is ready to abdicate his power, and republicanize his realms? Have they concluded that he has been sacrificing his own interests only for the sake of serving us? Is the article of good faith among nations so rare, that it is to be purchased and paid for at such a price—that we must allow ourselves to be cheated, and swindled, and revolutionized to testify our gratitude for its observance? Allow me to say to these unfledged statesmen, that there are no sentimental relations between nations. The Emperor of Russia has only consulted his own interests in cultivating friendly relations with the great Republic of the western hemisphere. He wants it as a counterpoise, as any one may see who understands the long settled policy of the European Powers in maintaining a just balance amongst themselves to his ambitious rivals of the West, for the same reasons precisely that France herself at an early day lent her assistance to detach us from the British empire, and build up a rival here to the boasted mistress of the seas. Without seaports himself, ever to make of his dominions a great maritime Power, he knows and feels that there is a Power here, that can hold his rivals both in check, and dispute with both, if necessary, the empire of the seas. As the leading territorial Power of the eastern hemisphere, with few, if any, points of contact or of conflict with us, and too remote and powerful to be jealous of us, or fearful of the contagion of our example, he has no objection to divide with us the empire of the world, so as to make America all republican, provided Europe and Asia can be made all Cossack. The statesman who supposes that he would either quarrel with us on a question like this, or hesitate to quarrel, or even assist in breaking up our Government, if he should find his interest in doing so, is but an apprentice in the business of diplomacy, and knows little of the motives that govern the conduct of nations. But he is no greater novice than the man who supposes that the refusal to ratify this one-sided bargain would be the occasion of quarrel, where it was the interest of both to cultivate the relations of peace. It would be a disappointment, possibly, to lose the opportunity of getting rid, at a high price, of a possession that would not have been parted with but for the reason that it was not only worthless, but an absolute incumbrance to the owner. But no, perhaps it would not be even that. After all the important discoveries made by the newspaper correspondents, and so liberally indorsed by the honorable chairman, of agricultural lands, and timber, and mines of the precious metals, the emperor who sold in blissful ignorance all these things, will, of course, be glad to get it all back again. If he should want to sell, however, the gentleman from Ohio, [Mr. MUNCY,] who bids so largely for our votes, stands ready to offer him a large advance upon the property, which he may then secure, in absolute dominion, as a field for philosophical experiments in Democracy and ethnology. There is scope enough there for a genius like that of the Abbe Sieyes, or even for an ambition like that of Dr. Francia, the dictator of Paraguay. But should he make default upon his bond, and even the puff of the honorable chairman fail to bring the nations of the world as bidders at the great territorial auction, the emperor will be no worse off than he was before. It will only be turned over again, as heretofore, like the

islands of the Arctic sea, to the solitude to which it is forever destined by its inhospitable shores, and its intemperate skies, as a habitation only for the Polar bear and the Arctic fox, the reindeer and the walrus.

But whether the emperor is disappointed or not, or what the world may think of it, is no question for an American statesman, and no reason for either squandering the money of the people, or imperiling the life of the nation. I can honor the sensibility that shrinks from the imputation of bad faith, while I cannot respect either the gross infidelity, or the unmanly fear, that would sacrifice the permanent welfare of a great nation to propitiate an absolute monarch, or even to avoid the hazard of a foreign war. What the world may think of it is of no consequence to us, so long as we enjoy the proud consciousness that we are faithful to our own Constitution, and the true interests of our own people. Thank God! we do not live on the opinion of the world, as it is clear that we cannot satisfy it. It holds to us no good-will, and accords to us no justice. When we tolerated slavery it reproached us with an affectation of pious horror for the crime. When slavery sought our national life, and we struggled to save ourselves by shaking it from our embrace, it conspired to preserve it, by dismembering and destroying us. There is one thing, however, which the diplomatic world will think, and that is, that we are great simpletons to hesitate about the repudiation of such a contract upon considerations such as these.

But the honorable chairman urges in the conclusion of his report, as one of the many curious reasons he has to offer in support of this purchase, the great fact that "it concentrated the power of Russia" and extends our own, so that we shall "soon together span the entire globe."

The emperor of Russia will, no doubt, feel infinitely obliged to the honorable chairman for such an unexpected testimonial of sympathy in his well-known schemes for universal dominion; and not the less, I suppose, in view of the fact, that as a member of the Republican Congress of America, he is not unwilling that we shall vote a subsidy in aid of the scheme, by paying the expenses of this menacing concentration out of our own Treasury. What the American people will say, however, to the contemplated partnership with the descendant of the spoiler of Poland, for the partition of the world between us, and how they will feel at the idea of being taxed so largely in order to the consolidation of such an overshadowing despotism, is another question. Should they be even persuaded, however, that it is a good thing for the cause of republicanism throughout the globe, to build up a colossal power, that shall shake down the constitutional monarchies of Europe, and make one man the autocrat and master of the half of it, yet as reasonable logicians they will not be unlikely to inquire of the honorable committee, how it is that while they propose to augment the power of Russia by concentration, they hope to strengthen our own by the very opposite process of extension and diffusion. If they see the advantage to her of abandoning a detached, outlying, and remote possession, as a source of weakness and not of strength, the people who sent them here, will very naturally desire to know how we are to be advantaged by assuming the ownership under the same objections, and why we should pay this imperial favorite for the privilege of relieving him from the burden, and committing the same admitted blunder in policy ourselves.

I pass over the telegraphic reasons that are assigned in favor of this acquisition, although they invite a criticism that would not be amiss if there were time to indulge in it; but there is one other argument that figures conspicuously in the general summary of the report, which is so eccentric and significant, and withal suggestive, as to challenge a special notice; and

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that is, that "it furnishes a basis for explorations and discovery in the Arctic regions." In the interests of science there is no objection, perhaps, to a little nautical adventure for the discovery of the great mysteries of nature, although it has not been usual to purchase continents for such purposes.

But what is the object here? Is it the advancement of science? No. The honorable chairman tells us that the mineral treasures of the earth have shifted their location from the tropics to the higher latitudes, and that the further north we travel the richer the deposits are. Is there not danger, then, that we may accomplish too much? If the gold of the Indies proved fatal to the power of Spain, while England was hardening her muscles and forging her thunderbolts out of her iron and coal, what have we not to fear from the possible discovery of the pole? If the theory of the honorable chairman is correct, the great mystery of the northern lights is already partially solved in the radiating power of some gigantic gem, doubtless a diamond or sapphire mountain, set in the bosom of an open sea, that flashes its long streamers of glory down the northern skies. Is it for this that he proposes to buy this territory, and set on foot another Argonautic expedition under the auspices of the enterprising Secretary, in search of that culminating point, that true *ultima Thule*, that jeweled pivot on which the axle of the world revolves? I deprecate any such discovery. With such a treasure-house we should cease to work, the Secretary would buy the terraqueous globe, and what would be, if possible, even a greater infliction, fill it with the wearisome platitudes of his endless correspondence.

But if the rocks, and icebergs, and volcanoes, and earthquakes of Alaska are worth ten millions of our money, as a basis for such an expedition on the western coast, how much more valuable are the glaciers of Greenland, and the geysers of Iceland in the Atlantic sea, as a starting-point on such a voyage! Why, then, not hurry to the king of Denmark with the offer of another chest of gold for these more advanced *points d'appui*, and particularly for that unexplored, undefined, mysterious, and therefore magnificent possession, that hugs our shores, and is the nursing mother of the icebergs, that send their frigid breaths into our New England homes? Is there not danger that some rival European Power will get ahead of us; or that in the great prospective war that is now looming up from the horizon of Europe, it may become the prey of some of those rival Powers that have been shut out by the learned chairman in his general allotment of the northern world? I hope the chairman will look to it that we are not anticipated here.

But the argument runs low, and thin, and weak, when it comes down to such feeble crutches as these, and I shall waste no further time in pursuing it. All I have to add now is the inquiry, what there is left to excuse this flagrant and dangerous departure from the past policy of this nation, and this wanton waste of the resources of a people already groaning under an accumulation of debt that

tasks all the ingenuity of its legislators not only to provide for, but to make even endurable? When we acquired Louisiana and Florida we were without debt, and they were contiguous territories, that furnished a ready plea of State necessity in excuse for an admitted violation of the Constitution. Is there any State necessity here? There is no pretense of it. Have the people desired it? Not a sensible man among them had ever suggested it. The whole country exclaimed at once, when it was made known to it, against the ineffable folly, if not the wanton prodigality of the whole transaction. There is no man here, I think, who would have advised it. I doubt whether there are twenty in this House who would be willing to vote for it now, but for the single reason that the contract has been made.

But is that a sufficient one in view of the law and facts as they are now presented? Will it satisfy the people on whom this burden is to be imposed? When they come to see it in its true light, and to realize as they will, the utter worthlessness of the acquisition, upon which the unity and permanence of this Republic, and the peace and happiness of their posterity have been so deeply periled, it behooves those who propose to vote away their money for such an object to provide themselves with some better apology than has yet been offered. It is not by a vain and empty flourish of drums and trumpets about "manifest destiny," and the greatness and glory of the American Republic, that they can hope to drown the voice of popular complaint. Thinking people are not to be satisfied in that way. They will lament the success of such a measure as this, whether it be the result of recklessness or mistake, as a formidable symptom of national decline. If the masses do not sympathize with them, the omen will be still more formidable. It is in any case a victory to the most obnoxious of Executives over the House of the people, even greater than the results of his unsuccessful impeachment by the same body. That was perhaps the fault of the Senate. This will be our own.

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REMARKS OF HON. A. H. JONES,
OF NORTH CAROLINA,
IN THE HOUSE OF REPRESENTATIVES,
July 25, 1868,

On the subject of supplying the reconstructed States with their quota of arms.

Mr. JONES, of North Carolina. Mr. Speaker, on the subject of supplying the reconstructed States with their quota of arms I do not think that my venerable colleague from North Carolina, [Mr. BOYDEN,] in his remarks the other day, treated the subject upon its merits.

I deny the allegation to the effect that it is proposed by any one to send arms to North Carolina with a view of arming the people against each other. No one ever thought of such a monstrosity. Every newspaper in the

State, and in the whole South, will feast upon what has been said in this Hall in opposition to the State being furnished with her quota of the Government arms. The gentleman said: "If we need anything, in God's name send the Army of the United States there." This is the declaration of the only member of this House from North Carolina whose district gave a majority against the constitution under which we have reestablished civil government in the State. For the securing of his election he is indebted to that very class which declare that the whole plan of reconstruction is unconstitutional, null, and void; and who declare that they will have the old Constitution, which they fought four dreadful years to destroy, or wade through blood. Rebels in some of the counties of my district have said that the judges provided under the new constitution would not be allowed to hold the courts; yet it has been declared in this Hall that it is dangerous to send arms there to protect the civil authorities against these outlaws. It is not against the well disposed, whether of rebel or Union antecedents, that protection is needed, but for their protection against the lawless desperadoes who infest the country, and who are the suppliant tools of the defiant, unrepentant rebel leaders, who would seize every opportunity to set at defiance the law, and the first opportune moment to overthrow the newly established civil governments.

The constitution of North Carolina provides for organizing and arming the militia in order to "execute the laws, suppress riots or insurrections, and to repel invasion." Washington taught that a "free people ought not only to be armed, but disciplined for the national security and the preservation of order." It is the duty of the executives of the respective States to see that the laws are faithfully executed. Governor Holden, in his inaugural, properly said:

"This duty would be performed promptly, fearlessly, and firmly by him, and unless Congress makes provision to supply the State from the over abundant supply of Government arms looking to this end, an additional tax will have to be levied and collected off of the people of the impoverished States of the South, in order to provide for self-protection."

Mr. Speaker, I deny the charge that arms are wanted to make war; but, on the contrary, to preserve the peace. If the disaffected intend to carry out their threats of revolution and war in order to undo all the work of reconstruction; if they intend to make war upon the friends of law and order—those who would sustain the General Government—they are more likely to do so when the loyal are unarmed than when in a state of defense and much more likely to succeed. Without the necessary means of self-protection in the absence of United States troops, I unhesitatingly give it as my opinion that in many sections of the reconstructed States the enforcement of civil law would prove worse than a farce. The idea that it is "dangerous" to furnish North Carolina with arms is a slander upon the Governor of the State, and also upon the Legislature, the controlling element of which is composed of men who are true to both State and national Governments.

LAWS OF THE UNITED STATES

PASSED AT THE

SECOND SESSION FORTIETH CONGRESS.

PUBLIC ACTS OF THE FORTIETH CONGRESS

OF THE

UNITED STATES,

Passed at the Second Session, which was begun and held at the City of Washington, in the District of Columbia, on Monday, the 2d day of December, A. D. 1867; was adjourned on Monday, the 27th day of July, A. D. 1868, to meet on Monday, the 21st day of September; met on said 21st day of September, and adjourned to meet on Friday, the 16th day of October; met on said 16th day of October, and adjourned to meet on Tuesday, the 10th day of November; met on said 10th day of November, 1868, and ended the same day.

ANDREW JOHNSON, President. BENJAMIN F. WADE, President of the Senate. SCHUYLER COLFAX, Speaker of the House of Representatives.

CHAP. I.—An Act granting a certain Right of Way to the Hudson River West Shore Railroad Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of the United States is hereby given to the Hudson River West Shore Railroad Company to locate, construct, and operate its railroad on the Shore line, across the property belonging to the Government at West Point, in the State of New York, upon such location and under such regulations as shall be approved by the Secretary of War.

APPROVED, December 14, 1867.

CHAP. II.—An Act to provide for Changing of Names of Persons in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Samuel Chase Barney, jr., of the District of Columbia, be, and he is hereby, authorized to change his name to Samuel Chase De Krafft, and that this act shall take effect from December first, eighteen hundred and sixty-seven.

SEC. 2. *And be it further enacted,* That any person being a resident of the District of Columbia, being desirous to have his or her name changed, may file a petition in the supreme court of the said District of Columbia, setting forth therein the reasons therefor, and also the name desired to be used; notice of the filing of such petition containing the substance and prayer thereof shall be published for three consecutive weeks in some newspaper in general circulation published in said District, prior to the hearing of said petition. The said supreme court, or the justice holding the civil term thereof, on proof of such notice, and upon such showing as may be deemed satisfactory, may change the name of such applicant according to the prayer of such petition.

APPROVED, December 20, 1867.

CHAP. III.—An Act to prevent Frauds in the Collection of the Tax on Distilled Spirits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act no distilled spirits shall be

withdrawn or removed from any warehouse for the purpose of transportation, redistillation, rectification, change of package, exportation, or for any other purpose whatever, until the full tax on such spirits shall have been duly paid to the collector of the proper district. And all acts and parts of acts inconsistent with the provisions of this act be, and they are hereby, repealed.

APPROVED, January 11, 1868.

CHAP. V.—An Act to provide for the Exemption of Cotton from Internal Tax.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all cotton grown in the United States after the year eighteen hundred and sixty-seven shall be exempt from internal tax; and cotton imported from foreign countries on and after November first, eighteen hundred and sixty-eight, shall be exempt from duty.

APPROVED, February 3, 1868.

CHAP. VI.—An act to Suspend further Reduction of the Currency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act the authority of the Secretary of the Treasury to make any reduction of the currency, by retiring or canceling United States notes, shall be, and is hereby, suspended; but nothing herein contained shall prevent the cancellation and destruction of mutilated United States notes, and the replacing of the same with notes of the same character and amount.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

Indorsed by the PRESIDENT: "Received January 23, 1868."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval,

and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

CHAP. VII.—An Act in relation to Taxing Shares in National Banks.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the words "place where the banks is located, and not elsewhere," in section forty-one of the "act to provide a national currency," approved June third, eighteen hundred and sixty-four, shall be construed and held to mean the State within which the bank is located; and the Legislature of each State may determine and direct the manner and place of taxing all the shares of national banks located within said State, subject to the restriction that the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State: *And provided always,* That the shares of any national bank owned by non-residents of any State shall be taxed in the city or town where said bank is located, and not elsewhere.

APPROVED, February 10, 1868.

CHAP. VIII.—An Act making Appropriations to supply Deficiencies in the Appropriations for the Execution of the Reconstruction Laws, and for the service of the Quartermaster's Department of the Government, for the fiscal year ending June thirty, eighteen hundred and sixty-eight, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums, or so much thereof as may be necessary, be, and the same are hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, for the objects hereinafter expressed, for the fiscal year ending June thirty, eighteen hundred and sixty-eight, namely:

To provide for the expenses of carrying into effect the "act to provide for the more efficient government of the rebel States:" for the first

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military district, the sum of fifty thousand dollars; for the second military district, the sum of one hundred and ten thousand dollars; for the third military district, the sum of ninety-seven thousand dollars; for the fourth military district, the sum of one hundred and fifty thousand dollars; and for the fifth military district, the sum of two hundred and fifty thousand dollars; making, in all, the sum of six hundred and fifty-seven thousand dollars.

To supply deficiencies in the service of the quartermaster's department, to wit:

For regular supplies, three million five hundred thousand dollars.

For incidental expenses, seven hundred and fifty thousand dollars.

For the purchase of cavalry and artillery horses, four hundred thousand dollars.

For transportation of the Army, seven million three hundred and fifty thousand dollars; making, in all, the sum of twelve million dollars.

Office of the Chief of Engineers.

To supply deficiencies in the office of the chief of engineers, for blank books, stationery, and miscellaneous items, two thousand dollars.

Building corner of F and Seventeenth streets.

To supply deficiency for fuel, compensation of fireman, and miscellaneous items, eight thousand dollars.

LEGISLATIVE.

For increased compensation to Congressional Printer, to June thirty, eighteen hundred and sixty-eight, one thousand three hundred and forty-four dollars and forty-four cents.

To supply a deficiency in the contingent expenses of the House of Representatives for the present fiscal year, the following sums, namely:

For stationery, fifteen thousand dollars: *Provided*, That from and after the third day of March, eighteen hundred and sixty-eight, no Senator or Representative shall receive any newspapers except the Congressional Globe, or stationery, or commutation therefor, exceeding one hundred and twenty-five dollars for any one session of Congress.

For furniture, repairs, and packing-boxes for members, twenty thousand dollars.

For miscellaneous items, fifteen thousand dollars.

For folding documents, including materials, fifty thousand dollars.

For newspapers, twelve thousand five hundred dollars.

To supply a deficiency in the contingent expenses of the Senate for the present fiscal year, namely:

For clerks to committees, and pages, horses, and carryalls, thirty-three thousand eight hundred and four dollars.

For additional messengers and laborers, fifteen thousand dollars.

For labor and materials in the folding-room, to be provided by the Sergeant-at-Arms, five thousand dollars.

JUDICIARY.

For salary of the marshal of the Supreme Court of the United States from April third, eighteen hundred and sixty-seven, to June thirty, eighteen hundred and sixty-eight, at thirty-five hundred dollars per annum, four thousand three hundred and fifty-five dollars and seventy-seven cents.

DEPARTMENT OF EDUCATION.

For amount required for salary of Commissioner to March thirty, eighteen hundred and sixty-seven, one hundred and ninety-two dollars.

SEC. 2. *And be it further enacted*, That so much of the first section of the act of March third, eighteen hundred and nine, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," as authorizes

the President, on the application of the Secretary of any Department, to transfer the moneys appropriated for a particular branch of that Department to another branch of expenditure in the same Department, be, and the same is hereby, repealed; and all acts or parts of acts authorizing such transfers of appropriations be, and the same are hereby, repealed, and no money appropriated for one purpose shall hereafter be used for any other purpose than that for which it is appropriated.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

Indorsed by the PRESIDENT: "Received Friday, January 31, 1868.

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

CHAP. IX.—An Act to facilitate the Collection of the Direct Tax in the State of Delaware.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the valuation enumerated in the assessment list for direct tax in the State of Delaware, completed April nineteenth, A. D. eighteen hundred and sixty-seven, being the valuation of real estate as owned at or near the time of the completion of said assessment, is hereby declared and made a lawful assessment of the direct tax of seventy-four thousand six hundred and eighty-three dollars and thirty-three and one third cents, apportioned to the State of Delaware by virtue of an act of Congress entitled "An act to provide increased revenue from imports to pay interest on the public debt, and for other purposes," approved August fifth, eighteen hundred and sixty-one, upon the valuation therein enumerated, with the same force and effect as if made with reference to the date mentioned in the thirteenth section of said act; and that all existing provisions of law for the collection of said direct tax in the loyal States, except as provided in the fifty-third section of said act shall be applicable to the collection of the tax therein assessed. The notification of the time and place where appeals would be received and determined relative to said assessment, given by the assessor immediately after said completion, shall be deemed a lawful notice, and all proceedings under said notice, and in general in relation to said assessment, are hereby made as valid and legal as they would have been had the assessment been valid from its commencement.

SEC. 2. *And be it further enacted*, That the time within which the assessor is required to deliver the assessment list to the collector shall be within twenty days from the passage of this act.

SEC. 3. *And be it further enacted*, That the lien provided for by the thirty-third section shall be and remain in force during two years after the taxes assessed in accordance with the first section of this act shall become due and payable.

SEC. 4. *And be it further enacted*, That all necessary expenses in procuring copies of the State assessment lists and for advertising connected with the assessment and collection of the tax shall be paid out of any money in the Treasury not otherwise appropriated, the accounts for such expenses being first approved by the Secretary of the Treasury.

APPROVED, February 21, 1868.

CHAP. X.—An Act to authorize the Southern Minnesota Railroad Company to construct and maintain a Bridge across the Mississippi river and establish a Post Route.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Southern Minnesota Railroad Company, a corporation existing under the laws of the State of Minnesota, is hereby authorized to construct and operate a railroad bridge across the Mississippi river, between the city of La Crosse, Wisconsin, and a point opposite, in the State of Minnesota, with the consent of the Legislatures of the States of Minnesota and Wisconsin, and said bridge by this act authorized to be constructed is hereby declared a post route and subject to all the terms, conditions, restrictions, and requirements, and entitled to all the privileges named in an act approved July twenty-fifth, eighteen hundred and sixty-six, entitled "An act to authorize the construction of certain bridges and to establish them as post roads."

APPROVED, February 21, 1868.

CHAP. XI.—An Act in relation to Additional Bounty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if any person or persons entitled to the bounty provided by sections twelve and thirteen of the act making appropriations for the civil service, approved July twenty-eight, eighteen hundred and sixty-six, shall have died or shall die before receiving said bounty, it shall be paid to the heirs of the soldiers as designated in said act in the order therein named, and to none other.

APPROVED, February 21, 1868.

CHAP. XIII.—An Act for the Protection in certain cases of Persons making Disclosures as Parties, or testifying as Witnesses.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no answer or other pleading of any party, and no discovery or evidence obtained by means of any judicial proceeding from any party or witness in this or any foreign country, shall be given in evidence, or in any manner used against such party or witness, or his property or estate, in any court of the United States, or in any proceeding by or before any officer of the United States, in respect to any crime, or for the enforcement of any penalty or forfeiture by reason of any act or omission of such party or witness: *Provided*, That nothing in this act shall be construed to exempt any party or witness from prosecution and punishment for perjury committed by him in discovering or testifying as aforesaid.

SEC. 2. *And be it further enacted*, That this act shall take effect from its passage, and shall apply to all pending proceedings, as well as to those hereafter instituted.

APPROVED, February 25, 1868.

CHAP. XV.—An Act to establish and declare the Railroad and Bridges of the New Orleans, Mobile, and Chattanooga Railroad Company, as hereafter constructed, a Post Road, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the New Orleans, Mobile, and Chattanooga Railroad Company is hereby authorized and empowered to construct, build, and maintain bridges over and across the navigable waters of the United States on the route of said railroad between New Orleans and Mobile, for the use of said company and the passage of its engines, cars, and trains of cars, passengers, mails, and merchandise thereon; and said railroad and its bridges aforesaid, when constructed, completed, and in use, in

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accordance with this act and the laws of the several States through whose territory the same shall pass, shall be deemed, recognized, and known as lawful structures and a post road, and are hereby declared as such: *Provided, however,* That the said company, in the construction of its bridges over and across the waters known as the East Pascagoula river, and the Bay of Biloxi, [and] the Bay of St. Louis, shall construct and maintain draw-bridges in the channels thereof, which, when open, shall give a clear space for the passage of vessels of not less than eighty feet in the channels of the East Pascagoula, and of the Bay of Biloxi, and of the Bay of St. Louis, and of not less than one hundred feet in the channel of the Great Rigole; and said company shall at all times open the said draw-bridges, and shall provide reasonable and necessary facilities for the passage of all vessels requiring the same, except during and for ten minutes prior to and after the time of the passage of the mail and passenger trains of said company.

SEC. 2. *And be it further enacted,* That the right to alter or amend this act, so as to prevent or remove all material obstructions to the navigation of said rivers, growing out of the construction of said bridges, is hereby expressly reserved.

APPROVED, March 2, 1868.

CHAP. XVI.—An Act extending the Time for the Completion of the Dubuque and Sioux City Railroad.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time for completing a line of railroad from Dubuque to Sioux City, in the State of Iowa, for the construction of which lands were granted in alternate sections to said State by act entitled "An act making a grant of lands to the State of Iowa in alternate sections to aid in the construction of railroads in said State," approved May fifteenth, eighteen hundred and fifty-six, be, and the same is, extended until the first day of January, eighteen hundred and seventy-two, subject to the reverter mentioned in said act at the expiration of the time herein limited: *Provided,* [That] said road shall be constructed on the most practical route by way of Webster City and Fort Dodge to Sioux City, which route shall be at all points within the limits of said land grant, and the same shall be completed to Fort Dodge on or before the first day of July, eighteen hundred and sixty-nine, and thereafter at the rate of not less than forty miles each year; and the said road shall be constructed, operated, and maintained as one continuous and unbroken line of road from Dubuque to Sioux City; and no lands shall be disposed of, or patented, or certified for said purposes more than forty miles in advance of the point to which said road may be constructed from time to time.

APPROVED, March 2, 1868.

CHAP. XVII.—An Act in relation to Islands in the Great Miami River.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the case of such islands in the Great Miami river, in the State of Ohio, as are undisposed of, or any vacant public lands adjacent thereto, which are in the actual and exclusive occupancy of any persons who have made improvements thereon, or of their heirs or assigns, such occupants thereof shall have the preference right to enter the same at two dollars and fifty cents per acre, on making proof of the facts to the satisfaction of the Commissioner of the General Land Office, and paying for the land within twelve months from the passage of this act, and patents shall issue for the tracts so entered as usual in entries of public lands.

APPROVED, March 2, 1868.

CHAP. XIX.—An Act authorizing the Sale of an unoccupied Military Site at Waterford, Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized in his discretion to sell to the highest and best bidder the military site of three acres of land at Waterford, Erie county, Pennsylvania, belonging to the United States, and pay the proceeds into the Treasury of the United States.

APPROVED, March 4, 1868.

CHAP. XX.—An Act restoring Lands to Market along the Line of the Pacific Railroads and Branches.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That nothing in the act approved July first, eighteen hundred and sixty-two, entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," and the acts amendatory thereof, shall be held to authorize the withdrawal or exclusion from settlement and entry, under the provisions of the preëmption or homestead laws, the even numbered sections along the routes of the several roads therein mentioned which have been or may be hereafter located: *Provided,* That such sections shall be rated at two dollars and fifty cents per acre, and subject only to entry under those laws; and the Secretary of the Interior be, and is hereby, authorized and directed to restore to homestead settlement, preëmption, or entry, according to existing laws, all the even-numbered sections of land belonging to the Government, and now withdrawn from market, on both sides of the Pacific railroad and branches, wherever said road and branches have been definitely located.

APPROVED, March 6, 1868.

CHAP. XXI.—An Act for the Relief of Settlers on the late Sioux Indian Reservation in the State of Minnesota.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all actual settlers, who have duly filed their declaratory statements under the preëmption laws with the register of the proper local land office, upon the unsold lands now included within the limits of the late Sioux Indian reservation, in the State of Minnesota, shall be allowed two years from and after the passage of this act within which to make proof and payment for their claims, in accordance with the provisions of the second and third sections of the act approved March third, eighteen hundred and sixty-three, providing for the disposal of said reservation.

APPROVED, March 6, 1868.

CHAP. XXII.—An Act in relation to the Promulgation of the Laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act it shall be the duty of the Secretary of State to furnish the Congressional Printer with a correct copy of every act and joint resolution as soon as possible after its approval by the President of the United States, or after it shall have become a law in accordance with the Constitution without such approval. And so much of section seven of the act entitled "An act to expedite and regulate the printing of the public documents, and for other purposes," approved June twenty-five, eighteen hundred and sixty-four, as requires the Secretary of the Senate to furnish such copy, is hereby repealed.

SEC. 2. *And be it further enacted,* That the

Congressional Printer, on receipt of the copy provided for in the foregoing section, shall in every case immediately cause an accurate printed copy of the act or resolution, as it shall have been furnished to him, to be prepared and sent in duplicate to the Secretary of State for revision, and on return of one of the revised duplicates the Congressional Printer shall at once have the marked corrections made, should there be any, and cause to be printed and sent to the Department of State fifty copies, and also cause to be printed separately the usual number for the use of the two Houses of Congress: *Provided,* That on request of the Secretary of State the Congressional Printer shall furnish to the Department of State any additional number of copies of any act or resolution, not exceeding five hundred copies.

SEC. 3. *And be it further enacted,* That it shall be the duty of the Secretary of State to transmit to the Congressional Printer, at the beginning of each session of Congress, and thereafter when necessary, a list of all newspapers authorized by law to publish the laws of the United States, with their respective post offices, so far as the same shall have been communicated to him by the Clerk of the House of Representatives; and it shall be the duty of the Congressional Printer, on the printing of each act or resolution, excepting those which are of a private character, and which shall be so designated by the Secretary of State, to transmit a copy thereof to each of the editors of such newspapers for prompt publication; and the number of copies of the public acts and resolutions requisite for this purpose are hereby authorized and required to be printed; and all letters and documents to and from the Congressional Printer, relating to the duties and business of his office, shall be transmitted by mail, free of postage, under such regulations as may be established by the Postmaster General.

SEC. 4. *And be it further enacted,* That all the provisions of this act which apply to public acts and resolutions shall in like manner apply to treaties between the Government of the United States and foreign Governments, after they shall have been duly ratified and proclaimed by the President of the United States; and shall also apply to postal conventions made between the Postmaster General, by and with [the] advice and consent of the President, on the part of the United States, and equivalent officers of foreign Governments on the part of their respective countries, under the authority of the second section of the act entitled "An act to reduce and modify the rates of postage in the United States, and for other purposes," approved March three, eighteen hundred and fifty-one: *Provided,* That it shall be the duty of the Postmaster General to transmit a copy of each of said conventions to the Secretary of State, for this purpose, and that the printed copy of said conventions shall be revised by the Post Office Department.

SEC. 5. *And be it further enacted,* That all laws and parts of laws requiring the Secretary of State to send the laws first directly to newspapers for publication, as well as all laws and parts of laws in conflict with the provisions of this act, are hereby repealed.

APPROVED, March 9, 1868.

CHAP. XXIV.—An Act for the temporary Relief of Destitute People in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of fifteen thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the temporary relief of the destitute population in the District of Columbia, to be expended under the supervision and direction of the Commissioner of Refugees, Freedmen, and Abandoned Lands: *Provided,* That as far as practical

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[practicable] said sum shall be expended in the employment of persons upon the public grounds and works in the District of Columbia for which appropriations have been heretofore made by Congress, such laborers to be under the direction of the officer acting as Commissioner of Public Buildings and Grounds.

APPROVED, March 10, 1868.

CHAP. XXV.—An Act to amend the Act passed March twenty-third, eighteen hundred and sixty-seven, entitled "An Act supplementary to 'An Act to provide for the more efficient Government of the Rebel States,' passed March second, eighteen hundred and sixty-seven, and to facilitate their Restoration."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter any election authorized by the act passed March twenty-three, eighteen hundred and sixty-seven, entitled "An act supplementary to 'An act to provide for the more efficient government of the rebel States,' passed March two, [second,] eighteen hundred and sixty-seven, and to facilitate their restoration," shall be decided by a majority of the votes actually cast; and at the election in which the question of the adoption or rejection of any constitution is submitted, any person duly registered in the State may vote in the election district where he offers to vote when he has resided therein for ten days next preceding such election, upon presentation of his certificate of registration, his affidavit, or other satisfactory evidence, under such regulations as the district commanders may prescribe.

SEC. 2. *And be it further enacted,* That the constitutional convention of any of the States mentioned in the acts to which this is amendatory may provide that at the time of voting upon the ratification of the constitution the registered voters may vote also for members of the House of Representatives of the United States, and for all elective officers provided for by the said constitution; and the same election officers who shall make the return of the votes cast on the ratification or rejection of the constitution shall enumerate and certify the votes cast for members of Congress.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate.

Indorsed by the PRESIDENT: "Received February 28, 1868."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

CHAP. XXVI.—An Act to revive an Act to constitute Hannibal, Missouri, and Peoria, Illinois, Ports of Delivery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second section of the act of the fifth day of April, one thousand eight hundred and fifty-six, entitled "An act to constitute the cities of Hannibal, Missouri, and Peoria, Illinois, ports of delivery," is hereby revived and declared to be in full force and effect for the term of two years from the passage of this act.

APPROVED, March 12, 1868.

CHAP. XXVII.—An Act providing for holding a Circuit Court at the City of Erie, Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the circuit court of

the United States for the western district of Pennsylvania, in addition to the terms now held, shall be held at the city of Erie, in said western district, at the same times now fixed by law for holding terms of the district court for said western district of Pennsylvania, at the city of Erie.

APPROVED, March 12, 1868.

CHAP. XXIX.—An Act to facilitate the Settlement of Paymasters' Accounts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized, in the settlement of accounts of paymasters of the Army, to allow such credits for over-payments made in good faith on public account since the commencement of the rebellion, and prior to the passage of this act, as shall appear to them to be just, by such vouchers and testimony as they shall require.

APPROVED, March 16, 1868.

CHAP. XXX.—An Act making Appropriations for the Support of the Military Academy for the fiscal year ending June thirtieth, eighteen hundred and sixty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Military Academy for the year ending the thirtieth June, eighteen hundred and sixty-nine.

For additional pay of officers, and for pay of instructors, cadets, and musicians, one hundred and eighty-two thousand seven hundred and forty-seven dollars and fifty cents.

For commutation of officers' subsistence, five thousand eight hundred and three dollars and fifty cents.

For pay in lieu of clothing to officers' servants, one hundred and fifty-six dollars.

For current and ordinary expenses, fifty-six thousand eight hundred and five dollars: *Provided,* That the second section of the act approved April first, eighteen hundred and sixty-four, "making appropriations for the support of the Military Academy for the year ending June thirtieth, eighteen hundred and sixty-five," is hereby repealed.

For purchase of books for the library, two thousand dollars.

For expenses of Board of Visitors, two thousand dollars: *Provided,* That the second section of the act approved August eighth, eighteen hundred and forty-six, making appropriations for the support of the Military Academy for the year ending the thirtieth of June, eighteen hundred and forty-seven, be amended by striking out the first proviso in said section, and by inserting in lieu thereof the following: *Provided,* That the whole number of Visitors each year shall not exceed seven.

For forage for artillery and cavalry horses, five thousand dollars.

For horses for artillery and cavalry practice, four thousand dollars.

For repairs of officers' quarters, five thousand dollars.

For targets and batteries for artillery practice, one hundred dollars.

For furniture for cadets' hospital, two hundred dollars.

For gas pipes, gasometers, and retorts, six hundred dollars.

For purchase of fuel for cadets' mess-hall, three thousand dollars.

For furniture for soldiers' hospital, one hundred dollars.

For breast-high walls of water battery, five thousand dollars: *Provided,* That the same shall complete the work.

For reflooring academic building and barracks, fifteen hundred dollars.

For addition to soldiers' hospital, two thousand dollars.

For contingencies for the superintendent of the Academy, five hundred dollars: *Provided,* That no part of the sums appropriated by the provisions of this act shall be expended in violation of the provisions of an act entitled "An act to prescribe an oath of office, and for other purposes," approved July second, eighteen hundred and sixty-two: *And provided further,* That no part of the moneys appropriated by this act shall be applied to the pay or subsistence of any cadet from any State declared to be in rebellion against the Government of the United States, appointed after the first day of January, eighteen hundred and sixty-eight, until such State shall have been returned to its original relations to the Union.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

Indorsed by the PRESIDENT: "Received March 4, 1868."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

CHAP. XXXI.—An Act to facilitate the Payment of Soldiers' Bounties under Act of eighteen hundred and sixty-six.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to employ, for not more than one year, fifty additional clerks in the division of the Second Auditor's office of the Treasury Department, to expedite furnishing information to the Paymaster General in regard to soldiers claiming bounty under the provisions of sections twelve and thirteen of the act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-seven, and for other purposes," approved July twenty-eight, eighteen hundred and sixty-six, giving in all cases preference in said employment to soldiers and sailors honorably discharged from the service of the United States.

SEC. 2. *And be it further enacted,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to procure and to provide adequate and convenient rooms for all clerks employed in the examination of the muster-rolls in said office.

SEC. 3. *And be it further enacted,* That the Assistant Treasurers of the United States in the cities of New York and San Francisco be, and they are hereby, directed to pay duplicate checks, for bounties granted under the said act, upon notice and proof of the loss of the original check or checks, under such regulations as the Secretary of the Treasury may direct.

SEC. 4. *And be it further enacted,* That the Second Comptroller and Second Auditor are each hereby authorized to detail one clerk in his bureau, who may sign all certificates and papers issued under any of the several bounty acts for such Comptroller and Auditor, and such signature shall be as valid in all respects as if signed by the said Comptroller and Auditor, who shall be responsible respectively for the official acts of said clerks.

APPROVED, March 19, 1868.

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CHAP. XXXIV.—An Act to amend an Act entitled "An Act to amend the Judiciary Act, passed the twenty-fourth of September, seventeen hundred and eighty-nine."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That final judgments in any circuit court of the United States in any civil action against a collector or other officer of the revenue for any act done by him in the performance of his official duty, or for the recovery of any money exacted by or paid to him, which shall have been paid into the Treasury of the United States, may, at the instance of either party, be reexamined and reversed or affirmed in the Supreme Court of the United States, upon writ of error, without regard to the sum or value in controversy in such action.

SEC. 2. *And be it further enacted,* That so much of the act approved February 5, 1867, entitled "An act to amend 'An act to establish the judicial courts of the United States,' approved September twenty-fourth, seventeen hundred and eighty-nine," as authorizes an appeal from the judgment of the circuit court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been or may hereafter be taken, be, and the same is, hereby repealed.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate.

IN THE SENATE OF THE UNITED STATES,
March 26, 1868.

The President of the United States having returned to the Senate, in which it originated, the bill entitled "An act to amend an act entitled 'An act to amend the judiciary act, passed the twenty-fourth of September, seventeen hundred and eighty-nine,'" with his objections thereto, the Senate proceeded, in pursuance of the Constitution, to reconsider the same; and

Resolved, That the said bill do pass, two thirds of the Senate agreeing to pass the same.

Attest:

J. W. FORNEY,

Secretary of the Senate.

IN THE HOUSE OF REPRESENTATIVES, U. S.,
March 27, 1868.

The House of Representatives having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act to amend an act entitled 'An act to amend the judiciary act, passed the twenty-fourth of September, seventeen hundred and eighty-nine,'" returned to the Senate by the President of the United States, with his objections, and sent by the Senate to the House of Representatives, with the message of the President returning the bill:

Resolved, That the bill do pass, two thirds of the House of Representatives agreeing to pass the same.

Attest:

EDWD. McPHERSON,
Clerk of the H. of R., U. S.

CHAP. XXXV.—An Act to establish certain Post Roads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following be established as post roads:

ALABAMA.

From Russellville to Fayette.
From Basham's Gap, via Jones Chapel and Crooked creek to Arkadelphia.
From Fayette Court-House, via Hide, Tierce's Store, Fairview, Waldrop, Jordany, to Elyton.

CALIFORNIA.

From Trinity Centre, in Trinity county, via Summersville, Petersburg, Cecilville, Centre-

ville, and Black Bear, to Sawyer's Bar, in Klamath county.

From Oroville, via La Porte and Gibsonville, to Quincy.

From San Juan to Picacho Mines.

From Oroville, via Humbag Valley and Taylorsville, to Susanville.

COLORADO TERRITORY.

From Denver City to Cheyenne.

From Denver City, via Littleton, to Colorado City.

From Golden City to Mount Vernon.

From Frankstown, via Running Creek and Keowa, to Bijou.

From Boonesville, via Fort Reynolds, Fields, Doyles, Hermosville, Saint Marie's, to Badita.

From Fair Play, via Salt Works, Helena, Cash Creek, and Dayton, to Oro City.

From Sawacho City, via San Luis Valley, and Pucha Divide, and Arkansas river, to Canon City.

From Trinidad, via Purgative river, to Virginia City, in New Mexico.

From Pueblo, via Saint Marie's, to Trinidad.

DAKOTA TERRITORY.

From Fort Totten or Devil's Lake to Saint Joseph's, on the Pembina river.

DELAWARE.

From Frankford, via Andy, to Tunell's Store.

From Fredonia, via Willow Grove, to Mount Moriah.

From Wyoming to Hazlettville.

From Mount Pleasant Station, via McDonough's, to Port Penn.

FLORIDA.

From Smyrna, via Halifax river and Matanzas river, to Saint Augustine, Florida.

IOWA.

From Monroe to Knoxville.

From Melrose to Centreville.

From Newton, via Monroe, Red Rock, and Knoxville, to Albia.

From Vinton, via Urbana and Spencer's Grove, to Quasqueton.

From Sac City to Carroll City.

From Sand Spring, via Golden Prairie, to Manchester.

From Nashan, via Bradford, Chickasaw, North Washington, and Busti, to Cresco.

From Worthington, via Sheffield, to Cascade.

From Mitchell, Iowa, via Staceyville, Iowa, to Adams, Minnesota.

From Sigourney, via Webster, North English, Millersburg, and Genoa Bluff, to Marengo.

From Glidden, via Lake City, to Twin Lakes.

From Carrollton, via Sac City, Buena Vista, and Douglass, to Spirit Lake.

From Toledo to Brooklyn.

From Sidney, via Bartlett, to Plum Hollow.

From Agency City to Bladensburg.

From Montezuma to Malcomb.

From Vinton to Backingham.

From Lyons to Maquoketa.

From Orleans to Wells' Mills.

From Vinton, via Belle Plaine, to Victor.

From Ottumwa to Sigourney.

From Northwood to Austin, in Minnesota.

From Austin to Northwood.

IDAHO TERRITORY.

From Silver City to Oro.

From Boise City, via Salmon City and Leesburg, to Virginia City.

From Rocky Bar to Atlanta City.

From Boise City to Malade City.

From Lewiston to Colville.

From Lewiston to Helena, via Deer Lodge.

INDIANA.

From Crawfordsville, via Sunny Side, Steam Corners, and Van Doran's Mill, to Perrysville.

From Parkersburg to Cairo.

From Thornton, via Dover, Shannondale, and Orth, to Mace.

From Elizaville, via Millwood, to Noblesville.
From Brownstown, via Freetown, Houston, and Elkins, to Nashville.

From Nashville, via New Belleville, Christiansburg, Buffalo, Houston, and Freetown, to Brownstown.

From Bloomfield to Buena Vista.

From Medora, via Clear Spring, Houston, and Elkinsville, to Nashville.

From Decatur to Monroeville.

From LaClair to Clayton.

From Colburn, via Pymont and Prince William's, to Wild Cat.

From Kirk's Cross Roads to King's Corner.

From Mount Carmel to Harrison, in Ohio.

From St. Mary's, via New Goshen, Toronto, and Quaker Point, to Newport.

From Indianapolis to Gosport, via Mooresville and Martinsville.

ILLINOIS.

From Iroquois to Leadersville.

From Mattoon to Majority.

From Mason, via Winterwood and Gibbon's Store, to Newton.

From Sullivan to Union Store.

From Hutton, via Dione, to Union Centre.

From Perotum, via Park's Mills, to Sadorus.

From Bement, via Mockville and Reuben, to Arcola.

From Sullivan, via Union Prairie, to Arcola.
From Decatur, via Mount Zion, Lovington, and Union Store, to Sullivan.

From Wenona, via Struter, to Ottawa.

From Auburn, via Wanly, to Alexander.

From Erie, via Kingsbury, to Morrison.

From Winchester, via Exeter and Oxville, to Naples.

From Dongola to Thebes.

From Roaring Springs, via Linton, to Mur-ray.

From Rock Island to Galesburg.

From Paris to Oakland.

From Golconda to Metropolis.

From Hamburg to St. Louis, in Missouri.

From Pontiac to Chatsworth.

From Clinton, via Nixon, to Monticello.

From Cairo to Vienna.

From Vienna to Harrisburg.

From Harrisburg to Carmi.

From Du Quoin to Benton.

From Albion, via Bone Gap, to West Salem.

From Harrisburg to Elizabethtown.

From Baxton to Chatsworth.

KENTUCKY.

From Louisa, via Wayne and Logan counties, West Virginia, to mouth of Pond creek, Pike county, Kentucky.

From Barbourville to Boston.

From Olive Hill, via Epperhart's and Blair's Mills, to West Liberty.

KANSAS.

From Oswego, via Cherokee City, Centralia, Pleasant View, to Carthage.

From Pleasant Grove to Twin Falls.

From Twin Springs, Kansas, via Brooklyn, Trading Post, to Butler, Missouri.

From Burlingame, via Onion Creek, Marias des Cygnes, to Neosho Rapids.

From Cottonwood Falls, via Cedar, Bames, and Towanda, to Gates.

From Marion Centre, via Moore's Branch and Sharp's Creek, to Ellsworth.

From Towanda to mouth of Little Arkansas river.

From Cottonwood Falls, via Middle Creek, to Lincolnville and Clear Creek, to Salina.

From Union to Spring Creek.

From Monmouth, via Lewistown, to Oswego.

From Baxter Springs, via Centralia, to Lewistown.

From Iuka to Jackson.

From Junction City, via Quimby, Cains Creek, Five Creeks, Mulberry, and Elm Creek, to Lake Sibley.

From Humboldt, via Belmont, Pleasant Grove, Eureka, Eldorado, Whitewater Junction, to the mouth of Little Walnut.

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From Amenia City to Centralia.
From Cedar Point, via Bill's Creek, Joseph Adams, and Towanda, to Whitewater Junction.

LOUISIANA.

From Lake Charles to Ville Platte.

MAINE.

From Kennebunk, via Kennebunkport, to Cape Porpoise.
From Biddeford to Saco Pool.
From Brunswick, Maine, to Orr's Island.
From Moose River to Canada Line.
From Forks of Kennebeck to Canada Line.

MARYLAND.

From Havre de Grace to Lapidum.
From Accident to Davis's Mill.
From Spenceville to Colesville.
From West Friendship to Sykesville.
From Barkettsville to Broad Run.

MASSACHUSETTS.

From Banc to West Brookfield.

MICHIGAN.

From Newaygo to Big Prairie.
From Battle Creek to Athens.
From Big Rapids, via Chippewa Lake, to Mill Brook.
From Manistee, via Portage Lake, Huntington's Dock, Henning Lake, Frankfort, Platte, and Empress Dock, to Glen Arbor.
From Port Huron to Minden, via Davisville.

From Saginaw to Saint Louis.
From Isabella to Midland.
From Pine Plains, via Fenn's Mills, to Ganges.
From Watervliet to Deerfield, in Van Buren county.

From Coldwater, via Bethel and East Gilead, in Michigan, and Nevada Mills, in Indiana, to Flint, Indiana.

From Bridgeton to Whitehall.
From Traverse City, via Rootville, south arm of Pine lake, east arm of Pine lake, and Bear river, to Duncan.

From Battle Creek to Nashville.
From Elk Rapids, via Dunbar, Rootville, east end of Pine and Waloon lakes, to Bear Creek Mission.

From Pierson to Cedar Spring.
From Lowell to Smyrna.
From Petersburg, via Dundee, East Milan, and West Milan, to Lake Ridge.

From East Saginaw to Alma, via St. Louis, Gratiot county.

From Midland City to Isabella.
From Marquette to Sault St. Marie.
From East Saginaw to Vassar, via Bloomfield.

From Cedar Springs to Mitchell's Prairie.
From Chesaning to Birch Run.
From Hubbardstown, Ionia county, via North Shade, to Elm Hall, Gratiot county.

MINNESOTA.

From New Auburn, via Transit, Eagle City, and Lafayette, to New Ulm.
From Rushford to Winnesheik, in Iowa.
From Rochester, via Pleasant Grove and Spring Valley, to Le Roy.

From Hutchinson, via Lynn, Collins, Lake Preston, and Beaver Falls, to Redwood Falls.
From Richmond, via Lake Ellen and Maple Lake, to Holmes City.

From Lansing, via Newry, to Geneva.
From Minneapolis to Big Stone Lake.
From Waverly, via Lake Mary, Winstead, and Bergen, to Glencoe.

From Glencoe, via Penn, Collins, and Preston Lake, to Greenleaf.

From Madelia, via Linden and Cottonwood, to New Ulm.

From New London to Burbank.
From Madelia to Antrim.

From Redwood Falls to Lynd, McPhail county.

From Pleasant Grove, via Hamilton and Spring Valley, to Le Roy.

From Sauk Centre to Holmes City.
From Rochester to Pleasant Grove.

From Hastings, via Cottage Grove, Gilbert's Mill, to Afton.

From Cottage Grove, via Woodbury, thence by the northern road, via McCattis Corners, to Saint Paul.

From Le Sueur, via Cleveland and Jefferson Lake, to Elysian.

From Lake Graham to Lake Shetek.

From Sauk Centre, via east end of Grove Lake, to Lake Johanna.

From New London, via Green Lake, to Christiania.

From Sauk Rapids to Maywood.

From Maywood to Saint Cloud.

From Prescott, in Wisconsin, via Point Douglas, Cottage Grove, and Newport, to Saint Paul, in Minnesota.

From Cottage Grove, via Woodbury and German Settlement, to Saint Paul.

From Saint Cloud, via Santiago, to Princeton.

From Sauk Rapids to Gilmanton.

From Moore's Prairie to Rice City.

From Painesville to Sauk Centre.

From Saint Cloud to Rockville.

From Sauk Rapids, via Princeton, to Taylor's Falls.

MISSISSIPPI.

From Iuka to Baldwin.

MISSOURI.

From Johnstown, via Hudson, Johnson City, Chalk Level, to Osceola.

From Butler, via Belvoir, to Nevada City.

From Tuscumbia, via Little Gravois post office, to Bliss post office, Miller county.

From Holden, via Dayton, to Butler.

From Patterson to Doniphan.

From California, via High Point and Pleasant Mount, to Tuscumbia.

From Bethany, via Burr Oak and New Castle, to Gentryville.

From Warrenton, via Pinkney and Holstein, to Hopewell Academy.

From Cap au Grés, via Burr Oak Valley and Drydensville, to Old Alexandria.

From Bloomfield, via Indian Ford, Poplar Bluff, and Little Rock, to Doniphan.

From Pilot Knob to Doniphan.

From Farmington to Hazel Run.

From Brown's Shop to Shady Grove.

From Galena, via Curran and Marionville, to Mount Vernon.

From Rolla to Batesville.

From Morrison's Station to Fredericksburg.

From Macon City to Clifton.

From Rolla to Jefferson City.

From Rolla, via Cambell Mill, Plumpoint, Dodds, and Rowden Mill, to Rocktown.

From Holden, via Index, Dayton, and Altona, to Butler.

From Dresden, via Elmwood, to Waverly.

From Lexington, via Knobnoster and Wall's Store, to Calhoun.

From Warrensburg, via Columbus and Mount Hope, to Greentown.

From New Haven, via Beauf Creek and Strong Hill, to Drake.

MONTANA TERRITORY.

From Virginia City, via Red Mountain City, Butte City, Silver Bow, Deer Lodge, and Phillipsburg, to Bear Town.

From Beaverhead Canyon, down Beaverhead river to its junction with Big Hole or Wisdom river, thence up said river to Divide creek, thence up said creek and through Deer Lodge Pass to Silver Bow, and thence down Deer Lodge river to Deer Lodge City.

From Fleece's Station to Red Mountain City.

From Silver Bow, by the mouth of German and French gulches, to the mouth of Warm Spring creek, thence up said creek to Cable City, thence down Flint creek to Phillipsburg,

thence down said Flint creek to Emmetsburg, and thence to Bear Town.

From Blackfoot City to Washington Gulch, thence to Jefferson Gulch, thence to McClellan Gulch, and thence to Lincoln Gulch.

From Helena, via Washington, Jefferson, and Lincoln Gulches, to Reynolds City.

From Helena, via French Bar, Cave Gulch, and New York, to Ruby City.

From Cave Gulch, via Eldorado Bar, to Helena.

From Virginia City, via Sterling, Willow Creek, Springville, to Helena.

From Gold Creek, via Emmetsburg, Phillipsburg, and Cable City, to Helena.

From Helena, via Radersburg, Gallatin City, Morse's Store, to Bozeman City.

From Bannack City, in the Territory of Montana, via Fort Lemhi, Idaho City, Salmon City, to Boise City, in the Territory of Idaho.

From Helena, via Silver City, Trinity Gulch, Gravelly Range, and Piegan Gulch, to Atlantic City.

From Helena to Unionville.

From Bannack, via Fort Lemhi, Salmon City, to Idaho City.

From Virginia City, via Red Mountain City, Butte City, Silver Bow, Deer Lodge City, Phillipsburg, Cable City, and Emmetsburg, to Bear Town.

NEBRASKA.

From Tecumseh, via Helena, to Lincoln City.

From Lincoln, via the Oak Groves and Seward, to the mouth of Douglas creek, in Butler county.

From Elkhorn Station, via Forest City, Salt Creek ferry and Ashland, to Lancaster.

From Lincoln, via Milford, to Beaver Creek and Fort Kearney.

From America, Kansas, via Pawnee City, Table Rock, Tecumseh, Latrobe, Saktillo, Saline City, and Lancaster, Nebraska, to Columbus, Nebraska.

From Padonia, Kansas, via Falls City and Ellmore, to Nemaha City, Nebraska.

From Little Sioux, Iowa, via Arizona, Tekama, Nebraska, to West Point, Nebraska.

From Beatrice, in Gage county, via Swan City and Camden, to Milford, in Seward county.

From West Point to Dakota City.

From Nebraska City, via Bartlett's Mill, Snyders, McClure's Settlement, and Morton's Ford, to Table Rock.

From Weeping Water, via Stone Creek and Shirley's Station, to Lincoln City, Nebraska.

From Bartlett City, Iowa, to Lincoln City, Nebraska.

From West Point to Norfolk.

From Beatrice, via Clatonia and Randall, to Camden.

From Ashland, via Waho Ranch and Raccoon Fork of Oak creek, to Ulysses, in Butler county.

NEVADA.

From Dayton, via Hot Springs, to Pine Grove.

From Virginia, via Oreana, Unionville, Star City, and Dun Glen, to Boise City, in Idaho Territory.

From the mail station on the overland mail route in Ruby valley, to Camp Halleck.

From Wellington's, via Pine Grove and Washington, to Aurora.

From Aurora, via Masson's Ranch and Fort Churchill, to lower crossing of Truckee river, in Washoe county.

NEW JERSEY.

From Penn's Grove to Woodstown.

From Andover to Gratitude.

From Dickerstown to Mount Salem.

From Warwick to North Vernon.

From Rockaway to Hibernia.

From Burriton, via Stoney Brook, to Bloomingtondale.

NEW MEXICO.

From Santa Fé, via Pojuaque, to Abiquiu.

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From Abiquin, by El Rito, Ojo Caliente, Servietta, Los Conejos, to Fort Garland.
From Cimarron to Taos.

From Santa Fé, via Real de Dolores, Tuerto, and San Antonio, to Albuquerque.
From Cimarron, via Virginia City, to Taos.
From Santa Fé, via Las Trampas, Peñasco, and Rio del Pueblo, to Taos.

From Las Vegas, via Antonchico, Cañones, and Puerto de Luna, to Fort Summer.
From San José, via San Miguel, La Cuesta, to Antonchico.

NEW YORK.

From Fabius to Pitcher.
From Rochester, via West Brighton, Henrietta, and Rush, to Honeoye Falls.

From Mina to Wattsburg, in Pennsylvania.
From Dundee, via Crystal Springs and Wayne, to Hammondsport.

From Chapelsburg to Humphrey Centre.
From Towanda, via Collins Centre and Newton's Corners, to Springfield.

From Pillar Point to Dexter.
From Greenpoint to Orient.
From Randolph to Little Valley.

From Lowville to Rodman.
From Syracuse to Euclid.
From Marathon to Smithville Flats.

From South Valley to East Worcester.
From Whitney's Point, via Lamb's Corners and Ketchamville, to New Ark Valley.

From Damascus, via West Damascus and New Lebanon, to Relayville.

From Oswego Falls, via Bowen's Corners and South Hannibal, to Hannibal Centre.
From Richland Station, via Orwell, to Molino.

From East Sandy Creek to State road.
From Greenport, via East Marion, to Orient.
From Roslyn to Port Washington.
From Little Neck, via Great Neck, to Manhasset.

From Fabius, via Cuyler, to Pitcher.

NORTH CAROLINA.

From Newport, via Sanders' Store and Pettiford, to Peletier's Mills.
From Newport to Pettiford's Creek.

OHIO.

From Zaleski to New Plymouth.
From West Union, via Cedar Run and Mineral Springs, to Locust Grove.

From Dunbarton to Mineral Springs.
From West Union, via Wheat Ridge and Newport, to Tranquility.

From Colpey to New Portage, via Bates' Corners and Clark's Mills, in Summit county, and from Dennison to Bates' Corners, in same county.

From Cumberland to Caldwell.
From Barnesville, via Temperanceville, to Miltonsburg.

From North Georgetown, via Beloit and North Benton, to Deerfield.
From Copley to New Portage.

From Shadesville to Genoa.
From Greensburg Cross Roads to West Mill Grove.

From Berne Station, via Hartzler, to West Rushville.

From New Bremen to Anna Station.
From Hornersville, via Maple, to Freesburg.
From Van West to Celina.

From Urbana, via Spring Hills, to De Graff.
From London, via Lafayette, Somerford, and Tradersville, to Rosedale.

From Tippecanoe City, via Ginghamburg and Fidelity, to Union.

From New Bremen to Dinsmore.
From Hillsborough, via Samantha and Careytown, to Vienna.

From Frazeysburg to Bladensburg.
From Long Run to Fallsburg.
From Hanover, via P[e]rryryton, to Fallsburg.

From Findley, via Benton Ridge, Bluffton, and Beaverdam, to Lima.

From New Holland, via Clarksburgh and Greenland, to Chillicothe.
From Anna to Minister.

OREGON.

From Brownsville, via Peoria, Corvallis, Summers, in King's Valley, Haptonstalls, at the foot of Yaquima Hills, Elk City, at the Yaquima bay, Military Wagon-Road and Oysterville, to Newport, on the Bay of Yaquima.

From Portland, via Brideport and Chehalem Gap, to Dayton.

From Albany, via Boston Mills, to Brownsville.

From Corvallis, via Reeder's Mill, King's Valley, and Pioneer, to Yaquima.

From Dalles, Oregon, via Rockland, Washington Territory, Block House, and Simcoe, to Yaquima.

From Corvallis, via Somers, in King's Valley, Haptonstalls, at the foot of Yaquima Hill, Pioneer City, Elk City, and Oysterville, to Newport.

From Express Ranch, in Rye Valley, to Humboldt Basin.

From Umatilla, via the county seat of Yaquima and the Snoqualmic Pass, to Seattle, Washington Territory.

PENNSYLVANIA.

From Armagh to Heshbon.
From Richland, via Millbach and Kleinfeltersville, to Scheaffertown.

From Conestoga to Lancaster City.
From Shelocta, via Advance, Hosack's Mills, and Atwood, to Barnard.

From Indiana, via Utah, to Minta.
From Lycopius to Ridge View.
From West Alexander to Independence.

From Scotland to Green Village.
From Schellsburg, via New Paris, Alum Bank, and Spring Meadow, to Saint Clairsville.

From Wittenberg, via Pocohontes, to Frostburg, in Maryland.

From Mill Run, via Draketown, to Harnedsville.

From York Sulphur Springs, via Idaville, to Wenks.

From New Hope, via Buckmansville, to Pineville.

From Fannettsburg, via Carrick Furnace, to London.

From Hinkletown to Reamstown.
From Waynesburg, Mount Morris, Dunkard, and Wiley, to Greensboro'.

From Greensboro', via Mapletown, Willow Tree, Whitely, to Waynesburg.

From Jamestown to Royalton.
From Ercildown to Gum Tree.

From Bridgewater, via Oakford, Feasterville, and Rocksville, to Richborough.

From Embreeville, via Mortonville, to Coatesville.

From Guthrieville[e], via Lindsey's Store, to Coatesville.

From Cochranon to Wayne Centre.
From Mount Carmel to Danville.

From Rockton to Penfield.
From Cochranon to Wilson's Mills.

From Bealsville to Monongahela City.
From Dummingsville, via Vanceville, to Scenery Hill.

From Catawissa, via Mendenhall's Mills, Valentine Vaughnts, to Elysburg.

From Brockwaysville to Reynoldsville.
From Waterloo to Shade Valley.

From New Wilmington, via Volant, to Leesburg.

From Union Station to Church Station.
From Troxelsville to Beaver Springs.

From Smith's Mills to Maderia.
From Brookville to Knoxdale.

From Allegony to Prentissvale.
From Clarrington to Tylersburg.

From Maxelville to Beaver Springs.
From Fallbrook to Allenboro'.

From Carmichael, via Ceylon and Willow Tree, to Davistown.

From Harlansburg, via Plaingrove and West Liberty, to Centreville.

From Enon Valley to Marvin.
From Darlington to Elder's Mills.

From Freedom to Knob.
From Baden, via Wall Rose and Blair, to Perrysville.

From Claysville, via Atchison, to West Middletown.

From Dunningsville, via Vanceville, to Yortsville.

From Scrubgrass Station to Nicklesvilled.

From Damascus, via West Damascus and East Lebanon, to Cold Spring.

From Saegersville, via Germanville and Oswaldville, to Jacksonville.

From Catasqua, via Saples, Goods, South Whitehall, Trextertown, and Albert's Station, to Rittenhouse Gap.

From Orwigsburg, in Schuylkill county, via Ringgold and Mountain Post Office, to Steinsville, in Lehigh county.

VERMONT.

From East Barnard to South Royalton.
From West Danville to Hardwick.

From North Ferrisburgh to Monkton.

WASHINGTON TERRITORY.

From Dalles, via Simcone, to Sharps.

WEST VIRGINIA.

From Bulltown, via mouth of Oil creek, to Glenville.

From West Milford, via Kinchelton Creek, to Coldwater.

From Weston, via Beall's Mills and Batton's Mills, to mouth of Sand Fork creek.

From Holly Meadows, via Black Fork, Pleasant Run, and Taylor's Mill, to New Interest.

WISCONSIN.

From Menomonee, via Washburn Farm and Pine Creek, to John Quarter's Camp, in section twenty-eight, township thirty-four, range twelve east.

From Neilsville, via Hunsicker's, to John Graves'.

From Neilsville to Graves' Mills.
From Menomonee, via Sheridan, to John Quarter's.

From Chilton, via Rantoul and Brillion, to Wrightstown.

From Westfield to Harrisville.
From Monroe, via Twin Grove and Dun-

canon, in Illinois, to Dakota.
From Excelsior, via Brady's, to Sylvanus.

From Lone Rock to Ironton.
From West Lima to West Branch.

From Cassville, via North Andover, to Bloomington.

From Rolling Ground to Sugar Grove.
From Grovesville, via Rantoul and Potter's Mills, to Kasson Port.

APPROVED, March 30, 1868.

CHAP. XXXVI.—An Act to amend an Act entitled "An Act to provide for the prompt Settlement of Public Accounts," approved March three, eighteen hundred and seventeen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of March three, eighteen hundred and seventeen, entitled "An act to provide for the prompt settlement of public accounts," shall not be construed to authorize the heads of Departments to change or modify the balances that may be certified to them by the Commissioner of Customs or the Comptroller of the Treasury, but that such balances, when stated by the Auditor and properly certified by the Comptroller, as provided by that act, shall be taken and considered as final and conclusive upon the executive branch of the Government, and be subject to revision only by Congress or the proper courts: *Provided,* That the head of

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the proper Department, before signing a warrant for any balance certified to him by a Comptroller, may submit to such Comptroller any facts in his judgment affecting the correctness of such balance, but the decision of the Comptroller thereon shall be final and conclusive as hereinbefore provided.

APPROVED, March 30, 1868.

CHAP. XXXVII.—An Act making Appropriations for the Service of the Post Office Department during the fiscal year ending June thirtieth, eighteen hundred and sixty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated for the service of the Post Office Department for the year ending June thirtieth, eighteen hundred and sixty-nine, out of any moneys in the Treasury arising from the revenues of the said Department, in conformity to the act of the second of July, eighteen hundred and thirty-six:

For inland mail transportation, including pay of route agents, postal clerks, and mail messengers, ten million five hundred and twenty-six thousand dollars.

For foreign mail transportation, four hundred and twenty thousand dollars, under the act approved March third, eighteen hundred and sixty-five, entitled "An act relating to the postal laws."

For ship, steamboat, and way letters, eight thousand dollars.

For compensation to postmasters, four million two hundred and fifty thousand dollars.

For clerks for post offices, two million dollars.

For payments to letter-carriers, seven hundred and fifty thousand dollars.

For wrapping paper, seventy thousand dollars.

For twine, fifteen thousand dollars.

For letter balances, three thousand five hundred dollars.

For compensation to blank agents and assistants, eight thousand five hundred dollars.

For office furniture, three thousand dollars.

For advertising, fifty thousand dollars: *Provided*, That no part of this sum shall be paid to any papers published in the District of Columbia except for advertising mail routes in Virginia and Maryland.

For postage stamps and stamped envelopes, four hundred and fifty thousand dollars.

For mail depredations and special agents, one hundred thousand dollars.

For mail bags and mail-bag catchers, one hundred and fifteen thousand dollars.

For mail locks, keys, and stamps, thirty thousand dollars.

For payment of balances to foreign countries, three hundred and fifty thousand dollars.

For miscellaneous payments, including allowances to postmasters for rent, light, fuel, fixtures, stationery, envelopes, and so forth, three hundred and seventy-five thousand dollars.

SEC. 2. *And be it further enacted*, That the following sums, or so much thereof as may be necessary, be, and the same are hereby, appropriated for the year ending June thirtieth, eighteen hundred and sixty-nine, out of any money in the Treasury not otherwise appropriated:

For steamship service between San Francisco, Japan, and China, five hundred thousand dollars.

For steamship service between the United States and Brazil, one hundred and fifty thousand dollars.

For steamship service between San Francisco and the Sandwich Islands, seventy-five thousand dollars.

For preparing and publishing post-route maps, twenty thousand dollars.

SEC. 3. *And be it further enacted*, That if the revenues of the Post Office Department shall be insufficient to meet the appropriations of this act, then the sum of eight hundred thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the revenue of the Post Office Department for the year ending thirtieth of June, eighteen hundred and sixty-nine.

APPROVED, March 30, 1868.

CHAP. XXXVIII.—An Act making Appropriations for the Consular and Diplomatic Expenses of the Government for the year ending thirtieth June, eighteen hundred and sixty-nine, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-nine, namely:

For salaries of envoys extraordinary, ministers, and commissioners of the United States at Great Britain, France, Russia, Prussia, Spain, Austria, Brazil, republic of Mexico, China, Italy, Chili, Peru, Portugal, Switzerland, Belgium, Holland, Denmark, Sweden, Turkey, Greece, Ecuador, United States of Colombia, Bolivia, Venezuela, Guatemala, Nicaragua, Sandwich Islands, Costa Rica, Honduras, Argentine Confederation, Paraguay, Japan, and Salvador, three hundred and one thousand dollars.

For salaries of secretaries of legation, as follows:

At London and Paris, two thousand six hundred and twenty-five dollars each.

At St. Petersburg, Madrid, Berlin, Florence, Vienna, and Mexico, eighteen hundred dollars each.

For salaries of assistant secretaries of legation at London and Paris, three thousand dollars.

For salary of the interpreter to the legation to China, five thousand dollars.

For salary of the secretary of legation to Turkey, acting as interpreter, three thousand dollars.

For salary of the interpreter to the legation to Japan, two thousand five hundred dollars.

For contingent expenses of all the missions abroad, thirty thousand dollars.

For contingent expenses of foreign intercourse, thirty thousand dollars: *Provided*, That this sum shall be expended for purposes of foreign intercourse only.

For expenses of the consulates in the Turkish dominions, namely: interpreters, guards, and other expenses of the consulates at Constantinople, Smyrna, Candia, Alexandria, and Beirut, two thousand five hundred dollars.

For the relief and protection of American seamen in foreign countries, peracts of February eighteen, [twenty-eight,] eighteen hundred and three, and February twenty-eight, eighteen hundred and eleven, two hundred thousand dollars.

For expenses which may be incurred in acknowledging the services of the masters and crew[s] of foreign vessels in rescuing citizens of the United States from shipwreck, five thousand dollars.

For the purchase of blank books, stationery, book-cases, arms of the United States, seals, presses, and flags, and for the payment of postages, and miscellaneous expenses of the consuls of the United States, including loss by exchange, thirty thousand dollars.

For office rent for those consuls general, consuls, and commercial agents who are not allowed to trade, including loss by exchange thereon, forty-five thousand dollars.

For salaries of consuls general, consuls, commercial agents, and thirteen consular clerks, namely:

I. CONSULATES GENERAL.

Schedule B.

Alexandria, Calcutta, Constantinople, Frankfurt-on-the-Main, Havana, Montreal, Shanghai.

II. CONSULATES.

Schedule B.

Acapulco, Aix-la-Chapelle, Algiers, Amoy, Amsterdam, Antwerp, Aspinwall, Bankok, Basle, Belfast, Beirut, Buenos Ayres, Bordeaux, Bremen, Brindisi, Boulogne, Barcelona, Cadiz, Callao, Candia, Canton, Chemnitz, Chin Kiang, Clifton, Coaticook, Cork, Demarara, [Demerara,] Dundee, Elsinore, Fort Erie, Foo Choo, Funchal, Geneva, Genoa, Gibraltar, Glasgow, Goderich, Halifax, Hamburg, Havre, Honolulu, Hong-Kong, Hankow, Jerusalem, Kanagawa, Kingston, (Jamaica,) Kingston in Canada, LaRochelle, Laguayra, Lathlain, Leeds, Leghorn, Leipsic, Lisbon, Liverpool, London, Lyons, Malaga, Malta, Manchester, Matanzas, Marseilles, Mauritius, Melbourne, Messina, Moscow, Munich, Nagasaki, Naples, Nassau, (West Indies,) Newcastle, Nice, Nantes, Odessa, Oporto, Palermo, Panama, Paris, Pernambuco, Pictou, Ponce, Port Mahon, Prescott, Prince Edward Island, Quebec, Revel, Rio de Janeiro, Rotterdam, San Juan del Sur, San Juan, (Porto Rico,) Saint John, (Canada East,) Santiago de Cuba, Port Sarnia, Rome, Singapore, Smyrna, Southampton, Saint John, (Newfoundland,) Saint Petersburg, Saint Pierre, (Martinique,) Saint Thomas, Stuttgart, Swatow, Saint Helena, Tampico, Tangier, Toronto, Trieste, Trinidad de Cuba, Tripoli, Tunis, Turk's Island, Valparaiso, Vera Cruz, Vienna, Windsor, Zurich.

III. COMMERCIAL AGENCIES.

Schedule B.

Balize, (Honduras,) Madagascar, San Juan del Norte, Saint Domingo.

IV. CONSULATES.

Schedule C.

Aux Cayes, Bahia, Batavia, Bay of Islands, Cape Haytien, Cape Town, Carthagena, Ceylon, Cobia, Cyprus, Falkland Islands, Fayal, Guayaquil, Guaymas, Lanthala, Maranham, Matamoras, Mexico, Montevideo, Omoa, Payta, Para, Paso del Norte, Piraus, Rio Grande, Sabanilla, Saint Catharine, Santa Cruz, (West Indies,) Santiago, (Cape Verde,) Spezzia, Stettin, Tabasco, Tahiti, [Tahiti,] Talcahuano, Tumbes, Venice, Zanzibar.

V. COMMERCIAL AGENCIES.

Schedule C.

Amoor River, Apia, Gaboon, Saint Paul de Loando, [Loanda,] including loss by exchange thereon, four hundred thousand dollars, and the salary of the consul at Guaymas shall be one thousand dollars per annum: *Provided*, That all moneys received for fees at any vice consulates or consular agencies of the United States, beyond the sum of one thousand dollars in any one year, and all moneys received by any consul or consul general from consular agencies or vice consulates in excess of one thousand dollars in the aggregate from all such agencies or vice consulates, shall be accounted for and paid into the Treasury of the United States, and no greater sum than five hundred dollars shall be allowed for the expenses of any vice consulate or consular agency for any one year: *Provided*, That hereafter the compensation of consuls whose annual salaries do not, under existing law, exceed one thousand five hundred dollars, and the fees collected at the consulates where they are located and paid into the Treasury of the United States amount to three thousand dollars, shall be two thousand dollars per annum.

For interpreters to the consulates in China,

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including loss by exchange thereon, five thousand eight hundred dollars.

For expenses incurred, under instructions from the Secretary of State, in bringing home from foreign countries persons charged with crime, and expenses incident thereto, ten thousand dollars.

For salaries of the marshals for the consular courts in Japan, including that at Nagasaki, and in China, Siam, and Turkey, including loss by exchange thereon, nine thousand dollars.

For the salaries of the consuls at Osaka and Yeddo, Japan, whose salaries are hereby fixed at three thousand dollars each, six thousand dollars.

For rent of prisons for American convicts in Japan, China, Siam, and Turkey, and for wages of the keepers of the same, nine thousand dollars.

For salaries of ministers resident and consuls general to Hayti and Liberia, eleven thousand five hundred dollars.

For expenses under the act of Congress to carry into effect the treaty between the United States and her Britannic Majesty for the suppression of the African slave trade, twelve thousand five hundred dollars.

For expenses under the neutrality act, twenty thousand dollars.

For the payment of the fourth annual installment of the proportion contributed by the United States toward the capitalization of the Scheldt dues, to fulfill the stipulations contained in the fourth article of the convention between the United States and Belgium of the twentieth of May, eighteen hundred and sixty-three, the sum of fifty-five thousand five hundred and eighty-four dollars in coin, and such further sum as may be necessary to carry out the stipulation of the convention providing for payment of interest on the said sum and on the portion of the principal remaining unpaid.

SEC. 2. *And be it further enacted*, That any officer of the Army or Navy of the United States who shall, after the passage of this act, accept or hold any appointment in the diplomatic or consular service of the Government, shall be considered as having resigned his said office, and the place held by him in the military or naval service shall be deemed and taken to be vacant, and shall be filled in the same manner as if the said officer had resigned the same.

SEC. 3. *And be it further enacted*, That no diplomatic or consular officer shall receive salary for the time during which he may be absent from his post by leave or otherwise, if such absence shall exceed sixty days in any one year.

SEC. 4. *And be it further enacted*, That the act entitled "An act to encourage immigration," approved July fourth, eighteen hundred and sixty-four, be, and the same is hereby, repealed.

APPROVED, March 30, 1868.

CHAP. XLI.—An Act to exempt certain Manufactures from Internal Tax, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections ninety-four and ninety-five of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, and all acts and parts of acts amendatory of said sections, be, and the same are hereby, repealed, except only so much of the said sections and amendments thereto as relates to the taxes imposed thereby on gas made of coal wholly or in part, or of any other material; on illuminating, lubricating, or other mineral oils or articles the products of the distillation, redistillation, or refining of crude petroleum, or of a single distillation of coal, shale, peat, asphaltum, or other bituminous substances, on wines

therein described, and on snuff and all the other manufactures of tobacco, including cigarettes, cigars, and cheroots: *Provided*, That the products of petroleum and bituminous substances hereinbefore mentioned, except illuminating gas, shall, from and after the passage of this act, be taxed at one half the rates fixed by the said section ninety-four.

SEC. 2. *And be it further enacted*, That nothing in this act contained shall be construed to repeal or interfere with any law, regulation, or provision for the assessment or collection of any tax which, under existing laws, may accrue before the first day of April, anno Domini eighteen hundred and sixty-eight. And nothing herein contained shall be construed as a repeal of any tax upon machinery or other articles which have been or may be delivered on contracts made with the United States prior to the passage of this act.

SEC. 3. *And be it further enacted*, That after the first day of June next, no drawback of internal taxes paid on manufactures shall be allowed on the exportation of any article of domestic manufacture on which there is no internal tax at the time of exportation; nor shall such drawback be allowed in any case unless it shall be proved by sworn evidence in writing, to the satisfaction of the Commissioner of Internal Revenue, that the tax had been paid, and that such articles of manufacture were, prior to the first day of April, eighteen hundred and sixty-eight, actually purchased or actually manufactured and contracted for, to be delivered for such exportation; and no claim for such drawback, or for any drawback of internal tax on exportations made prior to the passage of this act, shall be paid unless presented to the Commissioner of Internal Revenue before the first day of October, eighteen hundred and sixty-eight.

SEC. 4. *And be it further enacted*, That every person, firm, or corporation who shall manufacture by hand or machinery any goods, wares, or merchandise, (breadstuffs and unmanufactured lumber excepted,) not otherwise specifically taxed as such, or who shall be engaged in the manufacture or preparation for sale of any articles or compounds not otherwise specifically taxed, or shall put up for sale in packages with his own name or trade-mark thereon any articles or compound not otherwise specifically taxed, and whose annual sales exceed five thousand dollars, shall pay for every additional thousand dollars in excess of five thousand dollars, two dollars, and the amount of sales in excess of the rate of five thousand dollars per annum shall be returned quarterly yearly to the assistant assessor, and the tax on the excess of five thousand dollars shall be assessed by the assessor and paid quarterly yearly in the months of January, April, July, and October of each year, as other taxes are assessed and paid. And the first assessment herein provided for shall be made in the month of July, eighteen hundred and sixty-eight, for the three months then next preceding.

SEC. 5. *And be it further enacted*, That every person engaged in carrying on the business of a distiller who shall defraud or attempt to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall forfeit the distillery and distilling apparatus used by him, and all distilled spirits and all raw materials for the production of distilled spirits found in the distillery and on the distillery premises, and shall, on conviction, be fined not less than five hundred dollars, nor more than five thousand dollars, and be imprisoned not less than six months, nor more than three years.

SEC. 6. *And be it further enacted*, That if any officer or agent appointed and acting under the authority of any revenue law of the United States shall be guilty of gross neglect in the discharge of any of the duties of his office, or shall conspire or collude with any other person to defraud the United States, or shall make

opportunity for any person to defraud the United States, or shall do, or omit to do, any act with intent to enable any other person to defraud the United States, or shall make or sign any false certificate or return in any case where he is by law or regulation required to make a certificate or return, or having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law of the United States, shall fail to report, in writing, such knowledge or information to his next superior officer, and to the Commissioner of Internal Revenue, he shall, on conviction, be fined not less than one thousand dollars, nor more than five thousand dollars, and shall be imprisoned not less than six months, nor more than three years.

SEC. 7. *And be it further enacted*, That no compromise, or discontinuance, or *nolle prosequi* of any prosecution under this act shall be allowed without the permission in writing of the Secretary of the Treasury and the Attorney General.

APPROVED, March 31, 1868.

CHAP. XLIII.—An Act making Appropriations for the Expenses of the Trial of the Impeachment of Andrew Johnson and other Contingent Expenses of the Senate for the year ending June thirty, eighteen hundred and sixty-eight, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of the expenses of the trial of the impeachment of Andrew Johnson, and other contingent expenses of the Senate of the United States for the year ending June thirty, eighteen hundred and sixty-eight:

For expenses of the trial of the impeachment of Andrew Johnson, President of the United States, ten thousand dollars.

For miscellaneous items, forty thousand dollars.

For deficiency in the appropriation for the payment of the Capitol police, and for additional policemen and incidental expenses thereof, seventeen thousand dollars.

For deficiency in the appropriation for the payment of additional messengers, fifteen thousand dollars.

APPROVED, May 19, 1868.

CHAP. XLVI.—An Act to grant the Right of Way to the Whitehall and Plattsburgh Railroad Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Whitehall and Plattsburgh Railroad Company be, and is hereby, authorized to locate, construct, and operate its railroad across the land belonging to the United States at Plattsburgh, in the State of New York, upon a line commencing in the highway leading from Plattsburgh to Peru, at a point one hundred feet north from the north line of the inclosure surrounding the Government buildings, running thence in a northeasterly direction about sixteen hundred feet to the bank of Lake Champlain, thence northwardly along the bank of said lake to the north line of the land belonging to the United States, such line of said road being designated on a map of survey of the same, made by James P. Campbell, and now on file in the office of the Secretary of War: *Provided*, That the right of way herein granted shall be subject to such restrictions as the Secretary of War may think necessary to protect the interests of the United States: *And provided further*, That no more than four rods in width of the Government land shall be occupied under the provisions of this act.

APPROVED, May 20, 1868.

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CHAP. XLVIII.—An Act to extend the Charter of Washington City, also to regulate the Selection of Officers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act to continue, alter, and amend the charter of the city of Washington," approved May seventeenth, eighteen hundred and forty-eight, and the several amendments thereof now in force, are hereby continued in force for the term of one year from the date hereof, or until Congress shall by law determine otherwise.

SEC. 2. *And be it further enacted,* That it shall be the duty of the mayor of the city of Washington, District of Columbia, the board of aldermen, and the board of common council thereof, to assemble in joint convention at the City Hall in said city on the first Tuesday of July, eighteen hundred and sixty-eight, and proceed to select by ballot all officers whose appointments, upon the nomination of the mayor, are now authorized by the charter, or by any law of the United States, or act or ordinance of said city, or which may hereafter be authorized thereby, who shall hold their offices respectively for one year, and until a successor is appointed; and on the same day of the month in each year thereafter the joint convention shall proceed to a new selection: *Provided,* That no person shall be regarded as incompetent to hold any of said offices, or be disqualified therefor, who is a qualified elector in said District.

SEC. 3. *And be it further enacted,* That in all meetings of the mayor of the city of Washington and of the boards of aldermen and common council for the purposes mentioned in the second section of this act, the mayor or the president of either of said boards shall preside, and the secretaries of said boards shall act as tellers, and keep a record of the proceedings, and the mayor, or any member of either of said boards, may nominate one or more persons for the offices required to be filled, and the person having the highest number of votes shall be publicly declared selected, and a certificate of his election shall within five days be made out and be signed by the presiding officer and secretaries, and be transmitted to the person selected, who shall within ten days thereafter enter on the discharge of the duties of his office, which shall be immediately vacated by any person then holding the same.

SEC. 4. *And be it further enacted,* That all questions arising in the joint convention authorized by this act shall be determined by a majority of the votes of the members thereof present at any of its meetings, and it shall have power to adjourn from time to time until all the duties imposed upon it shall be completed, and to require of the persons selected for any office such security as may be deemed necessary. And in the event of any vacancy from disability, death, or resignation, it shall be the duty of the mayor to call a meeting of the joint convention to select a successor for the unexpired term of service.

SEC. 5. *And be it further enacted,* That when the mayor, the board of aldermen, and the common council shall be assembled in joint convention, as provided for in this act, they shall, by a majority vote, designate a bank in which the various moneys of the city of Washington shall be deposited, and they shall make such regulations in relation to the mode in which such funds shall be kept and paid out as shall be deemed advisable for the interests of the city; and within five days after such designation a certificate of the bank selected shall be made out and placed in the hands of the president or cashier thereof, and thereafter it shall not be lawful to retain or deposit the funds of the city, or any part thereof, in any other bank or place, unless by order of the board.

SEC. 6. *And be it further enacted,* That the first section of the act entitled "An act to reg-

ulate the elective franchise in the District of Columbia," passed January eight, eighteen hundred and sixty-seven, be, and the same is hereby, amended so as to require electors in the city of Washington to reside in the ward or election precinct in which they shall offer to vote fifteen days prior to the day of any election, instead of three months: *Provided,* That said section shall not be construed as conferring the elective franchise in said city on non-commissioned officers, soldiers, sailors, or marines in the regular service of the United States, stationed or on duty in said city, except such as may have become actual residents with their families in said city for one year previous to any election: *Provided further,* That no person claiming to be a naturalized citizen shall be registered as an elector, nor shall the name of any such person be retained on the list of voters, without the production of his naturalization papers or duly certified copies thereof, or satisfactory proof of the loss of the same; and for the purpose of correcting said list as regards the aforesaid classes of persons, and in all other respects, the judges of election shall meet in some proper place in said city between the hours of nine o'clock a. m. and seven o'clock p. m., on three days instead of two days, as now required: *Provided further,* That all the original lists of voters, both before and after their correction, shall remain in the custody of the member of the board of judges first named in their appointment by the supreme court of the District of Columbia; and, in the event of his removal or resignation, in the custody of his regularly-appointed successor, except when being copied for publication and for the use of the commissioners of elections, and said original lists shall at all times be open for the use and inspection of either of said judges: *Provided further,* That no property qualification shall be required for any of the officers of said city, and that three days prior to any election each board of commissioners of election shall appoint two clerks to assist them in registering the names of voters in their respective election precincts, and in making returns of the elections, who shall be sworn before the clerk of the supreme court of said District truly and faithfully to perform their duties, and for any misconduct in office be subject to the same penalties to which said commissioners are now subject: *And provided further,* That it shall be the duty of the judges of election to make any regulations and give any notice which may be proper or necessary to carry out any of the provisions of this section.

SEC. 7. *And be it further enacted,* That all acts and ordinances, or parts thereof, or parts of the charter of the city of Washington inconsistent herewith, be, and the same are hereby, repealed.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

Indorsed by the PRESIDENT: "Received May 16, 1868."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

CHAP. XLIX.—An Act making Appropriations to supply Deficiencies in the Appropriations for the Execution of the Reconstruction Laws in the Third Military District for the fiscal year ending June thirtieth, eighteen hundred and sixty-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum,

or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of carrying out the reconstruction laws in the third military district for the fiscal year ending June thirtieth, eighteen hundred and sixty-eight, viz.: to provide for the expenses of carrying into effect the "Act to provide for the more efficient government of the rebel States," for the third military district, the sum of eighty-seven thousand seven hundred and one dollars and fifty-five cents.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

Indorsed by the PRESIDENT: "Received May 19, 1868."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

CHAP. L.—An Act declaring Saint George, Boothbay, Bucksport, Vinalhaven, and North Haven, in the State of Maine, and San Antonio, in the State of Texas, Ports of Delivery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Saint George and Boothbay, in the State of Maine, in the collection districts of Waldoboro' and Wiscasset, respectively, and San Antonio, Texas, in the collection district of Saluria, and Bucksport and Vinalhaven and North Haven, in the State of Maine, in the districts of Castine and Belfast, respectively be, and the same are hereby, declared ports of delivery: *Provided,* That nothing in this act contained shall occasion additional expense to the Government of the United States.

APPROVED, June 5, 1868.

CHAP. LI.—An Act to partially supply Deficiencies in the Appropriations for the Service of the fiscal year ending on the thirtieth of June, eighteen hundred and sixty-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to supply deficiencies in the appropriations for the fiscal year ending on the thirtieth of June, eighteen hundred and sixty-eight, viz.:

For compensation of the officers, clerks, messengers, and others, receiving an annual salary in the service of the House of Representatives, twelve thousand nine hundred and sixty dollars.

For folding documents, including materials, twenty-five thousand dollars.

For miscellaneous items, ten thousand dollars.

To supply a deficiency in the appropriation for the expenses of collecting the revenue from customs, for the half year ending June thirtieth, eighteen hundred and sixty-eight, one million eight hundred thousand dollars.

To facilitate the payment of soldiers' bounties, in accordance with provisions of acts of July twenty-eight, eighteen hundred and sixty-six, and March nineteenth, eighteen hundred and sixty-eight, for salaries of fifty clerks of class one, sixty thousand dollars.

To supply a deficiency in the office of the Paymaster General for blank books, stationery,

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binding, and other contingent expenses, five thousand dollars.

For deficiency in the appropriation for defraying the expense of hydration of the Senate Chamber, three thousand dollars.

For deficiency in the appropriation for stationery, ten thousand dollars.

For deficiency in the appropriation for furniture and repairs, five thousand dollars.

For deficiency in the appropriation for clerks to committees, pages, horses and carryalls, fifteen thousand dollars.

To supply a deficiency in the contingent fund of the Pension Office, ten thousand dollars.

APPROVED, June 8, 1868.

CHAP. LII.—An Act making Appropriations for the Support of the Army for the year ending June thirtieth, eighteen hundred and sixty-nine, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the support of the Army for the year ending the thirtieth of June, eighteen hundred and sixty-nine:

For expenses of recruiting and transportation of recruits, one hundred thousand dollars.

For pay of the Army, fifteen million dollars.

For commutation of officers' subsistence, two million one hundred and thirty-three thousand four hundred and thirteen dollars.

For commutation of forage for officers' horses, twenty thousand dollars.

For payments in lieu of clothing for officers' servants, two hundred and fifty thousand dollars.

For payments to discharged soldiers for clothing not drawn, two hundred thousand dollars.

For contingencies of the Army, sixty thousand dollars.

For medical and hospital department, two hundred thousand dollars: *Provided*, That all sums that have accrued to the credit of the medical and hospital department from the sale of medical and hospital stores, or from any other source, except appropriations made by act of March second, eighteen hundred and sixty-seven, are hereby directed to be covered into the Treasury at the close of the current fiscal year.

For Army Medical Museum, five thousand dollars.

For medical and other necessary works for the library of Surgeon General's office, two thousand dollars.

For expenses of Commanding General's office, five thousand dollars.

For regular supplies of the quartermasters' department, to wit:

For the regular supplies of the quartermasters' department, consisting of fuel for officers, enlisted men, guards, hospitals, storehouses, and offices; of forage in kind for the horses, mules, and oxen of the quartermasters' department at the several posts and stations, and with the armies in the field; for the horses of the several regiments of cavalry, the batteries of artillery, and such companies of infantry as may be mounted, and for the authorized number of officers' horses when serving in the field and at the outposts, including bedding for the animals; of straw for soldiers' bedding; and of stationery, including blank books for the quartermasters' department, certificates for discharged soldiers, blank forms for the pay and quartermasters' departments, and for printing of division and department orders and reports, five million dollars.

For the general and incidental expenses of the quartermasters' department, consisting of postage on letters and packets received and sent by officers of the Army on public service; expenses of courts-martial, military commissions, and courts of inquiry, including the

additional compensation of judge advocates, recorders, members, and witnesses while on that service, under the act of March sixteen, eighteen hundred and two; extra pay to soldiers employed under the direction of the quartermasters' department in the erection of barracks, quarters, storehouses, and hospitals, in the construction of roads, and other constant labor for periods of not less than ten days, under the acts of March two, eighteen hundred and nineteen, and August four, eighteen hundred and fifty-four, including those employed as clerks at division and department headquarters; expenses of expresses to and from the frontier posts and armies in the field; of escorts to paymasters and other disbursing officers, and to trains where military escorts cannot be furnished; expenses of the interment of officers killed in action, or who die when on duty in the field, or at posts on the frontiers, or at posts and other places, when ordered by the Secretary of War, and of non-commissioned officers and soldiers; authorized office furniture; hire of laborers in the quartermasters' department, including the hire of interpreters, spies, and guides for the Army; compensation of clerks to officers of the quartermasters' department; compensation of forage and wagon-masters authorized by the act of July fifth, eighteen hundred and thirty-eight; for the apprehension of deserters and the expenses incident to their pursuit; and for the following expenditures required for the several regiments of cavalry, the batteries of light artillery, and such companies of infantry as may be mounted, viz.: the purchase of traveling forges, blacksmiths' and shoeing tools, horse and mule shoes and nails, iron and steel for shoeing, hire of veterinary surgeons, medicines for horses and mules, picket ropes, and for shoeing the horses of the corps named; also, generally, the proper and authorized expenses for the movement and operations of an army, not expressly assigned to any other department, two million dollars.

For mileage, or the allowance made to officers of the Army, for the transportation of themselves and their baggage when traveling on duty without troops, escort, or supplies, two hundred thousand dollars.

For transportation of the Army, including baggage of the troops when moving either by land or water, of clothing, camp and garrison equipage, from the depots of Philadelphia, Cincinnati, and New York to the several posts and Army depots, and from those depots to the troops in the field, and of subsistence stores from the places of purchase, and from the places of delivery under contract, to such places as the circumstances of the service may require them to be sent; of ordnance, ordnance stores, and small-arms from the foundries and armories to the arsenals, fortifications, frontier posts, and Army depots; freights, wharfage, tolls, and ferriages; the purchase and hire of horses, mules, oxen, and harness, and the purchase and repair of wagons, carts, and drays, and of ships and other sea-going vessels and boats required for the transportation of supplies, and for garrison purposes; for drayage and cartage at the several posts; hire of teamsters; transportation of funds for the pay and other disbursing departments; the expense of sailing public transports on the various rivers, the Gulf of Mexico, and the Atlantic and Pacific; for procuring water at such posts as from their situation require it to be brought from a distance; and for clearing roads and removing obstructions from roads, harbors, and rivers to the extent which may be required for the actual operations of the troops in the field, five million dollars.

For hire or commutation of quarters for officers on military duty; hire of quarters for troops, of storehouses for the safe-keeping of military stores, and of grounds for summer cantonments; for the construction of temporary huts, hospitals, and stables, and for re-

pairing public buildings at established posts, two million dollars.

For heating and cooking stoves, twenty-five thousand dollars.

For the ordnance service, required to defray the current expenses at the arsenals of receiving stores and issuing arms and other ordnance supplies; of police and office duties; of rents, tolls, fuel, and lights; of stationery and office furniture; of tools and instruments for use; of public animals, forage, and vehicles; incidental expenses of the ordnance service, including those attending practical trials and tests of ordnance, small-arms, and other ordnance supplies, two hundred thousand dollars: *Provided*, That no money appropriated by this act shall be used to pay for any new cannon or small-arms.

For purchasing three acres of land adjoining Federal square at Springfield armory, three thousand dollars.

FOR REPAIRS AND IMPROVEMENTS OF ARMORIES AND ARSENALS.

For arsenal and armory at Rock Island, Illinois, three hundred and eighty thousand dollars: *Provided*, That eighty thousand dollars of said sum shall be devoted to the development of the water-power to carry out existing contracts.

For Watervliet arsenal, West Troy, New York, twenty thousand dollars.

For arsenal at St. Louis, Missouri, five thousand dollars.

For Augusta arsenal, Augusta, Georgia, ten thousand dollars.

For Baton Rouge arsenal, Baton Rouge, Louisiana, seven thousand five hundred dollars.

For Benecia arsenal, Benecia, California, ten thousand dollars.

For Vancouver arsenal, Vancouver, Washington Territory, five thousand dollars.

For Mount Vernon arsenal, Mount Vernon, Alabama, five thousand dollars.

For Watertown arsenal, Watertown, Massachusetts, fifteen thousand dollars.

For Allegheny arsenal, Pittsburgh, Pennsylvania, five thousand dollars.

For Fort Monroe arsenal, Old Point Comfort, Virginia, four thousand five hundred dollars.

For Frankford arsenal, Bridesburg, Pennsylvania, eight hundred and eighty dollars.

For Kennebec arsenal, Augusta, Maine, two thousand dollars.

For Leavenworth arsenal, Leavenworth, Kansas, five thousand dollars.

For New York arsenal, Governor's Island, New York, three thousand dollars.

For Pikesville arsenal, Pikesville, Maryland, eight hundred dollars.

For the preservation and necessary repairs of the fortifications and the works of defense, two hundred thousand dollars.

SEC. 2. *And be it further enacted*, That of the appropriation of sixty thousand dollars for publishing the medical and surgical history of the rebellion and the medical statistics of the Provost Marshal General's office, made in an act approved July twenty-eighth, eighteen hundred and sixty-six, thirty thousand dollars shall be devoted to the preparation and publication of five thousand copies of the medical statistics of the Provost Marshal General's Bureau, and that the work shall be compiled and completed by Assistant Medical Purveyor J. H. Baxter, under the immediate direction of the Secretary of War, and without the interference of any other officer.

APPROVED, June 8, 1868.

CHAP. LIII.—An Act to amend an Act entitled "An Act for the Relief of the Inhabitants of Cities and Towns upon the Public Lands," approved March two, eighteen hundred and sixty-seven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of

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any town located on the public land of the United States may avail themselves, if the town authorities elect so to do, of the provisions of the act of March two, eighteen hundred and sixty-seven, entitled "An act for the relief of the inhabitants of cities and towns upon the public lands:" *Provided*, This act shall not prevent the issuance of patents to persons who have made, or may make, entries and elect to proceed under existing laws: *And provided further*, That no title under said act of March two, eighteen hundred and sixty-seven, shall be acquired to any valid mining claim or possession held under the existing laws of Congress: *Provided, also*, That in addition to the minimum price of the lands included in any town site entered under the provisions of this act and "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March two, eighteen hundred and sixty-seven, there shall be paid by the parties availing themselves of the provisions of said acts all costs of surveying and platting any such town site, and expenses incident thereto, incurred by the United States, before any patent shall issue therefor.

APPROVED, June 8, 1868.

CHAP. LIV.—An Act to extend the Time for Completing the Military Road authorized by an Act entitled "An Act granting Lands to the States of Michigan and Wisconsin to aid in the Construction of a Military Road from Fort Wilkins, Copper Harbor, Keweenaw county, in the State of Michigan, to Fort Howard, Green Bay, in the State of Wisconsin."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time for completing the military road, and for the sales of lands, authorized by an act entitled "An act granting lands to the States of Michigan and Wisconsin to aid in the construction of a military road from Fort Wilkins, Copper Harbor, Keweenaw county, in the State of Michigan, to Fort Howard, Green Bay, in the State of Wisconsin," approved March third, eighteen hundred and sixty-three, be, and the same is hereby, extended to March first, eighteen hundred and seventy.

APPROVED, June 8, 1868.

CHAP. LV.—An Act to further provide for giving effect to the various Grants of Public Lands to the State of Nevada.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Nevada is authorized to select the alternate even-numbered sections within the limits of any railroad grant in said State, in satisfaction, in whole or in part, of the several grants made in the following acts of Congress, to wit: the act organizing the Territory of Nevada, passed March second, eighteen hundred and sixty-one; the act admitting the State of Nevada into the Union, passed March twenty-one, eighteen hundred and sixty-four; and the act concerning certain lands granted to Nevada, passed July fourth, eighteen hundred and sixty-six: *Provided*, That this privilege shall not extend to lands upon which there may be rightful claims under the preëemption and homestead laws: *And provided*, That if lands be selected, the minimum price of which is two dollars and fifty cents per acre, each acre so selected shall be taken by the State in satisfaction of two acres, the minimum price of which is one dollar and twenty-five cents per acre: *And provided further*, That the lands granted in the eighth and ninth sections of the said act admitting Nevada into the Union shall be selected within four years from the passage of this act, and the period for the selection of said lands is hereby so extended.

SEC. 2. *And be it further enacted*, That the lands known and designated for the establishment of an agricultural college by the act of July second, eighteen hundred and sixty-two, and the acts amendatory thereto, shall be selected in the same manner and of the same character of lands as may be selected in satisfaction of any other grants referred to in the first section of this act. But this act shall not authorize the selection of lands valuable for mines of gold, silver, quicksilver, or copper.

SEC. 3. *And be it further enacted*, That the county of Esmeralda, in the State of Nevada, and the counties of Mono and Inyo, in the State of California, are hereby created a land district; and the land office for such district shall be located at Aurora, in Esmeralda county; and the President shall be authorized hereafter, from time to time, as circumstances may require, to adjust the boundaries of any and all of the land districts in said State, and change the location of the land office from time to time, when the same shall be expedient.

SEC. 4. *And be it further enacted*, That the lands granted to the State of California for the establishment of an agricultural college by the act of July second, eighteen hundred and sixty-two, and acts amendatory thereto, may be selected by said State from any lands within said State subject to preëemption and sale: *Provided*, That this privilege shall not extend to lands upon which there may be rightful claims under the preëemption and homestead laws, nor to mineral lands: *And provided further*, That if lands be selected as aforesaid, the minimum price of which is two dollars and fifty cents per acre, each acre so selected shall be taken by the State in satisfaction of two acres, the minimum price of which is one dollar and twenty-five cents per acre: *And provided further*, That such selections shall be made in every other respect subject to the conditions, restrictions, and limitations contained in the acts hereby modified.

APPROVED, June 8, 1868.

CHAP. LXI.—An Act making Appropriations for the Naval Service for the year ending June thirtieth, eighteen hundred and sixty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the year ending the thirtieth of June, eighteen hundred and sixty-nine:

For pay of commission, warrant, and petty officers, and seamen, eight million dollars, or so much thereof as may be necessary.

For preservation of wood and iron vessels and ships in ordinary, and for those that are on the stocks; vessels for the Naval Academy; for purchase of material and stores of all kinds; labor in navy-yards; tools, transportation of material, repair of vessels, and maintenance of the Navy afloat, three million dollars.

BUREAU OF YARDS AND DOCKS.

For contingent expenses that may accrue for the following purposes, viz:

For freight and transportation; for printing, advertising, and stationery; for books, models, and drawings; for the purchase and repair of fire-engines; for machinery of every description; for purchase and maintenance of oxen and horses and driving teams; for carts, timber-wheels, and workmen's tools; for telegrams and postage of letters on public service; for furniture for Government offices and houses; for candles, oil, and gas; for cleaning and clearing up yards; for flags, awnings, and packing boxes; for rent of landings; for tolls and ferriages; for coal and other fuel; for water tax and for rent of stores, eight hundred thousand dollars.

Navy-Yard at Portsmouth, New Hampshire.

For the necessary repairs of all kinds, fifty thousand dollars.

Navy-Yard at Boston.

For repairs of buildings, and repairs of all kinds, one hundred thousand dollars.

Navy-Yard at New York.

For repairs of all kinds, one hundred thousand dollars.

Navy-Yard at Philadelphia.

For repairs of all kinds, fifty thousand dollars.

Navy-Yard at Washington.

For repairs of all kinds, eighty thousand dollars.

Navy-Yard at Norfolk.

For preservation of the yard and the necessary repairs of all kinds, fifty thousand dollars.

Navy-Yard at Pensacola.

For preservation of the yard and the necessary repairs of all kinds, fifty thousand dollars.

Navy-Yard at Mare Island.

For repairs of all kinds, sixty thousand dollars.

Naval Station at Sackett's Harbor.

For repairs and the general care of the public property, two thousand dollars.

Naval Station at Mound City, Illinois.

For the necessary repair of the levee and yard buildings, twenty-seven thousand dollars.

Naval Station at Key West.

For necessary repairs of wharves and buildings, three thousand dollars.

Naval Asylum at Philadelphia.

For furniture and repairs of same, one thousand dollars.

For house cleaning and white-washing, eight hundred dollars.

For furnaces, grates, and ranges, six hundred dollars.

For gas and water rent, one thousand two hundred dollars.

For general improvement and repairs, five thousand dollars.

For support of beneficiaries, fifty-four thousand dollars.

For pay of superintendents and the civil establishment at the several navy-yards and stations under the control of the Bureau of Yards and Docks, and at the Navy Asylum, fifty thousand dollars: *Provided*, That the civil engineer and naval storekeeper at the several navy-yards shall be appointed by the President, by and with the advice and consent of the Senate, and that the persons employed at the several navy-yards to superintend the mechanical departments, and heretofore known as master mechanics, master carpenters, master joiners, master blacksmiths, master boiler-makers, master sail-makers, master plumbers, master painters, master calkers, master masons, master boat-builders, master spar-makers, master block-makers, master laborers, and the superintendents of rope-walks, shall be men skilled in their several duties and appointed from civil life, and shall not be appointed from the officers of the Navy.

BUREAU OF EQUIPMENT AND RECRUITING.

For the purchase of hemp and other material for the Navy; for the purchase of coal and the transportation and other expenses thereon; for the purchase of various articles of equipment, viz.: wire rope and machinery for its manufacture, hides, cordage, canvas, leather, iron cables and anchors, furniture, galleys, and hose, and for the payment of labor for equipping vessels, and manufacture of articles in the navy-yards pertaining to this bureau, one million dollars.

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For expenses that may accrue for the following purposes, viz.:

For freight and transportation of materials and stores for Bureau of Equipment and Recruiting, expenses of recruiting, transportation of enlisted men, printing, postage, advertising, telegraphing, and stationery for the Bureau of Equipment and Recruiting, apprehension of deserters, assistance to vessels in distress, two hundred and fifty thousand dollars.

For the pay of superintendents and the civil establishment at the several navy-yards under this bureau, eighteen thousand dollars.

BUREAU OF NAVIGATION.

For navigation apparatus and supplies, and for the purposes incidental to navigation, viz.:

For compass stations, and for repair and care of same, four thousand dollars.

For services and materials for correcting compasses on board of vessels, and for testing compasses on shore, three thousand dollars.

For nautical and astronomical instruments, for nautical books, maps and charts, and sailing directions, and for repairs of instruments for vessels of war, ten thousand dollars.

For books for libraries for vessels of war, and for books and stationery for naval apprentices, four thousand five hundred dollars.

For binnacles, pedestals, and other appurtenances of ships' compasses, to be made in the yards, three thousand dollars.

For bunting and other materials for flags, and for making and repairing flags of all kinds for the Navy, seven thousand and five hundred dollars.

For Navy signals other than signal flags, namely, signal-lanterns, lights, rockets, and apparatus of all kinds for signal purposes, for drawings and engravings for signal-books, six thousand dollars.

For logs, log lines, log reels, log paper, and sand glasses, for lead, lead reels, lead lines, armings for leads and other sounding apparatus, and for running lights, (side and head lanterns prescribed by law,) eight thousand dollars.

For musical instruments for vessels of war, one thousand dollars.

For commanders' and navigators' stationery for vessels of war, five thousand dollars.

For oil for vessels of war, other than for engineer department, fifty thousand dollars.

For local and foreign pilotage for vessels of war, sixty thousand dollars.

For lamps and lanterns of all kinds for binnacles, standard compasses, and tops, for lamps for cabins, wardroom, and other quarters for officers, and for decks, holds, and storerooms, and for lamp-wicks, chimneys, shades, and other appendages, six thousand dollars.

For freight and transportation of navigation materials, instruments, books, and stores, postage on public letters, telegraphing on public business, advertising for proposals, packing boxes and material, blank-books, forms, and stationery at navigation offices, and contingent expenses, ten thousand dollars.

For expenses of Naval Academy, viz.:

For pay of professors and others, seventy-six thousand seven hundred and six dollars.

For pay of watchmen and others, forty-five thousand two hundred and ninety-four dollars.

For contingent expenses, sixty-three thousand four hundred and fifty dollars.

For necessary repairs of quarters, ten thousand dollars.

For support of department of steam engineering, and for payment of mechanics and laborers, five thousand dollars.

For expenses of Naval Observatory, viz.:

For wages of one instrument-maker, one messenger, one porter, and three watchmen; for keeping grounds in order, and repairs to buildings and inclosures; for fuel, light, and office furniture, and for stationery, chemicals

for batteries, postage, and freight, ten thousand six hundred dollars.

For incidental expenses, five hundred dollars.

For salary of clerk, one thousand five hundred dollars.

For salary of three aids, four thousand dollars.

For preparing for publication the American Nautical Almanac, namely:

For pay of computers, fifteen thousand dollars.

For pay of clerk, one thousand two hundred dollars.

For payment of expenses of Visitors to the Naval Academy, two thousand dollars.

BUREAU OF ORDNANCE.

For guns, gun-carriages, shot, shell, magazine and laboratory stores, and equipments of all kinds; for gunpowder, small-arms, equipments, and ammunition; for fuel and materials necessary in carrying on the mechanical branches of the ordnance department at the navy-yards and stations, two hundred and fifty thousand dollars.

For the necessary repairs of the magazine at Chelsea; for the dwellings at the niter depot, Malden; for repairs to buildings on ordnance dock, and also repairs to tugs and lighters, and for repairs of ordnance dock at Ellis Island, New York; for repairs of magazine at Fort Mifflin; for repairing crane and wharf at Norfolk, and for repairs of magazine at Mare Island, fourteen thousand five hundred dollars.

For pay of the superintendents and the civil establishment at the several navy-yards under this bureau, fifteen thousand dollars.

BUREAU OF CONSTRUCTION AND REPAIRS.

For pay of superintendents and the civil establishment at the several navy-yards under this bureau, thirty-nine thousand dollars.

BUREAU OF STEAM ENGINEERING.

For pay of the superintendents and the civil establishment at the several navy-yards under this bureau, twenty-four thousand dollars.

For stores and materials, tools, repairs of machinery of steamers, boilers, instruments, and labor at navy-yards, and repairs of the machinery, and purchase of stores and materials for vessels of squadrons on foreign stations; and for transportation of materials, six hundred and fifty thousand dollars.

BUREAU OF PROVISIONS AND CLOTHING.

For pay of the civil establishment at the several navy-yards under this bureau, and at the Naval Asylum, twenty-six thousand dollars.

For provisions and clothing, one million five hundred thousand dollars.

To meet the demands upon the bureau for freight and transportation of stores, for candles, fuel; for tools and repairing same at eight inspections; for books and blanks; for stationery; for furniture and repairs of same in offices of paymasters and inspectors; for telegrams and postage; tolls and ferriages; and for ice, one hundred thousand dollars.

BUREAU OF MEDICINE AND SURGERY.

For necessary repairs and improvements of hospitals and appendages, including roads, wharves, walls, outhouses, sidewalks, fences, gardens, farms, painting, glazing, blacksmiths', plumbers', and masons' work; for furniture, thirty thousand dollars.

For pay of the civil establishment under this bureau, at the several Navy hospitals and navy-yards, sixty thousand dollars.

MARINE CORPS.

For pay of officers, non-commissioned officers, musicians, privates, clerks, messengers, steward, nurse, and servants; for rations and clothing for officers' servants, additional rations to officers for five years' service; for undrawn clothing, one hundred and seventy thousand dollars.

For provisions, one hundred thousand dollars.

For clothing, one hundred thousand dollars.

For fuel, ten thousand dollars.

For military stores, viz.: pay of mechanics; repair of arms; purchase of accouterments; ordnance stores, flags, drums, fifes, and other instruments, five thousand dollars.

For transportation of officers, their servants, troops, and for expenses of recruiting, twelve thousand dollars.

For repair of barracks, and for rent of offices where there are no public buildings, ten thousand dollars.

For contingencies, viz.: freight; ferriage; toll; cartage; wharfage; purchase and repair of boats; compensation of judge advocates; per diem for attending courts-martial and courts of inquiry, and for constant labor; house rent in lieu of quarters, and commutation for quarters to officers on shipboard; burial of deceased marines; printing, stationery, postage, telegraphing; apprehension of deserters; oil, candles, gas; repairs of gas and water fixtures; water rent, forage, straw, barrack furniture; furniture for officers' quarters; bed sacks, wrapping paper, oil cloth, crash, rope, twine, spades, shovels, axes, picks, carpenters' tools; keep of a horse for the messenger; repairs to fire-engines; purchase and repair of engine hose; purchase of lumber for benches, mess-tables, bunks; repairs to public carryall; purchase and repair of harness; purchase and repair of handcarts and wheelbarrows; scavenging; purchase and repair of galleys, cooking stoves, ranges; stoves where there are no grates; gravel for parade grounds; repair of pumps; furniture for staff and commanding officers' offices; brushes, brooms, buckets, paving, and for other purposes, seventy-five thousand dollars.

SEC. 2. *And be it further enacted*, That the number of persons authorized to be enlisted into the Navy of the United States, including seamen, ordinary seamen, landsmen, and mechanics, and including apprentices and boys, is hereby fixed and established at eight thousand five hundred, and no more.

SEC. 3. *And be it further enacted*, That all unexpended appropriations existing on the first day of July next, for any of the several heads of appropriation provided for in this act, shall be carried to the surplus fund, unless the same is necessary to pay expenditures made during the current fiscal year, or unless the same is necessary to execute contracts made before said date.

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury is hereby directed in his next annual estimates of appropriations to state all the balances of appropriations made prior to the present session of Congress, for each branch of the public service, and remaining unexpended on the first day of July next, and designate the amounts necessary to execute contracts or pay expenditures properly chargeable to each of such balances.

APPROVED, June 17, 1868.

CHAP. LXIX.—An Act to Admit the State of Arkansas to Representation in Congress.

Whereas the people of Arkansas, in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, and the acts supplementary thereto, have framed and adopted a constitution of State government, which is republican, and the Legislature of said State has duly ratified the amendment of the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of Arkansas is entitled and admitted to representation in

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Congress as one of the States of the Union upon the following fundamental condition: that the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted, under laws equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said constitution prospective in its effect may be made in regard to the time and place of residence of voters.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES U. S.,
June 20, 1868.

The President of the United States having returned to the House of Representatives, in which it originated, the bill entitled "An act to admit the State of Arkansas to representation in Congress," with his objections thereto, the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the same; and

Resolved, That the said bill do pass, two thirds of the House of Representatives agreeing to pass the same.

Attest: EDWD. McPHERSON,
Clerk H. R. U. S.

IN SENATE OF THE UNITED STATES,
June 22, 1868.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act to admit the State of Arkansas to representation in Congress," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the bill:

Resolved, That the bill do pass, two thirds of the Senate agreeing to pass the same.

Attest: GEO. C. GORHAM,
Secretary of the Senate.

CHAP. LXX.—An Act to Admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to Representation in Congress.

Whereas the people of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida have, in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, and the acts supplementary thereto, framed constitutions of State government which are republican, and have adopted said constitutions by large majorities of the votes cast at the elections held for the ratification or rejection of the same: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each of the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida shall be entitled and admitted to representation in Congress as a State of the Union when the Legislature of such State shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, upon the following fundamental conditions: that the constitutions of neither of said States shall ever be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote in said State who are entitled to vote by the constitution thereof herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly con-

victed under laws equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said constitution may be made with regard to the time and place of residence of voters; and the State of Georgia shall only be entitled and admitted to representation upon this further fundamental condition: that the first and third subdivisions of section seventeen of the fifth article of the constitution of said State, except the proviso to the first subdivision, shall be null and void, and that the General Assembly of said State by solemn public act shall declare the assent of the State to the foregoing fundamental condition.

SEC. 2. *And be it further enacted*, That if the day fixed for the first meeting of the Legislature of either of said States by the constitution or ordinance thereof shall have passed or have so nearly arrived before the passage of this act that there shall not be time for the Legislature to assemble at the period fixed, such Legislature shall convene at the end of twenty days from the time this act takes effect, unless the Governor-elect shall sooner convene the same.

SEC. 3. *And be it further enacted*, That the first section of this act shall take effect as to each State, except Georgia, when such State shall, by its Legislature, duly ratify article fourteen of the amendments to the Constitution of the United States, proposed by the Thirty-Ninth Congress, and as to the State of Georgia when it shall in addition give the assent of said State to the fundamental condition hereinbefore imposed upon the same; and thereupon the officers of each State duly elected and qualified under the constitution thereof shall be inaugurated without delay; but no person prohibited from holding office under the United States, or under any State, by section three of the proposed amendment to the Constitution of the United States, known as article fourteen, shall be deemed eligible to any office in either of said States, unless relieved from disability as provided in said amendment; and it is hereby made the duty of the President within ten days after receiving official information of the ratification of said amendment by the Legislature of either of said States to issue a proclamation announcing that fact.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES U. S.,
June 25, 1868.

The President of the United States, having returned to the House of Representatives, in which it originated, the bill entitled "An act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress," with his objections thereto, the House of Representatives proceeded, in pursuance of the Constitution, to reconsider the same; and

Resolved, That the said bill do pass, two thirds of the House of Representatives agreeing to pass the same.

Attest: EDWD. McPHERSON,
Clerk H. R. U. S.

IN SENATE OF THE UNITED STATES,
June 25, 1868.

The Senate having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress," returned to the House of Representatives by the President of the United States, with his objections, and sent by the House of Representatives to the Senate, with the message of the President returning the bill:

Resolved, That the bill do pass, two thirds of the Senate agreeing to pass the same.

Attest: GEO. C. GORHAM,
Secretary of the Senate.

CHAP. LXXI.—An Act to provide for Appeals from the Court of Claims, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an appeal to the Supreme Court of the United States shall be allowed on behalf of the United States from all the final judgments of the said Court of Claims adverse to the United States, whether such judgments shall have been rendered by virtue of the general or any special power or jurisdiction of said court under the limitations now provided by law for other cases of appeal from said court.

SEC. 2. *And be it further enacted*, That said Court of Claims, at any time while any suit or claim is pending before or on appeal from said court, or within two years next after the final disposition of any such suit or claim, may, on motion on behalf of the United States, grant a new trial in any such suit or claim and stay the payment of any judgment therein, upon such evidence (although the same may be cumulative or other) as shall reasonably satisfy said court that any fraud, wrong, or injustice in the premises has been done to the United States; but until an order is made staying the payment of a judgment, the same shall be payable and paid as now provided by law.

SEC. 3. *And be it further enacted*, That whenever it shall be material in any suit or claim before any court to ascertain whether any person did or did not give any aid or comfort to the late rebellion, the claimant or party asserting the loyalty of any such person to the United States during such rebellion shall be required to prove affirmatively that such person did, during said rebellion, consistently adhere to the United States, and did give no aid or comfort to persons engaged in said rebellion; and the voluntary residence of any such person in any place where, at any time during such residence, the rebel force or organization held sway, shall be prima facie evidence that such person did give aid and comfort to said rebellion and to the persons engaged therein.

SEC. 4. *And be it further enacted*, That no plaintiff or claimant, or any person from or through whom any such plaintiff or claimant derives his alleged title, claim, or right against the United States, or any person interested in any such title, claim, or right, shall be a competent witness in the Court of Claims in supporting any such title, claim, or right, and no testimony given by such plaintiff, claimant, or person shall be used: *Provided*, That the United States shall, if they see cause, have the right to examine such plaintiff, claimant, or person as a witness under the regulations and with the privileges provided in section eight of the act passed March third, eighteen hundred and sixty-three, entitled "An act to amend an act to establish a court for the investigation of claims against the United States," approved February twenty-fourth, eighteen hundred and fifty-five.

SEC. 5. *And be it further enacted*, That from and after the first day of July, eighteen hundred and sixty-eight, the Attorney General of the United States for the time being shall, with his assistants, attend to the prosecution and defense of all matters and suits in the Court of Claims on behalf of the United States. There shall be appointed by the President, by and with the advice and consent of the Senate, two Assistant Attorneys General, who shall hold their offices for four years respectively, unless sooner lawfully removed, and whose salaries shall be four thousand dollars each per year, payable quarterly, and who shall be in lieu of the solicitor, assistant solicitor, and deputy solicitor of the Court of Claims, and of the Assistant Attorney General now provided for by law; and the existing offices of solicitor, assistant solicitor, and deputy solicitor of the Court of Claims, and of Assistant Attorney

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General, are hereby abolished from and after the first day of July, eighteen hundred and sixty-eight. The Attorney General shall have power to appoint two additional clerks of the fourth class, and one clerk, at a salary not exceeding two thousand dollars, in his office.

SEC. 6. *And be it further enacted*, That it shall also be the duty of the said Attorney General and his assistants, in all cases brought against the United States in said Court of Claims founded upon any contract, agreement, or transaction with any executive Department, or any bureau, officer, or agent of such Department, or where the matter or thing on which the claim is based shall have been passed upon and decided by any Department, bureau, or officer intrusted by law or Department regulations with the settlement and adjustment of such claims, demands, or accounts, to transmit to said Department, bureau, or officer, as aforesaid, a printed copy of the petition filed by the claimant in such case, with a request that the said Department, bureau, or officer to whom the same shall be so transmitted as aforesaid, will furnish to said Attorney General all facts, circumstances, and evidence touching said claim as is or may be in the possession or knowledge of the said Department, bureau, or officer; and it shall be the duty of the said Department, bureau, or officer to whom such petition may be transmitted and such request preferred as aforesaid, without delay, and within a reasonable time, to furnish said Attorney General with a full statement of all the facts, information, and proofs which are or may be within the knowledge or in the possession of said Department, bureau, or officer, relating to the claim aforesaid. Such statement shall also contain a reference to or description of all official documents or papers, if any, as may or do furnish proof of facts referred to in said statement, or that may be necessary and proper for the defense of the United States against the said claim, together with the Department, office, or place where the same is kept or may be procured. And if the said claim shall have been passed upon and decided by the said Department, bureau, or officer, the statement or answer to be transmitted to said Attorney General, as hereinbefore provided, shall succinctly state the reasons and principles upon which such decision shall have been based. In all cases where such decision shall have been made upon any act of Congress, or upon any section or clause of such act, the same shall be cited specifically. And if any previous interpretation or construction shall have been given to such act, section, or clause by the said Department or bureau transmitting such statement, the same shall be set forth succinctly in said statement, and a copy of the opinion filed, if any, shall be annexed to such statement and transmitted with the same to the Attorney General aforesaid. And where any decision in the case shall have been based upon any regulation of an executive Department, or where such regulation shall or may, in the opinion of the Department, bureau, or officer transmitting such statement, have any bearing upon the claim in suit, the same shall be distinctly referred to and quoted in extenso in the statement transmitted to said Attorney General: *Provided, however*, That where there shall be pending in said court more than one case, or a class of cases, the defense to which shall rest upon the same facts, circumstances, and proofs, the said Department, bureau, or officer shall only be required to certify and transmit one statement of the same, and such statement shall be held to apply to all such classes of cases as if made out, certified, and transmitted in each case respectively.

SEC. 7. *And be it further enacted*, That it shall and may be lawful for the head of any executive Department, whenever any claim is made upon said Department involving disputed facts or controverted questions of law, where the amount in controversy exceeds three thou-

sand dollars, or where the decision will affect a class of cases or furnish a precedent for the future action of any executive Department in the adjustment of a class of cases, without regard to the amount involved in the particular case, or where any authority, right, privilege, or exemption is claimed or denied under the Constitution of the United States, to cause such claim, with all the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims, and the same shall be there proceeded in as if originally commenced by the voluntary action of the claimant. And the Secretary of the Treasury may, upon the certificate of any Auditor or Comptroller of the Treasury, direct any account, matter, or claim of the character, amount, or class described or limited in this section to be transmitted, with all the vouchers, papers, documents, and proofs pertaining thereto, to the said Court of Claims, for trial and adjudication: *Provided, however*, That no case shall be referred by any head of a Department unless it belongs to one of the several classes of cases to which, by reason of the subject-matter and character, the said Court of Claims might, under existing laws, take jurisdiction on such voluntary action of the claimant. And all the cases mentioned in this section which shall be transmitted by the head of any executive Department, or upon the certificate of any Auditor or Comptroller, shall be proceeded in as other cases pending in said court, and shall, in all respects, be subject to the same rules and regulations; and appeals from the final judgments or decrees of said court therein to the Supreme Court of the United States shall be allowed in the manner now provided by law. The amount of the final judgments or decrees in such cases so transmitted to said court, where rendered in favor of the claimants, shall in all cases be paid out of any specific appropriation applicable to the same, if any such there be; and where no such appropriation exists, the same shall be paid in the same manner as other judgments of said court.

SEC. 8. *And be it further enacted*, That no person shall file or prosecute any claim or suit in the Court of Claims, or an appeal therefrom, for or in respect to which he or any assignee of his shall have commenced and has pending any suit or process in any other court against any officer or person who, at the time of the cause of action alleged in such suit or process arose, was in respect thereto acting or professing to act, mediately or immediately, under the authority of the United States, unless such suit or process, if now pending in such other court, shall be withdrawn or dismissed within thirty days after the passage of this act.

SEC. 9. *And be it further enacted*, That it shall be the duty of the clerk of the said Court of Claims to transmit to Congress, at the commencement of every December session, a full and complete statement of all the judgments rendered by the said court for the previous year, stating the amounts thereof and the parties in whose favor rendered, together with a brief synopsis of the nature of the claims upon which said judgments have been rendered.

SEC. 10. *And be it further enacted*, That all provisions of any act incompatible herewith be, and the same are hereby, repealed.

APPROVED, June 25, 1868.

CHAP. LXXII.—An Act constituting Eight Hours a Day's Work for all Laborers, Workmen, and Mechanics employed by or on behalf of the Government of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That eight hours shall constitute a day's work for all laborers, workmen, and mechanics now employed, or who may be hereafter employed, by or on behalf of the Government of the United States: and that

all acts and parts of acts inconsistent with this act be, and the same are hereby, repealed.

APPROVED, June 25, 1868.

CHAP. LXXIII.—An Act for the Relief of certain Exporters of Rum.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of January eleventh, eighteen hundred and sixty-eight, entitled "An act to prevent frauds in the collection of tax on distilled spirits," be so construed as to permit rum, which at the date of the passage of said act was already distilled or redistilled and intended for export and actually contracted for to be delivered for exportation, to be withdrawn, removed, and exported from the United States under such transportation and export bonds and regulations as were required therefor immediately prior to the passage of said act, and as shall be provided for hereafter: *Provided*, That all such spirits shall be actually exported within sixty days from the passage of this act; and that before any such exportation shall be permitted proof in writing shall be furnished by sworn evidence, to the satisfaction of the Commissioner of Internal Revenue, that such rum was in fact at the date mentioned intended for export and distilled or redistilled for that purpose or actually contracted for to be so exported. And upon failure to so export the same within said sixty days, the tax thereon shall become due and payable, and the bonds given for the transportation and export thereof shall be forfeited and collected, as in case of such bonds not canceled according to law.

APPROVED, June 25, 1868.

CHAP. LXXIV.—An Act to reestablish the Boundaries of the Collection Districts of Michigan and Michilimackinac, and to change the names of the Collection Districts of Michilimackinac and Port Huron.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the collection district of Michigan shall be extended so as to embrace all the territory and waters of the State of Michigan lying west of the principal meridian and south of the latitudinal line dividing townships number forty-three from townships number forty-four, north of the base line of said State, excluding the territory bordering Green Bay and including the Island of Bois Blanc.

SEC. 2. *And be it further enacted*, That the collection district of Michilimackinac shall hereafter be called the district of Superior, and shall embrace all that part of the upper peninsula of the State of Michigan lying east of the principal meridian, all the islands in, and bordering upon, the Saint Marie river, and all that part of the State of Michigan lying west of the principal meridian and north of the latitudinal line dividing townships number forty-three from townships number forty-four, north of the base line of the said State, including the territory in said State bordering Green Bay, together with all the islands, waters, and shores of Lake Superior and the adjacent territory unto the headwaters of all the rivers and streams tributary thereto and within the jurisdiction of the United States.

SEC. 3. *And be it further enacted*, That the collection district of Port Huron, in the State of Michigan, shall hereafter be called the district of Huron.

APPROVED, June 25, 1868.

CHAP. LXXV.—An Act to extend the Boundaries of the Collection District of Philadelphia so as to include the whole consolidated City of Philadelphia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the port of entry

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and delivery of Philadelphia, Pennsylvania, is hereby extended so as to include within its boundaries the whole consolidated city of Philadelphia.

APPROVED, June 25, 1868.

CHAP. LXXVI.—An Act to amend an Act entitled "An Act to provide for carrying the Mails from the United States to Foreign Ports, and for other purposes," approved March twenty-five, eighteen hundred and sixty-four.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the operation of the fourth section of an act to provide for carrying the mails of the United States to foreign ports, and for other purposes, approved March twenty-fifth, eighteen hundred and sixty-four, shall cease and determine on and after the thirtieth day of September, eighteen hundred and sixty-eight.

APPROVED, June 25, 1868.

CHAP. LXXVII.—An Act relative to filing Reports of Railroad Companies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the reports required to be made to the Secretary of the Treasury on or before the first day of July of each year, by the corporations created by or entitled to subsidies under the provisions of an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July first, eighteen hundred and sixty-two, and the acts supplemental to and amendatory thereof, shall hereafter be made to the Secretary of the Interior, on or before the first day of October of each year. Said reports shall furnish full and specific information upon the several points mentioned in the twentieth section of the said act of eighteen hundred and sixty-two, and shall be verified as therein prescribed, and on failure to make the same as herein required, the issue of bonds or patents to the company in default shall be suspended until the requirements of this act shall be complied with by such company. And the reports hitherto made to the Secretary of the Treasury under the said act of July first, eighteen hundred and sixty-two, shall be transferred and delivered by him to the Secretary of the Interior to be filed by him.

SEC. 2. *And be it further enacted,* That the corporations created by the provisions of the acts of Congress approved July second, eighteen hundred and sixty-four, and July twenty-seventh, eighteen hundred and sixty-six, and known as the Northern Pacific Railroad Company, the Atlantic and Pacific Railroad Company, and the Southern Pacific Railroad Company, shall make reports to the Secretary of the Interior on or before the first of October of each year, as are required to be made by the Union Pacific railroad and branches, under the provisions of the first section of this act, and on failure so to do, shall be subject to the like suspension.

SEC. 3. *And be it further enacted,* That the reports required from the commissioners appointed to examine and report in relation to the road of any of the corporations whereto reference is made in this act, shall be addressed to and filed in the Department of the Interior; and all such reports heretofore made shall be transferred to and filed in said Department of the Interior; and so much of any and all acts as requires any reports from such companies, or any officers thereof, to be made to the Secretary of the Treasury, is hereby repealed.

SEC. 4. *And be it further enacted,* That, in addition to the eight subjects referred to in section twenty of the act of July, eighteen

hundred and sixty-two, to be reported upon, there shall also be furnished annually to the Secretary of the Interior all reports of engineers, superintendents, or other officers who make annual reports to any of said railroad companies.

APPROVED, June 25, 1868.

CHAP. LXXVIII.—An Act appropriating Money to sustain the Indian Commission, and carry out Treaties made thereby.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of carrying out treaty stipulations with various Indian tribes, and defraying the expenses and disbursements made by the commission authorized by the act of July twenty, eighteen hundred and sixty-seven, entitled "An act to establish peace with certain hostile Indian tribes during the year eighteen hundred and sixty-eight," the sum of one hundred and fifty thousand dollars is hereby appropriated out of any money in the Treasury not otherwise appropriated, to be expended under the direction of said commission.

APPROVED, June 25, 1868.

CHAP. LXXIX.—An Act to change the Times of holding the District and Circuit Courts of the United States in the several Districts in the State of Tennessee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the circuit and district courts for the district of East Tennessee shall hereafter be held at Knoxville, on the second Mondays of January and July in each year; and for the district of Middle Tennessee, at Nashville, on the third Mondays of April and October of each year; and for the district of West Tennessee, at Memphis, on the fourth Mondays of May and November of each year; and that all recognizances, indictments, or other proceedings, civil and criminal, now pending or returnable in said courts, shall be entered in court and be heard and tried according to the times of holding said courts as herein provided. This act shall take effect from and after the first Monday in July, eighteen hundred and sixty-eight.

APPROVED, June 25, 1868.

CHAP. LXXX.—An Act to amend an Act entitled "An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the Central Pacific Railroad, in California, to Portland, in Oregon."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section six of an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon," approved July twenty-fifth, eighteen hundred and sixty-six, be so amended as to provide that instead of the times now fixed in said section, the first section of twenty miles of said railroad and telegraph shall be completed within eighteen months from the passage of this act, and at least twenty miles in each two years thereafter, and the whole on or before the first day of July, anno Domini eighteen hundred and eighty.

APPROVED, June 25, 1868.

CHAP. LXXXI.—An Act relating to the Supreme Court of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in case of a vacancy in the office of Chief Justice of the Supreme Court of the United States, or of his inability to discharge the powers and duties of the said office, the same shall devolve upon the associate justice of said court whose commission is senior in time, until such inability shall be

removed or another appointment shall be duly made and the person so appointed shall be duly qualified, and this act shall apply to every person succeeding to the office of Chief Justice pursuant to its provisions.

APPROVED, June 25, 1868.

CHAP. LXXXII.—An Act to authorize the Secretary of the Treasury to Change the Names of certain Vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and hereby is, authorized to change the name of the yacht "W. W. Abell," owned by James Lloyd Greene, of Norwich, Connecticut, administrator of the estate of Benjamin D. Greene, late of said Norwich, deceased, and John Jeffries, jr., of Boston, Massachusetts, to that of "Ethel;" and also to change the name of the yacht "L'Hirondelle," owned by James Gordon Bennette, jr., of the city of New York, to that of "Dauntless," and to grant said vessels registers in said respective names; the said vessels being pleasure yachts only, and not engaged in commercial or other business.

APPROVED, June 25, 1868.

CHAP. CXVII.—An Act relating to Contested Elections in the City of Washington, District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any person has received or shall hereafter receive a certificate from the register of the city of Washington, based upon satisfactory evidence furnished by the commissioners of election, notifying him of his election to any elective office of said city, the person receiving such notification shall be entitled to enter upon the discharge of the duties of his office, and the certificate of the register shall be prima facie evidence of his election to, and right to discharge the duties of, said office.

SEC. 2. *And be it further enacted,* That any person who shall hinder or obstruct a person holding the certificate of election mentioned in the foregoing section from entering upon or discharging the duties of such office, shall be deemed guilty of a misdemeanor, and upon conviction thereof, in any court of competent jurisdiction, shall be fined in any sum not exceeding one thousand dollars, or be imprisoned in the county jail not exceeding six months, or both said punishments, in the discretion of the court.

SEC. 3. *And be it further enacted,* That the supreme court of the District of Columbia, or any judge thereof, shall have jurisdiction to enforce, by mandamus, or otherwise, the right of any person holding the certificate mentioned in the first section of this act.

SEC. 4. *And be it further enacted,* That any person who claims, or shall hereafter claim, to be elected to any elective office in said city, may commence proceedings before the said supreme court of the District of Columbia, by petition setting forth the facts upon which he relies, and shall serve a copy on the incumbent or person who has received the certificate of election; and the person so served shall make answer to said petition within five days; and said court shall thereupon try the rights of the parties to said office in a summary manner; and for that purpose a special session shall be called and held whenever necessary for the purposes of such trial; and the decision of said court in any case so brought before it shall be final and conclusive. And when the legal organization of the board of aldermen or board of common council shall be delayed on account of any contest in relation to the election of any member of either of said boards, the mayor of said city is hereby authorized to make temporary appointments of all subordinate officers whose appointment or election is authorized

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by the said mayor and members of said boards under existing laws, to continue until said boards shall be legally organized.

SCHUYLER COLFAX,
Speaker of the House of Representatives.
B. F. WADE,
President of the Senate pro tempore.

Indorsed by the PRESIDENT: "Received June 16, 1868."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

CHAP. CXVIII.—An Act for holding Terms of the District Court of the United States for the Southern District of Illinois at the City of Cairo, in said State.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to the terms of the district court of the United States for the southern district of Illinois, now required by law to be held at the city of Springfield, terms of said court shall hereafter be held at the city of Cairo, in said State, commencing on the first Mondays of March and October in each year.

APPROVED, July 3, 1868.

CHAP. CXXXI.—An Act confirming the Title to a Tract of Land in Burlington, Iowa.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all of the title of the United States in and to a certain tract of land in the city of Burlington, Des Moines county, in the State of Iowa, described as being west of lot number nine hundred and seventy-eight in said city, south of Valley street, west of Boundary street, and north of Market street, and which was originally reserved from sale by the United States and dedicated to public burial purposes, be, and the same is hereby, confirmed to and vested in the "Independent School District" of said city, to be forever dedicated to and used by said school district for public school purposes, and for no other use or purpose whatever.

APPROVED, July 4, 1868.

CHAP. CXXXIV.—An Act to authorize the Construction of a Bridge over the Black river, in Lorain county, Ohio.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for the county commissioners of the county of Lorain and State of Ohio to build a bridge across the Black river near the village of Black River, in said county, at the point where the county road leading east from said village crosses said stream: *Provided,* That there shall be placed in said bridge a draw of not less than one hundred and forty feet in width, with a center abutment not to exceed twenty-five feet wide and ten feet above the water-line, leaving a passage on each side of the abutment of not less than fifty-seven feet in width, and so constructed as not to impede the navigation of said river, and allow the easy passage of vessels through said bridge.

SEC. 2. *And be it further enacted,* That the right to alter or amend this act, so as to prevent or remove all material obstructions to the navigation of said river by the construction of said bridge, is hereby expressly reserved.

APPROVED, July 6, 1868.

CHAP. CXXXV.—An Act to continue the Bureau for the Relief of Freedmen and Refugees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees," approved March three, eighteen hundred and sixty-five, and the act entitled "An act to continue in force and to amend 'An act to establish a Bureau for the Relief of Freedmen and Refugees,' and for other purposes," passed on the sixteenth day of July, anno Domini eighteen hundred and sixty-six, shall continue in force for the term of one year from and after the sixteenth of July, in the year one thousand eight hundred and sixty-eight, excepting so far as the same shall be herein modified. And the Secretary of War is hereby directed to reestablish said bureau where the same has been wholly or in part discontinued: *Provided,* [That] he shall be satisfied that the personal safety of freedmen shall require it.

SEC. 2. *And be it further enacted,* That it shall be the duty of the Secretary of War to discontinue the operations of the bureau in any State whenever such State shall be fully restored in its constitutional relations with the Government of the United States, and shall be duly represented in the Congress of the United States, unless, upon advising with the Commissioner of the bureau, and upon full consideration of the condition of freedmen's affairs in such State, the Secretary of War shall be of opinion that the further continuance of the bureau shall be necessary: *Provided,* however, That the educational division of said bureau shall not be affected, or in any way interfered with, until such State shall have made suitable provision for the education of the children of freedmen within said State.

SEC. 3. *And be it further enacted,* That unexpended balances in the hands of the Commissioner, not required otherwise for the due execution of the law, may be, in the discretion of the Commissioner, applied for the education of freedmen and refugees, subject to the provisions of laws applicable thereto.

SEC. 4. *And be it further enacted,* That officers of the Veteran Reserve corps or of the volunteer service, now on duty in the Freedmen's Bureau as assistant commissioners, agents, medical officers, or in other capacities, who have been or may be mustered out of service, may be retained by the Commissioner, when the same shall be required for the proper execution of the laws, as officers of the bureau, upon such duty and with the same pay, compensation, and all allowances, from the date of their appointment, as now provided by law for their respective grades and duties at the dates of their muster-out and discharge; and such officers so retained shall have, respectively, the same authority and jurisdiction as now conferred upon "officers of the bureau" by act of Congress passed on the sixteenth of July, in the year eighteen hundred and sixty-six.

SEC. 5. *And be it further enacted,* That the Commissioner is hereby empowered to sell for cash, or by installments with ample security, school buildings and other buildings constructed for refugees and freedmen by the bureau, to the associations, corporate bodies, or trustees who now use them for purposes of education or relief of want, under suitable guaranties that the purposes for which such buildings were constructed shall be observed: *Provided,* That all funds derived therefrom shall be returned to the bureau appropriation and accounted for to the Treasury of the United States.

SCHUYLER COLFAX,
Speaker of the House of Representatives.
B. F. WADE,
President of the Senate pro tempore.

Indorsed by the PRESIDENT: "Received June 24, 1868."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing act having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

CHAP. CXXXVI.—An Act to Incorporate the Congregation of the First Presbyterian Church of Washington.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Francis H. Smith, N. P. Chipman, Otis C. Wight, A. D. Robinson, Zenas C. Robbins, and their associates, who are now, or may hereafter become members of the congregation of the First Presbyterian church of Washington, in the District of Columbia, under the rules, regulations, or by-laws of the same, be, and they are hereby, created a body-corporate, under the name of "The Congregation of the First Presbyterian Church of Washington," and as such shall have perpetual succession, may purchase, hold, and convey personal and real estate, make contracts, sue and be sued, plead and be impleaded, and may generally exercise and enjoy all such powers as are usually vested in corporations, and as may be necessary or incident to sustaining religious worship, Sabbath schools, missionary, and charitable enterprises in the District of Columbia, and no others; and said corporation shall be exempt from any taxes to be assessed upon their corporate property under the authority of Congress, or of the city or county of Washington: *Provided,* That the value of all property so exempt shall not exceed two hundred thousand dollars.

SEC. 2. *And be it further enacted,* That the title to any lands, buildings, and property heretofore conveyed to said congregation, or to any person or persons for the use and benefit of the same, or of the said First Presbyterian church, is hereby vested in and confirmed to said corporation.

SEC. 3. *And be it further enacted,* That it shall be lawful for said congregation, at its first meeting subsequent to the passage of this act, to be held at such time and place as the persons named in the first section of this act may designate, by a majority of the members present, to adopt such by-laws as they may deem expedient, regulating the government of said corporation, prescribing the number, character, and duties of their officers, and the manner of their election, defining the terms on which persons may become, or cease to be, members of said corporation, and providing in all things for the holding and disposal and conveyance of its real and personal estate, and for the management of said congregation, which by-laws may be amended or repealed from time to time, under such regulations as said congregation may adopt: *Provided,* That no by-laws shall be adopted or remain in force inconsistent with the Government and laws of the United States, or with the constitution and authority of the Presbyterian church in the United States of America.

SEC. 4. *And be it further enacted,* That Congress reserves the right to alter, amend, or abolish this charter at pleasure.

APPROVED, July 7, 1868.

CHAP. CXXXVII.—An Act to amend section five of an Act entitled "An Act concerning the Registering and Recording of Ships or Vessels," approved December thirty-one, seventeen hundred and ninety-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section five of an act entitled "An act concerning the registering and recording of ships or vessels," approved December thirty-one, seventeen hundred and

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ninety-two, be, and the same is hereby, repealed.

APPROVED, July 7, 1868.

CHAP. CXXXIX.—An Act prescribing an Oath of Office to be taken by Persons from whom Legal Disabilities shall have been removed.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever any person who has participated in the late rebellion, and from whom all legal disabilities arising therefrom have been removed by act of Congress by a vote of two thirds of each House, has been or shall be elected or appointed to any office or place of trust in or under the Government of the United States, he shall, before entering upon the duties thereof, instead of the oath prescribed by the act of July two, eighteen hundred and sixty-two, take and subscribe the following oath or affirmation: I, A. B., do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

APPROVED, July 11, 1868.

CHAP. CXL.—An Act to Incorporate the Connecticut Avenue and Park Railway Company in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Augustus B. Stoughton, John Little, John L. Kidwell, George H. Plant, Le Roy Tuttle, G. W. Hopkins, R. M. Hall, and their associates and assigns, be, and they are hereby, created a body-corporate, under the name of the "Connecticut Avenue and Park Railway Company," with authority to construct and lay down a single or double track railway, with the necessary switches and turnouts, in the city of Washington, in the District of Columbia, through and along the following avenues, streets, and highways: commencing at the intersection of Seventeenth street west and Pennsylvania avenue, along the west side of Seventeenth street to its intersection with H street north, thence along Seventeenth street west to its intersection with Connecticut avenue, thence along said avenue to Boundary street; also, from the intersection of Boundary street and Connecticut avenue along the county road from such intersection, thence on any road opened, or which may hereafter be opened, west of the Fourteenth street road to within or through the proposed public park, or to the county line of Washington county, with the right to run public carriages thereon drawn by horse-power, receiving therefor a rate of fare not exceeding six cents a passenger for any distance on said road: *Provided,* That should a majority of stockholders so elect, said road, after reaching the intersection of Boundary street and Connecticut avenue, instead of continuing from said intersection up the county road now opened, may be constructed along Boundary street in the direction of Meridian Hill to any county road opened, or which may hereafter be opened, west of Sixteenth street west, and thence along said county road by the most practicable route to the terminus near, at, in, or through the proposed park, as hereinbefore provided.

SEC. 2. *And be it further enacted,* That said road shall be deemed real estate, and, together with other real and personal property of said body-corporate, shall be liable to taxation as other real estate and personal property, and to license for their vehicles or cars in the city and county aforesaid, except as hereinafter provided

SEC. 3. *And be it further enacted,* That the said railway shall be laid in the centers of the avenues and streets in the city (excepting Seventeenth street, there it shall be laid as hereinbefore provided for,) as near as may be without interfering with or passing over the water or gas pipes, in the most approved manner adapted for street railways, with rails of the most approved pattern, to be determined by the Secretary of the Interior, laid upon an even surface with the pavement of the streets or avenues; and the space between the two tracks, when two are laid, shall not be less than four feet, nor more than six feet; and the carriages shall not be less than six feet in width, the gauge to correspond with that of the Washington and Georgetown railroad. That the railway in the county shall be laid in such manner as will least interfere with the ordinary travel of the roads on which the said track shall be laid.

SEC. 4. *And be it further enacted,* That the said corporation hereby created shall be bound to keep said tracks, and for a space of two feet beyond the outer rail thereof, and also the space between the tracks, at all times well paved and in good order, without expense to the United States, the city or county of Washington.

SEC. 5. *And be it further enacted,* That nothing in this act shall prevent the Government at any time, at their option, from altering the grade or otherwise improving all avenues and streets occupied by said road, or the city of Washington from so altering or improving such streets and avenues and the sewerage thereof, as may be under their respective authority and control; and in such event it shall be the duty of said company to change their said railway so as to conform to such grade and pavement.

SEC. 6. *And be it further enacted,* That this act may at any time be altered, amended, or repealed by the Congress of the United States.

SEC. 7. *And be it further enacted,* That nothing in this act shall be so construed as to authorize said body-corporate to issue any note, token, device, scrip, or other evidence of debt to be used as a currency.

SEC. 8. *And be it further enacted,* That the capital stock of said company shall not be less than fifty thousand dollars, nor more than two hundred thousand dollars, and that the stock shall be divided into shares of twenty-five dollars each, and shall be deemed personal property, transferable in such manner as the by-laws of said company may direct.

SEC. 9. *And be it further enacted,* That the said company shall place first-class cars on said railway, with all the modern improvements for the convenience and comfort of passengers, and shall run cars thereon during the day as often as every ten minutes, between Pennsylvania avenue and Boundary street, and through the day and night on the entire road, or such portions as may be completed, as often as the public convenience may require.

SEC. 10. *And be it further enacted,* That the said company shall procure such passenger rooms, ticket offices, stables, and depots, at such points as the business of the railroad and the convenience of the public may require. And said company is hereby authorized to lay such rails through transverse or other streets as may be necessary for the exclusive purpose of connecting the said stables and depots with the main tracks. And the said company is hereby authorized to purchase or lease such lands or buildings as may be necessary for the passenger rooms, ticket offices, stables, and depots above mentioned.

SEC. 11. *And be it further enacted,* That all articles of value that may be inadvertently left in any of the cars or other vehicles of the said company shall be taken to their principal depot, and entered in a book of record of unclaimed goods, which book shall be open to the inspection of the public at all reasonable hours of business.

SEC. 12. *And be it further enacted,* That

within thirty days after the passage of this act the corporators named in the first section, or a majority of them, or if any refuse or neglect to act, then a majority of the remainder, shall cause books of subscription to the capital stock of said company to be opened and kept open, in some convenient and accessible place in the city of Washington, from nine o'clock in the forenoon until three o'clock in the afternoon, for a period, to be fixed by said corporators, not less than two days, and said corporators shall give public notice by advertisement in the daily papers published in the city of Washington of the time when and the place where said books shall be opened; and subscribers upon said books to the capital stock of the company shall be held to be stockholders: *Provided,* That no one individual shall be allowed to subscribe for more than one hundred shares of said stock: *Provided further,* That every subscriber shall pay at the time of subscribing twenty-five per centum of the amount by him subscribed to the treasurer appointed by the corporators, or his subscription shall be null and void. If, at the end of two days, a larger amount than the capital stock of said company shall have been subscribed, the books shall be closed, and the said corporators named in the first section shall forthwith proceed to apportion said capital stock among the subscribers pro rata, and make public proclamation of the number of shares allotted to each, which shall be done and completed on the same day the books are closed: *Provided further,* That nothing shall be received in payment of the twenty-five per centum at the time of subscribing except money. And when the books of subscription to the capital stock of said company shall be closed, the corporators named in the first section, or a majority of them, and in case any of them refuse or neglect to act, then a majority of the remainder, shall, within ten days thereafter, call the first meeting of the stockholders of said company, to meet within ten days thereafter, for the choice of directors, of which public notice shall be given for five days in two public newspapers published daily in the city of Washington, or by written or printed personal notice to each stockholder by the clerk of the corporation. And in all meetings of stockholders each share shall entitle the holder to one vote, to be given in person or by proxy.

SEC. 13. *And be it further enacted,* That the government and direction of the affairs of the company shall be vested in a board of directors, seven in number, who shall be stockholders, and who shall hold their office for one year, and until others are duly elected and qualified to take their places as directors. And the said directors (a majority of whom, the president being one, shall be a quorum) shall elect one of their number to be president of the board, who shall also be president of the company; and they shall also choose a treasurer, who shall give bonds with surety to said company, in such sum as the said directors may require, for the faithful discharge of his trust. In case of a vacancy in the board of directors by the death, resignation, or otherwise of any director the vacancy occasioned thereby shall be filled by the remaining directors.

SEC. 14. *And be it further enacted,* That the directors shall have full power to make and prescribe such by-laws, rules, and regulations as they shall deem needful and proper, tending the disposition and management of the stock, property, estate, and effects of the company, not contrary to the charter, or to the laws of the United States and the ordinances of the city and county of Washington: *Provided,* That the directors of said corporation shall have power to require the subscribers to the capital stock to pay the amount by them respectively subscribed at such time, after the first installment, in such manner and in such amounts as they may deem proper; and if any stockholder shall refuse or neglect to pay any

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installments, as required by a resolution of the board of directors, after reasonable notice of the same, the said board of directors may sell at public auction, to the highest bidder, so many shares of said stock as shall pay said installments, (and the highest bidder shall be taken to be the person who offers to purchase the least number of shares for the assessment due,) under such general regulations as may be adopted in the by-laws of said corporation, or may sue for or collect the same in any court of competent jurisdiction.

SEC. 15. *And be it further enacted*, That there shall be an annual meeting of the stockholders for choice of directors, to be holden at such time and place, under such conditions, and upon such notice as the said company in their by-laws may prescribe; and said directors shall annually make a report, in writing, of their doings to Congress and to the stockholders.

SEC. 16. *And be it further enacted*, That the mayor, council of said city, and the levy court of said county, and the several officers of these corporations, and the said corporations, are hereby prohibited from doing any act or thing to hinder, delay, or obstruct the construction or operations of said railway, as herein authorized.

SEC. 17. *And be it further enacted*, That the said company shall have at all times the free and uninterrupted use of the road-way. And if any person or persons shall willfully and unnecessarily obstruct or impede the passage or destroy the cars, depot stations, or any other property belonging to said railway company, the person or persons so offending shall forfeit and pay for each such offense the sum of ten dollars to said company, to be recovered and disposed of as other fines and penalties in said city or county; and shall remain liable, in addition to said penalty, for any loss or damage occasioned by his, her, or their act, as aforesaid; but no suit shall be brought unless commenced within sixty days after such offense shall have been committed.

SEC. 18. *And be it further enacted*, That unless said corporation shall make and complete their said railway or railways between Pennsylvania avenue and Boundary street within eight months after the company shall have been organized, then this act shall be null and void, and no rights whatsoever shall be acquired under it; and that the remainder of said road shall be completed within four years to its proposed terminus in the county of Washington.

SEC. 19. *And be it further enacted*, That there shall be no regulations excluding any person from any car on account of color.

SEC. 20. *And be it further enacted*, That each of the stockholders in the "Connecticut Avenue and Park Railway Company" shall be individually liable for all the debt[s] and liabilities of said company to an amount equal to the amount of stock held by such stockholder.

SEC. 21. *And be it further enacted*, That it shall be the duty of said company, when said road is completed between Pennsylvania avenue and Boundary street, to have prepared tickets for passengers on their cars, and to keep them at their office for sale by the package, at the rate of ten for fifty cents, and twenty for one dollar.

SEC. 22. *And be it further enacted*, That all the provisions of the act incorporating the Washington and Georgetown Railroad Company, requiring reports of expenditures, earnings, and otherwise, shall be applicable to the company herein incorporated, which shall make reports as in said act required.

SEC. 23. *And be it further enacted*, That all acts and parts of acts heretofore passed, which are inconsistent with any of the provisions of this act, are, for the purposes of this act, hereby repealed, so far as the same are inconsistent herewith.

APPROVED, July 13, 1868.

CHAP. CXXI.—An Act to Incorporate the National Hotel Company, of Washington City.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That George H. Calvert, R. C. Weightman, James C. McGuire, Zeph English, George H. Calvert, jr., and Charles B. Calvert, their associates, successors, and assigns, are hereby created a body corporate and politic by the name of the National Hotel Company, in the city of Washington, in the District of Columbia, and by that name they are made capable of taking, holding, managing, improving, purchasing, leasing, for the sole purpose of erecting and maintaining a hotel as aforesaid, real and personal estate within said city of Washington, not exceeding five hundred thousand dollars in value; said corporation to have a common seal, and the same may break, alter, and renew at pleasure; may prosecute and defend suits before all proper courts and tribunals; may make and ordain by-laws for the government of said corporation, and may have and enjoy all of those privileges and be subject to all of the liabilities which corporations for the holding, management, and improvement of real estate in the city of Washington, in the United States, usually enjoy or are made subject to.

SEC. 2. *And be it further enacted*, [That] the capital stock of the said company shall not be less than two hundred and twenty-seven thousand dollars, be divided into shares of five hundred dollars each, and shall be deemed personal estate, and be transferable upon the books of the said corporation.

SEC. 3. *And be it further enacted*, [That] the officers of the said corporation shall consist of a president and treasurer, with a board of directors, of whom the president and treasurer may be members, but the number of the directors may be fixed by the shareholders in the by-laws of the corporation. The president shall preside at the meetings of the corporation, sign certificates of the stock issued to stockholders, and shall have a general oversight over the business and affairs of the corporation; the treasurer shall safely keep and disburse all of the moneys of the corporation under the direction of the board of directors; the directors shall manage and control the property of the corporation, and make contracts in relation thereto; the treasurer, or other officer appointed by the by-laws, shall keep the records of the transactions of the corporation, and shall countersign the certificates of stock issued to the stockholders.

SEC. 4. *And be it further enacted*, [That] all the officers of the said corporation shall hold their offices for one year, and until their successors are elected and qualified to act, unless they shall be sooner removed by the directors. The first meeting of the corporation may be called by any person named herein by giving previous notice of not less than five days, to all the other persons herein named, of the time and place of such meeting. The annual meetings hereafter shall be called by the treasurer or other officer designated by the board, and be held in the city of Washington, at the National Hotel building, on the first Wednesday in January in each year, notice of which shall be sent to the post office address of each stockholder for ten days before the time for the holding of such meeting; and special meetings of the corporation may be called in the manner and time to be prescribed by the stockholders.

SEC. 5. *And be it further enacted*, That each stockholder shall be individually liable for the debts of the corporation to the amount of stock held by each respectively; and Congress hereby reserves the right to amend, alter, or repeal this charter at pleasure.

APPROVED, July 13, 1868.

CHAP. CXXII.—An Act to amend the Act of third March, eighteen hundred and sixty-five, providing for the construction of certain Wagon-Roads in Dakota Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the unexpended balance of an appropriation made March third, eighteen hundred and sixty-five, for the construction of certain wagon-roads in the Territory of Dakota, as shall not exceed the sum of six thousand five hundred dollars, be, and the same is hereby, applied to the completion of the bridge over the Dakota river, on the line of the Government road leading from Sioux City, in the State of Iowa, to the mouth of the Cheyenne river, in Dakota Territory.

APPROVED, July 13, 1868.

CHAP. CXXIII.—An Act to provide for Certain Claims against the Department of Agriculture.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be authorized to audit the claims included in the schedule following, to wit: W. L. Ellison, one dollar and fifty cents; C. C. Anderson, seven dollars and fifty cents; M. W. Beverage, one hundred and fifty dollars; W. O. Berry, six dollars and forty-seven cents; J. H. Bourne, thirty-five dollars; John Bell, twenty-two dollars; C. J. Brewer, eighty-five dollars; E. Baker, seven dollars; T. L. Bogges, four dollars and fifty cents; J. A. Blake, four dollars; Baltimore Journal of Commerce and Price Current, fifteen dollars; George Brown, one dollar and thirteen cents; L. C. Campbell, two hundred and fifty dollars and sixty-nine cents; G. B. Carrow, eighty-five dollars; Cruik and Campbell, twenty dollars; Carter, Yates, and Wiswell, sixty-three dollars and twenty-five cents; F. W. Cristern, two dollars; H. L. Chapin, six dollars and fifty cents; Craigen and Clever, five dollars; Collins, Alderson, and Company, eleven thousand seven hundred and thirty-three dollars and eleven cents; William B. Dana, five dollars; R. P. Eaton and Company, one dollar and fifty cents; Espey and Burdoff, sixty-two dollars; Samuel S. Foss, two dollars; Fisher and Schneffer, ten dollars and ninety cents; Nathaniel B. Fugitt, three hundred and sixty-four dollars and forty-one cents; Fowler and Company, one hundred and fifty-three dollars and twenty-nine cents; Z. D. Gilman, twenty-two dollars; William Hacker, six thousand seven hundred and ninety-nine dollars and forty cents; Hovey and Company, eighty-three cents; International Exchange, (J. Mudie, agent,) two dollars; Irving and Willey, three hundred and ninety-seven dollars and thirty-five cents; Journal of Commerce, seventeen dollars; A. J. Joice and Company, forty-eight dollars and thirteen cents; Aug. Jordan, twenty-five dollars; J. Knox, fifteen dollars and fifty cents; J. M. Kuester, two dollars; J. F. Luhme and Company, three hundred and ninety-one dollars and five cents; Linton and Company, forty-five dollars; A. M. Lawza, six dollars in gold; D. T. Moore, three dollars; Pascal Morris, thirteen thousand two hundred and twenty-three dollars and sixty-six cents; J. Markriter, ten dollars; W. B. Moses, three hundred and sixteen dollars and sixty-five cents; Myers and McGhan, twenty-five dollars and twenty-five cents; J. W. Marlin, eighty-six dollars and ninety-eight cents; E. Matlack, twenty-five cents; Munn and Company, three dollars; National Intelligencer, sixteen dollars; Plant and Brother, two dollars; Z. Pratt, ten dollars; Philp and Solomons, fifteen dollars; F. and J. Rives, five dollars; William Smith, six dollars; John Saul, forty-five dollars and sixty-five cents;

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H. A. Swasey and Company, three dollars; Schaeffer and Karadi, sixty-seven dollars and seventy cents; W. B. Smith and Company, four dollars; E. W. Stewart, sixty dollars; E. Slade, thirty dollars; Stevens Brothers, (London,) fifty-eight dollars and twenty cents; Sibley and Guy, forty-four dollars and ninety-seven cents; J. Turner, one dollar; R. O. Thompson, fifteen dollars; Charles S. Taft, one hundred and twenty-eight dollars and forty-seven cents; J. E. Tilton and Company, three dollars; Andrieux, Vilmorin, and Company, twelve dollars and seventy cents; T. B. Winner, one dollar and fifty cents; William Wood and Company, twenty-nine dollars; J. B. Ward, thirty-five dollars and thirty-eight cents; G. E. Woodward, two dollars and fifty cents; Samuel Wagner, two dollars; J. F. Wright, one dollar; A. H. Young, forty-eight dollars and seventeen cents; Paschal Morris, twenty dollars; A. S. Yorke, sixty-five dollars and twenty cents; Stevens and Brother, (London Magazine,) eighty dollars; James Sheehy, six dollars and fifty cents; R. O. Thompson, eighty dollars; W. C. Lodge, thirty-five dollars; James S. Lippencott, four hundred and twenty-eight dollars; J. F. Walfinger, forty-seven dollars and fifty cents; Samuel Ringwalt, one hundred and four dollars; William H. Gardner, twenty dollars; G. Hubart Bates, thirty-seven dollars and fifty cents; William W. Bates, two hundred and four dollars; H. D. Dunn, two hundred and thirty-two dollars; X. A. Willard, one hundred and ninety-two dollars; N. B. Cloud, twenty-eight dollars; S. F. Baird, twenty dollars; H. F. French, one hundred and forty-nine dollars and fifty cents; C. W. Howard, sixty-seven dollars and fifty cents; John White, fifteen dollars and fifty-six cents; Henry A. Dreer, one hundred and sixty-three dollars and seventy-five cents; Israel S. Diehl, nine hundred dollars; and to allow so much of the same as shall appear upon due proof under oath to be due and unpaid for goods delivered and services rendered to the Department of Agriculture upon contracts made by the Commissioner prior to the first day of July, eighteen hundred and sixty seven, [and] for the payment of the same, forty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That if any Commissioner or other officer of the Department of Agriculture shall hereafter, in the name of the United States, or in the name of said Department, contract for any goods or services for the use thereof beyond the amount of money appropriated and remaining in his or their hands unexpended at the time of such contract, the officers so offending shall be deemed guilty of a misdemeanor in office, and upon conviction thereof shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding two years, or both, at the discretion of the court.

APPROVED, July 13, 1868.

CHAP. CLXXV.—An Act to create the Office of Surveyor General in the Territory of Utah, and establish a Land Office in said Territory, and extend the Homestead and Preemption Laws over the same.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President, by and with the advice [and consent] of the Senate, shall be, and he is hereby, authorized to appoint a surveyor general for the Territory of Utah, whose annual salary shall be three thousand dollars, and whose power, authority, and duties shall be the same as those provided by law for the surveyor general of Oregon. He shall have proper allowances for clerk hire, office rent, and fuel, not exceeding what is now allowed by law to the surveyor general of Oregon.

SEC. 2. *And be it further enacted*, That the public lands of the United States within said Territory of Utah, shall constitute a new land district, to be called the Utah district; and the President is hereby authorized to appoint, by and with the advice and consent of the Senate, a register and receiver of public money for said district, who shall be required to reside at the places at which said offices shall be located, and they shall have the same powers, perform the same duties, and be entitled to the same compensation as are or may be prescribed by law in relation to land offices of the United States in other Territories.

SEC. 3. *And be it further enacted*, That the Secretary of the Interior is hereby authorized to locate said offices of surveyor general and register and receiver of public moneys at some suitable place or places in said Territory.

SEC. 4. *And be it further enacted*, That the preemption, homestead, and other laws of the United States applicable to the disposal of the public lands are hereby extended over said district.

APPROVED, July 16, 1868.

CHAP. CLXXVI.—An Act making Appropriations for the Legislative, Executive, and Judicial Expenses of the Government, for the year ending the thirtieth of June, eighteen hundred and sixty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the objects hereinafter expressed, for the fiscal year ending the thirtieth of June, eighteen hundred and sixty-nine, namely:

LEGISLATIVE.

Senate.

For compensation and mileage of Senators, three hundred and twenty thousand dollars, in addition to any unexpended balance of appropriation for that purpose in the Treasury.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the Senate, viz.: Secretary of the Senate, four thousand three hundred and twenty dollars; officer charged with disbursements of the Senate, five hundred and seventy-six dollars; chief clerk, three thousand dollars; principal clerk and principal executive clerk in the office of the Secretary of the Senate, at two thousand five hundred and ninety-two dollars each; eight clerks in office of the Secretary of the Senate, at two thousand two hundred and twenty dollars each; keeper of the stationery, two thousand one hundred and two dollars and forty cents; two messengers, at one thousand two hundred and ninety-six dollars each; one page, at seven hundred and twenty dollars; Sergeant-at-Arms and Doorkeeper, two thousand four hundred dollars; assistant doorkeeper, two thousand and forty dollars; Postmaster of the Senate, two thousand one hundred dollars; assistant postmaster and mail carrier, one thousand seven hundred and twenty-eight dollars; two mail boys, at one thousand two hundred dollars each; superintendent of the document-room, one thousand eight hundred dollars; two assistants in document-room, at one thousand four hundred and forty dollars each; superintendent of the folding-room, one thousand eight hundred dollars; three messengers, acting as assistant doorkeepers, at one thousand eight hundred dollars each; seventeen messengers, at one thousand four hundred and forty dollars each; clerk or secretary to the President of the Senate, two thousand one hundred and two dollars and forty cents; clerk to the Committee on Finance, two thousand two hundred and twenty dollars; clerk to the Committee on Claims, two thou-

sand two hundred and twenty dollars; clerk to the Committee on Printing Records, two thousand two hundred and twenty dollars; clerk to the Committee on Appropriations, two thousand two hundred and twenty dollars; superintendent in charge of the furnaces, one thousand four hundred and forty dollars; assistant in charge of furnaces, eight hundred and sixty-four dollars; laborer in charge of private passages, eight hundred and sixty-four dollars; two laborers, at eight hundred and sixty-four dollars each; Chaplain to the Senate, nine hundred dollars; one special policeman, one thousand dollars; making one hundred thousand nine hundred and twenty dollars and eighty cents.

For contingent expenses of the Senate, viz.:

For stationery, ten thousand dollars.

For newspapers and stationery for seventy-four Senators, to the amount of one hundred and twenty-five dollars each, nine thousand two hundred and fifty dollars.

For Congressional Globe and Appendix, twenty thousand dollars.

For reporting and printing the proceedings in the Daily Globe for the third session of the Fortieth Congress, fifteen thousand dollars.

For the usual additional compensation to the reporters of the Senate for the Congressional Globe for reporting the proceedings of the Senate for the third session of the Fortieth Congress, eight hundred dollars each, four thousand dollars.

For paying the publishers of the Congressional Globe and Appendix, according to the number of copies taken, one cent for every five pages exceeding fifteen hundred, including the indexes and the laws of the United States, ten thousand dollars.

For clerks to committees, pages, horses, and carryalls, twenty-five thousand dollars.

For expenses of heating and ventilating apparatus, including coal, wood, and labor, twenty thousand dollars.

For plumbing, gas-fitting and labor, five thousand dollars.

For packing-boxes for Senators, one thousand dollars.

For furniture and carpets, ten thousand dollars.

For additional laborers and messengers, five thousand dollars.

For folding documents and materials, twenty thousand dollars.

For miscellaneous items, twenty-five thousand dollars.

House of Representatives.

For compensation and mileage of members of the House of Representatives and Delegates from Territories, one million one hundred thousand dollars.

For compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives, viz.: Clerk of the House of Representatives, four thousand three hundred and twenty dollars; chief clerk and one assistant clerk, at two thousand five hundred and ninety-two dollars each, five thousand one hundred and eighty-four dollars; twelve assistant clerks, (including the Librarian,) at two thousand one hundred and sixty dollars each, twenty-five thousand nine hundred and twenty dollars; one chief messenger, and clerk to the Speaker, at five dollars and seventy-six cents per day each, four thousand two hundred and four dollars and eighty cents; for three messengers, at one thousand four hundred and forty dollars each, four thousand three hundred and twenty dollars; one engineer, eighteen hundred dollars; three assistant engineers, at one thousand four hundred and forty dollars each, four thousand three hundred and twenty dollars; six firemen, at two dollars and forty cents each per day, five thousand two hundred and fifty-

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six dollars; for clerk to Committee of Ways and Means, two thousand five hundred and ninety-two dollars; clerk to Committee on Appropriations, two thousand five hundred and ninety-two dollars; clerk to the Committee on Public Lands, two thousand one hundred and sixty dollars; clerk to Committee on Claims, two thousand one hundred and sixty dollars; Sergeant-at-Arms, two thousand five hundred and ninety-two dollars; clerk to the Sergeant-at-Arms, two thousand one hundred and sixty dollars; messenger to the Sergeant-at-Arms, one thousand four hundred and forty dollars; Doorkeeper, two thousand five hundred and ninety-two dollars; first assistant doorkeeper, two thousand five hundred and ninety-two dollars; Postmaster, two thousand five hundred and ninety-two dollars; first assistant postmaster, two thousand and eighty-eight dollars; five messengers, at one thousand seven hundred and twenty-eight dollars each; two mail boys, at one thousand and eighty dollars each; Chaplain of the House, nine hundred dollars; two stenographers, four thousand three hundred and eighty dollars each; superintendent of folding-room, two thousand one hundred and sixty dollars; superintendent and assistant of the document-room at five dollars and seventy-six cents per day each, four thousand two hundred and five dollars and eighty cents; eleven messengers, five at eighteen hundred dollars, and six at fourteen hundred and forty dollars; twelve messengers during the session, at the rate of fourteen hundred and forty dollars per annum, six thousand five hundred and twenty dollars.

CAPITOL POLICE.

For one captain, two thousand and eighty-eight dollars; two lieutenants, at eighteen hundred dollars each, thirty-six hundred dollars; thirty privates, at fifteen hundred and eighty-four dollars each, forty-seven thousand five hundred and twenty dollars; twelve watchmen, at one thousand dollars each, twelve thousand dollars; one superintendent in the crypt, fourteen hundred and forty dollars; uniforms, forty-six hundred dollars; contingent expenses, five hundred dollars; making in all, seventy-one thousand seven hundred and forty-eight dollars; one half to be paid into the contingent fund of the Senate and the other half into the contingent fund of the House of Representatives: *Provided*, That after the thirtieth day of June, eighteen hundred and sixty-nine, members of the Capitol police shall furnish at their own expense each his own uniform, which shall be in exact conformity to that required by regulations; and all provisions of law requiring an appropriation for such uniforms are hereby repealed.

For contingent expenses of the House of Representatives, viz.:

For cartage, three thousand eight hundred dollars.

For clerks to committees and temporary clerks of the House of Representatives, twenty-six thousand three hundred dollars.

For twenty-four copies of the Congressional Globe and Appendix for each member and Delegate of the third session of the Fortieth Congress, and one hundred copies of the same for the House library, twenty-five thousand two hundred and fifty dollars, or so much thereof as may be necessary.

For paying the publishers of the Congressional Globe and Appendix, according to the number of copies taken, one cent for every five pages exceeding fifteen hundred, including the indexes and the laws of the United States, nine thousand five hundred dollars.

To enable the Secretary of the Interior to purchase of Messrs. Little, Brown, & Company two thousand copies of the fourteenth volume of the United States Statutes-at-Large, for distribution agreeably to the acts of Congress directing the distribution of the other volumes, seven thousand dollars.

For folding documents, including materials, forty-two thousand dollars.

For fuel and lights, including plumbing, gas-fitting, repairs, and materials, fifteen thousand dollars.

For furniture, repairs, and packing-boxes, thirty thousand dollars.

For horses and carriages for the transportation of mails and for the use of messengers, ten thousand dollars.

For laborers, eight thousand dollars.

For miscellaneous items, seventy thousand dollars.

For stationery and newspapers for two hundred and fifty members and Delegates, to the amount of one hundred and twenty-five dollars each, thirty-one thousand two hundred and fifty dollars.

For twenty-five pages and three temporary mail-boys, six thousand seven hundred and twenty dollars.

For reporting and publishing proceedings in the Daily Globe, sixteen thousand dollars.

For stationery, fifteen thousand dollars: *Provided*, That the Postmaster of the House shall account to the Clerk of the House, at the end of each session of Congress, for all stationery by him received and distributed.

For the usual additional compensation to the reporters of the House for the Congressional Globe for reporting the proceedings of the House for the third session of the Fortieth Congress, eight hundred dollars each, four thousand eight hundred dollars.

PUBLIC PRINTING.

For compensation of the Congressional Printer, and of the clerks and messengers in his office, twelve thousand five hundred and fourteen dollars: *Provided*, That the salary of the foreman of binding in the Government Printing Office shall hereafter be eighteen hundred dollars per annum.

For contingent expenses of his office, viz.: for stationery, postage, advertising, furniture, traveling expenses, horses and wagons, and miscellaneous items, fifteen hundred dollars.

For the public printing, three hundred and ninety-nine thousand four hundred and twenty-two dollars and forty-seven cents.

For paper for the public printing, four hundred thousand dollars.

For the public binding, three hundred and sixteen thousand two hundred and twenty dollars and thirty-two cents.

For lithographing and engraving for the Senate and House of Representatives, eighty-five thousand dollars: *Provided*, That the female employes in the Government Printing Office shall be entitled to twenty per centum additional upon their present pay, and the necessary amount is hereby appropriated to pay the same.

LIBRARY OF CONGRESS.

For compensation of the Librarian, two thousand five hundred and ninety-two dollars.

For three assistant librarians, at two thousand one hundred and sixty dollars each, six thousand four hundred and eighty dollars.

For two assistant librarians, one at one thousand two hundred dollars, and one at one thousand one hundred and fifty-two dollars, two thousand three hundred and fifty-two dollars.

For one messenger, one thousand seven hundred and twenty-eight dollars.

For three laborers, at eight hundred and sixty-four dollars each, two thousand five hundred and ninety-two dollars.

For three assistant librarians, at fourteen hundred and forty dollars each, four thousand three hundred and twenty dollars.

For contingent expenses of said Library, two thousand dollars.

For purchase of books for said Library, eight thousand dollars.

For purchase of law books for said Library, two thousand dollars.

For purchase of files of periodicals and newspapers, one thousand five hundred dollars.

For Botanic Garden, grading, draining, procuring manure, tools, fuel, and repairs, and purchasing trees and shrubs, under the direction of the Library Committee of Congress, five thousand four hundred dollars.

For pay of superintendents and assistants in Botanic Garden and green-houses, under the direction of the Library Committee of Congress, eleven thousand two hundred and ninety-six dollars.

For the expenses of exchanging public documents for the publications of foreign Governments, as provided by resolution approved March second, eighteen hundred and sixty-seven, fifteen hundred dollars.

COURT OF CLAIMS.

For salaries of five judges of the Court of Claims, the solicitor, assistant solicitor, deputy solicitor, chief clerk and assistant clerk, bailiff, and messenger thereof, thirty-seven thousand three hundred dollars.

For compensation of attorneys to attend to taking testimony, witnesses, and commissioners, two thousand five hundred dollars.

For payment of judgments which may be rendered by the court in favor of claimants, one hundred thousand dollars.

EXECUTIVE.

For compensation of the President of the United States, twenty-five thousand dollars.

For compensation to the Vice President of the United States, from March fourth to June thirtieth, eighteen hundred and sixty-nine, two thousand six hundred and twenty-two dollars and twenty-two cents.

For compensation of secretary to sign patents for public lands, one thousand five hundred dollars.

For compensation to the Private Secretary, assistant secretary, who shall be a short-hand writer, two clerks of class four, steward, and messenger of the President of the United States, twelve thousand five hundred dollars: *Provided*, That so much of the fourth section of the act of July twenty-three, eighteen hundred and sixty-six, making appropriations for legislative, executive, and judicial expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-seven, as authorizes the President of the United States to appoint a clerk of pardons, and one clerk of the fourth class, is hereby repealed.

For contingent expenses of the executive office, including stationery therefor, three thousand dollars.

PUBLIC BUILDINGS AND GROUNDS.

For salary of the warden of the jail in the District of Columbia, two thousand dollars.

For compensation to the laborer in charge of the water-closets in the Capitol, seven hundred and twenty dollars.

For compensation of four laborers in the Capitol, two thousand eight hundred and eighty dollars.

For compensation to the public gardener, one thousand four hundred and forty dollars.

For compensation of a foreman and twenty-one laborers employed in the public grounds, nineteen thousand two hundred and ninety-six dollars.

For compensation of two watchmen at the President's House, one thousand eight hundred dollars.

For compensation of the doorkeeper at the President's House, one thousand dollars.

For compensation of five watchmen in reservation number two, five thousand dollars.

For compensation of draw-keepers at the Potomac bridge, and for fuel, oil, and lamps, five thousand dollars.

For compensation of two draw-keepers at the two bridges across the Eastern Branch of the Potomac, and for fuel, oil, and lamps, one thousand three hundred and ninety-six dollars.

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For compensation of furnace-keeper under the old Hall of the House of Representatives, eight hundred and sixty-four dollars.

For compensation of furnace-keeper at the President's House, seven hundred and twenty dollars.

For clerk in the Office of Public Buildings, one thousand two hundred dollars.

For messenger in the same office, one thousand dollars.

For two policemen at the President's House, two thousand six hundred and forty dollars.

For compensation of the person in charge of the heating apparatus of the Library of Congress, and Supreme Court room, one thousand dollars.

For electrician for the Capitol, one thousand two hundred dollars.

DEPARTMENT OF STATE.

For compensation of the Secretary of State, Second Assistant Secretary of State, and Examiner of Claims: *Provided*, That the office of Examiner of Claims shall be abolished on the thirtieth day of June, eighteen hundred and sixty-nine; and Assistant Secretary of State, for chief clerk, eight clerks of class four, additional to one clerk of class four as disbursing clerk, nine clerks of class three, three clerks of class two, three clerks of class one, one messenger, one assistant messenger, and seven laborers, sixty-three thousand eight hundred and eighty dollars: *Provided*, That the third section of the act of August eighteen, eighteen hundred and fifty-six, entitled "An act to amend an act entitled 'An act requiring foreign regulations of commerce to be laid annually before Congress,' approved August sixteen, eighteen hundred and forty-two, and for other purposes," be, and the same is hereby, repealed.

For the Incidental and Contingent Expenses of the Department of State.

For publishing the laws in pamphlet form and in newspapers of the States and Territories, and in the city of Washington, forty thousand dollars.

For proof-reading, and packing the laws and documents for the various legations and consulates, including boxes and transportation of the same, three thousand dollars.

For stationery, blank books, furniture, fixtures, and repairs, two thousand five hundred dollars.

For miscellaneous items, two thousand five hundred dollars.

For copper-plate printing, books, and maps, five thousand dollars.

For extra clerk hire and copying, five thousand dollars.

For the General Purposes of the Building occupied by the State Department.

For compensation of four watchmen and two laborers of the building, four thousand three hundred and twenty dollars.

For contingent expenses of said building, viz.: For rent, fuel, lights, repairs, and miscellaneous expenses, twenty-five thousand dollars.

TREASURY DEPARTMENT.

For compensation of the Secretary of the Treasury, two Assistant Secretaries of the Treasury, chief clerk, eleven clerks of class four, additional to one clerk of class four as disbursing clerk, twelve clerks of class three, fourteen clerks of class two, two clerks of class two, (transferred from the Third Auditor's office,) fifteen clerks of class one, (two of whom were transferred from the Third Auditor's office,) one messenger, one assistant messenger, and three laborers, one hundred and one thousand eight hundred dollars.

In the Construction Branch of the Treasury.

For supervising architect, three thousand dollars; assistant supervising architect, two thousand dollars; for two clerks of class four, three thousand six hundred dollars; for four clerks of class three, six thousand four hundred

dollars; for two clerks of class one, two thousand four hundred dollars; and one messenger, seven hundred and twenty dollars; in all, eighteen thousand one hundred and twenty dollars; and the clause in act of March fourteen, eighteen hundred and sixty-four, providing for the officers, clerks, and messengers in the construction branch of the Treasury Department, is hereby continued in force until July one, eighteen hundred and sixty-nine, and no longer.

For First Comptroller of the Treasury, chief clerk, six clerks of class four, eight clerks of class three, seven clerks of class two, (three of them transferred from Third Auditor's office,) two clerks of class one, one messenger, and two laborers, in all, forty-three thousand seven hundred and forty dollars.

For Second Comptroller of the Treasury, chief clerk, twelve clerks of class four, twenty clerks of class three, twenty-eight clerks of class two, (one of them transferred from the Third Auditor's office,) twenty-one clerks of class one, twelve copyists, one messenger, one assistant messenger, and two laborers, in all, one hundred and thirty-seven thousand dollars.

For Commissioner of Customs, chief clerk, two clerks of class four, six clerks of class three, nine clerks of class two, seven clerks of class one, one messenger, and one laborer, in all, forty thousand nine hundred and twenty dollars.

For First Auditor of the Treasury, chief clerk, three clerks of class four, eight clerks of class three, six clerks of class two, five clerks of class one; also, two clerks of class three, four clerks of class two, and eight clerks of class one, (transferred from the offices of the Third Auditor and the Solicitor,) one messenger and one assistant messenger, and one laborer, in all, fifty-seven thousand five hundred and sixty dollars.

For compensation of the Second Auditor, chief clerk, six clerks of class four, fifty-four clerks of class three, one hundred and eight clerks of class two, two hundred and twelve clerks of class one; also, one clerk of class two and one clerk of class one, (transferred from the Third Auditor's office,) one messenger, five assistant messengers, and seven laborers, in all, five hundred and twenty thousand six hundred and forty dollars.

For compensation of the Third Auditor, chief clerk, thirteen clerks of class four, for additional to one clerk of class four as disbursing clerk, thirty-two clerks of class three, ninety-seven clerks of class two, one hundred and twenty clerks of class one, ten copyists, three messengers, two assistant messengers, and seven laborers, employed in his office, in all, three hundred and seventy-seven thousand eight hundred and eighty dollars.

For compensation of the Fourth Auditor, chief clerk, five clerks of class four, eighteen clerks of class three, sixteen clerks of class two, thirty-six clerks of class one, one messenger, one assistant messenger, and one laborer, employed in his office, in all, one hundred and ten thousand nine hundred and sixty dollars.

For compensation of the Fifth Auditor, chief clerk, two clerks of class four, four clerks of class three, seven clerks of class two, fifteen clerks of class one, six copyists, one messenger, and one laborer, employed in his office, in all, forty-nine thousand nine hundred and twenty dollars.

For compensation of the Auditor of the Treasury, for the Post Office Department, chief clerk, nine clerks of class four, (additional to one clerk of class four as disbursing clerk,) forty clerks of class three, sixty-four clerks of class two, thirty-seven clerks of class one, one messenger, one assistant messenger, and eleven laborers, employed in his office, in all, two hundred and twenty-nine thousand one hundred and sixty dollars.

For compensation of the Treasurer of the

United States, Assistant Treasurer, cashier, assistant cashier, five chiefs of division, two principal bookkeepers, two tellers, one chief clerk, two assistant tellers, fifteen clerks of class four, fifteen clerks of class three, eleven clerks of class two, nine clerks of class one, sixty female clerks, fifteen messengers, five male and seven female laborers, employed in his office, in all, one hundred and ninety-one thousand four hundred and sixteen dollars.

For compensation of the Register of the Treasury, assistant register, chief clerk, five clerks of class four, thirteen clerks of class three, twenty-five clerks of class two, (one of which transferred from Third Auditor's office,) eleven clerks of class one, one messenger, two assistant messengers, and two laborers, employed in his office, in all, eighty-nine thousand one hundred and twenty dollars.

For compensation of the Solicitor of the Treasury, assistant solicitor, chief clerk, one clerk of class four, three clerks of class three, three clerks of class two, (one of which transferred from the Third Auditor's office,) one clerk of class one, one messenger, and one laborer, employed in his office, in all, twenty-two thousand one hundred dollars.

For compensation of the chief clerk of the Light-House Board, two clerks of class three, one clerk of class two, one clerk of class one, one messenger, and one laborer, employed in his office, in all, nine thousand five hundred and twenty dollars.

For Comptroller of the Currency, deputy comptroller, clerks, messengers, and laborers, employed in his office, in all, eighty thousand dollars.

For paper, special dies, printing circulating notes, express charges, and all expenses necessarily incurred in procuring the same, in above office, one hundred thousand dollars.

For Commissioner of Internal Revenue, three deputy commissioners, one solicitor, seven heads of divisions, thirty-four clerks of class four, forty-five clerks of class three, fifty clerks of class two, thirty-seven clerks of class one, fifty-five female clerks, five messengers, three assistant messengers, and fifteen laborers, employed in his office, in all, three hundred and forty-nine thousand four hundred and fifty dollars: *Provided*, That until a solicitor is appointed in accordance with law, no part of the moneys hereby appropriated shall be applied in payment of services properly pertaining to such office.

For rent, dies, paper, for stamps and incidental expenses, including the cost of subscriptions for such number of copies of the Internal Revenue Record and Customs Journal as the Secretary of the Treasury may deem necessary to supply the revenue officers, one hundred and fifty thousand dollars.

For salaries and expenses of collectors, assessors, assistant assessors, revenue agents, inspectors, and superintendents of exports and drawbacks, together with the expenses of carrying into effect the various provisions of the several acts providing internal revenue, excepting items otherwise estimated for, six million dollars.

For detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws, or conniving at the same, in cases where such expenses are not otherwise provided for by law, one hundred thousand dollars.

For Incidental and Contingent Expenses of the Treasury Department.

In the office of the Secretary of the Treasury and the several bureaus, including copying, labor, binding, sealing ships' registers, translating foreign languages, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress, and for miscellaneous items, fifty thousand dollars. And it shall be the duty of the Secretary to lay before the House of Representatives, annually,

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with his report of receipts and expenditures, a statement in detail of the disbursements made from the sum hereby appropriated. But the Special Commissioner of the Revenue shall, after the first of January, eighteen hundred and sixty-nine, under the direction of the Secretary of the Treasury, act as superintendent of the division in the office of said Secretary created by the thirteenth section of the act approved July twenty-eight, eighteen hundred and sixty-six, entitled "An act to protect the revenue, and for other purposes," and called the Bureau of Statistics; and the Secretary of the Treasury may appoint one division clerk, at the same salary as the head of division, in the office of the Commissioner of Internal Revenue, who shall act as deputy to said Special Commissioner of the Revenue in respect to the said bureau, and exercise in his absence all powers belonging to him as such superintendent, except the franking privilege; and the office of director of the Bureau of Statistics is hereby abolished after the first of January, eighteen hundred and sixty-nine.

For stationery for the Treasury Department and the several bureaus, seventy-five thousand dollars.

For temporary clerks in the Treasury Department, one hundred thousand dollars: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to classify the clerks according to the character of their services.

For furniture, carpets, and miscellaneous items, for the Treasury bureaus, thirty-five thousand dollars.

For the General Purposes of the Treasury Department Building, including the Extension.

For compensation of twelve watchmen and eleven laborers of the building, sixteen thousand five hundred and sixty dollars.

For contingent expenses of said building, viz.: for fuel, light, labor, and miscellaneous items, seventy-five thousand dollars.

DEPARTMENT OF THE INTERIOR.

For compensation of the Secretary of the Interior, Assistant Secretary, chief clerk, four clerks of class four, additional to three disbursing clerks, three clerks of class three, four clerks of class two, one return clerk, one messenger, two assistant messengers, five watchmen, and three laborers in his office, in all, forty-one thousand five hundred and forty dollars.

General Land Office.

For Commissioner of the General Land Office, recorder, chief clerk, three principal clerks of public lands, private land claims and surveys, three clerks of class four, twenty-three clerks of class three, forty clerks of class two, forty clerks of class one, draughtsman, assistant draughtsman, two messengers, three assistant messengers, two packers, seven laborers, and eight watchmen employed in his office, in all, one hundred and seventy-eight thousand two hundred dollars.

For compensation of additional clerks in the General Land Office under the act of March three, eighteen hundred and fifty-five: for one principal clerk as director, one clerk of class three, four clerks of class two, forty clerks of class one, and two laborers, fifty-eight thousand six hundred and forty dollars.

Indian Office.

For compensation of the Commissioner of Indian Affairs, chief clerk, three clerks of class four, seven clerks of class three, five clerks of class two, one messenger, one assistant messenger, one laborer and two watchmen, employed in his office, in all, thirty-two thousand six hundred dollars.

Pension Office.

For compensation of Commissioner of Pensions, chief clerk, twelve clerks of class four, thirty clerks of class three, fifty-two clerks of

class two, fifty clerks of class one, one messenger and three assistant messengers, five laborers and one watchman, employed in his office, two hundred and fifteen thousand two hundred and forty dollars. And the eight clerks of class four, ten clerks of class three, twelve clerks of class two, and twenty-five clerks of class one, authorized by clause in the act of February twenty-five, eighteen hundred and sixty-three, may be continued until the thirtieth of June, eighteen hundred and sixty-nine, and no longer.

For compensation of additional clerks in the Pension Office, viz.: for ten clerks of class four, eighteen clerks of class three, twenty-four clerks of class two, and twenty-eight clerks of class one, one hundred and fourteen thousand dollars.

For temporary clerks in the Pension Office, twenty thousand dollars.

Incidental and Contingent Expenses—Department of the Interior.

Office of the Secretary of the Interior:

For stationery, furniture, and other contingencies, and for books and maps for the library, ten thousand dollars.

For casual repairs of the Patent Office building, ten thousand dollars.

For expenses of packing and distributing congressional journals and documents, in pursuance of the provisions contained in the joint resolution of Congress, approved twenty-eighth January, eighteen hundred and fifty-seven, and act fifth February, eighteen hundred and fifty-nine, six thousand dollars.

For fuel and lights for the Patent Office building, including the salaries of engineer and assistant engineer of the furnaces and repairs of the heating apparatus, eighteen thousand dollars.

Office of the Commissioner of Indian Affairs:

For blank books, binding, stationery, and miscellaneous items, including two of the daily city newspapers, to be filed, bound, and preserved for the use of the office, five thousand dollars.

Office of the Commissioner of Pensions:

For stationery, engraving, and retouching plates for bounty-land warrants, printing and binding the same, office furniture, and repairing the same, and miscellaneous items, including two daily newspapers, to be filed, bound, and preserved for the use of the office, and for detection and investigation of fraud, forty thousand dollars.

Office of the Commissioner of the General Land Office:

For cash system, maps, diagrams, stationery, furniture and repairs of the same, miscellaneous items, including two of the city newspapers, to be filed, bound, and preserved for the use of the office, for advertising and telegraphing, for miscellaneous items on account of bounty lands and military patents under the several acts, and for contingent expenses under swamp-land act of September twenty-eight, eighteen hundred and fifty, ten thousand dollars.

Surveyors General and their Clerks.

For compensation of the surveyor general of Minnesota, two thousand dollars, and the clerks in his office, two thousand five hundred dollars.

For surveyor general of the Territory of Dakota, two thousand dollars, and the clerks in his office, two thousand five hundred dollars.

For surveyor general of Kansas, two thousand dollars, and the clerks in his office, four thousand dollars.

For surveyor general of Colorado and Utah, three thousand dollars, and for the clerks in his office, four thousand dollars.

For surveyor general of New Mexico, three thousand dollars.

For surveyor general of California and Arizona, three thousand dollars, and for clerks in his office, four thousand five hundred dollars.

For surveyor general of Idaho, three thousand dollars, and for clerks in his office, four thousand dollars.

For surveyor general of Nevada, two thousand five hundred dollars, and the clerks in his office, four thousand dollars.

For the surveyor general of Oregon, two thousand five hundred dollars, and for the clerks in his office, four thousand dollars.

For surveyor general of Washington Territory, two thousand five hundred dollars, and for the clerks in his office, four thousand dollars.

For surveyor general of Nebraska and Iowa, two thousand dollars, and the clerks in his office, four thousand dollars.

For surveyor general of Montana, three thousand dollars, and for the clerks in his office, three thousand dollars.

For recorder of land titles in Missouri, five hundred dollars.

For services of the clerk of the district court of the northern district of Mississippi, as keeper of the records and files of the land office at Pontotoc, Mississippi, from June fourth, eighteen hundred and sixty-six, to June fourth, eighteen hundred and sixty-eight, five hundred dollars; and it is hereby made the duty of said clerk, on the passage of this act, to transfer the records and files aforesaid to the register of the land office at Jackson, Mississippi; and the nineteenth section of the act of March third, eighteen hundred and fifty-three, entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the thirtieth of June, eighteen hundred and fifty-four," be, and the same is hereby, repealed.

[Expenses of Courts of the United States.]

For defraying the expenses of the Supreme Court and district courts of the United States, including the District of Columbia, and also for jurors and witnesses, in aid of the funds arising from fines, penalties, and forfeitures, in the fiscal year ending June thirtieth, eighteen hundred and sixty-nine, and previous years, and likewise for defraying the expenses of suits in which the United States are concerned, including legal assistance to the Attorney General, and other special and extraordinary expenditures in cases of the Supreme Court of the United States in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe-keeping of prisoners, one million dollars.

For compiling and supervising the Biennial Register, five hundred dollars.

WAR DEPARTMENT.

For compensation of the Secretary of War, eight thousand dollars.

For chief clerk, two thousand two hundred dollars.

For four clerks of class four, seven thousand two hundred dollars.

For additional to one clerk of class four, as disbursing clerk, two hundred dollars.

For seven clerks of class three, eleven thousand two hundred dollars.

For three clerks of class two, four thousand two hundred dollars; eight clerks of class one, nine thousand six hundred dollars; one messenger, one thousand dollars; one assistant, at eight hundred and forty dollars; one laborer, at seven hundred and twenty dollars; two assistant messengers, at eight hundred and forty dollars each, sixteen hundred and eighty dollars.

Office of Adjutant General:

For three clerks of class four, five thousand four hundred dollars; nine clerks of class three, fourteen thousand four hundred dollars; twenty-seven clerks of class two, thirty-seven thousand eight hundred dollars.

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For forty clerks of class one, forty-eight thousand dollars.

For three messengers, at one thousand dollars each, three thousand dollars.

Office of Quartermaster General:

For six clerks of class four, ten thousand eight hundred dollars.

For twelve clerks of class three, nineteen thousand two hundred dollars.

For thirty clerks of class two, forty-two thousand eight hundred dollars.

For one hundred and eight clerks of class one, one hundred and twenty-nine thousand six hundred dollars.

For thirty copyists, at nine hundred dollars each, twenty-seven thousand dollars.

For one superintendent of the building occupied by the quartermaster general, two hundred dollars.

For four messengers, at one thousand dollars each, four thousand dollars.

For six laborers, at seven hundred and twenty dollars each, four thousand three hundred and twenty dollars.

Office of Paymaster General:

For chief clerk, two thousand dollars.

For four clerks of class four, seven thousand two hundred dollars.

For one clerk of class three, sixteen hundred dollars.

For three clerks of class three, authorized by clause in the act of February twenty-fifth, eighteen hundred and sixty-three, four thousand eight hundred dollars: *Provided*, That said clerks shall not be continued after the thirtieth of June, eighteen hundred and sixty-nine.

For twenty-six clerks of class two, thirty-six thousand four hundred dollars.

For thirty clerks of class one, at twelve hundred dollars each, thirty-six thousand dollars.

For two messengers, at one thousand dollars each, two thousand dollars.

Office of the Commissary General:

For one clerk of class four, one thousand eight hundred dollars; one clerk of class three, one thousand six hundred dollars.

For fourteen clerks of class two, nineteen thousand six hundred dollars.

For twenty-four clerks of class one, twenty-eight thousand eight hundred dollars.

One messenger, at one thousand dollars.

For two laborers, at seven hundred and twenty dollars each, one thousand four hundred and forty dollars.

Office of the Surgeon General:

For one clerk of class four, one thousand eight hundred dollars; for one clerk of class three, one thousand six hundred dollars; for two clerks of class two, two thousand eight hundred dollars; for fifteen clerks of class one, eighteen thousand dollars; for one messenger, one thousand dollars; one laborer, seven hundred and twenty dollars.

Office of Chief Engineer:

For four clerks of class four, seven thousand two hundred dollars; for four clerks of class three, six thousand four hundred dollars; for five clerks of class two, seven thousand dollars; for three clerks of class one, three thousand six hundred dollars; for two messengers, at one thousand dollars each, two thousand dollars; and one laborer, seven hundred and twenty dollars.

Office of Chief of Ordnance:

For chief clerk, two thousand dollars; three clerks of class four, five thousand four hundred dollars; for two clerk[s] of class three, three thousand two hundred dollars; for six clerks of class two, eight thousand four hundred dollars; for ten clerks of class one, twelve thousand dollars; one messenger, one thousand dollars; two laborers, at seven hundred and twenty dollars each, fourteen hundred and forty dollars.

Office of Military Justice:

For one clerk of class four, one clerk of class three, one clerk of class two, and two clerks of class one, seven thousand two hundred dollars.

Signal Office:

For two clerks of class two, two thousand eight hundred dollars.

Contingent Expenses of the War Department.

Office of the Secretary of War:

For blank books, stationery, labor, books, maps, extra clerk hire, and miscellaneous items, ten thousand dollars.

Office of the Adjutant General:

For blank books, stationery, binding, and miscellaneous items, fifteen thousand dollars.

Office of the Quartermaster General:

For blank books, stationery, binding, and miscellaneous items, ten thousand dollars.

Office of the Paymaster General:

For blank books, stationery, binding, and miscellaneous items, fifteen thousand dollars.

Chief Engineer's office:

For blank books, stationery, binding, and miscellaneous items, three thousand five hundred dollars.

Office of the Surgeon General:

For blank books, stationery, binding, and miscellaneous items, including rent of office, ten thousand dollars.

Office of the Chief of Ordnance:

For blank books, stationery, binding, and miscellaneous items, three thousand dollars.

Office of Military Justice:

For blank books, stationery, binding, and miscellaneous items, one thousand two hundred dollars:

For the General Purposes of the War Department Building.

For compensation of superintendent, four watchmen and two laborers of the building, four thousand five hundred and seventy dollars.

For labor, fuel, light, and miscellaneous items, twenty thousand dollars.

Building Occupied by Paymaster General, Corner of F and Fifteenth streets.

For superintendent, watchmen, rent, fuel, lights, and miscellaneous items, fifteen thousand dollars.

For the General Purposes of the Building Corner of F and Seventeenth Streets.

For compensation of superintendent, four watchmen, and two laborers for said building, four thousand five hundred and seventy dollars.

For fuel, compensation of firemen, and miscellaneous items, five thousand dollars.

For painting exterior and interior of building, papering halls, and repairing roof, two thousand five hundred dollars.

NAVY DEPARTMENT.

For compensation of the Secretary of the Navy, eight thousand dollars.

For compensation of the Assistant Secretary of the Navy, three thousand five hundred dollars; Solicitor and Naval Judge Advocate General, two thousand six hundred and sixty-three dollars: *Provided*, That this office shall cease on the fourth day of March, eighteen hundred and sixty-nine, and no further appropriation for its continuance shall be made until said office shall have been established by law; chief clerk, two thousand two hundred dollars; one fourth class clerk, (also a disbursing clerk,) two thousand dollars; four clerks of the fourth-class, seven thousand two hundred dollars; five clerks of the third class, eight thousand dollars; three clerks of the second class, four thousand two hundred dollars; three clerks of the first class, three thousand six hundred dollars; one messenger, one

thousand dollars; one assistant messenger, eight hundred and forty dollars; two laborers, one thousand four hundred and forty dollars.

For compensation of civil engineer of the Bureau of Yards and Docks, two thousand dollars; chief clerk, eighteen hundred dollars; one clerk of the fourth class, eighteen hundred dollars; two clerks of the third class, three thousand two hundred dollars; one clerk of the second class, one thousand four hundred dollars; one clerk of the first class, twelve hundred dollars; one draughtsman, fourteen hundred dollars; one messenger, one thousand dollars; two laborers, fourteen hundred and forty dollars.

For the compensation of the chief clerk of the Bureau of Equipment and Recruiting, eighteen hundred dollars; one clerk of the fourth class, eighteen hundred dollars; two clerks of the third class, three thousand two hundred dollars; three clerks of the first class, thirty-six hundred dollars; one messenger, one thousand dollars.

For the compensation of the chief clerk of the Bureau of Navigation, eighteen hundred dollars; one clerk of the second class, fourteen hundred dollars; one clerk of the first class, twelve hundred dollars; one messenger, one thousand dollars.

For compensation of the chief clerk of the Bureau of Ordnance, in place of the assistant provided by section three of the act of July five, eighteen hundred and sixty-two, eighteen hundred dollars; one draughtsman, fourteen hundred dollars; one clerk of the second class, fourteen hundred dollars; one messenger, one thousand dollars; one laborer, seven hundred and twenty dollars; one laborer, five hundred and seventy-six dollars.

For compensation of the chief clerk of the Bureau of Construction and Repair, eighteen hundred dollars; one draughtsman, eighteen hundred dollars; one clerk of class four, two clerks of class three, two clerks of class two, seven thousand eight hundred dollars; one messenger, one thousand dollars; one laborer, seven hundred and twenty dollars.

For compensation of the chief clerk of the Bureau of Steam Engineering, eighteen hundred dollars; one draughtsman, fourteen hundred dollars; one clerk of the second class, fourteen hundred dollars; one assistant draughtsman, twelve hundred dollars; one messenger, one thousand dollars; one laborer, seven hundred and twenty dollars.

For compensation of the chief clerk of the Bureau of Provisions and Clothing, eighteen hundred dollars; one clerk of the fourth class, eighteen hundred dollars; three clerks of the third class, forty-eight hundred dollars; six clerks of the second class, seven thousand two hundred dollars; three clerks of the first class, thirty-six hundred dollars; one messenger, one thousand dollars; one laborer, seven hundred and twenty dollars.

For compensation of the chief of the Bureau of Medicine and Surgery, three thousand five hundred dollars; one clerk of the fourth class, eighteen hundred dollars; one clerk of the third class, sixteen hundred dollars; one messenger, one thousand dollars; one laborer, seven hundred and twenty dollars.

Incidental and Contingent Expenses of the Navy Department.

Office of the Secretary of the Navy, for stationery, labor, newspapers, and miscellaneous items, two thousand eight hundred and forty dollars.

Bureau of Yards and Docks:

For stationery, books, plans, drawings, and miscellaneous items, eight hundred dollars.

Bureau of Equipment and Recruiting:

For stationery, books, and miscellaneous items, seven hundred and fifty dollars.

Bureau of Navigation:

For stationery, blank books, and miscellaneous items, eight hundred dollars.

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Bureau of Ordnance:

For stationery and miscellaneous items, eight hundred dollars.

Bureau of Construction and Repair:

For stationery and miscellaneous items, eight hundred dollars.

Bureau of Steam Engineering:

For stationery and miscellaneous items, eight hundred dollars.

Bureau of Provisions and Clothing:

For stationery and miscellaneous items, eight hundred dollars.

Bureau of Medicine and Surgery:

For stationery and miscellaneous articles, four hundred dollars.

For the General Purposes of the Navy Department Building.

For compensation of five watchmen and two laborers of the building, four thousand seven hundred and fifty-two dollars.

For labor, fuel, lights, and miscellaneous items, six thousand dollars.

POST OFFICE DEPARTMENT.

For compensation of the Postmaster General, eight thousand dollars; three Assistant Postmasters General, at three thousand five hundred dollars each, ten thousand five hundred dollars; superintendent of money-order system, two thousand five hundred dollars; chief clerk, two thousand two hundred dollars; three chief clerks, at two thousand dollars each, six thousand dollars; additional to one clerk of class four, as disbursing clerk, two hundred dollars; eleven clerks of class four, nineteen thousand eight hundred dollars; forty-nine clerks of class three, seventy-eight thousand four hundred dollars; forty-five clerks of class two, sixty-three thousand dollars; twenty-three clerks of class one, twenty-seven thousand six hundred dollars; fifty female clerks, at nine hundred dollars each, forty-five thousand dollars; ten folders, seven thousand two hundred dollars; one messenger and three assistants, at one thousand dollars each, four thousand dollars; nine watchmen, at seven hundred and twenty dollars each, six thousand four hundred and eighty dollars; fifteen laborers, at seven hundred and twenty dollars each, ten thousand eight hundred dollars.

For twenty-five clerks in dead letter office, under act of January twenty-first, eighteen hundred and sixty-two, twenty thousand dollars.

For temporary clerks, twenty thousand dollars.

For Contingent Expenses of the Post Office Department.

For blank books, binding, stationery, fuel, lights, laborers, and furnishing apartments for additional letter carriers and clerks of the money-order system, sixty-five thousand dollars.

DEPARTMENT OF AGRICULTURE.

For compensation of Commissioner of Agriculture, three thousand dollars; chief clerk, two thousand dollars; entomologist, two thousand dollars; chemist, two thousand dollars; superintendent of experimental gardens, two thousand dollars; botanist, fourteen hundred dollars; superintendent of seed-room, eighteen hundred dollars; librarian, eighteen hundred dollars; superintendent of folding-room, twelve hundred dollars; two clerks of class four, three thousand six hundred dollars; four clerks of class three, six thousand four hundred dollars; six clerks of class two, eight thousand four hundred dollars; seven clerks of class one, eight thousand four hundred dollars; five copyists and attendants in museum, at one thousand dollars each, five thousand dollars; three messengers, at eight hundred and forty dollars each, two thousand five hundred and twenty dollars; two watchmen, at eight hundred and sixty-four dollars each, one thousand seven hundred and twenty-eight dollars; six laborers, at seven hundred and twenty dollars each, four thousand three hundred and twenty dollars;

statistician, two thousand dollars; assistant chemist, one thousand six hundred dollars; assistant superintendent of experimental garden and grounds, one thousand two hundred dollars; assistant superintendent of seed-room, one thousand two hundred dollars; disbursing clerk, one thousand eight hundred dollars.

Agricultural Statistics.

For collecting statistics and material for annual report, ten thousand dollars: *Provided*, That hereafter the accounts of the Agricultural Department shall be audited by the First Auditor of the Treasury Department, and revised and certified by the First Comptroller according to law.

Contingencies.

For stationery, freight, and incidentals, five thousand dollars.

For purchases for library, laboratory, and museum, five thousand dollars.

For fuel, light, and miscellaneous expenses, three thousand two hundred dollars.

For keep of horses, one thousand five hundred dollars.

For labor and repairs in the experimental garden, and purchase of plants for the same, ten thousand dollars.

For purchase of new and valuable seeds and labor in putting them up, twenty thousand dollars.

For the New Building.

For heating apparatus, fifteen thousand dollars.

For gas fixtures, two thousand eight hundred and ninety dollars.

For cases for museum, three thousand eight hundred and eighty dollars.

For painting walls, and fitting up bath-room, six thousand two hundred and fifty-five dollars.

For purchase of furniture and fitting up laboratory, twelve thousand five hundred dollars.

For grading, forming roads and walks, and improving the grounds, twelve thousand dollars.

DEPARTMENT OF EDUCATION.

For compensation of Commissioner of Education, four thousand dollars; chief clerk, two thousand dollars; one clerk of class four, eighteen hundred dollars; and one clerk of class three, sixteen hundred dollars.

For stationery, blank books, freight, express charges, library, miscellaneous items, and extra clerical help, ten thousand six hundred dollars; in all twenty thousand dollars: *Provided*, That from and after the thirtieth day of June, eighteen hundred and sixty-nine, the Department of Education shall cease, and there shall be established and attached to the Department of the Interior an office to be denominated the office of education, the chief officer of which shall be the Commissioner of Education, at a salary of three thousand dollars per annum, who shall, under the direction of the Secretary of the Interior, discharge all such duties, and superintend, execute, and perform all such acts and things touching and respecting the said office of education as are devolved by law upon said Commissioner of Education.

UNITED STATES MINT AND ASSAY OFFICE.

Mint at Philadelphia.

For salaries of the Director, treasurer, assayer, melter and refiner, chief coiner and engraver, assistant assayer, and seven clerks, thirty-nine thousand four hundred dollars: *Provided*, That from and after the first day of July, eighteen hundred and sixty-seven, the annual compensation of the weighing clerk shall be two thousand dollars, and the compensation of the calculating, accounting, and warrant clerks shall be eighteen hundred dollars each.

For wages of workmen and adjusters, one hundred and twenty-five thousand dollars.

For incidental and contingent expenses, twenty-five thousand dollars.

For specimens of ores and coins to be preserved in the cabinet of the Mint, six hundred dollars.

For freight on bullion and coin, five thousand dollars.

Branch Mint at San Francisco, California.

For salaries of superintendent, treasurer, assayer, melter and refiner, coiner, and six clerks, thirty thousand five hundred dollars.

For wages of workmen and adjusters, one hundred and seventy-five thousand dollars.

For incidental and contingent expenses, repairs, and wastage, eighty thousand dollars: *Provided*, That hereafter all the "available profits" of the United States Mint and branches shall be covered into the Treasury, to be expended only by a specific appropriation.

For specimens of ores, three hundred dollars.

Assay Office, New York.

For salaries of superintendent, assayer, and melter and refiner, assistant assayer, officers and clerks, twenty-five thousand seven hundred dollars.

For wages of workmen, in addition to unexpended balances of former appropriations, forty thousand dollars.

For incidental and contingent expenses, fifty thousand dollars.

Branch Mint at Denver.

For superintendent, assayer, melter and refiner, coiner, and clerks, thirteen thousand dollars.

For wages of workmen, fourteen thousand eight hundred and sixty-two dollars and fifty cents.

For incidental and contingent expenses, one thousand nine hundred and forty-five dollars and eighteen cents.

Branch Mint at New Orleans.

For the care and preservation of the branch mint buildings, machinery, and material, at New Orleans, three thousand dollars.

Branch Mint at Charlotte, North Carolina.

For the care and preservation of the branch mint buildings, machinery, and material, at Charlotte, North Carolina, including five hundred dollars for necessary repairs, one thousand dollars.

INDEPENDENT TREASURY.

For salaries of the Assistant Treasurers of the United States, at New York, Boston, Charleston, and St. Louis, viz.: for the Assistant Treasurer at New York, eight thousand dollars; those at Boston and St. Louis, each, five thousand dollars; and the one at Charleston, two thousand five hundred dollars; and after the thirtieth of June, eighteen hundred and sixty-eight, the annual salary of the Assistant Treasurer at Charleston shall be four thousand dollars, and that amount is hereby appropriated—twenty-two thousand dollars.

For additional salary of the treasurer of the Mint at Philadelphia, one thousand five hundred dollars.

For additional salary of the Treasurer of the branch mint at New Orleans, five hundred dollars.

For additional salary of the treasurer of the branch mint at Denver, five hundred dollars.

For additional salary of the treasurer of the branch mint at San Francisco, California, fifteen hundred dollars: *Provided*, That there shall be no increase of salary in the foregoing paragraphs relating to the Independent Treasury over that allowed by existing laws.

For salaries of the clerks and messengers in the office of Assistant Treasurer at Boston, twenty-five thousand two hundred dollars.

For salaries of clerks, messengers, and watchmen in the office of the Assistant Treasurer at New York, one hundred and ten thousand dollars.

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For salaries of clerks, messengers, and watchmen in the office of the Assistant Treasurer at Philadelphia, twenty four thousand eight hundred and eighty-five dollars.

For salaries of clerks, messengers, and watchmen in the office of the Assistant Treasurer at St. Louis, ten thousand five hundred and sixty dollars.

For salaries of clerks, porter, and watchmen in the office of the Assistant Treasurer at New Orleans, nine thousand six hundred dollars.

For compensation to stamp clerk, cashier, and clerk in the office of the Assistant Treasurer at San Francisco, six thousand nine hundred dollars.

For compensation of the depository at Santa Fe, and the clerk, watchman, and porter in his office, four thousand eight hundred dollars.

For salary of the clerk to the Acting Assistant Treasurer at Denver, one thousand eight hundred dollars.

For salaries of clerks in the office of the depository at Louisville, five thousand nine hundred and forty dollars.

For salaries of clerks in the office of the depository at Chicago, two thousand six hundred dollars.

For salaries of clerks and watchmen in the office of the depository at Pittsburgh, three thousand four hundred dollars.

For salaries of clerks and messengers in the office of the depository at Baltimore, seven thousand six hundred dollars.

For salaries of clerks in the office of the depository at Cincinnati, fourteen thousand eight hundred and fifty dollars.

For salaries of additional clerks, and additional compensation of officers and clerks, under act of August sixth, eighteen hundred and forty-six, for the better organization of the Treasury, at such rates as the Secretary of the Treasury may deem just and reasonable, fifteen thousand dollars.

For compensation to designated depositaries, under fourth section of the act of August sixth, eighteen hundred and forty-six, for the collection, safe-keeping, transfer, and disbursement of the public revenue, five thousand dollars.

For compensation to special agents to examine the books, accounts, and money on hand at the several depositaries, under the act of the sixth August, eighteen hundred and forty-six, six thousand dollars.

For contingent expenses under the act of the sixth of August, eighteen hundred and forty-six, for the collection, safe-keeping, transfer, and disbursement of the public revenue, in addition to premium which may be received on transfer drafts, one hundred thousand dollars: *Provided*, That no part of said sum shall be expended for clerical services.

For checks and certificates of deposit for office of Assistant Treasurer at New York and other offices, eight thousand dollars.

GOVERNMENTS IN THE TERRITORIES.

Territory of New Mexico.

For salaries of Governor, chief justice, and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of said Territory, one thousand five hundred dollars.

For interpreter and translator in the executive office, five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Utah.

For salaries of Governor, chief justice, two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Washington.

For salaries of Governor, chief justice, two associate judges, and secretary, twelve thousand five hundred dollars.

For contingent expenses of said Territory, one thousand five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Colorado.

For salaries of Governor and superintendent of Indian affairs, chief justice, and two associate judges, and secretary, eleven thousand eight hundred dollars.

For contingent expenses of said Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Dakota.

For salaries of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, nine thousand seven hundred dollars.

For contingent expenses of the Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, fifteen thousand dollars.

Territory of Arizona.

For salaries of Governor, chief justice, and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

For interpreter and translator in the executive office, five hundred dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Idaho.

For salaries of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars.

Territory of Montana.

For compensation of Governor and superintendent of Indian affairs, chief justice and two associate judges, and secretary, twelve thousand dollars.

For contingent expenses of the Territory, one thousand dollars.

For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars: *Provided*, That the several amounts herein appropriated for the expenses of the Legislative Assemblies, shall only be expended in payment for biennial sessions, after the first day of July next.

JUDICIARY.

Office of the Attorney General.

For salaries of Attorney General, Assistant Attorney General, law clerk, and chief clerk, two clerks of class four, two clerks of class three, one clerk of class one, and one messenger, in his office, twenty-five thousand two hundred dollars.

Contingent expenses of the office of the Attorney General, namely:

For fuel, labor, furniture, stationery, and miscellaneous items, five thousand dollars.

For purchase of law and necessary books for the office of the Attorney General, one thousand dollars.

Justices of the Supreme Court of the United States.

For salaries of the Chief Justice and six associate justices, forty-two thousand five hundred dollars.

For one associate justice, six thousand dollars.

For traveling expenses of the judge assigned to the tenth circuit for attending session of the Supreme Court of the United States, one thousand dollars.

For salaries of the district judges of the United States, one hundred and sixty-five thousand dollars.

For salaries of the chief justice of the supreme court of the District of Columbia, the associate judges, and judge of the orphans' court, nineteen thousand dollars.

For salary of the reporter of the decisions of the Supreme Court of the United States, two thousand five hundred dollars.

For compensation of the district attorneys, twelve thousand five hundred dollars, and that the district attorney for Nevada shall receive a salary for extra services of two hundred dollars per annum; and the Secretary of the Treasury is hereby authorized to audit and pay, out of any moneys in the Treasury not otherwise appropriated, the salaries of the present incumbent and his predecessor, R. M. Clark, at the rate of two hundred dollars per annum for their services.

For compensation of the district marshals, fourteen thousand six hundred dollars.

SEC. 2. *And be it further enacted*, That the provisions of section ten of an act "making appropriations for sundry civil expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-eight, and for other purposes," approved March two, eighteen hundred and sixty-seven, be, and they are hereby, extended to one additional newspaper in the District of Columbia from the date of the approval of said act, the same to be selected by the Clerk of the House of Representatives.

SEC. 3. *And be it further enacted*, That all acts or parts of acts authorizing the publication of the debates in Congress are hereby repealed from and after the fourth day of March next; and the joint Committee on Printing is hereby authorized and required to invite proposals for the publication of the actual proceedings and debates in Congress, upon a plan and specifications to be previously published by them, and shall also ascertain the cost of such publication by the Superintendent of Public Printing, and shall report as soon as practicable such proposals and estimate of cost, together with a bill to provide for the publication of the debates and proceedings of Congress.

SEC. 4. *And be it further enacted*, That all advertisements, notices, proposals for contracts, executive proclamations, treaties, and laws to be published in the District of Columbia, Maryland, and Virginia shall be published in the papers now selected under the provisions of section ten of an act approved March second, eighteen hundred and sixty-seven, entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-eight, and for other purposes," and shall also be published in the paper selected under the provisions of the second section of this act: *Provided*, That no advertisement to any State, District, or Territory other than the District of Columbia, Maryland, or Virginia, shall be published in the papers designated, unless at the direction first made of the proper head of a Department.

SEC. 5. *And be it further enacted*, That each night watchman at the Treasury Department shall, from the first day of July, eighteen hundred and sixty-eight, receive a compensation of nine hundred dollars per annum, and an amount sufficient to pay said increased

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compensation for the fiscal year ending June thirty, eighteen hundred and sixty-nine, is hereby appropriated.

SEC. 6. *And be it further enacted*, That no statutory, paintings, or other articles, the property of private individuals, shall hereafter be allowed to be exhibited in the Rotunda or any other portion of the Capitol building; and it shall be the duty of the superintendent in charge of the public buildings to remove all such statuary, paintings, or other articles, being the property of private individuals, now in the Capitol.

APPROVED, July 20, 1868.

CHAP. CLXXVII.—An Act making Appropriations for sundry Civil Expenses of the Government for the year ending June thirty, eighteen hundred and sixty-nine, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, for the objects hereinafter expressed, for the fiscal year ending the thirtieth June, eighteen hundred and sixty-nine, viz.:

MISCELLANEOUS.

For necessary expenses in carrying into effect the several acts of Congress authorizing loans and the issue of Treasury notes, one million two hundred and fifty thousand dollars: *Provided*, That none of the said sum shall be used to pay commissions for the purchase, sale, or conversion of the bonds or notes of the United States: *And provided further*, That all necessary letter-press printing and book-binding, in all the Departments and bureaus, shall be done and executed at the Government Printing Office, and not elsewhere, except registered bonds and written records, which may be bound as heretofore at the Department.

For carrying out the provisions of the acts of the thirtieth of August, eighteen hundred and fifty-two, for the better protection of the lives of passengers on vessels propelled in whole or in part by steam, and of the acts amendatory thereof, the following sums, to wit: for the salaries of the supervising and local inspectors, eighty thousand four hundred dollars; for the traveling expenses of the supervising inspectors, ten thousand dollars, or so much thereof as may be necessary: *Provided*, That no supervising inspector shall be allowed for travel in his district in any one year a greater sum than one thousand dollars; for the traveling expenses of the local inspectors, twelve thousand dollars, or so much thereof as may be necessary: *Provided further*, That no local inspector shall be allowed for travel in any one year a greater sum than five hundred dollars. For the traveling expenses of a special agent of the Department, one thousand five hundred dollars; for the expenses of the meeting of the board of supervising inspectors, including travel, printing of manual and report, three thousand five hundred dollars, and there shall be but one meeting annually of the said board, which shall be at the city of Washington on the second Wednesday of January in each year; for stationery, for furniture of offices and repair thereof, for repair and transportation of instruments, and for fuel and lights, fifteen thousand dollars.

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, forty thousand dollars.

For expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, and other securities of the United States, as well as the coins of the United States, and other frauds upon the Government, one hundred and fifty thousand dollars.

To meet expenses incurred in the prosecution and collection of claims due the United States, fifteen thousand dollars, to be disbursed

under the direction of the Secretary of the Treasury.

For supplying deficiency in the fund for the relief of sick and disabled seamen, one hundred and fifty thousand dollars: *Provided*, That hereafter the Secretary of the Treasury shall communicate at each annual session of Congress a full and complete statement in detail of the amounts collected from seamen, and also the amount expended for sick and disabled seamen, in accordance with the provisions of the act of May third, eighteen hundred and two.

For salaries of commissioners under "An act to provide for the revision and consolidation of the statute laws of the United States," approved June twenty-seventh, eighteen hundred and sixty-six, and for clerical services and other incidental expenses, the printing to be done by the Government Printing Office, seventeen thousand dollars.

For payment of the messengers of the respective States for conveying to the seat of Government the votes of the electors of said States for President and Vice President of the United States, twenty-five thousand dollars.

Towards rebuilding the United States military asylum for disabled soldiers at Togus, near Augusta, Maine, destroyed by accidental fire, twenty-five thousand dollars: *Provided*, That the building shall be completed without any further appropriation by the Government.

For the payment for the Congressional Globe and Appendix, for the fiscal year ending June thirty, eighteen hundred and sixty-eight, twenty thousand dollars; to be taken from the appropriation heretofore made and unexpended for the purchase of one complete set of the Congressional Globe and Appendix for each Senator and Representative who has not already received them.

SURVEY OF THE COAST.

For the survey of the Atlantic and Gulf coasts of the United States, including compensation of civilians engaged in the work, and excluding pay and emoluments of officers of the Army and Navy and petty officers and men of the Navy employed in the work, two hundred and seventy-five thousand dollars.

For continuing the survey of the western coast of the United States, including compensation of civilians engaged in the work, one hundred and thirty thousand dollars.

For publishing the observations made in the progress of the coast survey of the United States, including compensation of civilians employed in the work, five thousand dollars.

For pay and rations of engineers for steamers used in the hydrography of the coast survey, no longer supplied by the Navy Department, per act of June twelfth, eighteen hundred and fifty-eight, ten thousand dollars.

For repairs and maintenance of the complement of vessels used in the coast survey, thirty thousand dollars.

Northern and Western Lakes.

For the survey of northern and northwestern lakes, seventy-five thousand dollars.

LIGHT-HOUSE ESTABLISHMENT.

For the Atlantic, Gulf, Lake, and Pacific coasts, viz.:

For supplying the light-houses and beacon-lights with oil, wicks, glass chimneys, chamois skins, whiting, spirits of wine, polishing powder, cleaning towels, brushes, and other necessary expenses of the same, and repairing and keeping in repair the lighting apparatus, two hundred and forty-six thousand dollars: *Provided*, That the Light-House Board be, and hereby is, authorized to apply the amount heretofore appropriated "for building a light-house on a proper site at Trowbridge Point, in Thunder bay, in the State of Michigan," to building a light-house on a more eligible site, if such can be found in the immediate vicinity: *And provided further*, That the appropriation now

available for rebuilding the light-house at Bailey's Harbor, Lake Michigan, be applied to the erection of a new structure between that point and North Bay, and upon its completion the light at Bailey's Harbor shall be discontinued.

For the necessary repairs and incidental expenses, improving and refitting light-houses and buildings connected therewith, two hundred thousand dollars.

For salaries of five hundred and eighty-nine keepers of light-houses and lighted beacons, and their assistants, four hundred and eighty-seven thousand three hundred and fifty-two, dollars.

For salaries of keepers of light-vessels, twenty-one thousand three hundred dollars.

For seamen's wages, repairs, supplies, and incidental expenses, of twenty-four light-vessels, two hundred and thirty-two thousand two hundred and ninety dollars.

For expenses of raising, cleaning, painting, repairing, remooing, and supplying losses of beacons and buoys, and for chains and sinkers for the same, two hundred and fifty thousand dollars.

For repairs and incidental expenses of refitting and improving fog signals and buildings connected therewith, twenty thousand dollars.

For expenses of visiting and inspecting lights and other aids to navigation, two thousand dollars.

For a lighted beacon on Rose Island, Narraganset bay, seven thousand five hundred dollars.

For repairs and renovations at Watch Hill, North Dumpling, and Saybrook light-station, Connecticut, ten thousand dollars.

For a fog-signal at Eaton's Neck light-station, three thousand dollars.

For the erection of a permanent buoy on Success Rock, Long Island sound, three thousand dollars.

For repairs and renovations at Brockway's Reach and Bordeco's Flats beacons, eleven thousand four hundred dollars.

For protecting the light-house site at Barnegat, New Jersey, seven thousand dollars.

For a new lantern at Delaware Breakwater light-station, two thousand dollars.

For range lights on Sullivan's Island, Charleston harbor, fifteen thousand dollars.

For day beacons on Oyster Rocks, mouth of Savannah river, two thousand dollars.

For rebuilding the light-house at Cape Canaveral, Florida, and fitting it up with a first-order catadioptric light, in addition to former appropriations, thirty thousand dollars.

For reimbursing the keepers at Timbalier light-house the loss of their private property, destroyed with the light-house, four hundred dollars.

For range-lights at Bailey's Harbor, Wisconsin, six thousand dollars.

For repairs and renovations at Beaver Island light-station, five thousand dollars.

For renovating and relighting the light-house on Michigan Island, Lake Superior, six thousand dollars.

For a range of lights for Copper Harbor, Lake Superior, with a fog-bell or such other ear-signal as the Secretary of the Treasury on the recommendation of the Light-House Board may adopt, in addition to former appropriations, five thousand dollars.

For a first-order light-house at Point Año Nuevo, or vicinity, California, ninety thousand dollars.

For a steam light-house tender for the twelfth district, to replace the one wrecked on the coast of California, ninety thousand dollars.

For one buoy and lighthouse tender for service on the Atlantic and Gulf coasts, forty thousand dollars.

For enabling the Light-House Board to experiment with new illuminating apparatus and fog-signals, in addition to former appropriations, one thousand dollars.

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For enabling the Light-House Board to re-establish lights and other aids to navigation on the southern coast, in addition to former appropriations, one hundred thousand dollars.

For compensation of two superintendents of the life-saving stations on the coast of Long Island and New Jersey, three thousand dollars.

For a life-boat and station at the south end of Narraganset Beach, Rhode Island, two thousand dollars.

For compensation of fifty-four keepers of stations, at two hundred dollars each, ten thousand eight hundred dollars.

For contingencies of life-saving stations on the coast of the United States, ten thousand dollars.

REVENUE-CUTTER SERVICE.

For pay of officers and pilots, four hundred and eight thousand six hundred dollars: *Provided*, That hereafter no expenses of the revenue marine shall be paid out of any other fund than that herein specified.

For rations for officers and pilots, twenty-eight thousand four hundred and seventy-nine dollars.

For pay of petty officers and crew, three hundred and eighty thousand eight hundred and fifty dollars.

For rations for petty officers and crew, one hundred and thirty-three thousand five hundred and sixty-one dollars.

For fuel, one hundred thousand dollars.

For repairs and outfits, one hundred and twenty-five thousand dollars.

For supplies of ship chandlery, fifty thousand eight hundred dollars.

For commutation for quarters, five thousand dollars.

For traveling expenses, five thousand dollars: *Provided*, That five of the six steam revenue-cutters stationed upon the northern and northwestern lakes and their tributaries shall be laid up, and that no more of the money appropriated by this act shall be paid on their account than so much as may be necessary for their safe and proper care and keeping; and that the Secretary of the Treasury be authorized and directed to lay up and withdraw from commission every revenue-cutter off the Atlantic coast, bays, [and] gulfs, not actually required and needed for constant service.

CONSTRUCTION BRANCH OF THE TREASURY DEPARTMENT.

For the construction of a custom-house at Portland, Maine, one hundred thousand dollars.

For the construction of a building, to be used as custom-house and post office, at Saint Paul, Minnesota, fifty thousand dollars.

For the construction of a barge office at New York, fifty thousand dollars.

For the construction of a building, to be used as a court-house and post office, at Portland, Maine, fifty thousand dollars.

For the construction of appraisers' stores at Philadelphia, fifty thousand dollars.

For the construction of a public building at Des Moines, Iowa, for a court-house, post office, and the accommodation of officers of the United States, eighty-nine thousand and eight dollars.

For the construction of a public building at Madison, Wisconsin, for a court-house, post office, and the accommodation of officers of the United States, fifty thousand dollars.

For construction of a public building for a custom-house, United States court room, and post office, at Portland, Oregon, fifty thousand dollars: *Provided*, That said building, when completed, shall not cost more than one hundred thousand dollars.

For the construction of a public building at Springfield, Illinois, for a court-house, post office, and the accommodation of officers of the United States, twenty-five thousand dollars.

For completion of the extension and repairs of the custom-house at Bangor, Maine, twenty thousand dollars.

For the construction of post office and custom-house at Cairo, Illinois, forty-nine thousand dollars.

For the completion of the custom-house and post office building at Ogdensburg, New York, forty thousand dollars.

For repairs and preservation of custom-houses and other public buildings, fifty thousand dollars.

For furniture and repairs of furniture for the same, twenty thousand dollars.

For heating apparatus for custom-houses and other public buildings, thirty-five thousand dollars. For vaults and safes for depositaries, twenty-five thousand dollars.

For vaults for north wing of Treasury building, twenty-five thousand dollars.

For fitting up fixtures and furniture for the north wing of Treasury building, twenty-five thousand dollars.

For the north wing of the Treasury building and the approaches, including fittings and fixtures, one hundred and seventy-five thousand dollars.

For repairs of the east front, and incidental repairs of the entire building, fifteen thousand dollars.

For completion of the branch mint building at Carson City, Nevada, fencing the grounds, and for machinery, fixtures, and apparatus, and for putting up the same, one hundred and fifty thousand dollars: *Provided*, That the Mint of the United States, and branches, shall continue to refine gold and silver bullion, and no contract to exchange crude or unparted bullion for refined bars shall be made until authorized by law.

INTERIOR DEPARTMENT.

Rent of Office for Surveyors General.

For rent of surveyor general's office in Oregon, fuel, books, stationery, and other incidental expenses, including pay of messenger, one thousand dollars.

For rent of surveyor general's office of California and Arizona, fuel, books, stationery, and other incidental expenses, including pay of messenger, two thousand dollars.

For office rent for the surveyor general of Washington Territory, fuel, books, stationery, and other incidental expenses, one thousand dollars.

For office rent of the surveyor general of Kansas, fuel, books, stationery, and other incidental expenses, one thousand dollars.

For office rent of the surveyor general of Iowa and Nebraska, fuel, books, stationery, and other incidental expenses, one thousand five hundred dollars.

For rent of surveyor general's office in the Territory of Dakota, fuel, books, stationery, and other incidental expenses, one thousand dollars.

For rent of office for the surveyor general of Colorado and Utah Territories, fuel, books, stationery, and other incidental expenses, one thousand dollars.

For rent of office of the surveyor general of Idaho, fuel, books, stationery, and other incidental expenses, one thousand dollars.

For rent of office for the surveyor general of Nevada, fuel, books, stationery, and other incidental expenses, one thousand five hundred dollars.

For rent of office of surveyor general of Montana, fuel, books, stationery, and other incidental expenses, one thousand dollars.

MINING.

For collecting statistics of mines and mining, twenty-five hundred dollars, to be expended under the direction of the Commissioner of the General Land Office.

For expenses of receiving, arranging, and taking care of copyright books, charts, and other copyright matter, one thousand eight

hundred dollars, to be paid out of the Patent Office fund.

PUBLIC WORKS UNDER THE SUPERVISION OF THE ARCHITECT OF THE CAPITOL EXTENSION.

For repairing and finishing the Capitol extension, one hundred thousand dollars: *Provided*, That no improvements, alterations, or repairs of the Capitol building shall be made except by direction and under the supervision of the architect of the Capitol extension.

For the repairing and finishing the work on the new Dome of the Capitol, five thousand dollars.

For painting the exterior of the eastern portion of the City Hall in Washington, fourteen hundred dollars.

For resetting steps, calking cornice, and painting, seven hundred and fifty dollars.

For repairing rough-casting and other plastering, one hundred dollars.

For repairs to tin roof and rain spouts, two hundred dollars.

For sundry brick and carpenter's work, three hundred and fifty dollars.

For renovating and ventilating court-room, four hundred dollars: *Provided*, That the corporate authorities of the city of Washington appropriate and expend a like sum for painting and repairs of the western portion of said building.

For the annual repairs, such as painting, glazing, keeping roofs in order, also water pipes, pavements, and approaches to public buildings, fifteen thousand dollars.

For continuing the work on the north front of the Patent Office building, and for improving G street from Seventh to Ninth streets, ten thousand dollars.

SMITHSONIAN INSTITUTION.

For the preservation of the collections of the exploring and surveying expeditions of the Government, four thousand dollars.

METROPOLITAN POLICE.

For salaries and other necessary expenses of the Metropolitan police for the District of Columbia, two hundred and eleven thousand and fifty dollars: *Provided*, That a further sum, amounting to one hundred and five thousand five hundred and twenty-five dollars, shall be paid to the said Metropolitan police force by the cities of Washington and Georgetown, and the county of Washington, (beyond the limits of said cities,) in the District of Columbia, in the proportion corresponding to the number of patrolmen allotted severally to said precincts; and the corporate authorities of said cities and the levy court of said county are hereby authorized and required to levy a special tax, not exceeding one third of one per centum, to be appropriated and expended for said purpose only, for the service of the fiscal year ending Junethirtieth, eighteen hundred and sixty-nine.

EXPENSES OF THE COLLECTION OF REVENUE FROM SALES OF PUBLIC LANDS.

For salaries and commissions of registers and receivers of public moneys at sixty-six land offices, two hundred and forty-four thousand eight hundred dollars.

For incidental expenses of the land offices, fifteen thousand five hundred dollars.

SURVEYING THE PUBLIC LANDS.

For surveying the public lands in Minnesota, at rates not exceeding ten dollars per lineal mile for standard lines, seven dollars for township, and six dollars for section lines, twenty thousand dollars.

For surveying the public lands in Dakota Territory, including the lands along the Red river of the North, at rates not exceeding ten dollars per lineal mile for standard lines, seven dollars for township, and six dollars for section lines, twenty thousand dollars.

For surveying the public lands in Nebraska, at rates not exceeding ten dollars per lineal mile for standard lines, six dollars for township,

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and five dollars for section lines, forty thousand dollars.

For surveying the public lands in Kansas, at rates not exceeding ten dollars per lineal mile for standard lines, six dollars for township, and five dollars for section lines, forty thousand dollars.

For surveying the public lands in Idaho, at rates not exceeding fifteen dollars per mile for standard lines, twelve dollars for township, and ten for section lines, fifteen thousand dollars.

For surveying the public lands in Colorado, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, forty thousand dollars.

For surveying the boundary line between the State of Nebraska and Territory of Colorado, and that portion of the western boundary of the State of Nebraska embraced between the forty-first and forty-third degrees of latitude, estimated three hundred and twenty miles, at not exceeding fifteen dollars per mile, four thousand eight hundred dollars; to be expended under the direction of the Commissioner of the General Land Office.

For surveying the public lands in Nevada, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, fifty thousand dollars.

For surveying the public lands in Arizona, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, five thousand dollars.

For surveying the public lands in California, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, fifty thousand dollars.

For surveying the public lands in Oregon, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, forty thousand dollars: *Provided*, That out of this appropriation the Commissioner of the General Land Office may pay a sum not exceeding one thousand dollars for surveys of last year.

For surveying the public lands in Washington Territory, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, fifteen thousand dollars.

For surveying the public lands in New Mexico, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, five thousand dollars.

For surveying the public lands in Montana Territory, at rates not exceeding fifteen dollars per lineal mile for standard lines, twelve dollars for township, and ten dollars for section lines, twenty thousand dollars.

For surveying the public lands in Utah Territory, at rates not exceeding fifteen dollars per mile for standard lines, twelve dollars for township, and ten dollars for section lines, twenty thousand dollars.

For surveying public lands in the State of Florida, ten thousand dollars.

For surveying the eastern boundary of Nevada, estimated four hundred and twenty-five miles, at not exceeding twenty-five dollars per mile, ten thousand six hundred and twenty-five dollars, to be expended under the direction of the Commissioner of the General Land Office.

PUBLIC BUILDINGS AND GROUNDS.

For repairs and improvements of public buildings and grounds heretofore under the direction of the Commissioner of Public Buildings, to wit:

For casual repairs of the navy-yard and upper bridges, three thousand dollars.

For repairs and taking care of the bridge at or near the Little Falls of the Potomac river, twenty-six thousand dollars.

For repairs of the Long Bridge across the Potomac river, fifteen thousand dollars.

For fuel for the President's House, five thousand dollars.

For improvement and care of reservation number two and La Fayette Square, two thousand dollars.

For care and improvement of grounds south of the President's House, one thousand dollars.

For extra labor in removing snow and ice from the pavements and public walks, five hundred dollars.

For repair of water-pipes, one thousand dollars.

For manure for the public grounds and reservations, and cartage of the same, two thousand dollars.

For care of reservations on New York, Massachusetts, Vermont, and Maryland avenues, three thousand dollars.

For painting iron fences around the public squares and reservations, three thousand dollars.

For annual repairs of the President's House, five thousand dollars.

For flower-pots, glasses, twine, and so forth, one thousand dollars.

For fuel at the center building of the Capitol, one thousand five hundred dollars.

For care of the Circle, one thousand dollars.

For laying pavement through the Mall along Sixth street south, opened by act of Congress approved March second, eighteen hundred and sixty-seven, two thousand dollars.

For additional repairs of conservatory at the President's House, and for supplying the same with a suitable collection of plants to replace those destroyed by fire, five thousand dollars.

For completing the culvert through the Botanic Garden, thirteen thousand dollars.

For the further improvement of Lincoln square, eight thousand dollars.

For hire of carts on the public grounds, three thousand dollars.

For purchase and repairs of tools used in the public grounds, one thousand dollars.

For purchase of trees and tree-boxes, to replace, when necessary, such as have been planted by the United States, to whitewash tree-boxes and fences, and to repair pavements in front of the public grounds, three thousand dollars.

For lighting the Capitol and President's House and public grounds around them and around the executive offices, thirty thousand dollars.

For pay of lamp-lighters, gas fitting, plumbing, lamp-posts, lanterns, glass, paints, matches, materials and repairs of all sorts, five thousand dollars.

For improvement of Capitol grounds, two thousand dollars.

For continuing the United States twenty-inch water main from its present terminus in north B street on the east side of Delaware avenue to the United States twelve-inch main on First street east, ten thousand dollars.

For purchase of stationery, books, maps, plans, office furniture and contingents of the office, three thousand dollars.

To enable the Secretary of the Interior to pay for fitting necessary shelving, and for record books furnished or ordered for the office of register of deeds of the District of Columbia, during the period when Edward C. Eddie was such register, five hundred and fifty dollars.

To pay William H. West for services rendered in taking care of and keeping safely the bonds held in trust by the Secretary of the Treasury for the benefit of the Smithsonian Institution, from March first, eighteen hundred and fifty, to July first, eighteen hundred and sixty-three, two thousand five hundred dollars, to be paid out of the Smithsonian fund.

To enable the Secretary of the Senate to complete the alphabetical list of private claims

to the end of the second session of the Thirty-Ninth Congress, and to pay outstanding claims for services rendered in the preparation of said work under a resolution of the Senate of March sixteenth, eighteen hundred and sixty-six, two thousand dollars.

That the sum of fifteen thousand dollars, or as much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expenses of the joint Committee on Ordnance, and that the same shall be drawn from the Treasury, upon the order of the Secretary of the Senate, as it shall be required; and any portion of the amount hereby appropriated that shall be allowed by the said joint committee to witnesses attending before it, or other persons employed in its service, for per diem traveling or other necessary expenses, and paid by the Secretary of the Senate, in pursuance of the orders of said joint committee, shall be accordingly credited and allowed by the accounting officers of the Treasury Department.

To enable the joint Committee on the Library to pay Mrs. Sarah F. Ames an additional compensation for her marble bust of President Lincoln, five hundred dollars.

For expenses of the trial of the impeachment of Andrew Johnson, President of the United States, six thousand dollars, or so much thereof as may be necessary, to be paid into the contingent fund of the Senate.

For the purchasing of suitable sites for the erection of additional school-houses, and for the maintenance of schools in the county of Washington, outside of the limits of the cities of Washington and Georgetown, the same to be expended under the direction of the levy court of the county of Washington, subject to the approval of the Secretary of the Interior, ten thousand dollars.

SEC. 2. *And be it further enacted*, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of nine thousand two hundred and sixty-three dollars and eighty-five cents, or so much thereof as may be necessary, to pay balance due for the survey of lands embraced in the Osage Indian reservation, in the State of Kansas, under contract dated August fourteenth, eighteen hundred and sixty-six, the said sum to be returned to the Treasury out of the proceeds of the sale of said lands, as provided by treaties with said Indians.

SEC. 3. *And be it further enacted*, That the sum of seven thousand seven hundred and seventy-five dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay for the balance due for surveying several Indian reservations in Utah Territory; the survey of which was provided for by act of Congress approved May fifth, eighteen hundred and sixty-four.

SEC. 4. *And be it further enacted*, That the sum of thirty-nine thousand and fourteen dollars and sixty-three cents, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not heretofore appropriated, to pay for the survey of the Osage Indian trust lands ceded to the United States under treaty concluded September twenty-ninth, eighteen hundred and sixty-five, upon a contract made with the General Land Office under date of September eighteen, eighteen hundred and sixty-six, and another contract for another portion of said trust lands, dated May twenty-eighth, eighteen hundred and sixty-seven; which survey is according to the provisions of the second article of treaty concluded with said tribe September twenty-ninth, eighteen hundred and sixty-five.

SEC. 5. *And be it further enacted*, That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of three thousand three hundred and sixty-two dollars and three cents to

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pay the balance due for the survey of the lands embraced in the Omaha and Winnebago Indian reservation in the State of Nebraska, under contract dated August fourteenth, eighteen hundred and sixty-six, as provided by a treaty with the Omaha Indians and authorized by act of Congress approved July twenty-eight, eighteen hundred and sixty-six. •

SEC. 6. *And be it further enacted*, That the Commissioner of the General Land Office is hereby authorized to continue the extension of the geological explorations as begun in Nebraska under the provisions of the second section of the deficiency act of Congress, approved March two, eighteen hundred and sixty-seven, United States Statutes, eighteen hundred and sixty-six and eighteen hundred and sixty-seven, page four hundred and seventy, to other portions of the public lands; and for that purpose the sum of five thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

SEC. 7. *And be it further enacted*, That the Commissioner of Patents be authorized to rent, under the direction of the Committees on Patents of the Senate and of the House of Representatives, such rooms as may be necessary for the speedy and convenient transaction of the business of the office: *Provided*, That all the moneys standing to the credit of the "patent fund," or in the hands of the Commissioner of Patents, and all moneys hereafter received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the Treasury as received, without any deduction whatever; and the sum of two hundred and fifty thousand dollars is hereby appropriated for salaries and miscellaneous and contingent expenses of the Patent Office, and for withdrawals, and for monies [moneys] paid by mistake, to be disbursed under the direction of the Secretary of the Interior. And it shall be the duty of the Commissioner of Patents to communicate to Congress at the commencement of every December session a full and detailed account of moneys received for duties on patents and for copies of records and drawings, and all other moneys received by virtue of said office; and of all moneys expended by him under and by virtue of this provision for said contingent and miscellaneous expenses, and for salaries, and the names of the persons to whom such salaries are paid, and the amount thereof paid to each.

SEC. 8. *And be it further enacted*, That the city of Georgetown, the city of Washington, and the levy court of the county of Washington, District of Columbia, be, and they are hereby, authorized to levy and collect a special tax on the taxable property within their respective jurisdictions, for the erection of school-houses and the support of public schools, not exceeding fifty cents on each one hundred dollars for any one year, to be assessed and collected as other taxes.

SEC. 9. *And be it further enacted*, That all laws and parts of laws that regulate the prices of labor in the Government Printing Office be, and the same are hereby, repealed; and it shall be the duty of the Congressional Printer to contract with the persons in that employment at such prices as are for the interest of the Government, and are just to those employed.

SEC. 10. *And be it further enacted*, That for the purpose of executing the fourth article of the treaty of Washington, concluded on the ninth day of August, eighteen hundred and forty-two, the Secretary of the Treasury is hereby authorized and directed to pay to the State of Maine, for ninety-one thousand one hundred and twenty-five acres of land assigned by said State to settlers under said article, a sum equal to one dollar and twenty-five cents per acre; and to the Commonwealth of Massachusetts for twenty-six thousand one hundred and fifty acres of land a sum equal to one dollar and twenty-five cents per acre:

Provided, That before said sums are paid the States of Maine and Massachusetts shall agree with the United States that the settlers upon their public lands in the late disputed territory in Maine entitled to be quieted in their possession, as ascertained by commissions heretofore instituted by said States, shall have been or shall be quieted by a release of the title of the said States.

SEC. 11. *And be it further enacted*, That the Secretary of the Interior, in his discretion, is authorized to expend the appropriation heretofore made for the purpose of erecting a penitentiary for the Territory of Colorado, on the site belonging to and provided by the said Territory for the purpose: *Provided*, That no part of this property shall be sold or transferred without the consent of the United States first had and received.

APPROVED, July 20, 1868.

CHAP. CLXXVIII.—An Act to facilitate the Settlement of certain Prize Cases in the Southern District of Florida.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed, upon the execution and delivery to him by the administratrix of the estate of James C. Clapp, deceased, late United States marshal for the southern district of Florida, of a proper written release of all claims and demands for, or on account of, all costs, charges, fees, and expenses due, or claimed to be due, the said Clapp as marshal aforesaid, or to his estate, in any prize or other cases in said district, to accept from said administratrix the sum of fifty thousand dollars in full satisfaction of all claims and demands of the United States against the estate of the said James C. Clapp, and against the sureties in said Clapp's official bond, and that said sum of fifty thousand dollars when paid, together with the sums now on deposit with the Assistant Treasurer in New York to the credit of the said Clapp and to the credit of the United States district court for the southern district of Florida, shall be deposited with the Assistant United States Treasurer at Washington, District of Columbia, subject to the order of the United States district court for the southern district of Florida, for the purpose of meeting decrees of distribution or restitution in the following prize causes pending in said district: schooner Lucy No. 1, the cargo of the steamer Adela, schooner Alicia and cargo, schooner Isabel and cargo, the steamer James Battle, schooner Diana and cargo, schooner Sea Lion and cargo, the cargo of the steamer Nita, steamer Pearl and cargo, schooner Teresa No. 2, steamer Union, steamer Victor and cargo, and schooner John Williams.

SEC. 2. *And be it further enacted*, That the Secretary of the Navy is hereby authorized and directed to deposit with the Assistant United States Treasurer at Washington, District of Columbia, the appraised values of the prize steamers Adela and Nita, condemned in said district court, and taken into the naval service, and, after deducting all proper charges and expenses, a moiety of the same shall be distributed under the decree of the said district court, according to law, among the captors entitled to share in said prizes, the steamers Adela and Nita respectively, and the remaining moiety of the same shall be subject to the order of the said district court, as hereinafter provided.

SEC. 3. *And be it further enacted*, That of the moneys mentioned in the first section of this act, when deposited as herein provided, there shall be retained by the said district court a sufficient fund to await final decrees in those of the cases enumerated in the first section of this act, wherein appeals have been taken to the Supreme Court of the United

States; and that the balance of said moneys, together with one half of the appraised values of the prize steamers Adela and Nita, mentioned in the second section of this act, shall be distributed as prize-money among the captors in those of the cases enumerated in the first section of this act, in which final decrees of condemnation have been entered, and which are ready for distribution, without reference to the interest of the United States in any and all of the said cases, which said interest of the United States in each of the said cases, and the proceeds for distribution therein, as well as the interest of the United States in the appraised value of the prize steamers Adela and Nita, is hereby relinquished for distribution to the captors in those of the cases enumerated and mentioned in the first section of this act wherein decrees of condemnation have been or shall be entered, and for payment to the claimants in those of said cases wherein final decrees of restitution have been or may be passed; and that in each of said cases wherein final decrees of condemnation and distribution have been or shall be entered, the sum to be paid into the Treasury of the United States for distribution to the captors shall be one half of the gross proceeds of sale in said cases, less the costs taxed and allowed by the court: *Provided*, That any sum or sums remaining after execution of all decrees of distribution and restitution as hereinbefore provided be paid into the Treasury of the United States to the credit of the Navy pension fund: *And provided further*, That nothing herein contained shall be deemed an admission on the part of the United States of any liability for the defalcation of the said Clapp as marshal aforesaid.

APPROVED, July 20, 1868.

CHAP. CLXXIX.—An Act authorizing the Construction of a Bridge across the Missouri River, upon the Military Reservation at Fort Leavenworth, Kansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for the Kansas and Missouri Bridge Company, a corporation having authority from the State of Kansas, to build a railroad, transit, and wagon bridge across the Missouri river upon or near the military reservation of Fort Leavenworth; and that when constructed all trains of all roads terminating at the Missouri river at or near the location of said bridge shall be allowed to cross said bridge for a reasonable compensation, to be paid to the owners thereof. And in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said river, the cause may be tried before the district court of the United States of any State in which any portion of said obstruction or bridge touches.

SEC. 2. *And be it further enacted*, That any bridge built under the provisions of this act shall not be in any case of less elevation than fifty feet above extreme high-water mark, as understood at the point of location, to the bottom chord of the bridge; nor shall the spans be of less than two hundred and fifty feet in length, in the clear, and the piers of said bridge shall be parallel with the current of the river, and the main span shall be over the main channel of the river, at low water.

SEC. 3. *And be it further enacted*, That for the use of railroads leading to said bridge from either side of the river there is hereby granted a right of way through said Fort Leavenworth military reservation not exceeding for all of said roads three hundred feet in width: *Provided*, That said roads do not in any way interfere with the public buildings on said military reservation.

SEC. 4. *And be it further enacted*, That the Kansas and Missouri bridge be, and the same is hereby, established as a post road, and that said bridge company shall have the right to

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take from said reservation, at such places as shall be designated by the Secretary of War, all stone, timber, and earth necessary to use in the construction of said bridge.

SEC. 5. *And be it further enacted*, That the right to alter or amend this act, so as to prevent or remove all material obstructions to the navigation of said river by the construction of bridges, is hereby expressly reserved.

SEC. 6. *And be it further enacted*, That it shall be lawful for the Saint Joseph and Denver City Railroad Company, a corporation created by the laws of the State of Kansas, to build a bridge over and across the Missouri river at Saint Joseph, Missouri; and all the rights and privileges conferred by sections 1, 2, 4, and 5 of this act are hereby extended, so far as they are applicable, to the Saint Joseph and Denver City Railroad Company, and the restrictions, limitations, and conditions contained in said sections are hereby made applicable to said company.

APPROVED, July 20, 1868.

CHAP. CLXXX.—An Act for the Registration or Enrollment of certain Foreign Vessels.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to issue certificates of registry or enrollment and license to the schooner "Bob," of St. Andrew, New Brunswick; and to the following-named Canadian-built vessels, to wit: the schooner "Royal Albert," of Oakville; the bark "John Breden," the schooner "Prince Alfred," and the brigantine "Orkney Lass," all of Kingston; the schooner "George Henry," of Toronto; the schooner "Annexation," of Port Hope; and the schooner "Emperor," of St. Catharines; also the barges "Champlain" and "Hochelega," of Quebec; the bark "Monarch," the brig "Sea Gull," and the schooner "Smith & Post," all of Oakville; the schooner "Welland," of St. Catharines; the schooner "Governor," of Montreal; the schooner "L. S. Shicklana," of St. Catharines; the schooner "Victoria," of Toronto; said vessels being owned by citizens of the United States, and having been at all times employed upon the waters of the lakes: *Provided*, That there shall be paid upon each of said foreign-built vessels a tax equal to the internal revenue tax upon the materials and construction of similar vessels of American build.

APPROVED, July 20, 1868.

CHAP. CLXXXI.—An Act concerning the Tax Commissioners for the State of Arkansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the acts and proceedings which have been had or performed by any two of the tax commissioners, in and for the State of Arkansas, shall have the same force and effect as if had and performed by all three of said commissioners.

APPROVED, July 20, 1868.

CHAP. CLXXXII.—An Act amendatory of an Act approved July twenty-six, [five,] eighteen hundred and sixty-six, entitled "An Act to authorize the Construction of Certain Bridges, and to establish them as Post Roads."

Whereas the St. Louis and Illinois Bridge Company, organized under the laws of the State of Missouri, and the Illinois and St. Louis Bridge Company, organized under an act of the General Assembly of the State of Illinois, have been consolidated, in pursuance of the authority granted to the said Illinois and St. Louis Bridge Company, in their act of incorporation, and the authority granted to the St. Louis and Illinois Bridge Company, by an act of the General

Assembly of the State of Missouri, approved March nineteenth, eighteen hundred and sixty-eight: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the company formed by this consolidation, under the name and style of the Illinois and St. Louis Bridge Company, is hereby recognized and declared to be a corporation by that name, with full power and authority to construct a bridge across the Mississippi river opposite the city of St. Louis, in conformity to the act of which this act is amendatory, with all the rights, privileges, and powers granted and conferred by the several acts of the General Assemblies of the States of Illinois and Missouri to the respective companies by the consolidation of which the said Illinois and St. Louis Bridge Company was formed, and not inconsistent with the provisions of the act to which this act is amendatory: *And provided further*, That in constructing said bridge there shall be one span of at least five hundred feet clear between piers.

SEC. 2. *And be it further enacted*, That the said corporation may execute a mortgage and issue bonds payable, principal and interest, in gold, and their bridge across the Mississippi river and approaches thereto, when constructed, shall be a post road to carry the mails of the United States, and enjoy the rights and privileges of other post roads.

SEC. 3. *And be it further enacted*, That said corporation may hold their meetings in either the State of Illinois or the State of Missouri, as the board of directors may elect, and the directors may be citizens of any of the United States; and said corporation may sue and be sued in any circuit court of the United States: *Provided*, That nothing in this act or in any previous legislation affecting the premises shall be so construed as to deprive the Legislatures of the States of Illinois and Missouri of the right to regulate the tolls and fares which may be charged by said company for the use of such bridge: *Provided further*, That the tolls now fixed by the Legislatures of Illinois and Missouri shall not be increased.

APPROVED, July 20, 1868.

CHAP. CLXXXIII.—An Act providing for the Sale of a Portion of the Fort Gratiot Military Reservation in St. Clair county, in the State of Michigan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to sell, at such times as he may deem most advantageous to the interests of the Government, and in such manner as hereinafter provided, all that portion of the military reservation known as Fort Gratiot, in St. Clair county, in the State of Michigan, which lies south of a line running due west from the south end of the Grand Trunk railroad wharf, on the St. Clair river, until it intersects the road known as the Lexington road, and all that portion which lies west of said Lexington road.

SEC. 2. *And be it further enacted*, That all that portion of the above-described lands which lies east of a line running due south from the point of intersection with the Lexington road, mentioned in the foregoing section of this act, shall be divided into blocks and lots of convenient size for building purposes, with public streets conforming as near as may be, without detriment to the interests of the Government or the State, to the public streets of the city of Port Huron, adjoining such ground, and sold by lots at public auction, at the city of Port Huron, to the highest bidder, public notice of such sale having first been given for thirty days by advertisement in all the papers published in the city of Port Huron, and in at least two papers published in the city of Detroit, Michigan. A plat of this division, made

in accordance with the laws of the State of Michigan, shall be filed with the register of deeds of the county of St. Clair, State of Michigan. The remaining portion of said military reservation, for the sale of which provision is made in the first section of this act, shall be sold at public auction at the city of Port Huron, after due notice, as prescribed in the foregoing paragraph, at such times and in such parcels as may be deemed most advantageous to the interests of the Government, by the Secretary of War.

SEC. 3. *And be it further enacted*, That the proceeds arising from the sale herein provided for, shall be paid into the Treasury of the United States in the same manner as the proceeds from the sale of other public lands.

APPROVED, July 20, 1868.

CHAP. CLXXXIV.—An Act to aid the Improvement of the Des Moines and Rock Island Rapids, in the Mississippi river.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever in the prosecution of the improvements of the Mississippi river, at either the Des Moines or Rock Island rapids therein, it becomes necessary or proper to take possession of the right of way over any lands, or to use any earth, quarries, or other material lying adjacent or near to either of said works, and needful for its prosecution, the officer in charge of said work, or his assistant, may, in the name of the United States, take possession of and use the same, after having first paid, or secured to be paid, the value thereof, which may have been ascertained in the mode provided by the laws of the State wherein such property or material lie[s], for adjudging the value of private property which may be needed for any public improvement: *Provided, however*, That when the owner of such property or material shall fix a price for the same, which, in the opinion of the said officer in charge, shall be reasonable, he may take the same at such price without further delay.

SEC. 2. *And be it further enacted*, That a portion of the appropriations made or to be made for the prosecution of the improvements aforesaid, not exceeding fifty thousand dollars in amount, may be applied in payment of the property or material taken and used as aforesaid.

APPROVED, July 20, 1868.

CHAP. CLXXXV.—An Act declaratory of the Law in regard to Officers Cashiered or Dismissed from the Army by the Sentence of a General Court-Martial.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no officer of the Army of the United States who has been or shall hereafter be cashiered or dismissed from the service by the sentence of a general court-martial, formally approved by the proper reviewing authority, shall ever be restored to the military service except by a reappointment, confirmed by the Senate of the United States.

APPROVED, July 20, 1868.

CHAP. CLXXXVI.—An Act Imposing Taxes on Distilled Spirits and Tobacco, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be levied and collected on all distilled spirits on which the tax prescribed by law has not been paid a tax of fifty cents on each and every proof gallon, to be paid by the distiller, owner, or person having possession thereof before removal from distillery warehouse; and the tax on such spirits shall be collected on the whole number of gauge or wine gallons when below

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proof, and shall be increased in proportion for any greater strength than the strength of proof spirit as defined in this act; and any fractional part of a gallon in excess of the number of gallons in a cask or package shall be taxed as a gallon. Every proprietor or possessor of a still, distillery, or distilling apparatus, and every person in any manner interested in the use of any such still, distillery, or distilling apparatus, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom, and the tax shall be a first lien on the spirits distilled, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, and on the lot or tract of land whereon the said distillery is situated, together with any building thereon, from the time said spirits are distilled until the said tax shall be paid.

SEC. 2. *And be it further enacted*, That proof spirit shall be held and taken to be that alcoholic liquor which contains one half its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten thousandths (.7939) at sixty degrees Fahrenheit; and the Commissioner of Internal Revenue, for the prevention and detection of frauds by distillers of spirits, is hereby authorized to adopt and prescribe for use such hydrometers, saccharometers, weighing and gauging instruments, meters, or other means for ascertaining the quantity, gravity, and producing capacity of any mash, wort, or beer used or to be used in the production of distilled spirits, and the strength and quantity of spirits subject to tax, as he may deem necessary; and he may prescribe rules and regulations to secure a uniform and correct system of inspection, weighing, marking, and gauging of spirits. And in all sales of spirits hereafter made, a gallon shall be taken to be a gallon of proof spirit, according to the foregoing standard set forth and declared for the inspection and gauging of spirits throughout the United States. The tax on brandy made from grapes shall be the same and no higher than that upon other distilled spirits; and the Commissioner of Internal Revenue is hereby authorized, with the approval of the Secretary of the Treasury, to exempt distillers of brandy from apples, peaches, or grapes exclusively from such other of the provisions of this act relating to the manufacture of spirits as in his judgment may seem expedient.

SEC. 3. *And be it further enacted*, That whenever the Commissioner of Internal Revenue shall adopt and prescribe for use any meter, meters, or meter safes, it shall be the duty of every owner, agent, or superintendent of a distillery to furnish and attach at his own expense such meter, meters, or meter safes as may have been prescribed for use at his distillery, and to furnish all the pipes, materials, labor, and facilities necessary to complete such attachment in accordance with the regulations of the Commissioner of Internal Revenue, who is hereby further authorized to order and require such changes of or additions to distilling apparatus, connecting pipes, pumps, or cisterns, or any machinery connected with or used in or on the distillery premises, or may require to be put on any of the stills, tubs, cisterns, pipes, or other vessels, such fastenings, locks, or seals as he may deem necessary.

SEC. 4. *And be it further enacted*, That distilled spirits, spirits, alcohol, and alcoholic spirit, within the true intent and meaning of this act, is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation of grain, starch, molasses, or sugar, including all dilutions and mixtures of this substance; and the tax shall attach to this substance as soon as it is in existence as such, whether it be subsequently separated as pure or impure spirit, or be immediately, or at any subsequent time, transferred into any other

substance, either in the process of original production or by any subsequent process; and no mash, wort, or wash fit for distillation or the production of spirits or alcohol shall be made or fermented in any building or on any premises other than a distillery duly authorized according to law; and no mash, wort, or wash so made and fermented shall be sold or removed from any distillery before being distilled; and no person other than an authorized distiller shall by distillation, or by any other process, separate the alcoholic spirits from any fermented mash, wort, or wash; and no person shall use spirits of alcohol or any vapor of alcoholic spirits in manufacturing vinegar or any other article, or in any process of manufacture whatever, unless the spirits or alcohol so used shall have been produced in an authorized distillery and the tax thereon paid. Any person who shall violate any of the provisions of this section shall be fined, for every offense, not less than five hundred dollars, nor more than five thousand dollars, and imprisoned for not less than six months nor more than two years: *Provided*, That nothing in this section shall be construed to apply to fermented liquors.

SEC. 5. *And be it further enacted*, That every person having in his possession or custody, or under his control, any still or distilling apparatus set up, shall register the same with the assistant assessor of the division in which said still or distilling apparatus shall be, by filing with him duplicate statements, in writing, subscribed by such person, setting forth the particular place where such still or distilling apparatus is set up, the kind of still and its cubic contents, the owner thereof, his place of residence, and the purpose for which said still or distilling apparatus has been or is intended to be used; one of which statements shall be retained and preserved by the assistant assessor and the other transmitted to the assessor of the district. Stills and distilling apparatus now set up shall be so registered within sixty days from the time this act takes effect, and those hereafter set up shall be so registered immediately upon their being set up. Any still or distilling apparatus not so registered, together with all personal property in the possession, or custody, or under the control of such person and found in the building, or in any yard or inclosure connected with the building, in which the same shall be set up, shall be forfeited. And any person having in his possession or custody, or under his control, any still or distilling apparatus set up which is not so registered, shall pay a penalty of five hundred dollars, and on conviction shall be fined not less than one hundred dollars nor more than one thousand dollars, and imprisoned for not less than one month nor more than two years.

SEC. 6. *And be it further enacted*, That every person engaged in, or intending to be engaged in, the business of a distiller or rectifier, shall give notice in writing, subscribed by him, to the assessor of the district within which such business is to be carried on, stating his name and place of residence, and if a company or firm, the name and place of residence of each member thereof; the place where said business is to be carried on, and whether of distilling or rectifying. And if such business be carried on in a city, the residence and place of business shall be indicated by the name of the street and number of the building. In case of a distiller, the notice shall also state the kind of stills, and the cubic contents thereof, the number and kind of boilers, the number of mash tubs and fermenting-tubs, and the cubic contents of each tub, the number of receiving cisterns, and the cubic contents of each cistern, together with a particular description of the lot, or tract of land, on which the distillery is situated, with the size and description of the buildings thereon, and of what material constructed. The notice shall also state the number of hours in which the dis-

tiller will ferment each tub of mash or beer, the estimated quantity of distilled spirits which the apparatus is capable of distilling every twenty-four hours, and the names and residence of every person interested or to be interested in the business, and that said distillery and the premises connected therewith are not within six hundred feet of any premises authorized to be used for rectifying or refining distilled spirits by any process. In case of a rectifier, the notice shall state the precise location of the premises where such business is to be carried on, the name and residence of every person interested or to be interested in the business, by what process the applicant intends to rectify, purify, or refine distilled spirits, the kind and cubic contents of any still used or to be used for such purpose, and the estimated quantity of spirits which can be rectified, purified, or refined every twenty-four hours in such establishment, and that said rectifying establishment is not within six hundred feet of the premises of any distillery registered for the distillation of spirits. In case of any change in the location, form, capacity, ownership, agency, superintendency, or in the persons interested in the business of such distillery or rectifying establishment, or in the time of fermenting the mash or beer, notice thereof, in writing, shall be given to the said assessor or to the assistant assessor of the division within twenty-four hours of said change. And any assistant assessor receiving such notice shall immediately transmit the same to the assessor of the district. Every notice required by this section shall be in such form and shall contain such additional particulars as the Commissioner of Internal Revenue may from time to time prescribe. Any person failing or refusing to give such notice shall pay a penalty of one thousand dollars, and on conviction shall be fined not less than one hundred dollars nor more than two thousand dollars; and any person giving a false or fraudulent notice shall, on conviction, in addition to such penalty or fine, be imprisoned not less than six months nor more than two years.

SEC. 7. *And be it further enacted*, That every distiller shall, on filing his notice of intention to continue or commence business, with the assessor before proceeding with such business, after the passage of this act and on the first day of May of each succeeding year, make and execute a bond in form prescribed by the Commissioner of Internal Revenue, with at least two sureties, to be approved by the assessor of the district. The penal sum of said bond shall not be less than double the amount of tax on the spirits that can be distilled in his distillery during a period of fifteen days; but in no case shall such bond be for a less sum than five thousand dollars. The condition of the bond shall be that the principal shall faithfully comply with all the provisions of law in relation to the duties and business of distillers, and will pay all penalties incurred or fines imposed on him for a violation of any of the said provisions; that he will not suffer the lot or tract of land on which the distillery stands, or any part thereof, or any of the distilling apparatus, to be encumbered by mortgage, judgment, or other lien during the time in which he shall carry on said business. The assessor may refuse to approve said bond when, in his judgment, the situation of the distillery is such as would enable the distiller to defraud the United States; and in case of such refusal, the distiller may appeal to the Commissioner of Internal Revenue, whose decision in the matter shall be final. A new bond may be required in case of the death, insolvency, or removal of either of the sureties, and in any other contingency, at the discretion of the assessor or Commissioner of Internal Revenue. Any person failing or refusing to give the bond hereinbefore required, or to renew the same, or giving any false, forged, or fraudulent bond, shall forfeit the distillery,

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distilling apparatus, and all real estate and premises connected therewith, and on conviction shall be fined not less than five hundred dollars, nor more than five thousand dollars, and imprisoned not less than six months, nor more than two years.

SEC. 8. *And be it further enacted*, That no bond of a distiller shall be approved unless he is the owner in fee, unencumbered by any mortgage, judgment, or other lien, of the lot or tract of land on which the distillery is situated, or unless he files with the assessor, in connection with his notice, the written consent of the owner of the fee, and of any mortgagee, judgment creditor, or other person having a lien thereon, duly acknowledged, that the premises may be used for the purpose of distilling spirits, subject to the provisions of law, and expressly stipulating that the lien of the United States for taxes and penalties shall have priority of such mortgage, judgment, or other encumbrance, and that in case of the forfeiture of the distillery premises, or any part thereof, the title of the same shall vest in the United States discharged from any such mortgage, judgment, or other encumbrance. In any case where the owner of a distillery or distilling apparatus, erected prior to the passage of this act, has an estate for a term of years only in the lot or tract of land on which the distillery is situated, the lease or other evidence of title to which shall have been duly recorded prior to the passage of this act, the value of such lot or tract of land, together with the building and distilling apparatus, shall be appraised in the manner to be prescribed by the Commissioner of Internal Revenue; and the assessor is hereby authorized to accept, in lieu of the said written consent of the owner of the fee, the bond of said distiller with not less than two sureties, who shall be residents of the collection district or county, or an adjoining county in the same State, in which the distillery is situated, and shall be the owners of unencumbered real estate in said district or county, or adjoining county, equal to such appraised value. The penal sum of said bond shall be equal to the appraised value of said lot or tract of land, together with the buildings and distilling apparatus, and such bonds shall be conditioned that in case the distillery, distilling apparatus, or any part thereof, shall, by final judgment, be forfeited for the violation of any of the provisions of law, the obligors will pay the amount stated in said bond. Said bond shall be in such form as the Commissioner of Internal Revenue shall prescribe.

SEC. 9. *And be it further enacted*, That every distiller and person intending to engage in the business of a distiller shall, previous to the approval of his bond, cause to be made, under the direction of the assessor of the district, an accurate plan and description, in triplicate, of the distillery and distilling apparatus, distinctly showing the location of every still, boiler, doubler, worm-tub, and receiving cistern, the course and construction of all fixed pipes used or to be used in the distillery, and of every branch thereof, and of every cock, or joint thereof, and of every valve therein, together with every place, vessel, tub, or utensil from and to which any such pipe shall lead, or with which it communicates. Such plan and description shall also show the number and location and cubic contents of every still, mash-tub, and fermenting-tub, together with the cubic contents of every receiving cistern, and the color of each fixed pipe, as required in this act. One copy of said plan and description shall be kept displayed in some conspicuous place in the distillery; two copies shall be furnished to the assessor of the district, one of which shall be kept by him and the other transmitted to the Commissioner of Internal Revenue. The accuracy of every such plan and description shall be verified by the assessor, the draughtsman, and the distiller;

and no alteration shall be made in such distillery without the consent, in writing, of the assessor, which alteration shall be shown on the original or by a supplemental plan and description, and a reference thereto noted on the original, as the assessor may direct; and any supplemental plan and description shall be executed and preserved in the same manner as the original.

SEC. 10. *And be it further enacted*, That immediately after the passage of this act every assessor shall proceed, at the expense of the United States, with the aid of some competent and skillful person, to be designated by the Commissioner of Internal Revenue, to make survey of each distillery registered or intended to be registered for the production of spirits in his district, to estimate and determine its true producing capacity, and in like manner shall estimate and determine the capacity of any such distillery as may hereafter be so registered in said district, a written report of which shall be made in triplicate, signed by the assessor and the person aiding in making the same, one copy of which shall be furnished to the distiller, one retained by the assessor, and the other immediately transmitted to the Commissioner of Internal Revenue. If the Commissioner of Internal Revenue shall at any time be satisfied that such report of the capacity of a distillery is in any respect incorrect or needs revision, he shall direct the assessor to make in like manner another survey of said distillery; the report of said survey shall be executed in triplicate and deposited as hereinbefore provided.

SEC. 11. *And be it further enacted*, That after the passage of this act it shall not be lawful for any assessor to assess a special tax upon any distiller, or for the collector to collect the same, or for any distiller who has heretofore paid a special tax as such to continue the business of distilling until such distiller shall have given the bond required by this act, and shall have complied with the provisions of law having reference to the registration and survey of distilleries, and having reference to the arrangement and construction of distilleries, and the premises connected therewith, in manner and as required by this act; nor shall it be lawful for any assessor of internal revenue to assess, or for any collector to collect, any special tax for distilling on any premises distant less than six hundred feet from any premises used for rectifying, nor shall any assessor assess or collector collect any special tax for rectifying distilled spirits on any premises distant less than six hundred feet from any distillery when the distillery and rectifying establishments are occupied and used by different persons; nor shall the processes of distillation and rectification both be carried on within the distance of six hundred feet. In all cases where a distillery and rectifying establishment, distant the one from the other less than six hundred feet, are occupied and used by the same person, said person shall have the right to elect which business shall be discontinued at that place. In all cases where rectifying or distilling shall be discontinued under the provisions of this section, and the time for which the special tax for rectifying or distilling was paid remains unexpired, the Secretary of the Treasury is hereby authorized to refund out of any money in the Treasury not otherwise appropriated, on requisition of the Commissioner of Internal Revenue, a proportionate part of any sum originally paid for special tax therefor, which shall be in such ratio to the whole sum paid as the unexpired time for which special tax was paid shall bear to the whole term for which the same was paid. Any collector or assessor of internal revenue who shall fail to perform any duty imposed by this section, or shall assess or collect any special tax in violation of its provisions, shall be liable to a penalty of five thousand dollars for each offense.

SEC. 12. *And be it further enacted*, That no person shall use any still, boiler, or other

vessel for the purpose of distilling in any dwelling-house, nor in any shed, yard, or inclosure connected with any dwelling-house, nor on board of any vessel or boat, nor in any building or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar or other are manufactured or produced, or where sugars or sirups are refined, or where liquors of any description are retailed, or where any other business is carried on, nor within six hundred feet from any premises authorized to be used for rectifying; and every person who shall use any still, boiler, or other vessel for the purpose of distilling, as aforesaid, in any building or other premises where the above-specified articles are manufactured, produced, refined, or retailed, or other business is carried on, or on board of any vessel or boat, or in any dwelling-house, or other place as aforesaid, or shall aid or assist therein, or who shall cause or procure the same to be done, shall, on conviction, be fined one thousand dollars and imprisoned for not less than six months nor more than two years, in the discretion of the court: *Provided*, That saleratus may be manufactured, or meal or flour ground from grain in any building or on any premises where spirits are distilled; but such meal or flour only to be used for distillation on the premises.

SEC. 13. *And be it further enacted*, That there shall be assessed and collected monthly, from every authorized distiller whose distillery has an aggregate capacity for mashing and fermenting twenty bushels of grain or less, or sixty gallons of molasses or less, in twenty-four hours, a tax of two dollars per day, Sundays excepted; and a tax of two dollars per day for every twenty bushels of grain or sixty gallons of molasses of said capacity in excess of twenty bushels of grain or sixty gallons of molasses in twenty-four hours. But any distiller who shall suspend work, as provided by this act, shall pay only two dollars per day during the time the work shall be so suspended in his distillery.

SEC. 14. *And be it further enacted*, That any person who shall manufacture any still, boiler, or other vessel, to be used for the purpose of distilling, shall, before the same is removed from the place of manufacture, notify in writing the assessor of the district in which such still, boiler, or other vessel is to be used or set up, by whom it is to be used, its capacity, and the time when the same is to be removed from the place of manufacture; and no such still, boiler, or other vessel shall be set up without the permit in writing of the said assessor for that purpose; and any person who shall set up any such still, boiler, or other vessel, without first obtaining a permit from the said assessor of the district in which such still, boiler, or other vessel is intended to be used, or who shall fail to give such notice, shall pay in either case the sum of five hundred dollars, and shall forfeit the distilling apparatus thus removed or set up in violation of law.

SEC. 15. *And be it further enacted*, That every distiller shall provide, at his own expense, a warehouse, to be situated on and to constitute a part of his distillery premises, to be used only for the storage of distilled spirits of his own manufacture; but no dwelling-house shall be used for such purpose, and no door, window, or other opening shall be made or permitted in the walls of such warehouse leading into the distillery or into any other room or building; and such warehouse, when approved by the Commissioner of Internal Revenue, on report of the collector, is hereby declared to be a bonded warehouse of the United States, to be known as a distillery warehouse, and shall be under the direction and control of the collector of the district, and in charge of an internal revenue storekeeper assigned thereto by the Commissioner of Internal Revenue; and the tax on the spirits stored in such warehouse shall be paid before removal from such warehouse.

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SEC. 16. *And be it further enacted*, That the owner, agent, or superintendent of any distillery, established as hereinbefore provided, shall erect, in a room or building to be provided and used for that purpose, and for no other, and to be constructed in the manner to be prescribed by the Commissioner of Internal Revenue, two or more receiving cisterns, each to be at least of sufficient capacity to hold all the spirits distilled during the day of twenty-four hours, into which shall be conveyed all the spirits produced in said distillery; and each of such cisterns shall be so constructed as to leave an open space of at least three feet between the top thereof and the floor or roof above, and of not less than eighteen inches between the bottom thereof and the floor below, and shall be so situated that the officer can pass around the same, and shall be connected with the outlet of the worm or condenser by suitable pipes or other apparatus so constructed as always to be exposed to the view of the officer, and so connected and constructed as to prevent the abstraction of spirits while passing from the outlet of the worm or condenser back to the still or doubler, or forward to the receiving cistern; such cisterns, and the room in which they are contained, shall be in charge of and under the lock and seal of the internal revenue gauger designated for that duty; and on the third day after the spirits are conveyed into such cisterns the same shall be drawn off into casks under the supervision of such gauger in the presence of the storekeeper, and be removed directly to the distillery warehouse; and on special application to the assessor or assistant assessor by the owner, agent, or superintendent of any distillery, the spirits may be drawn off from the said cisterns under the supervision of the gauger at any time previous to the third day. All locks and seals required by law shall be provided by the Commissioner of Internal Revenue at the expense of the owner of the distillery or warehouse; and the keys shall be in charge of the collector or such gauger as he may designate.

SEC. 17. *And be it further enacted*, That the door of the furnace of every still or boiler used in any distillery shall be so constructed that it may be securely fastened and locked. The fermenting-tubs shall be so placed as to be easily accessible to any revenue officer, and each tub shall have distinctly painted thereon in oil colors its cubic contents in gallons, and the number of the tub. There shall be a clear space of not less than one foot around every wood still, and not less than two feet around every doubler and worm tank. The doubler and worm tanks shall be elevated not less than one foot from the floor; and every fixed pipe to be used by the distiller, except for conveyance of water, or of spent mash or beer only, shall be so fixed and placed as to be capable of being examined by the officer for the whole of its length or course, and shall be painted, and kept painted, as follows, that is to say: every pipe for the conveyance of mash or beer shall be painted of a red color; every pipe for the conveyance of low wines back into the still or doubler shall be painted blue; every pipe for the conveyance of spirits shall be painted black; and every pipe for the conveyance of water shall be painted white. If any fixed pipe shall be used by any distiller which shall not be painted or kept painted as herein directed, or which shall be painted otherwise than as herein directed, he shall forfeit the sum of one thousand dollars. No assessor shall approve the bond of any distiller until all the requirements of the law and all regulations made by the Commissioner of Internal Revenue in relation to distilleries, in pursuance thereof, shall have been complied with. Any assessor who shall violate the provisions of this section shall forfeit and pay two thousand dollars, and shall be dismissed from office.

SEC. 18. *And be it further enacted*, That every person engaged in distilling or rectifying

spirits, and every wholesale liquor dealer and compounder of liquors, shall place and keep conspicuously on the outside of his distillery, rectifying establishment, or place of business, a sign, in plain and legible letters, not less than three inches in length, painted in oil colors or gilded, and of a proper and proportionate width, the name or firm of the distiller, rectifier, wholesale dealer, or compounder, with the words "registered distillery," "rectifier of spirits," "wholesale liquor dealer," or "compounder of liquors," as the case may be; and no fence or wall of a height greater than five feet shall be erected or maintained around the premises of any distillery, so as to prevent easy and immediate access to said distillery; and every distiller shall furnish to the assessor of the district as many keys of the gates and doors of the distillery as may be required by the assessor, from time to time, for any revenue officer or other person who may be authorized to make survey or inspections of the premises or of the contents thereof; and said distillery shall be kept always accessible to any officer or other person having any such key. Any person who shall violate any of the foregoing provisions of this section by negligence or refusal, or otherwise, shall pay a penalty of five hundred dollars. Any person not having paid the special tax, as required by law, who shall put up the sign required by this section, or any sign indicating that he may lawfully carry on the business of a distiller, rectifier, wholesale liquor dealer, or compounder of liquors, shall forfeit and pay one thousand dollars, and, on conviction, shall be imprisoned not less than one month nor more than six months; and any person who shall work in any distillery, rectifying establishment, wholesale liquor store, or in the store of any compounder of liquors, on which no sign shall be placed and kept as hereinbefore provided, and any person who shall knowingly receive at, carry, or convey any distilled spirits to or from any such distillery, rectifying establishment, warehouse, or store, or who shall knowingly carry and deliver any grain, molasses, or other raw material to any distillery on which such sign shall not be placed and kept, shall forfeit all horses, carts, drays, wagons, or other vehicle or animal used in carrying or conveying of such property aforesaid, and, on conviction, shall be fined not less than one hundred dollars nor more than one thousand dollars, or be imprisoned not less than one month nor more than six months.

SEC. 19. *And be it further enacted*, That every person making or distilling spirits, or owning any still, boiler, or other vessel used for the purpose of distilling spirits, or having such still, boiler, or other vessel so used under his superintendence, either as agent or owner, or using any such still, boiler, or other vessel, shall, from day to day, make, or cause to be made, true and exact entry in a book or books, to be kept by him, in such form as the Commissioner of Internal Revenue may prescribe, of the kind of materials, and the quantity in pounds, bushels, or gallons purchased by him for the production of spirits, from whom and when purchased, and by what conveyance delivered at said distillery, together with the amount paid for thereof, the kind and quantity of fuel purchased for use in the distillery, and from whom purchased, the amount paid for ice or water for use in the distillery, the repairs placed on said distillery or distilling apparatus, the cost thereof, and by whom and when made, and the name and residence of each person employed in or about the distillery, and in what capacity employed; and in another book shall make like entry [of] the quantity of grain or other material used for the production of spirits, the time of day when any yeast or other composition is put into any mash or beer for the purpose of exciting fermentation, the quantity of mash in each tub, designating the same by the number

of the tub, the number of dry inches, that is to say, the number of inches between the top of each tub and the surface of the mash or beer therein at the time of yeasting, the gravity and temperature of the beer at the time of yeasting, and on every day thereafter its quantity, gravity, and temperature at the hour of twelve meridian; also the time when any fermenting-tub is emptied of ripe mash or beer, the number of gallons of spirits distilled, the number of gallons placed in warehouse, and the proof thereof, and the number of gallons sold or removed, with the proof thereof, and the name, place of business and residence of the person to whom sold; and every fermenting-tub shall be emptied at the end of the fermenting period, and shall remain empty for a period of twenty-four hours. On the first, eleventh, and twenty-first days of each month, or within five days thereafter, respectively, every distiller shall render to the assistant assessor an account in duplicate, taken from his books, stating the quantity and kind of materials used for the production of spirits each day, and the number of wine gallons and of proof gallons of spirits produced and placed in warehouse. And the distiller or the principal manager of the distillery shall make and subscribe the following oath, to be attached to said return:

"I, ———, distiller, (or principal manager, as the case may be,) of the distillery at ———, do solemnly swear that, since the date of the last return of the business of said distillery, dated ——— day of ——— to ——— day of ———, both inclusive, there was produced in said distillery, and withdrawn and placed in warehouse, the number of wine gallons and proof gallons of spirits, and there were actually mashed and used in said distillery, and consumed in the production of spirits therein, the several quantities of grain, sugar, molasses, and other materials, respectively, hereinbefore specified, and no more."

The said book shall always be kept at the distillery, and be always open to the inspection of any revenue officer, and, when filled up, shall be preserved by the distiller for a period not less than two years thereafter, and whenever required shall be produced for the inspection of any revenue officer. If any false entry shall be made in either of said books, or any entry required to be made therein shall be omitted therefrom, for every such false entry made, or omission, the distiller shall forfeit and pay a penalty of one thousand dollars. And if any such false entry shall be made, or any entry shall be omitted therefrom with intent to defraud or to conceal from the revenue officers any fact or particular required to be stated and entered in either of said books, or to mislead in reference thereto, or if any distiller as aforesaid shall omit or refuse to provide either of said books, or shall cancel, obliterate, or destroy any part of either of such books, or any entry therein, with intent to defraud, or shall permit the same to be done, or such books, or either of them, be not produced when required by any revenue officer, the distillery, distilling apparatus, and the lot or tract of land on which it stands, and all personal property of every kind and description on said premises used in the business there carried on, shall be forfeited to the United States. And any person making such false entry or omitting to make any entry hereinbefore required to be made, with the intent aforesaid, or who shall cause or procure the same to be done, or who shall fraudulently cancel, obliterate, or destroy any part of said books, or any entry therein, or who shall willfully fail to produce such books, or either of them, on conviction shall be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than two years.

SEC. 20. *And be it further enacted*, That on receipt of the distiller's first return in each

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month, the assessor shall inquire and determine whether said distiller has accounted in his returns for the preceding month for all the spirits produced by him; and to determine the quantity of spirits thus to be accounted for the whole quantity of materials used for the production of spirits shall be ascertained; and forty-five gallons of mash or beer brewed or fermented from grain shall represent not less than one bushel of grain, and seven gallons of mash or beer brewed or fermented from molasses shall represent not less than one gallon of molasses. In case the return of the distiller shall have been less than the quantity thus ascertained, the distiller or other person liable shall be assessed for such deficiency at the rate of fifty cents for every proof gallon, together with the special tax of four dollars for every cask of forty proof gallons, and the collector shall proceed to collect the same as in cases of other assessments for deficiencies; but in no case shall the quantity of spirits returned by the distiller, together with the quantity so assessed, be for a less quantity of spirits than eighty per centum of the producing capacity of the distillery, as estimated under the provisions of this act.

SEC. 21. *And be it further enacted*, That the storekeeper assigned to any distillery warehouse shall also have charge of the distillery connected therewith; and, in addition to the duties required of him as a storekeeper in charge of a warehouse, shall keep in a book to be provided for that purpose, and in the manner to be prescribed by the Commissioner of Internal Revenue, a daily account of all the meal and vegetable productions or other substances brought into said distillery, or on said premises, to be used for the purpose of producing spirits, from whom purchased, and when delivered at said distillery, the kind and quantity of all fuel used, and from whom purchased, and of all repairs made on said distillery, and by whom and when made, the names and places of residence of all persons employed in or about the distillery, of the materials put into the mash-tub or otherwise used for the production of spirits, the time when any fermenting-tub is emptied of ripe mash or beer, recording the same by the number painted on said tub, and of all spirits drawn off from the receiving cistern, and the time when the same were drawn off. Any distiller or person employed in any distillery who shall use, cause, or permit to be used any material for the purpose of making mash, wort, or beer, or for the production of spirits, or shall remove any spirits in the absence of the storekeeper or person designated to act as said storekeeper, shall forfeit and pay double the amount of taxes on the spirits so produced, distilled, or removed, and, in addition thereto, be liable to a penalty of one thousand dollars.

SEC. 22. *And be it further enacted*, That every distiller, at the hour of twelve meridian, on the third day after that on which his bond shall have been approved by the assessor, shall be deemed to have commenced and thereafter to be continuously engaged in the production of distilled spirits in his distillery, except in the intervals when he shall have suspended work, as hereinafter authorized or provided. Any distiller desiring to suspend work in his distillery may give notice in writing to the assistant assessor of his division, stating when he will suspend work; and on the day mentioned in said notice said assistant assessor shall, at the expense of the distiller, proceed to fasten securely the door of every furnace of every still or boiler in said distillery, by locks and otherwise, and shall adopt such other means as the Commissioner of Internal Revenue shall prescribe to prevent the lighting of any fire in such furnace or under such stills or boilers. The locks and seals, and other materials required for such purpose, shall be furnished to the assessor of the district by the Commissioner of Internal Revenue, to be duly

accounted for by said assessor. Such notice by any distiller, and the action taken by the assistant assessor in pursuance thereof, shall be immediately reported to the assessor of the district, and by him transmitted to the Commissioner of Internal Revenue. No distiller, after having given such notice, shall, after the time stated therein, carry on the business of a distiller on said premises until he shall have given another notice in writing to said assessor, stating the time when he will resume work; and at the time so stated for resuming work the assistant assessor shall attend at the distillery to remove said locks and other fastenings; and thereupon, and not before, work may be resumed in said distillery, which fact shall be immediately reported to the assessor of the district, and by him transmitted to the Commissioner of Internal Revenue. Any distiller, after the time fixed in said notice declaring his intention to suspend work, who shall carry on the business of a distiller on said premises, or shall have mash, wort, or beer in his distillery, or on any premises connected therewith, or who shall have in his possession, or under his control, any mash, wort, or beer, with intent to distill the same on said premises, shall incur the forfeitures and be subject to the same punishment as provided for persons who carry on the business of a distiller without having paid the special tax.

SEC. 23. *And be it further enacted*, That all distilled spirits shall be drawn from the receiving cisterns into casks, each of not less capacity than twenty gallons wine measure, and shall thereupon be gauged, proved, and marked by an internal revenue gauger, by cutting on the cask containing such spirits, in a manner to be prescribed by the Commissioner of Internal Revenue, the quantity in wine gallons, and in proof gallons, of the contents of such cask, and shall be immediately removed into the distillery warehouse, and the gauger shall, in presence of the storekeeper of the warehouse, place upon the head of the cask an engraved stamp, which shall be signed by the collector of the district and the storekeeper and gauger, and shall have written thereon the number of proof gallons contained therein, the name of the distiller, the date of the receipt in the warehouse, and the serial number of each cask, in progressive order, as the same shall be received from the distillery. Such serial number for every distillery shall begin with number one (No. 1) with the first cask deposited therein after this act takes effect, and no two or more casks warehoused at the same distillery shall be marked with the same number. The said stamp shall be as follows:

Distillery warehouse stamp No. —.
Issued by —, collector, — district,
State of —. Distillery warehouse of —,
18—, Cask No. —, contents — gallons, proof
spirit.

United States Storekeeper.

Attest:

United States Gauger.

And the distiller or owner of all spirits so removed to the distillery warehouse shall, on the first, eleventh, and twenty-first days of each month, or within five days thereafter, enter the same for deposit in such warehouse, under such rules and regulations, not inconsistent herewith, as the Commissioner of Internal Revenue may prescribe; and said entry shall be in triplicate, and shall contain the name of the person making the entry, the designation of the warehouse in which the deposit is made, and the date thereof, and [shall] be in form as follows:

Entry for deposit in distillery warehouse.
Entry of distilled spirits deposited by —
—, in distillery warehouse —, in the —
district, State of —, on the — day of —,
anno Domini —.

And the entry shall specify the kind of spirits, the whole number of casks, the marks and

serial numbers thereon; the number of gauge or wine gallons and of proof gallons, and the amount of the tax on the spirits contained in them; all of which shall be verified by the oath or affirmation of the distiller or owner of the same attached to the entry; and the said distiller or owner shall give his bond in duplicate, with one or more sureties satisfactory to the collector of the district, conditioned that the principal named in said bond will pay the tax on the spirits, as specified in the entry, or cause the same to be paid before removal from said distillery warehouse, and within one year from the date of said bond; and the penal sum of such bond shall not be less than double the amount of the tax on such distilled spirits. One of said entries shall be retained in the office of the collector of the district, one sent to the storekeeper in charge of the warehouse, to be retained and filed in the warehouse, and one sent with the duplicate of the bond to the Commissioner of Internal Revenue, to be filed in his office.

SEC. 24. *And be it further enacted*, That any distilled spirits may, on payment of the tax thereon, be withdrawn from warehouse on application to the collector of the district in charge of such warehouse, on making a withdrawal entry, in duplicate, and in form as follows:

Entry for withdrawal of distilled spirits from warehouse. Tax paid.

Entry of distilled spirits to be withdrawn, on payment of the tax, from — warehouse by —, deposited on the — day of —, anno Domini —, by —, in said warehouse.

And the entry shall specify the whole number of casks with the marks and serial numbers thereon, the number of gauge or wine gallons, and of proof gallons, and the amount of the tax on the distilled spirits contained in them; all of which shall be verified by the oath or affirmation of the person making such entry; and on payment of the tax the collector shall issue his order to the storekeeper in charge of the warehouse for the delivery. One of said entries shall be filed in the office of the collector, and the other transmitted by him to the Commissioner of Internal Revenue.

SEC. 25. *And be it further enacted*, That whenever an order is received from the collector for the removal from any distillery warehouse of any cask of distilled spirits, on which tax has been paid, it shall be the duty of the gauger by whom the same is gauged and inspected, in presence of the storekeeper, before such cask has left the warehouse, to place upon the head thereof, in such manner as to cover no portion of any brand or mark prescribed by law already placed thereon, a stamp, on which shall be engraved the number of proof gallons contained in said cask on which the tax has been paid, and which shall be signed by the collector of the district, storekeeper, and gauger, and which shall state the serial number of the cask, the name of the person by whom the tax was paid, and the person to whom the place where it is to be delivered; which stamp shall be as follows:

Tax-paid stamp No. —.

Received — 18—, from —,
tax on — gallons proof spirit, cask No. —,
— warehouse at —, for delivery to —
at —.

Collector — District, State of —.

Attest:

U. S. Storekeeper.

U. S. Gauger.

And at the time of affixing the tax-paid stamp or stamps, the gauger shall, in the presence of the storekeeper, cut or burn upon each cask the name of the distiller, the district, the date of the payment of [the] tax, the number

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of proof gallons, and the number of the stamp, which cutting or burning shall be erased when such cask is emptied by cutting or burning a canceling line across such marks or brands.

Whenever any cask or package of rectified spirits shall be filled for shipment, sale, or delivery, on the premises of any rectifier, who shall have paid the special tax required by law, it shall be the duty of a United States gauger to gauge and inspect the same and place thereon an engraved stamp, which shall be signed by the collector of the district and the said gauger, and state the date when affixed, and the number of proof gallons, which stamp shall be as follows:

Stamp for rectified spirits No.—
 Issued by ———, collector ——— district,
 State of ———,
 ———, rectifier of spirits in the ——— dis-
 trict, State of ———, 18—, ———
 proof gallons.

U. S. Gauger.

Whenever any cask or package of distilled spirits shall be filled for shipment, sale, or delivery on the premises of any wholesale liquor dealer or compounder, it shall be the duty of a United States gauger to gauge and inspect the same, and place thereon an engraved stamp, signed by the collector of the district and the said gauger, stating the name of the compounder or dealer and the date when affixed, and the number of proof gallons, which stamp shall be as follows:

Wholesale liquor dealer's stamp No.—
 Issued by ———, collector ——— district,
 State of ———,
 ———, wholesale liquor dealer, of ———
 ——— district, State of ———, 18—,
 ——— proof gallons.

U. S. Gauger, ——— District, State of ———.

All blanks in any of the above forms shall be duly filled in accordance with the facts in each case. And the stamps above designated shall be affixed so as to fasten the same securely to the cask or package and duly canceled, and shall then be immediately covered with a coating of transparent varnish or other substance, so as to protect them from removal or damage by exposure; and such affixing, cancellation, and covering shall be done in such manner as the Commissioner of Internal Revenue shall by regulation prescribe; but such stamps shall in every case be affixed to a smooth surface of the cask or other package, which surface shall not have been previously painted or covered with any substance.

Sec. 26. *And be it further enacted*, That all stamps required for distilled spirits shall be engraved in their several kinds in book form, and shall be issued by the Commissioner of Internal Revenue to any collector, upon his requisition, in such numbers as may be necessary in the several districts. Each stamp shall have an engraved stub attached thereto with a number thereon corresponding with an engraved number on the stamp, and the stub shall not be removed from the book. And there shall be entered on the corresponding stub such memoranda of the contents of every stamp as shall be necessary to preserve a perfect record of the use of such stamp when detached.

Sec. 27. *And be it further enacted*, That every stamp for the payment of tax on distilled spirits shall have engraved thereon words and figures representing a decimal number of gallons, and a similar number of gallons shall be engraved on the stub corresponding to such stamp, and between the stamp and the stub, and connecting them, shall be engraved nine coupons, which, beginning next to the stamp, shall indicate in succession the several numbers of gallons between the number named in the stamp and the decimal number next above. And whenever any collector shall receive the

tax on the distilled spirits contained in any cask he shall detach from the book a stamp representing the denominate quantity nearest to the quantity of proof spirits in such cask, as shown by the gauger's return, with such number of the coupons attached thereto as shall be necessary to make up the whole number of proof gallons in said cask, and any quantity in addition to the number of full gallons less than one gallon shall be regarded as a full gallon; and all unused coupons shall remain attached to the marginal stub; and no coupon shall have any value or significance whatever when detached from the stamp and stub. And the tax-paid stamps with the coupons may denote such number of gallons, not less than twenty, as the Commissioner of Internal Revenue may deem advisable.

Sec. 28. *And be it further enacted*, That the books of tax-paid stamps issued to any collector shall be charged to his account at the full value of the tax on the number of gallons represented on the stamps and coupons contained in said books; and every collector shall make monthly return to the Commissioner of Internal Revenue of all tax-paid stamps issued by him to be affixed to any cask or package containing distilled spirits, on which the tax has been paid, and account for the amount of the tax collected; and when the said collector shall return to the Commissioner of Internal Revenue any book of marginal stubs, which it shall be his duty to do as soon as all the stamps contained in the book, when issued to him from the office of internal revenue, have been used, and shall have accounted for the tax on the number of gallons represented on the stamps and coupons that were contained in said book, there shall be allowed a commission of half of one per centum on the amount of the tax on spirits distilled after the passage of this act, in addition to any other commission by law allowed, which shall be equally divided between the collector receiving the tax and the assessor of the district in which the distilled spirits were produced. All stamps relating to distilled spirits other than the tax-paid stamps shall be charged to collectors as representing the value of twenty-five cents for each stamp; and the books containing such stamps may be intrusted by any collector to the gauger of the district, who shall make a daily report to the assessor and collector of all such stamps used by him, and for whom used, and from these reports the assessor of the district shall assess the person for whom they were used, and the collector shall thereupon collect the amount due for such stamps at the rate of twenty-five cents for each stamp issued during the month; and when all the stamps contained in any such book shall have been issued, the gauger of the district shall return the book to the collector with all the marginal stubs therein.

Sec. 29. *And be it further enacted*, That any revenue officer who shall affix or cancel, or cause or permit to be affixed or canceled, any stamp relating to distilled spirits required or provided for in this act in any other manner or in any other place, or who shall issue the same to any other person than as provided by law, or regulation made in pursuance thereof, or who shall knowingly affix or permit to be affixed any such stamp to any cask or package of spirits of which the whole or any part has been distilled, rectified, compounded, removed, or sold, in violation of law, or which has in any manner escaped payment of tax due thereon, shall, for every such offense, be fined not less than five hundred dollars nor more than three thousand dollars, and be imprisoned for not less than six months nor more than three years.

Sec. 30. *And be it further enacted*, That if any distiller shall desire to reduce the producing capacity of his distillery, he shall give notice of such intention in writing to said assessor, stating the quantity of spirits which he desires thereafter to manufacture or produce every twenty-four hours, and thereupon said assessor

shall proceed, at the expense of the distiller, to reduce and limit the producing capacity of the distillery to the quantity stated in said notice, by placing upon a sufficient number of the fermenting-tubs close-fitting covers, which shall be securely fastened by nails, seals, and otherwise, and in such manner as to prevent the use of such tubs without removing said covers or breaking said seals, and shall adopt such other precautions as shall be prescribed by the Commissioner of Internal Revenue to reduce the capacity of said distillery. And any person who shall break, injure, or in any manner tamper with any lock, seal, or other fastening applied to any furnace, still, or fermenting-tub, or other vessel, in pursuance of the provisions of this act, or who shall open or attempt to open any door, tub, or other vessel which shall have been locked or sealed, or otherwise closed or fastened as herein provided, or who shall use any furnace, still, or fermenting-tub, or other vessel which shall be so locked, sealed, or fastened, shall be deemed guilty of a felony, and, on conviction, shall be fined not less than one thousand dollars, nor more than five thousand dollars, and imprisoned for not less than one year, nor more than three years.

Sec. 31. *And be it further enacted*, That whenever any officer shall require that the water contained in any worm-tub in a distillery, at any time when the still shall not be at work, shall be drawn off, and the tub and worm cleaned, the water shall forthwith be drawn off, and the tub and worm cleaned by the distiller or his workmen accordingly; and the water shall be kept and continued out of such worm-tub for the space of two hours, or until the officer has finished his examination thereof; and for any refusal or neglect to comply with the requisition of the officer in this behalf, or the provision in this clause contained, the distiller shall forfeit the sum of one thousand dollars, and it shall be lawful for the officer to draw off such water, or any portion of it, and to keep the same drawn off for so long a time as he shall think necessary.

Sec. 32. *And be it further enacted*, That it shall be lawful for any revenue officer, at all times, as well by night as by day, to enter into any distillery, or building, or place, used for the business of distilling, or in connection therewith, for storage or other purposes, and to examine, gauge, measure, and take an account of every still or other vessel or utensil of any kind, and of all low wines, and of the quantity and gravity of all mash, wort, or beer, and of all yeast, or other compositions for exciting or producing fermentation in any mash or beer, and of all spirits and of all materials for making or distilling spirits, which shall be in any such distillery or premises, or in the possession of the distiller; and if any revenue officer, or any person called by him to his aid, shall be hindered, obstructed, or prevented by any distiller or by any workman, or other person acting for such distiller or in his employ, from entering into any such distillery, or building, or place as aforesaid; or if any such officer shall be by the distiller, or his workman, or any person in his employ, prevented or hindered from, or opposed, or obstructed, or molested in the performance of his duty under this act, in any respect, the distiller shall forfeit the sum of one thousand dollars. If any officer, having demanded admittance into a distillery or premises of a distillery, and having declared his name and office, shall not be admitted into such distillery or premises by the distiller or other person having charge of the same, it shall be lawful for such officer, at all times, as well by night as by day, to break open by force any of the doors or windows, or to break through any of the walls of such distillery or premises necessary to be broken open or through, to enable him to enter the said distillery or premises; and the distiller shall forfeit the sum of one thousand dollars.

Sec. 33. *And be it further enacted*, That on

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the demand of any revenue officer, every distiller, rectifier, or compounder of spirits shall furnish strong, safe, and convenient ladders of sufficient length to enable the officer to examine and gauge any vessel or utensil in such distillery or premises; and shall, at all times when required, supply all assistance, lights, ladders, tools, staging, or other things necessary for inspecting the premises, stock, tools, and apparatus belonging to such person, and shall open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels not under the control of a revenue officer in charge, under a penalty of five hundred dollars for every refusal or neglect so to do.

SEC. 34. *And be it further enacted*, That it shall be lawful for any revenue officer, and any person acting in his aid, to break up the ground on any part of the distillery or premises of a distiller, rectifier, or compounder of liquors, or any ground adjoining or near to such distillery or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and upon finding any such pipe or conveyance leading therefrom or thereto, he may break up any ground, house, wall, or other place through or into which such pipe or other conveyance shall lead, and break or cut away such pipe or other conveyance, and turn any cock, or examine whether such pipe or other conveyance may convey or conceal any mash, wort, or beer, or other liquor which may be used for distillation of low wines or spirits from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

SEC. 35. *And be it further enacted*, That no malt, corn, grain, or other material shall be mashed, nor any mash, wort, or beer brewed or made, nor any still used by a distiller at any time between the hour of eleven in the afternoon of any Saturday and the hour of one in the forenoon of the next succeeding Monday; and any person who shall violate the provisions of this section shall be liable to a penalty of one thousand dollars.

SEC. 36. *And be it further enacted*, That all distilled spirits found elsewhere than in a distillery or distillery warehouse, not having been removed therefrom according to law, shall be forfeited to the United States. And in case of the seizure of any distilled spirits found elsewhere than in a distillery, distillery warehouse, or other warehouse for distilled spirits authorized by law, or in the store or place of business of a rectifier, or of a wholesale liquor dealer, or of a compounder of liquors, or in transit from any one of said places; and in case of the seizure of any distilled spirits found in any one of the places aforesaid, or in transit therefrom, which shall not have been received into or sent out therefrom in conformity to law, or in regard to which any of the entries required by law to be made in the books of the owner of such spirits or of the storekeeper, wholesale dealer, rectifier, or compounder, have not been made at the time or in the manner required, or in respect to which the owner or person having possession, control, or charge of said spirits shall have omitted to do any act required to be done, or shall have done or committed any act prohibited in regard to said spirits, the burden of proof shall be upon the claimant of said spirits to show that no fraud has been committed, and that all the requirements of the law in relation to the payment of the tax have been complied with. And any person who shall remove, or shall aid or abet in the removal of any distilled spirits on which the tax has not been paid, to a place other than the distillery warehouse provided by law, or who shall conceal or aid in the concealment of any spirits so removed, or who shall remove or shall aid or abet in the removal of any distilled spirits from any distillery warehouse, or other warehouse for distilled spirits authorized by law, in any manner

other than is provided by law, or who shall conceal, or aid in the concealment of any spirits so removed, shall be liable to a penalty of double the tax imposed on such distilled spirits so removed or concealed, and shall, on conviction, be fined not less than two hundred dollars nor more than five thousand dollars, and imprisoned not less than three months nor more than three years.

SEC. 37. *And be it further enacted*, That no person shall remove any distilled spirits at any other time than after sun-rising and before sun-setting, in any cask or package containing more than ten gallons from any premises or building in which the same may have been distilled, redistilled, rectified, compounded, manufactured, or stored, and every person who shall violate this provision shall be liable to a penalty of one hundred dollars for each cask, barrel, or package of spirits so removed; and said spirits, together with any vessel containing the same, and any horse, cart, boat, or other conveyance used in the removal thereof, shall be forfeited to the United States.

SEC. 38. *And be it further enacted*, That any person who shall add or cause to be added any ingredient or substance to any distilled spirits, before the tax imposed by law shall have been paid thereon, for the purpose of creating a fictitious proof, shall, on conviction, be fined not less than one hundred dollars nor more than one thousand dollars for each cask or package so adulterated, and imprisoned not less than three months nor more than two years, and every such cask or package, with its contents, shall be forfeited to the United States.

SEC. 39. *And be it further enacted*, That any person who shall evade or attempt to evade the payment of the tax on any distilled spirits, in any manner whatever, shall forfeit and pay double the amount of the tax so evaded or attempted to be evaded; and any person who shall change or alter any stamp, mark, or brand on any cask or package containing distilled spirits, or who shall put into any cask or package spirits of greater strength than is indicated by the inspection mark thereon, or who shall fraudulently use any cask or package having any inspection mark or stamp thereon for the purpose of selling other spirits or spirits of quantity or quality different from the spirits previously inspected therein, shall forfeit and pay the sum of two hundred dollars for every cask or package on which the stamp or mark is so changed or altered, or which is so fraudulently used, and, on conviction, shall be fined for each such offense not less than one hundred dollars nor more than one thousand dollars, and imprisoned not less than one month nor more than one year.

SEC. 40. *And be it further enacted*, That any person who shall knowingly use any false weights or measures in ascertaining, weighing, or measuring the quantities of grain, meal, or vegetable materials, molasses, beer, or other substances to be used for distillation, or who shall destroy, break, injure, or tamper with any lock or seal which may be placed on any cistern-room or building, by the duly authorized officers of the revenue, or shall open said lock or seal, or the door to such cistern-room or building, or shall in any manner gain access to the contents therein in the absence of the proper officer, shall, on conviction, be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than one year nor more than three years; and any person who shall use any molasses, beer, or other substance, whether fermented on the premises or elsewhere, for the purpose of producing spirits, before an account for the same shall have been registered in the proper record-book provided for that purpose, shall forfeit and pay the sum of one thousand dollars for each and every offense so committed.

SEC. 41. *And be it further enacted*, That it shall be lawful for any internal revenue officer to detain any cask or package containing, or

supposed to contain, distilled spirits, when such officer has reason to believe the tax imposed by law upon the same has not been paid, or that the same is being removed in violation of law; and every such cask or package may be held by such officer at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than forty-eight hours, without process of law or intervention of the officer to whom such detention is to be reported.

SEC. 42. *And be it further enacted*, That no distillery nor distilling apparatus seized for any violation of law shall be released to the claimant or any intervening party before judgment, except in case of a distillery for which the special tax has been paid, and which has a registered producing capacity of one hundred and fifty proof gallons, or more, per day, on showing by sufficient affidavits that there are hogs or other live stock, not less than fifty head in number, depending for their feed on the products of said distillery which would suffer injury if the business of such distillery is stopped; such distillery in that case may be released to the claimant, or any other intervening party, at the discretion of the court, on a bond to be given and approved in open court with two or more sureties for the full appraised value of all the property seized, which value shall be ascertained by three competent appraisers to be designated and appointed by the court. In case of the seizure of and judgment of forfeiture against any distillery used or fit for use in the production of distilled spirits having a registered producing capacity of less than one hundred and fifty gallons per day, or of any distillery for the non-payment of the special tax, the still, stills, doubler, worm, worm-tub, and all mash-tubs and fermenting-tubs shall be so destroyed as to prevent the use of the same or any part thereof for the purpose of distilling; and the materials shall be sold as in case of other forfeited property.

SEC. 43. *And be it further enacted*, That it shall be the duty of every person who empties or draws off, or causes to be emptied or drawn off, any distilled spirits from a cask or package bearing any mark, brand, or stamp required by law, at the time of emptying such cask or package, to efface and obliterate said mark, stamp, or brand. Any such cask or package from which said mark, brand, and stamp is not so effaced and obliterated, as herein required, shall be forfeited to the United States, and may be seized by any officer of internal revenue wherever found. Any railroad company or other transportation company, or person, who shall receive or transport, or have in possession with intent to transport, or with intent to cause or procure to be transported, any such empty cask or package, or any part thereof, having thereon any brand, mark, or stamp, required by law to be placed on any cask or package containing distilled spirits, shall forfeit three hundred dollars for each such cask or package, or any part thereof, so received or transported, or had in possession with the intent aforesaid; and any boat, railroad car, cart, dray, wagon, or other vehicle, and all horses or other animals used in carrying or transporting the same, shall be forfeited to the United States. Any person who shall fail or neglect to efface and obliterate said mark, stamp, or brand at the time of emptying such cask or package, or who shall receive any such cask or package, or any part thereof, with the intent aforesaid, or who shall transport the same, or knowingly aid or assist therein, or who shall remove any stamp provided by this act from any cask or package containing or which had contained distilled spirits, without defacing and destroying the same at the time of such removal, or who shall aid or assist therein, or who shall have in his possession any such stamp so removed, as

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aforesaid, or have in his possession any canceled stamp or any stamp which has been used, or which purports to have been used, upon any cask or package of distilled spirits, shall be deemed guilty of a felony, and, on conviction, shall be fined not less than five hundred dollars nor more than ten thousand dollars, and imprisoned not less than one year nor more than five years.

SEC. 44. *And be it further enacted*, That any person who shall carry on the business of a distiller, rectifier, compounder of liquors, wholesale liquor dealer, retail liquor dealer, or manufacturer of stills, without having paid the special tax, as required by law, or who shall carry on the business of a distiller without having given bond as required by law, or who shall engage in or carry on the business of a distiller, with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall, for every such offense, be fined not less than one thousand dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than two years. And all distilled spirits or wines, and all stills or other apparatus, fit or intended to be used for the distillation or rectification of spirits or for the compounding of liquors, owned by such person, wherever found, and all distilled spirits or wines and personal property found in the distillery or rectifying establishment, or in the store or other place of business of the compounder, or in any building, room, yard, or inclosure connected therewith, and used with or constituting a part of the premises; and all the right, title, and interest of such person in the lot or tract of land on which such distillery is situated, and all right, title, and interest therein of every person who knowingly has suffered or permitted the business of a distiller to be there carried on, or has connived at the same; and all personal property owned by or in possession of any person who has permitted or suffered any building, yard, or inclosure, or any part thereof, to be used for purposes of ingress or egress to or from such distillery which shall be found in any such building, yard, or inclosure, and all the right, title, and interest of every person in any premises used for ingress or egress to or from such distillery, who has knowingly suffered or permitted such premises to be used for such ingress or egress, shall be forfeited to the United States.

SEC. 45. *And be it further enacted*, That every rectifier, wholesale liquor dealer, and compounder of liquors shall provide himself with a book, to be prepared and kept in such form as shall be prescribed by the Commissioner of Internal Revenue, and shall, on the same day on which he receives any spirits, and before he shall draw off any part thereof, or add water or anything thereto, or in any respect alter the same, enter in such book, and in the proper columns respectively prepared for the purpose, the date when, the name of the person or firm from whom, and the place whence the spirits were received, by whom distilled, rectified, or compounded, and when and by whom inspected, and, if in the original package, the serial number of each package, the number of wine gallons and proof gallons, the kind of spirit, and the number and kind of adhesive stamps thereon; and every such rectifier, compounder, and wholesale dealer shall, at the time of sending out of his stock or possession any spirits, and before the same shall be removed from his premises, enter, in like manner, in the said book, the day when, and the name and place of business of the person or firm to whom such spirits are to be sent, the quantity and the kind or quality of such spirits, and also the number of gallons and fractions of a gallon at proof; and, if in the original packages in which they were received, he shall enter the name of the distiller and the serial number of the package. And every such book shall be at all times kept in some public

or open place on the premises of such rectifier, wholesale dealer, or compounder of liquors, respectively, for inspection; and any revenue officer may make an examination of such book and take an abstract therefrom; and every such book, when it has been filled up as aforesaid, shall be preserved by such rectifier, wholesale liquor dealer, or compounder of liquors, for a period not less than two years; and during such time it shall be produced by him to every revenue officer demanding the same; and if any rectifier, wholesale dealer, or compounder of liquors shall refuse or neglect to provide such book or to make entries therein as aforesaid, or shall cancel, alter, obliterate, or destroy any part of such book, or any entry therein, or make any false entry therein, or hinder or obstruct any revenue officer from examining such book or making any entry therein, or taking any abstract therefrom; or if such book shall not be preserved or not produced by any rectifier, or wholesale dealer, or compounder, as hereinbefore directed, he shall pay a penalty of one hundred dollars, and, on conviction, shall be fined not less than one hundred dollars nor more than five thousand dollars, and imprisoned not less than three months nor more than three years.

SEC. 46. *And be it further enacted*, That it shall not be lawful for any rectifier of distilled spirits, compounder of liquors, liquor dealer, wholesale or retail liquor dealer to purchase or receive any distilled spirits in quantities greater than twenty gallons from any person other than an authorized rectifier of distilled spirits, compounder of liquors, distiller, or wholesale liquor dealer. Any person violating this section shall forfeit and pay one thousand dollars: *Provided*, That this shall not be held to apply to judicial sales, nor to sales at public auction made by an auctioneer who has paid a special tax as such.

SEC. 47. *And be it further enacted*, That all distilled spirits drawn from any cask or other package, and placed in any other cask or package containing not less than ten gallons, and intended for sale, shall be again inspected and gauged, and the cask or package into which it is so transferred shall be marked or branded, and such marking and branding shall distinctly indicate the name of the gauger, the time and place of inspection, the proof of the spirits, the particular name of such spirits as known to the trade, together with the name and place of business of the dealer, rectifier, or compounder, as the case may be; and in all cases, except where such spirits have been rectified, or compounded, the name also of the distiller, and the distillery where such spirits were produced, and the serial number of the original package; and the absence of such mark or brand shall be taken and held as sufficient cause and evidence for the forfeiture of such unmarked packages of spirits.

SEC. 48. *And be it further enacted*, That on all wines, liquors, or compounds known or denominated as wine, and made in imitation of sparkling wine or champagne, but not made from grapes grown in the United States, and on all liquors not made from grapes, currants, rhubarb, or berries grown in the United States, but produced by being rectified or mixed with distilled spirits or by the infusion of any matter in spirits, to be sold as wine or by any other name, there shall be levied and paid a tax of six dollars per dozen bottles, each bottle containing more than one pint and not more than one quart; or three dollars per dozen bottles, each bottle containing [not] more than one pint, and at the same rate for any quantity of such merchandise, however the same may be put up or whatever be the package. And any person manufacturing, compounding, or putting up such wines, shall, without previous demand, make return, under oath or affirmation, to the assistant assessor, on the first and fifteenth day of each and every month, or within five days thereafter, of the entire amount

of such wines manufactured and sold or put up and sold during the first fifteen days of the month and the residue of the month, respectively, except when the wines so manufactured or put up are used exclusively by the family of the person manufacturing the same; and the tax herein imposed shall be payable at the time such return is made. And in case such manufacturer shall neglect or refuse to make such return within the time specified, the assessor shall proceed to ascertain the amount of tax due, as provided in other cases of a refusal or neglect to make returns, and shall assess the tax, and add a penalty of fifty per centum to the amount; which said tax and also said penalty shall be collected in the manner provided for the collection of tax on monthly and other lists. Any person who shall fraudulently evade or attempt to evade the payment of the tax herein imposed shall, on conviction, be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than two years.

SEC. 49. *And be it further enacted*, That the Secretary of the Treasury, on the recommendation of the Commissioner of Internal Revenue, may appoint not exceeding twenty-five officers, to be called supervisors of internal revenue, each one of whom shall be assigned to a designated territorial district to be composed of one or more judicial districts and Territories, and shall keep his office at some convenient place in his district to be designated by the Commissioner, and shall receive in addition to expenses necessarily incurred by him and allowed and certified by the said Commissioner as a compensation for his services such salary as the Commissioner of Internal Revenue may deem just and reasonable, not exceeding three thousand dollars per annum. It shall be the duty of every supervisor of internal revenue, under the direction of the Commissioner, to see that all laws and regulations relating to the collection of internal taxes are faithfully executed and complied with; to aid in the prevention, detection, and punishment of any frauds in relation thereto, and to examine into the efficiency and conduct of all officers of internal revenue within his district; and for such purposes he shall have power to examine all persons, books, papers, accounts, and premises, and to administer oaths, and to summon any person to produce books and papers, or to appear and testify under oath before him, and to compel a compliance with such summons in the same manner as assessors may do. It shall be the duty of every supervisor of internal revenue as aforesaid to report in writing to the Commissioner of Internal Revenue any neglect of duty, incompetency, delinquency, or malfeasance in office of any internal revenue officer within his district of which he may obtain knowledge, with a statement of all the facts in each case, and any evidence sustaining the same; and he shall have power to transfer any inspector, gauger, or storekeeper from one distillery or other place of duty to another, or from one collection district to another, within his district, and may, by notice in writing, suspend from duty any such inspector, gauger, or storekeeper, and in case of suspension shall immediately notify the collector of the proper district and the Commissioner of Internal Revenue, and within three days thereafter make report of his action, and his reasons therefor, in writing, to said Commissioner, who shall thereupon take such further action as he may deem proper.

SEC. 50. *And be it further enacted*, That the Commissioner of Internal Revenue shall have power, whenever in his judgment the necessities of the service may require, to employ competent detectives, not exceeding twenty-five in number at any one time, to be paid under the provisions of the seventh section of the "Act to amend existing laws relating to internal revenue, and for other purposes," approved March 2, 1867,

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and he may, at his discretion, assign any such detective to duty under the direction of any supervisor of internal revenue, or to such other special duty as he may deem necessary, and that from and after the passage of this act no general or special agent, or inspector, by whatever name or designation he may be known, of the Treasury Department in connection with the internal revenue, except inspectors of tobacco, snuff, and cigars, and except as provided for in this act, shall be appointed, commissioned, employed, or continued in office, and the term of office or employment of all such general or special agents or inspectors now authorized as aforesaid under employment at the time of the passage of this act shall expire ten days after this act shall take effect.

SEC. 51. *And be it further enacted*, That from and after the passage of this act no assessor or collector shall be detailed or authorized to discharge any duty imposed by law on any other collector or assessor, but a supervisor of internal revenue may, within his territorial district, suspend any collector or assessor for fraud, or gross neglect of duty, or abuse of power, and shall immediately report his action to the Commissioner of Internal Revenue, with his reasons therefor in writing, who shall thereupon take such further action as he may deem proper.

SEC. 52. *And be it further enacted*, That there shall be appointed by the Secretary of the Treasury such number of internal revenue storekeepers as may be necessary, the compensation of each of whom shall be determined by the Commissioner of Internal Revenue, not exceeding five dollars per day, to be paid by the United States, one or more of whom shall be assigned by the Commissioner of Internal Revenue to every bonded or distillery warehouse established by law; and no such storekeeper shall be engaged in any other business while in the service of the United States without the written permission of the Commissioner of Internal Revenue. Every storekeeper shall take an oath faithfully to perform the duties of his office, and shall give a bond, to be approved by the Commissioner of Internal Revenue, for the faithful discharge of his duties, in such form and for such amount as the Commissioner may prescribe. Every storekeeper shall have charge of the warehouse to which he may be assigned, under the direction of the collector controlling the same, which warehouse shall be in the joint custody of such storekeeper and the proprietor thereof, and kept securely locked, and shall at no time be unlocked and opened, or remain open, unless in the presence of such storekeeper or other person who may be designated to act for him as hereinafter provided; and no articles shall be received in or delivered from such warehouse except on an order or permit addressed to the storekeeper and signed by the collector having control of the warehouse. Every storekeeper shall keep a warehouse book, which shall at all times be open to the examination of any revenue officer, in which he shall enter an account of all articles deposited in the warehouse to which he is assigned, indicating in each case the date of the deposit, by whom manufactured or produced, the number and description of the packages and contents, the quantities therein, the marks and serial numbers thereon, and by whom gauged, inspected, or weighed, and if distilled spirits, the number of gauge or wine gallons and of proof gallons; and before delivering any article from the warehouse he shall enter in said book the date of the permit or order of the collector for the delivery of such articles, the number and description of the packages, the marks and serial numbers thereon, the date of delivery, to whom delivered, and for what purpose, which purpose shall be specified in the permit or order for delivery; and in case of delivery of any distilled spirits the number of gauge or wine gallons, and of proof gallons, shall also be stated; and such further particulars shall be entered in the

warehouse books as may be prescribed or found necessary for the identification of the packages, to insure the correct delivery thereof and proper accountability thereof [therefor.] A daily return shall be furnished by every storekeeper to the collector of the district of all articles received in and delivered from the warehouse during the day preceding that on which the return is made, a copy of which shall be mailed by him at the same time to the Commissioner of Internal Revenue; and each storekeeper shall, on the first Monday of every month, make a report in triplicate of the number of packages of all articles, with the several descriptions thereof respectively, as above provided, which remained in the warehouse at the date of his last report, and of all articles received therein and delivered therefrom during the preceding month, and of all articles remaining therein at the end of said month; one of which reports shall be by him delivered to the assessor of the district, to be recorded and filed in his office; one delivered to the collector having control of the warehouse, to be recorded and filed in his office; and one transmitted to the Commissioner of Internal Revenue, to be recorded and filed in his office. Any internal revenue storekeeper may be transferred by the supervisor of the district or by the Commissioner of Internal Revenue from one warehouse to any other. In case of the absence of any internal revenue storekeeper by sickness or from any other cause the collector having control of the warehouse may designate a person to have temporary charge of such warehouse, who shall, during such absence, perform the duties and receive the pay of the storekeeper for the time he may be so employed; and for any violation of the law he shall be subject to the same punishment as storekeepers. Any storekeeper or other person in the employment of the United States having charge of a bonded warehouse, who shall remove or allow to be removed any cask or other package therefrom without an order or permit of the collector, or which has not been marked or stamped in the manner required by law, or shall remove or allow to be removed any part of the contents of any cask or package deposited therein, shall be immediately dismissed from office or employment, and, on conviction, be fined not less than five hundred dollars, nor more than two thousand dollars, and imprisoned not less than three months nor more than two years.

SEC. 53. *And be it further enacted*, That there shall be appointed by the Secretary of the Treasury, in every collection district where the same may be necessary, one or more internal revenue gaugers, who shall each take an oath faithfully to perform his duties, and shall give his bond, with one or more sureties, satisfactory to the Commissioner of Internal Revenue, for the faithful discharge of the duties assigned to him by law or regulations; and the penal sum of said bond shall not be less than five thousand dollars, and said bond shall be renewed or strengthened as the Commissioner of Internal Revenue may require. The duties of every such gauger shall be performed under the supervision and direction of the collector of the district to which he may be assigned, or of the collector in charge of exports at any port of entry to which he may be assigned. Fees for gauging and inspecting shall be prescribed by the Commissioner of Internal Revenue, to be paid to the collector by the owner or producer of the articles to be gauged and inspected; and said collector shall retain all amounts so received as such fees until the last day of each month, when the aggregate amount of fees so paid that month shall, under regulation to be prescribed by the Commissioner of Internal Revenue, be paid to the gauger or gaugers performing the duty. In no case, however, shall the aggregate monthly fees of any gauger exceed the rate of three thousand dollars per annum. All necessary labor and expense attending the gauging of any article shall be borne by the

owner or producer of such articles. Every gauger shall, under such regulations as may be prescribed by the Commissioner of Internal Revenue, make a daily return, in duplicate; one to be delivered to the assessor and the other to the collector of his district, giving a true account, in detail, of all articles gauged and proved or inspected by him, and for whom, and the number and kind of stamps used by him. Any gauger who shall make any false or fraudulent inspection, gauging, or proof, shall pay a penalty of one thousand dollars, and, on conviction, shall be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than three months nor more than three years.

SEC. 54. *And be it further enacted*, That a drawback shall be allowed upon alcohol and rum exported to foreign countries on which taxes have been paid under the provisions of this act when exported as herein provided for. The drawback allowed shall include the taxes levied and paid upon the alcohol or rum exported, not, however, exceeding sixty cents per gallon proof-spirits, which shall be due and payable only after the proper entries and bonds have been executed and filed and all other conditions complied with as hereinafter required, and thirty days after the vessel has actually cleared and sailed on her voyage with such spirits on board; and the Secretary of the Treasury shall prescribe such rules and regulations in relation thereto as may be necessary to secure the Treasury of the United States against frauds. And if any person shall fraudulently claim or seek to obtain an allowance of drawback on any alcohol or rum, or shall fraudulently claim any greater allowance or drawback than the tax actually paid thereon, such person shall forfeit and pay to the Government of the United States triple the amount wrongfully and fraudulently sought to be obtained, and, on conviction, shall be imprisoned not less than one year nor more than ten years. And any owner, agent, or master of any vessel who shall knowingly aid or abet in the fraudulent collection or fraudulent attempt to collect any drawback upon rum or alcohol, or shall knowingly aid or permit any fraudulent change in the spirits so shipped, shall, on conviction, be fined five thousand dollars and imprisoned not less than one year, and the ship or vessel on board of which such shipment was made, or pretended to be made, shall be forfeited to the United States, whether a conviction of the master or owner be had or otherwise, and proceedings may be had in admiralty by libel for such forfeiture.

SEC. 55. *And be it further enacted*, That alcohol and rum may be exported with the privilege of drawback, in quantities not less than two thousand gallons, and in packages containing not less than thirty gallons each, on application of the owner thereof to the collector of customs at any port of entry, and under such rules and regulations, and after making such entries, and executing such bonds, and giving such other additional security, as may be prescribed by law and by the Secretary of the Treasury. The entry for such exportation shall be in triplicate, and shall contain the name of the person applying to export, the name of the distiller, and of the district in which the spirits were distilled, and the name of the vessel by which, and the name of the port to which, they are to be exported; and the form of the entry shall be as follows:

Export Entry of Distilled Spirits entitled to Drawback.

Entry of spirits distilled by ———, in ——— district, State of ———, to be exported by ——— in the ———, whereof ——— is master, bound to ———.

And the entry shall specify the whole number of casks or packages, the marks and serial numbers thereon, the quality or kind of spirits as known in commerce, the number of gauge

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or wine gallons and of proof gallons; and [the] amount of the tax on such spirits shall be verified by the oath or affirmation of the owner of the spirits, and that the tax has been paid thereon, and that they are truly intended to be exported to the port of —, and not to be re-landed within the limits of the United States; and said owner shall give his bond executed in duplicate, with one or more sureties satisfactory to said collector, conditioned that the principal named in said bond will export the spirits as specified in said entry to the port of —, and that the same shall not be landed within the jurisdiction of the United States. The penal sum named in said bond shall be equal to not less than double the amount of the drawback on such spirits. For the discharge of any such export bond the same time shall be allowed, and the same certificates of landing and other evidence shall be required as is or may be provided and required for imported merchandise exported from the United States, that the said spirits have been landed at the port named, or at any other port, beyond the jurisdiction of the United States. One bill of lading, duly signed by the master of the vessel, shall be deposited with said collector, to be filed at his office with the entry retained by him; one of said entries shall be, when the shipment is completed, transmitted, with the duplicate of the bond, to the Secretary of the Treasury, to be recorded and filed in his office. The lading on board said vessel shall be only after the receipt of an order or permit signed by the collector of customs and directed to a customs gauger, and after each cask or package shall have been distinctly marked or branded, by said gauger, as follows: "For export from U. S. A." The casks or packages shall be inspected and gauged alongside of or on the vessel by the gauger, designated by said collector, under such rules and regulations as the Secretary of the Treasury may prescribe; and on application of the said collector, it shall be the duty of the surveyor of the port to designate and direct one of the custom-house inspectors to superintend such shipment. The gauger, as aforesaid, shall make a full return of such inspecting and gauging, certifying thereon that the shipment has been made in his presence, on board the vessel named in the entry for export, which return shall be indorsed by said custom-house inspector, certifying that the casks or packages have been shipped under his supervision on board said vessel; and the said inspector shall make a similar certificate to the surveyor of the port, indorsed on, or to be attached to, the entry in possession of the custom-house: *Provided, however,* That no claim for drawback shall be allowed on either of the said articles which shall have been exported as aforesaid prior to the time at which this act shall take effect.

SEC. 56. *And be it further enacted,* That all distilled spirits in any bonded warehouse shall within nine months after the passage of this act be withdrawn from such warehouse, and the taxes paid on the same; and the casks or packages containing said spirits shall be marked and stamped and be subject in all respects to the same requirements as if manufactured after the passage of this act. And any distilled spirits remaining in any bonded warehouse for a period of more than nine months after the passage of this act shall be forfeited to the United States, and shall be sold or disposed of for the benefit of the same in such manner as shall be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury. And whenever in the opinion of the Commissioner of Internal Revenue any distillery or other warehouse shall become unsafe or unfit for use, or the merchandise therein shall for any reason be liable to loss or great wastage, the Commissioner may discontinue such warehouse, and require that the merchandise therein shall be transferred to such other warehouse

as may be designated by him within such time as he shall prescribe. Such transfer shall be made under the supervision of the collector, or such other officer as may be designated by the Commissioner; and the expense thereof shall be paid by the owner of the merchandise; and if the owner of such merchandise shall fail to make such transfer within the time prescribed, or to pay the just and proper expense of such transfer, as ascertained and determined by the Commissioner, such merchandise may be seized and sold by the collector, in the same manner as goods are sold upon distraint for taxes, and the proceeds of such sale shall be applied to the payment of the taxes due thereon and the costs and expenses of such sale and removal, and the balance paid over to the owner of such merchandise.

SEC. 57. *And be it further enacted,* That any person owning, or having in his possession, any distilled spirits intended for sale, exceeding in quantity fifty gallons, and not in a bonded warehouse at the time when this act takes effect, shall immediately make a return, under oath, to the collector of the district wherein such spirits may be held, stating the number and kind of packages, together with the marks and brands thereon, and the place where the same are stored, together with the quantity of spirits, as nearly as the owner can determine the same. Upon the receipt of such return the collector, being first satisfied that the tax on said spirits has been paid, shall immediately cause the same to be gauged and proved by an internal revenue gauger, who shall mark, by cutting, the contents and proof on each cask or package containing five wine gallons or more, and shall affix and cancel an engraved stamp thereon, which stamp shall be as follows:

Stamp for stock on hand. No. —.
Issued by —.

Collector of — district, State of —.
Distilled spirits. Tax paid prior to (here engrave the date when this takes effect,) — proof gallons. Gauged —, 18—. —, Gauger.

All distilled spirits owned or held by any person, as aforesaid, shall be included in the same return, and the gauging shall be continuous until all the spirits owned or held by such person are gauged and stamped, as aforesaid, and a report thereof in duplicate shall immediately be made by the gauger to the collector and assessor of the district showing the number of packages, contents, and proof of each package gauged and stamped, and one of said reports shall be transmitted by the collector to the Commissioner of Internal Revenue. No such spirits shall be gauged or stamped in any cistern or other stationary vessel. Any person owning, or having in possession, such spirits and refusing or neglecting to make such return shall forfeit the same; and all distilled spirits found, after thirty days from the time this act takes effect, in any cask or package containing more than five gallons, without having thereon each mark and stamp required therefor by this act, shall be forfeited to the United States. Any person who shall gauge, mark, or stamp any cask or package of distilled spirits under the provisions of this section, or who shall cause or procure the same to be done, knowing that the same were manufactured or removed from warehouse subsequent to the taking effect of this act, or that the taxes thereon have not been paid, shall, on conviction, be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than three years. All stamps required by this section shall be prepared, issued, and affixed upon casks and packages and canceled in the same manner as provided for other stamps for distilled spirits in this act, and shall be charged at the rate of twenty-five cents for each stamp.

SEC. 58. *And be it further enacted,* That all distilled spirits forfeited to the United States sold by order of court or under process of distraint shall be sold subject to tax; and the purchaser shall immediately, and before he takes possession of said spirits, pay the tax thereon. And any distilled spirits condemned before the passage of this act, and in the possession of the United States, shall be sold as herein provided. And if any tax-paid stamps are affixed to any cask or package so condemned, such stamps shall be obliterated and destroyed by the collector or marshal after forfeiture and before such sale.

SEC. 59. *And be it further enacted,* That the following special taxes shall be, and are hereby, imposed, that is to say:

Distillers producing one hundred barrels, or less, of distilled spirits, counting forty gallons of proof-spirits to the barrel, within the year, shall each pay four hundred dollars; and if producing more than one hundred barrels, shall pay in addition four dollars for each such barrel produced in excess of one hundred barrels. And monthly returns of the number of barrels of spirits, as before described, distilled by him, shall be made by each distiller in the same manner as monthly returns of sales are made. Every person who produces distilled spirits, or who brews or makes mash, wort, or wash fit for distillation or for the production of spirits, or who by any process of vaporization separates alcoholic spirit from any fermented substance, or who making or keeping mash, wort, or wash, has also in his possession or use a still, shall be regarded as a distiller: *Provided,* That a like tax of four dollars on each barrel, counting forty gallons of proof-spirits to the barrel, shall be assessed and collected from the owner of any distilled spirits which may be in any bonded warehouse at the date of the taking effect of this act, to be paid whenever the same shall be withdrawn from such warehouse, under the provisions of the sixty-second [fifty-sixth] section of this act: *Provided,* That no tax shall be imposed for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical and chemical or scientific purposes which has been used in those processes.

Rectifiers of distilled spirits, rectifying, purifying, or refining two hundred barrels or less of distilled spirits, counting forty gallons of proof-spirits to the barrel, within the year, shall each pay two hundred dollars, and shall pay fifty cents for each such barrel produced in excess of two hundred barrels. And monthly returns of the quantity and proof of all the spirits purchased and of the number of barrels of spirits, as before described, rectified, purified, or refined by him, shall be made by each rectifier in the same manner as monthly returns of sales are made. Every person who rectifies, purifies, or refines distilled spirits or wines by any process, and every wholesale or retail liquor dealer or compounder of liquors who has in his possession any still or leach-tub, or who shall keep any other apparatus for the purpose of refining in any manner distilled spirits, shall be regarded as a rectifier.

Compounders of liquors shall each pay twenty-five dollars. Every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor with any materials, manufacture any spurious, imitation, or compound liquors, for sale under the name of whisky, brandy, gin, rum, wine, spirits, cordials, or wine biters, or any other name, shall be regarded as a compounder of liquors.

Retail dealers in liquors shall pay twenty-five dollars. Every person who shall sell or offer for sale foreign or domestic spirits, wine, ale, beer, or other malt liquors, and whose annual sales, including all sales of other merchandise, do not exceed twenty-five thousand dollars, shall be regarded as a retail dealer in liquors.

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Wholesale liquor dealers, whose annual sales do not exceed twenty-five thousand dollars, shall pay one hundred dollars; and if exceeding twenty-five thousand dollars, shall each pay in addition ten dollars for every one thousand dollars of sales of such spirits, wines, or liquors in excess of twenty-five thousand, and on other sales shall pay as wholesale dealers; and such excess shall be assessed and paid in the same manner as required of wholesale dealers. Every person who sells or offers for sale distilled spirits, wines, or malt liquors, whose annual sales shall exceed twenty-five thousand dollars, shall be regarded as a wholesale liquor dealer. But no distiller or brewer, who has paid his special tax as such, and who sells only distilled spirits or malt liquors of his own production, at the place of manufacture, in the original casks or packages in which they are placed for the purpose of affixing the tax stamps, shall be required to pay the special tax of a wholesale dealer. But the payment of any special tax imposed by this act shall not be held or construed to exempt any person carrying on any trade, business, or profession from any penalty or punishment therefor provided by the laws of any State; nor to authorize the commencement or continuance of any such trade, business, or profession, contrary to the laws of any State, or in places prohibited by municipal law; nor shall the payment of any such tax be held or construed to prohibit or prevent any State from placing a duty or tax on the same trade, business, or profession for State or other purposes.

Manufacturers of stills shall each pay fifty dollars, and twenty dollars for each still or worm for distilling made by him. Any person who manufactures any still or worm to be used in distilling shall be deemed a manufacturer of stills.

TOBACCO, SNUFF, AND CIGARS.

Dealers in leaf tobacco, whose annual sales do not exceed ten thousand dollars, shall each pay twenty-five dollars; and if their annual sales exceed ten thousand dollars, shall pay in addition two dollars for every thousand dollars in excess of ten thousand dollars. Every person shall be regarded as a dealer in leaf tobacco whose business it is for himself, or on commission, to sell or offer for sale leaf tobacco. And payment of a special tax as wholesale dealer, tobacconist, manufacturer of cigars, or manufacturer of tobacco, shall not exempt any person dealing in leaf tobacco from the payment of the special tax therefor hereby required. But no farmer or planter shall be required to pay a special tax as a dealer in leaf tobacco for selling tobacco of his own production, or tobacco received by him as rent from tenants who have produced the same on his land.

Dealers in tobacco, whose annual sales exceed one hundred dollars and do not exceed one thousand dollars, shall each pay five dollars; and when their annual sales exceed one thousand dollars, shall pay in addition two dollars for each thousand dollars in excess of one thousand dollars. Every person whose business it is to sell or offer for sale manufactured tobacco, snuff, or cigars, shall be regarded as a dealer in tobacco. And any retail dealer, liquor dealer, or keeper of a hotel, inn, tavern, or eating-house, who sells tobacco, snuff, or cigars, shall pay, in addition to his special tax, the special tax as a dealer in tobacco.

Manufacturers of tobacco shall each pay ten dollars; and in addition thereto, where the amount of the penal sum of the bond of such manufacturer, required by this act to be given, shall exceed the sum of five thousand dollars, two dollars for each thousand dollars in excess of five thousand dollars of such penal sum. Every person whose business it is to manufacture tobacco or snuff for himself, or who shall employ others to manufacture tobacco

or snuff, whether such manufacture shall be by cutting, pressing, grinding, crushing, or rubbing of any leaf or raw tobacco, or otherwise preparing raw or leaf tobacco or manufactured or partially manufactured tobacco or snuff, or the putting up for use or consumption of scraps, waste, clippings, stems, or deposits of tobacco, resulting from any process of handling tobacco, shall be regarded as a manufacturer of tobacco. But no manufacturer of tobacco shall be required to pay the special tax as a dealer in tobacco for selling the products of his own manufacture.

Manufacturers of cigars, whose annual sales shall not exceed five thousand dollars, shall each pay ten dollars, and when their annual sales exceed five thousand dollars, shall pay in addition two dollars for each thousand dollars in excess of five thousand dollars. Every person whose business it is to make or manufacture cigars for himself, or who shall employ others to make or manufacture cigars, shall be regarded as a manufacturer of cigars. No special tax receipt shall be issued to any manufacturer of cigars until he shall have given the bond required by law. Every person whose business it is to make cigars for others, either for pay, upon commission, on shares, or otherwise, from material furnished by others, shall be regarded as a cigar-maker. Every cigar-maker shall cause his name and residence to be registered, without previous demand, with the assistant assessor of the division in which such cigar-maker shall be employed; and any manufacturer of cigars employing any cigar-maker who shall have neglected or refused to make such registry shall, on conviction, be fined five dollars for each day that such cigar-maker so offending by neglect or refusal to register shall be employed by him.

SEC. 60. *And be it further enacted*, That in every case where it becomes necessary to ascertain the amount of annual or monthly sales made by any person on whom a special tax is imposed by this act, or to ascertain the excess of such sales above a given amount, such amounts and excesses shall be ascertained and returned under such regulations and in such form as shall be prescribed by the Commissioner of Internal Revenue; and in any case where the amount of the tax has been increased by this act above the amount before paid by any person in that behalf, such person, except retail dealers, shall be again assessed and pay the amount of such increase from the taking effect of this act; and in any case where the amount of sales or receipts has been understated or underestimated by any person, such person shall be again assessed for such deficiency, and shall be required to pay the same with any penalty or penalties that may by law have accrued or be chargeable thereon.

SEC. 61. *And be it further enacted*, That upon tobacco and snuff which shall be manufactured and sold, or removed for consumption or use, there shall be assessed and collected the following taxes:

On snuff, manufactured of tobacco or any substitute for tobacco, ground, dry, damp, pickled, scented, or otherwise, of all descriptions, when prepared for use, a tax of thirty-two cents per pound. And snuff flour, when sold, or removed for use or consumption, shall be taxed as snuff, and shall be put up in packages and stamped in the same manner as snuff.

On all chewing tobacco, fine-cut, plug, or twist; on all tobacco twisted by hand, or reduced from leaf into a condition to be consumed, or otherwise prepared, without the use of any machine or instrument, and without being pressed or sweetened; and on all other kinds of manufactured tobacco, not herein otherwise provided for, a tax of thirty-two cents per pound.

On all smoking tobacco exclusively of stems,

or of leaf, with all the stems in and so sold, the leaf not having been previously stripped, butted, or rolled, and from which no part of the stems have been separated by sifting, stripping, dressing, or in any other manner, either before, during, or after the process of manufacturing; on all fine-cut shorts, the refuse of fine-cut chewing tobacco which has passed through a riddle of thirty-six meshes to the square inch by process of sifting; and on all refuse scraps and sweepings of tobacco, a tax of sixteen cents per pound.

SEC. 62. *And be it further enacted*, That from and after the passage of this act all manufactured tobacco shall be put up and prepared by the manufacturer for sale, or removal for sale or consumption, in packages of the following description, and in no other manner:

All snuff in packages containing one, two, four, six, eight, and sixteen ounces, or in bladders containing not exceeding ten pounds each; or in jars containing not exceeding twenty pounds.

All fine-cut chewing tobacco, and all other kinds of tobacco not otherwise provided for, in packages containing one half, one, two, four, eight, and sixteen ounces, except that fine-cut chewing tobacco may, at the option of the manufacturer, be put up in wooden packages containing ten, twenty, forty, and sixty pounds each.

All smoking tobacco, all fine-cut shorts which has passed through a riddle of thirty-six meshes to the square inch, and all refuse scraps and sweepings of tobacco, in packages containing two, four, eight, and sixteen ounces each.

All cavendish, plug, and twist tobacco in wooden packages not exceeding two hundred pounds net weight.

And every such wooden package shall have printed or marked thereon the manufacturer's name and place of manufacture or the proprietor's name and his trade mark and the registered number of the manufactory, and the gross weight, the tare, and the net weight of the tobacco in each package: *Provided*, That these limitations and descriptions of packages shall not apply to tobacco and snuff transported in bond for exportation and actually exported.

SEC. 63. *And be it further enacted*, That every person before commencing, or, if already commenced, before continuing the manufacture of tobacco or snuff, shall, in addition to a compliance with all other provisions of law, furnish, without previous demand therefor, to the assessor or assistant assessor of the district where the manufacture is to be carried on, a statement, in duplicate, subscribed under oath or affirmation, accurately setting forth the place, and if in a city, the street and number of the street where the manufacture is to be carried on; the number of cutting machines, presses, snuff mills, hand mills, or other machines; the name, kind, and quality of the article manufactured, or proposed to be manufactured; and, if the same shall be manufactured for, or to be sold and delivered to, any other person, as agent, or under a special contract, the name and residence and business or occupation of the person for whom the said article is to be manufactured, or to whom it is to be delivered; and shall give a bond in conformity with the provisions of this act, to be approved by the collector of the district, in the sum of two thousand dollars, with an addition to said sum of three thousand dollars for each cutting machine kept for use, of one thousand dollars for each screw-press kept for use in making plug or pressed tobacco, of five thousand dollars for each hydraulic press kept for use, of one thousand dollars for each snuff mill kept for use, and of one thousand dollars for each hand mill, or other mill or machine, kept for the grinding, cutting, or crushing of tobacco; that he will not engage in any attempt, by himself or by collusion with others, to defraud the Government of any tax on his

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manufactures; that he will render truly and correctly all the returns, statements, and inventories prescribed by law or regulations; that whenever he shall add to the number of cutting machines, presses, snuff mills, hand mills, or other mills or machines as aforesaid, he will immediately give notice thereof to the collector of the district; that he will stamp, in accordance with law, all tobacco and snuff manufactured by him before he removes any part thereof from the place of manufacture; that he will not knowingly sell, purchase, expose, or receive for sale any manufactured tobacco or snuff which has not been stamped as required by law; and that he will comply with all the requirements of law relating to the manufacture of tobacco or snuff. And the sum of the said bond may be increased from time to time, and additional sureties required by the collector, under the instructions of the Commissioner of Internal Revenue. And every manufacturer shall obtain a certificate from the collector of the district, who is hereby authorized and directed to issue the same, setting forth the kind and number of machines, presses, snuff mills, hand mills, or other mills and machines, as aforesaid, for which the bond has been given, which certificate shall be posted in a conspicuous place within the manufactory. And any tobacco manufacturer who shall neglect or refuse to obtain such certificate, or to keep the same posted as hereinbefore provided, shall, on conviction, be fined not less than one hundred dollars nor more than five hundred dollars. And any person manufacturing tobacco or snuff of any description without first giving bond as herein required, shall on conviction be fined not less than one thousand dollars, nor more than five thousand dollars, and imprisoned for not less than one year nor more than five years. And the working or preparation of any leaf tobacco, or tobacco stems, scraps, clippings, or waste, by sifting, twisting, screening, or any other process, shall be deemed manufacturing.

SEC. 64. *And be it further enacted*, That within thirty days after the passage of this act every manufacturer of tobacco and snuff shall place and keep on the side or end of the building within which his business is carried on, so that it can be distinctly seen, a sign, with letters thereon not less than three inches in length, painted in oil colors or gilded, giving his full name and business. Any person neglecting to comply with the requirements of this section shall, on conviction, be fined not less than one hundred dollars nor more than five hundred dollars.

SEC. 65. *And be it further enacted*, That it shall be the duty of every assistant assessor to keep a record, in a book or books to be provided for the purpose, to be open to the inspection of any person, of the name and residence of every person engaged in the manufacture of tobacco or snuff in his division, the place where such manufacture is carried on, and the number of the manufactory; and the assistant assessor shall enter in said record, under the name of each manufacturer, a copy of every inventory required by this act to be made by such manufacturer, and an abstract of his monthly returns; and each assessor shall keep a similar record for the district, and shall cause the several manufactories of tobacco or snuff in his district to be numbered consecutively, which numbers shall not thereafter be changed.

SEC. 66. *And be it further enacted*, That every person, now or hereafter engaged in the manufacture of tobacco or snuff, shall make and deliver to the assistant assessor of the division a true inventory, in such form as shall be prescribed by the Commissioner of Internal Revenue, of the quantity of each of the different kinds of tobacco, snuff flour, snuff, stems, scraps, clippings, waste, tinfoil, licorice, sugar, gum, and other materials held or owned by him on the first day of January of each year, or at

the time of commencing and at the time of concluding business, if before or after the first of January, setting forth what portion of said goods and materials, and what kinds, were manufactured or produced by him, and what was purchased from others; which inventory shall be verified by his oath or affirmation; and the assistant assessor shall make personal examination of the stock sufficient to satisfy himself as to the correctness of the inventory, and shall verify the fact of such examination by oath or affirmation taken before the assessor, to be indorsed on or affixed to the inventory; and every such person shall keep a book or books, the forms of which shall be prescribed by the Commissioner of Internal Revenue, and enter therein daily an accurate account of all the articles aforesaid purchased by him, the quantity of tobacco, snuff, and snuff flour, stems, scraps, clippings, waste, tinfoil, licorice, sugar, gum, and other materials, of whatever description, whether manufactured, (and if plug tobacco the number of net pounds of lumps made in the lump-room, and the number of packages and pounds produced in the press-room each day,) sold, consumed, or removed for consumption or sale, or removed from the place of manufacture in bond, and to what district; and shall, on or before the tenth day of each and every month, furnish to the assistant assessor of the division a true and accurate abstract from such book of all such purchases, sales, and removals, made during the month next preceding, which abstract shall be verified by his oath or affirmation; and in case of refusal or willful neglect to deliver the inventory, or keep the account, or furnish the abstract aforesaid, he shall, on conviction, be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than three years. And it shall be the duty of any dealer in leaf tobacco, or in any material used in manufacturing tobacco or snuff, on demand of any officer of internal revenue to render a true and correct statement, verified by oath or affirmation, of the quantity and amount of such leaf tobacco or material sold or delivered to any person named in such demand; and in case of refusal or neglect to render such statement, or if there is cause to believe such statement to be incorrect or fraudulent, the assessor shall make an examination of persons, books, and papers, in the same manner as provided in this act in relation to frauds and evasions.

SEC. 67. *And be it further enacted*, That the Commissioner of Internal Revenue shall cause to be prepared suitable and special revenue stamps for payment of the tax on tobacco and snuff, which stamps shall indicate the weight and class of the article on which payment is to be made, and shall be affixed and canceled in the mode prescribed by the Commissioner of Internal Revenue, and stamps when used on any wooden package shall be canceled by sinking a portion of the same into the wood with a steel die; also such warehouse stamps as are required by this act, which stamps shall be furnished to the collectors of internal revenue requiring the same, who shall each keep at all times a supply equal in amount to three months' sales thereof, and shall sell the same only to the manufacturers of tobacco and snuff in their respective districts who have given bonds as required by law, to owners or consignees of tobacco or snuff, upon the requisition of the proper custom-house officer having the custody of such tobacco or snuff, and to persons required by law to affix the same to tobacco or snuff on hand on the first day of January, anno Domini eighteen hundred and sixty-nine; and every collector shall keep an account of the number, amount, and denominate values of stamps sold by him to each manufacturer, and to other persons above described.

SEC. 68. *And be it further enacted*, That every manufacturer of tobacco or snuff shall, in addition to all other requirements of this act

relating to tobacco, print on each package or securely affix, by pasting on each package containing tobacco or snuff manufactured by or for him, a label on which shall be printed, together with the proprietor's or manufacturer's name, the number of the manufactory, and the district and State in which it is situated, these words:

"NOTICE.—The manufacturer of this tobacco has complied with all the requirements of law. Every person is cautioned, under the penalties of law, not to use this package for tobacco again."

Any manufacturer of tobacco who shall neglect to print on or affix such label to any package containing tobacco made by or for him, or sold or offered for sale by or for him; or any person who shall remove any such label so affixed from any such package, shall, on conviction, be fined fifty dollars for each package in respect to which such offense shall be committed.

SEC. 69. *And be it further enacted*, That any manufacturer of tobacco or snuff who shall remove otherwise than as provided by law, or sell any tobacco or snuff without the proper stamps denoting the tax thereon, or without having paid the special tax, or given bond as required by law, or who shall make false or fraudulent entries of manufactures or sales of tobacco or snuff, or who shall make false or fraudulent entries of the purchase or sales of leaf tobacco, tobacco stems, or other material, or who shall affix any false, forged, fraudulent, spurious, or counterfeit stamp, or imitation of any stamp required by this act, to any box or package containing any tobacco or snuff, shall, in addition to the penalties elsewhere provided in this act for such offenses, forfeit to the United States all the raw material and manufactured or partly manufactured tobacco and snuff, and all machinery, tools, implements, apparatus, fixtures, boxes and barrels, and all other materials which shall be found in the possession of such person, in the manufactory of such person, or elsewhere.

SEC. 70. *And be it further enacted*, That the absence of the proper stamp on any package of manufactured tobacco or snuff shall be notice to all persons that the tax has not been paid thereon, and shall be *prima facie* evidence of the non-payment thereof. And such tobacco or snuff shall be forfeited to the United States.

SEC. 71. *And be it further enacted*, That any person who shall remove from any manufactory, or from any place where tobacco or snuff is made, any manufactured tobacco or snuff without the same being put up in proper packages, or without the proper stamp for the amount thereon being affixed and canceled, as required by law; or, if intended for export, without the proper warehouse stamp being affixed; or shall use, sell, or offer for sale, or have in possession, except in the manufactory, or in a bonded warehouse, any manufactured tobacco or snuff, without proper stamps being affixed and canceled; or shall sell, or offer for sale, for consumption in the United States, or use, or have in possession, except in the manufactory or in a bonded warehouse, any manufactured tobacco or snuff on which only the warehouse stamp marking the same for export has been affixed, shall, on conviction thereof for each such offense, respectively, be fined not less than one thousand dollars nor more than five thousand dollars, and be imprisoned not less than six months nor more than two years. And any person who shall affix to any package containing tobacco or snuff any false, forged, fraudulent, spurious, or counterfeit stamp, or a stamp which has been before used, shall be deemed guilty of a felony, and on conviction shall be fined not less than one thousand dollars nor more than five thousand dollars, and imprisoned not less than two years nor more than five years.

SEC. 72. *And be it further enacted*, That whenever any stamped box, bag, vessel, wrap-

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per, or envelope of any kind, containing tobacco or snuff, shall be emptied, the stamped portion thereof shall be destroyed by the person in whose hands the same may be. And any person who shall willfully neglect or refuse so to do shall, for each such offense, on conviction, be fined fifty dollars, and imprisoned not less than ten days nor more than six months. And any person who shall sell or give away, or who shall buy or accept from another, any such empty stamp box, bag, vessel, wrapper, or envelope of any kind, or the stamped portion thereof, shall, for each such offense, on conviction, be fined one hundred dollars, and imprisoned for not less than twenty days and not more than one year. And any manufacturer or other person who shall put tobacco or snuff into any such box, bag, vessel, wrapper, or envelope, the same having been either emptied or partially emptied, shall for each such offense, on conviction, be fined not less than one hundred nor more than five hundred dollars, and imprisoned for not less than one nor more than three years.

SEC. 73. *And be it further enacted*, That the Commissioner of Internal Revenue, upon the execution of such bonds as he may prescribe, may designate and establish, at any port of entry in the United States, bonded warehouses for the storage of manufactured tobacco and snuff, in bond, intended for exportation, selecting suitable buildings for such purpose, to be recommended by the collector in charge of exports at such port, to be known as export bonded warehouses, and used exclusively for the storage of manufactured tobacco and snuff in bond. Every such warehouse shall be under the control of the collector of internal revenue in charge of exports at the port where such warehouse is located, and shall be in charge of an internal revenue storekeeper assigned thereto by the Commissioner of Internal Revenue. No manufactured tobacco or snuff shall be withdrawn or removed from any bonded warehouse without an order or permit from the collector in charge of exports at such port, which shall be issued only for the immediate transfer to a vessel by which such tobacco or snuff is to be exported to a foreign country, as hereinafter provided, or after the tax has been paid thereon. And such warehouse shall be under such further regulations as the Commissioner of Internal Revenue may prescribe. Any manufactured tobacco and snuff may be withdrawn once, and no more, from an export bonded warehouse for transportation to any other port of entry in the United States where an export bonded warehouse for the storage of manufactured tobacco and snuff may have been established, and such manufactured tobacco and snuff so withdrawn shall, on its arrival at the second port of entry, be immediately warehoused in an export bonded warehouse for the storage of manufactured tobacco and snuff, from which it shall be withdrawn only as provided by law.

SEC. 74. *And be it further enacted*, That manufactured tobacco and snuff may be removed in bond from the manufactory, without payment of the tax, to be transported directly to an export bonded warehouse for the storage of manufactured tobacco or snuff established at a port of entry as hereinbefore provided; and the deposit in and withdrawal from any bonded warehouse, the transportation and exportation of manufactured tobacco and snuff, shall be made under such rules and regulations and after making such entries and executing such bonds and giving such other additional security as may be prescribed by the Commissioner of Internal Revenue, which shall in all respects, so far as applicable, conform to the provisions of law and regulations relating to distilled spirits to be deposited in or withdrawn from bonded warehouse or transported or exported. All tobacco and snuff intended for export, before being removed from the manufactory shall have affixed to each package an

engraved stamp indicative of such intention, to be provided and furnished to the several collectors, as in the case of other stamps, and to be charged to them and accounted for in the same manner; and for the expense attending the providing and affixing such stamps, twenty-five cents for each package so stamped shall be paid to the collector on making the entry for such transportation; but the provisions of this section shall not limit the time for tobacco or snuff to remain in bond.

SEC. 75. *And be it further enacted*, That in all cases where tobacco or snuff of any description is manufactured, in whole or in part, upon commission or shares, or where the material from which any such articles are made, or are to be made, is furnished by one person and made or manufactured by another, or where the material is furnished or sold by one person with an understanding or agreement with another that the manufactured article is to be received in payment therefor or for any part thereof, the stamps required by law shall be fixed by the actual maker or manufacturer before the article passes from the place of making or manufacturing. And in case of fraud on the part of either of said persons in respect to said manufacture, or of any collusion on their part with intent to defraud the revenue, such material and manufactured articles shall be forfeited to the United States; and each party to such fraud or collusion shall be deemed guilty of a misdemeanor, and, on conviction, be fined not less than one hundred dollars nor more than five thousand dollars, and imprisoned for not less than six months nor more than three years.

SEC. 76. *And be it further enacted*, That every dealer in leaf tobacco shall enter daily in a book kept for that purpose, under such regulations as the Commissioner of Internal Revenue may prescribe, the number of hogheads, cases, and pounds of leaf tobacco purchased by him, and of whom purchased, and the number of hogheads, cases, or pounds sold by him, with the name and residence, in each instance, of the person to whom sold, and if shipped, to whom shipped, and to what district. Such book shall be kept at his place of business, and shall be open at all hours to the inspection of any assessor, collector, or other revenue officer; and any dealer in leaf tobacco who shall neglect or refuse to keep such book shall be liable to a penalty of not less than five hundred dollars, and on conviction thereof shall be fined not less than one hundred dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than two years.

SEC. 77. *And be it further enacted*, That from and after the passage of this act, and until the first day of October, eighteen hundred and sixty-eight, all manufactured tobacco and snuff (not including cigars) imported from foreign countries shall be placed by the owner, importer, or consignee thereof in a bonded warehouse of the United States at the place of importation, in the same manner and under rules as provided for warehousing goods imported into the United States, and shall not be withdrawn from such warehouse, nor be entered for consumption or transportation in the United States prior to the said first day of October, eighteen hundred and sixty-eight. All manufactured tobacco and snuff (not including cigars) imported from foreign countries, after the passage of this act, shall, in addition to the import duties imposed on the same, pay the tax prescribed in this act for like kinds of tobacco and snuff manufactured in the United States, and have the same stamps respectively affixed. Such stamps shall be affixed and canceled on all such articles so imported by the owner or importer thereof, while such articles are in the proper custom-house officers, and such articles shall not pass out of the custody of such officers until the stamps have been affixed and canceled. Such tobacco and snuff shall be

put up in packages, as prescribed in this act for like articles manufactured in the United States before such stamps are affixed; and the owner or importer of such tobacco and snuff shall be liable to all the penal provisions of this act, prescribed for manufacturers of tobacco and snuff manufactured in the United States. Where it shall be necessary to take any such articles, so imported, to any place for the purpose of repacking, affixing, and canceling such stamps, other than the public stores of the United States, the collector of customs of the port where such articles shall be entered shall designate a bonded warehouse to which such articles shall be taken, under the control of such customs officer as such collector may direct. And any officer of customs who shall permit any such articles to pass out of his custody or control without compliance by the owner or importer thereof with the provisions of this section relating thereto, shall be deemed guilty of a misdemeanor, and shall, on conviction, be fined not less than one thousand dollars, nor more than five thousand dollars, and imprisoned not less than six months nor more than three years.

SEC. 78. *And be it further enacted*, That from and after the passage of this act it shall be the duty of every dealer in manufactured tobacco, having on hand more than twenty pounds, and every dealer in snuff having on hand more than ten pounds, to immediately make a true and correct inventory of the amount of such tobacco and snuff, respectively, under oath or affirmation, and to deposit such inventory with the assistant assessor of the proper division, who shall immediately return the same to the assessor of the district, who shall immediately thereafter make an abstract of the several inventories filed in his office, and transmit such abstract to the Commissioner of Internal Revenue, and a like inventory and return shall be made on the first day of every month thereafter, and a like abstract of inventories shall be transmitted while any such dealer has tobacco or snuff remaining on hand manufactured in the United States, or imported prior to the passage of this act, and not stamped. After the first day of January, eighteen hundred and sixty-nine, all smoking, fine-cut chewing tobacco, or snuff, and after the first day of July, eighteen hundred and sixty-nine, all other manufactured tobacco of every description, shall be taken and deemed as having been manufactured after the passage of this act, and shall not be sold or offered for sale unless put up in packages and stamped as prescribed by this act, except at retail by retail dealers from wooden packages stamped as provided for in this act; and any person who shall sell, or offer for sale, after the first day of January, eighteen hundred and sixty-nine, any smoking, fine-cut chewing tobacco, or snuff, and after the first day of July, eighteen hundred and sixty-nine, any other manufactured tobacco not so put up in packages and stamped, shall, on conviction, be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than two years.

SEC. 79. *And be it further enacted*, That any person who shall, after the passage of this act, sell, or offer for sale, any manufactured tobacco or snuff, representing the same to have been manufactured and the tax paid thereon prior to the passage of this act, when the same was not so manufactured, and the tax not so paid, shall be liable to a penalty of five hundred dollars for each offense, and shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than five hundred dollars nor more than five thousand dollars, and shall be imprisoned not less than six months nor more than two years.

SEC. 80. *And be it further enacted*, That all manufactured tobacco and snuff, manufactured prior to the passage of this act, and held in bond at the time of its passage, may be sold

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for consumption in the original packages, with the proper stamps for the amount of the tax thereon affixed and canceled as required by law; and any person who shall, after the passage of this act, offer for sale any tobacco or snuff, in packages of a different size from those limited and prescribed by this act, representing the same to have been held in bond at the time of the passage of this act, when the same was not so held in bond, shall, on conviction, be fined fifty dollars for each package in respect to which such offense shall be committed: *Provided*, That after the first day of January, anno Domini eighteen hundred and sixty-nine, no such tobacco or snuff shall be sold or removed for sale or consumption from any bonded warehouse unless put up in packages and stamped as provided by this act.

SEC. 81. *And be it further enacted*, That upon cigars which shall be manufactured and sold, or removed for consumption or use, there shall be assessed and collected the following taxes, to be paid by the manufacturer thereof:

On cigars of all descriptions, made of tobacco or any substitute thereof, five dollars per thousand; on cigarettes weighing not exceeding three pounds per thousand, one dollar and fifty cents per thousand; when weighing exceeding three pounds per thousand, five dollars per thousand. And the Commissioner of Internal Revenue may prescribe such regulations for the inspection of cigars, cheroots, and cigarettes, and the collection of the tax thereon, as shall, in his judgment, be most effective for the prevention of frauds in the payment of such tax.

SEC. 82. *And be it further enacted*, That every person before commencing, or, if already commenced, before continuing, the manufacture of cigars, shall furnish, without previous demand therefor, to the assistant assessor of the division a statement in duplicate, subscribed under oath or affirmation, accurately setting forth the place, and, if in a city, the street and number of the street where the manufacture is to be carried on; and if the same shall be manufactured for, or to be sold and delivered to, any other person, the name and residence and business or occupation of the person for whom the cigars are to be manufactured or to whom to be delivered; and shall give a bond in conformity with the provisions of this act, in such penal sum as the assessor of the district may require, not less than five hundred dollars, with an addition of one hundred dollars for each person proposed to be employed by him in making cigars, conditioned that he will not employ any person to manufacture cigars who has not been duly registered as a cigar-maker; that he will not engage in any attempt, by himself or by collusion with others, to defraud the Government of any tax on his manufactures; that he will render truly and correctly all the returns, statements, and inventories prescribed; that whenever he shall add to the number of cigar-makers employed by him, he will immediately give notice thereof to the collector of the district; that he will stamp, in accordance with law, all cigars manufactured by him before he offers the same or any part thereof for sale, and before he removes any part thereof from the place of manufacture; that he will not knowingly sell, purchase, expose, or receive for sale any cigars which have not been stamped as required by law; and that he will comply with all the requirements of law relating to the manufacture of cigars. The sum of said bond may be increased from time to time, and additional sureties required at the discretion of the assessor, or under the instructions of the Commissioner of Internal Revenue. Every cigar manufacturer shall obtain from the collector of the district, who is hereby required to issue the same, a certificate setting forth the number of cigar-makers for which the bond has been given, which certificate shall be posted in a conspicuous place within the man-

ufactory; and any cigar manufacturer who shall neglect or refuse to obtain such certificate, or to keep the same posted as hereinbefore provided, shall, on conviction, be fined one hundred dollars. Any person manufacturing cigars of any description without first giving bond as herein required, shall, on conviction, be fined not less than one hundred dollars nor more than five thousand dollars, and imprisoned not less than three months nor more than five years. Cigarettes and cheroots shall be held to be cigars under the meaning of this act.

SEC. 83. *And be it further enacted*, That within thirty days after the passage of this act every cigar manufacturer shall place and keep on the side or end of the building within which his business is carried on, so that it can be distinctly seen, a sign, with letters thereon not less than three inches in length, painted in oil colors or gilded, giving his full name and business. Any person neglecting to comply with the requirements of this section shall, on conviction, be fined not less than one hundred dollars, nor more than five hundred dollars.

SEC. 84. *And be it further enacted*, That it shall be the duty of every assistant assessor to keep a record, in a book to be provided for the purpose, to be open to the inspection of any person, of the name and residence of every person engaged in the manufacture of cigars in his division, the place where such manufacture is carried on, and the number of the manufactory, together with the names and residences of every cigar-maker employed in his division; and the assistant assessor shall enter in said record, under the name of each manufacturer, an abstract of his inventories and monthly returns; and each assessor shall keep a similar record for the district, and shall cause the several manufactories of cigars in the district to be numbered consecutively, which number shall not thereafter be changed.

SEC. 85. *And be it further enacted*, That from and after the passage of this act all cigars shall be packed in boxes, not before used for that purpose, containing, respectively, twenty-five, fifty, one hundred, two hundred and fifty, or five hundred cigars each; and any person who shall sell or offer for sale, or deliver or offer to deliver, any cigars in any other form than in new boxes as above described, or who shall pack in any box any cigars in excess of the number provided by law to be put in each box, respectively, or who shall falsely brand any box, or who shall affix a stamp on any box denoting a less amount of tax than that required by law, shall upon conviction, for any of the above described offenses, be fined for each such offense not less than one hundred dollars, nor more than one thousand dollars, and be imprisoned not less than six months nor more than two years: *Provided*, That nothing in this section shall be construed as preventing the sale of cigars at retail by retail dealers who have paid the special tax as such from boxes packed, stamped, and branded in the manner prescribed by law.

SEC. 86. *And be it further enacted*, That every person now or hereafter engaged in the manufacture of cigars shall make and deliver to the assistant assessor of the division a true inventory, in form prescribed by the Commissioner of Internal Revenue, of the quantity of leaf tobacco, cigars, stems, scraps, clippings, and waste, and the number of cigar-boxes and the capacity of each box held or owned by him on the first day of January of each year, or at the time of commencing and at the time of concluding business, if before or after the first of January, setting forth what portion of said goods, and what kinds, were manufactured or produced by him, and what were purchased from others, which inventory shall be verified by his oath or affirmation indorsed on said inventory; and the assistant assessor shall make personal examination of the stock sufficient to satisfy himself as to the correctness of the inventory, and shall verify the fact

of such examination by oath or affirmation taken before the assessor, also to be indorsed on the inventory; and every such person shall enter daily in a book, the form of which shall be prescribed by the Commissioner of Internal Revenue, an accurate account of all the articles aforesaid purchased by him, the quantity of leaf tobacco, cigars, stems, or cigar-boxes, of whatever description, manufactured, sold, consumed, or removed for consumption or sale, or removed from the place of manufacture; and shall, on or before the tenth day of each and every month, furnish to the assistant assessor of the division a true and accurate abstract from such book of all such purchases, sales, and removals made during the month next preceding, which abstract shall be verified by his oath or affirmation; and in case of refusal or willful neglect to deliver the inventory, or keep the account, or furnish the abstract aforesaid, he shall, on conviction, be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than three years. It shall be the duty of any dealer in leaf tobacco or material used in manufacturing cigars, on demand of any officer of internal revenue authorized by law, to render to such officer a true and correct statement, verified by oath or affirmation, of the quantity and amount of such leaf tobacco or materials sold or delivered to any person or persons named in such demand; and in case of refusal or neglect to render such statement, or if there is cause to believe such statement to be incorrect or fraudulent, the assessor shall make an examination of persons, books, and papers, in the same manner as provided in this act in relation to frauds and evasions.

SEC. 87. *And be it further enacted*, That the Commissioner of Internal Revenue shall cause to be prepared, for payment of the tax upon cigars, suitable stamps denoting the tax thereon; and all cigars shall be packed in quantities of twenty-five, fifty, one hundred, two hundred and fifty, and five hundred; and all such stamps shall be furnished to collectors requiring the same, who shall, if there be any cigar manufacturers within their respective districts, keep on hand at all times a supply equal in amount to two months' sales thereof, and shall sell the same only to the cigar manufacturers who have given bonds and paid the special tax, as required by law, in their districts respectively, and to importers of cigars who are required to affix the same to imported cigars in the custody of customs officers and to persons required by law to affix the same to cigars on hand on the first day of January, anno Domini eighteen hundred and sixty-nine; and every collector shall keep an account of the number, amount, and denominate values of the stamps sold by him to each cigar manufacturer, and to other persons above described: *Provided*, That from and after the passage of this act the duty on all cigars imported into the United States from foreign countries shall be two dollars and fifty cents [per] pound, and twenty-five per centum ad valorem.

SEC. 88. *And be it further enacted*, That every manufacturer of cigars shall securely affix, by pasting on each box containing cigars manufactured by or for him, a label on which shall be printed, together with the manufacturer's name, the number of his manufactory, and the district and State in which it is situated, these words:

"NOTICE.—The manufacturer of the cigars herein contained has complied with all the requirements of law. Every person is cautioned, under the penalties of law, not to use this box for cigars again."

Any manufacturer of cigars who shall neglect to affix such label to any box containing cigars made by or for him, or sold or offered for sale by or for him, or any person who shall remove any such label, so affixed, from any such box, shall, upon conviction thereof, be

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finer fifty dollars for each box in respect to which such offense shall be committed.

SEC. 89. *And be it further enacted*, That all cigars which shall be removed from any manufactory or place where cigars are made without the same being packed in boxes as required by this act, or without the proper stamp thereon denoting the tax, or without burning into each box with a branding-iron the number of the cigars contained therein, and the name of the manufacturer, and the number of the district and the State, or without the stamp denoting the tax thereon being properly affixed and canceled, or which shall be sold or offered for sale not properly boxed and stamped, shall be forfeited to the United States. And any person who shall commit any of the above-described offenses shall, on conviction, be fined for each such offense not less than one hundred dollars nor more than one thousand dollars, and imprisoned not less than six months nor more than two years. And any person who shall pack cigars in any box bearing a false or fraudulent or counterfeit stamp, or who shall remove or cause to be removed any stamp denoting the tax on cigars from any box, with intent to use the same, or who shall use or permit any other person to use any stamp so removed, or who shall receive, buy, sell, give away, or have in his possession any stamp so removed, or who shall make any other fraudulent use of any stamp or stamped box, intended for cigars, or who shall remove from the place of manufacture any cigars not properly boxed and stamped as required by law, shall be deemed guilty of a felony, and, on conviction, shall be fined not less than one hundred dollars nor more than one thousand dollars, and imprisoned not less than six months nor more than three years.

SEC. 90. *And be it further enacted*, That the absence of the proper revenue stamp on any box of cigars sold, or offered for sale, or kept for sale, shall be notice to all persons that the tax has not been paid thereon, and shall be prima facie evidence of the non-payment thereof; and such cigars shall be forfeited to the United States.

SEC. 91. *And be it further enacted*, That in all cases where cigars of any description are manufactured, in whole or in part, upon commission or shares, or where the material is furnished by one party and manufactured by another, or where the material is furnished or sold by one party with an understanding or agreement with another that the cigars are to be received in payment therefor, or for any part thereof, the stamps required by law shall be affixed by the actual maker before the cigars are removed from the place of manufacturing. And in case of fraud on the part of either of said parties in respect to said manufacture, or of any collusion on their part with intent to defraud the revenue, such material and cigars shall be forfeited to the United States, and every person engaged in such fraud or collusion shall, on conviction, be fined not less than one hundred dollars nor more than five thousand dollars, and imprisoned for not less than six months nor more than three years.

SEC. 92. *And be it further enacted*, That any manufacturer of cigars who shall remove or sell any cigars without payment of the special tax as a cigar manufacturer, or without having given bond as such, or without the proper stamps denoting the tax thereon, or who shall make false or fraudulent entries of manufactures or sale of any cigars, or who shall make false or fraudulent entries of the purchase or sales of leaf tobacco, tobacco stems, or other material used in the manufacture of cigars, or who shall affix any false, forged, spurious, fraudulent, or counterfeit stamp, or imitation of any stamp, required by law to any box containing any cigars shall, in addition to the penalties elsewhere provided in this act for such offenses, forfeit to the United States all raw material

and manufactured or partly manufactured tobacco and cigars, and all machinery, tools, implements, apparatus, fixtures, boxes, barrels, and all other materials, which shall be found in the possession of such person, or in his manufactory, and used in his business as such manufacturer, together with his estate or interest in the building or factory and the lot or tract of ground on which such building or factory is located, and all appurtenances thereunto pertaining.

SEC. 93. *And be it further enacted*, That all cigars imported from foreign countries after the passage of this act, shall, in addition to the import duties imposed on the same, pay the tax prescribed in this act for cigars manufactured in the United States, and have the same stamps affixed. Such stamps shall be affixed and canceled by the owner or importer of cigars while they are in the custody of the proper custom-house officers; and such cigars shall not pass out of the custody of such officers until the stamps have been so affixed and canceled, but shall be put up in boxes containing quantities as prescribed in this act for cigars manufactured in the United States before such stamps are affixed. And the owner or importer of such cigars shall be liable to all the penal provisions of this act, prescribed for manufacturers of cigars manufactured in the United States. Where it shall be necessary to take any of such cigars, so imported, to any place for the purpose of affixing and canceling such stamps, other than the public stores of the United States, the collector of customs of the port where such cigars shall be entered shall designate a bonded warehouse to which they shall be taken, under the control of such customs officer as such collector may direct. And any officer of customs who shall permit any such cigars to pass out of his custody or control without compliance by the owner or importer thereof with the provisions of this section relating thereto shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined not less than one thousand dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than three years.

SEC. 94. *And be it further enacted*, That from and after the passage of this act it shall be the duty of every dealer in cigars, either of foreign or domestic manufacture, having on hand more than five thousand thereof, imported or manufactured, or purporting or claimed to have been imported or manufactured, prior to the passage of this act, to immediately make a true and correct inventory of the quantity of such cigars in his possession, under oath or affirmation, and to deposit such inventory with the assistant assessor of the proper division, who shall immediately return the same to the assessor of the district, who shall immediately thereafter make an abstract of the several such inventories filed in his office, and transmit the same to the Commissioner of Internal Revenue; and a like inventory and return shall be made on the first day of every month thereafter, and a like abstract of inventories shall be transmitted, while any such dealer has any such cigars remaining on hand, until the first day of April, eighteen hundred and sixty-nine. After the first day of April, eighteen hundred and sixty-nine, all cigars of every description shall be taken to have been either manufactured or imported after the passage of this act, and shall be stamped accordingly; and any person who shall sell, or offer for sale, after the first day of April, eighteen hundred and sixty-nine, any imported cigars, or cigars purporting or claimed to have been imported, not so put up in packages and stamped as provided by this act, shall, on conviction thereof, be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than two years.

SEC. 95. *And be it further enacted*, That any person who shall, after the passage of this act, sell or offer for sale any cigars, representing the same to have been manufactured and the tax paid thereon prior to the passage of this act, when the same were not so manufactured and the tax not so paid, shall be liable to a penalty of five hundred dollars for each offense, and shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than three years.

SEC. 96. *And be it further enacted*, That if any distiller, rectifier, wholesale liquor dealer, compounder of liquors, or manufacturer of tobacco or cigars, shall knowingly and willfully omit, neglect, or refuse to do or cause to be done any of the things required by law in the carrying on or conducting of his business, or shall do anything by this act prohibited, if there be no specific penalty or punishment imposed by any other section of this act for the neglecting, omitting, or refusing to do, or for the doing or causing to be done the thing required or prohibited, he shall pay a penalty of one thousand dollars; and if the person so offending be a distiller, rectifier, wholesale liquor dealer, or compounder of liquors all distilled spirits or liquors owned by him, or in which he has any interest as owner, and if he be a manufacturer of tobacco or cigars all tobacco or cigars found in his manufactory, shall be forfeited to the United States.

SEC. 97. *And be it further enacted*, That any internal revenue officer who shall be or become interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigars, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from office; and any such officer who shall become so interested in any such manufacture or production, rectification, or redistillation, shall, on conviction, be fined not less than five hundred dollars nor more than five thousand dollars.

SEC. 98. *And be it further enacted*, That if any officer or agent appointed and acting under the authority of any revenue law of the United States shall be guilty of any extortion or willful oppression, under color of law; or shall knowingly demand other or greater sums than shall be authorized by law; or shall receive any fee, compensation, or reward for the performance of any duty, except as by law prescribed; or shall willfully neglect to perform any of the duties enjoined on him by law; or shall conspire or collude with any other person to defraud the United States; or shall make opportunity for any person to defraud the United States; or shall do, or omit to do, any act with intent to enable any other person to defraud the United States; or shall negligently or designedly permit any violation of the law by any other person; or shall make or sign any false entry in any book, or make or sign any false certificate or return in any case where he is by law or regulation required to make any entry, certificate, or return; or having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law of the United States, shall fail to report, in writing, such knowledge or information to his next superior officer, and to the Commissioner of Internal Revenue; or shall demand, or accept, or attempt to collect, directly or indirectly, as payment or gift or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do, he shall be dismissed from office, and shall be held to be guilty of a misdemeanor, and shall, on conviction, be fined not less than one thousand dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than three years.

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And one half of the fine so imposed shall be for the use of the United States, and the other half for the use of the informer, who shall be ascertained by the judgment of the court; and the said court shall also render judgment against the said officer or agent for the amount of damages sustained in favor of the party injured, to be collected by execution.

SEC. 99. *And be it further enacted*, That any person who shall simulate or falsely or fraudulently execute or sign any bond, permit, entry, or other document required by the provisions of this act, or by any regulation made in pursuance thereof, or who shall procure the same to be falsely or fraudulently executed; or who shall advise, aid in, or connive at the execution thereof, shall, on conviction, be imprisoned for a term not less than one year nor more than five years; and the property to which such false or fraudulent instrument relates shall be forfeited.

SEC. 100. *And be it further enacted*, That every collector having charge of any warehouse in which distilled spirits, tobacco, or other articles are stored in bond, shall render a monthly account of all such articles to the Commissioner of Internal Revenue, which account shall be examined and adjusted, monthly, by him, so as to exhibit a true statement of the liability and responsibility of every such collector on such account. In adjusting such account the collector shall be charged with all the articles which may have been deposited or received under the provisions of law in any warehouse in his district and under his control, and shall be credited with all such articles shown to have been removed therefrom according to law, including transfers to other collectors and to his successor in office, and also whatever allowances may have been made in accordance with law to any owner of such goods or articles for leakage or other losses.

SEC. 101. *And be it further enacted*, That the Secretary of the Treasury and Commissioner of Internal Revenue are authorized and empowered to alter, renew, or change the form, style, and device of any stamp, mark, or label used under any provision of the laws relating to distilled spirits, tobacco, snuff, and cigars, when in their judgment necessary for the collection of revenue tax, or the prevention or detection of frauds thereon; and to make and publish such regulations for the use of such mark, stamp, or label as they may find requisite. But in no case shall such renewal or change extend to an abandonment of the general character of the stamps provided for in this act, nor to the dispensing with any provisions requiring that such stamps shall be kept in book form and have thereon the signatures of revenue officers.

SEC. 102. *And be it further enacted*, That in all cases arising under the internal revenue laws where, instead of commencing or proceeding with a suit in court, it may appear to the Commissioner of Internal Revenue to be for the interest of the United States to compromise the same, he is empowered and authorized to make such compromise with the advice and consent of the Secretary of the Treasury; and in every case where a compromise is made there shall be placed on file in the office of the Commissioner the opinion of the solicitor of internal revenue, or officer acting as such, with his reasons therefor, together with a statement of the amount of tax assessed, the amount of additional tax or penalty imposed by law in consequence of the neglect or delinquency of the person against whom the tax is assessed, and the amount actually paid in accordance with the terms of the compromise; but no such compromise shall be made of any case after a suit or proceeding in court has been commenced without the recommendation also of the Attorney General: *Provided*, That it shall be lawful for the court at any stage of such suit or criminal proceedings to continue

the same for good cause shown on motion of the district attorney.

SEC. 103. *And be it further enacted*, That when any tax is imposed, and the mode or time of assessment or collection is not provided for, the same shall be established by regulation of the Commissioner of Internal Revenue; and the Commissioner is authorized to make all such regulations, not otherwise provided for, as may become necessary by reason of any change of law in relation to internal revenue made by this act.

SEC. 104. *And be it further enacted*, That where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the word "person," as used in this act, shall be construed to mean and include a firm, partnership, association, company, or corporation, as well as a natural person; and words of the masculine gender, as applied to persons, to mean and include the feminine gender; and the singular number to mean and include the plural number; and the word "State" to mean and include a Territory and District of Columbia; and the word "county" to mean and include parish, district, or other equivalent territorial subdivision of a State.

SEC. 105. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed: *Provided*, That all the provisions of said acts shall be in force for levying and collecting all taxes properly assessed or liable to be assessed, or accruing under the provisions of former acts, the right to which has already accrued or which may hereafter accrue under said acts, and for maintaining, continuing, and enforcing liens, fines, penalties, and forfeitures incurred under and by virtue thereof. And this act shall not be construed to affect any act done, right accrued, or penalty incurred under former acts, but every such right is hereby saved; and all suits and prosecutions for acts already done in violation of any former act or acts of Congress, relating to the subjects embraced in this act, may be commenced or proceeded with in like manner as if this act had not been passed: *And provided further*, That no office created by the said acts and continued by this act shall be vacated by reason of any provisions herein contained, but the officers heretofore appointed shall continue to hold the said offices without reappointment until their successors, or other officers to perform their duties, respectively, shall be appointed as provided in this act: *And provided further*, That whenever the duty imposed by any existing law shall cease in consequence of any limitation therein contained before the respective provisions of this act shall take effect, the same duty or tax shall be, and is hereby, continued until such provisions of this act shall take effect; and where any act is hereby repealed, no duty or tax imposed thereby shall be held to cease in consequence of such repeal, until the respective *correspective* corresponding provisions of this act shall take effect.

SEC. 106. *And be it further enacted*, That in any case where there has been a refusal or neglect to pay any tax imposed by the internal revenue laws, and where it is lawful and has become necessary to seize and sell real estate to satisfy the tax, the Commissioner of Internal Revenue may, if he deems it expedient, direct that a bill in chancery be filed, in a district or circuit court of the United States, to enforce the lien of the United States for tax upon any real estate, or to subject any real estate owned by the delinquent, or in which he has any right, title, or interest, to the payment of such tax. And all persons having liens upon the real estate sought to be subjected to the payment of any tax as aforesaid, or claiming any ownership or interest therein, shall be made parties to such proceedings, and shall be brought into court as provided in other suits in chancery in said courts. And the said courts shall have,

and are hereby given, jurisdiction in all such cases, and shall at the term next after such time as the parties shall be duly notified of the proceedings, unless otherwise ordered by the court, proceed to adjudicate all matters involved therein, and to pass upon and finally determine the merits of all claims to and liens upon the real estate in question, and shall, in all cases where a claim or interest of the United States therein shall be established, decree a sale, by the proper officer of the court, of such real estate, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States.

SEC. 107. *And be it further enacted*, That the internal revenue laws imposing taxes on distilled spirits, fermented liquors, tobacco, snuff, and cigars, shall be held and construed to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same shall be within a collection district or not.

SEC. 108. *And be it further enacted*, That all provisions of this act which require the use of stamps shall take effect at the end of sixty days from the passage of this act: *Provided*, That if at any time prior to the expiration of the said sixty days it shall be shown to the satisfaction of the Secretary of the Treasury that a longer delay is necessary for the preparation and due delivery of any of such stamps, he shall be authorized to fix a day not later than the first day of December next for putting said provisions, relative to the use of either of such stamps, into operation, and shall give public notice of the day so fixed and determined upon, which day shall then be held and taken to be the time when that portion of this act which requires the use of stamps shall have effect.

SEC. 109. *And be it further enacted*, That so much of all acts and parts of acts as impose any internal revenue tax on illuminating or other mineral oil, and on the product of the distillation, redistillation, or refining of crude petroleum, or of crude oil produced by a single distillation of coal, shale, peat, asphaltum, or other bituminous substances, together with all provisions relating to returns, assessment, warehousing, and bonding, and all other provisions for determining the quantity of mineral oil distilled, for the purposes of securing the payment of the tax thereon, be, and the same are hereby, repealed; and no tax imposed by existing laws on such oils or products in the hands of the producer or manufacturer or his agent or agents at the passage of this act, and unsold, shall be collected; but distillers and refiners of mineral oils shall be considered as manufacturers and subject to the tax on sales provided for in the fourth section of the act "to exempt certain manufacturers from internal tax, and for other purposes," approved March thirty-first, eighteen hundred and sixty-eight.

APPROVED, July 20, 1868.

CHAP. CCXXXVI.—An Act to construct a Wagon-Road from West Point to Cornwall Landing, all in the County of Orange, State of New York.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the superintendent of the Military Academy at West Point be authorized and directed to use the labor in the employ of the United States Government at that post, when not otherwise employed, in building and constructing a wagon-road from West Point to Cornwall Landing, in the county of Orange, said road to be located under the direction of the said superintendent, over land now belonging or hereafter to be ceded to the Government of the United States for that purpose.

APPROVED, July 23, 1868.

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CHAP. CCXXVII.—An Act to authorize the temporary Supplying of Vacancies in the Executive Departments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in case of the death, resignation, absence, or sickness of the head of any executive Department of the Government, the first or sole assistant thereof shall, unless otherwise directed by the President of the United States, as is hereinafter provided, perform the duties of such head until a successor be appointed, or such absence or sickness shall cease.

SEC. 2. *And be it further enacted,* That in case of the death, resignation, absence, or sickness of the chief of any bureau, or of any officer thereof, except Commissioner of Patents, whose appointment is not in the head of any executive Department, the deputy of such chief or of such officer, or if there be no deputy, then the chief clerk of such bureau, shall, unless otherwise directed by the President of the United States, as is hereinafter provided, perform the duties of such chief or of such officer until a successor be appointed or such absence or sickness shall cease. And no appointment, designation, or assignment otherwise than as is herein provided, in the cases mentioned in the first, second, and third sections of this act, shall be made except to fill a vacancy happening during the recess of the Senate.

SEC. 3. *And be it further enacted,* That in any of the cases hereinbefore mentioned it shall be lawful for the President of the United States, in his discretion, to authorize and direct the head of any other executive Department or other officer in either of those Departments whose appointment is, by and with the advice and consent of the Senate, vested in the President, to perform the duties of the office vacant as aforesaid until a successor be appointed, or the sickness or absence of the incumbent shall cease: *Provided,* That nothing in this act shall authorize the supplying as aforesaid a vacancy for a longer period than ten days when such vacancy shall be occasioned by death or resignation; and the officer so performing the duties of the office temporarily vacant shall not be entitled to extra compensation therefor: *And provided also,* That in case of the death, resignation, absence, or sickness of the Commissioner of Patents, the duties of said Commissioner, until a successor be appointed or such absence or sickness shall cease, shall devolve upon the examiner-in-chief in said office oldest in length of commission.

SEC. 4. *And be it further enacted,* That all acts heretofore passed on the subject of temporarily supplying vacancies in the Executive Departments, or which empower the President to authorize any person or persons to perform the duties of the head of any executive Department, or of any officer in either of the Departments, in case of a vacancy therein or inability of such head of a Department or officer to discharge the duties of his office, and all laws inconsistent with the provisions of this act, be, and the same are hereby, repealed.

APPROVED, July 23, 1868.

CHAP. CCXXVIII.—An Act making a Grant of Land to the State of Minnesota to aid in the Improvement of the Navigation of the Mississippi River.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, granted to the State of Minnesota, for the purpose of aiding said State in constructing and completing a lock and dam at Meeker's island, (so called,) in the Mississippi river, in said State, and thereby facilitating the navigation of the Mississippi river between the falls of St. Anthony and the mouth of the Minnesota river, two hundred thousand acres

of public lands, to be selected in alternate odd-numbered sections by an agent to be appointed by the Governor of said State, subject to the approval of the Secretary of the Interior: *Provided,* That said lands shall be selected from the public lands lying within the limits of the said State of Minnesota, and that not more than one section thereof shall be selected in any one township: *Provided further,* That said selections shall not be made from any lands containing mines of gold, silver, cinnabar, or copper, nor from any lands to which rights of preemption or homestead have attached.

SEC. 2. *And be it further enacted,* That said lands so granted shall be subject to the disposal of the Legislature of said State for the purposes mentioned in the first section of this act, and no other; and the said lock and dam shall be and remain forever a public highway, free from any toll or charge of any kind whatever; and the said Legislature shall have power to pass all needful rules and regulations that may be necessary to fully carry out the purposes of this act.

SEC. 3. *And be it further enacted,* That the work shall be done under the direction of the engineer department of the United States, according to the plan and estimate submitted by Major General Warren, and that if said lock and dam are not constructed within two years from and after the date of the acceptance and disposition of this grant by the Legislature of the said State, the lands hereby granted shall revert to the United States.

SEC. 4. *And be it further enacted,* That at any time after the selection of the said lands, and subsequent to the completion of said lock and dam, the lands hereby granted shall be open for settlement by actual settlers upon paying to the State of Minnesota a price not exceeding one dollar and twenty-five cents per acre for the same, which shall be paid by the State to the company who may construct said lock and dam.

SEC. 5. *And be it further enacted,* That if at any time prior to the completion of the said lock and dam the Government of the United States shall make an appropriation in money sufficient to construct said lock and dam, then the grant of lands herein made shall revert to the United States: *Provided,* That this act shall have no effect on lands already granted for railroad purposes.

APPROVED, July 23, 1868.

CHAP. CCXXIX.—An Act making Appropriations for the Payment of Invalid and other Pensions of the United States for the year ending June thirtieth, eighteen hundred and sixty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the payment of pensions for the year ending the thirtieth of June, eighteen hundred and sixty-nine:

For invalid pensions under various acts, ten million dollars.

For pensions of widows, children, mothers, fathers, brothers, and sisters of soldiers, as provided by acts of March eighteen, eighteen hundred and eighteen; May fifteenth, eighteen hundred and twenty-eight; June seventh, eighteen hundred and thirty-two; July fourth, eighteen hundred and thirty-six; July seventh, eighteen hundred and thirty-eight; March third, eighteen hundred and forty-three; June seventeenth, eighteen hundred and forty-four; February second, July twenty-first, and July twenty-ninth, eighteen hundred and forty-eight; February third, eighteen hundred and fifty-three; June third, eighteen hundred and fifty-eight; and July fourteenth, eighteen hundred and sixty-two, with its supplementary acts;

and for compensation to pension agents and expenses of agencies, twenty million dollars.

For Navy pensions to invalids, widows and children, and other relatives of the officers and men of the Navy dying in the line of duty, now provided by law, three hundred and fifty thousand dollars, to be paid from the Navy pension fund.

SEC. 2. *And be it further enacted,* That the interest on the fund known as the naval pension fund shall hereafter be at the rate of three per cent. per annum in lawful money, and shall be applicable exclusively to the payment of the Navy pensions according to existing laws.

APPROVED, July 23, 1868.

CHAP. CCXXX.—An Act to Incorporate the "Washington Target-Shooting Association" in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Charles Klomann, Frederick Hügler, Charles Ebel, John H. Stalley, Adolf Cluss, G. Dill, Gustav Hartig, B. Henze, John Kessel, Caspar Kneessi, E. L. Schmidt, Richard Wallach, M. Michler, Lewis Clephane, and A. C. Richards, of Washington city, in the District of Columbia, and their associates and successors, be, and are hereby, incorporated and made a body-corporate, by the name of the "Washington Target-Shooting Association," and by that name may sue and be sued, plead and be impleaded, in any court of law of competent jurisdiction, and be entitled to use and exercise all the powers, rights, and privileges incident to such corporation, for the purpose of establishing and maintaining, in the District of Columbia, a "Park," designated and named the "Washington Schützen-Park," the object of which shall be moral and social, and to acquire proficiency and skill as marksmen.

SEC. 2. *And be it further enacted,* That the capital stock of said corporation shall not exceed one hundred thousand dollars, and that the stock shall be divided into shares of twenty-five dollars each, and shall be transferable in such manner as the said corporation, by its by-laws, may direct.

SEC. 3. *And be it further enacted,* That the government and direction of the affairs of the corporation shall be vested in a board of directors, not less than nine in number, who shall be elected by the stockholders from among the corporators and their associates and successors, in such manner as the by-laws of the corporation may direct.

SEC. 4. *And be it further enacted,* That the said corporation shall have full power to make and prescribe such by-laws, rules, and regulations as they may deem needful and proper for the management of the stock, property, estate, and effects of the corporation, not inconsistent with the laws in force in the District of Columbia; to have and use a common seal, with the privilege of altering the same at pleasure; to purchase, take, and hold, by deed or otherwise, any property, real, personal, or mixed, and the same, or any part thereof, to dispose of at pleasure; and to execute such deed or deeds or other conveyances as may be necessary therefor; to issue stock, and make all suitable and necessary regulations for the purchase, sale, and transfer of the same; to borrow money; to impose fines upon the members, and collect the same as other small debts are collected; to expel members; to make provision for the admission of members, and to provide for the election of such officers as may be deemed necessary for the proper management of the affairs of said corporation; and generally to have and exercise all such other and further corporate powers as may be deemed necessary for the purpose of carrying out effectually the object and purposes of this act: *Provided,* That the property of the said associa-

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tion, real, personal, and mixed, shall be held for the purposes, and none other, expressed in the first section of this act.

Sec. 5. *And be it further enacted*, That the members of said corporation shall have power to exercise in target-shooting at any time they may deem proper, except on the Sabbath day, commonly called Sunday.

Sec. 6. *And be it further enacted*, That nothing in this act contained shall give to said corporation any banking privileges.

Sec. 7. *And be it further enacted*, That this act shall take effect from and after its passage; and that the same may be altered, amended, or repealed, at the pleasure of Congress.

APPROVED, July 28, 1868.

CHAP. CCXXXIII.—An Act making Appropriations and to supply Deficiencies in the Appropriations for the Service of the Government for the fiscal year ending June thirtieth, eighteen hundred and sixty-eight, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums, or so much thereof as may be necessary, be, and the same are hereby, appropriated for the objects hereinafter expressed, for the fiscal year ending June thirtieth, eighteen hundred and sixty-eight, viz.:

LEGISLATIVE.

For compensation of the clerks of committees, the additional pay ordered by the resolution of the House of Representatives, twenty-fifth May, eighteen hundred and sixty-eight, five thousand nine hundred and thirty-two dollars.

For pay of additional messengers of the Senate, for the month of June, eighteen hundred and sixty-eight, two thousand two hundred and forty-five dollars and four cents.

For the usual additional compensation to the reporters of the Senate for the Congressional Globe, for reporting the proceedings of the Senate for the second session of the Fortieth Congress, eight hundred dollars each, four thousand dollars.

For the usual additional compensation to the reporters of the House for the Congressional Globe, for reporting the proceedings of the House for the second session of the Fortieth Congress, eight hundred dollars each, four thousand eight hundred dollars.

A sufficient sum is hereby appropriated to pay the official reporters of the Globe in each House the amount which the Comptroller of the Treasury may find severally due to them for services during the sessions of the Fortieth Congress, under the eighteenth section of "An act making appropriations for sundry civil expenses of the Government for the year ending June thirtieth, eighteen hundred and sixty-seven, and for other purposes," approved July twenty-eighth, eighteen hundred and sixty-six.

BOTANICAL GARDEN.

To complete the botanical conservatory in accordance with the estimate of the architect of the Capitol extension, to be expended under the direction of the joint Committee on the Library of Congress, ten thousand two hundred and fifty-two dollars and fifty cents.

COURT OF CLAIMS.

For compensation of attorneys to attend to taking testimony, witnesses, and commissioners in said court, fifteen hundred dollars.

INTERIOR DEPARTMENT.

Pension Bureau.

For rent of building from November first, eighteen hundred and sixty-seven, to June thirtieth, eighteen hundred and sixty-eight, for the use of the bureau, two thousand dollars.

Census Office.

For the purpose of paying the amount due to certain United States marshals and their

assistants, for services rendered in taking the eighth census, in the year eighteen hundred and sixty, in the State of West Virginia, five thousand three hundred and seventy-six dollars and nine cents: *Provided*, That no part of the sum hereby appropriated shall be paid to, or on account of, any claimant who participated in the late rebellion, or gave it any aid or comfort.

General Land Office.

For payment of the balance due the Architectural Iron Works Company of New York, for work done at enlargement of the Congressional Library in addition to their contract, such as increasing the length of the northern wing and furnishing four thousand six hundred and fifty-two lineal feet of iron shelving more than required by their contract, five thousand nine hundred and twenty-two dollars: *Provided*, That the said bills shall first be examined and approved by the joint Committee on the Library.

For tiles for five thousand eight hundred feet of tiling for the basement stairs of the Patent Office building, to complete pavement on the lower floor of the south wing, at one dollar and twenty-five cents per foot, seven thousand two hundred and fifty dollars.

For fuel and lights for the Patent Office building, including the salaries of engineer and assistant engineer and repair of heating apparatus, five thousand dollars.

For distribution of congressional journals and documents, two thousand dollars.

Office of the Commissioner of Indian Affairs.

For this amount, or so much thereof as may be necessary, for the purpose of paying for blank books, binding, stationery, and miscellaneous items, including two of the daily city newspapers, to be bound, filed, and preserved for the use of the office, two thousand dollars.

Capitol Building.

For the payment of outstanding liabilities incurred by the late Commissioner of Public Buildings for materials furnished and labor done in repairing the old portion of the Capitol building prior to and during the fiscal year ending June thirtieth, eighteen hundred and sixty-seven, five thousand four hundred and eighty-four dollars and twenty-two cents: *Provided*, That no part of the sum hereby appropriated shall be paid until the said accounts shall have been fully examined and approved by the proper accounting officers of the Treasury.

For the payment of the superintendent and foreman of the public garden and others employed in the public garden and Capitol building and grounds, the sums to which they are entitled under the act of July twenty-eighth, eighteen hundred and sixty-six, six thousand dollars, or so much thereof as may be necessary.

TREASURY DEPARTMENT.

For temporary clerks in the Treasury Department: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, in his discretion, to classify the clerks authorized according to the character of their service, twenty thousand dollars.

For furniture, carpets, and miscellaneous items of the Treasury Bureau, ten thousand dollars.

For fuel, labor, lights, and contingent expenses of the Treasury Department building, twelve thousand dollars.

For this sum to refund to the appropriation for the Treasury extension, for furniture furnished to the following offices from January first, eighteen hundred and sixty-five, to March twenty-six, eighteen hundred and sixty-six, namely:

For the office of the Secretary of the Treasury, thirteen thousand four hundred and seventy-seven dollars and seventy-two cents.

For expense in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, and other securities of the United States, as well as the coin of the United States, and other frauds on the revenue, twenty-five thousand dollars.

For the office of the Second Comptroller, one thousand one hundred and three dollars and eighty-six cents.

For the office of the First Auditor, three hundred and three dollars and ninety-two cents.

For the office of the Third Auditor, four thousand and three dollars and thirty-one cents.

For the office of Fourth Auditor, five thousand five hundred and ninety-one dollars and thirty-eight cents.

For the office of Fifth Auditor, one thousand two hundred and fifty-seven dollars and fourteen cents.

For the office of Sixth Auditor, seven hundred and twenty-four dollars and twenty-four cents.

For the office of the Treasurer of the United States, twelve thousand eight hundred and twenty-four dollars and ninety-six cents.

For the office of Register, eleven hundred and sixty-nine dollars and ninety-six cents.

For the office of Comptroller of the Currency, four thousand two hundred and twenty-seven dollars and eighty-six cents.

For the office of the Solicitor, four thousand five hundred and sixty-eight dollars and twelve cents.

For the office of the first division of the national currency, two thousand four hundred and twenty-six dollars and eighty-five cents.

For the office of the Light-House Board, two thousand six hundred and seventy dollars and forty-one cents.

For the office of Commissioner of Internal Revenue, six thousand nine hundred and eight dollars and eighty-nine cents.

For the office of the Attorney General, two hundred and one dollars and eighty cents.

For the quarters of the Treasury regiment, four hundred and twenty-two dollars and sixteen cents; making in all the sum of sixty-one thousand eight hundred and eighty-two dollars and forty cents.

For facilitating communication between the Atlantic and Pacific States by electrical telegraph, (to supply deficiency for the fiscal year ending June thirtieth, eighteen hundred and sixty-seven,) forty thousand dollars.

Construction Branch of the Treasury Department.

For constructing the custom-house at Portland, Maine, fifty thousand dollars.

For constructing the court-house at Portland, Maine, fifty thousand dollars.

For constructing appraisers' stores at Philadelphia, twenty-five thousand dollars.

For remodeling the marine hospital at Chelsea, Massachusetts, forty-five thousand dollars.

To complete the building used for court-house and post office at Springfield, Illinois, thirty thousand dollars.

For constructing the United States court-house and post office at Madison, Wisconsin, fifty thousand dollars.

For the work on the public building now being erected at Cairo, Illinois, to be used as a post office, custom-house, and United States court-house, ten thousand dollars.

For necessary repairs of the roof and alterations in the building used for a custom-house and post office in Chicago, Illinois, twenty thousand dollars.

To meet outstanding liabilities and complete the repairs to the custom-house building at New York city, forty-five thousand dollars.

To repair or replace corrugated galvanized iron roofs of buildings under the control of the Treasury Department, thirty thousand dollars.

WAR DEPARTMENT.

For rent, fuel, lights, and miscellaneous

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items in the office of the Paymaster General, eleven thousand dollars.

For the repair, preservation, extension, and completion of certain public works on rivers and harbors, to be expended under the direction of the Secretary of War, one million five hundred dollars: *Provided*, That said expenditures shall not be applied to any works not mentioned in the bill "making appropriations for repairs, preservation, and completion of certain public works, and for other purposes," which passed the House of Representatives June thirtieth, eighteen hundred and sixty-eight.

One hundred thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the Secretary of War in the removal of the wreck of the iron steamship "Scotland," now on the bar outside of Sandy Hook, near the entrance to the harbor of New York: *Provided*, That the Secretary of War shall, after notice given in one or more newspapers in the cities of Philadelphia, New York, and Boston, receive sealed proposals for the removal of said wreck, and make contract for the same with the lowest bidder therefor. Said contract will in no case exceed in amount the sum herein appropriated.

For the removal of a sunken rock in the channel of the harbor at the port of New York, fifteen hundred and thirty dollars.

Soldiers' Bounties.

To facilitate the payment of soldiers' bounties under act of July twenty-eighth, eighteen hundred and sixty-six, as follows:

For fuel and gas, seven hundred dollars.

For carpeting, two thousand dollars.

For fitting house, cases, and so forth, five hundred dollars.

For rent, twelve hundred dollars.

For fifty chairs, three hundred dollars.

For one messenger, three laborers, and two night watchmen, four thousand six hundred dollars.

Washington Aqueduct.

To meet a deficiency in the cost of completing certain portions of the Washington aqueduct, comprising the Potomac dam, repairs of temporary dam, gate-house at Great Falls, and the connecting conduit at the receiving reservoir, twenty-seven thousand five hundred dollars: *Provided*, That the sum shall be in full of all claims against the Government for work done or damages incurred on the Washington aqueduct.

For salary of assistant engineer, superintendence, and repairs, for the year ending June thirtieth, eighteen hundred and sixty-nine, twenty-five thousand dollars, to be expended under the immediate direction of the officer detailed to act as superintendent of public buildings and grounds.

Rock Island Arsenal.

For the erection of a bridge to connect Rock Island arsenal with the city of Rock Island, Illinois, one hundred thousand dollars, said bridge to be constructed and completed for the sum hereby appropriated.

To enable the Secretary of State to pay the costs of interpretation at the consulate at Bangkok, in Siam, from the first of July, eighteen hundred and sixty-seven, to the thirtieth of June, eighteen hundred and sixty-nine, one thousand dollars.

To enable the Secretary of War to meet the expenses of defending suits brought against parties for executing the orders of Government during the late rebellion, fifty thousand dollars, or so much thereof as may be necessary.

To supply a deficiency for reporting and printing the proceedings of the Senate in the Daily Globe, fifteen thousand dollars.

To repay to the judiciary fund the sum of five thousand two hundred and eighteen dollars and thirty-eight cents, being amounts ex-

pendent by order of the Chief Justice of the Supreme Court of the United States in carrying into effect the provisions of an act approved March second, eighteen hundred and sixty-seven, entitled "An act to establish a uniform system of bankruptcy throughout the United States."

To reappropriate an unexpended balance of an appropriation made by act approved August fifth, eighteen hundred and fifty-four, "to refund to the State of California expenses incurred in suppressing Indian hostilities," said balance having lapsed and being covered into the Treasury on the thirtieth of June, eighteen hundred and sixty-three, ten thousand one hundred and eighty-three dollars and sixty-three cents: *Provided*, That nothing shall be paid except subject to existing provisions of law and upon the finding and certificate of the Third Auditor that the same is actually due.

For the payment to the Territory of Colorado for the services of the first regiment of the Colorado mounted militia, called into the service of the United States on the requisition of Colonel Thomas Mobligh; and for the services of any other militia forces of the said Territory which were employed in the service of the United States, on the call of the Governor of the Territory, in the year eighteen hundred and sixty-four, the sum of fifty-five thousand two hundred and thirty-eight dollars and eighty-four cents, being the amount found to be justly due and recommended to be allowed on the account as presented by Thomas M. Vincent, assistant adjutant general, in his letter to the Secretary of War, dated Washington, October thirty-first, eighteen hundred and sixty-seven: *Provided*, That said amount shall be taken and deemed to be in full satisfaction of the claims of the said Territory: *And provided further*, That no money shall be paid from the Treasury on said account until the public property issued to the forces shall have been properly accounted for to the satisfaction of the proper officers of the Treasury.

For deficiency in the appropriation for salaries and other expenses of local and supervising inspectors, appointed under act of August thirtieth, eighteen hundred and fifty-two, for the better protection of the lives of passengers by steamboats, twenty thousand dollars.

POST OFFICE DEPARTMENT.

For overland mail and marine service between New York and California, nine hundred thousand dollars.

For deficiency for steamship mail service between the United States and Brazil during the fiscal year ending June thirtieth, eighteen hundred and sixty-six, twelve thousand five hundred dollars.

RECONSTRUCTION.

For deficiency under the reconstruction acts for the several military districts for the fiscal year ending June thirtieth, eighteen hundred and sixty-eight:

For the first district, six thousand dollars;

For the second district, one hundred and twenty-seven thousand eight hundred and ninety-eight dollars and twenty-five cents;

For the fourth district, fifty-three thousand two hundred dollars;

For the fifth district, forty-five thousand dollars.

For the following amounts estimated as necessary in carrying out the reconstruction acts from and after the thirtieth day of June, eighteen hundred and sixty-eight:

For the first district, ninety-three thousand dollars;

For the second district, fifteen thousand dollars;

For the third district, fifteen thousand dollars;

For the fourth district, seventy-five thousand dollars;

For the fifth district, eighty thousand dollars.

PUBLIC BUILDINGS AND GROUNDS.

To supply deficiencies in appropriations for public buildings and grounds, viz.:

For additional labor cleaning the center building of the Capitol, repairing the Washington statue on the east grounds of the Capitol, cleaning and repairing columns in the building, laying a new brick pavement on the west front, and repairing fountains, fifteen hundred dollars.

For continuing the filling and grading of the Capitol grounds, under the direction of the architect of the Capitol extension, ten thousand dollars.

For taking care and improvement of reservation number two and La Fayette square, five hundred dollars.

For care and improvement of grounds south of the President's House, one thousand dollars.

For continuing the grading of Virginia avenue, to pay cart hire—labor having been furnished by the Commissioner of the Freedmen's Bureau, when the original appropriation was exhausted, to continue the work—the hire of carts to be paid by the officer in charge of public buildings and grounds, two thousand dollars.

For cleaning sewer traps on Pennsylvania avenue, five hundred dollars.

For repairs of water pipes, three hundred dollars.

For removing snow and ice from pavement[s] and public walks, two hundred dollars.

For repairs of Pennsylvania avenue, and keeping it clean and free from dirt, two thousand five hundred dollars.

For annual repairs of the President's House, including the payment of bills approved by the joint committee of Congress appointed to audit the bills for repairing and refurbishing the Executive Mansion, ten thousand dollars.

For removal of foot-bridge from Maine avenue to Third street west, seventy-five dollars.

For improvement and taking care of the Circle, on Pennsylvania avenue and Twenty-Third street west, one hundred and fifty dollars.

To supply deficiency in payment for material for gates for Judiciary Square Hospital, eight hundred and sixty-eight dollars.

For deficiencies in appropriations for feeding destitute friendly Indians, under act of July twentieth, eighteen hundred and sixty-seven, in accordance with recommendations of the Indian peace commission, one hundred and seventy-two thousand eight hundred and twenty dollars and eleven cents: *Provided*, That no part of the money appropriated for this purpose shall be paid until the accounts for feeding such destitute Indians shall be fully investigated by a commission to consist of Lieutenant General William T. Sherman, Major General P. H. Sheridan, and Major General C. C. Augur; and the said commission is hereby authorized, for the purpose of such investigation, to call and examine witnesses in this behalf, and only the amount that said commission shall certify to be equitably and justly due shall be paid. And said commission shall sit at Leavenworth, Kansas, and shall have power to appoint a clerk at a salary of five dollars per day for the time actually employed; and the sum of one thousand dollars, or so much thereof as may be necessary for clerk hire, traveling and incidental expenses of the commission, is hereby appropriated.

CITY OF WASHINGTON.

SEC. 2. *And be it further enacted*, That the chief engineer of the Army shall reimburse to the corporation of the city of Washington for expenses incurred in improving the property of the General Government in said city, under provisions of act of May fifth, eighteen hundred and sixty-four, and in accordance with

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the recommendation of the Secretary of War, in book of estimates of appropriations, pages two hundred and forty-four and two hundred and forty-five, two hundred and ninety-six thousand nine hundred and forty-three dollars and eighty-eight cents: *Provided*, That section fifteen of an act entitled "An act to incorporate the city of Washington and to repeal all acts heretofore passed for that purpose," approved May fifteenth, eighteen hundred and twenty; and section three of an act approved May fifth, eighteen hundred and sixty-four, entitled "An act to amend an act to incorporate the inhabitants of the city of Washington, passed May fifteenth, eighteen hundred and twenty," are hereby repealed; and no improvements of the streets, alleys, avenues, or other property of the United States in the city of Washington, authorized by said act, which is to be paid for by the United States, shall hereafter be made until an appropriation shall have been made therefor, and such appropriation, when made, shall be expended under the direction of the chief engineer of the Army.

SEC. 3. *And be it further enacted*, That hereafter no contract shall be entered into for the erection, repair, or furnishing of any public building, or for any public improvement whatever, which shall bind the Government to pay a larger sum of money than the amount in the Treasury appropriated for the specific purpose. And if any officer of the Government shall knowingly contract for the erection, repair, or furnishing of any public building, or for any public improvement which shall bind the Government to pay a larger amount than the specific sum appropriated for such purpose, such officer shall be deemed guilty of a misdemeanor, and, upon conviction thereof by a court of competent jurisdiction, shall be punished by imprisonment not less than six months nor more than two years, and shall pay a fine of two thousand dollars.

SEC. 4. *And be it further enacted*, That all laws making an appropriation for the payment of the salaries of the solicitor, assistant solicitor, and deputy solicitor of the Court of Claims, and of the Assistant Attorney General, for the fiscal year ending June thirtieth, eighteen hundred and sixty-nine, be, and the same are hereby, repealed; and that there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, for the salaries of two Assistant Attorneys General, one clerk, and two clerks of class four, for the fiscal year ending June thirtieth, eighteen hundred and sixty-nine, twelve thousand four hundred dollars.

APPROVED, July 25, 1868.

CHAP. CCXXXIV.—An Act for the Relief of the loyal Choctaw and Chickasaw Indians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and directed to adopt and ratify the compromise and agreements entered into and executed on the twentieth and twenty-first of April, eighteen hundred and sixty-eight, between the legally authorized representatives of the Choctaw and Chickasaw nations of Indians, and the legally authorized representative of the loyal Choctaw and Chickasaw Indians, claimants under the forty-ninth article of the treaty of April twenty-eighth, eighteen hundred and sixty-six, between the United States and the Choctaw and Chickasaw Indians, as a full and final settlement of all claims under the aforesaid article of said treaty. And the amount as stipulated in the aforesaid agreements to be paid to the loyal Choctaw and Chickasaw claimants, to wit: to the Choctaw claimants the sum of one hundred and nine thousand seven hundred and forty-two dollars and eight cents, and to the Chickasaw claimants the sum of one hundred and fifty thousand dollars shall be paid by

the Secretary of the Interior to said claimants, out of any moneys in the Treasury of the United States belonging to, or held in trust for, said nations of Indians; but in case there is not a sufficient amount of money in the Treasury of the United States belonging to, or held in trust for, said nation of Indians, to discharge their respective obligations to the loyal Choctaw and Chickasaw Indians, (claimants,) or in case the Choctaw and Chickasaw nations of Indians shall request it, then the Secretary of the Interior is authorized and directed to sell such bonds or other securities held in trust by the United States for the Choctaw and Chickasaw nations of Indians as may be necessary to discharge their respective obligations to the aforesaid loyal Choctaw and Chickasaw claimants, as stipulated in the aforesaid compromise and agreements: *Provided*, That no bonds or securities shall be sold for less than par: *And provided further*, That no payments shall be made nor bonds delivered under the provisions of this act except in every case to the person actually entitled in his own right to receive the same; nor shall any contract or power of attorney relating to the same be regarded or held as of any validity unless signed and executed after the passage of this act: *And provided also*, That the bonds of the State of Indiana held by the United States shall not be sold under the provisions of this act.

APPROVED, July 25, 1868.

CHAP. CCXXXV.—An Act to provide a Temporary Government for the Territory of Wyoming.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the United States described as follows: commencing at the intersection of the twenty-seventh meridian of longitude west from Washington with the forty-fifth degree of north latitude, and running thence west to the thirty-fourth meridian of west longitude, thence south to the forty-first degree of north latitude, thence east to the twenty-seventh meridian of west longitude, and thence north to the place of beginning, be, and the same is hereby, organized into a temporary government by the name of the Territory of Wyoming: *Provided*, That nothing in this act shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians: *Provided further*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such time as Congress shall deem convenient and proper, or from attaching any portion thereof to any other Territory or State.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Wyoming shall be vested in a Governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States with the advice and consent of the Senate. The Governor shall reside within said Territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the Legislative Assembly before they shall take effect, unless the same shall pass by a two-thirds vote as provided in section six of this act; he may grant pardons for offenses against the laws of said Territory, and reprieves for offenses against the laws of the United States, until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there

shall be a secretary of said Territory, who shall reside therein and hold his office for four years, unless sooner removed by the President of the United States, with the consent of the Senate; he shall record and preserve all the laws and the proceedings of the Legislative Assembly hereinafter constituted, and all acts and proceedings of the Governor in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings on or before the first day of December in each year to the President of the United States, and, at the same time, two copies of the laws to the Speaker of the House of Representatives and the President of the Senate for the use of Congress; and in case of the death, removal, resignation, or other necessary absence of the Governor from the Territory, the secretary shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the Governor during such vacancy or absence, or until another Governor shall be appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the Governor and Legislative Assembly. The Legislative Assembly shall consist of a council and house of representatives. The council shall consist of nine members, which may be increased to thirteen, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The House of Representatives shall consist of thirteen members, which may be increased to twenty-seven, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. An apportionment shall be made by the Governor as nearly equal as practicable among the several counties or districts for the election of the council and house of representatives, giving to each section of the Territory representation in the ratio of their population, (excepting Indians not taxed,) as nearly as may be; and the members of the council and house of representatives shall reside in and be inhabitants of the districts for which they may be elected, respectively. Previous to the first election the Governor shall cause a census or enumeration of the inhabitants of the several counties or districts of the Territory to be taken, and the first election shall be held at such times and places, and be conducted in such manner as the Governor shall appoint and direct; and he shall at the same time declare the number of the members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The number of persons authorized to be elected, having the highest number of votes in each of said council districts for members of the council, shall be declared by the Governor duly elected to the council; and the person or persons authorized to be elected having the greatest number of votes for the house of representatives equal to the number to which each county or district shall be entitled shall be declared by the Governor to be elected members of the house of representatives: *Provided*, That in case of a tie between two or more persons voted for, the Governor shall order a new election, to supply the vacancy made by such tie vote. And the persons thus elected to the Legislative Assembly shall meet at such place and on such day as the Governor shall appoint; but thereafter the time, place, and manner of holding and conducting elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the Legislative Assembly: *Provided*, That no one session shall exceed the term of forty days, except the first, which may be extended to sixty days, but no longer.

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SEC. 5. *And be it further enacted*, That every male citizen of the United States above the age of twenty-one years, and [including] persons who shall have declared their intention to become citizens of the United States, who shall have been a resident of the said Territory at the time of the passage of this act, shall be entitled to vote at the first and all subsequent elections in the Territory, and shall be eligible to hold any office in said Territory. And the Legislative Assembly shall not at any time abridge the right of suffrage, or to hold office, on account of the race, color, or previous condition of servitude of any resident of the Territory: *Provided*, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those who shall have declared on oath before a competent court of record their intention to become such, and shall have taken an oath to support the Constitution and Government of the United States.

SEC. 6. *And be it further enacted*, [That] the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents, nor shall any law be passed impairing the rights of private property, nor shall any unequal discrimination be made in taxing different kinds of property, but all property subject to taxation shall be taxed in proportion to its value. Every bill which shall have passed the council and the house of representatives of said Territory shall, before it becomes a law, be presented to the Governor of the Territory. If he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large upon their journal and proceed to reconsider it. If, after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, to be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within five days (Sunday excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Assembly, by adjournment, prevent its return, in which case it shall not be a law.

SEC. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the Governor and Legislative Assembly of the Territory. The Governor shall nominate and by and with the consent of the council appoint all officers not herein otherwise provided for, and in the first instance the Governor alone may appoint all such officers, who shall hold their offices until the end of the first session of the Legislative Assembly; and he shall lay off the necessary districts for members of the council and house of representatives, and all other officers.

SEC. 8. *And be it further enacted*, That no member of the Legislative Assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member

of the Legislative Assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted*, That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually; and they shall hold their offices for four years, unless sooner removed by the President with the consent of the Senate of the United States. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court; at such time and place as may be prescribed by law; and said judges shall after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts, and of the justices of the peace, shall be as limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction and authority for redress of all wrongs committed against the Constitution or laws of the United States or of the Territory affecting persons or property. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office where the court may be held. Writs of error, bills of exception, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court under such regulations as may be prescribed by law, but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerks, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeal from the final decision of said supreme court shall be allowed and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the Constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the said supreme and district courts of said Territory, and the respective judges thereof, shall and may grant writs of habeas corpus in all cases in which the same are grantable by the judges of the United States in the District of Columbia; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws; and writs of error and appeals in all such cases shall be made to the supreme court of said Territory, the same as in other cases. The said clerk shall receive in all such cases the same fees which the clerks of the district courts of Dakota Territory now receive for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President with the consent of the Senate, and who shall receive the same fees and salary as is now received by the attorney of the United States for the Territory of *Dacotah*, [Dakota.] There

shall also be a marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President with the consent of the Senate, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Dakota, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the Governor, secretary, chief justice, and associate justices, attorney, and marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The Governor and secretary to be appointed as aforesaid shall, before they act as such, respectively, take an oath or affirmation before the district judge, or some justice of the peace in the limits of said Territory duly authorized to administer oaths and affirmations by the laws now in force therein; or before the Chief Justice, or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths when so taken shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the secretary among the executive proceedings, and the chief justice, and associate justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said Governor or secretary, or some judge or justice of the peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be recorded by him as aforesaid, and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The Governor shall receive an annual salary of two thousand dollars as Governor, and one thousand dollars as superintendent of Indian affairs; the chief justice and the associate justices shall each receive an annual salary of twenty-five hundred dollars, and the secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be payable quarter yearly at the Treasury of the United States. The members of the Legislative Assembly shall be entitled to receive four dollars each per day during their attendance at the session thereof, and three dollars for every twenty miles' travel in going to and returning from the said sessions, estimating the distance by the nearest traveled route. There shall be appropriated annually the sum of one thousand dollars, to be expended by the Governor, to defray the contingent expenses of the Territory. There shall also be appropriated annually a sufficient sum, to be expended by the secretary, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the Legislative Assembly, the printing of the laws, and other incidental expenses; and the secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 12. *And be it further enacted*, That the Legislative Assembly of the Territory of Wyoming shall hold its first session at such time and place in said Territory as the Governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the Governor and Legislative Assembly shall proceed to locate and establish the seat of government for said Territory at such place as they may deem eligible; which

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place, however, shall thereafter be subject to be changed by the said Governor and Legislative Assembly.

SEC. 13. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve during each Congress of the United States, may be elected by the voters qualified to elect members of the Legislative Assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States in the said House of Representatives. The first election shall be held at such time and places, and be conducted in such manner, as the Governor shall appoint and direct; and at all subsequent elections the time, place, and manner of holding elections shall be prescribed by law. The person having the greatest number of votes of the qualified electors as hereinbefore provided, shall be declared by the Governor elected, and a certificate thereof shall be accordingly given.

SEC. 14. *And be it further enacted*, That sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to public schools in the State or States hereafter to be erected out of the same.

SEC. 15. *And be it further enacted*, That temporarily and until otherwise provided by law the Governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for the said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation to be issued by him; but the Legislative Assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts and assign the judges and alter the times and places of holding the courts as to them shall seem proper and convenient.

SEC. 16. *And be it further enacted*, That the Constitution and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Wyoming as elsewhere within the United States.

SEC. 17. *And be it further enacted*, That this act shall take effect from and after the time when the executive and judicial officers herein provided for shall have been duly appointed and qualified: *Provided*, That all general territorial laws of the Territory of Dakota in force in any portion of said Territory of Wyoming at the time this act shall take effect shall be and continue in force throughout the said Territory until repealed by the legislative authority of said Territory, except such laws as relate to the possession or occupation of mines or mining claims.

APPROVED, July 25, 1868.

CHAP. CCXXXVI.—An Act in addition to an Act passed March twenty-sixth, eighteen hundred and four, entitled "An Act in addition to an Act entitled 'An Act for the Punishment of certain Crimes against the United States.'"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person shall be prosecuted, tried, or punished for the capital offenses set forth in the act to which this act is in addition, unless the indictment for the same is found by a grand jury within five years after such capital offense is committed.

SEC. 2. *And be it further enacted*, That this act shall take effect from and after its passage, and its provisions shall be applicable equally to offenses committed within three years before and offenses committed after its passage.

APPROVED, July 25, 1868.

CHAP. CCXXXVII.—An Act to provide for a further issue of Temporary Loan Certificates, for the purpose of Redeeming and Retiring the remainder of the outstanding Compound-Interest Notes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the sole purpose of redeeming and retiring the remainder of the compound-interest notes outstanding, the Secretary of the Treasury is hereby authorized and directed to issue an additional amount of temporary loan certificates, not exceeding twenty-five millions of dollars; said certificates to bear interest at the rate of three per centum per annum, principal and interest payable in lawful money on demand, and to be similar in all respects to the certificates authorized by the act entitled "An act to provide ways and means for the payment of compound-interest notes," approved March second, eighteen hundred and sixty-seven; and the said certificates may constitute and be held by any national bank holding or owning the same as a part of the reserve, in accordance with the provisions of the above-mentioned act of March second, eighteen hundred and sixty-seven.

APPROVED, July 25, 1868.

CHAP. CCXXXVIII.—An Act to create an Additional Land District in the State of Minnesota.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to establish an additional land district in the State of Minnesota, embracing all that part of the present northwestern land district which lies north of township number one hundred and twenty-four north, and west of range number thirty-five west of the fifth principal meridian, and to fix, from time to time, the boundaries thereof, which district shall be named after the place at which the office shall first be established; and the President shall have power to fix, from time to time, the location of the office for such district.

SEC. 2. *And be it further enacted*, That the President is hereby authorized to appoint, by and with the advice and consent of the Senate, a register and receiver for said land district, who shall be required to reside at the site of the land office for said district, who shall be subject to the same laws and responsibilities, and whose compensation respectively shall be the same as that now allowed by law to other land officers in said State.

APPROVED, July 25, 1868.

CHAP. CCXXXIX.—An Act to Incorporate the National Life Insurance Company of the United States of America.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That John D. Defrees, William E. Chandler, Samuel Wilkeson, E. A. Rollins, Nathan G. Starkweather, John A. Wills, Frank Turk, Adam S. Pratt, Henry C. Swain, and all the other persons who shall hereafter become stockholders in the company incorporated, are hereby created a body politic and corporate, by the name and style of the National Life Insurance Company of the United States of America, for the purpose of carrying on the business of insurance on lives, and to make all and every insurance appertaining thereto, or connected therewith; and to grant, purchase, and dispose of annuities in the city of Washington, in the District of Columbia, and elsewhere, and shall and may have perpetual succession, and shall be capable in law of contracting and being contracted with, and of suing and being sued, pleading and being impleaded in the district and circuit court of the United States, either in law or

equity in this District or elsewhere; and they and their successors shall and may have a common seal, and may change the same at their will and pleasure, and may also from time to time, at any meeting of their directors, by a majority of votes, as hereinafter provided, ordain, establish, and put in execution such by-laws, ordinances, rules, and regulations, the same not being contrary to this act or the laws of the United States, as may appear to them necessary or expedient for the management of said corporation, its business and affairs, and may from time to time alter or repeal the same or any of them.

SEC. 2. *And be it further enacted*, That the capital stock of said company shall consist of ten thousand shares of stock of the value of one hundred dollars each, being one million of dollars, with the privilege to increase the same from time to time by a vote of the stockholders at any annual or special meeting, and the incorporators, or a majority of them named in the first section of this act, shall have power to receive subscriptions to the stock of the company, at such time and places as they may deem expedient; and when the whole amount of stock shall have been subscribed, and twenty per centum thereon shall have been paid in, (which payment shall be required at the time of subscribing,) the stockholders shall elect twelve directors to serve until the next annual election, or until their successors shall be duly elected and qualified; and the directors so elected of said company when it shall have been organized, may, and they are hereby authorized and empowered to have and to exercise in the name and behalf of the company, all the rights and privileges which are intended to be hereby given. Upon commencing active business, the directors shall have power to require payment of the amount remaining unpaid on the stock of the company, at such time and in such proportions as they may think proper: *Provided*, That the whole amount shall be required within two months from the time of commencing active business, and under the penalty, in case of non-payment as required, of forfeiture to the company of such stock and all previous payments thereon; and should the capital stock at any time be increased, the stockholders at the time of such increase shall be entitled to a pro rata share of such increase upon the payment of the par value of the same.

SEC. 3. *And be it further enacted*, That any certificate or obligation issued by the company, agreeing to purchase one of its policies for a fixed sum during a stated period, when accompanied by the policy duly assigned or transferred, shall be negotiable, and shall convey title to the policy to the party to whom it may be so assigned or transferred.

SEC. 4. *And be it further enacted*, That any policy taken out in favor of a wife, child, relative or other person having a beneficial interest in the life of the insured, shall not be liable to seizure by the creditors of the person so insured: *Provided*, That the policy does not exceed the sum of ten thousand dollars.

SEC. 5. *And be it further enacted*, That it shall be lawful for the said corporation to purchase, hold, and convey real estate as follows:

First. Such as shall be requisite for its immediate accommodation in the convenient transaction of its business; or,

Second. Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted for moneys due; or,

Third. Such as shall have been conveyed to it in satisfaction of debts previously contracted, in the course of its dealings; or,

Fourth. Such as shall have been purchased at sales upon judgments, decrees, or mortgages obtained or made for such debts.

The said corporation shall not purchase, hold, or convey real estate in any other case or for any other purpose; and all such real estate as

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shall not be necessary for the accommodation of said company, in the convenient transaction of its business, shall be sold and disposed of within six years after the said company shall have acquired title to the same; and it shall not be lawful for the said company to hold such real estate for a longer period than that above mentioned.

SEC. 6. *And be it further enacted*, That the board of directors shall have power to invest the capital stock and accumulated profits or surplus funds of the said company in such securities and in such manner as they may elect; but the stockholders of this company shall not be liable for any loss, damage, or responsibility beyond the amount of stock subscribed by them respectively; and any profits accruing therefrom and undivided, and the premium reserve, or reinsurance fund, shall be invested in, or loaned upon, the following securities, and no other:

First. The real estate, as herein described.

Second. Bonds and mortgages on unencumbered real estate, worth, in each case, at least double the amount loaned.

Third. Stocks of the United States of America.

Fourth. Stocks of the several States, and of incorporated cities therein.

SEC. 7. *And be it further enacted*, That the directors shall be elected annually by the stockholders on the second Tuesday of March, and they shall elect from their number, at the first meeting of the board after their election, a president and a vice president, and shall have power to appoint a cashier and a secretary, and such other officers, clerks, and agents as the business of the company may require, and to fill vacancies occasioned by death or resignation in said board. All elections for directors shall be by ballot, and every stockholder shall be entitled to one vote for each share of the stock held by him, but no person shall be eligible as director who is not a stockholder to the amount of twenty shares.

SEC. 8. *And be it further enacted*, That ten days' notice shall be given by publication in two papers, published in the city of Washington, of the time and place of the annual election, which election shall be conducted by three stockholders, who shall be appointed for that purpose by the board of directors at their previous stated meeting, one of whom shall act as judge, and the other two as inspectors.

SEC. 9. *And be it further enacted*, That the directors shall have power to declare such dividends of the profits of the company as they may deem proper: *Provided*, That no dividend shall be declared when the capital stock would be impaired thereby.

SEC. 10. *And be it further enacted*, That the office of the company shall be located in the city of Washington, in the District of Columbia, and said company may establish branches or agencies elsewhere, subject to the laws of the States respectively in which they may be established.

SEC. 11. *And be it further enacted*, That Congress may at any time alter or amend this act of incorporation.

APPROVED, July 25, 1868.

CHAP. CCXLI.—An Act to confirm the Title to certain Lands in the State of Nebraska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which the Commissioner of the General Land Office, or the Secretary of the Interior, has finally decided in favor of preemption settlers or the locators of Indian or half-breed scrip, and issued patents to them for lands within the corporate limits of the city of Omaha, in the State of Nebraska, the right and title of the patentee or patentees shall not be defeated or impaired because such land was within the said corporate limits, but if good in every other

respect the title shall be good and valid notwithstanding such lands may have been within the said corporate limits, and notwithstanding the entry thereof, by any preemptor, or locator of Indian or half-breed scrip, was forbidden by the tenth section of the act of September fourth, eighteen hundred and forty-one, because so within said limits: *Provided*, That the following tracts of lands, to wit: the north half of the northwest quarter of section fifteen; the west half of the southwest quarter of section ten; the east half of the southeast quarter, and the northwest quarter of the southeast quarter of section nine; township fifteen north of range thirteen east of the sixth principal meridian, are hereby excepted from the operation of this act.

APPROVED, July 25, 1868.

CHAP. CCXLII.—An Act authorizing the Trustees of Union Chapel, of the Methodist Episcopal Church, in the City of Washington, to Mortgage their Property for church purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That George Reinhardt, John Byram, John B. Hines, William Worth, and George T. McGlue, trustees of Union Chapel of the Methodist Episcopal church, in the city of Washington, are hereby authorized to execute and deliver a mortgage on lot number twenty-eight and lot number twenty-nine, in square number one hundred and one, belonging to said church in said city, in order thereby to enable said trustees to procure money for the purpose of erecting a parsonage on said lots, and otherwise improving said lots, for the use and benefit of said church, in manner and form as the legally-constituted authorities of said church shall prescribe and direct.

APPROVED, July 25, 1868.

CHAP. CCXLIII.—An Act to extend the Time for the Construction of the Southern Pacific Railroad in the State of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Southern Pacific Railroad Company of the State of California shall, instead of the times now fixed by law for the construction of the first section of its road and telegraph line, have until the first day of July, eighteen hundred and seventy, for the construction of the first thirty miles, and they shall be required to construct at least twenty miles every year thereafter, and the whole line of the road within the time now provided by law.

APPROVED, July 25, 1868.

CHAP. CCXLIII.—An Act providing for the Sale of the Arsenal Grounds at Saint Louis and Liberty, Missouri, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and is hereby, authorized to sell, at such time and in such manner as he may deem most advantageous to the interests of the Government, subject to the provisions hereinafter contained, the following military reservations and public property, namely:

The ground now occupied by the Saint Louis arsenal, in the city of Saint Louis, Missouri, except the westernmost six acres thereof, and that occupied by the United States arsenal situated at Liberty, Missouri, together with such buildings, machinery, and other property appertaining thereto as cannot be advantageously employed in the construction or improvement of other arsenals or military posts.

SEC. 2. *And be it further enacted*, That the ground occupied by the Saint Louis arsenal, except the westernmost six acres thereof, shall be divided into blocks and lots of convenient size for building purposes, with public streets,

conforming, as near as may be without detriment to the interests of the Government in the sale, to the public streets of the city of Saint Louis adjoining said grounds; a plat of this division made in accordance with the laws of the State of Missouri, shall be filed with the proper officer in the city of Saint Louis; and the said lots shall be sold separately, at public auction, to the highest bidder, after thirty days' notice by advertisement in at least three daily papers in the city of Saint Louis; payment to be made one third in cash, the remainder in one and two years, with six per cent. interest per annum, secured by deed of trust on the lots sold. The stone wall surrounding said arsenal shall be sold in sections not exceeding one hundred feet in length.

SEC. 3. *And be it further enacted*, That the westernmost six acres of the tract of ground occupied by the said Saint Louis arsenal is hereby granted to the city of Saint Louis, to be by it held as a public ground forever, open to the use of the public as a place of public resort, and for no other use whatever, and without any power in said city to make any disposition of the same, or any part thereof, for any private use whatever: *Provided, however*, That this grant is upon the express condition that the said city or the association formed and now existing in the State of Missouri for the purpose of erecting a monument to the memory of the late Brigadier General Nathaniel Lyon, shall, within three years after the passage of this act, complete the erection upon the said six acres of such a monument, upon a plan and of a character to be approved by the President of the United States; in default whereof this grant shall be null and void.

SEC. 4. *And be it further enacted*, That the grounds occupied by the Liberty arsenal shall be sold at public auction, after due notice by public advertisement of the time and place of said sale, in such parcels, blocks, and lots as may be deemed most advantageous to the interest of the Government, by the Secretary of War, upon the terms and conditions as to payment specified in the previous section.

SEC. 5. *And be it further enacted*, That all proceeds of the sale of all property provided for in this act shall be paid into the Treasury of the United States: *Provided*, That the machinery, ordnance stores, and arms that the Government desires to reserve from sale, shall be stored at any arsenal now established or to be established by law.

APPROVED, July 25, 1868.

CHAP. CCXLIV.—An Act to Establish certain Post Roads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following be established as post roads:

ARKANSAS.

From Hot Springs to Mount Ida.
From Dardanelle to Fort Smith.

CALIFORNIA.

From Nevada City, via Owego and Bear Valley, to Washington.
From Capto to Round Valley.
From Latrobe to Ione City.
From Mendocino City to Noyo.
From Cisco to Meadow Lake.
From Summit, via Loyalton and Sardine Valley, to Crystal Peak, in Nevada.
From Weaverville, via Douglas City and Hay Fork, to Hydenville.
From Trinity Centre, via Summersville, Petersburg, Cecilville, Centreville, and Black Bear, to Sawyer's Bar.
From Havilah to Independence, in the county of Inyo.
From Stockton, via French Camp, Toulumne City, Hopetown, Welch's Store on Mariposa creek, Apling's on the Chowchilla, to Miller-ton.

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From Crystal Peak, State of Nevada, via Sardine Valley, Sierraville, and Loyalton, in Sierra county, State of California, to Summit post office, in Plumes county, California.

DAKOTA TERRITORY.

From Platte City, on the Union Pacific railroad, to South Pass City.

DELAWARE.

From Georgetown, via Springfield and Hol-lyville, to Angola.

IDAHO.

From Placerville, in Boise county, via Horse-shoe Bend and Junction House, to Bluff Sta-tion.

ILLINOIS.

From Plymouth, via Fountain Green, to La Harpe.

From Pinckneyville to Sparta.

From Serena to Ottawa.

From Auburn, via Warely and Franklin, to Alexander.

From Pesotum to Park's Mills.

From Clifton, via Eden and Rogers, to Pontiac.

From Golconda, via Lusk, to Equality.

INDIANA.

From Saint Mary's to Newport.

From Beck's Mills, via New Retreat, to Salem.

From Plainfield to Smootsdell.

From North Grove to Santa Fé.

From Webster to Richmond.

From Neshanic, via Pleasant Valley, to Lawrenceburg.

From Grand View, via Gentrysville, Polk Patch, Plattsville, and Winslow, to Petersburg.

From Edwardsport, via Wheatland and Nashville, to Hazleton.

From Washington, via Otwell, to Rockport.

IOWA.

From Unionville, via Moravia, to Iconium.

From Buckingham to Waterloo.

From Carroll City, via Grant City and Storm Lake, to Spirit Lake.

From Williamstown, via New Hampton, North Washington, and Deerfield, to Cresco.

From Nashua, via Bradford, Chickasaw, Deerfield, and Busti, to Cresco.

From Buckingham to Laporte City.

From Ocoola, via Saint Charles, to Green-bush.

From Afton, via Winterset, Tracy, and Adel, to New Jefferson.

KANSAS.

From Louisville, via John Collin's, to Irving.

From Waterville to Wichita.

From Fort Scott, via Cato, Crawfordsville, and Hamilton, to Monmouth.

KENTUCKY.

From Hillsboro', via Bangor, to West Liberty.

MAINE.

From Fort Fairfield to Limestone.

From Lovell, via North Fryeburg, to Frye-burg Centre.

From Acton to South Acton.

MARYLAND.

From Wolfsville to Sabillasville.

From Ellicott City to Poplar Springs.

From Baltimore to Brooklyn.

From Huntington to Plumb Point.

From Pittsville to Powellville.

From Olney, via Laytonsville, to Goshen.

From Taneytown to Harney.

From Oakington Switch to Oakington.

From Havre de Grace to Hopewell Cross-roads.

From Aberdeen, by way of Churchville, to Trap.

From Clayton, via Wilna, to Fallston.

MASSACHUSETTS.

From Steventown, in New York, via Han-cock, to Williamstown, in Massachusetts.

MICHIGAN.

From Montague to Stanley.

From Hersey to mouth of Chippewa creek.

From Montague to Otto.

MINNESOTA.

From Houston, Minnesota, via Dedham, Blackhammer, Spring Grove, Prairie Grove, Locust Lane, and Canoe, in said State, to Decorah, Iowa.

From Waseca, via Otisco, Woodville, and Richland, to Albert Lea.

From Jackson, via Lake Talcott, Lake She-tek, Saratoga, and Lynde, to Redwood Falls.

From Lime Springs, State of Iowa, via Can-field, Cherry Grove, and Aetna, to Spring Valley, Minnesota.

From Paynesville, via Spring Hill and Bish-op's Grove, to Sauk Centre.

From Saint Cloud to Rockville.

From Twin Lakes, via Fond du Lac and Oneota, to Du Luth.

From Sauk Rapids, via Princeton, to Tay-lor's Falls.

From Moore's Prairie to Rice City.

From Afton to Stillwater.

From Mankato, via Red Jacket Mills, Castle Garden, Good Thunder's Ford, and Mapleton, to Minnesota Lake.

From Waseca, via Josco, Janesville, and Leroy, to Mankato.

MISSOURI.

From Trenton, in Grundy county, Missouri, via Edenburg, Grubtown, and Bolton, to Bethany, in Harrison county, Missouri.

From Finney's Grove, in Carroll county, Missouri, to Utica, in Livingston county, in Missouri.

From Rolla to Jefferson.

From Rolla to Rolesdale, in Arkansas.

From Salem, via Eminence, to Thomasville.

From Breckinridge to Finney's Grove.

From Carthage to Fort Scott in Kansas.

From Rolla, via Campbell Mill, Plumb Point, and Rowden's Mill, to Rocktown.

From New Haven, via Benaf Creek and Stony Hill, to Drake.

From Saint Charles, via Portage des Sioux, to Alton, in Illinois.

From Rolla to Forsythe.

From Rocheport, via Old Franklyn, Boones-boro', and Lisbon, to Glasgow.

From Patterson, via McKenzie's Creek, and Monmouth Springs, to Logan's Creek.

From Pleasant Home to Wilmothville.

From Chillicothe, via School Creek, to Car-rolton.

From Rockville, via West Point, Butler, and Johnston, to Clinton.

From Rocheport, via Hdson, Johnson City, and Chalk Level, to Osceola.

From Holden, via Hughes' Store, Norris-fork, and Huntingdale, to Clinton.

From Clinton, via Belvoir and Nevada City, to Lamar.

From Osceola, via Hudson, to Butler.

From California, via Magnolia, High Point, Rocky Mount, and Mining, to Linn Creek.

From Cole Camp, via Lake Creek, Haw Creek, and Byler's Mill, to Duroc.

From Bolivar, via Stockton, Virgil City, and Nevada City, to Fort Scott, in Kansas.

From Butler, via West Point, to Rockville, in Kansas.

From Warrensburg, via Chalybeate and Chilhowee, to Wadesburg.

From Versailles, via Tuckerville, to Roney.

From Clinton, via Manhall Creek, Monagan, Taberville, Altoona, and Blue Mounds, to Nevada City.

From Boonville, via Vandalia, Pilot Grove, Cold Neck, and Buncombe, to Sedalia.

NEBRASKA.

From Columbus to Madison.

From Lincoln to Columbus.

From Grand Island City to Lincoln.

From Elkhorn Station, via Lincoln, to Watertown, in Kansas.

From Dakota City, via Sag Udahoe, Canton, and York City, to Madison.

From Papillion, via Platford, South Bend, and E. Ball's, on Stephenson creek, to Lin-coln.

From Nebraska City, via Lincoln, to Cam-den.

From Camden, via the west branch of the Blue river, West's Mills, Beaver Crossing, and McFadden, to Fort Kearney.

From Swan City, via Monroe, to West's Mills.

From Lincoln, via Tecumseh, Pawnee City, and Fries Mills, to Albany.

From Fremont to Lincoln.

From Columbus to Norfolk.

NORTH CAROLINA.

From Fair Bluff to Conwayboro, thence to Bucksville and Georgetown, South Carolina.

NEW HAMPSHIRE.

From Plymouth to West Compton.

NEW JERSEY.

From Pomonia to Port Republic.

From Sparta to Newton.

From Bricksburgh to Point Pleasant.

NEVADA.

From Austin to White Pine district.

NEW YORK.

From Berkshire, via East Berkshire, to Lisle.

From Apalachin to Campville.

From Maine, via Glen Aubrey, to Whitney's Point.

From Hadley to Creek Centre.

From Rochester, via Hanford's Landing, Greece, and West Greece, to North Greece.

From Spencerport, via Parma and Parma Centre, to North Parma.

From Lake View, via North Evans, Eden Valley, Eden, and Collins, to Shirley.

From Springbrook, via East Elma, Manilla, to Williston.

OHIO.

From Washington, via Bloomingsburg, Mid-way, and Newport, to London.

From Broadway, via Newton, York Centre, West Mansfield, North Greenfield, and Walnut Grove, to Rushsylvania.

From Richmond, via Pharisburg, to Marys-ville.

From East Liberty, via North Greenfield, to West Mansfield.

From Tippecanoe City, via Ginghamburg and Fidelity, to Union.

From Genoa to Shadessville.

From Lancaster, via West Rushville, to Rushville.

From New Holland to Chillicothe.

From Troy, via Alcony, to Christiansburg.

From Craton to Johnstown.

From Pulaski, in Pennsylvania, via New Bedford, to Youngstown, in Ohio.

OREGON.

From Portland, via Taylor's Ferry, Dayton, Amity, Rickreal, and Monmouth, to Corvallis.

From Dallas, via Salt Creek and Halls, to Grand Ronde.

From Astoria, via Clatsap, Summer House, Elk Creek, Nehalem, Miami Point, Chilches Point, and Netarch Landing, to Tillamook.

From Fairfield, by Saint Louis, Waconda, Parkersville, and Monitor, to Needy, twenty miles.

PENNSYLVANIA.

From New Wilmington to Pulaski.

From New Wilmington, via Neshannock Falls and Volant, to Leesburg.

From Oley, via Yellow House and Amity-ville, to Douglassville.

From Brodhead Station, via Hecktown, to Nazareth.

From London Grove to Toughkenamon.

From Oley, via Green Hill, New Jerusalem, and Drysville, to Lyon's Station.

From Leagerstown to Blooming Valley.

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From Lancaster to Liberty Square.
 From Curllsville, via Sligo Furnace, to Calonsburg.
 From Montgomery Station, via Mount Zion, to Elmsport.
 From Greensburg, via Middletown, to New Stanton.
 From Sieglesville to Milroy.
 From Carrolltown, via Glassers, Elder's Mills, and Saint Lawrence, to Mount Pleasant.
 From Rogersville, via Walnut Brush, Burt Mill, and Big Tree, to Cameron, in West Virginia.
 From Mill City to Falls.
 From Annuville, via Carper's, Kelly's Corner, and Centreville, to Mount Joy.
 From Palmyra, Campbellstown, Bachmansville, and Mount Harrison, to Elizabethtown.
 From Bloody Run to Orleans, in Maryland.
 From Garland to South West.
 From Newville to Blaserville.
 From Ashland, via Gordon, Taylorsville, and Wishampteton, to Hegins.
 From Greensburg, via Middleton, to Madison.
 From York, via Dover, Rossville, Wellsville, and Mount Top, to Dillsburg.
 From Mechanicsburg, via Siddonsburg, Lisburn, Lewisberry, Newberry, and Yocumtown, to Biter's.
 From Sabinsville, in the county of Tioga, via Mixtown and Sanderlinville, to Ulysses, in the county of Potter.
 From English Centre, in the county of Lycoming, to Morris Post Office, at W. W. Babb's, in Morris township, in Tioga county.
 From Alba, in Bradford county, to Fall Brook, in the county of Tioga.
 From Fallen Timber, via Gill's Mills, Glen Connell, and Elder's Mills, to Carrollton.
 From the city of Reading, via Black Bear Tavern, Oley turnpike road, and Manatauney post office, to Pike post office, in Pike township.

TENNESSEE.

From Belle Station to Dyersburg.
 From Taylorsville, via Stoney Creek, to Elizabethtown.

WEST VIRGINIA.

From Glengary, via Shokeys, to Unger's Store.
 From Kanawha Salines to Lizemore's.

WISCONSIN.

From Westfield, via Lawrence, to Spring Bluff.
 From Freeman to Lower Lynxville.
 From Muscada to Richland Centre.
 From Chilton, via Bachelor School-house, Potter's Mills, Duell's Mills, Brillion, and Holland, to Wrightstown.
 From La Crosse, via Chaseburg, Enterprise, and Springfield, to Viroqua.
 From White Hall to Franklin.
 From Neillsville to Dexterville.
 From Hixton, via Pole Grove, to Houghtonburg.
 From Garden Valley, via Augusta, to Eau Claire.
 From Pine Hill, via Hop Hollow, to the Saint Croix railroad.
 From Goole to Hillsboro.
 From Debillo, via Oaks and Ironton, to Baraboo.

UTAH TERRITORY.

From Eagle Valley to Panacea.
 From Pinto, via Hamblin and Palsifer, to Panacea.
 APPROVED, July 25, 1868.

CHAP. CCXLV.—An Act relating to the Freedmen's Bureau and providing for its Discontinuance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the duties and powers of Commissioner of the Bureau for the Relief

of Freedmen and Refugees shall continue to be discharged by the present Commissioner of the bureau, and in case of vacancy in said office occurring by reason of his death or resignation the same shall be filled by appointment of the President on the nomination of the Secretary of War, and with the advice and consent of the Senate; and no officer of the Army shall be detailed for service as Commissioner or shall enter upon the duties of Commissioner unless appointed by and with the advice and consent of the Senate; and all assistant commissioners, agents, clerks, and assistants shall be appointed by the Secretary of War on the nomination of the Commissioner of the bureau. In case of vacancy in the office of Commissioner happening during the recess of the Senate, the duties of Commissioner shall be discharged by the acting assistant adjutant general of the bureau until such vacancy can be filled.

SEC. 2. *And be it further enacted,* That the Commissioner of the bureau shall, on the first day of January next, cause the said bureau to be withdrawn from the several States within which said bureau has acted and its operations shall be discontinued. But the educational department of the said bureau and the collection and payment of moneys due the soldiers, sailors, and marines, or their heirs, shall be continued as now provided by law until otherwise ordered by act of Congress.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

IN SENATE OF THE UNITED STATES,
 July 25, 1868.

The President of the United States having returned to the Senate, in which it originated, the bill entitled "An act relating to the Freedmen's Bureau and providing for its discontinuance," with his objections thereto, the Senate proceeded, in pursuance of the Constitution, to reconsider the same; and

Resolved, That the said bill do pass, two thirds of the Senate agreeing to pass the same.

Attest:

GEO. C. GORHAM,
Secretary of the Senate.

IN THE HOUSE OF REPRESENTATIVES, U. S.,
 July 25th, 1868.

The House of Representatives having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "An act relating to the Freedmen's Bureau and providing for its discontinuance," returned to the Senate by the President of the United States, with his objections, and sent by the Senate to the House of Representatives, with the message of the President returning the bill—

Resolved, That the bill do pass, two thirds of the House of Representatives agreeing to pass the same.

Attest:

EDWD. MCPHERSON,
Clerk H. R. U. S.

CHAP. CCXLVI.—An Act to further Amend the Postal Laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when any writer of a letter, on which the postage is prepaid, shall indorse in writing or in print upon the outside thereof his name and address, the same, after remaining *uncalled* [uncalled] for at the post office to which it is directed thirty days, or the time the writer may direct, shall be returned to the said writer without additional postage, whether a specific request for such return be indorsed on the letter or not.

SEC. 2. *And be it further enacted,* That all persons who receive money orders shall be required to pay therefor the following charges or fees, viz.: for one dollar or any sum not exceeding twenty dollars, a fee of ten cents

shall be charged and exacted by the postmaster giving said order; for all orders exceeding twenty dollars and not exceeding thirty dollars, the charge shall be fifteen cents; for all orders exceeding thirty dollars and not exceeding forty dollars, the fee shall be twenty cents; for all orders exceeding forty dollars and not exceeding fifty dollars, the fee shall be twenty-five cents; and furthermore that the compensation of deputy postmasters for the payment of money orders is hereby increased from one eighth to one fourth of one per centum on the gross amount of orders paid at their respective offices, and that nothing contained in any act shall be so construed as to deprive postmasters at money-order offices of the compensation for transacting the money-order business fixed by the act of May seventeenth, eighteen hundred and sixty-four, and modified as stated in this section: *Provided always,* That the amount of such annual compensation, together with the postmaster's salary, shall not in any case exceed the salary established by law for postmasters of the first class.

SEC. 3. *And be it further enacted,* That section thirty-five of the act of March third, eighteen hundred and sixty-three, shall be so construed as to permit weekly newspapers, properly folded and addressed, when sent to regular subscribers, in the county where printed and published, to be delivered free of postage, when deposited at the office nearest to the office of publication; but nothing in this act shall be so construed as to require carriers to distribute said papers, unless postage is paid upon them at the rate of five cents per quarter, and such postage must be prepaid for a term of not less than one quarter or more than one year, either at the office of mailing or of delivery, at the option of the subscriber.

SEC. 4. *And be it further enacted,* That in case of the loss of a money order, a duplicate thereof shall be issued by the superintendent of the money-order office without charge, on the application of the remitter or payee of the original: *Provided,* That the applicant furnish a certificate from the postmaster on whom the same was drawn that it had not been and would not thereafter be paid, and a similar certificate from the postmaster by whom it was issued that it had not been and would not be repaid to the purchaser; and a second fee shall not be charged for a duplicate money order issued to replace an order that has been rendered invalid because of non-presentation for payment within one year after its date, or because of illegal indorsements.

SEC. 5. *And be it further enacted,* That if any person shall falsely forge or counterfeit, or willingly aid, assist, or abet in falsely forging or counterfeiting, or shall procure, directly or indirectly, to be falsely forged or counterfeited any postal money order, or any material signature or indorsement to any postal money order issued by the Post Office Department, or any of its agents, for the purpose and with the intent of obtaining or receiving, directly or indirectly, or of procuring or enabling others to obtain or receive, directly or indirectly, any sum or sums of money, and thereby to defraud either the United States or any person of such sum or sums of money, or any part thereof, or shall pass, utter, or publish or attempt to pass, utter, or publish as true, any such forged or counterfeited postal money order with intent to defraud either the United States or any person of any sum or sums of money, knowing such postal money order, or any signature or indorsement thereon, to be so falsely forged or counterfeited, every such person shall be deemed guilty of felony, and being thereof duly convicted shall be sentenced to be imprisoned and kept at hard labor for a period of not less than two years nor more than five years, and to be fined in a sum not exceeding five thousand dollars.

SEC. 6. *And be it further enacted,* That the Postmaster General be, and he is hereby, authorized to appoint and employ on board of each of the mail steamers plying on the route between

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San Francisco, Japan, and China, and between San Francisco and Honolulu, (Hawaiian Islands,) a Government agent in charge of the United States mails, at an annual salary of two thousand dollars each per annum.

SEC. 7. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to establish in connection with the United States mail steamship service to Japan and China a general postal agency at Shanghai, China, with such branch agencies at other ports in China and Japan as shall, in his judgment, be necessary for the prompt and efficient management of the postal service in those countries; and to pay the postal agents so appointed and employed a reasonable compensation for their services, in addition to the necessary expenses for rent, furniture, clerk hire, and so forth, to be allowed at each agency for conducting the postal business, a report on which shall be embraced in the annual report of the Postmaster General.

SEC. 8. *And be it further enacted*, That for the more efficient management of the increased postal business connected with the foreign mail service, the Postmaster General be, and he is hereby, authorized to appoint in his Department a superintendent of foreign mails at an annual salary of three thousand dollars, and also three additional clerks for that branch of the postal service, to wit: one of class four, and two of class three; and that the salary of the superintendent of the money-order system shall be three thousand dollars per annum.

SEC. 9. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to appoint in the office of the Third Assistant Postmaster General, a chief of division for the dead-letter office, at a salary of two thousand five hundred dollars per annum.

SEC. 10. *And be it further enacted*, That, if any person employed in any department of the Post Office establishment of the United States shall, wilfully and knowingly, use or cause to be used in prepayment of postage any postage stamp or stamped envelope issued or which may hereafter be issued by authority of any act of Congress or of the Postmaster General which has already been once used for a like purpose, or shall remove or attempt to remove the canceling or defacing marks from any such postage stamp or stamped envelope with intent to use or cause the use of the same a second time, or to sell or offer to sell the same, or shall remove from letters or other mail matter deposited in or received at a post office the stamps attached to the same in payment of postage, with intent to use the same a second time for a like purpose, or to sell or offer to sell the same, every such offender shall, upon conviction thereof, be deemed guilty of felony, and shall be imprisoned for not less than one year nor more than three years.

SEC. 11. *And be it further enacted*, That if any person not employed in any department of the Post Office establishment of the United States shall commit any of the offenses described in the preceding section of this act, every such person shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by imprisonment for not less than six months nor more than one year, or by a fine of not less than one hundred dollars nor more than five hundred dollars for each offense, or by both such fine and imprisonment.

SEC. 12. *And be it further enacted*, That section nine of an act of Congress, approved July one, eighteen hundred and sixty-four, authorizing the sales of postage stamps and stamped envelopes at a discount, be so modified that the quantities of each sold at any one time to the same party shall not exceed one hundred dollars in value; and that such sales shall be restricted to certain designated agents who will agree to sell again without discount

under rules to be fixed by the Postmaster General.

SEC. 13. *And be it further enacted*, That it shall not be lawful to deposit in a post office, to be sent by mail, any letters or circulars concerning lotteries, so-called gift concerts, or other similar enterprises offering prizes of any kind on any pretext whatever.

SEC. 14. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized and empowered to establish a blank agency for the Post Office Department, to be located in the city of Washington, District of Columbia, and to appoint one superintendent at an annual salary of eighteen hundred dollars, one assistant superintendent at an annual salary of sixteen hundred dollars, and three other assistants at an annual salary of one thousand dollars each, and two laborers at an annual salary of seven hundred and twenty dollars each; and all other blank agencies are hereby abolished.

SEC. 15. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to conclude arrangements with the post departments of foreign countries, with which international postal conventions have been or shall be concluded, for the exchange of small sums of money by means of postal orders, the maximum amount of which shall not exceed that fixed by law for domestic money orders, at such rates of exchange and under such rules and regulations as he may deem expedient; and that the expense incurred in establishing and conducting such system of exchange may be paid out of the proceeds of the money-order business.

SEC. 16. *And be it further enacted*, That the proviso in section three of the act approved March three, eighteen hundred and twenty-five, entitled "An act to reduce into one the several acts establishing and regulating the Post Office Department," be, and the same is hereby, repealed: *Provided*, That nothing herein contained shall repeal any of the provisions of the act approved July eleven, eighteen hundred and sixty-two, entitled "An act in relation to the Post Office Department."

SEC. 17. *And be it further enacted*, That if on the final settlement of the account of any postmaster it shall appear that such postmaster is indebted to the United States, and suit shall not be instituted within three years after the close of such account, then, and in that case, the sureties on the bond of such postmaster shall not be liable to the United States.

SEC. 18. *And be it further enacted*, That copies of the quarterly returns of postmasters, and of any papers pertaining to the accounts in the office of the Auditor of the Treasury for the Post Office Department, certified by him under his seal of office, shall be admitted as evidence in the courts of the United States in criminal prosecutions, in the same manner as the same are now admitted in civil cases, as provided in section fifteen of an act entitled "An act to change the organization of the Post Office Department, and to provide more effectually for the settlement of the accounts thereof," approved July second, eighteen hundred and thirty-six.

SEC. 19. *And be it further enacted*, That in all suits for the recovery of balances due from postmasters, a copy, duly certified under the seal of the Auditor of the Treasury for the Post Office Department, of the statement of any postmaster, special agent, or other person employed by the Postmaster General or the said Auditor for that purpose, that he has mailed a letter to such delinquent postmaster at the post office where the indebtedness accrued, or at his last and usual place of abode, and that a sufficient time has elapsed in the ordinary course of mail to have reached its destination, and has not received payment of such balance within the time designated in his instructions, shall be received as sufficient evidence in the courts of the United States or other courts that a demand

has been made on such delinquent postmaster: *Provided, nevertheless*, That when the account of a late postmaster has been once adjusted and settled, and a demand made for the balance appearing to be due, and afterwards allowances shall be made or credits entered on the account, it shall not be necessary to make a further demand for the new balance found to be due.

SEC. 20. *And be it further enacted*, That the Postmaster General is hereby authorized to prescribe a uniform dress to be worn by the letter carriers at the several free delivery offices, and that any person not connected with this branch of the service who shall wear the uniform that may be prescribed in accordance herewith, shall be deemed guilty of a misdemeanor, and being convicted thereof, shall, for every such offense, be fined not more than one hundred dollars, or imprisoned not more than six months, or both, in the discretion of the court before which such conviction shall be had.

APPROVED, July 27, 1868.

CHAP. CCXLVII.—An Act making an Appropriation of Money to carry into effect the Treaty with Russia of March thirtieth, eighteen hundred and sixty-seven.

Whereas the President of the United States, on the thirtieth of March, eighteen hundred and sixty-seven, entered into a treaty with the Emperor of Russia, and the Senate thereafter gave its advice and consent to said treaty, by the terms of which it was stipulated that, in consideration of the cession by the Emperor of Russia to the United States of certain territory therein described, the United States should pay to the Emperor of Russia the sum of seven million two hundred thousand dollars in coin; and whereas it was further stipulated in said treaty that the United States shall accept of such cession, and that certain inhabitants of said territory shall be admitted to the enjoyment of all the rights and immunities of citizens of the United States; and whereas said stipulations cannot be carried into full force and effect except by legislation to which the consent of both Houses of Congress is necessary: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, appropriated from any money in the Treasury not otherwise appropriated, seven million and two hundred thousand dollars in coin, to fulfill stipulations contained in the sixth article of the treaty with Russia, concluded at Washington on the thirtieth day of March, eighteen hundred and sixty-seven.

APPROVED, July 27, 1868.

CHAP. CCXLVIII.—An Act making Appropriations for the Current and Contingent Expenses of the Indian Department, and for fulfilling Treaty Stipulations with various Indian Tribes for the year ending thirtieth June, eighteen hundred and sixty-nine, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian department and fulfilling treaty stipulations with the various Indian tribes—

For the current and contingent expenses of the Indian department, namely:

For the pay of superintendents of Indian affairs and of Indian agents, one hundred and thirteen thousand five hundred and fifty dollars, as follows:

Superintendents of Indian Affairs.

Three superintendents for the tribes east of the Rocky mountains; one for Oregon; one for Washington Territory; one for the Territory of New Mexico; one for the Territory of

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Utah; one for California; one for the State of Nevada; one for the Territory of Arizona; and one for Montana and Idaho; the salary of said last-named superintendent shall be three thousand dollars per annum.

For vaccination of Indians and furnishing vaccine matter, one thousand two hundred and fifty dollars.

Indian Agents.

Three for the tribes in Oregon; four for the tribes in New Mexico; one additional for the Indians in New Mexico; one for the tribes in New Mexico; one for the tribes in Utah; one additional for the Indians in Utah; one for the tribes in the Territory of Utah; eleven for the tribes east of the Rocky mountains; two for the tribes east of the Rocky mountains; four for the Indians east of the Rocky mountains, viz.; Sioux and Seminoles, the Omaha, Kickapoo, Kansas, and Neosho agencies; three for the tribes east of the Rocky mountains; one for the Indians in the State of New York; one for the Delaware Indians; one for Green Bay, Wisconsin; three for the tribes in Washington Territory; one for the Wichitas and neighboring tribes west of the Choctaws and Chickasaws; one for the tribes east of the Rocky mountains; one for the Indians in the Territory of New Mexico; one for the Ponca tribe; one for the Pawnees; one for the Yanc-ton Sioux; three for the tribes in the Territory of Washington; one for the Grand River and Uintah bands of Indians in the Territory of Colorado; two for the Upper Missouri and the country adjacent thereto; one for the Ottawas, Chippewas of Swan creek and Black river, and Christian Indians in Kansas; four agents for the State of California; one for the Kiowa, Apache, and Comanche Indians; one for the Sisseton and Warpeton bands of Dakota or Sioux Indians; one for the bands of Sacs and Foxes of the Mississippi, now in Tama county, Iowa; one for the Indians in the State of Nevada: *Provided*, That it shall be the duty of the President to dispense with the services of such Indian agents, herein mentioned, as may be practicable; and where it is practicable he shall require the same person to perform the duties of two agencies for one salary.

For pay of sub-agents, six thousand dollars.

For pay of clerk to superintendent of central superintendency, one thousand two hundred dollars.

For pay of clerk to superintendent of Indian affairs in California, one thousand eight hundred dollars.

For temporary clerks to superintendents of Indian affairs, five thousand dollars.

For pay of interpreters, twenty thousand four hundred dollars.

For buildings at agencies and repairs thereof, five thousand dollars.

For contingencies of the Indian department, twenty-five thousand dollars.

For fulfilling treaty stipulations with various Indian tribes:

Assinaboines.

For second of twenty payments to be made during the pleasure of Congress, to be expended at the discretion of the President in such articles, goods, and provisions as he may from time to time determine, ten thousand dollars of which may be expended in the purchase of stock, animals, and agricultural implements, in instructing in agricultural and mechanical pursuits, in employing mechanics, in educating their children, providing necessary and proper medicines and medical attendance, care for and support of their aged, infirm, and sick, for their helpless orphans, and in any other respect to promote their civilization, comfort, and improvement, and also for pay of head chief, thirty thousand dollars.

Arickarees, Gros Ventres, and Mandans.

For second payment, to be made during the pleasure of Congress, to be expended in such goods, provisions, and other articles as the

President may from time to time determine, five thousand of which may be expended in the purchase of stock animals, and agricultural implements, in instructing in agricultural and mechanical pursuits, in employing mechanics, educating their children, providing medicines and medical attendance, care for and support of the aged, sick, and infirm, for the helpless orphans of said Indians, and in any other respect to promote their civilization, comfort, and improvement, and also for pay of head chief, soldier chiefs, second chief, and Pierre Gavneaux, for his services to the Arickarees, forty thousand dollars.

Apaches, Kiowas, and Comanches.

For the first of thirty installments provided to [be] expended under the tenth article of the treaty of October twenty-first, eighteen hundred and sixty-seven, concluded at Medicine Lodge Creek, in Kansas, with the Kiowas and Comanches, and under the third article of the treaty of the same date, made with the Apaches, the amount herein appropriated to be in lieu of the third of forty installments, to be paid to the Kiowas and Comanches under the fifth article of the treaty of October eighteenth, eighteen hundred and sixty-five, and in lieu of the second article of the treaty with the Apaches of October seventeenth, eighteen hundred and sixty-five, six thousand dollars, or so much thereof as may be needed to comply with the requirements of said treaties.

For the construction of an agency building, according to the fourth article of said treaty, three thousand dollars.

For the construction of a warehouse and store-room for the use of said agent, fifteen hundred dollars.

For the building of a residence of a physician to said Indians, three thousand dollars.

For the salary of a physician, fifteen hundred dollars.

Calapooias, Molalla, and Clackamas Indians, of Willamette Valley.

For fourth of five installments of the third series of annuity for beneficial objects, per second article treaty twenty-second January, eighteen hundred and fifty-five, six thousand five hundred dollars.

Cheyennes and Arapahoes.

For the first of thirty installments provided to be expended under the tenth article of the treaty of October twenty-eighth, eighteen hundred and sixty-seven, concluded at Medicine Lodge Creek, in Kansas, the amount to be in lieu of the third of forty installments stipulated to be paid under the terms of the treaty of October fourteenth, eighteen hundred and sixty-five, forty thousand dollars, or so much thereof as may be necessary to furnish the articles named in said first-named treaty.

For the construction of an agency building, according to the fourth article of said treaty, three thousand dollars.

For the construction of a warehouse and storeroom for the use of said agent, fifteen hundred dollars.

For the building of a residence of a physician to said Indians, three thousand dollars.

For the salary of a physician, fifteen hundred dollars.

For transportation of goods, and so forth, to the Kiowas, Comanches, Apaches, Cheyennes, and Arapahoes, twelve thousand dollars.

Chasta, Scofon, and Umpqua Indians.

For fourteenth of fifteen installments of annuity, to be expended as directed by the President, per third article treaty eighteenth November, eighteen hundred and fifty-four, two thousand dollars.

For fourteenth of fifteen installments for the pay of a farmer, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, seven hundred dollars.

For fourteenth of fifteen installments for pay

of teachers and purchase of books and stationery, per fifth article treaty eighteenth November, eighteen hundred and fifty-four, twelve hundred dollars.

Chippewas of Saginaw, Swan Creek, and Black River.

For this amount, to be placed to the credit of the educational fund of the Chippewas of Saginaw, Swan creek, and Black river, per fourth article treaty eighteenth October, eighteen hundred and sixty-four, twenty thousand dollars.

Chippewas of Lake Superior.

For fourteenth of twenty installments in coin, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, five thousand dollars.

For fourteenth of twenty installments in goods, household furniture, and cooking utensils, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, eight thousand dollars.

For fourteenth of twenty installments for agricultural implements and cattle, carpenters' and other tools, and building materials, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, three thousand dollars.

For fourteenth of twenty installments for moral and educational purposes, three hundred dollars of which to be paid to the Grand Portage band yearly, to enable them to maintain a school at their village, per fourth article treaty thirtieth September, eighteen hundred and fifty-four, three thousand dollars.

For fourteenth of twenty installments for six smiths and assistants, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, five thousand and forty dollars.

For fourteenth of twenty installments for the support of six smiths' shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand three hundred and twenty dollars.

For twelfth of twenty installments for the seventh smith and assistant, and support of shops, per second and fifth articles treaty thirtieth September, eighteen hundred and fifty-four, one thousand and sixty dollars.

For insurance, transportation, and necessary cost of delivery of annuities and provisions for Chippewas of Lake Superior, three thousand dollars.

For the support of a smith and shop, during the pleasure of the President, per twelfth article treaty thirtieth September, eighteen hundred and fifty-four, and third article treaty April seventh, eighteen hundred and sixty-six, six hundred dollars.

For the support of two farmers, during the pleasure of the President, per twelfth article treaty September thirtieth, eighteen hundred and fifty-four, and third article treaty April seventh, eighteen hundred and sixty-six, one thousand two hundred dollars.

For the Chippewas of Lake Superior, to be expended in the purchase of twine for nets, kettles for making sugar, guns and ammunition, provisions and cattle, for blankets, cloth, and so forth, as estimated by the agent of said Indians, six thousand dollars.

Bois Fort Band of Chippewas.

For third of twenty installments for the support of one blacksmith and assistant, and for tools, iron and steel, and other articles necessary for the blacksmith shop, as per third article treaty of April seventh, eighteen hundred and sixty-six, one thousand five hundred dollars.

For third of twenty installments for the support of one school teacher, and for necessary books and stationery, as per third article treaty of April seventh, eighteen hundred and sixty-six, eight hundred dollars.

For third of twenty installments for the in-

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struction of the Indians in farming, and purchase of seeds, tools, and so forth, as per third article treaty of April seventh, eighteen hundred and sixty-six, eight hundred dollars.

For third of twenty installments of annuity in money, to be paid per capita, as per third article treaty of April seventh, eighteen hundred and sixty-six, three thousand five hundred dollars.

For third of twenty installments of annuity in provisions, ammunition, and tobacco, as per third article treaty of April seventh, eighteen hundred and sixty-six, one thousand dollars.

For third of twenty installments of annuity in goods and other articles, as per third article treaty of April seventh, eighteen hundred and sixty-six, six thousand five hundred dollars.

For transportation and necessary cost of delivery of annuity goods and provisions, per sixth article treaty of April seventh, eighteen hundred and sixty-six, one thousand five hundred dollars.

Chippewas of the Mississippi.

For second of ten installments of the second series in money, per fourth article treaty of fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, and third article treaty seventh May, eighteen hundred and sixty-four, four thousand one hundred and sixty-six dollars and sixty-seven cents.

For second of ten installments of the second series for the pay of two carpenters, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, and third article treaty seventh May, eighteen hundred and sixty-four, four hundred dollars.

For second of ten installments of the second series, in goods, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, and third article treaty seventh May, eighteen hundred and sixty-four, three thousand five hundred dollars.

For second of ten installments of the second series for the support of schools, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, and third article of treaty seventh May, eighteen hundred and sixty-four, six hundred and sixty-six dollars and sixty-seven cents.

For second of ten installments of second series, for the purchase of provisions and tobacco, per fourth article treaty of fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, and third article of treaty seventh May, eighteen hundred and sixty-four, six hundred and sixty-six dollars and sixty-seven cents.

For second of ten installments of the second series for the support of two smiths' shops, including the pay of two smiths and assistants, and furnishing iron and steel, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, and third article treaty of seventh May, eighteen hundred and sixty-four, six hundred and sixty-six dollars and sixty-seven cents.

For second of ten installments of the second series, for pay of two farmers, per fourth article treaty fourth October, eighteen hundred and forty-two, and eighth article treaty thirtieth September, eighteen hundred and fifty-four, and third article treaty May seventh, eighteen hundred and sixty-four, three hundred and thirty-three dollars and thirty-three cents.

For fourteenth of twenty installments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five, twenty thousand dollars.

For twenty-second of twenty-six installments, to be paid the Chippewas of Mississippi, per third article treaty of August second, eighteen hundred and forty-seven, one thousand dollars.

For this amount to be expended in the erection of school buildings upon the reservation, in accordance with third article of treaty of March nineteenth, eighteen hundred and sixty-seven, five thousand dollars.

For first of ten installments for the support of a school or schools upon said reservation, in accordance with third article of treaty of March nineteenth, eighteen hundred and sixty-seven, four thousand dollars.

For this amount for the erection of a saw and grist mill, in accordance with provisions of third article treaty of March nineteenth, eighteen hundred and sixty-seven, ten thousand dollars.

For this amount to be expended in assisting in the erection of houses for such of the Indians as shall remove to said reservations, in accordance with third article treaty of March nineteenth, eighteen hundred and sixty-seven, five thousand dollars.

For this amount to be expended with the advice of the chiefs in the purchase of cattle, horses, and farming utensils, and in making such improvements as are necessary for opening farms upon said reservation, in accordance with third article treaty of March nineteenth, eighteen hundred and sixty-seven, five thousand dollars.

For first of ten installments to be expended in promoting the progress of the people in agriculture and assisting them to become self-sustaining, in accordance with third article of treaty of March nineteenth, eighteen hundred and sixty-seven, six thousand dollars.

For first of ten installments for the support of a physician, in accordance with third article treaty of March nineteenth, eighteen hundred and sixty-seven, one thousand two hundred dollars.

For first of ten installments for the purchase of necessary medicines, in accordance with third article of treaty of March nineteenth, eighteen hundred and sixty-seven, three hundred dollars.

For this amount to pay for provisions, clothing, or such other articles as the President may determine, in accordance with third article of the treaty of March nineteenth, eighteen hundred and sixty-seven, ten thousand dollars.

For this amount, or so much thereof as may be necessary to pay the expense of locating the reservation set apart by the second article as per sixth article of the treaty of March nineteenth, eighteen hundred and sixty-seven, two thousand dollars.

For this amount to pay the expenses of negotiating a treaty in accordance with sixth article of treaty of March nineteenth, eighteen hundred and sixty-seven, ten thousand dollars.

For insurance, transportation, and necessary cost of delivery of annuities and provisions for Chippewas of Mississippi, in accordance with sixth article of treaty of March nineteenth, eighteen hundred and sixty-seven, five thousand dollars.

Chippewas, Pillager, and Lake Winnepigoshish Bands.

For fourteenth of thirty installments of annuity in money, per third article treaty twenty-second February, eighteen hundred and fifty-five, ten thousand six hundred and sixty-six dollars and sixty-six cents.

For fourteenth of thirty installments of annuity in goods, per third article treaty twenty-second February, eighteen hundred and fifty-five, eight thousand dollars.

For fourteenth of thirty installments for purposes of utility, per third article treaty twenty-second February, eighteen hundred and fifty-five, four thousand dollars.

For fourteenth of twenty installments for purposes of education, per third article treaty twenty-second February, eighteen hundred and fifty-five, one thousand dollars.

For fourteenth of fifteen installments for support of two smiths and smiths' shops, per third article treaty twenty-second February, eighteen hundred and fifty-five, twelve hundred and forty dollars.

For ninth of ten installments for pay of an engineer to grist and saw mill at Leech Lake, per third article treaty twenty-second February, eighteen hundred and fifty-five, six hundred dollars.

Chippewas of the Mississippi, Pillager, and Lake Winnepigoshish Bands of Chippewa Indians in Minnesota.

For fifth of ten installments to furnish said Indians with ten yoke of good work oxen, twenty log-chains, two hundred grubbing hoes, ten plows, ten grindstones, one hundred axes, (handed,) twenty spades, and other farming implements, per fifth article treaty May seven, eighteen hundred and sixty-four, one thousand five hundred dollars.

For the employment of two carpenters, one thousand five hundred dollars, and two blacksmiths, one thousand five hundred dollars; four farm laborers, two thousand dollars; one physician, twelve hundred dollars, and medicine for the sick, two hundred and fifty dollars, per fifth article treaty May seven, eighteen hundred and sixty-four.

For this amount to be applied towards the support of a saw-mill to be built for the common use of the Chippewas of Mississippi and the Red Lake and Pembina bands of Chippewas, so long as the President may deem it necessary, per sixth article treaty May seven, eighteen hundred and sixty-four, one thousand dollars.

For pay of services and traveling expenses of a board of visitors, to consist of not more than three persons, to attend the annuity payments to the Indians, and to inspect the fields, buildings, mills, and other improvements, as stipulated in the seventh article treaty May seven, eighteen hundred and sixty-four, not exceeding any one year more than twenty days' service, at five dollars per day, or more than three hundred miles' travel, at ten cents per mile, four hundred dollars.

To enable the Commissioner of Indian Affairs to complete the removal of the scattering bands of Chippewa Indians in Minnesota to their reservation near White Earth Lake, and to subsist them thereat for the period of six months, this amount is hereby appropriated, which, added to the unexpended balance of any appropriation heretofore made for the same purpose, will enable said commissioner to pay to each member of such bands the sum of ten dollars in money and twenty dollars in rations such as are furnished the Army of the United States; such payment and delivery to be made only to such individuals of the bands as shall remove themselves to their reservations prior to the first day of December next, forty thousand dollars; and the Secretary of War is hereby authorized and required, on the requisition of the Commissioner of Indian Affairs, to deliver the number of rations herein provided for on said reservation, to be paid for out of this appropriation, at the average cost thereof, less transportation.

For this amount, or so much thereof as may be necessary to erect a new mill at Red Lake for the use of Chippewa Indians in Minnesota, six thousand dollars.

Chippewas of Red Lake and Pembina Tribe of Chippewas.

For this amount to be paid as annuity per capita to the Red Lake band of Chippewas during the pleasure of the President, per third article treaty second October, eighteen hundred and sixty-three, and second article sup-

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plementary to treaty twelfth April, eighteen hundred and sixty-four, ten thousand dollars.

For this amount to the Pembina band of Chippewas, during the pleasure of the President, per same treaty, five thousand dollars.

For the fifth of fifteen installments for the purpose of supplying the Red Lake band of Chippewas with gilling twine, cotton matter, calico, linsey, blankets, sheeting, flannels, provisions, farming tools, and for such other useful articles, and for such other useful purposes as may be deemed for their best interests, per third article supplementary treaty of twelfth April, eighteen hundred and sixty-four, eight thousand dollars.

For the fifth of fifteen installments for same objects for Pembina band of Chippewas, per same treaty, four thousand dollars.

For fifth of fifteen installments for pay of one blacksmith, one physician, who shall furnish medicine for the sick, one miller, and one farmer, per fourth article of same treaty, three thousand five hundred dollars.

For fifth of fifteen installments for the purchase of iron and steel and other articles for blacksmithing purposes, per same treaty as above, one thousand five hundred dollars.

For fifth of fifteen installments, to be expended for carpentering and other purposes, per same treaty, one thousand dollars.

For fifth of fifteen installments, to defray the expenses of a board of visitors, to consist of not more than three persons, to attend upon the annuity payments of the said Chippewa Indians, whose pay shall not exceed five dollars per day, each, and for not more than twenty days, and ten cents per mile for traveling expenses, and not to exceed three hundred miles, per sixth article treaty October second, eighteen hundred and sixty-three, four hundred dollars.

For insurance and transportation of annuity goods and provisions, and iron and steel for blacksmiths, for the Chippewas of Red Lake and Pembina tribe, five thousand dollars.

To replace the sum taken from the Chickasaws for expenses incident to the negotiation of a treaty by order of the Government, thirteen thousand eight hundred and twenty dollars and fifty cents.

Choctaws.

For permanent annuity, per second article treaty sixteenth November, eighteen hundred and five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, three thousand dollars.

For permanent annuity for support of eight horsemen, six hundred dollars.

For permanent annuity for education, per second article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six thousand dollars.

For permanent annuity for support of blacksmith, per sixth article treaty eighteenth October, eighteen hundred and twenty, ninth article treaty January twenty, eighteen hundred and twenty-five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, six hundred dollars.

For permanent annuity for iron and steel, per ninth article treaty twentieth January, eighteen hundred and twenty-five, and thirteenth article treaty twenty-second June, eighteen hundred and fifty-five, three hundred and twenty dollars.

For interest on five hundred thousand dollars, at five per centum per annum, for education, support of the Government, and other beneficial purposes, under the direction of the general council of the Choctaws, in conformity with the provisions contained in the tenth and thirteenth articles of the treaty of twenty-second June, eighteen hundred and fifty-five, twenty-five thousand dollars.

To replace the sum taken from funds belonging to Choctaws for expenses incident to the

negotiation of a treaty, by order of the United States Government, seven thousand three hundred and three dollars and five cents.

Confederated Tribes and Bands of Indians in Middle Oregon.

For fourth of five installments, second series, for beneficial objects, at the discretion of the President, per second article treaty twenty-fifth June, eighteen hundred and fifty-five, six thousand dollars.

For ninth of fifteen installments for pay and subsistence of one farmer, one blacksmith, and one wagon and plow maker, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, two thousand four hundred dollars.

For ninth of twenty installments for pay and subsistence of one physician, one sawyer, one miller, one superintendent of farming operations, and one school teacher, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, four thousand six hundred dollars.

For ninth of twenty installments for salary of the head chief of said confederated bands, per fourth article treaty twenty-fifth June, eighteen hundred and fifty-five, five hundred dollars.

For this amount to be expended in the purchase of teams, agricultural implements, seeds, and other articles, in accordance with fifth article of treaty of November fifteenth, eighteen hundred and sixty-five, three thousand five hundred dollars.

Creeks.

For permanent annuity in money, per fourth article treaty twenty-seventh August, seven hundred and ninety, and fifth article treaty seventh August, eighteen hundred and fifty-six, one thousand five hundred dollars.

For permanent annuity in money, per second article treaty sixteenth June, eighteen hundred and two, and fifth article treaty seventh August, eighteen hundred and fifty-six, three thousand dollars.

For permanent annuity in money, per fourth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, twenty thousand dollars.

For permanent annuity for blacksmith and assistant, and for shop and tools, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars.

For permanent annuity for iron and steel for shop, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, two hundred and seventy dollars.

For permanent annuity for permanent annuity for the pay of a wheelwright, per eighth article treaty twenty-fourth January, eighteen hundred and twenty-six, and fifth article treaty seventh August, eighteen hundred and fifty-six, six hundred dollars.

For blacksmith and assistant and for shop and tools, during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, eight hundred and forty dollars.

For iron and steel for shop, during the pleasure of the President, per fifth article treaty fourteenth February, eighteen hundred and thirty-three, and fifth article treaty seventh August, eighteen hundred and fifty-six, two hundred and seventy dollars.

For wagon-maker, during the pleasure of the President, per fifth article treaty February fourteenth, eighteen hundred and thirty-three, and fifth article treaty August seventh, eighteen hundred and fifty-six, six hundred dollars.

For assistance in agricultural operations, during the pleasure of the President, per eighth article treaty January twenty-fourth, eighteen

hundred and twenty-six, and fifth article treaty August seventh, eighteen hundred and fifty-six, two thousand dollars.

For education, during the pleasure of the President, per fifth article treaty February fourteenth, eighteen hundred and thirty-three, and fifth article treaty August seventh, eighteen hundred and fifty-six, one thousand dollars.

For five per centum interest on two hundred thousand dollars for purposes of education, per sixth article treaty seventh August, eighteen hundred and fifty-six, ten thousand dollars.

For interest on seven hundred and seventy-five thousand one hundred and sixty-eight dollars, at the rate of five per centum per annum, to be expended under the direction of the Secretary of the Interior, thirty-eight thousand seven hundred and fifty-eight dollars and forty cents, under provisions of third article treaty June fourteenth, eighteen hundred and sixty-six.

For transportation of such articles as maybe purchased for the Creek nation, under treaty of June fourteenth, eighteen hundred and sixty-six, two thousand dollars.

To defray the expenses of removing certain refugee Creek Indians, now on the Red river, to their old homes in the Creek country, and to supply them with the necessities of life until such a time as they shall be able to raise crops for their own support, four thousand dollars.

For expenses of taking a census and investigating the claims of loyal Creeks, refugees, and freedmen, as per article four, treaty of June fourteen, eighteen hundred and sixty-six, two thousand dollars: *Provided*, That no moneys hereby appropriated to the Creek tribe of Indians shall be paid to them until such Creeks as may have been properly enrolled by the Creek agent previous to the fourteenth day of March, anno Domini eighteen hundred and sixty-seven, and who were refused any share in the moneys then distributed per capita under orders from Louis V. Boggy, Commissioner [of] Indian Affairs, for the reason that said persons were of African descent, shall first be paid therefrom a per capita dividend equal to that to which they were entitled in said payment of March fourteenth, eighteen hundred and sixty-seven, and equal to that paid to other Creek citizens at that time.

Crows.

For second of twenty installments for pay of nineteen half breeds, in goods or money, at the discretion of the President, fifty dollars each, in accordance with seventh article of treaty of July sixteen, eighteen hundred and sixty-six, nine hundred and fifty dollars.

For this amount to supply a deficiency in the appropriation for pay of half breeds for the current fiscal year, one hundred and fifty dollars; in accordance with same article of the same treaty, one hundred and fifty dollars.

For this amount to be paid Pierre Chien for friendly services rendered by him to the Crow Indians; two hundred dollars.

Delawares.

For life annuity to chief, per private article to supplemental treaty twenty-fourth September, eighteen hundred and twenty-nine, to treaty of third October, eighteen hundred and eighteen, one hundred dollars.

For interest on forty-six thousand and eighty dollars, at five per centum, being the value of thirty-six sections of land set apart by treaty of eighteen hundred and twenty-nine for education, two thousand three hundred and four dollars, per Senate resolution January nineteen, eighteen hundred and thirty-eight, and fifth article treaty of May sixth, eighteen hundred and fifty-six.

D'Wamish and other Allied Tribes in Washington Territory.

For ninth installment on one hundred and fifty thousand dollars, under the direction of

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the President, per sixth article treaty twenty-second January, eighteen hundred and fifty-five, seven thousand five hundred dollars.

For ninth of twenty installments for the establishment and support of an agricultural and industrial school, and to provide said school with a suitable instructor or instructors, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, fifteen hundred dollars.

For ninth of twenty installments for the establishment and support of a smith and carpenter shop, and to furnish them with the necessary tools, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, five hundred dollars.

For ninth of twenty installments for the employment of a blacksmith, carpenter, farmer, and physician who shall furnish medicines for the sick, per fourteenth article treaty twenty-second January, eighteen hundred and fifty-five, three thousand six hundred dollars.

Flatheads and other Confederated Tribes.

For the last of five installments on one hundred and twenty thousand dollars, being the second series, for beneficial objects, at the discretion of the President, per fourth article treaty sixteenth July, eighteen hundred and fifty-five, five thousand dollars.

For ninth of twenty installments for the support of an agricultural and industrial school, keeping in repair the buildings, and providing suitable furniture, books, and stationery, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For ninth of twenty installments for providing suitable instructors therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, twelve hundred dollars.

For ninth of twenty installments for keeping in repair blacksmiths', and tin, and gunsmiths', carpenters', and wagon, and plow maker's shops, and providing necessary tools therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, five hundred dollars.

For ninth of twenty installments for the employment of two farmers, two millers, one blacksmith, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, seven thousand four hundred dollars.

For ninth of twenty installments for keeping in repair saw and flouring mills, and for furnishing the necessary tools and fixtures therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, five hundred dollars.

For ninth of twenty installments for keeping in repair the hospital and providing the necessary medicines and furniture therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For ninth of twenty installments for pay of a physician, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, twelve hundred dollars.

For ninth of twenty installments for keeping in repair the buildings required for the various employes and furnishing necessary furniture therefor, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, three hundred dollars.

For ninth of twenty installments for the pay of each of the head chiefs of the Flathead, Kootenay, and Upper Pend d'Oreilles tribes, per fifth article treaty sixteenth July, eighteen hundred and fifty-five, fifteen hundred dollars.

For insurance and transportation of annuity goods and provisions, per fifth article treaty of July sixteenth, eighteen hundred and sixty-five, four thousand dollars.

Iowas.

For interest in lieu of investment on fifty-seven thousand five hundred dollars, balance of one hundred and fifty-seven thousand five hundred dollars, to the first of July, eighteen

hundred and sixty-eight, at five per centum per annum, for education or other beneficial purposes, under the direction of the President, per ninth article of treaty of May seventeenth, eighteen hundred and fifty-four, two thousand eight hundred and seventy-five dollars.

Kansas.

For interest in lieu of investment on two hundred thousand dollars, at five per centum per annum, ten thousand dollars, per second article treaty of January fourteenth, eighteen hundred and forty-six.

Kickapoos.

For fifteenth installment of interest, at five per centum, on one hundred thousand dollars, for educational and other beneficial purposes, as per second article treaty May eighteen, eighteen hundred and fifty-four, five thousand dollars.

For fifteenth installment on two hundred thousand dollars, to be paid in eighteen hundred and sixty-nine, per second article treaty eighteenth May, eighteen hundred and fifty-four, seven thousand dollars.

Klamath and Modoc Indians.

For third of five installments, to be applied under direction of the President, as per second article treaty of October fourteenth, eighteen hundred and sixty-four, eight thousand dollars.

For second of twenty installments for keeping in repair one saw mill, one flouring mill, buildings for the blacksmith, carpenter, and wagon and plow maker, the manual-labor school, and hospital, as per fourth article treaty of October fourteenth, eighteen hundred and sixty-four, one thousand dollars.

For third of twenty installments for the purchase of tools and material for saw and flour mills, carpenter, blacksmith, wagon and plow maker's shops, and books and stationery for the manual-labor school, as per fourth article treaty of October fourteenth, eighteen hundred and sixty-four, one thousand five hundred dollars.

For third of fifteen installments for pay and subsistence of one superintendent of farming, one farmer, one blacksmith, one sawyer, one carpenter, and one wagon and plow maker, as per fifth article treaty of October fourteenth, eighteen hundred and sixty-four, six thousand dollars.

For third of twenty installments to pay salary and subsistence of one physician, one miller, and two school teachers, as per fifth article treaty of October fourteenth, eighteen hundred and sixty-four, three thousand six hundred dollars.

Makah Tribe.

For third of four installments of thirty thousand dollars, (being the fourth series,) under direction of the President, as per fifth article of treaty of January thirty-first, eighteen hundred and fifty-five, one thousand five hundred dollars.

For ninth of twenty installments for the support of an agricultural and industrial school, and for pay of teachers, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, one thousand five hundred dollars.

For ninth of twenty installments for support of a smith and carpenter's shop, and to provide the necessary tools therefor, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, five hundred dollars.

For ninth of twenty installments for the employment of a blacksmith, carpenter, farmer, and physician who shall furnish medicines for the sick, per eleventh article treaty thirty-first January, eighteen hundred and fifty-five, three thousand six hundred dollars.

Menomonees.

For third of fifteen installments of annuity upon two hundred and forty-two thousand six

hundred and eighty-six dollars, for cession of lands, per fourth article treaty May twelfth, eighteen hundred and fifty-four, and Senate amendment thereto, sixteen thousand one hundred and seventy-nine dollars and six cents.

For thirteenth of fifteen installments for pay of miller, per third article treaty twelfth May, eighteen hundred and fifty-four, six hundred dollars.

Miamies of Kansas.

For permanent provision for blacksmith and assistant, and iron and steel for shop, per fifth article treaty sixth October, eighteen hundred and eighteen, and fourth article treaty June fifth, eighteen hundred and fifty-four, nine hundred and forty dollars.

For permanent provision for miller, in lieu of gunsmith, per fifth article treaty sixth October, eighteen hundred and eighteen, fifth article treaty twenty-third October, eighteen hundred and thirty-four, and fourth article treaty fifth June, eighteen hundred and fifty-four, six hundred dollars.

For interest on fifty thousand dollars, at five per centum, for educational purposes, per third article treaty fifth June, eighteen hundred and fifty-four, two thousand five hundred dollars.

For ninth of twenty installments upon two hundred thousand dollars, per third article treaty fifth June, eighteen hundred and fifty-four, seven thousand five hundred dollars.

Miamies of Indiana.

For interest on two hundred and twenty-one thousand two hundred and fifty seven dollars and eighty-six cents, uninvested, at five per centum, per Senate's amendment to fourth article treaty fifth June, eighteen hundred and fifty-four, eleven thousand and sixty-two dollars and eighty-nine cents.

Miamies—El River.

For permanent annuity in goods or otherwise, per fourth article treaty third August, seventeen hundred and ninety-five, five hundred dollars.

For permanent annuity in goods or otherwise, per article treaty twenty-first August, eighteen hundred and five, two hundred and fifty dollars.

For permanent annuity in goods or otherwise, per third and separate article to treaty thirtieth September, eighteen hundred and nine, three hundred and fifty dollars.

Mole Indians.

For ninth of ten installments for keeping in repair saw and flouring mills, and for the pay of necessary employes, the benefits of which to be shared alike by all the confederated bands, per second article treaty twenty-first December, eighteen hundred and fifty-five, one thousand five hundred dollars.

For ninth of ten installments for the pay of a carpenter and joiner to aid in erecting buildings and making furniture for said Indians, and to furnish tools in said service, per second article treaty twenty-first December, eighteen hundred and fifty-five, one thousand dollars.

For pay of teachers to manual-labor school, for all necessary materials therefor, and for the subsistence of the pupils, per second article treaty twenty-first December, eighteen hundred and fifty-five, twelve hundred dollars.

Nisqually, Puyallup, and other Tribes and Bands of Indians.

For fourteenth installment, in part payment for relinquishment of title to lands, to be applied to beneficial objects, per fourth article treaty twenty-sixth December, eighteen hundred and fifty-four, one thousand two hundred dollars.

For fourteenth of twenty installments for pay of instructor, smith, physician who shall furnish medicine to the sick, carpenter, and farmer, per tenth article treaty twenty-sixth

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December, eighteen hundred and fifty-four, five thousand dollars.

For fourteenth of twenty installments for the support of an agricultural and industrial school, and support of smith and carpenter shop, and providing the necessary tools therefor, in conformity with tenth article of the treaty of December twenty-sixth, eighteen hundred and fifty-four, eight hundred dollars.

Nez Perce Indians.

For fourth of five installments of second series for beneficial objects, at the discretion of the President, per fourth article treaty June eleventh, eighteen hundred and fifty-five, eight thousand dollars.

For ninth of twenty installments for the support of two schools, one of which to be an agricultural and industrial school, keeping in repair school buildings, and for providing suitable furniture, books, and stationery, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For ninth of twenty installments for the employment of one superintendent of teaching and two teachers, per fifth article treaty eleventh June, eighteen hundred and fifty-five, two thousand two hundred dollars.

For ninth of twenty installments for keeping in repair blacksmiths', tinsmiths', gunsmiths', carpenters', and wagon and plow makers' shops, and for providing necessary tools therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For ninth of twenty installments for the employment of one superintendent of farming and two farmers, two millers, two blacksmiths, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty eleventh June, eighteen hundred and fifty-five, eight thousand dollars.

For ninth of twenty installments for keeping in repair saw and flouring mill, and for furnishing the necessary tools and fixtures therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For ninth of twenty installments for keeping in repair the hospital and providing the necessary medicines and furniture therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, three hundred dollars.

For ninth of twenty installments for pay of a physician, per fifth article treaty eleventh June, eighteen hundred and fifty-five, one thousand two hundred dollars.

For ninth of twenty installments for keeping in repair the buildings for the various employes, and for providing the necessary furniture therefor, per fifth article treaty eleventh June, eighteen hundred and fifty-five, two hundred dollars.

For ninth of twenty installments for the salary of such person as the tribe may select to be their head chief, per fifth article treaty eleventh June, eighteen hundred and fifty-five, five hundred dollars.

For third of four installments to enable the Indians to remove and locate upon the reservation, to be expended in plowing land and fencing lots, as per first clause fourth article treaty of June ninth, eighteen hundred and sixty-three, twenty-five thousand dollars.

For third of the sixteen installments for boarding and clothing the children who shall attend the schools, providing the schools and boarding-houses with necessary furniture, the purchase of necessary wagons, teams, agricultural implements, tools, and so forth, and for fencing of such lands as may be needed for gardening and farming purposes for the schools, as per fourth clause fourth article treaty of June nine, eighteen hundred and sixty-three, three thousand dollars.

For salary of two subordinate chiefs, as per fifth article treaty of June nine, eighteen hundred and sixty-three, five hundred dollars each.

For second of fifteen installments to keep the blacksmith's shops in repair and stocked with the necessary tools and materials, per fifth article treaty June ninth, eighteen hundred and sixty-three, five hundred dollars.

For second of fifteen installments for repairs of houses, mills, shops, and so forth, and providing the necessary furniture, tools, and materials, as per article fifth treaty June ninth, eighteen hundred and sixty-three, two thousand dollars.

For salary of two matrons to take charge of the boarding-schools, two assistant teachers, one farmer, one carpenter, and two millers, as per fifth article treaty of June ninth, eighteen hundred and sixty-three, five hundred dollars.

Omahas.

For the first of fifteen installments of this amount, being third of series, in money or otherwise, per fourth article treaty sixteenth March, eighteen hundred and fifty-four, twenty thousand dollars.

For third of ten installments for keeping in repair a grist and saw mill, and support of blacksmith shop, per eighth article treaty March sixteenth, eighteen hundred and fifty-four, and third article treaty March sixth, eighteen hundred and sixty-five, three hundred dollars.

For third of ten installments for pay of one miller, per same treaties, nine hundred dollars.

For third of ten installments for pay of one farmer, per same treaties, seven hundred and twenty dollars.

For third of ten installments for pay of blacksmith, per same treaties, seven hundred and twenty dollars.

Osages.

For interest on three hundred thousand dollars, at five per centum per annum, to be paid semi-annually, in money or such articles as the Secretary of the Interior may direct, as per first article treaty of September twenty-nine, eighteen hundred and sixty-five, fifteen thousand dollars.

For interest on sixty-nine thousand one hundred and twenty dollars, at five per centum per annum, being value of fifty-four sections of land set apart by said treaty for educational purposes, three thousand four hundred and fifty-six dollars.

For transportation of goods, provisions, and so forth, purchased for the Great and Little Osage Indians, or so much thereof as may be necessary, three thousand five hundred dollars.

Ottawas and Chippewas of Michigan.

For first of four equal annual installments of the sum of two hundred and six thousand dollars, being the unpaid part of the principal sum of three hundred and six thousand dollars, to be distributed per capita, in the usual manner of paying annuities, per third article of the treaty of thirty-first July, eighteen hundred and fifty-five, fifty-one thousand five hundred dollars.

For interest on one hundred and fifty-four thousand five hundred dollars, at five per centum, being the balance of two hundred and six thousand dollars for the fiscal year ending June thirty, eighteen hundred and sixty-nine, seven thousand seven hundred and twenty-five dollars.

Ottos and Missourias.

For first of fifteen installments, being the third series, in money or otherwise, per fourth article treaty fifteenth March, eighteen hundred and fifty-four, nine thousand dollars.

Ottawas.

To replace a sum taken from annuities of Ottawas and so forth, twelve hundred and fifty dollars and thirty-cents.

Pawnees.

For annuity perpetual, at least one half of which to be in goods and such articles as may

be deemed necessary for them, per second article treaty twenty-fourth September, eighteen hundred and fifty-seven, thirty thousand dollars.

For support of two manual-labor schools during the pleasure of the President, per third article treaty September twenty-fourth, eighteen hundred and fifty-seven, ten thousand dollars.

For purchase of iron and steel, and other necessities for the shops, during the pleasure of the President, per same treaty, five hundred dollars.

For pay of two blacksmiths, one of whom to be a gunsmith and tinsmith, per same treaty, twelve hundred dollars.

For compensation of two strikers or apprentices in blacksmith's shop, per same treaty, four hundred and eighty dollars.

For the purchase of farming utensils and stock, during the pleasure of the President, per same treaty, twelve hundred dollars.

For pay of farmer, per same treaty, six hundred dollars.

For the last of ten installments for pay of miller, at the discretion of the President, per same treaty, six hundred dollars.

For last of ten installments for pay of an engineer, at the discretion of the President, per same treaty, twelve hundred dollars.

For compensation to apprentices to assist in working the mill, per same treaty, five hundred dollars.

For keeping in repair the grist and saw mills, per same treaty, three hundred dollars.

Poncas.

For the fifth of ten installments of the second series, "to be paid to them or expended for their benefit," per second article treaty twelfth March, eighteen hundred and fifty-eight, ten thousand dollars.

For last of ten installments for the establishment and maintenance of one or more manual-labor schools, under the direction of the President, per second article treaty twelfth March, eighteen hundred and fifty-eight, two thousand dollars.

For last of ten installments, or during the pleasure of the President, to be expended in furnishing said Indians with such aid and assistance in agricultural and mechanical pursuits, including the working of the mill provided for in the first part of this article, as the Secretary of the Interior may consider advantageous and necessary for them, per second article treaty twelfth March, eighteen hundred and fifty-eight, seven thousand five hundred dollars.

For this amount to pay the Ponca tribe of Indians for indemnity for spoliation committed upon them, fifteen thousand and eighty dollars, in conformity with second article treaty of March twelve, eighteen hundred and fifty-eight, and third article supplementary treaty March ten, eighteen hundred and sixty-five.

For this amount to defray the expenses of negotiating a treaty with said Indians, in conformity with fourth article supplementary treaty March ten, eighteen hundred and sixty-five, four thousand and ten dollars.

Pottawatomies.

For permanent annuity in silver, per fourth article treaty third August, seventeen hundred and ninety-five, one thousand dollars.

For permanent annuity in silver, per third article treaty thirtieth September, eighteen hundred and nine, five hundred dollars.

For permanent annuity in silver, per third article treaty second October, eighteen hundred and eighteen, two thousand five hundred dollars.

For permanent annuity in money, per second article treaty twentieth September, eighteen hundred and twenty-eight, two thousand dollars.

For permanent annuity in specie, per second article treaty twenty-ninth July, eighteen hun-

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dred and twenty-nine, sixteen thousand dollars.

For life annuity to chief, per third article treaty twentieth October, eighteen hundred and thirty-two, two hundred dollars.

For life annuity to chiefs, per third article treaty twenty-sixth September, eighteen hundred and thirty-three, seven hundred dollars: *Provided*, Satisfactory evidence shall be shown to the Secretary of the Interior that the chief or chiefs provided for by said articles are still living.

For permanent provision for the payment of money in lieu of tobacco, iron, and steel, per second article treaty twentieth September, eighteen hundred and twenty-eight, and tenth article of the treaty of fifth and seventeenth June, eighteen hundred and forty-six, three hundred dollars.

For permanent provision for three blacksmiths and assistants, and for iron and steel for shops, per third article treaty sixteenth October, eighteen hundred and twenty-six, second article treaty twentieth September, eighteen hundred and twenty-eight, and second article treaty twenty-ninth July, eighteen hundred and twenty-nine, two thousand eight hundred and twenty dollars.

For permanent provision for fifty barrels of salt, per second article of treaty twenty-ninth July, eighteen hundred and twenty-nine, four hundred and thirty-seven dollars and fifty cents.

For interest on six hundred and forty-three thousand dollars, at five per centum, per seventh article of the treaty of the fifth and seventeenth June, eighteen hundred and forty-six, thirty-two thousand one hundred and fifty dollars.

For this amount, to be charged to the Pottawatomie fund, to enable the President of the United States to carry out the provisions of the third article treaty of November fifteenth, eighteen hundred and sixty-one, with the Pottawatomie Indians, as modified by the treaty of March twenty-ninth, eighteen hundred and sixty-six, by paying to those six hundred members of the tribe who have elected to become citizens in accordance with said article the proportion of the cash value of the Pottawatomie annuities to which they are entitled, three hundred and seventeen thousand six hundred and fifty-five dollars and ninety-six cents, or so much thereof as may be necessary to comply with the provisions of said treaties; of which amount one hundred and ten thousand and ninety-one dollars and seventy-four cents, or so much thereof as may be necessary, is hereby appropriated, in coin, as contemplated in treaties of November fifteenth, eighteen hundred and sixty-one, and March twenty-ninth, eighteen hundred and sixty-six; and the Secretary of the Interior is hereby authorized to sell six hundred twenty-one hundred and eightieth parts of the several classes of bonds held by him in trust for said Pottawatomie Indians, and pay the proceeds thereof without any deduction in compliance with the provisions of said treaties, it being the share of the above-mentioned six hundred persons in the bonds belonging to said Indians.

Pottawatomes of Huron.

For permanent annuity in money or otherwise, per second article treaty of seventeenth November, eighteen hundred and sixty-seven, four hundred dollars.

Quapaws.

For education, during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand dollars.

For blacksmith and assistant, and tools, iron and steel for shop, during the pleasure of the President, per third article treaty thirteenth May, eighteen hundred and thirty-three, one thousand [and] sixty dollars.

For farmer, during the pleasure of the

President, per third article treaty thirteenth May, eighteen hundred and thirty-three, six hundred dollars: *Provided*, That this sum of six hundred dollars, together with any unexpended balance heretofore appropriated for the employment of a farmer, may be used in the purchase of such articles of food and clothing as may be thought necessary in the discretion of the Secretary of the Interior.

Qui-nai-elt and Quil-leh-ute Indians.

For the third of four installments on twenty-five thousand dollars (being the fourth series) for beneficial objects, under the direction of the President, per fourth article treaty first of July, eighteen hundred and fifty-five, one thousand three hundred dollars.

For ninth of twenty installments for the support of an agricultural and industrial school, and for pay of suitable instructors, per tenth article treaty first July, eighteen hundred and fifty-five, one thousand five hundred dollars.

For ninth of twenty installments for smith and carpenter shop, and to provide the necessary tools therefor, per tenth article treaty first July, eighteen hundred and fifty-five, five hundred dollars.

For ninth of twenty installments for the employment of a blacksmith, carpenter, and farmer, and a physician, who shall furnish medicines for the sick, per tenth article treaty first July, eighteen hundred and fifty-five, three thousand five hundred dollars.

Rogue Rivers.

For fifteenth of sixteen installments in blankets, clothing, farming utensils, and stock, per third article treaty tenth September, eighteen hundred and fifty-three, two thousand five hundred dollars.

Sacs and Foxes of Mississippi.

For permanent annuity in goods or otherwise, per third article treaty third November, eighteen hundred and four, one thousand dollars.

For interest on two hundred thousand dollars, at five per centum, per second article treaty twenty-first October, eighteen hundred and thirty-seven, ten thousand dollars.

For interest on eight hundred thousand dollars, at five per centum, per second article treaty eleventh October, eighteen hundred and forty-two, forty thousand dollars.

Sacs and Foxes of Missouri.

For interest on one hundred and fifty-seven thousand four hundred dollars, at five per centum, under the direction of the President, per second article treaty twenty-first October, eighteen hundred and thirty-seven, seven thousand eight hundred and seventy dollars.

Seminoles.

For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity, per eighth article treaty seventh August, eighteen hundred and fifty-six, twelve thousand five hundred dollars.

For interest on two hundred and fifty thousand dollars, at five per centum, to be paid as annuity, (they having joined their brethren west,) per eighth article treaty seventh August, eighteen hundred and fifty-six, twelve thousand five hundred dollars.

For interest on fifty thousand dollars, at the rate of five per centum per annum, "to be paid annually for the support of schools," as per third article treaty of March twenty-first, eighteen hundred and sixty-six, twenty-five hundred dollars.

For interest on twenty thousand dollars, at the rate of five per centum per annum, "to be paid annually" for the support of the Seminole government, as per third article treaty of March twenty-first, eighteen hundred and sixty-six, one thousand dollars.

To supply a deficiency in appropriation for subsisting Seminole Indians, thirty-one thou-

sand and eighty-three dollars and seventy-nine cents; which amount shall be deducted from any money or funds belonging to said tribe of Indians.

To supply a deficiency in appropriation to pay expenses of commission to investigate the losses of loyal Seminole Indians, two thousand three hundred and sixteen dollars and nineteen cents.

Senecas.

For permanent annuity in specie, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, five hundred dollars.

For permanent annuity in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen, five hundred dollars.

Senecas of New York.

For permanent annuity, in lieu of interest on stock, per act of nineteenth February, eighteen hundred and thirty-one, six thousand dollars.

For interest, in lieu of investment, on seventy-five thousand dollars, at five per centum, per act of twenty-seventh June, eighteen hundred and forty-six, three thousand seven hundred and fifty dollars.

For interest, at five per centum, on forty-three thousand and fifty dollars, transferred from Ontario Bank to the United States Treasury, per act of twenty-seventh June, eighteen hundred and forty-six, two thousand one hundred and fifty-two dollars and fifty cents.

Senecas and Shawnees.

For permanent annuity, in specie, per fourth article treaty seventeenth September, eighteen hundred and eighteen, one thousand dollars.

For blacksmith and assistant, shop and tools, and iron and steel for shop, during the pleasure of the President, per fourth article treaty twentieth July, eighteen hundred and thirty-one, one thousand and sixty dollars.

Shawnees.

For permanent annuity for educational purposes, per fourth article treaty third August, seventeen hundred and ninety-five, and third article treaty tenth May, eighteen hundred and fifty-four, one thousand dollars.

For interest, at five per centum, on forty thousand dollars, for educational purposes, per third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

For permanent annuity, in specie, for educational purposes, per fourth article treaty twenty-ninth September, eighteen hundred and seventeen, and third article treaty tenth May, eighteen hundred and fifty-four, two thousand dollars.

Shoshones—Western Bands.

For fifth of twenty installments, to be expended, under the direction of the President, in the purchase of such articles as he may deem suitable to their wants, either as hunters or herdsmen, per seventh article treaty October first, eighteen hundred and sixty-three, five thousand dollars.

Eastern Bands.

For fifth of twenty installments, to be expended, under the direction of the President, in the purchase of such articles as he may deem suitable to their wants, either as hunters or herdsmen, per fifth article treaty July second, eighteen hundred and sixty-three, ten thousand dollars.

Northwestern Bands.

For fifth of twenty installments, to be expended, under the direction of the President, in the purchase of such articles as he may deem suitable to their wants, either as hunters or herdsmen, per third article treaty July thirty, eighteen hundred and sixty-three, five thousand dollars.

Goship Bands.

For fifth of twenty installments, to be expended, under the direction of the President,

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in the purchase of such articles, including cattle for herding or other purposes, as he shall deem suitable for their wants and condition, either as huntsmen or herdsmen, per seventh article treaty October twelfth, eighteen hundred and sixty-three, one thousand dollars.

Sioux of Dakota—Blackfeet Band.

For third of twenty installments, to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty October nineteenth, eighteen hundred and sixty-five, seven thousand dollars.

Lower Brulé Band.

For third of twenty installments, to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty October fourteenth, eighteen hundred and sixty-five, six thousand dollars.

For second of five installments, being twenty-five dollars for each lodge or family engaged in agricultural pursuits on the reservation, (one hundred lodges,) to be expended in stock, agricultural and other implements and improvements under the direction of the Secretary of the Interior, in conformity with sixth article of treaty of October fourteenth, eighteen hundred and sixty-five, two thousand five hundred dollars.

For pay of farmer, in conformity with same article of same treaty, one thousand dollars.

For support of one blacksmith, and for tools, iron and steel, and other articles necessary for the blacksmith's shop, in conformity with same article of same treaty, one thousand five hundred dollars.

For the building of a saw mill, storehouse, and for the pay of engineer and employés, eight thousand two hundred and forty dollars.

Minneconjon Band.

For third of twenty installments, to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October tenth, eighteen hundred and sixty-five, ten thousand dollars.

Onk-pah-pah Band.

For third of twenty installments, being thirty dollars for each lodge or family, (three hundred lodges,) to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October twentieth, eighteen hundred and sixty-five, nine thousand dollars.

Ogallala Band.

For third of twenty installments, to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October twenty-eighth, eighteen hundred and sixty-five, ten thousand dollars.

Sans Arcs Band.

For third of twenty installments, being thirty dollars to each lodge or family, (two hundred and eighty lodges,) to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October twentieth, eighteen hundred and sixty-five, eight thousand four hundred dollars.

For second of five installments, being twenty-five dollars for each lodge or family located on lands for agricultural purposes, (thirty-eight lodges,) to be expended in agricultural implements and improvements, per fifth article treaty of October twenty, eighteen hundred and sixty-five, nine hundred and fifty dollars.

Two Kettles Band.

For third of twenty installments, to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October nineteenth, eighteen hundred and sixty-five, six thousand dollars.

For second of five installments, being twenty-five dollars for each lodge or family located on lands for agricultural purposes, (one hundred

and thirteen lodges,) to be expended in agricultural implements and improvements, per fifth article treaty of October nineteenth, eighteen hundred and sixty-five, two thousand eight hundred and twenty-five dollars.

For pay of farmer, in conformity with sixth article of treaty of October nineteenth, eighteen hundred and sixty-five, one thousand dollars.

For the erection of a blacksmith's shop, in conformity with sixth article of treaty of October nineteenth, eighteen hundred and sixty-five, five hundred dollars.

For the support of one blacksmith, and for tools, iron and steel, and other articles for the smith's shop, in conformity with sixth article treaty of October nineteenth, eighteen hundred and sixty-five, one thousand five hundred dollars.

For the building of a saw mill, storehouse, and for the pay of engineer and employés, eight thousand two hundred dollars.

Upper Yantonais Band.

For third of twenty installments, to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October twenty-eighth, eighteen hundred and sixty-five, ten thousand dollars.

Yantonais Band.

For third of twenty installments, being thirty dollars for each lodge or family, (three hundred and fifty lodges,) to be paid in such articles as the Secretary of the Interior may direct, as per fourth article treaty of October twentieth, eighteen hundred and sixty-five, ten thousand five hundred dollars.

For second of five installments, being twenty-five dollars for each lodge or family located on lands for agricultural purposes, (one hundred and fifteen lodges,) to be expended in agricultural implements and for improvements, per fifth article treaty of October twenty, eighteen hundred and sixty-five, for the fiscal year ending June thirty, eighteen hundred and sixty-eight, two thousand eight hundred and seventy-five dollars.

For pay of farmer, in accordance with fifth article of treaty of October twentieth, eighteen hundred and sixty-five, one thousand dollars.

For the erection of a blacksmith shop, per the same article of same treaty, five hundred dollars.

For the support of one blacksmith, and for tools, iron and steel, and other articles necessary for the blacksmith shop, in conformity with the same article of the same treaty, one thousand five hundred dollars: *Provided*, That in delivering the annuities herein named to the Blackfeet, the Lower Brulé, the Minneconjon, Onepapas, Ogallalas, Sans Arcs, Two Kettles, Upper Yantonias, and Yantonias Sioux, if any persons of the said bands shall be permanently absent, the Secretary may withhold such part of said appropriation as may be the proportionate share of said absent persons. And if such absent persons shall be found to be hostile, or provided for under other treaty stipulations with the Government, the Secretary may use the proportion of the appropriation due to such part of said bands for the benefit of other of said bands by the purchase of stock, provisions, clothing, and agricultural implements.

For expenses of transporting and delivering articles purchased for the several bands of Sioux Indians, parties to treaties made at Fort Sully in October, eighteen hundred and sixty-five, twenty thousand dollars.

For furnishing the Sisseton and Wahpeton and Wahpeton Sioux, at Devil's Lake, Dakota Territory, with agricultural and mechanical implements, and [to] provide for their education, as contemplated by the sixth and seventh articles of treaty February nineteenth, eighteen hundred and sixty-seven, fifteen thousand dollars, to be expended under the direc-

tion of the Rev. H. B. Whipple, of Faribault, in the State of Minnesota.

For furnishing the Sisseton and Wahpeton Indians, at Lake Traverse, Dakota Territory, under the same treaty for the above-named purposes, thirty thousand dollars, to be expended under the direction of the Rev. H. B. Whipple, of Faribault, in the State of Minnesota; and to pay for provisions and agricultural implements furnished said Indians during the winter of eighteen hundred and sixty-seven and eighteen hundred and sixty-eight, seven thousand four hundred and fifty-seven dollars and twenty-five cents.

Six Nations of New York.

For permanent annuity in clothing and other useful articles, per sixth article treaty seventeenth November, seventeen hundred and ninety-four, four thousand five hundred dollars.

S'Klallams.

For third of four installments on sixty thousand dollars, (being the fourth series,) under the direction of the President, per fifth article treaty twenty-sixth January, eighteen hundred and fifty-five, three thousand dollars.

For ninth of twenty installments for the support of an agricultural and industrial school, and for pay for suitable teachers, per eleventh article treaty twenty-sixth October, eighteen hundred and fifty-five, one thousand five hundred dollars.

For ninth of twenty installments for the employment of a blacksmith, carpenter, farmer, and a physician, who shall furnish medicines for the sick, per eleventh article treaty twenty-sixth October, eighteen hundred and fifty-five, three thousand five hundred dollars.

Tabeguache Band of Utah Indians.

For the fifth of ten installments for the purchase of goods, under the direction of the Secretary of the Interior, per eighth article treaty of October seven, eighteen hundred and sixty-three, and Senate amendment of March twenty-fifth, eighteen hundred and sixty-four, ten thousand dollars.

For the last of five installments, per tenth article of same treaty and Senate amendment thereto, to be applied for the purposes of agriculture, and for the purchase of farming utensils and stock animals, ten thousand dollars.

For the fifth of ten installments, per eighth article of said treaty, for the purchase of provisions, under the direction of the Secretary of the Interior, ten thousand dollars.

For the purchase of iron, steel, and necessary tools for blacksmith's shop, as per tenth article of said treaty, two hundred and twenty dollars.

For pay of blacksmith and assistant, as per same article of same treaty, one thousand one hundred dollars.

For insurance, transportation, and general incidental expenses of the delivery of goods, provisions, and stock, as per same article of same treaty, three thousand dollars.

Umpquas (Crow Creek Band.)

For fifteenth of twenty installments in blankets, clothing, provisions, and stock, per third article treaty nineteenth September, eighteen hundred and fifty-three, five hundred and fifty dollars.

Umpquas and Calapooias, of Umpqua Valley, Oregon.

For fourth of five installments of the third series of annuity for beneficial objects, to be expended as directed by the President, per third article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand seven hundred dollars.

For fourteen of fifteen installments for the pay of a physician and purchase of medicines, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand five hundred dollars.

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For fourteenth of twenty installments for the pay of a teacher and purchase of books and stationery, per sixth article treaty twenty-ninth November, eighteen hundred and fifty-four, one thousand dollars.

For Indians upon the Siletz reservation, Oregon, to provide agricultural implements, seeds, cattle, and so forth, to compensate them for losses sustained by reason of executive proclamation taking from them that portion of their reservation called Yaquina Bay, six thousand dollars.

Walla-Walla, Cayuse, and Umatilla Tribes.

For fourth of five installments of second series, to be expended under the direction of the President, per second article treaty ninth June, eighteen hundred and fifty-five, six thousand dollars.

For ninth of twenty installments for the purchase of all necessary mill fixtures and mechanical tools, medicines, and hospital stores, books, and stationery for schools, and furniture for the employes, per fourth article treaty ninth June, eighteen hundred and fifty-two, two thousand dollars.

For ninth of twenty installments for the pay and subsistence of one superintendent of farming operations, one farmer, two millers, one blacksmith, one wagon and plow maker, one carpenter and joiner, one physician, and two teachers, per fourth article treaty ninth June, eighteen hundred and fifty-five, eight thousand dollars.

For ninth of twenty installments for pay of each of the head chiefs of the Walla-Walla, Cayuse, and Umatilla bands, the sum of five hundred dollars per annum, per fifth article treaty ninth June, eighteen hundred and fifty-five, one thousand five hundred dollars.

For ninth of twenty installments for salary for the son of Pio-pio-mox-mox, per fifth article treaty ninth June, eighteen hundred and fifty-five, one hundred dollars.

Winnebagoes.

For interest on one million dollars at five per centum, per fourth article treaty first November, eighteen hundred and thirty-seven, and joint resolution July seventeen, eighteen hundred and sixty-two, fifty thousand dollars.

For twenty-second of thirty installments of interest on eighty-five thousand dollars at five per centum, per fourth article treaty thirteenth October, eighteen hundred and forty-six, four thousand two hundred and fifty dollars.

Wall-Pah-Pe Tribe of Snake Indians.

For second of five installments, to be expended under the direction of the President, as per seventh article treaty of August twelfth, eighteen hundred and sixty-five, two thousand dollars.

Yakama Nation.

For fourth of five installments of second series for beneficial objects, per fourth article treaty ninth June, eighteen hundred and fifty-five, eight thousand dollars.

For ninth of twenty installments for the support of two schools, one of which is to be an agricultural and industrial school; keeping in repair school buildings, and for providing suitable furniture, books, and stationery, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

For ninth of twenty installments for the employment of one superintendent of teaching and two teachers, per fifth article treaty ninth June, eighteen hundred and fifty-five, fifteen hundred dollars.

For ninth of twenty installments for the employment of one superintendent of farming and two farmers, two millers, two blacksmiths, one tinner, one gunsmith, one carpenter, and one wagon and plow maker, per fifth article treaty ninth June, eighteen hundred and fifty-five, eight thousand dollars.

For ninth of twenty installments for keeping

in repair saw and flouring mills, and for furnishing the necessary tools and fixtures, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

For ninth of twenty installments for keeping in repair the hospital, and providing the necessary medicines and fixtures therefor, per fifth article treaty ninth June, eighteen hundred and fifty-five, three hundred dollars.

For ninth of twenty installments for keeping in repair blacksmith's, tinsmith's, gunsmith's, carpenter's and wagon and plow maker's shops, and for providing necessary tools therefor, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

For ninth of twenty installments for the pay of a physician, per fifth article treaty ninth June, eighteen hundred and fifty-five, one thousand four hundred dollars.

For ninth of twenty installments for keeping in repair the buildings required for the various employes, and for providing the necessary furniture therefor, per fifth article treaty ninth June, eighteen hundred and fifty-five, three hundred dollars.

For ninth of twenty installments for the salary of such person as the said confederated tribes and bands of Indians may select to be their head chief, per fifth article treaty ninth June, eighteen hundred and fifty-five, five hundred dollars.

Yancton Tribe of Sioux.

For last of ten installments to be paid to them or expended for their benefit, commencing with the year in which they shall remove to and settle and reside upon their reservation, per fourth article treaty nineteenth April, eighteen hundred and fifty-eight, sixty-five thousand dollars.

General Incidental Expenses of the Indian Service.—Arizona.

For the general incidental expenses of the Indian service in the Territory of Arizona, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, fifty thousand dollars.

California.

For the general incidental expenses of the Indian service in California, including traveling expenses of the superintending agent, five thousand dollars.

Colorado Territory.

For the general incidental expenses of the Indian service in Colorado Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty-five thousand dollars.

Dakota Territory.

For the general incidental expenses of the Indian service in Dakota Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the [direction] of the Secretary of the Interior, fifteen thousand dollars.

Idaho Territory.

For the general incidental expenses of the Indian service in Idaho Territory, presents of goods, agricultural implements, and other useful articles, and to assist to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, fifteen thousand dollars.

For amount found due to the United States, on the settlement of accounts of Caleb Lyon,

late Governor, and so forth, of Idaho, claimed by him to have been stolen, forty-six thousand four hundred and eighteen dollars and forty cents, to be appropriated to the Indians to whom the funds in the hands of the said Lyon belonged at the time of the loss.

Montana Territory.

For the general incidental expenses of the Indian service in Montana Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, fifteen thousand dollars.

Nevada.

For the general incidental expenses of the Indian service in Nevada, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

New Mexico.

For the general incidental expenses of the Indian service in New Mexico, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, forty thousand dollars.

Oregon and Washington Territory.

For the general incidental expenses of the Indian service in Oregon and Washington Territory, including insurance and transportation of annuity goods and presents, (where no special provision therefor is made by treaties,) and office and traveling expenses of the superintendent, agents, and sub-agents, thirty-five thousand five hundred dollars.

Utah Territory.

For the general incidental expenses of the Indian service in Utah Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes, and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, twenty thousand dollars.

For the transportation and necessary expenses of delivery of provisions to the Indians within the Utah superintendency, five thousand dollars.

For this amount to carry out the action contemplated by act of Congress, approved May fifth, eighteen hundred and sixty-four, entitled "An act to vacate and sell the present Indian reservation in Utah Territory, and to settle said Indians in Uintah valley," five thousand dollars.

MISCELLANEOUS.

For the expenses of colonizing, supporting, and furnishing agricultural implements and stock, pay of necessary employes, purchasing clothing, medicine, iron and steel, maintenance of schools for Indians lately residing in Texas, but now residing on the Choctaw leasehold, to be expended under direction of the Secretary of the Interior, eleven thousand dollars.

For the Wichitas and other Affiliated Bands.

For the expenses of colonizing, supporting, and furnishing said bands with agricultural implements and stock, pay of necessary employes, purchase of clothing, medicines, iron and steel, and maintenance of schools, to be expended under the direction of the Secretary of the Interior, fifteen thousand dollars.

California.

For the purchase of cattle for beef and milk, together with clothing and food, teams and

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farming tools for Indians in California, forty thousand dollars.

For pay of one physician, twelve hundred dollars; one blacksmith, seven hundred and fifty dollars; one assistant blacksmith, five hundred dollars; one farmer, seven hundred and twenty dollars; one teacher, seven hundred and fifty dollars; and one carpenter, seven hundred and twenty dollars, upon each of the reservations in California; and one miller, at seven hundred and fifty dollars, upon each of the Round Valley and Hoopa Valley reservations.

For the purchase of a grist and saw mill, Round Valley reservation, California, five thousand dollars.

For expenses of removal and subsistence of Indians, not parties to any treaty, in Oregon and Washington Territory, and for pay of necessary employes, twenty thousand dollars.

For an amount to pay the settlers of Hoopa Valley for their personal property left upon the Hoopa Valley reservation at the time the Government took possession, four thousand two hundred and sixty-seven dollars.

For removing the Indians from Smith's River reservation to Hoopa Valley and Round Valley reservations, three thousand five hundred dollars, or so much thereof as may be necessary, and the Smith River reservation is hereby discontinued.

Navajo Indians of New Mexico.

For amount of deficiency expended in subsisting the Navajoes at the Bosque Redondo, according to the contract made by Theodore H. Dodd, from the twenty-second of May, eighteen hundred and sixty-eight, until their removal to their old homes, twenty-one thousand dollars, or so much thereof as may be necessary, at eleven cents per ration.

For cost of removal of the Navajoes from the Bosque Redondo to their old home, and for sheep, cattle, and corn, as provided for in article twelve of the new treaty, one hundred and fifty thousand dollars, or so much thereof as may be needed.

For annuity goods, not exceeding five dollars per head, as provided in article eight of the new treaty, thirty-eight thousand five hundred dollars.

For seeds, farming implements, work cattle, and other stock, provided for in article seven of said treaty, two hundred thousand dollars, to be expended under the direction of Lieutenant General Sherman, of the Indian peace commission.

For constructing warehouse, agency building, blacksmith and carpenter's shop, and school-house, per article three of said treaty, twelve thousand five hundred dollars, to be expended under the direction of Lieutenant General Sherman, of the Indian peace commission.

To enable the Secretary of the Interior to take charge of certain stray bands of Pottawatomie and Winnebago Indians, in the State of Wisconsin, five thousand dollars.

For salary of a special agent to take charge of Winnebago and Pottawatomie Indians now in the State of Wisconsin, one thousand five hundred dollars.

For subsistence, clothing, and general incidental expenses of the Sisseton, Wahpeton, Medawakanton, and Waupakoota bands of Sioux or Dakota Indians, known as the Santee Sioux, at their new homes near the mouth of the Niobrara, fifty thousand dollars.

For payment of interest on one million six hundred and ninety thousand three hundred dollars, non-paying stock, held by the Secretary of the Interior in trust for various Indian tribes, up to and including the interest payable July first, eighteen hundred and sixty-eight, one hundred thousand one hundred and fifty-three dollars.

To pay the expenses of a commissioner to be appointed to fix the cost of property and improvements on farms confiscated and sold

by Cherokee nation, under laws of said nation made during the late rebellion, two thousand seven hundred and sixty dollars.

For payment of interest on fifteen thousand dollars, abstracted bonds, for the fiscal year ending June thirtieth, eighteen hundred and sixty-eight, for the Cherokee school fund, nine hundred dollars.

For payment of interest on sixty-eight thousand dollars, abstracted bonds, for the fiscal year ending June thirtieth, eighteen hundred and sixty-eight, of the Cherokee national fund, four thousand and eighty dollars.

For insurance, transportation, and necessary expenses of the delivery of annuities and provisions to the Indian tribes in Minnesota and Michigan, ten thousand dollars.

For insurance, transportation, and necessary expenses of the delivery to the Pawnee, Ponca, and Yankton Sioux Indians of annuity goods and provisions, eight thousand dollars.

For this amount to pay the interest on certain non-paying stock held in trust by the Secretary of the Treasury for the Chickasaw Indians, for the fiscal year ending June thirtieth, eighteen hundred and sixty-nine, fifty-nine thousand nine hundred and twenty-nine dollars and ninety-nine cents.

For completing the construction of irrigating canal on the Colorado reservation in Arizona, fifty thousand dollars.

For actual necessary expenses incurred, and that may hereafter be incurred by officers of the Indian department in the rescue of prisoners from Indian tribes and returning them to their homes, and for expenses incident to the arrest and confinement within the territory of the United States, by order of such officers, of persons charged with crimes against the Indians, five thousand dollars.

For this amount, or so much thereof as may be necessary to establish the Shoshones, Banocks, and other strolling bands of Indians in the southern portion of Idaho Territory on the Fort Hall reservation, on Snake river, Idaho Territory, including the transportation of all necessary articles and the material and labor for the construction of the houses and mills and pay of necessary employes for one year, thirty thousand dollars: *Provided*, That none of the payments herein provided for shall be made unless the Secretary of the Interior shall be satisfied that the tribes, bands, or individuals named have observed the treaty stipulations under which such payments have become due, and also the provisions of any other treaties with the Government to which they may be parties; or in case of portions of said tribes or bands have observed all of said obligations, payments shall be made to them pro rata.

For this amount for the purpose of carrying out the treaty stipulations, making and preparing homes, furnishing provisions, tools and farming utensils, and furnishing food for such bands of Indians with which treaties have been made by the Indian peace commission and not yet ratified, and defraying the expenses of the commission in making such treaties, and carrying their provisions into effect, five hundred thousand dollars, to be expended under the direction of Lieutenant General Sherman of said commission, and drawn from the Treasury upon his requisition upon the Secretary of the Interior.

Sec. 2. *And be it further enacted*, That all goods and merchandise furnished any tribe or band of Indians under the provisions of this act shall be turned over by the agent or superintendent of such tribe or band to the chiefs of the tribe or band, to be distributed to the tribe or band by the chiefs in such manner as the chiefs may deem best, and the delivery of all such goods and merchandise, or annuities of any character, shall be made in the presence of a military officer not below the rank of captain, to be detailed for that purpose by the commander of the department in which

the delivery shall be made, where such an officer shall be stationed within fifty miles of the place of delivery, which officer shall attest by his certificate the receipt thereof; and no receipt by Indians for goods or property to any superintendent or agent shall be valid to discharge such officer unless the same be accompanied by the certificate of such military officer, showing that said goods were actually delivered, and are of the quantity and quality stated in the invoice or bill thereof, a copy of which shall be attached to the receipt.

Sec. 3. *And be it further enacted*, That the sum of three thousand five hundred dollars, provided for in the tenth article of the treaty of March sixth, eighteen hundred and sixty-one, with the Sacs, Foxes, and Iowas, to be expended by the Secretary of the Interior in the construction of a toll bridge across the Great Nemaha river, may be applied to the purchase of oxen and agricultural implements, and so forth, for the use of said Indians, in compliance with their request.

Sec. 4. *And be it further enacted*, That the sum of ten thousand three hundred and fifty-six dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to enable the Secretary of the Interior to defray the expenses of the Cherokee delegation to Washington, District of Columbia, during the year eighteen hundred and sixty-seven: *Provided*, That said sum be refunded to the Treasury of the United States out of that portion of the proceeds of the sale of the Cherokee neutral lands in Kansas applicable to Cherokee national purposes.

Sec. 5. *And be it further enacted*, That the Committees on Indian Affairs of the Senate and the House of Representatives shall examine the claim of the Choctaw and Chickasaw Indians for all matters of difference between them and the Government of the United States, and shall report the result of said examination to their respective Houses at the next session of Congress.

Sec. 6. *And be it further enacted*, That the Mendocino Indian reservation in California be restored to the public lands of the United States, and the Secretary of the Interior shall cause the same to be surveyed and offered for sale in legal subdivisions, at not less than one dollar and twenty-five cents per acre: *Provided*, That any improvement of the United States on said reservation shall be appraised by the register and receiver of the land office of the district, and be paid for by the purchaser of the land on which they are located: *Provided further*, That all improvements made by any persons on said reservation before the passage of this act shall be the sole property of the person making them, who shall have priority of purchase of six hundred and forty acres of land covering and adjoining said improvements, and all said lands shall be sold and disposed of for money only.

APPROVED, July 27, 1868.

CHAP. COXLIX.—An Act concerning the Rights of American Citizens in Foreign States.

Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign States, owing allegiance to the Governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any declaration, in-

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struction, opinion, order, or decision of any officers of this Government which denies, restricts, impairs, or questions the right of expatriation, is hereby declared inconsistent with the fundamental principles of this Government.

SEC. 2. *And be it further enacted*, That all naturalized citizens of the United States, while in foreign States, shall be entitled to, and shall receive from this Government, the same protection of persons and property that is accorded to native-born citizens in like situations and circumstances:

SEC. 3. *And be it further enacted*, That whenever it shall be made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign Government, it shall be the duty of the President forthwith to demand of that Government the reasons for such imprisonment, and if it appears to be wrongful and in violation of the rights of American citizenship the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused it shall be the duty of the President to use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate such release, and all the facts and proceedings relative thereto shall, as soon as practicable, be communicated by the President to Congress.

APPROVED, July 27, 1868.

CHAP. CCL.—An Act to establish a new Land District in the State of Nebraska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that portion of the Omaha land district in the State of Nebraska included within the following limits, to wit: on the east by the line dividing ranges six and seven east; on the north by the line dividing townships twenty and twenty-one north; on the south by the south bank of the Platte river; and on the west by the west boundary of the State, shall constitute an additional land district, to be called the "Grand Island" district, the location of the office for which shall be designated by the President of the United States, and shall by him, from time to time, be changed as the public interest may seem to require.

SEC. 2. *And be it further enacted*, That the President be, and is hereby, authorized to appoint, by and with the advice and consent of the Senate, a register and a receiver for said land district, who shall be required to reside at the site of their office, have the same powers, responsibilities, and emoluments, and be subject to the same acts and penalties which are or may be prescribed by law in relation to other land offices in said State.

SEC. 3. *And be it further enacted*, That the President is hereby authorized to cause the public lands in said district, with the exception of such as may have been or may be reserved for other purposes, to be exposed to sale in the same manner and upon the same terms and conditions as other public lands of the United States: *Provided*, That all sales and locations made at the office of the old district of lands situated within the limits of the new district which shall be valid and right in other respects up to the day on which the new office shall go into operation, be, and the same are hereby, confirmed.

APPROVED, July 27, 1867.

CHAP. CCLI.—An Act to Regulate the Sale of Hay in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all hay and straw, which may be sold by weight in the District of Columbia, shall be sold by the net hundred,

and every twenty hundred pounds net weight shall be a ton.

SEC. 2. *And be it further enacted*, That this act shall take effect from and after its passage.

APPROVED, July 27, 1868.

CHAP. CCLII.—An Act to Incorporate the Evening Star Newspaper Company of Washington.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Crosby S. Noyes, Clarence B. Baker, Alexander R. Shepherd, George W. Adams, and Samuel H. Kauffman, and their associates and successors, are hereby created and declared a body corporate and politic by the name and style of the Evening Star Newspaper Company, of Washington, for the purpose of carrying on the business of printing and publishing at the city of Washington, in the District of Columbia, and shall and may have perpetual succession, and be empowered in law to contract and be contracted with, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts of law and equity, and els[e]where, to make and use a common seal, and to change, alter, or renew the same at their pleasure, to adopt by-laws, issue certificates of stock, and generally to do and perform all things relative to the objects of their corporation, which is now and shall be lawful for any individual or body politic or corporate to do.

SEC. 2. *And be it further enacted*, That the affairs of said company shall be managed by a board of directors consisting of not less than five members or stockholders, three of whom shall constitute a quorum; and the officers thereof shall consist of a president, vice president, secretary, and treasurer, who, with such other stockholders as may be added by the board, shall constitute an executive committee, which may, when the board of directors are not in session, exercise all the powers vested in the company, (except as may be otherwise provided by the board of directors in the by-laws of the company,) and a majority of the same shall constitute a quorum.

SEC. 3. *And be it further enacted*, That the capital stock of the company shall not be less than one hundred thousand dollars, nor more than two hundred thousand dollars, in shares of one thousand dollars each; and every stockholder shall be entitled to one vote at the elections of the company for every share therein by him or her owned; and a plurality of votes cast at any election shall elect.

SEC. 4. *And be it further enacted*, That the company shall have power to hold real estate suitable and proper for the conduct of its business; and the directors thereof shall have power to declare such dividends of the profits of the company as they may deem proper.

SEC. 5. *And be it further enacted*, That the stockholders in said company shall be individually liable for the debts of the company to the extent of the stock held by them respectively, at its par value.

SEC. 6. *And be it further enacted*, That Congress may at any time alter, amend, or revoke the said corporation.

APPROVED, July 27, 1868.

CHAP. CCLIII.—An Act to authorize the City of Washington to issue Bonds for the purpose of paying the Floating Debt of the City.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the city of Washington be, and hereby is, authorized to issue, by vote of its councils, registered or coupon bonds in denominations of fifty dollars, one hundred dollars, five hundred dollars, and one thousand dollars, payable in ten years from the date of issue, bearing interest at the rate

of six per centum per annum, payable semi-annually; principal and interest payable in lawful money of the United States. Said bonds shall be signed by the mayor and countersigned by the register of the city, and shall be payable at such place or places as may by them be deemed expedient, and may be issued and disposed of to an amount sufficient to pay and discharge the present floating debt of the city, not, however, to exceed the sum of eight hundred thousand dollars: *Provided*, That said bonds shall not be sold for less than their par value in lawful money of the United States, or in exchange for said matured and liquidated indebtedness: *Provided also*, That no greater amount of said bonds shall be disposed of than may be found necessary for the payment of said indebtedness.

SEC. 2. *And be it further enacted*, That it shall be the duty of the city councils upon issuing the bonds herein authorized to provide by taxation for the prompt payment of the interest thereon; also to provide for the redemption of the said bonds by establishing a sinking fund to be set apart annually to an amount not exceeding ten per centum of the amount of bonds issued, said sinking fund to be created from regular taxes levied for that purpose, and to be assessed and collected as other taxes.

SEC. 3. *And be it further enacted*, That the said city councils are hereby authorized to pass any and all ordinances which may be necessary to carry into effect the provisions of this act, and all acts or parts of acts inconsistent with this act are hereby repealed.

APPROVED, July 27, 1868.

CHAP. CCLIV.—An Act to amend section one of "An Act to Prevent and Punish Frauds upon the Revenue, and for other purposes," approved March third, eighteen hundred and sixty-three.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An act to prevent and punish frauds upon the revenue, to provide for [the] more certain and speedy collection of claims in favor of the United States, and for other purposes," approved March third, eighteen hundred and sixty-three, be, and the same is hereby, amended by adding to section one thereof an additional proviso, as follows: *And provided further*, That in case of goods, wares, and merchandise, imported from a foreign country adjacent to the United States, the declaration in this section hereinbefore required may be made to, and the certificate indorsed by, the consul, vice consul, or commercial agent, at or nearest to the port or place of clearance for the United States.

APPROVED, July 27, 1868.

CHAP. CCLV.—An Act supplementary to an Act entitled "An Act to allow the United States to prosecute Appeals and Writs of Error without giving Security," and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security," approved February twenty-one, eighteen hundred and sixty-three, be, and the same hereby are, extended to writs of error, appeals, or other process in law, admiralty, or equity, issuing from or brought up to a circuit court of the United States.

SEC. 2. *And be it further enacted*, That any corporation, or any member thereof, or other [other] than a banking corporation, organized under the law of the United States, and against which a suit at law or in equity has been or may be commenced in any court other than a

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circuit or district court of the United States, for any liability or alleged liability of such corporation, or any member thereof as such member, may have such suit removed from the court in which it may be pending to the proper circuit or district court of the United States, upon filing a petition therefor, verified by oath, either before or after issue joined, stating they have a defense arising under or by virtue of the Constitution of the United States, or any treaty or law of the United States, and offering good and sufficient surety for entering in such court on the first day of its session, copies of all process, pleadings, dispositions, testimony, and other proceedings in said suit, and doing such other appropriate acts as are required to be done by the act entitled "An act for the removal of causes in certain cases from State courts," approved July twenty-seventh, eighteen hundred and sixty-six; and it shall be thereupon the duty of the court to accept the surety and proceed no further in the suit; and the said copies being entered as aforesaid in such court of the United States, the suit shall then proceed in the same manner as if it had been brought there by original process, and all the provisions of said act in this section referred to, respecting any bail, attachment, injunction, or other restraining process, and respecting any bond of indemnity or other obligation given upon the issuing or granting of any attachment, injunction, or other restraining process, shall apply with like force and effect in all respects to similar matters, process, or things in the suits for the removal of which this act provides.

APPROVED, July 27, 1868.

CHAP. CCLVI.—An Act to protect the Rights of Actual Settlers upon the Public Lands of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in no case shall more than three sections of public lands of the United States be entered in any one township by scrip issued to any State under the act approved July second, eighteen hundred and sixty-two, for the establishment of an agricultural college therein.

APPROVED, July 27, 1868.

CCLVII.—An Act changing the Ports of Entry from Plymouth to Edenton, in North Carolina, and Port Royal to Beaufort, in South Carolina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the port of entry in the Albemarle collection district be removed from Plymouth to Edenton, North Carolina, and also that Beaufort, in South Carolina, be created a port of entry in lieu of Port Royal, which is hereby abolished as a port of entry.

APPROVED, July 27, 1868.

CHAP. CCLVIII.—An Act in amendment of an Act entitled "An Act to establish a Uniform System of Bankruptcy throughout the United States," approved March second, eighteen hundred and sixty-seven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of second clause of the thirty-third section of said act shall not apply to the cases of proceedings in bankruptcy commenced prior to the first day of January, eighteen hundred and sixty-nine, and the time during which the operation of the provisions of said clause is postponed shall be extended until said first day of January, eighteen hundred and sixty-nine. And said clause is hereby so amended as to read as follows: in all proceedings in bankruptcy commenced after the first day of January, eighteen

hundred and sixty-nine no discharge shall be granted to a debtor whose assets shall not be equal to fifty per centum of the claims proved against his estate upon which he shall be liable as the principal debtor, unless the assent in writing of a majority in number and value of his creditors to whom he shall have become liable as principal debtor, and who shall have proved their claims, be filed in the case at or before the time of the hearing of the application for discharge.

SEC. 2. *And be it further enacted,* That said act be further amended as follows: the phrase "presented or defended," in the fourteenth section of said act, shall read "prosecuted or defended;" the phrase "non-resident debtors," in line five, section twenty-two, of the act as printed in the Statutes-at-Large, shall read "non-resident creditors;" that the word "or," in the next to the last line of the thirtieth section of the act, shall read "and;" that the phrase "section thirteen," in the forty-second section of said act, shall read "section eleven;" and the phrase "or spends any part thereof in gaming," in the forty-fourth section of said act, shall read, "or shall spend any part thereof in gaming;" and that the words "with the senior register, or," and the phrase "to be delivered to the register," in the forty-seventh section of said act, be stricken out.

SEC. 3. *And be it further enacted,* That registers in bankruptcy shall have power to administer oaths in all cases and in relation to all matters in which oaths may be administered by commissioners of the circuit courts of the United States, and such commissioners may take proof of debts in bankruptcy in all cases, subject to the revision of such proofs by the register and by the court according to the provisions of said act.

APPROVED, July 27, 1868.

CHAP. CCLIX.—An Act to Transfer to the Department of the Interior certain Powers and Duties now exercised by the Secretary of the Treasury in connection with Indian Affairs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the powers and duties devolving upon the Secretary of the Treasury, under and by virtue of the fourth section of the act entitled "An act making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with the various Indian tribes for the year ending June thirtieth, eighteen hundred and forty-nine, and for other purposes," approved July twenty-ninth, eighteen hundred and forty-eight, and the powers and duties devolving upon him under and by virtue of the laws relating to the investment of the moneys in behalf of the Cherokee Indians, from the sales of land under the treaties concluded at Pontotoc, October twentieth, eighteen hundred and thirty-two, and at Washington city, May twenty-fourth, eighteen hundred and thirty-four, as also all other supervisory and appellate powers and duties in regard to Indian affairs which may now by law be vested in the said Secretary of the Treasury, shall, from and after the passage of this act, be exercised and performed by the Secretary of the Department of the Interior.

SEC. 2. *And be it further enacted,* That the Secretary of the Interior shall cause a new roll or census to be made of the North Carolina or Eastern Cherokees, which shall be the roll upon which payments due said Indians shall be made.

SEC. 3. *And be it further enacted,* That hereafter the Secretary of the Interior shall cause the Commissioner of Indian Affairs to take the same supervisory charge of the Eastern or North Carolina Cherokees as of other tribes of Indians.

APPROVED, July 27, 1868.

CHAP. CCLX.—An Act to provide for an American Line of Mail and Emigrant Passenger Steamships between New York and one or more European Ports.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General is empowered and hereby authorized to contract with the Commercial Navigation Company of the State of New York, a corporation existing under the laws of the State of New York, under a special charter passed by the Legislature of said State under the date of April twenty-three, eighteen hundred and sixty-six, for the weekly or semi-weekly conveyance of all European and foreign mails of the United States between New York and Bremen, touching at Southampton, England, or Liverpool, touching at Queenstown, in first-class sea-going steamships, to be constructed in the United States and owned by said company, for a term not exceeding fifteen years, in the manner and on the conditions hereafter stated.

SEC. 2. *And be it further enacted,* That the said navigation company shall, with a purpose of performing the above service, build, contract, and fit out, within one year from the passage of this act, at least seven first-class sea-going steamships, five of which shall not be of less than three thousand tons each, Government measurement, and two others of not less than two thousand tons each, all of which vessels shall be constructed in the best manner, under the supervision and inspection of the American Lloyds, or, if ordered by the Postmaster General, under the inspection of the most competent engineer, to be detailed for this purpose by the Secretary of the Navy, upon a written application of the Postmaster General, so that when completed each vessel shall be of the first class in every respect, and with all known modern improvements in model, machinery, and outfit, so as to secure the greatest possible speed and safety; which steamships, when so constructed, shall be organized into and compose the United States mail steamship line, for the proper conveyance of mails and passengers, as hereinafter provided; the time of sailing, and all other details, to be arranged and agreed upon between the said company and the Postmaster General, with power to modify such agreements, from time to time, as may best promote the object in view: *Provided,* That no letters or mail matter shall be detained for the purpose of being sent by this line: *And provided further,* That the average rate of speed of the steamships of the said navigation company shall not be less than that of the steamships of other lines upon the same or similar routes, and if for the space of three months the trips successively of the steamships of said company shall be made in longer time than that employed by other steamships as aforesaid, then any contract made under the provisions of this act shall cease and determine at the pleasure of the Government of the United States.

SEC. 3. *And be it further enacted,* That the compensation for carrying and transporting the mails by sea, as herein provided, shall be agreed upon, and shall be in conformity with the act of Congress, approved June fourteen, eighteen hundred and fifty-eight, and shall in no event or contingency exceed the sum therein provided, being all postage on letters, newspapers, and all other matter transported by or in the mails carried by said navigation company, shall belong to said company, and shall be paid to said navigation company quarterly, or applied to their use or benefit, as hereinafter provided: *Provided,* That when the receipts of said navigation company from sea postages, under any contract to be made in pursuance of this act, shall equal or exceed the sum of four hundred thousand dollars per annum, then the right of said company to receive the inland postages shall cease and determine, and said company shall only receive the sea postages:

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Provided, That such postages shall not exceed six hundred thousand dollars per annum after the discontinuance of said inland postage.

SEC. 4. *And be it further enacted*, That to insure the construction of the above-mentioned vessels within the time, and in the manner hereinbefore provided, and the maintenance of the said line, the said Commercial Navigation Company may issue bonds to such an amount that the entire annual interest thereon shall not exceed the sum of two hundred and fifty thousand dollars, such bonds to be made payable at the expiration of the before-named fifteen years, and the interest thereof to be made payable semi-annually, the principal and interest of such bonds to be made payable in coin of the United States. That for the protection of the holders of such bonds they shall be severally registered at the Post Office Department, and certified by the chief clerk of the Department, without liability for the payment of the interest or principal of said bonds upon the part of the Post Office Department only in manner as hereinafter provided. And the Postmaster General shall receive all moneys for postage earned by the steamships of said company, and shall apply the same as far as needed to the payment of the semi-annual interest upon the before-named bonds, and shall retain the surplus after paying such interest, and shall invest the same quarterly in the securities of the United States to form a sinking fund, to be held solely for the benefit of the bondholders, and to be applied to the payment of the principal of such bonds. And whenever, and as soon as such sinking fund shall equal in amount the entire principal of said bonds, then from that time forward the interest of said bonds shall be paid out of the income of such sinking fund, and the principal thereof out of the same fund at their maturity. And all postage earned after the time when said sinking fund shall be made up to the amount aforesaid shall belong to and be paid quarterly to the said company by the Postmaster General of the United States.

SEC. 5. *And be it further enacted*, That the aforesaid mail steamships shall be commanded and officered only by citizens of the United States, shall mount an armament, if required, of two guns each, and shall have at least one apprentice to be instructed in engineering, seamanship, and navigation, for every two hundred tons of registered tonnage for each steamship; and the Government of the United States shall have the power to take and use the aforesaid mail steamships as transports or for ships of war whenever, in the opinion of the President, the exigencies of the United States may require them, who is authorized, in such an event, to take said mail steamers and pay said company a just and equitable sum for their use, or purchase the same, as may be deemed most for the interest of the United States; said payment, whether for purchase or use, to be made to the Postmaster General, who shall pay to said navigation company whatever balance be due them, after deducting sufficient for payment for all the before-named registered bonds, the amount of which in this event shall be paid to the holders thereof at maturity of the same.

SEC. 6. *And be it further enacted*, That the foreign mail agents of the Government of the United States shall have free passage on the ships of the said Commercial Navigation Company whenever the Postmaster General to such foreign mail agents issues passes certifying to the said company that such is their official character.

SEC. 7. *And be it further enacted*, That the said navigation company shall keep up and maintain for a period of twenty years, for the said United States mail service, at least the said number of seven first-class steamships.

SEC. 8. *And be it further enacted*, That the rights and privileges herewith granted shall be and remain to this company, and in no event

shall this company transfer or assign the rights and privileges herein granted, nor shall it be lawful for any officer of the Government hereafter to recognize any assignment or transfer, it being the intent and meaning of this act to secure an American line of steam vessels for the transportation of mails and the proper conveyance of emigrant passengers between the port of New York and the European ports above named; and Congress may at any time hereafter, during the period of fifteen years, terminate or abandon any contract of the United States made with such company, and, having a due regard to the accrued rights of the said company, alter, repeal, or amend this act, and it shall take effect and be in force from and after its passage.

APPROVED, July 27, 1868.

CHAP. CCLXI.—An Act relating to the Alexandria Canal.

Whereas by an act of Congress, on the twenty-sixth day of May, eighteen hundred and thirty, the Alexandria Canal Company was incorporated, and authorized and empowered to construct, operate, and maintain a canal from Georgetown, in the District of Columbia, to Alexandria, in the State of Virginia, with an aqueduct across the Potomac river at Georgetown; and whereas by an act of the General Assembly of the State of Virginia, passed on the sixteenth day of February, eighteen hundred and sixty-six, the board of public works was authorized to unite with the corporate authorities of the city of Alexandria in making disposition of the Alexandria canal, in order to repair and make said canal available; and whereas said board of public works did, in pursuance of said authority, so unite with said corporate authorities, and did by their joint vote, and a vote of the majority of the stockholders of said canal company, empower and direct the president and directors of the said canal company to lease the said canal for the period of ninety-nine years; and whereas the said president and directors, in pursuance of said authority, did, on the sixteenth day of May, eighteen hundred and sixty-six, grant, lease, and convey the said canal, its aqueduct, locks, banks, lands, gates, and property of all description to Henry H. Wells, Philip Quigley, and William W. Dungan, the grantees therein named; and whereas afterward, and by an act passed by the General Assembly of the State of Virginia, on the seventeenth day of April, eighteen hundred and sixty-seven, the said lease was ratified and affirmed, and the lessees were further authorized and empowered to build, operate, and maintain a new aqueduct, and in conjunction therewith a railroad and a road bridge across said piers, and build, operate, and maintain a railroad from Georgetown to Alexandria; and whereas the said lessees have entered into possession of and repaired the said canal, and have erected a new aqueduct across the said Potomac river upon the said piers connecting the Chesapeake and Ohio canal with the said Alexandria canal: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said aqueduct across the Potomac river from Georgetown to the Virginia shore, and so connecting the said canals, is hereby declared to be a lawful structure in its present position and elevation, anything in any law or laws of the United States, or of any State, to the contrary notwithstanding.

SEC. 2. *And be it further enacted*, That the said lessees, their associates, their heirs, and assigns, are hereby authorized and empowered to maintain and operate said aqueduct, and to erect, build, operate, and maintain across the Potomac river from Georgetown, in the District of Columbia, to the Virginia shore, upon and over the stone piers upon which the aqueduct now rests, in conjunction therewith, a

bridge of wood, iron, or stone, with one or more ways for the passage of persons, animals, and vehicles; and also with one or more tracks or ways for the passage of engines and cars, with such other conveniences as are usual or necessary for a railroad.

SEC. 3. *And be it further enacted*, That it shall be lawful for the said lessees, their associates and successors, to lay out, construct, maintain, and operate a railroad across said bridge from Georgetown, in the District of Columbia, to the Virginia shore, and there to connect with said railroad.

SEC. 4. *And be it further enacted*, That as soon as the chief engineer of the Army shall certify to the Secretary of War that the said bridge is so far completed as to be ready, fit, and convenient for the passage of persons, animals, and vehicles, the said lessees, their successors, and their legal representatives, may demand, have, and receive, in advance, the following tolls, to wit: for any foot passenger crossing on said bridge, two cents; for any horse, mule, or jack, any ox, or other horned cattle, five cents; for any vehicle drawn by one animal, fifteen cents; drawn by two animals, twenty-five cents; drawn by four animals, thirty-five cents, but no extra charge shall be made for the driver of such vehicle; for any hog, sheep, or other live creature, one cent; which certificate shall be published for three weeks in two daily papers in the city of Washington at the expense of the company: *Provided, however*, That it shall be lawful for said lessees to commute those rates to persons requiring yearly passes; which said rates, or other lower rates to be by them prescribed from time to time, the said lessees may demand in advance, or may sue for, have, and receive, of and from any person who shall pass over said bridge, or who shall send, ride, or drive any animal or vehicle over the said bridge without first paying said tolls. And any person who shall attempt to injure said bridge, or to pass over the same, or to pass his animals over it, without first paying the tolls prescribed herein, or shall attempt to force said bridge, shall be deemed guilty of a misdemeanor, and be subject to a fine of not less than five dollars nor more than ten dollars for each offense, to be recovered in any court having jurisdiction of misdemeanors in the District of Columbia: *Provided, however*, That a conviction for such misdemeanor shall not in any wise be a bar to any suit brought to recover damages for an injury to said bridge: *Provided, however*, That said bridge is open and free for the passage of troops and munitions of war by the United States without charge or compensation of any kind.

SEC. 5. *And be it further enacted*, That in case the said bridge shall not be fully completed within five years from the passage of this act, then this act shall be null and void.

SEC. 6. *And be it further enacted*, That said company shall not grant to any railroad or other corporation the exclusive right to transfer passengers or freight over said railroad bridge, but any privilege granted to one corporation shall be extended to all who may make application for such privilege on equal terms; and shall not sell, transfer, or lease their corporate rights to any company that will not check baggage or commute fares with all railroads north or south.

SEC. 7. *And be it further enacted*, That the right is hereby reserved to Congress to amend, alter, or repeal this act.

APPROVED, July 27, 1868.

CHAP. CCLXII.—An Act making Appropriations for the Service of the Columbia Institution for the Instruction of the Deaf and Dumb, and establishing Additional Regulations for the Government of the Institution, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums

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be, and the same are hereby, appropriated, out [of] any moneys in the Treasury not otherwise appropriated, for the benefit of the Columbia Institution for the Instruction of the Deaf and Dumb:

For the support of the institution, in addition to the existing appropriation to meet the increased expense of maintaining pupils whose admission was authorized by an act of Congress, approved March second, eighteen hundred and sixty-seven, three thousand dollars.

For continuing the work upon buildings of the institution, in accordance with the plans heretofore submitted to Congress, forty-eight thousand dollars.

SEC. 2. *And be it further enacted*, That in addition to the directors whose appointment has heretofore been provided for by law, there shall be three other directors appointed in the following manner: one Senator by the President of the Senate, and two Representatives by the Speaker of the House; these directors to hold their offices for the term of a single Congress, and to be eligible to a reappointment.

SEC. 3. *And be it further enacted*, That no part of the real or personal property now held or hereafter to be acquired by said institution shall be devoted to any other purpose than the education of the deaf and dumb, nor shall any portion of the real estate be aliened, sold, or conveyed, except under the authority of a special act of Congress.

SEC. 4. *And be it further enacted*, That so much of the act of February sixteenth, eighteen hundred and fifty-seven, as allows the payment of one hundred and fifty dollars per annum for the maintenance and tuition of each pupil admitted by order of the Secretary of the Interior, be, and the same is hereby, repealed.

SEC. 5. *And be it further enacted*, That the number of students in the collegiate department from the several States, as authorized by the act of March second, eighteen hundred and sixty-seven, shall be increased from ten to twenty-five in number.

SEC. 6. *And be it further enacted*, That the following sums be, and the same are hereby, appropriated, for the purposes hereinafter expressed, for the fiscal year ending June thirtieth, eighteen hundred and sixty-nine:

Government Hospital for the Insane in the District of Columbia.

For the support, clothing, medical and moral treatment of the insane of the Army and Navy and revenue-cutter service, and of the indigent insane of the District of Columbia in the Government Hospital for the Insane, including five hundred dollars for books, stationery, and incidental expenses, ninety thousand five hundred dollars.

For finishing, furnishing, lighting, and heating the unfinished part of the east wing of the main hospital edifice, seven thousand dollars.

Columbia Institution for the Deaf and Dumb.

For the support of the institution, including one thousand dollars for books and illustrative apparatus, twelve thousand five hundred dollars.

For the proper inclosure, improvement, and enlargement of the grounds of the institution, in accordance with plans heretofore submitted to Congress, three thousand six hundred dollars.

Columbia Hospital for Women and Lying-in Asylum.

For the support of the asylum, over and above the probable amount which will be received from independent or pay patients, fifteen thousand dollars.

For the completion of the Providence Hospital in Washington city, District of Columbia, thirty thousand dollars: *Provided*, That all expenditures for the said Providence Hospital under appropriations of Congress shall be made

under the direction and control of the Surgeon General of the Army, whose duty it shall be to report at the December session of every Congress a full and complete statement of all expenses incurred under and by virtue of appropriations made by Congress.

For the National Soldiers' and Sailors' Orphans' Home, in the city of Washington, District of Columbia, ten thousand dollars.

For care, support, and medical treatment of sixty transient paupers, medical and surgical patients, in some proper medical institution in the city of Washington, under a contract to be formed with such institution, twelve thousand dollars, or so much thereof as may be necessary: *Provided*, That said contract shall be made by the Surgeon General of the Army, who shall report to the December session of every Congress, stating with whom the said contract is made, and the amount and nature thereof.

SEC. 7. *And be it further enacted*, That the superintendent of the said Columbia Institution for the Deaf and Dumb shall, at the commencement of every December session of Congress, make a full and complete statement of all the expenditures made by virtue of any appropriations by Congress. Said statement shall include the amount paid to said superintendent, and also for teachers, to whom paid, and the rate at which paid; and all expenditures for the Columbia Hospital for Women and Lying-in-Asylum shall be under the direction of the Surgeon General of the Army, who shall also report to Congress, at every December session, a full and accurate account of all expenditures made by said asylum out of appropriations by Congress; and all accounts for all appropriations made by Congress for charitable purposes and for charitable institutions in the District of Columbia shall be audited by the First Auditor of the Treasury. But nothing herein contained shall take from the Secretary of the Interior the jurisdiction he now has over the subject of charities and charitable institutions in the District of Columbia.

APPROVED, July 27, 1868.

CHAP. CCLXIII.—An Act making Appropriations for certain Executive Expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and sixty-nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums, or so much thereof as may be necessary, be, and the same are hereby, appropriated for the objects hereinafter expressed, for the fiscal year ending June thirtieth, eighteen hundred and sixty-nine, viz.:

That there be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of twenty thousand two hundred dollars, for the employment of temporary clerks in the Indian Bureau, to be employed at the following rates: one clerk, at sixteen hundred dollars per annum; six clerks, at fourteen hundred dollars each per annum; seven clerks, at twelve hundred dollars each per annum; and two female copyists, at nine hundred dollars each per annum; and the sum of ten thousand dollars for the employment of temporary clerks in the State Department; the said clerks so to be employed in said Department shall receive a compensation of twelve hundred dollars each per annum; and the sum of nine thousand dollars, or so much thereof as is necessary, is also appropriated to pay the salary, office expenses, and clerk hire of the surveyor general of Utah Territory, in accordance with provisions of act of July sixteenth, eighteen hundred and sixty-eight.

SEC. 2. *And be it further enacted*, That there be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of five thousand dollars, to be expended, under the direction of the Commissioner of Public Build-

ings and Grounds, for the purpose of building an arched roadway over Tiber creek, on North Capitol street, leading to the Government Printing Office: *Provided*, [That] the city of Washington will appropriate sufficient additional amount to complete it.

SEC. 3. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Henry B. Ste. Marie, the sum of ten thousand dollars for services and information in the arrest of John H. Surratt, in the kingdom of Italy, charged with the crimes of conspiracy and murder; and the joint resolution for the relief of Henry B. Ste. Marie, approved July twentieth, eighteen hundred and sixty-eight, be, and the same is hereby, repealed.

APPROVED, July 27, 1868.

CHAP. CCLXIV.—An Act relating to Pensions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws granting pensions to the hereinafter-mentioned dependent relatives of deceased persons leaving neither widow or child entitled to pensions under existing laws, shall be so construed as to give precedence to such relatives in the following order, namely: first, mothers; secondly, fathers; thirdly, orphan brothers and sisters under sixteen years of age, who shall be pensioned jointly if there be more than one: *Provided*, That if, in any case, the said persons shall have left both father and mother who were dependent upon them, then on the death of the mother the father shall become entitled to a pension commencing from and after the death of the mother; and upon the death of the mother and father the dependent brothers and sisters under sixteen years of age shall jointly become entitled to such pension until they attain the age of sixteen years, respectively, commencing from and after the death of the party who, preceding them, would have been entitled to the same: *And provided further*, That no pension heretofore awarded shall be affected by anything herein contained.

SEC. 2. *And be it further enacted*, That no person shall be entitled to a pension by reason of wounds received, or disease contracted, in the service of the United States, subsequently to the passage of this act, unless the person who was wounded or contracted disease was in the line of duty; and, if in the military service, was at the time actually in the field, or on the march, or at some post, fort, or garrison; or if in the naval service was at the time borne on the books of some ship, or other vessel of the United States, at sea or in harbor, actually in commission, or was on his way, by the direction of competent authority, to the United States, or to some other vessel or naval station.

SEC. 3. *And be it further enacted*, That so much of the acts approved April sixth, eighteen hundred and thirty-eight, and August twenty-third, eighteen hundred and forty-two, as requires that pensions remaining unclaimed for fourteen months after the same have become due, shall be adjusted at the office of the Third Auditor, is hereby repealed; and the failure of any pensioner to claim his or her pension for a period of three years after the same shall have become due, shall be deemed presumptive evidence that such pension has legally terminated by reason of the pensioner's death, remarriage, recovery from disability, or otherwise, and the pensioner's name shall be stricken from the rolls, subject to the right of restoration to the same on a new application, with evidence satisfactorily accounting for the failure to claim such pension.

SEC. 4. *And be it further enacted*, That if any officer, soldier, seaman, or enlisted man has died since the fourth day of March, eight-

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een hundred and sixty-one, or shall hereafter die, leaving a widow entitled to a pension, and a child or children under sixteen years of age by a former wife, each of said children shall be entitled to receive two dollars per month, to commence from the death of their father and continue until they severally attain the age of sixteen years, to be paid to the guardian of such child or children for their use and benefit: *Provided, however,* That in all cases where such widow is charged with the care, custody, and maintenance of such child or children, the said sum of two dollars per month for each of said children shall be paid to her for and during the time she is, or may have been, so charged with the care, custody, and maintenance of such child or children, subject to the same conditions, provisions, and limitations as if they were her own children by her said deceased husband.

SEC. 5. *And be it further enacted,* That in all cases where an increased pension has been or may hereafter be granted to any widow or guardian of the children under sixteen years of age of a deceased soldier or sailor under an act entitled "An act increasing the pensions of widows, and for other purposes," approved July twenty-fifth, eighteen hundred and sixty-six, or any subsequent act, such widow, or the guardian of such children, shall not be deprived of such increase by reason of any child or children of such deceased soldier or sailor being the inmate of any home, orphan's asylum, or other public or private charitable institution organized for the care and education of soldiers' orphans under the laws of any of the States, or in any school or institution where such orphan may in whole or in part be maintained or educated at the expense of a State, or of the public.

SEC. 6. *And be it further enacted,* That all pensions which have been granted in consequence of death occurring or disease contracted, or wounds received, since the fourth day of March, eighteen hundred and sixty-one, or may hereafter be granted, shall commence from the discharge or from the death of the person on whose account the pension has been or shall hereafter be granted: *Provided,* That the application for such pension has been, or shall hereafter be, filed with the Commissioner of Pensions within five years after the right thereto shall have accrued; except that applications by or in behalf of insane persons and children under sixteen years of age may be filed after the expiration of the said five years, if previously thereto they were without guardians or other proper legal representatives.

SEC. 7. *And be it further enacted,* That immediately upon the passage of this act, or as soon thereafter as may be practicable, it shall be the duty of the Commissioner of Pensions to give public notice of the contents of the foregoing section, particularly at the offices of the several pension agencies; and upon any application by letter or otherwise for or on behalf of any person entitled to the benefit of its provisions, or upon any notification that such person is so entitled, to pay or cause to be paid to him all such arrears of pensions as he may be entitled to under the provisions of the said section; and no claim agent or other person shall be entitled to receive any compensation for services in making application for the arrears of pension under this and the preceding section.

SEC. 8. *And be it further enacted,* That section eleven of an act entitled "An act supplementary to the several acts relating to pensions," approved June six, eighteen hundred and sixty-six, be amended and reenacted so as to read as follows: "That if any officer, soldier, or seaman shall have died of wounds received or of disease contracted in the line of duty in the military or naval service of the United States, leaving a widow and a child or children under

the age of sixteen years, and it shall be duly certified under seal, by any court having probate jurisdiction, that satisfactory evidence has been produced before such court that the widow aforesaid has abandoned the care of such child or children, or is an unsuitable person, by reason of immoral conduct, to have the custody of the same, or on presentation of satisfactory evidence thereof to the Commissioner of Pensions, then no pension shall be allowed to such widow until said child or children shall have severally become sixteen years of age, any previous enactment to the contrary notwithstanding; and the child or children aforesaid shall be pensioned in the same manner as if no widow had survived the said officer, soldier, or seaman, and such pension may be paid to the regularly authorized guardian of such child or children."

SEC. 9. *And be it further enacted,* That section six of an act entitled "An act supplementary to the several acts relating to pensions," approved June six, eighteen hundred and sixty-six, be, and the same is hereby, amended and reenacted, so as to read as follows: that if any person entitled to a pension has died since March fourth, eighteen hundred and sixty-one, or shall hereafter die while an application for such pension is pending, leaving no widow and no child under sixteen years of age, his or her heirs or legal representatives shall be entitled to receive the accrued pension to which the applicant would have been entitled had the certificate been issued before his or her death.

SEC. 10. *And be it further enacted,* That the remarriage of any widow or dependent mother, otherwise entitled to a pension prior to the application therefor, or to the issue of a pension certificate to her, shall not debar her right to a pension for the period elapsing from the death of her husband or son, on account of whose services and death she may claim a pension, to her remarriage: *Provided, however,* That nothing in this section shall be construed to repeal or modify the fourth section of an act entitled "An act supplementary to the several acts granting pensions," approved March third, eighteen hundred and sixty-five.

SEC. 11. *And be it further enacted,* That the provisions of the ninth section of an act approved July fourth, eighteen hundred and sixty-four, entitled, "An act supplementary to 'An act to grant pensions,'" are hereby continued in force for five years from the fourth day of July, eighteen hundred and sixty-seven.

SEC. 12. *And be it further enacted,* That section one of an act entitled "An act supplementary to the several acts relating to pensions," approved June sixth, eighteen hundred and sixty-six, shall be so construed as to secure to every person entitled by law before the passage of said act to a less pension than twenty-five dollars per month, who while in the military or naval service and in the line of duty, or in consequence of wounds received or disease contracted therein, having only one eye, shall have lost the same, a pension of twenty-five dollars per month.

SEC. 13. *And be it further enacted,* That the third section of an act entitled "An act increasing the pensions of widows and orphans, and for other purposes," approved July twenty-fifth, eighteen hundred and sixty-six, shall be so construed as to place all pensioners whose right thereto accrued subsequently to the war of the Revolution, and prior to the fourth day of March, eighteen hundred and sixty-one, on the same footing, as to rate of pension, from and after the passage of said act, as those who have been pensioned under acts passed since said fourth day of March, eighteen hundred and sixty-one; and the widows of revolutionary soldiers and sailors now receiving a less sum shall hereafter be paid at the rate of eight dollars per month.

SEC. 14. *And be it further enacted,* That all officers in the military or naval service, of the rank of captain in the Army or lieutenant in the Navy, and of less rank, who have lost a leg or arm in such service and in the line of duty, or in consequence of wounds received or disease contracted therein, shall be entitled to receive an artificial limb on the same terms as privates in the Army are now entitled to receive the same.

SEC. 15. *And be it further enacted,* That in all cases pensions heretofore or hereafter granted by special acts of Congress shall be subject to be varied in amount according to the provisions and limitations of the pension laws.

SEC. 16. *And be it further enacted,* That all acts and parts of acts inconsistent with the foregoing provisions of this act be, and the same are hereby, repealed.

APPROVED, July 27, 1868.

CHAP. CCLXV.—An Act to pay for Indexing the Tax Bill.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled; That the Clerk of the House of Representatives be, and he is hereby, authorized to pay out of the contingent fund of the House of Representatives, to the clerk of the Committee of Ways and Means, one hundred dollars for preparing, by order of the House, a full index of the "Act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July twentieth, eighteen hundred and sixty-eight.

APPROVED, July 27, 1868.

CHAP. CCLXVI.—An Act to correct an Error in the Enrollment of the "Act imposing Taxes on Distilled Spirits and Tobacco, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last clause of the first sentence of section forty-eight of the "Act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July twentieth, eighteen hundred and sixty-eight, be amended so that it will read: "or three dollars per dozen bottles, each bottle containing not more than one pint," etc., instead of "each bottle containing more than one pint," etc.; the word "not" having been omitted in the enrollment of the act.

APPROVED, July 27, 1868.

CHAP. CCLXVII.—An Act amendatory of an Act entitled "An Act granting Public Lands to the State of Wisconsin to aid in the construction of Railroads in said State," approved June 3, 1856.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall and may be lawful for the Legislature of the State of Wisconsin to dispose of the lands granted and which may have inured and been certified to the State of Wisconsin under the act of Congress approved June third, eighteen hundred and fifty-six, to aid in the construction of a railroad "from Madison or Columbus, by way of Portage City, to the Saint Croix river or lake, between township twenty-five and thirty-one," and commonly known as La Crosse and Milwaukee-railroad, for the benefit of the Wisconsin Railroad Farm Mortgage Land Company, existing under and by virtue of the laws of Wisconsin: *Provided, however,* That this act shall apply only to such lands as may be due the State of Wisconsin for the portion of said road already completed.

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CHAP. CCLXVIII.—An Act granting the Right of Way to certain Railway Companies over the Military Reservation at Fort Leavenworth.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of way, not exceeding one hundred feet in width, is hereby granted to the Leavenworth and Des Moines Railway Company, a corporation created under the laws of the State of Missouri, to construct and operate a railway across the military reservation at Fort Leavenworth, on the east side of the Missouri river, upon a line to be designated and fixed by the Secretary of War.

SEC. 2. *And be it further enacted,* That the right of way, not exceeding one hundred feet in width, is hereby granted to the Leavenworth, Atchison, and Northwestern Railway Company, a corporation created under the laws of the State of Kansas, to construct and operate a railroad across and over the military reservation at Fort Leavenworth, in the State of Kansas, upon such line as shall be designated and fixed by the Secretary of War: *Provided,* That if the said company shall not construct, within one year from the passage of this act, a railway from the city of Leavenworth to the city of Atchison, then, and in that case, a like privilege is hereby conferred upon any other company that shall construct a railway between said cities.

APPROVED, July 27, 1868.

CHAP. CCLXIX.—An Act donating a portion of the Fort Leavenworth Military Reservation for the exclusive use of a Public Road.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a strip of land one hundred feet in width along the southern boundary of the Fort Leavenworth military reservation, in the State of Kansas, extending from the Missouri river to the western boundary thereof, be set apart for the perpetual and exclusive use of a public road; and the said road shall be and remain a public highway for the use of the Government of the United States, free from tolls or other charges upon the transportation of any property, troops, or mails of the United States.

SEC. 2. *And be it further enacted,* That Congress may at any time amend or repeal this act.

APPROVED, July 27, 1868.

CHAP. CCLXX.—An Act regulating the Times and Places of holding the District and Circuit Courts of the United States for the Northern District of Florida.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the times and places of holding the United States district and circuit courts for the northern district of Florida shall hereafter be as follows: at Jacksonville, on the first Monday of December; at Tallahassee, on the first Monday of February; and at Pensacola, on the first Monday of March.

SEC. 2. *And be it further enacted,* That the terms of the United States courts heretofore held at Saint Augustine and Apalachicola be hereafter discontinued.

APPROVED, July 27, 1868.

CHAP. CCLXXI.—An Act to disapprove an Act of the Legislative Assembly of Washington Territory redistricting the Territory and reassigning the Judges thereto.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of the Legislative Assembly of the Territory of Washington, approved January twenty-five, eighteen hundred and sixty-eight, entitled "An act defining the several judicial districts of the

Territory and assigning the judges thereto," be, and the same is hereby, disapproved.

APPROVED, July 27, 1868.

CHAP. CCLXXII.—An Act to amend an Act entitled "An Act proposing to the State of Texas the establishment of her Northern and Western Boundaries, the relinquishment by the said State of all Territory claimed by her exterior to said Boundaries, and of all her Claims upon the United States, and to establish a Territorial Government for New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the aforesaid act shall be amended as follows: every bill which shall have passed the council and house of representatives of the said Territory shall, before it becomes a law, be presented to the Governor of the Territory; if he approve he shall sign it, but if he do not approve it he shall return it with his objections to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If after such reconsideration, two thirds of that house shall pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house it shall become a law, the Governor's objections to the contrary notwithstanding. But in such cases the votes of both houses shall be determined by yeas and nays, and entered upon the journal of each house respectively. And if the Governor shall not return any bill presented to him for approval, after its passage by both houses of the Legislature, within three days, (Sundays excepted,) after such presentation, the same shall become a law in like manner as if the Governor had approved it: *Provided, however,* That the Assembly shall not have adjourned sine die, during the three days prescribed as above, in which case it shall not become a law.

SEC. 2. *And be it further enacted,* That, from and after the passage of this act, the secretary of the Territory of New Mexico shall be ex-officio superintendent of public buildings and grounds, and shall have all control and management of all public buildings now erected, in progress of erection, or to be hereafter erected, and of all grounds pertaining thereto; and he shall be under the direction of the Secretary of the Interior, who shall establish such rules in relation to said public buildings and grounds as in his judgment he may devise, and for his services as such superintendent shall receive an annual salary of one thousand dollars, to take effect from and after the passage of this act; and it shall be the duty of the secretary of said Territory, upon the convening of the Legislature thereof, to administer the oath of office to the members-elect of the two houses and the officers thereof when chosen; and no other person shall be competent to administer said oath, save in the absence of the secretary; in which case any one member of either house may administer the oath to the presiding officer elect, and he shall administer the same to the members and other officers: *Provided,* That the annual salary of the secretary of said Territory shall be two thousand dollars per annum from and after the first day of February, eighteen hundred and sixty-seven.

APPROVED, July 27, 1868.

CHAP. CCLXXIII.—An Act to extend the Laws of the United States relating to Customs, Commerce, and Navigation over the Territory ceded to the United States by Russia, to establish a Collection District therein, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws of the United

States relating to customs, commerce, and navigation be, and the same are hereby, extended to and over all the mainland, islands, and waters of the territory ceded to the United States by the Emperor of Russia by treaty concluded at Washington on the thirtieth day of March, anno Domini eighteen hundred and sixty-seven, so far as the same may be applicable thereto.

SEC. 2. *And be it further enacted,* That all of the said territory, with its ports, harbors, bays, rivers, and waters, shall constitute a customs collection district, to be called the district of Alaska, for which said district a port of entry shall be established at some convenient point to be designated by the President, at or near the town of Sitka or New Archangel; and a collector of customs shall be appointed by the President, by and with the advice and consent of the Senate, who shall reside at the said port of entry, and who shall receive an annual salary of two thousand five hundred dollars, in addition to the usual legal fees and emoluments of the office. But his entire compensation shall not exceed four thousand dollars per annum, or a proportionate sum for a less period of time.

SEC. 3. *And be it further enacted,* That the Secretary of the Treasury be, and he is hereby, authorized to make and prescribe such regulations as he may deem expedient for the nationalization of all vessels owned by actual residents of said ceded territory on and since the twentieth day of June, anno Domini eighteen hundred and sixty-seven, and which shall continue to have been so owned up to the date of such nationalization, and that from any deputy collector of customs upon whom there has been, or shall hereafter be, conferred any of the powers of a collector under and by virtue of the twenty-ninth section of the "Act further to prevent smuggling, and for other purposes," approved July eighteen, eighteen hundred and sixty-six, the Secretary of the Treasury shall have power to require bonds in favor of the United States in such amount as the said Secretary shall prescribe for the faithful discharge of official duties by such deputy.

SEC. 4. *And be it further enacted,* That the President shall have power to restrict and regulate or to prohibit the importation and use of fire-arms, ammunition, and distilled spirits into and within the said Territory. And the exportation of the same from any other port or place in the United States when destined to any port or place in the said territory, and all such arms, ammunition, and distilled spirits, exported or attempted to be exported from any port or place in the United States and destined for such territory, in violation of any regulations that may be prescribed under this section; and all such arms, ammunition, and distilled spirits, landed or attempted to be landed or used at any port or place in said territory, in violation of said regulations, shall be forfeited; and if the value of the same shall exceed four hundred dollars, the vessel upon which the same shall be found, or from which they shall have been landed, together with her tackle, apparel and furniture, and cargo, shall be forfeited; and any person willfully violating such regulation shall, on conviction, be fined in any sum not exceeding five hundred dollars, or imprisoned not more than six months. And bonds may be required for a faithful observance of such regulations from the master or owners of any vessel departing from any port in the United States having on board fire-arms, ammunition, or distilled spirits, when such vessel is destined to any place in said territory, or if not so destined, when there shall be reasonable ground of suspicion that such articles are intended to be landed therein in violation of law; and similar bonds may also be required on the landing of any such articles in the said territory from the person to whom the same may be consigned.

SEC. 5. *And be it further enacted,* That the

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coasting trade between the said territory and any other portion of the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great districts.

SEC. 6. *And be it further enacted*, That it shall be unlawful for any person or persons to kill any otter, mink, marten, sable, or fur seal, or other fur-bearing animal, within the limits of said territory, or in the waters thereof; and any person guilty thereof shall, for each offense, on conviction, be fined in any sum not less than two hundred dollars nor more than one thousand, or imprisoned not more than six months, or both, at the discretion of the court; and all vessels, their tackle, apparel, furniture, and cargo, found engaged in violation of this act, shall be forfeited: *Provided*, That the Secretary of the Treasury shall have power to authorize the killing of any such mink, marten, sable, or other fur-bearing animal, except fur seals, under such regulations as he may prescribe; and it shall be the duty of the said Secretary to prevent the killing of any fur seal, and to provide for the execution of the provisions of this section until it shall be otherwise provided by law: *Provided*, That no special privileges shall be granted under this act.

SEC. 7. *And be it further enacted*, That until otherwise provided by law, all violations of this act, and of the several laws hereby extended to the said territory and the waters thereof, committed within the limits of the same, shall be prosecuted in any district court of the United States in California or Oregon, or in the district courts of Washington, and the collector and deputy collectors appointed by virtue of this act, and any person authorized in writing by either of them, or by the Secretary of the Treasury, shall have power to arrest persons and seize vessels and merchandise liable to fines, penalties, or forfeitures under this and the said other laws, and to keep and deliver over the same to the marshal of some one of the said courts; and said courts shall have original jurisdiction, and may take cognizance of all cases arising under this act and the several laws hereby extended over the territory so ceded to the United States by the Emperor of Russia, as aforesaid, and shall proceed therein in the same manner and with the like effect as if such cases had arisen within the district or Territory where the proceedings shall be brought.

SEC. 8. *And be it further enacted*, That in all cases of fine, penalty, or forfeiture, mentioned and embraced in the act entitled "An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned," or mentioned in any act in addition or amendatory of said act, that have occurred or may occur in said collection district of Alaska, the Secretary of the Treasury be, and he is hereby, authorized, if in his opinion the said fine, penalty, or forfeiture was incurred without willful negligence or intention of fraud, to ascertain the facts in such manner and under such regulations as he may deem proper without regard to the provisions of the act above referred to, and upon the said facts so to be ascertained as aforesaid he may exercise all the power of remission conferred upon him by said act, as fully as he might have done had said facts been ascertained under and according to the provisions of said act.

SEC. 9. *And be it further enacted*, That the Secretary of the Treasury may prescribe all needful rules and regulations to carry into effect all parts of this act, except those especially intrusted to the President alone; and the sum of fifty thousand dollars is hereby appropriated from any unappropriated money in the Treasury to carry this act into effect and meet the expenses of collecting the revenue from customs within the limits of the said territory.

APPROVED, July 27, 1868.

CHAP. CCLXXIV.—An Act authorizing the Manufacturers' National Bank of New York to change its location.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Manufacturers' National Bank of New York, now located in the city of New York, is hereby authorized to change its location to the city of Brooklyn. Whenever the stockholders representing three fourths of the capital of said bank, at a meeting called for that purpose, determine to make such change, the president and cashier shall execute a certificate under the corporate seal of the bank, specifying such determination, and shall cause the same to be recorded in the office of the Comptroller of the Currency, and thereupon such change of location shall be effected, and the operations of discount and deposit of said bank shall be carried on in the city of Brooklyn.

SEC. 2. *And be it further enacted*, That nothing in this act contained shall be so construed as in any manner to release the said bank from any liability, or affect any action or proceeding in law in which the said bank may be a party or interested. And when such change shall have been determined upon as aforesaid, notice thereof and of such change shall be published in at least two daily newspapers in each of the counties of New York and Kings, in the State of New York, for not less than ten days.

SEC. 3. *And be it further enacted*, That this act shall take effect and be in force from and after its passage.

APPROVED, July 27, 1868.

CHAP. CCLXXV.—An Act relating to the District Courts of Utah Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Governor of Utah Territory shall assign the district judges of said Territory to their respective districts, and appoint the time and place of holding court in each of said districts, not exceeding two terms in each district in any one year.

APPROVED, July 27, 1868.

CHAP. CCLXXVI.—An Act regulating Judicial Proceedings in certain Cases, for the protection of Officers and Agents of the Government, and for the better defense of the Treasury against unlawful Claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the provisions of section eight of the act of July twenty-eight, eighteen hundred and sixty-six, entitled "An act to protect the revenue, and for other purposes," and the forms and modes by that section and the twelfth section of the act of March three, eighteen hundred and sixty-three, therein referred to, prescribed for prosecuting suits, withholding executions, and paying judgments against officers of the United States, or other persons engaged in executing the acts relative to captured and abandoned property, shall extend and be applied to all suits and proceedings (except those in behalf of the United States) which have been brought, or may hereafter be brought, against any officer or agent of the Government, civil or military, for acts done during the rebellion while acting by virtue or under color of his office or employment; and every defendant in such suit or proceeding having made full defense thereto, and having notified the Attorney General of the United States to appear and defend the same, shall be entitled to the full benefit and protection provided in said section for officers and agents of the Government engaged in the collection of the public revenue; and any defendant being aggrieved by any order or direction, certificate, ruling, or judgment of any court made or had in any such proceeding, may except thereto and appeal therefrom to the Supreme Court of

the United States, and have the questions arising there heard and determined.

SEC. 2. *And be it further enacted*, That no action or suit shall be maintained in any court of the United States, or of any State thereof, in the name or in the behalf or interest of any alien, against the United States, or any person, for or on account of any act done or omitted to be done by such person as an officer or agent of the United States, in the administration of the act of Congress entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," approved March twelve, eighteen hundred and sixty-three, or of the act of Congress entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," approved July two, eighteen hundred and sixty-four, or in virtue or under color of the acts of Congress aforesaid, or any other acts of Congress relative to the said insurrectionary States, or to persons or property therein; and to any action or suit which may have been heretofore, or shall hereafter be, instituted by any alien against the United States, or any such person as aforesaid, on account of any act done or omitted to be done as aforesaid, the defendant may and shall plead or allege in bar thereof, that such act was done, or omitted to be done, in the administration of one of the acts of Congress aforesaid, or in virtue or under color thereof, and such plea or allegation, if the fact be sustained by the proof, shall be, and shall be deemed and adjudged in law to be, a complete and conclusive bar to any such suit or action: *Provided*, That this section shall not be construed so as to deprive aliens who are citizens or subjects of any Government which accords to citizens of the United States the right to prosecute claims against such Government in its courts, of the privilege of prosecuting claims against the United States in the court of claims, as now provided by law.

SEC. 3. *And be it further enacted*, That it is hereby declared to have been the true intent and meaning of the act approved March twelfth, eighteen hundred and sixty-three, entitled "An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States," that the remedy given in cases of seizure made under said act, by preferring claim in the Court of Claims, should be exclusive, precluding the owner of any property taken by agents of the Treasury Department as abandoned or captured property in virtue or under color of said act from suit at common law, or any other mode of redress whatever, before any court or tribunal other than said Court of Claims; and in all cases in which suits of trespass, replevin, detinue, or any other form of action may have been brought and are now pending, or shall hereafter be brought against any person for or on account of private property taken by such person as an officer or agent of the United States, in virtue or under color of the act aforesaid, or the act approved July second, eighteen hundred and sixty-four, entitled "An act in addition to the several acts concerning commercial intercourse between loyal and insurrectionary States, and to provide for the collection of captured and abandoned property, and the prevention of frauds in States declared in insurrection," the defendant may and shall plead or allege in bar thereof that such act was done or omitted to be done by him as an officer or agent of the United States in the administration of one of the acts of Congress aforesaid, or in virtue or under color thereof, and such plea or allegation, if the fact be sustained by the proof, shall be, and shall be deemed and adjudged in law to be, a complete and conclusive bar to any

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such suit or action: *Provided, however,* That no judgment recovered in accordance with this act shall be paid by the United States unless the amount received by the defendant as the proceeds of the transaction which was the foundation of the suit shall have been paid into the Treasury, except upon an appropriation duly made therefor after a full examination of the claim upon its merits.

APPROVED, July 27, 1868.

RESOLUTIONS.

No. 1.—Joint Resolution in relation to the Printing of the Report of the Postmaster General.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter it shall be the duty of the Congressional Printer to cause to be printed and bound three thousand copies of the report of the Postmaster General, instead of twenty-five hundred copies, as provided by the act approved July twenty-seventh, eighteen hundred [and] sixty-six, and that so much of that act as conflicts with the above provision be, and is hereby, repealed; and this resolution shall apply to the report for the present year.

APPROVED, December 20, 1867.

No. 2.—Joint Resolution changing the Time of holding the Annual Meeting of the Stockholders of the Union Pacific Railroad Company.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the time of holding the annual meeting of the stockholders of the Union Pacific Railroad Company for the choice of directors is hereby changed from the first Wednesday in October to the first Wednesday following the fourth day of March, and the stockholders are authorized to determine the place at which such annual meeting shall be held at the last annual meeting of the stockholders immediately preceding such annual meeting: *Provided,* The same shall be held at either of the cities of New York, Washington, Boston, Baltimore, Philadelphia, Cincinnati, Chicago, or Saint Louis: *And provided further,* That on the election of directors herein provided for, to take place in March, anno Domini eighteen hundred and sixty-eight, the terms of office of all persons then acting or claiming the right to act as directors of said company shall cease and determine.

APPROVED, December 20, 1867.

No. 3.—A Resolution in relation to the Erection of a Jail in the District of Columbia.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and hereby is, directed and required to suspend for the period of forty days from the passage of this resolution all work upon the jail to be erected in the District of Columbia, under the act of Congress approved July twenty-five, eighteen hundred and sixty-six, and the amendment thereto, approved March second, eighteen hundred and sixty-seven; and that the Treasurer of the United States be directed to withhold for the period aforesaid the payment of any money appropriated for the erection of said jail.

APPROVED, January 11, 1868.

No. 4.—Joint Resolution in relation to the Sale of Stock in the Dismal Swamp Canal Company.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be directed to adjourn the sale of eight hundred shares of the stock owned by the

United States in the Dismal Swamp Canal Company from the second day of January, eighteen hundred and sixty-eight, (to which day said sale now stands adjourned,) until Saturday, the eighth day of February, eighteen hundred and sixty-eight, at eleven o'clock, a. m.

APPROVED, January 11, 1868.

No. 5.—A Resolution for the Appointment of Regents of the Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancies in the Board of Regents of the Smithsonian Institution of the class "other than members of Congress" be filled by the appointment of Theodore D. Woolsey of Connecticut, William B. Astor of New York, John Maclean of New Jersey, and Peter Parker of the city of Washington.

APPROVED, January 11, 1868.

No. 7.—Joint Resolution for the Relief of Destitute Persons in the South.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be hereby authorized to issue, for the relief of any and all classes of destitutes in the South, such desiccated potatoes and desiccated mixed vegetables as have accumulated during the war and are not needed for use in the Army; the same to be issued under the direction of the Commissioner of the Bureau of Refugees, Freedmen, and Abandoned Lands.

APPROVED, January 31, 1868.

No. 8.—A Resolution limiting Contracts for Stationery and other Supplies in the Executive Departments to one year.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall not be lawful for any of the Executive Departments to make contracts for stationery or other supplies for a longer term than one year from the time the contract is made; and that whenever proposals for supplies have been solicited, the parties responding to such solicitation shall be duly notified of the time and place of opening the bids, and be permitted to be present either in person or by attorney, and a record of each bid shall then and there be made.

APPROVED, January 31, 1868.

No. 9.—Joint Resolution to provide for a Commission to examine and report on Meters for Distilled Spirits.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That a commission, to consist of five persons, to be appointed by the Secretary of the Treasury, is hereby created, whose duty it shall be, in connection with the existing commission of the Academy of Science, to carefully examine all meters and mechanical contrivances or inventions that may be presented to them, intended to measure, test, and ascertain the productiveness of grain, or other articles prepared for distillation, or the actual quantity and strength of distilled spirits, subject to tax, produced therefrom, giving due notice of the times and places where such examination will be conducted; and that the commission shall meet and proceed to the performance of their duties, under the instructions of the Secretary of the Treasury, at the earliest practicable day, and shall report in detail to the said Secretary, to be communicated to Congress, the result of their examination, with such recommendation as they may deem expedient and most to the interest of the Government, on or before the first of March next.

SEC. 2. *And be it further resolved,* That pending the action of said commission, and until their report be made and a meter shall be by

law adopted, all work on the construction of meters, under the direction of the Treasury Department, be, and is hereby, suspended. And in the mean time no further contract for meters shall be made by the Secretary of the Treasury under the fifteenth section of the act entitled "An act to amend existing laws relating to internal revenue, and for other purposes," approved March second, eighteen hundred and sixty-seven.

SEC. 3. *And be it further resolved,* That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the expenses incident to the carrying out of this joint resolution, and also a reasonable compensation for the services of such of the said commissioners as are not now officers of the United States or members of the said academy.

APPROVED, February 3, 1868.

No. 10.—Joint Resolution providing for the Sale of Iron-Clads.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized to dispose of such iron-clad vessels, except those of the "Dictator," "Kalamazoo," "Monadnock," and "Passaic" classes, as in his judgment are not required by the interests of the service, at a price to be determined by appraisal, to be made by a board of not less than five naval officers, two of whom shall be engineers; and report shall be made to Congress, as fast as said vessels are sold, of the amounts realized from such sales, and the parties to whom sold: *Provided,* That after such appraisal public notice shall be given that proposals will be received for thirty days for the purchase of said vessels; and that the highest price so proposed, being not less than the appraisal, shall be accepted: *And provided further,* That the proceeds of all such sales shall be paid into the Treasury of the United States.

APPROVED, February 3, 1868.

No. 11.—Joint Resolution for Reducing the Expenses of the War Department, and for other purposes.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to take immediate measures for the reduction of the expenses of the Army and of the War Department at and in the vicinity of New York city at as early a day as practicable, by concentrating the business of the quartermaster, commissary, clothing, ordnance, and medical bureaus, and recruiting service in said city, and that for this purpose there shall be hired and used at some convenient and proper point in said city one suitable building in which shall be accommodated all the offices connected with and required for the transaction of such public business, at a cost to the Government not exceeding twenty-five thousand dollars per annum; and also a suitable building or property within the harbor of New York, or on the navigable waters thereof, which shall have sufficient accommodation of warehouse, pier, dock, and basin room for the safe and convenient receiving, storing, and care of all Army stores of every kind and description belonging to either of said bureaus or branches of the service, at an annual cost to the Government not exceeding fifty thousand dollars: *Provided, however,* That nothing herein contained shall be construed to prevent the storage or keeping of ordnance stores or other property at Governor's Island, or the use in any way for the purposes of the Government of any property or building which actually belongs to the United States.

APPROVED, February 21, 1868.

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No. 12.—A Resolution to authorize the Secretary of War to employ Counsel in certain Cases.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to employ counsel for the defense of the General of the Army, Major General George G. Meade, and Brevet Brigadier General Thomas H. Ruger, provisional governor of Georgia, and any other officer or person intrusted with the enforcement of the reconstruction acts, or either of them, against any suit or proceedings, in any court, in relation to their official acts.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

Indorsed by the PRESIDENT: "Received February 11, 1868."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing resolution having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

No. 13.—A Resolution directing that the Government of Great Britain be supplied with certain Volumes of the Narrative of the Exploring Expedition.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Librarian of Congress be, and is hereby, directed to deliver to the Secretary of State a set of Dana's Crustacea, being volumes thirteen and fourteen of the Narrative of the Exploring Expedition under Captain Wilkes; and that the Secretary of State is hereby directed to deliver them to the Government of Great Britain.

APPROVED, February 28, 1868.

No. 14.—Joint Resolution authorizing the Transmission through the Mails, free of Postage, of certain Testimonials by the Adjutant Generals of the several States.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the adjutant generals of the several States and Territories be authorized to transmit through the mails, free of postage, any medals, certificates of thanks, or other testimonials, awarded, or which may be awarded, by the Legislatures of said States and Territories to the soldiers thereof, under such regulations as the Postmaster General may direct.

APPROVED, March 2, 1868.

No. 15.—Joint Resolution authorizing the Comptroller of the Currency to revoke the Appointment of Receiver for the Farmers' and Citizens' National Bank of Williamsburg, New York, and to restore said Bank to its Owners under certain conditions.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Comptroller of the Currency be authorized, with the approval of the Secretary of the Treasury, to revoke the order appointing a receiver for the Farmers' and Citizens' Bank of Williamsburg, New York, and restore the said bank and the management thereof to the directors, for the purpose of enabling the association to continue the business of banking: *Provided,* That said banking association shall first present to the Comptroller satisfactory assurances that the

public interest will be promoted thereby, and shall secure, in such manner as the Comptroller shall direct, the full payment of all the creditors of the association, and shall restore the capital stock to its original amount in case the capital has been impaired by losses.

APPROVED, March 2, 1868.

No. 16.—A Resolution authorizing the Light-House Board to place Warnings over Obstructions at the Entrance of Harbors, or in the Fairway of Bays and Sounds, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Light-house Board be, and they are hereby, authorized, when, in their judgment, it is deemed necessary, to place a light-vessel, or other suitable warning of danger, on or over any wreck or temporary obstruction to the entrance of any harbor, or in the channel or fairway of any bay or sound.

SEC. 2. *And be it further resolved,* That the Secretary of War is hereby directed to appoint a board of competent engineers, to consist of not less than three persons, to examine the condition of the wreck of the steamer Scotland, now in the waters of the harbor of the city of New York, and ascertain whether the same is dangerous to navigation, and to report thereon at as early a day as practicable, with a particular estimate of the cost of the removal of said wreck.

APPROVED, March 2, 1868.

No. 17.—A Resolution relating to the Survey of the Northern and Northwestern Lakes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second section of an act entitled "An act making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the fiscal year ending June thirtieth, eighteen hundred and sixty-eight," approved March second, eighteen hundred and sixty-seven, shall not apply to the appropriation for the survey of northern and northwestern lakes.

APPROVED, March 2, 1868.

No. 18.—A Resolution providing for the Representation of the United States at the International Maritime Exhibition, to be held at Havre.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be authorized to detail one or more officers of the Navy, as he shall think best, to be present at the International Maritime Exhibition, to be held at Havre, under the auspices of the French Government, from the first of June to thirty-first of October of the present year, there to represent the United States, and otherwise to promote the interests of exhibitors from our country: *Provided,* That no expenditure shall accrue therefrom to the Treasury, or to any public fund, nor shall any mileage or other expenses, or any additional compensation be paid to such persons as may be designated under authority of this resolution, nor shall any national or public vessel be employed to convey the officers so detailed to or from the place of such exhibition.

APPROVED, March 12, 1868.

No. 19.—A Resolution providing for the Issue of Clothing to Soldiers and others, to replace Clothing destroyed to prevent Contagion.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized at any time,

on the recommendation of the Surgeon General of the Army, to order gratuitous issues of clothing to soldiers who have had contagious diseases, and to hospital attendants who have nursed and attended such soldiers, to replace the articles of their clothing which have been destroyed by order of the proper medical officers to prevent contagion.

APPROVED, March 12, 1868.

No. 20.—Joint Resolution relative to the Post Office and Sub-Treasury of the City of Boston.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the mayor and postmaster of the city of Boston, the Assistant Treasurer of the United States at the city of Boston, the president of the Board of Trade of the city of Boston, Alpheus Hardy and Daniel Davis, of Boston, be appointed a commission to purchase a site for a building to accommodate the post office, sub-Treasury, and public offices of the United States in the city of Boston, in accordance with their report submitted to the Postmaster General and the Secretary of the Treasury, and by them approved, viz.: the estates lying on Devonshire street, and between Water street and Milk street, in the city of Boston, (containing about thirty thousand square feet,) and that they be authorized to purchase the same for a sum not exceeding five hundred thousand dollars; and the Secretary of the Treasury is hereby authorized to pay such sum of money as may be necessary to carry the foregoing resolutions into effect from any money in the Treasury hereafter to be appropriated: *Provided,* That no money shall be paid out of the Treasury in pursuance of this resolution until the title to the aforesaid estates shall be properly certified by the United States district attorney for the district of Massachusetts.

APPROVED, March 12, 1868.

No. 23.—A Resolution to authorize the erection of a Military Storehouse at Fort Monroe, Virginia.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to grant permission to William H. Kimberly, Army and Navy contractor at Fort Monroe, Virginia, to rebuild the military storehouse recently destroyed by fire at that post, upon such conditions and under such restrictions as the Secretary of War shall deem compatible with the interests of the Government.

APPROVED, March 16, 1868.

No. 24.—Joint Resolution appointing Managers of the National Asylum for Disabled Soldiers, and for other purposes.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Erastus B. Walcott, of Wisconsin, John H. Martindale, of New York, and Hugh L. Bond, of Maryland, be, and hereby are, appointed managers of the National Asylum for Disabled Soldiers, under the provisions and conditions of the third section of an act approved March twenty-third, [first,] eighteen hundred and sixty-six, from the twenty-first of April, eighteen hundred and sixty-eight; and that Hugh L. Bond, of Maryland, be, and is hereby, appointed manager to serve out the unexpired term of Horatio G. Stebbins, of California, resigned.

SEC. 2. *And be it further resolved,* That the Secretary of War be authorized to furnish, from the captured ordnance, such ordnance with their implements as he may deem proper to the several national asylums for the purpose of firing salutes; and also such small arms and

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equipments as may be necessary for the purpose of guard duty at the asylums.

SCHUYLER COLFAX,
Speaker of the House of Representatives.

B. F. WADE,
President of the Senate pro tempore.

Indorsed by the PRESIDENT: "Received 12th March, 1868."

[NOTE BY THE DEPARTMENT OF STATE.—The foregoing resolution having been presented to the President of the United States for his approval, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.]

No. 25.—Joint Resolution requiring certain Moneys of the United States to be paid into the Treasury, and for other purposes.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all moneys which have been received by any officer or employ[e] of the Government, or any Department thereof, from sales of captured and abandoned property in the late insurrectionary districts, under or under color of the several acts of Congress providing for the collection and sale of such property, and which have not already been actually covered into the Treasury, shall immediately be paid into the Treasury of the United States, together with any interest which has been received or accrued thereon.

SEC. 2. *And be it further resolved,* That if any officer or person having the custody, possession or control of any money derived or arising from the sale or other disposition of any such property mentioned in the preceding section shall convert the same to his own use, or shall refuse or neglect for the space of thirty days next after the passage of this resolution to pay the same into the Treasury of the United States, or shall in anywise pay away or dispose of the same otherwise than by paying the same into the Treasury as aforesaid, shall be deemed and held guilty of embezzling the public money of the United States; and shall be punished therefor by imprisonment for a term of not more than ten years, and shall pay a fine equal to the sum so embezzled.

SEC. 3. *And be it further resolved,* That a sum of the proceeds of such sales not exceeding seventy-five thousand dollars is hereby appropriated for the payment of the necessary expenses incurred by or under the authority of the Secretary of the Treasury for incidental expenses in acting under the laws respecting the collection and disposition of captured and abandoned property, and for the necessary expenses of defending, in the discretion of the Secretary of the Treasury, such suits as have been brought against him or his agents in the premises, and for prosecuting suits in the United States for the recovery of such property, and for providing for the defense of the United States against suits for or in respect to such property in the Court of Claims.

APPROVED, March 30, 1868.

No. 28.—A Resolution for the appointment of a Commission to select suitable locations for Powder Magazines.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he hereby is, authorized and directed to select three competent officers of the Navy to constitute a commission, whose duty it shall be to examine and report upon the practicability of securing more suitable sites for powder magazines than those now

used in the vicinity of New York, Boston, and Portsmouth, New Hampshire; also to report the cost of procuring the said sites, and the probable expense of erecting magazines thereon.

APPROVED, May 19, 1868.

No. 30.—Joint Resolution concerning certain Lands granted to Railroad Companies in the States of Michigan and Wisconsin.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That a failure to grade twenty miles of the roads within two years from the passage of the act entitled "An act to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin," approved on the third day of March, anno Domini eighteen hundred and sixty-five, and twenty miles additional thereof in each year thereafter, as required by said act, shall not cause any forfeiture or reversion to the United States of any lands granted to the said States, or either of them, to aid in the construction of the railroads described: *Provided,* That said companies, or either of them, shall fully complete their said railroads in the manner required by law on or before the thirty-first December, anno Domini eighteen hundred and seventy-two, at which time a failure shall forfeit the lands to the United States: *Provided,* [That] the provisions of this section shall apply only to the chartered and projected line of railway from the city of Fond du Lac, in the State of Wisconsin, northerly to Escanaba, in the State of Michigan, and the chartered and projected line of railway from Marquette, in the State of Michigan, westerly to Ontonagon, in the same State: *And provided further,* That if the said Marquette and Ontonagon Railroad Company, in the State of Michigan, shall not have completed according to law ten additional miles of their railroad on or before the first day of January, A. D. eighteen hundred and sixty-nine, and shall not in like manner complete ten miles of said railroad in each and every year thereafter, then it shall be lawful for the Legislature of the said State of Michigan to declare the grant of lands to said company to be forfeited and to confer the said grant of lands upon some other company in the same manner as if the said grant was now for the first time made to the said State of Michigan.

SEC. 2. *And be it further resolved,* That the Commissioner of the General Land Office be, and he hereby is, authorized and directed to cause a patent, in due form of law, to be issued to the Chicago and Northwestern Railway Company, in pursuance of a resolution passed by Congress granting the same to the State of Wisconsin, approved April twenty-five, anno Domini eighteen hundred and sixty-two, and an act of the Legislature of Wisconsin, approved June sixteen, anno Domini eighteen hundred and sixty-two, granting the same to said company for eighty acres of land of the Fort Howard military reserve, as the same was surveyed and approved by said Commissioner on the eleventh June, anno Domini eighteen hundred and sixty-four.

APPROVED, May 20, 1868.

No. 31.—Joint Resolution in relation to the Breakwater at Portland, Maine.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the unexpended balance of the appropriation for the breakwater in Portland harbor, Maine, as the chief engineer shall deem proper, may be expended under his direction in excavating the "middle ground" near said breakwater, and in otherwise protecting the channel from injury by filling and improving the same.

APPROVED, June 5, 1868.

No. 32.—Joint Resolution to supply Books and Public Documents to the National Asylum for Disabled Volunteer Soldiers.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Senate and the Clerk of the House of Representatives *cause to be sent* to the National Asylum for Disabled Volunteer Soldiers, at Dayton, Ohio, and to the branches at Augusta, Maine, and Milwaukee, Wisconsin, and the Soldier's Home at Knightstown Springs, near Knightstown, Indiana, each, one copy each of the following documents, namely: the Journals of each House of Congress at each and every session; all laws of Congress; the annual messages of the President, with accompanying documents; and all other documents or books which may be printed and bound by order of either House of Congress, including the Congressional Globe; beginning with the Thirty-Seventh Congress.

APPROVED, June 8, 1868.

No. 33.—Joint Resolution to provide for the removal of a Suit pending in the Circuit Court of Jefferson County, West Virginia, to the Circuit Court of the United States.

Whereas a suit of ejectment is now pending in the circuit court of Jefferson county, in West Virginia, against the tenant in possession, to recover possession of the Harper's Ferry property, owned by the United States, and it is doubtful whether under any existing law of the United States the said suit can be removed to the circuit court of the United States: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the circuit court of the United States for the district of West Virginia, if in session, or of the judge thereof in vacation, on the application of the defendant in said suit, showing that the property sought to be recovered by the said suit is owned or claimed by the United States under color of title, and verifying the facts set out in such application by this [his] affidavit, to issue a writ by certiorari, directed to the said State court, directing it to send the record and proceedings in said suit to the said circuit court of the United States, a duplicate of which writ shall be delivered to the clerk of the said State court, or left at his office by the marshal of the said district, or his deputy or other person thereto duly authorized, and thereupon the said State court shall stay all further proceedings in said suit; and upon the return of the said writ, the said suit shall be docketed in the said circuit court of the United States, and there proceeded in according to law, and all further proceedings had therein in the said State court shall be null and void.

APPROVED, June 10, 1868.

No. 34.—Joint Resolution authorizing the Secretary of War to furnish Supplies to an Exploring Expedition.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and empowered to issue rations for twenty-five men of the expedition engaged in the exploration of the river Colorado, under direction of Professor Powell, while engaged in that work: *Provided,* That such issue is not detrimental to the interests of the military service.

APPROVED, June 11, 1868.

No. 37.—Joint Resolution requesting the President to intercede with her Majesty the Queen of Great Britain to secure the speedy Release of Reverend John McMahon, convicted on a charge of Treason-Felony, and now confined at Kingston, Canada West.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the

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United States be requested to intercede with her Majesty the queen of Great Britain and Ireland, for the purpose of securing the speedy release of the Reverend John McMahon, of Indiana, convicted on a charge of treason-felony at Toronto, Canada West, in the fall of eighteen hundred and sixty-six, and now confined in the State prison at Kingston, in said province.

APPROVED, June 19, 1868.

No. 38.—Joint Resolution authorizing certain Distilled Spirits to be turned over to the Surgeon General for the use of the Army Hospitals.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to deliver to the Surgeon General of the Army all the distilled spirits produced during the experiments made by the late commission for testing meters for the internal revenue service, to be used for the Army hospitals, and to be paid for at a reasonable cost out of any moneys appropriated for the purchase of Army hospital stores, the amount received to be applied toward the expenses of said commission.

APPROVED, June 25, 1868.

No. 39.—A Resolution authorizing a change of Mail Service between Fort Abercrombie and Helena.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General is hereby authorized to change the character of the mail service from Fort Abercrombie, Dakota Territory, to Helena, Montana Territory, to post coach service.

APPROVED, June 25, 1868.

No. 40.—Joint Resolution to provide for the Sale of the Site of Fort Covington, in the State of Maryland.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to sell in entirety or by subdivisions, at public auction to the highest bidder, after thirty days' notice in three daily newspapers in the city of Baltimore, one of which newspapers shall be published in the German language, a certain tract of land belonging to the United States, situate within the limits of the said city, on the Patapsco river, Maryland, known as the site of Fort Covington, containing about two and three quarters acres, more or less, with all the tenements, rights, and privileges pertaining thereto; and that the proceeds of such sale shall be paid into the Treasury of the United States.

APPROVED, June 25, 1868.

No. 41.—Joint Resolution directing the Secretary of State to present to George Wright, Master of the British Brig "J. and G. Wright," a Gold Chronometer, in appreciation of his personal services in saving the lives of three American Seamen, wrecked at sea on board of the American Schooner Lizzie F. Choate, of Massachusetts.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be, and he is hereby, authorized and directed to cause to be procured and presented to George Wright, master of the British brig "J. and G. Wright," of St. John, New Brunswick, a gold chronometer, in token of appreciation by the Government of the United State of his humane and successful efforts in rescuing from death three American seamen on board of the wreck of the American schooner Lizzie F. Choate, of Gloucester, Massachusetts, wrecked at sea

on the fourteenth of February, eighteen hundred and sixty-eight.

APPROVED, June 25, 1868.

No. 42.—Joint Resolution to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association damaged and captured Ordnance.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized, at his discretion, to place at the disposal of the "Lincoln Monument Association," incorporated by an act of Congress entitled "An act to incorporate the Lincoln Monument Association," approved March thirtieth, eighteen hundred and sixty-seven, such damaged and captured bronze and brass guns and ordnance, out of which to cast the statues of the principal figures surmounting and to be incorporated in said structure: *Provided,* That no metal as aforesaid shall be thus appropriated until the voluntary contributions for said purpose, actually in the hands of the treasurer, shall amount to one hundred thousand dollars; and no more metal shall be thus appropriated, than shall be actually used for the purpose of casting the figures as herein mentioned.

APPROVED, June 25, 1868.

No. 43.—Joint Resolution donating to the Washington City Orphan Asylum the Iron Railing taken from the old Hall of the House of Representatives.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there be donated to the Washington City Orphan Asylum the iron railing taken from the old Hall of the House of Representatives, now in the Capitol grounds: *Provided,* That the same shall be taken away in ten days after the passage of this joint resolution.

APPROVED, June 25, 1868.

No. 47.—Joint Resolution extending the Time for the completion of the Northern Pacific Railroad.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section eight of an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget sound, on the Pacific coast," is hereby so amended as to read as follows: That each and every grant, right, and privilege herein, are so made and given to and accepted by said Northern Pacific Railroad Company upon and subject to the following conditions, namely: that the said company shall commence the work on said road within two years from and after the second day of July, eighteen hundred and sixty-eight, and shall complete not less than one hundred miles per year after the second year thereafter, and shall construct, equip, furnish, and complete the whole road by the fourth day of July, anno Domini eighteen hundred and seventy-seven.

APPROVED, July 1, 1868.

No. 48.—A Resolution donating certain captured Ordnance for the completion of a Monument to the memory of the late Major General John Sedgwick.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and required to place in charge of Major General H. G. Wright, Major General Frank Wheaton, Major General George W. Getty, and Major General Truman Seymour, three bronze cannon, captured by the sixth Army corps in battle, for the construction of the statue of the late Major General John Sedgwick, to be placed on a

monument erected to his memory by the sixth corps of the Army of the Potomac.

APPROVED, July 8, 1868.

No. 49.—Joint Resolution relative to the pay of the Assistant Librarian of the House.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That for the present Congress, commencing therewith, the Clerk is directed to pay from the contingent fund of the House, to the assistant librarian in charge of the Hall library, the difference between his present pay and the pay of the file, printing, and engrossing clerks.

APPROVED, July 3, 1868.

No. 51.—Joint Resolution to correct an Act entitled "An Act for the Relief of certain Exporters of Rum."

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the word "and" where it occurs in said act after the word "export" and before the words "actually contracted" be changed to "or," so that the corrected act shall read "intended for export or actually contracted for."

APPROVED, July 6, 1868.

No. 52.—Joint Resolution in relation to the erection of a Bridge in Boston Harbor.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy shall detail two competent and impartial officers of the Navy, and the Secretary of War shall detail a competent and impartial officer of the engineer corps, who shall compose a commission, whose duty it shall be to make careful examination of the harbor of Boston, and shall report to Congress, at its next session, in what manner the commerce of said harbor and the interests of the United States in the navy-yard at Charlestown will be affected by the construction of a bridge over the water between the main land in the city of Boston and East Boston, in the manner provided in an act of the Legislature of the State of Massachusetts, entitled "An act to incorporate the Maverick Bridge Company;" and no bridge shall be erected by said company across said water until the assent of Congress shall be given thereto.

APPROVED, July 7, 1868.

No. 54.—A Resolution placing certain Troops of Missouri on an equal footing with others as to Bounties.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the troops recognized in an act entitled "An act making appropriations for completing the defenses of Washington, and for other purposes," approved February thirteenth, eighteen hundred and sixty-two, be, and are hereby, considered as placed on an equal footing with the volunteers as to bounties, and that all laws relating to bounties be applicable to them as to other volunteers.

APPROVED, July 13, 1868.

No. 55.—A Resolution in relation to the Maquoketa River, in the State of Iowa.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the assent of Congress is given to the construction of bridges across the Maquoketa river, in the State of Iowa, with or without draws, as may be provided by the laws of the State of Iowa.

SEC. 2. *And be it further resolved,* That dams and bridges may be constructed across the Iowa river, in the State of Iowa, above the town of Wapello.

APPROVED, July 13, 1868.

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No. 56.—Joint Resolution to extend the Time for the completion of the West Wisconsin Railroad.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the time fixed and limited by an act entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin," approved May five, eighteen hundred and sixty-four, for the completion of the railroad from Tomah, in the county of Monroe, to Saint Croix river or lake, between townships twenty-five and thirty-one, be, and the same is hereby, further extended for a period of three years to the West Wisconsin Railroad Company, a corporation established by the laws of the State of Wisconsin, and which, by the law of said State, is entitled to the land grant made in the second section of said act: *Provided,* That if said railway company shall not have completed said railroad from Tomah to Black River Falls on or before the expiration of one year from the passage of this resolution, this act shall be null and void.

APPROVED, July 13, 1868.

No. 58.—A Resolution excluding from the Electoral College Votes of States lately in Rebellion, which shall not have been reorganized.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That none of the States whose inhabitants were lately in rebellion shall be entitled to representation in the Electoral College for the choice of President or Vice President of the United States, nor shall any electoral votes be received or counted from any of such States, unless at the time prescribed by law for the choice of electors the people of such States, pursuant to the acts of Congress in that behalf, shall have, since the fourth day of March, eighteen hundred and sixty-seven, adopted a constitution of State government under which a State government shall have been organized and shall be in operation, nor unless such election of electors shall have been held under the authority of such constitution and government, and such State shall have also become entitled to representation in Congress, pursuant to the acts of Congress in that behalf: *Provided,* That nothing herein contained shall be construed to apply to any State which was represented in Congress on the fourth day of March, eighteen hundred and sixty-seven.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

IN SENATE OF THE UNITED STATES,
July 20, 1868.

The President of the United States having returned to the Senate, in which it originated, the bill entitled "A resolution excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized," with his objections thereto, the Senate proceeded, in pursuance of the Constitution, to reconsider the same; and

Resolved, That the said bill do pass, two thirds of the Senate agreeing to pass the same.

Attest: GEO. C. GORHAM,
Secretary of the Senate.

IN THE HOUSE OF REPRESENTATIVES,
July 20, 1868.

The House of Representatives having proceeded, in pursuance of the Constitution, to reconsider the bill entitled "A resolution excluding from the Electoral College votes of States lately in rebellion which shall not have been reorganized," returned to the Senate by the President of the United States, with his

objections, and sent by the Senate to the House of Representatives, with the message of the President returning the bill—

Resolved, That the bill do pass, two thirds of the House of Representatives agreeing to pass the same.

Attest:

EDWD. McPHERSON, *Clerk.*

No. 59.—A Resolution authorizing the Secretary of the Treasury to issue an American Register to the British-built Brig Highland Mary.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to issue an American register to the British-built brig Highland Mary, owned by H. and S. French, of Sag Harbor, New York.

APPROVED, July 20, 1868.

No. 60.—Joint Resolution in relation to the Rock Island Bridge.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the act of Congress "making appropriations for the support of the Army for the year ending June thirty, eighteen hundred and sixty-eight, and for other purposes," approved March two, eighteen hundred and sixty-seven, be, and the same is hereby, so amended as to authorize and direct the Secretary of War to order the commencement of work on the bridge over the Mississippi river at Rock Island, to connect the said island with the cities of Davenport and Rock Island: *Provided,* That the ownership of said bridge shall be and remain in the United States, and the Rock Island and Pacific Railroad Company shall have the right of way over said bridge for all purposes of transit across the island and river, upon condition that the said railroad company shall pay to the United States, first, half of the cost of the superstructure of the bridge over the main channel and half the cost of keeping the same in repair, and shall also build at its own cost the bridge over that part of the river which is on the east side of the island of Rock Island, and also the railroad on and across said island of Rock Island; and upon a full compliance with these conditions said railroad company shall have the use of said bridge for the purposes of free transit, but without any claim to the ownership thereof; and said railroad company shall, within six months after said new bridge is ready for use, remove their old bridge from the river and their railroad track from its present location on the island of Rock Island: *And provided further,* That the Government may permit any other road or roads wishing to cross on said bridge to do so by paying to the parties then in interest the proportionate cost of said bridge, but no such permission to other roads shall impair the right hereby granted to the Chicago, Rock Island and Pacific Railroad Company; and that the total cost of said bridge shall not exceed the estimates made by the commissioners appointed under the act approved June twenty-seven, eighteen hundred and sixty-six: *And provided also,* That in no case shall the expenditure on the part of the United States exceed one million dollars.

SEC. 2. *And be it further resolved,* That in case the Rock Island and Pacific Railroad Company shall neglect or fail, for sixty days after the passage of this resolution, to make and guaranty the agreement specified in the act of appropriation aforesaid, approved March second, eighteen hundred and sixty-seven, then the Secretary of War shall be, and is hereby, authorized and required to direct the removal of the existing bridge and to direct the construction of the bridge aforesaid, and expend the money appropriated for that purpose in said act; and the

said Rock Island and Pacific Railroad Company shall not have, acquire, or enjoy any right of way, or privilege thereon, or the use of said bridge, until the agreement aforesaid shall be made and guarantied according to the terms and conditions of said act of appropriation. All acts or parts of acts inconsistent with these resolutions are hereby repealed.

SEC. 3. *And be it further resolved,* That any bridge built under the provisions of this resolution shall be constructed so as to conform to the requirements of section two of an act entitled "An act to authorize the construction of certain bridges, and to establish them as post roads," approved July twenty-fifth, eighteen hundred and sixty-six.

APPROVED, July 20, 1868.

No. 61.—Joint Resolution directing the Secretary of War to sell damaged or unserviceable Arms, Ordnance, and Ordnance Stores.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to cause to be sold, after offer at public sale on thirty days' notice, in such manner and at such times and places, at public or private sale, as he may deem most advantageous to the public interest, the old cannon, arms, and other ordnance stores now in possession of the War Department which are damaged or otherwise unsuitable for the United States military service, or for the militia of the United States, and to cause the net proceeds of such sales, after paying all proper expenses of sale and transportation to the place of sale, to be deposited in the Treasury of the United States.

APPROVED, July 20, 1868.

No. 62.—Joint Resolution authorizing the Issue of Clothing to Company F, eighteenth Regiment United States Infantry.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to issue to the thirty-three enlisted men of company F, eighteenth regiment U. S. infantry, clothing in lieu of, and equal in amount to, that lost by them in crossing the North Platte river, in June, eighteen hundred and sixty-six, as shown and recommended in the report of the board of survey convened under special order number three, headquarters post Fort Bridger, Utah, of date of January twenty-fourth, eighteen hundred and sixty-seven.

APPROVED, July 20, 1868.

No. 63.—Joint Resolution to grant [an] American Register to Hawaiian Brig Victoria.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to issue [an] American register to the derelict Hawaiian brig Victoria, said vessel being now owned by a citizen of San Francisco, California.

APPROVED, July 20, 1868.

No. 64.—Joint Resolution exonerating certain Vessels of the United States from the Payment of Tonnage Fees to Consular Agents in Canada.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter no consul or consular agent of the United States shall exact tonnage fees from any vessel of the United States touching at or near ports in Canada, on her regular voyage from one port to another within the United States, unless said consul or consular agent shall perform some official services, required by law, for such ves-

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sel when she shall thus touch at a Canadian port.

APPROVED, July 20, 1868.

No. 67.—Joint Resolution to Admit, free of Duty, certain Statuary.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the statue representing the figure of Victory, intended to surmount the monument in memory of the Pennsylvania soldiers who fell in the Mexican war, now about being erected on the capitol grounds at Harrisburg, being in marble cut in Italy, and which will soon be ready for shipment, shall be admitted free of duty.

APPROVED, July 23, 1868.

No. 68.—Joint Resolution admitting Steam Plows free of Duty for one year from June thirtieth, eighteen hundred and sixty-eight.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of section two of the joint resolution approved March twenty-six, A. D. eighteen hundred and sixty-seven, respecting the importation of agricultural machinery free of duty, be, and the same is hereby, extended and shall continue in force for the further period of one year from the thirtieth day of June, A. D. eighteen hundred and sixty-eight, and that any such machinery shipped before the said thirtieth day of June, eighteen hundred and sixty-eight, or which may have arrived since that day, be exempt from duty.

APPROVED, July 23, 1868.

No. 69.—Joint Resolution to amend the fourteenth section of the Act approved July twenty-eighth, eighteen hundred and sixty-six, entitled "An Act to protect the Revenue, and for other purposes."

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the fourteenth section of the act approved July twenty-eighth, eighteen hundred and sixty-six, entitled "An act to protect the revenue, and for other purposes," be, and the same is hereby, so amended as to extend the operation thereof until January first, eighteen hundred and sixty-nine.

APPROVED, July 23, 1868.

No. 72.—A Resolution to carry into effect the Resolution approved March two, eighteen hundred and sixty-seven, providing for the exchange of certain Public Documents.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congressional Printer, whenever he shall be so directed by the joint Committee on the Library, be, and he hereby is, directed to print fifty copies, in addition to the regular number, of all documents hereafter printed by order of either House of Congress, or by order of any Department or bureau of the Government, and whenever he shall be so directed by the joint Committee on the Library, one hundred copies additional of all documents ordered to be printed, in excess of the usual number; said fifty or one hundred copies to be delivered to the Librarian of Congress, to be exchanged, under direction of the joint Committee on the Library, as provided by joint resolution approved March two, eighteen hundred and sixty-seven.

SEC. 2. *And be it further resolved,* That fifty copies of each publication printed under direction of any Department or bureau of the Government, whether at the Congressional Printing Office or elsewhere, shall be placed at the disposal of the joint Committee on the Library to carry out the provisions of said resolution.

APPROVED, July 25, 1868.

No. 73.—A Resolution granting permission to Officers and Soldiers to wear the Badge of the Corps in which they served during the Rebellion.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all who served as officers, non-commissioned officers, privates, or other enlisted men in the regular Army, volunteer, or militia forces of the United States during the war of the rebellion, and have been honorably discharged from the service or remain still in the same, shall be entitled to wear, on occasions of ceremony, the distinctive Army badge ordered for or adopted by the Army corps and division, respectively, in which they served.

APPROVED, July 25, 1868.

No. 74.—A Resolution to Admit certain Persons to the Naval Academy.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he is hereby, authorized to receive for instruction at the Naval Academy, Annapolis, not exceeding six persons, to be designated by the Government of the empire of Japan: *Provided,* That no expense shall thereby accrue to the United States: *And provided further,* That the Secretary of the Navy may, in the case of the said persons, modify or dispense with any provisions of the rules and regulations of the said Academy which circumstances may, in his opinion, render necessary or desirable.

APPROVED, July 27, 1868.

No. 75.—A Resolution relative to Lighting the Streets of Washington City, District of Columbia.

Whereas the municipal authorities of the city of Washington have failed to carry out the arrangements for lighting the streets of said city, in accordance with the provisions of an act entitled "An act making appropriations for sundry civil expenses of the Government," approved July twenty-eighth, eighteen hundred and sixty-six: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the mayor and city councils of the city of Washington be, and they are hereby, authorized and directed to levy and collect a tax from the property holders of the city of Washington sufficient to defray the expenses of lighting the avenue and street lamps of said city with six-foot burners twenty-one nights in each month, from dark until daylight, and keep said lamps so lighted each year.

SEC. 2. *And be it further resolved,* That the mayor and city councils of the city of Washington be, and they are hereby, authorized to contract with the Washington Gas-Light Company for the term of one year, and so from year to year until otherwise provided by law, at such rates as may be agreed upon not exceeding the maximum now fixed by law, for all the illuminating gas required for the avenue and street lamps and public offices of the city and public grounds under the control of said city.

SEC. 3. *And be it further resolved,* That the mayor and city councils of the city of Washington be, and they are hereby, authorized and directed to increase from time to time, as the public good may require, the number of street lamps on any of the streets, lanes, alleys, public ways, and grounds, in the city of Washington, and to do any and all things pertaining to the well lighting of the city, and to levy and collect a tax from the property holders therefor.

SEC. 4. *And be it further resolved,* That in the event of the failure of the mayor and city councils to levy and collect the tax herein authorized, or to light the said city as herein directed, then the Secretary of the Interior be,

and he is hereby, authorized and directed to levy a tax upon the property of said city, and to collect the same, sufficient to light said city for the current year, and so from year to year, in case of such failure of said mayor and city councils to light as herein directed, and to fully execute the provisions of this joint resolution in the place and stead of the said mayor and city councils.

SEC. 5. *And be it further resolved,* That nothing herein contained shall be construed to relieve the said Washington Gas-Light Company from paying the internal revenue tax imposed by law.

APPROVED, July 27, 1868.

No. 76.—Joint Resolution in relation to Surveys and Examinations of Rivers and Harbors.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War shall cause to be prepared and submitted to Congress, in connection with the reports of examinations and surveys of rivers and harbors hereafter made by order of Congress, full statements of all existing facts tending to show to what extent the general commerce of the country will be promoted by the several works of improvements contemplated by such examinations and surveys, to the end that public moneys shall not be applied excepting where such improvements shall tend to subserve the general commercial and navigation interests of the United States.

APPROVED, July 27, 1868.

No. 77.—Joint Resolution relative to Printing Specifications of Patents.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That no bills be paid by the Treasury for printing specifications of patents above the contract price, except that seventy cents may be added to each thousand words for the additional cost of composition occasioned by change made in the printing by order of the Commissioner of Patents.

APPROVED, July 27, 1868.

No. 78.—Joint Resolution for the Donation of certain Columns.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized to donate to such cemeteries as *as* have been in whole or in part dedicated to the burial of soldiers or sailors who lost their lives in defense of the United States, or to such voluntary associations of citizens as contributed to the comfort and wants of these patriots while living, the six columns taken from the old Pennsylvania Bank building, in the city of Philadelphia: *Provided,* That but one column shall be donated to such cemetery or association in any one State, and that the same shall be used as a monument.

APPROVED, July 27, 1868.

No. 79.—Joint Resolution authorizing the Secretary of War to furnish Cannon to Soldiers' Monument Associations of Pequannock and Paterson, N. J.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be authorized to furnish to the Soldiers' Monument Associations of the township of Pequannock, Morris county, N. J., and Paterson, Passaic county, N. J., each four pieces of condemned cannon, and twenty balls, in all eight pieces of cannon and forty balls, to be placed about the said monuments.

APPROVED, July 27, 1868.

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No. 80.—Joint Resolution giving the Assent of the United States to the Construction of certain Wharves in the Harbor of Oswego, New York.

Whereas the common council of the city of Oswego, in the State of New York, by resolutions unanimously adopted April seventh, eighteen hundred and sixty-eight, and May twelfth, eighteen hundred and sixty-eight, in pursuance of the authority granted them by the Legislature of New York in the charter of said city, have given permission to the owners of lots eleven and twelve, also of lots thirteen, fourteen, eighty-one, and eighty-two, and of lots fifteen, sixteen, seventeen, and eighteen, in fortification block number two, in the first ward of said city, to construct wharves in front of said lots, seventy feet in width, and extending northerly so that the north end of said wharves may be on a line with the north line of the Ontario elevator pier, but not less than two hundred and fifty feet distant from the nearest point of the United States pier, which wharves will extend into the navigable waters of said harbor: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the assent of the United States be, and the same is hereby, given, so far as Congress has power to give the same, to the owners of the lots above mentioned, to construct said wharves in accordance with the terms of said resolutions, subject, however, to the approval of the engineer department of the Army.

APPROVED, July 27, 1868.

No. 81.—A Resolution to drop from the Rolls of the Army certain Officers absent without authority from their Commands.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following-named

officers of the Army reported by the Secretary of War absent from their commands without authority, be, and they are hereby, dropped from the rolls, with loss of all pay and allowances, viz.: First Lieutenant D. H. Weiland, sixth infantry; First Lieutenant H. H. Lanty, fourth infantry; First Lieutenant A. J. McDonald, fifth artillery; First Lieutenant Richard Wilson, third artillery; Second Lieutenant J. W. Godman, sixth infantry; Second Lieutenant Guy Morrison, tenth infantry. This resolution to take effect from the dates at which they absented themselves from their regiments.

APPROVED, July 27, 1868.

No. 82.—A Resolution *Joint Resolution* Appealing to the Turkish Government in behalf of the People of Crete.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the people of the United States renew the expression of their sympathy with the suffering people of Crete, to whom they are bound by the ties of a common religion and by the gratitude due to the Greek race, of which the Cretans are a part; that they rejoice to believe that the sufferings of this interesting people may be happily terminated by a policy of forbearance on the part of the Turkish Government, and they hereby declare their earnest hope that the Turkish Government will listen kindly to this representation, and will speedily adopt such generous steps as will secure to Crete the much-desired blessings of peace and the advantages of autonomic government.

SEC. [2.] *And be it further resolved, That religion, civilization, and humanity require that the existing contest in Crete should be brought to a close, and to accomplish this result the civilized Powers of the world should unite in friendly influence with the Government of Turkey.*

SEC. [3.] *And be it further resolved, That it shall be the duty of the President to instruct the minister of the United States at Constantinople to coöperate with the ministers of other Powers in all good offices to terminate the sufferings of the people of Crete; and that it shall be the further duty of the President to communicate a copy of this resolution to the Government of Turkey.*

APPROVED, July 27, 1868.

No. 83.—Joint Resolution to aid in Relieving from Peonage Women and Children of the Navajo Indians.

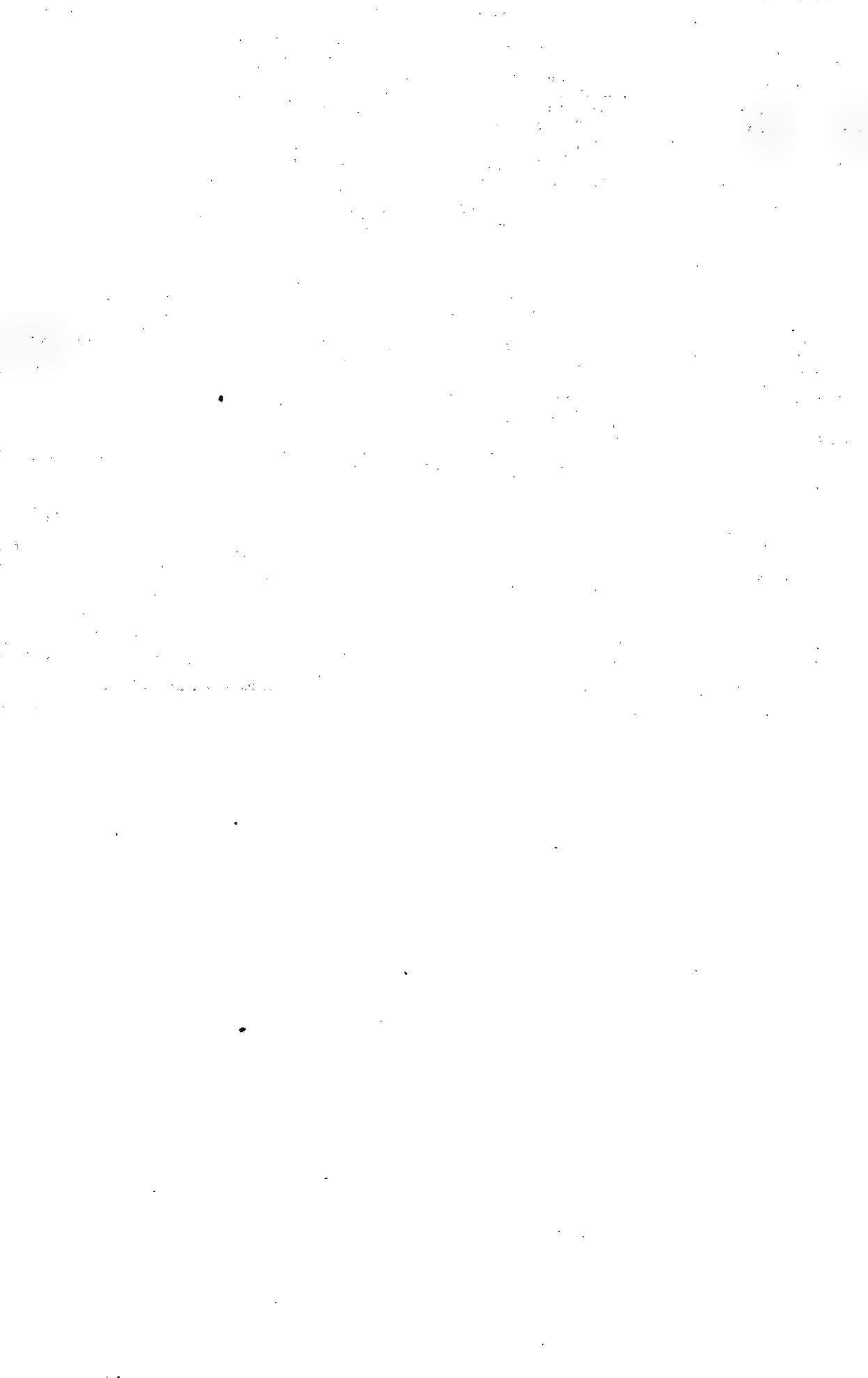
Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Lieutenant General W. T. Sherman be, and is hereby, authorized and requested to use the most efficient means his judgment will approve to reclaim from peonage the women and children of the Navajo Indians, now held in slavery in the territory adjacent to their homes and the reservation on which the Navajo Indians have been confined.

APPROVED, July 27, 1868.

No. 84.—Joint Resolution relative to the Pay of the Chief Clerk in the Office of the Sergeant-at-Arms of the House.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Clerk is directed to pay from the contingent fund of the House to the chief clerk in the office of the Sergeant-at-Arms the difference between his present pay and the amount voted him by a resolution of the House, passed June twenty-fifth, eighteen hundred and sixty-six, thereby fixing the salary of the clerk in the office of the Sergeant-at-Arms at twenty-five hundred dollars per annum.

APPROVED, July 27, 1868.



PRIVATE ACTS OF THE FORTIETH CONGRESS

OF THE

UNITED STATES,

Passed at the Second Session, which was begun and held at the City of Washington, in the District of Columbia, on Monday, the 2d day of December, A. D. 1867; was adjourned on Monday, the 27th day of July, A. D. 1868, to meet on Monday, the 21st day of September; met on said 21st day of September, and adjourned to meet on Friday, the 16th day of October; met on said 16th day of October, and adjourned to meet on Tuesday, the 10th day of November; met on said 10th day of November, 1868, and ended the same day.

ANDREW JOHNSON, President. BENJAMIN F. WADE, President of the Senate. SCHUYLER COLFAX, Speaker of the House of Representatives.

CHAP. IV.—An Act for the Relief of Orlaf E. Drentzer, late Consul of the United States to the Kingdom of Norway.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby directed, out of any money in the Treasury not otherwise appropriated, to pay Orlaf E. Drentzer, late consul to Bergen, eight hundred and thirty-seven dollars and forty-seven cents, in coin, for consular salary from the fourth day of November, eighteen hundred and sixty-five, to the twenty-fourth day of May, eighteen hundred and sixty-six, less the amount of consular fees received by him during that time.

APPROVED, January 11, 1868.

CHAP. XII.—An Act for the Relief of Captain C. P. Johnson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized and directed to pay to C. P. Johnson, late a captain in the seventeenth Iowa infantry, the amount by law allowed to a captain of infantry in the regular Army, upon the retired list, said pay to commence from the time of his muster out from the said seventeenth Iowa infantry.

APPROVED, February 21, 1868.

CHAP. XIV.—An Act for the Relief of Horace Smith and D. B. Wesson, or their Assigns.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Horace Smith and D. B. Wesson, or their assigns, have leave to make application to the Commissioner of Patents for an extension of the letters-patent for improvement in repeating fire-arms issued to said Horace Smith and D. B. Wesson for the term of fourteen years from the fourteenth day of February, eighteen hundred and fifty-four, and reissued on the tenth day of October of the same year, in the same manner as if the petition for said extension had been filed at least ninety days prior to the expiration of said patent; and that the Commissioner be authorized to consider and determine said application in the same manner as if it had been filed ninety days before the expiration of the said patent.

APPROVED, February 25, 1868.

CHAP. XVIII.—An Act for the Relief of the Heirs of the late Major General I. B. Richardson, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of four hundred dollars to Mrs. Frances S. Richardson, widow of the late Major General I. B. Richardson, deceased, in trust for Israel P. Richardson, minor child and heir of said Richardson, deceased; the same being in full compensation for one mule and four horses stolen from deceased in the year eighteen hundred and fifty-two by the Apache Indians, while he was on duty in New Mexico as an officer of the United States Army.

APPROVED, March 2, 1868.

CHAP. XXIII.—An Act for the Relief of John H. Ellis, a Paymaster in the United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury Department be, and they are hereby, required to allow Major John H. Ellis, on settlement of his accounts, a credit of thirty-six hundred and seventy-three dollars and ninety-one cents, being the amount lost in consequence of the larceny of nineteen thousand and ninety-three dollars and ninety-one cents of the public money stolen from the custody of said Ellis, at Fort Leavenworth, Kansas, on the night of the first day of January, eighteen hundred and sixty-six, if, on examining the accounts of the said Ellis, the Paymaster General shall deem said Ellis justly entitled to said credit, and shall certify his approval thereof.

APPROVED, March 9, 1868.

CHAP. XXVIII.—An Act for the Relief of the Legal Representatives of the late Philip R. Fendall.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the legal representatives of

the late Philip R. Fendall, for labor performed in editing the writings of James Madison, out of any moneys in the Treasury not otherwise appropriated, the sum of twenty-one hundred dollars.

APPROVED, March 12, 1868.

CHAP. XXXII.—An Act to authorize Charles Grafton Page to apply for and receive a Patent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Patents is hereby authorized to receive and entertain a renewal of the application of Charles Grafton Page for letters-patent for his "induction apparatus and circuit breakers," now on file in the United States Patent Office, including therewith his circuit breakers, described by him prior to said application, and that if the Commissioner shall adjudge the said Page to have been the first inventor thereof, he shall issue to him a patent, which patent shall be valid, notwithstanding said Page's invention may have been described or in use prior to said application, and notwithstanding the fact that said Page is now an examiner in the United States Patent Office: *Provided,* That any person in possession of said apparatus prior to the date of said patent shall possess the right to use, and vend to others to use, the said specific apparatus in his possession without liability to the inventor, patentee, or any other person interested in said invention or patent therefor.

APPROVED, March 19, 1868.

CHAP. XXXIII.—An Act for the Relief of the Heirs of the late General Duncan L. Clinch, deceased.

Whereas Eliza B. Anderson, wife of Major General Robert Anderson, and daughter and heir-at-law of the late General Duncan L. Clinch, deceased, has an equitable claim, in her own right and to the exclusion of all other heirs of said Clinch, against the Government of the United States, they having released all demands in the premises; and whereas the family of the said Robert Anderson need for their support the amount which she may be entitled to: *Now, therefore,* in consideration of the premises, and in consideration of the dis-

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tinguished services of the said Major General Robert Anderson and his permanent disability:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of fifteen thousand dollars to Lars Anderson in trust for the exclusive use of the said Eliza B. Anderson during her lifetime; and any part thereof remaining at her death to be held in trust for her children in full satisfaction of the claim against the United States of the said Eliza B. Anderson, for and on account of any demand of the late Duncan L. Clinch, deceased.

APPROVED, March 19, 1868.

CHAP. XXXIX.—An Act for the Relief of Henry Greathouse and Samuel Kelly.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Postmaster General be, and he is hereby, authorized and directed to adjust and settle the claim of Henry Greathouse and Samuel Kelly, for carrying the mails of the United States on route numbered sixteen thousand and one, from Placerville to Idaho City, and route sixteen thousand and two, from Payettville to Placerville, in the Territory of Idaho, from July first, eighteen hundred and sixty-four, to July first, eighteen hundred and sixty-five, and to award and pay to the said Henry Greathouse and Samuel Kelly for said service such sum as may be in accordance with the principles of equity and justice: *Provided,* That the amount to be so allowed shall not exceed eight thousand dollars.

APPROVED, March 30, 1868.

CHAP. XL.—An Act for the Relief of William Shunk.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid to William Shunk, out of any money in the Treasury not otherwise appropriated, the sum of six hundred and twenty-five dollars, being that amount due from the United States to E. C. Shunk, late postmaster at Cardington, Ohio, for salary as postmaster from January first, eighteen hundred and sixty-four, to March thirty-first, eighteen hundred and sixty-five.

APPROVED, March 30, 1868.

CHAP. XLII.—An Act refunding Duties paid under protest on the importation from France of a Bell donated to the use of St. Mary's Institute and Notre Dame University, Indiana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to refund to Reverend Edward Sorin, out of any money in the Treasury not otherwise appropriated, the amount of duties paid by him under protest to the collector of the port of New York in eighteen hundred and sixty-seven, on a bell donated and imported from France for the use of St. Mary's Institute and Notre Dame University, institutions incorporated by the State of Indiana for philosophical and literary purposes.

APPROVED, April 11, 1868.

CHAP. XLIV.—An Act providing for the Restoration of Lieutenant Commander Trevett Abbott, of the United States Navy, to the Active List of the Navy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy be, and he hereby is, empowered and directed to order Trevett Abbott, lieutenant commander in the United States Navy, on the

retired list, before the the retiring board of the Navy for examination; and should the said Trevett Abbott be pronounced by the said board morally, professionally, and personally competent for active service, the Secretary of the Navy is authorized to restore the said Abbott to the active list of the Navy, with the same grade as if he had not been retired.

APPROVED, May 19, 1868.

CHAP. XLV.—An Act for the Relief of John S. Cunningham, Paymaster United States Navy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Government be, and they hereby are, authorized and directed, in the settlement of the accounts of John S. Cunningham, paymaster United States Navy, to allow a credit to him of sixteen hundred and seventy-one dollars and seven cents, the amount of public money stolen from the money-chest of the United States frigate Colorado, while said chest was under his charge.

APPROVED, May 19, 1868.

CHAP. XLVII.—An Act for the Relief of Charles E. Capehart.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Paymaster General of the Army of the United States is hereby authorized and directed, out of any moneys in his possession appropriated for the payment of the Army, to pay to Charles E. Capehart, late captain of company A, of the first regiment of West Virginia cavalry volunteers, the pay and allowances of a captain of cavalry from the second day of July, eighteen hundred and sixty-two, to the first day of March, eighteen hundred and sixty-three, after deducting from the amount of said pay and allowances any sums of money heretofore paid said Capehart by the pay department for his services for that time: *Provided,* That the said Capehart present the usual certificates required by the rules of the pay department upon final payment of volunteer officers.

APPROVED, May 20, 1868.

CHAP. LVI.—An Act for the Relief of George Lynch, a Soldier of the War of eighteen hundred and twelve.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to allow and pay to George Lynch, a soldier of the war of eighteen hundred and twelve, a pension at the rate of twenty dollars per month, in lieu of the pension of eight dollars per month now received by him, to commence from and after the passage of this act, and to continue during his natural life.

APPROVED, June 8, 1868.

CHAP. LVII.—An Act for the Relief of Thomas McLean.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Thomas McLean be, and he is hereby, authorized to enter and purchase so much of lot number one hundred and twenty-four as has not been disposed of in the Stockbridge reservation, in the county of Calumet, and State of Wisconsin, used and occupied by him, at the price stipulated in the third section of the act of third March, eighteen hundred and sixty-five, providing for the disposal of said reservation, and receive a patent therefor, the said McLean having cultivated and occupied the same for a long series of years.

APPROVED, June 11, 1868.

CHAP. LVIII.—An Act granting a Pension to Bridget W. McGrorty, and the minor children of William B. McGrorty, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place the name of Bridget W. McGrorty, of Saint Paul, Minnesota, widow of William B. McGrorty, deceased, late a first lieutenant and regimental quartermaster in the fifth regiment Minnesota volunteers, on the pension-roll, at the rate of seventeen dollars per month, to commence from the sixteenth day of February, eighteen hundred and sixty-five, and to continue during her widowhood, and two dollars per month to each child of said William B. McGrorty, under the age of sixteen years, to commence from the twenty-fifth day of July, eighteen hundred and sixty-six, and to continue until they shall respectively attain the age of sixteen years.

APPROVED, June 11, 1868.

CHAP. LIX.—An Act granting a Pension to Sarah Webb, widow of William R. Webb, and her minor child.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place the name of Sarah Webb, widow of William R. Webb, a private in company K, first regiment Tennessee infantry volunteers, on the pension-roll, and to pay her at the rate of eight dollars per month, to commence from the fourteenth day of May, eighteen hundred and sixty-three, to continue during her widowhood, and the additional sum of two dollars per month for the minor child of said William R. Webb, to commence from the twenty-fifth day of July, eighteen hundred and sixty-six, and to continue until the said child shall have attained the age of sixteen years.

APPROVED, June 11, 1868.

CHAP. LX.—An Act granting a Pension to Mary Atkinson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place on the pension-roll the name of Mary Atkinson, mother of Andrew B. Atkinson, late a quartermaster in the United States Navy, who died in the service of the United States and in the line of duty, and allow and pay her a pension at the rate of twenty dollars per month, to commence from the passage of this act, and to continue during her natural life; said pension to be paid out of the naval pension fund.

APPROVED, June 11, 1868.

CHAP. LXII.—An Act to remove Political Disabilities from Roderick R. Butler, of Tennessee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all legal and political disabilities imposed by the United States upon Roderick R. Butler, of Tennessee, in consequence of participation in the recent rebellion, be, and the same are hereby, removed. And the said Butler, on entering upon the discharge of the duties of any office to which he has been or may be elected or appointed, instead of the oath prescribed by the act of July two, eighteen hundred and sixty-two, shall take and subscribe the following oath: I, Roderick R. Butler, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental

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reservation or purpose of evasion, and that I will faithfully discharge the duties of the office on which I am about to enter, so help me God.

APPROVED, June 19, 1868.

CHAP. LXIII.—An Act granting a Pension to Sherman H. Cowles.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place the name of Sherman H. Cowles, late a private in company E, nineteenth regiment Connecticut volunteers, on the pension-roll, at the rate of eight dollars per month, to commence from the eighteenth day of May, eighteen hundred and sixty-three, and to continue during his natural life.

APPROVED, June 19, 1868.

CHAP. LXIV.—An Act granting a Pension to Caroline E. Thomas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place the name of Caroline E. Thomas on the pension-roll, and allow and pay her a pension at the rate of eight dollars per month from and after the passage of this act.

APPROVED, June 19, 1868.

CHAP. LXV.—An Act granting a Pension to James A. Guthrie.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place on the pension-rolls the name of James A. Guthrie, of Iowa, who was a private in company A, sixteenth regiment Illinois volunteers, in the war with Mexico, and allow and pay him a pension at the rate of fifteen dollars per month from the sixth day of June, eighteen hundred and sixty-six, to continue during his natural life.

APPROVED, June 19, 1868.

CHAP. LXVI.—An Act granting a Pension to Caroline and Margaret Swartwout.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place upon the pension-rolls the names of Caroline and Margaret Swartwout, sisters of Samuel Swartwout, late a commodore in the Navy of the United States, and to pay to them, or the survivor of them, a pension at the rate of thirty dollars per month from the fifteenth day of February, in the year eighteen hundred and sixty-seven, during their joint lives and the life of the survivor.

APPROVED, June 19, 1868.

CHAP. LXVII.—An Act granting a Pension to Michael Kelly.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place the name of Michael Kelly, late a private in the first Vermont battery volunteers, on the pension-roll, at the rate of fifteen dollars per month, to commence from and after the passage of this act, and to continue during his natural life.

APPROVED, June 19, 1868.

CHAP. LXVIII.—An Act granting a Pension to Bartlet and Carrie Edwards, children of David W. Edwards, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to

place upon the pension-roll the names of Bartlet and Carrie Edwards, children under sixteen years of age of David W. Edwards, deceased, and to allow and pay to them or their legally appointed guardian or guardians a pension at the rate of fifteen dollars per month from the thirteenth day of October, eighteen hundred and sixty-four, until they shall respectively attain the age of sixteen years.

APPROVED, June 19, 1868.

CHAP. LXXXIII.—An Act to Relieve from Disabilities certain Persons in States lately in Rebellion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of each House concurring therein,) That all legal disabilities imposed by the United States upon the following-named citizens of North Carolina in consequence of participation in the recent rebellion be, and the same are hereby, removed, namely:

Franklin county: A. M. Timberlake, W. S. Harris, E. A. Crudup, and Green H. Grupton.

Wake county: William H. Harrison, Willie D. Jones, Albert Johnson, Jacob Sorrell, Hilliard J. Smith, C. L. Harris, and W. R. Richardson.

Pitt county: Joseph Staten, Lewis Hilliard, Charles J. O'Hagan, Calvin Cox, James C. Langley, and Charles Roundtree.

Halifax county: Charles N. Webb, John O'Brien, John T. Gregory, George W. Owens, John A. Reed, and J. T. Evans.

Beaufort county: Samuel T. Carrow, Hiram E. Stille, William B. Rodman, George L. Windley, Howard Wiswall, Edmund Hodges, Luther Ruff, Jesse G. Bryan, Edward J. Warren, Edward S. Hoyt, Samuel Windley, John B. Respass, Henry Hodges, Jesse Robason, William A. Blount.

New Hanover county: David Bunting, Edward Kidder, Silas N. Martin, James H. Chadbourne, George Hooper, James Alderman, L. H. Bowden, and George Chadbourne.

Stanley county: Joseph Marshall, James E. Malden, Dumas Coggins, Daniel Richey, Lafayette Green, Allen Burris, Franklin A. Lafton, and John A. Morton.

Davidson county: Evander Davis, Emory Davis, Ephraim Hampton, Green H. Lee, David Loftin, Willis Cecil, and Henderson Adams.

Person county: John D. Wilkerson.

Caldwell county: Lloyd T. Jones, William M. Barber, A. W. Austin, Samuel McCall, Washington Moore, James M. Barber, Robert B. Bogle, and Hosea Bradford.

Wilson county: George W. Blount, Newett D. Owens, William D. Farmer, John Wilkinson, and Francis W. Taylor.

Forsyth county: Joseph S. Phipps, John G. Sides, John M. Stoltz, Israel Moses, William Clinard, E. A. Volgar, William B. Stipe, and Allen Spach.

Transylvania county: Jeremiah Osborne, J. C. Duckwoth, Samuel Reed, Robert Hamilton, J. W. Clayton, William R. Galloway, Perry Orr, Isaac Harris, R. P. Kilpatrick, and G. C. Neil.

Henderson county: Benjamin Williams, James M. Justice, William D. Whitted, James Spann, R. J. Allen, M. Owenby, John C. Gulick, M. B. Lance, D. M. Justice, Leander Pace, William K. Leadbetter, Bedford Brown, S. R. Stancill, G. P. Edney, Thomas Osteen, S. B. O. McCall, and David Stradley.

Guilford county: William M. Mebane, Joseph Haskins, Wyatt Ragsdale, Robert P. Dick, Frederick Fentress, Calvin Causey, George W. Bowman, Newton D. Woody, Barnabas Pane, John Hyatt, John W. Kirkman, Andrew C. Murrow, Abram Clapp, David Greeson, and Robert M. Stafford.

Alamance county: Joseph C. Thompson, Nathaniel Stout, William P. McDaniel, Simpson Vestle, James Albright, and Henry Boon.

Lincoln county: Rufus Clarke, W. B. Bynum, and Henry Wilkinson.

Bladen county: Dugald Blue and Calvin Jones.

Wilkes county: R. M. Smith, John M. Brown, James F. Tugman, Andrew Porter, Samuel P. Smith, senior, John F. Parlier, Isaac S. Call, Harrold Hays, Ambrose Wiles, Toliver Shumate, William E. Reynolds, Emanuel Harrold, James H. Hays, and Calvin J. Cowles.

Cleveland county: James O. Bridges, Andrew Parker, David Hall, Henry Wortman, A. W. Gowins, John Cook, Lewis Donnass, and J. C. Ryers.

Cumberland county: Robert Orrell, A. G. Thornton, Duncan G. McCormick, and Robert Mitchell.

Sampson county: Ceaton Cessoms, Robert Cain, Clifton Ward, Amos N. Hall, William Cessoms, Robertson Ward, and Lorenzo D. Hall.

Carteret county: Malvin J. Davis, W. J. Doughty, and John C. Manson.

Duplin county: William E. Hill and Thomas K. Murphy.

Currituck county: M. V. B. Gilbert, M. D. Lindsay, and W. D. Chaddick.

Alexander county: Robert Carson, R. O. Bennet, W. W. Stafford, William S. Teague, Elisha Bebbler, Gabriel Marshall, William M. Bogle, Thomas J. Dula, Daniel Moore, George W. Long, James J. Teague, Andrew C. Watts, F. D. Reece, F. A. Campbell, and J. N. Carson.

Mecklenburg county: H. W. Pritchard, William R. Myers, Robert McEwen, Jeremiah S. Reed, Rufus Barringer, Robert M. Martin, and Alex. McIver.

Camden county: Isaac Morriset, John M. Forbes, A. P. Cherry, George W. Spencer, and James W. Chamberlain.

Edgecombe county: William S. Battle, Redden S. Petway, John J. Killebrew, William H. Knight, Jesse Mercer, Exum L. Moore, Thomas Norfleet, Llewellen Harrold, W. H. Johnson, Joseph Cobb, R. W. Proctor, William W. Parker, John Norfleet, Henry E. Odum, John W. Johnson, Micajah P. Edwards, Lawrence Bunting, Robert Norfleet, and Napoleon B. Bellamy.

Allegany county: William A. Brooks, Morgan Bryan, A. Marion Smith, William Andrews, Nathan Weaver, Goldman Higgings, L. M. Blackburn, Reuben Sparks, Hugh Hanks, John Parsons, John A. Jones, Solomon Stamper, and Alex. Black.

Ashe county: John Williams.

Hyde county: Sylvester McGowan, James G. Carrowan, George V. Credle, W. B. Tooley, and Joseph P. Flowers.

Iredell county: Thomas Holcomb, E. B. Stimpson, and Henry C. Cowles.

Wayne county: Curtis H. Brogden and John C. Rhodes.

Stokes county: John J. Shaffer, A. H. Joyce, Aquila Moore, William V. Shelton, J. R. Jewett, Ambrose Jessup, Ira Gentry, James Harris, J. B. Young, J. J. Martin, Eaton B. Terrell, W. B. Vaughn, and William M. Gordon.

Perquimans county: Nathan B. Cox, Robert J. White, and Jonathan W. Albertson.

Yadkin county: Moses Gross, Meekins Castions, Thomas Hanes, George Long, E. C. Brown, Aquila Speer, Thomas F. Martin, Samuel C. Weeh, Winston Fleming, James H. Myers, H. Thomason, J. N. Vestal, Jesse Reives, Sexton Jones, Moses Chappell, S. Speere, Jonathan Waggoner, George Nix, David Hutchins, J. S. Jones, William W. Patterson, George D. Williams, Barnett C. Myers, William H. Rodwell, T. L. Tulbert, John D. Holcomb, R. M. Pearson, and Jesse Lackey.

Harnett county: James S. Harrington, John F. Shaw, Neil McLeod, Robert A. Norden, James Hodge, John Harrington, James M. Turner, and A. J. Tudington.

Northampton county: William Barrow, John

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B. Odom, Noah R. Odóm, David A. Barnes, Jesse W. Grant, Jesse Flythe, Samuel Calvert, senior, Samuel J. Calvert, and George Holloman.

Madison county: F. M. Lawson, O. S. Deaver, D. E. Freeman, James Ramsey, James Croder, and L. G. Brignum.

Warren county: William A. White, John W. Patille, John H. Bullock, John C. McGraw, James T. Russell, Nathaniel B. Jones, William W. White, and J. T. Allston.

Union county: William M. Austin, Arthur Stigall, Robert Bivens, Benjamin F. Fincher, James McNeily, Milos A. Lemons, Jackson Greene, Thomas W. Griffin, Richard Tarlton, and Asa Brumblow.

Nash county: George N. Lewis and Absolom Baines.

Rowan county: J. A. Hawkins, Math. Boyden, George Bernhardt, Levi Trexler, William P. Atwell, and Peter Williamson.

Washington county: James A. Melson, Thomas Benbridge, Eli Spruill, and W. W. Ward.

Rockingham county: Thomas Settle and Thomas A. Ragland.

Burke county: James H. Hall, Joseph Deaton, Asley Mull, Jeremiah Smith, William Bailey, and James Hildebran.

Gaston county: D. A. Jenkins.

Montgomery county: John K. Lofflin, James Batten, James W. Rensas, David Wright, John C. Nichols, and James B. Ballard.

Chowan county: Charles E. Robinson.

Pasquotank county: John Pool, George D. Pool, Frank Vaughn, F. M. Godfrey, C. W. Granley, junior, W. G. Pool, George W. Charles, and C. W. Hollowell.

Bincombe county: James Reed, James P. Ellar, Levi Penland, P. J. Israel, Amasa Roberts, and James E. Reed.

Moore county: Thomas W. Ritter, William J. King, John S. Ritter, R. W. Barrett, M. J. Blue, Jordan Sivar, Samuel W. Seawell, D. W. McDonald, John P. Cole, Alexander H. McNeill, and Benjamin Spivey.

Richmond county: Oliver H. Dockery, George McKinnon, John A. Long, and Elisha T. Long.

Haywood county: A. J. Murray, Isaac Clarke, D. B. Ford, Henry Franklin, Samuel Fitzgerald, J. W. Harbin, J. M. Patton, W. S. Evans, R. E. Medford, and R. S. Owens.

Jackson county: E. D. Brindle, L. C. Hooper, Mordecia Zackey, Wilson Ensby, J. J. Hooper, and A. Cope.

Davie county: Uriah H. Phelps, John R. Williams, and William B. March.

Greene county: John Harvey, Richard J. Williams, John J. Osman, William P. Grimsly, Joseph H. Dixon, William T. Dixon, and D. A. Spivey.

McDowell county: James H. Duncan, C. S. Copeland, John Elliott, James A. McCall, John O'Brien, Thomas Ludbetter, Elijah Morgan, John T. Gregory, and Charles H. Webb.

Cabarras county: Victor C. Barringer.

Cherokee county: William McGuyre, T. R. McCombs, Phelix T. Axley, Christopher Gentry, George W. Ferguson, B. K. Dickey, and George W. Hall.

Bertie county: Jonathan Taylor, George N. Greene, Frederick Muller, and Louis C. Bond.

Granville county: Robert Garner, Eugene Grisson, Solomon G. Wilse, and E. B. Lyons.

Martin county: John Watts, William C. Eborn, F. P. Bazemore, John L. Knight, Samuel W. Watts, Josiah M. Catterson, and Joseph J. Martin.

Polk county: Martin Hambleton, Nesbid Dinsdale, James Jackson, R. S. Abrams, and J. W. Hampton.

Rutherford county: G. W. Logan, Rufus Williams, Israel P. Sorrels, J. E. McFarland, B. W. Andrews, Moses Wilkeson, W. B. Freeman, Edward Hawkins, R. J. McGraw, Eli Whisnaut, Martin Walker, Willis Bradley, W. G. Mode, J. W. Mode, James H. Carpenter,

James McFarland, John A. Carpenter, A. A. Scoggins, Smith McCarrey, W. G. Wilson, R. F. Carpenter, C. J. Sparks, L. L. Deck, A. Hollowfield, H. H. Hopper, B. W. Barber, W. O. Wallace, A. C. Martin, J. W. Gibson, and Jerrie Jackson.

Lenoir county: Walter A. Dunn, James L. Canaday, Anthony Davis, Joshua Rouse, and James M. Parrot.

Robeson county: James Sinclair, Benjamin A. Howell, and Edward K. Proctor.

Craven county: Edward R. Stanley, Charles R. Thomas, and Frederick J. Jones.

Johnston county: Thomas D. Snead, P. P. Massey, B. L. Hinnent, Willie Holt, John R. Coats, Samuel Woodley, Ray Phillips, J. P. Peck, Robert Messengale, William A. Smith, James H. Enniss, Franklin Phillips, W. D. Holt, Thomas Edgerton, and Bryan Williams.

Randolph county: John Pope, Henry Pressnell, William McGee, James Lathan, Alson Jennings, B. A. Sellars, J. R. Bulla, Alfred Julian, James T. Fox, Elijah Whitney, Joel Ashworth, and E. T. Blair.

Brunswick county: Robert W. Woodside, L. D. Thurston, Lorenzo Frick, Lewis Galloway, D. K. Bennett, D. L. Russell, and P. Priolian.

Chatham county: R. M. Brown, W. C. Council, Benjamin I. Hodge, William Laney, R. C. Colton, Hezekiah Henderson, R. C. Council, William Griffin, Jos. Brazington, Elias Bryan, and H. H. Burk.

Surry county: Drury McGee, Thomas Martin, T. J. Williams, C. H. Kepp, Joel Hartz, Martin Payne, George A. Jaris, J. S. Pedigre, James Nations, Isaac Armfield, Gideon Bryant, John Nichols, A. H. Knapp, John C. Thompson, C. C. McMickle, William Hodges, B. F. Scott, James Venable, Martin Azum, John McCloud, and Jeremiah Gay.

Macon county: R. M. Henry, W. H. Higdon, C. T. Rogers, A. L. Parton, and A. Vaughn.

Orange county: H. B. Guthrie.

Granville county: R. W. Lassiter.

Person county: John Barnett, S. C. Barnett, George W. Norwood, Joseph Massey, Chesley Hamlin, James T. Sergeant, and C. S. Winstead.

Northampton county: Edmund Jacobs and James W. Newsom.

Edgecomb county: Robert H. Austin.

Chowan county: William R. Skinner, John H. Hall, Robert G. Mitchell, and James A. Woodard.

Haywood county: A. L. Herren.

Carret county: William B. Duncan, Isaac Ramsey, and Thomas Duncan.

Wake county: Bartholomew F. Moore, Joseph W. Holden, R. W. Wynne, and William Jenks.

Cleveland county: John W. Logan.

Chatham county: John A. McDonald.

Craven county: Richard T. Berry and Charles R. Thomas.

Wake county: William W. Holden.

Burke county: Tod R. Cadwell.

Davidson county: Henderson Adams.

Rutherford county: George W. Logan and Ceburn L. Harris.

Yadkin county: Richmond M. Pearson.

Guilford county: Robert P. Dick.

Rockingham county: Thomas Settle.

Person county: Edwin G. Reade.

Brunswick county: Daniel L. Russell, junior.

Rowan county: Nathaniel Boyden.

Richmond county: Alfred Dockery.

Iredell county: Anderson Mitchell.

Rockingham county: James Blythe and David S. Ellington.

Johnston county: B. R. Hinnant.

Henderson county: W. D. Justus.

Rockingham county: John W. Foster and Turner W. Patterson.

Granville county: James I. Moore and R. P. Taylor.

Rutherford county: Eleazer McArthur.

Bertie county: John S. Shepperd.

Catawba county: James Mott.

Pitt county: Richard Short.

Fayetteville: Ralph P. Buxton.

Cumberland county: Warren Carcer.

McDowell county: W. W. Gilbert.

Anson county: William T. Tucker.

Halifax county: A. L. Pierce.

Duplin county: James K. Williams.

Cherokee county: M. B. Crisp.

Warren county: Isham H. Bennett, Benjamin E. Cook, T. A. Montgomery, John H. Bullock, Alexander S. Steed, John W. Rogers, and John J. Rodwell.

Bertie county: William P. Gurley.

Cleveland county: Eli H. Folenwider.

Ashe county: Eli Graybeal, Jackson Litzeman, John Calhoun, James Sapp, and John F. Greer.

North Carolina: G. B. Arledge, A. B. Blanton, B. H. Blount, Daniel Coleman, senior, Jackson Dalton, J. W. Fuller, William Golden, John Gibbs, W. P. Grimsley, N. B. Hampton, J. M. Hamilton, Helter Hildebrand, W. D. Justus, Jesse Jenkins, Absolom Kelley, Ed. B. Lyon, George W. McKinnon, George Nicks, Miles Padgett, William H. Puryear, Everett Phillips, R. J. Powell, Josephus Peed, Calvin J. Rodgers, James Rains, John Ritter, A. J. Scroggins, H. E. Stillely, Benjamin Thompson, J. A. Thorn, Joseph Taylor, and and Charles Williams.

Sec. 2. *And be it further enacted*, That all legal and political disabilities imposed by the United States upon the following-named citizens of Alabama in consequence of participation in the recent rebellion be, and the same are hereby, removed, namely: Joshua F. Morse, Walter H. Grant, J. G. Harris, J. McCaleb Wiley, Benjamin F. Porter, W. H. Wood, J. F. Conoley, J. C. Meadors, C. C. Sheats, A. J. Schrimsher, F. W. Sykes, Joseph Comans, James M. Ligon, Thomas D. Fister, Ferdinand L. Hammond, Thomas W. Martin, S. O. Posey, W. B. Figures, Joseph C. Bradley, David C. Humphreys, David P. Lewis, William A. Austin, Lemuel Sanford, H. C. Sanford, William S. Mudd, Robert Blair, Robert S. Hefflin, James H. McDonald, James Longstreet, Milton J. Saffold, Hardy Wilkins, James R. Dillard, John Henderson, Jeff. Holley, P. O. Harper, W. B. Nichols, J. J. McLemore, Benjamin F. Saffold, Thomas O. Glascock, Adam C. Felder, N. B. Cloud, Charles Pelham, Moses Camak, James S. Clark, R. S. M. Hunter, William Wood, J. P. Timberlake, John B. Talley, W. J. Matthews, Larkin Willis, J. B. Ragsdale, John R. Caffey, William A. Caffey, Jonathan Latham, James Williams, William Lovelady, P. W. Cargile, Allen Lee, Charles Wombley, Hiram Barton, Andrew J. Files, John Brown, James L. Boyd, J. H. Byers, Wiley H. Pope, B. F. Harris, Joseph W. Srygley, J. H. McDonald, Thomas Masterson, John T. Torry, John M. Proctor, Cliff Brandon, John D. Johnson, William Bishop, John D. Terrill, Burr W. Wilson, James M. Moore, Barnett Moses, Joseph Clifton, H. W. Matthews, E. S. Masterson, A. B. Masterson, William C. Kirby, John R. Nesmith, Thomas H. Nesmith, A. J. Kirby, J. T. Abernathy, O. H. Bynum, A. J. Ingle, James Hogan, Joseph P. Conner, Jesse Ingram, W. P. Beason, Majors Self, W. H. Braseal, John Yielding, Caleb King, William O. Winston, G. N. Winston, William J. Haralson, George W. Malone, D. L. Nicholson, Theodore Watson, John Mimms, L. W. Davis, John T. Foster, Robert McElvaine, John Elliott, Caleb Price, Cleveland F. Moulton, Averett Howard, J. D. Cunningham, J. W. Hughes, M. C. Stokes, A. Howard, J. H. Nettles, Walter L. Coleman, G. Goldthaite, David Campbell, William Irammel, W. J. Gilmore, William G. Delony, John Edwards, J. B. Hubbard, H. A. Manning, A. Strickland, T. W. Newsom, George W. Watson, David L. Nicholson, Joseph C. Boyd, Silas

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C. Dobbs, Nicholas Davis, Robert Alexander, Joseph C. Boyle, B. B. McCraw, W. L. Taylor, W. L. Dooman, B. L. Dyer, Thomas J. Jackson, John M. Ward, Henry Clifton, T. K. Brantley, J. P. Hall, Edward P. Tucke, James L. Caldwell, R. C. Parish, C. D. Hudson, John Appleby, Alexander Monox, W. P. Crook, James H. Houston, John W. A. Jackson, William C. Sherrod, W. B. Jones, David Day, George Charleton, James S. Clark, William McDonald, James W. Moore, C. C. Tompkins, Galen Terrel, John M. Modar, L. F. May, Moses Carrack, Thomas Stubblefield, John C. Moore, Thomas M. Peters, L. D. Lusk, Moses Maples, J. R. Eastlan, J. T. Ledyard, James Gavity, John Brepingham, Harry D. Houston, Ezra P. Chappel, Harry I. Thornton, late of Alabama, and also all officers elect at the election commenced the fourth day of February, eighteen hundred and sixty-eight, in said State of Alabama, and who have not publicly declined to accept the offices to which they were elected.

SEC. 3. *And be it further enacted*, That all legal and political disabilities imposed by the United States upon the following-named citizens of Georgia in consequence of participation in the recent rebellion be, and the same are hereby, removed, namely: James Martin, of Bibb county; McWhorter Hungerford and Jesse Wimberly, of Burke county; Thomas Paulk, of Berrien county; N. N. Gober, of Cobb county; W. W. Merrill and George W. Merrill, of Carroll county; W. O. Edmonson, of Chattooga county; John C. Johnson, Asa M. Jackson, John W. Johnson, Josiah A. Browning, John C. Nunnally, and Robert Flournoy, of Clark county; John C. Richardson, Daniel Fowler, William H. Richardson, John Foutz, Robert M. Barrett, and Samuel M. Fowler, of Dawson county; Benjamin F. Bruton, B. F. Powell, John Higdon, and Richard H. Whitely, of Decatur county; L. H. Roberts, of Echols county; James A. Harrison, of Franklin county; S. F. W. Minot, of Fayette county; Nathan Yarbrough and Thomas J. Perry, of Floyd county; Bluford D. Smith, George S. Thomas, and Joseph E. Brown, of Fulton county; R. L. McWhorter, James R. Bynum, D. A. Newsom, C. J. Caldwell, R. C. Hales, John Mitchell, G. H. Thompson, W. H. McWhorter, junior, R. Hulbert, and J. C. Broom, of Greene county; W. H. Rainer, John B. Miller, Whitson Frohock, Henry F. Beach, and John Brooks, of Glynn county; James A. Maxwell, George M. Wyatt, W. J. Allums, J. C. Griffin, John Fryer, and Willis Goodwin, of Henry county; Joel R. Griffin, William A. Matthews, John H. Hose, Augustus Alden, A. C. Thompson, Kinchen Taylor, Elbert Fagan, James W. Love, Jesse Cooper, and Robert Braswell, of Houston county; George F. Page, of Lee county; Joshua Griffin and A. J. Liles, of Lowndes county; M. A. Potts and M. B. Potts, of Monroe county; Francis M. D. Hopkins, of Miller county; W. Woods, of Morgan county; S. F. Strickland and C. D. Forsyth, of Paulding county; Ephraim Tweedy, James N. Ells, William Doyle, and Joseph P. Carr, of Richmond county; Duncan Jordan and William B. Dixon, of Randolph county; W. D. Hamilton, of Scriven county; J. H. Caldwell, J. T. McCormick, Thomas C. Miller, and E. H. Worrell, of Troup county; John R. Evans, M. C. Smith, Henry H. Tooke, C. H. Latimer, Thomas S. Hopkins, Theophilus P. Perry, and Thomas S. Paine, of Thomas county; Marion Bethune, J. T. Costin, Albert Costin, J. L. Gunn, and B. Carley, of Talbot county; William F. Holden, of Taliaferro county; Augustus H. Lee, of Newton county; James H. McWhorter, W. H. Ward, F. L. Upson, and F. J. Robinson, of Oglethorpe county; Edward R. Hardon, of Randolph county; David B. Harrell, of Stewart county; L. H. Greenleaf, of Ware county; William Griffin, of Wilkinson county; S. C. Prudden and A. C. Mason, of

Putnam county; W. U. Gibson and Samuel F. Gove, of Twiggs county; W. K. DeGraffenreid, Marshall DeGraffenreid, and W. J. Lawton, of Bibb county; J. H. Harrison, of Franklin county; William Gibson, of Richmond county; John R. Strother, of Baldwin county; J. G. M. Warnock, John McKinnon, William G. Bagwell, Abraham Strickland, Murdock McCloud, and Robert Humphries, of Brooks county; J. R. Corker, of Burke county; William P. Edwards, of Taylor county; G. W. Nunnally, Flournoy W. Adams, Peter W. Hutcheson, of Clark county; James M. Clark, of Sumpter county; Davis Whelchel, of Hall county; James Huffaker, of Whitfield county; John M. Matthews, A. L. Byrd, G. H. Byrd, H. T. Sanders, John N. Montgomery, Joel Hunt, M. A. Daniel, Gabriel Nash, and V. H. Deadwyler, of Madison county.

SEC. 4. *And be it further enacted*, That all legal and political disabilities imposed by the United States upon the following-named citizens of Arkansas and South Carolina, in consequence of participation in the recent rebellion, be, and the same are hereby, removed, namely: W. M. Harrison, of Drew county, and James R. Berry, of Pulaski county, of Arkansas; and C. C. Bowen, F. J. Moses, junior, R. M. Wallace, John D. Ashmore, and Thomas J. Mackey, of South Carolina.

APPROVED, June 25, 1868.

CHAP. LXXXIV.—An Act for the relief of the widow and children of Henry E. Morse.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place on the pension-rolls the names of the widow and minor children under sixteen years of age of Henry E. Morse, late a private in company G, ninth regiment Vermont volunteers, subject to the provisions and limitations of the pension laws.

APPROVED, June 25, 1868.

CHAP. LXXXV.—An Act for the Relief of James L. Dickerson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll the name of James L. Dickerson, late a private in company D, first West Virginia artillery, in the war of eighteen hundred and sixty-one, and that he be paid a pension the same as allowed privates, subject to the provisions and limitations of the general pension laws, to commence on the twenty-seventh day of June, anno Domini one thousand eight hundred and sixty-five.

APPROVED, June 25, 1868.

CHAP. LXXXVI.—An Act granting a Pension to Elizabeth Butler, widow of Cyrus Butler.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Elizabeth Butler, widow of Cyrus Butler, late a special agent in the provost marshal's office in the nineteenth Pennsylvania district, and pay her as the widow of a private, commencing October thirty-first, eighteen hundred and sixty-four.

APPROVED, June 25, 1868.

CHAP. LXXXVII.—An Act granting a Pension to David Howe.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and

directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of David Howe, late a special agent in the provost marshal's office for the fourth Massachusetts district, commencing April twenty-first, eighteen hundred and sixty-five.

APPROVED, June 25, 1868.

CHAP. LXXXVIII.—An Act granting a Pension to Amos Witham.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Amos Witham, father of Amos O. Witham, late a member of company A, thirtieth Maine volunteers, commencing August third, eighteen hundred and sixty-four.

APPROVED, June 25, 1868.

CHAP. LXXXIX.—An Act granting a Pension to Mrs. Susan Ten Eyck Williamson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Mrs. Susan Ten Eyck Williamson, widow of Charles L. Williamson, late a captain in the United States Navy, on the pension-roll, at the rate of thirty dollars per month, to commence from and after the passage of this act and to continue during her widowhood, said pension to be paid out of the naval pension fund.

APPROVED, June 25, 1868.

CHAP. XC.—An Act granting a Pension to George Bennett.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place upon the pension-roll the name of George Bennett, late a private in company E, sixth regiment Michigan cavalry volunteers, and allow and pay him a pension subject to the provisions and limitations of the pension laws, commencing April seven, eighteen hundred and sixty-three.

APPROVED, June 25, 1868.

CHAP. XCI.—An Act granting a Pension to Mary Graham.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Mary Graham, mother of John Graham, alias Patrick Ryan, late of company A, eighteenth United States infantry, commencing September tenth, eighteen hundred and sixty-six.

APPROVED, June 25, 1868.

CHAP. XCII.—An Act granting a Pension to Annie Vaughn.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Annie Vaughn, widow of Daniel Vaughn, late a private in company A, fifty-eighth Pennsylvania volunteers, commencing December twenty-five, eighteen hundred and sixty-three.

APPROVED, June 25, 1868.

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CHAP. XCIII.—An Act granting a Pension to Robert McCrory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Robert McCrory, late third assistant engineer on the steamer "John Raine," commencing May nineteenth, eighteen hundred and sixty-three.

APPROVED, June 25, 1868.

CHAP. XCIV.—An Act for the Relief of Jonathan Jessup, Postmaster at York, Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Auditor of the Treasury for the Post Office Department be, and he is hereby, authorized to allow Jonathan Jessup, of York, Pennsylvania, the sum of thirteen hundred and seven dollars and thirty-six cents, in the auditing of his accounts for the fiscal year of eighteen hundred and sixty-seven.

APPROVED, June 25, 1868.

CHAP. XCV.—An Act granting a Pension to Hampton Thompson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Hampton Thompson, late a private in company G, sixty-third regiment Pennsylvania volunteers, and to pay him a pension at the rate of twenty-five dollars per month, commencing September thirteenth, eighteen hundred and sixty-five.

APPROVED, June 25, 1868.

CHAP. XCVI.—An Act granting a Pension to George W. Locker.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of George W. Locker, late a private in company G, fifteenth regiment Iowa volunteer infantry, commencing June seventh, eighteen hundred and sixty-two.

APPROVED, June 25, 1868.

CHAP. XCVII.—An Act for the Relief of Captain William McKean.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of William McKean, late captain company I, ninety-second regiment New York volunteers, on the pension-roll, and pay or cause to be paid to him the same pension allowed by the general pension laws to persons having lost the sight of both eyes in the military service of the United States; the pension awarded by this act to be paid under the restrictions and limitations imposed by the pension laws.

APPROVED, June 25, 1868.

CHAP. XCVIII.—An Act granting a Pension to Ann Wilson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Ann Wilson, widow

of Michael Wilson, late of company F, seventy-first New York volunteers, commencing December twenty, eighteen hundred and sixty-five.

APPROVED, June 25, 1868.

CHAP. XCIX.—An Act granting a Pension to Michael Mellon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Michael Mellon, late of company H, sixty-second Illinois volunteers, commencing May thirteenth, eighteen hundred and sixty-three.

APPROVED, June 25, 1868.

CHAP. C.—An Act for the Relief of Thomas Crossley.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Thomas Crossley have leave to make application to the Commissioner of Patents for the extension of the letters-patent issued to him for improvements in machines for printing woolen and other goods for the term of fourteen years from the fifth day of April, eighteen hundred and fifty-four, said letters-patent bearing date the twentieth day of June in that year, in the same manner as if the petition for said extension had been filed at least ninety days before the expiration of said patent, and that the Commissioner be authorized to consider and determine said application in the same manner as if it had been filed ninety days before the expiration of said patent.

APPROVED, June 25, 1868.

CHAP. CI.—An Act granting a Pension to Susan V. Berg.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Susan V. Berg, widow of Charles Berg, who was killed in the employ of the quartermaster's department, in Kansas, on or about the twelfth day of November, eighteen hundred and sixty-four, at the rate of eight dollars per month.

APPROVED, June 25, 1868.

CHAP. CII.—An Act granting a Pension to Zephaniah Knapp, of Luzerne county, Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and required to place the name of Zephaniah Knapp on the pension-roll, at the rate of eight dollars per month, to be computed from the first day of January, anno Domini one thousand eight hundred and sixty-seven, and to continue during his natural life.

APPROVED, June 25, 1868.

CHAP. CIII.—An Act granting a Pension to John Kelley.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls the name of John Kelley, late a private in company H, sixty-seventh regiment Pennsylvania volunteers, to date from the sixteenth day of January, eighteen hundred and sixty-five, subject to the provisions and limitations of the pension laws.

APPROVED, June 25, 1868.

CHAP. CIV.—An Act to grant a Pension to Milton Anderson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Milton Anderson, late a private in company K, of the one hundred and fifteenth regiment Illinois infantry volunteers, on the pension-roll, at the rate of fifteen dollars per month, to commence from the first day of May, A. D. eighteen hundred and sixty-three, and to continue during his natural life.

APPROVED, June 25, 1868.

CHAP. CV.—An Act granting a Pension to David Van Nordstrand.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place the name of David Van Nordstrand, late of company H, of the one hundred and twenty-seventh regiment of Indiana volunteer infantry, on the pension-roll, at the rate of fifteen dollars per month, from and after the ninth day of October, eighteen hundred and sixty-four.

APPROVED, June 25, 1868.

CHAP. CVI.—An Act granting a Pension to Mrs. Ann Corcoran.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Ann Corcoran, widow of James Corcoran, late a private in company G, fifth regiment New York volunteer infantry, on the pension-roll, at the rate of eight dollars per month, from the sixth day of February, eighteen hundred and sixty-five, subject to the provisions and limitations of the pension laws.

APPROVED, June 25, 1868.

CHAP. CVII.—An Act granting a Pension to Michael Hennessy, of Platte county, Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place the name of Michael Hennessy on the list of invalid pensioners, subject to the provisions and limitations of the pension laws, commencing January first, eighteen hundred and sixty-five.

APPROVED, June 25, 1868.

CHAP. CVIII.—An Act to grant a Pension to Margaret Huston.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be authorized and directed to place the name of Margaret Huston on the roll of pensions as a widow, at the rate of seventeen dollars per month, from the date of January first, eighteen hundred and sixty-five, subject to the limitations and provisions of the pension laws.

APPROVED, June 25, 1868.

CHAP. CIX.—An Act granting a Pension to Cornelia K. Schmidt, widow of Adam Schmidt, deceased, late a private in company A, thirty-seventh Ohio volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-rolls the name of Cornelia K. Schmidt, widow of Adam Schmidt, deceased, a private in company A, thirty-seventh regiment of Ohio volunteers, and that she be paid a pension allowed a private during her

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widowhood, subject to the provisions and limitations of the pension laws, to commence on the tenth day of April, eighteen hundred and sixty-four; and in case of her death or marriage, then the pension to be paid to the minor children of said Adam Schmidt, deceased, as may be under sixteen years of age, subject to the provisions of the general pension laws.

APPROVED, June 25, 1868.

CHAP. CX.—An Act granting a Pension to Austin M. Partridge.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Austin M. Partridge, late a wagoner in company F, twenty-sixth regiment of Iowa infantry, commencing March twenty-sixth, eighteen hundred and sixty-four.

APPROVED, June 25, 1868.

CHAP. CXI.—An Act granting a Pension to Eliza J. Rennard, widow of William K. Rennard, deceased, late a private in Tenth Ohio Volunteers, of [the] War of eighteen hundred and sixty-one.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-rolls the name of Eliza J. Rennard, widow of William K. Rennard, deceased, a private in tenth Ohio battery of volunteers of the war of eighteen hundred and sixty-one; and that she be paid a pension allowed a private, during her widowhood, subject to the provisions and limitations of the pension laws, to commence on the first day of March, eighteen hundred and sixty-five; and in case of her death or marriage, then the pension to be paid to the minor children of said William K. Rennard, deceased, as may be under sixteen years of age, subject to the provisions and limitations of the general pension laws.

APPROVED, June 25, 1868.

CHAP. CXII.—An Act for the Relief of Mary B. Craig.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Mary B. Craig, of Marshall county, West Virginia, widow of Samuel F. Craig, on the pension-roll at the rate of eight dollars per month, to commence on the first day of July, eighteen hundred and sixty-five, subject to the limitations and provisions of the pension laws.

APPROVED, June 25, 1868.

CHAP. CXIII.—An Act granting a Pension to Sarah E. Pickell.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Sarah E. Pickell, widow of John Pickell, late of the thirteenth regiment New York volunteers, at the rate of seventeen dollars per month, commencing April sixth, eighteen hundred and sixty-six.

APPROVED, June 25, 1868.

CHAP. CXIV.—An Act for the Relief of the widow and minor children of Benjamin B. Naylor, late a Pilot on the Gunboat Patapasco.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the

Interior be, and he is hereby, directed to place the names of the widow and minor children under sixteen years of age of Benjamin B. Naylor, late a pilot on the gunboat Patapasco, on the pension-rolls, at the rate allowed by law to pilots in the Navy, to commence on the fifteenth day of January, eighteen hundred and sixty-five, the same to be subject to the provisions and limitations of the pension laws, and paid out of the naval pension fund.

APPROVED, June 25, 1868.

CHAP. CXV.—An Act increasing the Pension of Susan A. Mitchell.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Susan A. Mitchell, mother of Lieutenant Leander F. Alley, late of company I, twentieth Massachusetts regiment volunteer infantry, as the mother of a second lieutenant, in lieu of the pension she is now receiving.

APPROVED, June 25, 1868.

CHAP. CXVI.—An Act to place the name of Josephine K. Bugher on the Pension-Rolls.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be authorized and directed to place the name of Josephine K. Bugher, of Missouri, on the pension-rolls, at the rate of twenty dollars per month, commencing on the first day of August, eighteen hundred and sixty-one, as the widow of Captain William J. Bugher, subject to the limitations and provisions of the pensions laws.

APPROVED, June 25, 1868.

CHAP. CXIX.—An Act for the Relief of the widow and children of Colonel James A. Mulligan, deceased.

Whereas James A. Mulligan on the fifteenth of June, eighteen hundred and sixty-one, was mustered into the service of the United States as colonel of the twenty-third Illinois infantry, known as the "Irish brigade," marched to the front in July, eighteen hundred and sixty-one, and from that time (excepting two months when a prisoner of war) was actively engaged in the military service of the Republic against armed rebels until he fell on the battle-field of Winchester, the twenty-sixth day of July, eighteen hundred and sixty-four; and whereas during two years of that military service he was assigned to the command of brigades and divisions, and performed the duties of brigadier and major general, but received only the pay of a colonel; and whereas the widow and children of the said Colonel James A. Mulligan are justly entitled to, and need for their support, the amount of pay which he would have received if he had been commissioned according to his respective commands in the field: Now, therefore, in consideration of the premises,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and is hereby, directed to pay to Marian Mulligan, widow of said Colonel James A. Mulligan, the sum of five thousand dollars, to be paid out of the money appropriated for the pay of the Army.

APPROVED, July 3, 1868.

CHAP. CXX.—An Act for the Relief of Albert Grant.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of thirty thousand dollars to Albert Grant, in

full satisfaction of all demands against the United States on account of the construction of buildings numbered twenty-nine, thirty, and thirty-one, at the Norfolk navy-yard, by Albert Grant and H. A. Pierce, who were partners, doing business under the name and style of A. Grant and Company.

APPROVED, July 3, 1868.

CHAP. CXXI.—An Act for the Relief of Captain Charles N. Goulding, late Quartermaster of Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the accounting officers of the Treasury be, and they are hereby, authorized to allow and place to the credit of Charles N. Goulding, late captain and assistant quartermaster, in the final settlement of his accounts as such officer, such amounts and sums as he shall satisfactorily prove to have been captured, either in money or vouchers, by the enemy, in the month of August, eighteen hundred and sixty-two, while on duty in the Army of Virginia, under Major General John Pope: *Provided,* That no greater amount for losses shall so be passed to his credit *then* [than] the balance now appearing against him on the books of the Government.

APPROVED, July 3, 1868.

CHAP. CXXII.—An Act to authorize the proper Accounting Officers of the Treasury to settle the Accounts of Andrew S. Core.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury are hereby authorized and directed to settle and close the accounts of Andrew S. Core, late collector of internal revenue for the second district of Virginia, (now West Virginia,) upon principles of justice and equity.

APPROVED, July 3, 1868.

CHAP. CXXIII.—An Act for the Relief of Parker Quince.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and is hereby, authorized and directed to allow the sum of sixteen hundred and eight dollars and ninety-seven cents to Parker Quince, in the settlement of his accounts with the Government, for his salary as collector of customs for the port of Wilmington, North Carolina, and acting collector of internal revenue from September thirteen, eighteen hundred and sixty-five, to May fourteen, eighteen hundred and sixty-six, in addition to the sums already paid him for salary for that period. And the said sum of sixteen hundred and eight dollars and ninety-seven cents is hereby appropriated for that purpose out of any moneys in the Treasury not otherwise appropriated.

APPROVED, July 3, 1868.

CHAP. CXXIV.—An Act for the Relief of Martha M. Jones, administratrix of Samuel T. Jones.

Whereas the Commissioner of Patents did on the twenty-third of February, eighteen hundred and sixty-six, upon the petition of Martha M. Jones, administratrix of the estate of Samuel T. Jones, deceased, extend for the period of seven years, from the twenty-fourth of February aforesaid, the letters-patent of the United States granted unto the said Samuel T. Jones on the twenty-fourth day of February, eighteen hundred and fifty-two, for an invention in the manufacture of the white oxide of zinc, for which invention letters-patent had been granted unto him by the Government of Great Britain, dated the twenty-third day of July, A. D. eighteen hundred and fifty; and whereas doubts exist as to the power of the said Commissioner to grant the said extension after the expiration

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of fourteen years from the date of the said foreign letters-patent: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the extension of said letters-patent of the United States for the term of seven years from and after the expiration of fourteen years from the date of said foreign letters-patent be, and the same is hereby, declared to be valid and binding, and the power of the said Commissioner to make the same is in all respects confirmed, and the said letters-patent of the United States are hereby declared to be, and to have been, by force of the certificate of extension thereon indorsed, duly extended for the period of seven years from the twenty-third day of July, A. D. eighteen hundred and sixty-four: *Provided,* That this act shall not operate during the period between the date of the English patent and the date of the original American patent.

APPROVED, July 3, 1868.

CHAP. CXXV.—An Act for the Relief of Captain Dan Ellis.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of three thousand and sixty dollars to Captain Dan Ellis, of Carter county, in the State of Tennessee, in compensation for his services as scout, pilot, and recruiting agent, volunteered in the cause of the Government, from eighteen hundred and sixty-one to eighteen hundred and sixty-five, during the late war.

APPROVED, July 3, 1868.

CHAP. CXXVI.—An Act granting a Pension to James S. Todd.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of James S. Todd, of North Carolina; father of two sons who died in the first regiment North Carolina volunteers, and to allow and pay him a pension at the rate of eight dollars per month, to commence from the passage of this act, and to continue during his natural life.

APPROVED, July 3, 1868.

CHAP. CXXVII.—An Act granting a Pension to the widow of Henry Kaneday.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Elizabeth Kaneday, the widow of Henry Kaneday, late a private in company I, fifteenth regiment Iowa infantry, and to pay her a pension at the rate of eight dollars per month, commencing May fifth, eighteen hundred and sixty-two.

APPROVED, July 3, 1868.

CHAP. CXXVIII.—An Act for the Relief of Almira Wyeth.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place the name of Almira Wyeth, widow of James M. Wyeth, late a private in company I, seventy-fifth regiment Illinois volunteers, on the pension-roll, and allow and pay her a pension at the rate of eight dollars per month, from the fifth day of March, eighteen hundred and sixty-three, to continue during her widowhood.

APPROVED, July 3, 1868.

CHAP. CXXIX.—An Act granting a Pension to Rebecca Jane Kinsel.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Rebecca Jane Kinsel, the only child under sixteen years of age of Erastus Kinsel, late a private in company A, one hundred and twenty-fifth regiment Pennsylvania volunteers, and to pay her a pension at the rate of eight dollars per month, commencing April seventh, eighteen hundred and sixty-three, and to continue until she attains the age of sixteen years.

APPROVED, July 3, 1868.

CHAP. CXXX.—An Act granting a Pension to John Q. A. Keck, late a private in the Third Missouri Cavalry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place the name of John Q. A. Keck, late a private in the third Missouri cavalry, on the pension-rolls, and to pay him a pension of fifteen dollars per month, the same to commence on the nineteenth day of December, eighteen hundred and sixty-two, and to be subject to the provisions and limitations of the pension laws.

APPROVED, July 3, 1868.

CHAP. CXXXII.—An Act for the Relief of the Owners of the Land within the United States Survey number three thousand two hundred and seventeen, in the State of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States do hereby release, grant, relinquish, convey, and confirm, in fee simple and in full property, to the legal representatives of Ann O. Camp and Antoine Reilhe all of the right, title, and interest of the United States in and to all of the land within United States survey number three thousand two hundred and seventeen, in townships forty-four and forty-five, north of the base line in ranges six and seven east of the fifth principal meridian line, in the State of Missouri, being the same land that was surveyed by the United States for Madame Camp and Antoine Reilhe's representatives, containing two thousand nine hundred and five arpens and fifty-six perches and forty feet, which is equal to two thousand four hundred and seventy-one acres and seventy-six hundredths of an acre: *Provided, however,* That nothing in this act shall in any manner abridge, divest, impair, injure, or prejudice any adverse right, title, or interest of any person or persons in or to any portion or part of the aforesaid land, which is released, granted, relinquished, conveyed, and confirmed by this act.

APPROVED, July 4, 1868.

CHAP. CXXXIII.—An Act to confirm the Title of Ethan Ray Clarke and Samuel Ward Clarke to certain Lands in the State of Florida, claimed under a grant from the Spanish Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the title of Ethan Ray Clarke and Samuel Ward Clarke to a tract of land five miles square on Black creek, south of Saint Mary's river, in the State of Florida, and bounded as follows: upon one side by the Saint Mary's river and upon the other side by vacant lands, being the same lands to which an exclusive right to take the timber was granted by the Spanish Government to John Underwood, and upon which he erected a saw-mill in eighteen hundred and five, and which was kept up and continued for many years, be, and the

same is hereby, confirmed: *Provided, however,* That nothing herein contained shall operate to the prejudice of any claim which may be set up to said land by reason of any previous sale thereof; nor shall this act in any way prejudice any claimant under the said John Underwood, or any person deriving title or claim thereto under said Underwood; his heirs or assigns, or of any person or persons who may be entitled to preemption rights under existing laws of the United States.

APPROVED, July 4, 1868.

CHAP. CXXXVIII.—An Act for the Relief of William B. Todd.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be refunded to William B. Todd, of the city of Washington, out of any money in the Treasury of the United States not otherwise appropriated, the sum of three hundred and nineteen dollars, it being for so much money paid by the said William B. Todd to the United States on the twenty-seventh of June, eighteen hundred and fifty-six, for certain land in the city of Washington, being the south half of lot number fifteen, in square number six hundred and thirty six, which had been before sold and the United States paid therefor.

APPROVED, July 7, 1868.

CHAP. CXLIII.—An Act to provide for certain Claims against the Department of Agriculture.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be authorized to audit the claims included in the schedule following, to wit: W. L. Ellison, one dollar and fifty cents; C. C. Anderson, seven dollars and fifty cents; M. W. Beverage, one hundred and fifty dollars; W. O. Berry, six dollars and forty-seven cents; J. H. Bourne, thirty-five dollars; John Bell, twenty-two dollars; C. J. Brewer, eighty-five dollars; E. Baker, seven dollars; T. L. Boggess, four dollars and fifty cents; J. A. Blake, four dollars; Baltimore Journal of Commerce and Price Current, fifteen dollars; George Brown, one dollar and thirteen cents; L. C. Campbell, two hundred and fifty dollars and sixty-nine cents; G. B. Carrow, eighty-five dollars; Cruik and Campbell, twenty dollars; Carter, Yates, and Wiswell, sixty-three dollars and twenty-five cents; F. W. Christern, two dollars; H. L. Chapin, six dollars and fifty cents; Craigen and Clever, five dollars; Collins, Alderson and Company, eleven thousand seven hundred and thirty-three dollars and eleven cents; William B. Dana, five dollars; R. P. Eaton and Company, one dollar and fifty cents; Espey and Burdoff, sixty-two dollars; Samuel S. Foss, two dollars; Fisher and Schaeffer, ten dollars and ninety cents; Nathaniel B. Fugitt, three hundred and sixty-four dollars and forty-one cents; Fowler and Company, one hundred and fifty-three dollars and twenty-nine cents; Z. D. Gilman, twenty-two dollars; William Hacker, six thousand seven hundred and ninety-nine dollars and forty cents; Hovey and Company, eighty-three cents; International Exchange, (J. Mudie, agent,) two dollars; Irving and Willey, three hundred and ninety-seven dollars and thirty-five cents; Journal of Commerce, seventeen dollars; A. J. Joice and Company, forty-eight dollars and thirteen cents; Aug. Jordan, twenty-five dollars; J. Knox, fifteen dollars and fifty cents; J. M. Kuester, two dollars; J. F. Luhme and Company, three hundred and ninety-one dollars and five cents; Linton and Company, forty-five dollars; A. M. Lawza, six dollars in gold; D. T. Moore, three dollars; Pascal Morris, thirteen thousand two hundred and twenty-three dollars and sixty-six cents; J. Markriter, ten dollars; W. B. Moses, three hundred and

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sixteen dollars and sixty-five cents; Myers and McGhan, twenty-five dollars and twenty-five cents; J. W. Marlin, eighty-six dollars and ninety-eight cents; E. Matlack, twenty-five cents; Munn and Company, three dollars; National Intelligencer, sixteen dollars; Plant and Brother, two dollars; Z. Pratt, ten dollars; Philp and Solomons, fifteen dollars; F. and J. Rives, five dollars; William Smith, six dollars; John Saul, forty-five dollars and sixty-five cents; H. A. Swasey and Company, three dollars; Schaeffer and Karadi, sixty-seven dollars and seventy cents; W. B. Smith and Company, four dollars; E. W. Stewart, sixty dollars; E. Slade, thirty dollars; Stevens Brothers, (London,) fifty-eight dollars and twenty cents; Sibley and Guy, forty-four dollars and ninety-seven cents; J. Turner, one dollar; R. O. Thompson, fifteen dollars; Charles S. Taft, one hundred and twenty-eight dollars and forty-seven cents; J. E. Tilton and Company, three dollars; Andrieux, Vilmorin, and Company, twelve dollars and seventy cents; T. B. Winner, one dollar and fifty cents; William Wood and Company, twenty-nine dollars; J. B. Ward, thirty-five dollars and thirty-eight cents; G. E. Woodward, two dollars and fifty cents; Samuel Wagner, two dollars; J. F. Wright, one dollar; A. H. Young, forty-eight dollars and seventeen cents; Paschall Morris, twenty dollars; A. S. Yorke, sixty-five dollars and twenty cents; Stevens and Brother, (London magazine,) eighty dollars; James Sheehy, six dollars and fifty cents; R. O. Thompson, eighty dollars; W. C. Lodge, thirty-five dollars; James S. Lippencott, four hundred and twenty-eight dollars; J. F. Walfinger, forty-seven dollars and fifty cents; Samuel Ringwalt, one hundred and four dollars; William H. Gardner, twenty dollars; G. Hubart Bates, thirty-seven dollars and fifty cents; William W. Bates, two hundred and four dollars; H. D. Dunn, two hundred and thirty-two dollars; X. A. Willard, one hundred and ninety-two dollars; N. B. Cloud, twenty-eight dollars; S. F. Baird, twenty dollars; H. F. French, one hundred and forty-nine dollars and fifty cents; C. W. Howard, sixty-seven dollars and fifty cents; John White, fifteen dollars and fifty-six cents; Henry A. Dreer, one hundred and sixty-three dollars and seventy-five cents; Israel S. Diehl, nine hundred dollars; and to allow so much of the same as shall appear upon due proof under oath to be due and unpaid for goods delivered and services rendered to the Department of Agriculture upon contracts made by the Commissioner prior to the first day of July, eighteen hundred and sixty-seven, [and] for the payment of the same, forty thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That if any Commissioner or other officer of the Department of Agriculture shall hereafter, in the name of the United States, or in the name of said Department, contract for any goods or services for the use thereof beyond the amount of money appropriated and remaining in his or their hands unexpended at the time of such contract, the officer so offending shall be deemed guilty of a misdemeanor in office, and upon conviction thereof shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding two years, or both, at the discretion of the court.

APPROVED, July 13, 1868.

CHAP. CXLIV.—An Act for the Relief of certain Government Contractors.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Secor and Company, and Perine, Secor, and Company, the sum of one hundred and fifteen thousand five hundred and thirty-nine dollars and one cent; to Harrison

Loring, thirty-eight thousand five hundred and thirteen dollars; to the Atlantic Iron Works, of Boston, Massachusetts, four thousand eight hundred and fifty-two dollars and fifty-eight cents; to Aquilla Adams, the sum of four thousand eight hundred and fifty-two dollars and fifty-eight cents; to M. E. Merritt, the sum of four thousand eight hundred and fifty-two dollars and fifty-eight cents; to Tomlinson, Harteepee, and Company, fifteen thousand one hundred and seventy-one dollars; to Harlan and Hollingsworth, the sum of thirty-eight thousand five hundred and thirteen dollars, and to Pool and Hunt, the sum of three thousand six hundred and ninety-four dollars and eighty-one cents, being the amount found to be due to each of the parties herein respectively named by the Secretary of the Navy under an act of Congress entitled "An act for the relief of certain contractors for the construction of vessels of war and steam machinery," approved March two, eighteen hundred and sixty-seven, which shall be in full discharge of all claims against the United States on account of the vessels upon which the board made the allowance, as per their report, under the act of March two, eighteen hundred and sixty-seven.

APPROVED, July 13, 1868.

CHAP. CXLV.—An Act for the Relief of James Hooper.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to pay to James Hooper, out of any money not otherwise appropriated, the sum of sixteen thousand dollars, being the value of his vessel, the bark General Berry, which was captured and destroyed at sea, on the ninth day of July, eighteen hundred and sixty-four, while in the military service of the United States, by the rebel steamer Florida.

APPROVED, July 13, 1868.

CHAP. CXLVI.—An Act for the Relief of the widow and children of John W. Jameson, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to allow and pay Eveline Jameson, widow of John W. Jameson, late a first lieutenant in Captain MacCluney's company of Missouri home guards, a pension at the rate of seventeen dollars per month, as the widow, and two dollars per month each to Flora A., Michael F., Eva F., and John E., children under sixteen years of age of said John W. Jameson, to commence September seventh, eighteen hundred and sixty-one, the date of his death, until the twenty-eighth day of May, eighteen hundred and sixty-seven, on which date her present pension commenced.

APPROVED, July 13, 1868.

CHAP. CXLVII.—An Act increasing the Pension of Nancy Weeks, widow of Francis Weeks, an Ensign in the Revolutionary War.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to increase the pension of Mrs. Nancy Weeks, widow of Francis Weeks, late of the State of Georgia, and an ensign in the revolutionary war, to ten dollars per month, from and after the passage of this act, and to continue during her widowhood.

APPROVED, July 13, 1868.

CHAP. CXLVIII.—An Act authorizing the Commissioner of the General Land Office to issue a Patent to F. N. Blake for one hundred and sixty acres of Land in Kansas.

Whereas military bounty land-warrant number eighty-two thousand five hundred and sev-

enty-eight, for one hundred and sixty acres, was issued under the act of March third, eighteen hundred and fifty-five, in the name of Betsey Foster, and by her sold and assigned to F. N. Blake, and thereafter lost by said Blake; and whereas said Blake proved the loss and ownership of said warrant, to the satisfaction of the Commissioner of Pensions, and obtained the issue of a duplicate warrant, and has located the same on the northeast quarter of section twenty-five, in township six south, of range one east, in the State of Kansas: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office shall cause a patent for said land to be issued to F. N. Blake, as if the said duplicate land-warrant had been assigned to him by the warrantee.

APPROVED, July 13, 1868.

CHAP. CXLIX.—An Act for the Relief of Charles B. Tanner, late First Lieutenant Sixty-Ninth Pennsylvania Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of one hundred and forty-four dollars and ninety-two cents, to be paid to Charles B. Tanner, late first lieutenant and aid in the first brigade, second division, second Army corps, to cover a period of service from November eight to December fifteenth, eighteen hundred and sixty-four, inclusive, at which time he actually performed duty and was regularly commissioned in the sixty-ninth regiment Pennsylvania volunteers, but was not mustered in.

APPROVED, July 13, 1868.

CHAP. CL.—An Act for the Relief of Timothy Lyden, of Parkersburg, West Virginia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and is hereby, authorized and directed to pay to Timothy Lyden, of Parkersburg, West Virginia, out of any money in the Treasury not otherwise appropriated, the sum of three hundred and two dollars in compensation of services rendered in the quartermaster's department, and for a period of captivity in rebel prisons.

APPROVED, July 13, 1868.

CHAP. CLI.—An Act for the Relief of Benjamin B. French, late Commissioner of Public Buildings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Benjamin B. French, late Commissioner of Public Buildings, for services performed from the second to the fourteenth day of March, eighteen hundred and sixty-seven, inclusive, for which he has not been heretofore paid, the sum of eighty-five dollars.

APPROVED, July 13, 1868.

CHAP. CLII.—An Act granting a Pension to Louisa Fitch, widow of E. P. Fitch, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place the name of Louisa Fitch, widow of E. P. Fitch, late a captain and assistant quartermaster United States volunteers, on the pension-roll, and to pay her at the rate of twenty dollars per month, to commence from the thirty-first day of May, eighteen hundred and sixty-four, and to continue during her widowhood.

APPROVED, July 13, 1868.

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CHAP. CLIII.—An Act for the Relief of Charlotte Posey, widow of Sebastian R. Posey.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to pay Charlotte Posey her pension from and after the date of the discharge of her late husband, Sebastian R. Posey, up to the date upon which her name was placed upon the pension-roll.

APPROVED, July 13, 1868.

CHAP. CLIV.—An Act granting a Pension to Edward Hamel, minor child of Edward Hamel, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place upon the pension-roll the name of Edward Hamel, only surviving child of Edward Hamel, late a private in company C, eighth regiment Kansas volunteers, who died in the service of the United States and in the line of duty, and to pay to him or his legally-appointed guardian or guardians a pension of eight dollars per month, from the eleventh day of October, eighteen hundred and sixty-one, the date of the death of his father, until he attains the age of sixteen years.

APPROVED, July 13, 1868.

CHAP. CLV.—An Act granting a Pension to Carrie E. Burdett.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Carrie E. Burdett, widow of James F. Burdett, late an acting assistant surgeon in the military service, on the pension-roll at the rate of seventeen dollars per month, to commence on the sixth day of August, eighteen hundred and sixty-six, and to continue during her widowhood.

APPROVED, July 13, 1868.

CHAP. CLVI.—An Act for the Relief of Thomas W. Ward, late Collector of Customs, District of Corpus Christi, Texas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to audit and settle the accounts of Thomas W. Ward, late collector of customs for the district of Corpus Christi, Texas, from March fifth, eighteen hundred and sixty-seven, to July thirty-first, eighteen hundred and sixty-seven, and allow him the same compensation and emoluments as if he had been legally collector of customs for said district for said period; and that the deputy collector appointed by said Thomas W. Ward, on the seventh day of March, eighteen hundred and sixty-seven, be recognized as the legal deputy-collector of said district, and the said accounting officers are authorized to settle the accounts of the said deputy in the same manner as if he had been legally appointed and all his acts were legal.

APPROVED, July 13, 1868.

CHAP. CLVII.—An Act granting a Pension to Lucinda R. Johnson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Lucinda R. Johnson, widow of Doctor Bluford Johnson, of Illinois, late a contract surgeon in the military service of the United States, and allow and pay her a pension at the rate of seventeen dollars per month, to commence March seventh, eighteen hundred

and sixty-five, and to continue during her widowhood.

APPROVED, July 13, 1868.

CHAP. CLVIII.—An Act granting a Pension to Martha Stout.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Martha Stout, widow of Tinson Stout, late a private in the Daviess county company of Home Guards, Kentucky militia, and to pay her a pension at the rate of eight dollars per month, to commence on the eleventh day of August, eighteen hundred and sixty-four, and to continue during her widowhood.

APPROVED, July 13, 1868.

CHAP. CLIX.—An Act granting a Pension to Harriet W. Pond.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place on the pension-rolls the name of Harriet W. Pond, wife of — Pond, formerly Harriet W. Stinson, and to allow and pay to her as in her own right, and not subject to the claim or control of her said husband, a pension at the rate of seventeen dollars per month, to commence on the twenty-first day of August, in the year eighteen hundred and sixty-four, and to continue during her natural life.

APPROVED, July 13, 1868.

CHAP. CLX.—An Act granting a Pension to Elizabeth Steepleton, widow of Harrison W. Steepleton, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Elizabeth Steepleton, widow of Harrison W. Steepleton, late a private in company B, sixth regiment Indiana legion, and allow and pay her a pension at the rate of eight dollars per month, to commence on the ninth day of July, eighteen hundred and sixty-three, and to continue during her widowhood.

APPROVED, July 13, 1868.

CHAP. CLXI.—An Act for the Relief of Mrs. Mary Gaither, widow of Wiley Gaither, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to allow and pay to Mrs. Mary Gaither, widow of Wiley Gaither, late a private in company A, twenty-seventh regiment Kentucky infantry volunteers, her pension as such widow from the twenty-seventh day of March, eighteen hundred and sixty-two, the day of his death, until the thirteenth day of June, eighteen hundred and sixty-six, on which day her present pension commenced.

APPROVED, July 13, 1868.

CHAP. CLXII.—An Act for the Relief of Rebecca V. Senor, mother of James H. Senor, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to allow and pay to Rebecca V. Senor, mother of James H. Senor, late a private in company F, twenty-fifth regiment Missouri volunteers, a pension at the rate of eight dollars per month,

as the mother of said James H. Senor, from the sixth day of April, eighteen hundred and sixty-two, the date of his death, until the twenty-third day of April, eighteen hundred and sixty-seven, on which date her present pension commenced.

APPROVED, July 13, 1868.

CHAP. CLXIII.—An Act granting a Pension to Maria Rastery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place the name of Maria Rastery, widow of Patrick Rastery, late a corporal in company H, thirty-third regiment Massachusetts volunteers, on the pension-roll, and that he pay her a pension at the rate of eight dollars per month during her widowhood, commencing on the second day of June, eighteen hundred and sixty-three; and two dollars per month for each child of said Rastery under the age of sixteen years, commencing on the twenty-fifth day of July, eighteen hundred and sixty-six, and to continue until they shall respectively attain the age of sixteen years.

APPROVED, July 13, 1868.

CHAP. CLXIV.—An Act granting a Pension to Thomas Stewart.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place the name of Thomas Stewart on the pension-roll, at the rate of eight dollars per month, to commence from the passage of this act, and to continue during his natural life.

APPROVED, July 13, 1868.

CHAP. CLXV.—An Act granting a Pension to Anna M. Howard.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place upon the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Anna M. Howard, mother of George W. Howard, late a private in company C, eleventh regiment New Jersey volunteers, and allow and pay her a pension at the rate of eight dollars per month, from the twelfth day of February, eighteen hundred and sixty-four, to continue during her widowhood.

APPROVED, July 13, 1868.

CHAP. CLXVI.—An Act for the Relief of Catharine Wands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to allow and pay to Catharine Wands, mother of John Wands, late a private in company I, seventh regiment New York heavy artillery volunteers, now on the pension-roll, her pension from the third day of June, eighteen hundred and sixty-four, the date of her son's death, until the twenty-second day of January, eighteen hundred and sixty-eight, on which date her present pension commenced.

APPROVED, July 13, 1868.

CHAP. CLXVII.—An Act for the Relief of Elizabeth Barker, widow of Alexander Barker, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to allow and pay to Elizabeth Barker, widow of Alexander Barker, late a private in company F, twenty-second regiment Massachusetts volunteers, a pension at the rate of eight dollars

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per month, from the thirteenth day of July, eighteen hundred and sixty-two, the date of the death of her said husband, until the seventh day of October, eighteen hundred and sixty-seven, on which date her present pension commenced.

APPROVED, July 12, 1868.

CHAP. CLXVIII.—An Act for the Relief of Julia M. Molin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to allow and to pay to Julia M. Molin, of Stockholm, Sweden, widow of Charles G. Molin, late a private in the second regiment of Minnesota volunteers, at the rate of eight dollars per month, from the eighteenth day of May, in the year eighteen hundred and sixty-two, the date of the death of her said husband, until the nineteenth day of December, in the year eighteen hundred and sixty-seven, the date of the commencement of the pension heretofore allowed her.

APPROVED, July 12, 1868.

CHAP. CLXIX.—An Act for the Relief of Henry Reens.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to allow and pay to Henry Reens, late a private in company I, thirtieth regiment Massachusetts volunteers, now on the pension-rolls, his pension from the third day of June, eighteen hundred and sixty-five, the date of his discharge from the service, until the sixteenth day of March, eighteen hundred and sixty-seven, on which day his present pension commenced.

APPROVED, July 12, 1868.

CHAP. CLXX.—An Act granting a Pension to Henrietta Nobles.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Henrietta Nobles, widow of Captain Daniel G. Nobles, of the fourth regiment of Tennessee infantry, upon the pension-rolls, and to pay her a pension at the rate of twenty dollars per month, to commence on the second day of November, eighteen hundred and sixty-two, and continue during her widowhood.

APPROVED, July 12, 1868.

CHAP. CLXXI.—An Act granting a Pension to Ann Kelly, widow of Bernard Kelly.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place the name of Ann Kelly, widow of Bernard Kelly, late a private in company I, thirteenth New York heavy artillery volunteers, on the pension-roll, at the rate of eight dollars per month, to commence on the thirteenth day of May, eighteen hundred and sixty-four, and to continue during her widowhood.

APPROVED, July 12, 1868.

CHAP. CLXXII.—An Act granting an increase of Pension to Catharine Eckhardt.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to pay to Catharine Eckhardt, widow of Henry L. Eckhardt, late a private in company C, fifth regiment Missouri volunteers, in addition to the pension heretofore granted her, the further sum of two dollars per month, for and on account of the care, custody, and maintenance

by her of Anna M. Eckhardt, a child under sixteen years of age of the said Henry L. Eckhardt by a former wife, from the third day of February, eighteen hundred and sixty-eight, while she has such care, custody, and maintenance, until the said child shall attain the age of sixteen years.

APPROVED, July 12, 1868.

CHAP. CLXXIII.—An Act for the Relief of Sylvester Nugent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place on the pension-rolls the name of Sylvester Nugent, late a private in company F, eleventh regiment Massachusetts volunteers, and to allow and pay him a pension at the rate of eight dollars per month, from the nineteenth day of October, eighteen hundred and sixty-two, the date of his discharge, until the fourteenth day of July, eighteen hundred and sixty-five, on which date his present pension commenced.

APPROVED, July 12, 1868.

CHAP. CLXXIV.—An Act granting a Pension to John W. Harris.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place upon the pension-rolls the name of John W. Harris, late a pilot in the service of the United States, and to allow and pay to him, from the naval pension fund, a pension at the rate of twenty-five dollars per month, the same to commence on the fifteenth day of April, eighteen hundred and sixty-three.

APPROVED, July 12, 1868.

CHAP. CLXXXVII.—An Act for the Removal of certain Disabilities from the Persons therein named.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of each House concurring therein,) That all legal and political disabilities imposed by the United States upon the following-named citizens of the several States hereinafter mentioned, in consequence of participation in the recent rebellion, be, and the same are hereby, removed, namely:

Jacob Kibler, Henry Summer, John P. Kinnard, E. P. Lake, and W. W. Houseal, of Newberry county; H. P. Hammond, Greenville; Elihu Moore, Lancaster; S. B. Clowney, Fairfield; Lewis Dial, Laurens; H. H. Kinnard, Newberry; J. C. Miller, Charleston; A. P. Kinnard, Newberry; H. Beatie, Greenville; S. W. Maurice, Williamsburg; D. L. Thomas, Beaufort; F. C. Gowen, H. C. Markley, Thomas Cox, of Greenville; William B. Johnson, Richland; Metts Williams and G. W. Williams, of York; John Twitty, Lancaster; Matthew McDonald, Abbeville; A. G. Baskin and E. B. Miller, of Richland; C. R. Rutland, J. Botton Smith, and Daniel Burton, of York; Walter W. Herbert and Thomas Jordan of Fairfield; Thomas E. Dudley, Bennettsville; Alexander McBee, Greenville; J. B. Tolleson and B. F. Bates, of Spartanburg; William M. Thomas, Greenville; James A. Black, Abbeville; Willis Allen, Spartanburg; John S. Green, Sumter; Elijah U. Horner, Edgefield; H. W. Lawson, Abbeville; Doctor Robert Leiby, Charleston; C. W. Dudley, Bennettsville; D. B. Miller and John L. Neagle, of Columbia; James Johnson, Hugh Craig, James Martin, T. J. Bell, W. C. Beatty, S. D. Goodlett, Peter McCole, Stewart Harrison, James L. Orr, and W. F. Durisol; all of South Carolina.

Jacob Keichler, San Antonio; Jacob Elliot, Navarro county; Jacob Schmitz, Comal county;

Richard W. Davis, Goliad; John Blair, Houston county; Thomas P. Ochiltree, Asa E. Stratton, junior, and D. E. E. Brannan, of Matagorda; Amos Clark and John Forbes, of Nacogdoches; Sydney L. Fontaine, R. L. Fulton, and James B. Simpson, of Galveston; J. D. Gay, Montgomery; J. Hilliard Jones, Mark Miller, and Armistead T. Munroe, of Houston; Robert B. Kingsbury, Brownsville; William M. Rust, Guadalupe; Horace Taylor, Mezas; Seymour White, Jasper; and James W. Barnes, of Grimes county; all of Texas.

R. W. Bell, Banks county; Walter Brook, State senator-elect; William T. Martin, Banks county; Charles E. Broyles, of Dalton; William Anderson, William Carter, William Cleary, Benjamin Loughbridge, D. Johnson, A. S. Vining, R. P. Wood, Wesley Ashe, and Hugh Shannon, of Murray county; M. J. Collins, C. D. Gibbs, James Glenn, A. J. Green, Joshua Harland, Dawson A. Walker, and Joseph Guthrie, of Whitfield county; W. F. Holden, Chamfordville; James Hill, Gordon; John Calvin Johnson; Clark; A. T. McIntyre, Thomas; Elijah G. Raiford, Chattahoochie; J. G. Moon, Valdosta; Daniel S. Printup, Floyd; Samuel Bard and James M. Calhoun, of Atlanta; B. H. Warren, Richmond; J. Sanders, C. C. Kelley, R. A. Waters, Miles Kitching, J. M. Bucket, S. K. Long, and E. A. Marsh, of Twiggs county; George Paine and Richard Nelson, of Wilkinson county; W. F. Jordan, Henry I. Glover, and Reuben Jordan, of Jasper county; Joshua Hill, Madison; J. B. Benson, Hart; J. O. Harris, Fulton; George W. Flournoy, Cobb; P. B. Bedford, Aren; N. M. Sessions, Pierce; Madison Bell, Banks; Benjamin Dunmegan, Hall; George P. Burnett, Floyd; J. A. Wimpley, Lumpkin; J. Milledge, Richmond; J. Harris and J. F. Hardin, of Newtown; John Burch and W. W. Foster, of Towns; S. A. Corker, Burke; William Woods, Morgan; Daniel A. Green and Joseph Armstrong, of Vienna; William A. Adams, Greenville; N. Corbit, W. B. Jones, John Harris, Samuel Lindsey, James Buchan, James Cunningham, Haywood, Hughes, F. M. Smith, A. J. Bennett, S. T. W. Muier, Horace Sibley, W. H. Whitehead, J. Devers, Henry P. Farrow, David G. Coting, Garnett Andrews, M. R. Bell, Otheo P. Beall, and J. B. Jones, of Macon county; Henry K. McCay, Sumter county; James L. Seward, Thomas county; J. G. W. Mills, of Fulton county; I. B. Nesbitt, of Gordon county; D. E. Hunter, of Wilcox county; William Clifton, of Tatnall county; W. G. B. Rogers, of Union county; I. G. Black, of White county; A. W. Johnson, of Forsythe county; G. W. Johnson, of Hall county; W. G. Spencer, of Lumpkin county; Burrell Jine, of Habersham county; J. Mathews, I. Nunnely, I. R. Bracewell, and G. W. Hausard, of Gwinett county; Berry Henderson, of Pierce county; James M. Traywick, of Pulaski county; W. A. Mathews, of Houston county; Wright Brady, Andrew J. Ronaldson, Benton Byrd, and John V. Price, of Sumter county; James L. Wimberly, of Stewart county; Jesse A. Glenn and M. P. Quillian, of Whitfield county; George W. Fish, of Macon county; Isham Fannin and Thomas B. Saffold, of Morgan county; Hiram Warner, of Merriwether county; C. B. Cole, of Bibb county; William T. Wofford, of Barton county; Benjamin Williams, of Appling county; Horace Seibles, of Quitman county; W. S. Wall, of Taylor county; William Whaley, of Wayne county; Fortune Louett, of Worth county; Lewis H. Roberts, of Echols county; J. O. Hutchins, of Jones county; Charles Daniels, of Coffee county; Thomas Barbour, of Chatooga county; Dix Fletcher and J. S. Wood, of Cobb county; Thomas I. Perry, Newton I. Perkins, and Warren R. D. Moss; Ephraim Thorn, of Newton county; W. B. Gillespie, of Banks county; Joel D. Gunnels, of Banks county; George M. Nolan, of Henry county; William L. Clay, of Sumter county; Joseph

Adkins, E. J. Higby, A. Corbitt, J. M. Coleman, and John Dickey; all of Georgia.
Zenon Lablaube and John E. Frudeau, of parish of Jefferson; Theodore Drouet and Rufus King Höwel, of New Orleans; Wade H. Hough, W. W. Handlin, and E. North Cullum, of Marksville; Benjamin Bloomfield and John A. Letten, of New Orleans; A. Sidney Robertson; all of Louisiana.

George W. Marshall, Lafayette, Tennessee.
Robert H. Gamble, James T. Magbee, and Edwin M. West, of Tallahassee; Thomas T. Long, of Lake city; Josiah E. Lee, of Sumterville; A. C. Blount, F. C. Humphreys, and James Abercrombie, of Pensacola; William J. Keizer, of Milton; Benjamin Neal, of Marianna; J. Clark Greeley, of Jacksonville; Francis J. Wheaton, Perry G. Wall, and D. P. Holland, of Apalachicola; all of Florida.

William M. Moore, of Yancey; Leonidas C. Edwards, of Oxford, Granby county; John R. Alexander, of Cleaveland county; William E. Vaughan, of Pasquotank county; Luke Blackmoor, of Salisbury; H. Davidson, of Charlotte; Neal McKay, of Harnett; Lafayette Green, of Stanley county; John D. Carrie, W. R. Terry, and Andrew J. Brown, of Richmond county; A. R. McDonald, of Carthage, Moore county; William B. Richardson, of Moore county; William T. Buxton and Henry Gatling, of Northampton county; William S. Mason, of Wake county; S. M. Bell, James McGee, L. S. Ledford, W. H. Hogshhead, John Roberts, Abraham Israel, W. M. Davis, W. C. Ledford, Riley McConnell, James Shearrer, T. C. West, and Marion Passmore, of Clay county; James Bryson, of Cowee, Macon county; M. M. Brown, of Jackson county; B. K. Ward, of Henderson county; J. R. Neill and A. J. Roberts, of Yancey county; William A. Walton, Obadiah Woodson, John I. Shaver, Dolphin A. Davis, and Benjamin F. Fraley, of Rowan county; Charles L. Summers, William F. Wasson, Thomas A. Allison, Alexander P. Sharpe, John Young, George F. Davidson, Thomas A. Nicholston, and John M. Turner, of Iredell county; Henry R. Austin, Ephraim Gaither, Henry B. Howard, Charles Anderson, James M. Brock, Paluck H. Cain, and James M. Johnson, of Davie county; James W. Osborn, William W. Grier, R. M. White, F. M. Ross, T. B. Brice, Thomas L. Veil, R. L. DeArmond, and S. W. Reed, of Mecklenburg county; all of North Carolina.
Edward Crossland, of Graves county, Kentucky.

James L. Alcorn, Benjamin D. Nabers, J. L. Wofford, and Austin Ballard, of Tishomingo; John S. Morris, Claiborne; Charles C. Shackelford, of Madison; Edward A. Payton and Samuel Donnelly, of Hinds; G. A. Webster, of Simpson; G. C. Sullivan, of Oktibeha; George Stovall, of Carroll; William H. Noble, Wilkinson; George R. Alcorn, Coahoma; Orville M. Blanton, L. B. Valiant, and Frank Valiant, of Washington; T. W. Adams and John McRae, of Kemper; James D. Stewart, Jackson; E. J. Vasser, W. A. Sykes, N. G. Elkin, J. N. Walton, and G. W. Rennington, of Monroe county; J. W. Vance, De Soto county; W. M. Haley, Copiah; Robert W. Flournoy, of Pontotoc county; W. H. Bearden; all of Mississippi.

R. P. Bryant, W. W. Douglas, A. C. Dunn, J. L. C. Danner, Samuel Reith, E. H. Smith, junior, Doctor E. H. Smith, and Samuel M. Page, of Richmond; J. M. Brickhouse, of Bellehaven; P. A. Baling and B. J. Epes, of Dinwiddie; W. L. Edward, of Fairfax; R. S. Hines, of Richmond; George C. Orgain, of Lunenburg; and R. L. Owen of Lynchburg; Henry Owen, of Prince Edward; Harvey Risk, of Stanton, and D. B. Smith, of Hanover; Henry Shackelford, of Culpepper county; Samuel S. Weisiger, of Amelia; James C. White, of Portsmouth; I. E. Fickler, of Danville; Thomas Y. Mosby, Bedford; J. W. Wright, Lynchburg; J. N. Murdock, Wellsville;

Charles H. Lewis, Rockingham; and Peter Saunders, senior, of Franklin; William Whistler, of Shenandoah; Edgar Spady, of Northampton; James M. Catlett, of Fauquier; John W. Johnson, James R. Gibson, Alexander R. Preston, of Washington; J. Parker Jordan and Thomas L. Nelson, of Norfolk; Lindsey M. Shumaker, of Danville; Thomas S. Herring, of Powhattan; and William C. Burton, of Lynchburg; all of Virginia.

J. A. Corbett, Sevier county; M. W. Locke, Sevier county; and D. H. C. Moore, of Napoleon; John P. Farrell, of Arkansas county; James T. Elliott, Onachite county; George W. McCown, of Columbia county; John R. Duvall and Eli K. Haynes, of Drew county; all of Arkansas.

T. J. Woolf, of Marengo county; George W. Malone, of De Kalb county; J. D. Sibley, of Huntersville; and L. P. Saxon, of Montgomery county; Syddall P. Saxon, all of Alabama; and R. K. Howell, of New Orleans.

APPROVED, July 20, 1868.

CHAP. CLXXXVIII.—An Act granting a Pension to the widow and child of John P. Petty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Fannie Petty, the widow, and Ethel May Petty, child under sixteen years of age of John P. Petty, late a private in company I, fourteenth regiment West Virginia infantry volunteers, and to pay her a pension, commencing October thirty-first, eighteen hundred and sixty-four.

APPROVED, July 20, 1868.

CHAP. CLXXXIX.—An Act granting a Pension to the widow and children of Henry Brown.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Rehma Brown, the widow, and Nancy J., Alvey F., Sarah C., and Henry, children under sixteen years of age of Henry Brown, late a private in company K, tenth regiment Tennessee cavalry volunteers, and to pay her a pension, commencing January thirty-first, eighteen hundred and sixty-four.

APPROVED, July 20, 1868.

CHAP. CXC.—An Act for the Relief of Joseph M'Ghee Cameron and Mary Jane Cameron, children of Lafayette Cameron, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the names of Joseph M'Ghee Cameron and Mary Jane Cameron, residents of the District of Columbia, children under sixteen years of age of Lafayette Cameron, deceased, on the pension-rolls, subject to the provisions and limitations of the pension laws, and to pay them a pension at the rate of eight dollars per month, from the seventh day of December, eighteen hundred and sixty-two, and to each the additional sum of two dollars per month from the twenty-fifth day of July, eighteen hundred and sixty-six, until they severally attain the age of sixteen years.

APPROVED, July 20, 1868.

CHAP. CXCI.—An Act granting a Pension to John A. Weed and Elizabeth J. Weed, minor children of Robert T. Weed, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the

Interior is hereby authorized and directed to place upon the pension-roll the names of John A. Weed and Elizabeth J. Weed, only surviving children of Robert T. Weed, late a private in the second Indiana battery volunteers, who died in the service of the United States and in the line of duty, and to pay to them, or their legally appointed guardian or guardians, a pension of eight dollars per month, from the tenth day of November, eighteen hundred and sixty-four, the date of the death of their father, until they respectively attain the age of sixteen years, subject to the provisions and limitations of the pension laws.

APPROVED, July 20, 1868.

CHAP. CXCLII.—An Act for the Relief of George T. Brien.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to allow and pay to George T. Brien, out of the naval pension fund, a pension at the rate of eight dollars per month, subject to the provisions and limitations of the pension laws, in lieu of the pension of five dollars per month heretofore allowed him.

APPROVED, July 20, 1868.

CHAP. CXCLIII.—An Act granting an increase of Pension to Obadiah T. Plum.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to increase the pension of Obadiah T. Plum, late a private in company E, twenty-second regiment Iowa infantry volunteers, from eight dollars to twenty-five dollars per month, from and after the passage of this act, and to continue during his natural life.

APPROVED, July 20, 1868.

CHAP. CXCLIV.—An Act granting a Pension to Maria Schweitzer and the minor children of Conrad Schweitzer, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to place upon the pension-rolls the names of Maria Schweitzer, the widow, and Carl B. and Maria Schweitzer, children under sixteen years of age of Conrad Schweitzer, late a private in company C, sixty-first regiment New York volunteers, and allow and pay her a pension, subject to the provisions and limitations of the pension laws, commencing February second, eighteen hundred and sixty-five.

APPROVED, July 20, 1868.

CHAP. CXCV.—An Act for the Relief of Samuel N. Miller.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Samuel N. Miller, who obtained a patent for an improved compound anchor, dated the twenty-ninth day of June, eighteen hundred and fifty-two, for fourteen years, which expired on the twenty-ninth day of June, eighteen hundred and sixty-six, be authorized to apply to the Commissioner of Patents for the extension of said patent for seven years, under the regulations now in force in relation to the extension of patents; and the Commissioner of Patents is hereby directed to investigate and decide the application for extension on the same evidence and in the same manner as other applications for extension are decided: *Provided,* That the applications for extension be made within sixty days after the approval of this act, and the decision of the Commissioner be rendered within ninety days from the filing of said application in the Patent Office: *And provided also,* That nothing herein shall be so construed as to hold responsible

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in damages any person who may have manufactured or used the said improved compound anchor between the expiration of the said patent and the approval of this act.

APPROVED, July 20, 1868.

CHAP. CXCVI.—An Act for the Relief of Robert Ford.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of eight hundred and fourteen dollars, to Robert Ford, in full payment for his time and services as a teamster in the quartermaster's department of the Army from May first, eighteen hundred and sixty-two, to August first, eighteen hundred and sixty-four.

APPROVED, July 20, 1868.

CHAP. CXCVII.—An Act granting a Pension to the children of William M. Wooten, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Alfred C. Wooten, Susan M. T. Wooten, Jesse Wooten, and Rosalia M. Wooten, children under sixteen years of age of William M. Wooten, deceased, late a private in Daviess county company of home guards, Kentucky militia, and to pay to them, or to their legally appointed guardian or guardians, a pension to commence on the eleventh day of August, eighteen hundred and sixty-four, and to continue until they severally attain the age of sixteen years.

APPROVED, July 20, 1868.

CHAP. CXCVIII.—An Act granting a Pension to John Sheets.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John Sheets, late a private in company F, twelfth regiment West Virginia volunteers, and to pay him a pension at the rate of fifteen dollars per month, to commence on the fourteenth day of March, eighteen hundred and sixty-three.

APPROVED, July 20, 1868.

CHAP. CXCIX.—An Act to authorize the Sale of twenty acres of Land in the Military Reservation at Fort Leavenworth, Kansas.

Whereas the Secretary of War, in behalf of the United States and in accordance with the previous practice of the War Department, on the thirteenth day of November, in the year eighteen hundred and sixty, did execute to Samuel Denman, William H. Russell, and Thomas Ewing, junior, and their assigns, a lease of twenty acres of land in the military reserve at Fort Leavenworth, State of Kansas, for the term of sixteen years thereafter, with a preference to them of an extension of the term, and with the exclusive right to mine for coal under the lands of said military reserve; and whereas the said lessees and their assigns accepted the said lease, and upon the faith thereof have prosecuted their mining operations under many difficulties at great expense, and have finally succeeded in striking the deep coal beds of that geological region after having expended their entire capital to the amount of forty thousand dollars; and whereas it is now discovered that the said lease is invalid because the Secretary of War was unauthorized in law to make the

same, by reason of which the said lessees are deprived of their right to proceed, and are threatened with the total loss of their money, and are without redress; and whereas in view of the incalculable benefit to be derived, not alone by the State of Kansas, but by the whole country adjacent thereto, by the development of the coal strata of the region, the senate and house of representatives of the State of Kansas, on the eighteenth day of February, eighteen hundred and sixty-eight, did concur in a joint resolution reciting the above, and respectfully requesting this Congress to act in the premises; and whereas the House of Representatives of the United States have heretofore passed an act directing the sale in small tracts of a body of land in said military reserve: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Leavenworth Coal Company, being the successors and assigns of Samuel Denman, William H. Russell, and Thomas Ewing, junior, in the lease aforesaid, shall have the right to purchase from the United States twenty acres of land lying in the military reserve at Fort Leavenworth, Kansas, and described as follows: beginning at the intersection of the south line of the military reserve and the Missouri river, running northwardly thence along the west line of the said Missouri river, thence westwardly in a line parallel to the south line of the military reserve, thence southwardly in a line at right angles with the south line of the military reserve, thence eastwardly in the said south line of the military reserve to the point of beginning, the said lines to be run so as to make the form of the said twenty acres as nearly square as practicable. The said Leavenworth Coal Company shall pay therefor the sum fixed by the United States district judges of the State of Kansas, the eastern district of Missouri, and of the northern district of Illinois, whose reasonable expenses shall be paid out of any money in the Treasury not otherwise appropriated; and said lease is hereby extended sixteen years from the passage of this act.

SEC. 2. *And be it further enacted,* That upon the payment of the purchase-money for the same, the Secretary of the Interior is hereby directed to issue to the said Leavenworth Coal Company and its successors and assigns a patent for the above-described lands, which patent shall also grant to the said company and its successors and assigns, the exclusive right to mine for all coal underlying the lands now comprised in the military reserve aforesaid.

APPROVED, July 20, 1868.

CHAP. CC.—An Act granting a Pension to the widow and children of George R. Waters.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of Mary Waters, the widow, and the three children under sixteen years of age, of George R. Waters, late a member of the fifteenth regiment New York volunteers, commencing November seventeenth, eighteen hundred and sixty-four.

APPROVED, July 20, 1868.

CHAP. CCI.—An Act granting a Pension to Thomas Connolly.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Thomas Connolly, late a member of company A, sixty-ninth New York volunteers.

APPROVED, July 20, 1868.

CHAP. CCII.—An Act for the Relief of Wait Talcott.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to credit to Wait Talcott (as of the eighteenth February, eighteen hundred and sixty-five,) internal revenue collector for the second district of Illinois, the sum of five hundred and fifty-six dollars and ninety-three cents in consideration of the loss of that sum by the robbery of his deputy, Captain Richard A. Smith.

APPROVED, July 20, 1868.

CHAP. CCIII.—An Act granting a Pension to Henry H. Hunter.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Henry H. Hunter, a resident of Knox county, Kentucky, and who was wounded while serving with the first regiment of Kentucky volunteer cavalry, commencing October seventh, eighteen hundred and sixty-one.

APPROVED, July 20, 1868.

CHAP. CCIV.—An Act granting a Pension to the widow and children of Myron Wilklow.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of Sarah A. Wilklow, the widow, and Elmira, Emma, and Mary Wilklow, children under sixteen years of age of Myron Wilklow, late a member of company B, forty-seventh Ohio volunteers, commencing June second, eighteen hundred and sixty-five.

APPROVED, July 20, 1868.

CHAP. CCV.—An Act granting a Pension to the children of Charles Gouler.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of Willie, Ellen, and Tellis Gouler, children under sixteen years of age of Charles Gouler, late a private in company "F," ninth New Hampshire volunteers, commencing April eighteenth, eighteen hundred and sixty-six.

SEC. 2. *And be it further enacted,* That an act approved April eighteen, eighteen hundred and sixty-six, entitled "An act granting a pension to Mrs. Emerance Gouler," and an act approved July thirteenth, eighteen hundred and sixty-six, entitled "An act amendatory of an act entitled 'An act granting a pension to Mrs. Emerance Gouler,'" are hereby repealed.

APPROVED, July 20, 1868.

CHAP. CCVI.—An Act granting a Pension to the children of James Heatherly.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of Joseph, Sarah, Laomi, Francis, and James Heatherly, the children under sixteen years of age of James Heatherly, late of company B, eleventh West Virginia volunteers, commencing January twenty-fourth, eighteen hundred and sixty-five.

APPROVED, July 20, 1868.

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CHAP. CCVII.—An Act granting a Pension to John H. Finlay.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of John H. Finlay, late a member of company G, second Illinois cavalry, and to pay him a pension at the rate of eight dollars per month from October sixth, eighteen hundred and sixty-four, until June sixth, eighteen hundred and sixty-six, and thereafter at the rate of fifteen dollars per month.

APPROVED, July 20, 1868.

CHAP. CCVIII.—An Act for the Relief of John A. Neustaedter.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Paymaster General of the Army is hereby directed to pay to John A. Neustaedter, late a captain of artillery, out of any money appropriated, or that may hereafter be appropriated, for the pay of the Army, the full pay and emoluments of a captain of artillery in the Army of the United States, from March twenty-fifth, eighteen hundred and sixty-two, to August twenty-eighth, eighteen hundred and sixty-two: *Provided,* That this act shall not be deemed a precedent for the payment of other officers holding appointment under General John C. Frémont.

APPROVED, July 20, 1868.

CHAP. CCIX.—An Act to place the name of Mahala M. Straight upon the Pension-Rolls of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Mahala M. Straight, widow of Alonzo A. Straight, deceased, late a private in company E, one hundred and twenty-ninth regiment Illinois volunteers, upon the pension-rolls of the United States, and to pay [her] a pension at the rate of eight dollars per month, to commence on the fifth day of September, in the year eighteen hundred and sixty-two, and to continue during her widowhood, subject to the laws now in force in relation to pensions.

APPROVED, July 20, 1868.

CHAP. CCX.—An Act granting a Pension to W. W. Cunningham.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of W. W. Cunningham, late a sergeant of company C, thirteenth New York cavalry, on the pension-rolls, and to allow and pay him a pension at the rate of fifteen dollars per month, subject to the provisions and limitations of the pension laws, to commence from the twenty-fifth day of October, one thousand eight hundred and sixty-five.

APPROVED, July 20, 1868.

CHAP. CCXI.—An Act granting a Pension to John W. Hughes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of John W. Hughes, late a private in company I, nineteenth Iowa vol-

unteers, and to pay him a pension at the rate of eight dollars per month, until the sixth day of June, eighteen hundred and sixty-six, and thereafter at the rate of fifteen dollars per month, commencing February twenty-first, eighteen hundred and sixty-three.

APPROVED, July 20, 1868.

CHAP. CCXII.—An Act granting a Pension to the widow and children of Charles W. Wilcox.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of Martha J. Wilcox, the widow, and James W., Clarinda J., Ira E., and Charles E. Wilcox, children under sixteen years of age of Charles W. Wilcox, late of company "B," ninety-seventh Illinois volunteers, commencing March sixteenth, eighteen hundred and sixty-three.

APPROVED, July 20, 1868.

CHAP. CCXIII.—An Act granting a Pension to Saffrona C. Phelps, widow of John S. Phelps.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of Saffrona C. Phelps, the widow, and Caleb S. Phelps, child under sixteen years of age, of John S. Phelps, late a second lieutenant in the thirty-fifth regiment of Kentucky mounted infantry, commencing July twenty-third, eighteen hundred and sixty-three.

APPROVED, July 20, 1868.

CHAP. CCXIV.—An Act granting a Pension to the children of Pleasant Stoops.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and instructed to place upon the pension-rolls the names of David Henry Stoops, Pleasant Stoops, and Sturges Stoops, the children under sixteen years of age of Pleasant Stoops, late a member of company F, eighteenth regiment of United States infantry, to date from the day of his death, subject to the provisions and limitations of the pension laws.

APPROVED, July 20, 1868.

CHAP. CCXV.—An Act granting a Pension to George F. Gorham, late a Private in Company "B," Twenty-Ninth Regiment Massachusetts Volunteer Infantry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-rolls the name of George F. Gorham, late a private in company "B," twenty-ninth regiment Massachusetts volunteer infantry, in the war of eighteen hundred and sixty-one, and that he be allowed and paid a pension at the rate of twenty-five dollars per month, subject to the provisions and limitations of the pension laws, to be computed from the sixteenth day of January, anno Domini one thousand eight hundred and sixty-five.

SEC. 2. *And be it further enacted,* That inasmuch as the said George F. Gorham is now insane, it is ordered and directed that the pension money be paid over to his guardian to be applied to the support of said George F. Gorham during his insanity.

APPROVED, July 20, 1868.

CHAP. CCXVI.—An Act granting a Pension to the widow and child of William Craft.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls the names of Susan F. Craft, widow, and the child under sixteen years of age, of William Craft, late of company "D," eighty-second Pennsylvania regiment, subject to the provisions and limitations of the pension laws, to commence April sixth, eighteen hundred and sixty-five.

APPROVED, July 20, 1868.

CHAP. CCXVII.—An Act granting a Pension to Jeremiah T. Hallett.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Jeremiah T. Hallett, late a member of company I, first United States infantry, and allow and pay him a pension at the rate of eight dollars per month, until the fourth day of July, eighteen hundred and sixty-four, and subsequently at the rate of twenty-five dollars per month, commencing March tenth, eighteen hundred and sixty-four.

APPROVED, July 20, 1868.

CHAP. CCXVIII.—An Act granting a Pension to Solomon Zachman.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be authorized and directed to place the name of Solomon Zachman, of Marion county, Ohio, formerly a member of company "D," eighty-second Ohio volunteers, on the pension-rolls, at the rate of eight dollars per month, commencing on the thirtieth day of May, eighteen hundred and sixty-four, to the sixth day of June, eighteen hundred and sixty-six, and thereafter at the rate of fifteen dollars per month during his natural life.

APPROVED, July 20, 1868.

CHAP. CCXIX.—An Act granting a Pension to William H. McDonald.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of William H. McDonald, late of company F, sixtieth regiment New York volunteers, and to pay him a pension at the rate of eight dollars per month until June six, eighteen hundred and sixty-six, and thereafter at the rate of fifteen dollars per month, commencing March eleventh, eighteen hundred and sixty-two.

APPROVED, July 20, 1868.

CHAP. CCXX.—An Act granting arrears of Pension to Cyrus K. Wood, legal Representative of Cyrus D. Wood, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to Cyrus K. Wood, of Auburn, Maine, father and legal representative of Cyrus D. Wood, late of company "H," tenth regiment of Maine volunteer infantry, eight dollars per month from the eighth day of May, eighteen hundred and sixty-three, to the sixth day of June, eighteen hundred and sixty-six; and twenty-five dollars per month from said sixth day of June, eighteen hundred and sixty-

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six, to the eighth day of April, eighteen hundred and sixty-seven.

APPROVED, July 20, 1868.

CHAP. CCXXI.—An Act granting a Pension to the widow and children of Andrew Holman.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of Kezia Holman, the widow, and the three children under sixteen years of age, of Andrew Holman, late a private in company "G," twenty-ninth regiment of Ohio volunteer infantry, commencing March twenty-sixth, eighteen hundred and sixty-five.

APPROVED, July 20, 1868.

CHAP. CCXXII.—An Act granting a Pension to John D. Lay.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of John D. Lay, a citizen of Daviess county, Missouri, and to pay him a pension at the rate of eight dollars per month until June six, eighteen hundred and sixty-six, and thereafter at the rate of fifteen dollars per month, commencing on the first day of January, eighteen hundred and sixty-two.

APPROVED, July 20, 1868.

CHAP. CCXXIII.—An Act granting a Pension to the widow and child of Cornelius L. Rice.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the names of Elizabeth Rice, the widow, and William T. S. Rice, the child under sixteen years of age, of Cornelius L. Rice, late a member of company "B," ninety-first regiment Pennsylvania volunteers, commencing December fourth, eighteen hundred and sixty-six.

APPROVED, July 20, 1868.

CHAP. CCXXIV.—An Act for the Relief of Edward B. Allen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Paymaster General of the Army be, and he is hereby, directed to pay to Edward B. Allen, of the State of Indiana, out of any money appropriated for the pay of the Army, the full amount of the pay and emoluments of a captain of infantry from the eighteenth day of August, eighteen hundred and sixty-two, to the first day of November, eighteen hundred and sixty-two.

APPROVED, July 20, 1868.

CHAP. CCXXV.—An Act for the Relief of L. Merchant and Company and Peter Rosecrantz.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Leander Merchant, of the firm of L. Merchant and Company, the sum of one hundred and nine thousand four hundred and twelve dollars and eighty-one cents, the proceeds of six hundred and eighty-four bales of cotton, the private property of said firm, taken erroneously and without due authority by the agents of the United States civil

and military authorities at Mobile, Alabama, in the month of April, eighteen hundred and sixty-five, shipped to New York, sold by the United States, and the proceeds thereof paid into the Treasury, the charges and expenses of the United States having been deducted therefrom; and to Peter Rosecrantz the sum of thirty-nine thousand two hundred and fifty-three dollars and ten cents, the proceeds of two hundred and forty-one bales of cotton, the private property of said Rosecrantz, taken, sold, and appropriated at the same time and place, and in the same manner, the charges and expenses of the United States having likewise been deducted therefrom.

APPROVED, July 22, 1868.

CHAP. CCXXXI.—An Act granting an increase of Pension to Frances T. Richardson, widow of the late Major General Israel B. Richardson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Frances T. Richardson, widow of the late Major General Israel B. Richardson, for pension at the rate of fifty dollars per month from the third day of November, eighteen hundred and sixty-two, on which day General Richardson died from wounds received in the battle of Antietam on the seventeenth day of September, eighteen hundred and sixty-two, said pension to be continued during her widowhood, and if that should terminate, then to be continued to Israel Philip Richardson, sole surviving child of said General Richardson, until he shall become sixteen years old.

SEC. 2. *And be it further enacted,* That the pension heretofore allowed to said Frances T. Richardson, under general law, be discontinued, but the sum received by her under the same shall be deducted from the pension hereby granted, and this pension shall be subject to the provisions of the general pension law.

APPROVED, July 23, 1868.

CHAP. CCXXXII.—An Act granting a Pension to Martha Ann Wallace.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Martha Ann Wallace, widow of the late Brigadier General W. H. L. Wallace, for pension at the rate of fifty dollars per month, from the tenth day of April, eighteen hundred and sixty-two.

SEC. 2. *And be it further enacted,* That the pension heretofore allowed said Martha A. Wallace under general law be discontinued.

APPROVED, July 23, 1868.

CHAP. CCLXXVII.—An Act granting a Pension to Violet Henry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Violet Henry, the widow of Sherrod Henry, late a private in company D, sixteenth regiments United States colored troops, and to pay her a pension at the rate of eight dollars per month, commencing July seventeenth, eighteen hundred and sixty-five, and also to pay her the sum of two dollars per month for Easter Henry, child under sixteen years of age of the said Sherrod and Violet, from the twenty-fifth day of July, eighteen hundred and sixty-six, until she attains the said age.

APPROVED, July 27, 1868.

CHAP. CCLXXVIII.—An Act granting a Pension to Nancy Smith.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Nancy Smith, widow of Benjamin H. Smith, late a private in company E, twenty-third regiment Massachusetts volunteers, and to pay her a pension at the rate of eight dollars per month, to commence on the first day of March, eighteen hundred and sixty-five, and to continue during her widowhood.

APPROVED, July 27, 1868.

CHAP. CCLXXIX.—An Act granting increase of Pension to Nancy A. Stocks.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to Nancy A. Stocks, widow of Reuben Stocks, deceased, subject to the provisions and limitations of the pension laws, the sum of two dollars per month for each of the children of the said Reuben Stocks under sixteen years of age at the time of his death, to wit: George, born November twelfth, eighteen hundred and fifty-four; Joseph, born March twenty-eighth, eighteen hundred and fifty-seven; and Mary A., born December eleventh, eighteen hundred and sixty-one, until they severally attain the age of sixteen years.

APPROVED, July 27, 1868.

CHAP. CCLXXX.—An Act granting a Pension to Robert Watson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Robert Watson, late a private in company E, tenth regiment Tennessee infantry volunteers, and to pay him a pension, at the rate of eight dollars per month, from the nineteenth day of August, eighteen hundred and sixty-four, to the sixth day of June, eighteen hundred and sixty-six, and thereafter at the rate of fifteen dollars per month during his natural life.

APPROVED, July 27, 1868.

CHAP. CCLXXXI.—An Act for the Relief of Mary Scott.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to allow and pay to Mary Scott, widow of William Scott, late a private in company I, fifteenth regiment Massachusetts volunteers, a pension at the rate of eight dollars per month, from the twenty-first day of October, eighteen hundred and sixty-one, the date of the death of her said husband, until the tenth day of August, eighteen hundred and sixty-six, the date of the commencement of the pension heretofore allowed her, and the additional sum of two dollars per month for each child of said William Scott under sixteen years of age, to commence from the twenty-fifth day of July, eighteen hundred and sixty-six, and to continue until said children shall severally attain the age of sixteen years.

APPROVED, July 27, 1868.

CHAP. CCLXXXII.—An Act for the Relief of Seth Lea.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of

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the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provision and limitations of the pension laws, the name of Seth Lea, of Knox county, in the State of Tennessee, and pay him a pension as a second lieutenant, commencing January fifteenth, eighteen hundred and sixty-three.

APPROVED, July 27, 1868.

CHAP. CCLXXXIII.—An Act to provide for the Distribution of the Reward offered by the President of the United States for the Capture of Jefferson Davis.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the reward of one hundred thousand dollars offered for the capture of Jefferson Davis by the President of the United States in his proclamation of May second, eighteen hundred and sixty-five, shall be paid as follows: to James H. Wilson, of the State of Illinois, late major general of volunteers, three thousand dollars; to Benjamin D. Pritchard, of the State of Michigan, late lieutenant colonel of the fourth Michigan cavalry, three thousand dollars; to Henry Harnden, of the State of Wisconsin, late lieutenant colonel of the first Wisconsin cavalry, three thousand dollars; to Joseph A. O. Yeoman, of the State of Iowa, late captain of the first Ohio cavalry, three thousand dollars; and to the following officers, non-commissioned officers, and privates, in proportion to the monthly pay proper to which they were respectively entitled by law in the grades which they held at the time of said capture:

Officers and men of the fourth Michigan cavalry that were present at the capture of Jefferson Davis and party, on the morning of May ten, eighteen hundred and sixty-five: Julian G. Dickinson, adjutant; Perry J. Davis, regimental quartermaster; Charles T. Hudson, captain company E; Silas J. Stauber, first lieutenant company G; Henry S. Bontell, first lieutenant company C, (wounded); Alfred B. Purinton, second lieutenant company I; John Bennett, second lieutenant company B; Thomas Davis, commissary sergeant company A; George A. Simmons, Thomas Riley, and Rezin Wright, sergeants company A; Darwin Dunning, Robert L. Reynolds, and Lyman J. Russell, corporals company A; William Balon, Daniel C. Blinn, Gilbert Coata, James Fullerton, Casper Knable, Philo Morse, Charles W. Nichols, Henry Provost, and George Rinke, privates company A; A. E. Ford and A. A. Braley, sergeants company B; J. F. Sherbourne, C. F. Parker, William Crow, U. B. Tuttle, and B. B. Bennett, corporals company B; A. F. Sheppard, W. P. Steadman, Frank Crim, Augustus Armstrong, William V. Wood, John Nichols, J. J. Bontell, and L. H. Wilcox, privates company B; Abram Sebring, Reuben Palmerton, David G. Curry, and George M. Munger, corporals company C; James F. Bullard, David Dillon, Frank C. Leach, James H. Lynch, Stephen B. Munson, (killed), John Ruppelt, Ranselcar Riggs, William J. Smith, and Harmon Stephens, privates company C; James H. Place, corporal company D; Burt Judson, Horace C. Jenney, William H. J. Martin, William Parker, Francis E. Thompson, Z. H. Wilcox, John Brown, Jacob E. Munn, and Thomas Hunter, privates company D; George A. Bullard and David B. Green, sergeants company E; John Hines, (killed), Charles W. Tyler, Dewitt C. Carr, and William H. Crittenden, corporals company E; Silas Bullard, Robert G. Tripp, Oscar E. Tefft, Henry Johnson, William F. Driesman, Peter Segarry, George F. Dalmage, and John G. Stephens, privates company E; John Correnton, sergeant company F; William F. True and Dewitt C. Cobb, corporals company F; B. Franklin Nichols, James Patterson, Ira Harrington, junior, John F. Gross-

man, Homer Hazleton, Henry Frickey, George Raab, Joseph Bellinger, Henry Bradock, Dennis Drescoe, and William Wright, privates company F; Jacob N. Frast, James F. O'Brien, John Cavanaugh, Jeremiah F. Craig, and William H. Palmateer, sergeants company G; George W. Van Sickle, John Ballou, George Myers, and Leander B. Shaw, corporals company G; Joshua Parks, Cary Reed, John A. Skinner, Joseph Odlin, David Cunningham, privates company G; and John H. Kelch, private company K; Joseph Hofmaster and Benjamin K. Colt, sergeants company L; Charles C. Marsh and William Oliver, corporals company L; Ed. Lane, J. W. Lindsley, Perry Phelps, Benjamin F. Carpenter, Joseph Stewart, William Newkirk, George Noggle, Jesse J. Penfield, William Munn, Andrew Bee, and Daniel Edward, privates company L; Wesley D. Pond, first sergeant company M; Simeon Huff and Henry Shanahan, corporals company M; Emanuel Beazan, Andrew Anderson, Robert Arnold, and John Vantyle, privates company M; Daniel Graham, private company G; Elias F. Pierce [and] Lester P. Bates, sergeant[s] company I; Jerome B. Heath and Preston W. Brown, corporals company I; Luke M. Thayer, Martin L. Brown, George W. Bodwell, William Dill, George W. Dutcher, Charles Flugger, Daniel E. Krumm, Charles W. Middaugh, Peter McKennedy, Hiram H. McCullough, and Marwin E. Pettit, privates company I; Ansel Adams, sergeant company K; Alonzo Moe, corporal company K; James R. Norton, John Nelson, Jacob D. Newith, Edwin Mabie, Smith B. Mills, Decatur Jaycox, Enoch L. Rhodes, Thomas Foley, Nathaniel Root, privates company K.

Officers and enlisted men of the first Wisconsin cavalry engaged in the pursuit and present at the time of the capture of Jefferson Davis: Orson P. Clinton, second lieutenant company B; Walter O. Hargraves, sergeant-major; James Aplin, private company K, orderly for Colonel Harnden; Austin M. Howe, sergeant company A; David N. Bell, William Billsbeck, Martin M. Coleman, William Deyer, John Huntermer, Gottlieb J. Klinefline, Sidney Leonard, James McStillson, George W. Silsbee, Christopher Stinebreck, Herbert Schelter, privates company A; Luther L. Blair, Melvin T. Olin, and John Clark, sergeants company B; Thomas B. Culbertson, James McCrary, and Ezra H. Stewart, corporals company B; Albert L. Beardsley, Thomas Coleman, Rawson P. Franklin, Sylvester Fairbanks, William Gill, William Grimes, Lewis Jacobson, Honore Leverner, William Matshie, Ira Miller, John Nolan, John Norton, Warren P. Otterson, Stephen Pougnette, William A. Spangler, Frederick Steinfeld, Joseph Smith, George Wright, and John Wagner, privates company B; George D. Hussey and J. M. Wheeler, sergeants company D; Gustavus W. Sykes, (wounded), L. Philip Pond, Joseph Myers, and George La Borde, corporals company D; Nelson Apley, (wounded), P. F. Anderson, Donald Brandor, F. Bublitz, J. S. Burton, Lawrence Bird, Joseph Beguen, A. J. Craig, Thomas Day, Thomas Dickerson, Jerrod Fields, James Foley, Jacob Gosh, D. H. Goodrich, Lewis Harting, U. M. Hephner, C. Helgerson, Henry Hamilton, A. E. Johnson, John Ludwick, M. F. Nickerson, P. W. O. Herron, J. A. L. Pooch, Alexander Pingilly, Arne Renom, Jerome Roe, Herman Stone, John Spear, Henry Sidenburg, J. H. Warren, C. W. Seely, (wounded), privates company D.

Detachment accompanying Captain Joseph A. O. Yeoman in his pursuit and discovery of Jefferson Davis: George P. Barnes, junior, sergeant company A, first Ohio cavalry; John H. McElwaine, quartermaster sergeant company A, first Ohio cavalry; Samuel Robertson and Ripley M. Woin, corporals company A, first Ohio cavalry; Henry T. Ressler, Samuel J. Rice, Spencer C. Phares, and George W. Blair, privates company A, first Ohio cavalry;

John Camm, sergeant company C, first Ohio cavalry; William Hampden, private company C, first Ohio cavalry; John W. Newlove, commissary sergeant company D, first Ohio cavalry; William Powers, private company D, first Ohio cavalry; Bushrod W. Click, private company F, first Ohio cavalry; Thomas R. Keppard and William Place, privates company I, first Ohio cavalry; John Young, private company K, first Ohio cavalry; Lee Wood, private company L, seventh Ohio cavalry; John Gatts, corporal company E, seventh Ohio cavalry; Thomas H. Wright, private company E, fifth Iowa cavalry; and to five additional men, privates in the said first regiment of Ohio cavalry; one man of the seventh regiment of Ohio cavalry; and two men of the fifth regiment of Iowa cavalry; whose names and places of residence are unknown, but who shall satisfy the proper accounting officers of the Treasury Department of their services and identity, by sufficient evidence, before being paid under this act. And the Secretary of War is hereby authorized to receive evidence to correct misnomers and the omission, if any, of the names of those actually present, rendering service with either of the said detachments, according to the true intent and meaning of this act, and to certify the same to the Secretary of the Treasury, who shall cause the same to be audited and paid.

SEC. 2. *And be it further enacted,* That to the heirs-at-law and legal representatives of such soldiers above named, as were killed in action at the capture of Jefferson Davis, or have since deceased, the share, proportion, or claim of such killed or deceased soldier shall be paid.

SEC. 3. *And be it further enacted,* That the sum of one hundred thousand dollars is hereby appropriated to carry this act into effect.

APPROVED, July 27, 1868.

CHAP. CCLXXXIV.—An Act to Relieve from Legal and Political Disabilities certain Persons engaged in the late Rebellion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all legal and political disabilities imposed by the United States upon Simeon Corley, a citizen of South Carolina; John Milledge, of Augusta, Georgia; Michael Hahn, of New Orleans, Louisiana; James Bussey, of Morehouse parish, Louisiana; William C. Carr and John L. Barrett, of Union parish, Louisiana; Richard H. Cuney, of East Baton Rouge, Louisiana; Robert Ray, of New Orleans, Louisiana; George W. Christy, of New Orleans, Louisiana; Andrew T. Stone, of Rocky Comfort, Arkansas; Riley B. Archer, of Arkansas; James H. Hicks, of Arkansas; Rufus L. Archer, of Arkansas; Z. C. Ross, of Arkansas; W. F. Richardson, of Union county, Arkansas, and P. M. B. Young, of Georgia, [be, and the same are hereby, removed.]

APPROVED, July 27, 1868.

CHAP. CCLXXXV.—An Act granting a Pension to Lucinda J. Letcher.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lucinda J. Letcher, widow of Joseph Letcher, late a private in company G, ninth Michigan volunteers, commencing October twenty-first, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCLXXXVI.—An Act for the Relief of Eliza Mascher, widow of John F. Mascher.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Eliza Mascher,

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administratrix of John F. Mascher, deceased, who obtained a patent No. 9611 for an improvement in daguerreotype cases, dated the eighth of March, eighteen hundred and fifty-three, with additional improvement, No. 184, annexed to said original patent, dated nineteenth of February, eighteen hundred and fifty-six, for fourteen years, which expired on the eighth day of March, eighteen hundred and sixty-seven, be authorized to apply to the Commissioner of Patents for the extension of said patent for seven years, under the regulations now in force for the extension of patents, as if she had made application previous to its expiration, as required by law; and the Commissioner of Patents is directed to investigate and decide the application for extension on the same evidence and in the same manner as other applications for extension are decided: *Provided*, That the application for extension be made within thirty days after approval of this act, and the decision of the Commissioner be rendered within ninety days from the filing of said application in the Patent Office: *And provided further*, That nothing herein shall be so construed as to hold responsible in damages any person who may have manufactured or used the daguerreotype cases with the improvement and addition aforesaid, or used cases containing the improvement and addition aforesaid, between the expiration of the patent and the approval of this act: *And provided also*, That the Commissioner shall be satisfied before granting such extension that it will inure entirely to the benefit of the said Eliza Mascher.

APPROVED, July 27, 1868.

CHAP. CCLXXXVII.—An Act directing the Commissioner of Pensions to proceed to hear Evidence and determine the Right of W. H. Cox, deceased, late a Sergeant in Company F, Second Regiment Pennsylvania Artillery, to a Pension in same manner as if he were still living, he having died of disease contracted whilst a Prisoner of War at Andersonville, Georgia, and, if found to be entitled to a Pension, then same, from time of his death, to be paid over to his father, Charles D. Cox.

Whereas W. H. Cox, a hale, hearty young man of about twenty years of age, residing with his father, Charles D. Cox, of Lewisburg, Pennsylvania, and being a part of his family, on the sixteenth day of February, eighteen hundred and sixty-four, was enrolled as a sergeant in company F, second regiment Pennsylvania artillery, to serve three years or during the war; that he was regularly mustered in as such, and at the battle of Cold Harbor, Virginia, on or about the second of June, eighteen hundred and sixty-four, was taken prisoner by the rebels and sent to Andersonville, Georgia, and there confined as a prisoner of war for the period of ten months, and from exposure and lack of food became very much debilitated, and after being released he was on the eighth of August, eighteen hundred and sixty-five, at Philadelphia, Pennsylvania, by virtue of a telegram dated Adjutant General's Office, May twelfth, eighteen hundred and sixty-five, honorably discharged from the United States service; and whereas the said W. H. Cox, after reaching his father's residence, made application for a pension under existing laws, in consequence of disease contracted in line of duty, and before the case was finally disposed of, to wit, July ninth, eighteen hundred and sixty-six, he died of disease contracted as aforesaid, and the Commissioner then declined to proceed farther in the case, being of opinion that the death of the young man suspended farther proceedings; and whereas Charles D. Cox, father of said deceased soldier, is desirous of obtaining the pension justly due his said son from date of his discharge till death, to be applied to the purchase of a suit-

able monument to be placed at his grave: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Pensions be, and is hereby, authorized and directed to proceed and receive proof of the right of said W. H. Cox to a pension in same manner as if still living, and if the evidence satisfies him that he was so entitled, then the pension from time of discharge till his death to be paid over to his father, Charles D. Cox, out of the pension fund or any other money in the Treasury not otherwise appropriated.

APPROVED, July 27, 1868.

CHAP. CCLXXXVIII.—An Act granting a Pension to Orlena Walters.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Orlena Walters, widow of Lieutenant Elisha Walters, late of the seventh provisional regiment of enrolled Missouri militia, commencing October fourth, one thousand eight hundred and sixty-three.

APPROVED, July 27, 1868.

CHAP. CCLXXXIX.—An Act granting a Pension to Elizabeth Richardson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Richardson, widow of William Richardson, late a private in company I, fifth Kentucky cavalry, commencing February twentieth, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCXC.—An Act granting a Pension to Margaret C. Long.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret C. Long, widow of Jesse K. Long, late a private in company E, twenty-eighth Kentucky volunteers, commencing June six, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCXCI.—An Act granting a Pension to James Rooney.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of James Rooney, late a member of company B, seventh Missouri cavalry, commencing April fourteenth, eighteen hundred and sixty-three.

APPROVED, July 27, 1868.

CHAP. CCXCII.—An Act granting a Pension to Margaret Davis.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Davis, widow of William H. Davis, late an acting surgeon in

the eighteenth Missouri volunteers, and pay her a pension at the rate of seventeen dollars per month.

APPROVED, July 27, 1868.

CHAP. CCXCIII.—An Act granting a Pension to the widow and minor children of Hiram Hitchcock.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the limitations and provisions of the pension laws, the names of the widow, Jane E. Hitchcock, and the minor children, under sixteen years of age, of Hiram Hitchcock, late a hospital steward in the eighteenth Wisconsin regiment volunteers, commencing January seventh, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCXCIV.—An Act for the Relief of Zadock T. Newman.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place the name of Zadock T. Newman, late a private in the seventh provisional regiment enrolled Missouri militia, upon the pension-roll, at the rate of four dollars a month from the second day of January, eighteen hundred and sixty-four, to continue during his natural life, subject to the provisions of the pension laws.

APPROVED, July 27, 1868.

CHAP. CCXCV.—An Act for the Relief of Mrs. Alice A. Dryer.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to Alice A. Dryer, widow of Hiram Dryer, late a major of the thirteenth regiment of United States infantry, whose name is now on the list of pensioners, the sum of twenty-five dollars per month during her widowhood, in lieu of the pension she is now receiving; this act to take effect from the fifth day of March, eighteen hundred and sixty-seven, the day of the death of said Hiram Dryer.

APPROVED, July 27, 1868.

CHAP. CCXCVI.—An Act granting a Pension to Ann Williams.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-rolls, subject to the provisions and limitations of the pension laws, the name of Ann Williams, widow of John Williams, late of company E, third regiment of Wisconsin cavalry, commencing May twenty-sixth, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCXCVII.—An Act granting a Pension to George Truax, late a Private in Company H, First Regiment of Virginia Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of George Truax, late a private in company H, first regiment of Virginia volunteers, on the pension-roll, to be paid a pension to the extent of one fourth disability, to be increased or cease as the subsequent examinations of the surgeon may disclose, subject to the rules and regulations of the pension department, to commence on the twenty-ninth day of October, anno Domini one thousand eight hundred and sixty-four.

APPROVED, July 27, 1868.

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CHAP. CCXCVIII.—An Act granting a Pension to Elizabeth Cassidy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Cassidy, widow of Michael Cassidy, late a first lieutenant in the sixty-ninth regiment of Pennsylvania volunteer infantry, commencing July fifth, eighteen hundred and sixty-three.

APPROVED, July 27, 1868.

CHAP. CCXCIX.—An Act granting a Pension to Margaret Filson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Filson, widow of George W. Filson, to receive a pension to bear date from first January, eighteen hundred and sixty-six.

APPROVED, July 27, 1868.

CHAP. CCC.—An Act to place the name of Ellen Curry, widow of James Curry, deceased, a Private Soldier of Company F, Thirty-Ninth Regiment Illinois Volunteers, upon the Pension-Roll of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to place the name of Ellen Curry, widow of James Curry, deceased, private soldier in company F, thirty-ninth regiment Illinois infantry volunteers, upon the pension-roll of the United States, subject to the laws now in force in relation to pensions.

APPROVED, July 27, 1868.

CHAP. CCCI.—An Act granting a Pension of Seventeen Dollars per month to David Duhigg, of Lynden, Vermont, father of late First Lieutenant Dennis Duhigg, of Company M, First Regiment Vermont Artillery.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and required to place on the pension-roll the name of David Duhigg, father of late First Lieutenant Dennis Duhigg, of company M, first regiment Vermont artillery, who was killed in battle, and that the said David Duhigg, in consequence of the service and death of his said son, be paid during his natural life a pension of seventeen dollars per month, to commence from the passage of this act.

APPROVED, July 27, 1868.

CHAP. CCCII.—An Act granting a Pension to Charles Hamstead.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the limitations and provisions of the pension laws, the name of Charles Hamstead, late a member of Captain Shell's company of West Virginia State guards, (afterwards the seventh West Virginia volunteers,) commencing February twenty-sixth, eighteen hundred and sixty-two.

APPROVED, July 27, 1868.

CHAP. CCCIII.—An Act granting a Pension to Matthew C. Griswold.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the

Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Matthew C. Griswold, late a first lieutenant in the twentieth regiment of New York cavalry, commencing January eleventh, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCIV.—An Act for the Relief of Mrs. Mary J. Trueman.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to place on the pension-roll of the United States the name of Mary J. Trueman, widow of James Trueman, late private in company B, twelfth regiment West Virginia volunteer infantry, subject to the provisions and limitations of the pension laws.

APPROVED, July 27, 1868.

CHAP. CCCV.—An Act for the Relief of Captain A. G. Olivar.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Captain A. G. Olivar, out of any moneys in the Treasury not otherwise appropriated, the sum of two thousand and ten dollars, this being the full amount that the said Olivar had stolen from him the thirteenth of May, eighteen hundred and sixty-four, which was Government funds.

APPROVED, July 27, 1868.

CHAP. CCCVI.—An Act for the Relief of Sally C. Northrop.

Whereas the petition of Sally C. Northrop represents that in the year eighteen hundred and forty-eight, Henry S. Atwood, a merchant, being solicited thereto by them, purchased the discharges of certain soldiers, and obtained from them powers of attorney to procure and assign the bounty-land warrants to which they were entitled under the ninth section of the act of Congress, approved February eleventh, eighteen hundred and forty-seven; and that before receiving the warrants on the discharges so purchased, the said Henry S. Atwood died; and that subsequently said warrants were duly received by Franklin K. Beck, administrator of the estate of said Henry S. Atwood, and sold by said Beck, as such administrator, to the said Sally C. Northrop, for a full and valuable consideration; and whereas it is further represented by the petitioner that, according to the forms of transfer now prescribed by law, her title to said warrants is defective, and that after careful efforts through several years, she has been unable to find the soldiers in whose names said warrants were issued, and therefore unable to perfect her title to the same; the numbers of said warrants and the names of the soldiers in whose favor they were issued being as follows, viz.: 61669, John Holly; 61575, William Luffman; 60813, George W. Bowen; 60823, James Cooper; 61672, John Gilbert; 61556, Adam H. Underwood; 60817, Henry Trait; 61674, Henry H. Foster; 61822, Joseph Ervin; 61675, John E. Edmundson; 61820, Thomas Johnson; 61676, William Davis; 62062, William M. Connor; 61663, Frederick S. Moore; 60814, Robert Bryan; 61665, William Holley; 60825, Green B. Driscoll; 60822, William Childers; 61819, James Loffen; 61664, John C. Lewis; 61569, Matthew V. Gray; 61806, William B. Buckelew; 61671, William H. Hines; 60816, Pierce L. Alford; 61808, Peter Brookey; 61576, Silas M. Sullivan; 61809, Elebe H. Jones; 62111, William E. Binion; 62337, Zadoc Pitts; 60827, John Lamerson; 62335, Thomas Lindsey; 60826, Wilson Clark; 61807, Wiley Chesser; 60824, Joel Foster; 62336, Augustus Patal; 60821,

Jesse Le Grand; 61810, Persel N. Graham; 60815, Milton A. Roach; 62060, Ludwick B. Bright; 61667, Samuel C. Gordon; 61670, Patrick H. Harding; 61666, Farrer Lankaster; 62061, William F. Hunter; 62189, Nicholas M. Fain; 61805, John Bradley; 60812, Robert Beesley; 62064, Robert D. Brooks; 70861, Columbus W. Howard; 62873, John M. Castello; 61577, James Murray; 61562, George Somers; 62063, Charles R. Brewer; —, John Burner; Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon the location, in accordance with law, by Sally C. Northrop, or her assigns, and the presentation of any of the foregoing bounty-land warrants so located, to the Commissioner of the General Land Office, with proper legal evidence that the same has been assigned to the aforesaid Sally C. Northrop by Franklin K. Beck, as administrator of the estate of the aforesaid Henry S. Atwood, it shall be the duty of said Commissioner to issue patents for the land so located as in other cases.

APPROVED, July 27, 1868.

CHAP. CCCVII.—An Act for the Relief of Hon. George W. Bridges, a Member of the Thirty-Seventh Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Treasurer of the United States pay to the Hon. George W. Bridges, late a member of the Thirty-Seventh Congress, from the State of Tennessee, the sum of one thousand six hundred and eighty-five dollars and ten cents, out of any money in the Treasury not otherwise appropriated, in full compensation and payment of his claim for pay as a member of the Thirty-Seventh Congress, deducted for loss of time, occasioned by his arrest by rebel authority while on his way to the capital.

APPROVED, July 27, 1868.

CHAP. CCCVIII.—An Act for the Relief of Major F. F. Stevens, Assistant Paymaster United States Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Paymaster General's office and the Treasury Department in the settlement of the accounts of Major F. F. Stevens, late an assistant paymaster of the United States Army, credit to him the sum of three thousand and seventy-eight dollars and sixty-three cents, as of the first April, A. D. eighteen hundred and sixty-seven, for the cause that that amount of public money in his hands on that day was lost by the burning of the steamer Alabama, on the Mississippi river: *Provided,* That in the opinion of said accounting officers the said allowance should be made.

APPROVED, July 27, 1868.

CHAP. CCCIX.—An Act for the Relief of Palemon John.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Internal Revenue be, and hereby is, instructed to allow Palemon John a credit for the sum of seven hundred and sixty-nine dollars and thirty-seven cents, for that amount of revenue stamps lost or stolen from the mails while the same were in transit to said Commissioner from said Palemon John, late revenue stamp agent.

APPROVED, July 27, 1868.

CHAP. CCCX.—An Act for the Relief of Captain Thomas W. Miller.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and

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directed to pay to Thomas W. Miller, late captain and acting aide to Brigadier General L. Cutler, late of the Army of [the] Potomac, out of any money in the Treasury not otherwise appropriated, the sum of five hundred and twenty-nine dollars and eighty-eight cents, in full for military services from the thirteenth of May, to the seventh of August, eighteen hundred and sixty-three, inclusive, and for private horse killed in action at the battle of Gettysburg.

APPROVED, July 27, 1868.

CHAP. CCCXI.—An Act granting a Pension to Emmelene H. Rudd, widow of the late Commodore John Rudd, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Emmelene H. Rudd, widow of John Rudd, late a commodore in the United States Navy, and pay her, out of the naval pension fund, a pension at the rate of thirty dollars per month, commencing October twelfth, eighteen hundred and sixty-seven, and continue during widowhood.

APPROVED, July 27, 1868.

CHAP. CCCXII.—An Act granting a Pension to John Gridley.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John Gridley, late of company G, of the ninth regiment of Michigan volunteers, commencing February fourth, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCXIII.—An Act granting a Pension to Catherine Gensler.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Catherine Gensler, mother of John D. Gensler, late a private in company I, one hundred and forty-ninth regiment of Pennsylvania volunteers, commencing June twenty-ninth, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCCXIV.—An Act granting a Pension to Asa F. Holcomb.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Asa F. Holcomb, late a private in company B, of the twenty-fourth regiment of New York cavalry, commencing September ninth, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCCXV.—An Act granting a Pension to Elizabeth Lamar.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Lamar, mother of James Curtis Lamar, who was killed while fighting with an organization of Union men in Kentucky, and pay her a pension of eight dol-

lars per month, commencing September twentieth, eighteen hundred and sixty-two.

APPROVED, July 27, 1868.

CHAP. CCCXVI.—An Act granting a Pension to William Smith.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William Smith, late a corporal in company H, of the tenth United States infantry.

APPROVED, July 27, 1868.

CHAP. CCCXVII.—An Act granting a Pension to Martin Burke.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Martin Burke, late a sergeant in company K, of the fifteenth regiment of New York heavy artillery, and pay him a pension from August twenty-second, eighteen hundred and sixty-five, to December thirty first, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCXVIII.—An Act granting a Pension to Prescott Y. Howland.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Prescott Y. Howland, late a corporal in company D, of the twelfth regiment of New Hampshire volunteer infantry, commencing October thirteenth, eighteen hundred and sixty-two.

APPROVED, July 27, 1868.

CHAP. CCCXIX.—An Act granting a Pension to Stephen T. Carver.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Stephen T. Carver, late a private in company D, of the forty-ninth New York volunteers, and pay him a pension subject to the report from an examining surgeon, commencing February fifth, eighteen hundred and sixty-three.

APPROVED, July 27, 1868.

CHAP. CCCXX.—An Act granting a Pension to Esther C. C. Vangilder, widow of Charles F. Vangilder, deceased, late a Private in Company M, First Regiment Vermont Heavy Artillery Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Esther C. C. Vangilder, widow of Charles F. Vangilder, late a private in company M, first regiment of Vermont heavy artillery volunteers, who died May sixth, eighteen hundred and sixty-four, leaving surviving said widow and issue by her, three children, to wit: Charles Adelbert, born November thirtieth, eighteen hundred and fifty-seven, Martha Rosell, born June eighth, eighteen hundred and sixty-one, and Hosea Rosell Vangilder, born February twenty-first, eighteen

hundred and sixty-five, and that she be paid during her widowhood the sum of eight dollars per month, to commence on the sixth day of May, eighteen hundred and sixty-four, and also, under the provisions of the act of Congress relating to pensions, approved July twenty-fifth, eighteen hundred and sixty-six, the further sum of two dollars per month for each of said children, until they shall respectively arrive at the age of sixteen years.

APPROVED, July 27, 1868.

CHAP. CCCXXI.—An Act granting Back Pension to the minor children of Joseph Berry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of Mary E. Berry and Louisa Berry, minor children of Joseph Berry, late a private in company B, fourth regiment of Iowa volunteers, commencing October twenty-seventh, eighteen hundred and sixty-two, and to continue until November twenty-sixth, eighteen hundred and sixty-seven.

APPROVED, July 27, 1868.

CHAP. CCCXXII.—An Act granting increased Pension to William B. Edwards.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William B. Edwards, who was granted a pension of eight dollars per month by an act approved April twentieth, eighteen hundred and fifty-four, and pay him a pension at the rate of fifteen dollars per month, in lieu of the pension he is now receiving; said increased pension to commence June sixth, eighteen hundred and sixty-six.

APPROVED, July 27, 1868.

CHAP. CCCXXIII.—An Act granting a Pension to Jonathan H. Perry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, at the rate of eight dollars per month, the name of Jonathan H. Perry, father of Anthony H. Perry, late of company I, of the third regiment of New Jersey volunteer infantry, commencing August fifteenth, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCXXIV.—An Act granting a Pension to John La Marsh.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of John La Marsh, late a private in company F, of the third Vermont volunteer infantry, commencing August fourth, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCCXXV.—An Act granting a Pension to Catharine Skinner.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Catharine Skinner, widow

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of Charles B. Skinner, late a private in company C, of the second regiment of Pennsylvania volunteers, and pay her a pension at the rate of eight dollars per month, commencing December twenty-seventh, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCCXXVI.—An Act granting a Pension to Helen L. Wolf.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Helen L. Wolf, widow of John Wolf, late a private in company K, of the one hundred and eleventh regiment of New York infantry, commencing March twenty-third, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCXXVII.—An Act granting a Pension to Mrs. Elizabeth Lane, of Boston, Massachusetts, mother of John Lane, deceased, late a Private in Company A, Twelfth Regiment Massachusetts Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth Lane, mother of John Lane, deceased, late a private in company A, twelfth regiment Massachusetts volunteers, who was killed in action August thirtieth, eighteen hundred and sixty-two, at the second battle of Bull Run, Virginia, and that she be paid a pension of eight dollars per month during her widowhood, commencing on the thirtieth day of August, eighteen hundred and sixty-two.

APPROVED, July 27, 1868.

CHAP. CCCXXVIII.—An Act granting a Pension to Miss Ann E. Hamilton, of Allegheny City, Pennsylvania, aunt and adopted mother of James E. McKillip, and Charles P. McKillip, deceased, late Soldiers in the Union Army.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Miss Ann E. Hamilton, aunt and adopted mother of James E. McKillip, late a private in company F, sixty-first regiment Pennsylvania volunteers, who was wounded in battle at Fair Oaks, Virginia, May thirty-first, eighteen hundred and sixty-two, and died of his wounds in Richmond, June thirtieth, eighteen hundred and sixty-two, and Charles P. McKillip, late a corporal in company G, sixty-second regiment Pennsylvania volunteers, who was killed in battle at Gaines Hill, Virginia, June twenty-seventh, eighteen hundred and sixty-two; and that she be paid a pension of eight dollars per month during her natural life, to commence on the twenty-seventh of June, eighteen hundred and sixty-two.

APPROVED, July 27, 1868.

CHAP. CCCXXIX.—An Act granting a Pension to Sarah E. Ball, widow of James Ball, deceased, late a Fireman on the Steamer Vidette, connected with the Burnside Expedition.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension

laws, the name of Sarah E. Ball, of the city of Poughkeepsie, in the State of New York, widow of James Ball, deceased, who was a fireman on the steamer Vidette, belonging to the Government of the United States and connected with the Burnside expedition, and died of disease contracted in the service, leaving said widow surviving and issue under age of sixteen years, two children, to wit: Elnora, born June twenty-sixth, eighteen hundred and fifty-three, and George D., born January third, eighteen hundred and fifty-five; and that she be paid a pension of eight dollars per month, during her widowhood, to commence on the ninth of May, eighteen hundred and sixty-two, and at her death or marriage the pension from that event to be paid to the children of the said James Ball, deceased, as may be then under the age of sixteen years.

APPROVED, July 27, 1868.

CHAP. CCCXXX.—An Act granting a Pension to Jane McNaughton.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jane McNaughton, widow of Peter McNaughton, late a contract surgeon, and pay her a pension as the widow of a contract surgeon, commencing June thirteenth, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCCXXXI.—An Act granting a Pension to Michael Reilly.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Michael Reilly, late a private in company H, thirty-fifth regiment of Massachusetts volunteer infantry, commencing June ninth, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCXXXII.—An Act granting a Pension to Eliza Donnelly, mother of Dudley Donnelly, deceased, late Colonel of the Twenty-Eighth Regiment Infantry, New York State Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Eliza Donnelly, mother of Dudley Donnelly, deceased, late colonel of the twenty-eighth regiment of infantry, New York State volunteers; and that she be paid during her widowhood a pension at the rate of thirty dollars per month, to commence on and after the fourth day of December, anno Domini one thousand eight hundred and sixty-eight.

APPROVED, July 27, 1868.

CHAP. CCCXXXIII.—An Act granting a Pension to Elizabeth G. Hibben, widow of Reverend Samuel Hibben, deceased, late a Chaplain in the Fourth Cavalry Regiment, Illinois Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Elizabeth G. Hibben, widow of Reverend Samuel Hibben, late a chaplain of the fourth cavalry regiment, Illinois volunteers, who had been appointed to that position

with the rank of captain, and died of disease contracted in the service, leaving surviving said widow, and issue, one child, a son, of the name of John Grier Hibben, born April nineteenth, eighteen hundred and sixty-one; and that she be paid during her widowhood a pension of twenty dollars per month, to commence on the tenth day of June, eighteen hundred and sixty-two; and at her marriage or death the pension from that event to be paid to said child, if then under sixteen years old.

APPROVED, July 27, 1868.

CHAP. CCCXXXIV.—An Act granting a Pension to Hinman L. Hall.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hinman L. Hall, late a private in company D, of the ninety-seventh regiment of New York volunteer infantry, commencing July seventeenth, eighteen hundred and sixty-two.

APPROVED, July 27, 1868.

CHAP. CCCXXXV.—An Act for the Relief of the Grantees of Ann D. Durdning.

Whereas Ann D. Durdning, by her duly appointed attorney, attempted to locate the northwest quarter of the southwest quarter of section twenty-one, in township ninety-seven north of range six west, in the district of lands subject to sale at Dubuque, Iowa, on the seventh day of November, A. D. eighteen hundred and fifty-one, with bounty-land warrant No. 23525, for forty acres, act of September twenty-eight, eighteen hundred and fifty, but by an error the location was made in township ninety-one north, instead of ninety-seven north, and a patent was issued on said location in township ninety-one north, which patent was destroyed by fire by the burning of the land office at Dubuque; and whereas the tract in township ninety-seven north has been withdrawn from market under the act of Congress approved May twelfth, eighteen hundred and sixty-four, to aid in constructing the McGregor Western railroad, but has not been taken by or approved to that road at this time; and whereas the tract in township ninety-seven north has been several times changed, and the said Ann D. Durdning cannot now be found, and the loss of the tract of land to her grantees would result in a great hardship to them: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the General Land Office is hereby authorized to cause the records and papers in the case to be corrected, and to issue a patent for the northwest quarter of the southwest quarter of section twenty-one in township ninety-seven north of range six west, Iowa, in the name of Ann D. Durdning.

APPROVED, July 27, 1868.

CHAP. CCCXXXVI.—An Act granting a Pension to Polly W. Cotton.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Polly W. Cotton, widow of Wayne W. Cotton, late of company G, of the seventh regiment of Tennessee infantry, and pay her a pension as the widow of a captain, in lieu of the pension she is and has been receiving, commencing April eighteenth, eighteen hundred and sixty-three.

APPROVED, July 27, 1868.

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CHAP. CCCXXXVII.—An Act granting a Pension to Daniel Sheets.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Daniel Sheets, late a captain in the seventeenth regiment of Ohio volunteers, commencing September twelfth, eighteen hundred and sixty-three.

APPROVED, July 27, 1868.

CHAP. CCCXXXVIII.—An Act granting a Pension to Jane Rook.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jane Rook, mother of James C. Rook, late a private in company A, of the third regiment of Maine volunteer infantry, commencing July sixteenth, eighteen hundred and sixty-two.

APPROVED, July 27, 1868.

CHAP. CCCXXXIX.—An Act granting a Pension to Hugo Eichholtz.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hugo Eichholtz, late a sergeant in company L, of the fifteenth New York heavy artillery, and pay him a pension from August twenty-second, eighteen hundred and sixty-five, to April twenty-third, eighteen hundred and sixty-six.

APPROVED, July 27, 1868.

CHAP. CCCXL.—An Act granting a Pension to the children of William R. Silvey.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of William A. Silvey and Mary Elizabeth Ann Silvey, children, under sixteen years, of William R. Silvey, late a private in company B, second regiment of Tennessee infantry, commencing November thirteenth, eighteen hundred and sixty-three.

APPROVED, July 27, 1868.

CHAP. CCCXLI.—An Act granting a Pension to Sarah K. Johnson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah K. Johnson, late of Salisbury, North Carolina, and pay her a pension at the rate of thirty dollars per month, commencing March four, eighteen hundred and sixty-eight, and to continue during her natural life.

APPROVED, July 27, 1868.

CHAP. CCCXLII.—An Act granting [granting] a Pension to Rosinda McCabe, widow of Barney McCabe, late a Private in Company I, Tenth Regiment New York Cavalry Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the

Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Rosinda McCabe, widow of Barney McCabe, deceased, late a private in company I, tenth regiment New York cavalry volunteers, who died July fourteenth, eighteen hundred and sixty-three, leaving surviving said widow, who has not remarried, and issue by her three children under sixteen years of age, to wit: William, born October twentieth, eighteen hundred and fifty-nine; Charles Edwin, born January twenty-ninth, eighteen hundred and sixty-one; and Emily Jane McCabe, born May fourteenth, eighteen hundred and sixty-three; and that she be paid, during her widowhood, a pension at the rate of eight dollars per month, to commence on the fourteenth day of July, eighteen hundred and sixty-three, and also be paid under the provisions of an act of Congress relative to pensions, approved July twenty-fifth, eighteen hundred and sixty-six, the further sum of two dollars per month for each of said children, until they shall respectively arrive at the age of sixteen years.

APPROVED, July 27, 1868.

CHAP. CCCXLIII.—An Act granting a Pension to Joseph A. Fry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Joseph A. Fry, a private soldier enlisted in company F, seventeenth regiment Ohio volunteer infantry.

APPROVED, July 27, 1868.

CHAP. CCCXLIV.—An Act granting a Pension to William J. Cotty, late of the Twenty-First Missouri Infantry Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, at the rate of eight dollars per month, the name of William J. Cotty, late a member of the twenty-first Missouri infantry volunteers, to commence from the thirtieth day of June, eighteen hundred and sixty-two.

APPROVED, July 27, 1868.

CHAP. CCCXLV.—An Act for the Relief of Nancy Cook, of Tennessee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, directed and authorized to place the name of Nancy Cook, of Johnson county, Tennessee, widow of Alexander Cook, on the pension-roll, at the rate of eight dollars per month, commencing on the sixth day of August, eighteen hundred and sixty-three, and to continue during her widowhood.

APPROVED, July 27, 1868.

CHAP. CCCXLVI.—An Act for the Relief of Barbara Stout, of Tennessee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, directed and authorized to place the name of Barbara Stout, of the county of Johnson, State of Tennessee, widow of John P. Stout, on the pension-roll, at the rate of eight dollars per month, to commence on the first day of October, eighteen hundred and sixty-four, and to continue during her widowhood.

APPROVED, July 27, 1868.

CHAP. CCCXLVII.—An Act granting a Pension to the minor children of Garrett W. Freer.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names, jointly, of William G. Freer, Broadhead E. Freer, and Clarence Freer, minor children of Garrett W. Freer, late a "special agent" in the thirteenth district of New York, as the minor children of a second lieutenant, commencing July twenty-fifth, eighteen hundred and sixty-three.

APPROVED, July 27, 1868.

CHAP. CCCXLVIII.—An Act granting a Pension to Julia L. Doty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the widow Julia L. Doty and minor children of John M. Doty, late a contract surgeon United States volunteers, and who died at Annapolis, Maryland.

APPROVED, July 27, 1868.

CHAP. CCCXLIX.—An Act granting a Pension to Frances M. Webster.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Frances M. Webster, widow of L. B. Webster, late a captain and brevet lieutenant-colonel in the fourth regiment United States artillery.

APPROVED, July 27, 1868.

CHAP. CCCL.—An Act granting a Pension to Ruth Barton.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Ruth Barton, widow of Albert G. Barton, late a hospital steward, United States Army, commencing April seventh, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCLI.—An Act granting a Pension to John Marley.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the limitations and provisions of the pension laws, the name of John Marley, late a private in company "I," seventh New Hampshire volunteers, commencing on the twenty-third day of October, eighteen hundred and sixty-three.

APPROVED, July 27, 1868.

CHAP. CCCLII.—An Act granting a Pension to Joanna L. Shaw.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Joanna L. Shaw, widow of

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John E. Shaw, late a private in company E, fourteenth regiment of Maine volunteers, and pay her a pension of seventeen dollars per month in lieu of the pension she is now and has been receiving, commencing August seventeenth, eighteen hundred and sixty-two.

APPROVED, July 27, 1868.

CHAP. CCCLIII.—An Act granting a Pension to Anna H. Pratt.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Anna H. Pratt, widow of Wheelock Pratt, late a major in the fifty-fifth regiment Massachusetts infantry, as the widow of a captain, commencing December thirtieth, eighteen hundred and sixty-six.

APPROVED, July 27, 1868.

CHAP. CCCLIV.—An Act granting a Pension to Hannah K. Cook.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hannah K. Cook, widow of John M. Cook, late a second lieutenant in the one hundred and nineteenth regiment of Pennsylvania volunteers, commencing July twenty-eighth, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCLV.—An Act granting a Pension to Jane E. Rogers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Jane E. Rogers, widow of James B. Rogers, late captain company C, sixty-fourth regiment of United States colored troops, commencing July first, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCCLVI.—An Act granting a Pension to Patrick Collins.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Patrick Collins, of Dayton, Ohio, late of the twenty-ninth Indiana infantry, to receive pension from and after January first, eighteen hundred and sixty-six, at the rate of ten dollars per month.

APPROVED, July 27, 1868.

CHAP. CCCLVII.—An Act granting a Pension to Kate Higgins.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Kate Higgins, of Louisville, Kentucky, widow of John Higgins, formerly a private in company F, twenty-eighth regiment Kentucky infantry, to receive a pension as such widow, commencing eleventh November, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCLVIII.—An Act granting a Pension to Barbara Weisse.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Barbara Weisse, widow of Michael Weisse, late of company "K," ninth regiment Michigan infantry, to receive a pension to date from January first, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCLIX.—An Act granting a Pension to Sarah J. Rogers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Sarah Jane Rogers, widow of Hugh S. Rogers, formerly of company C, fiftieth regiment Ohio volunteers, to receive pension from the twenty-second day of June, anno Domini eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCLX.—An Act granting a Pension to Louisa M. Williston.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Louisa M. Williston, widow of Samuel P. Williston, late a sergeant in the fourth Massachusetts battery, and pay her a pension at the rate of eight dollars per month, from October seventeenth, eighteen hundred and sixty-two, to June sixth, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCCLXI.—An Act granting a Pension to Esther Graves.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Esther Graves, late a nurse in the Army, and pay her a pension at the rate of eight dollars per month, commencing January first, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCLXII.—An Act granting a Pension to Frederick Denning.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Frederick Denning, father of William F. Denning, late a second lieutenant in the ninth Maine volunteers, commencing July twenty-second, one thousand eight hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCLXIII.—An Act granting a Pension to Joseph B. Rodden.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Joseph B. Rodden, late a private in company K, sixteenth regiment of New York volunteers.

APPROVED, July 27, 1868.

CHAP. CCCLXIV.—An Act authorizing the Commissioner of Internal Revenue to adjust the Accounts of Mark Howard.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Internal Revenue be, and he is hereby, authorized and directed to adjust and settle the accounts of Mark Howard, as collector of the first revenue district of Connecticut, in conformity with the revenue laws in force at the time he was collector of said district.

APPROVED, July 27, 1868.

CHAP. CCCLXV.—An Act granting a Pension to Eliza Mathews.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Eliza Mathews, mother of Josiah W. Mathews, late a private in company F, of the one hundred and ninth regiment of Pennsylvania volunteers, commencing May twenty-eighth, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCCLXVI.—An Act granting a Pension to William F. Nelson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William F. Nelson, late a chaplain at the Washington Park Hospital, Cincinnati, and pay him a pension as a chaplain from and after the passage of this act.

APPROVED, July 27, 1868.

CHAP. CCCLXVII.—An Act granting a Pension to Julia A. Barton.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Julia A. Barton, widow of William Barton, late a private in company I, seventh regiment Kentucky volunteers.

APPROVED, July 27, 1868.

CHAP. CCCLXVIII.—An Act granting a Pension to Julia Carroll.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Julia Carroll, widow of Edward Carroll, late a private in company H, twenty-ninth regiment Massachusetts volunteers, commencing February twenty-second, eighteen hundred and sixty-three.

APPROVED, July 27, 1868.

CHAP. CCCLXIX.—An Act granting a Pension to Cornelia Peaslee.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Cornelia Peaslee, widow of Leonard Peaslee, late a private in company D, of the third regiment of Maine volunteer infantry, commencing July first, eighteen hundred and sixty-two.

APPROVED, July 27, 1868.

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CHAP. CCCLXX.—An Act granting a Pension to Mary Cover, widow of Samuel Cover, deceased, late a Private in Company G, of the Fifty-Sixth Regiment of Pennsylvania Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary Cover, widow of Samuel Cover, deceased, late a private in company G, of the fifty-sixth regiment of Pennsylvania volunteers, (who left one child, to wit, a son named Henry, born May nineteenth, eighteen hundred and fifty-six,) and to pay her such a pension per month as a widow of a private is entitled to under existing laws, to commence from the tenth day of February, eighteen hundred and sixty-three, and continue during her widowhood, and at her marriage or death the pension from that event to be paid to said child while under sixteen years of age.

APPROVED, July 27, 1868.

CHAP. CCCLXXI.—An Act granting a Pension to William F. Moses.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William F. Moses, late of company A, seventy-second regiment of Indiana volunteers, commencing June six, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCLXXII.—An Act granting a Pension to Malinda Ferguson, widow of James Ferguson, late a Private in Company C, of the First Regiment of Kentucky Cavalry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll the name of Malinda Ferguson, widow of James Ferguson, deceased, late a private in company C, of the First Kentucky cavalry, to be paid during her widowhood, out of any moneys in the Treasury not otherwise appropriated, the sum allowed widows of privates in the war of eighteen hundred and sixty-one, under existing pension laws, to commence from and after the passage of this act, and at her remarriage or death, the pension to be paid from that period to the surviving children of said James Ferguson, deceased, that may then be under sixteen years of age, subject to the rules and regulations of the pension department.

APPROVED, July 27, 1868.

CHAP. CCCLXXIII.—An Act granting a Pension to Mary Merchant, mother of Timothy H. Pittsford, deceased, late a Private in Company G, of the First Regiment of the United States Veteran Engineer Corps.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-rolls the name of Mary Merchant, mother of Timothy H. Pittsford, late a private in company G, of the first regiment of United States veteran engineer corps, to be paid during her widowhood, out of any money in the Treasury not otherwise appropriated, the sum allowed mothers of a deceased private in the war of eighteen hundred and sixty-one, under existing pension laws, to be computed from the passage of this bill.

APPROVED, July 27, 1868.

CHAP. CCCLXXIV.—An Act granting a Pension to Frederica Brielmayer.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the limitations and provisions of the pension laws, the name of Frederica Brielmayer, widow of William Brielmayer, late a member of company H, second regiment Ohio heavy artillery.

APPROVED, July 27, 1868.

CHAP. CCCLXXV.—An Act granting a Pension to Mary A. Falaro, widow of Onesimus Falaro, deceased, late a Private in Company K, of the One Hundred and Twenty-Fifth Regiment of New York Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary A. Falaro, widow of Onesimus Falaro, deceased, late a private in company K, of the one hundred and twenty-fifth regiment of New York volunteers, (who left three children under sixteen years of age, to wit, George, William, and Charles Falaro,) and to pay her such a pension per month as a widow of a private is entitled to under existing laws, to commence from the passage of this act, and to continue during her widowhood, and at her marriage or death the pension from that event to be paid to her children while under sixteen years of age.

APPROVED, July 27, 1868.

CHAP. CCCLXXVI.—An Act granting a Pension to Phoebe McBride, mother of Thomas McBride, deceased, late a Private in Company B, of the Eighty-Seventh Regiment of Illinois Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and is hereby, authorized and directed to place on the pension-roll the name of Phoebe McBride, mother of Thomas McBride, deceased, late a private in company B, of the eighty-seventh regiment of Illinois volunteers, to be paid a pension of eight dollars per month during her widowhood, to commence from the passage of this act.

APPROVED, July 27, 1868.

CHAP. CCCLXXVII.—An Act granting a Pension to Harriet E. Shears, widow of John T. Shears, deceased, late a Private in Company H, of the Fifty-Seventh Regiment of Illinois Volunteer Infantry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Harriet E. Shears, widow of John T. Shears, deceased, late a private in company H, of the fifty-seventh regiment of Illinois infantry, to be paid out of any moneys in the Treasury not otherwise appropriated, the pension allowed widows of privates during widowhood, to be computed from the seventh day of September, eighteen hundred and sixty-two, and at her remarriage or death the same to be paid to the minor children of said John T. Shears, deceased, who may then be under the age of sixteen years, subject to the rules and regulations of the pension department.

APPROVED, July 27, 1868.

CHAP. CCCLXXVIII.—An Act granting a Pension to William H. Blair, late a Private in Company G, of the Twelfth Regiment of Maine Volunteers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of William H. Blair, late a private in company G, of the twelfth regiment of Maine volunteers, on the pension-roll, to be paid a pension at the rate of eight dollars per month, out of any moneys in the Treasury not otherwise appropriated, to be computed from the twenty-seventh day of January, anno Domini one thousand eight hundred and sixty-seven, subject to the rules and regulations of the pension department.

APPROVED, July 27, 1868.

CHAP. CCCLXXIX.—An Act granting a Pension to Christopher M. Cornmesser, late a Private in the Independent Iowa Home Guards.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Christopher M. Cornmesser, late a private in the independent Iowa home guards, and pay him such a pension as a private, injured as he is, may be entitled to under existing laws, founded upon surgical examination, to commence on the twenty-first day of July, anno Domini eighteen hundred and sixty-one.

APPROVED, July 27, 1868.

CHAP. CCCLXXX.—An Act granting a Pension to Johannah Connolly.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the limitations and provisions of the pension laws, the name of Johannah Connolly, mother of Eugene Connolly, late a private in company E, twentieth regiment Massachusetts volunteers, commencing November five, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCCLXXXI.—An Act granting a Pension to the minor children of Michael Travis.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the names of the minor children of Michael Travis, late a private in company I, seventy-fourth regiment of Ohio volunteers, commencing February sixteenth, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCCLXXXII.—An Act granting a Pension to the widow and minor children of James Cox.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the limitations and provisions of the pension laws, the names of the widow, Agnes Cox, and the minor children of James Cox, late of company B, first regiment Ohio heavy artillery, commencing January ten, eighteen hundred and sixty-four.

APPROVED, July 27, 1868.

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CHAP. CCCLXXXIII.—An Act granting a Pension to Lavinia A. Gittings, mother of Andrew J. Gittings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the limitations and provisions of the pension laws, the name of Lavinia A. Gittings, mother of Andrew J. Gittings, late of "Putnam's Rangers," first Maryland cavalry, commencing March fourth, eighteen hundred and sixty-two.

APPROVED, July 27, 1868.

CHAP. CCCLXXXIV.—An Act granting a Pension to Owen Griffin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name Owen Griffin, foster-father of James Griffin, late a member of company D, of the twenty-second Wisconsin volunteers, and John Griffin, late of company H, seventeenth regiment of Wisconsin volunteers, at the rate of eight dollars per month, and to continue during his natural life.

APPROVED, July 27, 1868.

CHAP. CCCLXXXV.—An Act granting a Pension to Margaret Lewis.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Margaret Lewis, mother of John B. Lewis, who served in company A, twelfth regiment of Connecticut volunteers, under the name of Clarence L. Ingersoll, at the rate of eight dollars per month, commencing April twenty-seventh, eighteen hundred and sixty-three, and to continue during her widowhood.

APPROVED, July 27, 1868.

CHAP. CCCLXXXVI.—An Act granting a Pension to Mrs. Mary Brown.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and restrictions of the pension laws, the name of Mrs. Mary Brown, widow of William Brown, late of company E, thirty-seventh regiment Iowa volunteer infantry, at the rate of eight dollars per month, to commence on the third day of April, eighteen hundred and sixty-three, and to continue during her widowhood.

APPROVED, July 27, 1868.

CHAP. CCCLXXXVII.—An Act granting a Pension to Esther Fisk.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Esther Fisk, widow of John D. Fisk, late a private in the second New York veteran cavalry, commencing November twentieth, one thousand eight hundred and sixty-four.

APPROVED, July 27, 1868.

CHAP. CCCLXXXVIII.—An Act granting a Pension to William O. Dodge.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the

Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William O. Dodge, a resident of Kingston, Caldwell county, Missouri, and a late member of the Missouri home guards.

APPROVED, July 27, 1868.

CHAP. CCCLXXXIX.—An Act granting a Pension to the widow of Solomon Gause.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary D. Gause, the widow of Solomon Gause, late a private in company B, sixty-fifth regiment Ohio volunteers, commencing September eleventh, eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCXC.—An Act granting an increase of Pension to Emily B. Bidwell, widow of Brigadier General Daniel D. Bidwell, and to Sarah Hackleman, widow of Brigadier General Pleasant A. Hackleman.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Emily B. Bidwell, widow of the late Brigadier General Daniel D. Bidwell, for pension, at the rate of fifty dollars per month, from the nineteenth day of October, eighteen hundred and sixty-four, on which day General Bidwell fell mortally wounded at the battle of Cedar Creek, Virginia, to continue during widowhood.

SEC. 2. *And be it further enacted,* That the pension heretofore allowed said Emily B. Bidwell under general law be discontinued; but the sum received by her under the same shall be deducted from the pension hereby granted, and this pension shall be subject to the provisions of the general pension law.

SEC. 3. *And be it further enacted,* That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll the name of Sarah Hackleman, widow of the late Brigadier General Pleasant A. Hackleman, for pension, at the rate of fifty dollars per month, from the third day of October, eighteen hundred and sixty-two, on which day General Hackleman fell mortally wounded at the battle of Corinth, to continue during her widowhood.

SEC. 4. *And be it further enacted,* That the pension heretofore allowed said Sarah Hackleman under general law be discontinued; but the sum received by her under the same shall be deducted from the pension hereby granted, and this pension shall be subject to the provisions of the general pension law: *Provided,* That the increase of pension herein granted shall take effect from the date of the passage of this act.

APPROVED, July 27, 1868.

CHAP. CCCXCI.—An Act for the Relief of Samuel Tibbetts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of two hundred dollars, being for money paid by said Tibbetts for the entry of land upon which he had before located a land warrant, and which warrant, before a patent was issued, had been lost by the officers of the land office.

APPROVED, July 27, 1868.

CHAP. CCCXCII.—An Act granting a Pension to Chauncey D. Rose, father of Alvin J. Rose, late a Sergeant Veteran in Company A, Second Regiment of Ohio Cavalry Volunteers, who was killed in action at Five Forks, Virginia, April one, eighteen hundred and sixty-five.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Chauncey D. Rose, father of Alvin J. Rose, late a sergeant veteran in company A, second regiment of Ohio cavalry volunteers, who was killed in action at Five Forks, Virginia, April first, eighteen hundred and sixty-five, and that he be paid a pension at the rate of eight dollars per month during his natural life, to commence on the first day of April, anno Domini eighteen hundred and sixty-five.

APPROVED, July 27, 1868.

CHAP. CCCXCIII.—An Act to Relieve Nelson Tift, of Georgia, of Disabilities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of each House concurring therein,) That all legal and political disabilities imposed by the United States upon Nelson Tift, of Albany, Georgia, in consequence of participation in the recent rebellion, be, and the same are hereby, removed.

APPROVED, July 27, 1868.

CHAP. CCCXCIV.—An Act for the Relief of A. W. Ballard.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Quartermaster General of the United States be, and is hereby, authorized and directed to allow and settle the claim of Captain A. W. Ballard, late captain in one hundred and thirteenth regiment U. S. colored infantry, for value of lost voucher for corn issued by Benton Stearns, lieutenant twenty-second Michigan veteran infantry, late A. A. Q. M. at Washington, Arkansas, November fifteenth, eighteen hundred and sixty-five, the same being now suspended under act of Congress of February nineteenth, [twenty-first,] eighteen hundred and sixty-seven.

APPROVED, July 27, 1868.

RESOLUTIONS.

No. 6.—A Resolution authorizing Rear Admiral H. K. Thatcher to accept a Decoration from the King of the Hawaiian Islands.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Rear Admiral H. K. Thatcher, of the Navy of the United States, may accept a decoration of the order of Kamehameha First, which has been tendered him by the king of the Hawaiian Islands, as an evidence of his appreciation of that officer.

APPROVED, January 11, 1868.

No. 21.—A Resolution for the Relief of Israel S. Diehl.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, directed to remit the duty charged on the importation of a number of Cashmere or Angora goats, imported for the introduction of the breed in a portion of the United States by Israel S. Diehl, and that he cause to be returned to the said Israel S. Diehl the sum of one hundred and thirty-five dollars in gold, deposited by him with

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the deputy collector of the port of New York, on the twenty-ninth day of November, eighteen hundred and sixty-seven, on account of the payment of said duty.

APPROVED, March 12, 1868.

No. 22.—A Resolution instructing the Superintendent of the Asylum for the Insane in the District of Columbia to admit James McIntosh on the same footing as Indigent Insane Persons of the District.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the superintendent of the Asylum for the Insane in the District of Columbia be, and is hereby, authorized to admit to said asylum James McIntosh, on the same footing as other indigent insane persons of the District.

APPROVED, March 12, 1868.

No. 26.—A Resolution for the Relief of the Heirs of Major A. L. Brewer, late a Paymaster in the United States Army.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury be, and they are hereby, authorized and required to enter a credit of three thousand six hundred and thirty-six dollars on the account of Major A. L. Brewer, paymaster in the Army, who, with his clerk, Robert F. Brewer, was destroyed by the explosion of the steamer J. K. Carter on the Mississippi river, and which sum stands charged against the said Major Brewer as a balance against him on his accounts in the Treasury Department.

APPROVED, March 30, 1868.

No. 27.—Joint Resolution for the Relief of Beals and Dixon.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to cause the accounts of Beals and Dixon, for the delivery of material after May first, eighteen hundred and sixty-one, under their contracts with the United States, to be adjusted and paid, allowing to said Beals and Dixon such additional prices for material delivered after May first, eighteen hundred and sixty-one, as they may be justly entitled to under the provisions of their supplementary contract dated January first, eighteen hundred and fifty-seven, the same to be adjusted by the proper officer and in the manner named in the contract.

APPROVED, April 11, 1868.

No. 29.—A Resolution for the Relief of George W. Doty, a Commander in the United States Navy on the Retired List.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the name of George W. Doty, commander United States Navy, be placed upon the Navy Register as a commander, from the sixteenth day of July, eighteen hundred and sixty-two, the date of his commission.

APPROVED, May 19, 1868.

No. 35.—Joint Resolution for the Restoration of Captain James F. Armstrong, United States Navy, to the Active List from the Retired List.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be authorized to nominate, and, by and with the advice and consent of the Senate, to appoint Captain James F. Armstrong to the active list of the Navy, with the rank to which he may be entitled thereon.

APPROVED, June 11, 1868.

No. 36.—Joint Resolution for the Relief of John M. Palmer.

Whereas John M. Palmer, of Nashville, Tennessee, on the twenty-seventh August, eighteen hundred and sixty-six, contracted with the quartermasters' department of the United States to manufacture and deliver fifty-two thousand two hundred coffins, for the interment of deceased Union soldiers at Natchez, Vicksburg, and Corinth, Mississippi; Memphis, Pittsburg Landing, Fort Donelson, and Nashville, Tennessee; and Marietta, Georgia; and also to erect fences for the national cemeteries at Natchez, Vicksburg, and Corinth, Mississippi; and at Memphis, Fort Donelson, Stone River, and Pittsburg Landing, Tennessee; and whereas by the malicious destruction of said Palmer's steam saw-mill and machinery by rebel incendiaries, and the loss of lumber by providential floods, but by no fault or neglect of his own, he has failed to fully complete his said contract, and has incurred forfeitures to the Government thereon: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That said John M. Palmer be, and he is hereby, relieved from all stoppages and forfeitures on account of his failure to deliver coffins under said contract: *And be it further resolved,* That the Quartermaster General is hereby authorized and directed to adjust and settle the further claim of said John M. Palmer for erecting fences around the said national cemeteries by an additional allowance of seven thousand two hundred and eighty-three dollars and seventy cents, to be paid from the appropriation provided in an act entitled "An act to establish and protect national cemeteries," approved February twenty-second, eighteen hundred and sixty-seven, and the accounting officers of the Treasury are authorized to audit the same, in conformity herewith.

SEC. 2. *And be it further resolved,* That the chief quartermaster of the military department of the Cumberland, in addition to the contract price of ninety cents for each coffin manufactured by the said John M. Palmer, under his contract aforesaid, of the date of the twenty-seventh of August, eighteen hundred and sixty-six, cause to be paid out of any money under his control unto the said John M. Palmer the further sum of twelve thousand seven hundred and sixteen dollars and thirty cents for manufacturing and delivering said coffins: *Provided,* That the said John M. Palmer shall, in conformity with the provisions of his contract aforesaid, well and truly manufacture and deliver all the coffins which he is thereby still required to manufacture and deliver.

APPROVED, June 17, 1868.

No. 44.—Joint Resolution for the Relief of Robert L. Lindsay.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Paymaster General of the Army be, and he is hereby, authorized and directed to pay to Robert L. Lindsay, late of the fiftieth regiment Missouri volunteers, the full pay and allowances of a second lieutenant of infantry from the third day of August, eighteen hundred and sixty-four, to the thirtieth day of November, eighteen hundred and sixty-four.

APPROVED, June 25, 1868.

No. 45.—Joint Resolution to authorize the Secretary of the Treasury to remit the Duties on certain Articles contributed to the National Association of American Sharpshooters.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he hereby is, authorized to remit the duties on all prizes contributed to the National Association of American Sharpshoot-

ers for the third American shooting festival, by friends and kindred associations in Europe, which may be imported into the United States prior to the sixth day of July, eighteen hundred and sixty-eight: *Provided,* That the value of the prizes so contributed and imported shall not exceed the aggregate sum of one thousand dollars in currency.

APPROVED, June 25, 1868.

No. 46.—Joint Resolution to authorize the Enlargement of the Hygeia Hotel, at Fortress Monroe, Virginia.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to grant permission to Henry Clark, proprietor of the Hygeia Hotel at Fortress Monroe, Virginia, to enlarge the said hotel in such a manner as may be compatible with the interests of the United States: *Provided,* That such enlargement, or any building hereafter erected by any person or persons upon the lands of the United States at Fortress Monroe, shall be at once removed, at the expense of the respective owners, whenever the Secretary of War shall deem such removal necessary, and no claim for damages therefor shall be made upon the Government of the United States: *And provided further,* That the building so to be enlarged shall be subject to taxation under State and national authority the same as other property.

APPROVED, June 25, 1868.

No. 50.—A Resolution for the Relief of George W. Doty, a Commander in the United States Navy, on the Retired List.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the name of George W. Doty, commander United States Navy, be placed upon the Navy Register as a commander, from the sixteenth day of July, eighteen hundred and sixty-two, with the pay of such rank to the date of his commission.

APPROVED, July 3, 1868.

No. 53.—Joint Resolution for the Relief of John Sedgwick, Collector of Internal Revenue Third District California.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay, out of any money not otherwise appropriated, to John Sedgwick, collector of internal revenue for the third district of California, the sum of three thousand five hundred dollars, or so much thereof as the proper accounting officer shall, from satisfactory vouchers, determine necessary to secure him a salary of that amount for the fiscal year ending June thirtieth, eighteen hundred and sixty-four, in addition to the amount he [he] necessarily paid out in currency in the discharge of his official duties for said year.

APPROVED, July 7, 1868.

No. 57.—Joint Resolution in Relation to the Settlement of the Accounts of certain Officers and Agents who have disbursed Public Money under the Direction of the Chief of Engineers.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed, in settlement of the accounts of Captain George W. Cullum, Captain James B. McPherson, Captain Charles E. Blunt, and Lieutenant John C. Palfrey, of the corps of engineers, to allow to the credit of Captain Cullum the amount received for to him by Charles H. Bigelow; to the credit of Captain James B. McPherson and Captain C. E. Blunt

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the amounts receipted for to them respectively by Abiel W. Tinkham; and to the credit of Lieutenant John C. Palfrey the amount receipted for to him by John J. Lee; and to the credit of Mr. John J. Lee the amount receipted for to him by L. H. Eaton: *Provided*, That the said Charles H. Bigelow, Abiel W. Tinkham, John J. Lee, and L. H. Eaton shall each be held to the same accountability to the United States for the amounts transferred to them, respectively, at the time of transfer, and for advances made to them from the Treasury, as was at the time of transfer required by law and regulations from officers of the corps of engineers: *And provided further*, That this authority shall have no further application than to such accounts of [the] aforesaid persons as have been already examined and approved by the Chief of Engineers, and are found to contain a full and satisfactory accounting for all the public money which came into the hands of the aforesaid persons under the circumstances aforesaid, viz.: C. H. Bigelow, thirty-eight thousand three hundred and fifty-one dollars and seventy-four cents; J. J. Lee, three thousand five hundred and eight dollars and ninety-five cents; A. W. Tinkham, twelve thousand nine hundred and ten dollars and thirteen cents; L. H. Eaton, ninety dollars and eighty-five cents; all of which money having been expended upon the fortifications of the States of Massachusetts, New Hampshire, and Maine.

APPROVED, July 13, 1868.

No. 65.—Joint Resolution for the Relief of Henry B. Ste. Marie.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State is hereby authorized and directed to pay out of the civil-service fund of his Department the sum of ten thousand dollars to Henry B. Sainte Marie, for services and information in the arrest of John H. Surratt, in the kingdom of Italy, charged with the crimes of conspiracy and murder.

APPROVED, July 20, 1868.

No. 66.—Joint Resolution for the Relief of Z. M. Hall.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized, in his discretion, to refund to Z. M. Hall, of Chicago, the sum of one hundred and four dollars and ten cents, being the tonnage tax paid on the schooner S. B. Pomeroy, in error by the master of said schooner, at the port of Bay City, on the twenty-

first of April, eighteen hundred and sixty-eight, said tax having been paid by said Hall at Chicago, on the sixteenth April, eighteen hundred and sixty-eight.

APPROVED, July 20, 1868.

No. 70.—A Resolution for the Restoration of Commander Aaron K. Hughes, United States Navy, to the Active List from the Retired List.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be authorized to nominate, and by and with the advice and consent of the Senate, to appoint Commander Aaron K. Hughes to the active list of the Navy, with the rank to which he may be entitled therein.

APPROVED, July 23, 1868.

No. 71.—Joint Resolution for the Relief of Peter M. Carmichael, Surveyor of the Port of Albany.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized, in auditing and adjusting the accounts of Peter M. Carmichael, surveyor of the port of Albany, to admit and allow the charge of one thousand and eight dollars, the same having been paid by him to John Hastings, deputy surveyor and inspector of said port.

APPROVED, July 23, 1868.

No. 85.—A Resolution to construe an Act entitled "An Act to authorize the Accounting Officers of the Treasury to settle the Accounts of Andrew S. Core."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An act to authorize the accounting officers of the Treasury to settle the accounts of Andrew S. Core," shall be so construed as to authorize and direct the said accounting officers to settle and close the said accounts by crediting the said Core with the amount of such uncollectable, or unaccounted for, tax-lists or bills placed in his hands for collection as they may be satisfied have been lost or destroyed by reason of rebel raids, and have not been collected by him.

APPROVED, July 27, 1868.

No. 86.—A Resolution for the Relief of Jonathan S. Turner.

Whereas Jonathan S. Turner, of Fair Haven, in the county of New Haven and State of Con-

necticut, did obtain letters-patent of the United States of America, for improvement in alarm clocks, dated July thirteen, eighteen hundred and fifty-two; and whereas the said Jonathan S. Turner did, on or about the twenty-seventh day of December, eighteen hundred and sixty-five, file in the Patent Office his petition or application for an extension of the term; in accordance with the provisions of the eighteenth section of the patent act, approved July four, eighteen hundred and thirty-six, and complied with all the requirements of the rules and laws applicable thereto, except the inadvertent omission of one revenue stamp of the value of five cents, for which omission only the acting Commissioner of Patents did, on the twelfth day of July, eighteen hundred and sixty-six, refuse to extend the said patent: Therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Patents be, and he is hereby, authorized to extend the term of the said patent to the said Jonathan S. Turner, for the term of seven years from and after the thirteenth day of July, eighteen hundred and sixty-six, which said patent, so extended, shall have the same validity, force, and effect, as though the extension had been allowed and certified by the said Commissioner of Patents, in accordance with the eighteenth section of the patent act, approved July four, eighteen hundred and thirty-six, before the expiration of the original term named in said patent.

APPROVED, July 27, 1868.

No. 87.—Joint Resolution for the Relief of Martha E. King.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Paymaster General of the United States Army be, and is hereby, directed to pay to Martha E. King, widow of Clinton King, late of the county of Carroll and State of Tennessee, deceased, a sum equal to the pay of a first lieutenant of cavalry from the fifteenth day of September, eighteen hundred and sixty-three, to the tenth day of March, eighteen hundred and sixty-four; and that the Secretary of the Interior be, and he is hereby, directed to place the name of the said Martha E. King on the pension-roll, and she shall be entitled to the pension provided by law for the widow of a first lieutenant of cavalry who died in the military service of the United States of disease contracted while in such service and in the line of duty, since the fourth day of March, eighteen hundred and sixty-one.

APPROVED, July 27, 1868.